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SUBCHAPTER I—NATIONAL PARK SERVICE

§ 1. Service created; director; other employees

There is created in the Department of the Interior a service to be called the National Park Service, which shall be under the charge of a director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have substantial experience and demonstrated competence in land man-

agement and natural or cultural resource conservation. The Director shall select two Deputy Directors. The first Deputy Director shall have responsibility for National Park Service operations, and the second Deputy Director shall have responsibility for other programs assigned to the National Park Service. There shall also be in said service such subordinate officers, clerks, and employees as may be appropriated for by Congress. The service thus established shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations hereinafter specified, except such as are under the jurisdiction of the Secretary of the Army, as provided by law, by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

(Aug. 25, 1916, ch. 408, §1, 39 Stat. 535; Ex. Ord. No. 6166, §2, June 10, 1933; Mar. 2, 1934, ch. 38, §1, 48 Stat. 389; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Pub. L. 104–333, div. I, title VIII, §814(e)(1), Nov. 12, 1996, 110 Stat. 4196.)

CODIFICATION

Provisions relating to the pay of certain employees have been omitted as the pay of the employees is fixed pursuant to chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees.

AMENDMENTS

1996—Pub. L. 104–333 amended first sentence by substituting ''who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have substantial experience and demonstrated competence in land management and natural or cultural resource conservation. The Director shall select two Deputy Directors. The first Deputy Director shall have responsibility for National Park Service operations, and the second Deputy Director shall have responsibility for other programs assigned to the National Park Service.'' for original text which read ''who shall be appointed by the Secretary and who shall receive a salary of $4,500 per annum.''

CHANGE OF NAME

Office of National Parks, Buildings, and Reservations designated National Park Service by act Mar. 2, 1934, ch. 38, §1, 48 Stat. 389.

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 814(e)(2) of div. I of Pub. L. 104–333 provided that: ''The amendment made by subsection (a) [probably should be ''paragraph (1)'', which amended this section] shall take effect on February 1, 1997, and shall apply with respect to the individual (if any) serving as the Director of the National Park Service on that date.''

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111–11, §1(a), Mar. 30, 2009, 123 Stat. 991, provided that: ''This Act [see Tables for classification] may be cited as the 'Omnibus Public Land Management Act of 2009'.''

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–229, §1(a), May 8, 2008, 122 Stat. 754, provided that: ''This Act [see Tables for classification] may be cited as the 'Consolidated Natural Resources Act of 2008'.''

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–352, §1, Oct. 21, 2004, 118 Stat. 1395, provided that: ''This Act [amending sections 1a–6, 392c, 410ggg, 410ggg–1, 430h–11, 460kkk, 470h–2, 698u–4, 1244, 1249, and 1274 of this title, enacting provisions set out as notes under this section and section 502 of Title 40, Public Buildings, Property, and Works, and amending provisions listed in a table of National Historic Sites and a table of National Heritage Areas set out under section 461 of this title and a table of Commemorative Works set out under section 8903 of Title 40] may be cited as the 'National Park System Laws Technical Amendments Act of 2004'.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–236, §1, Oct. 9, 2002, 116 Stat. 1483, provided that: ''This Act [amending section 460kk of this title] may be cited as the 'Santa Monica Mountains National Recreation Area Boundary Adjustment Act'.''

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–510, §1, Nov. 13, 2000, 114 Stat. 2363, provided that: ''This Act [amending sections 391b, 391d, 392c, 396b, 396c, 396d, 397 to 397b, 397d, and 1244 of this title and section 1026 of Title 30, Mineral Lands and Mining, enacting provisions set out as notes under sections 391d, 396b, 396d, and 397 of this title, and amending provisions set out as notes under sections 1a–1 and 391 of this title, section 1005 of Title 30, provisions listed in a table of National Historic Sites set out under section 461 of this title, and provisions listed in a table of Wilderness Areas set out under section 1132 of this title] may be cited as the 'Hawaii Volcanoes National Park Adjustment Act of 2000'.''

Pub. L. 106–176, §1(a), Mar. 10, 2000, 114 Stat. 23, provided that: ''This Act [see Tables for classification] may be cited as the 'Omnibus Parks Technical Corrections Act of 2000'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–391, title III, §301, Nov. 13, 1998, 112 Stat. 3501, provided that: ''This title [amending section 1a–5 of this title and enacting provisions set out as a note under section 1a–5 of this title] may be cited as the 'National Park System New Areas Studies Act'.''

SHORT TITLE OF 1996 AMENDMENT

Section 1 of Pub. L. 104–333 provided that: ''This Act [see Tables for classification] may be cited as the 'Omnibus Parks and Public Lands Management Act of 1996'.''

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98–141, §1, Oct. 31, 1983, 97 Stat. 909, provided: ''That this Act [amending sections 459b–8, 459g–7, and 460x–14 of this title and sections 872, 874, 875, 880, and 885 of former Title 40, Public Buildings, Property, and Works, repealing section 433e of this title, and amending provisions set out as a note under section 433c of this title] may be cited as the 'Public Lands and National Parks Act of 1983'.''

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–625, §1, Nov. 10, 1978, 92 Stat. 3467, provided that: ''This Act [enacting chapter 45 and sections 45f, 230 to 230i, 241g, 396d, 410y–1a, 441e–1, 459c–6b, 460m–15 to 460m–25, 460kk, 471i, and 1285a of this title, amending sections 1a–5, 1a–7, 273f, 282c, 283e, 397 to 397d, 410y–6, 410z, 410z–1, 430mm, 450mm–1, 450qq–4, 459c–1, 459c–5,

459e, 459e–1, 459e–6, 459e–9, 459h–10, 459i, 459i–9, 460*l*–8, 460m–14, 460*o*–1, 460q–9, 460u–9, 460aa–12, 460bb–1 to 460bb–4, 460ff–1, 460ff–3, 460ff–5, 460gg, 463, 469c, 470t, 698m, 1241, 1242, 1244 to 1247, 1249, 1273, 1274, 1276, 1277, 1283, and 1287 of this title, repealing sections 45a–3 and 688 of this title, enacting provisions set out as notes under sections 1a–5, 45a–1, 45f, 410z, 430nn, 430*oo*, 431, 461, 602, 688, 1246, 1274, and 2501 of this title, and amending provisions set out as notes under sections 431, 433c, 450bb, 461, and 1132 of this title] may be cited as the 'National Parks and Recreation Act of 1978'.''

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91–383, § 14, as added by Pub. L. 108–352, § 10(b), Oct. 21, 2004, 118 Stat. 1397, provided that: ''This Act [enacting sections 1a–1 to 1a–7a of this title, amending sections 1b, 1c, 17j, 460n–5, 463, 470a, and 559 of this title, and repealing sections 10, 10a, 17b–1, and 415 of this title] may be cited as the 'National Park System General Authorities Act'.''

SHORT TITLE

Act Aug. 25, 1916, ch. 408, § 5, as added by Pub. L. 108–352, § 10(a), Oct. 21, 2004, 118 Stat. 1397, provided that: ''This Act [enacting this section and sections 2, 3, and 4 of this title and amending sections 22 and 43 of this title and section 1457 of Title 43, Public Lands] may be cited as the 'National Park Service Organic Act'.''

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Federal Works Agency and of all agencies thereof, together with functions of Federal Works Administrator, and functions of Commissioner of Public Buildings, and Public Buildings Administration, transferred to Administrator of General Services by act June 30, 1949, ch. 288, title I, § 103(a), 63 Stat. 380. Federal Works Agency, Office of Federal Works Administrator, Office of Commissioner of Public Buildings, and Public Building Administration abolished by section 103(b) of that act. See Historical and Revision Notes under section 303(b) of Title 40, Public Buildings, Property, and Works. Section 303(b) of Title 40 was amended generally by Pub. L. 109–313, § 2(a)(1), Oct. 6, 2006, 120 Stat. 1734, and, as so amended, no longer relates to the Federal Works Agency and Commissioner of Public Buildings. See 2006 Amendment note under section 303 of Title 40.

Branch of Buildings Management of National Park Service in Department of the Interior and its functions and personnel, except those relating to monuments and memorials, and certain functions of National Park Service in connection with public buildings in District of Columbia, together with personnel engaged exclusively in such functions, transferred to Public Buildings Administration, and functions of Secretary of the Interior and Director of National Park Service relating thereto transferred to Federal Works Administrator by Reorg. Plan No. I of 1939, §§ 301, 303, eff. July 1, 1939, 4 F.R. 2729, 53 Stat. 1427, set out in the Appendix to Title 5.

Mount Rushmore National Memorial Commission and its functions transferred to National Park Service by Reorg. Plan No. II of 1939, § 4(i), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1434, set out in the Appendix to Title 5.

Functions of administration of public buildings, reservations, national parks, national monuments, and national cemeteries, including those with respect to enumerated national cemeteries and parks of War Department located within continental limits of United States, consolidated, with certain exceptions, in National Park Service in Department of the Interior by Ex. Ord. No. 6166, set out as a note under section 901 of Title 5. Cemeteries and parks located outside of continental United States remained under War Department.

NATIONAL PARK POLICE DRUG ENFORCEMENT SUPPLEMENTAL AUTHORITY ACT

Pub. L. 99–570, title V, subtitle B (§§ 5051, 5052), Oct. 27, 1986, 100 Stat. 3207–156, as amended by Pub. L. 100–690, title VI, § 6254(d)(2), Nov. 18, 1988, 102 Stat. 4365, provided that:

''SEC. 5051. SHORT TITLE.

''This subtitle may be cited as the 'National Park Police Drug Enforcement Supplemental Authority Act'.

''SEC. 5052. NATIONAL PARK AUTHORIZATION.

''In order to improve Federal law enforcement activities relating to the use and production of narcotics and controlled substances in National Park System units, from amounts appropriated there shall be made available to the Secretary of the Interior, in addition to sums made available under other authority of law, $3,000,000 for fiscal year 1989, and for each fiscal year thereafter, to be used for the employment and training of officers or employees of the Department of the Interior designated pursuant to section 10(b) of the Act of August 18, 1970 (16 U.S.C. 1a–6), for equipment and facilities to be used by such personnel, and for expenses related to such employment, training, equipment, and facilities.''

CODIFICATION OF LAWS RELATING TO UNITED STATES PARK POLICE; FEASIBILITY STUDY AND REPORT BY SECRETARY OF THE INTERIOR

Pub. L. 94–533, § 3, Oct. 17, 1976, 90 Stat. 2494, directed Secretary of the Interior to submit to Congress not later than one year after Oct. 17, 1976, a report on feasibility and desirability of enacting as a part of United States Code those provisions concerning powers, duties, functions, salaries, and benefits of officers and members of the United States Park Police force which presently are contained in several statutes and are compiled in District of Columbia Code.

NATIONAL PARK CENTENNIAL COMMISSION

Pub. L. 91–332, July 10, 1970, 84 Stat. 427, provided that 1972 was to be designated by President as ''National Parks Centennial Year'', in recognition in 1872 of establishment of world's first national park at Yellowstone. There was also established a National Park Centennial Commission, composed of four members of Senate, four members of House, Secretary of the Interior, and six persons to be appointed by President. The Commission was empowered to prepare a suitable plan for commemoration of establishment of Yellowstone, to coordinate all activities under such plan, and to provide host services for a world conference on National Parks in 1972. The Commission was to submit a final report of its activities, including an accounting of funds received and expended, to Congress, not later than Dec. 31, 1973, and was to cease to exist upon submission of said report.

§ 1a. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section, act June 28, 1938, ch. 778, § 1, 52 Stat. 1213, related to residence of United States Commissioners [now magistrate judges].

§ 1a–1. National Park System: administration; declaration of findings and purpose

Congress declares that the national park system, which began with establishment of Yellowstone National Park in 1872, has since grown to include superlative natural, historic, and recreation areas in every major region of the United States, its territories and island possessions;

that these areas, though distinct in character, are united through their inter-related purposes and resources into one national park system as cumulative expressions of a single national heritage; that, individually and collectively, these areas derive increased national dignity and recognition of their superb environmental quality through their inclusion jointly with each other in one national park system preserved and managed for the benefit and inspiration of all the people of the United States; and that it is the purpose of this Act to include all such areas in the System and to clarify the authorities applicable to the system. Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the National Park System, as defined in section 1c of this title, shall be consistent with and founded in the purpose established by section 1 of this title, to the common benefit of all the people of the United States. The authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress.

(Pub. L. 91–383, §1, Aug. 18, 1970, 84 Stat. 825; Pub. L. 95–250, title I, §101(b), Mar. 27, 1978, 92 Stat. 166.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 91–383, Aug. 18, 1970, 84 Stat. 825, as amended, known as the ''National Park System General Authorities Act''. As originally enacted, Pub. L. 91–383 contained sections 1 to 4, the first 3 of which enacted sections 1a–1 and 1a–2 and amended sections 1b and 1c of this title. Pub. L. 94–458 amended Pub. L. 91–383 by adding sections 5 to 12, which enacted sections 1a–3 to 1a–7, amended sections 17j, 460n–5, 463, 470a, and 559, and repealed sections 10, 10a, 17b–1, and 415 of this title. Pub. L. 103–322 amended Pub. L. 91–383 by adding section 13, which enacted section 1a–7a of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1 of this title and Tables.

AMENDMENTS

1978—Pub. L. 95–250 provided that the promotion and regulation of the various areas of the National Park System, as defined in section 1c of this title, be consistent with and founded in the purpose established by section 1 of this title, to the common benefit of all the people of the United States, and that the authorization of activities be construed and the protection, management, and administration of these areas be conducted in light of the high public value and integrity of the National Park System and not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress.

SPECIAL EVENTS AT NATIONAL MALL

Pub. L. 108–108, title I, §145, Nov. 10, 2003, 117 Stat. 1280, provided that: ''None of the funds appropriated or otherwise made available by this or any other Act, hereafter enacted, may be used to permit the use of the National Mall for a special event, unless the permit expressly prohibits the erection, placement, or use of structures and signs bearing commercial advertising. The Secretary may allow for recognition of sponsors of special events: *Provided*, That the size and form of the recognition shall be consistent with the special nature and sanctity of the Mall and any lettering or design identifying the sponsor shall be no larger than one-third the size of the lettering or design identifying the special event. In approving special events, the Secretary shall ensure, to the maximum extent practicable, that public use of, and access to the Mall is not restricted. For purposes of this section, the term 'special event' shall have the meaning given to it by section 7.96(g)(1)(ii) of title 36, Code of Federal Regulations.''

STUDY OF AIR TRAFFIC OVER GRAND CANYON

Pub. L. 102–581, title I, §134, Oct. 31, 1992, 106 Stat. 4887, provided that:

''(a) STUDY.—The Administrator of the Federal Aviation Administration, in consultation with the Director of the National Park Service, the State of Arizona, the State of Nevada, the Clark County Department of Aviation, affected Indian tribes, and the general public, shall conduct a study on increased air traffic over Grand Canyon National Park.

''(b) REPORT.—The Administrator of the Federal Aviation Administration shall submit to Congress a report on the results of the study conducted under subsection (a). The report shall include the following:

''(1) A report on the increase in air traffic over Grand Canyon National Park since 1987.

''(2) A forecast of the increase in air traffic over Grand Canyon National Park through 2010.

''(3) A report on the carrying capacity of the airspace over Grand Canyon National Park to ensure aviation safety and to meet the requirements established by section 3 of the Act of August 18, 1987 (Public Law 100–91; 101 Stat. 676) [set out below], including the substantial restoration of natural quiet at the Park.

''(4) A plan of action to manage increased air traffic over Grand Canyon National Park to ensure aviation safety and to meet the requirements established by such section 3 of the Act of August 18, 1987, including any measures to encourage or require the use of quiet aircraft technology by commercial air tour operators.''

REMOVAL OF FERAL BURROS AND HORSES FROM DEATH VALLEY NATIONAL MONUMENT

Pub. L. 102–381, title I, Oct. 5, 1992, 106 Stat. 1384, provided in part: ''That in fiscal year 1993 and thereafter, the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses''.

STUDY TO DETERMINE APPROPRIATE MINIMUM ALTITUDE FOR AIRCRAFT FLYING OVER NATIONAL PARK SYSTEM UNITS

Pub. L. 100–91, Aug. 18, 1987, 101 Stat. 674, as amended by Pub. L. 106–510, §3(a)(2), (b)(2), Nov. 13, 2000, 114 Stat. 2363, provided that:

''SECTION 1. STUDY OF PARK OVERFLIGHTS.

''(a) STUDY BY PARK SERVICE.—The Secretary of the Interior (hereinafter referred to as the 'Secretary'), acting through the Director of the National Park Service, shall conduct a study to determine the proper minimum altitude which should be maintained by aircraft when flying over units of the National Park System. The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration (hereinafter referred to as the 'Administrator'), shall provide technical assistance to the Secretary in carrying out the study.

''(b) GENERAL REQUIREMENTS OF STUDY.—The study shall identify any problems associated with overflight by aircraft of units of the National Park System and shall provide information regarding the types of over-

flight which may be impacting on park unit resources. The study shall distinguish between the impacts caused by sightseeing aircraft, military aircraft, commercial aviation, general aviation, and other forms of aircraft which affect such units. The study shall identify those park system units, and portions thereof, in which the most serious adverse impacts from aircraft overflights exist.

''(c) SPECIFIC REQUIREMENTS.—The study under this section shall include research at the following units of the National Park System: Cumberland Island National Seashore, Yosemite National Park, Hawai`i Volcanoes National Park, Haleakalā National Park, Glacier National Park, and Mount Rushmore National Memorial, and at no less than four additional units of the National Park System, excluding all National Park System units in the State of Alaska. The research at each such unit shall provide information and an evaluation regarding each of the following:

''(1) the impacts of aircraft noise on the safety of the park system users, including hikers, rock-climbers, and boaters;

''(2) the impairment of visitor enjoyment associated with flights over such units of the National Park System;

''(3) other injurious effects of overflights on the natural, historical, and cultural resources for which such units were established; and

''(4) the values associated with aircraft flights over such units of the National Park System in terms of visitor enjoyment, the protection of persons or property, search and rescue operations and firefighting.

Such research shall evaluate the impact of overflights by both fixed-wing aircraft and helicopters. The research shall include an evaluation of the differences in noise levels within such units of the National Park System which are associated with flight by commonly used aircraft at different altitudes. The research shall apply only to overflights and shall not apply to landing fields within, or adjacent to, such units.

''(d) REPORT TO CONGRESS.—The Secretary shall submit a report to the Congress within 3 years after the enactment of this Act [Aug. 18, 1987] containing the results of the study carried out under this section. Such report shall also contain recommendations for legislative and regulatory action which could be taken regarding the information gathered pursuant to paragraphs (1) through (4) of subsection (c). Before submission to the Congress, the Secretary shall provide a draft of the report and recommendations to the Administrator for review. The Administrator shall review such report and recommendations and notify the Secretary of any adverse effects which the implementation of such recommendations would have on the safety of aircraft operations. The Administrator shall consult with the Secretary to resolve issues relating to such adverse effects. The final report shall include a finding by the Administrator that implementation of the recommendations of the Secretary will not have adverse effects on the safety of aircraft operations, or if the Administrator is unable to make such finding, a statement by the Administrator of the reasons he believes the Secretary's recommendations will have an adverse effect on the safety of aircraft operations.

''(e) FAA REVIEW OF RULES.—The Administrator shall review current rules and regulations pertaining to flights of aircraft over units of the National Park System at which research is conducted under subsection (c) and over any other such units at which such a review is determined necessary by the Administrator or is requested by the Secretary. In the review under this subsection, the Administrator shall determine whether changes are needed in such rules and regulations on the basis of aviation safety. Not later than 180 days after the identification of the units of the National Park System for which research is to be conducted under subsection (c), the Administrator shall submit a report to Congress containing the results of the review along with recommendations for legislative and regulatory action which are needed to implement any such changes.

''(f) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the studies and review under this section.

''SEC. 2. FLIGHTS OVER YOSEMITE AND HALEAKALĀ DURING STUDY AND REVIEW.

''(a) YOSEMITE NATIONAL PARK.—During the study and review periods provided in subsection (c), it shall be unlawful for any fixed wing aircraft or helicopter flying under visual flight rules to fly at an altitude of less than 2,000 feet over the surface of Yosemite National Park. For purposes of this subsection, the term 'surface' refers to the highest terrain within the park which is within 2,000 feet laterally of the route of flight and with respect to Yosemite Valley such term refers to the upper-most rim of the valley.

''(b) HALEAKALĀ NATIONAL PARK.—During the study and review periods provided in subsection (c), it shall be unlawful for any fixed wing aircraft or helicopter flying under visual flight rules to fly at an altitude below 9,500 feet above mean sea level over the surface of any of the following areas in Haleakalā National Park: Haleakala Crater, Crater Cabins, the Scientific Research Reserve, Halemauu Trail, Kaupo Gap Trail, or any designated tourist viewpoint.

''(c) STUDY AND REVIEW PERIODS.—For purposes of subsections (a) and (b), the study period shall be the period of the time after the date of enactment of this Act [Aug. 18, 1987] and prior to the submission of the report under section 1. The review period shall comprise a 2-year period for Congressional review after the submission of the report to Congress.

''(d) EXCEPTIONS.—The prohibitions contained in subsections (a) and (b) shall not apply to any of the following:

''(1) emergency situations involving the protection of persons or property, including aircraft;

''(2) search and rescue operations;

''(3) flights for purposes of firefighting or for required administrative purposes; and

''(4) compliance with instructions of an air traffic controller.

''(e) ENFORCEMENT.—For purposes of enforcement, the prohibitions contained in subsections (a) and (b) shall be treated as requirements established pursuant to section 307 of the Federal Aviation Act of 1958 [see 49 U.S.C. 40103(b)]. To provide information to pilots regarding the restrictions established under this Act, the Administrator shall provide public notice of such restrictions in appropriate Federal Aviation Administration publications as soon as practicable after the enactment of this Act [Aug. 18, 1987].

''SEC. 3. GRAND CANYON NATIONAL PARK.

''(a) Noise associated with aircraft overflights at the Grand Canyon National Park is causing a significant adverse effect on the natural quiet and experience of the park and current aircraft operations at the Grand Canyon National Park have raised serious concerns regarding public safety, including concerns regarding the safety of park users.

''(b) RECOMMENDATIONS.—

''(1) SUBMISSION.—Within 30 days after the enactment of this Act [Aug. 18, 1987], the Secretary shall submit to the Administrator recommendations regarding actions necessary for the protection of resources in the Grand Canyon from adverse impacts associated with aircraft overflights. The recommendations shall provide for substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse effects associated with aircraft overflight. Except as provided in subsection (c), the recommendations shall contain provisions prohibiting the flight of aircraft below the rim of the Canyon, and shall designate flight free zones. Such zones shall be flight free except for purposes of administration and for emergency operations, including those required for the transportation of persons and supplies to and from Supai Village and the lands of the Havasupai Indian Tribe of Arizona. The Administrator, after consulta-

tion with the Secretary, shall define the rim of the Canyon in a manner consistent with the purposes of this paragraph.

''(2) IMPLEMENTATION.—Not later than 90 days after receipt of the recommendations under paragraph (1) and after notice and opportunity for hearing, the Administrator shall prepare and issue a final plan for the management of air traffic in the air space above the Grand Canyon. The plan shall, by appropriate regulation, implement the recommendations of the Secretary without change unless the Administrator determines that implementing the recommendations would adversely affect aviation safety. If the Administrator determines that implementing the recommendations would adversely affect aviation safety, he shall, not later than 60 days after making such determination, in consultation with the Secretary and after notice and opportunity for hearing, review the recommendations consistent with the requirements of paragraph (1) to eliminate the adverse effects on aviation safety and issue regulations implementing the revised recommendations in the plan. In addition to the Administrator's authority to implement such regulations under the Federal Aviation Act of 1958 [see 49 U.S.C. 40101 et seq.], the Secretary may enforce the appropriate requirements of the plan under such rules and regulations applicable to the units of the National Park System as he deems appropriate.

''(3) REPORT.—Within 2 years after the effective date of the plan required by subsection (b)(2), the Secretary shall submit to the Congress a report discussing—

''(A) whether the plan has succeeded in substantially restoring the natural quiet in the park; and

''(B) such other matters, including possible revisions in the plan, as may be of interest.

The report shall include comments by the Administrator regarding the effect of the plan's implementation on aircraft safety.

''(c) HELICOPTER FLIGHTS OF RIVER RUNNERS.—Subsection (b) shall not prohibit the flight of helicopters—

''(1) which fly a direct route between a point on the north rim outside of the Grand Canyon National Park and locations on the Hualapai Indian Reservation (as designated by the Tribe); and

''(2) whose sole purpose is transporting individuals to or from boat trips on the Colorado River and any guide of such a trip.

''SEC. 4. BOUNDARY WATERS CANOE AREA WILDERNESS.

''The Administrator shall conduct surveillance of aircraft flights over the Boundary Waters Canoe Area Wilderness as authorized by the Act of October 21, 1978 (92 Stat. 1649–1659) for a period of not less than 180 days beginning within 60 days of enactment of this Act [Aug. 18, 1987]. In addition to any actions the Administrator may take as a result of such surveillance, he shall provide a report to the Committee on Interior and Insular Affairs and the Committee on Public Works and Transportation of the United States House of Representatives and to the Committee on Energy and Natural Resources and the Committee on Commerce, Science, and Transportation of the United States Senate. Such report is to be submitted within 30 days of completion of the surveillance activities. Such report shall include but not necessarily be limited to information on the type and frequency of aircraft using the airspace over the Boundary Waters Canoe Area Wilderness.

''SEC. 5. ASSESSMENT OF NATIONAL FOREST SYSTEM WILDERNESS OVERFLIGHTS.

''(a) ASSESSMENT BY FOREST SERVICE.—The Chief of the Forest Service (hereinafter referred to as the 'Chief') shall conduct an assessment to determine what, if any, adverse impacts to wilderness resources are associated with overflights of National Forest System wilderness areas. The Administrator of the Federal Aviation Administration shall provide technical assistance to the Chief in carrying out the assessment. Such assessment shall apply only to overflight of wilderness areas and shall not apply to aircraft flights or landings adjacent to National Forest System wilderness units. The assessment shall not apply to any National Forest System wilderness units in the State of Alaska.

''(b) REPORT TO CONGRESS.—The Chief shall submit a report to Congress within 2 years after enactment of this Act [Aug. 18, 1987] containing the results of the assessments carried out under this section.

''(c) AUTHORIZATION.—Effective October 1, 1987, there are authorized to be appropriated such sums as may be necessary to carry out the assessment under this section.

''SEC. 6. CONSULTATION WITH FEDERAL AGENCIES.

''In conducting the study and the assessment required by this Act, the Secretary of the Interior and the Chief of the Forest Service shall consult with other Federal agencies that are engaged in an analysis of the impacts of aircraft overflights over federally-owned land.''

§ 1a–2. Secretary of the Interior's authorization of activities

In order to facilitate the administration of the national park system, the Secretary of the Interior is authorized, under such terms and conditions as he may deem advisable, to carry out the following activities:

(a) Transportation

Provide transportation of employees located at isolated areas of the national park system and to members of their families, where (1) such areas are not adequately served by commercial transportation, and (2) such transportation is incidental to official transportation services.

(b) Recreation

Provide recreation facilities, equipment, and services for use by employees and their families located at isolated areas of the national park system.

(c) Advisory committees; compensation and travel expenses

Appoint and establish such advisory committees in regard to the functions of the National Park Service as he may deem advisable, members of which shall receive no compensation for their services as such but who shall be allowed necessary travel expenses as authorized by section 5703 of title 5.

(d) Park equipment purchases

Purchase field and special purpose equipment required by employees for the performance of assigned functions which shall be regarded and listed as park equipment.

(e) Services, resources, or water contracts

Enter into contracts which provide for the sale or lease to persons, States, or their political subdivisions, of services, resources, or water available within an area of the national park system, as long as such activity does not jeopardize or unduly interfere with the primary natural or historic resource of the area involved, if such person, State, or its political subdivision—

(1) provides public accommodations or services within the immediate vicinity of an area of the national park system to persons visiting the area; and

(2) has demonstrated to the Secretary that there are no reasonable alternatives by which to acquire or perform the necessary services, resources, or water.

(f) Vehicular air-conditioning

Acquire, and have installed, air-conditioning units for any Government-owned passenger motor vehicles used by the National Park Service, where assigned duties necessitate long periods in automobiles or in regions of the United States where high temperatures and humidity are common and prolonged.

(g) Exhibits and demonstrations; sale of products and services; contracts and cooperative arrangements; credits to appropriation

Sell at fair market value without regard to the requirements of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 products and services produced in the conduct of living exhibits and interpretive demonstrations in areas of the national park system, to enter into contracts including cooperative arrangements with respect to such living exhibits and interpretive demonstrations, and to credit the proceeds therefrom to the appropriation bearing the cost of such exhibits and demonstrations. Sixty percent of the fees paid by permittees for the privilege of entering into Glacier Bay for the period beginning on the first full fiscal year following November 12, 1996, shall be deposited into a special account and that such funds shall be available—

(1) to the extent determined necessary, to acquire and preposition necessary and adequate emergency response equipment to prevent harm or the threat of harm to aquatic park resources from permittees; and

(2) to conduct investigations to quantify any effect of permittees' activity on wildlife and other natural resource values of Glacier Bay National Park. The investigations provided for in this subsection shall be designed to provide information of value to the Secretary, in determining any appropriate limitations on permittees' activity in Glacier Bay. The Secretary may not impose any additional permittee operating conditions in the areas of air, water, and oil pollution beyond those determined and enforced by other appropriate agencies. When competitively awarding permits to enter Glacier Bay, the Secretary may take into account the relative impact particular permittees will have on park values and resources, provided that no operating conditions or limitations relating to noise abatement shall be imposed unless the Secretary determines, based on the weight of the evidence from all available studies including verifiable scientific information from the investigations provided for in this subsection, that such limitations or conditions are necessary to protect park values and resources. Fees paid by certain permittees for the privilege of entering into Glacier Bay shall not exceed $5 per passenger. For the purposes of this subsection, ''certain permittee'' shall mean a permittee which provides overnight accommodations for at least 500 passengers for an itinerary of at least 3 nights, and ''permittee'' shall mean a concessionaire providing visitor services within Glacier Bay. Nothing in this subsection authorizes the Secretary to require additional categories of permits in, or otherwise increase the number of permits to enter Glacier Bay National Park.

(h) Regulations; promulgation and enforcement

Promulgate and enforce regulations concerning boating and other activities on or relating to waters located within areas of the National Park System, including waters subject to the jurisdiction of the United States: *Provided*, That any regulations adopted pursuant to this subsection shall be complementary to, and not in derogation of, the authority of the United States Coast Guard to regulate the use of waters subject to the jurisdiction of the United States.

(i) United States Park Police and other National Park Service employees; meals and lodging

Provide meals and lodging, as the Secretary deems appropriate, for members of the United States Park Police and other employees of the National Park Service, as he may designate, serving temporarily on extended special duty in areas of the National Park System, and for this purpose he is authorized to use funds appropriated for the expenses of the Department of the Interior.

(j) Cooperative research and training programs

Enter into cooperative agreements with public or private educational institutions, States, and their political subdivisions, for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to any such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate; except that this paragraph shall not waive any requirements for research projects that are subject to the Federal procurement regulations.

(k) Leases

(1) In general

Except as provided in paragraph (2) and subject to paragraph (3), the Secretary may enter into a lease with any person or governmental entity for the use of buildings and associated property administered by the Secretary as part of the National Park System.

(2) Prohibited activities

The Secretary may not use a lease under paragraph (1) to authorize the lessee to engage in activities that are subject to authorization by the Secretary through a concessions contract, commercial use authorization, or similar instrument.

(3) Use

Buildings and associated property leased under paragraph (1)—

(A) shall be used for an activity that is consistent with the purposes established by law for the unit in which the building is located;

(B) shall not result in degradation of the purposes and values of the unit; and

(C) shall be compatible with National Park Service programs.

(4) Rental amounts

(A) In general

With respect to a lease under paragraph (1)—

(i) payment of fair market value rental shall be required; and

(ii) section 1302 of title 40 shall not apply.

(B) Adjustment

The Secretary may adjust the rental amount as appropriate to take into account any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, or repair and related expenses.

(C) Regulation

The Secretary shall promulgate regulations implementing this subsection that includes provisions to encourage and facilitate competition in the leasing process and provide for timely and adequate public comment.

(5) Special account

(A) Deposits

Rental payments under a lease under paragraph (1) shall be deposited in a special account in the Treasury of the United States.

(B) Availability

Amounts in the special account shall be available until expended, without further appropriation, for infrastructure needs at units of the National Park System, including—

(i) facility refurbishment;

(ii) repair and replacement;

(iii) infrastructure projects associated with park resource protection; and

(iv) direct maintenance of the leased buildings and associated properties.

(C) Accountability and results

The Secretary shall develop procedures for the use of the special account that ensure accountability and demonstrated results consistent with this Act.

***(l)* Cooperative management agreements**

(1) In general

Where a unit of the National Park System is located adjacent to or near a State or local park area, and cooperative management between the National Park Service and a State or local government agency of a portion of either park will allow for more effective and efficient management of the parks, the Secretary may enter into an agreement with a State or local government agency to provide for the cooperative management of the Federal and State or local park areas. The Secretary may not transfer administration responsibilities for any unit of the National Park System under this paragraph.

(2) Provision of goods and services

Under a cooperative management agreement, the Secretary may acquire from and provide to a State or local government agency goods and services to be used by the Secretary and the State or local governmental agency in the cooperative management of land.

(3) Assignment

An assignment arranged by the Secretary under section 3372 of title 5 of a Federal, State, or local employee for work in any Federal, State, or local land or an extension of such an assignment may be for any period of time determined by the Secretary and the State or local agency to be mutually beneficial.

(Pub. L. 91–383, §3, Aug. 18, 1970, 84 Stat. 826; Pub. L. 94–458, §1, Oct. 7, 1976, 90 Stat. 1939; Pub. L. 104–333, div. I, title VII, §703, title VIII, §818, Nov. 12, 1996, 110 Stat. 4185, 4201; Pub. L. 105–391, title VIII, §802(a), Nov. 13, 1998, 112 Stat. 3522; Pub. L. 106–176, title I, §118, Mar. 10, 2000, 114 Stat. 28.)

REFERENCES IN TEXT

This Act, referred to in subsec. (k)(5)(C), means Pub. L. 91–383, Aug. 18, 1970, 84 Stat. 825, as amended, known as the ''National Park System General Authorities Act''. As originally enacted, Pub. L. 91–383 contained sections 1 to 4, the first 3 of which enacted sections 1a–1 and 1a–2 and amended sections 1b and 1c of this title. Pub. L. 94–458 amended Pub. L. 91–383 by adding sections 5 to 12, which enacted sections 1a–3 to 1a–7, amended sections 17j, 460n–5, 463, 470a, and 559, and repealed sections 10, 10a, 17b–1, and 415 of this title. Pub. L. 103–322 amended Pub. L. 91–383 by adding section 13, which enacted section 1a–7a of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1 of this title and Tables.

CODIFICATION

In subsec. (c), ''section 5703 of title 5'' substituted for ''section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 5703)'' on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

In subsec. (g), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949, as amended,'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

''Section 1302 of title 40'' substituted in subsec. (k)(4)(A)(ii) for ''section 321 of the Act of June 30, 1932 (47 Stat. 412, chapter 314; 40 U.S.C. 303b)'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

2000—Subsecs. (a) to (f). Pub. L. 106–176, §118(2), (3), capitalized the first letter of the first word and substituted a period for the semicolon at end.

Subsec. (g). Pub. L. 106–176, §118(1), (2), in introductory provisions, capitalized the first letter of the first word and substituted a period for the semicolon after ''such exhibits and demonstrations''.

Subsec. (h). Pub. L. 106–176, §118(2), (3), capitalized the first letter of the first word and substituted a period for the semicolon at end.

Subsec. (i). Pub. L. 106–176, §118(2), (4), capitalized the first letter of the first word and substituted a period for ''; and'' at end.

Subsec. (j). Pub. L. 106–176, §118(5), realigned margins.

1998—Subsecs. (k), (*l*). Pub. L. 105–391 added subsecs. (k) and (*l*).

1996—Subsec. (g). Pub. L. 104–333, §703, inserted provisions relating to Glacier Bay and substituted ''interpretive demonstrations'' for ''interpretive demonstrations and park programs''.

Subsec. (j). Pub. L. 104–333, §818, added subsec. (j).

1976—Subsec. (e). Pub. L. 94–458, §1(1), inserted provision requiring Secretary to consider impact on primary natural and historic resources of an area before entering into contracts.

Subsecs. (h), (i). Pub. L. 94–458, §1(2), added subsecs. (h) and (i).

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1a–3. Legislative jurisdiction; relinquishment by Secretary; submittal of proposed agreement to Congressional committees; concurrent legislative jurisdiction

Notwithstanding any other provision of law, the Secretary of the Interior may relinquish to a State, or to a Commonwealth, territory, or possession of the United States, part of the legislative jurisdiction of the United States over National Park System lands or interests therein in that State, Commonwealth, territory, or possession: *Provided*, That prior to consummating any such relinquishment, the Secretary shall submit the proposed agreement to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, and shall not finalize such agreement until sixty calendar days after such submission shall have elapsed. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor (or, if none exists, with the chief executive officer) of the State, Commonwealth, territory, or possession concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State, Commonwealth, territory, or possession may otherwise provide. The Secretary shall diligently pursue the consummation of arrangements with each State, Commonwealth, territory, or possession within which a unit of the National Park System is located to the end that insofar as practicable the United States shall exercise concurrent legislative jurisdiction within units of the National Park System.

(Pub. L. 91–383, §6, as added Pub. L. 94–458, §2, Oct. 7, 1976, 90 Stat. 1939; amended Pub. L. 103–437, §6(a)(1), Nov. 2, 1994, 108 Stat. 4583.)

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives'' for ''Committees on Interior and Insular Affairs of the United States Congress''.

§ 1a–4. Uniform allowance

Notwithstanding section 5901(a) of title 5, the uniform allowance for uniformed employees of the National Park Service may be up to $400 annually.

(Pub. L. 91–383, §7, as added Pub. L. 94–458, §2, Oct. 7, 1976, 90 Stat. 1940.)

§ 1a–5. Additional areas for National Park System

(a) General authority

The Secretary of the Interior is directed to investigate, study, and continually monitor the welfare of areas whose resources exhibit qualities of national significance and which may have potential for inclusion in the National Park System. Accompanying the annual listing of areas shall be a synopsis, for each report previously submitted, of the current and changed condition of the resource integrity of the area and other relevant factors, compiled as a result of continual periodic monitoring and embracing the period since the previous such submission or initial report submission one year earlier. The Secretary is also directed to transmit annually to the Speaker of the House of Representatives and to the President of the Senate, at the beginning of each fiscal year, a complete and current list of all areas included on the Registry of Natural Landmarks and those areas of national significance listed on the National Register of Historic places which areas exhibit known or anticipated damage or threats to the integrity of their resources, along with notations as to the nature and severity of such damage or threats. Each report and annual listing shall be printed as a House document: *Provided*, That should adequate supplies of previously printed identical reports remain available, newly submitted identical reports shall be omitted from printing upon the receipt by the Speaker of the United States House of Representatives of a joint letter from the chairman of the Committee on Natural Resources of the United States House of Representatives and the chairman of the Committee on Energy and Natural Resources of the United States Senate indicating such to be the case.

(b) Studies of areas for potential addition

(1) At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Re-

sources of the House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a list of areas recommended for study for potential inclusion in the National Park System.

(2) In developing the list to be submitted under this subsection, the Secretary shall consider—

(A) those areas that have the greatest potential to meet the established criteria of national significance, suitability, and feasibility;

(B) themes, sites, and resources not already adequately represented in the National Park System; and

(C) public petition and Congressional resolutions.

(3) No study of the potential of an area for inclusion in the National Park System may be initiated after November 13, 1998, except as provided by specific authorization of an Act of Congress.

(4) Nothing in this Act shall limit the authority of the National Park Service to conduct preliminary resource assessments, gather data on potential study areas, provide technical and planning assistance, prepare or process nominations for administrative designations, update previous studies, or complete reconnaissance surveys of individual areas requiring a total expenditure of less than $25,000.

(5) Nothing in this section shall be construed to apply to or to affect or alter the study of any river segment for potential addition to the national wild and scenic rivers system or to apply to or to affect or alter the study of any trail for potential addition to the national trails system.

(c) Report

(1) The Secretary shall complete the study for each area for potential inclusion in the National Park System within 3 complete fiscal years following the date on which funds are first made available for such purposes. Each study under this section shall be prepared with appropriate opportunity for public involvement, including at least one public meeting in the vicinity of the area under study, and after reasonable efforts to notify potentially affected landowners and State and local governments.

(2) In conducting the study, the Secretary shall consider whether the area under study—

(A) possesses nationally significant natural or cultural resources and represents one of the most important examples of a particular resource type in the country; and

(B) is a suitable and feasible addition to the system.

(3) Each study—

(A) shall consider the following factors with regard to the area being studied—

(i) the rarity and integrity of the resources;

(ii) the threats to those resources;

(iii) similar resources are already protected in the National Park System or in other public or private ownership;

(iv) the public use potential;

(v) the interpretive and educational potential;

(vi) costs associated with acquisition, development and operation;

(vii) the socioeconomic impacts of any designation;

(viii) the level of local and general public support; and

(ix) whether the area is of appropriate configuration to ensure long-term resource protection and visitor use;

(B) shall consider whether direct National Park Service management or alternative protection by other public agencies or the private sector is appropriate for the area;

(C) shall identify what alternative or combination of alternatives would in the professional judgment of the Director of the National Park Service be most effective and efficient in protecting significant resources and providing for public enjoyment; and

(D) may include any other information which the Secretary deems to be relevant.

(4) Each study shall be completed in compliance with the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

(5) The letter transmitting each completed study to Congress shall contain a recommendation regarding the Secretary's preferred management option for the area.

(d) New area study office

The Secretary shall designate a single office to be assigned to prepare all new area studies and to implement other functions of this section.

(e) List of areas

At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a list of areas which have been previously studied which contain primarily historical resources, and a list of areas which have been previously studied which contain primarily natural resources, in numerical order of priority for addition to the National Park System. In developing the lists, the Secretary should consider threats to resource values, cost escalation factors, and other factors listed in subsection (c) of this section. The Secretary should only include on the lists areas for which the supporting data is current and accurate.

(f) Authorization of appropriations

For the purposes of carrying out the studies for potential new Park System units and for monitoring the welfare of those resources, there are authorized to be appropriated annually not to exceed $1,000,000. For the purposes of monitoring the welfare and integrity of the national landmarks, there are authorized to be appropriated annually not to exceed $1,500,000. For carrying out subsections (b) through (d) of this section there are authorized to be appropriated $2,000,000 for each fiscal year.

(Pub. L. 91–383, §8, as added Pub. L. 94–458, §2, Oct. 7, 1976, 90 Stat. 1940; amended Pub. L. 95–625, title VI, §604(1), Nov. 10, 1978, 92 Stat. 3518; Pub. L. 96–199, title I, §104, Mar. 5, 1980, 94 Stat. 68; Pub. L. 96–344, §8, Sept. 8, 1980, 94 Stat. 1135; Pub. L. 103–437, §6(b), Nov. 2, 1994, 108 Stat. 4583; Pub. L. 104–333, div. I, title VIII, §814(d)(1)(I),

Nov. 12, 1996, 110 Stat. 4196; Pub. L. 105–391, title III, § 303, Nov. 13, 1998, 112 Stat. 3501.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(4), means Pub. L. 91–383, Aug. 18, 1970, 84 Stat. 825, as amended, known as the ''National Park System General Authorities Act''. As originally enacted, Pub. L. 91–383 contained sections 1 to 4, the first 3 of which enacted sections 1a–1 and 1a–2 and amended sections 1b and 1c of this title. Pub. L. 94–458 amended Pub. L. 91–383 by adding sections 5 to 12, which enacted sections 1a–3 to 1a–7, amended sections 17j, 460n–5, 463, 470a, and 559, and repealed sections 10, 10a, 17b–1, and 415 of this title. Pub. L. 103–322 amended Pub. L. 91–383 by adding section 13, which enacted section 1a–7a of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (c)(4), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–391, § 303(1), (2), inserted heading and struck out after first sentence ''At the beginning of each fiscal year, the Secretary shall transmit to the Speaker of the House of Representatives and to the President of the Senate, comprehensive reports on each of those areas upon which studies have been completed. Each such report shall indicate and elaborate on the theme(s) which the area represents as indicated in the National Park System Plan. On this same date, and accompanying such reports, the Secretary shall transmit a listing, in generally descending order of importance or merit, of not less than twelve such areas which appear to be of national significance and which may have potential for inclusion in the National Park System. Threats to resource values, and cost escalation factors shall be considered in listing the order of importance or merit. Such listing may be comprised of any areas heretofore submitted under terms of this section, and which at the time of listing are not included in the National Park System.''

Pub. L. 105–391, § 303(3), redesignated last two sentences as subsec. (f).

Subsecs. (b) to (e). Pub. L. 105–391, § 303(4), added subsecs. (b) to (e).

Subsec. (f). Pub. L. 105–391, § 303(3), (5), redesignated last two sentences of subsec. (a) as (f), inserted heading, and inserted at end ''For carrying out subsections (b) through (d) of this section there are authorized to be appropriated $2,000,000 for each fiscal year.''

1996—Subsec. (b). Pub. L. 104–333 struck out subsec. (b) which read as follows: ''The Secretary shall submit to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive, 'National Park System Plan', which document shall constitute a professional guide for the identification of natural and historic themes of the United States, and from which candidate areas can be identified and selected to constitute units of the National Park System. Such plan shall be revised and updated annually.''

1994—Subsec. (a). Pub. L. 103–437, § 6(b)(1), substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

Subsec. (b). Pub. L. 103–437, § 6(b)(2), substituted ''The Secretary shall submit to the Committee on Natural Resources'' for ''Within six months of March 5, 1980, the Secretary shall submit to the Committee on Interior and Insular Affairs''.

1980—Subsec. (a). Pub. L. 96–344 inserted provisions requiring that each report indicate and elaborate on the theme or themes which the area represents as indicated in the National Park System Plan and the annual priority listing of areas be accomplished by a synopsis, for each report previously submitted, of current and changed conditions of the resource integrity of the area or other relevant factors, to cover the period since the previous such submission or initial report submission one year earlier.

Pub. L. 96–199, § 104(a), (b), designated existing provisions as subsec. (a) and inserted provision that should adequate supplies of previously printed identical reports remain available, newly submitted identical reports shall be omitted from printing upon the receipt by the Speaker of the United States House of Representatives of a joint letter from the chairman of the Committee on Interior and Insular Affairs of the United States House of Representatives and the chairman of the Committee on Energy and Natural Resources of the United States Senate indicating such to be the case.

Subsec. (b). Pub. L. 96–199, § 104(b), added subsec. (b).

1978—Pub. L. 95–625 authorized annual appropriations of $1,000,000 for studies for potential new Park System units and for monitoring the welfare of those resources and $1,500,000 for monitoring the welfare and integrity of the national landmarks.

COLD WAR SITES THEME STUDY

Pub. L. 111–11, title VII, § 7210, Mar. 30, 2009, 123 Stat. 1210, provided that:

''(a) DEFINITIONS.—

''(1) ADVISORY COMMITTEE.—The term 'Advisory Committee' means the Cold War Advisory Committee established under subsection (c).

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(3) THEME STUDY.—The term 'theme study' means the national historic landmark theme study conducted under subsection (b)(1).

''(b) COLD WAR THEME STUDY.—

''(1) IN GENERAL.—The Secretary shall conduct a national historic landmark theme study to identify sites and resources in the United States that are significant to the Cold War.

''(2) RESOURCES.—In conducting the theme study, the Secretary shall consider—

''(A) the inventory of sites and resources associated with the Cold War completed by the Secretary of Defense under section 8120(b)(9) of the Department of Defense Appropriations Act, 1991 (Public Law 101–511; 104 Stat. 1906); and

''(B) historical studies and research of Cold War sites and resources, including—

''(i) intercontinental ballistic missiles;

''(ii) flight training centers;

''(iii) manufacturing facilities;

''(iv) communications and command centers (such as Cheyenne Mountain, Colorado);

''(v) defensive radar networks (such as the Distant Early Warning Line);

''(vi) nuclear weapons test sites (such as the Nevada test site); and

''(vii) strategic and tactical aircraft.

''(3) CONTENTS.—The theme study shall include—

''(A) recommendations for commemorating and interpreting sites and resources identified by the theme study, including—

''(i) sites for which studies for potential inclusion in the National Park System should be authorized;

''(ii) sites for which new national historic landmarks should be nominated; and

''(iii) other appropriate designations;

''(B) recommendations for cooperative agreements with—

''(i) State and local governments;

''(ii) local historical organizations; and

''(iii) other appropriate entities; and

''(C) an estimate of the amount required to carry out the recommendations under subparagraphs (A) and (B).

''(4) CONSULTATION.—In conducting the theme study, the Secretary shall consult with—

''(A) the Secretary of the Air Force;

''(B) State and local officials;

''(C) State historic preservation offices; and

''(D) other interested organizations and individuals.

''(5) REPORT.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes the findings, conclusions, and recommendations of the theme study.

''(c) COLD WAR ADVISORY COMMITTEE.—

''(1) ESTABLISHMENT.—As soon as practicable after funds are made available to carry out this section, the Secretary shall establish an advisory committee, to be known as the 'Cold War Advisory Committee', to assist the Secretary in carrying out this section.

''(2) COMPOSITION.—The Advisory Committee shall be composed of 9 members, to be appointed by the Secretary, of whom—

''(A) 3 shall have expertise in Cold War history;

''(B) 2 shall have expertise in historic preservation;

''(C) 1 shall have expertise in the history of the United States; and

''(D) 3 shall represent the general public.

''(3) CHAIRPERSON.—The Advisory Committee shall select a chairperson from among the members of the Advisory Committee.

''(4) COMPENSATION.—A member of the Advisory Committee shall serve without compensation but may be reimbursed by the Secretary for expenses reasonably incurred in the performance of the duties of the Advisory Committee.

''(5) MEETINGS.—On at least 3 occasions, the Secretary (or a designee) shall meet and consult with the Advisory Committee on matters relating to the theme study.

''(d) INTERPRETIVE HANDBOOK ON THE COLD WAR.—Not later than 4 years after the date on which funds are made available to carry out this section, the Secretary shall—

''(1) prepare and publish an interpretive handbook on the Cold War; and

''(2) disseminate information in the theme study by other appropriate means.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000.''

NATIONAL PARK SERVICE STUDIES

Pub. L. 106–113, div. B, §1000(a)(3) [title III, §326], Nov. 29, 1999, 113 Stat. 1535, 1501A–194, provided that:

''(a) SHORT TITLE.—This section may be cited as the 'National Park Service Studies Act of 1999'.

''(b) AUTHORIZATION OF STUDIES.—

''(1) IN GENERAL.—The Secretary of the Interior ('the Secretary') shall conduct studies of the geographical areas and historic and cultural themes described in subsection (b)(3) to determine the appropriateness of including such areas or themes in the National Park System.

''(2) CRITERIA.—In conducting the studies authorized by this Act, the Secretary shall use the criteria for the study of areas for potential inclusion in the National Park System in accordance with section 8 of Public Law 91–383 [16 U.S.C. 1a–5], as amended by section 303 of the National Parks Omnibus Management Act (Public Law 105–391; 112 Stat. 3501) [16 U.S.C. 1a–5].

''(3) STUDY AREAS.—The Secretary shall conduct studies of the following:

''(A) Anderson Cottage, Washington, District of Columbia.

''(B) Bioluminescent Bay, Puerto Rico.

''(C) Civil Rights Sites, multi-State.

''(D) Crossroads of the American Revolution, Central New Jersey.

''(E) Fort Hunter Liggett, California.

''(F) Fort King, Florida.

''(G) Gaviota Coast Seashore, California.

''(H) Kate Mullany House, New York.

''(I) Loess Hills, Iowa.

''(J) Low Country Gullah Culture, multi-State.

''(K) Nan Madol, State of Ponape, Federated States of Micronesia (upon the request of the Government of the Federated States of Micronesia).

''(L) Walden Pond and Woods, Massachusetts.

''(M) World War II Sites, Commonwealth of the Northern Marianas.

''(N) World War II Sites, Republic of Palau (upon the request of the Government of the Republic of Palau).

''(c) REPORTS.—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives a report on the findings, conclusions, and recommendations of each study under subsection (b) within three fiscal years following the date on which funds are first made available for each study.''

PURPOSE OF 1998 AMENDMENT

Pub. L. 105–391, title III, §302, Nov. 13, 1998, 112 Stat. 3501, provided that: ''It is the purpose of this title [amending this section and enacting provisions set out as a note under section 1 of this title] to reform the process by which areas are considered for addition to the National Park System.''

REVOLUTIONARY WAR AND WAR OF 1812 HISTORIC PRESERVATION STUDY

Section 603 of title VI of div. I of Pub. L. 104–333, as amended by Pub. L. 106–176, title I, §114, Mar. 10, 2000, 114 Stat. 27, enacted the Revolutionary War and War of 1812 Historic Preservation Study Act of 1996 which made congressional findings as to importance of such preservation study, defined various terms, directed Secretary of the Interior as to preparation of, matters to be included in, consultation with respect to, and report concerning such study, and authorized appropriations.

LOWER MISSISSIPPI DELTA REGION INITIATIVES

Pub. L. 103–433, title XI, Oct. 31, 1994, 108 Stat. 4512, directed Secretary of the Interior, in consultation with Delta Region States, the Lower Mississippi Delta Development Center, the Chairs of the National Endowment for the Arts and the National Endowment for the Humanities, the Director of the Smithsonian Institution, Historically Black Colleges and Universities, State Archaeological Surveys and Regional Archaeological Centers and other appropriate institutions, to prepare and transmit to Congress a series of studies involving Delta Region heritage particularly development of Delta Region Corridors and Heritage and Cultural Centers, preservation of historic and prehistoric sites and structures, Delta antiquities survey, and comprehensive historic and archaeological resources program.

BOSTON HARBOR ISLANDS STUDY

Pub. L. 102–525, title V, §501, Oct. 26, 1992, 106 Stat. 3442, directed Secretary of the Interior to study within one year after Oct. 26, 1992, opportunities for National Park Service to promote conservation and use by the public of Boston Harbor Islands, and in so doing to consult local governmental authorities, to evaluate suitability of establishing Boston Harbor Islands as unit of National Park System, to assess tourism and public education opportunities of management in conjunction with nearby units of National Park System, to evaluate possible transportation links with those units, and to submit, not later than one year after Oct. 26, 1992, a report of findings, conclusions, and recommendations to Congress.

NATIONAL HISTORIC LANDMARK THEME STUDY ON AMERICAN LABOR HISTORY

Pub. L. 102–101, Aug. 17, 1991, 105 Stat. 493, directed Secretary of the Interior, in consultation with workers, workers' representatives, scholars, and preservationists, and under cooperative agreements with scholarly and public historic organizations, to prepare and transmit to Congress, within 3 years of date of funding, a theme study to identify key sites in American labor history, to nominate districts, sites, etc., as national historic landmarks, to identify possible new park units, and to prepare a list of the most appropriate sites, and authorized appropriations of $250,000 to carry out study.

AFRICAN-AMERICAN HISTORY LANDMARK THEME STUDY

Pub. L. 102–98, Aug. 17, 1991, 105 Stat. 485, directed Secretary of the Interior, in consultation with scholars and preservationists, and under cooperative agreements with scholarly and public historic organizations, to prepare and transmit to Congress, within 3 years of date of funding, a theme study to identify key sites in history and experience of African-Americans, to nominate districts, sites, etc. as national historic landmarks, to identify possible new park units, and to prepare a list of most appropriate sites, and authorized appropriations of $500,000 to carry out study.

NIOBRARA-BUFFALO PRAIRIE NATIONAL PARK STUDY

Pub. L. 102–50, § 8, May 24, 1991, 105 Stat. 257, directed Secretary of the Interior to study within 18 months after May 24, 1991, feasibility and suitability of establishing Niobrara-Buffalo Prairie National Park in Nebraska, including assessment of significance of natural, cultural, historic, scenic, and recreational resources and study of feasibility of managing the area by various methods, in consultation with appropriate Federal agencies, Nature Conservancy, and Nebraska Game and Parks Commission, and directed Secretary to submit study to Congress, prior to repeal by Pub. L. 105–362, title IX, § 901(g)(1), Nov. 10, 1998, 112 Stat. 3290.

UNDERGROUND RAILROAD STUDY

Pub. L. 101–628, title VI, Nov. 28, 1990, 104 Stat. 4495, directed Secretary of the Interior to conduct a study of alternatives for commemorating the Underground Railroad in order to preserve and protect this aspect of American history, directed preparation of an interpretive handbook on the Underground Railroad in larger context of American antebellum society, including history of slavery and abolitionism, and authorized establishment of Underground Railroad Advisory Committee to meet and consult with Secretary on matters relating to the study.

CIVIL WAR AND OTHER STUDIES

Pub. L. 101–628, title XII, §§ 1201–1210, Nov. 28, 1990, 104 Stat. 4503–4507, as amended by Pub. L. 102–166, title V, § 501, Nov. 21, 1991, 105 Stat. 1100, provided that title XII of Pub. L. 101–628 could be cited as the ''Civil War Sites Study Act of 1990'', directed Secretary of the Interior to prepare a study of Shenandoah Valley Civil War sites in order to obtain information on significance of such sites, threats to their integrity, and alternatives for their preservation, authorized establishment of Civil War Sites Advisory Commission, directed such Commission to prepare a study of historically significant sites other than Shenandoah Valley Civil War sites, and directed Secretary to undertake a complete revision of National Park Service ''Thematic Framework'' to reflect current scholarship on American history and culture, historic and prehistoric archeology, and architecture.

REPORT TO CONGRESS ON CRITERIA FOR INCLUSION AS AFFILIATED AREA OF NATIONAL PARK SYSTEM

Pub. L. 100–336, § 2, June 17, 1988, 102 Stat. 617, directed Secretary, in consultation with interested conservation, professional, and park management organizations and individuals, to prepare and submit to Committee on Interior and Insular Affairs of House of Representatives and Committee on Energy and Natural Resources of Senate a report of criteria for elements of national significance and other factors necessary for a proposed area to be considered appropriate for inclusion as an affiliated area of National Park System including an analysis of applicability to Wildlife Prairie Park, this report to address responsibilities to be required of operators of an affiliated area and responsibilities of National Park Service to any such designated area, with report to be submitted not later than two years from June 17, 1988, and to provide recommendations by Secretary of the Interior including but not limited to how criteria for national significance and other factors should be made applicable to future proposed affiliated areas, when such areas are considered by the Secretary, and any criteria or procedures for such considerations by Congress including recommendations for legislative action.

STUDY OF HISTORICAL CAMDEN, SOUTH CAROLINA, REGARDING ESTABLISHMENT AS UNIT OF NATIONAL PARK SYSTEM; TRANSMITTAL TO PRESIDENT AND CONGRESSIONAL COMMITTEES

Pub. L. 95–629, title IV, § 401, Nov. 10, 1978, 92 Stat. 3640, directed Secretary of the Interior to prepare and transmit to President, Committee on Interior and Insular Affairs of House of Representatives, and Committee on Energy and Natural Resources of Senate a study of Historical Camden, consisting of approximately ninety acres of land in Camden, South Carolina, to determine feasibility and desirability of establishing such area as a unit of the National Park System, with study to be transmitted not later than two years following date on which funds are appropriated for study and to include cost estimates for any necessary acquisition, development, operation and maintenance, as well as any alternatives for administration and protection of area.

CROW CREEK VILLAGE ARCHEOLOGICAL SITE, SOUTH DAKOTA; FEASIBILITY/SUITABILITY STUDY; TRANSMITTAL TO CONGRESSIONAL COMMITTEES; COST ESTIMATES; SITE PRESERVATION

Section 512 of Pub. L. 95–625 directed Secretary to prepare and transmit to Committee on Energy and Natural Resources of Senate and Committee on Interior and Insular Affairs of House of Representatives within two years from Nov. 10, 1978, a feasibility/suitability study of Crow Creek Village archeological site, Buffalo County, South Dakota, as a unit of National Park System, including cost estimates for any necessary acquisition, development, operation and maintenance, as well as any feasible alternatives for administration and protection of area, including, but not limited to, Federal financial and technical assistance to State of South Dakota, Buffalo County or other suitable entity, and directed Secretary of the Army to take such actions as may be necessary to preserve and protect such site from any adverse impact on site and to refrain from any activities which might cause such impact until two years from date of submission of study by Secretary.

RIDGELANDS AREA STUDY; CONSULTATION AND COORDINATION; REPORT TO PRESIDENT AND CONGRESS; AUTHORIZATION OF APPROPRIATIONS

Section 602 of Pub. L. 95–625 directed Secretary to study feasibility and desirability of establishing Ridgelands area east of San Francisco Bay as a unit of National Park System, to consult with other Federal, State, and local agencies in conduct of this study, to coordinate this study with applicable local and State plans and planning activities relating to Ridgelands, and to report findings and recommendations to Presi-

dent and Congress not later than one year after Nov. 10, 1978.

OAK CREEK CANYON, YAVAPAI, SOLDIERS WASH-MORMON CANYON, AND CHIRICAHUA NATIONAL MONUMENT, ARIZONA; STUDIES BY SECRETARIES OF THE INTERIOR AND AGRICULTURE

Section 605 of Pub. L. 95–625 directed Secretary, in cooperation with Secretary of Agriculture where national forest lands are involved, to conduct a study to determine suitable boundaries for Oak Creek Canyon, Yavapai, Soldiers Wash-Mormon Canyon areas in Arizona as a unit or units of National Park System, and to conduct a study of boundary of Chiricahua National Monument, Arizona, to determine appropriate location of a boundary line for additions to monument, with both reports to be submitted by Secretary to Committee on Interior and Insular Affairs of House of Representatives and Committee on Energy and Natural Resources of Senate not later than one year following date on which funds are appropriated for purpose of study.

IRVINE COAST-LAGUNA, CALIFORNIA STUDY

Section 608 of Pub. L. 95–625 directed Secretary to study feasibility and desirability of establishing Irvine Coast-Laguna beach area as a unit of National Park System, to consult with other Federal, State, and local agencies in conduct of this study, and to report findings and recommendations to President and Congress within six months after Nov. 10, 1978.

§ 1a–6. Law enforcement personnel within National Park System

(a) Omitted

(b) Designation authority of Secretary; powers and duties of designees

In addition to any other authority conferred by law, the Secretary of the Interior is authorized to designate, pursuant to standards prescribed in regulations by the Secretary, certain officers or employees of the Department of the Interior who shall maintain law and order and protect persons and property within areas of the National Park System. In the performance of such duties, the officers or employees, so designated, may—

(1) carry firearms and make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony, provided such arrests occur within that system or the person to be arrested is fleeing therefrom to avoid arrest;

(2) execute any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of the provisions of any Federal law or regulation issued pursuant to law arising out of an offense committed in that system or, where the person subject to the warrant or process is in that system, in connection with any Federal offense; and

(3) conduct investigations of offenses against the United States committed in that system in the absence of investigation thereof by any other Federal law enforcement agency having investigative jurisdiction over the offense committed or with the concurrence of such other agency.

(c) Supplemental special policemen; designation authority of Secretary; cooperation with State officials in enforcement of State law; reimbursement to State; concurrent jurisdiction; delegation of enforcement responsibilities

The Secretary of the Interior is hereby authorized to—

(1) designate officers and employees of any other Federal agency or law enforcement personnel of any State or political subdivision thereof, when deemed economical and in the public interest and with the concurrence of that agency or that State or subdivision, to act as special policemen in areas of the National Park System when supplemental law enforcement personnel may be needed, and to exercise the powers and authority provided by paragraphs (1), (2), and (3) of subsection (b) of this section;

(2) cooperate, within the National Park System, with any State or political subdivision thereof in the enforcement of supervision of the laws or ordinances of that State or subdivision;

(3) mutually waive, in any agreement pursuant to paragraphs (1) and (2) of this subsection or pursuant to subsection (b)(1) of this section with any State or political subdivision thereof where State law requires such waiver and indemnification, any and all civil claims against all the other parties thereto and, subject to available appropriations, indemnify and save harmless the other parties to such agreement from all claims by third parties for property damage or personal injury, which may arise out of the parties' activities outside their respective jurisdictions under such agreement; and

(4) provide limited reimbursement, to a State or its political subdivisions, in accordance with such regulations as he may prescribe, where the State has ceded concurrent legislative jurisdiction over the affected area of the system, for expenditures incurred in connection with its activities within that system which were rendered pursuant to paragraph (1) of this subsection.

The authorities provided by this subsection shall supplement the law enforcement responsibilities of the National Park Service, and shall not authorize the delegation of law enforcement responsibilities of the agency to State and local governments.

(d) Special policemen not deemed Federal employees; exceptions

(1) Except as otherwise provided in this subsection, a law enforcement officer of any State or political subdivision thereof designated to act as a special policeman under subsection (c) of this section shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including, but not limited to, those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal benefits.

(2) For purposes of the tort claim provisions of title 28, a law enforcement officer of any State or political subdivision thereof shall, when acting as a special policeman under subsection (c)

of this section, be considered a Federal employee.

(3) For purposes of subchapter I of chapter 81 of title 5, relating to compensation to Federal employees for work injuries, a law enforcement officer of any State or political subdivision thereof shall, when acting as a special policeman under subsection (c) of this section be deemed a civil service employee of the United States within the meaning of the term ''employee'' as defined in section 8101 of title 5, and the provisions of that subchapter shall apply.

(e) Federal investigative jurisdiction and State civil and criminal jurisdiction not preempted within National Park System

Nothing contained in this Act shall be construed or applied to limit or restrict the investigative jurisdiction of any Federal law enforcement agency other than the National Park Service, and nothing shall be construed or applied to affect any right of a State or a political subdivision thereof to exercise civil and criminal jurisdiction within the National Park System.

(Pub. L. 91–383, § 10, as added Pub. L. 94–458, § 2, Oct. 7, 1976, 90 Stat. 1941; amended Pub. L. 106–437, § 2, Nov. 6, 2000, 114 Stat. 1920; Pub. L. 108–352, § 11, Oct. 21, 2004, 118 Stat. 1397.)

REFERENCES IN TEXT

This Act, referred to in subsec. (e), is Pub. L. 91–383, Aug. 18, 1970, 84 Stat. 825, as amended, known as the ''National Park System General Authorities Act''. As originally enacted, Pub. L. 91–383 contained sections 1 to 4, the first 3 of which enacted sections 1a–1 and 1a–2 and amended sections 1b and 1c of this title. Pub. L. 94–458 amended Pub. L. 91–383 by adding sections 5 to 12, which enacted sections 1a–3 to 1a–7, amended sections 17j, 460n–5, 463, 470a, and 559, and repealed sections 10, 10a, 17b–1, and 415 of this title. Pub. L. 103–322 amended Pub. L. 91–383 by adding section 13, which enacted section 1a–7a of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1 of this title and Tables.

CODIFICATION

Section is comprised of section 10 of Pub. L. 91–383, as added. Subsec. (a) of section 10 of Pub. L. 91–383 amended sections 460n–5 and 559 of this title and repealed sections 10, 10a, and 415 of this title.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–352 made technical amendment to directory language of Pub. L. 106–437, § 2. See 2000 Amendment note below.

2000—Subsec. (c). Pub. L. 106–437, § 2, as amended by Pub. L. 108–352, struck out ''and'' at end of par. (2), added par. (3), redesignated former pars. (3) and (4) as (4) and (5), respectively, and in par. (5) substituted ''The'' for ''(5) the'' and aligned left margin with introductory provisions.

§ 1a–7. National Park System development program

(a) Omitted

(b) General management plans; preparation and revision by Director of National Park Service; list to Congress; contents

General management plans for the preservation and use of each unit of the National Park System, including areas within the national capital area, shall be prepared and revised in a timely manner by the Director of the National Park Service. On January 1 of each year, the Secretary shall submit to the Congress a list indicating the current status of completion or revision of general management plans for each unit of the National Park System. General management plans for each unit shall include, but not be limited to:

(1) measures for the preservation of the area's resources;

(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation, and anticipated costs;

(3) identification of and implementation commitments for visitor carrying capacities for all areas of the unit; and

(4) indications of potential modifications to the external boundaries of the unit, and the reasons therefor.

(Pub. L. 91–383, § 12, as added Pub. L. 94–458, § 2, Oct. 7, 1976, 90 Stat. 1942; amended Pub. L. 95–625, title VI, § 604(3), (4), Nov. 10, 1978, 92 Stat. 3518, 3519; Pub. L. 103–437, § 6(c), Nov. 2, 1994, 108 Stat. 4583; Pub. L. 105–391, title IV, § 415(b)(2), Nov. 13, 1998, 112 Stat. 3515.)

CODIFICATION

Subsection (a), which required the Secretary of the Interior to transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a detailed program for the development of facilities, structures, or buildings for each unit of the National Park System consistent with the general management plans required in subsection (b) of this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 110 of House Document No. 103–7.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–391 struck out subsec. (c) which read as follows: ''The Secretary of the Interior shall hereafter transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives all proposed awards of concession leases and contracts involving a gross annual business of $100,000 or more, or of five years or more in duration (including renewals thereof), and all proposed rules and regulations relating thereto, sixty days before such awards are made or such rules and regulations are promulgated.''

1994—Subsecs. (a), (c). Pub. L. 103–437 substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives'' for ''Committees on Interior and Insular Affairs''.

1978—Subsec. (b). Pub. L. 95–625, § 604(3), in revising text, substituted provisions for preservation and use of units of the National Park Service for prior provision for development of the units and for submission of an annual list to Congress on January 1 for prior provision for transmission of the plans to the Committees on Interior and Insular Affairs, provided for revision of the plans in a timely manner, inserted items (1) to (4) and struck out prior items covering (1) the facilities which the Director found necessary to accommodate the health, safety, and recreation needs of the visiting public, including provision of appropriate facilities under Act Oct. 9, 1965, 79 Stat. 969 [Pub. L. 89–249]; (2) the location and estimated cost of all the facilities; and (3)

the projected need for any additional facilities required for the unit.

Subsec. (c). Pub. L. 95–625, § 604(4), substituted ''or of five years or more'' for ''or exceeding five years''.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to submitting to Congress, on January 1 each year, a list indicating the current status of general management plans, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 110 of House Document No. 103–7.

§ 1a–7a. National Park System crime prevention assistance

(a) Availability of funds

There are authorized to be appropriated out of the Violent Crime Reduction Trust Fund, not to exceed $10,000,000, for the Secretary of the Interior to take all necessary actions to seek to reduce the incidence of violent crime in the National Park System.

(b) Recommendations for improvement

The Secretary shall direct the chief official responsible for law enforcement within the National Park Service to—

(1) compile a list of areas within the National Park System with the highest rates of violent crime;

(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

(c) Distribution of funds

Based on the recommendations and list issued pursuant to subsection (b) of this section, the Secretary shall distribute the funds authorized by subsection (a) of this section throughout the National Park System. Priority shall be given to those areas with the highest rates of sexual assault.

(d) Use of funds

Funds provided under this section may be used—

(1) to increase lighting within or adjacent to National Park System units;

(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to National Park System units;

(3) to increase security or law enforcement personnel within or adjacent to National Park System units; or

(4) for any other project intended to increase the security and safety of National Park System units.

(Pub. L. 91–383, § 13, as added Pub. L. 103–322, title IV, § 40132, Sept. 13, 1994, 108 Stat. 1917.)

§ 1a–7b. Protecting Americans from violent crime

(a) Congressional findings

Congress finds the following:

(1) The Second Amendment to the Constitution provides that ''the right of the people to keep and bear Arms, shall not be infringed''.

(2) Section 2.4(a)(1) of title 36, Code of Federal Regulations, provides that ''except as otherwise provided in this section and parts 7 (special regulations) and 13 (Alaska regulations), the following are prohibited: (i) Possessing a weapon, trap or net (ii) Carrying a weapon, trap or net (iii) Using a weapon, trap or net''.

(3) Section 27.42 of title 50, Code of Federal Regulations, provides that, except in special circumstances, citizens of the United States may not ''possess, use, or transport firearms on national wildlife refuges'' of the United States Fish and Wildlife Service.

(4) The regulations described in paragraphs (2) and (3) prevent individuals complying with Federal and State laws from exercising the second amendment rights of the individuals while at units of—

(A) the National Park System; and

(B) the National Wildlife Refuge System.

(5) The existence of different laws relating to the transportation and possession of firearms at different units of the National Park System and the National Wildlife Refuge System entrapped law-abiding gun owners while at units of the National Park System and the National Wildlife Refuge System.

(6) Although the Bush administration issued new regulations relating to the Second Amendment rights of law-abiding citizens in units of the National Park System and National Wildlife Refuge System that went into effect on January 9, 2009—

(A) on March 19, 2009, the United States District Court for the District of Columbia granted a preliminary injunction with respect to the implementation and enforcement of the new regulations; and

(B) the new regulations—

(i) are under review by the administration; and

(ii) may be altered.

(7) Congress needs to weigh in on the new regulations to ensure that unelected bureaucrats and judges cannot again override the Second Amendment rights of law-abiding citizens on 83,600,000 acres of National Park System land and 90,790,000 acres of land under the jurisdiction of the United States Fish and Wildlife Service.

(8) The Federal laws should make it clear that the second amendment rights of an individual at a unit of the National Park System or the National Wildlife Refuge System should not be infringed.

(b) Protecting the right of individuals to bear arms in units of the National Park System and the National Wildlife Refuge System

The Secretary of the Interior shall not promulgate or enforce any regulation that prohibits an individual from possessing a firearm including an assembled or functional firearm in any unit of the National Park System or the National Wildlife Refuge System if—

(1) the individual is not otherwise prohibited by law from possessing the firearm; and

(2) the possession of the firearm is in compliance with the law of the State in which the

unit of the National Park System or the National Wildlife Refuge System is located.

(Pub. L. 111–24, title V, § 512, May 22, 2009, 123 Stat. 1764.)

EFFECTIVE DATE

Section effective nine months after May 22, 2009, except as otherwise specifically provided, see section 3 of Pub. L. 111–24, set out as an Effective Date of 2009 Amendment note under section 1602 of Title 15, Commerce and Trade.

§ 1a–8. Maintenance management system

(a) Implementation and elements

Beginning in fiscal year 1985, the National Park Service shall implement a maintenance management system into the maintenance and operations programs of the National Park System. For purposes of this section the term ''maintenance management system'' means a system that contains but is not limited to the following elements:

(1) a work load inventory of assets including detailed information that quantifies for all assets (including but not limited to buildings, roads, utility systems, and grounds that must be maintained) the characteristics affecting the type of maintenance work performed;

(2) a set of maintenance tasks that describe the maintenance work in each unit of the National Park System;

(3) a description of work standards including frequency of maintenance, measurable quality standard to which assets should be maintained, methods for accomplishing work, required labor, equipment and material resources, and expected worker production for each maintenance task;

(4) a work program and performance budget which develops an annual work plan identifying maintenance needs and financial resources to be devoted to each maintenance task;

(5) a work schedule which identifies and prioritizes tasks to be done in a specific time period and specifies required labor resources;

(6) work orders specifying job authorizations and a record of work accomplished which can be used to record actual labor and material costs; and

(7) reports and special analyses which compare planned versus actual accomplishments and costs and can be used to evaluate maintenance operations.

(b) Repealed. Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(F), Nov. 12, 1996, 110 Stat. 4196

(Pub. L. 98–540, § 4, Oct. 24, 1984, 98 Stat. 2719; Pub. L. 103–437, § 6(d)(1), Nov. 2, 1994, 108 Stat. 4583; Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(F), Nov. 12, 1996, 110 Stat. 4196.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–333 struck out subsec. (b) which read as follows:

''The National Park Service shall transmit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, at the end of each fiscal year, a copy of a report summarizing the status of implementation of a maintenance management system until such a system has been implemented.

''The report shall incorporate the following information:

''(1) the number of units in the National Park System that have implemented a maintenance management system during the period;

''(2) contract costs versus management efficiencies achieved;

''(3) the total amount of dollars spent on contracts for services; and

''(4) estimation of the total value of benefits achieved through greater management efficiency.''

1994—Subsec. (b). Pub. L. 103–437 in introductory provisions substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 1a–9. Periodic review of National Park System

The Secretary of the Interior (hereafter in sections 1a–9 to 1a–13 of this title referred to as the ''Secretary'') is authorized and directed to conduct a systematic and comprehensive review of certain aspects of the National Park System and to submit on a periodic basis but not later than every 3 years a report to the Committee on Natural Resources and the Committee on Appropriations of the United States House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate on the findings of such review, together with such recommendations as the Secretary determines necessary. The first report shall be submitted no later than 3 years after November 28, 1990.

(Pub. L. 101–628, title XII, § 1213, Nov. 28, 1990, 104 Stat. 4507; Pub. L. 103–437, § 6(d)(2), Nov. 2, 1994, 108 Stat. 4583.)

REFERENCES IN TEXT

Sections 1a–9 to 1a–13 of this title, referred to in text, was in the original ''this title'', meaning title XII of Pub. L. 101–628, Nov. 28, 1990, 104 Stat. 4503, which enacted sections 1a–9 to 1a–13 of this title, amended section 463 of this title, and enacted provisions set out as a note under section 1a–5 of this title. For complete classification of title XII to the Code, see Tables.

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 1a–10. Consultation with affected agencies and organizations

In conducting and preparing the report referred to in section 1a–9 of this title, the Secretary shall consult with appropriate officials of affected Federal, State and local agencies, together with national, regional, and local organizations, including but not limited to holding such public hearings as the Secretary determines to be appropriate to provide a full opportunity for public comment.

(Pub. L. 101–628, title XII, § 1214, Nov. 28, 1990, 104 Stat. 4508.)

REFERENCES IN TEXT

Section 1a–9 of this title, referred to in text, was in the original ''section 1'', and was translated as reading ''section 1213'', meaning section 1213 of Pub. L. 101–628, title XII, Nov. 28, 1990, 104 Stat. 4507, which enacted section 1a–9 relating to submission of reports, as the probable intent of Congress.

§ 1a–11. Contents of report

The report shall contain—

(a) A comprehensive listing of all authorized but unacquired lands within the exterior boundaries of each unit of the National Park System as of November 28, 1990.

(b) A priority listing of all such unacquired parcels by individual park unit and for the National Park System as a whole. The list shall describe the acreage and ownership of each parcel, the estimated cost of acquisition for each parcel (subject to any statutory acquisition limitations for such lands), and the basis for such estimate.

(c) An analysis and evaluation of the current and future needs of each unit of the National Park System for resource management, interpretation, construction, operation and maintenance, personnel, housing, together with an estimate of the costs thereof.

(Pub. L. 101–628, title XII, §1215, Nov. 28, 1990, 104 Stat. 4508.)

§ 1a–12. Evaluation of proposed boundary changes

Within one year after November 28, 1990, the Secretary shall develop criteria to evaluate any proposed changes to the existing boundaries of individual park units including—

(a) analysis of whether or not the existing boundary provides for the adequate protection and preservation of the natural, historic, cultural, scenic and recreational resources integral to the unit;

(b) an evaluation of each parcel proposed for addition or deletion to the unit based on the analysis under paragraph (1);[1]

(c) an assessment of the impact of potential boundary adjustments taking into consideration the factors in paragraph (c)[2] as well as the effect of the adjustments on the local communities and surrounding area.

(Pub. L. 101–628, title XII, §1216, Nov. 28, 1990, 104 Stat. 4508.)

§ 1a–13. Proposals for boundary changes

In proposing any boundary change after November 28, 1990, the Secretary shall—

(a) consult with affected agencies of State and local governments[1] surrounding communities, affected landowners and private national, regional, and local organizations;

(b) apply the criteria developed pursuant to section 1a–12 of this title and accompany this proposal with a statement reflecting the results of the application of such criteria;

(c) include with such proposal an estimate of the cost for acquisition of any parcels proposed for acquisition together with the basis for the estimate and a statement on the relative priority for the acquisition of each parcel within the priorities for acquisition of other lands for such unit and for the National Park System.

(Pub. L. 101–628, title XII, §1217, Nov. 28, 1990, 104 Stat. 4508.)

[1] So in original. Probably should be paragraph ''(a);''.

[2] So in original.

[1] So in original. Probably should be followed by a comma.

§ 1a–14. National Park System advisory committees

(a) Charter

The provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. Appendix; 86 Stat. 776) are hereby waived with respect to any advisory commission or advisory committee established by law in connection with any national park system unit during the period such advisory commission or advisory committee is authorized by law.

(b) Members

In the case of any advisory commission or advisory committee established in connection with any national park system unit, any member of such Commission or Committee may serve after the expiration of his or her term until a successor is appointed.

(Pub. L. 102–525, title III, §301, Oct. 26, 1992, 106 Stat. 3441.)

REFERENCES IN TEXT

Section 14(b) of the Federal Advisory Committee Act, referred to in subsec. (a), is section 14(b) of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 1b. Secretary of the Interior's authorization of additional activities; administration of National Park System

In order to facilitate the administration of the National Park System, the Secretary of the Interior is authorized to carry out the following activities, and he may use applicable appropriations for the aforesaid system for the following purposes:

(1) Emergency assistance

Rendering of emergency rescue, fire fighting, and cooperative assistance to nearby law enforcement and fire prevention agencies and for related purposes outside of the National Park System.

(2) Utility facilities; erection and maintenance

The erection and maintenance of fire protection facilities, water lines, telephone lines, electric lines, and other utility facilities adjacent to any area of the said National Park System, where necessary, to provide service in such area.

(3) Transportation of employees of Carlsbad Caverns National Park; rates

Transportation to and from work, outside of regular working hours, of employees of Carlsbad Caverns National Park, residing in or near the city of Carlsbad, New Mexico, such transportation to be between the park and the city, or intervening points, at reasonable rates to be determined by the Secretary of the Interior taking into consideration, among other factors, comparable rates charged by transportation companies in the locality for similar services, the amounts collected for such transportation to be credited to the appropriation current at the time payment is received: *Provided*, That if adequate transportation facilities are available, or shall be available by any common carrier, at reasonable rates, then and

in that event the facilities contemplated by this paragraph shall not be offered.

(4) Utility services for concessioners; reimbursement

Furnishing, on a reimbursement of appropriation basis, all types of utility services to concessioners, contractors, permittees, or other users of such services, within the National Park System: *Provided*, That reimbursements for cost of such utility services may be credited to the appropriation current at the time reimbursements are received.

(5) Supplies and rental of equipment; reimbursement

Furnishing, on a reimbursement of appropriation basis, supplies, and the rental of equipment to persons and agencies that in cooperation with, and subject to the approval of, the Secretary of the Interior, render services or perform functions that facilitate or supplement the activities of the Department of the Interior in the administration of the National Park System: *Provided*, That reimbursements hereunder may be credited to the appropriation current at the time reimbursements are received.

(6) Contracts for utility facilities

Contracting, under such terms and conditions as the said Secretary considers to be in the interest of the Federal Government, for the sale, operation, maintenance, repair, or relocation of Government-owned electric and telephone lines and other utility facilities used for the administration and protection of the National Park System, regardless of whether such lines and facilities are located within or outside said system and areas.

(7) Rights-of-way

Acquiring such rights-of-way as may be necessary to construct, improve, and maintain roads within the authorized boundaries of any area of said National Park System and the acquisition also of land and interests in land adjacent to such rights-of-way, when deemed necessary by the Secretary, to provide adequate protection of natural features or to avoid traffic and other hazards resulting from private road access connections, or when the acquisition of adjacent residual tracts, which otherwise would remain after acquiring such rights-of-way, would be in the public interest.

(8) Operation and maintenance of motor and other equipment; rent of equipment; reimbursement

The operation, repair, maintenance, and replacement of motor and other equipment on a reimbursable basis when such equipment is used on Federal projects of the said National Park System, chargeable to other appropriations, or on work of other Federal agencies, when requested by such agencies. Reimbursement shall be made from appropriations applicable to the work on which the equipment is used at rental rates established by the Secretary, based on actual or estimated cost of operation, repair, maintenance, depreciation, and equipment management control and credited to appropriations currently available at the time adjustment is effected, and the Secretary may also rent equipment for fire control purposes to State, county, private, or other non-Federal agencies that cooperate with the Secretary in the administration of the said National Park System and other areas in fire control, such rental to be under the terms of written cooperative agreements, the amount collected for such rentals to be credited to appropriations currently available at the time payment is received.

(Aug. 8, 1953, ch. 384, §1, 67 Stat. 495; Pub. L. 91–383, §2(a), Aug. 18, 1970, 84 Stat. 826.)

AMENDMENTS

1970—Pub. L. 91–383 struck out ''and miscellaneous areas administered in connection therewith'' after ''National Park System'' and ''and miscellaneous areas'' after ''aforesaid system'' in introductory text and ''National Park System'' in pars. (1), (2), (4) to (7), and (8) where first appearing.

§ 1c. General administration provisions; system defined; particular areas

(a) "National park system" defined

The ''national park system'' shall include any area of land and water now or hereafter administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes.

(b) Specific provisions applicable to area; uniform application of sections 1b to 1d and other provisions of this title to all areas when not in conflict with specific provisions; references in other provisions to national parks, monuments, recreation areas, historic monuments, or parkways not a limitation of such other provisions to those areas

Each area within the national park system shall be administered in accordance with the provisions of any statute made specifically applicable to that area. In addition, the provisions of sections 1b to 1d of this title, and the various authorities relating to the administration and protection of areas under the administration of the Secretary of the Interior through the National Park Service, including but not limited to the Act of August 25, 1916 (39 Stat. 535), as amended [16 U.S.C. 1, 2, 3, and 4], the Act of March 4, 1911 (36 Stat. 1253), as amended (16 U.S.C. 5) relating to rights-of-way, the Act of June 5, 1920 (41 Stat. 917), as amended (16 U.S.C. 6), relating to donation of land and money, sections 1, 4, 5, and 6 of the Act of April 9, 1924 (43 Stat. 90), as amended (16 U.S.C. 8 and 8a–8c), relating to roads and trails, the Act of March 4, 1931 (46 Stat. 1570; 16 U.S.C. 8d), relating to approach roads to national monuments, the Act of June 3, 1948 (62 Stat. 334), as amended (16 U.S.C. 8e–8f), relating to conveyance of roads to States, the Act of August 31, 1954 (68 Stat. 1037), as amended (16 U.S.C. 452a), relating to acquisitions of inholdings, section 1 of the Act of July 3, 1926 (44 Stat. 900), as amended (16 U.S.C. 12), relating to aid to visitors in emergencies, the Act of March 3, 1905 (33 Stat. 873; 16 U.S.C. 10), relating to arrests, sections 3, 4, 5, and 6 of the Act of May 26, 1930 (46 Stat. 381), as amended (16 U.S.C. 17b, 17c, 17d, and 17e), relating to services

or other accommodations for the public, emergency supplies and services to concessioners, acceptability of travelers checks, care and removal of indigents, the Act of October 9, 1965 (79 Stat. 696; 16 U.S.C. 20–20g),[1] relating to concessions, the Land and Water Conservation Fund Act of 1965, as amended [16 U.S.C. 460*l*–4 et seq.], and the Act of July 15, 1968 (82 Stat. 355), shall to the extent such provisions are not in conflict with any such specific provision, be applicable to all areas within the national park system and any reference in such Act to national parks, monuments, recreation areas, historic monuments, or parkways shall hereinafter not be construed as limiting such Acts to those areas.

(Aug. 8, 1953, ch. 384, §2, 67 Stat. 496; Pub. L. 91–383, §2(b), Aug. 18, 1970, 84 Stat. 826.)

REFERENCES IN TEXT

Act of October 9, 1965, referred to in subsec. (b), is Pub. L. 89–249, Oct. 9, 1965, 79 Stat. 969, known as the National Park System Concessions Policy Act, which was classified generally to subchapter IV (§20 et seq.) of this chapter, prior to repeal by Pub. L. 105–391, title IV, §415(a), Nov. 13, 1998, 112 Stat. 3515.

Act of March 3, 1905 (33 Stat. 873; 16 U.S.C. 10), referred to in subsec. (b), related to arrests by National Park Service personnel in the national forests and national parks. Provisions of that Act that related to arrests by Forest Service personnel in the national forest and national parks are classified to section 559 of this title. Section 10(a)(2) of Pub. L. 91–383, as added by Pub. L. 94–458, §2, Oct. 7, 1976, 90 Stat. 1941, amended the 1905 Act by striking out references to the National Park Service and the national parks, and had the effect of repealing those provisions of the 1905 Act that were classified to section 10 of this title. Provisions relating to law and order within areas of the National Park System are covered by section 1a–6 of this title.

Section 17d of this title, referred to in subsec. (b), was omitted from the Code as obsolete.

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (b), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§460*l*–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

Act of July 15, 1968 (82 Stat. 355), referred to in subsec. (b), is Pub. L. 90–401, which enacted sections 460*l*–10a to 460*l*–10c and 460*l*–22 of this title, amended section 460*l*–5, 460*l*–7, and 460*l*–9 of this title, and enacted provisions set out as notes under section 460*l*–5 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–383, in redefining the national park system, substituted provision for inclusion of any area of land and water now or hereafter administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes for prior provision defining such system to mean all federally owned or controlled lands administered under direction of Secretary of the Interior under sections 1, 2, 3, and 4 of this title and grouped in the following descriptive categories: (1) National parks, (2) national monuments, (3) national historic parks, (4) national memorials, (5) national parkways, and (6) national capital parks.

Subsec. (b). Pub. L. 91–383 substituted provisions making specific provisions applicable to an area of the national park system, for uniform application of authorities, and prohibiting construction of references in other provisions to national parks, monuments, recreation areas, historic monuments or parkways as limitation of such other provisions to those areas, for prior definition of ''miscellaneous areas'' as including lands under administrative jurisdiction of another Federal agency, or privately owned lands, and over which National Park Service, under direction of Secretary of the Interior, exercises supervision for recreational, historical, or other related purposes, and lands under care and custody of such Service other than those herein described.

[1] So in original. Statutes at Large citation probably should be ''79 Stat. 969''. See References in Text note below.

§ 1d. Appropriations

On and after August 8, 1953, applicable appropriations of the National Park Service shall be available for the objects and purposes specified in section 17j–2 of this title.

(Aug. 8, 1953, ch. 384, §3, 67 Stat. 496.)

§ 1e. National Capital region arts and cultural affairs; grant program

There is hereby established under the direction of the National Park Service a program to support and enhance artistic and cultural activities in the National Capital region. Eligibility for grants shall be limited to organizations of demonstrated national significance which meet at least two of the additional following criteria:

(1) an annual operating budget in excess of $1,000,000;

(2) an annual audience or visitation of at least 200,000 people;

(3) a paid staff of at least one hundred persons; or

(4) eligibility under the Historic Sites Act of 1935 (16 U.S.C. 462(e)).

Public or private colleges and universities are not eligible for grants under this program.

Grants awarded under this section may be used to support general operations and maintenance, security, or special projects. No organization may receive a grant in excess of $500,000 in a single year.

The Director of the National Park Service shall establish an application process, appoint a review panel of five qualified persons, at least a majority of whom reside in the National Capital region, and develop other program guidelines and definitions as required.

The contractual amounts required for the support of Ford's Theater and Wolf Trap National Park for the Performing Arts shall be available within the amount herein provided without regard to any other provisions of this section.

(Pub. L. 98–473, title I, §101(c) [title I, §100], Oct. 12, 1984, 98 Stat. 1837, 1844; Pub. L. 89–671, §14(c), as added Pub. L. 107–219, §1(a)(3), Aug. 21, 2002, 116 Stat. 1330.)

REFERENCES IN TEXT

The Historic Sites Act of 1935, referred to in text, which is also known as the Historic Sites, Buildings, and Antiquities Act, is act Aug. 21, 1935, ch. 593, 49 Stat. 666, as amended, which is classified to sections 461 to 467 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

AMENDMENTS

2002—Pub. L. 89–671, §14(c), as added by Pub. L. 107–219, which provided that any reference to ''Wolf

Trap Farm Park'' shall be considered to be a reference to ''Wolf Trap National Park for the Performing Arts'', was executed by substituting ''Wolf Trap National Park for the Performing Arts'' for ''Wolf Trap Farm Park for the Performing Arts'' in concluding provisions to reflect the probable intent of Congress.

§ 1f. Challenge cost-share agreement authority

(1) Definitions

For purposes of this subsection:

(A) The term ''challenge cost-share agreement'' means any agreement entered into between the Secretary and any cooperator for the purpose of sharing costs or services in carrying out authorized functions and responsibilities of the Secretary of the Interior with respect to any unit or program of the National Park System (as defined in section 1c(a) of this title), any affiliated area, or any designated National Scenic or Historic Trail.

(B) The term ''cooperator'' means any State or local government, public or private agency, organization, institution, corporation, individual, or other entity.

(2) Challenge cost-share agreements

The Secretary of the Interior is authorized to negotiate and enter into challenge cost-share agreements with cooperators.

(3) Use of Federal funds

In carrying out challenge cost-share agreements, the Secretary of the Interior is authorized to provide the Federal funding share from any funds available to the National Park Service.

(Pub. L. 104–333, div. I, title VIII, § 814(g), Nov. 12, 1996, 110 Stat. 4199.)

§ 1g. Cooperative agreements

The National Park Service may in fiscal year 1997 and thereafter enter into cooperative agreements that involve the transfer of National Park Service appropriated funds to State, local and tribal governments, other public entities, educational institutions, and private nonprofit organizations for the public purpose of carrying out National Park Service programs pursuant to section 6305 of title 31 to carry out public purposes of National Park Service programs.

(Pub. L. 104–208, div. A, title I, § 101(d) [title I], Sept. 30, 1996, 110 Stat. 3009–181, 3009–189.)

§ 1h. Sums provided by private entities for utility services

Notwithstanding any other provision of law, in fiscal year 2003 and thereafter, sums provided to the National Park Service by private entities for utility services shall be credited to the appropriate account and remain available until expended.

(Pub. L. 108–7, div. F, title I, Feb. 20, 2003, 117 Stat. 227.)

§ 1i. Reimbursable agreements

Heretofore and hereafter, in carrying out the work under reimbursable agreements with any State, local or tribal government, the National Park Service may, without regard to section 1341 of title 31 or any other provision of law or regulation, record obligations against accounts receivable from such entities, and shall credit amounts received from such entities to the appropriate account, such credit to occur within 90 days of the date of the original request by the National Park Service for payment.

(Pub. L. 108–7, div. F, title I, Feb. 20, 2003, 117 Stat. 227.)

§ 1j. Cooperative agreements for national park natural resource protection

(a) In general

The Secretary of the Interior (referred to in this section as the ''Secretary'') may enter into cooperative agreements with State, local, or tribal governments, other Federal agencies, other public entities, educational institutions, private nonprofit organizations, or participating private landowners for the purpose of protecting natural resources of units of the National Park System through collaborative efforts on land inside and outside of National Park System units.

(b) Terms and conditions

A cooperative agreement entered into under subsection (a) shall provide clear and direct benefits to park natural resources and—

(1) provide for—

(A) the preservation, conservation, and restoration of coastal and riparian systems, watersheds, and wetlands;

(B) preventing, controlling, or eradicating invasive exotic species that are within a unit of the National Park System or adjacent to a unit of the National Park System; or

(C) restoration of natural resources, including native wildlife habitat or ecosystems;

(2) include a statement of purpose demonstrating how the agreement will—

(A) enhance science-based natural resource stewardship at the unit of the National Park System; and

(B) benefit the parties to the agreement;

(3) specify any staff required and technical assistance to be provided by the Secretary or other parties to the agreement in support of activities inside and outside the unit of the National Park System that will—

(A) protect natural resources of the unit of the National Park System; and

(B) benefit the parties to the agreement;

(4) identify any materials, supplies, or equipment and any other resources that will be contributed by the parties to the agreement or by other Federal agencies;

(5) describe any financial assistance to be provided by the Secretary or the partners to implement the agreement;

(6) ensure that any expenditure by the Secretary pursuant to the agreement is determined by the Secretary to support the purposes of natural resource stewardship at a unit of the National Park System; and

(7) include such other terms and conditions as are agreed to by the Secretary and the other parties to the agreement.

(c) Limitations

The Secretary shall not use any funds associated with an agreement entered into under subsection (a) for the purposes of land acquisition, regulatory activity, or the development, maintenance, or operation of infrastructure, except for ancillary support facilities that the Secretary determines to be necessary for the completion of projects or activities identified in the agreement.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 110–229, title III, § 301, May 8, 2008, 122 Stat. 768.)

§ 2. National parks, reservations, and monuments; supervision

The director shall, under the direction of the Secretary of the Interior, have the supervision, management, and control of the several national parks and national monuments which on August 25, 1916, were under the jurisdiction of the Department of the Interior, and of the Hot Springs National Park in the State of Arkansas, and of such other national parks and reservations of like character as may be created by Congress. In the supervision, management, and control of national monuments contiguous to national forests the Secretary of Agriculture may cooperate with said National Park Service to such extent as may be requested by the Secretary of the Interior.

(Aug. 25, 1916, ch. 408, § 2, 39 Stat. 535; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1407.)

CHANGE OF NAME

Hot Springs Reservation was changed to Hot Springs National Park by section 1 of act Mar. 4, 1921.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3. Rules and regulations of national parks, reservations, and monuments; timber; leases

The Secretary of the Interior shall make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments, and reservations under the jurisdiction of the National Park Service, and any violation of any of the rules and regulations authorized by this section and sections 1, 2, and 4 of this title shall be punished by a fine of not more than $500 or imprisonment for not exceeding six months, or both, and be adjudged to pay all cost of the proceedings. He may also, upon terms and conditions to be fixed by him, sell or dispose of timber in those cases where in his judgment the cutting of such timber is required in order to control the attacks of insects or diseases or otherwise conserve the scenery or the natural or historic objects in any such park, monument, or reservation. He may also provide in his discretion for the destruction of such animals and of such plant life as may be detrimental to the use of any of said parks, monuments, or reservations. No natural,[1] curiosities, wonders, or objects of interest shall be leased, rented, or granted to anyone on such terms as to interfere with free access to them by the public: *Provided*, *however*, That the Secretary of the Interior may, under such rules and regulations and on such terms as he may prescribe, grant the privilege to graze livestock within any national park, monument, or reservation herein referred to when in his judgment such use is not detrimental to the primary purpose for which such park, monument, or reservation was created, except that this provision shall not apply to the Yellowstone National Park: *And provided further*, That the Secretary of the Interior may grant said privileges, leases, and permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids: *And provided further*, That no contract, lease, permit, or privilege granted shall be assigned or transferred by such grantees, permittees, or licensees without the approval of the Secretary of the Interior first obtained in writing.

(Aug. 25, 1916, ch. 408, § 3, 39 Stat. 535; June 2, 1920, ch. 218, § 5, 41 Stat. 732; Mar. 7, 1928, ch. 137, § 1, 45 Stat. 235; Pub. L. 85–434, May 29, 1958, 72 Stat. 152; Pub. L. 105–391, title IV, § 415(b)(1), Nov. 13, 1998, 112 Stat. 3515.)

REFERENCES IN TEXT

Herein, referred to in text, means act Aug. 25, 1916, known as the ''National Park Service Organic Act'', which is classified to this section and sections 1, 2, and 4 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1 of this title and Tables.

AMENDMENTS

1998—Pub. L. 105–391, § 415(b)(1)(A), in fourth sentence, substituted ''No natural,'' for ''He may also grant privileges, leases, and permits for the use of land for the accommodation of visitors in the various parks, monuments, or other reservations herein provided for, but for periods not exceeding thirty years; and no natural''.

Pub. L. 105–391, § 415(b)(1)(B), in fourth sentence, struck out last proviso which read as follows '': *And provided further*, That the Secretary may, in his discretion, authorize such grantees, permittees, or licensees to execute mortgages and issue bonds, shares of stock, and other evidences of interest in or indebtedness upon their rights, properties, and franchises, for the purposes of installing, enlarging, or improving plant and equipment and extending facilities for the accommodation of the public within such national parks and monuments''.

1958—Pub. L. 85–434 substituted ''thirty years'' for ''twenty years''.

1928—Act Mar. 7, 1928, inserted last three provisos.

1920—Act June 2, 1920, substituted ''and any violation of any of the rules and regulations authorized by this section and sections 1, 2, and 4 of this title shall be punished by a fine of not more than $500 or imprisonment for not exceeding six months, or both, and be adjudged to pay all cost of the proceedings'' for ''and any violations of any of the rules and regulations authorized by this section and sections 1, 2, and 4 of this title shall be punished as provided for in section 50 of the Act enti-

[1] So in original. The comma probably should not appear.

tled 'An Act to codify and amend the Penal Laws of the United States,' approved March 4, 1909, as amended by section 6 of the Act of June 25, 1910 (Thirty-sixth United States Statutes at Large, page 857,''.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3a. Recovery of costs associated with special use permits

Notwithstanding any other provision of law, the National Park Service may on and after November 11, 1993, recover all costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time.

(Pub. L. 103–138, title I, Nov. 11, 1993, 107 Stat. 1387.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:
Pub. L. 102–381, title I, Oct. 5, 1992, 106 Stat. 1384.
Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 999.
Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1923.
Pub. L. 101–121, title I, Oct. 23, 1989, 103 Stat. 709.
Pub. L. 100–446, title I, Sept. 27, 1988, 102 Stat. 1788.
Pub. L. 100–202, §101(g) [title I], Dec. 22, 1987, 101 Stat. 1329–213, 1329–223.
Pub. L. 99–500, §101(h) [title I], Oct. 18, 1986, 100 Stat. 1783–242, 1783–251, and Pub. L. 99–591, §101(h) [title I], Oct. 30, 1986, 100 Stat. 3341–242, 3341–251.

§ 3b. Maintenance and repair of Government improvements under concession contracts

Privileges, leases, and permits granted by the Secretary of the Interior for the use of land for the accommodation of park visitors, pursuant to section 3 of this title, may provide for the maintenance and repair of Government improvements by the grantee notwithstanding the provisions of section 1302 of title 40, or any other provision of law.

(Pub. L. 87–608, Aug. 24, 1962, 76 Stat. 405.)

CODIFICATION

''Section 1302 of title 40'' substituted in text for ''section 321 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 303b)'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Section was classified to section 303c of former Title 40, prior to the enactment of Title 40, Public Buildings, Property, and Works, by Pub. L. 107–217, §1, Aug. 21, 2002, 116 Stat. 1062.

§ 4. Rights-of-way through public lands

The provisions of sections 1, 2, and 3 of this title shall not affect or modify the provisions of section 79 of this title.

(Aug. 25, 1916, ch. 408, §4, 39 Stat. 536.)

REFERENCES IN TEXT

Section 79 of this title, referred to in text, was in the original a reference to act Feb. 15, 1901, ch. 372, 31 Stat. 790. For further details, see Codification note set out under section 79 of this title.

§ 5. Rights-of-way through parks or reservations for power and communications facilities

The head of the department having jurisdiction over the lands be, and he hereby is, authorized and empowered, under general regulations to be fixed by him, to grant an easement for rights-of-way, for a period not exceeding fifty years from the date of the issuance of such grant, over, across, and upon the public lands and reservations of the United States for electrical poles and lines for the transmission and distribution of electrical power, and for poles and lines for communication purposes, and for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, to the extent of two hundred feet on each side of the center line of such lines and poles and not to exceed four hundred feet by four hundred feet for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, to any citizen, association, or corporation of the United States, where it is intended by such to exercise the right-of-way herein granted for any one or more of the purposes herein named: *Provided*, That such right-of-way shall be allowed within or through any national park or any other reservation only upon the approval of the chief officer of the department under whose supervision or control such reservation falls, and upon a finding by him that the same is not incompatible with the public interest: *Provided further*, That all or any part of such right-of-way may be forfeited and annulled by declaration of the head of the department having jurisdiction over the lands for nonuse for a period of two years or for abandonment.

Any citizen, association, or corporation of the United States to whom there has been issued a permit, prior to March 4, 1911, for any of the purposes specified herein under any law existing at that date, may obtain the benefit of this section upon the same terms and conditions as shall be required of citizens, associations, or corporations making application under the provisions of this section subsequent to said date.

(Mar. 4, 1911, ch. 238, 36 Stat. 1253; May 27, 1952, ch. 338, 66 Stat. 95.)

REPEALS

Section repealed by Pub. L. 94–579, title VII, §706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

CODIFICATION

Section, insofar as it relates also to rights-of-way in military and other reservations and national forests, is also set out as sections 420 and 523 of this title, and, in so far as it relates to rights-of-way on public lands generally, and Indian reservations, is set out as section 961 of Title 43, Public Lands.

AMENDMENTS

1952—Act May 27, 1952, inserted reference to rights-of-way for radio, television, and other forms of communication, and increased from 40 feet to 400 feet the maximum width of rights-of-way for lines and poles.

SAVINGS PROVISION

Repeal by Pub. L. 94–579, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§ 6. Donations of lands within national parks and monuments and moneys

The Secretary of the Interior in his administration of the National Park Service is authorized, in his discretion, to accept patented lands, rights-of-way over patented lands or other lands, buildings, or other property within the various national parks and national monuments, and moneys which may be donated for the purposes of the national park and monument system.

(June 5, 1920, ch. 235, § 1, 41 Stat. 917.)

§ 6a. Repealed. Pub. L. 90–209, § 2, Dec. 18, 1967, 81 Stat. 656

Section, act July 10, 1935, ch. 375, § 4, 49 Stat. 478, related to acceptance of gifts or bequests of money. See section 19g of this title.

§ 7. Repealed. Oct. 31, 1951, ch. 654, § 1(35), 65 Stat. 702

Section, act Jan. 24, 1923, ch. 42, 42 Stat. 1215, related to purchase of supplies or services for National Park Service.

§ 7a. Airports in national parks, monuments and recreation areas; construction, etc.

The Secretary of the Interior (hereinafter called the ''Secretary'') is authorized to plan, acquire, establish, construct, enlarge, improve, maintain, equip, operate, regulate, and protect airports in the continental United States in, or in close proximity to, national parks, national monuments, and national recreation areas, when such airports are determined by him to be necessary to the proper performance of the functions of the Department of the Interior: *Provided*, That no such airport shall be acquired, established, or constructed by the Secretary unless such airport is included in the then current revision of the national airport plan formulated by the Secretary of Transportation pursuant to the provisions of the Federal Airport Act: *Provided further*, That the operation and maintenance of such airports shall be in accordance with the standards, rules, or regulations prescribed by the Secretary of Transportation.

(Mar. 18, 1950, ch. 72, § 1, 64 Stat. 27; Pub. L. 85–726, title XIV, § 1402(e), Aug. 23, 1958, 72 Stat. 807; Pub. L. 91–258, title I, § 52(b)(1), May 21, 1970, 84 Stat. 235.)

REFERENCES IN TEXT

The Federal Airport Act, referred to in text, is act May 13, 1946, ch. 251, 60 Stat. 170, as amended, which was classified to chapter 14 (§ 1101 et seq.) of former Title 49, Transportation. The Act was repealed by section 52(a) of the Airport and Airway Development Act of 1970 (Pub. L. 91–258, title I, May 21, 1970, 84 Stat. 235). See chapter 471 of Title 49, Transportation.

AMENDMENTS

1970—Pub. L. 91–258 substituted ''Secretary of Transportation'' for ''Administrator of the Federal Aviation Agency'' in two places.

1958—Pub. L. 85–726 substituted ''Administrator of the Federal Aviation Agency'' for ''Administrator of Civil Aeronautics'' in two places.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 1505(2) of Pub. L. 85–726 provided that the amendment made by Pub. L. 85–726 is effective on 60th day following date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85–726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

§ 7b. Acquisition of lands for airport use; contracts for operation and maintenance

In order to carry out the purposes of sections 7a to 7e of this title, the Secretary is authorized to acquire necessary lands and interests in or over lands; to contract for the construction, improvement, operation, and maintenance of airports and incidental facilities; to enter into agreements with other public agencies providing for the construction, operation, or maintenance of airports by such other public agencies or jointly by the Secretary and such other public agencies upon mutually satisfactory terms; and to enter into such other agreements and take such other action with respect to such airports as may be necessary to carry out the purposes of said sections: *Provided*, That nothing in said sections shall be held to authorize the Secretary to acquire any land, or interest in or over land, by purchase, condemnation, grant, or lease without first obtaining the consent of the Governor of the State, and the consent of the State political subdivision in which such land is located: *And provided further*, That the authorization herein granted shall not exceed $3,500,000.

(Mar. 18, 1950, ch. 72, § 2, 64 Stat. 28; Pub. L. 89–763, Nov. 5, 1966, 80 Stat. 1313.)

AMENDMENTS

1966—Pub. L. 89–763 substituted ''$3,500,000'' for ''$2,000,000''.

§ 7c. Authorization to sponsor airport projects; use of funds

In order to carry out the purposes of sections 7a to 7e of this title, the Secretary is authorized to sponsor projects under the Federal Airport Act either independently or jointly with other public agencies, and to use, for payment of the sponsor's share of the project costs of such projects, any funds that may be contributed or otherwise made available to him for such purpose (receipt of which funds and their use for such purposes is authorized) or may be appropriated or otherwise specifically authorized therefor.

(Mar. 18, 1950, ch. 72, § 3, 64 Stat. 28.)

REFERENCES IN TEXT

The Federal Airport Act, referred to in text, is act May 13, 1946, ch. 251, 60 Stat. 170, as amended, which was classified to chapter 14 (§ 1101 et seq.) of former Title 49, Transportation. The Act was repealed by section 52(a) of the Airport and Airway Development Act of 1970 (Pub. L. 91–258, title I, May 21, 1970, 84 Stat. 235). See chapter 471 of Title 49, Transportation.

§ 7d. Jurisdiction over airports; public operation

All airports under the jurisdiction of the Secretary, unless otherwise specifically provided by

law, shall be operated as public airports, available for public use on fair and reasonable terms and without unjust discrimination.

(Mar. 18, 1950, ch. 72, § 4, 64 Stat. 28.)

§ 7e. Definitions

The terms ''airport'', ''project'', ''project costs'', ''public agency'', and ''sponsor'', as used in sections 7a to 7e of this title, shall have the respective meanings prescribed in the Federal Airport Act.

(Mar. 18, 1950, ch. 72, § 5, 64 Stat. 28.)

REFERENCES IN TEXT

The Federal Airport Act, referred to in text, is act May 13, 1946, ch. 251, 60 Stat. 170, as amended, which was classified to chapter 14 (§ 1101 et seq.) of former Title 49, Transportation. The Act was repealed by section 52(a) of the Airport and Airway Development Act of 1970 (Pub. L. 91–258, title I, May 21, 1970, 84 Stat. 235). See chapter 471 of Title 49, Transportation.

§ 8. Roads and trails in national parks and monuments; construction, etc.

The Secretary of the Interior, in his administration of the National Park Service, is authorized to construct, reconstruct, and improve roads and trails, inclusive of necessary bridges, in the national parks and monuments under the jurisdiction of the Department of the Interior.

(Apr. 9, 1924, ch. 86, § 1, 43 Stat. 90.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 8–1. Repealed. Pub. L. 85–767, § 2 [33], Aug. 27, 1958, 72 Stat. 919

Section, act Sept. 7, 1950, ch. 912, § 4(a), 64 Stat. 787, related to administration of appropriations for construction, reconstruction, and improvement of roads and trails in national parks, monuments, and other areas administered by National Park Service.

Act Sept. 5, 1940, ch. 715, § 8, 54 Stat. 870, which was formerly classified to this section, was repealed by Pub. L. 85–767, § 2[23], Aug. 27, 1958, 72 Stat. 919.

§ 8a. National-park approach roads; designation

Whenever the Secretary of the Interior shall determine it to be in the public interest he may designate as national-park approach roads and as supplementary parts of the highway systems of any of the national parks roads whose primary value is to carry national-park travel and which lead across lands wholly or to the extent of 90 per centum owned by the Government of the United States and which will connect the highways within a national park with a convenient point on or leading to the Federal 7 per centum highway system: *Provided*, That such approach roads so designated shall be limited to not to exceed sixty miles in length between a park gateway and such point on or leading to the nearest convenient 7 per centum system road; or, if such approach road is on the 7 per centum system, it shall be limited to not to exceed thirty miles: *Provided further*, That not to exceed forty miles of any one approach road shall be designated in any one county.

(Apr. 9, 1924, ch. 86, § 4, as added Jan. 31, 1931, ch. 79, 46 Stat. 1053.)

§ 8b. National-park approach roads and roads and trails within national parks and national monuments; construction, improvement, and maintenance; appropriation

The Secretary of the Interior is authorized during the fiscal years 1950 and 1951 to construct, reconstruct, and improve national-park approach roads designated under section 8a of this title, inclusive of necessary bridges, and to enter into agreements for the maintenance thereof by State or county authorities, or to maintain them when otherwise necessary, as well as hereafter to construct, reconstruct, and improve roads and trails within the national parks and national monuments; and for all such purposes there is authorized to be appropriated out of any money in the Treasury not otherwise appropriated, the following sums: $10,000,000 for the fiscal year ending June 30, 1950; the sum of $10,000,000 for the fiscal year ending June 30, 1951: *Provided*, That under agreement with the Secretary of the Interior the Secretary of Commerce may carry out any or all of the provisions of this section: *Provided further*, That not to exceed $1,500,000 shall be allocated annually for the construction, reconstruction, and improvement of such national-park approach roads: *And provided further*, That nothing in this section or sections 8, 8a, and 8c of this title shall be construed to limit the authority of the Secretary of the Interior to hereafter construct, reconstruct, improve, and maintain roads and trails within the national parks and national monuments.

(Apr. 9, 1924, ch. 86, § 5, as added Jan. 31, 1931, ch. 79, 46 Stat. 1053; amended 1939 Reorg. Plan No. I, §§ 301, 302, eff. July 1, 1939, 4 F.R. 2727, 53 Stat. 1426; June 29, 1948, ch. 732, § 4(a), 62 Stat. 1107; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; 1949 Reorg. Plan No. 7, § 2, eff. Aug. 10, 1949, 14 F.R. 5228, 63 Stat. 1070.)

AMENDMENTS

1948—Act June 29, 1948, appropriated $10,000,000 for fiscal years 1950 and 1951, respectively.

TRANSFER OF FUNCTIONS

Functions of Administrator of General Services with respect to Bureau of Public Roads transferred to Secretary of Commerce by Reorg. Plan No. 7 of 1949, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Federal Works Agency and of all agencies thereof, together with functions of Federal Works Administrator transferred to Administrator of General Services by section 103(a) of act June 30, 1949. Both Federal Works Agency and office of Federal Works Administrator abolished by section 103(b) of that act. See Historical and Revision Notes under section 303(b) of Title 40, Public Buildings, Property, and Works. Section 303(b) of Title 40 was amended generally by Pub. L. 109–313, § 2(a)(1), Oct. 6, 2006, 120 Stat. 1734, and, as so amended, no longer relates to the Federal Works Agency and Commissioner of Public Buildings. See 2006 Amendment note under section 303 of Title 40.

Functions of Secretary of Agriculture with respect to Public Roads Administration transferred to Federal

Works Administrator by Reorg. Plan No. I of 1939, set out in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions effective July 1, 1949, see section 605, formerly § 505, of act June 30, 1949, ch. 288, 63 Stat. 403; renumbered by act Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583.

§ 8c. National-park approach roads across or within national forests; approval of Secretary of Agriculture

Whenever any approach road is proposed under the terms of this section and sections 8, 8a, and 8b of this title across or within any national forest the Secretary of the Interior shall secure the approval of the Secretary of Agriculture before construction shall begin.

(Apr. 9, 1924, ch. 86, § 6, as added Jan. 31, 1931, ch. 79, 46 Stat. 1054.)

§ 8d. National-monument approach roads

Approach roads to national monuments shall be included within the provisions of sections 8 and 8a to 8c of this title under the same conditions as approach roads to national parks, and the limitation therein on the amount of annual allocation of funds to national park approach roads shall be inclusive of such national monument approaches.

(Mar. 4, 1931, ch. 522, title I, 46 Stat. 1570.)

§ 8e. Conveyance to States of roads leading to certain historical areas; conditions; jurisdiction

The Secretary of the Interior is authorized in his discretion, subject to such conditions as may seem to him proper, to convey by proper quitclaim deed to any State, county, municipality, or proper agency thereof, in which the same is located, all the right, title, and interest of the United States in and to any Government owned or controlled road leading to any national cemetery, national military park, national historical park, national battlefield park, or national historic site administered by the National Park Service. Prior to the delivery of any conveyance under this section and section 8f of this title, the State, county, or municipality to which the conveyance authorized in this section is to be made shall notify the Secretary of the Interior in writing of its willingness to accept and maintain the road or roads included in such conveyance. Upon the execution and delivery of any conveyance authorized in this section, any jurisdiction heretofore ceded to the United States by a State over the roads conveyed shall thereby cease and determine and shall thereafter vest and be in the particular State in which such roads are located.

(June 3, 1948, ch. 401, § 1, 62 Stat. 334.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 8f. Roads leading to certain historical areas; "State" defined

The word ''State'' as used in section 8e of this title includes Hawaii, Alaska, Puerto Rico, Guam, and the Virgin Islands.

(June 3, 1948, ch. 401, § 2, 62 Stat. 334; Aug. 1, 1956, ch. 852, § 5, 70 Stat. 908.)

AMENDMENTS

1956—Act Aug. 1, 1956, inserted ''Guam'' after ''Puerto Rico''.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

§ 9. Repealed. June 30, 1949, ch. 288, title VI, § 602(a)(12), 63 Stat. 400, eff. July 1, 1949; renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583

Section, act Jan. 24, 1923, ch. 42, 42 Stat. 1215, related to exchange of motor vehicles and equipment as part consideration in purchase of new equipment.

§ 9a. Government of parks, etc.; violation of regulations as misdemeanor

The Secretary of the Army is authorized to prescribe and publish such regulations as he deems necessary for the proper government and protection of, and maintenance of good order in, national military parks, national parks, battlefield sites, national monuments, and miscellaneous memorials as are now or hereafter may be under the control of the Department of the Army; and any person who knowingly and willfully violates any such regulation shall be deemed guilty of a misdemeanor and punishable by a fine of not more than $100 or by imprisonment for not more than three months, or by both such fine and imprisonment.

(Mar. 2, 1933, ch. 180, § 1, 47 Stat. 1420; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

CONSOLIDATION OF FUNCTIONS

Functions of administration of national parks, national monuments, etc., including national cemeteries and parks of Department of the Army located within continental limits of United States, consolidated in an Office of National Parks, Buildings and Reservations, see Ex. Ord. No. 6166, § 2, June 10, 1933, set out as a note under section 901 of Title 5, Government Organization and Employees.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, § 2, June 10, 1933, by act Mar. 2, 1934, ch. 38, § 1, 48 Stat. 389.

CEMETERIES AND PARKS TRANSFERRED

Cemeteries and parks transferred, and postponement of transfer of national cemeteries other than those named by Ex. Ord. No. 6166, § 2, as amended by Ex. Ord. No. 6228, §§ 1, 2, July 28, 1933, set out as notes under section 901 of Title 5, Government Organization and Employees.

§§ 10, 10a. Repealed. Pub. L. 91–383, § 10(a)(2), (3), as added Pub. L. 94–458, § 2, Oct. 7, 1976, 90 Stat. 1941

Section 10, act Mar. 3, 1905, ch. 1405, 33 Stat. 873, authorized National Park Service employees to arrest and prosecute persons violating the laws and regulations relating to the national forests and national parks. Act Mar. 3, 1905, insofar as it relates to the Forest Service, is classified to section 559 of this title. Pub. L. 91–383, § 10(a), as amended, amended act Mar. 3, 1905, to delete references to the National Park Service and the national parks. Authority to maintain law and order within areas of the National Park System is now covered by section 1a–6 of this title.

Section 10a, act Mar. 2, 1933, ch. 180, § 2, 47 Stat. 1420, related to the authorization of commissioners, superintendents, caretakers, officers, or guards of national military parks, national parks, battlefield sites, national monuments, and miscellaneous memorials, to arrest and prosecute persons for violations of any of the regulations prescribed pursuant to section 9a of this title.

§ 11. Medical attention for employees

The Secretary of the Interior in his administration of the National Park Service is authorized to contract for medical attention and service for employees and to make necessary pay-roll deductions agreed to by the employees therefor.

(May 10, 1926, ch. 277, § 1, 44 Stat. 491.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 12. Aid to visitors in emergencies

The Secretary of the Interior is authorized to aid and assist visitors within the national parks or national monuments in emergencies, and when no other source is available for the procurement of food or supplies, by the sale, at cost, of food or supplies in quantities sufficient to enable them to reach safely a point where such food or supplies can be purchased: *Provided*, That the receipts from such sales shall be deposited as a refund to the appropriation or appropriations current at the date of covering in of such deposit and shall be available for the purchase of similar food or supplies.

(July 3, 1926, ch. 792, § 1, 44 Stat. 900.)

§ 13. Medical attention to employees at isolated places; removal of bodies for burial

The Secretary of the Interior, in his discretion, is authorized to provide, out of moneys appropriated for the general expense of the several national parks and national monuments, medical attention for employees of the National Park Service located at isolated situations, including the moving of such employees to hospitals or other places where medical assistance is available, and in case of death to remove the bodies of deceased employees to the nearest place where they can be prepared for shipment or for burial.

(July 3, 1926, ch. 792, § 2, 44 Stat. 900.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 14. Repealed. Pub. L. 88–578, § 2(a), Sept. 3, 1964, 78 Stat. 899

Section, acts Mar. 7, 1928, ch. 137, § 1, 45 Stat. 238; Mar. 4, 1929, ch. 705, § 1, 45 Stat. 1602, prohibited expenditure of appropriations for National Park Service where campground privileges are charged for by the Park Service.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1965, see section 1(a) of Pub. L. 88–578, set out as an Effective Date note under section 460*l*–4 of this title.

§ 14a. Appropriations; availability for printing information and signs

Appropriations made for the National Park Service shall be available for the printing of information and directional signs made of cloth and required in the administration of areas under its jurisdiction.

(May 10, 1939, ch. 119, § 1, 53 Stat. 729.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 14b. Credits of receipts for meals and quarters furnished Government employees in the field

Cash collections and pay-roll deductions made for meals and quarters furnished by the National Park Service to employees of the Government in the field and to cooperating agencies may be credited as a reimbursement to the current appropriation for the administration of the park or monument in which the accommodations are furnished.

(May 9, 1935, ch. 101, § 1, 49 Stat. 209.)

CODIFICATION

Section is also set out as section 456a of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with

power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 14c. Availability for expense of recording donated lands

Appropriations made for the National Park Service shall be available for any expenses incident to the preparation and recording of title evidence covering lands to be donated to the United States for administration by the National Park Service.

(June 28, 1941, ch. 259, §1, 55 Stat. 350.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 14d. Use of funds for law enforcement and emergencies

On and after October 5, 1992, any funds, not to exceed $250,000 per incident, available to the National Park Service may be used, with the approval of the Secretary, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: *Provided further*, That any exercise of this authority must be replenished by a supplemental appropriation which must be requested as promptly as possible.

(Pub. L. 102–381, title I, Oct. 5, 1992, 106 Stat. 1384; Pub. L. 103–332, title I, Sept. 30, 1994, 108 Stat. 2507.)

AMENDMENTS

1994—Pub. L. 103–332 inserted '', not to exceed $250,000 per incident,'' after ''funds'' and '': *Provided further*, That any exercise of this authority must be replenished by a supplemental appropriation which must be requested as promptly as possible'' after ''System''.

§ 14e. Contribution for annuity benefits

For reimbursement (not heretofore made), pursuant to provisions of Public Law 85–157, to the District of Columbia on a monthly basis for benefit payments by the District of Columbia to United States Park Police annuitants under the provisions of the Policeman and Fireman's Retirement and Disability Act (Act), to the extent those payments exceed contributions made by active Park Police members covered under the Act, such amounts as hereafter may be necessary: *Provided*, That hereafter the appropriations made to the National Park Service shall not be available for this purpose.

(Pub. L. 107–63, title I, Nov. 5, 2001, 115 Stat. 424.)

REFERENCES IN TEXT

Public Law 85–157, referred to in text, is Pub. L. 85–157, Aug. 21, 1957, 71 Stat. 391, as amended, known as the Policemen and Firemen's Retirement and Disability Act amendments of 1957, which is not classified to the Code.

The Policeman and Fireman's Retirement and Disability Act, referred to in text, probably means the Policemen and Firemen's Retirement and Disability Act, act Sept. 1, 1916, ch. 433, §12, 39 Stat. 718, as amended, which is not classified to the Code.

§ 15. Appropriations for purchase of equipment; waterproof footwear

Appropriations whenever made for the National Park Service, which are available for the purchase of equipment may be used for purchase of waterproof footwear which shall be regarded and listed as park equipment.

(Mar. 7, 1928, ch. 137, §1, 45 Stat. 238.)

§ 16. Central warehouses at parks and monuments; maintenance; purchase of supplies and materials; distribution

The Secretary of the Interior, in his administration of the national parks and national monuments, is authorized to maintain central warehouses at said parks and monuments, and appropriations made for the administration, protection, maintenance, and improvement of the said parks and monuments shall be available for the purchase of supplies and materials to be kept in said central warehouses for distribution at cost, including transportation and handling, to projects under specific appropriations, and transfers between the various appropriations made for the national parks and national monuments are authorized for the purpose of charging the cost of supplies and materials, including transportation and handling, drawn from central warehouses maintained under this authority to the particular appropriation benefited; and such supplies and materials as remain therein at the end of any fiscal year shall be continuously available for issuance during subsequent fiscal years and to be charged for by such transfers of funds between appropriations made for the administration, protection, maintenance, and improvement of said parks and monuments for the fiscal year then current without decreasing in any way the appropriations made for that fiscal year: *Provided*, That supplies and materials shall not be purchased solely for the purpose of increasing the value of storehouse stock beyond reasonable requirements for any current fiscal year.

(Apr. 18, 1930, ch. 187, 46 Stat. 219.)

TRANSFER OF FUNCTIONS

Functions of procurement of supplies, services, stores, etc., exercised by any other agency transferred to Procurement Division in Department of the Treasury by Ex. Ord. No. 6166, §1, June 10, 1933, set out as a note under section 901 of Title 5, Government Organization and Employees. Procurement Division changed to Bureau of Federal Supply by Department of the Treasury Order 73 dated Nov. 19, 1946. Bureau transferred on July 1, 1949, to General Services Administration, where it functions as Federal Supply Service [now Federal Acquisition Service], pursuant to act June 30, 1949, ch. 288, title I, §102, 63 Stat. 380, which was repealed and reenacted as section 303(a) of Title 40, Public Buildings, Property, and Works, by Pub. L. 107–217, §§1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304. Section 303(a) of Title 40 was amended generally by Pub. L. 109–313, §2(a)(1), Oct. 6, 2006, 120 Stat. 1734, and, as so amended, no longer relates to the Bureau of Federal Supply. See Historical and Revision Notes and 2006 Amendment note under section 303 of Title 40.

§ 17. Personal equipment and supplies for employees; purchase by Secretary of the Interior; deductions from moneys due employees

The Secretary of the Interior is authorized to purchase personal equipment and supplies for employees of the National Park Service, and to make deductions therefor from moneys appropriated for salary payments or otherwise due such employees.

(May 26, 1930, ch. 324, § 1, 46 Stat. 381.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 17a. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 647

Section, act May 26, 1930, ch. 324, § 2, 46 Stat. 382, provided for travel allowances and mileage for administration of National Park Service.

§ 17b. Services or other accommodations for public; contracts; rates

The Secretary of the Interior is authorized to contract for services or other accommodations provided in the national parks and national monuments for the public under contract with the Department of the Interior, as may be required in the administration of the National Park Service, at rates approved by him for the furnishing of such services or accommodations to the Government and without compliance with the provisions of section 6101 of title 41.

(May 26, 1930, ch. 324, § 3, 46 Stat. 382.)

CODIFICATION

In text, ''section 6101 of title 41'' substituted for ''section 3709 of the Revised Statutes of the United States'' on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 17b–1. Repealed. Pub. L. 105–391, title IV, § 415(b)(3), Nov. 13, 1998, 112 Stat. 3516

Section, acts July 31, 1953, ch. 298, title I, § 1, 67 Stat. 271; July 14, 1956, ch. 598, 70 Stat. 543; Pub. L. 91–383, § 12(c), as added Pub. L. 94–458, § 2, Oct. 7, 1976, 90 Stat. 1943, related to transmittal of reports of proposed contract and lease awards to Congressional officers by Secretary.

§ 17c. Procurement of supplies, materials, and special services to aid permittees and licensees in emergencies; authority of Secretary of the Interior

The Secretary of the Interior is authorized in emergencies, when no other source is available for the immediate procurement of supplies, materials, or special services, to aid and assist grantees, permittees, or licensees conducting operations for the benefit of the public in the national parks and national monuments by the sale at cost, including transportation and handling of such supplies, materials, or special services as may be necessary to relieve the emergency and insure uninterrupted service to the public: *Provided*, That the receipts from such sales shall be deposited as a refund to the appropriation or appropriations current at the date of covering in of such deposit, and shall be available for expenditure for national-park and national-monument purposes.

(May 26, 1930, ch. 324, § 4, 46 Stat. 382.)

§ 17d. Omitted

CODIFICATION

Section, act May 26, 1930, ch. 324, § 5, 46 Stat. 382, which provided that section 543 of former title 31 should not be construed to prohibit the acceptance of traveler's checks and other forms of money equivalent in payment of automobile license fees, etc. charged at national parks, was omitted as obsolete in view of the repeal of section 543 of former title 31 by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068.

§ 17e. Care and removal of indigents; disposition of dead persons

The Secretary of the Interior is authorized, in his discretion, to provide, out of moneys appropriated for the general expenses of the several national parks, for the temporary care and removal from the park of indigents, and in case of death to provide for their burial in those national parks not under local jurisdiction for these purposes, this section in no case to authorize transportation of such indigent or dead for a distance of more than fifty miles from the national park.

(May 26, 1930, ch. 324, § 6, 46 Stat. 382.)

§ 17f. Property of employee lost, damaged, or destroyed while in use on official business; reimbursement of employee

The Secretary of the Interior in his administration of the National Park Service is authorized to reimburse employees and other owners of horses, vehicles, and other equipment lost, damaged, or destroyed while in the custody of such employee or the Department of the Interior, under authorization, contract, or loan, for necessary fire fighting, trail, or other official business, such reimbursement to be made from any available funds in the appropriation to which the hire of such equipment would be properly chargeable.

(May 26, 1930, ch. 324, § 7, 46 Stat. 382.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 17g. Equipment required by field employees; by whom furnished and maintained

The Secretary of the Interior may require field employees of the National Park Service to furnish horses, motor and other vehicles, and miscellaneous equipment necessary for the performance of their official work; and he may provide, at Government expense, forage, care, and housing for animals, and housing or storage and fuel for vehicles and other equipment so required to be furnished.

(May 26, 1930, ch. 324, § 8, 46 Stat. 383.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 17h. Hire, rental, and purchase of property of employees; when authorized

The Secretary of the Interior may, under such regulations as he may prescribe, authorize the hire, rental, or purchase of property from employees of the National Park Service whenever the public interest will be promoted thereby.

(May 26, 1930, ch. 324, § 9, 46 Stat. 383.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 17i. Hire of work animals, vehicles and equipment with or without personal services; rates

The National Park Service may hire, with or without personal services, work animals and animal-drawn and motor-propelled vehicles and equipment at rates to be approved by the Secretary of the Interior and without compliance with the provisions of sections 3709[1] and 3744[1] of the Revised Statutes.

(May 26, 1930, ch. 324, § 10, 46 Stat. 383.)

REFERENCES IN TEXT

Sections 3709 and 3744 of the Revised Statutes, referred to in text, were classified to sections 5 and 16, respectively, of former Title 41, Public Contracts. Section 3709 was repealed and restated in section 6101 of Title 41, Public Contracts, by Pub. L. 111–350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. Section 3744 was repealed by act Oct. 21, 1941, ch. 452, 55 Stat. 743.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

[1] See References in Text note below.

§ 17j. Traveling expenses of National Park System employees and dependents of deceased employees

In the administration of the National Park System, the Secretary of the Interior is authorized, under regulations prescribed by him, to pay (a) the traveling expenses of employees, including the costs of packing, crating, and transporting (including draying) their personal property, upon permanent change of station of such employees and (b) the traveling expenses as aforesaid of dependents of deceased employees (i) to the nearest housing reasonably available and of a standard not less than that which is vacated, and to include compensation for not to exceed sixty days rental cost thereof, in the case of an employee who occupied Government housing and the death of such employee requires that housing to be promptly vacated, and (ii) to the nearest port of entry in the conterminous forty-eight States in the case of an employee whose last permanent station was outside the conterminous forty-eight States.

(May 26, 1930, ch. 324, § 11, 46 Stat. 383; Pub. L. 91–383, § 5, Aug. 18, 1970, as added Pub. L. 94–458, § 2, Oct. 7, 1976, 90 Stat. 1939.)

AMENDMENTS

1976—Pub. L. 91–383, § 5, as added by Pub. L. 94–458, included travel expenses for dependents of a deceased National Park System employee.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 17j–1. Omitted

CODIFICATION

Section, act June 18, 1940, ch. 395, § 1, 54 Stat. 445, which related to travel expenses for attendance of National Park Service field employees at authorized meetings, was enacted as part of the Interior Department Appropriations Act, 1941, and was not repeated in the Interior Department Appropriations Act, 1942 (approved June 28, 1941, ch. 259, 55 Stat. 303), or subsequent appropriation acts. Similar provisions were contained in prior appropriation acts.

§ 17j–2. Authorization of appropriations for road maintenance and repair; administrative expenses; lectures, investigations, telephone service, etc.

Appropriations for the National Park Service are authorized for—

(a) Necessary protection of the area of federally owned land in the custody of the National Park Service known as the Ocean Strip and Queets Corridor, adjacent to Olympic National Park, Washington; necessary repairs to the roads from Glacier Park Station through the Blackfeet Indian Reservation to the various points in the boundary line of Glacier National Park, Montana, and the international boundary; repair and maintenance of approximately two and seventy-seven one-hundredths miles of road leading from United States Highway 187 to the

north entrance of Grand Teton National Park, Wyoming; maintenance of approach roads through the Lassen National Forest leading to Lassen Volcanic National Park, California; maintenance and repair of the Generals Highway between the boundaries of Sequoia National Park, California, and the Grant Grove section of Kings Canyon National Park, California; maintenance of approximately two and one-fourth miles of roads comprising those portions of the Fresno-Kings Canyon approach road, Park Ridge Lookout Road, and Ash Mountain-Advance truck trail, necessary to the administration and protection of the Sequoia and Kings Canyon National Parks; maintenance of the roads in the national forests leading out of Yellowstone National Park, Wyoming, Idaho, and Montana; maintenance of the road in the Stanislaus National Forest connecting the Tioga Road with the Hetch Hetchy Road near Mather Station, Yosemite National Park, California; and maintenance and repair of the approach road to the Little Bighorn Battlefield National Monument and the road connecting the said monument with the Reno Monument site, Montana; repair and maintenance of the class ''C'' road lying between the terminus of F.A. 383 at the east boundary of Coronado National Forest and the point where said class ''C'' road enters Coronado National Memorial in the vicinity of Montezuma Pass, approximately 5.3 miles.

(b) Administration, protection, improvement, and maintenance of areas, under the jurisdiction of other agencies of the Government, devoted to recreational use pursuant to cooperative agreements.

(c) Necessary local transportation and subsistence in kind of persons selected for employment or as cooperators, serving without other compensation, while attending fire-protection training camps.

(d) Administration, protection, maintenance, and improvement of the Chesapeake and Ohio Canal.

(e) Educational lectures in or in the vicinity of and with respect to the national parks, national monuments, and other reservations under the jurisdiction of the National Park Service; and services of field employees in cooperation with such nonprofit scientific and historical societies engaged in educational work in the various parks and monuments as the Secretary of the Interior may designate.

(f) Travel expenses of employees attending Government camps for training in forest-fire prevention and suppression and the Federal Bureau of Investigation National Police Academy, and attending Federal, State, or municipal schools for training in building fire prevention and suppression.

(g) Investigation and establishment of water rights in accordance with local custom, laws, and decisions of courts, including the acquisition of water rights or of lands or interests in lands or rights-of-way for use and protection of water rights necessary or beneficial in the administration and public use of the national parks and monuments.

(h) Acquisition of rights-of-way and construction and maintenance of a water supply line partly outside the boundaries of Mesa Verde National Park.

(i) Official telephone service in the field in the case of official telephones installed in private houses when authorized under regulations established by the Secretary.

(j) Provide transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service.

(Aug. 7, 1946, ch. 788, 60 Stat. 885; Pub. L. 86–689, § 3, Sept. 2, 1960, 74 Stat. 737; Pub. L. 102–201, title I, § 101, Dec. 10, 1991, 105 Stat. 1631; Pub. L. 104–333, div. I, title VIII, § 802, Nov. 12, 1996, 110 Stat. 4186.)

AMENDMENTS

1996—Subsec. (j). Pub. L. 104–333 added subsec. (j).

1960—Subsec. (a). Pub. L. 86–689 authorized appropriations for the repair and maintenance of the class ''C'' road lying between the terminus of F.A. 383 at the east boundary of Coronado National Forest and the point where said class ''C'' road enters Coronado National Memorial in the vicinity of Montezuma Pass.

CHANGE OF NAME

''Little Bighorn Battlefield National Monument'' substituted in text for ''Custer Battlefield National Monument'' pursuant to Pub. L. 102–201.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 17k. Park, parkway and recreational-area programs; study by National Park Service; consent of States; purpose; cooperation of government agencies

The Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized and directed to cause the National Park Service to make a comprehensive study, other than on lands under the jurisdiction of the Department of Agriculture, of the public park, parkway, and recreational-area programs of the United States, and of the several States and political subdivisions thereof, and of the lands throughout the United States which are or may be chiefly valuable as such areas, but no such study shall be made in any State without the consent and approval of the State officials, boards, or departments having jurisdiction over such lands and park areas. The said study shall be such as, in the judgment of the Secretary, will provide data helpful in developing a plan for coordinated and adequate public park, parkway, and recreational-area facilities for the people of the United States. In making the said study and in accomplishing any of the purposes of this section and sections 17*l* to 17n of this title, the Secretary is authorized and directed, through the National Park Service, to seek and accept the cooperation and assistance of Federal departments or agencies having jurisdiction of lands belonging to the United States, and may cooperate and make agreements with and seek and accept the assistance of other Federal agencies and instrumentalities, and of States and politi-

cal subdivisions thereof and the agencies and instrumentalities of either of them.

(June 23, 1936, ch. 735, §1, 49 Stat. 1894.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

NATIONAL OUTDOOR RECREATION RESOURCES REVIEW COMMISSION

Pub. L. 85–470, June 28, 1958, 72 Stat. 238, as amended by Pub. L. 86–6, Mar. 25, 1959, 73 Stat. 14; Pub. L. 87–12, Mar. 29, 1961, 75 Stat. 19, created a bipartisan Outdoor Recreation Resources Review Commission.

The Commission was directed to proceed as soon as practicable to set in motion a nationwide inventory and evaluation of outdoor recreation resources and opportunities, directly and through the Federal agencies, the States, and private organizations and groups, utilizing to the fullest extent possible such studies, data, and reports previously prepared or concurrently in process by Federal agencies, States, private organizations, groups, and others, and to compile such data and in the light of the data so compiled and of information available concerning trends in population, leisure, transportation, and other factors shall determine the amount, kind, quality, and location of such outdoor recreation resources and opportunities as will be required by the year 1976 and the year 2000, and shall recommend what policies should best be adopted and what programs be initiated, at each level of government and by private organizations and other citizen groups and interests, to meet such future requirements.

The Commission was required to present not later than January 31, 1962, a report of its review, a compilation of its data, and its recommendations on a State by State, region by region, and national basis to the President and to the Congress, and ceased to exist not later than September 1, 1962.

OUTDOOR RECREATION PROGRAMS

Coordination and development of programs relating to outdoor recreation, see sections 460*l* to 460*l*–3 of this title.

§ 17*l*. Coordination; planning by States with aid of National Park Service

For the purpose of developing coordinated and adequate public park, parkway, and recreational-area facilities for the people of the United States, the Secretary is authorized to aid the several States and political subdivisions thereof in planning such areas therein, and in cooperating with one another to accomplish these ends. Such aid shall be made available through the National Park Service acting in cooperation with such State agencies or agencies of political subdivisions of States as the Secretary deems best.

(June 23, 1936, ch. 735, §2, 49 Stat. 1894.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 17m. Consent of Congress to agreements between States; when agreements effective

The consent of Congress is given to any two or more States to negotiate and enter into compacts or agreements with one another with reference to planning, establishing, developing, improving, and maintaining any park, parkway, or recreational area. No such compact or agreement shall be effective until approved by the legislatures of the several States which are parties thereto and by the Congress of the United States.

(June 23, 1936, ch. 735, §3, 49 Stat. 1895.)

§ 17n. "State" defined

As used in sections 17k and 17*l* of this title the term ''State'' shall be deemed to include Hawaii, Alaska, Puerto Rico, Guam, the Virgin Islands, and the District of Columbia.

(June 23, 1936, ch. 735, §4, 49 Stat. 1895; Aug. 1, 1956, ch. 852, §6, 70 Stat. 908.)

AMENDMENTS

1956—Act Aug. 1, 1956, inserted ''Guam'' after ''Puerto Rico''.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

§ 17*o*. National Park Service housing improvement

(1) Purposes

The purposes of this section are—

(A) to develop where necessary an adequate supply of quality housing units for field employees of the National Park Service within a reasonable time frame;

(B) to expand the alternatives available for construction and repair of essential Government housing;

(C) to rely on the private sector to finance or supply housing in carrying out this section, to the maximum extent possible, in order to reduce the need for Federal appropriations;

(D) to ensure that adequate funds are available to provide for long-term maintenance needs of field employee housing; and

(E) to eliminate unnecessary Government housing and locate such housing as is required in a manner such that primary resource values are not impaired.

(2) General authority

To enhance the ability of the Secretary of the Interior (hereafter in this section referred to as ''the Secretary''), acting through the Director of the National Park Service, to effectively manage units of the National Park System, the Secretary is authorized where necessary and justified to make available employee housing, on or off the lands under the administrative jurisdic-

tion of the National Park Service, and to rent or lease such housing to field employees of the National Park Service at rates based on the reasonable value of the housing in accordance with requirements applicable under section 5911 of title 5.

(3) Review and revision of housing criteria

On November 12, 1996, the Secretary shall review and revise the existing criteria under which housing is provided to employees of the National Park Service. Specifically, the Secretary shall examine the existing criteria with respect to what circumstances the National Park Service requires an employee to occupy Government quarters to provide necessary services, protect Government property, or because of a lack of availability of non-Federal housing in the geographic area.

(4) Submission of report

A report detailing the results of the revisions required by paragraph (3) shall be submitted to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than 180 days after November 12, 1996. The report shall include justifications for keeping, or for changing, each of the criteria or factors used by the Department of the Interior with regard to the provision of housing to employees of the National Park Service.

(5) Review of condition of and costs relating to housing

Using the revised criteria developed under paragraph (3), the Secretary shall undertake a review, for each unit of the National Park System, of existing government-owned[1] housing provided to employees of the National Park Service. The review shall include an assessment of the physical condition of such housing and the suitability of such housing to effectively carry out the missions of the Department of the Interior and the National Park Service. For each unit of such housing, the Secretary shall determine whether the unit is needed and justified. The review shall include estimates of the cost of bringing each unit that is needed and justified into usable condition that meets all applicable legal housing requirements or, if the unit is determined to be obsolete but is still warranted to carry out the missions of the Department of the Interior and the National Park Service, the cost of replacing the unit.

(6) Authorization for housing agreements

For those units of the National Park System for which the review required by paragraphs (3) and (5) has been completed, the Secretary is authorized, pursuant to the authorities contained in this section and subject to the appropriation of necessary funds in advance, to enter into housing agreements with housing entities under which such housing entities may develop, construct, rehabilitate, or manage housing, located on or off public lands, for rent or lease to National Park Service employees who meet the housing eligibility criteria developed by the Secretary pursuant to this section.

[1] So in original. Probably should be capitalized.

(7) Joint public-private sector housing programs

(A) Lease to build program

Subject to the appropriation of necessary funds in advance, the Secretary may—

(i) lease Federal land and interests in land to qualified persons for the construction of field employee quarters for any period not to exceed 50 years; and

(ii) lease developed and undeveloped non-Federal land for providing field employee quarters.

(B) Competitive leasing

Each lease under subparagraph (A)(i) shall be awarded through the use of publicly advertised, competitively bid, or competitively negotiated contracting procedures.

(C) Terms and conditions

Each lease under subparagraph (A)(i)—

(i) shall stipulate whether operation and maintenance of field employee quarters is to be provided by the lessee, field employees or the Federal Government;

(ii) shall require that the construction and rehabilitation of field employee quarters be done in accordance with the requirements of the National Park Service and local applicable building codes and industry standards;

(iii) shall contain such additional terms and conditions as may be appropriate to protect the Federal interest, including limits on rents the lessee may charge field employees for the occupancy of quarters, conditions on maintenance and repairs, and agreements on the provision of charges for utilities and other infrastructure; and

(iv) may be granted at less than fair market value if the Secretary determines that such lease will improve the quality and availability of field employee quarters available.

(D) Contributions by United States

The Secretary may make payments, subject to appropriations, or contributions in kind either in advance of or on a continuing basis to reduce the costs of planning, construction, or rehabilitation of quarters on or off Federal lands under a lease under this paragraph.

(8) Rental guarantee program

(A) General authority

Subject to the appropriation of necessary funds in advance, the Secretary may enter into a lease to build arrangement as set forth in paragraph (7) with further agreement to guarantee the occupancy of field employee quarters constructed or rehabilitated under such lease. A guarantee made under this paragraph shall be in writing.

(B) Limitations

The Secretary may not guarantee—

(i) the occupancy of more than 75 percent of the units constructed or rehabilitated under such lease; and

(ii) at a rental rate that exceeds the rate based on the reasonable value of the housing in accordance with requirements applicable under section 5911 of title 5.

In no event shall outstanding guarantees be in excess of $3,000,000,[2]

(C) Rental to Government employees

A guarantee may be made under this section only if the lessee agrees to permit the Secretary to utilize for housing purposes any units for which the guarantee is made[3]

(D) Failure to maintain a satisfactory level of operation and maintenance

The lease shall be null and void if the lessee fails to maintain a satisfactory level of operation and maintenance.

(9) Joint development authority

The Secretary may use authorities granted by statute in combination with one another in the furtherance of providing where necessary and justified affordable field employee housing.

(10) Contracts for the management of field employee quarters

(A) General authority

Subject to the appropriation of necessary funds in advance, the Secretary may enter into contracts of any duration for the management, repair, and maintenance of field employee quarters.

(B) Terms and conditions

Any such contract shall contain such terms and conditions as the Secretary deems necessary or appropriate to protect the interests of the United States and assure that necessary quarters are available to field employees.

(11) Leasing of seasonal employee quarters

(A) General authority

Subject to subparagraph (B), the Secretary may lease quarters at or near a unit of the national park system for use as seasonal quarters for field employees. The rent charged to field employees under such a lease shall be a rate based on the reasonable value of the quarters in accordance with requirements applicable under section 5911 of title 5.

(B) Limitation

The Secretary may only issue a lease under subparagraph (A) if the Secretary finds that there is a shortage of adequate and affordable seasonal quarters at or near such unit and that—

(i) the requirement for such seasonal field employee quarters is temporary; or

(ii) leasing would be more cost-effective than construction of new seasonal field employee quarters.

(C) Unrecovered costs

The Secretary may pay the unrecovered costs of leasing seasonal quarters under this paragraph from annual appropriations for the year in which such lease is made.

(12) Survey of existing facilities

The Secretary shall—

(A) complete a condition assessment for all field employee housing, including the physical condition of such housing and the necessity and suitability of such housing for carrying out the agency mission, using existing information; and

(B) develop an agency-wide priority listing, by structure, identifying those units in greatest need for repair, rehabilitation, replacement, or initial construction.

(13) Use of housing-related funds

Expenditure of any funds authorized and appropriated for new construction, repair, or rehabilitation of housing under this section shall follow the housing priority listing established by the agency under paragraph (12), in sequential order, to the maximum extent practicable.

(14) Annual budget submittal

The President's proposed budget to Congress for the first fiscal year beginning after November 12, 1996, and for each subsequent fiscal year, shall include identification of nonconstruction funds to be spent for National Park Service housing maintenance and operations which are in addition to rental receipts collected.

(15) Study of housing allowances

Within 12 months after November 12, 1996, the Secretary shall conduct a study to determine the feasibility of providing eligible employees of the National Park Service with housing allowances rather than Government housing. The study shall specifically examine the feasibility of providing rental allowances to temporary and lower paid permanent employees. Whenever the Secretary submits a copy of such study to the Office of Management and Budget, he shall concurrently transmit copies of the report to the Resources Committee of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(16) Study of sale of employee housing

Within 18 months of November 12, 1996, the Secretary shall complete a study of the sale of Government quarters to a cooperative consisting of field employees. The Secretary shall examine the potential benefits to the Government as well as the employees and any risks associated with such a program.

(17) General provisions

(A) Construction limitations on Federal lands

The Secretary may not utilize any lands for the purposes of providing field employee housing under this section which will impact primary resource values of the area or adversely affect the mission of the agency.

(B) Rental rates

To the extent practicable, the Secretary shall establish rental rates for all quarters occupied by field employees of the National Park Service that are based on the reasonable value of the quarters in accordance with requirements applicable under section 5911 of title 5.

(C) Exemption from leasing requirements

The provisions of section 460*l*–22 of this title and section 1302 of title 40 shall not apply to leases issued by the Secretary under this section.

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[2] So in original. The comma probably should be a period.

[3] So in original. Probably should be followed by a period.

(18) Proceeds

The proceeds from any lease under paragraph (7)(A) and any lease under paragraph (11) shall be retained by the National Park Service. Such proceeds shall be deposited into the special fund established for maintenance and operation of quarters.

(19) Definitions

For purposes of this section:

(A) The term ''field employee'' means—

(i) an employee of the National Park Service who is exclusively assigned by the National Park Service to perform duties at a field unit, and the members of their family; and

(ii) other individuals who are authorized to occupy Government quarters under section 5911 of title 5, and for whom there is no feasible alternative to the provision of Government housing, and the members of their family.

(B) The term ''land management agency'' means the National Park Service, Department of the Interior.

(C) The term ''primary resource values'' means resources which are specifically mentioned in the enabling legislation for that field unit or other resource value recognized under Federal statute.

(D) The term ''quarters'' means quarters owned or leased by the Government.

(E) The term ''seasonal quarters'' means quarters typically occupied by field employees who are hired on assignments of 6 months or less.

(Pub. L. 104–333, div. I, title VIII, § 814(a), Nov. 12, 1996, 110 Stat. 4190; Pub. L. 106–176, title I, § 120(a)(1), Mar. 10, 2000, 114 Stat. 28.)

REFERENCES IN TEXT

This section, referred to in pars. (1), (6), (13), and (17)(A), (C), means section 814 of title VIII of div. I of Pub. L. 104–333 which enacted this section and sections 1f and 346e of this title and made numerous amendments to this title. The reference probably should have been ''this subsection'' meaning subsec. (a) of section 814 which enacted this section.

CODIFICATION

''Section 1302 of title 40'' substituted in par. (17)(C) for ''section 321 of the Act of June 30, 1932 (40 U.S.C. 303b; 47 Stat. 412)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

2000—Par. (6). Pub. L. 106–176, § 120(a)(1)(A), substituted ''this section'' for ''this Act'' before period at end.

Par. (7)(B). Pub. L. 106–176, § 120(a)(1)(B), substituted ''Competitive leasing'' for ''Comptetitive leasing'' in subpar. heading.

Par. (9). Pub. L. 106–176, § 120(a)(1)(C), substituted ''granted by statute'' for ''granted by statue''.

Par. (11)(B)(ii). Pub. L. 106–176, § 120(a)(1)(D), substituted ''more cost-effective'' for ''more cost effective''.

Par. (13). Pub. L. 106–176, § 120(a)(1)(E), substituted ''paragraph (12),'' for ''paragraph (13),''.

Par. (18). Pub. L. 106–176, § 120(a)(1)(F), substituted ''under paragraph (7)(A) and any lease under paragraph (11)'' for ''under paragraph (7)(A)(i)(I), any lease under paragraph (11)(B), and any lease of seasonal quarters under subsection (*l*),''.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 18. Promotion of tourist travel

The Secretary of Commerce shall encourage, promote, and develop travel within the United States, including any Commonwealth, territory, and possession thereof, through activities which are in the public interest and which do not compete with activities of any State, city, or private agency.

(July 19, 1940, ch. 642, § 1, 54 Stat. 773; Pub. L. 93–193, § 2, Dec. 19, 1973, 87 Stat. 765; Pub. L. 94–55, § 2(b), July 9, 1975, 89 Stat. 262.)

AMENDMENTS

1975—Pub. L. 94–55 substituted ''shall encourage, promote, and develop travel within the United States, including any Commonwealth, territory, and possession thereof, through activities which are in the public interest and which do not compete with activities of any State, city, or private agency'' for ''is authorized and directed to encourage, promote, and develop travel within the United States, its Territories and possessions, providing such activities do not compete with the activities of private agencies; and to administer all existing travel promotion functions of the Department of Commerce''.

TRANSFER OF FUNCTIONS

Section 2 of Pub. L. 93–193, Dec. 19, 1973, 87 Stat. 765, provided that:

''(a) There are hereby transferred to and vested in the Secretary of Commerce all functions, powers, and duties of the Secretary of the Interior and other offices and officers of the Department of the Interior under the Act of July 19, 1940 (54 Stat. 773; 16 U.S.C. 18–18d).

''(b) The assets, liabilities, contracts, property, records, authorizations, and allocations, employed, held, used, rising from, available or to be made available in connection with the functions, powers, and duties transferred by subsection (a) of this section are hereby transferred to the Secretary of Commerce.''

§ 18a. Cooperation with travel agencies; publication of information

In carrying out the purposes of sections 18 to 18d of this title, the Secretary is authorized to cooperate with public and private tourist, travel, and other agencies in the display of exhibits, and in the collection, publication, and dissemination of information with respect to places of interest, routes, transportation facilities, accommodations, and such other matters as he deems advisable and advantageous for the purpose of encouraging, promoting, or developing such travel. Nothing in said sections shall prohibit the preparation of graphic materials in foreign languages, designed to call attention to the attractions and places of interest in the United States and to encourage the use of American registered ships and planes. The existing facilities of the United States Government in foreign countries are authorized to assist in the distribution of this material. The Secretary may enter into contracts with private publishers for

such printing and binding as he may deem advisable in carrying out the purposes of said sections. The Secretary is also authorized to make charges for any publications made available to the public pursuant to said sections; and any proceeds from the sale of publications produced by the expenditure of contributed funds shall continue to be available for printing and binding as aforesaid.

(July 19, 1940, ch. 642, § 2, 54 Stat. 773.)

TRANSFER OF FUNCTIONS

For transfer of functions of Secretary of the Interior to Secretary of Commerce, see Transfer of Functions note set out under section 18 of this title.

§ 18b. Advisory committee for promotion of tourist travel; expenses

The Secretary of Commerce is authorized to create an advisory committee to consist of a representative from each of the Departments of State, Agriculture, and Commerce, the Interstate Commerce Commission, and the Department of Transportation, as may be designated by such Departments or agencies, respectively, and such additional members, representatives of the various sections of the Nation, including transportation and accommodations agencies, not to exceed six members, to be appointed by the Secretary of Commerce to serve at his pleasure. Meetings of the committee shall be held at the request of the Secretary for the purpose of making recommendations concerning the promotion of tourist travel under the provisions of sections 18 to 18d of this title. The members of the committee shall receive no compensation for their services as members, but shall be entitled to reimbursement for such necessary travel and other expenses in connection with their attendance at committee meetings as may be authorized or approved by the Secretary.

(July 19, 1940, ch. 642, § 3, 54 Stat. 773; Pub. L. 93–193, § 2, Dec. 19, 1973, 87 Stat. 765; Pub. L. 97–31, § 12(10), Aug. 6, 1981, 95 Stat. 154; Pub. L. 98–443, § 9(*o*), Oct. 4, 1984, 98 Stat. 1708.)

AMENDMENTS

1984—Pub. L. 98–443 struck out ''the Civil Aeronautics Authority,'' after ''the Interstate Commerce Commission,''.

1981—Pub. L. 97–31 substituted ''Department of Transportation'' for ''United States Maritime Commission''.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–443 effective Jan. 1, 1985, see section 9(v) of Pub. L. 98–443, set out as a note under section 5314 of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

Secretary of Commerce substituted for Secretary of the Interior in view of transfer of functions to Secretary of Commerce from Secretary of the Interior by section 2 of Pub. L. 93–193. See Transfer of Functions note set out under section 18 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104–88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 701 of Title 49.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 18c. Rules and regulations; employees

In the performance of his functions and duties under the provisions of sections 18 to 18d of this title, the Secretary of Commerce is authorized—

(a) To prescribe, amend, and repeal such rules and regulations as he may deem necessary, and to accept contributions for carrying out the purposes of said sections; and

(b) To employ, subject to chapter 51 and subchapter III of chapter 53 of title 5, one special assistant and not to exceed five artists and illustrators.

(July 19, 1940, ch. 642, § 4, 54 Stat. 774; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; Pub. L. 93–193, § 2, Dec. 19, 1973, 87 Stat. 765.)

CODIFICATION

Provisions of par. (b) authorizing the Secretary of the Interior to employ ''without regard to the civil-service laws'' were omitted as such employment is subject to the civil service laws unless specifically excepted by those laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to the Act of Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and employees.

''Chapter 51 and subchapter III of chapter 53 of title 5'' substituted in par. (b) for ''the Classification Act of 1949, as amended'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5.

AMENDMENTS

1949—Par. (b). Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act of 1923''.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

Secretary of Commerce substituted for Secretary of the Interior in view of transfer of functions to Secretary of Commerce from Secretary of the Interior by section 2 of Pub. L. 93–193. See Transfer of Functions note set out under section 18 of this title.

§ 18d. Authorization of appropriations

For the purpose of carrying out the provisions of sections 18 to 18d of this title, there are authorized to be appropriated not to exceed

$2,500,000 for the fiscal year ending June 30, 1976; $625,000 for the transition period of July 1, 1976, through September 30, 1976; $2,500,000 for the fiscal year ending September 30, 1977, and $2,500,000 for the fiscal year ending September 30, 1978.

(July 19, 1940, ch. 642, § 5, 54 Stat. 774; Pub. L. 91–549, Dec. 14, 1970, 84 Stat. 1437; Pub. L. 94–55, § 2(a), July 9, 1975, 89 Stat. 262.)

AMENDMENTS

1975—Pub. L. 94–55 substituted provisions authorizing appropriations not to exceed $2,500,000 for fiscal year ending June 30, 1976, $625,000 for the transition period of July 1, 1976 through Sept. 30, 1976, $2,500,000 for fiscal year ending Sept. 30, 1977, and $2,500,000 for fiscal year ending Sept. 30, 1978, for provisions authorizing appropriations not to exceed $250,000 for fiscal year 1971 and $750,000 for fiscal year 1972.

1970—Pub. L. 91–549 substituted provisions authorizing appropriations of not more than $250,000 for fiscal year 1971 and not more than $750,000 for fiscal year 1972, for provisions which authorized appropriations of not more than $100,000 annually.

§ 18e. Repealed. Sept. 20, 1941, ch. 412, title V, § 541(c), 55 Stat. 710

Section, act June 28, 1941, ch. 259, § 1, 55 Stat. 350, exempted national park, etc., admission fees from all Federal tax on admissions. Act Sept. 20, 1941, was made effective on, and applicable only with respect to the period beginning with Oct. 1, 1941, by section 550(a) thereof.

§ 18f. Management of museum properties

The purpose of this section and sections 18f–2 and 18f–3 of this title shall be to increase the public benefits from museums established within the individual areas administered by the Secretary of the Interior through the National Park Service as a means of informing the public concerning the areas and preserving valuable objects and relics relating thereto. The Secretary of the Interior, notwithstanding other provisions or limitations of law, may perform the following functions in such manner as he shall consider to be in the public interest:

(a) Donations and bequests

Accept donations and bequests of money or other personal property, and hold, use, expend, and administer the same for purposes of this section and sections 18f–2 and 18f–3 of this title;

(b) Purchases

Purchase museum objects, museum collections, and other personal properties at prices he considers to be reasonable;

(c) Exchanges

Make exchanges by accepting museum objects, museum collections, and other personal properties, and by granting in exchange therefor museum property under the administrative jurisdiction of the Secretary which is no longer needed or which may be held in duplicate among the museum properties administered by the Secretary, such exchanges to be consummated on a basis which the Secretary considers to be equitable and in the public interest;

(d) Accepting loans of museum objects

Accept the loan of museum objects, museum collections, and other personal properties and pay transportation costs incidental thereto, such loans to be accepted upon terms and conditions which he shall consider necessary; and

(e) Making loans of museum objects

Loan to responsible public or private organizations, institutions, or agencies, without cost to the United States, such museum objects, museum collections, and other personal property as he shall consider advisable, such loans to be made upon terms and conditions which he shall consider necessary to protect the public interest in such properties.

(July 1, 1955, ch. 259, § 1, 69 Stat. 242; Pub. L. 104–333, div. I, title VIII, § 804(a)(1), Nov. 12, 1996, 110 Stat. 4187.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–333 struck out ''from such donations and bequests of money'' before ''museum objects''.

§ 18f–1. Disposal of unnecessary or duplicate museum objects; use of proceeds

In fiscal year 1991 and thereafter, the Secretary may exercise the authorities granted in section 18f of this title in administration of the Department of the Interior Museum, and may dispose of objects no longer needed for the Museum or held in duplicate among museum properties and apply the proceeds to the purchase of museum objects, museum collections, and other personal properties at reasonable prices.

(Pub. L. 101–512, title I, § 116, Nov. 5, 1990, 104 Stat. 1937.)

§ 18f–2. Additional functions

(a) Museum objects and collections

In addition to the functions specified in section 18f of this title, the Secretary of the Interior may perform the following functions in such manner as he shall consider to be in the public interest:

(1) Transfer museum objects and museum collections that the Secretary determines are no longer needed for museum purposes to qualified Federal agencies, including the Smithsonian Institution, that have programs to preserve and interpret cultural or natural heritage, and accept the transfer of museum objects and museum collections for the purposes of this section and sections 18f and 18f–3 of this title from any other Federal agency, without reimbursement. The head of any other Federal agency may transfer, without reimbursement, museum objects and museum collections directly to the administrative jurisdiction of the Secretary of the Interior for the purpose of this section and sections 18f and 18f–3 of this title.

(2) Convey museum objects and museum collections that the Secretary determines are no longer needed for museum purposes, without monetary consideration but subject to such terms and conditions as the Secretary deems necessary, to private institutions exempt from Federal taxation under section 501(c)(3) of title 26 and to non-Federal governmental entities if the Secretary determines that the recipient is dedicated to the preservation and interpreta-

tion of natural or cultural heritage and is qualified to manage the property, prior to any conveyance under this subsection.

(3) Destroy or cause to be destroyed museum objects and museum collections that the Secretary determines to have no scientific, cultural, historic, educational, esthetic, or monetary value.

(b) Review and approval

The Secretary shall ensure that museum collections are treated in a careful and deliberate manner that protects the public interest. Prior to taking any action under subsection (a) of this section, the Secretary shall establish a systematic review and approval process, including consultation with appropriate experts, that meets the highest standards of the museum profession for all actions taken under this section.

(July 1, 1955, ch. 259, §2, as added Pub. L. 104–333, div. I, title VIII, §804(a)(2), Nov. 12, 1996, 110 Stat. 4187.)

§ 18f–3. Application and definitions

(a) Application

Authorities in this section and sections 18f and 18f–2 of this title shall be available to the Secretary of the Interior with regard to museum objects and museum collections that were under the administrative jurisdiction of the Secretary for the purposes of the National Park System before November 12, 1996, as well as those museum objects and museum collections that may be acquired on or after November 12, 1996.

(b) Definitions

For the purposes of this section and sections 18f and 18f–2 of this title, the terms ''museum objects'' and ''museum collections'' mean objects that are eligible to be or are made part of a museum, library, or archive collection through a formal procedure, such as accessioning. Such objects are usually movable and include but are not limited to prehistoric and historic artifacts, works of art, books, documents, photographs, and natural history specimens.

(July 1, 1955, ch. 259, §3, as added Pub. L. 104–333, div. I, title VIII, §804(b), Nov. 12, 1996, 110 Stat. 4188.)

SUBCHAPTER II—VOLUNTEERS IN PARKS PROGRAM

§ 18g. Creation of program

The Secretary of the Interior (hereinafter referred to as the Secretary) is authorized to recruit, train, and accept without regard to the civil service classification laws, rules, or regulations the services of individuals without compensation as volunteers for or in aid of interpretive functions, or other visitor services or activities in and related to areas administered by the Secretary through the National Park Service. In accepting such services of individuals or volunteers, the Secretary shall not permit the use of volunteers in hazardous duty or law enforcement work or in policymaking processes, or to displace any employee: *Provided*, That the services of individuals whom the Secretary determines are skilled in performing hazardous activities may be accepted.

(Pub. L. 91–357, §1, July 29, 1970, 84 Stat. 472; Pub. L. 98–540, §1(b), Oct. 24, 1984, 98 Stat. 2718.)

AMENDMENTS

1984—Pub. L. 98–540 restricted the activities of volunteers except in the case of skilled individuals.

SHORT TITLE

Section 5 of Pub. L. 91–357, July 29, 1970, 84 Stat. 472, provided that: ''This Act [enacting this subchapter] may be cited as the 'Volunteers in the Parks Act of 1969'.''

§ 18h. Incidental expenses

The Secretary is authorized to provide for incidental expenses, such as transportation, uniforms, lodging, and subsistence.

(Pub. L. 91–357, §2, July 29, 1970, 84 Stat. 472.)

§ 18i. Federal employee status for volunteers

(a) Employment status of volunteers

Except as otherwise provided in this section, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(b) Tort claims

For the purpose of the tort claim provisions of title 28, a volunteer under this subchapter shall be considered a Federal employee.

(c) Civil employees

For the purposes of subchapter I of chapter 81 of title 5, relating to compensation to Federal employees for work injuries, volunteers under this subchapter shall be deemed civil employees of the United States within the meaning of the term ''employee'' as defined in section 8101 of title 5, and the provisions of that subchapter shall apply.

(d) Compensation for losses and damages

For the purpose of claims relating to damage to, or loss of, personal property of a volunteer incident to volunteer service, a volunteer under this subchapter shall be considered a Federal employee, and the provisions of section 3721 of title 31 shall apply.

(Pub. L. 91–357, §3, July 29, 1970, 84 Stat. 472; Pub. L. 101–286, title II, §204(b), May 9, 1990, 104 Stat. 175.)

AMENDMENTS

1990—Subsec. (d). Pub. L. 101–286 added subsec. (d).

§ 18j. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter, but not more than $3,500,000 shall be appropriated in any one year.

(Pub. L. 91–357, §4, July 29, 1970, 84 Stat. 472; Pub. L. 94–128, Nov. 13, 1975, 89 Stat. 682; Pub. L. 98–540, §1(a), Oct. 24, 1984, 98 Stat. 2718; Pub. L. 104–333, div. I, title VIII, §805, Nov. 12, 1996, 110 Stat. 4188.)

AMENDMENTS

1996—Pub. L. 104–333 substituted ''$3,500,000'' for ''$1,000,000''.

1984—Pub. L. 98–540 substituted ''$1,000,000'' for ''$250,000''.
1975—Pub. L. 94–128 substituted ''$250,000'' for ''$100,000''.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 1(a) of Pub. L. 98–540 provided in part that: ''The amendment made by this subsection [amending this section] shall apply with respect to fiscal years beginning after September 30, 1984.''

SUBCHAPTER III—NATIONAL PARK FOUNDATION

§§ 19 to 19c. Repealed. Pub. L. 90–209, § 2, Dec. 18, 1967, 81 Stat. 656

Sections, act July 10, 1935, ch. 375, §§1–3, 5, 49 Stat. 477, 478, related to: creation of National Park Trust Fund Board, its composition, conduct of business, and compensation; authority to accept and administer gifts, disposition of income, and limitations thereof; succession, powers as trustee, and jurisdiction of suits; and exemption of gifts from taxation, respectively. See sections 19e to 19n of this title.

§ 19d. Repealed. Aug. 30, 1954, ch. 1076, § 1(25), 68 Stat. 968

Section, act July 10, 1935, ch. 375, § 6, 49 Stat. 478, required the National Park Trust Fund Board to submit an annual report to Congress of the moneys or securities received and held by it, and of its operations.

§ 19e. Congressional statement of purpose; establishment of Foundation

In order to encourage private gifts of real and personal property or any income therefrom or other interest therein for the benefit of, or in connection with, the National Park Service, its activities, or its services, and thereby to further the conservation of natural, scenic, historic, scientific, educational, inspirational, or recreational resources for future generations of Americans, there is hereby established a charitable and nonprofit corporation to be known as the National Park Foundation to accept and administer such gifts.

(Pub. L. 90–209, § 1, Dec. 18, 1967, 81 Stat. 656.)

SHORT TITLE

Pub. L. 90–209, which enacted this subchapter, is popularly known as the ''National Park Foundation Act''.

§ 19f. Board: membership, term of office, vacancies, Chairman, Secretary, non-Federal office, quorum, seal, meetings, compensation, traveling and subsistence expenses; Foundation as successor to right, title, and interest of National Park Trust Fund Board in property or funds; abolition and repeal of National Park Trust Fund and Board provisions

The National Park Foundation shall consist of a Board having as members the Secretary of the Interior, the Director of the National Park Service, ex officio, and no less than six private citizens of the United States appointed by the Secretary of the Interior whose initial terms shall be staggered to assure continuity of administration. Thereafter, the term shall be six years, unless a successor is chosen to fill a vacancy occurring prior to the expiration of the term for which his predecessor was chosen, in which event the successor shall be chosen only for the remainder of that term. The Secretary of the Interior shall be the Chairman of the Board and the Director of the National Park Service shall be the Secretary of the Board. Membership on the Board shall not be deemed to be an office within the meaning of the statutes of the United States. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business, and the Foundation shall have an official seal, which shall be judicially noticed. The Board shall meet at the call of the Chairman and there shall be at least one meeting each year.

No compensation shall be paid to the members of the Board for their services as members, but they shall be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of National Park Foundation funds available to the Board for such purposes. The Foundation shall succeed to all right, title, and interest of the National Park Trust Fund Board established in any property or funds, including the National Park Trust Fund, subject to the terms and conditions thereof. The National Park Trust Fund is hereby abolished, and the Act of July 10, 1935 (49 Stat. 477), as amended, is hereby repealed.

(Pub. L. 90–209, § 2, Dec. 18, 1967, 81 Stat. 656.)

REFERENCES IN TEXT

Act of July 10, 1935 (49 Stat. 477), as amended, referred to in text, prior to its repeal by Pub. L. 90–209, § 2, Dec. 18, 1967, 81 Stat. 656, was classified to sections 6a and 19 to 19d of this title.

§ 19g. Gifts, devises, or bequests; restriction; real property interests; property with encumbrances, restrictions, or subject to beneficial interests of private persons

The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with, the National Park Service, its activities, or its services: *Provided*, That the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. An interest in the real property includes, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational, or recreational resources. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the National Park Service, its activities, or its services.

(Pub. L. 90–209, § 3, Dec. 18, 1967, 81 Stat. 656.)

§ 19h. Property and income dealings and transactions; prohibition of engagement in business; trust company type of investments; utilization of services and facilities of Federal agencies without reimbursement; transfer instrument requirements and investments

Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer, and may retain any property accepted by the Foundation. The Foundation may utilize the services and facilities of the Department of the Interior and the Department of Justice, and such services and facilities may be made available on request to the extent practicable with or without reimbursement therefor. Monies reimbursed to either Department shall be returned by the Department to the account from which the funds for which the reimbursement is made were drawn and may, without further appropriation, be expended for any purpose for which such account is authorized.

(Pub. L. 90–209, § 4, Dec. 18, 1967, 81 Stat. 656; Pub. L. 106–176, title III, § 305, Mar. 10, 2000, 114 Stat. 33.)

AMENDMENTS

2000—Pub. L. 106–176 inserted ''with or'' before ''without'' and inserted at end ''Monies reimbursed to either Department shall be returned by the Department to the account from which the funds for which the reimbursement is made were drawn and may, without further appropriation, be expended for any purpose for which such account is authorized.''

§ 19i. Corporate succession; powers and duties of trustee; suits; personal liability for malfeasance

The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(Pub. L. 90–209, § 5, Dec. 18, 1967, 81 Stat. 657.)

§ 19j. Authority for execution of contracts, instruments, and necessary or appropriate acts

The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(Pub. L. 90–209, § 6, Dec. 18, 1967, 81 Stat. 657.)

§ 19k. Bylaws, rules, and regulations; contracts for services

In carrying out the provisions of this subchapter, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and contract for any necessary services.

(Pub. L. 90–209, § 7, Dec. 18, 1967, 81 Stat. 657.)

§ 19*l*. Tax exemptions; contributions toward costs of local government; contributions, gifts, or transfers to or for use of United States

The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of its directors, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of the foregoing or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(Pub. L. 90–209, § 8, Dec. 18, 1967, 81 Stat. 657.)

§ 19m. Liability of United States

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(Pub. L. 90–209, § 9, Dec. 18, 1967, 81 Stat. 657.)

§ 19n. Omitted

CODIFICATION

Section, Pub. L. 90–209, § 10, Dec. 18, 1967, 81 Stat. 657, which required the National Park Foundation to transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 204 of House Document No. 103–7.

§ 19*o*. Promotion of local fundraising support

(a) Establishment

The Foundation shall design and implement a comprehensive program to assist and promote philanthropic programs of support at the individual national park unit level.

(b) Implementation

The program under subsection (a) of this section shall be implemented to—

(1) assist in the creation of local nonprofit support organizations; and

(2) provide support, national consistency, and management-improving suggestions for local nonprofit support organizations.

(c) Program

The program under subsection (a) of this section shall include the greatest number of national park units as is practicable.

(d) Requirements

The program under subsection (a) of this section shall include, at a minimum—

(1) a standard adaptable organizational design format to establish and sustain respon-

sible management of a local nonprofit support organization for support of a national park unit;

(2) standard and legally tenable bylaws and recommended money-handling procedures that can easily be adapted as applied to individual national park units; and

(3) a standard training curriculum to orient and expand the operating expertise of personnel employed by local nonprofit support organizations.

(e) Annual report

The Foundation shall report the progress of the program under subsection (a) of this section in the annual report of the Foundation.

(f) Affiliations

(1) Charter or corporate bylaws

Nothing in this section requires—

(A) a nonprofit support organization or friends group to modify current practices or to affiliate with the Foundation; or

(B) a local nonprofit support organization, established as a result of this section, to be bound through its charter or corporate bylaws to be permanently affiliated with the Foundation.

(2) Establishment

An affiliation with the Foundation shall be established only at the discretion of the governing board of a nonprofit organization.

(Pub. L. 90–209, §11, as added Pub. L. 105–391, title VII, §701, Nov. 13, 1998, 112 Stat. 3520.)

SUBCHAPTER III–A—NATIONAL PARK SYSTEM VISITOR FACILITY

§§ 19aa to 19gg. Omitted

CODIFICATION

Sections 19aa to 19gg were omitted pursuant to section 19gg which provided that all authorities contained in this subchapter expired Sept. 30, 1989.

Section 19aa, Pub. L. 97–433, §2, Jan. 8, 1983, 96 Stat. 2277, defined terms for purposes of this subchapter.

Section 19bb, Pub. L. 97–433, §3, Jan. 8, 1983, 96 Stat. 2277, established in United States Treasury the National Park System Visitor Facilities Fund and provided for funds to be credited to that Fund.

Section 19cc, Pub. L. 97–433, §4, Jan. 8, 1983, 96 Stat. 2277, authorized appropriations to be made available to National Park Foundation to carry out its functions under this subchapter.

Section 19dd, Pub. L. 97–433, §5, Jan. 8, 1983, 96 Stat. 2278, related to administration of Fund projects and required Foundation to include in its annual report a description of projects undertaken and accomplishments made under this subchapter.

Section 19ee, Pub. L. 97–433, §6, Jan. 8, 1983, 96 Stat. 2278, related to authority of National Park Foundation.

Section 19ff, Pub. L. 97–433, §7, Jan. 8, 1983, 96 Stat. 2279, provided that nothing in this subchapter affect responsibilities of Secretary of the Interior under other provisions of law.

Section 19gg, Pub. L. 97–433, §8, Jan. 8, 1983, 96 Stat. 2279, provided that authorities contained in this subchapter expire Sept. 30, 1989, and that any moneys credited to Fund not appropriated, expended, or obligated be transferred to miscellaneous receipts of the Treasury.

SHORT TITLE

Section 1 of Pub. L. 97–433 provided that this subchapter be cited as the ''National Park System Visitor Facilities Fund Act''.

SUBCHAPTER III–B—PARK SYSTEM RESOURCE PROTECTION

§ 19jj. Definitions

As used in this subchapter the term:

(a) ''Attorney General'' means the Attorney General of the United States.

(b) ''Damages'' includes the following:

(1) Compensation for—

(A)(i) the cost of replacing, restoring, or acquiring the equivalent of a park system resource; and

(ii) the value of any significant loss of use of a park system resource pending its restoration or replacement or the acquisition of an equivalent resource; or

(B) the value of the park system resource in the event the resource cannot be replaced or restored.

(2) The cost of damage assessments under section 19jj–2(b) of this title.

(c) ''Response costs'' means the costs of actions taken by the Secretary of the Interior to prevent or minimize destruction or loss of or injury to park system resources; or to abate or minimize the imminent risk of such destruction, loss, or injury; or to monitor ongoing effects of incidents causing such destruction, loss, or injury.

(d) ''Park system resource'' means any living or non-living resource that is located within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.

(e) ''Regimen'' means a water column and submerged lands, up to the high-tide or high-water line.

(f) ''Secretary'' means the Secretary of the Interior.

(g) ''Marine or aquatic park system resource'' means any living or non-living part of a marine or aquatic regimen within or is a living part of a marine or aquatic regimen within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.

(Pub. L. 101–337, §1, July 27, 1990, 104 Stat. 379; Pub. L. 104–333, div. I, title VIII, §814(h)(1), (2), Nov. 12, 1996, 110 Stat. 4199.)

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–333, §804(h)(1), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: '' 'Park system resource' means any living or nonliving resource that is located within or is a living part of a marine regimen or a Great Lakes aquatic regimen (including an aquatic regimen within Voyageurs National Park) within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.''

Subsec. (g). Pub. L. 104–333, §814(h)(2), added subsec. (g).

§ 19jj–1. Liability

(a) In general

Subject to subsection (c) of this section, any person who destroys, causes the loss of, or injures any park system resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.

(b) Liability in rem

Any instrumentality, including but not limited to a vessel, vehicle, aircraft, or other equipment that destroys, causes the loss of, or injures any park system resource or any marine or aquatic park resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury to the same extent as a person is liable under subsection (a) of this section.

(c) Defenses

A person is not liable under this section if such person can establish that—

(1) the destruction, loss of, or injury to the park system resource was caused solely by an act of God or an act of war;

(2) such person acted with due care, and the destruction, loss of, or injury to the park system resource was caused solely by an act or omission of a third party, other than an employee or agent of such person; or

(3) the destruction, loss, or injury to the park system resource was caused by an activity authorized by Federal or State law.

(d) Scope

The provisions of this section shall be in addition to any other liability which may arise under Federal or State law.

(Pub. L. 101–337, § 2, July 27, 1990, 104 Stat. 379; Pub. L. 104–333, div. I, title VIII, § 814(h)(3), Nov. 12, 1996, 110 Stat. 4199; Pub. L. 106–176, title I, § 120(c), Mar. 10, 2000, 114 Stat. 29.)

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–176 inserted ''or'' after ''park system resource''.

1996—Subsec. (b). Pub. L. 104–333 inserted ''any marine or aquatic park resource'' after ''any park system resource''.

§ 19jj–2. Actions

(a) Civil actions for response costs and damages

The Attorney General, upon request of the Secretary after a finding by the Secretary—

(1) of damage to a park system resource; or

(2) that absent the undertaking of response costs, damage to a park system resource would have occurred;

may commence a civil action in the United States district court for the appropriate district against any person who may be liable under section 19jj–1 of this title for response costs and damages. The Secretary shall submit a request for such an action to the Attorney General whenever a person may be liable or an instrumentality may be liable in rem for such costs and damages as provided in section 19jj–1 of this title.

(b) Response actions and assessment of damages

(1) The Secretary shall undertake all necessary actions to prevent or minimize the destruction, loss of, or injury to park system resources, or to minimize the imminent risk of such destruction, loss, or injury.

(2) The Secretary shall assess and monitor damages to park system resources.

(Pub. L. 101–337, § 3, July 27, 1990, 104 Stat. 380.)

§ 19jj–3. Use of recovered amounts

Response costs and damages recovered by the Secretary under the provisions of this subchapter or amounts recovered by the Federal Government under any Federal, State, or local law or regulation or otherwise as a result of damage to any living or nonliving resource located within a unit of the National Park System, except for damage to resources owned by a non-Federal entity, shall be available to the Secretary and without further congressional action may be used only as follows:

(a) Response costs and damage assessments

To reimburse response costs and damage assessments by the Secretary or other Federal agencies as the Secretary deems appropriate.

(b) Restoration and replacement

To restore, replace, or acquire the equivalent of resources which were the subject of the action and to monitor and study such resources: *Provided*, That no such funds may be used to acquire any lands or waters or interests therein or rights thereto unless such acquisition is specifically approved in advance in appropriations Acts and any such acquisition shall be subject to any limitations contained in the organic legislation for such park unit.

(c) Excess funds

Any amounts remaining after expenditures pursuant to subsections (a) and (b) of this section shall be deposited into the General Fund of the United States Treasury.

(Pub. L. 101–337, § 4, July 27, 1990, 104 Stat. 380; Pub. L. 103–437, § 6(d)(3), Nov. 2, 1994, 108 Stat. 4583.)

CODIFICATION

Subsection (d), which required the Secretary to report annually to the Committee on Appropriations and the Committee on Energy and Natural Resources of the United States Senate and the Committee on Appropriations and the Committee on Natural Resources of the United States House of Representatives on funds expended pursuant to this subchapter, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 111 of House Document No. 103–7.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 19jj–4. Donations

The Secretary may accept donations of money or services for expenditure or employment to meet expected, immediate, or ongoing response costs. Such donations may be expended or employed at any time after their acceptance, without further congressional action.

(Pub. L. 101–337, § 5, July 27, 1990, 104 Stat. 381.)

SUBCHAPTER IV—CONCESSIONS FOR ACCOMMODATIONS, FACILITIES, AND SERVICES IN AREAS ADMINISTERED BY NATIONAL PARK SERVICE

§§ 20 to 20g. Repealed. Pub. L. 105–391, title IV, § 415(a), Nov. 13, 1998, 112 Stat. 3515

Section 20, Pub. L. 89–249, § 1, Oct. 9, 1965, 79 Stat. 969, related to congressional findings and statement of purpose.

Section 20a, Pub. L. 89–249, § 2, Oct. 9, 1965, 79 Stat. 969, related to authority of Secretary of the Interior to encourage concessioners.

Section 20b, Pub. L. 89–249, § 3, Oct. 9, 1965, 79 Stat. 969, related to protection of concessioner's investment.

Section 20c, Pub. L. 89–249, § 4, Oct. 9, 1965, 79 Stat. 970, related to new or additional services, preferential rights, and operations by a single concessioner.

Section 20d, Pub. L. 89–249, § 5, Oct. 9, 1965, 79 Stat. 970, related to renewal preference for satisfactory performance, extensions, new contracts, and public notice.

Section 20e, Pub. L. 89–249, § 6, Oct. 9, 1965, 79 Stat. 970, related to concessioner's possessory interest in concession property, limitations, compensation for taking, and determination of just compensation.

Section 20f, Pub. L. 89–249, § 7, Oct. 9, 1965, 79 Stat. 971, related to use of non-monetary consideration in leases of government property.

Section 20g, Pub. L. 89–249, § 9, Oct. 9, 1965, 79 Stat. 971, related to recordkeeping, audit and examination, and access to books and records.

Sections 20 to 20g were popularly known as the National Park System Concessions Policy Act. For similar provisions, see section 5951 et seq. of this title.

REPEAL OF NATIONAL PARK SERVICE CONCESSIONS POLICY ACT; SAVINGS PROVISION

Pub. L. 105–391, title IV, § 415(a), Nov. 13, 1998, 112 Stat. 3515, provided that: ''Public Law 89–249 (commonly known as the National Park Service Concessions Policy Act; 16 U.S.C. 20 et seq.) is repealed. The repeal of such Act shall not affect the validity of any concessions contract or permit entered into under such Act, but the provisions of this title [see Short Title note set out under section 5901 of this title] shall apply to any such contract or permit except to the extent such provisions are inconsistent with the terms and conditions of any such contract or permit. References in this title to concessions contracts awarded under authority of such Act also apply to concessions permits awarded under such authority.''

SUBCHAPTER V—YELLOWSTONE NATIONAL PARK

§ 21. Establishment; boundaries; trespassers

The tract of land in the States of Montana and Wyoming, lying near the headwaters of the Yellowstone River and described as follows, to wit, commencing at the junction of Gardiner's River, with the Yellowstone River, and running east to the meridian passing ten miles to the eastward of the most eastern point of Yellowstone Lake; thence south along said meridian to the parallel of latitude passing ten miles south of the most southern point of Yellowstone Lake; thence west along said parallel to the meridian passing fifteen miles west of the most western point of Madison Lake; thence north along said meridian to the latitude of the junction of the Yellowstone and Gardiner's Rivers; thence east to the place of beginning, is reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States, and dedicated and set apart as a public park or pleasuring ground for the benefit and enjoyment of the people; and all persons who locate, or settle upon, or occupy any part of the land thus set apart as a public park, except as provided in section 22 of this title, shall be considered trespassers and removed therefrom.

(R.S. § 2474.)

CODIFICATION

R.S. § 2474 derived from act Mar. 1, 1872, ch. 24, § 1, 17 Stat. 32.

§ 21a. Revision of boundaries; contiguous national forests; jurisdiction of forests

The boundary of the Yellowstone National Park is changed so as to read as follows:

Beginning on the present north boundary line of Yellowstone National Park at its intersection with the hydrographic divide immediately north of Pebble Creek, approximately at park boundary monument 29 east; thence following said divide around the head of the drainage of Pebble Creek to its intersection with the present east boundary line of Yellowstone National Park, at a point near park boundary monument 54 north; thence southerly along said boundary line to its intersection with the hydrographic divide between Soda Butte and Cache Creeks, at a point near park boundary monument 51 north; thence easterly along said hydrographic divide to its intersection with the crest of the Absaroka Range; thence southerly along said crest to its intersection with the main hydrographic divide between Little Lamar River and the North Fork of Shoshone River, passing over Republic and Hoodoo Peaks; thence westerly along said divide passing over Notch Mountain to its intersection with the present east boundary line of Yellowstone National Park, at a point near park boundary monument 26 north; thence continuing westerly along said divide, now between the headwaters of Lamar River and Jones Creek; headwaters of Sedge, Bear, Cub, and Clear Creeks, and the headwaters of Jones and Crow Creeks, and between Crow Creek and Middle Creek, to its intersection with the present east boundary line of Yellowstone National Park, approximately at park boundary monument 18 north, passing over Pyramid and Cathedral Peaks, Mount Chittenden, and Avalanche Peak, thence southerly along said boundary line to its intersection with the hydrographic divide immediately south of Middle Creek, approximately at park boundary monument 15 north; thence westerly along said divide, now between a southern tributary of Middle Creek, headwaters of Beaverdam, Trappers, and Mountain Creeks, and the headwaters of Canfield and Eagle Creeks, to its intersection with the present east boundary line of Yellowstone National Park, at a point near park boundary monument 5 north, passing over Reservation and Atkins Peaks, Mount Schurz, Mount Humphreys, and Eagle Peak; and

Beginning on the present west boundary line of Yellowstone National Park at its intersection with the left bank of Gallatin River between park monuments 45 and 46 north; thence northwesterly along said bank to a point opposite the hydrographic divide between Daly and Tepee Creeks; thence northeasterly across the Gallatin

River and along said divide, around the headwaters of Daly, Black Butte, Specimen, and Fan Creeks, to the intersection of said divide with the present north boundary line of Yellowstone National Park, at a point near park boundary monument 11 west.

All of those lands lying within the boundary lines above described and the present north, east, and west boundary lines are included in and made a part of the Yellowstone National Park; and all of those lands of the present Yellowstone National Park excluded from the park are included in and made a part of the contiguous national forests subject to all laws and regulations applicable to national forests, and upon acceptance thereof by appropriate action of the State, jurisdiction for all purposes whatsoever shall be, and is, ceded over the land excluded from the park to the State of Wyoming.

(Mar. 1, 1929, ch. 437, §1, 45 Stat. 1435; Apr. 19, 1930, ch. 190, 46 Stat. 220.)

AMENDMENTS

1930—Act Apr. 19, 1930, struck out ''*Provided*, That whereas it is the purpose and intent of Congress to retain the areas hereby added to the park in its original wilderness character, therefore, no new roads shall be constructed and no hotels or permanent camps shall be authorized or permitted to be maintained on such lands''.

§ 21b. Extension of certain laws to park

The provisions of section 21 of this title, reserving lands for park purposes, the Act of July 10, 1890 admitting the State of Wyoming into the Union, and sections 1, 2, 3, 4, 24, 26, 30 and 30a of this title and all Acts supplementary to and amendatory of said sections are made applicable to and extended over the lands added to the park: *Provided*, That the provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to or extend over such lands.

(Mar. 1, 1929, ch. 437, §2, 45 Stat. 1436.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act of June 10, 1920, entitled 'An Act to create a Federal Power Commission, to provide for the improvement of navigation, the development of water power, the use of the public lands in relation thereto, and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes,''' and was redesignated the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

§ 21c. Section 485 as extending to revised boundaries; lands acquired by exchange

The provisions of section 485 of this title shall continue to be applicable to the areas included within the Yellowstone National Park by section 21a of this title, and any lands within such areas acquired by exchange thereunder shall thereupon become a part of the Yellowstone National Park.

(Mar. 1, 1929, ch. 437, §3, 45 Stat. 1436.)

§ 21d. Existing claims, locations, and entries as affected by revised boundaries

Nothing herein contained shall affect any valid existing claim, location, or entry under the land laws of the United States, whether for homestead, mineral right of way, or any other purposes whatsoever, or shall affect the right of any such claimant, locator, or entryman to the full use and enjoyment of his land.

(Mar. 1, 1929, ch. 437, §4, 45 Stat. 1436.)

REFERENCES IN TEXT

Herein, referred to in text, means act Mar. 1, 1929, which is classified to sections 21a to 21d of this title. For complete classification of this Act to the Code, see Tables.

§ 22. Control of park by Secretary of the Interior; removal of trespassers

The Yellowstone National Park shall be under the exclusive control of the Secretary of the Interior. In addition to the powers and duties enumerated in section 3 of this title not inconsistent with this section, he shall make regulations providing for the preservation, from injury or spoliation, of all timber, mineral deposits, natural curiosities, or wonders, within the park, and their retention in their natural condition. The Secretary may, in his discretion, grant leases for building purposes for terms not exceeding thirty years, of small parcels of ground, at such places in the park as may require the erection of buildings for the accommodation of visitors. He shall provide against the wanton destruction of the fish and game found within the park, and against their capture or destruction for the purposes of merchandise or profit. He shall also cause all persons trespassing upon the same to be removed therefrom, and generally is authorized to take all such measures as may be necessary or proper to fully carry out the objects and purposes of this section.

(R.S. §2475; Aug. 25, 1916, ch. 408, §3, 39 Stat. 535; Pub. L. 85–434, May 29, 1958, 72 Stat. 152.)

CODIFICATION

R.S. §2475 derived from act Mar. 1, 1872, ch. 24, §2, 17 Stat. 33.

The words ''whose duty it shall be, as soon as practicable, to make and publish such regulations as he may deem necessary or proper for the care and management of the same'' were omitted from the end of the first sentence as executed legislation.

The words ''In addition to the powers and duties enumerated in section 3 of this title not inconsistent with this section'' were added to relate this section to later law, defining the duties of the Secretary of the Interior as to national parks.

''Thirty years'' was substituted for ''ten years'' in view of section 3 of act Aug. 25, 1916, and act May 29, 1958, which authorized the Secretary to grant privileges, leases, and permits in the various parks for periods not exceeding thirty years. See section 3 of this title.

As originally enacted, this section also contained a provision that ''all of the proceeds of such leases, and all other revenues that may be derived from any source connected with the park, to be expended under his [Secretary of the Interior] direction in the management of the same, and the construction of roads and bridlepaths therein.'' This provision was superseded by section 452 of this title providing for the disposition of all revenues from national parks.

§ 23. Detail of troops for protection of park

The Secretary of the Army, upon the request of the Secretary of the Interior, is authorized and directed to make the necessary details of troops to prevent trespassers or intruders from entering the park for the purpose of destroying the game or objects of curiosity therein, or for any other purpose prohibited by law, and to remove such persons from the park if found therein.

(Mar. 3, 1883, ch. 143, 22 Stat. 627; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

§ 24. Jurisdiction over park; fugitives from justice

The Yellowstone National Park, as its boundaries now are defined, or as they may be hereafter defined or extended, shall be under the sole and exclusive jurisdiction of the United States. All the laws applicable to places under the sole and exclusive jurisdiction of the United States, shall have force and effect in said park. Nothing in this Act shall be construed to forbid the service in the park of any civil or criminal process of any court having jurisdiction in the States of Idaho, Montana, and Wyoming. All fugitives from justice taking refuge in said park shall be subject to the same laws as refugees from justice found in the State of Wyoming.

(May 7, 1894, ch. 72, § 1, 28 Stat. 73.)

REFERENCES IN TEXT

This Act, referred to in text, is act May 7, 1894, which is classified to sections 24 to 30a of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section 2 of act May 7, 1894, provided that the Yellowstone National Park should be part of the judicial district of Wyoming, and that the courts of the United States for the district should have jurisdiction of all offenses committed within the park. It was superseded by act Mar. 3, 1911, ch. 231, § 115, 36 Stat. 1130, constituting the State of Wyoming and Yellowstone National Park the judicial district of Wyoming, that section being in turn superseded by act June 5, 1924, ch. 260, 43 Stat. 388. Provisions of that act are covered by section 131 of Title 28, Judiciary and Judicial Procedure.

WYOMING: JURISDICTION OVER PARK

The act admitting the State of Wyoming into the Union, act July 10, 1890, ch. 664, 26 Stat. 222, contained a proviso annexed to the description of the boundaries of the State, in section 2 of the act, as follows: ''That nothing in this act contained shall repeal or affect any act of Congress relating to the Yellowstone National Park, or the reservation of the Park as now defined, or as may be hereafter defined or extended, or the power of the United States over it; and nothing contained in this act shall interfere with the right and ownership of the United States in said park and reservation as it now is or may hereafter be defined or extended by law; but exclusive legislation, in all cases whatsoever, shall be exercised by the United States, which shall have exclusive control and jurisdiction over the same; but nothing in this proviso contained shall be construed to prevent the service within said park of civil and criminal process lawfully issued by the authority of said State.''

§ 25. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section, act May 7, 1894, ch. 72, § 3, 28 Stat. 73, related to applicability of criminal laws. See section 13 of Title 18, Crimes and Criminal Procedure.

§ 26. Regulations for hunting and fishing in park; punishment for violations; forfeitures

All hunting, or the killing, wounding, or capturing at any time of any bird or wild animal, except dangerous animals, when it is necessary to prevent them from destroying human life or inflicting an injury, is prohibited within the limits of said park; nor shall any fish be taken out of the waters of the park by means of seines, nets, traps, or by the use of drugs or any explosive substances or compounds, or in any other way than by hook and line, and then only at such seasons and in such times and manner as may be directed by the Secretary of the Interior. The Secretary of the Interior shall make and publish such rules and regulations as he may deem necessary and proper for the management and care of the park and for the protection of the property therein, especially for the preservation from injury or spoliation of all timber, mineral deposits, natural curiosities, or wonderful objects within said park; and for the protection of the animals and birds in the park, from capture or destruction, or to prevent their being frightened or driven from the park; and he shall make rules and regulations governing the taking of fish from the streams or lakes in the park. Possession within the said park of the dead bodies, or any part thereof, of any wild bird or animal shall be prima facie evidence that the person or persons having the same are guilty of violating this Act. Any person or persons, or stage or express company or railway company, receiving for transportation any of the said animals, birds, or fish so killed, taken, or caught shall be deemed guilty of a misdemeanor, and shall be fined for every such offense not exceeding $300. Any person found guilty of violating any of the provisions of this Act or any rule or regulation that may be promulgated by the Secretary of the Interior with reference to the management and care of the park, or for the protection of the property therein, for the preservation from injury or spoliation of timber, mineral deposits, natural curiosities, or wonderful objects within said park, or for the protection of the animals, birds, and fish in the said park, shall be deemed guilty of a misdemeanor, and shall be subjected to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all costs of the proceedings.

All guns, traps, teams, horses, or means of transportation of every nature or description used by any person or persons within said park limits when engaged in killing, trapping, en-

snaring, or capturing such wild beasts, birds, or wild animals shall be forfeited to the United States, and may be seized by the officers in said park and held pending the prosecution of any person or persons arrested under charge of violating the provisions of this Act, and upon conviction under this Act of such person or persons using said guns, traps, teams, horses, or other means of transportation such forfeiture shall be adjudicated as a penalty in addition to the other punishment provided in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior.

(May 7, 1894, ch. 72, §4, 28 Stat. 73; June 28, 1916, ch. 179, 39 Stat. 238.)

REFERENCES IN TEXT

This Act, referred to in text, is act May 7, 1894, which is classified to sections 24 to 30a of this title. For complete classification of this Act to the Code, see Tables.

§§ 27 to 29. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 27, acts May 7, 1894, ch. 72, §5, 28 Stat. 74; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; June 28, 1938, ch. 778, §1, 52 Stat. 1213, related to jurisdiction and powers of commissioner [now magistrate judges]. See sections 131, 631, and 632 of Title 28, Judiciary and Judicial Procedure.

Section 28, act May 7, 1894, ch. 72, §6, 28 Stat. 75, related to deputy marshals. See section 562 of Title 28.

Section 29, acts May 7, 1894, ch. 72, §7, 28 Stat. 75; Apr. 17, 1900, ch. 192, §1, 31 Stat. 133; Mar. 4, 1923, ch. 295, 42 Stat. 1560, related to compensation of commissioners [now magistrate judges], marshals, and United States attorneys. See sections 548, 571, 572, and 634 of Title 28.

§ 30. Jail building; office of magistrate judge

The Secretary of the Interior shall cause to be erected in Yellowstone National Park a suitable building to be used as a jail, and also having in said building an office for the use of the United States magistrate judge.

(May 7, 1894, ch. 72, §9, 28 Stat. 75; Pub. L. 90–578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

CODIFICATION

Section 9 of the act of May 7, 1894, contained the added clause, ''the cost of such building not to exceed five thousand dollars, to be paid out of any moneys in the Treasury not otherwise appropriated upon certificate of the Secretary as a voucher therefor,'' which was superseded by the provisions contained in section 451 of this title.

CHANGE OF NAME

''United States magistrate judge'' substituted in text for ''magistrate'' pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''magistrate'' substituted for ''commissioner'' pursuant to Pub. L. 90–578. See chapter 43 (§631 et seq.) of Title 28.

§ 30a. Existing laws as affected

This Act shall not be construed to repeal existing laws conferring upon the Secretary of the Interior and the Secretary of the Army certain powers with reference to the protection, improvement, and control of the said Yellowstone National Park.

(May 7, 1894, ch. 72, §10, 28 Stat. 75; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

REFERENCES IN TEXT

This Act, referred to in text, is act May 7, 1894, which is classified to sections 24 to 30a of this title. For complete classification of this Act to the Code, see Tables.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

§ 31. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section, act May 7, 1894, ch. 72, §8, 28 Stat. 75, related to payment of costs and expenses.

§ 32. Lease of lands within park

The Secretary of the Interior is authorized and empowered to lease for a period not exceeding twenty years, at an annual rental to be determined by him, to any person, corporation, or company he may authorize to transact business in the Yellowstone National Park, separate tracts of land, not exceeding twenty acres each, at such places not to exceed ten in number to any one person, corporation, or company, in said park as the comfort and convenience of visitors may require for the construction and maintenance of substantial hotel buildings and buildings for the protection of stage, stock, and equipment.

Such lease or leases shall not include any of the geysers or any objects of curiosity or interest in said park, or exclude the public from free and convenient approach thereto, or include any ground within one-eighth of a mile of any of the geysers of the Yellowstone Falls, the Grand Canyon, or the Yellowstone River, Mammoth Hot Springs, or any object of curiosity in the park; nor shall such lease convey either expressly or by implication any exclusive privilege within the park, except on the premises held thereunder and for the time therein granted. Every lease made for any property of said park shall require the lessee to observe and obey each and every provision in any Act of Congress, every rule, order, or regulation made or which shall hereafter be made and published by the Secretary of the Interior concerning the use, care, management, or government of the park, or any object or property therein under penalty of forfeiture of such lease, and shall be subject to the right of revocation and forfeiture, which shall therein be reserved by the Secretary of the Interior.

The provisions of this section are not to be construed as mandatory upon the Secretary of the Interior, but the authority herein given is to be exercised in his sound discretion.

(Aug. 3, 1894, ch. 198, 28 Stat. 222; June 4, 1906, ch. 2570, 34 Stat. 207; Mar. 2, 1907, ch. 2518, 34 Stat. 1219.)

CODIFICATION

The first paragraph of this section is from act June 4, 1906, as amended by act Mar. 2, 1907, which changed the authorized term of leasing from ten years to twenty years as set out above. It superseded earlier provisions covering similar matter contained in the first sentence of act Aug. 3, 1894.

The second paragraph of the section is from act Aug. 3, 1894, which contained a further proviso that ''persons or corporations now holding leases of ground in the park may, upon the surrender thereof, be granted new leases hereunder, and upon the terms and stipulations contained in their present leases, with such modifications, restrictions, and reservations as the Secretary of the Interior may prescribe'' which has been omitted as temporary and executed.

A further provision that ''so much of that portion of the act of March third, eighteen hundred and eighty-three, relating to the Yellowstone Park as conflict with the act, be and the same is hereby, repealed'' and the portion of the act March 3, 1883, referred to in such provision, have been omitted from the Code, the last named portion having been superseded by the Acts cited to text.

§ 33. Mortgages by lessees within the park

Any person, corporation, or company holding a lease within Yellowstone Park for the purposes described in section 32 of this title is authorized, with the approval of the Secretary of the Interior, to execute mortgages upon his or its rights, properties, and franchises, including his or its contract or contracts with the Secretary of the Interior, and such mortgages, together with the approval of the Secretary of the Interior may be filed for record in the office of the Secretary of the Interior, and when so recorded shall have all the effect of a public record. Any mortgage, lien, or encumbrance created under the provisions of this section shall be subject to the rights of the Government to compel the enforcement of the terms of the lease or contract of the mortgagor, and any purchaser under a foreclosure of such encumbrance shall take subject to all the conditions assumed by the original lessee or contractor.

(June 4, 1906, ch. 2570, 34 Stat. 207.)

§ 34. Road extensions

Road extensions and improvements shall be made in the Yellowstone National Park under and in harmony with the general plan of roads and improvements to be approved by the Secretary of the Interior.

(July 1, 1918, ch. 113, § 1, 40 Stat. 678.)

§ 35. Private use of electricity from lighting and power plant

Private parties or companies doing business in the Yellowstone National Park under authority from the Government may be permitted, in the discretion of the Secretary of the Army, to use electricity furnished by the electric lighting and power plant of Fort Yellowstone and Mammoth Hot Springs at actual cost to the Government for operation, maintenance, and depreciation of the plant and 10 per centum additional, under such regulations as may be prescribed by the Secretary of the Army.

(Mar. 3, 1903, ch. 1007, § 1, 32 Stat. 1130; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

§ 36. Disposition of surplus elk, buffalo, bear, beaver, and predatory animals

The Secretary of the Interior is authorized, in his discretion and under regulations to be prescribed by him, to give surplus elk, buffalo, bear, beaver, and predatory animals inhabiting Yellowstone National Park to Federal, State, county, and municipal authorities for preserves, zoos, zoological gardens, and parks. He may sell or otherwise dispose of the surplus buffalo of the Yellowstone National Park herd, and all moneys received from the sale of any such surplus buffalo shall be deposited in the Treasury of the United States as miscellaneous receipts.

(Jan. 24, 1923, ch. 42, 42 Stat. 1214.)

§ 36a. Disposition of surplus elk

The Secretary of the Interior is authorized in his discretion, and under regulations to be prescribed by him, to sell or otherwise dispose of the surplus elk from the Yellowstone National Park herd, and all moneys received from the sale of any such surplus elk shall be deposited in the Treasury of the United States as miscellaneous receipts.

(Mar. 4, 1929, ch. 707, 45 Stat. 1644.)

§ 37. Provision of feed and range facilities for game animals

As a means of providing within township 8 south, ranges 7 and 8 east, and township 9 south, ranges 7, 8, and 9 east, Montana principal meridian, the winter range and winter feed facilities indispensable for the adequate and proper protection, preservation, and propagation of the elk, antelope, and other game animals of the Yellowstone National Park and adjacent lands, the Secretary of the Interior, in his discretion, and subject to the limitation hereinafter prescribed may, and is, authorized to perform the following acts:

(a) Accept and deposit in a special fund in the Treasury, and expend for the acquisition of lands as herein authorized, private funds donated for such purpose.

(b) Acquire by purchase, or by acceptance of donations or bequests, such lands in private or State ownership within the townships above described as he may deem necessary to carry out the purpose of sections 37 to 40 of this title.

(May 26, 1926, ch. 399, § 1, 44 Stat. 655.)

§ 38. Exchange for State or private lands authorized

The Secretary of Agriculture is authorized in his discretion to accept, on behalf of the United States, title to any lands held in private or

State ownership within the townships described in section 37 of this title, and in exchange therefor may patent not to exceed an equal value of national forest land in the State of Montana, surveyed and nonmineral in character, or the Secretary of Agriculture may authorize the grantor to cut and remove not to exceed an equal value of timber within the national forests of said State, the values in each case to be determined by the Secretary of Agriculture: *Provided*, That before any such exchange is effected, notice of the contemplated exchange reciting the lands involved shall be published once each week for four successive weeks in some newspaper of general circulation in the county or counties in which may be situated the lands to be accepted and in some like newspaper published in any county in which may be situated any lands or timber to be given in such exchange. Timber given in exchange shall be cut and removed from national forests under the laws and regulations relating to the national forests and under the direction and supervision and in accordance with the requirements of the Secretary of Agriculture.

(May 26, 1926, ch. 399, §2, 44 Stat. 655; Pub. L. 86–509, §1(f), June 11, 1960, 74 Stat. 205.)

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior under this section, with respect to exchanges of lands held in private or State ownership for national forest lands or timber in Montana, transferred to Secretary of Agriculture, see Pub. L. 86–509, June 11, 1960, 74 Stat. 205, set out as a note under section 2201 of Title 7, Agriculture.

§ 39. Reservation of timber, minerals, or easements by owners on exchange

Reservations of timber, minerals, or easements, the values of which shall be duly considered in determining the values of the lands conveyed, may be made by the owner or owners thereof in lands conveyed to the United States under the provisions of sections 37 to 40 of this title. Where such reservations are made, the right to enjoy them shall be subject to such reasonable conditions respecting ingress and egress and the use of the surface of the land as may be deemed necessary by the Secretary of the Interior or the Secretary of Agriculture, whichever may be responsible for the handling and use of the land as provided in said sections: *Provided*, That all property, rights, easements, and benefits authorized by this section to be retained by or reserved to owners of land conveyed to the United States shall be subject to the tax laws of the States where such lands are located.

(May 26, 1926, ch. 399, §3, 44 Stat. 656.)

§ 40. Additions to park; entry under other acts

The President of the United States is authorized, in his discretion, to add by Executive proclamation to Yellowstone National Park any or all of the lands within a certain territory or tract in township 9 south, ranges 7 and 8 east, Montana principal meridian, to wit: Beginning at a point on the north line of said Yellowstone National Park where said line crosses the divide between Reese Creek and Mol Heron Creek, thence northeasterly along said divide to the junction of said divide with the branch divide north and west of Reese Creek; thence along said branch divide in a northeasterly and easterly direction around the drainage of Reese Creek, to the Yellowstone River; thence southerly and southeasterly along the west bank of the Yellowstone River to the line marking the western limits of the town of Gardiner, Montana; thence south on said town limits line to the northern boundary of Yellowstone National Park; thence west along the north boundary of Yellowstone National Park to the point of beginning, which are unappropriated lands of the United States or which may be acquired by the United States under the provisions of sections 37 to 40 of this title, within the territory described in this section, subject, however, to all valid existing claims and to reservations such as are authorized by section 39 of this title; but, with the exception of valid existing claims, no land so added to Yellowstone National Park shall be subject to entry under the mining laws of the United States: *Provided*, That the Secretary of the Interior for such lands as are added to Yellowstone National Park may provide by rules and regulations for the management and use of the added lands as may in his discretion be necessary to accomplish the purposes of sections 37 to 40 of this title: *And provided further*, That the lands of the United States acquired by donation or purchase within the area described in section 37 of this title shall not be subject to location and entry under the mining laws of the United States nor the Act of June 11, 1906, authorizing homestead entries in national forests.

(May 26, 1926, ch. 399, §6, 44 Stat. 656.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

Act of June 11, 1906, referred to in text, means act June 11, 1906, ch. 3074, 34 Stat. 233, which was classified to sections 506 to 508 and 509 of this title, and was repealed by Pub. L. 87–869, §4, Oct. 23, 1962, 76 Stat. 1157.

§ 40a. Educational facilities for dependents of employees; payments to school districts; limitation on amount

Under such regulations as may be prescribed by the Secretary of the Interior, payments may be made, as provided in sections 40a to 40c of this title, in advance or otherwise, from any revenues received by the United States from visitors to Yellowstone National Park, to the appropriate school district or districts serving that park, as reimbursement for educational facilities (including, where appropriate, transportation to and from school) furnished by the said district or districts to pupils who are dependents of persons engaged in the administration, operation, and maintenance of the park, and living at or near the park upon real property of the United States not subject to taxation by the State or local agencies and upon which payments in lieu of taxes are not made by the United States: *Provided*, That the payments for any school year for the aforesaid purpose shall not exceed that part of the cost of operating and maintaining such facilities which the number of pupils, in average daily attendance during that

year, bears to the whole number of pupils in average daily attendance at those schools for that year.

(June 4, 1948, ch. 417, § 1, 62 Stat. 338.)

§ 40b. Cooperative agreements with States or local agencies; expansion; Federal contributions

If in the opinion of the Secretary of the Interior, the aforesaid educational facilities cannot be provided adequately and payment made therefor on a pro rata basis, as prescribed in section 40a of this title, the Secretary of the Interior, in his discretion, may enter into cooperative agreements with States or local agencies for (a) the operation of school facilities, (b) for the construction and expansion of local facilities at Federal expense, and (c) for contribution by the Federal Government, on an equitable basis satisfactory to the Secretary, to cover the increased cost to local agencies for providing the educational services required for the purposes of sections 40a to 40c of this title.

(June 4, 1948, ch. 417, § 2, 62 Stat. 339.)

§ 40c. Creation of special fund; expenditure

For the purposes of sections 40a and 40b of this title, the Secretary of the Treasury is authorized to maintain hereafter in a special fund a sufficient portion of the park revenues, based upon estimates to be submitted by the Secretary of the Interior, and to expend the same upon certification by the Secretary of the Interior.

(June 4, 1948, ch. 417, § 3, 62 Stat. 339.)

SUBCHAPTER VI—SEQUOIA AND YOSEMITE NATIONAL PARKS

GENERAL GRANT NATIONAL PARK ABOLISHED

General Grant National Park was abolished and lands transferred to Kings Canyon National Park, see section 80a of this title.

§ 41. Sequoia National Park; establishment; boundaries; trespassers

The tract of land in the State of California known and described as township numbered 18 south, of range numbered 30 east, also township 18 south, range 31 east; and sections 31, 32, 33, and 34, township 17 south, range 30 east, all east of Mount Diablo meridian, is reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States, and dedicated and set apart as a public park, or pleasure ground, for the benefit and enjoyment of the people; and all persons who shall locate or settle upon, or occupy the same or any part thereof except as provided in section 43 of this title, shall be considered trespassers and removed therefrom.

(Sept. 25, 1890, ch. 926, § 1, 26 Stat. 478.)

§ 42. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1028

Section, act July 1, 1916, ch. 209, § 1, 39 Stat. 308, related to donations of lands or rights-of-way. For general provisions relating to donations of lands, etc., see section 6 of this title.

§ 43. Sequoia National Park; rules and regulations; leases; fish and game; trespassers

Sequoia National Park shall be under the exclusive control of the Secretary of the Interior, whose duty it shall be to make and publish such rules and regulations as he may deem necessary or proper for the care and management of the same. Such regulations shall provide for the preservation from injury of all timber, mineral deposits, natural curiosities or wonders within said park, and their retention in their natural condition. He may, in his discretion, grant leases for building purposes for terms not exceeding thirty years of small parcels of ground not exceeding five acres, at such places in said park as shall require the erection of buildings for the accommodation of visitors. He shall provide against the wanton destruction of the fish and game found within said park, and against their capture or destruction, for the purposes of merchandise or profit. He shall also cause all persons trespassing upon the same to be removed therefrom, and, generally, shall be authorized to take all such measures as shall be necessary or proper to fully carry out the objects and purposes of this section and section 41 of this title.

(Sept. 25, 1890, ch. 926, § 2, 26 Stat. 478; Aug. 25, 1916, ch. 408, § 3, 39 Stat. 535; Pub. L. 85–434, May 29, 1958, 72 Stat. 152.)

CODIFICATION

''Thirty years'' substituted for ''ten years'' in view of section 3 of act Aug. 25, 1916, and act May 29, 1958, which authorized the Secretary to grant privileges, leases, and permits in the various parks for periods not exceeding thirty years. See section 3 of this title.

As originally enacted, this section contained a further provision that ''all of the proceeds of said leases and other revenues that may be derived from any source connected with said park to be expended under his [Secretary of the Interior] direction in the management of the same and the construction of roads and paths therein''. This provision was superseded by section 452 of this title providing for the disposition of all revenues from the national parks.

§§ 44, 45. Transferred

CODIFICATION

Section 44, act Oct. 1, 1890, ch. 1263, § 1, 26 Stat. 650, which related to lands in California set aside as reserved forest lands, was transferred to section 471c of this title.

Section 45, act Oct. 1, 1890, ch. 1263, § 3, 26 Stat. 651, which related to additional forest reserves in California, was transferred to section 471d of this title.

§ 45a. Sequoia National Park; revision of boundaries

The boundaries of the Sequoia National Park, California, are changed as follows:

Beginning at the southwest corner of the present boundary of Sequoia National Park, being the southwest corner of township 18 south, range 30 east of the Mount Diablo base and meridian, California, thence easterly along the present south boundary of Sequoia National Park to its intersection with the hydrographic divide between the headwaters of South Fort[1]

[1] So in original. Probably should be ''Fork''.

Kaweah River and the headwaters of that branch of Little Kern River known as Pecks Canyon; thence southerly and easterly along the crest of the hydrographic divide between Pecks Canyon and Soda Creek to its intersection with a lateral divide at approximately the east line of section 2, township 19 south, range 31 east; thence northeasterly along said lateral divide to its intersection with the township line near the southeast corner of township 18 south, range 31 east of the Mount Diablo base and meridian; thence north approximately thirty-five degrees west to the summit of the butte next north of Soda Creek (United States Geological Survey altitude eight thousand eight hundred and eighty-eight feet); thence northerly and northwesterly along the crest of the hydrographic divide to a junction with the crest of the main hydrographic divide between the headwaters of the South Fork of the Kaweah River and the headwaters of Little Kern River; thence northerly along said divide now between Horse and Cow Creeks and the headwaters of East Fork Kaweah River to its intersection with the present east boundary of Sequoia National Park, approximately at Tar Gap, being the east line of township 17 south, range 30 east; thence northerly along said line to its intersection with the main hydrographic divide north of East Fork Kaweah River; thence easterly following said divide, passing through Timber Gap to the summit of Sawtooth Peak; thence southeasterly along the crest of the Great Western Divide to the summit of Coyote Peaks (United States Geological Survey bench mark, altitude ten thousand nine hundred and nineteen feet); thence northeasterly following the main hydrographic divide south of Coyote Creek to the junction of Coyote Creek and Kern River; thence due east across Kern River to the east bank; thence following said east bank of Kern River northerly to the junction of Golden Trout Creek and Kern River; thence northeasterly following the main hydrographic divide north of Golden Trout Creek, and between the headwaters of Golden Trout Creek and Rock Creek to a junction with the main crest of the Sierra Nevada, northwest of Cirque Peak; thence northerly and westerly along said main crest of the Sierra Nevada to Junction Peak (United States Geological Survey bench mark thirteen thousand nine hundred and three feet); thence westerly along the crest of the Kings-Kern Divide to a junction with the crest of the Great Western Divide at Thunder Mountain (United States Geological Survey bench mark thirteen thousand five hundred and seventy-eight feet); thence southwesterly along the crest of the Great Western Divide to Triple Divide Peak (United States Geological Survey altitude twelve thousand six hundred and fifty-one feet); thence westerly and northwesterly along the crest of the hydrographic divide between the headwaters of Roaring River and the headwaters of the Middle and Marble Forks of the Kaweah River to Kettle Peak (United States Geological Survey altitude ten thousand and thirty-eight feet); thence westerly and southwesterly along the crest of the main hydrographic divide next north of Clover Creek and Dorst Creek to the Junction of Stony Creek and Dorst Creek; thence following the west bank of the North Fork Kaweah River to its junction with Cactus Creek; thence easterly along the first hydrographic divide south of Cactus Creek to its intersection with the present west boundary of Sequoia National Park, being the west line of township 16 south, range 29 east; thence southerly along said west boundary to the southwest corner of said township; thence easterly along the present boundary of Sequoia National Park, being the north line of township 17 south, range 29 east, to the northeast corner of said township; thence southerly along the present boundary of Sequoia National Park, being the west lines of townships 17 and 18 south, range 30 east, to the place of beginning; and all of those lands lying within the boundary line above described are included in and made a part of the Roosevelt-Sequoia National Park; and all of those lands excluded from the present Sequoia National Park are included in and made a part of the Sequoia National Forest, subject to all laws and regulations applicable to the national forests.

(July 3, 1926, ch. 744, §1, 44 Stat. 818.)

EXCLUSION AND ADDITION OF LANDS

Certain lands excluded from Kings Canyon National Park and added to Sequoia National Forest, see section 80a–1 of this title.

Certain lands excluded from Sequoia National Forest and added to Kings Canyon National Park, see section 80a–2 of this title.

§ 45a–1. Addition of lands authorized

The Secretary of the Interior is authorized, in his discretion, to accept title to lands and interests in lands near the entrance to the Sequoia National Park, subject to existing easements for public highways and public utilities, within the following described tracts:

Tract A. A portion of tract 37, township 17 south, range 29 east, Mount Diablo meridian, Tulare County, California, comprising approximately two acres.

Tract B. A portion of the east half of the northeast quarter of section 4, township 17 south, range 29 east, Mount Diablo meridian, Tulare County, California, comprising approximately thirty-eight acres.

Tract C. A portion of the south half of tract 37, township 17 south, range 29 east, Mount Diablo meridian, Tulare County, California, comprising approximately sixty one-hundredths acre.

The owners of the lands to be conveyed to the United States, before any exchange is effective, shall furnish to the Secretary of the Interior evidence satisfactory to him of title to such lands. Such property shall become a part of the Sequoia National Park upon the acceptance of title thereto by the Secretary, and shall thereafter be subject to all laws and regulations applicable to the park.

(Dec. 21, 1943, ch. 372, §1, 57 Stat. 606.)

ELECTRIC POWER DEVELOPMENT PERMITS

Pub. L. 99–338, June 19, 1986, 100 Stat. 641, as amended by Pub. L. 103–437, §6(d)(4), Nov. 2, 1994, 108 Stat. 4583; Pub. L. 108–447, div. E, title I, §139(c), Dec. 8, 2004, 118 Stat. 3069, provided: ''That the Secretary of the Interior is hereby authorized to issue a permit for ten years, and may issue not more than 3 renewals of equivalent duration, for portions of an existing hydro-

electric project, known as the Kaweah Project of Southern California Edison Company, to continue to occupy and use lands of the United States within Sequoia National Park as necessary for continued operation and maintenance.

''SEC. 2. The Secretary shall not execute any permit renewal prior to one hundred and twenty calendar days from the date the same is submitted to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Natural Resources of the United States House of Representatives.

''SEC. 3. The permit shall contain the following provisions:

''(1) A prohibition on expansion of the Kaweah Project in Sequoia National Park.

''(2) A requirement that an independent safety assessment of the Kaweah Project be conducted, and that any deficiencies identified as a result of the assessment would be corrected.

''(3) A requirement that the Secretary prepare and submit to Congress an update of the July 1983 report on the impact of the operations of the Kaweah No. 3 facility on Sequoia National Park.

''(4) A requirement that the permittee pay the park compensation as determined by the Secretary in consultation with the permittee.

''(5) Any other reasonable terms and conditions that the Secretary of the Interior deems necessary and proper for the management and care of Sequoia National Park and the purposes for which it was established.

''SEC. 4. The proceeds from any fees imposed pursuant to a permit issued under this Act shall be retained by Sequoia National Park and Kings Canyon National Park and shall be available, without further appropriation, for resources protection, maintenance, and other park operational needs.''

Pub. L. 93–522, Dec. 14, 1974, 88 Stat. 1660, as amended by Pub. L. 95–625, title III, § 314(d)(3), Nov. 10, 1978, 92 Stat. 3482, authorized Secretary of the Interior to issue a permit to occupy and use lands of United States within Sequoia National Park necessary for continued operation, maintenance, and use of hydroelectric project known as the Kaweah Number 3 project of Southern California Edison Company, provided that in no event could the term of such permit extend for any period in excess of ten years following the date of its issuance, unless specifically authorized by law, provided for terms and conditions of permit, required report on impact of hydroelectric project, and provided for applicability of the Act.

Pub. L. 88–47, June 21, 1963, 77 Stat. 70, authorized Secretary of the Interior to issue a permit to use and occupy United States lands within Sequoia National Park necessary for continued operation, maintenance, and use of the Kaweah number 3 hydroelectric project of Southern California Edison Company, which by its terms was to provide that any privileges granted thereunder were to be exercised in accord with Federal Power Act (16 U.S.C. 791a et seq.) and rules and regulations promulgated thereunder, and which was to expire no later than Aug. 6, 1974.

Section 3 of act Dec. 21, 1943, provided as follows: ''Nothing in this Act [sections 45a–1 and 45a–2 of this title] shall be construed to alter or affect in any manner the provisions, or extend the term, of the permit heretofore granted to the Southern California Edison Company and predecessors thereof for the use of lands in the Sequoia National Park for electric power development purposes, or to relieve the company of any financial or other obligation under said permit, or under agreements or orders relating or supplementary thereto.''

§ 45a–2. Exchange of certain lands for lands conveyed to United States

In exchange for the conveyance to the United States of tract A, as provided in section 45a–1 of this title, the Secretary is authorized, in his discretion, to patent to the owner of tract A, subject to such terms and conditions as the Secretary may deem necessary, certain lands of approximately equal value described as follows:

Tract D. A portion of the southeast quarter of section 33, township 16 south, range 29 east, Mount Diablo meridian, Tulare County, California, comprising approximately two and fifty one-hundredths acres.

In exchange for the conveyance to the United States of tracts B and C, as provided in section 45a–1 of this title, the Secretary is authorized to patent, in a similar manner, to the owner of tracts B and C certain lands of approximately equal value described as follows:

Tract E. The southwest quarter of the northwest quarter of section 4, which shall be subject to section 818 of this title; the south half of the northeast quarter of section 5; and approximately sixty-eight acres of the north half of the southeast quarter of section 5, which shall not include the surveyed two-hundred-foot strip as shown on map ''D'' of exhibit ''K'', entitled ''Detailed Map of Kaweah Project of the Southern California Edison Company, Ltd.'', and filed in the office of the Federal Power Commission on December 12, 1923; all of said lands in tract E being situated in township 17 south, range 29 east, Mount Diablo meridian, comprising approximately one hundred and eighty-eight acres.

(Dec. 21, 1943, ch. 372, § 2, 57 Stat. 606.)

§ 45a–3. Repealed. Pub. L. 95–625, title III, § 314(g), Nov. 10, 1978, 92 Stat. 3483

Section, Pub. L. 85–648, Aug. 14, 1958, 72 Stat. 604, authorized addition of certain lands to the Sequoia National Game Refuge and exclusion of such lands from the Sequoia National Park. See section 45f(b)(2) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective on transfer of abolished Sequoia National Game Refuge by Secretary of Agriculture to administrative jurisdiction of the Secretary of the Interior under section 45f(b)(2) of this title, see section 314(g) of Pub. L. 95–625, set out as an Effective Date of Repeal note under section 688 of this title.

§ 45b. Rules and regulations; leases; fish and game

The said park shall be under the exclusive control of the Secretary of the Interior, whose duty it shall be, as soon as practicable, to make and publish such reasonable rules and regulations, not inconsistent with the laws of the United States, as he may deem necessary or proper for the care, protection, management, and improvement of the same, such regulations being primarily aimed at the freest use of said park for recreation purposes by the public and for the preservation from injury or spoliation of all timber, natural curiosities, or wonders within said park and their retention in their natural condition as far as practicable, and for the preservation of said park in a state of nature so far as is consistent with the purposes of this Act. Such rules and regulations shall permit the taking of fish by hook and line from the streams or lakes in said park, but at such seasons, during such times, and in such manner as may be directed by the Secretary of the Interior. Such

rules and regulations, however, shall provide against the destruction of the wild life within said park, and the Secretary of the Interior is authorized to take all such measures as shall be necessary to fully carry out the objects and purposes of this Act. Said Secretary may, in his discretion, execute leases to parcels of ground not exceeding ten acres in extent at any one place to any one person or persons or company for not to exceed twenty years, when such ground is necessary for the erection of buildings for the accommodation of visitors. Such leases or privileges may be renewed or extended at the expiration of the terms thereof: *Provided*, That existing leases from the Department of Agriculture may be continued, in the discretion of the Secretary of the Interior, for so long as such extension is not detrimental to the public purposes for which the park is created.

(July 3, 1926, ch. 744, § 2, 44 Stat. 820.)

REFERENCES IN TEXT

This Act, referred to in text, is act July 3, 1926, which is classified to sections 45a, 45b to 45e, and 688 of this title. For complete classification of this Act to the Code, see Tables.

§ 45c. Prior claims, locations, and entries; permits for use of natural resources

Nothing herein contained shall affect any valid existing claim, location, or entry established prior to July 3, 1926, under the land laws of the United States, whether for homestead, mineral, right-of-way, or any other purpose whatsoever, or shall affect the rights of any such claimant, locator, or entryman to the full use and enjoyment of his land: *Provided*, That under rules and regulations to be prescribed by him the Secretary of the Interior may issue permits to any bona fide claimant, entryman, landowner, or lessee of land within the boundaries herein established to secure timber for use on and for the improvement of his land; and he shall also have authority to issue, under rules and regulations to be prescribed by him, grazing permits and authorize the grazing of livestock on the lands within said park at fees not to exceed those charged by the Forest Service on adjacent areas, so long as such timber cutting and grazing are not detrimental to the primary purpose for which such park is created: *Provided*, That no permit, license, lease, or authorization for dams, conduits, reservoirs, power houses, transmission lines, or other works for storage or carriage of water, or for the development, transmission, or utilization of power within the limits of said park as constituted by said sections, shall be granted or made without specific authority of Congress.

(July 3, 1926, ch. 744, § 3, 44 Stat. 820.)

REFERENCES IN TEXT

Herein, referred to in text, means act July 3, 1926, which is classified to sections 45a, 45b to 45e, and 688 of this title. For complete classification of this Act to the Code, see Tables.

§ 45d. Exclusive privileges within park prohibited

No exclusive privilege shall be granted within said park, or on or over the roads and trails therein, except upon ground leased for the erection of buildings or camps thereon.

(July 3, 1926, ch. 744, § 4, 44 Stat. 820.)

§ 45e. Violations of park regulations; penalty

Any person found guilty of violating any of the provisions of this Act or any rule or regulation that may be promulgated by the Secretary of the Interior with reference to the management and care of the park, or for the protection of the property therein, for the preservation from injury or spoliation of timber, natural curiosities, or other objects within said park, or for the protection of the animals, birds, and fish in said park, shall be deemed guilty of a misdemeanor, and shall be subjected to a fine of not more than $500 or imprisonment not exceeding six months or both.

(July 3, 1926, ch. 744, § 5, 44 Stat. 820.)

REFERENCES IN TEXT

This Act, referred to in text, is act July 3, 1926, which is classified to sections 45a, 45b to 45e, and 688 of this title. For complete classification of this Act to the Code, see Tables.

§ 45f. Mineral King Valley addition authorized

(a) Statement of purpose

It is the purpose of this section to—

(1) assure the preservation for this and future generations of the outstanding natural and scenic features of the area commonly known as the Mineral King Valley and previously designated as the Sequoia National Game Refuge; and

(2) enhance the ecological values and public enjoyment of such area by adding such area to the Sequoia National Park.

(b) Drawing copy, availability; boundary revisions: notification of Congressional committees, publication in Federal Register; abolition and transfer of Sequoia National Game Refuge to administrative jurisdiction of Secretary

(1) In order to add to the Sequoia National Park (hereinafter in this section referred to as the ''park'') a certain area known as Mineral King Valley possessing unique natural and scenic values, there is hereby established as part of such park all lands, waters, and interests therein, constituting approximately sixteen thousand two hundred acres designated before November 10, 1978, as the Sequoia National Game Refuge and as depicted on the drawing entitled ''Boundary Map, Sequoia-Kings Canyon National Park'', numbered 102–90,000 and dated April 1975. A copy of such drawing shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior. After advising the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate in writing, the Secretary is authorized to make minor revisions of the boundaries of the park when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(2) The Sequoia National Game Refuge is hereby abolished and the Secretary of Agriculture

shall transfer, without consideration, to the administrative jurisdiction of the Secretary, the area constituting such refuge, and any unexpended funds available for purposes of management of the refuge shall be available for purposes of management of the park.

(c) Acquisition of property; place and manner; owner's right of use and occupancy for fixed term of years or life; election of term; fair market value; termination; notification; incompatible commercial uses; unitary parcels; access road, right-of-way, and protective measures; hardship sale offers; limitation of authority; State donated lands; report to Congressional committees

(1) Within the boundaries of the area added to the park pursuant to this section, the Secretary may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from other Federal departments or agencies.

(2) Where the private use of any property acquired pursuant to this subsection would, in the judgment of the Secretary, be compatible with the purposes of this section, the Secretary may, as a condition of such acquisition, permit the owner or owners of such property to retain for themselves and their successors or assigns rights of use and occupancy. The owner shall reserve such rights and elect the term to be reserved on the date of acquisition of the property. Except for so much of the property as is donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner.

(3) A right of use and occupancy retained pursuant to paragraph (2) may be terminated by the Secretary upon his determination that the property or any portion thereof is being used in a manner which is incompatible with the purposes of this section. Such right shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired as of the date of such tender. In the case of any property which was used for noncommercial purposes during the ten calendar years immediately preceding November 10, 1978, the commercial use of such property subsequent to November 10, 1978, shall be treated as incompatible with the purposes of this section. In the case of any property which was used for commercial purposes at any time during the ten calendar years immediately preceding November 10, 1978, any substantial change or expansion of such commercial use subsequent to November 10, 1978, without the express approval of the Secretary shall be treated as incompatible with such purposes.

(4) In exercising his authority to acquire property under this section, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the park to sell such property if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship. Nothing in this section, or in any other provision of law, shall prevent the Secretary from exercising his authority to acquire property referred to in this subsection at any time after November 10, 1978.

(5) If any individual tract or parcel of land acquired is partly inside and partly outside the boundaries of the park the Secretary may, in order to minimize the payment of severance damages, acquire the whole of the tract or parcel.

(6) If the management plan prepared under subsection (e) of this section provides for improved access to the area added to the park under this section, the Secretary is authorized to acquire, by donation, purchase with donated or appropriated funds, exchange or transfer from other Federal departments or agencies, the area comprising the road from State Route 198 to, and within, the Mineral King Valley together with a right-of-way for such road of a width sufficient to include improvements to the road and all bridges, ditches, cuts, and fills appurtenant thereto, but not exceeding a maximum average width of two hundred feet. Property acquired from the State or any political subdivision thereof may be acquired by donation only. With regard to routes of access to and within the Mineral King Valley, the Secretary shall take such measures as are necessary to protect against the effects of siltation on the ecosystem of the park.

(7) The Secretary shall report to the committees of the Congress named in subsection (b)(1) of this section the action taken by him pursuant to this subsection. Such report shall contain information sufficient to inform such committees of—

(A) the acquisitions made by him pursuant to this subsection during the period covered by such report;

(B) his reasons why all of such property authorized to be acquired and not so acquired as of the date of such report, if any, have not been acquired; and

(C) his schedule of a timetable for the acquisition of such property referred to in subparagraph (B).

Such report shall be submitted before the expiration of the second fiscal year beginning after the date on which the comprehensive management plan is submitted to the committees of Congress pursuant to subsection (e) of this section.

(d) Administration; statutory authorities applicable; leases or permits: renewals or extensions, review; termination

(1) The area added to the park by this section shall be administered in accordance with this section and the provisions of law generally applicable to units of the National Park System including sections 1, 2, 3, 4, 41, and 43 of this title. Any other statutory authority available to the Secretary for the conservation and management of wildlife, wildlife habitat, and natural resources may be utilized to the extent he finds such authority will further the purposes of this section.

(2)(A) Except in the case of a lease or permit which the Secretary determines to be incompatible with the administration of the park pursuant to this section, any lease or permit on Fed-

eral land within the area added to the park under this section which is in effect immediately before November 10, 1978, shall continue in effect pursuant to its terms and conditions following the expansion of the park under this section.

(B) In the case of a lease or permit which is continued under subparagraph (A), upon notice to the Secretary by the lessee or permittee of his intention to seek renewal or extension of such lease or permit, the lease or permit shall be reviewed by the Secretary, and may be renewed or extended for an additional period of five years. Any such lease or permit shall be reviewed at the end of such renewal or extension period and may also be renewed or extended in the same manner for additional five-year periods thereafter. Any renewals or extensions of leases or permits shall be granted only to those persons who were lessees or permittees of record on November 10, 1978, and to their heirs, successors, and assigns, and any such lease or permit shall provide that the lease or permit may be terminated by the Secretary at any time if the Secretary determines that such lease or permit is incompatible with the administration of the park pursuant to this section or that the land is needed for park purposes.

(3) Omitted

(e) Comprehensive management plan; submission to Congressional committees; preparation considerations; public participation; advance notice: publication in newspapers and Federal Register, other communication; cooperation; consultation

(1) Within two years from November 10, 1978, the Secretary, in cooperation with the State of California, shall develop and submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive management plan for the area added to the park under this section. In the preparation of such plan, the Secretary shall give appropriate consideration to the need for the development of additional recreational opportunities and other public uses which are consistent with sound environmental management of the area and the policies of the National Park Service.

(2)(A) In preparing the comprehensive management plan required by this subsection and in preparing any subsequent revision of such plan, the Secretary shall provide for full public participation and shall consider the comments and views of all interested agencies, organizations, and individuals.

(B) For purposes of insuring such full public participation, the Secretary shall provide reasonable advance notice to State and local governments, interested Federal agencies, private organizations, and the general public of hearings, workshops, meetings, and other opportunities available for such participation. Such notice shall be published in newspapers of general circulation in the localities affected by the development and management of the park, published in the Federal Register, and communicated by other appropriate means. The Western Regional Advisory Committee of the National Park Service (or a subcommittee thereof) shall also be utilized for purposes of facilitating public involvement.

(C) The Secretaries or Directors of all Federal departments, agencies, and commissions having a relevant expertise are hereby authorized and directed to cooperate with the Secretary in his development of such plan and to make such studies as the Secretary may request on a cost reimbursable basis.

(D) In preparing the comprehensive management plan required by this subsection, the Secretary shall consider technical information and other pertinent data assembled or produced by field studies or investigations conducted separately or jointly by the technical and administrative personnel of the Federal and State agencies involved in order to insure the permanent conservation of wildlife within the area added to the park by this section. Except in emergencies, rules and regulations pertaining to the management of wildlife within the area added to the park by this section shall be put into effect only after consultation with the State of California.

(f) Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary for the acquisition of land and interests therein described in this section.

(g) Omitted

(h) Skiing prohibition

The Congress recognizes that the Mineral King Valley area has outstanding potential for certain year-round recreational opportunities, but the development of permanent facilities for downhill skiing within the area would be inconsistent with the preservation and enhancement of its ecological values.

(Pub. L. 95–625, title III, §314, Nov. 10, 1978, 92 Stat. 3479; Pub. L. 103–437, §6(d)(5), Nov. 2, 1994, 108 Stat. 4583; Pub. L. 108–447, div. E, title I, §139(b), Dec. 8, 2004, 118 Stat. 3068.)

REFERENCES IN TEXT

This section, referred to in text, other than as appearing with a reference to a subsection of this section, means section 314 of Pub. L. 95–625, which in addition to enacting this section, repealed sections 45a–3 and 688 of this title, enacted provisions set out as a note under section 688 of this title, and amended provisions set out as a note under section 45a–1 of this title.

CODIFICATION

Section is comprised of section 314 of Pub. L. 95–625. Subsec. (d)(3) of section 314 of Pub. L. 95–625 amended Pub. L. 93–522, which is set out as a note under section 45a–1 of this title. Subsec. (g) of section 314 of Pub. L. 95–625 repealed sections 45a–3 and 688 of this title and enacted provisions set out as notes under section 688 of this title.

AMENDMENTS

2004—Subsec. (c)(2). Pub. L. 108–447, §139(b)(1), struck out second sentence which read as follows: ''Such rights of use and occupancy shall be for not more than twenty-five years or for a term ending at the death of the owner or his or her spouse, whichever is later.''

Subsec. (d)(2)(B). Pub. L. 108–447, §139(b)(2), inserted ''and to their heirs, successors, and assigns'' after ''of record on November 10, 1978,'' in third sentence.

1994—Subsec. (b)(1). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 45g. Addition to Sequoia National Park

(a) In general

As soon as practicable after December 28, 2000, the Secretary of the Interior shall acquire by donation, purchase with donated or appropriated funds, or exchange, all interest in and to the land described in subsection (b) of this section for addition to Sequoia National Park, California.

(b) Land acquired

The land referred to in subsection (a) of this section is the land depicted on the map entitled ''Dillonwood'', numbered 102/80,044, and dated September 1999.

(c) Addition to park

Upon acquisition of the land under subsection (a) of this section—

(1) the Secretary of the Interior shall—

(A) modify the boundaries of Sequoia National Park to include the land within the park; and

(B) administer the land as part of Sequoia National Park in accordance with all applicable laws; and

(2) the Secretary of Agriculture shall modify the boundaries of the Sequoia National Forest to exclude the land from the forest boundaries.

(Pub. L. 106–574, § 1, Dec. 28, 2000, 114 Stat. 3062.)

§ 46. Yosemite National Park; lands segregated from and included in Sierra National Forest; rights-of-way over

All those tracts or parcels of ground described in section 471c of this title, but not included within the metes and bounds of the land hereinafter described are included and made a part of the Sierra National Forest, namely: The tracts of land in the State of California known and described as follows: Beginning at the point where the middle of the channel of the South Fork of the Merced River intersects the line between sections 3 and 4, township 4 south, range 20 east, Mount Diablo base and meridian; thence northerly along section lines through the middle of townships 3 and 4 south, range 20 east, to the northwest corner of section 3, township 3 south, range 20 east; thence westerly along township line to the southwest corner of section 33, township 2 south, range 20 east; thence northerly along section lines to the northwest corner of section 21, said township; thence westerly along section lines to the southwest corner of section 18, said township; thence southerly along range line to the southeast corner of the northeast quarter of section 24, township 2 south, range 19 east; thence westerly to the southwest corner of the northeast quarter of section 24, said township; thence southerly to the southeast corner of the southwest quarter of section 24, said township; thence westerly along section lines to the southwest corner of section 23, said township; thence northerly along section lines to the northwest corner of the southwest quarter of section 14, said township; thence easterly to the northeast corner of the southeast quarter of section 14, said township; thence northerly along section line to the northwest corner of section 13, said township; thence easterly along section line to the northeast corner of section 13, said township; thence northerly along range line to the northwest corner of the southwest quarter of section 7, township 2, south, range 20 east; thence easterly to the northeast corner of the southeast quarter of section 7, said township; thence southerly along section line to the northwest corner of section 17, said township; thence easterly along section lines to the northeast corner of section 16, said township; thence northerly along section lines to the northwest corner of section 3, said township; thence westerly along township line to the southwest corner of section 33, township 1 south, range 20 east; thence northerly along section lines to the northwest corner of section 21, said township; thence westerly along section lines to the southwest corner of section 18, said township; thence northerly along range line to the northwest corner of section 6, said township; thence westerly along Mount Diablo base line to the southwest corner of section 34, township 1 north, range 19 east; thence northerly along section lines through the middle of townships 1 and 2 north, range 19 east, to the point of intersection with the summit of the divide between Cherry Creek on the west and Eleanor and Fall Creeks on the east; thence along the summit of said divide in a northeasterly direction to the summit of the Sierra Nevada Mountains; thence southeasterly along the summit of the Sierra Nevada Mountains to the divide between the Merced and San Joaquin Rivers; thence southwesterly along said divide to the point of intersection with the south boundary of township 4 south, range 23 east, Mount Diablo base and meridian; thence westerly along township line to the point of intersection with the middle of the channel of the South Fork of the Merced River; thence westerly down the middle of said river to the place of beginning. The lands above described are reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States, and set apart as reserved forest lands, subject to all the provisions of sections 55, 61, 471c and 471d of this title. The Secretary of the Interior may require the payment of such price as he may deem proper for privileges on the land herein segregated from the Yosemite National Park and made a part of the Sierra National Forest accorded under section 79 of this title, relating to rights of way over certain parks, reservations, and other lands, and other acts concerning rights of way over public lands; and the moneys received from the privileges accorded on the lands herein segregated and included in the Sierra National Forest shall be paid into the Treasury of the United States as provided by law. The forest lands herein set aside and re-

served shall be known as the ''Yosemite National Park.''

(Feb. 7, 1905, ch. 547, §1, 33 Stat. 702; Mar. 4, 1907, ch. 2907, 34 Stat. 1269.)

REFERENCES IN TEXT

Section 79 of this title, referred to in text, was in the original a reference to act Feb. 15, 1901, ch. 372, 31 Stat. 790. For further details, see Codification note set out under section 79 of this title.

CODIFICATION

''Sierra National Forest'' substituted in text for ''Sierra Forest Reserve'' on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

ADDITIONS TO YOSEMITE NATIONAL PARK

The following provisions authorized the addition of lands to Yosemite National Park:

Pub. L. 98–425, title I, §105(a)(2), (d), Sept. 28, 1984, 98 Stat. 1626.

§ 47. Additional lands excluded from Yosemite National Park and added to Sierra National Forest

That portion of the Yosemite National Park lying between the boundary line described in section 46 of this title and the line next herein described is excluded from said park and the said portion so described added to and made a part of the Sierra National Forest, to wit: Beginning at the point on the line between sections 35 and 36, township 4 south, range 21 east, where same intersects the middle of the channel of the South Fork of the Merced River; thence north on section line to the southwest corner of section 25; thence west on section lines to the southwest corner of section 28; thence north on section line to the northwest corner of section 28; thence west on section line to the quarter-section corner between sections 20 and 29; thence north through the middle of section 20 to the center thereof; thence east through the middle of section 20 to the quarter-section corner between sections 20 and 21; thence north on section line to the quarter-section corner between sections 16 and 17; thence west through middle of section 17 to the center thereof; thence north through the middle of sections 17, 8, and 5 to the quarter-section corner of north boundary of section 5 on township boundary, all in township 4 south, range 21 east; thence north through the middle of section 32, township 3 south, range 21 east, to the center thereof; thence west through the middle of section 32, said township, and section 36, township 3 south, range 20 east, to the quarter-section corner between sections 35 and 36; thence north on section line to the quarter-section corner between sections 25 and 26; thence east through the middle of section 25 to the center thereof; thence north through the middle of sections 25 and 24 to the center of section 24; thence west through the middle of sections 24, 23, and 22 to the quarter-section corner between sections 21 and 22, township 3 south, range 20 east, on the present western boundary of the Yosemite National Park. The above-indicated portion of land so made a part of the Sierra National Forest shall be subject to all of the Acts of Congress with relation thereto. The Secretary of the Interior may require the payment of such price as he may deem proper for privileges on the land herein segregated from the Yosemite National Park and made a part of the Sierra National Forest accorded under section 79 of this title, relating to rights of way over certain parks, reservations, and other lands, and other sections concerning rights of way over public lands. In the grant of any right-of-way for railway purposes across the lands placed under this measure within the Sierra National Forest it shall be stipulated that no logs or timber shall be hauled over the same without the consent of the Secretary of the Interior and under regulations to be promulgated by him.

(June 11, 1906, No. 27, §1, 34 Stat. 831; Mar. 4, 1907, ch. 2907, 34 Stat. 1269.)

REFERENCES IN TEXT

Section 79 of this title, referred to in text, was in the original a reference to act Feb. 15, 1901, ch. 372, 31 Stat. 790. For further details, see Codification note set out under section 79 of this title.

CODIFICATION

Section is derived from the second paragraph of section 1 of the Resolution of June 11, 1906. The second paragraph, aforesaid, originally began with the following words omitted here ''The south and west boundary lines of the Yosemite National Park are hereby changed as follows:'' The first portion of this section before the colon was derived from a later portion of the original section reading as follows: ''And all that portion of the Yosemite National Park lying between the boundary line last above mentioned and the present boundary line of said national park is excluded from said park; and the said lands so excluded, and all thereof, are added to and made a part of the Sierra Forest Reserve, and shall hereafter form a part of said Sierra Forest Reserve, and shall be subject to all of the Acts of Congress with relation thereto:'' The words of the first sentence of this section ''described in section 46 of this title'' replace the words ''present boundary line'' hereinbefore quoted.

For the first paragraph of the Resolution of June 11, 1906, see section 48 of this title.

''Sierra National Forest'' substituted in text for ''Sierra Forest Reserve'' on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

§ 47–1. Administrative site for Yosemite National Park

(a) Establishment of site

To enable the Secretary of the Interior to preserve the extraordinary natural qualities of Yosemite National Park, notwithstanding its increasing use by the public, the Secretary is hereby authorized to provide in the manner hereinafter set forth an administrative site in the El Portal area adjacent to Yosemite National Park, in order that utilities, facilities, and services required in the operation and administration of Yosemite National Park may be located on such site outside the park.

(b) Acquisition of land

For said site the Secretary of the Interior is authorized to acquire by purchase or donation, or with donated funds, approximately twelve hundred acres, as shown on map numbered NP–YOS–7011, of non-Federal land, interests in land, and appurtenances thereto, and, to avoid severing parcels in private ownership which ex-

tend beyond the area so depicted, the Secretary of the Interior may acquire in their entirety such parcels of land or interests therein.

(c) Transfers of jurisdiction

The Secretaries of Agriculture and Interior are authorized to arrange and effect mutually satisfactory transfers of jurisdiction over land administered by each in the El Portal area. Land so transferred to the Secretary of the Interior shall thereupon be excluded from the national forest or forests involved and thereafter be administered by the Secretary of the Interior pursuant to this section as a part of said administrative site. Land transferred to the Secretary of Agriculture pursuant to this section shall thereupon become national forest land subject to all laws, rules, and regulations applicable to land acquired pursuant to the Week's law.

(d) Pre-existing claim, location, or entry

Nothing herein contained shall affect any valid claim, location, or entry existing under the land laws of the United States, or the rights of any such claimant, locator, or entryman to the full use and enjoyment of his land.

(e) Status of acquired land

Until further action by the Congress, the lands acquired by or transferred to the Secretary of the Interior hereunder shall not become a part of Yosemite National Park, nor be subject to the laws and regulations governing said park, but the Secretary of the Interior shall have supervision, management, and control of the area and shall make and publish such rules and regulations as he may deem necessary and proper for its use and management: *Provided*, That he may grant nonexclusive privileges, leases, and permits for the use of land in the area and enter into contracts relating to the same, subject to the limitations and conditions applying to the similar authority provided in section 3 of this title.

(f) Availability of funds

Funds now or hereafter appropriated or otherwise available for operating and capital programs in the areas administered by the National Park Service, including funds for acquisition of land and interests in land, are made available to acquire land, interests in land, and appurtenances thereto, within the administrative site, and to further the purpose of this section.

(Pub. L. 85–922, §§1–6, Sept. 2, 1958, 72 Stat. 1772.)

REFERENCES IN TEXT

Week's law, referred to in subsec. (c), is act Mar. 1, 1911, ch. 186, 36 Stat. 961, which is classified to sections 480, 500, 513 to 519, 521, 552 and 563 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 552 of this title and Tables.

CODIFICATION

Subsecs. (a) to (f) are based on sections 1 to 6, respectively, of Pub. L. 85–922.

LAND EXCHANGE, EL PORTAL ADMINISTRATIVE SITE, CALIFORNIA

Pub. L. 105–363, §4, Nov. 6, 1998, 112 Stat. 3298, authorized transfer from the United States of land within the El Portal Administrative Site to party conveying to United States an adjacent property known as the Yosemite View parcel, and provided for equalization of values of Federal and non-Federal lands, applicability of other laws to the exchange, boundary adjustment, map, and additional terms and conditions.

§ 47–2. Leases for employee housing, community facilities, administrative offices, maintenance facilities, and commercial services at or on administrative site

In furtherance of the purposes of section 47–1 of this title, the Secretary of the Interior is authorized, notwithstanding any other provision of law, to lease lands within the El Portal administrative site for periods of not to exceed ninety-nine years to any individual, including an employee of the United States Government, to any operator of concession facilities in the park, or the administrative site, or its successor, or to any public or private corporation or organization (including a nonprofit corporation) for purposes of providing employee housing, community facilities, administrative offices, maintenance facilities, and commercial services. Such leases shall provide that if the lessee is a concessioner, corporation, or other organization (including a nonprofit corporation) such lessee may sublease the property to its employees, employees of the United States Government, or other individuals whose residence on the leased premises is solely in support of Yosemite National Park or the El Portal administrative site for terms not to exceed the remaining terms of such leases, and they shall be subject to such terms and conditions as the Secretary of the Interior may require to assure appropriate administration, protection, and development of the land for purposes incident to the provisions of facilities and services required in the operation and administration of the park: *Provided*, That the Secretary of the Interior shall grant such leases in consideration of payment to the United States of the fair rental value of the leased lands, as determined by him.

(Pub. L. 90–409, §1, July 21, 1968, 82 Stat. 393; Pub. L. 99–542, §1(1)–(3), Oct. 27, 1986, 100 Stat. 3037.)

CODIFICATION

Section formerly consisted of subsecs. (a) and (b) which were based on sections 1 and 2, respectively, of Pub. L. 90–409. Section 2 was renumbered section 3 of Pub. L. 90–409 and is classified to section 47–4 of this title. A new section 2 of Pub. L. 90–409 was added and is classified to section 47–3 of this title.

AMENDMENTS

1986—Pub. L. 99–542 substituted ''not to exceed ninety-nine years to any individual, including an employee of the United States Government, to any operator of concession facilities in the park, or the administrative site, or its successor, or to any public or private corporation or organization (including a nonprofit corporation) for purposes of providing employee housing, community facilities, administrative offices, maintenance facilities, and commercial services'' for ''fifty-five years to any operator of concession facilities in the park, or its successor, for purposes of providing employee housing'', substituted ''if the lessee is a concessioner, corporation, or other organization (including a nonprofit corporation) such lessee may sublease the property to its employees, employees of the United States Government, or other individuals whose resi-

dence on the leased premises is solely in support of Yosemite National Park or the El Portal administrative site'' for ''the concessioner may sublease the property to its employees'', struck out ''an annual'' before ''payment'' in proviso, and substituted a period for ''at the beginning of each calendar year'' after ''him''.

LIMITATION ON NEW SPENDING AUTHORITY

Section 2 of Pub. L. 99–542 provided that: ''Any new spending authority (within the meaning of section 401 of the Congressional Budget and Impoundment Control Act of 1974 [2 U.S.C. 651]) which is provided under this Act [enacting sections 47–3 to 47–6 of this title and amending section 47–2 of this title] shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriation Acts or to the extent that proceeds are available from any leases issued by the Secretary pursuant to the first section of this Act [probably means section 1 of Pub. L. 90–409, 16 U.S.C. 47–2].''

§ 47–3. Use of proceeds; administration of leases

(a) Notwithstanding any other provision of law, the proceeds from any leases issued by the Secretary pursuant to section 47–2 of this title may be credited to the appropriation bearing the cost of administering (directly or by contract) the leases and of constructing, improving, and maintaining roads, utilities, buildings, and other facilities within the El Portal administrative site. In the administration of the leases, the Secretary may contract for the management of the leases and of the leased premises, subject to such terms and conditions, including the right of the Secretary to purchase and sell the unexpired terms of leases and subleases, as will protect the interests of the United States. The Secretary may also contract for the use by him of any improvements to leased property for purposes of the El Portal administrative site or for purposes of Yosemite National Park, and he may use the proceeds from any leases for the purpose of making payments under any such contract.

(b) The Secretary may at any time acquire the unexpired term of any lease or sublease issued or entered into pursuant to sections 47–2 to 47–6 of this title by purchase with funds available from the proceeds of leases, or with donated or appropriated funds, or by donation or exchange.

(Pub. L. 90–409, § 2, as added Pub. L. 99–542, § 1(4), Oct. 27, 1986, 100 Stat. 3037.)

PRIOR PROVISIONS

A prior section 2 of Pub. L. 90–409, which was classified to section 47–2(b) of this title, was renumbered section 3 of Pub. L. 90–409 and is classified to section 47–4 of this title.

§ 47–4. Agreements to effectuate leases

The Secretary of the Interior may enter into agreements with other Federal agencies and with any concessioner or its successor in order to effectuate the purposes of sections 47–2 to 47–6 of this title.

(Pub. L. 90–409, § 3, formerly § 2, July 21, 1968, 82 Stat. 393; renumbered § 3, Pub. L. 99–542, § 1(4), Oct. 27, 1986, 100 Stat. 3037.)

CODIFICATION

Section was classified to section 47–2(b) of this title prior to renumbering by Pub. L. 99–542.

§ 47–5. Regulations

After October 27, 1986, no lease may be issued for the purpose of providing housing or other facilities in the El Portal administrative site except in accordance with regulations promulgated by the Secretary of the Interior. Such regulations shall establish the qualifications of natural persons and corporations who may be eligible to acquire a lease and a sublease, the process to be used in establishing fees for such leases and subleases, and they shall set forth the circumstances under which the Secretary may elect to acquire any unexpired lease or sublease. Such regulations shall become effective only after sixty calendar days from the day on which they have been submitted to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(Pub. L. 90–409, § 4, as added Pub. L. 99–542, § 1(5), Oct. 27, 1986, 100 Stat. 3038; amended Pub. L. 103–437, § 6(d)(6), Nov. 2, 1994, 108 Stat. 4583.)

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 47–6. Conflicts of interest prohibited

In carrying out the provisions of sections 47–2 to 47–6 of this title, the Secretary shall take care that there be no opportunity for any personal influence by an employee of the Department of the Interior upon the availability of housing for other such employees or employees of persons in a contractual relationship with the Department. In the selection of lessees and sublessees, the issuance of leases and subleases, the establishment or[1] rental values, and the acquisition of any unexpired term of any lease or sublease, the Secretary shall act through an agent or agents appointed by the Secretary from among associations, corporations, or natural persons having no material, financial, legal, or equitable interest in the action proposed, other than a reasonable fee for their services.

(Pub. L. 90–409, § 5, as added Pub. L. 99–542, § 1(5), Oct. 27, 1986, 100 Stat. 3038.)

§ 47a. Addition of certain lands to park authorized

For the purpose of preserving and consolidating timber stands along the western boundary of the Yosemite National Park the President of the United States is authorized, upon the joint recommendation of the Secretaries of Interior and Agriculture, to add to the Yosemite National Park, in the State of California, by Executive proclamation, section 1 and the north half of section 12, township 1 south, range 19 east, Mount Diablo meridian.

(May 9, 1930, ch. 234, § 1, 46 Stat. 265.)

§ 47b. Inapplicability of certain laws to lands acquired under section 47a

The provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to any lands

[1] So in original. Probably should be ''of''.

added to the Yosemite National Park under the authority of section 47a of this title.

(May 9, 1930, ch. 234, § 2, 46 Stat. 265.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act of June 10, 1920, known as the Federal Water Power Act,'' and was redesignated as the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

§ 47c. Acquisition of certain lands for preservation and consolidation of timber stands

For the purpose of preserving and consolidating certain timber stands along the western boundary of the Yosemite National Park, the President of the United States is authorized, upon the joint recommendation of the Secretaries of the Interior and of Agriculture, to add to said park by Executive proclamation any or all of the following-described lands: Sections 19, 20, 29, 30, 31, and 32, township 1 south, range 20 east, Mount Diablo meridian; east half section 1; east half section 12; southeast quarter section 24, township 2 south, range 19 east, Mount Diablo meridian; sections 4, 5, and 6; north half section 7; sections 8 and 9, and 19 and 20, township 2 south, range 20 east, Mount Diablo meridian, approximately nine thousand acres.

(Mar. 2, 1929, ch. 498, 45 Stat. 1486.)

§ 47d. Acquisition of certain lands for protection of park deer

For the purpose of protecting park deer along the western boundary of the Yosemite National Park, the Secretary of the Interior is authorized to acquire as part of said park, by exchange as hereinafter provided, title in fee for and on behalf of the United States of America to all that land in sections 21 and 28 in township 3 south, range 20 east, Mount Diablo meridian, lying between the abandoned railroad grade running from a point in the Wawona Road near Chinquapin to the top of the abandoned incline hoist in the northeast quarter of the southwest quarter of section 21, and the east and west center line of section 21, and in sections 22, 23, 24, 25, 26, and 27 lying between said abandoned railroad grade and the existing park boundary, containing one thousand three hundred and fifty acres, more or less, now held in private ownership, which lands upon acquisition shall be, and are, added to the park; and in exchange therefor the said Secretary is authorized to issue patent to the owner of said lands, for the Government lands described as follows: That part of the north half of northeast quarter lying south of abandoned railroad grade hereinbefore mentioned, north half of southwest quarter of northeast quarter, southwest quarter of southwest quarter of northeast quarter, southwest quarter, west half of northeast quarter of southeast quarter, and southwest quarter of southeast quarter of section 25, township 3 south, range 20 east; north half section 36, township 3 south, range 20 east; southwest quarter northeast quarter, south half northeast quarter northwest quarter, west half northwest quarter, southeast quarter northwest quarter, northwest quarter southeast quarter, and west half southwest quarter southeast quarter section 32, township 3 south, range 21 east; and northwest quarter section 5, township 4 south, range 21 east; containing one thousand and ten acres, more or less, which lands upon issuance of patent shall be, and are eliminated from said park.

(May 28, 1928, ch. 817, 45 Stat. 787.)

§ 47e. Purchase of private lands for park authorized

The Secretary of the Interior is authorized to acquire, by purchase when purchaseable[1] at prices deemed by him reasonable—otherwise by condemnation under the provisions of section 3113 of title 40, on behalf of the United States under any fund or moneys available for such purpose, on July 9, 1937, except from the general fund of the Treasury, any of the following-described lands in the State of California now in private ownership, to wit: Section 25, lots 3, 4, 5, 8, and 9, section 34, northeast quarter, southeast quarter of the northwest quarter, lots 1 to 10, inclusive, section 35, section 36, township 1 south, range 19 east; southeast quarter northwest quarter, east half southwest quarter, southeast quarter, lots 2, 3, and 4, section 30, section 31, township 1 south, range 20 east; sections 1, 2, and 3, east half section 10, sections 11 and 12, north half section 14, northeast quarter section 15, township 2 south, range 19 east; southeast quarter northwest quarter, east half southwest quarter, lots 3 to 7, inclusive, section 6, township 2 south, range 20 east, Mount Diablo meridian.

When title to the aforesaid privately owned lands has been vested in the United States, all of the lands described in this section shall be added to and become a part of the Yosemite National Park and shall be subject to all laws and regulations applicable thereto: *Provided*, That nothing in this section or section 47f of this title shall be construed to affect any valid existing rights.

(July 9, 1937, ch. 469, §§ 1, 2, 50 Stat. 485, 486.)

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 47f. Inapplicability of certain laws to lands acquired under section 47e

The provisions of the Federal Power Act, as amended [16 U.S.C. 791a et seq.], shall not apply to any of the lands added to the Yosemite National Park pursuant to the provisions of section 47e of this title.

(July 9, 1937, ch. 469, § 3, 50 Stat. 486.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act approved June 10, 1920, as amended, known as the Federal Water Power Act,'' and was redesignated as the Federal Power Act by section 791a of

[1] So in original.

this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

§ 48. Yosemite Valley and Mariposa Big Tree Grove reserved and made part of Yosemite National Park

The tracts of land embracing the Yosemite Valley and the Mariposa Big Tree Grove, described as the ''Cleft'' or ''Gorge'' in the granite peak of the Sierra Nevada mountains, situated in the county of Mariposa, in the State of California, and the headwaters of the Merced River, and known as the Yosemite Valley, with its branches or spurs, in estimated length fifteen miles, and in average width one mile back from the main edge of the precipice, on each side of the valley, and the tracts embracing what is known as the ''Mariposa Big Tree Grove'', not to exceed the area of four sections, and to be taken in legal subdivisions of one quarter section each, together with that part of fractional sections 5 and 6, township 5 south, range 22 east, Mount Diablo meridian, California, lying south of the South Fork of Merced River and almost wholly between the Mariposa Big Tree Grove and the south boundary of the Yosemite National Park, on June 11, 1906, are reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States and set apart as a national forest, subject to all the limitations, conditions, and provisions of sections 61, 471c and 471d of this title, as well as the limitations, conditions, and provisions of section 46 of this title, and shall hereafter form a part of the Yosemite National Park.

(June 30, 1864, ch. 184, §§ 1, 2, 13 Stat. 325; June 11, 1906, No. 27, § 1, 34 Stat. 831.)

§ 49. Rights of claimants and owners of lands included; laws and regulations applicable within park

None of the lands patented and in private ownership in the area included under sections 46 and 47 of this title in the Sierra National Forest shall have the privileges of the lieu-land scrip provisions of the land laws, but otherwise to be in all respects under the laws and regulations affecting the national forests. All laws, rules, and regulations affecting national forests, including the right to change the boundaries thereof by Executive proclamation, shall take effect and be in force within the limits of the territory excluded by sections 46 and 47 of this title from the Yosemite National Park, except as otherwise provided.

(Feb. 7, 1905, ch. 547, § 2, 33 Stat. 703; June 11, 1906, No. 27, § 2, 34 Stat. 832; Mar. 4, 1907, ch. 2907, 34 Stat. 1269.)

CODIFICATION

''Sierra National Forest'' and ''national forests'' substituted in text for ''Sierra Forest Reserve'' and for ''forest reserves'' and ''forest reservations'', respectively, on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

§ 50. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1028

Section, Joint Res. June 11, 1906, No. 27, § 3, 34 Stat. 832, related to disposition of revenues from privileges.

§ 51. Yosemite National Park; exchange of privately owned lands in park

The Secretaries of the Departments of Interior and Agriculture, for the purpose of eliminating private holdings within the Yosemite National Park and to preserve intact timber along and adjoining the roads in the scenic portion of the park on patented lands, are empowered in their discretion to obtain and accept for the United States a complete title to any and all patented lands within the boundaries of said park by the exchange of timber or timber and lands within the Yosemite National Park and the Sierra and Stanislaus National Forests for such lands and the timber thereon within the park, necessary conveyances of park and national forest timber or timber and lands to be made by said secretaries, respectively. The secretaries of the said departments are authorized to acquire title in fee by the exchange of lands of the United States for patented lands not exceeding six hundred and forty acres in the Sierra and Stanislaus National Forests, adjacent and contiguous to the Yosemite National Park, and when such patented lands are thus acquired, said lands shall become a part of the Yosemite National Park and be subject to all the provisions of sections 55, 61, 471c and 471d of this title.

(Apr. 9, 1912, ch. 74, § 1, 37 Stat. 80; Apr. 16, 1914, ch. 58, 38 Stat. 345.)

§ 52. Values of lands and timber to be exchanged; lands added to park

The value of patented lands within the park offered in exchange, and the value of the timber on park lands proposed to be given in exchange for such patented lands, shall be ascertained in such manner as the Secretary of the Interior may, in his discretion, direct, and all expenses incident to ascertaining such values shall be paid by the owners of said patented lands, and such owners shall, before any exchange is effective, furnish the Secretary of the Interior evidence satisfactory to him of title to the patented lands offered in exchange, and if the value of the timber on park lands exceeds the value of the patented lands deeded to the Government in the exchange such excess shall be paid to the Secretary of the Interior by the owners of the patented lands before any of the timber is removed from the park, and shall be deposited and covered into the Treasury as miscellaneous receipts. The same course shall be pursued in relation to exchange for timber standing near public roads on patented lands for timber to be exchanged on park lands. The lands conveyed to the Government under section 51 of this title shall become a part of the Yosemite National Park.

(Apr. 9, 1912, ch. 74, § 2, 37 Stat. 80.)

§ 53. Cutting and removal of timber

All timber must be cut and removed from the Yosemite National Park under regulations to be

prescribed by the Secretary of the Interior, and any damage which may result to the roads or any part of the park in consequence of the cutting and removal of the timber from the reservation shall be borne by the owners of the patented lands, and bond satisfactory to the Secretary of the Interior must be given for the payment of such damages, if any, as shall be determined by the Secretary of the Interior.

(Apr. 9, 1912, ch. 74, § 3, 37 Stat. 81.)

§ 54. Sale of matured, dead, or down timber

The Secretary of the Interior may sell and permit the removal of such matured or dead or down timber as he may deem necessary or advisable for the protection or improvement of the park, and the proceeds derived therefrom shall be deposited and covered into the Treasury as miscellaneous receipts.

(Apr. 9, 1912, ch. 74, § 4, 37 Stat. 81.)

§ 55. Leases of land in park; mortgages by lessees

The Secretary of the Interior is authorized and empowered to grant leases, for periods of not exceeding twenty years, at annual rentals, and under terms and conditions to be determined by him, to any person, corporation, or company he may authorize to transact business in the Yosemite National Park, for separate tracts of land, not exceeding twenty acres each, at such places, not to exceed ten in number, to any person, corporation, or company in said park, as the comfort and convenience of visitors may require, for the construction and maintenance of substantial hotel buildings and buildings for the protection of motor cars, stages, stock and equipment, and so forth. Such leases may, at the option of the Secretary of the Interior, contain appropriate provisions for the appraisement, at the expiration of the lease, of the value of such hotel and other buildings (or portions thereof) as may be constructed by the lessees, respectively, and the payment of the same to the lessees in case a new lease be made to persons other than said lessees, such payments to be made by such new lessees, respectively.

Any person or corporation or company holding a lease or leases within said park for the purposes above described is authorized, with the approval of the Secretary of the Interior, to execute mortgages upon his or its rights and properties, including his or its contract or contracts with the Secretary of the Interior; such mortgages shall be executed in duplicate and delivered to the Secretary of the Interior for his approval, and upon his approval thereof he shall retain one of said duplicates and file the same for record in his office.

Any mortgage, lien, or encumbrance created under the provisions hereof shall be subject to the rights of the Government to compel the enforcement of the terms of the lease or contract of the mortgagor, and any purchaser under a foreclosure of such encumbrance shall take subject to all the conditions assumed by the original lessee or contractor.

(Oct. 1, 1890, ch. 1263, § 2, 26 Stat. 651; July 23, 1914, ch. 206, 38 Stat. 554; June 12, 1917, ch. 27, § 1, 40 Stat. 153.)

CODIFICATION

This section superseded earlier provisions as to leases contained in section 2 of act Oct. 1, 1890.

As enacted by act July 23, 1914, this section contained a provision, omitted for purposes of codification, continuing in effect all existing laws relating to the park and not in conflict with it.

Section 1 of the act of June 12, 1917, incorporated in section 452 of this title, provides for the disposition of all revenue of National Parks and did not directly affect this section. It may have been considered as superseding similar provisions of the act of Oct. 1, 1890, § 2.

§ 56. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1028

Section, act July 1, 1916, ch. 209, § 1, 39 Stat. 308, related to donations of lands or rights-of-way. For general provisions relating to donations of lands, etc., see section 6 of this title.

§ 57. Yosemite and Sequoia National Parks; exclusive jurisdiction of United States; jurisdiction remaining in and taxation by California

Sole and exclusive jurisdiction is assumed by the United States over the territory embraced and included within the Yosemite National Park and Sequoia National Park, respectively, saving, however, to the State of California the right to serve civil or criminal process within the limits of the aforesaid parks or either of them in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed in said State outside of said parks; and saving further to the said State the right to tax persons and corporations, their franchises and property on the lands included in said parks, and the right to fix and collect license fees for fishing in said parks; and saving also to the persons residing in any of said parks now or hereafter the right to vote at all elections held within the county or counties in which said parks are situated.

(June 2, 1920, ch. 218, § 1, 41 Stat. 731; Mar. 4, 1940, ch. 40, § 2, 54 Stat. 43.)

CODIFICATION

A provision accepting the act of the California Legislature which ceded to the United States exclusive jurisdiction over the territory referred to in this section has been omitted as executed.

GENERAL GRANT NATIONAL PARK ABOLISHED

Act Mar. 4, 1940, set out as section 80a of this title, abolished the General Grant National Park and added the lands to the Kings Canyon National Park as the General Grant grove section.

§ 58. Laws applicable; fugitives from justice

All the laws applicable to places under sole and exclusive jurisdiction of the United States shall have force and effect in said parks or either of them. All fugitives from justice taking refuge in said parks, or either of them, shall be subject to the same laws as refugees from justice found in the State of California.

(June 2, 1920, ch. 218, § 1, 41 Stat. 731.)

§ 59. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section, acts June 2, 1920, ch. 218, § 4, 41 Stat. 731; Mar. 4, 1940, ch. 40, § 2, 54 Stat. 43, related to offenses

punishable by State laws. See section 13 of Title 18, Crimes and Criminal Procedure.

§ 60. Hunting or fishing prohibited

All hunting or the killing, wounding, or capturing at any time of any wild bird or animal, except dangerous animals, when it is necessary to prevent them from destroying human lives or inflicting personal injury, is prohibited within the limits of said parks; nor shall any fish be taken out of any of the waters of the said parks, or any one of them, in any other way than by hook and line, and then only at such seasons and such times and manner as may be directed by the Secretary of the Interior.

(June 2, 1920, ch. 218, § 5, 41 Stat. 731.)

§ 61. Rules and regulations in parks

In addition to the powers and duties enumerated in section 3 of this title, not inconsistent with this section, the Secretary of the Interior shall make and publish such general rules and regulations as he may deem necessary and proper for the management and care of the park and for the protection of the property therein, especially for the preservation from injury or spoliation of all timber, mineral deposits other than those legally located prior to the date of passage of the respective Acts creating and establishing said parks, natural curiosities or wonderful objects within said parks, and for the protection of the animals in the park from capture or destruction, and to prevent their being frightened or driven from the said parks; and he shall make rules and regulations governing the taking of fish from the streams or lakes in the said parks or either of them. He shall cause all persons trespassing upon the same to be removed therefrom.

(Oct. 1, 1890, ch. 1263, § 2, 26 Stat. 651; June 2, 1920, ch. 218, § 5, 41 Stat. 732.)

CODIFICATION

The first sentence of this section was from section 5 of the act of June 2, 1920. The first portion reading ''In addition to the powers and duties enumerated in section 3 of this title, not inconsistent with this section'' was inserted to relate this section to section 3 of this title, providing general powers for the Secretary of the Interior.

The last sentence of this section is from section 2 of act Oct. 1, 1890.

§ 62. Possession of dead bodies of birds or animals

Possession within said parks, or either of them, of the dead bodies or any part thereof of any wild bird or animal shall be prima facie evidence that person or persons having same are guilty of violating sections 60 to 63 of this title.

(June 2, 1920, ch. 218, § 5, 41 Stat. 732.)

§ 63. Transportation of birds, animals, or fish; violations of statute or rules or regulations for management, care, and preservation of parks; damage or spoliation; punishment

Any person or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of sections 57, 58, and 60 to 65 of this title, and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or who shall violate any of the other provisions of said sections, or any rule or regulation that may be promulgated by the Secretary of the Interior, with reference to the management and care of the said parks, or either of them, or for the protection of the property therein for the preservation from injury or spoliation of timber, mineral deposits, other than those legally located prior to the passage of the respective Acts creating and establishing said parks, natural curiosities, or wonderful objects within said parks, or either of them, or for the protection of the animals, birds, or fish in the said parks, or either of them, or who shall within said parks commit any damage, injury, spoliation to or upon any building, fence, hedge, gate, guidepost, tree, wood, underwood, timber, garden, crops, vegetables, plants, land, springs, mineral deposits other than those legally located prior to the passage of the respective Acts creating and establishing said parks, natural curiosities, or other matter or thing growing or being thereon, or situated therein, shall be subject to the penalty provided for the violation of rules and regulations of the Secretary of the Interior authorized by section 3 of this title.

(June 2, 1920, ch. 218, § 5, 41 Stat. 732.)

§ 64. Sale or disposal of timber; destruction of detrimental animal or plant life

Nothing in sections 57, 58, and 60 to 65 of this title shall be construed as repealing or in any way modifying the authority granted the Secretary of the Interior by said section 3 of this title to sell or dispose of timber in national parks in those cases where, in his judgment, the cutting of such timber is required in order to control the attacks of insects or diseases or otherwise conserve the scenery of the natural or historic objects in such parks and to provide for the destruction of such animals and such palnt[1] life as may be detrimental to the use of any of said parks, or the authority granted to said Secretary by sections 51 to 54 of this title.

(June 2, 1920, ch. 218, § 5, 41 Stat. 732.)

§ 65. Seizure and forfeiture of guns, traps, teams, horses, etc.

All guns, traps, teams, horses, or means of transportation of every nature or description used by any person or persons within the limits of said parks, or either of them, when engaged in killing, trapping, ensnaring, or capturing such wild beasts, birds, or animals, shall be forfeited to the United States and may be seized by the officers in said parks, or either of them, and held pending prosecution of any person or persons arrested under the charge of violating the provisions of sections 57, 58, and 60 to 65 of this title, and upon conviction such forfeiture shall be adjudicated as a penalty in addition to the other punishment prescribed therein. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior.

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[1] So in original. Probably should be ''plant''.

(June 2, 1920, ch. 218, § 6, 41 Stat. 733.)

§§ 66 to 77. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 66, acts June 2, 1920, ch. 218, §§ 7, 8, 41 Stat. 733; Mar. 4, 1940, ch. 40, § 2, 54 Stat. 43, related to appointment and jurisdiction of commissioners. See provisions covering United States magistrate judges in section 631 et seq. of Title 28, Judiciary and Judicial Procedure.

Section 67, act June 2, 1920, ch. 218, §§ 7, 8, 41 Stat. 733, related to power of commissioners [now magistrate judges] to make arrests.

Section 68, act June 2, 1920, ch. 218, §§ 7, 8, 41 Stat. 733, related to appeal from conviction by commissioner [now magistrate judge].

Section 69, act June 2, 1920, ch. 218, § 11, 41 Stat. 734, related to residence of commissioners [now magistrate judges].

Section 70, act June 2, 1920, ch. 218, § 9, 41 Stat. 734, related to arrests for certain offenses. See sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and rules 4, 5(c), and 9 of Federal Rules of Criminal Procedure, Title 18, Appendix.

Section 71, acts June 2, 1920, ch. 218, § 10, 41 Stat. 734; Mar. 4, 1940, ch. 40, § 2, 54 Stat. 43, related to service of process. See rule 4 of Federal Rules of Criminal Procedure, Title 18, Appendix, and section 3053 of title 18.

Section 72, acts June 2, 1920, ch. 218, § 11, 41 Stat. 734; Mar. 4, 1940, ch. 40, § 2, 54 Stat. 43, related to commissioners' salaries. See section 634 of Title 28, Judiciary and Judicial Procedure.

Section 73, act June 2, 1920, ch. 218, § 11, 41 Stat. 734, related to fees and costs.

Section 74, act June 2, 1920, ch. 218, § 13, 41 Stat. 734, related to disposition of fines and costs.

Section 75, act June 2, 1920, ch. 218, § 12, 41 Stat. 734, related to payment of fees, costs, and expenses chargeable to the United States.

Section 76, act June 2, 1920, ch. 218, § 2, 41 Stat. 731, related to inclusion of Yosemite National Park within judicial district. See section 84 of Title 28, Judiciary and Judicial Procedure.

Section 77, acts June 2, 1920, ch. 218, § 3, 41 Stat. 731; Mar. 4, 1940, ch. 40, § 2, 54 Stat. 43, related to inclusion of Sequoia National Park within a judicial district. See section 84 of Title 28.

§ 78. Detail of troops to Sequoia and Yosemite Parks

The Secretary of the Army, upon the request of the Secretary of the Interior, is authorized and directed to make the necessary detail of troops to prevent trespassers or intruders from entering the Sequoia National Park and the Yosemite National Park, respectively, in California, for the purpose of destroying the game or objects of curiosity therein, or for any other purpose prohibited by law or regulation for the government of said reservations, and to remove such persons from said parks if found therein.

(June 6, 1900, ch. 791, § 1, 31 Stat. 618; Mar. 4, 1940, ch. 40, § 2, 54 Stat. 43; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

GENERAL GRANT NATIONAL PARK ABOLISHED

Act Mar. 4, 1940, set out as section 80a of this title, abolished the General Grant National Park and added the lands to the Kings Canyon National Park as the General Grant grove section.

§ 79. Rights-of-way for public utilities

The Secretary of the Interior is authorized and empowered, under general regulations to be fixed by him, to permit the use of rights of way through the public lands, forest and other reservations of the United States, and the Yosemite, Sequoia, and General Grant national parks, California, for electrical plants, poles, and lines for the generation and distribution of electrical power, and for telephone and telegraph purposes, and for canals, ditches, pipes and pipe lines, flumes, tunnels, or other water conduits, and for water plants, dams, and reservoirs used to promote irrigation or mining or quarrying, or the manufacturing or cutting of timber or lumber, or the supplying of water for domestic, public, or any other beneficial uses to the extent of the ground occupied by such canals, ditches, flumes, tunnels, reservoirs, or other water conduits or water plants, or electrical or other works permitted hereunder, and not to exceed fifty feet on each side of the marginal limits thereof, or not to exceed fifty feet on each side of the center line of such pipes and pipe lines, electrical, telegraph, and telephone lines and poles, by any citizen, association, or corporation of the United States, where it is intended by such to exercise the use permitted hereunder or any one or more of the purposes herein named: *Provided*, That such permits shall be allowed within or through any of said parks or any forest, military, Indian, or other reservation only upon the approval of the chief officer of the Department under whose supervision such park or reservation falls and upon a finding by him that the same is not incompatible with the public interest: *Provided further*, That all permits given hereunder for telegraph and telephone purposes shall be subject to the provision of title 65 of the Revised Statutes of the United States, and amendments thereto, regulating rights of way for telegraph companies over the public domain: *And provided further*, That any permission given by the Secretary of the Interior under the provisions of this section may be revoked by him or his successor in his discretion, and shall not be held to confer any right, or easement, or interest in, to, or over any public land, reservation, or park.

(Feb. 15, 1901, ch. 372, 31 Stat. 790.)

REPEALS

Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

REFERENCES IN TEXT

Title 65 of the Revised Statutes of the United States, and amendments thereto, referred to in text, which consisted of R.S. §§ 5263 to 5269, was classified to sections 1 to 6 and 8 of Title 47, Telegraphs, Telephones, and Radiotelegraphs, and was repealed by act July 16, 1947, ch. 256, § 1, 61 Stat. 327.

CODIFICATION

Section, insofar as it relates to rights-of-way through public lands, forests, and reservations, and the Yosemite, Sequoia, and General Grant National Parks is also set out as section 959 of Title 43, Public Lands, and insofar as it related to rights-of-way through national forests was also set out as section 522 of this title which was omitted from the Code.

Section was formerly classified to section 419 of this title.

SAVINGS PROVISION

Repeal by Pub. L. 94–579, title VII, §706(a), Oct. 21, 1976, 90 Stat. 2793, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

GENERAL GRANT NATIONAL PARK ABOLISHED

Act Mar. 4, 1940, ch. 40, §2, 54 Stat. 43, which is classified to section 80a of this title, abolished the General Grant National Park and added the lands to the Kings Canyon National Park as the General Grant grove section.

§ 79–1. Yosemite National Park; expansion of reservoir capacity

Notwithstanding any other provision of law, no Federal lands may be used for the expansion of the capacity of any reservoir which is located within the boundaries of Yosemite National Park unless Congress enacts specific statutory authorization after October 31, 1988, for such expansion.

(Pub. L. 100–563, §6, Oct. 31, 1988, 102 Stat. 2830.)

SUBCHAPTER VII—REDWOOD NATIONAL PARK

§ 79a. Establishment; statement of purposes

In order to preserve significant examples of the primeval coastal redwood (Sequoia sempervirens) forests and the streams and seashores with which they are associated for purposes of public inspiration, enjoyment, and scientific study, there is hereby established a Redwood National Park in Del Norte and Humboldt Counties, California.

(Pub. L. 90–545, §1, Oct. 2, 1968, 82 Stat. 931.)

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–131, title III, §301, Dec. 20, 2005, 119 Stat. 2569, provided that: ''This title [amending section 79b of this title] may be cited as the 'Redwood National Park Boundary Adjustment Act of 2005'.''

THOMAS H. KUCHEL VISITOR CENTER

Pub. L. 105–277, div. A, §101(e) [title I, §146], Oct. 21, 1998, 112 Stat. 2681–231, 2681–267, provided that: ''The Redwood Information Center located at 119231 Highway 101 in Orick, California is hereby named the 'Thomas H. Kuchel Visitor Center' and shall be referred to in any law, document or record of the United States as the 'Thomas H. Kuchel Visitor Center'.''

§ 79b. Park area

(a) Boundaries; maps; maximum acreage

(1) The Redwood National Park consists of the land generally depicted on the map entitled ''Redwood National Park, Revised Boundary'', numbered 167/60502, and dated February, 2003.

(2) The map referred to in paragraph (1) shall be—

(A) on file and available for public inspection in the appropriate offices of the National Park Service; and

(B) provided by the Secretary of the Interior to the appropriate officers of Del Norte and Humboldt Counties, California.

(3) The Secretary;[1] of the Interior (hereinafter referred to as the ''Secretary'') may from time to time, with a view to carrying out the purpose of this subchapter and with particular attention to minimizing siltation of the streams, damage to the timber, and assuring the preservation of the scenery within the boundaries of the national park as depicted on said maps, modify said boundaries, giving notice of any changes involved therein by publication of a revised drawing or boundary description in the Federal Register and by filing said revision with the officers with whom the original maps were filed, but the acreage within said park shall at no time exceed 133,000 acres, exclusive of submerged lands and publicly owned highways and roads.

(b) Highways and roads

The Secretary is authorized to acquire all or part of existing publicly owned highways and roads within the boundaries of the park as he may deem necessary for park purposes. Until such highways and roads have been acquired, the Secretary may cooperate with appropriate State and local officials in patroling[2] and maintaining such roads and highways.

(c) Park protection zone

Within the area outside the boundaries of Redwood National Park indicated as the ''Park Protection Zone'' on the map entitled ''Proposed Additions, Redwood National Park, California'', numbered 167–80005–D and dated March 1978, the Secretary is authorized to acquire lands and interests in land: *Provided*, That lands may be acquired from a willing seller or upon a finding by the Secretary that failure to acquire all or a portion of such lands could result in physical damage to park resources and following notice to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the House of Representatives. Any lands so acquired shall be managed in a manner which will maximize the protection of the resources of Redwood National Park, and in accordance with the Act of October 21, 1976 (90 Stat. 2743) [43 U.S.C. 1701 et seq.]. Acquisition of a parcel of land under the authority of this subsection shall not as a result of such acquisition diminish the right of owners of adjacent lands to the peaceful use and enjoyment of their land and shall not confer authority upon the Secretary to acquire additional lands except as provided in this subsection.

(Pub. L. 90–545, §2, Oct. 2, 1968, 82 Stat. 931; Pub. L. 95–250, title I, §101(a)(1), (2), Mar. 27, 1978, 92 Stat. 163; Pub. L. 103–437, §6(d)(7), Nov. 2, 1994, 108 Stat. 4583; Pub. L. 109–131, title III, §302, Dec. 20, 2005, 119 Stat. 2569.)

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[1] So in original. The semicolon probably should not appear.

[2] So in original. Probably should be ''patrolling''.

REFERENCES IN TEXT

Act of October 21, 1976 (90 Stat. 2743), referred to in subsec. (c), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976, which is classified principally to chapter 35 (§1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–131 designated existing provisions of first sentence as par. (1), in par. (1) substituted ''The Redwood National Park consists of the land generally depicted on the map entitled 'Redwood National Park, Revised Boundary', numbered 167/60502, and dated February, 2003.'' for ''The area to be included within the Redwood National Park is that generally depicted on the maps entitled 'Redwood National Park,' numbered NPS–RED–7114–A and NPS–RED–7114–B, and dated September 1968, and the area indicated as 'Proposed Additions' on the map entitled 'Additional Lands, Redwood National Park, California,' numbered 167–80005–D and dated March 1978, copies of which maps shall be kept available for public inspection in the offices of the National Park Service, Department of the Interior, and shall be filed with appropriate officers of Del Norte and Humboldt Counties.'', added par. (2), designated existing provisions of second sentence as par. (3), and in par. (3) substituted ''The Secretary;'' for ''The Secretary'' and ''133,000 acres'' for ''one hundred and six thousand acres''.

1994—Subsec. (c). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

1978—Subsec. (a). Pub. L. 95–250, §101(a)(1), (2), inserted ''and the area indicated as 'Proposed Additions' on the map entitled 'Additional Lands, Redwood National Park, California', numbered 167–80005–D and dated March 1978,'' after ''and dated September 1968,'' and substituted ''one hundred and six thousand acres, exclusive of submerged lands and publicly owned highways and roads'' for ''fifty-eight thousand acres, exclusive of submerged lands''.

Subsec. (b). Pub. L. 95–250, §101(a)(2), struck out ''by donation only'' after ''The Secretary is authorized to acquire''.

Subsec. (c). Pub. L. 95–250, §101(a)(2), added subsec. (c).

§ 79c. Acquisition of land

(a) Authority of Secretary; administrative sites; manner and place; donation of State lands; reverters and other conditions

The Secretary is authorized to acquire lands and interests in land within the boundaries of the Redwood National Park and, in addition thereto, not more than ten acres outside of those boundaries for an administrative site or sites. Such acquisition may be by donation, purchase with appropriated or donated funds, exchange, or otherwise, but lands and interests in land owned by the State of California may be acquired only by donation which donation of lands or interest in lands may be accepted in the discretion of the Secretary subject to such preexisting reverters and other conditions as may appear in the title to these lands held by the State of California, and such other reverters and conditions as may be consistent with the use and management of the donated lands as a portion of Redwood National Park. Notwithstanding any other provision of law, the Secretary may expend appropriated funds for the management of and for the construction, design, and maintenance of permanent improvements on such lands and interests in land as are donated by the State of California in a manner not inconsistent with such reverters and other conditions.

(b) Vested and possessory rights in certain real property; termination of operations; removal of equipment, facilities, and personal property; down tree personal property; acquired roads; just compensation; payment; jurisdiction; acreage limitation; notice

(1) Effective on October 2, 1968, there is hereby vested in the United States all right, title, and interest in, and the right to immediate possession of, all real property within the park boundaries designated in maps NPS–RED–7114–A and NPS–RED–7114–B and effective on March 27, 1978, there is hereby vested in the United States all right, title, and interest in, and the right to immediate possession of, all real property within the area indicated as ''Proposed Additions'' on the map entitled ''Additional Lands, Redwood National Park, California,'' numbered 167–80005–D and dated March 1978, and all right, title, and interest in, and the right to immediate possession of the down tree personal property (trees severed from the ground by man) severed prior to January 1, 1975, or subsequent to January 31, 1978, within the area indicated as ''Proposed Additions'' on the map entitled ''Additional Lands, Redwood National Park, California,'' numbered 167–80005–D and dated March 1978, except real property owned by the State of California or a political subdivision thereof and except as provided in paragraph (3) of this subsection. The Secretary shall allow for the orderly termination of all operations on real property acquired by the United States under this subsection, and for the removal of equipment, facilities, and personal property therefrom.

Down tree personal property severed subsequent to December 31, 1974, and prior to February 1, 1978 may be removed in accordance with applicable State and Federal law, or other applicable licenses, permits, and existing agreements, unless the Secretary determines that the removal of such down timber would damage second growth resources or result in excessive sedimentation in Redwood Creek: *Provided, however*, That down timber lying in stream beds may not be removed without permission of the Secretary: *Provided*, That such removal shall also be subject to such reasonable conditions as may be required by the Secretary to insure the continued availability of raw materials to Redwoods United, Incorporated, a nonprofit corporation located in Manila, California.

The Secretary shall permit, at existing levels and extent of access and use, continued access and use of each acquired segment of the B line, L line, M line, and K and K roads by each current affected woods employer or its successor in title and interest: *Provided*, That such use is limited to forest and land management and protection purposes, including timber harvesting and road maintenance. The Secretary shall permit, at existing levels and extent of access and use, continued access and use of acquired portions of the Bald Hills road by each current affected woods employer or its successor in title

and interest: *Provided further*, That nothing in this sentence shall diminish the authority of the Secretary to otherwise regulate the use of the Bald Hills road.

(2) The United States will pay just compensation to the owner of any real property taken by paragraph (1) of this subsection. Such compensation shall be paid either: (A) by the Secretary of the Treasury from money appropriated from the Land and Water Conservation Fund, including money appropriated to the Fund pursuant to section 4(b) of the Land and Water Conservation Fund Act of 1965, as amended [16 U.S.C. 460*l*–7(b)] subject to the appropriation limitation in section 79j of this title, upon certification to him by the Secretary of the agreed negotiated value of such property, or the valuation of the property awarded by judgment, including interest at the rate of 6 per centum per annum from the date of taking the property to the date of payment therefor; or (B) by the Secretary, if the owner of the land concurs, with any federally owned property available to him for purposes of exchange pursuant to the provisions of section 79e of this title; or (C) by the Secretary using any combination of such money or federally owned property. Any action against the United States with regard to the provisions of this subchapter and for the recovery of just compensation for the lands and interests therein taken by the United States, and for the down tree personal property taken, shall be brought in the United States district court for the district where the land is located without regard to the amount claimed. The United States may initiate proceedings at any time seeking a determination of just compensation in the district court in the manner provided by sections 1358 and 1403 of title 28 and may deposit in the registry of the court the estimated just compensation, or a part thereof, in accordance with the procedure generally described by section 3114(a)–(d) of title 40. Interest shall not be allowed on such amounts as shall have been paid into the court. In the event that the Secretary determines that the fee simple title to any property (real or personal) taken under this section is not necessary for the purposes of this subchapter, he may, with particular attention to minimizing the payment of severance damages and to allow for the orderly removal of down timber, revest title to such property subject to such reservations, terms, and conditions, if any, as he deems appropriate to carry out the purposes of this subchapter, and may compensate the former owner for no more than the fair market value of the rights so reserved, except that the Secretary may not revest title to any property for which just compensation has been paid; or, the Secretary may sell at fair market value without regard to the requirements of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 such down timber as in his judgment may be removed without damage to the park, the proceeds from such sales being credited to the Treasury of the United States. If the State of California designates a right-of-way for a bypass highway around the eastern boundary of Prairie Creek Redwood State Park prior to October 1, 1984, the Secretary is authorized and directed to acquire such lands or interests in lands as may be necessary for such a highway and, subject to such conditions as the Secretary may determine are necessary to assure the adequate protection of Redwood National Park, shall thereupon donate the designated right-of-way to the State of California for a new bypass highway from a point south of Prairie Creek Redwood State Park through the drainage of May Creek and Boyes Creek to extend along the eastern boundary of Prairie Creek Redwood State Park within Humboldt County. Such acreage as may be necessary in the judgment of the Secretary for this conveyance, and for a buffer thereof, shall be deemed to be a publicly owned highway for purposes of section 79b(a) of this title effective on March 27, 1978.

(3) This subsection shall apply to ownerships of fifty acres or less only if such ownerships are held or occupied primarily for nonresidential or nonagricultural purposes, and if the Secretary gives notice to the owner within sixty days after October 2, 1968, of the application of this subsection. Notice by the Secretary shall be deemed to have been made as of October 2, 1968. The district court of the United States for that district in which such ownerships are located shall have jurisdiction to hear and determine any action brought by any person having an interest therein for damages occurring by reason of the temporary application of this paragraph, between October 2, 1968, and the date upon which the Secretary gives such notice. Nothing in this paragraph shall be construed as affecting the authority of the Secretary under subsections (a) and (c) of this section to acquire such areas for the purposes of this subchapter.

(c) Minimization of severance damages; costs not chargeable against appropriations authorization

If any individual tract or parcel of land acquired is partly inside and partly outside the boundaries of the park or the administrative site the Secretary may, in order to minimize the payment of severance damages, acquire the whole of the tract or parcel and exchange that part of it which is outside the boundaries for land or interests in land inside the boundaries or for other land or interests in land acquired pursuant to this subchapter, and dispose of so much thereof as is not so utilized in accordance with the provisions of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41. The cost of any land so acquired and disposed of shall not be charged against the limitation on authorized appropriations contained in section 79j of this title.

(d) Lands for screen of trees along certain highway

The Secretary is further authorized to acquire, as provided in subsection (a) of this section, lands and interests in land bordering both sides of the highway between the present southern boundary of Prairie Creek Redwood State Park and a point on Redwood Creek near the town of Orick to a depth sufficient to maintain or to restore a screen of trees between the highway and the land behind the screen and the activities conducted thereon.

(e) Timber, soil, and stream protection; "interests in land" defined; notice to Congress of intended action, costs, and benefits requisite for acquisitions, contracts, or cooperative agreements; availability of funds; authorization of appropriations; rehabilitative activities

In order to afford as full protection as is reasonably possible to the timber, soil, and streams within the boundaries of the park, the Secretary is authorized, by any of the means set out in subsections (a) and (c) of this section, to acquire interests in land from, and to enter into contracts and cooperative agreements with, the owners of land on the periphery of the park and on watersheds tributary to streams within the park designed to assure that the consequences of forestry management, timbering, land use, and soil conservation practices conducted thereon, or of the lack of such practices, will not adversely affect the timber, soil, and streams within the park as aforesaid. As used in this subsection, the term ''interests in land'' does not include fee title unless the Secretary finds that the cost of a necessary less-than-fee interest would be disproportionately high as compared with the estimated cost of the fee. No acquisition other than by donation shall be effectuated and no contract or cooperative agreement shall be executed by the Secretary pursuant to the provisions of this subsection until after he has notified the President of the Senate and the Speaker of the House of Representatives of his intended action and of the costs and benefits to the United States involved therein. Effective on March 27, 1978, there are made available from the amounts provided in section 79j of this title or as may be hereafter provided such sums as may be necessary for the acquisition of interests in land. Effective on October 1, 1978, there are authorized to be appropriated such sums as may be necessary for the implementation of contracts and cooperative agreements pursuant to this subsection: *Provided*, That it is the express intent of Congress that the Secretary shall to the greatest degree possible insure that such contracts and cooperative agreements provide for the maximum retention of senior employees by such owners and for their utilization in rehabilitation and other efforts. The Secretary, in consultation with the Secretary of Agriculture, is further authorized, pursuant to contract or cooperative agreement with agencies of the Federal Executive, the State of California, any political or governmental subdivision thereof, any corporation, not-for-profit corporation, private entity or person, to initiate, provide funds, equipment, and personnel for the development and implementation of a program for the rehabilitation of areas within and upstream from the park contributing significant sedimentation because of past logging disturbances and road conditions, and, to the extent feasible, to reduce risk of damage to streamside areas adjacent to Redwood Creek and for other reasons: *Provided further*, That authority to make payments under this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. Such contracts or cooperative agreements shall be subject to such other conditions as the Secretary may determine necessary to assure the adequate protection of Redwood National Park generally, and to provide employment opportunities to those individuals affected by this taking and to contribute to the economic revival of Del Norte and Humboldt Counties in northern California. The Secretary shall undertake and publish studies on erosion and sedimentation originating within the hydrographic basin of Redwood Creek with particular effort to identify sources and causes, including differentiation between natural and man-aggravated conditions, and shall adapt his general management plan to benefit from the results of such studies. The Secretary, or the Secretary of Agriculture, where appropriate, shall also manage any additional Federal lands under his jurisdiction that are within the hydrographic basin of Redwood Creek in a manner which will minimize sedimentation which could affect the park, and in coordination with plans for sediment management within the basin. To effectuate the provisions of this subsection, and to further develop scientific and professional information and data concerning the Redwood Forest ecosystem, and the various factors that may affect it, the Secretary may authorize access to the area subject to this subsection by designated representatives of the United States.

(Pub. L. 90–545, § 3, Oct. 2, 1968, 82 Stat. 931; Pub. L. 95–250, title I, § 101(a)(3)–(6), Mar. 27, 1978, 92 Stat. 163–165.)

REFERENCES IN TEXT

Section 79b(a) of this title, referred to in subsec. (b)(2), was in the original ''section 101(a)(2) of this amendment'', meaning section 101(a)(2) of Pub. L. 95–250, which amended section 79b(a) of this title.

CODIFICATION

''Section 3114(a)–(d) of title 40'' substituted in subsec. (b)(2) for ''section 258a of title 40, United States Code'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

In subsec. (b)(2), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949, as amended,'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (c), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended (40 U.S.C. 471 et seq.)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–250, § 101(a)(3), inserted provisions authorizing the Secretary to accept donations of lands owned by the State of California subject to such preexisting reverters and other conditions as may appear in the title to those lands and such other reverters and conditions as may be consistent with the use and management of the donated lands as a portion of the Redwood National Park and further authorizing the Secretary to expend appropriated funds for permanent improvements on the donated lands in a manner

not inconsistent with the reverters and other conditions.

Subsec. (b)(1). Pub. L. 95–250, §101(a)(4), expanded existing provisions, effective Mar. 27, 1978, by inserting references to the vesting in the United States of all right, title, and interest in, and right to immediate possession of, all real property, and to immediate possession of down tree personal property, within the area indicated as ''Proposed Additions'' on the map entitled ''Additional Lands, Redwood National Park, California'', numbered 167–80005–D and dated March 1978, and inserted two unlettered paragraphs relating, respectively, to the removal of down tree personal property and to the continued access and use of acquired roads.

Subsec. (b)(2). Pub. L. 95–250, §101(a)(5), struck out provision for the bringing of actions in the Court of Claims, as provided in section 1491 of title 28, against the United States for the recovery of just compensation for the land and interests therein taken by the United States and inserted provisions directing that such actions, as well as actions for down tree personal property taken, be brought in the United States district court for the district where the land is located without regard to the amount claimed, authorizing the United States to initiate proceedings to determine just compensation and to deposit the estimated just compensation in the registry of the court, making provision for the revestment of title in cases where the Secretary determines that fee simple title is not necessary, and otherwise relating to the right-of-way for a new bypass highway.

Subsec. (e). Pub. L. 95–250, §101(a)(6), substituted ''until after he has notified the President of the Senate'' for ''until sixty days after he has notified the President of the Senate'' in existing provisions and inserted provisions relating to the availability of funds for the acquisition of interests in land, the implementation of contracts and cooperative agreements pursuant to this subsection, and rehabilitative activities generally designed to minimize erosion and sedimentation in ways designed to assure adequate protection for Redwood National Park, contribute to the economic revival of Del Norte and Humboldt Counties in northern California, and provide employment opportunities to individuals affected by taking of land and interests in land.

§ 79c–1. Vesting in United States of all right, title, etc., in real property and down tree personal property in additional lands; effective date; authorization of appropriations

Notwithstanding any provision of this subchapter the vesting in the United States of all right, title, and interest in, and the right to immediate possession of, all real property and all down tree personal property within the area indicated as ''Proposed Additions'' on the map entitled ''Additional Lands, Redwood National Park, California,'' numbered 167–80005–D and dated March 1978, as established by section 79c(b)(1) of this title, shall be effective on March 27, 1978. The provisions of section 79c(b)(3) of this title shall also relate to the effective date of this section. From the appropriations authorized for fiscal year 1978 and succeeding fiscal years such sums as may be necessary may be expended for the acquisition of lands and interests in lands, and down tree personal property, authorized to be acquired, or acquired, pursuant to the provisions of this Act.

(Pub. L. 95–250, title I, §101(c), Mar. 27, 1978, 92 Stat. 166.)

REFERENCES IN TEXT

Section 79c(b)(1) of this title, referred to in text, was in the original ''subsection (a)(4) of the first section of this Act'', meaning section 101(a)(4) of Pub. L. 95–250, which amended section 79c(b)(1) of this title.

This Act, referred to in text, means Pub. L. 95–250, Mar. 27, 1978, 92 Stat. 163, as amended, which, insofar as classified to the Code, enacted sections 79c–1 and 79k to 79q of this title, amended sections 1a–1, 79b, and 79c of this title, and enacted provisions set out as a note under section 79k of this title. For complete classification of this Act to the Code, see Tables.

The effective date of this section, referred to in text, probably means the date of enactment of section 101 of Pub. L. 95–250, which was approved Mar. 27, 1978.

CODIFICATION

Section was not enacted as part of Pub. L. 90–545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

§ 79d. Acquisition of lands

(a) Owner's retention of right of use and occupancy for noncommercial residential purposes for fixed term of years or for life; election of term; fair market value; termination of use and occupancy inconsistent with stated purpose and upon payment of sum for unexpired right

The owner of improved property on the date of its acquisition by the Secretary under this subchapter may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purpose of this subchapter, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(b) "Improved property" defined

The term ''improved property'', as used in this section, means a detached, noncommercial residential dwelling, the construction of which was begun before October 9, 1967, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(c) Sale or lease of certain realty to former owner; conditions and restrictions

The Secretary shall have, with respect to any real property acquired by him in sections 5 and 8, township 13 north, range 1 east, Humboldt meridian, authority to sell or lease the same to the former owner under such conditions and restrictions as will assure that it is not utilized in a

manner or for purposes inconsistent with the national park.

(Pub. L. 90–545, § 4, Oct. 2, 1968, 82 Stat. 933.)

§ 79e. Exchange of property; cash equalization payments; commercial operations, minimum economic dislocation and disruption

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the park, and outside of such boundaries within the limits prescribed in this subchapter. Notwithstanding any other provision of law, the Secretary may acquire such property from the grantor by exchange for any federally owned property under the jurisdiction of the Bureau of Land Management in California, except property needed for public use and management, which he classifies as suitable for exchange or other disposal, or any federally owned property he may designate within the Northern Redwood Purchase Unit in Del Norte County, California, except that section known and designated as the Yurok Experimental Forest, consisting of approximately nine hundred and thirty-five acres. Such federally owned property shall also be available for use by the Secretary in lieu of, or together with, cash in payment of just compensation for any real property taken pursuant to section 79c(b) of this title. The values of the properties so exchanged either shall be approximately equal or, if they are not approximately equal, the value shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require. Through the exercise of his exchange authority, the Secretary shall, to the extent possible, minimize economic dislocation and the disruption of the grantor's commercial operations.

(Pub. L. 90–545, § 5, Oct. 2, 1968, 82 Stat. 933.)

§ 79f. Transfer of property from Federal agency to administrative jurisdiction of Secretary

Notwithstanding any other provision of law, any Federal property located within any of the areas described in sections 79b and 79c of this title may, with the concurrence of the head of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of this subchapter.

(Pub. L. 90–545, § 6, Oct. 2, 1968, 82 Stat. 934.)

§ 79g. Contract authorization within prescribed cost limits; installments: duration, interest; provisions for payment of judgments and compromise settlements applicable to judgments against United States

(a) Notwithstanding any other provision of law, the Secretary shall have the same authority with respect to contracts for the acquisition of land and interests in land for the purposes of this subchapter as was given the Secretary of the Treasury for other land acquisitions by section 3171 of title 40, and the Secretary and the owner of land to be acquired under this subchapter may agree that the purchase price will be paid in periodic installments over a period that does not exceed ten years, with interest on the unpaid balance thereof at a rate which is not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities on the installments.

(b) Judgments against the United States, including final partial judgments and compromise settlements of claims referred to the Attorney General for defense of suits against the United States, for amounts in excess of the deposit in court in actions under section 79c of this title shall be paid in accordance with the provisions of section 1304 of title 31, and section 2414 of title 28. Final partial judgments and compromise settlements are payable only after certification by the Attorney General to the Comptroller General that it is in the interest of the United States to do so.

(Pub. L. 90–545, § 7, Oct. 2, 1968, 82 Stat. 934; Pub. L. 99–151, title II, § 203, Nov. 13, 1985, 99 Stat. 807.)

CODIFICATION

''Section 3171 of title 40'' substituted in subsec. (a) for ''section 34 of the Act of May 30, 1908 (35 Stat. 545; 40 U.S.C. 261)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1985—Subsec. (b). Pub. L. 99–151, in amending subsec. (b) generally, inserted provisions relating to final partial judgments and compromise settlements, substituted reference to actions under section 79c of this title for reference to condemnation actions, and deleted reference to section 2517 of title 28.

§ 79h. Memorial groves named for benefactors

The present practice of the California Department of Parks and Recreation of maintaining memorial groves of redwood trees named for benefactors of the State redwood parks shall be continued by the Secretary in the Redwood National Park.

(Pub. L. 90–545, § 8, Oct. 2, 1968, 82 Stat. 934.)

§ 79i. Administration

The Secretary shall administer the Redwood National Park in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented.

(Pub. L. 90–545, § 9, Oct. 2, 1968, 82 Stat. 934.)

§ 79j. Authorization of appropriations

There are hereby authorized to be appropriated $92,000,000 for land acquisition to carry out the provisions of this subchapter.

(Pub. L. 90–545, § 10, Oct. 2, 1968, 82 Stat. 934.)

§ 79k. Mitigation of adverse economic impacts to local economy resulting from additional lands; analysis of Federal actions necessary or desirable; consultations and considerations by Secretaries concerned; reports to Congress; implementation of programs; funding requirements

(a) The Secretary, in consultation with the Secretaries of Agriculture, Commerce, and

Labor, shall conduct an analysis of appropriate Federal actions that may be necessary or desirable to mitigate any adverse economic impacts to public and private segments of the local economy, other than the owners of properties taken by this Act, as a result of the addition of property to Redwood National Park under sections 79b and 79c of this title. The Secretaries shall also consider the benefits of making grants or entering into contracts or cooperative agreements with the State of California or Del Norte and Humboldt Counties as provided by subsection (b) of this section for the purpose of development and implementation of a program of forest resource improvement and utilization, including, but not limited to, reforestation, erosion control, and other forest land conservation measures, fisheries and fish and wildlife habitat improvements, and wood energy facilities. Not later than January 1, 1979, the Secretary shall submit to the Speaker of the House of Representatives and the President of the Senate a report of his analysis, including his recommendations with respect to actions that should be taken to mitigate any significant short-term and long-term adverse effects on the local economy caused by such addition.

(b) The Secretary of Commerce and the Secretary of Labor, in consultation with the Secretary, and pursuant to his study, shall apply such existing programs as are necessary and appropriate to further mitigate identified employment and other adverse economic impacts on public and private segments of the local economy, other than with regard to the payment of just compensation to the owners of properties taken by this Act and by this subchapter. In addition to the land rehabilitation and employment provisions of this Act, which should have a substantial positive economic effect on the local economy, the Secretaries of Commerce and Labor are further authorized and directed to implement existing authorities to establish employment programs, pursuant to such grants, contracts and cooperative agreements with agencies of the Federal Executive, the State of California, any political or governmental subdivision thereof, any corporation, not-for-profit corporation, private entity or person, for the development and implementation of such programs, as, in the discretion of the Secretaries of Commerce and Labor, may be necessary to provide employment opportunities to those individuals affected by this taking and to contribute to the economic revival of Del Norte and Humboldt Counties, in northern California. Effective on October 1, 1978, there are authorized such sums as may be necessary to carry out the employment and economic mitigation provisions of this Act: *Provided*, That the authority to make payments under this section shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 95–250, title I, §102(a), (b), Mar. 27, 1978, 92 Stat. 166, 167.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 95–250, Mar. 27, 1978, 92 Stat. 163, as amended, which, insofar as classified to the Code, enacted sections 79c–1, 79k to 79q of this title, amended sections 1a–1, 79b, and 79c of this title, and enacted provisions set out as a note under section 79k of this title. For complete classification of this Act to the Code, see Tables.

Sections 79b and 79c of this title, referred to in subsec. (a), was in the original ''the first section of this Act'', meaning section 101 of Pub. L. 95–250. Provisions of section 101 relating to the addition of property to Redwood National Park are classified to sections 79b and 79c of this title.

CODIFICATION

Section was not enacted as part of Pub. L. 90–545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

STUDY OF TIMBER HARVEST SCHEDULING ALTERNATIVES FOR SIX RIVERS NATIONAL FOREST; SCOPE; REPORT TO CONGRESS

Section 102(c) of Pub. L. 95–250 directed Secretary of Agriculture, within one year after Mar. 27, 1978, to prepare and transmit to Congress a study of timber harvest scheduling alternatives for Six Rivers National Forest, which alternatives were to exclude timber inventories standing on units of Wilderness Preservation System at time of study and were to be consistent with laws applicable to management of national forests.

REFERENCE TO SECRETARY AS REFERENCE TO SECRETARY OF DEPARTMENT OF THE INTERIOR; EXCEPTION

Section 109 of Pub. L. 95–250 provided that: ''Unless otherwise indicated hereinbefore, a reference to the Secretary will refer to the Secretary of the Department of the Interior, except in subsections 103(d) through 103(i) [section 79*l*(d) to (i) of this title], where a reference to the Secretary will refer to the Secretary of the Department of Labor.''

§ 79*l*. Employment of personnel for rehabilitation, protection, and improvements of additional lands

(a) Appointment and compensation of personnel for implementation of protection and enhancement programs

In order to utilize the skills of individuals presently working in the woods and in the mills to the greatest degree possible to both ease the personal economic effects of this taking, and to assist in the necessary rehabilitation, protection, and improvement of lands acquired by this Act through implementation of sound rehabilitation and land use practices, the Secretary shall have power to appoint and fix the compensation of seven full-time and thirty-one temporary personnel to assist in carrying out such programs necessary for the protection and enhancement of Redwood National Park.

(b) Appointment and compensation of personnel for administration of expanded Park; appointment, etc., of additional personnel

In order to effectively administer the expanded Redwood National Park created by this Act in a manner that will provide maximum protection to its resources and to provide for maximum visitor use and enjoyment to ease the local economic effects of this taking, the Secretary shall have power to appoint and fix the compensation of two full-time and twenty temporary employees in the competitive service. The Secretary shall further have power to appoint and fix the compensation of an additional thirty-two full-time and forty temporary employees in the competitive service as provided by this subsection at the time of the donation of

those park lands or interests in land owned by the State of California as are within the boundaries of Redwood National Park as provided herein. In filling these positions, preference shall be given to those State employees affected by this transfer for a period not to exceed six years from the date of transfer; permanent State civil service employees shall be provided the opportunity to transfer to a comparable Federal civil service classification notwithstanding applicable civil service laws and regulations.

(c) Job positions subject to preferential treatment for affected employees

An affected employee shall be given full consideration for certain civilian jobs as provided in this section both with the Federal Government and with those private employers that have certain undertakings or programs that involve Federal participation or approval for the period beginning on March 27, 1978, and ending September 30, 1984, if the positions will be primarily located in Humboldt or Del Norte Counties or other counties in California adjacent thereto, and if the employee is otherwise qualified under this section.

(d) Procedures applicable to Federal agencies for creating or filling job positions; applicants subject to preferential treatment; considerations for employment

(1) Any Federal agency that is creating or filling a civilian Federal job that is within the scope of clause (2)(A) of this subsection, pursuant to contract, civil service merit system, or otherwise, that will be primarily located in Humboldt or Del Norte Counties, California, or other counties in California adjacent thereto, must provide notice in advance of the availability of that job and must provide qualified affected employee applicants for these positions with full consideration for these positions if the further conditions set forth in clause (2)(B) of this subsection are met. The notice required by this paragraph shall be as provided by applicable law and regulation through the offices of the Employment and Training Services located in Humboldt and Del Norte Counties, California, and through such other means as are likely to gain the attention of affected employees.

(2) Consideration for employment under this section shall be provided under the following conditions:

(A) the job involves skills and training that could reasonably be expected to have been gained by individuals who have been employed as logging and related woods employees or sawmill, plywood, and other wood processing employees, or office employees, or that can reasonably be expected to be gained while so employed, or pursuant to retraining as provided herein; and

(B) the applicant has the ability, or can reasonably be expected to have the ability after appropriate training of reasonable duration as further provided herein, to perform the duties of the job: *Provided*, That the full consideration shall not be required with respect to those affected employee applicants requiring training in a situation where the schedule for completion of the work is such that the period during which said employee can reasonably be expected to work following completion of training is determined by the Secretary to be incommensurate with the time and funds required to provide said employee with the necessary training.

(e) Private employer requirements for filling covered employment positions with affected employees pursuant to Federal contracts, etc.; procedures applicable and considerations for employment

(1) Any Federal agency involved in the manner provided herein with a private employer responsible for filing[1] an employment position that is within the scope of clause (2)(A) of subsection (d) of this section, that will be primarily located in Humboldt or Del Norte Counties, or other counties in California adjacent thereto, is directed to require that any Federal contracts, grants, subsidies, loans, or other forms of funding assistance, and any Federal lease, permit, license, certificate, or other entitlement for use, not constituting an existing property right as of March 27, 1978, that is a condition to or a requirement of the conduct of harvesting and related activities or replanting and land rehabilitation or the conduct of wood processing and related activities or the conduct of highway construction and related activities shall be subject to and conditioned upon said private employer giving full consideration to affected employees as provided herein.

(2) Any private employer who participates with a Federal agency in the manner described above and who is, accordingly, subject to the requirements as provided herein, shall—

(A) provide notice of the availability of those jobs described in subsection (d)(2)(A) of this section in the manner generally provided by subsection (d)(1) of this section; and

(B) provide full consideration to qualified affected employee applicants for these positions if the further conditions established by clause (2)(B) of subsection (d) of this section are met.

(f) Agreements with affected employers and industry employers for full consideration to employment of affected employees formerly employed by affected employers; implementation

The Secretary is directed to seek and authorized to enter into agreements with affected employers and industry employers providing that full consideration shall be given with respect to the employment of affected employees who had been employed by affected employers in jobs that may become available in Humboldt and Del Norte Counties and other counties adjacent thereto. The execution and carrying out of such an agreement, or the giving of full consideration to the employment of affected employees under subsection (c) of this section, shall not subject an employer to any additional liability or obligations under any Federal or State equal employment law, rule, regulation, or order.

(g) Implementation of requirements

(1) The Secretary, except as otherwise provided, shall be responsible for the implementation of this section and—

[1] So in original. Probably should be ''filling''.

(A) is authorized and directed to make needed training available, upon application, to an affected employee applicant who, although not presently qualified for a position, can be reasonably expected to be qualified after appropriate training;

(B) is authorized to take such actions as may be necessary to ensure that an affected employee is not denied full consideration because of the need for training where there is no substantial reason to believe that the applicant would be unable to perform the duties of the job after proper training. If the job is one which must be filled while the affected employee would be in training, the Secretary shall encourage the employer to fill the job only on a temporary basis subject to the successful completion of the training by the affected employee;

(C) shall require that, in a case in which two or more affected employee applicants have approximately equal qualifications for a job for which they are to receive full consideration, that applicant with the greatest creditable service shall be given preference among those applicants entitled to full consideration; and

(D) upon the filing of a complaint by an employee who alleges that said employee's rights to full consideration were disregarded, the Secretary shall make a finding on the merits of such complaint. If it is determined that there has been noncompliance with this section, the Secretary shall take such action as may be appropriate to correct the situation.

(2) To assist in implementing this section, agencies shall notify the Secretary, in advance, of any job opening as provided for by subsection (d) of this section and of any Federal commitment as provided for by subsection (e) of this section.

(3) The Secretary shall—

(A) seek the cooperation of the State of California and the county and local governments within Humboldt and Del Norte Counties in the implementation of the provisions of this section and in the adoption of similar provisions for full consideration of affected employees with regard to State, county, and local jobs and activities; and

(B) appoint, from among nominees proposed by certified or recognized unions representing employees, a person or persons who shall serve as the Secretary's liaison with employees and their union and as consultant to the Secretary with regard to the administration of those provisions of this Act for which the Secretary is responsible.

(h) Judicial review of determination of Secretary respecting employee, etc.; procedures applicable

An employee, a group of employees, a certified or recognized union, or an authorized representative of such employee or group, aggrieved by any determination by the Secretary under this Act shall be entitled to judicial review of such determination in the same manner and under the same conditions as provided by section 2395 of title 19, except that such review shall be in the appropriate court of appeals of the United States, and the judgment of such court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(i) Additional or alternative rights under existing labor laws, regulations, or contracts unaffected; compensation of employees appointed to Federal jobs

Nothing in this section shall be construed to affect any additional or alternative rights under a law, regulation, or contract (including, but not limited to, veteran preference and contracts between private employers and unions) in effect as of March 27, 1978, and the implementation of this section shall be carried out in accord with applicable civil service laws and regulations except as otherwise provided for in this section. Employees appointed to Federal jobs pursuant to this section shall have their compensation fixed at rates not to exceed that now or hereafter prescribed for the highest rate of grade 15 of the General Schedule under section 5332 of title 5.

(Pub. L. 95–250, title I, §103, Mar. 27, 1978, 92 Stat. 167; Pub. L. 96–417, title VI, §602, Oct. 10, 1980, 94 Stat. 1744; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(b)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–417.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a), (b), (g)(3)(B), and (h), means Pub. L. 95–250, Mar. 27, 1978, 92 Stat. 163, as amended, which, insofar as classified to the Code, enacted sections 79c–1, 79k to 79q of this title, amended sections 1a–1, 79b, and 79c of this title, and enacted provisions set out as a note under section 79k of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as part of Pub. L. 90–545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §101(f) [title VIII, §405(b)(1)], struck out at end ''In filling these positions, preference shall be given to affected employees (as defined in title II of this Act) for a period ending on September 30, 1984, notwithstanding applicable civil service laws and regulations.''

Subsec. (b). Pub. L. 105–277, §101(f) [title VIII, §405(b)(2)], struck out after first sentence ''In filling these positions, preference shall be given to affected employees (as defined in title II) for a period ending on September 30, 1984, notwithstanding applicable civil service laws and regulations.''

1980—Subsec. (h). Pub. L. 96–417 substituted provision for judicial review under section 2395 of title 19 for review under section 2322 of title 19 and provided for review in the appropriate court of appeals of the United States and for review of the judgment of the court of appeals by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96–417, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

REFERENCE TO SECRETARY AS REFERENCE TO SECRETARY OF DEPARTMENT OF THE INTERIOR; EXCEPTION

Reference to Secretary, unless otherwise indicated, as reference to Secretary of Department of the Interior,

except for purposes of subsecs. (d) to (i) of this section, where reference to Secretary shall refer to Secretary of the Department of Labor, see section 109 of Pub. L. 95–250, set out as a note under section 79k of this title.

§ 79m. Annual reporting requirements; contents; comprehensive general management plan; submission date and scope

(a) The Secretary shall submit an annual written report to the Congress on January 1, 1979, and annually thereafter for ten years, reporting on the status of payment by the Secretary for real property acquired pursuant to section 79c(b)(1) and section 79b of this title; the status of the actions taken regarding land management practices and watershed rehabilitation efforts authorized by section 79c(e) and section 79k(b) of this title; the status of the efforts to mitigate adverse economic impacts as directed by this Act; this[1] status of National Park Service employment requirements as authorized by section 79*l* of this title; the status of the new bypass highway and of the agreement for the donation of the State park lands as contemplated by section 79c(b)(2) of this title; and, the status of the National Park Service general management plan for the park.

(b) No later than January 1, 1980, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives, and to the Committee on Energy and Natural Resources of the Senate, a comprehensive general management plan for Redwood National Park, to include but not be limited to the following:

(1) the objectives, goals, and proposed actions designed to assure the preservation and perpetuation of a natural redwood forest ecosystem;

(2) the type and level of visitor use to be accommodated by the park, by specific area, with specific indications of carrying capacities consistent with the protection of park resources;

(3) the type, extent, and estimated cost of development proposed to accommodate visitor use and to protect the resource, to include anticipated location of all major development areas, roads, and trails; and

(4) the specific locations and types of foot trail access to the Tall Trees Grove, of which one route shall, unless shown by the Secretary to be inadvisable, principally traverse the east side of Redwood Creek through the essentially virgin forest, connecting with the roadhead on the west side of the park east of Orick.

(Pub. L. 95–250, title I, § 104, Mar. 27, 1978, 92 Stat. 170.)

References in Text

Section 79c(b)(1) of this title, referred to in subsec. (a), was in the original ''section 101(a)(4) . . . of this amendment'', meaning section 101(a)(4) of Pub. L. 95–250, which amended section 79c(b)(1) of this title.

Section 79b of this title, referred to in subsec. (a), was in the original ''section 101(a)(2) of this amendment'', meaning section 101(a)(2) of Pub. L. 95–250, which amended subsecs. (a) and (b), and added subsec. (c), of section 79b of this title.

Section 79c(e) of this title, referred to in subsec. (a), was in the original ''section 101(a)(6) . . . of this amendment'', meaning section 101(a)(6) of Pub. L. 95–250, which amended section 79c(e) of this title.

Section 79k(b) of this title, referred to in subsec. (a), was in the original ''section 102(b) of this amendment'', meaning section 102(b) of Pub. L. 95–250, which enacted section 79k(b) of this title.

This Act, referred to in subsec. (a), means Pub. L. 95–250, Mar. 27, 1978, 92 Stat. 163, as amended, which, insofar as classified to the Code, enacted sections 79c–1, 79k to 79q of this title, amended sections 1a–1, 79b, and 79c of this title, and enacted provisions set out as a note under section 79k of this title. For complete classification of this Act to the Code, see Tables.

Section 79*l* of this title, referred to in subsec. (a), was in the original ''section 102 of this amendment'', meaning section 103 of Pub. L. 95–250, which enacted section 79*l* of this title.

Section 79c(b)(2) of this title, referred to in subsec. (a), was in the original ''section 101(a)(5) of this amendment'', meaning section 101(a)(5) of Pub. L. 95–250, which amended section 79c(b)(2) of this title.

Codification

Section was not enacted as part of Pub. L. 90–545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

Change of Name

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

Reference to Secretary as Reference to Secretary of Department of the Interior; Exception

Reference to Secretary, unless otherwise indicated, as reference to Secretary of Department of the Interior, see section 109 of Pub. L. 95–250, set out as a note under section 79k of this title.

§ 79n. Authorization of appropriations for rehabilitation programs

Effective on October 1, 1978, there are hereby authorized to be appropriated $33,000,000 to carry out the rehabilitation provisions of this Act.

(Pub. L. 95–250, title I, § 105, Mar. 27, 1978, 92 Stat. 171.)

References in Text

This Act, referred to in text, means Pub. L. 95–250, Mar. 27, 1978, 92 Stat. 163, as amended, which, insofar as classified to the Code, enacted sections 79c–1, 79k to 79q of this title, amended sections 1a–1, 79b, and 79c of this title, and enacted provisions set out as a note under section 79k of this title. For complete classification of this Act to the Code, see Tables.

Codification

Section was not enacted as part of Pub. L. 90–545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

§ 79*o*. Repealed. Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068

Section, Pub. L. 95–250, title I, § 106, Mar. 27, 1978, 92 Stat. 171, related to payments to local government units for entitlement lands within the Redwood National Park. See section 6905 of Title 31, Money and Finance.

§ 79p. Community services and employment opportunities of Redwoods United, Inc. to be maintained at present rate of employment

The Secretary is further authorized, and the Congress specifically directs that it shall be a

[1] So in original. Probably should be ''the''.

purpose of this Act, that the community services and employment opportunities provided by Redwoods United, Incorporated, a nonprofit corporation located in Manila, California, shall be maintained at the present rate of employment to the greatest degree practicable.

(Pub. L. 95–250, title I, §107, Mar. 27, 1978, 92 Stat. 171.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 95–250, Mar. 27, 1978, 92 Stat. 163, as amended, which, insofar as classified to the Code, enacted sections 79c–1, 79k to 79q of this title, amended sections 1a–1, 79b, and 79c of this title, and enacted provisions set out as a note under section 79k of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as part of Pub. L. 90–545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

REFERENCE TO SECRETARY AS REFERENCE TO SECRETARY OF DEPARTMENT OF THE INTERIOR; EXCEPTION

Reference to Secretary, unless otherwise indicated, as reference to Secretary of Department of the Interior, see section 109 of Pub. L. 95–250, set out as a note under section 79k of this title.

§ 79q. Pledge of full faith and credit of United States for payment of compensation for lands, etc., taken

The Congress further acknowledges and directs that the full faith and credit of the United States is pledged to the prompt payment of just compensation as provided for by the fifth amendment to the Constitution of the United States for those lands and properties taken by this Act.

(Pub. L. 95–250, title I, §108, Mar. 27, 1978, 92 Stat. 172.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 95–250, Mar. 27, 1978, 92 Stat. 163, as amended, which, insofar as classified to the Code, enacted sections 79c–1, 79k to 79q of this title, amended sections 1a–1, 79b, and 79c of this title, and enacted provisions set out as a note under section 79k of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as part of Pub. L. 90–545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

SUBCHAPTER VIII—KINGS CANYON NATIONAL PARK

§ 80. Establishment; boundaries; preservation of rights of citizens

The tract of land in the State of California, particularly described as follows, to wit: Beginning at the summit of Junction Peak, being a point on the present north boundary of Sequoia National Park, also a point on the Tulare and Inyo County line; thence westerly along said north boundary of said park to the crest of the hydrographic divide between Boulder Creek and Sugarloaf Creek; thence in a northerly direction along the crest of the hydrographic divide between Boulder Creek and Sugarloaf Creek to the intersection of said divide with the section line between sections 3 and 4 of township 14 south, range 30 east, Mount Diablo base and meridian; thence northerly along the section line between said sections 3 and 4 and between sections 33 and 34, and sections 27 and 28 of township 13 south, range 30 east, to the northwest corner of southwest quarter of section 27; thence northwesterly along the ridge immediately adjacent to and lying northeast from the headwaters of the east fork of Lightning Creek to the intersection of said ridge with the section line between sections 21 and 28, township 13 south, range 30 east, which point lies on the said section line three quarters of a mile more or less westerly from the northeast corner of said section 28; thence in a northerly direction across the easterly branch of the east fork of Lightning Creek at Summit Meadow to the ridge north of said creek branch; thence northeasterly along said ridge to Lookout Peak; thence in a northeasterly direction along the ridge from said peak, being also the crest of the hydrographic divide between Sheep Creek and Lightning Creek to the intersection of said ridge, with the line between section 15 and 22, township 13 south, range 30 east, which point lies one quarter of a mile more or less westerly of the northeast corner of said section 22; thence easterly along said section line to the corner of sections 14, 15, 22, and 23; thence north along the line between sections 14 and 15 to the southwest corner of the northwest quarter of the northwest quarter of section 14; thence east to the southeast corner of the northeast quarter of the northwest quarter of the said section; thence south to the southwest corner of the northeast quarter of the said section; thence east to the southeast corner of the southwest quarter of the northeast quarter of the said section; thence south to the southwest corner of the northeast quarter of the southeast quarter of the said section; thence east to the northeast corner of the southeast quarter of the southeast quarter of the said section; thence south to the southwest corner of section 13; thence east on the line between sections 13 and 24 to the southeast corner of section 13; thence south to southwest corner of the northwest quarter of the northwest quarter of section 19, township 13 south, range 31 east; thence east along the north latitudinal one-sixteenth section line of sections 19, 20, and 21 to the southeast corner of the northeast quarter of the northwest quarter of said section 21; thence north to the quarter section corner of sections 16 and 21; thence east along the line between sections 16 and 21 to the southeast corner of said section 16; thence north along the section line to the quarter section corner of sections 15 and 16; thence west along the latitudinal quarter section line of sections 16, 17, and 18 to the northwest corner of the southeast quarter of section 18; thence north to the northeast corner of the southeast quarter of the northwest quarter of said section 18; thence west to the northwest corner of the southwest quarter of the northwest quarter of said section 18; thence north along the range line between ranges 30 and 31 east, township 13 south to the northeast corner of section 13, township 13 south, range 30 east; thence west along the line between sections 12 and 13 to the southeast corner of the

southwest quarter of the southwest quarter of section 12; thence north to the northeast corner of the southwest quarter of the southwest quarter of said section 12; thence west to the northwest corner of the southeast quarter of the southeast quarter of section 11; thence north to the northeast corner of the northwest quarter of the northeast quarter of said section 11; thence west along the line between sections 2 and 11 to the northwest corner of the northeast quarter of the northwest quarter of said section 11; thence south to the southwest corner of the northeast quarter of the northwest quarter of said section 11; thence west to the northwest corner of the southwest quarter of the northwest quarter of said section 11; thence north along the line between sections 10 and 11 and 2 and 3 to the intersection with the ridge of southeast spur of Stag Dome; thence in a northwesterly direction along the crest of said spur to the summit of Stag Dome; thence in a northerly direction along the crest of the hydrographic divide between Lewis Creek and Deer Cove and Grizzly Creek to its intersection with Monarch Divide at Hog-Back Peak; thence in a westerly direction along the crest of Monarch Divide, to its junction with the northwesterly spur of Mount Harrington; thence northwesterly along the crest of hydrographic divide on the southwest side of the Gorge of Despair to the intersection with the line between sections 12 and 13, township 12 south, range 29 east; thence continuing west along the line between sections 12 and 13, 11 and 14 to the southwest corner of the southeast quarter of the southeast quarter of said section 11; thence northerly to the southwest corner of the southeast quarter of the northeast quarter of said section 11; thence east to the quarter section corner of sections 11 and 12; thence north to the southeast corner of the northeast quarter of the northeast quarter of said section 11; thence east to the southeast corner of the northwest quarter of the northwest quarter of section 12; thence north to the northeast corner of the northwest quarter of the northwest quarter of said section 12; thence east to the quarter section corner of sections 1 and 12; thence north to the northeast corner of the southeast quarter of the southwest quarter of said section 1; thence east to the southeast corner of the northwest quarter of the southeast quarter of said section 1; thence north to the northeast corner of the northwest quarter of the southeast quarter of said section 1; thence east to the quarter section corner of sections 1 and 6; thence north along the range line between the ranges 29 and 30 east, township 12 south, to the northeast corner of said section 1, township 12 south, range 29 east; thence east along the township line between townships 11 and 12 south range 30 east to the southeast corner of the southwest quarter of the southwest quarter of section 31, township 11 south, range 30 east; thence north to the northeast corner of the southwest quarter of the southwest quarter of said section 31; thence west to the northwest corner of the southwest quarter of the southeast quarter of section 36, township 11 south, range 29 east; thence south to the quarter section corner of sections 1 and 36; thence west along the township line between townships 11 and 12 south, range 29 east to the northwest corner of section 1, township 12 south, range 29 east; thence south to the southwest corner of the northwest quarter of the northwest quarter of said section 1; thence west to the northwest corner of the southwest quarter of the northwest quarter of section 2; thence south to the northwest corner of the southwest quarter of the southwest quarter of said section 2; thence west to the northwest corner of the southeast quarter of the southeast quarter of section 3; thence south to the southwest corner of the southeast quarter of the southeast quarter of section 3; thence continuing south to the intersection with the four thousand four hundred contour; thence along the four thousand four hundred-foot contour in a southwesterly direction to its intersection with Tombstone Ridge; thence in a northwesterly direction along the crest of the Tombstone Ridge to the summit of the Obelisk; thence in a straight line in a northeasterly direction crossing Crown Creek to the summit of Kettle Dome; thence in a northeasterly direction along the crest of Kettle Ridge to the summit of Finger Peak in the White Divide; thence northwesterly along the crest of the said White Divide and the Le Conte Divide, passing over the summits of Mount Reinstein and Red Mountain to the summit of Mount Henry; thence in a northerly direction along the crest of the north spur of Mount Henry to the junction of the South Fork San Joaquin River and Piute Creek; thence across the South Fork San Joaquin River and in a northeasterly direction along the hydrographic divide between Piute Creek and the South Fork San Joaquin River to the summit of Pavillion Dome; thence in an easterly direction along the crest of said hydrographic divide to its intersection with Glacier Divide; thence continuing southeasterly along the crest of said Glacier Divide to a point of intersection with the crest of the Sierra Nevada Range, also the boundary line between Inyo County and Fresno County; thence continuing southeasterly along the crest of said Sierra Nevada Range, passing over the summits of Mount Lamarack, Mount Darwin, Mount Haeckel, Mount Wallace, Mount Powell, Mount Thompson, Mount Gilbert, Mount Johnson, Mount Goode, Mount Winchell, North Palisade, The Thumb, Mount Bolton Brown, Split Mountain, Cardinal Mountain, Striped Mountain, Mount Perkins, Colosseum Mountain, Mount Baxter, Diamond Peak, Black Mountain, Dragon Peak, Mount Bixford, Mount Gould, University Peak, Mount Bradley, and Mount Keith to the summit of Junction Peak, being the point of beginning; is reserved and withdrawn from settlement, occupancy, or disposal under the laws of the United States and dedicated and set apart as a public park, to be known as the Kings Canyon National Park, for the benefit and enjoyment of the people: *Provided*, That nothing in this subchapter shall be construed to affect or abridge any right acquired by any citizen of the United States in the above-described area: *And provided further*, That no grazing permits heretofore issued and in effect on January 15, 1939, affecting the area described in this section, for whose renewal an application is made before the date of expiration shall be affected by this subchapter, except that they shall be subject to such terms and conditions to insure protection

of the lands and for other purposes as may be prescribed by the Secretary of the Interior.

(Mar. 4, 1940, ch. 40, § 1, 54 Stat. 41.)

ADDITIONS TO KINGS CANYON NATIONAL PARK

The following provision authorized the addition of lands to Kings Canyon National Park: Pub. L. 98–425, title I, § 105(a)(1), Sept. 28, 1984, 98 Stat. 1626.

§ 80a. General Grant National Park abolished; lands added to Kings Canyon National Park

The General Grant National Park is abolished, and the west half of section 33, township 13 south, range 28 east, and west half of section 4, all of section 8 and the northwest quarter of section 9, township 14 south, range 28 east, Mount Diablo meridian, California, together with the lands formerly within the General Grant National Park, California, and particularly described as follows, to wit: All of sections 31 and 32, township 13 south, range 28 east, and sections 5 and 6, township 14 south, range 28 east, of the same meridian, are, subject to valid existing rights, added to and made a part of the Kings Canyon National Park and such lands shall be known as the General Grant grove section of the said park. The General Grant grove section of the Kings Canyon National Park may, by proclamation of the President, be extended to include the following described lands, to wit: Section 9, south half, section 10, southwest quarter, and that part of the east half south of Generals Highway; section 11, that part south of Generals Highway; section 13, that part south of Generals Highway; section 14, that part south of Generals Highway, section 15, east half, northwest quarter, and the southeast quarter of the southwest quarter, section 21, southeast quarter of the northeast quarter, and the east half of the southeast quarter; section 22, east half, east half of the northwest quarter, southwest quarter of the northwest quarter and southwest quarter; section 23; section 24, that part south of Generals Highway; sections 25 and 26; section 27, east half, northwest quarter, and that part of the southwest quarter north and east of the crest of Redwood Mountain; section 34, that part east of the crest of Redwood Mountain; sections 35 and 36, township 14 south, range 28 east; all of sections 1 and 2; section 3, that part east of the crest of Redwood Mountain; section 11, that part east and north of the crest of Redwood Mountain; all of section 12; section 13, that part north of the Sequoia National Park boundary, township 15 south, range 28 east, Mount Diablo meridian, which shall be subject to all laws, rules, and regulations applicable to the said park. Such extension of the General Grant grove section of the said park shall not interfere with the movement of stock and vehicular traffic without charge, under general regulations to be prescribed by the Secretary of the Interior, to and from national forest lands on either side of the said park extension. The Kings Canyon National Park shall receive and use all moneys prior to or after March 4, 1940, appropriated for General Grant National Park.

(Mar. 4, 1940, ch. 40, § 2, 54 Stat. 43.)

NATION'S CHRISTMAS TREE

Joint Res. Mar. 29, 1956, ch. 98, 70 Stat. 57, provided: ''That the General Grant tree, which is located in the Kings Canyon National Park, in Fresno County, California, and which was dedicated by the Federal Government in 1926 as the Nation's Christmas Tree, is hereby declared to be a national shrine in memory of the men and women of the Armed Forces who have served and fought and died to keep this Nation free and to preserve the spiritual, human, and civil rights which are the essence of our American heritage. The Secretary of the Interior, through the National Park Service, shall make appropriate provision for the perpetual care and maintenance of such shrine.

''SEC. 2. Nothing in this Act shall be deemed to change the name of the General Grant tree.''

ADJUSTMENT OF BOUNDARIES AND RIGHTS

Act June 5, 1942, ch. 333, §§ 1, 2, 56 Stat. 310, authorized the Secretary of the Interior to adjust the boundaries of privately owned lands in the General Grant grove section of Kings Canyon National Park in accordance with a survey made by the county surveyor of Tulare County, California; to amend existing patents or relinquish or grant parcels of land therein according to said survey; and to pay from departmental appropriations expenses of surveys and investigations necessary to carry out provisions of this act.

§ 80a–1. Lands excluded from Kings Canyon National Park and added to Sequoia National Forest

For the purpose of improving the boundary of Kings Canyon National Park, California, and excluding therefrom certain land that is no longer needed for park purposes, that particular area of the park, comprising approximately 160 acres, lying west of the section line between sections 21 and 22, and lying west of the section line between sections 27 and 28, township 13 south, range 30 east, Mount Diablo meridian, is excluded from the park.

Land excluded from the park by this section on and after August 14, 1958 shall be a part of the Sequoia National Forest.

(Pub. L. 85–666, § 1, Aug. 14, 1958, 72 Stat. 616.)

CODIFICATION

Section was not enacted as part of act Mar. 4, 1940, ch. 40, 54 Stat. 41, which comprises this subchapter.

§ 80a–2. Lands excluded from Sequoia National Forest and added to Kings Canyon National Park

For the purpose of facilitating park road maintenance, and to include in the park certain property that is desirable for future use and development, the following land situated in section 7, township 14 south, range 28 east, Mount Diablo meridian, is excluded from the Sequoia National Forest and added to the Kings Canyon National Park:

East half northeast quarter, east half west half northeast quarter, northeast quarter southeast quarter, east half northwest quarter southeast quarter, and those portions of the southeast quarter southeast quarter and of the east half southwest quarter southeast quarter, lying north of the right-of-way of State Highway 180.

(Pub. L. 85–666, § 2, Aug. 14, 1958, 72 Stat. 617.)

CODIFICATION

Section was not enacted as part of act Mar. 4, 1940, ch. 40, 54 Stat. 41, which comprises this subchapter.

§ 80a–3. Lands excluded from Sierra National Forest and Sequoia National Forest and added to Kings Canyon National Park

All lands in Tehipite Valley within the Sierra National Forest lying north of a line described as follows:

Beginning at a point on the existing west boundary of the Kings Canyon National Park on the hydrographic divide on the southwest side of the Gorge of Despair in section 13, township 12 south, range 29 east, Mount Diablo base and meridian, being the crest of a ridge designated as Silver Spur;

thence following the crest of Silver Spur westerly to the intersection with the west line of section 14, township 12 south, range 29 east; thence northwesterly in a straight line across the middle fork of the Kings River to the point of intersection of the right bank of a stream or intermittent stream and the 4,400-foot contour north of Tombstone Ridge, in section 15, township 12 south, range 29 east, being a point on the existing west boundary of the park;

and all lands in the Cedar Grove area of the Sequoia National Forest lying east of the west section lines of sections 11 and 14, township 13 south, range 30 east, Mount Diablo base and meridian, are hereby excluded from the said national forests and made a part of the Kings Canyon National Park, subject to all the laws and regulations applicable to such park.

(Pub. L. 89–111, Aug. 6, 1965, 79 Stat. 446.)

CODIFICATION

Section was not enacted as part of act Mar. 4, 1940, ch. 40, 54 Stat. 41, which comprises this subchapter.

§ 80b. Administration for public recreational purposes

The National Park Service shall, under the rules and regulations to be prescribed by the Secretary of the Interior, administer for public recreational purposes the lands withdrawn.

(Mar. 4, 1940, ch. 40, § 3, 54 Stat. 44.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 80c. Motor-vehicle licenses for Sequoia National Park as applicable; limitation of privileges within park

Any motor-vehicle license issued for Sequoia National Park shall be applicable to Kings Canyon National Park, and vice versa: *Provided*, That in order to insure the permanent preservation of the wilderness character of the Kings Canyon National Park the Secretary of the Interior may, in his discretion, limit the character and number of privileges that he may grant within the Kings Canyon National Park.

(Mar. 4, 1940, ch. 40, § 4, 54 Stat. 44; Aug. 17, 1950, ch. 730, 64 Stat. 458.)

AMENDMENTS

1950—Act Aug. 17, 1950, struck out last sentence which restricted concessionaires to a five-year term.

§ 80d. Administration, protection, and development

The administration, protection, and development of the Kings Canyon National Park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(Mar. 4, 1940, ch. 40, § 5, 54 Stat. 44.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 80d–1. Use of appropriations for road construction

After June 22, 1946, no part of appropriations made for the National Park Service shall be available for road construction in Kings Canyon National Park, California, except on the floor of the canyon of the South Fork of the Kings River and the Grant Grove section of that park.

(July 1, 1946, ch. 529, § 1, 60 Stat. 377.)

CODIFICATION

Section was not enacted as part of act Mar. 4, 1940, ch. 40, 54 Stat. 41, which comprises this subchapter.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§§ 80e to 80h. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 80e, act Apr. 23, 1946, ch. 202, § 1, 60 Stat. 119, related to appointment and jurisdiction of commissioner. See provisions covering United States magistrate judges in section 631 et seq. of Title 28, Judiciary and Judicial Procedure.

Section 80f, act Apr. 23, 1946, ch. 202, § 2, 60 Stat. 119, related to arrests for violations of rules and petty offenses.

Section 80g, act Apr. 23, 1946, ch. 202, § 3, 60 Stat. 120, related to arrests for criminal offenses, and is now covered by section 3041 of Title 18, Crimes and Criminal Procedure, and rules 4, 5(c), and 9 of Federal Rules of Criminal Procedure, Title 18, Appendix.

Section 80h, act Apr. 23, 1946, ch. 202, § 4, 60 Stat. 120, related to payment and disposition of fees, costs, and expenses.

SUBCHAPTER IX—COLONIAL NATIONAL HISTORICAL PARK

§ 81. Establishment; statement of purposes

Upon proclamation of the President, as herein provided, sufficient of the areas hereinafter specified for the purposes of this subchapter

shall be established and set apart as the Colonial National Historical Park for the preservation of the historical structures and remains thereon and for the benefit and enjoyment of the people.

(July 3, 1930, ch. 837, §1, 46 Stat. 855; June 5, 1936, ch. 525, §2, 49 Stat. 1483.)

CODIFICATION

Section was formerly classified to section 443 of this title.

CHANGE OF NAME

Section 2 of act June 5, 1936, provided: ''That the area now within the Colonial National Monument, together with such additions as may hereafter be made thereto, pursuant to section 1 hereof [section 81b of this title], shall be known as the 'Colonial National Historical Park', under which name the aforesaid national park shall be entitled to receive and to use all moneys heretofore or hereafter appropriated for the Colonial National Monument.''

JAMESTOWN 400TH COMMEMORATION COMMISSION

Pub. L. 106–565, Dec. 23, 2000, 114 Stat. 2812, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Jamestown 400th Commemoration Commission Act of 2000'.

''SEC. 2. FINDINGS AND PURPOSE.

''(a) FINDINGS.—Congress finds that—

''(1) the founding of the colony at Jamestown, Virginia in 1607, the first permanent English colony in the New World, and the capital of Virginia for 92 years, has major significance in the history of the United States;

''(2) the settlement brought people from throughout the Atlantic Basin together to form a multicultural society, including English, other Europeans, Native Americans, and Africans;

''(3) the economic, political, religious, and social institutions that developed during the first 9 decades of the existence of Jamestown continue to have profound effects on the United States, particularly in English common law and language, cross cultural relationships, and economic structure and status;

''(4) the National Park Service, the Association for the Preservation of Virginia Antiquities, and the Jamestown-Yorktown Foundation of the Commonwealth of Virginia collectively own and operate significant resources related to the early history of Jamestown; and

''(5) in 1996—

''(A) the Commonwealth of Virginia designated the Jamestown-Yorktown Foundation as the State agency responsible for planning and implementing the Commonwealth's portion of the commemoration of the 400th anniversary of the founding of the Jamestown settlement;

''(B) the Foundation created the Celebration 2007 Steering Committee, known as the Jamestown 2007 Steering Committee; and

''(C) planning for the commemoration began.

''(b) PURPOSE.—The purpose of this Act is to establish the Jamestown 400th Commemoration Commission to—

''(1) ensure a suitable national observance of the Jamestown 2007 anniversary by complementing the programs and activities of the State of Virginia;

''(2) cooperate with and assist the programs and activities of the State in observance of the Jamestown 2007 anniversary;

''(3) assist in ensuring that Jamestown 2007 observances provide an excellent visitor experience and beneficial interaction between visitors and the natural and cultural resources of the Jamestown sites;

''(4) assist in ensuring that the Jamestown 2007 observances are inclusive and appropriately recognize the experiences of all people present in 17th century Jamestown;

''(5) provide assistance to the development of Jamestown-related programs and activities;

''(6) facilitate international involvement in the Jamestown 2007 observances;

''(7) support and facilitate marketing efforts for a commemorative coin, stamp, and related activities for the Jamestown 2007 observances; and

''(8) assist in the appropriate development of heritage tourism and economic benefits to the United States.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) COMMEMORATION.—The term 'commemoration' means the commemoration of the 400th anniversary of the founding of the Jamestown settlement.

''(2) COMMISSION.—The term 'Commission' means the Jamestown 400th Commemoration Commission established by section 4(a).

''(3) GOVERNOR.—The term 'Governor' means the Governor of the State.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(5) STATE.—

''(A) IN GENERAL.—The term 'State' means the State of Virginia.

''(B) INCLUSIONS.—The term 'State' includes agencies and entities of the State.

''SEC. 4. JAMESTOWN 400TH COMMEMORATION COMMISSION.

''(a) IN GENERAL.—There is established a commission to be known as the 'Jamestown 400th Commemoration Commission'.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Commission shall be composed of 16 members, of whom—

''(A) four members shall be appointed by the Secretary, taking into consideration the recommendations of the Chairperson of the Jamestown 2007 Steering Committee;

''(B) four members shall be appointed by the Secretary, taking into consideration the recommendations of the Governor;

''(C) two members shall be employees of the National Park Service, of which—

''(i) one shall be the Director of the National Park Service (or a designee); and

''(ii) one shall be an employee of the National Park Service having experience relevant to the commemoration, to be appointed by the Secretary; and

''(D) five members shall be individuals that have an interest in, support for, and expertise appropriate to, the commemoration, to be appointed by the Secretary.

''(2) TERM; VACANCIES.—

''(A) TERM.—A member of the Commission shall be appointed for the life of the Commission.

''(B) VACANCIES.—

''(i) IN GENERAL.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

''(ii) PARTIAL TERM.—A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the predecessor of the member was appointed.

''(3) MEETINGS.—

''(A) IN GENERAL.—The Commission shall meet—

''(i) at least twice each year; or

''(ii) at the call of the Chairperson or the majority of the members of the Commission.

''(B) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

''(4) VOTING.—

''(A) IN GENERAL.—The Commission shall act only on an affirmative vote of a majority of the members of the Commission.

''(B) QUORUM.—A majority of the Commission shall constitute a quorum.

''(5) CHAIRPERSON.—The Secretary shall appoint a Chairperson of the Commission, taking into consideration any recommendations of the Governor.

''(c) DUTIES.—

''(1) IN GENERAL.—The Commission shall—

''(A) plan, develop, and execute programs and activities appropriate to commemorate the 400th anniversary of the founding of Jamestown;

''(B) generally facilitate Jamestown-related activities throughout the United States;

''(C) encourage civic, patriotic, historical, educational, religious, economic, and other organizations throughout the United States to organize and participate in anniversary activities to expand the understanding and appreciation of the significance of the founding and early history of Jamestown;

''(D) coordinate and facilitate for the public scholarly research on, publication about, and interpretation of, Jamestown; and

''(E) ensure that the 400th anniversary of Jamestown provides a lasting legacy and long-term public benefit by assisting in the development of appropriate programs and facilities.

''(2) PLANS; REPORTS.—

''(A) STRATEGIC PLAN; ANNUAL PERFORMANCE PLANS.—In accordance with the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285) [see Short Title of 1993 Amendment note set out under section 1101 of Title 31, Money and Finance], the Commission shall prepare a strategic plan and annual performance plans for the activities of the Commission carried out under this Act.

''(B) FINAL REPORT.—Not later than September 30, 2008, the Commission shall complete a final report that contains—

''(i) a summary of the activities of the Commission;

''(ii) a final accounting of funds received and expended by the Commission; and

''(iii) the findings and recommendations of the Commission.

''(d) POWERS OF THE COMMISSION.—The Commission may—

''(1) accept donations and make dispersions of money, personal services, and real and personal property related to Jamestown and of the significance of Jamestown in the history of the United States;

''(2) appoint such advisory committees as the Commission determines to be necessary to carry out this Act;

''(3) authorize any member or employee of the Commission to take any action that the Commission is authorized to take by this Act;

''(4) procure supplies, services, and property, and make or enter into contracts, leases or other legal agreements, to carry out this Act (except that any contracts, leases or other legal agreements made or entered into by the Commission shall not extend beyond the date of termination of the Commission);

''(5) use the United States mails in the same manner and under the same conditions as other Federal agencies;

''(6) subject to approval by the Commission, make grants in amounts not to exceed $10,000 to communities and nonprofit organizations to develop programs to assist in the commemoration;

''(7) make grants to research and scholarly organizations to research, publish, or distribute information relating to the early history of Jamestown; and

''(8) provide technical assistance to States, localities, and nonprofit organizations to further the commemoration.

''(e) COMMISSION PERSONNEL MATTERS.—

''(1) COMPENSATION OF MEMBERS OF THE COMMISSION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a member of the Commission shall serve without compensation.

''(B) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

''(C) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

''(2) STAFF.—

''(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

''(B) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

''(3) COMPENSATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

''(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(4) DETAIL OF GOVERNMENT EMPLOYEES.—

''(A) FEDERAL EMPLOYEES.—

''(i) IN GENERAL.—On the request of the Commission, the head of any Federal agency may detail, on a reimbursable or non-reimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the duties of the Commission under this Act.

''(ii) CIVIL SERVICE STATUS.—The detail of an employee under clause (i) shall be without interruption or loss of civil service status or privilege.

''(B) STATE EMPLOYEES.—The Commission may—

''(i) accept the services of personnel detailed from States (including subdivisions of States); and

''(ii) reimburse States for services of detailed personnel.

''(5) VOLUNTEER AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

''(6) SUPPORT SERVICES.—The Director of the National Park Service shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

''(f) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

''(g) FACA NONAPPLICABILITY.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

''(h) NO EFFECT ON AUTHORITY.—Nothing in this section supersedes the authority of the State, the National Park Service, or the Association for the Preservation of Virginia Antiquities, concerning the commemoration.

''(i) TERMINATION.—The Commission shall terminate on December 31, 2008.

''SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this Act.''

Pub. L. 106–554, §1(a)(4) [div. B, title I, §127], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–359, enacted provisions substantially identical to those enacted by Pub. L. 106–565, set out above.

§ 81a. Location and boundaries

The Secretary of the Interior is authorized and directed to make an examination of Jamestown Island, parts of the city of Williamsburg, and the Yorktown battlefield, all in the State of Virginia, and areas for highways to connect said island, city, and battlefield with a view to determining the area or areas thereof desirable for inclusion in the said Colonial National Historical Park, not to exceed two thousand five hundred acres of the said battlefield or five hundred feet in width as to such connecting areas, and upon completion thereof he shall make appropriate recommendations to the President, who shall establish the boundaries of said national park by proclamation: *Provided*, That the boundaries so established may be enlarged or diminished by subsequent proclamation or proclamations of the President upon the recommendations of the Secretary of the Interior, any such enlargement only to include lands donated to the United States or purchased by the United States without resort to condemnation.

(July 3, 1930, ch. 837, §2, 46 Stat. 855; June 5, 1936, ch. 525, §2, 49 Stat. 1483.)

CODIFICATION

Section was formerly classified to section 443a of this title.

CHANGE OF NAME

Act June 5, 1936, changed ''Colonial National Monument'' to ''Colonial National Historical Park''.

BOUNDARIES OF PARK

Boundaries were established by Presidential Proc. No. 1929, Dec. 30, 1930, 46 Stat. 3041, and Proc. No. 2055, Aug. 22, 1933, 48 Stat. 1706.

§ 81b. Revision of boundaries

Subject to all the laws and regulations applicable to the Colonial National Historical Park, the boundaries of said historical park as established by section 81a of this title and as defined by Presidential Proclamation Numbered 2055, dated August 22, 1933 (48 Stat. 1706), are revised by the elimination of the parkway area described in said proclamation as running north and west of the city of Williamsburg to Jamestown Island, and the substitution therefor of a parkway area running southerly through or around the city of Williamsburg, thence continuing south of said city to the James River and thence along said river and connecting waters to Jamestown Island, the exact location of which shall be determined by the Secretary of the Interior: *Provided*, That said parkway area shall not exceed an average of five hundred feet in width outside the city of Williamsburg: *And provided further*, That condemnation proceedings shall not be had, exercised, or resorted to as to any lands in the city of Williamsburg except such lands as may be required for a right-of-way not exceeding two hundred feet in width through said city to connect with highways or parkways leading from Williamsburg to Jamestown and Yorktown.

(June 28, 1938, ch. 775, §1, 52 Stat. 1208.)

CODIFICATION

Section was not enacted as part of act July 3, 1930, ch. 837, 46 Stat. 855, which comprises this subchapter.

CHANGE OF NAME

Act June 5, 1936, changed ''Colonial National Monument'' to ''Colonial National Historical Park''.

§ 81c. Addition of lands

The Secretary of the Interior is authorized, in his discretion, to acquire by purchase and/or accept by donation, in behalf of the United States, such lands, easements, and buildings comprising the former Governor Berkeley's mansion and homestead in James City County and Carter's Grove mansion and homestead in the same county, and the Rosewell mansion and homestead in Gloucester County as are desirable for the proper rounding out of the boundaries and for the administrative control of the Colonial National Historical Park, and such lands as are necessary for parkways, not to exceed five hundred feet wide, to connect said mansions to the said Colonial National Historical Park, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Interior: *Provided*, That the said acquisition of lands and/or improvements shall be made only from such funds as may be appropriated pursuant to the authorization of section 81f of this title.

(June 5, 1936, ch. 525, §§1, 2, 49 Stat. 1483.)

CODIFICATION

Section was not enacted as part of act July 3, 1930, ch. 837, 46 Stat. 855, which comprises this subchapter.

Section was formerly classified to section 443a–1 of this title.

CHANGE OF NAME

Section 2 of act June 5, 1936, provided: ''That the area now within the Colonial National Monument, together with such additions as may hereafter be made thereto, pursuant to section 1 hereof, shall be known as the 'Colonial National Historical Park', under which name the aforesaid national park shall be entitled to receive and to use all moneys heretofore or hereafter appropriated for the Colonial National Monument.''

§ 81d. Addition of lands

The Secretary of the Interior is authorized, in his discretion, to acquire by purchase, donation, or otherwise, in behalf of the United States, such lands or interests in lands, easements, and buildings comprising the following: Glass House Point, in James City County; the area known as ''The Hook'', including the site of the action of October 3, 1781, in Gloucester County; and such additional lands as are desirable for the proper rounding out of the boundaries and for the administrative control of the Colonial National Historical Park: *Provided*, That the total acreage of lands to be added to the park, with the exception of parkways under the terms hereof shall not exceed seven hundred and fifty acres: *Provided further*, That the said acquisition of

lands or improvements shall be made from such funds as may be appropriated pursuant to the authorization of section 81f of this title.

(June 28, 1938, ch. 775, § 2, 52 Stat. 1209.)

CODIFICATION

Section was not enacted as part of act July 3, 1930, ch. 837, 46 Stat. 855, which comprises this subchapter.

§ 81e. Acquisition of property; condemnation proceedings

The Secretary of the Interior is authorized to accept donations of land, interest in land, buildings, structures, and other property within the boundaries of said park as determined and fixed hereunder and donations of funds for the purchase and/or maintenance thereof, the evidence of title to such lands to be satisfactory to the Secretary of the Interior: *Provided*, That he may acquire on behalf of the United States by purchase when purchasable at prices deemed by him reasonable, otherwise by condemnation under the provisions of section 3113 of title 40, such tracts of land within the said park as may be necessary for the completion thereof: *Provided further*, That condemnation proceedings herein provided for shall not be had, exercised, or resorted to as to lands belonging to the Association for the Preservation of Virginia Antiquities, a corporation chartered under the laws of Virginia, or to the city of Williamsburg, Virginia, or to any other lands in said city except such lands as may be required for a right-of-way not exceeding two hundred feet in width through the city of Williamsburg to connect with highways or parkways leading from Williamsburg to Jamestown and to Yorktown.

(July 3, 1930, ch. 837, § 3, 46 Stat. 856; June 5, 1936, ch. 525, § 2, 49 Stat. 1483.)

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888 (U.S.C., title 40, secs. 257, 258; 25 Stat. 357)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Section was formerly classified to section 443b of this title.

CHANGE OF NAME

Act June 5, 1936, changed ''Colonial National Monument'' to ''Colonial National Historical Park.''

§ 81f. Authorization of appropriation

There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this subchapter, which shall not exceed the sum of $8,572,000 to be available for all expenses incident to the examination and establishment of the said Colonial National Historical Park and for the acquisition of lands and/or lands and improvements needed for the completion of the park, including the securing of options and other incidental expenses. The area of the Yorktown battlefield, authorized for inclusion in said park, is extended to not to exceed four thousand five hundred acres, and all Government-owned lands within the boundaries of said park as established by presidential proclamation, except those determined by the Secretary of the Interior as not necessary in carrying out the objects of said park are transferred to the administrative jurisdiction and control of the National Park Service.

(July 3, 1930, ch. 837, § 4, 46 Stat. 856; Mar. 3, 1931, ch. 405, 46 Stat. 1490; June 5, 1936, ch. 525, § 2, 49 Stat. 1483; Pub. L. 90–74, Aug. 29, 1967, 81 Stat. 176; Pub. L. 93–477, title I, § 101(2), Oct. 26, 1974, 88 Stat. 1445; Pub. L. 109–418, § 3, Dec. 19, 2006, 120 Stat. 2883.)

CODIFICATION

Section was formerly classified to section 443c of this title.

AMENDMENTS

2006—Pub. L. 109–418 substituted ''$8,572,000'' for ''$10,472,000''.

1974—Pub. L. 93–477 substituted ''$10,472,000'' for ''$2,777,000''.

1967—Pub. L. 90–74 substituted ''$2,777,000'' for ''$2,000,000''.

1931—Act Mar. 3, 1931, changed amount of appropriation and inserted last sentence extending the area of Yorktown battlefield.

CHANGE OF NAME

Act June 5, 1936, changed ''Colonial National Monument'' to ''Colonial National Historical Park''.

GEORGE WALLER BLOW ESTATE; USE OF 1967 INCREASE IN AUTHORIZATION OF APPROPRIATIONS TO PURCHASE

Pub. L. 90–74 provided in part that the limit on the authorized appropriation was increased from $2,000,000 to $2,777,000 in order to permit acquisition of the Thomas Nelson House, the Edmund Smith House, the John Ballard House, and the Thomas Pate House, all of which are located within the boundaries of the Colonial National Historical Park on lots numbered 42A, 44 through 55, 84, 85, and 120 through 129, and known as the George Waller Blow Estate.

§ 81g. Administration, protection, and development

The administration, protection, and development of the aforesaid national park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(July 3, 1930, ch. 837, § 5, 46 Stat. 856; June 5, 1936, ch. 525, § 2, 49 Stat. 1483.)

CODIFICATION

Section was formerly classified to section 443d of this title.

CHANGE OF NAME

Act June 5, 1936, changed ''Colonial National Monument'' to ''Colonial National Historical Park''.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 81h. Civil and criminal jurisdiction; legislative authority of State over park

Nothing in this subchapter shall be held to deprive the State of Virginia, or any political sub-

division thereof, of its civil and criminal jurisdiction in and over the areas included in said national park, nor shall this subchapter in any way impair or affect the rights of citizenship of any resident therein; and save and except as the consent of the State of Virginia may be hereafter given, the legislative authority of said State in and over all areas included within said national park shall not be diminished or affected by the creation of said national park, nor by the terms and provisions of this subchapter: *Provided*, That any rules and regulations authorized in section 81g of this title, and in sections 1, 2, 3, and 4 of this title therein referred to, shall not apply to any property of a public nature in the city of Williamsburg, other than property of the United States.

(July 3, 1930, ch. 837, § 6, 46 Stat. 856; June 5, 1936, ch. 525, § 2, 49 Stat. 1483.)

CODIFICATION

Section was formerly classified to section 443e of this title.

CHANGE OF NAME

Act June 5, 1936, changed ''Colonial National Monument'' to ''Colonial National Historical Park''.

§ 81i. Donation of buildings thereafter revenue producing; disposition of proceeds

In the event that lands and/or buildings, structures, and so forth, within the city of Williamsburg are donated to the United States and are thereafter revenue producing, the United States shall pay in the treasury of the city of Williamsburg 25 per centum of any rentals included in said revenues, and 25 per centum of the net proceeds of any commercial enterprise there conducted by the United States, such payment into the treasury of the city of Williamsburg not to exceed $20,000 in any year.

(July 3, 1930, ch. 837, § 7, 46 Stat. 856.)

CODIFICATION

Section was formerly classified to section 443f of this title.

§ 81j. Transfer of lands to Secretary of Navy

The Secretary of the Interior be, and he is, authorized and directed to transfer to the Secretary of the Navy complete control and jurisdiction over a parcel of land within the Colonial National Historical Park, Yorktown, Virginia, described as follows:

Beginning at a point on the existing property line between the United States naval mine depot and the Colonial National Monument Parkway properties, said point being a fence corner seven hundred and sixty-five feet, more or less, southeast of the marine barracks gate; thence south fifty-six degrees thirty-eight minutes east fifty-three and fifteen one-hundredths feet, more or less; thence south fifty degrees sixteen minutes east three hundred and twelve feet, more or less; thence south thirty-nine degrees forty-four minutes west one hundred and twenty-five and seven one-hundredths feet, more or less, to the property line between the United States naval mine depot and the Colonial National Monument Parkway; thence along the said property line north thirty-nine degrees fifty-four minutes west one hundred and twenty-eight and ninety-six one-hundredths feet, more or less; thence continuing along said property line north twenty-eight degrees eighteen minutes west two hundred and fifty-six and fifty-nine one-hundredths feet, more or less, to the point of beginning; containing six hundred and twenty-one one-thousandths of an acre, more or less.

(Dec. 23, 1944, ch. 721, 58 Stat. 923.)

CODIFICATION

Section was not enacted as part of act July 3, 1930, ch. 837, 46 Stat. 855, which comprises this subchapter.

SEWAGE-DISPOSAL SYSTEM FOR YORKTOWN AREA

Act Mar. 29, 1956, ch. 111, 70 Stat. 64, provided for the modernization of the sanitary facilities in the Yorktown area of Colonial National Historical Park, and in anticipation of the 1957 Jamestown-Williamsburg-Yorktown celebration, authorized the Secretary of the Interior to construct, operate, and maintain a sewage-disposal system to serve Federal and non-Federal properties in the Yorktown area.

TEMPORARY TRANSFER OF JURISDICTION OF PORTION

Act Dec. 24, 1942, ch. 820, 56 Stat. 1085, provided: ''That the Secretary of the Interior be, and he is hereby, authorized and directed to transfer to the control and jurisdiction of the Department of the Navy a portion of the Colonial National Historical Park, Yorktown, Virginia, south of Ballards Creek and adjacent to the east boundary of the naval mine depot, containing approximately sixteen acres.

''SEC. 2. The President of the United States is authorized by Executive order to retransfer jurisdiction over the property to the Secretary of the Interior upon his application when, in the judgment of the President, the property has become surplus to the needs of the Department of the Navy, in which event it again shall become a part of the Colonial National Historical Park.''

§ 81k. Exchange of lands

The Secretary of the Interior is authorized, in his discretion, to accept on behalf of the United States from the York County School Board, State of Virginia, title to approximately one-half acre of land in Nelson District, York County, Virginia, situated within the authorized boundaries of the Colonial National Historical Park, and in exchange therefor to convey by deed, on behalf of the United States, to the school board approximately one-half acre of land of approximately equal value situated within the Colonial National Historical Park.

(Sept. 23, 1950, ch. 999, 64 Stat. 979.)

CODIFICATION

Section was not enacted as part of act July 3, 1930, ch. 837, 46 Stat. 855, which comprises this subchapter.

§ 81*l*. Additional exchange of lands

In order to consolidate Federal holdings in, and to improve, Colonial National Historical Park, the Secretary of the Interior, when he finds that the public interest will be served thereby, is authorized to accept on behalf of the United States from the York County School Board, State of Virginia, the conveyance of any land or interests in land located within the authorized area of the Colonial National Historical Park, together with the structures situated

upon such properties, as may be agreed upon by the Secretary and the school board; and, in exchange therefor, to convey on behalf of the United States to the school board not more than fifty-five acres of land or interests in land situated within the Colonial National Historical Park.

(May 13, 1953, ch. 38, 67 Stat. 27.)

CODIFICATION

Section was not enacted as part of act July 3, 1930, ch. 837, 46 Stat. 855, which comprises this subchapter.

§ 81m. Additional exchange of lands

For the purpose of preserving more effectively for the public benefit the historic properties within Colonial National Historical Park, Virginia, the Secretary of the Interior is authorized to consummate desirable land exchanges, as hereafter prescribed, and thereby to reduce and adjust the boundaries of the park. Any lands eliminated from the park hereunder shall not subsequently be added to the park except by Act of Congress.

In furtherance of these purposes, the Secretary is authorized on behalf of the United States to accept from grantors title to non-Federal land and interests in land, together with the improvements thereon, situated within the authorized park boundaries, and in exchange therefor, to convey by deed on behalf of the United States to the aforesaid grantors land or interests therein, together with the improvements thereon, situated within Colonial National Historical Park that may be used advantageously for exchange purposes. The aforesaid exchanges are authorized to be made without additional compensation by either party to the exchange when the properties to be exchanged are of approximately equal value. When, however, the properties are not of approximately equal value, as may be determined by the Secretary, an additional payment of funds shall be required by the Secretary or by the grantor of non-Federal properties, as the case may be, in order to make an equal exchange. The Secretary is authorized to use any land acquisition funds relating to the National Park System for such purposes. The Secretary may consummate land exchanges herein authorized upon such terms, conditions, and procedures as he may find to be necessary or desirable in carrying out the purposes of this section and section 81n of this title; and in evaluating non-Federal properties to be acquired hereunder, he is authorized to make such allowance as he may find to be equitable for the value of any residential properties that may be situated upon land to be acquired pursuant to this section and section 81n of this title. If expedient and in the public interest to do so, he may assist in the removal of structures from property to be acquired hereunder through the exchange procedure, and he may cooperate with public or private agencies and persons in the securing of housing for the aforesaid grantors who may require new housing accommodations or facilities as a result of the land exchanges herein authorized.

(Mar. 29, 1956, ch. 105, § 1, 70 Stat. 61.)

CODIFICATION

Section was not enacted as part of act July 3, 1930, ch. 837, 46 Stat. 855, which comprises this subchapter.

§ 81n. Transfer of lands for State Park

The Secretary is further authorized to transfer without compensation up to fifteen acres of the Colonial National Historical Park, Virginia, to the Commonwealth of Virginia for use by agencies of the Commonwealth in the establishment of a State Park in furtherance of the purposes of the Colonial National Historical Park.

(Mar. 29, 1956, ch. 105, § 2, 70 Stat. 62.)

CODIFICATION

Section was not enacted as part of act July 3, 1930, ch. 837, 46 Stat. 855, which comprises this subchapter.

§ 81*o*. Transfer of administrative jurisdiction over land

The Secretary of the Interior may transfer administrative jurisdiction over approximately 0.23 acres of land within Colonial National Historical Park, Virginia, to the Secretary of the Army, and in exchange therefor, he may accept administrative jurisdiction over a like amount of land from the Secretary of the Army, transfer of which is hereby authorized, for the purpose of relocating the Cape Henry Memorial Cross. Land over which jurisdiction is transferred to the Secretary of the Interior shall become part of Colonial National Historical Park, and land over which jurisdiction is transferred to the Secretary of the Army shall become part of Fort Story Military Reservation.

(Pub. L. 99–390, Aug. 23, 1986, 100 Stat. 831.)

CODIFICATION

Section was not enacted as part of act July 3, 1930, ch. 837, 46 Stat. 855, which comprises this subchapter.

§ 81p. Property transfers

(a) Transfer and rights-of-way

The Secretary of the Interior (hereinafter in this section referred to as the ''Secretary'') is authorized to transfer, without reimbursement, to York County, Virginia, that portion of the existing sewage disposal system, including related improvements and structures, owned by the United States and located within the Colonial National Historical Park, together with such rights-of-way as are determined by the Secretary to be necessary to maintain and operate such system.

(b) Repair and rehabilitation of system

The Secretary is authorized to enter into a cooperative agreement with York County, Virginia, under which the Secretary will pay a portion, not to exceed $110,000, of the costs of repair and rehabilitation of the sewage disposal system referred to in subsection (a) of this section.

(c) Fees and charges

In consideration for the rights-of-way granted under subsection (a) of this section, and in recognition of the National Park Service's contribution authorized under subsection (b) of this section, the cooperative agreement under subsection (b) of this section shall provide for a re-

duction in, or the elimination of, the amounts charged to the National Park Service for its sewage disposal. The cooperative agreement shall also provide for minimizing the impact of the sewage disposal system on the park and its resources. Such system may not be enlarged or substantially altered without National Park Service concurrence.

(d) Inclusion of land in Colonial National Historical Park

Notwithstanding the provisions of sections 81b and 81d of this title, limiting the average width of the Colonial Parkway, the Secretary of the Interior is authorized to include within the boundaries of Colonial National Historical Park and to acquire by donation, exchange, or purchase with donated or appropriated funds the lands or interests in lands (with or without improvements) within the areas depicted on the map dated August 1996, numbered 333/80031B, and entitled ''Page Landing Addition to Colonial National Historical Park''. Such map shall be on file and available for inspection in the offices of the National Park Service at Colonial National Historical Park and in Washington, District of Columbia.

(e) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 104–333, div. I, title II, §211, Nov. 12, 1996, 110 Stat. 4109; Pub. L. 106–113, div. B, §1000(a)(3) [title I, §122], Nov. 29, 1999, 113 Stat. 1535, 1501A–159; Pub. L. 106–176, title I, §102, Mar. 10, 2000, 114 Stat. 25.)

CODIFICATION

Section was enacted as part of the Omnibus Parks and Public Lands Management Act of 1996, and not as part of act July 3, 1930, ch. 837, 46 Stat. 855, which comprises this subchapter.

AMENDMENTS

2000—Subsec. (d). Pub. L. 106–176 directed amendment identical to amendment by Pub. L. 106–113. See 1999 Amendment note below.

1999—Subsec. (d). Pub. L. 106–113 substituted ''depicted on the map dated August 1996, numbered 333/80031B,'' for ''depicted on the map dated August 1993, numbered 333/80031A,''.

SUBCHAPTER X—NORTH CASCADES NATIONAL PARK

§ 90. Establishment; statement of purposes; description of area

In order to preserve for the benefit, use, and inspiration of present and future generations certain majestic mountain scenery, snow fields, glaciers, alpine meadows, and other unique natural features in the North Cascade Mountains of the State of Washington, there is hereby established, subject to valid existing rights, the North Cascades National Park (hereinafter referred to in this subchapter as the ''park''). The park shall consist of the lands, waters, and interests therein within the area designated ''national park'' on the map entitled ''Proposed Management Units, North Cascades, Washington,'' numbered NP–CAS–7002, and dated October 1967. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior, and in the office of the Chief, Forest Service, Department of Agriculture.

(Pub. L. 90–544, title I, §101, Oct. 2, 1968, 82 Stat. 926.)

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–668, §1, Nov. 16, 1988, 102 Stat. 3961, provided: ''That this Act [enacting section 110c of this title, amending sections 90b, 90c–1, 90d–4, 251n, 256b, 256c, and 1274 of this title, and enacting provisions listed in a table of Wilderness Areas set out under section 1132 of this title and provisions set out as a note under section 251n of this title] may be cited as the 'Washington Park Wilderness Act of 1988'.''

DEDICATION OF PARK TO SENATOR HENRY M. JACKSON

Pub. L. 100–85, Aug. 10, 1987, 101 Stat. 551, provided: ''That the North Cascades National Park, Washington, is hereby dedicated to Senator Henry M. Jackson in recognition of his leadership in establishing the North Cascades National Park, his outstanding contributions to the National Park System, the National Wilderness Preservation System, and to the protection and preservation of our great natural resources for the benefit of the people of the United States for all time.

''SEC. 2. In order to carry out the provisions of this Act, the Secretary of the Interior is authorized and directed to provide such identification by signs, including, but not limited to changes in existing signs, materials, maps, markers, interpretive programs, or other means as will adequately inform the public of the contributions of Henry M. Jackson.

''SEC. 3. The Secretary of the Interior is further authorized and directed to cause to be erected and maintained, within the boundaries of the North Cascades National Park, an appropriate memorial to Henry M. Jackson. Such memorial shall include but not be limited to an appropriate permanent marker describing the contributions of Henry M. Jackson to the Nation.

''SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.''

§ 90a. Ross Lake National Recreation Area; establishment; statement of purposes; description of area

In order to provide for the public outdoor recreation use and enjoyment of portions of the Skagit River and Ross, Diablo, and Gorge Lakes, together with the surrounding lands, and for the conservation of the scenic, scientific, historic, and other values contributing to public enjoyment of such lands and waters, there is hereby established, subject to valid existing rights, the Ross Lake National Recreation Area (hereinafter referred to in this subchapter as the ''recreation area''). The recreation area shall consist of the lands and waters within the area designated ''Ross Lake National Recreation Area'' on the map referred to in section 90 of this title.

(Pub. L. 90–544, title II, §201, Oct. 2, 1968, 82 Stat. 927.)

§ 90a–1. Lake Chelan National Recreation Area; establishment; statement of purposes; description of area

In order to provide for the public outdoor recreation use and enjoyment of portions of the Stehekin River and Lake Chelan, together with the surrounding lands, and for the conservation

of the scenic, scientific, historic, and other values contributing to public enjoyment of such lands and waters, there is hereby established, subject to valid existing rights, the Lake Chelan National Recreation Area (hereinafter referred to in this subchapter as the ''recreation area''). The recreation area shall consist of the lands and waters within the area designated ''Lake Chelan National Recreation Area'' on the map referred to in section 90 of this title.

(Pub. L. 90–544, title II, § 202, Oct. 2, 1968, 82 Stat. 927.)

BOUNDARY ADJUSTMENTS, LAKE CHELAN NATIONAL RECREATION AREA AND WENATCHEE NATIONAL FOREST, WASHINGTON

Pub. L. 105–238, § 1, Sept. 23, 1998, 112 Stat. 1562, and Pub. L. 105–277, div. A, § 101(e) [title III, § 342], Oct. 21, 1998, 112 Stat. 2681–231, 2681–296, transferred administrative jurisdiction over part of Lake Chelan National Recreation Area from Secretary of the Interior to Secretary of Agriculture for inclusion in Wenatchee National Forest.

§ 90b. Land acquisition; authority of Secretary; manner and place; donation of State lands; transfer to administrative jurisdiction of Secretary; elimination of lands from national forests

(a)[1] Within the boundaries of the park and recreation areas, the Secretary of the Interior (hereinafter referred to in this subchapter as the ''Secretary'') may acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange, except that he may not acquire any such interests within the recreation areas without the consent of the owner, so long as the lands are devoted to uses compatible with the purposes of this subchapter. Lands owned by the State of Washington or any political subdivision thereof may be acquired only by donation. Federal property within the boundaries of the park and recreation areas is hereby transferred to the administrative jurisdiction of the Secretary for administration by him as part of the park and recreation areas. The national forest land within such boundaries is hereby eliminated from the national forests within which it was heretofore located.

(b) The Secretary is hereby authorized to acquire, with the consent of the owner, lands outside of the authorized boundaries of North Cascades National Park Service Complex for the purpose of construction and operation of a backcountry information center not to exceed five acres. The Secretary of the Interior is further authorized to acquire with the consent of the owner, lands for the construction of a headquarters and administrative site or sites, for the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area not to exceed ten acres. The lands so acquired shall be managed as part of the park.

(Pub. L. 90–544, title III, § 301, Oct. 2, 1968, 82 Stat. 927; Pub. L. 100–668, title II, § 203, Nov. 16, 1988, 102 Stat. 3963.)

[1] Subsec. (a) designation editorially supplied.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–668 added subsec. (b).

§ 90b–1. Exchange of property; cash equalization payments

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the park and recreation areas and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction in the State of Washington which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(Pub. L. 90–544, title III, § 302, Oct. 2, 1968, 82 Stat. 927.)

§ 90b–2. Owner's retention of right of use and occupancy for agricultural, residential, or commercial purposes for life or term of years; transfer or assignment of right; termination of use and occupancy for a contrary use and upon payment of sum for unexpired right

Any owner of property acquired by the Secretary which on the date of acquisition is used for agricultural or single-family residential purposes, or for commercial purposes which he finds are compatible with the use and development of the park or the recreation areas, may, as a condition of such acquisition, retain the right of use and occupancy of the property for the same purposes for which it was used on such date, for a period ending at the death of the owner or the death of his spouse, whichever occurs later, or for a fixed term of not to exceed twenty-five years, whichever the owner may elect. Any right so retained may during its existence be transferred or assigned. Any right so retained may be terminated by the Secretary at any time after the date upon which any use of the property occurs which he finds is a use other than one which existed on the date of acquisition. In the event the Secretary terminates a right of use and occupancy under this section, he shall pay to the owner of the right the fair market value of the portion of said right which remains unexpired on the date of termination.

(Pub. L. 90–544, title III, § 303, Oct. 2, 1968, 82 Stat. 928.)

§ 90c. Administration

The Secretary shall administer the park in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented.

(Pub. L. 90–544, title IV, § 401, Oct. 2, 1968, 82 Stat. 928.)

§ 90c–1. Administration of recreation areas

(a) Statement of purposes; utilization of authorities for administration of national park system and for conservation and management of natural resources

The Secretary shall administer the recreation areas in a manner which in his judgment will

best provide for (1) public outdoor recreation benefits and (2) conservation of scenic, scientific, historic, and other values contributing to public enjoyment. Within that portion of the Lake Chelan National Recreation Area which is not designated as wilderness, such management, utilization, and disposal of renewable natural resources and the continuation of existing uses and developments as will promote, or are compatible with, or do not significantly impair public recreation and conservation of the scenic, scientific, historic, or other values contributing to public enjoyment, are authorized. In administering the recreation areas, the Secretary may utilize such statutory authorities pertaining to the administration of the national park system, and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate for recreation and preservation purposes and for resource development compatible therewith. Within the Ross Lake National Recreation Area the removal and disposal of trees within power line rights-of-way are authorized as necessary to protect transmission lines, towers, and equipment;'':[1] *Provided*, That to the extent practicable, such removal and disposal of trees shall be conducted in such a manner as to protect scenic viewsheds.

(b) Lands withdrawn from location, entry, and patent under mining laws; removal of minerals

The lands within the recreation areas, subject to valid existing rights, are hereby withdrawn from all forms of appropriation or disposal under the public land laws, including location, entry, and patent under the United States mining laws, and disposition under the United States mineral leasing laws: *Provided, however*, That within that portion of the Lake Chelan National Recreation Area which is not designated as wilderness, sand, rock and gravel may be made available for sale to the residents of Stehekin for local use so long as such sale and disposal does not have significant adverse effects on the administration of the Lake Chelan National Recreation Area.

(c) Receipts, disposition

All receipts derived from permits and leases issued on lands or interests in lands within the recreation areas under the Mineral Leasing Act of February 25, 1920, as amended [30 U.S.C. 181 et seq.], or the Acquired Lands Mineral Leasing Act of August 7, 1947 [30 U.S.C. 351 et seq.], shall be disposed of as provided in the applicable Act; and receipts from the disposition of nonleasable minerals within the recreation areas shall be disposed of in the same manner as moneys received from the sale of public lands.

(d) Hunting and fishing

The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the recreation areas in accordance with applicable laws of the United States and of the State of Washington, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish and wildlife management, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the Department of Game of the State of Washington.

(e) Road construction or use restrictions

The Secretary shall not permit the construction or use of any road within the park which would provide vehicular access from the North Cross State Highway to the Stehekin Road. Neither shall he permit the construction or use of any permanent road which would provide vehicular access between May Creek and Hozomeen along the east side of Ross Lake.

(Pub. L. 90–544, title IV, § 402, Oct. 2, 1968, 82 Stat. 928; Pub. L. 100–668, title II, §§ 205, 206, Nov. 16, 1988, 102 Stat. 3964.)

REFERENCES IN TEXT

The Mineral Leasing Act of February 25, 1920, as amended, referred to in subsec. (c), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

The Acquired Lands Mineral Leasing Act of August 7, 1947, referred to in subsec. (c), is act Aug. 7, 1947, ch. 513, 61 Stat. 913, as amended, which is classified generally to chapter 7 (§ 351 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 351 of Title 30 and Tables.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–668, § 205, amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The Secretary shall administer the recreation areas in a manner which in his judgment will best provide for (1) public outdoor recreation benefits; (2) conservation of scenic, scientific, historic, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of renewable natural resources and the continuation of such existing uses and developments as will promote or are compatible with, or do not significantly impair, public recreation and conservation of the scenic, scientific, historic, or other values contributing to public enjoyment. In administering the recreation areas, the Secretary may utilize such statutory authorities pertaining to the administration of the national park system, and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate for recreation and preservation purposes and for resource development compatible therewith.''

Subsec. (b). Pub. L. 100–668, § 206, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The lands within the recreation areas, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws. The Secretary, under such reasonable regulations as he deems appropriate, may permit the removal of the nonleasable minerals from lands or interest in lands within the recreation areas in the manner prescribed by section 387 of title 43, and he may permit the removal of leasable minerals from lands or interests in lands within the recreation areas in accordance with the Mineral Leasing Act of February 25, 1920, as amended, or the Acquired Lands Mineral Leasing Act of August 7, 1947, if he finds that such disposition would not have significant adverse effects on the administration of the recreation areas.''

[1] So in original.

§ 90d. Distributive share of counties of receipts for schools and roads unaffected

The distributive shares of the respective counties of receipts from the national forests from which the national park and recreation areas are created, as paid under the provisions of section 500 of this title, shall not be affected by the elimination of lands from such national forests by the enactment of this subchapter.

(Pub. L. 90–544, title V, § 501, Oct. 2, 1968, 82 Stat. 929.)

§ 90d–1. Contracts, leases, permits, or licenses for occupation or use of Federal lands in the park or recreation areas; continuation of privileges for original or extended term

Where any Federal lands included in the park or recreation areas are legally occupied or utilized on October 2, 1968, for any purpose, pursuant to a contract, lease, permit, or license issued or authorized by any department, establishment, or agency of the United States, the Secretary shall permit the persons holding such privileges to continue in the exercise thereof, subject to the terms and conditions thereof, for the remainder of the term of the contract, lease, permit, or license or for such longer period of time as the Secretary deems appropriate.

(Pub. L. 90–544, title V, § 502, Oct. 2, 1968, 82 Stat. 929.)

§ 90d–2. State rights or privileges in property within recreation area used for certain highway unaffected

Nothing in this subchapter shall be construed to affect adversely or to authorize any Federal agency to take any action that would affect adversely any rights or privileges of the State of Washington in property within the Ross Lake National Recreation Area which is being utilized for the North Cross State Highway.

(Pub. L. 90–544, title V, § 503, Oct. 2, 1968, 82 Stat. 929.)

§ 90d–3. Administration of areas designated for public use facilities or for administrative purposes by Secretaries of the Interior and Agriculture; plan for construction of such facilities

Within two years from October 2, 1968, the Secretary of the Interior and the Secretary of Agriculture shall agree on the designation of areas within the park or recreation areas or within national forests adjacent to the park and recreation areas needed for public use facilities and for administrative purposes by the Secretary of Agriculture or the Secretary of the Interior, respectively. The areas so designated shall be administered in a manner that is mutually agreeable to the two Secretaries, and such public use facilities, including interpretive centers, visitor contact stations, lodges, campsites, and ski lifts, shall be constructed according to a plan agreed upon by the two Secretaries.

(Pub. L. 90–544, title V, § 504, Oct. 2, 1968, 82 Stat. 930.)

§ 90d–4. Federal Power Act administrative jurisdiction unaffected

Nothing in this subchapter shall be construed to supersede, repeal, modify, or impair the jurisdiction of the Federal Power Commission under the Federal Power Act (41 Stat. 1063), as amended [16 U.S.C. 791a et seq.], in the lands and waters within the Skagit River Hydroelectric Project, Federal Energy and Regulatory Commission Project 553, including the proposed Copper Creek, High Ross, and Thunder Creek elements of the Project; and the Newhalem Project, Federal Energy and Regulatory Commission Project 2705, within the Ross Lake National Recreation Area; the lands and waters within the Lake Chelan Project, Federal Energy and Regulatory Commission Project 637; the Company Creek small hydroelectric project at Stehekin within the Lake Chelan National Recreation Area; and existing hydrologic monitoring stations necessary for the proper operation of the hydroelectric projects listed herein.

(Pub. L. 90–544, title V, § 505, Oct. 2, 1968, 82 Stat. 930; Pub. L. 100–668, title II, § 202, Nov. 16, 1988, 102 Stat. 3963.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, is act June 20, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

AMENDMENTS

1988—Pub. L. 100–668 substituted ''in the lands and waters within the Skagit River Hydroelectric Project, Federal Energy and Regulatory Commission Project 553, including the proposed Copper Creek, High Ross, and Thunder Creek elements of the Project; and the Newhalem Project, Federal Energy and Regulatory Commission Project 2705, within the Ross Lake National Recreation Area; the lands and waters within the Lake Chelan Project, Federal Energy and Regulatory Commission Project 637; the Company Creek small hydroelectric project at Stehekin within the Lake Chelan National Recreation Area; and existing hydrologic monitoring stations necessary for the proper operation of the hydroelectric projects listed herein'' for ''in the recreation areas''.

TRANSFER OF FUNCTIONS

Federal Power Commission terminated and functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 90d–5. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter, but not more than $4,500,000 shall be appropriated for the acquisition of lands or interest in lands.

(Pub. L. 90–544, title V, § 506, Oct. 2, 1968, 82 Stat. 930; Pub. L. 94–578, title I, § 101(9), Oct. 21, 1976, 90 Stat. 2732.)

AMENDMENTS

1976—Pub. L. 94–578 substituted ''$4,500,000'' for ''$3,500,000''.

§ 90e. Pasayten Wilderness, Okanogan and Mount Baker National Forests; designation; abolition of North Cascades Primitive Area classification

(a) In order to further the purposes of the Wilderness Act [16 U.S.C. 1131 et seq.], there is hereby designated, subject to valid existing rights, the Pasayten Wilderness within and as a part of the Okanogan National Forest and the Mount Baker National Forest, comprising an area of about five hundred thousand acres lying east of Ross Lake, as generally depicted in the area designated as ''Pasayten Wilderness'' on the map referred to in section 90 of this title.

(b) The previous classification of the North Cascades Primitive Area is hereby abolished.

(Pub. L. 90–544, title VI, § 601, Oct. 2, 1968, 82 Stat. 930.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (a), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

§ 90e–1. Glacier Peak Wilderness, Wenatchee and Mount Baker National Forests; extension of boundaries

The boundaries of the Glacier Peak Wilderness, an area classified as such more than thirty days before the effective date of the Wilderness Act [16 U.S.C. 1131 et seq.] and being within and a part of the Wenatchee National Forest and the Mount Baker National Forest, subject to valid existing rights, are hereby extended to include portions of the Suiattle River corridor and the White Chuck River corridor on the western side thereof, comprising areas totaling about ten thousand acres, as depicted in the area designated as ''Additions to Glacier Peak Wilderness'' on the map referred to in section 90 of this title.

(Pub. L. 90–544, title VI, § 602, Oct. 2, 1968, 82 Stat. 930.)

REFERENCES IN TEXT

The Wilderness Act, referred to in text, is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

Effective date of the Wilderness Act, referred to in text, means the date of enactment, Sept. 3, 1964, of such act.

§ 90e–2. Map and legal description, filing with Congressional committees; correction of errors; applicability of Wilderness Act

(a) As soon as practicable after October 2, 1968, the Secretary of Agriculture shall file a map and legal description of the Pasayten Wilderness and of the Glacier Peak Wilderness, as hereby modified, with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, and such descriptions shall have the same force and effect as if included in this subchapter: *Provided*, *however*, That correction of clerical or typographical errors in such legal descriptions and maps may be made.

(b) Upon the filing of the legal descriptions and maps as provided for in subsection (a) of this section the Pasayten Wilderness and the additions to the Glacier Peak Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.] and thereafter shall be subject to the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this subchapter.

(Pub. L. 90–544, title VI, § 603, Oct. 2, 1968, 82 Stat. 930; Pub. L. 103–437, § 6(e), Nov. 2, 1994, 108 Stat. 4585.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (b), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

Effective date of the Wilderness Act, referred to in subsec. (b), means the date of enactment, Sept. 3, 1964, of such Act.

Effective date of this subchapter, referred to in subsec. (b), means the date of enactment, Oct. 2, 1968, of this subchapter.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–437 substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives'' for ''Interior and Insular Affairs Committees of the United States Senate and House of Representatives''.

§ 90e–3. Area review; report to the President

Within two years from October 2, 1968, the Secretary of the Interior shall review the area within the North Cascades National Park, including the Picket Range area and the Eldorado Peaks area, and shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendation as to the suitability or nonsuitability of any area within the park for preservation as wilderness, and any designation of any such area as a wilderness area shall be accomplished in accordance with said section 1132(c) and (d).

(Pub. L. 90–544, title VI, § 604, Oct. 2, 1968, 82 Stat. 931.)

SUBCHAPTER XI—MOUNT RAINIER NATIONAL PARK

§ 91. Establishment; boundaries; trespassers

All those certain tracts, pieces, or parcels of land lying and being in the State of Washington, and within the boundaries particularly described as follows, to wit: Beginning at a point three miles east of the northeast corner of township numbered 17 north, of range 6 east of the Willamette meridian; thence south through the central parts of townships numbered 17, 16, and 15 north, of range 7 east of the Willamette meridian, 18 miles more or less, subject to the proper easterly or westerly offsets, to a point three

miles east of the northeast corner of township numbered 14 north, of range 6 east of the Willamette meridian; thence east on the township line between townships numbered 14 and 15 north, 18 miles more or less to a point 3 miles west of the northeast corner of township 14 north, of range 10 east of the Willamette meridian; thence northerly subject to the proper easterly or westerly offsets, 18 miles more or less, to a point 3 miles west of the northeast corner of township numbered 17 north of range 10 east of the Willamette meridian (but in locating said easterly boundary, wherever the summit of the Cascade Mountains is sharply and well defined, the said line shall follow the said summit, where the said summit line bears west of the easterly line as herein determined); thence westerly along the township line between said townships numbered 17 and 18 to the place of beginning, are dedicated and set apart as a public park to be known and designated as the Mount Rainier National Park, for the benefit and enjoyment of the people; and all persons who shall locate or settle upon or occupy the same, or any part thereof, except as hereafter provided, shall be considered trespassers and be removed therefrom.

(Mar. 2, 1899, ch. 377, §1, 30 Stat. 993.)

SHORT TITLE

Pub. L. 108–312, §1, Oct. 5, 2004, 118 Stat. 1194, provided that: ''This Act [enacting section 110d of this title and provisions set out as a note under section 110d of this title] may be cited as the 'Mount Rainier National Park Boundary Adjustment Act of 2004'.''

§ 92. Control; regulations; grants for buildings; rights-of-way; fish and game; removal of trespassers

Mount Rainier National Park shall be under the exclusive control of the Secretary of the Interior. In addition to the powers and duties enumerated in section 3 of this title, not inconsistent with this section, he shall make regulations providing for the preservation from injury or spoliation of all timber, mineral deposits, natural curiosities, or wonders within said park, and their retention in their natural condition. The Secretary may, in his discretion, grant parcels of ground at such places in said park as shall require the erection of buildings for the accommodation of visitors. And through the lands of the Pacific National Forest adjoining said park rights-of-way are hereby granted, under such restrictions and regulations as the Secretary of the Interior may establish, to any railway or tramway company or companies, through the lands of said Pacific National Forest, and also into said park created by section 91 of this title, for the purpose of building, constructing, and operating a railway, constructing and operating a railway or tramway line or lines, through said lands, also into said park. He shall provide against the wanton destruction of the fish and game found within said park, and against their capture or destruction for the purposes of merchandise or profit. He shall also cause all persons trespassing upon the same to be removed therefrom, and generally shall be authorized to take all such measures as shall be necessary to fully carry out the objects and purposes of sections 91, 92 and 93 of this title.

(Mar. 2, 1899, ch. 377, §2, 30 Stat. 994; June 12, 1917, ch. 27, §1, 40 Stat. 153.)

CODIFICATION

The words ''In addition to the powers and duties enumerated in section 3 of this title, not inconsistent with this section'' were added to relate this section to later law, defining the duties of the Secretary of the Interior as to national parks.

An additional provision in the first sentence making it the duty of the Secretary of the Interior as soon as practicable to make such rules and regulations as he might deem necessary or proper for the care and management of the park has been omitted as executed.

A provision of the original section for the disposition of the proceeds of leases for buildings for accommodation of visitors and other revenues from the park has been omitted as superseded by section 452 of this title.

''Pacific National Forest'' was substituted for ''Pacific Forest Reserve'' on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

REPEALS

Repeal of provisions of this section relating to granting rights-of-way to railway or tramway companies for purpose of building and operating a railway or tramway, so far as they relate to lands within Mount Rainier National Park, see section 92a of this title.

§ 92a. Rights-of-way for railways, tramways, and cable lines

The provisions of section 92 of this title, granting rights-of-way, under such restrictions and regulations as the Secretary of the Interior may establish, to any railway or tramway company or companies for the purpose of building, constructing, and operating a railway, constructing and operating a railway or tramway line or lines, so far as the same relate to lands within the Mount Rainier National Park, Washington, are repealed: *Provided, however*, That nothing herein shall be construed so as to prohibit the Secretary of the Interior from authorizing the use of land in said park under contract, permit, lease, or otherwise for the establishment and operation thereon of a tramway or cable line, or lines, for the accommodation or convenience of visitors and others.

(Jan. 26, 1931, ch. 47, §6, 46 Stat. 1044.)

§ 93. Grant of prior lands to Northern Pacific Railroad; lieu lands to settlers

Upon execution and filing with the Secretary of the Interior, by the Northern Pacific Railroad Company, of proper deed releasing and conveying to the United States the lands in Mount Rainier National Park, also the lands in the Pacific National Forest which have been heretofore granted by the United States to said company, whether surveyed or unsurveyed, and which lie opposite said company's constructed road, said company is authorized to select an equal quantity of nonmineral public lands, so classified as nonmineral at the time of actual Government survey, which has been or shall be made, of the United States not reserved and to which no adverse right or claim shall have attached or have been initiated at the time of the making of such selection, lying within any State into or through which the railroad of said Northern Pacific Railroad Company runs, to the extent of

the lands so relinquished and released to the United States. Any settlers on lands in said national park may relinquish their rights thereto and take other public lands in lieu thereof, to the same extent and under the same limitations and conditions as are provided by law for national forests and national parks.

(Mar. 2, 1899, ch. 377, § 3, 30 Stat. 994.)

CODIFICATION

''Pacific National Forest'' and ''national forests'' substituted in text for ''Pacific Forest Reserve'' and ''forest reserves'', respectively, on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

§ 94. Location of mining claims

The location of mining claims under the mineral land laws of the United States is prohibited within the area of the Mount Rainier National Park, in the State of Washington. This provision shall not affect rights acquired in good faith before May 27, 1908, under the mineral land laws of the United States to any mining location or locations in said Mount Rainier National Park.

(May 27, 1908, ch. 200, § 1, 35 Stat. 365.)

§ 95. Jurisdiction by the United States; fugitives from justice

Sole and exclusive jurisdiction is assumed by the United States over the territory embraced within the Mount Rainier National Park, saving, however, to the State of Washington the right to serve civil or criminal process within the limits of the aforesaid park in suits or prosecution for or on account of rights acquired, obligations incurred, or crimes committed in said State but outside of said park, and saving further to the said State the right to tax persons and corporations, their franchises and property, on the lands included in said park. All the laws applicable to places under the sole and exclusive jurisdiction of the United States shall have force and effect in said park. All fugitives from justice taking refuge in said park shall be subject to the same laws as refugees from justice found in the State of Washington.

(June 30, 1916, ch. 197, § 1, 39 Stat. 243.)

CODIFICATION

A provision accepting the act of the legislature of the State of Washington which ceded to the United States exclusive jurisdiction over the territory referred to in this section has been omitted as executed.

§§ 96, 97. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 96, act June 30, 1916, ch. 197, § 2, 39 Stat. 244, related to inclusion of park in judicial district. See section 128 of Title 28, Judiciary and Judicial Procedure.

Section 97, act June 30, 1916, ch. 197, § 3, 39 Stat. 244, related to offenses and punishment. See section 13 of Title 18, Crimes and Criminal Procedure.

§ 98. Protection of game and fish; forfeitures and punishments

All hunting or the killing, wounding, or capturing at any time of any wild bird or animal, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury, is prohibited within the limits of said park; nor shall any fish be taken out of the waters of the park in any other way than by hook and line, and then only at such seasons and in such times and manner as may be directed by the Secretary of the Interior. That the Secretary of the Interior shall make and publish such rules and regulations as he may deem necessary and proper for the management and care of the park and for the protection of the property therein, especially for the preservation from injury or spoliation of all timber, mineral deposits other than those legally located prior to May 27, 1908, natural curiosities, or wonderful objects within said park, and for the protection of the animals and birds in the park from capture or destruction, and to prevent their being frightened or driven from the park; and he shall make rules and regulations governing the taking of fish from the streams or lakes in the park. Possession within said park of the dead bodies, or any part thereof, of any wild bird or animal shall be prima facie evidence that the person or persons having the same are guilty of violating this Act. Any person or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of this Act and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or who shall violate any of the other provisions of this Act, or any rule or regulation that may be promulgated by the Secretary of the Interior with reference to the management and care of the park or for the protection of the property therein, for the preservation from injury or spoliation of timber, mineral deposits other than those legally located prior to May 27, 1908, natural curiosities, or wonderful objects within said park, or for the protection of the animals, birds, or fish in the park, or who shall within said park commit any damage, injury, or spoliation to or upon any building, fence, hedge, gate, guidepost, tree, wood, underwood, timber, garden, crops, vegetables, plants, land, springs, mineral deposits other than those legally located prior to May 27, 1908, natural curiosities, or other matter or thing growing or being thereon or situated therein, shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all costs of the proceedings.

(June 30, 1916, ch. 197, § 4, 39 Stat. 244.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 30, 1916, which is classified to sections 95 to 105 of this title. For complete classification of this Act to the Code, see Tables.

§ 99. Forfeitures and seizures of guns, traps, teams, etc.

All guns, traps, teams, horses, or means of transportation of every nature or description used by any person or persons within said park limits when engaged in killing, trapping, ensnaring, or capturing such wild beasts, birds, or animals shall be forfeited to the United States and may be seized by the officers in said park

and held pending the prosecution of any person or persons arrested under charge of violating the provisions of this Act, and upon conviction under this Act of such person or persons using said guns, traps, teams, horses, or other means of transportation, such forfeiture shall be adjudicated as a penalty in addition to the other punishment provided in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior.

(June 30, 1916, ch. 197, § 5, 39 Stat. 245.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 30, 1916, which is classified to sections 95 to 105 of this title. For complete classification of this Act to the Code, see Tables.

§§ 100 to 105. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 100, acts June 30, 1916, ch. 197, § 6, 39 Stat. 245; June 28, 1938, ch. 778, § 1, 52 Stat. 1213, related to appointment and jurisdiction of commissioner. See provisions covering United States magistrate judges in section 631 et seq. of Title 28, Judiciary and Judicial Procedure.

Section 101, act June 30, 1916, ch. 197, § 7, 39 Stat. 245, related to arrest and bail by commissioner [now magistrate judge].

Section 102, act June 30, 1916, ch. 197, § 8, 39 Stat. 245, related to issuance of process.

Section 103, acts June 30, 1916, ch. 197, § 9, 39 Stat. 246; June 28, 1938, ch. 778, § 1, 52 Stat. 1213, related to salary of commissioner [now magistrate judge].

Section 104, act June 30, 1916, ch. 197, § 11, 39 Stat. 246, related to disposition of fines and costs.

Section 105, act June 30, 1916, ch. 197, § 10, 39 Stat. 246, related to fees, costs, and expenses chargeable to the United States.

§ 106. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1028

Section, act June 12, 1917, ch. 27, § 1, 40 Stat. 152, related to donations of patented lands or rights-of-way. See section 6 of this title.

§ 107. Boundary changed

The boundary of the Mount Rainier National Park is changed so as to read as follows: Beginning at park boundary monument numbered 1, established on the east line of section 4, township 17 north, range 7 east, Willamette meridian, by a survey of the boundaries of Mount Rainier National Park, Washington, by the General Land Office, plat dated April 17, 1909; thence southerly along the present west park boundary line as established by said survey, being the midtownship line of range 7 east, to its intersection with the south bank of Nisqually River; thence easterly along said bank to its intersection with the present south park boundary line at a point east of park boundary monument numbered 28, as established by said survey, being the township line between townships 14 and 15 north; thence easterly along said south park boundary line to the southeast corner of the present park boundary; thence northerly along the present east park boundary line to park boundary monument numbered 59, as established by said survey, being the midtownship line of range 10 east; thence due north to the south bank of White River; thence northeasterly along said bank to a point due east of park boundary monument numbered 67, thence due west to said monument numbered 67; thence westerly along the present north park boundary line, as established by said survey, being the township line between townships 17 and 18 north, to its intersection with the north bank of Carbon River; thence westerly along said bank to a point due north of park boundary monument numbered 1; thence due south to place of beginning; and all of those lands lying within the boundary above described are hereby included in and made a part of the Mount Rainier National Park; and all of those lands of the present Mount Rainier National Park excluded from the park are included in and made a part of the Rainier National Forest, subject to all national forest laws and regulations.

(May 28, 1926, ch. 410, § 1, 44 Stat. 668.)

§ 108. Other laws extended to added lands

The provisions of sections 1, 2, 3, 4, 91, 92, 93, 95, 98 and 99 of this title, and all Acts supplementary to and amendatory of said sections are made applicable to and extended over the lands added to the park by section 107 of this title: *Provided*, That the provisions of the Federal Power Act [16 U.S.C. 791a et seq.], shall not apply to or extend over such lands.

(May 28, 1926, ch. 410, § 2, 44 Stat. 669.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act of June 10, 1920, entitled 'an Act to create a Federal power commission; to provide for the improvement of navigation, the development of water power; the use of the public lands in relation thereto; and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes' '', and was redesignated the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

§ 109. Additional lands

The tract of land within the following-described boundaries is excluded from the Rainier National Forest and is added to and made a part of the Mount Rainier National Park, in the State of Washington:

Beginning at a point on the present east boundary of Mount Rainier National Park one and one-quarter miles southerly from the northeast corner of the said park as fixed by section 107 of this title, thence extending east to the summit of the hydrographic divide between Silver Creek and White River; thence along the summit of Crystal Mountain to the summit of the Cascade Mountains; thence southerly along the summit of the Cascade Mountains to a point in section 20, township 15 north, range 11 east, Willamette meridian, whence flow the waters of Bumping River to the east and Carlton and Cougar Creeks to the south and west; thence southwesterly along the summit of the divide between Carlton Creek and the waters flowing into the main fork of Ohanapecosh River to the quarter section line of section 9, township 14 north,

range 10 east, Willamette meridian; thence westerly along the quarter section line of sections 9, 8, and 7 to the west boundary of said township; thence due west to the right or west bank of Muddy Fork of the Cowlitz River; thence northerly along the right bank of said Muddy Fork to a point exactly due east of post numbered 34 on the south boundary of Mount Rainier National Park as surveyed in 1908; thence due west to said post numbered 34; thence along the boundary of said park as surveyed in 1908 to post numbered 35; thence easterly along the south boundary of said national park as surveyed in 1908 to the southeast corner thereof; thence northerly along the east boundary of said national park as surveyed in 1908 to post numbered 59; thence along the east boundary of said park as revised by section 107 of this title, northerly to the point of beginning.

(Jan. 31, 1931, ch. 71, § 1, 46 Stat. 1047.)

§ 110. Laws and regulations applicable to added lands; free use of roads maintained by State

All laws applicable to and in force within the Mount Rainier National Park as of January 31, 1931, and all regulations issued pursuant thereto, are made applicable to and extended over the land added to the said park by section 109 of this title: *Provided*, That no fee or charge shall be made by the United States for the use of any roads in said park built or maintained exclusively by the State of Washington.

(Jan. 31, 1931, ch. 71, § 2, 46 Stat. 1048.)

§ 110a. Headquarters site; acquisition of lands

In order to apply the present headquarters site in Mount Rainier National Park to public use for which it is more suitable and to provide a headquarters for the park, the Secretary of the Interior is authorized to provide a park headquarters in the general vicinity of Ashford, Washington, and for such purpose to acquire in this vicinity, by such means as he may deem to be in the public interest, not more than three hundred acres of land, or interest therein.

(Pub. L. 86–521, § 1, June 27, 1960, 74 Stat. 219.)

§ 110b. Administration of headquarters site

The headquarters site provided pursuant to section 110a of this title shall constitute a part of Mount Rainier National Park and be administered in accordance with the laws applicable thereto.

(Pub. L. 86–521, § 2, June 27, 1960, 74 Stat. 219.)

§ 110c. Boundary adjustments

(a) Park boundary adjustments

The boundaries of the Mount Rainier National Park as established in the Act of March 2, 1899 (30 Stat. 993), as amended; (16 U.S.C. 91–110b),[1] are further revised to add to the Park approximately two hundred and forty acres, and to exclude from the park approximately thirty-one and one-half acres, as generally depicted on the map entitled ''Mount Rainier National Park Proposed 1987 Boundary Adjustments'', numbered 105–80,010B and dated January 1987, which shall be on file and available for public inspection in the Washington office of the National Park Service, United States Department of the Interior and at Mount Rainier National Park.

(b) Forest boundary adjustment

The boundaries of the Snoqualmie National Forest and of the Gifford Pinchot National Forest, are hereby revised to include in the Snoqualmie National Forest approximately thirty-one and one-half acres, to exclude from the Snoqualmie National Forest approximately thirty acres, and to exclude from the Gifford Pinchot National Forest approximately two hundred and ten acres, as generally depicted on a map entitled ''Mount Rainier National Park Proposed 1987 Boundary Adjustments'', numbered 105–80,010B, and dated January 1987, which shall be on file and available for public inspection in the Washington, District of Columbia office of the Forest Service, United States Department of Agriculture and at the Snoqualmie and Gifford Pinchot National Forests.

(c) Administration of park land

(1) Federal lands, and interests therein formerly within the boundary of the Snoqualmie National Forest and the Gifford Pinchot National Forest, which are included within the boundary of the Mount Rainier National Park pursuant to this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of the Interior for administration as part of the Park, and shall be subject to all the laws and regulations of the Park.

(2) The Secretary of the Interior is authorized to accept either concurrent or exclusive jurisdiction over lands and waters included within Mount Rainier National Park by this Act. The Secretary shall notify in writing the Governor of the State of Washington of the acceptance of any such jurisdiction ceded to the United States by the State. The existing exclusive Federal jurisdiction, where it exists in the Park, shall remain in effect until such time as the Secretary and the Governor shall agree upon the terms and conditions of concurrent legislative jurisdiction for said Park pursuant to section 251*l* of this title.

(3) AUTHORIZATION OF LAND ACQUISITION.—The Secretary of the Interior is authorized to acquire from willing sellers by donation, purchase with donated or appropriated funds, exchange, bequest, or otherwise all non-Federal lands, waters, and interests therein included within the boundary of the Mount Rainier National Park pursuant to this Act.

(d) Administration of forest land

(1) Federal lands, and interests therein formerly within the boundary of the Mount Rainier National Park, which are excluded therefrom and are included within the boundaries of the Snoqualmie National Forest pursuant to this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of Agriculture for administration as part of the Forest, and shall be subject to all the laws and regulations applicable to the National Forest System.

[1] See References in Text note below.

(2) For the purposes of section 460*l*–9 of this title, the boundaries of the Snoqualmie National Forest and the Gifford Pinchot National Forest, as modified pursuant to this Act, shall be treated as if they were the boundaries of those national forests on January 1, 1965.

(3) Effective upon acceptance thereof by the State of Washington, the jurisdiction which the United States acquired over those lands excluded from the boundaries of the Mount Rainier National Park by this Act is hereby retroceded to the State.

(Pub. L. 100–668, title III, § 302, Nov. 16, 1988, 102 Stat. 3965.)

REFERENCES IN TEXT

Act of March 2, 1899 (30 Stat. 993), as amended, referred to in subsec. (a), is act Mar. 2, 1899, ch. 377, 30 Stat. 993, which enacted sections 91, 92, and 93 of this title. For complete classification of this Act to the Code, see Tables.

This Act, referred to in subsecs. (c) and (d), is Pub. L. 100–668, Nov. 16, 1988, 102 Stat. 3961, which enacted section 110c of this title, amended sections 90b, 90c–1, 90d–4, 251n, 256b, 256c, and 1274 of this title, and enacted provisions listed in a table of Wilderness Areas set out under section 1132 of this title and provisions set out as a note under sections 90 and 251n of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 90 of this title and Tables.

§ 110d. Mount Rainier National Park Boundary Adjustment

(a) Boundary adjustment

The boundary of Mount Rainier National Park is modified to include the area within the boundary generally depicted on the map entitled ''Mount Rainier National Park, Carbon River Boundary Adjustment'', numbered 105/92,002B, and dated June 2003. The Secretary of the Interior shall keep the map on file in the appropriate offices of the National Park Service.

(b) Land acquisition

The Secretary of the Interior may acquire, only with the consent of the owner, by donation, purchase with donated or appropriated funds, or exchange—

(1) land or interests in land, totaling not more than 800 acres, and improvements thereon within the boundary generally depicted on the map referred to in subsection (a) of this section for development of camping and other recreational facilities; and

(2) land or interests in land, totaling not more than one acre, and improvements thereon in the vicinity of Wilkeson, Washington, for a facility to serve visitors to public lands along the Carbon and Mowich Corridors.

(c) Administration of acquired lands

Lands acquired under this section shall be administered by the Secretary of the Interior as part of Mount Rainier National Park in accordance with applicable laws and regulations.

(Pub. L. 108–312, § 3, Oct. 5, 2004, 118 Stat. 1194.)

SHORT TITLE

For short title of Pub. L. 108–312, which enacted this section, as the Mount Rainier National Park Boundary Adjustment Act of 2004, see section 1 of Pub. L. 108–312, set out as a note under section 91 of this title.

FINDINGS

Pub. L. 108–312, § 2, Oct. 5, 2004, 118 Stat. 1194, provided that: ''The Congress finds the following:

''(1) The Carbon River watershed within Pierce County in the State of Washington has unique qualities of ecological, economic, and educational importance, including clean water, productive salmon streams, important wildlife habitat, active geologic processes, outdoor recreational opportunities, scenic beauty, educational opportunities, and diverse economic opportunities.

''(2) Mount Rainier National Park is one of the premier attractions in the State of Washington, providing recreational, educational, and economic opportunities that will be enhanced by the construction of new campgrounds and visitor contact facilities in the Carbon River valley outside old-growth forest habitats and above the flood plain.

''(3) Coordination of management across national forest and national park lands in this corridor will enhance the conservation of the forest ecosystem and public enjoyment of these public lands.

''(4) Protection and development of historic and recreational facilities in the Carbon River valley, such as trails and visitor centers, can be facilitated by the National Park Service.''

SUBCHAPTER XII—MESA VERDE NATIONAL PARK

§ 111. Establishment; boundaries

There is reserved from settlement, entry, sale, or other disposal and set apart as a public reservation, all those certain tracts, pieces and parcels of land lying and being situated in the State of Colorado, within the boundaries described as follows:

Beginning at a point on the north boundary of the Southern Ute Indian Reservation in southwestern Colorado where the north quarter corner of unsurveyed fractional section 2, township 34 north, range 15 west, ''south of the Ute boundary'', intersects the same; thence south to the south quarter corner of unsurveyed section 26, said township; thence west to the southwest corner of unsurveyed section 25, township 34 north, range 16 west; thence north to the northwest corner of unsurveyed fractional section 1 said township and range; thence west to the southeast corner of fractional section 12, township 34 north, range 16 west, ''north of the Ute boundary''; thence north to the northwest corner of section 19, township 35 north, range 15 west; thence east to the southwest corner of the southeast quarter of section 16, said township; thence north to the northwest corner of the southeast quarter of said section; thence east to the southwest corner of the northeast quarter of section 13, said township; thence north to the northwest corner of the northeast quarter of said section; thence east to the southwest corner of section 7, township 35 north, range 14 west; thence north to the northwest corner of said section; thence east to the southwest corner of section 5, said township; thence north to the northwest corner of said section; thence east to the northeast corner of said section; thence south to the southeast corner of the northeast quarter of said section; thence east to the northeast corner of the southwest quarter of section 4, said township; thence south to the northwest corner of the southeast quarter of section 16, said township; thence east to the northeast corner of the

southeast quarter of said section; thence south to the northwest corner of section 22, said township; thence east to the northeast corner of said section; thence south to the northwest corner of section 26, said township; thence east along the north section line of section 26 to the east bank of the Rio Mancos: thence in a southeasterly direction along the east bank of the Rio Mancos to its intersection with the northern boundary line of the Southern Ute Indian Reservation, thence west along said Indian reservation boundary to its intersection with the range line between ranges 14 and 15 west, the place of beginning.

Said park shall be known as Mesa Verde National Park.

(June 29, 1906, ch. 3607, §§1, 2, 34 Stat. 616, 617; June 30, 1913, ch. 4, §1, 38 Stat. 83.)

CODIFICATION

Section is based on sections 1 and 2 of act June 29, 1906, and a portion of section 1 of act June 30, 1913.

The first sentence to the colon is from a part of section 1 of act June 29, 1906.

The second paragraph is from section 1 of act June 30, 1913. It extended the park on the south and described the boundaries as thus changed, thereby superseding the description contained in section 1 of act June 29, 1906. Section 1 of act June 30, 1913, also recited that the lands added to the park by its provisions were lands relinquished by Indians pursuant to an agreement incorporated and ratified therein. The agreement was one dated May 10, 1911, with the Wiminuche Band of Southern Ute Indians.

The last sentence of this section is taken from section 2 of act June 29, 1906, which is also the source of section 112 of this title.

MESA VERDE NATIONAL PARK BOUNDARY CHANGE

Pub. L. 110–161, div. F, title I, §133, Dec. 26, 2007, 121 Stat. 2123, provided that:

''(a) ACQUISITION OF LAND.—

''(1) IN GENERAL.—The Secretary may acquire the land or an interest in the land described in subsection (b) for addition to the Mesa Verde National Park.

''(2) MEANS.—An acquisition of land under paragraph (1) may be made by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

''(b) DESCRIPTION OF LAND.—The land referred to in subsection (a)(1) is the approximately 360 acres of land adjacent to the Park, as generally depicted on the map, entitled 'Mesa Verde National Park Proposed Boundary Adjustment', numbered 307/80,180, and dated March 1, 2007.

''(c) AVAILABILITY OF MAP.—The map shall be on file and available for inspection in the appropriate offices of the National Park Service.

''(d) BOUNDARY MODIFICATION.—The boundary of the Park shall be revised to reflect the acquisition of the land under subsection (a).

''(e) ADMINISTRATION.—The Secretary shall administer any land or interest in land acquired under subsection (a)(1) as part of the Park in accordance with the laws (including regulations) applicable to the Park.''

§ 111a. Authorization for acquisition of additional lands

For the purpose of protecting the scenery along the Point Lookout Road between the north boundary of the Mesa Verde National Park and this road's juncture with the Cortez-Mancos Road, the President of the United States is authorized, upon the recommendation of the Secretary of the Interior, to add to the said Mesa Verde National Park, Colorado, by executive proclamation, a strip of land two hundred and sixty feet wide along and including said Point Lookout Road, and the triangle formed by the fork in said road and such other public land along or adjacent to said road and right-of-way and lands as may be acquired by gift or by exchanges as hereinafter provided, which lands shall thereupon become and be a part of said park subject to all laws and regulations applicable thereto.

(Feb. 26, 1931, ch. 308, §1, 46 Stat. 1422.)

§ 111b. Donations or exchanges of lands

For the purpose of carrying out the provisions of this section and section 111a of this title the Secretary of the Interior is authorized to accept donations of land or right-of-way, or to acquire title to any land along or adjacent to the said Point Lookout Road as may be deemed desirable by him for the protection of said road, by exchange for any unappropriated public lands within sections 29 and 32, township 36 north, range 14 west, New Mexico principal meridian, of equal value; the value of the lands offered for exchange hereunder and the value of the lands of the United States to be selected therefor shall be ascertained in such manner as the Secretary of the Interior may direct; and the owners of lands offered to the United States pursuant hereto shall, before the exchange is effective, furnish the Secretary of the Interior evidence satisfactory to him of title to the lands offered in exchange.

(Feb. 26, 1931, ch. 308, §2, 46 Stat. 1423.)

§ 111c. Revision of boundaries; vested rights; administration

The boundaries of Mesa Verde National Park are hereby revised to include the following described lands, which, subject to valid existing rights, shall be administered as a part of the park in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

Township 36 North, Range 14 West

Section 29: All portions of the south half and the southeast quarter northwest quarter lying south and west of the right-of-way of United States Highway 160.

Section 32: Those portions of the section lying south and west of the right-of-way of United States Highway 160, except the north entrance road to the park, the southeast quarter southwest quarter, and the southeast quarter northeast quarter southwest quarter.

Section 33: That portion of the northwest quarter northwest quarter, more particularly described as follows: Beginning at a point on the west line of section 33 which is 456.5 feet south of the northwest corner of section 33, thence running south along the west line of section 33 for a distance of 373.0 feet, thence running east for a distance of 516.8 feet, thence running north for a distance of 132.7 feet, thence running north 65 degrees 06 minutes west for a distance of 570.0 feet along the southwesterly right-of-way of Highway 160 to the point of beginning.

(Pub. L. 88–235, § 1, Dec. 23, 1963, 77 Stat. 473.)

§ 111d. Acquisition of lands within boundaries of park

The Secretary of the Interior may acquire by purchase, with donated or appropriated funds, lands and interests in lands within the boundaries of Mesa Verde National Park as revised by section 111c of this title.

(Pub. L. 88–235, § 2, Dec. 23, 1963, 77 Stat. 474.)

§ 111e. Authorization of appropriations

There are hereby authorized to be appropriated such sums, but not more than $193,233 as may be necessary to carry out the provisions of sections 111c to 111e of this title.

(Pub. L. 88–235, § 3, Dec. 23, 1963, 77 Stat. 474; Pub. L. 94–578, title I, § 101(8), Oct. 21, 1976, 90 Stat. 2732.)

AMENDMENTS

1976—Pub. L. 94–578 substituted ''$193,233'' for ''$125,000''.

§ 112. Control; regulations; prehistoric ruins

Mesa Verde National Park shall be under the exclusive control of the Secretary of the Interior. In addition to the duties and powers enumerated in section 3 of this title not inconsistent with this section, he shall establish such service as he may deem necessary for the care and management of the same. Such regulations shall provide specifically for the preservation from injury or spoliation of the ruins and other works and relics of prehistoric or primitive man within said park.

(June 29, 1906, ch. 3607, § 2, 34 Stat. 617; June 30, 1913, ch. 4, § 1, 38 Stat. 84.)

CODIFICATION

As enacted by act June 29, 1906, this section began with a clause naming the park which was stricken out and inserted as the last sentence of section 111 of this title.

A provision for the making of necessary rules and regulations by the Secretary of the Interior has been omitted by reason of the reference to section 3 of this title, derived from act Aug. 25, 1916, ch. 408, § 3, 39 Stat. 535, authorizing the Secretary of the Interior to make and publish rules and regulations applicable to National Parks.

§ 113. Examinations, excavations, and gathering objects of interest

The Secretary of the Interior is authorized to permit examinations, excavations, and other gathering of objects of interest within said park by any person or persons whom he may deem properly qualified to conduct such examinations, excavations, or gatherings, subject to such rules and regulations as he may prescribe: *Provided always*, That the examinations, excavations, and gatherings shall be undertaken only for the benefit of some reputable museum, university, college, or other recognized scientific or educational institution, with a view to increasing the knowledge of such objects and aiding the general advancement of archaeological science.

(June 29, 1906, ch. 3607, § 3, 34 Stat. 617.)

§ 114. Removal, disturbance, destruction, or molestation of ruins

Any person or persons who may otherwise in any manner willfully remove, disturb, destroy, or molest any of the ruins, mounds, buildings, graves, relics, or other evidences of an ancient civilization or other property from said park shall be deemed guilty of a misdemeanor, and upon conviction before any court having jurisdiction of such offenses shall be fined not more than $1,000 or imprisoned not more than twelve months, or such person or persons may be fined and imprisoned, at the discretion of the judge, and shall be required to restore the property disturbed, if possible.

(June 29, 1906, ch. 3607, § 4, 34 Stat. 617.)

§ 115. Leases and permits; prehistoric ruins not included

The Secretary of the Interior may, upon terms and conditions to be fixed by him, grant leases and permits for the use of the land or development of the resources thereof, in the Mesa Verde National Park, and the funds derived therefrom shall be covered into the Treasury of the United States. Such leases or grants shall not include any of the prehistoric ruins in said park or exclude the public from free or convenient access thereto.

(June 25, 1910, ch. 385, § 1, 36 Stat. 796.)

§ 115a. Mineral resources; exploitation

After January 26, 1931, no permit, license, lease, or other authorization for the prospecting, development, or utilization of the mineral resources within the Mesa Verde National Park, Colorado, shall be granted or made.

(Jan. 26, 1931, ch. 47, § 1, 46 Stat. 1043.)

§ 116. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1028

Section, act June 12, 1917, ch. 27, § 1, 40 Stat. 152, related to donations of lands or rights-of-way. See section 6 of this title.

§ 117. Exclusive jurisdiction ceded to United States by Colorado; saving provisions; fugitives from justice

Sole and exclusive jurisdiction is assumed by the United States over the territory embraced and included within the Mesa Verde National Park, saving, however, to the State of Colorado the right to serve civil or criminal process within the limits of the aforesaid park in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed outside of said park; and saving further to the said State the right to tax persons and corporations, their franchises and property on the lands included in said tracts: and saving also to the persons residing in said park now or after April 25, 1928, the right to vote at all elections held within the county or counties in which said tracts are situated. All the laws applicable to places under the sole and exclusive jurisdiction of the United States shall have force and effect in said park. All fugitives from justice taking refuge in said park shall be subject to the same

laws as refugees from justice found in the State of Colorado.

(Apr. 25, 1928, ch. 434, §1, 45 Stat. 458.)

CODIFICATION

A provision accepting the act of the Colorado Legislature which ceded to the United States exclusive jurisdiction over the territory referred to in this section has been omitted as executed.

§§ 117a, 117b. Repealed. June 25, 1948, ch. 646, §39, 62 Stat. 992, eff. Sept. 1, 1948

Section 117a, act Apr. 25, 1928, ch. 434, §2, 45 Stat. 459, related to inclusion of park in a judicial district. See section 85 of Title 28, Judiciary and Judicial Procedure.

Section 117b, act Apr. 25, 1928, ch. 434, §3, 45 Stat. 459, related to applicability of Colorado laws to offenses. See section 13 of Title 18, Crimes and Criminal Procedure.

§117c. Hunting and fishing; general rules and regulations; protection of property; violation of statutes and rules; penalties

All hunting or the killing, wounding, or capturing at any time of any wild bird or animal, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury, is prohibited within the limits of said park; nor shall any fish be taken out of the waters of the park in any other way than by hook and line, and then only at such seasons and in such times and manner as may be directed by the Secretary of the Interior. That the Secretary of the Interior shall make and publish such general rules and regulations as he may deem necessary and proper for the management and care of the park and for the protection of the property therein, especially for the preservation from injury or spoliation of the ruins and other works and relics of prehistoric or primitive man, all timber, natural curiosities, or wonderful objects within said park, and for the protection of the animals and birds in the park from capture or destruction, and to prevent their being frightened or driven from the park; and he shall make rules and regulations governing the taking of fish from the streams or lakes in the park. Possession within said park of the dead bodies, or any part thereof, of any wild bird or animal shall be prima facie evidence that the person or persons having the same are guilty of violating this Act. Any person or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of this Act and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or who shall violate any of the provisions of this Act or any rule or regulation that may be promulgated by the Secretary of the Interior with reference to the management and care of the park or for the protection of the property therein, for the preservation from injury or spoliation of the ruins and other works and relics of prehistoric or primitive man, and timber, natural curiosities, or wonderful objects within said park, or for the protection of the animals, birds, or fish in the park, or who shall within said park commit any damage, injury, or spoliation to or upon any building, fence, hedge, gate, guidepost, tree, wood, underwood, timber, garden, crops, vegetables, plants, land, springs, natural curiosities, or other matter or thing growing or being thereon or situated therein, shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all costs of the proceedings: *Provided, however*, That any person or persons who may, without permission from the Secretary of the Interior, in any manner willfully remove, disturb, destroy, or molest any of the ruins, mounds, buildings, graves, relics, or other evidences of an ancient civilization from said park shall upon conviction before any court having jurisdiction of such offenses be fined not more than $1,000 or imprisoned not more than twelve months, or such person or persons may be fined and imprisoned, at the discretion of the judge, and shall be required to restore the property disturbed, if possible.

(Apr. 25, 1928, ch. 434, §4, 45 Stat. 459.)

REFERENCES IN TEXT

This Act, referred to in text, is act Apr. 25, 1928, which is classified to sections 117 to 117j of this title. For complete classification of this Act to the Code, see Tables.

§117d. Forfeiture of property used for unlawful purpose

All guns, traps, teams, horses, or means of transportation of every nature or description used by any person or persons within said park limits when engaged in killing, trapping, ensnaring, or capturing such wild beasts, birds, or animals shall be forfeited to the United States and may be seized by the officers in said park and held pending the prosecution of any person or persons arrested under charge of violating the provisions of this Act, and upon conviction under this Act of such person or persons using said guns, traps, teams, horses, or other means of transportation, such forfeiture shall be adjudicated as a penalty in addition to the other punishment provided in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior.

(Apr. 25, 1928, ch. 434, §5, 45 Stat. 460.)

REFERENCES IN TEXT

This Act, referred to in text, is act Apr. 25, 1928, which is classified to sections 117 to 117j of this title. For complete classification of this Act to the Code, see Tables.

§§ 117e to 117j. Repealed. June 25, 1948, ch. 646, §39, 62 Stat. 992, eff. Sept. 1, 1948

Section 117e, acts Apr. 25, 1928, ch. 434, §6, 45 Stat. 460; June 28, 1938, ch. 778, §1, 52 Stat. 1213, related to appointment and jurisdiction of commissioner. See provisions covering United States magistrate judges in section 631 et seq. of Title 28, Judiciary and Judicial Procedure.

Section 117f, act Apr. 25, 1928, ch. 434, §7, 45 Stat. 460, related to criminal offenses. See sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and rules 4, 5(c), and 9 of Federal Rules of Criminal Procedure, Title 18, Appendix.

Section 117g, act Apr. 25, 1928, ch. 434, §8, 45 Stat. 460, related to issuance of process.

Section 117h, acts Apr. 25, 1928, ch. 434, §9, 45 Stat. 461; June 28, 1938, ch. 778, §1, 52 Stat. 1213, related to salary of commissioner [now magistrate judge].

Section 117i, act Apr. 25, 1928, ch. 434, § 10, 45 Stat. 461, related to fees, costs, and expenses against the United States.

Section 117j, act Apr. 25, 1928, ch. 434, § 11, 45 Stat. 461, related to disposition of fines and costs.

§ 118. Appropriations; availability for operation of Aileen Nusbaum Hospital

Appropriations made for Mesa Verde National Park shall be available for the operation of the Aileen Nusbaum Hospital and the furnishing of the necessary service in connection therewith at rates to be fixed by the Secretary of the Interior.

(May 14, 1930, ch. 273, § 1, 46 Stat. 315.)

SUBCHAPTER XIII—PETRIFIED FOREST NATIONAL PARK

§ 119. Establishment; notice in Federal Register; administration; exchange and acquisition of lands; remaining funds

In order to permit the establishment of the Petrified Forest National Monument, Arizona, and other lands as provided for herein, as the Petrified Forest National Park, such national park shall be established (a) after title to all of the lands described in section 119a of this title shall have been vested in the United States, with the exception of such easements and rights-of-way for railroad, public utilities, and highway purposes as may be acceptable to the Secretary of the Interior, and (b) when notification of the effective date of such establishment of the park, as determined by the said Secretary, is published in the Federal Register. Disestablishment of the Petrified Forest National Monument shall be effected concurrently with the establishment of the park.

The Petrified Forest National Park shall be preserved and administered in its natural condition by the Secretary of the Interior for the public benefit in accordance with the general laws governing areas of the National Park System and in accordance with the basic policies relating thereto as prescribed by sections 1, 2, 3, and 4 of this title.

The exchange authority prescribed for the Petrified Forest National Monument in sections 444 and 444a of this title, is hereby extended to all the lands within the Petrified Forest National Park as herein authorized.

For the purposes of this section and section 119a of this title, the Secretary is authorized to acquire, in such manner as he shall consider to be in the public interest, any non-Federal land or interests in land within the area hereby authorized to be established as the Petrified Forest National Park. In acquiring any State-owned land or interests therein within the aforesaid area, such property may be procured by the United States without regard to any limitations heretofore prescribed by the Congress relating to the disposal of State-owned properties.

Upon establishment of the Petrified Forest National Park, as authorized by this section and section 119a of this title, any remaining balance of funds that may be available for purposes of the Petrified Forest National Monument shall thereafter be available for expenditure for purposes of the Petrified Forest National Park.

(Pub. L. 85–358, § 1, Mar. 28, 1958, 72 Stat. 69.)

PETRIFIED FOREST NATIONAL PARK EXPANSION

Pub. L. 108–430, Dec. 3, 2004, 118 Stat. 2606, as amended by Pub. L. 111–11, title VII, § 7116(d), Mar. 30, 2009, 123 Stat. 1203, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Petrified Forest National Park Expansion Act of 2004'.

''SEC. 2. DEFINITIONS.

''In this Act:

''(1) MAP.—The term 'map' means the map entitled 'Proposed Boundary Adjustments, Petrified Forest National Park', numbered 110/80,045, and dated January 2005.

''(2) PARK.—The term 'Park' means the Petrified Forest National Park in the State.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(4) STATE.—The term 'State' means the State of Arizona.

''SEC. 3. BOUNDARY REVISION.

''(a) IN GENERAL.—The Secretary is authorized to revise the boundary of the Park to include approximately 125,000 acres as depicted on the map.

''(b) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

''SEC. 4. ACQUISITION OF ADDITIONAL LAND.

''(a) PRIVATE LAND.—The Secretary may acquire from a willing seller, by donation, purchase with donated or appropriated funds, or exchange, any private land or interests in private land within the revised boundary of the Park. In acquiring private land and interests in private land within the revised boundary of the Park, the Secretary shall undertake to acquire such private land and interests in private land first by donation or exchange.

''(b) STATE LAND.—

''(1) IN GENERAL.—The Secretary may, with the consent of the State and in accordance with Federal and State law, acquire from the State any State land or interests in State land within the revised boundary of the Park.

''(2) PLAN.—Not later than 3 years after the date of the enactment of this Act [Dec. 3, 2004], the Secretary shall, in coordination with the State, develop a plan for acquisition for State land or interests in State land under paragraph (1).

''(3) MANAGEMENT AGREEMENT.—If the Secretary is unable to acquire the State land under paragraph (1) within the 3-year period required by paragraph (2), the Secretary may enter into an agreement that would allow the National Park Service to manage State land within the revised boundary of the Park.

''SEC. 5. ADMINISTRATION.

''(a) IN GENERAL.—Subject to applicable laws, all land and interests in land acquired under this Act shall be administered by the Secretary as part of the Park.

''(b) TRANSFER OF JURISDICTION.—The Secretary shall transfer to the National Park Service administrative jurisdiction over any land under the jurisdiction of the Secretary that—

''(1) is depicted on the map as being within the boundaries of the Park; and

''(2) is not under the administrative jurisdiction of the National Park Service on the date of enactment of this Act [Dec. 3, 2004].

''(c) EXCHANGE AFTER ENACTMENT.—Upon completion of an exchange of land after the date of the enactment of this Act [Dec. 3, 2004], the Secretary shall transfer administrative jurisdiction over the exchanged lands within the boundary of the Park as depicted on the map to the National Park Service.

''(d) GRAZING.—

''(1) IN GENERAL.—The Secretary shall permit the continuation of grazing on land transferred to the

Secretary under this Act, subject to applicable laws, regulations, and Executive orders.

''(2) TERMINATION OF LEASES OR PERMITS.—Nothing in this subsection prohibits the Secretary from accepting the voluntary termination of a grazing permit or grazing lease within the Park.

''(e) AMENDMENT TO GENERAL MANAGEMENT PLAN.—Not later than 3 years after the date of the enactment of this Act [Dec. 3, 2004], the Secretary shall amend the general management plan for the Park to address the use and management of any additional land acquired under this Act.

''SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this Act.''

TRANSFER OF JURISDICTION, AIR FORCE HOUSING AT RADAR BOMB SCORING SITE, HOLBROOK, ARIZONA

Pub. L. 103–337, div. B, title XXVIII, §2844, Oct. 5, 1994, 108 Stat. 3068, provided that:

''(a) TRANSFER AUTHORIZED.—As part of the closure of an Air Force Radar Bomb Scoring Site located near Holbrook, Arizona, the Secretary of the Air Force may transfer, without reimbursement, the administrative jurisdiction, accountability, and control of the housing units and associated support facilities used in connection with the site to the Secretary of the Interior for use in connection with Petrified Forest National Park.

''(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Air Force and the Secretary of the Interior.

''(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require such additional terms and conditions in connection with the transfer of real property under subsection (a) as the Secretary considers appropriate.''

§ 119a. Boundaries

The Petrified Forest National Park, authorized to be established pursuant to section 119 of this title, shall comprise the following described lands:

GILA AND SALT RIVER MERIDIAN

Township 20 north, range 23 east: Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, 36, all.

Township 20 north, range 24 east: All.

Township 20 north, range 25 east: Sections 4, 5, 6, 7, 8, 9, 16, 17, 18, all.

Township 19 north, range 23 east: Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, all.

Township 19 north, range 24 east: Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, all; section 11, northwest quarter and north half northeast quarter; sections 16, 17, 18, 21, 28, 33, all.

Township 18 north, range 24 east: Sections 4, 9, all; section 10, southwest quarter; sections 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36, all.

Township 17 north, range 24 east: Sections 2, 11, 14, 23, 26, west halves; sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, all.

Township 17 north, range 23 east: Sections 34, 35, 36, all.

Township 16 north, range 24 east: Sections 3 and 10, west halves; sections 4, 5, 6, 7, 8, 9, all.

Township 16 north, range 23 east: Sections 1, 2, 11, 12, all; sections 3, 10, east halves.

Township 19 north, range 24 east: the southwest quarter of the southwest quarter of section 27.

(Pub. L. 85–358, §2, Mar. 28, 1958, 72 Stat. 69; Pub. L. 99–250, §1, Feb. 27, 1986, 100 Stat. 13.)

AMENDMENTS

1986—Pub. L. 99–250 inserted ''Township 19 north, range 24 east: the southwest quarter of the southwest quarter of section 27.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 2 of Pub. L. 99–250 provided that: ''The provisions of this Act [amending this section] shall not take effect until the Secretary of the Interior determines that fee simple title to the property described in section 1 has vested in the United States. Such determination of the Secretary shall be published in the Federal Register.''

SUBCHAPTER XIV—CRATER LAKE NATIONAL PARK

§ 121. Establishment; boundaries

In order to preserve for the benefit, education, and inspiration of the people of the United States certain unique and ancient volcanic features, including Crater Lake, together with significant forest and fish and wildlife resources, there is hereby established the Crater Lake National Park in the State of Oregon. The boundary of the park shall encompass the lands, waters, and interests therein within the area generally depicted on the map entitled, ''Crater Lake National Park, Oregon'', numbered 106–80–001–A, and dated March 1981, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior. Lands, waters, and interests therein within the boundary of the park which were within the boundary of any national forest are excluded from such national forest and the boundary of such national forest is revised accordingly.

(May 22, 1902, ch. 820, §1, 32 Stat. 202; Pub. L. 96–553, §1(a), Dec. 19, 1980, 94 Stat. 3255; Pub. L. 97–250, §1(a), Sept. 8, 1982, 96 Stat. 709.)

AMENDMENTS

1982—Pub. L. 97–250 substituted ''numbered 106–80–001–A, and dated March 1981'' for ''numbered 106–80,001, and dated February 1980''.

1980—Pub. L. 96–553 substituted provisions relating to establishment and map depicting boundaries of Crater Lake National Park for provisions setting out latitude and longitude of Crater Lake National Park and dedication of such Park.

DISPOSITION OF EXCLUDED LANDS, WATER, AND INTERESTS

Section 1(b) of Pub. L. 97–250 provided that: ''Lands, water, and interests therein excluded from the boundary of Crater Lake National Park by subsection (a) [amending this section] are hereby made a part of the Rogue River National Forest, and the boundary of such national forest is revised accordingly.''

§ 121a. Repealed. Pub. L. 96–553, §1(b), Dec. 19, 1980, 94 Stat. 3255

Section, act May 14, 1932, ch. 184, 47 Stat. 155, related to additions to Crater Lake National Park.

§ 122. Control; regulations

Crater Lake National Park shall be under the control and custody of the Secretary of the Interior. In addition to the powers and duties enu-

merated in section 3 of this title not inconsistent with this section, he shall cause adequate measures to be taken for the preservation of the natural objects within said park, and also for the protection of the timber from wanton depredation, the preservation of all kinds of game and fish, the punishment of trespassers, the removal of unlawful occupants and intruders, and the prevention and extinguishment of forest fires.

(May 22, 1902, ch. 820, § 2, 32 Stat. 202.)

CODIFICATION

A provision for the making of necessary rules and regulations by the Secretary of the Interior has been omitted by reason of the reference to section 3 of this title, derived from act Aug. 25, 1916, ch. 408, § 3, 39 Stat. 535, authorizing the Secretary of the Interior to make and publish rules and regulations applicable to National Parks.

§ 122a. Water quality of Crater Lake; studies and investigations; report to Congress

The Secretary of the Interior is authorized and directed to promptly instigate studies and investigations as to the status and trends of change of the water quality of Crater Lake, and to immediately implement such actions as may be necessary to assure the retention of the lake's natural pristine water quality. Within two years of the effective date of this provision, and biennially thereafter for a period of ten years, the Secretary shall report the results of such studies and investigations, and any implementation actions instigated, to the appropriate committees of the Congress.

(Pub. L. 97–250, § 1(c), Sept. 8, 1982, 96 Stat. 709.)

REFERENCES IN TEXT

The effective date of this provision, referred to in text, probably means the date of enactment of Pub. L. 97–250, which was approved Sept. 8, 1982.

§ 123. Settlement, residence, lumbering, or business within park punishable; admission of visitors

It shall be unlawful for any person to establish any settlement or residence within Crater Lake National Park, or to engage in any lumbering, or other enterprise or business occupation therein, or to enter therein for any speculative purpose whatever, and any person violating the provisions of this section or sections 121 and 122 of this title, or the rules and regulations established thereunder, shall be punished by a fine of not more than $500, or by imprisonment for not more than one year, and shall further be liable for all destruction of timber or other property of the United States in consequence of any such unlawful act. Crater Lake National Park shall be open, under such regulations as the Secretary of the Interior may prescribe, to all scientists, excursionists, and pleasure seekers. Restaurant and hotel keepers, upon application to the Secretary of the Interior, may be permitted by him to establish places of entertainment within the Crater Lake National Park for the accommodation of visitors, at places and under regulations fixed by the Secretary of the Interior, and not otherwise.

(May 22, 1902, ch. 820, § 3, 32 Stat. 203; Pub. L. 94–429, § 3(a), Sept. 28, 1976, 90 Stat. 1342.)

AMENDMENTS

1976—Pub. L. 94–429 struck out provision that the park be open, under the supervision of the Secretary of the Interior, to the location and working of mining claims.

MINING RIGHTS EXISTING PRIOR TO 1976 AMENDMENT

Section 3 of Pub. L. 94–429 provided in part that this section was amended as indicated in order to close area to entry and location under the Mining Law of 1872, subject to valid existing rights.

§ 124. Jurisdiction by the United States; fugitives from justice

Sole and exclusive jurisdiction is assumed by the United States over the territory embraced within the Crater Lake National Park, saving, however, to the State of Oregon the right to serve civil or criminal process within the limits of the aforesaid park in suits or prosecution for or on account of rights acquired, obligations incurred, or crimes committed in said State but outside of said park, and saving further to the said State the right to tax persons and corporations, their franchises and property, on the lands included in said park. All the laws applicable to places under the sole and exclusive jurisdiction of the United States shall have force and effect in said park. All fugitives from justice taking refuge in said park shall be subject to the same laws as refugees from justice found in the State of Oregon.

(Aug. 21, 1916, ch. 368, § 1, 39 Stat. 521.)

CODIFICATION

A provision accepting the act of the Oregon Legislature which ceded to the United States exclusive jurisdiction over the territory referred to in this section has been omitted as executed.

§§ 125, 126. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 125, act Aug. 21, 1916, ch. 368, § 2, 39 Stat. 522, related to inclusion of park in judicial district. See section 117 of Title 28, Judiciary and Judicial Procedure.

Section 126, act Aug. 21, 1916, ch. 368, § 3, 39 Stat. 522, related to offenses. See section 13 of Title 18, Crimes and Criminal Procedure.

§ 127. Hunting and fishing; rules and regulations; punishment

All hunting or the killing, wounding, or capturing at any time of any wild bird or animal, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting injury, is prohibited within the limits of said park; nor shall any fish be taken out of the waters of the park in any other way than by hook and line, and then only at such seasons and in such times and manner as may be directed by the Secretary of the Interior. The Secretary of the Interior shall make and publish such rules and regulations as he may deem necessary and proper for the management and care of the park and for the protection of the property therein, especially for the preservation from injury or spoliation of all timber, mineral deposits other than those legally located prior to August 21, 1916, natural curiosities, or wonderful objects within said park, and for the protection of the animals and birds in the park from capture or

destruction, and to prevent their being frightened or driven from the park; and he shall make rules and regulations governing the taking of fish from the streams or lakes in the park. Possession within said park of the dead bodies, or any part thereof, of any wild bird or animal shall be prima facie evidence that the person or persons having the same are guilty of violating this Act. Any person or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of this Act and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or who shall violate any of the other provisions of this Act or any rule or regulation that may be promulgated by the Secretary of the Interior with reference to the management and care of the park or for the protection of the property therein, for the preservation from injury or spoliation of timber, mineral deposits other than those legally located prior to August 21, 1916, natural curiosities, or wonderful objects within said park, or for the protection of the animals, birds, or fish in the park, or who shall within said park commit any damage, injury, or spoliation to or upon any building, fence, hedge, gate, guidepost, tree, wood, underwood, timber, garden, crops, vegetables, plants, land, springs, mineral deposits other than those legally located prior to August 21, 1916, natural curiosities, or other matter or thing growing or being thereon or situate therein, shall be deemed guilty of a misdemeanor, and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all costs of the proceedings.

(Aug. 21, 1916, ch. 368, § 4, 39 Stat. 522.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 21, 1916, which is classified to sections 124 to 134 of this title. For complete classification of this Act to the Code, see Tables.

§ 128. Forfeitures or seizures of guns, traps, teams, etc., for violating regulations

All guns, traps, teams, horses, or means of transportation of every nature or description used by any person or persons within said park limits when engaged in killing, trapping, ensnaring, or capturing such wild beasts, birds, or animals shall be forfeited to the United States and may be seized by the officers in said park and held pending the prosecution of any person or persons arrested under charge of violating the provisions of this Act, and upon conviction under this Act of such person or persons using said guns, traps, teams, horses, or other means of transportation, such forfeiture shall be adjudicated as a penalty in addition to the other punishment provided in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior.

(Aug. 21, 1916, ch. 368, § 5, 39 Stat. 523.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 21, 1916, which is classified to sections 124 to 134 of this title. For complete classification of this Act to the Code, see Tables.

§§ 129 to 134. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 129, acts Aug. 21, 1916, ch. 368, § 6, 39 Stat. 523; June 25, 1935, ch. 309, § 1, 49 Stat. 422; June 28, 1938, ch. 778, § 1, 52 Stat. 1213, related to appointment and jurisdiction of commissioner. See provisions covering United States magistrate judges under section 631 et seq. of Title 28, Judiciary and Judicial Procedure.

Section 130, act Aug. 21, 1916, ch. 368, § 7, 39 Stat. 523, related to arrests by commissioner [now magistrate judge].

Section 131, act Aug. 21, 1916, ch. 368, § 8, 39 Stat. 523, related to issuance of process.

Section 132, acts Aug. 21, 1916, ch. 368, § 9, 39 Stat. 523; June 25, 1935, ch. 309, § 2, 49 Stat. 422, related to residence of commissioner [now magistrate judge].

Section 132a, act June 25, 1935, ch. 309, § 3, 49 Stat. 422, related to salary of commissioner [now magistrate judge].

Section 133, act Aug. 21, 1916, ch. 368, § 11, 39 Stat. 524, related to disposition of fines and costs.

Section 134, act Aug. 21, 1916, ch. 368, § 10, 39 Stat. 524, related to accounting for fees, costs, and expenses.

§ 135. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1028

Section, act June 12, 1917, ch. 27, § 1, 40 Stat. 152, related to donations of patented lands or rights-of-way. See section 6 of this title.

SUBCHAPTER XV—WIND CAVE NATIONAL PARK

§ 141. Establishment; boundaries

There are reserved from settlement, entry, sale, or other disposal, and set apart as a public park, all those certain tracts, pieces, or parcels of land lying and being situate in the State of South Dakota and within the boundaries particularly described as follows: Beginning at the southeast corner of section 13, township 6 south, range 5 east, Black Hills meridian, South Dakota; thence westerly to the southwest corner of the southeast quarter of section 16, said township; thence northerly along the quarter-section lines to the northwest corner of the northeast quarter of section 4, said township; thence easterly to the southwest corner of section 34, township 5 south, range 5 east; thence northerly to the northwest corner of said section; thence easterly to the northeast corner of section 31, township 5 south, range 6 east; thence southerly along the section lines to the southeast corner of section 7, township 6 south, range 6 east; thence westerly to the southwest corner of said section; thence southerly to the southeast corner of section 13, township 6 south, range 5 east, the place of beginning. Nothing herein contained shall be construed to affect any valid rights acquired in connection with any of the lands embraced within the limits of said park which shall be known as Wind Cave National Park.

(Jan. 9, 1903, ch. 63, §§ 1, 2, 32 Stat. 765.)

CODIFICATION

This section, with the exception of the last clause, which names the park, was from section 1 of act Jan. 9, 1903. The last clause was taken from section 2 of said act which section is also the source of section 142 of this title.

§ 141a. Revision of boundaries

The boundary of the Wind Cave National Park is established as follows:

Beginning at the southeast corner of section 13, township 6 south, range 5 east; thence west to the southwest corner of section 15, township 6 south, range 5 east; thence north to the west quarter corner of section 10, township 6 south, range 5 east; thence to the north quarter corner of section 10, township 6 south, range 5 east; thence to the west quarter corner of section 2, township 6 south, range 5 east; thence north to the northwest corner of the southwest quarter of the northwest quarter of section 11, township 5 south, range 5 east; thence to the north quarter corner of section 11, township 5 south, range 5 east; thence to the northeast corner of the southeast quarter of the southeast quarter of section 2, township 5 south, range 5 east; thence east to the northeast corner of the southwest quarter of the southwest quarter of section 6, township 5 south, range 6 east; thence in a southeasterly direction to the southeast corner of the northeast quarter of section 7, township 5 south, range 6 east along a line to be mutually acceptable to the South Dakota Game, Fish, and Parks Commission and the Secretary of the Interior; thence from the southeast corner of the northeast quarter of section 7, township 5 south, range 6 east; east to the northeast corner of the southwest quarter of section 12, township 5 south, range 6 east; thence south to the northeast corner of the southeast quarter of the southwest quarter of section 12, township 5 south, range 6 east; thence east to the northeast corner of the southwest quarter of the southwest quarter of section 7, township 5 south, range 7 east, thence south to the southeast corner of the southwest quarter of the southwest quarter of section 18, township 5 south, range 7 east; thence west to the northeast corner of section 24, township 5 south, range 6 east; thence south to the southeast corner of section 24, township 5 south, range 6 east; thence west to the southwest corner of section 24, township 5 south, range 6 east; thence south to the southeast corner of the northeast quarter of the southeast quarter of section 35, township 5 south, range 6 east; thence west to the southwest corner of the northwest quarter of the southwest quarter of section 35, township 5 south, range 6 east; thence south to the southeast corner of section 34, township 5 south, range 6 east; thence west to the southwest corner of the southeast quarter of the southwest quarter of section 33, township 5 south, range 6 east; thence north to the northeast corner of the northwest quarter of the southwest quarter of section 28, township 5 south, range 6 east; thence west to the northwest corner of the southwest quarter of section 29, township 5 south, range 6 east; thence south to the southeast corner of section 7, township 6 south, range 6 east; thence west to the southwest corner of section 7, township 6 south, range 6 east; thence south to the southeast corner of section 13, township 6 south, range 5 east; the point of beginning, and all of those lands lying within the boundary above described, together with the south half of the northeast quarter and the west half of the northeast quarter of the northeast quarter of section 32, township 5 south, range 5 east, are included in and made a part of the Wind Cave National Park and shall be subject to all laws and regulations applicable thereto.

(Mar. 4, 1931, ch. 496, 46 Stat. 1518; Aug. 9, 1946, ch. 935, § 1, 60 Stat. 970.)

AMENDMENTS

1946—Act Aug. 9, 1946, revised the boundaries of the park.

WIND CAVE NATIONAL PARK BOUNDARY REVISION

Pub. L. 109–71, Sept. 21, 2005, 119 Stat. 2011, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Wind Cave National Park Boundary Revision Act of 2005'.

''SEC. 2. DEFINITIONS.

''In this Act:

''(1) MAP.—The term 'map' means the map entitled 'Wind Cave National Park Boundary Revision', numbered 108/80,030, and dated June 2002.

''(2) PARK.—The term 'Park' means the Wind Cave National Park in the State.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(4) STATE.—The term 'State' means the State of South Dakota.

''SEC. 3. LAND ACQUISITION.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary may acquire the land or interest in land described in subsection (b)(1) for addition to the Park.

''(2) MEANS.—An acquisition of land under paragraph (1) may be made by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

''(b) BOUNDARY.—

''(1) MAP AND ACREAGE.—The land referred to in subsection (a)(1) shall consist of approximately 5,675 acres, as generally depicted on the map.

''(2) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

''(3) REVISION.—The boundary of the Park shall be adjusted to reflect the acquisition of land under subsection (a)(1).

''SEC. 4. ADMINISTRATION.

''(a) IN GENERAL.—The Secretary shall administer any land acquired under section 3(a)(1) as part of the Park in accordance with laws (including regulations) applicable to the Park.

''(b) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

''(1) IN GENERAL.—The Secretary shall transfer from the Director of the Bureau of Land Management to the Director of the National Park Service administrative jurisdiction over the land described in paragraph (2).

''(2) MAP AND ACREAGE.—The land referred to in paragraph (1) consists of the approximately 80 acres of land identified on the map as 'Bureau of Land Management land'.

''SEC. 5. GRAZING.

''(a) GRAZING PERMITTED.—Subject to any permits or leases in existence as of the date of acquisition, the Secretary may permit the continuation of livestock grazing on land acquired under section 3(a)(1).

''(b) LIMITATION.—Grazing under subsection (a) shall be at not more than the level existing on the date on which the land is acquired under section 3(a)(1).

''(c) PURCHASE OF PERMIT OR LEASE.—The Secretary may purchase the outstanding portion of a grazing permit or lease on any land acquired under section 3(a)(1).

''(d) TERMINATION OF LEASES OR PERMITS.—The Secretary may accept the voluntary termination of a permit or lease for grazing on any acquired land.''

§ 141b. Wind Cave National Game Preserve transferred to park

Effective July 1, 1935, the Wind Cave National Game Preserve in the State of South Dakota is abolished, and all the property, real or personal, comprising the same is transferred to and made a part of the Wind Cave National Park and the same shall be administered by the Secretary of the Interior as a part of said park, subject to all laws and regulations applicable thereto, for the purposes expressed in section 672 of this title, establishing said game preserve.

(June 15, 1935, ch. 261, title VI, § 601, 49 Stat. 383.)

REFERENCES IN TEXT

Section 672 of this title, referred to in text, was omitted from the Code.

§ 141c. Disposal of surplus buffalo and elk

(a) The Secretary of the Interior is authorized, in his discretion and under regulations to be prescribed by him, to sell or otherwise dispose of the surplus buffalo and elk of the Wind Cave National Park herd.

(b) All moneys received from the sale of any such surplus animals, or products thereof, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(June 16, 1938, ch. 459, §§ 1, 2, 52 Stat. 708.)

CODIFICATION

Subsecs. (a) and (b) of this section constitute sections 1 and 2, respectively, of act June 16, 1938.

§ 142. Control; regulations

Wind Cave National Park shall be under the exclusive control of the Secretary of the Interior, whose duty it shall be to prescribe such rules and regulations and establish such service as he may deem necessary for the care and management of the same.

(Jan. 9, 1903, ch. 63, § 2, 32 Stat. 765.)

CODIFICATION

This section is a part of section 2 of act Jan. 9, 1903. The other part of section 2 of said act is classified to section 141 of this title. See note under section 141.

§§ 143, 144. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1028

Sections, act Jan. 9, 1903, ch. 63, §§ 3, 4, 32 Stat. 765, related to leases of cavern and lands, and provided for disposition of funds from rentals or leases.

§ 145. Exchange of lands

In cases in which a tract covered by an unperfected bona fide claim or by a patent is included within the limits of this park, the settler or owner thereof may, if he desires to do so, relinquish the tract to the Government and secure other land, outside of the park, in accordance with the provisions of the law relating to the subject of such relinquishment of lands in national forests in the State of South Dakota.

(Jan. 9, 1903, ch. 63, § 5, 32 Stat. 766.)

§ 146. Offenses within park

All persons who shall unlawfully intrude upon said park, or who shall without permission appropriate any object therein or commit unauthorized injury or waste in any form whatever upon the lands or other public property therein, or who shall violate any of the rules and regulations prescribed hereunder, shall upon conviction be fined in a sum not more than $1,000 or be imprisoned for a period not more than twelve months, or shall suffer both fine and imprisonment, in the discretion of the court.

(Jan. 9, 1903, ch. 63, § 6, 32 Stat. 766.)

REFERENCES IN TEXT

Hereunder, referred to in text, means act Jan. 9, 1903, ch. 63, 32 Stat. 765, which is classified to sections 141, and 142 to 146 of this title. For complete classification of this Act to the Code, see Tables.

SUBCHAPTER XVI—CESSION OF INDIAN LANDS AT SULPHUR, OKLAHOMA

§ 151. Acquisition; payment

The Choctaw and Chickasaw Tribes absolutely and unqualifiedly relinquish, cede, and convey unto the United States a tract or tracts of land at and in the vicinity of the village of Sulphur, in the Chickasaw Nation, of not exceeding six hundred and forty acres, to be selected, under the direction of the Secretary of the Interior, and to embrace all the natural springs in and about said village, and so much of Sulphur Creek, Rock Creek, Buckhorn Creek, and the lands adjacent to said natural springs and creeks as may be deemed necessary by the Secretary of the Interior for the proper utilization and control of said springs and the waters of said creeks, which lands shall be so selected as to cause the least interference with the contemplated town site at that place consistent with the purposes for which said cession is made. The ceded lands shall be held, owned, and controlled by the United States absolutely and without any restriction, save that no part thereof shall be platted or disposed of for town-site purposes during the existence of the two tribal governments. There shall be deposited in the Treasury of the United States, to the credit of the two tribes, from the unappropriated public moneys of the United States, $20 per acre for each acre so selected, which shall be in full compensation for the lands so ceded, and such moneys shall, upon the dissolution of the tribal governments, be divided per capita among the members of the tribes, freedmen excepted, as are other funds of the tribes. Until otherwise provided by law, the Secretary of the Interior may, under rules prescribed for that purpose, regulate and control the use of the water of said springs and creeks and the temporary use and occupation of the lands so ceded. No person shall occupy any portion of the lands so ceded, or carry on any business thereon, except as provided in said rules, and until otherwise provided by Congress the laws of the United States relating to the introduction, possession, sale, and giving away of liquors or intoxicants of any kind within the Indian country or Indian reservations shall be applicable to the lands so ceded. Nothing contained in this section shall be construed or held to commit the Government of the United States to any expenditure of money upon said lands or the improvements thereof, except as

provided herein, it being the intention of this provision that in the future the lands and improvements herein mentioned shall be conveyed by the United States to such Territorial or State organization as may exist at the time when such conveyance is made.

(July 1, 1902, ch. 1362, § 64, 32 Stat. 655; June 16, 1906, ch. 3335, §§ 13, 14, 34 Stat. 275; June 29, 1906, No. 42, 34 Stat. 837; Proc. Nov. 16, 1907, 35 Stat. 2160; June 25, 1948, ch. 646, § 39, 62 Stat. 992; Pub. L. 94–235, § 5, Mar. 17, 1976, 90 Stat. 236.)

CODIFICATION

Section is from section 64 of act July 1, 1902, which was part of an agreement between the United States and the Choctaw and Chicasaw tribes of Indians, ratified by and included in that Act.

The following provisions contained in this section as originally enacted were omitted as temporary and executed:

A provision that the selection of lands by the Secretary of the Interior should be within four months after the ratification of the agreement aforesaid; a provision, following the words of the present section reading ''the two tribal governments'' for the disposition of such other lands as might be embraced in a town site at that point; a provision that the deposit in the Treasury to the credit of the two tribes should be within ninety days after the selection of the land; and a provision for the appraisal of and reimbursement for all improvements lawfully upon the lands selected.

A provision of the original text that the land should remain within the jurisdiction of the United States court for the southern district of the Indian Territory was changed to read as set out herein by virtue of sections 13 and 14 of the Oklahoma Enabling Act of June 16, 1906, and the Executive Proclamation of Nov. 16, 1907, declaring the admission of Oklahoma to the Union.

AMENDMENTS

1948—Act June 25, 1948, struck out sentence placing lands within jurisdiction of the District Court of the United States for the Eastern District of Oklahoma.

CHANGE OF NAME

Platt National Park designation repealed and areas formerly known as Platt National Park made an integral part of Chickasaw National Recreation Area by Pub. L. 94–235, § 5. See section 460hh–4 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 38 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

REPEALS

Pub. L. 94–235, § 5, repealed act June 29, 1906, No. 42, 34 Stat. 837, cited as a credit to this section, under which the Sulphur Springs Indian Reservation had been renamed Platt National Park, in honor of Orville Hitchcock Platt, former Senator from Connecticut ''and for many years a member of the Committee on Indian Affairs, in recognition of his distinguished services to the Indians and to the country.''

§ 152. Additional land withdrawn; payment; management and control; regulations; sale of improvements; penalties; town lots

The Secretary of the Interior is authorized and directed to withhold from sale or other disposition the irregular tract of land containing seventy-eight and sixty-eight one-hundredths acres, more or less, lying in the northwest quarter of section 2 and the northeast quarter of section 3, township 1 south, range 3 east, and being within the exterior boundaries of the proposed town site of Sulphur, in the Chickasaw Nation, Indian Territory, and excluded from said town site by order of the Secretary of the Interior, of October 20, 1903, and also to withdraw and withhold from disposition the tract of land within the exterior boundaries of said proposed town site, lying south of and adjacent to the tract above mentioned, containing in the aggregate one hundred and thirty-eight acres, more or less, and mentioned in the report of Gerard H. Matthes, of December 27, 1903, to F. H. Newell, chief engineer United States Geological Survey, and shown upon the map accompanying said report by a yellow line.

The land reserved shall be paid for by the United States at the rate of $60 per acre and in the same manner as the land acquired in accordance with the provisions of section 151 of this title and shall be a part of the reservation established at the village of Sulphur, subject to all the provisions of said section 151, respecting the care, control, direction, use, and occupancy thereof as if they had been included in the original segregation. The Secretary of the Interior is authorized, in the absence of other provisions for the care and management thereof, to designate an officer or employee of his department to take charge of the land, acquired under this section and section 151 of this title, and to enforce rules and regulations for the control and use thereof, and of the waters of the springs and creeks within the reservation. The Secretary of the Interior is authorized, in his discretion, to sell or dispose of any buildings upon the land reserved, and all money received from such sales, or that may be realized for the use of said waters or for the use and occupancy of the land or the buildings thereon, through leases, permits, or otherwise, shall be covered into the Treasury of the United States to the credit of miscellaneous receipts. If any person, firm, or corporation shall willfully violate any of the rules and regulations prescribed by the Secretary of the Interior relative to the use of the waters of said springs and creeks and the use and occupation of the lands in said reservation, such person, firm, corporation, or members or agents thereof, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than $5 and not more than $100, and may be imprisoned for a term of not more than six months for each offense.

(Apr. 21, 1904, ch. 1402, § 18, 33 Stat. 220; June 29, 1906, No. 42, 34 Stat. 837; June 12, 1917, ch. 27, § 1, 40 Stat. 153; Pub. L. 94–235, § 5, Mar. 17, 1976, 90 Stat. 236.)

CODIFICATION

A clause of the original text making an appropriation to carry out this provision and a provision for appraisement of and payment for all improvements upon the land have been omitted as executed.

Provisions requiring the Secretary to cover all money received into the Treasury to the credit of miscellaneous receipts were substituted for provisions which permitted the expenditure of such money under the direction of the Secretary for the care and management of the lands and the preservation of the improvements thereon in view of act June 12, 1917, which required the Secretary to cover the receipts of all revenues of the national parks into the Treasury to the credit of miscellaneous receipts.

CHANGE OF NAME

Platt National Park designation repealed and areas formerly known as Platt National Park made an integral part of Chickasaw National Recreation Area by Pub. L. 94–235, § 5. See section 460hh–4 of this title.

REPEALS

Pub. L. 94–235, § 5, repealed act June 29, 1906, No. 42, 34 Stat. 837, cited as a credit to this section, under which the name of the reservation at the village of Sulphur established by section 151 of this title, known as Sulphur Springs Reservation, had been renamed Platt National Park in honor of Orville Hitchcock Platt, former senator from Connecticut ''and for many years a member of the Committee on Indian Affairs, in recognition of his distinguished services to the Indians and the country.''

§ 153. Existing laws unaffected by admission of Oklahoma; rights and jurisdiction of United States; indemnity school lands

Nothing in the Act of June 16, 1906, chapter 3335, Thirty-fourth Statutes, page 267, entitled, ''An Act to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States * * *'', shall repeal or affect any Act of Congress relating to the Sulphur Springs Reservation as defined on June 16, 1906, or as may be thereafter defined or extended, or the power of the United States over it or any other lands embraced in the State hereafter set aside by Congress as a national park, game preserve, or for the preservation of objects of archaeological or ethnological interest; and nothing contained in said Act shall interfere with the rights and ownership of the United States in any land hereafter set aside by Congress as national park, game preserve, or other reservation, or in the said Sulphur Springs Reservation, as it was on June 16, 1906, or may be defined or extended by law; but exclusive legislation, in all cases whatsoever, shall be exercised by the United States, which shall have exclusive control and jurisdiction over the same; but nothing in this section contained shall be construed to prevent the service within said Sulphur Springs Reservation or national parks, game preserves, and other reservations hereafter established by law, of civil and criminal processes lawfully issued by the authority of said State, and said State shall not be entitled to select indemnity school lands for the thirteenth, sixteenth, thirty-third, and thirty-sixth sections that may be embraced within the metes and bounds of the national park, game preserve, and other reservation or the said Sulphur Springs Reservation, as defined on June 16, 1906, or may be thereafter defined.

(June 16, 1906, ch. 3335, § 7, 34 Stat. 272; June 29, 1906, No. 42, 34 Stat. 837; Pub. L. 94–235, § 5, Mar. 17, 1976, 90 Stat. 236.)

CODIFICATION

Section is from a proviso annexed to section 7 of act June 16, 1906.

CHANGE OF NAME

Platt National Park designation repealed and areas formerly known as Platt National Park made an integral part of Chickasaw National Recreation Area by Pub. L. 94–235, § 5. See section 460hh–4 of this title.

REPEALS

Pub. L. 94–235, § 5, repealed act June 29, 1906, No. 42, 34 Stat. 837, cited as a credit to this section, under which the name of the reservation at the village of Sulphur established by section 151 of this title, known as Sulphur Springs Reservation, had been renamed Platt National Park in honor of Orville Hitchcock Platt, former senator from Connecticut ''and for many years a member of the Committee on Indian Affairs, in recognition of his distinguished services to the Indians and to the country.''

SUBCHAPTER XVII—BIG BEND NATIONAL PARK

§ 156. Establishment; boundaries

When title to such lands as may be determined by the Secretary of the Interior as necessary for recreational park purposes within the boundaries to be determined by him within the area of approximately one million five hundred thousand acres, in the counties of Brewster and Presidio, in the State of Texas, known as the ''Big Bend'' area, shall have been vested in the United States, such lands shall be established, dedicated, and set apart as a public park for the benefit and enjoyment of the people and shall be known as the ''Big Bend National Park'': *Provided*, That the United States shall not purchase by appropriation of public moneys any land within the aforesaid area, but such lands shall be secured by the United States only by public and private donations.

(June 20, 1935, ch. 283, § 1, 49 Stat. 393.)

§ 157. Acquisition of lands

The Secretary of the Interior is authorized, in his discretion and upon submission of evidence of title satisfactory to him, to accept, on behalf of the United States, title to the lands referred to in section 156 of this title as may be deemed by him necessary or desirable for national-park purposes: *Provided*, That no land for the Big Bend National Park shall be accepted until exclusive jurisdiction over the entire area, in form satisfactory to the Secretary of the Interior, shall have been ceded by the State of Texas to the United States.

(June 20, 1935, ch. 283, § 2, 49 Stat. 393.)

§ 157a. Additional lands; aggregate cost

The Secretary of the Interior is authorized to acquire, in such manner as he shall consider to be in the public interest, any land or interests in land situated within sections 15, 22, 27, 34, block 234, Brewster County, Texas, which he shall consider to be suitable for addition to the Big Bend National Park: *Provided*, *however*, That the aggregate cost to the Federal Government of properties acquired hereafter and under the provisions hereof shall not exceed the sum of $10,000. Properties acquired pursuant to this section shall become a part of the park upon acquisition of title thereto by the United States.

(Aug. 30, 1949, ch. 522, 63 Stat. 679.)

§ 157b. Additional lands within park boundaries

Notwithstanding any other provisions of law, the Secretary of the Interior is authorized to

procure, in such manner as he may consider to be in the public interest, the remaining non-Federal land and interests in land within the boundaries of Big Bend National Park.

(Aug. 8, 1953, ch. 385, 67 Stat. 497.)

§ 157c. Boundary revision; acquisition of lands and interests; authorization of appropriations

The boundary of the Big Bend National Park in the State of Texas is hereby revised to include the lands and interests therein within the area generally depicted on the map entitled ''Big Bend National Park, Boundary Additions'', numbered 155/80,019–A and dated June 1980 which shall be on file and available for public inspection in the local and Washington, District of Columbia, Offices of the National Park Service, Department of the Interior. The Secretary is authorized to acquire the lands and interests therein added to the park by this section by donation, purchase with donated or appropriated funds, or exchange, except that lands and interests therein owned by the State of Texas or any political subdivision thereof may be acquired only by donation or exchange. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not to exceed $1,500,000 for the acquisition of lands and interests therein.

(Pub. L. 96–607, title IV, § 401, Dec. 28, 1980, 94 Stat. 3539.)

§ 157d. Additional boundary revision; acquisition of lands and interests

The boundaries of Big Bend National Park, established by the Act of June 20, 1935 (16 U.S.C. 156), are hereby revised to include the lands and interests therein, together with all improvements thereon, within the area comprising approximately sixty-seven thousand one hundred and twenty-five acres as generally depicted on the map entitled ''Harte Ranch Addition, Big Bend National Park'', numbered 155/80,044 and dated September 1987. Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to acquire lands and interests therein, together with all improvements thereon, within the addition described in such map by donation, purchase with donated or appropriated funds, or exchange.

(Pub. L. 100–201, Dec. 22, 1987, 101 Stat. 1328.)

REFERENCES IN TEXT

Act of June 20, 1935, referred to in text, is act June 30, 1935, ch. 283, 49 Stat. 393, which is classified to sections 156, 157, and 158 of this title. For complete classification of this Act to the Code, see Tables.

§ 158. Administration, protection, and development

The administration, protection, and development of the Big Bend National Park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended: *Provided*, That the provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to this park.

(June 20, 1935, ch. 283, § 3, 49 Stat. 394.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act of June 10, 1920, known as the Federal Water Power Act,'' and was redesignated as the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions of officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§§ 158a to 158d. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 158a, act May 15, 1947, ch. 55, § 1, 61 Stat. 91, related to appointment and compensation of commissioner. See provisions covering United States magistrate judges in section 631 et seq. of Title 28, Judiciary and Judicial Procedure.

Section 158b, act May 15, 1947, ch. 55, § 2, 61 Stat. 91, related to jurisdiction of commissioner [now magistrate judge] over petty offenses.

Section 158c, act May 15, 1947, ch. 55, § 3, 61 Stat. 91, related to jurisdiction of commissioner [now magistrate judge] over criminal offenses.

Section 158d, act May 15, 1947, ch. 55, § 4, 61 Stat. 91, related to disposition of fees, costs, and expenses.

SUBCHAPTER XVIII—SARATOGA NATIONAL HISTORICAL PARK

§ 159. Establishment; boundaries

When title to all the lands, structures, and other property in the area at Saratoga, New York, whereon was fought the Battle of Saratoga during the War of the Revolution, shall have been vested in the United States, such area shall be, and it is, established, dedicated, and set apart as a public park for the benefit and inspiration of the people and shall be known as the Saratoga National Historical Park: *Provided*, That such area shall include that part of the Saratoga Battlefield now belonging to the State of New York and any additional lands in the immediate vicinity thereof which the Secretary of the Interior may, within six months after the approval of sections 159 to 159b of this title, designate as necessary or desirable for the purposes of sections 159 to 159b of this title.

(June 1, 1938, ch. 316, § 1, 52 Stat. 608.)

§ 159a. Acceptance of donations

The Secretary of the Interior is authorized to accept donations of land, interests in land, buildings, structures, and other property within the boundaries of said historical park as determined and fixed hereunder and donations of funds for the purchase or maintenance thereof, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Inte-

rior: *Provided*, That he may acquire on behalf of the United States, out of any donated funds, by purchase when purchasable at prices deemed by him reasonable, otherwise by condemnation under the provisions of section 3113 of title 40, such tracts of land within the said historical park as may be necessary for the completion thereof.

(June 1, 1938, ch. 316, § 2, 52 Stat. 609.)

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 159b. Administration, protection, and development

The administration, protection, and development of the Saratoga National Historical Park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(June 1, 1938, ch. 316, § 3, 52 Stat. 609.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 159c. Completion of establishment

For the purpose of completing the establishment of Saratoga National Historical Park, and to provide adequately for its future development, all lands and other property which have been acquired by the Federal Government pursuant to sections 159 to 159b of this title are established as the Saratoga National Historical Park and shall be administered as provided in section 159b of this title.

(June 22, 1948, ch. 594, § 1, 62 Stat. 570.)

§ 159d. Acceptance of General Philip Schuyler Mansion property

The Secretary of the Interior is authorized to accept all or any portion of the General Philip Schuyler Mansion property, real and personal, situated at Schuylerville, New York, comprising approximately fifty acres.

(June 22, 1948, ch. 594, § 2, 62 Stat. 571; Pub. L. 97–460, § 3, Jan. 12, 1983, 96 Stat. 2522.)

AMENDMENTS

1983—Pub. L. 97–460 struck out provisions which authorized the Secretary of the Interior to accept donations of land, interests in land, buildings, structures, and other property in Saratoga County which properties, together with the General Philip Schuyler Mansion property, were to become part of Saratoga National Historical Park. See sections 159f and 159g of this title.

§ 159e. Revision of boundary; additional acreage; authorization of appropriations

(a) The Secretary of the Interior is authorized to revise the boundary of the Saratoga National Historic Park to add approximately one hundred and forty-seven acres.

(b) For the purposes of acquiring land and interest in land added to the unit referred to in subsection (a) of this section there are authorized to be appropriated from the Land and Water Conservation Fund such sums as may be necessary but not to exceed $74,000 for Saratoga National Historic Park.

(Pub. L. 96–199, title I, § 115, Mar. 5, 1980, 94 Stat. 71.)

§ 159f. Enactment of revision

In order to preserve certain lands historically associated with the Battle of Saratoga and to facilitate the administration and interpretation of the Saratoga National Historical Park (hereinafter in this Act referred to as ''the park''), the boundary of the park is hereby revised to include the area generally depicted on the map entitled ''Saratoga National Historical Park'', numbered 80,001, and dated March 23, 1979.

(Pub. L. 97–460, § 1, Jan. 12, 1983, 96 Stat. 2520.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 97–460, Jan. 12, 1983, 96 Stat. 2520, which enacted sections 159f and 159g of this title, amended section 159d of this this title, and enacted a provision set out as a note under section 159f of this title. For complete classification of this Act to the Code, see Tables.

AUTHORIZATION OF APPROPRIATIONS

Section 4 of Pub. L. 97–460 provided that: ''There are hereby authorized to be appropriated after October 1, 1983, such sums as may be necessary, but not to exceed $1,000,000 for the acquisition of lands and interests therein, to carry out the purposes of this Act [enacting sections 159f and 159g of this title and amending section 159d of this title].''

§ 159g. Acquisition of lands

(a) Manner; limitations

Except as provided in subsection (b) of this section, within the boundary of the park, the Secretary of the Interior (hereinafter in this Act referred to as the ''Secretary''), is authorized to acquire lands and interests therein by donation, purchase with donated or appropriated funds, or exchange. Except for the tract identified on the aforesaid map as tract number 01–132, which was authorized to be acquired by section 159e of this title, the Secretary may not acquire (except by donation) fee simple title to those lands depicted on the map as proposed for less than fee acquisition. The map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

(b) Conditions for forced sale; right of first refusal

(1) Appropriated funds may not be used to acquire lands or interests therein within the park without the consent of the owner except when—

(A) the Secretary determines that such owner is subjecting, or is about to subject, the property to actions which would significantly degrade its value as a component of the park; or

(B) the owner fails to comply with the provisions of paragraph (2).

The Secretary shall immediately notify the owner in writing of any determination under subparagraph (A). If the owner immediately ceases the activity subject to such notification, the Secretary shall attempt to negotiate a mutually satisfactory solution prior to exercising any authority provided by subsection (a) of this section.

(2) If an owner of lands or interests therein within the park intends to transfer any such lands or interest to persons other than the owner's immediate family, the owner shall notify the Secretary in writing of such intention. Within forty-five days after receipt of such notice, the Secretary shall respond in writing as to his interest in exercising a right of first refusal to purchase fee title or lesser interests. If, within such forty-five days, the Secretary declines to respond in writing or expresses no interest in exercising such right, the owner may proceed to transfer such interests. If the Secretary responds in writing within such forty-five days and expresses an interest and intention to exercise a right of first refusal, the Secretary shall initiate an action to exercise such right within ninety days after the date of the Secretary's response. If the Secretary fails to initiate action to exercise such right within such ninety days, the owner may proceed to otherwise transfer such interests. As used in this subsection with respect to a property owner, the term ''immediate family'' means the spouse, brother, sister, parent, or child of such property owner. Such term includes a person bearing such relationships through adoption and a stepchild shall be treated as a natural born child for purposes of determining such relationship.

(c) Exception

Subsection (b) of this section shall not apply with respect to tract number 01–142.

(d) Notification by owner of intended actions

When an owner of property within the park desires to take an action with respect to his property, he shall request, in writing, a prompt written determination from the Secretary as to the likelihood of such action provoking a determination by the Secretary under the provisions of subsection (b)(1)(A) of this section. The Secretary is thereupon directed to promptly issue such owner a certificate of exemption from condemnation for such actions proposed by the owner which the Secretary determines to be compatible with the purposes of the park.

(e) Limited right of retention; calculation of payment

(1) An owner of improved property which is used solely for noncommercial residential purposes, or for commercial agricultural purposes found to be compatible with the General Management Plan, on the date of its acquisition by the Secretary may retain, as a condition of such an acquisition, a right of use and occupancy of the property for such residential or agricultural purposes. The right retained may be for a definite term which shall not exceed twenty-five years, or in lieu thereof, for a term ending at the death of the owner. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value, of the term retained by the owner.

(2) Except for tract number 01–142, paragraph (1) shall not apply to property which the Secretary determines to be necessary for the purposes of administration, development, access, or public use.

(f) Rapid acquisition

Any owner of lands or interests therein within the park who desires to have such lands or interests acquired by the Secretary may notify the Secretary in writing of such desire. It is the intention of the Congress that, upon receipt of such notification, and on the condition that such acquisition will transpire at fair market value and in accordance with other conditions acceptable to the Secretary, the Secretary shall endeavor to acquire such lands or interests therein within six months of the date of receipt of such notice from the owner.

(Pub. L. 97–460, § 2, Jan. 12, 1983, 96 Stat. 2520.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 97–460, Jan. 12, 1983, 96 Stat. 2520, which enacted sections 159f and 159g of this title, amended section 159d of this title, and enacted a provision set out as a note under section 159f of this title. For complete classification of this Act to the Code, see Tables.

SUBCHAPTER XIX—VOYAGEURS NATIONAL PARK

§ 160. Congressional declaration of purpose

The purpose of this subchapter is to preserve, for the inspiration and enjoyment of present and future generations, the outstanding scenery, geological conditions, and waterway system which constituted a part of the historic route of the Voyageurs who contributed significantly to the opening of the Northwestern United States.

(Pub. L. 91–661, § 1, Jan. 8, 1971, 84 Stat. 1970.)

§ 160a. Establishment; notice in Federal Register; donation of lands; acquisition by purchase of other lands

In furtherance of the purpose of this subchapter, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to establish the Voyageurs National Park (hereinafter referred to as the ''park'') in the State of Minnesota, by publication of notice to that effect in the Federal Register at such time as the Secretary deems sufficient interests in lands or waters have been acquired for administration in accordance with the purposes of this subchapter: *Provided*, That the Secretary shall not establish the park until the lands owned by the State of Minnesota and any of its political subdivisions within the boundaries shall have been donated to the Secretary for the purposes of the park: *Provided further*, That the Secretary shall not acquire other lands by purchase for the park prior to such donation unless he finds that acquisition is necessary to prevent irreparable changes in their uses or character of such a nature as to make them unsuitable for park purposes and notifies the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of

Representatives of such findings at least thirty days prior to such acquisition.

(Pub. L. 91–661, § 101, Jan. 8, 1971, 84 Stat. 1970; Pub. L. 103–437, § 6(f), Nov. 2, 1994, 108 Stat. 4585.)

CODIFICATION

Section formerly consisted of sections 101 and 102 of Pub. L. 91–661. Section 102 of Pub. L. 91–661 was substantially amended and expanded by Pub. L. 97–405, § 1(1), (2), Jan. 3, 1983, 96 Stat. 2028, and as thus amended is set out as section 160a–1 of this title.

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives'' for ''Committees on Interior and Insular Affairs of both the Senate and the House of Representatives''.

§ 160a–1. Boundaries

(a) Lands and waters included; legal description; revision

Except as provided in subsection (b) of this section, the park shall include the lands and waters within the boundaries as generally depicted on the drawing entitled ''A Proposed Voyageurs National Park, Minnesota,'' numbered LNPMW–VOYA–1001, dated February 1969, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. Within one year after acquisition of the lands owned by the State of Minnesota and its political subdivisions within the boundaries of the park the Secretary shall affix to such drawing an exact legal description of said boundaries. The Secretary may revise the boundaries of the park from time to time by publishing in the Federal Register a revised drawing or other boundary description, but such revisions shall not increase the land acreage within the park by more than one thousand acres.

(b) Additional revisions; procedures applicable; failure to comply with procedures

(1) In addition to such revisions as the Secretary may make in the boundaries of the park from time to time pursuant to other provisions of law, the Secretary may, according to the provisions of subsection (a) of this section—

(A) delete approximately 782 acres in the Neil Point area of the park;

(B) add approximately 180 acres in the Black Bay Narrows areas of the park;

(C) add approximately 18.45 acres owned by the State of Minnesota at the Kabetogama Forestry Station;

(D) add approximately 120 acres owned by the State of Minnesota, being a strip of land through that portion of section 1, township 68 north, range 20 west, fourth principal meridian, which is parallel to and 400 feet on both sides of the unimproved road extending northward from the Ash River Trail as such road crosses each section; and

(E) subject to the provisions of paragraph (2), delete approximately 1,000 acres at Black Bay and convey such lands to the State of Minnesota.

All of the aforementioned boundary changes if accomplished shall be accomplished such that the boundary of the park shall conform to that generally depicted on the drawing entitled ''Boundary, Voyageurs National Park, United States Department of the Interior, National Park Service'', numbered 172–80, 008–MWR, and dated November 1981, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(2) The Secretary may not delete or convey the lands referred to in paragraph (1)(E) unless, prior to or simultaneously with such deletion or conveyance and in consideration of such conveyance, the State of Minnesota—

(A) tenders a conveyance of the lands described in paragraph (1)(C) and (D) to the United States by such instrument and in such manner as are satisfactory to the Secretary, including but not limited to lease or easement: *Provided*, That if the interest conveyed is a lease or easement, the State of Minnesota shall substitute therefore a transfer of all right, title, and interest in the land by June 30, 1987: *Provided further*, That if the State does not transfer all right, title, and interest in such lands by June 30, 1987, the land described in paragraph 1(E)[1] shall revert to the United States for administration by the Secretary as part of the park; and

(B) enters into a recordable agreement satisfactory to the Secretary which provides that—

(i) the State has established a wildlife management area in the area authorized to be deleted and conveyed to the State by paragraph (1)(E);

(ii) the State has prepared a plan acceptable to the Secretary to manage all the waters of and State lands riparian to Black Bay (including all of the State-owned lands and waters of Rainy Lake) to preserve the natural resources of the area so as to complement to the fullest extent possible the purposes for which the park was established;

(iii) the State shall not transfer any right, title, or interest in, or control over, any land described in paragraph (1)(E) to any person other than the Secretary; and

(iv) the State shall permit access by the Secretary at reasonable times to the land described in paragraph (1)(E).

(3) If at any time the State fails to comply with the material requirements of the agreement referred to in paragraph (2)(B), all right, title, and interest in the land described in paragraph (1)(E) shall revert to the United States for administration by the Secretary as part of the park. Such reversion shall take effect upon the delivery by the Secretary of notice to the State respecting such failure to comply without further notice or requirement for physical entry by the Secretary unless an action for judicial review is brought in the United States Court of Appeals for the appropriate circuit within ninety days following such notice. In any such action the court may issue such orders as are appropriate to carry out the requirements of this subsection.

[1] So in original. Probably should be ''(1)(E)''.

(Pub. L. 91–661, § 102, Jan. 8, 1971, 84 Stat. 1970; Pub. L. 97–405, § 1(1), (2), Jan. 3, 1983, 96 Stat. 2028.)

CODIFICATION

Provisions of section 102 of Pub. L. 91–661 [this section] were formerly set out as an undesignated second paragraph in section 160a of this title prior to amendment by Pub. L. 97–405.

AMENDMENTS

1983—Subsec. (a). Pub. L. 97–405, § 1(1), substituted ''(a) Except as provided in subsection (b) of this section, the park'' for ''The park''.

Subsec. (b). Pub. L. 97–405, § 1(2), added subsec. (b).

§ 160b. Acquisition of lands; lands outside of boundaries; transfer of Federal property within boundaries to administrative jurisdiction of Secretary; consideration by Secretary of offers to sell property within park area

(a) The Secretary may acquire lands or interests therein within the boundaries of the park by donation, purchase with donated or appropriated funds, or exchange. When any tract of land is only partly within such boundaries, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs. Land so acquired outside of the park boundaries may be exchanged by the Secretary for non-Federal lands within the park boundaries. Any portion of land acquired outside the park boundaries and not utilized for exchange shall be reported to the General Services Administration for disposal under chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41. Any Federal property located within the boundaries of the park may be transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of the park. Lands within the boundaries of the park owned by the State of Minnesota, or any political subdivision thereof, may be acquired only by donation.

(b) In exercising his authority to acquire property under this section, the Secretary shall give immediate and careful consideration to any offer made by any individual owning property within the park area to sell such property to the Secretary. In considering such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring his property.

(Pub. L. 91–661, § 201, Jan. 8, 1971, 84 Stat. 1970.)

CODIFICATION

In subsec. (a), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§ 160c. Acquisition of improved property

(a) Owner's reservation of right of use and occupancy for residential purposes for life or fixed term of years; election of term; fair market value

Any owner or owners (hereinafter referred to as ''owner'') of improved property on the date of its acquisition by the Secretary may, if the Secretary determines that such improved property is not, at the time of its acquisition, required for the proper administration of the park, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term not to exceed twenty-five years, or, in lieu thereof, for a term ending at the death of the owner, or the death of his spouse, whichever is later. The owner shall elect the term to be retained. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(b) Use and occupancy by lessee of lands donated by State of Minnesota within boundaries of park; term of use and occupancy

If the State of Minnesota donates to the United States any lands within the boundaries of the park subject to an outstanding lease on which the lessee began construction of a noncommercial or recreational residential dwelling prior to January 1, 1969, the Secretary may grant to such lessee a right of use and occupancy for such period of time as the Secretary, in his discretion, shall determine: *Provided*, That no such right of use and occupancy shall be granted, extended, or continue after ten years from the date of the establishment of the park.

(c) Termination of use and occupancy; tender by Secretary of fair market value of unexpired right

Any right of use and occupancy retained or granted pursuant to this section shall be subject to termination by the Secretary upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of this subchapter or upon his determination that the property is required for the proper administration of the park. The Secretary shall tender to the holder of the right so terminated an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

(d) "Improved property" defined

The term ''improved property'', as used in this section, shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1969, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(Pub. L. 91–661, § 202, Jan. 8, 1971, 84 Stat. 1971.)

§ 160d. Concession contracts with former owners of commercial, recreational, resort, or similar properties within park boundaries

Notwithstanding any other provision of law, the Secretary is authorized to negotiate and enter into concession contracts with former owners of commercial, recreational, resort, or similar properties located within the park boundaries for the provision of such services at their former location as he may deem necessary for the accommodation of visitors.

(Pub. L. 91–661, § 203, Jan. 8, 1971, 84 Stat. 1972.)

§ 160e. Payment of value differential by Secretary to owner of commercial timberlands exchanging lands for State lands outside of park; determination of value; prerequisites

The Secretary is authorized to pay a differential in value, as hereinafter set forth, to any owner of commercial timberlands within the park with whom the State of Minnesota has negotiated, for the purpose of conveyance to the United States, an exchange of lands for State lands outside the park. Payment hereunder may be made when an exchange is based upon valuations for timber purposes only, and shall be the difference between the value of such lands for timber purposes, as agreeable to the State, the Secretary, and any owner, and the higher value, if any, of such lands for recreational purposes not attributable to establishment or authorization of the park: *Provided*, That any payment shall be made only at such time as fee title of lands so acquired within the boundaries is conveyed to the United States.

(Pub. L. 91–661, § 204, Jan. 8, 1971, 84 Stat. 1972.)

§ 160f. Administration

(a) Authority of Secretary

Except as hereinafter provided, the Secretary shall administer the lands acquired for the park, and after establishment shall administer the park, in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented.

(b) Preservation of area as a wilderness; study and report to President; procedure for designation as a wilderness

Within four years from the date of establishment, the Secretary of the Interior shall review the area within the Voyageurs National Park and shall report to the President, in accordance with subsections (c) and (d) of section 1132 of this title, his recommendation as to the suitability or nonsuitability of any area within the lakeshore for preservation as wilderness, and any designation of any such area as a wilderness may be accomplished in accordance with said subsections. The President shall, no later than June 1, 1983, advise the United States Senate and House of Representatives of his recommendations with respect to the suitability or nonsuitability as wilderness of any area within the park.

(c) Mining and mineral activities and commercial water power development within park boundaries

All mining and mineral activities and commercial water power development within the boundaries of the park shall be prohibited, and further, any conveyance from the State of Minnesota shall contain a covenant that the State of Minnesota, its licensees, permittees, lessees, assigns, or successors in interest shall not engage in or permit any mining activity nor water power development.

(Pub. L. 91–661, § 301, Jan. 8, 1971, 84 Stat. 1972; Pub. L. 97–405, § 1(3), Jan. 3, 1983, 96 Stat. 2029.)

AMENDMENTS

1983—Subsec. (b). Pub. L. 97–405 inserted provision directing the President to advise the Senate and House of Representatives no later than June 1, 1983, of his recommendation with respect to the suitability or nonsuitability as wilderness of any area within the park.

§ 160g. Designation by Secretary of recreational fishing zones; consultation with appropriate State agency; continuation of seining of fish to secure eggs for propagation

(a) The Secretary shall permit recreational fishing on lands and waters under his jurisdiction within the boundaries of the park in accordance with applicable laws of the United States and of the State of Minnesota, except that the Secretary may designate zones where and establish periods when no fishing shall be permitted for reasons of public safety, administration, fish and wildlife management, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate agency of the State of Minnesota.

(b) The seining of fish at Shoepac Lake by the State of Minnesota to secure eggs for propagation purposes shall be continued in accordance with plans mutually acceptable to the State and the Secretary.

(Pub. L. 91–661, § 302, Jan. 8, 1971, 84 Stat. 1972.)

§ 160h. Programs for development of area for recreational sports activities

The Secretary may, when planning for development of the park, include appropriate provisions for (1) winter sports, including the use of snowmobiles, (2) use by seaplanes, and (3) recreational use by all types of watercraft, including houseboats, runabouts, canoes, sailboats, fishing boats, and cabin cruisers.

(Pub. L. 91–661, § 303, Jan. 8, 1971, 84 Stat. 1972.)

§ 160i. Applicability to treaties, orders, or agreements

Nothing in this subchapter shall be construed to affect the provisions of any treaty now or hereafter in force between the United States and Great Britain relating to Canada or between the United States and Canada, or of any order or agreement made or entered into pursuant to any such treaty, which by its terms would be applicable to the lands and waters which may be acquired by the Secretary hereunder, including, without limitation on the generality of the foregoing, the Convention Between the United States and Canada on Emergency Regulation of Level of Rainy Lake and of Other Boundary Waters in the Rainy Lake Watershed, signed Sep-

tember 15, 1938, and any order issued pursuant thereto.

(Pub. L. 91–661, § 304, Jan. 8, 1971, 84 Stat. 1973.)

§ 160j. Roads accessible to public facilities

The Secretary is authorized to make provision for such roads within the park as are, or will be, necessary to assure access from present and future State roads to public facilities within the park.

(Pub. L. 91–661, § 305, Jan. 8, 1971, 84 Stat. 1973.)

§ 160k. Funding and other requirements

(a) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter, not to exceed, however, $38,314,000 for the acquisition of property, and not to exceed $19,179,000 (June 1969 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.

(b) Comprehensive plan for visitor use and overnight visitor facilities; development, implementation, etc.; authorization of appropriations

The Secretary shall, in cooperation with other Federal, State, and local governmental entities and private entities experienced in the fields of outdoor recreation and visitor services, develop and implement a comprehensive plan for visitor use and overnight visitor facilities for the park. The plan shall set forth methods of achieving an appropriate level and type of visitation in order that the resources of the park and its environs may be interpreted for, and used and enjoyed by, the public in a manner consistent with the purposes for which the park was established. Such plan may include appropriate informational and educational messages and materials. In the development and implementation of such plan the Secretary may expend funds donated or appropriated for the purposes of this subsection. Effective October 1, 1983, there is authorized to be appropriated for the purposes of this subsection not to exceed $250,000, to remain available until expended.

(c) Existing road access; study and report; authorization of appropriations

The Secretary is directed to study existing road access to the park and to report to Congress on the impact of park-related use of those roads and to report specific recommendations on improvements necessary to insure adequate road access to the park. The Secretary is directed to report, within one year of the date of enactment of the Act which appropriates funds authorized under this subsection, to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate. Effective October 1, 1983, there is authorized to be appropriated for the purposes of this subsection not to exceed $75,000.

(d) Statutory ceilings respecting appropriations

For purposes of section 460*l*–9(a)(3) of this title, the statutory ceilings on appropriations established by this section shall be deemed to be statutory ceilings contained in a provision of law enacted prior to the convening of the Ninety-fifth Congress.

(Pub. L. 91–661, § 401, Jan. 8, 1971, 84 Stat. 1973; Pub. L. 97–405, § 1(4), Jan. 3, 1983, 96 Stat. 2029.)

AMENDMENTS

1983—Pub. L. 97–405 designated existing provisions as subsec. (a), substituted ''$38,314,000'' for ''$26,014,000'', and added subsecs. (b) to (d).

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

SUBCHAPTER XX—GLACIER NATIONAL PARK

§ 161. Establishment; boundaries; trespassers; claims and rights under land laws not affected; reclamation projects; indemnity selections of lands

The tract of land in the State of Montana particularly described by metes and bounds as follows, to wit: Commencing at a point on the international boundary between the United States and the Dominion of Canada at the middle of the Flathead River; thence following southerly along and with the middle of the Flathead River to its confluence with the Middle Fork of the Flathead River; thence following the north bank of said Middle Fork of the Flathead River to where it is crossed by the north boundary of the right-of-way of the Great Northern Railroad; thence following the said right-of-way to where it intersects the west boundary of the Blackfeet Indian Reservation; thence northerly along said west boundary to its intersection with the international boundary; thence along said international boundary to the place of beginning, is reserved and withdrawn from settlement, occupancy, or disposal under the laws of the United States, and dedicated and set apart as a public park or pleasure ground for the benefit and enjoyment of the people of the United States under the name of ''The Glacier National Park.'' All persons who shall locate or settle upon or occupy the same, or any part thereof, except as hereinafter provided, shall be considered trespassers and removed therefrom. Nothing herein contained shall affect any valid claim, location, or entry existing under the land laws of the United States before May 11, 1910, or the rights of any such claimant, locator, or entryman to the full use and enjoyment of his land. The United States Reclamation Service may enter upon and utilize for flowage or other purposes any area within said park which may be necessary for the development and maintenance of a Government reclamation project. No lands within the limits of Glacier National Park belonging to or claimed by any railroad or other corporation having or claiming before May 11, 1910, the right of indemnity selection by virtue of any law or contract whatsoever shall be used as a basis for indemnity selection in any State or Territory whatsoever for any loss sustained

by reason of the creation of Glacier National Park.

(May 11, 1910, ch. 226, §1, 36 Stat. 354; Jan. 26, 1931, ch. 47, §5, 46 Stat. 1043.)

REFERENCES IN TEXT

The land laws of the United States, referred to in text, are classified generally to Title 43, Public Lands.

Herein, referred to in text, means act May 11, 1910, ch. 226, 36 Stat. 354, which is classified to this section and section 162 of this title.

CODIFICATION

In sentence beginning ''Nothing herein contained'', the words ''before May 11, 1910'' were inserted to give effect to the preceding word ''existing'', and in the last sentence the words ''having or claiming before May 11, 1910'' are a translation of the words ''now having or claiming'' of the original text.

AMENDMENTS

1931—Act Jan. 26, 1931, struck out provision that right of way through the valleys of the North and Middle Forks of the Flathead River might be acquired within Glacier National Park for steam or electric railways.

CHANGE OF NAME

The Reclamation Service, established in July 1902, changed to the Bureau of Reclamation on June 20, 1923, then to the Water and Power Resources Service on Nov. 6, 1979, and then back to the Bureau of Reclamation on May 18, 1981. See 155 Dep't of the Interior, Departmental Manual 1.1 (2008 repl.); Sec'y Hubert Work, Dep't of the Interior, Order (June 20, 1923); Sec'y Cecil D. Andrus, Dep't of the Interior, Secretarial Order 3042, §§1, 4 (Nov. 6, 1979); Sec'y James G. Watt, Dep't of the Interior, Secretarial Order 3064, §§3, 5 (May 18, 1981).

§ 161a. Part of Waterton-Glacier International Peace Park

For the purpose of permanently commemorating the long-existing relationship of peace and good will existing between the people and Governments of Canada and the United States and upon the enactment by the proper authority of the Canadian Government of a similar provision respecting the Waterton Lakes National Park in the Province of Alberta, and upon the proclamation of the President of the United States, who is authorized to issue such a proclamation, the Glacier National Park in the State of Montana shall become a part of an international park to be known as the Waterton-Glacier International Peace Park.

(May 2, 1932, ch. 157, §1, 47 Stat. 145.)

§ 161b. Designation for purposes of administration, promotion, development, and support

For purposes of administration, promotion, development, and support by appropriations that part of the said Waterton-Glacier International Peace Park within the territory of the United States shall be designated as the Glacier National Park.

(May 2, 1932, ch. 157, §2, 47 Stat. 145.)

§ 161c. Addition of land; establishment of fish hatchery

The Secretary of the Interior is authorized to administer as a part of the Glacier National Park, in the State of Montana, subject to all laws and regulations applicable thereto, the lands, or interests in lands, within the State of Montana, in township 28 north, range 20 west, Montana meridian, which may be acquired by the United States for the establishment by the National Park Service of a fish hatchery for restocking the waters of the said park.

(July 31, 1939, ch. 395, 53 Stat. 1142.)

§ 161d. Elimination of fish hatchery; transfer of administration of hatchery to Fish and Wildlife Service

The property at Creston, Montana, acquired by the United States for the establishment of a fish hatchery for restocking the waters of Glacier National Park and administered as a part of the park pursuant to section 161c of this title, together with the improvements and equipment utilized in connection with the hatchery property, is eliminated from the park.

The functions of the National Park Service with regard to the administration of the aforesaid properties for the benefit of the park are transferred to and shall be exercised by the Fish and Wildlife Service for the same purposes: *Provided, however*, That such fish propagated at the hatchery as may be in excess of the number necessary to restock and maintain an optimum fish population in the waters of the park at all times may be utilized for the restocking of other waters.

(Dec. 13, 1944, ch. 555, 58 Stat. 801.)

TRANSFER OF FUNCTIONS

Fish and Wildlife Service, created by Reorg. Plan No. III of 1940, §3, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, succeeded by United States Fish and Wildlife Service established by act Aug. 8, 1956, ch. 1036, §3, 70 Stat. 1120. See section 742b of this title.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 161e. Additional lands, buildings, or other real and personal property

The Secretary of the Interior is authorized to acquire, and the State of Montana is authorized to convey to the United States, without regard to the requirements contained in section 11 of the Act approved February 22, 1889 (25 Stat. 676), any lands, interests in lands, buildings, or other property, real and personal, owned by the State of Montana within the boundaries of Glacier National Park. The aforesaid properties may be acquired from the State of Montana by the Secretary of the Interior for such consideration as he may deem advisable, when the acquisition of such property would, in his judgment, be in the best interests of the United States.

(Mar. 16, 1948, ch. 133, 62 Stat. 80.)

REFERENCES IN TEXT

Section 11 of the Act approved February 22, 1889 (25 Stat. 676), referred to in text, was not classified to the Code.

§ 162. Control; regulations; leases; sale and removal of timber

Glacier National Park shall be under the exclusive control of the Secretary of the Interior. In addition to the powers and duties enumerated in section 3 of this title not inconsistent with this section, he shall make and publish such rules and regulations not inconsistent with the laws of the United States as he may deem necessary or proper for the care, protection, management, and improvement of the same, which regulations shall provide for the preservation of the park in a state of nature so far as is consistent with the purposes of this section and section 161 of this title, and for the care and protection of the fish and game within the boundaries thereof. He may, in his discretion, execute leases to parcels of ground not exceeding ten acres in extent at any one place to any one person or company, for not to exceed twenty years, when such ground is necessary for the erection of buildings for the accommodation of visitors, and to parcels of ground not exceeding one acre in extent and for not to exceed twenty years to persons who have heretofore erected or whom he may hereafter authorize to erect summer homes or cottages; he may also sell and permit the removal of such matured or dead or down timber as he may deem necessary or advisable for the protection or improvement of the park.

(May 11, 1910, ch. 226, § 2, 36 Stat. 354.)

§ 162a. Summer homes and cottages

After January 26, 1931, no permit, license, lease, or other authorization for the use of land within the Glacier National Park, Montana, for the erection and maintenance of summer homes or cottages shall be granted or made: *Provided, however*, That the Secretary of the Interior may, in his discretion, renew any permit, license, lease, or other authorization for such purpose granted or made prior to January 26, 1931.

(Jan. 26, 1931, ch. 47, § 3, 46 Stat. 1043.)

§ 163. Jurisdiction by the United States; fugitives from justice

Sole and exclusive jurisdiction is assumed by the United States over the territory embraced within the Glacier National Park, saving, however, to the State of Montana the right to serve civil or criminal process within the limits of the aforesaid park in suits or prosecution for or on account of rights acquired, obligations incurred, or crimes committed in said State but outside of said park, and saving, further, to the said State the right to tax persons and corporations, their franchises and property, on the lands included in said park. All the laws applicable to places under the sole and exclusive jurisdiction of the United States shall have force and effect in said park. All fugitives from justice taking refuge in said park shall be subject to the same laws as refugees from justice found in the State of Montana.

(Aug. 22, 1914, ch. 264, § 1, 38 Stat. 699.)

CODIFICATION

A provision accepting the act of the Montana Legislature which ceded to the United States Exclusive Jurisdiction over the Territory referred to in this section has been omitted as executed.

§ 164. Eliminating private holdings of lands; timber or public lands of equal value in exchange

The Secretary of the Interior, for the purpose of eliminating private holdings within the Glacier National Park and the preservation intact of the natural forest along the roads in the scenic portions of the park, both on patented and park lands, is empowered, in his discretion: (1) To obtain for the United States the complete title to any or all of the lands held in private or State ownership within the boundaries of said park within townships 32 and 33 north, ranges 18 and 19 west of Montana principal meridian, by the exchange of dead, decadent, or matured timber of approximately equal values that can be removed from any part of the park without injuriously affecting the scenic beauty thereof; or, upon the approval of the Secretary of Agriculture, the timber to be selected or exchanged may be taken from the Government lands within the metes and bounds of the national forests within the State of Montana, or, (2) to obtain for the United States the complete title to any or all of the lands held in private ownership within the boundaries of said park by accepting from the owners of such privately owned lands complete relinquishment thereof and by granting and patenting to such owners, in exchange therefor, in each instance, like public land of equal value situate in the State of Montana, after due notice of the proposed exchange has been given by publication for not less than thirty days in the counties where the lands proposed to be exchanged or taken in exchange are located.

(Mar. 3, 1917, ch. 164, § 1, 39 Stat. 1122; Feb. 28, 1923, ch. 144, § 1, 42 Stat. 1324.)

CODIFICATION

Section is based on section 1 of act Mar. 3, 1917, and section 1 of act Feb. 23, 1923; subdivision (1) being from the former and subdivision (2) being from the latter act. Of the language preceding subdivision (1), that portion from the beginning of the section to the word ''and'' was common to both of the sections aforesaid, while the remaining portion was derived from section 1 of act Mar. 3, 1917.

§ 165. Value of lands sought to be exchanged

For purposes of subdivision (2) of section 164 of this title the value of all patented lands within said park, including the timber thereon, offered for exchange, and the value of other lands of the United States elsewhere situate, to be given in exchange therefor, shall be ascertained in such manner as the Secretary of the Interior may direct; and the owners of such privately owned lands within said park shall, before any exchange is effective, furnish the Secretary of the Interior evidence satisfactory to him of title to the patented lands offered in exchange; and lands conveyed to the Government under this section and subdivision (2) of section 164 of this title shall be and remain a part of the Glacier National Park.

(Feb. 28, 1923, ch. 144, § 2, 42 Stat. 1324.)

§ 166. Exchange of timber for private holdings; valuations

For purposes of subdivision (1) of section 164 of this title the value of all patented lands within said park, including the timber thereon, offered for exchange, and the value of the timber on park lands, or on Government lands within the metes and bounds of the national forests within the State of Montana, proposed to be given in exchange for such patented lands, shall be ascertained in such manner as the Secretary of the Interior and the Secretary of Agriculture may jointly in their discretion direct, and all expenses incident to ascertaining such values shall be paid by the owners of said patented lands. Such owners shall, before any exchange is effective, furnish the Secretary of the Interior evidence satisfactory to him of title to the patented lands offered in exchange; and if the value of timber on park lands or on the Government lands in the national forests within the State of Montana exceeds the value of the patented lands deeded to the Government in exchange, such excess shall be paid to the Secretary of the Interior by the owners of the patented lands before any timber is removed, and shall be deposited and covered into the Treasury as miscellaneous receipts. The lands conveyed to the Government under this section and subdivision (1) of section 164 of this title shall become a part of the Glacier National Park.

(Mar. 3, 1917, ch. 164, § 2, 39 Stat. 1122.)

§ 167. Removal of timber

All timber on Government lands in the park must be cut and removed under regulations to be prescribed by the Secretary of the Interior, and any damage which may result to the roads or any part of the park or the national forests in consequence of the cutting and removal of the timber therefrom shall be borne by the owners of the patented lands, and bonds satisfactory to the Secretary of the Interior and the Secretary of Agriculture, jointly, must be given for the payment of such damages, if any, as shall be determined by the Secretary of the Interior so far as the same relates to lands within a national park and by the Secretary of Agriculture where the same relates to lands in the national forests. The Secretary of Agriculture and the Secretary of the Interior shall jointly report to Congress in detail the factors upon which valuations were made.

(Mar. 3, 1917, ch. 164, § 3, 39 Stat. 1122.)

§ 167a. Exchange of lands and other property

(a) The Secretary of the Interior is authorized to accept title to any non-Federal lands, interests in lands, buildings, or other property, real or personal, within the authorized boundaries of the Glacier National Park, as now or after August 8, 1946, established, when the acquisition by exchange of such property would, in his judgment, be in the best interests of the United States. In exchange for the non-Federal property so to be acquired, the Secretary of the Interior is authorized to convey to the grantors of such property, or to their nominees, any federally owned lands, interests in lands, buildings, or other property, real or personal, within the authorized boundaries of the Glacier National Park, located in the State of Montana and administered by the National Park Service, which are of approximately equal value, as determined by the Secretary, to the property being acquired. In order to facilitate the making of such exchanges, the Secretary of the Interior may enter into agreements for the reservation in conveyances to the United States, or for the grant in conveyances from the United States, of such estates for years, life estates, or other interests as may be consistent, in his judgment, with the accomplishment of the purposes of this section, but all such limitations shall be considered in determining the equality of the interests to be exchanged.

(b) Any property acquired pursuant to this section shall, upon acceptance of title thereto, become a part of the Glacier National Park, and shall be subject to all laws applicable to such area. The Secretary of the Interior is authorized to issue such regulations as he deems necessary for carrying out the purposes of this section.

(Aug. 8, 1946, ch. 915, §§ 1, 2, 60 Stat. 949.)

CODIFICATION

Subsecs. (a) and (b) of this section constitute sections 1 and 2, respectively, of act Aug. 8, 1946.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 168. Repealed. May 24, 1949, ch. 139, § 142, 63 Stat. 109

Section, act Aug. 22, 1914, ch. 264, § 2, 38 Stat. 699, related to Park as part of judicial district of Montana. See sections 106 and 131 of Title 28, Judiciary and Judicial Procedure.

§ 169. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section, act Aug. 22, 1914, ch. 264, § 3, 38 Stat. 699, related to applicability of criminal laws. See section 13 of Title 18, Crimes and Criminal Procedure.

§ 170. Hunting and fishing; regulations; punishment

All hunting or the killing, wounding, or capturing at any time of any bird or wild animal, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury, is prohibited within the limits of said park; nor shall any fish be taken out of the waters of the park in any other way than by hook and line, and then only at such seasons and in such times and manner as may be directed by the Secretary of the Interior. The Secretary of the Interior shall make and publish such rules and regulations as he may deem necessary and proper for the management and care of the park and for the protection of the property therein, especially for the preservation from injury or spoliation of all timber, mineral deposits other than those legally lo-

cated prior to May 11, 1910, natural curiosities, or wonderful objects within said park, and for the protection of the animals and birds in the park from capture or destruction, and to prevent their being frightened or driven from the park. He shall make rules and regulations governing the taking of fish from the streams or lakes in the park. Possession within said park of the dead bodies, or any part thereof, of any wild bird or animal shall be prima facie evidence that the person or persons having the same are guilty of violating this Act. Any person or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of this Act and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or who shall violate any of the other provisions of this Act, or any rule or regulation that may be promulgated by the Secretary of the Interior with reference to the management and care of the park or for the protection of the property therein, for the preservation from injury or spoliation of timber, mineral deposits, other than those legally located prior to May 11, 1910, natural curiosities, or wonderful objects within said park, or for the protection of the animals, birds, or fish in the park, or who shall within said park commit any damage, injury, or spoliation to or upon any building, fence, hedge, gate, guidepost, tree, wood, underwood, timber, garden, crops, vegetables, plants, land, springs, mineral deposits other than those legally located prior to May 11, 1910, natural curiosities, or other matter or thing growing or being thereon, or situated therein, shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500, or imprisonment not exceeding six months, or both, and be adjudged to pay all costs of the proceedings.

(Aug. 22, 1914, ch. 264, § 4, 38 Stat. 700.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 22, 1914, which is classified to sections 163 and 168 to 177 of this title. For complete classification of this Act to the Code, see Tables.

§ 171. Forfeitures and seizures of guns, traps, teams, etc.

All guns, traps, teams, horses, or means of transportation of every nature or description, used by any person or persons within said park limits when engaged in killing, trapping, ensnaring, or capturing such wild beasts, birds, or wild animals shall be forfeited to the United States and may be seized by the officers in said park and held pending the prosecution of any person or persons arrested under charge of violating the provisions of this Act, and upon conviction under this Act of such person or persons using said guns, traps, teams, horses, or other means of transportation, such forfeiture shall be adjudicated as a penalty in addition to the other punishment provided under this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior.

(Aug. 22, 1914, ch. 264, § 5, 38 Stat. 700.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 22, 1914, which is classified to sections 163 and 168 to 177 of this title. For complete classification of this Act to the Code, see Tables.

§§ 172 to 177. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 172, acts Aug. 22, 1914, ch. 264, § 6, 38 Stat. 700; June 28, 1938, ch. 778, § 1, 52 Stat. 1213, related to appointment and jurisdiction of commissioner. See provisions covering United States magistrate judges in section 631 et seq. of Title 28, Judiciary and Judicial Procedure.

Section 173, act Aug. 22, 1914, ch. 264, § 7, 38 Stat. 701, related to arrest, confinement, and bail.

Section 174, act Aug. 22, 1914, ch. 264, § 8, 38 Stat. 701, related to process. See section 3053 of Title 18, Crimes and Criminal Procedure, rule 4 of Federal Rules of Criminal Procedure, Title 18, Appendix, and rule 4 of Federal Rules of Civil Procedure, Title 28, Appendix, Judiciary and Judicial Procedure.

Section 175, acts Aug. 22, 1914, ch. 264, § 9, 38 Stat. 701; June 28, 1938, ch. 778, § 1, 52 Stat. 1213, related to commissioner's [now magistrate judge] salary.

Section 176, act Aug. 22, 1914, ch. 264, § 11, 38 Stat. 701, related to fines and costs.

Section 177, act Aug. 22, 1914, ch. 264, § 10, 38 Stat. 701, related to certification and payment of fees, costs, and expenses.

§ 178. Hotel regulations

Any hotel erected on the land sold and conveyed to the Glacier Park Hotel Company under authority of the Act of March 2, 1917, chapter 147, Thirty-ninth Statutes, page 994, shall be operated by the said Glacier Park Hotel Company, its successors and assigns under such rules and regulations as the Secretary of the Interior may prescribe for the conduct and operation of hotels within the Glacier National Park.

(Mar. 2, 1917, ch. 147, 39 Stat. 994.)

CODIFICATION

Section is from a proviso at the end of act Mar. 2, 1917. The preceding part of the act authorized the Secretary of the Interior to sell certain described lands to the hotel company mentioned herein and was omitted as temporary and executed.

§ 179. Donations of buildings and other property

The Secretary of the Interior is authorized, in his discretion, to accept buildings, moneys, or other property which may be useful in the betterment of the administration and affairs of the Glacier National Park under his supervision, and which may be donated for park purposes. He may accept patented lands or rights-of-way over patented lands in the Glacier National Park that may be donated for park purposes.

(July 1, 1916, ch. 209, § 1, 39 Stat. 308; June 12, 1917, ch. 27, § 1, 40 Stat. 151.)

CODIFICATION

The first sentence of this section is from section 1 of act June 12, 1917, and the last sentence from section 1 of act July 1, 1916.

§ 180. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1028

Section, act Mar. 4, 1911, ch. 285, § 1, 36 Stat. 1421, made provision for the proceeds of leases and other revenues to be covered into the Treasury.

§§ 181, 181a. Omitted

CODIFICATION

Sections 181, 181a, act May 2, 1932, ch. 155, §§1, 2, 47 Stat. 144, relating to the grant by the State of Montana to the United States of concurrent police jurisdiction over the territory in the rights-of-way of the Blackfeet Highway, to the application of certain laws and regulations of the United States to such territory, and to the exercise of administrative control and jurisdiction over such territory, were omitted in view of Pub. L. 85–343, Mar. 15, 1958, 72 Stat. 35, which provided that the concurrent police jurisdiction that had been granted to the United States was retroceded to the State of Montana.

§ 181b. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section, act May 2, 1932, ch. 155, §3, 47 Stat. 145, related to jurisdiction of commissioner. See provisions for United States magistrate judges in section 631 et seq. of Title 28, Judiciary and Judicial Procedure.

SUBCHAPTER XXI—ROCKY MOUNTAIN NATIONAL PARK

§ 191. Establishment; boundaries; reclamation project

The tract of land in the State of Colorado particularly described by and included within metes and bounds as follows, to wit: Beginning at the southeast corner of section 34, township 3 north, range 73 west of the sixth principal meridian, Colorado, thence north along the section lines to the northeast corner of section 3, said township; thence west to the northwest corner of said section; thence north along the section lines to the northeast corner of section 16, township 4 north, range 73 west; thence west to the northwest corner of said section; thence north to the northeast corner of section 8, said township; thence west along the section lines to the northwest corner of section 7, said township; thence north to the northeast corner of township 4 north, range 74 west; thence west along the first correction line north, to the southeast corner of section 36, township 5 north, range 74 west; thence north along the range line to the northeast corner of the southeast quarter of the southeast quarter of section 13, said township; thence west to the northwest corner of the southeast quarter of the southeast quarter of section 14, said township; thence north to the northwest corner of the northeast quarter of the southeast quarter of section 11, said township; thence east to the northeast corner of the northeast quarter of the southeast quarter of section 12, said township; thence south along the range line to the southeast corner of said section; thence east along the section lines to the southeast corner of the southwest quarter of section 10, township 5 north, range 73 west; thence north to the northeast corner of the southwest quarter of said section; thence east to the southeast corner of the northeast quarter of said section; thence north to the northeast corner of said section; thence east to the southeast corner of the southwest quarter of the southwest quarter of section 2, said township; thence north to the northeast corner of the southwest quarter of the southwest quarter of said section; thence east to the southeast corner of the northeast quarter of the southwest quarter, said section; thence north to the northeast corner of the northeast quarter of the southwest quarter of said section; thence east to the southeast corner of the northeast quarter of section 1, said township; thence north along the range line to the northeast corner of section 36, township 7 north, range 73 west; thence west along the section lines to the intersection with the west bank of the Big South Cache la Poudre River in township 7 north, range 75 west; thence southeasterly along the west bank of said river to the mouth of a tributary of said river, probably in section 1, township 6 north, range 75 west; said tributary heading at La Poudre Pass in section 20, township 6 north, range 75 west; thence southwesterly along the west bank of said tributary to its head; thence across the Continental Divide to the headwaters of the North Fork of the Grand River, which also heads at La Poudre Pass; thence down the west bank of the North Fork of the Grand River to its intersection with the section line between sections 29 and 30, township 6 north, range 75 west; thence south along the section lines to the southeast corner of section 18, township 5 north, range 75 west; thence west along the section line to its intersection with the west bank of the North Fork of the Grand River; thence down the west bank of the North Fork of the Grand River to its intersection with the section line between sections 25 and 36, township 4 north, range 76 west; thence east to the northeast corner of section 36, said township; thence south along the range line to the southeast corner of said township; thence east along the township line to the northeast corner of the northwest quarter of section 4, township 3 north, range 75 west; thence south to the southwest corner of the northeast quarter of section 9, said township; thence west along the quarter section line to its intersection with a creek in section 7, said township, this creek being an outlet of Grand Lake, and flowing into the North Fork of the Grand River; thence southerly along the said creek to its junction with the North Fork of the Grand River; thence southerly along the west bank of the North Fork of the Grand River to its intersection with the township line between townships 2 and 3 north; thence east along the township line to the southeast corner of section 34, township 3 north, range 73 west of the sixth principal meridian, Colorado, the place of beginning, is reserved and withdrawn from settlement, occupancy, or disposal under the laws of the United States, and is dedicated and set apart as a public park for the benefit and enjoyment of the people of the United States, under the name of the Rocky Mountain National Park. The United States Reclamation Service may enter upon and utilize for flowage or other purposes any area within said park which may be necessary for the development and maintenance of a Government reclamation project.

(Jan. 26, 1915, ch. 19, §1, 38 Stat. 798.)

CODIFICATION

A statement in this section as originally enacted that the tract described was then a part of certain counties in Colorado has been omitted as historically obsolete.

CHANGE OF NAME

The Reclamation Service, established in July 1902, changed to the Bureau of Reclamation on June 20, 1923, then to the Water and Power Resources Service on Nov. 6, 1979, and then back to the Bureau of Reclamation on May 18, 1981. See 155 Dep't of the Interior, Departmental Manual 1.1 (2008 repl.); Sec'y Hubert Work, Dep't of the Interior, Order (June 20, 1923); Sec'y Cecil D. Andrus, Dep't of the Interior, Secretarial Order 3042, §§1, 4 (Nov. 6, 1979); Sec'y James G. Watt, Dep't of the Interior, Secretarial Order 3064, §§3, 5 (May 18, 1981).

ADDITIONS TO ROCKY MOUNTAIN NATIONAL PARK

The following provisions authorized the addition of lands to Rocky Mountain National Park:

Pub. L. 109–93, Oct. 26, 2005, 119 Stat. 2104.

Pub. L. 104–158, §2(b)(1), July 9, 1996, 110 Stat. 1406.

§ 192. Boundaries enlarged

The eastern boundary line of the Rocky Mountain National Park between the section corner common to sections 2 and 3, township 3 north, and sections 34 and 35, township 4 north, range 73 west, and the township corner common to townships 5 and 6 north, ranges 72 and 73 west, is changed so as to read as follows:

Beginning at a point on the present eastern boundary line of the Rocky Mountain National Park, Colorado, which is the northwest corner of section 2 and the northeast corner of section 3, township 3 north, range 73 west of the sixth principal meridian, Colorado, running thence east along the township line to its intersection with the main hydrographic divide east of Cow Creek, between section 31, township 4 north, and section 6, township 3 north, range 72 west; thence northwesterly following along said hydrographic divide, passing over Twin Sisters, the Crags, passing west of Lily Lake, and continuing along said hydrographic divide, now between Aspen Brook and Fish Creek and passing over Lily Mountain and Giant-track Mountain to a point which is the southeast corner of section 34 and the southwest corner of section 35, township 5 north, range 73 west; thence north along the section lines between sections 34 and 35, 26 and 27, 22 and 23, 14 and 15, to the quarter corner common to sections 14 and 15, all in township 5 north, range 73 west; thence east along quarter-section line, through sections 14 and 13, township 5 north, range 73 west and along the continuation of said quarter-section line through section 18 to the quarter corner common to sections 18 and 17, township 5 north, range 72 west; thence north along the section line between sections 18 and 17, 7 and 8, 5 and 6, all in township 5 north, range 72 west, to that point which is the northeast corner of section 6 and the northwest corner of section 5 in said township and range; thence west along the township line to the township corner common to townships 5 and 6 north, ranges 72 and 73 west, which is on the present eastern boundary line of the Rocky Mountain National Park, Colorado.

And the lands lying between the eastern boundary existing on February 14, 1917, and the eastern boundary as changed by this section between said section corner common to sections 2 and 3, township 3 north, and sections 34 and 35, township 4 north, range 73 west, and said township corner common to townships 5 and 6 north, ranges 72 and 73 west, are reserved and withdrawn from settlement, occupancy, or disposal under the laws of the United States, and are made a part of and included in the Rocky Mountain National Park, and all the provisions of sections 191 and 193 to 195a of this title are made applicable to and extended over the lands added to the park.

(Feb. 14, 1917, ch. 61, 39 Stat. 916.)

§ 192a. Boundaries revised; excluded lands transferred

Portions of the north and east boundary of the Rocky Mountain National Park are revised as follows:

North boundary, beginning at the northwest corner of the northeast quarter of the northeast quarter of section 33, township 7 north, range 74 west, being a point on the present north boundary line of the Rocky Mountain National Park; thence southerly to the southwest corner of the northeast quarter of the northeast quarter of said section; thence westerly to the southeast corner of the northwest quarter of the northwest quarter of said section; thence northerly to the northeast corner of the northwest quarter of the northwest quarter of said section, being a point on the present north boundary line of the Rocky Mountain National Park and the end of the above-described change of said boundary; and

East boundary, beginning at the northeast corner of section 3, township 3 north, range 73 west of the sixth principal meridian, Colorado, being a point on the present east boundary line of Rocky Mountain National Park; thence westerly along the township line to the northwest corner of said section; thence northerly along section line to the southwest corner of the northwest quarter of section 34, township 4 north, range 73 west; thence easterly to the southeast corner of the southwest quarter of the northwest quarter of said section; thence northerly to the northeast corner of the northwest quarter of the northwest quarter of said section; thence westerly to the northwest corner of said section; thence northerly along section lines to the southwest corner of the northwest quarter of the southwest quarter of section 22, said township; thence easterly to the southeast corner of the northeast quarter of the southwest quarter of said section; thence northerly to the southwest corner of the northwest quarter of the northeast quarter of said section; thence easterly to the southeast corner of the northeast quarter of the northeast quarter of said section; thence northerly along section lines to the northeast corner of the southeast quarter of the southeast quarter of section 15, said township; thence westerly to the northwest corner of the southwest quarter of the southeast quarter of said section; thence northerly passing through the northeast corner of the northwest quarter of said section, to the northeast corner of the southeast quarter of the southwest quarter of section 10, said township; thence westerly to the northwest corner of the southeast quarter of the southwest quarter of said section; thence northerly to the northeast corner of the northwest quarter of the southwest quarter of said section; thence westerly, passing through the northwest corner of the southwest quarter of said section,

to the northwest corner of the northeast quarter of the southwest quarter of section 9, said township; thence southerly to the northeast corner of the southwest quarter of the southwest quarter of said section; thence westerly to the northwest corner of the southwest quarter of the southwest quarter of said section; thence northerly along section lines to the northeast corner of the southeast quarter of the southeast quarter of section 5, said township; thence westerly to the northwest corner of the southeast quarter of the southeast quarter of said section; thence southerly to the southwest corner of the southeast quarter of the southeast quarter of said section; thence westerly along section line to the southeast corner of the southwest quarter of said section; thence northerly to the northeast corner of the southwest quarter of said section; thence westerly to the northwest corner of the southwest quarter of said section; thence northerly along section line to the northeast corner of section 6, said township; thence easterly along the first correction line north to the southeast corner of the southwest quarter of section 32, township 5 north, range 73 west; thence northerly to the northeast corner of the northwest quarter of said section; thence westerly along section line to the northwest corner of said section; thence northerly along section lines to the southwest corner of the northwest quarter of the southwest quarter of section 20, said township; thence easterly to the northwest corner of the southeast quarter of the southeast quarter of said section; thence southerly, passing through the southwest corner of the southeast quarter of the southeast quarter of said section, to the southwest corner of the northeast quarter of the northeast quarter of section 29, said township; thence easterly to the southeast corner of the northeast quarter of the northeast quarter of said section; thence southerly to the southwest corner of the northwest quarter of section 28, said township; thence easterly to the southeast corner of the southwest quarter of the northwest quarter of said section; thence northerly to the northeast corner of the southwest quarter of the northwest quarter of said section; thence easterly, passing through the southeast corner of the northeast quarter of the northeast quarter of said section, to the southeast corner of the northeast quarter of the northeast quarter of section 27, said township; thence northerly along section line to the northeast corner of said section; thence westerly along section line to the southeast corner of the southwest quarter of the southwest quarter of section 22, said township; thence northerly to the northeast corner of the northwest quarter of the northwest quarter of said section; thence westerly along section lines to the southeast corner of the southwest quarter of section 16, said township; thence northerly to the northeast corner of the southeast quarter of the southwest quarter of said section; thence westerly to the northwest corner of the southwest quarter of the southwest quarter of said section; thence northerly along section line to the center line of the north branch of Fall River; thence northwesterly along the center line of the north branch of Fall River to the west line of the east half of the east half of section 17, said township; thence southerly to the northeast corner of the southwest quarter of the southeast quarter of said section; thence westerly to the northwest corner of the southwest quarter of the southeast quarter of said section; thence southerly to the southwest corner of the southeast quarter of said section; thence westerly along section line to the southeast corner of section 18, said township; thence northerly along section line to the northeast corner of said section; thence easterly along section line to the northwest corner of section 16, said township; thence southerly along section line to the southwest corner of the northwest quarter of the northwest quarter of said section; thence easterly to the northwest corner of the southwest quarter of the northeast quarter of said section; thence southerly to the southwest corner of the northeast quarter of said section; thence easterly, passing through the southeast corner of the northeast quarter of said section, to the northwest corner of the northeast quarter of the southwest quarter of section 15, said township; thence southerly to the southwest corner of the northeast quarter of the southwest quarter of said section; thence easterly to the southeast corner of the northeast quarter of the southwest quarter of said section; thence northerly to the southwest corner of the northeast quarter of said section; thence easterly on midsection lines to the southeast corner of the northwest quarter of section 18, township 5 north, range 72 west; thence northerly to the southwest corner of the northwest quarter of the northeast quarter of said section; thence easterly to the southeast corner of the northeast quarter of the northeast quarter of said section; thence northerly along section lines to the northeast corner of section 7, said township; thence westerly along section line to the southeast corner of the southwest quarter of section 6, said township; thence northerly to the northeast corner of the southeast quarter of the southwest quarter of said section; thence westerly to the northwest corner of the southwest quarter of the southwest quarter of said section; thence northerly to the northwest corner of said section, being a point on the present east boundary line of Rocky Mountain National Park and the end of the change of said boundary: *Provided, however*, That the following lands shall remain and be a part of the Rocky Mountain National Park: The northwest quarter of the northeast quarter and the east half of the northeast quarter of the northwest quarter of section 34, township 5 north, range 73 west; all of that portion of the following described lands located in township 4 north, range 73 west, lying west of the hydrographic divide that forms the eastern boundary of the watershed of Cow Creek and of Aspen Brook; the east half of the northeast quarter of section 35; the east half of the southeast quarter and the southeast quarter of the northeast quarter of section 26; section 24; section 25; the east half of section 23: *Provided further*, That those portions of the following-described lands that are hereby excluded from the Rocky Mountain National Park, are transferred to and made a part of the Colorado National Forest, subject to all laws and regulations applicable to National Forests; the northwest quarter of the northeast quarter and northeast quarter of the northwest quarter, section 33, township 7 north, range 74

west; section 6, township 5 north, range 72 west; the southeast quarter of the southeast quarter of section 34, township 5 north, range 73 west; sections 3, 10, and 15, township 4 north, range 73 west.

(June 9, 1926, ch. 515, §1, 44 Stat. 712.)

§ 192b. Addition of lands

The President of the United States is authorized, upon the recommendation of the Secretary of the Interior, and with respect to lands located in a national forest upon the joint recommendation of the Secretaries of the Interior and of Agriculture, to add to the Rocky Mountain National Park, in the State of Colorado, by Executive proclamation any or all of the following-described lands, to wit:

Sections 5 and 6, township 3 north, range 75 west.

All of section 3 except the northeast quarter northeast quarter; all of section 4; north half, north half southeast quarter, southwest quarter southeast quarter section 5; north half, northwest quarter southwest quarter section 9; north half, northeast quarter southwest quarter, southeast quarter section 10; northeast quarter, north half southeast quarter section 15, in township 4 north, range 73 west.

North half, southwest quarter, northwest quarter southeast quarter section 17; south half southwest quarter, southwest quarter southeast quarter section 20; south half northeast quarter, southeast quarter northwest quarter, south half section 28; all of section 29 except northeast quarter northeast quarter; east half section 32; all of section 33; southwest quarter northeast quarter, northwest quarter northwest quarter, south half northwest quarter, southwest quarter, west half southeast quarter, southeast quarter southeast quarter section 34, in township 5 north, range 73 west.

All of sections 6, 7, and 18; that portion of section 19 lying outside of park boundary, in township 5 north, range 75 west.

All of sections 1, 2, 11, 12, 13, 14, 23, and 24; those portions of sections 3 and 10 lying east of the Continental Divide; that portion of section 15 lying east of the Continental Divide and on the eastern slope of Mount Nimbus; and that portion of section 22 lying on the eastern slope of Baker Mountain, in township 5 north, range 76 west.

All of sections 19, 30, and 31; that portion of section 20 lying outside of the park boundary and south of the boundary line between Larimer and Grand Counties; that part of sections 17 and 18 lying south of the boundary line between Larimer and Grand Counties and the Continental Divide and that part of section 29 lying outside the park boundary, in township 6 north, range 75 west.

All of sections 25, 26, 35, and 36; those portions of sections 13, 22, 23, 24, 27, and 34 lying east of the Continental Divide, in township 6 north, range 76 west; and all the lands added to said park pursuant hereto are made subject to all laws, rules, and regulations applicable to and in force in the Rocky Mountain National Park.

(June 21, 1930, ch. 561, §1, 46 Stat. 791.)

PROC. NO. 3144. ENLARGING ROCKY MOUNTAIN NATIONAL PARK

Proc. No. 3144, June 27, 1956, 21 F.R. 4783, provided:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do proclaim that the lands hereinafter described are hereby added to the Rocky Mountain National Park, in the State of Colorado, and shall, upon acquisition of title thereto by the United States, become subject to the provisions of the act entitled ''An Act to establish a National Park Service, and for other purposes,'' approved August 25, 1916, 39 Stat. 535 (16 U.S.C. §§1–3) [16 U.S.C. 1, 2, 3, and 4], and all acts supplementary thereto and amendatory thereof, and all other laws and rules and regulations applicable to such park:

SIXTH PRINCIPAL MERIDIAN

T. 5 N., R. 73 W.,
Sec. 33, S½NE¼, SE¼SE¼, and N½SE¼;
Sec. 34, N½SW¼NE¼, N½SE¼NW¼, SW¼NW¼, and NW¼SW¼.

PROC. NO. 3374. ENLARGING ROCKY MOUNTAIN NATIONAL PARK

Proc. No. 3374, Sept. 23, 1960, 25 F.R. 9284, provided:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, under and by virtue of the authority vested in me by the said act of June 21, 1930 [this section], do proclaim that the lands hereinafter described shall be, and they are hereby, added to and reserved as a part of the Rocky Mountain National Park, in the State of Colorado; and such lands shall be subject to the provisions of the act entitled ''An Act to establish a National Park Service, and for other purposes,'' approved August 25, 1916, 39 Stat. 535 (16 U.S.C. 1–3) [16 U.S.C. 1, 2, 3, and 4], and all acts supplementary thereto and amendatory thereof, and all other laws and rules and regulations applicable to such park:

SIXTH PRINCIPAL MERIDIAN

T. 4 N., R. 73 W., section 9, northwest quarter southwest quarter.

§ 192b–1. Exchange of lands

Upon submission of satisfactory evidence of title the Secretary of the Interior is authorized, in his discretion, to accept title on behalf of the United States to the following described land conveyed to William W. Kiskadden by warranty deed numbered 174403 from Mrs. Arah Chapman, recorded August 24, 1916, in book 339, page 231, records of Larimer County, Colorado: Beginning at the northeast corner of the southwest quarter of section 31, township 5 north, range 73 west, sixth principal meridian, Colorado; thence south four hundred and eighty feet; thence west two hundred feet; thence north 27 degrees 30 minutes west five hundred and forty-one feet; thence east four hundred and fifty feet to the place of beginning, containing approximately three and fifty-eight one-hundredths acres, and in exchange therefor to issue a patent for that portion of the northeast quarter of the southwest quarter and that portion of the southeast quarter of the northwest quarter of section 31, township 5 north, range 73 west, sixth principal meridian, Colorado, more particularly described as follows: Beginning at a point from whence the center quarter-section corner of section 31 bears south 79 degrees no minutes east, three hundred and sixty and nine-tenths feet; thence south four hundred and eighty feet to a point from whence the east quarter corner of section 31 bears north

79 degrees 22 minutes east, two thousand six hundred and seventy-three and six-tenths feet; thence west two hundred feet; thence north 27 degrees 30 minutes west, five hundred and forty-one feet; thence east four hundred and fifty feet to the point of beginning, containing approximately three and five-tenths acres: *Provided*, That the land conveyed to the United States, other than the land to be patented, shall, upon acceptance of title thereto, become a part of the Rocky Mountain National Park, Colorado, and become subject to all laws and regulations applicable to said park.

(July 14, 1945, ch. 296, 59 Stat. 466.)

§ 192b–2. Addition of lands

The following-described lands, comprising approximately one hundred and forty acres, are added to Rocky Mountain National Park and shall be subject to all laws and regulations applicable to said park:

SIXTH PRINCIPAL MERIDIAN

Township 5 north, range 73 west, section 27, southwest quarter northwest quarter, and west half southwest quarter; section 34, west half northeast quarter northwest quarter.

(Aug. 24, 1949, ch. 501, § 1, 63 Stat. 626.)

§ 192b–3. Acquisition of lands

The Secretary of the Interior is authorized to acquire lands and interests in lands by donation or with donated funds, by purchase with Federal funds, or otherwise, in his discretion, for development of an appropriate eastern approach to the park, described as follows:

SIXTH PRINCIPAL MERIDIAN

Township 5 north, range 73 west; those parts of the following subdivisions lying south of the south boundary of the present Highdrive Road right-of-way: Section 27, east half southwest quarter, and south half southeast quarter; section 34, northeast quarter northeast quarter; section 35, west half northwest quarter northwest quarter; those parts of the following subdivisions lying north and west of the left bank of the Big Thompson River: Section 34, north half southeast quarter northeast quarter; section 35, southwest quarter northwest quarter comprising approximately one hundred and forty-five acres; and a strip of land, not to exceed an average of five hundred feet in width, generally paralleling the Thompson River for approximately one and six-tenths miles from near the center of section 25, township 5 north, range 73 west, to the one hundred and forty-five-acre tract described elsewhere in this section.

(Aug. 24, 1949, ch. 501, § 2, 63 Stat. 626.)

§ 192b–4. Acquisition of property to connect certain roads and to develop residential, utility, and administrative units

The Secretary of the Interior is authorized to acquire by purchase or otherwise such properties within the exterior boundaries of Rocky Mountain National Park as may be deemed by him to be necessary in connecting the eastern approach road with the existing Bear Lake and Trail Ridge roads, and in developing the present governmental residential, utility, and proposed administrative units.

(Aug. 24, 1949, ch. 501, § 4, 63 Stat. 627.)

§ 192b–5. Inclusion of acquired lands; rules and regulations

All property acquired pursuant to sections 192b–2 to 192b–5 of this title shall become a part of the park, following acquisition of title thereto by the United States upon the issuance of an appropriate order or orders by the Secretary of the Interior setting forth the revised boundaries of the park, such order or orders to be effective immediately upon the expiration of thirty full calendar days after publication in the Federal Register. Lands so added to the park shall thereafter be subject to all laws and regulations applicable to the park.

(Aug. 24, 1949, ch. 501, § 3, 63 Stat. 627.)

§ 192b–6. Exchange of lands

The Secretary of the Interior is authorized to exchange in the manner and to the extent hereinafter provided land, interests in land, and improvements in Rocky Mountain National Park:

(1) The Secretary may convey to the Colorado Transportation Company the possessory interest which the United States has in the Fall River Pass Building, but not the land upon which the building is situated, adjacent to the Trail Ridge Road in section 36, township 6 north, range 75 west: *Provided*, The United States shall reserve for a period of two years the right to use without charge the alpine exhibit room; and he may also convey to said company all right, title, and interest of the United States in and to the property known as Grand Lake Lodge, described in section 192b–8 of this title as parcel A, including the land and any improvements thereon owned by the United States;

(2) In exchange for the foregoing, the Secretary is authorized to accept from the Colorado Transportation Company the land and interests therein located in Rocky Mountain National Park, described in section 192b–8 of this title as parcels C and D, together with such other privately owned land and interests in land within the park as he may designate;

(3) In exchange for the Government property conveyed pursuant to sections 192b–6 to 192b–8 of this title the United States shall receive other property of approximately equal value and such differences as there may be in values shall be equalized by a payment of funds: *Provided*, That all procedures and rights authorized in sections 192b–6 to 192b–8 of this title shall be in conformity with that agreement entered into under date of February 7, 1961, by and between the United States of America and the Colorado Transportation Company.

(Pub. L. 87–146, § 1, Aug. 17, 1961, 75 Stat. 383.)

§ 192b–7. Revision of boundaries

Upon consummation of the exchange the Secretary shall, by publishing notice in the Federal Register, revise the boundary of Rocky Mountain National Park so as to exclude from the

park the land described in section 192b–8 of this title as combined parcels A and B.

(Pub. L. 87–146, § 2, Aug. 17, 1961, 75 Stat. 383.)

§ 192b–8. Description of parcels of land

The aforesaid parcels A, C, and D, and the combined parcels A and B are, subject to minor revisions or corrections of a technical nature, more particularly described as follows:

PARCEL A

Beginning at the southeast corner of section 31, township 4 north, range 75 west of the sixth principal meridian; thence north 800.0 feet along the east line of said section 31; thence west 1,000.0 feet; thence south 134.06 feet; thence west 329.75 feet; thence south 166.94 feet; thence west 1,078.60 feet; thence south 497.82 feet, more or less, to the south line of said section 31; thence east along the south line of said section 31 to the point of beginning, containing 35 acres more or less.

PARCEL C

Beginning at a point on the west line of section 32, township 4 north, range 75 west of the sixth principal meridian, 800 feet north of the southwest corner of said section 32; thence east 660.0 feet; thence north 520.0 feet; thence east 660.0 feet; thence north 1,325.94 feet; thence west to the west line of said section 32; thence south along said west line of said section 32 to the point of beginning, containing 48 acres, more or less.

PARCEL D

Beginning at a point 800.0 feet north and 660.0 feet east of the southwest corner of section 32, township 4 north, range 75 west of the sixth principal meridian; thence east 1,962.18 feet; thence north 520.0 feet; thence west 1,962.18 feet; thence south 520.0 feet to the point of beginning, containing 23.5 acres, more or less.

COMBINED PARCELS A AND B

Beginning at the corner common to sections 31 and 32, township 4 north, range 75 west, and sections 5 and 6, township 3 north, range 75 west, sixth principal meridian; thence south 88 degrees 55 minutes east, 660.0 feet along the south section line of said section 32; thence north 800.0 feet; thence west 660.0 feet, more or less, to a point on the section line common to said sections 31 and 32; thence continuing west 1,000.0 feet; thence south 134.06 feet; thence west 329.75 feet; thence south 166.94 feet; thence west 1,078.6 feet; thence south 497.82 feet, more or less, to a point on the south section line of said section 31; thence south 89 degrees 24 minutes east, 2,389.47 feet along the south section line of said section 31 to the point of beginning; the tract as described containing approximately 47 acres.

(Pub. L. 87–146, § 3, Aug. 17, 1961, 75 Stat. 383.)

§ 192b–9. Rocky Mountain National Park, Roosevelt National Forest, and the Arapaho National Forest

(a) Revision of boundaries

The boundaries of Rocky Mountain National Park, the Roosevelt National Forest, and the Arapaho National Forest are revised as generally depicted on the map entitled ''Boundary Adjustments, Rocky Mountain National Park'', numbered 121–80,047, dated October 1, 1979, which shall be on file and available for public inspection in the Office of the Director, National Park Service, Department of the Interior, and the Office of the Chief, Forest Service, Department of Agriculture: *Provided*, That the area shown on such map as E–5 and known as the Twin Sisters area shall remain a part of the Rocky Mountain National Park. All lands added or transferred by this Act to Rocky Mountain National Park, Roosevelt National Forest, and Arapaho National Forest shall be subject to the laws and regulations applicable to the appropriate National Park or National Forest. Lands within the Indian Peaks Wilderness Area as designated by Public Law 95–450 (92 Stat. 1099) [16 U.S.C. 460jj et seq.], that are transferred by this Act to Rocky Mountain National Park shall remain in the National Wilderness Preservation System. Lands within the Rocky Mountain National Park that are adjacent to the Indian Peaks Wilderness and that are transferred by this Act to the Roosevelt National Forest shall be incorporated in and become part of the Indian Peaks Wilderness.

(b) Acquisition of lands and interest; functions of Secretary of the Interior and Secretary of Agriculture

The Secretary of the Interior, with respect to lands added or transferred by this Act to Rocky Mountain National Park, and the Secretary of Agriculture, with respect to lands added or transferred by this Act to Roosevelt and Arapaho National Forests, may acquire lands and interests in such lands, by donation, purchase with donated or appropriated funds, or by exchange. The Secretary of Agriculture, under sections 485 and 486 of this title, may accept on behalf of the United States title to any land in section 30, township 7 north, range 73 west, of the sixth principal meridian which lies within the boundary of Rocky Mountain National Park as revised by this Act, in exchange for which the Secretary of the Interior, notwithstanding section 1279(a) of this title, is authorized to issue patent to lands lying within the Cache La Poudre Wild and Scenic River study corridor. Upon completion of the exchange, the Secretary of Agriculture shall transfer to the administrative jurisdiction by the Secretary of the Interior the portion of such land lying within the boundary of the Rocky Mountain National Park as revised by this Act.

(c) Transfer of certain areas by the Bureau of Land Management

The Federal lands within the administrative jurisdiction of the Bureau of Land Management and within the areas referred to as E–2 and GL–3 on the map referred to in subsection (a) of this section shall be transferred to Rocky Mountain National Park without transfer of funds.

(d) City of Longmont, Colorado; retention of certain areas for the development of a reservoir

If the city of Longmont, Colorado, notifies the Secretary of the Interior that lands within the area referred to as E–8 on the map referred to in

subsection (a) of this section that are owned by such city are necessary for the development of a reservoir, the Secretary shall by publication of a revised boundary description in the Federal Register revise the boundary of Rocky Mountain Park within such area to exclude the lands which are necessary for the development of the reservoir: *Provided*, That the authority of such Secretary to revise the boundary for this purpose shall expire on November 1, 1981; and the only lands which may be excluded are the approximately one hundred twenty-nine acres owned by such city.

(e) Old McGregor Ranch; retention by owners

If after the completion of two complete fiscal years following December 22, 1980, the Secretary of the Interior has not purchased interests in the lands of approximately one thousand two hundred acres known as the Old McGregor Ranch located within the area referred to as E–2 on the map referred to in subsection (a) of this section, and the owner of such lands petitions the Secretary to exclude such lands from Rocky Mountain National Park, the Secretary shall by publication of a revised boundary description in the Federal Register return the boundary of Rocky Mountain National Park in such area E–2 to the boundary as it existed before December 22, 1980.

(f) City of Grand Lake, Colorado; conveyance of land by the Secretary

The Secretary of the Interior shall convey, to the city of Grand Lake, Colorado, without compensation or consideration, the lands, not to exceed two acres, within the area referred to as GL–5 on the map referred to in subsection (a) of this section.

(g) Use of snowmobiles in certain areas

The Secretary of the Interior may provide for the use of snowmobiles along the East Shore Trail of Shadow Mountain Lake if after study the Secretary determines such use will not result in any significant adverse impact upon wildlife.

(Pub. L. 96–560, title I, § 111, Dec. 22, 1980, 94 Stat. 3271.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b), is Pub. L. 96–560, Dec. 22, 1980, 94 Stat. 3265, which enacted this section and enacted provisions set out as notes under sections 1132 and 1133 of this title. For complete classification of this Act to the Code, see Tables.

Public Law 95–450 (92 Stat. 1099), referred to in subsec. (a), is Pub. L. 95–450, Oct. 11, 1978, 92 Stat. 1095, as amended, known as the Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act, which is classified principally to subchapter XCIV (§ 460jj et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 460jj of this title and Tables.

ENCOURAGEMENT OF LAND EXCHANGES

Pub. L. 104–333, div. I, title IV, § 408(b), Nov. 12, 1996, 110 Stat. 4153, provided that:

''(1) LANDS INSIDE ROCKY MOUNTAIN NATIONAL PARK.—Promptly following enactment of this Act [Nov. 12, 1996], the Secretary of the Interior shall seek to acquire by donation or exchange those lands within the boundaries of Rocky Mountain National Park owned by the city of Longmont, Colorado, that are referred to in section 111(d) of the Act commonly referred to as the 'Colorado Wilderness Act of 1980' (Public Law 96–560; 94 Stat. 3272; 16 U.S.C. 192b–9(d)).

''(2) OTHER LANDS.—The Secretary of Agriculture shall immediately and actively pursue negotiations with the city of Longmont, Colorado, concerning the city's proposed exchange of lands owned by the city and located in and near Coulson Gulch for other lands owned by the United States. The Secretary shall report to Congress 2 calendar years after the date of enactment of this Act [Nov. 12, 1996], and every 2 years thereafter on the progress of such negotiations until negotiations are complete.''

§ 192b–10. Boundary adjustment for Rocky Mountain National Park and Roosevelt National Forest

(a) Acquisition and boundary change

The Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to acquire, by donation, purchase with donated or appropriated funds, or by exchange, lands or interests therein within the area generally depicted as ''Proposed Park Additions'' on the map entitled ''Proposed Park Additions, Rocky Mountain National Park'', numbered 121–80, 106–A and dated May, 1989, which map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Upon acquisition of such lands, the Secretary shall revise the boundary of Rocky Mountain National Park to include such lands within the park boundary and shall administer such lands as part of the park subject to the laws and regulations applicable thereto.

(b) Boundary adjustment for Roosevelt National Forest

Upon acquisition of such lands by the Secretary, the Secretary of Agriculture shall revise the boundary of the Roosevelt National Forest to exclude such lands from the national forest boundary.

(c) Agreement

The Secretary is authorized to enter into an agreement with the owner of the lands identified as Tract 1127 and 1127B4, Section 23, Township 3 North, Range 73, Boulder County, Colorado, within the boundaries of Rocky Mountain National Park, to ensure the right of use as a single family residence, unless said property is being developed or is officially proposed to be developed by the owners in a manner which would substantially change its use.

(Pub. L. 101–192, § 1, Nov. 29, 1989, 103 Stat. 1700.)

§ 192c. Vested rights

Nothing contained in this section and section 192b of this title shall affect any vested and accrued rights of ownership of lands or any valid existing claim, location, or entry existing under the land laws of the United States on June 21, 1930, whether for homestead, mineral, rights-of-way, or any other purposes whatsoever, or any water rights and/or rights-of-way connected therewith, including reservoirs, conduits, and ditches, as may be recognized by local customs, laws, and decisions of courts, or shall affect the right of any such owner, claimant, locator, or entryman to the full use and enjoyment of his land.

(June 21, 1930, ch. 561, § 2, 46 Stat. 792.)

§ 193. Claims and rights under land laws not affected; rights-of-way for irrigation and other purposes

Nothing herein contained shall affect any valid claim, location, or entry under the land laws of the United States, existing on January 26, 1915, whether for homestead, mineral, right-of-way, or any other purpose whatsoever, or shall affect the rights of any such claimant, locator, or entryman to the full use and enjoyment of his land. Whenever consistent with the primary purposes of the park, section 79 of this title shall be applicable to the lands included within the park.

(Jan. 26, 1915, ch. 19, § 2, 38 Stat. 800; Jan. 26, 1931, ch. 47, § 7, 46 Stat. 1044.)

REFERENCES IN TEXT

Herein, referred to in text, means act Jan. 26, 1915, which is classified to sections 191 and 193 to 195a of this title. For complete classification of this Act to the Code, see Tables.

Section 79 of this title, referred to in text, was in the original a reference to act Feb. 15, 1901, ch. 372, 31 Stat. 790. For further details, see Codification note set out under section 79 of this title.

AMENDMENTS

1931—Act Jan. 26, 1931, repealed provision which authorized granting of easements or rights of way for steam, electric, or similar transportation upon or across the park.

§ 194. Lands held in private, municipal, or State ownership not affected

No lands located within the park boundaries held in private, municipal, or State ownership on January 26, 1915, shall be affected by or subject to the provisions of sections 191, 193, 195, and 195a of this title.

(Jan. 26, 1915, ch. 19, § 3, 38 Stat. 800.)

§ 195. Control; regulations; leases; sale and removal of timber

Rocky Mountain National Park shall be under the executive control of the Secretary of the Interior. In addition to the powers and duties enumerated in section 3 of this title and not inconsistent with this section, he shall make and publish such reasonable rules and regulations, not inconsistent with the laws of the United States, as he may deem necessary or proper for the care, protection, management, and improvement of the same, the said regulations being primarily aimed at the freest use of the said park for recreation purposes by the public and for the preservation of the natural conditions and scenic beauties thereof. The said Secretary may, in his discretion, execute leases to parcels of ground not exceeding twenty acres in extent in any one place to any person or company for not to exceed twenty years whenever such ground is necessary for the erection of establishments for the accommodation of visitors, may grant such other necessary privileges and concessions as he deems wise for the accommodation of visitors, and may likewise arrange for the removal of such mature or dead or down timber as he may deem necessary and advisable for the protection and improvement of the park. The regulations governing the park shall include provisions for the use of automobiles therein. The Secretary of the Interior is authorized to accept patented lands or rights of way over patented lands in the Rocky Mountain National Park, that may be donated for park purposes.

(Jan. 26, 1915, ch. 19, § 4, 38 Stat. 800; June 12, 1917, ch. 27, § 1, 40 Stat. 152; Mar. 1, 1919, ch. 88, 40 Stat. 1270.)

CODIFICATION

Section, with the exception of the last sentence, was from section 4 of act Jan. 26, 1915.

A provision prohibiting appropriation for the maintenance, supervision, or improvement of the park in excess of $10,000 annually unless expressly authorized by law was repealed by act Mar. 1, 1919.

The last sentence was from section 1 of act June 12, 1917.

OBLIGATION OF FEES FOR TRANSPORTATION SERVICES AT ZION OR ROCKY MOUNTAIN NATIONAL PARKS

Pub. L. 108–7, div. F, title I, § 140, Feb. 20, 2003, 117 Stat. 244, provided that: ''In fiscal year 2003 and each fiscal year thereafter, notwithstanding any other provision of law, with respect to a service contract for the provision solely of transportation services at Zion National Park or Rocky Mountain National Park, the Secretary of the Interior may obligate the expenditure of fees expected to be received in that fiscal year before the fees are received, so long as total obligations do not exceed fee collections retained at Zion National Park or Rocky Mountain National Park, respectively, by the end of that fiscal year.''

EXPENDITURE OF FUNDS OUTSIDE AUTHORIZED BOUNDARY OF ROCKY MOUNTAIN NATIONAL PARK

Pub. L. 104–333, div. I, title VIII, § 810, Nov. 12, 1996, 110 Stat. 4189, provided that: ''The Secretary of the Interior is authorized to collect and expend donated funds and expend appropriated funds for the operation and maintenance of a visitor center to be constructed for visitors to and administration of Rocky Mountain National Park with private funds on privately owned lands located outside the boundary of the park.''

§ 195a. North St. Vrain Creek and adjacent lands

Neither the Secretary of the Interior nor any other Federal agency or officer may approve or issue any permit for, or provide any assistance for, the construction of any new dam, reservoir, or impoundment on any segment of North St. Vrain Creek or its tributaries within the boundaries of Rocky Mountain National Park or on the main stem of North St. Vrain Creek downstream to the point at which the creek crosses the elevation 6,550 feet above mean sea level. Nothing in this section shall be construed to prevent the issuance of any permit for the construction of a new water gauging station on North St. Vrain Creek at the point of its confluence with Coulson Gulch.

(Jan. 26, 1915, ch. 19, § 5, as added Pub. L. 104–333, div. I, title IV, § 408(a), Nov. 12, 1996, 110 Stat. 4153.)

§ 196. Use for Arbuckle Reservoir

The Secretary of the Interior is authorized in his discretion to permit, by license, lease, or other authorization, the use of necessary land in the Rocky Mountain National Park for the

maintenance and operation in its present height and capacity, of the Arbuckle Number 2 Reservoir.

(June 9, 1926, ch. 515, § 2, 44 Stat. 714.)

§ 197. Applicability of other laws

The provisions of sections 1, 2, 3, 4, 191, and 193 to 195a of this title and all Acts supplementary to and amendatory of said sections are made applicable to and extended over the lands hereby added to the park: *Provided*, That the provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to or extend over such lands.

(June 9, 1926, ch. 515, § 3, 44 Stat. 714.)

REFERENCES IN TEXT

Hereby, referred to in text, means by act June 9, 1926, which is classified to sections 192a, 196, and 197 of this title.

The Federal Power Act, referred to in text, was in the original the ''Act of June 10, 1920, entitled 'an Act to create a Federal power commission; to provide for the improvement of navigation, the development of water power; the use of the public lands in relation thereto; and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes''', and was redesignated the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

§ 198. Exclusive jurisdiction; assumption by United States; saving provisions

The provisions of the act of the Legislature of the State of Colorado, approved February 19, 1929, ceding to the United States exclusive jurisdiction over the territory embraced and included within the Rocky Mountain National Park, are accepted, and sole and exclusive jurisdiction is assumed by the United States over such territory, saving, however, to the State of Colorado the right to serve civil or criminal process within the limits of the aforesaid park in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed outside of said park; and saving further to the said State the right to tax persons and corporations, their franchises and property on the lands included in said tract; and saving also to the persons residing in said park now or hereafter the right to vote at all elections held within the county or counties in which said tracts are situated; and saving to all persons residing within said park upon lands now privately owned within said park access to and from such lands, and all rights and privileges as citizens of the State of Colorado; and saving to the people of Colorado all vested, appropriated, and existing water rights and rights-of-way connected therewith, including all existing irrigation conduits and ditches. All the laws applicable to places under the sole and exclusive jurisdiction of the United States shall have force and effect in said park. All fugitives from justice taking refuge in said park shall be subject to the same laws as refugees from justice found in the State of Colorado.

(Mar. 2, 1929, ch. 583, § 1, 45 Stat. 1536.)

§§ 198a, 198b. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 198a, act Mar. 2, 1929, ch. 583, § 2, 45 Stat. 1537, related to inclusion of park in a judicial district. See section 85 of Title 28, Judiciary and Judicial Procedure.

Section 198b, act Mar. 2, 1929, ch. 583, § 3, 45 Stat. 1537, related to punishment for offenses. See section 18 of Title 18, Crimes and Criminal Procedure.

§ 198c. Prohibited acts; rules and regulations; penalties for offenses

All hunting or the killing, wounding, or capturing at any time of any wild bird or animal, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury, is prohibited within the limits of said park, nor shall any fish be taken out of the waters of the park in any other way than by hook and line, and then only at such seasons and in such times and manner as may be directed by the Secretary of the Interior. That the Secretary of the Interior shall make and publish such general rules and regulations as he may deem necessary and proper for the management and care of the park and for the protection of the property therein, especially for the preservation from injury or spoliation of all timber, natural curiosities, or wonderful objects within said park, and for the protection of the animals and birds in the park from capture or destruction, and to prevent their being frightened or driven from the park; and he shall make rules and regulations governing the taking of fish from the streams or lakes in the park. Possession within said park of the dead bodies, or any part thereof, of any wild bird or animal shall be prima facie evidence that the person or persons having the same are guilty of violating this Act. Any person or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of this Act and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or who shall violate any of the provisions of this Act or any rule or regulation that may be promulgated by the Secretary of the Interior with reference to the management and care of the park or for the protection of the property therein, for the preservation from injury or spoliation of timber, natural curiosities, or wonderful objects within said park, or for the protection of the animals, birds, or fish in the park, or who shall within said park commit any damage, injury, or spoliation to or upon any building, fence, hedge, gate, guidepost, tree, wood, underwood, timber, garden, crops, vegetables, plants, land, springs, natural curiosities, or other matter or thing growing or being thereon or situated therein, shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all costs of the proceedings.

(Mar. 2, 1929, ch. 583, § 4, 45 Stat. 1537.)

REFERENCES IN TEXT

This Act, referred to in text, is act Mar. 2, 1929, which is classified to sections 198 to 198j of this title. For complete classification of this Act to the Code, see Tables.

§ 198d. Forfeiture of property used in commission of offenses

All guns, traps, teams, horses, or means of transportation of every nature or description used by any person or persons within said park limits when engaged in killing, trapping, ensnaring, or capturing such wild beasts, birds, or animals shall be forfeited to the United States, and may be seized by the officers in said park and held pending the prosecution of any person or persons arrested under charge of violating the provisions of this Act, and upon conviction under this Act of such person or persons using said guns, traps, teams, horses, or other means of transportation, such forfeiture shall be adjudicated as a penalty in addition to the other punishment provided in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior.

(Mar. 2, 1929, ch. 583, § 5, 45 Stat. 1538.)

REFERENCES IN TEXT

This Act, referred to in text, is act Mar. 2, 1929, which is classified to sections 198 to 198j of this title. For complete classification of this Act to the Code, see Tables.

§§ 198e to 198j. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 198e, acts Mar. 2, 1929, ch. 583, § 6, 45 Stat. 1538; June 28, 1938, ch. 778, § 1, 52 Stat. 1213, related to appointment and jurisdiction of commissioner. See provisions covering United States magistrate judges in section 631 et seq. of Title 28, Judiciary and Judicial Procedures.

Section 198f, act Mar. 2, 1929, ch. 583, § 7, 45 Stat. 1538, related to issuance of process and arrest. See sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and rules 4, 5(c), and 9 of Federal Rules of Criminal Procedure, Title 18, Appendix.

Section 198g, act Mar. 2, 1929, ch. 583, § 8, 45 Stat. 1538, related to whom process is directed and arrest without process. See section 3053 of Title 18, Crimes and Criminal Procedure, rule 4 of Federal Rules of Criminal Procedure, Title 18, Appendix, and rule 4 of Federal Rules of Civil Procedure, Title 28, Appendix, Judiciary and Judicial Procedure.

Section 198h, acts Mar. 2, 1929, ch. 583, § 9, 45 Stat. 1539; June 28, 1938, ch. 778, § 1, 52 Stat. 1213, related to salary.

Section 198i, act Mar. 2, 1929, ch. 583, § 10, 45 Stat. 1539, related to fees, costs, and expenses.

Section 198j, act Mar. 2, 1929, ch. 583, § 11, 45 Stat. 1539, related to disposition of fines and costs.

SUBCHAPTER XXII—LASSEN VOLCANIC NATIONAL PARK

§ 201. Establishment; boundaries; trespassers; entries under land laws; indemnity lands

All those certain tracts, pieces, or parcels of land lying and being situate in the State of California and within the boundaries particularly described as follows, to wit: Beginning at the northeast corner of section 3, township 31, range 6 east, Mount Diablo meridian, California; thence southerly to the southeast corner of said section; thence easterly to the northeast corner of the northwest quarter of section 11, said township; thence southerly to the southeast corner of the southwest quarter of section 14, said township; thence easterly to the northeast corner of the northwest quarter of section 24, said township; thence southerly to the southeast corner of the southwest quarter of section 25, said township; thence westerly to the southwest corner of section 26, said township; thence southerly to the southeast corner of section 34, said township; thence westerly along the sixth standard parallel north, allowing for the proper offsets, to the northeast corner of section 3, township 30 north, range 6 east; thence southerly to the southeast corner of section 27, said township; thence westerly to the southwest corner of the southeast quarter of section 28, said township; thence northerly to the northwest corner of the southeast quarter of said section; thence westerly to the southwest corner of the northwest quarter of said section; thence northerly to the northwest corner of said section; thence westerly to the southwest corner of the southeast quarter of section 20, said township; thence northerly to the northwest corner of the southeast quarter of said section; thence westerly to the range line between ranges 5 and 6 east; thence southerly along said range line to the southeast corner of township 30 north, range 5 east; thence westerly along the township line between townships 29 and 30 north to the southwest corner of section 33, township 30 north, range 5 east; thence northerly to the northwest corner of said section; thence westerly to the southwest corner of the southeast quarter of section 29, said township; thence northerly to the northwest corner of the southeast quarter of said section; thence westerly to the southwest corner of the northwest quarter of said section; thence northerly to the northwest corner of said section; thence westerly to the southwest corner of the southeast quarter of section 20, township 30 north, range 4 east; thence northerly to the northwest corner of the southeast quarter of section 8, said township; thence easterly to the northeast corner of the southwest quarter of section 9, said township; thence northerly to the township line between townships 30 and 31 north; thence easterly along the sixth standard parallel north, allowing for the proper offsets, to the southwest corner of section 33, township 31 north, range 4 east; thence northerly to the northwest corner of section 21, said township; thence easterly to the range line between ranges 4 and 5 east; thence northerly along said range line to the northwest corner of fractional section 18, township 31 north, range 5 east; thence easterly to the southwest corner of section 12, said township; thence northerly to the northwest corner of section 1, said township; thence easterly along the township line between townships 31 and 32 north to the northeast corner of section 3, township 31 north, range 6 east, the place of beginning, are reserved and withdrawn from settlement, occupancy, disposal, or sale, under the laws of the United States, and said tracts are dedicated and set apart as a public park or pleasuring ground for the benefit and enjoyment of the people of the United States under the name and to be known and designated as the Lassen Volcanic National Park; and all persons who shall locate or settle upon or occupy the same, or any part thereof, except as hereinafter provided, shall be considered trespassers and be removed therefrom. Nothing

herein contained shall affect any valid claim, location, or entry existing under the land laws of the United States before August 9, 1916, or the rights of any such claimant, locator, or entryman to the full use and enjoyment of his land. No lands located within the park boundaries held prior to August 9, 1916, in private, municipal, or State ownership shall be affected by or subject to the provisions of this section and sections 202 and 203 of this title. No lands within the limits of said park created belonging to or claimed by any railroad or other corporation having or claiming on August 9, 1916, the right of indemnity selection by virtue of any law or contract whatsoever shall be used as a basis for indemnity selection in any State or Territory whatsoever for any loss sustained by reason of the creation of said park.

(Aug. 9, 1916, ch. 302, §1, 39 Stat. 442; Jan. 26, 1931, ch. 47, §4, 46 Stat. 1043; Pub. L. 92–510, §4, Oct. 19, 1972, 86 Stat. 918.)

REFERENCES IN TEXT

The land laws of the United States, referred to in text, are classified generally to Title 43, Public Lands.

AMENDMENTS

1972—Pub. L. 92–510 struck out provision that ''The United States Reclamation Service may enter upon and utilize for flowage or other purposes any area within said park which may be necessary for the development and maintenance of a Government reclamation project.''

1931—Act Jan. 26, 1931, forbade acquisition of rights of way for steam and electric railways, automobiles or wagon roads within the park.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

ACCEPTANCE OF CERTAIN LAND

Act May 21, 1928, ch. 658, 45 Stat. 644, provided that: ''The Secretary of the Interior be, and he is hereby, authorized to accept on behalf of the United States, title to the northeast quarter northeast quarter section 27, township 30 north, range 5 east, Mount Diablo base and meridian, situate within the exterior boundaries of Lassen Volcanic National Park, from the State of California, and in exchange therefor may patent an area of unreserved, vacant, nonmineral public land of equal value situate in the same State. The land which may be acquired by the United States under this Act shall, upon acceptance of title, become a part of Lassen Volcanic National Park.''

§ 201a. Revision of boundaries

The boundaries of the Lassen Volcanic National Park are changed to read as follows:

Beginning at the southwest corner of the southeast quarter of section 29, township 30 north, range 5 east, Mount Diablo meridian, on the present south boundary line; thence west on the section line between sections 29 and 32 and 30 and 31, township 30 north, range 5 east, and between sections 25 and 36 and 26 and 35 and 27 and 34 and 28 and 33 and 29 and 32 to the southwest corner of section 29, township 30 north, range 4 east; thence north on the section line between sections 29 and 30 and 19 and 20 and 18 and 17 and 7 and 8 and 6 and 5 to the northwest corner of fractional section 5, township 30 north, range 4 east; thence east on the township line to the southwest corner of section 32, township 31 north, range 4 east; thence north on the section line between sections 31 and 32, 29 and 30, and 19 and 20, to the northwest corner of section 20, same township and range; thence west to the southwest corner of section 18, same township and range; thence north on township line to the northwest corner of the southwest quarter of section 7, same township and range; thence east on the quarter section line to the northwest corner of the southwest quarter of section 8, same township and range; thence north to the northwest corner of said section 8; thence east to the northeast corner of said section 8; thence north to the northwest corner of the southwest quarter of section 4, same township and range; thence east on the quarter section line to the point where it intersects Lost Creek; thence following Lost Creek in a southerly direction to a point where it intersects the north line of section 14, township 31 north, range 4 east; thence east on said section line and along the section line between sections 12 and 13, said township and range, to intersection with the present park boundary; and

Beginning at a point on the present north boundary which is the southwest corner of the southeast quarter section 8, township 31 north, range 5 east; thence north to the northwest corner of the southeast quarter, same section, township, and range; thence east on quarter section line to a point on the present park boundary which is the northwest corner of the southwest quarter of section 12, same township and range; and

Beginning at the northeast corner of the northwest quarter of section 24, township 31 north, range 6 east, a point on the present east boundary line; thence east between sections 13 and 24 to the northeast corner of section 24, said township; thence south on the range line three miles to the southeast corner of section 36, said township; thence west on the township line to the northeast corner of section 1, township 30 north, range 6 east; thence south on the range line to the southeast corner of section 25, said township; thence west along the section line to the southwest corner of section 26 on the present south boundary line; thence along the present boundary line and continuing on the section line to the southwest corner of section 28; thence north on the section line to the northwest corner of the southwest quarter of the southwest quarter of said section 28; thence west to the southwest corner of the northeast quarter of the southwest quarter of section 29; thence north to the northwest corner of the southeast quarter of the northwest quarter of said section 29; thence west to the southwest corner of the northeast quarter of the northeast quarter of section 30; thence north to the northwest corner of the northeast quarter of the northeast quarter of said section 30; thence west to the northeast corner of the northeast quarter of the northwest quarter of said section 30; thence south to the southeast corner of the northeast quarter of the northwest quarter of said section 30; thence west

to the southeast corner of the northwest quarter of the northwest quarter of said section 30; thence south to the southeast corner of the northwest quarter of the southwest quarter of said section 30; thence west to the southwest corner of the northwest quarter of the southwest quarter of said section 30, township 30 north, range 6 east, which is a point on the present boundary line.

All of those lands lying within the boundary lines above described and the present boundary lines are included in and made a part of the Lassen Volcanic National Park.

(Jan. 19, 1929, ch. 75, § 1, 45 Stat. 1081.)

§ 201b. Sections applicable to lands within revised boundaries

The provisions of sections 1, 2, 3, 4, 201, 202, and 203 of this title and all Acts supplementary to and amendatory of said sections are made applicable to and extended over the lands added to the park by section 201a of this title: *Provided*, That the provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to or extend over such lands.

(Jan. 19, 1929, ch. 75, § 2, 45 Stat. 1082.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act of June 10, 1920, entitled 'an Act to create a Federal power commission; to provide for the improvement of navigation, the development of water power; the use of the public lands in relation thereto; and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes''', and was redesignated the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

§ 202. Control; rules and regulations; fish and game; leases; automobiles; stock grazing

Lassen Volcanic National Park shall be under the exclusive control of the Secretary of the Interior. He shall make such rules and regulations and exercise such powers as are enumerated in section 3 of this title insofar as not inconsistent with this section. Such regulations shall be aimed primarily at the freest use of the said park for recreation purposes by the public and for the preservation from injury or spoliation of all timber, mineral deposits, and natural curiosities or wonders within said park and their retention in their natural condition as far as practicable and for the preservation of the park in a state of nature so far as is consistent with the purposes of this section and sections 201 and 203 of this title. He shall provide against the wanton destruction of the fish and game found within said park and against their capture or destruction for purposes of merchandise or profit, and generally shall be authorized to take all such measures as shall be necessary to fully carry out the objects and purposes of said sections. He may, in his discretion, execute leases to parcels of ground not exceeding 10 acres in extent at any one place to any one person or persons or company for not to exceed 20 years when such ground is necessary for the erection of buildings for the accommodation of visitors and to parcels of ground not exceeding one acre in extent and for not to exceed 20 years to persons who have heretofore erected, or whom he may hereafter authorize to erect, summer homes or cottages. Such leases or privileges may be renewed or extended at the expiration of the terms thereof. No exclusive privilege, however, shall be granted within the park except upon the ground leased. The regulations governing the park shall include provisions for the use of automobiles therein and the reasonable grazing of stock.

(Aug. 9, 1916, ch. 302, § 2, 39 Stat. 444.)

CODIFICATION

A provision for the making of necessary rules and regulations by the Secretary of the Interior has been omitted by reason of the reference to section 3 of this title, derived from act Aug. 25, 1916, ch. 408, § 3, 39 Stat. 535, authorizing the Secretary of the Interior to make and publish rules and regulations applicable to National Parks.

§ 202a. Summer homes and cottages

After January 26, 1931, no permit, license, lease, or other authorization for the use of land within the Lassen Volcanic National Park, California, for the erection and maintenance of summer homes or cottages shall be granted or made: *Provided, however*, That the Secretary of the Interior may, in his discretion, renew any permit, license, lease, or other authorization for such purpose granted or made prior to January 26, 1931.

(Jan. 26, 1931, ch. 47, § 3, 46 Stat. 1043.)

§ 203. Sale and removal of timber; charges for leases and privileges

The Secretary of the Interior may sell and permit the removal of such matured or dead or down timber as he may deem necessary or advisable for the protection or improvement of the park, and may exact such charges as he deems proper for leases and all other privileges granted under this section and sections 201 and 202 of this title.

(Aug. 9, 1916, ch. 302, §§ 3, 4, 39 Stat. 444.)

§ 204. Exclusive jurisdiction ceded to United States by California

Sole and exclusive jurisdiction is assumed by the United States over the territory which is included as of April 26, 1928, or thereafter within the Lassen Volcanic National Park, saving, however, to the State of California the right to serve civil or criminal process within the limits of the aforesaid park in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed in said State outside of said park; and saving further to the said State the right to tax persons and corporations, their franchises and property on the lands included in said park, and the right to fix and collect license fees for fishing in said park; and saving also to the persons residing in said park now, or hereafter, the right to vote at all elections held within the county or counties in which said park is situated. All the laws applicable to places under sole and exclusive jurisdic-

tion of the United States shall have force and effect in said park. All fugitives from justice taking refuge in said park shall be subject to the same laws as refugees from justice found in the State of California.

(Apr. 26, 1928, ch. 438, § 1, 45 Stat. 463.)

CODIFICATION

A provision accepting the act of the California Legislature which ceded to the United States exclusive jurisdiction over the territory referred to in this section has been omitted as executed.

§§ 204a, 204b. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 204a, act Apr. 26, 1928, ch. 438, § 2, 45 Stat. 463, related to inclusion of park in a judicial district. See section 84 of Title 28, Judiciary and Judicial Procedure.

Section 204b, act Apr. 26, 1928, ch. 438, § 3, 45 Stat. 463, related to application of California laws to offenses. See section 13 of Title 18, Crimes and Criminal Procedure.

§ 204c. Hunting and fishing; general rules and regulations; protection of property; violation of statutes and rules; penalties

All hunting or the killing, wounding, or capturing at any time of any wild bird or animal, except dangerous animals, when it is necessary to prevent them from destroying human lives or inflicting personal injury, is prohibited within the limits of said park; nor shall any fish be taken out of any of the waters of the said park in any other way than by hook and line, and then only at such seasons and at such times and in such manner as may be directed by the Secretary of the Interior. The Secretary of the Interior shall make and publish such general rules and regulations as he may deem necessary and proper for the management and care of the park and for the protection of the property therein, especially for the preservation from injury or spoliation of all timber, mineral deposits other than those legally located prior to August 9, 1916, natural curiosities, or wonderful objects within said park, and for the protection of the animals in the park from capture or destruction, and to prevent their being frightened or driven from the said park; and he shall make rules and regulations governing the taking of fish from the streams or lakes in the said park. Possession within said park of the dead bodies or any part thereof of any wild bird or animal shall be prima facie evidence that the person or persons having same are guilty of violating this Act. Any person or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of this Act, and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or who shall violate any of the other provisions of this Act, or any rule or regulation that may be promulgated by the Secretary of the Interior, with reference to the management and care of the said park, or for the protection of the property therein for the preservation from injury or spoliation of timber, mineral deposits other than those legally located prior to August 9, 1916, natural curiosities, or wonderful objects within said park, or for the protection of the animals, birds, or fish in the said park, or who shall within said park commit any damage, injury, or spoliation to or upon any building, fence, hedge, gate, guide post, tree, wood, underwood, timber, garden, crops, vegetables, plants, land, springs, mineral deposits other than those legally located prior to August 9, 1916, natural curiosities, or other matter or thing growing or being thereon, or situated therein, shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all the costs of the proceedings.

(Apr. 26, 1928, ch. 438, § 4, 45 Stat. 463.)

REFERENCES IN TEXT

This Act, referred to in text, is act Apr. 26, 1928, which is classified to sections 204 to 204j of this title. For complete classification of this Act to the Code, see Tables.

§ 204d. Forfeiture of property used for unlawful purposes

All guns, traps, teams, horses, or means of transportation of every nature or description, used by any person or persons within the limits of said park when engaged in killing, trapping, ensnaring, or capturing such wild beasts, birds, or animals, shall be forfeited to the United States and may be seized by the officers in said park, and held pending prosecution of any person or persons arrested under the charge of violating the provisions of this Act, and upon conviction under this Act of such person or persons using said guns, traps, teams, horses, or other means of transportation, such forfeiture shall be adjudicated as a penalty in addition to the other punishment prescribed in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior.

(Apr. 26, 1928, ch. 438, § 5, 45 Stat. 464.)

REFERENCES IN TEXT

This Act, referred to in text, is act Apr. 26, 1928, which is classified to sections 204 to 204j of this title. For complete classification of this Act to the Code, see Tables.

§§ 204e to 204j. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 204e, acts Apr. 26, 1928, ch. 438, § 6, 45 Stat. 464; June 28, 1938, ch. 778, § 1, 52 Stat. 1213, related to appointment and jurisdiction of commissioner. See provisions covering United States magistrate judges in section 631 et seq. of Title 28, Judiciary and Judicial Procedure.

Section 204f, act Apr. 26, 1928, ch. 438, § 7, 45 Stat. 465, related to issuance of process. See sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and rules 4, 5(c), and 9 of Federal Rules of Criminal Procedure, Title 18, Appendix.

Section 204g, act Apr. 26, 1928, ch. 438, § 8, 45 Stat. 465, related to issuance of process and arrest without process. See section 3053 of Title 18, Crimes and Criminal Procedure, Rule 4 of Federal Rules of Criminal Procedure, Title 18, Appendix, and rule 4 of Federal Rules of Civil Procedure, Title 28, Appendix, Judiciary and Judicial Procedure.

Section 204h, acts Apr. 26, 1928, ch. 438, § 9, 45 Stat. 465; June 28, 1938, ch. 778, § 1, 52 Stat. 1213, related to commissioner's [now magistrate judge's] salary.

Section 204i, act Apr. 26, 1928, ch. 438, § 10, 45 Stat. 465, related to fees, costs and expenses against the United States.

Section 204j, act Apr. 26, 1928, ch. 438, § 11, 45 Stat. 465, related to disposition of fines and costs.

§ 204k. Addition of lands

The President of the United States is authorized, upon the joint recommendation of the Secretaries of the Interior and of Agriculture, to add to the Lassen Volcanic National Park, in the State of California, by Executive proclamation, any or all of the lands within sections 3 and 4, township 29 north, range 6 east; and sections 29, 30, 31, 32, 33, 34, 35, and 36, township 30 north, range 6 east, Mount Diablo meridian, not now included within the boundaries of the park: *Provided*, That no privately owned lands shall be added to the park prior to the vesting in the United States of title thereto.

(July 3, 1930, ch. 834, § 1, 46 Stat. 853.)

§ 204*l*. Application of Federal Power Act

The provisions of the Federal Power Act [16 U.S.C. 791a et seq.], shall not apply to any lands added to the Lassen Volcanic National Park under the authority of section 204k of this title.

(July 3, 1930, ch. 834, § 2, 46 Stat. 853.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act of June 10, 1920, known as the Federal Water Power Act,'' and was redesignated as the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

§ 204m. Vested rights

Nothing herein contained shall affect any vested and accrued rights of ownership of lands or any valid existing claim, location, or entry existing under the land laws of the United States on July 3, 1930, whether for homestead, mineral, rights-of-way, or any other purposes whatsoever, or any water rights and/or rights-of-way connected therewith, including reservoirs, conduits, and ditches, as may be recognized by local customs, laws, and decisions of courts, or shall affect the right of any such owner, claimant, locator, or entryman to the full use and enjoyment of his land.

(July 3, 1930, ch. 834, § 3, 46 Stat. 853.)

REFERENCES IN TEXT

Herein, referred to in text, means act July 3, 1930, which is classified to sections 204k to 204m of this title. For complete classification of this Act to the Code, see Tables.

§ 205. Additional lands for administrative headquarters site

The lands hereafter described, to wit: The southwest quarter of the northwest quarter, section 25, and the southeast quarter of the northeast quarter, section 26, township 29 north, range 3 east, Mount Diablo meridian, in the State of California, are added to and made a part of the Lassen Volcanic National Park for use as an administrative headquarters site.

(Apr. 26, 1928, ch. 439, § 1, 45 Stat. 466.)

§ 205a. Sections made applicable to additional lands

The provisions of sections 1, 2, 3, 4, 201, 202, and 203 of this title and all Acts supplementary to and amendatory of said sections are made applicable to and extended over the lands added to the park: *Provided*, That the provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to or extend over such lands.

(Apr. 26, 1928, ch. 439, § 2, 45 Stat. 466.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act of June 10, 1920, entitled 'an Act to create a Federal power commission; to provide for the improvement of navigation, the development of water power; the use of the public lands in relation thereto; and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes''', and was redesignated the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

§ 206. Exchange of lands within exterior boundaries; removal of timber

When the public interests will be benefited thereby, the Secretary of the Interior is authorized, in his discretion, to accept, on behalf of the United States, title to any land within exterior boundaries of Lassen Volcanic National Park which, in the opinion of the Director of the National Park Service, are chiefly valuable for forest or recreational and national-park purposes, and in exchange therefor may patent not to exceed an equal value of such national-park land within the exterior boundaries of said national park; or the Secretary of the Interior may authorize the grantor to cut and remove an equal value of timber in exchange therefor from certain designated areas within the exterior boundaries of said national park: *Provided*, That such timber shall be cut and removed from such designated area in a manner that will not injure the national park for recreational purposes and under such forestry regulations as shall be stipulated, the values in each case to be determined by the Secretary of the Interior. Lands conveyed to the United States under this section shall, upon acceptance of title, become a part of Lassen Volcanic National Park.

(Mar. 1, 1929, ch. 445, 45 Stat. 1443.)

§ 207. Exchange of certain lands; adjustment of boundary

The Secretary of the Interior is authorized to accept on behalf of the United States, for inclusion in the Lassen Volcanic National Park, fee simple title to the tract of land containing ten acres, now adjoining said park, and described as the west half west half northwest quarter northeast quarter section 30, township 30 north, range 6 east, Mount Diablo base and meridian, and in exchange therefor is authorized and empowered to patent to the owner of said land ten acres of land now within said park and described as the southwest quarter northeast quarter northeast quarter section 30, township 30 north, range 6

east, Mount Diablo base and meridian: *Provided*, That the land acquired by the United States under this section and section 207a of this title shall, upon acceptance of title, become and be a part of the Lassen Volcanic National Park and subject to all laws and regulations relating to the lands therein, and the land exchanged therefor shall, upon issuance of patent, be excluded from the park.

(Apr. 19, 1930, ch. 191, § 1, 46 Stat. 222.)

§ 207a. Application of Federal Power Act to lands acquired under section 207

The provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to or extend over the land acquired for inclusion in the Lassen Volcanic National Park in accordance with the provisions of this section and section 207 of this title.

(Apr. 19, 1930, ch. 191, § 2, 46 Stat. 222.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act of June 10, 1920, entitled 'an Act to create a Federal power commission; to provide for the improvement of navigation, the development of water power; the use of the public lands in relation thereto; and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes''', and was redesignated the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

§ 207b. Exchange of lands with California; adjustment of boundary

The Secretary of the Interior is authorized to accept on behalf of the United States title to the northeast quarter northeast quarter section 27, township 30 north, range 5 east, Mount Diablo base and meridian, situate within the exterior boundaries of Lassen Volcanic National Park, from the State of California, and in exchange therefor may patent an area of unreserved, vacant, nonmineral public land of equal value situate in the same State. The land which may be acquired by the United States under this section shall, upon acceptance of title, become a part of Lassen Volcanic National Park.

(May 21, 1928, ch. 658, 45 Stat. 644.)

§ 207c. Additional lands from Lassen National Forest; authorization for road

The following described lands of the Lassen National Forest are hereby excluded from the forest and added to the Lassen Volcanic National Park:

Lots 1, 2, and 3, south half northeast quarter, and southeast quarter northwest quarter section 4; west half southeast quarter and those parts of the south half northwest quarter and of the southwest quarter of section 11 lying east of Lost Creek; and section 19, township 31 north, range 4 east, Mount Diablo meridian: *Provided*, That the aforesaid lands in section 19 are included within the national park subject to the right of the Secretary of Agriculture to construct and maintain a permanent road through such section in order to permit the use, protection, and administration of adjacent national forest lands and the removal of timber from the national forest.

(Pub. L. 87–129, Aug. 10, 1961, 75 Stat. 319.)

SUBCHAPTER XXIII—ABRAHAM LINCOLN BIRTHPLACE NATIONAL HISTORICAL PARK

§ 211. Acceptance of title; terms and conditions; admission fees

The United States of America accepts title to the lands mentioned in the deed of gift or conveyance in possession of the Secretary of War on July 17, 1916, together with all the buildings and appurtenances thereon, especially the log cabin in which Abraham Lincoln was born and the memorial hall inclosing the same, which deed of conveyance was executed on the 11th day of April, 1916, by the Lincoln Farm Association, a corporation, to the United States of America, describing certain lands situated near the town of Hodgenville, county of Larue, State of Kentucky, which lands are more particularly identified and described in said deed or conveyance. The title to such lands, buildings, and appurtenances is accepted upon the terms and conditions stated in said deed or conveyance, namely: That the land therein described, together with the buildings and appurtenances thereon, shall be forever dedicated to the purposes of a national park or reservation, the United States of America agreeing to protect and preserve the said lands, buildings, and appurtenances, and especially the log cabin in which Abraham Lincoln was born and the memorial hall inclosing the same, from spoliation, destruction, and further disintegration, to the end that they may be preserved for all time, so far as may be; and further agreeing that there shall never be any charge or fee made to or asked from the public for admission to the said park or reservation.

(July 17, 1916, ch. 247, § 1, 39 Stat. 385; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, c. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Transfer of control of Abraham Lincoln National Park [now Abraham Lincoln Birthplace National Historical Park] to the Office of National Parks, Buildings and Reservations in the Department of the Interior, see section 2 of Ex. Ord. No. 6166, June 10, 1933, set out as a note under section 901 of Title 5, Government Organization and Employees. This office was designated the National Park Service in the Department of the Interior by act Mar. 2, 1934, ch. 38, 48 Stat. 389.

§ 212. Endowment fund; protection and preservation

The United States of America also accepts title to the endowment fund of $50,000 mentioned

in the assignment and transfer, in the possession of the Secretary of War, on July 17, 1916, which assignment and transfer was executed on the 11th day of April, 1916, by the Lincoln Farm Association, a corporation, to the United States of America, transferring and turning over all its right, title, and interest in and to said endowment fund, heretofore invested in certain stocks, bonds, and securities held and owned by the Lincoln Farm Association, and more particularly identified and described in said assignment and transfer. The title to said endowment fund is accepted upon the terms and conditions stated in said assignment and transfer, namely, that the United States of America shall forever keep the said tract of land described in said deed, together with the buildings and appurtenances thereunto belonging, dedicated to the purpose of a national park or reservation, and that there shall never be any charge or fee made to or asked from the public for admission to the said park or reservation; and further, shall forever protect, preserve, and maintain said land, buildings, and appurtenances, and especially the log cabin in which Abraham Lincoln was born and the memorial hall inclosing the same, from spoliation, destruction, and further disintegration, to the end that they may be preserved for all time, as far as may be, as a national park or reservation.

(July 17, 1916, ch. 247, § 2, 39 Stat. 385; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

§ 213. Execution of instruments necessary to carry out purposes of gift

The President of the United States of America and the Secretary of War are authorized to execute, in the name of the United States of America, such instrument or instruments as may be or may become necessary to comply with or carry out the terms and conditions of such gift or gifts and to secure the full benefit therefrom.

(July 17, 1916, ch. 247, § 3, 39 Stat. 386; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of a Secretary of the Army.

§ 214. Rules and regulations

Abraham Lincoln Birthplace National Historical Park shall be under the control of the National Park Service and administered under such regulations not inconsistent with law as it may from time to time prescribe.

(July 17, 1916, ch. 247, § 4, 39 Stat. 386; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Mar. 2, 1934, ch. 38, § 1, 48 Stat. 389; Aug. 11, 1939, ch. 686, 53 Stat. 1405; Pub. L. 86–231, Sept. 8, 1959, 73 Stat. 466; Pub. L. 111–11, title VII, § 7114(b), Mar. 30, 2009, 123 Stat. 1202.)

CODIFICATION

As originally enacted, this section read as follows: ''Upon the passage of this Act and the vesting of the title to the property accepted thereunder in the United States, it shall be under the control of the Secretary of War and administered under such regulations not inconsistent with law as he may from time to time prescribe.'' Sections 211 and 212 of this title, refer to the lands as a national park or reservation.

Prefixes making the provisions of this section effective, upon the passage of this Act and the vesting of the title to the property accepted, have been omitted as temporary.

CHANGE OF NAME

''Abraham Lincoln Birthplace National Historical Park'' substituted for ''Abraham Lincoln Birthplace National Historic Site'' pursuant to Pub. L. 111–11.

''Abraham Lincoln Birthplace National Historic Site'' substituted for ''Abraham Lincoln National Historical Park'' pursuant to Pub. L. 86–231.

''Abraham Lincoln National Historical Park'' substituted for ''Abraham Lincoln National Park'' pursuant to act Aug. 11, 1939.

TRANSFER OF FUNCTIONS

All national parks, national monuments, and national cemeteries consolidated in an office of National Parks, Buildings and Reservations in Department of the Interior, at head of which should be a Director of National Parks, Buildings and Reservations, and cemeteries and parks of War Department transferred to Department of the Interior by Executive Order 6166, § 2, as amended by Executive Order 6228, § 1, set out in a note under section 901 of Title 5, Government Organization and Employees. This service designated the National Park Service in Department of the Interior by act Mar. 2, 1934.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5.

§ 215. Improvements and preservation of lands and buildings

For the purpose of protecting from disintegration and of improving, beautifying, and preserving the Abraham Lincoln Birthplace National Historical Park or Reservation established under sections 211 to 214 of this title, the National Park Service is authorized and directed to provide for (1) the improvement of such existing roadways, walks, and buildings in such park or reservation; and (2) the planting of such trees, plants, and shrubbery; the construction of such additional roadways, walks, and buildings, and of such fences, parking spaces, drainage structures, culverts, and bridges; and the making of such other improvements, as in its judgment may be necessary for the preservation, beautification, and protection from disintegration of such park or reservation, including the log cabin in which Abraham Lincoln was born and the me-

morial hall inclosing the same, and which may serve to render such park or reservation convenient for the appropriate use and enjoyment by the public.

(Feb. 11, 1929, ch. 176, § 1, 45 Stat. 1162; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Mar. 2, 1934, ch. 38, § 1, 48 Stat. 389; Aug. 11, 1939, ch. 686, 53 Stat. 1405; Pub. L. 86–231, Sept. 8, 1959, 73 Stat. 466; Pub. L. 111–11, title VII, § 7114(b), Mar. 30, 2009, 123 Stat. 1202.)

CHANGE OF NAME

''Abraham Lincoln Birthplace National Historical Park'' substituted for ''Abraham Lincoln Birthplace National Historic Site'' pursuant to Pub. L. 111–11.

''Abraham Lincoln Birthplace National Historic Site'' substituted for ''Abraham Lincoln National Historical Park'' pursuant to Pub. L. 86–231.

''Abraham Lincoln National Historical Park'' substituted for ''Abraham Lincoln National Park'' pursuant to act Aug. 11, 1939.

TRANSFER OF FUNCTIONS

All national parks, national monuments, and national cemeteries consolidated in an office of National Parks, Buildings and Reservations in Department of the Interior, at head of which should be a Director of National Parks, Buildings and Reservations, and cemeteries and parks of War Department transferred to Department of the Interior by Executive Order No. 6166, as amended by Executive Order No. 6228, set out in a note under section 901 of Title 5, Government Organization and Employees. This service designated the National Park Service in Department of the Interior by act Mar. 2, 1934.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5.

§ 216. Authorization of appropriation

There is authorized to be appropriated the sum of $100,000, or so much thereof as may be necessary, to carry out the provisions of section 215 of this title; and authorization is also given for such appropriations as may, in the future, be deemed necessary for the proper protection, preservation, care, maintenance, and operation of the said national park or reservation, including the salaries and compensation of a superintendent and other needed employees.

(Feb. 11, 1929, ch. 176, § 2, 45 Stat. 1162.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 217. Change in name of Abraham Lincoln National Park

The Abraham Lincoln National Park, in the State of Kentucky, authorized by sections 211 to 214 of this title, shall hereafter be called and known as the ''Abraham Lincoln National Historical Park'', and all moneys heretofore or hereafter appropriated for this area under previous designations may be used in this area as redesignated.

(Aug. 11, 1939, ch. 686, 53 Stat. 1405.)

CODIFICATION

Portion of act Aug. 11, 1939, relating to Fort McHenry National Monument and Historic Shrine is set out as section 440a of this title.

CHANGE OF NAME

Abraham Lincoln National Historical Park was renamed Abraham Lincoln Birthplace National Historic Site by Pub. L. 86–231, Sept. 8, 1959, 73 Stat. 466, and then was renamed Abraham Lincoln Birthplace National Historical Park by Pub. L. 111–11, title VII, § 7114(a), Mar. 30, 2009, 123 Stat. 1202.

§ 217a. Change in name of Abraham Lincoln National Historical Park

The Abraham Lincoln National Historical Park at Hodgenville, Kentucky, shall on and after September 8, 1959, be known as Abraham Lincoln Birthplace National Historic Site, and any law, regulation, document, or record of the United States in which such historical park is designated or referred to under the name of Abraham Lincoln National Historic Park shall be held to refer to such historical park under and by the name of Abraham Lincoln Birthplace National Historic Site.

(Pub. L. 86–231, Sept. 8, 1959, 73 Stat. 466.)

CHANGE OF NAME

Abraham Lincoln Birthplace National Historic Site was renamed Abraham Lincoln Birthplace National Historical Park by Pub. L. 111–11, title VII, § 7114(a), Mar. 30, 2009, 123 Stat. 1202.

§ 217b. Abraham Lincoln Birthplace National Historical Park

(a) Designation

The Abraham Lincoln Birthplace National Historic Site in the State of Kentucky shall be known and designated as the ''Abraham Lincoln Birthplace National Historical Park''.

(b) References

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Abraham Lincoln Birthplace National Historic Site shall be deemed to be a reference to the ''Abraham Lincoln Birthplace National Historical Park''.

(Pub. L. 111–11, title VII, § 7114, Mar. 30, 2009, 123 Stat. 1202.)

§ 218. Addition of land

The approximately six acres of land described in the following recorded deeds to the United States are added to and made a part of the Abraham Lincoln Birthplace National Historical Park in the State of Kentucky:

(a) Deed of conveyance to the United States, dated June 15, 1945, made and entered into by and between J. R. Howell and Mattie Johnson Howell, his wife, and W. L. Ferrill and Minnie Ferrill, his wife, of Hodgenville, Larue County, Kentucky, recorded on June 25, 1946, in deed book numbered 58, page 262, in the records of the county of Larue, Kentucky; and

(b) Quitclaim deed to the United States, made and entered into by and between Carl J. Howell and Dorothy N. Howell, his wife, of Hodgenville,

Larue County, Kentucky, recorded on April 18, 1947, in deed book numbered 59, page 435, in the records of the county of Larue, Kentucky.

(May 27, 1949, ch. 149, 63 Stat. 140; Pub. L. 86–231, Sept. 8, 1959, 73 Stat. 466; Pub. L. 111–11, title VII, § 7114(b) Mar. 30, 2009, 123 Stat. 1202.)

CHANGE OF NAME

''Abraham Lincoln Birthplace National Historical Park'' substituted for ''Abraham Lincoln Birthplace National Historic Site'' in introductory provisions pursuant to Pub. L. 111–11.

''Abraham Lincoln Birthplace National Historic Site'' substituted for ''Abraham Lincoln National Historical Park'' in introductory provisions pursuant to Pub. L. 86–231.

§ 218a. Abraham Lincoln Birthplace National Historical Park, Kentucky

(a) In general

Upon acquisition of the land known as Knob Creek Farm pursuant to subsection (b) of this section, the boundary of the Abraham Lincoln Birthplace National Historical Park, established by sections 211 to 214 of this title, is revised to include such land. Lands acquired pursuant to this section shall be administered by the Secretary of the Interior as part of the historic site.

(b) Acquisition of Knob Creek Farm

The Secretary of the Interior may acquire, by donation only, the approximately 228 acres of land known as Knob Creek Farm in Larue County, Kentucky, as generally depicted on a map entitled ''Knob Creek Farm Unit, Abraham Lincoln National Historic Site'', numbered 338/80,077, and dated October 1998. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) Study and report

The Secretary of the Interior shall study the Knob Creek Farm in Larue County, Kentucky, and not later than 1 year after November 6, 1998, submit a report to the Congress containing the results of the study. The purpose of the study shall be to:

(1) Identify significant resources associated with the Knob Creek Farm and the early boyhood of Abraham Lincoln.

(2) Evaluate the threats to the long-term protection of the Knob Creek Farm's cultural, recreational, and natural resources.

(3) Examine the incorporation of the Knob Creek Farm into the operations of the Abraham Lincoln Birthplace National Historical Park and establish a strategic management plan for implementing such incorporation. In developing the plan, the Secretary shall—

(A) determine infrastructure requirements and property improvements needed at Knob Creek Farm to meet National Park Service standards;

(B) identify current and potential uses of Knob Creek Farm for recreational, interpretive, and educational opportunities; and

(C) project costs and potential revenues associated with acquisition, development, and operation of Knob Creek Farm.

(d) Authorization

There are authorized to be appropriated such sums as may be necessary to carry out subsection (c) of this section.

(Pub. L. 105–355, title V, § 510, Nov. 6, 1998, 112 Stat. 3265; Pub. L. 111–11, title VII, § 7114(b), Mar. 30, 2009, 123 Stat. 1202.)

CHANGE OF NAME

''Abraham Lincoln Birthplace National Historical Park'' substituted for ''Abraham Lincoln Birthplace National Historic Site'' in section catchline and in subsecs. (a) and (c)(3) pursuant to Pub. L. 111–11.

SUBCHAPTER XXIV—GRAND CANYON NATIONAL PARK

§ 221. Establishment; boundaries

There is reserved and withdrawn from settlement, occupancy, or disposal under the laws of the United States and dedicated and set apart as a public park for the benefit and enjoyment of the people, under the name of the ''Grand Canyon National Park'', the tract of land in the State of Arizona particularly described by and included within metes and bounds, as follows, to wit:

Beginning at a point which is the northeast corner of township 30 north, range 1 east, of the Gila and Salt River meridian, Arizona; thence west on township line between townships 30 and 31 north, range 1 east, to section corner common to sections 1 and 2, township 30 north, range 1 east, and 35 and 36 township 31 north, range 1 east; thence north on section lines to the intersection with Tobocobya Spring-Rowe Well Road; thence northwesterly along the southwesterly side of said Tobocobya Spring-Rowe Well Road, passing and in relation to United States Geological Survey bench marks stamped ''Canyon'' and numbered 6340, 6235, 6372, 6412, 6302, 6144, and 6129, through townships 31 and 32 north, ranges 1 east and 1 and 2 west, to its intersection with the section line between sections 9 and 16 in township 32 north, range 2 west; thence west along the section lines through townships 32 north, ranges 2 and 3 west, to its intersection with upper westerly rim of Cataract Canyon; thence northwesterly along upper rim of Cataract Canyon, crossing Hualapai Canyon and continuing northwesterly along said upper rim to its intersection with range line, township 33 north, between ranges 4 and 5 west; thence north on said range line, townships 33 and 34 north, ranges 4 and 5 west, to north bank of the Colorado River; thence northeasterly along the north bank of the Colorado River to junction with Tapeats Creek; thence easterly along north bank of Tapeats Creek to junction with Spring Creek; thence easterly along the north bank of Spring Creek to its intersection with Gila and Salt River meridian, township 34 north, between ranges 1 east and 1 west and between section 6, township 34 north, range 1 east, and section 1, township 34 north, range 1 west; thence south on range line between ranges 1 east and 1 west to section corner common to sections 7 and 18, township 34 north, range 1 east, and sections 12 and 13, township 34 north, range 1 west; thence east on section lines to section corner common to sections 7, 8, 17, and 18, township 34 north, range 2 east; thence south on section lines to township line between townships 33 and 34 north, range 2 east, at section corner common to sections 31 and 32, township 34 north, range 2

east, and sections 5 and 6, township 33 north, range 2 east; thence east on township line to section corner common to sections 31 and 32, township 34 north, range 3 east, and sections 5 and 6, township 33 north, range 3 east; thence south on section lines to section corner common to sections 17, 18, 19, and 20, township 33 north, range 3 east; thence east on section lines to section corner common to sections 13, 14, 23, and 24, township 33 north, range 3 east; thence north on section lines to section corner common to sections 1, 2, 11, and 12, township 33 north, range 3 east; thence east on section lines to the intersection with upper rim of Grand Canyon; thence northerly along said upper rim of Grand Canyon to main hydrographic divide north of Nankoweap Creek; thence easterly along the said hydrographic divide to its intersection with the Colorado River, approximately at the mouth of Nankoweap Creek; thence easterly across the Colorado River and up the hydrographic divide nearest the junction of Nankoweap Creek and Colorado River to a point on the upper east rim of the Grand Canyon; thence by shortest route to an intersection with range line, townships 33 and 34 north, between ranges 5 and 6 east; thence south on said range line, between ranges 5 and 6 east, to section corner common to sections 18 and 19, township 33 north, range 6 east, and sections 13 and 24, township 33 north, range 5 east; thence east on section lines to section corner common to sections 16, 17, 20, and 21, township 33 north, range 6 east; thence south on section lines to section corner common to sections 8, 9, 16, and 17, township 31 north, range 6 east; thence west on section line to section corner common to sections 7, 8, 17, and 18, township 31 north, range 6 east; thence south on section lines to township line between townships 30 and 31 north at section corner common to sections 31 and 32, township 31 north, range 6 east, and sections 5 and 6, township 30 north, range 6 east; thence west on township line to section corner common to sections 34 and 35, township 31 north, range 5 east, and sections 2 and 3, township 30 north, range 5 east; thence south on section line to section corner common to sections 2, 3, 10, and 11, township 30 north, range 5 east; thence west on section lines to range line, township 30 north, between ranges 4 and 5 east, at section corner common to sections 6 and 7, township 30 north, range 5 east, and 1 and 12, township 30 north, range 4 east; thence south on range line, township 30 north, between ranges 4 and 5 east, to section corner common to sections 7 and 18, township 30 north, range 5 east, and sections 12 and 13, township 30 north, range 4 east; thence west on section line to section corner common to sections 11, 12, 13, and 14, township 30 north, range 4 east; thence south on section line to section corner common to sections 13, 14, 23, and 24, township 30 north, range 4 east; thence west on section lines to section corner common to sections 15, 16, 21, and 22, township 30 north, range 4 east; thence south on section line to section corner common to sections 21, 22, 27, and 28, township 30 north, range 4 east; thence west on section lines to range line, township 30 north, between ranges 3 and 4 east, at section corner common to sections 19 and 30, township 30 north, range 4 east, and sections 24 and 25, township 30 north, range 3 east; thence north on range line to section corner common to sections 18 and 19, township 30 north, range 4 east, and sections 13 and 24, township 30 north, range 3 east; thence west on section lines to section corner common to sections 14, 15, 22, and 23, township 30 north, range 3 east; thence north on section line to section corner common to sections 10, 11, 14, and 15, township 30 north, range 3 east; thence west on section lines to range line at section corner common to sections 7 and 18, township 30 north, range 3 east, and sections 12 and 13, township 30 north, range 2 east; thence north on range line to section corner common to sections 6 and 7, township 30 north, range 3 east, and sections 1 and 12, township 30 north, range 2 east; thence west on section line to section corner common to sections 1, 2, 11, and 12, township 30 north, range 2 east; thence north on section line to township line at section corner common to sections 35 and 36, township 31 north, range 2 east, and sections 1 and 2, township 30 north, range 2 east; thence west on township line to the northeast corner of township 30 north, range 1 east, the place of beginning.

(Feb. 26, 1919, ch. 44, § 1, 40 Stat. 1175.)

SHORT TITLE

Section 1 of Pub. L. 93–620, Jan. 3, 1975, 88 Stat. 2089, provided that: ''This act [enacting sections 228a to 228j of this title, amending section 227 of this title, and repealing section 223 of this title] may be cited as the 'Grand Canyon National Park Enlargement Act'.''

§ 221a. Boundary changed

The boundary of the Grand Canyon National Park is changed so as to read as follows:

Beginning at a point on the present south boundary of Grand Canyon National Park, being the northeast corner of township 30 north, range 1 east, of the Gila and Salt River meridian, Arizona; thence westerly along north line of said township to the northwest corner of section 1, said township; thence northerly along west line of section 36, township 31 north, range 1 east, to a point one-half mile south of the center line of the Supai road survey as mapped and staked by the Bureau of Public Roads during the field season of 1925; thence in a northwesterly direction following a line, which maintains a uniform distance one-half mile south and west of the center line of said road survey, to its intersection with the projected section line between what probably will be when surveyed sections 9 and 16, township 32 north, range 2 west; thence westerly along projected section lines through probable townships 32 north, ranges 2, 3, and 4 west, to its intersection with the upper west rim of Havasu (Cataract) Canyon; thence northwesterly along said upper west rim, crossing Hualapai Canyon to Wescogame Point and continuing northwesterly along said upper rim to Watahomigie Point; thence due north along the top of a ridge a distance of approximately three-fourths of a mile to the point of said ridge, the elevation of which is given as four thousand eight hundred and sixty-five feet; thence northwesterly, crossing Beaver Canyon, to Yumtheska Point and continuing northwesterly, following the lower rim of Yumtheska Point, crossing the projected range line between ranges 4 and 5 west to the di-

vide west of Havasu Creek; thence northerly along said divide to the north bank of the Colorado River; thence northeasterly along said bank to the divide immediately west of Tapeats Creek; thence northeasterly along said divide, including the entire drainage area on the north side of Tapeats Creek, to the point at which this divide touches the ledge of cross-bedded sandstone; generally known as the Coconino sandstone; thence southerly along said sandstone ledge to its junction with the Gila and Salt River meridian; thence southerly along the Gila and Salt River meridian to the northwest corner of what will probably be when surveyed section 18, township 34 north, range 1 east; thence easterly along projected section lines to the northeast corner of what will probably be when surveyed section 14, township 34 north, range 2 east; thence southerly along projected section line to the southeast corner of said section 14; thence easterly along projected section lines, a distance of approximately six miles to a point on the divide between South Canyon and Thompson Canyon; thence southeasterly along said divide, including the entire drainage area of Thompson Canyon and Neal Spring Canyon, to the intersection with the upper rim of the Grand Canyon; thence easterly along the main hydrographic divide north of Nankoweap Creek and Little Nankoweap Canyon to its intersection with the Colorado River, approximately at the mouth of Little Nankoweap Canyon; thence due east across the Colorado River to the east bank of the Colorado River; thence southeasterly along said bank, to the north bank of Little Colorado River; thence easterly along said bank of Little Colorado River to its intersection with what probably will be when surveyed the east line of section 32, township 33 north, range 6 east, or the east line of section 5, township 32 north, range 6 east; thence southerly along projected section lines to the northeast corner of what probably will be when surveyed section 8, township 30 north, range 6 east; thence westerly along projected section lines to the southwest corner of what probably will be when surveyed section 6, township 30 north, range 5 east; thence southerly to the northeast corner of section 13, township 30 north, range 4 east; thence westerly to the northwest corner of said section 13; thence southerly to the southwest corner of said section 13; thence westerly along section lines to a point nine hundred and fifty feet west of the northeast corner of section 22, said township; thence due south a distance of one thousand three hundred and twenty feet to a point on the south line of the north tier of forties of said section 22; thence westerly to the west line of said section 22; thence southerly along said west line, to the southwest corner of said section 22; thence westerly along section lines to the southwest corner of section 19, township 30 north, range 4 east; thence northerly to the northwest corner of said section 19; thence westerly to the southwest corner of section 14, township 30 north, range 3 east; thence northerly to the northwest corner of said section 14; thence westerly on section lines to the southwest corner of section 12, township 30 north, range 2 east; thence northerly along section lines to the north line of said township 30 north, range 2 east, thence westerly along said north township line to the place of beginning; and all of those lands lying within the boundary line above described are included in and made a part of the Grand Canyon National Park; and all of those lands excluded from the present Grand Canyon National Park are included in and made a part of the contiguous national forests, subject to all national forest laws and regulations.

(Feb. 25, 1927, ch. 197, § 1, 44 Stat. 1238.)

§ 221b. Various laws made applicable to added lands

The provisions of sections 1, 2, 3, 4, 221, 222, 224, 225, 227, 228, and 687 of this title and all acts supplementary to and amendatory of said sections are made applicable to and extended over the lands hereby added to the park: *Provided*, That the provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to or extend over such lands.

(Feb. 25, 1927, ch. 197, § 2, 44 Stat. 1240.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act of June 10, 1920, entitled 'an Act to create a Federal power commission; to provide for the improvement of navigation, the development of water power; the use of the public lands in relation thereto; and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes''', and was redesignated the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

§ 221c. Exchange of lands

The owner of the land described as the northeast quarter of the northwest quarter of section 17, township 30 north, range 4 east, Gila and Salt River meridian, Arizona, containing 40 acres, more or less, and that portion of lot numbered 2 of section 17, township 30 north, range 4 east, Gila and Salt River meridian, Arizona, lying west of the east line of a right-of-way of a proposed road, described as follows: Beginning at a point on the south line of said section 17, eight hundred feet west of the quarter section corner of said section 17; thence north twenty-four degrees forty-five minutes west, five hundred feet; thence north fourteen degrees forty-five minutes west, five hundred feet; thence north thirteen degrees five minutes west, eight hundred and thirty-one feet to the intersection of the west line of the northeast quarter of the southwest quarter of said section 17; thence south one thousand seven hundred and forty-eight feet on the east line of the west half of the southwest quarter of said section 17 to the south line of said section 17; thence east along said south line, five hundred and twenty-three and five-tenths feet to the point of beginning, containing eight and nine-tenths acres, more or less, all within the Grand Canyon National Park, is permitted and authorized to convey the fee simple title to said land to the United States of America, and select in lieu of said land above described the Government land within the area described as follows: Beginning at a point on the

south line of section 17, township 30 north, range 4 east, Gila and Salt River meridian, Arizona, approximately eight hundred and seventy feet east of the south quarter section corner of said section 17, which point is south of a point just east of the east bank of a draw on the south rim of the Grand Canyon; thence north approximately five hundred and fifty feet to said point on the south rim of the Grand Canyon; thence northwesterly along the south rim of the Grand Canyon approximately four thousand eight hundred and ten feet to its intersection with the east line of the southeast quarter of the northwest quarter of said section 17; thence south on the north and south center line of said section 17 approximately three thousand seven hundred and seventy-five feet to the south line of said section 17; thence east along said south line of said section 17 approximately eight hundred and seventy feet to the point of beginning, containing twenty-five and eight-tenths acres, more or less, and the Secretary of the Interior is authorized, empowered, and directed to accept a duly executed grant deed from said owner conveying said owner's land above described to the United States of America, and upon acceptance of such grant deed to cause to be issued and delivered to said owner a patent conveying absolutely to said owner the Government land above described: *Provided, however*, That the lands so conveyed by said owner shall become and be a part of the Grand Canyon National Park and be subject to all laws and regulations relating to said park.

(May 10, 1926, ch. 281, § 1, 44 Stat. 497.)

§ 221d. Relinquishment of interest in road

Upon the completion of the exchange authorized by section 221c of this title there shall be, and is, relinquished and quit-claimed to said owner any right, title, and interest that the United States of America may have in and to the now existing road over other land of said owner in the Grand Canyon National Park, the center line of said road being described as follows: Beginning at a point approximately at the south quarter section corner of section 17, township 30 north, range 4 east, Gila and Salt River meridian, Arizona, thence north ten degrees eleven minutes west, five hundred feet; thence north thirty-six degrees six minutes west, one hundred and forty-five feet; thence north forty-two degrees sixteen minutes west, one thousand seven hundred feet to the east line of the west half of the west half of said section 17.

(May 10, 1926, ch. 281, § 2, 44 Stat. 498.)

§ 221e. Additional lands

The following described area is added to and made a part of the Grand Canyon National Park: Beginning at the corner common to sections 14, 15, 22, and 23, township 30 north, range 4 east, Gila and Salt River meridian; thence west along the section line between sections 15 and 22 a distance of nine hundred and fifty feet; thence south a distance of one thousand three hundred and twenty feet to a point on the south line of the north tier of forties of said section 22; thence east a distance of one thousand six hundred and ten feet; thence north a distance of one thousand three hundred and twenty feet to a point on the line between sections 14 and 23; thence west along said section line a distance of six hundred and sixty feet to the place of beginning, containing an area of forty-eight and seventy-nine hundredths acres, more or less: *Provided*, That livestock permitted to graze in adjoining national forest areas shall be allowed to drift across the land described herein to private land north thereof within the park.

(Mar. 7, 1928, ch. 137, § 1, 45 Stat. 234.)

§ 222. Administration, concessions, and privileges; contracts for sale of water

The administration, protection, and promotion of Grand Canyon National Park shall be exercised under the direction of the Secretary of the Interior, by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title. All concessions for hotels, camps, transportation, and other privileges of every kind and nature for the accommodation or entertainment of visitors shall be let at public bidding to the best and most responsible bidder. Under such terms and conditions as he deems advisable and consistent with the requirements of section 9701 of title 31, the Secretary is authorized, without derogation of any of the water rights of the United States and notwithstanding any provision of law to the contrary, to sell by contract water located within Grand Canyon National Park for the use of customers within Tusayan, Arizona, to a nonprofit entity authorized to receive and distribute water within Tusayan, Arizona by the laws of the State of Arizona, upon his determination that such sale is not detrimental to the protection of the resources of Grand Canyon National Park or its visitors and that appropriate measures to provide for such protection, including a right of immediate termination, are included in the transaction.

(Feb. 26, 1919, ch. 44, § 2, 40 Stat. 1177; Pub. L. 95–586, title XII, Nov. 3, 1978, 92 Stat. 2495.)

CODIFICATION

"Section 9701 of title 31" substituted in text for "section 483a of title 31" on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1978—Pub. L. 95–586 inserted provisions authorizing the Secretary to contract for the sale of water located within the park for use of customers within Tusayan, Arizona.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

SPECIAL UNITED STATES MAGISTRATE JUDGE FOR GRAND CANYON NATIONAL PARK

Appointment by United States District Court for the District of Arizona of a special commissioner [now United States magistrate judge] for the Grand Canyon National Park, see Pub. L. 86–258, Sept. 14, 1959, 73 Stat.

546, as amended, formerly set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 223. Repealed. Pub. L. 93–620, § 10(f), Jan. 3, 1975, 88 Stat. 2093

Section, act Feb. 26, 1919, ch. 44, § 3, 40 Stat. 1177, enumerated occupancy rights of the Havasupai Indians. See section 228i of this title and Codification note set out thereunder.

§ 224. Entries under land laws; toll road

Nothing herein contained shall affect any valid claim, location, or entry existing under the land laws of the United States, prior to February 26, 1919, whether for homestead, mineral, right-of-way, or any other purpose whatsoever, or shall affect the rights of any such claimant, locator, or entryman to the full use and enjoyment of his land and nothing herein contained shall affect, diminish, or impair the right and authority of the county of Coconino, in the State of Arizona, to levy and collect tolls for the passage of livestock over and upon the Bright Angel Toll Road and Trail, and the Secretary of the Interior is authorized to negotiate with the said county of Coconino for the purchase of said Bright Angel Toll Road and Trail and all rights therein.

(Feb. 26, 1919, ch. 44, § 4, 40 Stat. 1177.)

REFERENCES IN TEXT

Herein, referred to in text, means act Feb. 26, 1919, which is classified to sections 221, 222 to 228, and 687 of this title. For complete classification of this Act to the Code, see Tables.

The land laws of the United States, referred to in text, are classified generally to Title 43, Public Lands.

CODIFICATION

The words ''prior to February 26, 1919,'' were in the original ''existing'', and refer to the date of enactment of act Feb. 26, 1919.

A provision of the original text requiring a report to Congress as to terms upon which the toll road and trail mentioned herein might be purchased was omitted as historically obsolete.

§ 225. Laws applicable; easements and rights-of-way

Whenever consistent with the primary purposes of Grand Canyon National Park, section 79 of this title and subsequent Acts shall be applicable to the lands included within the park. The Secretary of the Interior may, in his discretion and upon such conditions as he may deem proper, grant easements or rights of way for railroads upon or across the park.

(Feb. 26, 1919, ch. 44, § 5, 40 Stat. 1178.)

REFERENCES IN TEXT

Section 79 of this title, referred to in text, was in the original a reference to act Feb. 15, 1901, ch. 372, 31 Stat. 790. For further details, see Codification note set out under section 79 of this title.

§ 226. Omitted

CODIFICATION

Section, act Feb. 26, 1919, ch. 44, § 6, 40 Stat. 1178, authorized Secretary of the Interior to permit prospecting, development, and utilization of the mineral resources within Grand Canyon National Park. Act Jan. 26, 1931, ch. 47, § 1, 46 Stat. 1043, provided that no permit, license, lease for the prospecting, development, or utilization of the mineral resources within the Grand Canyon National Park should be granted after January 26, 1931.

§ 227. Utilization of areas for Government reclamation projects

Whenever consistent with the primary purposes of such park, the Secretary of the Interior is authorized to permit the utilization of those areas formerly within the Lake Mead National Recreation Area immediately prior to January 3, 1975, and added to the park by sections 228a to 228j of this title, which may be necessary for the development and maintenance of a Government reclamation project.

(Feb. 26, 1919, ch. 44, § 7, 40 Stat. 1178; Pub. L. 93–620, § 9(b), Jan. 3, 1975, 88 Stat. 2091.)

AMENDMENTS

1975—Pub. L. 93–620 substituted provisions authorizing utilization of areas formerly within Lake Mead National Recreation Area and added to the Grand Canyon National Park by sections 228a to 228j of this title, for provisions authorizing utilization of areas within the Park.

§ 228. Buildings on privately owned lands

Where privately owned lands within the said park lie within three hundred feet of the rim of the Grand Canyon no building, tent, fence, or other structure shall be erected on the park lands lying between said privately owned lands and the rim.

(Feb. 26, 1919, ch. 44, § 8, 40 Stat. 1178.)

§ 228a. Enlargement of boundaries; statement of purpose

It is the object of sections 228a to 228j of this title to provide for the recognition by Congress that the entire Grand Canyon, from the mouth of the Paria River to the Grand Wash Cliffs, including tributary side canyons and surrounding plateaus, is a natural feature of national and international significance. Congress therefore recognizes the need for, and in sections 228a to 228j of this title provides for, the further protection and interpretation of the Grand Canyon in accordance with its true significance.

(Pub. L. 93–620, § 2, Jan. 3, 1975, 88 Stat. 2089.)

SHORT TITLE

For short title of sections 228a to 228j of this title as the ''Grand Canyon National Park Enlargement Act'', see Short Title note set out under section 221 of this title.

§ 228b. Composition of park

(a) Additional lands, waters, and interests therein

In order to add to the Grand Canyon National Park certain prime portions of the canyon area possessing unique natural, scientific, and scenic values, the Grand Canyon National Park shall comprise, subject to any valid existing rights under the Navajo Boundary Act of 1934, all those lands, waters, and interests therein, constituting approximately one million two hundred thousand acres, located within the boundaries as

depicted on the drawing entitled ''Boundary Map, Grand Canyon National Park,'' numbered 113–20, 021 B and dated December 1974, a copy of which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) Abolition of Grand Canyon and Marble Canyon National Monuments

For purposes of sections 228a to 228j of this title, the Grand Canyon National Monument and the Marble Canyon National Monument are abolished.

(c) Study and report to Congress of suitability of lands included within enlarged boundaries; submission date

The Secretary of the Interior shall study the lands within the former boundaries of the Grand Canyon National Monument commonly known as the Tuckup Point, Slide Mountain, and Jensen Tank areas to determine whether any portion of these lands might be unsuitable for park purposes and whether in his judgment the public interest might be better served if they were deleted from the Grand Canyon National Park. The Secretary shall report his findings and recommendations to the Congress no later than one year from January 3, 1975.

(Pub. L. 93–620, § 3, Jan. 3, 1975, 88 Stat. 2090.)

REFERENCES IN TEXT

The Navajo Boundary Act of 1934, referred to in subsec. (a), is act June 14, 1934, ch. 521, 48 Stat. 960, which was not classified to the Code.

§ 228c. Acquisition of lands within enlarged boundaries by donation, purchase, or exchange; transfer of jurisdiction over Federal lands

(a) Within the boundaries of the Grand Canyon National Park, as enlarged by sections 228a to 228j of this title, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') may acquire land and interest in land by donation, purchase with donated or appropriated funds, or exchange.

(b) Federal lands within the boundaries of such park are hereby transferred to the jurisdiction of the Secretary for the purposes of sections 228a to 228j of this title.

(Pub. L. 93–620, § 4, Jan. 3, 1975, 88 Stat. 2090.)

§ 228d. Acquisition of State of Arizona or local lands by donation or exchange; approval for transfer to United States of Indian trust lands

Notwithstanding any other provision of sections 228a to 228j of this title (1) land or interest in land owned by the State of Arizona or any political subdivision thereof may be acquired by the Secretary under sections 228a to 228j of this title only by donation or exchange and (2) no land or interest in land, which is held in trust for any Indian tribe or nation, may be transferred to the United States under sections 228a to 228j of this title or for purposes of sections 228a to 228j of this title except after approval by the governing body of the respective Indian tribe or nation.

(Pub. L. 93–620, § 5, Jan. 3, 1975, 88 Stat. 2090.)

§ 228e. Cooperative agreements for protection and unified interpretation of enlarged park; scope of agreements

In the administration of the Grand Canyon National Park, as enlarged by sections 228a to 228j of this title, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State, and local public departments and agencies and with interested Indian tribes providing for the protection and interpretation of the Grand Canyon in its entirety. Such agreements shall include, but not be limited to, authority for the Secretary to develop and operate interpretative facilities and programs on lands and waters outside of the boundaries of such park, with the concurrence of the owner or administrator thereof, to the end that there will be a unified interpretation of the entire Grand Canyon.

(Pub. L. 93–620, § 6, Jan. 3, 1975, 88 Stat. 2090.)

§ 228f. Preservation and renewal of existing grazing rights within enlarged boundaries; term of renewal

Where any Federal lands within the Grand Canyon National Park, as enlarged by sections 228a to 228j of this title, are legally occupied or utilized on January 3, 1975, for grazing purposes, pursuant to a Federal lease, permit, or license, the Secretary shall permit the persons holding such grazing privileges to continue in the exercise thereof during the term of the lease, permit, or license, and periods of renewal thereafter: *Provided*, That no such renewals shall be extended beyond the period ending ten years from January 3, 1975, except that any present lease, permit, or license within the boundaries of the Grand Canyon National Monument as abolished by section 228b(b) of this title may be renewed during the life of the present holder which renewals shall terminate upon the death of the present holder.

(Pub. L. 93–620, § 7, Jan. 3, 1975, 88 Stat. 2091.)

§ 228g. Aircraft or helicopter regulation within enlarged boundaries; procedure for promulgation of administrative rules and regulations

Whenever the Secretary has reason to believe that any aircraft or helicopter activity or operation may be occurring or about to occur within the Grand Canyon National Park, as enlarged by sections 228a to 228j of this title, including the airspace below the rims of the canyon, which is likely to cause an injury to the health, welfare, or safety of visitors to the park or to cause a significant adverse effect on the natural quiet and experience of the park, the Secretary shall submit to the Federal Aviation Administration, the Environmental Protection Agency pursuant to the Noise Control Act of 1972 [42 U.S.C. 4901 et seq.], or any other responsible agency or agencies such complaints, information, or recommendations for rules and regulations or other actions as he believes appropriate to protect the public health, welfare, and safety or the natural environment within the park. After reviewing

the submission of the Secretary, the responsible agency shall consider the matter, and after consultation with the Secretary, shall take appropriate action to protect the park and visitors.

(Pub. L. 93–620, § 8, Jan. 3, 1975, 88 Stat. 2091.)

REFERENCES IN TEXT

The Noise Control Act of 1972, referred to in text, is Pub. L. 92–574, Oct. 27, 1972, 86 Stat. 1234, as amended, which is classified generally to chapter 65 (§ 4901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4901 of Title 42 and Tables.

TRANSFER OF FUNCTIONS

''Federal Aviation Administration'' substituted in text for ''Federal Aviation Agency'' pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which transferred functions, powers, and duties of Federal Aviation Agency and of Administrator and other offices and officers thereof to Secretary of Transportation and established Federal Aviation Administration in Department of Transportation. See section 106 of Title 49, Transportation.

§ 228h. Construction with existing Colorado River system reclamation provisions

Nothing in sections 228a to 228j of this title shall be construed to alter, amend, repeal, modify, or be in conflict with the provisions of sections 1551 to 1556 of title 43.

(Pub. L. 93–620, § 9(a), Jan. 3, 1975, 88 Stat. 2091.)

§ 228i. Havasupai Indian Reservation

(a) Lands of Havasupai Reservation Addition held in trust by United States; boundaries

For the purpose of enabling the tribe of Indians known as the Havasupai Indians of Arizona (hereinafter referred to as the ''tribe'') to improve the social, cultural, and economic life of its members, the lands generally depicted as the ''Havasupai Reservation Addition'' on the map described in section 228b of this title, and consisting of approximately one hundred and eighty-five thousand acres of land and any improvements thereon, are hereby declared to be held by the United States in trust for the Havasupai Tribe. Such map, which shall delineate a boundary line generally one-fourth of a mile from the rim of the outer gorge of the Grand Canyon of the Colorado River and shall traverse Havasu Creek from a point on the rim at Yumtheska Point to Beaver Falls to a point on the rim at Ukwalla Point, shall be on file and available for public inspection in the Offices of the Secretary, Department of the Interior, Washington, District of Columbia.

(b) Lands held in trust by United States included within Reservation; administration pursuant to laws and regulations applicable to other trust Indian lands; specific administrative criteria and restrictions

The lands held in trust pursuant to this section shall be included in the Havasupai Reservation, and shall be administered under the laws and regulations applicable to other trust Indian lands: *Provided*, That—

(1) the lands may be used for traditional purposes, including religious purposes and the gathering of, or hunting for, wild or native foods, materials for paints and medicines;

(2) the lands shall be available for use by the Havasupai Tribe for agricultural and grazing purposes, subject to the ability of such lands to sustain such use as determined by the Secretary;

(3) any areas historically used as burial grounds may continue to be so used;

(4) a study shall be made by the Secretary, in consultation with the Havasupai Tribal Council, to develop a plan for the use of this land by the tribe which shall include the selection of areas which may be used for residential, educational, and other community purposes for members of the tribe and which shall not be inconsistent with, or detract from, park uses and values; *Provided further*, That before being implemented by the Secretary, such plan shall be made available through his offices for public review and comment, shall be subject to public hearings, and shall be transmitted, together with a complete transcript of the hearings, at least 90 days prior to implementation, to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives; and *Provided further*, That any subsequent revisions of this plan shall be subject to the same procedures as set forth in this paragraph;

(5) no commercial timber production, no commercial mining or mineral production, and no commercial or industrial development shall be permitted on such lands: *Provided further*, That the Secretary may authorize the establishment of such tribal small business enterprises as he deems advisable to meet the needs of the tribe which are in accordance with the plan provided in paragraph (4) of this subsection;

(6) nonmembers of the tribe shall be permitted to have access across such lands at locations established by the Secretary in consultation with the Tribal Council in order to visit adjacent parklands, and with the consent of the tribe, may be permitted (i) to enter and temporarily utilize lands within the reservation in accordance with the approved land use plan described in paragraph (4) of this subsection for recreation purposes or (ii) to purchase licenses from the tribe to hunt on reservation lands subject to limitations and regulations imposed by the Secretary of the Interior; and

(7) except for the uses permitted in paragraphs 1 through 6 of this subsection, the lands hereby transferred to the tribe shall remain forever wild and no uses shall be permitted under the plan which detract from the existing scenic and natural values of such lands.

(c) Establishment, maintenance, and implementation of conservation measures; availability of Federal programs relating to Indians; right of access to lands for implementation of Federal projects, resource management and preservation, and tribal religious, etc., functions

The Secretary shall be responsible for the establishment and maintenance of conservation

measures for these lands, including, without limitation, protection from fire, disease, insects, or trespass and reasonable prevention or elimination of erosion, damaging land use, overgrazing, or pollution. The Secretary of the Interior is authorized to contract with the Secretary of Agriculture for any services or materials deemed necessary to institute or carry out any such measures. Any authorized Federal programs available to any other Indian tribes to enhance their social, cultural, and economic well-being shall be deemed available to the tribe on these lands so long as such programs or projects are consistent with the purposes of sections 228a to 228j of this title. For these purposes, and for the purpose of managing and preserving the resources of the Grand Canyon National Park, the Secretary shall have the right of access to any lands hereby included in the Havasupai Reservation. Nothing in sections 228a to 228j of this title shall be construed to prohibit access by any members of the tribe to any sacred or religious places or burial grounds, native foods, paints, materials, and medicines located on public lands not otherwise covered in sections 228a to 228j of this title.

(d) Grazing rights on the Raintank Allotment; continuation and renewal

The Secretary shall permit any person presently exercising grazing privileges pursuant to Federal permit or lease in that part of the Kaibab National Forest designated as the ''Raintank Allotment'', and which is included in the Havasupai Reservation by this section, to continue in the exercise thereof, but no permit or renewal shall be extended beyond the period ending ten years from January 3, 1975, at which time all rights of use and occupancy of the lands will be transferred to the tribe subject to the same terms and conditions as the other lands included in the reservation in subsection (b) of this section.

(e) Havasupai Use Lands; use for grazing and other traditional purposes subject to regulations

The Secretary, subject to such reasonable regulations as he may prescribe to protect the scenic, natural, and wildlife values thereof, shall permit the tribe to use lands within the Grand Canyon National Park which are designated as ''Havasupai Use Lands'' on the Grand Canyon National Park boundary map described in section 228b of this title, and consisting of approximately ninety-five thousand three hundred acres of land, for grazing and other traditional purposes.

(f) Extinguishment of all tribal right, title, and interest in lands not otherwise declared as held in trust or covered by provisions enlarging park

By the enactment of sections 228a to 228j of this title, the Congress recognizes and declares that all right, title, and interest in any lands not otherwise declared to be held in trust for the Havasupai Tribe or otherwise covered by sections 228a to 228j of this title is extinguished.

(Pub. L. 93–620, §10, Jan. 3, 1975, 88 Stat. 2091; Pub. L. 103–437, §6(a)(2), Nov. 2, 1994, 108 Stat. 4583.)

CODIFICATION

Provision of subsec. (f) of this section, which repealed section 3 of act of Feb. 26, 1919 (40 Stat. 1177), set out as section 223 of this title, has been omitted from this section as executed. See note set out under section 223 of this title.

AMENDMENTS

1994—Subsec. (b)(4). Pub. L. 103–437 substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives'' for ''Committees on Interior and Insular Affairs of the United States Congress''.

§ 228i–1. Report to President

Within two years from January 3, 1975, the Secretary of the Interior shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendations as to the suitability or nonsuitability of any area within the national park for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with said section 1132(c) and (d) of this title.

(Pub. L. 93–620, §11, as added Pub. L. 94–31, June 10, 1975, 89 Stat. 172.)

§ 228j. Authorization of appropriations; availability of sums

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 228a to 228j of this title, not to exceed, however, $1,250,000, in the aggregate for the period of the five fiscal years beginning with the fiscal year ending June 30, 1974, for the acquisition of lands and property, and not to exceed $49,000 for the fiscal year ending June 30, 1974, $255,000 for the fiscal year ending June 30, 1975, $265,000 for the fiscal year ending June 30, 1976, and $235,000 for the fiscal year ending June 30, 1977, for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein. The sums authorized in this section shall be available for acquisition and development undertaken subsequent to January 3, 1975.

(Pub. L. 93–620, §12, formerly §11, Jan. 3, 1975, 88 Stat. 2093; renumbered §12, Pub. L. 94–31, June 10, 1975, 89 Stat. 172.)

CODIFICATION

June 30, 1974, first appearing in text of section, was in the original ''June 30, 1074''. The typographical error was corrected to conform to the apparent intent of the Congress.

SUBCHAPTER XXV—JEAN LAFITTE NATIONAL HISTORICAL PARK AND PRESERVE

PART A—GENERALLY

§ 230. Establishment; description of area

In order to preserve for the education, inspiration, and benefit of present and future generations significant examples of natural and historical resources of the Mississippi Delta region and to provide for their interpretation in such manner as to portray the development of cul-

tural diversity in the region, there is authorized to be established in the State of Louisiana the Jean Lafitte National Historical Park and Preserve (hereinafter referred to as the ''park''). The park shall consist of (1) the area generally depicted on the map entitled ''Boundary Map, Barataria Preserve Unit, Jean Lafitte National Historical Park and Preserve'', numbered 467/80100A, and dated December 2007, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior; (2) the area known as Big Oak Island; (3) an area or areas within the French Quarter section of the city of New Orleans as may be designated by the Secretary of the Interior for an interpretive and administrative facility; (4) folk life centers to be established in the Acadian region; (5) the Chalmette Unit of the Jean Lafitte National Historical Park and Preserve; and (6) such additional natural, cultural, and historical resources in the French Quarter and Garden District of New Orleans, forts in the delta region, plantations, and Acadian towns and villages in the Saint Martinville area and such other areas and sites as are subject to cooperative agreements in accordance with the provisions of this part.

(Pub. L. 95–625, title IX, §§901, 909, Nov. 10, 1978, 92 Stat. 3534, 3538; Pub. L. 100–250, §1(a), Feb. 16, 1988, 102 Stat. 16; Pub. L. 111–11, title VII, §7105(a), (f)(1)(B), (2)(B), Mar. 30, 2009, 123 Stat. 1191, 1193.)

AMENDMENTS

2009—Pub. L. 111–11, §7105(f)(2)(B), which directed amendment of title IX of Pub. L. 95–625 by substituting ''Jean Lafitte National Historical Park and Preserve'' for ''Jean Lafitte National Historical Park'' each place it appears, was not executed to first sentence or cl. (1) of second sentence of this section, to reflect the probable intent of Congress, because ''Jean Lafitte National Historical Park'' already appeared in those places preceding ''and Preserve''.

Pub. L. 111–11, §7105(a), in second sentence, substituted ''generally depicted on the map entitled 'Boundary Map, Barataria Preserve Unit, Jean Lafitte National Historical Park and Preserve', numbered 467/80100A, and dated December 2007,'' for ''of approximately twenty thousand acres generally depicted on the map entitled 'Barataria Marsh Unit-Jean Lafitte National Historical Park and Preserve' numbered 90,000B and dated April 1978,''.

1988—Pub. L. 100–250 added cl. (4) and redesignated former cls. (4) and (5) as (5) and (6), respectively.

CHANGE OF NAME

Pub. L. 111–11, title VII, §7105(f)(1), Mar. 30, 2009, 123 Stat. 1193, provided that: ''Any reference in a law (including regulations), map, document, paper, or other record of the United States—

''(A) to the Barataria Marsh Unit shall be considered to be a reference to the Barataria Preserve Unit; or

''(B) to the Jean Lafitte National Historical Park shall be considered to be a reference to the Jean Lafitte National Historical Park and Preserve.''

''Jean Lafitte National Historical Park and Preserve'' substituted for ''Jean Lafitte National Historical Park'' in cl. (5) pursuant to section 7105(f)(1)(B) of Pub. L. 111–11, set out above.

''Chalmette Unit of the Jean Lafitte National Historical Park'' substituted for ''Chalmette National Historical Park'' pursuant to section 230h of this title.

LAURA C. HUDSON VISITOR CENTER

Pub. L. 104–333, div. I, title VIII, §808, Nov. 12, 1996, 110 Stat. 4188, as amended by Pub. L. 111–11, title VII, §7105(f)(1)(B), Mar. 30, 2009, 123 Stat. 1193, provided that:

''(a) DESIGNATION.—The visitor center at Jean Lafitte National Historical Park and Preserve, located at 419 Rue Decatur in New Orleans, Louisiana, is hereby designated as the 'Laura C. Hudson Visitor Center'.

''(b) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the visitor center referred to in subsection (a) shall be deemed to be a reference to the 'Laura C. Hudson Visitor Center'.''

§ 230a. Acquisition of property

(a) In general

(1) Barataria Preserve Unit

(A) In general

The Secretary may acquire any land, water, and interests in land and water within the Barataria Preserve Unit by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange.

(B) Limitations

####### (i) In general

Any non-Federal land depicted on the map described in section 230 of this title as ''Lands Proposed for Addition'' may be acquired by the Secretary only with the consent of the owner of the land.

####### (ii) Boundary adjustment

On the date on which the Secretary acquires a parcel of land described in clause (i), the boundary of the Barataria Preserve Unit shall be adjusted to reflect the acquisition.

####### (iii) Easements

To ensure adequate hurricane protection of the communities located in the area, any land identified on the map described in section 230 of this title that is acquired or transferred shall be subject to any easements that have been agreed to by the Secretary and the Secretary of the Army.

(C) Transfer of administration jurisdiction

Effective on March 30, 2009, administrative jurisdiction over any Federal land within the areas depicted on the map described in section 230 of this title as ''Lands Proposed for Addition'' is transferred, without consideration, to the administrative jurisdiction of the National Park Service, to be administered as part of the Barataria Preserve Unit.

(2) French Quarter

The Secretary may acquire by any of the methods referred to in paragraph (1)(A) such lands and interests therein, including leasehold interests, as he may designate in the French Quarter of New Orleans for development and operation as an interpretive and administrative facility.

(3) Acquisition of State land

Land, water, and interests in land and water owned by the State of Louisiana or any political subdivision thereof may be acquired only by donation.

(4) Acquisition of oil and gas rights

In acquiring property pursuant to this part, the Secretary may not acquire right to oil and gas without the consent of the owner, but the exercise of such rights shall be subject to such regulations as the Secretary may promulgate in furtherance of the purposes of this part.

(b) Resource protection

With respect to the land, water, and interests in land and water of the Barataria Preserve Unit, the Secretary shall preserve and protect—

(1) fresh water drainage patterns;

(2) vegetative cover;

(3) the integrity of ecological and biological systems; and

(4) water and air quality.

(c) Adjacent land

With the consent of the owner and the parish governing authority, the Secretary may—

(1) acquire land, water, and interests in land and water, by any of the methods referred to in subsection (a)(1)(A) (including use of appropriations from the Land and Water Conservation Fund); and

(2) revise the boundaries of the Barataria Preserve Unit to include adjacent land and water.

(d) Acadian villages and towns

The Secretary is authorized to acquire lands or interests in lands by donation, purchase with donated or appropriated funds or exchange, not to exceed approximately 20 acres, in Acadian villages and towns. Any lands so acquired shall be developed, maintained and operated as part of the Jean Lafitte National Historical Park and Preserve.

(Pub. L. 95–625, title IX, § 902, Nov. 10, 1978, 92 Stat. 3535; Pub. L. 96–87, title IV, § 401(q)(1), Oct. 12, 1979, 93 Stat. 666; Pub. L. 100–250, § 1(b), Feb. 16, 1988, 102 Stat. 16; Pub. L. 111–11, title VII, § 7105(b), (f)(2)(B), Mar. 30, 2009, 123 Stat. 1191, 1193.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–11, § 7105(b)(1), inserted heading, inserted par. (1) designation and heading and substituted text of par. (1) for ''Within the Barataria Marsh Unit the Secretary is authorized to acquire not to exceed eight thousand six hundred acres of lands, waters, and interests therein (hereinafter referred to as the 'core area'), as depicted on the map referred to in section 230 of this title, by donation, purchase with donated or appropriated funds, or exchange.'', inserted par. (2) designation and heading and substituted ''The Secretary may acquire by any of the methods referred to in paragraph (1)(A)'' for ''The Secretary may also acquire by any of the foregoing methods'', inserted par. (3) designation and heading and substituted ''Land, water, and interests in land and water'' for ''Lands, waters, and interests therein'', and inserted par. (4) designation and heading.

Subsecs. (b), (c). Pub. L. 111–11, § 7105(b)(2), added subsecs. (b) and (c) and struck out former subsecs. (b) and (c) which related to guidelines or criteria applicable to the use and development of properties within a park protection zone, and preservation and protection of certain values, respectively.

Subsec. (d). Pub. L. 111–11, § 7105(b)(3), (f)(2)(B), redesignated subsec. (g) as (d) and substituted ''Jean Lafitte National Historical Park and Preserve'' for ''Jean Lafitte National Historical Park''.

Pub. L. 111–11, § 7105(b)(2), struck out subsec. (d). Prior to amendment, text read as follows: ''Where the State or local units of government deem it appropriate, they may cede to the Secretary, and the Secretary is authorized to accept, the power and authority to confect and enforce a program or set of rules pursuant to the guidelines established under subsection (b) of this section for the purpose of protecting the values described in subsection (c) of this section.''

Subsecs. (e), (f). Pub. L. 111–11, § 7105(b)(2), struck out subsecs. (e) and (f) which read as follows:

''(e) The Secretary, upon the failure of the State or local units of government to enact rules pursuant to subsection (b) of this section or enforce such rules so as to protect the values enumerated in subsection (c) of this section, may acquire such lands, servitudes, or interests in lands within the park protection zone as he deems necessary to protect the values enumerated in subsection (c) of this section.

''(f) The Secretary may revise the boundaries of the park protection zone, notwithstanding any other provision of law, to include or exclude properties, but only with the consent of Jefferson Parish.''

Subsec. (g). Pub. L. 111–11, § 7105(b)(3), redesignated subsec. (g) as (d).

1988—Subsec. (g). Pub. L. 100–250 added subsec. (g).

1979—Subsec. (a). Pub. L. 96–87 substituted ''eight thousand six hundred acres'' for ''eight thousand acres''.

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 230b. Owner's retention of right of use and occupancy for residential purposes for life or fixed term of years; election of term; fair market value; transfer, assignment or termination; "improved property" defined

Within the Barataria Preserve Unit, the owner or owners of improved property used for noncommercial residential purposes on a year-round basis may, as a condition of the acquisition of such property by the Secretary, elect to retain a right of use and occupancy of such property for noncommercial residential purposes if, in the judgment of the Secretary, the continued use of such property for a limited period would not unduly interfere with the development or management of the park. Such right of use and occupancy may be either a period ending on the death of the owner or his spouse, whichever occurs last, or a term of not more than twenty-five years, at the election of the owner. Unless the property is donated, the Secretary shall pay to the owner the fair market value of the property less the fair market value of the right retained by the owner. Such right may be transferred or assigned and may be terminated by the Secretary, if he finds that the property is not used for noncommercial residential purposes, upon tender to the holder of the right an amount equal to the fair market value of the unexpired term. As used in this section, the term ''improved property'' means a single-family, year-round dwelling, the construction of which was begun before January 1, 1977 (or January 1, 2007, for areas added to the park after that date), which serves as the owner's permanent place of abode at the time of its acquisition by the United States, together with not more than three acres of land on which the dwelling and appurtenant buildings are located which the

Secretary finds is reasonably necessary for the owner's continued use and occupancy of the dwelling.

(Pub. L. 95–625, title IX, § 903, Nov. 10, 1978, 92 Stat. 3536; Pub. L. 111–11, title VII, § 7105(c), (f)(2)(A), Mar. 30, 2009, 123 Stat. 1192, 1193.)

AMENDMENTS

2009—Pub. L. 111–11 substituted ''Barataria Preserve Unit'' for ''Barataria Marsh Unit'' in first sentence and inserted ''(or January 1, 2007, for areas added to the park after that date)'' after ''January 1, 1977'' in fifth sentence.

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 230c. Cooperative agreements; specific provisions

In furtherance of the purposes of this part, and after consultation with the Commission created by section 230f of this title, the Secretary is authorized to enter into cooperative agreements with the owners of properties of natural, historical, or cultural significance, including but not limited to the resources described in paragraphs (1) through (5)[1] of section 230 of this title, pursuant to which the Secretary may mark, interpret, restore and/or provide technical assistance for the preservation and interpretation of such properties, and pursuant to which the Secretary may provide assistance including management services, program implementation, and incremental financial assistance in furtherance of the standards for administration of the park pursuant to section 230e of this title. Such agreements shall contain, but need not be limited to, provisions that the Secretary, through the National Park Service, shall have the right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public, and that no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements. The agreements may contain specific provisions which outline in detail the extent of the participation by the Secretary in the restoration, preservation, interpretation, and maintenance of such properties.

(Pub. L. 95–625, title IX, § 904, Nov. 10, 1978, 92 Stat. 3536; Pub. L. 96–87, title IV, § 401(q)(2), Oct. 12, 1979, 93 Stat. 666.)

REFERENCES IN TEXT

Paragraphs (4) and (5) of section 230 of this title, included within the reference in text to paragraphs (1) through (5) of section 230 of this title, were redesignated paragraphs (5) and (6), respectively, of section 230 of this title, and a new paragraph (4) was added, by Pub. L. 100–250, § 1(a), Feb. 16, 1988, 102 Stat. 16.

AMENDMENTS

1979—Pub. L. 96–87 substituted reference to ''section 907 of this title'' for reference to ''section 7 of this title'' in the original. Since ''section 7 of this title'' had already been translated as ''section 230f of this title'' as the probable intent of Congress the substitution of ''907'' for ''7'' required no change in text as set out in this section.

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 230d. Hunting, fishing, and trapping; public safety; consultation

Within the Barataria Preserve Unit, the Secretary shall permit hunting, fishing (including commercial fishing), and trapping in accordance with applicable Federal and State laws on land, and interests in land and water managed by the Secretary, except that the Secretary may designate zones where and establish periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety. Except in emergencies, any regulations of the Secretary promulgated under this section shall be put into effect only after consultation with the appropriate fish and game agency of Louisiana.

(Pub. L. 95–625, title IX, § 905, Nov. 10, 1978, 92 Stat. 3536; Pub. L. 111–11, title VII, § 7105(d), (f)(2)(A), Mar. 30, 2009, 123 Stat. 1192, 1193.)

AMENDMENTS

2009—Pub. L. 111–11, in first sentence, substituted ''Barataria Preserve Unit'' for ''Barataria Marsh Unit'' and ''on land, and interests in land and water managed by the Secretary, except that the Secretary'' for '', except that within the core area and on those lands acquired by the Secretary pursuant to section 230a(c) of this title, he''.

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 230e. Establishment; notice in Federal Register; administration

The Secretary shall administer the park in accordance with the provisions of this part, sections 1, 2, 3, and 4 of this title, sections 461 to 467 of this title, and any other statutory authorities available to him for the conservation and management of natural, historical, and cultural resources.

(Pub. L. 95–625, title IX, § 906, Nov. 10, 1978, 92 Stat. 3537; Pub. L. 111–11, title VII, § 7105(e), Mar. 30, 2009, 123 Stat. 1193.)

AMENDMENTS

2009—Pub. L. 111–11 substituted ''The'' for ''The Secretary shall establish the park by publication of a notice to that effect in the Federal Register at such time as he finds that, consistent with the general management plan referred to in section 230g of this title, sufficient lands and interests therein (i) have been acquired for interpretive and administrative facilities, (ii) are being protected in the core area, and (iii) have been made the subject of cooperative agreements pursuant to secton 230c of this title. Pending such establishment and thereafter the''.

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

[1] See References in Text note below.

§ 230f. Delta Region Preservation Commission

(a) Establishment; membership

There is established the Delta Region Preservation Commission (hereinafter referred to as the ''Commission''), which shall consist of the following:

(1) two members appointed by the Governor of the State of Louisiana;

(2) two members appointed by the Secretary from recommendations submitted by the President of Jefferson Parish;

(3) two members appointed by the Secretary from recommendations submitted by the Jefferson Parish Council;

(4) two members appointed by the Secretary from recommendations submitted by the mayor of the city of New Orleans;

(5) one member appointed by the Secretary from recommendations submitted by the commercial fishing industry;

(6) three members appointed by the Secretary from recommendations submitted by local citizen conservation organizations in the delta region;

(7) one member appointed by the Chairman of the National Endowment for the Arts; and

(8)[1] two members appointed by the Secretary from recommendations submitted by the Police Jury of Saint Bernard Parish.

(8)[1] one member who shall have experience as a folklorist and who is familiar with the cultures of the Mississippi Delta Region appointed by the Secretary of the Smithsonian Institution.

(b) Compensation and expenses

Members of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the non-Federal members of the Commission in carrying out their duties.

(c) Functions

The function of the Commission shall be to advise the Secretary in the selection of sites for inclusion in the park, in the development and implementation of a general management plan, and in the development and implementation of a comprehensive interpretive program of the natural, historic, and cultural resources of the region. The Commission shall inform interested members of the public, the State of Louisiana and its political subdivisions, and interested Federal agencies with respect to existing and proposed actions and programs having a material effect on the perpetuation of a high-quality natural and cultural environment in the delta region.

(d) Majority voting; generally; single parish or municipality

The Commission shall act and advise by affirmative vote of a majority of its members: *Provided*, That any recommendation of the Commission that affects the use or development, or lack thereof, of property located solely within a single parish or municipality shall have the concurrence of a majority of the members appointed from recommendations submitted by such parish or municipality.

[1] So in original. There are two pars. designated ''(8)''.

(e) Ex officio members; staff support and technical services; termination date

The Directors of the Heritage Conservation and Recreation Service and the National Park Service shall serve as ex officio members of the Commission and provide such staff support and technical services as may be necessary to carry out the functions of the Commission. The Commission shall terminate twenty years from November 10, 1978.

(Pub. L. 95–625, title IX, § 907, Nov. 10, 1978, 92 Stat. 3537; Pub. L. 96–87, title IV, § 401(q)(3), (4), Oct. 12, 1979, 93 Stat. 666; Pub. L. 100–250, § 1(c), Feb. 16, 1988, 102 Stat. 16; Pub. L. 100–355, § 2, June 28, 1988, 102 Stat. 667.)

AMENDMENTS

1988—Subsec. (a)(6), (7). Pub. L. 100–355, § 2(1), (2), which directed that in par. (6) ''region;'' be substituted for ''region; and'' and that in par. (7) ''Arts; and'' be substituted for ''Arts.'' could not be executed because of prior amendment by section 401(q)(3) of Pub. L. 96–87.

Subsec. (a)(8). Pub. L. 100–355, § 2(3), added par. (8) relating to appointment of member with experience as folklorist familiar with cultures of Mississippi Delta Region.

Subsec. (e). Pub. L. 100–250 substituted ''twenty'' for ''ten''.

1979—Subsec. (a)(8). Pub. L. 96–87, § 401(q)(3), added par. (8).

Subsec. (e). Pub. L. 96–87, § 401(q)(4), provided that the Commission terminate ten years from November 10, 1978.

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 230g. Authorization of appropriations; general management plan; submission to Congressional committees

(a) There is authorized to be appropriated, to carry out the provisions of this part, not to exceed $50,000,000 from the Land and Water Conservation Fund for acquisition of lands, waters, and interests therein and such sums as necessary for the development of essential facilities.

(b) Within three years from November 10, 1978, the Secretary, after consultation with the Commission, shall submit to the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate a general management plan for the park indicating—

(1) transportation alternatives for public access to the park;

(2) the number of visitors and types of public use within the park which can be accommodated in accordance with the protection of its resources;

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses; and

(4) a statement setting forth the actions which have been and should be taken to assure appropriate protection, interpretation, and management of the areas known as Big Oak Island and Couba Island.

(Pub. L. 95–625, title IX, § 908, Nov. 10, 1978, 92 Stat. 3537.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 230h. Change in name of Chalmette National Historical Park

The area described in the Act of October 9, 1962 (76 Stat. 755), as the ''Chalmette National Historical Park'' is hereby redesignated as the Chalmette Unit of the Jean Lafitte National Historical Park and Preserve. Any references to the Chalmette National Historical Park shall be deemed to be references to said Chalmette Unit.

(Pub. L. 95–625, title IX, § 909, Nov. 10, 1978, 92 Stat. 3538; Pub. L. 111–11, title VII, § 7105(f)(2)(B), Mar. 30, 2009, 123 Stat. 1193.)

REFERENCES IN TEXT

Act of October 9, 1962 (76 Stat. 755), referred to in text, is Pub. L. 87–759, Oct. 9, 1962, 76 Stat. 755. Section 5 of that Act, which related to the boundaries of the Park, is set out as a note under section 231a of this title.

AMENDMENTS

2009—Pub. L. 111–11 substituted ''Jean Lafitte National Historical Park and Preserve'' for ''Jean Lafitte National Historical Park''.

§ 230i. Report to Congressional committees

By no later than the end of the first full fiscal year following November 10, 1978, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive report with recommendations as to sites within the Mississippi River Delta Region which constitute nationally significant examples of natural resources within that region.

(Pub. L. 95–625, title IX, § 910, Nov. 10, 1978, 92 Stat. 3538.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

PART B—CHALMETTE UNIT

§ 231. Establishment; description of area

The lands in Federal ownership located in Chalmette, Louisiana, in sections 10 and 21, township 13 south, range 12 east, Saint Helena meridian, on which there has been erected a monument pursuant to the provisions of section 450a of this title to the memory of the soldiers who fell in the Battle of New Orleans in the War of 1812, including the national cemetery at Chalmette, Louisiana, are designated as the Chalmette Unit of the Jean Lafitte National Historical Park and Preserve.

(Aug. 10, 1939, ch. 640, § 1, 53 Stat. 1342; Pub. L. 95–625, title IX, § 909, Nov. 10, 1978, 92 Stat. 3538; Pub. L. 111–11, title VII, § 7105(f)(1)(B), Mar. 30, 2009, 123 Stat. 1193.)

CHANGE OF NAME

''Jean Lafitte National Historical Park and Preserve'' substituted for ''Jean Lafitte National Historical Park'' pursuant to Pub. L. 111–11.

''Chalmette Unit of the Jean Lafitte National Historical Park'' substituted for ''Chalmette National Historical Park'' pursuant to Pub. L. 95–625.

§ 231a. Additional lands

Upon the vesting of title in the United States to such additional lands as may be designated by the Secretary of the Interior as necessary and desirable for the purposes of the Chalmette Unit of the Jean Lafitte National Historical Park and Preserve, such lands shall become a part of the said Unit and shall be subject to all laws, rules, and regulations applicable thereto: *Provided, however*, That the total area included within the said Unit and any enlargement thereof shall not exceed five hundred acres.

(Aug. 10, 1939, ch. 640, § 2, 53 Stat. 1342; Pub. L. 95–625, title IX, § 909, Nov. 10, 1978, 92 Stat. 3538; Pub. L. 111–11, title VII, § 7105(f)(1)(B), Mar. 30, 2009, 123 Stat. 1193.)

CHANGE OF NAME

''Jean Lafitte National Historical Park and Preserve'' substituted for ''Jean Lafitte National Historical Park'' pursuant to Pub. L. 111–11.

''Chalmette Unit of the Jean Lafitte National Historical Park'' substituted for ''Chalmette National Historical Park'' and ''said Unit'' substituted for ''said park'' pursuant to Pub. L. 95–625.

ACQUISITION OF LANDS

Section 5 of Pub. L. 87–759, Oct. 9, 1962, 76 Stat. 756, provided:

''Within the boundaries of Chalmette National Historical Park [now Chalmette Unit of the Jean Lafitte National Historical Park and Preserve] as designated by the Secretary of the Interior on March 20, 1958, pursuant to the Act of August 10, 1939 (53 Stat. 1342), and depicted on drawing numbered NHP–CHAL–7008, said Secretary, notwithstanding the proviso in section 3 of said Act, is hereby authorized to acquire the following lands and interests in lands with funds heretofore appropriated and otherwise available for such purpose;

''Beginning at the point of intersection of the west line of Fazendeville Road with a line 50 feet south of southerly boundary of right-of-way of the Louisiana Southern Railway at coordinate point X—2,425,730.76 and Y—467,506.11; (the bearings and coordinates herein stated are in accord with the Louisiana geodetic survey plane grid system); and running thence south 66 degrees 32 minutes 46 seconds east, parallel to said southerly boundary of right-of-way of Louisiana Southern Railway, a distance of 30 feet to coordinate point X—2,425,758.28 and Y—467,494.17; thence south 23 degrees 45 minutes 21 seconds west for a distance of 917.90 feet along the east right-of-way of Fazendeville Road to a point;

''Thence south 66 degrees 14 minutes 39 seconds east for a distance of 161.83 feet to a point; thence south 23 degrees 45 minutes 21 seconds west on a line parallel to

Fazendeville Road for a distance of 1,406.51 feet to a point; thence north 64 degrees 19 minutes 9 seconds west for a distance of 161.92 feet to a point on the east right-of-way of Fazendeville Road; thence south 23 degrees 45 minutes 21 seconds west along the east right-of-way of Fazendeville Road for a distance of 19.41 feet to a point;

''Thence south 64 degrees 19 minutes 9 seconds east for a distance of 95.70 feet to a point; thence south 23 degrees 45 minutes 21 seconds west on a line parallel to Fazendeville Road for a distance of 54.90 feet to a point; thence north 64 degrees 19 minutes 9 seconds west for a distance of 95.70 feet to a point on the east right-of-way of Fazendeville Road; thence south 23 degrees 45 minutes 21 seconds along the east right-of-way of Fazendeville Road for a distance of 279.44 feet to a point;

''Thence crossing Fazendeville Road on a line running north 49 degrees 02 minutes 49 seconds west for a distance of 31.40 feet to a point on the west right-of-way of Fazendeville Road; thence north 23 degrees 45 minutes 21 seconds east along the west right-of-way of Fazendeville Road for a distance of 2,663.28 feet to a point which is the point of beginning; containing 7.02 acres more or less, including 1.83 acres more or less within the right-of-way of the Fazendeville Road; and excluding lot 15, as shown on a map of survey by F. C. Gandolfo, Junior, dated January 9, 1953, and being in section 10 of township 13 south, range 12 east, parish of Saint Bernard, State of Louisiana, and known locally as Fazendeville.''

§ 231b. Acceptance of donations

The Secretary of the Interior is authorized, in his discretion, to acquire in behalf of the United States, through donations or by purchase at prices deemed by him reasonable, or by condemnation in accordance with section 3113 of title 40, lands, buildings, structures, and other property, or interests therein, located within the boundaries of the Chalmette Unit of the Jean Lafitte National Historical Park and Preserve as fixed and determined by this subchapter, the title to such property and interests to be satisfactory to the Secretary of the Interior, and to accept donations of funds for the acquisition and maintenance thereof: *Provided*, That payment for such property or interests shall be made solely from donated funds.

(Aug. 10, 1939, ch. 640, § 3, 53 Stat. 1342; Pub. L. 95–625, title IX, § 909, Nov. 10, 1978, 92 Stat. 3538; Pub. L. 111–11, title VII, § 7105(f)(1)(B), Mar. 30, 2009, 123 Stat. 1193.)

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888 (25 Stat. 357)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

CHANGE OF NAME

''Jean Lafitte National Historical Park and Preserve'' substituted for ''Jean Lafitte National Historical Park'' pursuant to Pub. L. 111–11.

''Chalmette Unit of the Jean Lafitte National Historical Park'' substituted for ''Chalmette National Historical Park'' pursuant to Pub. L. 95–625.

§ 231c. Administration, protection, and development

The administration, protection, and development of the aforesaid national historical park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title.

(Aug. 10, 1939, ch. 640, § 4, 53 Stat. 1342.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 231d. Repeal of inconsistent laws

All Acts or parts of Acts inconsistent with this subchapter are repealed to the extent of such inconsistency.

(Aug. 10, 1939, ch. 640, § 5, 53 Stat. 1342.)

SUBCHAPTER XXVI—THEODORE ROOSEVELT NATIONAL PARK

§ 241. Establishment; boundaries; maintenance of roads

All those certain tracts, pieces, or parcels of land, title to which is vested in the United States of America, and being in the State of North Dakota, and within the boundaries particularly described, as follows, to wit: Beginning at the point where the north line of the right-of-way of United States Highway Numbered 10 intersects the east boundary of section 36, township 140 north, range 101 west, fifth principal meridian; thence southwesterly and northwesterly along the north line of said right-of-way through section 1, township 139 north, range 101 west, and sections 36, 35, 34, 27, 28, 29, and 30, township 140 north, range 101 west; thence northwesterly and southwesterly along the north line of the right-of-way of said highway to be relocated as shown on the right-of-way plat for project SNFAP 283C(3) filed for record in the office of the register of deeds, Medora, North Dakota, book numbered 2 of plats, page 68, on June 13, 1942, through section 25 and the east half of the northeast quarter of section 26, township 140 north, range 102 west, to the point of intersection with the east sixteenth section line of said section 26; thence north along the sixteenth section line to the northwest corner of the northeast quarter of the northeast quarter of said section 26; thence northwesterly along a line to the northwest corner of the southwest quarter of the southeast quarter of section 23, township 140 north, range 102 west; thence westerly along the sixteenth section line to the northeast corner of the southeast quarter of the southeast quarter of section 22; township 140 north, range 102 west; thence southerly along the east section line to the southeast corner of said section 22; thence westerly along the south line of said section 22 to the point of intersection with the right bank of the Little Missouri River; thence northerly and westerly along the right bank of said river to the point of intersection with the east line of section 21, township 140 north, range 102 west; thence southerly along the east line of said section 21, to the intersection with the north line of the right-of-way of the Northern Pacific Railway, which point lies north of said United

States Highway Numbered 10; thence westerly along the north line of said right-of-way to the point of intersection with the north line of the right-of-way of said United States Highway Numbered 10; thence westerly along the north line of the right-of-way of said highway through said section 21 to the intersection with the west line of said section 21; thence northerly along the west line of said section 21, and sections 16 and 9, thence continuing northerly to the southeast corner of Government lot 9, section 5, township 140 north, range 102 west; thence northwesterly to the northwest corner of Government lot 2 in said section 5; thence westerly to the southwest corner of the southeast quarter of section 34, township 141 north, range 102 west; thence northerly along the quarter section line to the northwest corner of the said southeast quarter of section 34; thence northwesterly along a line to the southwest corner of section 27, township 141 north, range 102 west; thence northerly along the west line of said section 27, to the southwest corner of the northwest quarter of said section 27; thence northeasterly along a line to the southwest corner of the southeast quarter of section 22, township 141 north, range 102 west; thence continuing northeasterly along a line to the southwest corner of the northwest quarter of section 23, township 141 north, range 102 west; thence continuing northeasterly along a line to the northeast corner of said northwest quarter of section 23; thence easterly along the north lines of said section 23, and section 24, township 141 north, range 102 west; to the northwest corner of section 19, township 141 north, range 101 west; thence continuing easterly along the north line of said section 19 to the northwest corner of the northeast quarter of said section 19; thence southeasterly along a line to the northwest corner of the southwest quarter of the southwest quarter of the northwest quarter of section 20, township 141 north, range 101 west; thence southerly along the west line of said section 20 to the northwest corner of the southwest quarter of section 20; thence easterly to the northwest corner of the southeast quarter of section 20; thence southerly to the southwest corner of the southeast quarter of said section 20; thence easterly along the north lines of section 29 and section 28, to the northeast corner of section 28, township 141 north, range 101 west; thence southerly along the west line of section 27, township 141 north, range 101 west, to the southwest corner of said section 27; thence easterly along the north lines of sections 34, 35, and 36 to the northeast corner of section 36, township 141 north, range 101 west; thence southerly along the east line of said section 36 to the southwest corner of section 31, township 141 north, range 100 west; thence easterly to the southeast corner of said section 31; thence southeasterly along a line to the northwest corner of Government lot 7 of section 2, township 140 north, range 101 west; thence continuing southeasterly along a line to the northwest corner of the southwest quarter of section 1, township 140 north, range 101 west; thence continuing southeasterly along a line to the northwest corner of the northeast quarter of section 12, township 140 north, range 101 west; thence continuing southeasterly along a line to the northwest corner of the southwest quarter of section 7, township 140 north, range 100 west; thence easterly along the quarter section line to the northwest corner of the southeast quarter of said section 7; thence southeasterly along a line to the northwest corner of section 17, township 140 north, range 100 west; thence continuing southeasterly along a line to a point which is 33 feet west of the east line of said section 17, and 33 feet north of the south line of said section 17; thence southerly on a line which lies 33 feet west of and parallel to the east lines of sections 20, 29, and 32 of township 140 north, range 100 west, to the point of intersection with the north right-of-way line of United States Highway Numbered 10; thence westerly along the north line of said right-of-way through said sections 32 and 31, township 140 north, range 100 west, to the point of intersection with the east boundary of section 36, township 140 north, range 101 west, the place of beginning, containing forty-nine thousand one hundred and fifty-three and seventy-nine one-hundredths acres more or less, are dedicated and set apart as a public park for the benefit and enjoyment of the people, and shall be known as the Theodore Roosevelt National Park. The Secretary of the Interior is authorized, in his discretion, to construct and maintain a road or highway through the park connecting with a State or Federal highway.

(Apr. 25, 1947, ch. 41, §1, 61 Stat. 52; June 10, 1948, ch. 437, §1, 62 Stat. 352; June 29, 1948, ch. 725, 62 Stat. 1102; Pub. L. 95–625, title VI, §610, Nov. 10, 1978, 92 Stat. 3521.)

AMENDMENTS

1948—Act June 29, 1948, inserted ''are dedicated and set apart as a public park for the benefit and enjoyment of the people, and shall be known as the Theodore Roosevelt National Memorial Park. The Secretary of the Interior is authorized, in his discretion, to construct and maintain a road or highway through the park connecting with a State or Federal highway.''

Act June 10, 1948, revised boundaries of park.

CHANGE OF NAME

Theodore Roosevelt National Memorial Park redesignated Theodore Roosevelt National Park pursuant to Pub. L. 95–625, title VI, §610, Nov. 10, 1978, 92 Stat. 3521, which is classified to section 241g of this title.

APPROPRIATIONS

Section 8 of act Apr. 25, 1947, renumbered section 7 by act June 10, 1948, §1, provided: ''There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [sections 241, 242 to 245, and 247 of this title].''

CONVEYANCE TO FEDERAL AGENCIES OR STATE OF JURISDICTION OVER UNREQUIRED LANDS

Section 2 of act June 10, 1948, provided that: ''Administrative jurisdiction over any of such lands that the Secretary of the Interior finds are not required for exchange purposes as herein provided [amendment of section 241 of this title by section 1 of act June 10, 1948] may be conveyed to other Federal agencies by the Secretary of the Interior without exchange of funds, or if such lands are not required by other Federal agencies they may be conveyed to the State of North Dakota without reimbursement to the United States.''

§ 241a. Extension of boundaries

The following-described lands are made a part of the Theodore Roosevelt National Park, sub-

ject to all laws and regulations applicable thereto:

Beginning at the southwest corner of section 17, township 147 north, range 100 west; thence north along the west boundaries of sections 17, 8, 5, township 147 north, range 100 west, and section 32 to the southwest corner of section 29, township 148 north, range 100 west; thence east to the southwest corner of the southeast quarter of section 29; thence north to the northwest corner of the southwest quarter of the northeast quarter of section 29; thence east to the northeast corner of the southeast quarter of the northeast quarter of section 29; thence north along west boundary of sections 28 and 21 to the west quarter corner of section 21; thence east to the east quarter corner of section 21; thence north along west boundary of section 22 to the northwest corner of section 22; thence east along the north boundaries of sections 22, 23, 24, township 148 north, range 100 west and sections 19 and 20 to the north quarter corner of section 20, township 148 north, range 99 west; thence south to the northwest corner of the southeast quarter of section 20; thence east to the east quarter corner of section 20; thence south to the southeast corner of section 20; thence along the north boundaries of sections 28, 27, and 26, township 148 north, range 99 west, to the northeast corner of section 26; thence south along east boundaries of sections 26 and 35 to the east quarter corner of section 35, township 148 north, range 99 west; thence west to the north bank of Little Missouri River; thence following the north bank of the Little Missouri River in a generally westerly direction to where the north bank of the river crosses the north boundary of section 4, township 147 north, range 99 west; thence west to the northwest corner of section 4; thence south to the southeast corner of section 5; thence west along the south boundaries of sections 5 and 6, township 147 north, range 99 west, and section 1, township 147 north, range 100 west to the northeast corner of section 11; thence south along east boundaries of sections 11 and 14 to the southeast corner of section 14; thence west along the south boundaries of sections 14, 15, 16, and 17 to the point of beginning, all west of the fifth principal meridian.

(June 12, 1948, ch. 455, §1, 62 Stat. 384; Pub. L. 95–625, title VI, §610, Nov. 10, 1978, 92 Stat. 3521.)

CODIFICATION

Section was not enacted as part of act Apr. 25, 1947, ch. 41, 61 Stat. 52, which comprises this subchapter.

CHANGE OF NAME

Theodore Roosevelt National Memorial Park redesignated Theodore Roosevelt National Park pursuant to Pub. L. 95–625, title VI, §610, Nov. 10, 1978, 92 Stat. 3521, which is classified to section 241g of this title.

§ 241b. Exchange of lands

For the purposes of acquiring non-Federal lands within the boundaries of said park as established by this section and section 241a of this title, the Secretary of the Interior is authorized, in his discretion, to exchange federally owned lands within sections 1, 12, and 13, township 148 north, range 100 west, and sections 6, 7, and 18, township 148 north, range 99 west. Reserving, however, to the stockmen of the surrounding area a perpetual right-of-way through the park for the trailing of livestock, to and from the railroad, along and adjacent to the Little Missouri River, being the same trail or route which has been used by the stockmen for that purpose since the beginning of the livestock industry in the area. Administrative jurisdiction over any of such lands that the Secretary of the Interior finds are not required for exchange purposes as herein provided may be conveyed to other Federal agencies by the Secretary of the Interior without exchange of funds, or if such lands are not required by other Federal agencies they may be conveyed to the State of North Dakota without reimbursement to the United States.

(June 12, 1948, ch. 455, §2, 62 Stat. 384.)

CODIFICATION

Section was not enacted as part of act Apr. 25, 1947, ch. 41, 61 Stat. 52, which comprises this subchapter.

§ 241c. Additional extension of lands

The following-described lands are made a part of the Theodore Roosevelt National Park, subject to all laws and regulations applicable thereto: Beginning at a point in block 11 of the village of Medora, North Dakota, said point being on the northerly right-of-way line of Third Avenue a distance of 160 feet westerly from the northwest corner of the intersection of Third Avenue and Main Street; thence northerly a distance of 140 feet to a point on a line parallel to and 160 feet westerly of the westerly right-of-way line of Main Street; thence easterly 10 feet along a line parallel to and 140 feet northerly of the northerly right-of-way line of Third Avenue to a point 150 feet westerly of the westerly right-of-way line of Main Street; thence northerly 20 feet along a line parallel to and 150 feet westerly of the westerly right-of-way line of Main Street to a point on a line parallel to and 160 feet northerly of the northerly right-of-way line of Third Avenue: thence easterly along said line a distance of 150 feet to a point on the westerly right-of-way line of Main Street; thence northerly a distance of 40 feet along said westerly right-of-way line of Main Street to a point 200 feet northerly from the northwest corner of the intersection of Third Avenue and Main Street; thence easterly along a line parallel to and 200 feet northerly of the northerly right-of-way line of Third Avenue a distance of 970 feet to the northwesterly corner of lot 3 in block 8; thence southerly along the westerly line of lots 3 to 10, inclusive, in block 8 a distance of 200 feet to a point on the northerly right-of-way line of Third Avenue; thence along the northerly right-of-way line of Third Avenue extended easterly to a point on the west sixteenth line of section 26; thence northerly along said sixteenth line to a point on the section line common to sections 23 and 26; thence westerly along said section line to a point which is 600 feet easterly of the section corner common to sections 22, 23, 26, and 27; thence northerly along a line parallel to and 600 feet easterly from the section line common to sections 22 and 23 to a point on the south sixteenth line of section 23; thence westerly along said sixteenth line a distance of 600 feet to a

point on the section line common to sections 22 and 23; thence southerly along said section line to the section corner common to sections 22, 23, 26, and 27; thence southerly along the section line common to sections 26 and 27 a distance of 390.5 feet; thence westerly a distance of 421.7 feet to a point on a line parallel to and 390.5 feet southerly from the section line common to sections 22 and 27; thence southerly a distance of 360 feet to a point in block 4 on a line parallel to and 150 feet westerly from the westerly right-of-way line of Main Street extended northerly; thence southwesterly on a straight line through the southwesterly corner of block 4 to a point on the southerly right-of-way line of Second Avenue extended westerly; thence westerly along said westerly extension of the southerly right-of-way line of Second Avenue to a point on the northeasterly right-of-way line of United States Highway Numbered 10; thence southeasterly along said northeasterly right-of-way line of United States Highway Numbered 10 to the intersection or juncture of said right-of-way line with the northerly right-of-way line of Third Avenue; thence easterly to the point of beginning; and all of that part of block 12 in the village of Medora that lies westerly of a line parallel to and westerly a distance of 140 feet from the westerly right-of-way line of Main Street; all in township 140 north, range 102 west, fifth principal meridian: *Provided*, That the lands and improvements thereon located in block 6 in the village of Medora now administered and used by the United States Forest Service, Department of Agriculture, shall not become a part of the park pursuant to this section until such time as they are transferred to the Department of the Interior by the Secretary of Agriculture.

(Mar. 24, 1956, ch. 94, §1, 70 Stat. 55; Pub. L. 95–625, title VI, §610, Nov. 10, 1978, 92 Stat. 3521.)

CODIFICATION

Section was not enacted as part of act Apr. 25, 1947, ch. 41, 61 Stat. 52, which comprises this subchapter.

CHANGE OF NAME

Theodore Roosevelt National Memorial Park redesignated Theodore Roosevelt National Park pursuant to Pub. L. 95–625, title VI, §610, Nov. 10, 1978, 92 Stat. 3521, which is classified to section 241g of this title.

§ 241d. Exclusion of lands

The following area is excluded from the park: That portion of section 8 lying southwest of a line between the common corner of sections 8, 9, 16, and 17 and the northwest corner of the southwest quarter section 8; that portion of section 16 lying southwest of a line between the southeast corner southwest quarter and the northwest corner southwest quarter section 16; and section 17, township 147 north, range 100 west, fifth principal meridian, North Dakota.

(Mar. 24, 1956, ch. 94, §2, 70 Stat. 56.)

CODIFICATION

Section was not enacted as part of act Apr. 25, 1947, ch. 41, 61 Stat. 52, which comprises this subchapter.

§ 241e. Authority to make further adjustments

The Secretary of the Interior is authorized to make further adjustments in the boundaries of the park along United States Highways Numbered 10 and 85 as he deems advisable and in the public interest if and when the alinement of these highways is changed: *Provided*, That not to exceed five hundred acres may be added to the park and not to exceed two thousand acres may be excluded from the park by such adjustments. Boundary adjustments made pursuant to this section shall be effective upon publication thereof in the Federal Register and all Federal land excluded from the park pursuant to sections 241c to 241f of this title shall be transferred to the Secretary of Agriculture for administration or disposition in accordance with title III of the Bankhead-Jones Farm Tenant Act [7 U.S.C. 1010 et seq.].

(Mar. 24, 1956, ch. 94, §3, 70 Stat. 56.)

REFERENCES IN TEXT

The Bankhead-Jones Farm Tenant Act, referred to in text, is act July 22, 1937, ch. 517, 50 Stat. 522, as amended. Title III of the Act is classified generally to subchapter III (§1010 et seq.) of chapter 33 of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1000 of Title 7 and Tables.

CODIFICATION

Section was not enacted as part of act Apr. 25, 1947, ch. 41, 61 Stat. 52, which comprises this subchapter.

§ 241f. Extension of exchange authority

The land exchange authority relating to Theodore Roosevelt National Park prescribed by sections 241b and 243 of this title shall be applicable also to the lands described in section 241c of this title.

(Mar. 24, 1956, ch. 94, §4, 70 Stat. 57; Pub. L. 95–625, title VI, §610, Nov. 10, 1978, 92 Stat. 3521.)

CODIFICATION

Section was not enacted as part of act Apr. 25, 1947, ch. 41, 61 Stat. 52, which comprises this subchapter.

CHANGE OF NAME

Theodore Roosevelt National Memorial Park redesignated Theodore Roosevelt National Park pursuant to Pub. L. 95–625, title VI, §610, Nov. 10, 1978, 92 Stat. 3521, which is classified to section 241g of this title.

§ 241g. Change in name of Theodore Roosevelt National Memorial Park

The area formerly known as the ''Theodore Roosevelt National Memorial Park'', established by this subchapter shall henceforth be known as the ''Theodore Roosevelt National Park.''

(Pub. L. 95–625, title VI, §610, Nov. 10, 1978, 92 Stat. 3521.)

CODIFICATION

Section was not enacted as part of act Apr. 25, 1947, ch. 41, 61 Stat. 52, which comprises this subchapter.

§ 242. Condemnation of land; acceptance of donations

The Secretary of the Interior is authorized to cause condemnation proceedings to be instituted in the name of the United States under the provisions of section 3113 of title 40, to acquire title to the lands, interests therein, or rights pertaining thereto that are privately owned within the

boundaries of the said national park, and such property, when acquired, shall become a part thereof: *Provided*, That when the owner of such lands, interests therein, or rights pertaining thereto shall fix a price for the same, which, in the opinion of the Secretary of the Interior, shall be reasonable, the Secretary may purchase the same without further delay: *Provided further*, That the Secretary of the Interior is authorized to accept, on behalf of the United States, donations of land, interests therein, or rights pertaining thereto required for the Theodore Roosevelt National Park: *And provided further*, That title and evidence of title to land and interests therein acquired for said park shall be satisfactory to the Attorney General.

(Apr. 25, 1947, ch. 41, § 2, 61 Stat. 53; Pub. L. 95–625, title VI, § 610, Nov. 10, 1978, 92 Stat. 3521.)

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888, entitled 'An Act to authorize the condemnation of lands for sites for public buildings, and other purposes' (25 Stat. 357)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

CHANGE OF NAME

Theodore Roosevelt National Memorial Park redesignated Theodore Roosevelt National Park pursuant to Pub. L. 95–625, title VI, § 610, Nov. 10, 1978, 92 Stat. 3521, which is classified to section 241g of this title.

§ 243. Exchange of lands

That for the purposes of acquiring non-Federal lands within the boundaries of said park as established by this subchapter, the Secretary of the Interior is authorized, in his discretion, to exchange federally owned lands within the Roosevelt recreational demonstration area project, located outside the boundaries of the park for State or privately owned lands of approximately equal value within the boundaries of the park, when in his opinion such action is in the interest of the United States, the title to any lands acquired under this section to be satisfactory to the Attorney General. Upon the vesting of title thereto in the United States, any lands acquired pursuant to this authorization shall become a part of the park and shall be subject to the laws applicable thereto.

(Apr. 25, 1947, ch. 41, § 3, 61 Stat. 54.)

§ 244. Construction of log buildings; limitation on cost

The Secretary of the Interior is further authorized to obtain by purchase or condemnation proceedings, as part of said Theodore Roosevelt National Park, lots 6 and 7, section 33, township 144 north, range 102 west; southeast quarter of southeast quarter, section 32, township 144 north, range 102 west; lots 4 and 5, section 4, township 143, range 102 west; and those parts of lot 1 and the southeast quarter of the northeast quarter, section 5, township 143 north, range 102 west, that lie north and east of a line running diagonally from the northwest corner of said lot 1 to the southeast corner of the southeast quarter of the northeast quarter of said section 5, and to reconstruct thereon the log ranch house thirty by sixty feet, the log blacksmith shop sixteen by twenty feet, one log stable sixteen by twenty feet, one log stable twenty by thirty feet, log dog house, three log rectangular corrals, and one log circular corral, as they existed at the time the premises were occupied by Theodore Roosevelt: *Provided*, That the total cost of such land and buildings shall not exceed $40,000.

(Apr. 25, 1947, ch. 41, § 4, 61 Stat. 54; June 10, 1948, ch. 437, § 1, 62 Stat. 352; Pub. L. 95–625, title VI, § 610, Nov. 10, 1978, 92 Stat. 3521.)

AMENDMENTS

1948—Act June 10, 1948, corrected the land description of Theodore Roosevelt's Elkhorn Ranch.

CHANGE OF NAME

Theodore Roosevelt National Memorial Park redesignated Theodore Roosevelt National Park, pursuant to Pub. L. 95–625, title VI, § 610, Nov. 10, 1978, 92 Stat. 3521, which is classified to section 241g of this title.

§ 245. Administration, protection, and development

The Administration, protection, and development of the aforesaid park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(Apr. 25, 1947, ch. 41, § 5, 61 Stat. 54.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 246. Repealed. June 10, 1948, ch. 437, § 1, 62 Stat. 352

Section, act Apr. 25, 1947, ch. 41, § 6, 61 Stat. 54, related to construction of a monument to Theodore Roosevelt.

§ 247. Homestead, mineral, and other rights unaffected

That nothing herein contained shall affect any valid existing claim, location, or entry under the land laws of the United States, whether for homestead, mineral, right-of-way, or any other purposes whatsoever, or shall affect the right of any such claimant, locator, or entryman to the full use and enjoyment of his land.

(Apr. 25, 1947, ch. 41, § 6, formerly § 7, 61 Stat. 54; renumbered § 6, June 10, 1948, ch. 437, § 1, 62 Stat. 352.)

REFERENCES IN TEXT

Herein, referred to in text, means act Apr. 25, 1947, which was generally classified to this subchapter. For complete classification of this Act to the Code, see Tables.

The land laws of the United States, referred to in text, are classified generally to Title 43, Public Lands.

SUBCHAPTER XXVII—OLYMPIC NATIONAL PARK

§ 251. Establishment; boundaries

The Mount Olympus National Monument established pursuant to proclamation of the Presi-

dent dated March 2, 1909, is abolished, and the tracts of land in the State of Washington particularly described as follows, to wit: Township 25 north, range 4 west, sections 5 to 8, 17 to 20, and 29 to 32, inclusive (unsurveyed); township 26 north, range 4 west, sections 1 to 12, 17 to 20, and 29 to 32, inclusive (unsurveyed); township 27 north, range 4 west, sections 5 to 8, 17 to 20, and 29 to 36, inclusive (unsurveyed); township 28 north, range 4 west, sections 17 to 22, and 27 to 34, inclusive (unsurveyed); townships 25, 26, and 27 north, range 5 west (unsurveyed), township 28 north, range 5 west, sections 7 to 36, inclusive (unsurveyed); township 24 north, range 6 west, sections 3 to 10, 15 to 22, and 27 to 34, inclusive (unsurveyed); townships 25, 26, and 27 north, range 6 west (unsurveyed); township 28 north, range 6 west, sections 7 to 36, inclusive (unsurveyed); townships 24, 25, 26, and 27 north range 7 west (unsurveyed); township 28 north, range 7 west, sections 5 to 36, inclusive (unsurveyed); township 24 north, range 8 west, sections 1 to 18, inclusive (partly surveyed); townships 25, 26, 27, and 28 north, range 8 west (unsurveyed); township 29 north, range 8 west, sections 6, 7, 18, 19 to 21, and 28 to 33, inclusive (unsurveyed); township 30 north, range 8 west, sections 18, 19, 30, and 31 (partly surveyed); township 24 north, range 9 west, sections 1 2, 11, 12, 13, and 14 (partly surveyed); township 25 north, range 9 west (unsurveyed); township 26 north, range 9 west, sections 1 to 18, inclusive (unsurveyed) each half of section 19 (unsurveyed), sections 20 to 29, and 32 to 36, inclusive (surveyed); townships 27 and 28 north, range 9 west (unsurveyed); township 29 north, range 9 west (partly surveyed); township 30 north, range 9 west, sections 13, 14, and 23 to 36, inclusive (partly surveyed); township 26 north, range 10 west, sections 1, 12, and 13 (surveyed); township 27 north, range 10 west, sections 1 to 6, inclusive, 12, 13, 24, 25, and 36 (surveyed); township 28 north, range 10 west, south half section 7, south half section 8, south half section 9, south half section 10, south half section 11, south half section 12, sections 13 to 36, inclusive (unsurveyed) all west of the Willamette meridian, in Washington, are reserved and withdrawn from settlement, occupancy, or disposal under the laws of the United States and dedicated and set apart as a public park for the benefit and enjoyment of the people and shall be known as the Olympic National Park, and all lands formerly included in the Mount Olympus National Monument and not included in the above description are transferred to and made a part of the Olympic National Forest.

(June 29, 1938, ch. 812, §1, 52 Stat. 1241.)

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–323, §1, Dec. 22, 2010, 124 Stat. 3532, provided that: ''This Act [enacting provisions set out as a note under this section] may be cited as the 'Hoh Indian Tribe Safe Homelands Act'.''

HOH INDIAN TRIBE SAFE HOMELANDS

Pub. L. 111–323, §§2, 3(a)(1), Dec. 22, 2010, 124 Stat. 3532, provided that, effective Dec. 22, 2010, a parcel of Federal land of approximately 37 acres, administered by the National Park Service, and depicted on the Hoh Indian Tribe Safe Homelands Act Land Acquisition Map, is considered held in trust by the United States for the benefit of the Tribe and shall be excluded from the boundaries of Olympic National Park.

LAND EXCHANGE WITH CITY OF TACOMA, WASHINGTON

Pub. L. 102–436, title I, Oct. 23, 1992, 106 Stat. 2217, provided that if the city of Tacoma offered to convey to the United States approximately 45 acres of land located in the Soleduck and Quileute areas within the boundary of Olympic National Park, in exchange for approximately 30 acres of land adjacent to Lake Cushman as depicted on a map entitled ''Proposed Boundary Revision Olympic National Park'' and dated July 29, 1991, then the Secretary of the Interior was to carry out such exchange, provided Tacoma could deliver clear and unencumbered title, and subject to the laws and regulations applicable to exchanges of land in the National Park System, adjustment of the Olympic National Park boundaries, and additional provisions excluding such exchange from affecting the operating level of Cushman Reservoir, rights of possible intervenors in the Cushman Project, or fishing rights of the Skokomish Tribe or any other Indian tribe.

[Pub. L. 104–134, title I, §101(c) [title I, §116], Apr. 26, 1996, 110 Stat. 1321–156, 1321–178; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, provided that: ''Within 30 days after the enactment of this Act [Apr. 26, 1996], the Department of the Interior shall issue a specific schedule for the completion of the Lake Cushman Land Exchange Act (Public Law 102–436) [probably means title I of Pub. L. 102–436, set out above] and shall complete the exchange not later than September 30, 1996.'']

ACQUISITION OF CERTAIN BUILDINGS, ETC.; APPROPRIATION

Act Dec. 6, 1944, ch. 506, 58 Stat. 793, authorized the Secretary of the Interior to purchase buildings and fixtures of the Olympic Recreation Company and the Olympic Chalet Company, and appropriated $35,000 for that purpose.

§ 251a. Additional lands

Title to State, county, and private lands situated north of the line between townships 27 and 28 north, Willamette base and meridian, Washington, and within the boundaries of the Olympic National Park as now or hereafter established by proclamation of the President of the United States, shall be subject to acceptance under the provisions of section 485 of this title, and such lands when vested in the ownership of the United States shall be a part of the Olympic National Park subject to all laws and regulations applicable thereto.

(Dec. 22, 1942, ch. 800, 56 Stat. 1070.)

§ 251b. Exchange of lands

The Secretary of the Interior is authorized to exchange approximately six thousand six hundred eight and ninety-six one-hundredths acres of land adjacent to the Queets Corridor and Ocean Strip portions of Olympic National Park, which were originally acquired by the Federal Government for public works purposes, for lands and interest in lands not in Federal ownership within the exterior boundaries of the park: *Provided*, That the lands so exchanged shall be of approximately equal value.

(Pub. L. 85–455, §1, June 11, 1958, 72 Stat. 185.)

§ 251c. Administration of acquired lands

Lands acquired pursuant to the exchange authority contained herein shall be administered

as a part of Olympic National Park in accordance with the laws and regulations applicable to the park.

(Pub. L. 85–455, § 2, June 11, 1958, 72 Stat. 185.)

REFERENCES IN TEXT

Herein, referred to in text, means Pub. L. 85–455, June 11, 1958, 72 Stat. 185, which is classified to sections 251b to 251d of this title. The ''exchange authority'' referred to in text is contained in section 1 of the Act, which is classified to section 251b of this title.

§ 251d. Applicability to privately owned lands

The provisions of sections 251b to 251d of this title shall not be applicable with respect to any privately owned lands lying within the exterior boundaries of the Olympic National Park which are within township 23 north, range 10 west; township 23 north, range 9 west; township 24 north, range 9 west; and township 24 north, range 8 west, West Willamette meridian; and lot 5 of the July Creek lot survey consisting of .15 acre, and lot 12 of the July Creek lot survey consisting of .35 acre.

(Pub. L. 85–455, § 3, June 11, 1958, 72 Stat. 185.)

§ 251e. Boundary revision

The boundaries of Olympic National Park as established by sections 251 and 252 to 255 of this title, and as revised by proclamation pursuant to said sections and by or pursuant to section 251a of this title, and sections 251b to 251d of this title, are hereby revised to include the lands, privately owned aquatic lands, and interests therein within the boundaries depicted on the map entitled ''Boundary Map, Olympic National Park, Washington,'' numbered 149–80–001–B, and dated January 1976, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

(Pub. L. 94–578, title III, § 320(a), Oct. 21, 1976, 90 Stat. 2739.)

§ 251f. Consultation by Secretary with Governor, local officials, and affected landowners; notice to Congressional committees; publication in Federal Register

The Secretary of the Interior (hereinafter referred to as the ''Secretary'') shall, beginning within thirty days after October 21, 1976, consult with the Governor of the State of Washington, the Board of Commissioners of Clallam County, and the affected landowners, and shall locate a boundary encompassing all of the shoreline of Lake Ozette, including privately owned aquatic lands not within the boundary of the park on October 21, 1976: *Provided*, That such boundary shall be located not less than two hundred feet set back from the ordinary high-water mark of Lake Ozette: *Provided further*, That the privately owned lands encompassed within the park by such boundary shall not exceed one thousand five hundred acres. The Secretary shall, within one hundred and eighty days after October 21, 1976, and following reasonable notice in writing to the Committees on Interior and Insular Affairs of the Senate and House of Representatives of his intention to do so, publish in the Federal Register a detailed description of the boundary located pursuant to this section. Upon such publication the Secretary is authorized to revise the map on file pursuant to section 251e of this title accordingly, and such revised map shall have the same force and effect as if included in sections 251e to 251m of this title.

(Pub. L. 94–578, title III, § 320(b), Oct. 21, 1976, 90 Stat. 2739.)

REFERENCES IN TEXT

Sections 251e to 251m of this title, referred to in text, was in the original ''this Act'', meaning Pub. L. 94–578.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 251g. Land acquisition; study and investigation of use of private lands; transmittal to President and Congress; transfer of lands to Secretary of Agriculture; excluded property within Indian reservation; continuation of concession contracts; termination of concession contracts and purchase of possessory interest; Indian hunting and fishing rights

Notwithstanding any other provision of law, within the boundaries of the park as revised by and pursuant to sections 251e to 251m of this title, the Secretary is authorized to acquire lands, privately owned aquatic lands, and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer from any Federal agency. Property so acquired shall become part of Olympic National Park and shall be administered by the Secretary subject to the laws and regulations applicable to such park. The Secretary is authorized and directed to exclude from the boundaries of the park such private lands and publicly owned and maintained roads within Grays Harbor County which are near and adjacent to Lake Quinault, and which do not exceed two thousand, one hundred and sixty-eight acres in total. Prior to excluding such lands from the park, the Secretary shall study and investigate current and prospective uses of the private lands, as well as the implications of their exclusion both for the lands involved and for Olympic National Park. The results of such study shall be transmitted to the President and to the Congress within two years of October 21, 1976, and shall take effect unless disapproved by simple majority vote of the House of Representatives or the Senate of the United States of America within ninety legislative days of their submission to the Congress. Property excluded from the boundaries of the park by sections 251e to 251m of this title may be exchanged for non-Federal property within the boundaries; or it may be transferred to the jurisdiction of any Federal agency or to the State of Washington or a political subdivision

thereof, without monetary consideration, as the Secretary may deem appropriate. Any such Federal property transferred to the jurisdiction of the Secretary of Agriculture for national forest purposes shall upon such transfer become part of the national forest and subject to the laws and regulations pertaining thereto. Any property excluded from the park by sections 251e to 251m of this title which is within the boundaries of an Indian reservation may be transferred in trust to such Indian tribe, subject, however, to the express condition that any concessioner providing, public services shall be permitted to continue to provide such services in such manner and for such period as set forth in his concession contract, that the Secretary of the Interior is authorized to pay all franchise fees collected from the concessioner under the contract to said Indian Tribe, and that in the event his contract is terminated, the United States shall purchase his possessory interest in accordance with the Act of October 9, 1965 (79 Stat. 969).[1] The acquisition of lands by the United States in trust for an Indian tribe pursuant to sections 251e to 251m of this title shall not confer any hunting or fishing rights upon such tribe which were not vested in such tribe prior to the acquisition of such lands.

(Pub. L. 94–578, title III, § 320(d), Oct. 21, 1976, 90 Stat. 2739.)

REFERENCES IN TEXT

Sections 251e to 251m of this title, the first three times appearing in text, was in the original ''this Act'' and, where last appearing, was in the original ''this title'', meaning Pub. L. 94–578 and title III of Pub. L. 94–578, respectively.

Act of October 9, 1965, referred to in text, is Pub. L. 89–249, Oct. 9, 1965, 79 Stat. 969, known as the National Park System Concessions Policy Act, which was classified generally to subchapter IV (§ 20 et seq.) of this chapter, prior to repeal by Pub. L. 105–391, title IV, § 415(a), Nov. 13, 1998, 112 Stat. 3515.

§ 251h. Property retention rights; compensation at fair market value; "improved property" defined

(1) Any owner or owners of improved property within the boundaries of the park, as revised by and pursuant to sections 251e to 251m of this title may, on the date of its acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the property for such noncommercial residential purposes as existed on or before January 1, 1976, for twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or his spouse, whichever is later. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner.

(2) As used in sections 251e to 251m of this title, the term ''improved property'' shall mean any single-family dwelling on which construction was begun before January 1, 1976, together with so much of the land on which the dwelling is situated (such land being in the same ownership as the dwelling) as shall be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, as the Secretary shall designate. The amount of the land so designated shall in every case be not more than three acres in area: *Provided*, That the Secretary may exclude from the land so designated any beach or water, together with so much of the land adjoining any such beach or water, as he may deem necessary for public access thereto.

(Pub. L. 94–578, title III, § 320(e), Oct. 21, 1976, 90 Stat. 2740.)

REFERENCES IN TEXT

Sections 251e to 251m of this title, referred to in text, was in the original ''this Act'' and ''this title'', meaning Pub. L. 94–578 and title III of Pub. L. 94–578, respectively.

§ 251i. Land acquisition of privately owned land; report to Congress; condemnation proceedings; compensation

The Secretary is directed to acquire in fee all other privately owned lands added to the park by and pursuant to sections 251e to 251m of this title, and to acquire within three years of October 21, 1976, so much of such lands as can be acquired by donation, exchange, or purchase, to the extent of available funds, and to report to Congress on the third anniversary of October 21, 1976, the estimated amount of appropriations which would be necessary to acquire the remainder, if any, of such lands by condemnation. The compensation for such lands shall be their fair market value on the date of their acquisition, taking into account applicable land use regulations in effect on January 1, 1976.

(Pub. L. 94–578, title III, § 320(f), Oct. 21, 1976, 90 Stat. 2741.)

REFERENCES IN TEXT

Sections 251e to 251m of this title, referred to in text, was in the original ''this Act'', meaning Pub. L. 94–578.

§ 251j. Property retention rights of landowners; use and occupancy improvements; plan to be submitted to Secretary; approval evidenced by issuance of permit and certificate; limitation on acquisition power of Secretary

Notwithstanding the provisions of section 251i of this title, any noncorporate owner or owners, as of January 1, 1976, of property adjacent to Lake Ozette may retain title to such property: *Provided*, That such owner or owners consent to acquisition by the Secretary or[1] scenic easements or other interests that allow only those improvements that the Secretary finds to be reasonably necessary for continued use and occupancy. Any such owner or owners who elects to improve his property or a portion thereof shall submit to the Secretary a plan which shall set forth the manner in which the property is to be improved and the use to which it is proposed to be put. If, upon review of such plan, the Secretary determines that it is compatible with the limitations of this section, he in his discretion may issue a permit to such owner and a certificate to that effect. Upon issuance of any such certificate and so long as such property is main-

[1] See References in Text note below.

[1] So in original. Probably should be ''of''.

tained and used in conformity therewith, the authority of the Secretary to acquire such property or interest therein without the consent of the owner shall be suspended.

(Pub. L. 94–578, title III, § 320(g), Oct. 21, 1976, 90 Stat. 2741.)

§ 251k. Economic dislocation in land acquisition; exchange of lands; transfers of land within a national forest; concurrence of Secretary of Agriculture

In order to minimize economic dislocation in acquiring property within the park, the Secretary may acquire with the consent of the owner, lands and interests in lands outside the boundaries of the park, but within the State of Washington, and with the concurrence of the Secretary of Agriculture, he may utilize lands and interests therein within a national forest in the State of Washington hereby authorized to be transferred to the Secretary, for the purpose of exchanging lands and interests so acquired or transferred for property within the park.

(Pub. L. 94–578, title III, § 320(h), Oct. 21, 1976, 90 Stat. 2741.)

LAND EXCHANGES

Pub. L. 100–71, title I, July 11, 1987, 101 Stat. 415, provided in part: ''That pursuant to 16 U.S.C. 251k, the Secretary may acquire the 270-acre parcel known as Keystone Spit on Whidbey Island, Washington, and convey such parcel to the State of Washington in exchange for the approximately 1,000 acres of tidelands owned by such State within the boundary of Olympic National Park: *Provided further*, That if recreational uses of these tidelands must be regulated, the National Park Service shall consult with the State of Washington prior to the implementation of any such regulations: *Provided further*, That the exchange must include the mineral rights of the tidelands.''

§ 251*l*. Retrocession of lands to State; Quileute Indian Reservation jurisdiction; concurrent legislative jurisdiction with State

Effective upon acceptance thereof by the State of Washington (1) the jurisdiction which the United States acquired over those lands excluded from the boundaries of Olympic National Park by section 251e of this title is hereby retroceded to the State: *Provided*, That the lands restored to the Quileute Indian Reservation shall be subject to the same State and Tribal jurisdiction as all other trust lands within said Reservation; and (2) there is hereby retroceded to such State concurrent legislative jurisdiction, as the Governor of the State of Washington and the Secretary shall determine, over and within all territory within the boundaries of the park as revised by sections 251e to 251m of this title.

(Pub. L. 94–578, title III, § 320(i), Oct. 21, 1976, 90 Stat. 2741.)

REFERENCES IN TEXT

Section 251e of this title and sections 251e to 251m of this title, referred to in text, were in the original ''subsection 1(a) of this Act'' and ''this Act'', respectively. ''This Act'' means Pub. L. 94–578.

§ 251m. Authorization of appropriations

There is hereby authorized to be appropriated not to exceed $23,700,000 for the acquisition of lands, privately owned aquatic lands, or interests therein in accordance with the provisions of sections 251e to 251m of this title. No funds authorized to be appropriated pursuant to sections 251e to 251m of this title shall be available prior to October 1, 1977.

(Pub. L. 94–578, title III, § 320(j), Oct. 21, 1976, 90 Stat. 2741; Pub. L. 96–199, title I, § 110, Mar. 5, 1980, 94 Stat. 70.)

REFERENCES IN TEXT

Sections 251e to 251m of this title, referred to in text, was in the original ''this title'', meaning title III of Pub. L. 94–578.

AMENDMENTS

1980—Pub. L. 96–199 substituted ''$23,700,000'' for ''$13,000,000''.

§ 251n. Additional boundary revision

(a) The boundary of Olympic National Park, Washington, is hereby revised to include within the park—

(1) all submerged lands and waters of Lake Ozette, Washington, and the Ozette River, Washington;

(2) all surveyed and unsurveyed islands, above the point of lowest low tide, lying off the coast of the State of Washington in the Pacific Ocean between latitudes 48 degrees 23 minutes north and 47 degrees 34 minutes north: *Provided*, That such lands as are identified in this paragraph shall continue to be open to fishing and to the taking of shellfish in conformity with the laws and regulations of the State of Washington;

(3) those lands between mean high tide and the lowest low tide beginning in section 22, township 24 north, range 13 west Willamette meridian, at the common boundary between the Olympic National Park and the Quinault Indian Reservation, to section 18, township 32 north, range 15 west Willamette meridian, at the common boundary between the Olympic National Park and the Makah Indian Reservation, except those lands directly adjacent to and west of the Hoh, Ozette, and Quillayute Indian Reservations: *Provided*, That such lands as are identified in this paragraph shall continue to be open to fishing and to the taking of shellfish in conformity with the laws and regulations of the State of Washington; and

(4) approximately nine thousand six hundred and thirty-eight acres, and to exclude from the park approximately three thousand three hundred and fifty-two acres, as generally depicted on the maps entitled ''Boundary Modifications, Olympic National Forest and Olympic National Park'', numbered 149/60,030A, sheets 1 through 9, and dated September 1986, which shall be on file and available for public inspection in the office of the National Park Service, United States Department of the Interior.

(b) The boundary of Olympic National Forest, Washington, is hereby revised to include in the national forest approximately three thousand three hundred and fifty-two acres and to exclude from the national forest approximately nine thousand three hundred and twenty-four acres,

as generally depicted on the maps entitled ''Boundary Modifications, Olympic National Forest and Olympic National Park'', numbered 149/60,030A, sheets 1 through 9, and dated September 1986, which shall be on file and available for public inspection in the office of the Forest Service, United States Department of Agriculture.

(Pub. L. 99–635, § 1(a), (b), Nov. 7, 1986, 100 Stat. 3527; Pub. L. 100–668, title I, § 104(c)(1)–(3), Nov. 16, 1988, 102 Stat. 3962.)

AMENDMENTS

1988—Subsec. (a)(2). Pub. L. 100–668, § 104(c)(1), (2), inserted '', above the point of lowest low tide,'' after ''islands'', substituted ''34 minutes north'' for ''38 minutes north'', and inserted proviso at end.

Subsec. (b). Pub. L. 100–668, § 104(c)(3), substituted ''sheets 1 through 9'' for ''sheets 1 through 10''.

TRANSFER OF ADMINISTRATIVE JURISDICTION OF EXCHANGED PARK AND FOREST LANDS; AUTHORIZATION OF APPROPRIATIONS

Sections 2 to 5 of Pub. L. 99–635, as amended by Pub. L. 100–668, title I, § 104(c)(4)–(6), Nov. 16, 1988, 102 Stat. 3962, provided that:

''SEC. 2. (a) Federal lands, waters, and interests therein formerly within the boundary of Olympic National Forest which are included within the boundary of Olympic National Park pursuant to section 1 of this Act [16 U.S.C. 251n] are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of the Interior for administration as part of the park, and shall be subject to all the laws and regulations applicable to the park: *Provided further*, That within section 15, township 24 north, range 9 west Willamette meridian, and within an area extending not more than one mile north of such section, nothing herein shall be construed to limit or otherwise modify the authority of the Secretary of Agriculture to design and construct a forest logging road east of the park boundary: *Provided, however*, That the Secretary of Agriculture shall construct the road as close as practically possible to the park boundary but not more than five hundred feet east of the divide. Following construction, the Secretary of the Interior is hereby authorized and directed to redescribe and relocate the boundary of the park along the eastern clearing limits of the road.

''(b) Federal lands, waters, and interests therein formerly within the boundary of Olympic National Park which are excluded therefrom pursuant to section 1 of this Act [16 U.S.C. 251n] are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of Agriculture for administration as part of Olympic National Forest, and shall be subject to all the laws and regulations applicable to the National Forest System: *Provided*, That any lands deleted from the park and included within the Buckhorn Wilderness, Mount Skokomish Wilderness, or The Brothers Wilderness pursuant to this Act [enacting this section and this note] shall be managed in accordance with the provisions of the Washington State Wilderness Act of 1984 (Public Law 98–339, Act of July 3, 1984, 98 Stat. 301).

''SEC. 3. (a) The Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, bequest or otherwise any non-Federal lands, waters, and interests therein included within the boundary of Olympic National Park pursuant to section 1 of this Act [16 U.S.C. 251n]: *Provided*: That any lands, waters, or interests therein owned by the State of Washington or any political subdivision thereof may be acquired only by donation or exchange.

''(b) For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903, as amended; 16 U.S.C. 460*l*–9), the boundary of the Olympic National Forest, as modified pursuant to section 1 of this Act [16 U.S.C. 251n], shall be treated as if it was the boundary of that national forest on January 1, 1965.

''SEC. 4. Effective upon acceptance thereof by the State of Washington, the jurisdiction which the United States acquired over those lands excluded from the boundaries of Olympic National Park by this Act [enacting this section and this note] is hereby retroceded to the State.

''SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act [enacting this section and this note], except that the total amounts authorized to be appropriated for the purpose of acquisition of lands, waters, and interests therein pursuant to this Act shall not exceed $1,000,000.''

§ 252. Disposal of mineral rights

In the areas of said park lying east of the range line between ranges 9 and 10 and north of the seventh standard parallel, and east of the range line between ranges 4 and 5 west, Willamette meridian, all mineral deposits of the classes and kinds now subject to location, entry, and patent under the mining laws of the United States shall be, exclusive of the land containing them, subject to disposal under such laws for a period of five years from June 29, 1938, with rights of occupation and use of so much of the surface of the land as may be required for all purposes reasonably incident to the mining or removal of the minerals and under such general regulations as may be prescribed by the Secretary of the Interior.

(June 29, 1938, ch. 812, § 2, 52 Stat. 1242.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

§ 253. Apportionment of income among counties

The income of each county receiving moneys from the Olympic National Forest, under section 500 of this title, shall be proportional to the total area of each county in the Olympic National Forest and the Olympic National Park combined.

(June 29, 1938, ch. 812, § 3, 52 Stat. 1242.)

§ 254. Administration, protection, and development

The administration, protection, and development of the Olympic National Park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(June 29, 1938, ch. 812, § 4, 52 Stat. 1242.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 255. Effect on existing homestead, mineral, etc., entries; revision of boundaries

Nothing contained herein shall affect any valid existing claim, location, or entry made

under the land laws of the United States, whether for homestead, mineral, right-of-way, or any other purpose whatsoever, or shall affect the right of any such claimant, locator, or entryman to the full use and enjoyment of his land, nor the rights reserved by treaty to the Indians of any tribes. The boundaries of Olympic National Park may be revised only by Act of Congress.

(June 29, 1938, ch. 812, §5, 52 Stat. 1242; Pub. L. 94–578, title III, §320(c), Oct. 21, 1976, 90 Stat. 2739.)

REFERENCES IN TEXT

Herein, referred to in text, means act June 29, 1938, which is classified to sections 251 and 252 to 255 of this title. For complete classification of this Act to the Code, see Tables.

The land laws of the United States, referred to in text, are classified generally to Title 43, Public Lands.

AMENDMENTS

1976—Pub. L. 94–578 substituted ''The boundaries of Olympic National Park may be revised only by Act of Congress'' for ''The President may after eight months from June 29, 1938 by proclamation add to the Olympic National Park any lands within the boundaries of the Olympic National Forest, and any lands which may be acquired by the Government by gift or purchase, which he may deem it advisable to add to such park; and any lands so added to such park shall, upon their addition thereto, become subject to all laws and regulations applicable to other lands within such park: *Provided*, That the total area of the said park shall not exceed eight hundred and ninety-eight thousand two hundred and ninety-two acres: *Provided further*, That before issuing any such proclamation, the President shall consult with the Governor of the State of Washington, the Secretary of the Interior, and the Secretary of Agriculture and advise them of the lands which he proposes to add to such park, and shall afford them a reasonable opportunity to consult with and communicate to him their views and recommendations with respect to the addition of such lands to such park.''

PROCLAMATION NO. 3003

Proc. No. 3003, Jan. 6, 1953, 18 F.R. 169, enlarged the Olympic National Park by adding to it certain lands within the Olympic National Forest.

§ 256. Acceptance of land ceded by State of Washington; assumption of jurisdiction

The provisions of the act of the Legislature of the State of Washington, approved March 8, 1941 (Chapter 51 of the Laws of 1941 of the State of Washington), ceding to the United States exclusive jurisdiction over and within all the territory included on March 8, 1941, in the tract of land in the State of Washington, set aside for the purposes of a national park and known as the Olympic National Park, are accepted. Subject to the reservations made by the State in the act of cession, the United States assumes sole and exclusive jurisdiction over such territory.

(Mar. 6, 1942, ch. 151, §1, 56 Stat. 135.)

REFERENCES IN TEXT

Act of State of Washington ''approved March 8, 1941'', referred to in text, may be found in Rem. Rev. St., §8110–1 and Revised Code of Washington Annotated, §37.08.210.

§ 256a. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section, act Mar. 6, 1942, ch. 151, §2, 56 Stat. 136, related to inclusion of park in a judicial district. See section 128 of Title 28, Judiciary and Judicial Procedure.

§ 256b. Hunting and fishing; general rules and regulations; protection of property; violation of statutes or rules; penalties

All hunting or the killing, wounding, or capturing at any time of any wild bird or animal, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury, is prohibited within the limits of the park, nor shall any fish be taken out of any of the waters of the park, except at such seasons and at such times and in such manner as may be directed by the Secretary of the Interior. The Secretary of the Interior shall make and publish such general rules and regulations as he may deem necessary and proper for the management and care of the park and for the protection of the property therein, especially for the preservation from injury or spoliation of all timber, mineral deposits, natural curiosities, or wonderful objects within the park, and for the protection of the animals and birds in the park from capture or destruction, and to prevent their being frightened or driven from the park; and he shall make rules and regulations governing the taking of fish from the waters in the park. Possession within the park of the dead bodies or any part thereof of any wild bird or animal shall be prima facie evidence that the person or persons having the same are guilty of violating this Act. Any person or persons, stage or express company, railway or other transportation company, who knows or has reason to believe that such wild birds, fish, or animals were taken or killed contrary to the provisions of this Act or the rules and regulations promulgated by the Secretary of the Interior, and who receives for transportation the dead bodies or any part thereof of the wild birds, fish, or animals so taken or killed, or who shall violate any of the other provisions of this Act, or the rules and regulations, with reference to the management and care of the park, or for the protection of the property therein, for the preservation from injury or spoliation of timber, mineral deposits, natural curiosities, or wonderful objects within the park, or for the protection of the animals, birds, and fish in the park, or who shall within the park commit any damage, injury, or spoliation to or upon any building, fence, sign, hedge, gate, guidepost, tree, wood, underwood, timber, garden, crops, vegetables, plants, land, springs, mineral deposits, natural curiosities, or other matter or thing growing or being thereon, or situated therein, shall be deemed guilty of a class B misdemeanor in accordance with provisions of title 18.

(Mar. 6, 1942, ch. 151, §3, 56 Stat. 136; Pub. L. 100–668, title I, §104(a), Nov. 16, 1988, 102 Stat. 3962.)

REFERENCES IN TEXT

This Act, referred to in text, is act Mar. 6, 1942, which is classified to sections 256 to 256i of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1988—Pub. L. 100–668 substituted ''a class B misdemeanor in accordance with provisions of title 18'' for ''a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all the costs of the proceedings''.

§ 256c. Forfeiture of property used in hunting, fishing, etc.

All guns, bows, traps, nets, seines, fishing tackle, clothing, teams, horses, machinery, logging equipment, motor vehicles, aircraft, boats, or means of transportation of every nature or description used by any person or persons or organizations within the limits of the park when engaged in or attempting to engage in killing, trapping, ensnaring, taking or capturing such wild birds, fish or animals, or taking, destroying or damaging such trees, plants, or mineral deposits contrary to the provisions of this Act or the rules and regulations promulgated by the Secretary of the Interior shall be forfeited to the United States and may be seized by the officers in the park and held pending prosecution of any person or persons or organization arrested under or charged with violating the provisions of this Act, and upon conviction under this Act of such persons or organizations using said guns, bows, traps, nets, seines, fishing tackle, clothing, teams, horses, machinery, logging equipment, motor vehicles, aircraft, boats, or other means of transportation of every nature and description used by any person or persons or organization, such forfeiture shall be adjudicated as a penalty in addition to the other punishment prescribed in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior: *Provided*, That the forfeiture of teams, horses, machinery, logging equipment, motor vehicles, aircraft, boats, or other means of transportation shall be in the discretion of the Court.

(Mar. 6, 1942, ch. 151, § 4, 56 Stat. 136; Pub. L. 100–668, title I, § 104(b), Nov. 16, 1988, 102 Stat. 3962.)

REFERENCES IN TEXT

This Act, referred to in text, is act Mar. 6, 1942, which is classified to sections 256 to 256i of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1988—Pub. L. 100–668 amended section generally. Prior to amendment, section read as follows: ''All guns, traps, nets, seines, fishing tackle, teams, horses, or means of transportation of every nature or description used by any person or persons within the limits of the park when engaged in killing, trapping, ensnaring, taking, or capturing such wild birds, fish, or animals contrary to the provisions of this Act or the rules and regulations promulgated by the Secretary of the Interior shall be forfeited to the United States and may be seized by the officers in the park and held pending prosecution of any person or persons arrested under the charge of violating the provisions of this Act, and upon conviction under this Act of such person or persons using said guns, traps, nets, seines, fishing tackle, teams, horses, or other means of transportation, such forfeiture shall be adjudicated as a penalty in addition to the other punishment prescribed in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior: *Provided*, That the forfeiture of teams, horses, or other means of transportation shall be in the discretion of the court.''

§§ 256d to 256h. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 256d, acts Mar. 6, 1942, ch. 151, § 5, 56 Stat. 137; Apr. 21, 1948, ch. 223, § 4, 62 Stat. 197, related to appointment and jurisdiction of commissioner. See provisions covering United States magistrate judges in section 631 et seq. of Title 28, Judiciary and Judicial Procedure.

Section 256e, act Mar. 6, 1942, ch. 151, § 6, 56 Stat. 137, related to issuance of process. See sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and rules 4, 5(c), and 9 of Federal Rules of Criminal Procedure, Title 18, Appendix.

Section 256f, act Mar. 6, 1942, ch. 151, § 7, 56 Stat. 137, related to commissioner's [now magistrate judge's] salary.

Section 256g, act Mar. 6, 1942, ch. 151, § 8, 56 Stat. 137, related to certification and payment of fees, costs, and expenses.

Section 256h, act Mar. 6, 1942, ch. 151, § 9, 56 Stat. 137, related to disposition of fines and costs.

§ 256i. Notice to Governor of Washington; application of laws to subsequently accepted lands

The Secretary of the Interior shall notify in writing the Governor of the State of Washington of the passage and approval of this Act, and of the fact that the United States assumes police jurisdiction over the park. Upon the acceptance by the Secretary of the Interior of further cessions of jurisdiction over lands now or hereafter included in the Olympic National Park, the provisions of sections 256b and 256c of this title shall apply to such lands.

(Mar. 6, 1942, ch. 151, § 10, 56 Stat. 137.)

REFERENCES IN TEXT

This Act, referred to in text, is act Mar. 6, 1942, which is classified to sections 256 to 256i of this title. For complete classification of this Act to the Code, see Tables.

SUBCHAPTER XXVIII—CUMBERLAND GAP NATIONAL HISTORICAL PARK

§ 261. Establishment; description of area

When title to such lands, structures, and other property in the Cumberland Gap-Cumberland Ford areas, being portions of the Warriors Path of the Indians and Wilderness Road of Daniel Boone, within Bell and Harlan Counties, Kentucky; Lee County, Virginia; and Claiborne County, Tennessee; as may be determined by the Secretary of the Interior as necessary or desirable for national historical park purposes, shall have been vested in the United States, such area or areas shall be, and they are, established, dedicated, and set apart as a public park for the benefit and inspiration of the people and shall be known as the Cumberland Gap National Historical Park: *Provided*, That the United States shall not purchase by appropriation of public moneys any lands within the aforesaid areas.

(June 11, 1940, ch. 304, § 1, 54 Stat. 262; May 26, 1943, ch. 103, § 1, 57 Stat. 85.)

AMENDMENTS

1943—Act May 26, 1943, omitted proviso relating to inclusion of certain specified lands.

§ 262. Total area; consent of Congress to acquisition of lands and property and transfer thereof to United States

The total area of the Cumberland Gap National Historical Park, as determined pursuant to this subchapter, shall comprise not less than six thousand acres and shall not exceed fifty thousand acres, and lands may be added to the park following its establishment within the aforesaid limitations. The park shall not include any land within the city limits of Middlesboro and Pineville, Kentucky; Cumberland Gap, Tennessee; which the proper officials thereof shall indicate to the Secretary of the Interior prior to the establishment of said park are required for expansion of said cities.

(a) The consent of Congress is given to the States of Tennessee, Kentucky, and Virginia to enter into a compact providing for (1) the acquisition of the lands, structures, and other property in the Cumberland Gap-Cumberland Ford areas referred to in section 261 of this title, and (2) the transfer of title to such lands, structures, and other property to the United States.

(b) The right to alter, amend, or repeal this section is expressly reserved.

(June 11, 1940, ch. 304, § 2, 54 Stat. 263; May 26, 1943, ch. 103, § 2, 57 Stat. 85.)

AMENDMENTS

1943—Act May 26, 1943, among other changes, inserted minimum acreage limitation in first par. and added pars. (a) and (b).

§ 263. Acceptance of donations

The Secretary of the Interior is authorized to accept donations of land, interests in land, buildings, structures, and other property within the boundaries of the said historical park as determined and fixed under this subchapter, and donations of funds for the purchase and maintenance thereof: *Provided*, That he may acquire on behalf of the United States out of any donated funds, by purchase at prices deemed by him reasonable, or by condemnation under the provisions of section 3113 of title 40, such tracts of land within said historical park as may be necessary for the completion thereof. The title to any lands or interests in lands to be acquired pursuant to this subchapter shall be satisfactory to the Secretary of the Interior.

(June 11, 1940, ch. 304, § 3, 54 Stat. 263.)

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 264. Administration, protection, and development

The administration, protection, and development of the aforesaid national historical park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(June 11, 1940, ch. 304, § 4, 54 Stat. 263.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 265. Addition of lands

The Secretary of the Interior may acquire for addition to Cumberland Gap National Historical Park the following described land and interests in land, located in Bell County, Kentucky: *Provided*, That appropriated funds may not be used to pay more than one-half the cost of such acquisition.

Beginning at a concrete marker on the west boundary of Cumberland Gap National Historical Park and being on the south margin of Avondale Avenue in the city of Middlesboro, Kentucky, and also on the south bank of Davis Branch; thence along the park boundary the following courses and distances;

South 24 degrees 50 minutes west, 196.79 feet; thence south 30 degrees 02 minutes west, 129.95 feet to a stake; thence south 12 degrees 22 minutes west, 31.82 feet; thence south 80 degrees 38 minutes west, 143.36 feet; thence south 88 degrees 04 minutes west, 100 feet; thence north 86 degrees 14 minutes west, 100 feet; thence north 80 degrees 33 minutes west, 100 feet; thence north 77 degrees 42 minutes west, 186.40 feet;

Thence north 82 degrees 51 minutes west, 271.55 feet; thence leaving the park boundary and following along the south right-of-way of Clydesdale Avenue south 71 degrees 39 minutes west, 310 feet, more or less, to the north right-of-way of United States Highway 25E;

Thence along the said highway right-of-way south 82 degrees 09 minutes west, 317 feet, more or less, to its intersection with the north right-of-way of Clydesdale Avenue; thence along the north right-of-way of Clydesdale Avenue north 70 degrees 09 minutes east, 423 feet, more or less, to a point on the park boundary;

Thence with the park boundary the following courses and distances: south 86 degrees 39 minutes west, 261.44 feet; thence south 81 degrees 26 minutes west, 147.66 feet; thence north 6 degrees 55 minutes west, 49.23 feet; thence south 83 degrees 04 minutes west, 980 feet; thence north 6 degrees 55 minutes west, 135 feet, more or less, to a point in the middle of Little Yellow Creek;

Thence leaving the park boundary and up the center of the meanders of Little Yellow Creek, 2,562 feet, more or less, to a point in the middle of Little Yellow Creek which is also a point in the middle of Davis Branch;

Thence leaving Little Yellow Creek and along the center of Davis Branch, 400 feet, more or less, to the south margin of Avondale Avenue; thence with the south right-of-way of Avondale Avenue south 55 degrees 44 minutes east, 5 feet, more or less, to the point of beginning, said tract containing 9.0 acres, more or less.

(Pub. L. 87–111, § 1, July 26, 1961, 75 Stat. 224.)

CODIFICATION

Section was not enacted as part of act June 11, 1940, ch. 304, 54 Stat. 262, which comprises this subchapter.

APPROPRIATIONS

Section 2 of Pub. L. 87–111 authorized to be appropriated such sums, but not more than $30,000, as were necessary to carry out the provisions of this section.

§ 266. Authorization of appropriations for acquisition of additional lands

For the acquisition of lands authorized in section 267 of this title, there are authorized to be appropriated such sums as may be necessary, but not more than $427,500.

(Pub. L. 93–477, title I, § 101(3), Oct. 26, 1974, 88 Stat. 1445.)

CODIFICATION

Section was not enacted as part of act June 11, 1940, ch. 304, 54 Stat. 262, which comprises this subchapter.

§ 267. Authority of Secretary to acquire additional lands

Notwithstanding the provisions of this subchapter, the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange not to exceed 60 acres of land or interests in land located in Bell County, Kentucky, and Claiborne County, Tennessee, for addition to and inclusion in the said national historical park which, upon acquisition, shall become a part of the Cumberland National Historical Park subject to the laws, rules, and regulations governing such park.

(Pub. L. 93–477, title III, § 301(2), Oct. 26, 1974, 88 Stat. 1446.)

CODIFICATION

Section was not enacted as part of act June 11, 1940, ch. 304, 54 Stat. 262, which comprises this subchapter.

§ 268. Authority of Secretary to acquire lands for trailheads

(a) Authority

Notwithstanding the Act of June 11, 1940 (16 U.S.C. 261 et seq.), the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange not to exceed 10 acres of land or interests in land, which shall consist of those necessary lands for the establishment of trailheads to be located at White Rocks and Chadwell Gap.

(b) Administration

Lands and interests in lands acquired pursuant to subsection (a) of this section shall be added to and administered as part of the Cumberland Gap National Historical Park.

(Pub. L. 104–333, div. I, title II, § 216, Nov. 12, 1996, 110 Stat. 4112.)

REFERENCES IN TEXT

The act of June 11, 1940, referred to in subsec. (a), is act June 11, 1940, ch. 304, 54 Stat. 262, as amended, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Omnibus Parks and Public Lands Management Act of 1996, and not as part of act June 11, 1940, ch. 304, 54 Stat. 262, which comprises this subchapter.

§ 268a. Acquisition of Fern Lake watershed

(a) Short title

This section may be cited as the ''Fern Lake Conservation and Recreation Act''.

(b) Findings and purposes

(1) Findings

The Congress finds the following:

(A) Fern Lake and its surrounding watershed in Bell County, Kentucky, and Claiborne County, Tennessee, is[1] within the potential boundaries of Cumberland Gap National Historical Park as originally authorized by the Act of June 11, 1940 (54 Stat. 262; 16 U.S.C. 261 et seq.).

(B) The acquisition of Fern Lake and its surrounding watershed and its inclusion in Cumberland Gap National Historical Park would protect the vista from Pinnacle Overlook, which is one of the park's most valuable scenic resources and most popular attractions, and enhance recreational opportunities at the park.

(C) Fern Lake is the water supply source for the city of Middlesboro, Kentucky, and environs.

(D) The 4,500-acre Fern Lake watershed is privately owned, and the 150-acre lake and part of the watershed are currently for sale, but the Secretary of the Interior is precluded by the first section of the Act of June 11, 1940 (16 U.S.C. 261), from using appropriated funds to acquire the lands.

(2) Purposes

The purposes of the section are—

(A) to authorize the Secretary of the Interior to use appropriated funds if necessary, in addition to other acquisition methods, to acquire from willing sellers Fern Lake and its surrounding watershed, in order to protect scenic and natural resources and enhance recreational opportunities at Cumberland Gap National Historical Park; and

(B) to allow the continued supply of water from Fern Lake to the city of Middlesboro, Kentucky, and environs.

(c) Land acquisition and conveyance authority, Fern Lake, Cumberland Gap National Historical Park

(1) Definitions

In this section:

(A) Fern Lake

The term ''Fern Lake'' means Fern Lake located in Bell County, Kentucky, and Claiborne County, Tennessee.

(B) Land

The term ''land'' means land, water, interests in land, and any improvements on the land.

(C) Park

The term ''park'' means Cumberland Gap National Historical Park, as authorized and established by the Act of June 11, 1940 (54 Stat. 262; 16 U.S.C. 261 et seq.).

[1] So in original. Probably should be ''are''.

(D) Secretary

The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the National Park Service.

(2) Acquisition authorized

The Secretary may acquire for addition to the park lands consisting of approximately 4,500 acres and containing Fern Lake and its surrounding watershed, as generally depicted on the map entitled ''Cumberland Gap National Historical Park, Fern Lake Watershed'', numbered 380/80,004, and dated May 2001. The map shall be on file in the appropriate offices of the National Park Service.

(3) Boundary adjustment and administration

Subject to paragraph (4), the Secretary shall revise the boundaries of the park to include the land acquired under paragraph (2). The Secretary shall administer the acquired lands as part of the park in accordance with the laws and regulations applicable to the park.

(4) Conveyance of Fern Lake

(A) Conveyance required

If the Secretary acquires Fern Lake, the Secretary shall convey, notwithstanding any other law and without consideration, to the city of Middlesboro, Kentucky, all right, title, and interest of the United States in and to Fern Lake, up to the normal operating elevation of 1,200.4 feet above sea level, along with the dam and all appurtenances associated with the withdrawal and delivery of water from Fern Lake.

(B) Terms of conveyance

In executing the conveyance under subparagraph (4)(A), the Secretary may retain an easement for scenic and recreational purposes.

(C) Reversionary interest

In the event Fern Lake is no longer used as a source of municipal water supply for the city of Middlesboro, Kentucky, and its environs, ownership of Fern Lake shall revert to the United States and it shall be managed by the Secretary as part of the park.

(5) Consultation requirements

In order to better manage lands acquired under this section in a manner that will facilitate the provision of water for municipal needs, as well as the establishment and promotion of new recreational opportunities at the park, the Secretary shall consult with—

(A) appropriate officials in the States of Kentucky, Tennessee, and Virginia, and political subdivisions of these States;

(B) organizations involved in promoting tourism in these States; and

(C) other interested parties.

(Pub. L. 108–199, div. H, §150, Jan. 23, 2004, 118 Stat. 446.)

REFERENCES IN TEXT

This section and the section, referred to in subsecs. (a) and (b)(2), were in the original ''This Act'' and ''the Act'', which were translated as meaning section 150 of Pub. L. 108–199, div. H, Jan. 23, 2004, 118 Stat. 446, to reflect the probable intent of Congress.

The act of June 11, 1940, referred to in subsecs. (b)(1)(A) and (c)(1)(C), is act June 11, 1940, ch. 304, 54 Stat. 262, as amended, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as the Fern Lake Conservation and Recreation Act, and also as part of the Miscellaneous Appropriations and Offsets Act, 2004, and Consolidated Appropriations Act, 2004, and not as part of act June 11, 1940, ch. 304, 54 Stat. 262, which comprises this subchapter.

SUBCHAPTER XXIX—CANYONLANDS NATIONAL PARK

§ 271. Establishment; description of area

In order to preserve an area in the State of Utah possessing superlative scenic, scientific, and archeologic features for the inspiration, benefit, and use of the public, there is hereby established the Canyonlands National Park which, subject to valid existing rights, shall comprise the area generally depicted on the drawing entitled ''Boundary Map, Canyonlands National Park, Utah'', numbered 164–91004 and dated June 1970, which shows the boundaries of the park having a total of approximately three hundred and thirty-seven thousand two hundred and fifty-eight acres. The map is on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(Pub. L. 88–590, §1, Sept. 12, 1964, 78 Stat. 934; Pub. L. 92–154, §1(a), Nov. 12, 1971, 85 Stat. 421.)

AMENDMENTS

1971—Pub. L. 92–154 substituted provision respecting revision of boundaries of the park and referring to Boundary Map on file and available for public inspection for depiction of the park area on the drawing, for prior specific detailed description of the area.

§ 271a. Acquisition of lands; authority of Secretary; exchange of property; cash equalization payments; transfer from Federal agency to administrative jurisdiction of Secretary; lands subject to reclamation and power withdrawals

Within the area which lies within the boundaries of the park, the Secretary of the Interior is authorized to acquire lands and interests in lands by such means as he may deem to be in the public interest. The Secretary may accept title to any non-Federal property within the park, including State-owned school sections and riverbed lands, and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction within the State of Utah, notwithstanding any other provision of law. The properties so exchanged shall be of the same classification, as near as may be, and shall be of approximately equal value, and the Secretary shall take administrative action to complete transfer on any lands in a proper application by the State of Utah on or before the expiration of one hundred twenty days following the date of enactment of this Act [September 12, 1964] or any amendment thereto: *Provided*, That the Secretary may accept cash from, or pay cash to, the grantor in

such an exchange in order to equalize the values of the properties exchanged. Federal property located within the boundaries of the park may, with the concurrence of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary of the Interior, without consideration, for use by him in carrying out the purposes of this subchapter. Any lands within the boundaries of the park which are subject to Bureau of Reclamation or Federal Power Commission withdrawals are hereby freed and exonerated from any such withdrawal and shall, on September 12, 1964, become a part of the Canyonlands National Park subject to no qualifications except those imposed by this subchapter or any amendment thereto.

(Pub. L. 88–590, § 2, Sept. 12, 1964, 78 Stat. 937; Pub. L. 92–154, § 1(b), Nov. 12, 1971, 85 Stat. 421.)

REFERENCES IN TEXT

Date of enactment of this Act or any amendment thereto, referred to in text, means Sept. 12, 1964, date of enactment of Pub. L. 88–590, originally classified to sections 271 to 271d of this title, and Nov. 12, 1971, date of enactment of Pub. L. 92–154, amendatory of Pub. L. 88–590 and classified to sections 271 to 271b, 271e to 271g of this title.

AMENDMENTS

1971—Pub. L. 92–154 struck out ''described in section 271 of this title'' after ''Within the area'', inserted in third sentence ''or any amendment thereto'' after ''the date of enactment of this Act'', and inserted in fifth sentence ''or any amendment thereto'' after ''this subchapter''.

TRANSFER OF FUNCTIONS

Federal Power Commission terminated and functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 271b. Grazing privileges; right of occupancy or use for fixed term of years; renewal

Where any Federal lands included within the Canyonlands National Park are legally occupied or utilized on the date of approval of this Act or any amendment thereto for grazing purposes, pursuant to a lease, permit, or license for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, the Secretary of the Interior shall permit the persons holding such grazing privileges to continue in the exercise thereof during the term of the lease, permit, or license, and one period of renewal thereafter.

(Pub. L. 88–590, § 3, Sept. 12, 1964, 78 Stat. 938; Pub. L. 92–154, § 1(c), Nov. 12, 1971, 85 Stat. 421.)

REFERENCES IN TEXT

Date of approval of this Act or any amendment thereto, referred to in text, means Sept. 12, 1964, date of enactment of Pub. L. 88–590, originally classified to sections 271 to 271d of this title, and Nov. 12, 1971, date of approval of Pub. L. 92–154, amendatory of Pub. L. 88–590 and classified to sections 271 to 271b, 271e to 271g of this title.

AMENDMENTS

1971—Pub. L. 92–154 inserted ''or any amendment thereto'' after ''date of approval of this Act''.

§ 271c. Access roads

(a) Entrance roads and connections; administrative headquarters sites

In order to provide suitable access to the Canyonlands National Park and facilities and services required in the operation and administration of the park, the Secretary may select the location or locations of an entrance road or roads to such park and to points of interest therein from United States Route 160 and State Routes 24 and 95, including necessary entrance and related administrative headquarters sites upon lands located outside the park, and he may select a suitable location or locations outside the park for connections between entrance roads and between roads lying within the Canyonlands National Park.

(b) Acquisition of lands; authority of Secretary; rights-of-way acreage limitation; administration

To carry out the purposes of this section, the Secretary may acquire non-Federal lands or interests in lands by donation, purchase, condemnation, exchange, or such other means as he may deem to be in the public interest: *Provided*, That lands and interests in lands acquired outside the park as rights-of-way for said entrance roads and connections shall not exceed an average of one hundred twenty-five acres per mile. Rights-of-way and entrance and administrative sites acquired pursuant to this authority shall be administered pursuant to such special regulations as the Secretary may promulgate in furtherance of the purposes of this section.

(c) Parkway standards for entrance roads and connections; approval of Secretary of Agriculture for construction of roads crossing national forest land

The Secretary may construct, reconstruct, improve, and maintain upon the lands or interests in lands acquired pursuant to this section, or otherwise in Government ownership, an entrance road or roads and connections of parkway standards, including necessary bridges and other structures and utilities as necessary, and funds appropriated for the National Park Service shall be available for these purposes: *Provided*, That if any portion of such road or roads crosses national forest land the Secretary shall obtain the approval of the Secretary of Agriculture before construction of such portion shall begin.

(d) Forest road; cooperation of Secretary of the Interior with Secretary of Agriculture; extension

The Secretary is hereby authorized to cooperate with the Secretary of Agriculture in the location and extension of a forest development road from State Route 95 and may extend the same from the national forest boundary to the park and points of interest therein in accordance with the applicable provisions of this section.

(Pub. L. 88–590, § 4, Sept. 12, 1964, 78 Stat. 938.)

§ 271d. Administration, protection, and development

Subject to the provisions of this subchapter, the administration, protection, and development

of the Canyonlands National Park, as established pursuant to this subchapter, shall be exercised by the Secretary of the Interior in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented.

(Pub. L. 88–590, § 5, Sept. 12, 1964, 78 Stat. 939.)

§ 271e. Report to President

Within three years from November 12, 1971, the Secretary of the Interior shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendations as to the suitability or nonsuitability of any area within the national park for preservation as wilderness, and any designation of any such area as a wilderness shall be accomplished in accordance with said section 1132(c) and (d) of this title.

(Pub. L. 88–590, § 6, as added Pub. L. 92–154, § 1(d), Nov. 12, 1971, 85 Stat. 421.)

§ 271f. Omitted

CODIFICATION

Section, Pub. L. 88–590, § 7, as added Pub. L. 92–154, § 1(d), Nov. 12, 1971, 85 Stat. 421, authorized the Secretary to conduct a study of proposed road alinements within and adjacent to the park and to submit a report on the findings and conclusions of the study to the Congress within two years of Nov. 12, 1971.

§ 271g. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter, not to exceed, however, $104,500 for the acquisition of lands and not to exceed $5,102,000 (April 1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein. The sums authorized in this section shall be available for acquisition and development in the areas added by this subchapter.

(Pub. L. 88–590, § 8, as added Pub. L. 92–154, § 1(d), Nov. 12, 1971, 85 Stat. 421; amended Pub. L. 94–578, title I, § 101(12), Oct. 21, 1976, 90 Stat. 2732.)

AMENDMENTS

1976—Pub. L. 94–578 substituted ''$104,500'' for ''$16,000''.

SUBCHAPTER XXX—ARCHES NATIONAL PARK

§ 272. Establishment of park

(a) In general

(1) Initial boundaries

Subject to valid existing rights, the lands, waters, and interests therein within the boundary generally depicted on the map entitled ''Boundary Map, Proposed Arches National Park, Utah,'' numbered RPSSC–138–20, 001E and dated September 1969, are hereby established as the Arches National Park (hereinafter referred to as the ''park'').

(2) Expanded boundaries

Effective on October 30, 1998, the boundary of the park shall include the area consisting of approximately 3,140 acres and known as the ''Lost Spring Canyon Addition'', as depicted on the map entitled ''Boundary Map, Arches National Park, Lost Spring Canyon Addition'', numbered 138/60,000–B, and dated April 1997.

(3) Maps

The maps described in paragraphs (1) and (2) shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) Abolition of Arches National Monument; funds of monument available for park; administration of lands excluded from monument

The Arches National Monument is hereby abolished, and any funds available for purposes of the monument shall be available for purposes of the park. Federal lands, waters, and interests therein excluded from the monument by this subchapter shall be administered by the Secretary of the Interior (hereinafter referred to as the ''Secretary'') in accordance with the laws applicable to the public lands of the United States.

(Pub. L. 92–155, § 1, Nov. 12, 1971, 85 Stat. 422; Pub. L. 105–329, § 2(a), Oct. 30, 1998, 112 Stat. 3060.)

AMENDMENTS

1998—Pub. L. 105–329 inserted section designation and catchline and in subsec. (a) inserted subsec. heading, inserted par. (1) designation and heading before first sentence, added par. (2), inserted par. (3) designation and heading before second sentence and substituted ''The maps described in paragraphs (1) and (2)'' for ''Such map''.

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–329, § 1, Oct. 30, 1998, 112 Stat. 3060, provided that: ''This Act [enacting section 272g of this title, amending this section and sections 272a, 272b, and 272d of this title, and enacting provisions set out as a note under section 272g of this title] may be cited as the 'Arches National Park Expansion Act of 1998'.''

§ 272a. Acquisition of property

(a) In general

The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange or otherwise, the lands and interests in lands described in section 272 of this title, except that lands or interests therein owned by the State of Utah, or any political subdivision thereof, may be acquired only with the approval of such State or political subdivision.

(b) Lost Spring Canyon Addition

As soon as practicable after October 30, 1998, the Secretary shall transfer jurisdiction over the Federal land contained in the Lost Spring Canyon Addition from the Bureau of Land Management to the National Park Service.

(Pub. L. 92–155, § 2, Nov. 12, 1971, 85 Stat. 422; Pub. L. 105–329, § 2(b), Oct. 30, 1998, 112 Stat. 3060.)

AMENDMENTS

1998—Pub. L. 105–329 inserted section catchline and subsec. (a) designation and heading and added subsec. (b).

§ 272b. Livestock grazing

(a) In general

In a case in which any Federal lands included within the park are legally occupied or utilized on November 12, 1971, for grazing purposes, pursuant to a lease, permit, or license for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, the Secretary of the Interior shall permit the persons holding such grazing privileges or their heirs to continue in the exercise thereof during the term of the lease, permit, or license, and one period of renewal thereafter.

(b) Lost Spring Canyon Addition

(1) Continuation of grazing leases, permits, and licenses

In the case of any grazing lease, permit, or license with respect to land in the Lost Spring Canyon Addition that was issued before October 30, 1998, the Secretary shall, subject to periodic renewal, continue the grazing lease, permit, or license for a period equal to the lifetime of the holder of the grazing lease, permit, or license as of October 30, 1998, plus the lifetime of any direct descendants of the holder born before October 30, 1998.

(2) Retirement

A grazing lease, permit, or license described in paragraph (1) shall be permanently retired at the end of the period described in paragraph (1).

(3) Periodic renewal

Until the expiration of the period described in paragraph (1), the holder (or descendant of the holder) of a grazing lease, permit, or license shall be entitled to renew the lease, permit, or license periodically, subject to such limitations, conditions, or regulations as the Secretary may prescribe.

(4) Sale

A grazing lease, permit, or license described in paragraph (1) may be sold during the period described in paragraph (1) only on the condition that the purchaser shall, immediately upon acquisition, permanently retire the lease, permit, or license.

(5) Taylor Grazing Act

Nothing in this subsection affects other provisions concerning leases, permits, or licenses under the Act of June 28, 1934 (commonly known as the ''Taylor Grazing Act'') (48 Stat. 1269, chapter 865; 43 U.S.C. 315 et seq.).

(6) Administration

Any portion of a grazing lease, permit, or license with respect to land in the Lost Spring Canyon Addition shall be administered by the National Park Service.

(Pub. L. 92–155, § 3, Nov. 12, 1971, 85 Stat. 422; Pub. L. 105–329, § 2(c), Oct. 30, 1998, 112 Stat. 3060.)

REFERENCES IN TEXT

The Taylor Grazing Act, referred to in subsec. (b)(5), is act June 28, 1934, ch. 865, 48 Stat. 1269, as amended, which is classified principally to subchapter I (§ 315 et seq.) of chapter 8A of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 315 of Title 43 and Tables.

AMENDMENTS

1998—Pub. L. 105–329 inserted section catchline and subsec. (a) designation and heading and added subsec. (b).

§ 272c. Livestock trails, watering rights; driveway designation and regulation

Nothing in this subchapter shall be construed as affecting in any way any rights of owners and operators of cattle and sheep herds, existing on the date immediately prior to November 12, 1971, to trail their herds on traditional courses used by them prior to November 12, 1971, and to water their stock, notwithstanding the fact that the lands involving such trails and watering are situated within the park: *Provided*, That the Secretary may designate driveways and promulgate reasonable regulations providing for the use of such driveways.

(Pub. L. 92–155, § 4, Nov. 12, 1971, 85 Stat. 422.)

§ 272d. Administration, protection, and development; report to President

(a) In general

The Secretary shall administer, protect and develop the park in accordance with the provisions of the law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title.

(b) Lost Spring Canyon Addition

(1) Withdrawal

Subject to valid existing rights, all Federal land in the Lost Spring Canyon Addition is appropriated and withdrawn from entry, location, selection, leasing, or other disposition under the public land laws (including the mineral leasing laws).

(2) Effect

The inclusion of the Lost Spring Canyon Addition in the park shall not affect the operation or maintenance by the Northwest Pipeline Corporation (or its successors or assigns) of the natural gas pipeline and related facilities located in the Lost Spring Canyon Addition on October 30, 1998.

(Pub. L. 92–155, § 5, Nov. 12, 1971, 85 Stat. 422; Pub. L. 105–329, § 2(d), Oct. 30, 1998, 112 Stat. 3061.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–329, § 2(d)(1), inserted heading and amended text generally. Prior to amendment, text read as follows: ''The National Park Service, under the direction of the Secretary, shall administer, protect, and develop the park, subject to the provisions of sections 1, 2, 3, and 4 of this title.''

Subsec. (b). Pub. L. 105–329, § 2(d)(2), inserted heading and amended text generally. Prior to amendment, text read as follows: ''Within three years from November 12, 1971, the Secretary of the Interior shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act, his recommendations as the suitability or nonsuitability of any area within the park for preservation as wilderness, and any designation of any such area as a wilderness shall be in accordance with said Wilderness Act.''

§ 272e. Omitted

CODIFICATION

Section, Pub. L. 92–155, § 6, Nov. 12, 1971, 85 Stat. 423, authorized the Secretary to conduct a study of proposed road alinements within and adjacent to the park and to submit a report on the findings and conclusions of the study to the Congress within two years of Nov. 12, 1971.

§ 272f. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter, not to exceed, however, $275,000 for the acquisition of lands and interests in lands and not to exceed $1,031,800 (April 1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein. The sums authorized in this section shall be available for acquisition and development undertaken subsequent to November 12, 1971.

(Pub. L. 92–155, § 7, Nov. 12, 1971, 85 Stat. 423; Pub. L. 94–578, title I, § 101(1), Oct. 21, 1976, 90 Stat. 2732.)

AMENDMENTS

1976—Pub. L. 94–578 substituted ''$275,000'' for ''$125,000''.

§ 272g. Land exchange involving school trust land

(a) Exchange requirement

(1) In general

If, not later than 1 year after October 30, 1998, and in accordance with this section, the State of Utah offers to transfer all right, title, and interest of the State in and to the school trust land described in subsection (b)(1) of this section to the United States, the Secretary—

(A) shall accept the offer on behalf of the United States; and

(B) not later than 180 days after the date of acceptance, shall convey to the State of Utah all right, title, and interest of the United States in and to the land described in subsection (b)(2) of this section.

(2) Simultaneous conveyances

Title to the school trust land shall be conveyed at the same time as conveyance of title to the Federal lands by the Secretary.

(3) Valid existing rights

The land exchange under this section shall be subject to valid existing rights, and each party shall succeed to the rights and obligations of the other party with respect to any lease, right-of-way, or permit encumbering the exchanged land.

(b) Description of parcels

(1) State conveyance

The school trust land to be conveyed by the State of Utah under subsection (a) of this section is section 16, Township 23 South, Range 22 East of the Salt Lake base and meridian.

(2) Federal conveyance

The Federal land to be conveyed by the Secretary consists of approximately 639 acres located in section 1, Township 25 South, Range 18 East, Salt Lake base and meridian, and more fully described as follows:

(A) Lots 1 through 12.

(B) The S½N½ of such section.

(C) The N½N½N½S½ of such section.

(3) Equivalent value

The Federal land described in paragraph (2) shall be considered to be of equivalent value to that of the school trust land described in paragraph (1).

(c) Management by State

(1) In general

At least 60 days before undertaking or permitting any surface disturbing activities to occur on land acquired by the State of Utah under this section, the State shall consult with the Utah State Office of the Bureau of Land Management concerning the extent and impact of such activities on Federal land and resources and conduct, in a manner consistent with Federal law, inventory, mitigation, and management activities in connection with any archaeological, paleontological, and cultural resources located on the acquired lands.

(2) Preservation of existing uses

To the extent that it is consistent with applicable law governing the use and disposition of State school trust land, the State shall preserve existing grazing, recreational, and wildlife uses of the acquired lands in existence on October 30, 1998.

(3) Activities authorized by management plan

Nothing in this subsection precludes the State of Utah from authorizing or undertaking a surface or mineral activity that is authorized by a land management plan for the acquired land.

(Pub. L. 92–155, § 8, as added Pub. L. 105–329, § 2(e)(2), Oct. 30, 1998, 112 Stat. 3062; amended Pub. L. 106–176, title III, § 302, Mar. 10, 2000, 114 Stat. 32.)

AMENDMENTS

2000—Subsec. (b)(2). Pub. L. 106–176, § 302(1), substituted ''located in section 1, Township 25 South, Range 18 East, Salt Lake base and meridian, and more fully described as follows:'' and subpars. (A) to (C) for '', described as lots 1 through 12 located in the S½N½ and the N½N½N½S½ of section 1, Township 25 South, Range 18 East, Salt Lake base and meridian.''

Subsec. (d). Pub. L. 106–176, § 302(2), struck out heading and text of subsec. (d). Text read as follows: ''Administrative actions necessary to implement the land exchange under this section shall be completed not later than 180 days after October 30, 1998.''

EFFECT ON SCHOOL TRUST LAND

Pub. L. 105–329, § 2(e)(1), Oct. 30, 1998, 112 Stat. 3062, provided that: ''Congress finds that—

''(A) a parcel of State school trust land, more specifically described as section 16, township 23 south, range 22 east, of the Salt Lake base and meridian, is partially contained within the Lost Spring Canyon Addition included within the boundaries of Arches National Park by the amendment by subsection (a) [amending section 272 of this title];

''(B) the parcel was originally granted to the State of Utah for the purpose of generating revenue for the public schools through the development of natural and other resources located on the parcel; and

''(C) it is in the interest of the State of Utah and the United States for the parcel to be exchanged for Federal land of equivalent value outside the Lost Spring Canyon Addition to permit Federal management of all lands within the Lost Spring Canyon Addition.''

SUBCHAPTER XXXI—CAPITOL REEF NATIONAL PARK

§ 273. Establishment

(a) Description of area

Subject to valid existing rights, the lands, waters, and interests therein within the boundary generally depicted on the map entitled ''Boundary Map, Proposed Capitol Reef National Park, Utah,'' numbered 158–91,002, and dated January 1971, are hereby established as the Capitol Reef National Park (hereinafter referred to as the ''park''). Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) Abolition of Capitol Reef National Monument; funds of monument available for park; administration of lands excluded from monument

The Capitol Reef National Monument is hereby abolished, and any funds available for purposes of the monument shall be available for purposes of the park. Federal lands, waters, and interests therein excluded from the monument by this subchapter shall be administered by the Secretary of the Interior (hereinafter referred to as the ''Secretary'') in accordance with the laws applicable to the public lands of the United States.

(Pub. L. 92–207, § 1, Dec. 18, 1971, 85 Stat. 739.)

§ 273a. Acquisition of property; authority of Secretary; State property

The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange, or otherwise, the lands and interests in lands described in section 273 of this title, except that lands or interests therein owned by the State of Utah, or any political subdivision thereof, may be acquired only with the approval of such State or political subdivision.

(Pub. L. 92–207, § 2, Dec. 18, 1971, 85 Stat. 739.)

§ 273b. Grazing privileges; right of occupancy or use for fixed term of years; renewal

Where any Federal lands included within the park are legally occupied or utilized on December 18, 1971, for grazing purposes, pursuant to a lease, permit, or license for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, the Secretary of the Interior shall permit the persons holding such grazing privileges or their heirs to continue in the exercise thereof during the term of the lease, permit, or license, and one period of renewal thereafter.

(Pub. L. 92–207, § 3, Dec. 18, 1971, 85 Stat. 740.)

RENEWAL OF CAPITOL REEF NATIONAL PARK GRAZING AUTHORIZATIONS

Pub. L. 100–446, title I, Sept. 27, 1988, 102 Stat. 1779, provided: ''That where any Federal lands included within the boundary of the Park created by the Act of December 18, 1971 (Public Law 92–207) [16 U.S.C. 273 et seq.], were legally occupied or utilized on the date of approval of that Act [Dec. 18, 1971] for grazing purposes pursuant to a lease, permit, or license issued or authorized by any department, establishment, or agency of the United States, the person or persons so occupying or utilizing such lands and the heirs of such person or persons shall at that time be entitled to renew said leases, permits, or licenses under such terms and conditions as the Secretary of the Interior may prescribe, for the lifetime of the permittee or any direct descendants (sons or daughters) born on or before the enactment of Public Law 92–207 (December 18, 1971). Such grazing activities shall be subject to the following conditions:

''(a) Grazing will be based on active preference that exists on the date of this Act [Sept. 27, 1988] and no increase in animal unit months will be allowed on Park lands.

''(b) No physical improvements for stock use will be established on National Park Service lands without the written concurrence of the Park Superintendent.

''(c) Nothing in this section shall apply to any lease, permit, or license for mining purposes or for public accommodations and services or to any occupancy or utilization of lands for purely temporary purposes.

''(d) Nothing contained in this Act [see Tables for classification] shall be construed as creating any vested right, title interest, or estate in or to any Federal lands.

''(e) The provisions of Public Law 97–341 [formerly set out as a note below] are hereby repealed.

''(f) Grazing will be managed to encourage the protection of the Park's natural and cultural resources values.''

STUDY OF GRAZING PHASEOUT AT CAPITOL REEF NATIONAL PARK

Pub. L. 97–341, Oct. 15, 1982, 96 Stat. 1639, provided for retention of Capitol Reef National Park grazing privileges until Dec. 31, 1994, and a study of grazing at the Park, prior to repeal by Pub. L. 100–446, title I, Sept. 27, 1988, 102 Stat. 1780.

§ 273c. Livestock trails, watering rights; driveway regulations

Nothing in this subchapter shall be construed as affecting in any way rights of owners and operators of cattle and sheep herds, existing on the date immediately prior to December 18, 1971, to trail their herds on traditional courses used by them prior to December 18, 1971, and to water their stock, notwithstanding the fact that the lands involving such trails and watering are situated within the park: *Provided*, That the Secretary may promulgate reasonable regulations providing for the use of such driveways.

(Pub. L. 92–207, § 4, Dec. 18, 1971, 85 Stat. 740.)

§ 273d. Administration, protection, and development

(a) Authority of Secretary

The National Park Service, under the direction of the Secretary, shall administer, protect, and develop the park, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented.

(b) Easements and rights-of-way

The Secretary shall grant easements and rights-of-way on a nondiscriminatory basis upon, over, under, across, or along any component of the park area unless he finds that the route of such easements and rights-of-way would

have significant adverse effects on the administration of the park.

(c) Report by Secretary

Within three years from December 18, 1971, the Secretary of the Interior shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act [16 U.S.C. 1132 (c) and (d)], his recommendations as to the suitability or nonsuitability of any area within the park for preservation as wilderness, and any designation of any such area as a wilderness shall be in accordance with said Wilderness Act [16 U.S.C. 1131 et seq.].

(Pub. L. 92–207, § 5, Dec. 18, 1971, 85 Stat. 740.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (c), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

§ 273e. Omitted

CODIFICATION

Section, Pub. L. 92–207, § 6, Dec. 18, 1971, 85 Stat. 740, authorized the Secretary to conduct a study of proposed road alinements within and adjacent to the park and to submit a report on the findings and conclusions of the study to the Congress within two years of Dec. 18, 1971.

§ 273f. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter, not to exceed, however, $2,173,000 for the acquisition of lands and interests in lands and not to exceed $1,373,000 for development. The sums authorized in this section shall be available for acquisition and development undertaken subsequent to December 18, 1971.

(Pub. L. 92–207, § 7, Dec. 18, 1971, 85 Stat. 740; Pub. L. 94–578, title I, § 101(4), Oct. 21, 1976, 90 Stat. 2732; Pub. L. 95–625, title I, § 101(5), Nov. 10, 1978, 92 Stat. 3471.)

AMENDMENTS

1978—Pub. L. 95–625 substituted ''$1,373,000 for development'' for ''$1,052,700 (April 1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein''.

1976—Pub. L. 94–578 substituted ''$2,173,000'' for ''$423,000''.

SUBCHAPTER XXXII—NEZ PERCE NATIONAL HISTORICAL PARK

§ 281. Purpose

It is the purpose of this subchapter to facilitate protection and provide interpretation of sites in the Nez Perce country of Idaho and in the States of Oregon, Washington, Montana, and Wyoming that have exceptional value in commemorating the history of the Nation.

(Pub. L. 89–19, § 1, May 15, 1965, 79 Stat. 110; Pub. L. 102–576, § 2(1), Oct. 30, 1992, 106 Stat. 4770.)

AMENDMENTS

1992—Pub. L. 102–576, which directed the insertion of ''and in the States of Oregon, Washington, Montana, and Wyoming'' after ''the Nez Perce Country of Idaho'', was executed by making the insertion after ''the Nez Perce country of Idaho'' to reflect the probable intent of Congress.

SHORT TITLE OF 1992 AMENDMENT

Section 1 of Pub. L. 102–576 provided that: ''This Act [amending this section and sections 281a to 281c, 281e, and 281f of this title] may be cited as the 'Nez Perce National Historical Park Additions Act of 1991'.''

§ 281a. Designation

To implement this purpose the Secretary of the Interior may designate as the Nez Perce National Historical Park various component sites in Federal and non-Federal ownership relating to the early Nez Perce culture, the Lewis and Clark Expedition through the area, the fur trade, missionaries, gold mining and logging, the Nez Perce war of 1877, and such other sites as he finds will depict the role of the Nez Perce country in the westward expansion of the Nation. Sites to be so designated shall include—

(1) Tolo Lake, Idaho;
(2) Looking Glass' 1877 Campsite, Idaho;
(3) Buffalo Eddy, Washington and Idaho;
(4) Traditional Crossing Near Doug Bar, Oregon and Idaho;
(5) Camas Meadows Battle Sites, Idaho;
(6) Joseph Canyon Viewpoint, Oregon;
(7) Traditional Campsite at the Fork of the Lostine and Wallowa Rivers, Oregon;
(8) Burial Site of Chief Joseph the Younger, Washington;
(9) Nez Perce Campsites, Washington;
(10) Big Hole National Battlefield, Montana;
(11) Bear's Paw Battleground, Montana;
(12) Canyon Creek, Montana; and
(13) Hasotino Village, Idaho;

each as described in the National Park Service document entitled ''Nez Perce National Historical Park Additions Study'', dated 1990 and Old Chief Joseph's Gravesite and Cemetery, Oregon, as depicted on the map entitled ''Nez Perce Additions'', numbered 429–20–018, and dated September, 1991. Lands added to the Big Hole National Battlefield, Montana, pursuant to paragraph (10) shall become part of, and be placed under the administrative jurisdiction of, the Big Hole National Battlefield, but may be interpreted in accordance with the purposes of this subchapter.

(Pub. L. 89–19, § 2, May 15, 1965, 79 Stat. 110; Pub. L. 102–576, § 2(2), Oct. 30, 1992, 106 Stat. 4770.)

AMENDMENTS

1992—Pub. L. 102–576 inserted provision listing 13 sites to be designated as Nez Perce National Historical Park, as described in documents dated 1990 and 1991, and provision relating to lands added to Big Hole National Battlefield, Montana.

§ 281b. Acquisition of lands; restrictions; tribal-owned lands

The Secretary of the Interior may acquire by donation or with donated funds such lands, or interests therein, and other property which in his judgment will further the purpose of this subchapter and he may purchase with appropriated funds land, or interests therein, required for the administration of the Nez Perce National

Historical Park. Lands or interests therein owned by a State or political subdivision of a State may be acquired under this section only by donation or exchange. In the case of sites designated as components of the Nez Perce National Historical Park after November 1, 1991, the Secretary may not acquire privately owned land or interests in land without the consent of the owner unless the Secretary finds that—

(1) the nature of land use has changed significantly or that the landowner has demonstrated intent to change the land use significantly from the condition which existed on October 30, 1992;

(2) the acquisition by the Secretary of such land or interest in land is essential to assure its use for purposes set forth in this subchapter; and

(3) such lands or interests are located—

(A) within an area depicted on Sheet 3, 4, or 5 of the map entitled ''Nez Perce Additions'', numbered 429–20018, and dated September 1991, or

(B) within the 8-acre parcel of Old Chief Joseph's Gravesite and Cemetery, Oregon, depicted as ''Parcel A'' on Sheet 2 of such map.

The Nez Perce Tribe's governing body, if it so desires, with the approval of the Secretary of the Interior, is authorized to sell, donate, or exchange tribal-owned lands held in trust needed to further the purpose of this subchapter.

(Pub. L. 89–19, § 3, May 15, 1965, 79 Stat. 110; Pub. L. 102–576, § 2(3), Oct. 30, 1992, 106 Stat. 4770.)

AMENDMENTS

1992—Pub. L. 102–576 substituted provisions relating to acquisition of lands or interest therein owned by State or political subdivision of State and provisions relating to acquisition of sites designated as components of park after Nov. 1, 1991, for proviso in first sentence limiting amount of land which may be purchased in fee to 1,500 acres and amount of scenic easements which may be purchased to 1,500 acres.

§ 281c. Inclusion of lands

(a) Indian trust land; Federal-ownership sites; cooperation with Nez Perce Tribe and administrative agencies in research, services, and facilities for public access, use and enjoyment, and conservation of resources

Indian trust land may be designated by the Secretary of the Interior for inclusion in the Nez Perce National Historical Park with the concurrence of the beneficial owner. Sites in Federal ownership under the administrative jurisdiction of other Government agencies may likewise be designated by the Secretary of the Interior for inclusion in the Nez Perce National Historical Park with the concurrence of the agency having administrative responsibility therefor, but such designation shall effect no transfer of administrative control unless the administering agency consents thereto. The Secretary of the Interior may cooperate with the Nez Perce Tribe or the administering agency, as the case may be, in research into and interpretation of the significance of any site so designated and in providing desirable interpretive services and facilities and other facilities required for public access to and use and enjoyment of the site and in conservation of the scenic and other resources thereof.

(b) Cooperative agreements with property owners of non-Federal property; access; written consent for changes in properties, buildings, and grounds; other provisions

The Secretary of the Interior may enter into cooperative agreements with the owners of property which, under the provisions of this subchapter, may be designated for inclusion in Nez[1] Perce National Historical Park as sites in non-Federal ownership, and he may assist in the preservation, renewal, and interpretation of the properties, provided the cooperative agreements shall contain, but not be limited to, provisions that: (1) the Secretary has right of access at all reasonable times to all public portions of the property for the purpose of conducting visitors through the property and interpreting it to the public, and (2) no changes or alterations shall be made in the properties, including buildings and grounds, without the written consent of the Secretary.

(Pub. L. 89–19, § 4, May 15, 1965, 79 Stat. 110; Pub. L. 102–576, § 2(4), Oct. 30, 1992, 106 Stat. 4771.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–576 struck out after second sentence ''Not more than one thousand and five hundred acres overall shall be designated pursuant to the foregoing provisions of this subsection.''

§ 281d. Establishment; notice in Federal Register; administration

When the Secretary of the Interior determines that he has acquired title to, or interest in, sufficient properties or determines that he has entered into appropriate cooperative agreements with owners of non-Federal properties, or any combination thereof including the designation of sites already in Federal ownership, he shall by publication in the Federal Register establish the Nez Perce National Historical Park and thereafter administer the Federal property under his administrative jurisdiction in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented.

(Pub. L. 89–19, § 5, May 15, 1965, 79 Stat. 110.)

§ 281e. Contracts and cooperative agreements with State of Idaho, and others

(a) Protection, preservation, maintenance, and operation; obligation of general fund of Treasury

In order to carry out the purpose of this subchapter, the Secretary of the Interior may contract and make cooperative agreements with the States of Idaho, Oregon, Washington, Montana, Wyoming, their political subdivisions or agencies, corporations, associations, the Nez Perce Tribe, or individuals, to protect, preserve, maintain, or operate any site, object, or property included within the Nez Perce National Historical Park, regardless of whether title thereto is in the United States: *Provided*, That no contract or cooperative agreement shall be made or entered into which will obligate the general fund of the

[1] So in original. Probably should be preceded by ''the''.

Treasury unless or until Congress has appropriated money for such purpose.

(b) Erection and maintenance of tablets and markers

To facilitate the interpretation of the Nez Perce country the Secretary is authorized to erect and maintain tablets or markers in accordance with the provisions contained in sections 461 to 467 of this title.

(c) Consultation with Nez Perce Tribe officials

The Secretary shall consult with officials of the Nez Perce Tribe on the interpretation of the park and its history.

(Pub. L. 89–19, § 6, May 15, 1965, 79 Stat. 111; Pub. L. 102–576, § 2(5), (6), Oct. 30, 1992, 106 Stat. 4771.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–576, § 2(5), substituted ''States of Idaho, Oregon, Washington, Montana, Wyoming, their'' for ''State of Idaho, its''.

Subsec. (c). Pub. L. 102–576, § 2(6), added subsec. (c).

§ 281f. Authorization of appropriations

There are hereby authorized to be appropriated the sums of not more than $2,130,000 for the acquisition of lands and interests in land and not more than $9,300,000 for construction, restoration work, and other improvements at the Nez Perce National Historical Park under this subchapter.

(Pub. L. 89–19, § 7, May 15, 1965, 79 Stat. 111; Pub. L. 94–578, title II, § 201(10), Oct. 21, 1976, 90 Stat. 2733; Pub. L. 102–576, § 2(7), Oct. 30, 1992, 106 Stat. 4771.)

AMENDMENTS

1992—Pub. L. 102–576 substituted ''$2,130,000'' for ''$630,000'' and ''$9,300,000'' for ''$4,100,000''.

1976—Pub. L. 94–578 substituted ''$4,100,000'' for ''$1,337,000''.

SUBCHAPTER XXXIII—SAN JUAN ISLAND NATIONAL HISTORICAL PARK

§ 282. Acquisition of property; purpose; authority of Secretary; manner and place; donation of State lands

The Secretary of the Interior is authorized to acquire on behalf of the United States by donation, purchase with donated or appropriated funds, or by exchange, lands, interests in lands, and such other property on San Juan Island, Puget Sound, State of Washington, as the Secretary may deem necessary for the purpose of interpreting and preserving the sites of the American and English camps on the island, and of commemorating the historic events that occurred from 1853 to 1871 on the island in connection with the final settlement of the Oregon Territory boundary dispute, including the so-called Pig War of 1859. Lands or interests therein owned by the State of Washington or a political subdivision thereof may be acquired only by donation.

(Pub. L. 89–565, § 1, Sept. 9, 1966, 80 Stat. 737.)

§ 282a. Designation; administration, protection, and development

The property acquired under the provisions of section 282 of this title shall be known as the San Juan Island National Historical Park and shall commemorate the final settlement by arbitration of the Oregon boundary dispute and the peaceful relationship which has existed between the United States and Canada for generations. The Secretary of the Interior shall administer, protect, and develop such park in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and sections 461 to 467 of this title.

(Pub. L. 89–565, § 2, Sept. 9, 1966, 80 Stat. 737.)

§ 282b. Cooperative agreements with State of Washington and others; erection and maintenance of tablets or markers

The Secretary of the Interior may enter into cooperative agreements with the State of Washington, political subdivisions thereof, corporations, associations, or individuals, for the preservation of nationally significant historic sites and structures and for the interpretation of significant events which occurred on San Juan Island, in Puget Sound, and on the nearby mainland, and he may erect and maintain tablets or markers at appropriate sites in accordance with the provisions of sections 461 to 467 of this title.

(Pub. L. 89–565, § 3, Sept. 9, 1966, 80 Stat. 737.)

§ 282c. Authorization of appropriations

There are hereby authorized to be appropriated such sums, but not more than $13,575,000 for the acquisition of lands and interests therein and for the development of the San Juan National Historical Park.[1]

(Pub. L. 89–565, § 4, Sept. 9, 1966, 80 Stat. 737; Pub. L. 95–625, title I, § 101(22), Nov. 10, 1978, 92 Stat. 3472; Pub. L. 111–88, div. A, title I, § 118, Oct. 30, 2009, 123 Stat. 2929.)

AMENDMENTS

2009—Pub. L. 111–88 substituted ''$13,575,000'' for ''$5,575,000''.

1978—Pub. L. 95–625 substituted ''$5,575,000'' for ''$3,542,000''.

SUBCHAPTER XXXIV—GUADALUPE MOUNTAINS NATIONAL PARK

§ 283. Establishment; purposes; boundaries

(a) In order to preserve in public ownership an area in the State of Texas possessing outstanding geological values together with scenic and other natural values of great significance, the Secretary of the Interior shall establish the Guadalupe Mountains National Park, consisting of the land and interests in land within the area shown on the drawing entitled ''Proposed Guadalupe Mountains National Park, Texas'', numbered SA–GM–7100C and dated February 1965, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Notwithstanding the foregoing, however, the Secretary shall omit from the park sections 7 and 17, P.S.L. Block 121, in Hudspeth County, and revise the boundaries of the park accord-

[1] So in original. Probably should be ''San Juan Island National Historical Park.''

ingly if the owner of said sections agrees, on behalf of himself, his heirs and assigns that there will not be erected thereon any structure which, in the judgment of the Secretary, adversely affects the public use and enjoyment of the park.

(b) The boundary of Guadalupe Mountains National Park is hereby modified to include the area which comprises approximately 10,123 acres as generally depicted on the map entitled ''Boundary Proposal'' and dated August 1986, which shall be on file and available for public inspection in the office of the Director of the National Park Service and in the office of the Superintendent of the Guadalupe Mountains National Park.

(Pub. L. 89–667, § 1, Oct. 15, 1966, 80 Stat. 920; Pub. L. 100–541, § 1, Oct. 28, 1988, 102 Stat. 2720.)

AMENDMENTS

1988—Pub. L. 100–541 designated existing provisions as subsec. (a) and added subsec. (b).

§ 283a. Acquisition of lands

(a) Authority of Secretary; manner and place; concurrence of State owner

Within the boundaries of the Guadalupe Mountains National Park, the Secretary of the Interior may acquire land or interests therein by donation, purchase with donated or appropriated funds, exchange, or in such other manner as he deems to be in the public interest. Any property, or interest therein, owned by the State of Texas, or any political subdivision thereof, may be acquired only with the concurrence of such owner.

(b) Adjacent or vicinal land; exchange of property; cash equalization payments

In order to facilitate the acquisition of privately owned lands in the park by exchange and avoid the payment of severance costs, the Secretary of the Interior may acquire approximately 4,667 acres of land or interests in land which lie adjacent to or in the vicinity of the park. Land so acquired outside the park boundary may be exchanged by the Secretary on an equal-value basis, subject to such terms, conditions, and reservations as he may deem necessary, for privately owned land located within the park. The Secretary may accept cash from or pay cash to the grantor in such exchange in order to equalize the values of the properties exchanged. In order to provide for an adequate entrance road into the McKittrick Canyon area of the park, the Secretary may accept title to and interests in lands comprising a right-of-way for a road or roads outside of the boundary of the park from United States Highway numbered 62 and 180 to the park boundary, and in exchange therefor he may convey title to and interests in lands comprising a right-of-way from said highway to the boundary which have been donated to the United States. The Secretary may accept cash from or pay cash to the grantor in such exchange in order to equalize the values of the properties exchanged. Lands and interests in lands comprising the right-of-way acquired pursuant to this subsection shall be administered as part of the park.

(Pub. L. 89–667, § 2, Oct. 15, 1966, 80 Stat. 920; Pub. L. 94–174, Dec. 23, 1975, 89 Stat. 1029.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–174 inserted provisions relating to the exchange of lands in order to provide for an adequate entrance road into the McKittrick Canyon area of the park.

§ 283b. Establishment; notice in Federal Register; property rights

(a) Federal title to property, donation of State and other non-Federal mineral rights and interests, and establishment; notice in Federal Register; acquisition of remaining property; purchase options pending establishment of park; contingent purchase contracts

When the title to all privately owned land within the boundary of the park, subject to such outstanding interests, rights, and easements as the Secretary determines are not objectionable, with the exception of approximately 4,574 acres which are planned to be acquired by exchange, is vested in the United States and after the State of Texas has donated or agreed to donate to the United States whatever rights and interests in minerals underlying the lands within the boundaries of the park it may have and other owners of such rights and interests have donated or agreed to donate the same to the United States, notice thereof and notice of the establishment of the Guadalupe Mountains National Park shall be published in the Federal Register. Thereafter, the Secretary may continue to acquire the remaining land and interests in land within the boundaries of the park. The Secretary is authorized, pending establishment of the park, to negotiate and acquire options for the purchase of lands and interests in land within the boundaries of the park. He is further authorized to execute contracts for the purchase of such lands and interests, but the liability of the United States under any such contract shall be contingent on the availability of appropriated or donated funds to fulfill the same.

(b) Preferential right to reconveyance of mineral rights and interests upon nonuser of lands for national park purposes; notice; period for exercise; beneficiaries

In the event said lands or any part thereof cease to be used for national park purposes, the persons (including the State of Texas) who donated to the United States rights and interests in minerals in the lands within the park shall be given notice, in accordance with regulations to be prescribed by the Secretary, of their preferential right to a reconveyance, without consideration, of the respective rights and interests in minerals which they donated to the United States. Such notice shall be in a form reasonably calculated to give actual notice to those entitled to such preferential right, and shall provide for a period of not less than one hundred and eighty days within which to exercise such preferential right. The preferential right to such reconveyance shall inure to the benefit of the successors, heirs, devisees, or assigns of such persons having such preferential right to a reconveyance, and such successors, heirs, devisees, or assigns shall be given the notice provided for in this subsection.

(c) Leases of mineral rights and interests: withdrawal from leasing; mineral leasing, sale of surplus property, and sale provisions inapplicable; subsection (c) inapplicable upon failure or refusal to exercise preferential right to reconveyance

Such rights and interests in minerals, including all minerals of whatever nature, in and underlying the lands within the boundaries of the park and which are acquired by the United States under the provisions of this subchapter are hereby withdrawn from leasing and are hereby excluded from the application of the present or future provisions of the Mineral Leasing Act for Acquired Lands [30 U.S.C. 351 et seq.] or other Act in lieu thereof having the same purpose, and the same are hereby also excluded from the provisions of all present and future laws affecting the sale of surplus property or of said mineral interests acquired pursuant to this subchapter by the United States or any department or agency thereof, except that, if such person having such preferential right to a reconveyance fails or refuses to exercise such preferential right to a reconveyance as provided in subsection (b) of this section then this subsection (c) shall not be applicable to the rights and interests in such minerals in the identical lands of such person so failing or refusing to exercise such preferential right to a reconveyance from and after the one hundred and eighty-day period referred to in subsection (b) of this section.

(d) Preferential right to lease mineral rights and interests necessary for national welfare or emergency: notice, terms and conditions, beneficiaries; other leases upon failure or refusal to exercise right: terms and conditions

If at any time in the future an Act of Congress provides that the national welfare or an emergency requires the development and production of the minerals underlying the lands within the boundaries of the national park, or any portion thereof, and such Act of Congress, notwithstanding the provisions of subsection (c) of this section or any other Act, authorizes the Secretary to lease said land for the purpose of drilling, mining, developing, and producing said minerals, the Secretary shall give the persons (including the State of Texas) who donated such minerals to the United States notice of their preferential right to lease, without consideration, all or any part of the respective rights and interests in minerals which they donated to the United States, subject to such terms and conditions as the Secretary may prescribe. Such preferential right shall inure to the benefit of the successors or assigns, and of the heirs or devisees of such persons having such preferential right in the premises. The persons entitled to a preferential right under this subsection shall be given the same notice thereof as persons entitled to preferential rights under subsection (b) of this section. If such person having such preferential right fails or refuses to exercise such right within the time specified in the above notice, the Secretary may thereafter lease the minerals involved to any other person under such terms and conditions as he may prescribe.

(e) Proceeds from communitization agreement or protective action; beneficiaries

If at any time oil, gas, or other minerals should be discovered and produced in commercial quantities from lands outside of the boundaries of the park, thereby causing drainage of oil, gas, or other minerals from lands within the boundaries of the park, and if the Secretary participates in a communitization agreement or takes other action to protect the rights of the United States, the proceeds, if any, derived from such agreement or action shall inure to the benefit of the donors of the oil, gas, or other minerals, or their successors, heirs, devisees, or assigns.

(Pub. L. 89–667, § 3, Oct. 15, 1966, 80 Stat. 920.)

REFERENCES IN TEXT

The Mineral Leasing Act for Acquired Lands, referred to in subsec. (c), is act Aug. 7, 1947, ch. 513, 61 Stat. 913, as amended, which is classified generally to chapter 7 (§ 351 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 351 of Title 30 and Tables.

§ 283c. Administration

The Guadalupe Mountains National Park shall be administered by the Secretary of the Interior in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented.

(Pub. L. 89–667, § 4, Oct. 15, 1966, 80 Stat. 922.)

§ 283d. Availability of funds

Any funds available for the purpose of administering the five thousand six hundred and thirty-two acres of lands previously donated to the United States in Culberson County, Texas, shall upon establishment of the Guadalupe Mountains National Park pursuant to this subchapter be available to the Secretary for purposes of such park.

(Pub. L. 89–667, § 5, Oct. 15, 1966, 80 Stat. 922.)

§ 283e. Authorization of appropriations; expenditure for improvements limitation

(a) There are hereby authorized to be appropriated such sums as may be necessary for the acquisition of lands and interest in lands, and not more than $24,715,000 as may be necessary for the development of the Guadalupe Mountains National Park. No funds appropriated for development purposes pursuant to this subchapter may be expended for improvements incompatible with wilderness management within the corridor of the park leading to the summit of Guadalupe Peak.

(b) In addition to amounts authorized to be appropriated under subsection (a) of this section, there is authorized to be appropriated such sums as may be necessary for the construction of a fence to protect the natural and cultural resources of the area added to Guadalupe Mountains National Park by section 283a(b) of this title.

(Pub. L. 89–667, § 6, Oct. 15, 1966, 80 Stat. 922; Pub. L. 95–625, title I, § 101(12), Nov. 10, 1978, 92 Stat. 3471; Pub. L. 100–541, § 2, Oct. 28, 1988, 102 Stat. 2720.)

AMENDMENTS

1988—Pub. L. 100–541 designated existing provisions as subsec. (a), substituted ''sums'' for ''sums, but not more than $1,800,000 in all,'', and added subsec. (b).

1978—Pub. L. 95–625 increased development appropriations authorization to $24,715,000 from $10,362,000 and prohibited expenditure of funds for improvements incompatible with wilderness management within the corridor of the park leading to the summit of Guadalupe Peak.

SUBCHAPTER XXXV—WOLF TRAP NATIONAL PARK FOR THE PERFORMING ARTS

§ 284. Establishment; statement of purposes; description; acquisition of property; acreage limitation

For the purpose of establishing in the National Capital area a park for the performing arts and related educational programs, and for recreation use in connection therewith, the Secretary of the Interior is authorized to establish, develop, improve, operate, and maintain the Wolf Trap National Park for the Performing Arts in Fairfax County, Virginia. The park shall encompass the portions of the property formerly known as Wolf Trap Farm and Symphony Hill in Fairfax County, Virginia, to be donated for park purposes to the United States, and such additional lands or interests therein as the Secretary may acquire for purposes of the park by donation or purchase with donated or appropriated funds, the aggregate of which shall not exceed one hundred and forty-five acres.

(Pub. L. 89–671, § 1, Oct. 15, 1966, 80 Stat. 950; Pub. L. 107–219, § 1(a)(1), Aug. 21, 2002, 116 Stat. 1330.)

AMENDMENTS

2002—Pub. L. 107–219 substituted ''Wolf Trap National Park for the Performing Arts'' for ''Wolf Trap Farm Park''.

SHORT TITLE

Section 12 of Pub. L. 89–671, as added by Pub. L. 97–310, Oct. 14, 1982, 96 Stat. 1458, and amended by Pub. L. 107–219, § 1(a)(1), Aug. 21, 2002, 116 Stat. 1330, provided that: ''This Act [enacting this subchapter] may be referred to as the 'Wolf Trap National Park for the Performing Arts Act'.''

STUDY OF PARK FUTURE; REPORT TO CONGRESS

Pub. L. 89–671, § 13, as added by Pub. L. 101–636, § 3, Nov. 28, 1990, 104 Stat. 4587, directed Secretary, acting jointly with the Foundation, to conduct a study and analysis of the operations and management practices being used to carry out the purposes of this subchapter and to submit, not later than 2 years after Nov. 28, 1990, a report of such study and analysis to Congress.

§ 284a. Administration

The Secretary of the Interior shall administer the park in accordance with the provisions of section 284 of this title and sections 1, 2, 3, and 4 of this title, as amended and supplemented, except that laws, rules, or regulations that are applicable solely to units of the National Park System that are designated as a ''National Park'' shall not apply to Wolf Trap National Park for the Performing Arts.

(Pub. L. 89–671, § 2, Oct. 15, 1966, 80 Stat. 951; Pub. L. 107–219, § 1(a)(2), Aug. 21, 2002, 116 Stat. 1330.)

AMENDMENTS

2002—Pub. L. 107–219 inserted before period at end: '', except that laws, rules, or regulations that are applicable solely to units of the National Park System that are designated as a 'National Park' shall not apply to Wolf Trap National Park for the Performing Arts''.

§ 284b. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary, but not in excess of $5,473,000, to carry out the purposes of this subchapter.

(Pub. L. 89–671, § 3, Oct. 15, 1966, 80 Stat. 951; Pub. L. 92–272, title II, § 201(4), Apr. 11, 1972, 86 Stat. 120.)

AMENDMENTS

1972—Pub. L. 92–272 increased maximum sums authorized to be appropriated from not in excess of $600,000 to not in excess of $5,473,000.

§ 284c. Financial assistance for reconstruction of Center

(a) Grants to Foundation; amount; non-Federal contributions

The Secretary is authorized to make available to the Foundation, in the form of a grant, $9,000,000 to be used for the reconstruction of the Center, subject to the provisions of this section. Such grant shall be made available in increments as needed for such purpose and only if the Foundation has agreed under terms and conditions satisfactory to the Secretary to provide, from non-Federal sources, sufficient contributions on a timely basis to complete the reconstruction of the Center.

(b) Loans to Foundation; amount; limitation; repayment; interest; service costs; term

(1) The Secretary may make loans to the Foundation to the extent needed to complete the reconstruction of the Center and to provide for noise mitigation measures, including those on adjacent public property, in an amount equal to twice the amount of non-Federal contributions received, and provided, by the Foundation for such reconstruction work. The total amount of such loans may not exceed $8,000,000. Loans made under this subsection shall be repaid in full, with interest on any unpaid obligation at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketing obligations of the United States with remaining periods to maturity comparable to the maturity of the loan, plus such additional charge, if any, as the Secretary may determine, for the purpose of covering other costs of servicing the loan. In determining the terms and conditions governing any loan, the Secretary shall fix a term of not more than five years from the date the loan agreement is executed.

(2)(A) The term of the loans made pursuant to paragraph (1) which are outstanding on the effective date of this paragraph may not exceed the 25-year period beginning on such date. The remaining obligation of such loans shall be paid in equal annual installments, commencing June 1, 1991, except that for the first 3 payments, the payment shall be $215,000 each year. In addition,

such payments (including the first 3 payments) may be reduced in any year by a credit not to exceed $60,000 annually. Such credit shall equal 100 percent of the market value of public service tickets determined at prevailing Foundation box office prices. Such credit shall be allowed only for tickets contributed to entities holding a status referred to in section 501(c)(3) of title 26.

(B)(i) Unpaid interest on such amount which accrued before the effective date of this paragraph is hereby forgiven.

(ii) Notwithstanding paragraph (1), there shall be no interest on the loan referred to in subparagraph (A) after the effective date of this paragraph if, within 120 days after such date, the Foundation modifies its agreement with the Secretary to implement this paragraph, paragraph (3), and section 284d(c)(4) of this title. If such agreement is not modified within the 120-day period, interest shall accrue from the effective date of this paragraph in accordance with paragraph (1).

(C) Notwithstanding any other provision of law, amounts paid to the Secretary pursuant to this paragraph may be retained until expended by the Secretary, in consultation with the Foundation, for the maintenance of structures, facilities, and equipment of the Park.

(D) The Secretary shall, within 120 days after the effective date of this paragraph, submit a payment schedule to the Foundation specifying the amount of each annual payment to be made by the Foundation pursuant to this paragraph.

(3) If the Foundation is in default on its obligations under this subsection for more than 60 consecutive days, the Secretary, acting in the public interest, shall terminate the cooperative agreement described in section 284d of this title. In the event of a major catastrophe or severe economic situation, the Secretary may submit to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a recommendation that this paragraph be temporarily suspended. In submitting such a request, the Secretary shall submit clear evidence of the financial status of the Foundation.

(c) Written agreement

No grants or loans may be made under this section unless the Secretary has entered into a written agreement with the Foundation under which the Foundation agrees—

(1) to expend all funds for the reconstruction of the Center (and for construction or reconstruction of any related structures or fixtures) only in accordance with circulars published by the Office of Management and Budget applicable to Federal grants to nonprofit organizations, and in accordance with the provisions of sections 3141–3144, 3146, and 3147 of title 40;

(2) to comply with such other terms and conditions as the Secretary deems appropriate; and

(3) to maintain, during the term of the cooperative agreement described in section 284d of this title, and at the Foundation's expense, insurance on the Center respecting such risks, in such amounts, and containing such terms and conditions, as are satisfactory to the Secretary.

Any repairs or reconstruction carried out with funds obtained from the receipt of the proceeds of any such insurance shall be subject to the approval of the Secretary.

(d) Oversight and approval duties of Secretary; construction management duties of Foundation

The Secretary shall be responsible for overseeing the reconstruction and shall have final approval over the plans for, and location and design of, the Center, and the Foundation shall be responsible for managing the construction activities, including the selection (in accordance with the requirements referred to in paragraphs (1) and (2) of subsection (c) of this section) of persons to perform architectural, engineering, construction, and related services.

(e) Easement noise and other standards; enforcement measures

No grants or loans may be made under this section unless the Secretary has received what the Secretary deems to be adequate written assurance from the Administrator of the Federal Aviation Administration that any easement granted to the Commonwealth of Virginia by the Administrator for construction of the Dulles Toll Road will contain noise standards (''A'' weighted energy average sound level of 52 to 54 dB) and other standards set forth in the Final Environmental Impact Statement for the Dulles Airport Access Road Outer Parallel Toll Roads, prepared by the Federal Aviation Administration and issued in May of 1982, legally enforceable by the Administrator and by the Secretary which are adequate to protect the Center from undue noise pollution and other environmental degradation attributable to such toll road both during and after its construction, and will also contain legally enforceable assurances that the Commonwealth of Virginia will promptly take measures to achieve the noise levels specified in the easement. Such measures may include a partial or total ban on truck traffic on the toll road or other mitigation recommended by the Secretary and the Administrator.

(f) Support services on reimbursable basis

The Secretary may also provide support services, as requested by the Foundation, on a reimbursable basis, for purposes of reconstruction of the Center.

(Pub. L. 89–671, §4, as added Pub. L. 97–310, Oct. 14, 1982, 96 Stat. 1455; amended Pub. L. 101–636, §1, Nov. 28, 1990, 104 Stat. 4586; Pub. L. 103–437, §6(d)(8), Nov. 2, 1994, 108 Stat. 4583; Pub. L. 107–219, §2, Aug. 21, 2002, 116 Stat. 1330.)

REFERENCES IN TEXT

For effective date of this paragraph, referred to in subsec. (b)(2)(A), (B), and (D), see Effective Date of 1990 Amendment note below.

CODIFICATION

''Sections 3141–3144, 3146, and 3147 of title 40'' substituted in subsec. (c)(1) for ''the Davis-Bacon Act (40 U.S.C. 276a–a7)'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–219 realigned margin of last sentence of par. (3) so as to appear as concluding

provisions, and in concluding provisions, substituted ''funds'' for ''Funds''.

1994—Subsec. (b)(3). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

1990—Subsec. (b). Pub. L. 101–636 designated existing provisions as par. (1) and added pars. (2) and (3).

EFFECTIVE DATE OF 1990 AMENDMENT

Section 4 of Pub. L. 101–636, as amended by Pub. L. 89–671, § 14(c), as added Pub. L. 107–219, § 1(a)(3), Aug. 21, 2002, 116 Stat. 1330, provided that:

''(a) The amendments made by sections 1 and 2 [amending this section and section 284d of this title] shall take effect on the date on which the Wolf Trap Foundation for the Performing Arts modifies its agreements entered into pursuant to the Wolf Trap National Park for the Performing Arts Act [this subchapter] in a manner which is consistent with and takes into account the amendments made by this Act [amending this section and section 284d of this title and enacting provisions set out as a note under section 284 of this title], as determined by the Secretary of the Interior.

''(b) The amendment made by section 3 [enacting provisions set out as a note under section 284 of this title] shall take effect on the date of enactment of this Act [Nov. 28, 1990].''

INCREASE IN LOAN CEILING; FUNDS REIMBURSED TO FOUNDATION TO BE REPAID TO SECRETARY

Pub. L. 99–190, § 101(d) [title I], Dec. 19, 1985, 99 Stat. 1224, 1231, as amended by Pub. L. 89–671, § 14(c), as added Pub. L. 107–219, § 1(a)(3), Aug. 21, 2002, 116 Stat. 1330, provided: ''That the loan ceiling established under section 4(b) of Public Law 97–310 [probably means Public Law 89–671], the Wolf Trap National Park for the Performing Arts Act, as amended [16 U.S.C. 284c(b)], is increased to $9,500,000. Notwithstanding the loan repayment provisions of Public Law 97–310 [enacting 16 U.S.C. 284c to 284j], the dollar amount of items paid for by the Wolf Trap Foundation from funds provided by the additional loan authority in this section that is subsequently reimbursed to the Foundation by a court award or insurance settlement shall be repaid to the Secretary of the Interior by the Wolf Trap Foundation within 90 days of the date of the court award or insurance settlement.''

§ 284d. Cooperative agreement with Foundation for presentation of programs

(a) Terms and conditions for Federal assistance

The Secretary is authorized and directed to enter into a cooperative agreement with the Foundation respecting the presentation of performing arts and related educational and cultural programs at the Center, and in such other areas of the park as may be agreed to. The Secretary may provide technical and financial assistance under such a cooperative agreement for such purposes, pursuant to such terms and conditions as he deems appropriate.

(b) Prerequisite conditions

As a condition of entering into a cooperative agreement under this section, the Secretary shall require that—

(1) the Foundation maintain the insurance described in section 284c(c)(3) of this title; and

(2) the Foundation maintain its status as an organization described in section 501(c)(3) of title 26 and exempt from taxation under section 501(a) of title 26.

(c) Required terms and conditions; contractual authority for administration through nonconflicting agreement with other organization or entity

A cooperative agreement under this section shall provide that—

(1) the Secretary and the Comptroller General of the United States or their duly authorized representatives shall have access to any pertinent books, documents, papers, and records of the Foundation to make audits, examinations, excerpts, and transcripts;

(2) the Foundation shall prepare an annual report to the Secretary, which shall also be submitted to the appropriate committees of the United States House of Representatives and the United States Senate, summarizing the activities of the previous year (together with a comparison of goals and objectives with actual accomplishments) and presenting a plan for the forthcoming year;

(3) such cooperative agreement may be terminated at the convenience of the United States if the Secretary determines that such termination is required in the public interest; and

(4) the Foundation will maintain accounts for Foundation activities outside of the Park separate from Foundation accounts for presentation of performing arts and related programs presented at the Center and other areas of the Park.

The cooperative agreement shall contain such other terms and conditions as the Secretary deems appropriate. Until such cooperative agreement is entered into, nothing in this section shall be construed to affect or impair the validity of the agreement between the National Park Service and the Foundation dated September 16, 1980. Such agreement shall remain in force and effect until terminated under the terms and conditions of such agreement or until an agreement is entered into under this section. Nothing in this section shall be construed to affect the authority of the Secretary under any other provision of law to enter into a contract or an agreement, not conflicting with the cooperative agreement described in this section, with any other organization or entity with respect to the administration of the park.

(Pub. L. 89–671, § 5, as added Pub. L. 97–310, Oct. 14, 1982, 96 Stat. 1456; amended Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101–636, § 2, Nov. 28, 1990, 104 Stat. 4587.)

AMENDMENTS

1990—Subsec. (c)(4). Pub. L. 101–636 added par. (4).

1986—Subsec. (b)(2). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–636 effective on the date on which the Wolf Trap Foundation for the Performing Arts modifies its agreements entered into pursuant to this subchapter, see section 4(a) of Pub. L. 101–636, set out as a note under section 284c of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c)(2) of this section relating to submitting annual report to appropriate committees of Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 116 of House Document No. 103–7.

§ 284e. Vested property of United States; status of Foundation

All right, title, and interest in the Center shall be vested in the United States. Nothing in this subchapter shall be construed to provide that the Foundation shall be considered to be a Federal agency or instrumentality for purposes of applying any law or regulation of the United States or of any State.

(Pub. L. 89–671, § 6, as added Pub. L. 97–310, Oct. 14, 1982, 96 Stat. 1457.)

§ 284f. Repealed. Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(D), Nov. 12, 1996, 110 Stat. 4196

Section, Pub. L. 89–671, § 7, as added Pub. L. 97–310, Oct. 14, 1982, 96 Stat. 1457, related to reports to congressional committees respecting reconstruction of Center.

§ 284g. Cooperation of government agencies

(a) Protection of park

The Secretary shall cooperate with, and seek cooperation from, other Federal, State, and local agencies (including the Federal Aviation Administration) to protect the park from undue noise intrusions, air pollution, and visual degradation.

(b) Monitoring and notification of noise pollution; conforming to noise pollution standards; enjoinder of easement violations

The Secretary shall monitor noise pollution which is associated with the Dulles road corridor (including the airport access and toll roads) and shall notify the Federal Aviation Administration, the Commonwealth of Virginia, and the appropriate committees of Congress if, after conferring with the Administrator of the Federal Aviation Administration, the Secretary finds that such noise pollution is exceeding the standards set forth in section 284c(e) of this title. Within sixty days after any such notification, the Administrator of the Federal Aviation Administration shall take steps to reduce noise pollution so as to conform to such standards. The Secretary or the Foundation may bring an action in the United States District Court for the District of Columbia to enjoin any violation by the Commonwealth of Virginia of the easement referred to in section 284c(e) of this title.

(Pub. L. 89–671, § 8, as added Pub. L. 97–310, Oct. 14, 1982, 96 Stat. 1457.)

§ 284h. General management plan; preparation and revision; submittal to Congressional committees

A general management plan for the park shall be prepared and periodically revised in a timely manner in accordance with the provisions of section 1a–7(b) of this title. Such plan shall be submitted to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no later than January 1, 1984, and such revisions shall be submitted to such committees of the Congress in a timely manner.

(Pub. L. 89–671, § 9, as added Pub. L. 97–310, Oct. 14, 1982, 96 Stat. 1457; amended Pub. L. 103–437, § 6(d)(8), Nov. 2, 1994, 108 Stat. 4583.)

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 284i. Authorization of additional appropriations

There is authorized to be appropriated not more than $17,000,000 to carry out sections 284c and 284d of this title. No authority under this subchapter to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts.

(Pub. L. 89–671, § 10, as added Pub. L. 97–310, Oct. 14, 1982, 96 Stat. 1458.)

§ 284j. Definitions

As used in this subchapter, the term—

(1) ''Secretary'' means the Secretary of the Interior.

(2) ''Park'' means the Wolf Trap National Park for the Performing Arts established under this subchapter, including the Center.

(3) ''Center'' means the Filene Center in the Park. Such term includes all real property and fixtures which are within or directly related to the Filene Center.

(4) ''Foundation'' means the Wolf Trap Foundation for the Performing Arts organized pursuant to the District of Columbia Nonprofit Organization Act.

(Pub. L. 89–671, § 11, as added Pub. L. 97–310, Oct. 14, 1982, 96 Stat. 1458; Pub. L. 107–219, § 1(a)(1), Aug. 21, 2002, 116 Stat. 1330.)

REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act, referred to in par. (4), is Pub. L. 87–569, Aug. 6, 1962, 76 Stat. 265, as amended, which is not classified to the Code.

AMENDMENTS

2002—Par. (2). Pub. L. 107–219 substituted ''Wolf Trap National Park for the Performing Arts'' for ''Wolf Trap Farm Park''.

§ 284k. References

(a) By Federal employees

The Secretary of the Interior, any other Federal employee, and any employee of the Foundation, with respect to any reference to the park in any map, publication, sign, notice, or other official document or communication of the Federal Government or Foundation shall refer to the park as ''Wolf Trap National Park for the Performing Arts''.

(b) Other signs and notices

Any directional or official sign or notice pertaining to the park shall refer to the park as ''Wolf Trap National Park for the Performing Arts''.

(c) Federal laws and documents

Any reference in any law (other than this subchapter), regulation, document, record, map, or other paper of the United States to ''Wolf Trap Farm Park'' shall be considered to be a reference to ''Wolf Trap National Park for the Performing Arts''.

(Pub. L. 89–671, § 14, as added Pub. L. 107–219, § 1(a)(3), Aug. 21, 2002, 116 Stat. 1330.)

APPLICABILITY

Pub. L. 107–219, § 1(b), Aug. 21, 2002, 116 Stat. 1330, provided that: ''Section 14(c) of the Wolf Trap Farm Park Act [16 U.S.C. 284k(c)] (as added by subsection (a) of this section) shall not apply to this Act [enacting this section and amending sections 1e, 284, 284a, 284c, and 284j of this title and provisions set out as notes under section 284c of this title].''

SUBCHAPTER XXXVI—GEORGE ROGERS CLARK NATIONAL HISTORICAL PARK

§ 291. Establishment; acceptance of land

The Secretary of the Interior is authorized to accept the donation by the State of Indiana of approximately seventeen acres of land comprising the George Rogers Clark Memorial in Vincennes, Indiana, for establishment and administration as the George Rogers Clark National Historical Park.

(Pub. L. 89–517, § 1, July 23, 1966, 80 Stat. 325.)

§ 291a. Cooperative agreements with property owners of non-Federal property

The Secretary of the Interior may enter into cooperative agreements with the owners of property in Vincennes, Indiana, historically associated with George Rogers Clark and the Northwest Territory for the inclusion of such property in the George Rogers Clark National Historical Park. Under such agreements the Secretary may assist in the preservation, renewal, and interpretation of the property.

(Pub. L. 89–517, § 2, July 23, 1966, 80 Stat. 325.)

§ 291b. Administration, protection, development, and maintenance

The Secretary of the Interior shall administer, protect, develop, and maintain the George Rogers Clark National Historical Park in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented.

(Pub. L. 89–517, § 3, July 23, 1966, 80 Stat. 325.)

SUBCHAPTER XXXVII—ACADIA NATIONAL PARK

CHANGE OF NAME

''Lafayette National Park'' changed to ''Acadia National Park'', see section 342b of this title.

§ 341. Establishment; description of area

The tracts of land, easements, and other real estate known before February 26, 1919, as the Sieur de Monts National Monument, situated on Mount Desert Island, in the county of Hancock and State of Maine, are declared to be a national park and dedicated as a public park for the benefit and enjoyment of the people under the name of the Acadia National Park, under which name the aforesaid national park shall be entitled to receive and to use all moneys heretofore or hereafter appropriated for Sieur de Monts National Monument.

(Feb. 26, 1919, ch. 45, § 1, 40 Stat. 1178; Jan. 19, 1929, ch. 77, § 2, 45 Stat. 1083.)

CODIFICATION

The words ''known before February 26, 1919,'' were substituted in text for ''heretofore known''.

Recitation in this section as originally enacted of the fact that Sieur de Monts National Monument was established under act June 8, 1906, by Presidential proclamation of July 8, 1916, was omitted as historically obsolete.

CHANGE OF NAME

''Lafayette National Park'' changed to ''Acadia National Park'' by act Jan. 19, 1929.

PERMANENT BOUNDARY FOR ACADIA NATIONAL PARK

Pub. L. 99–420, title I, Sept. 25, 1986, 100 Stat. 955, as amended by Pub. L. 110–229, title III, § 314(a), (b)(1), (c), (d), May 8, 2008, 122 Stat. 775, provided that:

''SEC. 101. BOUNDARIES OF ACADIA NATIONAL PARK.

''In order to protect and conserve the land and water resources of Acadia National Park in the State of Maine (hereinafter in this title referred to as 'the Park'), and to facilitate the administration of the Park, the boundary depicted on the map entitled 'Acadia National Park Boundary Map', numbered 123–80011, and dated May 1986 (hereinafter in this title referred to as 'the map') is hereby established as the permanent boundary for the Park. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and it shall be made available to the Registry of Deeds for Hancock and Knox Counties, Maine.

''SEC. 102. LANDS WITHIN BOUNDARIES.

''(a) The Secretary of the Interior (hereinafter in this title referred to as 'the Secretary') is authorized to acquire lands and interests therein within the boundaries of the Park by donation, exchange (in accordance with this section), or purchase with donated or appropriated funds, except that—

''(1) any lands or interests therein owned by the State of Maine or any political subdivision thereof may be acquired only by donation or exchange; and

''(2) privately owned lands or interests therein may be acquired only with the consent of the owner thereof unless the Secretary determines that the property is being developed or proposed to be developed in a manner which is detrimental to the scenic, historical, cultural, and other values for which the Park was established.

''(b)(1) Not later than 6 months after the enactment of this Act [Sept. 25, 1986], the Secretary shall publish specific guidelines under which determinations shall be made under subsection (a)(2). The Secretary shall provide adequate opportunity for public comment on such guidelines. The guidelines shall provide for notice to the Secretary prior to commencement of any proposed development within the boundaries of the Park. The Secretary shall provide written notice to the owner of the property of any determination proposed to be made under subsection (a)(2) and shall provide the owner a reasonable opportunity to comment on such proposal.

''(2) For purposes of this section, except as provided in paragraph (3), development or proposed development of private property within the boundaries of the Park that is significantly different from, or a significant expansion of, development existing as of November 1, 1985, shall be considered by the Secretary as detrimental to the values for which the Park was established.

''(3) Reconstruction or expansion of a private or commercial building shall not be treated as detrimental to the Park or as an incompatible development within the meaning of this section if such reconstruction or expansion is limited to one or more of the following:

''(A) Reconstruction of an existing building.

''(B) Construction of attached or accessory structural additions, which do not exceed 25 per centum of the square footage of the principal structure.

''(C) Construction of reasonable support development such as roads, parking facilities, water and sewage systems, and dock facilities.

''(c)(1) The owners of any private property within the Park may, on the date of its acquisition by the Secretary and as a condition of such acquisition, retain for himself and his successors or assigns a right to use and occupancy for a definite term of not more than 25 years, or ending at the death of the owner, or his spouse, whichever is later. The owners shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value, of the right retained by the owner.

''(2) Any such right retained pursuant to this subsection shall be subject to such terms and conditions as the Secretary may prescribe and may be terminated by the Secretary upon his determination and after reasonable notice to the owner thereof that such property is being used for any purpose which is incompatible with the administration of the Park or with the preservation of the resources therein. Such right shall terminate by operation of law upon notification to the owner by the Secretary and tendering to the owner the amount equal to the fair market value of that portion which remains unexpired.

''(d)(1) In exercising his authority to acquire lands by exchange pursuant to this title, the Secretary may accept title to non-Federal property located within the the boundary of the Park and may convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary which lies outside said boundary and depicted on the map. Properties so exchanged shall be approximately equal in value, as determined by the Secretary, except that the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the value of the properties exchanged.

''(2) Federally owned property under jurisdiction of the Secretary referred to in paragraph (1) of this subsection shall be conveyed to the towns in which the property is located without encumbrance and without monetary consideration, except that no town shall be eligible to receive such lands unless lands within the Park boundary and owned by the town have been conveyed to the Secretary.

''(e) Notwithstanding any other provision of this section, lands depicted on the map referenced in section 101 and identified as 10DBH and 11DBH known as the 'Bar Harbor Sewage Treatment Plant'; 14DBH known as the 'New Park Street Ballfield'; and 15DBH known as the 'Former Park Headquarters'; shall be conveyed by the Secretary, without monetary consideration, to the town of Bar Harbor, Maine, within 180 days following the enactment of this Act [Sept. 25, 1986]. The real property conveyed pursuant to this subsection shall be used and retained by the town for municipal and public purposes. Title to the properties conveyed pursuant to this subsection shall revert to the United States if such property or any portion thereof is conveyed by the town to another party or used for purposes other than those specified in this subsection.

''(f) Notwithstanding any other provision of this section, land depicted on the map identified as 4DBH, located in the village of Town Hill, Maine, shall be conveyed by the Secretary without monetary consideration, to the town of Bar Harbor, Maine, as soon as practicable following the enactment of this Act [Sept. 25, 1986], subject to such terms and conditions, including appropriate reversionary provisions, as will in the judgment of the Secretary provide for the development and use of such property by any town which so desires as a solid waste transfer station in accordance with a plan that is satisfactory to the town and the Secretary. The Secretary shall (subject to the availability of prior appropriations) contribute toward the cost of constructing such transfer station the lesser of—

''(1) $350,000, or

''(2) 50 per centum of the cost of such construction.

''(g) Notwithstanding any other provision of this section, the Secretary is authorized to acquire by donation or exchange lands or interests therein in the area identified on the map as 'Schooner Head', which is outside the boundary of the park. The Secretary is further authorized to acquire conservation easements on such lands by purchase with donated or appropriated funds if he determines after written notice to the owner and after providing a reasonable opportunity to comment on such notice, that the property is being developed or proposed to be developed in a manner which is significantly different from or a significant expansion of development existing as of November 1, 1985, as defined in subsection (b) of this section.

''(h)(1) The Secretary is authorized to acquire conservation easements by purchase from a willing seller or by donation on parcels of land adjacent to the Park on Schoodic Peninsula, the islands of Hancock County, and the islands of Knox County east and south of the Penobscot Ship Channel, except such islands as lie within the town of Isle au Haut, Knox County. Parcels subject to conservation easements acquired or accepted by the Secretary under this subsection must possess one or more of the following characteristics:

''(A) important scenic, ecological, historic, archeological, or cultural resources;

''(B) shorefront property; or

''(C) largely undeveloped entire islands.

''(2) Conservation easements acquired pursuant to this subsection shall—

''(A) protect the respective scenic, ecological, historic, archeological, or cultural resources existing on the parcels;

''(B) preserve, through setback requirements or other appropriate restrictions, the open, natural, or traditional appearance of the shorefront when viewed from the water or from other public viewpoints; or

''(C) limit year-round and seasonal residential and commercial development to activities consistent with the preservation of the islands' natural qualities and to traditional resource-based land use including, but not limited to, fishing, farming, silviculture, and grazing.

''(3) In determining whether to accept or acquire conservation easements pursuant to this subsection, the Secretary shall consider the following factors:

''(A) the resource protection benefits that would be provided by the conservation easement;

''(B) the public benefit that would be provided by the conservation easement;

''(C) the significance of the easement in relation to the land planning objectives of local government and regional and State agencies;

''(D) the economic impact of the conservation easement on local livelihoods, activities, and government revenues; and

''(E) the proximity of the parcel to the boundary of the Park and to other parcels on which the Secretary maintains conservation easements.

''(4) For purposes of this subsection, the term 'conservation easement' means a less-than-fee interest in land or a conservation restriction as defined in section 476 through 479–B inclusive, as amended, of title 33 of the Maine Revised Statutes of 1964, as in effect on the date of the enactment of this Act [Sept. 25, 1986].

''(5) No easement may be acquired by the Secretary under this subsection without first consulting with, and providing written notification to, the town in which the land is located and the Acadia National Park Advisory Commission established by section 103 of this title. In providing such notification, the Secretary shall indicate the manner and degree to which the easement meets the criteria provided in this subsection.

''(i) Nothing in this section shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

''(j)(1) Notwithstanding any other provision of this section, the Secretary shall accept an offer of the following from the Jackson Laboratory (a not-for-profit corporation organized under the laws of Maine):

''(A) Lands depicted on the map as 55 A ABH which are held in fee by the Jackson Laboratory.

''(B) A conservation easement on lands depicted on the map identified as 55 ABH (the developed property

known as 'Highseas'). The easement shall prohibit subdivision of such land or any further significant development on such lands, except as permitted by the guidelines published under section 102(b)(1).

''(2) Upon receipt of the lands and easement described in paragraph (1), the Secretary shall transfer to the Jackson Laboratory the lands depicted on the map as 8 DBH and 9 DBH. Any disparity in the fair market value of the lands and easement referred to in paragraph (1) and the lands described in the preceding sentence shall be equalized as provided in section 102(d)(1).

''(k) For purposes of subsection (a)(2), the construction of one single family residence on Burnt Porcupine Island by the owner of the Island shall not be treated as detrimental to the scenic, historic, cultural, or other values for which the park was established if, before such construction commences, the Secretary has reviewed and approved plans for the size, location and architectural design of the structure.

''SEC. 103. ADVISORY COMMISSION.

''(a) There is hereby established an Acadia National Park Advisory Commission (hereinafter referred to as 'the Commission'). The Commission shall be composed of 16 members appointed by the Secretary as follows:

''(1) 3 members at large.

''(2) 3 members appointed from among individuals recommended by the Governor of Maine.

''(3) 4 members, appointed from among individuals recommended by each of the four towns on the island of Mount Desert.

''(4) 3 members appointed from among individuals recommended by each of the three Hancock County mainland communities of Gouldsboro, Winter Harbor, and Trenton.

''(5) 3 members, appointed from among individuals recommended by each of the three island towns of Cranberry Isles, Swans Island, and Frenchboro.

''(b) The terms of the Commission members shall be 3 years except that, for initial appointments under each paragraph, one member shall serve for a term of one year, and one member shall serve for a term of 2 years.

''(c) The Commission shall elect its own chairman and adopt its own bylaws. Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

''(d) Members of the Commission shall serve without compensation as such, except that the Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this title.

''(e) The Secretary shall consult with the Commission on matters relating to the management and development of the Park, including but not limited to each of the following:

''(1) The acquisition of lands and interests in lands (including conservation easements on islands).

''(2) Termination of rights of use and occupancy.

''(f) The Commission established under this section shall terminate 40 years after the enactment of this Act [Sept. 25, 1986].

''SEC. 104. BEAR ISLAND.

''(a) Notwithstanding any other provision of law, Federal property located on Bear Island in the town of Cranberry Isle shall, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of the title. Such Federal property shall not be developed by the Secretary in a manner which would provide for or encourage intensive visitor use.

''(b) The Secretary is authorized to make improvements to the Federal property on Bear Island as he deems appropriate for the protection of adjacent private property.

''SEC. 105. TOWN OF ISLE AU HAUT.

''The provisions of this title shall not apply to those portions of the Park lying within the Town of Isle au Haut, Maine, which lands shall continue to be governed by the provisions of Public Law 97–335 [set out as a note below].

''SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

''(a) Effective October 1, 1986, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title, but not to exceed $9,100,000 for acquisition of lands and interests therein.

''(b) For the purposes of paragraph 7(a)(3) of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460*l*–9), the statutory ceiling provided in subsection (a) shall be deemed to have been enacted prior to the convening of the Ninety-fifth Congress [Jan. 4, 1977].

''(c) ADDITIONAL FUNDING.—In addition to such sums as have been heretofore appropriated, there is hereby authorized $10,000,000 for acquisition of lands and interests therein.

''SEC. 107. PAYMENTS TO LOCAL GOVERNMENTS.

''(a) Notwithstanding the limitation in subsection 3(d) of the Act of October 20, 1976 (90 Stat. 2662) payments in the manner provided in section 3 of that Act [see 31 U.S.C. 6904(b)] shall be made to the appropriate units of local government having jurisdiction over lands with the boundary of the Park. Such payments shall be made only for a period of 12 years.

''(b) Payments received by the units of local government pursuant to this section shall be used only for fire protection, police protection, solid waste management, and road maintenance and improvement.

''(c) Payments pursuant to this section may be made only from funds appropriated therefor. Such payments shall be in addition to and not in place of any other funds or form of Federal assistance to which the units of local government are entitled.

''SEC. 108. INTERMODAL TRANSPORTATION CENTER.

''(a) IN GENERAL.—The Secretary may provide assistance in the planning, construction, and operation of an intermodal transportation center located outside of the boundary of the Park in the town of Trenton, Maine to improve the management, interpretation, and visitor enjoyment of the Park.

''(b) AGREEMENTS.—To carry out subsection (a), in administering the intermodal transportation center, the Secretary may enter into interagency agreements with other Federal agencies, and, notwithstanding chapter 63 of title 31, United States Code, cooperative agreements, under appropriate terms and conditions, with State and local agencies, and nonprofit organizations—

''(1) to provide exhibits, interpretive services (including employing individuals to provide such services), and technical assistance;

''(2) to conduct activities that facilitate the dissemination of information relating to the Park and the Island Explorer transit system or any successor transit system;

''(3) to provide financial assistance for the construction of the intermodal transportation center in exchange for space in the center that is sufficient to interpret the Park; and

''(4) to assist with the operation and maintenance of the intermodal transportation center.

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Secretary not more than 40 percent of the total cost necessary to carry out this section (including planning, design and construction of the intermodal transportation center).

''(2) OPERATIONS AND MAINTENANCE.—There are authorized to be appropriated to the Secretary not more than 85 percent of the total cost necessary to maintain and operate the intermodal transportation center.''

[Pub. L. 110–229, title III, § 314(b)(2), May 8, 2008, 122 Stat. 775, provided that: ''The amendment made by paragraph (1) [amending section 103(f) of Public Law 99–420, set out above] shall take effect on September 25, 2006.'']

ACADIA NATIONAL PARK LANDS LYING WITHIN BOUNDARIES OF TOWN OF ISLE AU HAUT, MAINE

Pub. L. 97–335, Oct. 15, 1982, 96 Stat. 1627, as amended by Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(C), Nov. 12, 1996, 110 Stat. 4196, provided: ''That the Congress finds that—

''(1) there are significant scenic, educational, natural, and cultural resources in the town of Isle au Haut, Maine;

''(2) due to the isolated location and traditional resource-based economy of the town's island community, these resources are fragile and deserving of conservation and protection through both public and private efforts; and

''(3) both residents of the town and visitors to the Acadia National Park will benefit from the establishment of a permanent boundary for the park and the management of parklands on a limited entry, low intensity basis.

''SEC. 2. Notwithstanding any other provision of law, the permanent boundary of Acadia National Park lying within the town of Isle au Haut, Maine, is hereby established to include only those lands and interests therein as are depicted on the map entitled 'Boundary Map, Acadia National Park, Town of Isle au Haut, Maine', numbered 123–80003 and dated October 1981, which map is on file and available for public inspection in the offices of the Department of the Interior and at the Registry of Deeds for Hancock and Knox Counties, Maine.

''SEC. 3. (a) Within the boundary established by section 2, and as indicated on the map referenced therein, the Secretary of the Interior (hereinafter referred to as 'the Secretary') is authorized to acquire lands and interests therein by donation or exchange. The Secretary is authorized and directed to acquire by donation, purchase with donated or appropriated funds, or exchange the tract known as the Hamilton lot in Duck Harbor. No later than one hundred and eighty days from enactment hereof [Oct. 15, 1982], the Secretary shall convey to the town of Isle au Haut all right, title and interest of the United States in and to those lands under the jurisdiction of the Secretary which lie outside the boundary established by section 2 and within the town of Isle au Haut, subject only to such covenants running with the land as the Secretary and the town agree are necessary to preserve the general character of such lands, which shall include covenants to maintain forever in their natural condition (excepting the cutting of fire trails and the extinguishment of fires) lands above three hundred feet above the mean high water level: *Provided, however*, That such covenants with respect to lands above three hundred feet and below four hundred feet shall permit the gathering and removal of dead and fallen timber.

''(b) Notwithstanding any other provisions of this Act [this note], the Secretary is also authorized to accept by donation, as a coholder for enforcement purposes only, a limited enforcement interest in conservation easements on lands outside the boundary established by section 2 hereof and within the town of Isle au Haut which may from time to time be donated to the Isle au Haut Land Conservation Trust, a trust established under the laws of the State of Maine. The Superintendent of Acadia National Park is hereby authorized to serve as an ex officio trustee of such trust.

''SEC. 4. (a) The management and use of parklands on Isle au Haut shall not interfere with the maintenance of a viable local community with a traditional resource-based economy outside the boundary of the park. To the maximum extent practicable, no development or plan for the convenience of park visitors shall be undertaken which would be incompatible with the preservation of the flora and fauna or the physiographic conditions now prevailing, and every effort shall be exerted to maintain and preserve this portion of the park in as nearly its present state and condition as possible. In recognition of the special fragility and sensitivity of the park's resources, visitation shall be strictly limited to assure negligible adverse impact on such resources, to conserve the character of the town and to protect the quality of the visitor experience.

''[(b), (c) Repealed. Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(C), Nov. 12, 1996, 110 Stat. 4196.]

''(d) Carrying capacities established pursuant to this section shall be reviewed, and if necessary revised, every five years. Any revision in such carrying capacity shall be made in accordance with the procedures set forth in subsections (b) and (c) of this section.

''(e) Until such time as a carrying capacity limitation is established and implemented pursuant to subsections (b) and (c) of this section, the Secretary shall take such temporary measures as are necessary to assure that visitation does not exceed the average annual visitation for the period 1979 to 1981.

''SEC. 5. There are hereby authorized to be appropriated after October 1, 1982, such sums as may be necessary to carry out the provisions of this Act [this note].''

§ 342. Administration, protection, and promotion

The administration, protection, and promotion of Acadia National Park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title and Acts additional thereto or amendatory thereof.

(Feb. 26, 1919, ch. 45, § 2, 40 Stat. 1179; Jan. 19, 1929, ch. 77, § 2, 45 Stat. 1083.)

CHANGE OF NAME

''Lafayette National Park'' changed to ''Acadia National Park'' by act Jan. 19, 1929.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

JURISDICTION OF CERTAIN LANDS

Act July 30, 1947, ch. 350, 61 Stat. 519, provided:

''That control and jurisdiction over the following-described lands now comprising a portion of the Acadia National Park, in the State of Maine, are hereby transferred from the Department of the Interior to the Department of the Navy: *Provided*, That the Secretary of the Interior shall retain the right to approve the design of the buildings and structures to be placed thereon.

''All that certain tract or parcel of land on Big Moose Island, Winter Harbor, Maine, which is bounded southerly and easterly by a chain link security fence, and northerly and westerly by the waters of Pond Island Cove and Frenchman Bay, and which is more particularly described as beginning at a point on the shore at the high-water mark of Frenchman Bay on the southwesterly side of Big Moose Island, so called, thence following the chain link security fence as now erected by the three following courses and distances: North no degrees five minutes west one hundred and fifty-three feet; thence north thirty degrees twenty-four minutes east one hundred and fifty-seven and seven-tenths feet; thence south eighty-nine degrees nine minutes east one thousand four hundred and fifty-five and three-tenths feet to a point and angle in the said security fence which bears north thirty-four degrees fifty-four minutes west and is fifty feet distant at right angles from a point in the center line of the National Park Service road known as the Big Moose Island Road; thence turning to the left and following the said security fence in a general northerly direction but everywhere parallel with and fifty feet distant from the center line of the said Big Moose Island Road three thousand five hun-

dred feet more or less to the high-water mark on the shore of Pond Island Cove; thence in a generally westerly and southerly direction but everywhere following the high-water mark of Pond Island Cove and Frenchman Bay seven thousand four hundred and seventy feet more or less to the place of beginning; except that portion thereof, containing twenty-five and ninety-six one-hundredths acres, which was transferred to the jurisdiction of the Department of the Navy pursuant to the Act of August 24, 1935 (ch. 644, 49 Stat. 795); the lands herein described containing one hundred and fifty-one and eighty-six one-hundredths acres, after excluding the excepted portion.

''SEC. 2. The Secretary of the Navy is authorized and directed to retransfer jurisdiction over the property described in section 1 of this Act to the Secretary of the Interior in the event such property hereafter becomes surplus to the needs of the Department of the Navy, in which event it again shall become a part of Acadia National Park.''

§ 342a. Extension of boundary limits

The Secretary of the Interior is authorized, in his discretion, to accept in behalf of the United States lands, easements, and buildings, as may be donated for the extension of the Acadia National Park, lying within the bounds of Hancock County within which the park is situated, together with such islands in Knox County adjoining as lie to the east and south of the main ship channel through Penobscot Bay, which complete the archipelago of which Mount Desert Island, whereon the park is situated, forms the dominant and largest unit.

(Jan. 19, 1929, ch. 77, §§ 1, 2, 45 Stat. 1083.)

CODIFICATION

Section is based on section 1 of act Jan. 19, 1929. ''Lafayette National Park'' changed to ''Acadia National Park'' by section 2 of said act.

§ 342b. Lafayette National Park name changed to Acadia National Park; land unaffected by Federal Power Act

The area now within the Lafayette National Park, together with such additions as may hereafter be made thereto, shall be known as the Acadia National Park, under which name the aforesaid national park shall be entitled to receive and to use all moneys heretofore or hereafter appropriated for the Lafayette National Park: *Provided*, That the provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to or extend to any lands now or hereafter included in said park.

(Jan. 19, 1929, ch. 77, § 2, 45 Stat. 1083.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act of June 10, 1920, entitled 'An Act to create a Federal Power Commission, to provide for the improvement of navigation, the development of water power, the use of the public lands in relation thereto, and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes' '', was redesignated the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

§ 343. Acceptance of property on Mount Desert Island

The Secretary of the Interior is authorized, in his discretion, to accept in behalf of the United States such other property on said Mount Desert Island, including lands, easements, buildings, and moneys, as may be donated for the extension or improvement of said park.

(Feb. 26, 1919, ch. 45, § 3, 40 Stat. 1179.)

§ 343a. Naval radio station, Seawall, Maine, as addition to park

The Secretary of the Navy is authorized to transfer to the control and jurisdiction of the Secretary of the Interior as an addition to the Acadia National Park all that tract of land containing two hundred and twenty-three acres, more or less, with improvements thereon, comprising the former naval radio station at Seawall, town of Southwest Harbor, Hancock County, Maine, said tract being no longer needed for naval purposes.

(May 23, 1930, ch. 315, 46 Stat. 377.)

CODIFICATION

Recitation in this section as originally enacted of the fact that Acadia National Park was established under act Feb. 26, 1919 (40 Stat. 1178), as amended by act Jan. 19, 1929 (Public Numbered 667, Seventieth Congress), was omitted as historically obsolete.

§ 343b. Addition of lands

The Home Owners' Loan Corporation (herein called the ''Corporation'') is authorized and directed to convey and transfer to the United States of America, upon the terms and conditions provided in this section, all right, title, and interest vested in the Corporation, at the date of such conveyance and transfer, in and to real property and interests therein in the county of Hancock, State of Maine, acquired by the Corporation through the foreclosure of that certain mortgage deed, dated October 20, 1933, executed to the Corporation by Percy B. Russell and Florence L. Russell, and appearing in book 642, page 389, of the Registry of Deeds of Hancock County, State of Maine.

The Secretary of the Interior, for and on behalf of the United States of America, is authorized and directed to accept the conveyance and transfer of such property without regard to the provisions of sections 3111 and 3112 of title 40 and section 1136[1] of the Revised Statutes, as amended, and section 6101 of title 41 (except section 3112 of title 40, which shall be applicable hereto), or any other provision of law. The Secretary of the Interior is further authorized and directed to pay all necessary fees, charges, and expenses in connection with such conveyance and transfer.

Upon the conveyance and transfer of such property as herein provided, it shall be used and administered by the Secretary of the Interior solely for national-park purposes, and it shall be deemed to constitute a part of the Acadia National Park.

Any other provision of law to the contrary notwithstanding, the Secretary of the Treasury

[1] See References in Text note below.

shall, upon such conveyance and transfer and in lieu of any other payment by the United States to the Corporation as consideration for the conveyance and transfer of such property, cancel bonds of the Corporation, in the principal sum of $18,000, purchased by the Secretary of the Treasury under or by reason of the provisions set forth in section 1463 of title 12 (which bonds are made available to the Secretary of the Treasury for the purposes of this paragraph), and all sums due and unpaid upon or in connection with such bonds at the time of such cancelation and discharge, together with any accrued interest: *Provided*, That the Secretary of the Treasury and the Corporation are authorized and directed to make adjustments on their books and records as may be necessary to carry out the purposes of this section.

(Dec. 22, 1944, ch. 674, §§1–4, 58 Stat. 914.)

REFERENCES IN TEXT

Section 1136 of the Revised Statutes, referred to in the second par., was repealed and reenacted as sections 4774(d) and 9774(d) of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1. Sections 4774(d) and 9774(d) were redesignated as entire sections 4774 and 9774 by Pub. L. 93–166, title V, §509(c), (e), Nov. 29, 1973, 87 Stat. 677, 678, and subsequently were repealed by Pub. L. 97–214, §7(1), July 12, 1982, 96 Stat. 173.

Section 1463 of title 12, referred to in the last par., was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 648.

CODIFICATION

In text, ''sections 3111 and 3112 of title 40 and'' substituted for ''section 355, as amended,'' and ''section 3112 of title 40'' substituted for ''the last paragraph of said section 355, as amended'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works.

In text, ''section 1136 of the Revised Statutes, as amended, and section 6101 of title 41'' substituted for ''section 1136, as amended, and section 3709 of the Revised Statutes'' on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

ABOLITION OF HOME OWNERS' LOAN CORPORATION

For dissolution and abolishment of Home Owners' Loan Corporation, by act June 30, 1953, ch. 170, §21, 67 Stat. 126, see note set out under section 1463 of Title 12, Banks and Banking.

§ 343c. Exchange of lands; Jackson Memorial Laboratory

For the purpose of consolidating Federal holdings of land within Acadia National Park, the Secretary of the Interior is authorized to accept, on behalf of the United States, approximately fifty-eight acres of non-Federal land within the authorized park boundaries, such land to be conveyed to the United States without cost by Mr. John D. Rockefeller, Junior. Upon acceptance of title thereto by the United States, such property shall be subject to all laws and regulations applicable to the park. In exchange for the conveyance to the United States of the aforesaid property, the Secretary of the Interior is authorized to convey to Mr. John D. Rockefeller, Junior, or to such agency as he may designate, for purposes of the Jackson Memorial Laboratory, Bar Harbor, Maine, approximately five acres of federally owned land within the park adjacent to the laboratory properties.

(Sept. 7, 1949, ch. 541, 63 Stat. 691.)

§ 343c–1. Exchange of lands; Mount Desert Island Regional School District

The Secretary of the Interior may convey to the Mount Desert Island Regional School District in the State of Maine a portion of the Acadia National Park, formerly owned by John D. Rockefeller, Junior, comprising approximately sixty-six acres (lot 354), and in exchange therefor the Secretary may accept from said school district any property which in his judgment is suitable for addition to the park. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require. Any cash payment received by the Secretary shall be credited to the Land and Water Conservation Fund in the Treasury of the United States. A conveyance of the federally owned lot shall eliminate it from the park.

(Pub. L. 89–615, Oct. 3, 1966, 80 Stat. 866.)

§ 343c–2. Addition of lands; Jackson Laboratory

The Secretary of the Interior may, in his discretion, accept title to certain land in the town of Bar Harbor, Hancock County, Maine, held by the Jackson Laboratory, a nonprofit corporation organized and existing under the laws of the State of Maine, said land being more particularly described as follows:

Beginning at a stone bound set in the ground in the southerly side of State Highway Numbered 3 leading from Bar Harbor to Seal Harbor, said stone bound also marking the northeasterly corner of land of the United States of America and the northwesterly corner of land of the Jackson Laboratory;

thence north 72 degrees 58 minutes east and following the southerly side of State Highway Numbered 3, 80 feet to a stone bound set in the ground;

thence south 32 degrees 13 minutes east 762.5 feet to an iron pin set in the ledge;

thence north 88 degrees 16 minutes east 270.54 feet to a stone bound set in the ground in the southerly side of the old Morrell Park Racetrack;

thence north 61 degrees 56 minutes east 673.2 feet to an iron pipe driven in the ground, said iron pipe also being in a northwesterly line of land of the United States of America;

thence south 24 degrees 30 minutes west and always following a northwesterly line of land of the United States of America, 149 feet to an iron pipe driven in the ground;

thence south 64 degrees 05 minutes west and always following a northwesterly line of land of the United States of America, 577 feet to a stone bound set in the ground;

thence south 78 degrees 50 minutes west and always following a northerly line of land of the United States of America, 115 feet to an iron pin in a large boulder;

thence north 84 degrees 00 minutes west and always following a northerly line of land of the United States of America, 357 feet to an iron pin in the ledge;

thence north 22 degrees 40 minutes west and always following a northeasterly line of land of the United States of America, 460 feet to an iron pin in the ledge;

thence north 14 degrees 05 minutes west and always following an easterly line of land of the United States of America, 281.7 feet to the point of beginning, and containing 4.828 acres.

Said land, upon acceptance of title thereto, shall become a part of the Acadia National Park.

(Pub. L. 90–262, § 1, Mar. 4, 1968, 82 Stat. 40.)

§ 343c–3. Conveyance of land; Jackson Laboratory

In exchange for the conveyance to the United States of the land described in section 343c–2 of this title, the Secretary of the Interior may convey to the Jackson Laboratory all right, title, and interest of the United States in and to the following described land in the town of Bar Harbor, Hancock County, Maine, more particularly described as follows:

Beginning at a stone bound set in the ground in the southeasterly side line of State Highway Numbered 3 leading from Bar Harbor to Seal Harbor, said stone bound marking the northeasterly corner of lot formerly belonging to the trustees of Louise D. Morrell, now owned by the Jackson Laboratory; said stone bound also marking the northwesterly corner of land belonging to the United States of America;

thence in a northeasterly direction but always following the southeasterly side line of State Highway Numbered 3, 31.0 feet to a point which marks the northwesterly corner of land belonging to the Jackson Laboratory;

thence south 23 degrees 40 minutes east and always following a southwesterly line of land belonging to the Jackson Laboratory, 603 feet, more or less, to a point in the old road originally leading to the Bear Brook Campground;

thence south 71 degrees 04 minutes east 20 feet, more or less, to a stone bound set in the ground in a southwesterly line of land belonging to the Jackson Laboratory;

thence following the same course; namely, south 71 degrees 04 minutes east and always following a southwesterly line of land belonging to the Jackson Laboratory, 183.2 feet to a stone bound set in the ground;

thence north 84 degrees 46 minutes east and always following a southeasterly line of land belonging to the Jackson Laboratory, 89.9 feet to a stone bound set in the ground in the northwesterly side of an old crossroad leading from the old Campground Road to State Highway Numbered 3;

thence north 23 degrees 16 minutes east and following a southeasterly line of land belonging to the Jackson Laboratory, 160.0 feet to an angle in said line;

thence north 9 degrees 16 minutes east and following a southeasterly line of land belonging to the Jackson Laboratory, 79 feet to an angle point in said line;

thence north 20 degrees 31 minutes east and following a southeasterly line of land belonging to the Jackson Laboratory, 445 feet to a stone bound set in the ground;

thence following the same course; namely, north 20 degrees 31 minutes east and following a southeasterly line of land belonging to the Jackson Laboratory, 888.38 feet to a stone bound set in the ground; said stone bound marking the northeasterly corner of land belonging to the Jackson Laboratory and the southeasterly corner of a lot of land belonging to the United States of America;

thence in a general easterly direction 38 feet more or less to a point in the westerly side line of the Schooner Head Road so called;

thence in a general southerly direction and always following the westerly side line of the Schooner Head Road, 202 feet more or less to a stone bound set in the ground;

thence south 20 degrees 31 minutes west across the land of the United States of America, 1,164 feet to a point in said line, said last described line being 100 feet distant from and parallel with the southeasterly line of land of the Jackson Laboratory;

thence following the same course; namely, south 20 degrees 31 minutes west across the land belonging to the United States of America, 137.3 feet to a stone bound set in the ground;

thence south 61 degrees 56 minutes west across the land belonging to the United States of America, 617.6 feet to an iron pipe driven in the ground, said iron pipe being in a southeasterly line of land formerly belonging to the trustees of Louise D. Morrell and now belonging to the Jackson Laboratory;

thence north 24 degrees 30 minutes east and following a southeasterly line of last mentioned land, 277 feet to an iron pipe driven in the ground;

thence following an easterly line of land belonging to the Jackson Laboratory along a curve to the left, 111 feet, the radius of said curve being 373 feet;

thence north 23 degrees 40 minutes west and always following a northeasterly line of land belonging to the Jackson Laboratory, said land belonging formerly to the trustees of Louise D. Morrell, 492 feet to the point of beginning, and containing 4.632 acres.

The conveyance of title to the lands described in this section shall eliminate them from the Acadia National Park.

(Pub. L. 90–262, § 2, Mar. 4, 1968, 82 Stat. 40.)

§ 343c–4. Exchange of lands; Rich property

The Secretary of the Interior may convey to one Maurice Rich, Senior, a portion of the Acadia National Park, comprising approximately one and eight-tenths acres in the town of Southwest Harbor, Maine, and in exchange therefor the Secretary may accept from said Maurice Rich, Senior, any property which in the Secretary's judgment is suitable for addition to the park. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require. Any cash payment received by the Secretary shall be credited to the land and water conservation fund in the Treasury of the United States. A conveyance of the federally owned lot shall eliminate it from the park.

(Pub. L. 90–265, Mar. 12, 1968, 82 Stat. 46.)

§ 343d. Exclusion of lands; disposal as surplus property

The tract of land in Acadia National Park, State of Maine, comprising approximately three hundred acres and identified as the ''Green Lake Fish Hatchery Tract'' is excluded from Acadia National Park, and the said tract is authorized to be disposed of in accordance with the laws relating to the disposition of Federal property.

(July 24, 1956, ch. 667, 70 Stat. 597.)

REFERENCES IN TEXT

For laws relating to the disposition of Federal property, referred to in text, see, generally, subtitle I of Title 40, Public Buildings, Property, and Works.

SUBCHAPTER XXXVIII—ZION NATIONAL PARK

§ 344. Establishment; maintenance

The Zion National Monument, in the county of Washington, State of Utah, is declared to be a national park and dedicated as such for the benefit and enjoyment of the people, under the name of the Zion National Park, under which name the aforesaid national park shall be maintained by allotment of funds heretofore or hereafter appropriated for the national monuments, until such time as an independent appropriation is made therefor by Congress.

(Nov. 19, 1919, ch. 110, § 1, 41 Stat. 356.)

CODIFICATION

Recitation in this section as originally enacted of the fact that Zion National Monument was established under act June 8, 1906, ch. 3060, 34 Stat. 225, by Presidential proclamations of July 31, 1909, 36 Stat. 2498, and Mar. 18, 1918, 40 Stat. 1760, was omitted as historically obsolete.

§ 345. Administration, protection, and promotion

The administration, protection, and promotion of said Zion National Park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, and Acts additional thereto or amendatory thereof.

(Nov. 19, 1919, ch. 110, § 2, 41 Stat. 356.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

OBLIGATION OF FEES FOR TRANSPORTATION SERVICES AT ZION OR ROCKY MOUNTAIN NATIONAL PARKS

For provisions relating to obligation of expenditure of fees prior to receipt for transportation service contracts, see section 140 of Pub. L. 108–7, set out as a note under section 195 of this title.

§ 346. Exchange of lands

The Secretary of the Interior is authorized to exchange, in his discretion, alienated lands in Zion National Park for unappropriated and unreserved public lands of equal value and approximately equal area in the State of Utah outside of said park.

(June 7, 1924, ch. 305, § 3, 43 Stat. 594.)

§ 346a. Extension of boundaries

Sections 7, 17, 18, 19, 20, 29, 30, 31, and 32, township 41 south, range 9 west; unsurveyed sections 5, 6, 7, 8, 17, and 18, township 42 south, range 9 west; unsurveyed sections 5, 6, 7, and 8, township 42 south, range 9½ west; unsurveyed sections 1, 2, and the north half and southeast quarter section 3; northeast quarter section 4, east half section 10, sections 11 and 12, township 42 south, range 10 west; all of section 21, southwest quarter section 22, northwest quarter section 27, southeast quarter unsurveyed section 28; east half unsurveyed section 33, township 41 south, range 10 west; and all of sections 34, 35, and 36, township 41 south, range 11 west, all with reference to the Salt Lake meridian, are added to and made a part of the Zion National Park in the State of Utah, subject to all laws and regulations applicable to and governing said park.

(June 13, 1930, ch. 479, 46 Stat. 582.)

§ 346a–1. Addition of lands

The boundaries of the Zion National Park are revised to include the following described lands:

SALT LAKE MERIDIAN

Township 39 south, range 10 west: Section 30, those portions of lots 1 to 7, inclusive, lying south of Kolob Creek and lots 8 to 32, inclusive; section 31, lots 1, 2, 3, 15, 16, 17, 18, 31 and 32.

Township 41 south, range 10 west: Section 28, northeast quarter, that portion of the northwest quarter lying east of the North Fork of the Virgin River and lot 9 of the O. D. Gifford survey, the ownership of which is recorded on page 247 of deed book U12 in Washington County, Utah; section 29, west half; section 31; section 32 (partly surveyed), northeast quarter northwest quarter and west half northwest quarter.

Township 39 south, range 11 west: Section 13, southeast quarter southeast quarter; section 32, north half and southeast quarter.

Township 40 south, range 11 west: Section 5, lots 1 and 2 and south half northeast quarter.

Township 38 south, range 12 west: Section 29, those portions of lot 2 and of the southwest quarter lying east of the easterly right-of-way line of United States Highway 91, identified as project numbered I–01–1(1), Washington County, Utah, said line being 150 feet from and parallel the centerline of such highway, as constructed.

(Pub. L. 86–387, § 1, Feb. 20, 1960, 74 Stat. 4.)

§ 346a–2. Acquisition of lands; administration

Privately owned land, or interests therein, within the aforesaid revised boundary may be acquired by the Secretary of the Interior by purchase, donation, with donated funds, or by such other means as the Secretary may consider to be in the public interest. When acquired, such land and interests in land shall be administered as a part of the Zion National Park in accord-

ance with the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(Pub. L. 86–387, § 2, Feb. 20, 1960, 74 Stat. 5.)

§ 346a–3. Exchange of lands; construction of interchange

The Secretary of the Interior is authorized to convey to the Utah State Road Commission under such terms and conditions as he may deem necessary such lands or interests in land in lot 3, section 29, township 38 south, range 12 west, Salt Lake meridian, containing approximately four and one-half acres, as are required by the Commission for the realinement and construction of United States Highway 91: *Provided*, That, in exchange, the State of Utah constructs an interchange of design, type, and location acceptable to the Secretary which will provide vehicular access between the said highway and Zion National Park. Such conveyed lands shall thereafter be considered as excluded from the Zion National Park and the easterly right-of-way line of United States Highway 91, identified as project numbered I–01–1(1), Washington County, Utah, shall become the westerly boundary of the Zion National Park in lot 3, section 29, township 38 south, range 12 west, Salt Lake meridian.

(Pub. L. 86–387, § 3, Feb. 20, 1960, 74 Stat. 5.)

§ 346a–4. Boundary revision

The boundary of Zion National Park is hereby revised to include the area as generally depicted on the map entitled ''Land Ownership Types, Zion National Park, Utah'', numbered 116–80,003, which map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior may acquire the property included by this section by donation only.

(Pub. L. 94–578, title III, § 318, Oct. 21, 1976, 90 Stat. 2738.)

§ 346a–5. Zion National Park boundary adjustment

(a) Acquisition and boundary change

The Secretary of the Interior is authorized to acquire by exchange approximately 5.48 acres located in the SW¼ of Section 28, Township 41 South, Range 10 West, Salt Lake Base and Meridian. In exchange therefor the Secretary is authorized to convey all right, title, and interest of the United States in and to approximately 5.51 acres in Lot 2 of Section 5, Township 41 South, Range 11 West, both parcels of land being in Washington County, Utah. Upon completion of such exchange, the Secretary is authorized to revise the boundary of Zion National Park to add the 5.48 acres in section 28 to the park and to exclude the 5.51 acres in section 5 from the park. Land added to the park shall be administered as part of the park in accordance with the laws and regulations applicable thereto.

(b) Expiration

The authority granted by this section shall expire 2 years after November 12, 1996.

(Pub. L. 104–333, div. I, title II, § 202, Nov. 12, 1996, 110 Stat. 4105.)

§ 346a–6. Transfer of administrative jurisdiction to National Park Service

Administrative jurisdiction over the land identified as the Watchman Wilderness on the Northeastern Washington County Wilderness Map is hereby transferred to the National Park Service, to be included in, and administered as part of Zion National Park.

(Pub. L. 111–11, title I, § 1972(d), Mar. 30, 2009, 123 Stat. 1080.)

DEFINITION

For definition of ''Northeastern Washington County Wilderness Map'', see section 1971 of Pub. L. 111–11, set out as a note under section 460www of this title.

§ 346b. Consolidation of Zion National Park and Zion National Monument

For the purpose of combining Zion National Park and Zion National Monument, Utah, in a single National park unit, in the interest of efficient administration and to preserve adequately the features thereof, Zion National Park on and after July 11, 1956, shall comprise the present area of the National Park and the present area of the Zion National Monument: *Provided*, That the enactment of sections 346b to 346d of this title shall not affect adversely any valid rights or privileges heretofore existing within the areas hereby established as the Zion National Park.

(July 11, 1956, ch. 568, § 1, 70 Stat. 527.)

§ 346c. Administration

The Secretary of the Interior is authorized to administer Zion National Park as hereby established in accordance with his authority over the park heretofore granted by the Congress and in accordance with the general laws governing areas of the national park system.

(July 11, 1956, ch. 568, § 2, 70 Stat. 527.)

§ 346d. Use of funds

All funds heretofore made available for purposes of Zion National Park and Zion National Monument may be used for purposes of Zion National Park as established by sections 346b to 346d of this title.

(July 11, 1956, ch. 568, § 3, 70 Stat. 527.)

§ 346e. Authorization for park facilities to be located outside the boundaries of Zion National Park and Yosemite National Park

In order to facilitate the administration of Zion National Park and Yosemite National Park, the Secretary of the Interior is authorized, under such terms and conditions as he may deem advisable, to expend donated or appropriated funds for transportation systems or for the establishment of essential facilities for park administration and visitor use outside the boundaries, but within the vicinity, of the park. Such systems or facilities and the use thereof shall be in conformity with approved plans for the park. The Secretary shall use existing facilities wherever feasible. Such facilities may only be constructed by the Secretary upon a finding that the location of such facilities would—

(1) avoid undue degradation of natural or cultural resources within the park;

(2) enhance service to the public; or

(3) provide a cost saving to the Federal Government.

The Secretary is authorized to enter into cooperative agreements with State or local governments or private entities to undertake the authority granted under this section. The Secretary is encouraged to identify and utilize funding sources to supplement any Federal funding used for these facilities.

(Pub. L. 104–333, div. I, title VIII, § 814(c), Nov. 12, 1996, 110 Stat. 4195; Pub. L. 109–131, title I, § 102(a), Dec. 20, 2005, 119 Stat. 2567.)

AMENDMENTS

2005—Pub. L. 109–131 inserted ''and Yosemite National Park'' after ''Zion National Park'' in section catchline and in introductory provisions, inserted ''for transportation systems or'' after ''appropriated funds'' in introductory provisions, and substituted ''systems or facilities'' for ''facilities'' in introductory provisions.

SUBCHAPTER XXXIX—DENALI NATIONAL PARK

§ 347. Establishment; boundaries

The tract of land in the Territory of Alaska particularly described by and included within the metes and bounds, to wit: Beginning at a point as shown on Plate III, reconnaissance map of the Mount McKinley region, Alaska, prepared in the United States Geological Survey, edition of 1911, said point being at the summit of a hill between two forks of the headwaters of the Toklat River, approximate latitude sixty-three degrees forty-seven minutes, longitude one hundred and fifty degrees twenty minutes; thence south six degrees twenty minutes west nineteen miles; thence south sixty-eight degrees west sixty miles; thence in a southeasterly direction approximately twenty-eight miles to the summit of Mount Russell; thence in a northeasterly direction approximately eighty-nine miles to a point twenty-five miles due south of a point due east of the point of beginning; thence due north twenty-five miles to said point; thence due west twenty-eight and one-half miles to the point of beginning, is reserved and withdrawn from settlement, occupancy, or disposal under the laws of the United States, and said tract is dedicated and set apart as a public park for the benefit and enjoyment of the people, under the name of the Denali National Park. In addition to the above-described tract, all those lands lying between the south, east, and north boundaries above described and the following described boundary are made a part of and included in the Denali National Park for all purposes, to wit: Beginning at the summit of Mount Russell, which is the present southwest corner of the park; thence in a northeasterly direction one hundred miles, more or less, to a point on the one hundred and forty-ninth meridian, which is twenty-five miles south of a point due east of the upper northwest corner of the park; thence north along the one hundred and forty-ninth meridian twenty-five miles; thence west forty miles, more or less, to the upper northwest corner of Denali National Park as existing prior to January 30, 1922.

(Feb. 26, 1917, ch. 121, § 1, 39 Stat. 938; Jan. 30, 1922, ch. 39, 42 Stat. 359; Pub. L. 96–487, title II, § 202(3)(a), Dec. 2, 1980, 94 Stat. 2382; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.)

CODIFICATION

The first sentence of this section was from section 1 of act Feb. 26, 1917, and the second sentence, comprising the remainder of the section, from act Jan. 30, 1922.

As originally enacted the second sentence of this section, extending the boundaries of the park, provided as follows ''That the south, east, and north boundaries of the Mount McKinley National Park are hereby changed as follows: Beginning at the summit of Mount Russell, which is the present southwest corner of the park; thence in a northeasterly direction one hundred miles, more or less, to a point on the one hundred and forty-ninth meridian which is twenty-five miles south of a point due east of the upper northwest corner of the park; thence north along the one hundred and forty-ninth meridian twenty-five miles; thence west forty miles, more or less, to the present upper northwest corner of Mount McKinley National Park. And all these lands lying between the above-described boundary and the present south, east, and north boundaries are hereby reserved and withdrawn from settlement, occupancy, or disposal, and under the laws of the United States said lands are hereby made a part of and included in the Mount McKinley National Park; and all the provisions of the Act to establish Mount McKinley National Park, Alaska, and for other purposes, approved February 26, 1917, are hereby made applicable to and extended over lands hereby added to the park.''

CHANGE OF NAME

''United States Geological Survey'' substituted in text for ''Geological Survey'' pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of Title 43, Public Lands.

''Denali National Park'' substituted in text for ''Mount McKinley National Park'' pursuant to Pub. L. 96–487, § 202(3)(a), which is classified to section 410hh–1(3)(a) of this title and which added lands to the park, established additional land as the Denali National Preserve, and redesignated the whole as the Denali National Park and Preserve.

FEASIBILITY STUDY FOR NORTHERN ACCESS ROUTE INTO DENALI NATIONAL PARK AND PRESERVE

Pub. L. 104–134, title I, § 101(c) [title I], Apr. 26, 1996, 110 Stat. 1321–156, 1321–164; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, provided in part that:

''The National Park Service shall, within existing funds, conduct a Feasibility Study for a northern access route into Denali National Park and Preserve in Alaska, to be completed within one year of the enactment of this Act [Apr. 26, 1996] and submitted to the House and Senate Committees on Appropriations and to the Senate Committee on Energy and Natural Resources and the House Committee on Resources [now Committee on Natural Resources]. The Feasibility Study shall ensure that resource impacts from any plan to create such access route are evaluated with accurate information and according to a process that takes into consideration park values, visitor needs, a full range of alternatives, the viewpoints of all interested parties, including the tourism industry and the State of Alaska, and potential needs for compliance with the National Environmental Policy Act [of 1969] [42 U.S.C. 4321 et seq.]. The Study shall also address the time required for development of alternatives and identify all associated costs.

''This Feasibility Study shall be conducted solely by the National Park Service planning personnel permanently assigned to National Park Service offices located in the State of Alaska in consultation with the State of Alaska Department of Transportation.''

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 348. Entries under land laws not affected

Nothing herein contained shall affect any valid existing claim, location, or entry under the land laws of the United States, prior to February 26, 1917, whether for homestead, mineral, right of way, or any other purpose whatsoever, or shall affect the rights of any such claimant, locator, or entryman to the full use and enjoyment of his land.

(Feb. 26, 1917, ch. 121, § 2, 39 Stat. 938.)

REFERENCES IN TEXT

Herein, referred to in text, is act Feb. 26, 1917, which is classified to sections 347 to 350, 351 to 353, and 354 of this title. For complete classification of this Act to the Code, see Tables.

The land laws of the United States, referred to in text, are classified generally to Title 43, Public Lands.

§ 349. Rights-of-way

Whenever consistent with the primary purposes of Denali National Park, section 79 of this title shall be applicable to the lands included within the park.

(Feb. 26, 1917, ch. 121, § 3, 39 Stat. 938; Pub. L. 96–487, title II, § 202(3)(a), Dec. 2, 1980, 94 Stat. 2382.)

REFERENCES IN TEXT

Section 79 of this title, referred to in text, was in the original a reference to act Feb. 15, 1901, ch. 372, 31 Stat. 790. For further details, see Codification note set out under section 79 of this title.

CHANGE OF NAME

''Denali National Park'' substituted in text for ''Mount McKinley National Park'' pursuant to Pub. L. 96–487, § 202(3)(a), which is classified to section 410hh–1(3)(a) of this title and which added lands to the park, established additional land as the Denali National Preserve, and redesignated the whole as the Denali National Park and Preserve.

§ 350. Repealed. Pub. L. 94–429, § 3(b), Sept. 28, 1976, 90 Stat. 1342

Section, act Feb. 26, 1917, ch. 121, § 4, 39 Stat. 938, provided that nothing in sections 347 to 349, 351 to 353, and 354 of this title was to affect the mineral land laws applicable to lands in the park prior to Feb. 26, 1917.

MINING RIGHTS EXISTING PRIOR TO SEPTEMBER 28, 1976

Section 3 of Pub. L. 94–429 provided in part that this section was repealed in order to close area to entry and location under the Mining Law of 1872, subject to valid existing rights.

§ 350a. Repealed. Pub. L. 94–429, § 3(c), Sept. 28, 1976, 90 Stat. 1342

Section, act Jan. 26, 1931, ch. 47, § 2, 46 Stat. 1043, provided that the Secretary of the Interior had the authority to prescribe regulations for the surface use of any mineral land locations within the boundaries of the park.

MINING RIGHTS EXISTING PRIOR TO SEPTEMBER 28, 1976

Section 3 of Pub. L. 94–429 provided in part that this section was repealed in order to close area to entry and location under the Mining Law of 1872, subject to valid existing rights.

§ 351. Control; rules and regulations

Denali National Park shall be under the executive control of the Secretary of the Interior, and it shall be the duty of the said executive authority, as soon as practicable, to make and publish such rules and regulations not inconsistent with the laws of the United States as the said authority may deem necessary or proper for the care, protection, management, and improvement of the same, the said regulations being primarily aimed at the freest use of the said park for recreation purposes by the public and for the preservation of animals, birds, and fish and for the preservation of the natural curiosities and scenic beauties thereof.

(Feb. 26, 1917, ch. 121, § 5, 39 Stat. 938; Pub. L. 96–487, title II, § 202(3)(a), Dec. 2, 1980, 94 Stat. 2382.)

CHANGE OF NAME

''Denali National Park'' substituted in text for ''Mount McKinley National Park'' pursuant to Pub. L. 96–487, § 202(3)(a), which is classified to section 410hh–1(3)(a) of this title and which added lands to the park, established additional land as the Denali National Preserve, and redesignated the whole as the Denali National Park and Preserve.

§ 352. Game refuge; killing game

The said park is established as a game refuge, and no person shall kill any game in said park except under an order from the Secretary of the Interior for the protection of persons or to protect or prevent the extermination of other animals or birds.

(Feb. 26, 1917, ch. 121, § 6, 39 Stat. 939; May 21, 1928, ch. 654, § 2, 45 Stat. 622.)

AMENDMENTS

1928—Act May 21, 1928, struck out provision that prospectors and miners could kill game or birds needed for actual necessities when short of food.

§ 353. Leases

The Secretary of the Interior may, in his discretion, execute leases to parcels of ground not exceeding twenty acres in extent for periods not to exceed twenty years whenever such ground is necessary for the erection of establishments for the accommodation of visitors; may grant such other necessary privileges and concessions as he deems wise for the accommodation of visitors; and may likewise arrange for the removal of such mature or dead or down timber as he may deem necessary and advisable for the protection and improvement of the park.

(Feb. 26, 1917, ch. 121, § 7, 39 Stat. 939; May 21, 1928, ch. 654, § 1, 45 Stat. 622.)

AMENDMENTS

1928—Act May 21, 1928, repealed provision that no appropriation for the maintenance of the park in excess of $10,000 annually should be made unless expressly authorized by law.

§ 353a. Repealed. Pub. L. 97–468, title VI, § 615(a)(1), Jan. 14, 1983, 96 Stat. 2577

Section, act Mar. 12, 1914, ch. 37, § 1, as added Mar. 29, 1940, ch. 74, 54 Stat. 80; Dec. 2, 1980, Pub. L. 96–487, title

II, § 202(3)(a), 94 Stat. 2382, authorized appropriation of not to exceed $30,000 for construction and operation of facilities for visitors and residents to Denali National Park in Alaska.

EFFECTIVE DATE OF REPEAL

Repeal effective on date of transfer of Alaska Railroad to the State [Jan. 5, 1985], pursuant to section 1203 of Title 45, Railroads, see section 615(a) of Pub. L. 97–468.

§ 354. Offenses; punishment

Any person found guilty of violating any of the provisions of this subchapter shall be deemed guilty of a misdemeanor, and shall be subjected to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all costs of the proceedings.

(Feb. 26, 1917, ch. 121, § 8, 39 Stat. 939.)

§ 355. Change of boundaries

The boundary of the Denali National Park is changed so as to read as follows:

Beginning at the summit of a hill between the Toklat River and the Clearwater Fork of that river at an approximate latitude of sixty-three degrees forty-seven minutes forty-five seconds, longitude one hundred and fifty degrees seventeen minutes forty seconds, which is intended to be same point of beginning of the boundary description as contained in section 347 of this title; thence southerly along the summit of the ridge between Toklat River and the Clearwater Fork of said river and across Stony Creek at its confluence with the said Clearwater Fork to the summit of the ridge between Stony Creek and the Clearwater Fork of the Toklat River, thence following the summit of said ridge and the summit of the ridge between the tributaries of said Clearwater Fork, the headwaters of the North Fork of Moose Creek and Boundary Creek to the intersection with the present boundary of Denali National Park at approximate latitude of sixty-three degrees thirty-two minutes forty-five seconds, longitude one hundred and fifty degrees twenty-four minutes forty-five seconds; thence southwesterly fourteen and three-tenths miles, more or less, to a point one-half mile north of Wonder Lake on the stream flowing out of Wonder Lake into Moose Creek; thence south sixty-eight degrees west forty-three and five-tenths miles, more or less, to the point of intersection with the southwest boundary extended; thence southeasterly thirty-three miles, more or less, to the summit of Mount Russell; thence in a northeasterly direction following the present south boundary approximately eighty-eight miles to Windy Creek at approximate latitude sixty-three degrees twenty-five minutes forty-five seconds, longitude one hundred and forty-nine degrees one minute thirty-five seconds; thence easterly following the north bank of Windy Creek to the western boundary of The Alaska Railroad right-of-way; thence northerly following the west boundary of The Alaska Railroad right-of-way to a point due east of the present north boundary of the park as extended due east; thence due west following the present north boundary of the park to the summit of the ridge between Toklat River and the Clearwater Fork of said river; thence southerly following the summit of said ridge to the place of beginning: *Provided, however*, That such isolated tracts of land lying east of The Alaska Railroad right-of-way and the west bank of the Nenana River between the north bank of Windy Creek and the north park boundary as extended eastward are also included in said park: *Provided further*, That nothing herein contained shall affect any valid existing claim, location, or entry under the land laws of the United States, whether for homestead, mineral, right-of-way, or any other purpose whatsoever, or shall affect the rights of any such claimant, locator, or entryman to the full use and enjoyment of his land.

(Mar. 19, 1932, ch. 88, § 1, 47 Stat. 68; Pub. L. 96–487, title II, § 202(3)(a), Dec. 2, 1980, 94 Stat. 2382.)

REFERENCES IN TEXT

The land laws of the United States, referred to in text, are classified generally to Title 43, Public Lands.

CODIFICATION

Section was not enacted as part of act Feb. 26, 1917, ch. 121, 39 Stat. 938, which comprises this subchapter.

CHANGE OF NAME

''Denali National Park'' substituted in text for ''Mount McKinley National Park'' pursuant to Pub. L. 96–487, § 202(3)(a), which is classified to section 410hh–1(3)(a) of this title and which added lands to the park, established additional land as the Denali National Preserve, and redesignated the whole as the Denali National Park and Preserve.

§ 355a. Laws applicable to added lands

The provisions of sections 1, 2, 3, and 4 of this title and this subchapter, together with all Acts supplementary to and amendatory of said sections and subchapter are made applicable to and extended over the lands added to the park by section 355 of this title.

(Mar. 19, 1932, ch. 88, § 2, 47 Stat. 69.)

CODIFICATION

Section was not enacted as part of act Feb. 26, 1917, ch. 121, 39 Stat. 938, which comprises this subchapter.

SUBCHAPTER XL—HOT SPRINGS NATIONAL PARK

CHANGE OF NAME

''Hot Springs Reservation'' changed to ''Hot Springs National Park'' by act Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1407.

§ 361. Establishment; supply of water; free baths for indigent; dedication to United States

The Secretary of the Interior is authorized to grant to hotels having bathhouses attached, and to bathhouses situated in the Hot Springs National Park, as well as in the city of Hot Springs, Arkansas, the right to install, maintain, and use, either in said bathhouses or in connection with the rooms of said hotels or the bathhouses attached to said hotels, as many bathtubs as in his discretion he may deem proper and necessary for the public service and the amount of hot water will justify. The superintendent shall provide and maintain a suffi-

cient number of free baths for the use of the indigent. All titles given or to be given by the United States shall explicitly exclude the right to the purchaser of the land, his heirs or assigns, from ever boring thereon for hot water; and the Hot Springs, with the National Park and mountain are dedicated to the United States, and shall remain forever free from sale or alienation.

(Dec. 16, 1878, ch. 5, 20 Stat. 258; June 16, 1880, ch. 246, § 3, 21 Stat. 289; Apr. 12, 1904, ch. 1249, 33 Stat. 173; May 23, 1906, ch. 2552, 34 Stat. 198, 199; Apr. 30, 1908, ch. 154, 35 Stat. 98; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1407.)

CODIFICATION

Act Apr. 12, 1904 amended act Dec. 16, 1878, by striking out a proviso thereof and inserting in lieu thereof a proviso which is the source of the first sentence of this section. The proviso stricken out limited the supply of water to hotels or bathhouses to not more than enough for 40 bath tubs of the usual size to a single establishment.

A portion of act Dec. 16, 1878, made an appropriation for the expenses of the Hot Springs Commission, and provided for the appointment of a Board of Commissioners, conferring upon them the powers of the Commissioners appointed under act Mar. 3, 1877, ch. 108, 19 Stat. 377, to lay out, etc., the Hot Springs Reservation, and revived and continued in force said act Mar. 3, 1877 to enable the Commissioners to perform the acts and duties authorized by it. These and other earlier provisions relating to the establishment and management of the reservation were temporary and have been executed.

Provisions of act Dec. 16, 1878, relating to leases of ground, bathhouses, etc., were omitted as temporary in nature and superseded by sections 362 to 368 of this title.

There have also been omitted as temporary and executed a provision of act Dec. 16, 1878 for the expenses of the free baths maintained for the indigent and a provision for the disposition of fractions of lots made by straightening, widening, or laying out streets.

The boundaries of the Hot Springs National Park have been affected by act June 25, 1930, ch. 607, 46 Stat. 1915, which provided as follows: ''That the Secretary of the Interior be, and is hereby, authorized in his discretion to convey to the P. F. Connelly Paving Company, of Little Rock, Arkansas, by the issuance of patent or other appropriate instrument of conveyance, and at an appraised value to be approved by said Secretary, that certain tract of land located within the Hot Springs National Park, Garland County, Arkansas, described as follows: Beginning at a point on the west boundary line of Hot Springs National Park, Arkansas, said point being the most southerly corner of lot 32, block 128, United States Hot Springs Reservation as surveyed, mapped, and platted by the United States Hot Springs Commissioners; thence in a southeasterly direction and at right angles to the boundary of Hot Springs National Park aforesaid, a distance of fifty feet; thence in a northeasterly direction and parallel with the aforementioned boundary line, two hundred and ninety feet; thence in a northwesterly direction a distance of fifty feet to the aforementioned boundary line; thence in a southwesterly direction along said boundary line a distance of two hundred and ninety feet to the point of beginning; and, upon the transfer of title to said land to the said company, the same shall be, and is hereby, eliminated from the said Hot Springs National Park.''

CHANGE OF NAME

''Hot Springs National Park'' substituted in text for ''Hot Springs Reservation'' pursuant to act Mar. 4, 1921.

§ 361a. Additions to park

The Secretary of the Interior is authorized, in his discretion, to accept the fee-simple title to a certain tract of land adjoining the Hot Springs National Park, Arkansas, described as being the west half of the southwest quarter of the southwest quarter of section 27, township 2 south, range 19 west, fifth principal meridian, containing sixteen acres, more or less, situated in Garland County, State of Arkansas, donated to the United States of America for use in connection with Hot Springs National Park: *Provided*, That such land when accepted by the Secretary of the Interior shall be and remain a part of Hot Springs National Park.

(June 5, 1924, ch. 264, 43 Stat. 423.)

§ 361b. Additions to park

The Secretary of the Interior is authorized, in his discretion and upon submission of evidence of title satisfactory to him, to accept on behalf of the United States of America that certain tract of land adjoining the Hot Springs National Park, Arkansas, described as being a part of the north half southwest quarter section 27, township 2 south, range 19 west, west of the ninety-third meridian, in Garland County, Arkansas, and which has been tendered to the United States of America as a donation and as an addition to the said Hot Springs National Park: *Provided*, That such land when accepted by the Secretary of the Interior shall be and remain a part of the Hot Springs National Park.

(Feb. 14, 1931, ch. 172, 46 Stat. 1106.)

§ 361c. Additions to park

The boundaries of the Hot Springs National Park in the State of Arkansas are extended to include the following land, to wit: Lot 11, block 101; lot 5, block 185; lot 6, block 186; lots 5, 6, and 7, block 187; and lots 1, 2, 3, 6, and 15, block 188, United States Hot Springs Reservation, as surveyed, mapped, and plotted by the United States Hot Springs Commission, and any of such lands when acquired by the Secretary of the Interior on behalf of the United States shall be and remain a part of the Hot Springs National Park, subject to all laws and regulations applicable thereto.

(June 15, 1936, ch. 554, § 1, 49 Stat. 1516; Aug. 10, 1939, ch. 639, 53 Stat. 1341.)

AMENDMENTS

1939—Act Aug. 10, 1939, repealed proviso which limited expenditure of funds.

§ 361c–1. Omitted

CODIFICATION

Section, act June 15, 1936, ch. 554, § 2, as added Aug. 10, 1939, ch. 639, 53 Stat. 1342, appropriated $8,000 for purchase of lands described in section 361c of this title.

§ 361d. Additions to park

The boundaries of the Hot Springs National Park in the State of Arkansas be, and the same are, extended to include the following lands, to wit:

So much of the northeast quarter section 33, township 2 south, range 19 west, as is now privately owned;

The northwest quarter section 34, township 2 south, range 19 west;

All privately owned land in the west half section 27, township 2 south, range 19 west;

The southeast quarter section 27, south half northeast quarter section 27, all privately owned lands in the northwest quarter northeast quarter section 27, west half section 22, southwest quarter section 15, southeast quarter section 16, northeast quarter section 21, south half section 21, southeast quarter southeast quarter section 20, east half northeast quarter section 28, northwest quarter northeast quarter section 28, northwest quarter northwest quarter section 28, east half southwest quarter northeast quarter section 28, east half northeast quarter section 29, southeast quarter northwest quarter northeast quarter section 29, southwest quarter northeast quarter section 29, west half northwest quarter southeast quarter section 29, southeast quarter southeast quarter northwest quarter section 29, northeast quarter northwest quarter southeast quarter section 29, all privately owned land in northeast quarter southwest quarter section 29, south half southeast quarter section 30, northeast quarter southeast quarter section 30, southeast quarter southwest quarter section 30, west half section 31, north half northeast quarter section 31, southwest quarter northeast quarter section 31, west half southeast quarter northeast quarter section 31, all lying and being situated in township 2 south, range 19 west;

All of section 36, southeast quarter section 35, southeast quarter northeast quarter section 35, all lying and being situated in township 2 south, range 20 west;

Northeast quarter section 2, north half southeast quarter section 2, north half section 1, north half southwest quarter section 1, north half southeast quarter section 1, all lying and being situated in township 3 south, range 20 west;

North half section 6, north half southwest quarter section 6, northwest quarter southeast quarter section 6, all lying and being situated in township 3 south, range 19 west;

Blocks 27, 189, 195, and 196, city of Hot Springs;

Lots 8 to 13, inclusive, block 125, city of Hot Springs; lots 4, 5, 7, 8, 9, 10, 11, 12, 13, and 14, block 188, city of Hot Springs;

Fountain Street adjoining lots 13, block 125, and blocks 195 and 196, city of Hot Springs;

Reserve Avenue in city of Hot Springs from Palm Street to Cypress Street. Two unnamed streets, twenty feet wide, extending from Fountain Street to Government boundary and running between blocks 125 and 195 and blocks 195 and 196, respectively.

All or any part of such lands above described, when acquired by the Secretary of the Interior on behalf of the United States, shall be and remain a part of the Hot Springs National Park, subject to all laws and regulations applicable thereto.

(June 24, 1938, ch. 649, §1, 52 Stat. 1038.)

§ 361e. Acceptance of donations

The Secretary of the Interior is authorized, in his discretion, to accept on behalf of the United States donations of lands or interests in land within the city limits of Hot Springs, Arkansas, the title to such lands or interests in land to be satisfactory to said Secretary. Upon the acquisition of such lands or interests in land, they shall become a part of the Hot Springs National Park and shall be subject to all laws and regulations applicable thereto.

(June 15, 1936, ch. 554, §3, as added Aug. 10, 1939, ch. 639, 53 Stat. 1342.)

§ 361f. Exchange of lands

For the purpose of consolidating Federal holdings of land within Hot Springs National Park, Arkansas, and in order to bring about certain improvements in park land use, the Secretary of the Interior is authorized in his discretion to accept, on behalf of the United States, approximately 4.75 acres of non-Federal land or interests in land situated in blocks 195 and 196 of the city of Hot Springs, Arkansas, and in exchange therefor to convey by deed on behalf of the United States to the grantor of the aforesaid property certain federally owned land or interests in land, of no greater value, comprising not in excess of five and three-tenths acres of land situated adjacent to and in the immediate rear of the Arlington Hotel in Hot Springs, Arkansas.

(Pub. L. 85–679, Aug. 18, 1958, 72 Stat. 630.)

§ 361g. Modification of park boundary

The boundary of Hot Springs National Park is modified as depicted on the map entitled ''Proposed Boundary Map'', numbered 128/80015, and dated August 5, 1985.

(Pub. L. 103–58, Aug. 2, 1993, 107 Stat. 280.)

§ 362. Leases of bathhouses and sites; supply of water

The Secretary of the Interior is authorized and empowered to execute leases to the bathhouses and bathhouse sites in the Hot Springs National Park for periods not exceeding twenty years, and at an annual rental of not less than $30 per tub for each tub used in any bathhouse. Said annual rental shall be payable quarterly in advance, at the office of the Government superintendent of said property, in Hot Springs, Arkansas. The same rate for water rent shall be charged for the water to all parties receiving the same, whether in or outside said park. After the Army and Navy hospital bathhouse, the public bathhouse, the bathhouses which are authorized in the said park, the Arlington Hotel, and the bathhouses outside said park authorized on or before March 3, 1891, to be supplied with hot water, in the order herein named, if there shall still be a surplus of hot water the Secretary of the Interior may, in his discretion and under such regulations as he may prescribe, cause hot water to be furnished to bathhouses, hotels, and families outside the said park. Such bathhouses, hotels, and families shall cause all connections for obtaining such hot water to be made at their own expense. All water furnished to any hotel or family for other use than bathing shall be paid for at such reasonable price, as shall be fixed by the Secretary of the Interior. The Secretary of the Interior shall at the expiration of each period of five years during the continuance of each lease readjust the terms and amounts of pay-

ment provided for therein as may be just, but not less than the minimum herein provided.

(Mar. 3, 1891, ch. 533, § 1, 26 Stat. 842; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1407.)

CHANGE OF NAME

''Hot Springs National Park'' substituted in text for ''Hot Springs Reservation'' pursuant to act Mar. 4, 1921.

ARLINGTON HOTEL SITE

Section 2 of act Mar. 3, 1891, authorized the leasing of the Arlington Hotel site for a term which has expired. Provision for leasing this property was made by act Aug. 24, 1912, ch. 355, § 1, 37 Stat. 459.

Act Feb. 14, 1931, ch. 180, 46 Stat. 1109, incorporated in section 370a of this title, provided that upon the expiration on Mar. 6, 1932, of the existing lease of the Arlington Hotel Company, the property or site should be kept, retained and maintained by the United States for park and landscaping purposes, and that no new lease shall be granted for the erection of another hotel, bathhouse or other structure thereon.

LEASES PURSUANT TO 1878 ACT

For prior provisions relating to leases of ground, bathhouses, etc., made by act Dec. 16, 1878, ch. 5, 20 Stat. 258, see Codification notes set out under section 361 of this title.

§ 363. Rules and regulations

Full power is vested in the Secretary of the Interior to provide, in all leases to be executed against any combination among lessees or their assigns, as to ownership, prices, or accommodations at any bathhouse; as well as to make all needful rules and regulations as to the use of the hot water, and to prevent its waste, including full power to authorize the superintendent of said park to make examination and inspection at any time of the manner of using the hot water at any bathtub, that it may be used in proper quantity only, and to prevent its waste; and also full power to provide and fix reasonable maximum charges for all baths, or bathing privileges, or services of any person connected with any bathhouse furnished to bathers; and for reasonable maximum charges to guests at the Arlington Hotel; and also, generally, the Secretary of the Interior may make all necessary rules and regulations as to said bathhouses and the service therein as shall be deemed best for the public interest, and to provide penalties for the violation of any regulation which may be enforced as though provided by Act of Congress. All leases and grants of hot-water privileges shall be held to be subject to all regulations in force on March 3, 1891, or which may be adopted by the Secretary of the Interior, and for any violation of any regulation, known to the proprietor at the time of the offense, the lease or grant may be canceled by the Secretary of the Interior. It shall be expressly provided in all leases and grants of privilege for hot water that the bathhouse for which provision is made shall not be owned or controlled by any person, company, or corporation which may be the owner of or interested (as stockholder or otherwise) in any other bathhouse on or near the Hot Springs National Park; that neither the hot-water privilege granted nor any interest therein, nor the right to operate or control said bathhouse, shall be assigned or transferred by the party of the second part without the approval of the Secretary of the Interior first obtained, in writing; and if the ownership or control of said bathhouse be transferred to any person, company, or corporation owning or interested in any other bathhouse on or near said reservation, the Secretary of the Interior may, for that cause, deprive the bathhouse provided for of the hot water and cancel the lease or agreement. All buildings to be erected in the Hot Springs National Park shall be on plans first approved by the Secretary of the Interior, and shall be required to be fireproof, as nearly as practicable.

(Mar. 3, 1891, ch. 533, § 3, 26 Stat. 843; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1407.)

CODIFICATION

A clause at the beginning of this section as originally enacted, retaining and continuing in the Secretary of the Interior all power then possessed by him for the regulating of leases of bath houses, bathhouse privileges, or hotel rights on the reservation, or supplying hot water to places off the reservation was omitted for purposes of codification.

CHANGE OF NAME

''Hot Springs National Park'' substituted in text for ''Hot Springs Reservation'' pursuant to act Mar. 4, 1921.

§ 364. Investigation of applicant for lease or contract

The Secretary of the Interior, before executing any lease to bathhouses or bathhouse sites in the park or contracts for the use of hot water for bathhouses outside said park, may make due investigation to ascertain whether the person, persons, or corporation applying for such lease or contract are not, directly or indirectly, interested in any manner whatever in any other bathhouse, lease, interest, or privilege at or near Hot Springs, Arkansas, or whether he or they belong to any pool, combination, or association so interested, or whether he or they are members or stockholders in any corporation so interested, or, if a corporation, whether its members or any of them are members or stockholders of any other corporation or association interested in any other bathhouse, lease, interest, or privilege as aforesaid, and in order to arrive at the facts in any such case he is authorized to send for persons and papers, administer oaths to witnesses, and require affidavits from applicants; and any such person making a false oath or affidavit in the premises shall be deemed guilty of perjury, and, upon conviction, subject to all the pains and penalties of perjury under the statutes of the United States; and whenever, either at the time of leasing or other time it appears to the satisfaction of the said Secretary that such interest in other bathhouse, lease, interest, or privilege exists, or at any time any pool or combination exists between any two or more bathhouses or he deems it for the best interests of the management of the Hot Springs National Park and waters, or for the public interest, he may refuse such lease, license, permit, or other privilege, or forfeit any lease or privilege wherein the parties interested have become otherwise interested as aforesaid.

(Mar. 3, 1891, ch. 533, § 4, 26 Stat. 843; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1407.)

CHANGE OF NAME

''Hot Springs National Park'' substituted in text for ''Hot Springs Reservation'' pursuant to act Mar. 4, 1921.

§ 365. Taxation, under State laws

The consent of the United States is given for the taxation, under the authority of the laws of the State of Arkansas applicable to the equal taxation of personal property in that State, as personal property of all structures and other property in private ownership on the Hot Springs National Park.

(Mar. 3, 1891, ch. 533, § 5, 26 Stat. 844; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1407.)

CHANGE OF NAME

''Hot Springs National Park'' substituted in text for ''Hot Springs Reservation'' pursuant to act Mar. 4, 1921.

§ 366. Collection of water on reservation

The authority conferred upon the Secretary of the Interior to collect the hot water upon said Hot Springs National Park shall be so construed as to require water to be collected only where such collection is necessary for its proper distribution, and not where by gravity the same can be properly utilized.

(Mar. 3, 1891, ch. 533, § 6, 26 Stat. 844; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1407.)

CHANGE OF NAME

''Hot Springs National Park'' substituted in text for ''Hot Springs Reservation'' pursuant to act Mar. 4, 1921.

§ 367. Sale of lots

The Secretary of the Interior may direct the public sale of all unsold Government lots in Hot Springs National Park, and not permanently reserved on March 3, 1891, at the city of Hot Springs, after having had the same reappraised, and also advertised as required by law, and no lot shall be sold at less than the appraised price.

(Mar. 3, 1891, ch. 533, § 7, 26 Stat. 844; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1407.)

CHANGE OF NAME

''Hot Springs National Park'' substituted in text for ''Hot Springs Reservation'' pursuant to act Mar. 4, 1921.

§ 368. Operation of bathhouse in connection with hotel

Nothing in sections 362 to 367 of this title shall be so construed as to prevent the stockholders of any hotel from operating a bathhouse in connection with such hotel as a part thereof.

(Mar. 3, 1891, ch. 533, § 8, 26 Stat. 844.)

§ 369. Charges assessable against bath attendants and masseurs and physicians prescribing use of hot waters

The Secretary of the Interior is authorized to assess and collect from physicians who desire to prescribe the hot waters from the Hot Springs National Park reasonable fees for examination and registration; and he is also authorized to assess and collect from bath attendants and masseurs operating in bathhouses receiving hot water from the park reasonable annual charges to cover the cost of physical examinations.

(June 5, 1920, ch. 235, § 1, 41 Stat. 918; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1407; Mar. 2, 1931, ch. 365, 46 Stat. 1462.)

CODIFICATION

As originally enacted, this section authorized reasonable charges against physicians, including fees for examination and registration. It also authorized collection of reasonable charges from bath attendants and masseurs, and provided that the moneys received should be used in the protection and improvement of the park.

AMENDMENTS

1931—Act Mar. 2, 1931, struck out provision that moneys received from the assessment and collection of fees were to be used for the protection and improvement of the park.

CHANGE OF NAME

''Hot Springs National Park'' substituted in text for ''Hot Springs Reservation'' pursuant to act Mar. 4, 1921.

§ 370. Omitted

CODIFICATION

Section, act Aug. 24, 1912, ch. 355, § 1, 37 Stat. 459, related to lease of Arlington Hotel site. See section 370a of this title.

§ 370a. Retention of Arlington Hotel site for park and landscape purposes

The site within the Hot Springs National Park fronting on Central Avenue and on Fountain Street, leased by the Secretary of the Interior pursuant to the authority of Act of August 24, 1912 (chapter 355, 37 Statutes 459) to the Arlington Hotel Company, and occupied by the hotel and bathhouse building of said company until it burned on April 5, 1923, shall upon the expiration on March 6, 1932, of the existing lease therefor with the said Arlington Hotel Company, be kept, retained, and maintained by the United States for park and landscaping purposes; and no new lease shall be granted by the Secretary of the Interior for the erection of another hotel, bathhouse, or other structure thereon.

(Feb. 14, 1931, ch. 180, 46 Stat. 1109.)

REFERENCES IN TEXT

Act August 24, 1912 (chapter 355, 37 Statutes 459), as it related to lease of property at Hot Springs, Arkansas, referred to in text, was classified to section 370 of this title and was omitted from the Code as superseded by this section. For complete classification of this Act to the Code, see Tables.

§ 371. Use of free bathhouses limited

Only persons who are without and unable to obtain the means to pay for baths and are suffering from ailments for which bathing in the water of the Hot Springs National Park will afford relief or effect a cure shall be permitted to bathe at the free bathhouse on the public reservation at Hot Springs, Arkansas, and before any person shall be permitted to bathe at the free bathhouse on the reservation he shall be required to make oath, before such officer duly authorized to administer oaths for general purposes as the superintendent of the Hot Springs National Park shall designate, that he is without and unable to obtain the means to pay for baths, and any person desiring to bathe at the

free bathhouse on the Hot Springs National Park making a false oath as to his financial condition shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than $25 nor more than $300 and be imprisoned for not more than sixty days.

(Mar. 2, 1911, ch. 200, 36 Stat. 1015; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1407; June 26, 1936, ch. 843, 49 Stat. 1979.)

AMENDMENTS

1936—Act June 26, 1936, increased fine from not more than $25 to not less than $25 nor more than $300 and maximum prison term from not more than 30 days to not more than 60 days.

CHANGE OF NAME

''Hot Springs National Park'' substituted in text for ''Hot Springs Reservation'' pursuant to act Mar. 4, 1921.

§ 372. Laws operative within judicial district of Arkansas

The portion of the Hot Springs Mountain Reservation in the State of Arkansas situated and lying within boundaries defined as follows, ''commencing at stone monument numbered 7, set upon the west line of Reserve Avenue and marking the boundary line of Hot Springs Mountain, and running thence in a northwesterly direction to a point upon the south line of Fountain Street to a stone monument numbered 42 and marking the boundary line of Hot Springs Mountain; thence along the south line of Fountain Street to its intersection with Central Avenue or to stone monument numbered 33; thence south along the east line of Central Avenue to where the same is intersected by Reserve Avenue at stone monument numbered 30; thence along the north boundary line of Reserve Avenue to stone monument numbered 7, the point of commencement; all in township 2 south, range 19 west, in the county of Garland and State of Arkansas, and also block 82, being a part of the permanent United States Hot Springs National Park'', or within such boundaries as may be defined hereafter, shall be under the sole and exclusive jurisdiction of the United States, and all laws applicable to places under such sole and exclusive jurisdiction shall have full force and effect therein. Nothing in this section and sections 373 and 374 of this title shall be so construed as to forbid the service within said boundaries of any civil or criminal process of any court having jurisdiction in the State of Arkansas. All fugitives from justice taking refuge within said boundaries shall, on due application to the executive of said State, whose warrant may lawfully run within said territory for said purpose, be subject to the laws which apply to fugitives from justice found in the State of Arkansas. Said sections shall not be so construed as to interfere with the right to tax all structures and other property in private ownership within the boundaries above described, accorded to the State of Arkansas by section 365 of this title.

(Apr. 20, 1904, ch. 1400, §§ 1, 2, 33 Stat. 187; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Sept. 18, 1922, ch. 321, 42 Stat. 847; June 24, 1946, ch. 463, § 1, 60 Stat. 303; June 25, 1948, ch. 646, § 39, 62 Stat. 992.)

CODIFICATION

Provisions formerly at end of section making the described portion of the park part of the United States judicial district of Arkansas and giving jurisdiction of offenses therein to the district court were from section 2 of act of Apr. 20, 1904, and the remainder from section 1 of act Apr. 20, 1904.

Act Mar. 3, 1911 conferred the power of the circuit courts upon the district courts.

Act Sept. 18, 1922, ch. 321, accepted the provisions of the Act of the Legislature of the State of Arkansas, approved Feb. 2, 1921, ceding to the United States exclusive jurisdiction over block 82, aforesaid, and extended to block 82 the provisions of this section and sections 373 and 374 of this title.

Provision of section 1 of act Apr. 20, 1904, reciting the acceptance of the provisions of the Act of the Arkansas Legislature ceding to the United States exclusive jurisdiction over the territory described in section 1 aforesaid was omitted for purposes of codification.

The line of the reservation was changed, and the tract of land thereby excluded was ceded to the city of Hot Springs, to be used for street purposes only, by act May 23, 1906, ch. 2552, 34 Stat. 198.

Certain lots situated on the Hot Springs Reservation were granted to the school district of Hot Springs by act Apr. 30, 1908, ch. 154, § 1, 35 Stat. 98.

A strip of land described was ceded to the city of Hot Springs for use as a public street, by act June 25, 1910, ch. 417, 36 Stat. 844.

The three provisions last mentioned were omitted from the Code as executed.

AMENDMENTS

1948—Act June 25, 1948, struck out provision at end of section based on section 2 of act Apr. 20, 1904, which read ''and the above-described portion of said park shall constitute a part of the Western United States judicial district of Arkansas, and the district court for said district shall have jurisdiction of all offenses committed within said boundaries''. See section 83 of Title 28, Judiciary and Judicial Procedure, section 3231 of Title 18, Crimes and Criminal Procedure, and rule 18 of the Federal Rules of Criminal Procedure, Title 18, Appendix.

1946—Act June 24, 1946, transferred the park from the jurisdiction of the Eastern United States Judicial District of Arkansas to the Western United States Judicial District of Arkansas.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 38 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

§ 372a. Acceptance of jurisdiction over part of park; application of laws

The conditional cession and grant to the United States of exclusive jurisdiction over that part of the Hot Springs National Park known as the public camp ground and described as follows: Commencing at the stone marking at the northeast corner of the northeast quarter of section 33, township 2 south, range 19 west, thence east for five hundred and twenty-eight feet along the south line of the southwest quarter of section 27, township 2 south, range 19 west, thence north parallel with the reservation line for one thousand three hundred and twenty feet to the north line of said southwest quarter of the southwest quarter of section 27, township 2 south, range 19 west, thence west for five hundred and twenty-eight feet along north line of said southwest quarter of the southwest quarter of section 27, township 2 south, range 19 west to the east line of Hot Springs National Park, thence south along the line of Hot Springs National Park to

the place of beginning, in the county of Garland, State of Arkansas, being a part of the Hot Springs National Park, made by act of the Legislature of the State of Arkansas, approved March 27, 1925, are accepted, and the provisions of section 376[1] of this title, relating to the Hot Springs Mountain Reservation, Arkansas, are extended to said land.

(Mar. 3, 1927, ch. 317, 44 Stat. 1359.)

REFERENCES IN TEXT

Section 376 of this title, referred to in text, was repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948. See section 636 of Title 28, Judiciary and Judicial Procedure.

§ 373. Injuries to property

Any person who shall, within the tract mentioned in section 372 of this title, commit any damage, injury, or spoliation to or upon any building, fence, hedge, gate, guidepost, tree, wood, underwood, timber, garden, crops, vegetables, plants, land, springs, mineral deposits, natural curiosities, or other matter or thing growing or being thereon, or situated therein, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not more than $100 and be adjudged to pay all costs of the proceedings.

(Apr. 20, 1904, ch. 1400, § 3, 33 Stat. 187.)

§ 374. Taking or use of or bathing in water in violation of rules and regulations

Any person who shall, except in compliance with such rules and regulations as the Secretary of the Interior may deem necessary, enter or attempt to enter upon said tract, take, or attempt to take, use, or attempt to use, bathe in, or attempt to bathe in water of any spring located thereon, or without presenting satisfactory evidence that he or she (provided he or she is under medical treatment) is the patient of a physician duly registered at the office of the superintendent of the Hot Springs National Park as one qualified, under such rules which the Secretary of the Interior may have made or shall make, to prescribe the waters of the Hot Springs, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not more than $100, and be adjudged to pay all costs of the proceedings. No physician who shall engage in the solicitation of patronage through the medium of drummers, or otherwise, shall be or remain thus registered. If any person so bathing, or attempting to bathe, or so entering, or attempting to enter upon the described tract, shall have the permit of a physician, such physician shall be liable to the penalties of this section, unless he be regularly registered; and such person shall not be liable to the penalties of this section, unless it shall be made to appear that he knew, or had reason to believe, that the physician giving him such permit was not regularly registered.

(Apr. 20, 1904, ch. 1400, § 4, 33 Stat. 188; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1407.)

[1] See References in Text note below.

CHANGE OF NAME

''Hot Springs National Park'' substituted in text for ''Hot Springs Reservation'' pursuant to act Mar. 4, 1921.

§§ 375 to 383. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 375, act Apr. 20, 1904, ch. 1400, § 5, 33 Stat. 188, related to offenses under State law. See section 13 of Title 18, Crimes and Criminal Procedure.

Section 376, acts Apr. 20, 1904, ch. 1400, § 6, 33 Stat. 188; Mar. 2, 1907, ch. 2516, §§ 1, 2, 34 Stat. 1218; Mar. 3, 1911, ch. 230, 36 Stat. 1086; June 24, 1946, ch. 463, § 2, 60 Stat. 303, related to prosecutions for violations of law or rules and regulations. See section 636 of Title 28, Judiciary and Judicial Procedure.

Section 377, acts Apr. 20, 1904, ch. 1400, § 7, 33 Stat. 188; Mar. 2, 1907, ch. 2516, § 2, 34 Stat. 1218; June 24, 1946, ch. 463, § 3, 60 Stat. 303, related to issuance of process. See sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and rules 4, 5(c), and 9 of Federal Rules of Criminal Procedure, Title 18, Appendix.

Section 378, acts Apr. 20, 1904, ch. 1400, § 8, 33 Stat. 189; Mar. 2, 1907, ch. 2516, § 2, 34 Stat. 1218; June 24, 1946, ch. 463, § 4, 60 Stat. 303, related to process directed to marshal. See section 3053 of Title 18, rule 4 of Federal Rules of Criminal Procedure, Title 18, Appendix, and rule 4 of Federal Rules of Civil Procedure, Title 28, Appendix, Judiciary and Judicial Procedure.

Section 379, acts Apr. 20, 1904, ch. 1400, § 9, 33 Stat. 189; Mar. 2, 1907, ch. 2516, § 2, 34 Stat. 1218; June 24, 1946, ch. 463, § 5, 60 Stat. 303, related to fees of commissioner [now magistrate judge]. See section 634 of Title 28.

Section 380, acts Apr. 20, 1904, ch. 1400, § 11, 33 Stat. 189; Mar. 2, 1907, ch. 2516, § 2, 34 Stat. 1218, related to disposition of fines and costs. See section 634 of Title 28.

Section 381, acts Apr. 20, 1904, ch. 1400, § 13, 33 Stat. 189; Mar. 2, 1907, ch. 2516, § 2, 34 Stat. 1218, related to execution of sentence of conviction. See section 3041 of Title 18, Crimes and Criminal Procedure.

Section 382, acts Apr. 20, 1904, ch. 1400, § 12, 33 Stat. 189; June 24, 1946, ch. 463, § 6, 60 Stat. 303, related to imprisonment for nonpayment of fines or costs. See section 3041 of Title 18.

Section 383, act Apr. 20, 1904, ch. 1400, § 10, 33 Stat. 189, related to fees chargeable to United States. See section 604 of Title 28, Judiciary and Judicial Procedure.

SUBCHAPTER XLI—HAWAII NATIONAL PARK

§ 391. Establishment; boundaries

The tracts of land on the island of Hawaii and on the island of Maui, in the Territory of Hawaii, hereinafter described, shall be perpetually dedicated and set apart as a public park or pleasure ground for the benefit and enjoyment of the people of the United States, to be known as Hawaii National Park. Said tracts of land are described as follows:

First. All that tract of land comprising portion of the lands of Kapapala and Keauhou, in the District of Kau, and portions of the lands of Keaau, Kahaualea, Panaunui, and Apua, in the District of Puna, containing approximately thirty-four thousand five hundred and thirty-one acres, bounded as follows:

Beginning at a point on the west edge of the Keamoku Aa Flow (lava flow of 1823), the coordinates of said point of beginning referred to Government Survey Trigonometry Station ''Uwekahuna'', being four thousand seven hundred and six and six-tenths feet south and seventeen thousand nine hundred and seventy and three-tenths feet west, and the true azimuth and distance from said point of beginning to Govern-

ment Survey Trigonometry Station ''Ohaikea'', being one hundred and sixty-six degrees and twenty minutes, six thousand three hundred and fifty feet, and running by true azimuths—

1. Along the west edge of the Keamoku Aa Flow in a northeasterly and northwesterly direction, the direct azimuth and distance being one hundred and ninety-eight degrees and ten minutes fourteen thousand seven hundred feet;

2. Two hundred and fifty-six degrees, eleven thousand four hundred feet across the land of Kapapala and Keauhou to a marked point on the Humuula Trail;

3. Three hundred and twenty-eight degrees and fifteen minutes eight thousand seven hundred and twenty-five feet across the land of Keauhou to the top of the fault north and the Kau Road;

4. Thence along the fault in a northeasterly direction along the remainder of Keauhou to a pipe, the direct azimuth and distance being two hundred and fifty-one degrees and thirty minutes four thousand three hundred and thirty feet;

5. Two hundred and eighty-six degrees five hundred and thirty feet along the remainder of Keauhou;

6. Two hundred and ninety-eight degrees nine hundred and sixty feet along same;

7. Two hundred and eighty-three degrees and forty-eight minutes one thousand one hundred and forty-six and five-tenths feet along same to a pipe;

8. Two hundred and sixty-seven degrees and twenty minutes one thousand and twenty-seven and five-tenths feet along same;

9. Two hundred and ninety-three degrees and ten minutes one thousand and fifty feet along same to a pipe;

10. Three hundred and twenty-one degrees and forty-six minutes one thousand one hundred and eleven and three-tenths feet along same;

11. Three hundred and thirty-three degrees and fifty minutes one thousand one hundred feet along same;

12. Three hundred and twenty-seven degrees and twenty minutes one thousand nine hundred and forty feet along same;

13. Two hundred and eighty-three degrees and thirty-nine minutes two thousand and fifty-seven and four-tenths feet along same to a pipe;

14. Three hundred and thirty-three degrees and twenty minutes two hundred and fifty feet along same to a pipe on the north side of Government Main Road at junction with the Keauhou Road, said pipe being by true azimuth and distance two hundred and ninety-five degrees and twelve minutes six thousand one hundred and sixty-seven and one-tenth feet from Government Survey Trigonometry Station ''Volcano House Flag'';

15. Three hundred and thirty-three degrees and twenty minutes three thousand two hundred and eighty-three and two-tenths feet along the remainder of Keauhou to a pipe;

16. Three hundred and fifty-four degrees and fifty-four minutes sixty feet along the remainder of Keaau;

17. Two hundred and thirty-one degrees and thirty-one minutes one thousand six hundred and seventy-eight and eight-tenths feet along same;

18. Three hundred and eighteen degrees eight hundred and sixteen and four-tenths feet along same to the boundary between the lands of Keaau and Kahaualea;

19. Seventy-two degrees and forty-five minutes one thousand two hundred and thirty-three and three-tenths feet along the land of Kahaualea to a pipe;

20. Forty-eight degrees six hundred and thirty-four feet along the remainder of Kahaualea to a pipe on the Kahaualea-Keauhou boundary;

21. Three hundred and thirty-two degrees and ten minutes six thousand five hundred and fifty-one and four-tenths feet along the Kahaualea-Keaau boundary to a pipe;

22. Two hundred and eighty-one degrees thirty thousand three hundred and one and seven-tenths feet along the remainder of Kahaualea to a pipe;

23. Thirty-one degrees and thirty minutes thirteen thousand and seventy-four and seven-tenths feet along the remainder of Kahaualea and Panaunui to a pipe, passing over a pipe at five thousand nine hundred and twenty-two and two-tenths feet on the Kahaualea-Panaunui boundary;

24. Eighty-nine degrees and ten minutes thirty-two thousand nine hundred feet along the remainder of Panaunui, across the lands of Apua and Keauhou to ''Palilele-o-Kalihipaa'', at an angle in the Keauhou-Kapapala boundary marked by a pile of stones, passing over pipes at three thousand five hundred and seventy-two and eight-tenths feet on the Panaunui-Apua boundary and eight thousand four hundred and thirty-five and three-tenths feet;

25. Fifty-one degrees fifty minutes and thirty seconds five thousand four hundred and thirty feet across the land of Kapapala;

26. One hundred and two degrees and fifty minutes nineteen thousand one hundred and fifty feet across same to a small cone about one thousand five hundred feet southwest of ''Puu Koae'';

27. One hundred and sixty-six degrees and twenty minutes twenty-one thousand feet across the land of Kapapala to the point of beginning; and all of those lands lying within the boundary above described are included in and made a part of the Hawaii National Park subject to all laws and regulations pertaining to said park.

Second. All that tract of land comprising portions of the lands of Kapapala and Kahuku, in the district of Kau, island of Hawaii; Keauhou second, in the district of North Kona; and Kaohe, in the district of Hamakua, containing seventeen thousand nine hundred and twenty acres, bounded as follows: Beginning at Pohaku Hanalei of Humuula, a small cone on the brow of Mauna Loa, and at the common boundary points of the lands of Humuula, Kapapala, and Kaohe, from which the true azimuth and distance to Government survey trigonometrical station Omaokoili is one hundred and ninety-five degrees twelve minutes eighteen seconds, seventy-eight thousand two hundred and eighty-six feet, and running by true azimuths: First, two hundred and ninety-eight degrees, five thousand two hundred and forty feet; second, twenty-eight degrees, thirty-six thousand nine hundred and sixty feet; third, one hundred and eighteen degrees, twenty-one thousand one hundred and

twenty feet; fourth, two hundred and eight degrees, thirty-six thousand nine hundred and sixty feet; fifth, two hundred and ninety-eight degrees, fifteen thousand eight hundred and eighty feet, to the point of beginning.

Third. A strip of land of sufficient width for a road to connect the two tracts of land on the island of Hawaii above described, the width and location of which strip shall be determined by the Secretary of the Interior.

Fourth. All that tract of land comprising portions of the lands of Honuaula and Kula, in the district of Makawao, and Kipahulu, Kaupo, and Kahikinui, in the district of Hana, on the island of Maui, containing approximately twenty-one thousand one hundred and fifty acres, bounded as follows: Beginning at a point called Kolekole, on the summit near the most western point of the rim of the crater of Haleakala, and running by approximate azimuths and distances: First, hundred and ninety-three degrees forty-five minutes, nineteen thousand three hundred and fifty feet along the west slope of the crater of Haleakala to a point called Puu-o-Ili; second, two hundred and sixty-eight degrees, twenty-three thousand feet up the western slope and across Koolau Gap to the point where the southwest boundary of Koolau Forest Reserve crosses the east rim of Koolau Gap; third, three hundred and six degrees thirty minutes, seventeen thousand one hundred and fifty feet along the southwest boundary of Koolau Forest Reserve to a point called Palalia, on the east rim of the crater of Haleakala; fourth, along the east rim of the crater of Haleakala, the direct azimuth and distance being three hundred and fifty-four degrees fifteen minutes, eighteen thousand three hundred feet, to a point on the east rim of Kaupo Gap, shown on Hawaiian Government survey maps at an elevation of four thousand two hundred and eight feet; fifth, eighty-eight degrees forty-five minutes, three thousand three hundred feet, across Kaupo Gap to a point called Kaumikaohu, on the boundary line between the lands of Kipahulu and Kahikinui; sixth, one hundred and two degrees and thirty minutes, forty thousand seven hundred and fifty feet, along the south slope of the crater of Haleakala to the point of beginning.

Fifth. All that tract of land comprising a portion of the Kau Desert, Kapapala, in the district of Kau, on the island of Hawaii, containing forty-three thousand four hundred acres, more or less, bounded as follows: Beginning at a galvanized-iron nail driven into the pahoehoe at the northeast corner of this tract of land, at a place called Palilele-o-Kalihipaa, and on the boundary between the lands of Kapapala and Keauhou, the coordinates of said point of beginning referred to Government survey trigonometrical station Uwekahuna, being twenty-six thousand and ten and four-tenths feet south and nine thousand nine hundred and thirty-two and four tenths feet east, as shown on Government survey registered map numbered two thousand three hundred and eighty-eight and running by true azimuths: First, three hundred and fifty degrees forty-three minutes, thirty thousand and twenty-three feet, along the land of Kapapala to a point at seacoast; second, thence in a west and southwesterly direction along the seacoast to a station on a large flat stone, at a place called Na-Puu-o-na-Elemakule, at the seacoast boundary point of the lands of Kapapala and Kaalaala, the direct azimuth and distance being sixty-nine degrees thirty-four minutes thirty seconds, thirty-two thousand and forty-three feet; third, eighty-nine degrees twenty-seven minutes thirty seconds, thirty thousand six hundred and ninety feet, along the land of Kaalaala to the main 1868 lava crack, said point being by true azimuth and distance two hundred and ninety-six degrees twenty-seven minutes thirty seconds, twenty-one hundred feet from Government survey trigonometrical station Puu Nahala; fourth, thence up along the main 1868 lava crack, along the Kapapala pastoral lands to a small outbreak of lava from the 1868 lava crack, opposite the Halfway House, the direct azimuth and distance being one hundred and ninety-eight degrees, thirty-two thousand five hundred and fifty feet; fifth, two hundred and thirty degrees twenty-five minutes, twenty-seven thousand six hundred and fifteen feet, along the Kapapala pastoral lands to the west boundary of the Kilauea section, Hawaii National Park; sixth, three hundred and forty-six degrees twenty minutes, six thousand seven hundred and forty-two feet, along said west boundary to a small cone; seventh, two hundred and eighty-two degrees fifty minutes, nineteen thousand one hundred and fifty feet, along the south boundary of said Kilauea section, Hawaii National Park; eighth, two hundred and thirty-one degrees fifty minutes thirty seconds, five thousand four hundred and thirty feet, along said south boundary to the point of beginning. The Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to or extend over lands defined in subdivision 5.

(Aug. 1, 1916, ch. 264, §1, 39 Stat. 432; May 1, 1922, ch. 174, 42 Stat. 503; Apr. 11, 1928, ch. 359, §1, 45 Stat. 424.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act of June 10, 1920, entitled 'An Act to create a Federal power commission; to provide for the improvement of navigation; the development of water power; the use of the public lands in relation thereto; and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes' '', and was redesignated the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

CODIFICATION

Subd. Fifth is from sections 1 and 2 of act May 1, 1922. Section 1 of act May 1, 1922, in addition to describing the tract, recited that it was the tract set aside for park purposes on Oct. 29, 1920, by executive order of the governor of the territory of Hawaii.

The last sentence of this section is from section 2 of act May 1, 1922. The remainder of said section 2, omitted from the Code as having been given effect by the insertion of the last paragraph of the section, extended over the described territory the provisions of act Aug. 1, 1916, incorporated in this section and sections 393 and 394 of this title, and the provisions of act Aug. 25, 1916, ch. 408, 39 Stat. 535, 536, incorporated in sections 1, 2, 3, and 4 of this title; and all Acts supplementary to and amendatory of said Acts.

AMENDMENTS

1928—Act Apr. 11, 1928, amended subd. First generally.

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–380, §1, Nov. 12, 1998, 112 Stat. 3401, as amended by Pub. L. 106–510, §3(a)(2), Nov. 13, 2000, 114 Stat. 2363, provided that: ''This Act [amending section 391b of this title] may be cited as the 'Hawai`i Volcanoes National Park Adjustment Act of 1998'.''

ADMISSION OF HAWAII AS STATE

Admission of Hawaii into the Union was accomplished Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding section 491 of Title 48, Territories and Insular Possessions.

HAWAI`I VOLCANOES NATIONAL PARK

Designation of portion of Hawaii National Park situated on island of Hawaii as Hawai`i Volcanoes National Park, effective Sept. 22, 1961, see section 391d of this title.

HALEAKALĀ NATIONAL PARK

Establishment of detached portion of Hawaii National Park lying on island of Maui as Haleakalā National Park, effective July 1, 1961, see section 396b of this title.

§ 391a. Boundary on island of Maui changed

The boundary of the Hawaii National Park on the island of Maui is changed to read as follows:

Beginning at a triangle on set stone, said mark being the Government survey triangulation station Puu Nianiau in the land of Kalialinui, and running by true azimuths:

1. Three hundred degress fifty-seven minutes thirty seconds eleven thousand seven hundred and sixty-nine and three-tenths feet along the remaining portion of the land of Kalialinui to a concrete monument marked Number 1 on spur and on the west edge of Koolau Gap.

2. Two hundred and ninety-seven degrees forty-seven minutes thirty seconds fourteen thousand six hundred and fifty-two and six-tenths feet along same and across Koolau Gap to a concrete monument marked Number 3, the true azimuth and distance from said monument to Government survey triangulation station Hanakauhi being forty-five degrees fourteen minutes nine hundred and eighty-eight feet.

3. Two hundred and sixty-nine degrees fifty-seven minutes thirty seconds nine thousand and one and three-tenths feet along same to a concrete monument marked Number 7 on the southwest boundary of the land of Haiku.

4. Three hundred and six degrees thirty-nine minutes three thousand nine hundred and thirteen and four-tenths feet along the southwest boundary of the land of Haiku to a cross on large flat rock called Pohaku Palaha.

5. Two hundred and seventy-three degrees seven minutes four hundred and forty feet along the Nahiku tract to Government survey triangulation station Pakihi.

6. Thence following along summit of dividing ridge between Haleakala crater and Kipahulu Valley to an ahu at a place called Pakihi, the direct azimuth and distance being three hundred and fifty degrees four minutes thirty seconds seven thousand four hundred and fourteen and seven-tenths feet.

7. Thence along Government land and following along rim of the crater and crest of wall of Kaupo Gap to a four inch by four inch redwood post, the direct azimuth and distance being three hundred and fifty-six degrees forty-one minutes ten thousand eight hundred and sixty-seven and nine-tenths feet.

8. Eighty-six degrees one minute thirty seconds six thousand seven hundred and seventy-seven and four-tenths feet along grant 3457, lot 1, to A. V. Marciel, and the remaining portion of the land of Nuu (R. P. 8049, L. C. A. 6239 Apana 2 to Kalaimoku), passing over a cross on stone at Kauhaokamoa at three thousand four hundred and forty-one and eight-tenths feet and passing over an iron pipe on the west edge of the Koolau Gap at five thousand eight hundred and seventy-four feet.

9. One hundred and thirty-eight degrees forty-two minutes thirty seconds nine thousand five hundred and seventy-four and two-tenths feet along the remaining portion of said land of Nuu to a cross on rock, the true azimuth and distance to Government survey triangulation station Haleakala 2 being one hundred and seventy-nine degrees thirteen minutes fifteen seconds nine hundred and forty-three and two-tenths feet.

10. Ninety-one degrees thirty-four minutes forty-five seconds nine thousand nine hundred and sixty and four-tenths feet along same to a concrete monument marked Number 14, the true azimuth and distance from said monument to an arrow on rock called Kumuiliahi, marking the northeast corner of the land of Nakula, being one hundred and sixty-seven degrees twenty-eight minutes nine hundred and twenty-eight and seven-tenths feet.

11. Ninety degrees twenty-three minutes thirty seconds twelve thousand two hundred and forty-nine and three-tenths feet along the remaining portion of the lands of Nakula and Kahikinui to a concrete monument marked Number 15.

12. One hundred and seventeen degrees fifty-two minutes thirty seconds five thousand two hundred and nine and two-tenths feet along the remaining portion of the land of Kahikinui to a concrete monument marked Number 16, the true azimuth and distance from said monument to Government survey triangulation station Kolekole, being ninety-eight degrees thirty minutes one thousand five hundred and forty-three and five-tenths feet.

13. One hundred and twenty-seven degrees thirty-eight minutes two thousand one hundred and seventy-five and six-tenths feet along same and the land of Papaanui to a concrete monument marked Number 17, the true azimuth and distance from said monument to a concrete monument marked Number 25, which marks the south corner of the land of Kealahou 3 and 4 being forty degrees ten minutes thirty seconds four hundred and sixty-six and two-tenths feet.

14. Two hundred and thirteen degrees forty-six minutes eight thousand two hundred and forty-one and two-tenths feet along the remaining portions of the lands of Kealahou 3 and 4 and Pulehunui to a concrete monument marked Number 19, the true azimuth and distance from said monument to a ''K'' marked on a large lava

rock called Kilohana, at the east corner of the lands of Kealahou 3 and 4, being three hundred and twenty-three degrees fifty-three minutes nine hundred and forty-seven and three-tenths feet.

15. One hundred and forty-three degrees fifty-three minutes six thousand nine hundred and five and three-tenths feet along the land of Pulehunui to a concrete monument marked Number 20.

16. One hundred and ninety-nine degrees twenty-three minutes ten thousand seven hundred and twenty-six feet along the remaining portion of the land of Kalialinui to the point of beginning, passing over a concrete monument marked Number 22 at a distance of six thousand four hundred thirty-six and seven-tenths feet; including portions of the lands of Kealahou 3 and 4, Pulehunui, Kalialinui, Kaupo, Nuu, Nakula, Kahikinui and Papaanui, Island of Maui, and containing seventeen thousand one hundred and thirty acres, more or less; and all of those lands lying within the boundary above described are included in and made a part of the Hawaii National Park subject to all laws and regulations pertaining to said park.

(Feb. 12, 1927, ch. 111, §1, 44 Stat. 1087.)

HALEAKALĀ NATIONAL PARK

Establishment of detached portion of Hawaii National Park lying on island of Maui as Haleakalā National Park, effective July 1, 1961, see section 396b of this title.

§ 391b. Extension of boundaries

When title to all or any of the following-described lands on the island of Hawaii, in the Territory of Hawaii, shall be vested in the United States, such lands shall be, and the same are, added to and made a part of the Hawaii National Park:

Kalapana extension (being portions of the lands of Kahaualea, Panaunui, and Apua and all of the lands of Poupou, Pulama, Kamoamoa, Laeapuki, Panauiki, Kealakomo, and Kahue, in the district of Puna, and portion of the land of Keauhou, in the district of Kau): Beginning at the United States National Ocean Survey triangulation station Kupapau (marked by a survey tablet set in large rock), the true azimuth and distance from said point of beginning to the United States National Ocean Survey triangulation station Hakuma (marked by a United States National Ocean Survey tablet set in smooth lava outcrop and surrounded by a circular patch of cement near edge of sea pali) being two hundred and forty-four degrees forty minutes and fifty seconds exactly fourteen thousand four hundred and thirteen feet and running as follows, all azimuths being measured clockwise from true south (note azimuths of courses 1 to 4, inclusive, are referred to Hakuma meridian):

Along the seacoast at high-water mark, in a general southwesterly direction for the first five courses, the true azimuths and distances between points on said seacoast being—

1. Exactly sixty-six degrees and fifteen minutes twenty-six thousand three hundred and thirty-six and six-tenths feet to United States National Ocean Survey station Laeapuki, marked by a survey tablet set in mound and covered by a small cairn;

2. Exactly sixty degrees and ten minutes eighteen thousand seven hundred feet to Kaena Point;

3. Exactly seventy-one degrees and fifty-six minutes, twenty-one thousand three hundred and fifty feet to Apua Point;

4. Exactly ninety-eight degrees and forty-five minutes seven thousand four hundred feet to a pipe in concrete at a place called Okiokiahu (note: azimuths of courses 5 to 11, inclusive, are referred to Uwekahuna meridian);

5. One hundred and nine degrees fifty-seven minutes and twenty-two seconds ten thousand seven hundred and seventeen and nine-tenths feet to a pipe in concrete at a place called Makaloa; thence

6. One hundred and seventy degrees four minutes and thirty-nine seconds exactly six thousand eight hundred feet along Hawaii National Park, Kilauea section, to the foot of the Puueo pali;

7. Two hundred and forty-three degrees five minutes and thirty seconds exactly one thousand nine hundred and seventy-three feet along the foot of Puueo pali along portion of the land of Keauhou;

8. Exactly two hundred and eighty-six degrees fifty minutes exactly nine thousand seven hundred feet along portion of the land of Keauhou;

9. One hundred and seventy-eight degrees thirty-eight minutes and twenty-five seconds exactly twelve thousand five hundred feet along portion of the land of Keauhou to a pipe in concrete at top of the Poliokeawe pali;

10. One hundred and sixty-six degrees twenty-two minutes and twenty-four seconds twelve thousand four hundred and sixty-seven and nine-tenths feet along portion of the land of Keauhou to a pipe in concrete on the south boundary of Hawaii National Park, Kilauea section;

11. Exactly two hundred and sixty-nine degrees and ten minutes twenty-one thousand one hundred forty-six and five-tenths feet along Hawaii National Park, Kilauea section, to a pipe (note: azimuths of courses 12 and 13 are referred to Puu Huluhulu meridian):

12. Exactly two hundred and eleven degrees and thirty minutes thirteen thousand seventy-four and seven-tenths feet along Hawaii National Park, Kilauea section, to a pipe;

13. Exactly two hundred and eighty-one degrees exactly two thousand nine hundred and thirty-one feet along portion of the land of Kahaualea (note: azimuths of courses 14 to 24, inclusive, are referred to Hakuma meridian);

14. Exactly two hundred and twelve degrees and thirty minutes exactly eight thousand and fifteen feet along the land of Kahaualea;

15. Exactly two hundred and ninety-seven degrees and fifteen minutes exactly twenty-four thousand five hundred and fifty-two feet along the land of Kahaualea;

16. Exactly two hundred and forty-five degrees and fifty-eight minutes exactly six thousand one hundred and sixty-eight feet along the land of Kahaualea;

17. Exactly three hundred and twenty-six degrees and thirty-one minutes exactly five thousand two hundred and forty-eight feet along the land of Kahaualea;

18. Exactly three hundred and fifty-nine degrees and fifteen minutes exactly four hundred and forty-five feet along the land of Kahaualea;

19. Exactly three hundred and twenty-nine degrees exactly two thousand two hundred and eleven feet along the land of Kahaualea;

20. Two hundred and thirty-four degrees thirty-nine minutes and forty seconds exactly three thousand two hundred and eighty-three feet across portion of the land of Kahaualea;

21. Exactly three hundred and thirty-eight degrees and twelve minutes three thousand nine hundred and twenty-seven and five-tenths feet along the land of Kapaahu;

22. Exactly three hundred and thirty-four degrees and thirty minutes exactly one thousand seven hundred and eighty feet along the land of Kapaahu to the south corner of grant 3208 to West Kaloi;

23. Exactly three hundred and thirty-one degrees and thirty minutes five thousand and ninety-seven and eight-tenths feet along the land of Kapaahu to a point near seacoast; thence

24. To and along the seacoast at high-water mark to the point of beginning, the true azimuth and distance being: Exactly fifty-three degrees and eighteen minutes three thousand three hundred and sixty-four feet.

Area, forty-nine thousand three hundred and forty acres.

Footprint extension: Beginning at the northeast corner of this tract of land, at a point on the west edge of the Keamoku Aa Flow (lava flow of 1823), and on the westerly boundary of Hawaii National Park, Kilauea section, as described in Governor's Executive Order 86, the coordinates of said point of beginning referred to Government survey triangulation station Uwekahuna, being four thousand seven hundred and six and six-tenths feet south and seventeen thousand nine hundred and seventy and three-tenths feet west, and the true azimuth and distance from said point of beginning to Government survey triangulation station Ohaikea being one hundred and sixty-six degrees and twenty minutes exactly six thousand three hundred and fifty feet, as shown on Government survey registered map 2388, and running by azimuths measured clockwise from true south—

1. Three hundred and forty-six degrees and twenty minutes exactly fourteen thousand two hundred and fifty-eight feet along Hawaii National Park, Kilauea section, as described in Governor's Executive Order 86;

2. Fifty degrees and twenty-five minutes exactly twenty-seven thousand six hundred and fifteen feet along Hawaii National Park, Kilauea section, as described in Governor's Executive Order 81, thence along the remainder of the Government land of Kapapala to the point of beginning as follows:

3. One hundred and ninety-one degrees no minutes and twenty seconds thirteen thousand five hundred and forty-four and five-tenths feet to a pipe at fence corner a little southwest of the old halfway house and about twenty feet southeast of the edge of the Government main road;

4. Two hundred and thirty-four degrees and twenty-five minutes one thousand three hundred and seventy-seven and five-tenths feet to a pipe on a mound of pahoehoe about ninety feet southeast of the Government main road;

5. Two hundred and twenty degrees and forty minutes exactly one thousand seven hundred and eighty-seven feet crossing the Government main road to a spike in large boulder in stone wall about one hundred and twenty-five feet north of the Government main road; thence

6. Along stone wall over the lava flows, the boundary following the wall in its turns and windings, the direct azimuth and distance being: two hundred and nineteen degrees twenty-two minutes and forty-five seconds exactly eighteen thousand one hundred and twenty-one feet to a point in said stone wall.

7. Two hundred and thirty-eight degrees and seven minutes exactly two hundred and fifty feet partly along stone wall to a pipe in the middle of a corral;

8. Two hundred and thirty-four degrees and two minutes exactly two hundred feet across corral and along stone wall to a point in said wall;

9. Two hundred and thirty-nine degrees and thirty minutes exactly three hundred and fifteen feet along stone wall to a pipe at end of wall and on the south side of the old Peter Lee Road;

10. One hundred and eighty-five degrees and thirty minutes exactly three hundred and eighty feet crossing old Peter Lee Road and along fence to a pipe at fence corner on the west bank of a ravine; thence

11. Following along the west bank of ravine, the direct azimuth and distance being: two hundred and three degrees and twenty-three minutes four hundred seventy-five and seven-tenths feet to a pipe on the west bank of the ravine;

12. Two hundred and twenty degrees and fifty-four minutes exactly two hundred and forty-five feet across ravine and along fence to a spike in stone pile;

13. Two hundred and twelve degrees and forty-four minutes exactly two hundred feet along fence to a spike in stone pile;

14. Two hundred and twenty-two degrees and fifty-three minutes exactly two hundred and forty feet along fence to a spike in stone pile;

15. Two hundred and twenty-five degrees and forty-six minutes three hundred and forty and six-tenths feet to the point of beginning and containing an area of five thousand seven hundred and thirty acres, more or less; and, in addition, any lands adjacent or contiguous to the Hawaii National Park as extended which, in the discretion of the Secretary of the Interior, are necessary for the proper rounding out of the boundaries of the park. Land (including the land depicted on the map entitled ''NPS–PAC 1997HW'') may be acquired by the Secretary through donation, exchange, or purchase with donated or appropriated funds.

(June 20, 1938, ch. 530, §1, 52 Stat. 781; Pub. L. 105–380, §2, Nov. 12, 1998, 112 Stat. 3401; Pub. L. 106–510, §2, Nov. 13, 2000, 114 Stat. 2363.)

AMENDMENTS

2000—Pub. L. 106–510 substituted at end ''park. Land (including the land depicted on the map entitled 'NPS–PAC 1997HW') may be acquired by the Secretary through donation, exchange, or purchase with donated or appropriated funds.'' for ''park: *Provided*, That the United States shall not purchase, by appropriation of

public moneys, any land within the aforesaid area, but such lands shall be secured by the United States only by public and private donations, except for the land depicted on the map entitled 'NPS–PAC 1997HW', which may be purchased with donated or appropriated funds.''

1998—Pub. L. 105–380 inserted before period at end '', except for the land depicted on the map entitled 'NPS–PAC 1997HW', which may be purchased with donated or appropriated funds''.

CHANGE OF NAME

''National Ocean Survey'' substituted for ''Coast and Geodetic Survey'' in second par. Coast and Geodetic Survey consolidated with National Weather Bureau in 1965 to form Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. Environmental Science Services Administration abolished in 1970 and its personnel, property, records, etc., transferred to National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of Acting Associate Administrator of National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, Coast and Geodetic Survey redesignated National Ocean Survey. See notes under section 311 of Title 15, Commerce and Trade.

ADMISSION OF HAWAII AS STATE

Admission of Hawaii into the Union was accomplished Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding section 491 of Title 48, Territories and Insular Possessions.

HAWAI`I VOLCANOES NATIONAL PARK

Designation of portion of Hawaii National Park situated on island of Hawaii as Hawai`i Volcanoes National Park, effective Sept. 22, 1961, see section 391d of this title.

§ 391b–1. Laws applicable to added lands

The provisions of sections 1, 2, 3, 4, 391, 392, 393, and 394 of this title and all Acts supplementary to and amendatory of said sections are made applicable to and extended over the lands hereby added to the park: *Provided*, That the provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to or extend over such lands.

(June 20, 1938, ch. 530, § 4, 52 Stat. 785.)

REFERENCES IN TEXT

Hereby, referred to in text, means act June 20, 1938, which is classified to sections 391b, 391b–1, 392b, 392c, 396, and 396a of this title. For complete classification of this Act to the Code, see Tables.

The Federal Power Act, referred to in text, was in the original the ''Act of June 10, 1920, as amended, entitled 'An Act to create a Federal Power Commission; to provide for the improvement of navigation; the development of water power; the use of the public lands in relation thereto; and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes' '', and was redesignated the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

CODIFICATION

Section is comprised of section 4 of act June 20, 1938, less last proviso which is classified to section 392b of this title.

§ 391c. Withdrawal of lands for use as bombing target range

Within a tract of land containing six thousand four hundred fifty acres, more or less, on the island of Hawaii in the Territory of Hawaii, located in the Hawaii National Park, created by sections 391, 393 and 394 of this title, and described as follows, to wit:

Beginning at a place called Na Puu O na Elemakule located at the southeastern corner of the Hawaii National Park, said point being marked by a triangle on a large flat stone, thence by azimuth (measured clockwise from true south) and distances as follows: Eighty-nine degrees twenty-seven minutes thirty seconds, three thousand three hundred feet along the southern boundary of Hawaii National Park; one hundred and seventy-nine degrees twenty-seven minutes thirty seconds, fourteen thousand five hundred and fifty feet over and across Pali to a point on Kau Desert Plateau; two hundred and forty-three degrees fifty-seven minutes no seconds, eighteen thousand four hundred and fifty feet to a point located above Hilima Pali; three hundred and fifty-nine degrees twenty-seven minutes thirty seconds, twelve thousand nine-hundred and ninety feet more or less to high-water line; thence in southwesterly direction along the high-water line to the point of beginning; containing an area of six thousand four hundred and fifty acres, more or less; there shall be withdrawn from the control and jurisdiction of the Secretary of the Interior and transferred to the jurisdiction and control of the Secretary of the Air Force so much thereof as may be agreed upon between the Secretaries of the Air Force and Interior for use as an Air Force bombing target range, and for such other military purposes and uses as may be prescribed by the Secretary of the Air Force.

(July 16, 1940, ch. 630, 54 Stat. 761; July 26, 1947, ch. 343, title II, § 207(a), (f), 61 Stat. 502, 503.)

CODIFICATION

''Air Force'' substituted in text for ''War'' on authority of section 207(a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 502, 503, which established a separate Department of the Air Force. Section 207(a), (f) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'', which in sections 8011 to 8013 continued military Department of the Air Force under administrative supervision of Secretary of the Air Force.

For transfer of certain real property functions to Secretary of the Air Force from Secretary of the Army, see Secretary of Defense Transfer Order Nos. 14, eff. July 1, 1948, and 40, [App. B(65)], July 22, 1949.

ADMISSION OF HAWAII AS STATE

Admission of Hawaii into the Union was accomplished Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding section 491 of Title 48, Territories and Insular Possessions.

HAWAI`I VOLCANOES NATIONAL PARK

Designation of portion of Hawaii National Park situated on island of Hawaii as Hawai`i Volcanoes National Park, effective Sept. 22, 1961, see section 391d of this title.

§ 391d. Change in name of part of Hawaii National Park

Effective September 22, 1961, the portion of the Hawaii National Park situated on the island of Hawaii, established and administered pursuant to sections 391, 393, and 394 of this title, as amended and supplemented, shall be known as the Hawai`i Volcanoes National Park.

(Pub. L. 87–278, Sept. 22, 1961, 75 Stat. 577; Pub. L. 106–510, § 3(a)(1), Nov. 13, 2000, 114 Stat. 2363.)

AMENDMENTS

2000—Pub. L. 106–510 substituted ''Hawai`i Volcanoes National Park'' for ''Hawaii Volcanoes National Park''.

CHANGE OF NAME

Pub. L. 106–510, § 3(a)(2), Nov. 13, 2000, 114 Stat. 2363, provided that: ''Any reference in any law (other than this Act [see Short Title of 2000 Amendments note set out under section 1 of this title]), regulation, document, record, map, or other paper of the United States to 'Hawaii Volcanoes National Park' shall be considered a reference to 'Hawai`i Volcanoes National Park'.''

§ 392. Acquisition of privately owned lands

The governor of the Territory of Hawaii is authorized to acquire, at the expense of the Territory of Hawaii, by exchange or otherwise, all privately owned lands lying within the boundaries of the Hawaii National Park as defined by section 391 of this title, and all necessary perpetual easements and rights-of-way, or roadways, in fee simple, over or to said land or any part thereof, but the provisions of section 73 of an Act entitled ''An Act to provide a government for the Territory of Hawaii,'' approved April 30, 1900, as amended by an Act approved May 27, 1910, relating to exchanges of public lands shall not apply in the acquisition, by exchange, of the privately owned lands herein referred to.

(Feb. 27, 1920, ch. 89, §§ 1, 2, 41 Stat. 452, 453.)

REFERENCES IN TEXT

Section 73 of an Act approved April 30, 1900, as amended, referred to in text, was classified to sections 663, 664, 665 to 677b, 1509 to 1512 of Title 48, Territories and Insular Possessions. Those sections were omitted from the Code as obsolete.

CODIFICATION

Section 1 of act Feb. 27, 1920, is the source of that portion of this section preceding ''but the provisions of section 73''; remainder being from section 2 of that Act.

ADMISSION OF HAWAII AS STATE

Admission of Hawaii into the Union was accomplished Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 FR 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding section 491 of Title 48, Territories and Insular Possessions.

HAWAI`I VOLCANOES NATIONAL PARK

Designation of portion of Hawaii National Park situated on island of Hawaii as Hawai`i Volcanoes National Park, effective Sept. 22, 1961, see section 391d of this title.

HALEAKALĀ NATIONAL PARK

Establishment of detached portion of Hawaii National Park lying on island of Maui as Haleakalā National Park, effective July 1, 1961, see section 396b of this title.

EXTENSION OF APPLICATION

Act Apr. 11, 1928, ch. 359, § 2, 45 Stat. 426, extended provisions of this section and made them applicable to lands added to the park and included within boundary established by section 391 of this title.

§ 392a. Provisions of section 392 extended to additional lands

The provisions of section 392 of this title are extended over and made applicable to the lands added to the park and included within the boundary established by section 391a of this title.

(Feb. 12, 1927, ch. 111, § 2, 44 Stat. 1089.)

HALEAKALĀ NATIONAL PARK

Establishment of detached portion of Hawaii National Park lying on island of Maui as Haleakalā National Park, effective July 1, 1961, see section 396b of this title.

§ 392b. Conveyance of added lands to United States by Governor

The Governor of the Territory of Hawaii is authorized to convey to the United States any and all lands and interests in lands acquired by the Territorial Government under the provisions of sections 391b, 391b–1, 392c, 396, 396a of this title.

(June 20, 1938, ch. 530, § 4, 52 Stat. 785.)

CODIFICATION

Section is comprised of the last provision of section 4 of act June 20, 1938, the remainder of which is classified to section 391b–1 of this title.

ADMISSION OF HAWAII AS STATE

Admission of Hawaii into the union was accomplished on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding section 491 of Title 48, Territories and Insular Possessions.

§ 392c. Addition to Hawai'i Volcanoes National Park

(a) Acquisition of land

Notwithstanding any other provision of sections 391b, 391b–1, 392b, 396, and 396a of this title, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to acquire by donation or exchange the land and interests therein comprising approximately 5,650 acres and identified as tract number 118/22 on the map entitled ''Recommended Land Acquisition'', in the Hawai`i Volcanoes National Park Land Protection Plan as recommended May 17, 1985, which plan shall be on file and available for public inspection in the Office of the Director, National Park Service, Department of the Interior, Washington, D.C. and the Office of the Superintendent, Hawai`i Volcanoes National Park, Hawaii.

(b) Exchange of land; equalization payments

In exercising his authority to acquire the real property referred to in subsection (a) of this section by exchange, the Secretary may accept title thereto and in exchange therefor he may

convey to the grantor of such real property title to any United States Government real property under his administrative jurisdiction, other than real property within or administered as a part of the National Park System, in the State of Hawaii which he determines is suitable for such exchange. The values of the properties exchanged shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require. In no circumstance shall an equalization payment exceed one fourth (25 percent) the appraised value of the real property referred to in subsection (a) of this section. Any money paid to the Secretary shall be deposited as miscellaneous receipts in the Treasury of the United States.

(c) State owned land; acquisition only by donation or exchange

Real property owned by the State of Hawaii or any political subdivision thereof may be acquired only by donation or exchange.

(d) Transfer of administrative jurisdiction over surplus federally owned real property in Hawaii to facilitate exchange; exchange of land with State of Hawaii, consultation, limitation

(1) In order to facilitate the acquisition of the real property referred to in subsection (a) of this section by exchange, notwithstanding any other provision of law, upon request of the Secretary, the Administrator of General Services shall transfer to the Secretary, without reimbursement, administrative jurisdiction over any excess or surplus United States Government real property in the State of Hawaii for purposes of such an exchange.

(2) For the purposes of a land exchange with the State of Hawaii, the Secretary shall consult with the State of Hawaii in the process of identifying suitable exchange lands belonging to the United States Government.

(3) For the purposes of a land exchange with the State of Hawaii, real property owned by the United States Government and selected for use in a land exchange shall not be from among those lands ceded to the United States Government.

(e) Administration of land acquired

The real property acquired by the Secretary pursuant to this section shall be administered by the Secretary as part of Hawai`i Volcanoes National Park, subject to the laws and regulations applicable to the Park.

(f) Authorization of appropriations

There is hereby authorized to be appropriated up to $700,000 to carry out the purpose of this section.

(June 20, 1938, ch. 530, §5, as added Pub. L. 99–564, §1, Oct. 27, 1986, 100 Stat. 3179; amended Pub. L. 108–352, §3, Oct. 21, 2004, 118 Stat. 1395.)

AMENDMENTS

2004—Pub. L. 108–352 substituted ''Hawai`i Volcanoes'' for ''Hawaii Volcanoes'' in two places in subsec. (a) and in subsec. (e).

§ 393. Entries under land laws; rights-of-way; lands excluded

Nothing herein contained shall affect any valid claim, location, or entry existing under the land laws of the United States prior to August 1, 1916, whether for homestead, mineral, right-of-way, or any other purpose whatsoever, or shall affect the rights of any such claimant, locator, or entryman to the full use and enjoyment of his land. Whenever consistent with the primary purposes of the park, section 79 of this title shall be applicable to the lands included within the park. The Secretary of the Interior may, in his discretion and upon such conditions as he may deem wise, grant easements or rights-of-way for steam, electric, or similar transportation upon or across the park. No lands located within the park boundaries held in private or municipal ownership prior to August 1, 1916, shall be affected by or subject to the provisions of this section and sections 391 and 394 of this title.

(Aug. 1, 1916, ch. 264, §§2, 3, 39 Stat. 433, 434.)

REFERENCES IN TEXT

Herein, referred to in text, means act Aug. 1, 1916, which is classified to sections 391, 393 and 394 of this title. For complete classification of this Act to the Code, see Tables.

The land laws of the United States, referred to in text, are classified generally to Title 43, Public Lands.

Section 79 of this title, referred to in text, was in the original a reference to act Feb. 15, 1901, ch. 372, 31 Stat. 790. For further details, see Codification note set out under section 79 of this title.

CODIFICATION

Section is a combination of sections 2 and 3 of act Aug. 1, 1916, all but the last sentence being derived from section 2.

HALEAKALĀ NATIONAL PARK

Establishment of detached portion of Hawaii National Park lying on island of Maui as Haleakalā National Park, effective July 1, 1961, see section 396b of this title.

§ 394. Control; rules and regulations; leases; appropriations

Hawaii National Park shall be under the executive control of the Secretary of the Interior. He shall perform the duties and exercise the powers enumerated in section 3 of this title, except as inconsistent with this section. The regulations promulgated shall provide for the preservation from injury, of all timber, birds, mineral deposits, and natural curiosities or wonders within said park, and their retention in their natural condition as nearly as possible. He may in his discretion grant leases for terms not exceeding twenty years, at such annual rental as he may determine, of parcels of land in said park of not more than twenty acres in all to any one person, corporation, or company for the erection and maintenance of buildings for the accommodation of visitors; but no such lease shall include any of the objects of curiosity or interest in said park or exclude the public from free convenient approach thereto or convey, either expressly or by implication, any exclusive privilege within the park except upon the premises held thereunder and for the time granted therein; and

every such lease shall require the lessee to observe and obey each and every provision in any Act of Congress and every rule, order, or regulation of the Secretary of the Interior concerning the use, care, management, or government of the park, or any object or property therein, under penalty of forfeiture of such lease. He may in his discretion grant to persons or corporations holding leases of land in the park on August 1, 1916, upon the surrender thereof, new leases hereunder, upon the terms and stipulations contained in their present leases, with such modifications, restrictions, and reservations as he may prescribe. All of the proceeds of said leases and other revenues that may be derived from any source connected with the park shall be expended under the direction of the Secretary, in the management and protection of the same and the construction of roads and paths therein. He may also, in his discretion, permit the erection and maintenance of buildings in said park for scientific purposes. No appropriation shall be made for the improvement or maintenance of said park until proper conveyances shall be made to the United States of such perpetual easements and rights-of-way over private lands within the exterior boundaries of said park as the Secretary of the Interior shall find necessary to make said park reasonably accessible in all its parts, and said Secretary shall when such easements and rights-of-way have been conveyed to the United States report the same to Congress.

(Aug. 1, 1916, ch. 264, § 4, 39 Stat. 434; June 5, 1924, ch. 263, 43 Stat. 390.)

CODIFICATION

A provision making it the duty of the Secretary of the Interior, as soon as practicable, to make and publish such rules and regulations as he might deem necessary and proper for the care and management of the park was omitted as temporary and executed.

HAWAI`I VOLCANOES NATIONAL PARK

Designation of portion of Hawaii National Park situated on island of Hawaii as Hawai`i Volcanoes National Park, effective Sept. 22, 1961, see section 391d of this title.

HALEAKALĀ NATIONAL PARK

Establishment of detached portion of Hawaii National Park lying on island of Maui as Haleakalā National Park, effective July 1, 1961, see section 396b of this title.

§ 395. Exclusive jurisdiction in United States; exceptions; laws applicable; fugitives from justice

Sole and exclusive jurisdiction shall be exercised by the United States over the territory which is now or may hereafter be included in the Hawaii National Park in the Territory of Hawaii, saving, however, to the Territory of Hawaii the right to serve civil or criminal process within the limits of the aforesaid park in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed outside of said park, and saving further to the Territory of Hawaii the right to tax persons and corporations, their franchises and property on the lands included in said park. All the laws applicable to places under the sole and exclusive jurisdiction of the United States shall have force and effect in said park. All fugitives from justice taking refuge in said park shall be subject to the same laws as refugees from justice found in the Territory of Hawaii.

(Apr. 19, 1930, ch. 200, § 1, 46 Stat. 227.)

ADMISSION OF HAWAII AS STATE

Admission of Hawaii into the Union was accomplished Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding section 491 of Title 48, Territories and Insular Possessions.

HAWAI`I VOLCANOES NATIONAL PARK

Designation of portion of Hawaii National Park situated on island of Hawaii as Hawai`i Volcanoes National Park, effective Sept. 22, 1961, see section 391d of this title.

HALEAKALĀ NATIONAL PARK

Establishment of detached portion of Hawaii National Park lying on island of Maui as Haleakalā National Park, effective July 1, 1961, see section 396b of this title.

§§ 395a, 395b. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 395a, act Apr. 19, 1930, ch. 200, § 2, 46 Stat. 227, related to courts having jurisdiction of offenses. See section 3231 of Title 18, Crimes and Criminal Procedure, and rule 18 of Federal Rules of Criminal Procedure, Title 18, Appendix.

Section 395b, act Apr. 19, 1930, ch. 200, § 3, 46 Stat. 227, related to applicability of Hawaiian laws to offenses. See section 13 of Title 18.

§ 395c. Hunting and fishing; general rules and regulations; protection of property; violation of statutes and rules; penalties

All hunting or the killing, wounding, or capturing at any time of any wild bird or animal, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury, is prohibited within the limits of said park; nor shall any fish be taken out of the waters of the park in any other way than by hook and line, and then only at such seasons and in such times and manner as may be directed by the Secretary of the Interior. That the Secretary of the Interior shall make and publish such general rules and regulations as he may deem necessary and proper for the management and care of the park and for the protection of the property therein, especially for the preservation from injury or spoliation of all timber, natural curiosities, or wonderful objects within said park, and for the protection of the animals and birds in the park from capture or destruction, and to prevent their being frightened or driven from the park; and he shall make rules and regulations governing the taking of fish from the streams or lakes in the park. Possession within said park of the dead bodies, or any part thereof, of any wild bird or animal shall be prima facie evidence that the person or persons having the same are guilty of violating this Act. Any person or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions

of this Act and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or who shall violate any of the provisions of this Act or any rule or regulation that may be promulgated by the Secretary of the Interior with reference to the management and care of the park or for the protection of the property therein, for the preservation from injury or spoliation of timber, natural curiosities, or wonderful objects within said park, or for the protection of the animals, birds, or fish in the park, or who shall within said park willfully commit any damage, injury, or spoliation to or upon any building, fence, hedge, gate, guidepost, tree, wood, underwood, timber, garden, crops, vegetables, plants, land, springs, natural curiosities, or other matter or thing growing or being thereon or situated therein, shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all costs of the proceedings.

(Apr. 19, 1930, ch. 200, § 4, 46 Stat. 227.)

REFERENCES IN TEXT

This Act, referred to in text, is act Apr. 19, 1930, which is classified to sections 395 to 395j of this title. For complete classification of this Act to the Code, see Tables.

HAWAI`I VOLCANOES NATIONAL PARK

Designation of portion of Hawaii National Park situated on island of Hawaii as Hawai`i Volcanoes National Park, effective Sept. 22, 1961, see section 391d of this title.

HALEAKALĀ NATIONAL PARK

Establishment of detached portion of Hawaii National Park lying on island of Maui as Haleakalā National Park, effective July 1, 1961, see section 396b of this title.

§ 395d. Forfeiture of property used for unlawful purposes

All guns, traps, teams, horses, or means of transportation of every nature or description used by any person or persons within said park limits when engaged in killing, trapping, ensnaring, or capturing such wild beasts, birds, or animals shall be forfeited to the United States and may be seized by the officers in said park and held pending the prosecution of any person or persons arrested under charge of violating the provisions of this Act, and upon conviction under this Act of such person or persons using said guns, traps, teams, horses, or other means of transportation, such forfeiture shall be adjudicated as a penalty in addition to the other punishment provided in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior.

(Apr. 19, 1930, ch. 200, § 5, 46 Stat. 228.)

REFERENCES IN TEXT

This Act, referred to in text, is act Apr. 19, 1930, which is classified to section 395 to 395j of this title. For complete classification of this Act to the Code, see Tables.

HAWAI`I VOLCANOES NATIONAL PARK

Designation of portion of Hawaii National Park situated on island of Hawaii as Hawai`i Volcanoes National Park, effective Sept. 22, 1961, see section 391d of this title.

HALEAKALĀ NATIONAL PARK

Establishment of detached portion of Hawaii National Park lying on island of Maui as Haleakalā National Park, effective July 1, 1961, see section 396b of this title.

§§ 395e to 395j. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 395e, acts Apr. 19, 1930, ch. 200, § 6, 46 Stat. 228; June 25, 1938, ch. 684, § 1, 52 Stat. 1164; June 28, 1938, ch. 778, § 1, 52 Stat. 1213; Apr. 21, 1948, ch. 223, § 2, 62 Stat. 196, related to appointment and jurisdiction of United States commissioners. See provisions covering United States magistrate judges in section 631 et seq. of Title 28, Judiciary and Judicial Procedure.

Section 395f, act Apr. 19, 1930, ch. 200, § 7, 46 Stat. 228, related to issuance of process. See sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and rules 4, 5(c), and 9 of Federal Rules of Criminal Procedure, Title 18, Appendix.

Section 395g, act Apr. 19, 1930, ch. 200, § 8, 46 Stat. 229, related to whom process issued. See section 3053 of Title 18, rule 4 of Federal Rules of Criminal Procedure, Title 18, Appendix, and rule 4 of Federal Rules of Civil Procedure, Title 28, Appendix, Judiciary and Judicial Procedure.

Section 395h, acts Apr. 19, 1930, ch. 200, § 9, 46 Stat. 229; June 25, 1938, ch. 684, § 2, 52 Stat. 1164; June 28, 1938, ch. 778, § 1, 52 Stat. 1213, relating to commissioner's [now magistrate judge's] salary. See section 633 of Title 28.

Section 395i, act Apr. 19, 1930, ch. 200, § 10, 46 Stat. 229, related to fees and costs chargeable to United States. See section 604 of Title 28.

Section 395j, act Apr. 19, 1930, ch. 200, § 11, 46 Stat. 229, related to disposition of fines and costs. See section 634 of Title 28.

§ 396. Additional lands; acceptance of title

The Secretary of the Interior is authorized, in his discretion and upon submission of evidence of satisfactory title to him, to accept, on behalf of the United States, title to the lands referred to in section 391b of this title as may be deemed by him necessary or desirable for national-park purposes.

(June 20, 1938, ch. 530, § 2, 52 Stat. 784.)

HAWAI`I VOLCANOES NATIONAL PARK

Designation of portion of Hawaii National Park situated on island of Hawaii as Hawai`i Volcanoes National Park, effective Sept. 22, 1961, see section 391d of this title.

§ 396a. Lease of lands to native Hawaiians, residence requirements; fishing

(a) The Secretary of the Interior is authorized to lease, under such rules and regulations as he may deem proper, land ascertained by him to be suitable for home site purposes in the Kalapana extension as described in section 391b of this title, to native Hawaiians when such occupancy does not encroach on or prevent free access to any points of historic, scientific, or scenic interest or in any manner obstruct or interfere with protection and preservation of said area as a part of the Hawaii National Park: *Provided*, *however*, That occupants of homesites shall reside on the land not less than six months in any one year: *And provided further*, That fishing shall be permitted in said area only by native Hawaiian

residents of said area or of adjacent villages and by visitors under their guidance.

(b) The term ''native Hawaiian'', as used in this section, means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778.

(June 20, 1938, ch. 530, § 3, 52 Stat. 784.)

HAWAI`I VOLCANOES NATIONAL PARK

Designation of portion of Hawaii National Park situated on island of Hawaii as Hawai`i Volcanoes National Park, effective Sept. 22, 1961, see section 391d of this title.

SUBCHAPTER XLII—HALEAKALĀ NATIONAL PARK

§ 396b. Establishment; boundaries; administration

Effective July 1, 1961, the detached portion of the Hawaii National Park which lies on the island of Maui is established as a separate unit of the national park system to be known as Haleakalā National Park. The park so established shall be administered in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented, and in accordance with any other applicable provision of law relating to the Maui portion of Hawaii National Park.

(Pub. L. 86–744, § 1, Sept. 13, 1960, 74 Stat. 881; Pub. L. 106–510, § 3(b)(1), Nov. 13, 2000, 114 Stat. 2363.)

AMENDMENTS

2000—Pub. L. 106–510 substituted ''Haleakalā National Park'' for ''Haleakala National Park''.

CHANGE OF NAME

Pub. L. 106–510, § 3(b)(2), Nov. 13, 2000, 114 Stat. 2363, provided that: ''Any reference in any law (other than this Act [see Short Title of 2000 Amendments note set out under section 1 of this title]), regulation, document, record, map, or other paper of the United States to 'Haleakala National Park' shall be considered a reference to 'Haleakalā National Park'.''

HAWAI`I VOLCANOES NATIONAL PARK

Designation of portion of Hawaii National Park situated on island of Hawaii as Hawai`i Volcanoes National Park, effective Sept. 22, 1961 see section 391d of this title.

§ 396c. Land acquisition; authorization of appropriations

(a) Notwithstanding any limitations on land acquisition as provided by sections 391b, 391b–1, 392b, 392c, 396, and 396a of this title, the Secretary of the Interior may acquire for addition to the park any land on the island of Maui within the boundaries of the area generally depicted on the map entitled ''Haleakalā National Park, Segment 03,'' numbered 162–30,000–G, and dated May 1972, by donation, purchase with donated or appropriated funds, or exchange. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) There is authorized to be appropriated such sums but not to exceed $920,000 as may be necessary to carry out the purposes of this section.

(Pub. L. 86–744, § 2, as added Pub. L. 94–578, title III, § 313, Oct. 21, 1976, 90 Stat. 2737; amended Pub. L. 106–510, § 3(b)(1), Nov. 13, 2000, 114 Stat. 2363.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–510 substituted ''Haleakalā National Park'' for ''Haleakala National Park''.

SUBCHAPTER XLII–A—KALOKO-HONOKŌHAU NATIONAL HISTORICAL PARK

§ 396d. Establishment

(a) In general

(1) In order to provide a center for the preservation, interpretation, and perpetuation of traditional native Hawaiian activities and culture, and to demonstrate historic land use patterns as well as to provide a needed resource for the education, enjoyment, and appreciation of such traditional native Hawaiian activities and culture by local residents and visitors, there is established the Kaloko-Honokōhau National Historical Park (hereinafter in this section referred to as the ''park'') in Hawaii comprising approximately one thousand three hundred acres as generally depicted on the map entitled ''Kaloko-Honokōhau National Historical Park,'' numbered KHN–80,000, and dated May 1978.

(2) The boundaries of the park are modified to include lands and interests therein comprised of Parcels 1 and 2 totaling 2.14 acres, identified as ''Tract A'' on the map entitled ''Kaloko-Honokōhau National Historical Park Proposed Boundary Adjustment'', numbered PWR (PISO) 466/82,043 and dated April 2002.

(3) The maps referred to in this subsection shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(b) Land acquisition; manner

Except for any lands owned by the State of Hawaii or its subdivisions, which may be acquired only by donation, the Secretary is authorized to acquire the lands described above by donation, exchange, or purchase through the use of donated or appropriated funds, notwithstanding any prior restriction of law.

(c) Administration; applicable provisions

The Secretary shall administer the park in accordance with this section and the provisions of law generally applicable to units of the national park system, including sections 1, 2, 3, 4, and 461 to 467 of this title, and generally in accordance with the guidelines provided in the study report entitled ''Kaloko-Honokōhau'' prepared by the Honokohau Study Advisory Commission and the National Park Service, May 1974, GPO 690–514.

(d) Activities and agreements; native accommodations; cooperative marine management agreement; fishing, shoreline food gathering and small boat harbor activities: regulation; land and water management agreements

(1) In administering the park the Secretary may provide traditional native Hawaiian accommodations.

(2) The Secretary shall consult with and may enter into a cooperative management agreement with the State of Hawaii for the management of the submerged lands within the authorized park

boundary, following the marine management policies of the State of Hawaii.

(3) Commercial, recreational, and subsistence fishing and shoreline food gathering activities as well as access to and from the Honokohau small boat harbor by motor boats and other water craft shall be permitted wherever such activities are not inconsistent with the purposes for which the park is established, subject to regulation by the Secretary.

(4) The Secretary shall consult with and may enter into agreements with other governmental entities and private landowners to establish adequate controls on air and water quality and the scenic and esthetic values of the surrounding land and water areas. In consulting with and entering into any such agreements, the Secretary shall to the maximum extent feasible utilize the traditional native Hawaiian Ahupua'a concept of land and water management.

(e) Employment of native Hawaiians

In carrying out the purposes of this section the Secretary is authorized and directed as appropriate to employ native Hawaiians. For the purposes of this section, native Hawaiians are defined as any lineal descendants of the race inhabiting the Hawaiian Islands prior to the year 1778.

(f) Advisory Commission; establishment; membership; qualifications; term; Chairman; vacancies; compensation and expenses; ex officio members; duties; meetings; termination

(1) There is hereby established the Na Hoa Pili O Kaloko-Honokōhau (The Friends of Kaloko-Honokōhau), an Advisory Commission for the park. The Commission shall be composed of nine members, appointed by the Secretary, at least five of whom shall be selected from nominations provided by native Hawaiian organizations. All members of the Commission shall be residents of the State of Hawaii, and at least six members shall be native Hawaiians. Members of the Commission shall be appointed for five-year terms except that initial appointment(s) shall consist of two members appointed for a term of five years, two for a term of four years, two for a term of three years, two for a term of two years, and one for a term of one year. No member may serve more than one term consecutively.

(2) The Secretary shall designate one member of the Commission to be Chairman. Any vacancy in the Commission shall be filled by appointment for the remainder of the term.

(3) Members of the Commission shall serve without compensation. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this section on vouchers signed by the Chairman.

(4) The Superintendent of the park, the National Park Service State Director, Hawaii, a person appointed by the Governor of Hawaii, and a person appointed by the mayor of the county of Hawaii, shall serve as ex officio nonvoting members of the Commission.

(5) The Commission shall advise the Director, National Park Service, with respect to the historical, archeological, cultural, and interpretive programs of the park. The Commission shall afford particular emphasis to the quality of traditional native Hawaiian culture demonstrated in the park.

(6) The Commission shall meet not less than twice a year. Additional meetings may be called by the Chairman.

(7) The Advisory Commission shall terminate on December 31, 2018.

(g) Authorization of appropriations

There are hereby authorized to be appropriated not to exceed $25,000,000 for acquisition and $1,000,000 for development.

(Pub. L. 95–625, title V, §505, Nov. 10, 1978, 92 Stat. 3499; Pub. L. 96–87, title IV, §401(i), Oct. 12, 1979, 93 Stat. 666; Pub. L. 104–333, div. I, title V, §503(b), Nov. 12, 1996, 110 Stat. 4155; Pub. L. 106–510, §3(c)(1), Nov. 13, 2000, 114 Stat. 2363; Pub. L. 108–142, §2, Dec. 2, 2003, 117 Stat. 1875; Pub. L. 111–11, title VII, §7401, Mar. 30, 2009, 123 Stat. 1219.)

REFERENCES IN TEXT

Sections 1, 2, 3, and 4 of this title, referred to in subsec. (c), was in the original a reference to the act ''approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 461–467)''. Act Aug. 25, 1916, known as the ''National Park Service Organic Act'', is classified to sections 1, 2, 3, and 4 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1 of this title and Tables.

AMENDMENTS

2009—Subsec. (f)(7). Pub. L. 111–11, which directed substitution of ''on December 31, 2018'' for ''ten years after the date of enactment of the Na Hoa Pili O Kaloko-Honokohau Re-establishment Act of 1996'', was executed by making the substitution for ''ten years after the date of enactment of the Na Hoa Pili Kaloko-Honokōhau Re-establishment Act of 1996'', to reflect the probable intent of Congress.

2003—Subsec. (a). Pub. L. 108–142 designated existing provisions as par. (1), substituted ''1978.'' for ''1978, which shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.'', and added pars. (2) and (3).

2000—Pub. L. 106–510, §3(c)(1)(A), amended section catchline.

Subsecs. (a), (c), (f)(1), (7). Pub. L. 106–510, §3(c)(1)(B), substituted ''Kaloko-Honokōhau'' for ''Kaloko-Honokohau'' wherever appearing.

1996—Subsec. (f)(7). Pub. L. 104–333 substituted ''the date of enactment of the Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1996'' for ''the date of enactment of this Act''.

1979—Subsec. (f)(1). Pub. L. 96–87 substituted ''Na Hoa Pili O Kaloko-Honokohau'' for ''Kaloko-Honokohau Na Hoa Pili O Kaloko-Honokohau''.

CHANGE OF NAME

Pub. L. 106–510, §3(c)(2), Nov. 13, 2000, 114 Stat. 2364, provided that: ''Any reference in any law (other than this Act [see Short Title of 2000 Amendments note set out under section 1 of this title]), regulation, document, record, map, or other paper of the United States to 'Kaloko-Honokohau National Historical Park' shall be considered a reference to 'Kaloko-Honokōhau National Historical Park'.''

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–142, §1, Dec. 2, 2003, 117 Stat. 1875, provided that: ''This Act [amending this section] may be cited as the 'Kaloko-Honokōhau National Historical Park Addition Act of 2003'.''

EXTENSION OF KALOKO-HONOKŌHAU ADVISORY COMMISSION

Section 503(a) of title V of div. I of Pub. L. 104–333, as amended by Pub. L. 106–510, §3(c)(2), Nov. 13, 2000, 114

Stat. 2364, provided that: ''Notwithstanding section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(f)(7)), the Na Hoa Pili O Kaloko-Honokōhau, the Advisory Commission for Kaloko-Honokōhau National Historical Park, is hereby re-established in accordance with section 505(f), as amended by paragraph (2) of this subsection [probably should be 'subsection (b) of this section', amending this section].''

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 396e. Exchange of lands

Notwithstanding any other provision of law, the Secretary is authorized and shall seek to acquire the lands described in section 396d(a) of this title by first acquiring Federal surplus lands of equivalent value from the General Services Administration and then exchanging such surplus lands for the lands described in section 396d(a) of this title with the land owners. Exchanges shall be on the basis of equal value, and any party to the exchange may pay or accept cash in order to equalize the value of the property exchanged.

(Pub. L. 96–514, title I, § 100, Dec. 12, 1980, 94 Stat. 2960.)

§ 396f. Acquisition of private lands; creation of surplus property accounts; transfer and sale of accounts

Notwithstanding any other provision of law, the Secretary of the Interior is authorized and shall seek to acquire the private lands described in section 396d(a) of this title, by crediting a surplus property account, to be established in the name of each landowner, in the amount of the acquisition price for such landowner's lands. The National Park Service shall update the existing appraisals for the parcels and, based on the approved appraised values, shall negotiate with the landowners for acquisition prices. Each owner may, using such credits in his surplus property account, bid, as any other bidder for surplus property, wherever located, in accordance with chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41. The Administrator of the General Services Administration shall establish each landowner's surplus property account and shall adjust the credits in such accounts to reflect successful bids under this section. Title to the lands described in this section shall pass to the Government at the time of establishment of the surplus property accounts. The credits in any of the surplus property accounts may be transferred or sold in whole or in part at any time by the landowner to any other party, thereby vesting such party with all the rights of the landowner, and after such transfer, the landowner shall notify the Administrator of the transfer. At any time the Secretary may purchase the balance of any surplus property account subject to the availability of appropriated funds. The land owner[1] may also use the credits in exchange for excess lands, wherever located, under the jurisdiction of the Secretary of the Interior.

(Pub. L. 98–146, title III, § 317, Nov. 4, 1983, 97 Stat. 954; Pub. L. 101–121, title I, Oct. 23, 1989, 103 Stat. 708.)

CODIFICATION

In text, ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1989—Pub. L. 101–121 inserted sentence at end authorizing land owner to use the credits in exchange for excess land, wherever located, under the jurisdiction of the Secretary of the Interior.

USE OF ACCOUNTS FOR SALES OF PROPERTIES BY AGENCIES

Pub. L. 101–165, title IX, § 9102, Nov. 21, 1989, 103 Stat. 1151, as amended by Pub. L. 101–511, title VIII, § 8133(b), Nov. 5, 1990, 104 Stat. 1910; Pub. L. 103–204, § 32(a), Dec. 17, 1993, 107 Stat. 2413, provided that:

''(a) AVAILABILITY OF AMOUNTS IN ACCOUNTS.—

''(1) IN GENERAL.—Notwithstanding any other law, in addition to the purposes for which they are now available, amounts in the accounts described in paragraph (2) shall, after December 22, 1987, be available for use in any fiscal year for all purposes (including use for purchase) involving any public sale of property by an agency of the United States. In conducting any such sale, such an agency shall accept, in the same manner as cash, any amount tendered from such an account, and the balance of the account shall be adjusted by the Secretary of the Treasury or the Administrator of General Services, as applicable, to reflect that transaction.

''(2) ACCOUNTS DESCRIBED.—The accounts referred to in subparagraph (B) are—

''(A) the account in the Treasury established by the Secretary of the Treasury pursuant to section 12(b) of Public Law 94–204 (43 U.S.C. 1611 note), referred to in that section as the 'Cook Inlet Region, Incorporated property account'; and

''(B) the surplus property account established by the Administrator of General Services pursuant to section 317 of Public Law 98–146 (16 U.S.C. 396f).

''(b) TREATMENT OF AMOUNT RECEIVED BY AGENCIES FROM ACCOUNTS.—In any case in which an agency of the United States that conducts a public sale of property is authorized by law to use the proceeds of such sale for a specific purpose, the Secretary of the Treasury shall, without restriction, treat as cash receipts any amount which is—

''(1) tendered from an account described in subsection (a)(2);

''(2) received by the agency as proceeds of such a sale; and

''(3) used by the agency for that specific purpose.

''(c) AVAILABILITY OF FUNDS.—The Secretary of the Treasury shall hereafter use funds in the Treasury not otherwise appropriated to make any cash transfer that is necessary under subsection (b) to allow an agency to use the proceeds of a public sale of property.

''(d) AGENCY DEFINED.—In this section the term 'agency' includes—

''(1) any instrumentality of the United States, or

''(2) any element of an agency, or

''(3) any wholly owned or mixed-owned United States Government corporation identified in chapter 91 of title 31, United States Code.

''(e) PROPERTY DEFINED.—Notwithstanding the definition of 'property' found in the Federal Property and

[1] So in original. Probably should be ''landowner''.

Administrative Services Act of 1949, as amended [now 40 U.S.C. 102(9)], in this section the term 'property' includes any property—real, personal (including intangible assets sold or offered by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, such as financial instruments, notes, loans, and bonds), or mixed—owned, held, or controlled by the United States (including that in a corporate capacity or as a receiver or conservator, or such other similar fiduciary relationship), and offered for sale by any agency or instrumentality of the United States, including but not limited to the General Services Administration, Department of Defense, Department of the Interior, Department of Agriculture, Department of Housing and Urban Development, the United States Courts and any Government corporation, agency or instrumentality subject to chapter 91 of title 31, United States Code; real property as used in this section means any land or interest in land or option to purchase land, any improvements on such lands, or rights to their use or exploitation.

''(f) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish procedures to permit the accounts described in subsection (a)(2) to receive deposits, to make deposits into escrow when an escrow is required for the sale of any property, and to reinstate to such accounts any unused escrow deposits if sales are not consummated.''

SUBCHAPTER XLIII—PU`UHONUA O HŌNAUNAU NATIONAL HISTORICAL PARK

§ 397. Establishment; boundaries

(a) Establishment

When title to such lands located on the island of Hawaii, within the following-described area, as shall be designated by the Secretary of the Interior, in the exercise of his judgment and discretion as necessary and suitable for the purpose, shall have been vested in the United States, said lands shall be set apart as the Pu`uhonua o Hōnaunau National Historical Park, in the Territory of Hawaii, for the benefit and inspiration of the people:

PARCEL 1

Being all of R. P. 3306, L. C. Aw. 7219, Apana 2 to Kaliae, all of L. C. Aw. 9470 to Muki, and portions of R. P. 7874, L. C. Aw. 11216 Apana 34 to M. Kekauonohi (Ahupuaa of Honaunau), and R. P. 6852, L. C. Aw. 7712 Apana 1 to M. Kekuanaoa (Ahupuaa of Keokea).

Beginning at a one and one-half-inch pipe in concrete monument called ''Kalani'', at the southeast corner of this parcel, the northeast corner of parcel 3, and on the common boundary of the lands of Keokea and Kiilae, the coordinates of said point of beginning referred to Government Survey Triangulation Station ''Lae-O-Kanoni'' being seven thousand four hundred forty-four and eight-tenths feet south and five thousand three and two-tenths feet east, and running by azimuths measured clockwise from true south:

1. Seventy-nine degrees thirty-three minutes fifteen seconds six hundred and eighty feet along the land of Kiilae, L. C. Aw. 8521–B to G. D. Hueu and passing over a rock called ''Kuwaia'', marked K+K at six hundred seventy-three and two-tenths feet to high-water mark; thence along high-water mark, along seacoast for the next three courses, the direct azimuths and distances between points at seacoast being:

2. One hundred and thirty-five degrees fifty-one minutes three thousand nine hundred seventy-six and one-tenth feet;

3. One hundred and fifty-two degrees twenty-five minutes one thousand and seventy-eight feet;

4. Two hundred and forty degrees fifty-five minutes one thousand two hundred four and four-tenths feet;

5. Three hundred and fifty-four degrees nine minutes two hundred twenty-four and one-tenth feet along the remainder of L. C. Aw. 11216:34 to M. Kekauonohi, along stone wall and old trail;

6. Two hundred and sixty degrees fifty-four minutes one hundred seventy-five and nine-tenths feet across old trail along stone wall to a ''+'' on rock;

7. One hundred and fifty-eight degrees six minutes seventy-two feet along L. C. Aw. 7296 to Puhi, along stone wall;

8. Two hundred and sixty degrees thirty-six minutes ninety and seven-tenths feet along stone wall;

9. One hundred and ninety-four degrees ten minutes sixty-two and nine-tenths feet along stone wall along L. C. Aw. 7295 and 6979–B:2 to Keolewa;

10. One hundred and seventy-five degrees fifty-four minutes twenty-six and nine-tenths feet along stone wall;

11. Two hundred and fifteen degrees thirty-seven minutes forty-seven and four-tenths feet along stone wall along remainder of L. C. Aw. 11216:34 to M. Kekauonohi;

12. One hundred and seventy-two degrees twenty-eight minutes forty-eight and one-tenth feet along same;

13. Two hundred and twenty-six degrees twenty-three minutes two hundred twenty-eight and eight-tenths feet along remainder of L. C. Aw. 11216:34 to M. Kekauonohi to the south side of fifty-foot road;

14. Two hundred and sixty-four degrees fifty-one minutes one hundred fifteen and two-tenths feet along the south side of fifty-foot road;

15. Two hundred and fifty-two degrees thirteen minutes two hundred and two-tenths feet along same;

16. Two hundred and eighty-six degrees thirty minutes one hundred seventy and nine-tenths feet along same;

17. Two hundred and thirty-eight degrees twenty-five minutes ninety-two and eight-tenths feet along same;

18. Two hundred and twenty-three degrees one minute one hundred fourteen and four-tenths feet along same;

19. Three hundred and thirty-eight degrees forty-nine minutes thirty seconds four thousand nine hundred eighty and three-tenths feet along the remainder of L. C. Aw. 11216:34 to M. Kekauonohi and L. C. Aw. 7712:1 to M. Kekuanaoa and passing over a one and one-fourth-inch pipe in concrete monument at one thousand four hundred eighty-one and six-tenths feet to the point of beginning.

Area, one hundred sixty-six and ninety one-hundredths acres.

PARCEL 2

Being portions of L. C. Aw. 11216 Apana 34 to M. Kekauonohi, R. P. 7874 (Ahupuaa of Honaunau).

Beginning at a pipe in concrete at the northeast corner of this parcel, the coordinates of said point of beginning referred to Government Survey Triangulation Station ''Lae-O-Kanoni'' being two thousand one hundred thirty-nine feet south and eleven thousand six hundred seventeen and nine-tenths feet east and running by azimuths measured clockwise from true south:

1. Three hundred fifty-eight degrees twenty-three minutes two hundred sixty and four-tenths feet along the remainder of L. C. Aw. 11216:34 to M. Kekauonohi;

2. Ninety-three degrees thirty minutes two hundred and sixty-nine feet along the same, along stone wall, along lot 2 of the subdivision by B. P. Bishop estate;

3. Eighty-two degrees no minutes three hundred and eighteen feet along same to the east side of fifty-foot road;

4. Thence along the east side of fifty-foot road, the direct azimuth and distance being: one hundred seventy-one degrees twenty minutes two hundred ninety-one and five-tenths feet;

5. Two hundred and seventy degrees no minutes six hundred and twenty feet along the remainder of L. C. Aw. 11216:34 to M. Kekauonohi to the point of beginning.

Area, three and seventy one-hundredths acres.

Together with an easement six feet wide for a pipeline right-of-way extending from the Government road to parcel 1, the south side of said right-of-way being described as follows:

Beginning at the east end of this right-of-way on the common boundary of the lands of Honaunau and Keokea, the coordinates of said point of beginning referred to Government Survey Triangulation Station ''Lae-O-Kanoni'' being three thousand one hundred ninety and eight-tenths feet south and eleven thousand seventy-eight and eight-tenths feet east, and running by azimuths measured clockwise from true south:

1. Eighty degrees thirty-six minutes five seconds one hundred and seventeen feet along L. C. Aw. 7712:1 to M. Kekuanaoa, to the Triangulation Station ''Ahupuaa'' of the B. P. Bishop estate;

2. Eighty-two degrees twenty minutes seven thousand two hundred eighty-nine and one-tenth feet along same to a one and one-fourth-inch pipe in concrete monument on the east boundary of parcel 1 the coordinates of said point of the end of this six-foot right-of-way referred to Government Triangulation Station ''Lae-O-Kanoni'' being four thousand one hundred eighty-two and four-tenths feet south and three thousand seven hundred thirty-nine and four-tenths feet east.

Area, one and two one-hundredths acres.

PARCEL 3

Being portion of L. C. Aw. 8521–B to G. D. Hueu, being portion of the Ahupuaa of Kiilae.

Beginning at a one and one-half-inch pipe in concrete monument called ''Kalani'' at the northeast corner of this parcel, the southeast corner of parcel 1, on the common boundary of the land of Keokea and Kiilae, the coordinates of said point of beginning referred to Government Survey Triangulation Station ''Lae-O-Kanoni'' being seven thousand four hundred forty-four and eight-tenths feet south and five thousand three and two-tenths feet east and running by azimuths measured clockwise from true south:

1. Three hundred thirty-eight degrees forty-nine minutes thirty seconds five hundred ninety-five and four-tenths feet along the remainder of L. C. Aw. 8521–B to G. D. Hueu to the eight thousand foot south coordinates line referred to Government Survey Triangulation Station ''Lae-O-Kanoni'';

2. Ninety degree no minutes one thousand ninety-nine and seven-tenths feet along same and along said eight thousand foot south coordinates line and across school grant 7 Apana 6 to high-water mark;

3. Thence along high-water mark, along sea, the direct azimuth and distance being: two hundred six degrees thirty-three minutes thirty seconds four hundred eighty-two and nine-tenths feet;

4. Two hundred fifty-nine degrees thirty-three minutes fifteen seconds six hundred eighty feet along L. C. Aw. 7712:1 to M. Kekuanaoa and passing over a rock called Kuwaia, marked K+K at six and eight-tenths feet to the point of beginning.

Area, ten and twenty-five one-hundredths acres.

(b) Boundary modification

The boundaries of Pu`uhonua o Hōnaunau National Historical Park are hereby modified to include approximately 238 acres of lands and interests therein within the area identified as ''Parcel A'' on the map entitled ''Pu`uhonua o Hōnaunau National Historical Park Proposed Boundary Additions, Ki`ilae Village'', numbered PUHO–P 415/82,013 and dated May, 2001.

(c) Acquisition

The Secretary of the Interior is authorized to acquire approximately 159 acres of lands and interests therein within the area identified as ''Parcel B'' on the map referenced in subsection (b) of this section. Upon the acquisition of such lands or interests therein, the Secretary shall modify the boundaries of Pu`uhonua o Hōnaunau National Historical Park to include such lands or interests therein.

(July 26, 1955, ch. 385, §1, 69 Stat. 376; Pub. L. 95–625, title III, §305, Nov. 10, 1978, 92 Stat. 3477; Pub. L. 106–510, §3(d)(1), Nov. 13, 2000, 114 Stat. 2364; Pub. L. 107–340, §2, Dec. 16, 2002, 116 Stat. 2889.)

AMENDMENTS

2002—Pub. L. 107–340 designated existing provisions as subsec. (a), substituted ''When'' for ''That, when'', and added subsecs. (b) and (c).

2000—Pub. L. 106–510 substituted ''Pu`uhonua o Hōnaunau National Historical Park'' for ''Puuhonua o Honaunau National Historical Park'' in introductory provisions.

1978—Pub. L. 95–625 redesignated as ''Puuhonua o Honaunau National Historical Park'' the Park previously designated ''City of Refuge National Historical Park''.

CHANGE OF NAME

Pub. L. 106–510, §3(d)(2), Nov. 13, 2000, 114 Stat. 2364, provided that: ''Any reference in any law (other than this Act [see Short Title of 2000 Amendments note set

out under section 1 of this title]), regulation, document, record, map, or other paper of the United States to 'Puuhonua o Honaunau National Historical Park[']shall be considered a reference to 'Pu`uhonua o Hōnaunau National Historical Park'.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–340, §1, Dec. 16, 2002, 116 Stat. 2889, provided that: ''This Act [amending this section] may be cited as the 'Pu`uhonua o Hōnaunau National Historical Park Addition Act of 2002'.''

ADMISSION OF HAWAII AS STATE

Admission of Hawaii into the Union was accomplished Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding section 491 of Title 48, Territories and Insular Possessions.

§ 397a. Establishment; notice in Federal Register

Upon the vesting of title in the United States to such lands as may be designated by the Secretary of the Interior as necessary and suitable for historical park purposes in accordance with the provisions of section 397 of this title, the Pu`uhonua o Hōnaunau National Historical Park shall be established by order of the said Secretary, which shall be published in the Federal Register. Any other lands within the area described above shall become a part of the national historical park upon the vesting of title thereto in the United States and upon publication of an appropriate supplemental order by the said Secretary in the Federal Register.

(July 26, 1955, ch. 385, §2, 69 Stat. 379; Pub. L. 95–625, title III, §305, Nov. 10, 1978, 92 Stat. 3477; Pub. L. 106–510, §3(d)(1), Nov. 13, 2000, 114 Stat. 2364.)

AMENDMENTS

2000—Pub. L. 106–510 substituted ''Pu`uhonua o Hōnaunau National Historical Park'' for ''Puuhonua o Honaunau National Historical Park''.

1978—Pub. L. 95–625 redesignated as ''Puuhonua o Honaunau National Historical Park'' the park previously designated ''City of Refuge National Historical Park''.

§ 397b. Procurement of lands

The Secretary of the Interior is authorized to procure, by donation or purchase, with any funds that may be available for that purpose, lands and interests in lands which may be needed for the Pu`uhonua o Hōnaunau National Historical Park within the area described in section 397 of this title.

(July 26, 1955, ch. 385, §3, 69 Stat. 379; Pub. L. 95–625, title III, §305, Nov. 10, 1978, 92 Stat. 3477; Pub. L. 106–510, §3(d)(1), Nov. 13, 2000, 114 Stat. 2364.)

AMENDMENTS

2000—Pub. L. 106–510 substituted ''Pu`uhonua o Hōnaunau National Historical Park'' for ''Puuhonua o Honaunau National Historical Park''.

1978—Pub. L. 95–625 redesignated as ''Puuhonua o Honaunau National Historical Park'' the park previously designated ''City of Refuge National Historical Park''.

§ 397c. Acquisition of lands by Governor of the Territory of Hawaii

In order to cooperate with the Secretary of the Interior in consolidating in Federal ownership lands within the area described in section 397 of this title, and to facilitate acquisition of the lands needed for the national historical park, the Governor of the Territory of Hawaii is also authorized to acquire lands for said park, at the expense of the Territory of Hawaii by exchange or otherwise, in accordance with procedure prescribed by section 392 of this title.

(July 26, 1955, ch. 385, §4, 69 Stat. 379.)

ADMISSION OF HAWAII AS STATE

Admission of Hawaii into the Union was accomplished Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding former section 491 of Title 48, Territories and Insular Possessions.

§ 397d. Administration

The Pu`uhonua o Hōnaunau National Historical Park shall be administered by the Secretary of the Interior subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and such additional authority compatible therewith as is contained in sections 461 to 467 of this title, with regard to preservation of historic sites and objects of national significance.

(July 26, 1955, ch. 385, §5, 69 Stat. 379; Pub. L. 95–625, title III, §305, Nov. 10, 1978, 92 Stat. 3477; Pub. L. 106–510, §3(d)(1), Nov. 13, 2000, 114 Stat. 2364.)

AMENDMENTS

2000—Pub. L. 106–510 substituted ''Pu`uhonua o Hōnaunau National Historical Park'' for ''Puuhonua o Honaunau National Historical Park''.

1978—Pub. L. 95–625 redesignated as ''Puuhonua o Honaunau National Historical Park'' the park previously designated ''City of Refuge National Historical Park''.

SUBCHAPTER XLIV—VIRGIN ISLANDS NATIONAL PARK

§ 398. Establishment; administration

A portion of the Virgin Islands of the United States, containing outstanding scenic and other features of national significance, shall be established, as prescribed in section 398a of this title, as the ''Virgin Islands National Park''.

The national park shall be administered and preserved by the Secretary of the Interior in its natural condition for the public benefit and inspiration, in accordance with the laws governing the administration of the national parks.

(Aug. 2, 1956, ch. 885, §1, 70 Stat. 940.)

REFERENCES IN TEXT

The laws governing the administration of the national parks, referred to in the second par., are classified to section 1 et seq. of this title.

§ 398a. Conditions and limitations

The Secretary of the Interior is authorized subject to the following conditions and limitations, to proceed in such manner as he shall find to be necessary in the public interest to consummate the establishment of the Virgin Islands National Park:

(a) The acreage of the national park shall be limited to a total of not more than nine thou-

sand five hundred acres of land area, such total to be comprised of not more than fifteen acres on the island of Saint Thomas, and not more than nine thousand four hundred and eighty-five additional acres to be comprised of portions of the island of Saint John and such small islands, rocks, and cays not in excess of five hundred acres in the general vicinity thereof as may be desirable for inclusion within the park;

(b) Tentative exterior boundary lines, to include land not in excess of the aforesaid acreage limitations, may be selected for the park in order to establish the particular areas in which land may be acquired pursuant to this section and section 398 of this title, such tentative boundaries to be selected and adjusted as may be necessary by the Secretary of the Interior;

(c) The Secretary, on behalf of the United States, is authorized to accept donations of real and personal property within the areas selected for the park until such time as the aforesaid total of nine thousand five hundred acres shall have been acquired for the park by the United States, and he may also accept donations of funds for the purposes of this section and section 398 of this title. Notwithstanding the acreage limitations and boundary designations contained in this section, the Secretary is authorized to accept through donation, or purchase from a willing seller, the real and personal property located on Lots 251–252 Estate Contant Enighed, Parcels 86B and 86AA Cruz Bay Quarter;

(d) Any Federal properties situated within the areas selected for the park, upon agreement by the particular agency administering such properties that such properties should be made available for the park, may be transferred without further authorization to the Secretary by such agency for purposes of this section and section 398 of this title;

(e) Establishment of the Virgin Islands National Park, in its initial phase, shall be and is declared to be accomplished and effective for purposes of administration when a minimum acreage of not less than five thousand acres in Federal ownership for purposes of this section and section 398 of this title shall have been acquired by the United States in specific areas containing such acquired lands to be designated by the Secretary; and

(f) Notice of the establishment of the park as authorized and prescribed by this section and section 398 of this title shall be published in the Federal Register.

(Aug. 2, 1956, ch. 885, §2, 70 Stat. 940; Pub. L. 95–348, §7(b)(6), Aug. 18, 1978, 92 Stat. 495.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95–348 inserted provisions relating to acceptance through donation or purchase of the real and personal property located on Lots 251–252 Estate Contant Enighed.

§ 398b. Repealed. Pub. L. 85–404, May 16, 1958, 72 Stat. 112

Section, act Aug. 2, 1956, ch. 885, §3, 70 Stat. 941, authorized an appropriation for capital improvements and an annual appropriation for administration of the Virgin Islands National Park.

§ 398c. Addition of lands

In furtherance of the purposes of sections 398 and 398a of this title, providing for the establishment of the Virgin Islands National Park, and in order to preserve for the benefit of the public significant coral gardens, marine life, and seascapes in the vicinity thereof, the boundaries of such park, subject to valid existing rights, are revised to include the adjoining lands, submerged lands, and waters, and Hassel Island located in Saint Thomas Harbor and adjoining lands, submerged lands, and waters, described as follows:

NORTH OFFSHORE AREA

Beginning at the hereinafter lettered point A on the shore of Cruz Bay, a corner in the Virgin Islands National Park boundary, being also a corner of lot F, Cruz Bay, added to the park by order of designation signed June 29, 1960, by the Assistant Secretary of the Interior pursuant to sections 398 and 398a of this title, and published in the Federal Register of July 7, 1960, the said corner being the terminus of the course recited therein as ''north 58 degrees 50 minutes west a distance of 20.0 feet, more or less, along Government land to a point;'' for the third call in the metes and bounds description lot F, Cruz Bay.

From the initial point A, distances in nautical miles, along direct courses between the hereinafter lettered points at geographic positions (latitudes north, longitudes west):

Northwestward approximately 0.13 mile to point B, latitude 18 degrees 20 minutes 08 seconds, longitude 64 degrees 47 minutes 43 seconds in Cruz Bay;

0.43 mile to Point C, latitude 18 degrees 20 minutes 08 seconds, longitude 64 degrees 48 minutes 10 seconds in Pillsbury Sound;

1.36 miles to point D, latitude 18 degrees 21 minutes 30 seconds, longitude 64 degrees 48 minutes 10 seconds in Windward Passage;

1.64 miles to point E, latitude 18 degrees 22 minutes 10 seconds, longitude 64 degrees 46 minutes 35 seconds in the Atlantic Ocean;

1.99 miles to point F, latitude 18 degrees 22 minutes 45 seconds, longitude 64 degrees 44 minutes 35 seconds in the Narrows;

3.18 miles to point G, latitude 18 degrees 22 minutes 00 seconds, longitude 64 degrees 41 minutes 20 seconds in Sir Francis Drake Channel;

1.04 miles to point H, latitude 18 degrees 21 minutes 10 seconds, longitude 64 degrees 40 minutes 40 seconds in Haulover Bay;

Southwestward approximately 0.22 mile to point I, a bound post on the shore of Haulover Bay marking a corner of the Virgin Islands National Park boundary as shown on drawing numbered NP–VI–7000 entitled ''Acquisition Area Virgin Islands National Park'', approved November 15, 1956, by the acting Secretary of the Interior in accordance with sections 398 and 398a of this title, being also the southeasterly corner of estate Haulover 5a and 5c east end quarter as delineated on the municipality of Saint Thomas and Saint John drawing PW file numbered 9–24–T51 dated October 26, 1950;

Thence running generally westward along the Virgin Islands National Park northerly

boundary as it follows the northerly shore of the island of Saint John as shown on the said drawing numbered NP–VI–7000 and on drawing numbered NP–VI–7003 entitled ''Land Ownership Cruz Bay Creek'' depicting the boundary adjustment affected by the said order of designation to point A, the point of beginning.

The area described contains approximately 4,100 acres.

SOUTH OFFSHORE AREA

Beginning at the hereinafter lettered point L, a concrete bound post on the short of Drunk Bay marking a northeasterly corner in the Virgin Islands National Park boundary as shown on the said drawing numbered NP–VI–7000, being also the northeasterly corner of parcel numbered 1, estate Concordia (A), as delineated on the Leo R. Sibilly, civil engineer, drawing file numbered C9–13–T55.

From the initial point L, distances in nautical miles, along direct courses between the hereinafter lettered points at geographic positions (latitudes north, longitudes west):

Eastward approximately 0.32 mile to point M, latitude 18 degrees 18 minutes 48 seconds, longitude 64 degrees 41 minutes 50 seconds in Sabbat Channel;

0.88 mile to point N, latitude 18 degrees 17 minutes 55 seconds, longitude 64 degrees 41 minutes 50 seconds in the Caribbean Sea;

0.40 mile to point O, latitude 18 degrees 17 minutes 55 seconds, longitude 64 degrees 42 minutes 15 seconds in the Caribbean Sea;

1.88 miles to point P, latitude 18 degrees 18 minutes 48 seconds, longitude 64 degrees 44 minutes 00 seconds in the Caribbean Sea;

1.74 miles to point Q, latitude 18 degrees 18 minutes 48 seconds, longitude 64 degrees 45 minutes 50 seconds in the Caribbean Sea;

0.45 mile to point R, latitude 18 degrees 19 minutes 15 seconds, longitude 64 degrees 45 minutes 50 seconds in Fish Bay;

Eastward approximately 0.08 mile to point S on the shore of Fish Bay, a corner in the present Virgin Islands National Park, as delineated on said drawing numbered NP–VI–7000, being the northwesterly corner of parcel numbered 2 estate Fish Bay, numbered 8 Reef Bay Quarter, and the terminus of the delineated course ''south 78 degrees 52 minutes west distance 1,178.9 feet'' as depicted on the Leo R. Sibilly, civil engineer, drawing file numbered G9–385–T56.

Thence running generally eastward along the present southerly park boundary as it follows the southerly shore of the island of Saint John as depicted on the said drawing numbered NP–VI–7000 to point L, the point of beginning.

The area described contains approximately 1,550 acres.

HASSEL ISLAND

The area known as Hassel Island in Saint Thomas Harbor consisting of approximately 135 acres, together with such adjoining lands, submerged lands, and waters as the Secretary of the Interior deems appropriate, but the boundaries shall not, in any event, extend beyond 100 yards from the mean high water mark of the island.

Lands, submerged lands, and waters added to the Virgin Islands National Park pursuant to sections 398c to 398f of this title shall be subject to administration by the Secretary of the Interior in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented.

(Pub. L. 87–750, §1, Oct. 5, 1962, 76 Stat. 746; Pub. L. 95–348, §7(a), Aug. 18, 1978, 92 Stat. 493.)

AMENDMENTS

1978—Pub. L. 95–348 inserted provisions relating to boundaries of Hassel Island located in Saint Thomas Harbor and adjoining lands, submerged lands, and waters.

§ 398d. Acquisition of lands, waters, and interests therein

(a) Authorization; payment requirements; interest rate

Within the boundaries of Virgin Islands National Park as established and adjusted pursuant to sections 398 and 398a of this title, and as revised by sections 398c to 398f of this title, the Secretary of the Interior is authorized to acquire lands, waters, and interests therein by purchase, exchange or donation or with donated funds. In acquiring such lands, up to 6.6 acres, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding the current prevailing commercial rate.

(b) Employment and training of residents to develop, etc., area

The Secretary is authorized and directed to the maximum extent feasible to employ and train residents of the Virgin Islands to develop, maintain, and administer the Virgin Islands National Park.

(c) Payment requirements for acquisition of Hassel Island from United States

Subject to continued protection and use of Hassel Island for park and recreation purposes, and such other conditions as the Secretary may deem appropriate, the Territory of the Virgin Islands may, within, but not after, five years after August 18, 1978, by duly enacted legislation acquire all interests of the United States in Hassel Island by reimbursing the United States in an amount equal to the amount actually expended by the United States for the acquisition of lands and interests in lands and for the costs of construction of permanent improvements, if any.

(d) Rights of owners of improved property on Hassel Island to use and occupancy of property for noncommercial residential purposes; term; payment requirements; suspension of authority to condemn Royal Mail property; "improved property" defined; termination of rights of owners to use and occupancy

(1) Except for property deemed necessary by the Secretary of the Interior for visitor facilities or administration of the park, any owner or owners of improved property on Hassel Island on the date of its acquisition, may retain for them-

selves a right of use and occupancy of the property for noncommercial residential purposes for twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the owner's spouse, whichever is later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner. The authority of the Secretary to acquire the property commonly known as the Royal Mail (hotel) by condemnation shall be suspended for ten years from August 18, 1978, if such owner or owners agree, in writing, within ninety days after August 18, 1978, to grant to the United States the right to purchase such property at a purchase price, mutually agreed upon by the Secretary and the landowner, which does not exceed the fixed value of said property on July 1, 1978.

(2) As used in subsection (d)(1) of this section, ''improved property'' means a single-family dwelling, the construction of which began before January 1, 1977, together with such lands as are in the same ownership and appurtenant buildings located thereon.

(3) The Secretary may terminate a right of use and occupancy retained pursuant to subsection (d)(1) of this section upon his determination that such use and occupancy is being, or may be, exercised in a manner inconsistent with the purposes for which they were included within the park and upon tender to the holder of such right of the amount equal to the value of that portion of the right which remains unexpired on the date of termination.

(Pub. L. 87–750, § 2, Oct. 5, 1962, 76 Stat. 747; Pub. L. 95–348, § 7(b)(1)–(3), Aug. 18, 1978, 92 Stat. 494.)

AMENDMENTS

1978—Pub. L. 95–348 designated existing provisions as subsec. (a), inserted provisions respecting acquisitions of up to 6.6 acres, and added subsecs. (b) to (d).

CANEEL BAY LEASE AUTHORIZATION

Pub. L. 111–261, § 1, Oct. 8, 2010, 124 Stat. 2777, provided that:

''(a) DEFINITIONS.—In this section:

''(1) PARK.—The term 'Park' means the Virgin Islands National Park.

''(2) RESORT.—The term 'resort' means the Caneel Bay resort on the island of St. John in the Park.

''(3) RETAINED USE ESTATE.—The term 'retained use estate' means the retained use estate for the Caneel Bay property on the island of St. John entered into between the Jackson Hole Preserve and the United States on September 30, 1983 (as amended, assigned, and assumed).

''(4) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(b) LEASE AUTHORIZATION.—

''(1) IN GENERAL.—If the Secretary determines that the long-term benefit to the Park would be greater by entering into a lease with the owner of the retained use estate than by authorizing a concession contract upon the termination of the retained use estate, the Secretary may enter into a lease with the owner of the retained use estate for the operation and management of the resort.

''(2) ACQUISITIONS.—The Secretary may—

''(A) acquire associated property from the owner of the retained use estate; and

''(B) on the acquisition of property under subparagraph (A), administer the property as part of the Park.

''(3) AUTHORITY.—Except as otherwise provided by this section, a lease shall be in accordance with subsection (k) of section 3 of Public Law 91–383 (16 U.S.C. 1a–2(k)), notwithstanding paragraph (2) of that subsection.

''(4) TERMS AND CONDITIONS.—A lease authorized under this section shall—

''(A) be for the minimum number of years practicable, taking into consideration the need for the lessee to secure financing for necessary capital improvements to the resort, but in no event shall the term of the lease exceed 40 years;

''(B) prohibit any transfer, assignment, or sale of the lease or otherwise convey or pledge any interest in the lease without prior written notification to, and approval by the Secretary;

''(C) ensure that the general character of the resort property remains unchanged, including a prohibition against—

''(i) any increase in the overall size of the resort; or

''(ii) any increase in the number of guest accommodations available at the resort;

''(D) prohibit the sale of partial ownership shares or timeshares in the resort;

''(E) include provisions to ensure the protection of the natural, cultural, and historic features of the resort and associated property, consistent with the laws and policies applicable to property managed by the National Park Service; and

''(F) include any other provisions determined by the Secretary to be necessary to protect the Park and the public interest.

''(5) RENTAL AMOUNTS.—In determining the fair market value rental of the lease required under section 3(k)(4) of Public Law 91–383 (16 U.S.C. 1a–2(k)(4)), the Secretary shall take into consideration—

''(A) the value of any associated property conveyed to the United States; and

''(B) the value, if any, of the relinquished term of the retained use estate.

''(6) USE OF PROCEEDS.—Rental amounts paid to the United States under a lease shall be available to the Secretary, without further appropriation, for visitor services and resource protection within the Park.

''(7) CONGRESSIONAL NOTIFICATION.—The Secretary shall submit a proposed lease under this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives at least 60 days before the award of the lease.

''(8) RENEWAL.—A lease entered into under this section may not be extended or renewed.

''(9) TERMINATION.—Upon the termination of a lease entered into under this section, if the Secretary determines the continuation of commercial services at the resort to be appropriate, the services shall be provided in accordance with the National Park Service Concessions Management Improvement Act of 1998 (16 U.S.C. 5951 et seq.).

''(c) RETAINED USE ESTATE.—

''(1) IN GENERAL.—As a condition of the lease, the owner of the retained use estate shall terminate, extinguish, and relinquish to the Secretary all rights under the retained use estate and shall transfer, without consideration, ownership of improvements on the retained use estate to the National Park Service.

''(2) APPRAISAL.—

''(A) IN GENERAL.—The Secretary shall require an appraisal by an independent, qualified appraiser who is agreed to by the Secretary and the owner of the retained use estate to determine the value, if any, of the relinquished term of the retained use estate.

''(B) REQUIREMENTS.—An appraisal under paragraph (1) shall be conducted in accordance with—

''(i) the Uniform Appraisal Standards for Federal Land Acquisitions; and

''(ii) the Uniform Standards of Professional Appraisal Practice.''

§ 398e. Bathing and fishing rights protected

(a) Regulations

Nothing in sections 398c to 398f of this title shall be construed as authorizing any limitation on customary uses of or access to the areas specified in section 398c of this title for bathing and fishing (including setting out of fishpots and landing boats), subject to such regulations as the Secretary of the Interior may find reasonable and necessary for protection of natural conditions and prevention of damage to marine life and formations.

(b) Admission fee prohibited

Notwithstanding any provision of law to the contrary, no fee or charge shall be imposed for entrance or admission into the Virgin Islands National Park.

(Pub. L. 87–750, § 3, Oct. 5, 1962, 76 Stat. 747; Pub. L. 95–348, § 7(b)(4), Aug. 18, 1978, 92 Stat. 495.)

AMENDMENTS

1978—Pub. L. 95–348 designated existing provisions as subsec. (a) and added subsec. (b).

§ 398f. Authorization of appropriations for acquisitions, grants, etc.

Effective October 1, 1978, there are authorized to be appropriated such sums as may be necessary for the acquisition of lands and interests in lands within the Virgin Islands National Park. For purposes of this section, acquisitions of land on Hassel Island shall be deemed to be acquisitions qualifying for payment under the provisions of paragraph (2) of the Act of June 10, 1977 (Public Law 95–42; 91 Stat. 210) [16 U.S.C. 460*l*–7]. In addition to such sums as may have heretofore been appropriated for development of public facilities within the Virgin Islands National Park, effective October 1, 1978, there are authorized to be appropriated not more than $1,000,000 for restoration and rehabilitation of historic structures and for development of public facilities on Hassel Island, and not more than $500,000 as a grant to the Territory of the Virgin Islands for its use in furthering projects undertaken pursuant to the Land and Water Conservation Fund Act [16 U.S.C. 460*l*–4 et seq.], the Historic Preservation Act [16 U.S.C. 470 et seq.], or other comparable programs upon the transfer of title to the United States of all properties held by the territory on Hassel Island.

(Pub. L. 87–750, § 4, Oct. 5, 1962, 76 Stat. 748; Pub. L. 93–477, title I, § 101(10), Oct. 26, 1974, 88 Stat. 1445; Pub. L. 95–348, § 7(b)(5), Aug. 18, 1978, 92 Stat. 495.)

REFERENCES IN TEXT

Paragraph (2) of the Act of June 10, 1977 (Public Law 95–42; 91 Stat. 210), referred to in text, amended section 460*l*–7 of this title.

The Land and Water Conservation Fund Act, referred to in text, probably means the Land and Water Conservation Fund Act of 1965, Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified principally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

The Historic Preservation Act, referred to in text, probably means Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, known as the National Historic Preservation Act, which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of this title. For complete classification of this Act to the Code, see section 470(a) of this title and Tables.

AMENDMENTS

1978—Pub. L. 95–348 substituted provisions authorizing appropriations for acquisition of lands and interests in lands in the Park, provisions for acquisitions of land on Hassel Island, and provisions authorizing appropriations for restoration and rehabilitation of historic structures, etc., on Hassel Island and as a grant for the Territory, for provisions authorizing appropriations of not more than $12,250,000 for acquisition of lands pursuant to section 398d of this title.

1974—Pub. L. 93–477 substituted ''$12,250,000'' for ''$1,250,000''.

SUBCHAPTER XLV—BRYCE CANYON NATIONAL PARK

CHANGE OF NAME

Utah National Park changed to Bryce Canyon National Park, see section 402a of this title.

§ 401. Establishment; boundaries; administration

There is reserved and withdrawn from settlement, occupancy, or disposal under the laws of the United States and dedicated and set apart as a public park for the benefit and enjoyment of the people, under the name of the ''Bryce Canyon National Park,'' the tract of land in the State of Utah particularly described by and included within metes and bounds, as follows, to wit:

Unsurveyed sections 31 and 32, township 36 south, range 3 west; surveyed section 36, township 36 south, range 4 west; north half, southwest quarter and west half of the southeast quarter of partially surveyed section 5; unsurveyed sections 6 and 7, west half, west half of the northeast quarter, and west half of the southeast quarter of partially surveyed section 8, partially surveyed section 17, and unsurveyed section 18, township 37 south, range 3 west; and unsurveyed sections 1, 12, and 13, township 37 south, range 4, all west of the Salt Lake meridian in the State of Utah. All the land within the exterior boundaries of the aforesaid tract shall first become the property of the United States. The administration, protection, and promotion of said Bryce Canyon National Park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title.

(June 7, 1924, ch. 305, §§ 1, 2, 43 Stat. 593, 594; Feb. 25, 1928, ch. 102, § 1, 45 Stat. 147; May 12, 1928, ch. 533, § 1, 45 Stat. 502.)

CODIFICATION

The last sentence of this section is from section 2 of act June 7, 1924.

AMENDMENTS

1928—Act May 12, 1928, changed description of land in section 8 from ''west half of the southwest quarter'' to ''west half of the southeast quarter''.

CHANGE OF NAME

''Utah National Park'' changed to ''Bryce Canyon National Park'' by section 1 of act Feb. 25, 1928, classified to section 402a of this title.

§ 402. Existing claims, locations, or entries not affected; exchange of lands

Nothing herein contained shall affect any valid claim, location, or entry existing under the land laws of the United States prior to June 7, 1924, whether for homestead, mineral, right-of-way, or any other purpose whatsoever, or shall affect the rights of any such claimant, locator, or entryman to the full use and enjoyment of his land. The Secretary of the Interior is authorized to exchange, in his discretion, alienated lands in Bryce Canyon National Park for unappropriated and unreserved public lands of equal value and approximately equal area in the State of Utah outside of said park.

(June 7, 1924, ch. 305, § 3, 43 Stat. 594; Feb. 25, 1928, ch. 102, § 1, 45 Stat. 147.)

REFERENCES IN TEXT

Herein, referred to in text, means act June 7, 1924, which is classified to sections 346, 401 and 402 of this title. For complete classification of this Act to the Code, see Tables.

The land laws of the United States, referred to in text, are classified generally to Title 43, Public Lands.

CODIFICATION

The last sentence of this section as originally enacted is expressly applicable also to Zion National Park. See section 346 of this title.

CHANGE OF NAME

''Utah National Park'' changed to ''Bryce Canyon National Park'' by section 1 of act Feb. 25, 1928, classified to section 402a of this title.

§ 402a. Utah National Park; change of name to Bryce Canyon National Park

The area within the State of Utah described in section 401 of this title, providing for the establishment of the Utah National Park, shall be, when established as a national park, known as the Bryce Canyon National Park.

(Feb. 25, 1928, ch. 102, § 1, 45 Stat. 147.)

§ 402b. Additions to park

The east half east half section 25, township 36 south, range 4 west; the east half and southwest quarter section 20, and all of sections 21, 29, and 30, township 36 south, range 3 west; all of sections 24 and 25, township 37 south, range 4 west; and all of sections 19 and 30, township 37 south, range 3 west, Salt Lake meridian, are excluded from the Powell National Forest and made a part of the Bryce Canyon National Park, subject to the provisions of sections 346, 401, and 402 of this title.

(Feb. 25, 1928, ch. 102, § 2, 45 Stat. 147; May 12, 1928, ch. 533, § 2, 45 Stat. 502.)

AMENDMENTS

1928—Act May 12, 1928, corrected description of land in section 20 by inserting ''and'' between ''east half'' and ''southwest quarter''.

§ 402c. Further additions to park

Unsurveyed sections 28 and 33, township 36 south, range 3 west, and section 20, township 37 south, range 3 west, Salt Lake meridian, public lands of the United States, are added to and made a part of the Bryce Canyon National Park subject to the provisions of sections 346, 401, and 402 of this title.

(Feb. 25, 1928, ch. 102, § 3, 45 Stat. 147.)

§ 402d. Extension of boundaries; laws applicable

For the purpose of preserving in their natural state the outstanding scenic features to the south and west of Bryce Canyon National Park, the President of the United States is authorized, upon the joint recommendation of the Secretaries of Interior and of Agriculture, to add to the Bryce Canyon National Park, in the State of Utah, by Executive proclamation, any or all of unsurveyed townships 37 and 38 south, range 4 west, Salt Lake meridian, not included in said park, on June 13, 1930, and all the lands added to said park pursuant hereto shall be, and are, made subject to all laws, rules, and regulations applicable to and in force in the Bryce Canyon National Park.

(June 13, 1930, ch. 480, § 1, 46 Stat. 582.)

§ 402e. Application of Federal Power Act

The provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to lands included in the Bryce Canyon National Park on June 13, 1930, nor to any lands added to said park under the authority of section 402d of this title.

(June 13, 1930, ch. 480, § 2, 46 Stat. 583.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act of June 10, 1920, known as the Federal Water Power Act,'' and was redesignated as the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

§ 402f. Further additions to park

For the purpose of preserving in their natural state the outstanding scenic features thereon and for the purpose of rounding out the boundary of the Bryce Canyon National Park, the President of the United States is authorized, upon the joint recommendation of the Secretaries of Interior and of Agriculture, to add to said park by Executive proclamation any or all of the following-described lands in the State of Utah, which shall thereupon become and be a part of said park subject to all laws and regulations applicable thereto, to wit: South half southwest quarter section 2, south half south half section 3, southeast quarter southeast quarter section 4, east half section 8, sections 9, 10, west half section 11, west half section 14, sections 15, 16, east half, northeast quarter northwest quarter, east half northwest quarter northwest quarter, north half southeast quarter northwest quarter, south half northeast quarter southwest quarter, north half south half southeast quarter northwest quarter and north half southeast quarter southwest quarter section 17, south half south half section 19, south half northwest quarter section 20, west half, west half east half and northeast quarter northeast

quarter section 22, north half northwest quarter section 23, west half section 27, and north half northwest quarter section 34, township 36 south, range 3 west; lots 3 and 4, south half northwest quarter section 4, northeast quarter northeast quarter and southeast quarter southeast quarter section 8, township 37 south, range 3 west; west half east half and southwest quarter section 25, unsurveyed township 36 south, range 4 west; lots 3 and 4, south half west half section 3, lots 1, 2, 3, and 4 and south half section 4, and lots 1 and 2 and south half east half section 5, township 39 south, range 4 west, Salt Lake meridian: *Provided*, That nothing herein shall affect any valid existing claims upon the lands herein authorized to be added to the park or the rights of stockmen to continue to drive stock over the lands now under an existing stock driveway withdrawal.

(Feb. 17, 1931, ch. 209, §1, 46 Stat. 1166; Mar. 7, 1942, ch. 161, 56 Stat. 141.)

AMENDMENTS

1942—Act Mar. 7, 1942, corrected description of portions of the land.

§ 402g. Elimination of lands

The following-described lands are eliminated from the Bryce Canyon National Park and shall hereafter be included in and become a part of the Powell National Forest, subject to all laws and regulations applicable thereto, to wit: Section 30, township 37 south, range 3 west; section 25, unsurveyed township 37 south, range 4 west, Salt Lake meridian.

(Feb. 17, 1931, ch. 209, §2, 46 Stat. 1167.)

SUBCHAPTER XLVI—SHENANDOAH NATIONAL PARK AND GREAT SMOKY MOUNTAINS NATIONAL PARK

§ 403. Establishment; boundaries

When title to lands within the areas hereinafter referred to shall have been vested in the United States in fee simple there are established, dedicated, and set apart as public parks for the benefit and enjoyment of the people, the tract of land in the Blue Ridge, in the State of Virginia, being approximately five hundred and twenty-one thousand acres recommended by the Secretary of the Interior in his report of April 14, 1926, which area, or any part or parts thereof as may be accepted on behalf of the United States in accordance with the provisions hereof, shall be known as the Shenandoah National Park; and the tract of land in the Great Smoky Mountains in the States of North Carolina and Tennessee being approximately seven hundred and four thousand acres, recommended by the Secretary of the Interior in his report of April 14, 1926, which area, or any part or parts thereof as may be accepted on behalf of the United States in accordance with the provisions hereof, shall be known as the Great Smoky Mountains National Park: *Provided*, That the United States shall not purchase by appropriation of public moneys any land within the aforesaid areas, but that such lands shall be secured by the United States only by public or private donation.

(May 22, 1926, ch. 363, §1, 44 Stat. 616.)

TAPOCO PROJECT LICENSING

Pub. L. 108–343, Oct. 18, 2004, 118 Stat. 1372, known as the ''Tapoco Project Licensing Act of 2004'', authorized land exchange in Great Smoky Mountains National Park between the Secretary of the Interior and private corporation, and provided that Federal Energy Regulatory Commission had jurisdiction to license Tapoco Hydroelectric Project on lands transferred by the Secretary.

LAND EXCHANGE IN GREAT SMOKY MOUNTAINS NATIONAL PARK

For land exchange between National Park Service and Eastern Band of Cherokee Indians involving tract in Great Smoky Mountains National Park, see section 138 of Pub. L. 108–108, classified as a note under section 460a–5 of this title.

RIGHT-OF-WAY PERMITS FOR NATURAL GAS PIPELINES IN GREAT SMOKY MOUNTAINS NATIONAL PARK

Pub. L. 107–223, Aug. 21, 2002, 116 Stat. 1338, authorized the Secretary of the Interior to issue right-of-way permits for natural gas pipelines existing as of Sept. 1, 2001, or proposed for certain specified locations, within the boundary of Great Smoky Mountains National Park, subject to certain terms and conditions and consistent with laws and regulations generally applicable to utility rights-of-way within units of the National Park System.

SHENANDOAH NATIONAL PARK; ROADS ON FEDERAL LAND; TRANSFER OF COUNTY ROAD CORRIDORS

Pub. L. 104–59, title III, §349(b), Nov. 28, 1995, 109 Stat. 618, permitted State of Virginia to maintain and provide for safe public use of certain roads that State donated to United States at time of establishment of Shenandoah National Park; established transfer from United States to State of county road corridors for that purpose; defined ''county road corridor'' and ''Shenandoah county road''; and provided for reversion of corridors should they be withdrawn from use as public roadways.

TRANSFER OF LAND FOR USE AS CUSTOMS SERVICE CANINE ENFORCEMENT TRAINING CENTER

Pub. L. 102–393, title V, §533, Oct. 6, 1992, 106 Stat. 1763, provided that:

''(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Interior may transfer certain land located in the Shenandoah National Park and described in subsection (c) to the Secretary of the Treasury for use by the Secretary of the Treasury as a United States Customs Service Canine Enforcement Training Center.

''(b) CONDITIONS OF TRANSFER.—

''(1) PROTECTION OF THE PARK.—An agreement to transfer pursuant to subsection (a) shall include such provisions for the protection of Shenandoah National Park as the Secretary of the Interior considers necessary.

''(2) CONSIDERATION.—A transfer made pursuant to subsection (a) shall be made without consideration or reimbursement.

''(3) ABANDONMENT.—If the land referred to in subsection (a) is abandoned by the Secretary of the Treasury at any time, administrative jurisdiction of the land shall revert to the Department of the Interior.

''(c) DESCRIPTION OF THE LAND.—The land referred to in subsection (a) is a plot of fenced land equaling 9.888 acres containing buildings, structures, fixtures, equipment, and other improvements affixed to or resting upon the land, and has the following legal description:

''The tract of land located just west of Road No. 604 about one mile south of Front Royal, Warren County, Virginia, and bounded as follows:

''Beginning at (1) a monument in the line of the land of Lawson just west of Road No. 604; thence with the land of Lawson, and then with a new division line

through the land of Shenandoah National Park north 59 degrees 45 minutes 38 seconds west 506.05 feet to (2) a Concrete Monument set, said point being north 59 degrees 45 minutes 38 seconds west 9.26 feet from a monument to a corner to the land of Lawson; thence with another new division line through the land of Shenandoah National Park north 31 degrees 31 minutes 00 seconds east 1206.07 feet to (3) a Concrete Monument set in the line of the land of the United States Government; thence with the land of the United States Government for the following two courses: south 07 degrees 49 minutes 31 seconds east 203.98 feet to (4); thence south 09 degrees 10 minutes 06 seconds east 27.79 feet to (5) a corner between the land of the United States Government and the land of United States Customs Service Detector Dog Training Center; thence with 282.896 acre tract of land of United States Customs Service Detector Dog Training Center for the following six courses: south 10 degrees 38 minutes 32 seconds east 152.47 feet to (6); thence south 00 degrees 48 minutes 32 seconds west 127.52 feet to (7); thence south 08 degrees 25 minutes 46 seconds west 422.15 feet to (8); thence south 14 degrees 37 minutes 16 seconds west 106.47 feet to (9); thence south 27 degrees 13 minutes 28 seconds west 158.11 feet to (10); thence south 38 degrees 17 minutes 36 seconds west 146.44 feet to the point of beginning, containing 9.888 acres, more or less.''

[For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

§ 403–1. Addition of lands to Shenandoah National Park

The following described lands of the Front Royal Quartermaster Depot Military Reservation, Virginia, are made a part of the Shenandoah National Park, subject to all laws and regulations applicable thereto: Beginning at concrete monument numbered 10 in the boundary line of the Front Royal Remount Depot, and running thence along said boundary line, north 70 degrees 00 minutes west 3,465.0 feet to monument numbered 11, thence north 40 degrees 30 minutes west 1,881.0 feet to monument numbered 12, thence north 2 degrees 00 minutes west 792.0 feet to monument numbered 13, thence north 78 degrees 00 minutes west 693.0 feet to monument numbered 14, thence south 1 degree 30 minutes west 379.5 feet to monument numbered 15, thence south 61 degrees 15 minutes west 2,244.0 feet to monument numbered 16, thence south 16 degrees 00 minutes east 2,640.0 feet to monument numbered 17, thence south 61 degrees 15 minutes west 3,333.0 feet to monument numbered 18, thence south 15 degrees 00 minutes east 646.8 feet to monument numbered 19, thence south 63 degrees 00 minutes west 627.0 feet to monument numbered 20, thence south 15 degrees 00 minutes west 1,254.0 feet to monument numbered 21, thence south 48 degrees 00 minutes east 3,267.0 feet to monument numbered 22, thence north 34 degrees 00 minutes east 297.0 feet to monument numbered 23, thence north 25 degrees 00 minutes west 1,551.0 feet to monument numbered 24, thence north 67 degrees 00 minutes east 1,716.0 feet to monument numbered 25, thence north 58 degrees 00 minutes east 2,862.75 feet to monument numbered 26, thence north 79 degrees 00 minutes east 2,377.15 feet to monument numbered 27, thence south 28 degrees 30 minutes west 338.25 feet to monument numbered 28 (offset 4 feet west), thence south 30 degrees 00 minutes west 462.0 feet to monument numbered 29 (offset 14 feet east), thence south 40 degrees 00 minutes west 396.0 feet to monument numbered 30 (offset 9.0 feet east), thence south 54 degrees 00 minutes west 132.0 feet to monument numbered 31 (offset 10.0 feet east), thence south 75 degrees 00 minutes west 429.0 feet to monument numbered 32, thence south 62 degrees 00 minutes west 297.0 feet to monument numbered 33 (offset 3.0 feet southeast), thence south 41 degrees 00 minutes west 462.0 feet to monument numbered 34 (offset 5.0 feet south), thence south 53 degrees 00 minutes west 264.0 feet to monument numbered 35 (offset 4 feet south), thence south 80 degrees 00 minutes west 165.0 feet to monument numbered 36 (offset 8.0 feet south), thence north 85 degrees 00 minutes west 396.0 feet to monument numbered 37 (offset 9.0 feet north), south 40 degrees 00 minutes west 354.75 feet to monument numbered 38, thence south 27 degrees 00 minutes east 1,023.0 feet to monument numbered 39, thence north 73 degrees 30 minutes east, 1,518.0 feet to monument numbered 40, thence north 52 degrees 00 minutes east 330.0 feet to monument numbered 41, thence along a proposed boundary line north 19 degrees 51 minutes east 1,684.5 feet to point A.1, thence north 52 degrees 20 minutes east 1,107.0 feet to point A.2, thence north 39 degrees 26 minutes east 717.5 feet to a point A.3, thence north 26 degrees 11 minutes east 1,978.0 feet to concrete monument numbered 10, the point of beginning, it being the intent of this section to add to the Shenandoah National Park all that portion of the Front Royal Quartermaster Depot Military Reservation lying west of a line between monuments numbered 41 and 10, as described by the last four courses of the above description. The tract as described contains an area 977½ acres, more or less.

(June 13, 1939, ch. 198, 53 Stat. 815.)

§ 403–2. Exchange of lands within Shenandoah National Park

The Secretary of the Interior may accept title to approximately 37.44 acres of land within the authorized boundaries of the Shenandoah National Park, said land fronting on United States Highway Numbered 211 and being more particularly described as follows:

Beginning at park monument H–8, thence with the park boundary line the following courses and distances: north 51 degrees 57 minutes, east 2,242.0 feet to park monument H–9; south 26 degrees 40 minutes, east 51.0 feet to park monument H–10; south 32 degrees 40 minutes, east 340.0 feet to park monument H–11; south 11 degrees 35 minutes, east 190.0 feet to park monument H–12; south 41 degrees 26 minutes, east 329.0 feet to park monument H–13; thence crossing Pass Run south 57 degrees 00 minutes 36 seconds, west 1,871.32 feet to a marked white oak tree near the northeast edge of the fire road on top of Piney Mountain, thence north 58 degrees 36 minutes, west 771.16 feet to the point of beginning.

In exchange for the aforesaid land the Secretary is authorized to convey on the basis of approximately equal values a parcel of park land containing approximately 38.58 acres, being more particularly described as follows:

Beginning at park monument P–153, a point in the center of Route 666, Virginia Department of Highways, thence with the park boundary line the following courses and distances: north 66 degrees 27 minutes, west 345.0 feet to park monument P–152; north 41 degrees 08 minutes, east 705.0 feet to park monument P–151; north 63 degrees 01 minutes, west 302.0 feet to park monument P–150; north 30 degrees 38 minutes, east 1,110.0 feet to park monument P–149; south 74 degrees 36 minutes, east 443.0 feet to park monument P–148; north 41 degrees 33 minutes, east 109.0 feet to park monument P–147; south 69 degrees 50 minutes, east 668.0 feet to the center of the said Route 666; thence leaving the courses of the park boundary line and following the alinement of said Route 666 for the following courses and distances; south 36 degrees 26 minutes, west 436.0 feet; south 33 degrees 45 minutes, west 398.0 feet; south 29 degrees 39 minutes, west 388.0 feet; south 13 degrees, 55 minutes, west 100.0 feet; south 04 degrees 16 minutes, west 70.0 feet; south 32 degrees 37 minutes, west 49.0 feet; north 89 degrees 45 minutes, west 43.0 feet; north 66 degrees 43 minutes, west 50.0 feet; north 89 degrees 26 minutes, west 100.0 feet; north 73 degrees 39 minutes, west 78.0 feet; north 84 degrees 11 minutes, west 45.0 feet; south 72 degrees 08 minutes, west 100.0 feet; south 43 degrees 17 minutes, west 50.0 feet; south 30 degrees 57 minutes, west 73.0 feet; south 47 degrees 22 minutes, west 70.0 feet; south 65 degrees 32 minutes, west 68.0 feet; south 80 degrees 05 minutes, west 130.0 feet; south 51 degrees 40 minutes, west 118.0 feet; south 66 degrees 51 minutes, west 36.0 feet; to the point of beginning.

(Pub. L. 86–775, Sept. 13, 1960, 74 Stat. 915.)

§ 403–3. Addition of lands to Shenandoah National Park; administration

Subject to valid existing rights, the lands and interests in lands which comprise section 1–A of the Blue Ridge Parkway and lie between the southern boundary of the Shenandoah National Park at Jarman Gap and parkway centerline station 448+00 at Rockfish Gap are excluded from the parkway, made a part of the Shenandoah National Park, and shall be administered in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented.

(Pub. L. 87–71, June 30, 1961, 75 Stat. 192.)

§ 403a. Acceptance of title to lands

The Secretary of the Interior is authorized, in his discretion, to accept as hereinafter provided on behalf of the United States title to the lands referred to in section 403 of this title and to be purchased with the $1,200,000 which has been subscribed by the State of Virginia and the Shenandoah National Park Association of Virginia and with other contributions for the purchase of lands in the Shenandoah National Park area, and with the $1,066,693 which has been subscribed by the State of Tennessee and the Great Smoky Mountains Conservation Association and by the Great Smoky Mountains (Incorporated) (North Carolina) and with other contributions for the purchase of lands in the Great Smoky Mountains National Park area.

(May 22, 1926, ch. 363, § 2, 44 Stat. 616.)

§ 403b. Administration, protection, and development; Federal Power Act inapplicable; minimum area

The administration, protection, and development of the aforesaid parks shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended: *Provided*, That the provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to these parks: *And provided further*, That the minimum area to be administered and protected by the National Park Service shall be for the Shenandoah National Park area one hundred and sixty thousand acres and for the Great Smoky Mountains National Park area four hundred thousand acres: *Provided further*, That no general development of either of these areas shall be undertaken until a major portion of the remainder in such area shall have been accepted by said Secretary.

(May 22, 1926, ch. 363, § 3, 44 Stat. 616; Feb. 16, 1928, ch. 59, § 1, 45 Stat. 109; Feb. 4, 1932, ch. 19, § 1, 47 Stat. 37; June 15, 1934, ch. 538, § 1, 48 Stat. 964.)

References in Text

The Federal Power Act, referred to in text, was in the original the ''Act approved June 10, 1920, known as the Federal Water Power Act,'' and was redesignated the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

Amendments

1934—Act June 15, 1934, changed minimum area for Great Smoky Mountains National Park to 400,000 acres.

1932—Act Feb. 4, 1932, changed minimum area for Shenandoah National Park to 160,000 acres.

1928—Act Feb. 16, 1928, changed minimum area for Shenandoah National Park to 327,000 acres.

Transfer of Functions

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 403c. Omitted

Codification

Section, act May 22, 1926, ch. 363, § 4, 44 Stat. 617, authorized the Secretary of the Interior to employ, for the purpose of carrying out the provisions of sections 403, 403a, and 403b of this title, the commission authorized by act Feb. 21, 1925, ch. 281, 43 Stat. 958 (a temporary act).

§ 403c–1. Respective jurisdiction of Virginia and United States over lands in Shenandoah Park

In order to provide for uniform Federal jurisdiction over all of the lands now or hereafter embraced within the Shenandoah National Park, the provisions of the Act of the General Assembly of the Commonwealth of Virginia, approved April 1, 1940 (Acts of 1940, ch. 402, p. 725), fixing and defining the respective jurisdiction and powers of the Commonwealth of Virginia and the United States and ceding to the United States exclusive police jurisdiction over all lands now or hereafter included within the park are accepted and such exclusive jurisdiction is assumed by the United States over such lands. From June 5, 1942, the respective jurisdiction and powers of the Commonwealth of Virginia and the United States over all lands within the Shenandoah National Park as it is now constituted or may hereafter be extended shall be as follows:

(a) The United States shall have exclusive jurisdiction, legislative, executive, and judicial, with respect to the commission of crimes, and the arrest, trial, and punishment therefor, and exclusive general police jurisdiction thereover.

(b) The United States shall have the power to regulate or prohibit the sale of alcoholic beverages on said lands: *Provided*, *however*, That, if the sale of alcoholic beverages is prohibited by general law in the Commonwealth of Virginia outside of said lands, no such alcoholic beverages shall be sold on said lands contained in said park area: *And provided further*, That, if the general laws of the Commonwealth of Virginia permit the sale of alcoholic beverages, then the regulations of the United States relating to such sales on said lands shall conform as nearly as possible to the regulatory provisions in accordance with which such sales are permitted in the Commonwealth of Virginia outside of said park lands. Nothing in this subsection shall be construed as reserving in the Commonwealth power to require licenses of persons engaged in the sale of intoxicating beverages on said lands, nor the power to require that any sales be made through official liquor stores.

(c) The Commonwealth of Virginia shall have jurisdiction to serve civil process within the limits of said park in any suits properly instituted in any of the courts of the Commonwealth of Virginia, and to serve criminal process within said limits in any suits or prosecutions for or on account of crimes committed in said Commonwealth but outside of said park.

(d) The Commonwealth of Virginia shall have the jurisdiction and power to levy a nondiscriminatory tax on all alcoholic beverages possessed or sold on said lands.

(e) The Commonwealth of Virginia shall have jurisdiction and power to tax the sales of oil and gasoline, and other motor-vehicle fuels and lubricants for use in motor vehicles. This subsection shall not be construed as a consent by the United States to the taxation by the Commonwealth of such sales for the exclusive use of the United States.

(f) The Commonwealth of Virginia shall have the jurisdiction and power to levy nondiscriminatory taxes on private individuals, associations, and corporations, their franchises and properties, on said lands, and on their businesses conducted thereon.

(g) The courts of the Commonwealth of Virginia shall have concurrent jurisdiction with the courts of the United States of all civil causes of action arising on said lands to the same extent as if the cause of action had arisen in the county or city in which the land lies outside the park area, and the State officers shall have jurisdiction to enforce on said lands the judgments of said State courts and the collection of taxes by appropriate process.

(h) Persons residing in or on any of the said lands embraced in said Shenandoah National Park shall have the right to establish a voting residence in Virginia by reason thereof, and the consequent right to vote at all elections within the county or city in which said land or lands upon which they reside are located upon like terms and conditions, and to the same extent, as they would be entitled to vote in such county or city if the said lands on which they reside had not been deeded or conveyed to the United States of America. All fugitives from justice taking refuge in the park shall be subject to the same laws as refugees from justice found in the Commonwealth of Virginia.

(Aug. 19, 1937, ch. 703, §1, 50 Stat. 700; June 5, 1942, ch. 343, 56 Stat. 321.)

REFERENCES IN TEXT

The Act of the General Assembly of the Commonwealth of Virginia, approved April 1, 1940 (Acts of 1940, ch. 402, p. 725), referred to in text, was also set out as Va. Code 1936, Supp. 1942, §585 (58)a.

AMENDMENTS

1942—Act June 5, 1942, amended section generally.

§ 403c–2. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section, act Aug. 19, 1937, ch. 703, §2, 50 Stat. 701, related to inclusion of park in judicial district. See section 127 of Title 28, Judiciary and Judicial Procedure.

§ 403c–3. Criminal offenses concerning hunting, fishing, and property

All hunting or the killing, wounding, or capturing at any time of any wild bird or animal, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury, is prohibited within the limits of said park; nor shall any fish be taken out of any of the waters of the said park, in any other way than by hook and line, and then only at such seasons and at such times and in such manner as may be directed by the Secretary of the Interior. The Secretary of the Interior shall make and publish such general rules and regulations as he may deem necessary and proper for the management and care of the park and for the protection of the property therein, especially for the preservation from injury or spoliation of all timber, mineral deposits, natural curiosities, or wonderful objects within said park, and for the protection of the animals and birds in the park from capture or destruction, and to prevent their being frightened or driven from the said park; and he shall make rules and

regulations governing the taking of fish from the streams or lakes in the said park. Possession within said park of the dead bodies or any part thereof of any wild bird or animal shall be prima facie evidence that the person or persons having same are guilty of violating this Act. Any person or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of this Act, and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or who shall violate any of the other provisions of this Act, or any rule or regulation that may be promulgated by the Secretary of the Interior, with reference to the management and care of the said park, or for the protection of the property therein for the preservation from injury or spoliation of timber, mineral deposits, natural curiosities, or wonderful objects within said park, or for the protection of the animals, birds, or fish in the said park, or who shall within said park commit any damage, injury or spoliation to or upon any building, fence, sign, hedge, gate, guide post, tree, wood, underwood, timber, garden, crops, vegetables, plants, land, springs, mineral deposits, natural curiosities, or other matter or thing growing or being thereon, or situated therein, shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all the costs of the proceedings.

(Aug. 19, 1937, ch. 703, § 3, 50 Stat. 701.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 19, 1937, which is classified to sections 403c–1 to 403c–11 of this title. For complete classification of this Act to the Code, see Tables.

§ 403c–4. Forfeiture of property used in commission of offenses

All guns, traps, nets, seines, teams, horses, or means of transportation of every nature or description, used by any person or persons within the limits of said park when engaged in killing, trapping, ensnaring, taking, or capturing such wild beasts, birds, fish, or animals, shall be forfeited to the United States and may be seized by the officers in said park and held pending prosecution of any person or persons arrested under the charge of violating the provisions of this Act, and upon conviction under this Act of such person or persons using said guns, traps, nets, seines, teams, horses, or other means of transportation, such forfeiture shall be adjudicated as a penalty in addition to the other punishment prescribed in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior.

(Aug. 19, 1937, ch. 703, § 4, 50 Stat. 701.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 19, 1937, which is classified to sections 403c–1 to 403c–11 of this title. For complete classification of this Act to the Code, see Tables.

§§ 403c–5 to 403c–11. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 403c–5, acts Aug. 19, 1937, ch. 703, § 5, 50 Stat. 702; May 15, 1947, ch. 57, 61 Stat. 92, related to appointment and jurisdiction of commissioner. See provisions covering United States magistrate judges in section 631 et seq. of Title 28, Judiciary and Judicial Procedure.

Section 403c–6, act Aug. 19, 1937, ch. 703, § 6, 50 Stat. 702, related to jurisdiction of other commissioners. See provisions covering United States magistrate judges in section 631 et seq. of Title 28.

Section 403c–7, act Aug. 19, 1937, ch. 703, § 7, 50 Stat. 702, related to issuance of process. See sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and rules 4, 5(c), and 9 of Federal Rules of Criminal Procedure, Title 18, Appendix.

Section 403c–8, act Aug. 19, 1937, ch. 703, § 8, 50 Stat. 702, related to whom process is directed. See section 3053 of Title 18, rule 4 of Federal Rules of Criminal Procedure, Title 18, Appendix, and rule 4 of Federal Rules of Civil Procedure, Title 28, Appendix, Judiciary and Judicial Procedure.

Section 403c–9, act Aug. 19, 1937, ch. 703, § 9, 50 Stat. 702, related to commissioner's [now magistrate judge's] salary.

Section 403c–10, act Aug. 19, 1937, ch. 703, § 10, 50 Stat. 703, related to fees, costs, and expenses against United States. See section 604 of Title 28, Judiciary and Judicial Procedure.

Section 403c–11, act Aug. 19, 1937, ch. 703, § 11, 50 Stat. 703, related to disposition of fines and costs. See section 634 of Title 28.

§ 403d. Lease of lands within Shenandoah National Park and Great Smoky Mountains National Park

The Secretary of the Interior is authorized to lease lands within the Shenandoah National Park and Great Smoky Mountains National Park for periods not exceeding two years, upon such conditions as he may in his discretion deem proper, to persons and educational or religious institutions occupying same or who had or claim to have had some interest in the title to the same prior to the establishment of the park.

(Feb. 16, 1928, ch. 59, § 2, 45 Stat. 109.)

§ 403e. Acceptance of title to lands; reservations; leases; rights-of-way and easements

The Secretary of the Interior is authorized in his discretion to accept title to lands tendered without cost to the United States within the areas of the Shenandoah National Park and the Great Smoky Mountains National Park, subject to leases entered into and granted as part consideration in connection with the purchase of said land for tender to the United States for park purposes, but not exceeding in length of term the life of the particular grantor or grantors: *Provided*, That said leases and the terms and conditions thereof shall have previously been submitted to and approved by said Secretary: *And provided further*, That he may lease upon such terms and conditions as he deems proper any lands within the aforesaid areas when such use shall not be deemed by him inconsistent with the purposes for which the lands were acquired on behalf of the United States, to persons, educational or religious institutions, private corporations, associations, and partnerships previously occupying such land for terms not exceeding the particular lifetime in the case of natural persons, and not exceeding twenty

years in all other cases, which latter leases may be renewed in the discretion of said Secretary: *And provided further*, That the Secretary of the Interior may accept lands for these parks subject to reservations of rights-of-way and easements.

(Feb. 4, 1932, ch. 19, § 2, 47 Stat. 37.)

CODIFICATION

Provisions of act Feb. 4, 1932, § 2, relating to Mammoth Cave National Park and Isle Royale National Park are classified to sections 404d and 408c of this title.

§ 403f. Great Smoky Mountains National Park; extension of boundaries

The boundary limits of the tract of land in the Great Smoky Mountains in the States of North Carolina and Tennessee, recommended by the Secretary of the Interior in his report of April 14, 1926, for the establishment of the Great Smoky Mountains National Park, are extended to include lands adjacent to the east boundary as defined in said report to a line approximately as follows:

From a point on top of the Balsam Mountains at the boundary of Swain and Hayward Counties just north of Black Camp Gap; thence following east the top of the mountain range to Jonathan Knob and Hemphill Bald; thence along top of ridge through Camp Gap to Bent Knee Knob; thence following the main ridge to Cataloochee Creek to a point on the boundary of the area described in report of the Secretary of the Interior of April 14, 1926; and the lands within said boundary extension, or any part thereof, may be accepted on behalf of the United States in accordance with the provisions of sections 403 and 403a to 403c of this title for inclusion in the area to be known as the Great Smoky Mountains National Park.

(Apr. 19, 1930, ch. 197, 46 Stat. 225.)

§ 403g. Establishment; minimum area

An area of four hundred thousand acres within the minimum boundaries of the Great Smoky Mountains National Park, acquired one-half by the peoples and States of North Carolina and Tennessee, and the United States, and one-half by the Laura Spelman Rockefeller Memorial in memory of Laura Spelman Rockefeller, is established as a completed park for administration, protection, and development by the United States.

(June 15, 1934, ch. 538, § 1, 48 Stat. 964.)

§ 403g–1. Exchange of lands

The Secretary of the Interior is authorized to accept from grantors title to non-Federal land and interests in land, together with improvements thereon, situated within or adjacent to the Great Smoky Mountains National Park, and in exchange therefor, to convey by deed on behalf of the United States to the aforesaid grantors, land or interests therein, together with improvements thereon, situated within the Great Smoky Mountains National Park: *Provided*, That such exchanges may be made without additional compensation by either party to the exchange when the properties to be exchanged are of approximately equal value; however, when the properties are not of approximately equal value, as may be determined by the Secretary, an additional payment of funds shall be required by the Secretary or by the grantor of non-Federal properties, as the case may be, in order to make an equal exchange, and the Secretary is authorized to use any land acquisition funds relating to the National Park System for such purposes: *Provided further*, That not more than two hundred acres of park land shall be conveyed pursuant to the aforesaid exchange authority. All properties acquired by the United States pursuant to this section shall become a part of the Great Smoky Mountain National Park upon acquisition thereof. Properties conveyed by the United States pursuant to this section shall thereafter be excluded from the park and any Federal regulation or control thereof for park purposes.

(Pub. L. 85–407, May 16, 1958, 72 Stat. 115.)

§ 403h. Inclusion of acquired lands

All lands purchased from funds heretofore allocated and made available by Executive order, or otherwise, or which hereafter may be allocated and made available for the acquisition of lands for conservation or forestation purposes within the maximum boundaries of the Great Smoky Mountains National Park as authorized by sections 403 and 403a to 403c of this title, are made a part of the said park as fully as if originally acquired for that purpose.

(June 15, 1934, ch. 538, § 2, 48 Stat. 964.)

§ 403h–1. Acceptance of jurisdiction by United States; saving provisions

Sole and exclusive jurisdiction is assumed by the United States over certain lands within the States of North Carolina and Tennessee as may be acquired for the Great Smoky Mountains National Park, saving, however, to the State of North Carolina and to the State of Tennessee, respectively, the right to serve civil or criminal process within the limits of the area ceded by such State in suits or prosecutions for or on account of any rights acquired, obligations incurred, or crimes committed in such State outside of said park; and saving further to each such State the right to tax persons and corporations, their franchises and property on the lands included in such ceded area; and saving also to the persons residing in said park now, or hereafter, the right to vote at all elections held within the county in which they reside; and saving further to each such State the right to tax sales in such ceded area of gasoline and other motor-vehicle fuels and oil for use in motor vehicles. Nothing in this section shall be construed as a consent by the United States to the taxation by the States of such sales for the exclusive use of the United States.

(Apr. 29, 1942, ch. 264, § 1, 56 Stat. 258.)

CODIFICATION

A provision accepting the act of the North Carolina Legislature and the act of the Tennessee Legislature which ceded to the United States exclusive jurisdiction

over the territory referred to in this section has been omitted as executed.

§ 403h–2. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section, act Apr. 29, 1942, ch. 264, § 2, 56 Stat. 259, related to inclusion of park in a judicial district. See sections 113 and 123 of Title 28, Judiciary and Judicial Procedure.

§ 403h–3. Hunting, fishing, etc.; rules and regulations; protection of property; penalties for violating laws and rules

All hunting or the killing, wounding, or capturing at any time of any wild bird or animal, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury, is prohibited within the limits of said park, nor shall any fish be taken out of any of the waters of the said park, in any other way than by hook and line, and then only at such seasons and at such times and in such manner as may be directed by the Secretary of the Interior. The Secretary of the Interior shall make and publish such general rules and regulations as he may deem necessary and proper for the management and care of the park and for the protection of the property therein, especially for the preservation from injury or spoliation of all timber, mineral deposits, natural curiosities, or wonderful objects within said park, and for the protection of the animals and birds in the park from capture or destruction, and to prevent their being frightened or driven from the said park; and he shall make rules and regulations governing the taking of fish from the streams or lakes in the said park. Possession within said park of the dead bodies or any part thereof of any wild bird or animal shall be prima facie evidence that the person or persons having the same are guilty of violating this Act. Any person or persons, stage or express company, railway or other transportation company, who knows or has reason to believe that such wild birds, fish, or animals were taken or killed contrary to the provisions of this Act or the rules and regulations promulgated by the Secretary of the Interior, and who receives for transportation the dead bodies or any part thereof of the wild birds, fish, or animals so taken or killed, or who shall violate any of the other provisions of this Act, or the rules and regulations, with reference to the management and care of the said park, or for the protection of the property therein for the preservation from injury or spoliation of timber, mineral deposits, natural curiosities, or wonderful objects within said park, or for the protection of the animals, birds, and fish in said park, or who shall within said park commit any damage, injury, or spoliation to or upon any building, fence, sign hedge, gate, guidepost, tree, wood, underwood, timber, garden, crops, vegetables, plants, land, springs, mineral deposits, natural curiosities, or other matter or thing growing or being thereon, or situated therein, shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all the costs of the proceedings.

(Apr. 29, 1942, ch. 264, § 3, 56 Stat. 259.)

REFERENCES IN TEXT

This Act, referred to in text, is act Apr. 29, 1942, which is classified to sections 403h–1 to 403h–10 of this title. For complete classification of this Act to the Code, see Tables.

§ 403h–4. Forfeiture of property used in commission of offenses

All guns, traps, nets, seines, fishing tackle, teams, horses, or means of transportation of every nature or description used by any person or persons within the limits of said park when engaged in killing, trapping, ensnaring, taking, or capturing such wild birds, fish, or animals contrary to the provisions of this Act or the rules and regulations promulgated by the Secretary of the Interior, shall be forfeited to the United States and may be seized by the officers in said park and held pending prosecution of any person or persons arrested under the charge of violating the provisions of this Act, and upon conviction under this Act of such person or persons using said guns, traps, nets, seines, fishing tackle, teams, horses, or other means of transportation, such forfeiture shall be adjudicated as a penalty in addition to the other punishment prescribed in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior and the proceeds paid into the Treasury of the United States: *Provided*, That the forfeiture of teams, horses, or other means of transportation shall be in the discretion of the court.

(Apr. 29, 1942, ch. 264, § 4, 56 Stat. 260.)

REFERENCES IN TEXT

This Act, referred to in text, is act Apr. 29, 1942, which is classified to sections 403h–1 to 403h–10 of this title. For complete classification of this Act to the Code, see Tables.

§§ 403h–5 to 403h–9. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 403h–5, act Apr. 29, 1942, ch. 264, § 5, 56 Stat. 260, related to appointment and jurisdiction of commissioner. See provisions covering United States magistrate judges in section 631 et seq. of Title 28, Judiciary and Judicial Procedure.

Section 403h–6, act Apr. 29, 1942, ch. 264, § 6, 56 Stat. 260, related to issuance of process. See sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and rules 4, 5(c), and 9 of Federal Rules of Criminal Procedure, Title 18, Appendix.

Section 403h–7, act Apr. 29, 1942, ch. 264, § 7, 56 Stat. 260, related to commissioner's [now magistrate judge's] salary.

Section 403h–8, act Apr. 29, 1942, ch. 264, § 8, 56 Stat. 261, related to fees, costs, and expenses against United States. See section 604 of Title 28, Judiciary and Judicial Procedure.

Section 403h–9, act Apr. 29, 1942, ch. 264, § 9, 56 Stat. 261, related to disposition of fines and costs. See section 634 of Title 28.

§ 403h–10. Notice to Governors of North Carolina and Tennessee; application of sections 403h–3 and 403h–4 to subsequent lands accepted

The Secretary of the Interior shall notify in writing the Governors of the States of North Carolina and Tennessee of the passage and approval of this Act, and of the fact that the

United States assumes police jurisdiction over said park as specified in said acts of the States of North Carolina and Tennessee. Upon the acceptance by the Secretary of the Interior of further cessions of jurisdiction over lands now or hereafter included in the Great Smoky Mountains National Park, the provisions of sections 2 to 9 inclusive, shall apply to such lands.

(Apr. 29, 1942, ch. 264, § 10, 56 Stat. 261.)

REFERENCES IN TEXT

This Act, referred to in text, is act Apr. 29, 1942, which is classified to sections 403h–1 to 403h–10 of this title. For complete classification of this act to the Code, see Tables.

Sections 2 to 9 inclusive, referred to in text, means sections 2 to 9 of act Apr. 29, 1942, only sections 3 and 4 of which are still in effect and are classified to sections 403h–3 and 403h–4 of this title.

§ 403h–11. Further additions for construction of scenic parkway

The Secretary of the Interior is authorized to accept, on behalf of the United States, donations of land and interests in land in the State of Tennessee for the construction of a scenic parkway to be located generally parallel to the boundary of the Great Smoky Mountains National Park and connecting with the park, in order to provide an appropriate view of the park from the Tennessee side. The right-of-way to be acquired for the parkway shall be of such width as to comprise an average of one hundred and twenty-five acres per mile for its entire length. The title to real property acquired pursuant to this section shall be satisfactory to the Secretary of the Interior. All property acquired pursuant to this section shall become a part of the Great Smoky Mountains National Park upon acceptance of title thereto by the Secretary, and shall be subject to all laws, rules, and regulations applicable thereto.

(Feb. 22, 1944, ch. 28, 58 Stat. 19.)

§ 403h–12. Entrance road to Cataloochee section

In order to provide suitable access to the Cataloochee section of Great Smoky Mountains National Park, the Secretary of the Interior is authorized to select the location of an entrance road from a point near the intersection at White Oak Church of North Carolina Routes Numbered 1338 and 1346 to the eastern boundary of the park in the vicinity of the Cataloochee section, and to accept, on behalf of the United States, donations of land and interests in land for the construction of the entrance road together with the necessary interchange with said Routes 1338 and 1346, and to construct the entrance road and the interchange on the donated land: *Provided*, That the right-of-way to be acquired, by donation, for the entrance road shall be of such width as to comprise not more than an average of one hundred and twenty-five acres per mile for its entire length of about five and two-tenths miles, constituting in the aggregate about six hundred and fifty acres of land.

All property acquired pursuant to this section shall become a part of the Great Smoky Mountains National Park upon acceptance of title thereto by the Secretary, and shall be subject to all laws, rules, and regulations applicable thereto.

(Pub. L. 88–120, § 1, Sept. 9, 1963, 77 Stat. 154; Pub. L. 91–108, § 1(1), (2), Nov. 4, 1969, 83 Stat. 182.)

AMENDMENTS

1969—Pub. L. 91–108 provided for a modified route for the entrance road, changing it to near the intersection at White Oak Church of North Carolina Routes Numbered 1338 and 1346 from a point on North Carolina Highway Numbered 107 close to its point of interchange with Interstate Route Numbered 40, near Hepco, North Carolina, for construction of an interchange between the entrance road and State Routes 1338 and 1346, and acceptance of a donation of land needed for the interchange; and increased the entrance road from a length of four and two-tenths mile aggregating five hundred and twenty-five acres of land to a length of five and two-tenths mile aggregating six hundred and fifty acres, respectively.

§ 403h–13. Authorization of appropriations

There is hereby authorized to be appropriated for construction of an entrance road on land acquired pursuant to section 403h–12 of this title not more than $2,500,000 (1969 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein.

(Pub. L. 88–120, § 2, Sept. 9, 1963, 77 Stat. 155; Pub. L. 91–108, § 1(3), Nov. 4, 1969, 83 Stat. 183.)

AMENDMENTS

1969—Pub. L. 91–108 substituted appropriations authorization of ''$2,500,000 (1969 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein'' for prior authorization or ''$1,160,000''.

§ 403h–14. Authorization to transfer additional lands for scenic parkway

The Secretary of Agriculture is authorized to transfer to the jurisdiction of the Secretary of the Interior, who is hereby authorized to accept such transfer, not to exceed three hundred and sixty acres of national forest land in Cocke County, Tennessee, now part of the Cherokee National Forest, located within and adjacent to the right-of-way for section 8A of the Foothills Parkway between Tennessee Highway Numbered 32 and the Pigeon River.

Upon publication in the Federal Register of an order of transfer by the Secretary of Agriculture, the lands so transferred shall be a part of the Great Smoky Mountains National Park and available for the scenic parkway as authorized by section 403h–11 of this title.

(Pub. L. 88–415, Aug. 10, 1964, 78 Stat. 388.)

§ 403h–15. Conveyances to Tennessee of lands within Great Smoky Mountains National Park

The Secretary of the Interior is authorized to convey to the State of Tennessee, subject to such conditions as he may deem necessary to preserve the natural beauty of the adjacent park lands, approximately twenty-eight acres of land

comprising a portion of the right-of-way of Tennessee State Route 72 (U.S. 129), and approximately forty-one acres comprising portions of the right-of-way of Tennessee State Route 73 east of Gatlinburg, which are within the boundary of the Great Smoky Mountains National Park.

(Pub. L. 91–57, § 1, Aug. 9, 1969, 83 Stat. 100.)

§ 403h–16. Reconveyance of rights-of-way and lands for control of landslides along Gatlinburg Spur of the Foothills Parkway; conditions

The Secretary is further authorized to convey to the State of Tennessee, subject to such conditions as he may deem necessary to assure administration and maintenance thereof by the State and to preserve the existing parkway character of the conveyed lands, the rights-of-way heretofore conveyed to the United States for the purposes of the Gatlinburg Spur of the Foothills Parkway together with any and all parcels of land heretofore conveyed by the State of Tennessee to the United States for the control and stabilization of landslides along said Gatlinburg Spur, except such lands as the Secretary determines may be necessary to provide for (1) the interchange between the road known as the Gatlinburg bypass and United States 441, (2) the interchange between United States Highway 441 and the Foothills Parkway in the vicinity of Caney Creek, and (3) the management and administration of the Foothills Parkway: *Provided*, That such reconveyance shall not be effected until construction of the Gatlinburg bypass and of two rock retaining walls to control erosion on the Gatlinburg Spur are completed, and Interstate Route 40 is open to public travel from Newport, Tennessee to United States Route 19 near Waynesville, North Carolina.

(Pub. L. 91–57, § 2, Aug. 9, 1969, 83 Stat. 100.)

§ 403h–17. Elimination of lands from Great Smoky Mountains National Park and Gatlinburg Spur of the Foothills Parkway

The conveyance of the lands described in sections 403h–15 and 403h–16 of this title shall eliminate them from the park and parkway. Upon such conveyance and upon acceptance by the State of Tennessee of legislative jurisdiction over the lands and notification of such acceptance being given to the Secretary of the Interior, such jurisdiction is retroceded to the State.

(Pub. L. 91–57, § 3, Aug. 9, 1969, 83 Stat. 100.)

§ 403i. Secretary of the Interior authorized to purchase necessary lands

The Secretary of the Interior is authorized to acquire on behalf of the United States by purchase, at prices deemed by him to be reasonable, the lands needed to complete the Great Smoky Mountains National Park in the State of Tennessee, in accordance with the provisions of sections 403 and 403a to 403c of this title; and the Secretary of the Interior is further authorized, when in his opinion unreasonable prices are asked for any of such lands, to acquire the same by condemnation under the provisions of section 3113 of title 40.

(Feb. 12, 1938, ch. 27, § 5, 52 Stat. 29.)

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 403j. Authorization of appropriation

There is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of $743,265.29 to complete the acquisition of lands within the limits of said park, such funds to be available until expended.

(Feb. 12, 1938, ch. 27, § 6, 52 Stat. 29.)

§ 403k. Boundary between Great Smoky Mountains National Park and Cherokee-Pisgah-Nantahala National Forests

The portion of the boundary of the Great Smoky Mountains National Park that is common to and between the park and the Cherokee-Pisgah-Nantahala National Forests hereafter shall be as follows:

(a) Between the Pisgah National Forest and Great Smoky Mountains National Park the boundary shall be as follows: Beginning at a point where North Carolina State Highway Numbered 284 first crosses the Cataloochee Divide, said point being common to the boundary of said forest as described in Proclamation Numbered 2187 of July 10, 1936, and the boundary of said park, as authorized by sections 403 and 403a to 403c of this title; thence following the divide northeasterly to the summit of Bent Knee Knob; thence northwesterly and northerly following Trail Ridge and White Oak Mountain to a point where the present national forest boundary leaves White Oak Mountain and running with same northwesterly across Cataloochee Creek to the southeast corner of a tract of national park land and northwesterly through the same following the crest of the ridge next south of the east boundary of the said tract to the old road on the summit of Longarm Mountain; thence southwesterly and northwesterly follows the said road running with the top of Scottish Mountain and through a tract of national forest land to the south boundary of a tract of national park land just east of Mount Sterling Gap; thence northerly following the south and east boundaries of the said tract of national park land to the northeast corner thereof; thence northeasterly through a tract of national forest land, following the crest of the ridge parallel to and east of Mount Sterling Creek to the summit of the ridge terminated by the juncture of Mount Sterling Creek with its south prong; thence northwesterly across Mount Sterling Creek to the summit northeast of Ivy Gap; thence westerly to a point where the westerly boundary of a tract of Forest Service land diverges from North Carolina State Highway Numbered 284; thence with the highway northerly to a point where North Carolina Highway Numbered 284 joins Tennessee Highway Numbered 75 at the State line;

(b) Between Nantahala National Forest and Great Smoky Mountains National Park, the

boundary shall follow the boundary of said forest as described in Proclamation Numbered 2185 of July 9, 1936;

(c) Between Cherokee National Forest (Unaka Division) and Great Smoky Mountains National Park, the boundary shall follow the boundary of said forest as described in Proclamation Numbered 2183 of July 8, 1936.

(July 26, 1950, ch. 492, § 1, 64 Stat. 377.)

§ 403k–1. Laws applicable

Subject to valid existing rights, all lands within the boundaries of Great Smoky Mountains National Park, as redefined by sections 403k to 403k–2 of this title, hereafter shall be a part of the national park and shall be subject to all laws, rules, and regulations applicable to the national park. All federally owned lands eliminated from the national park by said sections shall hereafter be a part of the Pisgah National Forest and shall be subject to all laws, rules, and regulations relating to such national forest.

(July 26, 1950, ch. 492, § 2, 64 Stat. 378.)

§ 403k–2. Addition of lands to Great Smoky Mountains National Park

So much of the twenty-five-acre tract of land in Forney's Creek Township, Swain County, North Carolina, lying north of Lake Cheoah, proposed to be donated to the United States by the Carolina Aluminum Company, as now lies outside of the park boundaries authorized by sections 403 and 403a to 403c of this title, shall upon acceptance by the Secretary of the Interior, become a part of the Great Smoky Mountains National Park and shall be subject to all laws, rules, and regulations applicable to said park.

(July 26, 1950, ch. 492, § 3, 64 Stat. 378.)

§ 403k–3. Palmer's Chapel in Cataloochee Valley of Great Smoky Mountains National Park; protection and continued use; communication of Chapel history to visitors

The Secretary of the Interior is authorized and directed to take such measures as may be necessary to provide for the continued protection of the historic Palmer's Chapel in the Cataloochee Valley of the Great Smoky Mountains National Park. The importance of the chapel in memorializing the early settlement of the valley and in providing an opportunity for interpreting the cultural traditions of the former residents of the valley is hereby recognized, and the Secretary is authorized to make suitable arrangements for the history of the chapel to be communicated to park visitors and for the chapel to continue to be used for memorial purposes by former residents and their descendants.

(Pub. L. 96–199, title I, § 106, Mar. 5, 1980, 94 Stat. 69.)

SUBCHAPTER XLVII—MAMMOTH CAVE NATIONAL PARK

§ 404. Establishment; boundaries

When title to lands within the area referred to in this section shall have been vested in the United States in fee simple, there shall be, and there is, established, dedicated, and set apart as a public park for the benefit and enjoyment of the people, the tract of land in the Mammoth Cave region in the State of Kentucky, being approximately seventy thousand six hundred and eighteen acres, recommended as a National Park by the Southern Appalachian National Park Commission to the Secretary of the Interior, in its report of April 8, 1926, and made under authority of the Act of February 21, 1925 (chapter 281, 43 Statutes 958); which area, or any part or parts thereof as may be accepted on behalf of the United States in accordance with the provisions hereof, shall be known as the Mammoth Cave National Park: *Provided*, That the United States shall not purchase by appropriation of public moneys any land within the aforesaid area, but such lands shall be secured by the United States only by public or private donation.

(May 25, 1926, ch. 382, § 1, 44 Stat. 635.)

REFERENCES IN TEXT

Act of February 21, 1925, referred to in text, was not classified to the Code.

§ 404a. Acceptance of title to lands

The Secretary of the Interior is authorized, in his discretion, to accept, as hereinafter provided, on behalf of the United States, title to the lands referred to in section 404 of this title, and to be purchased with the funds which may be subscribed by or through the Mammoth Cave National Park Association of Kentucky, and with other contributions for the purchase of lands in the Mammoth Cave National Park area: *Provided*, That any of said lands may be donated directly to the United States and conveyed to it, cost free, by fee-simple title, in cases where such donations may be made without the necessity of purchase.

(May 25, 1926, ch. 382, § 2, 44 Stat. 635.)

§ 404b. Administration, protection, and development; Federal Power Act inapplicable; minimum area

The administration, protection, and development of the aforesaid park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended: *Provided*, That the provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to this park: *And provided further*, That the minimum area to be administered and protected by the National Park Service shall be, for the said Mammoth Cave National Park, twenty thousand acres: *Provided further*, That no general development of said area shall be undertaken until a major portion of the remainder in such area, including all the caves thereof, shall have been accepted by said Secretary, and he shall have established a schedule of fees for admission to such caves.

(May 25, 1926, ch. 382, § 3, 44 Stat. 636; May 14, 1934, ch. 282, § 1, 48 Stat. 775.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act approved June 10, 1920, known as the

Federal Water Power Act,'' and was redesignated as the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

AMENDMENTS

1934—Act May 14, 1934, inserted ''and he shall have established a schedule of fees for admission to such caves,'' and changed phrase ''including all the caves thereof'' to its present position instead of following ''twenty thousand acres''.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 404b–1. Exclusion of Great Onyx and Crystal Caves

The Secretary of the Interior is authorized, in his discretion, to exclude the Great Onyx Cave and the Crystal Cave, or either of them, from the maximum boundaries of the said park, and the area required for general development of the said park by section 404b of this title, is modified accordingly.

(Aug. 28, 1937, ch. 873, § 2, 50 Stat. 871.)

EVENTUAL ACQUISITION OF GREAT ONYX AND CRYSTAL CAVES

Eventual acquisition of Great Onyx and Crystal Caves, see section 404b–2 of this title.

§ 404b–2. Eventual acquisition of Great Onyx and Crystal Caves; cooperation with State of Kentucky

The Secretary of the Interior is authorized to cooperate with the State of Kentucky for the purpose of arranging for the eventual acquisition by the United States of the Great Onyx Cave and the Crystal Cave within the authorized boundaries of Mammoth Cave National Park. The Secretary shall deposit to the credit of a special receipt account that portion of the annual admission, guide, and elevator fee receipts from the said park which exceeds the annual amount available to the park for management, guide, and protection purposes, which funds so deposited may be expended thereafter in payment for the purchase of said cave properties. The Secretary is further authorized to enter into such contracts and agreements as he may determine to be necessary to effectuate the acquisition of the cave properties as authorized herein.

(Mar. 27, 1954, ch. 114, 68 Stat. 36.)

§ 404c. Omitted

CODIFICATION

Section, act May 25, 1926, ch. 382, § 4, 44 Stat. 636, authorized the Secretary of the Interior to employ, for the purpose of carrying out the provisions of sections 404 to 404b of this title, the commission authorized by act Feb. 21, 1925, ch. 281, 43 Stat. 958 (a temporary act).

§ 404c–1. Acceptance of cession by United States; jurisdiction

The provisions of the act of the General Assembly of the Commonwealth of Kentucky, approved March 22, 1930 (Acts of 1930, ch. 132, p. 405), ceding to the United States exclusive jurisdiction over, within, and under such territory in the Commonwealth as may be acquired for the Mammoth Cave National Park, are accepted. Subject to the reservations made by the Commonwealth in the act of cession, the United States assumes sole and exclusive jurisdiction over such territory.

(June 5, 1942, ch. 341, § 1, 56 Stat. 317.)

REFERENCES IN TEXT

Act of the General Assembly of the Commonwealth of Kentucky, approved March 22, 1930 (Acts of 1930, ch. 132, p. 405), referred to in text, was also set out as Ky. St., §§ 3766e16 to 3766e22 [see §§ 3.020 and 3.070 in part].

§ 404c–2. Fugitives from justice

All fugitives from justice taking refuge in the park shall be subject to the same laws as fugitives from justice found in the Commonwealth of Kentucky.

(June 5, 1942, ch. 341, § 2, 56 Stat. 317; June 25, 1948, ch. 646, § 39, 62 Stat. 992.)

AMENDMENTS

1948—Act June 25, 1948, struck out first sentence relating to inclusion of park in a judicial district. See section 97 of Title 28, Judiciary and Judicial Procedure, and section 3231 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 38 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

§ 404c–3. Criminal offenses concerning hunting, fishing, and property; prima facie evidence; rules and regulations

All hunting or the killing, wounding, or capturing at any time of any wild bird or animal, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury, is prohibited within the limits of the park, nor shall any fish be taken out of any of the waters of the park, except at such seasons and at such times and in such manner as may be directed by the Secretary of the Interior. The Secretary of the Interior shall make and publish such general rules and regulations as he may deem necessary and proper for the management and care of the park and for the protection of the property therein, especially for the preservation from injury or spoliation of all timber, mineral deposits, natural curiosities, or wonderful objects within the park, and for the protection of the animals and birds in the park from capture or destruction, and to prevent their being frightened or driven from the park; and he shall make rules and regulations governing the taking of fish from the waters in the park. Possession within the park of the dead bodies or any part thereof of any wild bird or animal shall be prima facie evidence that the person or persons having the same are guilty of violating this Act. Any person or per-

sons, stage or express company, railway or other transportation company, who knows or has reason to believe that such wild birds, fish, or animals were taken or killed contrary to the provisions of this Act or the rules and regulations promulgated by the Secretary of the Interior, and who receives for transportation the dead bodies or any part thereof of the wild birds, fish, or animals so taken or killed, or who shall violate any of the other provisions of this Act, or the rules and regulations, with reference to the management and care of the park, or for the protection of the property therein, for the preservation from injury or spoliation of timber, mineral deposits, natural curiosities, or wonderful objects within the park, or for the protection of the animals, birds, and fish in the park, or who shall within the park commit any damage, injury, or spoliation to or upon any building, fence, sign, hedge, gate, guidepost, tree, wood, underwood, timber, garden, crops, vegetables, plants, land, springs, mineral deposits, natural curiosities, or other matter or thing growing or being thereon, or situated therein, shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all the costs of the proceedings.

(June 5, 1942, ch. 341, § 3, 56 Stat. 317.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 5, 1942, which is classified to sections 404c–1 to 404c–12 of this title. For complete classification of this Act to the Code, see Tables.

§ 404c–4. Forfeiture of property used in commission of offenses

All guns, traps, nets, seines, fishing tackle, teams, horses, or means of transportation of every nature or description used by any person or persons within the limits of the park when engaged in killing, trapping, ensnaring, taking, or capturing such wild birds, fish, or animals contrary to the provisions of this Act or the rules and regulations promulgated by the Secretary of the Interior shall be forfeited to the United States and may be seized by the officers in the park and held pending prosecution of any person or persons arrested under the charge of violating the provisions of this Act, and upon conviction under this Act, of such person or persons using said guns, traps, nets, seines, fishing tackle, teams, horses, or other means of transportation, such forfeiture shall be adjudicated as a penalty in addition to the other punishment prescribed in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior: *Provided*, That the forfeiture of teams, horses, or other means of transportation shall be in the discretion of the court.

(June 5, 1942, ch. 341, § 4, 56 Stat. 318.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 5, 1942, which is classified to sections 404c–1 to 404c–12 of this title. For complete classification of this Act to the Code, see Tables.

§§ 404c–5 to 404c–9. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 404c–5, acts June 5, 1942, ch. 341, § 5, 56 Stat. 318; Apr. 21, 1948, ch. 223, § 3, 62 Stat. 196, related to appointment and jurisdiction of commissioner. See provisions covering United States magistrate judges in section 631 et seq. of Title 28, Judiciary and Judicial Procedure.

Section 404c–6, act June 5, 1942, ch. 341, § 6, 56 Stat. 319, related to issuance of process. See sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and rules 4, 5(c), and 9 of Federal Rules of Criminal Procedure, Title 18, Appendix.

Section 404c–7, act June 5, 1942, ch. 341, § 7, 56 Stat. 319, related to commissioner's [now magistrate judge's] salary. See section 634 of Title 28, Judiciary and Judicial Procedure.

Section 404c–8, act June 5, 1942, ch. 341, § 8, 56 Stat. 319, related to fees, costs, and expenses against United States. See section 604 of Title 28.

Section 404c–9, act June 5, 1942, ch. 341, § 9, 56 Stat. 319, related to disposition of fines and costs. See section 634 of Title 28.

§ 404c–10. Notice of assumption of police jurisdiction by United States; acceptance by Secretary of further cessions

The Secretary of the Interior shall notify in writing the Governor of the Commonwealth of Kentucky of the passage and approval of this Act, and of the fact that the United States assumes police jurisdiction over the park. Upon the acceptance by the Secretary of the Interior of further cessions of jurisdiction over lands now or hereafter included in the Mammoth Cave National Park, the provisions of sections 2 to 9 inclusive, shall apply to such lands.

(June 5, 1942, ch. 341, § 10, 56 Stat. 319.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 5, 1942, which is classified to sections 404c–1 to 404c–12 of this title. For complete classification of this Act to the Code, see Tables.

Sections 2 to 9 inclusive, referred to in text, means sections 2 to 9 of act June 5, 1942, only sections 2 to 4 of which are still in effect and are classified to sections 404c–2 to 404c–4 of this title.

§ 404c–11. Secretary of the Interior authorized to acquire additional lands; appropriation; approval of title

The Secretary of the Interior is authorized in his discretion to acquire for inclusion within the Mammoth Cave National Park by purchase, condemnation, or otherwise, any lands, interests in lands, and other property within the maximum boundaries thereof as authorized by sections 404 to 404b and 404c of this title, notwithstanding the provisions of sections 404b–1 and 404f of this title, or any action taken thereunder to exclude certain caves from the park area.

In order to provide for acquisition of property on behalf of the United States, in accordance with the provisions of this section, there is authorized to be appropriated the sum of not to exceed $350,000. Any of the funds appropriated pursuant to the provisions hereof which are not needed to acquire property as authorized by this section may, in the discretion of the Secretary of the Interior, be used to acquire lands and interests in lands required for the development of

a proper and suitable entrance road to Mammoth Cave National Park, as authorized in section 404c–12 of this title. The funds heretofore deposited in the Treasury under special fund receipt account 146664 shall, upon June 30, 1948, be transferred to the general fund of the Treasury as miscellaneous receipts: *Provided*, That no part of this authorization shall be used for road development or construction until after all the lands within the maximum boundaries, as authorized by sections 404 to 404b and 404c of this title, have been acquired by purchase, condemnation or otherwise.

The title to lands, interests in lands, and other property to be acquired pursuant to this Act shall be satisfactory to the Secretary of the Interior. Any property acquired pursuant to said sections upon acquisition by the Federal Government, shall become a part of the park, and shall be subject to all laws and regulations applicable thereto.

(June 5, 1942, ch. 341, §11, 56 Stat. 319; June 30, 1948, ch. 764, 62 Stat. 1165.)

REFERENCES IN TEXT

Section 404c of this title, referred to in text, was omitted from the Code.

This Act, referred to in text, is act June 5, 1942, which is classified to sections 404c–1 to 404c–12 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1948—Act June 30, 1948, amended section to provide for an appropriation of $350,000 to acquire additional cave lands.

§ 404c–12. Entrance roads

For the purpose of developing a proper and suitable entrance road to the Mammoth Cave National Park, the Secretary of the Interior is authorized in his discretion to accept on behalf of the United States donations of lands, buildings, structures, and other property or interests therein, or to acquire such property with donated funds by purchase, condemnation, or otherwise, within an area or areas to be determined by him, but (a) not to exceed one mile in width, extending from the exterior boundary of the Mammoth Cave National Park to a point to be selected by him on United States Highway Numbered 31–W, and (b) not to exceed one-half mile in width on either side of United States Highway Numbered 31–W and running for a distance of not to exceed two miles along said highway. Lands acquired for purposes of protecting such entrance roads shall not be less than five hundred feet in width on either side of said roads: *Provided*, That only one such entrance road shall be established between United States Highway Numbered 31–W and Mammoth Cave National Park pursuant to this Act.

(June 5, 1942, ch. 341, §12, 56 Stat. 320.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 5, 1942, which is classified to sections 404c–1 to 404c–12 of this title. For complete classification of this Act to the Code, see Tables.

§ 404d. Acceptance of title to lands; reservations; leases; rights-of-way and easements

The Secretary of the Interior is authorized in his discretion to accept title to lands tendered without cost to the United States within the area of the Mammoth Cave National Park, subject to leases entered into and granted as part consideration in connection with the purchase of said land for tender to the United States for park purposes, but not exceeding in length of term the life of the particular grantor or grantors: *Provided*, That said leases and the terms and conditions thereof shall have previously been submitted to and approved by said Secretary: *And provided further*, That he may lease upon such terms and conditions as he deems proper any lands within the aforesaid areas when such use shall not be deemed by him inconsistent with the purposes for which the lands were acquired on behalf of the United States, to persons, educational or religious institutions, private corporations, associations, and partnerships previously occupying such land for terms not exceeding the particular lifetime in the case of natural persons, and not exceeding twenty years in all other cases, which latter leases may be renewed in the discretion of said Secretary: *And provided further*, That the Secretary of the Interior may accept lands for these parks subject to reservations of rights-of-way and easements.

(Feb. 4, 1932, ch. 19, §2, 47 Stat. 37.)

CODIFICATION

Provisions of act Feb. 4, 1932, §2, relating to the Shenandoah National Park and the Great Smoky Mountains National Park, and to the Isle Royale National Park, are classified to sections 403e and 408c of this title.

§ 404e. Donations of money; acquisition of title to lands

In the establishment of the said Mammoth Cave National Park the Secretary of the Interior is authorized to accept donations of money for the acquisition of lands and rights therein and to acquire the same by purchase, condemnation, or otherwise.

(May 14, 1934, ch. 282, §2, 48 Stat. 775.)

§ 404f. Acquisition of additional lands

All lands purchased from funds heretofore allocated and made available by Executive order, or otherwise, for the acquisition of lands for conservation or forestation purposes within the maximum boundaries of the Mammoth Cave National Park as authorized by section 404 of this title, are made a part of the said park as fully as if originally acquired for that purpose and the proviso at the end of section 404 of this title shall not be construed so as to prohibit the acquisition of lands in said area under funds made available as aforesaid.

(Aug. 28, 1937, ch. 873, §1, 50 Stat. 871.)

SUBCHAPTER XLVIII—COOS COUNTY, OREGON

§ 405. Reservation for park and camp sites

The northeast quarter northwest quarter, lot 1, section 7, township 28 south, range 9 west, the

southwest quarter northeast quarter, north half southeast quarter, section 5, township 27 south, range 11 west, the west half southwest quarter, section 5, the south half northwest quarter, section 11, township 28 south, range 11 west, the south half southeast quarter and east half southwest quarter, section 35, township 27 south, range 12 west, Willamette Meridian, Coos County, Oregon, formerly a part of the Coos Bay military wagon road grant, subject to valid existing rights and as to lands withdrawn for water-power purposes to all the provisions of the Federal Power Act [16 U.S.C. 791a et seq.], and to the cutting and removal of the merchantable timber on the northeast quarter southwest quarter, section 35, township 27 south, range 12 west, pursuant to a sale thereof heretofore made, are reserved and set apart as public parks and camp sites for recreational purposes and to preserve the rare groves of myrtle trees thereon, such lands to be placed under the care, control, and management of the county court of Coos County, Oregon, in accordance with such rules and regulations as the Secretary of the Interior may prescribe: *Provided*, That all the expense of such care, control, and management shall be paid by the said county court.

(May 5, 1926, ch. 241, § 1, 44 Stat. 397.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original ''Federal water power Act of June 10, 1920 (Forty-first Statutes At Large, page 1063)'', which was redesignated the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

§ 405a. Rules and regulations; fees

The said county court may make necessary rules and regulations governing the use of such lands and may charge such reasonable fees as may be necessary to provide funds for the upkeep, care, and protection of such reserved lands and the myrtle trees thereon, the said regulations and fees chargeable to be approved by the Secretary of the Interior before becoming effective.

(May 5, 1926, ch. 241, § 2, 44 Stat. 398.)

SUBCHAPTER XLIX—GRAND TETON NATIONAL PARK

§§ 406 to 406d. Repealed. Sept. 14, 1950, ch. 950, § 1, 64 Stat. 849

Sections, act Feb. 26, 1929, ch. 331, §§ 1–5, 45 Stat. 1314–1316, related to Grand Teton National Park of Wyoming. See section 406d–1 et seq. of this title. See, also, sections 482m and 673b, relating to Teton National Forest, and National Elk Refuge, in Wyoming, respectively.

Sections 406 to 406d were not enacted as part of act Sept. 14, 1950, ch. 950, 64 Stat. 849, which comprises this subchapter.

§ 406d–1. Establishment; boundaries; administration

For the purpose of including in one national park, for public benefit and enjoyment, the lands within the present Grand Teton National Park and a portion of the lands within the Jackson Hole National Monument, there is established a new ''Grand Teton National Park''. The park shall comprise, subject to valid existing rights, all of the present Grand Teton National Park and all lands of the Jackson Hole National Monument that are not otherwise expressly provided for in this subchapter and sections 431a, 451a, 482m, 673b, and 673c of this title, and an order setting forth the boundaries of the park shall be prepared by the Secretary of the Interior and published in the Federal Register. The national park so established shall, so far as consistent with the provisions of this subchapter and said sections, be administered in accordance with the general statutes governing national parks, and shall supersede the present Grand Teton National Park and the Jackson Hole National Monument.

(Sept. 14, 1950, ch. 950, § 1, 64 Stat. 849.)

REFERENCES IN TEXT

The Jackson Hole National Monument, referred to in text, was created in Wyoming by Presidential Proc. No. 2578, Mar. 15, 1943, 57 Stat. 731. For provisions transferring other lands of such former national monument, see sections 482m and 673b of this title.

Provisions relating to the ''present Grand Teton National Park'', referred to in text, were contained in former sections 406 to 406d of this title, which sections were repealed by another provision of section 1 of act Sept. 14, 1950.

CODIFICATION

Section comprises all of section 1 of act Sept. 14, 1950, except the final sentence thereof. The final sentence repealed sections 406 to 406d of this title which established, and related to, the former ''Grand Teton National Park of Wyoming''. It also contained a proviso, of which part is set out as section 431a of this title, and the remainder, as section 451a of this title.

GRAND TETON NATIONAL PARK EXTENSION

Pub. L. 110–47, July 13, 2007, 121 Stat. 241, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Grand Teton National Park Extension Act of 2007'.

''SEC. 2. DEFINITIONS.

''In this Act:

''(1) PARK.—The term 'Park' means the Grand Teton National Park.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(3) SUBDIVISION.—The term 'Subdivision' means the GT Park Subdivision, with an area of approximately 49.67 acres, as generally depicted on—

''(A) the plat recorded in the Office of the Teton County Clerk and Recorder on December 16, 1997, numbered 918, entitled 'Final Plat GT Park Subdivision', and dated June 18, 1997; and

''(B) the map entitled '2006 Proposed Grand Teton Boundary Adjustment', numbered 136/80,198, and dated March 21, 2006, which shall be on file and available for inspection in appropriate offices of the National Park Service.

''SEC. 3. ACQUISITION OF LAND.

''(a) IN GENERAL.—The Secretary may accept from any willing donor the donation of any land or interest in land of the Subdivision.

''(b) ADMINISTRATION.—On acquisition of land or an interest in land under subsection (a), the Secretary shall—

''(1) include the land or interest in the boundaries of the Park; and

''(2) administer the land or interest as part of the Park, in accordance with all applicable laws (including regulations).

''(c) DEADLINE FOR ACQUISITION.—It is the intent of Congress that the acquisition of land or an interest in land under subsection (a) be completed not later than 1 year after the date of enactment of this Act [July 13, 2007].

''(d) RESTRICTION ON TRANSFER.—The Secretary shall not donate, sell, exchange, or otherwise transfer any land acquired under this section without express authorization from Congress.

''SEC. 4. CRAIG THOMAS DISCOVERY AND VISITOR CENTER.

''(a) FINDINGS.—Congress finds that—

''(1) Craig Thomas was raised on a ranch just outside of Cody, Wyoming, near Yellowstone National Park and Grand Teton National Park, where he—

''(A) began a lifelong association with those parks; and

''(B) developed a deep and abiding dedication to the values of the public land of the United States;

''(2) during his 18-year tenure in Congress, including service in both the Senate and the House of Representatives, Craig Thomas forged a distinguished legislative record on issues as diverse as public land management, agriculture, fiscal responsibility, and rural health care;

''(3) as Chairman and Ranking Member of the National Parks Subcommittee of the Committee on Energy and Natural Resources of the Senate and a frequent visitor to many units of the National Park System, including Yellowstone National Park and Grand Teton National Park, Craig Thomas was a strong proponent for ensuring that people of all ages and abilities had a wide range of opportunities to learn more about the natural and cultural heritage of the United States;

''(4) Craig Thomas authored legislation to provide critical funding and management reforms to protect units of the National Park System into the 21st century, ensuring quality visits to units of the National Park System and the protection of natural and cultural resources;

''(5) Craig Thomas strongly supported public-private partnerships and collaboration between the National Park Service and other organizations that foster new opportunities for providing visitor services while encouraging greater citizen involvement in the stewardship of units of the National Park System;

''(6) Craig Thomas was instrumental in obtaining the Federal share for a public-private partnership with the Grand Teton National Park Foundation and the Grand Teton Natural History Association to construct a new discovery and visitor center at Grand Teton National Park;

''(7) on June 4, 2007, Craig Thomas passed away after battling cancer for 7 months;

''(8) Craig Thomas is survived by his wife, Susan, and children, Patrick, Greg, Peter, and Lexie; and

''(9) in memory of the distinguished career of service of Craig Thomas to the people of the United States, the dedication of Craig Thomas to units of the National Park System, generally, and to Grand Teton National Park, specifically, and the critical role of Craig Thomas in the new discovery and visitor center at Grand Teton National Park, the Grand Teton Discovery and Visitor Center should be designated as the 'Craig Thomas Discovery and Visitor Center'.

''(b) THE CRAIG THOMAS DISCOVERY AND VISITOR CENTER.—

''(1) DESIGNATION.—The Grand Teton Discovery and Visitor Center located in Moose, Wyoming, and scheduled for completion in August 2007 shall be known and designated as the 'Craig Thomas Discovery and Visitor Center'.

''(2) REFERENCE.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Grand Teton Discovery and Visitor Center referred to in paragraph (1) shall be deemed to be a reference to the 'Craig Thomas Discovery and Visitor Center'.

''SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this Act.''

GRAND TETON NATIONAL PARK LAND EXCHANGE

Pub. L. 108–32, June 17, 2003, 117 Stat. 779, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Grand Teton National Park Land Exchange Act'.

''SEC. 2. DEFINITIONS.

''As used in this Act:

''(1) The term 'Federal lands' means public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

''(2) The term 'Governor' means the Governor of the State of Wyoming.

''(3) The term 'Secretary' means the Secretary of the Interior.

''(4) The term 'State lands' means lands and interest in lands owned by the State of Wyoming within the boundaries of Grand Teton National Park as identified on a map titled 'Private, State & County Inholdings Grand Teton National Park', dated March 2001, and numbered GTNP/0001.

''SEC. 3. ACQUISITION OF STATE LANDS.

''(a) The Secretary is authorized to acquire approximately 1,406 acres of State lands within the exterior boundaries of Grand Teton National Park, as generally depicted on the map referenced in section 2(4), by any one or a combination of the following—

''(1) donation;

''(2) purchase with donated or appropriated funds; or

''(3) exchange of Federal lands in the State of Wyoming that are identified for disposal under approved land use plans in effect on the date of enactment of this Act [June 17, 2003] under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) that are of equal value to the State lands acquired in the exchange.

''(b) In the event that the Secretary or the Governor determines that the Federal lands eligible for exchange under subsection (a)(3) are not sufficient or acceptable for the acquisition of all the State lands identified in section 2(4), the Secretary shall identify other Federal lands or interests therein in the State of Wyoming for possible exchange and shall identify such lands or interests together with their estimated value in a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives. Such lands or interests shall not be available for exchange unless authorized by an Act of Congress enacted after the date of submission of the report.

''SEC. 4. VALUATION OF STATE AND FEDERAL INTERESTS.

''(a) AGREEMENT ON APPRAISER.—If the Secretary and the Governor are unable to agree on the value of any Federal lands eligible for exchange under section 3(a)(3) or State lands, then the Secretary and the Governor may select a qualified appraiser to conduct an appraisal of those lands. The purchase or exchange under section 3(a) shall be conducted based on the values determined by the appraisal.

''(b) NO AGREEMENT ON APPRAISER.—If the Secretary and the Governor are unable to agree on the selection of a qualified appraiser under subsection (a), then the

Secretary and the Governor shall each designate a qualified appraiser. The two designated appraisers shall select a qualified third appraiser to conduct the appraisal with the advice and assistance of the two designated appraisers. The purchase or exchange under section 3(a) shall be conducted based on the values determined by the appraisal.

''(c) APPRAISAL COSTS.—The Secretary and the State of Wyoming shall each pay one-half of the appraisal costs under subsections (a) and (b).

''SEC. 5. ADMINISTRATION OF STATE LANDS ACQUIRED BY THE UNITED STATES.

''The State lands conveyed to the United States under section 3(a) shall become part of Grand Teton National Park. The Secretary shall manage such lands under the Act of August 25, 1916 (commonly known as the 'National Park Service Organic Act') [16 U.S.C. 1 et seq.], and other laws, rules, and regulations applicable to Grand Teton National Park.

''SEC. 6. AUTHORIZATION FOR APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for the purposes of this Act.''

CONSTRUCTION OF ALTERNATE HIGHWAY

Act Aug. 9, 1955, ch. 635, 69 Stat. 555, provided: ''That in order to facilitate public use and enjoyment of the Grand Teton National Park and to make possible an appropriate relocation and use of highways through the park, the Secretary of the Interior is authorized to construct within the park, upon a location to be agreed upon between the Secretary and the Governor of Wyoming, a highway which shall replace the present U.S. Highway 89, also numbered U.S. 187 and U.S. 26. Upon completion of the said highway, the Secretary is authorized to enter into an agreement with the State of Wyoming, upon such terms and conditions as he deems in the interest of the United States, for the conveyance of the highway to the State in exchange for State and county roads in the park area.''

AVAILABILITY OF UNEXPENDED APPROPRIATED FUNDS

The third sentence of section 9 of act Sept. 14, 1950, provided that: ''The remaining unexpended balance of any funds appropriated for the present Grand Teton National Park and the Jackson Hole National Monument shall be available for expenditure in connection with the administration of the Grand Teton National Park established by this Act [this subchapter and sections 431a, 451a, 482m, 673b, and 673c of this title]''.

REVOCATION OF TEMPORARY WITHDRAWALS OF PUBLIC LANDS

Section 8 of act Sept. 14, 1950, provided that: ''All temporary withdrawals of public lands made by Executive order in aid of legislation pertaining to parks, monuments, or recreational areas, adjacent to the Grand Teton National Park as established by this Act [this subchapter and sections 431a, 451a, 482m, 673b, and 673c of this title] are hereby revoked.''

REPEAL OF INCONSISTENT LAWS

The second sentence of section 9 of act Sept. 14, 1950, provided: ''All provisions of law inconsistent with the provisions of this act [this subchapter and sections 431a, 451a, 482m, 673b, and 673c of this title] are hereby repealed to the extent of such inconsistency''.

§ 406d–2. Rights-of-way; continuation of leases, permits, and licenses; renewal; grazing privileges

With respect to those lands that are included by this subchapter and sections 431a, 451a, 482m, 673b, and 673c of this title within the Grand Teton National Park—

(a) the Secretary of the Interior shall designate and open rights-of-way, including stock driveways, over and across Federal lands within the exterior boundary of the park for the movement of persons and property to or from State and private lands within the exterior boundary of the park and to or from national forest, State, and private lands adjacent to the park. The location and use of such rights-of-way shall be subject to such regulations as may be prescribed by the Secretary of the Interior;

(b) all leases, permits, and licenses issued or authorized by any department, establishment, or agency of the United States with respect to the Federal lands within the exterior boundary of the park which are in effect on September 14, 1950, shall continue in effect, subject to compliance with the terms and conditions therein set forth, until terminated in accordance with the provisions thereof;

(c) where any Federal lands included within the park by this subchapter and sections 431a, 451a, 482m, 673b, and 673c of this title were legally occupied or utilized on September 14, 1950 for residence or grazing purposes, or for other purposes not inconsistent with sections 1, 2, 3, and 4 of this title, pursuant to a lease, permit, or license issued or authorized by any department, establishment, or agency of the United States, the person so occupying or utilizing such lands, and the heirs, successors, or assigns of such person, shall, upon the termination of such lease, permit, or license, be entitled to have the privileges so possessed or enjoyed by him renewed from time to time, subject to such terms and conditions as the Secretary of the Interior shall prescribe, for a period of twenty-five years from September 14, 1950 and thereafter during the lifetime of such person and the lifetime of his heirs, successors, or assigns but only if they were members of his immediate family on such date, as determined by the Secretary of the Interior: *Provided*, That grazing privileges appurtenant to privately owned lands located within the Grand Teton National Park established by this subchapter and said sections shall not be withdrawn until title to lands to which such privileges are appurtenant shall have vested in the United States, except for failure to comply with the regulations applicable thereto after reasonable notice of default: *Provided further*, That nothing in this subsection shall apply to any lease, permit, or license for mining purposes or for public accommodations and services or to any occupancy or utilization of lands for purely temporary purposes. Nothing contained in this subchapter and said sections shall be construed as creating any vested right, title, interest, or estate in or to any Federal lands.

(Sept. 14, 1950, ch. 950, § 4, 64 Stat. 850.)

REPEAL OF INCONSISTENT LAWS

Repeal of laws inconsistent with act Sept. 14, 1950, see note set out under section 406d–1 of this title.

GRAZING STUDY OF GRAND TETON NATIONAL PARK

Pub. L. 105–81, Nov. 13, 1997, 111 Stat. 1537, provided that:

''SECTION 1. FINDINGS.

''Congress finds that—

''(1) open space near Grand Teton National Park continues to decline;

''(2) as the population continues to grow in Teton County, Wyoming, undeveloped land near the Park becomes more scarce;

''(3) the loss of open space around Teton Park has negative impacts on wildlife migration routes in the area and on visitors to the Park, and its repercussions can be felt throughout the entire region;

''(4) a few ranches make up Teton Valley's remaining open space, and the ranches depend on grazing in Grand Teton National Park for summer range to maintain operations;

''(5) the Act that created Grand Teton National Park [act Feb. 26, 1929, ch. 331, 45 Stat. 1314, 16 U.S.C. former 406 to 406d] allowed several permittees to continue livestock grazing in the Park for the life of a designated heir in the family;

''(6) some of the last remaining heirs have died, and as a result the open space around the Park will most likely be subdivided and developed;

''(7) in order to develop the best solution to protect open space immediately adjacent to Grand Teton National Park, the Park Service should conduct a study of open space in the region; and

''(8) the study should develop workable solutions that are fiscally responsible and acceptable to the National Park Service, the public, local government, and landowners in the area.

''SEC. 2. STUDY OF GRAZING USE AND OPEN SPACE.

''(a) IN GENERAL.—The Secretary of the Interior shall conduct a study concerning grazing use and open space in Grand Teton National Park, Wyoming, and associated use of certain agricultural and ranch lands within and adjacent to the Park, including—

''(1) base land having appurtenant grazing privileges within Grand Teton National Park, Wyoming, remaining after January 1, 1990, under the Act entitled 'An Act to establish a new Grand Teton National Park in the State of Wyoming, and for other purposes', approved September 14, 1950 (16 U.S.C. 406d–1 et seq.); and

''(2) any ranch and agricultural land adjacent to the Park, the use and disposition of which may affect accomplishment of the purposes of the Act.

''(b) PURPOSE.—The study shall—

''(1) assess the significance of the ranching use and pastoral character of the land (including open vistas, wildlife habitat, and other public benefits);

''(2) assess the significance of that use and character to the purposes for which the Park was established and identify any need for preservation of, and practicable means of, preserving the land that is necessary to protect that use and character;

''(3) recommend a variety of economically feasible and viable tools and techniques to retain the pastoral qualities of the land; and

''(4) estimate the costs of implementing any recommendations made for the preservation of the land.

''(c) PARTICIPATION.—In conducting the study, the Secretary of the Interior shall seek participation from the Governor of the State of Wyoming, the Teton County Commissioners, the Secretary of Agriculture, affected land owners, and other interested members of the public.

''(d) REPORT.—Not later than 3 years from the date funding is available for the purposes of this Act, the Secretary of the Interior shall submit a report to Congress that contains the findings of the study under subsection (a) and makes recommendations to Congress regarding action that may be taken with respect to the land described in subsection (a).

''SEC. 3. EXTENSION OF GRAZING PRIVILEGES.

''(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Interior shall reinstate and extend for the duration of the study described in section 2(a) and until such time as the recommendations of the study are implemented, the grazing privileges described in section 2(a)(1), under the same terms and conditions as were in effect prior to the expiration of the privileges.

''(b) EFFECT OF CHANGE IN LAND USE.—If, during the period of the study or until such time as the recommendations of the study are implemented, any portion of the land described in section 2(a)(1) is disposed of in a manner that would result in the land no longer being used for ranching or other agricultural purposes, the Secretary of the Interior shall cancel the extension described in subsection (a).''

§ 406d–3. Compensation for tax losses; limitation on annual amount

(a) In order to provide compensation for tax losses sustained as a result of any acquisition by the United States, subsequent to March 15, 1943, of privately owned lands, together with any improvements thereon, located within the exterior boundary of the Grand Teton National Park established by this subchapter and sections 431a, 451a, 482m, 673b, and 673c of this title, payments shall be made to the State of Wyoming for distribution to the county in which such lands are located in accordance with the following schedule of payments: For the fiscal year in which the land has been or may be acquired and nine years thereafter there shall be paid an amount equal to the full amount of annual taxes last assessed and levied on the land, together with any improvements thereon, by public taxing units in such county, less any amount, to be determined by the Secretary of the Interior, which may have been paid on account of taxes for any period falling within such fiscal year. For each succeeding fiscal year, until twenty years elapse, there shall be paid on account of such land an amount equal to the full amount of taxes referred to in the preceding sentence, less 5 per centum of such full amount for each fiscal year, including the year for which the payment is to be made: *Provided*, That the amount payable under the foregoing schedule for any fiscal year preceding the first full fiscal year following September 14, 1950, shall not become payable until the end of such first full fiscal year.

(b) As soon as practicable after the end of each fiscal year, the amount then due for such fiscal year shall be computed and certified by the Secretary of the Interior, and shall be paid by the Secretary of the Treasury: *Provided*, That such amount shall not exceed 25 per centum of the fees collected during such fiscal year from visitors to the Grand Teton National Park established by this subchapter and sections 431a, 451a, 482m, 673b, and 673c of this title, and the Yellowstone National Park. Payments made to the State of Wyoming under this section shall be distributed to the county where the lands acquired from private landowners are located and in such manner as the State of Wyoming may prescribe.

(Sept. 14, 1950, ch. 950, § 5, 64 Stat. 851.)

REPEAL OF INCONSISTENT LAWS

Repeal of laws inconsistent with act Sept. 14, 1950, see note set out under section 406d–1 of this title.

§ 406d–4. Acceptance of other lands by Secretary of the Interior

The Secretary of the Interior is authorized to accept the donation of the following-described

lands, which lands, upon acceptance by the United States, shall become a part of the national park:

SIXTH PRINCIPAL MERIDIAN

Township 41 north, range 116 west: Section 3, lots 1 and 2.

Containing seventy-eight and ninety-three one-hundredths acres, more or less.

(Sept. 14, 1950, ch. 950, § 7, 64 Stat. 852.)

REPEAL OF INCONSISTENT LAWS

Repeal of laws inconsistent with act Sept. 14, 1950, see note set out under section 406d–1 of this title.

§ 406d–5. Use for reclamation purposes of certain lands within exterior boundary

Nothing in this subchapter and sections 431a, 451a, 482m, 673b, and 673c of this title shall affect the use for reclamation purposes, in accordance with the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto, of the lands within the exterior boundary of the park as prescribed by this subchapter and sections 431a, 451a, 482m, 673b, and 673c of this title which have been withdrawn or acquired for reclamation purposes or the operation, maintenance, rehabilitation, and improvement of the reservoir and other reclamation facilities located on such withdrawn or acquired lands.

(Sept. 14, 1950, ch. 950, § 9, 64 Stat. 853.)

REFERENCES IN TEXT

Act of June 17, 1902 (32 Stat. 388), referred to in text, is popularly known as the ''Reclamation Act'' and is classified generally to chapter 12 (§ 371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables.

CODIFICATION

Section comprises only the first sentence of section 9 of act Sept. 14, 1950. The second sentence of section 9 repealed all laws ''inconsistent with'' sections 406d–1 to 406d–5, inclusive, 431a, 451a, 482m, 673b, and 673c of this title, and is set out in note under section 406d–1 of this title. The third sentence thereof, which related to availability of unexpended appropriated funds, is also set out in note under section 406d–1 of this title.

REPEAL OF INCONSISTENT LAWS

Repeal of laws inconsistent with act Sept. 14, 1950, see note set out under section 406d–1 of this title.

SUBCHAPTER L—CARLSBAD CAVERNS NATIONAL PARK

§ 407. Establishment; description of area

The tract of land known prior to May 14, 1930, as the Carlsbad Cave National Monument, in the State of New Mexico, established and designated as a national monument under section 431 of this title, and by presidential proclamation of October 25, 1923, is declared to be a national park and dedicated as a public park for the benefit and enjoyment of the people under the name of the Carlsbad Caverns National Park, under which name the aforesaid national park shall be entitled to receive and to use all moneys heretofore or hereafter appropriated for the Carlsbad Cave National Monument.

(May 14, 1930, ch. 272, § 1, 46 Stat. 279.)

REFERENCES IN TEXT

The presidential proclamation of October 25, 1923, referred to in text, is Proc. No. 1923, 43 Stat. 1929.

§ 407a. Administration, protection, and development

The administration, protection, and development of said Carlsbad Caverns National Park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, and Acts supplementary thereto or amendatory thereof.

(May 14, 1930, ch. 272, § 2, 46 Stat. 279.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 407b. Applicability of Federal Power Act

The provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to or extend over the land by section 407 of this title or hereafter reserved and dedicated as the Carlsbad Caverns National Park.

(May 14, 1930, ch. 272, § 3, 46 Stat. 279.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act of June 10, 1920, known as the Federal Water Power Act,'' and was redesignated as the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791aet seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

§ 407c. Repealed. Pub. L. 88–249, § 5, Dec. 30, 1963, 77 Stat. 819

Section, act May 14, 1930, ch. 272, § 4, 46 Stat. 279, related to the boundaries of Carlsbad Caverns National Park. See section 407e of this title.

§ 407d. Admission and guide fees exempt from tax

Any admission fee charged for entrance to Carlsbad Caverns and any fee charged for guide service therein shall be exempt from all taxes on admissions.

(June 22, 1936, ch. 691, § 1, 49 Stat. 1792.)

CODIFICATION

Act Sept. 20, 1941, ch. 412, title V, § 541(c), 55 Stat. 710, amended act May 9, 1935, ch. 101, § 1, 49 Stat. 207, which had been classified to this section of the Code, ''by striking out that part thereof'' upon which this section was based. Said act Sept. 20, 1941, however, made no mention of act June 22, 1936, which reenacted those same provisions. Such act Sept. 20, 1941, was made effective on, and applicable only with respect to the period beginning with, Oct. 1, 1941, by section 550(a) thereof.

§ 407e. Boundaries

Carlsbad Caverns National Park situated in the State of New Mexico shall consist of the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

Township 24 south, range 23 east: south half section 35; section 36.

Township 24 south, range 24 east; sections 25 to 29, inclusive; sections 31 to 36, inclusive.

Township 24 south, range 25 east: south half southeast quarter section 19; south half south half section 20; south half south half section 21; southwest quarter southwest quarter section 26; sections 27 to 33, inclusive; west half section 34; northwest quarter northeast quarter section 34.

Township 25 south, range 22 east: sections 24, 25, 35, and 36.

Township 25 south, range 23 east: sections 1 to 33, inclusive; northwest quarter section 34.

Township 25 south, range 24 east: north half section 1; west half section 2; northeast quarter section 2; sections 3 to 8, inclusive; west half section 9; northeast quarter section 9; northwest quarter section 10; west half section 17; northeast quarter section 17; section 18; northwest quarter section 19.

Township 25 south, range 25 east: north half section 5; north half section 6.

Township 26 south, range 22 east: north half section 1; west half southwest quarter section 1; section 2; section 11; west half west half section 12; northwest quarter section 14.

Township 26 south, range 23 east: northwest quarter section 6.

All of which contains 46,786.11 acres, more or less.

And the tract of land, including Rattlesnake Springs, lying in section 23, township 25 south, range 24 east, New Mexico principal meridian, acquired by the United States for water right purposes by warranty deed dated January 23, 1934, recorded in Eddy County, New Mexico, records in deedbook 64 on page 97, containing 79.87 acres, more or less.

(Pub. L. 88–249, § 1, Dec. 30, 1963, 77 Stat. 818.)

§ 407f. Exchange of lands

(a) State-owned lands; terms, conditions and reservations

For the purpose of acquiring the State-owned lands lying within the area described in section 407e of this title, consisting of 2,721.12 acres, and described as follows:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

Township 24 south, range 23 east: section 36.

Township 24 south, range 24 east: section 32.

Township 24 south, range 25 east: section 32.

Township 25 south, range 24 east: lots 1, 2, 3, and 4, south half north half, southwest quarter section 2.

Township 26 south, range 22 east: south half section 2, the Secretary of the Interior may, subject to such terms, conditions, and reservations as may be necessary or are in the public interest, including the reservation of surface rights-of-way across Federal lands situated in township 25 south, range 24 east, New Mexico principal meridian, for the construction of roads and utility lines between park headquarters and Rattlesnake Springs, exchange the following described 2,719.80 acres of public land of approximately equal value:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

Township 24 south, range 25 east: southeast quarter section 34.

Township 25 south, range 24 east: south half section 1; west half section 11; west half section 14; section 15; southeast quarter section 17.

Township 25 south, range 25 east: south half section 5; lot 6, northeast quarter southwest quarter, southeast quarter section 6.

Township 26 south, range 22 east: west half west half section 13; north half northeast quarter section 14.

(b) Private lands; terms, conditions and reservations

For the purpose of acquiring the private lands or interests in lands lying within the area described in section 407e of this title, the Secretary of the Interior may, subject to such terms, conditions, and reservations as may be necessary, exchange on an approximately equal value basis any of the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

Township 25 south, range 24 east: southeast quarter section 9; south half, northeast quarter section 10.

Township 26 south, range 22 east: south half, south half northeast quarter section 14.

(c) State-leased lands; compensation of lessee for improvements; appraisal

Notwithstanding subsection (a) of this section, when an exchange involves lands in section 32, township 24 south, range 24 east, New Mexico principal meridian, which the State of New Mexico has leased, the Secretary may compensate a lessee for the reasonable value of his improvements to the lands. Reasonable value shall be determined by the Secretary of the Interior by obtaining an impartial appraisal.

(Pub. L. 88–249, § 2, Dec. 30, 1963, 77 Stat. 818.)

§ 407g. State right-of-way for park-type road; reconveyance of interest upon completion of road

The Secretary is authorized to convey to the State of New Mexico a right-of-way over lands between the western boundary of the southeast quarter of section 34, township 24 south, range 25 east, and the vicinity of the caverns for the use of the State in constructing a park-type road for public use thereon: *Provided*, That the State may construct a road which shall meet the general standards of National Park Service roads and shall agree to reconvey its interests in such lands and any improvements thereon, without cost to the United States, upon completion of such road. The location of the road shall be determined by the Secretary, after consultation with officials of the State of New Mexico.

(Pub. L. 88–249, § 3, Dec. 30, 1963, 77 Stat. 819.)

§ 407h. Authorization of appropriations

There are hereby authorized to be appropriated not more than $500 to carry out the purposes of sections 407e to 407h of this title.

(Pub. L. 88–249, § 4, Dec. 30, 1963, 77 Stat. 819.)

SUBCHAPTER LI—INDEPENDENCE NATIONAL HISTORICAL PARK

§ 407m. Establishment; acquisition of land; property involved

For the purpose of preserving for the benefit of the American people as a national historical park certain historical structures and properties of outstanding national significance located in Philadelphia, Pennsylvania, and associated with the American Revolution and the founding and growth of the United States, the Secretary of the Interior, following the consummation of agreements with the city of Philadelphia and the Carpenters' Company of Philadelphia as prescribed in section 407n of this title, is authorized to acquire by donation or with donated funds, or to acquire by purchase, any property, real or personal, within the following-described areas, such park to be fully established as the ''Independence National Historical Park'' when, in the opinion of the Secretary, title to sufficient of the lands and interests in lands within such areas, shall be vested in the United States: *Provided*, That the park shall not be established until title to the First United States Bank property, the Merchants' Exchange property, the Bishop White house, the Dilworth-Todd-Moylan house, and the site of the Benjamin Franklin house, together with two-thirds of the remaining lands and interests in lands within the following-described areas, shall have been vested in the United States:

(a) An area of three city blocks bounded generally by Walnut Street, Fifth Street, Chestnut Street, and Second Street, but excluding the new United States customhouse at the southeast corner of Second and Chestnut Streets, identified as ''project A'', as described in the report of the Philadelphia National Shrines Park Commission, dated December 29, 1947.

(b) A memorial thoroughfare, or mall, extending generally from the south side of Walnut Street to the north side of Manning Street, identified as part of ''project B'' in the report of the Commission. The properties identified generally as 269, 271, 273, and 275 South Fifth Street in ''project B'' in the report of the Commission.

(c) The site of the residence of Benjamin Franklin, and related grounds, comprising approximately a one-hundred-foot-wide strip, extending southward from Market Street approximately three hundred feet between Third and Fourth Streets, and encompassing a portion of Orianna Street, identified as ''project C'' in the report of the Commission.

(d) Certain land and buildings immediately adjacent to Christ Church, situated on the west side of Second Street, and north of Market Street, identified as ''project E'' in the report of the Commission, and certain land and buildings adjoining ''Project E'', being known and numbered as 8, 10, and 12 North Second Street and 201, 203, 205, 207, 209, 211–213, 215, 217, 219, and 221 Market Street: *Provided*, That the Secretary of the Interior first enter into an agreement with the proprietor or proprietors of said property (Christ Church), said agreement to contain the usual and customary provisions for the protection of the property, assuring its physical maintenance as a national shrine, without any limitation or control over its use for customary church purposes.

(June 28, 1948, ch. 687, § 1, 62 Stat. 1061; July 10, 1952, ch. 653, § 1, 66 Stat. 575; Pub. L. 85–764, § 3(a), Aug. 27, 1958, 72 Stat. 862.)

AMENDMENTS

1958—Subsec. (d). Pub. L. 85–764 included certain lands and buildings adjoining ''project E'' being known and numbered as 8, 10, and 12 North Second Street and 201, 203, 205, 207, 209, 211–213, 215, 217, 219, and 221 Market Street.

1952—Subsec. (b). Act July 10, 1952, inserted second sentence.

GATEWAY VISITOR CENTER

Pub. L. 106–131, Dec. 7, 1999, 113 Stat. 1678, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Gateway Visitor Center Authorization Act of 1999'.

''SEC. 2. FINDINGS AND PURPOSE.

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

''(1) The National Park Service completed and approved in 1997 a general management plan for Independence National Historical Park that establishes goals and priorities for the park's future.

''(2) The general management plan for Independence National Historical Park calls for the revitalization of Independence Mall and recommends as a critical component of the Independence Mall's revitalization the development of a new 'Gateway Visitor Center'.

''(3) Such a visitor center would replace the existing park visitor center and would serve as an orientation center for visitors to the park and to city and regional attractions.

''(4) Subsequent to the completion of the general management plan, the National Park Service undertook and completed a design project and master plan for Independence Mall which includes the Gateway Visitor Center.

''(5) Plans for the Gateway Visitor Center call for it to be developed and managed, in cooperation with the Secretary of the Interior, by a nonprofit organization which represents the various public and civic interests of the greater Philadelphia metropolitan area.

''(6) The Gateway Visitor Center Corporation, a nonprofit organization, has been established to raise funds for and cooperate in a program to design, develop, construct, and operate the proposed Gateway Visitor Center.

''(b) PURPOSE.—The purpose of this Act is to authorize the Secretary of the Interior to enter into a cooperative agreement with the Gateway Visitor Center Corporation to construct and operate a regional visitor center on Independence Mall.

''SEC. 3. GATEWAY VISITOR CENTER AUTHORIZATION.

''(a) AGREEMENT.—The Secretary of the Interior, in administering the Independence National Historical Park, may enter into an agreement under appropriate terms and conditions with the Gateway Visitor Center Corporation (a nonprofit corporation established under the laws of the Commonwealth of Pennsylvania) to facilitate the construction and operation of a regional Gateway Visitor Center on Independence Mall.

''(b) OPERATIONS OF CENTER.—The Agreement shall authorize the Corporation to operate the Center in co-

operation with the Secretary and to provide at the Center information, interpretation, facilities, and services to visitors to Independence National Historical Park, its surrounding historic sites, the City of Philadelphia, and the region, in order to assist in their enjoyment of the historic, cultural, educational, and recreational resources of the greater Philadelphia area.

''(c) MANAGEMENT-RELATED ACTIVITIES.—The Agreement shall authorize the Secretary to undertake at the Center activities related to the management of Independence National Historical Park, including, but not limited to, provision of appropriate visitor information and interpretive facilities and programs related to Independence National Historical Park.

''(d) ACTIVITIES OF CORPORATION.—The Agreement shall authorize the Corporation, acting as a private nonprofit organization, to engage in activities appropriate for operation of a regional visitor center that may include, but are not limited to, charging fees, conducting events, and selling merchandise, tickets, and food to visitors to the Center.

''(e) USE OF REVENUES.—Revenues from activities engaged in by the Corporation shall be used for the operation and administration of the Center.

''(f) PROTECTION OF PARK.—Nothing in this section authorizes the Secretary or the Corporation to take any actions in derogation of the preservation and protection of the values and resources of Independence National Historical Park.

''(g) DEFINITIONS.—In this section:

''(1) AGREEMENT.—The term 'Agreement' means an agreement under this section between the Secretary and the Corporation.

''(2) CENTER.—The term 'Center' means a Gateway Visitor Center constructed and operated in accordance with the Agreement.

''(3) CORPORATION.—The term 'Corporation' means the Gateway Visitor Center Corporation (a nonprofit corporation established under the laws of the Commonwealth of Pennsylvania).

''(4) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.''

MIKVEH ISRAEL CEMETERY

Act Aug. 6, 1956, ch. 1018, 70 Stat. 1074, provided that: ''Upon compliance with the provisions of section 2 of this Act, the Mikveh Israel Cemetery, located in Philadelphia, Pennsylvania, and containing the graves of Haym Salomon and other outstanding patriots of the Revolutionary War who played important parts in the early history of the United States, shall be declared to be a unit of the Independence National Historical Park: *Provided*, That the United States shall not thereby assume any responsibility to provide for the administration, care, or maintenance of said Mikveh Israel Cemetery.

''SEC. 2. This Act shall become effective if and when the Mikveh Israel Congregation, through its duly authorized representatives, has executed an agreement in terms and conditions satisfactory to the Secretary of the Interior, providing for the continuing administration, care, and maintenance, without expense to the United States, of the Mikveh Israel Cemetery, whereupon said Secretary shall issue a notice declaring that said requirement has been met and that Mikveh Israel Cemetery is formally designated a unit of the Independence National Historical Park.''

§ 407m–1. Acquisition of additional lands and buildings

The Secretary of the Interior is authorized to acquire by donation or with donated funds, or to acquire by purchase, the land and buildings immediately adjacent to, but not including, the St. George's Methodist Church property, which land and buildings are identified generally as 318, 320, and 322 New Street, for inclusion in the Independence National Historical Park: *Provided*, That the Secretary shall first enter into an agreement with the proprietor or proprietors of the St. George's Methodist Church property, such agreement to contain the usual and customary provisions for the protection and physical maintenance of said church property, without expense to the United States, in keeping with, but not as a part of, the nearby Independence National Historical Park and providing for its continued use, without limitation or control, for customary church purposes.

(Pub. L. 86–54, § 1, June 23, 1959, 73 Stat. 88.)

CODIFICATION

Section was not enacted as a part of act June 28, 1948, ch. 687, 62 Stat. 1061, as amended, which comprises this subchapter.

APPROPRIATIONS

Section 2 of Pub. L. 86–54 provided that: ''There are hereby authorized to be appropriated such sums, not exceeding $25,000, as may be necessary to carry out the purposes of section 1 of this Act [this section].''

§ 407m–2. Acquisition of property adjacent to Old Saint Joseph's Church

The Secretary of the Interior is authorized to acquire by donation or with donated funds, or to acquire by purchase, from the Redevelopment Authority of the City of Philadelphia the land and interests in land immediately adjacent to, but not including the Old Saint Joseph's Church property in the city of Philadelphia, Pennsylvania, which land and interests in land are identified on the records of the city of Philadelphia as 324, 326, 328, 330, 332, 334 and 336 Walnut Street, for inclusion in the Independence National Historical Park: *Provided*, That the Secretary shall first enter into an agreement with the proprietor or proprietors of the Old Saint Joseph's Church property, such agreement to contain the usual and customary provisions for the protection and physical maintenance of such church property, without expense to the United States, in keeping with, but not as a part of the nearby Independence National Historical Park and providing for its continued use, without limitation or control, for customary church purposes.

(Pub. L. 86–273, § 1, Sept. 14, 1959, 73 Stat. 556.)

CODIFICATION

Section was not enacted as a part of act June 28, 1948, ch. 687, 62 Stat. 1061, as amended, which comprises this subchapter.

APPROPRIATIONS

Section 2 of Pub. L. 86–273 authorized to be appropriated such sums, not exceeding $46,200 as were necessary to carry out the purposes of this section.

§ 407m–3. Acquisition of site of Graff House

In order to include in Independence National Historical Park the site of the Graff House where Thomas Jefferson wrote the Declaration of Independence, the Secretary of the Interior is authorized to acquire by purchase, donation, or with donated funds all or any interests in the land and improvements thereon located at the southwest corner of Market and South Seventh Streets, in the city of Philadelphia, State of

Pennsylvania, and more particularly described as follows:

Beginning at a point located at the intersection of the southerly line of Market Street with the westerly line of South Seventh Street, thence southerly along the west side of South Seventh Street 124 feet, thence westerly 50 feet, thence northerly 124 feet, thence easterly 50 feet to the point of beginning.

(Pub. L. 88–477, § 1, Aug. 21, 1964, 78 Stat. 587.)

CODIFICATION

Section was not enacted as a part of act June 28, 1948, ch. 687, 62 Stat. 1061, as amended, which comprises this subchapter.

§ 407m–4. Erection of replica of Graff House; maintenance

The Secretary is further authorized to erect on the site aforesaid, with donated funds, a replica of the Graff House and to furnish and maintain the same.

(Pub. L. 88–477, § 2, Aug. 21, 1964, 78 Stat. 587.)

CODIFICATION

Section was not enacted as a part of act June 28, 1948, ch. 687, 62 Stat. 1061, as amended, which comprises this subchapter.

§ 407m–5. Inclusion of additional lands and building; administration

The lands hereinbefore described and the building to be erected thereon shall become a part of the Independence National Historical Park and shall be administered in accordance with the laws and regulations applicable thereto.

(Pub. L. 88–477, § 3, Aug. 21, 1964, 78 Stat. 587.)

CODIFICATION

Section was not enacted as a part of act June 28, 1948, ch. 687, 62 Stat. 1061, as amended, which comprises this subchapter.

§ 407m–6. Authorization of appropriations

There are authorized to be appropriated such sums, but not more than $200,000, as may be necessary for acquisition of the land described in section 407m–3 of this title: *Provided*, That the Secretary of the Interior shall not obligate or expend any moneys herein authorized to be appropriated for acquisition of the land unless and until commitments are obtained for donations in an amount which in the judgment of the Secretary is sufficient to provide a replica of the Graff House in accordance with section 407m–4 of this title.

(Pub. L. 88–477, § 4, Aug. 21, 1964, 78 Stat. 587.)

CODIFICATION

Section was not enacted as a part of act June 28, 1948, ch. 687, 62 Stat. 1061, as amended, which comprises this subchapter.

§ 407m–7. Exchange of property

The Secretary of the Interior is authorized to convey on behalf of the United States a certain tract of land, or any interest therein, being a portion of Independence National Historical Park project B, embracing fifteen thousand six hundred and fifty square feet, more or less, and situate on the northeast corner of South Fifth Street and Marshall Court (formerly Manning Street), city of Philadelphia, Pennsylvania, together with the improvements thereon, to the Redevelopment Authority of the City of Philadelphia in exchange for property, or interest therein, owned by the authority of approximately equal value and which the Secretary deems necessary for use in connection with the Independence National Historical Park. Property conveyed by the Secretary pursuant to this section shall thereupon cease to be a part of the park, and the property acquired in exchange therefor shall thereafter be a part of the park, subject to all the laws and regulations applicable to the park.

(Pub. L. 88–604, Sept. 18, 1964, 78 Stat. 958.)

CODIFICATION

Section was not enacted as a part of act June 28, 1948, ch. 687, 62 Stat. 1061, as amended, which comprises this subchapter.

§ 407m–8. Independence National Historical Park boundary adjustment

The administrative boundary between Independence National Historical Park and the United States Customs House along the Moravian Street Walkway in Philadelphia, Pennsylvania, is hereby modified as generally depicted on the drawing entitled ''Exhibit 1, Independence National Historical Park, Boundary Adjustment'', and dated May 1987, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to accept and transfer jurisdiction over property in accord with such administrative boundary, as modified by this section.

(Pub. L. 104–333, div. I, title II, § 204, Nov. 12, 1996, 110 Stat. 4106.)

CODIFICATION

Section enacted as part of the Omnibus Parks and Public Lands Management Act of 1996, and not as part of act June 28, 1948, ch. 687, 62 Stat. 1061, as amended, which comprises this subchapter.

§ 407n. Cooperative agreements between Secretary of the Interior and City of Philadelphia; contents

In furtherance of the general purposes of this subchapter as prescribed in section 407m of this title, the Secretary of the Interior is authorized to enter into cooperative agreements with the city of Philadelphia to assist in the preservation and interpretation of the property known as the Independence Hall National Historic Site and with the Carpenters' Company of Philadelphia to assist in the preservation and interpretation of Carpenters' Hall, in connection with the Independence National Historical Park. Such agreements shall contain, but shall not be limited to, provisions that the Secretary of the Interior, through the National Park Service, shall have right of access at all reasonable times to all public portions of the property now within Independence Hall National Historic Site and to Car-

penters' Hall for the purpose of conducting visitors through such buildings and grounds and interpreting them to the public, that no changes or alterations shall be made in the property within the Independence Hall National Historic Site, including its buildings and grounds, or in Carpenters' Hall, except by mutual agreement between the Secretary of the Interior and the other parties to the contracts.

(June 28, 1948, ch. 687, § 2, 62 Stat. 1061.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 407*o*. Construction of buildings; acceptance of donations

The Secretary of the Interior, in his discretion, is authorized to construct upon a portion of the land described in section 407m of this title, or upon other land that may be donated for such purpose, which property he is authorized to accept, such offices and administration buildings as he may deem advisable, together with a suitable auditorium for the interpretation of the historical features of the national historical park. The Secretary of the Interior is also authorized to accept donations of property of national historical significance located in the city of Philadelphia which the Secretary may deem proper for administration as part of the Independence National Historical Park. Any property donated for the purposes of this section shall become a part of the park, following its establishment, upon acceptance by the United States of title to such donated property. The Secretary of the Interior is authorized to permit the American Philosophical Society, a nonprofit corporation, without cost to the United States, to construct, operate, and maintain in the park a building to be located on approximately the original site of historic Library Hall to house the library of the American Philosophical Society and any additions to said library, such permission to be granted the society pursuant to a lease, contract, or authorization without charge, on such terms and conditions as may be approved by the Secretary and accepted by the society, and for such length of time as the society shall continue to use the said building for the housing, display, and use of a library and scientific and historical collections: *Provided*, That the plans for the construction of the building and any additions thereto shall be approved by the Secretary of the Interior.

(June 28, 1948, ch. 687, § 3, 62 Stat. 1062; July 10, 1952, ch. 653, § 2, 66 Stat. 575.)

AMENDMENTS

1952—Act July 10, 1952, inserted last sentence.

ACQUISITION OF LAND ENCROACHED UPON BY DESHLER-MORRIS HOUSE

Pub. L. 85–702, Aug. 21, 1958, 72 Stat. 701, provided: ''That, for the purpose of placing in Government ownership a small strip of land encroached upon by the Deshler-Morris House, which was donated to the United States and accepted as a part of Independence National Historical Park pursuant to section 3 of the Act of June 28, 1948 (62 Stat. 1061) [this section], the Secretary of the Interior is authorized to acquire the following land:

''Beginning at a point on the southwesterly side of Germantown Avenue at the distance of 165 feet 7½ inches southeastwardly from the southeasterly side of School House Lane, in the 22d ward of the city of Philadelphia; thence extending south 41 degrees 50 minutes 46 seconds west 44 feet to a point; thence extending north 48 degrees 58 minutes 40 seconds west 6 feet 1 inch to a point; thence extending south 42 degrees 8 minutes 17 seconds west 106 feet 4 inches to a point of corner; thence extending south 48 degrees 58 minutes 40 seconds east 12 feet 1½ inches to a point of corner; thence extending north 41 degrees 50 minutes 46 seconds east 150 feet 3⅞ inches to the southwesterly side of Germantown Avenue; thence extending north 48 degrees 58 minutes 40 seconds west along the southwesterly side of Germantown Avenue 5 feet 6 inches to the first mentioned point and place of beginning.''

§ 407p. Establishment of advisory commission; composition, appointment, and duties

The Secretary of the Interior is authorized, in his discretion, to establish a suitable advisory commission of not to exceed eleven members. The members of the advisory commission shall be appointed by the Secretary of the Interior, with three members to be recommended by the Governor of Pennsylvania, three by the mayor of Philadelphia, and one each by the Carpenters' Company of Philadelphia and the Independence Hall Association.

The functions of the advisory commission shall be to render advice to the Secretary of the Interior, from time to time, upon matters which the Secretary of the Interior may refer to them for consideration.

(June 28, 1948, ch. 687, § 4, 62 Stat. 1062.)

TERMINATION OF ADVISORY COMMISSIONS

Advisory commissions in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 407q. Administration, protection, and development

The administration, protection, and development of the park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and sections 461 to 467 of this title.

(June 28, 1948, ch. 687, § 5, 62 Stat. 1062.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

DEVELOPMENT OF PARK; APPROPRIATION

Pub. L. 85–764, §§1, 2, Aug. 27, 1958, 72 Stat. 861, authorized the Secretary of the Interior to proceed with the development of Independence National Historical Park, the establishment of which was authorized by the Act of June 28, 1948 (62 Stat. 1061) [this subchapter], in accordance with plans to be approved by the Secretary, authorized to be appropriated for the development of said park pursuant to this Act the sum of $7,250,000, and provided that all funds authorized to be appropriated under this Act be expended by June 30, 1963.

§ 407r. Authorization of appropriations

For the purpose of acquiring the property described in section 407m of this title, there is authorized to be appropriated not to exceed the sum of $12,792,000. Funds appropriated pursuant to this subchapter shall be available for any expenses incidental to acquisition of property as prescribed by this subchapter, including the employment of the necessary services in the District of Columbia, and including to the extent deemed necessary by the Secretary of the Interior, the employment without regard to the civil-service laws of such experts and other officers and employees as are necessary to carry out the provisions of this subchapter efficiently and in the public interest.

(June 28, 1948, ch. 687, §6, 62 Stat. 1062; July 10, 1952, ch. 653, §3, 66 Stat. 575; Pub. L. 85–764, §3(b), Aug. 27, 1958, 72 Stat. 862; Pub. L. 91–293, June 25, 1970, 84 Stat. 333; Pub. L. 93–477, title I, §101(5), Oct. 26, 1974, 88 Stat. 1445.)

CODIFICATION

Provisions that authorized the employment of such experts and other officers and employees as are necessary to carry out this subchapter ''without regard to the Classification Act of 1923, as amended'', were omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exception contained in this section because of section 1106(b) which provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Pub. L. 89–554, Sept. 6, 1966, §8(a), 80 Stat. 632 (the first section of which enacted Title 5, Government Organization and Employees, into law). Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorized the Office of Personnel Management to determine the applicability to specific positions and employees.

AMENDMENTS

1974—Pub. L. 93–477 substituted ''$12,792,000'' for ''$11,200,000''.

1970—Pub. L. 91–293 substituted ''$11,200,000'' for ''$7,950,000''.

1958—Pub. L. 85–764 substituted ''$7,950,000'' for ''$7,700,000''.

1952—Act July 10, 1952, substituted ''$7,700,000'' for ''$4,435,000''.

§ 407s. Administration and operation of properties; use of funds; contracts

Following the acquisition by the Federal Government of properties pursuant to this subchapter and until such time as the buildings thereon are demolished or the properties and buildings thereon are devoted to purposes of the Independence National Historical Park as provided herein, the Secretary is authorized, with respect to the said properties, to administer, operate, manage, lease, and maintain such properties, and lease, demolish, or remove buildings, or space in buildings thereon, in such manner as he shall consider to be in the public interest. Any funds received from leasing the said properties, buildings thereon, or space in buildings thereon, shall be deposited to the credit of a special receipt account and expended for purposes of operating, maintaining, and managing the said properties and demolishing or removing the buildings thereon. The Secretary, in his discretion and notwithstanding other requirements of law, may exercise and carry out the functions authorized herein by entering into agreements or contracts with public or private agencies, corporations, or persons, upon such terms and conditions as he deems to be appropriate in carrying out the purposes of this subchapter.

(June 28, 1948, ch. 687, §7, as added Oct. 26, 1951, ch. 574, 65 Stat. 644.)

SUBCHAPTER LI–A—NATIONAL CONSTITUTION CENTER

§ 407aa. Findings and purposes

(a) Findings

Congress finds that:

(1) 1987 was the bicentennial of the signing of the United States Constitution;

(2) commemoration of the Constitution's bicentennial included various events conducted by the Federal Commission on the Bicentennial of the United States Constitution, and State and local bicentennial commissions;

(3) bicentennial activities included important educational and instructional programs to heighten public awareness of the Constitution and the democratic process;

(4) educational programs for the Constitution should continue after the bicentennial to document its profound impact on the political, economic and social development of this Nation, and in order to recognize those Americans instrumental in the history of the Constitution; and

(5) units of the National Park System preserve and interpret key historic sites that document the history of the origins, subsequent development, and effects of the United States Constitution on this Nation.

(b) Purposes

It is therefore the policy of the Congress to provide each of the following:

(1) the necessary resources to develop a national resource center to undertake, on an ongoing basis, educational programs on the Constitution;

(2) exhibits of, and an archives for, programs on or related to the recent bicentennial of the United States Constitution; and

(3) interpretation of the United States Constitution at those units of the National Park System particularly relevant to its history.

(Pub. L. 100–433, §2, Sept. 16, 1988, 102 Stat. 1640.)

SHORT TITLE

Section 1 of Pub. L. 100–433 provided that: ''This Act [enacting this subchapter] may be cited as the 'Constitution Heritage Act of 1988'.''

§ 407bb. Establishment

(a) In general

The Secretary of the Interior (hereafter in this subchapter referred to as the ''Secretary'') shall establish The National Constitution Center (hereafter in this subchapter referred to as the ''Center'') within or in close proximity to the Independence National Historical Park. The Center shall disseminate information about the United States Constitution on a nonpartisan basis in order to increase the awareness and understanding of the Constitution among the American people.

(b) Functions of Center

The functions of the Center shall include—

(1) serving as a center of exhibits and related materials on the history and contemporary significance of the Constitution;

(2) directing a national program of public education on the Constitution; issuing traveling exhibits, commissioning radio and television programs, furnishing materials for the schools, and providing other education services;

(3) functioning as an intellectual center, drawing both academics and practitioners to debate and refine constitutional issues and, at the same time, providing intellectual support for the Center's exhibits and public education program; and

(4) creating archives for programs on the bicentennial of the United States Constitution.

(Pub. L. 100–433, § 3, Sept. 16, 1988, 102 Stat. 1640.)

§ 407cc. Acquisition of site for and operation of Center

(a) Providing site

The Secretary through the General Services Administration, is authorized to provide, upon adequate reimbursement, a site, including necessary structures, for the Center by—

(1) using an existing structure or modifying an existing structure for use; or

(2) constructing a new structure to house the Center. The Secretary may acquire such land as is necessary to provide a site for the Center.

(b) Provision of funds to Center

The Secretary is authorized to make grants to, and enter into cooperative agreements, contracts or leases with the National Constitution Center, Philadelphia, Pennsylvania, which shall operate the Center as provided in this subchapter in order to carry out the purposes of this subchapter. Funds authorized to be appropriated under this subchapter may be made available to the National Constitution Center only to the extent that they are matched by such entity with funds from nonfederal sources.

(Pub. L. 100–433, § 4, Sept. 16, 1988, 102 Stat. 1641.)

§ 407dd. Directives to Secretary

(a) Independence National Historical Park and other units

The Secretary shall interpret the origins, subsequent development, and effects of the United States Constitution on this country at Independence National Historical Park and at such other units of the National Park System as are closely associated with the Constitution. The Secretary shall select not less than 12 units of the National Park System for such interpretation, including Independence National Historical Park.

(b) Memorial

The Secretary is authorized to establish and maintain at Independence National Historical Park an appropriate memorial to the United States Constitution as a key document in our Nation's history.

(c) Public materials

In coordination with the National Constitution Center, the Secretary shall develop and make available to the public interpretive and educational materials related to sites within the National Park System as referred to in subsection (a) of this section.

(d) Cooperative agreements

The Secretary may enter into cooperative agreements with the owners or administrators of historic sites closely associated with the Constitution, pursuant to which the Secretary may provide technical assistance in the preservation and interpretation of such sites.

(e) Research and education

The Secretary shall contract with the National Constitution Center and other qualified institutions of higher learning for research and other activities including the distribution of interpretive and educational materials as appropriate in order to carry out the provisions of this subchapter.

(f) Maintenance of historic integrity

Nothing in this section may be construed to alter or waive the requirement that the Secretary maintain the historic integrity of units of the National Park System, including compliance with section 470f of this title.

(Pub. L. 100–433, § 5, Sept. 16, 1988, 102 Stat. 1641.)

§ 407ee. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 100–433, § 6, Sept. 16, 1988, 102 Stat. 1642.)

SUBCHAPTER LII—ISLE ROYALE NATIONAL PARK

§ 408. Establishment; acquisition of land

When title to all alienated lands within Isle Royale in Lake Superior, Keweenaw County, Michigan, and immediately surrounding islands as shall be designated by the Secretary of the Interior in the exercise of his judgment and discretion as necessary or desirable for national-

park purposes, shall have been vested in the United States, and exclusive jurisdiction over the same shall have been ceded by the State of Michigan to the United States, said area shall be, and is established, dedicated, and set apart as a public park for the benefit and enjoyment of the people, and shall be known as the Isle Royale National Park: *Provided*, That the United States shall not purchase by appropriation of public moneys any lands within the aforesaid area, but such lands shall be secured by the United States only by public or private donation.

(Mar. 3, 1931, ch. 448, § 1, 46 Stat. 1514.)

§ 408a. Acceptance of title to lands

The Secretary of the Interior is authorized, in his discretion and upon submission of evidence of title satisfactory to him, to accept on behalf of the United States title to any lands located on said islands offered to the United States, without cost, as may be deemed by him necessary or desirable for national-park purposes.

(Mar. 3, 1931, ch. 448, § 2, 46 Stat. 1514.)

§ 408b. Administration, protection, and development

The administration, protection, and development of the aforesaid park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended: *Provided*, That the provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to this park.

(Mar. 3, 1931, ch. 448, § 3, 46 Stat. 1514.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act approved June, 10, 1920, known as the Federal Water Power Act,'' which was redesignated as the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 408c. Acceptance of title to lands; reservations; leases; rights-of-way and easements

The Secretary of the Interior is authorized in his discretion to accept title to lands tendered without cost to the United States within the area of the Isle Royale National Park, subject to leases entered into and granted as part consideration in connection with the purchase of said land for tender to the United States for park purposes, but not exceeding in length of term the life of the particular grantor or grantors: *Provided*, That said leases and the terms and conditions thereof shall have previously been submitted to and approved by said Secretary: *And provided further*, That he may lease upon such terms and conditions as he deems proper any lands within the aforesaid areas when such use shall not be deemed by him inconsistent with the purposes for which the lands were acquired on behalf of the United States, to persons, educational or religious institutions, private corporations, associations, and partnerships previously occupying such land for terms not exceeding the particular lifetime in the case of natural persons, and not exceeding twenty years in all other cases, which latter leases may be renewed in the discretion of said Secretary: *And provided further*, That the Secretary of the Interior may accept lands for these parks subject to reservations of rights of way and easements.

(Feb. 4, 1932, ch. 19, § 2, 47 Stat. 37.)

CODIFICATION

Provisions of act Feb. 4, 1932, § 2, relating to the Shenandoah National Park and the Great Smoky Mountains National Park, and to the Mammoth Cave National Park, are classified to sections 403e and 404d of this title.

§ 408d. Addition of lands purchased within boundaries for conservation or forestation purposes

All lands purchased from funds heretofore allocated and made available by Executive order, or otherwise, for the acquisition of lands for conservation or forestation purposes within the maximum boundaries of the Isle Royale National Park, as authorized by sections 408 to 408b of this title, are made a part of the said park as fully as if originally acquired for that purpose and the proviso at the end of section 408 of this title shall not be construed so as to prohibit the acquisition of lands in the park area with the aforesaid funds.

(June 20, 1938, ch. 531, 52 Stat. 785.)

§ 408e. Addition of lands; Passage Island

Subject to valid existing rights the following-described lands, in addition to the lands established as the Isle Royale National Park pursuant to sections 408 to 408b of this title, are made a part of the park:

(a) Passage Island, containing approximately one hundred and eighty-two acres, located in sections 3, 4, and 9, township 67 north, range 32 west, in Keweenaw County, Michigan: *Provided*, That the Secretary of the Navy shall retain control and jurisdiction over the following portions of the Island for lighthouse and boathouse purposes:

(1) All that part of Passage Island lying south of a true east and west line located four hundred and twenty-five feet true north of the center of the Passage Island Light containing approximately six and five-tenths acres.

(2) Beginning at the center of Passage Island Light, thence north thirty-three degrees fifty-two minutes east three thousand five hundred and fifteen feet to a point from which this description shall begin to measure, being the southwest corner of said boathouse site; thence north two hundred feet to a point being

the northwest corner of said site; thence east one hundred and seventy-five feet more or less to the harbor shore; thence southeasterly following the harbor shore to a point on the shore being a point on the south boundary of the boathouse site; thence two hundred feet more or less west to the point of beginning, containing approximately seventy-eight one-hundredths acre.

(3) A right-of-way between the sites described in the preceding subparagraphs, to be defined by the Secretary of the Navy within a reasonable length of time after March 6, 1942.

(b) Gull Islands, containing approximately six acres, located in section 19, township 68 north, range 31 west, in Keweenaw County, Michigan.

(Mar. 6, 1942, ch. 152, §1, 56 Stat. 138; July 27, 1942, ch. 526, 56 Stat. 722; Pub. L. 94–567, §4(a)(1), Oct. 20, 1976, 90 Stat. 2694.)

AMENDMENTS

1976—Pub. L. 94–567 designated existing provisions as par. (a), redesignated subpars. (a) to (c) as (1) to (3), respectively, and added par. (b).

1942—Act July 27, 1942, substituted ''Secretary of the Navy'' for ''Secretary of the Treasury''.

§ 408f. Former Siskiwit Islands Bird Reservation

The Siskiwit Islands Bird Reservation is abolished and shall after March 6, 1942, be a part of the Isle Royale National Park.

(Mar. 6, 1942, ch. 152, §2, 56 Stat. 138.)

§ 408g. Submerged lands surrounding islands

The boundaries of the Isle Royale National Park are hereby extended to include any submerged lands within the territorial jurisdiction of the United States within four and one-half miles of the shoreline of Isle Royale and the surrounding islands, including Passage Island and the Gull Islands, and the Secretary of the Interior is hereby authorized, in his discretion, to acquire title by donation to any such lands not now owned by the United States, the title to be satisfactory to him.

(Mar. 6, 1942, ch. 152, §3, 56 Stat. 138; Pub. L. 94–567, §4(a)(2), Oct. 20, 1976, 90 Stat. 2694.)

AMENDMENTS

1976—Pub. L. 94–567 inserted ''within the territorial jurisdiction of the United States'' after ''submerged lands'', ''including Passage Island and the Gull Islands'' after ''surrounding islands'', and struck out ''immediately'' after ''Isle Royale and the''.

§ 408h. Federally owned lands within park boundaries

All federally owned lands within the boundaries of the Isle Royale National Park are made a part of the park: *Provided*, That the Secretary of the Navy shall retain control and jurisdiction, for lighthouse purposes, over Menagerie Island, located in township 64 north, range 35 west, and an unsurveyed island known as Rock of Ages, situated in approximate sections 7 and 18, township 63 north, range 39 west, and also shall retain the right to maintain existing floating and shore aids to navigation and to establish and maintain additional aids to navigation within the established park area when so required by general navigation.

(Mar. 6, 1942, ch. 152, §4, 56 Stat. 138; July 27, 1942, ch. 526, 56 Stat. 722.)

AMENDMENTS

1942—Act July 27, 1942, substituted ''Secretary of the Navy'' for ''Secretary of the Treasury''.

§ 408i. Acceptance of territory ceded by Michigan; jurisdiction

Sole and exclusive jurisdiction over and within all the territory that is as of March 6, 1942 or may thereafter be included in that area in the State of Michigan set aside and dedicated for park purposes by the United States as the Isle Royale National Park is assumed by the United States, saving, however, to the State of Michigan the right to serve civil or criminal process within the limits of the aforesaid park in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed in said State outside of said park; and saving further to said State the right to tax persons and corporations, their franchises and property on the lands included in said park; and saving also to the persons residing in said park now, or hereafter, the right to vote at all elections held within the county in which they reside. All fugitives from justice taking refuge in said park shall be subject to the same laws as refugees from justice found in the State of Michigan.

(Mar. 6, 1942, ch. 150, §1, 56 Stat. 133.)

CODIFICATION

A provision accepting the act of the Michigan Legislature which ceded to the United States exclusive jurisdiction over the territory referred to in this section has been omitted as executed.

NOTICE TO MICHIGAN OF SECTIONS 408i TO 408q

Section 10 of act Mar. 6, 1942, which act affected sections 408i to 408q of this title, provided: ''That the Secretary of the Interior shall notify in writing the Governor of the State of Michigan of the passage and approval of this Act, and of the fact that the United States assumes police jurisdiction over said park as specified in said act of the State of Michigan.''

§ 408j. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section, act Mar. 6, 1942, ch. 150, §2, 56 Stat. 133, related to inclusion of park in a judicial district. See section 102 of Title 28, Judiciary and Judicial Procedure, and section 3231 of Title 18, Crimes and Criminal Procedure.

§ 408k. Hunting and fishing; general rules and regulations; protection of property; violation of statutes or rules; penalties

All hunting or the killing, wounding, or capturing at any time of any wild bird or animal, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury, is prohibited within the limits of said park, nor shall any fish be taken out of any of the waters of the said park, except at such seasons and at such times and in such manner as may be directed by the Secretary of the Interior. The Secretary of the Interior shall make and publish such general rules

and regulations as he may deem necessary and proper for the management and care of the park and for the protection of the property therein, especially for the preservation from injury or spoliation of all timber, mineral deposits, natural curiosities, or wonderful objects within said park, and for the protection of the animals and birds in the park from capture or destruction, and to prevent their being frightened or driven from the said park; and he shall make rules and regulations governing the taking of fish from the waters in the said park. Possession within said park of the dead bodies or any part thereof of any wild bird or animal shall be prima facie evidence that the person or persons having the same are guilty of violating this Act. Any person or persons, stage or express company, railway or other transportation company, who knows or has reason to believe that such wild birds, fish, or animals were taken or killed contrary to the provisions of this Act or the rules and regulations promulgated by the Secretary of the Interior, and who receives for transportation the dead bodies or any part thereof of the wild birds, fish, or animals so taken or killed, or who shall violate any of the other provisions of this Act, or the rules and regulations, with reference to the management and care of the said park, or for the protection of the property therein for the preservation from injury or spoliation of timber, mineral deposits, natural curiosities, or wonderful objects within said park, or for the protection of the animals, birds, and fish in said park, or who shall within said park commit any damage, injury, or spoliation to or upon any building, fence, sign, hedge, gate, guidepost, tree, wood, underwood, timber, garden, crops, vegetables, plants, land, springs, mineral deposits, natural curiosities, or other matter or thing growing or being thereon, or situated therein, shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all the costs of the proceedings.

(Mar. 6, 1942, ch. 150, § 3, 56 Stat. 133.)

REFERENCES IN TEXT

This Act, referred to in text, is act Mar. 6, 1942, which is classified to sections 408i to 408q of this title. For complete classification of this Act to the Code, see Tables.

§ 408*l*. Forfeiture of property used in hunting, fishing, etc.

All guns, traps, nets, seines, fishing tackle, teams, horses, or means of transportation of every nature or description used by any person or persons within the limits of said park when engaged in killing, trapping, ensnaring, taking, or capturing such wild birds, fish, or animals contrary to the provisions of this Act or the rules and regulations promulgated by the Secretary of the Interior, shall be forfeited to the United States and may be seized by the officers in said park and held pending prosecution of any person or persons arrested under the charge of violating the provisions of this Act, and upon conviction under this Act of such person or persons using said guns, traps, nets, seines, fishing tackle, teams, horses, or other means of transportation, such forfeiture shall be adjudicated as a penalty in addition to the other punishment prescribed in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior: *Provided*, That the forfeiture of teams, horses, or other means of transportation shall be in the discretion of the court.

(Mar. 6, 1942, ch. 150, § 4, 56 Stat. 134.)

REFERENCES IN TEXT

This Act, referred to in text, is act Mar. 6, 1942, which is classified to sections 408i to 408q of this title. For complete classification of this Act to the Code, see Tables.

§§ 408m to 408q. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 408m, acts Mar. 6, 1942, ch. 150, § 5, 56 Stat. 134; Apr. 21, 1948, ch. 223, § 1, 62 Stat. 196, related to appointment and jurisdiction of commissioner. See provisions covering United States magistrate judges in section 631 et seq. of Title 28, Judiciary and Judicial Procedure.

Section 408n, act Mar. 6, 1942, ch. 150, § 6, 56 Stat. 135, related to issuance of process. See sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and rules 4, 5(c), and 9 of Federal Rules of Criminal Procedure, Title 18, Appendix.

Section 408*o*, act Mar. 6, 1942, ch. 150, § 7, 56 Stat. 135, related to commissioner's [now magistrate judge's] salary. See section 634 of Title 28, Judiciary and Judicial Procedure.

Section 408p, act Mar. 6, 1942, ch. 150, § 8, 56 Stat. 135, related to fees, costs, and expenses against United States. See section 604 of Title 28.

Section 408q, act Mar. 6, 1942, ch. 150, § 9, 56 Stat. 135, related to disposition of fines and costs. See section 634 of Title 28.

SUBCHAPTER LIII—MORRISTOWN NATIONAL HISTORICAL PARK

§ 409. Establishment; acquisition of land

When title to all the lands, structures, and other property in the military camp-ground areas and other areas of Revolutionary War interest at and in the vicinity of Morristown, New Jersey, as shall be designated by the Secretary of the Interior, in the exercise of his discretion, as necessary or desirable for national-park purposes, shall have been vested in the United States, such areas shall be, and they are, established, dedicated, and set apart as a public park for the benefit and enjoyment of the people and shall be known as the Morristown National Historical Park: *Provided*, That the United States shall not purchase by appropriation of public moneys any lands within the aforesaid areas, but such lands shall be secured by the United States only by public or private donation: *And provided further*, That such areas shall include, at least, Jockey Hollow camp site, now owned by Lloyd W. Smith and the town of Morristown, Fort Nonsense, now owned by the town of Morristown, and the George Washington Headquarters, known as the Ford House, with its museum and other personal effects and its grounds, now owned by the Washington Association of New Jersey.

(Mar. 2, 1933, ch. 182, § 1, 47 Stat. 1421.)

§ 409a. Acceptance of title to lands

The Secretary of the Interior is authorized to accept donations of land, interest in land, buildings, structures, and other property within the boundaries of said park as determined and fixed hereunder and donations of funds for the purchase and/or maintenance thereof, the title and evidence of title to lands purchased to be satisfactory to the Secretary of the Interior: *Provided*, That the Secretary of the Interior is authorized, in his discretion, to accept on behalf of the United States other lands, easements, and buildings of Revolutionary War interest in Morris and adjacent counties in New Jersey as may be donated for the extension of the Morristown National Historical Park.

(Mar. 2, 1933, ch. 182, § 2, 47 Stat. 1421.)

§ 409b. George Washington headquarters; maintenance

After the acquisition of the museum and other personal effects of the said Washington Association by the United States, including such other manuscripts, books, paintings, and other relics of historical value pertaining to George Washington and the Revolutionary War as may be donated to the United States, such museum and library shall forever be maintained as a part of said Morristown National Historical Park.

(Mar. 2, 1933, ch. 182, § 3, 47 Stat. 1422.)

§ 409c. Board of advisers

The Washington Association of New Jersey, Lloyd W. Smith, and the town of Morristown having, by their patriotic and active interest in conserving for posterity these important historical areas and objects, the board of trustees and the executive committee of the said association, together with Mrs. Willard W. Cutler, its curator, and Clyde Potts, at present mayor of Morristown, shall hereafter act as a board of advisers in the maintenance of said park. The said association shall have the right to hold its meetings in said Ford House.

(Mar. 2, 1933, ch. 182, § 4, 47 Stat. 1422.)

§ 409d. Employees of Washington Association of New Jersey

Employees of the said Washington Association, who were, prior to March 2, 1933, charged with the care and development of the said Ford House and its museum and other effects, may, in the discretion of the Secretary of the Interior, hereafter be employed by the National Park Service in the administration, protection, and development of the said park without regard to the laws of the United States applicable to the employment and compensation of officers and employees of the United States.

(Mar. 2, 1933, ch. 182, § 5, 47 Stat. 1422.)

§ 409e. Administration, protection, and development

The administration, protection, and development of aforesaid national historical park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(Mar. 2, 1933, ch. 182, § 6, 47 Stat. 1422.)

CODIFICATION

The proviso formerly at end of this section limited appropriations for fiscal years 1934, 1935, and 1936, to $7,500.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 409f. Jurisdiction of New Jersey in civil, criminal and legislative matters retained; citizenship unaffected

Nothing in this subchapter shall be held to deprive the State of New Jersey, or any political subdivision thereof, of its civil and criminal jurisdiction in and over the areas included in said national historical park, nor shall this subchapter in any way impair or affect the rights of citizenship of any resident therein; and save and except as the consent of the State of New Jersey may be hereafter given, the legislative authority of said State in and over all areas included within such national historical park shall not be diminished or affected by the creation of said park, nor by any terms and provisions of this subchapter.

(Mar. 2, 1933, ch. 182, § 7, 47 Stat. 1422.)

§ 409g. Additional lands

In order to preserve for the benefit and inspiration of the public certain lands historically associated with the winter encampment of General George Washington's Continental Army at Jockey Hollow in 1779 and 1780, and to facilitate the administration and interpretation of the Morristown National Historical Park, the Secretary of the Interior is authorized to procure by purchase, donation, purchase with appropriated funds, or otherwise, not to exceed 615 acres of land and interests therein which 615 acres shall include Stark's Brigade campsite and other lands necessary for the proper administration and interpretation of the Morristown National Historical Park: *Provided*, That title to the property known as the Cross estate may not be accepted until the property is vacant.

(Pub. L. 88–601, § 1, Sept. 18, 1964, 78 Stat. 957; Pub. L. 93–477, title III, § 301(6), Oct. 26, 1974, 88 Stat. 1447; Pub. L. 94–578, title III, § 315, Oct. 21, 1976, 90 Stat. 2737; Pub. L. 102–118, § 1, Oct. 4, 1991, 105 Stat. 586.)

CODIFICATION

Section was not enacted as a part of act Mar. 2, 1933, ch. 182, 47 Stat. 1421, as amended, which comprises this subchapter.

AMENDMENTS

1991—Pub. L. 102–118 substituted ''615 acres'' for ''600 acres'' in two places.

1976—Pub. L. 94–578 substituted ''600 acres'' for ''465 acres'' in two places.

1974—Pub. L. 93–477 substituted ''465 acres'' for ''two hundred and eighty-one acres'' in two places and inserted proviso relating to property known as the Cross estate.

AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL LANDS

Section 3 of Pub. L. 88–601, as amended by Pub. L. 93–477, title I, § 101(8), Oct. 26, 1974, 88 Stat. 1445, provided that: ''There are authorized to be appropriated such sums, but not more than $2,111,000 for acquisition of lands and interests in land, as may be necessary to carry out the purposes of this Act [sections 409g and 409h of this title].''

§ 409h. Administration of additional lands

Lands acquired pursuant to this section and section 409g of this title, unless exchanged pursuant to section 409g of this title, shall constitute a part of the Morristown National Historical Park, and be administered in accordance with the laws and regulations applicable to such park.

(Pub. L. 88–601, § 2, Sept. 18, 1964, 78 Stat. 957.)

CODIFICATION

Section was not enacted as part of act Mar. 2, 1933, ch. 182, 47 Stat. 1421, as amended, which comprises this subchapter.

§ 409i. Acquisition of Warren Property for Morristown National Historical Park

(a) In addition to any other lands or interest authorized to be acquired for inclusion in Morristown National Historical Park, and notwithstanding the first proviso of section 409 of this title, the Secretary of the Interior may acquire by purchase, donation, purchase with appropriated funds, or otherwise, not to exceed 15 acres of land and interests therein comprising the property known as the Warren Property or Mount Kimble. The Secretary may expend such sums as may be necessary for such acquisition.

(b) Any lands or interests acquired under this section shall be included in and administered as part of the Morristown National Historical Park.

(Mar. 2, 1933, ch. 182, § 8, as added Pub. L. 105–355, title V, § 508, Nov. 6, 1998, 112 Stat. 3264.)

SUBCHAPTER LIV—EVERGLADES NATIONAL PARK

§ 410. Establishment; acquisition of land

When title to all the lands within boundaries to be determined by the Secretary of the Interior within the area of approximately two thousand square miles in the region of the Everglades of Dade, Monroe, and Collier Counties, in the State of Florida, recommended by said Secretary, in his report to Congress of December 3, 1930, pursuant to the Act of March 1, 1929 (45 Stat. 1443), shall have been vested in the United States, said lands shall be, and are, established, dedicated, and set apart as a public park for the benefit and enjoyment of the people and shall be known as the Everglades National Park: *Provided*, That the United States shall not purchase by appropriation of public moneys any land within the aforesaid area, but such lands shall be secured by the United States only by public or private donation.

(May 30, 1934, ch. 371, § 1, 48 Stat. 816.)

REFERENCES IN TEXT

Act of March 1, 1929 (45 Stat. 1443), referred to in text, is act Mar. 1, 1929, ch. 446, 45 Stat. 1443, which is not classified to the Code.

MICCOSUKEE RESERVED AREA

Pub. L. 105–313, Oct. 30, 1998, 112 Stat. 2964, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Miccosukee Reserved Area Act'.

''SEC. 2. FINDINGS.

''Congress finds the following:

''(1) Since 1964, the Miccosukee Tribe of Indians of Florida have lived and governed their own affairs on a strip of land on the northern edge of the Everglades National Park pursuant to permits from the National Park Service and other legal authority. The current permit expires in 2014.

''(2) Since the commencement of the Tribe's permitted use and occupancy of the Special Use Permit Area, the Tribe's membership has grown, as have the needs and desires of the Tribe and its members for modern housing, governmental and administrative facilities, schools and cultural amenities, and related structures.

''(3) The United States, the State of Florida, the Miccosukee Tribe, and the Seminole Tribe of Florida are participating in a major intergovernmental effort to restore the South Florida ecosystem, including the restoration of the environment of the Park.

''(4) The Special Use Permit Area is located within the northern boundary of the Park, which is critical to the protection and restoration of the Everglades, as well as to the cultural values of the Miccosukee Tribe.

''(5) The interests of both the Miccosukee Tribe and the United States would be enhanced by a further delineation of the rights and obligations of each with respect to the Special Use Permit Area and to the Park as a whole.

''(6) The amount and location of land allocated to the Tribe fulfills the purposes of the Park.

''(7) The use of the Miccosukee Reserved Area by the Miccosukee Tribe does not constitute an abandonment of the Park.

''SEC. 3. PURPOSES.

''The purposes of this Act are as follows:

''(1) To replace the special use permit with a legal framework under which the Tribe can live permanently and govern the Tribe's own affairs in a modern community within the Park.

''(2) To protect the Park outside the boundaries of the Miccosukee Reserved Area from adverse effects of structures or activities within that area, and to support restoration of the South Florida ecosystem, including restoring the environment of the Park.

''SEC. 4. DEFINITIONS.

''In this Act:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(2) EVERGLADES.—The term 'Everglades' means the areas within the Florida Water Conservation Areas, Everglades National Park, and Big Cypress National Preserve.

''(3) FEDERAL AGENCY.—The term 'Federal agency' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

''(4) MICCOSUKEE RESERVED AREA; MRA.—

''(A) IN GENERAL.—The term 'Miccosukee Reserved Area' or 'MRA' means, notwithstanding any other provision of law and subject to the limitations specified in section 6(d) of this Act, the portion of the Everglades National Park described in

subparagraph (B) that is depicted on the map entitled 'Miccosukee Reserved Area' numbered NPS–160/41,038, and dated September 30, 1998, copies of which shall be kept available for public inspection in the offices of the National Park Service, Department of the Interior, and shall be filed with appropriate officers of Miami-Dade County and the Miccosukee Tribe of Indians of Florida.

''(B) DESCRIPTION.—The description of the lands referred to in subparagraph (A) is as follows: 'Beginning at the western boundary of Everglades National Park at the west line of sec. 20, T. 54 S., R. 35 E., thence E. following the Northern boundary of said Park in T. 54 S., Rs. 35 and 36 E., to a point in sec. 19, T. 54 S., R. 36 E., 500 feet west of the existing road known as Seven Mile Road, thence 500 feet south from said point, thence west paralleling the Park boundary for 3,200 feet, thence south for 600 feet, thence west, paralleling the Park boundary to the west line of sec. 20, T. 54 S., R. 35 E., thence N. 1,100 feet to the point of beginning.'.

''(5) PARK.—The term 'Park' means the Everglades National Park, including any additions to that Park.

''(6) PERMIT.—The term 'permit', unless otherwise specified, means any federally issued permit, license, certificate of public convenience and necessity, or other permission of any kind.

''(7) SECRETARY.—The term 'Secretary' means the Secretary of the Interior or the designee of the Secretary.

''(8) SOUTH FLORIDA ECOSYSTEM.—The term 'South Florida ecosystem' has the meaning given that term in section 528(a)(4) of the Water Resources Development Act of 1996 (Public Law 104–303) [110 Stat. 3767].

''(9) SPECIAL USE PERMIT AREA.—The term 'special use permit area' means the area of 333.3 acres on the northern boundary of the Park reserved for the use, occupancy, and governance of the Tribe under a special use permit before the date of the enactment of this Act [Oct. 30, 1998].

''(10) TRIBE.—The term 'Tribe', unless otherwise specified, means the Miccosukee Tribe of Indians of Florida, a tribe of American Indians recognized by the United States and organized under section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), and recognized by the State of Florida pursuant to chapter 285, Florida Statutes.

''(11) TRIBAL.—The term 'tribal' means of or pertaining to the Miccosukee Tribe of Indians of Florida.

''(12) TRIBAL CHAIRMAN.—The term 'tribal chairman' means the duly elected chairman of the Miccosukee Tribe of Indians of Florida, or the designee of that chairman.

''SEC. 5. TRIBAL RIGHTS AND AUTHORITY ON THE MICCOSUKEE RESERVED AREA.

''(a) SPECIAL USE PERMIT TERMINATED.—

''(1) TERMINATION.—The special use permit dated February 1, 1973, issued by the Secretary to the Tribe, and any amendments to that permit, are terminated.

''(2) EXPANSION OF SPECIAL USE PERMIT AREA.—The geographical area contained in the former special use permit area referred to in paragraph (1) shall be expanded pursuant to this Act and known as the Miccosukee Reserved Area.

''(3) GOVERNANCE OF AFFAIRS IN MICCOSUKEE RESERVED AREA.—Subject to the provisions of this Act and other applicable Federal law, the Tribe shall govern its own affairs and otherwise make laws and apply those laws in the MRA as though the MRA were a Federal Indian reservation.

''(b) PERPETUAL USE AND OCCUPANCY.—The Tribe shall have the exclusive right to use and develop the MRA in perpetuity in a manner consistent with this Act for purposes of the administration, education, housing, and cultural activities of the Tribe, including commercial services necessary to support those purposes.

''(c) INDIAN COUNTRY STATUS.—The MRA shall be—

''(1) considered to be Indian country (as that term is defined in section 1151 of title 18, United States Code); and

''(2) treated as a federally recognized Indian reservation solely for purposes of—

''(A) determining the authority of the Tribe to govern its own affairs and otherwise make laws and apply those laws within the MRA; and

''(B) the eligibility of the Tribe and its members for any Federal health, education, employment, economic assistance, revenue sharing, or social welfare programs, or any other similar Federal program for which Indians are eligible because of their—

''(i) status as Indians; and

''(ii) residence on or near an Indian reservation.

''(d) EXCLUSIVE FEDERAL JURISDICTION PRESERVED.—The exclusive Federal legislative jurisdiction as applied to the MRA as in effect on the date of the enactment of this Act [Oct. 30, 1998] shall be preserved. The Act of August 15, 1953, 67 Stat. 588, chapter 505 [see Tables for classification] and the amendments made by that Act, including section 1162 of title 18, United States Code, as added by that Act and section 1360 of title 28, United States Code, as added by that Act, shall not apply with respect to the MRA.

''(e) OTHER RIGHTS PRESERVED.—Nothing in this Act shall affect any rights of the Tribe under Federal law, including the right to use other lands or waters within the Park for other purposes, including, fishing, boating, hiking, camping, cultural activities, or religious observances.

''SEC. 6. PROTECTION OF EVERGLADES NATIONAL PARK.

''(a) ENVIRONMENTAL PROTECTION AND ACCESS REQUIREMENTS.—

''(1) IN GENERAL.—The MRA shall remain within the boundaries of the Park and be a part of the Park in a manner consistent with this Act.

''(2) COMPLIANCE WITH APPLICABLE LAWS.—The Tribe shall be responsible for compliance with all applicable laws, except as otherwise provided by this Act.

''(3) PREVENTION OF DEGRADATION; ABATEMENT.—

''(A) PREVENTION OF DEGRADATION.—Pursuant to the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Tribe shall prevent and abate degradation of the quality of surface or groundwater that is released into other parts of the Park, as follows:

''(i) With respect to water entering the MRA which fails to meet applicable water quality standards approved by the Administrator under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), actions of the Tribe shall not further degrade water quality.

''(ii) With respect to water entering the MRA which meets applicable water quality standards approved by the Administrator under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Tribe shall not cause the water to fail to comply with applicable water quality standards.

''(B) PREVENTION AND ABATEMENT.—The Tribe shall prevent and abate disruption of the restoration or preservation of the quantity, timing, or distribution of surface or groundwater that would enter the MRA and flow, directly or indirectly, into other parts of the Park, but only to the extent that such disruption is caused by conditions, activities, or structures within the MRA.

''(C) PREVENTION OF SIGNIFICANT PROPAGATION OF EXOTIC PLANTS AND ANIMALS.—The Tribe shall prevent significant propagation of exotic plants or animals outside the MRA that may otherwise be caused by conditions, activities, or structures within the MRA.

''(D) PUBLIC ACCESS TO CERTAIN AREAS OF THE PARK.—The Tribe shall not impede public access to those areas of the Park outside the boundaries of the MRA, and to and from the Big Cypress National Preserve, except that the Tribe shall not be required to allow individuals who are not members of

the Tribe access to the MRA other than Federal employees, agents, officers, and officials (as provided in this Act).

''(E) PREVENTION OF SIGNIFICANT CUMULATIVE ADVERSE ENVIRONMENTAL IMPACTS.—

''(i) IN GENERAL.—The Tribe shall prevent and abate any significant cumulative adverse environmental impact on the Park outside the MRA resulting from development or other activities within the MRA.

''(ii) PROCEDURES.—Not later than 12 months after the date of the enactment of this Act [Oct. 30, 1998], the Tribe shall develop, publish, and implement procedures that shall ensure adequate public notice and opportunity to comment on major tribal actions within the MRA that may contribute to a significant cumulative adverse impact on the Everglades ecosystem.

''(iii) WRITTEN NOTICE.—The procedures in clause (ii) shall include timely written notice to the Secretary and consideration of the Secretary's comments.

''(F) WATER QUALITY STANDARDS.—

''(i) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act [Oct. 30, 1998], the Tribe shall adopt and comply with water quality standards within the MRA that are at least as protective as the water quality standards for the area encompassed by Everglades National Park approved by the Administrator under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

''(ii) TRIBAL WATER QUALITY STANDARDS.—The Tribe may not adopt water quality standards for the MRA under clause (i) that are more restrictive than the water quality standards adopted by the Tribe for contiguous reservation lands that are not within the Park.

''(iii) EFFECT OF FAILURE TO ADOPT OR PRESCRIBE STANDARDS.—In the event the Tribe fails to adopt water quality standards referred to in clause (i), the water quality standards applicable to the Everglades National Park, approved by the Administrator under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), shall be deemed to apply by operation of Federal law to the MRA until such time as the Tribe adopts water quality standards that meet the requirements of this subparagraph.

''(iv) MODIFICATION OF STANDARDS.—If, after the date of the enactment of this Act [Oct. 30, 1998], the standards referred to in clause (iii) are revised, not later than 1 year after those standards are revised, the Tribe shall make such revisions to water quality standards of the Tribe as are necessary to ensure that those water quality standards are at least as protective as the revised water quality standards approved by the Administrator.

''(v) EFFECT OF FAILURE TO MODIFY WATER QUALITY STANDARDS.—If the Tribe fails to revise water quality standards in accordance with clause (iv), the revised water quality standards applicable to the Everglades Park, approved by the Administrator under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) shall be deemed to apply by operation of Federal law to the MRA until such time as the Tribe adopts water quality standards that are at least as protective as the revised water quality standards approved by the Administrator.

''(G) NATURAL EASEMENTS.—The Tribe shall not engage in any construction, development, or improvement in any area that is designated as a natural easement.

''(b) HEIGHT RESTRICTIONS.—

''(1) RESTRICTIONS.—Except as provided in paragraphs (2) through (4), no structure constructed within the MRA shall exceed the height of 45 feet or exceed 2 stories, except that a structure within the Miccosukee Government Center, as shown on the map referred to in section 4(4), shall not exceed the height of 70 feet.

''(2) EXCEPTIONS.—The following types of structures are exempt from the restrictions of this section to the extent necessary for the health, safety, or welfare of the tribal members, and for the utility of the structures:

''(A) Water towers or standpipes.

''(B) Radio towers.

''(C) Utility lines.

''(3) WAIVER.—The Secretary may waive the restrictions of this subsection if the Secretary finds that the needs of the Tribe for the structure that is taller than structures allowed under the restrictions would outweigh the adverse effects to the Park or its visitors.

''(4) GRANDFATHER CLAUSE.—Any structure approved by the Secretary before the date of the enactment of this Act [Oct. 30, 1998], and for which construction commences not later than 12 months after the date of the enactment of this Act, shall not be subject to the provisions of this subsection.

''(5) MEASUREMENT.—The heights specified in this subsection shall be measured from mean sea level.

''(c) OTHER CONDITIONS.—

''(1) GAMING.—No class II or class III gaming (as those terms are defined in section 4(7) and (8) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(7) and (8)) shall be conducted within the MRA.

''(2) AVIATION.—

''(A) IN GENERAL.—No commercial aviation may be conducted from or to the MRA.

''(B) EMERGENCY OPERATORS.—Takeoffs and landings of aircraft shall be allowed for emergency operations and administrative use by the Tribe or the United States, including resource management and law enforcement.

''(C) STATE AGENCIES AND OFFICIALS.—The Tribe may permit the State of Florida, as agencies or municipalities of the State of Florida to provide for takeoffs or landings of aircraft on the MRA for emergency operations or administrative purposes.

''(3) VISUAL QUALITY.—

''(A) IN GENERAL.—In the planning, use, and development of the MRA by the Tribe, the Tribe shall consider the quality of the visual experience from the Shark River Valley visitor use area, including limitations on the height and locations of billboards or other commercial signs or other advertisements visible from the Shark Valley visitor center, tram road, or observation tower.

''(B) EXEMPTION OF MARKINGS.—The Tribe may exempt markings on a water tower or standpipe that merely identify the Tribe.

''(d) EASEMENTS AND RANGER STATION.—Notwithstanding any other provision of this Act, the following provisions shall apply:

''(1) NATURAL EASEMENTS.—

''(A) IN GENERAL.—The use and occupancy of the MRA by the Tribe shall be perpetually subject to natural easements on parcels of land that are—

''(i) bounded on the north and south by the boundaries of the MRA, specified in the legal description under section 4(4); and

''(ii) bounded on the east and west by boundaries that run perpendicular to the northern and southern boundaries of the MRA, as provided in the description under subparagraph (B).

''(B) DESCRIPTION.—The description referred to in subparagraph (A)(ii) is as follows:

''(i) Easement number 1, being 445 feet wide with western boundary 525 feet, and eastern boundary 970 feet, east of the western boundary of the MRA.

''(ii) Easement number 2, being 443 feet wide with western boundary 3,637 feet, and eastern boundary 4,080 feet, east of the western boundary of the MRA.

''(iii) Easement number 3, being 320 feet wide with western boundary 5,380 feet, and eastern

boundary 5,700 feet, east of the western boundary of the MRA.

''(iv) Easement number 4, being 290 feet wide with western boundary 6,020 feet, and eastern boundary 6,310 feet, east of the western boundary of the MRA.

''(v) Easement number 5, being 290 feet wide with western boundary 8,170 feet, and eastern boundary 8,460 feet, east of the western boundary of the MRA.

''(vi) Easement number 6, being 312 feet wide with western boundary 8,920 feet, and eastern boundary 9,232 feet, east of the western boundary of the MRA.

''(2) EXTENT OF EASEMENTS.—The aggregate extent of the east-west parcels of lands subject to easements under paragraph (1) shall not exceed 2,100 linear feet, as depicted on the map referred to in section 4(4).

''(3) USE OF EASEMENTS.—At the discretion of the Secretary, the Secretary may use the natural easements specified in paragraph (1) to fulfill a hydrological or other environmental objective of the Everglades National Park.

''(4) ADDITIONAL REQUIREMENTS.—In addition to providing for the easements specified in paragraph (1), the Tribe shall not impair or impede the continued function of the water control structures designated as 'S–12A' and 'S–12B', located north of the MRA on the Tamiami Trail and any existing water flow ways under the Old Tamiami Trail.

''(5) USE BY DEPARTMENT OF THE INTERIOR.—The Department of the Interior shall have a right, in perpetuity, to use and occupy, and to have vehicular and airboat access to, the Tamiami Ranger Station identified on the map referred to in section 4(4), except that the pad on which such station is constructed shall not be increased in size without the consent of the Tribe.

''SEC. 7. IMPLEMENTATION PROCESS.

''(a) GOVERNMENT-TO-GOVERNMENT AGREEMENTS.—The Secretary and the tribal chairman shall make reasonable, good faith efforts to implement the requirements of this Act. Those efforts may include government-to-government consultations, and the development of standards of performance and monitoring protocols.

''(b) FEDERAL MEDIATION AND CONCILIATION SERVICE.—If the Secretary and the tribal chairman concur that they cannot reach agreement on any significant issue relating to the implementation of the requirements of this Act, the Secretary and the tribal chairman may jointly request that the Federal Mediation and Conciliation Service assist them in reaching a satisfactory agreement.

''(c) 60-DAY TIME LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other nonbinding dispute resolution activities for a period not to exceed 60 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance, unless the Secretary and the tribal chairman agree to an extension of period of time.

''(d) OTHER RIGHTS PRESERVED.—The facilitated dispute resolution specified in this section shall not prejudice any right of the parties to—

''(1) commence an action in a court of the United States at any time; or

''(2) any other resolution process that is not prohibited by law.

''SEC. 8. MISCELLANEOUS.

''(a) NO GENERAL APPLICABILITY.—Nothing in this Act creates any right, interest, privilege, or immunity affecting any other Tribe or any other park or Federal lands.

''(b) NONINTERFERENCE WITH FEDERAL AGENTS.—

''(1) IN GENERAL.—Federal employees, agents, officers, and officials shall have a right of access to the MRA—

''(A) to monitor compliance with the provisions of this Act; and

''(B) for other purposes, as though it were a Federal Indian reservation.

''(2) STATUTORY CONSTRUCTION.—Nothing in this Act shall authorize the Tribe or members or agents of the Tribe to interfere with any Federal employee, agent, officer, or official in the performance of official duties (whether within or outside the boundaries of the MRA) except that nothing in this paragraph may prejudice any right under the Constitution of the United States.

''(c) FEDERAL PERMITS.—

''(1) IN GENERAL.—No Federal permit shall be issued to the Tribe for any activity or structure that would be inconsistent with this Act.

''(2) CONSULTATIONS.—Any Federal agency considering an application for a permit for construction or activities on the MRA shall consult with, and consider the advice, evidence, and recommendations of the Secretary before issuing a final decision.

''(3) RULE OF CONSTRUCTION.—Except as otherwise specifically provided in this Act, nothing in this Act supersedes any requirement of any other applicable Federal law.

''(d) VOLUNTEER PROGRAMS AND TRIBAL INVOLVEMENT.—The Secretary may establish programs that foster greater involvement by the Tribe with respect to the Park. Those efforts may include internships and volunteer programs with tribal schoolchildren and with adult tribal members.

''(e) SAVING ECOSYSTEM RESTORATION.—

''(1) IN GENERAL.—Nothing in this Act shall be construed to amend or prejudice the authority of the United States to design, construct, fund, operate, permit, remove, or degrade canals, levees, pumps, impoundments, wetlands, flow ways, or other facilities, structures, or systems, for the restoration or protection of the South Florida ecosystem pursuant to Federal laws.

''(2) USE OF NONEASEMENT LANDS.—

''(A) IN GENERAL.—The Secretary may use all or any part of the MRA lands to the extent necessary to restore or preserve the quality, quantity, timing, or distribution of surface or groundwater, if other reasonable alternative measures to achieve the same purpose are impractical.

''(B) SECRETARIAL AUTHORITY.—The Secretary may use lands referred to in subparagraph (A) either under an agreement with the tribal chairman or upon an order of the United States district court for the district in which the MRA is located, upon petition by the Secretary and finding by the court that—

''(i) the proposed actions of the Secretary are necessary; and

''(ii) other reasonable alternative measures are impractical.

''(3) COSTS.—

''(A) IN GENERAL.—In the event the Secretary exercises the authority granted the Secretary under paragraph (2), the United States shall be liable to the Tribe or the members of the Tribe for—

''(i) cost of modification, removal, relocation, or reconstruction of structures lawfully erected in good faith on the MRA; and

''(ii) loss of use of the affected land within the MRA.

''(B) PAYMENT OF COMPENSATION.—Any compensation paid under subparagraph (A) shall be paid as cash payments with respect to taking structures and other fixtures and in the form of rights to occupy similar land adjacent to the MRA with respect to taking land.

''(4) RULE OF CONSTRUCTION.—Paragraphs (2) and (3) shall not apply to a natural easement described in section 6(d)(1).

''(f) PARTIES HELD HARMLESS.—

''(1) UNITED STATES HELD HARMLESS.—

''(A) IN GENERAL.—Subject to subparagraph (B) with respect to any tribal member, tribal employee, tribal contractor, tribal enterprise, or any person

residing within the MRA, notwithstanding any other provision of law, the United States (including an officer, agent, or employee of the United States), shall not be liable for any action or failure to act by the Tribe (including an officer, employee, or member of the Tribe), including any failure to perform any of the obligations of the Tribe under this Act.

''(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to alter any liability or other obligation that the United States may have under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

''(2) TRIBE HELD HARMLESS.—Notwithstanding any other provision of law, the Tribe and the members of the Tribe shall not be liable for any injury, loss, damage, or harm that—

''(A) occurs with respect to the MRA; and

''(B) is caused by an action or failure to act by the United States, or the officer, agent, or employee of the United States (including the failure to perform any obligation of the United States under this Act).

''(g) COOPERATIVE AGREEMENTS.—Nothing in this Act shall alter the authority of the Secretary and the Tribe to enter into any cooperative agreement, including any agreement concerning law enforcement, emergency response, or resource management.

''(h) WATER RIGHTS.—Nothing in this Act shall enhance or diminish any water rights of the Tribe, or members of the Tribe, or the United States (with respect to the Park).

''(i) ENFORCEMENT.—

''(1) ACTIONS BROUGHT BY ATTORNEY GENERAL.—The Attorney General may bring a civil action in the United States district court for the district in which the MRA is located, to enjoin the Tribe from violating any provision of this Act.

''(2) ACTION BROUGHT BY TRIBE.—The Tribe may bring a civil action in the United States district court for the district in which the MRA is located to enjoin the United States from violating any provision of this Act.''

§ 410a. Acceptance of title to lands

The Secretary of the Interior is authorized, in his discretion and upon submission of evidence of title satisfactory to him, to accept on behalf of the United States, title to the lands referred to in section 410 of this title as may be deemed by him necessary or desirable for national-park purposes: *Provided*, That no land for said park shall be accepted until exclusive jurisdiction over the entire park area, in form satisfactory to the Secretary of the Interior, shall have been ceded by the State of Florida to the United States.

(May 30, 1934, ch. 371, § 2, 48 Stat. 816.)

§ 410b. Administration, protection, and development

The administration, protection, and development of the aforesaid park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended: *Provided*, That the provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to this park: *Provided further*, That nothing in sections 410 to 410c of this title shall be construed to lessen any existing rights of the Seminole Indians which are not in conflict with the purposes for which the Everglades National Park is created.

(May 30, 1934, ch. 371, § 3, 48 Stat. 816; Aug. 21, 1937, ch. 732, 50 Stat. 742.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act approved June 10, 1920, known as the Federal Water Power Act,'' and was redesignated as the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

AMENDMENTS

1937—Act Aug. 21, 1937, struck out proviso which prohibited expenditure of public moneys by the United States on the park within a period of five years.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 410c. Preservation of primitive condition

The said area or areas shall be permanently reserved as a wilderness, and no development of the project or plan for the entertainment of visitors shall be undertaken which will interfere with the preservation intact of the unique flora and fauna and the essential primitive natural conditions now prevailing in this area.

(May 30, 1934, ch. 371, § 4, 48 Stat. 817.)

§ 410d. Acceptance and protection of property pending establishment of park; publication of establishment order

(a) For the purpose of protecting the scenery, the wildlife, and other natural features of the region authorized to be established as the Everglades National Park by sections 410 to 410c of this title, notwithstanding any provision contained in said sections, the Secretary of the Interior is authorized in his discretion to accept on behalf of the United States any land, submerged land, or interests therein, subject to such reservations of oil, gas, or mineral rights as the Secretary may approve, within the area of approximately two thousand square miles recommended by said Secretary in his report to the Congress of December 3, 1930, pursuant to the Act of March 1, 1929 (45 Stat. 1443): *Provided*, That no general development of the property accepted pursuant to this section shall be undertaken nor shall the park be established until title satisfactory to the Secretary to a major portion of the lands, to be selected by him, within the aforesaid recommended area shall have been vested in the United States: *Provided further*, That until the property acquired by the United States pursuant to this section has been cleared of the aforesaid reservations, the Secretary in his discretion shall furnish such protection thereover as may be necessary for the accomplishment of the purposes of this section: *And provided further*, That in the event the park is not established within ten years from December 6, 1944, or upon the abandonment of the park at any time after its establishment, title to any lands accepted pursuant to the provisions of this section shall thereupon automatically revest in

the State of Florida or other grantors of such property to the United States.

(b) Upon the execution of the aforesaid provisions relating to establishment thereof, the Everglades National Park shall be established by order of the Secretary which shall be published in the Federal Register.

(Dec. 6, 1944, ch. 508, 58 Stat. 794.)

REFERENCES IN TEXT

Act of March 1, 1929 (45 Stat. 1443), referred to in subsec. (a), is act Mar. 1, 1929, ch. 446, 45 Stat. 1443, which is not classified to the Code.

§ 410e. Acquisition of additional lands; reservation of oil, gas, and mineral rights; reservation of royalty rights

In order to consolidate the Federal ownership of lands within the boundary set forth in deed numbered 19035 executed December 28, 1944, by the trustees of the Internal Improvement Fund of the State of Florida, and accepted by the Secretary of the Interior on March 14, 1947, for Everglades National Park purposes, the said Secretary is authorized, within the aforesaid boundary and with any funds made available for that purpose, to procure lands or interests therein by purchase or otherwise, subject, however, to the right of retention by owners of lands, interests in lands, interests in oil, gas, and mineral rights, or royalties, their heirs, executors, administrators, successors, or assigns (hereinafter referred to as ''owners''), at their election, of the following:

(1) The reservation until October 9, 1958, of all oil, gas, and mineral rights or interests, including the right to lease, explore for, produce, store, and remove oil, gas, and other minerals from such lands: *Provided*, That if on or before said date, oil, gas, or other minerals are being produced in commercial quantities anywhere within the boundary set forth in aforesaid deed numbered 19035, then in that event the time of the reservation as set forth in this subsection shall automatically extend for all owners, regardless of whether such production is from land in which such owners have an interest, for so long as oil, gas, or other minerals are produced in commercial quantities anywhere within said boundary. To exercise this reservation, the owners, their lessees, agents, employees, and assigns shall have such right of ingress and egress to and from such lands as may be necessary; and

(2) After the termination of the reserved rights of owners as set forth in subsection (1) of this section, a further reservation of the right to customary royalties, applying at the time of production, in any oil, gas, or other minerals which may be produced from such lands at any time before January 1, 1985, should production ever be authorized by the Federal Government or its assigns.

(Oct. 10, 1949, ch. 659, § 1, 63 Stat. 733.)

§ 410f. Limitation of Federal action during reservation period

Unless consented to by an owner retaining the reservation set forth in subsection (1) of section 410e of this title, no action shall be taken by the Federal Government during the period of such reservation to purchase, acquire, or otherwise terminate or interfere with any lease or leases which may be applicable to said owner's lands.

(Oct. 10, 1949, ch. 659, § 2, 63 Stat. 734.)

§ 410g. Rules and regulations governing reservation rights

Any reservations retained under the provisions of subsection (1) of section 410e of this title shall be exercised by the owners subject to reasonable rules and regulations which the Secretary may prescribe for the protection of the park, but which shall permit the reserved rights to be exercised so that the oil, gas, and minerals may be explored for, developed, extracted, and removed from the park area in accordance with sound conservation practices. All operations shall be carried on under such regulations as the Secretary may prescribe to protect the lands and areas for park purposes.

(Oct. 10, 1949, ch. 659, § 3, 63 Stat. 734.)

§ 410h. Ascertainment of owners' election regarding reservation rights

In any action caused by the Secretary of the Interior to be commenced for the acquisition of lands under the provisions hereof, reasonable diligence shall be exercised by him to ascertain whether owners elect to retain reservations in accordance with the provisions of sections 410e to 410h of this title. If, after the exercise of such reasonable diligence, owners cannot be located, or do not appear in judicial proceedings to acquire the lands, so that it may be ascertained whether they desire to retain reservations in accordance with the provisions hereof, the Secretary may acquire the fee simple title to their lands free and clear of reservations as set forth in subsections (1) and (2) of section 410e of this title.

(Oct. 10, 1949, ch. 659, § 4, 63 Stat. 734.)

§ 410i. Exterior boundaries; administration

Notwithstanding section 410 of this title, or any action taken pursuant to authority contained therein, the exterior boundary of Everglades National Park, Florida, is subject to the provisions of section 410*o* of this title, fixed to include the following described lands:

(1) Beginning at the intersection of the south right-of-way line of United States Highway Numbered 41, also known as the Tamiami Trail, and the west line of township 54 south, range 37 east, as shown on the Everglades National Park base map numbered NP–EVE–7109, revised August 10, 1949;

thence southerly along the west line of township 54 south, range 37 east, along the west line of Government lot 6 lying between township 54 south, and township 55 south, range 37 east, and along the west line of township 55 south, range 37 east, and township 56 south, range 37 east and along the west lines of sections 6, 7, and 18, township 57 south, range 37 east, to the southwest corner of section 18, said township and range;

thence easterly along the north line of section 19, 20, 21, 22, and 23 of said township and range to the northeast corner of section 23;

thence southerly along the east line of sections 23, 26, and 35 of said township and range to the southeast corner of said section 35;

thence easterly along the south line of section 36, of said township and range, to the southeast corner of said section 36;

thence southerly along the east line of sections 1, 12, 13, 24, 25, and 36, township 58 south, range 37 east, and along the west line of sections 6, 7, and 18, township 59 south, range 38 east, to the northwest corner of section 19, said township and range;

thence easterly along the north line of sections 19, 20, 21, 22, 23, and 24 of township 59 south, range 38 east, and sections 19 and 20 of township 59 south, range 39 east, to the southwest right-of-way line of United States Highway Numbered 1;

thence southeasterly along the southwest right-of-way line of United States Highway Numbered 1 to a point which is the northerly point of a tract of land conveyed by the trustees of the internal improvement fund, State of Florida, to John E. Ravlin, and others, by deed dated November 5, 1943, recorded in deed book G16, page 72, in Monroe County public records;

thence following along the westerly and southerly boundary of said tract to its point of intersection with a line parallel with and 200 feet northwesterly from the centerline of Intracoastal Waterway near the southern point of said Ravlin tract;

thence southwesterly, following a line parallel to the centerline of said Intracoastal Waterway and 200 feet northwesterly from said centerline to a point due north of Long Key Light, approximately longitude 80 degrees 50 minutes west, latitude 24 degrees 51 minutes north;

thence northwesterly, following a line at all times parallel to the centerline of said Intracoastal Waterway and 200 feet northeasterly from said centerline to a point opposite the Oxford Bank Light, approximately longitude 81 degrees 00 minutes 40 seconds west, latitude 24 degrees 59 minutes 10 seconds north;

thence northwesterly in a straight line to a point 3 miles due south of the most southernmost point of East Cape (Cape Sable);

thence due north in a straight line to a point 2 miles due south of the most southernmost point of East Cape (Cape Sable);

thence northwesterly in the Gulf of Mexico in a straight line to a point 2 miles due west of the southeast corner of fractional section 31 (Middle Cape), township 60 south, range 32 east;

thence northwesterly in a straight line to a point 2 miles due west of the most westernmost point of Northwest Cape (Cape Sable);

thence northeasterly in a straight line to a point 2 miles due west of the northwest corner of fractional section 6, township 59 south, range 32 east;

thence northwesterly in a straight line to a point 2 miles due west of the southwest corner of section 6, township 58 south, range 32 east;

thence northwesterly in a straight line to a point 2 miles due west of the northwest corner of fractional section 28, township 56 south, range 31 east;

thence northwesterly in a straight line to a point 3 miles due west of the southwest corner of fractional section 32, township 54 south, range 30 east;

thence northwesterly in a straight line to the southwest corner of section 28, township 53 south, range 28 east;

thence northerly along the west line of section 28, township 53 south, range 28 east, to the northwest corner of said section 28;

thence easterly along the north line of section 28, township 53 south, range 28 east, to the northeast corner of said section 28;

thence northerly along the west line of section 22, township 53 south, range 28 east, to the northwest corner of said section 22;

thence easterly along the north line of section 22, township 53 south, range 28 east, to the northeast corner of said section 22;

thence northerly along the west line of section 14, township 53 south, range 28 east, to the northwest corner of said section 14;

thence easterly along the north line of section 14, township 53 south, range 28 east, to the northeast corner of said section 14;

thence northerly along the west line of section 12, township 53 south, range 28 east, to the northwest corner of said section 12;

thence easterly along the north line of section 12, township 53 south, range 28 east, to the northeast corner of said section 12;

thence northerly along the west line of section 6, township 53 south, range 29 east, to the northwest corner of said section 6;

thence easterly along the north line of township 53 south, range 29 east, to the northeast corner of section 4, township 53 south, range 29 east;

thence southerly along the east lines of sections 4, 9, 16, and 21, township 53 south, range 29 east, to the southeast corner of the northeast quarter of said section 21;

thence easterly to the center of section 22, township 53 south, range 29 east;

thence southerly to the southeast corner of the southwest quarter of section 22, township 53 south, range 29 east;

thence easterly along the south line of section 22, township 53 south, range 29 east, to the southeast corner of said section 22;

thence southerly along the west line of section 26, township 53 south, range 29 east, to the southwest corner of the northwest quarter of said section 26;

thence easterly to the center of section 26, township 53 south, range 29 east;

thence southerly to the northwest corner of the southwest quarter of the southeast quarter of section 26, township 53 south, range 29 east;

thence easterly to the northeast corner of the southeast quarter of the southeast quarter of section 26, township 53 south, range 29 east;

thence southerly along the east line of section 26, township 53 south, range 29 east, to the southeast corner of said section 26;

thence easterly along the north line of section 36, township 53 south, range 29 east, to the northeast corner of the northwest quarter of said section 36;

thence southerly to the southwest corner of the northwest quarter of the southeast quarter of section 36, township 53 south, range 29 east;

thence easterly to the southeast corner of the northeast quarter of the southeast quarter of section 36, township 53 south, range 29 east;

thence continuing easterly to the southeast corner of the northwest quarter of the southwest quarter of section 31, township 53 south, range 30 east;

thence northerly to the northeast corner of the northwest quarter of the northwest quarter of section 31, township 53 south, range 30 east;

thence continuing northerly to the northeast corner of the southwest quarter of the southwest quarter of section 30, township 53 south, range 30 east;

thence westerly to the northeast corner of the southeast quarter of the southeast quarter of section 25, township 53 south, range 29 east;

thence northerly along the east lines of sections 25, 24, and 13, township 53 south, range 29 east, to the northeast corner of said section 13;

thence easterly along the north lines of sections 18, 17, 16, 15, 14, and 13, to the northeast corner of section 13, township 53 south, range 30 east;

thence southerly along the east lines of sections 13, 24, 25, and 36 to the southeast corner section 36, township 53 south, range 30 east;

thence easterly along the north lines of sections 6, 5, and 4 to the northeast corner of section 4, township 54 south, range 31 east;

thence southerly along the east line of section 4 to the southeast corner of section 4, township 54 south, range 31 east;

thence easterly along the north line of section 10 to the northeast corner of section 10, township 54 south, range 31 east;

thence southerly along the east line of section 10 to the southeast corner of section 10, township 54 south, range 31 east;

thence easterly along the north line of section 14 to the northeast corner of section 14, township 54 south, range 31 east;

thence southerly along the east line of section 14 to the southeast corner of section 14, township 54 south, range 31 east;

thence easterly along the north line of section 24 to the northeast corner of section 24, township 54 south, range 31 east;

thence southerly along the east lines of sections 24 and 25 to the southeast corner of section 25, township 54 south, range 31 east;

thence easterly along the north lines of sections 31, 32, and 33 to the northeast corner of section 33, township 54 south, range 32 east;

thence southerly along the east line of section 33 to the southeast corner of section 33, township 54 south, range 32 east;

thence easterly along the north line of section 3, to the northeast corner of section 3, township 55 south, range 32 east;

thence southerly along the east lines of sections 3 and 10, to the southeast corner of section 10, township 55 south, range 32 east;

thence easterly along the north line of section 14, to the northeast corner of section 14, township 55 south, range 32 east;

thence southerly along the east line of section 14, to the southeast corner of section 14, township 55 south, range 32 east;

thence easterly along the north line of section 24, to the northeast corner of section 24, township 55 south, range 32 east;

thence southerly along the east lines of sections 24 and 25 to the northeast corner of the southeast quarter of section 25, township 55 south, range 32 east;

thence easterly along the north line of the south half of section 30 to the northeast corner of the south half of section 30, township 55 south, range 33 east;

thence southerly along the east lines of sections 30 and 31 to the southeast corner of section 31, township 55 south, range 33 east;

thence southerly along the east line of section 6, to the southeast corner of section 6, township 56 south, range 33 east;

thence easterly along the north lines of sections 8, 9, 10, 11, and 12, to the northeast corner of section 12, township 56 south, range 33 east;

thence easterly along the north lines of sections 7, 8, 9, 10, 11, and 12, to the northeast corner of section 12, township 56 south, range 34 east;

thence easterly along the north line of section 7 to the northeast corner of section 7, township 56 south, range 35 east;

thence northerly along the west line of section 5 to the northwest corner of section 5, township 56 south, range 35 east;

thence northerly along the west lines of sections 32, 29, 20, 17, 8, and 5 to the northwest corner of section 5, township 55 south, range 35 east;

thence northerly along the west lines of sections 32, 29, and 20 to the intersection of the south right-of-way line of the Loop Road, township 54 south, range 35 east;

thence easterly along the south right-of-way line of the Loop Road and the south right-of-way line of United States Highway Numbered 41, also known as the Tamiami Trail, through sections 20, 21, 22, 23, and 24, township 54 south, range 35 east, to the intersection of the east township line, township 54 south, range 35 east;

thence easterly along the south right-of-way line of United States Highway Numbered 41, also known as the Tamiami Trail, through sections 19, 20, 21, 22, 23, and 24, township 54 south, range 36 east, to the east township line of township 54 south, range 36 east;

thence easterly along the south right-of-way line of United States Highway Numbered 41, also known as the Tamiami Trail, across township 36½ east to the intersection of the west line of township 54 south, range 37 east, the point of beginning;

(2) Land acquired by the United States of America for furthering administration and use of the park by deeds dated January 25, 1954 (2), and February 27, 1954 (2), recorded in the public records of Monroe County, Florida, book OR–3, pages 302 to 308, inclusive, and book OR–2, pages 378 to 381, inclusive, respectively; and accepted by the National Park Service on April 7, 1954 (2), and April 5, 1954 (2), respectively; and

(3) Not to exceed 35 acres, to be acquired by donation only, in or in the vicinity of Everglades City, Florida, which the Secretary of the Interior may find necessary and suitable for furthering administration and use of the park.

Land and water now in Federal ownership within said boundary shall continue to be administered as Everglades National Park; however, the land and water therein not in Federal ownership shall be administered as a part of the park only after being acquired as hereinafter provided.

(Pub. L. 85–482, § 1, July 2, 1958, 72 Stat. 280.)

§ 410j. Acquisition of land, water, and interests therein; consent of owner; reservations

The authority of the Secretary of the Interior to acquire land and water for Everglades National Park shall on and after July 2, 1958 be restricted to the area within the boundary described in section 410i of this title. Notwithstanding the proviso contained in section 410 of this title, or any other provision of law, the said Secretary is authorized on and after July 2, 1958, within the boundary fixed in sections 410i to 410p of this title and with any funds made available for that purpose, to acquire land, water, and interests therein by purchase or otherwise.

The authority to acquire land, water, and interests therein within the park boundary fixed in section 410i of this title but outside the area designated in sections 410e to 410h of this title, is further subject to the right of retention by the owners thereof, including owners of interests in oil, gas, and mineral rights or royalties, and by their heirs, executors, administrators, successors, and assigns, at their election of the following:

(1) The reservation until October 9, 1967, of all oil, gas, and mineral rights or interests, including the right to lease, explore for, produce, store, and remove oil, gas, and other minerals from such lands;

(2) In the event that on or before said date, oil, gas, or other minerals are being produced in commercial quantities anywhere within the boundary fixed in section 410i of this title but outside the area designated in sections 410e to 410h of this title, the time of the reservation provided in subsection (1) above shall automatically extend for all owners within said boundary and outside of said area regardless of whether such production is from land in which such owners have an interest, for so long as oil, gas, or other minerals are produced in commercial quantities anywhere within said boundary and outside of said area. To exercise this reservation, the owners, their lessees, agents, employees, and assigns shall have such right of ingress to and egress from such land and water as may be necessary; and

(3) After the termination of the reserved rights of owners as set forth in subsections (1) and (2) of this section, a further reservation of the right to customary royalties, applying at the time of production, in any oil, gas, or other minerals which may be produced from such land and water at any time before January 1, 1985, should production ever be authorized by the Federal Government or its assigns.

(Pub. L. 85–482, § 2, July 2, 1958, 72 Stat. 284; Pub. L. 91–428, § 2, Sept. 26, 1970, 84 Stat. 885.)

AMENDMENTS

1970—Pub. L. 91–428 struck out restriction against acquisition of certain described lands in Dade County without the consent of the owner so long as the land is used exclusively for agricultural purposes, including housing directly incident thereto, or is lying fallow or remains in its natural state.

§ 410k. Limitation of Federal action during reservation period

Unless consented to by an owner retaining the reservation set forth in subsections (1) and (2) of section 410j of this title, no action shall be taken by the Federal Government during the period of such reservation to purchase, acquire, or otherwise terminate or interfere with any lease or leases which may be applicable to said owner's land.

(Pub. L. 85–482, § 3, July 2, 1958, 72 Stat. 285.)

§ 410*l*. Rules and regulations governing reservation rights

Any reservations retained under the provisions of subsections (1) and (2) of section 410j of this title shall be exercised by the owners subject to reasonable rules and regulations which the Secretary may prescribe for the protection of the park, but which shall permit the reserved rights to be exercised so that the oil, gas, and minerals may be explored for, developed, extracted, and removed from the park area in accordance with sound conservation practices. All operations shall be carried on under such regulations as the Secretary may prescribe to protect the land and area for park purposes.

(Pub. L. 85–482, § 4, July 2, 1958, 72 Stat. 285.)

§ 410m. Ascertainment of owners' election regarding reservation rights

In acquiring any of the land or water within the area described in section 410i of this title the Secretary of the Interior shall exercise reasonable diligence to ascertain whether owners elect to retain reservations in accordance with the provisions of section 410j of this title. If, after the exercise of such reasonable diligence, owners cannot be located, or do not appear in judicial proceedings to acquire the land and water, so that it may be ascertained whether they desire to retain reservations in accordance with the provisions hereof, the Secretary may acquire the fee simple title to their land free and clear of reservations as set forth in subsections (1), (2), and (3) of section 410j of this title.

(Pub. L. 85–482, § 5, July 2, 1958, 72 Stat. 285.)

§ 410n. Drainage of lands; right-of-way

Unless the Secretary, after notice and opportunity for hearing, shall find that the same is seriously detrimental to the preservation and propagation of the flora or fauna of Everglades National Park, he shall permit such drainage through the natural waterways of the park and the construction, operation, and maintenance of artificial works for conducting water thereto as is required for the reclamation by the State of Florida or any political subdivision thereof or any drainage district organized under its laws of lands lying easterly of the eastern boundary of the park in township 54 south, ranges 31 and 32 east, township 55 south, ranges 32 and 33 east, and township 56 south, range 33 east. He shall

grant said permission, however, only after a master plan for the drainage of said lands has been approved by the State of Florida and after finding that the approved plan has engineering feasibility and is so designed as to minimize disruptions of the natural state of the park. Any right-of-way granted pursuant to this section shall be revocable upon breach of the conditions upon which it is granted, which conditions shall also be enforcible in any other appropriate manner, and the grantee shall be obligated to remove its improvements and to restore the land occupied by it to its previous condition in the event of such revocation.

(Pub. L. 85–482, § 6, July 2, 1958, 72 Stat. 286.)

§ 410*o*. Exchange of land, water, and interests therein

The Secretary of the Interior is authorized to transfer to the State of Florida by quitclaim deed the land, water, and interests therein, previously acquired by the United States of America for Everglades National Park and not included within such park by section 410i of this title, such transfer to be in exchange for the conveyance by the State of Florida to the United States of all land, water, and interests therein, owned by the State within the boundary of the park as described in section 410i of this title: *Provided*, That exclusion of any land, water, and interests therein from the park boundary pursuant to section 410i of this title shall be dependent upon the contemporaneous conveyance by the State to the United States of all land, water, and interests therein, owned by the State within the park boundary described in section 410i of this title, including land, water, and interests therein, heretofore conveyed to the State, for transfer to the United States for inclusion in Everglades National Park. The effectuation of the transfer provided for in this section shall be a condition precedent to the acquisition by the Secretary of any land, water, or interests therein held in private ownership within the boundaries set forth in section 410i of this title and outside the area designated in sections 410e to 410h of this title, except as such acquisition is by donation.

(Pub. L. 85–482, § 7, July 2, 1958, 72 Stat. 286.)

§ 410p. Authorization of appropriations

(a) There are authorized to be appropriated such sums, but not more than $22,000,000 in all, as are required for the acquisition of land, water, and interests therein held in private ownership within the boundaries of Everglades National Park as fixed by section 410i of this title and outside the area described in sections 410e to 410h of this title.

(b) In addition to the amount authorized in subsection (a) of this section there is authorized to be appropriated such amount, not in excess of $700,200, as is necessary for the acquisition, in accordance with the provisions of sections 410i to 410p of this title, of the following described privately owned lands:

Sections 3, 4, and 5; section 6, less the west half of the northwest quarter; sections 7, 8, 9, and 10; north half of section 15; and sections 17 and 18, all in township 59 south, range 37 east, Tallahassee meridian.

(Pub. L. 85–482, § 8, July 2, 1958, 72 Stat. 286; Pub. L. 91–88, Oct. 17, 1969, 83 Stat. 134; Pub. L. 91–428, § 1, Sept. 26, 1970, 84 Stat. 885.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–428 substituted ''$22,000,000'' for ''$2,000,000''.

1969—Pub. L. 91–88 designated existing provisions as subsec. (a) and added subsec. (b).

§ 410q. Exchange of lands

In order to further the administration and use of the Everglades National Park, the Secretary of the Interior is authorized to accept on behalf of the United States title to the following described parcels of land:

Those parts of tracts ''R'' and ''S'' which lie west of the right-of-way of State Road Numbered 29, and lots 1 to 9, inclusive, of block 40, in Everglades City, Florida, comprising 18.98, 1.32, and 3.17 acres, respectively, as shown on N.P.S. Map No. EVE–NP–E–1, dated June 23, 1959, of Everglades City, Florida; and not to exceed 15 acres of submerged lands lying adjacent to said tracts ''R'' and ''S'', if such additional lands are considered necessary by the Secretary of the Interior to permit full utilization of the lands above described;

and, in exchange for such parcels of land, to convey to the owner or owners thereof all right, title, and interest of the United States in and to the following described parcels of land within the Everglades National Park:

Tract ''L'' and block 34, comprising 9.09 and 1.65 acres, respectively, lying in or in the vicinity of Everglades City, Florida.

(Pub. L. 86–269, § 1, Sept. 14, 1959, 73 Stat. 553.)

§ 410r. Lands acquired as part of park; rules and regulations

All lands and submerged lands title to which is accepted by the Secretary of the Interior pursuant to the provisions of section 410q of this title shall, upon the acceptance of title thereto, become parts of the Everglades National Park and shall be subject to all laws and regulations applicable thereto.

(Pub. L. 86–269, § 2, Sept. 14, 1959, 73 Stat. 554.)

§ 410r–1. Acceptance of additional lands

The Secretary of the Interior is authorized to accept for Everglades National Park purposes, title to approximately 1,160 acres of land and submerged land lying within sections 25, 26, and 36 of township 53 south, range 29 east, and section 30, township 53 south, range 30 east, Tallahassee meridian, and being a portion of the land and submerged land donated and conveyed by three Collier deeds in 1951 and 1952 to the trustees of the internal improvement fund of the State of Florida for subsequent inclusion in the Everglades National Park. Such three Collier deeds are dated December 12, 1951, December 26, 1951, and March 21, 1952, and are recorded in deed book 22, page 240, deed book 22, page 244, and deed book 39, page 25, respectively, in Collier County, Florida. The aforesaid land and sub-

merged land shall be subject to the reservations set forth in the aforementioned Collier deeds for public utility easements and rights-of-way of the public with respect to Indian Key Channel, and also to a public right-of-way for the State highway or causeway from Everglades City to Chokoloskee Island.

(Pub. L. 86–681, § 1, Sept. 2, 1960, 74 Stat. 577.)

§ 410r–2. Lands acquired as part of park; rules and regulations

All lands and submerged lands title to which is accepted by the Secretary of the Interior pursuant to the provisions of section 410r–1 of this title shall, upon the acceptance of title thereto, become parts of the Everglades National Park and shall be subject to all laws and regulations applicable thereto.

(Pub. L. 86–681, § 2, Sept. 2, 1960, 74 Stat. 577.)

§ 410r–3. Acceptance of additional lands; lands acquired as part of park; reimbursement of revolving fund

The Secretary of the Interior is authorized to accept a transfer from the Administrator of the Farmers Home Administration, United States Department of Agriculture, which transfer is hereby authorized, of a tract of land consisting of approximately four thousand four hundred and twenty acres, lying within the boundaries of Everglades National Park, in Dade County, Florida, and more particularly described in the masters deed dated December 21, 1962, in the proceeding entitled ''The Connecticut Mutual Life Insurance Company against Toni Iori, a single man; Peter Iori and Helen Iori, his wife, d/b/a Iori Bros., et al.,'' No. 61C–3823, in the Circuit Court of the Eleventh Judicial Circuit of Florida, in and for Dade County, and recorded in the official records of said county in book 3494 at page 457, or in any modification of such masters deed, for administration as a part of the Everglades National Park. Such transfer will be made by the Farmers Home Administration, Department of Agriculture, to the Secretary of[1] Interior, only after the Farmers Home Administration's emergency credit revolving fund has been fully reimbursed for all cost incurred by it in connection with the aforesaid land. Such transfer may be accepted when title to the property is vested in the United States.

(Pub. L. 88–588, § 1, Sept. 12, 1964, 78 Stat. 933.)

§ 410r–4. Authorization of appropriations for reimbursement of revolving fund

There is hereby authorized to be appropriated to the emergency credit revolving fund, upon the transfer authorized in section 410r–3 of this title, such sum as may be necessary but not in excess of $452,000 to reimburse the fund for costs incurred by the Farmers Home Administration in connection with the aforesaid property.

(Pub. L. 88–588, § 2, Sept. 12, 1964, 78 Stat. 933.)

§ 410r–5. Findings, purposes, and definitions

(a) Findings

The Congress makes the following findings:

(1) The Everglades National Park is a nationally and internationally significant resource and the park has been adversely affected and continues to be adversely affected by external factors which have altered the ecosystem including the natural hydrologic conditions within the park.

(2) The existing boundary of Everglades National Park excludes the contiguous lands and waters of the Northeast Shark River Slough that are vital to long-term protection of the park and restoration of natural hydrologic conditions within the park.

(3) Wildlife resources and their associated habitats have been adversely impacted by the alteration of natural hydrologic conditions within the park, which has contributed to an overall decline in fishery resources and a 90 percent population loss of wading birds.

(4) Incorporation of the Northeast Shark River Slough and the East Everglades within the park will limit further losses suffered by the park due to habitat destruction outside the present park boundaries and will preserve valuable ecological resources for use and enjoyment by future generations.

(5) The State of Florida and certain of its political subdivisions or agencies have indicated a willingness to transfer approximately 35,000 acres of lands under their jurisdiction to the park in order to protect lands and water within the park, and may so transfer additional lands in the future.

(6) The State of Florida has proposed a joint Federal-State effort to protect Everglades National Park through the acquisition of additional lands.

(b) Purposes

The purposes of sections 410r–5 to 410r–8 of this title are to—

(1) increase the level of protection of the outstanding natural values of Everglades National Park and to enhance and restore the ecological values, natural hydrologic conditions, and public enjoyment of such area by adding the area commonly known as the Northeast Shark River Slough and the East Everglades to Everglades National Park; and

(2) assure that the park is managed in order to maintain the natural abundance, diversity, and ecological integrity of native plants and animals, as well as the behavior of native animals, as a part of their ecosystem.

(c) Definitions

As used in sections 410r–5 to 410r–8 of this title:

(1) The term ''Secretary'' means the Secretary of the Interior.

(2) The term ''addition'' means the approximately 107,600 acre area of the East Everglades area authorized to be added to Everglades National Park by sections 410r–5 to 410r–8 of this title.

(3) The term ''park'' means the area encompassing the existing boundary of Everglades National Park and the addition area described in paragraph (2).

(4) The term ''project'' means the Central and Southern Florida Project.

(Pub. L. 101–229, title I, § 101, Dec. 13, 1989, 103 Stat. 1946.)

[1] So in original. Probably should be ''of the''.

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–82, §1, Nov. 13, 1997, 111 Stat. 1540, provided that: ''This Act [amending section 410r–7 of this title, enacting provisions set out as a note under section 410r–7 of this title, and amending provisions listed in a table of Wilderness Areas set out under section 1132 of this title] may be cited as the 'Marjory Stoneman Douglas Wilderness and Ernest F. Coe Visitor Center Designation Act'.''

SHORT TITLE

Section 1 of Pub. L. 101–229 provided that: ''This Act [enacting this section and sections 410r–6 to 410r–8 of this title] may be cited as the 'Everglades National Park Protection and Expansion Act of 1989'.''

§ 410r–6. Boundary modification

(a) Area included

(1) In general

The park boundary is hereby modified to include approximately 107,600 acres as generally depicted on the map entitled ''Boundary Map, Everglades National Park Addition, Dade County, Florida'', numbered 160–20,013B and dated September 1989.

(2) Availability of map

The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(3) Acquisition of additional land

(A) In general

The Secretary may acquire from 1 or more willing sellers not more than 10 acres of land located outside the boundary of the park and adjacent to or near the East Everglades area of the park for the development of administrative, housing, maintenance, or other park purposes.

(B) Administration; applicable law

On acquisition of the land under subparagraph (A), the land shall be administered as part of the park in accordance with the laws (including regulations) applicable to the park.

(b) Boundary adjustment

The Secretary may from time to time make minor revisions in the boundaries of the park in accordance with section 460*l*–9(c) of this title. In exercising the boundary adjustment authority the Secretary shall ensure all actions will enhance resource preservation and shall not result in a net loss of acreage from the park.

(c) Acquisition

(1) Within the boundaries of the addition described in subsection (a) of this section, the Secretary may acquire lands and interests in land by donation, purchase with donated or appropriated funds, or exchange. For purposes of acquiring property by exchange, the Secretary may, notwithstanding any other provision of law, exchange the approximately one acre of Federal land known as ''Gilberts' Marina'' for non-Federal land of equal value located within the boundaries of the addition. Any lands or interests in land which are owned by the State of Florida or any political subdivision thereof, may be acquired only by donation.

(2) It is the express intent of Congress that acquisition within the boundaries of the addition shall be completed not later than 5 years after December 13, 1989. The authority provided by this section shall remain in effect until all acquisition is completed.

(d) Acquisition of tracts partially outside boundaries

When any tract of land is only partly within boundaries referred to in subsection (a) of this section, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs. Land so acquired outside of the boundaries may be exchanged by the Secretary for non-Federal lands within the boundaries, and any land so acquired and not utilized for exchange shall be reported to the General Services Administration for disposal under chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(e) Offers to sell

In exercising the authority to acquire property under sections 410r–5 to 410r–8 of this title, the Secretary shall give prompt and careful consideration to any offer made by any person owning property within the boundaries of the addition to sell such property, if such owner notifies the Secretary that the continued ownership of such property is causing, or would result in undue hardship.

(f) Authorization of appropriations

(1) Subject to the provisions of paragraph (2), there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 410r–5 to 410r–8 of this title.

(2) With respect to land acquisition within the addition, not more than 80 percent of the cost of such acquisition may be provided by the Federal Government. Not less than 20 percent of such cost shall be provided by the State of Florida.

(g) Assistance

Upon the request of the Governor of the State of Florida, the Secretary is authorized to provide technical assistance and personnel to assist in the acquisition of lands and waters within the Kissimmee River/Lake Okeechobee/Everglades Hydrologic Basin, including the Big Cypress Swamp, through the provision of Federal land acquisition personnel, practices, and procedures. The State of Florida shall reimburse the Secretary for such assistance in such amounts and at such time as agreed upon by the Secretary and the State. Notwithstanding any other provision of law, reimbursement received by the Secretary for such assistance shall be retained by the Secretary and shall be available without further appropriation for purposes of carrying out any authorized activity of the Secretary within the boundaries of the park.

(h) Land exchanges

(1) Definitions

In this subsection:

(A) Administrator

The term ''Administrator'' means the Administrator of General Services.

(B) County

The term ''County'' means Miami-Dade County, Florida.

(C) County land

The term ''County land'' means the 2 parcels of land owned by the County totaling approximately 152.93 acres that are designated as ''Tract 605–01'' and ''Tract 605–03''.

(D) District

The term ''District'' means the South Florida Water Management District.

(E) District land

The term ''District land'' means the approximately 1,054 acres of District land located in the Southern Glades Wildlife and Environmental Area and identified on the map as ''South Florida Water Management District Exchange Lands''.

(F) General Services Administration land

The term ''General Services Administration land'' means the approximately 595.28 acres of land designated as ''Site Alpha'' that is declared by the Department of the Navy to be excess land.

(G) Map

The term ''map'' means the map entitled ''Boundary Modification for C–111 Project, Everglades National Park'', numbered 160/80,007A, and dated May 18, 2004.

(H) National Park Service land

The term ''National Park Service land'' means the approximately 1,054 acres of land located in the Rocky Glades area of the park and identified on the map as ''NPS Exchange Lands''.

(2) Exchange of General Services Administration land and County land

The Administrator shall convey to the County fee title to the General Services Administration land in exchange for the conveyance by the County to the Secretary of fee title to the County land.

(3) Exchange of National Park Service land and District land

(A) In general

As soon as practicable after the completion of the exchange under paragraph (2), the Secretary shall convey to the District fee title to the National Park Service land in exchange for fee title to the District land.

(B) Use of National Park Service land

The National Park Service land conveyed to the District shall be used by the District for the purposes of the C–111 project, including restoration of the Everglades natural system.

(C) Boundary adjustment

On completion of the land exchange under subparagraph (A), the Secretary shall modify the boundary of the park to reflect the exchange of the National Park Service land and the District land.

(4) Availability of map

The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(Pub. L. 101–229, title I, § 102, Dec. 13, 1989, 103 Stat. 1947; Pub. L. 108–483, § 1, Dec. 23, 2004, 118 Stat. 3919.)

CODIFICATION

In subsec. (d), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949 (63 Stat. 377)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–483, § 1(1), designated first sentence as par. (1), designated second sentence as par. (2), inserted par. headings, and added par. (3).

Subsec. (h). Pub. L. 108–483, § 1(2), added subsec. (h).

§ 410r–7. Administration

(a) In general

The Secretary shall administer the areas within the addition in accordance with sections 410r–5 to 410r–8 of this title and other provisions of law applicable to the Everglades National Park, and with the provisions of law generally applicable to units of the national park system, including sections 1, 2, 3, and 4 of this title. In order to further preserve and protect Everglades National Park, the Secretary shall utilize such other statutory authority as may be available to him for the preservation of wildlife and natural resources as he deems necessary to carry out the purposes of sections 410r–5 to 410r–8 of this title.

(b) Protection of ecosystem

The Secretary shall manage the park in order to maintain the natural abundance, diversity, and ecological integrity of native plants and animals, as well as the behavior of native animals, as a part of their ecosystem.

(c) Protection of flora and fauna

The park shall be closed to the operation of airboats—

(1) except as provided in subsection (d) of this section; and

(2) except that within a limited capacity and on designated routes within the addition, owners of record of registered airboats in use within the addition as of January 1, 1989, shall be issued nontransferable, nonrenewable permits, for their individual lifetimes, to operate personally-owned airboats for noncommercial use in accordance with rules prescribed by the Secretary to determine ownership and registration, establish uses, permit conditions, and penalties, and to protect the biological resources of the area.

(d) Concession contracts

The Secretary is authorized to negotiate and enter into concession contracts with the owners of commercial airboat and tour facilities in existence on or before January 1, 1989, located within the addition for the provision of such services at their current locations under such rules and conditions as he may deem necessary for the accommodation of visitors and protection of biological resources of the area.

(e) Marjory Stoneman Douglas Visitor Center

The Secretary is authorized and directed to expedite the construction of the visitor center

facility at Everglades City, Florida, as described in the Development Concept Plan, Gulf Coast, dated February 1989, and upon construction shall designate the visitor center facility as ''The Marjory Stoneman Douglas Center'' in commemoration of the vision and leadership shown by Mrs. Douglas in the protection of the Everglades and Everglades National Park.

(f) Ernest F. Coe Visitor Center

On completion of construction of the main visitor center facility at the headquarters of Everglades National Park, the Secretary shall designate the visitor center facility as the ''Ernest F. Coe Visitor Center'', to commemorate the vision and leadership shown by Mr. Coe in the establishment and protection of Everglades National Park.

(Pub. L. 101–229, title I, §103, Dec. 13, 1989, 103 Stat. 1948; Pub. L. 105–82, §§4, 5, Nov. 13, 1997, 111 Stat. 1541, 1542.)

AMENDMENTS

1997—Subsec. (c)(2). Pub. L. 105–82, §5(1), substituted ''personally-owned'' for ''personnally-owned''.

Subsec. (e). Pub. L. 105–82, §5(2), substituted ''Marjory Stoneman Douglas Visitor Center'' for ''Visitor Center'' in heading.

Subsec. (f). Pub. L. 105–82, §4, added subsec. (f).

FINDINGS AND PURPOSE OF 1997 AMENDMENT

Section 2 of Pub. L. 105–82 provided that:

''(a) FINDINGS.—Congress finds that—

''(1)(A) Marjory Stoneman Douglas, through her book, 'The Everglades: River of Grass' (published in 1947), defined the Everglades for the people of the United States and the world;

''(B) Mrs. Douglas's book was the first to stimulate widespread understanding of the Everglades ecosystem and ultimately served to awaken the desire of the people of the United States to restore the ecosystem's health;

''(C) in her 107th year, Mrs. Douglas is the sole surviving member of the original group of people who devoted decades of selfless effort to establish the Everglades National Park;

''(D) when the water supply and ecology of the Everglades, both within and outside the park, became threatened by drainage and development, Mrs. Douglas dedicated the balance of her life to the defense of the Everglades through extraordinary personal effort and by inspiring countless other people to take action;

''(E) for these and many other accomplishments, the President awarded Mrs. Douglas the Medal of Freedom on Earth Day, 1994; and

''(2)(A) Ernest F. Coe (1886–1951) was a leader in the creation of Everglades National Park;

''(B) Mr. Coe organized the Tropic Everglades National Park Association in 1928 and was widely regarded as the father of Everglades National Park;

''(C) as a landscape architect, Mr. Coe's vision for the park recognized the need to protect south Florida's diverse wildlife and habitats for future generations;

''(D) Mr. Coe's original park proposal included lands and waters subsequently protected within the Everglades National Park, the Big Cypress National Preserve, and the Florida Keys National Marine Sanctuary; and

''(E)(i) Mr. Coe's leadership, selfless devotion, and commitment to achieving his vision culminated in the authorization of the Everglades National Park by Congress in 1934;

''(ii) after authorization of the park, Mr. Coe fought tirelessly and lobbied strenuously for establishment of the park, finally realizing his dream in 1947; and

''(iii) Mr. Coe accomplished much of the work described in this paragraph at his own expense, which dramatically demonstrated his commitment to establishment of Everglades National Park.

''(b) PURPOSE.—It is the purpose of this Act [see Short Title of 1997 Amendment note set out under section 410r–5 of this title] to commemorate the vision, leadership, and enduring contributions of Marjory Stoneman Douglas and Ernest F. Coe to the protection of the Everglades and the establishment of Everglades National Park.''

§ 410r–8. Modification of certain water projects

(a) Improved water deliveries

(1) Upon completion of a final report by the Chief of the Army Corps of Engineers, the Secretary of the Army, in consultation with the Secretary, is authorized and directed to construct modifications to the Central and Southern Florida Project to improve water deliveries into the park and shall, to the extent practicable, take steps to restore the natural hydrological conditions within the park.

(2) Such modifications shall be based upon the findings of the Secretary's experimental program authorized in section 1302 of the 1984 Supplemental Appropriations Act (97 Stat. 1292) and generally as set forth in a General Design Memorandum to be prepared by the Jacksonville District entitled ''Modified Water Deliveries to Everglades National Park''. The Draft of such Memorandum and the Final Memorandum, as prepared by the Jacksonville District, shall be submitted as promptly as practicable to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the United States Senate and the Committee on Natural Resources and the Committee on Public Works and Transportation of the United States House of Representatives.

(3) Construction of project modifications authorized in this subsection and flood protection systems authorized in subsections (c) and (d) of this section are justified by the environmental benefits to be derived by the Everglades ecosystem in general and by the park in particular and shall not require further economic justification.

(4) Nothing in this section shall be construed to limit the operation of project facilities to achieve their design objectives, as set forth in the Congressional authorization and any modifications thereof.

(b) Determination of adverse effect

(1) Upon completion of the Final Memorandum referred to in subsection (a) of this section, the Secretary of the Army, in consultation with the South Florida Water Management District, shall make a determination as to whether the residential area within the East Everglades known as the ''Eight and One-Half Square Mile Area'' or adjacent agricultural areas, all as generally depicted on the map referred to in section 410r–6(a) of this title, will be adversely affected by project modifications authorized in subsection (a) of this section.

(2) In determining whether adjacent agricultural areas will be adversely affected, the Secretary of the Army shall consider the impact of any flood protection system proposed to be implemented pursuant to subsection (c) of this section on such agricultural areas.

(c) Flood protection; Eight and One-Half Square Mile Area

If the Secretary of the Army makes a determination pursuant to subsection (b) of this section that the ''Eight and One-Half Square Mile Area'' will be adversely affected, the Secretary of the Army is authorized and directed to construct a flood protection system for that portion of presently developed land within such area.

(d) Flood protection; adjacent agricultural area

(1) If the Secretary of the Army determines pursuant to subsection (b) of this section that an adjacent agricultural area will be adversely affected, the Secretary of the Army is authorized and directed to construct a flood protection system for such area. Such determination shall be based on a finding by the Secretary of the Army that:

(A) the adverse effect will be attributable solely to a project modification authorized in subsection (a) of this section or to a flood protection system implemented pursuant to subsection (c) of this section, or both; and

(B) such modification or flood protection system will result in a substantial reduction in the economic utility of such area based on its present agricultural use.

(2) No project modification authorized in subsection (a) of this section which the Secretary of the Army determines will cause an adverse effect pursuant to subsection (b) of this section shall be made operational until the Secretary of the Army has implemented measures to prevent such adverse effect on the adjacent agricultural area: *Provided*, That the Secretary of the Army or the South Florida Water Management District may operate the modification to the extent that the Secretary of the Army determines that such operation will not adversely affect the adjacent agricultural area: *Provided further*, That any preventive measure shall be implemented in a manner that presents the least prospect of harm to the natural resources of the park.

(3) Any flood protection system implemented by the Secretary of the Army pursuant to this subsection shall be required only to provide for flood protection for present agricultural uses within such adjacent agricultural area.

(4) The acquisition of land authorized in section 410r–6 of this title shall not be considered a project modification.

(e) Periodic review

(1) Not later than 18 months after the completion of the project modifications authorized in subsection (a) of this section, and periodically thereafter, the Secretary of the Army shall review the determination of adverse effect for adjacent agricultural areas.

(2) In conducting such review, the Secretary of the Army shall consult with all affected parties, including, but not limited to, the Secretary, the South Florida Water Management District and agricultural users within adjacent agricultural areas.

(3) If, on the basis of such review, the Secretary of the Army determines that an adjacent agricultural area has been, or will be adversely affected, the Secretary of the Army is authorized and directed, in accordance with the provisions of subsection (d) of this section, to construct a flood protection system for such area: *Provided*, That the provisions of subsection (d)(2) of this section shall be applicable only to the extent that the Secretary, in consultation with the Secretary of the Army, determines that the park will not be adversely affected.

(4) The provisions of this subsection shall only be applicable if the Secretary of the Army has previously made a determination that such adjacent agricultural area will not be adversely affected.

(f) Current canal operating levels

Nothing in this section shall be construed to require or prohibit the Secretary of the Army or the South Florida Water Management District from maintaining the water level within any project canal below the maximum authorized operating level as of December 13, 1989.

(g) No limitation on other claims

If the Secretary of the Army makes a determination of no adverse effect pursuant to subsection (b) of this section, such determination shall not be considered as a limitation or prohibition against any available legal remedy which may otherwise be available.

(h) Coordination

The Secretary and the Secretary of the Army shall coordinate the construction program authorized under this section and the land acquisition program authorized in section 410r–6 of this title in such a manner as will permit both to proceed concurrently and as will avoid unreasonable interference with property interests prior to the acquisition of such interests by the Secretary under section 410r–6 of this title.

(i) West Dade Wellfield

No Federal license, permit, approval, right-of-way or assistance shall be granted or issued with respect to the West Dade Wellfield (to be located in the Bird Drive Drainage Basin, as identified in the Comprehensive Development Master Plan for Dade County, Florida) until the Secretary, the Governor of the State of Florida, the South Florida Water Management District and Dade County, Florida enter into an agreement providing that the South Florida Water Management District's water use permit for the wellfield, if granted, must include the following limiting conditions: (1) the wellfield's peak pumpage rate shall not exceed 140,000,000 gallons per day; (2) the permit shall include reasonable, enforceable measures to limit demand on the wellfield in times of water shortage; and (3) if, during times of water shortage, the District fails to limit demand on the wellfield pursuant to (2), or if the District limits demand on the wellfield pursuant to (2), but the Secretary certifies that operation of the wellfield is still causing significant adverse impacts on the resources of the Park, the Governor shall require the South Florida Water Management District to take necessary actions to alleviate the adverse impact, including, but not limited to, temporary reductions in the pumpage from the wellfield.

(j) Protection of natural values

The Secretary of the Army is directed in analysis, design and engineering associated with

the development of a general design memorandum for works and operations in the ''C–111 basin'' area of the East Everglades, to take all measures which are feasible and consistent with the purposes of the project to protect natural values associated with Everglades National Park. Upon completion of a general design memorandum for the area, the Secretary shall prepare and transmit a report to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the United States Senate and the Committee on Natural Resources and the Committee on Public Works and Transportation of the United States House of Representatives on the status of the natural resources of the C–111 basin and functionally related lands.

(k) Acquisition of additional lands

(1) Notwithstanding any other provision of sections 410r–5 to 410r–8 of this title, the Secretary is authorized to use funds appropriated pursuant to sections 410r–5 to 410r–8 of this title, including any available funds appropriated to the National Park Service for construction in the Department of the Interior and Related Agencies Appropriations Acts for fiscal years 1991 through 1994 for project modifications by the Army Corps of Engineers, in such amounts as determined by the Secretary, to provide Federal assistance to the State of Florida (including political subdivisions of the State) for acquisition of lands described in paragraph (4).

(2) With respect to any lands acquired pursuant to this subsection, the Secretary may provide not more than 25 percent of the total cost of such acquisition.

(3) All funds made available pursuant to this subsection shall be transferred to the State of Florida or a political subdivision of the State, subject to an agreement that any lands acquired with such funds will be managed in perpetuity for the restoration of natural flows to the park or Florida Bay.

(4) The lands referred to in paragraph (1) are those lands or interests therein adjacent to, or affecting the restoration of natural water flows to, the park or Florida Bay which are located east of the park and known as the Frog Pond, Rocky Glades Agricultural Area, and the Eight-and-One-Half Square-Mile Area.

(Pub. L. 101–229, title I, §104, Dec. 13, 1989, 103 Stat. 1949; Pub. L. 103–219, Mar. 9, 1994, 108 Stat. 98; Pub. L. 103–437, §6(d)(9), Nov. 2, 1994, 108 Stat. 4584.)

REFERENCES IN TEXT

Section 1302 of the 1984 Supplemental Appropriations Act, referred to in subsec. (a)(2), is section 1302 of Pub. L. 98–181, title I, Nov. 30, 1983, 97 Stat. 1292, which is not classified to the Code.

The Department of the Interior and Related Agencies Appropriations Acts for fiscal years 1991 through 1994, referred to in subsec. (k)(1), are, respectively, Pub. L. 101–512, Nov. 5, 1990, 104 Stat. 1915, Pub. L. 102–154, Nov. 13, 1991, 105 Stat. 990, Pub. L. 102–381, Oct. 5, 1992, 106 Stat. 1374, and Pub. L. 103–138, Nov. 11, 1993, 107 Stat. 1379. For complete classification of these Acts to the Code, see Tables.

AMENDMENTS

1994—Subsecs. (a)(2), (j). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Senate and the Committee on''.

Subsec. (k). Pub. L. 103–219 added subsec. (k).

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2.

§ 410r–9. Boundary revision

(a) Inclusion of Tarpon Basin property

(1) Definitions

In this subsection:

(A) Hurricane Hole

The term ''Hurricane Hole'' means the natural salt-water body of water within the Duesenbury Tracts of the eastern parcel of the Tarpon Basin boundary adjustment and accessed by Duesenbury Creek.

(B) Map

The term ''map'' means the map entitled ''Proposed Tarpon Basin Boundary Revision'', numbered 160/80,012, and dated May 2008.

(C) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(D) Tarpon Basin property

The term ''Tarpon Basin property'' means land that—

(i) is comprised of approximately 600 acres of land and water surrounding Hurricane Hole, as generally depicted on the map; and

(ii) is located in South Key Largo.

(2) Boundary revision

(A) In general

The boundary of the Everglades National Park is adjusted to include the Tarpon Basin property.

(B) Acquisition authority

The Secretary may acquire from willing sellers by donation, purchase with donated or appropriated funds, or exchange, land, water, or interests in land and water, within the area depicted on the map, to be added to Everglades National Park.

(C) Availability of map

The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(D) Administration

Land added to Everglades National Park by this section shall be administered as part of Everglades National Park in accordance with applicable laws (including regulations).

(3) Hurricane Hole

The Secretary may allow use of Hurricane Hole by sailing vessels during emergencies, subject to such terms and conditions as the Secretary determines to be necessary.

(4) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(b) Land exchanges

(1) Definitions

In this subsection:

(A) Company

The term ''Company'' means Florida Power & Light Company.

(B) Federal Land

The term ''Federal Land'' means the parcels of land that are—

(i) owned by the United States;

(ii) administered by the Secretary;

(iii) located within the National Park; and

(iv) generally depicted on the map as—

(I) Tract A, which is adjacent to the Tamiami Trail, U.S. Rt. 41; and

(II) Tract B, which is located on the eastern boundary of the National Park.

(C) Map

The term ''map'' means the map prepared by the National Park Service, entitled ''Proposed Land Exchanges, Everglades National Park'', numbered 160/60411A, and dated September 2008.

(D) National Park

The term ''National Park'' means the Everglades National Park located in the State.

(E) Non-Federal land

The term ''non-Federal land'' means the land in the State that—

(i) is owned by the State, the specific area and location of which shall be determined by the State; or

(ii)(I) is owned by the Company;

(II) comprises approximately 320 acres; and

(III) is located within the East Everglades Acquisition Area, as generally depicted on the map as ''Tract D''.

(F) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(G) State

The term ''State'' means the State of Florida and political subdivisions of the State, including the South Florida Water Management District.

(2) Land exchange with State

(A) In general

Subject to the provisions of this paragraph, if the State offers to convey to the Secretary all right, title, and interest of the State in and to specific parcels of non-Federal land, and the offer is acceptable to the Secretary, the Secretary may, subject to valid existing rights, accept the offer and convey to the State all right, title, and interest of the United States in and to the Federal land generally depicted on the map as ''Tract A''.

(B) Conditions

The land exchange under subparagraph (A) shall be subject to such terms and conditions as the Secretary may require.

(C) Valuation

(i) In general

The values of the land involved in the land exchange under subparagraph (A) shall be equal.

(ii) Equalization

If the values of the land are not equal, the values may be equalized by donation, payment using donated or appropriated funds, or the conveyance of additional parcels of land.

(D) Appraisals

Before the exchange of land under subparagraph (A), appraisals for the Federal and non-Federal land shall be conducted in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(E) Technical corrections

Subject to the agreement of the State, the Secretary may make minor corrections to correct technical and clerical errors in the legal descriptions of the Federal and non-Federal land and minor adjustments to the boundaries of the Federal and non-Federal land.

(F) Administration of land acquired by Secretary

Land acquired by the Secretary under subparagraph (A) shall—

(i) become part of the National Park; and

(ii) be administered in accordance with the laws applicable to the National Park System.

(3) Land exchange with company

(A) In general

Subject to the provisions of this paragraph, if the Company offers to convey to the Secretary all right, title, and interest of the Company in and to the non-Federal land generally depicted on the map as ''Tract D'', and the offer is acceptable to the Secretary, the Secretary may, subject to valid existing rights, accept the offer and convey to the Company all right, title, and interest of the United States in and to the Federal land generally depicted on the map as ''Tract B'', along with a perpetual easement on a corridor of land contiguous to Tract B for the purpose of vegetation management.

(B) Conditions

The land exchange under subparagraph (A) shall be subject to such terms and conditions as the Secretary may require.

(C) Valuation

(i) In general

The values of the land involved in the land exchange under subparagraph (A) shall be equal unless the non-Federal land is of higher value than the Federal land.

(ii) Equalization

If the values of the land are not equal, the values may be equalized by donation,

payment using donated or appropriated funds, or the conveyance of additional parcels of land.

(D) Appraisal

Before the exchange of land under subparagraph (A), appraisals for the Federal and non-Federal land shall be conducted in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(E) Technical corrections

Subject to the agreement of the Company, the Secretary may make minor corrections to correct technical and clerical errors in the legal descriptions of the Federal and non-Federal land and minor adjustments to the boundaries of the Federal and non-Federal land.

(F) Administration of land acquired by Secretary

Land acquired by the Secretary under subparagraph (A) shall—

(i) become part of the National Park; and

(ii) be administered in accordance with the laws applicable to the National Park System.

(4) Map

The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(5) Boundary revision

On completion of the land exchanges authorized by this subsection, the Secretary shall adjust the boundary of the National Park accordingly, including removing the land conveyed out of Federal ownership.

(Pub. L. 111–11, title VII, §7107, Mar. 30, 2009, 123 Stat. 1193.)

SUBCHAPTER LV—MINUTE MAN NATIONAL HISTORICAL PARK

§ 410s. Establishment

(a) In general

In order to preserve for the benefit of the American people certain historic structures and properties of outstanding national significance associated with the opening of the War of the American Revolution, Minute Man National Historical Park is authorized to be established in the Commonwealth of Massachusetts. The purposes of the park shall include the preservation and interpretation of (1) the historic landscape along the road between Lexington and Concord, (2) sites associated with the causes and consequences of the American Revolution, and (3) the Wayside on Lexington Road in Concord, the home of Nathaniel Hawthorne, Bronson Alcott, Louisa May Alcott, and Margaret Sidney, whose works illustrate the nineteenth century American literary renaissance.

(b) Boundaries

The park shall be comprised of the lands depicted on the map entitled ''Boundary Map NARO–406–20015C'', dated June 1991.

(Pub. L. 86–321, §1, Sept. 21, 1959, 73 Stat. 591; Pub. L. 91–548, §1, Dec. 14, 1970, 84 Stat. 1436; Pub. L. 102–488, §2[(1)], Oct. 24, 1992, 106 Stat. 3135.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–488 substituted ''The purposes of the park shall include the preservation and interpretation of (1) the historic landscape along the road between Lexington and Concord, (2) sites associated with the causes and consequences of the American Revolution, and (3) the Wayside on Lexington Road in Concord, the home of Nathaniel Hawthorne, Bronson Alcott, Louisa May Alcott, and Margaret Sidney, whose works illustrate the nineteenth century American literary renaissance.'' for ''The park shall comprise not more than seven hundred and fifty acres as may be designated by the Secretary of the Interior from within the area beginning at Fiske Hill and thence lying along Massachusetts Avenue, Marrett Road and Marrett Street in the town of Lexington, along Nelson Road, Virginia Road, Old Bedford Road, and North Great Road or State Route 2–A in the town of Lincoln, and along Lexington Road, Monument Street, Liberty Street and Lowell Road in the town of Concord to and including the North Bridge and properties on both sides of the Concord River in the vicinity of the North Bridge.''

Subsec. (b). Pub. L. 102–488 added subsec. (b) and struck out former subsec. (b) which read as follows: ''Notwithstanding the description set forth in subsection (a) of this section, if the Secretary should determine that the relocation of Highway 2 by the Commonwealth of Massachusetts makes it desirable to establish new boundaries in common with, contiguous or adjacent to the proposed right-of-way for that highway, he is authorized to relocate such boundaries accordingly, and shall give notice thereof by publication of a map or other suitable description in the Federal Register: *Provided*, That any net acreage increase by reason of the boundary revision and land exchanges with the Commonwealth shall not be included in calculations of acreage in regard to the limitation set forth in subsection (a) of this section, but shall be in addition thereto.''

Subsec. (c). Pub. L. 102–488 struck out subsec. (c) which read as follows: ''Any lands added to the Minute Man National Historical Park, pursuant to subsection (b) of this section may be acquired only if such acquisition can be accomplished without cost for land acquisition and, when so acquired, shall be subject to all laws, rules, and regulations applicable thereto.''

1970—Pub. L. 91–548 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

SHORT TITLE OF 1992 AMENDMENT

Section 1 of Pub. L. 102–488 provided that: ''This Act [enacting sections 410x–1 and 410x–2 of this title and amending this section and sections 410t and 410x of this title] may be cited as the 'Minute Man National Historical Park Amendments of 1991'.''

§ 410t. Acquisition and transfer of lands; private owner's retention of right of use and occupancy

(a) Acquisition of lands; administrative jurisdiction of Federal lands; notice in Federal Register

The Secretary of the Interior is authorized to acquire by donation or with donated funds, or with funds authorized to be appropriated, lands and interests in lands within the area designated for the park. Administrative jurisdiction of Federal lands lying within the area designated for the park shall, with the concurrence of the Federal agency involved, be transferred to the Sec-

retary of the Interior for administration as a part of the park.

The park shall be established as Minute Man National Historical Park by notice in the Federal Register when the Secretary of the Interior finds that sufficient lands within the designated area have been acquired to warrant such establishment.

(b) Transfer of lands

The Secretary of the Interior shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Defense the two parcels currently administered by the Secretary of the Interior, as depicted on the map dated April 1990 and numbered NARO–406/80805. The Secretary of Defense shall transfer to the administrative jurisdiction of the Secretary of the Interior, without reimbursement, for inclusion in the Minute Man National Historical Park the 4 parcels now administered by the Secretary of Defense, as depicted on the maps dated April 1990 and numbered NARO–406/80804 and NARO–406/80805.

(c) Exceptions and limitations to authorization to acquire lands; condemnation

The Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, lands or interests in lands within the areas included within the boundaries of the park pursuant to amendments made by the Minute Man National Historical Park Amendments of 1991 (hereinafter referred to as ''1991 additions''), except that—

(1) lands, and interests in lands, within the 1991 additions which are owned by the State of Massachusetts or any political subdivision thereof, may be acquired only by donation, and

(2) lands, and interests in lands, within the 1991 additions which are used for noncommercial residential purposes as of July 1, 1991, may be acquired only with the consent of the owner thereof unless the property is being developed, or is proposed to be developed, in a manner which the Secretary determines to be detrimental to the scenic, historical, cultural, and other values of the park.

Nothing in paragraph (2) shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances for any lands within the 1991 additions. Not later than 6 months after October 24, 1992, and after notice and opportunity for public comment, the Secretary of the Interior shall publish specific guidelines for making determinations under paragraph (2). Such guidelines shall provide for (A) written notice to the Secretary prior to commencement of any proposed development on the lands referred to in paragraph (2), (B) written notice by the Secretary to the owner of such lands of any determination proposed to be made under paragraph (2), and (C) a reasonable opportunity for the owner to comment on such proposed determination.

(d) Private owner's retention of right of use and occupancy

(1) Any individual who owns private property acquired by the Secretary under subsection (c) of this section may, on the date of such acquisition and as a condition of such acquisition, retain for himself and his successors or assigns, a right of use and occupancy of the property for a definite term of not more than 25 years from the date of acquisition by the Secretary or a term ending at the death of the owner or the owner's spouse, whichever is later. The owner shall elect the term to be reserved.

(2) Unless the property is wholly or partially donated, the Secretary shall pay to the owner reserving a right of use and occupancy under this subsection the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner.

(3) For purposes of applying this subsection, ownership shall be determined as of July 1, 1991.

(Pub. L. 86–321, § 2, Sept. 21, 1959, 73 Stat. 591; Pub. L. 102–488, § 2(3)[(2)], Oct. 24, 1992, 106 Stat. 3135.)

REFERENCES IN TEXT

The Minute Man National Historical Park Amendments of 1991, referred to in subsec. (c), is Pub. L. 102–488, Oct. 24, 1992, 106 Stat. 3135, which enacted sections 410x–1 and 410x–2 of this title, amended this section and sections 410s and 410x of this title, and enacted provisions set out as a note under section 410s of this title. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 410s of this title and Tables.

AMENDMENTS

1992—Pub. L. 102–488 designated existing provisions as subsec. (a) and added subsecs. (b) to (d).

BOUNDARY ADJUSTMENT

Pub. L. 111–11, title VII, § 7106, Mar. 30, 2009, 123 Stat. 1193, provided that:

''(a) DEFINITIONS.—In this section:

''(1) MAP.—The term 'map' means the map entitled 'Minute Man National Historical Park Proposed Boundary', numbered 406/81001, and dated July 2007.

''(2) PARK.—The term 'Park' means the Minute Man National Historical Park in the State of Massachusetts.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(b) MINUTE MAN NATIONAL HISTORICAL PARK.—

''(1) BOUNDARY ADJUSTMENT.—

''(A) IN GENERAL.—The boundary of the Park is modified to include the area generally depicted on the map.

''(B) AVAILABILITY OF MAP.—The map shall be on file and available for inspection in the appropriate offices of the National Park Service.

''(2) ACQUISITION OF LAND.—The Secretary may acquire the land or an interest in the land described in paragraph (1)(A) by—

''(A) purchase from willing sellers with donated or appropriated funds;

''(B) donation; or

''(C) exchange.

''(3) ADMINISTRATION OF LAND.—The Secretary shall administer the land added to the Park under paragraph (1)(A) in accordance with applicable laws (including regulations).

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''

§ 410u. Preservation of historic sites

To provide further for the preservation and interpretation of historic sites, structures, and

properties lying along the entire route or routes where significant events occurred on the 18th and 19th of April 1775, in the cities of Boston, Cambridge, Medford, and Somerville, and the towns of Arlington, Brookline, Concord, Lexington, and Lincoln, including the area generally described in section 410s of this title as lying between Fiske Hill and the North Bridge, the Secretary of the Interior is authorized, in accordance with the purposes of this subchapter, to enter into cooperative agreements with the Commonwealth of Massachusetts, political subdivisions thereof, corporations, associations, or individuals, and to erect and maintain tablets or markers, in accordance with provisions contained in sections 461 to 467 of this title.

(Pub. L. 86–321, § 3, Sept. 21, 1959, 73 Stat. 591.)

§ 410v. Appointment and composition of advisory commission

The Secretary of the Interior is authorized to appoint an advisory commission of five members to advise him on the development of Minute Man National Historical Park, to consist of one member to be recommended by the selectmen of each of the towns of Concord, Lexington, and Lincoln, Massachusetts; one member to be recommended by the Governor of the Commonwealth of Massachusetts; and one member to be designated by the Secretary.

(Pub. L. 86–321, § 4, Sept. 21, 1959, 73 Stat. 591.)

TERMINATION OF ADVISORY COMMISSIONS

Advisory commissions in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 410w. Administration, protection, and development

When established pursuant to this subchapter, the park shall be administered, protected, and developed by the Secretary of the Interior in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and sections 461 to 467 of this title.

(Pub. L. 86–321, § 5, Sept. 21, 1959, 73 Stat. 592.)

§ 410x. Authorization of appropriations

There are authorized to be appropriated such sums, but not more than $13,900,000, as may be needed for the acquisition of lands and interests in lands and for development of the Minute Man National Historical Park, of which not more than $10,900,000 shall be used for acquisition purposes, and in addition thereto, such sums as may be needed for its administration and maintenance. For fiscal years after fiscal year 1991, there is authorized to be appropriated an additional $15,000,000 for development and an additional $7,300,000 for acquisition of lands and interests in lands.

(Pub. L. 86–321, § 6, Sept. 21, 1959, 73 Stat. 592; Pub. L. 91–548, § 2, Dec. 14, 1970, 84 Stat. 1437; Pub. L. 102–488, § 2(4)[(3)], Oct. 24, 1992, 106 Stat. 3136.)

AMENDMENTS

1992—Pub. L. 102–488 inserted at end ''For fiscal years after fiscal year 1991, there is authorized to be appropriated an additional $15,000,000 for development and an additional $7,300,000 for acquisition of lands and interests in lands.''

1970—Pub. L. 91–548 substituted ''$13,900,000'' for ''$8,000,000'' and ''$10,900,000'' for ''$5,000,000''.

§ 410x–1. Residential occupancy

(a) Offer

In the case of each individual who—

(1) sold residential property between 1966 and 1968 to the United States for purposes of the park, and

(2) continues to occupy such residential property pursuant to a residential special use permit as of October 24, 1992,

the Secretary of the Interior shall offer to extend such residential special use permit for a term ending on the death of such individual or such individual's spouse, whichever is later.

(b) Terms and conditions

Any residential special use permit extended pursuant to subsection (a) of this section shall—

(1) permit the reasonable residential use and occupancy of the property by the individual to whom such permit is granted and such individual's spouse; and

(2) be subject to such terms and conditions as the Secretary may prescribe (including termination) to ensure that the permit does not unreasonably diminish the values of the park.

The extension of any such residential special use permit shall be conditional upon the payment by the individual holding such permit of an annual fee in the same amount as required as of July 1, 1991.

(Pub. L. 86–321, § 7, as added Pub. L. 102–488, § 2(5)[(4)], Oct. 24, 1992, 106 Stat. 3136.)

§ 410x–2. "Residential property" defined

As used in this subchapter, the term ''residential property'' means a single-family dwelling, the construction of which began before July 1, 1991, together with such land on which the dwelling and appurtenant buildings are located as is in the same ownership as such dwelling and as the Secretary designates as reasonably necessary for the owner's continued use and occupancy of the dwelling.

(Pub. L. 86–321, § 8, as added Pub. L. 102–488, § 2(5)[(4)], Oct. 24, 1992, 106 Stat. 3137.)

SUBCHAPTER LVI—CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK

§ 410y. Definitions

As used in this subchapter—

(a) ''Park'' means the Chesapeake and Ohio Canal National Historical Park, as herein established.

(b) ''Canal'' means the Chesapeake and Ohio Canal, including its towpath.

(c) ''Secretary'' means the Secretary of the Interior.

(d) ''State'' means any State, and includes the District of Columbia.

(e) ''Local government'' means any political subdivision of a State, including a county, municipality, city, town, township, or a school or other special district created pursuant to State law.

(f) ''Person'' means any individual, partnership, corporation, private nonprofit organization, or club.

(g) ''Landowner'' means any person, local government, or State owning, or on reasonable grounds professing to own, lands or interests in lands adjacent to or in the vicinity of the park.

(Pub. L. 91–664, § 2, Jan. 8, 1971, 84 Stat. 1978.)

SHORT TITLE

Section 1 of Pub. L. 91–664, Jan. 8, 1971, 84 Stat. 1978, provided: ''That this Act [enacting this subchapter] shall be known as the 'Chesapeake and Ohio Canal Development Act'.''

DEDICATION TO JUSTICE WILLIAM O. DOUGLAS

Pub. L. 95–11, Mar. 15, 1977, 91 Stat. 21, provided: ''That the canal and towpath of the Chesapeake and Ohio Canal National Historical Park are hereby dedicated to Justice William O. Douglas in grateful recognition of his long outstanding service as a prominent American conservationist and for his efforts to preserve and protect the canal and towpath from development.

''SEC. 2. In order to carry out the provisions of this Act, the Secretary of the Interior is authorized and directed to provide such identification by signs, including, but not limited to changes in existing signs, materials, maps, markers, interpretive programs or other means as will appropriately inform the public of the contributions of Justice William O. Douglas.

''SEC. 3. The Secretary of the Interior is further authorized and directed to cause to be erected and maintained, within the exterior boundaries of the Chesapeake and Ohio Canal National Historical Park, an appropriate memorial to Justice William O. Douglas. Such memorial shall be of such design and be located at such place within the park as the Secretary shall determine.

''SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.''

§ 410y–1. Purposes; establishment; boundaries; acquisition of lands; procedure for acquisition; time of acquisition

(a) In order to preserve and interpret the historic and scenic features of the Chesapeake and Ohio Canal, and to develop the potential of the canal for public recreation, including such restoration as may be needed, there is hereby established the Chesapeake and Ohio Canal National Historical Park, in the States of Maryland and West Virginia and in the District of Columbia. The park as initially established shall comprise those particular properties in Federal ownership, containing approximately five thousand two hundred and fifty acres, including those properties along the line of the Chesapeake and Ohio Canal in the State of Maryland and appurtenances in the State of West Virginia designated as the Chesapeake and Ohio Canal National Monument, and those properties along the line of the Chesapeake and Ohio Canal between Rock Creek in the District of Columbia and the terminus of the Chesapeake and Ohio Canal National Monument near the mouth of Seneca Creek in the State of Maryland. The boundaries of the park shall be as generally depicted on the drawing entitled ''Boundary Map, Proposed Chesapeake and Ohio Canal National Historical Park,'' in five sheets, numbered CHOH 91,000, and dated October 1969, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior: *Provided*, That no lands owned by any State shall be included in the boundaries of the park—

(1) unless they are donated to the United States, or

(2) until a written cooperative agreement is negotiated by the Secretary which assures the administration of such lands in accordance with established administrative policies for national parks, and

(3) until the terms and conditions of such donation or cooperative agreement have been forwarded to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives at least sixty days prior to being executed.

The exact boundaries of the park shall be established, published, and otherwise publicized within eighteen months after January 8, 1971, and the owners of property other than property lying between the canal and the Potomac River shall be notified within said period as to the extent of their property included in the park.

(b) Within the boundaries of the park, the Secretary is authorized to acquire lands and interests therein by donation, purchase with donated or appropriated funds, or exchange, but he shall refrain from acquiring, for two years from January 8, 1971, any lands designated on the boundary map for acquisition by any State if he has negotiated and consummated a written cooperative agreement with such State pursuant to subsection (a) of this section.

(Pub. L. 91–664, § 3, Jan. 8, 1971, 84 Stat. 1978; Pub. L. 103–437, § 6(g), Nov. 2, 1994, 108 Stat. 4585.)

AMENDMENTS

1994—Subsec. (a)(3). Pub. L. 103–437 substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives'' for ''Committees on Interior and Insular Affairs of the United States House of Representatives and Senate''.

§ 410y–1a. Boundary revision

The boundaries of the park are revised to include approximately 600 additional acres.

(Pub. L. 95–625, title III, § 320, Nov. 10, 1978, 92 Stat. 3488; Pub. L. 96–199, title I, § 101(c), Mar. 5, 1980, 94 Stat. 68.)

CODIFICATION

Section was enacted as part of the National Parks and Recreation Act of 1978, and not as part of the Chesapeake and Ohio Canal Development Act which comprises this subchapter.

AMENDMENTS

1980—Pub. L. 96–199 struck out proviso that additions to the park as authorized by this section shall not in-

clude any properties located between 30th Street and Thomas Jefferson Street in the northwest section of the District of Columbia.

§ 410y–2. Consideration by Secretary of comprehensive local or State development, land use, or recreational plans

The Secretary shall take into account comprehensive local or State development, land use, or recreational plans affecting or relating to areas in the vicinity of the canal, and shall, wherever practicable, consistent with the purposes of this subchapter, exercise the authority granted by this subchapter, in a manner which he finds will not conflict with such local or State plans.

(Pub. L. 91–664, § 4, Jan. 8, 1971, 84 Stat. 1979.)

§ 410y–3. Access

(a) Pre-existing rights and permits

The enactment of this subchapter shall not affect adversely any valid rights heretofore existing, or any valid permits heretofore issued, within or relating to areas authorized for inclusion in the park.

(b) Issuance of permits by Secretary for use of park lands and utility, highway, and railway crossings

Other uses of park lands, and utility, highway, and railway crossings, may be authorized under permit by the Secretary, if such uses and crossings are not in conflict with the purposes of the park and are in accord with any requirements found necessary to preserve park values.

(c) Crossing by foot at designated locations; purposes; conduct

Authority is hereby granted for individuals to cross the park by foot at locations designated by the Secretary for the purpose of gaining access to the Potomac River or to non-Federal lands for hunting purposes: *Provided*, That while such individuals are within the boundaries of the park firearms shall be unloaded, bows unstrung, and dogs on leash.

(Pub. L. 91–664, § 5, Jan. 8, 1971, 84 Stat. 1979.)

§ 410y–4. Chesapeake and Ohio Canal National Historical Park Commission

(a) Establishment

There is hereby established a Chesapeake and Ohio Canal National Historical Park Commission (hereafter in this section referred to as the ''Commission'').

(b) Membership; appointment; term

The Commission shall be composed of nineteen members appointed by the Secretary for terms of five years each, as follows:

(1) Eight members to be appointed from recommendations submitted by the boards of commissioners or the county councils, as the case may be, of Montgomery, Frederick, Washington, and Allegany Counties, Maryland, of which two members shall be appointed from recommendations submitted by each such board or council, as the case may be;

(2) Eight members to be appointed from recommendations submitted by the Governor of the State of Maryland, the Governor of the State of West Virginia, the Governor of the Commonwealth of Virginia, and the Mayor of the District of Columbia, of which two members shall be appointed from recommendations submitted by each such Governor or Mayor, as the case may be; and

(3) Three members to be appointed by the Secretary, one of whom shall be designated Chairman of the Commission and two of whom shall be members of regularly constituted conservation organizations.

(c) Vacancies

Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made. A member may serve after the expiration of his term until his successor has taken office.

(d) Compensation and payment of expenses

Members of the Commission shall serve without compensation, as such, but the Secretary is authorized to pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Commission and its members in carrying out their responsibilities under this subchapter.

(e) Consultation by Secretary

The Secretary, or his designee, shall from time to time but at least annually, meet and consult with the Commission on general policies and specific matters related to the administration and development of the park.

(f) Majority vote

The Commission shall act and advise by affirmative vote of a majority of the members thereof.

(g) Termination

The Commission shall cease to exist 40 years from January 8, 1971.

(Pub. L. 91–664, § 6, Jan. 8, 1971, 84 Stat. 1980; Pub. L. 93–198, title IV, § 421, Dec. 24, 1973, 87 Stat. 789; Pub. L. 96–555, Dec. 19, 1980, 94 Stat. 3260; Pub. L. 101–320, July 3, 1990, 104 Stat. 292; Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 134], Dec. 21, 2000, 114 Stat. 2763, 2763A–230.)

AMENDMENTS

2000—Subsec. (g). Pub. L. 106–554 substituted ''40'' for ''thirty''.

1990—Subsec. (c). Pub. L. 101–320, § 1(a), inserted at end ''A member may serve after the expiration of his term until his successor has taken office.''

Subsec. (g). Pub. L. 101–320, § 1(b), substituted ''thirty'' for ''twenty''.

1980—Subsec. (g). Pub. L. 96–555 substituted ''twenty'' for ''ten''.

TRANSFER OF FUNCTIONS

Office of Commissioner of District of Columbia, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93–198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, and replaced by office of Mayor of District of Columbia by section 421 of Pub. L. 93–198. Accordingly, ''Mayor'' substituted in subsec. (b)(2) for ''Commissioner'' in two places.

§ 410y–5. Administration

The Chesapeake and Ohio Canal National Historical Park shall be administered by the Secretary of the Interior in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented.

(Pub. L. 91–664, § 7, Jan. 8, 1971, 84 Stat. 1980.)

§ 410y–6. Availability of funds; authorization of appropriations; adjustment of appropriations

(a) Any funds that may be available for purposes of administration of the Chesapeake and Ohio Canal property may hereafter be used by the Secretary for the purposes of the park.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter, not to exceed $28,400,000 for land acquisition and not to exceed $17,000,000 (1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.

(Pub. L. 91–664, § 8, Jan. 8, 1971, 84 Stat. 1980; Pub. L. 95–625, title III, § 320, Nov. 10, 1978, 92 Stat. 3488.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–625 substituted ''$28,400,000'' for ''$20,400,000''.

SUBCHAPTER LVII—BOSTON NATIONAL HISTORICAL PARK

§ 410z. Establishment

(a) Acquisition of properties by donation or with donated funds

In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain historic structures and properties of outstanding national significance located in Boston, Massachusetts, and associated with the American Revolution and the founding and growth of the United States, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') may, in accordance with the provisions of this subchapter, acquire by donation or by purchase with donated funds, all lands and improvements thereon or interests therein comprising the following described areas:

(1) Faneuil Hall, located at Dock Square, Boston;

(2) Paul Revere House, 19 North Square, Boston;

(3) The area identified as the Old North Church area, 193 Salem Street, Boston;

(4) The Old State House, Washington and State Streets, Boston;

(5) Bunker Hill, Breeds Hill, Boston;

(6) Old South Meeting House, Milk and Washington Streets, Boston;

(7) Charlestown Navy Yard; and

(8) Dorchester Heights, Boston.

(b) Acquisition of properties with appropriated funds

In the event that the properties described in this section are not donated to the United States or purchased with donated funds, they may be acquired by the Secretary with appropriated funds: *Provided*, That, except for privately held lands within the Charlestown Navy Yard as described in subsection (d) of this section, the Secretary shall not acquire any such properties by eminent domain so long as he determines that a binding, written cooperative agreement, assuring the preservation and historical integrity of such properties remains in force and effect. Lands owned by the Commonwealth of Massachusetts, or any of its political subdivisions, may be acquired only by donation.

(c) Publication of notice

At such time as the Secretary determines that sufficient lands, improvements, and interests therein have been acquired or that cooperative agreements satisfying the preservation and historical objective of this subchapter have been executed, he may establish the Boston National Historical Park by publication of notice to that effect in the Federal Register, together with a detailed description or map setting forth the properties included therein.

(d) Charlestown Navy Yard

As used in this section, the Charlestown Navy Yard shall include the United States Ship Constitution and the lands generally depicted on the map entitled ''Boundary Map: Charlestown Naval Shipyard—U.S.S. Constitution, Boston National Historical Park'', numbered BONA 20,000 and dated March 1974 which shall be on file and available in the offices of the Director of the National Park Service, Department of the Interior, Washington, D.C. As used in this section, the Charlestown Navy Yard shall also include the properties known as the Ropewalk and Tar House and the Chain Forge and Round House, designated on such map as buildings numbered 58, 60, and 105. All right, title, and interest in the Federal properties and improvements included therein shall be transferred to the Secretary of the Interior: *Provided*, That he may, by written agreement with the Secretary of the Navy, permit the continued use of any such buildings and facilities as the Secretary of the Interior determines to be necessary for the preservation and maintenance of the Constitution, which agreement shall provide that the Department of the Navy shall transfer to the Department of the Interior funds sufficient to cover the costs attributable to the functions and services which are provided by the Department of the Interior. The Secretary shall consult with representatives of the city of Boston and the Commonwealth of Massachusetts concerning the development of suitable transportation plans consistent with the purposes for which the Navy Yard was included in the historical park and the Secretary is authorized to grant, in accordance with such terms and conditions as he deems necessary and consistent with the purposes of this subchapter, easements and rights-of-way to the Commonwealth of Massachusetts or any political subdivision thereof including the Boston Redevelopment Authority for purposes of the vehicular, pedestrian and utility access to that portion of the Boston Navy Yard outside the boundaries of the Park. Such grants of easements and rights-of-way shall be upon the express condition that the grantee convey to the United States the property known as Building No. 107, being a part of the Boston Navy Yard and owned by the Boston Redevelopment Authority.

(Pub. L. 93–431, § 2, Oct. 1, 1974, 88 Stat. 1184; Pub. L. 95–625, title III, § 310(a), (d), Nov. 10, 1978, 92

Stat. 3478; Pub. L. 96–344, §5, Sept. 8, 1980, 94 Stat. 1134.)

AMENDMENTS

1980—Subsec. (d). Pub. L. 96–344 inserted provision including within the Charlestown Navy Yard properties known as the Ropewalk and Tar House and the Chain Forge and Round House, designated as buildings numbered 58, 60, and 105.

1978—Subsec. (a)(8). Pub. L. 95–625, §310(a), added par. (8).

Subsec. (d). Pub. L. 95–625, §310(d), authorized grant of easements and rights-of-way for vehicular, pedestrian and utility access to the Boston Navy Yard outside the boundaries of the Boston National Historical Park upon express condition that the grantee convey to the United States the part of the Boston Navy Yard owned by the Boston Redevelopment Authority.

SHORT TITLE

Section 1 of Pub. L. 93–431, Oct. 1, 1974, 88 Stat. 1184, provided: ''That this Act [enacting this subchapter] may be cited as the 'Boston National Historical Park Act of 1974'.''

AUTHORIZATION OF APPROPRIATIONS

Section 310(c) of Pub. L. 95–625 provided that: ''There are authorized to be appropriated such sums as may be necessary for the acquisition of lands or interests in lands designated by subsection (a) of this section [enacting subsec. (a)(8) of this section] as a component of the Boston National Historical Park, and for the development of such component.''

§ 410z–1. Acquisition of additional sites

(a) Studies

In addition to the properties described in section 410z of this title, the Secretary shall study the properties described in this section to determine the feasibility and suitability of including them within the Boston National Historical Park. In making such studies, he may enter into tentative agreements with any owners thereof for their inclusion in said park and he may enter into options, for a nominal consideration, for the purchase of such properties, but no additional properties may be added to the park except by an act of the Congress. Studies shall be made of the following properties:

(1) Boston Common;

(2) Dillaway-Thomas House;

(3) Thomas Crease House (old Corner Book Store); and

(4) the following burying grounds: King's Chapel, Granary, and Copp's Hill.

(b) Cooperative agreements authorized

(1) In furtherance of the general purposes of this subchapter as prescribed in section 410z of this title, the Secretary is authorized to enter into cooperative agreements with the city of Boston, the Commonwealth of Massachusetts, or any private organization to mark, interpret, restore, and/or provide technical assistance for the preservation and interpretation of any properties listed in section 410z of this title, or portions thereof, which, in his opinion, would best be preserved in private, municipal, or State ownership, in connection with the Boston National Historical Park. Such agreements shall contain, but shall not be limited to, provisions that the Secretary, through the National Park Service, shall have right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public, that no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements, except that no limitation or control of any kind over the use of any such properties customarily used for church purposes shall be imposed by any agreement. The agreements may contain specific provisions which outline in detail the extent of the participation by the Secretary in the restoration, preservation, and maintenance of such historic properties.

(2) The Secretary of the Interior is authorized to enter into a cooperative agreement with the Boston Public Library to provide for the distribution of informational and interpretive materials relating to the park and to the Freedom Trail.

(c) Identification and marking of significant historical sites

The Secretary may identify other significant sites of the colonial and Revolutionary periods of American history in the city of Boston, Massachusetts, and its environs, which are related to the historical park created by this subchapter, and, with the consent of the owner or owners thereof, may mark them appropriately and make reference to them in any interpretive literature.

(Pub. L. 93–431, §3, Oct. 1, 1974, 88 Stat. 1185; Pub. L. 95–625, title III, §310(b), Nov. 10, 1978, 92 Stat. 3478; Pub. L. 104–333, div. I, title V, §504, Nov. 12, 1996, 110 Stat. 4155.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–333 designated existing provisions as par. (1) and added par. (2).

1978—Subsec. (a)(4), (5). Pub. L. 95–625 struck out par. ''(4) Dorchester Heights; and'' and redesignated par. (5) as (4).

§ 410z–2. Boston National Historical Park Advisory Commission

(a) Establishment; membership

There is established a Boston National Historical Park Advisory Commission (hereinafter referred to as the ''Commission'') which shall be composed of members appointed by the Secretary as follows:

(1) Three members appointed from recommendations submitted by the Governor of Massachusetts;

(2) Three members appointed from recommendations submitted by the mayor of the city of Boston; and

(3) One member to represent each owner with which the Secretary has concluded a cooperative agreement pursuant to section 410z–1 of this title, to be appointed from recommendations submitted by each such owner.

(b) Termination of Commission

The Commission shall terminate ten years from the date of establishment of the Boston National Historical Park.

(c) Vacancies; chairman

A vacancy in the Commission shall not affect its powers, but shall be filled in the same man-

ner as the original appointment (and for the balance of the unexpired term). The Chairman of the Commission shall be designated by the Secretary.

(d) Majority rule

The Commission shall act and advise by affirmative vote of a majority of its members.

(e) Consultation between Secretary and Commission

The Secretary or his designee shall from time to time, but at least semiannually, consult with the Commission with respect to matters relating to the development of the Boston National Historical Park.

(f) Compensation; payment of expenses

Members of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this subchapter upon presentation of vouchers signed by the Chairman.

(Pub. L. 93–431, § 4, Oct. 1, 1974, 88 Stat. 1185.)

§ 410z–3. Visitor center

The Secretary may acquire property or any interest therein by donation, purchase, or exchange for the visitor center, and notwithstanding any other provision of law, funds appropriated for the development and operation of the visitor center may be expended on property in which the Secretary has acquired less than the fee simple interest therein, including a leasehold interest.

(Pub. L. 93–431, § 5, Oct. 1, 1974, 88 Stat. 1186.)

§ 410z–4. Administration

When established as provided in section 410z of this title, the Boston National Historical Park shall be administered by the Secretary in accordance with the provisions of this subchapter, sections 1, 2, 3, and 4 of this title, as amended and supplemented, and sections 461 to 467 of this title.

(Pub. L. 93–431, § 6, Oct. 1, 1974, 88 Stat. 1186.)

§ 410z–5. Authorization of appropriations

For the acquisition of lands or interests in lands designated by section 410z of this title, as components of the Boston National Historical Park, there is authorized to be appropriated not to exceed $2,740,000. For development of the components designated as paragraphs 1 through 6 in section 410z of this title, there is authorized to be appropriated not more than $12,818,000. For the development of the component designated as paragraph 7 in section 410z of this title, there is authorized to be appropriated not more than $11,500,000.

(Pub. L. 93–431, § 7, Oct. 1, 1974, 88 Stat. 1186.)

SUBCHAPTER LVIII—VALLEY FORGE NATIONAL HISTORICAL PARK

§ 410aa. Establishment

In order to preserve and commemorate for the people of the United States the area associated with the heroic suffering, hardship, and determination and resolve of General George Washington's Continental Army during the winter of 1777–1778 at Valley Forge, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to establish the Valley Forge National Historical Park (hereinafter referred to as the ''park''), in the Commonwealth of Pennsylvania.

(Pub. L. 94–337, § 1, July 4, 1976, 90 Stat. 796.)

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–86, § 1, Oct. 31, 1999, 113 Stat. 1298, provided that: ''This Act [enacting provisions set out as a note under this section] may be cited as the 'Pennsylvania Battlefields Protection Act of 1999'.''

VALLEY FORGE NATIONAL HISTORICAL PARK

Pub. L. 106–86, title II, Oct. 31, 1999, 113 Stat. 1299, provided that:

''SEC. 201. PURPOSE.

''The purpose of this title is to authorize the Secretary of the Interior to enter into an agreement with the Valley Forge Historical Society (hereinafter referred to as the 'Society'), to construct and operate a museum within the boundary of Valley Forge National Historical Park in cooperation with the Secretary.

''SEC. 202. VALLEY FORGE MUSEUM OF THE AMERICAN REVOLUTION AUTHORIZATION.

''(a) AGREEMENT AUTHORIZED.—The Secretary of the Interior, in administering the Valley Forge National Historical Park, is authorized to enter into an agreement under appropriate terms and conditions with the Society to facilitate the planning, construction, and operation of the Valley Forge Museum of the American Revolution on Federal land within the boundary of Valley Forge National Historical Park.

''(b) CONTENTS AND IMPLEMENTATION OF AGREEMENT.—An agreement entered into under subsection (a) shall—

''(1) authorize the Society to develop and operate the museum pursuant to plans developed by the Secretary and to provide at the museum appropriate and necessary programs and services to visitors to Valley Forge National Historical Park related to the story of Valley Forge and the American Revolution;

''(2) only be carried out in a manner consistent with the General Management Plan and other plans for the preservation and interpretation of the resources and values of Valley Forge National Historical Park;

''(3) authorize the Secretary to undertake at the museum activities related to the management of Valley Forge National Historical Park, including, but not limited to, provision of appropriate visitor information and interpretive facilities and programs related to Valley Forge National Historical Park;

''(4) authorize the Society, acting as a private nonprofit organization, to engage in activities appropriate for operation of the museum that may include, but are not limited to, charging appropriate fees, conducting events, and selling merchandise, tickets, and food to visitors to the museum;

''(5) provide that the Society's revenues from the museum's facilities and services shall be used to offset the expenses of the museum's operation; and

''(6) authorize the Society to occupy the museum so constructed for the term specified in the Agreement and subject to the following terms and conditions:

''(A) The conveyance by the Society to the United States of all right, title, and interest in the museum to be constructed at Valley Forge National Historical Park.

''(B) The Society's right to occupy and use the museum shall be for the exhibition, preservation, and interpretation of artifacts associated with the Valley Forge story and the American Revolution, to enhance the visitor experience of Valley Forge

National Historical Park, and to conduct appropriately related activities of the Society consistent with its mission and with the purposes for which the Valley Forge National Historical Park was established. Such right shall not be transferred or conveyed without the express consent of the Secretary.

''(C) Any other terms and conditions the Secretary determines to be necessary.

''SEC. 203. PRESERVATION AND PROTECTION.

''Nothing in this title authorizes the Secretary or the Society to take any actions in derogation of the preservation and protection of the values and resources of Valley Forge National Historical Park. An agreement entered into under section 202 shall be construed and implemented in light of the high public value and integrity of the Valley Forge National Historical Park and the National Park System.''

§ 410aa–1. Lands and property

(a) Boundaries; inspection of map

The park shall comprise the area generally depicted on the map entitled ''Valley Forge National Historical Park'', dated June 1979, and numbered VF–91,001, which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and in the offices of the superintendent of the park. After advising the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, in writing, the Secretary may make minor revisions of the boundaries of the park when necessary by publication of a revised map or other boundary description in the Federal Register.

(b) Acquisition of lands

Within the boundaries of the park, the Secretary may acquire lands and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer. Any property owned by the Commonwealth of Pennsylvania or any political subdivision thereof may be acquired only by donation. The effective date of such donation shall not be prior to October 1, 1976.

(c) Reservation of rights by grantors; compensation for land

Except for property deemed by the Secretary to be essential for visitor facilities, or for access to or administration of the park, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term not to exceed twenty-five years, or in lieu thereof, for a term ending at the death of the owner, or the death of his or her spouse, whichever is the later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner.

(d) Termination of grantor's rights

The Secretary may terminate a right of use and occupancy retained pursuant to this section upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of this subchapter, and upon tender to the holder of the right of an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

(e) "Improved property" defined

The term ''improved property'', as used in this section shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1975 (hereafter referred to as ''dwelling''), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(Pub. L. 94–337, § 2, July 4, 1976, 90 Stat. 796; Pub. L. 96–287, title III, § 301(1), June 28, 1980, 94 Stat. 601; Pub. L. 103–437, § 6(a)(3), Nov. 2, 1994, 108 Stat. 4583.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–437 substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives'' for ''Committees on Interior and Insular Affairs of the United States Congress''.

1980—Subsec. (a). Pub. L. 96–287 substituted reference to park area as depicted on map ''dated June 1979, and numbered VF–91,001'' for prior depiction on map ''dated February 1976, and numbered VF–91,000''.

§ 410aa–2. Notice in Federal Register; appropriations; administration

When the Secretary determines that lands and interests therein have been acquired in an amount sufficient to constitute an administerable[1] unit, he shall establish the park by publication of a notice to that effect in the Federal Register: *Provided*, That the park shall not be established until the Secretary receives commitments which he deems to be sufficient from the Commonwealth of Pennsylvania that the appropriations made by acts 320 and 352 of 1974, and act 12A of 1975, of the Legislature of the Commonwealth of Pennsylvania, will continue to be available and obligated for development purposes within the park. The Secretary shall administer the property acquired for such park in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented, and sections 461 to 467 of this title. In furtherance of the purposes of this subchapter, the Secretary is authorized to provide technical assistance to public and private nonprofit entities in qualifying for appropriate historical designation and for such grants, other financial assistance, and other forms of aid as are available under Federal, State, or local law for the protection, rehabilitation, or preservation of properties in the vicinity of the park which are historically related to the purposes of the park.

[1] So in original. Probably should be ''administrable''.

(Pub. L. 94–337, § 3, July 4, 1976, 90 Stat. 797; Pub. L. 96–287, title III, § 301(2), June 28, 1980, 94 Stat. 601.)

AMENDMENTS

1980—Pub. L. 96–287 authorized technical assistance to nonprofit entities in qualifying for appropriate historical designation and for any aid for protection, rehabilitation, or preservation of properties in the vicinity of the park which are historically related to the purposes of the park.

§ 410aa–3. Authorization of appropriations

(a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter, but not more than $13,895,000 for the acquisition of lands and interests in lands.

(b) For the development of essential public facilities there are authorized to be appropriated not more than $500,000. Within three years from the date of establishment of the park pursuant to this subchapter, the Secretary shall, after consulting with the Governor of the Commonwealth of Pennsylvania, develop and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a final master plan for the development of the park consistent with the objectives of this subchapter, indicating:

(1) the facilities needed to accommodate the health, safety, and interpretive needs of the visiting public;

(2) the location and estimated cost of all facilities; and

(3) the projected need for any additional facilities within the park.

(Pub. L. 94–337, § 4, July 4, 1976, 90 Stat. 797; Pub. L. 96–287, title III, § 301(3), June 28, 1980, 94 Stat. 601; Pub. L. 103–437, § 6(a)(3), Nov. 2, 1994, 108 Stat. 4583.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–437 in introductory provisions substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives'' for ''Committees on Interior and Insular Affairs of the United States Congress''.

1980—Subsec. (a). Pub. L. 96–287 substituted ''$13,895,000'' for ''$8,622,000''.

AUTHORIZATIONS EFFECTIVE OCTOBER 1, 1980

Authorizations of moneys appropriated under Pub. L. 96–287 effective Oct. 1, 1980, see section 401 of Pub. L. 96–287, set out as a note under section 410gg–5 of this title.

SUBCHAPTER LIX—KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK

§ 410bb. Establishment

(a) Composition and boundaries; relocation of Seattle unit

In order to preserve in public ownership for the benefit and inspiration of the people of the United States, historic structures and trails associated with the Klondike Gold Rush of 1898, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to establish the Klondike Gold Rush National Historical Park (hereinafter referred to as the ''park''), consisting of a Seattle unit, a Skagway unit, a Chilkoot Trail unit, and a White Pass Trail unit. The boundaries of the Skagway unit, the Chilkoot Trail unit, and the White Pass Trail unit shall be as generally depicted on a drawing consisting of two sheets entitled ''Boundary Map, Klondike Gold Rush National Historical Park'', numbered 20,013–B and dated May, 1973, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. Within the Pioneer Square Historic District in Seattle as depicted on a drawing entitled ''Pioneer Square Historic District'', numbered 20,010–B and dated May 19, 1973, which shall also be on file and available as aforesaid, the Secretary may select a suitable site for the Seattle unit and publish a description of the site in the Federal Register. The Secretary may relocate the site of the Seattle unit by publication of a new description in the Federal Register, and any property acquired for purposes of the unit prior to such relocation shall be subject to disposal in accordance with the Federal surplus property laws: *Provided*, That the Seattle unit shall be within the Pioneer Square Historic District. After advising the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, in writing, the Secretary may revise the boundaries of the park from time to time, by publication of a revised map or other boundary description in the Federal Register, but the total area of the park may not exceed thirteen thousand three hundred acres.

(b) Acquisition of land; administrative site

(1) The Secretary may acquire lands, waters, and interests therein within the park by donation, purchase, lease, exchange, or transfer from another Federal agency. Lands or interests in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation or exchange, and notwithstanding the provisions of subsection 6(i) of the Act of July 7, 1958 (72 Stat. 339, 342), commonly known as the Alaska Statehood Act, the State may include the minerals in any such transaction. Lands under the jurisdiction of any Federal agency may, with the concurrence of such agency, be transferred without consideration to the Secretary for the purposes of the park.

(2) The Secretary is authorized to acquire outside the boundaries of the park, by any of the above methods, not to exceed fifteen acres of land or interests therein located in, or in the vicinity of, the city of Skagway, Alaska, for an administrative site; and to acquire by any of the above methods, up to ten historic structures or interests in such structures located in the city of Skagway but outside the Skagway unit for relocation within such unit as the Secretary deems essential for adequate preservation and interpretation of the park.

(c) Easements; rights-of-way; permits

All lands acquired pursuant to this subchapter shall be taken by the Secretary subject to all valid existing rights granted by the United States for railroad, telephone, telegraph, and pipeline purposes. The Secretary is authorized

to grant rights-of-way, easements, permits, and other benefits in, through and upon all lands acquired for the White Pass Trail unit for pipeline purposes, pursuant to the Acts of February 25, 1920 (41 Stat. 449), August 21, 1935 (49 Stat. 678), and August 12, 1953 (67 Stat. 557), and for railroad purposes pursuant to the Act of May 14, 1898 (30 Stat. 409): *Provided*, That significant adverse impacts to park resources will not result.

(d) Right-of-way for Alaskan highway across Chilkoot Trail

The Secretary is authorized to grant to the State of Alaska a highway right-of-way across lands in the Chilkoot Trail unit, in the area of Dyea, for the purpose of linking the communities of Haines and Skagway by road if he finds that (1) there is no feasible and prudent alternative to the use of such lands, (2) the road proposal includes all possible planning to minimize harm to the park resulting from such road use, and (3) to grant such right-of-way will not have significant adverse effects on the historical and archeological resources of the park and its administration, protection, and management in accordance with the purposes of this subchapter.

(Pub. L. 94–323, §1, June 30, 1976, 90 Stat. 717; Pub. L. 96–487, title XIII, §1309, Dec. 2, 1980, 94 Stat. 2481; Pub. L. 103–437, §6(h)(1), Nov. 2, 1994, 108 Stat. 4585.)

REFERENCES IN TEXT

Subsection 6(i) of the act of July 7, 1958, commonly known as the Alaska Statehood Act, referred to in subsec. (b)(1), probably means subsection (i) of section 6 of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

That portion of the act of February 25, 1920, which is set out at 41 Stat. 449, as referred to in subsec. (c), is classified to sections 185 to 187 of Title 30, Mineral Lands and Mining. For complete classification of the Act to the Code, see Tables.

That portion of the act of August 21, 1935, which is set out at 49 Stat. 678, as referred to in subsec. (c), is classified to section 185 of Title 30. For complete classification of the Act to the Code, see Tables.

That portion of the act of August 12, 1953, which is set out at 67 Stat. 557, as referred to in subsec. (c), is classified to section 185 of Title 30.

The act of May 14, 1898, referred to in subsec. (c), is act May 14, 1898, ch. 299, 30 Stat. 409, popularly known as the Alaska Right of Way Act, which is classified principally to sections 942–1 to 942–9 of Title 43, Public Lands. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–437 substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives'' for ''Committees on Interior and Insular Affairs of the Congress of the United States''.

1980—Subsec. (b)(1). Pub. L. 96–487 inserted ''or exchange and notwithstanding the provisions of subsection 6(i) of the Act of July 7, 1958, (72 Stat. 339, 342), commonly known as the Alaska Statehood Act, the State may include the minerals in any such transaction'' after ''only by donation''.

§ 410bb–1. Administration

(a) Establishment; notice in Federal Register

The Secretary shall establish the park by publication of a notice to that effect in the Federal Register at such time as he deems sufficient lands, waters, and interests therein have been acquired for administration in accordance with the purposes of this subchapter. Pending such establishment and thereafter, the Secretary shall administer lands, waters, and interests therein acquired for the park in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and sections 461 to 467 of this title, as amended.

(b) Cooperation with Federal agencies, State and local public bodies, and private interests for development and use of lands

The Secretary is authorized to cooperate and enter into agreements with other Federal agencies, State and local public bodies, and private interests, relating to planning, development, use, acquisition, or disposal (including as provided in section 460*l*–22 of this title) of lands, structures, and waters in or adjacent to the park or otherwise affecting the administration, use, and enjoyment thereof, in order to contribute to the development and management of such lands in a manner compatible with the purposes of the park. Such agreements, acquisitions, dispositions, development, or use and land-use plans shall provide for the preservation of historical sites and scenic areas, recreation, and visitor enjoyment to the fullest extent practicable.

(c) Restoration of property without regard of United States title thereto

Notwithstanding any other provision of law, the Secretary may restore and rehabilitate property within the park pursuant to cooperative agreements without regard as to whether title thereto is in the United States.

(Pub. L. 94–323, §2, June 30, 1976, 90 Stat. 718.)

§ 410bb–2. Cooperation with Canada for planning and development of international park

(a) Presidential proclamation

The Secretary, in cooperation with the Secretary of State, is authorized to consult and cooperate with appropriate officials of the Government of Canada and Provincial or Territorial officials regarding planning and development of the park, and an international historical park. At such time as the Secretary shall advise the President of the United States that planning, development, and protection of the adjacent or related historic and scenic resources in Canada have been accomplished by the Government of Canada in a manner consistent with the purposes for which the park was established, and upon enactment of a provision similar to this section by the proper authority of the Canadian Government, the President is authorized to issue a proclamation designating and including the park as part of an international historical park to be known as Klondike Gold Rush International Historical Park.

(b) Retention of "National" designation for purpose of authorization

For purposes of administration, promotion, development, and support by appropriations, that part of the Klondike Gold Rush International Historical Park within the territory of the United States shall continue to be des-

ignated as the ''Klondike Gold Rush National Historical Park''.

(Pub. L. 94–323, § 3, June 30, 1976, 90 Stat. 718.)

PROC. NO. 7114. DESIGNATING KLONDIKE GOLD RUSH INTERNATIONAL HISTORICAL PARK

Proc. No. 7114, Aug. 5, 1998, 63 F.R. 42563, provided:

A century ago, the Klondike Gold Rush began a migration that forever changed Alaska and the Yukon Territory. More than 100,000 people headed north during 1897 and 1898, catapulting a little-known region from obscurity to the center of the world stage. While the Klondike was not the first or largest western gold rush, coming nearly 50 years after the 1848 gold discovery at Sutter's Mill, California, it is remembered for the sheer drama by which it was announced to the world and for its century-long influence on Alaska and the upper Yukon River basin.

The United States and Canada have been engaged for 30 years in joint planning and cooperation to commemorate the Klondike Gold Rush and preserve historic structures and trails on both sides of the international boundary. In 1976, the Government of the United States established Klondike Gold Rush National Historical Park, consisting of a Seattle unit, a Skagway unit, a Chilkoot Pass unit, and a White Pass unit, to preserve the historic structures and trails. The Government of Canada has recognized the national significance of the Chilkoot Trail and Dawson Historical Complex by designating them as National Historic Sites. It has also designated a section of the Yukon River as a Canadian Heritage River and taken other steps to commemorate the rich history of this region.

It is the desire of the United States to join our Canadian neighbors in celebrating our shared history on the occasion of the centennial of the Klondike Gold Rush and to reaffirm the commitment of the United States to continuing the joint efforts of both nations to preserve our shared Klondike history.

In 1996, Canadian Prime Minister Jean Chretien proclaimed that, ''the governments of Canada and the United States and of Yukon and Alaska in a long-standing spirit of cooperation have agreed to establish the Klondike Gold Rush International Historic Park, incorporating the resources of the Chilkoot Trail National Historic Site in British Columbia and the Klondike Gold Rush National Historical Park in Alaska . . .''

Section 3(a) of U.S. Public Law 94–323 [16 U.S.C. 410bb–2(a)] states, ''At such time . . . that planning, development, and protection of the adjacent or related historic and scenic resources in Canada have been accomplished by the Government of Canada in a manner consistent with the purposes for which the park was established, and upon enactment of a provision similar to this section by the proper authority of the Canadian Government, the President is authorized to issue a proclamation designating and including the park as a part of an international historical park to be known as Klondike Gold Rush International Historical Park.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by section 3(a) of Public Law 94–323 [16 U.S.C. 410bb–2(a)] of June 30, 1976, do proclaim that Klondike Gold Rush National Historical Park is designated and included as part of an international historical park to be known as Klondike Gold Rush International Historical Park.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of August, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-third.

WILLIAM J. CLINTON.

§ 410bb–3. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter, but not more than $2,655,000 for the acquisition of lands and interests in lands, and not more than $5,885,000 for development.

(Pub. L. 94–323, § 4, June 30, 1976, 90 Stat. 719.)

SUBCHAPTER LIX–A—LOWELL NATIONAL HISTORICAL PARK

PART A—ESTABLISHMENT OF PARK AND PRESERVATION DISTRICT

§ 410cc. Congressional statement of findings and purpose

(a) The Congress finds that—

(1) certain sites and structures in Lowell, Massachusetts, historically and culturally the most significant planned industrial city in the United States, symbolize in physical form the Industrial Revolution;

(2) the cultural heritage of many of the ethnic groups that immigrated to the United States during the late nineteenth and early twentieth centuries is still preserved in Lowell's neighborhoods;

(3) a very large proportion of the buildings, other structures, and districts in Lowell date to the period of the Industrial Revolution and are nationally significant historical resources, including the five-and-six-tenths-mile power canal system, seven original mill complexes, and significant examples of early housing, commercial structures, transportation facilities, and buildings associated with labor and social institutions; and

(4) despite the expenditure of substantial amounts of money by the city of Lowell and the Commonwealth of Massachusetts for historical and cultural preservation and interpretation in Lowell, the early buildings and other structures in Lowell may be lost without the assistance of the Federal Government.

(b) It is the purpose of this subchapter to preserve and interpret the nationally significant historical and cultural sites, structures, and districts in Lowell, Massachusetts, for the benefit and inspiration of present and future generations by implementing to the extent practicable the recommendations in the report of the Lowell Historic Canal District Commission.

(Pub. L. 95–290, § 1, June 5, 1978, 92 Stat. 290.)

§ 410cc–1. Definitions

For purposes of this subchapter—

(1) the term ''park'' means the Lowell National Historical Park, established by section 410cc–11(a)(1) of this title;

(2) the term ''preservation district'' means the Lowell Historic Preservation District, established by section 410cc–11(a)(1) of this title;

(3) the term ''Commission'' means the Lowell Historic Preservation Commission established by section 410cc–31(a) of this title;

(4) the term ''Secretary'' means the Secretary of the Interior; and

(5) the term ''report of the Lowell Historic Canal District Commission'' means the report submitted to the Congress by the Lowell Historic Canal District Commission pursuant to

an Act entitled ''An Act to provide for a plan for the preservation, interpretation development and use of the historic, cultural, and architectural resources of the Lowell Historic Canal District in Lowell, Massachusetts, and for other purposes'', approved January 4, 1975 (88 Stat. 2330).

(Pub. L. 95–290, § 2, June 5, 1978, 92 Stat. 290.)

REFERENCES IN TEXT

An Act entitled ''An Act to provide for a plan for the preservation, interpretation development and use of the historic, cultural, and architectural resources of the Lowell Historic Canal District in Lowell, Massachusetts, and for other purposes'', approved January 4, 1975 (88 Stat. 2330), referred to in par. (5), is Pub. L. 93–645, Jan. 4, 1975, 88 Stat. 2330, which is set out as a note under section 461 of this title.

§ 410cc–11. Establishment of Lowell National Historical Park

(a) Establishment and administration of Lowell Historic Preservation District

(1) To carry out the purpose of this subchapter, there is established as a unit of the National Park System in the city of Lowell, Massachusetts, the Lowell National Historical Park. There is further established in an area adjacent to the park the Lowell Historic Preservation District, which will be administered by the Secretary and by the Commission in accordance with this subchapter. The boundaries of the park and preservation district shall be the boundaries depicted on the map entitled ''Lowell National Historical Park, Massachusetts'', dated March 1978, and numbered ''Lowe—80,008A''. Such map shall be on file and available for inspection in the office of the National Park Service, Department of the Interior, and in the office of the city clerk, city of Lowell.

(2) The Secretary shall publish in the Federal Register, as soon as practicable after June 5, 1978, a detailed description and map of the boundaries established under paragraph (1) of this subsection.

(3) The boundaries of the park are modified to include five parcels of land identified on the map entitled ''Boundary Adjustment, Lowell National Historical Park,'' numbered 475/81,424B and dated September 2004, and as delineated in section 410cc–22(a)(2)(G) of this title.

(b) Boundary revisions; publication

The Secretary may make minor revisions of the park and preservation district boundaries established under subsection (a)(1) of this section, after consulting with the Commission and the city manager of Lowell, by publication of a revised drawing or other boundary description in the Federal Register; but no waters, lands, or other property outside of the park or preservation district boundaries established under such subsection may be added to the park or preservation district without the consent of the city manager of Lowell and the city council of Lowell. A boundary revision made under this subsection shall be effective only after timely notice in writing is given to the Congress.

(Pub. L. 95–290, title I, § 101, June 5, 1978, 92 Stat. 291; Pub. L. 110–229, title III, § 312(1), May 8, 2008, 122 Stat. 769.)

AMENDMENTS

2008—Subsec. (a)(3). Pub. L. 110–229 added par. (3).

§ 410cc–12. Consultations, cooperation, and conduct of activities by Federal entities; issuance of licenses or permits by Federal entities

(a) Activities directly affecting park

Any Federal entity conducting or supporting activities directly affecting the park or preservation district shall—

(1) consult with, cooperate with, and to the maximum extent practicable, coordinate its activities with the Secretary and with the Commission; and

(2) conduct or support such activities in a manner which (A) to the maximum extent practicable is consistent with the standards and criteria established pursuant to section 410cc–32(e) of this title, and (B) will not have an adverse effect on the resources of the park or preservation district.

(b) Determination as to proposed activities

No Federal entity may issue any license or permit to any person to conduct an activity within the park or preservation district unless such entity determines that the proposed activity will be conducted in a manner consistent with the standards and criteria established pursuant to section 410cc–32(e) of this title and will not have an adverse effect on the resources of the park or preservation district.

(Pub. L. 95–290, title I, § 102, June 5, 1978, 92 Stat. 291.)

§ 410cc–13. Authorization of appropriations

(a) General authority; maximum amounts

There are authorized to be appropriated such sums as may be necessary to carry out this subchapter, except that—

(1) the total of the amounts authorized to be appropriated for the purpose of acquisition and development under the park management plan established pursuant to section 410cc–21(b) of this title and emergency assistance under section 410cc–25(a)(1) of this title shall not exceed $19,800,000; and

(2) the total of the amounts authorized to be appropriated for the purpose of carrying out section 410cc–32(b)(2) of this title, for the payment of grants and loans under section 410cc–33 of this title, for the acquisition of property under section 410cc–34 of this title, and for carrying out any transportation program and any educational and cultural program described in section 410cc–32(c) of this title shall not exceed $33,600,000.

(b) Commencement date

No funds shall be authorized pursuant to this section prior to October 1, 1978.

(c) Availability of appropriations

Funds appropriated under subsection (a) of this section shall remain available until expended.

(d) Aggregate amount of money expended; certifying statement to Congress as limiting availability of appropriated amounts

(1) Within 60 days after June 5, 1978, and on each subsequent October 1 and March 1, the Sec-

retary shall submit to the Congress a statement certifying the aggregate amount of money expended by the Commonwealth of Massachusetts, the city of Lowell, and by any nonprofit entity for activities in the city of Lowell consistent with the purpose of this subchapter during the period beginning on January 1, 1974, and ending on the date such statement is submitted.

(2) The aggregate amount of funds made available by the Secretary to the Commission from funds appropriated under subsection (a)(2) of this section may not exceed the amount certified by the Secretary in the most recent statement submitted to the Congress under paragraph (1) of this subsection.

(Pub. L. 95–290, title I, § 103, June 5, 1978, 92 Stat. 292; Pub. L. 100–134, § 1(1), Oct. 16, 1987, 101 Stat. 810.)

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–134 substituted ''$19,800,000'' for ''$18,500,000'' in par. (1), and ''$33,600,000'' for ''$21,500,000'' in par. (2).

EFFECTIVE DATE OF 1987 AMENDMENT

Section 2 of Pub. L. 100–134 provided that:

''(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by section 1 [amending sections 410cc–13 and 410cc–31 of this title] shall take effect on the date of the enactment of this Act [Oct. 16, 1987].

''(b) EFFECTIVE DATE OF AUTHORIZATION OF APPROPRIATION.—The amendments made by section 1(1) [amending section 410cc–13 of this title] shall take effect on October 1, 1987.''

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under subsec. (d)(1) of this section is listed on page 108), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 410cc–14. Funding limitations

Notwithstanding any other provision of this subchapter, no authority to enter into agreements or to make payments under this subchapter shall be effective except to the extent, or in such amounts, as may be provided in advance in appropriation Acts.

(Pub. L. 95–290, title I, § 104, June 5, 1978, 92 Stat. 292.)

PART B—POWERS AND DUTIES OF SECRETARY

§ 410cc–21. Park management plan

(a) Submission date and contents of preparatory statement to Congress

The Secretary shall submit a statement to the Congress, within two years after the date on which funds are made available to carry out this subchapter, which—

(1) reports on the progress that the Secretary has made in acquiring the properties identified under section 410cc–22 of this title, and describes the way the Secretary intends to use these properties;

(2) identifies the properties within the park and preservation district respecting which the Secretary has entered into or intends to enter into agreements relating to interpretive exhibits or programs under section 410cc–23(a) of this title;

(3)(A) reports on the progress of the Secretary in leasing a portion of the Lowell Manufacturing Company, located on Market Street, for the purpose of establishing a visitors' center in close proximity to parking and other transportation facilities, and (B) identifies any other property within the park which the Secretary has leased or intends to lease for purposes of the park;

(4) reports any other activities which the Secretary has taken or intends to take to carry out the purpose of this subchapter; and

(5) contains a tentative budget for the park and preservation district for the subsequent five fiscal years.

(b) Establishment, submission date, contents, etc., of plan

(1) Not later than three years after the date on which funds are made available to carry out this subchapter, the Secretary shall establish and submit to the Congress a park management plan containing the information described in subsection (a) of this section. Such plan shall, upon request, be available to the public.

(2) After consulting with the Commission, the city manager of Lowell, and the Commonwealth of Massachusetts, the Secretary may make revisions in the park management plan established pursuant to paragraph (1) of this subsection by publication of such revisions in the Federal Register. A revision made under this paragraph shall be effective 90 days after written notice of the revision is submitted to the Congress.

(Pub. L. 95–290, title II, § 201, June 5, 1978, 92 Stat. 292.)

§ 410cc–22. Acquisition of property

(a) Specified property; manner of acquisition

(1) The Secretary is authorized to acquire the properties designated in paragraph (2) of this subsection, or any interest therein, by donation, purchase with donated or appropriated funds, condemnation, or otherwise. Any property or interest therein owned by the Commonwealth of Massachusetts or any political subdivision thereof may be acquired only by donation. The Secretary may initiate condemnation proceedings under this paragraph only after making every reasonable effort to acquire property through negotiations and purchase, and consulting with the Commission (if established) and the city council of Lowell.

(2) The properties referred to in paragraph (1) of this subsection are the following:

(A) The Linus Childs House, 63 Kirk Street.

(B) The H and H Paper Company (commonly referred to as Boott Mill Boarding House), 42 French Street.

(C) Old City Hall, 226 Merrimack Street.

(D) Merrimack Gatehouse, 269 Merrimack Street.

(E) The Wannalancit Textile Company, 562 Suffolk Street.

(F) The structures containing the Jade Pagoda and Solomon's Yard Goods, 210 and 200 Merrimack Street.

(G) The properties shown on the map identified in section 410cc–11(a)(3)[1] of this title as follows:

(i) 91 Pevey Street.

(ii) The portion of 607 Middlesex Place.

(iii) Eagle Court.

(iv) The portion of 50 Payne Street.

(v) 726 Broadway.

(b) Other property; criteria for acquisition; manner of acquisition

Until the date on which the Commission conducts its first meeting, the Secretary may acquire any property within the park or preservation district not designated in subsection (a)(2) of this section, or any interest therein, if such property—

(1) is identified in the report of the Lowell Historical Canal District Commission as a property which should be preserved, restored, managed, developed, or maintained in a manner consistent with the purpose of this subchapter;

(2) is listed in the National Register of Historic Places, as maintained by the Secretary pursuant to section 470a(a) of this title, and section 462(b) of this title; or

(3) is determined by the Secretary to be of national significance;

and would be subject to demolition or major alteration in a manner inconsistent with the purposes of this subchapter unless acquired by the Secretary. Such property may be acquired only as provided in subsection (a)(1) of this section.

(c) Easements; manner of acquisition

The Secretary may acquire easements within the park for the purpose of carrying out this subchapter. Such easements may be acquired only as provided in subsection (a)(1) of this section.

(Pub. L. 95–290, title II, § 202, June 5, 1978, 92 Stat. 293; Pub. L. 110–229, title III, § 312(2), May 8, 2008, 122 Stat. 769.)

REFERENCES IN TEXT

Section 410cc–11(a)(3) of this title, referred to in subsec. (a)(2)(G), was in the original ''subsection (101)(a)(3)'' and was translated as meaning section 101(a)(3) of Pub. L. 95–290, which is classified to section 410cc–11(a)(3) of this title, to reflect the probable intent of Congress.

AMENDMENTS

2008—Subsec. (a)(2)(G). Pub. L. 110–229 added subpar. (G).

§ 410cc–23. Agreements and technical assistance

(a) Interpretative exhibits or programs

The Secretary may enter into agreements with any owner of property with national historic or cultural significance within the park to provide for interpretive exhibits or programs. Such agreements shall provide, whenever appropriate, that—

(1) the public may have access to such property at specified, reasonable times for purposes of viewing such property or the exhibits or attending the programs established by the Secretary under this subsection; and

(2) the Secretary may make such minor improvements to such property as the Secretary deems necessary to enhance the public use and enjoyment of such property, exhibits, and programs.

(b) Request for assistance

(1) The Secretary shall provide, upon request, technical assistance to—

(A) the city of Lowell to assist the city in establishing regulations or laws consistent with the standards and criteria established pursuant to section 410cc–32(e) of this title; and

(B) the Commission to assist the Commission in establishing the index and the standards and criteria required by section 410cc–32 of this title.

(2) The Secretary may provide to any owner of property within the park or preservation district, the Commission, the Commonwealth of Massachusetts, the city of Lowell, and any other Federal entity or any institution such technical assistance as the Secretary considers appropriate to carry out the purpose of this subchapter.

(Pub. L. 95–290, title II, § 203, June 5, 1978, 92 Stat. 294.)

§ 410cc–24. Withholding of funds; criteria

The Secretary may refuse to obligate or expend any money appropriated for the purposes described in section 410cc–13(a)(1) or section 410cc–13(a)(2) of this title if the Secretary determines that—

(a) the city of Lowell has failed to establish regulations or laws consistent with the standards and criteria established pursuant to section 410cc–32(e) of this title within one year after the date such standards and criteria have been established, except that the Secretary may extend such one-year period for not more than six months if the Secretary determines that the city has made a good faith effort to establish such regulations or laws;

(b) the city of Lowell has failed to notify the Commission of (1) applications for building permits or zoning variances respecting any property which is included in the index established pursuant to section 410cc–32(d) of this title, or (2) any proposals of the city of Lowell to change the regulations or laws described in paragraph (c)(1) of this subsection;

(c)(1) during the period before the city of Lowell has established regulations or laws consistent with the standards and criteria established pursuant to section 410cc–32(e) of this title, the city of Lowell has granted any building permit or zoning variance or has taken any other action respecting any property within the park or preservation district, which either the Secretary or the Commission consider to be inconsistent with such standards and criteria;

(2) after the city of Lowell has established the regulations or laws described in subparagraph (1) of this paragraph, the city of Lowell has granted any building permit or zoning variance or has taken any other action respecting any property within the park or preservation district, which either the Secretary

[1] See References in Text note below.

or the Commission consider to be inconsistent with such regulations or laws; or

(d) the Commission has not made good faith efforts to (1) provide for the preservation, restoration, management, development, or maintenance of property within the park and preservation district or (2) carry out the park preservation plan approved under section 410cc–32 of this title.

(Pub. L. 95–290, title II, § 204, June 5, 1978, 92 Stat. 294.)

§ 410cc–25. Administrative functions

(a) Implementation of park management plan; emergency assistance for protection of property owners; availability of funds for Commission

(1) The Secretary, acting through the National Park Service, shall take appropriate actions to implement to the extent practicable the park management plan established pursuant to section 410cc–21(b) of this title. In carrying out such plan, the Secretary shall administer the park in accordance with laws, rules, and regulations applicable to the national park system. Before the date on which the Commission conducts its first meeting, the Secretary may take any other action the Secretary deems necessary to provide owners of property with national historic or cultural significance within the park or preservation district with emergency assistance for the purpose of preserving and protecting their property in a manner consistent with the purpose of this subchapter.

(2) Subject to sections 410cc–24 and 410cc–32(b) of this title, the Secretary shall make available to the Commission any funds appropriated under section 410cc–13(a)(2) of this title for the purpose of carrying out part C of this subchapter.

(b) Acceptance of donations of funds, property, or services for implementation of park management plan

Notwithstanding any other provisions of law, the Secretary may accept donations of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of implementing the park management plan.

(c) Sponsorship or coordination of educational or cultural programs

The Secretary may sponsor or coordinate within the park and preservation district such educational or cultural programs as the Secretary considers appropriate to encourage appreciation of the resources of the park and preservation district.

(d) Acquisition of leases

The Secretary may acquire such leases respecting property within the park as may be necessary to carry out the purpose of this subchapter.

(Pub. L. 95–290, title II, § 205, June 5, 1978, 92 Stat. 295.)

PART C—POWERS AND DUTIES OF PRESERVATION COMMISSION

§ 410cc–31. Lowell Historic Preservation Commission

(a) Establishment and administrative role; composition of membership

There is established within the Department of the Interior a commission to be known as the Lowell Historic Preservation Commission which shall administer the preservation district and provide certain services within the park in accordance with this part. The Commission shall consist of fifteen members appointed by the Secretary as follows:

(1) Three members who are members of the city council of Lowell, appointed from recommendations made by the mayor of Lowell.

(2) Three members appointed from recommendations made by the city manager of Lowell of persons who are representative of organized labor, the business community, local neighborhoods, and cultural institutions, and who are not elected officials.

(3) One member appointed from recommendations made by the president of the University of Lowell.

(4) Three members appointed from recommendations made by the Governor of the Commonwealth of Massachusetts.

(5) One member appointed from recommendations made by the Secretary of Commerce and who shall be an employee of the Department of Commerce.

(6) One member appointed from recommendations made by the Secretary of Transportation and who shall be an employee of the Department of Transportation.

(7) One member appointed from recommendations made by the Secretary of Housing and Urban Development and who shall be an employee of the Department of Housing and Urban Development.

(8) Two members who are qualified to serve on the Commission because of their familiarity with programs of the Department of the Interior involving national parks and historic preservation and who shall be an employee of the Department of the Interior.

(b) Continuation of status as appointed member for member leaving government office or becoming elected official of government; duration

If any member of the Commission who was appointed to the Commission under paragraph (1) or (4) of subsection (a) of this section as a member of the city council of Lowell or any other government leaves that office, or if any member of the Commission who was appointed from persons who are not elected officials of any government becomes an elected official of a government, such person may continue as a member of the Commission for not longer than the thirty-day period beginning on the date such person leaves that office or becomes such an elected official, as the case may be.

(c) Terms of office and reappointment of members

(1) Except as provided in paragraph (2) of this subsection, members shall be appointed for

terms of two years. A member may be reappointed only three times unless such member was originally appointed to fill a vacancy pursuant to subsection (e)(1) of this section, in which case such member may be reappointed four times.

(2) Of the members first appointed pursuant to subsection (a) of this section, the following shall be appointed for terms of three years:

(A) The members appointed pursuant to paragraphs (2), (3), and (8) of such subsection.

(B) One of the members appointed pursuant to paragraph (4) of such subsection, as designated by the Secretary at the time of appointment upon recommendation of the Governor.

(d) Chairman; election by members; term of office

The chairman of the Commission shall be elected by the members of the Commission. The term of the chairman shall be two years.

(e) Vacancies; appointment and term of office; service after expiration of term

(1) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. Any member may serve after the expiration of his term until his successor is appointed.

(f) Quorum and holding of hearings

Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) Meetings

The Commission shall meet at least once each month, at the call of the chairman or a majority of its members.

(h) Compensation; travel expenses and per diem

(1) Except as provided in paragraph (2) of this subsection, members of the Commission shall each be entitled to receive $100 for each day (including travel time) during which they are engaged in the performance of the duties of the Commission.

(2) Members of the Commission who are full-time officers or employees of the United States, the city of Lowell, or the Commonwealth of Massachusetts shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(i) Termination

The Commission established pursuant to this subchapter shall cease to exist seventeen years from June 5, 1978.

(Pub. L. 95–290, title III, §301, June 5, 1978, 92 Stat. 295; Pub. L. 100–134, §1(2), (3), Oct. 16, 1987, 101 Stat. 810.)

AMENDMENTS

1987—Subsec. (e)(2). Pub. L. 100–134, §1(2), substituted ''until his successor is appointed'' for ''for a period not longer than thirty days''.

Subsec. (i). Pub. L. 100–134, §1(3), substituted ''seventeen'' for ''ten''.

§ 410cc–32. Park preservation plan and index

(a) Submission by Commission and approval or disapproval by Secretary of draft and final plans; procedures applicable; revisions in approved plan

(1) Within one year after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a draft park preservation plan meeting the requirements of subsection (c) of this section. The Secretary shall review the draft park preservation plan and, within ninety days after the date on which such plan is submitted to the Secretary, suggest appropriate changes in such plan to the Commission.

(2) Within eighteen months after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a park preservation plan which meets the requirements of subsection (c) of this section. The Secretary shall, within ninety days after the date on which such plan is submitted to the Secretary, approve or disapprove such plan. The Secretary may not approve such plan unless the Secretary determines that such plan would adequately carry out the purpose of this subchapter.

(3) If the Secretary disapproves a park preservation plan, the Secretary shall advise the Commission of the reasons for such disapproval together with the recommendations of the Secretary for revision of such plan. Within such period as the Secretary may designate, the Commission shall submit a revised park preservation plan to the Secretary. The Secretary shall approve or disapprove any revised park preservation plan in the same manner as required in paragraph (2) of this subsection for the approval or disapproval of the original park preservation plan.

(4) If the Secretary approves a park preservation plan, the Secretary shall publish notice of such approval in the Federal Register and shall forward copies of the approved plan to the Congress.

(5) Any park preservation plan or draft plan submitted to the Secretary under this subsection shall, upon request, be available to the public.

(6) No changes other than minor revisions may be made in the approved park preservation plan without the approval of the Secretary. The Secretary shall approve or disapprove any proposed change in the approved park preservation plan, except minor revisions in the same manner as required in paragraph (2) of this subsection for the approval or disapproval of the original park preservation plan.

(b) Funding availability and requirements for plan implementation, activities, etc.

(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not make any funds available to the Commission to carry out

section 410cc–33 or 410cc–34 of this title until a park preservation plan has been approved under subsection (a) of this section.

(2) Before a park preservation plan is approved under subsection (a) of this section, the Secretary may make available to the Commission such funds as the Commission may request to carry out any activity specified in paragraph (3) of this section. However, no funds shall be made available under this paragraph unless a proposal describing such activity is reviewed and approved by the Secretary.

(3) The Commission may request funds from the Secretary to—

(A) carry out activities to preserve, restore, manage, develop, or maintain any property identified in subsection (c)(1) of this section;

(B) take any action the Commission considers necessary to provide owners of property with national historical or cultural significance within the park or preservation district with emergency assistance for the purpose of preserving and protecting their property in a manner consistent with the purpose of this subchapter; or

(C) acquire in accordance with section 410cc–34 of this title, any property within the park which—

(i) is identified in the report of the Lowell Historic Canal District Commission as a property which should be preserved, restored, managed, developed, or maintained in a manner consistent with the purpose of this subchapter;

(ii) is listed in the National Register of Historic Places, as maintained by the Secretary pursuant to section 470a(a) of this title, and section 462(b) of this title; or

(iii) is determined by the Secretary to be of national significance;

and would be subject to demolition or major alteration in a manner inconsistent with the purpose of this subchapter unless acquired by the Commission.

(c) Requirements for plan

Any plan submitted to the Secretary under subsection (a) of this section shall—

(1) describe the manner in which the Commission, to the extent practicable in accordance with the recommendations in the report of the Lowell Historic Canal District Commission, proposes to provide for the preservation, restoration, management, development, or maintenance of—

(A) the Welles Block, 169 Merrimack Street;

(B) the Jordan Marsh Company Building, 153 Merrimack Street and 15 Kirk Street;

(C) the Yorick Club, 91 Dutton Street;

(D) the Lowell Gas Light Company, 22 Shattuck Street;

(E) St. Anne's Church and Rectory, 237 Merrimack Street;

(F) Lowell Institution for Savings, 18 Shattuck Street;

(G) the Ahepa Building, 31 Kirk Street;

(H) Boott Mill, Foot of John Street;

(I) Lowell Manufacturing Company on Market Street; and

(J) the structure commonly referred to as the Early Residence, 45, 47, and 49 Kirk Street;

(2) identify the properties included in the index established pursuant to subsection (d) of this section;

(3) identify the properties which the Commission intends to acquire under section 410cc–34 of this title and specify how such properties shall be used;

(4) include the standards and criteria established pursuant to subsection (e) of this section;

(5) provide a detailed description of the manner in which the Commission intends to implement the grant and loan programs under section 410cc–33 of this title, including information relating to the estimated amount of such grants and the manner in which such grants shall be awarded by the Commission;

(6) provide for a transportation program by which the Commission shall provide, directly or by agreement with any person or any public or private entity, transportation services and facilities for park and preservation district visitors, including barge equipment, docking facilities, and local rail facilities;

(7) provide for educational and cultural programs to encourage appreciation of the resources of the park and preservation district; and

(8) include a tentative budget for the subsequent five fiscal years.

(d) Establishment and contents of index; modification of index

The Commission shall establish, within one year after the date on which the Commission conducts its first meeting, an index which includes—

(1) any property in the park or preservation district (except for any property identified in section 410cc–21(a)(2) of this title) which should be preserved, restored, managed, developed, maintained, or acquired by the Commission because of its national historic or cultural significance; and

(2) any property which should be preserved, restored, managed, developed, or maintained in a manner compatible with the purpose of this subchapter because of its proximity to (A) any property referred to in paragraph (1) of this subsection, or (B) any property designated in section 410cc–21(a)(2) of this title.

The index may be modified only by a majority vote of the members of the Commission, taken when a quorum is present.

(e) Standards and criteria for construction, preservation, etc., of properties within preservation district and park; authorization; establishment; revisions; publication in Federal Register

(1) The Commission shall establish standards and criteria applicable to the construction, preservation, restoration, alteration, and use of all properties within the preservation district with the advice of the Commonwealth of Massachusetts and of the Secretary, and the consent of the city manager of Lowell.

(2) The Commission shall establish the standards and criteria described in paragraph (1) of this subsection for any property within the park with the advice of the Commonwealth of Massa-

chusetts and the city manager of Lowell and subject to the review and approval of the Secretary.

(3) The Commission shall establish standards and criteria under paragraphs (1) and (2) of this subsection within one year after the date on which the Commission conducts its first meeting. Such standards and criteria may be revised in the same manner in which they were originally established.

(4) The Secretary shall publish the standards and criteria established under paragraphs (1) and (2) of this subsection, and any revisions thereof, in the Federal Register.

(Pub. L. 95–290, title III, § 302, June 5, 1978, 92 Stat. 297.)

§ 410cc–33. Financial and technical assistance

(a) Loans to Lowell Development and Financial Corporation for loans for preservation, etc., of property; terms of loan agreement with corporation; determination of compliance by corporation with requirements for loans; repayment by corporation

The Commission may make loans to the Lowell Development and Financial Corporation (established under chapter 844 of the Massachusetts General Laws and hereinafter referred to as the ''corporation'') to enable the corporation to provide low interest loans for the preservation, restoration, or development of any property described in section 410cc–32(d)(1) of this title. The Commission may make any such loan to the corporation only after entering into a loan agreement with the corporation which includes the following terms:

(1) The loan to the corporation shall have a maturity of thirty-five years. At the end of such period, the corporation shall repay to the Secretary of the Treasury (in a lump sum) for deposit in the general fund of the Treasury the full amount of the loan and any additional amounts accruing to the corporation pursuant to this subsection excepting those amounts expended by the corporation for reasonable administrative expenses.

(2) The money received from the Commission, and any interest earned on such money, may be obligated by the corporation only for low interest loans made under paragraphs (6) and (7) of this subsection, except that the corporation may use such money to the extent the Commission considers reasonable to satisfy the costs of the corporation in administering the loan or procuring loan guarantees or insurance.

(3) Within five years after receiving the loan from the Commission, the corporation shall make loans under paragraphs (6) and (7) of this subsection which, in the aggregate, obligate the full amount of money received from the Commission (minus any amount required to satisfy the costs described in paragraph (2) of this subsection).

(4) As loans made under paragraphs (6) and (7) of this subsection are repaid, the corporation shall make additional loans under such paragraphs with the money made available for obligation by such repayments.

(5) The corporation shall make available to the Commission and to the Secretary, upon request, all accounts, financial records, and other information related to loans made under paragraphs (6) and (7) of this subsection.

(6) Before the corporation approves any application for a low interest loan for which money has been made available to the corporation by the Commission, the corporation shall require the prospective borrower to furnish the corporation with a statement from the Commission stating that the Commission has reviewed the application and has determined that any loan received by the prospective borrower will be spent in a manner consistent with—

(A) the standards and criteria established pursuant to section 410cc–32(e) of this title, and

(B) the goals of the park preservation plan approved under section 410cc–32(a) of this title.

(7) The corporation may approve any application for a low interest loan which meets the terms and conditions prescribed by the corporation with the approval of the Commission and for which money has been made available to the corporation by the Commission if—

(A) the prospective borrower furnishes the corporation with the statement described in paragraph (6) of this subsection;

(B) the corporation determines that such borrower has sufficient financial resources to repay the loan; and

(C) such borrower satisfies any other applicable credit criteria established by the corporation.

In order to determine whether the corporation has complied with this subsection, the Commission, or such other appropriate person or entity as the Commission may designate, shall conduct an audit at least once every two years of all accounts, financial records, and other information related to loans made under paragraphs (6) and (7) of this subsection. If the Commission determines, after conducting a hearing on the record, that the corporation has substantially failed to comply with this subsection, the outstanding balance of any loan made to the corporation under this subsection shall become payable in full upon the demand of the Commission.

(b) Grants to property owners for preservation, etc., of property; grants to persons or public or private entities for educational and cultural programs or for necessary services; terms of grant agreements; recovery of amounts for inconsistent uses

(1) The Commission may make grants to owners of property described in section 410cc–32(d)(1) of this title for the preservation, restoration, management, development, or maintenance of such property in a manner consistent with the standards and criteria established pursuant to section 410cc–32(e) of this title.

(2) The Commission, with the approval of the Secretary, may make grants to any person or any public or private entity to provide for (i) educational and cultural programs which encourage appreciation of the resources of the park and preservation district, or (ii) any planning, transportation, maintenance, or other

services the Commission considers necessary to carry out the purposes of this subchapter.

(3) Grants under this subsection shall be made under agreements which specify the amount of the grant, the installments (if any) by which the grant shall be paid to the grant recipient, the purpose for which the grant may be used, and any other condition the Commission considers appropriate. The Commission shall be entitled, under the terms of any grant agreement, to recover from the recipient any funds used in a manner inconsistent with such grant agreement.

(c) Technical assistance to property owners, etc.

The Commission with the advice of the Secretary may provide technical assistance to—

(1) owners of property within the park or preservation district to assist such owners in (A) making repairs to or improvements in any property included in the index established pursuant to section 410cc–32(d) of this title, or (B) applying for loans under subsection (a) of this section; and

(2) any other person or public or private entity to assist such person or entity in taking actions consistent with the purpose of this subchapter.

(d) Availability to Secretary of all accounts, financial records, and other information relating to loans and grants

The Commission shall make available to the Secretary, upon request, all accounts, financial records, and other information of the Commission relating to grants and loans made under this section.

(Pub. L. 95–290, title III, § 303, June 5, 1978, 92 Stat. 300.)

CODIFICATION

Subsec. (e) of this section, which required the Secretary to make an annual report to Congress describing the loans, grants, and technical assistance provided under this section and under section 410cc–23 of this title, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 108 of House Document No. 103–7.

§ 410cc–34. Acquisition and disposition of property

(a) Acquisition of specified property; manner of acquisition

(1) The Commission may acquire any property designated in paragraph (3) of this subsection, any property described in section 410cc–32(d)(1) of this title, or any interest therein, by donation, by purchase with donated or appropriated funds, or by condemnation in accordance with paragraph (2) of this subsection.

(2) Only properties within the park or property designated in paragraph (3) of this subsection may be acquired by the Commission by condemnation. The Commission may initiate condemnation proceedings only after making every reasonable effort to acquire any such property through negotiations and purchase and consulting with the city council of Lowell. No lands or interests therein may be acquired by the Commission by condemnation without the approval of the Secretary.

(3) The Commission may acquire in accordance with paragraph (1) of this subsection the following properties, or any interest therein:

(A) World Furniture Building, 125 Central Street; and

(B) The Martin Building, 102–122 Central Street.

(b) Sale or lease of specified property; conditions

The Commission, with the approval of the Secretary, may sell or lease any property which it acquires under subsection (a) of this section subject to such deed restrictions or other conditions as the Commission deems appropriate to carry out the purpose of this subchapter.

(c) Agreement for disposal of specified property to Commonwealth of Massachusetts; purposes of transfers

Pursuant to a written agreement between the Commission and the Commonwealth of Massachusetts, the Commission, with the approval of the Secretary, may sell, donate, lease, or in any other manner the Commission and the Secretary deem appropriate make available to the Commonwealth any property which the Commission has acquired under subsection (a) of this section in order to provide for the administration or maintenance of such property by the Commonwealth in a manner consistent with the purpose of this subchapter.

(Pub. L. 95–290, title III, § 304, June 5, 1978, 92 Stat. 302.)

§ 410cc–35. Powers of Commission

(a) Conduct of hearings, etc.

The Commission may for the purpose of carrying out this subchapter hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) Authorization of action by member or agent

When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) Receipt of necessary information from other Federal departments or agencies; information furnished upon request by chairman

Subject to section 552a of title 5, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this subchapter. Upon request of the chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) Authorization to seek and accept donations of funds, property, or services

Notwithstanding any other provision of law, the Commission may seek and accept donations of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of carrying out its duties.

(e) Use of funds for obtaining additional moneys

The Commission may use its funds to obtain money from any source under any program or

law requiring the recipient of such money to make a contribution in order to receive such money.

(f) Use of mails

The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(g) Purchase, rental, donation, etc., of property, facilities, and services; manner of acquisition; transfers to Department of the Interior upon termination of Commission

The Commission may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties. Any acquisition of property by the Commission shall be in accordance with section 410cc–34 of this title: *Provided, however*, That the Commission may not acquire lands or interests therein pursuant to this subsection by condemnation. Upon the termination of the Commission, all property, personal and real, and unexpended funds shall be transferred to the Department of the Interior.

(Pub. L. 95–290, title III, §305, June 5, 1978, 92 Stat. 302.)

§ 410cc–36. Staff of Commission

(a) Appointment and compensation of Director

The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the rate of pay payable for grade GS–15 of the General Schedule.

(b) Appointment and compensation of additional personnel

The Commission may appoint and fix the pay of such additional personnel as the Commission deems desirable.

(c) Applicability of civil service provisions to appointment and compensation of Director and staff

The Director and staff of the Commission may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for grade GS–15 of the General Schedule.

(d) Temporary or intermittent services; procurement and compensation

Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, but at rates determined by the Commission to be reasonable.

(e) Detail of personnel from other Federal agencies represented by members on Commission; reimbursement by Commission; administrative support services by Administrator of General Services Administration; reimbursement by Commission

(1) Upon request of the Commission, the head of any Federal agency represented by members on the Commission may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this subchapter.

(2) The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(Pub. L. 95–290, title III, §306, June 5, 1978, 92 Stat. 303.)

REFERENCES IN TEXT

GS–15 of the General Schedule, referred to in subsecs. (a) and (c), is set out under section 5332 of Title 5, Government Organization and Employees.

§ 410cc–37. Use of funds; maintenance of financial records; audits

(a) Any revenues or other assets acquired by the Commission by donation, the lease or sale of property or fees for services shall be available to the Commission, without fiscal year limitation, to be used for any function of the Commission authorized under this subchapter. The Commission shall keep financial records fully disclosing the amount and source of revenues and other assets acquired by the Commission, and shall keep such other financial records as the Secretary may prescribe.

(b) The Secretary shall require audits of the financial records of the Commission to be conducted not less frequently than once each year in order to ensure that revenues and other assets of the Commission are being used in a manner authorized under this subchapter.

(Pub. L. 95–290, title III, §307, as added Pub. L. 96–344, §10, Sept. 8, 1980, 94 Stat. 1136.)

SUBCHAPTER LIX–B—WAR IN THE PACIFIC NATIONAL HISTORICAL PARK

§ 410dd. Establishment

(a) Statement of purposes

In order to commemorate the bravery and sacrifice of those participating in the campaigns of the Pacific theater of World War II and to conserve and interpret outstanding natural, scenic, and historic values and objects on the island of Guam for the benefit and enjoyment of present and future generations, the War in the Pacific National Historical Park (hereinafter in this section referred to as the ''park'') is hereby established.

(b) Boundaries; revisions of boundary; publication in Federal Register

The boundaries of the park shall be as generally depicted on the drawing entitled ''Boundary Map, War in the Pacific National Historical Park, Guam'' numbered P–24–80,000–B and dated March 1978, which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior. Following ninety days notice to the Committee on Natural Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate, the Secretary may make minor revisions of the boundary of the park by publication of a revised map in the Federal Register.

(c) Acquisition of lands and interests therein; manner of acquisition

Within the boundaries of the park, the Secretary may acquire lands and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer.

(d) Identification, etc., of other points relevant to park

Other points on the island of Guam relevant to the park may be identified, established, and marked by the Secretary in agreement with the Governor of Guam.

(e) Administration of property

The Secretary shall administer property acquired in accordance with the laws generally applicable to the management of units of the National Park System.

(f) Assistance of appropriate historians for interpretation of historical aspects; language requirements for interpretative activities

The Secretary is authorized to seek the assistance of appropriate historians to interpret the historical aspects of the park. To the greatest extent possible, interpretative activities will be conducted in the following three languages: English, Chamorro, and Japanese.

(g) Negotiations for berthing and interpretation of naval vessel appropriate for accessibility to public

The Secretary is authorized to enter into negotiations with the Secretary of Defense for the berthing and interpretation of a naval vessel of World War II vintage which shall be accessible to the public on the island of Guam.

(h) Repealed. Pub. L. 103–437, § 6(i)(2), Nov. 2, 1994, 108 Stat. 4585

(i) Employment and training of residents of Guam or Northern Mariana Islands for development, maintenance, and administration

The Secretary is authorized and directed, to the maximum extent feasible, to employ and train residents of Guam or of the Northern Mariana Islands to develop, maintain, and administer the park.

(j) Fees or charges prohibited

Notwithstanding any provision of law to the contrary, no fee or charge shall be imposed for entrance or admission into the War in the Pacific National Historical Park.

(k) Authorization of appropriations

For the purposes of the park established under this section, effective October 1, 1978, there are authorized to be appropriated such sums as may be necessary, but not to exceed $16,000,000 for the acquisition of lands or interests in lands and $8,000,000 for development.

(*l*) Monument

Within the boundaries of the park, the Secretary is authorized to construct a monument which shall commemorate the loyalty of the people of Guam and the herosim[1] of the American forces that liberated Guam.

(m) Interpretive programs

Within the boundaries of the park, the Secretary is authorized to implement programs to interpret experiences of the people of Guam during World War II, including, but not limited to, oral histories of those people of Guam who experienced the occupation.

(n) Report on projected development costs

Within six months after December 17, 1993, the Secretary, through the Director of the National Park Service, shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report containing updated cost estimates for the development of the park. Further, this report shall contain a general plan to implement subsections (*l*) and (m) of this section, including, at a minimum, cost estimates for the design and construction of the monument authorized in section[2] (*l*) of this section.

(*o*) Protection of vintage weapons and fortifications

The Secretary may take such steps as may be necessary to preserve and protect various World War II vintage weapons and fortifications which exist within the boundaries of the park.

(Pub. L. 95–348, § 6, Aug. 18, 1978, 92 Stat. 492; Pub. L. 103–197, § 3, Dec. 17, 1993, 107 Stat. 2302; Pub. L. 103–437, § 6(i), Nov. 2, 1994, 108 Stat. 4585.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–437, § 6(i)(1), substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

Subsec. (h). Pub. L. 103–437, § 6(i)(2), struck out subsec. (h) which directed Secretary, within two years from Aug. 18, 1978, to develop and transmit to Congressional committees, a general management plan for War in the Pacific National Historic Park, and to transmit within 5 years of Aug. 18, 1978, a study of additional sites associated with Pacific Campaign of World War II.

1993—Subsec. (k). Pub. L. 103–197, § 3(a), substituted ''$8,000,000'' for ''$500,000''.

Subsecs. (*l*) to (*o*). Pub. L. 103–197, § 3(b), added subsecs. (*l*) to (*o*).

CONGRESSIONAL FINDINGS

Section 1 of Pub. L. 103–197 provided that: ''Congress finds that—

''(1) June 15 through August 10, 1994, marks the 50th anniversary of the Mariana campaign of World War II in which American forces captured the islands of Saipan and Tinian in the Northern Marianas and liberated the United States Territory of Guam from Japanese occupation;

''(2) an attack during this campaign by the Japanese Imperial fleet, aimed at countering the American forces that had landed on Saipan, led to the battle of the Philippine Sea, which resulted in a crushing defeat for the Japanese by United States naval forces and the destruction of the effectiveness of the Japanese carrier-based airpower;

''(3) the recapture of Guam liberated one of the few pieces of United States territory that was occupied for two and one-half years by the enemy during World War II and restored freedom to the indigenous Chamorros on Guam who suffered as a result of the Japanese occupation;

''(4) Army, Navy, Marine Corps, and Coast Guard units distinguished themselves with their heroic bravery and sacrifice;

''(5) the Guam Insular Force Guard, the Guam militia, and the people of Guam earned the highest respect for their defense of the island during the Japa-

[1] So in original. Probably should be ''heroism''.

[2] So in original. Probably should be ''subsection''.

nese invasion and their resistance during the occupation; their assistance to the American forces as scouts for the American invasion was invaluable; and their role, as members of the Guam Combat Patrol, was instrumental in seeking out the remaining Japanese forces and restoring peace to the island;

''(6) during the occupation, the people of Guam—

''(A) were forcibly removed from their homes;

''(B) were relocated to remote sections of the island;

''(C) were required to perform forced labor and faced other harsh treatment, injustices, and death; and

''(D) were placed in concentration camps when the American invasion became imminent and were brutalized by their occupiers when the liberation of Guam became apparent to the Japanese;

''(7) the liberation of the Mariana Islands marked a pivotal point in the Pacific war and led to the American victories at Iwo Jima, Okinawa, the Philippines, Taiwan, and the south China coast, and ultimately against the Japanese home islands;

''(8) the Mariana Islands of Guam, Saipan, and Tinian provided, for the first time during the war, air bases which allowed land-based American bombers to reach strategic targets in Japan; and

''(9) the air offensive conducted from the Marianas against the Japanese war-making capability helped shorten the war and ultimately reduced the toll of lives to secure peace in the Pacific.''

TRANSFER OF EXCESS LAND TO NATIONAL PARK SERVICE

Pub. L. 100–202, § 101(g) [title I], Dec. 22, 1987, 101 Stat. 1329–213, 1329–222, provided in part: ''That any Federally-owned land in War in the Pacific National Historical Park that hereafter becomes excess to the needs of the administering agency shall be transferred to the jurisdiction of the National Park Service, without reimbursement, for purposes of the park.''

SUBCHAPTER LIX–C—SAN ANTONIO MISSIONS NATIONAL HISTORICAL PARK

§ 410ee. Establishment

(a) Composition; boundary revisions

In order to provide for the preservation, restoration, and interpretation of the Spanish Missions of San Antonio, Texas, for the benefit and enjoyment of present and future generations of Americans, there is hereby established the San Antonio Missions National Historical Park (hereafter in this section referred to as the ''park'') consisting of Concepcion, San Jose, San Juan, and Espada Missions, together with areas and features historically associated therewith, as generally depicted on the drawing entitled ''Boundary Map, San Antonio Missions National Historical Park'', numbered 930–80,022–C and dated May 1978, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and in the offices of the Superintendent of the park. The park shall also consist of the lands and interests therein within the area bounded by the line depicted as ''Proposed Boundary Extension'' on the maps entitled ''San Antonio Missions National Historical Park'', numbered 472–80,075, 472–80,076, 472–80,077, 472–80,078, 472–80,079, 472–80,080, and 472–80,081 and dated June 7, 1990, which shall be on file and available for public inspection in the same manner as is such drawing. After advising the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives, in writing, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') may make minor revisions of the boundaries of the park when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(b) Acquisition of lands and interests; cooperative agreements; submittal to Department of Justice

For the purposes of this section, the Secretary is authorized—

(1) to acquire by donation, purchase with donated or appropriated funds, or exchange, lands and interests therein constituting the following generally described areas in the historic missions district of the city of San Antonio, Texas—

(A) Mission San Jose y San Miguel de Aguayo;

(B) Mission Nuestra Senora de la Purisima Concepcion de Acuna;

(C) Mission San Francisco de la Espada;

(D) Espada Acequia, the section of approximately five miles along the west side of and parallel to the San Antonio River;

(E) Espada Dam and Aqueduct;

(F) Mission San Juan Capistrano;

(G) San Juan Acequia, on the east side of the San Antonio River; and

(H) such lands and interests therein which the Secretary determines are necessary or desirable to provide for public access to, and interpretation and protection of, the foregoing; and

(2) to enter cooperative agreements with the owners of any historic properties, including properties referred to in paragraph (1), in furtherance of the purposes of this section.

Each agreement under paragraph (2) shall provide among other things that the owner will hold and preserve the historic property in perpetuity and will not undertake or permit the alteration or removal of historic features or the erection of markers, structures, or buildings without the prior concurrence of the Secretary, and that the public shall have reasonable access to those portions of the property to which access is necessary in the judgment of the Secretary for the proper appreciation and interpretation of its historical and architectural value. Pursuant to such cooperative agreements and notwithstanding any other provision of law to the contrary the Secretary may, directly or by contract, construct, reconstruct, rehabilitate, or develop such buildings, structures, and related facilities including roads, trails, and other interpretive facilities on real property not in Federal ownership and may maintain and operate programs in connection therewith as he deems appropriate. Any lands or interest therein owned by the Catholic Archdiocese of San Antonio, the State of Texas, or any political subdivision of such State, including the San Antonio River Authority, may be acquired by donation only: *Provided*, That the Secretary shall submit all proposed cooperative agreements to the Department of Justice for a determination that the proposed agreements do not violate the con-

stitutional provisions regarding the separation of church and state.

(c) Retention of rights by owners; compensation for property; termination of rights; "improved property" defined

(1) With the exception of any property deemed necessary by the Secretary for visitor facilities or administration of the park, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the property for noncommercial residential purposes, for twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or his spouse, whichever is later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(2) A right of use and occupancy retained or enjoyed pursuant to this subsection may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof had ceased to be used for noncommercial residential purposes and upon tender to the holder of a right an amount equal to the fair market value, as of the date of tender, of that portion of the right which remains unexpired on the date of termination.

(3) The term ''improved property'', as used in this subsection, shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1978 (hereinafter referred to as a ''dwelling''), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment or[1] the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(d) Protection and preservation of historical and architectural values; administration

The Secretary is authorized and directed to take prompt and appropriate action in accordance with the provisions of this section and any cooperative agreement hereunder to assure the protection and preservation of the historical and architectural values of the missions and the areas and features historically associated therewith within the boundaries of the park. The park shall be administered by the Secretary in accordance with this section and provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title.

(e) San Antonio Missions Advisory Commission; membership; Chairman; vacancies; compensation and expenses; meeting and consultation between Secretary and Advisory Commission; termination

(1) There is hereby authorized to be established by the Secretary, a San Antonio Missions Advisory Commission. The Commission shall be composed of eleven members, each appointed for a term of two years by the Secretary, as follows:

(A) one member to be appointed from recommendations made by the Governor of the State of Texas;

(B) one member to be appointed from recommendations made by the County Commissioners of Bexar County, Texas;

(C) one member to be appointed from recommendations made by the City Council of the City of San Antonio, Texas;

(D) one member to be appointed to represent non-Federal property owners whose property is operated and maintained in accordance with cooperative agreements with the Secretary pursuant to subsection (b)(2) of this section;

(E) one member from the membership of a local conservation or historical organization; and

(F) six members representing the general public.

The Secretary shall designate one member to be Chairman of the Commission and may fill any vacancy in the same manner in which the original appointment was made.

(2) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred by the Commission and may reimburse members for reasonable expenses incurred in carrying out their responsibilities under this section on vouchers signed by the Chairman.

(3) All appointments to the Commission shall be made by the Secretary within six months after November 10, 1978, and the Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission in matters relating to the park and with respect to carrying out the provisions of this section.

(4) Unless extended by Act of Congress, this Commission shall terminate ten years after the date of its first meeting with the Secretary or his designee.

(f) Authorization of appropriations

(1) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, but not more than $10,000,000 for the acquisition of lands and interests in lands.

(2) For the development of essential public facilities there are authorized to be appropriated not more than $15,000,000.

(Pub. L. 95–629, title II, § 201, Nov. 10, 1978, 92 Stat. 3636; Pub. L. 96–344, § 13, Sept. 8, 1980, 94 Stat. 1136; Pub. L. 101–628, title V, § 501, Nov. 28, 1990, 104 Stat. 4492; Pub. L. 103–437, § 6(j), Nov. 2, 1994, 108 Stat. 4585.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–437, § 6(j)(1), substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

Subsec. (f)(2). Pub. L. 103–437, § 6(j)(2), struck out at end ''Within one year from November 10, 1978, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a final

[1] So in original. Probably should be ''of''.

master plan for the development of the park consistent with the objectives of this section, indicating (A) the facilities needed to accommodate the health, safety, and interpretive needs of the visiting public; (B) the location and estimated cost of all facilities; and (C) the projected need for any additional facilities within the park.''

1990—Subsec. (a). Pub. L. 101–628, §501(a), inserted after first sentence ''The park shall also consist of the lands and interests therein within the area bounded by the line depicted as 'Proposed Boundary Extension' on the maps entitled 'San Antonio Missions National Historical Park', numbered 472–80,075, 472–80,076, 472–80,077, 472–80,078, 472–80,079, 472–80,080, and 472–80,081 and dated June 7, 1990, which shall be on file and available for public inspection in the same manner as is such drawing.''

Subsec. (f)(2). Pub. L. 101–628, §501(b), substituted ''$15,000,000'' for ''$500,000''.

1980—Subsec. (e)(1). Pub. L. 96–344 substituted ''eleven'' for ''seven'' in provision preceding subpar. (A) and ''six'' for ''two'' in subpar. (F).

SUBCHAPTER LIX–D—CHANNEL ISLANDS NATIONAL PARK

§ 410ff. Establishment

In order to protect the nationally significant natural, scenic, wildlife, marine, ecological, archaeological, cultural, and scientific values of the Channel Islands in the State of California, including, but not limited to, the following:

(1) the brown pelican nesting area;

(2) the undisturbed tide pools providing species diversity unique to the eastern Pacific coast;

(3) the pinnipeds which breed and pup almost exclusively on the Channel islands, including the only breeding colony for northern fur seals south of Alaska;

(4) the Eolian landforms and caliche;

(5) the presumed burial place of Juan Rodriquez Cabrillo; and

(6) the archaeological evidence of substantial populations of Native Americans;

there is hereby established the Channel Islands National Park, the boundaries of which shall include San Miguel and Prince Islands, Santa Rosa, Santa Cruz, Anacapa, and Santa Barbara Islands, including the rocks, islets, submerged lands, and waters within one nautical mile of each island, as depicted on the map entitled, ''Proposed Channel Islands National Park'' numbered 159–20,008 and dated April 1979, which shall be on file and available for public inspection in the offices of the Superintendent of the park and the Director of the National Park Service, Department of the Interior. The Channel Islands National Monument is hereby abolished as such, and the lands, waters, and interests therein withdrawn or reserved for the monument are hereby incorporated within and made a part of the new Channel Islands National Park.

(Pub. L. 96–199, title II, §201, Mar. 5, 1980, 94 Stat. 74.)

ROBERT J. LAGOMARSINO VISITOR CENTER

Pub. L. 104–333, div. I, title VIII, §809, Nov. 12, 1996, 110 Stat. 4189, as amended by Pub. L. 106–176, title I, §119, Mar. 10, 2000, 114 Stat. 28, provided that:

''(a) DESIGNATION.—The visitor center at the Channel Islands National Park, California, is designated as the 'Robert J. Lagomarsino Visitor Center'.

''(b) LEGAL REFERENCES.—Any reference in any law, regulation, document, record, map, or other document of the United States to the visitor center referred to in subsection (a) is deemed to be a reference to the 'Robert J. Lagomarsino Visitor Center'.''

Similar provisions were contained in Pub. L. 104–208, div. A, title I, §101(d) [title I, §125], Sept. 30, 1996, 110 Stat. 3009–181, 3009–204.

§ 410ff–1. Acquisition of property

(a) Authority of Secretary of the Interior; fair market value; State-owned land; Federal property located within park

Within the boundaries of the park as established in section 410ff of this title, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to acquire lands, waters, or interests therein (including but not limited to scenic easements) by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange, or otherwise. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of any right retained by the owner. Any lands, waters, or interests therein owned by the State of California or any political subdivision thereof shall not be acquired. Notwithstanding any other provision of law, Federal property located within the boundaries of the park shall with the concurrence of the head of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary for the purposes of the park: *Provided*, That the Secretary shall permit the use of federally owned park lands and waters which (i) have been transferred from another Federal agency pursuant to this section or which (ii) were the subject of a lease or permit issued by a Federal agency as of March 5, 1980, for essential national security missions and for navigational aids, subject to such terms and conditions as the Secretary deems necessary to protect park resources.

(b) Lands owned, or under option to, National Park Foundation, The Nature Conservancy, or similar organizations

Notwithstanding the acquisition authority contained in subsection (a) of this section, any lands, waters, or interests therein, which are owned wholly or in part, by or which hereafter may be owned by, or under option to, the National Park Foundation, The Nature Conservancy (including any lands, waters, or interests therein which are designated as ''Nature Conservancy Lands'' on the map referred to in section 410ff of this title) or any similar national, nonprofit conservation organization, or an affiliate or subsidiary thereof shall be acquired only with the consent of the owner thereof: *Provided*, That the Secretary may acquire such property in accordance with the provisions of this subchapter if he determines that the property is undergoing or is about to undergo a change in use which is inconsistent with the purposes of this subchapter.

(c) Privately owned lands on Santa Rosa Island

With respect to the privately owned lands on Santa Rosa Island, the Secretary shall acquire

such lands as expeditiously as possible after March 5, 1980. The acquisition of these lands shall take priority over the acquisition of other privately owned lands within the park.

(d) Retention of rights by owners; compatible use under lease

(1) The owner of any private property may, on the date of its acquisition and as a condition of such acquisition, retain for himself a right of use and occupancy of all or such portion of such property as the owner may elect for a definite term of not more than twenty-five years, or ending at the death of the owner, or his spouse, whichever is later. The owner shall elect the term to be reserved. Any such right retained pursuant to this subsection with respect to any property shall be subject to termination by the Secretary upon his determination that such property is being used for any purpose which is incompatible with the administration of the park or with the preservation of the resources therein, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right, of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(2) In the case of any property acquired by the Secretary pursuant to this subchapter with respect to which a right of use and occupancy was not reserved by the former owner pursuant to this subsection, at the request of the former owner, the Secretary may enter into a lease agreement with the former owner under which the former owner may continue any existing use of such property which is compatible with the administration of the park and with the preservation of the resources therein.

(3) Any right retained pursuant to this subsection, and any lease entered into under paragraph (2), shall be subject to such access and other provisions as may be required by the Secretary for visitor use and resources management.

(e) Acquisition of certain property on Santa Cruz Island

(1) Notwithstanding any other provision of law, effective 90 days after November 12, 1996, all right, title, and interest in and to, and the right to immediate possession of, the real property on the eastern end of Santa Cruz Island which is known as the Gherini Ranch is hereby vested in the United States, except for the reserved rights of use and occupancy set forth in Instrument No. 90–027494 recorded in the Official Records of the County of Santa Barbara, California.

(2) The United States shall pay just compensation to the owners of any real property taken pursuant to this subsection, determined as of the date of taking. The full faith and credit of the United States is hereby pledged to the payment of any judgment entered against the United States with respect to the taking of such property. Payment shall be in the amount of the agreed negotiated value of such real property plus interest or the valuation of such real property awarded by judgment plus interest. Interest shall accrue from the date of taking to the date of payment. Interest shall be compounded quarterly and computed at the rate applicable for the period involved, as determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities from November 12, 1996, to the last day of the month preceding the date on which payment is made.

(3) In the absence of a negotiated settlement, or an action by the owner, within 1 year after November 12, 1996, the Secretary shall initiate a proceeding, seeking in a court of competent jurisdiction a determination of just compensation with respect to the taking of such property.

(4) The Secretary shall not allow any unauthorized use of the lands to be acquired under this subsection, except that the Secretary shall permit the orderly termination of all current activities and the removal of any equipment, facilities, or personal property.

(Pub. L. 96–199, title II, § 202, Mar. 5, 1980, 94 Stat. 74; Pub. L. 104–333, div. I, title VIII, § 817, Nov. 12, 1996, 110 Stat. 4200.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 96–199, and was translated as ''this subchapter'', meaning title II of Pub. L. 96–199, to reflect the probable intent of Congress.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–333 added subsec. (e).

§ 410ff–2. Natural resources study reports to Congress; cooperative agreements for enforcement of laws and regulations on State-owned land

(a) The Secretary is directed to develop, in cooperation and consultation with the Secretary of Commerce, the State of California, and various knowledgeable Federal and private entities, a natural resources study report for the park, including, but not limited to, the following:

(1) an inventory of all terrestrial and marine species, indicating their population dynamics, and probable trends as to future numbers and welfare;

(2) recommendations as to what actions should be considered for adoption to better protect the natural resources of the park.

Such report shall be submitted within two complete fiscal years from March 5, 1980, to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and updated revisions of such report shall be similarly submitted at subsequent two year intervals to cover a period of ten years after March 5, 1980.

(b) The Secretary is authorized and directed to enter into and continue cooperative agreements with the Secretary of Commerce and the State of California for the enforcement of Federal and State laws and regulations on those lands and waters within and adjacent to the park which are owned by the State of California. No provision of this subchapter shall be deemed to affect the rights and jurisdiction of the State of California within the park, including, but not limited to, authority over submerged lands and wa-

ters within the park boundaries, and the marine resources therein.

(Pub. L. 96–199, title II, § 203, Mar. 5, 1980, 94 Stat. 75.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 410ff–3. Administration

(a) Authority of Secretary of the Interior; low-intensity, limited-entry basis for administration

Subject to the provisions of section 410ff of this title, the Secretary shall administer the park in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented. In the administration of the park, the Secretary may utilize such statutory authority available for the conservation and management of wildlife and natural and cultural resources as he deems appropriate to carry out the purposes of this subchapter. The park shall be administered on a low-intensity, limited-entry basis.

(b) Limited visitor use; establishment of appropriate visitor carrying capacities

In recognition of the special fragility and sensitivity of the park's resources, it is the intent of Congress that the visitor use within the park be limited to assure negligible adverse impact on the park resources. The Secretary shall establish appropriate visitor carrying capacities for the park.

(c) Comprehensive general management plan

(1) Within three complete fiscal years from March 5, 1980, the Secretary, in consultation with The Nature Conservancy and the State of California, shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive general management plan for the park, pursuant to criteria stated in the provisions of section 1a–7(b) of this title. Such plan shall include alternative considerations for the design and operation of a public transportation system connecting the park with the mainland, with such considerations to be developed in cooperation with the State of California and the Secretary of Transportation. The Secretary shall seek the advice of the scientific community in the preparation of said plan, and conduct hearings for public comment in Ventura and Santa Barbara Counties.

(2) Those aspects of such a plan which relate to marine mammals shall be prepared by the Secretary of Commerce, in consultation with the Secretary and the State of California.

(Pub. L. 96–199, title II, § 204, Mar. 5, 1980, 94 Stat. 76.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 410ff–4. Federal or federally assisted undertakings with respect to lands and waters within, adjacent to, or related to park

The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking with respect to the lands and waters within or adjacent or related to the park, and the head of any Federal agency having authority to license or permit any undertaking with respect to such lands and waters, shall, prior to the approval of the expenditure of any Federal funds on such undertaking or prior to the issuance of any license or permit, as the case may be, afford the Secretary a reasonable opportunity to comment with regard to such undertaking and shall give due consideration to any comments made by the Secretary and to the effect of such undertaking on the purposes for which the park is established.

(Pub. L. 96–199, title II, § 205, Mar. 5, 1980, 94 Stat. 76.)

§ 410ff–5. Designation of wilderness areas

Within three complete fiscal years from March 5, 1980, the Secretary shall review the area within the park and shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendations as to the suitability or nonsuitability of any area within the park for designation as wilderness. Any designation of any such areas as wilderness shall be accomplished in accordance with section 1132(c) and (d) of this title.

(Pub. L. 96–199, title II, § 206, Mar. 5, 1980, 94 Stat. 77.)

§ 410ff–6. Entrance or admission fees prohibited

Notwithstanding any other provision of law, no fees shall be charged for entrance or admission to the park.

(Pub. L. 96–199, title II, § 207, Mar. 5, 1980, 94 Stat. 77.)

§ 410ff–7. Expenditure of Federal funds for research, resources management, and visitor protection and use on private property; transfer of funds; authorization of appropriations

The Secretary is authorized to expend Federal funds for the cooperative management of The Nature Conservancy and other private property for research, resources management, and visitor protection and use. All funds authorized to be appropriated for the purposes of the Channel Islands National Monument are hereby transferred to the Channel Islands National Park. Effective October 1, 1980, there are hereby authorized to be appropriated such further sums as may be necessary to carry out the purposes of this subchapter, but not to exceed $500,000 for development. From the Land and Water Conservation Fund there is authorized to be appropriated $30,100,000 for the purposes of land acquisition. For the authorizations made in this section, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

(Pub. L. 96–199, title II, § 208, Mar. 5, 1980, 94 Stat. 77.)

SUBCHAPTER LIX–E—BISCAYNE NATIONAL PARK

§ 410gg. Establishment; description of boundary; minor boundary revisions; publication in Federal Register

In order to preserve and protect for the education, inspiration, recreation, and enjoyment of present and future generations a rare combination of terrestrial, marine, and amphibious life in a tropical setting of great natural beauty, there is hereby established the Biscayne National Park (hereinafter referred to in this subchapter as the ''park'') in the State of Florida. The boundary of the park shall include the lands, waters, and interests therein as generally depicted on the map entitled ''Boundary Map, Biscayne National Park'', numbered 169–90,003, and dated April 1980, which map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the ''Secretary'') shall publish in the Federal Register, not more than one year after June 28, 1980, a detailed description of the boundary established pursuant to this section. Following reasonable notice in writing to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate of his intention to do so, the Secretary may make minor revisions in the boundary of the park by publication of a revised boundary map or other description in the Federal Register.

(Pub. L. 96–287, title I, § 101, June 28, 1980, 94 Stat. 599; Pub. L. 103–437, § 6(d)(10), Nov. 2, 1994, 108 Stat. 4584.)

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

DANTE FASCELL BISCAYNE NATIONAL PARK VISITOR CENTER

Pub. L. 105–307, Oct. 29, 1998, 112 Stat. 2931, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Dante Fascell Biscayne National Park Visitor Center Designation Act'.

''SEC. 2. DESIGNATION OF THE DANTE FASCELL VISITOR CENTER AT BISCAYNE NATIONAL PARK.

''(a) DESIGNATION.—The Biscayne National Park visitor center, located on the shore of Biscayne Bay on Convoy Point, Florida, is designated as the 'Dante Fascell Visitor Center'.

''(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other document of the United States to the Biscayne National Park visitor center shall be deemed to be a reference to the 'Dante Fascell Visitor Center'.''

§ 410gg–1. Acquisition of property

(a) Authority of Secretary; manner; State lands: donation, reservations, and restrictions; Federal lands: transfer to administrative jurisdiction of National Park Service and Secretary

Within the boundary of the park the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange, except that property owned by the State of Florida or any political subdivision thereof may be acquired only by donation, and subject to such reservations and restrictions as may be provided by Florida law. Lands, waters, and interests therein within such boundary which are owned by the United States and under the control of the Secretary are hereby transferred to the administrative jurisdiction of the National Park Service to be managed for the purposes of the park. Any federally owned lands within the park which are not under the control of the Secretary shall be transferred to his control for purposes of the park at such time as said lands cease to be needed by the agencies which currently control them.

(b) Acquisition period; consideration by Secretary of prompt acquisition of property

It is the express intent of the Congress that the Secretary shall substantially complete the land acquisition program authorized herein within three complete fiscal years from the effective date of this subchapter. Any owner of property within the park may notify the Secretary of the desire of such owner that his property be promptly acquired, and the Secretary shall give immediate and careful consideration, subject to the availability of funds, to the prompt acquisition of such property.

(Pub. L. 96–287, title I, § 102, June 28, 1980, 94 Stat. 599.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in subsec. (b), probably means the date of enactment of Pub. L. 96–287, which was approved on June 28, 1980.

§ 410gg–2. Administration; fishing; abolition of Biscayne National Monument; monument incorporated within and made part of park; monument funds and appropriations available for park

(a) The Secretary shall preserve and administer the park in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented. The waters within the park shall continue to be open to fishing in conformity with the laws of the State of Florida except as the Secretary, after consultation with appropriate officials of said State, designates species for which, areas and times within which, and methods by which fishing is prohibited, limited, or otherwise regulated in the interest of sound conservation to achieve the purposes for which the park is established: *Provided*, That with respect to lands donated by the State after the effective date of this subchapter, fishing shall be in conformance with State law.

(b) The Biscayne National Monument, as authorized by the Act of October 18, 1968 (82 Stat.

1188; 16 U.S.C. 450qq), as amended, is abolished as such, and all lands, waters, and interests therein acquired or reserved for such monument are hereby incorporated within and made a part of the park. Any funds available for the purposes of such monument are hereby made available for the purposes of the park, and authorizations of funds for the monument shall continue to be available for the park.

(Pub. L. 96–287, title I, §103, June 28, 1980, 94 Stat. 600.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in subsec. (a), probably means the date of enactment of Pub. L. 96–287, which was approved on June 28, 1980.

Act of October 18, 1968, referred to in subsec. (b), is Pub. L. 90–606, Oct. 18, 1968, 82 Stat. 1188, as amended, which was classified to sections 450qq to 450qq–4 of this title, and was omitted from the Code in view of the abolition of the Biscayne National Monument and its incorporation within the Biscayne National Park pursuant to subsec. (b).

§ 410gg–3. Report as to suitability for designation as wilderness area; compliance with procedure for such designation

Within three complete fiscal years from the effective date of this subchapter, the Secretary shall review the area within the park and shall report to the President and the Congress, in accordance with section 1132(c) and (d) of this title, his recommendations as to the suitability or nonsuitability of any area within the park for designation as wilderness. Any designation of any such areas as wilderness shall be accomplished in accordance with said section 1132(c) and (d).

(Pub. L. 96–287, title I, §104, June 28, 1980, 94 Stat. 600.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in text, probably means the date of enactment of Pub. L. 96–287, which was approved on June 28, 1980.

§ 410gg–4. Revised comprehensive general management plan; submission to Congressional committees

Within two complete fiscal years from the effective date of this subchapter, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a revised comprehensive general management plan for the park consistent with the provisions of this subchapter and pursuant to the provisions of section 1a–7(b) of this title.

(Pub. L. 96–287, title I, §105, June 28, 1980, 94 Stat. 600.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in text, probably means the date of enactment of Pub. L. 96–287, which was approved on June 28, 1980.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 410gg–5. Authorization of appropriations; entrance or admission fees prohibition

In addition to the sums previously authorized to be appropriated for Biscayne National Monument, there are authorized to be appropriated such sums as may be necessary for the administration of the park, and not to exceed $8,500,000 for the acquisition of lands and interests therein, as provided in this subchapter. Notwithstanding any other provision of law, no fees shall be charged for entrance or admission to the park.

(Pub. L. 96–287, title I, §106, June 28, 1980, 94 Stat. 600.)

AUTHORIZATIONS EFFECTIVE OCTOBER 1, 1980; CONTRACTUAL, OBLIGATORY, AND PAYMENT AUTHORITY PROVIDED IN APPROPRIATIONS

Section 401 of Pub. L. 96–287 provided that: ''Authorizations of moneys to be appropriated under this Act [Pub. L. 96–287] shall be effective October 1, 1980. Notwithstanding any other provision of this Act, authority to enter into contracts to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.''

SUBCHAPTER LIX–F—ALASKAN NATIONAL PARKS

§ 410hh. Establishment of new areas

The following areas are hereby established as units of the National Park System and shall be administered by the Secretary under the laws governing the administration of such lands and under the provisions of this Act:

(1) Aniakchak National Monument, containing approximately one hundred and thirty-eight thousand acres of public lands, and Aniakchak National Preserve, containing approximately three hundred and seventy-six thousand acres of public lands, as generally depicted on map numbered ANIA–90,005, and dated October 1978. The monument and preserve shall be managed for the following purposes, among others: To maintain the caldera and its associated volcanic features and landscape, including the Aniakchak River and other lakes and streams, in their natural state; to study, interpret, and assure continuation of the natural process of biological succession; to protect habitat for, and populations of, fish and wildlife, including, but not limited to, brown/grizzly bears, moose, caribou, sea lions, seals, and other marine mammals, geese, swans, and other waterfowl and in a manner consistent with the foregoing, to interpret geological and biological processes for visitors. Subsistence uses by local residents shall be permitted in the monument where such uses are traditional in accordance with the provisions of subchapter II of chapter 51 of this title.

(2) Bering Land Bridge National Preserve, containing approximately two million four hundred and fifty-seven thousand acres of public land, as generally depicted on map numbered BELA–90,005, and dated October 1978.

The preserve shall be managed for the following purposes, among others: To protect and interpret examples of arctic plant communities, volcanic lava flows, ash explosions, coastal formations, and other geologic processes; to protect habitat for internationally significant populations of migratory birds; to provide for archeological and paleontological study, in cooperation with Native Alaskans, of the process of plant and animal migration, including man, between North America and the Asian Continent; to protect habitat for, and populations of, fish and wildlife including, but not limited to, marine mammals, brown/grizzly bears, moose, and wolves; subject to such reasonable regulations as the Secretary may prescribe, to continue reindeer grazing use, including necessary facilities and equipment, within the areas which on January 1, 1976, were subject to reindeer grazing permits, in accordance with sound range management practices; to protect the viability of subsistence resources; and in a manner consistent with the foregoing, to provide for outdoor recreation and environmental education activities including public access for recreational purposes to the Serpentine Hot Springs area. The Secretary shall permit the continuation of customary patterns and modes of travel during periods of adequate snow cover within a one-hundred-foot right-of-way along either side of an existing route from Deering to the Taylor Highway, subject to such reasonable regulations as the Secretary may promulgate to assure that such travel is consistent with the foregoing purposes.

(3) Cape Krusenstern National Monument, containing approximately five hundred and sixty thousand acres of public lands, as generally depicted on map numbered CAKR–90,007, and dated October 1979. The monument shall be managed for the following purposes, among others: To protect and interpret a series of archeological sites depicting every known cultural period in arctic Alaska; to provide for scientific study of the process of human population of the area from the Asian Continent; in cooperation with Native Alaskans, to preserve and interpret evidence of prehistoric and historic Native cultures; to protect habitat for seals and other marine mammals; to protect habitat for and populations of, birds, and other wildlife, and fish resources; and to protect the viability of subsistence resources. Subsistence uses by local residents shall be permitted in the monument in accordance with the provisions of subchapter II of chapter 51 of this title.

(4)(a) Gates of the Arctic National Park, containing approximately seven million fifty-two thousand acres of public lands, Gates of the Arctic National Preserve, containing approximately nine hundred thousand acres of Federal lands, as generally depicted on map numbered GAAR–90,011, and dated July 1980. The park and preserve shall be managed for the following purposes, among others: To maintain the wild and undeveloped character of the area, including opportunities for visitors to experience solitude, and the natural environmental integrity and scenic beauty of the mountains, forelands, rivers, lakes, and other natural features; to provide continued opportunities, including reasonable access, for mountain climbing, mountaineering, and other wilderness recreational activities; and to protect habitat for and the populations of, fish and wildlife, including, but not limited to, caribou, grizzly bears, Dall sheep, moose, wolves, and raptorial birds. Subsistence uses by local residents shall be permitted in the park, where such uses are traditional, in accordance with the provisions of subchapter II of chapter 51 of this title.

(b) Congress finds that there is a need for access for surface transportation purposes across the Western (Kobuk River) unit of the Gates of the Arctic National Preserve (from the Ambler Mining District to the Alaska Pipeline Haul Road) and the Secretary shall permit such access in accordance with the provisions of this subsection.

(c) Upon the filing of an application pursuant to section 3164(b) and (c) of this title for a right-of-way across the Western (Kobuk River) unit of the preserve, including the Kobuk Wild and Scenic River, the Secretary shall give notice in the Federal Register of a thirty-day period for other applicants to apply for access.

(d) The Secretary and the Secretary of Transportation shall jointly prepare an environmental and economic analysis solely for the purpose of determining the most desirable route for the right-of-way and terms and conditions which may be required for the issuance of that right-of-way. This analysis shall be completed within one year and the draft thereof within nine months of the receipt of the application and shall be prepared in lieu of an environmental impact statement which would otherwise be required under section 102(2)(C) of the National Environmental Policy Act [42 U.S.C. 4332(2)(C)]. Such analysis shall be deemed to satisfy all requirements of that Act [42 U.S.C. 4321 et seq.] and shall not be subject to judicial review. Such environmental and economic analysis shall be prepared in accordance with the procedural requirements of section 3164(e) of this title. The Secretaries in preparing the analysis shall consider the following—

(i) Alternative routes including the consideration of economically feasible and prudent alternative routes across the preserve which would result in fewer or less severe adverse impacts upon the preserve.

(ii) The environmental and social and economic impact of the right-of-way including impact upon wildlife, fish, and their habitat, and rural and traditional lifestyles including subsistence activities, and measures which should be instituted to avoid or minimize negative impacts and enhance positive impacts.

(e) Within 60 days of the completion of the environmental and economic analysis, the Secretaries shall jointly agree upon a route for issuance of the right-of-way across the preserve. Such right-of-way shall be issued in accordance with the provisions of section 3167 of this title.

(5) Kenai Fjords National Park, containing approximately five hundred and sixty-seven

thousand acres of public lands, as generally depicted on map numbered KEFJ–90,007, and dated October 1978. The park shall be managed for the following purposes, among others: To maintain unimpaired the scenic and environmental integrity of the Harding Icefield, its outflowing glaciers, and coastal fjords and islands in their natural state; and to protect seals, sea lions, other marine mammals, and marine and other birds and to maintain their hauling and breeding areas in their natural state, free of human activity which is disruptive to their natural processes. In a manner consistent with the foregoing, the Secretary is authorized to develop access to the Harding Icefield and to allow use of mechanized equipment on the icefield for recreation.

(6) Kobuk Valley National Park, containing approximately one million seven hundred and ten thousand acres of public lands as generally depicted on map numbered KOVA–90,009, and dated October 1979. The park shall be managed for the following purposes, among others: To maintain the environmental integrity of the natural features of the Kobuk River Valley, including the Kobuk, Salmon, and other rivers, the boreal forest, and the Great Kobuk Sand Dunes, in an undeveloped state; to protect and interpret, in cooperation with Native Alaskans, archeological sites associated with Native cultures; to protect migration routes for the Arctic caribou herd; to protect habitat for, and populations of, fish and wildlife including but not limited to caribou, moose, black and grizzly bears, wolves, and waterfowl; and to protect the viability of subsistence resources. Subsistence uses by local residents shall be permitted in the park in accordance with the provisions of subchapter II of chapter 51 of this title. Except at such times when, and locations where, to do so would be inconsistent with the purposes of the park, the Secretary shall permit aircraft to continue to land at sites in the upper Salmon River watershed.

(7)(a) Lake Clark National Park, containing approximately two million four hundred thirty-nine thousand acres of public lands, and Lake Clark National Preserve, containing approximately one million two hundred and fourteen thousand acres of public lands, as generally depicted on map numbered LACL–90,008, and dated October 1978. The park and preserve shall be managed for the following purposes, among others: To protect the watershed necessary for perpetuation of the red salmon fishery in Bristol Bay; to maintain unimpaired the scenic beauty and quality of portions of the Alaska Range and the Aleutian Range, including active volcanoes, glaciers, wild rivers, lakes, waterfalls, and alpine meadows in their natural state; and to protect habitat for and populations of fish and wildlife including but not limited to caribou, Dall sheep, brown/grizzly bears, bald eagles, and peregrine falcons.

(b) No lands conveyed to the Nondalton Village Corporation shall be considered to be within the boundaries of the park or preserve; if the corporation desires to convey any such lands, the Secretary may acquire such lands with the consent of the owner, and any such lands so acquired shall become part of the park or preserve, as appropriate. Subsistence uses by local residents shall be permitted in the park where such uses are traditional in accordance with the provisions of subchapter II of chapter 51 of this title.

(8)(a) Noatak National Preserve, containing approximately 6,477,168 acres of public lands, as generally depicted on map numbered NOAT–90,004, and dated July 1980 and the map entitled ''Noatak National Preserve and Noatak Wilderness Addition'' dated September 1994. The preserve shall be managed for the following purposes, among others: To maintain the environmental integrity of the Noatak River and adjacent uplands within the preserve in such a manner as to assure the continuation of geological and biological processes unimpaired by adverse human activity; to protect habitat for, and populations of, fish and wildlife, including but not limited to caribou, grizzly bears, Dall sheep, moose, wolves, and for waterfowl, raptors, and other species of birds; to protect archeological resources; and in a manner consistent with the foregoing, to provide opportunities for scientific research. The Secretary may establish a board consisting of scientists and other experts in the field of arctic research in order to assist him in the encouragement and administration of research efforts within the preserve.

(b) All lands located east of centerline of the main channel of the Noatak River which are—

(1) within

(A) any area withdrawn under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] for selection by the village of Noatak, and

(B) any village deficiency withdrawal under section 11(a)(3)(A) of such Act [43 U.S.C. 1610(a)(3)(A)] which is adjacent to the area described in subparagraph (i)[1] of this paragraph,

(2) adjacent to public lands within a unit of the National Park System as designated under this Act, and

(3) not conveyed to such Village or other Native Corporation before the final conveyance date, shall, on such final conveyance date, be added to and included within, the adjacent unit of the National Park System (notwithstanding the applicable acreage specified in this paragraph) and managed in the manner provided in the foregoing provisions of this paragraph. For purposes of the preceding sentence the term ''final conveyance date'' means the date of the conveyance of lands under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], or by operation of this Act, to the Village of Noatak, or to any other Native Corporation which completes the entitlement of such Village or other Corporation to conveyance of lands from the withdrawals referred to in subparagraph (1).

(9) Wrangell-Saint Elias National Park, containing approximately eight million one hun-

[1] So in original. Probably should be ''subparagraph (A)''.

dred and forty-seven thousand acres of public lands, and Wrangell-Saint Elias National Preserve, containing approximately four million one hundred and seventy-one thousand acres of public lands, as generally depicted on map numbered WRST–90,007, and dated August 1980. The park and preserve shall be managed for the following purposes, among others: To maintain unimpaired the scenic beauty and quality of high mountain peaks, foothills, glacial systems, lakes, and streams, valleys, and coastal landscapes in their natural state; to protect habitat for, and populations of, fish and wildlife including but not limited to caribou, brown/grizzly bears, Dall sheep, moose, wolves, trumpeter swans and other waterfowl, and marine mammals; and to provide continued opportunities, including reasonable access for mountain climbing, mountaineering, and other wilderness recreational activities. Subsistence uses by local residents shall be permitted in the park, where such uses are traditional, in accordance with the provisions of subchapter II of chapter 51 of this title.

(10) Yukon-Charley Rivers National Preserve, containing approximately one million seven hundred and thirteen thousand acres of public lands, as generally depicted on map numbered YUCH–90,008, and dated October 1978. The preserve shall be managed for the following purposes, among others: To maintain the environmental integrity of the entire Charley River basin, including streams, lakes and other natural features, in its undeveloped natural condition for public benefit and scientific study; to protect habitat for, and populations of, fish and wildlife, including but not limited to the peregrine falcons and other raptorial birds, caribou, moose, Dall sheep, grizzly bears, and wolves; and in a manner consistent with the foregoing, to protect and interpret historical sites and events associated with the gold rush on the Yukon River and the geological and paleontological history and cultural prehistory of the area. Except at such times when and locations where to do so would be inconsistent with the purposes of the preserve, the Secretary shall permit aircraft to continue to land at sites in the Upper Charley River watershed.

(Pub. L. 96–487, title II, § 201, Dec. 2, 1980, 94 Stat. 2377; Pub. L. 104–333, div. I, title III, § 302(c)(2), Nov. 12, 1996, 110 Stat. 4119.)

REFERENCES IN TEXT

This Act, referred to in provision preceding par. (1) and par. (8)(b)(2), (3), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

That Act, referred to in par. (4)(d), meaning the National Environmental Policy Act of 1969, is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Alaska Native Claims Settlement Act, referred to in par. (8)(b)(1)(A), (3), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1996—Par. (8)(a). Pub. L. 104–333 substituted ''approximately 6,477,168 acres'' for ''approximately six million four hundred and sixty thousand acres'' and inserted ''and the map entitled 'Noatak National Preserve and Noatak Wilderness Addition' dated September 1994'' after ''July 1980''.

ANAKTUVUK PASS LAND EXCHANGE

Section 302 of title III of div. I of Pub. L. 104–333 provided that:

''(a) FINDINGS.—The Congress makes the following findings:

''(1) The Alaska National Interest Lands Conservation Act (94 Stat. 2371 [Pub. L. 96–487, see Short Title note set out under section 3101 of this title]), enacted on December 2, 1980, established Gates of the Arctic National Park and Preserve and Gates of the Arctic Wilderness. The Village of Anaktuvuk Pass, located in the highlands of the central Brooks Range is virtually surrounded by these national park and wilderness lands and is the only Native village located within the boundary of a National Park System unit in Alaska.

''(2) Unlike most other Alaskan Native communities, the village [sic] of Anaktuvuk Pass is not located on a major river, lake, or coastline that can be used as a means of access. The residents of Anaktuvuk pass [sic] have relied increasingly on snow machines in winter and all-terrain vehicles in summer as their primary means of access to pursue caribou and other subsistence resources.

''(3) In a 1983 land exchange agreement, linear easements were reserved by the Inupiat Eskimo people for use of all-terrain vehicles across certain national park lands, mostly along stream and river banks. These linear easements proved unsatisfactory, because they provided inadequate access to subsistence resources while causing excessive environmental impact from concentrated use.

''(4) The National Park Service and the Nunamiut Corporation initiated discussions in 1985 to address concerns over the use of all-terrain vehicles on park and wilderness land. These discussions resulted in an agreement, originally executed in 1992 and thereafter amended in 1993 and 1994, among the National Park Service, Nunamiut Corporation, the City of Anaktuvuk Pass, and Arctic Slope Regional Corporation. Full effectuation of this agreement, as amended, by its terms requires ratification by the Congress.

''(b) RATIFICATION OF AGREEMENT.—

''(1) RATIFICATION.—

''(A) IN GENERAL.—The terms, conditions, procedures, covenants, reservations, and other provisions set forth in the document entitled 'Donation, Exchange of Lands and Interests in Lands and Wilderness Redesignation Agreement Among Arctic Slope Regional Corporation, Nunamiut Corporation, City of Anaktuvuk Pass and the United States of America' (hereinafter referred to in this section as 'the Agreement'), executed by the parties on December 17, 1992, as amended, are hereby incorporated in this title [see Tables for classification], are ratified and confirmed, and set forth the obligations and commitments of the United States, Arctic Slope Regional Corporation, Nunamiut Corporation and the City of Anaktuvuk Pass, as a matter of Federal law.

''(B) LAND ACQUISITION.—Lands acquired by the United States pursuant to the Agreement shall be administered by the Secretary of the Interior (hereinafter referred to as the 'Secretary') as part of Gates of the Arctic National Park and Preserve, subject to the laws and regulations applicable thereto.

''(2) MAPS.—The maps set forth as Exhibits C1, C2, and D through I to the Agreement depict the lands subject to the conveyances, retention of surface access rights, access easements and all-terrain vehicle easements. These lands are depicted in greater detail on a map entitled 'Land Exchange Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve', Map No. 185/80,039, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the offices of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska. Written legal descriptions of these lands shall be prepared and made available in the above offices. In case of any discrepancies, Map No. 185/80,039 shall be controlling.

''(c) NATIONAL PARK SYSTEM WILDERNESS.—

''(1) GATES OF THE ARTIC WILDERNESS.—[Amended provisions listed in a Table of Wilderness Areas set out under section 1132 of this title.]

''(2) NOATAK NATIONAL PRESERVE.—[Amended this section.]

''(3) NOATAK WILDERNESS.—[Amended provisions listed in a Table of Wilderness Areas set out under section 1132 of this title.]

''(d) CONFORMANCE WITH OTHER LAW.—

''(1) ALASKA NATIVE CLAIMS SETTLEMENT ACT.—All of the lands, or interests therein, conveyed to and received by Arctic Slope Regional Corporation or Nunamiut Corporation pursuant to the Agreement shall be deemed conveyed and received pursuant to exchanges under section 22(f) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1621(f)). All of the lands or interests in lands conveyed pursuant to the Agreement shall be conveyed subject to valid existing rights.

''(2) ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—Except to the extent specifically set forth in this section or the Agreement, nothing in this section or in the Agreement shall be construed to enlarge or diminish the rights, privileges, or obligations of any person, including specifically the preference for subsistence uses and access to subsistence resources provided under the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).''

§ 410hh–1. Additions to existing areas

The following units of the National Park System are hereby expanded:

(1) Glacier Bay National Monument, by the addition of an area containing approximately five hundred and twenty-three thousand acres of Federal Land. Approximately fifty-seven thousand acres of additional public land is hereby established as Glacier Bay National Preserve, both as generally depicted on map numbered GLBA–90,004, and dated October 1978; furthermore, the monument is hereby redesignated as ''Glacier Bay National Park''. The monument addition and preserve shall be managed for the following purposes, among others: To protect a segment of the Alsek River, fish and wildlife habitats and migration routes, and a portion of the Fairweather Range including the northwest slope of Mount Fairweather. Lands, waters, and interests therein within the boundary of the park and preserve which were within the boundary of any national forest are hereby excluded from such national forest and the boundary of such national forest is hereby revised accordingly.

(2) Katmai National Monument, by the addition of an area containing approximately one million and thirty-seven thousand acres of public land. Approximately three hundred and eight thousand acres of additional public land is hereby established as Katmai National Preserve, both as generally depicted on map numbered 90,007, and dated July 1980; furthermore, the monument is hereby redesignated as ''Katmai National Park''. The monument addition and preserve shall be managed for the following purposes, among others: To protect habitats for, and populations of, fish and wildlife including, but not limited to, high concentrations of brown/grizzly bears and their denning areas; to maintain unimpaired the water habitat for significant salmon populations; and to protect scenic, geological, cultural and recreational features.

(3)(a) Mount McKinley National Park, by the addition of an area containing approximately two million four hundred and twenty-six thousand acres of public land, and approximately one million three hundred and thirty thousand acres of additional public land is hereby established as Denali National Preserve, both as generally depicted on map numbered DENA–90,007, and dated July 1980 and the whole is hereby redesignated as Denali National Park and Preserve. The park additions and preserve shall be managed for the following purposes, among others: To protect and interpret the entire mountain massif, and additional scenic mountain peaks and formations; and to protect habitat for, and populations of fish and wildlife including, but not limited to, brown/grizzly bears, moose, caribou, Dall sheep, wolves, swans and other waterfowl; and to provide continued opportunities, including reasonable access, for mountain climbing, mountaineering and other wilderness recreational activities. Subsistence uses by local residents shall be permitted in the additions to the park where such uses are traditional in accordance with the provisions in subchapter II of chapter 51 of this title.

(b) The Alaska Land Use Council shall, in cooperation with the Secretary, conduct a study of the Kantishna Hills and Dunkle Mine areas of the park as generally depicted on a map entitled ''Kantishna Hills/Dunkle Mine Study Area'' dated October 1979, and report thereon to the Congress not later than three years from December 2, 1980. The study and report shall evaluate the resources of the area, including but not limited to, fish and wildlife, public recreation opportunities, wilderness potential, historic resources, and minerals, and shall include those recommendations respecting resources and other relevant matters which the Council determines are necessary. In conjunction with the study required by this section, the Council, in consultation with the Secretary, shall compile information relating to the mineral potential of the areas encompassed within the study, the estimated cost of acquiring mining properties, and the environmental consequences of further mineral development.

(c) During the period of the study, no acquisition of privately owned land shall be permitted within the study area, except with the consent of the owner, and the holders of valid mining claims shall be permitted to operate on their claims, subject to reasonable regulations designed to minimize damage to the en-

vironment: *Provided, however*, That such lands or claims shall be subject to acquisition without the consent of the owner or holder if the Secretary determines, after notice and opportunity for hearing, if such notice and hearing are not otherwise required by applicable law or regulation, that activities on such lands or claims will significantly impair important scenic, wildlife, or recreational values of the public lands which are the subject of the study.

(Pub. L. 96–487, title II, § 202, Dec. 2, 1980, 94 Stat. 2382; Pub. L. 97–468, title VI, § 615(b)(5), Jan. 14, 1983, 96 Stat. 2578.)

AMENDMENTS

1983—Subsec. (3)(a). Pub. L. 97–468 struck out provision that the portion of the Alaska Railroad right-of-way within the park be subject to such laws and regulations applicable to the protection of fish and wildlife and other park values as the Secretary, with the concurrence of the Secretary of Transportation, might determine.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–468 became effective on date of transfer of Alaska Railroad to the State [Jan. 5, 1985], pursuant to section 1203 of Title 45, Railroads, see section 615(b) of Pub. L. 97–468.

GLACIER BAY NATIONAL PARK BOUNDARY ADJUSTMENT

Pub. L. 105–317, Oct. 30, 1998, 112 Stat. 3002, provided for exchange of land between United States and Alaska no later than six months after issuance of license to Gustavus Electric Company by the Federal Energy Regulatory Commission (FERC) for construction and operation of hydroelectric project; provided for approximately same amount of designated wilderness after transfer as before it; provided environmental, economic, and other conditions on the transfer; provided for role of FERC and Secretary of the Interior in land exchange and hydroelectric project; and provided for authorities and jurisdictions provided in Pub. L. 105–317 to continue in effect until modified or repealed by Congress.

KATMAI NATIONAL PARK LAND EXCHANGE

Pub. L. 105–277, div. A, § 101(e) [title I, § 135], Oct. 21, 1998, 112 Stat. 2681–231, 2681–264, provided that:

''(a) RATIFICATION OF AGREEMENT.—

''(1) RATIFICATION.—

''(A) IN GENERAL.—The terms, conditions, procedures, covenants, reservations, and other provisions set forth in the document entitled 'Agreement for the Sale, Purchase and Conveyance of Lands between the Heirs, Designees and/or Assigns of Palakia Melgenak and the United States of America' (hereinafter referred to in this section as the 'Agreement'), executed by its signatories, including the heirs, designees and/or assigns of Palakia Melgenak (hereinafter referred to in this section as the 'Heirs') effective on September 1, 1998 are authorized, ratified and confirmed, and set forth the obligations and commitments of the United States and all other signatories, as a matter of Federal law.

''(B) NATIVE ALLOTMENT.—Notwithstanding any provision of law to the contrary, all lands described in section 2(c) of the Agreement for conveyance to the Heirs shall be deemed a replacement transaction under 'An Act to relieve restricted Indians in the Five Civilized Tribes whose nontaxable lands are required for State, county or municipal improvements or sold to other persons or for other purposes' (25 U.S.C. 409a, 46 Stat. 1471), as amended, and the Secretary shall convey such lands by a patent consistent with the terms of the Agreement and subject to the same restraints on alienation and tax-exempt status as provided for Native allotments pursuant to 'An Act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska' (34 Stat. 197) [former 43 U.S.C. 270–1 to 270–3], as amended, repealed by section 18(a) [of] the Alaska Native Claims Settlement Act (85 Stat. 710) [43 U.S.C. 1617(a)], with a savings clause for applications pending on December 18, 1971.

''(C) LAND ACQUISITION.—Lands and interests in land acquired by the United States pursuant to the Agreement shall be administered by the Secretary of the Interior (hereinafter referred to as the 'Secretary') as part of the Katmai National Park, subject to the laws and regulations applicable thereto.

''(2) MAPS AND DEEDS.—The maps and deeds set forth in the Agreement generally depict the lands subject to the conveyances, the retention of consultation rights, the conservation easement, the access rights, Alaska Native Allotment Act [34 Stat. 197] status, and the use and transfer restrictions.

''(b) KATMAI NATIONAL PARK AND PRESERVE WILDERNESS.—Upon the date of closing of the conveyance of the approximately 10 acres of Katmai National Park Wilderness lands to be conveyed to the Heirs under the Agreement, the following lands shall hereby be designated part of the Katmai Wilderness as designated by section 701(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 1132 note; 94 Stat. 2417):

''A strip of land approximately one half mile long and 165 feet wide lying within Section 1, Township 24 South, Range 33 West, Seward Meridian, Alaska, the center line of which is the center of the unnamed stream from its mouth at Geographic Harbor to the north line of said Section 1. Said unnamed stream flows from the unnamed lake located in Sections 25 and 26, Township 23 South, Range 33 West, Seward Meridian. This strip of land contains approximately 10 acres.

''(c) AVAILABILITY OF APPROPRIATION.—None of the funds appropriated in this Act or any other Act hereafter enacted for the implementation of the Agreement may be expended until the Secretary determines that the Heirs have signed a valid and full relinquishment and release of any and all claims described in section 2(d) of the Agreement.

''(d) GENERAL PROVISIONS.—

''(1) All of the lands designated as Wilderness pursuant to this section shall be subject to any valid existing rights.

''(2) Subject to the provisions of the Alaska National Interest Lands Conservation Act [see Short Title note set out under section 3101 of this title], the Secretary shall ensure that the lands in the Geographic Harbor area not directly affected by the Agreement remain accessible for the public, including its mooring and mechanized transportation needs.

''(3) The Agreement shall be placed on file and available for public inspection at the Alaska Regional Office of the National Park Service, at the office of the Katmai National Park and Preserve in King Salmon, Alaska, and at least one public facility managed by the Federal, State or local government located in each of Homer, Alaska, and Kodiak, Alaska and such other public facilities which the Secretary determines are suitable and accessible for such public inspections. In addition, as soon as practicable after enactment of this provision [Oct. 21, 1998], the Secretary shall make available for public inspection in those same offices, copies of all maps and legal descriptions of lands prepared in implementing either the Agreement or this section. Such legal descriptions shall be published in the Federal Register and filed with the Speaker of the House of Representatives and the President of the Senate.''

§ 410hh–2. Administration; hunting and subsistence uses; admission fees

Subject to valid existing rights, the Secretary shall administer the lands, waters, and interests

therein added to existing areas or established by the foregoing sections of this subchapter as new areas of the National Park System, pursuant to the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and, as appropriate, under section 3201 of this title and the other applicable provisions of this Act: *Provided, however*, That hunting shall be permitted in areas designated as national preserves under the provisions of this Act. Subsistence uses by local residents shall be allowed in national preserves and, where specifically permitted by this Act, in national monuments and parks. Lands, waters, and interests therein withdrawn or reserved for the former Katmai and Glacier Bay National Monuments are hereby incorporated within and made a part of Katmai National Park or Glacier Bay National Park, as appropriate. Any funds available for the purposes of such monuments are hereby made available for the purposes of Katmai National Park and Preserve or Glacier Bay National Park and Preserve, as appropriate. Notwithstanding any other provision of law, no fees shall be charged for entrance or admission to any unit of the National Park System located in Alaska.

(Pub. L. 96–487, title II, § 203, Dec. 2, 1980, 94 Stat. 2383.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

ENVIRONMENTAL IMPACT STATEMENT ON EFFECTS OF 1996 INCREASES IN VESSEL ENTRIES FOR GLACIER BAY NATIONAL PARK AND PRESERVE

Pub. L. 107–63, title I, § 130, Nov. 5, 2001, 115 Stat. 442, provided that: ''From within funds available to the National Park Service, such sums as may be necessary shall be used for expenses necessary to complete and issue, no later than January 1, 2004, an Environmental Impact Statement (EIS) to identify and analyze the possible effects of the 1996 increases in the number of vessel entries issued for Glacier Bay National Park and Preserve: *Provided*, That such EIS, upon its completion, shall be used by the Secretary to set the maximum level of vessel entries: *Provided further*, That until the Secretary sets the level of vessel entries based on the new EIS, the number of vessel entries into the Park shall be the same as that in effect during the 2000 calendar year and the National Park Service approval of modified Alternative 5 and promulgation of the final rule issued on May 30, 1996, relating to vessel entries, including the number of such entries, for Glacier Bay National Park and Preserve are hereby approved and shall be in effect notwithstanding any other provision of law until the Secretary sets the maximum level of vessel entries consistent with this section: *Provided further*, That nothing in this section shall preclude the Secretary from suspending or revoking any vessel entry if the Secretary determines that it is necessary to protect Park resources.''

§ 410hh–3. Native selections

Valid Native Corporation selections, or lands identified for selection by Regional Corporations pursuant to section 17(d)(2)(E) of the Alaska Native Claims Settlement Act [43 U.S.C. 1616(d)(2)(E)], within the boundaries of the Wrangell-Saint Elias National Park and Preserve as established under this Act, are hereby recognized and shall be honored and conveyed by the Secretary in accordance with the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] and this Act.

(Pub. L. 96–487, title II, § 204, Dec. 2, 1980, 94 Stat. 2384.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in text, is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 410hh–4. Commercial fishing

With respect to the Cape Krusenstern National Monument, the Malaspina Glacier Forelands area of Wrangell-Saint Elias National Preserve and the Dry Bay area of Glacier Bay National Preserve, the Secretary may take no action to restrict unreasonably the exercise of valid commercial fishing rights or privileges obtained pursuant to existing law, including the use of public lands for campsites, cabins, motorized vehicles, and aircraft landings on existing airstrips, directly incident to the exercise of such rights or privileges except that this prohibition shall not apply to activities which the Secretary, after conducting a public hearing in the affected locality, finds constitute a significant expansion of the use of park lands beyond the level of such use during 1979.

(Pub. L. 96–487, title II, § 205, Dec. 2, 1980, 94 Stat. 2384.)

GLACIER BAY NATIONAL PARK RESOURCE MANAGEMENT

Pub. L. 106–455, Nov. 7, 2000, 114 Stat. 1953, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Glacier Bay National Park Resource Management Act of 2000'.

''SEC. 2. DEFINITIONS.

''As used in this Act—

''(1) the term 'local residents' means those persons living within the vicinity of Glacier Bay National Park and Preserve, including but not limited to the residents of Hoonah, Alaska, who are descendants of those who had an historic and cultural tradition of sea gull egg gathering within the boundary of what is now Glacier Bay National Park and Preserve;

''(2) the term 'outer waters' means all of the marine waters within the park outside of Glacier Bay proper;

''(3) the term 'park' means Glacier Bay National Park;

''(4) the term 'Secretary' means the Secretary of the Interior; and

''(5) the term 'State' means the State of Alaska.

''SEC. 3. COMMERCIAL FISHING.

''(a) IN GENERAL.—The Secretary shall allow for commercial fishing in the outer waters of the park in accordance with the management plan referred to in subsection (b) in a manner that provides for the protection of park resources and values.

''(b) MANAGEMENT PLAN.—The Secretary and the State shall cooperate in the development of a manage-

ment plan for the regulation of commercial fisheries in the outer waters of the park in accordance with existing Federal and State laws and any applicable international conservation and management treaties.

''(c) SAVINGS.—(1) Nothing in this Act shall alter or affect the provisions of section 123 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1999 (Public Law 105–277) [set out as a note below], as amended by section 501 of the 1999 Emergency Supplemental Appropriations Act (Public Law 106–31).

''(2) Nothing in this Act shall enlarge or diminish Federal or State title, jurisdiction, or authority with respect to the waters of the State of Alaska, the waters within Glacier Bay National Park and Preserve, or tidal or submerged lands.

''(d) STUDY.—(1) Not later than one year after the date funds are made available, the Secretary, in consultation with the State, the National Marine Fisheries Service, the International Pacific Halibut Commission, and other affected agencies shall develop a plan for a comprehensive multi-agency research and monitoring program to evaluate the health of fisheries resources in the park's marine waters, to determine the effect, if any, of commercial fishing on—

''(A) the productivity, diversity, and sustainability of fishery resources in such waters; and

''(B) park resources and values.

''(2) The Secretary shall promptly notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources [now Committee on Natural Resources] of the United States House of Representatives upon the completion of the plan.

''(3) The Secretary shall complete the program set forth in the plan not later than seven years after the date the congressional committees are notified pursuant to paragraph (2), and shall transmit the results of the program to such committees on a biennial basis.

''SEC. 4. SEA GULL EGG COLLECTION STUDY.

''(a) STUDY.—The Secretary, in consultation with local residents, shall undertake a study of sea gulls living within the park to assess whether sea gull eggs can be collected on a limited basis without impairing the biological sustainability of the sea gull population in the park. The study shall be completed no later than two years after the date funds are made available.

''(b) RECOMMENDATIONS.—If the study referred to in subsection (a) determines that the limited collection of sea gull eggs can occur without impairing the biological sustainability of the sea gull population in the park, the Secretary shall submit recommendations for legislation to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources [now Committee on Natural Resources] of the United States House of Representatives.

''SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as are necessary to carry out this Act.''

COMMERCIAL FISHING IN GLACIER BAY NATIONAL PARK

Pub. L. 105–277, div. A, §101(e) [title I, §123], Oct. 21, 1998, 112 Stat. 2681–231, 2681–259, as amended by Pub. L. 106–31, title I, §501(a)–(c), May 21, 1999, 113 Stat. 72, 73, provided that:

''(a) GENERAL.—

''(1) The Secretary of the Interior and the State of Alaska shall cooperate in the development of a management plan for the regulation of commercial fisheries in Glacier Bay National Park pursuant to existing State and Federal statutes and any applicable international conservation and management treaties. Such management plan shall provide for commercial fishing in the marine waters within Glacier Bay National Park outside of Glacier Bay Proper, and in the marine waters within Glacier Bay Proper as specified in paragraphs (a)(2) through (a)(5), and shall provide for the protection of park values and purposes, for the prohibition of any new or expanded fisheries, and for the opportunity for the study of marine resources.

''(2) In the nonwilderness waters within Glacier Bay Proper, commercial fishing shall be limited, by means of non-transferable lifetime access permits, solely to individuals who—

''(A) hold a valid commercial fishing permit for a fishery in a geographic area that includes the nonwilderness waters within Glacier Bay Proper;

''(B) provide a sworn and notarized affidavit and other available corroborating documentation to the Secretary of the Interior sufficient to establish that such individual engaged in commercial fishing for halibut, tanner crab, or salmon in Glacier Bay Proper during qualifying years which shall be established by the Secretary of the Interior within one year of the date of the enactment of this Act [Oct. 21, 1998]; and

''(C) fish only with—

''(i) longline gear for halibut;

''(ii) pots or ring nets for tanner crab; or

''(iii) trolling gear for salmon.

''(3) With respect to the individuals engaging in commercial fishing in Glacier Bay Proper pursuant to paragraph (2), no fishing shall be allowed in the West Arm of Glacier Bay Proper (West Arm) north of 58 degrees, 50 minutes north latitude, except for trolling for king salmon during the period from October 1 through April 30. The waters of Johns Hopkins Inlet, Tarr Inlet and Reid Inlet shall remain closed to all commercial fishing.

''(4) With respect to the individuals engaging in commercial fishing in Glacier Bay Proper pursuant to paragraph (2), no fishing shall be allowed in the East Arm of Glacier Bay Proper (East Arm) north of a line drawn from Point Caroline, through the southern end of Garforth Island to the east side of Muir Inlet, except that trolling for king salmon during the period from October 1 through April 30 shall be allowed south of a line drawn across Muir Inlet at the southernmost point of Adams Inlet.

''(5) With respect to the individuals engaging in commercial fishing in Glacier Bay Proper pursuant to paragraph (2), no fishing shall be allowed in Geikie Inlet.

''(b) THE BEARDSLEE ISLANDS AND UPPER DUNDAS BAY.—Commercial fishing is prohibited in the designated wilderness waters within Glacier Bay National Park and Preserve, including the waters of the Beardslee Islands and Upper Dundas Bay. Any individual who—

''(1) on or before August 1, 1999, provides a sworn and notarized affidavit and other available corroborating documentation to the Secretary of the Interior sufficient to establish that he or she has engaged in commercial fishing for Dungeness crab in the designated wilderness waters of the Beardslee Islands or Dundas Bay within Glacier Bay National Park pursuant to a valid commercial fishing permit in at least six of the years during the period 1987 through 1998;

''(2) at the time of receiving compensation based on the Secretary of the Interior's determination as described below—

''(A) agrees in writing not to engage in commercial fishing for Dungeness crab within Glacier Bay Proper;

''(B) relinquishes to the State of Alaska for the purposes of its retirement any commercial fishing permit for Dungeness crab for areas within Glacier Bay Proper;

''(C) at the individual's option, relinquishes to the United States the Dungeness crab pots covered by the commercial fishing permit; and

''(D) at the individual's option, relinquishes to the United States the fishing vessel used for Dungeness crab fishing in Glacier Bay Proper; and

''(3) holds a current valid commercial fishing permit that allows such individual to engage in commercial fishing for Dungeness crab in Glacier Bay National Park,

shall be eligible to receive from the United States compensation that is the greater of (i) $400,000, or (ii) an amount equal to the fair market value (as of the date of relinquishment) of the commercial fishing permit for Dungeness crab, together with an amount equal to the present value of the foregone net income from commercial fishing for Dungeness crab for for [sic] the period beginning January 1, 1999 that is equivalent in length to the period established by such individual under paragraph (1), based on the individual's net earnings from the Dungeness crab fishery during such established period. In addition, such individual shall be eligible to receive from the United States fair market value for any Dungeness crab pots, related gear, and not more than one Dungeness crab fishing vessel if such individual chooses to relinquish to the United States such pots, related gear, or vessel. Any individual seeking such compensation shall provide the consent necessary for the Secretary of the Interior to verify such net earnings in the fishery. The Secretary of the Interior's determination of the amount to be paid shall be completed and payment shall be made within six months from the date of application by the individuals described in this subsection and shall constitute final agency action subject to review pursuant to the Administrative Procedures [Procedure] Act [5 U.S.C. 551 et seq.; 701 et seq.] in the United States District Court for the District of Alaska.

''(c) OTHERS AFFECTED BY FISHERY CLOSURES AND RESTRICTIONS.—The Secretary of the Interior is authorized to provide $23,000,000 for a program developed with the concurrence of the State of Alaska to fairly compensate United States fish processors, fishing vessel crew members, communities, and others negatively affected by restrictions on fishing in Glacier Bay National Park. For the purpose of receiving compensation under the program required by this subsection, a potential recipient shall provide a sworn and notarized affidavit to establish the extent of such negative effect.

''(d) DEFINITION AND SAVINGS CLAUSE.—

''(1) As used in this section, the term 'Glacier Bay Proper' shall mean the marine waters within Glacier Bay, including coves and inlets, north of a line drawn from Point Gustavus to Point Carolus.

''(2) Nothing in this section is intended to enlarge or diminish Federal or State title, jurisdiction, or authority with respect to the waters of the State of Alaska, the waters within the boundaries of Glacier Bay National Park, or the tidal or submerged lands under any provision of State or Federal law.

''(e) IMPLEMENTATION AND EFFECTIVE DATE.—The Secretary of the Interior shall publish an interim final rule for the Federal implementation of paragraphs (2) through (5) of subsection (a) and shall provide an opportunity for public comment of no less than 45 days on such interim final rule. The final rule for the Federal implementation of paragraphs (2) through (5) of subsection (a) shall be published in the Federal Register no later than September 30, 1999 and shall take effect on September 30, 1999, except that the limitations in paragraphs (3) through (5) of such subsection shall not apply with respect to halibut fishing until November 15, 1999 or salmon troll fishing until December 31, 1999. In the event that any individual eligible for compensation under subsection (b) has not received full compensation by June 15, 1999, the Secretary shall provide partial compensation on such date to such individual and shall expeditiously provide full compensation thereafter.''

§ 410hh–5. Withdrawal of lands from mining and mineral leasing

Subject to valid existing rights, and except as explicitly provided otherwise in this Act, the Federal lands within units of the National Park System established or expanded by or pursuant to this Act are hereby withdrawn from all forms of appropriation or disposal under the public land laws, including location, entry, and patent under the United States mining laws, disposition under the mineral leasing laws, and from future selections by the State of Alaska and Native Corporations.

(Pub. L. 96–487, title II, § 206, Dec. 2, 1980, 94 Stat. 2384.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

SUBCHAPTER LIX–G—CHACO CULTURE NATIONAL HISTORICAL PARK

§ 410ii. Findings and purpose

(a) The Congress finds that—

(1) archeological research in the San Juan Basin conducted over the past several years has greatly increased public knowledge of the scope of the prehistoric culture referred to as Chacoan Anasazi;

(2) the discoveries and the increased general interest in the Chaco phenomenon have come at a time when the San Juan Basin is experiencing extensive exploration and development for a wide variety of energy-related resources, including coal, uranium, oil, and natural gas;

(3) development of the San Juan Basin's important natural resources and the valid existing rights of private property owners will not be adversely affected by the preservation of the archeological integrity of the area; and

(4) in light of the national significance of the Chacoan sites and the urgent need to protect them, continued cooperation between Federal agencies and private corporations is necessary to provide for development in the San Juan Basin in a manner compatible with preservation and archeological research.

(b) It is the purpose of this subchapter to recognize the unique archeological resources associated with the prehistoric Chacoan culture in the San Juan Basin and surrounding areas; to provide for the preservation and interpretation of these resources; and to facilitate research activities associated with these resources.

(Pub. L. 96–550, title V, § 501, Dec. 19, 1980, 94 Stat. 3227; Pub. L. 104–11, § 2, May 18, 1995, 109 Stat. 158.)

AMENDMENTS

1995—Subsec. (b). Pub. L. 104–11 substituted ''San Juan Basin and surrounding areas'' for ''San Juan Basin''.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–413, § 1, Oct. 30, 2004, 118 Stat. 2325, provided that: ''This Act [enacting provisions set out as a note under section 410ii–6 of this title] may be cited as the 'Hibben Center Act'.''

SHORT TITLE OF 1995 AMENDMENT

Section 1 of Pub. L. 104–11 provided that: ''This Act [amending this section and sections 410ii–1, 410ii–3, and 410ii–5 of this title] may be cited as the 'Chacoan Outliers Protection Act of 1995'.''

§ 410ii–1. Establishment

(a) Abolition of Chaco Canyon National Monument

There is hereby established in the State of New Mexico, the Chaco Culture National Historical Park comprising approximately thirty three thousand nine hundred and eighty nine acres as generally depicted on the map entitled ''Chaco Culture National Historical Park'', numbered 310/80,032–A and dated August 1979. The Chaco Canyon National Monument is hereby abolished, as such, and any funds available for the purpose of the monument shall be available for the purpose of the Chaco Culture National Historical Park.

(b) Designation of Chaco Culture Archeological Protection Sites

(1) Thirty-nine outlying sites as generally depicted on a map entitled ''Chaco Culture Archeological Protection Sites'', numbered 310/80,033–B and dated September 1991, are hereby designated as ''Chaco Culture Archeological Protection Sites''. The thirty-nine archeological protection sites totaling approximately 14,372 acres[1] identified as follows:

Name:	Acres
Allentown	380
Andrews Ranch	950
Bee Burrow	480
Bisa'ani	131
Casa del Rio	40
Casamero	160
Chimney Rock	3,160
Coolidge	450
Dalton Pass	135
Dittert	480
Great Bend	26
Greenlee Ruin	60
Grey Hill Spring	23
Guadalupe	115
Halfway House	40
Haystack	565
Hogback	453
Indian Creek	100
Jaquez	66
Kin Nizhoni	726
Lake Valley	30
Manuelito-Atsee Nitsaa	60
Manuelito-Kin Hochoi	116
Morris 41	85
Muddy Water	1,090
Navajo Springs	260
Newcomb	50
Peach Springs	1,046
Pierre's Site	440
Raton Well	23
Salmon Ruin	5
San Mateo	61
Sanostee	1,565
Section 8	10
Skunk Springs/Crumbled House	533
Standing Rock	348
Toh-la-kai	10
Twin Angeles	40
Upper Kin Klizhin	60.

(2) The map referred to in paragraph (1) shall be kept on file and available for public inspection in the appropriate offices of the National Park Service, the office of the State Director of the Bureau of Land Management located in Santa Fe, New Mexico, the office of the Area Director of the Bureau of Indian Affairs located in Window Rock, Arizona, and the offices of the Arizona and New Mexico State Historic Preservation Officers.

(Pub. L. 96–550, title V, § 502, Dec. 19, 1980, 94 Stat. 3227; Pub. L. 104–11, § 3, May 18, 1995, 109 Stat. 158.)

AMENDMENTS

1995—Subsec. (b). Pub. L. 104–11 designated existing provisions as par. (1), increased number of outlying protection sites from 33 to 39, updated number designation and date on site designation maps, increased total acreage from 8,771 to 14,372 acres, and added par. (2).

§ 410ii–2. Repealed. Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(B), Nov. 12, 1996, 110 Stat. 4196

Section, Pub. L. 96–550, title V, § 503, Dec. 19, 1980, 94 Stat. 3228, related to additions and deletions to Chaco Culture Archeological Protection Sites.

§ 410ii–3. Acquisition of properties

(a) Methods of acquisition

The Secretary is authorized to acquire lands, waters, and interests therein within the boundaries of the Chaco Culture National Historical Park (hereinafter referred to as the ''park'') and the archeological protection sites as identified in section 410ii–1 of this title by donation, purchase with donated or appropriated funds, or exchange. Property owned by the State of New Mexico or any political subdivision thereof, may be acquired by exchange or donation only. Property held in trust for the benefit of any Indian tribe or for the benefit of any individual member thereof may be acquired only with the consent of such owner or beneficial owner as the case may be.

(b) Conveyance by tribal authorities

The respective tribal authorities are authorized to convey by exchange, purchase, on[1] donation the beneficial interest in any lands designated by section 410ii–1 of this title and held in trust by the United States for the respective tribes, to the Secretary, subject to such terms and conditions as the tribal authority deems necessary and which the Secretary deems are consistent with the purposes of this subchapter.

(c) Private properties; acquisition by exchange and cooperative agreements

(1) The Secretary shall attempt to acquire private lands or interests therein by exchange prior to acquiring lands by any other method authorized pursuant to this section.

(2) The Secretary shall seek to use a combination of land acquisition authority under this section and cooperative agreements (pursuant to section 410ii–4 of this title) to accomplish the purposes of archeological resource protection at those sites described in section 410ii–1(b) of this title that remain in private ownership.

[1] So in original. Probably should be ''acres are''.

[1] So in original. Probably should be ''or''.

(d) Exchange of Federal property; pool, acreage designation

(1) For purposes of completing an exchange pursuant to subsections (a) and (b) of this section, the Secretary shall designate a pool of at least three times the private acreage described in subsections (a) and (b) of this section, comprised of Federal property interests of a similar resource character to property to be exchanged. Federal property shall, whenever possible, be designated in blocks of at least one section in size, but in no event shall the blocks designated be less than one-quarter of a section in size.

(2) The Secretary may include within the pool any Federal property under his jurisdiction except units of the National Park System, National Forest System, or the National Wildlife Refuge System that are nominated by the owner of the private property to be exchanged. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchange, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchange may be made for other than equal values.

(e) Federal lands exchanged for non-Federal property

All Federal lands, waters, and interests therein excluded from the boundaries of Chaco Canyon National Monument by this subchapter may be exchanged for non-Federal property to be acquired pursuant to this subchapter. Any lands so excluded shall be managed by the Secretary under the provisions of the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701 et seq.]. Transfer of administration of such lands to the Bureau of Land Management shall not be considered a withdrawal as that term is defined in section 103(j) of the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1702(j)].

(Pub. L. 96–550, title V, § 504, Dec. 19, 1980, 94 Stat. 3228; Pub. L. 104–11, § 4, May 18, 1995, 109 Stat. 159.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (e), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

AMENDMENTS

1995—Subsec. (c)(2). Pub. L. 104–11 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary shall attempt to enter into cooperative agreements pursuant to section 410ii–4 of this title with owners of private property for those archeological protection sites described in section 410ii–1(b) of this title. The Secretary shall acquire fee title to any such private property only if it is necessary to prevent direct and material damage to, or destruction of, Chaco cultural resources and no cooperative agreement with the owner of the private property interest can be affected.''

§ 410ii–4. Cooperative agreements for the protection, preservation, and maintenance of archeological resources

The Secretary shall seek to enter into cooperative agreements with the owners, including the beneficial owners, of the properties located in whole in or in part within the park or the archeological protection sites. The purposes of such agreements shall be to protect, preserve, maintain, and administer the archeological resources and associated site regardless of whether title to the property or site is vested in the United States. Any such agreement shall contain provisions to assure that (1) the Secretary, or his representative, shall have a right of access at all reasonable times to appropriate portions of the property for the purpose of cultural resource protection and conducting research, and (2) no changes or alterations shall be permitted with respect to the cultural resources without the written consent of the Secretary. Nothing in this subchapter shall be deemed to prevent the continuation of traditional Native American religious uses of properties which are the subject of cooperative agreements.

(Pub. L. 96–550, title V, § 505, Dec. 19, 1980, 94 Stat. 3229.)

§ 410ii–5. Administration

(a) Laws governing

The Secretary shall administer the park in accordance with the provisions of this subchapter and the provisions of law generally applicable to the administration of units of the National Park System, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title.

(b) Protection, preservation, and maintenance of cultural resources

The Secretary shall protect, preserve, maintain, and administer the Chaco Culture Archeological Protection Sites, in a manner that will preserve the Chaco cultural resource and provide for its interpretation and research. Such sites shall be managed by the Secretary in accordance with the provisions of this subchapter and the provisions of law generally applicable to public lands as defined in section 1702(e) of title 43: *Provided, however*, That lands held in trust by the Secretary for an Indian tribe or any individual member thereof, or held in restricted fee status shall continue to be so managed or held by the Secretary.

(c) Activities endangering cultural values prohibited

No activities shall be permitted upon the upper surface of the archeological protection sites which shall endanger their cultural values. For the purposes of this subchapter, upper surface shall be considered to extend to a depth of twenty meters below ground level. Nothing in this subchapter shall be deemed to prevent exploration and development of subsurface oil and gas, mineral, and coal resources from without the sites which does not infringe upon the upper surface of the sites.

(d) Livestock grazing permitted

Nothing in this subchapter shall be deemed to prevent the continuation of livestock grazing on properties which are the subject of cooperative agreements.

(e) General management plan; transmittal to Congress

Within three complete fiscal years from December 19, 1980, the Secretary shall transmit to

the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a general management plan for the identification, research, and protection of the park, pursuant to the provisions of section 1a–7(b) of this title, to be developed by the Director, National Park Service, in consultation with the Directors, Bureau of Land Management and Bureau of Indian Affairs and the Governor, State of New Mexico, and a joint management plan for the identification, research, and protection of the archeological protection sites, to be developed by the Director, National Park Service, in consultation and concurrence with the Directors, Bureau of Land Management and Bureau of Indian Affairs, and the Governor, State of New Mexico.

(f) Assistance to Navajo Nation

The Secretary, acting through the Director of the National Park Service, shall assist the Navajo Nation in the protection and management of those Chaco Culture Archeological Protection Sites located on land under the jurisdiction of the Navajo Nation through a grant, contract, or cooperative agreement entered into pursuant to the Indian Self-Determination and Education Act (Public Law 93–638), as amended [25 U.S.C. 450 et seq.], to assist the Navajo Nation in site planning, resource protection, interpretation, resource management actions, and such other purposes as may be identified in such grant, contract, or cooperative agreement. This cooperative assistance shall include assistance with the development of a Navajo facility to serve those who seek to appreciate the Chacoan Outlier Sites.

(Pub. L. 96–550, title V, § 506, Dec. 19, 1980, 94 Stat. 3229; Pub. L. 104–11, § 5, May 18, 1995, 109 Stat. 159.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Act, referred to in subsec. (f), probably means the Indian Self-Determination and Education Assistance Act, Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

AMENDMENTS

1995—Subsec. (f). Pub. L. 104–11 added subsec. (f).

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 410ii–6. Research and data gathering

(a) Plan for continued operational program; submittal to Congress

Consistent with and in furtherance of the purposes of the Division of Cultural Research of the Southwest Cultural Resources Center, operated by the National Park Service, the Secretary shall continue such research and data gathering activities as may be appropriate to further the purposes of this subchapter and knowledge of the Chaco culture. The Secretary shall submit in writing within six months of the effective date of this section, to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a plan for the continued operational program of the Division. The Secretary is authorized and encouraged to establish a committee composed of professional archeologists and others with related professional expertise including the designee of the Governor of the State of New Mexico to advise the Secretary in matters related to the surveying, excavation, curation, interpretation, protection, and management of the cultural resources of the historical park and archeological protection sites.

(b) Computer-generated data base; furnishing of information to Federal and private groups

The Secretary shall, through the Division of Cultural Research of the Southwest Cultural Resources Center of the National Park Service, be responsible for the development of a computer-generated data base of the San Juan Basin, and make such information available to Federal and private groups when to do so will assist such groups in the preservation, management, and development of the resources of the basin.

(c) Opportunity for Secretary to comment on proposed expenditures and permits

The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking with respect to the lands and waters in the archeological protection sites, and the head of any Federal agency having authority to license or permit any undertaking with respect to such lands and waters, shall prior to the approval of the expenditure of any Federal funds on such undertaking, or prior to the issuance of any license or permit, as the case may be, afford the Secretary a reasonable opportunity to comment in writing with regard to such undertaking and its effect upon such sites, and shall give due consideration to any comments made by the Secretary and to the effect of such undertaking on the purposes for which such sites are established.

(Pub. L. 96–550, title V, § 507, Dec. 19, 1980, 94 Stat. 3230.)

REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (a), probably means the date of enactment of Pub. L. 96–550, which was approved Dec. 19, 1980.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

COOPERATIVE AGREEMENTS FOR CURATION AND RESEARCH

Pub. L. 108–413, § 4, Oct. 30, 2004, 118 Stat. 2325, provided that: ''The Secretary [of the Interior] may enter into cooperative agreements with the University of New Mexico, Federal agencies, and Indian tribes for the curation of and conduct of research on artifacts, and to encourage collaborative management of the Chacoan archaeological artifacts associated with northwestern New Mexico.''

§ 410ii–7. Authorization of appropriation

Effective October 1, 1981, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter but not to exceed $11,000,000 for acquisition and $500,000 for development.

(Pub. L. 96–550, title V, § 508, Dec. 19, 1980, 94 Stat. 3231.)

SUBCHAPTER LIX–H—KALAUPAPA NATIONAL HISTORICAL PARK

§ 410jj. Establishment

In order to provide for the preservation of the unique nationally and internationally significant cultural, historic, educational, and scenic resources of the Kalaupapa settlement on the island of Molokai in the State of Hawaii, there is hereby established the Kalaupapa National Historical Park (hereinafter referred to as the ''park'').

(Pub. L. 96–565, title I, § 101, Dec. 22, 1980, 94 Stat. 3321.)

§ 410jj–1. Purposes

The Congress declares the following to constitute the principal purposes of the park:

(1) to preserve and interpret the Kalaupapa settlement for the education and inspiration of present and future generations;

(2) to provide a well-maintained community in which the Kalaupapa leprosy patients are guaranteed that they may remain at Kalaupapa as long as they wish; to protect the current lifestyle of these patients and their individual privacy; to research, preserve, and maintain the present character of the community; to research, preserve, and maintain important historic structures, traditional Hawaiian sites, cultural values, and natural features; and to provide for limited visitation by the general public; and

(3) to provide that the preservation and interpretation of the settlement be managed and performed by patients and Native Hawaiians to the extent practical, and that training opportunities be provided such persons in management and interpretation of the settlement's cultural, historical, educational, and scenic resources.

(Pub. L. 96–565, title I, § 102, Dec. 22, 1980, 94 Stat. 3321.)

§ 410jj–2. Boundaries; revisions of boundary; publication in Federal Register

The boundaries of the park shall include the lands, waters, and interests therein within the area generally depicted on the map entitled ''Boundary Map, Kalaupapa National Historical Park'', numbered P07–80024, and dated May 1980, which shall be on file and available for public inspection in the local and Washington, District of Columbia offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the ''Secretary'') may make minor revisions in the boundary of the park by publication of a revised boundary map or other description to that effect in the Federal Register.

(Pub. L. 96–565, title I, § 103, Dec. 22, 1980, 94 Stat. 3321.)

§ 410jj–3. Acquisition of lands and interests

(a) State- or locally-owned lands; manner of acquisition

Within the boundary of the park, the Secretary is authorized to acquire those lands owned by the State of Hawaii or any political subdivision thereof only by donation or exchange, and only with the consent of the owner. Any such exchange shall be accomplished in accordance with the provisions of sections[1] 460*l*–22(b) and (c)[2] of this title. Any property conveyed to the State or a political subdivision thereof in exchange for property within the park which is held in trust for the benefit of Native Hawaiians, as defined in the Hawaiian Homes Commission Act of 1920 shall, as a matter of Federal law, be held by the grantee subject to an equitable estate of the same class and degree as encumbers the property within the preserve; and ''available lands'' defined in section 203 of the Hawaiian Homes Commission Act may be exchanged in accordance with section 204 of said Act. The vesting of title in the United States to property within the park shall operate to extinguish any such equitable estate with respect to property acquired by exchange within the park. The Secretary may lease from the Department of Hawaiian Home Lands said trust lands until such time as said lands may be acquired by exchange as set forth herein or otherwise acquired. The Secretary may enter into such a lease without regard to fiscal year limitations.

(b) Privately-owned lands; manner of acquisition

The Secretary is authorized to acquire privately-owned lands within the boundary of the park by donation, purchase with donated or appropriated funds, or exchange.

(c) Lands outside of boundary of park and other units of National Park System within State; manner of acquisition

The Secretary is authorized to acquire by any of the foregoing methods except condemnation, lands, waters, and interests therein outside the boundary of the park and outside the boundaries of any other unit of the National Park System but within the State of Hawaii, and to convey the same to the Department of Hawaiian Home Lands in exchange for lands, waters, and interests therein within the park owned by that Department. Any such exchange shall be accomplished in accordance with the provisions defined in subsection (a) of this section.

(Pub. L. 96–565, title I, § 104, Dec. 22, 1980, 94 Stat. 3321; Pub. L. 100–202, § 101(g) [title I, § 100], Dec. 22, 1987, 101 Stat. 1329–213, 1329–220.)

REFERENCES IN TEXT

Subsection (c) of section 460*l*–22, referred to in subsec. (a), was redesignated subsection (d) and a new subsection (c) was added by Pub. L. 98–506, § 2, Oct. 19, 1984, 98 Stat. 2338.

The Hawaiian Homes Commission Act of 1920, referred to in subsec. (a), probably means the Hawaiian

[1] So in original. Probably should be ''section''.

[2] See References in Text note below.

Homes Commission Act, 1920, act July 9, 1921, ch. 42, 42 Stat. 108, as amended, which was classified generally to sections 691 to 718 of Title 48, Territories and Insular Possessions, and was omitted from the Code.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–202 inserted at end ''The Secretary may lease from the Department of Hawaiian Home Lands said trust lands until such time as said lands may be acquired by exchange as set forth herein or otherwise acquired. The Secretary may enter into such a lease without regard to fiscal year limitations.''

§ 410jj–4. Administration

(a) Laws governing

The Secretary shall administer the park in accordance with the provisions of sections 1, 2, 3, and 4 of this title, and sections 461 to 467 of this title, and the provisions of this Act.

(b) Emergency, temporary, and interim activities; cooperative agreements; expenditures; rehabilitation projects

(1) With the approval of the owner thereof, the Secretary may undertake critical or emergency stabilization of utilities and historic structures, develop and occupy temporary office space, and conduct interim interpretive and visitor services on non-Federal property within the park.

(2) The Secretary shall seek and may enter into cooperative agreements with the owner or owners of property within the park pursuant to which the Secretary may preserve, protect, maintain, construct, reconstruct, develop, improve, and interpret sites, facilities, and resources of historic, natural, architectural, and cultural significance. Such agreements shall be of not less than twenty years duration, may be extended and amended by mutual agreement, and shall include, without limitation, provisions that the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes, and that no changes or alterations shall be made in the property except by mutual agreement. Each such agreement shall also provide that the owner shall be liable to the United States in an amount equal to the fair market value of any capital improvements made to or placed upon the property in the event the agreement is terminated prior to its natural expiration, or any extension thereof, by the owner, such value to be determined as of the date of such termination, or, at the election of the Secretary, that the Secretary be permitted to remove such capital improvements within a reasonable time of such termination. Upon the expiration of such agreement, the improvements thereon shall become the property of the owner, unless the United States desires to remove such capital improvements and restore the property to its natural state within a reasonable time for such expiration.

(3) Except for emergency, temporary, and interim activities as authorized in paragraph (1) of this subsection, no funds appropriated pursuant to this Act shall be expended on non-Federal property unless such expenditure is pursuant to a cooperative agreement with the owner.

(4) The Secretary may stabilize and rehabilitate structures and other properties used for religious or sectarian purposes only if such properties constitute a substantial and integral part of the historical fabric of the Kalaupapa settlement, and only to the extent necessary and appropriate to interpret adequately the nationally significant historical features and events of the settlement for the benefit of the public.

(Pub. L. 96–565, title I, § 105, Dec. 22, 1980, 94 Stat. 3322.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b)(3), is Pub. L. 96–565, Dec. 22, 1980, 94 Stat. 3321, which enacted this subchapter and provisions set out as a note under section 2991a of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

MEMORIAL TO INDIVIDUALS FORCIBLY RELOCATED TO KALAUPAPA PENINSULA

Pub. L. 111–11, title VII, § 7108, Mar. 30, 2009, 123 Stat. 1196, provided that:

''(a) IN GENERAL.—The Secretary of the Interior shall authorize Ka 'Ohana O Kalaupapa, a non-profit organization consisting of patient residents at Kalaupapa National Historical Park, and their family members and friends, to establish a memorial at a suitable location or locations approved by the Secretary at Kalawao or Kalaupapa within the boundaries of Kalaupapa National Historical Park located on the island of Molokai, in the State of Hawaii, to honor and perpetuate the memory of those individuals who were forcibly relocated to Kalaupapa Peninsula from 1866 to 1969.

''(b) DESIGN.—

''(1) IN GENERAL.—The memorial authorized by subsection (a) shall—

''(A) display in an appropriate manner the names of the first 5,000 individuals sent to the Kalaupapa Peninsula between 1866 and 1896, most of whom lived at Kalawao; and

''(B) display in an appropriate manner the names of the approximately 3,000 individuals who arrived at Kalaupapa in the second part of its history, when most of the community was concentrated on the Kalaupapa side of the peninsula.

''(2) APPROVAL.—The location, size, design, and inscriptions of the memorial authorized by subsection (a) shall be subject to the approval of the Secretary of the Interior.

''(c) FUNDING.—Ka 'Ohana O Kalaupapa, a nonprofit organization, shall be solely responsible for acceptance of contributions for and payment of the expenses associated with the establishment of the memorial.''

§ 410jj–5. Special needs of leprosy patients residing in Kalaupapa settlement; specific provisions

The following provisions are made with respect to the special needs of the leprosy patients residing in the Kalaupapa settlement—

(1) So long as the patients may direct, the Secretary shall not permit public visitation to the settlement in excess of one hundred persons in any one day.

(2) Health care for the patients shall continue to be provided by the State of Hawaii, with assistance from Federal programs other than those authorized herein.

(3) Notwithstanding any other provision of law, the Secretary shall provide patients a first right of refusal to provide revenue-producing visitor services, including such services as providing food, accommodations, transportation, tours, and guides.

(4) Patients shall continue to have the right to take and utilize fish and wildlife resources

without regard to Federal fish and game laws and regulations.

(5) Patients shall continue to have the right to take and utilize plant and other natural resources for traditional purposes in accordance with applicable State and Federal laws.

(Pub. L. 96–565, title I, § 106, Dec. 22, 1980, 94 Stat. 3323.)

§ 410jj–6. Additional needs of leprosy patients and Native Hawaiians for employment and training; specific provisions

The following provisions are made with respect to additional needs of the leprosy patients and Native Hawaiians for employment and training. (The term ''Native Hawaiian'' as used in this subchapter, means a descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to the year 1778.)—

(1) Notwithstanding any other provision of law, the Secretary shall give first preference to qualified patients and Native Hawaiians in making appointments to positions established for the administration of the park, and the appointment of patients and Native Hawaiians shall be without regard to any provision of the Federal civil service laws giving an employment preference to any other class of applicant and without regard to any numerical limitation on personnel otherwise applicable.

(2) The Secretary shall provide training opportunities for patients and Native Hawaiians to develop skills necessary to qualify for the provision of visitor services and for appointment to positions referred to in paragraph (1).

(Pub. L. 96–565, title I, § 107, Dec. 22, 1980, 94 Stat. 3323.)

§ 410jj–7. Advisory Commission

(a) Establishment; membership

There is hereby established the Kalaupapa National Historical Park Advisory Commission (hereinafter referred to as the ''Commission''), which shall consist of eleven members each appointed by the Secretary for a term of five years as follows:

(1) seven members who shall be present or former patients, elected by the patient community; and

(2) four members appointed from recommendations submitted by the Governor of Hawaii, at least one of whom shall be a Native Hawaiian.

(b) Chairman; vacancies

The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) Compensation; expenses

A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act on vouchers signed by the Chairman.

(d) Functions

The Secretary shall consult with and seek the advice of the Commission with respect to the development and operation of the park including training programs. The Commission shall, in addition, advise the Secretary concerning public visitation to the park, and such advice with respect to numbers of visitors shall be binding upon the Secretary if the Commission certifies to him that such advice is based on a referendum, held under the auspices of the Commission, of all patients on the official Kalaupapa Registry.

(e) Termination

The Commission shall expire on the date that is 45 years after December 22, 1980.

(Pub. L. 96–565, title I, § 108, Dec. 22, 1980, 94 Stat. 3323; Pub. L. 109–54, title I, § 128, Aug. 2, 2005, 119 Stat. 525.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is Pub. L. 96–565, Dec. 22, 1980, 94 Stat. 3321, as amended, which enacted this subchapter and provisions set out as a note under section 2991a of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2005—Subsec. (e). Pub. L. 109–54 substituted ''on the date that is 45 years after'' for ''twenty-five years from''.

§ 410jj–8. Reevaluation of management, etc., policies

At such time when there is no longer a resident patient community at Kalaupapa, the Secretary shall reevaluate the policies governing the management, administration, and public use of the park in order to identify any changes deemed to be appropriate.

(Pub. L. 96–565, title I, § 109, Dec. 22, 1980, 94 Stat. 3324.)

§ 410jj–9. Authorization of appropriations

Effective October 1, 1981, there are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter but not to exceed $2,500,000 for acquisition of lands and interests in lands and $1,000,000 for development.

(Pub. L. 96–565, title I, § 110, Dec. 22, 1980, 94 Stat. 3324.)

SUBCHAPTER LIX–I—LYNDON B. JOHNSON NATIONAL HISTORICAL PARK

§ 410kk. Establishment

In order to preserve in public ownership historically significant properties associated with the life of Lyndon B. Johnson, the Secretary of the Interior is authorized to acquire, by donation or by purchase with donated or appropriated funds, such lands and interests in lands, together with the buildings and improvements thereon, at or in the vicinity of Johnson City, Texas, as are depicted on the drawings entitled ''Boundary Map, Lyndon B. Johnson National Historical Park'', numbered 447–40,008B and 447–40,000A, and dated January 1980, together with such lands as from time to time may be donated for addition to the site and such lands as

he shall deem necessary to provide adequate public parking for visitors at a suitable location. The drawing shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. When acquired such site shall be known as the Lyndon B. Johnson National Historical Park.

(Pub. L. 91–134, § 1, Dec. 2, 1969, 83 Stat. 274; Pub. L. 96–607, title VI, § 601(1), (3), Dec. 28, 1980, 94 Stat. 3540.)

AMENDMENTS

1980—Pub. L. 96–607 substituted ''donated or appropriated funds'' for ''donated funds'', ''drawings entitled 'Boundary Map, Lyndon B. Johnson National Historical Park', numbered 447–40,008B and 447–40,000A, and dated January 1980'' for ''drawing entitled 'Lyndon B. Johnson National Historic Site Boundary Map', numbered NHS–LBJ–20,000 and dated September 1969'', and ''Lyndon B. Johnson National Historical Park'' for ''Lyndon B. Johnson National Historic Site''.

§ 410kk–1. Administration

The Secretary shall administer the Lyndon B. Johnson National Historical Park in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and sections 461 to 467 of this title.

(Pub. L. 91–134, § 2, Dec. 2, 1969, 83 Stat. 274; Pub. L. 96–607, title VI, § 601(3), Dec. 28, 1980, 94 Stat. 3540.)

AMENDMENTS

1980—Pub. L. 96–607 substituted ''National Historical Park'' for ''National Historic Site''.

§ 410kk–2. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter, but not more than $4,100,000 for development and not more than $1,400,000 for the acquisition of lands and interests therein for the Lyndon B. Johnson National Historical Park.

(Pub. L. 91–134, § 3, Dec. 2, 1969, 83 Stat. 274; Pub. L. 96–87, title IV, § 403, Oct. 12, 1979, 93 Stat. 667; Pub. L. 96–607, title VI, § 601(2), (3), Dec. 28, 1980, 94 Stat. 3540.)

AMENDMENTS

1980—Pub. L. 96–607 substituted ''such sums as may be necessary to carry out the provisions of sections 410kk to 410kk–2 of this title, but not more than $4,100,000 for development and not more than $1,400,000 for the acquisition of lands and interests therein for'' for ''not more than $680,000 to provide for the development of'' and ''National Historical Park'' for ''National Historic Site''.

Pub. L. 96–87 increased appropriation authorization from $180,000 to $680,000.

SUBCHAPTER LIX–J—WOMEN'S RIGHTS NATIONAL HISTORICAL PARK

§ 410*ll*. Establishment

(a) Congressional declaration of findings

The Congress finds that—

(1) The Women's Rights Convention held at the Wesleyan Methodist Chapel in Seneca Falls, New York, in 1848 was an event of major importance in the history of the United States because it marked the formal beginning of the struggle of women for their equal rights.

(2) The Declaration of Sentiments approved by the 1848 Women's Rights Convention is a document of enduring relevance, which expresses the goal that equality and justice should be extended to all people without regard to sex.

(3) There are nine sites located in Seneca Falls and Waterloo, New York, associated with the nineteenth century women's rights movement which should be recognized, preserved, and interpreted for the benefit of the public.

(b) Statement of purposes

It is the purpose of this section to preserve and interpret for the education, inspiration, and benefit of present and future generations the nationally significant historical and cultural sites and structures associated with the struggle for equal rights for women and to cooperate with State and local entities to preserve the character and historic setting of such sites and structures.

(c) Establishment

To carry out the purposes of this section there is hereby established the Women's Rights National Historical Park (hereinafter in this section referred to as the ''park''). The park shall consist of the following designated sites in Seneca Falls and Waterloo, New York:

(1) Stanton House, 32 Washington Street, Seneca Falls;

(2) dwelling, 30 Washington Street, Seneca Falls;

(3) dwelling, 34 Washington Street, Seneca Falls;

(4) lot, 26–28 Washington Street, Seneca Falls;

(5) former Wesleyan Chapel, 126 Fall Street, Seneca Falls;

(6) theater, 128 Fall Street, Seneca Falls;

(7) McClintock House, 16 East Williams Street, Waterloo;

(8) Hunt House, 401 East Main Street, Waterloo;

(9) not to exceed 1 acre, plus improvements, as determined by the Secretary, in Seneca Falls for development of a maintenance facility;

(10) dwelling, 1 Seneca Street, Seneca Falls;

(11) dwelling, 10 Seneca Street, Seneca Falls;

(12) parcels adjacent to Wesleyan Chapel Block, including Clinton Street, Fall Street, and Mynderse Street, Seneca Falls; and

(13) dwelling, 12 East Williams Street, Waterloo.

(d) Acquisition of lands and interests

The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange lands and interests therein within sites designated as part of the park. Lands and interests therein owned by a State or political subdivision thereof may be acquired only by donation.

(e) Cooperative agreements

The Secretary is authorized to enter into cooperative agreements with the owners of prop-

erties designated as part of the park, pursuant to which the Secretary may mark, interpret, improve, restore, and provide technical assistance with respect to the preservation and interpretation of such properties. Such agreements shall contain, but need not be limited to, provisions that the Secretary shall have the right of access at reasonable times to public portions of the property for interpretative and other purposes, and that no changes or alterations shall be made in the property except by mutual agreement.

(f) State and local participation; financial assistance

The Secretary shall encourage State and local governmental agencies to develop and implement plans for the preservation and rehabilitation of sites designated as part of the park and their immediate environs, in order to preserve the historic character of the setting in which such sites are located. The Secretary may provide technical and financial assistance to such agencies in the development and implementation of such plans, but financial assistance may not exceed 50 per centum of the cost thereof.

(g) Administration

The Secretary shall administer the park in accordance with the provisions of this section and the provisions of law generally applicable to the administration of units of the National Park System, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title.

(h) Women's Rights National Historical Park Advisory Commission; membership; Chair; compensation and expenses; function; consultation; termination

(1) There is hereby established the Women's Rights National Historical Park Advisory Commission (hereinafter referred to as the ''Commission''). The Commission shall consist of eleven members, each appointed by the Secretary for a term of five years as follows:

(A) One member appointed from recommendations submitted by the Elizabeth Cady Stanton Foundation;

(B) One member appointed from recommendations submitted by the Women's Hall of Fame;

(C) Two members appointed from recommendations submitted by the Governor of New York;

(D) One member appointed from recommendations submitted by the village of Seneca Falls;

(E) One member appointed from recommendations submitted by the town of Seneca Falls; and

(F) Five members appointed by the Secretary, at least one of whom shall represent an institution of higher learning and at least two of whom shall represent national women's rights organizations.

(2) The Secretary shall designate one member to be the Chair of the Commission. Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(3) Members of the Commission shall serve without compensation as such, but the Secretary may pay the expenses reasonably incurred by the Commission and its members in carrying out their responsibilities under this section upon presentation of vouchers signed by the Chair of the Commission.

(4) The function of the Commission shall be to advise the Secretary with respect to matters relating to the administration of the park and the carrying out of the provisions of this section. The Secretary shall consult with the Commission from time to time with respect to his responsibilities and authorities under this section.

(5) The Commission shall terminate ten years from the effective date of this section.

(i) Authorization of appropriations

(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not to exceed $700,000 for acquisition, and $500,000 for development.

(2) In addition to those sums appropriated prior to November 12, 1996, for land acquisition and development, there is hereby authorized to be appropriated an additional $2,000,000.

(Pub. L. 96–607, title XVI, §1601, Dec. 28, 1980, 94 Stat. 3546; Pub. L. 98–402, Aug. 28, 1984, 98 Stat. 1478; Pub. L. 100–475, §1, Oct. 6, 1988, 102 Stat. 2303; Pub. L. 104–333, div. I, title V, §505, Nov. 12, 1996, 110 Stat. 4155; Pub. L. 106–258, §1, Aug. 8, 2000, 114 Stat. 655.)

REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (h)(5), probably means the date of enactment of Pub. L. 96–607, which was approved Dec. 28, 1980.

AMENDMENTS

2000—Subsec. (c)(8). Pub. L. 106–258, §1(b), substituted ''Main'' for ''Williams''.

Subsec. (d). Pub. L. 106–258, §1(a), in first sentence struck out before period at end '', except that the Secretary may not acquire the fee simple title to the land comprising the sites designated in paragraphs (7) and (9) of subsection (c) of this section'' and struck out last sentence which read as follows: ''Within two years of the acquisition of the property listed in subsection (c)(8) of this section the Secretary shall have removed all structures from the property that are not relevant to the historic integrity of the McClintock House.''

1996—Subsec. (c). Pub. L. 104–333, §505(a), inserted heading and amended text generally. Prior to amendment, text read as follows: ''To carry out the purpose of this section there is hereby established the Women's Rights National Historical Park (hereinafter in this section referred to as the 'park'). The park shall consist initially of the following designated sites in Seneca Falls and Waterloo, New York:

''(1) Stanton House, 32 Washington Street, Seneca Falls;

''(2) dwelling, 30 Washington Street, Seneca Falls;

''(3) dwelling, 34 Washington Street, Seneca Falls;

''(4) lot, 26–28 Washington Street, Seneca Falls;

''(5) former Wesleyan Chapel, 126 Fall Street, Seneca Falls;

''(6) theater, 128 Fall Street, Seneca Falls;

''(7) Bloomer House, 53 East Bayard Street;

''(8) McClintock House and related structures, 14 and 16 East Williams Street, Waterloo; and

''(9) Hunt House, 401 East Main Street, Waterloo.''

Subsec. (i). Pub. L. 104–333, §505(b), designated existing provisions as par. (1) and added par. (2).

1988—Subsec. (i). Pub. L. 100–475 substituted ''$700,000'' for ''$490,000''.

1984—Subsec. (c)(8). Pub. L. 98–402, §1(a), substituted ''McClintock House and related structures, 14 and 16

East Williams Street'' for ''McClintock House, 16 East Williams Street''.

Subsec. (d). Pub. L. 98–402, § 1(b), substituted ''paragraphs (7) and (9)'' for ''paragraphs (7) through (9)'', and inserted ''Within two years of the acquisition of the property listed in subsection (c)(8) of this section the Secretary shall have removed all structures from the property that are not relevant to the historic integrity of the McClintock House.''

GENERAL MANAGEMENT PLANS; SUBMITTAL TO CONGRESSIONAL COMMITTEES

Section 501 of Pub. L. 96–607 directed Secretary of the Interior, within three complete fiscal years from Dec. 28, 1980, to submit to Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, comprehensive general management plans for the areas established pursuant to titles XII and XVI of Pub. L. 96–607, pursuant to the provisions of section 1a–7(b) of this title.

§ 410*ll*–1. Votes for Women Trail

(a) Definitions

In this section:

(1) Park

The term ''Park'' means the Women's Rights National Historical Park established by section 410*ll* of this title.

(2) Secretary

The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the National Park Service.

(3) State

The term ''State'' means the State of New York.

(4) Trail

The term ''Trail'' means the Votes for Women History Trail Route designated under subsection (b).

(b) Establishment of Trail Route

The Secretary, with concurrence of the agency having jurisdiction over the relevant roads, may designate a vehicular tour route, to be known as the ''Votes for Women History Trail Route'', to link properties in the State that are historically and thematically associated with the struggle for women's suffrage in the United States.

(c) Administration

The Trail shall be administered by the National Park Service through the Park.

(d) Activities

To facilitate the establishment of the Trail and the dissemination of information regarding the Trail, the Secretary shall—

(1) produce and disseminate appropriate educational materials regarding the Trail, such as handbooks, maps, exhibits, signs, interpretive guides, and electronic information;

(2) coordinate the management, planning, and standards of the Trail in partnership with participating properties, other Federal agencies, and State and local governments;

(3) create and adopt an official, uniform symbol or device to mark the Trail; and

(4) issue guidelines for the use of the symbol or device adopted under paragraph (3).

(e) Elements of Trail Route

Subject to the consent of the owner of the property, the Secretary may designate as an official stop on the Trail—

(1) all units and programs of the Park relating to the struggle for women's suffrage;

(2) other Federal, State, local, and privately owned properties that the Secretary determines have a verifiable connection to the struggle for women's suffrage; and

(3) other governmental and nongovernmental facilities and programs of an educational, commemorative, research, or interpretive nature that the Secretary determines to be directly related to the struggle for women's suffrage.

(f) Cooperative agreements and memoranda of understanding

(1) In general

To facilitate the establishment of the Trail and to ensure effective coordination of the Federal and non-Federal properties designated as stops along the Trail, the Secretary may enter into cooperative agreements and memoranda of understanding with, and provide technical and financial assistance to, other Federal agencies, the State, localities, regional governmental bodies, and private entities.

(2) Authorization of appropriations

There are authorized to be appropriated to the Secretary such sums as are necessary for the period of fiscal years 2009 through 2013 to provide financial assistance to cooperating entities pursuant to agreements or memoranda entered into under paragraph (1).

(Pub. L. 96–607, title XVI, § 1602, as added Pub. L. 111–11, title VII, § 7111(a), Mar. 30, 2009, 123 Stat. 1199.)

SUBCHAPTER LIX–K—GREAT BASIN NATIONAL PARK

§ 410mm. Establishment

(a) Purpose; designation

In order to preserve for the benefit and inspiration of the people a representative segment of the Great Basin of the Western United States possessing outstanding resources and significant geological and scenic values, there is hereby established the Great Basin National Park (hereinafter in this subchapter referred to as the ''park'').

(b) Composition; filing of map; public inspection

The park shall consist of approximately seventy-six thousand acres, as depicted on the map entitled ''Boundary Map, Great Basin National Park, Nevada,'' numbered NA–GB 20,017, and dated October 1986. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and the Office of the Superintendent, Great Basin National Park, Nevada.

(c) Filing of legal description; public inspection

Within 6 months after October 27, 1986, the Secretary of the Interior (hereinafter in this subchapter referred to as the ''Secretary'') shall file a legal description of the park designated

under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this subchapter, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a) of this section. The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(d) Incorporation of Lehman Caves National Monument within park

(1) The Lehman Caves National Monument, designated on January 24, 1922, by Presidential proclamation under the authority contained in the Act of June 8, 1906 (34 Stat. 225) [16 U.S.C. 431, 432, 433] is hereby abolished and the lands incorporated within the Great Basin National Park. Any reference in any law, map, regulation, document, record, or other paper of the United States to such national monument shall be deemed to be a reference to Great Basin National Park.

(2) Any funds available for purposes of the national monument shall be available for purposes of the park.

(Pub. L. 99–565, § 2, Oct. 27, 1986, 100 Stat. 3181.)

REFERENCES IN TEXT

Act of June 8, 1906, referred to in subsec. (d)(1), is act June 8, 1906, ch. 3060, 34 Stat. 225, known as the Antiquities Act of 1906, which is classified generally to sections 431, 432, and 433 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 431 of this title and Tables.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

SHORT TITLE

Section 1 of Pub. L. 99–565 provided that: ''This Act [enacting this subchapter] may be known as the 'Great Basin National Park Act of 1986'.''

§ 410mm–1. Administration

(a) Laws governing; conservation and protection of resources

The Secretary shall administer the park in accordance with this subchapter and with the provisions of law generally applicable to units of the national park system, including sections 1, 2, 3, and 4 of this title. The Secretary shall protect, manage, and administer the park in such manner as to conserve and protect the scenery, the natural, geologic, historic, and archaeological resources of the park, including fish and wildlife and to provide for the public use and enjoyment of the same in such a manner as to perpetuate these qualities for future generations.

(b) Fishing

The Secretary shall permit fishing on lands and waters under his jurisdiction within the park in accordance with the applicable laws of the United States and the State of Nevada, except that he may designate zones where, and periods when, no fishing may be permitted for reasons of public safety. Except in emergencies, any regulations prescribing such restrictions relating to fishing,[1] shall be put into effect only after consultation with the appropriate State agency having jurisdiction over fishing activities.

(c) Preparation of management plan; submission to Congress; amendment of plan

After notice and opportunity for public hearing, the Secretary shall prepare a management plan for the park. The Secretary shall submit such plan to the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate within three years after October 27, 1986. Such plan may be amended from time to time. The plan shall include, but not be limited to, provisions related to grazing within the park to the extent permitted under subsection (e) of this section and provisions providing for the appropriate management of fish and wildlife and fishing within the park in accordance with subsection (b) of this section. Such provisions shall be adopted only after consultation with the appropriate State agency having jurisdiction over fish and wildlife.

(d) Withdrawal of lands from mining and mineral leasing

Subject to valid existing rights, Federal lands and interests therein, within the park, are withdrawn from disposition under the public lands laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970, as amended [30 U.S.C. 1001 et seq.].

(e) Grazing

Subject to such limitations, conditions, or regulations as he may prescribe, the Secretary may permit grazing on lands within the park to the same extent as was permitted on such lands as of July 1, 1985. Grazing within the park shall be administered by the National Park Service.

(f) Exchange of park grazing allotment for grazing allotment outside park

(1) Exchanges

At the request of the permittee, or at the initiative of the Secretary, negotiations may take place at any time with holders of valid existing grazing permits and grazing leases on land within the park, for an exchange of all or part of their grazing allotments for allotments outside the park. No such exchange shall take place if, in the opinion of the affected Federal land management agency, the exchange would result in overgrazing of Federal lands.

(2) Acquisition by donation

(A) In general

The Secretary may acquire by donation valid existing permits and grazing leases authorizing grazing on land in the park.

[1] So in original. The comma probably should not appear.

(B) Termination

The Secretary shall terminate a grazing permit or grazing lease acquired under subparagraph (A) so as to end grazing previously authorized by the permit or lease.

(g) Water-related range improvements

Existing water-related range improvements inside the park may be maintained by the Secretary or the persons benefitting from them, subject to reasonable regulation by the Secretary.

(h) Reservation to United States of new express or implied water or water-related right not established; exception

Nothing in this subchapter shall be construed to establish a new express or implied reservation to the United States of any water or water-related right with respect to the land described in section 410mm of this title: *Provided*, That the United States shall be entitled to only that express or implied reserved water right which may have been associated with the initial establishment and withdrawal of Humboldt National Forest and the Lehman Caves National Monument from the public domain with respect to the land described in section 410mm of this title. No provision of this subchapter shall be construed as authorizing the appropriation of water, except in accordance with the substantive and procedural law of the State of Nevada.

(i) Cooperative agreements with Federal and other agencies; interpretation of Great Basin physiographic region

In order to encourage unified and cost-effective interpretation of the Great Basin physiographic region, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State, and local public departments and agencies providing for the interpretation of the Great Basin physiographic region. Such agreements shall include, but not be limited to, authority for the Secretary to develop and operate interpretive facilities and programs on lands and waters outside of the boundaries of such park, with the concurrence of the owner or administrator thereof.

(Pub. L. 99–565, §3, Oct. 27, 1986, 100 Stat. 3182; Pub. L. 104–134, title I, §101(c) [title III, §319], Apr. 26, 1996, 110 Stat. 1321–156, 1321–203; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

The Geothermal Steam Act of 1970, as amended, referred to in subsec. (d), is Pub. L. 91–581, Dec. 24, 1970, 84 Stat. 1566, which is classified principally to chapter 23 (§1001 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 30 and Tables.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–134, §101(c) [title III, §319(1)], substituted ''may permit'' for ''shall permit'' in first sentence.

Subsec. (f). Pub. L. 104–134, §101(c) [title III, §319(2)], designated existing provisions as par. (1), inserted heading, substituted ''grazing permits and grazing leases'' for ''grazing permits'', and added par. (2).

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 410mm–2. Acquisition of land

(a) The Secretary may acquire land or interests in land within the boundaries of the park by donation, purchase with donated or appropriated funds, or exchange, but no such lands or interests therein may be acquired without the consent of the owner thereof. Lands owned by the State of Nevada or any political subdivision thereof may be acquired only by donation or exchange.

(b) Lands and waters, and interests therein, within the boundaries of the park which were administered by the Forest Service, United States Department of Agriculture prior to October 27, 1986, are hereby transferred to the administrative jurisdiction of the Secretary to be administered in accordance with this subchapter. The boundaries of the Humboldt National Forest shall be adjusted accordingly.

(Pub. L. 99–565, §4, Oct. 27, 1986, 100 Stat. 3183.)

§ 410mm–3. Authorization of appropriations

(a) Not more than $800,000 are authorized to be appropriated for development of the park.

(b) Not more than $200,000 are authorized to be appropriated for acquisition of lands and interests in land within the park.

(Pub. L. 99–565, §5, Oct. 27, 1986, 100 Stat. 3183.)

SUBCHAPTER LIX–L—SAN FRANCISCO MARITIME NATIONAL HISTORICAL PARK

§ 410nn. Establishment

(a) In general

In order to preserve and interpret the history and achievements of seafaring Americans and of the Nation's maritime heritage, especially on the Pacific coast, there is hereby established the San Francisco Maritime National Historical Park (hereinafter in this subchapter referred to as the ''park'').

(b) Area included

The park shall consist of the lands and interests therein within the area generally depicted on the map entitled ''Boundary Map, San Francisco Maritime National Historical Park'', numbered 641/80,053 and dated April 7, 1987. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior and in the office of the Superintendent of the park. If the Secretary of the Interior (hereinafter in this subchapter referred to as the ''Secretary'') determines, upon completion of the General Management Plan for the park, that the inclusion of the property at Jefferson and Hyde Streets, San Francisco, known as the Haslett Warehouse, would promote the purposes of the park, the Secretary may adjust the boundaries of the park to include that property after notification to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The Secretary may make other minor revisions of the boundary of the park in accordance with section 460*l*–9(c) of this title.

(c) Golden Gate National Recreation Area

The Secretary shall revise the boundaries of the Golden Gate National Recreation Area to exclude from the National Recreation Area the area within the park (as depicted on the boundary map referred to in subsection (b) of this section). The Secretary shall transfer to the jurisdiction of the park all real and personal property of the United States administered by the Secretary as part of the National Recreation Area located within the boundaries of the park (including the museum building), together with all vessels, marine collections, libraries, historic documents, equipment and other marine artifacts which are administered by the Secretary as part of the National Recreation Area and which relate to maritime history.

(d) Museum building

The building housing and displaying the marine collections, libraries, historic documents, equipment, and marine artifacts shall be named the ''Sala Burton Building'' and an appropriate plaque with this designation shall be prominently displayed as part of the structure.

(Pub. L. 100–348, § 2, June 27, 1988, 102 Stat. 654; Pub. L. 103–437, § 6(d)(11), Nov. 2, 1994, 108 Stat. 4584.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a) and (b), was in the original ''this Act'', meaning Pub. L. 100–348, June 27, 1988, 102 Stat. 654, known as the San Francisco Maritime National Historical Park Act of 1988, which enacted this subchapter and amended section 460bb–3 of this title. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

SHORT TITLE

Section 1 of Pub. L. 100–348 provided that: ''This Act [enacting this subchapter and amending section 460bb–3 of this title] may be cited as the 'San Francisco Maritime National Historical Park Act of 1988'.''

§ 410nn–1. Administration

(a) In general

The Secretary shall administer the park in accordance with this subchapter and with the provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title, sections 461 to 467 of this title, and the National Historic Preservation Act [16 U.S.C. 470 et seq.]. The Secretary shall manage the park in such manner as will preserve and perpetuate knowledge and understanding of American maritime history and to provide for public understanding and enjoyment of maritime history.

(b) Donations

The Secretary may accept and retain donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities which he deems consistent with the purposes of this subchapter.

(c) Leasing

The Secretary may lease any real or personal property, including vessels and heavy marine equipment such as floating drydocks, which is administered as part of the park. The net receipts from any such lease shall be credited in accordance with section 460bb–3(f) of this title.

(d) Fees

Notwithstanding any other provision of law, the Secretary may impose entrance fees for admission to the ships in such amounts as he deems appropriate and may impose fees for the use by groups or organizations of the ships. All receipts from such fees shall be credited in accordance with section 460bb–3(f) of this title.

(e) General management plan

Within 2 years after establishment of the park, the Secretary shall prepare and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a general management plan for the park. The plan shall include, but not be limited to:

(1) a description of the resources of the park including, but not limited to, maritime and associated artifacts, documents, the following historic vessels: the sailing ship Balclutha; the steam schooner Wapama; the steamship SS Jeremiah O'Brien; the ferry Eureka; the schooner C.A. Thayer; the tug Ellpleton Hall; the tug Hercules; and the scow schooner Alma, and other real and personal property comprising the park collections such as written and illustrative material, objects, wrecks, small watercraft, and vessels;

(2) plans for the preservation of each historic vessel, including docking facilities, maintenance and ship repair facilities, and estimates for the costs thereof; a determination of the need for permanent docking facilities in a location best suited to the preservation of the historic vessels and for visitor access to the historic vessels; methods of accommodating visitors while protecting the historic vessels; and methods for providing for the proper care, exhibition, and storage of the park collections;

(3) plans for the location, preliminary design, and estimated cost of public facilities to be developed for the park, including a museum building, visitor parking, and public transit access; and

(4) Plans[1] for the interpretation of the historic vessels and park collections.

(Pub. L. 100–348, § 3, June 27, 1988, 102 Stat. 655.)

REFERENCES IN TEXT

The National Historic Preservation Act, referred to in subsec. (a), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of this title. For complete classification of this Act to the Code, see section 470(a) of this title and Tables.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

[1] So in original. Probably should not be capitalized.

§ 410nn–2. Acquisition of property

(a) General authority

The Secretary may acquire land and interests in land within the boundaries of the park by donation, purchase with donated or appropriated funds, or exchange.

(b) Transfers from other agencies

The Secretary of Commerce may transfer the Liberty Ship SS Jeremiah O'Brien to the Secretary for inclusion in the historic fleet of the park. Any other Federal property located within the boundaries of the park which is under the administrative jurisdiction of another department or agency of the United States may, with the concurrence of the head of the administering department or agency, be transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of the park.

(c) State and local lands

Lands, and interests in lands, within the boundaries of the park which are owned by the State of California or any political subdivision thereof, may be acquired only by donation. Notwithstanding any other provision of law, the Secretary is authorized to enter into an agreement with the State of California or any political subdivision thereof under which the Secretary may improve and may use appropriated funds for the improvement of berthing facilities if the State or any political subdivision thereof makes available to the Secretary, in accordance with terms and conditions acceptable to the Secretary, lands and interests in land for the purpose of berthing the ships and providing visitor access to the historic ships.

(d) Property to carry out subchapter

(1) HISTORIC VESSELS AND OTHER PROPERTY.—In furtherance of the administration of the park, the Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange such property as may be appropriate to carry out the purposes of this subchapter, including vessels, heavy marine equipment, and drydock facilities. The Secretary shall notify the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate in writing not less than 90 days before acquisition of any large historic vessel. Such notification shall indicate the estimated cost of preservation, restoration if appropriate, and maintenance of the vessel concerned.

(2) ACQUISITION LIMITATION.—The Secretary shall not acquire any historic vessel pursuant to this subsection until the Secretary has notified the Committees in writing that sufficient funds have been made available to preserve and maintain those vessels listed in section 410nn–1(e)(1) of this title.

(Pub. L. 100–348, § 4, June 27, 1988, 102 Stat. 656; Pub. L. 103–437, § 6(d)(11), Nov. 2, 1994, 108 Stat. 4584.)

AMENDMENTS

1994—Subsec. (d)(1). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 410nn–3. Advisory Commission

(a) Establishment

There is hereby established the Advisory Commission of the San Francisco Maritime National Historical Park (hereinafter in this subchapter referred to as the ''Commission''). The Commission shall be composed of 12 members appointed by the Secretary as follows:

(1) 3 members appointed for terms of 4 years from recommendations submitted by the National Maritime Museum Association.

(2) 2 members appointed for terms of 4 years from recommendations submitted by the Governor of the State of California, at least one of whom shall have professional expertise in maritime historic preservation.

(3) 4 members appointed for terms of 5 years from recommendations submitted by the Mayor of San Francisco with special consideration given to individuals with knowledge of museum and/or maritime issues and who represent the local fishing industry, recreational users, the business community, and neighborhood groups.

(4) 1 member appointed for a term of 5 years from recommendations from the Secretary of Commerce, who shall have professional expertise in the maritime industry.

(5) 2 members appointed for terms of 5 years, who shall have professional expertise in maritime history or historic preservation.

Any member of the Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) Compensation

Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5.

(c) Officers

The Chair and other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

(d) Meetings

The Commission shall meet at the call of the Chair or a majority of its members, but not less than twice annually. Seven members of the Commission shall constitute a quorum. Consistent with the public meeting requirements of the Federal Advisory Committee Act, the Commission shall, from time to time, meet with persons concerned with maritime preservation.

(e) Bylaws and charter

The Commission may make such bylaws, rules, and regulations as it considers necessary to carry out its functions under this subchapter. The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972;

86 Stat. 776), are hereby waived with respect to this Commission.

(f) Functions

The Commission shall advise the Secretary on the management and development of the park. The Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Commission on matters relating to the management and development of the park.

(g) Termination

The Commission shall cease to exist 10 years after the date on which the first meeting of the Commission is held.

(Pub. L. 100–348, § 5, June 27, 1988, 102 Stat. 656.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsecs. (d) and (e), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 410nn–4. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter, but not to exceed $200,000 for planning.

(Pub. L. 100–348, § 7, June 27, 1988, 102 Stat. 658.)

SUBCHAPTER LIX–M—NATCHEZ NATIONAL HISTORICAL PARK

§ 410*oo*. Purposes

The purposes of this subchapter are to—

(1) preserve and interpret the history of Natchez, Mississippi, as a significant city in the history of the American South;

(2) preserve and interpret the sites and structures associated with all the peoples of Natchez and its surrounding area from earliest inhabitants to the modern era, and including blacks both slave and free;

(3) preserve and interpret the region's social, political, and economic development, with particular emphasis on the pre- and post-Civil War eras; and

(4) preserve and interpret the region's commercial and agricultural history, especially in relation to the Mississippi River and cotton.

(Pub. L. 100–479, § 1, Oct. 7, 1988, 102 Stat. 2324.)

§ 410*oo*–1. Establishment

(a) In general

In order to provide for the benefit, inspiration, and education of the American people, there is hereby established the Natchez National Historical Park (hereinafter in this subchapter referred to as the ''park'') in the State of Mississippi.

(b) Area included

The park shall consist of the historic districts established under this subchapter and the following properties:

(1) The lands and structures known as Melrose, together with all personal property located on such lands.

(2) The lands and improvements thereon known as, or associated with, Fort Rosalie.

(3) The lands and structures known as the William Johnson House, together with all personal property located on such lands, and the building adjacent thereto which bears a common wall.

The property referred to in paragraph (2) shall be included within the park only if the Secretary of the Interior (hereinafter in this subchapter referred to as the ''Secretary'') determines that the historic resources of Fort Rosalie are of sufficient national significance and integrity to warrant inclusion in the National Park System. The Secretary shall make such determination after receiving from the Governor of the State of Mississippi and the mayor of the city of Natchez, in consultation with the State Historic Preservation Officer, a recommendation based on scholarly research as to the national significance and integrity of such historic resources.

(c) Boundaries; map

The Secretary shall prepare a map of the lands included within the park. Such map shall be on file and available for public inspection in the offices of the National Park Service at the park and at the Department of the Interior in the District of Columbia. The Secretary may from time to time make minor revisions in the boundary of the park in accordance with section 460*l*–9(c) of this title.

(Pub. L. 100–479, § 2, Oct. 7, 1988, 102 Stat. 2324; Pub. L. 101–399, § 1(a), Sept. 28, 1990, 104 Stat. 860.)

AMENDMENTS

1990—Subsec. (b)(3). Pub. L. 101–399 added par. (3).

§ 410*oo*–2. Acquisition of property

(a) In general

Except as otherwise provided in this section, the Secretary may acquire, by donation, purchase with donated or appropriated funds, or exchange, land or interests in land, together with structures and other improvements thereon and personal property, which is included within the park. In addition the Secretary may acquire by any such means such personal property associated with the park as he deems appropriate for interpretation of the park and such additional lands and properties as may be necessary for purposes of an administrative headquarters and administrative site. Any land, interests in land, structures, improvements, or personal property owned by the State of Mississippi or any political subdivision thereof, may be acquired only by donation. The Secretary may not acquire fee title to any property other than the property he deems necessary for an administrative site and headquarters and the property referred to in paragraph (1), (2), or (3) of section 410*oo*–1 of this title, and the Secretary may not acquire the property referred to in paragraph (1) of section 410*oo*–1 of this title unless at least 25 per centum of the fair market value of such property (as determined by the Secretary) is donated to the United States in connection with such acquisition. The Secretary may not acquire the property referred to in paragraph (3) of section 410*oo*–1(b) of this title except by donation.

(b) Building for joint use by the Secretary and the City of Natchez

(1) Contribution toward construction

The Secretary may enter into an agreement with the City of Natchez under which the Secretary agrees to pay not to exceed $3,000,000 toward the planning and construction by the City of Natchez of a structure to be partially used by the Secretary as an administrative headquarters, administrative site, and visitor center for Natchez National Historical Park.

(2) Use for satisfaction of matching requirements

The amount of payment under paragraph (1) may be available for matching Federal grants authorized under other law notwithstanding any limitations in any such law.

(3) Agreement

Prior to the execution of an agreement under paragraph (1), and subject to the appropriation of necessary funds in advance, the Secretary may enter into a contract, lease, cooperative agreement, or other appropriate form of agreement with the City of Natchez providing for the use and occupancy of a portion of the structure constructed under paragraph (1) (including appropriate use of the land on which it is situated), at no cost to the Secretary (except maintenance, utility, and other operational costs), for a period of 50 years, with an option for renewal by the Secretary for an additional 50 years.

(4) Authorization of appropriations

There is authorized to be appropriated $3,000,000 to carry out this subsection.

(Pub. L. 100–479, §3, Oct. 7, 1988, 102 Stat. 2325; Pub. L. 101–399, §1(b), Sept. 28, 1990, 104 Stat. 860; Pub. L. 104–333, div. I, title X, §1030, Nov. 12, 1996, 110 Stat. 4238; Pub. L. 106–176, title I, §127, Mar. 10, 2000, 114 Stat. 30.)

AMENDMENTS

2000—Pub. L. 106–176, §127(b), made technical correction to directory language of Pub. L. 104–333. See 1996 Amendment note below.

Subsec. (b)(1). Pub. L. 106–176, §127(a), substituted ''and visitor center'' for ''and visitors' center''.

1996—Pub. L. 104–333, as amended by Pub. L. 106–176, §127(b), which directed amendment of section 3 of Act of October 8, 1988, by designating existing provisions as subsec. (a), inserting heading, and adding subsec. (b), was executed by making the amendment to this section to reflect the probable intent of Congress.

1990—Pub. L. 101–399 substituted ''referred to in paragraph (1), (2), or (3)'' for ''referred to in paragraph (1) or (2)'' and inserted at end ''The Secretary may not acquire the property referred to in paragraph (3) of section 410*oo*–1(b) of this title except by donation.''

§ 410*oo*–3. Administration

(a) In general

The Secretary shall administer the park in accordance with this subchapter and with the provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title. Properties acquired under this subchapter for purposes of inclusion in the park shall be available for visitor inspection and enjoyment as promptly as practicable after the date of acquisition notwithstanding the absence of a park management plan.

(b) Donations

Notwithstanding any other provision of law, the Secretary may accept and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities which he deems consistent with the purposes of this subchapter.

(c) Historic districts

(1) Study of historic properties

The Secretary shall prepare and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a study of the properties in the city of Natchez and its immediate environs that preserve and interpret the history contained in the purposes of this subchapter. Such report shall consider which properties best exemplify such purposes and appropriate means for providing technical assistance to, and interpretation of, such properties. The study and report shall include consideration of Natchez-Under-the-Hill and the Briars.

(2) Establishment of districts

Following completion of the study under paragraph (1), but not later than one year after October 7, 1988, the Secretary shall establish historic districts in the city of Natchez and its immediate environs for the preservation and interpretation of the resources that contribute to the understanding of the purposes of this subchapter.

(3) Cooperative agreements with owners

In furtherance of the purposes of this subchapter, and after consultation with the Advisory Commission established by this subchapter, the Secretary is authorized to enter into cooperative agreements with the owners of properties of historical or cultural significance (as determined by the Secretary) within any historic district established under this subsection. Such agreements shall permit the Secretary to mark, interpret, improve, restore, and provide technical assistance with respect to the preservation and interpretation of such properties. Such agreements shall contain, but need not be limited to, provisions that the Secretary shall have the right of access at reasonable times to public portions of any property covered by such agreement for purposes of conducting visitors through such properties and interpreting them to the public, and that no changes or alterations shall be made in the property except by mutual agreement between the Secretary and other parties to the agreement.

(d) General management plan

Within three complete fiscal years after October 7, 1988, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Re-

sources of the United States Senate a general management plan for the park. The plan shall be prepared in accordance with section 1a–7(b) of this title. Such plan shall identify appropriate facilities for proper interpretation of the site for visitors.

(Pub. L. 100–479, § 4, Oct. 7, 1988, 102 Stat. 2325.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 410*oo*–4. Natchez Trace study

The Secretary shall prepare, in consultation with the city of Natchez, a study of the feasibility of extending the Natchez Trace within the city of Natchez, including the acceptance of donations of rights-of-way. The Secretary shall transmit the study to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within one year after October 7, 1988.

(Pub. L. 100–479, § 5, Oct. 7, 1988, 102 Stat. 2326.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 410*oo*–5. Advisory Commission

(a) Establishment

There is hereby established the Natchez National Historical Park Advisory Commission (hereinafter in this subchapter referred to as the ''Advisory Commission''). The Advisory Commission shall be composed of six members appointed by the Secretary. Two of such members shall be appointed from among individuals nominated by the mayor of Natchez and one from among individuals nominated by the Governor of Mississippi. Two of the members shall have expertise in historic preservation and one shall have expertise in architectural history. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. The Advisory Commission shall designate one of its members as Chairperson.

(b) Management and development issues

The Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission on matters relating to the management and development of the park.

(c) Meetings

The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the park. Advisory Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

(d) Expenses

Members of the Advisory Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this subchapter on vouchers signed by the Chairman.

(e) Charter

The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to this Advisory Commission.

(Pub. L. 100–479, § 6, Oct. 7, 1988, 102 Stat. 2326.)

REFERENCES IN TEXT

Section 14(b) of the Federal Advisory Committee Act, referred to in subsec. (e), is section 14(b) of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COMMISSIONS

Advisory commissions established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 410*oo*–6. Authorization of appropriations

There are hereby authorized to be appropriated not to exceed $12,000,000 to carry out this subchapter.

(Pub. L. 100–479, § 7, Oct. 7, 1988, 102 Stat. 2327.)

SUBCHAPTER LIX–N—ZUNI-CIBOLA NATIONAL HISTORICAL PARK

§§ 410pp to 410pp–8. Omitted

CODIFICATION

Sections 410pp to 410pp–8 were omitted pursuant to section 410pp which terminated and the Zuni-Cibola National Historical Park was not established, because notice of acceptance of a leasehold interest in the Zuni Indian Reservation was not published during the required period of time.

Section 410pp, Pub. L. 100–567, § 2, Oct. 31, 1988, 102 Stat. 2847; Pub. L. 101–313, title III, § 302(1), June 27, 1990, 104 Stat. 279, provided for establishment of the Zuni-Cibola National Historical Park effective on the date of publication by the Secretary of a notice of acceptance of a leasehold interest in the Zuni Indian Reservation pursuant to section 410pp–1 and provided for termination of this section six years after Oct. 31, 1988, unless prior to the end of that six-year period the Secretary had published such a notice.

Section 410pp–1, Pub. L. 100–567, § 3, Oct. 31, 1988, 102 Stat. 2847; Pub. L. 101–313, title III, § 302(2), June 27, 1990, 104 Stat. 279; Pub. L. 103–437, § 6(k), Nov. 2, 1994, 108 Stat. 4586, set forth conditions under which the Secretary could accept a leasehold offer from the Zuni Tribe, required preparation of a map of the park upon acceptance of the leasehold, and provided for boundary adjustments.

Section 410pp–2, Pub. L. 100–567, § 4, Oct. 31, 1988, 102 Stat. 2848, related to management of the park.

Section 410pp–3, Pub. L. 100–567, § 5, Oct. 31, 1988, 102 Stat. 2849, required consistency with the general management plan for the park and protection from signifi-

cant adverse effects on the park by any Federal agency with activities affecting the park.

Section 410pp–4, Pub. L. 100–567, § 6, Oct. 31, 1988, 102 Stat. 2849, established the Zuni-Cibola National Historical Park Advisory Commission and provided for the terms of its members, its expenses, Chair, and meetings, and applicability of the Federal Advisory Committee Act.

Section 410pp–5, Pub. L. 100–567, § 7, Oct. 31, 1988, 102 Stat. 2850; Pub. L. 103–437, § 6(k), Nov. 2, 1994, 108 Stat. 4586, related to a general management plan for the park.

Section 410pp–6, Pub. L. 100–567, § 8, Oct. 31, 1988, 102 Stat. 2851; Pub. L. 103–437, § 6(k), Nov. 2, 1994, 108 Stat. 4586, related to cultural and religious uses of the park.

Section 410pp–7, Pub. L. 100–567, § 9, Oct. 31, 1988, 102 Stat. 2851, set forth definitions.

Section 410pp–8, Pub. L. 100–567, § 11, Oct. 31, 1988, 102 Stat. 2852, authorized appropriations.

SHORT TITLE

Section 1 of Pub. L. 100–567 provided that Pub. L. 100–567, which enacted this subchapter and amended section 460uu–12 of this title, could be cited as the ''Zuni-Cibola National Historical Park Establishment Act of 1988''.

SUBCHAPTER LIX–O—NATIONAL PARK OF AMERICAN SAMOA

§ 410qq. Findings and purpose

(a) Findings

The Congress finds that:

(1) Tropical forests are declining worldwide.

(2) Tropical forests contain 50 percent of the world's plant and animal species, contribute significantly to the advancement of science, medicine, and agriculture and produce much of the earth's oxygen. The loss of these forests leads to the extinction of species, lessening the world's biological diversity, reduces the potential for new medicines and crops and increases carbon dioxide levels in the atomosphere[1] contributing to the greenhouse effect that is altering the global climate.

(3) The tropical forest of American Samoa is one of the last remaining undisturbed paleotropical forests.

(4) The tropical forest in American Samoa is the largest such forest under direct control of the United States.

(5) The tropical forest of American Samoa contains the habitat of one of the last remaining populations of Pacific flying foxes.

(6) The flying foxes of American Samoa are responsible for a large part of the pollination which maintains a significant portion of the species which inhabit the Samoan tropical forest.

(7) Information presently available indicates the existence of extensive archaeological evidence related to the development of the Samoan culture which needs to be examined and protected.

(8) The people of American Samoa have expressed a desire to have a portion of the tropical forest protected as a unit of the National Park System.

(b) Purpose

The purpose of this subchapter is to preserve and protect the tropical forest and archaeological and cultural resources of American Samoa, and of associated reefs, to maintain the habitat of flying foxes, preserve the ecological balance of the Samoan tropical forest, and, consistent with the preservation of these resources, to provide for the enjoyment of the unique resources of the Samoan tropical forest by visitors from around the world.

(Pub. L. 100–571, § 1, Oct. 31, 1988, 102 Stat. 2879.)

§ 410qq–1. Establishment

(a) In general

In order to carry out the purposes expressed in section 410qq(b) of this title, the Secretary of the Interior (hereinafter in this subchapter referred to as the ''Secretary'') shall establish the National Park of American Samoa (hereinafter in this subchapter referred to as the ''park''). The Secretary shall establish the park only when the Governor of American Samoa has entered into a lease with the Secretary under which the Secretary will lease for a period of 50 years the lands and waters generally referred to in subsection (b) of this section for use solely for purposes of the park. Immediately after October 31, 1988, the Secretary shall commence negotiations with the Governor of American Samoa respecting such a lease agreement. On or before the expiration of the lease agreement as set forth in this subsection, the Governor of American Samoa is encouraged to extend the lease to maintain the area as a unit of the National Park System. At such time as the lease may terminate the Government of American Samoa is urged to provide assurances to the Secretary that the lands and waters generally referred to in subsection (b) of this section will be protected and preserved to the same standards as are applicable to national parks.

(b) Area included

(1) The park shall consist of three units as generally depicted on the following maps entitled ''Boundary Map, National Park of American Samoa'': (A) map number NP–AS 80,000A, dated August 1988, (B) map number NP–AS 80,000B, dated August 1988, and (C) map number NP–AS 80,000C, dated August 1988. Before publication of the maps, the Secretary, after consultation with the Governor of American Samoa and other appropriate leaders, may adjust the boundaries of the park to correspond with the appropriate village boundaries and modify the maps accordingly. The maps shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary may at any time make revisions of the boundary of the park in accordance with section 460*l*–9(c) of this title, pursuant to agreement with the Governor of American Samoa, and contingent upon the lease to the Secretary of lands within the new boundaries.

(2) The Secretary may make adjustments to the boundary of the park to include within the park certain portions of the islands of Ofu and Olosega, as depicted on the map entitled ''National Park of American Samoa, Proposed Boundary Adjustment'', numbered 82,035 and dated February 2002, pursuant to an agreement with the Governor of American Samoa and con-

[1] So in original. Probably should be ''atmosphere''.

tingent upon the lease to the Secretary of the newly added lands. As soon as practicable after a boundary adjustment under this paragraph, the Secretary shall modify the maps referred to in paragraph (1) accordingly.

(c) Management by American Samoa

Notwithstanding section 410qq–2(a) of this title, after 50 years after October 31, 1988, the Secretary shall, if requested by the Governor of American Samoa, enter into an extension of the lease referred to in subsection (a) of this section. If the Governor does not request such an extension the Secretary shall transfer to the Governor the sole authority to administer the park. Whenever the Secretary makes such a transfer he shall also transfer any improvements constructed by the Secretary in the park to the Governor without compensation.

(d) Compensation under lease agreement

(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to negotiate with the Governor of American Samoa the amount of the payments to be made by the United States under the 50-year lease referred to in subsection (a) of this section. The Secretary shall make such payments as may be mutually agreed to by the Secretary and the Governor pursuant to such negotiations.

(2) The Secretary shall place all lease payments made by the United States under the lease in an interest bearing escrow account in American Samoa. Funds in such account may be disbursed only by the Governor, in amounts determined by the High Court of American Samoa, to those villages and families located within the boundaries of the park. The High Court of American Samoa shall have exclusive jurisdiction to determine the amount to be disbursed under this section to any person.

(3) If the amount of the lease payments to be made under the lease is not agreed upon within 1 year after October 31, 1988, the Secretary shall establish the escrow account referred to in paragraph (2) within 30 days after the expiration of such 1-year period and shall make monthly payments of $25,000 per month into the account until such time as the full value of the lease payments is agreed to and deposited. Such deposits, together with the interest thereon, may be used only to cover the amounts of the lease payments due and payable pursuant to an agreement under this subsection. If the amounts deposited in such account, together with interest thereon, exceeds[1] the amount of the lease payments due and payable at the time the agreement is entered into, notwithstanding any other provision of law, the excess shall be transferred to the accounts provided to the Secretary for operation and maintenance and for development of the park.

(Pub. L. 100–571, §2, Oct. 31, 1988, 102 Stat. 2879; Pub. L. 107–336, §1, Dec. 16, 2002, 116 Stat. 2882.)

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–336 designated existing provisions as par. (1), substituted ''(A)'', ''(B)'', and ''(C)'' for ''(1)'', ''(2)'', and ''(3)'', respectively, and added par. (2).

[1] So in original. Probably should be ''exceed''.

§ 410qq–2. Administration

(a) In general

The Secretary shall administer the park in accordance with this subchapter and with the provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title. In the administration of the park, the Secretary may utilize such statutory authority available to him for the conservation of wildlife and natural and cultural resources as he deems necessary to carry out the purposes of this subchapter, except that he may not acquire any lands or waters or interests therein for purposes of the park other than by lease.

(b) Traditional subsistence uses

(1) Agricultural, cultural, and gathering uses shall be permitted in the park for subsistence purposes if such uses are generally prior existing uses conducted in areas used for such purposes as of October 31, 1988, and if such uses are conducted in the traditional manner and by traditional methods. No such uses shall be permitted in the park for other than subsistence purposes.

(2) Subsistence uses of the marine areas of the park shall also be permitted in accordance with paragraph (1), and no fishing or gathering shall be permitted in such marine areas for other than subsistence purposes.

(c) Interpretive facilities, etc.

Interpretative activities and interpretative facilities for the park (including maps) shall be in at least the following languages: English and Samoan.

(d) Employees and contracts

In addition to the Secretary's authority to employ persons to carry out provisions of this subchapter in accordance with the civil service laws, and notwithstanding any other provision of law, the Secretary is authorized to—

(1) hire employees for such purposes who shall not be subject to the civil service laws, including quotas, and

(2) enter into contracts with individuals for purposes of exercising any authority of the Secretary within the park.

(e) Native American Samoan personnel

The Secretary shall establish a program to train native American Samoan personnel to function as professional park service employees, to provide services to visitors (including the interpretation of park resources), and operate and maintain park facilities. Notwithstanding any other provision of law, and to the extent practicable the Secretary shall extend a preference for the hiring of native American Samoans to carry out the Secretary's authorities under this subchapter (including both employees and persons operating under contract).

(f) Management plan

The Secretary, in cooperation with the Governor of American Samoa, shall prepare a general management plan for the park. The plan shall comply with section 1a–7(b) of this title and shall contain specific measures for the protection and preservation of tropical forest resources and archaeological and cultural re-

sources within the park, including, but not limited to, protection of flying foxes and measures to enhance visitation to the park from throughout the world, to the extent consistent with the protection and preservation of such resources.

(g) Advisory Board

(1) The Secretary shall establish an Advisory Board to provide advice to the Secretary regarding the management of the park. The Advisory Board shall be comprised of 5 members, 3 of whom shall be nominated by the Governor of American Samoa. The Advisory Board shall designate one of its members as Chairman.

(2) The Advisory Board shall meet on a regular basis. Notice of meetings and agenda shall be announced in advance and meetings shall be held at locations and in such a manner as to insure adequate public involvement.

(3) Members of the Advisory Board shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this subchapter on vouchers signed by the Chairman.

(4) The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to this Advisory Board.

(h) Review

At least every 10 years, the Secretary and the Governor, or their designees, shall review the operation and management of the park. Such review shall include, but need not be limited to, consideration of how the objectives of the park can better be achieved, the need for additional technical or other assistance, cooperative arrangements between the Government of American Samoa and the National Park Service in the interpretation and management of the park, and the desirability of extension of the lease arrangement.

(i) Technical assistance

The Secretary, in providing technical or other assistance to the Government of American Samoa may use any authority otherwise provided to him, including requesting assistance from other Federal agencies.

(Pub. L. 100–571, § 3, Oct. 31, 1988, 102 Stat. 2881.)

REFERENCES IN TEXT

Section 14(b) of the Federal Advisory Committee Act, referred to in subsec. (g)(4), is section 14(b) of Pub. L. 92–463, which is set out in the Appendix to Title 5.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 410qq–3. "Native American Samoan" defined

For purposes of this subchapter the term ''native American Samoan'' means a person who is a citizen or national of the United States and who is a lineal descendant of an inhabitant of the Samoan Islands on April 18, 1900. For purposes of this subchapter, Swains Island shall be considered part of the Samoan Islands.

(Pub. L. 100–571, § 4, Oct. 31, 1988, 102 Stat. 2882.)

§ 410qq–4. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Pub. L. 100–571, § 5, Oct. 31, 1988, 102 Stat. 2883.)

SUBCHAPTER LIX–P—PECOS NATIONAL HISTORICAL PARK

§ 410rr. Purpose

The purpose of this subchapter is—

(1) to recognize the multitheme history, including the cultural interaction among diverse groups of people, of the Pecos area and its ''gateway'' role between the Great Plains and the Rio Grande Valley, and

(2) to provide for the preservation and interpretation of the cultural and natural resources of the Forked Lightning Ranch by establishing the Pecos National Historical Park.

(Pub. L. 101–313, title II, § 201, June 27, 1990, 104 Stat. 278.)

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–536, § 1, Nov. 8, 1990, 104 Stat. 2368, provided that: ''This Act [enacting section 410rr–7 of this title and provisions set out as a note under section 410rr–7 of this title] may be cited as the 'Pecos National Historical Park Expansion Act of 1990'.''

§ 410rr–1. Establishment

(a) Preservation of existing Pecos National Monument and related resources

In order to enhance and preserve the existing Pecos National Monument and related nationally significant resources for the benefit and enjoyment of present and future generations, there is hereby established the Pecos National Historical Park (hereinafter in this subchapter referred to as the ''park'').

(b) Park boundaries

The park shall include the existing Pecos National Monument and the area known as the Forked Lightning Ranch which surrounds the Pecos National Monument and shall consist of approximately 5,865 acres of the lands and interests in lands as generally depicted on the map entitled ''Pecos National Historical Park Boundary Concept'', numbered 430/80028 and dated March 1990. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter in this subchapter referred to as the ''Secretary'') may from time to time make minor revisions in the boundary of the park in accordance with section 460*l*–9(c) of this title.

(c) Availability of monument funds for park purposes

The Act entitled ''An Act to authorize the establishment of Pecos National Monument in the

State of New Mexico, and for other purposes'' approved June 28, 1965 (79 Stat. 195), is hereby repealed, and any funds available for purposes of the Pecos National Monument shall be available for purposes of the park.

(Pub. L. 101–313, title II, § 202, June 27, 1990, 104 Stat. 278.)

REFERENCES IN TEXT

The Act entitled ''An Act to authorize the establishment of Pecos National Monument in the State of New Mexico, and for other purposes'' approved June 28, 1965, referred to in subsec. (c), is Pub. L. 89–54, June 28, 1965, 79 Stat. 195, which enacted provisions listed in a Miscellaneous National Monuments table set out under section 431 of this title.

§ 410rr–2. Acquisition of lands, waters, and interests in lands and waters

The Secretary is authorized to acquire lands, waters, and interests therein within the boundaries of the park by donation, purchase with donated or appropriated funds, or exchange: *Provided, however*, That the Secretary may not acquire lands within the Forked Lightning Ranch as depicted on the map from the owner of record of such lands as of May 1, 1990, without the consent of such owner unless the Secretary determines that the lands are being used, or that there is an imminent threat that the lands will be used, for any purpose that is incompatible with the purposes of this Act.

(Pub. L. 101–313, title II, § 203, June 27, 1990, 104 Stat. 279.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 101–313, June 27, 1990, 104 Stat. 272, which enacted this subchapter, amended sections 410pp, 410pp–1, and 460uu–12 of this title, and enacted and repealed provisions listed in a Miscellaneous National Monuments table set out under section 431 of this title. For complete classification of this Act to the Code, see Tables.

§ 410rr–3. Administration

The Secretary shall administer the park in accordance with the provisions of this subchapter and the provisions of law generally applicable to the administration of units of the National Park System, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title.

(Pub. L. 101–313, title II, § 204, June 27, 1990, 104 Stat. 279.)

§ 410rr–4. Management plan

Within 3 full fiscal years from the date funding is made available for the purposes of preparing a general management plan, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, a general management plan for the park consistent with the purposes of this subchapter, including (but not limited to)—

(1) a general visitor use and interpretive program that fully considers the prehistoric and historic aspects of the national historical park including the ''gateway theme'' and early Spanish settlement of New Mexico;

(2) a statement on the number of visitors and types of public uses within the park which can be reasonably accommodated in accordance with the protection of its resources; and

(3) a general development plan for the park, including the estimated cost thereof.

(Pub. L. 101–313, title II, § 205, June 27, 1990, 104 Stat. 279; Pub. L. 103–437, § 6(d)(12), Nov. 2, 1994, 108 Stat. 4584.)

AMENDMENTS

1994—Pub. L. 103–437 in introductory provisions substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 410rr–5. Study of possible inclusion of additional sites and ruins

The Secretary, acting through the National Park Service, shall undertake a study of the Rowe Ruin, Arrowhead Pueblo, Hobson-Dressler Ruin, and Las Ruedas site for the suitability and feasibility of their inclusion in the park. The Secretary shall submit the study to the Congress within one year after June 27, 1990.

(Pub. L. 101–313, title II, § 206, June 27, 1990, 104 Stat. 279.)

§ 410rr–6. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Pub. L. 101–313, title II, § 207, June 27, 1990, 104 Stat. 279.)

§ 410rr–7. Glorieta Unit of Pecos National Historical Park

(a) Establishment

In order to preserve and interpret the Battle of Glorieta for the benefit and enjoyment of present and future generations, there is hereby established the Glorieta Unit of the Pecos National Historical Park (hereafter in this section referred to as the ''Glorieta Unit''). The Glorieta Unit shall be comprised of approximately 682 acres as generally depicted on the maps entitled ''Glorieta Unit—Pecos National Historical Park'', numbered 430–80,031, and dated July 1990. The boundary of Pecos National Historical Park, established by this subchapter, is hereby modified to include the Glorieta Unit.

(b) Administration

The Secretary shall administer the Glorieta Unit to preserve and interpret the Battle of Glorieta for the benefit and enjoyment of present and future generations, in accordance with the provisions of this section, applicable provisions of this subchapter, and provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title.

(c) Acquisition

The Secretary is authorized to acquire lands, waters, and interests therein within the boundaries of the Glorieta Unit by donation, purchase with donated or appropriated funds, or exchange. Lands may not be acquired for purposes of the Glorieta Unit without the consent of the

owner thereof unless the Secretary determines that, in his judgment, the property is subject to, or threatened with, uses which are having, or would have, an adverse impact on the Glorieta Unit or on the management of the Glorieta Unit.

(d) Transfer

Lands identified on the maps referred to in subsection (a) of this section as being within unit number 26 in the ''Historic Zone'' are hereby transferred from the administration of the Secretary of Agriculture to the administration of the Secretary of the Interior, to be managed in accordance with the provisions of this section.

(e) Management plan

The Secretary shall incorporate management direction for the Glorieta Unit into the general management plan for the Pecos National Historical Park, including the identification of routes of travel associated with the Battle of Glorieta.

(f) Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(Pub. L. 101–536, § 3, Nov. 8, 1990, 104 Stat. 2368.)

REFERENCES IN TEXT

This section, referred to in subsecs. (a), (b), (d), and (f), was in the original ''this Act'', meaning Pub. L. 101–536, Nov. 8, 1990, 104 Stat. 2368, known as the Pecos National Historical Park Expansion Act of 1990, which enacted this section and provisions set out as notes under this section and section 410rr of this title. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 410rr of this title and Tables.

CODIFICATION

Section was enacted as part of the Pecos National Historical Park Expansion Act of 1990, and not as part of title II of Pub. L. 101–313 which comprises this subchapter.

FINDINGS AND PURPOSE

Section 2 of Pub. L. 101–536 provided that:

''(a) FINDINGS.—The Congress makes the following findings:

''(1) the Civil War battle of Glorieta Pass, New Mexico, fought on March 26–28, 1862, was a decisive battle of the Civil War in the Far West;

''(2) the battle was significant because the Confederate defeat at Glorieta Pass resulted in the collapse of the Confederacy's plan to capture the riches and support of the West, thus largely ending the Civil War in the West; and

''(3) the campsite and headquarters of the Union forces during the Battle of Glorieta are currently within the boundary of Pecos National Historical Park.

''(b) PURPOSE.—The purpose of this Act [enacting this section and provisions set out as a note under section 410rr of this title] is to preserve and interpret the Battle of Glorieta and to enhance visitor understanding of the Civil War and the Far West by establishing a new unit of Pecos National Historical Park.''

SUBCHAPTER LIX–Q—TUMACACORI NATIONAL HISTORICAL PARK

§ 410ss. Establishment

(a) In general

In order to protect and interpret, for the education and benefit of the public, sites in the State of Arizona associated with the early Spanish missionaries and explorers of the 17th and 18th centuries, there is hereby established the Tumacacori National Historical Park (hereinafter in this subchapter referred to as the ''park'').

(b) Area included

The park shall consist of the existing Tumacacori National Monument, together with (1) the ruins of Los Santos Angeles de Guevavi, the first mission in Arizona (consisting of approximately 8 acres) and (2) the Kino visita and rancheria ruins of Calabazas (consisting of approximately 22 acres), each as generally depicted on the map entitled ''Boundary Map, Tumacacori National Historical Park'', numbered 311/80018, and dated February 1990. The park shall also consist of approximately 310 acres of land adjacent to the original Tumacacori unit of the park and generally depicted on the map entitled ''Tumacacori National Historical Park, Arizona Proposed Boundary Revision 2001'', numbered 310/80,044, and dated July 2001. The maps shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(c) Abolition of monument

The Tumacacori National Monument is hereby abolished and any funds available for purposes of the monument shall be available for purposes of the park.

(Pub. L. 101–344, § 1, Aug. 6, 1990, 104 Stat. 393; Pub. L. 107–218, § 3, Aug. 21, 2002, 116 Stat. 1328.)

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–218 inserted ''The park shall also consist of approximately 310 acres of land adjacent to the original Tumacacori unit of the park and generally depicted on the map entitled 'Tumacacori National Historical Park, Arizona Proposed Boundary Revision 2001', numbered 310/80,044, and dated July 2001.'' and substituted ''The maps'' for ''The map'' and ''the appropriate offices'' for ''the offices''.

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–218, § 1, Aug. 21, 2002, 116 Stat. 1328, provided that: ''This Act [amending this section and enacting provisions set out as a note under this section] may be cited as the 'Tumacacori National Historical Park Boundary Revision Act of 2002'.''

FINDINGS AND PURPOSES

Pub. L. 107–218, § 2, Aug. 21, 2002, 116 Stat. 1328, provided that:

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

''(1) Tumacacori Mission in southern Arizona was declared a National Monument in 1908 in recognition of its great historical significance as 'one of the oldest mission ruins in the southwest'.

''(2) In establishing Tumacacori National Historical Park in 1990 to include the Tumacacori Mission and the ruins of the mission of Los Santos Angeles de Guevavi and the Kino visita and rancheria of Calabazas, Congress recognized the importance of these sites 'to protect and interpret, for the education and benefit of the public, sites in the State of Arizona associated with the early Spanish missionaries and explorers of the 17th and 18th centuries'.

''(3) Tumacacori National Historical Park plays a major role in interpreting the Spanish colonial heritage of the United States.

''(b) PURPOSES.—The purposes of this Act [see Short Title of 2002 Amendment note above] are—

''(1) to protect and interpret the resources associated with the Tumacacori Mission by revising the boundary of Tumacacori National Historical Park to include approximately 310 acres of land adjacent to the park; and

''(2) to enhance the visitor experience at Tumacacori by developing access to these associated mission resources.''

§ 410ss–1. Administration

(a) In general

The Secretary of the Interior (hereinafter referred to as the ''Secretary'') shall administer the park in accordance with this subchapter and with the provisions of law generally applicable to units of the national park system, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title. The Secretary may acquire lands or interests in land within the boundaries of the park by donation, purchase with donated or appropriated funds, or exchange.

(b) Donations

Notwithstanding any other provision of law, the Secretary may accept and retain donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities which he deems consistent with the purposes of this subchapter.

(c) Separate units

The Secretary shall provide for the identification of the Guevavi, Calabazas, and Tumacacori sites as 3 separate units of the park.

(d) Recognition of Father Eusebio Francisco Kino's role

In administering the park, the Secretary shall utilize such interpretative materials and other devices as may be necessary to give appropriate recognition to the role of the Jesuit Missionary Priest, Father Eusebio Francisco Kino, in the development of the mission sites and the settlement of the region.

(Pub. L. 101–344, § 2, Aug. 6, 1990, 104 Stat. 393.)

SUBCHAPTER LIX–R—SALT RIVER BAY NATIONAL HISTORICAL PARK AND ECOLOGICAL PRESERVE AT ST. CROIX, VIRGIN ISLANDS

§ 410tt. Findings

The Congress finds that the Salt River Bay area of the north central coast of St. Croix, United States Virgin Islands—

(1) has been inhabited, possibly as far back as 2000 B.C., and encompasses all major cultural periods in the United States Virgin Islands;

(2) contains the only ceremonial ball court ever discovered in the Lesser Antilles, village middens, and burial grounds which can provide evidence for the interpretation of Caribbean life prior to Columbus;

(3) is the only known site where members of the Columbus expeditions set foot on what is now United States territory;

(4) was a focal point of various European attempts to colonize the area during the post-Columbian period and contains sites of Spanish, French, Dutch, English, and Danish settlements, including Fort Sale, one of the few remaining earthwork fortifications in the Western Hemisphere;

(5) presents an outstanding opportunity to preserve and interpret Caribbean history and culture, including the impact of European exploration and settlement;

(6) has been a national natural landmark since February 1980 and has been nominated for acquisition as a nationally significant wildlife habitat;

(7) contains the largest remaining mangrove forest in the United States Virgin Islands and a variety of tropical marine and terrestrial ecosystems which should be preserved and kept unimpaired for the benefit of present and future generations; and

(8) is worthy of a comprehensive preservation effort that should be carried out in partnership between the Federal Government and the Government of the United States Virgin Islands.

(Pub. L. 102–247, title I, § 102, Feb. 24, 1992, 106 Stat. 33.)

SHORT TITLE

Section 1 of Pub. L. 102–247 provided that: ''This Act [enacting this subchapter, sections 5204 to 5204c of Title 42, The Public Health and Welfare, and sections 1469e and 1973 of Title 48, Territories and Insular Possessions, amending section 5122 of Title 42 and section 1903 of Title 48, enacting provisions set out as a note under this section, and amending provisions set out as a note under section 301 of Title 7, Agriculture] may be cited as the 'Omnibus Insular Areas Act of 1992'.''

Section 101 of title I of Pub. L. 102–247 provided that: ''This title [enacting this subchapter] may be cited as the 'Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Act of 1992'.''

§ 410tt–1. Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands

(a) Establishment

In order to preserve, protect, and interpret for the benefit of present and future generations certain nationally significant historical, cultural, and natural sites and resources in the Virgin Islands, there is established the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands (hereafter in this subchapter referred to as the ''park'').

(b) Area included

The park shall consist of approximately 1015 acres of lands, waters, and interests in lands as generally depicted on the map entitled ''Salt River Bay National Historical Park and Ecological Preserve, St. Croix, U.S.V.I.'', numbered 141/80002, and dated May 2, 2002. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and the Offices of the Lieutenant Governor of St. Thomas and St. Croix, Virgin Islands.

(Pub. L. 102–247, title I, § 103, Feb. 24, 1992, 106 Stat. 34; Pub. L. 107–329, title III, § 301, Dec. 6, 2002, 116 Stat. 2819.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original ''this Act'' and was translated as reading ''this

title'', meaning title I of Pub. L. 102–247, known as the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Act of 1992, to reflect the probable intent of Congress.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–329 amended first sentence generally. Prior to amendment, first sentence read as follows: ''The park shall consist of approximately 912 acres of land, waters, submerged lands, and interests therein within the area generally depicted on the map entitled 'Salt River Study Area—Alternative ''C'' ' in the 'Alternatives Study and Environmental Assessment for the Columbus Landing Site, St. Croix, U.S. Virgin Islands', prepared by the National Park Service and dated June 1990.''

§ 410tt–2. Acquisition of land

(a) General authority

The Secretary of the Interior (hereafter in this subchapter referred to as the ''Secretary'') may acquire land and interests in land within the boundaries of the park by donation, purchase with donated or appropriated funds, or exchange. Nothing in this section shall be construed to prohibit the Government of the United States Virgin Islands from acquiring land or interest in land within the boundaries of the park.

(b) Limitations on authority

Lands, and interests in lands, within the boundaries of the park which are owned by the United States Virgin Islands, or any political subdivision thereof, may be acquired only by donation or exchange. No lands, or interests therein, containing dwellings lying within the park boundary as of July 1, 1991, may be acquired without the consent of the owner, unless the Secretary determines, after consultation with the Government of the United States Virgin Islands, that the land is being developed or proposed to be developed in a manner which is detrimental to the natural, scenic, historic, and other values for which the park was established.

(Pub. L. 102–247, title I, § 104, Feb. 24, 1992, 106 Stat. 34.)

§ 410tt–3. Administration

(a) In general

The park shall be administered in accordance with this subchapter and with the provisions of law generally applicable to units of the national park system, including, but not limited to, sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title. In the case of any conflict between the provisions of this subchapter and such generally applicable provisions of law, the provisions of this subchapter shall govern.

(b) Cooperative agreements

The Secretary, after consulting with the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Commission (hereafter in this subchapter referred to as the ''Commission'') established by section 410tt–4 of this title, is authorized to enter into cooperative agreements with the United States Virgin Islands, or any political subdivision thereof, for the management of the park and for other purposes.

(c) General management plan

(1) Not later than 3 years after the date funds are made available for this subsection, the Secretary, in consultation with the Commission, and with public involvement, shall develop and submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives a general management plan for the park. The general management plan shall describe the appropriate protection, management, uses, and development of the park consistent with the purposes of this subchapter.

(2) The general management plan shall include, but not be limited to, the following:

(A) Plans for implementation of a continuing program of interpretation and visitor education about the resources and values of the park.

(B) Proposals for visitor use facilities to be developed for the park.

(C) Plans for management of the natural and cultural resources of the park, with particular emphasis on the preservation of both the cultural and natural resources and long-term scientific study of terrestrial, marine, and archeological resources, giving high priority to the enforcement of the provisions of the Archeological[1] Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the park. The natural and cultural resources management plans shall be prepared in consultation with the Virgin Islands Division of Archeology and Historic Preservation.

(D) Proposals for assessing the potential operation and supply of park concessions by qualified Virgin Islands-owned businesses.

(E) Plans for the training of personnel in accordance with subsection (e)[2] of this section.

(d) Training assistance

During the 10-year period beginning on February 24, 1992, the Secretary shall, subject to appropriations, provide the funds for the employees of the Government of the United States Virgin Islands directly engaged in the joint management of the park and shall implement, in consultation with the Government of the United States Virgin Islands, a program under which Virgin Islands citizens may be trained in all phases of park operations and management: *Provided, however*, That in no event shall the Secretary provide more than 50 percent of the funding for such purposes. A primary objective of the program shall be to train employees in the skills necessary for operating and managing a Virgin Islands Territorial Park System.

(Pub. L. 102–247, title I, § 105, Feb. 24, 1992, 106 Stat. 34; Pub. L. 103–437, § 6(d)(13), Nov. 2, 1994, 108 Stat. 4584.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a) after ''the provisions of'' in two places and in subsec. (b), was in the original ''this Act'' and was translated as reading ''this title'', meaning title I of Pub. L. 102–247, known as the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Act of 1992, to reflect the probable intent of Congress.

The Archaeological Resources Protection Act of 1979, referred to in subsec. (c)(2)(C), is Pub. L. 96–95, Oct. 31,

[1] So in original. Probably should be ''Archaeological''.

[2] So in original. Probably should be subsection ''(d)''.

1979, 93 Stat. 721, as amended, which is classified generally to chapter 1B (§ 470aa et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of this title and Tables.

The National Historic Preservation Act, referred to in subsec. (c)(2)(C), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of this title. For complete classification of this Act to the Code, see section 470(a) of this title and Tables.

AMENDMENTS

1994—Subsec. (c)(1). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 410tt–4. Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Commission

(a) Establishment

There is established a commission to be known as the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Commission.

(b) Duties

The Commission shall—

(1) make recommendations on how all lands and waters within the boundaries of the park can be jointly managed by the governments of the United States Virgin Islands and the United States in accordance with this subchapter;

(2) consult with the Secretary on the development of the general management plan required by section 410tt–3 of this title; and

(3) provide advice and recommendations to the Government of the United States Virgin Islands, upon request of the Government of the United States Virgin Islands.

(c) Membership

The Commission shall be composed of 10 members, as follows:

(1) The Governor of the United States Virgin Islands, or the designee of the Governor.

(2) The Secretary, or the designee of the Secretary.

(3) Four members appointed by the Secretary.

(4) Four members appointed by the Secretary from a list provided by the Governor of the United States Virgin Islands, at least one of whom shall be a member of the Legislature of the United States Virgin Islands.

Initial appointments made under this subsection shall be made within 120 days after February 24, 1992, except that the appointments made under paragraph (4) shall be made within 120 days after the date on which the Secretary receives such list.

(d) Terms

The members appointed under paragraphs (3) and (4) shall be appointed for terms of 4 years. A member of the Commission appointed for a definite term may serve after the expiration of the member's term until a successor is appointed. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made and shall be filled within 60 days after the expiration of the term.

(e) Chair

The Chair of the Commission shall alternate annually between the Secretary and the Governor of the United States Virgin Islands. All other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

(f) Meetings

The Commission shall meet on a regular basis or at the call of the Chair. Notice of meetings and agenda shall be published in the Federal Register and local newspapers having a distribution that generally covers the United States Virgin Islands. Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

(g) Expenses

Members of the Commission shall serve without compensation as such, but the Secretary may pay each member of the Commission travel expenses, including per diem in lieu of subsistence, in accordance with section 5703 of title 5. Members of the Commission who are full-time officers or employees of the United States or the Virgin Islands Government may not receive additional pay, allowances, or benefits by reason of their service on the Commission. The Secretary shall provide the Commission with a budget for travel expenses and staff, and guidelines by which expenditures shall be accounted for.

(h) Federal Advisory Committee Act

Except with respect to the provisions of section 14(b) of the Federal Advisory Committee Act, and except as otherwise provided in this subchapter, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Commission.

(i) Termination

The Commission shall terminate 10 years after February 24, 1992, unless the Secretary determines that it is necessary to continue consulting with the Commission in carrying out the purposes of this subchapter.

(Pub. L. 102–247, title I, § 106, Feb. 24, 1992, 106 Stat. 35.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (h), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 410tt–5. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Pub. L. 102–247, title I, § 107, Feb. 24, 1992, 106 Stat. 37.)

SUBCHAPTER LIX–S—HOPEWELL CULTURE NATIONAL HISTORICAL PARK

§ 410uu. Renaming

The Mound City Group National Monument established by proclamation of the President

(Proclamation No. 1653, 42 Stat. 2298) and expanded by section 701 of Public Law 96–607 (94 Stat. 3540), shall, on and after May 27, 1992, be known as the ''Hopewell Culture National Historical Park''. Any reference to the Mound City Group National Monument in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Hopewell Culture National Historical Park.

(Pub. L. 102–294, § 1, May 27, 1992, 106 Stat. 185.)

REFERENCES IN TEXT

Proclamation No. 1653, 42 Stat. 2298 and section 701 of Public Law 96–607, referred to in text, appear in a table under the heading ''National Monuments Established Under Presidential Proclamation'', set out as a note under section 431 of this title.

§ 410uu–1. Expansion of boundaries

(a) In general

The boundaries of the Hopewell Culture National Historical Park (referred to as the ''park'') are revised to include the lands within the areas marked for inclusion in the monument as generally depicted on—

(1) the map entitled ''Hopeton Earthworks'' numbered 353–80025 and dated July 1987;

(2) the map entitled ''High Banks Works'' numbered 353–80027 and dated July 1987;

(3) the map entitled ''Hopewell Mound Group'' numbered 353–80029 and dated July 1987;

(4) the map entitled ''Seip Earthworks'' numbered 353–80033 and dated July 1987; and

(5) the map entitled ''Hopewell Culture National Historical Park, Ohio Proposed Boundary Adjustment'' numbered 353/80,049 and dated June, 2006.

(b) Public inspection of maps

Each map described in subsection (a) of this section shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior.

(c) Adjustment of boundaries

The Secretary of the Interior (referred to as the ''Secretary'') may, by notice in the Federal Register after receipt of public comment, make minor adjustments in the boundaries of areas added to the park by subsection (a) of this section and other areas of the park: *Provided*, That any such minor boundary adjustments cumulatively shall not cause the total acreage of the park to increase more than 10 per centum above the existing acreage of Mound City Group National Monument, plus the acreage of the inclusions authorized under subsection (a) of this section.

(d) Acquisition of lands

(1) Subject to paragraph (2), the Secretary may acquire lands and interests in land within the areas added to the park by subsection (a) of this section by donation, purchase with donated or appropriated funds, or exchange.

(2)(A) Lands and interests in land owned by the State of Ohio or a political subdivision thereof may be acquired only by donation or exchange.

(B) Lands and interests in land may be acquired by purchase at a price based on the fair market value thereof as determined by independent appraisal, consistent with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(3) The Secretary may acquire lands added by subsection (a)(5) only from willing sellers.

(Pub. L. 102–294, § 2, May 27, 1992, 106 Stat. 185; Pub. L. 111–11, title VII, § 7104, Mar. 30, 2009, 123 Stat. 1191.)

REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (d)(2)(B), is Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, as amended, which is classified generally to chapter 61 (§ 4601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 42 and Tables.

AMENDMENTS

2009—Subsec. (a)(5). Pub. L. 111–11, § 7104(1)–(3), added par. (5).

Subsec. (d)(3). Pub. L. 111–11, § 7104(4), added par. (3).

§ 410uu–2. Cooperative agreements

The Secretary may enter into a cooperative agreement with the Ohio Historical Society, the Archeological[1] Conservancy, and other public and private entities for consultation and assistance in the interpretation and management of the park.

(Pub. L. 102–294, § 3, May 27, 1992, 106 Stat. 186.)

§ 410uu–3. Studies

(a) Areas added by this subchapter

The Secretary shall conduct archeological studies of the areas added to the park by section 410uu–1(a) of this title and adjacent areas to ensure that the boundaries of those areas encompass the lands that are needed to provide adequate protection of the significant archeological resources of those areas.

(b) Other areas

The Secretary shall conduct archeological studies of the areas described as the ''Spruce Hill Works'', the ''Harness Group'', and the ''Cedar Bank Works'', and may conduct archeological studies of other areas significant to Hopewellian culture, to evaluate the desirability of adding them to the park, and shall report to Congress on any such areas that are recommended for addition to the park.

(Pub. L. 102–294, § 4, May 27, 1992, 106 Stat. 186.)

§ 410uu–4. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary for the acquisition of lands and interests in land within the park, the conduct of archeological studies on lands within and adjacent to the park, and the development of facilities for interpretation of the park.

(Pub. L. 102–294, § 5, May 27, 1992, 106 Stat. 186.)

[1] So in original. Probably should be ''Archaeological''.

SUBCHAPTER LIX–T—MARSH-BILLINGS-ROCKEFELLER NATIONAL HISTORICAL PARK

§ 410vv. Purposes

The purposes of this subchapter are—

(1) to interpret the history and evolution of conservation stewardship in America;

(2) to recognize and interpret the contributions and birthplace of George Perkins Marsh, pioneering environmentalist, author of Man and Nature, statesman, lawyer, and linguist;

(3) to recognize and interpret the contributions of Frederick Billings, conservationist, pioneer in reforestation and scientific farm management, lawyer, philanthropist, and railroad builder, who extended the principles of land management introduced by Marsh;

(4) to preserve the Marsh-Billings-Rockefeller Mansion and its surrounding lands; and

(5) to recognize the significant contributions of Julia Billings, Mary Billings French, Mary French Rockefeller, and Laurance Spelman Rockefeller in perpetuating the Marsh-Billings-Rockefeller heritage.

(Pub. L. 102–350, § 2, Aug. 26, 1992, 106 Stat. 934; Pub. L. 105–277, div. A, § 101(e) [title I, § 143], Oct. 21, 1998, 112 Stat. 2681–231, 2681–267.)

AMENDMENTS

1998—Pars. (4), (5). Pub. L. 105–277 substituted ''Marsh-Billings-Rockefeller'' for ''Marsh-Billings''.

SHORT TITLE

Pub. L. 102–350, § 1, Aug. 26, 1992, 106 Stat. 934, as amended by Pub. L. 105–277, div. A, § 101(e) [title I, § 143], Oct. 21, 1998, 112 Stat. 2681–231, 2681–267, provided that: ''This Act [enacting this subchapter] may be cited as the 'Marsh-Billings-Rockefeller National Historical Park Establishment Act'.''

§ 410vv–1. Establishment

(a) In general

There is established as a unit of the National Park System the Marsh-Billings-Rockefeller National Historical Park in Windsor County, Vermont (hereinafter in this subchapter referred to as the ''park'').

(b) Boundaries and map

(1) The park shall consist of a historic zone, including the Marsh-Billings-Rockefeller Mansion, surrounding buildings and a portion of the area known as ''Mt. Tom'', comprising approximately 555 acres, and a protection zone, including the areas presently occupied by the Billings Farm and Museum, comprising approximately 88 acres, all as generally depicted on the map entitled ''Marsh-Billings-Rockefeller National Historical Park Boundary Map'' and dated November 19, 1991.

(2) The map referred to in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(Pub. L. 102–350, § 3, Aug. 26, 1992, 106 Stat. 934; Pub. L. 105–277, div. A, § 101(e) [title I, § 143], Oct. 21, 1998, 112 Stat. 2681–231, 2681–267.)

AMENDMENTS

1998—Subsecs. (a), (b)(1). Pub. L. 105–277 substituted ''Marsh-Billings-Rockefeller'' for ''Marsh-Billings'' wherever appearing.

§ 410vv–2. Administration

(a) In general

The Secretary of the Interior (hereinafter in this subchapter referred to as the ''Secretary'') shall administer the park in accordance with this subchapter, and laws generally applicable to units of the National Park System, including, but not limited to sections 1, 2, 3, and 4 of this title.

(b) Acquisition of lands

(1) Except as provided in paragraph (2), the Secretary is authorized to acquire lands or interests therein within the park only by donation.

(2) If the Secretary determines that lands within the protection zone are being used, or there is an imminent threat that such lands will be used, for a purpose that is incompatible with the purposes of this subchapter, the Secretary may acquire such lands or interests therein by means other than donation.

(3) The Secretary may acquire lands within the historic zone subject to terms and easements providing for the management and commercial operation of existing hiking and cross-country ski trails by the grantor, and the grantor's successors and assigns, such terms and easements shall be in a manner consistent with the purposes of the historic zone. Any changes in the operation and management of existing trails shall be subject to approval by the Secretary.

(c) Historic zone

The primary purposes of the historic zone shall be preservation, education, and interpretation.

(d) Protection zone

(1) The primary purpose of the protection zone shall be to preserve the general character of the setting across from the Marsh-Billings-Rockefeller Mansion in such a manner and by such means as will continue to permit current and future compatible uses.

(2) The Secretary shall pursue protection and preservation alternatives for the protection zone by working with affected State and local governments and affected landowners to develop and implement land use practices consistent with this subchapter.

(Pub. L. 102–350, § 4, Aug. 26, 1992, 106 Stat. 934; Pub. L. 105–277, div. A, § 101(e) [title I, § 143], Oct. 21, 1998, 112 Stat. 2681–231, 2681–267.)

AMENDMENTS

1998—Subsec. (d)(1). Pub. L. 105–277 substituted ''Marsh-Billings-Rockefeller'' for ''Marsh-Billings''.

§ 410vv–3. Marsh-Billings-Rockefeller National Historical Park Scenic Zone

(a) In general

There is established the Marsh-Billings-Rockefeller National Historical Park Scenic Zone (hereinafter in this subchapter referred to as the ''scenic zone''), which shall include those lands as generally depicted on the map entitled ''Marsh-Billings-Rockefeller National Historical Park Scenic Zone Map'' and dated November 19, 1991.

(b) Purpose

The purpose of the scenic zone shall be to protect portions of the natural setting beyond the park boundaries that are visible from the Marsh-Billings-Rockefeller Mansion, by such means and in such a manner as will permit current and future compatible uses.

(c) Acquisition of scenic easements

Within the boundaries of the scenic zone, the Secretary is authorized only to acquire scenic easements by donation.

(Pub. L. 102–350, § 5, Aug. 26, 1992, 106 Stat. 935; Pub. L. 105–277, div. A, § 101(e) [title I, § 143], Oct. 21, 1998, 112 Stat. 2681–231, 2681–267.)

AMENDMENTS

1998—Pub. L. 105–277 substituted ''Marsh-Billings-Rockefeller'' for ''Marsh-Billings'' in section catchline and wherever appearing in subsecs. (a) and (b).

§ 410vv–4. Cooperative agreements

(a) In general

The Secretary may enter into cooperative agreements with such persons or entities as the Secretary determines to be appropriate for the preservation, interpretation, management, and providing of educational and recreational uses for the properties in the park and the scenic zone.

(b) Facilities

The Secretary, through cooperative agreements with owners or operators of land and facilities in the protection zone, may provide for facilities in the protection zone to support activities within the historic zone.

(Pub. L. 102–350, § 6, Aug. 26, 1992, 106 Stat. 935.)

§ 410vv–5. Endowment

(a) In general

In accordance with the provisions of subsection (b) of this section, the Secretary is authorized to receive and expend funds from an endowment to be established with the Woodstock Foundation, or its successors and assigns.

(b) Conditions

(1) Funds from the endowment referred to in subsection (a) of this section shall be expended exclusively as the Woodstock Foundation, or its successors and assigns, in consultation with the Secretary, may designate for the preservation and maintenance of the Marsh-Billings-Rockefeller Mansion and its immediate surrounding property.

(2) No expenditure shall be made pursuant to this section unless the Secretary determines that such expenditure is consistent with the purposes of this subchapter.

(Pub. L. 102–350, § 7, Aug. 26, 1992, 106 Stat. 936; Pub. L. 105–277, div. A, § 101(e) [title I, § 143], Oct. 21, 1998, 112 Stat. 2681–231, 2681–267.)

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–277 substituted ''Marsh-Billings-Rockefeller'' for ''Marsh-Billings''.

§ 410vv–6. Reservation of use and occupancy

In acquiring land within the historic zone, the Secretary may permit an owner of improved residential property within the boundaries of the historic zone to retain a right of use and occupancy of such property for noncommercial residential purposes for a term not to exceed 25 years or a term ending at the death of the owner, or the owner's spouse, whichever occurs last. The owner shall elect the term to be reserved.

(Pub. L. 102–350, § 8, Aug. 26, 1992, 106 Stat. 936.)

§ 410vv–7. General management plan

Not later than 3 complete fiscal years after August 26, 1992, the Secretary shall develop and transmit a general management plan for the park to the Committee on Natural Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.

(Pub. L. 102–350, § 9, Aug. 26, 1992, 106 Stat. 936; Pub. L. 103–437, § 6(d)(14), Nov. 2, 1994, 108 Stat. 4584.)

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 410vv–8. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Pub. L. 102–350, § 10, Aug. 26, 1992, 106 Stat. 936.)

SUBCHAPTER LIX–U—DAYTON AVIATION HERITAGE NATIONAL HISTORICAL PARK

PART A—DAYTON AVIATION HERITAGE NATIONAL HISTORICAL PARK

§ 410ww. Establishment

(a) In general

There is established, as a unit of the National Park System in the State of Ohio, the Dayton Aviation Heritage National Historical Park (hereinafter in this subchapter referred to as the ''park'').

(b) Areas included

The park shall consist of the following sites, as generally depicted on a map entitled ''Dayton Aviation Heritage National Historical Park'', numbered 362–80,010 and dated September 1, 2000:

(1) A core parcel in Dayton, Ohio, which shall consist of the Wright Cycle Company building, Hoover Block, and lands between.

(2) The Setzer building property (also known as the Aviation Trail building property), Dayton, Ohio.

(3) The residential properties at 26 South Williams Street and at 30 South Williams Street, Dayton, Ohio.

(4) Huffman Prairie Flying Field, located at Wright-Patterson Air Force Base, Ohio.

(5) The Wright 1905 Flyer III and Wright Hall, including constructed additions and attached structures, known collectively as the John W. Berry, Sr. Wright Brothers Aviation Center, Dayton, Ohio.

(6) The Paul Laurence Dunbar State Memorial, Dayton, Ohio.

(c) Additional sites

In addition to the sites described in subsection (b), the park shall consist of the following sites, as generally depicted on a map titled ''Dayton Aviation Heritage National Historical Park'', numbered 362/80,013 and dated May 2008:

(1) Hawthorn Hill, Oakwood, Ohio.

(2) The Wright Company factory and associated land and buildings, Dayton, Ohio.

(Pub. L. 102–419, title I, §101, Oct. 16, 1992, 106 Stat. 2141; Pub. L. 106–356, §2(a), Oct. 24, 2000, 114 Stat. 1391; Pub. L. 111–11, title VII, §7117(a), Mar. 30, 2009, 123 Stat. 1204.)

AMENDMENTS

2009—Subsec. (c). Pub. L. 111–11 added subsec. (c).

2000—Subsec. (b). Pub. L. 106–356 amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''The park shall consist of the following sites, as generally depicted on a map entitled 'Proposed Dayton Aviation Heritage National Historical Park', numbered NHP–DAH 80,000, and dated February 1992:

''(1) A core parcel in Dayton, Ohio, which shall consist of the Wright Cycle Company Building, Hoover Block, and lands between.

''(2) Huffman Prairie Flying Field, Wright-Patterson Air Force Base, Ohio.

''(3) The Wright 1905 Flyer and Wright Hall, Dayton, Ohio.

''(4) The Paul Laurence Dunbar home, Dayton, Ohio.''

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–356, §1, Oct. 24, 2000, 114 Stat. 1391, provided that: ''This Act [amending this section and sections 410ww–6 and 410ww–8 of this title] may be cited as the 'Dayton Aviation Heritage Preservation Amendments Act of 2000'.''

SHORT TITLE

Section 1 of Pub. L. 102–419 provided that: ''This Act [enacting this subchapter] may be cited as the 'Dayton Aviation Heritage Preservation Act of 1992'.''

PURPOSES

Section 2 of Pub. L. 102–419 provided that: ''The purposes of this Act [this subchapter] are—

''(1) to establish a unit of the National Park System in Dayton, Ohio, consisting of certain lands and structures associated with Wilbur and Orville Wright and the early development of aviation; and

''(2) to create partnerships among Federal, State, and local governments and the private sector to preserve, enhance, and interpret for present and future generations the historic and cultural structures, districts, and artifacts in Dayton and the Miami Valley in the State of Ohio, which are associated with the Wright brothers, the invention and development of aviation, or the life and works of Paul Laurence Dunbar, and which, as a whole, represent a nationally significant resource.''

§ 410ww–1. Protection of historic properties

(a) Acquisition of properties within park

Within the boundaries of the park the Secretary shall, subject to the availability of appropriated funds, acquire Hawthorn Hill, the Wright Company factory, the Wright Cycle Company Building and Hoover Block, and may acquire other properties, or interests therein, referred to in section 410ww(b) of this title, by donation, purchase with donated or appropriated funds, exchange, or transfer.

(b) Cooperative agreements

The Secretary is authorized to enter into cooperative agreements with other Federal agencies, State and local public bodies, and private interests and organizations relating to the preservation, development, use, and interpretation of properties within the boundaries of the park in order to contribute to the appropriate use and management of such properties consistent with the purposes of this subchapter.

(c) Cooperative agreements

The Secretary is authorized to enter into a cooperative agreement with a partner or partners, including the Wright Family Foundation, to operate and provide programming for Hawthorn Hill and charge reasonable fees notwithstanding any other provision of law, which may be used to defray the costs of park operation and programming.

(d) Conditions

Cooperative agreements under this section shall provide, whenever appropriate, that—

(1) the public may have access to any such property at specified reasonable times for purposes of viewing such property or the exhibits or attending programs established by the Secretary under this subsection; and

(2) the Secretary may make such improvements to any such property as the Secretary deems necessary after consultation with the Aviation Heritage Foundation to enhance the public use and enjoyment of such property and programs.

(Pub. L. 102–419, title I, §102, Oct. 16, 1992, 106 Stat. 2142; Pub. L. 111–11, title VII, §7117(b), Mar. 30, 2009, 123 Stat. 1204.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–11, §7117(b)(1), inserted ''Hawthorn Hill, the Wright Company factory,'' before ''the Wright Cycle Company Building''.

Subsec. (b). Pub. L. 111–11, §7117(b)(2), redesignated last sentence as subsec. (d).

Subsec. (c). Pub. L. 111–11, §7117(b)(3), added subsec. (c).

Subsec. (d). Pub. L. 111–11, §7117(b)(2), redesignated last sentence of subsec. (b) as (d), inserted heading, and substituted ''Cooperative agreements under this section'' for ''Such agreements'' in introductory provisions.

Subsec. (d)(2). Pub. L. 111–11, §7117(b)(4), substituted ''Aviation Heritage Foundation'' for ''Commission''.

§ 410ww–2. Park general management plan

(a) In general

Not later than 3 complete fiscal years after October 16, 1992, the Secretary, with the advice of the Commission, shall prepare and submit to the Congress a general management plan for the park which includes but is not limited to the information described in section 1a–7(b) of this title, and which takes into account the preservation and development plan developed under section 410ww–22 of this title.

(b) Park partnerships

The management plan shall identify partnership opportunities between the Secretary and other Federal, State, and local governments and the private sector for the development, use, and interpretation of properties within the park.

(Pub. L. 102–419, title I, §103, Oct. 16, 1992, 106 Stat. 2142.)

§ 410ww–3. Studies

The Secretary shall study the following properties to determine the feasibility and suitability of including them within the park:

(1) Properties within the Wright-Dunbar Historic District.

(2) Wright Company Factory, Dayton, Ohio.

A report of the study of such properties shall be submitted as part of the general management plan required by section 410ww–2 of this title.

(Pub. L. 102–419, title I, §104, Oct. 16, 1992, 106 Stat. 2142.)

§ 410ww–4. Administration

(a) In general

The park shall be administered in accordance with this subchapter and with the provisions of law generally applicable to units of the National Park System, including, but not limited to, sections 1, 2, 3, and 4 of this title.

(b) Donations

The Secretary may accept donations of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purposes of managing the park.

(c) Programs

The Secretary may sponsor, coordinate, or enter into cooperative agreements for educational or cultural programs related to the park as the Secretary considers appropriate to carry out the purposes of this subchapter.

(d) Identification and marking of significant historical sites

The Secretary may identify other significant sites related to the Wright brothers, the history of aviation, or Paul Laurence Dunbar in the Miami Valley which are related to the park, and, with the consent of the owner or owners thereof, may mark the sites appropriately and make reference to them in any interpretive literature. The Secretary may provide interpretive markers along transportation routes leading to units of the park.

(e) Interpretation of Huffman Prairie Flying Field

The Secretary may provide interpretation of Huffman Prairie Flying Field on Wright Brothers Hill, Wright-Patterson Air Force Base, Ohio.

(Pub. L. 102–419, title I, §105, Oct. 16, 1992, 106 Stat. 2142.)

§ 410ww–5. Cooperation of Federal agencies

Any Federal entity conducting or supporting activities directly affecting the park shall—

(1) consult with, cooperate with, and to the maximum extent practicable, coordinate its activities with the Secretary; and

(2) conduct or support such activities in a manner which—

(A) to the maximum extent practicable is consistent with the standards and criteria established pursuant to section 410ww–22(b)(9) of this title; and

(B) to the maximum extent practicable will not have an adverse effect on the historic resources of the park.

(Pub. L. 102–419, title I, §106, Oct. 16, 1992, 106 Stat. 2143.)

§ 410ww–6. Coordination between Secretary and Secretary of Defense

The decisions concerning the execution of this subchapter as it applies to properties under control of the Secretary of Defense shall be made by such Secretary, in consultation with the Secretary of the Interior.

(Pub. L. 102–419, title I, §107, Oct. 16, 1992, 106 Stat. 2143; Pub. L. 106–356, §2(c), Oct. 24, 2000, 114 Stat. 1392.)

AMENDMENTS

2000—Pub. L. 106–356 substituted ''Secretary of the Interior'' for ''Secretary of Interior''.

§ 410ww–7. Assistance

(a) Technical and preservation assistance

The Secretary may provide to any owner of property within the park, and to any organization having an agreement with the Secretary under section 410ww–1(b) of this title, such technical assistance as the Secretary considers appropriate to carry out the purposes of this subchapter.

(b) Grant assistance

The Secretary is authorized to make grants to the parks' partners, including the Aviation Trail, Inc., the Ohio Historical Society, and Dayton History, for projects not requiring Federal involvement other than providing financial assistance, subject to the availability of appropriations in advance identifying the specific partner grantee and the specific project. Projects funded through these grants shall be limited to construction and development on non-Federal property within the boundaries of the park. Any project funded by such a grant shall support the purposes of the park, shall be consistent with the park's general management plan, and shall enhance public use and enjoyment of the park.

(c) Interpretative materials

The Secretary is authorized to publish interpretative materials for historic aviation resources in the Miami Valley.

(Pub. L. 102–419, title I, §108, Oct. 16, 1992, 106 Stat. 2143; Pub. L. 111–11, title VII, §7117(c), Mar. 30, 2009, 123 Stat. 1204.)

AMENDMENTS

2009—Subsecs. (b), (c). Pub. L. 111–11 added subsec. (b) and redesignated former subsec. (b) as (c).

§ 410ww–8. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out this part.

(Pub. L. 102–419, title I, §109, Oct. 16, 1992, 106 Stat. 2143; Pub. L. 106–356, §2(b), Oct. 24, 2000, 114 Stat. 1391.)

AMENDMENTS

2000—Pub. L. 106–356 struck out '': *Provided*, That the amount to be appropriated for the operation, development or restoration of non-federally owned properties within the boundaries of the park shall not exceed $200,000'' after ''this part''.

PART B—DAYTON AVIATION HERITAGE COMMISSION

§ 410ww–21. Dayton Aviation Heritage Commission

(a) Establishment

There is established the Dayton Aviation Heritage Commission to assist Federal, State, and local authorities and the private sector in preserving and managing the historic resources in the Miami Valley, Ohio, associated with the Wright brothers, aviation, or Paul Laurence Dunbar.

(b) Membership

The Commission shall consist of 13 members as follows:

(1) 3 members appointed by the Secretary, who shall have demonstrated expertise in aviation history, black history and literature, aviation technology, or historic preservation, at least one of whom shall represent the National Park Service.

(2) 3 members appointed by the Secretary after consideration of recommendations submitted by the Governor of the State of Ohio, who shall have demonstrated expertise in aviation history, black history and literature, aviation technology, or historic preservation, at least one of whom shall represent the Ohio Historical Society.

(3) 1 member appointed by the Secretary of Defense, who shall represent Wright-Patterson Air Force Base.

(4) 3 members appointed by the Secretary after consideration of recommendations submitted by the City Commission of Dayton, Ohio, at least one of whom shall reside near the core parcel of the park (as described in section 410ww(b)(1) of this title).

(5) 1 member appointed by the Secretary after consideration of recommendations submitted by the Board of Commissioners of Montgomery County, Ohio.

(6) 1 member appointed by the Secretary after consideration of recommendations submitted by the Board of Commissioners of Greene County, Ohio.

(7) 1 member appointed by the Secretary after consideration of recommendations submitted by the City Council of Fairborn, Ohio.

(c) Terms

(1) Members shall be appointed for terms of 3 years. A member may be reappointed only 3 times unless such member was originally appointed to fill a vacancy pursuant to subsection (e)(1) of this section, in which case such member may be reappointed 4 times. A member may serve after the expiration of his term until a successor is appointed.

(2) The Secretary shall appoint the first members of the Commission within 30 days after the date on which the Secretary has received all of the recommendations for appointment pursuant to subsections[1] (b)(2), (4), (5), (6), and (7) of this section.

(d) Chair and vice chair

The chair and vice chair of the Commission shall be elected by the members of the Commission. The terms of the chair and vice chair shall be 2 years. The vice chair shall serve as chair in the absence of the chair.

(e) Vacancy

(1) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made, except that the Secretary responsible for such appointment shall fill any such vacancy within 30 days after receiving a recommendation for the position.

(2) A member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. A member may serve after the expiration of his term until his successor has taken office.

(f) Quorum

A majority of the members of the Commission then serving shall constitute a quorum, but a lesser number may hold hearings.

(g) Meetings

The Commission shall meet not less than 3 times a year at the call of the chair or a majority of its members.

(h) Pay

(1) Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(i) FACA

Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(j) Termination

The Commission shall cease to exist on January 1, 2004.

(Pub. L. 102–419, title II, § 201, Oct. 16, 1992, 106 Stat. 2144; Pub. L. 104–333, div. I, title VIII, § 811, Nov. 12, 1996, 110 Stat. 4189.)

REFERENCES IN TEXT

Section 14(b) of the Federal Advisory Committee Act, referred to in subsec. (i), is section 14(b) of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (b)(2), (4) to (7). Pub. L. 104–333 substituted ''after consideration of recommendations'' for ''from recommendations'' wherever appearing.

[1] So in original. Probably should be ''subsection''.

§ 410ww–22. Dayton historic resources preservation and development plan

(a) In general

Within 2 years after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a preservation and development plan which may include the Wright-Dunbar Historic District, the Dunbar Historic District, the Ed Sines House and the Daniel Fitch House, and the 45 sites identified in Appendix A of the document entitled ''Study of Alternatives Dayton's Aviation Heritage, Ohio'' published by the National Park Service. Within 90 days after the receipt of such plan, the Secretary shall approve such plan or return it with comments to the Commission. If the Secretary has taken no action after 90 days upon receipt, the plan shall be considered approved. If the Secretary disapproves a plan, the Commission shall submit a revised plan to the Secretary. The plan shall include specific preservation and interpretation goals and a priority timetable for their achievement. The Secretary shall forward copies of the approved plan to the Congress.

(b) Contents of plan

The plan referred to in subsection (a) of this section shall—

(1) set detailed goals for the preservation, protection, enhancement, and utilization of the resources of sites referred to in subsection (a) of this section;

(2) identify properties which should be preserved, restored, developed, maintained, or acquired;

(3) include a tentative budget for the subsequent five fiscal years;

(4) propose a management strategy for a permanent organizational structure to enhance and coordinate such resources, and aviation-related properties, and institutions;

(5) recommend methods for establishing partnerships with Federal, State, and local governments and the private sector to foster development and to preserve and enhance such resources;

(6) propose transportation links, including pedestrian facilities and bicycle trails among historic aviation sites including an interurban between the Wright-Dunbar Historic District and the historic resources at Wright-Patterson Air Force Base;

(7) address the use of private vehicles, traffic patterns, parking, and public transportation;

(8) propose educational and cultural programs to encourage appreciation of such resources;

(9) establish standards and criteria applicable to the construction, preservation, restoration, alteration, and use of the properties among such resources;

(10) establish an index which shall contain documentary evidence of historical and cultural significance and which includes property in the Miami Valley associated with the Wright brothers, the history of aviation, or Paul Laurence Dunbar.

(c) Consultation

In developing the plan, the Commission shall consult with appropriate officials of any local government or Federal or State agency which has jurisdiction over historic aviation resources in the Miami Valley area. The Commission shall also consult with property owners and business, historic, professional, neighborhood, and citizen organizations affected by the actions proposed in the plan.

(Pub. L. 102–419, title II, § 202, Oct. 16, 1992, 106 Stat. 2145.)

§ 410ww–23. General powers of Commission

(a) Hearings

The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission may deem advisable.

(b) Donations

Notwithstanding any other provision of law, the Commission may seek and accept donations of funds, property, or service from individuals, foundations, corporations, and other private entities and public entities for the purpose of carrying out its duties.

(c) Use of funds to obtain money

The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(d) Mail

The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) Uses of acquired assets

Any revenues or other assets acquired by the Commission by donations, the lease or sale of property, or fees for services shall be available to the Commission, without fiscal year limitations, to be used for any function of the Commission.

(f) Historical and cultural programs

The Commission is authorized to carry out historical, educational, or cultural programs which encourage or enhance appreciation of the historic resources in the Miami Valley associated with the Wright brothers, aviation, or the life and works of Paul Laurence Dunbar.

(g) Technical and preservation assistance

The Commission may provide technical and preservation assistance to owners of property within the districts, sites, and properties referred to in section 410ww–22(a) of this title consistent with the purposes of this subchapter.

(h) Obtaining property

(1) The Commission may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties except that the Commission may not acquire any real property or interest in real property otherwise than under paragraph (2).

(2) Subject to paragraph (3), the Commission may acquire real property, or interests in real property, in the districts, sites, and properties referred to in section 410ww–22(a) of this title—

(A) by gift or devise; or

(B) by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interests in real property, in such district and sites.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

(Pub. L. 102–419, title II, § 203, Oct. 16, 1992, 106 Stat. 2146.)

§ 410ww–24. Staff of Commission

(a) Director

The Commission shall have a Director who shall be appointed by the Commission.

(b) Additional personnel

The Commission may appoint and fix the pay of such additional personnel as the Commission deems necessary. Such staff may include specialists in areas such as interpretation, historic preservation, black history and literature, aviation history and technology, and urban revitalization.

(c) Temporary services

Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, but at rates determined by the Commission to be reasonable.

(d) Detail

Upon request of the Commission, the head of any Federal agency represented by a member on the Commission may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this subchapter.

(e) Administrative support

The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) State and local services

The Commission may accept the services of personnel detailed from the State or any political subdivision of the State and may reimburse the State or such political subdivision for such services.

(g) Inapplicability of certain provisions of title 5

The director and staff of the Commission may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for grade GS–15 of the General Schedule.

(Pub. L. 102–419, title II, § 204, Oct. 16, 1992, 106 Stat. 2147.)

REFERENCES IN TEXT

Grade GS–15 of the General Schedule, referred to in subsec. (g), is set out under section 5332 of Title 5.

§ 410ww–25. Authorization of appropriations

There are authorized to be appropriated annually to the Commission to carry out its duties under this subchapter $350,000, except that the Federal contribution to the Commission shall not exceed 50 percent of the annual costs to the Commission in carrying out those duties.

(Pub. L. 102–419, title II, § 205, Oct. 16, 1992, 106 Stat. 2148.)

SUBCHAPTER LIX–V—DRY TORTUGAS NATIONAL PARK

§ 410xx. Establishment

(a) In general

In order to preserve and protect for the education, inspiration, and enjoyment of present and future generations nationally significant natural, historic, scenic, marine, and scientific values in South Florida, there is hereby established the Dry Tortugas National Park (hereinafter in this subchapter referred to as the ''park'').

(b) Area included

The park shall consist of the lands, waters, and interests therein generally depicted on the map entitled ''Boundary Map, Fort Jefferson National Monument'', numbered 364–90,001, and dated April 1980 (which is the map referenced by section 201 of Public Law 96–287). The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(c) Abolition of monument

The Fort Jefferson National Monument is hereby abolished.

(Pub. L. 102–525, title II, § 201, Oct. 26, 1992, 106 Stat. 3439.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original ''this title'', meaning title II of Pub. L. 102–525, Oct. 26, 1992, 106 Stat. 3439, which enacted this subchapter and amended provisions listed in a National Monuments Established Under Presidential Proclamation table set out under section 431 of this title. For complete classification of title II to the Code, see Tables.

Section 201 of Public Law 96–287, referred to in subsec. (b), appears in a table under the heading ''National Monuments Established Under Presidential Proclamation'', set out as a note under section 431 of this title.

§ 410xx–1. Administration

(a) In general

The Secretary shall administer the park in accordance with this subchapter and with the pro-

visions of law generally applicable to units of the national park system, including sections 1, 2, 3, and 4 of this title.

(b) Management purposes

The park shall be managed for the following purposes, among others:

(1) To protect and interpret a pristine subtropical marine ecosystem, including an intact coral reef community.

(2) To protect populations of fish and wildlife, including (but not limited to) loggerhead and green sea turtles, sooty terns, frigate birds, and numerous migratory bird species.

(3) To protect the pristine natural environment of the Dry Tortugas group of islands.

(4) To protect, stabilize, restore, and interpret Fort Jefferson, an outstanding example of nineteenth century masonry fortification.

(5) To preserve and protect submerged cultural resources.

(6) In a manner consistent with paragraphs (1) through (5), to provide opportunities for scientific research.

(Pub. L. 102–525, title II, § 202, Oct. 26, 1992, 106 Stat. 3440.)

§ 410xx–2. Land acquisition and transfer of property

(a) In general

Within the boundaries of the park the Secretary may acquire lands and interests in land by donation or exchange. For the purposes of acquiring property by exchange with the State of Florida, the Secretary may, notwithstanding any other provision of law, exchange those Federal lands which were deleted from the park by the boundary modifications enacted by section 201 of the Act of June 28, 1980 (Public Law 96–287), and which are directly adjacent to lands owned by the State of Florida outside of the park, for lands owned by the State of Florida within the park boundary.

(b) United States Coast Guard lands

When all or any substantial portion of lands under the administration of the United States Coast Guard located within the park boundaries, including Loggerhead Key, have been determined by the United States Coast Guard to be excess to its needs, such lands shall be transferred directly to the jurisdiction of the Secretary for the purposes of this subchapter. The United States Coast Guard may reserve the right in such transfer to maintain and utilize the existing lighthouse on Loggerhead Key in a manner consistent with the purposes of the United States Coast Guard and the purposes of this subchapter.

(c) Administrative site

The Secretary is authorized to lease or to acquire, by purchase, donation, or exchange, and to operate incidental administrative and support facilities in Key West, Florida, for park administration and to further the purposes of this subchapter.

(Pub. L. 102–525, title II, § 203, Oct. 26, 1992, 106 Stat. 3440.)

REFERENCES IN TEXT

Section 201 of the Act of June 28, 1980 (Public Law 96–287), referred to in subsec. (a), appears in a table under the heading ''National Monuments Established Under Presidential Proclamation'', set out as a note under section 431 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 410xx–3. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter. Any funds available for the purposes of the monument shall be available for the purposes of the park, and authorizations of funds for the monument shall be available for the park.

(Pub. L. 102–525, title II, § 204, Oct. 26, 1992, 106 Stat. 3441.)

SUBCHAPTER LIX–W—KEWEENAW NATIONAL HISTORICAL PARK

§ 410yy. Findings and purposes

(a) Findings

The Congress finds that—

(1) The oldest and largest lava flow known on Earth is located on the Keweenaw Peninsula of Michigan. This volcanic activity produced the only place on Earth where large scale economically recoverable 97 percent pure native copper is found.

(2) The Keweenaw Peninsula is the only site in the country where prehistoric, aboriginal mining of copper occurred. Artifacts made from this copper by these ancient Indians were traded as far south as present day Alabama.

(3) Copper mining on the Keweenaw Peninsula pioneered deep shaft, hard rock mining, milling, and smelting techniques and advancements in related mining technologies later used throughout the world.

(4) Michigan Technological University, located in the copper district, was established in 1885 to supply the great demand for new technologies and trained engineers requested by the area's mining operations. Michigan Technological University possesses a wealth of both written and photographic historic documentation of the mining era in its archives.

(5) Michigan's copper country became a principal magnet to European immigrants during the mid-1800's and the cultural heritage of these varied nationalities is still preserved in this remarkable ethnic conglomerate.

(6) The corporate-sponsored community planning in Calumet, Michigan, as evidenced in the architecture, municipal design, surnames, foods, and traditions, and the large scale corporate paternalism was unprecedented in American industry and continues to express the heritage of the district.

(7) The entire picture of copper mining on Michigan's Keweenaw Peninsula is best represented by three components: the Village of

Calumet, the former Calumet and Hecla Mining Company properties (including the Osceola #13 mine complex), and the former Quincy Mining Company properties. The Village of Calumet best represents the social, ethnic, and commercial themes. Extant Calumet and Hecla buildings best depict corporate paternalism and power, and the themes of extraction and processing are best represented by extant structures of the Quincy Mining Company.

(8) The Secretary of the Interior has designated two National Historic Landmark Districts in the proposed park area, the Calumet National Historic Landmark District and the Quincy Mining Company National Historic Landmark District.

(b) Purposes

The purposes of this subchapter are—

(1) to preserve the nationally significant historical and cultural sites, structures, and districts of a portion of the Keweenaw Peninsula in the State of Michigan for the education, benefit, and inspiration of present and future generations; and

(2) to interpret the historic synergism between the geological, aboriginal, sociological, cultural technological, and corporate forces that relate the story of copper on the Keweenaw Peninsula.

(Pub. L. 102–543, §1, Oct. 27, 1992, 106 Stat. 3569.)

§ 410yy–1. Definitions

As used in this subchapter, the term—

(1) ''Commission'' means the Keweenaw Historic Preservation Advisory Commission established by section 410yy–8 of this title.

(2) ''park'' means the Keweenaw National Historical Park established by section 410yy–2(a)(1) of this title.

(3) ''Secretary'' means the Secretary of the Interior.

(Pub. L. 102–543, §2, Oct. 27, 1992, 106 Stat. 3570.)

§ 410yy–2. Establishment

(a) In general; administration

(1) There is hereby established as a unit of the National Park System the Keweenaw National Historical Park in and near Calumet and Hancock, Michigan.

(2) The Secretary shall administer the park in accordance with the provisions of this subchapter, and the provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title, and sections 461 to 467 of this title.

(b) Boundaries and map

(1) The boundaries of the park shall be as generally depicted on the map entitled ''Keweenaw National Historical Park, Michigan'', numbered NHP–KP/20012–B and dated June, 1992. Such map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior, Washington, District of Columbia, and the office of the village council, Calumet, Michigan.

(2) Within 180 days after October 27, 1992, the Secretary shall publish in the Federal Register a detailed description and map of the boundaries established under paragraph[1] (a)(1) of this section.

(Pub. L. 102–543, §3, Oct. 27, 1992, 106 Stat. 3570.)

§ 410yy–3. Acquisition of property

(a) In general

Subject to subsections (b) and (c) of this section, the Secretary is authorized to acquire lands, or interests therein, within the boundaries of the park by donation, purchase with donated or appropriated funds, exchange, or transfer.

(b) State property

Property owned by the State of Michigan or any political subdivision of the State may be acquired only by donation.

(c) Consent

No lands or interests therein within the boundaries of the park may be acquired without the consent of the owner, unless the Secretary determines that the land is being developed, or is proposed to be developed in a manner which is detrimental to the natural, scenic, historic, and other values for which the park is established.

(Pub. L. 102–543, §4, Oct. 27, 1992, 106 Stat. 3570; Pub. L. 111–11, title VII, §7101(a), Mar. 30, 2009, 123 Stat. 1190.)

AMENDMENTS

2009—Subsec. (d). Pub. L. 111–11 struck out subsec. (d). Text read as follows: ''The Secretary shall not acquire any lands pursuant to this subchapter if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601)).''

§ 410yy–4. Cooperation by Federal agencies

(a)[1] Any Federal entity conducting or supporting activities directly affecting the park shall—

(1) consult, cooperate, and, to the maximum extent practicable, coordinate its activities with the Secretary and the Commission;

(2) conduct or support such activities in a manner that—

(A) to the maximum extent practicable, is consistent with the standards and criteria established pursuant to the general management plan developed pursuant to section 410yy–5 of this title; and

(B) will not have an adverse effect on the resources of the park; and

(3) provide for full public participation in order to consider the views of all interested parties.

(Pub. L. 102–543, §5, Oct. 27, 1992, 106 Stat. 3571.)

§ 410yy–5. General management plan

Not later than 3 fiscal years after October 27, 1992, the Secretary shall prepare, in consultation with the Commission, and submit to Congress a general management plan for the park containing the information described in section

[1] So in original. Probably should be ''subsection''.

[1] So in original. No subsec. (b) has been enacted.

1a–7(b) of this title. Such plan shall interpret the technological and social history of the area, and the industrial complexes of the Calumet and Hecla, and Quincy Mining Companies, with equal emphasis.

(Pub. L. 102–543, § 6, Oct. 27, 1992, 106 Stat. 3571.)

§ 410yy–6. Cooperative agreements

The Secretary, after consultation with the Commission, may enter into cooperative agreements with owners of property within the park of nationally significant historic or other cultural resources in order to provide for interpretive exhibits or programs. Such agreements shall provide, whenever appropriate, that—

(1) the public may have access to such property at specified, reasonable times for purposes of viewing such property or exhibits, or attending the programs established by the Secretary under this subsection; [1] and

(2) the Secretary, with the agreement of the property owner, may make such minor improvements to such property as the Secretary deems necessary to enhance the public use and enjoyment of such property, exhibits, and programs.

(Pub. L. 102–543, § 7, Oct. 27, 1992, 106 Stat. 3571.)

§ 410yy–7. Financial and technical assistance

(a) In general

The Secretary may provide to any owner of property within the park containing nationally significant historic or cultural resources, in accordance with cooperative agreements or grant agreements, as appropriate, such financial and technical assistance to mark, interpret, and restore non-Federal properties within the park as the Secretary determines appropriate to carry out the purposes of this subchapter, provided that—

(1) the Secretary, acting through the National Park Service, shall have right of access at reasonable times to public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public; and

(2) no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to the agreements.

(b) Matching funds

Funds authorized to be appropriated to the Secretary for the purposes of this section shall be expended in the ratio of $1 of Federal funds for each $1 of funds contributed by non-Federal sources. For the purposes of this subsection, the Secretary is authorized to accept from non-Federal sources, and to utilize for purposes of this subchapter, any money so contributed. Donations of land, or interests in land, by the State of Michigan may be considered as a contribution from non-Federal sources for the purposes of this subsection.

(Pub. L. 102–543, § 8, Oct. 27, 1992, 106 Stat. 3571; Pub. L. 111–11, title VII, § 7101(b), Mar. 30, 2009, 123 Stat. 1190.)

[1] So in original. Probably should be ''section;''.

AMENDMENTS

2009—Subsec. (b). Pub. L. 111–11 substituted ''each $1 of funds'' for ''each $4 of funds''.

§ 410yy–8. Keweenaw National Historical Park Advisory Commission

(a) Establishment and duties

There is established the Keweenaw National Historical Park Advisory Commission. The Commission shall—

(1) advise the Secretary in the preparation and implementation of a general management plan described in section 410yy–5 of this title;

(2) advise the Secretary on the development of and priorities for implementing standards and criteria by which the Secretary, pursuant to agreements referred to in sections 410yy–6 and 410yy–7 of this title, will provide financial as well as technical assistance to owners of non-Federal properties within the park;

(3) advise the Secretary on the development of rules governing the disbursal of funds for the development of non-Federal properties;

(4) advise the Secretary with respect to the selection of sites for interpretation and preservation by means of cooperative agreements pursuant to section 410yy–6 of this title;

(5) assist the Secretary in developing policies and programs for the conservation and protection of the scenic, historical, cultural, natural and technological values of the park which would complement the purposes of this subchapter;

(6) assist the Secretary in coordinating with local governments and the State of Michigan the implementation of the general management plan, and furthering the purposes of this subchapter;

(7) be authorized to carry out historical, educational, or cultural programs which encourage or enhance appreciation of the historic resources in the park, surrounding areas, and on the Keweenaw Peninsula; and

(8) be authorized to seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source, consistent with the purposes of this subchapter and the park management.

(b) Acquisition of property

(1) The Commission may acquire real property, or interests in real property, to further the purposes of the subchapter by gift or devise; or, by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interests in real property, to further the purposes of this subchapter.

(2) For the purposes of section 170(c) of title 26, any gift to the Commission shall be deemed to be a gift to the United States.

(3) Any real property or interest in real property acquired by the Commission shall be conveyed by the Commission to the National Park Service or the appropriate public agency as soon as possible after such acquisition, without consideration, and on the condition that the real property or interest in real property so conveyed is used for public purposes.

(4) The value of funds or property, or interests in property, conveyed to the National Park

Service by the Commission may be considered as non-Federal, at the Commission's discretion.

(c) Membership

(1) Composition

The Commission shall be composed of seven members appointed by the Secretary, of whom—

(A) two members shall be appointed after consideration of nominees submitted by the Calumet Village Council and the Calumet Township Board;

(B) one member shall be appointed after consideration of nominees submitted by the Quincy Township Board and the Franklin Township Board;

(C) one member shall be appointed after consideration of nominees submitted by the Houghton County Board of Commissioners;

(D) one member shall be appointed after consideration of nominees submitted by the Governor of the State of Michigan; and,[1]

(E) two members who are qualified to serve on the Commission because of their familiarity with National Parks and historic preservation.

(2) Chairperson

The chairperson of the Commission shall be elected by the members to serve a term of 3 years.

(3) Vacancies

A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(4) Terms of service

(A) In general

Each member shall be appointed for a term of 3 years and may be reappointed not more than three times.

(B) Initial members

Of the members first appointed under subsection (b)(1),[2] the Secretary shall appoint—

(i) two members for a term of 1 year;

(ii) two members for a term of 2 years; and

(iii) three members for a term of 3 years.

(5) Extended service

A member may serve after the expiration of that member's term until a successor has taken office.

(6) Meetings

The Commission shall meet at least quarterly at the call of the chairperson or a majority of the members of the Commission.

(7) Quorum

Five members shall constitute a quorum.

(d) Compensation

Members shall serve without pay. Members who are full-time officers or employees of the United States, the State of Michigan, or any political subdivision thereof shall receive no additional pay on account of their service on the Commission.

[1] So in original. The comma probably should not appear.

[2] So in original. Probably should be ''paragraph (1),''.

(e) Travel expenses

While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(f) Mails

The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(g) Staff

The Commission may appoint and fix the pay of such personnel as the Commission deems desirable. The Secretary may provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties, on a cost reimbursable basis. Upon request of the Secretary, any Federal agency may provide information, personnel, property, and services on a reimbursable basis, to the Commission to assist in carrying out its duties under this section. The Secretary may accept the services of personnel detailed from the State of Michigan or any political subdivision of the State and reimburse the State or such political subdivision for such services. The Commission may procure additional temporary and intermittent services under section 3109(b) of title 5, with funds obtained under subsection (a)(6) of this section, or as provided by the Secretary.

(h) Hearings

The Commission may, for the purpose of carrying out this subchapter, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may not issue subpoenas or exercise any subpoena authority.

(Pub. L. 102–543, § 9, Oct. 27, 1992, 106 Stat. 3572; Pub. L. 106–134, § 1, Dec. 7, 1999, 113 Stat. 1684.)

AMENDMENTS

1999—Subsec. (c)(1)(A) to (D). Pub. L. 106–134 substituted ''after consideration of nominees'' for ''from nominees''.

TERMINATION OF ADVISORY COMMISSIONS

Advisory commissions established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 410yy–9. Authorization of appropriations

(a) Except as provided in subsection (b) of this section, there are authorized to be appropriated such sums as may be necessary to carry out this

subchapter, but not to exceed $5,000,000 for the acquisition of lands and interests therein, $50,000,000 for development, and $25,000,000 for financial and technical assistance to owners of non-Federal property as provided in section 410yy–7 of this title.

(b) There are authorized to be appropriated annually to the Commission to carry out its duties under this subchapter, $250,000.

(Pub. L. 102–543, § 10, Oct. 27, 1992, 106 Stat. 3574; Pub. L. 111–11, title VII, § 7101(c), Mar. 30, 2009, 123 Stat. 1190.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–11, § 7101(c)(1), substituted ''$50,000,000 for development, and $25,000,000'' for ''$25,000,000 for development, and $3,000,000''.

Subsec. (b). Pub. L. 111–11, § 7101(c)(2), substituted ''$250,000'' for ''$100,000 except that the Federal contribution to the Commission shall not exceed 50 percent of the annual costs to the Commission in carrying out those duties''.

SUBCHAPTER LIX–X—SAGUARO NATIONAL PARK

§ 410zz. Findings and purpose

The Congress finds that—

(1) the Saguaro National Monument was established by Presidential Proclamation in 1933;

(2) the Tucson Mountain unit was established by Presidential Proclamation in 1961;

(3) in recognition of the need to provide increased protection for the monument, the boundaries of Tucson Mountain unit were expanded in 1976, and the boundaries of Rincon unit were expanded in 1991;

(4) the Tucson Mountain unit continues to face threats to the integrity of its natural resources, scenic beauty, and habitat protection for which the unit was established;

(5) these threats impede opportunities for public enjoyment, education, and safety within the monument, as well as opportunities for solitude within the wilderness areas of the monument designated by Congress in 1976;

(6) the residential and commercial growth of the greater Tucson, Arizona metropolitan area is causing increasing threats to the monument's resources; and

(7) the Tucson Mountain unit should be enlarged by the addition of adjacent lands of National Park caliber and Saguaro National Monument should be afforded full recognition and statutory protection as a National Park.

(Pub. L. 103–364, § 2, Oct. 14, 1994, 108 Stat. 3467.)

SHORT TITLE

Section 1 of Pub. L. 103–364 provided that: ''This Act [enacting this subchapter and amending provisions listed in a table of National Monuments Established Under Presidential Proclamation set out under section 431 of this title] may be cited as the 'Saguaro National Park Establishment Act of 1994'.''

§ 410zz–1. Establishment

There is hereby established the Saguaro National Park (hereinafter in this subchapter referred to as the ''park'') in the State of Arizona. The Saguaro National Monument is abolished as such, and all lands and interests therein are hereby incorporated within and made part of Saguaro National Park. Any reference to Saguaro National Monument shall be deemed a reference to Saguaro National Park, and any funds available for the purposes of the monument shall be available for purposes of the park.

(Pub. L. 103–364, § 3, Oct. 14, 1994, 108 Stat. 3467.)

§ 410zz–2. Expansion of boundaries

(a) In general

The boundaries of the park are hereby modified to reflect the addition of approximately 3,460 acres of land and interests therein as generally depicted on the map entitled ''Saguaro National Monument Additions'' and dated April, 1994.

(b) Land acquisition

(1) Within the lands added to the park pursuant to subsection (a) of this section, the Secretary is authorized to acquire lands and interests therein by donation, purchase with donated or appropriated funds, transfer, or exchange: *Provided*, That no such lands or interests therein may be acquired without the consent of the owner thereof unless the Secretary determines that the land is being developed, or is proposed to be developed in a manner which is determental[1] to the integrity of the park.

(2) Lands or interests therein owned by the State of Arizona or a political subdivision thereof may only be acquired by donation or exchange.

(c) Withdrawal

Subject to valid existing rights, all Federal lands within the park are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the United States mining laws, and from disposition under all laws relating to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

(Pub. L. 103–364, § 4, Oct. 14, 1994, 108 Stat. 3468.)

§ 410zz–3. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Pub. L. 103–364, § 5, Oct. 14, 1994, 108 Stat. 3468.)

SUBCHAPTER LIX–Y—CALIFORNIA DESERT LANDS PARKS AND PRESERVE

PART A—DEATH VALLEY NATIONAL PARK

§ 410aaa. Findings

The Congress hereby finds that—

(1) proclamations by Presidents Herbert Hoover in 1933 and Franklin Roosevelt in 1937 established and expanded the Death Valley National Monument for the preservation of the unusual features of scenic, scientific, and educational interest therein contained;

(2) Death Valley National Monument is today recognized as a major unit of the Na-

[1] So in original. Probably should be ''detrimental''.

tional Park System, having extraordinary values enjoyed by millions of visitors;

(3) the monument boundaries established in the 1930's exclude and thereby expose to incompatible development and inconsistent management, contiguous Federal lands of essential and superlative natural, ecological, geological, archeological, paleontological, cultural, historical ad[1] wilderness values;

(4) Death Valley National Monument should be substantially enlarged by the addition of all contiguous Federal lands of national park caliber and afforded full recognition and statutory protection as a National Park; and

(5) the wilderness within Death Valley should receive maximum statutory protection by designation pursuant to the Wilderness Act [16 U.S.C. 1131 et seq.].

(Pub. L. 103–433, title III, § 301, Oct. 31, 1994, 108 Stat. 4485.)

REFERENCES IN TEXT

The Wilderness Act, referred to in par. (5), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

SHORT TITLE

Section 1 of Pub. L. 103–433 provided that: ''Sections 1 and 2, and titles I through IX of this Act [enacting this subchapter, provisions listed in a table of Wilderness Areas set out under section 1132 of this title, and provisions set out as notes under this section, section 410aaa–82 of this title, and section 1781 of Title 43, Public Lands, and amending provisions listed in a table of National Monuments Established Under Presidential Proclamation set out under section 431 of this title and a table of Wilderness Areas set out under section 1132 of this title] may be cited as the 'California Desert Protection Act of 1994'.''

TIMBISHA SHOSHONE HOMELAND

Pub. L. 106–423, Nov. 1, 2000, 114 Stat. 1875, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Timbisha Shoshone Homeland Act'.

''SEC. 2. FINDINGS.

''Congress finds the following:

''(1) Since time immemorial, the Timbisha Shoshone Tribe has lived in portions of California and Nevada. The Tribe's ancestral homeland includes the area that now comprises Death Valley National Park and other areas of California and Nevada now administered by the Bureau of Land Management.

''(2) Since 1936, the Tribe has lived and governed the affairs of the Tribe on approximately 40 acres of land near Furnace Creek in the Park.

''(3) The Tribe achieved Federal recognition in 1983 but does not have a land base within the Tribe's ancestral homeland.

''(4) Since the Tribe commenced use and occupancy of the Furnace Creek area, the Tribe's membership has grown. Tribal members have a desire and need for housing, government and administrative facilities, cultural facilities, and sustainable economic development to provide decent, safe, and healthy conditions for themselves and their families.

''(5) The interests of both the Tribe and the National Park Service would be enhanced by recognizing their coexistence on the same land and by establishing partnerships for compatible land uses and for the interpretation of the Tribe's history and culture for visitors to the Park.

''(6) The interests of both the Tribe and the United States would be enhanced by the establishment of a land base for the Tribe and by further delineation of the rights and obligations of each with respect to the Furnace Creek area and to the Park as a whole.

''SEC. 3. PURPOSES.

''Consistent with the recommendations of the report required by section 705(b) of the California Desert Protection Act of 1994 [16 U.S.C. 410aaa–75(b)] (Public Law 103–433; 108 Stat. 4498), the purposes of this Act are—

''(1) to provide in trust to the Tribe land on which the Tribe can live permanently and govern the Tribe's affairs in a modern community within the ancestral homeland of the Tribe outside and within the Park;

''(2) to formally recognize the contributions by the Tribe to the history, culture, and ecology of the Park and surrounding area;

''(3) to ensure that the resources within the Park are protected and enhanced by—

''(A) cooperative activities within the Tribe's ancestral homeland; and

''(B) partnerships between the Tribe and the National Park Service and partnerships involving the Bureau of Land Management;

''(4) to ensure that such activities are not in derogation of the purposes and values for which the Park was established;

''(5) to provide opportunities for a richer visitor experience at the Park through direct interactions between visitors and the Tribe including guided tours, interpretation, and the establishment of a tribal museum and cultural center;

''(6) to provide appropriate opportunities for economically viable and ecologically sustainable visitor-related development, by the Tribe within the Park, that is not in derogation of the purposes and values for which the Park was established; and

''(7) to provide trust lands for the Tribe in 4 separate parcels of land that is now managed by the Bureau of Land Management and authorize the purchase of 2 parcels now held in private ownership to be taken into trust for the Tribe.

''SEC. 4. DEFINITIONS.

''In this Act:

''(1) PARK.—The term 'Park' means Death Valley National Park, including any additions to that Park.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Interior or the designee of the Secretary.

''(3) TRIBAL.—The term 'tribal' means of or pertaining to the Tribe.

''(4) TRIBE.—The term 'Tribe' means the Timbisha Shoshone Tribe, a tribe of American Indians recognized by the United States pursuant to part 83 of title 25, Code of Federal Regulations (or any corresponding similar regulation or ruling).

''(5) TRUST LANDS.—The term 'trust lands' means those lands taken into trust pursuant to this Act.

''SEC. 5. TRIBAL RIGHTS AND AUTHORITY ON THE TIMBISHA SHOSHONE HOMELAND.

''(a) IN GENERAL.—Subject to valid existing rights (existing on the date of enactment of this Act [Nov. 1, 2000]), all right, title, and interest of the United States in and to the lands, including improvements and appurtenances, described in subsection (b) are declared to be held in trust by the United States for the benefit of the Tribe. All maps referred to in subsection (b) shall be on file and available for public inspection in the appropriate offices of the National Park Service and the Bureau of Land Management.

''(b) PARK LANDS AND BUREAU OF LAND MANAGEMENT LANDS DESCRIBED.—

''(1) IN GENERAL.—The following lands and water shall be held in trust for the Tribe pursuant to subsection (a):

[1] So in original. Probably should be ''and''.

''(A) Furnace Creek, Death Valley National Park, California, an area of 313.99 acres for community development, residential development, historic restoration, and visitor-related economic development, depicted as Tract 37 on the map of Township 27 North, Range 1 East, of the San Bernardino Meridian, California, numbered Map #1 and dated December 2, 1999, together with 92 acre feet per annum of surface and ground water for the purposes associated with the transfer of such lands. This area shall include a 25-acre, nondevelopment zone at the north end of the area and an Adobe Restoration zone containing several historic adobe homes, which shall be managed by the Tribe as a tribal historic district.

''(B) Death Valley Junction, California, an area of approximately 1,000 acres, as generally depicted on the map entitled 'Death Valley Junction, California', numbered Map #2 and dated April 12, 2000, together with 15.1 acre feet per annum of ground water for the purposes associated with the transfer of such lands.

''(C)(i) Centennial, California, an area of approximately 640 acres, as generally depicted on the map entitled 'Centennial, California', numbered Map #3 and dated April 12, 2000, together with an amount of ground water not to exceed 10 acre feet per annum for the purposes associated with the transfer of such lands.

''(ii) If the Secretary determines that there is insufficient ground water available on the lands described in clause (i) to satisfy the Tribe's right to ground water to fulfill the purposes associated with the transfer of such lands, then the Tribe and the Secretary shall, within 2 years of such determination, identify approximately 640 acres of land that are administered by the Bureau of Land Management in that portion of Inyo County, California, to the north and east of the China Lake Naval Weapons Center, to be a mutually agreed upon substitute for the lands described in clause (i). If the Secretary determines that sufficient water is available to fulfill the purposes associated with the transfer of the lands described in the preceding sentence, then the Tribe shall request that the Secretary accept such lands into trust for the benefit of the Timbisha Shoshone Tribe, and the Secretary shall accept such lands, together with an amount of water not to exceed 10 acre feet per annum, into trust for the Tribe as a substitute for the lands described in clause (i).

''(D) Scotty's Junction, Nevada, an area of approximately 2,800 acres, as generally depicted on the map entitled 'Scotty's Junction, Nevada', numbered Map #4 and dated April 12, 2000, together with 375.5 acre feet per annum of ground water for the purposes associated with the transfer of such lands.

''(E) Lida, Nevada, Community Parcel, an area of approximately 3,000 acres, as generally depicted on the map entitled 'Lida, Nevada, Community Parcel', numbered Map #5 and dated April 12, 2000, together with 14.7 acre feet per annum of ground water for the purposes associated with the transfer of such lands.

''(2) WATER RIGHTS.—The priority date of the Federal water rights described in subparagraphs (A) through (E) of paragraph (1) shall be the date of enactment of this Act [Nov. 1, 2000], and such Federal water rights shall be junior to Federal and State water rights existing on such date of enactment. Such Federal water rights shall not be subject to relinquishment, forfeiture or abandonment.

''(3) LIMITATIONS ON FURNACE CREEK AREA DEVELOPMENT.—

''(A) DEVELOPMENT.—Recognizing the mutual interests and responsibilities of the Tribe and the National Park Service in and for the conservation and protection of the resources in the area described in paragraph (1), development in the area shall be limited to—

''(i) for purposes of community and residential development—

''(I) a maximum of 50 single-family residences; and

''(II) a tribal community center with space for tribal offices, recreation facilities, a multipurpose room and kitchen, and senior and youth facilities;

''(ii) for purposes of economic development—

''(I) a small-to-moderate desert inn; and

''(II) a tribal museum and cultural center with a gift shop; and

''(iii) the infrastructure necessary to support the level of development described in clauses (i) and (ii).

''(B) EXCEPTION.—Notwithstanding the provisions of subparagraph (A)(ii), the National Park Service and the Tribe are authorized to negotiate mutually agreed upon, visitor-related economic development in lieu of the development set forth in that subparagraph if such alternative development will have no greater environmental impact than the development set forth in that subparagraph.

''(C) RIGHT-OF-WAY.—The Tribe shall have a right-of-way for ingress and egress on Highway 190 in California.

''(4) LIMITATIONS ON IMPACT ON MINING CLAIMS.—Nothing in this Act shall be construed as terminating any valid mining claim existing on the date of enactment of this Act [Nov. 1, 2000] on the land described in paragraph (1)(E). Any person with such an existing mining claim shall have all the rights incident to mining claims, including the rights of ingress and egress on the land described in paragraph (1)(E). Any person with such an existing mining claim shall have the right to occupy and use so much of the surface of the land as is required for all purposes reasonably necessary to mine and remove the minerals from the land, including the removal of timber for mining purposes. Such a mining claim shall terminate when the claim is determined to be invalid or is abandoned.

''(c) LEGAL DESCRIPTIONS.—Not later than 1 year after the date of enactment of this Act [Nov. 1, 2000], the Secretary shall file a legal description of the areas described in subsection (b) with the Committee on Resources [now Committee on Natural Resources] of the House of Representatives and with the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate. Such legal description shall have the same force and effect as if the information contained in the description were included in that subsection except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in the legal description. The legal description shall be on file and available for public inspection in the offices of the National Park Service and the Bureau of Land Management.

''(d) ADDITIONAL TRUST RESOURCES.—The Secretary may purchase from willing sellers the following parcels and appurtenant water rights, or the water rights separately, to be taken into trust for the Tribe:

''(1) Indian Rancheria Site, California, an area of approximately 120 acres, as generally depicted on the map entitled 'Indian Rancheria Site, California' numbered Map #6 and dated December 3, 1999.

''(2) Lida Ranch, Nevada, an area of approximately 2,340 acres, as generally depicted on the map entitled 'Lida Ranch' numbered Map #7 and dated April 6, 2000, or another parcel mutually agreed upon by the Secretary and the Tribe.

''(e) SPECIAL USE AREAS.—

''(1) IN GENERAL.—The areas described in this subsection shall be nonexclusive special use areas for the Tribe, subject to other Federal law. Members of the Tribe are authorized to use these areas for low impact, ecologically sustainable, traditional practices pursuant to a jointly established management plan mutually agreed upon by the Tribe, and by the National Park Service or the Bureau of Land Management, as appropriate. All maps referred to in para-

graph (4) shall be on file and available for public inspection in the offices of the National Park Service and Bureau of Land Management.

''(2) RECOGNITION OF THE HISTORY AND CULTURE OF THE TRIBE.—In the special use areas, in recognition of the significant contributions the Tribe has made to the history, ecology, and culture of the Park and to ensure that the visitor experience in the Park will be enhanced by the increased and continued presence of the Tribe, the Secretary shall permit the Tribe's continued use of Park resources for traditional tribal purposes, practices, and activities.

''(3) RESOURCE USE BY THE TRIBE.—In the special use areas, any use of Park resources by the Tribe for traditional purposes, practices, and activities shall not include the taking of wildlife and shall not be in derogation of purposes and values for which the Park was established.

''(4) SPECIFIC AREAS.—The following areas are designated special use areas pursuant to paragraph (1):

''(A) MESQUITE USE AREA.—The area generally depicted on the map entitled 'Mesquite Use Area' numbered Map #8 and dated April 12, 2000. The Tribe may use this area for processing mesquite using traditional plant management techniques such as thinning, pruning, harvesting, removing excess sand, and removing exotic species. The National Park Service may limit and condition, but not prohibit entirely, public use of this area or parts of this area, in consultation with the Tribe. This area shall be managed in accordance with the jointly established management plan referred to in paragraph (1).

''(B) BUFFER AREA.—An area of approximately 1,500 acres, as generally depicted on the map entitled 'Buffer Area' numbered Map #8 and dated April 12, 2000. The National Park Service shall restrict visitor use of this area to protect the privacy of the Tribe and to provide an opportunity for the Tribe to conduct community affairs without undue disruption from the public.

''(C) TIMBISHA SHOSHONE NATURAL AND CULTURAL PRESERVATION AREA.—An area that primarily consists of Park lands and also a small portion of Bureau of Land Management land in California, as generally depicted on the map entitled 'Timbisha Shoshone Natural and Cultural Preservation Area' numbered Map #9 and dated April 12, 2000.

''(5) ADDITIONAL PROVISIONS.—With respect to the Timbisha Shoshone Natural and Cultural Preservation Area designated in paragraph (4)(C)—

''(A) the Tribe may establish and maintain a tribal resource management field office, garage, and storage area, all within the area of the existing ranger station at Wildrose (existing as of the date of enactment of this Act [Nov. 1, 2000]);

''(B) the Tribe also may use traditional camps for tribal members at Wildrose and Hunter Mountain in accordance with the jointly established management plan referred to in paragraph (1);

''(C) the area shall be depicted on maps of the Park and Bureau of Land Management that are provided for general visitor use;

''(D) the National Park Service and the Bureau of Land Management shall accommodate access by the Tribe to and use by the Tribe of—

''(i) the area (including portions described in subparagraph (E)) for traditional cultural and religious activities, in a manner consistent with the purpose and intent of Public Law 95–341 (commonly known as the 'American Indian Religious Freedom Act') (42 U.S.C. 1996 et seq.); and

''(ii) areas designated as wilderness (including portions described in subparagraph (E)), in a manner consistent with the purpose and intent of the Wilderness Act (16 U.S.C. 1131 et seq.); and

''(E)(i) on the request of the Tribe, the National Park Service and the Bureau of Land Management shall temporarily close to the general public, 1 or more specific portions of the area in order to protect the privacy of tribal members engaging in traditional cultural and religious activities in those portions; and

''(ii) any such closure shall be made in a manner that affects the smallest practicable area for the minimum period necessary for the purposes described in clause (i).

''(f) ACCESS AND USE.—Members of the Tribe shall have the right to enter and use the Park without payment of any fee for admission into the Park.

''(g) ADMINISTRATION.—The trust lands shall constitute the Timbisha Shoshone Reservation and shall be administered pursuant to the laws and regulations applicable to other Indian trust lands, except as otherwise provided in this Act.

''SEC. 6. IMPLEMENTATION PROCESS.

''(a) GOVERNMENT-TO-GOVERNMENT AGREEMENTS.—In order to fulfill the purposes of this Act and to establish cooperative partnerships for purposes of this Act, the National Park Service, the Bureau of Land Management, and the Tribe shall enter into government-to-government consultations and shall develop protocols to review planned development in the Park. The National Park Service and the Bureau of Land Management are authorized to enter into cooperative agreements with the Tribe for the purpose of providing training on the interpretation, management, protection, and preservation of the natural and cultural resources of the areas designated for special uses by the Tribe in section 5(e)(4).

''(b) STANDARDS.—The National Park Service and the Tribe shall develop mutually agreed upon standards for size, impact, and design for use in planning, resource protection, and development of the Furnace Creek area and for the facilities at Wildrose. The standards shall be based on standards for recognized best practices for environmental sustainability and shall not be less restrictive than the environmental standards applied within the National Park System at any given time. Development in the area shall be conducted in a manner consistent with the standards, which shall be reviewed periodically and revised as necessary.

''(c) WATER MONITORING.—The Secretary and the Tribe shall develop mutually agreed upon standards for a water monitoring system to assess the effects of water use at Scotty's Junction and at Death Valley Junction on the tribal trust lands described in subparagraphs (A), (B), and (D) of section 5(b)(1), and on the Park. Water monitoring shall be conducted in a manner that is consistent with such standards, which shall be reviewed periodically and revised as necessary.

''SEC. 7. MISCELLANEOUS PROVISIONS.

''(a) TRIBAL EMPLOYMENT.—In employing individuals to perform any construction, maintenance, interpretation, or other service in the Park, the Secretary shall, insofar as practicable, give first preference to qualified members of the Tribe.

''(b) GAMING.—Gaming as defined and regulated by the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) shall be prohibited on trust lands within the Park.

''(c) INITIAL RESERVATION.—Lands taken into trust for the Tribe pursuant to section 5, except for the Park land described in subsections (b)(1)(A) and (d)(1) of such section, shall be considered to be the Tribe's initial reservation for purposes of section 20(b)(1)(B)(ii) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)(1)(B)(ii)).

''(d) TRIBAL JURISDICTION OVER TRUST LANDS.—All trust lands that are transferred under this Act and located within California shall be exempt from section 1162 of title 18, United States Code, and section 1360 of title 28, United States Code, upon the certification by the Secretary, after consultation with the Attorney General, that the law enforcement system in place for such lands will be adequate to provide for the public safety and the public interest, except that no such certification may take effect until the expiration of the 3-year period beginning on the date of enactment of this Act [Nov. 1, 2000].

''SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this Act such sums as may be necessary.''

FINDINGS AND POLICY

Section 2 of Pub. L. 103–433 provided that:

''(a) The Congress finds and declares that—

''(1) the federally owned desert lands of southern California constitute a public wildland resource of extraordinary and inestimable value for this and future generations;

''(2) these desert wildlands display unique scenic, historical, archeological, environmental, ecological, wildlife, cultural, scientific, educational, and recreational values used and enjoyed by millions of Americans for hiking and camping, scientific study and scenic appreciation;

''(3) the public land resources of the California desert now face and are increasingly threatened by adverse pressures which would impair, dilute, and destroy their public and natural values;

''(4) the California desert, embracing wilderness lands, units of the National Park System, other Federal lands, State parks and other State lands, and private lands, constitutes a cohesive unit posing unique and difficult resource protection and management challenges;

''(5) through designation of national monuments by Presidential proclamation, through enactment of general public land statutes (including section 601 [43 U.S.C. 1781] of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743, 43 U.S.C. 1701 et seq.) and through interim administrative actions, the Federal Government has begun the process of appropriately providing for protection of the significant resources of the public lands in the California desert; and

''(6) statutory land unit designations are needed to afford the full protection which the resources and public land values of the California desert merit.

''(b) In order to secure for the American people of this and future generations an enduring heritage of wilderness, national parks, and public land values in the California desert, it is hereby declared to be the policy of the Congress that—

''(1) appropriate public lands in the California desert shall be included within the National Park System and the National Wilderness Preservation System, in order to—

''(A) preserve unrivaled scenic, geologic, and wildlife values associated with these unique natural landscapes;

''(B) perpetuate in their natural state significant and diverse ecosystems of the California desert;

''(C) protect and preserve historical and cultural values of the California desert associated with ancient Indian cultures, patterns of western exploration and settlement, and sites exemplifying the mining, ranching and railroading history of the Old West;

''(D) provide opportunities for compatible outdoor public recreation, protect and interpret ecological and geological features and historic, paleontological, and archeological sites, maintain wilderness resource values, and promote public understanding and appreciation of the California desert; and

''(E) retain and enhance opportunities for scientific research in undisturbed ecosystems.''

§ 410aaa–1. Establishment

There is hereby established the Death Valley National Park (hereinafter in this part referred to as the ''park'') as generally depicted on twenty-three maps entitled ''Death Valley National Park Boundary and Wilderness—Proposed'', numbered in the title one through twenty-three, and dated July 1993 or prior, which shall be on file and available for public inspection in the offices of the Superintendent of the park and the Director of the National Park Service, Department of the Interior. The Death Valley National Monument is hereby abolished as such, the lands and interests therein are hereby incorporated within and made part of the new Death Valley National Park, and any funds available for purposes of the monument shall be available for purposes of the park.

(Pub. L. 103–433, title III, § 302, Oct. 31, 1994, 108 Stat. 4485.)

§ 410aaa–2. Transfer and administration of lands

On October 31, 1994, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted in the maps described in section 410aaa–1 of this title, without consideration, to the administrative jurisdiction of the National Park Service for administration as part of the National Park System, and the boundary of the park shall be adjusted accordingly. The Secretary shall administer the areas added to the park by this part in accordance with the provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title.

(Pub. L. 103–433, title III, § 303, Oct. 31, 1994, 108 Stat. 4486.)

§ 410aaa–3. Maps and legal description

Within six months after October 31, 1994, the Secretary shall file maps and a legal description of the park designated under this part with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives. Such maps and legal description shall have the same force and effect as if included in this part, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 410aaa–1 of this title. The maps and legal description shall be on file and available for public inspection in the offices of the Superintendent of the park and the Director of the National Park Service, Department of the Interior.

(Pub. L. 103–433, title III, § 304, Oct. 31, 1994, 108 Stat. 4486.)

§ 410aaa–4. Withdrawal

Subject to valid existing rights, all Federal lands within the park are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

(Pub. L. 103–433, title III, § 305, Oct. 31, 1994, 108 Stat. 4486.)

§ 410aaa–5. Grazing

(a) In general

The privilege of grazing domestic livestock on lands within the park shall continue to be exercised at no more than the current level, subject

to applicable laws and National Park Service regulations.

(b) Sale of property

If a person holding a grazing permit referred to in subsection (a) of this section informs the Secretary that such permittee is willing to convey to the United States any base property with respect to which such permit was issued and to which such permittee holds title, the Secretary shall make the acquisition of such base property a priority as compared with the acquisition of other lands within the park, provided agreement can be reached concerning the terms and conditions of such acquisition. Any such base property which is located outside the park and acquired as a priority pursuant to this section shall be managed by the Federal agency responsible for the majority of the adjacent lands in accordance with the laws applicable to such adjacent lands.

(Pub. L. 103–433, title III, § 306, Oct. 31, 1994, 108 Stat. 4486.)

§ 410aaa–6. Death Valley National Park Advisory Commission

(a) Establishment

The Secretary shall establish an Advisory Commission of no more than fifteen members, to advise the Secretary concerning the development and implementation of a new or revised comprehensive management plan for Death Valley National Park.

(b) Membership

(1) The advisory commission shall include an elected official for each County within which any part of the park is located, a representative of the owners of private properties located within or immediately adjacent to the park, and other members representing persons actively engaged in grazing and range management, mineral exploration and development, and persons with expertise in relevant fields, including geology, biology, ecology, law enforcement, and the protection and management of National Park resources and values.

(2) Vacancies in the advisory commission shall be filled by the Secretary so as to maintain the full diversity of views required to be represented on the advisory commission.

(c) Applicability of Federal Advisory Committee Act

The Federal Advisory Committee Act shall apply to the procedures and activities of the advisory commission.

(d) Termination

The advisory commission shall cease to exist ten years after the date of its establishment.

(Pub. L. 103–433, title III, § 307, Oct. 31, 1994, 108 Stat. 4487.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 410aaa–7. Boundary adjustment

In preparing the maps and legal descriptions required by section 410aaa–3 of this title and section 602 of this Act, the Secretary shall adjust the boundaries of the Death Valley National Park and Death Valley National Park Wilderness so as to exclude from such National Park and Wilderness the lands generally depicted on the map entitled ''Porter Mine (Panamint Range) Exclusion Area'' dated June 1994.

(Pub. L. 103–433, title III, § 308, Oct. 31, 1994, 108 Stat. 4487.)

REFERENCES IN TEXT

Section 602 of this Act, referred to in text, is section 602 of Pub. L. 103–433, title VI, Oct. 31, 1994, 108 Stat. 4496, which is not classified to the Code.

PART B—JOSHUA TREE NATIONAL PARK

§ 410aaa–21. Findings

The Congress finds that—

(1) a proclamation by President Franklin Roosevelt in 1936 established Joshua Tree National Monument to protect various objects of historical and scientific interest;

(2) Joshua Tree National Monument today is recognized as a major unit of the National Park System, having extraordinary values enjoyed by millions of visitors;

(3) the monument boundaries as modified in 1950 and 1961 exclude and thereby expose to incompatible development and inconsistent management, contiguous Federal lands of essential and superlative natural, ecological, archeological, paleontological, cultural, historical, and wilderness values;

(4) Joshua Tree National Monument should be enlarged by the addition of contiguous Federal lands of national park caliber, and afforded full recognition and statutory protection as a National Park; and

(5) the nondesignated wilderness within Joshua Tree should receive statutory protection by designation pursuant to the Wilderness Act [16 U.S.C. 1131 et seq.].

(Pub. L. 103–433, title IV, § 401, Oct. 31, 1994, 108 Stat. 4487.)

REFERENCES IN TEXT

The Wilderness Act, referred to in par. (5), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

§ 410aaa–22. Establishment

There is hereby established the Joshua Tree National Park, (hereinafter in this section referred to as the ''park''), as generally depicted on a map entitled ''Joshua Tree National Park Boundary—Proposed'', dated May 1991, and four maps entitled ''Joshua Tree National Park Boundary and Wilderness'', numbered in the title one through four, and dated October 1991 or prior, which shall be on file and available for public inspection in the offices of the Superintendent of the park and the Director of the National Park Service, Department of the Interior. The Joshua Tree National Monument is hereby abolished as such, the lands and interests therein are hereby incorporated within and made part of the new Joshua Tree National

Park, and any funds available for purposes of the monument shall be available for purposes of the park.

(Pub. L. 103–433, title IV, § 402, Oct. 31, 1994, 108 Stat. 4488.)

§ 410aaa–23. Transfer and administration of lands

On October 31, 1994, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 410aaa–22 of this title, without consideration, to the administrative jurisdiction of the National Park Service for administration as part of the National Park System. The boundaries of the park shall be adjusted accordingly. The Secretary shall administer the areas added to the park by this part in accordance with the provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title.

(Pub. L. 103–433, title IV, § 403, Oct. 31, 1994, 108 Stat. 4488.)

§ 410aaa–24. Maps and legal description

Within six months after October 31, 1994, the Secretary shall file maps and legal[1] description of the park with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives. Such maps and legal description shall have the same force and effect as if included in this part, except that the Secretary may correct clerical and typographical errors in such legal description and maps. The maps and legal description shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(Pub. L. 103–433, title IV, § 404, Oct. 31, 1994, 108 Stat. 4488.)

§ 410aaa–25. Withdrawal

Subject to valid existing rights, all Federal lands within the park are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

(Pub. L. 103–433, title IV, § 405, Oct. 31, 1994, 108 Stat. 4488.)

§ 410aaa–26. Utility rights-of-way

Nothing in this part shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities in such right-of-way, issued, granted, or permitted to the Metropolitan Water District pursuant to the Boulder Canyon Project Act (43 U.S.C. 617–619b), which is located on lands included in the Joshua Tree National Park, but outside lands designated as wilderness under section 601(a)(2). Such activities shall be conducted in a manner which will minimize the impact on park resources. Nothing in this part shall have the effect of terminating the fee title to lands or customary operation, maintenance, repair, and replacement activities on or under such lands granted to the Metropolitan Water District pursuant to the Act of June 18, 1932 (47 Stat. 324), which are located on lands included in the Joshua Tree National Park, but outside lands designated as wilderness under section 601(a)(2). Such activities shall be conducted in a manner which will minimize the impact on park resources. The Secretary shall prepare within one hundred and eighty days after October 31, 1994, in consultation with the Metropolitan Water District, plans for emergency access by the Metropolitan Water District to its lands and rights-of-way.

(Pub. L. 103–433, title IV, § 406, Oct. 31, 1994, 108 Stat. 4488.)

REFERENCES IN TEXT

The Boulder Canyon Project Act, referred to in text, is act Dec. 21, 1928, ch. 42, 45 Stat. 1057, as amended, which is classified generally to subchapter I (§ 617 et seq.) of chapter 12A of Title 43, Public Lands. For complete classification of this Act to the Code, see section 617t of Title 43 and Tables.

Section 601(a)(2), referred to in text, is section 601(a)(2) of Pub. L. 103–433, which enacted provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

Act of June 18, 1932 (47 Stat. 324), referred to in text, is not classified to the Code.

§ 410aaa–27. Joshua Tree National Park Advisory Commission

(a) Establishment

The Secretary shall establish an Advisory Commission of no more than fifteen members, to advise the Secretary concerning the development and implementation of a new or revised comprehensive management plan for Joshua Tree National Park.

(b) Membership

(1) The advisory commission shall include an elected official for each County within which any part of the park is located, a representative of the owners of private properties located within or immediately adjacent to the park, and other members representing persons actively engaged in grazing and range management, mineral exploration and development, and persons with expertise in relevant fields, including geology, biology, ecology, law enforcement, and the protection and management of National Park resources and values.

(2) Vacancies in the advisory commission shall be filled by the Secretary so as to maintain the full diversity of views required to be represented on the advisory commission.

(c) Applicability of Federal Advisory Committee Act

The Federal Advisory Committee Act shall apply to the procedures and activities of the advisory commission.

(d) Termination

The advisory commission shall cease to exist ten years after the date of its establishment.

[1] So in original. Probably should be ''a legal''.

(Pub. L. 103–433, title IV, § 407, Oct. 31, 1994, 108 Stat. 4489.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PART C—MOJAVE NATIONAL PRESERVE

§ 410aaa–41. Findings

The Congress hereby finds that—

(1) Death Valley and Joshua Tree National Parks, as established by this Act, protect unique and superlative desert resources, but do not embrace the particular ecosystems and transitional desert type found in the Mojave Desert area lying between them on public lands now afforded only impermanent administrative designation as a national scenic area;

(2) the Mojave Desert area possesses outstanding natural, cultural, historical, and recreational values meriting statutory designation and recognition as a unit of the National Park System;

(3) the Mojave Desert area should be afforded full recognition and statutory protection as a national preserve;

(4) the wilderness within the Mojave Desert should receive maximum statutory protection by designation pursuant to the Wilderness Act [16 U.S.C. 1131 et seq.]; and

(5) the Mojave Desert area provides an outstanding opportunity to develop services, programs, accommodations and facilities to ensure the use and enjoyment of the area by individuals with disabilities, consistent with section 794 of title 29, Public Law 101–336, the Americans With[1] Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], and other appropriate laws and regulations.

(Pub. L. 103–433, title V, § 501, Oct. 31, 1994, 108 Stat. 4489.)

REFERENCES IN TEXT

This Act, referred to in par. (1), is defined in section 410aaa–81 of this title.

The Wilderness Act referred to in par. (4), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The Americans with Disabilities Act of 1990, referred to in par. (5), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

§ 410aaa–42. Establishment

There is hereby established the Mojave National Preserve, comprising approximately one million four hundred nineteen thousand eight hundred acres, as generally depicted on a map entitled ''Mojave National Park Boundary—Proposed'', dated May 17, 1994, which shall be on file and available for inspection in the appropriate offices of the Director of the National Park Service, Department of the Interior.

(Pub. L. 103–433, title V, § 502, Oct. 31, 1994, 108 Stat. 4490.)

§ 410aaa–43. Transfer of lands

On October 31, 1994, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 410aaa–42 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service. The boundaries of the public lands shall be adjusted accordingly.

(Pub. L. 103–433, title V, § 503, Oct. 31, 1994, 108 Stat. 4490.)

§ 410aaa–44. Maps and legal description

Within six months after October 31, 1994, the Secretary shall file maps and a legal description of the preserve designated under this part with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives. Such maps and legal description shall have the same force and effect as if included in this part, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 410aaa–42 of this title. The maps and legal description shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(Pub. L. 103–433, title V, § 504, Oct. 31, 1994, 108 Stat. 4490.)

§ 410aaa–45. Abolishment of scenic area

The East Mojave National Scenic Area, designated on January 13, 1981 (46 FR 3994), and modified on August 9, 1983 (48 FR 36210), is hereby abolished.

(Pub. L. 103–433, title V, § 505, Oct. 31, 1994, 108 Stat. 4490.)

§ 410aaa–46. Administration

(a) The Secretary shall administer the preserve in accordance with this part and with the provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title.

(b) The Secretary shall permit hunting, fishing, and trapping on lands and waters within the preserve designated by this Act in accordance with applicable Federal and State laws except that the Secretary may designate areas where, and establish periods when, no hunting, fishing, or trapping will be permitted for reasons of public safety, administration, or compliance with provisions of applicable law. Except in emergencies, regulations closing areas to hunting, fishing, or trapping pursuant to this subsection shall be put into effect only after consultation with the appropriate State agency having responsibility for fish and wildlife. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the States with respect to fish and wildlife on Federal lands and

[1] So in original. Probably should not be capitalized.

waters covered by this part nor shall anything in this Act be construed as authorizing the Secretary concerned to require a Federal permit to hunt, fish, or trap on Federal lands and waters covered by this part.

(Pub. L. 103–433, title V, § 506, Oct. 31, 1994, 108 Stat. 4490.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is defined in section 410aaa–81 of this title.

§ 410aaa–47. Withdrawal

Subject to valid existing rights, all Federal lands within the preserve are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

(Pub. L. 103–433, title V, § 507, Oct. 31, 1994, 108 Stat. 4491.)

§ 410aaa–48. Regulation of mining

Subject to valid existing rights, all mining claims located within the preserve shall be subject to all applicable laws and regulations applicable to mining within units of the National Park System, including the Mining in the Parks Act (16 U.S.C. 1901 et seq.), and any patent issued after October 31, 1994, shall convey title only to the minerals together with the right to use the surface of lands for mining purposes, subject to such laws and regulations.

(Pub. L. 103–433, title V, § 508, Oct. 31, 1994, 108 Stat. 4491.)

REFERENCES IN TEXT

The Mining in the Parks Act, referred to in text, is Pub. L. 94–429, Sept. 28, 1976, 90 Stat. 1342, as amended, which is classified principally to chapter 39 (§ 1901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

§ 410aaa–49. Study as to validity of mining claims

(a) The Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within the preserve and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

(b)(1) Notwithstanding any other provision of law, the Secretary shall permit the holder or holders of mining claims identified on the records of the Bureau of Land Management as Volco #A CAMC 105446, Volco #B CAMC 105447, Volco 1 CAMC 80155, Volco 2 CAMC 80156, Volco 3 CAMC 170259, Volco 4 CAMC 170260, Volco 5 CAMC 78405, Volco 6 CAMC 78404, and Volco 7 CAMC 78403, Volco Placer 78332, to continue exploration and development activities on such claims for a period of two years after October 31, 1994, subject to the same regulations as applied to such activities on such claims on the day before October 31, 1994.

(2) At the end of the period specified in paragraph (1), or sooner if so requested by the holder or holders of the claims specified in such paragraph, the Secretary shall determine whether there has been a discovery of valuable minerals on such claims and whether, if such discovery had been made on or before July 1, 1994, such claims would have been valid as of such date under the mining laws of the United States in effect on such date.

(3) If the Secretary, pursuant to paragraph (2), makes an affirmative determination concerning the claims specified in paragraph (1), the holder or holders of such claims shall be permitted to continue to operate such claims subject only to such regulations as applied on July 1, 1994 to the exercise of valid existing rights on patented mining claims within a unit of the National Park System.

(Pub. L. 103–433, title V, § 509, Oct. 31, 1994, 108 Stat. 4491.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in subsec. (b)(2), are classified generally to Title 30, Mineral Lands and Mining.

§ 410aaa–50. Grazing

(a) The privilege of grazing domestic livestock on lands within the preserve shall continue to be exercised at no more than the current level, subject to applicable laws and National Park Service regulations.

(b) If a person holding a grazing permit referred to in subsection (a) of this section informs the Secretary that such permittee is willing to convey to the United States any base property with respect to which such permit was issued and to which such permittee holds title, the Secretary shall make the acquisition of such base property a priority as compared with the acquisition of other lands within the preserve, provided agreement can be reached concerning the terms and conditions of such acquisition. Any such base property which is located outside the preserve and acquired as a priority pursuant to this section shall be managed by the Federal agency responsible for the majority of the adjacent lands in accordance with the laws applicable to such adjacent lands.

(Pub. L. 103–433, title V, § 510, Oct. 31, 1994, 108 Stat. 4492.)

§ 410aaa–51. Utility rights-of-way

(a) Continuation of rights-of-way and other activities; upgrading transmission lines; emergency access plans

(1) Nothing in this part shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities in such right-of-way, issued, granted, or permitted to Southern California Edison Company, its successors or assigns, which is located on lands included in the Mojave National Preserve, but outside lands designated as wilderness under section 601(a)(3). Such ac-

tivities shall be conducted in a manner which will minimize the impact on preserve resources.

(2) Nothing in this part shall have the effect of prohibiting the upgrading of an existing electrical transmission line for the purpose of increasing the capacity of such transmission line in the Southern California Edison Company validly issued Eldorado-Lugo Transmission Line right-of-way and Mojave-Lugo Transmission Line right-of-way, or in a right-of-way if issued, granted, or permitted by the Secretary adjacent to the existing Mojave-Lugo Transmission Line right-of-way (hereafter in this section referred to as ''adjacent right-of-way''), including construction of a replacement transmission line: *Provided*, That—

(A) in the Eldorado-Lugo Transmission Line rights-of-way (hereafter in this section referred to as the ''Eldorado rights-of-way'') at no time shall there be more than three electrical transmission lines;

(B) in the Mojave-Lugo Transmission Line right-of-way (hereafter in this section referred to as the ''Mojave right-of-way'') and adjacent right-of-way, removal of the existing electrical transmission line and reclamation of the site shall be completed no later than three years after the date on which construction of the upgraded transmission line begins, after which time there may be only one electrical transmission line in the lands encompassed by Mojave right-of-way and adjacent right-of-way;

(C) if there are no more than two electrical transmission lines in the Eldorado rights-of-way, two electrical transmission lines in the lands encompassed by the Mojave right-of-way and adjacent right-of-way may be allowed;

(D) in the Eldorado rights-of-way and Mojave right-of-way no additional land shall be issued, granted, or permitted for such upgrade unless an addition would reduce the impacts to preserve resources;

(E) no more than 350 feet of additional land shall be issued, granted, or permitted for an adjacent right-of-way to the south of the Mojave right-of-way unless a greater addition would reduce the impacts to preserve resources; and

(F) such upgrade activities, including helicopter aided construction, shall be conducted in a manner which will minimize the impact on preserve resources.

(3) The Secretary shall prepare within one hundred and eighty days after October 31, 1994, in consultation with the Southern California Edison Company, plans for emergency access by the Southern California Edison Company to its rights-of-way.

(b) Pipeline capacity

(1) Nothing in this part shall have the effect of terminating any validly issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing the capacity of the existing pipeline; or prohibiting the renewal of such right-of-way issued, granted, or permitted to the Southern California Gas Company, its successors or assigns, which is located on lands included in the Mojave National Preserve, but outside lands designated as wilderness under section 601(a)(3). Such activities shall be conducted in a manner which will minimize the impact on preserve resources.

(2) The Secretary shall prepare within one hundred and eighty days after October 31, 1994, in consultation with the Southern California Gas Company, plans for emergency access by the Southern California Gas Company to its rights-of-way.

(c) Communications cables or lines

Nothing in this part shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities of existing facilities issued, granted, or permitted for communications cables or lines, which are located on lands included in the Mojave National Preserve, but outside lands designated as wilderness under section 601(a)(3). Such activities shall be conducted in a manner which will minimize the impact on preserve resources.

(d) Other rights-of-way

Nothing in this part shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities of existing facilities issued, granted, or permitted to Molybdenum Corporation of America; Molycorp, Incorporated; or Union Oil Company of California (d/b/a Unocal Corporation); or its successors or assigns, or prohibiting renewal of such right-of-way, which is located on lands included in the Mojave National Preserve, but outside lands designated as wilderness under section 601(a)(3). Such activities shall be conducted in a manner which will minimize the impact on preserve resources.

(Pub. L. 103–433, title V, §511, Oct. 31, 1994, 108 Stat. 4492.)

REFERENCES IN TEXT

Section 601(a)(3), referred to in text, is section 601(a)(3) of Pub. L. 103–433, which enacted provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

§ 410aaa–52. Preparation of management plan

Within three years after October 31, 1994, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives a detailed and comprehensive management plan for the preserve. Such plan shall place emphasis on historical and cultural sites and ecological and wilderness values within the boundaries of the preserve. Such plan shall evaluate the feasibility of using the Kelso Depot and existing railroad corridor to provide public access to and a facility for special interpretive, educational, and scientific programs within the preserve. Such plan shall specifically address the needs of individuals with disabilities in the design of services, programs, accommodations and facilities consistent with section 794 of title 29, Public Law 101-336, the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], and other appropriate laws and regulations.

(Pub. L. 103–433, title V, § 512, Oct. 31, 1994, 108 Stat. 4494.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in text, is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

§ 410aaa–53. Granite Mountains Natural Reserve

(a) Establishment

There is hereby designated the Granite Mountains Natural Reserve within the preserve comprising approximately nine thousand acres as generally depicted on a map entitled ''Mojave National Park Boundary and Wilderness—Proposed 6'', dated May 1991.

(b) Cooperative management agreement

On October 31, 1994, the Secretary shall enter into a cooperative management agreement with the University of California for the purposes of managing the lands within the Granite Mountains Natural Reserve. Such cooperative agreement shall ensure continuation of arid lands research and educational activities of the University of California, consistent with the provisions of this part and laws generally applicable to units of the National Park System.

(Pub. L. 103–433, title V, § 513, Oct. 31, 1994, 108 Stat. 4494.)

§ 410aaa–54. Soda Springs Desert Study Center

On October 31, 1994, the Secretary shall enter into a cooperative management agreement with California State University for the purposes of managing facilities at the Soda Springs Desert Study Center. Such cooperative agreement shall ensure continuation of the desert research and educational activities of California State University, consistent with the provisions of this part and laws generally applicable to units of the National Park System.

(Pub. L. 103–433, title V, § 514, Oct. 31, 1994, 108 Stat. 4494.)

§ 410aaa–55. Construction of visitor center

The Secretary is authorized to construct a visitor center in the preserve for the purpose of providing information through appropriate displays, printed material, and other interpretive programs, about the resources of the preserve.

(Pub. L. 103–433, title V, § 515, Oct. 31, 1994, 108 Stat. 4494.)

§ 410aaa–56. Acquisition of lands

The Secretary is authorized to acquire all lands and interest in lands within the boundary of the preserve by donation, purchase, or exchange, except that—

(1) any lands or interests therein within the boundary of the preserve which are owned by the State of California, or any political subdivision thereof, may be acquired only by donation or exchange except for lands managed by the California State Lands Commission; and

(2) lands or interests therein within the boundary of the preserve which are not owned by the State of California or any political subdivision thereof may be acquired only with the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the preserve or which is otherwise incompatible with the purposes of this part: *Provided*, however, That the construction, modification, repair, improvement, or replacement of a single-family residence shall not be determined to be detrimental to the integrity of the preserve or incompatible with the purposes of this part.

(Pub. L. 103–433, title V, § 516, Oct. 31, 1994, 108 Stat. 4494.)

LAND EXCHANGE, MOJAVE NATIONAL PRESERVE

Pub. L. 108–87, title VIII, § 8121, Sept. 30, 2003, 117 Stat. 1100, provided that:

''(a) EXCHANGE REQUIRED.—In exchange for the private property described in subsection (b), the Secretary of the Interior shall convey to the Veterans Home of California—Barstow, Veterans of Foreign Wars Post #385E (in this section referred to as the 'recipient'), all right, title, and interest of the United States in and to a parcel of real property consisting of approximately one acre in the Mojave National Preserve and designated (by section 8137 of the Department of Defense Appropriations Act, 2002 (Public Law 107–117; 115 Stat. 2278) [16 U.S.C. 431 note]) as a national memorial commemorating United States participation in World War I and honoring the American veterans of that war. Notwithstanding the conveyance of the property under this subsection, the Secretary shall continue to carry out the responsibilities of the Secretary under such section 8137.

''(b) CONSIDERATION.—As consideration for the property to be conveyed by the Secretary under subsection (a), Mr. and Mrs. Henry Sandoz of Mountain Pass, California, have agreed to convey to the Secretary a parcel of real property consisting of approximately five acres, identified as parcel APN 569–051–44, and located in the west ½ of the northeast ¼ of the northwest ¼ of the northwest ¼ of section 11, township 14 north, range 15 east, San Bernardino base and meridian.

''(c) EQUAL VALUE EXCHANGE; APPRAISAL.—The values of the properties to be exchanged under this section shall be equal or equalized as provided in subsection (d). The value of the properties shall be determined through an appraisal performed by a qualified appraiser in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions (Department of Justice, December 2000).

''(d) CASH EQUALIZATION.—Any difference in the value of the properties to be exchanged under this section shall be equalized through the making of a cash equalization payment. The Secretary shall deposit any cash equalization payment received by the Secretary under this subsection in the Land and Water Conservation Fund.

''(e) REVERSIONARY CLAUSE.—The conveyance under subsection (a) shall be subject to the condition that the recipient maintain the conveyed property as a memorial commemorating United States participation in World War I and honoring the American veterans of that war. If the Secretary determines that the conveyed property is no longer being maintained as a war memorial, the property shall revert to the ownership of the United States.

''(f) BOUNDARY ADJUSTMENT; ADMINISTRATION OF ACQUIRED LAND.—The boundaries of the Mojave National Preserve shall be adjusted to reflect the land exchange required by this section. The property acquired by the

Secretary under this section shall become part of the Mojave National Preserve and be administered in accordance with the laws, rules, and regulations generally applicable to the Mojave National Preserve.''

§ 410aaa–57. Acquired lands to be made part of Mojave National Preserve

Any lands acquired by the Secretary under this part shall become part of the Mojave National Preserve.

(Pub. L. 103–433, title V, § 517, Oct. 31, 1994, 108 Stat. 4495.)

§ 410aaa–58. Mojave National Preserve Advisory Commission

(a) Establishment

The Secretary shall establish an Advisory Commission of no more than fifteen members, to advise the Secretary concerning the development and implementation of a new or revised comprehensive management plan for the Mojave National Preserve.

(b) Membership

(1) The advisory commission shall include an elected official for each County within which any part of the preserve is located, a representative of the owners of private properties located within or immediately adjacent to the preserve, and other members representing persons actively engaged in grazing and range management, mineral exploration and development, and persons with expertise in relevant fields, including geology, biology, ecology, law enforcement, and the protection and management of National Park resources and values.

(2) Vacancies in the advisory commission shall be filled by the Secretary so as to maintain the full diversity of views required to be represented on the advisory commission.

(c) Applicability of Federal Advisory Committee Act

The Federal Advisory Committee Act shall apply to the procedures and activities of the advisory commission.

(d) Termination

The advisory commission shall cease to exist ten years after the date of its establishment.

(Pub. L. 103–433, title V, § 518, Oct. 31, 1994, 108 Stat. 4495.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 410aaa–59. No adverse effect on land until acquired

Unless and until acquired by the United States, no lands within the boundaries of wilderness areas or National Park System units designated or enlarged by this Act that are owned by any person or entity other than the United States shall be subject to any of the rules or regulations applicable solely to the Federal lands within such boundaries and may be used to the extent allowed by applicable law. Neither the location of such lands within such boundaries nor the possible acquisition of such lands by the United States shall constitute a bar to the otherwise lawful issuance of any Federal license or permit other than a license or permit related to activities governed by section 460*l*–22(c) of this title. Nothing in this section shall be construed as affecting the applicability of any provision of the Mining in the Parks Act (16 U.S.C. 1901 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), or regulations applicable to oil and gas development as set forth in 36 CFR 9B.

(Pub. L. 103–433, title V, § 519, Oct. 31, 1994, 108 Stat. 4495.)

REFERENCES IN TEXT

This Act, referred to in text, is defined in section 410aaa–81 of this title.

The Mining in the Parks Act, referred to in text, is Pub. L. 94–429, Sept. 28, 1976, 90 Stat. 1342, as amended, which is classified principally to chapter 39 (§ 1901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

The Clean Air Act, referred to in text, is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

PART D—MISCELLANEOUS PROVISIONS

§ 410aaa–71. Transfer of lands to Red Rock Canyon State Park

On October 31, 1994, the Secretary shall transfer to the State of California certain lands within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately twenty thousand five hundred acres, as generally depicted on two maps entitled ''Red Rock Canyon State Park Additions 1'' and ''Red Rock Canyon State Park Additions 2'', dated May 1991, for inclusion in the State of California Park System. Should the State of California cease to manage these lands as part of the State Park System, ownership of the lands shall revert to the Department of the Interior to be managed as part of California Desert Conservation Area to provide maximum protection for the area's scenic and scientific values.

(Pub. L. 103–433, title VII, § 701, Oct. 31, 1994, 108 Stat. 4497.)

§ 410aaa–72. Land tenure adjustments

In preparing land tenure adjustment decisions with the California Desert Conservation Area, of the Bureau of Land Management, the Secretary shall give priority to consolidating Federal ownership within the national park units and wilderness areas designated by this Act.

(Pub. L. 103–433, title VII, § 702, Oct. 31, 1994, 108 Stat. 4497.)

REFERENCES IN TEXT

This Act, referred to in text, is defined in section 410aaa–81 of this title.

§ 410aaa–73. Land disposal

Except as provided in section 410aaa–26 of this title, none of the lands within the boundaries of

the wilderness or park areas designated under this Act shall be granted to or otherwise made available for use by the Metropolitan Water District or any other agencies or persons pursuant to the Boulder Canyon Project Act (43 U.S.C. 617–619b) or any similar Acts.

(Pub. L. 103–433, title VII, § 703, Oct. 31, 1994, 108 Stat. 4497.)

REFERENCES IN TEXT

This Act, referred to in text, is defined in section 410aaa–81 of this title.

The Boulder Canyon Project Act, referred to in text, is act Dec. 21, 1928, ch. 42, 45 Stat. 1057, as amended, which is classified generally to subchapter I (§ 617 et seq.) of chapter 12A of Title 43, Public Lands. For complete classification of this Act to the Code, see section 617t of Title 43 and Tables.

§ 410aaa–74. Management of newly acquired lands

Any lands within the boundaries of a wilderness area designated under this Act which are acquired by the Federal Government, shall become part of the wilderness area within which they are located and shall be managed in accordance with all the provisions of this Act and other laws applicable to such wilderness area.

(Pub. L. 103–433, title VII, § 704, Oct. 31, 1994, 108 Stat. 4497.)

REFERENCES IN TEXT

This Act, referred to in text, is defined in section 410aaa–81 of this title.

§ 410aaa–75. Native American uses and interests

(a) Access

In recognition of the past use of the National Park System units and wilderness areas designed under this Act by Indian people for traditional cultural and religious purposes, the Secretary shall ensure access to such park system units and wilderness areas by Indian people for such traditional cultural and religious purposes. In implementing this section, the Secretary, upon the request of an Indian tribe or Indian religious community, shall temporarily close to the general public use of one or more specific portions of the park system unit or wilderness area in order to protect the privacy of traditional cultural and religious activities in such areas by Indian people. Any such closure shall be made to affect the smallest practicable area for the minimum period necessary for such purposes. Such access shall be consistent with the purpose and intent of Public Law 95–341 (42 U.S.C. 1996 [, 1996a]) commonly referred to as the ''American Indian Religious Freedom Act'', and with respect to areas designated as wilderness, the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131).

(b) Study

(1) The Secretary, in consultation with the Timbisha Shoshone Tribe and relevant Federal agencies, shall conduct a study, subject to the availability of appropriations, to identify lands suitable for a reservation for the Timbisha Shoshone Tribe that are located within the Tribe's aboriginal homeland area within and outside the boundaries of the Death Valley National Monument and the Death Valley National Park, as described in part A of this subchapter.

(2) Not later than 1 year after October 31, 1994, the Secretary shall submit a report to the Committee on Energy and Natural Resources and the Committee on Indian Affairs of the United States Senate, and the Committee on Natural Resources of the United States House of Representatives on the results of the study conducted under paragraph (1).

(Pub. L. 103–433, title VII, § 705, Oct. 31, 1994, 108 Stat. 4498.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is defined in section 410aaa–81 of this title.

The American Indian Religious Freedom Act, referred to in subsec. (a), is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, as amended, which is classified to sections 1996 and 1996a of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1996 of Title 42 and Tables.

The Wilderness Act, referred to in subsec. (a), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

§ 410aaa–76. Federal reserved water rights

(a) Reservation of sufficient water

Except as otherwise provided in section 204 of this Act, with respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this Act. The priority date of such reserved water rights shall be October 31, 1994.

(b) Protection of rights reserved

The Secretary and all other officers of the United States shall take all steps necessary to protect the rights reserved by this section, including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of California in which the United States is or may be joined in accordance with section 666 of title 43.

(c) Relinquishment or reduction of rights

Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of California on or before October 31, 1994.

(d) Specific reservation

The Federal water rights reserved by this Act are specific to the wilderness area located in the State of California designated under this Act. Nothing in this Act related to the reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made thereto.

(Pub. L. 103–433, title VII, § 706, Oct. 31, 1994, 108 Stat. 4498.)

REFERENCES IN TEXT

Section 204 of this Act, referred to in subsec. (a), is section 204 of Pub. L. 103–433, title II, Oct. 31, 1994, 108 Stat. 4485, which is not classified to the Code.

This Act, referred to in subsecs. (a), (c), and (d), is defined in section 410aaa–81 of this title.

§ 410aaa–77. California State School lands

(a) Negotiations to exchange

Upon request of the California State Lands Commission (hereinafter in this section referred to as the ''Commission''), the Secretary shall enter into negotiations for an agreement to exchange Federal lands or interests therein on the list referred to in subsection (b)(2) of this section for California State School lands or interests therein which are located within the boundaries of one or more of the wilderness areas or park system units designated by this Act (hereinafter in this section referred to as ''State School lands.''). The Secretary shall negotiate in good faith to reach a land exchange agreement consistent with the requirements of section 206 of the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1716].

(b) Preparation of list

Within six months after October 31, 1994, the Secretary shall send to the Commission and to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives a list of the following:

(1) State School lands or interests therein (including mineral interests) which are located within the boundaries of the wilderness areas or park system units designated by this Act.

(2) Lands within the State of California under the jurisdiction of the Secretary that the Secretary determines to be suitable for disposal for exchange, identified in the following priority—

(A) lands with mineral interests, including geothermal, which have the potential for commercial development but which are not currently under mineral lease or producing Federal mineral revenues;

(B) Federal claims in California managed by the Bureau of Reclamation that the Secretary determines are not needed for any Bureau of Reclamation project; and

(C) any public lands in California that the Secretary, pursuant to the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701 et seq.], has determined to be suitable for disposal through exchange.

(3) Any other Federal land, or interest therein, within the State of California, which is or becomes surplus to the needs of the Federal Government. The Secretary may exclude, in the Secretary's discretion, lands located within, or contiguous to, the exterior boundaries of lands held in trust for a federally recognized Indian tribe located in the State of California.

(4) The Secretary shall maintain such list and shall annually transmit such list to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives until all of the State School lands identified in paragraph (1) have been acquired.

(c) Disposal of surplus Federal property

(1) Effective upon October 31, 1994, and until all State School lands identified in paragraph (b)(1) of this section are acquired, no Federal lands or interests therein within the State of California may be disposed of from Federal ownership unless—

(A) the Secretary is notified of the availability of such lands or interest therein;

(B) the Secretary has notified the Commission of the availability of such lands or interests therein for exchange; and

(C) the Commission has not notified the Secretary within six months that it wishes to consider entering into an exchange for such lands or interests therein.

(2) If the Commission notifies the Secretary that it wishes to consider an exchange for such lands or interests therein, the Secretary shall attempt to conclude such exchange in accordance with the provisions of this section as quickly as possible.

(3) If an agreement is reached and executed with the Commission, then upon notice to the head of the agency having administrative jurisdiction over such lands or interests therein, the Secretary shall be vested with administrative jurisdiction over such land or interests therein for the purpose of concluding such exchange.

(4) Upon the acquisition of all State School lands or upon notice by the Commission to the Secretary that it no longer has an interest in such lands or interests therein, such lands or interests shall be released to the agency that originally had jurisdiction over such lands or interests for disposal in accordance with the laws otherwise applicable to such lands or interests.

(d) No effect on military base closures

The provisions of this section shall not apply to the disposal of property under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 102 Stat. 2627; 10 U.S.C. 2687 note) or the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510; 104 Stat. 1808; 10 U.S.C. 2687 note).

(Pub. L. 103–433, title VII, § 707, Oct. 31, 1994, 108 Stat. 4499.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b)(1), is defined in section 410aaa–81 of this title.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (b)(2)(C), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

The Defense Authorization Amendments and Base Closure and Realignment Act, referred to in subsec. (d), is Pub. L. 100–526, Oct. 24, 1988, 102 Stat. 2623, as amended. Title II of the Act is set out as a note under section 2687 of Title 10, Armed Forces. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 2687 of Title 10 and Tables.

The Defense Base Closure and Realignment Act of 1990, referred to in subsec. (d), is part A of title XXIX of div. B of Pub. L. 101–510, Nov. 5, 1990, 104 Stat. 1808, as amended, which amended section 2687 of Title 10 and

enacted provisions set out as a note under section 2687 of Title 10.

§ 410aaa–78. Access to private property

The Secretary shall provide adequate access to nonfederally owned land or interests in land within the boundaries of the conservation units and wilderness areas designated by this Act which will provide the owner of such land or interest the reasonable use and enjoyment thereof.

(Pub. L. 103–433, title VII, § 708, Oct. 31, 1994, 108 Stat. 4500.)

REFERENCES IN TEXT

This Act, referred to in text, is defined in section 410aaa–81 of this title.

§ 410aaa–79. Federal facilities fee equity

(a) Policy statement

It is the intent of Congress that entrance, tourism or recreational use fees for use of Federal lands and facilities not discriminate against any State or any region of the country.

(b) Fee study

The Secretary, in cooperation with other affected agencies, shall prepare and submit a report by May 1, 1996 to the Committee on Energy and Natural Resources of the United States Senate, the Committee on Natural Resources of the United States House of Representatives, and any other relevant committees, which shall—

(1) identify all Federal lands and facilities that provide recreational or tourism use; and

(2) analyze by State and region any fees charged for entrance, recreational or tourism use, if any, on Federal lands or facilities in a State or region, individually and collectively.

(c) Recommendations

Following completion of the report in subsection (b) of this section, the Secretary, in cooperation with other affected agencies, shall prepare and submit a report by May 1, 1997 to the Committee on Energy and Natural Resources of the United States Senate, the Committee on Natural Resources of the United States House of Representatives, and any other relevant committees, which shall contain recommendations which the Secretary deems appropriate for implementing the congressional intent outlined in subsection (a) of this section.

(Pub. L. 103–433, title VII, § 709, Oct. 31, 1994, 108 Stat. 4500.)

§ 410aaa–80. Land appraisal

Lands and interests in lands acquired pursuant to this Act shall be appraised without regard to the presence of a species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(Pub. L. 103–433, title VII, § 710, Oct. 31, 1994, 108 Stat. 4501.)

REFERENCES IN TEXT

This Act, referred to in text, is defined in section 410aaa–81 of this title.

The Endangered Species Act of 1973, referred to in text, is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified principally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

§ 410aaa–81. Definition

Any reference to the term ''this Act'' in titles I through IX shall be deemed to be solely a reference to sections 1 and 2, and titles I through IX.

(Pub. L. 103–433, title VII, § 711, Oct. 31, 1994, 108 Stat. 4501.)

REFERENCES IN TEXT

Sections 1 and 2 and titles I to IX, referred to in text, are sections 1 and 2 and titles I to IX of Pub. L. 103–433, Oct. 31, 1994, 108 Stat. 4471, known as the California Desert Protection Act of 1994. Sections 1 and 2 of the Act are set out as notes under section 410aaa of this title. Titles I to IX of the Act are classified principally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 410aaa of this title and Tables.

''SECRETARY'' DEFINED

Section 103 of Pub. L. 103–433 provided in part that in this subchapter ''Secretary'' means the Secretary of the Interior.

§ 410aaa–82. Military overflights

(a) Overflights

Nothing in this Act, the Wilderness Act [16 U.S.C. 1131 et seq.], or other land management laws generally applicable to the new units of the National Park or Wilderness Preservation Systems (or any additions to existing units) designated by this Act, shall restrict or preclude low-level overflights of military aircraft over such units, including military overflights that can be seen or heard within such units.

(b) Special airspace

Nothing in this Act, the Wilderness Act [16 U.S.C. 1131 et seq.], or other land management laws generally applicable to the new units of the National Park or Wilderness Preservation Systems (or any additions to existing units) designated by this Act, shall restrict or preclude the designation of new units of special airspace or the use or establishment of military flight training routes over such new park system or wilderness units.

(c) No effect on other laws

Nothing in this section shall be construed to modify, expand, or diminish any authority under other Federal law.

(Pub. L. 103–433, title VIII, § 802, Oct. 31, 1994, 108 Stat. 4501.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b), is defined in section 410aaa–81 of this title.

The Wilderness Act, referred to in subsecs. (a) and (b), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

SHORT TITLE AND FINDINGS

Section 801 of title VIII of Pub. L. 103–433 provided that:

''(a) SHORT TITLE.—This title [enacting this section] may be cited as the 'California Military Lands Withdrawal and Overflights Act of 1994'.

''(b) FINDINGS.—The Congress finds that—

''(1) military aircraft testing and training activities as well as demilitarization activities in California are an important part of the national defense system of the United States, and are essential in order to secure for the American people of this and future generations an enduring and viable national defense system;

''(2) the National Park System units and wilderness areas designated by this Act [see section 410aaa–81 of this title] lie within a region critical to providing training, research, and development for the Armed Forces of the United States and its allies;

''(3) there is a lack of alternative sites available for these military training, testing, and research activities;

''(4) continued use of the lands and airspace in the California desert region is essential for military purposes; and

''(5) continuation of these military activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.''

§ 410aaa–83. Authorization of appropriations

There is authorized to be appropriated to the National Park Service and to the Bureau of Land Management to carry out this Act an amount not to exceed $36,000,000 over and above that provided in fiscal year 1994 for additional administrative and construction costs over the fiscal year 1995–1999 period, and $300,000,000 for all land acquisition costs. No funds in excess of these amounts may be used for construction, administration, or land acquisition authorized under this Act without a specific authorization in an Act of Congress enacted after October 31, 1994.

(Pub. L. 103–433, title IX, § 901, Oct. 31, 1994, 108 Stat. 4508.)

REFERENCES IN TEXT

This Act, referred to in text, is defined in section 410aaa–1 of this title.

SUBCHAPTER LIX–Z—NEW ORLEANS JAZZ NATIONAL HISTORICAL PARK

§ 410bbb. Findings and purpose

(a) Findings

The Congress finds that:

(1) Jazz is the United States' most widely recognized indigenous music and art form. Congress previously recognized jazz in 1987 through Senate Concurrent Resolution 57 as a rare and valuable national treasure of international importance.

(2) The city of New Orleans is widely recognized as the birthplace of jazz. In and around this city, cultural and musical elements blended to form the unique American music that is known as New Orleans jazz, which is an expression of the cultural diversity of the lower Mississippi Delta Region.

(3) Jean Lafitte National Historical Park and Preserve was established to commemorate the cultural diversity of the lower Mississippi Delta Region including a range of cultural expressions like jazz.

(b) Purpose

In furtherance of the need to recognize the value and importance of jazz, it is the purpose of this subchapter to establish a New Orleans Jazz National Historical Park to preserve the origins, early history, development and progression of jazz; provide visitors with opportunities to experience the sights, sounds, and places where jazz evolved; and implement innovative ways of establishing jazz educational partnerships that will help to ensure that jazz continues as a vital element of the culture of New Orleans and our Nation.

(Pub. L. 103–433, title XII, § 1202, Oct. 31, 1994, 108 Stat. 4519.)

REFERENCES IN TEXT

Senate Concurrent Resolution 57, referred to in subsec. (a)(1), probably means H. Con. Res. 57, Dec. 4, 1987, 101 Stat. 2013, which is not classified to the Code.

SHORT TITLE

Section 1201 of title XII of Pub. L. 103–433 provided that: ''This title [enacting this subchapter] may be cited as the 'New Orleans Jazz National Historical Park Act of 1994'.''

§ 410bbb–1. Establishment

(a) In general

In order to assist in the preservation, education, and interpretation of jazz as it has evolved in New Orleans, and to provide technical assistance to a broad range of organizations involved with jazz music and its history, there is hereby established the New Orleans Jazz National Historical Park (hereinafter referred to as the ''historical park''). The historical park shall be administered in conjunction with the Jean Lafitte National Historical Park and Preserve, which was established to preserve and interpret the cultural and natural resources of the lower Mississippi Delta Region.

(b) Area included

The historical park shall consist of lands and interests therein as follows:

(1) Lands which the Secretary of the Interior (hereinafter referred to as ''the Secretary'') may designate for an interpretive visitor center complex.

(2) Sites that are the subject of cooperative agreements with the National Park Service for the purposes of interpretive demonstrations and programs associated with the purposes of this subchapter.

(3)(A) Sites designated by the Secretary as provided in subparagraph (B).

(B)(i) No later than 18 months after October 31, 1994, the Secretary is directed to complete a national historic landmark evaluation of sites associated with jazz in and around New Orleans as identified in the document entitled ''New Orleans Jazz Special Resource Study'', prepared by the National Park Service pursuant to Public Law 101–499. In undertaking the evaluation, the Secretary shall, to the extent practicable, utilize existing information relating to such sites.

(ii) If any of the sites evaluated are found to meet the standards of the National Historic Landmark program and National Park Service

tests of suitability and feasibility, and offer outstanding opportunities to further the purposes of this subchapter, the Secretary may designate such sites as part of the historical park, following consultation with the owners of such sites, the city of New Orleans, the Smithsonian Institution, and the New Orleans Jazz Commission, and notification to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

(Pub. L. 103–433, title XII, § 1203, Oct. 31, 1994, 108 Stat. 4520.)

REFERENCES IN TEXT

Public Law 101–499, referred to in subsec. (b)(3)(B)(i), is Pub. L. 101–499, Nov. 2, 1990, 104 Stat. 1209, which is not classified to the Code.

§ 410bbb–2. Administration

(a) In general

(1) The Secretary shall administer the historical park in accordance with this subchapter and with provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title. The Secretary shall manage the historical park in such a manner as will preserve and perpetuate knowledge and understanding of the history of jazz and its continued evolution as a true American art form.

(2) To minimize operational costs associated with the management and administration of the historical park and to avoid duplication of effort, the Secretary shall, to the maximum extent practicable, utilize the facilities, administrative staff and other services of the Jean Lafitte National Historical Park and Preserve.

(b) Donations

The Secretary may accept and retain donations of funds, property, or services from individuals, foundations, corporations, or other public entities for the purposes of providing services, programs, and facilities that further the purposes of this subchapter.

(c) Interpretive center

The Secretary is authorized to construct, operate, and maintain an interpretive center in the historical park on lands identified by the Secretary pursuant to section 410bbb–1(b)(1) of this title. Programs at the center shall include, but need not be limited to, live jazz interpretive and educational programs, and shall provide visitors with information about jazz-related programs, performances, and opportunities.

(d) Jazz heritage districts

The Secretary may provide technical assistance to the city of New Orleans and other appropriate entities for the designation of certain areas in and around New Orleans as jazz heritage districts. Such districts shall include those areas with an exceptional concentration of jazz historical sites and established community traditions of jazz street parades.

(e) Cooperative agreements, grants and technical assistance

In furtherance of the purposes of this subchapter—

(1) the Secretary, after consultation with the New Orleans Jazz Commission established pursuant to section 410bbb–5 of this title, is authorized to enter into cooperative agreements with owners of properties that are designated pursuant to section 410bbb–1(b)(3) of this title which provide outstanding educational and interpretive opportunities relating to the evolution of jazz in New Orleans. The Secretary may assist in rehabilitating, restoring, marking, and interpreting and may provide technical assistance for the preservation and interpretation of such properties. Such agreements shall contain, but need not be limited to, provisions that the National Park Service will have reasonable rights of access for operational and visitor use needs, that rehabilitation and restoration will meet the Secretary's standards for rehabilitation of historic buildings, and that specify the roles and responsibilities of the Secretary for each site or structure;

(2) the Secretary is authorized to enter into cooperative agreements with the city of New Orleans, the State of Louisiana, and other appropriate public and private organizations under which the other parties to the agreement may contribute to the acquisition, construction, operation, and maintenance of the interpretive center and to the operation of educational and interpretive programs to further the purposes of this subchapter; and

(3) the Secretary, in consultation with the New Orleans Jazz Commission, is authorized to provide grants or technical assistance to public and private organizations.

(f) Jazz educational programs

The Secretary shall, in the administration of the historical park, promote a broad range of educational activities relating to jazz and its history. The Secretary shall cooperate with schools, universities, and organizations supporting jazz education to develop educational programs that provide expanded public understanding of jazz and enhanced opportunities for public appreciation. The Secretary may assist appropriate entities in the development of an information base including archival material, audiovisual records, and objects that relate to the history of jazz.

(Pub. L. 103–433, title XII, § 1204, Oct. 31, 1994, 108 Stat. 4520.)

§ 410bbb–3. Acquisition of property

(a) General authority

The Secretary may acquire lands and interests therein within the sites designated pursuant to section 410bbb–1(b)(1) and (3) of this title by donation or purchase with donated or appropriated funds or long term lease: *Provided*, That sites designated pursuant to section 410bbb–1(b)(3) of this title shall only be acquired with the consent of the owner thereof.

(b) State and local properties

Lands and interests in lands which are owned by the State of Louisiana, or any political subdivision thereof, may be acquired only by donation.

(Pub. L. 103–433, title XII, § 1205, Oct. 31, 1994, 108 Stat. 4522.)

§ 410bbb–4. General management plan

Within three years after the date funds are made available therefor and concurrent with the national landmark study referenced in section 410bbb–1(b)(3) of this title, the Secretary, in consultation with the New Orleans Jazz Commission, shall prepare a general management plan for the historical park. The plan shall include, but need not be limited to—

(1) a visitor use plan indicating programs and facilities associated with park programs that will be made available to the public;

(2) preservation and use plans for any structures and sites that are identified through the historic landmark study for inclusion within the historical park;

(3) the location and associated cost of public facilities that are proposed for inclusion within the historical park, including a visitor center;

(4) identification of programs that the Secretary will implement or be associated with through cooperative agreements with other groups and organizations;

(5) a transportation plan that addresses visitor use access needs to sites, facilities, and programs central to the purpose of the historical park;

(6) plans for the implementation of an archival system for materials, objects, and items of importance relating to the history of jazz; and

(7) guidelines for the application of cooperative agreements that will be used to assist in the management of historical park facilities and programs.

(Pub. L. 103–433, title XII, § 1206, Oct. 31, 1994, 108 Stat. 4522.)

§ 410bbb–5. New Orleans Jazz Commission

(a) Establishment

To assist in implementing the purposes of this subchapter and the document entitled ''New Orleans Jazz Special Resource Study'', there is established the New Orleans Jazz Commission (hereinafter referred to as the ''Commission'').

(b) Membership

The Commission shall consist of 17 members to be appointed no later than six months after October 31, 1994. The Commission shall be appointed by the Secretary as follows:

(1) One member from recommendations submitted by the Mayor of New Orleans.

(2) Two members who have recognized expertise in music education programs that emphasize jazz.

(3) One member, with experience in and knowledge of tourism in the greater New Orleans area, from recommendations submitted by local businesses.

(4) One member from recommendations submitted by the Board of the New Orleans Jazz and Heritage Foundation.

(5) One member, with experience in and knowledge of historic preservation within the New Orleans area.

(6) Two members, one from recommendations submitted by the Secretary of the Smithsonian Institution and one member from recommendations submitted by the Chairman of the National Endowment of the Arts, who are recognized musicians with knowledge and experience in the development of jazz in New Orleans.

(7) Two members, one from recommendations submitted by the Secretary of the Smithsonian Institution and one member from recommendations submitted by the Director of the Louisiana State Museum with recognized expertise in the interpretation of jazz history or traditions related to jazz in New Orleans.

(8) Two members who represent local neighborhood groups or other local associations; from recommendations submitted by the Mayor of New Orleans.

(9) One member representing local mutual aid and benevolent societies as well as local social and pleasure clubs, from recommendations submitted by the Board of the New Orleans Jazz and Heritage Foundation.

(10) One member from recommendations submitted by the Governor of the State of Louisiana, who shall be a member of the Louisiana State Music Commission.

(11) One member representing the New Orleans Jazz Club from recommendations submitted by the club.

(12) One member who is a recognized local expert on the history, development and progression of jazz in New Orleans and is familiar with existing archival materials from recommendations submitted by the Librarian of Congress.

(13) The Director of the National Park Service, or the Director's designee, ex officio.

(c) Duties

The Commission shall—

(1) advise the Secretary in the preparation of the general management plan for the historical park; assist in public discussions of planning proposals; and assist the National Park Service in working with individuals, groups, and organizations including economic and business interests in determining programs in which the Secretary should participate through cooperative agreement;

(2) in consultation and cooperation with the Secretary, develop partnerships with educational groups, schools, universities, and other groups to furtherance of the purposes of this subchapter;

(3) in consultation and cooperation with the Secretary, develop partnerships with city-wide organizations, and raise and disperse funds for programs that assist mutual aid and benevolent societies, social and pleasure clubs and other traditional groups in encouraging the continuation of and enhancement of jazz cultural traditions;

(4) acquire or lease property for jazz education, and advise on hiring brass bands and musical groups to participate in education programs and help train young musicians;

(5) in consultation and cooperation with the Secretary, provide recommendations for the location of the visitor center and other interpretive sites;

(6) assist the Secretary in providing funds to support research on the origins and early history of jazz in New Orleans; and

(7) notwithstanding any other provision of law, seek and accept donations of funds, property, or services from individuals, foundations, corporations, or other public or private entities and expend and use the same for the purposes of providing services, programs, and facilities for jazz education, or assisting in the rehabilitation and restoration of structures identified in the national historic landmark study referenced in section 410bbb–1(b)(3) of this title as having outstanding significance to the history of jazz in New Orleans.

(d) Appointment

Members of the Commission shall be appointed for staggered terms of 3 years, as designated by the Secretary at the time of the initial appointment.

(e) Chairman

The Commission shall elect a chairman from among its members. The term of the chairman shall be for 3 years.

(f) Terms

Any member of the Commission appointed by the Secretary for a 3-year term may serve after the expiration of his or her term until a successor is appointed. Any vacancy shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor was appointed.

(g) Per diem expenses

Members of the Commission shall serve without compensation. Members shall be entitled to travel expenses under section 5703, title 5, when engaged in Commission business, including per diem in lieu of subsistence in the same manner as persons employed intermittently.

(h) Administrative support

The Secretary shall provide the Commission with assistance in obtaining such personnel, equipment, and facilities as may be needed by the Commission to carry out its duties.

(i) Annual report

The Commission shall submit an annual report to the Secretary identifying its expenses and income and the entities to which any grants or technical assistance were made during the year for which the report is made.

(Pub. L. 103–433, title XII, § 1207, Oct. 31, 1994, 108 Stat. 4522.)

§ 410bbb–6. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Pub. L. 103–433, title XII, § 1208, Oct. 31, 1994, 108 Stat. 4525.)

SUBCHAPTER LIX–AA—CANE RIVER CREOLE NATIONAL HISTORICAL PARK AND NATIONAL HERITAGE AREA

PART A—CANE RIVER CREOLE NATIONAL HISTORICAL PARK

§ 410ccc. Findings and purposes

(a) Findings

The Congress finds that—

(1) the Natchitoches area along Cane River, established in 1714, is the oldest permanent settlement in the Louisiana Purchase territory;

(2) the Cane River area is the locale of the development of Creole culture, from French-Spanish interactions of the early 18th century of today's living communities;

(3) the Cane River, historically a segment of the Red River, provided the focal point for early settlement, serving as a transportation route upon which commerce and communication reached all parts of the colony;

(4) although a number of Creole structures, sites, and landscapes exist in Louisiana and elsewhere, unlike the Cane River area, most are isolated examples, and lack original outbuilding complexes or integrity;

(5) the Cane River area includes a great variety of historical features with original elements in both rural and urban settings and a cultural landscape that represents various aspects of Creole culture, providing the base for a holistic approach to understanding the broad continuum of history within the region;

(6) the Cane River region includes the Natchitoches National Historic Landmark District, composed of approximately 300 publicly and privately owned properties, four other national historic landmarks, and other structures and sites that may meet criteria for landmark significance following further study;

(7) historic preservation within the Cane River area has greatly benefitted from individuals and organizations that have strived to protect their heritage and educate others about their rich history; and

(8) because of the complexity and magnitude of preservation needs in the Cane River area, and the vital need for a culturally sensitive approach, a partnership approach is desirable for addressing the many preservation and educational needs.

(b) Purposes

The purposes of this subchapter are to—

(1) recognize the importance of the Cane River Creole culture as a nationally significant element of the cultural heritage of the United States;

(2) establish a Cane River Creole National Historical Park to serve as the focus of interpretive and educational programs on the history of the Cane River area and to assist in the preservation of certain historic sites along the river; and

(3) establish a Cane River National Heritage Area and Commission to be undertaken in partnership with the State of Louisiana, the City of Natchitoches, local communities and settlements of the Cane River area, preservation organizations, and private landowners, with full recognition that programs must fully involve the local communities and landowners.

(Pub. L. 103–449, title III, § 302, Nov. 2, 1994, 108 Stat. 4757.)

SHORT TITLE

Section 301 of Pub. L. 103–449 provided that: ''Titles III and IV of this Act [enacting this subchapter] may be

cited as the 'Cane River Creole National Historical Park and National Heritage Area Act'.''

§ 410ccc–1. Establishment

(a) In general

In order to assist in the preservation and interpretation of, and education concerning, the Creole culture and diverse history of the Natchitoches region, and to provide technical assistance to a broad range of public and private landowners and preservation organizations, there is hereby established the Cane River Creole National Historical Park in the State of Louisiana (hereinafter in this subchapter referred to as the ''historical park'').

(b) Area included

The historical park shall consist of lands and interests therein as follows:

(1) Lands and structures associated with the Oakland Plantation as depicted on map CARI, 80,002, dated January 1994.

(2) Lands and structures owned or acquired by Museum Contents, Inc. as depicted on map CARI, 80,001A, dated May 1994.

(3) Sites that may be the subject of cooperative agreements with the National Park Service for the purposes of historic preservation and interpretation including, but not limited to, the Melrose Plantation, the Badin-Rouge site, the Cherokee Plantation, the Beau Fort Plantation, and sites within the Natchitoches National Historical Landmark District: *Provided*, That such sites may not be added to the historical park unless the Secretary of the Interior (hereinafter referred to as the ''Secretary'') determines, based on further research and planning, that such sites meet the applicable criteria for national historical significance, suitability, and feasibility, and notification of the proposed addition has been transmitted to the Committee on Energy and Natural Resources of the United States Senate and the appropriate committees of the House of Representatives.

(4) Not to exceed 10 acres of land that the Secretary may designate for an interpretive visitor center complex to serve the needs of the historical park and heritage area established in part B of this subchapter.

(Pub. L. 103–449, title III, §303, Nov. 2, 1994, 108 Stat. 4758.)

§ 410ccc–2. Administration

(a) In general

The Secretary shall administer the historical park in accordance with this part and with provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title. The Secretary shall manage the historical park in such a manner as will preserve resources and cultural landscapes relating to the Creole culture of the Cane River and enhance public understanding of the important cultural heritage of the Cane River region.

(b) Donations

The Secretary may accept and retain donations of funds, property, or services from individuals, foundations, or other public or private entities for the purposes of providing programs, services, facilities, or technical assistance that further the purposes of this subchapter. Any funds donated to the Secretary pursuant to this subsection may be expended without further appropriation.

(c) Interpretive center

The Secretary is authorized to construct, operate, and maintain an interpretive center on lands identified by the Secretary pursuant to section 410ccc–1(b)(4) of this title. Such center shall provide for the general information and orientation needs of the historical park and the heritage area. The Secretary shall consult with the State of Louisiana, the City of Natchitoches, the Association for the Preservation of Historic Natchitoches, and the Cane River National Heritage Area Commission pursuant to section 410ccc–22 of this title in the planning and development of the interpretive center.

(d) Cooperative agreements and technical assistance

(1) The Secretary, after consultation with the Cane River Heritage Area Commission[1] established pursuant to section 410ccc–22 of this title, is authorized to enter into cooperative agreements with owners of properties within the heritage area and owners of properties within the historical park that provide important educational and interpretive opportunities relating to the heritage of the Cane River region. The Secretary may also enter into cooperative agreements for the purpose of facilitating the preservation of important historic sites and structures identified in the historical park's general management plan or other heritage elements related to the heritage of the Cane River region. Such cooperative agreements shall specify that the National Park Service shall have reasonable rights of access for operational and visitor use needs and that preservation treatments will meet the Secretary's standards for rehabilitation of historic buildings.

(2) The Secretary is authorized to enter into cooperative agreements with the City of Natchitoches, the State of Louisiana, and other public or private organizations for the development of the interpretive center, educational programs, and other materials that will facilitate public use of the historical park and heritage area.

(e) Research

The Secretary, acting through the National Park Service, shall coordinate a comprehensive research program on the complex history of the Cane River region, including ethnography studies of the living communities along the Cane River, and how past and present generations have adapted to their environment, including genealogical studies of families within the Cane River area. Research shall include, but not be limited to, the extensive primary historic documents within the Natchitoches and Cane River areas, and curation methods for their care and exhibition. The research program shall be coordinated with Northwestern State University of

[1] So in original. Probably should be ''Cane River National Heritage Area Commission''.

Louisiana, and the National Center for Preservation of Technology and Training in Natchitoches.

(Pub. L. 103–449, title III, § 304, Nov. 2, 1994, 108 Stat. 4758.)

§ 410ccc–3. Acquisition of property

(a) General authority

Except as otherwise provided in this section, the Secretary is authorized to acquire lands and interest therein within the boundaries of the historical park by donation, purchase with donated or appropriated funds, or exchange.

(b) State and local properties

Lands and interests therein that are owned by the State of Louisiana, or any political subdivision thereof, may be acquired only by donation or exchange.

(c) Museum Contents, Inc.

Lands and structures identified in section 410ccc–1(b)(2) of this title may be acquired only by donation.

(d) Cooperative agreement sites

Lands and interests therein that are the subject of cooperative agreements pursuant to section 410ccc–1(b)(3) of this title shall not be acquired except with the consent of the owner thereof.

(Pub. L. 103–449, title III, § 305, Nov. 2, 1994, 108 Stat. 4759.)

§ 410ccc–4. General management plan

Within 3 years after the date funds are made available therefor and in consultation with the Cane River Heritage Area Commission,[1] the National Park Service shall prepare a general management plan for the historical park. The plan shall include, but need not be limited to—

(1) a visitor use plan indicating programs and facilities that will be provided for public use, including the location and cost of an interpretive center;

(2) programs and management actions that the National Park Service will undertake cooperatively with the heritage area commission,[2] including preservation treatments for important sites, structures, objects, and research materials. Planning shall address educational media, roadway signing, and brochures that could be coordinated with the Commission pursuant to section 410ccc–23 of this title; and

(3) preservation and use plans for any sites and structures that are identified for National Park Service involvement through cooperative agreements.

(Pub. L. 103–449, title III, § 306, Nov. 2, 1994, 108 Stat. 4760.)

[1] So in original. Probably should be ''Cane River National Heritage Area Commission,''.

[2] So in original. Probably should be ''Heritage Area Commission,''.

PART B—CANE RIVER NATIONAL HERITAGE AREA

§ 410ccc–21. Establishment

(a) In general

There is hereby established the Cane River National Heritage Area (hereinafter in this part referred to as the ''heritage area'').

(b) Purpose

In furtherance of the need to recognize the value and importance of the Cane River region and in recognition of the findings of section 410ccc(a) of this title, it is the purpose of this part to establish a heritage area to complement the historical park and to provide for a culturally sensitive approach to the preservation of the heritage of the Cane River region, and for other needs including—

(1) recognizing areas important to the Nation's heritage and identity;

(2) assisting in the preservation and enhancement of the cultural landscape and traditions of the Cane River region;

(3) providing a framework for those who live within this important dynamic cultural landscape to assist in preservation and educational actions; and

(4) minimizing the need for Federal land acquisition and management.

(c) Area included

The heritage area shall include—

(1) an area approximately 1 mile on both sides of the Cane River as depicted on map CARI, 80,000A, dated May 1994;

(2) those properties within the Natchitoches National Historic Landmark District which are the subject of cooperative agreements pursuant to section 410ccc–2(d) of this title;

(3) the Los Adaes State Commemorative Area;

(4) the Fort Jesup State Commemorative Area;

(5) the Fort St. Jean Baptiste State Commemorative Area; and

(6) the Kate Chopin House.

A final identification of all areas and sites to be included in the heritage area shall be included in the heritage area management plan as required in section 410ccc–23 of this title.

(Pub. L. 103–449, title IV, § 401, Nov. 2, 1994, 108 Stat. 4760.)

§ 410ccc–22. Cane River National Heritage Area Commission

(a) Establishment

To assist in implementing the purposes of this subchapter[1] and to provide guidance for the management of the heritage area, there is established the Cane River National Heritage Area Commission (hereinafter in this part referred to as the ''Commission'').

(b) Membership

The Commission shall consist of 19 members to be appointed no later than 6 months after November 2, 1994. The Commission shall be appointed by the Secretary as follows—

[1] See References in Text note below.

(1) one member from recommendations submitted by the Mayor of Natchitoches;

(2) one member from recommendations submitted by the Association for the Preservation of Historic Natchitoches;

(3) one member from recommendations submitted by the Natchitoches Historic Foundation, Inc.;

(4) two members with experience in and knowledge of tourism in the heritage area from recommendations submitted by local business and tourism organizations;

(5) one member from recommendations submitted by the Governor of the State of Louisiana;

(6) one member from recommendations submitted by the Police Jury of Natchitoches Parish;

(7) one member from recommendations submitted by the Concern[2] Citizens of Cloutierville;

(8) one member from recommendations submitted by the St. Augustine Historical Society;

(9) one member from recommendations submitted by the Black Heritage Committee;

(10) one member from recommendations submitted by the Los Adaes/Robeline Community;

(11) one member from recommendations submitted by the Natchitoches Historic District Commission;

(12) one member from recommendations submitted by the Cane River Waterway Commission;

(13) two members who are landowners in and residents of the heritage area;

(14) one member with experience and knowledge of historic preservation from recommendations submitted by the Museum Contents, Inc.;

(15) one member with experience and knowledge of historic preservation from recommendations submitted by the President of Northwestern State University of Louisiana;

(16) one member with experience in and knowledge of environmental, recreational and conservation matters affecting the heritage area from recommendations submitted by the Natchitoches Sportsmans[3] Association and other local recreational and environmental organizations; and

(17) the director of the National Park Service, or the Director's designee, ex officio.

(c) Duties of Commission

The Commission shall—

(1) prepare a management plan for the heritage area in consultation with the National Park Service, the State of Louisiana, the City of Natchitoches, Natchitoches Parish, interested groups, property owners, and the public;

(2) consult with the Secretary on the preparation of the general management plan for the historical park;

(3) develop cooperative agreements with property owners, preservation groups, educational groups, the State of Louisiana, the City of Natchitoches, universities, and tourism groups, and other groups to further the purposes of this subchapter; and

(4) identify appropriate entities, such as a non-profit corporation, that could be established to assume the responsibilities of the Commission following its termination.

(d) Powers of Commission

In furtherance of the purposes of this subchapter, the Commission is authorized to—

(1) procure temporary and intermittent services to the same extent that is authorized by section 3109(b) of title 5, but at rates determined by the Commission to be reasonable;

(2) accept the services of personnel detailed from the State of Louisiana or any political subdivision thereof, and may reimburse the State or political subdivision for such services;

(3) upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties;

(4) appoint and fix the compensation of such staff as may be necessary to carry out its duties. Staff shall be appointed subject to the provisions of title 5 governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(5) enter into cooperative agreements with public or private individuals or entities for research, historic preservation, and education purposes;

(6) make grants to assist in the preparation of studies that identify, preserve, and plan for the management of the heritage area;

(7) notwithstanding any other provision of law, seek and accept donations of funds or services from individuals, foundations, or other public or private entities and expend the same for the purposes of providing services and programs in furtherance of the purposes of this subchapter;

(8) assist others in developing educational, informational, and interpretive programs and facilities;

(9) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may consider appropriate; and

(10) use the United States mails in the same manner and under the same conditions as other departments or agencies of the United States.

(e) Compensation

Members of the Commission shall receive no compensation for their service on the Commission. While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

[2] So in original.

[3] So in original. Probably should be ''Sportsman's''.

(f) Chairman

The Commission shall elect a chairman from among its members. The term of the chairman shall be for 3 years.

(g) Terms

The terms of Commission members shall be for 3 years. Any member of the Commission appointed by the Secretary for a 3-year term may serve after expiration of his or her term until a successor is appointed. Any vacancy shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor was appointed.

(h) Annual reports

The Commission shall submit an annual report to the Secretary identifying its expenses and any income, the entities to which any grants or technical assistance were made during the year for which the report is made, and actions that are planned for the following year.

(Pub. L. 103–449, title IV, § 402, Nov. 2, 1994, 108 Stat. 4761.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original ''titles II and III of this Act'' and was translated as reading ''titles III and IV of this Act'' meaning titles III and IV of Pub. L. 103–449, which are classified generally to this subchapter, to reflect the probable intent of Congress in view of similar references in subsecs. (c) and (d) of this section. Title II of Pub. L. 103–449, known as the Weir Farm National Historic Site Expansion Act of 1994, amended provisions listed in a table of National Historic Sites set out under section 461 of this title.

§ 410ccc–23. Preparation of plan

(a) In general

Within 3 years after the Commission conducts its first meeting, it shall prepare and submit a heritage area management plan to the Governor of the State of Louisiana. The Governor shall, if the Governor approves the plan, submit it to the Secretary for review and approval. The Secretary shall provide technical assistance to the Commission in the preparation and implementation of the plan, in concert with actions by the National Park Service to prepare a general management plan for the historical park. The plan shall consider local government plans and shall present a unified heritage preservation and education plan for the heritage area. The plan shall include, but not be limited to—

(1) an inventory of important properties and cultural landscapes that should be preserved, managed, developed, and maintained because of their cultural, natural, and public use significance;

(2) an analysis of current land uses within the area and how they affect the goals of preservation and public use of the heritage area;

(3) an interpretive plan to address the cultural and natural history of the area, and actions to enhance visitor use. This element of the plan shall be undertaken in consultation with the National Park Service and visitor use plans for the historical park;

(4) recommendations for coordinating actions by local, State, and Federal governments within the heritage area, to further the purposes of this subchapter; and

(5) an implementation program for the plan including desired actions by State and local governments and other involved groups and entities.

(b) Approval of plan

The Secretary shall approve or disapprove the plan within 90 days after receipt of the plan from the Commission. The Commission shall notify the Secretary of the status of approval by the Governor of Louisiana when the plan is submitted for review and approval. In determining whether or not to approve the plan the Secretary shall consider—

(1) whether the Commission has afforded adequate opportunity, including public meetings and hearings, for public and governmental involvement in the preparation of the plan; and

(2) whether reasonable assurances have been received from the State and local governments that the plan is supported and that the implementation program is feasible.

(c) Disapproval of plan

If the Secretary disapproves the plan, he shall advise the Commission in writing of the reasons for disapproval, and shall provide recommendations and assistance in the revision plan. Following completion of any revisions to the plan, the Commission shall resubmit the plan to the Governor of Louisiana for approval, and to the Secretary, who shall approve or disapprove the plan within 90 days after the date that the plan is revised.

(Pub. L. 103–449, title IV, § 403, Nov. 2, 1994, 108 Stat. 4763.)

§ 410ccc–24. Termination of Heritage Area Commission

(a) Termination

The Commission shall terminate on the day occurring 10 years after the first official meeting of the Commission.

(b) Extension

The Commission may petition to be extended for a period of not more than 5 years beginning on the day referred to in subsection (a) of this section, provided the Commission determines a critical need to fulfill the purposes of this subchapter; and the Commission obtains approval from the Secretary, in consultation with the Governor of Louisiana.

(c) Heritage area management following termination of Commission

The national heritage area status for the Cane River region shall continue following the termination of the Commission. The management plan, and partnerships and agreements subject to the plan shall guide the future management of the heritage area. The Commission, prior to its termination, shall recommend to the Governor of the State of Louisiana and the Secretary, appropriate entities, including the potential for a nonprofit corporation, to assume the responsibilities of the Commission.

(Pub. L. 103–449, title IV, § 404, Nov. 2, 1994, 108 Stat. 4764.)

§ 410ccc–25. Duties of other Federal agencies

Any Federal entity conducting or supporting activities directly affecting the heritage area shall—

(1) consult with the Secretary and the Commission with respect to implementation of their proposed actions; and

(2) to the maximum extent practicable, coordinate such activities with the Commission to minimize potential impacts on the resources of the heritage area.

(Pub. L. 103–449, title IV, § 405, Nov. 2, 1994, 108 Stat. 4764.)

§ 410ccc–26. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Pub. L. 103–449, title IV, § 406, Nov. 2, 1994, 108 Stat. 4765.)

SUBCHAPTER LIX–BB—NEW BEDFORD WHALING NATIONAL HISTORICAL PARK

§ 410ddd. New Bedford Whaling National Historical Park

(a) Findings and purposes

(1) Findings

The Congress finds that—

(A) the New Bedford National Historic Landmark District and associated historic sites as described in subsection (c)(2) of this section, including the Schooner Ernestina, are National Historic Landmarks and are listed on the National Register of Historic Places as historic sites associated with the history of whaling in the United States;

(B) the city of New Bedford was the 19th century capital of the world's whaling industry and retains significant architectural features, archival materials, and museum collections illustrative of this period;

(C) New Bedford's historic resources provide unique opportunities for illustrating and interpreting the whaling industry's contribution to the economic, social, and environmental history of the United States and provide opportunities for public use and enjoyment; and[1]

(D) during the nineteenth century, over two thousand whaling voyages sailed out of New Bedford to the Arctic region of Alaska, and joined Alaska Natives from Barrow, Alaska and other areas in the Arctic region in subsistence whaling activities; and

(E) the National Park System presently contains no sites commemorating whaling and its contribution to American history.

(2) Purposes

The purposes of this section are—

(A) to help preserve, protect, and interpret the resources within the areas described in subsection (c)(2) of this section, including architecture, setting, and associated archival and museum collections;

(B) to collaborate with the city of New Bedford and with associated historical, cultural, and preservation organizations to further the purposes of the park established under this section; and

(C) to provide opportunities for the inspirational benefit and education of the American people.

(b) Definitions

For the purposes of this section—

(1) the term ''park'' means the New Bedford Whaling National Historical Park established by subsection (c) of this section; and

(2) the term ''Secretary'' means the Secretary of the Interior.

(c) New Bedford Whaling National Historical Park

(1) Establishment

In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain districts, structures, and relics located in New Bedford, Massachusetts, and associated with the history of whaling and related social and economic themes in America, there is established the New Bedford Whaling National Historical Park.

(2) Boundaries

(A) The boundaries of the park shall be those generally depicted on the map numbered NAR–P49–80,000–4 and dated June 1994. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service. In case of any conflict between the descriptions set forth in clauses (i) through (iv) and such map, such map shall govern. The park shall include the following:

(i) The area included within the New Bedford Historic District (a National Landmark District), also known as the Bedford Landing Waterfront Historic District, as listed within the National Register of Historic Places and in the Massachusetts State Register of Historic Places.

(ii) The National Historic Landmark Schooner Ernestina, with its home port in New Bedford.

(iii) The land along the eastern boundary of the New Bedford National Historic Landmark District over the east side of MacArthur Drive from the Route 6 overpass on the north to an extension of School Street on the south.

(iv) The land north of Elm Street in New Bedford, bounded by Acushnet Avenue on the west, Route 6 (ramps) on the north, MacArthur Drive on the east, and Elm Street on the south.

(B) In addition to the sites, areas, and relics referred to in subparagraph (A), the Secretary may assist in the interpretation and preservation of each of the following:

(i) The southwest corner of the State Pier.

(ii) Waterfront Park, immediately south of land adjacent to the State Pier.

(iii) The Rotch-Jones-Duff House and Garden Museum, located at 396 County Street.

[1] So in original. The word ''and'' probably should not appear.

(iv) The Wharfinger Building, located on Piers 3 and 4.

(v) The Bourne Counting House, located on Merrill's Wharf.

(d) Related facilities

To ensure that the contribution of Alaska Natives to the history of whaling in the United States is fully recognized, the Secretary shall provide—

(1) financial and other assistance to establish links between the New Bedford Whaling National Historical Park and the North Slope Borough Cultural Center, located in Barrow, Alaska; and

(2) appropriate assistance and funding for the North Slope Borough Cultural Center.

(e) Administration of park

(1) In general

The park shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, 4, and 461 to 467 of this title.

(2) Cooperative agreements

(A) The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the park.

(B) Any payment made by the Secretary pursuant to a cooperative agreement under this paragraph shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this section, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(3) Non-Federal matching requirements

(A) Funds authorized to be appropriated to the Secretary for the purposes of—

(i) cooperative agreements under paragraph (2) shall be expended in the ratio of one dollar of Federal funds for each four dollars of funds contributed by non-Federal sources; and

(ii) construction, restoration, and rehabilitation of visitors and interpretive facilities (other than annual operation and maintenance costs) shall be expended in the ratio of one dollar of Federal funds for each one dollar of funds contributed by non-Federal sources.

(B) For the purposes of this paragraph, the Secretary is authorized to accept from non-Federal sources, and to utilize for purposes of this section, any money so contributed. With the approval of the Secretary, any donation of property, services, or goods from a non-Federal source may be considered as a contribution of funds from a non-Federal source for the purposes of this paragraph.

(4) Acquisition of real property

For the purposes of the park, the Secretary may acquire only by donation such lands, interests in lands, and improvements thereon within the park as are needed for essential visitor contact and interpretive facilities.

(5) Other property, funds, and services

The Secretary may accept donated funds, property, and services to carry out this section.

(f) General management plan

Not later than the end of the second fiscal year beginning after November 12, 1996, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a general management plan for the park and shall implement such plan as soon as practically possible. The plan shall be prepared in accordance with section 1a–7(b) of this title and other applicable law.

(g) Authorization of appropriations

(1) In general

Except as provided in paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out annual operations and maintenance with respect to the park and to carry out the activities under subsection (d) of this section.

(2) Exceptions

In carrying out this section—

(A) not more than $5,000,000 may be appropriated for construction, restoration, and rehabilitation of visitor and interpretive facilities, and directional and visitor orientation signage;

(B) none of the funds authorized to be appropriated by this section may be used for the operation or maintenance of the Schooner Ernestina; and

(C) not more than $50,000 annually of Federal funds may be used for interpretive and education programs for the Schooner Ernestina pursuant to cooperative agreements under subsection (e)(2) of this section.

(Pub. L. 104–333, div. I, title V, §511, Nov. 12, 1996, 110 Stat. 4159; Pub. L. 106–176, title I, §111(a), Mar. 10, 2000, 114 Stat. 26; Pub. L. 108–7, div. F, title I, §154, Feb. 20, 2003, 117 Stat. 246.)

AMENDMENTS

2003—Subsec. (g)(2)(A). Pub. L. 108–7 substituted ''$5,000,000'' for ''$2,000,000''.

2000—Pub. L. 106–176, §111(a)(1), substituted ''Whaling National Historical Park'' for ''National Historic Landmark District'' in section catchline.

Subsec. (c)(1). Pub. L. 106–176, §111(a)(2)(A), substituted ''certain districts, structures, and relics'' for ''certain districts structures, and relics''.

Subsec. (c)(2)(A)(i). Pub. L. 106–176, §111(a)(2)(B), substituted ''The area included within the New Bedford Historic District (a National Landmark District), also known as the'' for ''The area included with the New Bedford National Historic Landmark District, known as the''.

Subsec. (d)(2). Pub. L. 106–176, §111(a)(3), struck out ''to provide'' before ''appropriate assistance''.

Subsecs. (e), (f). Pub. L. 106–176, §111(a)(4), redesignated subsec. (e), relating to general management plan, as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 106–176, §111(a)(4), redesignated subsec. (f) as (g).

Subsec. (g)(1). Pub. L. 106–176, §111(a)(5)(A), substituted ''subsection (d) of this section.'' for ''section 3(D).''

Subsec. (g)(2)(C). Pub. L. 106–176, §111(a)(5)(B), substituted ''cooperative agreements under subsection (e)(2) of this section'' for ''cooperative grants under subsection (d)(2) of this section''.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

SUBCHAPTER LIX–CC—ADAMS NATIONAL HISTORICAL PARK

§ 410eee. Findings and purposes

(a) Findings

Congress finds that—

(1) in 1946, Secretary of the Interior J.A. Krug, by means of the authority granted the Secretary of the Interior under section 462 of this title, established the Adams Mansion National Historic Site, located in Quincy, Massachusetts;

(2) in 1952, Acting Secretary of the Interior Vernon D. Northrup enlarged the site and renamed it the Adams National Historic Site, using the Secretary's authority as provided in sections 461 to 467 of this title;

(3) in 1972, Congress, through Public Law 92–272, authorized the Secretary of the Interior to add approximately 3.68 acres at Adams National Historic Site;

(4) in 1978, Congress, through Public Law 95–625, authorized the Secretary of the Interior to accept by conveyance the birthplaces of John Adams and John Quincy Adams, both in Quincy, Massachusetts, to be managed as part of the Adams National Historic Site;

(5) in 1980, Congress, through Public Law 96–435, authorized the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Massachusetts, the burial place of John Adams, Abigail Adams, and John Quincy Adams and his wife, to be administered as part of the Adams National Historic Site;

(6) the actions taken by past Secretaries of the Interior and past Congresses to preserve for the benefit, education and inspiration of present and future generations of Americans the home, property, birthplaces and burial site of John Adams, John Quincy Adams, and Abigail Adams, have resulted in a multi-site unit of the National Park System with no overarching enabling or authorizing legislation; and

(7) that[1] the sites and resources associated with John Adams, second President of the United States, his wife Abigail Adams, and John Quincy Adams, sixth President of the United States, require recognition as a national historical park in the National Park System.

(b) Purpose

The purpose of this subchapter is to establish the Adams National Historical Park in the City of Quincy, in the Commonwealth of Massachusetts, to preserve, maintain and interpret the home, property, birthplaces, and burial site of John Adams and his wife Abigail, John Quincy Adams, and subsequent generations of the Adams family associated with the Adams property in Quincy, Massachusetts, for the benefit, education and inspiration of present and future generations of Americans.

(Pub. L. 105–342, §2, Nov. 2, 1998, 112 Stat. 3200.)

REFERENCES IN TEXT

Public Law 92–272, referred to in subsec. (a)(3), is Pub. L. 92–272, Apr. 11, 1972, 86 Stat. 120. Provisions of Pub. L. 92–272 relating to Adams National Historic Site appear at 86 Stat. 121 and are not classified to the Code.

Public Law 95–625, referred to in subsec. (a)(4), is Pub. L. 95–625, Nov. 10, 1978, 92 Stat. 3467, as amended. Provisions of Pub. L. 95–625 relating to Adams National Historic Site appear at 92 Stat. 3479 and are not classified to the Code.

Public Law 96–435, referred to in subsec. (a)(5), is Pub. L. 96–435, Oct. 10, 1980, 94 Stat. 1861, which is not classified to the Code.

SHORT TITLE

Pub. L. 105–342, §1, Nov. 2, 1998, 112 Stat. 3200, provided that: ''This Act [enacting this subchapter] may be cited as the 'Adams National Historical Park Act of 1998'.''

§ 410eee–1. Definitions

As used in this subchapter:

(1) Historical park

The term ''historical park'' means the Adams National Historical Park established in section 410eee–2 of this title.

(2) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 105–342, §3, Nov. 2, 1998, 112 Stat. 3201.)

§ 410eee–2. Adams National Historical Park

(a) Establishment

In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain properties in Quincy, Massachusetts, associated with John Adams, second President of the United States, his wife, Abigail Adams, John Quincy Adams, sixth President of the United States, and his wife, Louisa Adams, there is established the Adams National Historical Park as a unit of the National Park System.

(b) Boundaries

The historical park shall be comprised of the following:

(1) All property administered by the National Park Service in the Adams National Historic Site as of November 2, 1998, as well as all property previously authorized to be acquired by the Secretary for inclusion in the Adams National Historic Site, as generally depicted on the map entitled ''Adams National Historical Park'', numbered NERO 386/80,000, and dated April 1998.

(2) All property authorized to be acquired for inclusion in the historical park by this subchapter or other law enacted after November 2, 1998.

(c) Visitor and administrative sites

To preserve the historical character and landscape of the main features of the historical

[1] So in original. The word ''that'' probably should not appear.

park, the Secretary may acquire up to 10 acres for the development of visitor, administrative, museum, curatorial, and maintenance facilities adjacent to or in the general proximity of the property depicted on the map identified in subsection (b)(1)(A)[1] of this section.

(d) Map

The map of the historical park shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(Pub. L. 105–342, § 4, Nov. 2, 1998, 112 Stat. 3201.)

§ 410eee–3. Administration

(a) In general

The park shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, 4, and 461 to 467 of this title.

(b) Cooperative agreements

(1) The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the park.

(2) Any payment made by the Secretary pursuant to a cooperative agreement under this paragraph shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this subchapter, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such a project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(c) Acquisition of real property

For the purposes of the park, the Secretary is authorized to acquire real property with appropriated or donated funds, by donation, or by exchange, within the boundaries of the park.

(d) Omitted

(e) References to historic site

Any reference in any law (other than this subchapter), regulation, document, record, map, or other paper of the United States to the Adams National Historic Site shall be considered to be a reference to the historical park.

(Pub. L. 105–342, § 5, Nov. 2, 1998, 112 Stat. 3201.)

CODIFICATION

Section is comprised of section 5 of Pub. L. 105–342. Subsec. (d) of section 5 of Pub. L. 105–342 amended section 312 of Pub. L. 95–625 and the first section of Pub. L. 96–435, which are not classified to the Code.

§ 410eee–4. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Pub. L. 105–342, § 6, Nov. 2, 1998, 112 Stat. 3202.)

[1] So in original. Probably should be subsection ''(b)(1)''.

SUBCHAPTER LIX–DD—BLACK CANYON OF THE GUNNISON NATIONAL PARK AND GUNNISON GORGE NATIONAL CONSERVATION AREA

§ 410fff. Findings

Congress finds that—

(1) Black Canyon of the Gunnison National Monument was established for the preservation of its spectacular gorges and additional features of scenic, scientific, and educational interest;

(2) the Black Canyon of the Gunnison and adjacent upland include a variety of unique ecological, geological, scenic, historical, and wildlife components enhanced by the serenity and rural western setting of the area;

(3) the Black Canyon of the Gunnison and adjacent land provide extensive opportunities for educational and recreational activities, and are publicly used for hiking, camping, and fishing, and for wilderness value, including solitude;

(4) adjacent public land downstream of the Black Canyon of the Gunnison National Monument has wilderness value and offers unique geological, paleontological, scientific, educational, and recreational resources;

(5) public land adjacent to the Black Canyon of the Gunnison National Monument contributes to the protection of the wildlife, viewshed, and scenic qualities of the Black Canyon;

(6) some private land adjacent to the Black Canyon of the Gunnison National Monument has exceptional natural and scenic value that would be threatened by future development pressures;

(7) the benefits of designating public and private land surrounding the national monument as a national park include greater long-term protection of the resources and expanded visitor use opportunities; and

(8) land in and adjacent to the Black Canyon of the Gunnison Gorge is—

(A) recognized for offering exceptional multiple use opportunities;

(B) recognized for offering natural, cultural, scenic, wilderness, and recreational resources; and

(C) worthy of additional protection as a national conservation area, and with respect to the Gunnison Gorge itself, as a component of the national wilderness system.

(Pub. L. 106–76, § 2, Oct. 21, 1999, 113 Stat. 1126.)

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–128, § 1, Nov. 17, 2003, 117 Stat. 1355, provided that: ''This Act [amending sections 410fff–2, 410fff–3, and 410fff–5 of this title and enacting provisions set out as notes under section 410fff–2 of this title] may be cited as the 'Black Canyon of the Gunnison Boundary Revision Act of 2003'.''

SHORT TITLE

Pub. L. 106–76, § 1, Oct. 21, 1999, 113 Stat. 1126, provided that: ''This Act [enacting this subchapter and amending provisions listed in a table of National Monuments Established Under Presidential Proclamation set out under section 431 of this title and provisions listed in a table of Wilderness Areas set out under section 1132 of this title] may be cited as the 'Black Canyon of the

Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999'.''

§ 410fff–1. Definitions

In this subchapter:

(1) Conservation Area

The term ''Conservation Area'' means the Gunnison Gorge National Conservation Area, consisting of approximately 57,725 acres surrounding the Gunnison Gorge as depicted on the Map.

(2) Map

The term ''Map'' means the map entitled ''Black Canyon of the Gunnison National Park and Gunnison Gorge NCA—1/22/99''. The map shall be on file and available for public inspection in the offices of the Department of the Interior.

(3) Park

The term ''Park'' means the Black Canyon of the Gunnison National Park established under section 410fff–2 of this title and depicted on the Map.

(4) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 106–76, § 3, Oct. 21, 1999, 113 Stat. 1127.)

§ 410fff–2. Establishment of Black Canyon of the Gunnison National Park

(a) Establishment

(1) There is hereby established the Black Canyon of the Gunnison National Park in the State of Colorado as generally depicted on the map identified in section 410fff–1 of this title. The Black Canyon of the Gunnison National Monument is hereby abolished as such, the lands and interests therein are incorporated within and made part of the new Black Canyon of the Gunnison National Park, and any funds available for purposes of the monument shall be available for purposes of the park.[1]

(2) The boundary of the Park is revised to include the addition of approximately 2,530 acres, as generally depicted on the map entitled ''Black Canyon of the Gunnison National Park and Gunnison Gorge NCA Boundary Modifications'' and dated April 2, 2003.

(b) Administration

Upon enactment of this subchapter, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management which are identified on the map for inclusion in the park[1] to the administrative jurisdiction of the National Park Service. The Secretary shall administer the park[1] in accordance with this subchapter and laws generally applicable to units of the National Park System, including sections 1, 2, 3, 4, and 461 to 467 of this title.

(c) Maps and legal description

As soon as practicable after October 21, 1999, the Secretary shall file maps and a legal description of the park[1] with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives. Such maps and legal description shall have the same force and effect as if included in this subchapter, except that the Secretary may correct clerical and typographical errors in such legal description and maps. The maps and legal description shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) Withdrawal

Subject to valid existing rights, all Federal lands within the park[1] are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the mining laws; and from disposition under all laws relating to mineral and geothermal leasing, and all amendments thereto.

(e) Grazing

(1)(A) Consistent with the requirements of this subsection, including the limitation in paragraph (3), the Secretary shall allow the grazing of livestock within the park[1] to continue where authorized under permits or leases in existence as of October 21, 1999. Grazing shall be at no more than the current level, and subject to applicable laws and National Park Service regulations.

(B) Nothing in this subsection shall be construed as extending grazing privileges for any party or their assignee in any area of the park[1] where, prior to October 21, 1999, such use was scheduled to expire according to the terms of a settlement by the United States Claims Court affecting property incorporated into the boundary of the Black Canyon of the Gunnison National Monument.

(C) Nothing in this subsection shall prohibit the Secretary from accepting the voluntary termination of leases or permits for grazing within the park.[1]

(D) If land within the Park on which the grazing of livestock is authorized under permits or leases under subparagraph (A) is exchanged for private land under section 410fff–3(a) of this title, the Secretary shall transfer any grazing privileges to the land acquired in the exchange.

(2) Within areas of the park[1] designated as wilderness, the grazing of livestock, where authorized under permits in existence as of October 21, 1999, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, consistent with this subchapter, the Wilderness Act [16 U.S.C. 1131 et seq.], and other applicable laws and National Park Service regulations.

(3) With respect to the grazing permits and leases referenced in this subsection, the Secretary shall allow grazing to continue, subject to periodic renewal—

(A) with respect to a permit or lease issued to an individual, for the lifetime of the individual who was the holder of the permit or lease on October 21, 1999;

(B) with respect to the permit or lease issued to LeValley Ranch Ltd., for the lifetime of the last surviving limited partner as of October 21, 1999;

[1] So in original. The word ''park'' probably should be capitalized.

(C) with respect to the permit or lease issued to Sanburg Herefords, L.L.P., for the lifetime of the last surviving general partner as of October 21, 1999; and

(D) with respect to a permit or lease issued to a corporation or other legal entity, for a period which shall terminate on the same date that the last permit or lease held under subparagraphs (A), (B), or (C) terminates, unless the corporation or legal entity dissolves or terminates before such time, in which case the permit or lease shall terminate with the corporation or legal entity.

(Pub. L. 106–76, § 4, Oct. 21, 1999, 113 Stat. 1127; Pub. L. 108–128, §§ 2(a), 4, Nov. 17, 2003, 117 Stat. 1355, 1356.)

REFERENCES IN TEXT

Upon enactment of this subchapter, referred to in subsec. (b), was in the original ''upon enactment of this title'', which was translated as reading ''upon enactment of this act'', meaning upon enactment of Pub. L. 106–76, which was approved Oct. 21, 1999, to reflect the probable intent of Congress.

The Wilderness Act, referred to in subsec. (e)(2), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

CODIFICATION

Section 4 of Pub. L. 108–128, which directed the amendment of section 4 of the ''Black Canyon of the Gunnison National Park and Gunnison Gorge National Area Act of 1999'', was executed to this section, which is section 4 of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999, to reflect the probable intent of Congress. See 2003 Amendment notes below.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–128, § 2(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (e)(1)(D). Pub. L. 108–128, § 4(a), added subpar. (D). See Codification note above.

Subsec. (e)(3). Pub. L. 108–128, § 4(b), added subpars. (B) and (C), redesignated former subpar. (B) as (D), and, in subpar. (D), substituted ''corporation or'' for ''partnership, corporation, or'' in three places and ''subparagraphs (A), (B), or (C)'' for ''subparagraph (A)''. See Codification note above.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

TRANSFER OF ADMINISTRATIVE JURISDICTION

Pub. L. 108–128, § 2(b), Nov. 17, 2003, 117 Stat. 1355, provided that: ''On the date of enactment of this Act [Nov. 17, 2003], the Secretary shall transfer the land under the jurisdiction of the Bureau of Land Management identified as 'Tract C' on the map described in subsection (a)(2) [amending this section] to the administrative jurisdiction of the National Park Service for inclusion in the Black Canyon of the Gunnison National Park.''

ACCESS TO WATER DELIVERY FACILITIES

Pub. L. 108–128, § 5, Nov. 17, 2003, 117 Stat. 1357, provided that: ''The Commissioner of Reclamation shall retain administrative jurisdiction over the Crystal Dam Access Road and land, facilities, and roads of the Bureau of Reclamation in the East Portal area, including the Gunnison Tunnel, and the Crystal Dam area, as depicted on the map entitled 'Black Canyon of the Gunnison National Park and Gunnison Gorge NCA Boundary Modifications', and dated April 2, 2003, for the maintenance, repair, construction, replacement, and operation of any facilities relating to the delivery of water and power under the jurisdiction of the Bureau of Reclamation.''

§ 410fff–3. Acquisition of property and minor boundary adjustments

(a) Additional acquisitions

(1) In general

The Secretary may acquire land or interests in land depicted on the Map or the map described in section 410fff–2(a)(2) of this title as proposed additions.

(2) Method of acquisition

(A) In general

Land or interests in land may be acquired by—

(i) donation;

(ii) transfer;

(iii) purchase with donated or appropriated funds; or

(iv) exchange.

(B) Consent

No land or interest in land may be acquired without the consent of the owner of the land.

(b) Boundary revision

After acquiring land for the Park, the Secretary shall—

(1) revise the boundary of the Park to include newly-acquired land within the boundary; and

(2) administer newly-acquired land subject to applicable laws (including regulations).

(c) Boundary survey

As soon as practicable and subject to the availability of funds the Secretary shall complete an official boundary survey of the Park.

(d) Hunting on privately owned lands

(1) In general

The Secretary may permit hunting on privately owned land added to the Park under this subchapter, subject to limitations, conditions, or regulations that may be prescribed by the Secretary.

(2) Termination of authority

On the date that the Secretary acquires fee ownership of any privately owned land added to the Park under this subchapter, the authority under paragraph (1) shall terminate with respect to the privately owned land acquired.

(Pub. L. 106–76, § 5, Oct. 21, 1999, 113 Stat. 1128; Pub. L. 108–128, § 2(c), Nov. 17, 2003, 117 Stat. 1355.)

AMENDMENTS

2003—Subsec. (a)(1). Pub. L. 108–128 substituted ''Map or the map described in section 410fff–2(a)(2) of this title'' for ''Map''.

§ 410fff–4. Expansion of the Black Canyon of the Gunnison Wilderness

(a) Expansion of Black Canyon of the Gunnison Wilderness

The Black Canyon of the Gunnison Wilderness, as established by subsection (b) of the first sec-

tion of Public Law 94–567 (90 Stat. 2692), is expanded to include the parcel of land depicted on the Map as ''Tract A'' and consisting of approximately 4,419 acres.

(b) Administration

The Black Canyon of the Gunnison Wilderness shall be administered as a component of the Park.

(Pub. L. 106–76, § 6, Oct. 21, 1999, 113 Stat. 1129.)

REFERENCES IN TEXT

Subsection (b) of the first section of Public Law 94–567, referred to in subsec. (a), is Pub. L. 94–567, § 1(b), Oct. 20, 1976, 90 Stat. 2692, which enacted provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

§ 410fff–5. Establishment of the Gunnison Gorge National Conservation Area

(a) In general

(1) There is established the Gunnison Gorge National Conservation Area, consisting of approximately 57,725 acres as generally depicted on the Map.

(2) The boundary of the Conservation Area is revised to include the addition of approximately 7,100 acres, as generally depicted on the map entitled ''Black Canyon of the Gunnison National Park and Gunnison Gorge NCA Boundary Modifications'', and dated April 2, 2003.

(b) Management of Conservation Area

The Secretary, acting through the Director of the Bureau of Land Management, shall manage the Conservation Area to protect the resources of the Conservation Area in accordance with—

(1) this subchapter;

(2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(3) other applicable provisions of law.

(c) Withdrawal

Subject to valid existing rights, all Federal lands within the Conservation Area are hereby withdrawn from all forms of entry, appropriation or disposal under the public land laws; from location, entry, and patent under the mining laws; and from disposition under all laws relating to mineral and geothermal leasing, and all amendments thereto.

(d) Hunting, trapping, and fishing

(1) In general

The Secretary shall permit hunting, trapping, and fishing within the Conservation Area in accordance with applicable laws (including regulations) of the United States and the State of Colorado.

(2) Exception

The Secretary, after consultation with the Colorado Division of Wildlife, may issue regulations designating zones where and establishing periods when no hunting or trapping shall be permitted for reasons concerning—

(A) public safety;

(B) administration; or

(C) public use and enjoyment.

(e) Use of motorized vehicles

In addition to the use of motorized vehicles on established roadways, the use of motorized vehicles in the Conservation Area shall be allowed to the extent the use is compatible with off-highway vehicle designations as described in the management plan in effect on October 21, 1999.

(f) Conservation Area management plan

(1) In general

Not later than 4 years after October 21, 1999, the Secretary shall—

(A) develop a comprehensive plan for the long-range protection and management of the Conservation Area; and

(B) transmit the plan to—

(i) the Committee on Energy and Natural Resources of the Senate; and

(ii) the Committee on Resources of the House of Representatives.

(2) Contents of plan

The plan—

(A) shall describe the appropriate uses and management of the Conservation Area in accordance with this subchapter;

(B) may incorporate appropriate decisions contained in any management or activity plan for the area completed prior to October 21, 1999;

(C) may incorporate appropriate wildlife habitat management plans or other plans prepared for the land within or adjacent to the Conservation Area prior to October 21, 1999;

(D) shall be prepared in close consultation with appropriate Federal, State, county, and local agencies; and

(E) may use information developed prior to October 21, 1999, in studies of the land within or adjacent to the Conservation Area.

(g) Boundary revisions

The Secretary may make revisions to the boundary of the Conservation Area following acquisition of land necessary to accomplish the purposes for which the Conservation Area was designated.

(Pub. L. 106–76, § 7, Oct. 21, 1999, 113 Stat. 1129; Pub. L. 108–128, § 3, Nov. 17, 2003, 117 Stat. 1356.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (b)(2), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–128 designated existing provisions as par. (1) and added par. (2).

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 410fff–6. Designation of wilderness within the Conservation Area

(a) Gunnison Gorge Wilderness

(1) In general

Within the Conservation Area, there is designated as wilderness, and as a component of

the National Wilderness Preservation System, the Gunnison Gorge Wilderness, consisting of approximately 17,700 acres, as generally depicted on the Map.

(2) Administration

(A) Wilderness study area exemption

The approximately 300-acre portion of the wilderness study area depicted on the Map for release from section 1782 of title 43 shall not be subject to section 1782(c) of title 43.

(B) Incorporation into national Conservation Area

The portion of the wilderness study area described in subparagraph (A) shall be incorporated into the Conservation Area.

(b) Administration

Subject to valid rights in existence on October 21, 1999, the wilderness areas designated under this subchapter shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this subchapter and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

(c) State responsibility

As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this subchapter or in the Wilderness Act shall affect the jurisdiction or responsibilities of the State of Colorado with respect to wildlife and fish on the public land located in that State.

(d) Maps and legal descriptions

As soon as practicable after October 21, 1999, the Secretary of the Interior shall file a map and a legal description of the Gunnison Gorge Wilderness with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives. This map and description shall have the same force and effect as if included in this subchapter. The Secretary of the Interior may correct clerical and typographical errors in the map and legal description. The map and legal description shall be on file and available in the office of the Director of the Bureau of Land Management (BLM).

(Pub. L. 106–76, § 8, Oct. 21, 1999, 113 Stat. 1130.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsecs. (b) and (c), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The effective date of the Wilderness Act, referred to in subsec. (b), means Sept. 3, 1964, the date of enactment of Pub. L. 88–577, which enacted chapter 23 of this title.

The effective date of this subchapter, referred to in subsec. (b), means Oct. 21, 1999, the date of enactment of Pub. L. 106–76, which enacted this subchapter.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 410fff–7. Withdrawal

Subject to valid existing rights, the Federal lands identified on the Map as ''BLM Withdrawal (Tract B)'' (comprising approximately 1,154 acres) are hereby withdrawn from all forms of entry, appropriation or disposal under the public land laws; from location, entry, and patent under the mining laws; and from disposition under all laws relating to mineral and geothermal leasing, and all amendments thereto.

(Pub. L. 106–76, § 9, Oct. 21, 1999, 113 Stat. 1131.)

§ 410fff–8. Water rights

(a) Effect on water rights

Nothing in this subchapter shall—

(1) constitute an express or implied reservation of water for any purpose; or

(2) affect any water rights in existence prior to October 21, 1999, including any water rights held by the United States.

(b) Additional water rights

Any new water right that the Secretary determines is necessary for the purposes of this subchapter shall be established in accordance with the procedural and substantive requirements of the laws of the State of Colorado.

(Pub. L. 106–76, § 10, Oct. 21, 1999, 113 Stat. 1131.)

§ 410fff–9. Study of lands within and adjacent to Curecanti National Recreation Area

(a) In general

Not later than 3 years after October 21, 1999, the Secretary, acting through the Director of the National Park Service, shall conduct a study concerning land protection and open space within and adjacent to the area administered as the Curecanti National Recreation Area.

(b) Purpose of study

The study required to be completed under subsection (a) of this section shall—

(1) assess the natural, cultural, recreational and scenic resource value and character of the land within and surrounding the Curecanti National Recreation Area (including open vistas, wildlife habitat, and other public benefits);

(2) identify practicable alternatives that protect the resource value and character of the land within and surrounding the Curecanti National Recreation Area;

(3) recommend a variety of economically feasible and viable tools to achieve the purposes described in paragraphs (1) and (2); and

(4) estimate the costs of implementing the approaches recommended by the study.

(c) Submission of report

Not later than 3 years from October 21, 1999, the Secretary shall submit a report to Congress that—

(1) contains the findings of the study required by subsection (a) of this section;

(2) makes recommendations to Congress with respect to the findings of the study required by subsection (a) of this section; and

(3) makes recommendations to Congress regarding action that may be taken with respect to the land described in the report.

(d) Acquisition of additional land and interests in land

(1) In general

Prior to the completion of the study required by subsection (a) of this section, the Secretary may acquire certain private land or interests in land as depicted on the Map entitled ''Proposed Additions to the Curecanti National Recreation Area'', dated 01/25/99, totaling approximately 1,065 acres and entitled ''Hall and Fitti properties''.

(2) Method of acquisition

(A) In general

Land or an interest in land under paragraph (1) may be acquired by—

(i) donation;

(ii) purchase with donated or appropriated funds; or

(iii) exchange.

(B) Consent

No land or interest in land may be acquired without the consent of the owner of the land.

(C) Boundary revisions following acquisition

Following the acquisition of land under paragraph (1), the Secretary shall—

(i) revise the boundary of the Curecanti National Recreation Area to include newly-acquired land; and

(ii) administer newly-acquired land according to applicable laws (including regulations).

(Pub. L. 106–76, §11, Oct. 21, 1999, 113 Stat. 1131.)

§ 410fff–10. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subchapter.

(Pub. L. 106–76, §12, Oct. 21, 1999, 113 Stat. 1133.)

SUBCHAPTER LIX–EE—ROSIE THE RIVETER/WORLD WAR II HOME FRONT NATIONAL HISTORICAL PARK

§ 410ggg. Rosie the Riveter/World War II Home Front National Historical Park

(a) Establishment

In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain sites, structures, and areas located in Richmond, California, that are associated with the industrial, governmental, and citizen efforts that led to victory in World War II, there is established the Rosie the Riveter/World War II Home Front National Historical Park (in this subchapter referred to as the ''park'').

(b) Areas included

The boundaries of the park shall be those generally depicted on the map entitled ''Proposed Boundary Map, Rosie the Riveter/World War II Home Front National Historical Park'' numbered 963/80,000 and dated May 2000. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(Pub. L. 106–352, §2, Oct. 24, 2000, 114 Stat. 1370; Pub. L. 108–352, §6(1), Oct. 21, 2004, 118 Stat. 1396.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–352 substituted ''numbered 963/80,000'' for ''numbered 963/80000''.

SHORT TITLE

Pub. L. 106–352, §1, Oct. 24, 2000, 114 Stat. 1370, provided that: ''This Act [enacting this subchapter] may be cited as the 'Rosie the Riveter/World War II Home Front National Historical Park Establishment Act of 2000'.''

§ 410ggg–1. Administration of the National Historical Park

(a) In general

(1) General administration

The Secretary of the Interior (in this subchapter referred to as the ''Secretary'') shall administer the park in accordance with this subchapter and the provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title.

(2) Specific authorities

The Secretary may interpret the story of Rosie the Riveter and the World War II home front, conduct and maintain oral histories that relate to the World War II home front theme, and provide technical assistance in the preservation of historic properties that support this story.

(b) Cooperative agreements

(1) General agreements

The Secretary may enter into cooperative agreements with the owners of the Child Development Field Centers (Ruth C. Powers) (Maritime), Atchison Housing, the Kaiser-Permanente Field Hospital, and Richmond Fire Station 67A, pursuant to which the Secretary may mark, interpret, improve, restore, and provide technical assistance with respect to the preservation and interpretation of such properties. Such agreements shall contain, but need not be limited to, provisions under which the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes, and that no changes or alterations shall be made in the property except by mutual agreement.

(2) Limited agreements

The Secretary may consult and enter into cooperative agreements with interested persons for interpretation and technical assistance with the preservation of—

(A) the Ford Assembly Building;

(B) the intact dry docks/basin docks and five historic structures at Richmond Shipyard #3;

(C) the Shimada Peace Memorial Park;

(D) Westshore Park;

(E) the Rosie the Riveter Memorial;

(F) Sheridan Observation Point Park;

(G) the Bay Trail/Esplanade;

(H) Vincent Park; and

(I) the vessel S.S. RED OAK VICTORY, and Whirley Cranes associated with shipbuilding in Richmond.

(c) Education center

The Secretary may establish a World War II Home Front Education Center in the Ford Assembly Building. Such center shall include a program that allows for distance learning and linkages to other representative sites across the country, for the purpose of educating the public as to the significance of the site and the World War II Home Front.

(d) Use of Federal funds

(1) Non-Federal matching

(A) As a condition of expending any funds appropriated to the Secretary for the purposes of the cooperative agreements under subsection (b)(2) of this section, the Secretary shall require that such expenditure must be matched by expenditure of an equal amount of funds, goods, services, or in-kind contributions provided by non-Federal sources.

(B) With the approval of the Secretary, any donation of property, services, or goods from a non-Federal source may be considered as a contribution of funds from a non-Federal source for purposes of this paragraph.

(2) Cooperative agreement

Any payment made by the Secretary pursuant to a cooperative agreement under this section shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this subchapter, as determined by the Secretary, shall entitle the United States to reimbursement of the greater of—

(A) all funds paid by the Secretary to such project; or

(B) the proportion of the increased value of the project attributable to such payments, determined at the time of such conversion, use, or disposal.

(e) Acquisition

(1) Ford Assembly Building

The Secretary may acquire a leasehold interest in the Ford Assembly Building for the purposes of operating a World War II Home Front Education Center.

(2) Other facilities

The Secretary may acquire, from willing sellers, lands or interests in the Child Development Field Centers (Ruth C. Powers) (Maritime), Atchison Housing, the Kaiser-Permanente Field Hospital, and Richmond Fire Station 67A, through donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange.

(3) Artifacts

The Secretary may acquire and provide for the curation of historic artifacts that relate to the park.

(f) Donations

The Secretary may accept and use donations of funds, property, and services to carry out this subchapter.

(g) General management plan

(1) In general

Not later than 3 complete fiscal years after the date funds are made available, the Secretary shall prepare, in consultation with the City of Richmond, California, and transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a general management plan for the park in accordance with the provisions of section 1a–7(b) of this title and other applicable law.

(2) Preservation of setting

The general management plan shall include a plan to preserve the historic setting of the Rosie the Riveter/World War II Home Front National Historical Park, which shall be jointly developed and approved by the City of Richmond.

(3) Additional sites

The general management plan shall include a determination of whether there are additional representative sites in Richmond that should be added to the park or sites in the rest of the United States that relate to the industrial, governmental, and citizen efforts during World War II that should be linked to and interpreted at the park. Such determination shall consider any information or findings developed in the National Park Service study of the World War II Home Front under section 410ggg–2 of this title.

(Pub. L. 106–352, § 3, Oct. 24, 2000, 114 Stat. 1370; Pub. L. 108–352, § 6(2), Oct. 21, 2004, 118 Stat. 1396.)

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–352, § 6(2)(A), made technical amendment to reference in original act which appears in text as reference to sections 1, 2, 3, and 4 of this title.

Subsec. (b)(1). Pub. L. 108–352, § 6(2)(B), substituted ''the Child Development Field Centers (Ruth C. Powers) (Maritime), Atchison Housing, the Kaiser-Permanente Field Hospital, and Richmond Fire Station 67A'' for ''the World War II Child Development Centers, the World War II worker housing, the Kaiser-Permanente Field Hospital, and Fire Station 67A''.

Subsec. (e)(2). Pub. L. 108–352, § 6(2)(C), substituted ''the Child Development Field Centers (Ruth C. Powers) (Maritime), Atchison Housing, the Kaiser-Permanente Field Hospital, and Richmond Fire Station 67A,'' for ''the World War II day care centers, the World War II worker housing, the Kaiser-Permanente Field Hospital, and Fire Station 67,''.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 410ggg–2. World War II home front study

The Secretary shall conduct a theme study of the World War II home front to determine whether other sites in the United States meet the criteria for potential inclusion in the National Park System in accordance with section 1a–5 of this title.

(Pub. L. 106–352, § 4, Oct. 24, 2000, 114 Stat. 1372.)

§ 410ggg–3. Authorization of appropriations

(a) In general

(1) Oral histories, preservation, and visitor services

There are authorized to be appropriated such sums as may be necessary to conduct oral his-

tories and to carry out the preservation, interpretation, education, and other essential visitor services provided for by this subchapter.

(2) Artifacts

There are authorized to be appropriated $1,000,000 for the acquisition and curation of historical artifacts related to the park.

(b) Property acquisition

There are authorized to be appropriated such sums as are necessary to acquire the properties listed in section 410ggg–1(e)(2) of this title.

(c) Limitation on use of funds for S.S. RED OAK VICTORY

None of the funds authorized to be appropriated by this section may be used for the operation, maintenance, or preservation of the vessel S.S. RED OAK VICTORY.

(Pub. L. 106–352, § 5, Oct. 24, 2000, 114 Stat. 1372.)

SUBCHAPTER LIX–FF—GREAT SAND DUNES NATIONAL PARK AND PRESERVE

§ 410hhh. Findings

Congress finds that—

(1) the Great Sand Dunes National Monument in the State of Colorado was established by Presidential proclamation in 1932 to preserve Federal land containing spectacular and unique sand dunes and additional features of scenic, scientific, and educational interest for the benefit and enjoyment of future generations;

(2) the Great Sand Dunes, together with the associated sand sheet and adjacent wetland and upland, contain a variety of rare ecological, geological, paleontological, archaeological, scenic, historical, and wildlife components, which—

(A) include the unique pulse flow characteristics of Sand Creek and Medano Creek that are integral to the existence of the dunes system;

(B) interact to sustain the unique Great Sand Dunes system beyond the boundaries of the existing National Monument;

(C) are enhanced by the serenity and rural western setting of the area; and

(D) comprise a setting of irreplaceable national significance;

(3) the Great Sand Dunes and adjacent land within the Great Sand Dunes National Monument—

(A) provide extensive opportunities for educational activities, ecological research, and recreational activities; and

(B) are publicly used for hiking, camping, and fishing, and for wilderness value (including solitude);

(4) other public and private land adjacent to the Great Sand Dunes National Monument—

(A) offers additional unique geological, hydrological, paleontological, scenic, scientific, educational, wildlife, and recreational resources; and

(B) contributes to the protection of—

(i) the sand sheet associated with the dune mass;

(ii) the surface and ground water systems that are necessary to the preservation of the dunes and the adjacent wetland; and

(iii) the wildlife, viewshed, and scenic qualities of the Great Sand Dunes National Monument;

(5) some of the private land described in paragraph (4) contains important portions of the sand dune mass, the associated sand sheet, and unique alpine environments, which would be threatened by future development pressures;

(6) the designation of a Great Sand Dunes National Park, which would encompass the existing Great Sand Dunes National Monument and additional land, would provide—

(A) greater long-term protection of the geological, hydrological, paleontological, scenic, scientific, educational, wildlife, and recreational resources of the area (including the sand sheet associated with the dune mass and the ground water system on which the sand dune and wetland systems depend); and

(B) expanded visitor use opportunities;

(7) land in and adjacent to the Great Sand Dunes National Monument is—

(A) recognized for the culturally diverse nature of the historical settlement of the area;

(B) recognized for offering natural, ecological, wildlife, cultural, scenic, paleontological, wilderness, and recreational resources; and

(C) recognized as being a fragile and irreplaceable ecological system that could be destroyed if not carefully protected; and

(8) preservation of this diversity of resources would ensure the perpetuation of the entire ecosystem for the enjoyment of future generations.

(Pub. L. 106–530, § 2, Nov. 22, 2000, 114 Stat. 2527.)

SHORT TITLE

Pub. L. 106–530, § 1, Nov. 22, 2000, 114 Stat. 2527, provided that: ''This Act [enacting this subchapter and provisions listed in a table of National Wildlife Refuges set out under section 668dd of this title] may be cited as the 'Great Sand Dunes National Park and Preserve Act of 2000'.''

§ 410hhh–1. Definitions

In this subchapter:

(1) Advisory Council

The term ''Advisory Council'' means the Great Sand Dunes National Park Advisory Council established under section 410hhh–6(a)[1] of this title.

(2) Luis Maria Baca Grant No. 4

The term ''Luis Maria Baca Grant No. 4'' means those lands as described in the patent dated February 20, 1900, from the United States to the heirs of Luis Maria Baca recorded in book 86, page 20, of the records of the Clerk and Recorder of Saguache County, Colorado.

(3) Map

The term ''map'' means the map entitled ''Great Sand Dunes National Park and Pre-

[1] So in original. Probably should be section ''410hhh–8(a)''.

serve'', numbered 140/80,032 and dated September 19, 2000.

(4) National monument

The term ''national monument'' means the Great Sand Dunes National Monument, including lands added to the monument pursuant to this subchapter.

(5) National park

The term ''national park'' means the Great Sand Dunes National Park established in section 410hhh–2 of this title.

(6) National wildlife refuge

The term ''wildlife refuge'' means the Baca National Wildlife Refuge established in section 410hhh–4 of this title.

(7) Preserve

The term ''preserve'' means the Great Sand Dunes National Preserve established in section 410hhh–3 of this title.

(8) Resources

The term ''resources'' means the resources described in section 410hhh of this title.

(9) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(10) Uses

The term ''uses'' means the uses described in section 410hhh of this title.

(Pub. L. 106–530, § 3, Nov. 22, 2000, 114 Stat. 2528.)

§ 410hhh–2. Great Sand Dunes National Park, Colorado

(a) Establishment

When the Secretary determines that sufficient land having a sufficient diversity of resources has been acquired to warrant designation of the land as a national park, the Secretary shall establish the Great Sand Dunes National Park in the State of Colorado, as generally depicted on the map, as a unit of the National Park System. Such establishment shall be effective upon publication of a notice of the Secretary's determination in the Federal Register.

(b) Availability of map

The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) Notification

Until the date on which the national park is established, the Secretary shall annually notify the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives of—

(1) the estimate of the Secretary of the lands necessary to achieve a sufficient diversity of resources to warrant designation of the national park; and

(2) the progress of the Secretary in acquiring the necessary lands.

(d) Abolishment of National Monument

(1) On the date of establishment of the national park pursuant to subsection (a) of this section, the Great Sand Dunes National Monument shall be abolished, and any funds made available for the purposes of the national monument shall be available for the purposes of the national park.

(2) Any reference in any law (other than this subchapter), regulation, document, record, map, or other paper of the United States to ''Great Sand Dunes National Monument'' shall be considered a reference to ''Great Sand Dunes National Park''.

(e) Transfer of jurisdiction

Administrative jurisdiction is transferred to the National Park Service over any land under the jurisdiction of the Department of the Interior that—

(1) is depicted on the map as being within the boundaries of the national park or the preserve; and

(2) is not under the administrative jurisdiction of the National Park Service on November 22, 2000.

(Pub. L. 106–530, § 4, Nov. 22, 2000, 114 Stat. 2529.)

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

DESIGNATION OF PARK

On Sept. 13, 2004, the Secretary of the Interior made the determination under subsec. (a) of this section and designated the existing Great Sand Dunes National Monument as the Great Sand Dunes National Park. See 69 F.R. 57355.

§ 410hhh–3. Great Sand Dunes National Preserve, Colorado

(a) Establishment of Great Sand Dunes National Preserve

(1) There is hereby established the Great Sand Dunes National Preserve in the State of Colorado, as generally depicted on the map, as a unit of the National Park System.

(2) Administrative jurisdiction of lands and interests therein administered by the Secretary of Agriculture within the boundaries of the preserve is transferred to the Secretary of the Interior, to be administered as part of the preserve. The Secretary of Agriculture shall modify the boundaries of the Rio Grande National Forest to exclude the transferred lands from the forest boundaries.

(3) Any lands within the preserve boundaries which were designated as wilderness prior to November 22, 2000, shall remain subject to the Wilderness Act (16 U.S.C. 1131 et seq.) and the Colorado Wilderness Act of 1993 (Public Law 103–767; 16 U.S.C. 539i note).

(b) Map and legal description

(1) As soon as practicable after the establishment of the national park and the preserve, the Secretary shall file maps and a legal description of the national park and the preserve with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(2) The map and legal description shall have the same force and effect as if included in this subchapter, except that the Secretary may cor-

rect clerical and typographical errors in the legal description and maps.

(3) The map and legal description shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) Boundary survey

As soon as practicable after the establishment of the national park and preserve and subject to the availability of funds, the Secretary shall complete an official boundary survey.

(Pub. L. 106–530, § 5, Nov. 22, 2000, 114 Stat. 2529.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (a)(3), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The Colorado Wilderness Act of 1993, referred to in subsec. (a)(3), is Pub. L. 103–77, Aug. 13, 1993, 107 Stat. 756. For complete classification of this Act to the Code, see Short Title note set out under section 539i of this title and Tables.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 410hhh–4. Baca National Wildlife Refuge, Colorado

(a) Establishment and purpose

(1) Establishment

(A) In general

When the Secretary determines that sufficient land has been acquired to constitute an area that can be efficiently managed as a National Wildlife Refuge, the Secretary shall establish the Baca National Wildlife Refuge, as generally depicted on the map.

(B) Effective date

The establishment of the refuge under subparagraph (A) shall be effective upon publication of a notice of the Secretary's determination in the Federal Register.

(2) Purpose

The purpose of the Baca National Wildlife Refuge shall be to restore, enhance, and maintain wetland, upland, riparian, and other habitats for native wildlife, plant, and fish species in the San Luis Valley.

(b) Availability of map

The map shall be on file and available for public inspection in the appropriate offices of the United States Fish and Wildlife Service.

(c) Administration

(1) In general

The Secretary shall administer all lands and interests therein acquired within the boundaries of the national wildlife refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and the Act of September 28, 1962 (16 U.S.C. 460k et seq.) (commonly known as the Refuge Recreation Act).

(2) Requirements

In administering the Baca National Wildlife Refuge, the Secretary shall, to the maximum extent practicable—

(A) emphasize migratory bird conservation; and

(B) take into consideration the role of the Refuge in broader landscape conservation efforts.

(d) Protection of water resources

In administering water resources for the national wildlife refuge, the Secretary shall—

(1) protect and maintain irrigation water rights necessary for the protection of monument, park, preserve, and refuge resources and uses;

(2) minimize, to the extent consistent with the protection of national wildlife refuge resources, adverse impacts on other water users; and

(3) subject to any agreement in existence as of March 11, 2009, and to the extent consistent with the purposes of the Refuge, use decreed water rights on the Refuge in approximately the same manner that the water rights have been used historically.

(Pub. L. 106–530, § 6, Nov. 22, 2000, 114 Stat. 2530; Pub. L. 111–8, div. E, title I, § 117, Mar. 11, 2009, 123 Stat. 724.)

REFERENCES IN TEXT

The National Wildlife Refuge System Administration Act of 1966, referred to in subsec. (c)(1), consists of sections 4 and 5 of Pub. L. 89–669, Oct. 15, 1966, 80 Stat. 927, and is classified to sections 668dd and 668ee of this title. For further details, see Short Title note set out under section 668dd of this title.

Act of September 28, 1962, referred to in subsec. (c)(1), is Pub. L. 87–714, Sept. 28, 1962, 76 Stat. 653, popularly known as the Refuge Recreation Act, which is classified generally to subchapter LXVIII (§ 460k et seq.) of this chapter.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–8, § 117(1), substituted ''Establishment and purpose'' for ''Establishment'' in heading, designated existing provisions as par. (1) and inserted heading, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and inserted headings, substituted ''The establishment of the refuge under subparagraph (A)'' for ''Such establishment'' in subpar. (B), and added par. (2).

Subsec. (c). Pub. L. 111–8, § 117(2), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (d)(3). Pub. L. 111–8, § 117(3), added par. (3).

§ 410hhh–5. Administration of national park and preserve

(a) In general

The Secretary shall administer the national park and the preserve in accordance with—

(1) this subchapter; and

(2) all laws generally applicable to units of the National Park System, including—

(A) sections 1, 2, 3, and 4 of this title; and

(B) sections 461 to 467 of this title.

(b) Grazing

(1) Acquired State or private land

With respect to former State or private land on which grazing is authorized to occur on No-

vember 22, 2000, and which is acquired for the national monument, or the national park and preserve, or the wildlife refuge, the Secretary, in consultation with the lessee, may permit the continuation of grazing on the land by the lessee at the time of acquisition, subject to applicable law (including regulations).

(2) Federal land

Where grazing is permitted on land that is Federal land as of November 22, 2000, and that is located within the boundaries of the national monument or the national park and preserve, the Secretary is authorized to permit the continuation of such grazing activities unless the Secretary determines that grazing would harm the resources or values of the national park or the preserve.

(3) Termination of leases

Nothing in this subsection shall prohibit the Secretary from accepting the voluntary termination of leases or permits for grazing within the national monument or the national park or the preserve.

(c) Hunting, fishing, and trapping

(1) In general

Except as provided in paragraph (2), the Secretary shall permit hunting, fishing, and trapping on land and water within the preserve in accordance with applicable Federal and State laws.

(2) Administrative exceptions

The Secretary may designate areas where, and establish limited periods when, no hunting, fishing, or trapping shall be permitted under paragraph (1) for reasons of public safety, administration, or compliance with applicable law.

(3) Agency agreement

Except in an emergency, regulations closing areas within the preserve to hunting, fishing, or trapping under this subsection shall be made in consultation with the appropriate agency of the State of Colorado having responsibility for fish and wildlife administration.

(4) Savings clause

Nothing in this subchapter affects any jurisdiction or responsibility of the State of Colorado with respect to fish and wildlife on Federal land and water covered by this subchapter.

(d) Closed Basin Division, San Luis Valley Project

Any feature of the Closed Basin Division, San Luis Valley Project, located within the boundaries of the national monument, national park or the national wildlife refuge, including any well, pump, road, easement, pipeline, canal, ditch, power line, power supply facility, or any other project facility, and the operation, maintenance, repair, and replacement of such a feature—

(1) shall not be affected by this subchapter; and

(2) shall continue to be the responsibility of, and be operated by, the Bureau of Reclamation in accordance with title I of the Reclamation Project Authorization Act of 1972 (43 U.S.C. 615aaa et seq.).[1]

(e) Withdrawal

(1) On November 22, 2000, subject to valid existing rights, all Federal land depicted on the map as being located within Zone A, or within the boundaries of the national monument, the national park or the preserve is withdrawn from—

(A) all forms of entry, appropriation, or disposal under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) disposition under all laws relating to mineral and geothermal leasing.

(2) The provisions of this subsection also shall apply to any lands—

(A) acquired under this subchapter; or

(B) transferred from any Federal agency after November 22, 2000, for the national monument, the national park or preserve, or the national wildlife refuge.

(f) Wilderness protection

(1) Nothing in this subchapter alters the Wilderness designation of any land within the national monument, the national park, or the preserve.

(2) All areas designated as Wilderness that are transferred to the administrative jurisdiction of the National Park Service shall remain subject to the Wilderness Act (16 U.S.C. 1131 et seq.) and the Colorado Wilderness Act of 1993 (Public Law 103–77; 16 U.S.C. 539i note). If any part of this subchapter conflicts with the provisions of the Wilderness Act or the Colorado Wilderness Act of 1993 with respect to the wilderness areas within the preserve boundaries, the provisions of those Acts shall control.

(Pub. L. 106–530, § 7, Nov. 22, 2000, 114 Stat. 2530.)

REFERENCES IN TEXT

The Reclamation Project Authorization Act of 1972, referred to in subsec. (d)(2), is Pub. L. 92–514, Oct. 20, 1972, 86 Stat. 964. Title I of the Act was classified generally to subchapter XXXI (§ 615aaa et seq.) of chapter 12 of Title 43, Public Lands, prior to its omission from the Code. See Codification notes under sections 615aaa to 615iii of Title 43.

The Wilderness Act, referred to in subsec. (f)(2), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The Colorado Wilderness Act of 1993, referred to in subsec. (f)(2), is Pub. L. 103–77, Aug. 13, 1993, 107 Stat. 756. For complete classification of this Act to the Code, see Short Title note set out under section 539i of this title and Tables.

§ 410hhh–6. Acquisition of property and boundary adjustments

(a) Acquisition authority

(1) Within the area depicted on the map as the ''Acquisition Area'' or the national monument, the Secretary may acquire lands and interests therein by purchase, donation, transfer from another Federal agency, or exchange: *Provided*, That lands or interests therein may only be acquired with the consent of the owner thereof.

[1] See References in Text note below.

(2) Lands or interests therein owned by the State of Colorado, or a political subdivision thereof, may only be acquired by donation or exchange.

(b) Boundary adjustment

As soon as practicable after the acquisition of any land or interest under this section, the Secretary shall modify the boundary of the unit to which the land is transferred pursuant to subsection (b)[1] of this section to include any land or interest acquired.

(c) Administration of acquired lands

(1) General authority

Upon acquisition of lands under subsection (a) of this section, the Secretary shall, as appropriate—

(A) transfer administrative jurisdiction of the lands to the National Park Service—

(i) for addition to and management as part of the Great Sand Dunes National Monument, or

(ii) for addition to and management as part of the Great Sand Dunes National Park (after designation of the Park) or the Great Sand Dunes National Preserve; or

(B) transfer administrative jurisdiction of the lands to the United States Fish and Wildlife Service for addition to and administration as part of the Baca National Wildlife Refuge.

(2) Forest service administration

(A) Any lands acquired within the area depicted on the map as being located within Zone B shall be transferred to the Secretary of Agriculture and shall be added to and managed as part of the Rio Grande National Forest.

(B) For the purposes of section 460*l*–9 of this title, the boundaries of the Rio Grande National Forest, as revised by the transfer of land under paragraph (A), shall be considered to be the boundaries of the national forest.

(Pub. L. 106–530, § 8, Nov. 22, 2000, 114 Stat. 2532.)

§ 410hhh–7. Water rights

(a) Omitted

(b) Effect on water rights

(1) In general

Subject to the amendment made by subsection (a) of this section,[1] nothing in this subchapter affects—

(A) the use, allocation, ownership, or control, in existence on November 22, 2000, of any water, water right, or any other valid existing right;

(B) any vested absolute or decreed conditional water right in existence on November 22, 2000, including any water right held by the United States;

(C) any interstate water compact in existence on November 22, 2000; or

(D) subject to the provisions of paragraph (2), State jurisdiction over any water law.

(2) Water rights for national park and national preserve

In carrying out this subchapter, the Secretary shall obtain and exercise any water rights required to fulfill the purposes of the national park and the national preserve in accordance with the following provisions:

(A) Such water rights shall be appropriated, adjudicated, changed, and administered pursuant to the procedural requirements and priority system of the laws of the State of Colorado.

(B) The purposes and other substantive characteristics of such water rights shall be established pursuant to State law, except that the Secretary is specifically authorized to appropriate water under this subchapter exclusively for the purpose of maintaining ground water levels, surface water levels, and stream flows on, across, and under the national park and national preserve, in order to accomplish the purposes of the national park and the national preserve and to protect park resources and park uses.

(C) Such water rights shall be established and used without interfering with—

(i) any exercise of a water right in existence on November 22, 2000, for a non-Federal purpose in the San Luis Valley, Colorado; and

(ii) the Closed Basin Division, San Luis Valley Project.

(D) Except as provided in subsections (c) and (d) of this section, no Federal reservation of water may be claimed or established for the national park or the national preserve.

(c) National Forest water rights

To the extent that a water right is established or acquired by the United States for the Rio Grande National Forest, the water right shall—

(1) be considered to be of equal use and value for the national preserve; and

(2) retain its priority and purpose when included in the national preserve.

(d) National Monument water rights

To the extent that a water right has been established or acquired by the United States for the Great Sand Dunes National Monument, the water right shall—

(1) be considered to be of equal use and value for the national park; and

(2) retain its priority and purpose when included in the national park.

(e) Acquired water rights and water resources

(1) In general

(A) If, and to the extent that, the Luis Maria Baca Grant No. 4 is acquired, all water rights and water resources associated with the Luis Maria Baca Grant No. 4 shall be restricted for use only within—

(i) the national park;

(ii) the preserve;

(iii) the national wildlife refuge; or

(iv) the immediately surrounding areas of Alamosa or Saguache Counties, Colorado.

(B) USE.—Except as provided in the memorandum of water service agreement and the

[1] So in original. Probably should be ''subsection (c)''.

[1] See Codification note below.

water service agreement between the Cabeza de Vaca Land and Cattle Company, LLC, and Baca Grande Water and Sanitation District, dated August 28, 1997, water rights and water resources described in subparagraph (A) shall be restricted for use in—

(i) the protection of resources and values for the national monument, the national park, the preserve, or the wildlife refuge;

(ii) fish and wildlife management and protection; or

(iii) irrigation necessary to protect water resources.

(2) State authority

If, and to the extent that, water rights associated with the Luis Maria Baca Grant No. 4 are acquired, the use of those water rights shall be changed only in accordance with the laws of the State of Colorado.

(f) Disposal

The Secretary is authorized to sell the water resources and related appurtenances and fixtures as the Secretary deems necessary to obtain the termination of obligations specified in the memorandum of water service agreement and the water service agreement between the Cabeza de Vaca Land and Cattle Company, LLC and the Baca Grande Water and Sanitation District, dated August 28, 1997. Prior to the sale, the Secretary shall determine that the sale is not detrimental to the protection of the resources of Great Sand Dunes National Monument, Great Sand Dunes National Park, and Great Sand Dunes National Preserve, and the Baca National Wildlife Refuge, and that appropriate measures to provide for such protection are included in the sale.

(Pub. L. 106–530, § 9, Nov. 22, 2000, 114 Stat. 2533.)

CODIFICATION

Section is comprised of section 9 of Pub. L. 106–530. Subsec. (a) of section 9 of Pub. L. 106–530 amended section 1501(a) of Pub. L. 102–575, 106 Stat. 4663, which is not classified to the Code.

§ 410hhh–8. Advisory Council

(a) Establishment

The Secretary shall establish an advisory council to be known as the ''Great Sand Dunes National Park Advisory Council''.

(b) Duties

The Advisory Council shall advise the Secretary with respect to the preparation and implementation of a management plan for the national park and the preserve.

(c) Members

The Advisory Council shall consist of 10 members, to be appointed by the Secretary, as follows:

(1) One member of, or nominated by, the Alamosa County Commission.

(2) One member of, or nominated by, the Saguache County Commission.

(3) One member of, or nominated by, the Friends of the Dunes Organization.

(4) Four members residing in, or within reasonable proximity to, the San Luis Valley and 3 of the general public, all of whom have recognized backgrounds reflecting—

(A) the purposes for which the national park and the preserve are established; and

(B) the interests of persons that will be affected by the planning and management of the national park and the preserve.

(d) Applicable law

The Advisory Council shall function in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) and other applicable laws.

(e) Vacancy

A vacancy on the Advisory Council shall be filled in the same manner as the original appointment.

(f) Chairperson

The Advisory Council shall elect a chairperson and shall establish such rules and procedures as it deems necessary or desirable.

(g) No compensation

Members of the Advisory Council shall serve without compensation.

(h) Termination

The Advisory Council shall terminate upon the completion of the management plan for the national park and preserve.

(Pub. L. 106–530, § 10, Nov. 22, 2000, 114 Stat. 2535.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (d), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 410hhh–9. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subchapter.

(Pub. L. 106–530, § 11, Nov. 22, 2000, 114 Stat. 2536.)

SUBCHAPTER LIX–GG—CEDAR CREEK AND BELLE GROVE NATIONAL HISTORICAL PARK

§ 410iii. Purpose

The purpose of this subchapter is to establish the Cedar Creek and Belle Grove National Historical Park in order to—

(1) help preserve, protect, and interpret a nationally significant Civil War landscape and antebellum plantation for the education, inspiration, and benefit of present and future generations;

(2) tell the rich story of Shenandoah Valley history from early settlement through the Civil War and beyond, and the Battle of Cedar Creek and its significance in the conduct of the war in the Shenandoah Valley;

(3) preserve the significant historic, natural, cultural, military, and scenic resources found in the Cedar Creek Battlefield and Belle Grove Plantation areas through partnerships with local landowners and the community; and

(4) serve as a focal point to recognize and interpret important events and geographic locations within the Shenandoah Valley Battlefields National Historic District representing key Civil War battles in the Shenandoah Valley, including those battlefields associated

with the Thomas J. (Stonewall) Jackson campaign of 1862 and the decisive campaigns of 1864.

(Pub. L. 107–373, § 2, Dec. 19, 2002, 116 Stat. 3104.)

SHORT TITLE

Pub. L. 107–373, § 1, Dec. 19, 2002, 116 Stat. 3104, provided that: ''This Act [enacting this subchapter] may be cited as the 'Cedar Creek and Belle Grove National Historical Park Act'.''

§ 410iii–1. Findings

Congress finds the following:

(1) The Battle of Cedar Creek, also known as the battle of Belle Grove, was a major event of the Civil War and the history of this country. It represented the end of the Civil War's Shenandoah Valley campaign of 1864 and contributed to the reelection of President Abraham Lincoln and the eventual outcome of the war.

(2) 2,500 acres of the Cedar Creek Battlefield and Belle Grove Plantation were designated a national historic landmark in 1969 because of their ability to illustrate and interpret important eras and events in the history of the United States. The Cedar Creek Battlefield, Belle Grove Manor House, the Heater House, and Harmony Hall (a National Historic Landmark) are also listed on the Virginia Landmarks Register.

(3) The Secretary of the Interior has approved the Shenandoah Valley Battlefields National Historic District Management Plan and the National Park Service Special Resource Study, both of which recognized Cedar Creek Battlefield as the most significant Civil War resource within the historic district. The management plan, which was developed with extensive public participation over a 3-year period and is administered by the Shenandoah Valley Battlefields Foundation, recommends that Cedar Creek Battlefield be established as a new unit of the National Park System.

(4) The Cedar Creek Battlefield Foundation, organized in 1988 to preserve and interpret the Cedar Creek Battlefield and the 1864 Valley Campaign, has acquired 308 acres of land within the boundaries of the National Historic Landmark. The foundation annually hosts a major reenactment and living history event on the Cedar Creek Battlefield.

(5) Belle Grove Plantation is a Historic Site of the National Trust for Historic Preservation that occupies 383 acres within the National Historic Landmark. The Belle Grove Manor House was built by Isaac Hite, a Revolutionary War patriot married to the sister of President James Madison, who was a frequent visitor at Belle Grove. President Thomas Jefferson assisted with the design of the house. During the Civil War Belle Grove was at the center of the decisive battle of Cedar Creek. Belle Grove is managed locally by Belle Grove, Incorporated, and has been open to the public since 1967. The house has remained virtually unchanged since it was built in 1797, offering visitors an experience of the life and times of the people who lived there in the 18th and 19th centuries.

(6) The panoramic views of the mountains, natural areas, and waterways provide visitors with an inspiring setting of great natural beauty. The historic, natural, cultural, military, and scenic resources found in the Cedar Creek Battlefield and Belle Grove Plantation areas are nationally and regionally significant.

(7) The existing, independent, not-for-profit organizations dedicated to the protection and interpretation of the resources described above provide the foundation for public-private partnerships to further the success of protecting, preserving, and interpreting these resources.

(8) None of these resources, sites, or stories of the Shenandoah Valley are protected by or interpreted within the National Park System.

(Pub. L. 107–373, § 3, Dec. 19, 2002, 116 Stat. 3104.)

§ 410iii–2. Definitions

In this subchapter:

(1) Commission

The term ''Commission'' means the Cedar Creek and Belle Grove National Historical Park Advisory Commission established by section 410iii–7 of this title.

(2) Map

The term ''Map'' means the map entitled ''Boundary Map Cedar Creek and Belle Grove National Historical Park'', numbered CEBE–80,001, and dated September 2002.

(3) Park

The term ''Park'' means the Cedar Creek and Belle Grove National Historical Park established under section 410iii–3 of this title and depicted on the Map.

(4) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 107–373, § 4, Dec. 19, 2002, 116 Stat. 3105.)

§ 410iii–3. Establishment of Cedar Creek and Belle Grove National Historical Park

(a) Establishment

There is established the Cedar Creek and Belle Grove National Historical Park, consisting of approximately 3,000 acres, as generally depicted on the Map.

(b) Availability of Map

The Map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(Pub. L. 107–373, § 5, Dec. 19, 2002, 116 Stat. 3106.)

§ 410iii–4. Acquisition of property

(a) Real property

The Secretary may acquire land or interests in land within the boundaries of the Park, from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange.

(b) Boundary revision

After acquiring land for the Park, the Secretary shall—

(1) revise the boundary of the Park to include newly acquired land within the boundary; and

(2) administer newly acquired land subject to applicable laws (including regulations).

(c) Personal property

The Secretary may acquire personal property associated with, and appropriate for, interpretation of the Park.

(d) Conservation easements and covenants

The Secretary is authorized to acquire conservation easements and enter into covenants regarding lands in or adjacent to the Park from willing sellers only. Such conservation easements and covenants shall have the effect of protecting the scenic, natural, and historic resources on adjacent lands and preserving the natural or historic setting of the Park when viewed from within or outside the Park.

(e) Support facilities

The National Park Service is authorized to acquire from willing sellers, land outside the Park boundary but in close proximity to the Park, for the development of visitor, administrative, museum, curatorial, and maintenance facilities.

(Pub. L. 107–373, § 6, Dec. 19, 2002, 116 Stat. 3106.)

§ 410iii–5. Administration

The Secretary shall administer the Park in accordance with this subchapter and the provisions of law generally applicable to units of the National Park System, including—

(1) sections 1, 2, 3, and 4 of this title; and

(2) sections 461 to 467 of this title.

(Pub. L. 107–373, § 7, Dec. 19, 2002, 116 Stat. 3106.)

§ 410iii–6. Management of Park

(a) Management plan

The Secretary, in consultation with the Commission, shall prepare a management plan for the Park. In particular, the management plan shall contain provisions to address the needs of owners of non-Federal land, including independent nonprofit organizations within the boundaries of the Park.

(b) Submission of plan to Congress

Not later than 3 years after December 19, 2002, the Secretary shall submit the management plan for the Park to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(Pub. L. 107–373, § 8, Dec. 19, 2002, 116 Stat. 3106.)

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 410iii–7. Cedar Creek and Belle Grove National Historical Park Advisory Commission

(a) Establishment

There is established the Cedar Creek and Belle Grove National Historical Park Advisory Commission.

(b) Duties

The Commission shall—

(1) advise the Secretary in the preparation and implementation of a general management plan described in section 410iii–6 of this title; and

(2) advise the Secretary with respect to the identification of sites of significance outside the Park boundary deemed necessary to fulfill the purposes of this subchapter.

(c) Membership

(1) Composition

The Commission shall be composed of 15 members appointed by the Secretary so as to include the following:

(A) 1 representative from the Commonwealth of Virginia.

(B) 1 representative each from the local governments of Strasburg, Middletown, Frederick County, Shenandoah County, and Warren County.

(C) 2 representatives of private landowners within the Park.

(D) 1 representative from a citizen interest group.

(E) 1 representative from the Cedar Creek Battlefield Foundation.

(F) 1 representative from Belle Grove, Incorporated.

(G) 1 representative from the National Trust for Historic Preservation.

(H) 1 representative from the Shenandoah Valley Battlefields Foundation.

(I) 1 ex-officio representative from the National Park Service.

(J) 1 ex-officio representative from the United States Forest Service.

(2) Chairperson

The Chairperson of the Commission shall be elected by the members to serve a term of one year renewable for one additional year.

(3) Vacancies

A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(4) Terms of service

(A) In general

Each member shall be appointed for a term of 3 years and may be reappointed for not more than 2 successive terms.

(B) Initial members

Of the members first appointed under paragraph (1), the Secretary shall appoint—

(i) 4 members for a term of 1 year;

(ii) 5 members for a term of 2 years; and

(iii) 6 members for a term of 3 years.

(5) Extended service

A member may serve after the expiration of that member's term until a successor has taken office.

(6) Majority rule

The Commission shall act and advise by affirmative vote of a majority of its members.

(7) Meetings

The Commission shall meet at least quarterly at the call of the chairperson or a majority of the members of the Commission.

(8) Quorum

8 members shall constitute a quorum.

(d) Compensation

Members shall serve without pay. Members who are full-time officers or employees of the United States, the Commonwealth of Virginia, or any political subdivision thereof shall receive no additional pay on account of their service on the Commission.

(e) Travel expenses

While away from their homes or regular places of business in the performance of service for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(f) Hearings; public involvement

The Commission may, for purposes of carrying out this subchapter, hold such hearings, sit and act at such times and places, take such public testimony, and receive such evidence, as the Commission considers appropriate. The Commission may not issue subpoenas or exercise any subpoena authority.

(Pub. L. 107–373, § 9, Dec. 19, 2002, 116 Stat. 3107.)

TERMINATION OF ADVISORY COMMISSIONS

Advisory commissions established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 410iii–8. Conservation of Cedar Creek and Belle Grove National Historical Park

(a) Encouragement of conservation

The Secretary and the Commission shall encourage conservation of the historic and natural resources within and in proximity of the Park by landowners, local governments, organizations, and businesses.

(b) Provision of technical assistance

The Secretary may provide technical assistance to local governments, in cooperative efforts which complement the values of the Park.

(c) Cooperation by Federal agencies

Any Federal entity conducting or supporting activities directly affecting the Park shall consult, cooperate, and, to the maximum extent practicable, coordinate its activities with the Secretary in a manner that—

(1) is consistent with the purposes of this subchapter and the standards and criteria established pursuant to the general management plan developed pursuant to section 410iii–6 of this title;

(2) is not likely to have an adverse effect on the resources of the Park; and

(3) is likely to provide for full public participation in order to consider the views of all interested parties.

(Pub. L. 107–373, § 10, Dec. 19, 2002, 116 Stat. 3108.)

§ 410iii–9. Endowment

(a) In general

In accordance with the provisions of subsection (b) of this section, the Secretary is authorized to receive and expend funds from an endowment to be established with the National Park Foundation, or its successors and assigns.

(b) Conditions

Funds from the endowment referred to in subsection (a) of this section shall be expended exclusively as the Secretary, in consultation with the Commission, may designate for the interpretation, preservation, and maintenance of the Park resources and public access areas. No expenditure shall be made pursuant to this section unless the Secretary determines that such expenditure is consistent with the purposes of this subchapter.

(Pub. L. 107–373, § 11, Dec. 19, 2002, 116 Stat. 3108.)

§ 410iii–10. Cooperative agreements

(a) In general

In order to further the purposes of this subchapter, the Secretary is authorized to enter into cooperative agreements with interested public and private entities and individuals (including the National Trust for Historic Preservation, Belle Grove, Inc., the Cedar Creek Battlefield Foundation, the Shenandoah Valley Battlefields Foundation, and the Counties of Frederick, Shenandoah, and Warren), through technical and financial assistance, including encouraging the conservation of historic and natural resources of the Park.

(b) Technical and financial assistance

The Secretary may provide to any person, organization, or governmental entity technical and financial assistance for the purposes of this subchapter, including the following:

(1) Preserving historic structures within the Park.

(2) Maintaining the natural or cultural landscape of the Park.

(3) Local preservation planning, interpretation, and management of public visitation for the Park.

(4) Furthering the goals of the Shenandoah Valley Battlefields Foundation related to the Park.

(Pub. L. 107–373, § 12, Dec. 19, 2002, 116 Stat. 3109.)

§ 410iii–11. Roles of key partner organizations

(a) In general

In recognition that central portions of the Park are presently owned and operated for the benefit of the public by key partner organizations, the Secretary shall acknowledge and support the continued participation of these partner organizations in the management of the Park.

(b) Park partners

Roles of the current key partners include the following:

(1) Cedar Creek Battlefield Foundation

The Cedar Creek Battlefield Foundation may—

(A) continue to own, operate, and manage the lands acquired by the Foundation within the Park;

(B) continue to conduct reenactments and other events within the Park; and

(C) transfer ownership interest in portions of their land to the National Park Service by donation, sale, or other means that meet the legal requirements of National Park Service land acquisitions.

(2) National Trust for Historic Preservation and Belle Grove Incorporated

The National Trust for Historic Preservation and Belle Grove Incorporated may continue to own, operate, and manage Belle Grove Plantation and its structures and grounds within the Park boundary. Belle Grove Incorporated may continue to own the house and grounds known as Bowman's Fort or Harmony Hall for the purpose of permanent preservation, with a long-term goal of opening the property to the public.

(3) Shenandoah County

Shenandoah County may continue to own, operate, and manage the Keister park site within the Park for the benefit of the public.

(4) Park community partners

The Secretary shall cooperate with the Park's adjacent historic towns of Strasburg and Middletown, Virginia, as well as Frederick, Shenandoah, and Warren counties in furthering the purposes of the Park.

(5) Shenandoah Valley Battlefields Foundation

The Shenandoah Valley Battlefields Foundation may continue to administer and manage the Shenandoah Valley Battlefields National Historic District in partnership with the National Park Service and in accordance with the Management Plan for the District in which the Park is located.

(Pub. L. 107–373, § 13, Dec. 19, 2002, 116 Stat. 3109.)

§ 410iii–12. Authorization of appropriations

There is authorized to be appropriated such sums as are necessary to carry out this subchapter.

(Pub. L. 107–373, § 14, Dec. 19, 2002, 116 Stat. 3110.)

SUBCHAPTER LIX–HH—CONGAREE NATIONAL PARK

§ 410jjj. Establishment

(a) In general

In order to preserve and protect for the education, inspiration, and enjoyment of present and future generations an outstanding example of a near-virgin southern hardwood forest situated in the Congaree River floodplain in Richland County, South Carolina, there is established the Congaree National Park (hereinafter referred to as the ''park''). The park shall consist of the area within the boundary as generally depicted on the map entitled ''Congaree Swamp National Monument'', numbered CS–80, 001–B, and dated August 1976 (generally known as the Beidler Tract), which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. Following reasonable notice in writing to the Committees on Interior and Insular Affairs of the Senate and House of Representatives of his intention to do so, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') may make minor revisions of the boundary of the park by publication of a revised map or other boundary description in the Federal Register.

(b) Additional land

In addition to the lands described in subsection (a), the park shall consist of the additional lands within the boundary as generally depicted on the map entitled ''Citizens Boundary Proposal for Congaree Swamp National Monument'', numbered 178–80,009A, dated July 1988, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The map may be revised as provided in subsection (a).

(c) Acquisition of additional land

(1) In general

The Secretary may acquire by donation, by purchase from a willing seller with donated or appropriated funds, by transfer, or by exchange, land or an interest in land described in paragraph (2) for inclusion in the park.

(2) Description of land

The land referred to in paragraph (1) is the approximately 4,576 acres of land adjacent to the Park, as depicted on the map entitled ''Congaree National Park Boundary Map'', numbered 178/80015, and dated August 2003.

(3) Availability of map

The map referred to in paragraph (2) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(4) Boundary revision

On acquisition of the land or an interest in land under paragraph (1), the Secretary shall revise the boundary of the park to reflect the acquisition.

(5) Administration

Any land acquired by the Secretary under paragraph (1) shall be administered by the Secretary as part of the park.

(6) Effect

Nothing in this section—

(A) affects the use of private land adjacent to the park;

(B) preempts the authority of the State with respect to the regulation of hunting, fishing, boating, and wildlife management on private land or water outside the boundaries of the park;

(C) shall negatively affect the economic development of the areas surrounding the park; or

(D) affects the classification of the park under section 7472 of title 42.

(d) Acreage limitation

The total acreage of the park shall not exceed 26,776 acres.

(Pub. L. 94–545, §1, Oct. 18, 1976, 90 Stat. 2517; Pub. L. 100–524, §5, Oct. 24, 1988, 102 Stat. 2607; Pub. L. 108–108, title I, §§135, 148, Nov. 10, 2003, 117 Stat. 1270, 1281; Pub. L. 108–199, div. H, §139(a), Jan. 23, 2004, 118 Stat. 442.)

REFERENCES IN TEXT

Hereinafter, referred to in subsec. (a), means Pub. L. 94–545, which is classified to this subchapter. For complete classification of Pub. L. 94–545 to the Code, see Tables.

AMENDMENTS

2004—Subsec. (c)(6). Pub. L. 108–199, §139(a), added par. (6) and struck out former par. (6) which read: ''Nothing in this section—

''(A) affects the use of private land adjacent to the park;

''(B) preempts the authority of the State with respect to the regulation of hunting, fishing, boating, and wildlife management on private land or water outside the boundaries of the park; or

''(C) negatively affects the economic development of the areas surrounding the park.''

2003—Subsec. (b). Pub. L. 108–108, §148(1), struck out last sentence which read ''The total acreage of the monument including lands described in subsection (a) and this subsection shall not exceed 22,200 acres.''

Subsecs. (c), (d). Pub. L. 108–108, §148(2), added subsecs. (c) and (d).

1988—Pub. L. 100–524 designated existing provisions as subsec. (a), struck out '', but the total area may not exceed fifteen thousand, two hundred acres'' after ''Federal Register'', and added subsec. (b).

CHANGE OF NAME

''Congaree National Park'', ''park'', and ''Park'' substituted in text for ''Congaree Swamp National Monument'', ''monument'', and ''Monument'', respectively, pursuant to Pub. L. 108–108, §135, which is set out below and which redesignated the Congaree Swamp National Monument as the Congaree National Park.

Pub. L. 108–108, title I, §135, Nov. 10, 2003, 117 Stat. 1270, provided that: ''Upon enactment of this Act, the Congaree Swamp National Monument shall be designated the Congaree National Park.''

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of House of Representatives changed to Committee on Natural Resources of House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–524, §1, Oct. 24, 1988, 102 Stat. 2606, provided that: ''This Act [enacting section 191a of Title 30, Mineral Lands and Mining, amending this section and section 410jjj–4 of this title, and enacting provisions listed in a table of Wilderness Areas set out under section 1132 of this title] may be cited as the 'Congaree Swamp National Monument Expansion and Wilderness Act'.''

§ 410jjj–1. Acquisition of lands

(a) Within the park the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange. Any lands or interests therein owned by the State of South Carolina or any political subdivision thereof may be acquired only by donation.

(b) With respect to any lands acquired under the provisions of this subchapter which at the time of acquisition are leased for hunting purposes, such acquisition shall permit the continued exercise of such lease in accordance with its provisions for its unexpired term, or for a period of five years, whichever is less: *Provided*, That no provision of such lease may be exercised which, in the opinion of the Secretary, is incompatible with the preservation objectives of this subchapter, or which is inconsistent with applicable Federal and State game laws, whichever is more restrictive.

(Pub. L. 94–545, §2, Oct. 18, 1976, 90 Stat. 2517; Pub. L. 108–108, title I, §135, Nov. 10, 2003, 117 Stat. 1270.)

CHANGE OF NAME

In subsec. (a), ''park'' substituted for ''monument'' pursuant to Pub. L. 108–108, §135, which is set out as a note under section 410jjj of this title and which redesignated the Congaree Swamp National Monument as the Congaree National Park.

§ 410jjj–2. Administration

(a) The Secretary shall administer property acquired for the park in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented, and the provisions of this subchapter.

(b) The Secretary shall permit sport fishing on lands and waters under his jurisdiction within the park in accordance with applicable Federal and State laws, except that he may designate zones where and establish periods when no fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations promulgated under this subsection shall be placed in effect only after consultation with the appropriate fish and game agency of the State of South Carolina.

(Pub. L. 94–545, §3, Oct. 18, 1976, 90 Stat. 2517; Pub. L. 108–108, title I, §135, Nov. 10, 2003, 117 Stat. 1270.)

CHANGE OF NAME

In text, ''park'' substituted for ''monument'' pursuant to Pub. L. 108–108, §135, which is set out as a note under section 410jjj of this title and which redesignated the Congaree Swamp National Monument as the Congaree National Park.

§ 410jjj–3. Report

Within three years from the effective date of this subchapter, the Secretary shall review the area within the park and shall report to the President, in accordance with subsections 1132(c) and (d) of this title, his recommendation as to the suitability or nonsuitability of any area within the park for preservation as wilderness, and any designation of any such area as wilderness shall be accomplished in accordance with said subsections.

(Pub. L. 94–545, §4, Oct. 18, 1976, 90 Stat. 2518; Pub. L. 108–108, title I, §135, Nov. 10, 2003, 117 Stat. 1270.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in text, probably means the date of enactment of Pub. L. 94–545, which was approved on Oct. 18, 1976.

CHANGE OF NAME

In text, ''park'' substituted for ''monument'' pursuant to Pub. L. 108–108, §135, which is set out as a note under section 410jjj of this title and which redesignated the Congaree Swamp National Monument as the Congaree National Park.

§ 410jjj–4. Authorization of appropriations; general management plan

(a) In general

The Secretary may not expend more than $35,500,000 from the Land and Water Conservation Fund for land acquisition nor more than $500,000 for the development of essential facilities. The Secretary may expend such additional sums as are necessary from the Land and Water Conservation Fund for acquisition of lands described in section 410jjj(b) of this title.

(b) General management plan

Within three years from the effective date of this subchapter the Secretary shall, after consulting with the Governor of the State of South Carolina, develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a general management plan for the use and development of the park consistent with the purposes of this subchapter, indicating:

(1) the lands and interests in lands adjacent or related to the park which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this subchapter, and the estimated cost thereof;

(2) the number of visitors and types of public use within the park which can be accommodated in accordance with the protection of its resources;

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

(c) Authorization of appropriations

Notwithstanding subsection (a), there are authorized to be appropriated $3,000,000 for construction and development within the park.

(Pub. L. 94–545, §5, Oct. 18, 1976, 90 Stat. 2518; Pub. L. 100–524, §6, Oct. 24, 1988, 102 Stat. 2607; Pub. L. 108–108, title I, §135, Nov. 10, 2003, 117 Stat. 1270.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in subsec. (b), probably means the date of enactment of Pub. L. 94–545, which was approved on Oct. 18, 1976.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–524, §6(a), inserted sentence at end relating to expenditure of additional sums for acquisition of lands.

Subsec. (c). Pub. L. 100–524, §6(b), added subsec. (c).

CHANGE OF NAME

In subsecs. (b) and (c), ''park'' substituted for ''monument'' pursuant to Pub. L. 108–108, §135, which is set out as a note under section 410jjj of this title and which redesignated the Congaree Swamp National Monument as the Congaree National Park.

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of House of Representatives changed to Committee on Natural Resources of House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

SUBCHAPTER LIX–II—LEWIS AND CLARK NATIONAL HISTORICAL PARK

§ 410kkk. Definitions

As used in this subchapter:

(1) Park

The term ''park'' means the Lewis and Clark National Historical Park designated in section 410kkk–1 of this title.

(2) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 108–387, title I, §102, Oct. 30, 2004, 118 Stat. 2234.)

REFERENCES IN TEXT

This subchapter, referred to in introductory provisions, was in the original ''this title'', meaning title I of Pub. L. 108–387, Oct. 30, 2004, 118 Stat. 2234, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note below and Tables.

SHORT TITLE

Pub. L. 108–387, title I, §101, Oct. 30, 2004, 118 Stat. 2234, provided that: ''This title [enacting this subchapter and repealing sections 450mm to 450mm–3 of this title] may be cited as the 'Lewis and Clark National Historical Park Designation Act'.''

§ 410kkk–1. Lewis and Clark National Historical Park

(a) Designation

In order to preserve for the benefit of the people of the United States the historic, cultural, scenic, and natural resources associated with the arrival of the Lewis and Clark Expedition in the lower Columbia River area, and for the purpose of commemorating the culmination and the winter encampment of the Lewis and Clark Expedition in the winter of 1805–1806 following its successful crossing of the North American Continent, there is designated as a unit of the National Park System the Lewis and Clark National Historical Park.

(b) Boundaries

The boundaries of the park are those generally depicted on the map entitled ''Lewis and Clark National Historical Park, Boundary Map'', numbered 405/80027, and dated December 2003, and which includes—

(1) lands located in Clatsop County, Oregon, which are associated with the winter encampment of the Lewis and Clark Expedition, known as Fort Clatsop and designated as the Fort Clatsop National Memorial by Public Law 85–435, including the site of the salt cairn (specifically, lot number 18, block 1, Cartwright Park Addition of Seaside, Oregon) used by that expedition and adjacent portions of the old trail which led overland from the fort to the coast;

(2) lands identified as ''Fort Clatsop 2002 Addition Lands'' on the map referred to in this subsection; and

(3) lands located along the lower Columbia River in the State of Washington associated with the arrival of the Lewis and Clark Expedition at the Pacific Ocean in 1805, which are identified as ''Station Camp'', ''Clark's Dismal Nitch'', and ''Cape Disappointment'' on the map referred to in this subsection.

(c) Acquisition of land

(1) Authorization

The Secretary is authorized to acquire land, interests in land, and improvements therein within the boundaries of the park, as identified on the map referred to in subsection (b), by donation, purchase with donated or appropriated funds, exchange, transfer from any Federal agency, or by such other means as the Secretary deems to be in the public interest.

(2) Consent of landowner required

The lands authorized to be acquired under paragraph (1) (other than corporately owned timberlands within the area identified as ''Fort Clatsop 2002 Addition Lands'' on the map referred to in subsection (b)) may be acquired only with the consent of the owner.

(3) Acquisition of Fort Clatsop 2002 Addition Lands

If the owner of corporately owned timberlands within the area identified as ''Fort Clatsop 2002 Addition Lands'' on the map referred to in subsection (b) agrees to enter into a sale of such lands as a result of actual condemnation proceedings or in lieu of condemnation proceedings, the Secretary shall enter into a memorandum of understanding with the owner regarding the manner in which such lands shall be managed after acquisition by the United States.

(d) Cape Disappointment

(1) Transfer

Subject to valid rights (including withdrawals), the Secretary shall transfer to the Director of the National Park Service management of any Federal land at Cape Disappointment, Washington, that is within the boundary of the park.

(2) Withdrawn land

(A) Notice

The head of any Federal agency that has administrative jurisdiction over withdrawn land at Cape Disappointment, Washington, within the boundary of the park shall notify the Secretary in writing if the head of the Federal agency does not need the withdrawn land.

(B) Transfer

On receipt of a notice under subparagraph (A), the withdrawn land shall be transferred to the administrative jurisdiction of the Secretary, to be administered as part of the park.

(3) Memorial to Thomas Jefferson

All withdrawals of the 20-acre parcel depicted as a ''Memorial to Thomas Jefferson'' on the map referred to in subsection (b) are revoked, and the Secretary shall establish a memorial to Thomas Jefferson on the parcel.

(4) Management of Cape Disappointment State Park land

The Secretary may enter into an agreement with the State of Washington providing for the administration by the State of the land within the boundary of the park known as ''Cape Disappointment State Park''.

(e) Map availability

The map referred to in subsection (b) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(Pub. L. 108–387, title I, §103, Oct. 30, 2004, 118 Stat. 2234.)

REFERENCES IN TEXT

Public Law 85–435, referred to in subsec. (b)(1), is Pub. L. 85–435, May 29, 1958, 72 Stat. 153, which enacted sections 450mm to 450mm–3 of this title and was repealed by Pub. L. 108–387, title I, §105(a), Oct. 30, 2004, 118 Stat. 2236. For complete classification of this Act to the Code, see Tables.

FORT CLATSOP NATIONAL MEMORIAL

Pub. L. 107–221, §2, Aug. 21, 2002, 116 Stat. 1333, provided that: ''The Congress finds the following:

''(1) Fort Clatsop National Memorial is the only unit of the National Park System solely dedicated to the Lewis and Clark Expedition.

''(2) In 1805, the members of the Lewis and Clark Expedition built Fort Clatsop at the mouth of the Columbia River near Astoria, Oregon, and they spent 106 days at the fort waiting for the end of winter and preparing for their journey home.

''(3) In 1958, Congress enacted Public Law 85–435 [former sections 450mm to 450mm–3 of this title] authorizing the establishment of Fort Clatsop National Memorial for the purpose of commemorating the culmination, and the winter encampment, of the Lewis and Clark Expedition following its successful crossing of the North American continent.

''(4) The 1995 General Management Plan for Fort Clatsop National Memorial, prepared with input from the local community, recommends the expansion of the memorial to include the trail used by expedition members to access the Pacific Ocean from the fort and the shore and forest lands surrounding the fort and trail to protect their natural settings.

''(5) Expansion of Fort Clatsop National Memorial requires Federal legislation because the size of the memorial is currently limited by statute to 130 acres.

''(6) Congressional action to allow for the expansion of Fort Clatsop National Memorial to include the trail to the Pacific Ocean would be timely and appropriate before the start of the bicentennial celebration of the Lewis and Clark Expedition planned to take place during the years 2004 through 2006.''

[References to Fort Clapsop National Memorial considered to be references to Lewis and Clark National Historical Park, see section 410kkk–3 of this title.]

§ 410kkk–2. Administration

(a) In general

The park shall be administered by the Secretary in accordance with this subchapter and with laws generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title.

(b) Management plan

Not later than 3 years after funds are made available for this purpose, the Secretary shall

prepare an amendment to the General Management Plan for Fort Clatsop National Memorial to guide the management of the park.

(c) Cooperative management

In order to facilitate the presentation of a comprehensive picture of the Lewis and Clark Expedition's experiences in the lower Columbia River area and to promote more efficient administration of the sites associated with those experiences, the Secretary may enter into cooperative management agreements with appropriate officials in the States of Washington and Oregon in accordance with the authority provided under section 1a–2(*l*) of this title.

(Pub. L. 108–387, title I, § 104, Oct. 30, 2004, 118 Stat. 2236.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original ''this title'', meaning title I of Pub. L. 108–387, Oct. 30, 2004, 118 Stat. 2234, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 410kkk of this title and Tables.

§ 410kkk–3. References

Any reference in any law (other than this subchapter), regulation, document, record, map or other paper of the United States to ''Fort Clatsop National Memorial'' shall be considered a reference to the ''Lewis and Clark National Historical Park''.

(Pub. L. 108–387, title I, § 105(b), Oct. 30, 2004, 118 Stat. 2236.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this title'', meaning title I of Pub. L. 108–387, Oct. 30, 2004, 118 Stat. 2234, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 410kkk of this title and Tables.

§ 410kkk–4. Private property protection

(a) Access to private property

Nothing in this subchapter shall be construed to—

(1) require any private property owner to permit public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(b) Liability

Designation of the park shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) Recognition of authority to control land use

Nothing in this subchapter shall be construed to modify any authority of Federal, State, or local governments to regulate the use of private land within the boundary of the park.

(Pub. L. 108–387, title I, § 106, Oct. 30, 2004, 118 Stat. 2236.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a) and (c), was in the original ''this title'', meaning title I of Pub. L. 108–387, Oct. 30, 2004, 118 Stat. 2234, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 410kkk of this title and Tables.

§ 410kkk–5. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Pub. L. 108–387, title I, § 107, Oct. 30, 2004, 118 Stat. 2236.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this title'', meaning title I of Pub. L. 108–387, Oct. 30, 2004, 118 Stat. 2234, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 410kkk of this title and Tables.

SUBCHAPTER LIX–JJ—PATERSON GREAT FALLS NATIONAL HISTORICAL PARK

§ 410*lll*. Paterson Great Falls National Historical Park, New Jersey

(a) Definitions

In this section:

(1) City

The term ''City'' means the City of Paterson, New Jersey.

(2) Commission

The term ''Commission'' means the Paterson Great Falls National Historical Park Advisory Commission established by subsection (e)(1).

(3) Historic District

The term ''Historic District'' means the Great Falls Historic District in the State.

(4) Management plan

The term ''management plan'' means the management plan for the Park developed under subsection (d).

(5) Map

The term ''Map'' means the map entitled ''Paterson Great Falls National Historical Park–Proposed Boundary'', numbered T03/80,001, and dated May 2008.

(6) Park

The term ''Park'' means the Paterson Great Falls National Historical Park established by subsection (b)(1)(A).

(7) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(8) State

The term ''State'' means the State of New Jersey.

(b) Paterson Great Falls National Historical Park

(1) Establishment

(A) In general

Subject to subparagraph (B), there is established in the State a unit of the National Park System to be known as the ''Paterson Great Falls National Historical Park''.

(B) Conditions for establishment

The Park shall not be established until the date on which the Secretary determines that—

(i)(I) the Secretary has acquired sufficient land or an interest in land within the boundary of the Park to constitute a manageable unit; or

(II) the State or City, as appropriate, has entered into a written agreement with the Secretary to donate—

(aa) the Great Falls State Park, including facilities for Park administration and visitor services; or

(bb) any portion of the Great Falls State Park agreed to between the Secretary and the State or City; and

(ii) the Secretary has entered into a written agreement with the State, City, or other public entity, as appropriate, providing that—

(I) land owned by the State, City, or other public entity within the Historic District will be managed consistent with this section; and

(II) future uses of land within the Historic District will be compatible with the designation of the Park.

(2) Purpose

The purpose of the Park is to preserve and interpret for the benefit of present and future generations certain historical, cultural, and natural resources associated with the Historic District.

(3) Boundaries

The Park shall include the following sites, as generally depicted on the Map:

(A) The upper, middle, and lower raceways.

(B) Mary Ellen Kramer (Great Falls) Park and adjacent land owned by the City.

(C) A portion of Upper Raceway Park, including the Ivanhoe Wheelhouse and the Society for Establishing Useful Manufactures Gatehouse.

(D) Overlook Park and adjacent land, including the Society for Establishing Useful Manufactures Hydroelectric Plant and Administration Building.

(E) The Allied Textile Printing site, including the Colt Gun Mill ruins, Mallory Mill ruins, Waverly Mill ruins, and Todd Mill ruins.

(F) The Rogers Locomotive Company Erecting Shop, including the Paterson Museum.

(G) The Great Falls Visitor Center.

(4) Availability of map

The Map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(5) Publication of notice

Not later than 60 days after the date on which the conditions in clauses (i) and (ii) of paragraph (1)(B) are satisfied, the Secretary shall publish in the Federal Register notice of the establishment of the Park, including an official boundary map for the Park.

(c) Administration

(1) In general

The Secretary shall administer the Park in accordance with—

(A) this section; and

(B) the laws generally applicable to units of the National Park System, including—

(i) sections 1, 2, 3, and 4 of this title; and

(ii) sections 461 to 467 of this title.

(2) State and local jurisdiction

Nothing in this section enlarges, diminishes, or modifies any authority of the State, or any political subdivision of the State (including the City)—

(A) to exercise civil and criminal jurisdiction; or

(B) to carry out State laws (including regulations) and rules on non-Federal land located within the boundary of the Park.

(3) Cooperative agreements

(A) In general

As the Secretary determines to be appropriate to carry out this section, the Secretary may enter into cooperative agreements with the owner of the Great Falls Visitor Center or any nationally significant properties within the boundary of the Park under which the Secretary may identify, interpret, restore, and provide technical assistance for the preservation of the properties.

(B) Right of access

A cooperative agreement entered into under subparagraph (A) shall provide that the Secretary, acting through the Director of the National Park Service, shall have the right of access at all reasonable times to all public portions of the property covered by the agreement for the purposes of—

(i) conducting visitors through the properties; and

(ii) interpreting the properties for the public.

(C) Changes or alterations

No changes or alterations shall be made to any properties covered by a cooperative agreement entered into under subparagraph (A) unless the Secretary and the other party to the agreement agree to the changes or alterations.

(D) Conversion, use, or disposal

Any payment made by the Secretary under this paragraph shall be subject to an agreement that the conversion, use, or disposal of a project for purposes contrary to the purposes of this section, as determined by the Secretary, shall entitle the United States to reimbursement in amount equal to the greater of—

(i) the amounts made available to the project by the United States; or

(ii) the portion of the increased value of the project attributable to the amounts made available under this paragraph, as determined at the time of the conversion, use, or, disposal.

(E) Matching funds

(i) In general

As a condition of the receipt of funds under this paragraph, the Secretary shall

require that any Federal funds made available under a cooperative agreement shall be matched on a 1-to-1 basis by non-Federal funds.

(ii) Form

With the approval of the Secretary, the non-Federal share required under clause (i) may be in the form of donated property, goods, or services from a non-Federal source.

(4) Acquisition of land

(A) In general

The Secretary may acquire land or interests in land within the boundary of the Park by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

(B) Donation of State owned land

Land or interests in land owned by the State or any political subdivision of the State may only be acquired by donation.

(5) Technical assistance and public interpretation

The Secretary may provide technical assistance and public interpretation of related historic and cultural resources within the boundary of the Historic District.

(d) Management plan

(1) In general

Not later than 3 fiscal years after the date on which funds are made available to carry out this subsection, the Secretary, in consultation with the Commission, shall complete a management plan for the Park in accordance with—

(A) section 1a–7(b) of this title; and

(B) other applicable laws.

(2) Cost share

The management plan shall include provisions that identify costs to be shared by the Federal Government, the State, and the City, and other public or private entities or individuals for necessary capital improvements to, and maintenance and operations of, the Park.

(3) Submission to Congress

On completion of the management plan, the Secretary shall submit the management plan to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(e) Paterson Great Falls National Historical Park Advisory Commission

(1) Establishment

There is established a commission to be known as the ''Paterson Great Falls National Historical Park Advisory Commission''.

(2) Duties

The duties of the Commission shall be to advise the Secretary in the development and implementation of the management plan.

(3) Membership

(A) Composition

The Commission shall be composed of 9 members, to be appointed by the Secretary, of whom—

(i) 4 members shall be appointed after consideration of recommendations submitted by the Governor of the State;

(ii) 2 members shall be appointed after consideration of recommendations submitted by the City Council of Paterson, New Jersey;

(iii) 1 member shall be appointed after consideration of recommendations submitted by the Board of Chosen Freeholders of Passaic County, New Jersey; and

(iv) 2 members shall have experience with national parks and historic preservation.

(B) Initial appointments

The Secretary shall appoint the initial members of the Commission not later than the earlier of—

(i) the date that is 30 days after the date on which the Secretary has received all of the recommendations for appointments under subparagraph (A); or

(ii) the date that is 30 days after the Park is established in accordance with subsection (b).

(4) Term; vacancies

(A) Term

(i) In general

A member shall be appointed for a term of 3 years.

(ii) Reappointment

A member may be reappointed for not more than 1 additional term.

(B) Vacancies

A vacancy on the Commission shall be filled in the same manner as the original appointment was made.

(5) Meetings

The Commission shall meet at the call of—

(A) the Chairperson; or

(B) a majority of the members of the Commission.

(6) Quorum

A majority of the Commission shall constitute a quorum.

(7) Chairperson and Vice Chairperson

(A) In general

The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(B) Vice Chairperson

The Vice Chairperson shall serve as Chairperson in the absence of the Chairperson.

(C) Term

A member may serve as Chairperson or Vice Chairman for not more than 1 year in each office.

(8) Commission personnel matters

(A) Compensation of members

(i) In general

Members of the Commission shall serve without compensation.

(ii) Travel expenses

Members of the Commission shall be allowed travel expenses, including per diem

in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(B) Staff

(i) In general

The Secretary shall provide the Commission with any staff members and technical assistance that the Secretary, after consultation with the Commission, determines to be appropriate to enable the Commission to carry out the duties of the Commission.

(ii) Detail of employees

The Secretary may accept the services of personnel detailed from—

(I) the State;

(II) any political subdivision of the State; or

(III) any entity represented on the Commission.

(9) FACA nonapplicability

Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(10) Termination

The Commission shall terminate 10 years after March 30, 2009.

(f) Study of Hinchliffe Stadium

(1) In general

Not later than 3 fiscal years after the date on which funds are made available to carry out this section, the Secretary shall complete a study regarding the preservation and interpretation of Hinchliffe Stadium, which is listed on the National Register of Historic Places.

(2) Inclusions

The study shall include an assessment of—

(A) the potential for listing the stadium as a National Historic Landmark; and

(B) options for maintaining the historic integrity of Hinchliffe Stadium.

(g) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 111–11, title VII, §7001, Mar. 30, 2009, 123 Stat. 1183.)

REFERENCES IN TEXT

Section 14(b) of the Federal Advisory Committee Act, referred to in subsec. (e)(9), is section 14(b) of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER LIX–KK—THOMAS EDISON NATIONAL HISTORICAL PARK

§ 410mmm. Thomas Edison National Historical Park, New Jersey

(a) Purposes

The purposes of this section are—

(1) to recognize and pay tribute to Thomas Alva Edison and his innovations; and

(2) to preserve, protect, restore, and enhance the Edison National Historic Site to ensure public use and enjoyment of the Site as an educational, scientific, and cultural center.

(b) Establishment

(1) In general

There is established the Thomas Edison National Historical Park as a unit of the National Park System (referred to in this section as the ''Historical Park'').

(2) Boundaries

The Historical Park shall be comprised of all property owned by the United States in the Edison National Historic Site as well as all property authorized to be acquired by the Secretary of the Interior (referred to in this section as the ''Secretary'') for inclusion in the Edison National Historic Site before March 30, 2009, as generally depicted on the map entitled the ''Thomas Edison National Historical Park'', numbered 403/80,000, and dated April 2008.

(3) Map

The map of the Historical Park shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) Administration

(1) In general

The Secretary shall administer the Historical Park in accordance with this section and with the provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title.

(2) Acquisition of property

(A) Real property

The Secretary may acquire land or interests in land within the boundaries of the Historical Park, from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange.

(B) Personal property

The Secretary may acquire personal property associated with, and appropriate for, interpretation of the Historical Park.

(3) Cooperative agreements

The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the Historical Park.

(4) Omitted

(5) References

Any reference in a law, map, regulation, document, paper, or other record of the United States to the ''Edison National Historic Site'' shall be deemed to be a reference to the ''Thomas Edison National Historical Park''.

(d) Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 111–11, title VII, § 7110, Mar. 30, 2009, 123 Stat. 1198.)

CODIFICATION

Section is comprised of section 7110 of Pub. L. 111–11. Subsec. (c)(4) of section 7110 of Pub. L. 111–11 repealed Pub. L. 87–628, which enacted provisions listed in a table of National Historic Sites set out under section 461 of this title.

SUBCHAPTER LIX–LL—PALO ALTO BATTLEFIELD NATIONAL HISTORICAL PARK

§ 410nnn. Findings

The Congress finds that:

(1) The study conducted by the National Park Service under section 506(b) of Public Law 95–625 has resulted in a precise identification of the location of the Battle of Palo Alto and the area requiring protection.

(2) Palo Alto is the only unit of the National Park System directed to the preservation and interpretation of resources related to the Mexican-American War.

(Pub. L. 102–304, § 2, June 23, 1992, 106 Stat. 256.)

REFERENCES IN TEXT

Section 506(b) of Pub. L. 95–625, referred to in par. (1), is set out as a note under section 410nnn–1 of this title.

CODIFICATION

This subchapter is comprised of Pub. L. 102–304. Pub. L. 102–304 was formerly listed in a table of National Historic Sites set out under section 461 of this title.

SHORT TITLE

Pub. L. 102–304, § 1, June 23, 1992, 106 Stat. 256, as amended by Pub. L. 111–11, title VII, § 7113(a)(3)(A), Mar. 30, 2009, 123 Stat. 1201, provided that: ''This Act [enacting this subchapter] may be cited as the 'Palo Alto Battlefield National Historical Park Act of 1991'.''

DESIGNATION OF PALO ALTO BATTLEFIELD NATIONAL HISTORICAL PARK

Pub. L. 111–11, title VII, § 7113(a)(1), (2), Mar. 30, 2009, 123 Stat. 1201, provided that:

''(1) IN GENERAL.—The Palo Alto Battlefield National Historic Site shall be known and designated as the 'Palo Alto Battlefield National Historical Park'.

''(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the historic site referred to in subsection (a) shall be deemed to be a reference to the Palo Alto Battlefield National Historical Park.''

§ 410nnn–1. Palo Alto Battlefield National Historical Park

(a) Establishment

In order to preserve for the education, benefit, and inspiration of present and future generations the nationally significant site of the first battle of the Mexican-American War, and to provide for its interpretation in such manner as to portray the battle and the Mexican-American War and its related political, diplomatic, military and social causes and consequences, there is hereby established the Palo Alto Battlefield National Historical Park in the State of Texas (hereafter in this subchapter referred to as the ''historical park'').

(b) Boundary

(1) In general

The historical park shall consist of approximately 3,400 acres as generally depicted on the map entitled ''Palo Alto Battlefield National Historical Park'', numbered 469–80,002, and dated March 1991. The map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

(2) Additional land

(A) In general

In addition to the land described in paragraph (1), the historical park shall consist of approximately 34 acres of land, as generally depicted on the map entitled ''Palo Alto Battlefield NHS Proposed Boundary Expansion'', numbered 469/80,012, and dated May 21, 2008.

(B) Availability of map

The map described in subparagraph (A) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) Legal description

Not later than 6 months after June 23, 1992, the Secretary of the Interior (hereafter in this subchapter referred to as the ''Secretary'') shall file a legal description of the historical park with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this subchapter, except that the Secretary may correct clerical and typographic errors in such legal description and in the maps referred to in paragraphs (1) and (2). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary may, from time to time, make minor revisions in the boundary of the historical park.

(Pub. L. 102–304, § 3, June 23, 1992, 106 Stat. 256; Pub. L. 111–11, title VII, § 7113(a)(3), (b), Mar. 30, 2009, 123 Stat. 1201, 1202.)

AMENDMENTS

2009—Pub. L. 111–11, § 7113(a)(3)(B), substituted ''National Historical Park'' for ''National Historic Site'' in section catchline.

Subsec. (a). Pub. L. 111–11, § 7113(a)(3)(A), (C), substituted ''National Historical Park'' for ''National Historic Site'' and ''historical park'' for ''historic site''.

Subsec. (b)(1). Pub. L. 111–11, § 7113(b)(1), inserted heading.

Pub. L. 111–11, § 7113(a)(3)(A), (C), substituted ''historical park'' for ''historic site'' and ''National Historical Park'' for ''National Historic Site''.

Subsec. (b)(2). Pub. L. 111–11, § 7113(b)(3), added par. (2). Former par. (2) redesignated (3).

Pub. L. 111–11, § 7113(a)(3)(C), substituted ''historical park'' for ''historic site'' in two places.

Subsec. (b)(3). Pub. L. 111–11, § 7113(b)(4), inserted heading and substituted ''Not later than'' for ''Within'' and ''maps referred to in paragraphs (1) and (2)'' for ''map referred to in paragraph (1)''.

Pub. L. 111–11, § 7113(b)(2), redesignated par. (2) as (3).

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on

Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

ESTABLISHMENT OF PALO ALTO BATTLEFIELD NATIONAL HISTORIC SITE

Pub. L. 95–625, title V, § 506, Nov. 10, 1978, 92 Stat. 3500, provided that:

''(a) In order to preserve and commemorate for the benefit and enjoyment of present and future generations an area of unique historical significance as one of only two important battles of the Mexican War fought on American soil, the Secretary [of the Interior] is authorized to establish the Palo Alto Battlefield National Historic Site [now Palo Alto Battlefield National Historical Park] in the State of Texas.

''(b) For the purposes of this section, the Secretary is authorized to acquire by donation, purchase, or exchange, not to exceed fifty acres of lands and interests therein, comprising the initial unit, in the vicinity of the site of the battle of Palo Alto, at the junction of Farm Roads 1847 and 511, 6.3 miles north of Brownsville, Texas. The Secretary shall complete a study and recommend to the Congress such additions as are required to fully protect the historic integrity of the battlefield by June 30, 1979. The Secretary shall establish the historic site by publication of a notice to that effect in the Federal Register at such time as he determines that sufficient property to constitute an administrable unit has been acquired. Pending such establishment and thereafter, the Secretary shall administer the property acquired pursuant to this section in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535) [16 U.S.C. 1 et seq.] and the Act of August 21, 1935 (49 Stat. 666) [16 U.S.C. 461 et seq.].

''(c) There are authorized to be appropriated such sums as may be necessary for lands and interests in lands and $200,000 for development to carry out the provisions of this section.''

§ 410nnn–2. Administration

The Secretary, acting through the Director of the National Park Service, shall manage the historical park in accordance with this subchapter and the provisions of law generally applicable to the National Park System, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title. The Secretary shall protect, manage, and administer the historical park for the purposes of preserving and interpreting the cultural and natural resources of the historical park and providing for the public understanding and appreciation of the historical park in such a manner as to perpetuate these qualities and values for future generations.

(Pub. L. 102–304, § 4, June 23, 1992, 106 Stat. 257; Pub. L. 111–11, title VII, § 7113(a)(3)(C), Mar. 30, 2009, 123 Stat. 1202.)

AMENDMENTS

2009—Pub. L. 111–11 substituted ''historical park'' for ''historic site'' wherever appearing.

§ 410nnn–3. Land acquisition

Within the historical park, the Secretary is authorized to acquire lands and interest in lands by donation, purchase with donated or appropriated funds, or exchange. Lands or interests in lands owned by the State of Texas or political subdivisions thereof may be acquired only by donation.

(Pub. L. 102–304, § 5, June 23, 1992, 106 Stat. 257; Pub. L. 111–11, title VII, § 7113(a)(3)(C), Mar. 30, 2009, 123 Stat. 1202.)

AMENDMENTS

2009—Pub. L. 111–11 substituted ''historical park'' for ''historic site''.

§ 410nnn–4. Cooperative agreements

In furtherance of the purposes of this subchapter, the Secretary is authorized to enter into cooperative agreements with the United States of Mexico, in accordance with existing international agreements, and with other owners of Mexican-American War properties within the United States of America for the purposes of conducting joint research and interpretive planning for the historical park and related Mexican-American War sites. Interpretive information and programs shall reflect historical data and perspectives of both countries and the series of historical events associated with the Mexican-American War.

(Pub. L. 102–304, § 6, June 23, 1992, 106 Stat. 257; Pub. L. 111–11, title VII, § 7113(a)(3)(C), Mar. 30, 2009, 123 Stat. 1202.)

AMENDMENTS

2009—Pub. L. 111–11 substituted ''historical park'' for ''historic site''.

§ 410nnn–5. Management plan

Within 3 years after June 23, 1992, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the Senate, a general management plan for the historical park. The plan shall be consistent with section 1a–7 of this title and with the purposes of this subchapter and shall include (but not be limited to) each of the following:

(1) A resource protection program including land acquisition needs.

(2) A general visitor use and interpretive program.

(3) A general development plan including such roads, trails, markers, structures, and other improvements and facilities as may be necessary for the accommodation of visitor use in accordance with the purposes of this subchapter and the need to preserve the integrity of the historical park.

(4) A research plan.

(5) Identification of appropriate cooperative agreements as identified in section 410nnn–4 of this title.

(Pub. L. 102–304, § 7, June 23, 1992, 106 Stat. 257; Pub. L. 111–11, title VII, § 7113(a)(3)(C), Mar. 30, 2009, 123 Stat. 1202.)

AMENDMENTS

2009—Pub. L. 111–11 substituted ''historical park'' for ''historic site'' in introductory provisions and in par. (3).

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 410nnn–6. Authorization of appropriations

There is authorized to be appropriated $6,000,000 for acquisition of lands and interests in

lands for purposes of the Palo Alto Battlefield National Historical Park.

(Pub. L. 102–304, § 8, June 23, 1992, 106 Stat. 258; Pub. L. 111–11, title VII, § 7113(a)(3)(A), Mar. 30, 2009, 123 Stat. 1201.)

AMENDMENTS

2009—Pub. L. 111–11 substituted ''National Historical Park'' for ''National Historic Site''.

SUBCHAPTER LX—NATIONAL MILITARY PARKS

§ 411. Military maneuvers

In order to obtain practical benefits of great value to the country from the establishment of national military parks, said parks and their approaches are declared to be national fields for military maneuvers for the Regular Army of the United States and the National Guard or militia of the States. Said parks shall be opened for such purposes only in the discretion of the Secretary of the Army, and under such regulations as he may prescribe.

(May 15, 1896, ch. 182, § 1, 29 Stat. 120; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Administrative functions of certain national military parks transferred to Department of the Interior by Ex. Ord. No. 6166, § 2, June 10, 1933, and Ex. Ord. No. 6228, § 1, July 28, 1933, set out as a note under section 901 of Title 5, Government Organization and Employees.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, § 2, June 10, 1933, by act Mar. 2, 1934, ch. 38, § 1, 48 Stat. 389.

SECRETARY OF THE AIR FORCE

For transfer of certain real property functions, insofar as they pertain to Air Force, to Secretary of the Air Force and Department of the Air Force, from Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 14 [§ 2(31)], eff. July 1, 1948.

§ 412. Camps for military instruction; regulations for militia

The Secretary of the Army is authorized, within the limits of appropriations which may from time to time be available for such purpose, to assemble, at his discretion, in camp at such season of the year and for such period as he may designate, at such field of military maneuvers, such portions of the military forces of the United States as he may think best, to receive military instruction there.

The Secretary of the Army is further authorized to make and publish regulations governing the assembling of the National Guard or militia of the several States upon the maneuvering grounds, and he may detail instructors from the Regular Army for such forces during their exercises.

(May 15, 1896, ch. 182, § 2, 29 Stat. 121; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

SECRETARY OF THE AIR FORCE

For transfer of certain functions, personnel and property, insofar as they pertain to Air Force, from Secretary of the Army and Department of the Army to Secretary of the Air Force and Department of the Air Force, see Secretary of Defense Transfer Order Nos. 1, Sept. 26, 1947; 10, Apr. 27, 1948; and 40 [App. B(65)], July 22, 1949.

§ 413. Offenses relating to structures and vegetation

Every person who willfully destroys, mutilates, defaces, injures, or removes any monument, statue, marker, guidepost, or other structure, or who willfully destroys, cuts, breaks, injures, or removes any tree, shrub, or plant within the limits of any national military parks shall be deemed guilty of a misdemeanor, punishable by a fine of not less than $10 nor more than $1,000 for each monument, statue, marker, guidepost, or other structure, tree, shrub, or plant destroyed, defaced, injured, cut, or removed, or by imprisonment for not less than fifteen days and not more than one year, or by both fine and imprisonment.

(Mar. 3, 1897, ch. 372, §§ 1, 5, 29 Stat. 621, 622.)

§ 414. Trespassing for hunting, or shooting

Every person who shall trespass upon any national military parks for the purpose of hunting or shooting, or who shall hunt any kind of game thereon with gun or dog, or shall set trap or net or other device whatsoever thereon for the purpose of hunting or catching game of any kind, shall be guilty of a misdemeanor, punishable by a fine of not more than $1,000 or by imprisonment for not less than five days or more than thirty days, or by both fine and imprisonment.

(Mar. 3, 1897, ch. 372, §§ 2, 5, 29 Stat. 621, 622.)

§ 415. Repealed. Pub. L. 91–383, § 10(a)(1), as added Pub. L. 94–458, § 2, Oct. 7, 1976, 90 Stat. 1941

Section, act Mar. 3, 1897, ch. 372, §§ 3, 5, 29 Stat. 621, 622, authorized superintendent or any guardian of a national military park to arrest and prosecute anyone engaged or who may have been engaged in committing any misdemeanor named in sections 413 and 414 of this title.

§ 416. Refusal to surrender leased land; recovery

Any person to whom land lying within any national military parks may have been leased, who

refuses to give up possession of the same to the United States after the termination of said lease, and after possession has been demanded for the United States by any park commissioner or the park superintendent, or any person retaining possession of land lying within the boundary of said park which he or she may have sold to the United States for park purposes and have received payment therefor, after possession of the same has been demanded for the United States by any park commissioner or the park superintendent, shall be deemed guilty of trespass, and the United States may maintain an action for the recovery of the possession of the premises so withheld in the courts of the United States, according to the statutes or code of practice of the State in which the park may be situated.

(Mar. 3, 1897, ch. 372, §§ 4, 5, 29 Stat. 622.)

§ 417. Omitted

CODIFICATION

Section, act Aug. 18, 1894, ch. 301, § 1, 28 Stat. 405, authorized acceptance of donations of land for road or other purposes, and is considered obsolete by the Judge Advocate General. See J.A.G. 601.1, June 27, 1935.

§ 418. Repealed. Feb. 20, 1931, ch. 235, 46 Stat. 1191

Section, act Mar. 3, 1925, ch. 418, 43 Stat. 1104, was in opinion of Judge Advocate General repealed by act Feb. 20, 1931, providing that no real estate of the Department of the Army should be disposed of without authority of Congress and providing ''all existing acts or parts thereof in conflict with this proviso, other than special acts for the sale of stated tracts of land, are hereby repealed.'' See J.A.G. 611, Dec. 3, 1931.

§ 419. Transferred

CODIFICATION

Section, act Feb. 15, 1901, ch. 372, 31 Stat. 790, which related to rights-of-way for electrical plants, was transferred to section 79 of this title.

§ 420. Rights-of-way through military and other reservations for power and communications facilities

The head of the department having jurisdiction over the lands is authorized and empowered, under general regulations to be fixed by him, to grant an easement for rights-of-way, for a period not exceeding fifty years from the date of the issuance of such grant, over, across, and upon the public lands and reservations of the United States for electrical poles and lines for the transmission and distribution of electrical power, and for poles and lines for communication purposes, and for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, to the extent of two hundred feet on each side of the center line of such lines and poles and not to exceed four hundred feet by four hundred feet for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, to any citizen, association, or corporation of the United States, where it is intended by such to exercise the right-of-way herein granted for any one or more of the purposes herein named: *Provided*, That such right-of-way shall be allowed within or through any national park, military or any other reservation only upon the approval of the chief officer of the department under whose supervision or control such reservation falls, and upon a finding by him that the same is not incompatible with the public interest: *Provided further*, That all or any part of such right-of-way may be forfeited and annulled by declaration of the head of the department having jurisdiction over the lands for nonuse for a period of two years or for abandonment.

Any citizen, association, or corporation of the United States to whom there has been issued a permit prior to March 4, 1911, for any of the purposes specified herein under any law existing at that date, may obtain the benefit of this section upon the same terms and conditions as shall be required of citizens, associations, or corporations making application under the provisions of this section subsequent to such date.

(Mar. 4, 1911, ch. 238, 36 Stat. 1253; May 27, 1952, ch. 338, 66 Stat. 95.)

REPEALS

Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

CODIFICATION

Section, insofar as it relates to right-of-way in national parks and other reservations, is also set out as section 5 of this title; insofar as it relates to rights-of-way in national forests, is set out as section 523 of this title; and, insofar as it relates to rights-of-way on public lands generally, and Indian reservations, is set out as section 961 of Title 43, Public Lands.

AMENDMENTS

1952—Act May 27, 1952, inserted reference to rights-of-way for radio, television, and other forms of communication, and increased from 40 feet to 400 feet the maximum width of rights-of-way for lines and poles.

SAVINGS PROVISION

Repeal by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§ 421. Vacancies occurring in commissions in charge of parks not to be filled

Vacancies occurring by death or resignation in the membership of the several commissions in charge of national military parks shall not be filled, and the duties of the offices thus vacated shall devolve upon the remaining commissioners or commissioner for each of said parks. As vacancies occur the Secretary of the Army shall become ex officio a member of the commission effected with full authority to act with the remaining commissioners or commissioner, and in case of the vacation of all the offices of commissioner in any one park hereunder the duties of such commission shall thereafter be performed under the direction of the Secretary of the Army.

(Aug. 24, 1912, ch. 355, § 1, 37 Stat. 442; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Administrative functions of certain national military parks transferred to Department of the Interior by Ex. Ord. No. 6166, § 2, June 10, 1933, and Ex. Ord. No. 6228, § 1, July 28, 1933, set out as a note under section 901 of Title 5, Government Organization and Employees.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, § 2, June 10, 1933, by act Mar. 2, 1934, ch. 38, § 1, 48 Stat. 389.

SECRETARY OF THE AIR FORCE

For transfer of certain membership functions to Secretary of the Air Force, without prejudice to continued membership of Secretary of the Army, see Secretary of Defense Transfer Order No. 40, July 22, 1949.

§ 422. Moores Creek National Battlefield; establishment

In order to preserve for historical and professional military study one of the most memorable battles of the Revolutionary War, the battlefield of Moores Creek, in the State of North Carolina, is declared to be a national battlefield whenever the title to the same shall have been acquired by the United States; that is to say, the area inclosed by the following lines:

Those tracts or parcels of land in the county of Pender, and State of North Carolina, more particularly described as follows:

First tract: Beginning at a stone at the run of Moores Creek, on the east bank of same, about twenty poles (in a straight line) above the new iron bridge, and running thence parallel to William Walker's line, south sixty-two and one-half degrees west eleven chains to a stake; thence south seven and one-half degrees east three and six-tenths chains to a stone at the south edge of the old stage road; thence along the south edge of said road south forty-six degrees east about five chains and eighty links to a stone; thence south thirty-seven and one-fourth degrees west fourteen chains and twelve links to a stone; thence north sixty-two and one-half degrees west ten chains and seventy-five links to a stone, a corner (4) of an eight-acre tract which the parties of the first part conveyed to Governor D. L. Russell, for the purposes aforesaid, by a deed dated January, 1898, and recorded in Pender County; thence with the lines of said tract north thirty-nine and one-half degrees east thirteen chains and twenty-seven links to a stake, the third corner of the said eight-acre tract; thence north fifty-one degrees west four chains to a stake about twenty feet from the old entrenchment (the second corner of the eight-acre tract); thence with the first line reversed north forty-four degrees west two chains to a sweet gum at the run of Moores Creek (the first corner of the eight-acre tract); thence up and with the run of said creek to the first station, containing twenty acres.

Second tract: Beginning at a sweet gum on the eastern edge of Moores Creek, running thence south forty-four degrees east two poles to a stake; thence south fifty-one degrees east four poles five links to a stake; thence south thirty-nine degrees west thirteen poles twenty-seven links to a stake; thence north fifty-one degrees west nine poles thirty-one links to a stake in the edge of Moores Creek; thence northerly with the creek to the beginning, containing eight acres more or less.

Third tract: Beginning at a cypress on the edge of the run of Moores Creek about twenty feet from the west end of the old entrenchments and running thence in a line parallel to and ten feet distance[1] from the outside or east edge of the old line of entrenchments in all the various courses of the same to a stake ten feet distant on the east side of the north end of said entrenchments; thence a direct line to the run of said Moores Creek; thence down said creek to the beginning, containing two acres, be the same more or less (the intention is to include all lands now known and designated as Moores Creek battlefield and now so recognized as such and owned by the State of North Carolina), together with all the privileges and appurtenances thereunto belonging.

The aforesaid tracts of land containing in the aggregate thirty acres, more or less, and being the property of the State of North Carolina, and the area thus inclosed shall be known as the Moores Creek National Battlefield.

(June 2, 1926, ch. 448, § 1, 44 Stat. 684; Pub. L. 96–344, § 12, Sept. 8, 1980, 94 Stat. 1136.)

CHANGE OF NAME

In the first undesignated par., ''battlefield'' substituted for ''military park'' and in last undesignated par., ''Battlefield'' substituted for ''Military Park'' on authority of Pub. L. 96–344, § 12, Sept. 8, 1980, 94 Stat. 1136, which redesignated Moores Creek National Military Park as Moores Creek National Battlefield.

§ 422a. Acceptance of lands

The establishment of the Moores Creek National Battlefield shall be carried forward under the control and direction of the Secretary of the Interior, who is authorized to receive from the State of North Carolina a deed of conveyance to the United States of all the lands belonging to the said State, embracing thirty acres, more or less, and described more particularly in section 422 of this title.

(June 2, 1926, ch. 448, § 2, 44 Stat. 685; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 96–344, § 12, Sept. 8, 1980, 94 Stat. 1136.)

CHANGE OF NAME

''Battlefield'' substituted in text for ''Military Park'' on authority of Pub. L. 96–344, § 12, Sept. 8, 1980, 94 Stat. 1136, which redesignated Moores Creek National Military Park as Moores Creek National Battlefield.

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[1] So in original. Probably should be ''distant''.

TRANSFER OF FUNCTIONS

Administrative functions of Moores Creek National Military Park transferred to Department of the Interior by Ex. Ord. Nos. 6166 and 6228, set out as a note under section 901 of Title 5, Government Organization and Employees.

§ 422a–1. Acquisition of property

The Secretary of the Interior is authorized, in his discretion, to acquire by donation, purchase, or exchange lands, buildings, structures, and other property, or interests therein, which he may determine to be of historical interest in connection with the Moores Creek National Battlefield, the title to such property or interests to be satisfactory to the Secretary of the Interior: *Provided*, That the area acquired pursuant to this section shall not exceed one hundred acres. All such property and interests, upon acquisition by the Federal Government, shall be a part of the Moores Creek National Battlefield and shall be subject to all laws and regulations applicable thereto.

(Sept. 27, 1944, ch. 417, §1, 58 Stat. 746; Pub. L. 93–477, title IV, §402, Oct. 26, 1974, 88 Stat. 1447; Pub. L. 96–344, §12, Sept. 8, 1980, 94 Stat. 1136.)

AMENDMENTS

1974—Pub. L. 93–477 substituted ''acquire by donation, purchase, or exchange'' for ''accept in behalf of the United States donations of'', and ''acquired'' for ''to be accepted''.

CHANGE OF NAME

''Battlefield'' substituted in text for ''Military Park'' on authority of Pub. L. 96–344, §12, Sept. 8, 1980, 94 Stat. 1136, which redesignated Moores Creek National Military Park as Moores Creek National Battlefield.

§ 422a–2. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of section 422a–1 of this title, but not more than $243,000 shall be appropriated for the acquisition of lands and interests in lands and not more than $325,000 shall be appropriated for development.

(Sept. 27, 1944, ch. 417, §2, as added Pub. L. 93–477, title I, §101(7), Oct. 26, 1974, 88 Stat. 1445.)

§ 422b. Duties of Secretary of the Interior

The affairs of the Moores Creek National Battlefield shall be subject to the supervision and direction of the Secretary of the Interior, and it shall be the duty of the Interior Department, under the direction of the Secretary of the Interior, to open or repair such roads as may be necessary to the purposes of the battlefield, and to ascertain and mark with historical tablets or otherwise, as the Secretary of the Interior may determine, all lines of battle of the troops engaged in the Battle of Moores Creek, and other historical points of interest pertaining to the battle within the battlefield or its vicinity; and the Secretary of the Interior in establishing this battlefield is authorized to employ such labor and services and to obtain such supplies and material as may be considered best for the interest of the Government, and the Secretary of the Interior shall make and enforce all needed regulations for the care of the battlefield.

(June 2, 1926, ch. 448, §3, 44 Stat. 685; Ex. Ord. No. 6166, §2, June 10, 1933; Ex. Ord. No. 6228, §1, July 28, 1933; Pub. L. 96–344, §12, Sept. 8, 1980, 94 Stat. 1136.)

CHANGE OF NAME

''Battlefield'' and ''battlefield'' substituted in text for ''Military Park'' and ''park'', respectively, on authority of Pub. L. 96–344, §12, Sept. 8, 1980, 94 Stat. 1136, which redesignated Moores Creek National Military Park as Moores Creek National Battlefield.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 422a of this title.

§ 422c. Ascertaining and marking of lines of battle

It shall be lawful for any State that had troops engaged in the battle of the Moores Creek National Battlefield, to enter upon the same for the purpose of ascertaining and marking the lines of battle of its troops engaged therein: *Provided*, That before any such lines are permanently designated the position of the lines and the proposed methods of marking them by monuments, tablets, or otherwise, shall be submitted to and approved by the Secretary of the Interior; and all such lines, designs, and inscriptions for the same shall first receive the written approval of the Secretary of the Interior.

(June 2, 1926, ch. 448, §4, 44 Stat. 686; Ex. Ord. No. 6166, §2, June 10, 1933; Ex. Ord. No. 6228, §1, July 28, 1933; Pub. L. 96–344, §12, Sept. 8, 1980, 94 Stat. 1136.)

CHANGE OF NAME

''Battlefield'' substituted in text for ''Military Park'' on authority of Pub. L. 96–344, §12, Sept. 8, 1980, 94 Stat. 1136, which redesignated Moores Creek National Military Park as Moores Creek National Battlefield.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 422a of this title.

§ 422d. Monuments, etc., protected

If any person shall, except by permission of the Secretary of the Interior, destroy, deface, injure, or remove any monument, column, statues, memorial structures, or work of art, which shall be placed upon the grounds of the park by lawful authority, or shall destroy or remove any fence, railing, inclosure, or other mark for the protection or ornamentation of said park, or any portion thereof, or shall destroy, cut, hack, bark, break down, or otherwise injure any tree, brush, or shrubbery that may be growing upon said park, or shall cut down or remove or fell any timber, battle relic, tree, or tree growing upon said park, or hunt within the limits of the park, any person so offending and found guilty thereof before any justice of the peace of the county of Pender, State of North Carolina, shall, for each and every offense, forfeit and pay a fine, in the discretion of the justice, according to the aggravation of the offense, of not less than $5 nor more than $50, one-half for the use of the park and the other half to the informer, to be enforced and recovered before such justice in like manner as fines of like nature were, on

June 2, 1926, by law recoverable in the said county of Pender, State of North Carolina.

(June 2, 1926, ch. 448, §5, 44 Stat. 686; Ex. Ord. No. 6166, §2, June 10, 1933; Ex. Ord. No. 6228, §1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 422a of this title.

§ 423. Petersburg National Battlefield; establishment

In order to commemorate the campaign and siege and defense of Petersburg, Virginia, in 1864 and 1865 and to preserve for historical purposes the breastworks, earthworks, walls, or other defenses or shelters used by the armies therein, the battle fields at Petersburg, in the State of Virginia, are declared a national battlefield whenever the title to the same shall have been acquired by the United States by donation and the usual jurisdiction over the lands and roads of the same shall have been granted to the United States by the State of Virginia—that is to say, one hundred and eighty-five acres or so much thereof as the Secretary of the Interior may deem necessary in and about the city of Petersburg, State of Virginia.

(July 3, 1926, ch. 746, §1, 44 Stat. 822; Ex. Ord. No. 6166, §2, June 10, 1933; Ex. Ord. No. 6228, §1, July 28, 1933; Pub. L. 87–603, §1, Aug. 24, 1962, 76 Stat. 403.)

CHANGE OF NAME

''National battlefield'' substituted in text for ''national military park'' in view of redesignation of Petersburg National Military Park as Petersburg National Battlefield by Pub. L. 87–603. See section 423h–1 of this title.

TRANSFER OF FUNCTIONS

Administrative functions of Petersburg National Military Park transferred to Department of the Interior by Ex. Ord. Nos. 6166 and 6228, set out as notes under section 901 of Title 5, Government Organization and Employees.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, §2, by act Mar. 2, 1934, ch. 38, §1, 48 Stat. 389.

TRANSFER OF PORTION OF LANDS TO SECRETARY OF THE ARMY

Act June 5, 1942, ch. 345, 56 Stat. 322, provided: ''That the Secretary of the Interior shall transfer to the Secretary of War [Army] jurisdiction over all lands owned by the United States lying south and east of the Hickory Hill Road within the Petersburg National Military Park in the Commonwealth of Virginia. Upon the date of the transfer, the lands shall cease to be a part of the Petersburg National Military Park and the Secretary of War [Army] shall thereafter administer the lands for military purposes.''

§ 423a. Acceptance of donations of lands

The Secretary of the Interior is authorized to accept, on behalf of the United States, donations of lands, interests therein, or rights pertaining thereto required for the Petersburg National Battlefield.

(July 3, 1926, ch. 746, §2, 44 Stat. 822; Ex. Ord. No. 6166, §2, June 10, 1933; Ex. Ord. No. 6228, §1, July 28, 1933; Pub. L. 87–603, §1, Aug. 24, 1962, 76 Stat. 403.)

CHANGE OF NAME

''Petersburg National Battlefield'' substituted in text for ''Petersburg National Military Park'' pursuant to Pub. L. 87–603. See section 423h–1 of this title.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 423 of this title.

§ 423a–1. Addition of lands

The Department of the Army is authorized and directed to transfer to the Department of the Interior, without reimbursement, two tracts of land, comprising two hundred six acres, more or less, situated on either side of Siege Road adjacent to Petersburg National Battlefield, Virginia. Upon completion of such transfer, all lands, interest in lands, and other property in Federal ownership and under the administration of the National Park Service as a part of or in conjunction with Petersburg National Battlefield, in and about the city of Petersburg, Virginia, and comprising one thousand five hundred thirty-one acres, more or less, upon publication of the description thereof in the Federal Register by the Secretary of the Interior, shall constitute the Petersburg National Battlefield.

(Sept. 7, 1949, ch. 543, §1, 63 Stat. 691; Pub. L. 87–603, §1, Aug. 24, 1962, 76 Stat. 403.)

CHANGE OF NAME

''Petersburg National Battlefield'' substituted in text for ''Petersburg National Military Park'' pursuant to Pub. L. 87–603. See section 423h–1 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 423a–2. Adjustment of boundary

The Secretary of the Interior is further authorized to adjust the boundary of the Petersburg National Battlefield through purchase, exchange, or transfer: *Provided*, That in doing so the total area of the battlefield will not be increased and that such changes will become effective upon publication of the description thereof in the Federal Register by the Secretary of the Interior.

(Sept. 7, 1949, ch. 543, §2, 63 Stat. 692; Pub. L. 87–603, §1, Aug. 24, 1962, 76 Stat. 403.)

CHANGE OF NAME

''Petersburg National Battlefield'' and ''battlefield'' substituted in text for ''Petersburg National Military Park'' and ''park'', respectively, in view of redesignation of Petersburg National Military Park as Petersburg National Battlefield by Pub. L. 87–603. See section 423h–1 of this title.

§ 423b. Commission; organization

The affairs of the Petersburg National Battlefield shall, subject to the supervision and direc-

tion of the Secretary of the Interior, be in charge of three commissioners, consisting of Army officers, civilians, or both, to be appointed by the Secretary of the Interior, one of whom shall be designated as chairman and another as secretary of the commission.

(July 3, 1926, ch. 746, §3, 44 Stat. 822; Ex. Ord. No. 6166, §2, June 10, 1933; Ex. Ord. No. 6228, §1, July 28, 1933; Pub. L. 87–603, §1, Aug. 24, 1962, 76 Stat. 403.)

CHANGE OF NAME

''Petersburg National Battlefield'' substituted in text for ''Petersburg National Military Park'' pursuant to Pub. L. 87–603. See section 423h–1 of this title.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 423 of this title.

§ 423c. Duties of commission

It shall be the duties of the commissioners, under the direction of the Secretary of the Interior, to superintend the opening or repair of such roads as may be necessary to the purposes of the battlefield, and to ascertain and mark with historical tablets or otherwise, as the Secretary of the Interior may determine, all breastworks, earthworks, walls, or other defenses or shelters, lines of battle, location of troops, buildings, and other historical points of interest within the battlefield or in its vicinity, and the said commission in establishing the battlefield shall have authority, under the direction of the Secretary of the Interior, to employ such labor and service at rates to be fixed by the Secretary of the Interior, and to obtain such supplies and materials as may be necessary to carry out the provisions of sections 423, 423a, and 423b to 423h of this title.

(July 3, 1926, ch. 746, §4, 44 Stat. 822; Ex. Ord. No. 6166, §2, June 10, 1933; Ex. Ord. No. 6228, §1, July 28, 1933; Pub. L. 87–603, §1, Aug. 24, 1962, 76 Stat. 403.)

CHANGE OF NAME

''Battlefield'' substituted in text for ''park'' in view of redesignation of Petersburg National Military Park as Petersburg National Battlefield by Pub. L. 87–603. See section 423h–1 of this title.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 423 of this title.

§ 423d. Acceptance and disposition of gifts

The commission, acting through the Secretary of the Interior, is authorized to receive gifts and contributions from States, Territories, societies, organizations, and individuals for the Petersburg National Battlefield: *Provided*, That all contributions of money received shall be deposited in the Treasury of the United States and credited to a fund to be designated ''Petersburg National Battlefield Fund'', which fund shall be applied to and expended under the direction of the Secretary of the Interior, for carrying out the provisions of sections 423, 423a, and 423b to 423h of this title.

(July 3, 1926, ch. 746, §5, 44 Stat. 822; Ex. Ord. No. 6166, §2, June 10, 1933; Ex. Ord. No. 6228, §1, July 28, 1933; Pub. L. 87–603, §1, Aug. 24, 1962, 76 Stat. 403.)

CHANGE OF NAME

''Petersburg National Battlefield'' substituted in text for ''Petersburg National Military Park'' pursuant to Pub. L. 87–603. See section 423h–1 of this title.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 423 of this title.

§ 423e. Ascertaining and marking lines of battle

It shall be lawful for the authorities of any State having had troops engaged at Petersburg, to enter upon the lands and approaches of the Petersburg National Battlefield for the purpose of ascertaining and marking the lines of battle of troops engaged therein: *Provided*, That before any such lines are permanently designated, the position of the lines and the proposed methods of marking them by monuments, tablets, or otherwise, including the design and inscription for the same, shall be submitted to the Secretary of the Interior and shall first receive written approval of the Secretary, which approval shall be based upon formal written reports to be made to him in each case by the commissioners of the battlefield: *Provided*, That no discrimination shall be made against any State as to the manner of designating lines, but any grant made to any State by the Secretary of the Interior may be used by any other State.

(July 3, 1926, ch. 746, §6, 44 Stat. 823; Ex. Ord. No. 6166, §2, June 10, 1933; Ex. Ord. No. 6228, §1, July 28, 1933; Pub. L. 87–603, §1, Aug. 24, 1962, 76 Stat. 403.)

CHANGE OF NAME

''Petersburg National Battlefield'' and ''battlefield'' substituted in text for ''Petersburg National Military Park'' and ''park'', respectively, in view of redesignation of Petersburg National Military Park as Petersburg National Battlefield by Pub. L. 87–603. See section 423h–1 of this title.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 423 of this title.

§ 423f. Protection of monuments, etc.

If any person shall, except by permission of the Secretary of the Interior, destroy, mutilate, deface, injure, or remove any monument, column, statues, memorial structures, or work of art that shall be erected or placed upon the grounds of the battlefield by lawful authority, or shall destroy or remove any fence, railing, inclosure, or other work for the protection or ornament of said battlefield, or any portion thereof, or shall destroy, cut, hack, bark, break down, or otherwise injure any tree, bush, or shrubbery that may be growing upon said battlefield, or shall cut down or fell or remove any timber, battle relic, tree or trees growing or being upon said battlefield, or hunt within the limits of the battlefield, or shall remove or destroy any breastworks, earthworks, walls, or other defenses or shelter or any part thereof constructed by the armies formerly engaged in the battles on the lands or approaches to the battlefield,

any person so offending and found guilty thereof, before any United States magistrate judge or court, justice of the peace of the county in which the offense may be committed, or any other court of competent jurisdiction, shall for each and every such offense forfeit and pay a fine, in the discretion of the said United States magistrate judge or court, justice of the peace or other court, according to the aggravation of the offense, of not less than $5 nor more than $500, one-half for the use of the battlefield and the other half to the informant, to be enforced and recovered before such United States magistrate judge or court, justice of the peace or other court, in like manner as debts of like nature were, on July 3, 1926, by law recoverable in the several counties where the offense may be committed.

(July 3, 1926, ch. 746, § 7, 44 Stat. 823; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 87–603, § 1, Aug. 24, 1962, 76 Stat. 403; Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

CHANGE OF NAME

''Battlefield'' substituted for ''park'' wherever appearing in text, in view of redesignation of Petersburg National Military Park as Petersburg National Battlefield by Pub. L. 87–603. See section 423h–1 of this title.

''United States magistrate judge'' substituted for ''United States magistrate'' wherever appearing in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''United States magistrate'' substituted for ''United States commissioner'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 423 of this title.

§ 423g. Rules and regulations

The Secretary of the Interior, subject to the approval of the President, shall have the power to make and shall make all needful rules and regulations for the care of the battlefield, and for the establishment and marking of lines of battle and other historical features of the battlefield.

(July 3, 1926, ch. 746, § 8, 44 Stat. 823; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 87–603, § 1, Aug. 24, 1962, 76 Stat. 403.)

CHANGE OF NAME

''Battlefield'' substituted in text for ''park'' in view of redesignation of Petersburg National Military Park as Petersburg National Military Battlefield by Pub. L. 87–603. See section 423h–1 of this title.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 423 of this title.

§ 423h. Report of completion; superintendent of battlefield

Upon completion of the acquisition of the land and the work of the commission, the Secretary of the Interior shall render a report thereon to Congress, and thereafter the battlefield shall be placed in charge of a superintendent at a salary to be fixed by the Secretary of the Interior and paid out of the appropriation available for the maintenance of the battlefield.

(July 3, 1926, ch. 746, § 9, 44 Stat. 823; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 87–603, § 1, Aug. 24, 1962, 76 Stat. 403.)

CHANGE OF NAME

''Battlefield'' substituted in text for ''park'' in view of redesignation of Petersburg National Military Park as Petersburg National Military Battlefield by Pub. L. 87–603. See section 423h–1 of this title.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 423 of this title.

§ 423h–1. Redesignation of park

The Petersburg National Military Park, established under authority of sections 423, 423a, and 423b to 423h of this title, and enlarged pursuant to sections 423a–1 and 423a–2 of this title, is redesignated the Petersburg National Battlefield.

(Pub. L. 87–603, § 1, Aug. 24, 1962, 76 Stat. 403.)

§ 423h–2. Acquisition of lands; publication in Federal Register; administration

The Secretary of the Interior, in furtherance of the purposes of sections 423, 423a, and 423b to 423h of this title referred to in section 423h–1 of this title, may acquire by purchase with donated or appropriated funds, exchange, transfer, or by such other means as he deems to be in the public interest, not to exceed twelve hundred acres of land or interests in land at the site of the Battle of Five Forks for addition to the Petersburg National Battlefield. Lands and interests in lands acquired by the Secretary pursuant to this section shall, upon publication of a description thereof in the Federal Register, become a part of the Petersburg National Battlefield, and thereafter shall be administered by the Secretary of the Interior in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented.

(Pub. L. 87–603, § 2, Aug. 24, 1962, 76 Stat. 403.)

§ 423h–3. Authorization of appropriation

There are authorized to be appropriated such sums, but not more than $90,000, as are necessary to acquire land pursuant to section 423h–2 of this title.

(Pub. L. 87–603, § 3, Aug. 24, 1962, 76 Stat. 403.)

§ 423i. Omitted

CODIFICATION

Section, act July 3, 1926, ch. 746, § 10, 44 Stat. 823, appropriated $15,000 for carrying out provisions of sections 423, 423a, 423b to 423h of this title to be available until expended.

§§ 423j to 423*l*. Repealed. Pub. L. 106–511, title V, § 507, Nov. 13, 2000, 114 Stat. 2376

Section 423j, act Mar. 2, 1936, ch. 113, § 1, 49 Stat. 1155, related to establishment of Richmond National Battlefield Park.

Section 423k, act Mar. 2, 1936, ch. 113, § 2, 49 Stat. 1156, related to acceptance of donations of lands and funds and acquisitions of lands for Richmond National Battlefield Park.

Section 423*l*, act Mar. 2, 1936, ch. 113, § 3, 49 Stat. 1156, related to administration, protection, and development of Richmond National Battlefield Park.

See sections 423*l*–1 to 423*l*–6 of this title.

§ 423*l*–1. Short title; definitions

(a) Short title

Sections 423*l*–1 to 423*l*–6 of this title may be cited as the ''Richmond National Battlefield Park Act of 2000''.

(b) Definitions

In sections 423*l*–1 to 423*l*–6 of this title:

(1) Battlefield park

The term ''battlefield park'' means the Richmond National Battlefield Park.

(2) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 106–511, title V, § 501, Nov. 13, 2000, 114 Stat. 2373.)

REFERENCES IN TEXT

Sections 423*l*–1 to 423*l*–6 of this title, referred to in text, was in the original ''this title'', meaning title V of Pub. L. 106–511, Nov. 13, 2000, 114 Stat. 2373, which enacted sections 423*l*–1 to 423*l*–6 of this title and repealed sections 423j to 423*l* of this title. For complete classification of title V to the Code, see Tables.

§ 423*l*–2. Findings and purpose

(a) Findings

The Congress finds the following:

(1) In the Act of March 2, 1936 (Chapter 113; 49 Stat. 1155; 16 U.S.C. 423j), Congress authorized the establishment of the Richmond National Battlefield Park, and the boundaries of the battlefield park were established to permit the inclusion of all military battlefield areas related to the battles fought during the Civil War in the vicinity of the City of Richmond, Virginia. The battlefield park originally included the area then known as the Richmond Battlefield State Park.

(2) The total acreage identified in 1936 for consideration for inclusion in the battlefield park consisted of approximately 225,000 acres in and around the City of Richmond. A study undertaken by the congressionally authorized Civil War Sites Advisory Committee determined that of these 225,000 acres, the historically significant areas relating to the campaigns against and in defense of Richmond encompass approximately 38,000 acres.

(3) In a 1996 general management plan, the National Park Service identified approximately 7,121 acres in and around the City of Richmond that satisfy the National Park Service criteria of significance, integrity, feasibility, and suitability for inclusion in the battlefield park. The National Park Service later identified an additional 186 acres for inclusion in the battlefield park.

(4) There is a national interest in protecting and preserving sites of historical significance associated with the Civil War and the City of Richmond.

(5) The Commonwealth of Virginia and its local units of government have authority to prevent or minimize adverse uses of these historic resources and can play a significant role in the protection of the historic resources related to the campaigns against and in defense of Richmond.

(6) The preservation of the New Market Heights Battlefield in the vicinity of the City of Richmond is an important aspect of American history that can be interpreted to the public. The Battle of New Market Heights represents a premier landmark in black military history as 14 black Union soldiers were awarded the Medal of Honor in recognition of their valor during the battle. According to National Park Service historians, the sacrifices of the United States Colored Troops in this battle helped to ensure the passage of the Thirteenth Amendment to the United States Constitution to abolish slavery.

(b) Purpose

It is the purpose of sections 423*l*–1 to 423*l*–6 of this title—

(1) to revise the boundaries for the Richmond National Battlefield Park based on the findings of the Civil War Sites Advisory Committee and the National Park Service; and

(2) to direct the Secretary of the Interior to work in cooperation with the Commonwealth of Virginia, the City of Richmond, other political subdivisions of the Commonwealth, other public entities, and the private sector in the management, protection, and interpretation of the resources associated with the Civil War and the Civil War battles in and around the City of Richmond, Virginia.

(Pub. L. 106–511, title V, § 502, Nov. 13, 2000, 114 Stat. 2373.)

REFERENCES IN TEXT

The Act of March 2, 1936, referred to in subsec. (a)(1), is act Mar. 2, 1936, ch. 113, 49 Stat. 1155, which was classified generally to sections 423j to 423*l* of this title prior to repeal by Pub. L. 106–511, title V, § 507, Nov. 13, 2000, 114 Stat. 2376.

Sections 423*l*–1 to 423*l*–6 of this title, referred to in subsec. (b), was in the original ''this title'', meaning title V of Pub. L. 106–511, Nov. 13, 2000, 114 Stat. 2373, which enacted sections 423*l*–1 to 423*l*–6 of this title and repealed sections 423j to 423*l* of this title. For complete classification of title V to the Code, see Tables.

§ 423*l*–3. Richmond National Battlefield Park; boundaries

(a) Establishment and purpose

For the purpose of protecting, managing, and interpreting the resources associated with the Civil War battles in and around the City of Richmond, Virginia, there is established the Richmond National Battlefield Park consisting of approximately 7,307 acres of land, as generally depicted on the map entitled ''Richmond National Battlefield Park Boundary Revision'', numbered 367N.E.F.A.80026A, and dated September 2000. The map shall be on file in the appropriate offices of the National Park Service.

(b) Boundary adjustments

The Secretary may make minor adjustments in the boundaries of the battlefield park consistent with section 460*l*–9(c) of this title.

(Pub. L. 106–511, title V, § 503, Nov. 13, 2000, 114 Stat. 2374.)

§ 423*l*–4. Land acquisition

(a) Acquisition authority

(1) In general

The Secretary may acquire lands, waters, and interests in lands within the boundaries of the battlefield park from willing landowners by donation, purchase with donated or appropriated funds, or exchange. In acquiring lands and interests in lands under sections 423*l*–1 to 423*l*–6 of this title, the Secretary shall acquire the minimum interest necessary to achieve the purposes for which the battlefield is established.

(2) Special rule for private lands

Privately owned lands or interests in lands may be acquired under sections 423*l*–1 to 423*l*–6 of this title only with the consent of the owner.

(b) Easements

(1) Outside boundaries

The Secretary may acquire an easement on property outside the boundaries of the battlefield park and around the City of Richmond, with the consent of the owner, if the Secretary determines that the easement is necessary to protect core Civil War resources as identified by the Civil War Sites Advisory Committee. Upon acquisition of the easement, the Secretary shall revise the boundaries of the battlefield park to include the property subject to the easement.

(2) Inside boundaries

To the extent practicable, and if preferred by a willing landowner, the Secretary shall use permanent conservation easements to acquire interests in land in lieu of acquiring land in fee simple and thereby removing land from non-Federal ownership.

(c) Visitor center

The Secretary may acquire the Tredegar Iron Works buildings and associated land in the City of Richmond for use as a visitor center for the battlefield park.

(Pub. L. 106–511, title V, § 504, Nov. 13, 2000, 114 Stat. 2374.)

REFERENCES IN TEXT

Sections 423*l*–1 to 423*l*–6 of this title, referred to in subsec. (a), was in the original ''this title'', meaning title V of Pub. L. 106–511, Nov. 13, 2000, 114 Stat. 2373, which enacted sections 423*l*–1 to 423*l*–6 of this title and repealed sections 423j to 423*l* of this title. For complete classification of title V to the Code, see Tables.

§ 423*l*–5. Park administration

(a) Applicable laws

The Secretary, acting through the Director of the National Park Service, shall administer the battlefield park in accordance with sections 423*l*–1 to 423*l*–6 of this title and laws generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title.

(b) New Market Heights Battlefield

The Secretary shall provide for the establishment of a monument or memorial suitable to honor the 14 Medal of Honor recipients from the United States Colored Troops who fought in the Battle of New Market Heights. The Secretary shall include the Battle of New Market Heights and the role of black Union soldiers in the battle in historical interpretations provided to the public at the battlefield park.

(c) Cooperative agreements

The Secretary may enter into cooperative agreements with the Commonwealth of Virginia, its political subdivisions (including the City of Richmond), private property owners, and other members of the private sector to develop mechanisms to protect and interpret the historical resources within the battlefield park in a manner that would allow for continued private ownership and use where compatible with the purposes for which the battlefield is established.

(d) Technical assistance

The Secretary may provide technical assistance to the Commonwealth of Virginia, its political subdivisions, nonprofit entities, and private property owners for the development of comprehensive plans, land use guidelines, special studies, and other activities that are consistent with the identification, protection, interpretation, and commemoration of historically significant Civil War resources located inside and outside of the boundaries of the battlefield park. The technical assistance does not authorize the Secretary to own or manage any of the resources outside the battlefield park boundaries.

(Pub. L. 106–511, title V, § 505, Nov. 13, 2000, 114 Stat. 2375.)

REFERENCES IN TEXT

Sections 423*l*–1 to 423*l*–6 of this title, referred to in subsec. (a), was in the original ''this title'', meaning title V of Pub. L. 106–511, Nov. 13, 2000, 114 Stat. 2373, which enacted sections 423*l*–1 to 423*l*–6 of this title and repealed sections 423j to 423*l* of this title. For complete classification of title V to the Code, see Tables.

§ 423*l*–6. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out sections 423*l*–1 to 423*l*–6 of this title.

(Pub. L. 106–511, title V, § 506, Nov. 13, 2000, 114 Stat. 2375.)

REFERENCES IN TEXT

Sections 423*l*–1 to 423*l*–6 of this title, referred to in text, was in the original ''this title'', meaning title V of Pub. L. 106–511, Nov. 13, 2000, 114 Stat. 2373, which enacted sections 423*l*–1 to 423*l*–6 of this title and repealed sections 423j to 423*l* of this title. For complete classification of title V to the Code, see Tables.

§ 423m. Eutaw Springs Battlefield Site; establishment; purpose

For the purpose of commemorating the battle which occurred at Eutaw Springs, in the State of South Carolina, during the Revolutionary War, when title to such lands on the site of the Battle of Eutaw Springs as may be designated by the Secretary of the Interior in the exercise of his discretion as necessary or desirable for battlefield-site purposes, shall be vested in the United States, said area shall be set apart as a

battlefield site for the benefit and inspiration of the people and shall be called the Eutaw Springs Battlefield Site.

(June 26, 1936, ch. 840, § 1, 49 Stat. 1975.)

§ 423n. Acceptance of lands and funds; acquisition of lands

The Secretary of the Interior is authorized to accept donations of land, interests in land, and/or buildings, structures, and other property within the boundaries of the said battlefield site as determined and fixed hereunder, and donations of funds for the purchase and/or maintenance thereof, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Interior: *Provided*, That he may acquire on behalf of the United States out of any donated funds, either by purchase at prices deemed by him reasonable, or by condemnation under the provisions of section 3113 of title 40, such tracts of land on the said battlefield site as may be necessary for the completion thereof.

(June 26, 1936, ch. 840, § 2, 49 Stat. 1975.)

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 423*o*. Administration, protection, and development

The administration, protection, and development of the aforesaid battlefield site shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(June 26, 1936, ch. 840, § 3, 49 Stat. 1975.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 424. Chickamauga and Chattanooga National Military Park

For the purpose of preserving and suitably marking for historical and professional military study, the fields of some of the most remarkable maneuvers and most brilliant fighting in the War of the Rebellion, those portions of highways in the States of Georgia and Tennessee in the vicinity of the battlefields of Chickamauga and Chattanooga, respectively, jurisdiction over which has heretofore been ceded to the United States by those States respectively and as to which the United States has heretofore acquired a perfect title, shall be approaches to and parts of the Chickamauga and Chattanooga National Military Park, and each and all of such roads shall remain open as free and public highways, and all rights of way which existed on August 19, 1890, through the grounds of the said Park and its approaches shall be continued. The lands and roads embraced in the area at and near the battlefield of Chickamauga and around Chattanooga, jurisdiction over which has heretofore been ceded to the United States by the State of Georgia and as to which a perfect title has heretofore been secured, together with the roads hereinbefore described, shall be a national military park, to be known as Chickamauga and Chattanooga National Park. The said Chickamauga and Chattanooga National Park and the approaches thereto shall be under the control of the Secretary of the Interior. The Secretary of the Interior is authorized to enter into agreements upon such nominal terms as he may prescribe, with such persons, who were owners of the land on August 19, 1890, as may desire to remain upon it, to occupy and cultivate their then holdings, upon condition that they will preserve the then buildings and roads, and the then outlines of field and forest, and that they will only cut trees or underbrush under such regulations as the Secretary may prescribe, and that they will assist in caring for and protecting all tablets, monuments, or such other artificial works as may from time to time be erected by proper authority. It shall be the duty of the Secretary of the Interior to superintend the opening of such roads as may be necessary to the purposes of the park, and the repair of the roads of the same, and to ascertain and definitely mark the lines of battle of all troops engaged in the battles of Chickamauga and Chattanooga, so far as the same shall fall within the lines of the park. It shall be the duty of the Secretary of the Interior to cause to be ascertained and substantially marked the locations of the regular troops within the boundaries of the park, and to erect monuments upon those positions as Congress may provide the necessary appropriations; and the Secretary of the Interior in the same way may ascertain and mark all lines of battle within the boundaries of the park and erect plain and substantial historical tablets at such points in the vicinity of the park and its approaches as he may deem fitting and necessary to clearly designate positions and movements, which, although without the limits of the park, were directly connected with the battles of Chickamauga and Chattanooga. It shall be lawful for the authorities of any State having troops engaged either at Chattanooga or Chickamauga, and for the officers and directors of the Chickamauga Memorial Association, a corporation chartered under the laws of Georgia, to enter upon the lands and approaches of the Chickamauga and Chattanooga National Park for the purpose of ascertaining and marking the lines of battle of troops engaged therein: *Provided*, That before any such lines are permanently designated the position of the lines and the proposed methods of marking them by monuments, tablets, or otherwise shall be submitted to the Secretary of the Interior, and shall first receive the written approval of the Secretary. The Secretary of the Interior, subject to the approval of the President of the United States, shall have the power to make, and shall make, all needed regulations for the care of the park and for the establishment and marking of the lines of battle and other historical features of the park: *Provided further*, That State memorials shall be

placed on brigade lines of battle under the direction of the National Park Service.

No monuments or memorials shall be erected upon any lands of the park, or remain upon any lands which may be purchased for the park, except upon ground actually occupied in the course of the battle by troops of the State which the proposed monuments are intended to commemorate, except upon those sections of the park set apart for memorials to troops which were engaged in the campaigns, but operated outside of the legal limits of the park. Notwithstanding the restrictive provisions of this paragraph, the Secretary of the Interior is authorized in his discretion to permit without cost to the United States the erection of monuments or memorials to commemorate encampments of Spanish War organizations which were encamped in said park during the period of the Spanish-American War.

(Aug. 19, 1890, ch. 806, §§1–11, 26 Stat. 333–336; Mar. 3, 1891, ch. 542, 26 Stat. 978; Feb. 26, 1896, ch. 33, 29 Stat. 21; June 4, 1897, ch. 2, §1, 30 Stat. 43; Apr. 15, 1926, ch. 146, title II, 44 Stat. 289; Feb. 23, 1927, ch. 167, title II, 44 Stat. 1140; Ex. Ord. No. 6166, §2, June 10, 1933; Ex. Ord. No. 6228, §1, July 28, 1933.)

CODIFICATION

Act Mar. 3, 1891, and act Apr. 15, 1926, provided for a reduced area of the park and provided that title to such reduced area should be procured by the Secretary of War [now Army] as provided and that the Secretary of War [now Army] should proceed with the establishment of the park as rapidly as jurisdiction of the roads and approaches and title to the land might be obtained.

The first sentence of the last paragraph relating to the erection of monuments or memorials was added by act Feb. 26, 1896.

The proviso that State memorials shall be placed on brigade lines of battle under the direction of the Park Commission was added by act June 4, 1897.

Act Feb. 23, 1927 made appropriations for items specified and added provisions relating to monuments or memorials to commemorate encampments of Spanish War organizations.

TRANSFER OF FUNCTIONS

Administrative functions of Chickamauga and Chattanooga National Military Park transferred to Department of the Interior by Ex. Ord. Nos. 6166 and 6228, set out as a note under section 901 of Title 5, Government Organization and Employees.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, §2, by act Mar. 2, 1934, ch. 38, §1, 48 Stat. 389.

§ 424–1. Acquisition of land

(a) In general

The Secretary of the Interior may acquire private land, easements, and buildings within the areas authorized for acquisition for the Chickamauga and Chattanooga National Military Park, by donation, purchase with donated or appropriated funds, or exchange.

(b) Limitation

Land, easements, and buildings described in subsection (a) of this section may be acquired only from willing sellers.

(c) Administration

Land, easements, and buildings acquired by the Secretary under subsection (a) of this section shall be administered by the Secretary as part of the park.

(Aug. 19, 1890, ch. 806, §12, as added Pub. L. 105–277, div. A, §101(e) [title I, §138], Oct. 21, 1998, 112 Stat. 2681–231, 2681–266.)

§ 424a. Acceptance of donations of lands

The Secretary of the Interior is authorized, in his discretion, to accept in behalf of the United States lands, easements, and buildings as may be donated for an addition to the Chickamauga and Chattanooga National Military Park lying within what is known as the ''Chattanooga-Lookout Mountain Park'' (a corporation, Adolph S. Ochs, president) and/or any lands within one mile of said Chattanooga-Lookout Mountain Park in the States of Tennessee and Georgia.

(May 4, 1934, ch. 218, §1, 48 Stat. 666.)

§ 424a–1. Acceptance of donations of lands and other property on Signal Mountain

The Secretary of the Interior, in his discretion, is authorized to accept, on behalf of the United States, donations of lands, buildings, structures, and other property, or interests therein, on Signal Mountain near Chattanooga, Tennessee, for addition to the Chickamauga-Chattanooga National Military Park, the title to such property or interests to be satisfactory to him. Upon acquisition, such lands shall be a part of the Chickamauga-Chattanooga National Military Park and shall be subject to all laws and regulations applicable thereto.

(Mar. 5, 1942, ch. 148, §1, 56 Stat. 133.)

§ 424a–2. Conveyance of portion of park to Georgia

The Secretary of the Interior, in his discretion, is authorized to convey, without consideration but under such terms and conditions as he may deem advisable, to the State of Georgia all of lot 78 and approximately one hundred and fifty acres of lot 114, Eleventh District, fourth section, of Dade County, Georgia, now a part of the Chickamauga-Chattanooga National Military Park.

(Mar. 5, 1942, ch. 148, §2, 56 Stat. 133.)

§ 424a–3. Addition of surplus Government lands; publication of notice; effective date

Effective upon publication of notice, as hereinafter provided, there shall be added to the Chickamauga and Chattanooga National Military Park, a strip of land, comprising not more than one hundred acres, lying generally north of the present south line of Fort Oglethorpe and westward from the southeast corner thereof. The exact boundaries of the area added to the park shall be agreed upon by the Administrator, General Services Administration, and the Director of the National Park Service.

When the boundaries of the aforesaid area have been agreed upon, the General Services Administration shall furnish to the National Park Service a legal description of the lands to be added to the park, together with a map showing the boundaries and the acreage of the area.

Upon the receipt by the National Park Service of such legal description and map of the area,

public notice that such lands are to become a part of the Chickamauga and Chattanooga National Military Park, effective on the date of publication of such notice, shall be given in the Federal Register.

(June 24, 1948, ch. 630, 62 Stat. 646; June 30, 1949, ch. 288, title I, § 105, 63 Stat. 381.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Act June 30, 1949, transferred functions, property and personnel of War Assets Administration to General Services Administration and functions of War Assets Administrator transferred to Administrator of General Services.

§ 424a–4. Repealed. Pub. L. 108–7, div. F, title I, § 160(e), Feb. 20, 2003, 117 Stat. 249

Section, act Aug. 3, 1950, ch. 532, §§ 1, 2, 64 Stat. 405, related to acquisition of land in the Moccasin Bend of the Tennessee River as an addition to Chickamauga and Chattanooga National Military Park.

§ 424b. Application of laws to donated lands

All laws affecting the Chickamauga and Chattanooga National Military Park shall be extended and apply to any addition or additions which may be added to said park under the authority of this section and section 424a of this title.

(May 4, 1934, ch. 218, § 2, 48 Stat. 666.)

§ 424c. Moccasin Bend National Archeological District

(a) Short title

This section may be cited as the ''Moccasin Bend National Archeological District Act''.

(b) Definitions

As used in this section:

(1) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(2) Archeological district

The term ''archeological district'' means the Moccasin Bend National Archeological District.

(3) State

The term ''State'' means the State of Tennessee.

(4) Map

The term ''Map'' means the map entitled, ''Boundary Map Moccasin Bend National Archeological District'', numbered 301/80098, and dated September 2002.

(c) Establishment

(1) In general

In order to preserve, protect, and interpret for the benefit of the public the nationally significant archeological and historic resources located on the peninsula known as Moccasin Bend, Tennessee, there is established as a unit of Chickamauga and Chattanooga National Military Park, the Moccasin Bend National Archeological District.

(2) Boundaries

The archeological district shall consist of approximately 780 acres generally depicted on the Map. The Map shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(3) Acquisition of land and interests in land

(A) In general

The Secretary may acquire by donation, purchase from willing sellers using donated or appropriated funds, or exchange, lands and interests in lands within the exterior boundary of the archeological district. The Secretary may acquire the State, county and city-owned land and interests in land for inclusion in the archeological district only by donation.

(B) Easement outside boundary

To allow access between areas of the archeological district that on February 20, 2003, are noncontiguous, the Secretary may acquire by donation or purchase from willing owners using donated or appropriated funds, or exchange, easements connecting the areas generally depicted on the Map.

(d) Administration

(1) In general

The archeological district shall be administered by the Secretary in accordance with this section, with laws applicable to Chickamauga and Chattanooga National Military Park, and with the laws generally applicable to units of the National Park System.

(2) Cooperative agreement

The Secretary may consult and enter into cooperative agreements with culturally affiliated federally recognized Indian tribes, governmental entities, and interested persons to provide for the restoration, preservation, development, interpretation, and use of the archeological district.

(3) Visitor interpretive center

For purposes of interpreting the historical themes and cultural resources of the archeological district, the Secretary may establish and administer a visitor center in the archeological district.

(4) General management plan

Not later than 3 years after funds are made available under this section, the Secretary shall develop a general management plan for the archeological district. The general management plan shall describe the appropriate protection and preservation of natural, cultural, and scenic resources, visitor use, and facility development within the archeological district consistent with the purposes of this section, while ensuring continued access by private landowners to their property.

(Pub. L. 108–7, div. F, title I, § 160, Feb. 20, 2003, 117 Stat. 247.)

CODIFICATION

Section is comprised of section 160 of div. F of Pub. L. 108–7. Subsec. (e) of section 160 of div. F of Pub. L. 108–7 repealed section 424a–4 of this title.

§ 425. Fredericksburg and Spotsylvania County Battle Fields Memorial; establishment

In order to commemorate the Civil War battles of Fredericksburg, Spotsylvania Court House, Wilderness, and Chancellorsville, including Salem Church, all located at or near Fredericksburg, Virginia, and to mark and preserve for historical purposes the breastworks, earthworks, gun emplacements, walls, or other defenses or shelters used by the armies in said battles, so far as the marking and preservation of the same are practicable, the land herein authorized to be acquired, or so much thereof as may be taken, and the highways and approaches herein authorized to be constructed, are declared to be a national military park to be known as the Fredericksburg and Spotsylvania County Battle Fields Memorial whenever the title to the same shall have been acquired by the United States, the said land so to be acquired being the land necessary for a park of the plan indicated on the index map sheet filed with the report of the Battle Field Commission appointed pursuant to an Act entitled ''An Act to provide for the inspection of the battle fields in and around Fredericksburg and Spotsylvania Court House, Virginia,'' approved on the 7th day of June 1924, said index map sheet being referred to in said report, and particularly in the ''Combined Plan—Antietam system,'' described in said report, the first of the plans mentioned in said report under the heading ''Combined Plan—Antietam system'' being the plan which is adopted, the said land herein authorized to be acquired being such land as the Secretary of the Interior may deem necessary to establish a park on the combined plan, Antietam system, above referred to, the particular boundaries of such land to be fixed by surveys made previous to the attempt to acquire the same, and authority is given to the Secretary of the Interior to acquire for the purposes of sections 425 to 425j of this title the land above mentioned, or so much thereof as he may deem necessary, together with all such existing breastworks, earthworks, gun emplacements, walls, defenses, shelters, or other historical points as the Secretary of the Interior may deem necessary, whether shown on said index map sheet or not, and together also with such additional land as the Secretary of the Interior may deem necessary for monuments, markers, tablets, roads, highways, paths, approaches, and to carry out the general purposes of said sections. As title is acquired to parts of the land herein authorized to be acquired, the Secretary of the Interior may proceed with the establishment of the park upon such portions so acquired, and the remaining portions of the lands desired shall be respectively brought within said park as titles to said portions are severally acquired.

(Feb. 14, 1927, ch. 127, §1, 44 Stat. 1091; Ex. Ord. No. 6166, §2, June 10, 1933; Ex. Ord. No. 6228, §1, July 28, 1933.)

REFERENCES IN TEXT

Act June 7, 1924, ch. 339, 43 Stat. 646, referred to in text, was temporary and was not classified to the Code.

TRANSFER OF FUNCTIONS

Administrative functions of Fredericksburg and Spotsylvania County Battle Fields Memorial transferred to Department of the Interior by Ex. Ord. Nos. 6166 and 6228, set out as notes under section 901 of Title 5, Government Organization and Employees.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, §2, by act Mar. 2, 1934, ch. 38, §1, 48 Stat. 389.

§ 425a. Acquisition of lands

The Secretary of the Interior is authorized to cause condemnation proceedings to be instituted in the name of the United States under the provisions of section 3113 of title 40, to acquire title to the lands, interests therein, or rights pertaining thereto within the said Fredericksburg and Spotsylvania County Battle Fields Memorial, authorized to be acquired in section 425 of this title, and the United States shall be entitled to immediate possession upon the filing of the petition in condemnation in the United States District Court for the Eastern District of Virginia: *Provided*, That when the owner of such lands, interests therein, or rights pertaining thereto shall fix a price for the same, which in the opinion of the commission, referred to in section 425c of this title, and the Secretary of the Interior, shall be reasonable, the Secretary may purchase the same without further delay: *Provided further*, That the Secretary of the Interior is authorized to accept on behalf of the United States, donations of lands, interests therein or rights pertaining thereto required for the said Fredericksburg and Spotsylvania County Battle Fields Memorial: *And provided further*, That no public money shall be expended for title to any lands until a written opinion of the Attorney General shall be had in favor of the validity of title thereto.

(Feb. 14, 1927, ch. 127, §2, 44 Stat. 1092; Ex. Ord. No. 6166, §2, June 10, 1933; Ex. Ord. No. 6228, §1, July 28, 1933.)

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888, entitled 'An Act to authorize condemnation of lands for sites for public buildings, and for other purposes' (Twenty-fifth Statutes at Large, page 357)'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 425 of this title.

§ 425b. Leasing lands for memorial

The Secretary of the Interior is authorized to enter into leases with the owners of such of the lands, works, defenses, and buildings thereon within the said Fredericksburg and Spotsylvania County Battle Fields Memorial, as in his discretion it is unnecessary to forthwith acquire title to, and such leases shall be on such terms and conditions as the Secretary of the Interior may prescribe, and may contain options to pur-

chase, subject to later acceptance if in the judgment of the Secretary of the Interior it is as economical to purchase as condemn title to the property: *Provided*, That the Secretary of the Interior may enter into agreements upon such nominal terms as he may prescribe, permitting the present owners or their tenants to occupy or cultivate their present holdings, upon condition that they will preserve the present breastworks, earthworks, walls, defenses, shelters, buildings, and roads, and the present outlines of the battlefields, and that they will only cut trees or underbrush or disturb or remove the soil, under such regulations as the Secretary of the Interior may prescribe, and that they will assist in caring for and protecting all tablets, monuments, or such other artificial works as may from time to time be erected by proper authority: *Provided further*, That if such agreements to lease cover any lands the title to which shall have been acquired by the United States, the proceeds from such agreements shall be applied by the Secretary of the Interior toward the maintenance of the park.

(Feb. 14, 1927, ch. 127, §3, 44 Stat. 1092; Ex. Ord. No. 6166, §2, June 10, 1933; Ex. Ord. No. 6228, §1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 425 of this title.

§ 425c. Commission; organization

The affairs of the said Fredericksburg and Spotsylvania County Battle Fields Memorial shall, subject to the supervision and direction of the Secretary of the Interior, be in charge of three commissioners, consisting of Army officers, civilians, or both, to be appointed by the Secretary of the Interior, one of whom shall be designated as chairman and another as secretary of the commission.

(Feb. 14, 1927, ch. 127, §4, 44 Stat. 1093; Ex. Ord. No. 6166, §2, June 10, 1933; Ex. Ord. No. 6228, §1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 425 of this title.

§ 425d. Duties of commission

It shall be the duty of the commissioners, under the direction of the Secretary of the Interior, to survey, locate, and preserve the lines of the opposing armies in said battles, to open, construct, and repair such roads, highways, paths, and other approaches as may be necessary to make the historical points accessible to the public and to students of said battles and for the purposes of the park, to ascertain and mark with historical monuments, markers, tablets, or otherwise, as the Secretary of the Interior may determine, all breastworks, earthworks, gun emplacements, walls, or other defenses or shelters, lines of battle, location of troops, buildings, and other historical points of interest within the park or in its vicinity, and to establish and construct such observation towers as the Secretary of the Interior may deem necessary for said park, and the said commission in establishing the park shall have authority, under the direction of the Secretary of the Interior to employ such labor and services at rates to be fixed by the Secretary of the Interior, and to obtain such supplies and materials as may be necessary to carry out the provisions of sections 425 to 425j of this title.

(Feb. 14, 1927, ch. 127, §5, 44 Stat. 1093; Ex. Ord. No. 6166, §2, June 10, 1933; Ex. Ord. No. 6228, §1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 425 of this title.

§ 425e. Acceptance and distribution of gifts

The commission, acting through the Secretary of the Interior, is authorized to receive gifts and contributions from States, Territories, societies, organizations, and individuals for the said Fredericksburg and Spotsylvania County Battle Fields Memorial: *Provided*, That all contributions of money received shall be deposited in the Treasury of the United States and credited to a fund to be designated ''Fredericksburg and Spotsylvania County Battle Fields Memorial fund'', which fund shall be applied to and expended under the direction of the Secretary of the Interior for carrying out the provisions of sections 425 to 425j of this title.

(Feb. 14, 1927, ch. 127, §6, 44 Stat. 1093; Ex. Ord. No. 6166, §2, June 10, 1933; Ex. Ord. No. 6228, §1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 425 of this title.

§ 425f. Ascertaining and marking lines of battle

It shall be lawful for the authorities of any State having had troops engaged in said battles of Fredericksburg, Spotsylvania Court House, Wilderness, and Chancellorsville, including Salem Church, or in any of said battles, to enter upon the lands and approaches of the Fredericksburg and Spotsylvania County Battle Fields Memorial for the purposes of ascertaining and marking the lines of battle of troops engaged therein: *Provided*, That before any such lines are permanently designated, the position of the lines and the proposed methods of marking them by monuments, tablets, or otherwise, including the design and inscription for the same, shall be submitted to the Secretary of the Interior, and shall first receive written approval of the Secretary, which approval shall be based upon formal written reports to be made to him in each case by the commissioners of the park: *Provided*, That no discrimination shall be made against any State as to the manner of designing lines, but any grant made to any State by the Secretary of the Interior may be used by any other State.

(Feb. 14, 1927, ch. 127, §7, 44 Stat. 1093; Ex. Ord. No. 6166, §2, June 10, 1933; Ex. Ord. No. 6228, §1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 425 of this title.

§ 425g. Protection of monuments, etc.

If any person shall, except by permission of the Secretary of the Interior, destroy, mutilate, deface, injure, or remove any monument, column, statue, memorial structure, or work of art that shall be erected or placed upon the grounds of the park by lawful authority, or shall destroy or remove any fence, railing, inclosure, or other work for the protection or ornament of said park, or any portion thereof, or shall destroy, cut, hack, bark, break down, or otherwise injure any tree, bush, or shrubbery that may be growing upon said park, or shall cut down or fell or remove any timber, battle relic, tree or trees growing or being upon said park, or hunt within the limits of the park, or shall remove or destroy any breastworks, earthworks, walls, or other defenses or shelter or any part thereof constructed by the armies formerly engaged in the battles on the lands or approaches to the park, any person so offending and found guilty thereof before any justice of the peace of the county in which the offense may be committed, or any court of competent jurisdiction, shall for each and every such offense forfeit and pay a fine, in the discretion of the justice, according to the aggravation of the offense, of not less than $5 nor more than $50, one-half for the use of the park and the other half to the informer, to be enforced and recovered before such justice in like manner as debts of like nature were, on February 14, 1927, by law recoverable in the several counties where the offense may be committed.

(Feb. 14, 1927, ch. 127, § 8, 44 Stat. 1094; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 425 of this title.

§ 425h. Rules and regulations

The Secretary of the Interior, subject to the approval of the President, shall have the power to make and shall make all needful rules and regulations for the care of the park, and for the establishment and marking of lines of battle and other historical features of the park.

(Feb. 14, 1927, ch. 127, § 9, 44 Stat. 1094; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 425 of this title.

§ 425i. Report of completion of acquisition of land and work of commission; superintendent of park

Upon completion of the acquisition of the land and the work of the commission, the Secretary of the Interior shall render a report thereon to Congress, and thereafter the park shall be placed in charge of a superintendent at a salary to be fixed by the Secretary of the Interior and paid out of the appropriation available for the maintenance of the park.

(Feb. 14, 1927, ch. 127, § 10, 44 Stat. 1094; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 425 of this title.

§ 425j. Authorization of appropriation

To enable the Secretary of the Interior to begin to carry out the provisions of sections 425 to 425j of this title, including the condemnation, purchase, or lease of the necessary lands, surveys, maps, marking the boundaries of the park, opening, constructing, or repairing necessary roads, pay and expenses of commissioners, salaries for labor and services, traveling expenses, supplies and materials, the sum of $50,000 is authorized to be appropriated out of any money in the Treasury not otherwise appropriated, to remain available until expended, and such additional sums are authorized to be appropriated from time to time as may be necessary for the completion of the project and for the proper maintenance of said park. All disbursements under said sections shall be annually reported by the Secretary of the Interior to Congress.

(Feb. 14, 1927, ch. 127, § 11, 44 Stat. 1094; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 425 of this title.

§ 425k. Revision of park boundaries

(a) Boundary revision

In furtherance of the purposes of sections 425 to 425j of this title, the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park (hereinafter in sections 425k to 425*o* of this title referred to as the ''park'') shall hereafter comprise the lands and interests in lands within the boundary generally depicted as ''Proposed Park Boundary'' on the maps entitled ''Fredericksburg and Spotsylvania National Military Park'', numbered 326–40075D/89, 326–40074E/89, 326–40069B/89, 326–40070D/89, 326–40071C/89, 326–40076A/89, and 326–40073D/89, and dated June 1989, and the map entitled ''Fredericksburg and Spotsylvania National Military Park,'' numbered 326–40072E/89/A and dated September 1990. The maps shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.

(b) Excluded lands

Lands and interests in lands within the boundary depicted on the maps referred to in subsection (a) of this section as ''Existing Park Boundary'' but outside of the boundary depicted as ''Proposed Park Boundary'' are hereby excluded from the park, in accordance with the provisions of section 425*l*(b) of this title. The Secretary of the Interior (hereinafter referred to as the ''Secretary'') may relinquish to the Commonwealth of Virginia exclusive or concurrent legislative jurisdiction over lands excluded from the park by this section by filing with the Governor a notice of relinquishment. Such relinquishment shall take effect upon acceptance thereof, or as the laws of the Commonwealth may otherwise provide.

(Pub. L. 101–214, § 2, Dec. 11, 1989, 103 Stat. 1849; Pub. L. 102–541, § 2(a), Oct. 27, 1992, 106 Stat. 3565; Pub. L. 106–150, § 1(c), Dec. 9, 1999, 113 Stat. 1730.)

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–150 substituted ''Spotsylvania National'' for ''Spotslyvania National''.

1992—Subsec. (a). Pub. L. 102–541 struck out ''326–40072E/89,'' after ''326–40071C/89.'' and substituted ''1989, and the map entitled 'Fredericksburg and Spotsylvania National Military Park,' numbered 326–40072E/89/A and dated September, 1990.'' for ''1989.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 2(a)(2) of Pub. L. 102–541 provided in part that amendment of this section by Pub. L. 102–541 was not to be effective until the lands included within the proposed new boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park pursuant to Pub. L. 102–541 had been donated to the Secretary of the Interior, prior to repeal by Pub. L. 106–150, § 1(a), Dec. 9, 1999, 113 Stat. 1730.

SHORT TITLE

Section 1 of Pub. L. 101–214 provided that: ''This Act [enacting this section and sections 425*l* to 425*o* of this title] may be cited as the 'Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park Expansion Act of 1989'.''

CONGRESSIONAL FINDINGS RELATING TO PARK EXPANSION

Section 1 of Pub. L. 102–541 provided that: ''Congress finds that the land area near Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia, located south and west of the intersection of the Orange Plank Road and Brock Road in Spotsylvania County was strategically significant ground associated with the battle of the Civil War known as the Battle of the Wilderness, and that the tract of land adjacent to such area known as 'Longstreet's Flank Attack' was also strategically significant to that battle.''

ACQUISITION OF CERTAIN LANDS BY DONATION ONLY

Section 2(b) of Pub. L. 102–541 provided that lands included within the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park pursuant to that section, amending this section and enacting provisions formerly set out as a note above, could be acquired only by donation, prior to repeal by Pub. L. 106–150, § 1(b)(2), Dec. 9, 1999, 113 Stat. 1730.

§ 425*l*. Acquisitions and conveyances

(a) Acquisition

(1) Except as provided in paragraph (2), the Secretary is authorized to acquire lands and interests in lands within the park, by donation, purchase with donated or appropriated funds or by exchange.

(2) The lands designated ''P04–04'' on the map referred to in section 425k(a) of this title numbered 326–40072E/89/A and dated September 1990 may be acquired only by donation, and the lands designated ''P04–01'', ''P04–02'', and ''P04–03'' on such map may be acquired only by donation, purchase from willing sellers, or exchange.

(b) Conveyance of lands excluded from park

(1) The Secretary is authorized, in accordance with applicable existing law, to exchange Federal lands and interests excluded from the park pursuant to section 425k(b) of this title for the purpose of acquiring lands within the park boundary.

(2) If any such Federal lands or interests are not exchanged within five years after December 11, 1989, the Secretary may sell any or all such lands or interests to the highest bidder, in accordance with such regulations as the Secretary may prescribe, but any such conveyance shall be at not less than the fair market value of the land or interest, as determined by the Secretary.

(3) All Federal lands and interests sold or exchanged pursuant to this subsection shall be subject to such terms and conditions as will assure the use of the property in a manner which, in the judgment of the Secretary, will protect the battlefield setting. Notwithstanding any other provision of law, the net proceeds from any such sale or exchange shall be used, subject to appropriations, to acquire lands and interests within the park.

(c) Alternative access

In order to facilitate the acquisition by the United States of existing easements or rights of access across Federal lands within the park and to provide the owners of such easements or rights of access with alternative rights of access across nonpark lands, the Secretary may acquire, by donation, purchase with donated or appropriated funds, or exchange, interests in land of similar estate across lands which are not within the park. With or without the acceptance of payment of cash to equalize the values of the properties, the Secretary may convey such nonpark lands or interests in lands to the holders of such existing easements or rights of access across Federal lands within the park in exchange for their conveyance to the United States of such easements or rights. Nothing in sections 425k to 425*o* of this title shall prohibit the Secretary from acquiring any outstanding easements or rights of access across Federal lands by donation, purchase with donated or appropriated funds or by exchange.

(d) Conservation easements

The Secretary is authorized to accept donations of conservation easements on lands adjacent to the park. Such conservation easements shall have the effect of protecting the scenic and historic resources on park lands and the adjacent lands or preserving the undeveloped or historic appearance of the park when viewed from within or without the park.

(e) Other provisions

Within the area bounded by the Orange Turnpike, the Orange Plank Road, and McLaws Drive no improved property (as defined in section 425m of this title) may be acquired without the consent of the owner thereof unless the Secretary determines that, in his judgment, the property is subject to, or threatened with, uses which are having, or would have, an adverse impact on the park.

(Pub. L. 101–214, § 3, Dec. 11, 1989, 103 Stat. 1849; Pub. L. 106–150, § 1(b)(1), Dec. 9, 1999, 113 Stat. 1730.)

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–150 designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2), the Secretary'' for ''The Secretary'', and added par. (2).

§ 425m. Retained rights

(a) Retention of use and occupancy

With the exception of property which the Secretary determines is necessary for development or public use, the owner or owners of improved property acquired pursuant to sections 425k to 425*o* of this title may retain a right of use and occupancy of such improved property for noncommercial residential purposes for a definite term of not more than twenty-five years, or for a term ending at the death of the owner or the owner's spouse. The owner shall elect the term to be reserved, except that if the owner is a corporation, trust, partnership, or any entity other than an individual, the term shall not exceed twenty-five years. Ownership shall be determined as of June 1, 1989. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value of the right retained by the owner.

(b) Terms and conditions

Any rights retained pursuant to this section shall be subject to such terms and conditions as the Secretary may prescribe and may be terminated by the Secretary upon his determination and after reasonable notice to the owner thereof that such property is being used for any purpose which is incompatible with the administration, protection, or public use of the park. Such right shall terminate by operation of law upon notification of the owner by the Secretary and tendering to the owner an amount equal to the fair market value of that portion of the right which remains unexpired.

(c) "Improved property" defined

As used in this section, the term ''improved property'' means a year-round noncommercial single-family dwelling together with such land, in the same ownership as the dwelling, as the Secretary determines is reasonably necessary for the enjoyment of the dwelling for single-family residential use.

(Pub. L. 101–214, § 4, Dec. 11, 1989, 103 Stat. 1850.)

§ 425n. Interpretation

In administering the park, the Secretary shall take such action as is necessary and appropriate to interpret, for the benefit of visitors to the park and the general public, the battles of Fredericksburg, Chancellorsville, Spotsylvania Courthouse, and the Wilderness in the larger context of the Civil War and American history, including the causes and consequences of the Civil War and including the effects of the war on all the American people, especially on the American South.

(Pub. L. 101–214, § 5, Dec. 11, 1989, 103 Stat. 1851.)

§ 425*o*. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 425k to 425*o* of this title.

(Pub. L. 101–214, § 6, Dec. 11, 1989, 103 Stat. 1851.)

§ 426. Stones River National Battlefield; establishment; appointment of commission

A commission is created, to be composed of the following members, who shall be appointed by the Secretary of the Interior:

(1) A commissioned officer of the Corps of Engineers, United States Army;

(2) A veteran of the Civil War who served honorably in the military forces of the United States; and

(3) A veteran of the Civil War who served honorably in the military forces of the Confederate States of America.

(Mar. 3, 1927, ch. 374, § 1, 44 Stat. 1399; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 86–443, §§ 2, 3, Apr. 22, 1960, 74 Stat. 82.)

CHANGE OF NAME

Stones River National Military Park redesignated Stones River National Battlefield by Pub. L. 86–443. See section 426*l* of this title.

TRANSFER OF FUNCTIONS

Administrative functions of Stones River National Military Park transferred to Department of the Interior by Ex. Ord. Nos. 6166 and 6228, set out as notes under section 901 of Title 5, Government Organization and Employees. Administrative functions of Stones River National Battlefield assigned to Department of the Interior by section 3 of Pub. L. 86–443, set out as section 426m of this title.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, § 2, by act Mar. 2, 1934, ch. 38, § 1, 48 Stat. 389.

§ 426a. Qualifications of members of commission

In appointing the members of the commission created by section 426 of this title the Secretary of the Interior shall, as far as practicable, select persons familiar with the terrain of the battlefield of Stones River, Tennessee, and the historical events associated therewith.

(Mar. 3, 1927, ch. 374, § 2, 44 Stat. 1399; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 426 of this title.

§ 426b. Duties of commission

It shall be the duty of the commission, acting under the direction of the Secretary of the Interior, to inspect the battlefield of Stones River, Tennessee, and to carefully study the available records and historical data with respect to the location and movement of all troops which engaged in the battle of Stones River, and the important events connected therewith, with a view of preserving and marking such field for historical and professional military study.

(Mar. 3, 1927, ch. 374, § 3, 44 Stat. 1399; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

CODIFICATION

A provision of act Mar. 3, 1927, authorizing the submission of a report by the commission to the Secretary of War not later than Dec. 1, 1927, and describing the contents of such report was omitted as executed.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 426 of this title.

§ 426c. Assistants to commission; expenses of commission

The Secretary of the Interior is authorized to assign any officials of the Interior Department to the assistance of the commission if he deems it advisable. He is authorized to pay the reasonable expenses of the commission and their assistants incurred in the actual performance of the duties imposed upon them by sections 426 to 426j of this title.

(Mar. 3, 1927, ch. 374, § 4, 44 Stat. 1400; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 426 of this title.

§ 426d. Receipt of report of commission by Secretary of the Interior; acquisition of land for battlefield; other duties of Secretary

Upon receipt of the report of said commission, the Secretary of the Interior is authorized and directed to acquire, by purchase, when purchasable at prices deemed by him reasonable, otherwise by condemnation, such tract or tracts of lands as are recommended by the commission as necessary and desirable for a national battlefield; to establish and substantially mark the boundaries of the said battlefield; to definitely mark all lines of battle and locations of troops within the boundaries of the battlefield and erect substantial historical tablets at such points within the battlefield and in the vicinity of the battlefield and its approaches as are recommended by the commission, together with such other points as the Secretary of the Interior may deem appropriate; to construct the necessary roads and walks, plant trees and shrubs, restore and care for the grounds, including the Hazen Monument: *Provided*, That the entire cost of acquiring said land, including cost of condemnation proceedings, if any, ascertainment of title, surveys, and compensation for the land, the cost of marking the battlefield, the expenses of the commission, and the establishment of the national military battlefield, shall not exceed the sum of $100,000.

(Mar. 3, 1927, ch. 374, § 5, 44 Stat. 1400; Apr. 15, 1930, ch. 167, 46 Stat. 167; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 86–443, § 2, Apr. 22, 1960, 74 Stat. 82.)

AMENDMENTS

1930—Act Apr. 15, 1930, inserted ''military'' between ''national'' and ''park'', authorized construction of roads and walks, planting of trees and shrubs, restoration and care of grounds, including the Hazen Monument, and inserted ''and the establishment of the national military park'' in proviso.

CHANGE OF NAME

''National battlefield'' and ''battlefield'' substituted in text for ''national military park'' and ''park'', respectively, in view of redesignation of Stones River National Military Park as Stones River National Battlefield by Pub. L. 86–443. See section 426*l* of this title.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 426 of this title.

§ 426e. Lands acquired declared national battlefield; name

Upon the ceding of jurisdiction by the legislature of the State of Tennessee and the report of the Attorney General of the United States that a perfect title has been acquired, the lands acquired under the provisions of sections 426 to 426j of this title, together with the area already inclosed within the national cemetery at the battlefield of Stones River and the Government reservation in said battlefield upon which is erected a large monument to the memory of the officers and soldiers of General Hazen's brigade who fell on the spot, are declared to be a national battlefield, to be known as the Stones River National Battlefield.

(Mar. 3, 1927, ch. 374, § 6, 44 Stat. 1400; Pub. L. 86–443, § 2, Apr. 22, 1960, 74 Stat. 82.)

CHANGE OF NAME

''Stones River National Battlefield'' and ''national battlefield'' substituted in text for ''Stones River National Park'' and ''national park'', respectively, in view of redesignation of Stones River National Military Park as Stones River National Battlefield by Pub. L. 86–443. See section 426*l* of this title.

§ 426f. Control of battlefield; regulations

The said Stones River National Battlefield shall be under the control of the Secretary of the Interior, and he is authorized to make all needed regulations for the care of the battlefield. The superintendent of the Stones River National Cemetery shall likewise be the superintendent of and have the custody and care of the Stones River National Battlefield, under the direction of the Secretary of the Interior.

(Mar. 3, 1927, ch. 374, § 7, 44 Stat. 1400; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 86–443, § 2, Apr. 22, 1960, 74 Stat. 82.)

CHANGE OF NAME

''Stones River National Battlefield'' and ''battlefield'' substituted in text for ''Stones River National Park'' and ''park'', respectively, in view of redesignation of Stones River National Military Park as Stones River National Battlefield by Pub. L. 86–443. See section 426*l* of this title.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 426 of this title.

§ 426g. Occupation of lands by former owners

The Secretary of the Interior is authorized to enter into agreements, upon such nominal terms as he may prescribe, with such present owners of the land as may desire to remain upon it, to occupy and cultivate their present holdings, upon condition that they will preserve the present buildings and roads, and the present outlines of field and forest, and that they will only cut trees or underbrush under such regulations as the Secretary may prescribe, and that they will assist in caring for and protecting all tablets, monuments, or such other artificial works as

may from time to time be erected by proper authority.

(Mar. 3, 1927, ch. 374, § 8, 44 Stat. 1400; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 426 of this title.

§ 426h. Ascertaining and marking lines of battle

It shall be lawful for the authorities of any State having troops engaged in the battle of Stones River to enter upon the lands and approaches of the Stones River National Battlefield for the purpose of ascertaining and marking the lines of battle of troops engaged therein: *Provided*, That before any such lines are permanently designated, the position of the lines and the proposed methods of marking them by monuments, tablets, or otherwise shall be submitted to the Secretary of the Interior, and shall first receive the written approval of the Secretary.

(Mar. 3, 1927, ch. 374, § 9, 44 Stat. 1401; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 86–443, § 2, Apr. 22, 1960, 74 Stat. 82.)

CHANGE OF NAME

''Stones River National Battlefield'' substituted in text for ''Stones River National Park'' in view of redesignation of Stones River National Military Park as Stones River National Battlefield by Pub. L. 86–443. See section 426*l* of this title.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 426 of this title.

§ 426i. Protection of monuments, etc.

If any person shall willfully destroy, mutilate, deface, injure, or remove any monument, column, statue, memorial structure, or work of art that shall be erected or placed upon the grounds of the battlefield by lawful authority, or shall willfully destroy or remove any fence, railing, inclosure, or other work for the protection or ornament of said battlefield, or any portion thereof; or shall willfully destroy, cut, hack, bark, break down, or otherwise injure any tree, bush, or shrubbery that may be growing upon said battlefield, or shall cut down or fell or remove any timber, battle relic, tree, or trees growing or being upon such battlefield, except by permission of the Secretary of the Interior, or shall willfully remove or destroy any breastworks, earthworks, walls, or other defenses or shelter, or any part thereof, constructed by the armies formerly engaged in the battle on the lands or approaches to the battlefield, any person so offending shall be guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, shall for each and every such offense be fined not less than $5 nor more than $100.

(Mar. 3, 1927, ch. 374, § 10, 44 Stat. 1401; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 86–443, § 2, Apr. 22, 1960, 74 Stat. 82.)

CHANGE OF NAME

''Battlefield'' substituted in text for ''park'' in view of redesignation of Stones River National Military Park as Stones River National Battlefield by Pub. L. 86–443. See section 426*l* of this title.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 426 of this title.

§ 426j. Authorization of appropriation; fixing of boundaries as condition to purchase of lands

The sum of $100,000, or so much thereof as may be necessary, is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended for the purposes of sections 426 to 426j of this title: *Provided*, That no obligation for the purchase of lands shall be incurred until the commission has fixed the boundaries of said battlefield.

(Mar. 3, 1927, ch. 374, § 11, 44 Stat. 1401; Pub. L. 86–443, § 2, Apr. 22, 1960, 74 Stat. 82.)

CHANGE OF NAME

''Battlefield'' substituted in text for ''park'' in view of redesignation of Stones River National Military Park as Stones River National Battlefield by Pub. L. 86–443. See section 426*l* of this title.

§ 426k. Acquisition of additional lands

In furtherance of the purposes of sections 426 to 426j of this title, authorizing establishment of the Stones River National Battlefield, the Secretary of the Interior is authorized to acquire by such means as he may deem to be in the public interest, for inclusion in the Stones River National Battlefield, such additional lands and interests in lands, not to exceed seven acres, as in the discretion of the Secretary are necessary for the preservation and interpretation of the battlefield of Stones River, Tennessee.

(Pub. L. 86–443, §§ 1, 2, Apr. 22, 1960, 74 Stat. 82.)

CHANGE OF NAME

''Stones River National Battlefield'' substituted in text for ''Stones River National Park'' in view of redesignation of Stones River National Military Park as Stones River National Battlefield by Pub. L. 86–443. See section 426*l* of this title.

§ 426*l*. Redesignation; availability of appropriations

Stones River National Military Park is redesignated as the Stones River National Battlefield, and any remaining balance of funds appropriated for the purpose of the Stones River National Military Park shall be available for the purpose of Stones River National Battlefield.

(Pub. L. 86–443, § 2, Apr. 22, 1960, 74 Stat. 82.)

§ 426m. Administration, protection, and development

The administration, protection and development of the Stones River National Battlefield shall be exercised by the Secretary of the Interior in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(Pub. L. 86–443, § 3, Apr. 22, 1960, 74 Stat. 82.)

§ 426n. Boundary revision of Stones River National Battlefield

(a) Expansion of Stones River National Battlefield

In furtherance of sections 426 to 426j of this title, the boundary of Stones River National Battlefield (hereinafter referred to as ''battlefield'') is hereby revised to include the lands generally depicted on the map entitled ''Boundary Map, Stones River National Battlefield'' numbered 327/80,004B, and dated November 1991. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior and in the office of the Superintendent of the Stones River National Battlefield.

(b) Acquisition of lands

(1) The Secretary of the Interior (hereinafter referred to as ''Secretary'') is hereby authorized to acquire lands or interests therein within the boundary of the battlefield by donation, purchase with donated or appropriated funds, or exchange. Any lands or interests in lands owned by the State of Tennessee or any political subdivision thereof may be acquired only by donation. Lands and interests therein acquired pursuant to sections 426n to 426p of this title shall become part of the battlefield, subject to all the laws and regulations applicable thereto.

(2)(A) Before acquiring any lands under sections 426n to 426p of this title where the surface of such lands has been substantially disturbed or which are believed by the Secretary to contain hazardous substances, the Secretary shall prepare a report on the potential hazardous substances associated with such lands and the estimated cost of restoring such lands, together with a plan of the remedial measures necessary to allow acquisition of such lands to proceed in a timely manner, consistent with the requirements of subparagraph (B). The Secretary shall submit such report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

(B) The Secretary shall not acquire any lands under sections 426n to 426p of this title if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).

(3)(A) Except for property which the Secretary determines to be necessary for the purposes of administration, development, access, or public use, an owner of improved property which is used solely for noncommercial residential purposes on the date of its acquisition by the Secretary may retain, as a condition of such acquisition, a right of use and occupancy of the property for such residential purposes. The right retained may be for a definite term which shall not exceed 25 years or, in lieu thereof, for a term ending at the death of the owner or the death of the spouse, whichever is later. The owner shall elect the term to be retained. The Secretary shall pay the owner the fair market value of the property on the date of such acquisition, less the fair market value of the term retained by the owner.

(B) Any right of use and occupancy retained pursuant to this section may, during its existence, be conveyed or transferred, but all rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of the property in accordance with the purposes of sections 426n to 426p of this title. Upon his determination that the property, or any portion thereof, has ceased to be so used in accordance with such terms and conditions, the Secretary may terminate the right of use and occupancy by tendering to the holder of such right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

(C) This paragraph applies only to owners who have reached the age of majority.

(D) As used in this paragraph, the term ''improved property'' means a detached, year-round noncommercial residential dwelling, the construction of which was begun before December 11, 1991, together with so much of the land on which the dwelling is situated, such land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(Pub. L. 100–205, §1, Dec. 23, 1987, 101 Stat. 1433; Pub. L. 102–225, §1(1), (2), Dec. 11, 1991, 105 Stat. 1682; Pub. L. 103–437, §6(d)(15), Nov. 2, 1994, 108 Stat. 4584.)

REFERENCES IN TEXT

The Comprehensive Environmental Response, Compensation, and Liability Act, referred to in subsec. (b)(2)(B), probably means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96–510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (§9601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

AMENDMENTS

1994—Subsec. (b)(2)(A). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

1991—Subsec. (a). Pub. L. 102–225, §1(1), substituted ''numbered 327/80,004B, and dated November 1991'' for ''numbered 327/80,001, and dated March 1987''.

Subsec. (b). Pub. L. 102–225, §1(2), designated existing provisions as par. (1) and added pars. (2) and (3).

§ 426*o*. Agreement with Murfreesboro, Tennessee, respecting battlefield

The Secretary is authorized to enter into an agreement with the city of Murfreesboro, Tennessee, containing each of the following provisions—

(1) If the city agrees to acquire sufficient interest in land to construct a trail linking the battlefield with Fortress Rosecrans, to construct such trail, and to operate and maintain the trail in accordance with standards approved by the Secretary, the Secretary shall (A) transfer to the city the funds available to the Secretary for the acquisition of such lands

and for the construction of the trail, and (B) provide technical assistance to the city and to Rutherford County for the purpose of development and planning of the trail.

(2) The Secretary shall agree to accept the transfer by donation from the city of the remnants of Fortress Rosecrans at Old Fort Park, and following such transfer, to preserve and interpret the fortress as part of the battlefield.

(3) In administering the Fortress Rosecrans, the Secretary is authorized to enter a cooperative agreement with the city of Murfreesboro, Tennessee, for the rendering, on a nonreimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(Pub. L. 100–205, § 2, Dec. 23, 1987, 101 Stat. 1433; Pub. L. 102–225, § 1(3), Dec. 11, 1991, 105 Stat. 1683.)

AMENDMENTS

1991—Pub. L. 102–225 amended section generally. Prior to amendment, section read as follows: ''The Secretary is authorized to enter into an agreement with the city of Murfreesboro, Tennessee, under which (1) the Secretary shall acquire sufficient interest in land and shall construct thereon a trail linking the battlefield with Fortress Rosecrans, (2) the city shall operate and maintain the trail in accordance with standards approved by the Secretary, and (3) the Secretary shall preserve the existing remnants of Fortress Rosecrans and the city shall operate and maintain the fortress.''

§ 426*o*–1. Planning

(a) Preparation of plan for Redoubt Brannan

The Secretary shall, on or before February 1, 1992, prepare a plan for the preservation and interpretation of Redoubt Brannan.

(b) Update of General Management Plan

The Secretary shall, on or before March 31, 1993, update the General Management Plan for the Stones River National Battlefield.

(c) Technical assistance

The Secretary is authorized to provide technical assistance to the city and to Rutherford County in the development of zoning ordinances and other land use controls that would help preserve historically significant areas adjacent to the battlefield.

(d) Minor boundary revisions

If the planning activities conducted under subsections (a) and (b) of this section show a need for minor revisions of the boundaries indicated on the map referred to in section 426n of this title, the Secretary may, following timely notice in writing to the Committee on Natural Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate of his intention to do so and providing an opportunity for public comment, make such minor revisions by publication of a revised boundary map or other description in the Federal Register.

(Pub. L. 100–205, § 3, as added Pub. L. 102–225, § 1(4), Dec. 11, 1991, 105 Stat. 1683; amended Pub. L. 103–437, § 6(d)(15), Nov. 2, 1994, 108 Stat. 4584.)

PRIOR PROVISIONS

A prior section 3 of Pub. L. 100–205 was renumbered section 4 and is classified to section 426p of this title.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 426p. Authorization of appropriations

There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 426n to 426p of this title.

(Pub. L. 100–205, § 4, formerly § 3, Dec. 23, 1987, 101 Stat. 1433; renumbered § 4, Pub. L. 102–225, § 1(4), Dec. 11, 1991, 105 Stat. 1683.)

§ 427. Site of battle with Sioux Indians; purchase; erection of monument

The Secretary of the Interior is authorized and directed to acquire, by condemnation or otherwise, such land as may be deemed appropriate, not exceeding one hundred and sixty acres, on the site of the battle with the Sioux Indians in which the commands of Major Marcus A. Reno and Major Frederick W. Benteen were engaged, and to erect thereon a suitable monument and historical tablet.

(Apr. 14, 1926, ch. 138, § 1, 44 Stat. 251.)

§ 427a. Omitted

CODIFICATION

Section, act Apr. 14, 1926, ch. 138, § 2, 44 Stat. 251, made appropriation of $2,500 for carrying out of provisions of section 427 of this title.

§ 428. Fort Donelson National Battlefield; establishment; appointment of commission

A commission is created, to be composed of the following members, who shall be appointed by the Secretary of the Interior:

(1) A commissioned officer of the Corps of Engineers, United States Army;

(2) A veteran of the Civil War who served honorably in the military forces of the United States; and

(3) A veteran of the Civil War who served honorably in the military forces of the Confederate States of America.

(Mar. 26, 1928, ch. 248, § 1, 45 Stat. 367; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 86–738, § 5, Sept. 8, 1960, 74 Stat. 876.)

CHANGE OF NAME

''Fort Donelson National Military Park'' redesignated ''Fort Donelson National Battlefield'' by Pub. L. 86–738, § 4. See section 428n of this title.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–367, § 1, Oct. 25, 2004, 118 Stat. 1743, provided that: ''This Act [enacting sections 428p to 428p–2 of this title and amending section 428k of this title] may be cited as the 'Fort Donelson National Battlefield Expansion Act of 2004'.''

TRANSFER OF FUNCTIONS

Administrative functions of Fort Donelson National Military Park transferred to Department of the Interior by Ex. Ord. Nos. 6166 and 6228, set out as notes

under section 901 of Title 5, Government Organization and Employees. Administrative functions of Fort Donelson National Battlefield assigned to Department of the Interior by section 5 of Pub. L. 86–738, set out as section 428*o* of this title.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, § 2, by act Mar. 2, 1934, ch. 38, § 1, 48 Stat. 389.

§ 428a. Qualifications of members of commission

In appointing the members of the commission created by section 428 of this title the Secretary of the Interior shall, as far as practicable, select persons familiar with the terrain of the battlefield of Fort Donelson, Tennessee, and the historical events associated therewith.

(Mar. 26, 1928, ch. 248, § 2, 45 Stat. 367; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 86–738, § 5, Sept. 8, 1960, 74 Stat. 876.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 428 of this title.

§ 428b. Duties of commission

It shall be the duty of the commission, acting under the direction of the Secretary of the Interior, to inspect the battlefield of Fort Donelson, Tennessee, and to carefully study the available records and historical data with respect to the location and movement of all troops which engaged in the Battle of Fort Donelson, and the important events connected therewith, with a view of preserving and marking such field for historical and professional military study.

(Mar. 26, 1928, ch. 248, § 3, 45 Stat. 367; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 86–738, § 5, Sept. 8, 1960, 74 Stat. 876.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 428 of this title.

§ 428c. Assistants to commission; expenses of commission

The Secretary of the Interior is authorized to assign any officials of the Interior Department to the assistance of the commission if he deems it advisable. He is authorized to pay the reasonable expenses of the commission and their assistants incurred in the actual performance of the duties herein imposed upon them.

(Mar. 26, 1928, ch. 248, § 4, 45 Stat. 367; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 86–738, § 5, Sept. 8, 1960, 74 Stat. 876.)

REFERENCES IN TEXT

Herein, referred to in text, means act Mar. 26, 1928, which is classified to sections 428 to 428d and 428e to 428i of this title. For complete classification of this Act to the Code, see Tables.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 428 of this title.

§ 428d. Receipt of report of commission by Secretary of the Interior; acquisition of land for battlefield; other duties of Secretary

Upon receipt of the report of said commission the Secretary of the Interior is authorized and directed to acquire, by purchase, when purchasable at prices deemed by him reasonable, otherwise by condemnation, such tract or tracts of lands as are recommended by the commission as necessary and desirable for a national battlefield; to establish and substantially mark the boundaries of the said battlefield; to definitely mark all lines of battle and locations of troops within the boundaries of the battlefield and erect substantial historical tablets at such points within the battlefield and in the vicinity of the battlefield and its approaches as are recommended by the commission, together with such other points as the Secretary of the Interior may deem appropriate; to construct the necessary roads and walks, plant trees and shrubs, restore and care for the grounds, including the restoration and maintenance of those portions of old Fort Donelson, and of the Confederate water batteries that are located on the present engineer reservation: *Provided*, That the entire cost of acquiring said land, including cost of condemnation proceedings, if any, ascertainment of title, surveys, and compensation for the land, the cost of marking the battlefield, the expenses of the commission, and the establishment of the national battlefield shall not exceed the sum of $50,000.

(Mar. 26, 1928, ch. 248, § 5, 45 Stat. 368; Feb. 18, 1930, ch. 49, 46 Stat. 69; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 86–738, §§ 4, 5, Sept. 8, 1960, 74 Stat. 876.)

AMENDMENTS

1930—Act Feb. 18, 1930, inserted ''military'' between ''national'' and ''park'', authorized construction of roads and walks, planting of trees and shrubs, restoration and care of grounds, including portions of Fort Donelson and Confederate water batteries, and inserted ''and the establishment of the national military park'' in proviso.

CHANGE OF NAME

''National battlefield'' and ''battlefield'' substituted in text for ''national military park'' and ''park'', respectively, in view of redesignation of Fort Donelson National Military Park as Fort Donelson National Battlefield by Pub. L. 86–738. See section 428n of this title.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 428 of this title.

§ 428d–1. Acquisition of additional lands

The following-described tracts or parcels of land, lying and being within the seventh civil district of Stewart County, Tennessee, are transferred from the jurisdiction of the Secretary of War to the jurisdiction of the Secretary of the Interior as additions to the Fort Donelson National Battlefield, and shall after August 30, 1937, be subject to all laws and rules and regulations applicable to said battlefield:

Tract numbered 1, a right-of-way, fifty feet wide, lying twenty-five feet on each side of a center line, beginning at a point in the south-

erly boundary line of lock D reservation, seven hundred and thirty-four and eight-tenths feet from the southwest corner of this reservation; thence south thirty-one degrees five minutes west seventy-seven and one-tenth feet, thence south eighty-six degrees twenty-one minutes west four hundred and seventy-nine and nine-tenths feet, thence south sixty-three degrees fifty-three minutes west two hundred and sixty-two and three-tenths feet, thence south thirty-nine degrees thirty-six minutes west one hundred and eighty-six and seven-tenths feet, thence south exactly forty minutes east exactly one hundred and ninety-four feet, thence south thirty degrees fifty-eight minutes east three hundred and fourteen and five-tenths feet, thence south twenty-eight degrees fifteen minutes east exactly eighty-five feet, thence south twenty-eight degrees thirty-seven minutes east two hundred and fifty and five-tenths feet, thence south four degrees six minutes east two hundred and sixty-one and seven-tenths feet, thence south thirty-six degrees twenty-seven minutes east two hundred and eighty-two and three-tenths feet, thence south twenty-three degrees forty-five minutes east one hundred and seventy-eight and three-tenths feet to center line of county road, reserving, however, to the Department of the Army the right to the continued use of the road over this tract as a means of access to lock D.

Tract numbered 2, beginning at a point in the southern boundary line of lock D reservation, seven hundred and fifty-three and five-tenths feet from the southwest corner of this reservation, thence north seventy-four degrees twenty-eight minutes east one hundred and ninety-one and ninety-eight one-hundredths feet, thence south eighty-five degrees twelve minutes east fifty-two and nine-tenths feet, thence south fifty-one degrees thirty-six minutes east thirty-two and nine-tenths feet, thence south nine degrees thirty-three minutes east one hundred and seventeen and two one-hundredths feet, thence south thirty-one degrees three minutes west sixty-nine and eighty-two one-hundredths feet, thence north fifty-eight degrees fifty-seven minutes west two hundred and eighty-eight and eight one-hundredths feet to beginning.

Tract numbered 3, beginning at a point in the southern boundary line of lock D reservation, five hundred and ninety feet from the southwest corner of this reservation, this point being marked by an iron fence post, thence north fifty-eight degrees fifty-seven minutes west five hundred and ninety feet along the southern boundary line of lock D reservation, thence north thirty-one degrees three minutes east four hundred and eighty-eight feet along the western boundary line of the lock D reservation to low-water mark on bank of Cumberland River, thence along low-water line of Cumberland River in a southeasterly direction three hundred and thirty-five feet, thence south thirty-four degrees five minutes west one hundred and twenty-three feet to an iron pin, thence south fifty-five degrees fifty-five minutes east three hundred and seven and five-tenths feet to an iron pin, thence south forty degrees five minutes west three hundred and ten and five-tenths feet to beginning.

(Aug. 30, 1937, ch. 888, § 1, 50 Stat. 881; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 86–738, § 4, Sept. 8, 1960, 74 Stat. 876.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

''Fort Donelson National Battlefield'' and ''battlefield'' substituted in text for ''Fort Donelson National Military Park'' and ''park'', respectively, in view of redesignation of Fort Donelson National Military Park as Fort Donelson National Battlefield by Pub. L. 86–738. See section 428n of this title.

§ 428d–2. Acceptance of donations by Secretary of the Interior

The Secretary of the Interior is authorized to accept donations of land, interests in land, buildings, structures, and other property within a distance of one mile from the boundaries of said Fort Donelson National Battlefield, as extended by section 428d–1 of this title, and donations of funds for the purchase or maintenance thereof, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Interior: *Provided*, That he may acquire on behalf of the United States out of any donated funds, by purchase at prices deemed by him reasonable or by condemnation, such tracts of land within a distance of one mile from the boundaries of the said national battlefield as may be necessary for the completion thereof. Upon the acquisition of such land, the same shall become a part of the Fort Donelson National Battlefield and shall be subject to the laws and rules and regulations applicable to said battlefield.

(Aug. 30, 1937, ch. 888, § 2, 50 Stat. 882; Pub. L. 86–738, § 4, Sept. 8, 1960, 74 Stat. 876.)

CHANGE OF NAME

''Fort Donelson National Battlefield'', ''national battlefield'' and ''battlefield'' substituted in text for ''Fort Donelson National Military Park'', ''national military park'' and ''park'', respectively, in view of redesignation of Fort Donelson National Military Park as Fort Donelson National Battlefield by Pub. L. 86–738. See section 428n of this title.

§ 428d–3. Administration, protection, and development

The administration, protection, and development of the lands authorized to be added to the Fort Donelson National Battlefield by sections 428d–1 and 428d–2 shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(Aug. 30, 1937, ch. 888, § 3, 50 Stat. 883; Pub. L. 86–738, § 4, Sept. 8, 1960, 74 Stat. 876.)

CHANGE OF NAME

''Fort Donelson National Battlefield'' substituted in text for ''Fort Donelson National Military Park'' in view of redesignation of Fort Donelson National Mili-

tary Park as Fort Donelson National Battlefield by Pub. L. 86–738. See section 428n of this title.

§ 428e. Lands acquired declared national battlefield; name

Upon the ceding of jurisdiction by the Legislature of the State of Tennessee and the report of the Attorney General of the United States that a perfect title has been acquired, the lands acquired under the provisions of sections 428 to 428d and 428e to 428i of this title, together with the area already inclosed within the national cemetery at the battle field of Fort Donelson, are declared to be a national battlefield, to be known as the Fort Donelson National Battlefield.

(Mar. 26, 1928, ch. 248, § 6, 45 Stat. 368; Pub. L. 86–738, § 4, Sept. 8, 1960, 74 Stat. 876.)

CHANGE OF NAME

''Fort Donelson National Battlefield'' and ''battlefield'' substituted in text for ''Fort Donelson National Military Park'' and ''park'', respectively, in view of redesignation of Fort Donelson National Military Park as Fort Donelson National Battlefield by Pub. L. 86–738. See section 428n of this title.

§ 428f. Control of battlefield; regulations

The said Fort Donelson National Battlefield shall be under the control of the Secretary of the Interior, and he is authorized to make all needed regulations for the care of the battlefield. The superintendent of the Fort Donelson National Cemetery shall likewise be the superintendent of and have the custody and care of the Fort Donelson National Battlefield, under the direction of the Secretary of the Interior.

(Mar. 26, 1928, ch. 248, § 7, 45 Stat. 368; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 86–738, §§ 4, 5, Sept. 8, 1960, 74 Stat. 876.)

CHANGE OF NAME

''Fort Donelson National Battlefield'' and ''battlefield'' substituted in text for ''Fort Donelson National Military Park'' and ''park'', respectively, in view of redesignation of Fort Donelson National Military Park as Fort Donelson National Battlefield by Pub. L. 86–738. See section 428n of this title.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 428 of this title.

§ 428g. Occupation of lands by former owners

The Secretary of the Interior is authorized to enter into agreements, upon such nominal terms as he may prescribe, with such present owners of the land as may desire to remain upon it, to occupy and cultivate their present holdings, upon condition that they will preserve the present buildings and roads, and the present outlines of field and forest, and that they will only cut trees or underbrush under such regulations as the Secretary may prescribe, and that they will assist in caring for and protecting all tablets, monuments, or such other artificial works as may from time to time be erected by proper authority.

(Mar. 26, 1928, ch. 248, § 8, 45 Stat. 368; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 86–738, § 5, Sept. 8, 1960, 74 Stat. 876.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 428 of this title.

§ 428h. Ascertaining and marking line of battle

It shall be lawful for the authorities of any State having troops engaged in the Battle of Fort Donelson to enter upon the lands and approaches of the Fort Donelson National Battlefield for the purpose of ascertaining and marking the lines of battle of troops engaged therein: *Provided*, That before any such lines are permanently designated, the position of the lines and the proposed methods of marking them by monuments, tablets, or otherwise shall be submitted to the Secretary of the Interior and shall first receive the written approval of the Secretary.

(Mar. 26, 1928, ch. 248, § 9, 45 Stat. 368; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 86–738, §§ 4, 5, Sept. 8, 1960, 74 Stat. 876.)

CHANGE OF NAME

''Fort Donelson National Battlefield'' substituted in text for ''Fort Donelson National Military Park'' in view of redesignation of Fort Donelson National Military Park as Fort Donelson National Battlefield by Pub. L. 86–738. See section 428n of this title.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 428 of this title.

§ 428i. Protection of monuments, etc.

If any person shall willfully destroy, mutilate, deface, injure, or remove any monument, column, statue, memorial structure, or work of art that shall be erected or placed upon the grounds of the battlefield by lawful authority, or shall willfully destroy or remove any fence, railing, inclosure, or other work for the protection or ornament of said battlefield, or any portion thereof, or shall willfully destroy, cut, hack, bark, break down, or otherwise injure any tree, bush, or shrubbery that may be growing upon said battlefield, or shall cut down or fell or remove any timber, battle relic, tree, or trees growing or being upon such battlefield, except by permission of the Secretary of the Interior, or shall willfully remove or destroy any breastworks, earthworks, walls, or other defenses or shelter, or any part thereof, constructed by the armies formerly engaged in the battle on the lands or approaches to the battlefield, any person so offending shall be guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction shall for each and every such offense be fined not less than $5 nor more than $100.

(Mar. 26, 1928, ch. 248, § 10, 45 Stat. 368; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 86–738, §§ 4, 5, Sept. 8, 1960, 74 Stat. 876.)

CHANGE OF NAME

''Battlefield'' substituted for ''park'' wherever appearing in text in view of redesignation of Fort

Donelson National Military Park as Fort Donelson National Battlefield by Pub. L. 86–738. See section 428n of this title.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 428 of this title.

§ 428j. Omitted

CODIFICATION

Section, act Mar. 26, 1928, ch. 248, § 11, 45 Stat. 369, appropriated $50,000 to be expended for purposes of sections 428 to 428d, 428e to 428i of this title.

§ 428k. Addition of lands

In furtherance of the purposes of sections 428 to 428d and 428e to 428i of this title and to facilitate an appropriate observance of the one hundredth anniversary of the Battle of Fort Donelson, the Secretary of the Interior is authorized to designate for addition to the present Fort Donelson National Battlefield such lands and interests in lands adjacent to said battlefield as in his discretion are necessary to preserve and interpret this historic battleground, including the nearby historic Surrender House and the land upon which it is situated on Spring Street in the town of Dover, Tennessee.

(Pub. L. 86–738, §§ 1, 4, Sept. 8, 1960, 74 Stat. 875, 876; Pub. L. 108–367, § 6, Oct. 25, 2004, 118 Stat. 1745.)

AMENDMENTS

2004—Pub. L. 108–367 substituted ''Tennessee'' for ''Tennessee, but the total area commemorating the battle of Fort Donelson shall not exceed 600 acres''.

CHANGE OF NAME

''Fort Donelson National Battlefield'' and ''battlefield'' substituted in text for ''Fort Donelson National Military Park'' and ''park'', respectively, in view of redesignation of Fort Donelson National Military Park as Fort Donelson National Battlefield by Pub. L. 86–738, § 4, set out as section 428n of this title.

§ 428*l*. Acquisition of lands; agreement for transfer of jurisdiction

Within the area designated for addition to such battlefield under section 428k of this title, the Secretary is authorized to acquire non-Federal lands and interests in lands by purchase, by donation, by purchase with donated funds, or in such other manner and by such means as he may deem to be in the public interest, except that the Surrender House and land upon which it is situated shall be acquired only by donation or by purchase with donated funds. Administrative jurisdiction and control over lands administered by the Corps of Engineers, Department of the Army, above contour elevation 369 and which, under authority of section 428k of this title, are designated for inclusion in the battlefield, shall, upon agreement of the administering agency, be transferred to the Secretary of the Interior without a transfer of funds.

(Pub. L. 86–738, §§ 2, 4, Sept. 8, 1960, 74 Stat. 876.)

CHANGE OF NAME

''Battlefield'' substituted in text for ''park'' in view of redesignation of Fort Donelson National Military Park as Fort Donelson National Battlefield by Pub. L. 86–738, § 4, set out as section 428n of this title.

§ 428m. Authorization of appropriation

There is authorized to be appropriated the sum of not to exceed $454,000 for the purpose of acquiring lands, interests in lands, and improvements thereon as may be necessary for carrying out sections 428k to 428*o* of this title.

(Pub. L. 86–738, § 3, Sept. 8, 1960, 74 Stat. 876; Pub. L. 92–272, title I, § 101(5), Apr. 11, 1972, 86 Stat. 120.)

AMENDMENTS

1972—Pub. L. 92–272 increased authorization of appropriations from a sum not to exceed $226,000 to a sum not to exceed $454,000.

§ 428n. Change in name to Fort Donelson National Battlefield

Upon acquisition of the additional lands pursuant to authority contained in sections 428k to 428*o* of this title, the Fort Donelson National Military Park shall be redesignated by the Secretary of the Interior as the Fort Donelson National Battlefield, notice thereof shall be published in the Federal Register, and any remaining balance of funds appropriated for purposes of the Fort Donelson National Military Park shall be available for the purposes of the Fort Donelson National Battlefield.

(Pub. L. 86–738, § 4, Sept. 8, 1960, 74 Stat. 876.)

§ 428*o*. Administration, protection, and development

The administration, protection, and development of the Fort Donelson National Battlefield shall be exercised by the Secretary of the Interior in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(Pub. L. 86–738, § 5, Sept. 8, 1960, 74 Stat. 876.)

§ 428p. Fort Donelson National Battlefield

(a) Designation; purpose

There exists as a unit of the National Park System the Fort Donelson National Battlefield to commemorate—

(1) the Battle of Fort Donelson in February 1862; and

(2) the campaign conducted by General Ulysses S. Grant and Admiral Andrew H. Foote that resulted in the capture of Fort Donelson by Union forces.

(b) Boundaries

The boundary of the Fort Donelson National Battlefield is revised to include the site of Fort Donelson and associated land that has been acquired by the Secretary of the Interior for administration by the National Park Service, including Fort Donelson National Cemetery, in Stewart County, Tennessee and the site of Fort Heiman and associated land in Calloway County, Kentucky, as generally depicted on the map entitled ''Fort Donelson National Battlefield Boundary Adjustment'' numbered 328/80024, and dated September 2003. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) Expansion of boundaries

The Fort Donelson National Battlefield shall also include any land acquired pursuant to section 428p–1 of this title.

(Pub. L. 108–367, § 2, Oct. 25, 2004, 118 Stat. 1743.)

§ 428p–1. Land acquisition related to Fort Donelson National Battlefield

(a) Acquisition authority

Subject to subsections (b) and (c) of this section, the Secretary of the Interior may acquire land, interests in land, and improvements thereon for inclusion in the Fort Donelson National Battlefield. Such land, interests in land, and improvements may be acquired by the Secretary only by purchase from willing sellers with appropriated or donated funds, by donation, or by exchange with willing owners.

(b) Land eligible for acquisition

The Secretary of the Interior may acquire land, interests in land, and improvements thereon under subsection (a) of this section—

(1) within the boundaries of the Fort Donelson National Battlefield described in section 428p(b) of this title; and

(2) outside such boundaries if the land has been identified by the American Battlefield Protection Program as part of the battlefield associated with Fort Donelson or if the Secretary otherwise determines that acquisition under subsection (a) of this section will protect critical resources associated with the Battle of Fort Donelson in 1862 and the Union campaign that resulted in the capture of Fort Donelson.

(c) Boundary revision

Upon acquisition of land or interests in land described in subsection (b)(2) of this section, the Secretary of the Interior shall revise the boundaries of the Fort Donelson National Battlefield to include the acquired property.

(d) Limitation on total acreage of park

The total area encompassed by the Fort Donelson National Battlefield may not exceed 2,000 acres.

(Pub. L. 108–367, § 3, Oct. 25, 2004, 118 Stat. 1743.)

§ 428p–2. Administration of Fort Donelson National Battlefield

The Secretary of the Interior shall administer the Fort Donelson National Battlefield in accordance with sections 428p to 428p–2 of this title and the laws generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title.

(Pub. L. 108–367, § 4, Oct. 25, 2004, 118 Stat. 1744.)

REFERENCES IN TEXT

Sections 428p to 428p–2 of this title, referred to in text, was in the original ''this Act'', meaning Pub. L. 108–367, Oct. 25, 2004, 118 Stat. 1743, which enacted this section and sections 428p and 428p–1 of this title, amended section 428k of this title, and enacted provisions set out as a note under section 428 of this title. For complete classification of this Act to the Code, see Short Title of 2004 Amendment note set out under section 428 of this title and Tables.

§ 429. Brices Cross Roads and Tupelo battlefields in Mississippi; establishment

For the purpose of commemorating the battles of Brices Cross Roads, Mississippi, and Tupelo, Mississippi, the Secretary of the Interior is authorized and directed to (1) acquire not to exceed one acre of land, free of cost to the United States, at each of the above-named battle fields, (2) fence each parcel of land so acquired, (3) build an approach to each such parcel of land, and (4) erect a suitable marker on each such parcel of land.

(Feb. 21, 1929, ch. 289, § 1, 45 Stat. 1254; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

TRANSFER OF FUNCTIONS

''Secretary of the Interior'' substituted in text for ''Secretary of War'' pursuant to Reorg. Plan No. 3 of 1950, §§ 1, 2; Ex. Ord. No. 6166, § 2; and Ex. Ord. No. 6228, § 1. See below.

Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees, transferred the functions of other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate.

Ex. Ord. No. 6166, § 2, and Ex. Ord. No. 6228, § 1, set out as a note under section 901 of Title 5, transferred the administrative functions of Brices Cross Roads and Tupelo battlefield sites to the Department of the Interior.

§ 429a. Jurisdiction and control; authorization of annual appropriation

Each parcel of land acquired under section 429 of this title shall be under the jurisdiction and control of the Secretary of the Interior, and there is authorized to be appropriated for the maintenance of each such parcel of land, fence, approach, and marker a sum not to exceed $250 per annum.

(Feb. 21, 1929, ch. 289, § 3, 45 Stat. 1254; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

TRANSFER OF FUNCTIONS

''Secretary of the Interior'' substituted in text for ''Secretary of War'' pursuant to Reorg. Plan No. 3 of 1950, §§ 1, 2; Ex. Ord. No. 6166, § 2; and Ex. Ord. No. 6228, § 1. See below.

Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees, transferred the functions of other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate.

Ex. Ord. No. 6166, § 2, and Ex. Ord. No. 6228, § 1, set out as a note under section 901 of Title 5, transferred the administrative functions of Brices Cross Roads and Tupelo battlefield sites to the Department of the Interior.

§ 429a–1. Tupelo National Battlefield; acquisition of additional lands

To further the purposes of sections 429 and 429a of this title, the Secretary of the Interior may acquire by donation or with donated funds not to exceed one-half acre of land and interests in land for addition to the adjoining Tupelo National Battlefield site.

(Pub. L. 87–133, § 1, Aug. 10, 1961, 75 Stat. 336.)

§ 429a–2. Change in name to Tupelo National Battlefield; administration

The Tupelo National Battlefield site is redesignated the Tupelo National Battlefield which

shall continue to be administered pursuant to sections 1, 2, 3, and 4 of this title, as amended and supplemented.

(Pub. L. 87–133, § 2, Aug. 10, 1961, 75 Stat. 336.)

§ 429b. Manassas National Battlefield Park

(a) Establishment; boundaries

There is established as a unit of the national park system in the Commonwealth of Virginia the Manassas National Battlefield Park, which shall contain within its boundaries the important historical lands relating to the two battles of Manassas. The total area of the park shall not be greater than four thousand five hundred and twenty-five acres. The boundaries of the park shall be the boundaries depicted on the map entitled ''Boundary Map, Manassas National Battlefield Park'', dated October 1980, and numbered 379/80,009, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary shall publish in the Federal Register, as soon as practicable after the date of the enactment of this Act, but no later than one year from the effective date of this section, a detailed description and map of the boundaries. Notwithstanding section 460*l*–9(c) of this title, the Secretary may not make any changes in the boundaries of the park. The Secretary shall administer the park in accordance with laws, rules, and regulations applicable to the national park system.

(b) Addition to park

(1) In addition to subsection (a) of this section, the boundaries of the park shall include the area, comprising approximately 600 acres, which is south of U.S. Route 29, north of Interstate Route 66, east of Route 705, and west of Route 622. Such area shall hereafter in sections 429b to 429b–5 of this title be referred to as the ''Addition''.

(2)(A) Notwithstanding any other provision of law, effective on November 10, 1988, there is hereby vested in the United States all right, title, and interest in and to, and the right to immediate possession of, all the real property within the Addition.

(B) The United States shall pay just compensation to the owners of any property taken pursuant to this paragraph and the full faith and credit of the United States is hereby pledged to the payment of any judgment entered against the United States with respect to the taking of such property. Payment shall be in the amount of the agreed negotiated value of such property or the valuation of such property awarded by judgment and shall be made from the permanent judgment appropriation established pursuant to 31 U.S.C. 1304. Such payment shall include interest on the value of such property which shall be compounded quarterly and computed at the rate applicable for the period involved, as determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities from November 10, 1988, to the last day of the month preceding the date on which payment is made.

(C) In the absence of a negotiated settlement, or an action by the owner, within 1 year after November 10, 1988, the Secretary may initiate a proceeding at anytime seeking in a court of competent jurisdiction a determination of just compensation with respect to the taking of such property.

(3) Not later than 6 months after November 10, 1988, the Secretary shall publish in the Federal Register a detailed description and map depicting the boundaries of the Addition. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(c) Use of addition

The Secretary shall not allow any unauthorized use of the Addition after November 10, 1988, except that the Secretary may permit the orderly termination of all operations on the Addition and the removal of equipment, facilities, and personal property from the Addition.

(Apr. 17, 1954, ch. 153, § 1, 68 Stat. 56, as renumbered and amended Pub. L. 96–442, § 2, Oct. 13, 1980, 94 Stat. 1885; Pub. L. 100–647, title X, § 10002, Nov. 10, 1988, 102 Stat. 3810.)

REFERENCES IN TEXT

The date of the enactment of this Act and effective date of this Act, referred to in subsec. (a), probably means the date of the enactment of the Manassas National Battlefield Park Amendments of 1980, Pub. L. 96–442, which was approved Oct. 13, 1980.

AMENDMENTS

1988—Pub. L. 100–647 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

1980—Pub. L. 96–442 substituted a referenced map for specific boundaries, limited the expanded battlefield park to 4,525 acres, included the park in the National Park System, required the Secretary to publish more detailed map, prohibited the Secretary from making boundary adjustments and required him to administer the Park in accordance with the laws and regulations applicable to the National Park System.

SHORT TITLE OF 1988 AMENDMENT

Section 10001 of title X of Pub. L. 100–647 provided that: ''This title [amending this section and section 429b–1 of this title and enacting provisions set out as a note below] may be cited as the 'Manassas National Battlefield Park Amendments of 1988'.''

SHORT TITLE

Section 1 of Pub. L. 96–442 provided: ''That this Act [enacting sections 429b–1 to 429b–5 of this title, amending this section, and enacting provisions set out as a note under section 460cc of this title] may be cited as the 'Manassas National Battlefield Park Amendments of 1980'.''

HIGHWAY RELOCATION

Section 10004 of Pub. L. 100–647 provided that:

''(a) STUDY.—The Secretary of the Interior (hereafter in this section referred to as the 'Secretary'), in consultation and consensus with the Commonwealth of Virginia, the Federal Highway Administration, and Prince William County, shall conduct a study regarding the relocation of highways (known as routes 29 and 234) in, and in the vicinity of, the Manassas National Battlefield Park (hereinafter in this section referred to as the 'park'). The study shall include an assessment of the available alternatives, together with cost estimates and recommendations regarding preferred options. The study shall specifically consider and develop plans for the closing of those public highways (known as routes 29 and 234) that transect the park and shall include

analysis of the timing and method of such closures and of means to provide alternative routes for traffic now transecting the park. The Secretary shall provide for extensive public involvement in the preparation of the study.

''(b) DETERMINATION.—Within 1 year after the enactment of this Act [Nov. 10, 1988], the Secretary shall complete the study under subsection (a). The study shall determine when and how the highways (known as routes 29 and 234) should be closed.

''(c) ASSISTANCE.—The Secretary shall provide funds to the appropriate construction agency for the construction and improvement of the highways to be used for the rerouting of traffic now utilizing highways (known as routes 29 and 234) to be closed pursuant to subsection (b) if the construction and improvement of such alternatives are deemed by the Secretary to be in the interest of protecting the integrity of the park. Not more than 75 percent of the costs of such construction and improvement shall be provided by the Secretary and at least 25 percent shall be provided by State or local governments from any source other than Federal funds. Such construction and improvement shall be approved by the Secretary of Transportation.

''(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary not to exceed $30,000,000 to prepare the study required by subsection (a) and to provide the funding described in subsection (c).''

§ 429b–1. Acquisition and use of lands

(a) Acquisition of property or interests in property; scenic preservation of views

(1) In order to effectuate the purposes of sections 429b to 429b–5 of this title, the Secretary is authorized to acquire by donation, purchase with donated or appropriated funds or exchange, any property or interests therein which are located within the boundaries of the park, except that property owned by the Commonwealth of Virginia or by any political subdivision thereof may be acquired only by donation.

(2) The Secretary shall cooperate with the Commonwealth of Virginia, the political subdivisions thereof, and other parties as designated by the Commonwealth or its political subdivisions in order to promote and achieve scenic preservation of views from within the park through zoning and such other means as the parties determine feasible.

(b) Acquisition of fee simple title with the consent of owner; hearing and review

With respect to areas within the 1954 boundaries of the park, as identified on the map referred to in section 429b of this title, the Secretary may not acquire fee simple title to such areas without the consent of the owner so long as the lands continue to be devoted to a use which is the same as that in effect on September 1, 1980. Further, if the Secretary proposes to acquire fee simple title to such property because of a change in use, the owner of such property may seek a review of the proposed acquisition of his or her property and is entitled to a hearing on the record in accordance with section 554 of title 5.

(c) Secretary authorized to make land available for Route 234 bypass

If the Virginia Department of Highways and Transportation determines that the proposed Route 234 bypass should be properly located between the Virginia Electric Power Company powerline easement and route 705, the Secretary shall make available the land necessary for such bypass, subject to such revisions, terms, and conditions as the Secretary deems are necessary and appropriate to assure that such bypass is located, constructed, operated, and maintained in a manner consistent with the administration of the park.

(d) Secretary not to close State roads

The Secretary may not close any State roads within the park unless action permitting the closing of such roads has been taken by appropriate officials of the Commonwealth of Virginia.

(Apr. 17, 1954, ch. 153, § 2, as added Pub. L. 96–442, § 2, Oct. 13, 1980, 94 Stat. 1885; amended Pub. L. 100–647, title X, § 10003, Nov. 10, 1988, 102 Stat. 3811.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–647 designated existing provisions as par. (1) and added par. (2).

§ 429b–2. Retention of right of use and occupation of improved property by owner

(a) Time limits; compensation

Subsequent to October 13, 1980, the owner of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than twenty-five years or for a term ending at the death of the owner or the death of the spouse of the owner, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner an amount equal to the fair market value of the property on the date of its acquisition less the value on such date of the right retained by the owner. If such property is donated (in whole or in part) to the United States, the Secretary may pay to the owner such lesser amount as the owner may agree to. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of sections 429b to 429b–5 of this title, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(b) Displaced person; waiver of benefits

No property owner who elects to retain a right of use and occupancy under this section shall be considered a displaced person as defined in section 4601(6) of title 42. Such owners shall be considered to have waived any benefits which would otherwise accrue to them under sections 4623 to 4626 of title 42.

(Apr. 17, 1954, ch. 153, § 3, as added Pub. L. 96–442, § 2, Oct. 13, 1980, 94 Stat. 1886.)

§ 429b–3. Definitions

For purposes of sections 429b to 429b–5 of this title—

(1) The term ''improved property'' means a detached, one-family dwelling, construction of which was begun before January 1, 1979, which is used for noncommercial residential purposes, together with not to exceed three acres of land on which the dwelling is situated and together with such additional lands or interests therein as the Secretary deems to be reasonably necessary for access thereto, such lands being in the same ownership as the dwelling, together with any structures accessory to the dwelling which are situated on such land.

(2) The term ''park'' means the Manassas National Battlefield Park established under sections 429b to 429b–5 of this title.

(3) The term ''Secretary'' means the Secretary of the Interior.

(4) The term ''owner'' means the owner of record as of September 1, 1980.

(Apr. 17, 1954, ch. 153, § 4, as added Pub. L. 96–442, § 2, Oct. 13, 1980, 94 Stat. 1886.)

§ 429b–4. Funds from Land and Water Conservation Fund

(a) Maximum amount usable for acquisition of property

In addition to sums heretofore expended for the acquisition of property and interests therein for the park, from funds available for expenditure from the Land and Water Conservation Fund, as established under the Land and Water Conservation Fund Act of 1965 [16 U.S.C. 460*l*–4 et seq.], not more than a total of $8,700,000 may be expended for the acquisition of property and interests therein under sections 429b to 429b–5 of this title.

(b) Completion of acquisition in two years

It is the express intent of Congress that, except for property referred to in section 429b–1(b) of this title, the Secretary shall acquire property and interests therein under sections 429b to 429b–5 of this title within two complete fiscal years after October 13, 1980.

(Apr. 17, 1954, ch. 153, § 5, as added Pub. L. 96–442, § 2, Oct. 13, 1980, 94 Stat. 1886.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (a), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

§ 429b–5. Funding limitations; contracting authority, etc.

(a) Effective date of authorizations

Authorizations of moneys to be appropriated under sections 429b to 429b–5 of this title from the Land and Water Conservation Fund for acquisition of properties and interests shall be effective on October 1, 1981.

(b) Authority limited by appropriations

Notwithstanding any other provision of sections 429b to 429b–5 of this title, authority to enter into contracts, to incur obligations, or to make payments under sections 429b to 429b–5 of this title shall be effective only to the extent, and in such amounts as are provided in advance in appropriation Acts.

(Apr. 17, 1954, ch. 153, § 6, as added Pub. L. 96–442, § 2, Oct. 13, 1980, 94 Stat. 1887.)

§ 430. Kings Mountain National Military Park; establishment

In order to commemorate the Battle of Kings Mountain, which was fought on the 7th day of October 1780, the Kings Mountain battle ground, in the State of South Carolina, including such adjacent and contiguous lands as may be useful and proper in effectually carrying out the purpose of sections 430, 430a, and 430b to 430e of this title, is declared to be a national military park, to be known as the Kings Mountain National Military Park, when such land including said battle ground, shall become the property of the United States.

(Mar. 3, 1931, ch. 437, § 1, 46 Stat. 1508.)

§ 430a. Acquisition of land

The Secretary of the Interior shall ascertain on what land the Battle of Kings Mountain was fought and, subject to the provisions of sections 3111 and 3112 of title 40, shall proceed to acquire title to such land together with such adjacent and contiguous lands as he may deem useful and proper in effectually carrying out the purposes of sections 430, 430a, and 430b of this title, either by purchase or gift or by condemnation under the provisions of section 3113 of title 40.

(Mar. 3, 1931, ch. 437, § 2, 46 Stat. 1508; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

CODIFICATION

''Sections 3111 and 3112 of title 40'' substituted in text for ''section 355 of the Revised Statutes'' and ''section 3113 of title 40'' substituted in text for ''the Act entitled 'An Act to authorize condemnation of lands for sites for public buildings, and for other purposes,' approved August 1, 1888'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

TRANSFER OF FUNCTIONS

Administrative functions of Kings National Military Park transferred to Department of the Interior by Ex. Ord. Nos. 6166 and 6228, set out as a note under section 901 of Title 5, Government Organization and Employees.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, § 2, by act Mar. 2, 1934, ch. 38, § 1, 48 Stat. 389.

§ 430a–1. Revision of boundaries

In order to consolidate the Federal ownership of lands in, and to facilitate protection and preservation of, Kings Mountain National Military Park, South Carolina, the boundaries are revised as follows:

(1) Federally owned lands lying west of the easterly right-of-way line of State Route P–11–123, containing approximately two hundred acres, are excluded from the park;

(2) Privately owned lands lying east of the easterly right-of-way line of State Route P–11–123,

containing approximately eighty acres, are included in the park; and

(3) Lands of the Mary Morris estate lying south of the southerly right-of-way line of the historic Yorkville-Shelbyville Road, and forming the triangle bounded by the new State Route P–11–86, the historic Yorkville-Shelbyville Road and the present park boundary (Old Houser tract), aggregating approximately sixty acres, are included in the park.

(Pub. L. 86–62, § 1, June 23, 1959, 73 Stat. 108.)

§ 430a–2. Acquisition of lands within revised boundary

The Secretary of the Interior is authorized to acquire lands and interests in lands within the revised boundary by purchase, donation, with donated funds, or by exchange, utilizing for such exchanges federally owned lands of approximately equal value excluded from the park pursuant to sections 430a–1 to 430a–3 of this title. Federally owned lands so excluded which the Secretary of the Interior determines are not needed for such exchanges shall be disposed of in accordance with the provisions of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(Pub. L. 86–62, § 2, June 23, 1959, 73 Stat. 108.)

CODIFICATION

In text, ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949, as amended'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§ 430a–3. Applicability of laws and regulations to acquired lands and interests therein

Lands and interests therein acquired pursuant to sections 430a–1 to 430a–3 of this title shall thereupon become a part of the Kings Mountain National Military Park and be subject to all the laws and regulations applicable thereto.

(Pub. L. 86–62, § 3, June 23, 1959, 73 Stat. 108.)

§ 430b. Control; regulations for care and management

Such park shall be under the control and direction of the Secretary of the Interior. The Secretary is authorized to prescribe from time to time such regulations for the care and management of such park as he may deem necessary.

(Mar. 3, 1931, ch. 437, § 3, 46 Stat. 1508; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 430a of this title.

§ 430c. Permits to occupy land

Upon such terms and conditions as he may prescribe, the Secretary of the Interior is authorized to permit any person occupying any land within the boundaries of such park to continue to occupy such land, but the Secretary may revoke such permit at any time.

(Mar. 3, 1931, ch. 437, § 4, 46 Stat. 1508; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 430a of this title.

§ 430d. Repair of roads; historical markers

The Secretary of the Interior shall open or repair such roads in such park as may be necessary, and ascertain and mark with tablets or otherwise, as he may determine, all lines of battle of the American troops and British troops engaged in the Battle of Kings Mountain and other historical points of interest pertaining to the battle which are within the boundaries of the park. The Secretary is authorized to employ such labor and services and to obtain such supplies and materials as may be necessary to carry out the provisions of this section.

(Mar. 3, 1931, ch. 437, § 5, 46 Stat. 1508; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 430a of this title.

§ 430e. Monuments and tablets within park; approval

The authorities of any State which had troops engaged in the Battle of Kings Mountain may enter the Kings Mountain National Military Park for the purpose of ascertaining and marking the lines of battle of such troops, but before any such lines are permanently designated the position of the lines and the proposed methods of marking them by monuments, tablets, or otherwise shall be approved by the Secretary of the Interior. Any State organization or individual may, with the approval of the Secretary of the Interior, erect monuments or place tablets within such park.

(Mar. 3, 1931, ch. 437, § 6, 46 Stat. 1508; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 430a of this title.

§ 430f. Shiloh National Military Park

In order that the armies of the southwest which served in the civil war, like their comrades of the eastern armies at Gettysburg and those of the central west at Chickamauga, may have the history of one of their memorable battles preserved on the ground where they fought, that part of the battlefield of Shiloh, in the State of Tennessee, title to which has heretofore been acquired by the United States, and as to which the usual jurisdiction over the lands and the roads of same has been granted to the United States by the State of Tennessee, con-

taining 3,000 acres, more or less, shall be a national military park, and shall be known as the Shiloh National Military Park. The Secretary of the Interior is authorized to enter into agreements whereby he may lease, upon such terms as he may prescribe, with such persons, who were owners or tenants of the land on December 27, 1894, as may desire to remain upon it to occupy and cultivate their then holdings upon condition that they will preserve the then buildings and roads and the then outlines of field and forest, and that they only will cut trees or underbrush under such regulations as the Secretary may prescribe, and that they will assist in caring for and protecting all tablets, monuments, or such other artificial works as may from time to time be erected by proper authority. It shall be the duty of the Secretary of the Interior to cause to be opened or repaired such roads as may be necessary for the purposes of the park and to cause to be ascertained and marked with historical tablets or otherwise, as he may determine, all lines of battle of the troops engaged in the battle of Shiloh and other historical points of interest pertaining to the battle within the park or its vicinity, and the Secretary of the Interior shall make and enforce all needed regulations for the care of the park. It shall be lawful for any State that had troops engaged in the battle of Shiloh to enter upon the lands of the Shiloh National Military Park for the purpose of ascertaining and marking the lines of battle of its troops therein: *Provided*, That before any such lines are permanently designated the position of the lines and the proposed methods of marking them by monuments, tablets, or otherwise shall be submitted to and approved by the Secretary of the Interior, and all such lines, designs and inscriptions for the same shall first receive the written approval of the Secretary: *Provided*, That no discrimination shall be made against any State as to the manner of designating lines, but any grant made to any State by the Secretary of the Interior may be used by any other State.

(Dec. 27, 1894, ch. 12, 28 Stat. 597; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 637.)

CODIFICATION

Section is based on sections 1 to 6 of act Dec. 27, 1894. Section 7 of the act, which established fines for offenses against park property, and section 8, which authorized initial appropriations for the park, were not classified to the Code.

AMENDMENTS

1966—Pub. L. 89–554 struck out provisions which required the affairs of Shiloh National Military Park to be subject to supervision and direction of Secretary of the Interior.

TRANSFER OF FUNCTIONS

Administrative functions of Shiloh National Military Park transferred to Department of the Interior by Ex. Ord. Nos. 6166 and 6228, set out as notes under section 901 of Title 5, Government Organization and Employees.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, by act Mar. 2, 1934, ch. 38, § 1, 48 Stat. 389.

EXCHANGE OF LANDS

Act June 25, 1947, ch. 126, 61 Stat. 173, provided: ''That the Secretary of the Interior is authorized, in his discretion, and under such terms and conditions as he may deem necessary, to convey, without consideration, to W. A. Shaw and E. L. Shaw, or nominees, the following-described lands within Shiloh National Military Park in Hardin County in the State of Tennessee: Beginning at a point from which the intersection of Shiloh National Military Park boundary between boundary corners numbered 228 and 229 with center line of Confederate Road bears south eight degrees fifty-seven minutes east, eighty and thirty-seven one-hundredths feet (said intersection bears north eighty-eight degrees ten minutes fourteen seconds west, one thousand one hundred and thirty-one and eighty-nine one-hundredths feet from boundary corner numbered 228); thence north twenty-nine degrees thirty-one minutes west, three hundred and twenty-six feet; thence south seventy-six degrees nineteen minutes east, three hundred and thirty-seven and fifty-four one-hundredths feet; and thence running sixty feet from and parallel to center line of Confederate Road south thirty-nine degrees twenty minutes west, two hundred and sixty-three and forty-six one-hundredths feet to the point of beginning. The tract as described contains approximately ninety-two one-hundredths acre.

''SEC. 2. For the purpose of consolidating Federal holdings within the park, the Secretary of the Interior is authorized, in his discretion and under such terms and conditions as he may deem necessary, to accept any non-Federal real or personal property within the authorized boundaries of the park. In exchange for such properties, he may, in his discretion, convey to the grantors of such properties any Federally owned lands or interests in lands within the authorized boundaries of the park which are of approximately equal value, as determined by the Secretary, to the properties being acquired in each case.''

§ 430f–1. Conveyance of lands

In order that existing roads within Shiloh National Military Park may be devoted primarily to use by park visitors and that traffic hazards and nonconforming uses may be eliminated from the park by providing a more suitable road location and related area for the highways designated State Routes Numbered 22 and 142 which now traverse the central portion of the park, the Secretary of the Interior is authorized to convey certain lands within Shiloh National Military Park on the terms and conditions hereinafter provided.

(Pub. L. 85–406, § 1, May 16, 1958, 72 Stat. 114.)

§ 430f–2. Conveyance of right-of-way; construction and maintenance of roadways

The Secretary may convey to the State of Tennessee for road purposes a right-of-way located in Hardin County, Tennessee, as shown on National Park Service map NMP–SH–7006, revised June 1956, being a minimum of one hundred and twenty feet and a maximum of one hundred and forty feet in width, and a length of approximately eighteen thousand and nine hundred feet, said right-of-way containing approximately fifty-one acres: *Provided*, That, in exchange, the State constructs and thereafter maintains a roadway on said lands and thereupon releases those portions of the present highways within the park designated State Routes Numbered 22 and 142 from such designation and subsequent use for State highway purposes.

(Pub. L. 85–406, § 2, May 16, 1958, 72 Stat. 114.)

§ 430f–3. Conveyance of lands for recreational area; development and use

The Secretary may convey to the State of Tennessee for use as a recreational area contiguous and incident to the relocated State Route Numbered 22 certain lands situated in Hardin County, Tennessee, as shown on National Park Service map NMP–SH–7006, revised June 1956, and designated thereon as parcel A, said lands containing one hundred and fifty-one acres, more or less: *Provided*, That in exchange the lands so conveyed shall be developed and used exclusively by the State or its political subdivisions for recreational purposes only, thereby removing certain incompatible uses from the military park.

(Pub. L. 85–406, § 3, May 16, 1958, 72 Stat. 114.)

§ 430f–4. Jurisdiction of lands

Upon the delivery and acceptance of the conveyance herein authorized, any jurisdiction heretofore ceded to the United States by the State of Tennessee over the lands conveyed shall thereby cease and determine and shall thereafter vest and be in the State of Tennessee.

(Pub. L. 85–406, § 4, May 16, 1958, 72 Stat. 115.)

REFERENCES IN TEXT

Herein, referred to in text, means Pub. L. 85–406, which is classified to sections 430f–1 to 430f–4 of this title. For complete classification of this Act to the Code, see Tables.

§ 430f–5. Siege and Battle of Corinth

(a) Purpose

The purpose of this section is to provide for a center for the interpretation of the Siege and Battle of Corinth and other Civil War actions in the Region and to enhance public understanding of the significance of the Corinth Campaign in the Civil War relative to the Western theater of operations, in cooperation with State or local governmental entities and private organizations and individuals.

(b) Acquisition of property at Corinth, Mississippi

The Secretary of the Interior (referred to in this title[1] as the ''Secretary'') shall acquire by donation, purchase with donated or appropriated funds, or exchange, such land and interests in land in the vicinity of the Corinth Battlefield, in the State of Mississippi, as the Secretary determines to be necessary for the construction of an interpretive center to commemorate and interpret the 1862 Civil War Siege and Battle of Corinth.

(c) Publicly owned land

Land and interests in land owned by the State of Mississippi or a political subdivision of the State of Mississippi may be acquired only by donation.

(d) Interpretive center and marking

(1) Interpretive center

The Secretary shall construct, operate, and maintain on the property acquired under subsection (b) of this section a center for the interpretation of the Siege and Battle of Corinth and associated historical events for the benefit of the public.

(2) Marking

The Secretary may mark sites associated with the Siege and Battle of Corinth National Historic Landmark, as designated on May 6, 1991, if the sites are determined by the Secretary to be protected by State or local governmental agencies.

(3) Administration

The land and interests in land acquired, and the facilities constructed and maintained pursuant to this section, shall be administered by the Secretary as a part of Shiloh National Military Park, subject to the appropriate laws (including regulations) applicable to the Park, sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title.

(e) Authorization of appropriations

There are authorized to be appropriated $6,000,000 for development to carry out this section.

(Pub. L. 104–333, div. I, title VI, § 602, Nov. 12, 1996, 110 Stat. 4171.)

REFERENCES IN TEXT

This title, referred to in subsec. (b), is title VI of div. I of Pub. L. 104–333, which enacted this section, section 469k of this title, provisions set out as a note under section 1a–5 of this title, and provisions listed in a table of National Battlefield Sites set out under section 461 of this title.

§ 430f–6. Corinth Unit of the Shiloh National Military Park; findings and purposes

(a) Findings

Congress finds that—

(1) in 1996, Congress authorized the establishment and construction of a center—

(A) to facilitate the interpretation of the Siege and Battle of Corinth and other Civil War actions in the area in and around the city of Corinth, Mississippi; and

(B) to enhance public understanding of the significance of the Corinth campaign and the Civil War relative to the western theater of operations, in cooperation with—

(i) State or local governmental entities;

(ii) private organizations; and

(iii) individuals;

(2) the Corinth Battlefield was ranked as a priority 1 battlefield having critical need for coordinated nationwide action by the year 2000 by the Civil War Sites Advisory Commission in its report on Civil War Battlefields of the United States;

(3) there is a national interest in protecting and preserving sites of historic significance associated with the Civil War; and

(4) the States of Mississippi and Tennessee and their respective local units of government—

(A) have the authority to prevent or minimize adverse uses of these historic resources; and

(B) can play a significant role in the protection of the historic resources related to

[1] See References in Text note below.

the Civil War battles fought in the area in and around the city of Corinth.

(b) Purposes

The purposes of sections 430f–6 to 430f–12 of this title are—

(1) to establish the Corinth Unit of the Shiloh National Military Park—

(A) in the city of Corinth, Mississippi; and

(B) in the State of Tennessee;

(2) to direct the Secretary of the Interior to manage, protect, and interpret the resources associated with the Civil War Siege and the Battle of Corinth that occurred in and around the city of Corinth, in cooperation with—

(A) the State of Mississippi;

(B) the State of Tennessee;

(C) the city of Corinth, Mississippi;

(D) other public entities; and

(E) the private sector; and

(3) to authorize a special resource study to identify other Civil War sites in and around the city of Corinth that—

(A) are consistent with the themes of the Siege and Battle of Corinth;

(B) meet the criteria for designation as a unit of the National Park System; and

(C) are considered appropriate for inclusion in the Unit.

(Pub. L. 106–271, § 2, Sept. 22, 2000, 114 Stat. 792.)

SHORT TITLE

Pub. L. 106–271, § 1, Sept. 22, 2000, 114 Stat. 792, provided that: ''This Act [enacting this section and sections 430f–7 to 430f–12 of this title] may be cited as the 'Corinth Battlefield Preservation Act of 2000'.''

§ 430f–7. Definitions

In sections 430f–6 to 430f–12 of this title:

(1) Map

The term ''Map'' means the map entitled ''Park Boundary-Corinth Unit'', numbered 304A/80009, and dated April 2007.

(2) Park

The term ''Park'' means the Shiloh National Military Park.

(3) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(4) Unit

The term ''Unit'' means the Corinth Unit of Shiloh National Military Park established under section 430f–8 of this title.

(Pub. L. 106–271, § 3, Sept. 22, 2000, 114 Stat. 793; Pub. L. 110–161, div. F, title I, § 127(1), Dec. 26, 2007, 121 Stat. 2122.)

AMENDMENTS

2007—Par. (1). Pub. L. 110–161 substituted ''304A/80009, and dated April 2007'' for ''304/80,007, and dated October 1998''.

§ 430f–8. Establishment of Unit

(a) In general

There is established in the States of Mississippi and Tennessee the Corinth Unit of the Shiloh National Military Park.

(b) Composition of Unit

The Unit shall be comprised of—

(1) approximately 950 acres, as generally depicted on the Map; and

(2) any additional land that the Secretary determines to be suitable for inclusion in the Unit that—

(A) is under the ownership of a public entity or nonprofit organization; and

(B) has been identified by the Siege and Battle of Corinth National Historic Landmark Study, dated January 8, 1991.

(c) Availability of Map

The Map shall be on file and available for public inspection in the office of the Director of the National Park Service.

(Pub. L. 106–271, § 4, Sept. 22, 2000, 114 Stat. 793; Pub. L. 110–161, div. F, title I, § 127(2), Dec. 26, 2007, 121 Stat. 2122.)

AMENDMENTS

2007—Subsec. (b)(1). Pub. L. 110–161 added par. (1) and struck out former par. (1) which read as follows: ''the tract consisting of approximately 20 acres generally depicted as 'Battery Robinett Boundary' on the Map; and''.

§ 430f–9. Land acquisition

(a) In general

The Secretary may acquire land and interests in land within the boundary of the Park described in section 430f–8(b) of this title, by—

(1) donation;

(2) purchase with donated or appropriated funds; or

(3) exchange.

(b) Exception

Land may be acquired only by donation from—

(1) the State of Mississippi (including a political subdivision of the State);

(2) the State of Tennessee (including a political subdivision of the State); or

(3) the organization known as ''Friends of the Siege and Battle of Corinth''.

(Pub. L. 106–271, § 5, Sept. 22, 2000, 114 Stat. 793; Pub. L. 110–161, div. F, title I, § 127(3), Dec. 26, 2007, 121 Stat. 2122.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 110–161 substituted ''described in section 430f–8(b) of this title'' for ''as depicted on the Map'' in introductory provisions.

§ 430f–10. Park management and administration

(a) In general

The Secretary shall administer the Unit in accordance with sections 430f–6 to 430f–12 of this title and the laws generally applicable to units of the National Park System, including—

(1) sections 1, 2, 3, and 4 of this title; and

(2) sections 461 to 467 of this title.

(b) Duties

In accordance with section 430f–5 of this title, the Secretary shall—

(1) commemorate and interpret, for the benefit of visitors and the general public, the Siege and Battle of Corinth and other Civil

War actions in the area in and around the city of Corinth within the larger context of the Civil War and American history, including the significance of the Civil War Siege and Battle of Corinth in 1862 in relation to other operations in the western theater of the Civil War; and

(2) identify and preserve surviving features from the Civil War era in the area in and around the city of Corinth, including both military and civilian themes that include—

(A) the role of railroads in the Civil War;

(B) the story of the Corinth contraband camp; and

(C) the development of field fortifications as a tactic of war.

(c) Cooperative agreements

(1) In general

To carry out sections 430f–6 to 430f–12 of this title, the Secretary may enter into cooperative agreements with entities in the public and private sectors, including—

(A) colleges and universities;

(B) historical societies;

(C) State and local agencies; and

(D) nonprofit organizations.

(2) Technical assistance

To develop cooperative land use strategies and conduct activities that facilitate the conservation of the historic, cultural, natural, and scenic resources of the Unit, the Secretary may provide technical assistance, to the extent that a recipient of technical assistance is engaged in the protection, interpretation, or commemoration of historically significant Civil War resources in the area in and around the city of Corinth, to—

(A) the State of Mississippi (including a political subdivision of the State);

(B) the State of Tennessee (including a political subdivision of the State);

(C) a governmental entity;

(D) a nonprofit organization; and

(E) a private property owner.

(d) Resources outside the Unit

Nothing in subsection (c)(2) of this section authorizes the Secretary to own or manage any resource outside the Unit.

(Pub. L. 106–271, § 6, Sept. 22, 2000, 114 Stat. 794.)

§ 430f–11. Repealed. Pub. L. 110–161, div. F, title I, § 127(4), Dec. 26, 2007, 121 Stat. 2122

Section, Pub. L. 106–271, § 7, Sept. 22, 2000, 114 Stat. 795, related to authorization of special resource study.

§ 430f–12. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out sections 430f–6 to 430f–12 of this title, including $3,000,000 for the construction of an interpretive center under section 430f–5(d) of this title.

(Pub. L. 106–271, § 7, formerly § 8, Sept. 22, 2000, 114 Stat. 796; renumbered § 7, Pub. L. 110–161, div. F, title I, § 127(5), Dec. 26, 2007, 121 Stat. 2122.)

PRIOR PROVISIONS

A prior section 7 of Pub. L. 106–271 was classified to section 430f–11 of this title, prior to repeal by Pub. L. 110–161.

§ 430g. Gettysburg National Military Park

The lands heretofore conveyed by the Gettysburg Battlefield Memorial Association to the United States, embracing about 800 acres, more or less, and being a considerable part of the battlefield of Gettysburg, and such other lands on the battlefield as the United States has heretofore acquired or shall hereafter acquire by purchase or condemnation proceedings, shall be designated and known as the ''Gettysburg National Park.'' Nothing contained in this section shall be deemed and held to prejudice the rights acquired by any State or by any military organization to the ground on which its monuments or markers are placed, nor the right-of-way to the same. It shall be the duty of the Secretary of the Interior to establish and enforce proper regulations for the custody, preservation, and care of the monuments erected or which may be hereafter erected within the limits of the said national military park; and such rules shall provide for convenient access by visitors to all such monuments within the park, and the ground included therein, on such days and within such hours as may be designated and authorized by the Secretary of the Interior. The Secretary of the Interior may lease the lands of the park at his discretion either to former owners or other persons for agricultural purposes, the proceeds to be applied by the Secretary of the Interior, through the proper disbursing officer, to the maintenance of the park.

(Feb. 11, 1895, ch. 80, 28 Stat. 651; June 4, 1897, ch. 2, § 1, 30 Stat. 44; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 637.)

AMENDMENTS

1966—Pub. L. 89–554 struck out provisions which required the affairs of park to be subject to supervision and direction of Secretary of the Interior.

TRANSFER OF FUNCTIONS

Administrative functions of Gettysburg National Military Park transferred to Department of the Interior by Ex. Ord. Nos. 6166 and 6228, set out as notes under section 901 of Title 5, Government Organization and Employees.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, by act Mar. 2, 1934, ch. 38, § 1, 48 Stat. 389.

ACQUISITION OF ADDITIONAL LANDS FOR GETTYSBURG NATIONAL MILITARY PARK; STUDY AND REPORT

Pub. L. 100–132, § 2, Oct. 16, 1987, 101 Stat. 807, provided that:

''(a) ACQUISITION OF ADDITIONAL LANDS.—Except as provided in section 1 of this Act [16 U.S.C. 430g–3], until Congress receives the study under subsection (b), the Secretary of the Interior may not acquire by purchase, donation, exchange, or any other means any additional land for the Gettysburg National Military Park which is not within the boundaries of the 3,874 acre area depicted on the map dated July 25, 1974, numbered 305–92,004 and entitled 'Gettysburg National Military Park'.

''(b) STUDY BY NATIONAL PARK SERVICE.—The Secretary of the Interior through the National Park Service shall conduct a boundary study and shall submit a report to Congress within one year of the date of enactment of this Act [Oct. 16, 1987], with recommendations with respect to the final development of the Gettysburg

National Military Park. In conducting the study, the Secretary shall consult with the people of the community and their elected representatives at all levels as well as with other interested individuals and groups.''

§ 430g–1. Exchange of lands

For the purpose of consolidating Federal holdings of land within Gettysburg National Military Park, Pennsylvania, the Secretary of the Interior is authorized, in his discretion, to accept, on behalf of the United States, approximately four acres of non-Federal land within the park boundaries, such land to be conveyed to the United States without cost by the Evergreen Cemetery Association, of Gettysburg. Upon acceptance of title thereto by the United States, such property shall be subject to all laws and regulations applicable to the park. In exchange for the conveyance to the United States of the aforesaid property, the Secretary of the Interior is authorized to convey to the Evergreen Cemetery Association approximately one and one-quarter acres of federally owned land within the park, such property constituting a right-of-way through the Evergreen Cemetery property: *Provided*, That the aforesaid exchange shall be consummated only upon condition that the Secretary is satisfied that such exchange is in the public interest and that the properties to be exchanged are of approximately equal value.

(Jan. 31, 1948, ch. 41, 62 Stat. 16.)

§ 430g–2. Exchange of lands

The Secretary of the Interior is authorized to have competent and disinterested appraisals made as to the value of not more than twenty-three acres of land in Gettysburg National Military Park, in the State of Pennsylvania, such land lying generally between East Confederate Avenue and Wainwright Avenue, and being situated adjacent to the present high-school property in that area. Upon the basis of such appraisals, the Secretary is authorized to convey such property for public-school purposes to the State of Pennsylvania, or the appropriate local agency thereof, the conveyance to be made in exchange for non-Federal land of approximately equal value, which land, upon acceptance by the United States, shall become a part of Gettysburg National Military Park.

(July 31, 1953, ch. 290, 67 Stat. 243.)

§ 430g–3. Donation of non-Federal lands

The Secretary of the Interior shall accept on behalf of the United States, the donation of approximately 31 acres of land known as the ''Taney Farm'' for administration as part of the Gettysburg National Military Park in Pennsylvania if such land is offered to be conveyed to the United States without cost to the United States by the Gettysburg Battlefield Preservation Association. Upon acceptance of title thereto by the United States, such property shall be subject to all laws and regulations applicable to the park.

(Pub. L. 100–132, § 1, Oct. 16, 1987, 101 Stat. 807.)

§ 430g–4. Gettysburg National Military Park boundary revision

(a) Lands included in park

In furtherance of the purposes of section 430g of this title, the Gettysburg National Military Park (hereafter in sections 430g–4 to 430g–10 of this title referred to as the ''park'') shall on and after August 17, 1990, comprise the lands and interests in lands within the boundary generally depicted as ''Park Boundary'' on the map entitled ''Gettysburg National Military Park Boundary Map'', numbered NPS 305/80034–B, and dated March 1990, which shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior.

(b) Additional land

In addition to the land identified in subsection (a) of this section, the park shall also include the property commonly known as the Wills House located in the Borough of Gettysburg and identified as Tract P02–1 on the map entitled ''Gettysburg National Military Park'' numbered MARO 305/80,011 Segment 2, and dated April 1981, revised May 14, 1999.

(c) Lands excluded from park

Lands and interests in lands outside of the boundary so depicted as ''Park Boundary'' on the maps referred to in subsections (a) and (b) of this section are hereby excluded from the park and shall be disposed of in accordance with the provisions of section 430g–5(c) of this title.

(Pub. L. 101–377, § 1, Aug. 17, 1990, 104 Stat. 464; Pub. L. 106–290, § 1, Oct. 10, 2000, 114 Stat. 921.)

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–290, § 1(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 106–290, § 1(1), (3), redesignated subsec. (b) as (c) and substituted ''maps referred to in subsections (a) and (b) of this section'' for ''map referred to in subsection (a) of this section''.

§ 430g–5. Acquisition and disposal of lands

(a) General authority

The Secretary is authorized to acquire lands and interests in lands within the park by donation, purchase with donated or appropriated funds, exchange, or otherwise. In acquiring lands and interests in lands under sections 430g–4 to 430g–10 of this title, the Secretary shall acquire the minimum Federal interests necessary to achieve the objectives identified for specific areas and the park.

(b) Authority to convey freehold and leasehold interests within park

The Secretary may convey lands and interests in lands within the park authorized in accordance with subsection (a) of section 460*l*–22 of this title, except that, notwithstanding subsection (d) of that section, the net proceeds from any such conveyance may be used, subject to appropriations, to acquire lands and interests within the park.

(c) Conveyance of lands excluded from park

(1) The Secretary is authorized, in accordance with applicable existing law, to exchange Fed-

eral lands and interests excluded from the park pursuant to section 430g–4(c) of this title for the purpose of acquiring lands within the park boundary.

(2) If any such Federal lands or interests are not exchanged within five years after August 17, 1990, the Secretary may sell any or all such lands or interests to the highest bidder, in accordance with such regulations as the Secretary may prescribe, but any such conveyance shall be at not less than the fair market value of the land or interest, as determined by the Secretary.

(3) All Federal lands and interests sold or exchanged pursuant to this subsection shall be subject to such terms and conditions as will assure the use of the property in a manner which, in the judgment of the Secretary, will protect the park and the Gettysburg Battlefield Historic District (hereafter in sections 430g–5 to 430g–10 of this title referred to as the ''historic district''). Notwithstanding any other provision of law, the net proceeds from any such sale or exchange shall be used, subject to appropriations, to acquire lands and interests within the park.

(d) Relinquishment of legislative jurisdiction to Pennsylvania

With respect to any lands over which the United States exercises exclusive or concurrent legislative jurisdiction and which are excluded from the park pursuant to section 430g–4(c) of this title, the Secretary may relinquish to the State of Pennsylvania such exclusive or concurrent legislative jurisdiction by filing with the Governor a notice of relinquishment to take effect upon acceptance thereof, unless otherwise provided by the laws of the State.

(Pub. L. 101–377, § 2, Aug. 17, 1990, 104 Stat. 464; Pub. L. 106–290, § 2, Oct. 10, 2000, 114 Stat. 921.)

REFERENCES IN TEXT

Section 460*l*–22 of this title, referred to in subsec. (b), was in the original ''subsection (a) of the Act of July 15, 1968 (16 U.S.C. 460*l*–22)'' and was translated as reading subsection (a) of section 5 of the Act of July 15, 1968 (16 U.S.C. 460*l*–22) to reflect the probable intent of Congress.

AMENDMENTS

2000—Subsecs. (c)(1), (d). Pub. L. 106–290 substituted ''430g–4(c)'' for ''430g–4(b)''.

§ 430g–6. Agreements with respect to monuments and tablets located outside park boundary

The Secretary is authorized to enter into agreements with the owners of property in proximity to but outside the boundary of the park on which historic monuments and tablets commemorating the Battle of Gettysburg have been erected on or before January 1, 1990. The Secretary may make funds available, subject to appropriations, for the maintenance, protection, and interpretation of such monuments and tablets pursuant to such agreements. In addition, within the area depicted as the ''Gettysburg Battlefield Historic District'' on the map referred to in section 430g–4(a) of this title, or in proximity thereto, the Secretary may, with the consent of the owner, acquire, by donation, purchase, or exchange, lands and interests comprising such monuments and tablets together with lands and interests necessary to provide adequate public access thereto.

(Pub. L. 101–377, § 3, Aug. 17, 1990, 104 Stat. 465.)

§ 430g–7. Conservation within Gettysburg Battlefield historic district

(a) Encouragement of conservation

The Secretary shall take appropriate action to encourage conservation of the historic district by landowners, local governments, organizations, and businesses.

(b) Prioritization of grants

Within the historic district, the Secretary shall give priority in making grants under section 101(d),[1] and in providing technical assistance, information, and advice under section 101(h),[1] of the National Historic Preservation Act (16 U.S.C. 470a(d), (h)) to those programs and activities in the historic district that will assure development and use of natural and cultural resources in a manner that is consistent with the conservation and maintenance of the district's historic character.

(c) Provision of technical assistance

The Secretary may provide technical assistance to assist local governments in cooperative efforts which complement the values of the park and the historic district and to help landowners prepare individual property plans which meet landowner and conservation objectives in the historic district.

(d) Reimbursement of planning costs

The Secretary, under such terms and conditions as the Secretary may prescribe and at the request of any local or county government within the historic district, shall provide matching reimbursements for up to 50 percent of the planning costs incurred by such government in the development of comprehensive plans and land use guidelines which are consistent with conserving the historic character of the historic district. Reimbursements may only be provided under this subsection to the extent or in such amounts as are provided in appropriation Acts.

(e) Acceptance of easement donations

The Secretary, upon recommendation from the Director of the National Park Service, in consultation with the Advisory Commission established under section 430g–8 of this title, is authorized to accept donations of conservation easements on land located within the historic district.

(f) Federal consistency

(1) Any Federal or federally assisted activity or undertaking in the historic district, shall be consistent to the maximum extent possible with the purposes of the preservation of the historic district, including its rural, agricultural, and town elements, and shall also comply with the National Historic Preservation Act [16 U.S.C. 470 et seq.] and other applicable laws.

(2) The head of any Federal agency (hereafter in this subsection referred to as the ''agency'')

[1] See References in Text note below.

having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in the historic district, and the head of any Federal agency having authority to license or permit any undertaking in such area, shall at the earliest feasible date prepare a detailed analysis of any proposed action and submit it to the Secretary.

(3) The Secretary shall review the analysis and consult with the agency. If after such review and consultation, the Secretary finds that the proposed action is not consistent with the purposes identified in this subsection, the agency shall not proceed with the action until after a justification for the action has been submitted to the appropriate committees of Congress with adequate time allowed for Congressional comment. Such justification shall include the following elements: the anticipated effects on the historic and commemorative character of the historic district, the social and economic necessity for the proposed action, all possible alternatives to the proposed action, the comparative benefits of proposed alternative actions, and the mitigation measures outlined in the proposed action.

(Pub. L. 101–377, § 4, Aug. 17, 1990, 104 Stat. 465.)

REFERENCES IN TEXT

Subsections (d) and (h) of section 101 of the National Historic Preservation Act, referred to in subsec. (b), were redesignated as subsecs. (e) and (i), respectively, of that section by Pub. L. 102–575, title XL, § 4006(a)(1), Oct. 30, 1992, 106 Stat. 4755, and are classified to subsecs. (e) and (i), respectively, of section 470a of this title.

The National Historic Preservation Act, referred to in subsec. (f)(1), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of this title. For complete classification of this Act to the Code, see section 470(a) of this title and Tables.

§ 430g–8. Advisory Commission

(a) Establishment

There is hereby established the Gettysburg National Military Park Advisory Commission (hereafter in sections 430g–8 to 430g–10 of this title referred to as the ''Advisory Commission''). The Advisory Commission shall be composed of eleven members, as follows:

(1) One member representing each of the local governments from the four townships surrounding the park and the Borough of Gettysburg, appointed by the Secretary.

(2) One member representing the Adams County, Pennsylvania government, appointed by the Secretary.

(3) One member representing the State Historic Preservation Office of the State of Pennsylvania, appointed by the Secretary.

(4) Two members who are residents of Adams County and who are knowledgeable about the park and its resources, appointed by the Secretary, one of whom shall own land or interests in land within the park boundary.

(5) One member with expertise in local historic preservation, appointed by the Secretary.

(6) The Director of the National Park Service or his designee, ex officio.

Members shall be appointed for staggered terms of three years, as designated by the Secretary at the time of the initial appointments. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. The Advisory Commission shall designate one of its members as Chairperson. Six members of the Advisory Commission shall constitute a quorum.

(b) Management and development issues

The Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission to coordinate the management of the park and the historic district with local jurisdictions.

(c) Meetings

The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the park. Advisory Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

(d) Expenses

Members of the Advisory Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under sections 430g–4 to 430g–10 of this title on vouchers signed by the Chairperson.

(e) Charter

The provisions of section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) are hereby waived with respect to this Advisory Commission.

(Pub. L. 101–377, § 5, Aug. 17, 1990, 104 Stat. 466.)

REFERENCES IN TEXT

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (e), is section 14 of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 430g–9. Interpretation

In administering the park, the Secretary shall take such action as is necessary and appropriate to interpret, for the benefit of visitors to the park and the general public, the Battle of Gettysburg in the larger context of the Civil War and American history, including the causes and consequences of the Civil War and including the effects of the war on all the American people.

(Pub. L. 101–377, § 6, Aug. 17, 1990, 104 Stat. 467.)

§ 430g–10. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 430g–4 to 430g–10 of this title.

(Pub. L. 101–377, § 7, Aug. 17, 1990, 104 Stat. 467.)

§ 430h. Vicksburg National Military Park

In order to commemorate the campaign, siege, and defense of Vicksburg, and to preserve the history of the battles and operations of the siege and defense on the ground where they were fought and carried on, the battlefield of Vicks-

burg, in the State of Mississippi, insofar as title to the same has been acquired by the United States and as the usual jurisdiction over the lands and roads of the same has heretofore been granted to the United States by the State of Mississippi, shall be a National Military Park. The Secretary of the Interior is authorized to enter into agreements of leasing upon such terms as he may prescribe with such persons, who were on February 21, 1899, occupants or tenants of the lands, as may desire to remain upon them to occupy and cultivate their holdings, upon condition that they will preserve the then buildings and roads and the then outlines of field and forest, and that they will only cut trees and underbrush under such regulations as the Secretary of the Interior may prescribe, and that they will assist in caring for and protecting all tablets, monuments, or such other historical works as may from time to time be erected by proper authority: *Provided*, That the United States shall at all times have and retain their right, power, and authority to take possession of any and all parts and portions of said premises, and to remove and expel therefrom any such occupant, tenant, or other person or persons found thereon whenever the Secretary of the Interior shall deem it proper or necessary; and such right, power, and authority shall be reserved in express terms in all leases and agreements giving or granting such occupant or tenant the right to remain in possession as herein contemplated; and thereupon said occupant or tenant or other persons who may be required to vacate said premises shall each and all of them at once surrender and deliver up the possession thereof. It shall be the duty of the Secretary of the Interior to cause to be restored the forts and lines of fortification, the parallels and the approaches of the two armies, or so much thereof as may be necessary to the purposes of this Park; to open and construct and repair such roads as may be necessary to said purposes, and to ascertain and to mark with historical tablets, or otherwise, the lines of battle of the troops engaged in the assaults, and the lines held by the troops during the siege and defense of Vicksburg, the headquarters of General Grant and of General Pemberton, and other historical points of interest pertaining to the siege and defense of Vicksburg within the Park or its vicinity; and the Secretary of the Interior shall have authority to do all things necessary to the purposes of the park, and he shall make and enforce all needful regulations for the care of the Park. It shall be lawful for any State that had troops engaged in the siege and defense of Vicksburg to enter upon the lands of the Vicksburg National Military Park for the purpose of ascertaining and marking the lines of battle of its troops engaged therein: *Provided*, That before any such lines are permanently designated the position of the lines and the proposed methods of marking them by monuments, tablets, or otherwise shall be submitted to and approved by the Secretary of the Interior, and all such lines, designs, and inscriptions for the same shall first receive the written approval of the Secretary of the Interior; and no monument, tablet, or other designating indication shall be erected or placed within said park or vicinity without such written authority of the Secretary of the Interior: *Provided*, That no discrimination shall be made against any State as to the manner of designating lines, but any grant made to any State by the Secretary of the Interior may be used by any other State. The provisions of this section shall also apply to organizations and persons; and as the Vicksburg National Cemetery is on ground partly occupied by Federal lines during the siege of Vicksburg, the provisions of this section, as far as may be practicable, shall apply to monuments or tablets designating such lines within the limits of that cemetery. If any person shall, except by permission of the Secretary of the Interior, destroy, mutilate, deface, injure, or remove any monument, column, statue, memorial structure, tablet, or work of art that shall be erected or placed upon the grounds of the park by lawful authority, or shall destroy or remove any fence, railing, inclosure, or other work intended for the protection or ornamentation of said park, or any portion thereof, or shall destroy, cut, hack, bark, break down, or otherwise injure any tree, bush, or shrub that may be growing upon said park, or shall cut down or fell or remove any timber, battle relic, tree, or trees growing or being upon said park, or hunt within the limits of the park, or shall remove or destroy any breastworks, earthworks, walls, or other defenses or shelter or any part thereof constructed by the armies formerly engaged in the battles, on the lands or approaches to the park, any person so offending and found guilty thereof, before any United States magistrate judge or court, justice of the peace of the county in which the offense may be committed, or any court of competent jurisdiction, shall for each and every such offense forfeit and pay a fine in the discretion of the said magistrate judge or court of the United States or justice of the peace, according to the aggravation of the offense, of not less than five nor more than five hundred dollars, one-half for the use of the park and the other half to the informant, to be enforced and recovered before such United States magistrate judge or court or justice of the peace or other court in like manner as debts of like nature were, on February 21, 1899, by law recoverable in the several counties where the offense may be committed.

(Feb. 21, 1899, ch. 176, 30 Stat. 841; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 638; Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

AMENDMENTS

1966—Pub. L. 89–554 struck out provisions relating to appointment and pay of three commissioners to supervise Vicksburg National Military Park, and of a secretary.

CHANGE OF NAME

''United States magistrate judge'' and ''magistrate judge'' substituted for ''United States magistrate'' and ''magistrate'', respectively, wherever appearing in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''magistrate'' substituted for ''commissioner'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–238, §1, Oct. 11, 2002, 116 Stat. 1486, provided that: ''This Act [enacting sections 430h–10 to 430h–13 of this title] may be cited as the 'Vicksburg National Military Park Boundary Modification Act of 2002'.''

TRANSFER OF FUNCTIONS

Administrative functions of Vicksburg National Military Park transferred to Department of the Interior by Ex. Ord. Nos. 6166 and 6228, set out as notes under section 901 of Title 5, Government Organization and Employees.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, by act Mar. 2, 1934, ch. 38, §1, 48 Stat. 389.

§ 430h–1. Donations of land and property

The Secretary of the Interior is authorized, in his discretion, to accept, in behalf of the United States, donations of lands, buildings, structures, and other property, or interests therein, within a distance of one mile of the present boundaries of the Vicksburg National Military Park, which he may determine to be of historical interest in connection with said park, the title to such property or interests therein to be satisfactory to the Secretary of the Interior.

All such property or interests therein, upon acceptance thereof, shall become a part of the Vicksburg National Military Park and shall be subject to all laws and regulations applicable thereto.

(Oct. 9, 1940, ch. 790, 54 Stat. 1061.)

§ 430h–2. Exchange of certain lands authorized

In order to further the consolidation of land comprising Vicksburg National Military Park, the Secretary of the Interior is authorized, upon such terms and conditions as he may deem necessary, to transfer to the city of Vicksburg, Mississippi, for school purposes, a tract of park land containing three and one-tenth acres, more or less, now under revocable permit to said city, acting through its board of education, and to transfer to the Mississippi State Highway Commission a tract of park land containing one and thirty-two hundredths acres, more or less, now under revocable permit to said commission for use as a site for a weighing station: *Provided*, That, from among the land designated as tracts 199, 201, 202, 203, 204, 205, 206, and 216 on map Numbered NMP–VIC–7007, said city and highway commission shall transfer in exchange to the United States, for addition to Vicksburg National Military Park, such land or interests therein as may be mutually agreed upon and which are approximately equal in value to the properties being acquired in each case.

(Pub. L. 85–667, Aug. 14, 1958, 72 Stat. 617.)

§ 430h–3. Consolidation of lands and installation of park tour road

In order to preserve and protect the essential historical features of Vicksburg National Military Park in the State of Mississippi and to enhance visitor enjoyment and safety by means of a park tour road and through the consolidation of park lands, the Secretary of the Interior is authorized, in his discretion, and under such terms and conditions as he determines are in the public interest—

(a) Disposition of lands and roads; incorporation into municipal road system; reversion on failure of conditions; reservation of title to monuments and easements

to quitclaim to the city of Vicksburg, Mississippi, approximately one hundred and fifty-four acres of land, including the roads thereon and the park land abutting said roads, in exchange for the city's agreeing to place the roads in its road system and thereby assume jurisdiction and maintenance thereof, and upon the further agreement of the city to maintain the parklike character of so much of the parkland conveyed to it and abutting the road as the Secretary may prescribe, said land being generally that part of Vicksburg National Military Park lying south of Fort Garrott with the exception of Navy Circle, South Fort, and Louisiana Circle: *Provided*, That title to so much of said abutting park land prescribed by the Secretary and covered by said agreement of the city to maintain the parklike character thereof shall revert to the United States if its parklike character is not maintained; to quitclaim to Warren County, Mississippi, upon like terms and conditions approximately twenty-four acres of land, including the road and abutting park land, being known as Sherman Avenue and the Sherman Avenue spur; to release or quitclaim to Warren County or any other appropriate political subdivision of the State all interest which the United States of America has, if any, in those portions of any public road located on park land which are no longer required for park purposes: *Provided*, That the United States shall reserve from the conveyance or conveyances made pursuant to this subsection title to all historical monuments, means of access thereto, and such other easements as the Secretary determines are required for the continued administration of said monuments as a part of Vicksburg National Military Park; and

(b) Acquisition of lands: purchases, condemnations and donations

to acquire not in excess of five hundred and forty-four acres of land, or interests in land, for addition to Vicksburg National Military Park, such authority to include purchase and condemnation with appropriated funds but not to constitute a limitation upon existing authority to accept donations; and

(c) Municipal agreements of park tour road's effect upon local road systems; Federal obligations for local roads directly attributable to installation of park tour road

to enter into agreements with duly authorized officials of the City of Vicksburg and Warren County relative to the effect which the installation of a one-way park tour road with controlled access will have upon the existing local road systems; subject to the availability of funds, to obligate the United States to make provisions for such alterations, relocations and construction of local roads, including procurement of rights-of-way therefor and

the subsequent transfer thereof to the State or its appropriate political subdivisions which shall thereupon assume jurisdiction and maintenance, as the Secretary and said officials agree are directly attributable to the installation of the park tour road; and to transfer to the city or county jurisdiction and maintenance of service roads which the Secretary constructs on park lands to properties that otherwise would be denied access because of the installation of the park tour road.

The Secretary of the Interior shall not, without first obtaining the consent of the city and county officials referred to in subsection (c), convert the portion of the existing road known as Confederate Avenue lying between Graveyard Road and Fort Garrott into a one-way park tour road with controlled access, or otherwise limit the use of such portion by local traffic, until the United States has provided for such alterations, relocations, and construction of local roads (including procurement of rights-of-way) as the Secretary and said officials agree are directly attributable to the installation of such park tour road.

(Pub. L. 88–37, § 1, June 4, 1963, 77 Stat. 55.)

§ 430h–4. Jurisdiction over lands and roads

Upon the delivery and acceptance of the conveyances herein authorized, any jurisdiction heretofore ceded to the United States by the State of Mississippi over the lands and roads transferred shall thereby cease and thereafter rest in the State of Mississippi.

(Pub. L. 88–37, § 2, June 4, 1963, 77 Stat. 56.)

§ 430h–5. Authorization of appropriations

There are hereby authorized to be appropriated such sums, but not more than $3,850,000, as are required for acquisition of lands and interests in lands and for construction and relocation of roads pursuant to sections 430h–3 to 430h–5 of this title.

(Pub. L. 88–37, § 3, June 4, 1963, 77 Stat. 56; Pub. L. 94–578, title II, § 201(8), Oct. 21, 1976, 90 Stat. 2733.)

AMENDMENTS

1976—Pub. L. 94–578 substituted ''$3,850,000'' for ''$2,050,000''.

§ 430h–6. Addition of lands to Vicksburg National Military Park

(a) Grant's Canal, Louisiana

The Secretary of the Interior (hereinafter in sections 430h–6 to 430h–9 of this title referred to as the ''Secretary'') is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds, approximately two and five-tenths acres of land in Madison Parish, Louisiana, known generally as the Grant's Canal property.

(b) Warren County, Mississippi

(1) The Secretary is authorized to acquire by donation approximately two and eighty-two one-hundredths acres of land adjacent to the entrance of Vicksburg National Military Park owned by Warren County, Mississippi.

(2) The Secretary may contribute, in cash or services, to the relocation and construction of a maintenance facility to replace the facility located on the land to be donated, all in accordance with an agreement between the Secretary and the Board of Supervisors.

(3) The Secretary is authorized to restore and landscape the property acquired pursuant to this subsection.

(c) Boundary revision

Upon acquisition of the properties referred to in subsections (a) and (b) of this section, the Secretary shall, after the publication of notice in the Federal Register, revise the boundary of Vicksburg National Military Park (hereinafter in sections 430h–6 to 430h–9 of this title referred to as the ''park'') to reflect the inclusion of such properties within the park.

(Pub. L. 101–442, title I, § 101, Oct. 18, 1990, 104 Stat. 1019.)

§ 430h–7. Exclusion of lands from park

(a) Exclusion of certain lands

The park boundary is hereby revised to exclude those lands depicted as ''Proposed Deletions'' on the map entitled ''Vicksburg National Military Park'' numbered 306–80,007 and dated May 1990, which map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Exclusive jurisdiction over the lands excluded from the park is hereby retroceded to the State of Mississippi.

(b) Transfer to adjacent owners

(1) For a period ending four years after October 18, 1990, and subject to the provisions of paragraph (2), the Secretary is authorized to convey title to all or part of the lands referred to in subsection (a) of this section to an owner of property adjacent to such lands, upon the application of such owner.

(2) No property shall be conveyed unless the application referred to in paragraph (1) is accompanied by a payment in an amount equal to—

(A) the fair market value of the land to be conveyed; and

(B) the administrative costs of such transfer incurred by the Secretary, including the costs of surveys, appraisals, and filing and recording fees.

(c) Excess property

Any lands not conveyed pursuant to subsection (b) of this section shall be reported to the Administrator of General Services as excess to the needs of the Department of the Interior and shall be subject to transfer or disposition in accordance with chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(Pub. L. 101–442, title I, § 102, Oct. 18, 1990, 104 Stat. 1019.)

CODIFICATION

In subsec. (c), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of

1949, as amended'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§ 430h–8. Park interpretation

In administering Vicksburg National Military Park, the Secretary shall interpret the campaign and siege of Vicksburg from April 1862 to July 4, 1863, and the history of Vicksburg under Union occupation during the Civil War and Reconstruction.

(Pub. L. 101–442, title I, § 103, Oct. 18, 1990, 104 Stat. 1020.)

§ 430h–9. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 430h–6 to 430h–9 of this title.

(Pub. L. 101–442, title I, § 104, Oct. 18, 1990, 104 Stat. 1020.)

§ 430h–10. Boundary modification

The boundary of Vicksburg National Military Park is modified to include the property known as Pemberton's Headquarters, as generally depicted on the map entitled ''Boundary Map, Pemberton's Headquarters at Vicksburg National Military Park'', numbered 306/80015A, and dated August, 2001. The map shall be on file and available for inspection in the appropriate offices of the National Park Service.

(Pub. L. 107–238, § 2, Oct. 11, 2002, 116 Stat. 1486.)

§ 430h–11. Acquisition of property

(a) Pemberton's Headquarters

The Secretary of the Interior is authorized to acquire the properties described in section 430h–10 of this title and subsection (b) of this section by purchase, donation, or exchange, except that each property may only be acquired with the consent of the owner thereof.

(b) Parking

The Secretary is also authorized to acquire not more than one acre of land, or interest therein, adjacent to or near Pemberton's Headquarters for the purpose of providing parking and other facilities related to the operation of Pemberton's Headquarters. Upon the acquisition of the property referenced in this subsection, the Secretary shall add the property to Vicksburg National Military Park and shall modify the boundaries of the park to reflect its inclusion.

(Pub. L. 107–238, § 3, Oct. 11, 2002, 116 Stat. 1486; Pub. L. 108–352, § 15, Oct. 21, 2004, 118 Stat. 1397.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–352 substituted ''the Secretary shall add the property'' for ''the Secretary add it''.

§ 430h–12. Administration

The Secretary shall administer any properties acquired under sections 430h–10 to 430h–13 of this title as part of the Vicksburg National Military Park in accordance with applicable laws and regulations.

(Pub. L. 107–238, § 4, Oct. 11, 2002, 116 Stat. 1486.)

§ 430h–13. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out sections 430h–10 to 430h–13 of this title.

(Pub. L. 107–238, § 5, Oct. 11, 2002, 116 Stat. 1487.)

§ 430i. Guilford Courthouse National Military Park

In order to preserve for historical and professional military study one of the most memorable battles of the Revolutionary War, the Battlefield of Guilford Courthouse, in the State of North Carolina, containing in the aggregate 125 acres, more or less, together with all privileges and appurtenances thereunto belonging, title to which has heretofore been acquired by the United States, shall be a national military park and shall be known as the Guilford Courthouse National Military Park. The Secretary of the Interior is authorized and directed to acquire at such times and in such manner such additional lands adjacent to the Guilford Courthouse National Military Park as may be necessary for the purposes of the park and for its improvement. It shall be the duty of the Secretary of the Interior, to open or repair such roads as may be necessary to the purposes of the park, and to ascertain and mark with historical tablets or otherwise, as the Secretary of the Interior may determine, all lines of battle of the troops engaged in the Battle of Guilford Courthouse and other historical points of interest pertaining to the battle within the park or its vicinity; and the Secretary of the Interior shall make and enforce all needed regulations for the care of the park. It shall be lawful for any State that had troops engaged in the battle of Guilford Courthouse to enter upon the lands of the Guilford Courthouse National Military Park for the purpose of ascertaining and marking the lines of battle of its troops engaged therein: *Provided*, That before any such lines are permanently designated the position of the lines and the proposed methods of marking them, by monuments, tablets, or otherwise, shall be submitted to and approved by the Secretary of the Interior; and all such lines, designs, and inscriptions for the same shall first receive the written approval of the Secretary of the Interior. If any person shall, except by permission of the Secretary of the Interior, destroy, mutilate, deface, injure, or remove any monument, column, statues, memorial structures, or work of art that shall be erected or placed upon the grounds of the park by lawful authority, or shall destroy or remove any fence, railing, inclosure, or other work for the protection or ornamentation of said park, or any portion thereof, or shall destroy, cut, hack, bark, break down, or otherwise injure any tree, brush, or shrubbery that may be growing upon said park, or shall cut down or fell or remove any timber, battle relic, tree, or trees growing or being upon said park, or hunt within the limits of the park, any person so offending and

found guilty thereof before any justice of the peace of the county of Guilford, State of North Carolina, shall, for each and every such offense, forfeit and pay a fine, in the discretion of the justice, according to the aggravation of the offense, of not less than $5 nor more than $50, one-half for the use of the park and the other half to the informer, to be enforced and recovered before such justice in like manner as debts of like nature were on March 2, 1917, by law recoverable in the said county of Guilford, State of North Carolina.

(Mar. 2, 1917, ch. 152, 39 Stat. 996; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 643.)

AMENDMENTS

1966—Pub. L. 89–554 struck out provisions which required the affairs of park, subject to supervision and direction of Secretary of the Interior, to be in charge of three commissioners.

TRANSFER OF FUNCTIONS

Administrative functions of Guilford Courthouse National Military Park transferred to Department of the Interior by Ex. Ord. Nos. 6166 and 6228, set out as notes under section 901 of Title 5, Government Organization and Employees.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, by act Mar. 2, 1934, ch. 38, § 1, 48 Stat. 389.

ABOLITION OF COMMISSION

Act Oct. 9, 1942, ch. 583, 56 Stat. 778, provided: ''That the Guilford Courthouse National Military Park Commission, established pursuant to the Act of March 2, 1917 (39 Stat. 996; 16 U.S.C. 430i), is abolished effective at the expiration, on October 13, 1941, of the current appointment of the resident commissioner.''

§ 430j. Monocacy National Battlefield; establishment

That in order to commemorate the Battle of Monocacy, Maryland, and to preserve for historical purposes the breastworks, earthworks, walls, or other defenses or shelters used by the armies therein, the battlefield at Monocacy in the State of Maryland is hereby established as the Monocacy National Battlefield. The battlefield shall comprise the area within the boundary generally depicted on the map entitled ''Monocacy National Battlefield,'' numbered 894/40,001A, and dated April 1980, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.

(June 21, 1934, ch. 694, § 1, 48 Stat. 1198; Pub. L. 94–578, title III, § 319(1), Oct. 21, 1976, 90 Stat. 2738; Pub. L. 96–607, title XIV, § 140(a), Dec. 28, 1980, 94 Stat. 3546.)

AMENDMENTS

1980—Pub. L. 96–607 substituted provision directing that the battlefield be comprised of the area within the boundary generally depicted on the map entitled Monocacy National Battlefield, numbered 894/40,001A, dated April 1980, which map is to be on file and available for public inspection for provision directing that the battlefield be comprised of the area generally depicted on the drawing entitled Boundary, Monocacy National Battlefield, numbered 894–40,000, dated May 1976.

1976—Pub. L. 94–578 substituted ''is declared a national battlefield to be known as the 'Monocacy National Battlefield' (hereinafter referred to as 'the battlefield'). The battlefield shall comprise the area generally depicted on the drawing entitled 'Boundary, Monocacy National Battlefield', numbered 894–40,000 and dated May 1976'' for ''is declared a national military park to be known as the 'Monocacy National Military Park', whenever the title to the lands deemed necessary by the Secretary of the Interior shall have been acquired by the United States and the usual jurisdiction over the lands and roads of the same shall have been granted to the United States by the State of Maryland''.

§ 430k. Condemnation proceedings; purchase without condemnation; acceptance of donations of land

The Secretary of the Interior is authorized to cause condemnation proceedings to be instituted in the name of the United States under the provisions of section 3113 of title 40, to acquire title to the lands, interests therein, or rights pertaining thereto within the said battlefield, and the United States shall be entitled to immediate possession upon the filing of the petition in condemnation in the United States District Court for the District of Maryland: *Provided*, That when the owner of such lands, interests therein, or rights pertaining thereto shall fix a price for the same, which, in the opinion of the Secretary of the Interior, shall be reasonable, the Secretary may purchase the same without further delay: *Provided further*, That the Secretary of the Interior is authorized to accept, on behalf of the United States, donations of lands, interests therein, or rights pertaining thereto required for the battlefield: *And provided further*, That title and evidence of title to lands and interests therein acquired for said battlefield shall be satisfactory to the Secretary of the Interior.

(June 21, 1934, ch. 694, § 2, 48 Stat. 1199; Pub. L. 94–578, title III, § 319(2), Oct. 21, 1976, 90 Stat. 2738.)

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888, entitled 'An Act to authorize condemnation of lands for sites for public buildings and for other purposes' (25 Stat.L. 357)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1976—Pub. L. 94–578 substituted ''battlefield'' for ''Monocacy National Military Park'' wherever appearing.

CHANGE OF NAME

''Battlefield'' substituted in text for ''park'' in view of redesignation of Monocacy National Military Park as Monocacy National Battlefield by Pub. L. 94–578, § 319(1), set out as section 430j of this title.

§ 430*l*. Leases with preceding owners of acquired lands; conditions

The Secretary of the Interior is authorized to lease to the immediately preceding owner or owners any lands acquired pursuant to an agreement that such lessee or lessees will occupy such lands in a manner consistent with the purposes of sections 430j to 430m and 430*o* to 430s of

this title and that they will preserve the present breastworks, earthworks, walls, defenses, shelters, buildings, and roads, and the present outlines of the battlefields, and that they will only cut trees or underbrush or disturb or remove the soil, under such regulations as the Secretary of the Interior may prescribe, and that they will assist in protecting all tablets, monuments, or such other artificial works as may from time to time be erected by proper authority.

(June 21, 1934, ch. 694, § 3, 48 Stat. 1199; Pub. L. 94–578, title III, § 319(3), Oct. 21, 1976, 90 Stat. 2738.)

AMENDMENTS

1976—Pub. L. 94–578 substituted ''lease to the immediately preceding owner or owners any lands acquired pursuant to an agreement that such lessee or lessees will occupy such lands in a manner consistent with the purposes of sections 430j to 430m and 430*o* to 430s of this title and'' for ''enter into leases with the owners of such of the lands, works, defenses, and buildings thereon within the Monocacy National Military Park, as in his discretion it is unnecessary to forthwith acquire title to, and such leases shall be on such terms and conditions as the Secretary of the Interior may prescribe, and may contain options to purchase, subject to later acceptance, if, in the judgment of the Secretary of the Interior, it is as economical to purchase as condemn title to the property: *Provided*, That the Secretary of the Interior may enter into agreements upon such nominal terms as he may prescribe, permitting the present owners or their tenants to occupy or cultivate their present holdings, upon condition''.

§ 430m. Administration

The administration, development, preservation, and maintenance of the battlefield shall be exercised by the Secretary of the Interior in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented, and sections 461 to 467 of this title.

(June 21, 1934, ch. 694, § 4, 48 Stat. 1199; Pub. L. 94–578, title III, § 319(4), Oct. 21, 1976, 90 Stat. 2738.)

AMENDMENTS

1976—Pub. L. 94–578 substituted ''The administration, development, preservation, and maintenance of the battlefield shall be exercised by the Secretary of the Interior in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented, and sections 461 to 467 of this title'' for ''The affairs of the Monocacy National Military Park shall, subject to the supervision and direction of the National Park Service of the Interior Department, be in charge of a superintendent, to be appointed by the Secretary of the Interior''.

§ 430n. Repealed. Pub. L. 94–578, title III, § 319(5), Oct. 21, 1976, 90 Stat. 2738

Section, act June 21, 1934, ch. 694, § 5, 48 Stat. 1199, provided for opening and repair of necessary roads in battlefield and erection of historical tablets.

§ 430*o*. Gifts and donations; acceptance by Secretary

The Secretary of the Interior,[1] is authorized to receive gifts and contributions from States, Territories, societies, organizations, and individuals for the battlefield for carrying out the provisions of sections 430j to 430m and 430*o* to 430s of this title.

(June 21, 1934, ch. 694, § 6, 48 Stat. 1199; Pub. L. 94–578, title III, § 319(6), Oct. 21, 1976, 90 Stat. 2738.)

AMENDMENTS

1976—Pub. L. 94–578 substituted ''The Secretary of the Interior, is authorized to receive gifts and contributions from States, Territories, societies, organizations, and individuals for the battlefield'' for ''The National Park Service, acting through the Secretary of the Interior, is authorized to receive gifts and contributions from States, Territories, societies, organizations, and individuals for the Monocacy National Military Park: *Provided*, That all contributions of money received shall be deposited in the Treasury of the United States and credited to a fund to be designated 'Monocacy National Military Park fund', which fund shall be applied to and expended under the direction of the Secretary of the Interior,''.

§ 430p. Right of States to enter and mark battle lines

It shall be lawful for the authorities of any State having had troops at the Battle of Monocacy to enter upon the lands and approaches of the battlefield for the purpose of ascertaining and marking the line of battle of troops engaged therein: *Provided*, That before any such lines are permanently designated the position of the lines and the proposed methods of marking them by monuments, tablets, or otherwise, including the design and inscription for the same, shall be submitted to the Secretary of the Interior and shall first receive written approval of the Secretary: *Provided further*, That no discrimination shall be made against any State as to the manner of designating lines, but any grant made to any State by the Secretary of the Interior may be used by any other State.

(June 21, 1934, ch. 694, § 7, 48 Stat. 1200; Pub. L. 94–578, title III, § 319(7), Oct. 21, 1976, 90 Stat. 2738.)

AMENDMENTS

1976—Pub. L. 94–578 substituted ''battlefield'' for ''Monocacy National Military Park'' and '': *Provided further,*'' for '', which approval shall be based upon formal written reports to be made to him in each case by the National Park Service: *Provided,*''.

§ 430q. Offenses

If any person shall, except by permission of the Secretary of the Interior, destroy, mutilate, deface, injure, or remove any monument, column, statue, memorial structure, or work of art that shall be erected or placed upon the grounds of the park by lawful authority, or shall destroy or remove any fence, railing, enclosure, or other work for the protection or ornament of said park, or any portion thereof, or shall destroy, cut, hack, bark, break down, or otherwise injure any tree, bush, or shrubbery that may be growing upon said park, or shall cut down or fell or remove any timber, battle relic, tree or trees growing or being upon said park, or hunt within the limits of the park, or shall remove or destroy any breastworks, earthworks, walls, or other defenses or shelter or any part thereof constructed by the armies formerly engaged in the battles on the lands or approaches to the

[1] So in original. The comma probably should not appear.

park, any person so offending and found guilty thereof, before any United States magistrate judge or court, of the jurisdiction in which the offense may be committed, shall for each and every such offense forfeit and pay a fine, in the discretion of the United States magistrate judge or court, according to the aggravation of the offense.

(June 21, 1934, ch. 694, §8, 48 Stat. 1200; Pub. L. 90–578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 94–578, title III, §319(8), Oct. 21, 1976, 90 Stat. 2739; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

AMENDMENTS

1976—Pub. L. 94–578 struck out provisions which limited fines to not less than $5 nor more than $500.

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' wherever appearing in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''United States magistrate'' substituted for ''United States commissioner'' pursuant to Pub. L. 90–578. See chapter 43 (§631 et seq.) of Title 28.

§ 430r. Rules and regulations

The Secretary of the Interior shall have the power to make all needful rules and regulations for the care of the park, and for the establishment and marking of lines of battle and other historical features of the park.

(June 21, 1934, ch. 694, §9, 48 Stat. 1200.)

§ 430s. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary, but not more than $3,525,000 for the acquisition of lands and interests in lands, and not to exceed $500,000 for the development of essential public facilities. Within three years from October 21, 1976, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the full development of the battlefield consistent with the preservation objectives of sections 430j to 430m and 430*o* to 430s of this title, indicating:

(1) the facilities needed to accommodate the health, safety, and interpretive needs of the visiting public;

(2) the location and estimated cost of all facilities; and

(3) the projected need for any additional facilities within the battlefield.

No funds authorized to be appropriated pursuant to this section shall be available prior to October 1, 1977.

(June 21, 1934, ch. 694, §10, 48 Stat. 1200; Pub. L. 94–578, title III, §319(9), Oct. 21, 1976, 90 Stat. 2739.)

AMENDMENTS

1976—Pub. L. 94–578 substituting provisions authorizing appropriations of not more than $3,525,000 for the acquisition of lands and interests in lands, and not to exceed $500,000 for development of essential public facilities for provisions which authorized appropriation of $50,000 to carry out sections 430j to 430m and 430*o* to 430s of this title and inserted provisions for development and transmittal within three years from Oct. 21, 1976, of a final master plan for full development of the battlefield.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL LAND ACQUISITION

Pub. L. 102–202, §1, Dec. 10, 1991, 105 Stat. 1634, provided that: ''There are authorized to be appropriated up to $20,000,000 for acqusition [sic] of lands and interests in lands for purposes of the Monocacy National Battlefield, Maryland; such sums shall be in addition to other funds available for such purposes.''

§ 430t. Kennesaw Mountain National Battlefield Park; establishment

When title to all the lands, structures, and other property within the military battlefield area and other areas of Civil War interest at and in the vicinity of Kennesaw Mountain in the State of Georgia, as shall be designated by the Secretary of the Interior, in the exercise of his discretion, as necessary or desirable for national battlefield park purposes, shall have been vested in the United States, such areas shall be, and they are, established, dedicated, and set apart as a public park for the benefit and inspiration of the people and shall be known as the ''Kennesaw Mountain National Battlefield Park.''

(June 26, 1935, ch. 315, §1, 49 Stat. 423.)

§ 430u. Donations of land; purchase and condemnation

The Secretary of the Interior is authorized to accept donations of land, interests in land, buildings, structures, and other property within the boundaries of said national battlefield park as determined and fixed hereunder, the title and evidence of title to lands purchased to be satisfactory to the Secretary of the Interior: *Provided*, That under such funds available therefor he may acquire on behalf of the United States by purchase when purchasable at prices deemed by him reasonable, otherwise by condemnation under the provisions of section 3113 of title 40, such tracts of land within the said national battlefield park as may be necessary for the completion thereof.

(June 26, 1935, ch. 315, §2, 49 Stat. 423.)

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 430v. Monuments and memorials; regulations; historical markers

Upon creation of the national battlefield park the Secretary of the Interior shall—

(a) Allow monuments and memorials to be erected in the park by and to the various organizations and individuals of either the Union or Confederate Armies, subject to the written approval of said Secretary as to the location and character of such monuments and memorials.

(b) Make such regulations as are necessary from time to time for the care and protection of the park. Any person violating such regulations shall be guilty of an offense punishable by a fine of not more than $500, or imprisonment not exceeding six months, or both.

(c) Provide for the ascertainment and marking of the route of march of the Union and Confederate Armies from Chattanooga, Tennessee, through Georgia, and of principal battle lines, breastworks, fortifications, and other historical features along such route, and for the maintenance of such markers to such extent as deemed advisable and practicable.

(June 26, 1935, ch. 315, § 3, 49 Stat. 423.)

§ 430w. Administration, protection, and development

The administration, protection, and development of the aforesaid national battlefield park shall be exercised under the direction of the Secretary of the Interior by the National Park Service subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(June 26, 1935, ch. 315, § 4, 49 Stat. 424.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 430x. Authorization of appropriations; authorization to expand boundaries

The sum of $100,000 is authorized to be appropriated out of any sums in the Treasury not otherwise appropriated for the purposes herein designated: *Provided*, That if, after the expenditure of the funds herein authorized, the Secretary of the Interior shall determine that the acquisition of additional lands is necessary in order to perfect the symmetry of the park area or to acquire locations of historic interest adjacent to the park area already acquired upon which fortifications or entrenchments are located which are likely to deteriorate or be destroyed under private ownership, he is authorized to acquire additional lands for such purposes.

(June 26, 1935, ch. 315, § 5, 49 Stat. 424; Aug. 9, 1939, ch. 614, § 1, 53 Stat. 1274.)

REFERENCES IN TEXT

Herein, referred to in text, means act June 26, 1935, ch. 315, 49 Stat. 423, which is classified to sections 430t to 430x of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1939—Act Aug. 9, 1939, inserted proviso.

APPROPRIATION

Additional $55,000 was appropriated by section 2 of act Aug. 9, 1939.

§ 430y. Spanish War Memorial Park; establishment

When title to such lands located on Davis Island in the city of Tampa, Florida, as shall be designated by the Secretary of the Interior, in the exercise of his judgment and discretion as necessary and suitable for the purpose, shall have been vested in the United States, said area shall be set apart as the Spanish War Memorial Park, for the benefit and inspiration of the people: *Provided*, That said lands shall be donated without cost to the United States by the city of Tampa, Florida, and the Secretary of the Interior is authorized to accept such conveyance of lands.

(Aug. 20, 1935, ch. 575, § 1, 49 Stat. 661.)

§ 430z. Monument within park; construction authorized

There is authorized to be located and constructed within said memorial park a suitable monument or memorial to commemorate the patriotic services of the American forces in the War with Spain. The cost of establishing such monument or memorial, of constructing suitable sidewalks and approaches, and of landscaping such site, may be paid from any fund or moneys available for such purpose, except from the general fund of the Treasury; and the Secretary is for that purpose further authorized and empowered to determine upon a suitable location, plan, and design for said monument or memorial, by and with the advice of the National Commission of Fine Arts.

(Aug. 20, 1935, ch. 575, § 2, 49 Stat. 661.)

§ 430z–1. Landscaping park; employment of architects and engineers

In the discharge of his duties hereunder, the Secretary of the Interior, through the National Park Service, is authorized to employ, in his discretion, by contract or otherwise, landscape architects, architects, artists, engineers, and/or other expert consultants in accordance with the usual customs of the several professions and that expenditures for such employment shall be construed to be included in any appropriations hereafter authorized for any work under the objectives of sections 430y to 430z–3 of this title.

(Aug. 20, 1935, ch. 575, § 3, 49 Stat. 662.)

CODIFICATION

Provisions which authorized employment of landscape architects, architects, artists, engineers, and/or other expert consultants in accordance with the usual customs of the several professions ''without reference to civil-service requirements or to the Classification Act of 1923, as amended'' were omitted as obsolete. Such employment is subject to the civil service laws unless specifically excepted by those laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to the Act of Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which cov-

ered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and Employees.

As to the compensation of such personnel, sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed Pub. L. 89–554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5. Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 430z–2. Memorials within park; erection authorized

The Secretary of the Interior is further authorized, by and with the advice of the National Commission of Fine Arts, to authorize and permit the erection in said memorial park of suitable memorials in harmony with the monument and/or memorial herein authorized that may be desired to be constructed by Spanish War organizations, States, and/or foreign governments: *Provided*, That the design and location of such memorials must be approved by the Secretary of the Interior, by and with the advice of the National Commission of Fine Arts, before construction is undertaken.

(Aug. 20, 1935, ch. 575, § 4, 49 Stat. 662.)

§ 430z–3. Administration, protection, and development

The administration, protection, and development of the aforesaid Spanish War Memorial Park, including any and all memorials that may be erected thereon, shall be exercised under the direction of the Secretary of the Interior by the National Park Service.

(Aug. 20, 1935, ch. 575, § 5, 49 Stat. 662.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 430aa. Pea Ridge National Military Park; establishment

When not less than one thousand two hundred acres of the non-Federal lands hereinafter described (together with improvements thereon) and known as the Pea Ridge Battlefield, near Bentonville, Arkansas, shall have been acquired and transferred free and clear of all encumbrances to the United States without expense to the Federal Government, such areas shall be, and are hereby, dedicated and set apart as a unit of the National Park System for the benefit and enjoyment of the people of the United States, under the name of the Pea Ridge National Military Park.

(July 20, 1956, ch. 653, § 1, 70 Stat. 592.)

§ 430bb. Determination of desirable areas

The Secretary of the Interior is authorized and directed to make an examination of the Pea Ridge Battlefield with a view to determining the area or areas thereof deemed desirable for inclusion in the Pea Ridge National Military Park and which—except for not more than twenty acres of any other lands adjacent to such battlefield found by the Secretary to be necessary to carry out the provisions of sections 430aa to 430ee of this title—lie within the lands particularly described as follows: sections 17, 18, 19, 20, 29, 30, 31, 32, and 33, all township 21 north, range 28 west, Fifth principal meridian; sections 4, 5, 6, 7, and 8, all township 20 north, range 28 west, Fifth principal meridian; sections 13, 14, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, and 36, all township 21 north, range 29 west, Fifth principal meridian; and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, all township 20 north, range 29 west, Fifth principal meridian.

(July 20, 1956, ch. 653, § 2, 70 Stat. 592.)

§ 430cc. Administration, protection, and development; improvements

(a) The National Park Service under the direction of the Secretary of the Interior, shall administer, protect, and develop the park, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(b) In order to provide for the proper development and maintenance of the park, the Secretary of the Interior shall construct and maintain therein such roads, trails, markers, buildings, and other improvements, and such facilities for the care and accommodation of visitors, as he may deem necessary.

(July 20, 1956, ch. 653, § 3, 70 Stat. 593.)

§ 430dd. Dedication

Sections 430aa to 430ee of this title shall become effective if and when the requirements of sections 430aa and 430bb of this title shall have been fully complied with to the satisfaction of the President of the United States, who shall then issue a notice declaring that the requirements herein have been met, and said notice shall formally dedicate and set aside the areas transferred to the United States in accordance with the provisions of section 430aa of this title.

(July 20, 1956, ch. 653, § 4, 70 Stat. 593.)

§ 430ee. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 430aa to 430ee of this title.

(July 20, 1956, ch. 653, § 5, 70 Stat. 593.)

§ 430ff. Horseshoe Bend National Military Park; establishment

When not less than five hundred acres of the non-Federal lands hereinafter described (to-

gether with improvements thereon) and known as the Horseshoe Bend Battle Ground on the Tallapoosa River, in the State of Alabama, shall have been acquired and transferred free and clear of all encumbrances to the United States without expense to the Federal Government, such areas shall be, and are hereby, dedicated and set apart as a unit of the National Park System for the benefit and enjoyment of the people of the United States, under the name of the Horseshoe Bend National Military Park.

(July 25, 1956, ch. 729, § 1, 70 Stat. 651.)

§ 430gg. Determination of desirable areas

The Secretary of the Interior is authorized and directed to make an examination of the Horseshoe Bend Battle Ground with a view to determining the area or areas thereof deemed desirable for inclusion in the Horseshoe Bend National Military Park and which, except for not more than twenty acres of any other lands adjacent to such battleground found by the Secretary to be necessary to carry out the provisions of sections 430ff to 430jj of this title, lie within the lands particularly described as follows: Sections 13, 14, 15, 22, and 23, all township 23 north, range 23 east, Saint Stephens meridian.

(July 25, 1956, ch. 729, § 2, 70 Stat. 651.)

§ 430hh. Administration, protection, and development; improvements

(a) The National Park Service, under the direction of the Secretary of the Interior, shall administer, protect, and develop the park, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(b) In order to provide for the proper development and maintenance of the park, the Secretary of the Interior shall construct and maintain therein such roads, trails, markers, buildings, and other improvements, and such facilities for the care and accommodation of visitors, as he may deem necessary.

(July 25, 1956, ch. 729, § 3, 70 Stat. 651.)

§ 430ii. Dedication

Sections 430ff to 430jj of this title shall become effective if and when the requirements of sections 430ff and 430gg of this title shall have been fully complied with to the satisfaction of the President of the United States, who shall then issue a notice declaring that the requirements herein have been met, and said notice shall formally dedicate and set aside the areas transferred to the United States in accordance with the provisions of section 430ff of this title.

(July 25, 1956, ch. 729, § 4, 70 Stat. 651.)

PROC. NO. 3308. ESTABLISHMENT OF PARK

Proc. No. 3308, Aug. 11, 1959, 24 F.R. 6607, provided:

WHEREAS the battle of Horseshoe Bend, fought on March 27, 1814, on the Tallapoosa River in Alabama, resulted in a decisive victory for the forces of General Andrew Jackson over a strong body of Creek Indians and broke the power of the Creek Confederacy; and

WHEREAS this significant historic event on the Indian border opened the way for settlement in Alabama and other parts of the old Southwest; and

WHEREAS section 1 of an act approved July 25, 1956 (70 Stat. 651) [section 430ff of this title], provides that when not less than five hundred acres of non-Federal lands (together with improvements thereon), known as the Horseshoe Bend Battle Ground, shall have been acquired and transferred free and clear of all encumbrances to the United States without expense to the Federal Government, such area shall be dedicated and set apart as the Horseshoe Bend National Military Park: and

WHEREAS section 2 of that act [section 430gg of this title] authorizes and directs the Secretary of the Interior to make an examination of the Horseshoe Bend Battle Ground with a view to determining the area or areas thereof deemed desirable for inclusion in the Horseshoe Bend National Military Park; and

WHEREAS the Secretary of the Interior on June 11, 1957, approved a map showing an area of 2,040 acres on the Horseshoe Bend Battle Ground as being desirable for inclusion in the Horseshoe Bend National Military Park, and such land was donated to, and accepted on behalf of, the United States of America on April 24, 1959; and

WHEREAS the requirements of sections 1 and 2 of the act of July 25, 1956 (70 Stat. 651) [sections 430ff and 430gg of this title], have been fully complied with:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, by virtue of the authority vested in me by section 4 of the abovementioned act of July 25, 1956 [this section], do hereby dedicate and set aside the following-described lands in Tallapoosa County, Alabama, as the Horseshoe Bend National Military Park:

Northeast quarter (NE¼), northeast quarter of northwest quarter (NE¼ of NW¼), northeast quarter of southeast quarter (NE¼ of SE¼), fractions A, B, C and E of section 15; fractions B, D, and E of section 22; all in township 23 north, range 23 east; also one-half acre known as the Ferry Landing on the south side of the Tallapoosa River in said section 15, more particularly described as follows: Commence at the southwest corner of section 15, township 23 north, range 23 east, Tallapoosa County, Alabama; thence south 89 degrees 00 minutes east 1968 feet to a point; thence north 1 degree 00 minutes west 1267 feet to a point on the southerly bank of the Tallapoosa River and the point of beginning of the parcel herein intended to be described; thence south 52 degrees 00 minutes west 147.6 feet to a point; thence north 38 degrees 00 minutes west 147.6 feet to a point; thence north 52 degrees 00 minutes east 147.6 feet to a point on the southerly bank of the said river; thence upstream along the southerly bank of the river south 38 degrees 00 minutes east 147.6 feet to the point of beginning, and being situated in the east half of the southwest quarter of section 15, township 23 north, range 23 east, Tallapoosa County, Alabama; also a parcel of land known as Miller's Island in the Tallapoosa River just south of the river bridge more particularly described as follows: Commencing at the southwest corner of said section 15, township 23 north, range 23 east, Tallapoosa County, Alabama; thence south 89 degrees 00 minutes east 2605 feet to a point on the west bank of said island, which is the point of beginning; thence north 5 degrees 00 minutes east 220 feet to a point; thence north 8 degrees 00 minutes west 510 feet to a point; thence north 82 degrees 00 minutes east 350 feet to a point; thence north 55 degrees 30 minutes east 75 feet to a point; thence north 82 degrees 00 minutes east 115 feet to a point; thence south 17 degrees 00 minutes east 330 feet to a point; thence south 8 degrees 00 minutes east 270 feet to a point; thence south 77 degrees 45 minutes west 270 feet to a point; thence south 59 degrees 35 minutes west 160 feet to a point; thence south 36 degrees 06 minutes west 650 feet to a point; thence north 5 degrees 00 minutes east 530 feet to the point of beginning, containing 14.11 acres, more or less, and being situated in sections 15 and 22, township 23 north, range 23 east, Tallapoosa County, Alabama. Less and except 5.1 acres in said section 15 township 23 north, range 23 east, previously conveyed by Nora E. Miller to Horseshoe Bend Battle Park Commission, described as follows: Beginning at a point which is 13 chains and 51

links south 75 degrees 30 minutes west of a point on the west line of section 14, township 23 north, range 23 east, which is 69 chains south of the northwest corner of said section 14; thence west 8 chains and 50 links, thence south 6 chains, thence east 8 chains and 50 links thence north 6 chains to the point of beginning.

The above described lands contain 560.66 acres, more or less.

Section 14, township 23 north, range 23 east; west half of northwest quarter and northeast quarter of northwest quarter of section 23, township 23 north, range 23 east; section 15 and section 22, township 23 north, range 23 east, less and except the following described parts of said sections 15 and 22, township 23 north, range 23 east, known as Alabama Power Company lands, described as follows: Northeast quarter (NE¼), northeast quarter of northwest quarter (NE¼ of NW¼), northeast quarter of southeast quarter (NE¼ of SE¼), fractions A, B, C and E of section 15; fractions B, D, and E of section 22; all in township 23 north, range 23 east; also one-half acre known as the Ferry Landing on the south side of the Tallapoosa River in section 15, more particularly described as follows: Commence at the southwest corner of section 15, township 23 north, range 23 east, Tallapoosa County, Alabama; thence south 89 degrees 00 minutes east 1968 feet to a point; thence north 1 degree 00 minutes west 1267 feet to a point on the southerly bank of the Tallapoosa River and the point of beginning of the parcel herein intended to be described; thence south 52 degrees 00 minutes west 147.6 feet to a point; thence north 38 degrees 00 minutes west 147.6 feet to a point; thence north 52 degrees 00 minutes east 147.6 feet to a point on the southerly bank of said river; thence upstream along the southerly bank of the river south 38 degrees 00 minutes east 147.6 feet to the point of beginning, and being situated in the east half of the southwest quarter of section 15, township 23 north, range 23 east, Tallapoosa County, Alabama; also a parcel of land known as Miller's Island in the Tallapoosa River just south of the river bridge more particularly described as follows: Commencing at the southwest corner of said section 15, township 23 north, range 23 east, Tallapoosa County, Alabama; thence south 89 degrees 00 minutes east 2605 feet to a point on the west bank of said island, which is the point of beginning; thence north 5 degrees 00 minutes east 220 feet to a point; thence north 8 degrees 00 minutes west 510 feet to a point; thence north 82 degrees 00 minutes east 350 feet to a point; thence north 55 degrees 30 minutes east 75 feet to a point; thence north 82 degrees 00 minutes east 115 feet to a point; thence south 17 degrees 00 minutes east 330 feet to a point; thence south 8 degrees 00 minutes east 270 feet to a point; thence south 77 degrees 45 minutes west 270 feet to a point; thence south 59 degrees 35 minutes west 160 feet to a point; thence south 36 degrees 06 minutes west 650 feet to a point; thence north 5 degrees 00 minutes east 530 feet to the point of beginning, containing 14.11 acres, more or less, and being situated in sections 15 and 22, township 23 north, range 23 east, Tallapoosa County, Alabama. Less and except 5.1 acres in said section 15, township 23 north, range 23 east, previously conveyed by Nora E. Miller to Horseshoe Bend Battle Park Commission, described as follows: Beginning at a point which is 13 chains and 51 links south 75 degrees 30 minutes west of a point on the west line of section 14, township 23 north, range 23 east, which is 69 chains south of the northwest corner of said section 14; thence west 8 chains and 50 links, thence south 6 chains, thence east 8 chains and 50 links, thence north 6 chains to the point of beginning. Said 5.1-acre exception in said section 15 has heretofore been conveyed to the United States of America by patent from the State of Alabama.

The above-described lands contain 1,474.24 acres, more or less.

Beginning at a point which is 13 chains and 51 links south 75 degrees 30 minutes west of a point on the west line of section 14 which is 69 chains south of the northwest corner of section 14, thence west 8 chains and 50 links, thence south 6 chains, thence east 8 chains and 50 links, thence north 6 chains to the point of beginning, the said land lying and being in section 15, township 23 north, range 23 east.

The above-described lands contain 5.1 acres, more or less.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this eleventh day of August in the year of our Lord nineteen hundred and fifty-nine, and of the independence of the United States of America the one hundred and eighty-fourth.

[SEAL]

DWIGHT D. EISENHOWER.

§ 430jj. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 430ff to 430jj of this title.

(July 25, 1956, ch. 729, § 5, 70 Stat. 651.)

§ 430kk. Wilson's Creek National Battlefield: establishment and acquisition of lands

(a) Establishment, initial boundaries

The Secretary of the Interior shall acquire, by gift, purchase, condemnation, or otherwise, the lands (together with any improvements thereon) comprising the Wilson's Creek Battlefield site near Springfield, Missouri, and any other lands adjacent to such site which in his opinion are necessary or desirable to carry out the purposes of sections 430kk to 430mm of this title.

(b) Expansion of boundaries

(1) The boundaries of the Wilson's Creek National Battlefield are revised to include lands and interests therein consisting of six parcels totaling 615 acres and identified as parcels ''1, 2, 3, 4, 5, and 6'' on the map entitled ''Wilson's Creek National Battlefield Proposed Boundary'', numbered 410/80,037 and dated January 27, 2004. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(2) The Secretary is authorized to acquire the lands referred to in paragraph (1) by donation, by purchase from willing sellers with donated or appropriated funds, or by exchange. The Secretary may acquire by the same methods personal property associated with, and appropriate for, interpretation of the park.

(c) Access to private property

Nothing in sections 430kk to 430mm of this title shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(d) Liability

The revision of the boundaries of the Wilson's Creek National Battlefield by subsection (b) of this section shall not be considered to create any liability for, or to have any effect on any liability under any other law of, any owner of private property with respect to any person injured on that private property.

(e) Recognition of authority to control land use

Nothing in sections 430kk to 430mm of this title shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

(f) Participation of private property owners

Nothing in sections 430kk to 430mm of this title shall be construed to require the owner of any private property located within the boundaries of the Wilson's Creek National Battlefield to participate in, or be associated with, the National Battlefield.

(g) Effect of expansion

The boundaries of the Wilson's Creek National Battlefield, as revised by subsection (b) of this section, represent the area within which Federal funds appropriated for the purpose of sections 430kk to 430mm of this title may be expended. The boundary revision shall not be construed to provide any nonexisting regulatory authority on land use within the National Battlefield or its viewshed by the Secretary or the National Park Service.

(Pub. L. 86–434, § 1, Apr. 22, 1960, 74 Stat. 76; Pub. L. 108–394, § 2(a), Oct. 30, 2004, 118 Stat. 2247.)

AMENDMENTS

2004—Pub. L. 108–394 inserted section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) to (g).

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–394, § 1, Oct. 30, 2004, 118 Stat. 2247, provided that: ''This Act [amending this section and section 430mm of this title] may be cited as the 'Wilson's Creek National Battlefield Boundary Adjustment Act of 2004'.''

§ 430*ll*. Designation

(a) Administration, protection, and development

The lands acquired under section 430kk of this title shall be set aside as a public park for the benefit and enjoyment of the people of the United States, and shall be designated as the Wilson's Creek National Battlefield. The National Park Service, under the direction of the Secretary of the Interior, shall administer, protect, and develop the park, subject to the provisions of sections 1, 2, 3, and 4 of this title.

(b) Improvements

In order to provide for the proper development and maintenance of the park, the Secretary of the Interior shall construct and maintain therein such roads, trails, markers, buildings, and other improvements, and such facilities for the care and accommodation of visitors, as he may deem necessary.

(Pub. L. 86–434, § 2, Apr. 22, 1960, 74 Stat. 76; Pub. L. 91–554, § 1(a), Dec. 16, 1970, 84 Stat. 1441.)

AMENDMENTS

1970—Pub. L. 91–554 substituted ''Wilson's Creek National Battlefield'' for ''Wilson's Creek Battlefield National Park''.

§ 430mm. Authorization of appropriations

For development of the Wilson's Creek National Battlefield, there are authorized to be appropriated not more than $5,640,000. There are authorized to be appropriated such sums as may be necessary to carry out section 430kk(b) of this title.

(Pub. L. 86–434, § 3, Apr. 22, 1960, 74 Stat. 76; Pub. L. 91–554, § 1(b), Dec. 16, 1970, 84 Stat. 1441; Pub. L. 95–625, title I, § 101(29), Nov. 10, 1978, 92 Stat. 3472; Pub. L. 108–394, § 2(b), Oct. 30, 2004, 118 Stat. 2248.)

AMENDMENTS

2004—Pub. L. 108–394 inserted last sentence.

1978—Pub. L. 95–625 substituted ''$5,640,000.'' for ''$2,285,000 (March 1969 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction cost indices applicable to the types of construction involved herein.''

1970—Pub. L. 91–554 increased authorization of appropriations from not more than $120,000 to not more than $2,285,000 (March 1969 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices.

§ 430nn. Antietam Battlefield site; acquisition of lands, buildings, structures, and other property

The Secretary of the Interior is authorized, in his discretion, to acquire in behalf of the United States, through donations or by purchase at prices deemed by him reasonable or by condemnation in accordance with section 3113 of title 40, lands, buildings, structures, and other property, or interests therein, which he may determine to be of historical interest in connection with the Antietam Battlefield site, the title to such property or interests to be satisfactory to the Secretary of the Interior: *Provided*, That payment for such property or interests shall be made solely from donated funds. All such property and interests shall be a part of the Antietam Battlefield site and shall be subject to all laws and regulations applicable thereto.

(May 14, 1940, ch. 191, 54 Stat. 212.)

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888 (25 Stat. 357)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

ANTIETAM NATIONAL BATTLEFIELD SITE REDESIGNATED AS ANTIETAM NATIONAL BATTLEFIELD; BOUNDARY REVISION

Pub. L. 95–625, title III, § 319(b), Nov. 10, 1978, 92 Stat. 3488, as amended by Pub. L. 100–528, § 1(c), Oct, 25, 1988, 102 Stat. 2649, provided that: ''The Antietam National Battlefield Site established pursuant to such Act of April 22, 1960 [section 430*oo* of this title] is hereby redesignated the 'Antietam National Battlefield'. The boundaries of such battlefield are hereby revised to include the area generally depicted on the map referenced in subsection (a) of this section [set out as a note under section 430*oo* of this title], which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.''

§ 430*oo*. Acquisition of lands for preservation, protection and improvement; limitation

The Secretary of the Interior is authorized to acquire such lands and interests in land and to

enter into such agreements with the owners of land on behalf of themselves, their heirs and assigns with respect to the use thereof as the Secretary finds necessary to preserve, protect and improve the Antietam Battlefield comprising approximately 1,800 acres in the State of Maryland and the property of the United States thereon, to assure the public a full and unimpeded view thereof, and to provide for the maintenance of the site (other than those portions thereof which are occupied by public buildings and monuments and the Antietam National Cemetery) in, or its restoration to, substantially the condition in which it was at the time of the battle of Antietam. Any acquisition authorized by this section may be made without regard to the limitation set forth in the proviso contained in section 430nn of this title.

(Pub. L. 86–438, Apr. 22, 1960, 74 Stat. 79; Pub. L. 93–608, §1(11), Jan. 2, 1975, 88 Stat. 1969; Pub. L. 100–528, §1(a), Oct. 25, 1988, 102 Stat. 2649.)

AMENDMENTS

1988—Pub. L. 100–528 struck out after first sentence ''Not more than 600 acres of land, however, shall be acquired in fee by purchase or condemnation, but neither this limitation nor any other provision of law shall preclude such acquisition of the fee title to other lands and its immediate reconveyance to the former owner with such covenants, restrictions, or conditions as will accomplish the purposes of this section: *Provided*, That the cost to the Government of any such transaction shall not exceed the reasonable value of the covenants, restrictions, or conditions thereby imposed on the property.''

1975—Pub. L. 93–608 struck out requirement that Secretary report to Congress at least once each year on any acquisition made or agreement entered into under provisions of this section.

SCENIC EASEMENTS; ACQUISITION

Pub. L. 95–625, title III, §319(a), Nov. 10, 1978, 92 Stat. 3488, as amended by Pub. L. 100–528, §1(b), Oct, 25, 1988, 102 Stat. 2649, provided that: ''In furtherance of the purposes of the Act entitled 'An Act to provide for the protection and preservation of the Antietam Battlefield in the State of Maryland', approved April 22, 1960 (74 Stat. 79) [this section], and other Acts relative thereto [see section 430nn of this title], the Secretary is hereby authorized to acquire the additional lands generally depicted on the map entitled 'Boundary Map, Antietam National Battlefield, Washington County, Maryland,' numbered 302–80.005–A and dated June 1977.''

§ 430pp. Fort Necessity National Battlefield; acquisition of land

In furtherance of the purposes of the Act of March 4, 1931 (46 Stat. 1522), the Secretary of the Interior is authorized to acquire by purchase, exchange, donation, with donated funds or otherwise by such means as he may deem to be in the public interest, lands and interests in lands adjoining or near the Fort Necessity National Battlefield site which in his discretion are necessary to preserve the historic battleground, together with not to exceed 25 acres at the detached Braddock Monument: *Provided*, That the total area acquired pursuant to sections 430pp to 430tt of this title shall not exceed 500 acres, except that in order to avoid the undesirable severance of parcels in private ownership such parcels may be purchased in the entirety.

(Pub. L. 87–134, §1, Aug. 10, 1961, 75 Stat. 336.)

REFERENCES IN TEXT

Act of March 4, 1931 (46 Stat. 1522), referred to in text, was not classified to the Code.

§ 430qq. Exchange of lands

The Secretary of the Interior, in order to implement the purposes of section 430pp of this title, is authorized to exchange lands which may be acquired pursuant to sections 430pp to 430tt of this title for other lands or interests therein of approximately equal value lying within the original George Washington land patent at Fort Necessity.

(Pub. L. 87–134, §2, Aug. 10, 1961, 75 Stat. 336.)

§ 430rr. Change in name to Fort Necessity National Battlefield

The Fort Necessity National Battlefield site is redesignated as the Fort Necessity National Battlefield and any remaining balance of funds appropriated for the purposes of the site shall be available for the purposes of the Fort Necessity National Battlefield.

(Pub. L. 87–134, §3, Aug. 10, 1961, 75 Stat. 336.)

§ 430ss. Administration, protection, and development

The administration, protection, and development of the Fort Necessity National Battlefield shall be exercised by the Secretary of the Interior in accordance with provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented.

(Pub. L. 87–134, §4, Aug. 10, 1961, 75 Stat. 336.)

§ 430tt. Authorization of appropriation

There are authorized to be appropriated such sums, but not more than $722,000, as are necessary to carry out the provisions of sections 430pp to 430tt of this title.

(Pub. L. 87–134, §5, Aug. 10, 1961, 75 Stat. 336; Pub. L. 93–477, title I, §101(4), Oct. 26, 1974, 88 Stat. 1445.)

AMENDMENTS

1974—Pub. L. 93–477 substituted ''$722,000'' for ''$115,000''.

§ 430uu. Big Hole National Battlefield; redesignation of monument

The Big Hole Battlefield National Monument, established by Executive Order Numbered 1216 of June 23, 1910, and enlarged by Proclamation Numbered 2339 of June 29, 1939, is hereby redesignated as the Big Hole National Battlefield.

(Pub. L. 88–24, §1, May 17, 1963, 77 Stat. 18.)

REFERENCES IN TEXT

Executive Order Numbered 1216 of June 23, 1910, referred to in text, is not classified to the Code.

Proclamation Numbered 2339 of June 29, 1939 (53 Stat. 2544), referred to in text, is not classified to the Code.

§ 430uu–1. Revision of boundaries

In order to preserve historic features and sites associated with the Battle of the Big Hole and to facilitate their administration and interpreta-

tion, the boundaries of the Big Hole National Battlefield are hereby revised to include the following described lands:

MONTANA PRINCIPAL MERIDIAN

Township 2 south, range 17, west: Section 13, southwest quarter southeast quarter, southeast quarter southwest quarter, east half southwest quarter southwest quarter; section 23, east half northeast quarter southeast quarter; section 24, west half east half, north half southwest quarter, southeast quarter southwest quarter, east half southwest quarter southwest quarter; section 25, those portions of the northeast quarter northwest quarter and the northwest quarter northeast quarter lying north of the north right-of-way line of relocated Montana State Route 43; consisting of approximately 466 acres.

(Pub. L. 88–24, § 2, May 17, 1963, 77 Stat. 18.)

§ 430uu–2. Acquisition of land; exclusion from Beaverhead National Forest; administration

(a) The Secretary of the Interior may acquire by donation, purchase, exchange, or otherwise, lands and interests in lands within the area described in section 430uu–1 of this title.

(b) Any lands described in section 430uu–1 of this title that are a part of the Beaverhead National Forest on May 17, 1963, are hereby excluded from the forest and added to the Big Hole National Battlefield.

(c) Lands included in the Big Hole National Battlefield pursuant to sections 430uu to 430uu–4 of this title shall be administered in accordance with the provisions of sections 1, 2, 3, and 4 of this title.

(Pub. L. 88–24, § 3, May 17, 1963, 77 Stat. 19.)

§ 430uu–3. Jurisdiction

There is hereby retroceded to the State of Montana, effective when accepted by said State in accordance with its laws, such jurisdiction as has been ceded by such State to the United States over any lands within the boundaries of the Big Hole National Battlefield reserving in the United States, however, concurrent legislative jurisdiction over such lands.

(Pub. L. 88–24, § 4, May 17, 1963, 77 Stat. 19.)

§ 430uu–4. Authorization of appropriation

There are authorized to be appropriated such sums not exceeding $42,500 as are necessary for the acquisition of lands and interests in land pursuant to sections 430uu to 430uu–4 of this title.

(Pub. L. 88–24, § 5, May 17, 1963, 77 Stat. 19; Pub. L. 92–272, title I, § 101(2), Apr. 11, 1972, 86 Stat. 120.)

AMENDMENTS

1972—Pub. L. 92–272 substituted ''$42,500'' for ''$20,000''.

§ 430vv. River Raisin National Battlefield Park

(a) Establishment

(1) In general

If Monroe County or Wayne County, Michigan, or other willing landowners in either County offer to donate to the United States land relating to the Battles of the River Raisin on January 18 and 22, 1813, or the aftermath of the battles, the Secretary of the Interior (referred to in this section as the ''Secretary'') shall accept the donated land.

(2) Designation of Park

On the acquisition of land under paragraph (1) that is of sufficient acreage to permit efficient administration, the Secretary shall designate the acquired land as a unit of the National Park System, to be known as the ''River Raisin National Battlefield Park'' (referred to in this section as the ''Park'').

(3) Legal description

(A) In general

The Secretary shall prepare a legal description of the land and interests in land designated as the Park by paragraph (2).

(B) Availability of map and legal description

A map with the legal description shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(b) Administration

(1) In general

The Secretary shall manage the Park for the purpose of preserving and interpreting the Battles of the River Raisin in accordance with sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title.

(2) General management plan

(A) In general

Not later than 3 years after the date on which funds are made available, the Secretary shall complete a general management plan for the Park that, among other things, defines the role and responsibility of the Secretary with regard to the interpretation and the preservation of the site.

(B) Consultation

The Secretary shall consult with and solicit advice and recommendations from State, county, local, and civic organizations and leaders, and other interested parties in the preparation of the management plan.

(C) Inclusions

The plan shall include—

(i) consideration of opportunities for involvement by and support for the Park by State, county, and local governmental entities and nonprofit organizations and other interested parties; and

(ii) steps for the preservation of the resources of the site and the costs associated with these efforts.

(D) Submission to Congress

On the completion of the general management plan, the Secretary shall submit a copy of the plan to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(3) Cooperative agreements

The Secretary may enter into cooperative agreements with State, county, local, and civic organizations to carry out this section.

(c) Report

Not later than 3 years after March 30, 2009, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House a report describing the progress made with respect to acquiring real property under this section and designating the River Raisin National Battlefield Park.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 111–11, title VII, § 7003, Mar. 30, 2009, 123 Stat. 1188.)

SUBCHAPTER LXI—NATIONAL AND INTERNATIONAL MONUMENTS AND MEMORIALS

§ 431. National monuments; reservation of lands; relinquishment of private claims

The President of the United States is authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. When such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is authorized to accept the relinquishment of such tracts in behalf of the Government of the United States.

(June 8, 1906, ch. 3060, § 2, 34 Stat. 225.)

SHORT TITLE

Act June 8, 1906, ch. 3060, 34 Stat. 225, which is classified generally to sections 431, 432, and 433 of this title, is popularly known as the ''Antiquities Act of 1906'', and is also known as the ''National Monument Act''.

NATIONAL MONUMENT COMMISSION

Act Aug. 31, 1954, ch. 1160, 68 Stat. 1029, provided for a Commission to obtain plans and designs for a useful monument to the nation symbolizing to the United States and the world the ideals of a democracy as embodied in the five freedoms (speech, religion, press, assembly, and petition) and to submit such plans to Congress for legislative authorization after approval by the Secretary of the Interior, the National Capital Planning Commission, and the Commission of Fine Arts, The Commission terminated 30 days after submission of required report which was submitted in 1957 but audit of business was not completed until September 1964.

NATIONAL MONUMENTS ESTABLISHED UNDER PRESIDENTIAL PROCLAMATION

Ackia Battleground National Monument, Mississippi [see section 450r of this title].—Proc. No. 2307, Oct. 25, 1938, 53 Stat. 2494.

NATIONAL MONUMENTS ESTABLISHED UNDER PRESIDENTIAL PROCLAMATION—CONTINUED

Admiralty Island National Monument, Alaska [Monument established within Tongass National Forest by Pub. L. 96–487, title V, § 503(b), Dec. 2, 1980, 94 Stat. 2399; Pub. L. 104–123, Apr. 1, 1996, 110 Stat. 879; Pub. L. 105–60, Oct. 10, 1997, 111 Stat. 1269].—Proc. No. 4611, Dec. 1, 1978, 93 Stat. 1446.

African Burial Ground National Monument, New York.—Proc. No. 7984, Feb. 27, 2006, 71 F.R. 10793.

Agua Fria National Monument, Arizona.—Proc. No. 7263, Jan. 11, 2000, 65 F.R. 2817.

Andrew Johnson National Monument, Tennessee [Monument redesignated Andrew Johnson National Historical Site, see section 450*o* of this title].—Proc. No. 2554, Apr. 27, 1942, 56 Stat. 1955.

Aniakchak National Monument, Alaska [Monument established as unit of National Park System, see section 410hh(1) of this title].—Proc. No. 4612, Dec. 1, 1978, 93 Stat. 1448.

Arches National Monument, Utah [Monument abolished and funds made available to Arches National Park, see section 272 of this title].—Proc. No. 1875, Apr. 12, 1929, 46 Stat. 2988; Proc. No. 2312, Nov. 25, 1938, 53 Stat. 2504; Proc. No. 3360, July 22, 1960, 74 Stat. c79; Proc. No. 3887, Jan. 20, 1969, 83 Stat. 920.

Aztec Ruins National Monument, New Mexico.—Proc. No. 1650, Jan. 24, 1923, 42 Stat. 2295; Proc. No. 1840, July 2, 1928, 45 Stat. 2954; Proc. No. 1928, Dec. 19, 1930, 46 Stat. 3040; Proc. No. 2787, May 27, 1948, 62 Stat. 1513; Pub. L. 100–559, title VI, §§ 601–604, Oct. 28, 1988, 102 Stat. 2800.

Badlands National Monument, South Dakota [Monument redesignated Badlands National Park, see section 441e–1 of this title].—Proc. No. 2320, Jan. 25, 1939, 53 Stat. 2521.

Bandelier National Monument, New Mexico.—Proc. No. 1322, Feb. 11, 1916, 39 Stat. 1764; Proc. No. 1991, Feb. 25, 1932, 47 Stat. 2503; Proc. No. 3388, Jan. 9, 1961, 75 Stat. 1014; Proc. No. 3539, May 27, 1963, 77 Stat. 1006; Pub. L. 94–578, title III, § 309, Oct. 21, 1976, 90 Stat. 2736; Pub. L. 105–85, div. C, title XXXI, § 3164, Nov. 18, 1997, 111 Stat. 2050; Pub. L. 105–376, Nov. 12, 1998, 112 Stat. 3388.

Becharof National Monument, Alaska.—Proc. No. 4613, Dec. 1, 1978, 93 Stat. 1450.

Bering Land Bridge National Monument, Alaska.—Proc. No. 4614, Dec. 1, 1978, 93 Stat. 1451.

Big Hole Battlefield National Monument, Montana [Monument redesignated Big Hole National Battlefield, see section 430uu of this title].—Ex. Ord. No. 1216, June 23, 1910; Proc. No. 2339, June 29, 1939, 53 Stat. 2544.

Black Canyon of the Gunnison National Monument, Colorado [Monument abolished and lands incorporated in, and funds made available for, Black Canyon of the Gunnison National Park, see section 410fff–2 of this title].—Proc. No. 2033, Mar. 2, 1933, 47 Stat. 2558; Proc. No. 2286, May 16, 1938, 52 Stat. 1548; Proc. No. 2372, Oct. 28, 1939, 54 Stat. 2669; Proc. No. 3344, Apr. 8, 1960, 74 Stat. c56; Pub. L. 98–357, July 13, 1984, 98 Stat. 397.

Bryce Canyon National Monument, Utah.—Proc. No. 1664, June 8, 1923, 43 Stat. 1914; Proc. No. 1930, Jan. 5, 1931, 46 Stat. 3042; Proc. No. 1952, May 4, 1931, 47 Stat. 2455.

Buck Island Reef National Monument, Virgin Islands.—Proc. No. 3443, Dec. 28, 1961, 76 Stat. 1441; Proc. No. 4346, Feb. 1, 1975, 89 Stat. 1237; Proc. No. 4359, Mar. 28, 1975, 89 Stat. 1254; Proc. No. 7392, Jan. 17, 2001, 66 F.R. 7335.

Cabrillo National Monument, California.—Proc. No. 1255, Oct. 14, 1913, 38 Stat. 1965; Proc. No. 3273, Feb. 2, 1959, 73 Stat. c19; Proc. No. 4319, Sept. 28, 1974, 88 Stat. 2514.

California Coastal National Monument, California.—Proc. No. 7264, Jan. 11, 2000, 65 F.R. 2821.

NATIONAL MONUMENTS ESTABLISHED UNDER PRESIDENTIAL PROCLAMATION—CONTINUED

Canyon De Chelly National Monument, Arizona [see section 445 of this title].—Proc. No. 1945, Apr. 1, 1931, 47 Stat. 2448; Proc. No. 2036, Mar. 3, 1933, 47 Stat. 2562.

Canyons of the Ancients National Monument, Colorado.—Proc. No. 7317, June 9, 2000, 65 F.R. 37243.

Cape Krusenstern National Monument, Alaska [Monument established as unit of National Park System, see section 410hh(3) of this title].—Proc. No. 4615, Dec. 1, 1978, 93 Stat. 1453.

Capitol Reef National Monument, Utah [Monument abolished and funds made available to Capitol Reef National Park, see section 273 of this title].—Proc. No. 2246, Aug. 2, 1937, 50 Stat. 1856; Proc. No. 3249, July 2, 1958, 72 Stat. C48; Proc. No. 3888, Jan. 20, 1969, 83 Stat. 922.

Capulin Mountain National Monument, New Mexico [Monument redesignated Capulin Volcano National Monument by Pub. L. 100–225, title V, § 506(g), Dec. 31, 1987, 101 Stat. 1547].—Proc. No. 1340, Aug. 9, 1916, 39 Stat. 1792.

Capulin Volcano National Monument, New Mexico [Monument changed from Capulin Mountain National Monument, see section 460uu–46(g) of this title].—Proc. No. 1340, Aug. 9, 1916, 39 Stat. 1792; Pub. L. 87–635, Sept. 5, 1962, 76 Stat. 436; Pub. L. 100–225, title V, § 506(g), Dec. 31, 1987, 101 Stat. 1547.

Carlsbad Cave National Monument, New Mexico [Monument redesignated Carlsbad Caverns National Park, see section 407 of this title].—Proc. No. 1679, Oct. 25, 1923, 43 Stat. 1929.

Carrizo Plain National Monument, California.—Proc. No. 7393, Jan. 17, 2001, 66 F.R. 7339.

Casa Grande National Monument, Arizona.—Proc. No. 1470, Aug. 3, 1918, 40 Stat. 1818.

Cascade-Siskiyou National Monument, Oregon.—Proc. No. 7318, June 9, 2000, 65 F.R. 37249; Pub. L. 111–11, title I, §§ 1401–1406, Mar. 30, 2009, 123 Stat. 1026–1031.

Castillo de San Marcos National Monument, Florida [Monument changed from Fort Marion National Monument by act June 5, 1942, ch. 337, 56 Stat. 312].—Proc. No. 1713, Oct. 15, 1924, 43 Stat. 1968; Pub. L. 108–480, Dec. 23, 2004, 118 Stat. 3907.

Castle Pinckney National Monument, South Carolina.—Proc. No. 1713, Oct. 15, 1924, 43 Stat. 1968.

Cedar Breaks National Monument, Utah.—Proc. No. 2054, Aug. 22, 1933, 48 Stat. 1705.

Chaco Canyon National Monument, New Mexico [Monument abolished and funds made available to Chaco Culture National Historical Park, see section 410ii–1(a) of this title].—Proc. No. 740, Mar. 11, 1907, 35 Stat. 2119; Proc. No. 1826, Jan. 10, 1928, 45 Stat. 2937.

Channel Islands National Monument, California [Monument abolished and incorporated in Channel Islands National Park, see section 410ff of this title].—Proc. No. 2281, Apr. 26, 1938, 52 Stat. 1541; Proc. No. 2825, Feb. 9, 1949, 63 Stat. 1258.

Chesapeake and Ohio Canal National Monument, Maryland.—Proc. No. 3391, Jan. 18, 1961, 75 Stat. 1023.

Chiricahua National Monument, Arizona.—Proc. No. 1692, Apr. 18, 1924, 43 Stat. 1946; Proc. No. 2288, June 10, 1938, 52 Stat. 1551.

Cinder Cone National Monument, California.—Proc. No. 753, May 6, 1907, 35 Stat. 2131.

Colonial National Monument, Virginia [Monument redesignated Colonial National Historical Park, see section 81 of this title].—Proc. No. 1929, Dec. 30, 1930, 46 Stat. 3041; Proc. No. 2055, Aug. 22, 1933, 48 Stat. 1706.

Colorado National Monument, Colorado.—Proc. No. 1126, May 24, 1911, 37 Stat. 1681; Proc. No. 2037, Mar. 3, 1933, 47 Stat. 2563; Proc. No. 3307, Aug. 7, 1959, 73 Stat. C69.

NATIONAL MONUMENTS ESTABLISHED UNDER PRESIDENTIAL PROCLAMATION—CONTINUED

Craters of the Moon National Monument, Idaho.—Proc. No. 1694, May 2, 1924, 43 Stat. 1947; Proc. No. 1843, July 23, 1928, 45 Stat. 2959; Proc. No. 1916, July 9, 1930, 46 Stat. 3029; Proc. No. 2499, July 18, 1941, 55 Stat. 1660; Proc. No. 3506, Nov. 19, 1962, 77 Stat. 960; Pub. L. 104–333, div. I, title II, § 205, Nov. 12, 1996, 110 Stat. 4106; Proc. No. 7373, Nov. 9, 2000, 65 F.R. 69221; Pub. L. 107–213, § 1, Aug. 21, 2002, 116 Stat. 1052.

Death Valley National Monument, California and Nevada [Monument abolished and incorporated in Death Valley National Park, see section 410aaa–1 of this title].—Proc. No. 2028, Feb. 11, 1933, 47 Stat. 2554; Proc. No. 2228, Mar. 26, 1937, 50 Stat. 1823; Proc. No. 2961, Jan. 17, 1952, 66 Stat. C18; Pub. L. 103–433, title III, § 302, Oct. 31, 1994, 108 Stat. 4485.

Denali National Monument, Alaska.—Proc. No. 4616, Dec. 1, 1978, 93 Stat. 1455.

Devil Postpile National Monument, California.—Proc. No. 1166, July 6, 1911, 37 Stat. 1715.

Devils Tower National Monument, Wyoming.—Proc. No. 658, Sept. 24, 1906, 34 Stat. 3236; act Aug. 9, 1955, ch. 647, 69 Stat. 575.

Dinosaur National Monument, Utah-Colorado.—Proc. No. 1313, Oct. 4, 1915, 39 Stat. 1752; Proc. No. 2290, July 14, 1938, 53 Stat. 2454; Pub. L. 100–701, §§ 2–4, Nov. 19, 1988, 102 Stat. 4641.

Edison Laboratory National Monument, New Jersey [Monument and Edison Home National Historic Site together with certain adjacent lands redesignated Edison National Historic Site by Pub. L. 87–628, § 1, Sept. 5, 1962, 76 Stat. 428; Pub. L. 87–628 repealed and references to the Edison National Historic Site deemed to refer to the Thomas Edison National Historical Park by Pub. L. 111–11, title VII, § 7110(c)(4), (5), Mar. 30, 2009, 123 Stat. 1198, see section 410mmm of this title].—Proc. No. 3148, July 14, 1956, 70 Stat. C49.

Effigy Mounds National Monument, Iowa.—Proc. No. 2860, Oct. 25, 1949, 64 Stat. A371; Pub. L. 106–323, Oct. 19, 2000, 114 Stat. 1289.

El Morro National Monument, New Mexico.—Proc. No. 695, Dec. 8, 1906, 34 Stat. 3264; Proc. No. 1377, June 18, 1917, 40 Stat. 1673.

Fort Jefferson National Monument, Florida [Monument abolished and incorporated in Dry Tortugas National Park, see section 410xx of this title].—Proc. No. 2112, Jan. 4, 1935, 49 Stat. 3430; Pub. L. 96–287, title II, June 28, 1980, 94 Stat. 600; Pub. L. 102–525, title II, § 201(c), Oct. 26, 1992, 106 Stat. 3440.

Fort Laramie National Monument, Wyoming [Monument redesignated Fort Laramie National Historic Site by Pub. L. 86–444, § 3, Apr. 29, 1960, 74 Stat. 84].—Proc. No. 2292, July 16, 1938, 53 Stat. 2461.

Fort Marion National Monument, Florida [Monument redesignated Castillo de San Marcos National Monument by act June 5, 1942, ch. 337, 56 Stat. 312].—Proc. No. 1713, Oct. 15, 1924, 43 Stat. 1968.

Fort Matanzas National Monument, Florida.—Proc. No. 1713, Oct. 15, 1924, 43 Stat. 1968; Proc. No. 2114, Jan. 9, 1935, 49 Stat. 3433; Proc. No. 2773, Mar. 24, 1948, 62 Stat. 1491; Pub. L. 106–524, Nov. 22, 2000, 114 Stat. 2493.

Fort Niagara National Monument, New York.—Proc. No. 1745, Sept. 5, 1925, 44 Stat. 2582.

Fort Pulaski National Monument, Georgia.—Proc. No. 1713, Oct. 15, 1924, 43 Stat. 1968; June 26, 1936, ch. 844, 49 Stat. 1979; Pub. L. 104–333, div. I, title VIII, § 807, Nov. 12, 1996, 110 Stat. 4188.

Fort Wood National Monument, New York.—Proc. No. 1713, Oct. 15, 1924, 43 Stat. 1968.

Fossil Cycad National Monument, South Dakota.—Proc. No. 1641, Oct. 21, 1922, 42 Stat. 2286.

Gates of the Arctic National Monument, Alaska.—Proc. No. 4617, Dec. 1, 1978, 93 Stat. 1457.

Giant Sequoia National Monument, California.—Proc. No. 7295, Apr. 15, 2000, 65 F.R. 24095.

NATIONAL MONUMENTS ESTABLISHED UNDER PRESIDENTIAL PROCLAMATION—CONTINUED

Gila Cliff-Dwellings National Monument, New Mexico.—Proc. No. 781, Nov. 16, 1907, 35 Stat. 2162; Proc. No. 3467, Apr. 17, 1962, 76 Stat. 1465.

Glacier Bay National Monument, Alaska [Monument redesignated Glacier Bay National Park, see section 410hh–1(1) of this title].—Proc. No. 1733, Feb. 26, 1925, 43 Stat. 1988; Proc. No. 2330, Apr. 18, 1939, 53 Stat. 2534; Proc. No. 3089, Mar. 31, 1955, 69 Stat. c27; Proc. No. 4618, Dec. 1, 1978, 93 Stat. 1458.

Governors Island National Monument, New York.—Proc. No. 7402, Jan. 19, 2001, 66 F.R. 7855; Proc. No. 7647, Feb. 7, 2003, 68 F.R. 7053.

Gran Quivira National Monument, New Mexico [Monument abolished and funds made available to Salinas National Monument by Pub. L. 96–550, title VI, § 601(b), Dec. 19, 1980, 94 Stat. 3231. Salinas National Monument redesignated Salinas Pueblo Missions National Monument by Pub. L. 100–559, title I, § 101, Oct. 28, 1988, 102 Stat. 2797].—Proc. No. 882, Nov. 1, 1909, 36 Stat. 2503; Proc. No. 1545, Nov. 25, 1919, 41 Stat. 1778.

Grand Canyon National Monument, Arizona.—Proc. No. 794, Jan. 11, 1908, 35 Stat. 2175; Proc. No. 2022, Dec. 22, 1932, 47 Stat. 2547; Proc. No. 2393, Apr. 4, 1940, 54 Stat. 2692.

Grand Canyon-Parashant National Monument, Arizona.—Proc. No. 7265, Jan. 11, 2000, 65 F.R. 2825.

Grand Staircase-Escalante National Monument, Utah.—Proc. No. 6920, Sept. 18, 1996, 110 Stat. 4561; Pub. L. 105–335, Oct. 31, 1998, 112 Stat. 3139; Pub. L. 105–355, title II, § 201, Nov. 6, 1998, 112 Stat. 3252; Pub. L. 106–176, title III, § 307, Mar. 10, 2000, 114 Stat. 33.

Great Sand Dunes National Monument, Colorado [Monument abolished and incorporated in Great Sand Dunes National Park, see section 410hhh–2 of this title].—Proc. No. 1994, Mar. 17, 1932, 47 Stat. 2506; Proc. No. 2681, Mar. 12, 1946, 60 Stat. 1339; Proc. No. 3138, June 7, 1956, 70 Stat. c31.

Hanford Reach National Monument, Washington.—Proc. No. 7319, June 9, 2000, 65 F.R. 37253.

Holy Cross National Monument, Colorado [Monument abolished by act Aug. 3, 1950, ch. 530, 64 Stat. 404].—Proc. No. 1877, May 11, 1929, 46 Stat. 2993.

Hovenweep National Monument, Colorado-Utah.—Proc. No. 1654, Mar. 2, 1923, 42 Stat. 2299; Proc. No. 2924, Apr. 26, 1951, 65 Stat. c8; Proc. No. 2998, Nov. 20, 1952, 67 Stat. c21; Proc. No. 3132, Apr. 6, 1956, 70 Stat. c26.

Ironwood Forest National Monument, Arizona.—Proc. No. 7320, June 9, 2000, 65 F.R. 37259.

Jackson Hole National Monument, Wyoming [Monument abolished and incorporated in Grand Teton National Park, see section 406d–1 of this title].—Proc. No. 2578, Mar. 15, 1943, 57 Stat. 731.

Jewel Cave National Monument, South Dakota.—Proc. No. 799, Feb. 7, 1908, 35 Stat. 2180; Pub. L. 89–250, Oct. 9, 1965, 79 Stat. 971.

Joshua Tree National Monument, California [see section 450ii of this title] [Monument abolished and incorporated in Joshua Tree National Park, see section 410aaa–22 of this title].—Proc. No. 2193, Aug. 10, 1936, 50 Stat. 1760; Pub. L. 103–433, title IV, § 402, Oct. 31, 1994, 108 Stat. 4488.

Kasha-Katuwe Tent Rocks National Monument, New Mexico.—Proc. No. 7394, Jan. 17, 2001, 66 F.R. 7343.

Katmai National Monument, Alaska [Monument redesignated Katmi National Park, see section 410hh–1(2) of this title].—Proc. No. 1487, Sept. 24, 1918, 40 Stat. 1855; Proc. No. 1950, Apr. 24, 1931, 47 Stat. 2453; Proc. No. 2177, June 15, 1936, 49 Stat. 3523; Proc. No. 2564, Aug. 4, 1942, 56 Stat. 1972; Proc. No. 3890, Jan. 20, 1969, 83 Stat. 926; Proc. No. 4619, Dec. 1, 1978, 93 Stat. 1460.

Kenai Fjords National Monument, Alaska.—Proc. No. 4620, Dec. 1, 1978, 93 Stat. 1462.

Kobuk Valley National Monument, Alaska.—Proc. No. 4621, Dec. 1, 1978, 93 Stat. 1463.

NATIONAL MONUMENTS ESTABLISHED UNDER PRESIDENTIAL PROCLAMATION—CONTINUED

Lake Clark National Monument, Alaska.—Proc. No. 4622, Dec. 1, 1978, 93 Stat. 1465.

Lassen Peak National Monument, California.—Proc. No. 754, May 6, 1907, 35 Stat. 2132.

Lava Beds National Monument, California.—Proc. No. 1755, Nov. 21, 1925, 44 Stat. 2591; Proc. No. 2925, Apr. 27, 1951, 65 Stat. c9.

Lehman Caves National Monument, Nevada [Monument abolished and lands incorporated in, and funds made available for, Great Basin National Park, see section 410mm(d) of this title].—Proc. No. 1618, Jan. 24, 1922, 42 Stat. 2260.

Lewis and Clark Cavern National Monument, Montana.—Proc. No. 807, May 11, 1908, 35 Stat. 2187; Proc. No. 1123, May 16, 1911, 37 Stat. 1679.

Marble Canyon National Monument, Arizona.—Proc. No. 3889, Jan. 20, 1969, 83 Stat. 924.

Marianas Trench Marine National Monument, Northern Mariana Islands and Guam.—Proc. No. 8335, Jan. 6, 2009, 74 F.R. 1557.

Meriwether Lewis National Monument, Tennessee [Monument included in Natchez Trace Parkway, see section 460–1 of this title].—Proc. No. 1730, Feb. 6, 1925, 43 Stat. 1986; Proc. No. 1825, Dec. 6, 1927, 45 Stat. 2935.

Minidoka Internment National Monument, Idaho [Monument abolished and lands incorporated in Minidoka Historic Site by Pub. L. 110–229, title III, § 313, May 8, 2008, 122 Stat. 770].—Proc. No. 7395, Jan. 17, 2001, 66 F.R. 7347.

Misty Fjords National Monument, Alaska [Monument established within Tongass National Forest by Pub. L. 96–487, title V, § 503(b), Dec. 2, 1980, 94 Stat. 2399].—Proc. No. 4623, Dec. 1, 1978, 93 Stat. 1466.

Montezuma Castle National Monument, Arizona.—Proc. No. 696, Sept. 8, 1906, 93 Stat. 3265; Proc. No. 2226, Feb. 23, 1937, 50 Stat. 1817; Pub. L. 108–190, Dec. 19, 2003, 117 Stat. 2867.

Mound City Group National Monument, Ohio [Monument redesignated Hopewell Culture National Historic Park, see section 401uu of this title].—Proc. No. 1653, Mar. 2, 1923, 42 Stat. 2298; Pub. L. 96–607, title VII, § 701, Dec. 28, 1980, 94 Stat. 3540.

Mount Olympus National Monument, Washington [Monument abolished and lands incorporated in Mount Olympus National Park, see section 251 of this title].—Proc. No. 869, Mar. 2, 1909, 35 Stat. 2247; Proc. No. 1191, Apr. 17, 1912, 37 Stat. 1737; Proc. No. 1293, May 11, 1915, 39 Stat. 1726; Proc. No. 1862, Jan. 7, 1929, 45 Stat. 2984.

Muir Woods National Monument, California.—Proc. No. 793, Jan. 9, 1908, 35 Stat. 2174; Proc. No. 1608, Sept. 22, 1921, 42 Stat. 2249; Proc. No. 2122, Apr. 5, 1935, 49 Stat. 3443; Proc. No. 2932, June 26, 1951, 65 Stat. c20; Proc. No. 3311, Sept. 8, 1959, 73 Stat. c76.

Mukuntuweap National Monument, Utah [Monument redesignated Zion National Monument by Proc. No. 1435, Mar. 18, 1918, 40 Stat. 1760, and later redesignated Zion National Park, see section 344 of this title].—Proc. No. 877, July 31, 1909, 36 Stat. 2498.

Natural Bridges National Monument, Utah.—Proc. No. 804, Apr. 16, 1908, 35 Stat. 2183; Proc. No. 881, Sept. 25, 1909, 36 Stat. 2502; Proc. No. 1323, Feb. 11, 1916, 39 Stat. 1764; Proc. No. 3486, Aug. 14, 1962, 76 Stat. 1495.

Navajo National Monument, Arizona.—Proc. No. 873, May 20, 1909, 36 Stat. 2491; Proc. No. 1186, Mar. 14, 1912, 37 Stat. 1733.

Noatak National Monument, Alaska.—Proc. No. 4624, Dec. 1, 1978, 93 Stat. 1468.

Northwestern Hawaiian Islands Marine National Monument, Hawaii [Monument redesignated Papahānaumokuākea Marine National Monument by Proc. No. 8112, Feb. 28, 2007, 72 F.R. 10031].—Proc. No. 8031, June 15, 2006, 71 F.R. 36443.

NATIONAL MONUMENTS ESTABLISHED UNDER PRESIDENTIAL PROCLAMATION—CONTINUED

Ocmulgee National Monument, Georgia [see section 447a of this title].—Proc. No. 2212, Dec. 23, 1936, 50 Stat. 1798; Proc. No. 2493, June 13, 1941, 55 Stat. 1654; Pub. L. 102–67, July 9, 1991, 105 Stat. 325.

Old Kasaan National Monument, Alaska [Monument abolished and incorporated in Tongass National Forest by act July 26, 1955, ch. 387, 69 Stat. 380].—Proc. No. 1351, Oct. 25, 1916, 39 Stat. 1812.

Oregon Caves National Monument, Oregon.—Proc. No. 876, July 12, 1909, 36 Stat. 2497.

Organ Pipe Cactus National Monument, Arizona.—Proc. No. 2232, Apr. 13, 1937, 50 Stat. 1827; Pub. L. 108–64, July 29, 2003, 117 Stat. 874.

Pacific Remote Islands Marine National Monument, Wake, Baker, Howland, and Jarvis Islands, Johnston Atoll, Kingman Reef, and Palmyra Atoll.—Proc. No. 8336, Jan. 6, 2009, 74 F.R. 1565.

Papago Saguaro National Monument, Arizona [Monument abolished by act Apr. 7, 1930, ch. 107, 46 Stat. 142, as amended by Pub. L. 109–163, div. B, title XXVIII, § 2873, Jan. 6, 2006, 119 Stat. 3535].—Proc. No. 1262, Jan. 31, 1914, 38 Stat. 1991.

Papahānaumokuākea Marine National Monument, Hawaii [Monument changed from Northwestern Hawaiian Islands Marine National Monument by Proc. No. 8112, Feb. 28, 2007, 72 F.R. 10031].—Proc. No. 8031, June 15, 2006, 71 F.R. 36443.

Perry's Victory and International Peace Memorial National Monument, Ohio.—Proc. No. 2182, July 6, 1936, 50 Stat. 1734.

Petrified Forest National Monument [Monument disestablished on establishment of Petrified Forest National Park, see sections 119 and 444 of this title].—Proc. No. 697, Dec. 8, 1906, 34 Stat. 3266; Proc. No. 1167, July 31, 1911, 37 Stat. 1716; Proc. No. 1927, Nov. 14, 1930, 46 Stat. 3040; Proc. No. 1975, Nov. 30, 1931, 47 Stat. 2486; Proc. No. 2011, Sept. 23, 1932, 47 Stat. 2532.

Pinnacles National Monument, California.—Proc. No. 796, Jan. 16, 1908, 35 Stat. 2177; Proc. No. 1660, May 7, 1923, 43 Stat. 1911; Proc. No. 1704, July 2, 1924, 43 Stat. 1961; Proc. No. 1948, Apr. 13, 1931, 47 Stat. 2451; Proc. No. 2050, July 11, 1933, 48 Stat. 1701; Proc. No. 2528, Dec. 5, 1941, 55 Stat. 1709; Proc. No. 7266, Jan. 11, 2000, 65 F.R. 2831.

Pipe Spring National Monument, Arizona.—Proc. No. 1663, May 31, 1923, 43 Stat. 1913.

Pompeys Pillar National Monument, Montana.—Proc. No. 7396, Jan. 17, 2001, 66 F.R. 7351.

President Lincoln and Soldiers' Home National Monument, District of Columbia.—Proc. No. 7329, July 7, 2000, 65 F.R. 43673.

Rainbow Bridge National Monument, Utah.—Proc. No. 1043, May 30, 1910, 36 Stat. 2703.

Rose Atoll Marine National Monument, American Samoa.—Proc. No. 8337, Jan. 6, 2009, 74 F.R. 1577.

Russell Cave National Monument, Alabama.—Proc. No. 3413, May 11, 1961, 75 Stat. 1058.

Saguaro National Monument, Arizona [Monument abolished and incorporated in Saguaro National Park, see section 410zz–1 of this title].—Proc. No. 2032, Mar. 1, 1933, 47 Stat. 2557; Proc. No. 3439, Nov. 15, 1961, 76 Stat. 1437; Pub. L. 102–61, June 19, 1991, 105 Stat. 303; Pub. L. 103–364, § 3, Oct. 14, 1994, 108 Stat. 3467.

Santa Rosa Island National Monument, Florida.—Proc. No. 2337, May 17, 1939, 53 Stat. 2542; Proc. No. 2659, Aug. 13, 1945, 59 Stat. 877.

Scotts Bluff National Monument, Nebraska.—Proc. No. 1547, Dec. 12, 1919, 41 Stat. 1779; Proc. No. 1999, June 1, 1932, 47 Stat. 2512; Proc. No. 2391, Mar. 29, 1940, 54 Stat. 2690.

Shoshone Cavern National Monument, Wyoming [Monument abolished by act May 17, 1954, ch. 203, 68 Stat. 98].—Proc. No. 880, Sept. 21, 1909, 36 Stat. 2501.

Sieur de Monts National Monument, Maine.—Proc. No. 1339, July 8, 1916, 39 Stat. 1785.

NATIONAL MONUMENTS ESTABLISHED UNDER PRESIDENTIAL PROCLAMATION—CONTINUED

Sitka National Monument, Alaska [Monument redesignated Sitka National Historical Park by Pub. L. 92–501, Oct. 18, 1972, 86 Stat. 904, as amended by Pub. L. 106–291, title I, § 130, Oct. 11, 2000, 114 Stat. 946].—Proc. No. 959, Mar. 23, 1910, 36 Stat. 2601; Proc. No. 2965, Feb. 25, 1952, 66 Stat. c22.

Sonoran Desert National Monument, Arizona.—Proc. No. 7397, Jan. 17, 2001, 66 F.R. 7354.

Statue of Liberty National Monument.—Proc. No. 1713, Oct. 15, 1924, 43 Stat. 1968; Proc. No. 2250, Sept. 7, 1937, 51 Stat. 393; Proc. No. 3656, May 11, 1965, 79 Stat. 1490.

Sunset Crater Volcano National Monument, Arizona [Monument changed from Sunset Crater National Monument by Pub. L. 101–612, § 15, Nov. 16, 1990, 104 Stat. 3222].—Proc. No. 1911, May 26, 1930, 46 Stat. 3023.

Timpanogos Cave National Monument, Utah.—Proc. No. 1640, Oct. 14, 1922, 42 Stat. 2285; Proc. No. 3457, Mar. 27, 1962, 76 Stat. 1457; Pub. L. 107–329, title I, Dec. 6, 2002, 116 Stat. 2815.

Tonto National Monument, Arizona.—Proc. No. 787, Dec. 19, 1907, 35 Stat. 2168; Proc. No. 2230, Apr. 1, 1937, 50 Stat. 1825.

Tumacacori National Monument, Arizona [Monument abolished and lands incorporated in, and funds made available for, Tumacacori National Historical Park, see section 410ss of this title].—Proc. No. 821, Sept. 15, 1908, 35 Stat. 2205; Proc. No. 3228, Mar. 28, 1958, 72 Stat. c30.

Tuzigoot National Monument, Arizona.—Proc. No. 2344, July 25, 1939, 53 Stat. 2548.

Upper Missouri River Breaks National Monument, Montana.—Proc. No. 7398, Jan. 17, 2001, 66 F.R. 7359.

Verendrye National Monument, North Dakota.—Proc. No. 1380, June 29, 1917, 40 Stat. 1677.

Vermilion Cliffs National Monument, Arizona.—Proc. No. 7374, Nov. 9, 2000, 65 F.R. 69227.

Virgin Islands Coral Reef National Monument, Virgin Islands.—Proc. No. 7399, Jan. 17, 2001, 66 F.R. 7364.

Walnut Canyon National Monument, Arizona.—Proc. No. 1318, Nov. 30, 1915, 39 Stat. 1761; Proc. No. 2300, Sept. 24, 1938, 53 Stat. 2469; Pub. L. 104–333, div. I, title II, § 208, Nov. 12, 1996, 110 Stat. 4107.

Wheeler National Monument, Colorado [Monument abolished by act Aug. 3, 1950, ch. 534, 64 Stat. 405].—Proc. No. 831, Dec. 7, 1908, 35 Stat. 2214.

White Sands National Monument, New Mexico.—Proc. No. 2025, Jan. 18, 1933, 47 Stat. 2551; Proc. No. 2108, Nov. 28, 1934, 49 Stat. 3426; Proc. No. 2295, Aug. 29, 1938, 53 Stat. 2465; Proc. No. 3024, June 24, 1953, 67 Stat. c53; Pub. L. 104–201, div. B, title XXVIII, § 2854, Sept. 23, 1996, 110 Stat. 2803.

World War II Valor In the Pacific National Monument, Alaska, California, and Hawaii.—Proc. No. 8327, Dec. 5, 2008, 73 F.R. 75293.

Wrangell-St. Elias National Monument, Alaska.—Proc. No. 4625, Dec. 1, 1978, 93 Stat. 1470.

Wupatki National Monument, Arizona.—Proc. No. 1721, Dec. 9, 1924, 43 Stat. 1977; Proc. No. 2243, July 9, 1937, 52 Stat. 1841; Proc. No. 2454, Jan. 20, 1941, 55 Stat. 1608; Pub. L. 104–333, div. I, title II, § 207, Nov. 12, 1996, 110 Stat. 4107.

Yucca House National Monument, Colorado.—Proc. No. 1549, Dec. 19, 1919, 41 Stat. 1781; Pub. L. 104–333, div. I, title II, § 201, Nov. 12, 1996, 110 Stat. 4105.

Yukon-Charley National Monument, Alaska.—Proc. No. 4626, Dec. 1, 1978, 93 Stat. 1472.

Yukon Flats National Monument, Alaska.—Proc. No. 4627, Dec. 1, 1978, 93 Stat. 1473.

NATIONAL MONUMENTS ESTABLISHED UNDER PRESIDENTIAL PROCLAMATION—CONTINUED

Zion National Monument, Utah [Monument combined with Zion National Park into a single National park unit, see section 346b of this title. A prior Zion National Monument, formerly Mukuntuweap National Monument, Proc. No. 877, July 31, 1909, 36 Stat. 2498, and Proc. No. 1435, Mar. 18, 1918, 40 Stat. 1760, was redesignated Zion National Park, see section 344 of this title].—Proc. No. 2221, Jan. 22, 1937, 50 Stat. 1809.

MISCELLANEOUS NATIONAL MONUMENTS

Agate Fossil Beds National Monument, Nebraska.—Pub. L. 89–33, June 5, 1965, 79 Stat. 123.

Alibates Flint Quarries National Monument, Texas.—Pub. L. 89–154, Aug. 31, 1965, 79 Stat. 587. Name changed from Alibates Flint Quarries and Texas Panhandle Pueblo Culture National Monument by Pub. L. 95–625, title III, §321(c), Nov. 10, 1978, 92 Stat. 3488.

Congaree Swamp National Monument, South Carolina [Monument redesignated Congaree National Park, see section 410jjj of this title].

El Malpais National Monument, New Mexico.—Pub. L. 100–225, title I, §§101–104, Dec. 31, 1987, 101 Stat. 1539 (16 U.S.C. 460uu et seq.).

Florissant Fossil Beds National Monument, Colorado.—Pub. L. 91–60, Aug. 20, 1969, 83 Stat. 101.

Fossil Butte National Monument, Wyoming.—Pub. L. 92–537, Oct. 23, 1972, 86 Stat. 1069.

Hagerman Fossil Beds National Monument, Idaho.—Pub. L. 100–696, title III, §§301–308, Nov. 18, 1988, 102 Stat. 4575, as amended by Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1923; Pub. L. 104–333, div. I, title II, §206, Nov. 12, 1996, 110 Stat. 4106; Pub. L. 106–421, Nov. 1, 2000, 114 Stat. 1870.

Hohokam Pima National Monument, Arizona.—Pub. L. 92–525, Oct. 21, 1972, 86 Stat. 1047.

John Day Fossil Beds National Monument, Oregon.—Pub. L. 93–486, title I, §101(a)(2), Oct. 26, 1974, 88 Stat. 1461.

Kill Devil National Monument, North Carolina.—Act Mar. 2, 1927, ch. 251, 44 Stat. 1264. Name change to Wright Brothers National Memorial, Dec. 1, 1953.

Little Bighorn Battlefield National Monument, Montana.—Pub. L. 102–201, titles I, II, Dec. 10, 1991, 105 Stat. 1631.

Mount St. Helens National Volcanic Monument, Washington.—Pub. L. 97–243, Aug. 26, 1982, 96 Stat. 301; Pub. L. 105–279, Oct. 23, 1998, 112 Stat. 2690.

National Military Working Dog Teams Monument, Virginia—Pub. L. 110–181, div. B, title XXVIII, §2877, Jan. 28, 2008, 122 Stat. 563; Pub. L. 111–84, div. B, title XXVIII, §2871, Oct. 28, 2009, 123 Stat. 2696.

Newberry National Volcanic Monument, Oregon.—Pub. L. 101–522, Nov. 5, 1990, 104 Stat. 2288.

Pecos National Monument, New Mexico [included in Pecos National Historical Park by Pub. L. 101–313, title II, §202(b), June 27, 1990, 104 Stat. 278 (16 U.S.C. 410rr–1(b))].—Pub. L. 89–54, June 28, 1965, 79 Stat. 195; repealed by Pub. L. 101–313, title II, §202(c), June 27, 1990, 104 Stat. 278 (16 U.S.C. 410rr–1(c)).

Petroglyph National Monument, New Mexico.—Pub. L. 101–313, title I, June 27, 1990, 104 Stat. 272, as amended by Pub. L. 103–50, ch. IV, §401, July 2, 1993, 107 Stat. 252; Pub. L. 104–333, div. I, title VIII, §814(d)(2)(D), Nov. 12, 1996, 110 Stat. 4196; Pub. L. 105–174, title III, §3005, May 1, 1998, 112 Stat. 82.

Poverty Point National Monument, Louisiana.—Pub. L. 100–560, Oct. 31, 1988, 102 Stat. 2803.

Prehistoric Trackways National Monument, New Mexico.—Pub. L. 111–11, title II, §§2101–2105, Mar. 30, 2009, 123 Stat. 1096–1099.

Salinas Pueblo Missions National Monument, New Mexico.—Pub. L. 96–550, title VI, §601, Dec. 19, 1980, 94 Stat. 3231, as amended by Pub. L. 100–559, title I, §101, Oct. 28, 1988, 102 Stat. 2797.

MISCELLANEOUS NATIONAL MONUMENTS—CONTINUED

Santa Rosa and San Jacinto Mountains National Monument, California.—Pub. L. 106–351, Oct. 24, 2000, 114 Stat. 1362; Pub. L. 106–434, §2, Nov. 6, 2000, 114 Stat. 1913; Pub. L. 111–11, title I, §1853, Mar. 30, 2009, 123 Stat. 1068.

NATIONAL MEMORIALS

AIDS Memorial Grove National Memorial, California.—Pub. L. 104–333, div. I, title V, §516, Nov. 12, 1996, 110 Stat. 4170.

Arkansas Post National Memorial, Arkansas.—Pub. L. 86–595, July 6, 1960, 74 Stat. 333; Pub. L. 105–83, title I, §126, Nov. 14, 1997, 111 Stat. 1567.

Astronauts Memorial, John F. Kennedy Space Center, Florida.—Recognized as national memorial to astronauts who die in line of duty by Pub. L. 102–41, May 8, 1991, 105 Stat. 242.

Battle of Midway National Memorial, Midway Atoll.—Pub. L. 106–113, div. B, §1000(a)(3) [title I, §126], Nov. 29, 1999, 113 Stat. 1535, 1501A–164.

Benjamin Franklin National Memorial, Pennsylvania.—Designation of Benjamin Franklin Memorial Hall as National Memorial by Pub. L. 92–551, Oct. 25, 1972, 86 Stat. 1164.

Bosque Redondo Memorial, New Mexico.—Pub. L. 106–511, title II, Nov. 13, 2000, 114 Stat. 2369; Pub. L. 108–204, title I, §101, Mar. 2, 2004, 118 Stat. 543.

Buffalo Soldiers Memorial, Louisiana.—Pub. L. 109–152, Dec. 30, 2005, 119 Stat. 2887.

Chamizal National Memorial, Texas.—Pub. L. 89–479, June 30, 1966, 80 Stat. 232.

Coronado National Memorial, Arizona.—Acts Aug. 18, 1941, ch. 365, §1, 55 Stat. 630, and July 9, 1952, ch. 610, 66 Stat. 510 (16 U.S.C. 450y); Proc. No. 2995, Nov. 5, 1952, 67 Stat. c18.

Custis-Lee Mansion National Memorial, Virginia.—Act Mar. 4, 1925, ch. 562, 43 Stat. 1356. Made permanent memorial by act June 29, 1955, ch. 223, 69 Stat. 190.

David Berger Memorial, Ohio.—Pub. L. 96–199, title I, §116, Mar. 5, 1980, 94 Stat. 71.

Disabled American Veterans Vietnam Veterans National Memorial, New Mexico.—Recognized as a memorial of national significance by Pub. L. 100–164, Nov. 13, 1987, 101 Stat. 905.

Father Marquette National Memorial, Michigan.—Pub. L. 94–160, Dec. 20, 1975, 89 Stat. 848.

Federal Hall National Memorial, New York.—Designated May 26, 1939. Designation changed from Federal Hall Memorial Historic Site by act Aug. 11, 1955, ch. 779, 69 Stat. 632.

Flight 93 National Memorial, Pennsylvania.—Pub. L. 107–226, Sept. 24, 2002, 116 Stat. 1345; Pub. L. 110–161, div. F, title I, §128, Dec. 26, 2007, 121 Stat. 2122.

Fort Caroline National Memorial, Florida.—Act Sept. 21, 1950, ch. 973, 64 Stat. 897. Established Jan. 16, 1953.

Franklin Delano Roosevelt National Memorial, District of Columbia.—Acts Aug. 11, 1955, ch. 833, 69 Stat. 694; Sept. 1, 1959, Pub. L. 86–214, 73 Stat. 445; Oct. 18, 1962, Pub. L. 87–842, 76 Stat. 1079; Oct. 30, 1965, Pub. L. 89–305, 79 Stat. 1126; Sept. 8, 1970, Pub. L. 91–398, 84 Stat. 837; June 30, 1972, Pub. L. 92–332, 86 Stat. 401; July 28, 1982, Pub. L. 97–224, 96 Stat. 243; Oct. 1, 1996, Pub. L. 104–221, §§3, 4, 110 Stat. 3024; July 24, 1997, Pub. L. 105–29, 111 Stat. 246; Nov. 14, 1997, Pub. L. 105–83, title III, §335, 111 Stat. 1601.

Hamilton Grange National Memorial, New York.—Pub. L. 87–438, Apr. 27, 1962, 76 Stat. 57, as amended by Pub. L. 100–701, §1, Nov. 19, 1988, 102 Stat. 4640; Pub. L. 106–482, Nov. 9, 2000, 114 Stat. 2192.

House Where Lincoln Died National Memorial, District of Columbia.—Act June 11, 1896, ch. 420, 29 Stat. 439.

Johnstown Flood National Memorial, Pennsylvania.—Pub. L. 88–546, Aug. 31, 1964, 78 Stat. 752; Pub. L. 108–313, Oct. 5, 2004, 118 Stat. 1196.

NATIONAL MEMORIALS—CONTINUED

Lincoln Boyhood National Memorial, Indiana.—Pub. L. 87–407, Feb. 19, 1962, 76 Stat. 9.

Lincoln Museum National Memorial, District of Columbia.—Act Apr. 7, 1866, ch. 28, § 1, 14 Stat. 23.

Lincoln National Memorial, District of Columbia.—Act Feb. 9, 1911, ch. 42, 36 Stat. 898.

Mount Rushmore National Memorial, South Dakota.—Act Feb. 25, 1929, ch. 315, 45 Stat. 1300.

Mt. Soledad Veterans Memorial, California.—Pub. L. 108–447, div. J, title I, § 116, Dec. 8, 2004, 118 Stat. 3346; Pub. L. 109–272, Aug. 14, 2006, 120 Stat. 770; Pub. L. 109–364, div. A, title X, § 1071(d), Oct. 17, 2006, 120 Stat. 2401.

National D-Day Memorial, Virginia.—Pub. L. 104–201, div. A, title X, § 1080, Sept. 23, 1996, 110 Stat. 2670.

National Fallen Firefighters' Memorial, Maryland.—Pub. L. 101–347, Aug. 9, 1990, 104 Stat. 398.

National Law Enforcement Officers Memorial, District of Columbia.—Establishment of Maintenance Fund by Pub. L. 104–329, title II, § 201, Oct. 20, 1996, 110 Stat. 4011; Pub. L. 109–314, Oct. 6, 2006, 120 Stat. 1739.

National Medal of Honor Sites.—Pub. L. 106–83, Oct. 28, 1999, 113 Stat. 1293.

Patrick Henry National Memorial, Virginia.—Pub. L. 99–296, May 12, 1986, 100 Stat. 429.

Port Chicago National Memorial, California.—Pub. L. 102–562, title II, Oct. 28, 1992, 106 Stat. 4235; Pub. L. 111–84, div. B, title XXVIII, § 2853(a), Oct. 28, 2009, 123 Stat. 2685.

Prisoner of War/Missing in Action National Memorial, California.—Pub. L. 108–454, title VI, § 601, Dec. 10, 2004, 118 Stat. 3623.

Richard L. Kohnstamm Memorial Area, Oregon.—Pub. L. 111–11, title I, § 1202(b), Mar. 30, 2009, 123 Stat. 1009.

Seabees of the United States Navy Memorial.—Pub. L. 92–422, Sept. 18, 1972, 86 Stat. 678.

Signers of the Declaration of Independence Memorial, District of Columbia.—Pub. L. 95–260, Apr. 17, 1978, 92 Stat. 197.

Thomas Jefferson National Memorial, District of Columbia.—Act June 26, 1934, ch. 763, 48 Stat. 1243.

United States Marine Corps Memorial, Virginia.—Act July 1, 1947, ch. 196, 61 Stat. 242, as amended July 7, 1952, ch. 585, 66 Stat. 441; June 16, 1953, ch. 120, 67 Stat. 64.

United States National Civil Defense Monument, Maryland.—Authorized by Pub. L. 106–103, Nov. 13, 1999, 113 Stat. 1482.

United States Navy Memorial, District of Columbia.—Pub. L. 96–199, title I, § 113, Mar. 5, 1980, 94 Stat. 70.

U.S.S. Indianapolis Memorial, Indiana.—Pub. L. 103–160, div. A, title XI, § 1165, Nov. 30, 1993, 107 Stat. 1765.

USS Oklahoma Memorial, Hawaii.—Pub. L. 109–163, div. A, title X, § 1017, Jan. 6, 2006, 119 Stat. 3425.

Vietnam Veterans Memorial, District of Columbia.—Pub. L. 96–297, July 1, 1980, 94 Stat. 827, as amended by Pub. L. 106–214, § 1, June 15, 2000, 114 Stat. 335; Pub. L. 108–126, title I, § 101, Nov. 17, 2003, 117 Stat. 1348; Pub. L. 111–270, § 1, Oct. 12, 2010, 124 Stat. 2851.

Washington Monument National Memorial, District of Columbia.—Act Aug. 2, 1876, ch. 250, § 1, 19 Stat. 123.

White Cross World War I Memorial, California.—Pub. L. 107–117, div. A, title VIII, § 8137, Jan. 10, 2002, 115 Stat. 2278; Pub. L. 108–87, title VIII, § 8121, Sept. 30, 2003, 117 Stat. 1100.

World War II Memorial, Guam.—Pub. L. 106–398, § 1 [div. B, title XXVIII, § 2886], Oct. 30, 2000, 114 Stat. 1654, 1654A–441, as amended by Pub. L. 107–107, div. B, title XXVIII, § 2868, Dec. 28, 2001, 115 Stat. 1334.

Wright Brothers National Memorial, North Carolina.—Kill Devil Hill National Monument authorized by act Mar. 2, 1927, ch. 251, 44 Stat. 1264. Name changed to Wright Brothers National Memorial, Dec. 1, 1953.

ALBERT EINSTEIN MEMORIAL

Conveyance of property to National Academy of Sciences for erection and maintenance of a Memorial to Albert Einstein on south side of Square Numbered 88 between 21st Street, 22d Street, and Constitution Avenue, District of Columbia, with reverter of title when no longer used for memorial purposes or public access is restricted, was authorized by Pub. L. 95–625, title VI, § 612, Nov. 10, 1978, 92 Stat. 3521, as amended Pub. L. 96–87, title IV, § 401(*o*), Oct. 12, 1979, 93 Stat. 666.

STUDY TO ADD ALASKA AND HAWAII TO LINCOLN NATIONAL MEMORIAL

Pub. L. 94–556, Oct. 19, 1976, 90 Stat. 2632, directed Secretary of the Interior to study feasibility of and make recommendations for recognition at an appropriate place at Lincoln National Memorial of the addition to the Union of the States of Alaska and Hawaii, directed that recommendations, after review and approval by Commission of Fine Arts, National Capital Planning Commission, and Advisory Council on Historic Preservation, be submitted to Committees on Interior and Insular Affairs of the Senate and the House of Representatives, and, if neither committee adopted a resolution of disapproval, directed Secretary to carry out recommendations.

§ 431a. Limitation on further extension or establishment of national monuments in Wyoming

No further extension or establishment of national monuments in Wyoming may be undertaken except by express authorization of Congress.

(Sept. 14, 1950, ch. 950, § 1, 64 Stat. 849.)

CODIFICATION

Section comprises only part of the last sentence of section 1 of act Sept. 14, 1950. The remainder of such section, except that part of the last sentence which repealed sections 406 to 406d of this title, is set out as sections 406d–1 and 451a of this title.

REPEAL OF INCONSISTENT LAWS

Repeal of laws inconsistent with act Sept. 14, 1950, see note set out under section 406d–1 of this title.

§ 432. Permits to examine ruins, excavations, and gathering of objects; regulations

Permits for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity upon the lands under their respective jurisdictions may be granted by the Secretaries of the Interior, Agriculture, and Army to institutions which they may deem properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulations as they may prescribe: *Provided*, That the examinations, excavations, and gatherings are undertaken for the benefit of reputable museums, universities, colleges, or other recognized scientific or educational institutions, with a view to increasing the knowledge of such objects, and that the gatherings shall be made for permanent preservation in public museums. The Secretaries of the departments aforesaid shall make and publish from time to time uniform rules and regulations for the purpose of carrying out the provisions of this section and sections 431 and 433 of this title.

(June 8, 1906, ch. 3060, §§ 3, 4, 34 Stat. 225; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CODIFICATION

The last sentence only of this section was derived from section 4 of act June 8, 1906, the remainder being from section 3.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with permits issued under sections 431, 432 and 433 of this title and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with removal of objects of antiquity under sections 431, 432, and 433 with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas were transferred to the Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, until the first anniversary of date of initial operation of the Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

SECRETARY OF THE AIR FORCE

For transfer of certain functions relating to real property under jurisdiction of Department of the Air Force, to Secretary of the Air Force from Secretary of the Army, see Secretary of Defense Transfer Order No. 14 [§2(25)], eff. July 1, 1948.

§ 433. American antiquities

Any person who shall appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Government of the United States, without the permission of the Secretary of the Department of the Government having jurisdiction over the lands on which said antiquities are situated, shall, upon conviction, be fined in a sum of not more than $500 or be imprisoned for a period of not more than ninety days, or shall suffer both fine and imprisonment, in the discretion of the court.

(June 8, 1906, ch. 3060, §1, 34 Stat. 225.)

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with permits issued under sections 431, 432, and 433 of this title and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with removal of objects of antiquity under sections 431, 432, and 433 with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas were transferred to the Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, until the first anniversary of date of initial operation of the Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 433a. Perry's Victory and International Peace Memorial; establishment

The President of the United States is authorized to establish by proclamation the following-described Government lands, together with the Perry's Victory Memorial proper, its approaches, retaining walls, and all buildings, structures, and other property thereon, situated in Put-in-Bay Township, South Bass Island, Ottawa County, Lake Erie, State of Ohio, as the ''Perry's Victory and International Peace Memorial'', for the preservation of the historical associations connected therewith, to inculcate the lessons of international peace by arbitration and disarmament, and for the benefit and enjoyment of the people: Commencing at the intersection of the middle line of Delaware Avenue and Chapman Avenue, in the village of Put-in-Bay, and running thence south eighty-eight degrees fifty-nine minutes east in the middle line of said Delaware Avenue, and the same extended four hundred and ninety-five feet to Lake Erie; thence north forty-nine degrees fifty-nine minutes east along said lake shore three hundred and forty-six feet; thence north forty-three degrees fourteen minutes east along said lake shore two hundred and twelve feet; thence north fifty-three degrees thirteen minutes east four hundred feet along said lake shore; thence north forty-six degrees six minutes west about seven hundred and thirty feet to Lake Erie; thence southwesterly and westerly along said lake shore to the middle line, extended, of said Chapman Avenue; thence south one degree thirty minutes west along said middle line, and the same extended, about five hundred and twenty feet to the place of beginning, and containing fourteen and twenty-five one-hundredths acres of land and known as a part of lots numbered 1 and 2, range south of county road, and a part of lot numbered 12, East Point, in South Bass Island, in the township of Put-in-Bay, county of Ottawa, State of Ohio.

(June 2, 1936, ch. 477, §1, 49 Stat. 1393; Pub. L. 92–568, §1, Oct. 26, 1972, 86 Stat. 1181.)

CHANGE OF NAME

''Perry's Victory and International Peace Memorial'' substituted in text for ''Perry's Victory and Inter-

national Peace Memorial National Monument'' to conform to the redesignation provided in section 1 of Pub. L. 92–568, classified to section 433f–1 of this title.

ESTABLISHMENT OF MEMORIAL; BOUNDARIES

Memorial and boundaries established by Presidential Proc. No. 2182, July 6, 1936, 50 Stat. 1734.

§ 433b. Administration, protection, and development

The administration, protection and development of the aforesaid peace memorial shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(June 2, 1936, ch. 477, § 2, 49 Stat. 1394; Pub. L. 92–568, § 1, Oct. 26, 1972, 86 Stat. 1181.)

CHANGE OF NAME

''Peace memorial'' substituted in text for ''national monument'' to conform to redesignation of Perry's Victory and International Peace Memorial National Monument as Perry's Victory and International Peace Memorial provided in section 1 of Pub. L. 92–568, classified to section 433f–1 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 433c. Acceptance of donations of lands and funds; acquisition of land

After the said peace memorial has been established as provided in section 433a of this title the Secretary of the Interior is authorized to accept donations of land, interests in land, buildings, structures, and other property as may be donated for the extension and improvement of the said peace memorial, and donations of funds for the purchase and maintenance thereof, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Interior: *Provided*, That he may acquire on behalf of the United States out of any donated funds by purchase when purchasable at prices deemed by him reasonable, otherwise by condemnation under the provisions of section 3113 of title 40, such tracts of land within the said peace memorial as may be necessary for the completion thereof. The Secretary of the Interior is authorized to purchase with appropriated funds not to exceed four acres of land, or interests in land, for addition to the Perry's Victory and International Peace Memorial.

(June 2, 1936, ch. 477, § 3, 49 Stat. 1394; Pub. L. 92–568, §§ 1, 2, Oct. 26, 1972, 86 Stat. 1181, 1182.)

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1972—Pub. L. 92–568, § 2, authorized acquisition of an additional four acres of land.

CHANGE OF NAME

''Peace memorial'' substituted in text for ''national monument'' to conform to redesignation of Perry's Victory and International Peace Memorial National Monument as Perry's Victory and International Peace Memorial provided in section 1 of Pub. L. 92–568, classified to section 433f–1 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

AUTHORIZATION OF APPROPRIATIONS

Section 4 of Pub. L. 92–568, as amended by Pub. L. 95–625, title I, § 101(21), Nov. 10, 1978, 92 Stat. 3472; Pub. L. 98–141, § 7(a), Oct. 31, 1983, 97 Stat. 910; Pub. L. 98–181, title I, § 1401, Nov. 30, 1983, 97 Stat. 1294, provided that: ''There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act [enacting section 433f–1, amending sections 433a to 433c and 433e, and repealing section 433d of this title, and enacting provisions set out as a note hereunder], but not more than $370,000 shall be appropriated for the acquisition of lands and interests in lands and not more than $10,500,000 shall be appropriated for development. The sums authorized in this section shall be available for acquisition and development undertaken subsequent to the approval of this Act [such sections].''

§ 433d. Repealed. Pub. L. 92–568, § 3(2), Oct. 26, 1972, 86 Stat. 1182

Section, act June 2, 1936, ch. 477, § 4, 49 Stat. 1394, provided that members of Perry's Victory Memorial Commission created by act Mar. 3, 1919, ch. 116, 40 Stat. 1322, act as a board of advisors, and also provided for number of members, method of filling vacancies, and travel expenses but no compensation for the members.

§ 433e. Repealed. Pub. L. 98–141, § 7(b), Oct. 31, 1983, 97 Stat. 910

Section, acts June 2, 1936, ch. 477, § 5, 49 Stat. 1395; Oct. 26, 1972, Pub. L. 92–568, § 1, 86 Stat. 1181, provided that employees of the Perry's Victory Memorial Commission on June 2, 1936, could, in the discretion of the Secretary of the Interior, be employed by the National Park Service in the administration, protection, and development of the memorial.

§ 433f. Inconsistent laws repealed

The provisions of the Act of March 3, 1919 (ch. 116, 40 Stat. 1322–1324), and Acts supplemental thereof and amendatory thereto and all other Acts inconsistent with the provisions of section 433a to 433f of this title are repealed to the extent of such inconsistency.

(June 2, 1936, ch. 477, § 6, 49 Stat. 1395.)

REFERENCES IN TEXT

The act of Mar. 3, 1919, and Acts supplemental and amendatory thereto were not classified to the Code.

§ 433f–1. Change in name of Perry's Victory and International Peace Memorial National Monument

The Perry's Victory and International Peace Memorial National Monument, established in accordance with section 433a of this title, is redesignated the Perry's Victory and International Peace Memorial.

(Pub. L. 92–568, §1, Oct. 26, 1972, 86 Stat. 1181.)

§ 433g. Fort Frederica National Monument; establishment

When title to the site of Fort Frederica, on Saint Simon Island, Georgia, and such other related sites located thereon, as may be designated by the Secretary of the Interior, in the exercise of his discretion, as necessary or desirable for national-monument purposes, shall have been vested in the United States, said area not to exceed two hundred and fifty acres shall be, and is, set apart as a national monument for the benefit and inspiration of the people, and shall be called the ''Fort Frederica National Monument.''

(May 26, 1936, ch. 451, §1, 49 Stat. 1373; Sept. 20, 1950, ch. 957, §1, 64 Stat. 869; Pub. L. 85–401, §1, May 16, 1958, 72 Stat. 110.)

AMENDMENTS

1958—Pub. L. 85–401 increased maximum acreage from one hundred acres to two hundred and fifty acres.

1950—Act Sept. 20, 1950, increased maximum acreage from eighty to one hundred acres.

APPROPRIATIONS

Section 2 of act Sept. 20, 1950, provided that: ''There is hereby authorized to be appropriated not to exceed $5,000 for the acquisition of land and interests in land for the said national monument. The Secretary of the Interior is authorized to use any funds so appropriated, together with any donated funds made available pursuant to the aforesaid Act of May 26, 1936 [sections 433g, 433h, 433i, and 433j of this title], for this procurement of land and interests in land for the national monument.''

LAND EXCHANGE AND BOUNDARY ADJUSTMENT

Pub. L. 108–417, Nov. 30, 2004, 118 Stat. 2339, provided that:

''SECTION 1. EXCHANGE OF LANDS.

''(a) IN GENERAL.—Notwithstanding section 5(b) of Public Law 90–401 (16 U.S.C. 460*l*–22(b)), the Secretary of the Interior is authorized to convey to Christ Church of St. Simons Island, Georgia, the approximately 6.0 acres of land within the boundary of Fort Frederica National Monument adjacent to Christ Church and depicted as 'NPS Lands for Exchange' on the map entitled 'Fort Frederica National Monument 2003 Boundary Revision' numbered 369/80016, and dated April 2003, in exchange for approximately 8.7 acres of land to be acquired by Christ Church, which is depicted as 'Private Lands for Addition' on the same map.

''(b) MAP AVAILABILITY.—The map referred to in subsection (a) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

''SEC. 2. BOUNDARY ADJUSTMENT.

''Upon completion of the land exchange under subsection (a) of section 1, the Secretary of the Interior shall revise the boundary of Fort Frederica National Monument to reflect the exchange and shall administer the land acquired through the exchange as part of that monument.''

§ 433h. Donation of property; acquisition of lands

The Secretary of the Interior is authorized to accept donations of land, interests in land, buildings, structures, and other property within the boundaries of the said national monument as determined and fixed hereunder, and donations of funds for the purchase and maintenance thereof, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Interior: *Provided*, That he may acquire on behalf of the United States out of any donated funds, either by purchase at prices deemed by him reasonable, or by condemnation under the provisions of section 3113 of title 40, such tracts of land within the said national monument as may be necessary for the completion thereof.

(May 26, 1936, ch. 451, §2, 49 Stat. 1373.)

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 433h–1. Acquisition of additional lands

The Secretary of the Interior is authorized and directed to acquire by purchase, condemnation, or otherwise, subject to the acreage limitation contained in section 433g of this title, the site known as the Bloody Marsh Battle memorial monument located on Saint Simon Island, Georgia, together with such additional land, including the marshland across the river to the west of Fort Frederica National Monument, or interest in land, as in the judgment of the Secretary of the Interior might be desirable for the protection of such national monument. Such lands or interest in lands acquired by the Secretary pursuant to this section shall be made a part of the Fort Frederica National Monument.

(Pub. L. 85–401, §2, May 16, 1958, 72 Stat. 110.)

APPROPRIATIONS

Section 3 of Pub. L. 85–401 provided that: ''There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts, not to exceed $20,000, as may be necessary to carry out the provisions of this Act [this section].''

§ 433i. Museum; historical markers

(a) Maintenance; donations

The Secretary of the Interior is authorized, in his discretion, to maintain in some suitable structure within the national monument a museum for relics and records pertaining to Fort Frederica, and for other articles of national and patriotic interest, and in his discretion to accept, on behalf of the United States, for installation in such museum, articles which may be offered as additions to the museum.

(b) State and local participation

Any State or political subdivision thereof, organization, or individual may, with the approval of the Secretary of the Interior, erect monuments or place tablets commemorating historic events or persons connected with the history of the area, within the boundaries of the Fort Frederica National Monument.

(May 26, 1936, ch. 451, §3, 49 Stat. 1373.)

§ 433j. Administration, protection, and development

The administration, protection, and development of the aforesaid national monument shall be exercised under the direction of the Secretary of the Interior by the National Park Service,

subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(May 26, 1936, ch. 451, § 4, 49 Stat. 1373.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 433k. Whitman Mission National Historic Site; acquisition of land; establishment, supervision and maintenance

The Secretary of the Interior is authorized and directed to acquire, on behalf of the United States, by gift, the site of the Indian mission established in 1836 by Marcus Whitman on the Walla Walla River in what is now Walla Walla County, Washington, together with such additional land, including a right-of-way to the nearest highway, as the Secretary may deem necessary to carry out the purposes of this section.

The property acquired under the provisions of the first paragraph of this section shall constitute the Whitman Mission National Historic Site and shall be a public national memorial to Marcus Whitman and his wife, Narcissa Prentiss Whitman, who here established their Indian mission and school, and ministered to the physical and spiritual needs of the Indians until massacred with twelve others[1] persons in 1847. The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of such national historic site, and shall maintain and preserve it for the benefit and enjoyment of the people of the United States.

(June 29, 1936, ch. 863, §§ 1, 2, 49 Stat. 2028; Pub. L. 87–471, May 31, 1962, 76 Stat. 90.)

CHANGE OF NAME

''Whitman Mission National Historic Site'' and ''national historic site'' substituted in text for ''Whitman National Monument'' and ''national monument'', respectively, pursuant to Pub. L. 87–471, which redesignated Whitman National Monument as Whitman Mission National Historic Site. See section 433n of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 433k–1. Acquisition of additional land

For the purpose of including within Whitman Mission National Historic Site, Washington, certain properties that are of historic significance in connection with the site area and which are needed to provide suitable monument facilities, the Secretary of the Interior is authorized to procure not to exceed fifty acres of land adjacent to the existing site and a right-of-way thereto from United States Highway 410, using therefor any land acquisition funds available for the purposes of the national park system, such property to be acquired in such manner as the Secretary shall consider to be in the public interest. Following the acquisition by the United States of land for addition to the site pursuant to this section, such addition shall be effective in each instance upon the publication of notice thereof in the Federal Register.

(Pub. L. 85–388, May 1, 1958, 72 Stat. 101; Pub. L. 87–471, May 31, 1962, 76 Stat. 90.)

CHANGE OF NAME

''Whitman Mission National Historic Site'' and ''site'' substituted in text for ''Whitman National Monument'' and ''monument'', respectively, pursuant to Pub. L. 87–471, which redesignated Whitman National Monument as Whitman Mission National Historic Site, classified to section 433n of this title.

§ 433*l*. Erection of monuments and tablets

Any State, or political subdivision thereof, organization, or individual may, with the approval of the Secretary of the Interior, erect monuments or place tablets within the boundaries of the Whitman Mission National Historic Site.

(June 29, 1936, ch. 863, § 3, 49 Stat. 2029; Pub. L. 87–471, May 31, 1962, 76 Stat. 90.)

CHANGE OF NAME

''Whitman National Monument'' redesignated ''Whitman Mission National Historic Site'' by Pub. L. 87–471, set out as section 433n of this title.

§ 433m. Authorization of appropriation

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 433k and 433*l* of this title.

(June 29, 1936, ch. 863, § 4, 49 Stat. 2029.)

§ 433n. Change in name of Whitman National Monument

Effective January 1, 1963, the Whitman National Monument, established pursuant to sections 433k, 433*l* and 433m of this title, shall be known as the Whitman Mission National Historic Site.

(Pub. L. 87–471, May 31, 1962, 76 Stat. 90.)

§ 434. National monument in Riverside County, California

The Secretary of the Interior is authorized to set apart the following-described lands located in the county of Riverside, in the State of California, as a national monument, which shall be under the exclusive control of the Secretary of the Interior, who shall administer and protect the same under the provisions of sections 431, 432 and 433 of this title, and under such regulations as he may prescribe: The west half of the southwest quarter of section 2, the southeast quarter of section 3, all of section 10, the west half of the northwest quarter of section 11, all of section 14, all in township 5 south, range 4 east, San Bernardino base and meridian, containing one thousand six hundred acres: *Provided*, That before such reservation and dedication as herein

[1] So in original.

authorized shall become effective the consent and relinquishment of the Agua Caliente Band of Indians shall first be obtained, covering its right, title, and interest in and to the lands herein described, and payment therefor to the members of said band on a per capita basis, at a price to be agreed upon, when there shall be donated for such purposes to the Secretary of the Interior a fund in an amount to be fixed and determined by him as sufficient to compensate the Indians therefor.

(Aug. 26, 1922, ch. 295, § 1, 42 Stat. 832.)

§ 435. Acquiring reservation land

In order to determine the amount to be paid under section 434 of this title the Secretary of the Interior is authorized and directed to negotiate with said Indians to obtain their consent and relinquishment, and when such consent and relinquishment has been obtained and an agreement reached the Secretary of the Interior is further authorized to make payment from said donated fund for the lands relinquished to the enrolled members of the said Agua Caliente Band as authorized by section 434 of this title. The consent and relinquishment of the Indians may be obtained and payment made for the lands in such manner as the Secretary of the Interior may deem advisable. The water rights, dam, pipe lines, canals, and irrigation structures located in sections 2 and 3 of township 5 south, range 4 east, San Bernardino meridian, and also all water and water rights in Palm Canyon, are excepted from this reserve and shall remain under the exclusive control and supervision of the Bureau of Indian Affairs. The provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to this monument.

(Aug. 26, 1922, ch. 295, §§ 2, 3, 42 Stat. 832.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act of Congress approved June 10, 1920, known as the Federal Water Power Act'', and was redesignated as the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

CODIFICATION

This section is a combination provision, the last sentence of which is from section 3 of act Aug. 26, 1922, the remainder being derived from section 2 of that act.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 436. Omitted

CODIFICATION

Section, act Apr. 9, 1924, ch. 86, § 3, 43 Stat. 90, related to transfer by Secretary of Agriculture to Secretary of the Interior for road purposes of part of material, equipment and supplies received from Secretary of War.

§ 437. Fort McHenry; restoration and preservation

The Secretary of the Interior is authorized and directed to begin the restoration of Fort McHenry, in the State of Maryland, including the restoration of the old Fort McHenry proper to such a condition as would make it suitable for preservation permanently as a national monument and perpetual national memorial shrine as the birthplace of the immortal ''Star-Spangled Banner'' written by Francis Scott Key, and he is further authorized and directed, as are his successors, to hold the said Fort McHenry in perpetuity as a military reservation, national monument and historic shrine, and to maintain it as such, except that part mentioned in section 439 of this title, and that part in use on March 3, 1925, by the Department of Commerce for a light and fog-signal station under revocable license from the Interior Department with the maintenance of the electric lines thereto and such portion of the reservation, including improvement, as may be reserved by the Secretary of the Army for the use of the Chief of Engineers, the said reservation to be maintained as a national public monument, subject to such regulations as may from time to time be issued by the Secretary of the Interior.

(May 26, 1914, ch. 100, 38 Stat. 382; Mar. 3, 1925, ch. 425, 43 Stat. 1109; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; Aug. 11, 1939, ch. 686, 53 Stat. 1405; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CODIFICATION

This section and sections 438 to 440 of this title were derived from act Mar. 3, 1925, which was entitled ''An act to repeal and reenact chapter 100, 1914, Public, Numbered 108, to provide for the restoration of Fort McHenry, in the State of Maryland, and its permanent preservation as a national park and perpetual national memorial shrine as the birthplace of the immortal 'Star-Spangled Banner,' written by Francis Scott Key, for the appropriation of the necessary funds, and for other purposes.'' The enacting clause reads as follows: ''Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an Act authorizing the Secretary of War to grant the use of the Fort McHenry Military Reservation in the State of Maryland to the mayor and city council of Baltimore, a municipal corporation of the State of Maryland, making certain provisions in connection therewith, providing access to and from the site of the new immigration station heretofore set aside be, and hereby is, repealed and reenacted to read as follows:''.

As reenacted in 1925 this section recites that Fort McHenry is ''now'' occupied and used as a military reservation and authorized the restoration ''so soon as it may no longer be needed for uses and needs growing out of the late war.'' The foregoing provisions have been omitted as temporary.

The words of this section ''on March 3, 1925'' refer to the date of passage of the Act.

CHANGE OF NAME

''National monument and historic shrine'' substituted in text for ''national park, and memorial'' in view of redesignation of Fort McHenry National Park as Fort McHenry National Monument and Historic Shrine by act Aug. 11, 1939, classified to section 440a of this title.

Department of War designated Department of the Army and title of Secretary of War changed to Sec-

retary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Administrative functions of Fort McHenry National Park transferred to Department of the Interior by Ex. Ord. Nos. 6166 and 6228, set out as notes under section 901 of Title 5, Government Organization and Employees.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, by act Mar. 2, 1934, ch. 38, § 1, 48 Stat. 389.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of these sections, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 438. Repairs and improvements; how made

Any and all repairs, improvements, changes, and alterations in the grounds, buildings, and other appurtenances to the reservation shall be made only according to detailed plans which shall be approved by the Secretary of the Interior, and all such repairs, improvements, or alterations shall be made at the expense of the United States, and all such improvements, together with the reservation itself, shall become and remain permanently the property of the United States.

(May 26, 1914, ch. 100, 38 Stat. 382; Mar. 3, 1925, ch. 425, 43 Stat. 1109; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

CODIFICATION

This section and sections 437, 439, and 440 of this title were derived from act Mar. 3, 1925. See Codification note set out under section 437 of this title.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 437 of this title.

TERMINATION OF WAR AND EMERGENCIES

Termination of state of war and national emergencies, see note set out under section 437 of this title.

§ 439. Land for use of Secretary of the Treasury

Permission is granted the Secretary of the Treasury to use permanently a strip of land sixty feet wide belonging to said fort grounds, beginning at the north corner of the grounds of the fort and extending south sixty-three degrees thirty minutes east, six hundred and eighty feet to the south corner of the site set aside for the immigration station at Baltimore, said strip of land being located along the northwest boundary of the land ceded to the Baltimore Dry Dock Company and the land of the said immigration station, the same to be used, if so desired, in lieu of acquiring, by purchase or condemnation, any of the lands of the dry dock company so that the Secretary of the Treasury may, in connection with land acquired from the Baltimore and Ohio Railroad Company, have access to and from said immigration station and grounds over the right-of-way so acquired to the city streets and railroads beyond, the Secretary of the Treasury to have the same power to construct, contract for, and arrange for railroad and other facilities upon said outlet as fully as provided in the Act approved March 4, 1913, chapter 147, Thirty-seventh Statutes 889, setting aside a site for an immigration station and providing for an outlet therefrom, but the Interior Department shall have equal use of the railroad track and other roads so constructed, over which to reach the city streets and railroads beyond from the other part of the fort grounds.

(May 26, 1914, ch. 100, 38 Stat. 382; Mar. 3, 1925, ch. 425, 43 Stat. 1109; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933; June 5, 1936, ch. 528, 49 Stat. 1484.)

REFERENCES IN TEXT

The Act approved March 4, 1913, chapter 147, Thirty-seventh Statutes 889, referred to in text, was a building authorization statute. The portion of the Act covering the Fort McHenry work was section 29, which section was not classified to the Code.

CODIFICATION

This section and sections 437, 438, and 440 of this title were derived from act Mar. 3, 1925. See Codification note set out under section 437 of this title.

AMENDMENTS

1936—Act June 5, 1936, substituted ''six hundred and eighty feet'' for ''six hundred and fifty feet''.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 437 of this title.

TERMINATION OF WAR AND EMERGENCIES

Termination of state of war and national emergencies, see note set out under section 437 of this title.

§ 440. Closure in times of national emergency

The Secretary of the Interior may, in case of a national emergency, close the said Fort McHenry and it may be used for any and all military purposes during the period of the emergency and for such period of time thereafter, as the public needs may require.

(May 26, 1914, ch. 100, 38 Stat. 382; Mar. 3, 1925, ch. 425, 43 Stat. 1109; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

CODIFICATION

A proviso at the close of act Mar. 3, 1925, authorizing the disposal of the useless temporary buildings constructed during the World War and appropriating a sum from the proceeds thereof for the purposes of the act has been omitted as temporary and executed.

This section and sections 437 to 439 of this title were derived from act Mar. 3, 1925. See Codification note set out under section 437 of this title.

TRANSFER OF FUNCTIONS

Transfer of administrative functions of park, see note set out under section 437 of this title.

TERMINATION OF WAR AND EMERGENCIES

Termination of state of war and national emergencies, see note set out under section 437 of this title.

§ 440a. Change in name of Fort McHenry Park

The Fort McHenry National Park, in the State of Maryland, authorized by sections 437 to 440 of this title, shall hereafter be called and known as the ''Fort McHenry National Monument and Historic Shrine'', and all moneys heretofore or hereafter appropriated for this area under previous designations may be used in this area as redesignated.

(Aug. 11, 1939, ch. 686, 53 Stat. 1405.)

CODIFICATION

Section consists of a part of act Aug. 11, 1939. The remainder, relating to changing the name of ''Abraham Lincoln National Park'' to ''Abraham Lincoln National Historical Park'' (now ''Abraham Lincoln Birthplace National Historical Park'') is set out as section 217 of this title.

§ 441. Badlands National Park; establishment

When a quantum, satisfactory to the Secretary of the Interior, of the privately owned lands lying within the area hereinafter described shall have been acquired and transferred to the United States for park purposes, without expense to the Federal Treasury, such areas are dedicated and set apart as a national park for the benefit and enjoyment of the people, under the name of the Badlands National Park: *Provided*, That the State of South Dakota shall have first constructed the highways hereinafter described.

(Mar. 4, 1929, ch. 693, §1, 45 Stat. 1553; Pub. L. 95–625, title VI, §611, Nov. 10, 1978, 92 Stat. 3521.)

REFERENCES IN TEXT

Hereinafter, referred to in text, means act Mar. 4, 1929 which is classified to sections 441 to 441e of this title. For classification of this Act to the Code, see Tables.

CHANGE OF NAME

Words ''park'' and ''Park'' substituted in text for ''monument'' and ''Monument'', respectively, pursuant to Pub. L. 95–625, §611, which is classified to section 441e–1 of this title and which redesignated the Badlands National Monument as the Badlands National Park.

BEN REIFEL VISITOR CENTER

Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1923, provided in part that: ''hereafter the Cedar Pass Visitor Center at Badlands National Park, South Dakota, shall be known as the Ben Reifel Visitor Center''.

§ 441a. Boundaries

The areas to be included in said Badlands National Park are situated in the State of South Dakota and lie within the boundaries particularly described as follows: Beginning at the northeast corner section 13, township 3 south, range 18 east, Black Hills meridian; thence west one-fourth mile; thence south one mile; thence west one-fourth mile; thence south one-fourth mile; thence west one mile; thence south one-fourth mile; thence west one-fourth mile; thence north one mile; thence west one and one-fourth miles; thence north one-half mile; thence west three miles, to the northwest corner section 18, township 3 south, range 18 east, Black Hills meridian.

Thence north one-fourth mile; thence west one-half mile; thence north one-fourth mile; thence west three-fourths mile; thence south one-fourth mile; thence west one-fourth mile; thence north one-fourth mile; thence west one-fourth mile; thence north one-fourth mile; thence west three-fourths mile; thence south one-fourth mile; thence west one-half mile; thence south one-half mile; thence west one mile; thence north one-fourth mile; thence west one-fourth mile; thence north one-fourth mile; thence west one and one-fourth miles; thence north one-fourth mile; thence west one-fourth mile; thence north three-fourths mile; thence west one and one-fourth miles; thence north one-half mile, to the northeast corner section 2, township 3 south, range 16 east, Black Hills meridian.

Thence west one-half mile; thence north one mile; thence west one-fourth mile; thence north one-half mile; thence west three-fourths mile; thence north one-half mile; thence west one-half mile; thence north two miles; thence west eight miles; thence south one-half mile; thence west one mile; thence north one-half mile, to the northeast corner section 13, township 2 south, range 14 east, Black Hills meridian.

Thence west one mile; thence south one mile; thence east one-half mile; thence south one-half mile; thence west one-half mile; thence south two and one-half miles; thence east one and one-fourth miles; thence south one mile; thence east three-fourths mile, to the northeast corner section 7, township 3 south, range 15 east, Black Hills meridian.

Thence south one-fourth mile; thence east one-fourth mile; thence south one-half mile; thence west one-fourth mile; thence south one-fourth mile; thence west one mile; thence south one and three-fourths miles; thence east one mile; thence north three-fourths mile; thence east two miles; thence north one-half mile; thence east three-fourths mile; thence north one-fourth mile; thence east one-half mile; thence north three-fourths mile; thence west one-fourth mile; thence north three-fourths mile; thence west one-fourth mile; thence north one-fourth mile; thence west one-fourth mile; thence north one-fourth mile; thence east one-fourth mile; thence north one-half mile; thence east one mile; thence south one-fourth mile; thence east one and three-fourths miles; thence north one-half mile; thence west one-half mile; thence north one-half mile, to the northwest corner section 31, township 2 south, range 16 east, Black Hills meridian.

Thence east one-half mile; thence south one-fourth mile; thence east one mile; thence south one-fourth mile; thence east one and three-fourths miles; thence south three-fourths mile; thence east three-fourths mile; thence south three-fourths mile; thence east one-half mile; thence south one-fourth mile; thence east one-fourth mile; thence south one-fourth mile; thence east one-fourth mile; thence south one-fourth mile; thence east one-fourth mile; thence south one-fourth mile; thence east one-fourth mile; thence south one-fourth mile; thence east one-fourth mile; thence south one-fourth mile; thence east one-half mile; thence south one and one-fourth miles; thence east three-fourths mile; thence north one-half mile; thence east one-fourth mile, to the northeast corner section 19, township 3 south, range 17 east, Black Hills meridian.

Thence north one-half mile; thence east three-fourths mile; thence south two miles; thence east one and one-half miles; thence north one and one-half miles; thence east two miles; thence south one-fourth mile; thence east one-fourth mile; thence south one-fourth mile; thence east one-half mile; thence south one-fourth mile; thence east one-half mile; thence south one-fourth mile; thence east one-half mile, to the northeast corner section 30, township 3 south, range 18 east, Black Hills meridian.

Thence south three-fourths mile; thence east one-fourth mile; thence south one-fourth mile; thence east one-half mile; thence north one-fourth mile; thence east one and one-fourth miles; thence south one-fourth mile; thence east three miles, to the northeast corner of section 36, township 3 south, range 18 east, Black Hills meridian.

Thence north one mile; thence east one mile; thence north one-half mile; thence west one-fourth mile; thence north one-fourth mile; thence west one-fourth mile; thence north one and one-fourth miles; thence west one-half mile to the point of beginning.

(Mar. 4, 1929, ch. 693, § 2, 45 Stat. 1554; Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

''Park'' substituted for ''Monument'' in first undesignated par. pursuant to Pub. L. 95–625, § 611, which is classified to section 441e–1 of this title and which redesignated Badlands National Monument as Badlands National Park.

EXTENSION OF BOUNDARIES

Act June 26, 1936, ch. 842, title II, § 1, 49 Stat. 1979, provided that the boundaries of the Badlands National Monument as established by this section shall be ''extended to include such lands adjacent or contiguous thereto, in the State of South Dakota, including, but not being restricted to, lands designated as submarginal by the Resettlement Administration, as may be determined by the President, by proclamation, within five years following the approval of this Act, to be necessary for the proper rounding out of the boundaries of said Monument or the administration thereof, providing the entire area of such Monument shall not exceed 250,000 acres.''

LAWS APPLICABLE

The provisions of sections 1, 2, 3, and 4 of this title were made applicable to the above added lands by act June 26, 1936, ch. 842, title II, § 2, 49 Stat. 1979.

§ 441b. Construction of highway by State of South Dakota

The establishment of said park is conditioned upon the State of South Dakota first constructing the following highway in a manner satisfactory to the Secretary of the Interior: A highway commencing at the corporation limits of the town of Interior, thence going in a northwesterly direction to and over Big Foot Pass, and through the region known as The Pinnacles; thence in a westerly direction to Sage Creek, being a total distance of about thirty miles.

(Mar. 4, 1929, ch. 693, § 3, 45 Stat. 1555; Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

Word ''park'' substituted in text for ''monument'' pursuant to Pub. L. 95–625, § 611, which is classified to section 441e–1 of this title and which redesignated Badlands National Monument as Badlands National Park.

§ 441c. Administration, protection, and promotion; franchises for hotel and lodge accommodations

The administration, protection, and promotion of said Badlands National Park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title: *Provided*, That in advance of the fulfillment of the conditions herein the Secretary of the Interior may grant franchises for hotel and for lodge accommodations under the provisions of this section.

(Mar. 4, 1929, ch. 693, § 4, 45 Stat. 1555; Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

''Park'' substituted in text for ''Monument'' pursuant to Pub. L. 95–625, § 611, which is classified to section 441e–1 of this title and which redesignated Badlands National Monument as Badlands National Park.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 441d. Examinations, excavations, and gathering of objects of interest within park

The Secretary of the Interior is authorized to permit examinations, excavations, and gathering of objects of interest within said park by any person or persons whom he may deem properly qualified to conduct such examinations, excavations, or gatherings, subject to such rules and regulations as he may prescribe: *Provided*, That the examinations, excavations, and gatherings are undertaken only for the benefit of some reputable museum, university, college, or other recognized scientific or educational institution, with a view to increasing the knowledge of such objects and aiding the general advancement of geological and zoological science.

(Mar. 4, 1929, ch. 693, § 5, 45 Stat. 1555; Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

Word ''park'' substituted in text for ''monument'' pursuant to Pub. L. 95–625, § 611, which is classified to section 441e–1 of this title and which redesignated Badlands National Monument as Badlands National Park.

§ 441e. Effective date of sections 441 to 441d

Sections 441 to 441d of this title shall become effective if and when all of the above conditions shall have been fully complied with to the satisfaction of the President of the United States, who shall then issue a proclamation declaring that the conditions precedent herein required have been complied with, and said proclamation shall formally dedicate and set aside the areas herein described in accordance with the provisions of section 441 of this title.

(Mar. 4, 1929, ch. 693, § 6, 45 Stat. 1555.)

PROCLAMATION NO. 2320

Proclamation declaring that conditions precedent required by sections 441 to 441d of this title have been complied with, and formally dedicating and setting aside the areas therein described was issued by the President on Jan. 25, 1939. See Proc. No. 2320, Jan. 25, 1939, 4 F.R. 457, 53 Stat. 2521.

§ 441e–1. Change in name of Badlands National Monument

The area formerly known as the ''Badlands National Monument'', established by Presidential Proclamation of January 25, 1939 (53 Stat. 2521), shall henceforth be known as the ''Badlands National Park''.

(Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

§ 441f. Adjustment and redefinition of boundaries

In order to establish a more appropriate boundary for the Badlands National Park and to consolidate Federal land ownership therein, the Secretary of the Interior, in his discretion, is authorized to adjust and redefine the exterior boundaries of the national park by appropriate reductions or additions of land: *Provided*, That the total acreage of the national park, as revised pursuant to sections 441f to 441i of this title, shall not exceed its area of approximately one hundred fifty-four thousand one hundred and nineteen acres as of May 7, 1952.

(May 7, 1952, ch. 244, § 1, 66 Stat. 65; Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

CODIFICATION

Reference to the monument's approximately 154,119 acre area as of ''May 7, 1952'' was substituted for a reference in the original to the monument's ''present'' area.

CHANGE OF NAME

Words ''Park'' and ''park'' substituted in text for ''Monument'' and ''monument'', respectively, pursuant to Pub. L. 95–625, § 611, which is classified to section 441e–1 of this title and which redesignated Badlands National Monument as Badlands National Park.

§ 441g. Orders to effectuate revision of boundaries; publication

The revision of boundaries of the national park, as authorized in section 441f of this title, shall be accomplished by the issuance, by the Secretary of the Interior, of an appropriate order, or orders, such order or orders to be effective upon publication in the Federal Register: *Provided*, That federally owned land under the administrative jurisdiction of any other department or agency of the Federal Government shall be included within the park only with the approval of the head of such department or agency.

(May 7, 1952, ch. 244, § 2, 66 Stat. 65; Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

REFERENCES IN TEXT

Section 441f of this title, referred to in text, was in the original ''sections 1 and 5 of this Act''. Section 1 of the Act is classified to section 441f of this title. Section 5 is probably a reference to section 5 of the original bill, which would have authorized the inclusion of up to 4,000 acres of the Pine Ridge Indian Reservation within the Badlands National Monument. Such section 5 was stricken from the bill by Senate amendment, and as enacted the Act contained only four sections.

CHANGE OF NAME

Word ''park'' substituted in text for ''monument'' pursuant to Pub. L. 95–625, § 611, which is classified to section 441e–1 of this title and which redesignated Badlands National Monument as Badlands National Park.

§ 441h. Jurisdiction of mining and mineral rights; patents

Administrative jurisdiction over all Federal lands eliminated from the park, by the issuance of an order or orders of the Secretary of the Interior, is transferred to the Secretary of Agriculture for use, administration, and disposition in accordance with the provisions of title III of the Bankhead-Jones Farm Tenant Act [7 U.S.C. 1010 et seq.] and the related provisions of title IV thereof: *Provided*, That all of such lands formerly set apart and reserved from the public domain shall be subject to the mining and minerals-leasing laws: *And provided further*, That any disposition of any such lands formerly set apart and reserved from the public domain shall be evidenced by patents issued by the Secretary of the Interior.

(May 7, 1952, ch. 244, § 3, 66 Stat. 65; Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

REFERENCES IN TEXT

The Bankhead-Jones Farm Tenant Act, referred to in text, is act July 22, 1937, ch. 517, 50 Stat. 522, as amended. Title III of the Act is classified generally to subchapter III (§ 1010 et seq.) of chapter 33 of Title 7, Agriculture. Title IV thereof, referred to in text, which was classified to sections 1014 to 1029 of title 7, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, and by Pub. L. 87–128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318. For complete classification of this Act to the Code, see section 1000 of Title 7 and Tables.

CHANGE OF NAME

Word ''park'' substituted in text for ''monument'' pursuant to Pub. L. 95–625, § 611, which is classified to section 441e–1 of this title and which redesignated Badlands National Monument as Badlands National Park.

§ 441i. Exchanges of land

In order that exchanges of land may be effectuated for the purposes of sections 441f to 441i of this title, the Secretary of the Interior is authorized, in his discretion and in accordance with the provisions of sections 3111 and 3112 of title 40, to accept, on behalf of the United States, title to any land or interests in land within the exterior boundaries of the Badlands National Park as revised pursuant to sections 441f to 441i of this title, and, in exchange therefor, with the approval and concurrence of the Secretary of Agriculture, the Secretary of the Interior may patent lands of approximately equal value which were formerly set apart and reserved from the public domain within the Badlands Fall River soil conservation project, SD–LU–1. In effectuating such exchanges, in lieu of conveyances by the Secretary of the Interior, the Secretary of Agriculture may convey lands of approximately equal value within said project which have been acquired heretofore by the United States. All such exchanges shall, in all

other respects, be considered as exchanges under the provisions of section 32c,[1] title III, of the Bankhead-Jones Farm Tenant Act [7 U.S.C. 1011(c)] and shall otherwise be in accordance with provisions of said Act [7 U.S.C. 1000 et seq.]; except that, upon acceptance of title to any lands so acquired by the United States under this section, such lands and any other lands acquired otherwise by the United States within the park boundaries shall be a part of that area. In consummating land exchanges hereunder upon an equitable basis, patents and instruments of conveyance may be issued, and property may be accepted, by the United States, subject to such reservations as may be necessary or in the public interest.

(May 7, 1952, ch. 244, § 4, 66 Stat. 66; Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

REFERENCES IN TEXT

The Bankhead-Jones Farm Tenant Act, referred to in text, is act July 22, 1937, ch. 517, 50 Stat. 522, as amended, which is classified generally to chapter 33 (§ 1000 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1000 of Title 7 and Tables.

CODIFICATION

''Sections 3111 and 3112 of title 40'' substituted in text for ''section 355 of the Revised Statutes'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

CHANGE OF NAME

Words ''Park'' and ''park'' substituted in text for ''Monument'' and ''monument'', respectively, pursuant to Pub. L. 95–625, § 611, which is classified to section 441e–1 of this title and which redesignated Badlands National Monument as Badlands National Park.

§ 441j. Revision of boundaries

In order to include lands of outstanding scenic and scientific character in the Badlands National Park, the boundaries of the park are revised as generally depicted on the map entitled ''Badlands National Monument'', numbered NM–BL–7021B, dated August 1967, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior may make minor adjustments in the boundaries, but the total acreage in the park may not exceed the acreage within the boundaries depicted on the map referred to herein. Lands within the boundaries of the park that are acquired by the United States shall be subject to the laws and regulations applicable to the park.

(Pub. L. 90–468, § 1, Aug. 8, 1968, 82 Stat. 663; Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

Words ''Park'' and ''park'' substituted in text for ''Monument'' and ''monument'', respectively, pursuant to Pub. L. 95–625, § 611, which is classified to section 441e–1 of this title and which redesignated Badlands National Monument as Badlands National Park.

[1] So in original. Probably should be ''32(c),''.

§ 441k. Acquisition of property for park

(a) Consent of State or Oglala Sioux Tribe of South Dakota; transfer from Federal agency

Subject to the provisions of subsection (b) of this section, the Secretary of the Interior may, within the boundaries of the park, acquire lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange, except that any lands or interests in lands owned by the State of South Dakota, a political subdivision thereof, or the Oglala Sioux Tribe of South Dakota may be acquired only with the consent of owner. Notwithstanding any other provision of law, lands and interests in lands located within the park under the administrative jurisdiction of any other Federal agency may be transferred to the administrative jurisdiction of the Secretary without a transfer of funds.

(b) Easements

As to lands located within the boundaries of the park but outside the boundaries of the gunnery range referred to in section 441*l* of this title, the Secretary of the Interior may acquire only rights-of-way and scenic easements.

(Pub. L. 90–468, § 2, Aug. 8, 1968, 82 Stat. 663; Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

Word ''park'' substituted in text for ''monument'' pursuant to Pub. L. 95–625, § 611, which is classified to section 441e–1 of this title and which redesignated Badlands National Monument as Badlands National Park.

§ 441*l*. Exchange of lands; transfer from Federal agency to administrative jurisdiction of Secretary; terms and conditions of purchase

Inasmuch as (A) most of the lands added to the Badlands National Park by section 441j of this title are inside the boundaries of the Pine Ridge Sioux Indian Reservation, (B) such lands are also within a tract of land forty-three miles long and twelve and one-half miles wide which is in the north-western part of such Indian reservation and has been used by the United States Air Force as a gunnery range since the early part of World War II, (C) the tribal lands within such gunnery range were leased by the Federal Government and the other lands within such gunnery range were purchased by the Federal Government from the individual owners (mostly Indians), (D) the Department of the Air Force has declared most of such gunnery range lands excess to its needs and such excess lands have been requested by the National Park Service under chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, (E) the leased tribal lands and the excess lands within the enlarged Badlands National Park are needed for the park, (F) the other excess lands in such gunnery range should be restored to the former Indian owners of such lands, and (G) the tribe is unwilling to sell its tribal lands for inclusion in the national park, but is willing to exchange them or interests therein for the excess gunnery range lands, which, insofar as the lands within the gunnery range formerly held by the tribe are concerned,

should be returned to Indian ownership in any event, the Congress hereby finds that such exchange would be in the national interest and authorizes the following actions:

(a) All Federal lands and interests in lands within the Badlands Air Force gunnery range that are outside the boundaries of the park and that heretofore or hereafter are declared excess to the needs of the Department of the Air Force shall be transferred to the administrative jurisdiction of the Secretary of the Interior without a transfer of funds.

(b) Any former Indian or non-Indian owner of a tract of such land, whether title was held in trust or fee, may purchase such tract from the Secretary of the Interior under the following terms and conditions:

(1) The purchase price to a former Indian owner shall be the total amount paid by the United States to acquire such tract and all interests therein, plus interest thereon from the date of acquisition at a rate determined by the Secretary of the Treasury taking into consideration the average market yield of all outstanding marketable obligations of the United States at the time the tract was acquired by the United States, adjusted to the nearest one-eighth of 1 per centum. The purchase price to a former non-Indian owner shall be present fair market value of the tract as determined by the Secretary of the Interior.

(2) Not less than $100 or 20 per centum of the purchase price, whichever is less, shall be paid at the time of purchase, and the balance shall be payable in not to exceed 20 years with interest at a rate determined by the Secretary of the Treasury taking into account the current average market yield on outstanding marketable obligations of the United States with twenty years remaining to date of maturity, adjusted to the nearest one-eighth of 1 per centum.

(3) Title to the tract purchased shall be held in trust for the purchaser if it was held in trust status at the time the tract was acquired by the United States; otherwise, the title to the tract purchased shall be conveyed to the purchaser subject to a mortgage and such other security instruments as the Secretary deems appropriate. If a tract purchased under this subsection is offered for resale during the following ten-year period, the tribe must be given the first right to purchase it.

(4) The unpaid balance of the purchase price shall be a lien against the land if the title is held in trust and against all rents, bonuses, and royalties received therefrom. In the event of default in the payment of any installment of the purchase price the Secretary may take such action to enforce the lien as he deems appropriate, including foreclosure and conveyance of the land to the Oglala Sioux Tribe.

(5) An application to purchase the tract must be filed with the Secretary of the Interior within one year from the date a notice is published in the Federal Register that the tract has been transferred to the jurisdiction of the Secretary.

(6) No application may be filed by more than five of the former owners of an interest in the tract. If more than one such application is filed for a tract the applicants must agree on not more than five of the former owners who shall make the purchase, and failing such agreement all such applications for the tract shall be rejected by the Secretary.

(7) ''Former owner'' means, for the purposes of subsection (b) of this section, each person from whom the United States acquired an interest in the tract, or if such person is deceased, his spouse, or if such spouse is deceased, his children.

(Pub. L. 90–468, § 3, Aug. 8, 1968, 82 Stat. 663; Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

CODIFICATION

In subpar. (D) of introductory provisions, ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

CHANGE OF NAME

In provision preceding subsec. (a) and in subsec. (a), ''Park'' and ''park'' substituted for ''Monument'' and ''monument'', respectively, pursuant to Pub. L. 95–625, § 611, which is classified to section 441e–1 of this title and which redesignated Badlands National Monument as Badlands National Park.

§ 441m. Disposition of excess gunnery range lands and reservation lands; purchase; terms and conditions; life estates and use restrictions

(a) Gunnery range lands; reservation lands

All Federal lands and interests in lands within the Badlands Air Force gunnery range that are outside the boundaries of the park, and that have been declared excess to the needs of the Department of the Air Force, and that are not purchased by former owners under section 441*l*(b) of this title, and all lands that have been acquired by the United States under authority of title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), and subsequent relief Acts, situated within the Pine Ridge Indian Reservation, administrative jurisdiction over which has heretofore been transferred by the President from the Secretary of Agriculture to the Secretary of the Interior by Executive Order Numbered 7868, dated April 15, 1938, shall be subject to the following provisions of this section.

(b) Purchases

Any former Indian owner of land that is within the Badlands Air Force gunnery range and outside the boundaries of the park and that has not been declared excess to the needs of the Department of the Air Force on August 8, 1968, may, within the period specified in section 441*l*(b)(5) of this title, elect (i) to purchase an available tract of land described in subsection (a) of this section of substantially the same value, or (ii) to purchase the tract formerly owned by him at such time as such tract is declared excess and transferred to the Secretary of the Interior as provided in section 441*l*(a) of this title.

(c) Life estates and use restrictions

Any former Indian owner of a tract of land within the boundaries of the park that was acquired by the United States for the Badlands Air Force gunnery range, and that is transferred to the Secretary of the Interior pursuant to section 441k of this title, may, within the period specified in section 441*l*(b)(5) of this title, elect (i) to acquire from the Secretary of the Interior a life estate in such tract at no cost, subject to restrictions on use that may be prescribed in regulations applicable to the park, or (ii) to purchase an available tract of land described in subsection (a) of this section of substantially the same value.

(d) Purchase restrictions

Purchases under subsection (b) and clause (ii) of subsection (c) of this section shall be made on the terms provided in section 441*l*(b) of this title.

(Pub. L. 90–468, § 4, Aug. 8, 1968, 82 Stat. 664; Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

REFERENCES IN TEXT

The National Industrial Recovery Act of June 16, 1933, referred to in subsec. (a), is act June 16, 1933, ch. 90, 48 Stat. 195, as amended. Title II of the Act was classified principally to subchapter I (§ 401 et seq.) of chapter 8 of former Title 40, Public Buildings, Property, and Works, and was terminated June 30, 1943 by act June 27, 1942, ch. 450, § 1, 56 Stat. 410. Provisions of title II of the Act which were classified to former Title 40 were repealed by Pub. L. 107–217, § 6(b), Aug. 21, 2002, 116 Stat. 1304. For complete classification of this Act to the Code, see Tables.

Executive Order Numbered 7868, dated April 15, 1938, referred to in subsec. (a), was not classified to the Code.

CHANGE OF NAME

Word ''park'' substituted for ''monument'' in subsecs. (a) to (c) pursuant to Pub. L. 95–625, § 611, which is classified to section 441e–1 of this title and which redesignated Badlands National Monument as Badlands National Park.

§ 441n. Lands outside gunnery range; exchange of lands; reservation of mineral rights; grazing and mineral development rights of Indians; execution of instruments; trust title

(a) Exchange of lands; mineral and grazing rights

Title to all Federal lands and interests in lands within the boundaries of the Badlands Air Force gunnery range that are outside the boundaries of the park, and that are transferred to the administrative jurisdiction of the Secretary of the Interior as provided in section 441*l*(a) of this title, including lands hereafter declared to be excess, and that are not selected under sections 441*l*(b) or 441m of this title, and title to all lands within the boundaries of the park that were acquired by the United States for the Badlands Air Force gunnery range, subject to any life estate conveyed pursuant to section 441m(c) of this title and subject to restrictions on use that may be prescribed in regulations applicable to the park, which regulations may include provisions for the protection of the black-footed ferret, may be conveyed to the Oglala Sioux Tribe in exchange (i) for the right of the United States to use all tribal land within the park for park purposes, including the right to manage fish and wildlife and other resources and to construct visitor use and administrative facilities thereon, and (ii) for title to three thousand one hundred fifteen and sixty-three one-hundredths acres of land owned by the Oglala Sioux Tribe and located in the area of the Badlands Air Force gunnery range which is not excess to the needs of the Department of the Air Force and which is encompassed in civil action numbered 859 W.D. in the United States District Court for the District of South Dakota, if such exchange is approved by the Oglala Sioux Tribal Council. The lands acquired under paragraph (ii) shall become a part of the Badlands Air Force gunnery range retained by the Department of the Air Force. The United States and the Oglala Sioux Tribe shall reserve all mineral rights in the lands so conveyed. The right of the United States to use for park purposes lands that were tribally owned prior to August 8, 1968, shall not impair the right of the Oglala Sioux Tribe to use such lands for grazing purposes and mineral development, including development for oil and gas.

(b) Execution of instruments

The Oglala Sioux Tribal Council may authorize the execution of the necessary instruments to effect the exchange on behalf of the tribe, and the Secretary may execute the necessary instruments on behalf of the United States.

(c) Trust title

After the exchange is effected the title of the Oglala Sioux Tribe to the property acquired by the exchange shall be held in trust subject to the same restrictions and authorities that apply to other lands of the tribe that are held in trust.

(Pub. L. 90–468, § 5, Aug. 8, 1968, 82 Stat. 665; Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

Word ''park'' substituted for ''monument'' in subsec. (a) pursuant to Pub. L. 95–625, § 611, which is classified to section 441e–1 of this title and which redesignated Badlands National Monument as Badlands National Park.

§ 441*o*. Facilities for interpretation of park and history of Sioux Nation; conveyance of reservation lands; submission of terms to Congressional committees

The Oglala Sioux Tribe may convey and the Secretary of the Interior may acquire not to exceed forty acres of tribally owned lands on the Pine Ridge Indian Reservation for the purpose of erecting thereon permanent facilities to be used to interpret the natural phenomena of the park and the history of the Sioux Nation: *Provided*, That no such conveyance shall be made until sixty days after the terms thereof have been submitted to the Interior and Insular Affairs Committees of the House of Representatives and the Senate.

(Pub. L. 90–468, § 6, Aug. 8, 1968, 82 Stat. 666; Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

Word ''park'' substituted in text for ''monument'' pursuant to Pub. L. 95–625, § 611, which is classified to

section 441e–1 of this title and which redesignated Badlands National Monument as Badlands National Park.

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 442. George Washington Birthplace National Monument

The land owned by the United States at Wakefield, Westmoreland County, Virginia, and all structures thereon shall constitute the George Washington Birthplace National Monument at Wakefield, Virginia, which is established and set apart for the preservation of the historical associations connected therewith, for the benefit and enjoyment of the people, and the said national monument shall be after January 23, 1930, administered by the National Park Service under the direction of the Secretary of the Interior subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(Jan. 23, 1930, ch. 24, §§ 1, 2, 46 Stat. 58.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

GEORGE WASHINGTON'S BOYHOOD HOME, FERRY FARM

Pub. L. 105–355, title V, § 509, Nov. 6, 1998, 112 Stat. 3264, provided that:

''(a) ACQUISITION OF EASEMENT.—The Secretary of the Interior may acquire no more than a less than fee interest in the property generally known as George Washington's Boyhood Home, Ferry Farm, located in Stafford County, Virginia, across the Rappahannock River from Fredericksburg, Virginia, comprising approximately 85 acres as generally depicted on the map entitled 'George Washington Birthplace National Monument Boundary Map', numbered 322/80,020, and dated April 1998, to ensure the preservation of the important cultural and natural resources associated with Ferry Farm. The Secretary of the Interior shall keep the map on file and available for public inspection in appropriate offices of the National Park Service.

''(b) MANAGEMENT OF EASEMENT.—The Secretary shall enter into a cooperative agreement with Kenmore Association, Inc., for the management of Ferry Farm pending completion of the study referred to in subsection (c).

''(c) RESOURCE STUDY.—Not later than 18 months after the date on which funds are made available to carry out this section, the Secretary of the Interior shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives a resource study of the property described in subsection (a). The study shall—

''(1) identify the full range of resources and historic themes associated with Ferry Farm, including those associated with George Washington's tenure at the property and those associated with the Civil War period;

''(2) identify alternatives for further National Park Service involvement at the property beyond those that may be provided for in the acquisition authorized under subsection (a); and

''(3) include cost estimates for any necessary acquisition, development, interpretation, operation, and maintenance associated with the alternatives identified.

''(d) AGREEMENTS.—Upon completion of the resource study under subsection (c), the Secretary of the Interior may enter into an agreement with the owner of the property described in subsection (a) or other entities for the purpose of providing programs, services, facilities, or technical assistance that further the preservation and public use of the property.''

REVISION OF BOUNDARIES; ACQUISITION OF LANDS; ADMINISTRATION; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 107–354, Dec. 17, 2002, 116 Stat. 2984, provided that:

''SECTION 1. ADDITION TO NATIONAL MONUMENT.

''The boundaries of the George Washington Birthplace National Monument (hereinafter referred to as the 'National Monument') are hereby modified to include the area comprising approximately 115 acres, as generally depicted on the map entitled 'George Washington Birthplace National Monument Boundary Map', numbered 332/80,023 and dated October 2001, which shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

''SEC. 2. ACQUISITION OF LANDS.

''Within the boundaries of the National Monument, the Secretary of the Interior (hereinafter referred to as the 'Secretary') is authorized to acquire lands, or interests therein, from willing owners by donation, purchase with donated money or appropriated funds, or exchange.

''SEC. 3. ADMINISTRATION OF NATIONAL MONUMENT.

''In administering the National Monument, the Secretary shall take actions necessary to preserve and interpret the history and resources associated with George Washington, the generations of the Washington family who lived in the vicinity and their contemporaries, and 18th century plantation life and society.''

Pub. L. 103–25, May 3, 1993, 107 Stat. 68, provided that:

''SECTION 1. ADDITION TO NATIONAL MONUMENT.

''The boundaries of the George Washington Birthplace National Monument (hereinafter referred to as the 'National Monument') are hereby modified to include the area comprising approximately 12 acres, as generally depicted on the map entitled 'George Washington Birthplace National Monument Boundary Map', numbered 332/80,011A and dated September 1992, which shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

''SEC. 2. ACQUISITION OF LANDS.

''Within the boundaries of the National Monument, the Secretary of the Interior (hereinafter referred to as the 'Secretary') is authorized to acquire lands, or interests therein, by donation, purchase with donated or appropriated funds, or exchange.

''SEC. 3. ADMINISTRATION OF NATIONAL MONUMENT.

''In administering the National Monument, the Secretary shall take such action as is necessary to preserve and interpret the history and resources associated with George Washington, the generations of the Washington family who lived in the vicinity, and their contemporaries, as well as 18th century plantation life and society.

''SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary to carry out this Act.''

ADDITIONAL LANDS

Additional lands were added to and made part of the monument by Presidential Proc. No. 1944, Mar. 30, 1931, 47 Stat. 2446.

§§ 443 to 443f. Transferred

CODIFICATION

Sections, acts July 3, 1930, ch. 837, §§1–7, 46 Stat. 856; Mar. 3, 1931, ch. 405, 46 Stat. 1490; June 5, 1936, ch. 525, §§1, 2, 49 Stat. 1483, which related to Colonial National Historical Park, were transferred to sections 81, 81a, 81c, and 81e to 81i of this title.

§ 444. Petrified Forest National Monument; elimination of private holdings of land within boundaries; exchange of lands

The Secretary of the Interior, for the purpose of eliminating private holdings of land within the Petrified Forest National Monument, Arizona, is empowered, in his discretion, to obtain for the United States the complete title to any or all of the lands held in private ownership within the boundaries of the Petrified Forest National Monument, Arizona, as now or as may be hereafter defined, by accepting from the owners of such privately owned lands complete relinquishment thereof and by granting and patenting to such owners in exchange therefor, in each instance, like public lands of equal value situated in Navajo and/or Apache Counties, in the State of Arizona, after due notice of the proposed exchange has been given by publication for not less than thirty days in the counties where the lands proposed to be exchanged or taken in exchange are located: *Provided*, That the Secretary of the Interior shall, on application or otherwise, designate public lands located outside the extreme boundaries of the said monument subject to exchange under this section which are, in his opinion, chiefly valuable for grazing and raising forage crops, do not contain merchantable timber, are not susceptible of irrigation from any known source of water supply, and are of character similar to the privately owned lands offered in exchange.

(May 14, 1930, ch. 271, §1, 46 Stat. 278.)

DISESTABLISHMENT OF PETRIFIED FOREST NATIONAL MONUMENT

Disestablishment of Petrified Forest National Monument upon establishment of Petrified Forest National Park, see section 119 of this title.

§ 444a. Ascertainment of value of lands offered for exchange; evidence of title

The value of all patented lands within said monument offered for exchange, and the value of the lands of the United States to be given in exchange therefor, shall be ascertained in such manner as the Secretary of the Interior may direct; and the owners of such privately owned lands within said monument shall, before any exchange is effective, furnish the Secretary of the Interior evidence satisfactory to him of title to the patented lands offered in exchange; and lands conveyed to the United States under section 444 of this title shall be and remain a part of the Petrified Forest National Monument.

(May 14, 1930, ch. 271, §2, 46 Stat. 278.)

DISESTABLISHMENT OF PETRIFIED FOREST NATIONAL MONUMENT

Disestablishment of Petrified Forest National Monument upon establishment of Petrified Forest National Park, see section 119 of this title.

§ 445. Canyon De Chelly National Monument; establishment; boundaries

With the consent of the tribal council of the Navajo Tribe of Indians, the President of the United States is authorized to establish by presidential proclamation the Canyon De Chelly National Monument, within the Navajo Indian Reservation, Arizona, including the lands hereinafter described.

All lands in Del Muerto, De Chelly, and Monument Canyons, in the canyons tributary thereto, and the lands within one-half mile of the rims of the said canyons, situated in unsurveyed townships 4 and 5 north, range 7 west; townships 4, 5, and 6 north, range 8 west; townships 4 and 5 north, range 9 west; and in surveyed townships 4 and 5 north, range 6 west; townships 3, 6, and 7 north, range 7 west; township 6 north, range 9 west; and township 5 north, range 10 west; embracing about eighty-three thousand eight hundred and forty acres, all of the Navajo meridian, in Arizona.

(Feb. 14, 1931, ch. 188, §1, 46 Stat. 1161; Mar. 1, 1933, ch. 161, 47 Stat. 1419.)

AMENDMENTS

1933—Act Mar. 1, 1933, redescribed lands referred to in second par.

ESTABLISHMENT OF MONUMENT; BOUNDARIES

Monument and boundaries established by Presidential Proc. No. 1945, Apr. 1, 1931, 47 Stat. 2448; Proc. No. 2036, Mar. 3, 1933, 47 Stat. 2562.

§ 445a. Rights and privileges of Navajo Indians in canyons

Nothing herein shall be construed as in any way impairing the right, title, and interest of the Navajo Tribe of Indians which they now have and hold to all lands and minerals, including oil and gas, and the surface use of such lands for agricultural, grazing, and other purposes, except as defined in section 445b of this title; and the said tribe of Indians is granted the preferential right, under regulations to be prescribed by the Secretary of the Interior, of furnishing riding animals for the use of visitors to the monument.

(Feb. 14, 1931, ch. 188, §2, 46 Stat. 1161.)

REFERENCES IN TEXT

Herein, referred to in text, means act Feb. 14, 1931, which is classified to sections 445 to 445b of this title. For complete classification of this Act to the Code, see Tables.

§ 445b. Administration by National Park Service; powers and duties

The National Park Service, under the direction of the Secretary of the Interior, is charged with the administration of the area of said national monument, so far as it applies to the care, maintenance, preservation and restoration of the prehistoric ruins, or other features of sci-

entific or historical interest within the area, and shall have the right to construct upon the lands such roads, trails, or other structures or improvements as may be necessary in connection with the administration and protection of the monument, and also the right to provide facilities of any nature whatsoever required for the care and accommodation of visitors to the monument.

(Feb. 14, 1931, ch. 188, § 3, 46 Stat. 1161.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 445c. Pipestone National Monument

(a) Establishment; boundaries

The lands lying in Pipestone County, Minnesota, within the area hereinafter described are dedicated and set apart as a national monument for the benefit and enjoyment of the people of the United States, under the name of the ''Pipestone National Monument'': Beginning at a point twenty-two and four-tenths feet north and forty-five and eight one-hundredths feet west of the southwest corner of section 1, township 106 north, range 46 west, fifth principal meridian; thence north one thousand six hundred and fifty-five feet; thence north eighty-nine degrees fifteen minutes east, seven hundred and eight feet; thence north no degrees forty-five minutes west, six hundred and seven and three-tenths feet; thence north sixty-two degrees five minutes east, nine hundred and eighty-seven and one-tenth feet; thence south twenty-seven degrees fifty-five minutes east, two hundred and sixty-four and five-tenths feet; thence south eighty-eight degrees nineteen minutes east, nine hundred and sixty-seven and five-tenths feet; thence south no degrees twenty-four minutes east, one hundred and forty-four and three-tenths feet; thence south eighty-three degrees forty-three minutes west, four hundred and seventy-two and four-tenths feet; thence south two degrees seventeen minutes east, two thousand two hundred and forty-nine feet; thence south eighty-nine degrees twenty minutes west, four hundred and fifty-eight and two-tenths feet; thence south no degrees no minutes east, one hundred and one and one-tenth feet; thence south ninety degrees no minutes west, one hundred and thirty-seven and two-tenths feet; thence north no degrees no minutes west, one hundred feet; thence south eighty-nine degrees twenty minutes west, one thousand six hundred and eighty-three and eight-tenths feet to the point of beginning; containing approximately one hundred and fifteen and eighty-six one-hundredths acres, including concourse, excluding from the area described herein forty-seven one-hundredths acres, constituting a right-of-way of the Chicago, Rock Island and Pacific Railway.

(b) Administration, protection, and development

The administration, protection, and development of such monument shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(c) Quarry rights of Indians

The quarrying of the red pipestone in the lands described in subsection (a) of this section is expressly reserved to Indians of all tribes, under regulations to be prescribed by the Secretary of the Interior.

(Aug. 25, 1937, ch. 768, §§ 1–3, 50 Stat. 804, 805.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 445d. Acquisition of additional lands, Pipestone School Reserve and non-Federal land; redefining of boundaries; quarry rights of Indians

The Secretary of the Interior is authorized to add to the Pipestone National Monument such part of the Pipestone school reserve, not exceeding two hundred and fifty acres, as he deems necessary to protect archeological remains, to acquire by purchase or condemnation not exceeding ten acres of non-Federal land, as he deems necessary to improve the boundary and administration of the Pipestone National Monument Federal land, and to redefine the exterior boundaries of the Pipestone National Monument to include the lands so transferred and acquired pursuant to this section. All lands added to the Pipestone National Monument pursuant to this section shall be subject to the provisions of subsections (b) and (c) of section 445c of this title.

(June 18, 1956, ch. 401, 70 Stat. 290.)

§ 446. Sites for tablets at Antietam; care and supervision

All lands acquired by the United States, whether by purchase, gift, or otherwise, for the purposes of sites for tablets for the marking of the lines of battle of the Army of the Potomac and of the Army of Northern Virginia at Antietam, and of the position of each of the forty-three different commands of the Regular Army engaged in the battle of Antietam, shall be under the care and supervision of the Secretary of the Interior.

(Aug. 30, 1890, ch. 837, § 1, 26 Stat. 401; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

TRANSFER OF FUNCTIONS

Administrative functions of certain national military parks transferred to Department of the Interior by Ex. Ord. Nos. 6166 and 6228, set out in notes under section 901 of Title 5, Government Organization and Employees.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, by act Mar. 2, 1934, ch. 38, § 1, 48 Stat. 389.

§ 447. Repealed. Pub. L. 94–429, § 3(d), Sept. 28, 1976, 90 Stat. 1342

Section, act June 13, 1933, ch. 70, 48 Stat. 139, extended mining laws of United States to lands within the park subject to regulation by Secretary of the Interior.

MINING RIGHTS EXISTING PRIOR TO SEPTEMBER 28, 1976

Section 3 of Pub. L. 94–429 provided in part that this section was repealed in order to close area to entry and location under the Mining Law of 1872, subject to valid existing rights.

§ 447a. Ocmulgee National Monument; establishment; acquisition of property

When title to lands commonly known as the ''Old Ocmulgee Fields'', upon which certain Indian mounds of great historical importance are located, comprising approximately two thousand acres, in and around the city of Macon, County of Bibb, State of Georgia, as shall be designated by the Secretary of the Interior, in the exercise of his judgment and discretion as necessary for national-monument purposes, shall have been vested in the United States, said area shall be set aside as a national monument, by proclamation of the President, and shall be known as the ''Ocmulgee National Monument'': *Provided*, That the United States shall not purchase by appropriation of public moneys any lands within the aforesaid area, but such lands shall be secured by the United States only by public or private donation.

(June 14, 1934, ch. 519, § 1, 48 Stat. 958.)

ESTABLISHMENT OF MONUMENT; BOUNDARIES

Monument and boundaries established by Presidential Proc. No. 2212, Dec. 23, 1936, 50 Stat. 1798; Proc. No. 2493, June 13, 1941, 55 Stat. 1655; Pub. L. 102–67, July 9, 1991, 105 Stat. 325.

§ 447b. Donation of property; condemnation proceedings

The Secretary of the Interior is authorized to accept donations of land, interests in land, buildings, structures, and other property, within the boundaries of said national monument as determined and fixed hereunder and donations of funds for the purchase and/or maintenance thereof, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Interior: *Provided*, That he may acquire on behalf of the United States under any donated funds by purchase when purchasable at prices deemed by him reasonable, otherwise by condemnation under the provisions of section 3113 of title 40, such tracts of land within the said national monument as may be necessary for the completion thereof.

(June 14, 1934, ch. 519, § 2, 48 Stat. 959.)

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 447c. Administration, protection, and development

The administration, protection, and development of the Ocmulgee National Monument shall be under the supervision of the Secretary of the Interior subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(June 14, 1934, ch. 519, § 3, 48 Stat. 959.)

§ 448. Pioneer National Monument; establishment

When title to the sites of Fort Boonesborough, Boones Station, Bryans Station, and Blue Licks Battlefield, in the State of Kentucky, comprising noncontiguous tracts to be united by a Memorial Highway, together with such historical structures and remains thereon, as may be designated by the Secretary of the Interior as necessary or desirable for national-monument purposes and for the proper commemoration of the valor and sacrifices of the pioneers of ''the West'', shall have been vested in the United States, said areas and improvements shall be designated and set apart by proclamation of the President for preservation as a national monument for the benefit and inspiration of the people, and shall be called the ''Pioneer National Monument.''

(June 18, 1934, ch. 573, § 1, 48 Stat. 982.)

§ 449. Acceptance of donations of land and funds; acquisition of land

The Secretary of the Interior be, and he is, authorized to accept donations of land, interests in land and/or buildings, structures, and other property within the boundaries of said national monument as determined and fixed hereunder, and donations of funds for the purchase and/or maintenance thereof, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Interior: *Provided*, That he may acquire on behalf of the United States out of any donated funds, by purchase at prices deemed by him reasonable, or by condemnation under the provisions of section 3113 of title 40, such tracts of land within the said national monument as may be necessary for the completion thereof.

(June 18, 1934, ch. 573, § 2, 48 Stat. 983.)

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 450. Administration, protection, and development

The administration, protection, and development of the aforesaid national monument shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title as amended.

(June 18, 1934, ch. 573, § 3, 48 Stat. 983.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 450a. Chalmette, Louisiana, Monument

The sum of twenty-five thousand dollars is appropriated, or so much thereof as may be necessary, out of any money in the Treasury of the United States not otherwise appropriated, for the completion of a monument to the memory of the soldiers who fell in the battle of New Orleans in the war of eighteen hundred and twelve, said monument to be completed under the direction and approval of the Secretary of the Army: *Provided*, That the State of Louisiana shall cede and transfer its jurisdiction to the property on which said monument is to be completed in accordance with the provisions of act numbered forty-one of the legislature of that State, approved July nineteenth, nineteen hundred and two: *Provided further*, That when said monument is completed the responsibility of maintaining the same and keeping the grounds surrounding it shall hereafter rest with the Government of the United States; and there is authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such expenses.

(Mar. 4, 1907, ch. 2928, 34 Stat. 1411; June 2, 1930, ch. 369, 46 Stat. 489; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

AMENDMENTS

1930—Act June 2, 1930, placed responsibility for maintaining monument and grounds with United States Government and authorized appropriations for expenses.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Administrative functions of Chalmette Monument and Grounds, Louisiana transferred to Department of the Interior by Ex. Ord. No. 6166, § 2, and Ex. Ord. No. 6228, § 1, set out as notes under section 901 of Title 5, Government Organization and Employees. National Park Service substituted for Office of National Parks, Buildings and Reservations referred to in Ex. Ord. No. 6166, § 2, by act Mar. 2, 1934, ch. 38, § 1, 48 Stat. 389.

CHALMETTE UNIT OF THE JEAN LAFITTE NATIONAL HISTORICAL PARK AND PRESERVE

Designation of lands on which monument erected as Chalmette Unit of the Jean Lafitte National Historical Park and Preserve, see section 231 of this title.

§§ 450b to 450e. Repealed. Pub. L. 94–578, title III, § 308(e), Oct. 21, 1976, 90 Stat. 2736

Section 450b, acts June 18, 1930, ch. 520, § 1, 46 Stat. 777; Aug. 13, 1935, ch. 520, § 1, 49 Stat. 613; Apr. 15, 1954, ch. 142, 68 Stat. 54, provided for creation of the Appomattox Court House National Historical Park.

Section 450c, acts June 18, 1930, ch. 520, § 2, 46 Stat. 777; Aug. 13, 1935, ch. 520, § 1, 49 Stat. 613, authorized appropriation of $100,000 for the Appomattox Court House National Historical Park.

Section 450d, acts June 18, 1930, ch. 520, § 3, 46 Stat. 777; Aug. 13, 1935, ch. 520, § 1, 49 Stat. 613, authorized Secretary of the Interior to accept donations of land or buildings within boundaries of the park.

Section 450d–1, acts July 17, 1953, ch. 227, 67 Stat. 181; Apr. 15, 1954, ch. 142, 68 Stat. 54, authorized exchange of land in park for adjacent non-Federal land.

Section 450e, act June 18, 1930, ch. 520, § 4, as added Aug. 13, 1935, ch. 520, § 2, 49 Stat. 614; amended Apr. 15, 1954, ch. 142, 68 Stat. 54, provided for administration of park by National Park Service under the direction of Secretary of the Interior.

§ 450e–1. Appomattox Court House National Historical Park

(a) Boundaries

The Appomattox Court House National Historical Park shall hereafter comprise the area depicted on the map entitled ''Boundary Map, Appomattox Court House National Historical Park'', numbered 340/80,015 and dated June 1992, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) Land acquisition by donation, purchase, or exchange; limitation on acquisition of State land

Within the boundaries of the park, the Secretary may acquire lands and interests in lands, by donation, purchase with donated or appropriated funds, or exchange. Any lands or interests in lands owned by the State of Virginia or its political subdivisions may be acquired only by donation.

(c) Owner's reservation of right of use and occupancy of improved property for residential purposes for life or fixed term of years; compensation at fair market value; termination of right retained by owner; "improved property" defined; waiver of rights and benefits by owner

(1) The owner of an improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition, less the fair market value, on that date, of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this section, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(2) As used in this section, the term ''improved property'' means a detached, single-family dwelling, construction of which was begun before June 8, 1976, which is used for noncommer-

cial residential purposes, together with such additional lands or interests therein as the Secretary deems to be reasonably necessary for access thereto, such lands being in the same ownership as the dwelling, together with any structures accessory to the dwelling which are situated on such land.

(3) Whenever an owner of property elects to retain a right of use and occupancy as provided in this section, such owner shall be deemed to have waived any benefits or rights accruing under sections 4623, 4624, 4625, and 4626 of title 42, and for the purposes of such sections such owner shall not be considered a displaced person as defined in section 4601(6) of title 42.

(d) Administration

The Secretary shall administer the park in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented, and sections 461 to 467 of this title.

(e) Omitted

(f) Authorization of appropriation

There are authorized to be appropriated not to exceed $1,335,000 to carry out the purposes of this section.

(Pub. L. 94–578, title III, § 308, Oct. 21, 1976, 90 Stat. 2735; Pub. L. 102–541, § 3(a), Oct. 27, 1992, 106 Stat. 3565.)

CODIFICATION

Section is comprised of section 308 of Pub. L. 94–578. Subsec. (e) of section 308 of Pub. L. 94–578 repealed sections 450b to 450e of this title.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–541 substituted ''numbered 340/80,015 and dated June 1992,'' for ''numbered 340–20,000A, and dated September 1976,''.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 3(a) of Pub. L. 102–541 provided in part: ''That this subsection [amending this section] shall not be effective until the lands included within the proposed new boundaries of the Appomattox Court House National Historical Park pursuant to this Act [amending this section and section 425k of this title and enacting provisions set out as notes under this section and section 425k of this title] have been donated to the Secretary of the Interior.'' [Lands included within proposed new boundaries were donated on Sept. 14, 1993, and Sept. 15, 1993.]

ACQUISITION OF CERTAIN LANDS BY DONATION ONLY

Section 3(b) of Pub. L. 102–541 provided that: ''Lands included within the boundaries of the Appomattox Court House National Historical Park pursuant to this section [amending this section and enacting provisions set out above] may be acquired only by donation.''

§§ 450f to 450k. Repealed. Dec. 21, 1944, ch. 634, § 1, 58 Stat. 852

Section 450f, act Aug. 15, 1935, ch. 547, § 1, 49 Stat. 652, related to establishment of Patrick Henry National Monument.

Sections 450f–1 and 450f–2, act Jan. 29, 1940, ch. 16, 54 Stat. 18, related to acquisition of Patrick Henry's estate and erection of a permanent public memorial.

Sections 450g to 450k, act Aug. 15, 1935, ch. 547, §§ 2–6, 49 Stat. 652, 653, related to administration, etc., of Monument.

UNEXPENDED FUNDS

Section 2 of act Dec. 21, 1944, ch. 634, 58 Stat. 853, provided that all unexpended balances of amounts appropriated were to be covered into the surplus fund of the Treasury.

§ 450*l*. Fort Stanwix National Monument; establishment

When title to the site or portion thereof at Fort Stanwix, in the State of New York, together with such buildings and other property located thereon as may be designated by the Secretary of the Interior as necessary or desirable for national monument purposes, shall have been vested in the United States, said area and improvements, if any, shall be designated and set apart by proclamation of the President for preservation as a national monument for the benefit and inspiration of the people and shall be called the ''Fort Stanwix National Monument'': *Provided*, That such area shall include at least that part of Fort Stanwix now belonging to the State of New York.

(Aug. 21, 1935, ch. 592, § 1, 49 Stat. 665.)

§ 450m. Acceptance of donations of lands and funds; acquisition of land

The Secretary of the Interior is authorized to accept donations of land, interests in land and/or buildings, structures, and other property within the boundaries of said national monument as determined and fixed hereunder, and donations of funds for the purchase and/or maintenance thereof, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Interior: *Provided*, That he may acquire on behalf of the United States out of any donated funds, by purchase at prices deemed by him reasonable, or by condemnation under the provisions of section 3113 of title 40, such tracts of land within the said national monument as may be necessary for the completion thereof.

(Aug. 21, 1935, ch. 592, § 2, 49 Stat. 666.)

REFERENCES IN TEXT

Hereunder, referred to in text, means act Aug. 21, 1935, which is classified to sections 450*l* to 450n of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 450n. Administration, protection, and development

The administration, protection, and development of the aforesaid national monument shall be exercised under the direction of the Secretary of the Interior by the National Park Service subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(Aug. 21, 1935, ch. 592, § 3, 49 Stat. 666.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in

the Appendix to Title 5, Government Organization and Employees.

§ 450*o*. Andrew Johnson National Historic Site; authorization

When title to the site of the Andrew Johnson Homestead and the site of the tailor shop in which Andrew Johnson worked (now owned and administered by the State of Tennessee), located in Greeneville, Tennessee, together with such buildings and property located thereon as may be designated by the Secretary of the Interior as necessary or desirable for national historic site purposes shall have been vested in the United States, said area and improvements, if any, together with the burial place of Andrew Johnson, now administered as a national cemetery, shall be designated and set apart by proclamation of the President for preservation as a national historic site for the benefit and inspiration of the people and shall be called the ''Andrew Johnson National Historic Site.''

(Aug. 29, 1935, ch. 801, §1, 49 Stat. 958; Pub. L. 88–197, §1, Dec. 11, 1963, 77 Stat. 349.)

CHANGE OF NAME

''National historic site'' substituted in text for ''national monument'' on authority of Pub. L. 88–197, which redesignated Andrew Johnson National Monument as Andrew Johnson National Historic Site.

ESTABLISHMENT OF MONUMENT; BOUNDARIES

Monument and boundaries established by Presidential Proc. No. 2554, Apr. 27, 1942, 56 Stat. 1955.

§ 450p. Acquisition of property; donations

The Secretary of the Interior is authorized to acquire on behalf of the United States out of any funds allotted and made available for this project by proper authority or out of any donated funds, by purchase at prices deemed by him reasonable, or by condemnation under the provisions of section 3113 of title 40, or to accept by donation, such land, interest in land, and/or buildings, structures, and other property within the boundaries of said national historic site as determined and fixed hereunder, and he is further authorized to accept donations of funds for the purchase and/or maintenance thereof.

(Aug. 29, 1935, ch. 801, §2, 49 Stat. 958; Pub. L. 88–197, §1, Dec. 11, 1963, 77 Stat. 349.)

REFERENCES IN TEXT

Hereunder, referred to in text, means act Aug. 29, 1935, which is classified to sections 450*o* to 450q of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888 (25 Stat. 357)'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

CHANGE OF NAME

''Historic site'' substituted in text for ''monument'' on authority of Pub. L. 88–197, which redesignated Andrew Johnson National Monument as Andrew Johnson National Historic Site.

§ 450q. Administration, protection, and development

The administration, protection, and development of the aforesaid national historic site shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(Aug. 29, 1935, ch. 801, §3, 49 Stat. 958; Pub. L. 88–197, §1, Dec. 11, 1963, 77 Stat. 349.)

CHANGE OF NAME

''Historic site'' substituted in text for ''monument'' on authority of Pub. L. 88–197 which redesignated Andrew Johnson National Monument as Andrew Johnson National Historic Site.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 450r. Ackia Battleground National Monument; establishment

The Secretary of the Interior is authorized in his discretion to acquire, by purchase or by condemnation and/or accept by donation in behalf of the United States, such lands, easements, and buildings not to exceed fifty acres, and when title satisfactory to the Secretary of the Interior shall have been vested in the United States such area or areas shall be, upon proclamation of the President, established, dedicated, and set apart as a public monument for the benefit and enjoyment of the people and shall be known as the ''Ackia Battleground National Monument'': *Provided*, That such area shall include the site of the Battle of Ackia.

(Aug. 27, 1935, ch. 755, §2, 49 Stat. 897.)

BOUNDARIES OF MONUMENT

Boundaries established by Presidential Proc. No. 2307, Oct. 25, 1938, 3 F.R. 2579, 53 Stat. 2494.

INCLUSION IN NATCHEZ TRACE PARKWAY

Ackia Battleground National Monument included in the Natchez Trace Parkway, see section 460–1 of this title.

§ 450s. Omitted

CODIFICATION

Section, act Aug. 27, 1935, ch. 755, §3, 49 Stat. 897, appropriated $15,000 for purposes of section 450r of this title.

§ 450t. Administration, protection, and development

The administration, protection, and development of the aforesaid national monument shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(Aug. 27, 1935, ch. 755, §4, 49 Stat. 897.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with cer-

tain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 450u. Homestead National Monument of America; establishment

The Secretary of the Interior is authorized and directed to acquire, on behalf of the United States, by gift, purchase, or condemnation, the south half of the northwest quarter, the northeast quarter of the northwest quarter, and the southwest quarter of the northeast quarter section 26, township 4 north, range 5 east, of the sixth principal meridian, Gage County, Nebraska, the same being the first homestead entered upon under the General Homestead Act of May 20, 1862, by Daniel Freeman, and that when so acquired, the said area be designated ''The Homestead National Monument of America.''

(Mar. 19, 1936, ch. 157, §1, 49 Stat. 1184.)

REFERENCES IN TEXT

The General Homestead Act, referred to in text, is act May 20, 1862, ch. 75, 12 Stat. 392. See chapter 7 (§161 et seq.) of Title 43, Public Lands.

HOMESTEAD NATIONAL MONUMENT OF AMERICA ADDITIONS

Pub. L. 107–332, Dec. 16, 2002, 116 Stat. 2871, known as the Homestead National Monument of America Additions Act, provided for addition of certain parcels of private and State-owned land to the Homestead National Monument of America and authorized appropriations and cooperative agreements with the appropriate State and local governments.

Pub. L. 91–411, Sept. 25, 1970, 84 Stat. 863, provided for addition of the Freeman School to the Homestead National Monument of America in Nebraska and authorized appropriation of not more than $50,000 for rehabilitation and development of the Freeman School.

§ 450v. Omitted

CODIFICATION

Section, act Mar. 19, 1936, ch. 157, §2, 49 Stat. 1184, appropriated $24,000 for purpose of acquiring tract described in section 450u of this title.

§ 450w. Administration; establishment of museum

It shall be the duty of the Secretary of the Interior to lay out said land in a suitable and enduring manner so that the same may be maintained as an appropriate monument to retain for posterity a proper memorial emblematical of the hardships and the pioneer life through which the early settlers passed in the settlement, cultivation, and civilization of the great West. It shall be his duty to erect suitable buildings to be used as a museum in which shall be preserved literature applying to such settlement and agricultural implements used in bringing the western plains to its present high state of civilization, and to use the said tract of land for such other objects and purposes as in his judgment may perpetuate the history of the country mainly developed by the homestead law.

(Mar. 19, 1936, ch. 157, §3, 49 Stat. 1184.)

§ 450x. Authorization of annual appropriations

For the purpose of carrying out the suggestions and recommendations of the Secretary of the Interior, the necessary annual appropriations therefor are authorized.

(Mar. 19, 1936, ch. 157, §4, 49 Stat. 1184.)

§ 450y. Coronado National Memorial; establishment

For the purpose of permanently commemorating the explorations of Francisco Vásquez de Coronado, the President of the United States is authorized to declare, by proclamation, any lands within the following-described area, subject to all valid existing rights, to be established as the ''Coronado National Memorial'':

Gila and Salt River meridian: Township 24 south, range 20 east, section 10, south half southwest quarter, south half southeast quarter; section 11, south half southwest quarter; section 13, southwest quarter northwest quarter, south half; section 14, northwest quarter, south half, northwest quarter northeast quarter, south half northeast quarter; section 15, all; section 22, all; section 23, all; section 24, all; township 24 south, range 21 east, section 17, south half southwest quarter; section 18, southwest quarter, south half southeast quarter; section 19, all; section 20, lots 3 and 4; aggregating approximately two thousand eight hundred and eighty acres.

(Aug. 18, 1941, ch. 365, §1, 55 Stat. 630; July 9, 1952, ch. 610, §§1, 2, 66 Stat. 510.)

AMENDMENTS

1952—Act July 9, 1952, changed ''Coronado International Memorial'' to ''Coronado National Memorial'', and struck out proviso which required action of Mexican Government prior to establishment of the Memorial.

ESTABLISHMENT OF MEMORIAL; BOUNDARIES

Monument and boundaries established by Presidential Proc. No. 2995, Nov. 5, 1952, 17 F.R. 10157, 67 Stat. c18.

§ 450y–1. Administration

The National Park Service, under the direction of the Secretary of the Interior, shall promote and regulate the use of the Coronado National Memorial for the benefit and enjoyment of the people of the United States. Insofar as applicable and not in conflict with sections 450y to 450y–4 of this title, sections 1, 2, 3, and 4 of this title, as amended and supplemented, providing for the establishment of a National Park Service, shall govern the promotion and regulation of the designated memorial area: *Provided*, That nothing in sections 450y to 450y–4 of this title shall be construed to authorize any recreational or other development by the National Park Service within the sixty-foot strip north of the international boundary between the United States and Mexico withdrawn by proclamation of the President dated May 27, 1907 (35 Stat., part II, p. 2136), unless such development has received the prior approval of the Secretary of State.

(Aug. 18, 1941, ch. 365, §2, 55 Stat. 630; July 9, 1952, ch. 610, §1, 66 Stat. 510.)

AMENDMENTS

1952—Act July 9, 1952, changed ''Coronado International Memorial'' to ''Coronado National Memorial''.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 450y–2. Grazing within memorial area

The Secretary of the Interior, under such regulations as shall be prescribed by him, which regulations shall be substantially similar to those now in effect, shall permit—

Grazing of livestock within the memorial area to the extent now permitted within the said area when such grazing will not interfere with recreational development authorized by sections 450y to 450y–4 of this title.

(Aug. 18, 1941, ch. 365, §3, 55 Stat. 631; Pub. L. 94–429, §3(f), Sept. 28, 1976, 90 Stat. 1342.)

AMENDMENTS

1976—Pub. L. 94–429 struck out designation ''(a)'' before ''grazing of livestock'' and struck out subsec. (b) which related to the surface use of the land within the memorial area for prospecting and mining.

MINING RIGHTS EXISTING PRIOR TO 1976 AMENDMENT

Section 3 of Pub. L. 94–429 provided in part that this section was amended as indicated in order to close area to entry and location under the Mining Law of 1872, subject to valid existing rights.

§ 450y–3. Construction of fences

In the administration of the memorial area the Secretary shall not permit the construction of fences except (a) along the international boundary, (b) beside memorial roads or approach roads, and (c) around memorial areas within which improvements have been located by the National Park Service: *Provided*, That any roads constructed within the memorial area by the National Park Service shall include necessary cattle underpasses properly located for the passage of cattle across such roads: *And provided further*, That the right to the exclusive beneficial consumptive use for stock watering purposes of any water heretofore developed or used for such purposes within the memorial area shall remain in the present holders thereof, their heirs, assigns, successors, and administrators, so long as such water continues to be used exclusively for such purposes: *And provided further*, That nothing in sections 450y to 450y–4 of this title shall be construed to alter or affect any water right in the State of Arizona or the jurisdiction of said State over its waters: *And provided further*, That neither roads nor public campgrounds shall be constructed by the National Park Service within the south half southwest quarter of said section 10.

(Aug. 18, 1941, ch. 365, §4, 55 Stat. 631.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 450y–4. Acquisition of property; donations

Upon submission of title satisfactory to him, the Secretary of the Interior, on behalf of the United States, may accept lands and interests in lands which are within the memorial area but are not in Federal ownership and which are offered to the United States without cost.

(Aug. 18, 1941, ch. 365, §5, 55 Stat. 631.)

§ 450y–5. Revision of boundaries

In furtherance of the purposes of sections 450y to 450y–4 of this title and to facilitate the administration and development of the Coronado National Memorial, Arizona, the boundaries thereof are revised by the following additions and deletions of land:

(1) Inclusion in the memorial and exclusion from the Coronado National Forest of lots 2 and 7 and a portion of Homestead Entry Survey 310 situated in section 18, township 24 south, range 21 east, Gila and Salt River base and meridian, said portion of Homestead Entry Survey 310 being more particularly described as follows: Beginning at the southwest corner (identified as corner number 1), of Homestead Entry Survey 310, said point being located on the present boundary of Coronado National Memorial and marked by an iron pipe with a brass cap and a rock cairn placed by the United States Bureau of Land Management in 1955; thence north zero degrees thirty-three minutes west, one thousand two hundred ninety-four and twenty-six hundredths feet, more or less, along the west boundary of said tract, which line is also the present boundary of said memorial, to the northeast corner of lot 8, section 18, said point being marked by an iron pipe with a brass cap and a rock cairn placed by the United States Bureau of Land Management in 1955; thence north zero degrees twenty-three minutes east, two hundred thirty and eight-tenths feet, more or less, along the west boundary of Homestead Entry Survey 310 to a point on a circular curve marked by an iron pipe with a National Park Service brass cap, said point being located south eighty-one degrees forty-four minutes east, exactly one hundred forty feet from the point of curvature of said curve; thence southeasterly five hundred forty-eight and two-tenths feet along said circular curve to the right of radius one thousand seven hundred thirty-two and four-tenths feet and having a beginning tangent bearing of south eighty-four degrees three minutes east (from point of curvature to point of intersection), to the point of tangency of said curve; thence south sixty-one degrees sixteen minutes east, two hundred twenty-four and eight-tenths feet to the point of curvature of a circular curve to the right; thence southeasterly two hundred ninety-two and six-tenths feet along said circular curve to the right of radius six thousand twenty-nine and six-tenths feet to the point of tangency of said curve; thence south fifty-eight degrees twenty-nine minutes east, five hundred eighty-eight and seven-tenths feet to the point of curvature of a circular curve to the right; thence southeasterly two hundred twenty-five and nine-tenths feet along said circular curve to the right of radius two thousand two hundred nine and nine-tenths feet to the point of tangency of said

curve; thence south fifty-two degrees thirty-eight minutes east, twenty-eight and eight-tenths feet to the point of curvature of a circular curve to the left; thence southeasterly two hundred sixteen and nine-tenths feet along said circular curve to the left of radius one thousand six hundred nine and nine-tenths feet to the point of tangency of said curve; thence south sixty degrees twenty-one minutes east, thirty and seven-tenths feet to the point of curvature of a circular curve to the right; thence southeasterly seven hundred thirteen and six-tenths feet, more or less, along said circular curve to the right of radius one thousand two hundred fifty-four and nine-tenths feet to a point on the southern boundary line of Homestead Entry Survey 310 marked by an iron pipe with a National Park Service brass cap, said point also being located on the present northern boundary line of Coronado National Memorial; thence north eighty-nine degrees forty-nine minutes west two thousand three hundred and sixty-one feet, more or less, along the southern boundary line of Homestead Entry Survey 310, which line is also the present northern boundary of the said memorial, to the point of beginning (all bearings referred to the true meridian).

(2) Inclusion in the Memorial and exclusion from the Coronado National Forest of lots 5 and 6 in section 20, township 24 south, range 21 east, Gila and Salt River base and meridian.

(3) Exclusion from the Memorial and inclusion in the Coronado National Forest of the north half southwest quarter northwest quarter section 13, and the north half southeast quarter northeast quarter section 14, all in township 24 south, range 20 east, Gila and Salt River base and meridian.

(Pub. L. 86–689, § 1, Sept. 2, 1960, 74 Stat. 736.)

§ 450y–6. Acquisition of lands; administration

The Secretary of the Interior is authorized to acquire lands and interests in lands within the revised boundaries of the Coronado National Memorial by purchase, donation, with donated funds, or by such other means as he may consider to be in the public interest. Lands and interests in lands acquired pursuant to this Act shall become a part of the Memorial and be administered by the Secretary of the Interior in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended, and pursuant to sections 450y–1 to 450y–3 of this title.

(Pub. L. 86–689, § 2, Sept. 2, 1960, 74 Stat. 737.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 86–689 which enacted sections 450y–5 to 450y–7 of this title, and amended section 17j–2 of this title. For complete classification of this Act to the Code, see Tables.

§ 450y–7. Authorization of appropriations

There is authorized to be appropriated the sum of not to exceed $3,000 for the purpose of acquiring lands, interests in lands, and improvements thereon as may be necessary for carrying out this Act.

(Pub. L. 86–689, § 4, Sept. 2, 1960, 74 Stat. 737.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 86–689, which enacted sections 450y–5 to 450y–7 of this title, and amended section 17j–2 of this title. For complete classification of this Act to the Code, see Tables.

§ 450z. Repealed. Pub. L. 94–429, § 3(g), Sept. 28, 1976, 90 Stat. 1343

Section, act Oct. 27, 1941, ch. 459, 55 Stat. 745, provided for the prospecting and mining of surface lands within the monument area under the supervision of the Secretary of the Interior.

MINING RIGHTS EXISTING PRIOR TO SEPTEMBER 28, 1976

Section 3 of Pub. L. 94–429 provided in part that this section was repealed in order to close area to entry and location under the Mining Law of 1872, subject to valid existing rights.

§ 450aa. George Washington Carver National Monument; acquisition of land

The Secretary of the Interior is authorized and directed to acquire, on behalf of the United States, by gift or purchase, the site of the birthplace of George Washington Carver, distinguished Negro scientist, located near Diamond, Missouri, together with such additional land or interests in land and any improvements thereon as the Secretary may deem necessary to carry out the purposes of sections 450aa to 450aa–2 of this title. In the event the Secretary is unable to acquire such property, or any part thereof, at a reasonable price, he is authorized and directed to condemn such property, or any part thereof, in the manner provided by law.

(July 14, 1943, ch. 238, § 1, 57 Stat. 563.)

AUTHORIZATION OF APPROPRIATIONS

Section 4 of act July 14, 1943, as amended Sept. 9, 1950, ch. 940, 64 Stat. 829, provided that: ''There are authorized to be appropriated such sums not to exceed $150,000 as may be necessary to carry out the provisions of this Act [sections 450aa to 450aa–2 of this title].''

§ 450aa–1. Establishment and supervision

The property acquired under the provisions of section 450aa of this title shall constitute the George Washington Carver National Monument and shall be a public national memorial to George Washington Carver. The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of such national monument, and shall maintain and preserve it in a suitable and enduring manner which, in his judgment, will provide for the benefit and enjoyment of the people of the United States.

(July 14, 1943, ch. 238, § 2, 57 Stat. 563.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 450aa–2. Maintenance of museum; construction of roads and use of markers

The Secretary of[1] Interior is authorized to—

(1) Maintain, either in an existing structure acquired under the provisions of section 450aa of this title or in a building constructed by him for the purpose, a museum for relics and records pertaining to George Washington Carver, and for other articles of national and patriotic interest, and to accept, on behalf of the United States, for installation in such museum, articles which may be offered as additions to the museum; and

(2) Construct roads and mark with monuments, tablets, or otherwise, points of interest within the boundaries of the George Washington Carver National Monument.

(July 14, 1943, ch. 238, § 3, 57 Stat. 564.)

§ 450bb. Harpers Ferry National Historical Park

(a) In general

To carry out the purposes of sections 450bb to 450bb–2 of this title, the Secretary of the Interior (referred to in sections 450bb to 450bb–2 of this title as the ''Secretary'') is authorized to acquire, by purchase from a willing seller with donated or appropriated funds, by donation, or by exchange, land or an interest in land within the boundaries as generally depicted on the map entitled ''Boundary Map, Harpers Ferry National Historical Park'', numbered 385–80,021A, and dated April 1979.

(b) Bradley and Ruth Nash Addition

The Secretary is authorized to acquire, by donation only, approximately 27 acres of land or interests in land that are outside the boundary of the Harpers Ferry National Historical Park and generally depicted on the map entitled ''Proposed Bradley and Ruth Nash Addition—Harpers Ferry National Historical Park'', numbered 385–80056, and dated April 1, 1989.

(c) Boundary expansion

(1) In general

The Secretary is authorized to acquire, by purchase from a willing seller with donated or appropriated funds, by donation, or by exchange, land or an interest in land within the area depicted as ''Private Lands'' on the map entitled ''Harpers Ferry National Historical Park Proposed Boundary Expansion'', numbered 385/80,126, and dated July 14, 2003.

(2) Administration

The Secretary shall—

(A) transfer to the National Park Service for inclusion in the Harpers Ferry National Historical Park (referred to in sections 450bb to 450bb–2 of this title as the ''Park'') the land depicted on the map referred to in paragraph (1) as ''U.S. Fish and Wildlife Service Lands'' and revise the boundary of the Park accordingly; and

(B) revise the boundary of the Park to include the land depicted on the map referred to in paragraph (1) as ''Appalachian NST'' and exclude that land from the boundary of the Appalachian National Scenic Trail.

[1] So in original. Probably should be ''of the''.

(d) Maximum number of acres

The number of acres of the Park shall not exceed 3,745.

(e) Maps

The maps referred to in this section shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(f) Acquired land

Land or an interest in land acquired under this section shall become a part of the Park, subject to the laws (including regulations) applicable to the Park.

(g) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(June 30, 1944, ch. 328, § 1, 58 Stat. 645; Pub. L. 93–466, § 1(1), Oct. 24, 1974, 88 Stat. 1420; Pub. L. 96–199, title I, § 108(1), Mar. 5, 1980, 94 Stat. 69; Pub. L. 101–109, § 1(a), Oct. 6, 1989, 103 Stat. 681; Pub. L. 103–437, § 6(h)(2), Nov. 2, 1994, 108 Stat. 4585; Pub. L. 108–307, § 2, Sept. 24, 2004, 118 Stat. 1133.)

AMENDMENTS

2004—Pub. L. 108–307 inserted section catchline and amended text generally. Prior to amendment, section authorized the Secretary of the Interior to acquire certain lands for the Harpers Ferry National Historical Park.

1994—Pub. L. 103–437 substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives'' for ''Committees on Interior and Insular Affairs of the Congress of the United States''.

1989—Pub. L. 101–109 substituted ''two thousand five hundred and five acres'' for ''two thousand four hundred and seventy-five acres'' in first sentence and inserted after first sentence ''The Secretary is authorized to acquire, by donation only, approximately twenty-seven acres of land or interests therein which are outside the boundary of the Harpers Ferry National Historical Park and generally depicted on a map entitled 'Proposed Bradley and Ruth Nash Addition—Harpers Ferry National Historical Park,' dated April 1, 1989 and numbered 385–80056. Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia. When acquired, such lands or interests therein shall become a part of the park, subject to the laws and regulations applicable thereto.''

1980—Pub. L. 96–199 substituted '' 'Boundary Map, Harpers Ferry National Historical Park', numbered 385–80,021A and dated April 1979'' for '' 'Boundary Map, Harpers Ferry National Historical Park', numbered 385–40,000D and dated April 1974'' and ''two thousand four hundred and seventy-five acres'' for ''two thousand acres''.

1974—Pub. L. 93–466 inserted reference to updated map, prohibited the Secretary from exercising any power of condemnation on lands in which a less than fee interest has been previously acquired, authorized the acquisition of land with appropriated funds and by exchange, authorized an increase in total area from 1500 to 2000 acres, and authorized the Secretary to make minor boundary changes by publication of a revised description in the Federal Register, after advising the Committees on Interior and Insular Affairs.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–307, § 1, Sept. 24, 2004, 118 Stat. 1133, provided that: ''This Act [amending this section and sections 450bb–1 and 450bb–2 of this title] may be cited as the 'Harpers Ferry National Historical Park Boundary Revision Act of 2004'.''

ACQUISITION OF CLEAR AND MARKETABLE TITLE TO ADDITIONAL PARK LANDS

Section 1(b) of Pub. L. 101–109 provided that: ''Nothing in this Act [amending this section] shall be deemed to prohibit the Secretary from using such measures as may be necessary to acquire a clear and marketable title, free of any and all encumbrances, to the lands identified for acquisition in paragraph (a)(2) of this Act.''

AUTHORIZATION OF APPROPRIATIONS

Section 4 of act June 30, 1944, as amended by Pub. L. 93–466, §1(3), Oct. 24, 1974, 88 Stat. 1420; Pub. L. 95–625, title I, §101(14), Nov. 10, 1978, 92 Stat. 3471; Pub. L. 96–199, title I, §108(2), Mar. 5, 1980, 94 Stat. 69, provided that: ''In addition to such sums as have heretofore been appropriated, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this act [sections 450bb to 450bb–2 of this title], but not more than $1,600,000 for the acquisition of lands and interests in lands, and not more than $12,385,000 for development.''

§ 450bb–1. Administration

The property acquired under the provisions of section 450bb of this title shall constitute the Harpers Ferry National Historical Park and shall be a public national memorial commemorating historical events at or near Harpers Ferry. The Director of the National Park Service under the direction of the Secretary, shall have the supervision, management, and control of such national historical park, and shall maintain and preserve it for the benefit and enjoyment of the people of the United States, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(June 30, 1944, ch. 328, §2, 58 Stat. 646; Pub. L. 88–33, May 29, 1963, 77 Stat. 52; Pub. L. 108–307, §3, Sept. 24, 2004, 118 Stat. 1134.)

AMENDMENTS

2004—Pub. L. 108–307 substituted ''Secretary'' for ''Secretary of the Interior'' in second sentence.

CHANGE OF NAME

Words ''national historical park'' substituted in text for ''national monument'' in view of redesignation of Harpers Ferry National Monument as Harpers Ferry National Historical Park by Pub. L. 88–33, classified to section 450bb–6 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 450bb–2. Maintenance of museum; acceptance of museum articles; construction of roads, etc.

The Secretary is authorized to—

(1) Maintain, either in an existing structure acquired under the provisions of section 450bb of this title or in a building constructed by him for the purpose, a museum for relics and records pertaining to historic events that took place at Harpers Ferry, and for other relics of national and patriotic interest, and to accept on behalf of the United States, for installation in such museum, articles which may be offered as additions to the museum;

(2) Construct roads and facilities and mark with monuments, tablets, or otherwise, points of interest within the boundaries of the Harpers Ferry National Historical Park; and

(3) Provide, directly or by contract, subject to the provisions of the Act of June 7, 1974, an interpretive shuttle transportation service within, between, and among lands acquired for the purpose of sections 450bb to 450bb–2 of this title for such times and upon such terms as in his judgment will best accomplish the purposes of sections 450bb to 450bb–2 of this title.

(June 30, 1944, ch. 328, §3, 58 Stat. 646; Pub. L. 88–33, May 29, 1963, 77 Stat. 52; Pub. L. 93–466, §1(2), Oct. 24, 1974, 88 Stat. 1420; Pub. L. 108–307, §3, Sept. 24, 2004, 118 Stat. 1134.)

REFERENCES IN TEXT

Act of June 7, 1974, referred to in par. (3), is Pub. L. 93–303, June 7, 1974, 88 Stat. 192, which amended sections 460*l*–6a, 460*l*–8, and 460*l*–10a of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2004—Pub. L. 108–307 substituted ''Secretary'' for ''Secretary of the Interior'' in introductory provisions.

1974—Par. (3). Pub. L. 93–466 added par. (3).

CHANGE OF NAME

''Harpers Ferry National Historical Park'' substituted in text for ''Harpers Ferry National Monument'' in view of redesignation of Harpers Ferry National Monument as Harpers Ferry National Historical Park by Pub. L. 88–33, classified to section 450bb–6 of this title.

§ 450bb–3. Acquisition of additional lands

To further the commemorative purposes of sections 450bb to 450bb–2 of this title, by providing historic properties and administrative facilities, the Secretary of the Interior is authorized to acquire, in the manner hereafter stated, the Storer College site, the original site of John Brown's ''Fort'' and the old Federal armory, comprising altogether approximately thirty acres, for addition to Harpers Ferry National Historical Park.

(Pub. L. 86–655, §1, July 14, 1960, 74 Stat. 520; Pub. L. 88–33, May 29, 1963, 77 Stat. 52.)

CHANGE OF NAME

''Harpers Ferry National Historical Park'' substituted in text for ''Harpers Ferry National Monument'' in view of redesignation of Harpers Ferry National Monument as Harpers Ferry National Historical Park by Pub. L. 88–33, classified to section 450bb–6 of this title.

§ 450bb–4. Acceptance and purchase of lands and improvements; payment; exchange of lands

(a) The Secretary of the Interior may accept the conveyance of all right, title, and interest of the trustees of Storer College in and to the lands and improvements in Harpers Ferry, West Virginia, granted to their predecessors for educational purposes pursuant to section 2 of the Act of December 15, 1868 (15 Stat. 266), upon payment to said trustees of not more than the current fair market value of the improvements located upon such lands. The Secretary may also

purchase lands, interests therein, and improvements thereon, which lands were granted to the trustees of Storer College pursuant to such Act of 1868 and subsequently were alienated by the trustees: *Provided*, That he may pay not in excess of the amount paid therefor by the then owners plus the cost of existing improvements placed thereon by them, and, in no event may he pay more than the current fair market value. The Secretary may also purchase from the trustees of Storer College, at not more than their fair market value, other lands and interests in lands acquired by them or their predecessors as a part of the college site, together with any improvements thereon. In addition, up to seven acres of privately owned lands, interests therein, and improvements thereon, which are interspersed with the aforesaid college lands may be purchased by the Secretary. Lands and interests purchased under this subsection may be exchanged for other lands, and interests therein, of approximately equal value, which comprise the college and interspersed lands otherwise authorized herein for purchase.

(b) To facilitate the acquisition of the original site of the engine house known as John Brown's ''Fort'' and the old Federal arsenal, the Secretary of the Interior is authorized to exchange therefor federally owned park lands or interests in lands of approximately equal value in the vicinity of Cumberland, Maryland, which he finds are no longer required for park purposes.

(Pub. L. 86–655, § 2, July 14, 1960, 74 Stat. 520.)

REFERENCES IN TEXT

Section 2 of the Act of December 15, 1868, referred to in subsec. (a), means act Dec. 15, 1868, ch. 2, § 2, 15 Stat. 266, which was not classified to the Code.

§ 450bb–5. Authorization of appropriations

There are authorized to be appropriated such sums, not to exceed $300,000, as may be necessary for the purchase of lands, interests therein, and improvements thereon pursuant to sections 450bb–3 to 450bb–5 of this title.

(Pub. L. 86–655, § 3, July 14, 1960, 74 Stat. 521.)

§ 450bb–6. Change in name of Harpers Ferry National Monument

The Harpers Ferry National Monument established pursuant to sections 450bb to 450bb–2 of this title, shall on and after May 29, 1963, be known as Harpers Ferry National Historical Park, and any law, regulation, document, or record of the United States in which such monument is designated or referred to under the name of Harpers Ferry National Monument shall be held to refer to such monument under and by the name of Harpers Ferry National Historical Park.

(Pub. L. 88–33, May 29, 1963, 77 Stat. 52.)

§ 450cc. Castle Clinton National Monument; establishment

The Secretary of the Interior is authorized to accept, on behalf of the United States, title to the site, comprising approximately one acre and situated in Battery Park, New York City, of the historic structure known as Castle Clinton, together with such structure and any other improvement on or appurtenant to such site. When title to such property is vested in the United States, it shall constitute the Castle Clinton National Monument.

(Aug. 12, 1946, ch. 954, § 1, 60 Stat. 997.)

PRESERVATION AND ADMINISTRATION OF CASTLE CLINTON NATIONAL MONUMENT

Study by New York City National Shrines Advisory Board concerning preservation and administration of Castle Clinton National Monument, see act Aug. 11, 1955, ch. 779, 69 Stat. 632, set out in a note under section 463 of this title.

§ 450cc–1. Administration, protection, and development

The administration, protection, and development of the Castle Clinton National Monument shall be under the supervision of the Secretary of the Interior, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(Aug. 12, 1946, ch. 954, § 2, 60 Stat. 997.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 450dd. De Soto National Memorial; establishment

For the purpose of establishing an appropriate memorial to Hernando De Soto, the Secretary of the Interior is authorized, in his discretion, to acquire on behalf of the United States, by donation, by purchase with donated funds when purchaseable[1] at prices deemed by him reasonable, or by condemnation with donated funds, such lands and interests in land within an area of not to exceed thirty acres as he may select in the vicinity of Tampa Bay and Bradenton, Florida, and to construct thereon a suitable memorial structure, together with such connecting roads and public facilities as may be desirable.

(Mar. 11, 1948, ch. 109, § 1, 62 Stat. 78; Pub. L. 86–728, § 1A, Sept. 8, 1960, 74 Stat. 856.)

AMENDMENTS

1960—Pub. L. 86–728 increased limitation on acquisition of land from twenty-five to thirty acres.

AUTHORIZATION OF APPROPRIATIONS

Section 3 of act Mar. 11, 1948, as amended Aug. 21, 1950, ch. 768, 64 Stat. 469; Sept. 8, 1960, Pub. L. 86–728, § 1B, 74 Stat. 856; Nov. 10, 1978, Pub. L. 95–625, title I, § 101(8), 92 Stat. 3471; Oct. 12, 1979, Pub. L. 96–87, title IV, § 401(a), 93 Stat. 665, provided that: ''There is hereby authorized to be appropriated such sums, not to exceed $292,000, as may be necessary to carry out the provisions of this Act [sections 450dd and 450dd–1 of this title].''

§ 450dd–1. Administration

Upon a determination by the Secretary of the Interior that sufficient land has been acquired

[1] So in original. Probably should be ''purchasable''.

by the United States for the memorial, such property shall be established as the ''De Soto National Memorial'', and shall be administered by the Secretary of the Interior, through the National Park Service, for the benefit of the people of the United States. An order of the Secretary of the Interior, constituting notice of such establishment, shall be published in the Federal Register. Insofar as applicable and not in conflict with this section and section 450dd of this title, sections 1, 2, 3, and 4 of this title, providing for the establishment of a National Park Service, as amended and supplemented, shall govern the promotion and development of the national memorial.

(Mar. 11, 1948, ch. 109, § 2, 62 Stat. 78.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 450ee. Fort Sumter National Monument; establishment

The Secretary of the Army is authorized and directed to transfer, without consideration, to the Secretary of the Interior title to the site of the historic structure known as Fort Sumter, situated in Charleston Harbor, Charleston, South Carolina, together with such buildings and other improvements as are appurtenant to such site.

(Apr. 28, 1948, ch. 239, § 1, 62 Stat. 204.)

§ 450ee–1. Administration

The property acquired by the Secretary of the Interior under this joint resolution shall constitute the Fort Sumter National Monument and shall be a public national memorial commemorating historical events at or near Fort Sumter. The Director of the National Park Service under the direction of the Secretary of the Interior shall have the supervision, management, and control of such national monument, and shall maintain and preserve it for the benefit and enjoyment of the people of the United States, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(Apr. 28, 1948, ch. 239, § 2, 62 Stat. 204.)

REFERENCES IN TEXT

This joint resolution, referred to in text, means act Apr. 28, 1948, which is classified to sections 450ee and 450ee–1 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 450ff. Fort Vancouver National Historic Site; establishment

For the purpose of establishing a Federal area of national historical importance for the benefit of the people of the United States, to be known as the ''Fort Vancouver National Historic Site,'' the Administrator of General Services and the Secretary of the Army are authorized to transfer to the Secretary of the Interior, without exchange of funds, administrative jurisdiction over such federally owned lands and other property, real or personal, under their jurisdiction, including the site of the old Hudson's Bay Company stockade in the State of Washington, as they shall find to be surplus to the needs of their respective agencies, such properties to be selected, with their approval, by the Secretary of the Interior for inclusion within the national historic site.

(June 19, 1948, ch. 546, § 1, 62 Stat. 532; June 30, 1949, ch. 288, title I, § 105, 63 Stat. 381; Pub. L. 87–78, § 4, June 30, 1961, 75 Stat. 197.)

CHANGE OF NAME

Words ''national historic site'' substituted in text for ''national monument'' in view of redesignation of Fort Vancouver National Monument as Fort Vancouver National Historic Site by Pub. L. 87–78, classified to section 450ff–6 of this title.

TRANSFER OF FUNCTIONS

''Administrator of General Services'' substituted in text for ''Administrator of the War Assets Administration'' pursuant to act June 30, 1949, which transferred functions of Administrator of War Assets Administration and War Assets Administration to Administrator of General Services and General Services Administration.

MCLOUGHLIN HOUSE ADDITION TO FORT VANCOUVER NATIONAL HISTORIC SITE

Pub. L. 108–63, July 29, 2003, 117 Stat. 872, provided that:

''SECTION 1. SHORT TITLE; DEFINITIONS.

''(a) SHORT TITLE.—This Act may be cited as the 'McLoughlin House Addition to Fort Vancouver National Historic Site Act'.

''(b) DEFINITIONS.—For the purposes of this Act, the following definitions apply:

''(1) CITY.—The term 'City' means Oregon City, Oregon.

''(2) MCLOUGHLIN HOUSE.—The term 'McLoughlin House' means the McLoughlin House National Historic Site which is described in the Acting Assistant Secretary of the Interior's Order of June 27, 1941, and generally depicted on the map entitled 'McLoughlin House, Fort Vancouver National Historic Site', numbered 389/92,002, and dated 5/01/03, and includes the McLoughlin House, the Barclay House, and other associated real property, improvements, and personal property.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''SEC. 2. MCLOUGHLIN HOUSE ADDITION TO FORT VANCOUVER.

''(a) ACQUISITION.—The Secretary is authorized to acquire the McLoughlin House, from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange, except that lands or interests in lands owned by the City may be acquired by donation only.

''(b) MAP AVAILABILITY.—The map identifying the McLoughlin House referred to in section 1(b)(2) shall be on file and available for inspection in the appropriate offices of the National Park Service, Department of the Interior.

''(c) BOUNDARIES; ADMINISTRATION.—Upon acquisition of the McLoughlin House, the acquired property shall be included within the boundaries of, and be adminis-

tered as part of, the Fort Vancouver National Historic Site in accordance with all applicable laws and regulations.

''(d) NAME CHANGE.—Upon acquisition of the McLoughlin House, the Secretary shall change the name of the site from the 'McLoughlin House National Historic Site' to the 'McLoughlin House'.

''(e) FEDERAL LAWS.—After the McLoughlin House is acquired and added to Fort Vancouver National Historic Site, any reference in a law, map, regulation, document, paper, or other record of the United States to the 'McLoughlin House National Historic Site' (other than this Act) shall be deemed a reference to the 'McLoughlin House', a unit of Fort Vancouver National Historic Site.''

§ 450ff–1. Size of site; effective date; additional lands

The total area of the national historic site as established or as enlarged by transfers pursuant to sections 450ff to 450ff–2 of this title shall not exceed ninety acres. Establishment of the historic site shall be effective, upon publication in the Federal Register of notice of such establishment, following the transfer to the Secretary of the Interior of administrative jurisdiction over such lands as the Secretary of the Interior shall deem to be sufficient for purposes of establishing the national historic site. Additional lands may be added to the historic site in accordance with the procedure prescribed in section 450ff of this title, governing surplus properties, or by donation, subject to the maximum acreage limitation prescribed by sections 450ff to 450ff–2 of this title, upon publication of notice thereof in the Federal Register.

(June 19, 1948, ch. 546, § 2, 62 Stat. 532; Pub. L. 87–78, § 4, June 30, 1961, 75 Stat. 197.)

CHANGE OF NAME

Words ''national historic site'' and ''historic site'' substituted in text for ''national monument'' and ''monument'', respectively, in view of redesignation of Fort Vancouver National Monument as Fort Vancouver National Historic Site by Pub. L. 87–78, classified to section 450ff–6 of this title.

§ 450ff–2. Administration, protection, and development

The administration, protection, and development of the aforesaid national historic site shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title as amended.

(June 19, 1948, ch. 546, § 3, 62 Stat. 533; Pub. L. 87–78, § 4, June 30, 1961, 75 Stat. 197.)

CHANGE OF NAME

Words ''national historic site'' substituted in text for ''national monument'' in view of redesignation of Fort Vancouver National Monument as Fort Vancouver National Historic Site by Pub. L. 87–78, classified to section 450ff–6 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 450ff–3. Revision of boundaries

For the purpose of preserving certain historic properties associated with the Fort Vancouver National Historic Site, established pursuant to sections 450ff to 450ff–2 of this title, the Secretary of the Interior may revise the boundaries of the historic site to include therein not more than one hundred and thirty additional acres of land adjacent to, contiguous to, or in the vicinity of, the existing historic site.

(Pub. L. 87–78, § 1, June 30, 1961, 75 Stat. 196.)

CHANGE OF NAME

''National Historic Site'' and ''historic site'' substituted in text for ''National Monument'' and ''monument'', respectively, in view of redesignation of Fort Vancouver National Monument as Fort Vancouver National Historic Site by Pub. L. 87–78, classified to section 450ff–6 of this title.

§ 450ff–4. Acquisition of lands

The Secretary of the Interior may acquire in such manner as he may consider to be in the public interest the non-Federal lands and interests in lands within the revised boundaries.

(Pub. L. 87–78, § 2, June 30, 1961, 75 Stat. 197.)

§ 450ff–5. Administrative jurisdiction of Federal lands

The heads of executive departments may transfer to the Secretary of the Interior, without exchange of funds, administrative jurisdiction over such federally owned lands and other property under their administrative jurisdictions within the revised boundary as may become excess to the needs of their respective agencies, for inclusion in the Fort Vancouver National Historic Site.

(Pub. L. 87–78, § 3, June 30, 1961, 75 Stat. 197.)

CHANGE OF NAME

''National Historic Site'' substituted in text for ''National Monument'' in view of redesignation of Fort Vancouver National Monument as Fort Vancouver National Historic Site by Pub. L. 87–78, classified to section 450ff–6 of this title.

§ 450ff–6. Change in name of Fort Vancouver National Monument

Fort Vancouver National Monument is redesignated Fort Vancouver National Historic Site.

(Pub. L. 87–78, § 4, June 30, 1961, 75 Stat. 197.)

§§ 450gg to 450gg–3. Repealed. Pub. L. 91–660, § 5, Jan. 8, 1971, 84 Stat. 1969

Sections, act July 2, 1948, ch. 806, §§ 1–4, 62 Stat. 1220, provided for establishment of the Pensacola National Monument, maintenance of a museum for relics and records of Pensacola and its harbor defenses, and the transfer of title to the land and jurisdiction of the area to the State of Florida, upon determination by Secretary of the Interior that the area would be more suitably administered as a State historical park.

§ 450hh. Saint Croix Island International Historic Site; establishment; acceptance of land; size

For the purpose of establishing a Federal area of national historical importance for the benefit of the people of the United States, the Secretary

of the Interior is authorized to accept, for national monument purposes, on behalf of the United States, the donation of all non-Federal lands and interests in land situated on Saint Croix (Dochet) Island, located in the Saint Croix River, in the State of Maine. The Secretary is authorized to acquire, in such manner as he may consider to be in the public interest, not to exceed fifty acres of land or interests therein situated on the mainland, such property to be used for general administrative purposes and for a landing dock in order to provide a suitable approach and ready access to the island.

(June 8, 1949, ch. 180, §1, 63 Stat. 158.)

AUTHORIZATION OF APPROPRIATIONS

Section 4 of act June 8, 1949, provided that: ''There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [sections 450hh to 450hh–2 of this title].''

SAINT CROIX ISLAND HERITAGE CENTER

Pub. L. 106–529, Nov. 22, 2000, 114 Stat. 2524, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Saint Croix Island Heritage Act'.

''SEC. 2. FINDINGS AND PURPOSES.

''(a) FINDINGS.—Congress finds that—

''(1) Saint Croix Island is located in the Saint Croix River, a river that is the boundary between the State of Maine and Canada;

''(2) the Island is the only international historic site in the National Park System;

''(3) in 1604, French nobleman Pierre Dugua Sieur de Mons, accompanied by a courageous group of adventurers that included Samuel Champlain, landed on the Island and began the construction of a settlement;

''(4) the French settlement on the Island in 1604 and 1605 was the initial site of the first permanent settlement in the New World, predating the English settlement of 1607 at Jamestown, Virginia;

''(5) many people view the expedition that settled on the Island in 1604 as the beginning of the Acadian culture in North America;

''(6) in October, 1998, the National Park Service completed a general management plan to manage and interpret the Saint Croix Island International Historic Site;

''(7) the plan addresses a variety of management alternatives, and concludes that the best management strategy entails developing an interpretive trail and ranger station at Red Beach, Maine, and a regional heritage center in downtown Calais, Maine, in cooperation with Federal, State, and local agencies;

''(8) a 1982 memorandum of understanding, signed by the Department of the Interior and the Canadian Department for the Environment, outlines a cooperative program to commemorate the international heritage of the Saint Croix Island site and specifically to prepare for the 400th anniversary of the settlement in 2004; and

''(9) only 4 years remain before the 400th anniversary of the settlement at Saint Croix Island, an occasion that should be appropriately commemorated.

''(b) PURPOSE.—The purpose of this Act is to direct the Secretary of the Interior to take all necessary and appropriate steps to work with Federal, State, and local agencies, historical societies, and nonprofit organizations to facilitate the development of a regional heritage center in downtown Calais, Maine[,] before the 400th anniversary of the settlement of Saint Croix Island.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) ISLAND.—The term 'Island' means Saint Croix Island, located in the Saint Croix River, between Canada and the State of Maine.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Interior, acting through the Director of the National Park Service.

''SEC. 4. SAINT CROIX ISLAND REGIONAL HERITAGE CENTER.

''(a) IN GENERAL.—The Secretary shall provide assistance in planning, constructing, and operating a regional heritage center in downtown Calais, Maine, to facilitate the management and interpretation of the Saint Croix Island International Historic Site.

''(b) COOPERATIVE AGREEMENTS.—To carry out subsection (a), in administering the Saint Croix Island International Historic Site, the Secretary may enter into cooperative agreements under appropriate terms and conditions with other Federal agencies, State and local agencies and nonprofit organizations—

''(1) to provide exhibits, interpretive services (including employing individuals to provide such services), and technical assistance;

''(2) to conduct activities that facilitate the dissemination of information relating to the Saint Croix Island International Historic Site;

''(3) to provide financial assistance for the construction of the regional heritage center in exchange for space in the center that is sufficient to interpret the Saint Croix Island International Historic Site; and

''(4) to assist with the operation and maintenance of the regional heritage center.

''SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

''(a) DESIGN AND CONSTRUCTION.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this Act (including the design and construction of the regional heritage center) $2,000,000.

''(2) EXPENDITURE.—Paragraph (1) authorizes funds to be appropriated on the condition that any expenditure of those funds shall be matched on a dollar-for-dollar basis by funds from non-Federal sources.

''(b) OPERATION AND MAINTENANCE.—There are authorized to be appropriated such sums as are necessary to maintain and operate interpretive exhibits in the regional heritage center.''

§ 450hh–1. Designation; acquisition of additional lands; lands excluded

Upon a determination by the Secretary of the Interior that sufficient land and interests in land situated on the island have been acquired by the United States for the establishment of a suitable national monument, such acquired property, and any Federal properties on the island that are not required for other public purposes, shall be established as the ''Saint Croix Island International Historic Site''. An order of the Secretary of the Interior, constituting notice of such determination, shall be published in the Federal Register. Following establishment of the national monument, other properties situated upon the island may become a part of the monument upon acquisition of title to such properties by the United States, and Federal properties situated upon the island, upon a determination by the agency administering such Federal properties that they are no longer required by that agency, may be transferred to the Secretary of the Interior by such agency to become a part of the national monument. Notice of the addition of any such properties to the monument shall be published in the Federal Register by the Secretary of the Interior. There shall be excluded from the national monument,

for such time as the United States Coast Guard shall consider it to be necessary, any portion of the island which is being used and which is required for the purposes of a Coast Guard light station.

(June 8, 1949, ch. 180, §2, 63 Stat. 158; Pub. L. 98–422, Sept. 25, 1984, 98 Stat. 1615.)

CHANGE OF NAME

Pub. L. 98–422 provided:

''That (a) in recognition of its historic significance to the United States and Canada, the Saint Croix Island National Monument in the State of Maine is hereby redesignated as the 'Saint Croix Island International Historic Site'.

''(b) Any reference in a law, map, regulation, document, record, or other paper of the United States to such monument shall be deemed to be a reference to the 'Saint Croix Island International Historic Site'.

''(c) Nothing in this joint resolution shall affect the status of the 'Saint Croix Island International Historic Site' as a national monument and a unit of the National Park System.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 450hh–2. Administration

The national monument shall be administered by the Secretary of the Interior, through the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and sections 461 to 467 of this title.

(June 8, 1949, ch. 180, §3, 63 Stat. 158.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 450ii. Joshua Tree National Monument; revision of boundaries

Joshua Tree National Monument, in the State of California, established by Proclamation Numbered 2193, of August 10, 1936 (50 Stat. 1760), after September 25, 1950, shall comprise the following-described area:

SAN BERNARDINO MERIDIAN

Township 1 south, range 5 east, sections 22 to 27, inclusive, and sections 34 to 36, inclusive; township 2 south, range 5 east, portion of east half lying north of the north right-of-way line of the Colorado River aqueduct but excluding therefrom that portion of the Long Canyon Camp and dump area in section 27; township 1 south, range 6 east, sections 19 to 36, inclusive; township 2 south, range 6 east, sections 1 to 30, inclusive, that portion of section 31 lying north of the north right-of-way line of the Colorado River aqueduct, and sections 32 to 36, inclusive; township 3 south, range 6 east, portion lying north of the north right-of-way line of the Colorado River aqueduct but excluding therefrom that portion of the Deception Camp and dump area in section 14, that portion of the West Deception Camp and dump area in section 10, and the portions of the East Wide Canyon Camps and dump areas in sections 5 and 6; township 1 south, range 7 east, sections 1 to 4, inclusive, and 9 to 15, inclusive, unsurveyed, section 16, sections 19 to 23, inclusive, section 24, unsurveyed, and sections 25 to 36, inclusive; township 2 south, range 7 east; township 3 south, range 7 east, portion lying north of the north right-of-way line of the Colorado River aqueduct but excluding therefrom that portion of the Fan Hill Camp and dump area in section 20; township 1 south, range 8 east, partly unsurveyed; townships 2 and 3 south, range 8 east; township 1 south, range 9 east, sections 5 to 9, inclusive, sections 16 to 23, inclusive, and sections 26 to 35, inclusive; township 2 south, range 9 east, sections 2 to 11, inclusive, and sections 14 to 36, inclusive, partly unsurveyed; township 3 south, range 9 east; township 4 south, range 9 east; sections 1 to 5, inclusive, and sections 11 to 14, inclusive; township 2 south, range 10 east, sections 25 to 36, inclusive, unsurveyed; township 3 south, range 10 east, partly unsurveyed; township 4 south, range 10 east, sections 1 to 18, inclusive, sections 22 to 26, inclusive, and sections 35 and 36; township 5 south, range 10 east, section 1; township 2 south, range 11 east, sections 25 to 36, inclusive, unsurveyed; townships 3 and 4 south, range 11 east, partly unsurveyed; township 5 south, range 11 east, sections 1 to 18, inclusive, sections 22 to 27, inclusive, and sections 34, 35, and 36; township 6 south, range 11 east, portion of sections 1, 2, and 3 lying north of north transmission line right-of-way which is adjacent to the north right-of-way line of the Colorado River aqueduct but excluding therefrom the Aggregate Deposit in section 3; township 2 south, range 12 east, section 13 and sections 23 to 36, inclusive, partly unsurveyed; townships 3 and 4 south, range 12 east, partly unsurveyed; township 5 south, range 12 east, sections 1 to 24, inclusive, and sections 26 to 34, inclusive, partly unsurveyed, and portions of sections 25 and 35 lying north of north transmission line right-of-way which is adjacent to the north right-of-way line of the Colorado River aqueduct; township 6 south, range 12 east, portions of sections 2, 3, 4, 5, 6, and 10, lying north of north transmission line right-of-way which is adjacent to the north right-of-way line of the Colorado River aqueduct but excluding therefrom the Bumpani's Aggregate Deposit in section 4; township 2 south, range 13 east, sections 1 and 2 and sections 7 to 36, inclusive, partly unsurveyed; township 3 south, range 13 east, sections 1 to 18, inclusive, partly unsurveyed; township 5 south, range 13 east, sections 6, 7, 18, and 19, unsurveyed; township 1 south, range 14 east, sections 33 to 36, inclusive, partly unsurveyed; township 2 south, range 14 east, partly unsurveyed; township 3 south, range 14 east, sections 1 to 18, inclusive, partly unsurveyed; township 1 south, range 15 east, sections 31 to 35, inclusive, partly unsurveyed; township 2 south,

range 15 east, sections 2 to 36, inclusive, partly unsurveyed; township 3 south, range 15 east, sections 1 to 12, inclusive, partly unsurveyed, and section 18, unsurveyed; township 2 south, range 16 east, sections 18, 19, 30, and 31, unsurveyed; and township 3 south, range 16 east, sections 6 and 7 unsurveyed. Also, all that portion of the south half of the northeast quarter and of the north half of the southeast quarter of section 33, township 1 north, range 9 east, San Bernardino base and meridian, in the county of San Bernardino, State of California, shown on map titled ''Record of Survey'' by H. F. Cameron, Junior, licensed engineer 6826, dated December 29, 1948, and James B. Hommon, licensed engineer 6916, dated October 5, 1949, and made for the National Park Service, Department of the Interior, and recorded October 17, 1949, in volume 7, page 72, of the official records of the county of San Bernardino, said land being described as follows:

Beginning at the United States Government Land Office monument marked as the east quarter corner of said section 33, thence proceeding on a true bearing south 89 degrees 02 minutes 10 seconds west a distance of 50.01 feet to the true point of beginning of the hereinafter described parcel of land;

Thence north 0 degrees 02 minutes 55 seconds west a distance of 250.08 feet to a point of curve; thence along the arc of a curve to the left having a radius of 20.00 feet a distance of 31.73 feet to a point of tangency; thence south 89 degrees 02 minutes 40 seconds west a distance of 2,559.24 feet; thence south 0 degrees 19 minutes 50 seconds east a distance of 270.76 feet;

Thence south 0 degrees 21 minutes 02 seconds east a distance of 409.32 feet to the beginning of a curve; thence along the arc of a curve to the left having a radius of 280.98 feet a distance of 275.93 feet to a point of compound curvature; thence along the arc of a curve to the left having a radius of 800.00 feet a distance of 753.98 feet to a point of tangency; thence north 69 degrees 22 minutes 58 seconds east a distance of 125.31 feet to the beginning of a curve;

Thence along the arc of a curve to the right having a radius of 1,400.00 feet a distance of 1.042.74 feet to a point of tangency; thence south 67 degrees 56 minutes 33 seconds east a distance of 94.55 feet to the beginning of a curve; thence along the arc of a curve to the left having a radius of 700.00 feet a distance of 366.52 feet to a point of compound curvature;

Thence along the arc of a curve to the left having a radius of 167.60 feet a distance of 240.17 feet to a point of tangency; thence north 0 degrees 02 minutes 55 seconds west a distance of 648.91 feet to the point of beginning containing 57.839 acres, more or less.

(Sept. 25, 1950, ch. 1030, §1, 64 Stat. 1033; Pub. L. 87–80, June 30, 1961, 75 Stat. 197.)

AMENDMENTS

1961—Pub. L. 87–80 included within the boundaries of Joshua Tree National Monument certain federally owned lands situate in county of San Bernardino, California.

ABOLITION OF JOSHUA TREE NATIONAL MONUMENT

Joshua Tree National Monument abolished and incorporated in Joshua Tree National Park, see section 410aaa–22 of this title.

§ 450ii–1. Excluded lands opened to entry under mining laws

All public-domain lands included before September 25, 1950, within the Joshua Tree National Monument which are eliminated from the National Monument by sections 450ii to 450ii–3 of this title are opened to location, entry, and patenting under the United States mining laws: *Provided*, That such public-domain lands or portions thereof shall be restored to application and entry under other applicable public land laws, including the mineral leasing laws.

(Sept. 25, 1950, ch. 1030, §2, 64 Stat. 1035.)

ABOLITION OF JOSHUA TREE NATIONAL MONUMENT

Joshua Tree National Monument abolished and incorporated in Joshua Tree National Park, see section 410aaa–22 of this title.

§ 450ii–2. Continuation of leases, permits, and licenses

All leases, permits, and licenses issued or authorized by any department, establishment, or agency of the United States, with respect to the Federal lands excluded from the Joshua Tree National Monument by sections 450ii to 450ii–3 of this title, which are in effect on September 25, 1950, shall continue in effect, subject to compliance with the terms and conditions therein set forth, until terminated in accordance with the provisions thereof.

(Sept. 25, 1950, ch. 1030, §3, 64 Stat. 1035.)

ABOLITION OF JOSHUA TREE NATIONAL MONUMENT

Joshua Tree National Monument abolished and incorporated in Joshua Tree National Park, see section 410aaa–22 of this title.

§ 450ii–3. Survey and report of mineral value

The Secretary of the Interior is authorized and directed, through the United States Bureau of Mines, the United States Geological Survey, and the National Park Service, to cause a survey to be made of the area within the revised boundaries of the Joshua Tree National Monument with a view to determining to what extent the said area is more valuable for minerals than for the National Monument purposes for which it was created. Report of said survey shall be filed with the President of the United States Senate and the Speaker of the House of Representatives on or before February 1, 1951.

(Sept. 25, 1950, ch. 1030, §4, 64 Stat. 1035; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000; Pub. L. 102–285, §10(b), May 18, 1992, 106 Stat. 172.)

CHANGE OF NAME

''United States Bureau of Mines'' substituted in text for ''Bureau of Mines'' pursuant to section 10(b) of Pub. L. 102–285, set out as a note under section 1 of Title 30, Mineral Lands and Mining. For provisions relating to closure and transfer of functions of the United States Bureau of Mines, see Transfer of Functions note set out under section 1 of Title 30.

''United States Geological Survey'' substituted in text for ''Geological Survey'' pursuant to provision of

title I of Pub. L. 102–154, set out as a note under section 31 of Title 43, Public Lands.

ABOLITION OF JOSHUA TREE NATIONAL MONUMENT

Joshua Tree National Monument abolished and incorporated in Joshua Tree National Park, see section 410aaa–22 of this title.

§ 450jj. Jefferson National Expansion Memorial; authorization

There is authorized to be constructed by the Secretary of the Interior upon the Jefferson National Expansion Memorial National Historic Site, Saint Louis, Missouri, an appropriate national memorial to those persons who made possible the territorial expansion of the United States, including President Thomas Jefferson and his aides, Livingston and Monroe, who negotiated the Louisiana Purchase, the great explorers, Lewis and Clark, and the hardy hunters, trappers, frontiersmen, pioneers, and others who contributed to such expansion.

(May 17, 1954, ch. 204, § 1, 68 Stat. 98.)

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–398, title II, § 203, Aug. 24, 1984, 98 Stat. 1472, provided that: ''This title [enacting sections 450jj–3 to 450jj–9 of this title, enacting provisions set out as a note under section 450jj–3 of this title, and amending provisions set out as a note under this section] may be cited as the 'Jefferson National Expansion Memorial Amendments Act of 1984'.''

DISPOSITION OF FUNDS RECEIVED BY NATIONAL PARK SERVICE AS REIMBURSEMENT FOR COSTS INCURRED

Pub. L. 99–500, § 101(h) [title I, § 100], Oct. 18, 1986, 100 Stat. 1783–242, 1783–251, and Pub. L. 99–591, § 101(h) [title I, § 100], Oct. 30, 1986, 100 Stat. 3341–242, 3341–251, provided: ''That notwithstanding any other provision of law, hereafter funds received by the National Park Service as reimbursement for the cost of providing security, law enforcement, interpretive, and other services with respect to the operation of facilities at the Jefferson National Expansion Memorial National Historic Site shall be credited to the appropriation bearing the cost of providing such services.''

AUTHORIZATION OF APPROPRIATIONS; FEDERAL AND NON-FEDERAL RATIO OF EXPENDITURES

Section 11, formerly section 4, of act May 17, 1954, as amended by Pub. L. 85–936, Sept. 6, 1958, 72 Stat. 1794; Pub. L. 89–269, Oct. 19, 1965, 79 Stat. 991; Pub. L. 94–578, title II, § 201(6), Oct. 21, 1976, 90 Stat. 2733; and renumbered § 11 and amended by Pub. L. 98–398, title II, § 201(b), Aug. 24, 1984, 98 Stat. 1471; Pub. L. 102–355, § 1(3), Aug. 26, 1992, 106 Stat. 947, provided that:

''(a) There is hereby authorized to be appropriated not to exceed $32,750,000 to carry out the purposes of this Act [sections 450jj to 450jj–9 of this title]: *Provided*, That funds authorized to be appropriated by this Act shall be expended by the United States for construction of the memorial in the ratio of $3 of Federal funds for each $1 of money contributed hereafter by the city of Saint Louis or other non-Federal source for purposes of the memorial, and for such purposes the Secretary is authorized to accept from the said city or other non-Federal sources, and to utilize for purposes of this Act, any money so contributed: *Provided further*, That the value of any land hereafter contributed by the city of Saint Louis shall be excluded from the computation of the city's share.

''(b)(1) For the purposes of the East St. Louis portion of the memorial, there are authorized to be appropriated $2,000,000 for land acquisition and, subject to the provisions of paragraphs (2) and (3), such sums as may be necessary for development: *Provided*, That such authorization shall not include any sums for the acquisition, removal, or relocation of the grain elevator and business located within the East St. Louis unit of the Memorial. Such development shall be consistent with the level of development described in phase one of the draft Development and Management Plan and Environmental Assessment, East St. Louis Addition to Jefferson National Expansion Memorial—Illinois/Missouri, dated August 1987.

''(2) Federal funds expended under paragraph (1) for development may not exceed 75 percent of the actual cost of such development. The remaining share of such actual costs shall be provided from non-Federal funds, services, or materials, or a combination thereof, fairly valued as determined by the Secretary. Any non-Federal expenditures for the acquisition, removal, or relocation of the grain elevator and business shall be included as part of the non-Federal cost share: *Provided*, That credit shall not be given for any such expenditures which exceed the cost of acquisition, removal, or relocation of the grain elevator and business located within the East St. Louis unit of the Memorial if such action had been accomplished by the Federal Government as determined by the Secretary under existing law: *Provided further*, That only those non-Federal funds expended at least sixty days after the transmission of the report referred to in paragraph (3) for the removal of such grain elevator shall be credited towards the non-Federal cost share. For the purposes of this paragraph, the Secretary may accept and utilize for such purposes any non-Federal funds, services, and materials so contributed.

''(3) Within one year after the date of enactment of this paragraph [Aug. 26, 1992], the Secretary, in direct consultation with the city of East St. Louis, Gateway Arch Park Expansion, and the Southwestern Illinois Development Authority, shall develop and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs [now Committee on Natural Resources] of the United States House of Representatives a study of alternatives to, and costs associated with, the removal of the grain elevator located within the East St. Louis unit of the Memorial. The study shall contain, but need not be limited to, at least one alternative which would incorporate and retain the existing grain elevator into the draft development and management plan and environmental assessment referred to in paragraph (1).

''(c) Funds appropriated under subsection (b) of this section shall remain available until expended.''

§ 450jj–1. Construction of memorial

(a) Plan; contracts; employment and compensation of personnel

The memorial authorized herein shall be constructed in general, in accordance with the plan approved by the United States Territorial Expansion Memorial Commission on May 25, 1948. The Secretary of the Interior is authorized to enter into such contracts as may be necessary to carry out the purposes of sections 450jj to 450jj–9 of this title. The Secretary is also authorized to employ, in his discretion, by contract or otherwise, landscape architects, architects, engineers, sculptors, artists, other expert consultants, or firms, partnerships, or associations thereof, and to include in any such contract provision for the utilization of the services and facilities, and the payment of the travel and other expenses, of their respective organizations, in accordance with the usual customs of the several professions and at the prevailing rates for such services and facilities, without regard to the civil-service laws or regulations, chapter 51 and subchapter III of chapter 53 of title 5, section 6101 of

title 41, or any other law or regulation relating to either employment or compensation.

(b) Easements; above-ground parking

The Secretary of the Interior, in connection with the construction and operation of the memorial, is authorized to grant such easements as are in the public interest, and, in his discretion, to convey to the city of Saint Louis for above-ground parking structures, under such terms and conditions as he may consider to be compatible with maintaining the integrity, appearance, and purposes of said memorial, such portion of the historic site as may in his judgment be excluded therefrom without detriment thereto, subject, however, to reversion of such portion of the historic site to the United States if such excluded area ceases to be used for parking purposes by said city.

(c) Easements; public protection

The Secretary of the Interior is authorized to grant easements for the purpose of erecting under-ground structures suitable for public protection under such terms and conditions as he may consider to be compatible with maintaining the integrity, appearance, and purposes of said memorial.

(May 17, 1954, ch. 204, § 2, 68 Stat. 99.)

REFERENCES IN TEXT

Herein, referred to in subsec. (a), means act May 17, 1954, which is generally classified to sections 450jj to 450jj–9 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

In subsec. (a), ''chapter 51 and subchapter III of chapter 53 of title 5'' substituted for ''the Classification Act of 1949, as amended'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

In subsec. (a), ''section 6101 of title 41'' substituted for ''section 3709 of the Revised Statutes, as amended'' on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§ 450jj–2. Railroad agreement as condition precedent to undertaking memorial project

The memorial project authorized herein shall not be undertaken until there shall have been reached an agreement satisfactory to the Secretary of the Interior providing for the relocation of the railroad tracks and structures now situated on lands adjacent to the Jefferson National Expansion Memorial National Historic Site, between the boundary of the site and the river. Such agreement shall contain such terms as may be deemed desirable by the Secretary but shall contain a provision limiting the Federal expenditure of funds in connection with such relocation of the tracks and structures to work undertaken within the historic site area.

(May 17, 1954, ch. 204, § 3, 68 Stat. 99.)

REFERENCES IN TEXT

Herein, referred to in text, means act May 17, 1954, which is generally classified to sections 450jj to 450jj–9 of this title. For complete classification of this Act to the Code, see Tables.

§ 450jj–3. Designation of additional land by Secretary; manner of acquiring additional land

(a) There is hereby designated for addition to the Jefferson National Expansion Memorial (hereinafter in sections 450jj–3 to 450jj–9 of this title referred to as the ''Memorial'') approximately one hundred acres in the city of East Saint Louis, Illinois, contiguous with the Mississippi River and between the Eads Bridge and the Poplar Street Bridge, as generally depicted on the map entitled ''Boundary Map, Jefferson National Expansion Memorial'', numbered 366–80013, dated January 1992, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The additional acreage authorized by this section is in recognition of the historical significance of the Memorial site to the westward expansion of the United States and the historical linkage of this site on the Mississippi in both Missouri and Illinois to such expansion, the international recognition of the Gateway Arch, designed by Eero Saarinen, as one of the world's great sculptural and architectural achievements, and the increasing use of the Memorial site by millions of people from all over the United States and the world.

(b) Within the area designated in accordance with this section, the Secretary of the Interior may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange, except that lands owned by the State of Illinois or any political subdivision thereof may be acquired only by donation.

(May 17, 1954, ch. 204, § 4, as added Pub. L. 98–398, title II, § 201(a), Aug. 24, 1984, 98 Stat. 1467; amended Pub. L. 102–355, § 1(1), Aug. 26, 1992, 106 Stat. 947.)

PRIOR PROVISIONS

A prior section 4 of act May 17, 1954, was renumbered section 11 and is set out as a note under section 450jj of this title.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–355 substituted ''There is hereby designated'' for ''The Secretary of the Interior is further authorized to designate'', ''approximately'' for ''not more than'', and ''366–80013, dated January 1992,'' for ''MWR–366/80,004, and dated February 9, 1984,''.

COMPLIANCE WITH CONGRESSIONAL BUDGET ACT

Section 202 of title II of Pub. L. 98–398 provided that: ''Any provision of this title (or any amendment made by this title) [enacting sections 450jj–3 to 450jj–9 of this title and enacting and amending provisions set out as notes under section 450jj of this title] which, directly or indirectly, authorizes the enactment of new budget authority described in section 402(a) of the Congressional Budget Act of 1974 [2 U.S.C. 652(a)] shall be effective only for fiscal years beginning after September 30, 1983.''

§ 450jj–4. Transfer of land

Where appropriate in the discretion of the Secretary of the Interior, he may transfer by lease or otherwise, to any appropriate person or governmental entity, land owned by the United States (or any interest therein) which has been acquired by the Secretary under section 450jj–3 of this title. Any such transfer shall be consist-

ent with the management plan for the area and with the requirements of section 460*l*–22 of this title and shall be subject to such conditions and restrictions as the Secretary deems necessary to carry out the purposes of sections 450jj to 450jj–9 of this title, including terms and conditions which provide for—

(1) the continuation of existing uses of the land which are compatible with the Memorial,

(2) the protection of the important historical resources of the leased area, and

(3) the retention by the Secretary of such access and development rights as the Secretary deems necessary to provide for appropriate visitor use and resource management.

In transferring any lands or interest in lands under this section, the Secretary shall take into account the views of the Commission established under section 450jj–6 of this title.

(May 17, 1954, ch. 204, § 5, as added Pub. L. 98–398, title II, § 201(a), Aug. 24, 1984, 98 Stat. 1468.)

REFERENCES IN TEXT

Section 450jj–6 of this title, referred to in text, was in the original ''section 8'', meaning section 8 of act May 17, 1954, ch. 204, and was translated as reading ''section 7'' of such act, to reflect the probable intent of Congress, because section 7 related to the establishment of the Jefferson National Expansion Memorial Commission.

PRIOR PROVISIONS

A prior section 5 of act May 17, 1954, contained a limitation on appropriation authorization and a prohibition on expenditure of Government funds and was classified as a note under section 450jj of this title, prior to the general amendment made by Pub. L. 85–936, Sept. 6, 1958, 72 Stat. 1794.

§ 450jj–5. Administration of Memorial; cooperation with State and local governments and private sector

Lands and interests in lands acquired pursuant to section 450jj–3 of this title shall, upon acquisition, be a part of the Memorial. The Secretary of the Interior shall administer the Memorial in accordance with sections 450jj to 450jj–9 of this title and the provisions of law generally applicable to units of the national park system, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title. In the development, management, and operation of that portion of the Memorial which is added to the Memorial under section 450jj–3 of this title, the Secretary shall, to the maximum extent feasible, utilize the assistance of State and local government agencies and the private sector. For such purposes, the Secretary may, consistent with the management plan for the area, enter into cooperative agreements with the State, with any political subdivision of the State, or with any person. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Secretary of any action proposed by the State, such political subdivision, or such person, which may affect the area.

(May 17, 1954, ch. 204, § 6, as added Pub. L. 98–398, title II, § 201(a), Aug. 24, 1984, 98 Stat. 1468.)

§ 450jj–6. Jefferson National Expansion Memorial Commission

(a) Establishment

There is hereby established the Jefferson National Expansion Memorial Commission (hereinafter in sections 450jj–6 to 450jj–9 of this title referred to as the ''Commission'').

(b) Composition

The Commission shall be composed of twenty members as follows:

(1) The county executive of Saint Louis County, Missouri, ex officio, or a delegate.

(2) The chairman of the Saint Clair County Board of Supervisors, Illinois, ex officio, or a delegate.

(3)(A) The executive director of the Bi-State Development Agency, Saint Louis, Missouri, ex officio, or a delegate.

(B) A member of the Bi-State Development Agency, Saint Louis, Missouri, who is not a resident of the same State as the executive director of such agency, appointed by a majority of the members of such agency, or a delegate.

(4) The mayor of the city of East Saint Louis, Illinois, ex officio, or a delegate.

(5) The mayor of Saint Louis, Missouri, ex officio, or a delegate.

(6) The Governor of the State of Illinois, ex officio, or a delegate.

(7) The Governor of the State of Missouri, ex officio, or a delegate.

(8) The Secretary of the Interior, ex officio, or a delegate.

(9) The Secretary of Housing and Urban Development, ex officio, or a delegate.

(10) The Secretary of Transportation, ex officio, or a delegate.

(11) The Secretary of the Treasury, ex officio, or a delegate.

(12) The Secretary of Commerce, ex officio, or a delegate.

(13) The Secretary of the Smithsonian Institution, ex officio, or a delegate.

(14) Three individuals appointed by the Secretary of the Interior from a list of individuals nominated by the mayor of East Saint Louis, Illinois, and the Governor of the State of Illinois.

(15) Three individuals appointed by the Secretary of the Interior from a list of individuals nominated by the mayor of Saint Louis, Missouri, and the Governor of the State of Missouri.

Individuals nominated for appointment under paragraphs (14) and (15) shall be individuals who have knowledge and experience in one or more of the fields of parks and recreation, environmental protection, historic preservation, cultural affairs, tourism, economic development, city planning and management, finance, or public administration. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) Term of office of members

(1) Except as provided in paragraphs (2) and (3), members of the Commission shall be appointed for terms of three years.

(2) Of the members of the Commission first appointed under paragraphs (14) and (15) of subsection (c) of this section—

(A) two shall be appointed for terms of one year;

(B) two shall be appointed for terms of two years; and

(C) two shall be appointed for terms of three years;

as designated by the Secretary of the Interior at the time of appointment.

(3) Any member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member of the Commission may serve after the expiration of his term until his successor has taken office.

(d) Compensation of members; travel expenses and per diem

Members of the Commission shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(e) Chairperson

The chairperson of the Commission shall be elected by the members of the Commission.

(f) Assistance from Federal agencies

Upon request of the Commission, the head of any Federal agency represented by members on the Commission may detail any of the personnel or[1] such agency, or provide administrative services to the Commission to assist the Commission in carrying out the Commission's duties under section 450jj–7 of this title.

(g) Gifts, bequests, or donations

The Commission may, for the purposes of carrying out the Commission's duties under section 450jj–7 of this title, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

(h) Termination; extension

(1) Except as provided in paragraph (2), the Commission shall terminate on the day occurring ten years after August 24, 1984.

(2) The Secretary of the Interior may extend the life of the Commission for a period of not more than five years beginning on the day referred to in paragraph (1) if the Commission determines that such extension is necessary in order for the Commission to carry out sections 450jj to 450jj–9 of this title.

(May 17, 1954, ch. 204, § 7, as added Pub. L. 98–398, title II, § 201(a), Aug. 24, 1984, 98 Stat. 1469.)

§ 450jj–7. Development and management plan for East Saint Louis, Illinois, portion of Memorial

(a) Within two years from August 24, 1984, the Commission shall develop and transmit to the Secretary a development and management plan for the East Saint Louis, Illinois, portion of the Memorial. The plan shall include—

(1) measures for the preservation of the area's resources;

(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems, and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation, and cost estimates;

(3) identification of any implementation commitments for visitor carrying capacities for all areas of the area;

(4) indications of potential modifications to the external boundaries of the area, the reasons therefore,[1] and cost estimates;

(5) measures and commitments for insuring that the development, management, and operation of the area in the State of Illinois are compatible with the portion of the Memorial in the State of Missouri;

(6) opportunities and commitments for cooperative activities in the development, management, and operation of the East Saint Louis portion of the Memorial with other Federal, State, and local agencies, and the private sector; and

(7) effective and appropriate ways to increase local participation in the management of the East Saint Louis portion of the Memorial to help reduce the day-to-day operational and management responsibilities of the National Park Service and to increase opportunities for local employment.

(b) The plan shall also identify and include—

(1) needs, opportunities, and commitments for the aesthetic and economic rehabilitation of the entire East Saint Louis, Illinois, waterfront and adjacent areas, in a manner compatible with and complementary to, the Memorial, including the appropriate commitments and roles of the Federal, State, and local governments and the private sector; and

(2) cost estimates and recommendations for Federal, State, and local administrative and legislative actions.

In carrying out its duties under this section, the Commission shall take into account Federal, State, and local plans and studies respecting the area, including the study by the National Park Service on the feasibility of a museum of American ethnic culture to be a part of any development plans for the Memorial.

(May 17, 1954, ch. 204, § 8, as added Pub. L. 98–398, title II, § 201(a), Aug. 24, 1984, 98 Stat. 1470.)

§ 450jj–8. Repealed. Pub. L. 102–355, § 1(2), Aug. 26, 1992, 106 Stat. 947

Section, act May 17, 1954, ch. 204, § 9, as added Aug. 24, 1984, Pub. L. 98–398, title II, § 201(a), 98 Stat. 1471, related to approval of development and management plan for East Saint Louis, Illinois, portion of Jefferson National Expansion Memorial, and transmission by Secretary of notice of approval of plan to Congressional committees.

[1] So in original. Probably should be "of".

[1] So in original. Probably should be "therefor,".

§ 450jj–9. Activities in Memorial area pending submission of plan

Pending submission of the Commission's plan, any Federal entity conducting or supporting significant activities directly affecting East Saint Louis, Illinois, generally and the site specifically referred to in section 450jj–3 of this title shall—

(1) consult with the Secretary of the Interior and the Commission with respect to such activities;

(2) cooperate with the Secretary of the Interior and the Commission in carrying out their duties under sections 450jj to 450jj–9 of this title, and to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner which the Secretary determines will not have an adverse effect on the Memorial.

(May 17, 1954, ch. 204, § 10, as added Pub. L. 98–398, title II, § 201(a), Aug. 24, 1984, 98 Stat. 1471.)

§ 450kk. Fort Union National Monument; acquisition of site and other lands; reversions and reservations

In order to preserve and protect, in the public interest, the historic Old Fort Union, situated in the county of Mora, State of New Mexico, and to provide adequate public access thereto, the Secretary of the Interior is authorized to acquire on behalf of the United States by donation, or he may procure with donated funds, the site and remaining structures of Old Fort Union, together with such additional land, interests in land, and improvements thereon as the Secretary in his discretion may deem necessary to carry out the purposes of this section and section 450kk–1 of this title. Donated lands may be accepted subject to such reservations, terms, and conditions as may be satisfactory to the Secretary, including right of reversion to donor, or its successors and assigns, upon abandonment as a national monument, and reservation of mineral rights subject to condition that surface of donated lands may not be used or disturbed in connection therewith, without the consent of the Secretary.

(June 28, 1954, ch. 401, § 1, 68 Stat. 298.)

§ 450kk–1. Establishment; publication in Federal Register; additional properties

Upon a determination of the Secretary of the Interior that sufficient land and other property have been acquired by the United States for national-monument purposes, as provided in section 450kk of this title, such property shall be established as the ''Fort Union National Monument'' and thereafter shall be administered by the Secretary of the Interior in accordance with the laws and regulations applicable to national monuments. An order of the Secretary, constituting notice of such establishment, shall be published in the Federal Register.

Following establishment of the national monument, additional properties may be acquired as provided in section 450kk of this title, which properties, upon acquisition of title thereto by the United States, shall become a part of the national monument: *Provided*, That the total area of the national monument established pursuant to this section and section 450kk of this title shall not exceed one thousand acres, exclusive of such adjoining lands as may be covered by scenic easements.

(June 28, 1954, ch. 401, § 2, 68 Stat. 299.)

§ 450*ll*. Booker T. Washington National Monument; acquisition of site

The Secretary of the Interior is authorized and directed to acquire, on behalf of the United States, by gift, purchase, or condemnation, all right, title, and interest in and to the real property located at Booker Washington Birthplace, Virginia.

(Apr. 2, 1956, ch. 158, § 1, 70 Stat. 86.)

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–215, § 1, Aug. 21, 2002, 116 Stat. 1054, provided that: ''This Act [enacting section 450*ll*–3 of this title] may be cited as the 'Booker T. Washington National Monument Boundary Adjustment Act of 2002'.''

AUTHORIZATION OF APPROPRIATIONS

Section 4 of act Apr. 2, 1956, as amended by Pub. L. 92–272, title II, § 201(2), Apr. 11, 1972, 86 Stat. 120, provided that: ''There are authorized to be appropriated such sums not to exceed $600,000 as may be necessary to carry out the provisions of this act [sections 450*ll* to 450*ll*–2 of this title].''

§ 450*ll*–1. Establishment and supervision

The real property acquired under section 450*ll* of this title shall constitute the Booker T. Washington National Monument and shall be a public national memorial to Booker T. Washington, noted Negro educator and apostle of good will. The Secretary of the Interior shall have the supervision, management, and control of such national monument, and shall maintain and preserve it in a suitable and enduring manner which, in his judgment, will provide for the benefit and enjoyment of the people of the United States.

(Apr. 2, 1956, ch. 158, § 2, 70 Stat. 86.)

§ 450*ll*–2. Maintenance of museum; provision for parks, construction of roads and use of markers

The Secretary of the Interior is authorized to—

(1) maintain, either in an existing structure acquired under section 450*ll* of this title or in a building constructed by him for the purpose, a museum for relics and records pertaining to Booker T. Washington, and for other articles of national and patriotic interest, and to accept, on behalf of the United States, for installation in such museum, articles which may be offered as additions to the museum; and

(2) provide for public parks and recreational areas, construct roads and mark with monuments, tablets, or otherwise, points of interest, within the boundaries of the Booker T. Washington National Monument.

(Apr. 2, 1956, ch. 158, § 3, 70 Stat. 86.)

§ 450*ll*–3. Additional lands

(a) Lands added to Monument

The boundary of the Booker T. Washington National Monument is modified to include the approximately 15 acres, as generally depicted on the map entitled ''Boundary Map, Booker T. Washington National Monument, Franklin County, Virginia'', numbered BOWA 404/80,024, and dated February 2001. The map shall be on file and available for inspection in the appropriate offices of the National Park Service, Department of the Interior.

(b) Acquisition of additional lands

The Secretary of the Interior is authorized to acquire from willing owners the land or interests in land described in subsection (a) of this section by donation, purchase with donated or appropriated funds, or exchange.

(c) Administration of additional lands

Lands added to the Booker T. Washington National Monument by subsection (a) of this section shall be administered by the Secretary of the Interior as part of the monument in accordance with applicable laws and regulations.

(Apr. 2, 1956, ch. 158, § 5, as added Pub. L. 107–215, § 2, Aug. 21, 2002, 116 Stat. 1054.)

§§ 450mm to 450mm–3. Repealed. Pub. L. 108–387, title I, § 105(a), Oct. 30, 2004, 118 Stat. 2236

Section 450mm, Pub. L. 85–435, § 1, May 29, 1958, 72 Stat. 153, established the Fort Clatsop National Memorial.

Section 450mm–1, Pub. L. 85–435, § 2, May 29, 1958, 72 Stat. 153; Pub. L. 95–625, title III, § 311, Nov. 10, 1978, 92 Stat. 3478; Pub. L. 107–221, § 3(a), Aug. 21, 2002, 116 Stat. 1333, related to designation of land for, improvements to, and size of, the Memorial.

Section 450mm–2, Pub. L. 85–435, § 3, May 29, 1958, 72 Stat. 153; Pub. L. 107–221, § 3(b), Aug. 21, 2002, 116 Stat. 1334, provided authority for Secretary of the Interior to acquire land for the Memorial.

Section 450mm–3, Pub. L. 85–435, § 4, May 29, 1958, 72 Stat. 153; Pub. L. 107–221, § 3(c), Aug. 21, 2002, 116 Stat. 1334, related to administration of the Memorial by the Secretary.

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–221, § 1, Aug. 21, 2002, 116 Stat. 1333, provided that: ''This Act [amending sections 450mm–1 to 450mm–3 of this title and enacting provisions set out as a note under section 450mm–1 of this title] may be cited as the 'Fort Clatsop National Memorial Expansion Act of 2002'.''

§ 450nn. General Grant National Memorial; establishment

The Secretary of the Interior is authorized and directed to accept, as a gift to the United States, title to the real property known as Grant's Tomb at Riverside Drive and West One Hundred and Twenty-Second Street in New York, New York, and thereafter to administer and maintain such real property as the General Grant National Memorial.

(Pub. L. 85–659, Aug. 14, 1958, 72 Stat. 614.)

§ 450*oo*. Grand Portage National Monument; establishment; effective date

For the purpose of preserving an area containing unique historical values, there is authorized to be established, in the manner hereinafter provided, the Grand Portage National Monument in the State of Minnesota which, subject to valid existing rights, shall comprise the following described lands:

NORTHWEST COMPANY AREA

Tract numbered 1 beginning at a point about 28 feet from the water line of Lake Superior and on the east boundary of the southwest quarter of the southeast quarter of section 4, said point marked by a brass plug numbered I; thence northerly along said boundary line a distance of 273.70 feet to a point marked by a brass plug numbered II; thence in a westerly direction parallel to the south one-sixteenth line of section 4 a distance of 1,320 feet to the intersection of said line with the north-south quarter line of section 4, said point of intersection being in the bed of a stream and witnessed by an iron pipe located 60 feet southerly from said point and on the north-south quarter line, and on the west bank of said stream; thence southerly along said north-south quarter line a distance of 120 feet to the point of intersection of said north-south quarter line and the south one-sixteenth line of section 4 marked by an iron pipe set in concrete; thence westerly along said one-sixteenth line a distance of 120 feet to a point in path marked by brass plug numbered IV; thence southerly in a direction parallel to the north-south quarter line of section 4 a distance of 660 feet to an iron bolt in road intersection; thence westerly parallel to the south one-sixteenth line of section 4 a distance of 1,200 feet to the point of intersection of said line with the west one-sixteenth line of said section 4 and marked by a brass plug numbered VI; thence southerly along said west one-sixteenth line a distance of 1,760 feet to a point marked by a brass plug numbered VII; thence easterly along a line parallel to the north section line of section 9 a distance of 486.21 feet to a point marked by an inclined iron pipe, said point being the point where the said iron pipe enters the concrete; thence along the said line extended a distance of approximately 39 feet to the water's edge; thence along the shore line of Lake Superior to the point where said shore line intersects the east one-sixteenth line of section 4 extended; thence northerly along said one-sixteenth line to place of beginning, all being located in sections 4 and 9, township 63, north, range 6 east, in Grand Portage Indian Reservation, State of Minnesota. Right-of-way for existing Bureau of Indian Affairs roads within the above described parcel of land is excluded therefrom.

Tract numbered 2 beginning at the point on the west one-sixteenth line of section 9 marked by brass plug numbered VII referred to in the description of tract numbered 1 above, thence westerly along a line parallel to the north section line of section 9 a distance of 275 feet to a point marked by an iron pipe; thence northerly along a line parallel to the west one-sixteenth line of section 9 a distance of 443.63 feet to a point marked by an iron pipe; thence easterly along a line parallel to the north section line of section 9 to the point of intersection of west one-sixteenth line of section 9; thence southerly along said one-sixteenth line to point of begin-

ning, all lying in section 9 of township 63 north, range 6 east, in the Grand Portage Indian Reservation, State of Minnesota.

FORT CHARLOTTE AREA

The northeast quarter, section 29, township 64 north, range 5 east, or such lands within this quarter section as the Secretary of the Interior shall determine to be necessary for the protection and interpretation of the site of Fort Charlotte.

GRAND PORTAGE TRAIL SECTION

A strip of land 100 feet wide centering along the old Portage Trail beginning at the point where the trail intersects the present road to Grand Portage School, and continuing to the proposed United States Highway 61 right-of-way relocation in the northeast quarter of the northwest quarter, section 4, township 63 north, range 6 east, a strip of land 600 feet wide centering along the old Portage Trail as delineated on original General Land Office survey maps, from the north side of the proposed right-of-way to lands described at the Fort Charlotte site.

Establishment of the foregoing areas as the Grand Portage National Monument shall be effective when title to that portion of the aforesaid lands and interests in lands which is held in trust by the United States of America for the Minnesota Chippewa Tribe and the Grand Portage Band of Chippewa Indians, Minnesota, has been relinquished in accordance with section 450*oo*–1 of this title to the Secretary of the Interior for administration as a part of the Grand Portage National Monument. Notice of the establishment of the monument as authorized and prescribed by sections 450*oo* to 450*oo*–10 of this title shall be published in the Federal Register.

(Pub. L. 85–910, § 1, Sept. 2, 1958, 72 Stat. 1751.)

§ 450*oo*–1. Acceptance of donations of land; instruments of relinquishment; life assignments

The Secretary of the Interior is authorized to accept, as a donation, the relinquishment of all right, title, and interest of the Minnesota Chippewa Tribe and the Grand Portage Band of Chippewa Indians, Minnesota, in and to any of the lands described in section 450*oo* of this title which is now held in trust by the United States of America for the said tribe or band; the executive committee of the Minnesota Chippewa Tribe and the tribal council of the Grand Portage Band of Chippewa Indians, Minnesota, are authorized to execute such instruments of relinquishment in favor of the United States; and acceptance of the relinquishment by the Secretary shall operate as a transfer of custody, control and administration of such properties for administration and as a part of the Grand Portage National Monument: *Provided*, That upon the acceptance of any donated lands and interests therein the Secretary shall recognize, honor, and respect, in accordance with the terms thereof, any existing life assignments on such properties.

(Pub. L. 85–910, § 2, Sept. 2, 1958, 72 Stat. 1752.)

§ 450*oo*–2. Procurement of other lands within monument

The Secretary of the Interior is authorized to procure any and all other lands or interests therein within the monument, including, but not limited to, any and all nontrust lands therein owned in fee simple by the Grand Portage Band of Chippewa Indians, Minnesota, and the council of said band is authorized to sell and convey such nontrust lands to the United States of America.

(Pub. L. 85–910, § 3, Sept. 2, 1958, 72 Stat. 1752.)

§ 450*oo*–3. Visitor accommodations and services

The Secretary of the Interior, under regulations prescribed by him, shall grant recognized members of the Minnesota Chippewa Tribe the preferential privilege to provide those visitor accommodations and services, including guide services, which he deems are necessary within the monument.

(Pub. L. 85–910, § 4, Sept. 2, 1958, 72 Stat. 1753.)

§ 450*oo*–4. Employment preferences

The Secretary of the Interior shall, insofar as practicable, give first preference to employment of recognized members of the Minnesota Chippewa Tribe in the performance of any construction, maintenance, or any other service within the monument for which they are qualified.

(Pub. L. 85–910, § 5, Sept. 2, 1958, 72 Stat. 1753.)

§ 450*oo*–5. Production and sale of handicraft objects; noninterference with trade or business outside monument

The Secretary of the Interior shall encourage recognized members of the Minnesota Chippewa Tribe in the production and sale of handicraft objects within the monument. The administration of the Grand Portage National Monument shall not in any manner interfere with the operation or existence of any trade or business of said tribe outside the boundaries of the national monument.

(Pub. L. 85–910, § 6, Sept. 2, 1958, 72 Stat. 1753.)

§ 450*oo*–6. Traversing privileges; regulations

Recognized members of the Minnesota Chippewa Tribe shall not be denied the privilege of traversing the area included within the Grand Portage National Monument for the purposes of logging their land, fishing, or boating, or as a means of access to their homes, businesses, or other areas of use and they shall have the right to traverse such area in pursuit of their traditional rights to hunt and trap outside the monument: *Provided*, That, in order to preserve and interpret the historic features and attractions within the monument, the Secretary may prescribe reasonable regulations under which the monument may be traversed.

(Pub. L. 85–910, § 7, Sept. 2, 1958, 72 Stat. 1753.)

§ 450*oo*–7. Docking facilities

The Secretary of the Interior, subject to the availability of appropriated funds, shall construct and maintain docking facilities at the

Northwest Company area for use in connection with the monument. Such facilities shall be available for use by the Minnesota Chippewa Tribe and its recognized members, without charge to them, under regulations to be prescribed by the Secretary.

(Pub. L. 85–910, § 8, Sept. 2, 1958, 72 Stat. 1753.)

§ 450*oo*–8. Advisory assistance for developments upon adjacent lands

To the extent that appropriated funds and personnel are available therefor, the Secretary of the Interior shall provide consultative or advisory assistance to the Minnesota Chippewa Tribe and the Grand Portage Band of Chippewa Indians, Minnesota, in the planning of facilities or developments upon the lands adjacent to the monument.

(Pub. L. 85–910, § 9, Sept. 2, 1958, 72 Stat. 1753.)

§ 450*oo*–9. Administration, protection, and development

When establishment of the monument has been effected, pursuant to sections 450*oo* to 450*oo*–10 of this title, the Secretary of the Interior shall administer, protect, and develop the monument in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended.

(Pub. L. 85–910, § 10, Sept. 2, 1958, 72 Stat. 1753.)

§ 450*oo*–10. Reversion upon abandonment

In the event the Grand Portage National Monument is abandoned at any time after its establishment, title to the lands relinquished by the Minnesota Chippewa Tribe and the Grand Portage Band of Chippewa Indians, Minnesota, pursuant to section 450*oo*–1 of this title shall thereupon automatically revert to the Minnesota Chippewa Tribe and the Grand Portage Band of Chippewa Indians, Minnesota, their successors or assigns. In such event, the title will be taken in a fee simple status unless the United States holds other lands in trust for the Minnesota Chippewa Tribe or the Grand Portage Band of Chippewa Indians, Minnesota, in which event the title shall revert to the United States in trust for the Minnesota Chippewa Tribe or the Grand Portage Band of Chippewa Indians, Minnesota.

(Pub. L. 85–910, § 11, Sept. 2, 1958, 72 Stat. 1753.)

§ 450pp. Roger Williams National Memorial; acquisition of site

The Secretary of the Interior may acquire by gift, purchase with appropriated or donated funds, transfer from any Federal agency, exchange, or otherwise, not to exceed five acres of land (together with any buildings or other improvements thereon) and interests in land at the site of the old town spring, traditionally called Roger Williams Spring, in Providence, Rhode Island, for the purpose of establishing thereon a national memorial to Roger Williams in commemoration of his outstanding contributions to the development of the principles of freedom in this country: *Provided*, That property owned by the city of Providence or the Providence Redevelopment Agency may be acquired only with the consent of such owner.

(Pub. L. 89–293, § 1, Oct. 22, 1965, 79 Stat. 1069.)

§ 450pp–1. Establishment; notice of establishment; administration

The property acquired pursuant to section 450pp of this title shall be established as the Roger Williams National Memorial and the Secretary of the Interior shall publish notice of such establishment in the Federal Register. Such national Memorial shall be administered by the Secretary subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and sections 461 to 467 of this title.

(Pub. L. 89–293, § 2, Oct. 22, 1965, 79 Stat. 1069.)

§ 450pp–2. Cooperation with city of Providence and local historical and preservation societies

(a) Maintenance, operation, and development

The Secretary is authorized to cooperate with the city of Providence, local historical and preservation societies, and interested persons in the maintenance and operation of the Roger Williams National Memorial, and he may seek the assistance of and consult with such city, societies, and persons from time to time with respect to matters concerning the development and operation of the memorial.

(b) Acceptance of gifts

The Secretary may accept on behalf of the people of the United States gifts of historic objects and records pertaining to Roger Williams for appropriate display or other use in keeping with the commemoration of the founding of the principles of freedom in the United States and of the historical events that took place in the city of Providence in connection therewith.

(Pub. L. 89–293, § 3, Oct. 22, 1965, 79 Stat. 1070.)

§ 450pp–3. Authorization of appropriations

There are hereby authorized to be appropriated not more than $146,000 for the acquisition of lands and interests in land and not more than $1,862,000 for the development of the Roger Williams National Memorial, as provided in sections 450pp to 450pp–3 of this title.

(Pub. L. 89–293, § 4, Oct. 22, 1965, 79 Stat. 1070; Pub. L. 96–607, title I, § 101, Dec. 28, 1980, 94 Stat. 3539.)

AMENDMENTS

1980—Pub. L. 96–607 substituted ''$146,000 for the acquisition of lands and interests in land and not more than $1,862,000'' for ''$700,000 for the acquisition of lands and interests in land and''.

§§ 450qq to 450qq–4. Omitted

CODIFICATION

Sections provided for the Biscayne National Monument which was abolished and its lands, waters, and interests incorporated within and made part of the Biscayne National Park and funds of and authorizations of funds for the Monument made available for the Park pursuant to Pub. L. 96–287, title I, § 103(b), June 28, 1980, 94 Stat. 600, classified to section 410gg–2(b) of this title.

Section 450qq, Pub. L. 90–606, § 1, Oct. 18, 1968, 82 Stat. 1188, authorized establishment of the Monument, made

drawings of the Monument area available for public inspection in the offices of the National Park Service, authorized revision of boundaries, prescribed limitation of ninety-six thousand three hundred acres, and prohibited outward revision of the Monument or obstruction of prospective seaport channels. See section 410gg of this title.

Section 450qq–1, Pub. L. 90–606, § 2, Oct. 18, 1968, 82 Stat. 1188, provided for acquisition of property, authorized maximum of eighty acres for a mainland headquarters site and forty acres for a Key Largo visitor contact site, and authorized exchange of Federal for non-Federal property, including cash equalization payments. See section 410gg–1 of this title.

Section 450qq–2, Pub. L. 90–606, § 3, Oct. 18, 1968, 82 Stat. 1189, required the donation and transfer of State lands as condition for establishment of the Monument and Federal acquisition of other lands, and authorized land options for the Secretary and acquisitions to be made after State transfers.

Section 450qq–3, Pub. L. 90–606, § 4, Oct. 18, 1968, 82 Stat. 1189, provided for administration of the Monument and recognition of fishing rights under Florida law as otherwise regulated by the Secretary. See section 410gg–2 of this title.

Section 450qq–4, Pub. L. 90–606, § 5, Oct. 18, 1968, 82 Stat. 1189; Pub. L. 93–477, title I, § 101(1), Oct. 26, 1974, 88 Stat. 1445; Pub. L. 95–625, title I, § 101(4), Nov. 10, 1978, 92 Stat. 3470, authorized appropriation of $28,350,000 and $6,565,000 for land acquisition and development. See section 410gg–5 of this title.

§ 450rr. R.M.S. Titanic; international maritime memorial; findings and purposes

(a) Findings

The Congress finds that—

(1) the R.M.S. Titanic, the ocean liner which sank on her maiden voyage after striking an iceberg on April 14, 1912, should be designated as an international maritime memorial to the men, women, and children who perished aboard her;

(2) the recent discovery of the R.M.S. Titanic, lying more than twelve thousand feet beneath the ocean surface, demonstrates the practical applications of ocean science and engineering;

(3) the R.M.S. Titanic, well preserved in the cold, oxygen-poor waters of the deep North Atlantic Ocean, is of major national and international cultural and historical significance, and merits appropriate international protection; and

(4) the R.M.S. Titanic represents a special opportunity for deep ocean scientific research and exploration.

(b) Purposes

The Congress declares that the purposes of sections 450rr to 450rr–6 of this title are—

(1) to encourage international efforts to designate the R.M.S. Titanic as an international maritime memorial to those who lost their lives aboard her in 1912;

(2) to direct the United States to enter into negotiations with other interested nations to establish an international agreement which will provide for the designation of the R.M.S. Titanic as an international maritime memorial, and protect the scientific, cultural, and historical significance of the R.M.S. Titanic;

(3) to encourage, in those negotiations or in other fora, the development and implementation of international guidelines for conducting research on, exploration of, and if appropriate, salvage of the R.M.S. Titanic; and

(4) to express the sense of the United States Congress that, pending such international agreement or guidelines, no person should physically alter, disturb, or salvage the R.M.S. Titanic in any research or exploratory activities which are conducted.

(Pub. L. 99–513, § 2, Oct. 21, 1986, 100 Stat. 2082.)

SHORT TITLE

Section 1 of Pub. L. 99–513 provided that: ''This Act [enacting this section and sections 450rr–1 to 450rr–6 of this title] may be cited as the 'R.M.S. Titanic Maritime Memorial Act of 1986'.''

§ 450rr–1. Definitions

For the purposes of sections 450rr to 450rr–6 of this title, the term—

(a) ''Administrator'' means the Administrator of the National Oceanic and Atmospheric Administration (NOAA);

(b) ''person'' means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government;

(c) ''R.M.S. Titanic'' means the shipwrecked vessel R.M.S. Titanic, her cargo or other contents, including those items which are scattered on the ocean floor in her vicinity; and

(d) ''Secretary'' means the Secretary of State.

(Pub. L. 99–513, § 3, Oct. 21, 1986, 100 Stat. 2082.)

§ 450rr–2. Commendation

The Congress of the United States highly commends the members of the joint international expedition which discovered the R.M.S. Titanic.

(Pub. L. 99–513, § 4, Oct. 21, 1986, 100 Stat. 2083.)

§ 450rr–3. International guidelines

(a) The Administrator is directed to enter into consultations with the United Kingdom, France, Canada, and other interested nations to develop international guidelines for research on, exploration of, and if appropriate, salvage of the R.M.S. Titanic, which—

(1) are consistent with its national and international scientific, cultural, and historical significance and the purposes of sections 450rr to 450rr–6 of this title; and

(2) promote the safety of individuals involved in such operations.

(b) In carrying out subsection (a) of this section, the Administrator shall consult with the Secretary and shall promote full participation by other interested Federal agencies, academic and research institutions, and members of the public.

(Pub. L. 99–513, § 5, Oct. 21, 1986, 100 Stat. 2083.)

§ 450rr–4. International agreement

(a) Negotiations

The Secretary is directed to enter into negotiations with the United Kingdom, France, Can-

ada, and other interested nations to develop an international agreement which provides for—

(1) the designation of the R.M.S. Titanic as an international maritime memorial; and

(2) research on, exploration of, and if appropriate, salvage of the R.M.S. Titanic consistent with the international guidelines developed pursuant to section 450rr–3 of this title and the purposes of sections 450rr to 450rr–6 of this title.

(b) Consultation with Administrator

In carrying out the requirements of subsection (a) of this section, the Secretary shall consult with the Administrator, who shall provide research and technical assistance to the Secretary.

(c) Reports to Congressional committees on progress of negotiations and consultations

The Secretary and the Administrator shall report semiannually to the Committee on Merchant Marine and Fisheries and the Committee on Foreign Affairs in the House of Representatives and to the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation in the Senate on the progress of the negotiations and consultations.

(d) Notification of agreement and recommendations to Congressional committees

Upon adoption of an international agreement as described in subsection (a) of this section, the Secretary shall provide notification of the agreement and recommendations for legislation to implement the agreement to the Committee on Merchant Marine and Fisheries and the Committee on Foreign Affairs in the House of Representatives and to the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation in the Senate.

(Pub. L. 99–513, § 6, Oct. 21, 1986, 100 Stat. 2083.)

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. For treatment of references to Committee on Merchant Marine and Fisheries, see section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

§ 450rr–5. Sense of Congress regarding conduct of future activities

It is the sense of Congress that research and limited exploration activities concerning the R.M.S. Titanic should continue for the purpose of enhancing public knowledge of its scientific, cultural, and historical significance: *Provided*, That, pending adoption of the international agreement described in section 450rr–4(a) of this title or implementation of the international guidelines described in section 450rr–3 of this title, no person should conduct any such research or exploration activity which would physically alter, disturb, or salvage the R.M.S. Titanic.

(Pub. L. 99–513, § 7, Oct. 21, 1986, 100 Stat. 2084.)

§ 450rr–6. Disclaimer of extraterritorial sovereignty

By enactment of sections 450rr to 450rr–6 of this title, the United States does not assert sovereignty, or sovereign or exclusive rights or jurisdiction over, or the ownership of, any marine areas or the R.M.S. Titanic.

(Pub. L. 99–513, § 8, Oct. 21, 1986, 100 Stat. 2084.)

§ 450ss. Findings and purposes

Congress finds that—

(1) few events in the past quarter-century have rocked Americans' perception of themselves and their institutions, and brought together the people of our Nation with greater intensity than the April 19, 1995, bombing of the Alfred P. Murrah Federal Building in downtown Oklahoma City;

(2) the resulting deaths of 168 people, some of whom were children, immediately touched thousands of family members whose lives will forever bear scars of having those precious to them taken away so brutally;

(3) suffering with such families are countless survivors, including children, who struggle not only with the suffering around them, but their own physical and emotional injuries and with shaping a life beyond April 19;

(4) such losses and struggles are personal and, since they resulted from so public an attack, they are also shared with a community, a Nation, and the world;

(5) the story of the bombing does not stop with the attack itself or with the many losses it caused. The responses of Oklahoma's public servants and private citizens, and those from throughout the Nation, remain as a testament to the sense of unity, compassion, even heroism, that characterized the rescue and recovery following the bombing;

(6) during the days immediately following the Oklahoma City bombing, Americans and people from around the world of all races, political philosophies, religions and walks of life responded with unprecedented solidarity and selflessness; and

(7) given the national and international impact and reaction, the Federal character of the site of the bombing, and the significant percentage of the victims and survivors who were Federal employees, the Oklahoma City Memorial will be established, designed, managed and maintained to educate present and future generations, through a public/private partnership, to work together efficiently and respectfully in developing a National Memorial relating to all aspects of the April 19, 1995, bombing in Oklahoma City.

(Pub. L. 105–58, § 2, Oct. 9, 1997, 111 Stat. 1261.)

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–199, div. F, title V, § 544(a), Jan. 23, 2004, 118 Stat. 347, provided that: ''This section [amending sections 450ss–1 to 450ss–3 and 450ss–5 of this title, repealing sections 450ss–4, 450ss–6, and 450ss–7 of this title, and enacting provisions set out as notes under sections 450ss–3 and 450ss–4 of this title] may be cited as the 'Oklahoma City National Memorial Act Amendments of 2003'.''

SHORT TITLE

Section 1 of Pub. L. 105–58 provided that: ''This Act [enacting this section and sections 450ss–1 to 450ss–7 of this title] may be cited as the 'Oklahoma City National Memorial Act of 1997'.''

§ 450ss–1. Definitions

In sections 450ss to 450ss–7 of this title:

(1) Foundation

The term ''Foundation'' means the Oklahoma City National Memorial Foundation, a not-for-profit corporation that is—

(A) described in section 501(c)(3) of title 26;

(B) exempt from taxation under section 501(a) of such title; and

(C) dedicated to the support of the Memorial.

(2) Memorial

The term ''Memorial'' means the Oklahoma City National Memorial designated under section 450ss–2(a) of this title.

(3) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(4) Trust

The term ''Trust'' means the Oklahoma City National Memorial Trust.

(Pub. L. 105–58, §3, Oct. 9, 1997, 111 Stat. 1262; Pub. L. 108–199, div. F, title V, §544(b), Jan. 23, 2004, 118 Stat. 347.)

AMENDMENTS

2004—Pub. L. 108–199 added par. (1), redesignated former pars. (1) to (3) as pars. (2) to (4), respectively, and struck out ''designated under section 450ss–3(a) of this title'' before the period in par. (4).

§ 450ss–2. Oklahoma City National Memorial

(a) In order to preserve for the benefit and inspiration of the people of the United States and the world, as a National Memorial certain lands located in Oklahoma City, Oklahoma, there is established as an affiliate of the National Park System the Oklahoma City National Memorial.

(b) ADMINISTRATION OF MEMORIAL.—The Foundation shall administer the Memorial in accordance with sections 450ss to 450ss–7 of this title and the general objectives of the ''Memorial Mission Statement'', adopted March 26, 1996, by the Foundation.

(c) The Memorial area shall be comprised of the lands, facilities and structures generally depicted on the map entitled ''Oklahoma City National Memorial'', numbered OCNM 001, and dated May 1997. The map shall be on file and available for public inspection in the appropriate office of the Foundation.

(Pub. L. 105–58, §4, Oct. 9, 1997, 111 Stat. 1262; Pub. L. 108–199, div. F, title V, §544(c), Jan. 23, 2004, 118 Stat. 347.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–199, §544(c)(1), substituted ''an affiliate'' for ''a unit'' in first sentence and struck out second sentence, which read as follows: ''The Memorial shall be administered by the Trust in cooperation with the Secretary and in accordance with the provisions of sections 450ss to 450ss–7 of this title, sections 1, 2, 3, and 4 of this title, and sections 461 to 467 of this title.''

Subsec. (b). Pub. L. 108–199, §544(c)(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 108–199, §544(c)(2), (4), redesignated subsec. (b) as (c), substituted ''1997. The map shall be on file and available for public inspection in the appropriate office of the Foundation.'' for ''1997 (hereafter referred to in sections 450ss to 450ss–7 of this title as the 'map'):'', and struck out pars. (1) and (2) which read as follows:

''(1) Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service and the Trust.

''(2) After advising the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives, in writing, the Trust, as established by section 450ss–3 of this title, in consultation with the Secretary, may make minor revisions of the boundaries of the Memorial when necessary by publication of a revised drawing or other boundary description in the Federal Register.''

§ 450ss–3. Transfer of Memorial property, rights, authorities, and duties

(a) Transfer of Memorial property

(1) In general

Not later than 90 days after January 23, 2004, the Trust shall transfer to the Foundation—

(A) all assets of the Trust, including all real and personal property of the Memorial, any appurtenances, buildings, facilities, monuments, contents, artifacts, contracts and contract rights, accounts, deposits, intangibles, trademarks, trade names, copyrights, all other intellectual property, all other real and personal property of every kind and character comprising the Memorial, and any amounts appropriated for the Trust;

(B) any property owned by the Trust that is adjacent or related to the Memorial; and

(C) all property maintained for the Memorial, together with all rights, authorities, and duties relating to the ownership, administration, operation, and management of the Memorial.

(2) Subsequent gifts

Any artifact, memorial, or other personal property that is received by, or is intended by any person to be given to, the Trust after the date of transfer of property under paragraph (1) shall be the property of the Foundation.

(b) Assumption of Trust obligations

Any obligations of the Trust relating to the Memorial that have been approved by the Trust before the date on which the property is transferred under subsection (a) of this section shall become the responsibility of the Foundation on the date of the transfer.

(c) Dissolution of Trust

Not later than 30 days after the transfer under subsection (a) of this section is completed—

(1) the Trust shall be dissolved; and

(2) the Trust shall notify the Secretary of the date of dissolution.

(d) Authority to enter into agreements

The Secretary, acting through the National Park Service, is authorized to enter into 1 or more cooperative agreements with the Founda-

tion for the National Park Service to provide interpretive services related to the Memorial and such other assistance as may be agreed upon between the Secretary and the Foundation. The costs of the services and other agreed assistance shall be paid by the Secretary.

(e) General Services Administration authority

The Administrator of General Services shall provide, on a non-reimbursable basis, services necessary for the facilitation of the transfer of the Memorial to the Foundation.

(f) Limitation

Nothing in sections 450ss to 450ss–7 of this title shall prohibit the use of State and local law enforcement for the purposes of security related to the Memorial.

(Pub. L. 105–58, § 5, Oct. 9, 1997, 111 Stat. 1262; Pub. L. 108–199, div. F, title V, § 544(d), Jan. 23, 2004, 118 Stat. 347.)

AMENDMENTS

2004—Pub. L. 108–199 amended section generally. Prior to amendment, section provided for establishment of the Oklahoma City National Memorial Trust, its Board of Directors, staff, powers, and tax exempt status.

AUTHORIZATION OF SECRETARY TO REIMBURSE PREVIOUS COSTS PAID BY FOUNDATION OR TRUST

Pub. L. 108–199, div. F, title V, § 544(g), Jan. 23, 2004, 118 Stat. 348, provided that: ''To the extent that funds are made available for the Trust, the Secretary of the Interior shall reimburse the Oklahoma City National Memorial Foundation for funds obligated or expended by the Oklahoma City National Memorial Foundation or the Oklahoma City National Memorial Trust to the Secretary of the Interior for interpretive services, security, and other costs and services related to the Oklahoma City National Memorial before the date of the enactment of this Act [Jan. 23, 2004]. The Oklahoma City National Memorial Foundation may use such reimbursed funds for the operation, maintenance, and permanent endowment of the Oklahoma City National Memorial.''

§ 450ss–4. Repealed. Pub. L. 108–199, div. F, title V, § 544(e)(1), Jan. 23, 2004, 118 Stat. 348

Section, Pub. L. 105–58, § 6, Oct. 9, 1997, 111 Stat. 1264, provided for duties and authorities of Oklahoma City National Memorial Trust.

EFFECTIVE DATE OF REPEAL

Pub. L. 108–199, div. F, title V, § 544(e)(2), Jan. 23, 2004, 118 Stat. 348, provided that: ''The repeal under this subsection [repealing this section] shall take effect upon the transfer of the Memorial property, rights, authorities, and duties pursuant to the amendments made by subsection (d) [amending section 450ss–3 of this title].''

§ 450ss–5. Limitations on funding

Authorization of Appropriations: [1]

(1) In general

In furtherance of the purposes of sections 450ss to 450ss–7 of this title, there is hereby authorized the sum of $5,000,000 for an endowment fund subject to paragraph (2), to remain available until expended.

(2) Matching requirement

Amounts appropriated in any fiscal year to carry out the provisions of sections 450ss to 450ss–7 may only be expended on a matching basis in a ratio of at least one non-Federal dollar to every Federal dollar. For the purposes of this provision, each non-Federal dollar donated to the Foundation for the creation, maintenance, operation, or endowment of the Memorial shall satisfy the matching dollar requirement without regard to the fiscal year in which such donation is made.

(Pub. L. 105–58, § 7, Oct. 9, 1997, 111 Stat. 1266; Pub. L. 108–199, div. F, title V, § 544(f), Jan. 23, 2004, 118 Stat. 348.)

AMENDMENTS

2004—Par. (1). Pub. L. 108–199, § 544(f)(1), inserted ''for an endowment fund subject to paragraph (2)'' after ''the sum of $5,000,000''.

Par. (2). Pub. L. 108–199, § 544(f)(2), struck out ''Trust or to the Oklahoma City Memorial'' after ''each non-Federal dollar donated to the'' and substituted ''operation, or endowment'' for ''or operation''.

§§ 450ss–6, 450ss–7. Repealed. Pub. L. 108–199, div. F, title V, § 544(h), (i), Jan. 23, 2004, 118 Stat. 349

Section 450ss–6, Pub. L. 105–58, § 8, Oct. 9, 1997, 111 Stat. 1266, provided for disposal of site of Alfred P. Murrah Federal Building to the Trust.

Section 450ss–7, Pub. L. 105–58, § 9, Oct. 9, 1997, 111 Stat. 1266, provided for General Accounting Office study.

SUBCHAPTER LXII—MISCELLANEOUS

§ 451. Repealed. Pub. L. 104–333, div. I, title VIII, § 801, Nov. 12, 1996, 110 Stat. 4186

Section, acts Aug. 24, 1912, ch. 355, § 1, 37 Stat. 460; July 1, 1918, ch. 113, § 1, 40 Stat. 677; Feb. 13, 1940, ch. 30, 54 Stat. 36, related to limit on cost of buildings erected in national parks.

§ 451a. Limitation on further extension or establishment of national parks in Wyoming

No further extension or establishment of national parks in Wyoming may be undertaken except by express authorization of Congress.

(Sept. 14, 1950, ch. 950, § 1, 64 Stat. 849.)

CODIFICATION

Section comprises only part of the last sentence of section 1 of act Sept. 14, 1950. The remainder of section, except that part of the last sentence which repealed sections 406 to 406d of this title, is set out as sections 406d–1 and 431a of this title.

REPEAL OF INCONSISTENT LAWS

Repeal of laws inconsistent with act Sept. 14, 1950, see note set out under section 406d–1 of this title.

§ 452. Revenues of national parks covered into Treasury; estimates for care of parks

All revenues of the national parks shall be covered into the Treasury to the credit of miscellaneous receipts, except in case of Hot Springs National Park such as may be necessary to pay obligations outstanding on June 30, 1922.

(June 12, 1917, ch. 27, § 1, 40 Stat. 153; May 24, 1922, ch. 199, 42 Stat. 590; Sept. 12, 1950, ch. 946, title III, § 301(95), 64 Stat. 844.)

CODIFICATION

The words referring to Hot Springs National Park are taken from a part of the Interior Appropriation Act,

[1] So in original. ''Appropriations'' probably should not be capitalized.

1923, May 24, 1922. In the original the provisions read as follows: ''From and after July 1, 1922, all revenues of the Hot Springs National Park shall be covered into the Treasury to the credit of miscellaneous receipts, except as may be necessary to pay obligations outstanding on June 30, 1922.''

AMENDMENTS

1950—Act Sept. 12, 1950, repealed requirement that Secretary of the Interior submit, annually, estimates of the amounts required for care, maintenance, and development of national parks.

REPEALS

Act Sept. 12, 1950, ch. 946, title III, § 301(95), 64 Stat. 844, cited as a credit to this section, was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, 1077.

§ 452a. Acquisition of non-Federal land within existing boundaries of any National Park; donations; authorization of appropriations

In order to consolidate Federal land ownership within the existing boundaries of any National Park and to encourage the donation of funds for that purpose, the Secretary of the Interior is authorized to accept and to use in his discretion funds which may be donated subject to the condition that such donated funds are to be expended for purposes of this section by the Secretary only if Federal funds in an amount equal to the amount of such donated funds are appropriated for the purposes of this section. There are authorized to be appropriated such funds as may be necessary to match funds that may be donated for such purposes: *Provided*, That the amount which may be appropriated annually for purposes of this section shall be limited to $500,000.

(Aug. 31, 1954, ch. 1163, 68 Stat. 1037.)

CAPE HATTERAS NATIONAL SEASHORE RECREATIONAL AREA

Authority of the Secretary under this section extended to authorize acquisition of non-Federal land within boundaries of Cape Hatteras National Seashore Recreational Area, see sections 459a–6 to 459a–8 of this title.

§ 453. Donations of land for park purposes near or adjacent to National Forest Reserve in North Carolina

The Secretary of the Interior is authorized to accept for park purposes any lands and rights-of-way, including the Grandfather Mountain, near or adjacent to the Government national forest in western North Carolina.

(June 12, 1917, ch. 27, § 1, 40 Stat. 152.)

CODIFICATION

''Government national forest'' substituted in text for ''Government forest reserve'' on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

§ 454. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 642, 650

Section, acts Aug. 24, 1912, ch. 355, § 8, 37 Stat. 487; June 6, 1939, ch. 185, 53 Stat. 810, authorized the superintendent, the acting superintendent, custodian, and principal clerks of the various national parks and other Government reservations to administer oaths to expense accounts.

§ 455. Study of battlefields for commemorative purposes

The Secretary of the Army is authorized to have made studies and investigations and, where necessary, surveys of all battlefields within the continental limits of the United States whereon troops of the United States or of the original thirteen colonies have been engaged against a common enemy, with a view to preparing a general plan and such detailed projects as may be required for properly commemorating such battlefields or other adjacent points of historic and military interest.

(June 11, 1926, ch. 555, § 1, 44 Stat. 726; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

§ 455a. Report to Congress

Annually after December 1, 1926, the Secretary of the Army shall submit through the President to Congress a detailed report of progress made under sections 455 to 455c of this title, together with his recommendations for further operations.

(June 11, 1926, ch. 555, § 2, 44 Stat. 727; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Administrative functions of certain national military parks and national monuments transferred to Department of the Interior by Ex. Ord. No. 6166, § 2, June 10, 1933, and Ex. Ord. No. 6228, § 1, July 28, 1933, set out under section 901 of Title 5, Government Organization and Employees.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, § 2, June 10, 1933, by act Mar. 2, 1934, ch. 38, § 1, 48 Stat. 389.

§ 455b. Inclusion of estimate of cost of projected surveys in appropriation estimates

The Secretary of the Army shall include annually in his Department of the Army appropriation estimates a list of the battlefields for which surveys or other field investigations are planned for the fiscal year in question, together with the estimated cost of making each survey or other field investigation.

(June 11, 1926, ch. 555, § 3, 44 Stat. 727; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Administrative functions of certain national military parks and national monuments transferred to Department of the Interior by Ex. Ord. No. 6166, § 2, June 10, 1933, and Ex. Ord. No. 6228, § 1, July 28, 1933, set out under section 901 of Title 5, Government Organization and Employees.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, § 2, June 10, 1933, by act Mar. 2, 1934, ch. 38, § 1, 48 Stat. 389.

§ 455c. Purchase of real estate for military park

No real estate shall be purchased for military park purposes by the Government unless report thereon shall have been made by the Secretary of the Army through the President to Congress under the provisions of section 455a of this title.

(June 11, 1926, ch. 555, § 4, 44 Stat. 727; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Administrative functions of certain national military parks and national monuments transferred to Department of the Interior by Ex. Ord. No. 6166, § 2, June 10, 1933, and Ex. Ord. No. 6228, § 1, July 28, 1933, set out under section 901 of Title 5, Government Organization and Employees.

National Park Service substituted for Office of National Parks, Buildings, and Reservations referred to in Ex. Ord. No. 6166, § 2, June 10, 1933, by act Mar. 2, 1934, ch. 38, § 1, 48 Stat. 389.

SECRETARY OF THE AIR FORCE

For transfer of certain functions relating to real property under jurisdiction of Department of the Air Force from Secretary of the Army to Secretary of the Air Force, see Secretary of Defense Transfer Order No. 14 [§ 2(4)], eff. July 1, 1948.

§ 456. Expense of depositing money payable from appropriations

Appropriations made for the administration, protection and maintenance of the national parks and national monuments under the jurisdiction of the Secretary of the Interior shall be available for expense of depositing public money.

(May 10, 1926, ch. 277, § 1, 44 Stat. 491.)

§ 456a. Collections and pay-roll deductions for meals and quarters

Cash collections and pay-roll deductions made for meals and quarters furnished by the National Park Service to employees of the Government in the field and to cooperating agencies may be credited as a reimbursement to the current appropriation for the administration of the park or monument in which the accommodations are furnished.

(May 9, 1935, ch. 101, § 1, 49 Stat. 209.)

CODIFICATION

Section is also set out as section 14b of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 457. Action for death or personal injury within national park or other place under jurisdiction of United States; application of State laws

In the case of the death of any person by the neglect or wrongful act of another within a national park or other place subject to the exclusive jurisdiction of the United States, within the exterior boundaries of any State, such right of action shall exist as though the place were under the jurisdiction of the State within whose exterior boundaries such place may be; and in any action brought to recover on account of injuries sustained in any such place the rights of the parties shall be governed by the laws of the State within the exterior boundaries of which it may be.

(Feb. 1, 1928, ch. 15, 45 Stat. 54.)

§ 458. Travel expenses incident to study of battlefields; payment

Mileage of officers of the Army and actual expenses of civilian employees traveling on duty in connection with the studies, surveys, and field investigations of battlefields shall be paid from the appropriations made from time to time to meet the expenses for these purposes.

(Mar. 8, 1928, ch. 152, 45 Stat. 249.)

§ 458a. Mats for reproduction in magazines and newspapers of photographs of scenery

The Secretary of the Interior is authorized and directed to have prepared mats which may be used for the reproduction in magazines and newspapers of photographs of such of the scenery in the national parks as, in the opinion of the Secretary, would be of interest to the people of the United States and foreign nations. Any such mats may be furnished, without charge and under such regulations as the Secretary may prescribe, to the publishers of magazines, newspapers, and any other publications which may carry photographic reproductions.

(Aug. 27, 1940, ch. 690, § 1, 54 Stat. 861.)

SUBCHAPTER LXIII—NATIONAL SEASHORE RECREATIONAL AREAS

§ 459. Cape Hatteras National Seashore Recreational Area; conditional establishment; acquisition of lands

When title to all the lands, except those within the limits of established villages, within boundaries to be designated by the Secretary of the Interior within the area of approximately one hundred square miles on the islands of Chicamacomico, Ocracoke, Bodie, Roanoke, and Collington, and the waters and the lands beneath the waters adjacent thereto shall have been vested in the United States, said area shall be, and is, established, dedicated, and set apart as a national seashore recreational area for the benefit and enjoyment of the people and shall be known as the Cape Hatteras National Seashore Recreational Area: *Provided*, That the United States shall not purchase by appropriation of public moneys any lands within the aforesaid area, but such lands shall be secured by the United States only by public or private donation.

(Aug. 17, 1937, ch. 687, §1, 50 Stat. 669; June 29, 1940, ch. 459, §1, 54 Stat. 702.)

CHANGE OF NAME

Words ''national seashore recreational area'' substituted in text for ''national seashore'' pursuant to act June 29, 1940.

§ 459a. Acceptance of donations; acquisition of property by purchase and condemnation

The Secretary of the Interior is authorized to accept donations of land, interests in land, buildings, structures, and other property, within the boundaries of said national seashore recreational area as determined and fixed hereunder and donations of funds for the purchase and maintenance thereof, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Interior: *Provided*, That he may acquire on behalf of the United States under any donated funds by purchase, when purchasable at prices deemed by him reasonable, otherwise by condemnation under the provisions of section 3113 of title 40, such tracts of land within the said national seashore recreational area as may be necessary for the completion thereof.

(Aug. 17, 1937, ch. 687, §2, 50 Stat. 669; June 29, 1940, ch. 459, §1, 54 Stat. 702.)

CODIFICATION

''Section 3113 of title 40'' substituted in text for ''the Act of August 1, 1888'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

CHANGE OF NAME

Words ''national seashore recreational area'' substituted in text for ''national seashore'' pursuant to act June 29, 1940.

§ 459a–1. Administration, protection, and development; commercial fishing by residents; hunting

The administration, protection, and development of the aforesaid national seashore recreational area shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended: *Provided*, That except as hereinafter provided nothing herein shall be construed to divest the jurisdiction of other agencies of the Government exercised on August 17, 1937, over Federal-owned lands within the area of the said Cape Hatteras National Seashore Recreational Area: *Provided further*, That the provisions of the Federal Power Act [16 U.S.C. 791a et seq.], shall not apply to this national seashore recreational area: *And provided further*, That the legal residents of villages referred to in section 459 of this title shall have the right to earn a livelihood by fishing within the boundaries to be designated by the Secretary of the Interior, subject to such rules and regulations as the said Secretary may deem necessary in order to protect the area for recreational use as provided for in sections 459 to 459a–3 of this title: *And provided further*, That hunting shall be permitted, under such rules and regulations as may be prescribed by the Secretary of the Interior in conformity with the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755) [16 U.S.C. 703 et seq.], as follows: (a) Upon the waters of the sounds included within the national seashore recreational area, (b) in the area north of the Currituck County line, (c) on Ocracoke Island, and (d) within not more than two thousand acres of land in the remaining portion of said national seashore recreational area, as shall be designated by the Secretary of the Interior; except on lands and waters included in any existing or future wildlife or migratory bird refuge and adjacent closed waters.

(Aug. 17, 1937, ch. 687, §3, 50 Stat. 670; June 29, 1940, ch. 459, §§1, 2, 54 Stat. 702.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the ''Act of June 10, 1920, known as the Federal Water Power Act,'' and was redesignated as the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

The Migratory Bird Treaty Act of July 3, 1918, referred to in text, is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

CHANGE OF NAME

Words ''national seashore recreational area'' substituted in text for ''national seashore'' pursuant to act June 29, 1940.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 459a–2. Preservation of natural features; acquisition of additional property; reversion of property on failure of conditions

Except for certain portions of the area, deemed to be especially adaptable for recreational uses, particularly swimming, boating, sailing, fishing, and other recreational activities of similar nature, which shall be developed for such uses as needed, the said area shall be permanently reserved as a primitive wilderness and no development of the project or plan for the convenience of visitors shall be undertaken which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing in this area: *Provided*, That the Secretary of the Interior may, in his discretion, accept for administration, protection, and development by the National Park Service a minimum of ten thousand acres within the area described in section 459 of this title, including the existing Cape Hatteras State Park, and, in addition, any other portions of the area described in section 459 of this title if the State of North Carolina shall agree that if all the lands described in section 459 of this title shall not have been conveyed to the United States within fifteen years from August 17, 1937, the establishment of the aforesaid national seashore recreational area may, in the discretion of the said Secretary, be abandoned, and that, in the event of such abandonment, the said State will accept a reconveyance of title to all lands conveyed by it to the United States for said national seashore recreational area. The lands donated to the United States for the purposes of sections 459 to 459a–3 of this title by parties other than said State shall revert in the event of the aforesaid abandonment to the donors, or their heirs, or other persons entitled thereto by law.

In the event of said abandonment, the Secretary of the Interior shall execute any suitable quitclaim deeds, or other writings entitled to record in the proper counties of North Carolina stating the fact of abandonment, whereupon title shall revert to those entitled thereto by law and no further conveyance or proof of reversion of title shall be required.

(Aug. 17, 1937, ch. 687, § 4, 50 Stat. 670; June 29, 1940, ch. 459, § 1, 54 Stat. 702; Mar. 6, 1946, ch. 50, 60 Stat. 32.)

AMENDMENTS

1946—Act Mar. 6, 1946, substituted ''fifteen years'' for ''ten years'' before ''from August 17, 1937''.

CHANGE OF NAME

Words ''national seashore recreational area'' substituted in text for ''national seashore'' pursuant to act June 29, 1940.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 459a–3. Migratory bird refuges not to be affected

Notwithstanding any other provisions of sections 459 to 459a–3 of this title, lands and waters on or after August 17, 1937, included in any migratory bird refuge under the jurisdiction of the Secretary of Agriculture, within the boundaries of the national seashore recreational area as designated by the Secretary of the Interior under section 459 of this title, shall continue as such refuge under the jurisdiction of the Secretary of Agriculture for the protection of migratory birds, but such lands and waters shall be a part of the aforesaid national seashore recreational area and shall be administered by the National Park Service for recreational uses not inconsistent with the purposes of such refuge under such rules and regulations as the Secretaries of the Interior and Agriculture may jointly approve. The proviso to section 459 of this title shall not limit the power of the Secretary of Agriculture to acquire lands for any migratory bird refuge by purchase with any funds made available therefor by applicable law.

(Aug. 17, 1937, ch. 687, § 5, 50 Stat. 670; June 29, 1940, ch. 459, § 1, 54 Stat. 702.)

CHANGE OF NAME

Words ''national seashore recreational area'' substituted in text for ''national seashore'' pursuant to act June 29, 1940.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 459a–4. Omitted

CODIFICATION

Section, acts June 3, 1948, ch. 393, 62 Stat. 301; June 30, 1949, ch. 288, title I, § 105(a), 63 Stat. 381, which transferred lands in Dare County, North Carolina, to the administrative jurisdiction of the Department of the Interior to be administered as a part of the Cape Hatteras National Seashore Recreational Area project, is omitted in view of Pub. L. 87–313, set out as a note under this section.

DISPOSAL OF LANDS

Pub. L. 87–313, Sept. 26, 1961, 75 Stat. 675, provided: ''That the tract of Federal property comprising eight and one-tenth acres of land situated in Dare County, North Carolina, approximately two miles north of Kitty Hawk, which was transferred to the administrative jurisdiction of the Department of the Interior by the Act of June 3, 1948 (62 Stat. 301; 16 U.S.C. 459a [this section]), to be administered as a part of the Cape Hatteras National Seashore Recreational Area, may be disposed of by the Administrator of General Services in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended [see chapters 1 to 11 of Title 40, Public Buildings, Property, and Works, and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of Title 41, Public Contracts].''

§ 459a–5. Addition of lands; Naval Amphibious Training Station

There is transferred to the Secretary of the Interior without reimbursement or transfer of

funds, administrative jurisdiction over an area of approximately twenty-one and eight-tenths acres of federally owned land, formerly designated as the Naval Amphibious Training Station, together with any improvements thereon which may exist at the time of the transfer, situated on Ocracoke Island within the village of Ocracoke, County of Hyde, in the State of North Carolina. The property so transferred shall be administered by the Department of the Interior and shall become a part of the Cape Hatteras National Seashore Recreational Area, when established.

(July 14, 1953, ch. 191, 67 Stat. 148.)

§ 459a–5a. Addition of lands; Hatteras

The tracts of excess Federal lands and improvements thereon in the village of Hatteras, Dare County, North Carolina, bearing General Services Administration control numbers T–NC–442 and C–NC–444, comprising forty-three one-hundredths and one and five-tenths acres of land, respectively, the exact descriptions for which shall be determined by the Administrator of General Services, are transferred, without exchange of funds, to the administrative jurisdiction of the Secretary of the Interior to be administered as a part of the Cape Hatteras National Seashore Recreational Area, authorized by sections 459 to 459a–3 of this title, and shall be subject to all the laws and regulations applicable thereto.

(Pub. L. 85–540, July 18, 1958, 72 Stat. 398.)

§ 459a–6. Acquisition of non-Federal land within boundaries of recreational area

Section 452a of this title is amended to extend the authority of the Secretary of the Interior, contained therein, to the Cape Hatteras National Seashore Recreational Area.

(Aug. 6, 1956, ch. 988, § 1, 70 Stat. 1066.)

§ 459a–7. Availability of appropriations

Any funds appropriated to the Department of the Interior for the acquisition of non-Federal lands within areas of the National Park System shall after August 6, 1956, be available for the acquisition of non-Federal lands within the Cape Hatteras National Seashore Recreational Area, and the appropriation of funds for the acquisition of such lands is authorized.

(Aug. 6, 1956, ch. 988, § 2, 70 Stat. 1066.)

§ 459a–8. Limitation on expenditure

The total amount which may be expended for the land acquisition program at Cape Hatteras National Seashore Recreational Area, pursuant to the authorizations contained in sections 459a–6 to 459a–8 of this title, is expressly limited to $250,000.

(Aug. 6, 1956, ch. 988, § 3, 70 Stat. 1066.)

§ 459a–9. Conveyance of land for improvement with public health facility; reversion; consideration; status of property upon transfer of title

The Secretary of the Interior is authorized to convey the tract of land and improvements thereon situate in the village of Hatteras, Dare County, North Carolina, and administered as part of the Cape Hatteras National Seashore, formerly bearing General Services Administration excess property control number C–NC–444, comprising one and five-tenths acres, the exact description for which shall be determined by the Secretary, to the Board of Commissioners of Dare County, for purposes of providing thereon a public health facility: *Provided*, That title to the land and any improvements shall revert to the United States upon a finding and notification to the grantee by the Secretary that the property is used for purposes other than a public health facility. The conveyance herein authorized shall be without monetary consideration.

Upon the transfer of title to the grantee, the property herein conveyed shall cease to be a part of the Cape Hatteras National Seashore.

(Pub. L. 89–146, Aug. 28, 1965, 79 Stat. 583.)

§ 459a–10. Transfer of Ocracoke Light Station to Secretary of the Interior

The Administrator of the General Services Administration shall transfer administrative jurisdiction over the Federal property consisting of approximately 2 acres, known as the Ocracoke Light Station, to the Secretary of the Interior, subject to such reservations, terms, and conditions as may be necessary for Coast Guard purposes. All property so transferred shall be included in and administered as part of the Cape Hatteras National Seashore.

(Pub. L. 105–383, title IV, § 420, Nov. 13, 1998, 112 Stat. 3439.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 459b. Cape Cod National Seashore; description of area

(a) The area comprising that portion of the land and waters located in the towns of Provincetown, Truro, Wellfleet, Eastham, Orleans, and Chatham in the Commonwealth of Massachusetts, and described in subsection (b) of this section, is designated for establishment as Cape Cod National Seashore (hereinafter referred to as ''the seashore'').

(b) The area referred to in subsection (a) of this section is described as follows:

Beginning at a point in the Atlantic Ocean one-quarter of a mile due west of the mean low-water line of the Atlantic Ocean on Cape Cod at the westernmost extremity of Race Point, Provincetown, Massachusetts;

thence from the point of beginning along a line a quarter of a mile offshore of and parallel to the mean low-water line of the Atlantic Ocean, Cape Cod Bay, and Provincetown Harbor in generally southerly, easterly, and northerly directions rounding Long Point and

then southwesterly to a point a quarter of a mile offshore of the mean low-water line on the harbor side of the dike depicted on the United States Geological Survey Provincetown quadrangle sheet (1949) crossing an arm of the Provincetown Harbor;

thence northerly, along a line a quarter of a mile offshore of and parallel to the low-water line at the dike to a point easterly of the point of intersection of the said dike with the boundary of the Province Lands Reservation as depicted on the said Provincetown quadrangle sheet;

thence westerly to the said point of intersection of the dike and the Province Lands Reservation boundary;

thence along the boundaries of the Province Lands Reservation northwesterly, northeasterly, northerly, and easterly to the easternmost corner of the reservation being near United States Route 6;

thence leaving the said easternmost corner along an extension of the southerly reservation boundary line easterly to the northerly right-of-way line of United States Route 6;

thence along the northerly right-of-way line of United States Route 6 in a general easterly direction crossing the Truro-Provincetown line and continuing in the town of Truro in a generally southeasterly direction to a point four-tenths of a mile southeasterly of the southerly right-of-way line of Highland Road;

thence easterly five-tenths of a mile to a point;

thence turning and running in a southeasterly direction paralleling the general alinement of United States Route 6 and generally distant therefrom five-tenths of a mile to a point approximately 700 feet northwesterly of Long Nook Road;

thence southwesterly along a ridge generally paralleling the alinement of Long Nook Road and distant approximately 700 feet therefrom to a point two-tenths of a mile northeasterly of the northerly right-of-way line of United States Route 6;

thence southeasterly paralleling the general alinement of United States Route 6 and generally distant two-tenths of a mile northeasterly thereof to a point 300 feet south of the southerly right-of-way line of Higgins Hollow Road;

thence in a general easterly direction paralleling the southerly alinement of Higgins Hollow Road and 300 feet distant southerly therefrom to a point five-tenths of a mile east of the easterly right-of-way line of said Route 6;

thence turning and running in a southeasterly and southerly direction paralleling the general alinement of United States Route 6 and distant five-tenths of a mile easterly therefrom to a point 300 feet north of the northerly right-of-way line of North Pamet Road;

thence in a generally southwesterly direction paralleling the general alinement of North Pamet Road and generally distant 300 feet northerly therefrom to a point approximately two-tenths of a mile east of the easterly right-of-way line of United States Route 6;

thence in a southerly direction paralleling the alinement of United States Route 6 and generally distant two-tenths of a mile easterly therefrom to a point three-tenths of a mile south of South Pamet Road;

thence west to the intersection of Old County Road and Mill Pond Road;

thence following the easterly right-of-way line of Old County Road southward to a point opposite the southerly right-of-way line of Ryder Beach Road at its intersection with Old County Road;

thence eastward to a point 300 feet east of the easterly right-of-way line of said Old County Road;

thence in a southerly direction paralleling Old County Road at a distance of 300 feet to the east of the easterly right-of-way line of said road to a point 600 feet south of the southerly right-of-way line of Prince Valley Road;

thence in a generally westerly direction, crossing Old County Road and the New York, New Haven, and Hartford Railroad right-of-way to the southern extremity of the town landing and beach in the Ryder Beach area, and continuing to a point in Cape Cod Bay a quarter of a mile offshore from the mean low-water line of Cape Cod Bay;

thence turning and running along a line a quarter of a mile offshore of and parallel to the mean low-water line of Cape Cod Bay in a general southerly and easterly direction rounding Jeremy Point and thence in a general northerly direction along a line a quarter of a mile offshore of and parallel to the mean low-water line on the westerly side of Wellfleet Harbor, to a point one quarter of a mile due north of the mean low-water line at the eastern tip of Great Island as depicted on the United States Geological Survey Wellfleet quadrangle sheet (1958);

thence north to the mean high-water line on the north shore of the Herring River estuary in the vicinity of its confluence with Wellfleet Harbor;

thence following the mean high-water line southwesterly, northwesterly, and northeasterly to the easterly right-of-way line of Chequesset Neck Road at its crossing of Herring River;

thence following the course of Herring River along the 20-foot contour line of the southeasterly shore thereof to a point near Mill Creek;

thence crossing Mill Creek in a northeasterly direction to the 20-foot contour level near to and northeast of the confluence of Mill Creek and Herring River;

thence following generally northerly and easterly along the easterly edge of the Herring River marshes on the 20-foot contour to a point north of which the easterly right-of-way line of a medium duty road, as depicted on said Wellfleet quadrangle sheet, crosses northward across a marshy stream near the juncture of said medium duty road with Bound Brook Island Road;

thence crossing said marshy stream along said easterly right-of-way line of said medium duty road, and continuing in a northerly direction to the 20-foot contour level on the north side of said marshy stream;

thence following the 20-foot contour line westward approximately 1,000 feet to its intersection with an unimproved dirt road, as depicted on said Wellfleet quadrangle sheet, leading from a point near the juncture of Bound Brook Island Road and the said medium duty road;

thence following said unimproved dirt road northwesterly for approximately 1,600 feet to the 20-foot contour line bordering the southerly edge of the Herring River marshes;

thence following said 20-foot contour line in an easterly direction to Route 6;

thence crossing Route 6 and continuing to a point on the easterly right-of-way line of a power transmission line as depicted on said Wellfleet quadrangle sheet;

thence in a general southerly direction along the said easterly right-of-way line of a power transmission line to the Eastham-Wellfleet town line;

thence southeasterly for a distance of approximately 5,200 feet to a point due north of the intersection of the easterly right-of-way line of Nauset Road with the northerly right-of-way line of Cable Road;

thence due south to the intersection of the said easterly right-of-way line of Nauset Road and the said northerly right-of-way line of Cable Road;

thence in a general southerly direction crossing Cable Road and along said easterly right-of-way line of Nauset Road to a point 500 feet north of the northerly right-of-way line of Doane Road and its intersection with Nauset Road;

thence west to a point 500 feet west of the westerly right-of-way line of Nauset Road;

thence southerly and westerly 500 feet from and parallel to the said right-of-way line of Nauset Road to the easterly right-of-way line of Salt Pond Road;

thence southerly along the easterly right-of-way line of said Salt Pond Road to its intersection with the southerly right-of-way line of Nauset Road;

thence westerly along the southerly right-of-way line of Nauset Road to its intersection with the easterly right-of-way line of United States Route 6;

thence southerly along the easterly right-of-way line of said Route 6 a distance of about four-tenths of a mile to the northerly boundary of the Eastham town hall property;

thence easterly to a point one-tenth of a mile from United States Route 6;

thence turning and running in a generally southerly direction paralleling the general alinement of United States Route 6 and generally distant therefrom one-tenth of a mile to a small stream approximately one-tenth of a mile beyond Governor Prence Road extended;

thence southeasterly along the said stream to the Orleans-Eastham town line;

thence along the Orleans-Eastham town line to the southerly tip of Stony Island;

thence generally southeasterly in the town of Orleans by Nauset Harbor Channel to a point due north of the northerly tip of Nauset Heights as depicted on United States Geological Survey Orleans quadrangle sheet (1946);

thence due south to the 20-foot contour line in Nauset Heights as delineated on the said Orleans quadrangle sheet;

thence generally southerly along the said 20-foot contour to a point about one-tenth of a mile northerly of Beach Road;

thence southwesterly along a line intersecting Beach Road at a point two-tenths of a mile easterly of the so-called Nauset Road leading northerly to Nauset Heights;

thence southerly to a head of a tributary to Little Pleasant Bay at the northerly tip of Pochet Neck as depicted on the said Orleans quadrangle sheet;

thence generally southerly along the thread of channel of the said tributary passing westerly and southwesterly around Pochet Island and thence southwesterly into Little Pleasant Bay passing to westerly of the northerly tip of Sampson Island, the westerly tip of Money Head, and the southwesterly tip of Hog Island following in general the centerline of Little Pleasant Bay to Pleasant Bay;

thence generally southeasterly in Pleasant Bay along a line passing midway between Sipson Island and Nauset Beach to a point on the Chatham-Orleans town line one-quarter of a mile westerly of the mean low-water line of Pleasant Bay on the westerly shore of Nauset Beach;

thence generally southerly in Pleasant Bay in the town of Chatham along a line a quarter of a mile offshore of and parallel to the said mean low-water line of Pleasant Bay on the westerly shore of Nauset Beach to a point a quarter of a mile south of the mean low-water line of the southern tip of Nauset Beach;

thence easterly rounding the southern tip of Nauset Beach along a line a quarter of a mile offshore of and parallel thereto;

thence generally northerly and northwesterly, and westerly along a line a quarter of a mile offshore of and parallel to the mean low-water line of the Atlantic Ocean on the easterly shore of Nauset Beach and on to the outer cape to the point of beginning.

(Pub. L. 87–126, §1, Aug. 7, 1961, 75 Stat. 284.)

SEPARABILITY

Section 10 of Pub. L. 87–126 provided that: ''If any provision of this Act [sections 459b to 459b–8 of this title] or the application of such provision to any person or circumstance is held invalid, the remainder of this Act [such sections] or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.''

§ 459b–1. Acquisition of property

(a) Authority of Secretary; manner and place; concurrence of State owner; transfer from Federal agency to administrative jurisdiction of Secretary

The Secretary of the Interior (hereinafter referred to as ''Secretary'') is authorized to acquire by purchase, gift, condemnation, transfer from any Federal agency, exchange, or otherwise, the land, waters, and other property, and improvements thereon and any interest therein, within the area which is described in section 459b of this title or which lies within the boundaries of the seashore as described pursuant to

section 459b–2 of this title (both together hereinafter in sections 459b to 459b–8 of this title referred to as ''such area''). Any property, or interest therein, owned by the Commonwealth of Massachusetts, by any of the towns referred to in section 459b of this title, or by any other political subdivision of said Commonwealth may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of sections 459b to 459b–8 of this title.

(b) Use of funds; fair market value

The Secretary is authorized (1) to use donated and appropriated funds in making acquisitions under sections 459b to 459b–8 of this title, and (2) to pay therefor not more than the fair market value of any acquisitions which he makes by purchase under sections 459b to 459b–8 of this title.

(c) Exchange of property; cash equalization payments; reports to Congress

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within such area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary within such area. The properties so exchanged shall be approximately equal in fair market value: *Provided*, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

The Secretary shall report to the Congress on every exchange carried out under authority of sections 459b to 459b–8 of this title within thirty days from its consummation, and each such report shall include a statement of the fair market values of the properties involved and of any cash equalization payment made or received.

(d) Exchange of property; addition to Cape Cod National Seashore

The Secretary may convey to the town of Provincetown, Massachusetts, a parcel of real property consisting of approximately 7.62 acres of Federal land within such area in exchange for approximately 11.157 acres of land outside of such area, as depicted on the map entitled ''Cape Cod National Seashore Boundary Revision Map'', dated May, 1997, and numbered 609/80,801, to allow for the establishment of a municipal facility to serve the town that is restricted to solid waste transfer and recycling facilities and for other municipal activities that are compatible with National Park Service laws and regulations. Upon completion of the exchange, the Secretary shall modify the boundary of the Cape Cod National Seashore to include the land that has been added.

(e) "Fair market value" defined; appraisal

As used in sections 459b to 459b–8 of this title the term ''fair market value'' shall mean the fair market value as determined by the Secretary, who may in his discretion base his determination on an independent appraisal obtained by him.

(Pub. L. 87–126, § 2, Aug. 7, 1961, 75 Stat. 287; Pub. L. 105–280, § 1(a), Oct. 26, 1998, 112 Stat. 2694.)

AMENDMENTS

1998—Subsecs. (d), (e). Pub. L. 105–280 added subsec. (d) and redesignated former subsec. (d) as (e).

§ 459b–2. Establishment

(a) Notice in Federal Register

As soon as practicable after August 7, 1961, and following the acquisition by the Secretary of an acreage in the area described in section 459b of this title that is in the opinion of the Secretary efficiently administrable to carry out the purposes of sections 459b to 459b–8 of this title, the Secretary shall establish Cape Cod National Seashore by the publication of notice thereof in the Federal Register.

(b) Distribution of notice and map

Such notice referred to in subsection (a) of this section shall contain a detailed description of the boundaries of the seashore which shall encompass an area as nearly as practicable identical to the area described in section 459b of this title. The Secretary shall forthwith after the date of publication of such notice in the Federal Register (1) send a copy of such notice, together with a map showing such boundaries, by registered or certified mail to the Governor of the Commonwealth of Massachusetts and to the board of selectmen of each of the towns referred to in section 459b of this title; (2) cause a copy of such notice and map to be published in one or more newspapers which circulate in each of such towns; and (3) cause a certified copy of such notice, a copy of such map, and a copy of sections 459b to 459b–8 of this title to be recorded at the registry of deeds for Barnstable County, Massachusetts.

(Pub. L. 87–126, § 3, Aug. 7, 1961, 75 Stat. 288.)

§ 459b–3. Acquisition by condemnation

(a) Right of use and occupancy for residential purposes for life or fixed term of years; exercise of right of election; impairment of interests of lienholders, etc.; right as running with land; transfer, assignment and termination of right; computation of compensation

(1) The beneficial owner or owners, not being a corporation, of a freehold interest in improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for noncommercial residential purposes for a term of twenty-five years, or for such lesser time as the said owner or owners may elect at the time of such acquisition.

(2) The beneficial owner or owners, not being a corporation, of a freehold estate in improved property which property the Secretary acquires by condemnation, who held, on September 1, 1959, with respect to such property, an estate of the same nature and quality, may elect, as an alternative and not in addition to whatever right of election he or they might have under

paragraph (1) of this subsection, to retain the right of use and occupancy of the said property for noncommercial residential purposes (i) for a term limited by the nature and quality of his or their said estate, if his or their said estate is a life estate or an estate pur auter vie, or (ii) for a term ending at the death of such owner or owners, or at the death of the survivor of them, if his or their said estate is an estate of fee simple.

(3) Where such property is held by a natural person or persons for his or their own life or lives or for the life or lives of another or others (such person or persons being hereinafter called ''the life tenant''), with remainder in another or others, any right of election provided for in paragraph (2) of this subsection shall be exercised by the life tenant, and any right of election provided for in paragraph (1) of this subsection shall be exercised by the concurrence of the life tenant and the remainderman or remaindermen.

(4) The beneficial owner or owners of a term of years in improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for noncommercial residential purposes for a term not to exceed the remainder of his or their said term of years, or a term of twenty-five years, whichever shall be the lesser. The owner or owners of the freehold estate or estates in such property may, subject to the right provided for in the preceding sentence, exercise such right or rights of election as remain to them under paragraphs (1) and (2) of this subsection.

(5) No right of election accorded by paragraphs (1), (2), or (4) of this subsection shall be exercised to impair substantially the interests of holders of encumbrances, liens, assessments, or other charges upon or against the property.

(6) Any right or rights of use and occupancy retained pursuant to paragraphs (1), (2), and (4) of this subsection shall be held to run with the land, and may be freely transferred and assigned.

(7) In any case where a right of use and occupancy for life or for a fixed term of years is retained as provided in paragraph (1), (2), or (4) of this subsection, the compensation paid by the Secretary for the property shall not exceed the fair market value of the property on the date of its acquisition by the Secretary, less the fair market value on such date of the said right retained.

(8) The Secretary shall have authority to terminate any right of use and occupancy of property, retained as provided in paragraph (1), (2), or (4) of this subsection, at any time after the date when any use occurs with respect to such property which fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in regulations issued pursuant to section 459b–4 of this title and in effect on said date: *Provided*, That no use which is in conformity with the provisions of a zoning bylaw approved in accordance with said section 459b–4 which is in force and applicable to such property shall be held to fail to conform or be opposed to or inconsistent with any such standard. In the event that the Secretary exercises the authority conferred by this paragraph, he shall pay to the owner of the right so terminated an amount equal to the fair market value of the portion of said right which remained on the date of termination.

(b) Suspension of authority for one year and during existence of zoning regulations

(1) The Secretary's authority to acquire property by condemnation shall be suspended with respect to all improved property located within such area in all of the towns referred to in section 459b of this title for one year following August 7, 1961.

(2) Thereafter such authority shall be suspended with respect to all improved property located within such area in any one of such towns during all times when such town shall have in force and applicable to such property a duly adopted, valid zoning bylaw approved by the Secretary in accordance with the provisions of section 459b–4 of this title.

(c) Suspension of authority respecting property used for commercial or industrial purposes

The Secretary's authority to acquire property by condemnation shall be suspended with respect to any particular property which is used for commercial or industrial purposes during any periods when such use is permitted by the Secretary and during the pendency of the first application for such permission made to the Secretary after August 7, 1961 provided such application is made not later than the date of establishment of the seashore.

(d) "Improved property" defined

The term ''improved property,'' wherever used in sections 459b to 459b–8 of this title, shall mean a detached, one-family dwelling the construction of which was begun before September 1, 1959 (hereinafter referred to as ''dwelling''), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated. The amount of the land so designated shall in every case be at least three acres in area, or all of such lesser amount as may be held in the same ownership as the dwelling, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: *Provided*, *however*, That the Secretary may exclude from the land so designated any beach or waters, together with so much of the land adjoining such beach or waters as the Secretary may deem necessary for public access thereto.

(e) Acquisition of clear, marketable and encumbrance-free title

Nothing in this section or elsewhere in sections 459b to 459b–8 of this title shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

(Pub. L. 87–126, § 4, Aug. 7, 1961, 75 Stat. 288.)

§ 459b–4. Zoning regulations

(a) Standards for approval; submission to Congress and municipalities; publication in Federal Register; approval of local bylaws; revocation of approval

As soon after August 7, 1961, as may be practicable, the Secretary shall issue regulations specifying standards for approval by him of zoning bylaws for purposes of section 459b–3 of this title. The Secretary may issue amended regulations specifying standards for approval by him of zoning bylaws whenever he shall consider such amended regulations to be desirable due to changed or unforeseen conditions.

All regulations and amended regulations proposed to be issued under authority of the two preceding sentences of this subsection shall be submitted to the Congress and to the towns named in section 459b of this title at least ninety calendar days (which ninety days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) before they become effective and the Secretary shall, before promulgating any such proposed regulations or amended regulations in final form, take due account of any suggestions for their modification which he may receive during said ninety-day period. All such regulations and amended regulations shall, both in their proposed form and in their final form, be published in the Federal Register.

The Secretary shall approve any zoning bylaw and any amendment to any approved zoning bylaws submitted to him which conforms to the standards contained in the regulations in effect at the time of the adoption by the town of such bylaw or such amendment unless before the time of adoption he has submitted to the Congress and the towns and published in the Federal Register as aforesaid proposed amended regulations with which the bylaw or amendment would not be in conformity, in which case he may withhold his approval pending completion of the review and final publication provided for in this subsection and shall thereafter approve the bylaw or amendment only if it is in conformity with the amended regulations in their final form. Such approval shall not be withdrawn or revoked, nor shall its effect be altered for purposes of section 459b–3 of this title by issuance of any such amended regulations after the date of such approval, so long as such bylaw or such amendment remains in effect as approved.

(b) Commercial and industrial use prohibition; acreage, frontage, setback and miscellaneous requirements

The standards specified in such regulations and amended regulations for approval of any zoning bylaw or zoning bylaw amendment shall contribute to the effect of (1) prohibiting the commercial and industrial use, other than any commercial or industrial use which is permitted by the Secretary, of all property within the boundaries of the seashore which is situated within the town adopting such bylaw; and (2) promoting the preservation and development, in accordance with the purposes of sections 459b to 459b–8 of this title, of the area comprising the seashore, by means of acreage, frontage, and setback requirements and other provisions which may be required by such regulations to be included in a zoning bylaw consistent with the laws of Massachusetts.

(c) Adverse provisions and absence of notice for variance as requiring disapproval of local bylaws

No zoning bylaw or amendment of a zoning bylaw shall be approved by the Secretary which (1) contains any provision which he may consider adverse to the preservation and development, in accordance with the purposes of sections 459b to 459b–8 of this title, of the area comprising the seashore, or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under and any exception made to the application of such bylaw or amendment.

(d) Termination of suspension of authority for acquisition by condemnation because of nonconforming variances and uses; agreements concerning exercise of authority

If any improved property with respect to which the Secretary's authority to acquire by condemnation has been suspended by reason of the adoption and approval, in accordance with the foregoing provisions of this section, of a zoning bylaw applicable to such property (hereinafter referred to as ''such bylaw'')—

(1) is made the subject of a variance under or an exception to such bylaw, which variance or exception fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in the regulations issued pursuant to this section and in effect at the time of the passage of such bylaw, or

(2) is property upon or with respect to which there occurs any use, commencing after the date of the publication by the Secretary of such regulations, which fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in such regulations (but no use which is in conformity with the provisions of such bylaw shall be held to fail to conform or be opposed to or inconsistent with any such standard),

the Secretary may, at any time and in his discretion, terminate the suspension of his authority to acquire such improved property by condemnation: *Provided, however*, That the Secretary may agree with the owner or owners of such property to refrain from the exercise of the said authority during such time and upon such terms and conditions as the Secretary may deem to be in the best interests of the development and preservation of the seashore.

(Pub. L. 87–126, § 5, Aug. 7, 1961, 75 Stat. 290.)

§ 459b–5. Certificate of suspension of authority for acquisition by condemnation

The Secretary shall furnish to any party in interest requesting the same, a certificate indicating, with respect to any property located within the seashore as to which the Secretary's authority to acquire such property by condemnation has been suspended in accordance with the pro-

visions of sections 459b to 459b–8 of this title, that such authority has been so suspended and the reasons therefor.

(Pub. L. 87–126, § 6, Aug. 7, 1961, 75 Stat. 291.)

§ 459b–6. Administration of acquired property

(a) Utilization of authority for conservation and management of natural resources

Except as otherwise provided in sections 459b to 459b–8 of this title, the property acquired by the Secretary under such sections shall be administered by the Secretary subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and in accordance with laws of general application relating to the national park system as defined by sections 1b to 1d of this title; except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of sections 459b to 459b–8 of this title.

(b) Preservation of seashore; incompatible visitor conveniences restricted; provisions for public enjoyment and understanding; developments for recreational activities; public use areas

(1) In order that the seashore shall be permanently preserved in its present state, no development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing or with the preservation of such historic sites and structures as the Secretary may designate: *Provided*, That the Secretary may provide for the public enjoyment and understanding of the unique natural, historic, and scientific features of Cape Cod within the seashore by establishing such trails, observation points, and exhibits and providing such services as he may deem desirable for such public enjoyment and understanding: *Provided further*, That the Secretary may develop for appropriate public uses such portions of the seashore as he deems especially adaptable for camping, swimming, boating, sailing, hunting, fishing, the appreciation of historic sites and structures and natural features of Cape Cod, and other activities of similar nature.

(2) In developing the seashore the Secretary shall provide public use areas in such places and manner as he determines will not diminish for its owners or occupants the value or enjoyment of any improved property located within the seashore.

(c) Hunting and fishing regulations; navigation

The Secretary may permit hunting and fishing, including shellfishing, on lands and waters under his jurisdiction within the seashore in such areas and under such regulations as he may prescribe during open seasons prescribed by applicable local, State and Federal law. The Secretary shall consult with officials of the Commonwealth of Massachusetts and any political subdivision thereof who have jurisdiction of hunting and fishing, including shellfishing, prior to the issuance of any such regulations, and the Secretary is authorized to enter into cooperative arrangements with such officials regarding such hunting and fishing, including shellfishing, as he may deem desirable, except that the Secretary shall leave all aspects of the propagation and taking of shellfish to the towns referred to in section 459b of this title.

The Secretary shall not interfere with navigation of waters within the boundaries of the Cape Cod National Seashore by such means and in such areas as is now customary.

(Pub. L. 87–126, § 7, Aug. 7, 1961, 75 Stat. 291.)

§ 459b–7. Cape Cod National Seashore Advisory Commission

(a) Establishment; termination

There is established a Cape Cod National Seashore Advisory Commission (hereinafter referred to as the ''Commission''). The Commission shall terminate September 26, 2018.

(b) Membership; term

The Commission shall be composed of ten members each appointed for a term of two years by the Secretary as follows:

(1) Six members to be appointed from recommendations made by each of the boards of selectmen of the towns referred to in section 459b of this title, one member from the recommendations made by each such board;

(2) One member to be appointed from recommendations of the county commissioners of Barnstable County, Commonwealth of Massachusetts;

(3) Two members to be appointed from recommendations of the Governor of the Commonwealth of Massachusetts; and

(4) One member to be designated by the Secretary.

(c) Chairman; vacancies

The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) Compensation and expenses

A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under sections 459b to 459b–8 of this title upon vouchers signed by the Chairman.

(e) Majority vote

The Commission established by this section shall act and advise by affirmative vote of a majority of the members thereof.

(f) Consultation of Secretary with Commission

The Secretary or his designee shall, from time to time, consult with the members of the Commission with respect to matters relating to the development of Cape Cod National Seashore and shall consult with the members with respect to carrying out the provisions of sections 459b–3 and 459b–4 of this title.

(g) Advice of Commission for commercial or industrial use permits and establishment of public use areas for recreational activities

No permit for the commercial or industrial use of property located within the seashore shall

be issued by the Secretary, nor shall any public use area for recreational activity be established by the Secretary within the seashore, without the advice of the Commission, if such advice is submitted within a reasonable time after it is sought.

(h) Exemption from other provisions of law

(1) Any member of the Advisory Commission appointed under sections 459b to 459b–8 of this title shall be exempted, with respect to such appointment, from the operation of sections 281, 283, 284, and 1914 of title 18 and section 190 of the Revised Statutes (5 U.S.C. 99)[1] except as otherwise specified in paragraph (2) of this subsection.

(2) The exemption granted by paragraph (1) of this subsection shall not extend—

(i) to the receipt or payment of salary in connection with the appointee's Government service from any sources other than the private employer of the appointee at the time of his appointment; or

(ii) during the period of such appointment, and the further period of two years after the termination thereof, to the prosecution or participation in the prosecution, by any person so appointed, of any claim against the Government involving any matter concerning which the appointee had any responsibility arising out of his appointment during the period of such appointment.

(Pub. L. 87–126, § 8, Aug. 7, 1961, 75 Stat. 292; Pub. L. 99–420, title II, § 201, Sept. 25, 1986, 100 Stat. 960; Pub. L. 105–280, § 1(b), Oct. 26, 1998, 112 Stat. 2694; Pub. L. 111–11, title VII, § 7402, Mar. 30, 2009, 123 Stat. 1219.)

REFERENCES IN TEXT

Sections 281, 283, 284, and 1914 of title 18, referred to in subsec. (h)(1), were repealed by Pub. L. 87–849, § 2, Oct. 23, 1962, 76 Stat. 1126, ''except as they [sections 281 and 283] may apply to retired officers of the armed forces of the United States'', and were supplanted by sections 203, 205, 207, and 209, respectively, of Title 18, Crimes and Criminal Procedure. For further details, see Exemptions note set out under section 203 of Title 18.

Section 190 of the Revised Statutes (5 U.S.C. 99), referred to in subsec. (h)(1), was repealed by Pub. L. 87–849, § 3, Oct. 23, 1962, 76 Stat. 1126. See section 207 of Title 18.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–11 substituted ''2018'' for ''2008''.

1998—Subsec. (a). Pub. L. 105–280 substituted ''The Commission shall terminate September 26, 2008.'' for ''Said Commission shall terminate 30 years after the date the seashore is established under section 459b–2 of this title.''

1986—Subsec. (a). Pub. L. 99–420 substituted ''30 years'' for ''ten years''.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–11, title VII, § 7402, Mar. 30, 2009, 123 Stat. 1219, provided that the amendment made by section 7402 is effective Sept. 26, 2008.

REESTABLISHMENT AND EXTENSION OF COMMISSION

Pub. L. 99–349, title I, July 2, 1986, 100 Stat. 731, provided: ''That the Cape Cod National Seashore Advisory Commission established under section 8(a) of the Act of August 7, 1961 (Public Law 87–126; 75 Stat. 292) [16 U.S.C. 459b–7(a)] is reestablished and extended through February 28, 1996''.

[1] See References in Text note below.

§ 459b–8. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 459b to 459b–8 of this title; except that no more than $42,917,575 shall be appropriated for the acquisition of land and waters and improvements thereon, and interests therein, and incidental costs relating thereto, in accordance with the provisions of such sections.

(Pub. L. 87–126, § 9, Aug. 7, 1961, 75 Stat. 293; Pub. L. 91–252, May 14, 1970, 84 Stat. 216; Pub. L. 98–141, § 3, Oct. 31, 1983, 97 Stat. 909.)

AMENDMENTS

1983—Pub. L. 98–141 substituted ''$42,917,575'' for ''$33,500,000''.

1970—Pub. L. 91–252 substituted ''$33,500,000'' for ''$16,000,000''.

§ 459c. Point Reyes National Seashore; purposes; authorization for establishment

In order to save and preserve, for purposes of public recreation, benefit, and inspiration, a portion of the diminishing seashore of the United States that remains undeveloped, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to take appropriate action in the public interest toward the establishment of the national seashore set forth in section 459c–1 of this title.

(Pub. L. 87–657, § 1, Sept. 13, 1962, 76 Stat. 538.)

§ 459c–1. Description of area

(a) Boundary map; availability; publication in Federal Register

The Point Reyes National Seashore shall consist of the lands, waters, and submerged lands generally depicted on the map entitled ''Boundary Map, Point Reyes National Seashore'', numbered 612–80,008–E and dated May 1978, plus those areas depicted on the map entitled ''Point Reyes and GGNRA Amendments, dated October 25, 1979''.

The map referred to in this section shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate in writing, the Secretary may make minor revisions of the boundaries of the Point Reyes National Seashore when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(b) Bear Valley Ranch right-of-way

The area referred to in subsection (a) of this section shall also include a right-of-way to the aforesaid tract in the general vicinity of the northwesterly portion of the property known as ''Bear Valley Ranch'', to be selected by the Secretary, of not more than four hundred feet in width, together with such adjoining lands as would be deprived of access by reason of the acquisition of such right-of-way.

(Pub. L. 87–657, § 2, Sept. 13, 1962, 76 Stat. 538; Pub. L. 89–666, § 1(a), Oct. 15, 1966, 80 Stat. 919; Pub. L. 93–550, title II, § 201, Dec. 26, 1974, 88 Stat. 1744; Pub. L. 95–625, title III, § 318(a), Nov. 10, 1978, 92 Stat. 3486; Pub. L. 96–199, title I, § 101(a)(1), Mar. 5, 1980, 94 Stat. 67; Pub. L. 103–437, § 6(d)(16), Nov. 2, 1994, 108 Stat. 4584.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

1980—Subsec. (a). Pub. L. 96–199 inserted '', plus those areas depicted on the map entitled 'Point Reyes and GGNRA Amendments, dated October 25, 1979'' after ''dated May 1978''.

1978—Subsec. (a). Pub. L. 95–625 substituted as a description of the area the lands generally depicted on Boundary Map numbered 612–80,008–E and dated May 1978 for prior such depiction on Boundary Map numbered 612–80,008–B, and dated August 1974; included submerged lands in the description; made the map specifically available in the Washington, District of Columbia, Office; and authorized minor revisions of boundaries and publication thereof in the Federal Register after advising Congressional committees.

1974—Subsec. (a). Pub. L. 93–550 substituted as a boundary description Boundary Map No. 612–80,008–B, and dated August 1974, on file in the office of the National Park Service, Department of the Interior, for a boundary map designated NS–PR–7001, dated June 1, 1960, on file with the Director of the National Park Service, Washington, D.C., and all measurements relating thereto.

1966—Subsec. (b). Pub. L. 89–666 inserted ''to the aforesaid tract in the general vicinity of the northwesterly portion of the property known as 'Bear Valley Ranch'' after ''right-of-way'', struck out ''from the intersection of Sir Francis Drake Boulevard and Haggerty Gulch'' after ''aforesaid tract'' and included such adjoining lands as would be deprived of access by reason of the right-of-way.

§ 459c–2. Acquisition of property

(a) Authority of Secretary; manner and place; concurrence of State owner; transfer from Federal agency to administrative jurisdiction of Secretary; liability of United States under contracts contingent on appropriations

The Secretary is authorized to acquire, and it is the intent of Congress that he shall acquire as rapidly as appropriated funds become available for this purpose or as such acquisition can be accomplished by donation or with donated funds or by transfer, exchange, or otherwise the lands, waters, and other property, and improvements thereon and any interest therein, within the areas described in section 459c–1 of this title or which lie within the boundaries of the seashore as established under section 459c–4 of this title (hereinafter referred to as ''such area''). Any property, or interest therein, owned by a State or political subdivision thereof may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of sections 459c to 459c–7 of this title. In exercising his authority to acquire property in accordance with the provisions of this subsection, the Secretary may enter into contracts requiring the expenditure, when appropriated, of funds authorized by section 459c–7 of this title, but the liability of the United States under any such contract shall be contingent on the appropriation of funds sufficient to fulfill the obligations thereby incurred.

(b) Payment for acquisition; fair market value

The Secretary is authorized to pay for any acquisitions which he makes by purchase under sections 459c to 459c–7 of this title their fair market value, as determined by the Secretary, who may in his discretion base his determination on an independent appraisal obtained by him.

(c) Exchange of property; cash equalization payments

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within such area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary within California and adjacent States, notwithstanding any other provision of law. The properties so exchanged shall be approximately equal in fair market value, provided that the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

(Pub. L. 87–657, § 3, Sept. 13, 1962, 76 Stat. 539; Pub. L. 91–223, § 2(a), Apr. 3, 1970, 84 Stat. 90.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–223 substituted introductory ''The'' for ''Except as provided in section 459c–3 of this title, the''.

§ 459c–3. Repealed. Pub. L. 91–223, § 2(b), Apr. 3, 1970, 84 Stat. 90

Section, Pub. L. 87–657, § 4, Sept. 13, 1962, 76 Stat. 540, provided conditions for exercise of eminent domain within pastoral zone and defined ''ranching and dairying purposes''.

§ 459c–4. Point Reyes National Seashore

(a) Establishment; notice in Federal Register

As soon as practicable after September 13, 1962, and following the acquisition by the Secretary of an acreage in the area described in section 459c–1 of this title, that is in the opinion of the Secretary efficiently administrable to carry out the purposes of sections 459c to 459c–7 of this title, the Secretary shall establish Point Reyes National Seashore by the publication of notice thereof in the Federal Register.

(b) Distribution of notice and map

Such notice referred to in subsection (a) of this section shall contain a detailed description of the boundaries of the seashore which shall encompass an area as nearly as practicable identical to the area described in section 459c–1 of this title. The Secretary shall forthwith after the date of publication of such notice in the Federal Register (1) send a copy of such notice, together with a map showing such boundaries, by registered or certified mail to the Governor of the State and to the governing body of each of the political subdivisions involved; (2) cause a

copy of such notice and map to be published in one or more newspapers which circulate in each of the localities; and (3) cause a certified copy of such notice, a copy of such map, and a copy of sections 459c to 459c–7 of this title to be recorded at the registry of deeds for the county involved.

(Pub. L. 87–657, § 4, formerly § 5, Sept. 13, 1962, 76 Stat. 540; renumbered § 4, Pub. L. 91–223, § 2(c), Apr. 3, 1970, 84 Stat. 90.)

AMENDED DESCRIPTION OF BOUNDARIES OF POINT REYES NATIONAL SEASHORE; PUBLICATION IN FEDERAL REGISTER

Pub. L. 93–550, title II, § 202, Dec. 26, 1974, 88 Stat. 1744, provided that: ''The Secretary of the Interior shall, as soon as practicable after the date of enactment of this title [Dec. 26, 1974], publish an amended description of the boundaries of the Point Reyes National Seashore in the Federal Register, and thereafter he shall take such action with regard to such amended description and the map referred to in section 201 of this title [amending section 459c–1 of this title] as is required in the second sentence of subsection (b) of section 4 of the act of September 13, 1962, as amended [subsec. (b) of this section].''

§ 459c–5. Owner's reservation of right of use and occupancy for fixed term of years or life

(a) Election of term; fair market value; termination; notification; lease of Federal lands: restrictive covenants, offer to prior owner or leaseholder

Except for property which the Secretary specifically determines is needed for interpretive or resources management purposes of the seashore, the owner of improved property or of agricultural property on the date of its acquisition by the Secretary under sections 459c to 459c–7 of this title may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his or her spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her determination that it is being exercised in a manner inconsistent with the purposes of sections 459c to 459c–7 of this title, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under sections 459c to 459c–7 of this title, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of sections 459c to 459c–7 of this title. Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land or was a leaseholder thereon immediately before its acquisition by the United States.

(b) "Improved and agricultural property" defined

As used in sections 459c to 459c–7 of this title, the term ''improved property'' shall mean a private noncommercial dwelling, including the land on which it is situated, whose construction was begun before September 1, 1959, or, in the case of areas added by action of the Ninety-fifth Congress, May 1, 1978 or, in the case of areas added by action of the Ninety-sixth Congress, May 1, 1979, and structures accessory thereto (hereinafter in this subsection referred to as ''dwelling''), together with such amount and locus of the property adjoining and in the same ownership as such dwelling as the Secretary designates to be reasonably necessary for the enjoyment of such dwelling for the sole purpose of noncommercial residential use and occupancy. In making such designation the Secretary shall take into account the manner of noncommercial residential use and occupancy in which the dwelling and such adjoining property has usually been enjoyed by its owner or occupant. The term ''agricultural property'' as used in sections 459c to 459c–7 of this title means lands which were in regular use for, or were being converted to agricultural, ranching, or dairying purposes as of May 1, 1978 or, in the case of areas added by action of the Ninety-sixth Congress, May 1, 1979, together with residential and other structures related to the above uses of the property that were in existence or under construction as of May 1, 1978.

(c) Payment deferral; scheduling; interest rate

In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of sections 459c to 459c–7 of this title, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes.

(d) Lands donated by State of California

The Secretary is authorized to accept and manage in accordance with sections 459c to 459c–7 of this title, any lands and improvements within or adjacent to the seashore which are donated by the State of California or its political subdivisions. He is directed to accept any such lands offered for donation which comprise the Tomales Bay State Park, or lie between said park and Fish Hatchery Creek. The boundaries of the seashore shall be changed to include any such donated lands.

(e) Fee or admission charge prohibited

Notwithstanding any other provision of law, no fee or admission charge may be levied for admission of the general public to the seashore.

(Pub. L. 87–657, § 5, formerly § 6, Sept. 13, 1962, 76 Stat. 541; renumbered § 5, Pub. L. 91–223, § 2(c), Apr. 3, 1970, 84 Stat. 90; amended Pub. L. 95–625, title III, § 318(b)–(d), Nov. 10, 1978, 92 Stat. 3487; Pub. L. 96–199, title I, § 101(a)(2)–(4), Mar. 5, 1980, 94 Stat. 67.)

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–199, § 101(a)(2), substituted ''Except for property which the Secretary specifically determines is needed for interpretive or resources management purposes of the seashore, the'' for ''The'' in first sentence.

Subsec. (b). Pub. L. 96–199, § 101(a)(3), inserted ''or, in the case of areas inserted by action of the Ninety-sixth Congress, May 1, 1979,'' after ''May 1, 1978'' and ''that were in existence or under construction as of May 1, 1978'' after ''related to the above uses of the property''.

Subsecs. (d), (e). Pub. L. 96–199, § 101(a)(4), added subsecs. (d) and (e).

1978—Subsec. (a). Pub. L. 95–625, § 318(b), extended provision to agricultural property; provided for: retention rights of heirs and assigns, retention rights for term of twenty-five years or for term ending with death of owner or spouse, whichever was later, as elected by owner, which provision previously authorized retention for term of fifty years, termination of right of retention and notice thereof, and for lease of federally owned lands, subject to restrictive covenants, with first offer to prior owner or leaseholder; and included clause relating to donation of property to the United States.

Subsec. (b). Pub. L. 95–625, § 318(c), defined ''improved property'' to include private dwelling, the construction of which was begun, in the case of areas added by action of the Ninety-fifth Congress, October 1, 1978, and included definition of ''agricultural property''.

Subsec. (c). Pub. L. 95–625, § 318(d), added subsec. (c).

§ 459c–6. Administration of property

(a) Protection, restoration, and preservation of natural environment

Except as otherwise provided in sections 459c to 459c–7 of this title, the property acquired by the Secretary under such sections shall be administered by the Secretary without impairment of its natural values, in a manner which provides for such recreational, educational, historic preservation, interpretation, and scientific research opportunities as are consistent with, based upon, and supportive of the maximum protection, restoration, and preservation of the natural environment within the area, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and in accordance with other laws of general application relating to the national park system as defined by sections 1b to 1d of this title, except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of sections 459c to 459c–7 of this title.

(b) Hunting and fishing regulations

The Secretary may permit hunting and fishing on lands and waters under his jurisdiction within the seashore in such areas and under such regulations as he may prescribe during open seasons prescribed by applicable local, State, and Federal law. The Secretary shall consult with officials of the State of California and any political subdivision thereof who have jurisdiction of hunting and fishing prior to the issuance of any such regulations, and the Secretary is authorized to enter into cooperative agreements with such officials regarding such hunting and fishing as he may deem desirable.

(Pub. L. 87–657, § 6, formerly § 7, Sept. 13, 1962, 76 Stat. 541; renumbered § 6, Pub. L. 91–223, § 2(c), Apr. 3, 1970, 84 Stat. 90; amended Pub. L. 94–544, § 4(a), Oct. 18, 1976, 90 Stat. 2515; Pub. L. 94–567, § 7(a), Oct. 20, 1976, 90 Stat. 2695.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–544 and Pub. L. 94–567 made substantially identical amendments by inserting provision which directed the Secretary to administer the property acquired in such a manner so as to provide recreational, educational, historic preservation, interpretation, and scientific research opportunities consistent with the maximum protection, restoration, and preservation of the environment.

§ 459c–6a. The Clem Miller Environmental Education Center; designation

The Secretary shall designate the principal environmental education center within the seashore as ''The Clem Miller Environmental Education Center'', in commemoration of the vision and leadership which the late Representative Clem Miller gave to the creation and protection of Point Reyes National Seashore.

(Pub. L. 87–657, § 7, as added Pub. L. 94–544, § 4(b), Oct. 18, 1976, 90 Stat. 2515, and Pub. L. 94–567, § 7(b), Oct. 20, 1976, 90 Stat. 2695.)

CODIFICATION

Section 4(b) of Pub. L. 94–544 and section 7(b) of Pub. L. 94–567 enacted identical sections.

§ 459c–6b. Cooperation with utilities district; land use and occupancy; terms and conditions

The Secretary shall cooperate with the Bolinas Public Utilities District to protect and enhance the watershed values within the seashore. The Secretary may, at his or her discretion, permit the use and occupancy of lands added to the seashore by action of the Ninety-fifth Congress by the utilities district for water supply purposes, subject to such terms and conditions as the Secretary deems are consistent with the purposes of sections 459c to 459c–7 of this title.

(Pub. L. 87–657, § 8, as added Pub. L. 95–625, title III, § 318(e), Nov. 10, 1978, 92 Stat. 3487.)

§ 459c–7. Authorization of appropriations; restriction on use of land

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 459c to 459c–7 of this title, except that no more than $57,500,000 shall be appropriated for the acquisition of land and waters and improvements thereon, and interests therein, and incidental costs relating thereto, in accordance with the provisions of such sections: *Provided*, That no freehold, leasehold, or lesser interest in any lands hereafter acquired within the boundaries of the Point Reyes National Seashore shall be conveyed for residential or commercial purposes except for public accommodations, facilities, and services provided pursuant to sections 20 to 20g[1] and 462(h) of this title. In addition to the sums heretofore authorized by this section, there is further authorized to be appropriated $5,000,000 for the acquisition of lands or interests therein.

(Pub. L. 87–657, § 9, formerly § 8, Sept. 13, 1962, 76 Stat. 541; Pub. L. 89–666, § 1(b), Oct. 15, 1966, 80

[1] See References in Text note below.

Stat. 919; renumbered §7 and amended Pub. L. 91–223, §§1, 2(c), Apr. 3, 1970, 84 Stat. 90; renumbered §8, Pub. L. 94–544, §4(b), Oct. 18, 1976, 90 Stat. 2515; renumbered §8, Pub. L. 94–567, §7(b), Oct. 20, 1976, 90 Stat. 2695; renumbered §9, Pub. L. 95–625, title III, §318(e), Nov. 10, 1978, 92 Stat. 3487; amended Pub. L. 95–625, title III, §318(f), as added Pub. L. 96–199, title I, §101(a)(5), Mar. 5, 1980, 94 Stat. 67.)

REFERENCES IN TEXT

Sections 20 to 20g of this title, referred to in text, were repealed by Pub. L. 105–391, title IV, §415(a), Nov. 13, 1998, 112 Stat. 3515.

Sums ''heretofore'' authorized by this section, referred to in text, means sums authorized by this section prior to the enactment on Mar. 5, 1980, of Pub. L. 96–199, which added the authorization for a $5,000,000 appropriation for the acquisition of lands or interest in lands.

CODIFICATION

Section 4(b) of Pub. L. 94–544 and section 7(b) of Pub. L. 94–567 identically renumbered this section as section 8 of Pub. L. 87–657.

AMENDMENTS

1980—Pub. L. 96–199 inserted provisions authorizing an appropriation of $5,000,000 for the acquisition of lands or interests therein.

1970—Pub. L. 91–223, §1, substituted ''$57,500,000'' for ''$19,135,000'', restricted conveyances of any interest in any lands acquired after April 3, 1970, only for public accommodations, facilities, and services under provisions for concessions in areas administered by National Park Service.

1966—Pub. L. 89–666 substituted ''$19,135,000'' for ''$14,000,000''.

§ 459d. Padre Island National Seashore; description of land and waters

In order to save and preserve, for purposes of public recreation, benefit, and inspiration, a portion of the diminishing seashore of the United States that remains undeveloped, the Secretary of the Interior shall take appropriate action in the public interest toward the establishment of the following described lands and waters as the Padre Island National Seashore: Beginning at a point one statute mile northerly of North Bird Island on the easterly line of the Intracoastal Waterway; thence due east to a point on Padre Island one statute mile west of the mean high water line of the Gulf of Mexico; thence southwesterly paralleling the said mean high water line of the Gulf of Mexico a distance of about three and five-tenths statute miles; thence due east to the two-fathom line on the east side of Padre Island as depicted on National Ocean Survey chart numbered 1286; thence along the said two-fathom line on the east side of Padre Island as depicted on National Ocean Survey charts numbered 1286, 1287, and 1288 to the Willacy-Cameron County line extended; thence westerly along said county line to a point 1,500 feet west of the mean high water line of the Gulf of Mexico as that line was determined by the survey of J. S. Boyles and is depicted on sections 9 and 10 of the map entitled ''Survey of Padre Island made for the office of the Attorney General of the State of Texas'', dated August 7 to 11, 1941, and August 11, 13, and 14, 1941, respectively; thence northerly along a line parallel to said survey line of J. S. Boyles and distant therefrom 1,500 feet west to a point on the centerline of the Port Mansfield Channel; thence westerly along said centerline to a point three statute miles west of the said two-fathom line; thence northerly parallel with said two-fathom line to 27 degrees 20 minutes north latitude; thence westerly along said latitude to the easterly line of the Intracoastal Waterway; thence northerly following the easterly line of the Intracoastal Waterway as indicated by channel markers in the Laguna Madre to the point of beginning.

(Pub. L. 87–712, §1, Sept. 28, 1962, 76 Stat. 650.)

CHANGE OF NAME

Coast and Geodetic Survey consolidated with National Weather Bureau in 1965 to form Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. Environmental Science Services Administration abolished in 1970 and its personnel, property, records, etc., transferred to National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of Acting Associate Administrator of National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, Coast and Geodetic Survey redesignated National Ocean Survey. See notes under section 311 of Title 15, Commerce and Trade.

§ 459d–1. Acquisition of property

(a) Authority of Secretary; manner and place; concurrence of State owner; transfer from Federal agency to administrative jurisdiction of Secretary

The Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to acquire by donation, purchase with donated or appropriated funds, condemnation, transfer from any Federal agency, exchange, or otherwise, the land, waters, and other property, and improvements thereon and any interest therein, within the areas described in section 459d of this title or which lie within the boundaries of the seashore as established under section 459d–2 of this title (hereinafter referred to as ''such area''). Any property, or interest therein, owned by the State of Texas or political subdivision thereof may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of sections 459d to 459d–7 of this title.

(b) Fair market value; appraisal

The Secretary is authorized to pay for any acquisitions which he makes by purchase under sections 459d to 459d–7 of this title their fair market value, as determined by the Secretary, who may in his discretion base his determination on an independent appraisal obtained by him.

(c) Exchange of property; cash equalization payments

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within such

area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary within such area. The properties so exchanged shall be approximately equal in fair market value: *Provided*, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

(Pub. L. 87–712, § 2, Sept. 28, 1962, 76 Stat. 650.)

REVISION OF BOUNDARIES; ADDITION AND DELETION OF ACREAGE

Pub. L. 94–578, title I, § 101(13), Oct. 21, 1976, 90 Stat. 2733, as amended Pub. L. 96–199, title I, § 111, Mar. 5, 1980, 94 Stat. 70, provided in part that: ''The Secretary of the Interior is authorized to revise the boundary of the seashore [Padre Island National Seashore, Texas] to add approximately two hundred and seventy-four acres and to delete approximately two thousand acres, and sections 302 and 303 of the Act of April 11, 1972 (86 Stat. 120, 121) [Pub. L. 92–272, which sections were not classified to the Code], shall apply to the boundary revision authorized herein.''

§ 459d–2. Establishment

(a) Notice in Federal Register

As soon as practicable after September 28, 1962 and following the acquisition by the Secretary of an acreage in the area described in section 459d of this title, that is in the opinion of the Secretary efficiently administrable to carry out the purposes of sections 459d to 459d–7 of this title, the Secretary shall establish the area as a national seashore by the publication of notice thereof in the Federal Register.

(b) Distribution of notice and map

Such notice referred to in subsection (a) of this section shall contain a detailed description of the boundaries of the seashore which shall encompass an area as nearly as practicable identical to the area described in section 459d of this title. The Secretary shall forthwith after the date of publication of such notice in the Federal Register (1) send a copy of such notice, together with a map showing such boundaries, by registered or certified mail to the Governor of the State and to the governing body of each of the political subdivisions involved; (2) cause a copy of such notice and map to be published in one or more newspapers which circulate in each of the localities; and (3) cause a certified copy of such notice, a copy of such map, and a copy of sections 459d to 459d–7 of this title to be recorded at the registry of deeds for the county involved.

(Pub. L. 87–712, § 3, Sept. 28, 1962, 76 Stat. 651.)

§ 459d–3. Reservation of oil, gas, and other minerals

(a) When acquiring land, waters, or interests therein, the Secretary shall permit a reservation by the grantor of all or any part of the oil and gas minerals in such land or waters and of other minerals therein which can be removed by similar means, with the right of occupation and use of so much of the surface of the land or waters as may be required for all purposes reasonably incident to the mining or removal of such from beneath the surface of these lands and waters and the lands and waters adjacent thereto, under such regulations as may be prescribed by the Secretary with respect to such mining or removal.

(b) Any acquisition hereunder shall exclude and shall not diminish any right of occupation or use of the surface under grants, leases, or easements existing on April 11, 1961, which are reasonably necessary for the exploration, development, production, storing, processing, or transporting of oil and gas minerals that are removed from outside the boundaries of the national seashore and the Secretary may grant additional rights of occupation or use of the surface for the purposes aforesaid upon the terms and under such regulations as may be prescribed by him.

(Pub. L. 87–712, § 4, Sept. 28, 1962, 76 Stat. 651.)

§ 459d–4. Administration; utilization of authority for conservation and management of natural resources

Except as otherwise provided in sections 459d to 459d–7 of this title, the property acquired by the Secretary under such sections shall be administered by the Secretary, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and in accordance with other laws of general application relating to the areas administered and supervised by the Secretary through the National Park Service; except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of sections 459d to 459d–7 of this title.

(Pub. L. 87–712, § 5, Sept. 28, 1962, 76 Stat. 652.)

§ 459d–5. Roadways to access highways from mainland

The Secretary may provide for roadways from the north and south boundaries of such public recreation area to the access highways from the mainland to Padre Island.

(Pub. L. 87–712, § 6, Sept. 28, 1962, 76 Stat. 652.)

§ 459d–6. Aerial gunnery and bombing range agreements of Secretary of the Interior and Secretary of the Navy

The Secretary of the Interior shall enter into such administrative agreements with the Secretary of the Navy as the Secretary of the Navy may deem necessary to assure that the Secretary of the Interior will not exercise any authority granted by sections 459d to 459d–7 of this title so as to interfere with the use by the Department of the Navy of any aerial gunnery or bombing range located in the vicinity of Padre Island.

(Pub. L. 87–712, § 7, Sept. 28, 1962, 76 Stat. 652.)

§ 459d–7. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 459d to 459d–7 of this title; except that no more than $5,350,000 shall be appropriated for the acquisition of land and waters and improvements thereon, and interests therein, and incidental costs relating thereto, in accordance with the provisions of such sections.

(Pub. L. 87–712, §8, Sept. 28, 1962, 76 Stat. 652; Pub. L. 94–578, title I, §101(13), Oct. 21, 1976, 90 Stat. 2733.)

CODIFICATION

Section 101(13) of Pub. L. 94–578, cited as a credit to this section, as amended by Pub. L. 96–199, title I, §111, Mar. 5, 1980, 94 Stat. 70, is also set out in part as a note under section 459d–1 of this title.

AMENDMENTS

1976—Pub. L. 94–578 substituted ''$5,350,000'' for ''$5,000,000''.

§ 459e. Fire Island National Seashore

(a) Purposes; authorization for establishment

For the purpose of conserving and preserving for the use of future generations certain relatively unspoiled and undeveloped beaches, dunes, and other natural features within Suffolk County, New York, which possess high values to the Nation as examples of unspoiled areas of great natural beauty in close proximity to large concentrations of urban population, the Secretary of the Interior is authorized to establish an area to be known as the ''Fire Island National Seashore''.

(b) Boundaries

The boundaries of the national seashore shall extend from the easterly boundary of the main unit of Robert Moses State Park eastward to Moriches Inlet and shall include not only Fire Island proper, but also such islands and marshlands in the Great South Bay, Bellport Bay, and Moriches Bay adjacent to Fire Island as Sexton Island, West Island, Hollins Island, Ridge Island, Pelican Island, Pattersquash Island, and Reeves Island and such other small and adjacent islands, marshlands, and wetlands as would lend themselves to contiguity and reasonable administration within the national seashore and, in addition, the waters surrounding said area to distances of one thousand feet in the Atlantic Ocean and up to four thousand feet in Great South Bay and Moriches Bay and, in addition, mainland terminal and headquarters sites, not to exceed a total of twelve acres, on the Patchogue River within Suffolk County, New York, all as delineated on a map identified as ''Fire Island National Seashore'', numbered OGP–0004, dated May 1978. The Secretary shall publish said map in the Federal Register, and it may also be examined in the offices of the Department of the Interior.

(Pub. L. 88–587, §1, Sept. 11, 1964, 78 Stat. 928; Pub. L. 95–625, title III, §322(a), Nov. 10, 1978, 92 Stat. 3488.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–625 inserted ''the main unit of'' before ''Robert Moses State Park'', included in the boundaries the mainland terminal and headquarters sites, not to exceed a total of twelve acres, on the Patchogue River within Suffolk County, New York, and substituted map numbered OGP—0004, dated May 1978 for OGP—0002, dated June 1964 and requirement of publishing the map in the Federal Register for prior provision for filing the map with the Federal Register.

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–482, §1, Oct. 17, 1984, 98 Stat. 2255, provided: ''That this Act [amending sections 459e–1 and 459e–2 of this title] may be cited as the 'Fire Island National Seashore Amendments Act of 1984'.''

§ 459e–1. Acquisition of property

(a) Authority of Secretary; manner and place; concurrence of State owner; transfer from Federal agency to administrative jurisdiction of Secretary; liability of United States under contracts contingent on appropriations

The Secretary is authorized to acquire, and it is the intent of Congress that he shall acquire as appropriated funds become available for the purpose or as such acquisition can be accomplished by donation or with donated funds or by transfer, exchange, or otherwise, the lands, waters, and other property, and improvements thereon and any interest therein, within the boundaries of the seashore as established under section 459e of this title. Any property or interest therein owned by the State of New York, by Suffolk County, or by any other political subdivision of said State may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of sections 459e to 459e–9 of this title. In exercising his authority to acquire property in accordance with the provisions of this subsection, the Secretary may enter into contracts requiring the expenditure, when appropriated, of funds authorized by sections 459e to 459e–9 of this title, but the liability of the United States under any such contract shall be contingent on the appropriation of funds sufficient to fulfill the obligations thereby incurred.

(b) Establishment; notice in Federal Register

When the Secretary determines that lands and waters or interests therein have been acquired by the United States in sufficient quantity to provide an administrative unit, he shall declare the establishment of the Fire Island National Seashore by publication of notice in the Federal Register.

(c) Fair market value

The Secretary shall pay not more than the fair market value, as determined by him, for any land or interest therein acquired by purchase.

(d) Exchange of property; cash equalization payments

When acquiring land by exchange the Secretary may accept title to any nonfederally owned land located within the boundaries of the national seashore and convey to the grantor any federally owned land under the jurisdiction of the Secretary. The lands so exchanged shall be approximately equal in fair market value, but the Secretary may accept cash from or pay cash to the grantor in order to equalize the values of the lands exchanged.

(e) Limitation of condemnation power during existence of zoning ordinance; Davis Park-Smith Point County Park area exception; beneficial owner's election of alternatives as condition for acquisition

With one exception the Secretary shall not acquire any privately owned improved property or

interests therein within the boundaries of the seashore or any property or interests therein within the communities delineated on the boundary map mentioned in section 459e of this title, except beach or waters and adjoining land within such communities which the Secretary determines are needed for public access to the beach, without the consent of the owners so long as the appropriate local zoning agency shall have in force and applicable to such property a duly adopted, valid, zoning ordinance that is satisfactory to the Secretary. The sole exception to this limitation on the power of the Secretary to condemn improved property where appropriate zoning ordinances exist shall be in the approximately eight-mile area from the easterly boundary of the Brookhaven town park at Davis Park, in the town of Brookhaven, to the westerly boundary of the Smith Point County Park. In this area only, when the Secretary deems it advisable for carrying out the purposes of sections 459e to 459e–9 of this title or to improve the contiguity of the park land and ease its administration, the Secretary may acquire any land or improvements therein by condemnation. In every case in which the Secretary exercises this right of condemnation of improved property the beneficial owner or owners (not being a corporation) of any improved property so condemned, provided he, she, or they held the same or a greater estate in the property on July 1, 1963, may elect as a condition of such acquisition by the Secretary any one of the following three alternatives:

(1) that the Secretary shall take the said property in fee simple absolute and pay the fair market value thereof as of the date of such taking;

(2) that the owner or owners shall retain a life estate in said property, measured on the life of the sole owner or on the life of any one person among multiple owners (notice of the person so designated to be filed in writing with the Secretary within six months after the taking) or on the life of the survivor in title of any estate held on July 1, 1963, as a tenancy by the entirety. The price in such case shall be diminished by the actuarial fair market value of the life estate retained, determined on the basis of standard actuarial methods;

(3) that the owner or owners shall retain an estate for twenty-five years. The price in this case shall likewise be diminished by the value of the estate retained.

(f) "Improved property" defined

The term ''improved property'' as used in sections 459e to 459e–9 of this title shall mean any building, the construction of which was begun before July 1, 1963, and such amount of land, not in excess of two acres in the case of a residence or ten acres in the case of a commercial or industrial use, on which the building is situated as the Secretary considers reasonably necessary to the use of the building: *Provided*, That the Secretary may exclude from improved properties any beach or waters, together with so much of the land adjoining such beach or waters as he deems necessary for public access thereto.

(g) Undeveloped tracts and property; suspension of condemnation authority; natural state

The authority of the Secretary to condemn undeveloped tracts within the Dune District as depicted on map entitled ''Fire Island National Seashore'' numbered OGP–0004 dated May, 1978, is suspended so long as the owner or owners of the undeveloped property therein maintain the property in its natural state. Undeveloped property within the Dune District that is acquired by the Secretary shall remain in its natural state.

(h) Sale of property acquired by condemnation; excepted properties; proceeds available for acquisition of property

(1)(A) The Secretary shall sell any property described in subparagraph (B) of this paragraph acquired by condemnation under sections 459e to 459e–9 of this title to the highest bidder; except that—

(i) no property shall be sold at less than its fair market value; and

(ii) no property shall be sold unless it is sold subject to covenants or other restrictions that will ensure that the use of such property conforms—

(I) to the standards specified in regulations issued under section 459e–2(a) of this title which are in effect at the time of such sale, and

(II) to any approved zoning ordinance or amendment thereof to which such property is subject.

(B) The property referred to in subparagraph (A) of this paragraph is any property within the boundaries of the national seashore as delineated on the map mentioned in section 459e of this title except—

(i) property within the Dune district referred to in subsection (g) of this section;

(ii) beach or waters and adjoining land within the exempt communities referred to in the first sentence of subsection (e) of this section; and[1]

(iii) property within the eight-mile area described in the second sentence of subsection (e) of this section; and

(iv) any property acquired prior to October 1, 1982, that the Secretary determines should be retained to further the purpose of sections 459e to 459e–9 of this title.

(2) Notwithstanding any other provision of law, all moneys received from sales under paragraph (1) of this subsection may be retained and shall be available to the Secretary, without further appropriation, only for purposes of acquiring property under sections 459e to 459e–9 of this title.

(i) Injunctive relief; termination

(1) Upon or after the commencement of any action for condemnation with respect to any property under sections 459e to 459e–9 of this title, the Secretary, through the Attorney General of the United States, may apply to the United States District Court for the Eastern District of New York for a temporary restrain-

[1] So in original. The word ''and'' probably should not appear.

ing order or injunction to prevent any use of, or construction upon, such property that—

(A) fails, or would result in a failure of such property, to conform to the standards specified in regulations issued under section 459e–2(a) of this title in effect at the time such use or construction began; or

(B) in the case of undeveloped tracts in the Dune district referred to in subsection (g) of this section, would result in such undeveloped property not being maintained in its natural state.

(2) Any temporary restraining order or injunction issued pursuant to such an application shall terminate in accordance with the provisions of section 459e–2(g) of this title.

(Pub. L. 88–587, § 2, Sept. 11, 1964, 78 Stat. 929; Pub. L. 95–625, title III, § 322(b), Nov. 10, 1978, 92 Stat. 3489; Pub. L. 98–482, § 2, Oct. 17, 1984, 98 Stat. 2255.)

AMENDMENTS

1984—Subsecs. (h), (i). Pub. L. 98–482 added subsecs. (h) and (i).

1978—Subsec. (g). Pub. L. 95–625 added subsec. (g).

§ 459e–2. Zoning regulations

(a) Amendment; standards for approval of ordinances

In order to carry out the provisions of section 459e–1 of this title the Secretary shall issue regulations, which may be amended from time to time, specifying standards that are consistent with the purposes of sections 459e to 459e–9 of this title for zoning ordinances which must meet his approval.

(b) Commercial or industrial use prohibition; size, location or use restrictions for commercial, residential, and other structures; reconciliation of population density with protection of natural resources

The standards specified in such regulations shall have the object of (1) prohibiting new commercial or industrial uses, other than commercial or industrial uses which the Secretary considers are consistent with the purposes of sections 459e to 459e–9 of this title, of all property within the national seashore, and (2) promoting the protection and development for purposes of sections 459e to 459e–9 of this title of the land within the national seashore by means of limitations or restrictions on the size, location or use of any commercial, residential, and other structures. In accomplishing these objectives, such standards shall seek to reconcile the population density of the seashore on October 17, 1984, with the protection of the natural resources of the Seashore[1] consistent with the purposes for which it has been established as provided by sections 459e to 459e–9 of this title.

(c) Approval of ordinances

Following issuance of such regulations the Secretary shall approve any zoning ordinance or any amendment to any approved zoning ordinance submitted to him that conforms to the standards contained in the regulations in effect at the time of adoption of the ordinance or amendment. Such approval shall remain effective for so long as such ordinance or amendment remains in effect as approved.

(d) Adverse provisions and absence of notice for variance as requiring disapproval of ordinances

No zoning ordinance or amendment thereof shall be approved by the Secretary which (1) contains any provisions that he considers adverse to the protection and development, in accordance with the purposes of sections 459e to 459e–9 of this title, of the area comprising the national seashore; or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under, or any exception made to, the application of such ordinance or amendment.

(e) Termination of suspension of authority for acquisition by condemnation because of nonconforming variances and uses

In the case of any property, including improved property but excluding undeveloped property in the Dune district referred to in section 459e–1(g) of this title, with respect to which the Secretary's authority to acquire by condemnation has been suspended under sections 459e to 459e–9 of this title if—

(1) such property is, after October 17, 1984, made the subject of a variance under, or becomes for any reason an exception to, any applicable zoning ordinance approved under this section; and

(2) such variance or exception results, or will result, in such property being used in a manner that fails to conform to any applicable standard contained in regulations of the Secretary issued pursuant to this section and in effect at the time such variance or exception took effect;

then the suspension of the Secretary's authority to acquire such property by condemnation shall automatically cease.

(f) Certificate of suspension of authority for acquisition by condemnation

The Secretary shall furnish to any party in interest upon request a certificate indicating the property with respect to which the Secretary's authority to acquire by condemnation is suspended.

(g) Injunctive relief; termination

Notwithstanding any other provision of sections 459e to 459e–9 of this title, the Secretary of the Interior, acting through the Attorney General of the United States, may apply to the United States District Court for the Eastern District of New York for a temporary restraining order or injunction to prohibit the use of, including construction upon, any property within the seashore in a manner that—

(1) will cause or is likely to cause significant harm to the natural resources of the seashore, or

(2) is inconsistent with the purposes for which the seashore was established.

Except to the extent the Court may deem necessary in extraordinary circumstances, no such

[1] So in original. Probably should not be capitalized.

order or injunction shall continue in effect for more than one hundred and eighty days. During the period of such order or injunction, the Secretary shall diligently and in good faith negotiate with the owner of the property to assure that following termination of the order or injunction, the inconsistent use is abated or the significant harm to the natural resources is mitigated.

(Pub. L. 88–587, § 3, Sept. 11, 1964, 78 Stat. 930; Pub. L. 98–482, §§ 3–5, Oct. 17, 1984, 98 Stat. 2256.)

AMENDMENTS

1984—Subsec. (b). Pub. L. 98–482, § 4, substituted ''by means of limitations or restrictions on the size, location or use of any commercial, residential, and other structures'' for ''by means of acreage, frontage, and setback requirements'' and required that the standards seek to reconcile the population density of the seashore on Oct. 17, 1984, with the protection of the natural resources of the seashore.

Subsec. (e). Pub. L. 98–482, § 3, designated part of existing provisions as pars. (1) and (2), made the provisions applicable to any property, and excluded undeveloped property in the Dune district.

Subsec. (g). Pub. L. 98–482, § 5, added subsec. (g).

§ 459e–3. Retention by owner of right of use and occupancy of improved property for residential purposes

(a) Time limit; value of reserved right

Owners of improved property acquired by the Secretary may reserve for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a term that is not more than twenty-five years. The value of the reserved right shall be deducted from the fair market value paid for the property.

(b) Termination of right; compensation

A right of use and occupancy reserved pursuant to this section shall be subject to termination by the Secretary upon his determination that the use and occupancy is not consistent with an applicable zoning ordinance approved by the Secretary in accordance with the provisions of section 459e–2 of this title, and upon tender to the owner of the right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

(Pub. L. 88–587, § 4, Sept. 11, 1964, 78 Stat. 931.)

§ 459e–4. Hunting and fishing regulations

The Secretary shall permit hunting, fishing, and shellfishing on lands and waters under his administrative jurisdiction within the Fire Island National Seashore in accordance with the laws of New York and the United States of America, except that the Secretary may designate zones where, and establish periods when, no hunting shall be permitted for reasons of public safety, administration, or public use and enjoyment. Any regulations of the Secretary under this section shall be issued after consultation with the Conservation Department of the State of New York.

(Pub. L. 88–587, § 5, Sept. 11, 1964, 78 Stat. 931.)

§ 459e–5. Acceptance of donations

The Secretary may accept and use for purposes of sections 459e to 459e–9 of this title any real or personal property or moneys that may be donated for such purposes.

(Pub. L. 88–587, § 6, Sept. 11, 1964, 78 Stat. 931.)

§ 459e–6. Administration, protection, and development

(a) Conservation of natural resources of Seashore; preservation and access to Sunken Forest Preserve

The Secretary shall administer and protect the Fire Island National Seashore with the primary aim of conserving the natural resources located there. The area known as the Sunken Forest Preserve shall be preserved from bay to ocean in as nearly its present state as possible, without developing roads therein, but continuing the present access by those trails already existing and limiting new access to similar trails limited in number to those necessary to allow visitors to explore and appreciate this section of the seashore.

(b) Access to Davis Park-Smith Point County Park area

Access to that section of the seashore lying between the easterly boundary of the Ocean Ridge portion of Davis Park and the westerly boundary of the Smith Point County Park shall be provided by ferries and footpaths only, and no roads shall be constructed in this section except such minimum roads as may be necessary for park maintenance vehicles. No development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the flora and fauna or the physiographic conditions now prevailing, and every effort shall be exerted to maintain and preserve this section of the seashore as well as that set forth in the preceding paragraph in as nearly their present state and condition as possible.

(c) Utilization of authority for conservation and development of natural resources; user fees

In administering, protecting, and developing the entire Fire Island National Seashore, the Secretary shall be guided by the provisions of sections 459e to 459e–9 of this title and the applicable provisions of the laws relating to the national park system, and the Secretary may utilize any other statutory authority available to him for the conservation and development of natural resources to the extent he finds that such authority will further the purposes of sections 459e to 459e–9 of this title. Appropriate user fees may be collected notwithstanding any limitation on such authority by any provision of law.

(Pub. L. 88–587, § 7, Sept. 11, 1964, 78 Stat. 931; Pub. L. 95–625, title III, § 322(c), Nov. 10, 1978, 92 Stat. 3489.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–625 substituted ''Ocean Ridge portion of Davis Park'' for ''Brookhaven town park at''.

§ 459e–7. Shore erosion control or beach protection measures; Fire Island inlet

(a) Authority of Chief of Engineers

The authority of the Chief of Engineers, Department of the Army, to undertake or contribute to shore erosion control or beach protection measures on lands within the Fire Island National Seashore shall be exercised in accordance with a plan that is mutually acceptable to the Secretary of the Interior and the Secretary of the Army and that is consistent with the purposes of sections 459e to 459e–9 of this title.

(b) Land contribution

The Secretary shall also contribute the necessary land which may be required at any future date for the construction of one new inlet across Fire Island in such location as may be feasible in accordance with plans for such an inlet which are mutually acceptable to the Secretary of the Interior and the Secretary of the Army and that is consistent with the purposes of sections 459e to 459e–9 of this title.

(Pub. L. 88–587, § 8, Sept. 11, 1964, 78 Stat. 932.)

§ 459e–8. Omitted

CODIFICATION

Section, Pub. L. 88–587, § 9, Sept. 11, 1964, 78 Stat. 932, which provided for the creation of a Fire Island National Seashore Advisory Commission, has been omitted as executed in view of a provision of subsec. (a) that the Commission terminate on Sept. 11, 1974, or on the declaration of the establishment of the Fire Island National Seashore, whichever occurs first.

§ 459e–9. Authorization of appropriations

There is hereby authorized to be appropriated not more than $23,000,000 for the acquisition of lands and interests in land pursuant to sections 459e to 459e–9 of this title, and, after December 23, 1980, not more than $500,000 for development.

(Pub. L. 88–587, § 10, Sept. 11, 1964, 78 Stat. 933; Pub. L. 94–578, title I, § 101(5), Oct. 21, 1976, 90 Stat. 2732; Pub. L. 95–625, title III, § 322(d), Nov. 10, 1978, 92 Stat. 3489; Pub. L. 96–585, § 1(e), Dec. 23, 1980, 94 Stat. 3379.)

AMENDMENTS

1980—Pub. L. 96–585 inserted provision authorizing $500,000 appropriation for development.

1978—Pub. L. 95–625 substituted ''$23,000,000'' for ''$18,000,000''.

1976—Pub. L. 94–578 substituted ''$18,000,000'' for ''$16,000,000''.

§ 459e–10. Authority to accept donation of William Floyd Estate

The Secretary of the Interior is authorized to accept the donation of approximately six hundred and eleven acres of lands, submerged lands, islands, and marshlands or interests therein, known as the William Floyd Estate, located in the town of Brookhaven, county of Suffolk, and State of New York, delineated on a certain map entitled ''Map of the Fire Island National Seashore, Including the William Floyd Estate'', numbered OGP–0003, dated May 1965, which map or a true copy thereof shall be filed with the Federal Register and may be examined in the offices of the Department of the Interior. Such donation may be accepted subject to such terms, covenants, and conditions as the Secretary finds will be in the public interest.

(Pub. L. 89–244, § 1, Oct. 9, 1965, 79 Stat. 967.)

§ 459e–11. Authority to accept donation of main dwelling on William Floyd Estate; lease-back of donated property

The Secretary is also authorized to accept the donation of the main dwelling on said lands, which was the birthplace and residence of General William Floyd (a signer of the Declaration of Independence) and the furnishings therein and any outbuildings, subject to like terms, covenants, and conditions. The Secretary is authorized to lease said lands, dwellings, and outbuildings to the grantors thereof for a term of not more than twenty-five years, at $1 per annum, and during the period of the leasehold the Secretary may provide protective custody for such property.

(Pub. L. 89–244, § 2, Oct. 9, 1965, 79 Stat. 967.)

§ 459e–12. Administration of property of William Floyd Estate; detached unit

Upon expiration or surrender of the aforesaid lease the property shall become a detached unit of the Fire Island National Seashore, and shall be administered, protected, and developed in accordance with the laws applicable thereto subject, with respect to said main dwelling and the furnishings therein, to such terms, covenants, and conditions which the Secretary shall have accepted and approved upon the donation thereof as in the public interest.

(Pub. L. 89–244, § 3, Oct. 9, 1965, 79 Stat. 967.)

§ 459f. Assateague Island National Seashore; purposes; description of area

For the purpose of protecting and developing Assateague Island in the States of Maryland and Virginia and certain adjacent waters and small marsh islands for public outdoor recreation use and enjoyment, the Assateague Island National Seashore (hereinafter referred to as the ''seashore'') shall be established and administered in accordance with the provisions of sections 459f to 459f–11 of this title. The seashore shall comprise the area within Assateague Island and the small marsh islands adjacent thereto, together with the adjacent water areas not more than one-half mile beyond the mean high waterline of the land portions as generally depicted on a map identified as ''Proposed Assateague Island National Seashore, Boundary Map, NS–AI–7100A, November, 1964'', which map shall be on file and available for public inspection in the offices of the Department of the Interior.

(Pub. L. 89–195, § 1, Sept. 21, 1965, 79 Stat. 824.)

§ 459f–1. Acquisition of property

(a) Authority of Secretary; manner and place; fair market value; concurrence of State owner; transfer from Federal agency to administrative jurisdiction of Secretary

Within the boundaries of the seashore, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to acquire

lands, waters, and other property, or any interest therein, by donation, purchase with donated or appropriated funds, exchange, or in such other method as he may find to be in the public interest. The Secretary is authorized to include within the boundaries of the seashore, not to exceed 112 acres of land or interests therein on the mainland in Worcester County, Maryland. In the case of acquisition by negotiated purchase, the property owners shall be paid the fair market value by the Secretary. Any property or interests therein owned by the States of Maryland or Virginia shall be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within the boundaries of the seashore may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for purposes of the seashore.

(b) Exchange of property; cash equalization payments; scenic easement donation

When acquiring lands by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the seashore and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary which the Secretary classifies suitable for exchange or other disposal, and which is located in Maryland or Virginia. The properties so exchanged shall be approximately equal in fair market value, but the Secretary may accept cash from or pay cash to the grantor in order to equalize the values of the properties exchanged. Notwithstanding the acreage limitation set forth in sections 459f to 459f–11 of this title, the Secretary is authorized to accept the donation of a scenic easement covering the parcel of land adjacent to the seashore and known as the ''Woodcock Property''.

(c) Bridge acquisition; amount of compensation; payment terms and conditions

The Secretary is authorized to acquire all of the right, title, or interest of the Chincoteague-Assateague Bridge and Beach Authority, a political subdivision of the State of Virginia, in the bridge constructed by such authority across the Assateague Channel, together with all lands or interests therein, roads, parking lots, buildings, or other real or personal property of such authority, and to compensate the authority in such amount as will permit it to meet its valid outstanding obligations at the time of such acquisition. Payments by the Secretary shall be on such terms and conditions as he shall consider to be in the public interest. Any of the aforesaid property outside the boundaries of the national seashore, upon acquisition by the Secretary, shall be subject to his administration for purposes of the seashore.

(d) Owner's reservation of right of use and occupancy for residential or hunting purposes for term of years; adjustment of compensation; rules and regulations for appearance of buildings; "improved property" defined

Owners of improved property acquired by the Secretary may reserve for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes or for hunting purposes, as hereinafter provided, for a term that is not more than twenty-five years. In such cases, the Secretary shall pay to the owner of the property the fair market value thereof less the fair market value of the right retained by such owner: *Provided*, That such use and occupancy shall be subject to general rules and regulations established by the Secretary with respect to the outward appearance of any buildings on the lands involved. The term ''improved property'' as used in sections 459f to 459f–11 of this title shall mean (1) any single-family residence the construction of which was begun before January 1, 1964, and such amount of land, not in excess of three acres, on which the building is situated as the Secretary considers reasonably necessary to the noncommercial residential use of the building, and (2) any property fronting on the Chincoteague Bay or Sinepuxent Bay, including the offshore bay islands adjacent thereto, that is used chiefly for hunting and continues in such use: *Provided*, That the Secretary may exclude from improved properties any marsh, beach, or waters, together with so much of the land adjoining such marsh, beach, or waters as he deems necessary for public use or public access thereto.

(Pub. L. 89–195, §2, Sept. 21, 1965, 79 Stat. 824; Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1924; Pub. L. 102–320, §1(1)–(4), July 10, 1992, 106 Stat. 321.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–320, §1(1), (2), amended second and last sentences generally, substituting reference to 112 acres for reference to sixteen acres for an administrative site in second sentence and striking out reference in last sentence to sixteen acres of Federal property on the mainland in Worcester County, Maryland.

Subsec. (b). Pub. L. 102–320, §1(3), (4), amended first sentence generally, striking out reference to not more than sixteen acres of non-Federal property on the mainland in Worcester County, Maryland, and inserted at end ''Notwithstanding the acreage limitation set forth in sections 459f to 459f–11 of this title, the Secretary is authorized to accept the donation of a scenic easement covering the parcel of land adjacent to the seashore and known as the 'Woodcock Property'.''

1990—Subsecs. (a), (b). Pub. L. 101–512 substituted ''sixteen acres'' for ''ten acres'' wherever appearing.

§ 459f–2. Compensation for bridge construction costs; acquisition of land for park purposes

(a) Bridge construction costs; compensation of State; limitation of amount

If the bridge from Sandy Point to Assateague Island is operated by the State of Maryland as a toll-free facility, the Secretary is authorized and directed to compensate said State in the amount of two-thirds of the cost of constructing the bridge, including the cost of bridge approaches, engineering, and all other related costs, but the total amount of such compensation shall be not more than $1,000,000; and he is authorized to enter into agreements with the State of Maryland relating to the use and management of the bridge.

(b) Acquisition or lease of Federal lands for State park purposes; terms and conditions; reversion upon noncompliance; consideration for lease; amount of payment for conveyance of title and improvements; limitation of reimbursement for beach protection

The State of Maryland shall have the right to acquire or lease from the United States such lands, or interests therein, on the island north of the area now used as a State park as the State may from time to time determine to be needed for State park purposes, and the Secretary is authorized and directed to convey or lease such lands, or interests therein, to the State for such purposes upon terms and conditions which he deems will assure its public use in harmony with the purposes of sections 459f to 459f–11 of this title. In the event any of such terms and conditions are not complied with, all the property, or any portion thereof, shall, at the option of the Secretary, revert to the United States, in its then existing condition. Any lease hereunder shall be for such consideration as the Secretary deems equitable; and any conveyance of title to land hereunder may be made only upon payment by the State of such amounts of money as were expended by the United States to acquire such land, or interests therein, and upon payments of such amounts as will reimburse the United States for the cost of any improvements placed thereon by the United States, including the cost to it of beach protection: *Provided*, That reimbursement for beach protection shall not exceed 30 per centum, as determined by the Secretary, of the total cost of the United States of such protection work.

(Pub. L. 89–195, § 3, Sept. 21, 1965, 79 Stat. 825.)

§ 459f–3. Establishment of Seashore; notice in Federal Register

When the Secretary determines that land, water areas, or interests therein within the area generally depicted on the map referred to in section 459f of this title are owned or have been acquired by the United States in sufficient quantities to provide an administrable unit, he shall declare the establishment of the Assateague Island National Seashore by publication of notice thereof in the Federal Register. Such notice shall contain a refined description or map of the boundaries of the seashore as the Secretary may find desirable, and the exterior boundaries shall encompass an area as nearly as practicable identical to the area described in section 459f of this title.

(Pub. L. 89–195, § 4, Sept. 21, 1965, 79 Stat. 825.)

§ 459f–4. Hunting and fishing provisions

The Secretary shall permit hunting and fishing on land and waters under his control within the seashore in accordance with the appropriate State laws, to the extent applicable, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management or public use and enjoyment: *Provided*, That nothing in sections 459f to 459f–11 of this title, shall limit or interfere with the authority of the States to permit or to regulate shellfishing in any waters included in the national seashore: *Provided further*, That nothing in said sections shall add to or limit the authority of the Federal Government in its administration of Federal laws regulating migratory waterfowl. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State agency responsible for hunting and fishing activities. The provisions of this section shall not apply to the Chincoteague National Wildlife Refuge.

(Pub. L. 89–195, § 5, Sept. 21, 1965, 79 Stat. 826.)

§ 459f–5. Administration of Seashore

(a) Public outdoor recreation and enjoyment; utilization of other authorities

Except as provided in subsection (b) of this section, the Secretary shall administer the Assateague Island National Seashore for general purposes of public outdoor recreation, including conservation of natural features contributing to public enjoyment. In the administration of the seashore and the administrative site the Secretary may utilize such statutory authorities relating to areas administered and supervised by the Secretary through the National Park Service and such statutory authority otherwise available to him for the conservation and management of natural resources as he deems appropriate to carry out the purposes of sections 459f to 459f–11 of this title.

(b) Refuge land and waters; application of national wildlife refuge provisions; public recreation uses in accordance with provisions for national conservation recreational areas

Notwithstanding any other provision of sections 459f to 459f–11 of this title, land and waters in the Chincoteague National Wildlife Refuge, which are a part of the seashore, shall be administered for refuge purposes under laws and regulations applicable to national wildlife refuges, including administration for public recreation uses in accordance with the provisions of the Act of September 28, 1962 (Public law 87–714; 76 Stat. 653) [16 U.S.C. 460k et seq.].

(c) Cooperative agreements and technical assistance to protect seashore resources

The Secretary is authorized to enter into cooperative agreements with local, State, and Federal agencies and with educational institutions and nonprofit entities to coordinate research designed to ensure full protection of the natural and cultural resources of the seashore, consistent with the purposes for which the seashore was established, and other applicable law. The Secretary is also authorized to provide technical assistance to local, State, and Federal agencies and to educational institutions and non-profit entities in order to further such purposes. The Secretary shall submit a report every two years to the Congress on the results of the coordinated research program authorized by this section and plans to implement the recommendations arising from such research.

(Pub. L. 89–195, § 6, Sept. 21, 1965, 79 Stat. 826; Pub. L. 102–320, § 1(5), July 10, 1992, 106 Stat. 321.)

REFERENCES IN TEXT

Act of September 28, 1962, referred to in subsec. (b), popularly known as the Refuge Recreation Act, is classified generally to subchapter LXVIII (§ 460k et seq.) of this chapter.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–320 added subsec. (c).

DESIGNATION OF CENTER TO HONOR HERBERT H. BATEMAN

Pub. L. 106–480, Nov. 9, 2000, 114 Stat. 2186, provided that:

''SECTION 1. DESIGNATION.

''A building proposed to be located within the boundaries of the Chincoteague National Wildlife Refuge, on Assateague Island, Virginia, shall be known and designated as the 'Herbert H. Bateman Education and Administrative Center'.

''SEC. 2. REFERENCES.

''Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the 'Herbert H. Bateman Education and Administrative Center'.''

Similar provisions were contained in Pub. L. 106–369, § 8, Oct. 27, 2000, 114 Stat. 1419.

Pub. L. 106–291, title I, § 141, Oct. 11, 2000, 114 Stat. 949, provided that the building housing the visitors center within the boundaries of the Chincoteague National Wildlife Refuge on Assateague Island, Virginia, was to be known and designated as the ''Herbert H. Bateman Educational and Administrative Center''.

§ 459f–6. Repealed. Pub. L. 94–578, title III, § 301, Oct. 21, 1976, 90 Stat. 2733

Section, Pub. L. 89–195, § 7, Sept. 21, 1965, 79 Stat. 826, made provision for the construction of overnight and other public accommodation facilities, land selection and land fill, concession facilities, and the promulgation of rules and regulations covering those areas by the Secretary of the Interior. See section 459f–11 of this title.

§ 459f–7. Beach erosion control and hurricane protection

The Secretary of the Interior and the Secretary of the Army shall cooperate in the study and formulation of plans for beach erosion control and hurricane protection of the seashore; and any such protective works that are undertaken by the Chief of Engineers, Department of the Army, shall be carried out in accordance with a plan that is acceptable to the Secretary of the Interior and is consistent with the purposes of sections 459f to 459f–11 of this title.

(Pub. L. 89–195, § 8, Sept. 21, 1965, 79 Stat. 827.)

§ 459f–8. Repealed. Pub. L. 94–578, title III, § 301, Oct. 21, 1976, 90 Stat. 2733

Section, Pub. L. 89–195, § 9, Sept. 21, 1965, 79 Stat. 827, authorized and directed the Secretary of the Interior to construct and maintain a road from the Chincoteague-Assateague Island Bridge to an area in the wildlife refuge that he deemed appropriate for recreation purposes and to acquire the necessary lands and rights-of-way for a road from the Chincoteague-Assateague Island Bridge to the Sandy Point-Assateague Bridge. See section 459f–11 of this title.

§ 459f–9. Public utility facilities; purchase of facilities without value to utility; amount of payment

The Secretary of the Interior is authorized to purchase from a public utility any facilities of that utility which are no longer of value to it as a result of the establishment of the Assateague Island National Seashore and shall pay for such facilities an amount equal to the cost of constructing such facilities less depreciation.

(Pub. L. 89–195, § 10, Sept. 21, 1965, 79 Stat. 827.)

§ 459f–10. Authorization of appropriations

There are hereby authorized to be appropriated the sum of not more than $22,400,000 (including such sums, together with interest, as may be necessary to satisfy final judgments rendered against the United States) for the acquisition of lands and interests in land and such sums as may be necessary for the development of the area authorized under sections 459f to 459f–11 of this title.

(Pub. L. 89–195, § 11, Sept. 21, 1965, 79 Stat. 827; Pub. L. 92–272, title I, § 101(1), Apr. 11, 1972, 86 Stat. 120; Pub. L. 94–578, title I, § 101(2), Oct. 21, 1976, 90 Stat. 2732.)

AMENDMENTS

1976—Pub. L. 94–578 substituted ''$22,400,000'' for ''$21,050,000''.

1972—Pub. L. 92–272 substituted ''$21,050,000 (including such sums, together with interest, as may be necessary to satisfy final judgments rendered against the United States)'' for ''$16,250,000''.

§ 459f–11. Comprehensive plan for protection, management, and use of seashore

(a) Contents; transmittal to Congressional committees

Within two years of October 21, 1976, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives a comprehensive plan for the protection, management, and use of the seashore, to include but not be limited to the following considerations:

(1) measures for the full protection and management of the natural resources and natural ecosystems of the seashore;

(2) present and proposed uses of the seashore and the lands and waters adjacent or related thereto, the uses of which would reasonably be expected to influence the administration, use, and environmental quality of the seashore;

(3) plans for the development of facilities necessary and appropriate for visitor use and enjoyment of the seashore, with identification of resource and user carrying capacities, along with the anticipated costs for all proposed development;

(4) plans for visitor transportation systems integrated and coordinated with lands and facilities adjacent to, but outside of, the seashore; and

(5) plans for fostering the development of cooperative agreements and land and resource use patterns outside the seashore which would be compatible with the protection and management of the seashore.

(b) Consultation by other Federal agencies with Secretary

Notwithstanding any other provision of law, no Federal loan, grant, license, or other form of assistance for any project which, in the opinion

of the Secretary would significantly adversely affect the administration, use, and environmental quality of the seashore shall be made, issued, or approved by the head of any Federal agency without first consulting with the Secretary to determine whether or not such project is consistent with the plan developed pursuant to this section and allowing him at least thirty days to comment in writing on such proposed action.

(Pub. L. 89–195, § 12, as added Pub. L. 94–578, title III, § 301, Oct. 21, 1976, 90 Stat. 2733.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 459g. Cape Lookout National Seashore; purposes; authorization for establishment; description of area

In order to preserve for public use and enjoyment an area in the State of North Carolina possessing outstanding natural and recreational values, there is hereby authorized to be established the Cape Lookout National Seashore (hereinafter referred to as ''seashore''), which shall comprise the lands and adjoining marshlands and waters on the outer banks of Carteret County, North Carolina, between Ocracoke Inlet and Beaufort Inlet, as generally depicted on the map entitled ''Boundary Map, Cape Lookout National Seashore'', dated March 1974, and numbered 623–20,009, which is on file in the Office of the National Park Service, Department of the Interior.

(Pub. L. 89–366, § 1, Mar. 10, 1966, 80 Stat. 33; Pub. L. 93–477, title IV, § 406(1), Oct. 26, 1974, 88 Stat. 1448.)

AMENDMENTS

1974—Pub. L. 93–477 substituted '' 'Boundary Map, Cape Lookout National Seashore', dated March 1974, and numbered 623–20,009'' for '' 'Proposed Boundaries—Proposed Cape Lookout National Seashore', dated April 1964, and numbered NS–CL–7101–B'', and struck out proviso relating to certain property not to be included in seashore.

§ 459g–1. Acquisition of property

(a) Transfer from Federal agency to administrative jurisdiction of Secretary; non-Federal lands

Notwithstanding any other provision of law, Federal property located within the boundaries of the Cape Lookout National Seashore may, with the concurrence of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary of the Interior for the purposes of the seashore. Such transfer shall be made without transfer of funds. Lands owned by the State of North Carolina or any political subdivision thereof may be acquired only by donation, but the Secretary may, subject to the provisions of section 459g–6 of this title, acquire any other non-Federal lands, marshlands, waters, or interests therein which are located within the boundaries of the seashore by donation, purchase with donated or appropriated funds, or exchange. Notwithstanding any other provision of law, the Secretary may accept any lands donated by the State of North Carolina subject to a provision for reversion to the State conditioned upon continued use of the property for national seashore purposes. Land donated by the State of North Carolina pursuant to this subsection shall constitute consideration for the transfer by the United States of 1.5 acres of land that is to be used as a site for a public health facility in the village of Hatteras, Dare County, North Carolina.

(b) Exchange of property; cash equalization payments

When acquiring lands by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the seashore and convey to the grantor of such property any federally owned property in the State of North Carolina under his jurisdiction which he classifies as proper for exchange or other disposition. Failing to effectuate an exchange of properties of approximately equal fair market value, the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

(c) Owner's reservation of right of use and occupancy for residential purposes for life or fixed term of years; exclusion of property necessary for public use and access; election of term

Any person who on January 1, 1966, owned property which on July 1, 1963, was developed and used for noncommercial residential purposes may reserve for himself and his assigns, as a condition to the purchase or acquisition by exchange of such property by the Secretary, a right of use and occupancy of the residence and not in excess of three acres of land on which the residence is situated, for noncommercial residential purposes for a term ending at the death of the owner, or the death of his spouse, or the death of either of them, or, in lieu thereof, for a definite term not to exceed twenty-five years: *Provided*, That the Secretary may exclude from such reserved property any marsh, beach, or waters, together with so much of the land adjoining such marsh, beach, or waters as he deems necessary for public access thereto. The owner shall elect the term of the right to be reserved. The Secretary is authorized to accept donations of property for purposes of the seashore in which a right of use and occupancy for noncommercial residential purposes is reserved for the period stated in this subsection if the land on which the residence is situated and to which the right attaches is not in excess of three acres and there is excluded from the reserved property such marsh, beach, or waters and adjoining land as the Secretary deems necessary for public use and access thereto.

(d) Termination of use and occupancy inconsistent with statutory purposes and upon tender of sum for unexpired right

A right of use and occupancy reserved in lands that are donated or otherwise acquired pursuant to this section shall be subject to termination by the Secretary upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of sections 459g to 459g–7 of this title and upon tender to the holder of the right of an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

(e) Administrative site; landing dock and related approach or access facilities

The Secretary of the Interior is authorized to purchase with donated or appropriated funds, or acquire by exchange, not to exceed one hundred acres of lands or interests in lands at or near Beaufort, North Carolina, as an administrative site, and for a landing dock and related facilities that may be used to provide a suitable approach or access to the seashore.

(Pub. L. 89–366, § 2, Mar. 10, 1966, 80 Stat. 34; Pub. L. 93–477, title IV, § 406(2), Oct. 26, 1974, 88 Stat. 1448.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–477 substituted provisions relating to acquisition by donation of lands owned by the State of North Carolina and acquisition by donation, purchase or exchange of non-Federal lands, marshlands, etc., and acceptance of lands donated by North Carolina, for provisions relating to acquisition of non-Federal lands, marshlands, etc., by donation only and acquisition by exchange lands comprising the Shackleford Banks.

§ 459g–2. Establishment; notice in Federal Register; copies to Congress

When title to lands and interests in lands in an amount sufficient to constitute an efficiently administerable [1] unit for the purposes of sections 459g to 459g–7 of this title is vested in the United States, the Secretary shall declare the establishment of the seashore by publication of notice thereof in the Federal Register. Such notice shall contain a refined description or map of the boundaries of the seashore as the Secretary may find desirable and such exterior boundaries shall encompass, as nearly as possible, the area generally described in section 459g of this title. Copies of said description or map shall be furnished to the Speaker of the House and the President of the Senate not less than thirty days prior to publication in the Federal Register. Following such establishment, and subject to the limitations and conditions prescribed in sections 459g to 459g–7 of this title, the Secretary may, subject to the provisions of section 459g–1 of this title, acquire the remainder of the lands and interests in lands within the boundaries of the seashore.

(Pub. L. 89–366, § 3, Mar. 10, 1966, 80 Stat. 35; Pub. L. 93–477, title IV, § 406(3), Oct. 26, 1974, 88 Stat. 1448.)

[1] So in original. Probably should be ''administrable''.

AMENDMENTS

1974—Pub. L. 93–477 substituted ''in an amount sufficient to constitute an efficiently administerable [sic] unit for the purposes of sections 459g to 459g–7 of this title'' for ''which under section 459g–1(a) of this title may be acquired for the purposes of the seashore by donation only'', and ''establishment of the seashore by publication'' for ''establishment of the Cape Lookout National Seashore by publication''.

§ 459g–3. Hunting and fishing provisions

The Secretary shall permit hunting and fishing, including shellfishing, on lands, marshlands, and waters under his jurisdiction within the Cape Lookout National Seashore in accordance with the laws of the State of North Carolina and the United States, to the extent applicable, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the North Carolina Wildlife Resources Commission and the North Carolina Department of Conservation and Development.

(Pub. L. 89–366, § 4, Mar. 10, 1966, 80 Stat. 35.)

§ 459g–4. Administration; public outdoor recreation and enjoyment; utilization of authorities for conservation and development of natural resources

(a) The Secretary shall administer the Cape Lookout National Seashore for the general purposes of public outdoor recreation, including conservation of natural features contributing to public enjoyment. In the administration of the seashore and the administrative site, the Secretary may utilize such statutory authorities relating to areas administered and supervised by the Secretary through the National Park Service and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate to carry out the purposes of sections 459g to 459g–7 of this title.

(b)(1) The Secretary, in accordance with this subsection, shall allow a herd of not less than 110 free roaming horses, with a target population of between 120 and 130 free roaming horses, in Cape Lookout National Seashore (hereinafter referred to as the ''Seashore''): *Provided*, That nothing in this section shall be construed to preclude the Secretary from implementing or enforcing the provisions of paragraph (3).

(2) Within 180 days after July 16, 1998, the Secretary shall enter into an agreement with the Foundation for Shackleford Horses (a nonprofit corporation established under the laws of the State of North Carolina), or another qualified nonprofit entity, to provide for management of free roaming horses in the seashore. The agreement shall—

(A) provide for cost-effective management of the horses while ensuring that natural resources within the seashore are not adversely impacted; and

(B) allow the authorized entity to adopt any of those horses that the Secretary removes from the seashore.

(3) The Secretary shall not remove, assist in, or permit the removal of any free roaming horses from Federal lands within the boundaries of the seashore—

(A) unless the entity with whom the Secretary has entered into the agreement under paragraph (2), following notice and a 90-day response period, fails to meet the terms and conditions of the agreement; or

(B) unless removal is carried out as part of a plan to maintain the viability of the herd; or

(C) except in the case of an emergency, or to protect public health and safety.

(4) The Secretary shall annually monitor, assess, and make available to the public findings regarding the population, structure, and health of the free roaming horses in the national seashore.

(5) Nothing in this subsection shall be construed to require the Secretary to replace horses or otherwise increase the number of horses within the boundaries of the seashore where the herd numbers fall below 110 as a result of natural causes, including, but not limited to, disease or natural disasters.

(6) Nothing in this subsection shall be construed as creating liability for the United States for any damages caused by the free roaming horses to property located inside or outside the boundaries of the seashore.

(Pub. L. 89–366, § 5, Mar. 10, 1966, 80 Stat. 35; Pub. L. 105–202, § 2, July 16, 1998, 112 Stat. 676; Pub. L. 105–229, § 1, Aug. 13, 1998, 112 Stat. 1517; Pub. L. 109–117, § 1, Dec. 1, 2005, 119 Stat. 2526.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–117, § 1(b)(1), struck out ''(a)'' after ''(a)''.

Subsec. (b). Pub. L. 109–117, § 1(b)(2), struck out the subsec. (b) added by Pub. L. 105–229, which was identical to the subsec. (b) added by Pub. L. 105–202.

Subsec. (b)(1). Pub. L. 109–117, § 1(a)(1), substituted ''not less than 110 free roaming horses, with a target population of between 120 and 130 free roaming horses,'' for ''100 free roaming horses''.

Subsec. (b)(3)(B). Pub. L. 109–117, § 1(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: ''unless the number of free roaming horses on Federal lands within Cape Lookout National Seashore exceeds 110; or''.

Subsec. (b)(5). Pub. L. 109–117, § 1(a)(3), substituted ''110'' for ''100''.

1998—Pub. L. 105–229 directed an amendment identical to that in Pub. L. 105–202 resulting in the insertion of ''(a)'' before ''(a)'' in subsec. (a) and the addition of a second, identical subsec. (b).

Pub. L. 105–202 designated existing provisions as subsec. (a) and added subsec. (b).

§ 459g–5. Shore erosion control or beach protection measures

The authority of the Chief of Engineers, Department of the Army, to undertake or contribute to shore erosion control or beach protection measures within the Cape Lookout National Seashore shall be exercised in accordance with a plan that is mutually acceptable to the Secretary of the Interior and the Secretary of the Army, and that is consistent with the purposes of sections 459g to 459g–7 of this title.

(Pub. L. 89–366, § 6, Mar. 10, 1966, 80 Stat. 35.)

§ 459g–6. Preservation and designation as wilderness; review of area by Secretary; report to President

On or before January 1, 1978, the Secretary shall review the area within the seashore and shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendations as to the suitability or nonsuitability of any area within the seashore for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with section 1132(c) and (d) of this title.

(Pub. L. 89–366, § 7, Mar. 10, 1966, 80 Stat. 35; Pub. L. 93–477, title IV, § 406(4), Oct. 26, 1974, 88 Stat. 1449.)

AMENDMENTS

1974—Pub. L. 93–477 substituted provisions authorizing review of area and report to the President by the Secretary with regard to suitability of area for preservation as wilderness for provisions authorizing appropriations.

§ 459g–7. Authorization of appropriations; master plan to Congressional committees; time; contents

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 459g to 459g–7 of this title, not to exceed $13,903,000 for acquisition of lands and interests therein, of which no more than $1,000,000 may be expended for acquisition of lands owned by Core Banks Club Properties, Incorporated. For development of essential public facilities there are authorized to be appropriated not more than $2,935,000. On or before January 1, 1978, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the full development of the seashore consistent with the preservation objectives of sections 459g to 459g–7 of this title, indicating—

(1) the facilities needed to accommodate the health, safety and recreation needs of the visiting public;

(2) the location and estimated cost of all facilities; and

(3) the projected need for any additional facilities within the seashore.

(Pub. L. 89–366, § 8, as added Pub. L. 93–477, title IV, § 406(5), Oct. 26, 1974, 88 Stat. 1449; amended Pub. L. 98–141, § 4, Oct. 31, 1983, 97 Stat. 909.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

AMENDMENTS

1983—Pub. L. 98–141 substituted ''$13,903,000'' for ''$7,903,000''.

§ 459h. Gulf Islands National Seashore

(a) Establishment

In order to preserve for public use and enjoyment certain areas possessing outstanding natural, historic, and recreational values, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') may establish and administer the Gulf Islands National Seashore (hereinafter referred to as the ''seashore'').

(b) Composition

(1) In general

The seashore shall comprise the areas described in paragraphs (2) and (3).

(2) Areas included in boundary plan numbered NS–GI–7100J

The areas described in this paragraph are the following gulf coast islands and mainland areas, together with adjacent water areas as generally depicted on the drawing entitled ''Proposed Boundary Plan, Proposed Gulf Islands National Seashore,'' numbered NS–GI–7100J, and dated December 1970:

(A) Ship, Petit Bois, and Horn Islands in Mississippi;

(B) the eastern portion of Perdido Key in Florida;

(C) Santa Rosa Island in Florida;

(D) the Naval Live Oaks Reservation in Florida;

(E) Fort Pickens and the Fort Pickens State Park in Florida; and

(F) a tract of land in the Pensacola Naval Air Station in Florida that includes the Coast Guard Station and Lighthouse, Fort San Carlos, Fort Barrancas, and Fort Redoubt and sufficient surrounding land for proper administration and protection of the historic resources.

(3) Cat Island

Upon its acquisition by the Secretary, the area described in this paragraph is the parcel consisting of approximately 2,000 acres of land on Cat Island, Mississippi, as generally depicted on the map entitled ''Boundary Map, Gulf Islands National Seashore, Cat Island, Mississippi'', numbered 635/80085, and dated November 9, 1999 (referred to in sections 459h to 459h–10 of this title[1] as the ''Cat Island Map'').

(4) Availability of Map

The Cat Island Map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(Pub. L. 91–660, §1, Jan. 8, 1971, 84 Stat. 1967; Pub. L. 106–554, §1(a)(4) [div. B, title I, §137(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–231.)

REFERENCES IN TEXT

Sections 459h to 459h–10 of this title, referred to in subsec. (b)(3), was in the original ''this title'', and was translated as reading ''this Act'', meaning Pub. L. 91–660, which enacted sections 459h to 459h–10 of this title, to reflect the probable intent of Congress, because Pub. L. 91–660 does not contain titles.

AMENDMENTS

2000—Pub. L. 106–554 inserted section catchline and subsec. (a) designation and heading, substituted ''In order'' for ''That, in order'', inserted subsec. (b) designation and heading, added par. (1), inserted par. (2) designation and heading and substituted ''The areas described in this paragraph are'' for ''The seashore shall comprise'', redesignated former pars. (1) to (6) as subpars. (A) to (F), respectively, of par. (2), realigned margins, and added pars. (3) and (4).

§ 459h–1. Acquisition of property

(a) Authority of Secretary; concurrence of State owner; administrative site and related facilities; transfer from Federal agency to administrative jurisdiction of Secretary

Within the boundaries of the seashore, the Secretary may acquire submerged land, land, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange, except that property owned by a State or any political subdivision thereof may be acquired only with the consent of the owner. The Secretary may acquire by any of the above methods not more than four hundred acres of land or interests therein outside of the seashore boundaries on the mainland in the vicinity of Biloxi-Gulfport, Mississippi, for an administrative site and related facilities for access to the seashore. With the concurrence of the agency having custody thereof, any Federal property within the seashore and mainland site may be transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of the seashore.

(b) Improved residential property owner's reservation of right of use and occupancy for residential purposes for life or fixed term of years; election by owner; transfer or assignment of right; adjustment of compensation

With respect to improved residential property acquired for the purposes of sections 459h to 459h–10 of this title, which is beneficially owned by a natural person and which the Secretary of the Interior determines can be continued in that use for a limited period of time without undue interference with the administration, development, or public use of the seashore, the owner thereof may on the date of its acquisition by the Secretary retain a right of use and occupancy of the property for noncommercial residential purposes for a term, as the owner may elect, ending either (1) at the death of the owner or his spouse, whichever occurs later, or (2) not more than twenty-five years from the date of acquisition. Any right so retained may during its existence be transferred or assigned. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less their[1] fair market value on such date of the right retained by the owner.

(c) "Improved residential property" defined

As used in sections 459h to 459h–10 of this title, ''improved residential property'' means a single-family year-round dwelling, the construction of which began before January 1, 1967, and which serves as the owner's permanent place of abode at the time of its acquisition by the United States, together with not more than three acres of land on which the dwelling and appurtenant buildings are located that the Secretary finds is

[1] See References in Text note below.

[1] So in original. Probably should be ''the''.

reasonably necessary for the owner's continued use and occupancy of the dwelling: *Provided*, That the Secretary may exclude from improved residential property any marsh, beach, or waters and adjoining land that the Secretary deems is necessary for public access to such marsh, beach, or waters.

(d) Termination of use and occupancy inconsistent with statutory purposes and upon tender of sum for unexpired right

The Secretary may terminate a right of use and occupancy retained pursuant to this section upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of sections 459h to 459h–10 of this title, and upon tender to the holder of the right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

(e) Acquisition authority

(1) In general

The Secretary may acquire, from a willing seller only—

(A) all land comprising the parcel described in subsection (b)(3)[2] that is above the mean line of ordinary high tide, lying and being situated in Harrison County, Mississippi;

(B) an easement over the approximately 150-acre parcel depicted as the ''Boddie Family Tract'' on the Cat Island Map for the purpose of implementing an agreement with the owners of the parcel concerning the development and use of the parcel; and

(C)(i) land and interests in land on Cat Island outside the 2,000-acre area depicted on the Cat Island Map; and

(ii) submerged land that lies within 1 mile seaward of Cat Island (referred to in sections 459h to 459h–10 of this title[2] as the ''buffer zone''), except that submerged land owned by the State of Mississippi (or a subdivision of the State) may be acquired only by donation.

(2) Administration

(A) In general

Land and interests in land acquired under this subsection shall be administered by the Secretary, acting through the Director of the National Park Service.

(B) Buffer zone

Nothing in sections 459h to 459h–10 of this title[2] or any other provision of law shall require the State of Mississippi to convey to the Secretary any right, title, or interest in or to the buffer zone as a condition for the establishment of the buffer zone.

(3) Modification of boundary

The boundary of the seashore shall be modified to reflect the acquisition of land under this subsection only after completion of the acquisition.

(Pub. L. 91–660, §2, Jan. 8, 1971, 84 Stat. 1967; Pub. L. 92–275, §1(1), Apr. 20, 1972, 86 Stat. 123; Pub. L. 106–554, §1(a)(4) [div. B, title I, §137(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–231.)

REFERENCES IN TEXT

Subsection (b)(3), referred to in subsec. (e)(1)(A), probably means subsection (b)(3) of section 459h of this title. Subsection (b) of this section does not contain a par. (3).

Sections 459h to 459h–10 of this title, referred to in subsec. (e)(1)(C)(ii), (2)(B), was in the original ''this title'', and was translated as reading ''this Act'', meaning Pub. L. 91–660, which enacted sections 459h to 459h–10 of this title, to reflect the probable intent of Congress, because Pub. L. 91–660 does not contain titles.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–554, §1(a)(4) [div. B, title I, §137(b)(1)], substituted ''submerged land, land,'' for ''lands,'' in first sentence.

Subsec. (e). Pub. L. 106–554, §1(a)(4) [div. B, title I, §137(b)(2)], added subsec. (e).

1972—Subsec. (a). Pub. L. 92–275 increased amount of property authorized to be acquired from one hundred thirty-five to four hundred acres.

§ 459h–2. Designation of hunting and fishing zones; regulation of maritime activities

(a) In general

The Secretary shall permit hunting and fishing on lands and waters within the seashore in accordance with applicable Federal and States laws: *Provided*, That he may designate zones where, and establish periods when, no hunting or fishing will be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations issued by the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

(b) No authority to regulate maritime activities

Nothing in sections 459h to 459h–10 of this title[1] or any other provision of law shall affect any right of the State of Mississippi, or give the Secretary any authority, to regulate maritime activities, including nonseashore fishing activities (including shrimping), in any area that, on December 21, 2000, is outside the designated boundary of the seashore (including the buffer zone).

(Pub. L. 91–660, §3, Jan. 8, 1971, 84 Stat. 1968; Pub. L. 106–554, §1(a)(4) [div. B, title I, §137(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A–232.)

REFERENCES IN TEXT

Sections 459h to 459h–10 of this title, referred to in subsec. (b), was in the original ''this title'', and was translated as reading ''this Act'', meaning Pub. L. 91–660, which enacted sections 459h to 459h–10 of this title, to reflect the probable intent of Congress, because Pub. L. 91–660 does not contain titles.

AMENDMENTS

2000—Pub. L. 106–554 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

§ 459h–3. Rights-of-way or easements for transportation of oil and gas minerals

Any acquisition of lands, waters, or interests therein shall not diminish any existing rights-

[1] See References in Text note below.

[2] See References in Text note below.

of-way or easements which are necessary for the transportation of oil and gas minerals through the seashore which oil and gas minerals are removed from outside the boundaries thereof; and, the Secretary, subject to appropriate regulations for the protection of the natural and recreational values for which the seashore is established, shall permit such additional rights-of-way or easements as he deems necessary and proper.

(Pub. L. 91–660, § 4, Jan. 8, 1971, 84 Stat. 1968.)

§ 459h–4. Administration of seashore; conservation and management of wildlife and natural resources; authority to designate areas as national historic sites; agreements

(a) In general

Except as otherwise provided in sections 459h to 459h–10 of this title, the Secretary shall administer the seashore in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented. In the administration of the seashore the Secretary may utilize such statutory authorities available to him for the conservation and management of wildlife natural resources as he deems appropriate to carry out the purposes of sections 459h to 459h–10 of this title. With respect to Fort Redoubt, Fort San Carlos, Fort Barrancas at Pensacola Naval Air Station, Fort Pickens on Santa Rosa Island, and Fort McRee on Perdido Key, Florida, and Fort Massachusetts on Ship Island, Mississippi, together with such adjacent lands as the Secretary may designate, the Secretary shall administer such lands so as to recognize, preserve, and interpret their national historical significance in accordance with sections 461 to 467 of this title, and he may designate them as national historic sites.

(b) Agreements

(1) In general

The Secretary may enter into agreements—

(A) with the State of Mississippi for the purposes of managing resources and providing law enforcement assistance, subject to authorization by State law, and emergency services on or within any land on Cat Island and any water and submerged land within the buffer zone; and

(B) with the owners of the approximately 150-acre parcel depicted as the ''Boddie Family Tract'' on the Cat Island Map concerning the development and use of the land.

(2) No authority to enforce certain regulations

Nothing in this subsection authorizes the Secretary to enforce Federal regulations outside the land area within the designated boundary of the seashore.

(Pub. L. 91–660, § 5, Jan. 8, 1971, 84 Stat. 1968; Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 137(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A–232.)

AMENDMENTS

2000—Pub. L. 106–554 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

§ 459h–5. Beach erosion control and hurricane protection; study and formulation of plans; activities by Chief of Engineers, Department of Army

The Secretary of the Interior and the Secretary of the Army may cooperate in the study and formulation of plans for beach erosion control and hurricane protection of the seashore. Any such protective works or spoil deposit activities undertaken by the Chief of Engineers, Department of the Army, shall be carried out within the seashore in accordance with a plan that is acceptable to the Secretary of the Interior and that is consistent with the purposes of sections 459h to 459h–10 of this title.

(Pub. L. 91–660, § 6, Jan. 8, 1971, 84 Stat. 1969.)

§ 459h–6. Transfer of Horn Island and Petit Bois National Wildlife Refuges from National Wildlife Refuge System; administration

(a) There are hereby transferred from the National Wildlife Refuge System to the seashore the Horn Island and Petit Bois National Wildlife Refuges to be administered in accordance with the provisions of sections 459h to 459h–10 of this title.

(b) If any of the Federal land on Santa Rosa or Okaloosa Island, Florida, under the jurisdiction of the Department of Defense is ever excess to the needs of the Armed Forces, the Secretary of Defense shall transfer the excess land to the administrative jurisdiction of the Secretary of the Interior, subject to the terms and conditions acceptable to the Secretary of the Interior and the Secretary of Defense. The Secretary of the Interior shall administer the transferred land as part of the seashore in accordance with the provisions of sections 459h to 459h–10 of this title.

(Pub. L. 91–660, § 7, Jan. 8, 1971, 84 Stat. 1969; Pub. L. 109–163, div. B, title XXVIII, § 2872(b), Jan. 6, 2006, 119 Stat. 3535.)

AMENDMENTS

2006—Pub. L. 109–163 designated existing provisions as subsec. (a) and added subsec. (b).

TRANSFER OF EXCESS DEPARTMENT OF DEFENSE PROPERTY ON SANTA ROSA AND OKALOOSA ISLAND, FLORIDA, TO GULF ISLANDS NATIONAL SEASHORE

Pub. L. 109–163, div. B, title XXVIII, § 2872(a), Jan. 6, 2006, 119 Stat. 3534, provided that: ''Congress finds the following:

''(1) Public Law 91–660 of the 91st Congress [16 U.S.C. 459h et seq.] established the Gulf Islands National Seashore in the States of Florida and Mississippi.

''(2) The original boundaries of the Gulf Islands National Seashore encompassed certain Federal land used by the Air Force and the Navy, and the use of such land was still required by the Armed Forces when the seashore was established.

''(3) Senate Report 91–1514 of the 91th Congress addressed the relationship between these military lands and the Gulf Islands National Seashore as follows: 'While the military use of these lands is presently required, they remain virtually free of adverse development and they are included in the boundaries of the seashore so that they can be wholly or partially transferred to the Department of the Interior when they become excess to the needs of the Air Force.'.

''(4) Although section 2(a) of Public Law 91–660 (16 U.S.C. 459h–1(a)) authorized the eventual transfer of

Federal land within the boundaries of the Gulf Islands National Seashore from the Department of Defense to the Secretary of the Interior, an amendment mandating the transfer of excess Department of Defense land on Santa Rosa and Okaloosa Island, Florida, to the Secretary of the Interior is required to ensure that the purposes of the Gulf Islands National Seashore are fulfilled.''

§ 459h–7. Preservation of any area as wilderness; study and report to President; procedure for designation of any area as a wilderness

Within four years from January 8, 1971, the Secretary of the Interior shall review the area within the Gulf Islands National Seashore and shall report to the President, in accordance with subsections (c) and (d) of section 1132 of this title, and recommend as to the suitability or nonsuitability of any area within the seashore for preservation as wilderness, and any designation of any such area as a wilderness shall be accomplished in accordance with said subsections.

(Pub. L. 91–660, § 8, Jan. 8, 1971, 84 Stat. 1969.)

§ 459h–8. Authority of Department of Army or Chief of Engineers over navigation or related matters

No provision of sections 459h to 459h–10 of this title, or of any other Act made applicable thereby, shall be construed to affect, supersede, or modify any authority of the Department of the Army or the Chief of Engineers, with respect to navigation or related matters except as specifically provided in section 459h–5 of this title.

(Pub. L. 91–660, § 9, Jan. 8, 1971, 84 Stat. 1969.)

§ 459h–9. Gulf Islands National Seashore Advisory Commission; establishment; termination; membership; term; Chairman; compensation and payment of expenses; consultation by Secretary

There is hereby established a Gulf Islands National Seashore Advisory Commission. The Commission shall terminate ten years after the date the seashore is established pursuant to sections 459h to 459h–10 of this title. The Commission shall be composed of three members from each county in which the seashore is located, each appointed for a term of two years by the Secretary as follows:

(1) one member to be appointed from recommendations made by the county commissioners in the respective counties;

(2) one member to be appointed from recommendations made by the Governor of the State from each county; and

(3) one member to be designated by the Secretary from each county.

Provided, That two members shall be appointed to the Advisory Commission in each instance in counties whose population exceeds one hundred thousand.

The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

Members of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under sections 459h to 459h–10 of this title on vouchers signed by the Chairman.

The Secretary or his designee shall, from time to time, consult with the Commission with respect to the matters relating to the development of the Gulf Islands National Seashore.

(Pub. L. 91–660, § 10, Jan. 8, 1971, 84 Stat. 1969.)

TERMINATION OF ADVISORY COMMISSIONS

Advisory commissions in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 459h–10. Authorization of appropriations

(a) In general

There are authorized to be appropriated not more than $22,162,000 for the acquisition of lands and interests in lands and not more than $24,224,000 for development.

(b) Authorization for acquisition of land

In addition to the funds authorized by subsection (a) of this section, there are authorized to be appropriated such sums as are necessary to acquire land and submerged land on and adjacent to Cat Island, Mississippi.

(Pub. L. 91–660, § 11, Jan. 8, 1971, 84 Stat. 1970; Pub. L. 92–275, § 1(2), Apr. 20, 1972, 86 Stat. 123; Pub. L. 94–578, title I, § 101(6), Oct. 21, 1976, 90 Stat. 2732; Pub. L. 95–625, title I, § 101(13), Nov. 10, 1978, 92 Stat. 3471; Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 137(e)], Dec. 21, 2000, 114 Stat. 2763, 2763A–232.)

AMENDMENTS

2000—Pub. L. 106–554 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1978—Pub. L. 95–625 substituted ''$24,224,000 for development.'' for ''$17,774,000 (June 1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.''

1976—Pub. L. 94–578 substituted ''$22,162,000'' for ''$3,462,000''.

1972—Pub. L. 92–275 increased appropriations authorization for lands and land interests from $3,120,000 to $3,462,000 and for development from $14,779,000 (1970 prices) to $17,774,000 (June 1970 prices).

§ 459i. Cumberland Island National Seashore; establishment; boundary revisions: notification of Congressional committees, publication in Federal Register

In order to provide for public outdoor recreation use and enjoyment of certain significant shoreline lands and waters of the United States, and to preserve related scenic, scientific, and historical values, there is established in the State of Georgia the Cumberland Island National Seashore (hereinafter referred to as the ''seashore'') consisting of the area generally depicted on the drawing entitled ''Boundary Map,

Cumberland Island National Seashore'', numbered CUIS 40,000E, and dated January 1978, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the ''Secretary'') may after notifying the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives in writing, make minor adjustments in the boundary of the seashore from time to time by publication of a revised drawing or other boundary description in the Federal Register, but the total acreage within the boundaries shall not exceed forty thousand five hundred acres.

(Pub. L. 92–536, §1, Oct. 23, 1972, 86 Stat. 1066; Pub. L. 95–625, title III, §323, Nov. 10, 1978, 92 Stat. 3489; Pub. L. 98–170, Nov. 29, 1983, 97 Stat. 1116; Pub. L. 103–437, §6(*l*), Nov. 2, 1994, 108 Stat. 4586.)

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives'' for ''Committees on Interior and Insular Affairs of the United States House of Representatives and United States Senate''.

1983—Pub. L. 98–170 substituted ''CUIS 40,000E'' for ''CUIS 40,000D''.

1978—Pub. L. 95–625 substituted reference to Boundary Map ''numbered CUIS 40,000D, and dated January 1978'' for ''numbered CUIS—40,000B, and dated June 1971''.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–447, div. E, title I, §145(c), Dec. 8, 2004, 118 Stat. 3074, provided that: ''This section [amending section 459i–5 of this title and provisions listed in a table of Wilderness Areas set out under section 1132 of this title] may be cited as the 'Cumberland Island Wilderness Boundary Adjustment Act of 2004'.''

§ 459i–1. Acquisition of lands; authority of Secretary; mainland lands for access to seashore administrative and visitor facilities; State lands; transfer from Federal agency to administrative jurisdiction of Secretary

Within the boundaries of the seashore, the Secretary may acquire lands, waters, and interests therein by purchase, donation, transfer from any Federal agency, or exchange. The Secretary may also acquire not to exceed one hundred acres of lands or interests in lands on the mainland to provide access to the administrative and visitor facilities for the seashore. Any lands or interests therein owned by the State of Georgia, or any political subdivision thereof may be acquired only by donation. Notwithstanding any other provision of law, any Federal property located within the boundaries of the seashore may, with the concurrence of the agency having custody thereof, be transferred without transfer of funds to the administrative jurisdiction of the Secretary for the purposes of the seashore.

(Pub. L. 92–536, §2, Oct. 23, 1972, 86 Stat. 1066.)

§ 459i–2. Cumberland Island Parkway; right-of-way; administration; regulations

For the purpose of providing access from Interstate 95 to the mainland administrative and visitor facilities of the seashore, the Secretary may designate as the Cumberland Island Parkway a right-of-way, together with adjacent or related sites for public noncommercial recreational use and for interpretation of scenic and historic values, of not more than one thousand acres of lands, waters, and interests therein. The Secretary is authorized to acquire only by donation those lands and interests therein, and other property comprising such right-of-way, and adjacent or related sites as he may designate pursuant to sections 459i to 459i–9 of this title for the development, hereby authorized, of a roadway of parkway standards, including necessary bridges, spurs, connecting roads, access roads, and other facilities, and for the development and interpretation of recreation areas and historic sites in connection therewith. Lands acquired for the parkway shall be administered as a part of the seashore, subject to all laws and regulations applicable thereto, and subject to such special regulations as the Secretary may promulgate for the parkway.

(Pub. L. 92–536, §3, Oct. 23, 1972, 86 Stat. 1066.)

§ 459i–3. Acquisition of property

(a) Private right of use and occupancy for residential purposes for fixed term of years or for life; election by owner; exception of property for visitor facilities or administration of seashore; compensation; contemporaneous restriction on development of public use facilities; lands, waters, and interests from National Park Foundation

With the exception of any property deemed necessary by the Secretary for visitor facilities or administration of the seashore, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the property for noncommercial residential purposes, for twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or his spouse, whichever is later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner: *Provided, however*, That, in addition, for so long as a right of use and occupancy remains in effect by the donors of land of one hundred acres or more, the Secretary shall not, with respect to such lands, develop any public use facilities except for trails, road access, and utilities: *Provided further*, That when acquiring lands, waters, and interests therein from the National Park Foundation, its successors and assigns, the Secretary shall acquire such lands, waters, and interests subject to the written terms and conditions contained in those transactions, including but not limited to options, entered into by the National Park Foundation prior to January 1, 1973, and that such previous written rights and interests shall prevail over provisions of this subsection.

(b) Commercial use prohibition; termination of use and occupancy upon tender of compensation

A right of use and occupancy retained or enjoyed pursuant to this section may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof has ceased to be used for noncommercial residential purposes and upon tender to the holder of a right an amount equal to the fair market value, as of the date of tender, of that portion of the right which remains unexpired on the date of termination.

(c) "Improved property" defined

The term ''improved property'', as used in this section shall mean a detached, noncommercial residential dwelling, the construction of which was begun before February 1, 1970 (hereinafter referred to as ''dwelling''), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(d) Little Cumberland Island; acquisition restrictions

(1) In order to provide an opportunity for the establishment of a natural and scenic preserve by voluntary private action of certain owners of lands within the seashore, and notwithstanding anything to the contrary herein contained, no lands or interests in lands shall be acquired on Little Cumberland Island without the consent of the owner, for a period of one year from October 23, 1972, except as specifically otherwise provided herein.

(2) In the event that the owners of land on Little Cumberland Island enter into an irrevocable trust or some other irrevocable agreement for the preservation of the resources of Little Cumberland Island which, in the judgment of the Secretary, assures the protection of the resources in a manner consistent with the purposes for which the seashore is established, the authority of the Secretary to acquire such lands shall be suspended for such time as the trust is in effect and the lands are used and occupied in accordance therewith.

(3) If, at any time during the one-year period following October 23, 1972, the Secretary determines that any lands on Little Cumberland Island are threatened with development, or other uses, inconsistent with the establishment or continuation of the trust herein referred to, then the Secretary may acquire such lands, or interests therein, by any of the methods provided for in section 459i–1 of this title.

(Pub. L. 92–536, § 4, Oct. 23, 1972, 86 Stat. 1066.)

§ 459i–4. Hunting and fishing

The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the seashore in accordance with the appropriate laws of Georgia and the United States to the extent applicable, except that he may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish and wildlife management, or public use and enjoyment. Except in emergencies, any regulations prescribing any such restrictions shall be put into effect only after consultation with the appropriate State agency responsible for hunting, fishing, and trapping activities.

(Pub. L. 92–536, § 5, Oct. 23, 1972, 86 Stat. 1068.)

§ 459i–5. Administration, protection, and development

(a) Applicability of provisions; utilization of statutory authorities

The seashore shall be administered, protected, and developed in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, except that any other statutory authority available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of sections 459i to 459i–9 of this title.

(b) Preservation in primitive state; recreational activities exception

Except for certain portions of the seashore deemed to be especially adaptable for recreational uses, particularly swimming, boating, fishing, hiking, horseback riding, and other recreational activities of similar nature, which shall be developed for such uses as needed, the seashore shall be permanently preserved in its primitive state, and, except as provided in subsection (c) of this section, no development of the project or plan for the convenience of visitors shall be undertaken which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions not[1] prevailing, nor shall any road or causeway connecting Cumberland Island to the mainland be constructed.

(c) Tours of the seashore

Notwithstanding subsection (b) of this section, the Secretary may enter into not more than 3 concession contracts, as the Secretary determines appropriate, for the provision of tours for visitors to the seashore that are consistent with—

(1) sections 459i to 459i–9 of this title;

(2) the Wilderness Act (16 U.S.C. 1131 et seq.); and

(3) Public Law 97–250 (96 Stat. 709).

(Pub. L. 92–536, § 6, Oct. 23, 1972, 86 Stat. 1068; Pub. L. 108–447, div. E, title I, § 145(b), Dec. 8, 2004, 118 Stat. 3073.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (c)(2), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

Public Law 97–250, referred to in subsec. (c)(3), is Pub. L. 97–250, Sept. 8, 1982, 96 Stat. 709, which enacted section 122a of this title, amended section 121 of this title,

[1] So in original. Probably should be ''now''.

and enacted provisions set out as a note under section 121 of this title and listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–447, § 145(b)(1), inserted '', except as provided in subsection (c) of this section,'' before ''no development of the project''.

Subsec. (c). Pub. L. 108–447, § 145(b)(2), added subsec. (c).

§ 459i–6. State and local jurisdiction

Nothing in sections 459i to 459i–9 of this title shall deprive the State of Georgia or any political subdivision thereof of its civil or criminal jurisdiction over persons found, acts performed, and offenses committed within the boundaries of the seashore, or of its right to tax persons, corporations, franchises, or other non-Federal property on lands included therein.

(Pub. L. 92–536, § 7, Oct. 23, 1972, 86 Stat. 1068.)

§ 459i–7. Water resource developments

The authority of the Secretary of the Army to undertake or contribute to water resource developments, including shore erosion control, beach protection and navigation improvements on land and/or waters within the Cumberland Island National Seashore shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of the Army and which are consistent with both the purpose of sections 459i to 459i–9 of this title and the purpose of existing statutes dealing with water and related land resource development.

(Pub. L. 92–536, § 8, Oct. 23, 1972, 86 Stat. 1068.)

§ 459i–8. Report to President

Within three years from October 23, 1972, the Secretary of the Interior shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendations as to the suitability or nonsuitability of any area within the national seashore for preservation as wilderness, and any designation of any such area as a wilderness shall be accomplished in accordance with said section 1132(c) and (d) of this title.

(Pub. L. 92–536, § 9, Oct. 23, 1972, 86 Stat. 1068.)

§ 459i–9. Authorization of appropriations

There are authorized to be appropriated not to exceed $28,500,000 for the acquisition of lands and interests in lands and not to exceed $27,840,000 for development of the seashore.

(Pub. L. 92–536, § 10, Oct. 23, 1972, 86 Stat. 1068; Pub. L. 95–625, title II, § 201(3), Nov. 10, 1978, 92 Stat. 3473.)

AMENDMENTS

1978—Pub. L. 95–625 substituted ''$28,500,000'' for ''$10,500,000''.

§ 459j. Canaveral National Seashore; establishment; boundary; boundary revisions; limitation on area

In order to preserve and protect the outstanding natural, scenic, scientific, ecologic, and historic values of certain lands, shoreline, and waters of the State of Florida, and to provide for public outdoor recreation use and enjoyment of the same, there is hereby established the Canaveral National Seashore (hereinafter referred to as the ''seashore''), as generally depicted on the map entitled ''Boundary Map, Canaveral National Seashore'', dated August 1974 and numbered NS–CAN–40,000A. Such seashore shall comprise approximately sixty-seven thousand five hundred acres within the area more particularly described by a line beginning at the intersection of State Highway 3 and State Road 402, thence generally easterly following State Road 402 to a point one-half mile offshore in the Atlantic Ocean, thence northwesterly along a line which is at each point one-half mile distant from the high water mark to Bethune Beach, thence inland in a generally westerly direction through Turner Flats and Shipyard Canal, thence northwesterly to the Intracoastal Waterway, thence southerly along the Intracoastal Waterway to the boundary of the Kennedy Space Center, thence southwesterly to United States Highway 1, thence southerly along State Highway 3 to the point of beginning. The boundary map shall be on file and available for public inspection in the offices of the United States Fish and Wildlife Service and National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, in writing, at least sixty days prior to making any boundary revisions, the Secretary may from time to time make minor revisions in the boundaries of the seashore by publication of a revised map or other boundary description in the Federal Register: *Provided*, That the total acreage included within the boundaries shall not exceed that enumerated in this section.

(Pub. L. 93–626, § 1, Jan. 3, 1975, 88 Stat. 2121; Pub. L. 103–437, § 6(a)(4), Nov. 2, 1994, 108 Stat. 4583.)

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives'' for ''Committees on Interior and Insular Affairs of the United States Congress''.

§ 459j–1. Acquisition of property; donation and development of State lands; transfer from Federal agency to administrative jurisdiction of Secretary; written cooperative agreement with National Aeronautics and Space Administration; construction and development; report to Congressional committees

Within the boundaries of the seashore, the Secretary may acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer. Any property owned by the State of Florida or any political subdivision thereof may be acquired only by donation. It is the intent and purpose of sections 459j to 459j–8 of this title that the Secretary shall have sole authority to develop and improve those State owned lands donated now and in the future in accordance with the intent and purposes of sections 459j to

459j–8 of this title. Notwithstanding any other provision of law, any federally owned property within the boundaries of the seashore may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary of the Interior and he may develop and administer such lands in a manner consistent with the purposes of sections 459j to 459j–8 of this title. In accepting lands transferred by the National Aeronautics and Space Administration pursuant to sections 459j to 459j–8 of this title the Secretary shall enter into a written cooperative agreement with the Administrator to assure the use of such lands in a manner which is deemed consistent with the public safety and with the needs of the space and defense programs of the Nation: *Provided*, That no new construction or development shall be permitted within the seashore, except for the construction of such facilities as the Secretary deems necessary for the health and safety of the visiting public or for the proper administration of the seashore: *Provided further*, That after January 3, 1975, the Secretary of the Interior, in cooperation with the Administrator of the National Aeronautics and Space Administration, shall submit to the Committees on Natural Resources and on Science, Space, and Technology of the House of Representatives and to the Committees on Energy and Natural Resources and on Commerce, Science, and Transportation of the Senate a report of all land transfers made by the National Aeronautics and Space Administration to the Department of the Interior under sections 459j to 459j–8 of this title.

(Pub. L. 93–626, § 2, Jan. 3, 1975, 88 Stat. 2122; Pub. L. 103–437, § 6(*o*), Nov. 2, 1994, 108 Stat. 4586.)

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Natural Resources and on Science, Space, and Technology of the House of Representatives and to the Committees on Energy and Natural Resources and on Commerce, Science, and Transportation of the Senate'' for ''Interior and Insular Affairs of the Congress and to the Committee on Science and Astronautics of the House of Representatives and to the Committee on Aeronautical and Space Sciences of the Senate''.

CHANGE OF NAME

Committee on Science, Space, and Technology of House of Representatives treated as referring to Committee on Science of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2. Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

ADDITIONS TO SEASHORE

Pub. L. 100–564, §§ 1, 3, Oct. 31, 1988, 102 Stat. 2831, authorized and directed the Secretary of the Interior to acquire certain lands depicted on a map entitled ''Additions to Canaveral National Seashore'', required the Secretary to file the map with certain Congressional committees, and authorized appropriations necessary to carry out such acquisitions.

§ 459j–2. Improved property

(a) Owner's reservation of right of use and occupancy for residential purposes for life or fixed term of years; exception of property for visitor facilities, access to, or administration of seashore; compensation

Except for property deemed necessary by the Secretary for visitor facilities, or for access to or administration of the seashore, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term not to exceed twenty-five years, or in lieu thereof, for a term ending at the death of the owner, or the death of his spouse, whichever is the later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(b) Termination of use and occupancy upon inconsistent use; tender of compensation

The Secretary may terminate a right of use and occupancy retained pursuant to this section upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of sections 459j to 459j–8 of this title, and upon tender to the holder of the right of an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

(c) "Improved property" defined

The term ''improved property'', as used in this section shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1971 (hereafter referred to as ''dwelling''), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures, necessary to the dwelling which are situated on the land so designated.

(d) Condemnation as means for acquiring clear and marketable title

Except as otherwise provided, the Secretary shall have the authority to use condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

(Pub. L. 93–626, § 3, Jan. 3, 1975, 88 Stat. 2123.)

§ 459j–3. Designation of hunting, fishing and trapping zones; regulations; consultation with appropriate State agencies

The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the seashore in accordance with the appropriate laws of the State of Florida and the United States to the extent applicable, except that he may designate

zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish and wildlife management, public use and enjoyment, protection of the resource, or competing public use. Except in emergencies, any regulations prescribing any such restrictions shall be put into effect only after consultation with the appropriate State agency responsible for hunting, fishing, and trapping activities.

(Pub. L. 93–626, § 4, Jan. 3, 1975, 88 Stat. 2123.)

§ 459j–4. Administration, protection, and development

(a) Conservation and management of natural resources

The seashore shall be administered, protected, and developed in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, except that any other statutory authority available to the Secretary for the conservation management of natural resources may be utilized to the extent he finds such authority will further the purposes of sections 459j to 459j–8 of this title.

(b) Administration of lands in Merritt Island National Wildlife Refuge

Notwithstanding any other provisions of sections 459j to 459j–8 of this title, lands and waters in the Merritt Island National Wildlife Refuge as described in subsection (c)(2) of this section which are part of the seashore shall be administered for refuge purposes through the United States Fish and Wildlife Service pursuant to the National Wildlife Refuge System Administration Act, as amended (80 Stat. 926; 16 U.S.C. 668dd–668ee), except that the Secretary may utilize such additional authority as may be available to him for the conservation and management of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate, consistent with the preservation of natural and wildlife values.

(c) Division of management authority between National Park Service and United States Fish and Wildlife Service

The Secretary shall cause to be issued a well defined division of management authority between the National Park Service and the United States Fish and Wildlife Service. It is the intent and purpose of sections 459j to 459j–8 of this title that such management authority, generally, shall be as follows:

(1) The National Park Service shall administer those lands and waters described as follows: beginning at the intersection of State Highway 3 and State Road 402; thence easterly along State Road 402 and continuing easterly in a straight line to a point one-half mile offshore in the Atlantic Ocean, following the southern boundary of the seashore created in section 1; thence northwesterly along the boundary of the seashore created in section 1, which line is at each point one-half mile distance from the high water mark, to Bethune Beach; thence inland in a generally, westerly direction through Turner Flats and Shipyard Canal; thence northwesterly to the Intracoastal Waterway; thence southerly along the Intracoastal Waterway to the boundary of the Kennedy Space Center; then southwesterly to United States Highway 1; thence southerly along State Highway 3 to the northern boundary of H. M. Gomez Grant; thence easterly along the northern boundary of H. M. Gomez Grant and continuing easterly in a straight line to a point of intersection with the line between the marsh and the dunes; thence southerly along the line between the marsh and the dunes to a point approximately one-half mile north of the southern boundary of the seashore created in section 1; thence westerly in a straight line to connect with and to follow the Government Railroad to its intersection with State Highway 3; thence southerly along State Highway 3 to the point of beginning. The portion of land bounded by the northern boundary of the H. M. Gomez Grant is hereby transferred to the Secretary of the Interior and may be used for the purpose of establishing such facilities as are needed for the administration of the seashore, for the construction of the principal visitor center which shall be designated as the ''Spessard L. Holland Visitor Center'', and for a central access to the seashore: *Provided, however*, That the Secretary of the Interior, upon the request of the Administrator of the National Aeronautics and Space Administration, shall close this area or any part thereof to the public when necessary for space operations. In administering the shoreline and adjacent lands the Secretary shall retain such lands in their natural and primitive condition, shall prohibit vehicular traffic on the beach except for administrative purposes, and shall develop only those facilities which he deems essential for public health and safety.

(2) The United States Fish and Wildlife Service shall administer the remaining lands described in section 459j of this title.

(Pub. L. 93–626, § 5, Jan. 3, 1975, 88 Stat. 2123.)

References in Text

The National Wildlife Refuge System Administration Act, as amended, referred to in subsec. (b), consists of sections 4 and 5 of Pub. L. 89–669, Oct. 15, 1966, 80 Stat. 927, as amended, and is classified to sections 668dd, 668ee of this title. For further details, see Short Title note set out under section 668dd of this title.

Clothing-Optional Areas Prohibited

Pub. L. 108–108, title I, § 126, Nov. 10, 2003, 117 Stat. 1269, provided that: ''None of the funds made available in this or any other Act for any fiscal year may be used to designate, or to post any sign designating, any portion of Canaveral National Seashore in Brevard County, Florida, as a clothing-optional area or as an area in which public nudity is permitted, if such designation would be contrary to county ordinance.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–7, div. F, title I, § 128, Feb. 20, 2003, 117 Stat. 242.

Pub. L. 107–63, title III, § 313, Nov. 5, 2001, 115 Stat. 467.

Pub. L. 106–291, title III, § 316, Oct. 11, 2000, 114 Stat. 989.

Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 317], Nov. 29, 1999, 113 Stat. 1535, 1501A–192.

Pub. L. 105–277, div. A, § 101(e) [title III, § 318], Oct. 21, 1998, 112 Stat. 2681–231, 2681–289.

Pub. L. 105–83, title III, § 328, Nov. 14, 1997, 111 Stat. 1600.

§ 459j–5. Canaveral National Seashore Advisory Commission

(a) Establishment; duties; termination; membership; term of members; appointment; Chairman

There is hereby established the Canaveral National Seashore Advisory Commission which shall consult and advise with the Secretary on all matters of planning, development, and operation of the seashore and shall provide such other advice and assistance as may be useful in carrying out the purposes of sections 459j to 459j–8 of this title. The Commission shall terminate ten years after the date the seashore is established pursuant to sections 459j to 459j–8 of this title, unless extended by the Congress. The Commission shall be composed of six members who shall serve for terms of two years. Members shall be appointed by the Secretary, one of whom he shall designate as Chairman, in the following manner:

(1) one member from each county in which the seashore is located, to be selected from recommendations made by the county commission in each county;

(2) two members representing the State of Florida who shall be selected from recommendations made by the Governor of Florida; and

(3) two members representing the general public: *Provided*, That one member shall be appointed from each county in which the seashore is located.

(b) Meetings; vacancies

After the Secretary designates the member to be Chairman, the Commission may meet as often as necessary at the call of the Chairman or of the Secretary, or upon petition of a majority of the members of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment was made.

(c) Compensation; payment of expenses upon vouchers

Members of the Commission shall serve without compensation, as such, but the Secretary may pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Commission and its members in carrying out their responsibilities under this section.

(Pub. L. 93–626, § 6, Jan. 3, 1975, 88 Stat. 2124; Pub. L. 94–398, Sept. 4, 1976, 90 Stat. 1204.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–398 substituted ''six members'' for ''five members'' in introductory provisions and substituted ''two'' for ''one'' and inserted requirement relating to residency of each member in cl. (3).

§ 459j–6. Transfer of lands for use as administrative and visitor facilities to Secretary of the Interior; use of portion of John F. Kennedy Space Center; transfer of excess land within seashore to Secretary of the Interior

On January 3, 1975, those lands to be used for the administrative and visitor facilities described in section 459j–4(c)(1) of this title shall be transferred by sections 459j to 459j–8 of this title to the Secretary of the Interior and those portions of the John F. Kennedy Space Center falling within the boundaries of the seashore as defined in section 459j of this title shall become a part of the seashore, and within ninety days thereafter, the Administrator, National Aeronautics and Space Administration, shall grant to the Secretary for carrying out the intent and purpose of sections 459j to 459j–8 of this title such use of said portions as the Administrator determines is not inconsistent with public safety and the needs of the space and defense programs of the Nation. Notwithstanding any other provision of law, any lands within the seashore which the Administrator determines to be excess to the needs of such agency shall be transferred to the Secretary of the Interior for administration in accordance with the provisions of sections 459j to 459j–8 of this title: *Provided*, That any portions of the John F. Kennedy Space Center within the seashore not transferred to the Secretary shall remain under the control and jurisdiction of the Administrator.

(Pub. L. 93–626, § 7, Jan. 3, 1975, 88 Stat. 2125.)

§ 459j–7. Report to President

Within three years from January 3, 1975, the Secretary shall review the area within the seashore and shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendations as to the suitability or nonsuitability of any area within the seashore for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with section 1132(c) and (d) of this title.

(Pub. L. 93–626, § 8, Jan. 3, 1975, 88 Stat. 2125.)

§ 459j–8. Authorization of appropriations; reports to Congressional committees

(a) Acquisition of lands and interests in lands

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 459j to 459j–8 of this title, but not more than $7,941,000 for the acquisition of lands and interests in lands. In order to avoid excessive costs resulting from delays in the acquisition program, the Secretary shall make every reasonable effort to promptly acquire the privately owned lands within the seashore. Until all such lands are acquired, he shall report, in writing on June 30 of each year to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, the following information:

(1) the amount of land acquired during the current fiscal year and the amount expended therefor;

(2) the amount of land remaining to be acquired; and

(3) the amount of land programed for acquisition in the ensuing fiscal year and the estimated cost thereof.

(b) Development of essential public facilities

For the development of essential public facilities there are authorized to be appropriated $2.6 million in addition to the sums previously appropriated.

(Pub. L. 93–626, § 9, Jan. 3, 1975, 88 Stat. 2125; Pub. L. 100–564, § 2, Oct. 31, 1988, 102 Stat. 2831; Pub. L. 103–437, § 6(m), Nov. 2, 1994, 108 Stat. 4586.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–437, § 6(m)(1), in introductory provisions substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives'' for ''Committees on Interior and Insular Affairs of the United States Congress''.

Subsec. (b). Pub. L. 103–437, § 6(m)(2), struck out at end ''Within three years from January 3, 1975, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the full development of the seashore consistent with the preservation objectives of sections 459j to 459j–8 of this title, indicating:

''(1) the facilities needed to accommodate the health, safety, and recreation needs of the visiting public;

''(2) the location and estimated cost of all facilities; and

''(3) the projected need for any additional facilities within the seashore.''

1988—Subsec. (b). Pub. L. 100–564 substituted ''$2.6 million in addition to the sums previously appropriated'' for ''not more than $500,000''.

SUBCHAPTER LXIV—RECREATIONAL DEMONSTRATION PROJECTS

§ 459r. Disposition of recreational demonstration projects

Except as provided in section 459s of this title, the Secretary of the Interior is authorized, with the approval of the President, to convey or lease to the States or to the political subdivisions thereof, without consideration, any or all of the recreational demonstration projects and lands, improvements, and equipment comprised within such projects transferred to him by Executive Order Numbered 7496, dated November 14, 1936, or any parts of such projects, when in his judgment such grantees or lessees are adequately prepared to administer, operate, and maintain such project areas for public park, recreational, and conservation purposes, or he may, with the approval of the President, transfer to other Federal agencies any of the aforesaid recreational demonstration areas that may be of use to such agencies.

(June 6, 1942, ch. 380, § 1, 56 Stat. 326.)

DELEGATION OF FUNCTIONS

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

SILVER CREEK PROJECT

Act July 30, 1947, ch. 351, 61 Stat. 519, provided: ''That, in order to carry out the purposes of the act of June 6, 1942 [56 Stat. 326; sections 459r to 459t of this title], relating to the disposition of recreational demonstration areas, and to effectuate the transfer to the State of Oregon, pursuant to that act, of the Silver Creek recreational demonstration project, the following-described revested Oregon and California Railroad grant lands shall hereafter be administered as a part of the Silver Creek recreational demonstration project and shall be subject to all of the provisions of the aforesaid Act of June 6, 1942:

''WILLAMETTE MERIDIAN

''Township 8 south, range 1 east:

''Section 13, east half southeast quarter and southeast quarter northeast quarter;

''Section 25, all;

''Section 35, north half northeast quarter northeast quarter and north half south half northeast quarter northeast quarter;

''Township 8 south, range 2 east:

''Section 17, south half southwest quarter and northwest quarter southwest quarter;

''Section 19, lots 3, 4, and northeast quarter;

''Section 29, west half; and

''Section 31, north half;

comprising one thousand seven hundred and ninety-one and ninety-three one-hundredths acres.

''SEC. 2. The following-described lands also shall become a part of the Silver Creek recreational demonstration project and shall be subject to the provisions of the act of June 6, 1942, upon acquisition of title thereto by the Oregon and California Revested Lands Administration:

''WILLAMETTE MERIDIAN

''Township 8 south, range 1 east: Section 36, northeast quarter, northeast quarter northwest quarter, north half southeast quarter northwest quarter, north half south half southeast quarter northwest quarter, north half northwest quarter northwest quarter, and north half south half northwest quarter northwest quarter; comprising two hundred and sixty acres.''

EX. ORD. NO. 7496. TRANSFER OF RECREATIONAL DEMONSTRATION PROJECTS

Ex. Ord. No. 7496, Nov. 14, 1936, 1 F.R. 1946, provided:

By virtue of and pursuant to the authority vested in me by Title II of the National Industrial Recovery Act (48 Stat. 200) (title 15, sections 701 to 712), the Emergency Relief Appropriation Act of 1935 (49 Stat. 115), and the Emergency Relief Appropriation Act of 1936 (Public, No. 739, 74th Congress), (title 15, ch. 16 note) I hereby order as follows:

1. There is transferred from the Resettlement Administration to the Secretary of the Interior (a) all the real and personal property or any interest therein, together with all contracts, options, rights and interests, books, papers, memoranda, records, etc., acquired by the Resettlement Administration in connection with the recreational demonstration projects set forth in the attached schedule with funds appropriated or made available to carry out the provisions of the National Industrial Recovery Act by the Fourth Deficiency Act, fiscal year 1933 (48 Stat. 274, 275), and by the Emergency Appropriation Act, fiscal year 1935 (48 Stat. 1055), and with funds appropriated by the Emergency Relief Appropriation Act of 1935 (49 Stat. 115), and by the Emergency Relief Appropriation Act of 1936 (Public No. 739, 74th Congress), (title 15, ch. 16 note) and (b) all personnel, whether in the District of Columbia or elsewhere, now employed in connection with the acquisition of land for those recreational demonstration projects, together with all administration personnel records pertaining to the employees transferred, and to those employees engaged in development activities as of July 31, 1936, who were released by the Resettlement Administration on that date to permit the Department of the Interior to enter them on its rolls as of August 1.

2. There is transferred and allocated to the Secretary of the Interior all balances of appropriations heretofore made available to or allotted for expenditure by the Resettlement Administration both for acquiring land for the recreational demonstration projects set forth in the attached schedule and for developing those projects, under the said National Industrial Recovery Act, Fourth Deficiency Act, fiscal year 1933, Emergency Appropriation Act, fiscal year 1935, Emergency Relief Appropriation Act of 1935, and Emergency Relief Appropriation Act of 1936, to be used for the purposes for which such funds were made available or allotted to the Resettlement Administration. The Secretary of the Interior shall assume all outstanding obligations, com-

mitments, and encumbrances heretofore incurred by the Resettlement Administration in connection with the said projects.

3. The Secretary of the Interior is authorized, through the National Park Service, to complete and administer the projects transferred to him by this Executive Order and to exercise with respect to any real or personal property or any interest therein, contracts, options, rights and interests, books, papers, memoranda, and records acquired in connection with such projects, all the powers and functions given to the Resettlement Administration in connection therewith by Executive Orders Nos. 7027 and 7028 of April 30, 1935, and April 30, 1935, respectively.

4. The Secretary of the Interior is authorized to prescribe such rules and regulations as may be necessary to carry out the administrative functions transferred and delegated to him by this Executive Order.

Schedule of Recreational Demonstration Projects

OP No.	*RA No.*	*Name*
65–11–24	LD–ME–2	Camden Hills
56–143	LP–ME–2	Camden Hills
65–11–25	LD–ME–3	Acadia
56–144	LP–ME–3	Acadia
65–25–340	LD–MD–4	Catoctin
56–147	LP–MD–4	Catoctin
65–13–145	LD–NH–1	Bear Brook
56–183	LP–NH–1	Bear Brook
65–23–3466	LD–PA–6	Racoon Creek
56–232	LP–PA–6	Racoon Creek
65–23–3467	LD–PA–7	French Creek
56–233	LP–PA–7	French Creek
65–23–3468	LD–PA–8	Laurel Hill
56–234	LP–PA–8	Laurel Hill
65–23–3469	LD–PA–11	Blue Knob
56–235	LP–PA–11	Blue Knob
65–23–3470	LD–PA–12	Hickory Run
56–236	LP–PA–12	Hickory Run
65–16–365	LD–RI–2	Beach Pond
56–238	LP–RI–2	Beach Pond
65–51–3019	LD–MI–4	Waterloo
56–152	LP–MI–4	Waterloo
65–51–3020	LD–MI–6	Yankee Springs
56–153	LP–MI–6	Yankee Springs
65–71–4637	LD–MN–7	St. Croix
56–160	LP–MN–7	St. Croix
65–54–1683	LD–IL–5	Pere Marquette
56–126	LP–IL–5	Pere Marquette
65–52–2067	LD–IN–5	Versailles
56–129	LP–IN–5	Versailles
65–52–2068	LD–IN–6	Winemac
56–130	LP–IN–6	Winemac
65–55–2838	LD–MO–6	Lake of the Ozarks
56–167	LP–MO–6	Lake of the Ozarks
65–55–2839	LD–MO–7	Cuivre River
56–168	LP–MO–7	Cuivre River
65–55–2840	LD–MO–8	Montserrat
56–169	LP–MO–8	Montserrat
65–43–1491	LD–KY–4	Otter Creek
56–136	LP–KY–4	Otter Creek
65–32–1133	LD–NC–8	Crabtree Creek
56–203	LP–NC–8	Crabtree Creek
65–32–1134	LD–NC–11	Appalachian National Parkway (Blue Ridge Parkway)
56–204	LP–NC–11	Appalachian National Parkway (Blue Ridge Parkway)
65–44–1315	LD–TN–11	Montgomery Bell
56–266	LP–TN–11	Montgomery Bell
65–44–1316	LD–TN–12	Shelby Forest Park
56–267	LP–TN–12	Shelby Forest Park
65–44–1317	LD–TN–13	Falls Creek Falls
56–268	LP–TN–13	Falls Creek Falls
65–31–1155	LD–VA–5	Swift Creek
56–277	LP–VA–5	Swift Creek
65–31–1156	LD–VA–6	Chopawamsic
56–278	LP–VA–6	Chopawamsic
65–31–1158	LD–VA–7	Shenandoah National Park
56–279	LP–VA–7	Shenandoah National Park
65–31–1516	LD–VA–8	Appalachian National Park
56–280	LP–VA–8	Appalachian National Park
65–31–1157	LD–VA–9	Bull Run
56–281	LP–VA–9	Bull Run
65–31–1159	LD–VA–13	Waysides
56–282	LP–VA–13	Waysides
65–61–1184	LD–AL–11	Oak Mountain
56–96	LP–AL–11	Oak Mountain
65–34–3167	LD–GA–9	Hard Labor Creek
56–120	LP–GA–9	Hard Labor Creek
65–34–3168	LD–GA–11	Alex Stephens Memorial
56–121	LP–GA–11	Alex Stephens Memorial
65–34–3169	LD–GA–12	Pine Mountain
56–122	LP–GA–12	Pine Mountain
65–33–1838	LD–SC–7	Cheraw
56–243	LP–SC–7	Cheraw
65–33–1839	LD–SC–8	Kings Mountain
56–244	LP–SC–8	Kings Mountain

Schedule of Recreational Demonstration Projects—Continued

OP No.	*RA No.*	*Name*
65–33–1840	LD–SC–12	Waysides
56–245	LP–SC–12	Waysides
65–73–221	LD–ND–12	Roosevelt Park
56–216	LP–ND–12	Roosevelt Park
65–74–1475	LD–SD–14	Badlands
56–259	LP–SD–14	Badlands
65–74–1476	LD–SD–15	Custer Park
56–260	LP–SD–15	Custer Park
65–65–695	LD–OK–9	Lake Murray
56–225	LP–OK–9	Lake Murray
65–03–1801	LD–CF–5	Mendocino Woodlands
56–104	LP–CF–5	Mendocino Woodlands
65–83–245	LD–WY–2	Lake Guernsey
56–297	LP–WY–2	Lake Guernsey
65–94–677	LD–OR–4	Silver Creek
56–299	LP–OR–4	Silver Creek
65–85–932	LD–NM–14	White Sands
56–197	LP–NM–14	White Sands

§ 459s. Lands for certain projects added to certain projects

After June 6, 1942, the lands acquired for the Acadia, French Creek, Shenandoah, and White Sands recreational demonstration projects shall be added to and become a part of Acadia National Park, Hopewell Village National Historic Site, Shenandoah National Park, and White Sands National Monument, in the order named above, subject to all laws, rules, and regulations applicable to the respective areas to which such recreational demonstration projects are added.

(June 6, 1942, ch. 380, § 2, 56 Stat. 327.)

CODIFICATION

Proviso directing the Secretary of the Interior to file with the National Archives within six months after June 6, 1942, a map of each recreational demonstration project enumerated in the section has been omitted as executed.

HOPEWELL VILLAGE BOUNDARY REVISION

Act July 24, 1946, ch. 604, 60 Stat. 655, provided: ''That the Secretary of the Interior is hereby authorized to withdraw from the Hopewell Village National Historic Site, Pennsylvania, all or any part of the lands added to the Hopewell Village National Historic Site by the act approved June 6, 1942, entitled 'An Act to authorize the disposition of recreational demonstration projects, and for other purposes [sections 459r to 459t of this title]', which in his opinion are not required for historic-site purposes. Any lands so withdrawn shall revert to the status of a recreational demonstration area.''

SILVER CREEK RECREATIONAL DEMONSTRATION PROJECT

Act June 9, 1947, ch. 100, 61 Stat. 129, provided: ''That for the purpose of consolidating Federal holdings of lands acquired for the Silver Creek recreational demonstration project, in the State of Oregon, the Secretary of the Interior is hereby authorized to exchange any such lands for other lands of approximately equal value when in his opinion such action is in the interest of the United States, the title to any lands acquired hereunder to be satisfactory to the Attorney General. Upon the vesting of title thereto in the United States, any lands acquired pursuant to this authorization shall become a part of the Silver Creek recreational demonstration project, and shall be subject to the laws applicable thereto.

''SEC. 2. Upon the conveyance of the Silver Creek recreational demonstration project to the State of Oregon, or political subdivision thereof, pursuant to the Act of June 6, 1942 (56 Stat. 326) [sections 459r to 459t of this title], the Secretary of the Interior may authorize the grantee to exchange or otherwise dispose of any lands so conveyed in order to acquire other lands of approxi-

mately equal value for the purpose of consolidating the holdings of the grantee, the title to lands so acquired to be satisfactory to the Attorney General. For the aforesaid purpose the Secretary is authorized to execute a release, as to the particular lands involved, of any condition providing for a reversion of title to the United States, that may be contained in the conveyance by the United States to said grantee. No such release shall be executed, however, unless the grantee shall agree, in form satisfactory to the Secretary, that the lands to be acquired by it shall be subject to the conditions contained in the original conveyance from the United States, except that, in lieu of a provision for reversion, the grantee shall agree to convey said lands to the United States upon a finding by the Secretary in accordance with the procedure provided in said Act of June 6, 1942, that the grantee has not complied with such conditions during a period of more than three years. Lands so conveyed to the United States shall be subject to administration or disposition in like manner as recreational demonstration project lands that revert to the United States under the terms of the aforesaid Act.''

CATOCTIN RECREATIONAL DEMONSTRATION AREA

Act Aug. 24, 1954, ch. 903, 68 Stat. 791, provided: ''That the Secretary of the Interior, for the purpose of consolidating Federal holdings of land acquired for the Catoctin recreational demonstration area, Frederick County, Maryland, is hereby empowered, in his discretion, to obtain for the United States land and interests in lands held in private ownership within the established watersheds and boundaries of said recreational demonstration area by accepting from the owners of such privately owned land complete relinquishment thereof, and the Secretary may grant to such owners in exchange therefor, in each instance, federally owned lands of approximately equal value now a part of the Catoctin recreational demonstration area, that he considers are not essential for the administration, control, and operation of the aforesaid recreational demonstration area. Any land acquired by the United States pursuant to this authorization shall become a part of the Catoctin recreational demonstration area upon the vesting of title in the United States, and shall be subject to the laws applicable thereto.''

§ 459t. Secretary of the Interior authorized to execute deeds and leases for project lands; inclusion of conditional covenants

The Secretary of the Interior is authorized to execute on behalf of the United States all necessary deeds and leases to effect the purposes of sections 459r to 459t of this title. Every such deed or lease shall contain the express condition that the grantee or lessee shall use the property exclusively for public park, recreational, and conservation purposes, and the further express condition that the United States assumes no obligation for the maintenance or operation of the property after the acceptance of such deed or during the term of such lease, and may contain such other conditions not inconsistent with such express conditions as may be agreed upon by the Secretary and the grantee or lessee: *Provided*, That the title and right to possession of any lands so conveyed or leased, together with the improvements thereon, shall revert to the United States upon a finding by the Secretary, after notice to such grantee or lessee and after an opportunity for a hearing, that the grantee or lessee has not complied with such conditions during a period of more than three years, which finding shall be final and conclusive, and such lands and improvements thereon, upon such reversion to the United States, shall be returned to the jurisdiction of the Department of the Interior and upon determination of the Secretary may be considered as surplus real property to be disposed of in accordance with section 1303 of title 40.

(June 6, 1942, ch. 380, § 3, 56 Stat. 327.)

CODIFICATION

''Section 1303 of title 40'' substituted in text for ''the Act of August 27, 1935 (49 Stat. 885)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 459u. Exchange of recreational demonstration project lands by grantee

In order to facilitate the administration of former recreational demonstration project lands and to consolidate the holdings of the grantees to whom such lands have been or may be granted pursuant to sections 459r to 459t of this title, the Secretary of the Interior may authorize any such grantee to exchange or otherwise dispose of any lands or interests in lands conveyed to it in order to acquire other lands or interests therein of approximately equal value.

For the aforesaid purpose, the Secretary is authorized to execute a release, as to the particular lands involved, of any condition providing for a reversion of title to the United States, that may be contained in the conveyance by the United States to said grantee. No such release shall be executed, however, unless the grantee shall agree, in form satisfactory to the Secretary, that the lands to be acquired by it shall be subject to the conditions contained in the original conveyance from the United States, except that in lieu of a provision for reversion, the grantee shall agree to convey said lands to the United States upon a finding by the Secretary in accordance with the procedure provided in said sections, that the grantee has not complied with such conditions during a period of more than three years. Lands so conveyed to the United States shall be subject to administration or disposition in like manner as recreational demonstration project lands that revert to the United States under the terms of the aforesaid sections.

(Aug. 3, 1950, ch. 522, 64 Stat. 399.)

SUBCHAPTER LXV—NATIONAL PARKWAYS

§ 460. Natchez Trace Parkway

All lands and easements heretofore and hereafter conveyed to the United States by the States of Mississippi, Alabama, and Tennessee for the right-of-way for the projected parkway between Natchez, Mississippi, and Nashville, Tennessee, together with sites acquired or to be acquired for recreational areas in connection therewith, and a right-of-way for said parkway of a width sufficient to include the highway and all bridges, ditches, cuts, and fills appurtenant thereto, but not exceeding a maximum of two hundred feet through Government-owned lands (except that where small parcels of Government-owned lands would otherwise be isolated, or where topographic conditions or scenic requirements are such that bridges, ditches, cuts, fills,

parking overlooks, and landscape development could not reasonably be confined to a width of two hundred feet, the said maximum may be increased to such width as may be necessary, with the written approval of the department or agency having jurisdiction over such lands) as designated on maps heretofore or hereafter approved by the Secretary of the Interior, shall be known as the Natchez Trace Parkway and shall be administered and maintained by the Secretary of the Interior through the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, the provisions of which sections, as amended and supplemented, are extended over and made applicable to said parkway: *Provided*, That the Secretary of Agriculture is authorized, with the concurrence of the Secretary of the Interior, to connect with said parkway such roads and trails as may be necessary for the protection, administration, or utilization of adjacent and nearby national forests and the resources thereof: *And provided further*, That the Forest Service and the National Park Service shall, insofar as practicable, coordinate and correlate such recreational developments as each may plan, construct, or permit to be constructed, on lands within their respective jurisdictions, which, by mutual agreement, should be given special treatment for recreational purposes.

(May 18, 1938, ch. 251, § 1, 52 Stat. 407.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Administrator of General Services transferred to Secretary of Commerce by Reorg. Plan No. 7 of 1949, § 2, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1070, set out in the Appendix to Title 5.

Functions, powers, and duties of Secretary of Commerce and other officers and offices of Department of Commerce relating generally to highways under Reorg. Plan No. 7 of 1949 transferred to and vested in Secretary of Transportation by Pub. L. 89–670, § 6(a)(1)(M), Oct. 15, 1966, 80 Stat. 938. Reorg. Plan No. 7 of 1949 was amended by section 2(b) of Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2439, to reflect such transfer.

Functions of Federal Works Agency and of all agencies thereof, together with functions of Federal Works Administrator transferred to Administrator of General Services by section 103(a) of act June 30, 1949, ch. 288, title I, 63 Stat. 380. Both Federal Works Agency and office of Federal Works Administrator abolished by section 103(b) of that act. See Historical and Revision Notes under section 303(b) of Title 40, Public Buildings, Property, and Works. Section 303(b) of Title 40 was amended generally by Pub. L. 109–313, § 2(a)(1), Oct. 6, 2006, 120 Stat. 1734, and, as so amended, no longer relates to the Federal Works Agency and Commissioner of Public Buildings. See 2006 Amendment note under section 303 of Title 40.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949, as effective July 1, 1949, see section 605, formerly § 505, of act June 30, 1949, ch. 288, 63 Stat. 403; renumbered by act Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583.

ADJUSTMENT OF BOUNDARY OF PARKWAY

Pub. L. 106–527, Nov. 22, 2000, 114 Stat. 2515, provided that:

''SECTION 1. DEFINITIONS.

''In this Act:

''(1) PARKWAY.—The term 'Parkway' means the Natchez Trace Parkway, Mississippi.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''SEC. 2. BOUNDARY ADJUSTMENT AND LAND ACQUISITION.

''(a) IN GENERAL.—The Secretary shall adjust the boundary of the Parkway to include approximately—

''(1) 150 acres of land, as generally depicted on the map entitled 'Alternative Alignments/Area', numbered 604–20062A and dated May 1998; and

''(2) 80 acres of land, as generally depicted on the map entitled 'Emerald Mound Development Concept Plan', numbered 604–20042E and dated August 1987.

''(b) MAPS.—The maps referred to in subsection (a) shall be on file and available for public inspection in the office of the Director of the National Park Service.

''(c) ACQUISITION.—The Secretary may acquire the land described in subsection (a) by donation, purchase with donated or appropriated funds, or exchange (including exchange with the State of Mississippi, local governments, and private persons).

''(d) ADMINISTRATION.—Land acquired under this section shall be administered by the Secretary as part of the Parkway.

''SEC. 3. AUTHORIZATION OF LEASING.

''The Secretary, acting through the Superintendent of the Parkway, may lease land within the boundary of the Parkway to the city of Natchez, Mississippi, for any purpose compatible with the Parkway.

''SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this Act.''

RELOCATION OF PORTIONS OF PARKWAY

Pub. L. 85–746, Aug. 25, 1958, 72 Stat. 839, provided: ''That the Secretary of the Interior is authorized to enter into an agreement with the Pearl River Valley Water Supply District which shall provide for the district, upon terms and conditions which the Secretary determines are in the public interest, to relocate those portions of sections 3–O and 3–N of the Natchez Trace Parkway in Madison County, Mississippi, required in connection with the Pearl River Reservoir.

''SEC. 2. To cooperate in the relocation, the Secretary of the Interior is authorized to transfer to the Pearl River Valley Water Supply District the aforesaid portions of the existing Natchez Trace Parkway lands and roadway in exchange for the contemporaneous transfer to the United States of relocated parkway lands and roadway situated and constructed in accordance with the terms and conditions of the agreement authorized by the first section of this Act: *Provided*, That such exchange shall be made on the basis of approximately equal values.

''SEC. 3. The Secretary of the Interior is authorized to accept and to use until expended without additional authority any funds provided by the district for the purpose of this Act pursuant to agreement with the Secretary of the Interior, and any such funds shall be placed in a separate account in the Treasury which shall be available for such purpose.''

LANDS IN FRENCH CAMP

The Secretary of the Interior was authorized to relinquish or modify certain restrictions upon the use of privately owned lands in the village of French Camp along the Natchez Trace Parkway by act Jan. 7, 1941, ch. 939, 54 Stat. 1227.

§ 460–1. Inclusion of Ackia Battleground National Monument and Meriwether Lewis National Monument

To facilitate the administration of two areas of the national park system, known as Ackia

Battleground National Monument, Mississippi, and Meriwether Lewis National Monument, Tennessee, those areas are included in the Natchez Trace Parkway, which they adjoin; and they shall be administered as a part of the parkway. In order to provide continued recognition of the significance of these portions of the parkway, the Secretary of the Interior shall provide them with appropriate designations in accordance with the historical events which occurred on them.

(Pub. L. 87–131, Aug. 10, 1961, 75 Stat. 335.)

§ 460a. Licenses or permits for right-of-way over parkway lands

In the administration of the Natchez Trace Parkway, the Secretary of the Interior may issue revocable licenses or permits for rights-of-way over, across, and upon parkway lands, or for the use of parkway lands by the owners or lessees of adjacent lands, for such purposes and under such nondiscriminatory terms, regulations, and conditions as he may determine to be not inconsistent with the use of such lands for parkway purposes.

(May 18, 1938, ch. 251, § 2, 52 Stat. 408.)

§ 460a–1. Acceptance of lands conveyed for Blue Ridge or Natchez Trace Parkways

The Secretary of the Interior is authorized, in his discretion, to approve and accept, on behalf of the United States, title to any lands and interests in land heretofore or hereafter conveyed to the United States for the purposes of the Blue Ridge or the Natchez Trace Parkways, or for recreational areas in connection therewith.

(June 30, 1936 ch. 883, § 3, as added June 8, 1940, ch. 277, 54 Stat. 250.)

§ 460a–2. Blue Ridge Parkway; establishment; administration and maintenance

All lands and easements heretofore or hereafter conveyed to the United States by the States of Virginia and North Carolina for the right-of-way for the projected parkway between the Shenandoah and Great Smoky Mountains National Parks, together with sites acquired or to be acquired for recreational areas in connection therewith, and a right-of-way for said parkway of a width sufficient to include the highway and all bridges, ditches, cuts, and fills appurtenant thereto, but not exceeding a maximum of two hundred feet through Government-owned lands (except that where small parcels of Government-owned lands would otherwise be isolated, or where topographic conditions or scenic requirements are such that bridges, ditches, cuts, fills, parking overlooks, landscape development, recreational and other facilities requisite to public use of said parkway could not reasonably be confined to a width of two hundred feet, the said maximum may be increased to such width as may be necessary, with the written approval of the department or agency having jurisdiction over such lands) as designated on maps heretofore or hereafter approved by the Secretary of the Interior, shall be known as the Blue Ridge Parkway and shall be administered and maintained by the Secretary of the Interior through the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, the provisions of which sections, as amended and supplemented, are extended over and made applicable to said parkway: *Provided*, That the Secretary of Agriculture is authorized, with the concurrence of the Secretary of the Interior, to connect with the parkway such roads and trails as may be necessary for the protection, administration, or utilization of adjacent and nearby national forests and the resources thereof: *And provided further*, That the Forest Service and the National Park Service shall, insofar as practicable, coordinate and correlate such recreational development as each may plan, construct, or permit to be constructed, on lands within their respective jurisdictions which, by mutual agreement, should be given special treatment for recreational purposes.

(June 30, 1936, ch. 883, § 1, 49 Stat. 2041; June 8, 1940, ch. 277, 54 Stat. 249.)

AMENDMENTS

1940—Act June 8, 1940, inserted exceptions set out in parenthesis.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Administrator of General Services transferred to Secretary of Commerce by Reorg. Plan No. 7 of 1949, § 2, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1070, set out in the Appendix to Title 5.

Functions, powers, and duties of Secretary of Commerce and other officers and offices of Department of Commerce relating generally to highways under Reorg. Plan No. 7 of 1949 transferred to and vested in Secretary of Transportation by Pub. L. 89–670, § 6(a)(1)(M), Oct. 15, 1966, 80 Stat. 938. Reorg. Plan No. 7 of 1949 was amended by section 2(b) of Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2439, to reflect such transfer.

Functions of Federal Works Agency and of all agencies thereof, together with functions of Federal Works Administrator transferred to Administrator of General Services by section 103(a) of act June 30, 1949, ch. 288, title I, 63 Stat. 380. Both Federal Works Agency and office of Federal Works Administrator abolished by section 103(b) of that act. See Historical and Revision Notes under section 303(b) of Title 40, Public Buildings, Property, and Works. Section 303(b) of Title 40 was amended generally by Pub. L. 109–313, § 2(a)(1), Oct. 6, 2006, 120 Stat. 1734, and, as so amended, no longer relates to the Federal Works Agency and Commissioner of Public Buildings. See 2006 Amendment note under section 303 of Title 40.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949, as effective July 1, 1949, see section 605, formerly § 505, of act June 30, 1949, ch. 288, 63 Stat. 403; renumbered by act Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583.

§ 460a–3. Licenses or permits to owners of adjacent lands

In the administration of the Blue Ridge Parkway, the Secretary of the Interior may issue revocable licenses or permits for rights-of-way over, across, and upon parkway lands, or for the use of parkway lands by the owners or lessees of adjacent lands, for such purposes and under such

nondiscriminatory terms, regulations, and conditions as he may determine to be not inconsistent with the use of such lands for parkway purposes.

(June 30, 1936, ch. 883, § 2, as added June 8, 1940, ch. 277, 54 Stat. 250.)

§ 460a–4. Transfer of jurisdiction to Secretary of Agriculture; national forest lands

When in his judgment the public interest will be served thereby, the Secretary of the Interior is authorized, upon concurrence of the Secretary of Agriculture, to transfer to the jurisdiction of the Secretary of Agriculture for national forest purposes lands or interests in lands acquired for or in connection with the Blue Ridge Parkway. Lands transferred under this section shall become national forest lands subject to all laws, rules, and regulations applicable to lands acquired pursuant to the Weeks Law of March 1, 1911 (36 Stat. 961), as amended.

(May 13, 1952, ch. 263, 66 Stat. 69.)

REFERENCES IN TEXT

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

§ 460a–5. Acquisition of land contiguous to Blue Ridge or Natchez Trace Parkways

In order to consolidate, on the Blue Ridge Parkway and the Natchez Trace Parkway, the land forming each such parkway, to adjust ownership lines, and to eliminate hazardous crossings of and accesses to these parkways, the Secretary of the Interior is authorized to acquire, by purchase or exchange, land and interests in land contiguous to the parkways. In consummating exchanges under this section, the Secretary may transfer parkway land, interests therein, and easements: *Provided*, That the property rights so exchanged shall be approximately equal in value.

(Pub. L. 87–76, June 30, 1961, 75 Stat. 196.)

BLUE RIDGE PARKWAY AND TOWN OF BLOWING ROCK LAND EXCHANGE

Pub. L. 111–167, May 24, 2010, 124 Stat. 1188, known as the Blue Ridge Parkway and Town of Blowing Rock Land Exchange Act of 2009, provided for land exchange between the National Park Service and the Town of Blowing Rock, North Carolina, by requiring the Secretary of the Interior to exchange approximately 20 acres of land within the boundary of the Blue Ridge Parkway, known as Blowing Rock Reservoir, for approximately 192 acres of land owned by the Town, known as Town of Blowing Rock Exchange Lands, not later than three years after May 24, 2010, and subject to applicable laws and certain terms and conditions and to equalization of land values, adjustment of the boundary of the Blue Ridge Parkway, administration of lands acquired by the Secretary, and future disposition of the reservoir property.

LAND EXCHANGE IN GREAT SMOKY MOUNTAINS NATIONAL PARK

Pub. L. 108–108, title I, § 138, Nov. 10, 2003, 117 Stat. 1271, known as the Eastern Band of Cherokee Indians Land Exchange Act of 2003, provided for land exchange between National Park Service and Eastern Band of Cherokee Indians, by directing Secretary of the Interior to exchange the Ravensford tract, in the Great Smoky Mountains National Park and the Blue Ridge Parkway, for the Yellow Face tract adjacent to the Waterrock Knob Visitor Center on the Blue Ridge Parkway; stated congressional findings and purposes for such land exchange; contained descriptions and provision relating to treatment of exchanged lands; set forth implementation process; and prohibited gaming on the Ravensford tract.

§ 460a–6. Blue Ridge Parkway extension; acceptance of lands; public use, administration, and maintenance areas; survey location of parkway extension crossing national forest land; transfer from Federal agency to administrative jurisdiction of Secretary of the Interior; national forest uses following transfer within national forest

The Secretary of the Interior is authorized to accept, on behalf of the United States, donations of land and interests in land in the States of North Carolina and Georgia, to construct thereon an extension of the Blue Ridge Parkway from the vicinity of Beech Gap, North Carolina, to the vicinity of Kennesaw Mountain National Battlefield Park north of Atlanta and Marietta, Georgia, and to provide public use, administration, and maintenance areas in connection therewith. The lands accepted for the parkway extension may vary in width but shall average not more than one hundred and twenty-five acres per mile in fee simple plus not more than twenty-five acres per mile in scenic easements. The survey location and width of any portion of the parkway extension that crosses national forest land shall be jointly determined by the Secretary of the Interior and the Secretary of Agriculture. Where the parkway extension designated by the Secretary of the Interior traverses Federal lands, the head of the department or agency having jurisdiction over such lands is authorized to transfer to the Secretary of the Interior the part of the Federal lands mutually agreed upon as necessary for the construction, maintenance and administration of the parkway extension and public use thereof, without transfer of funds. Any such transfer within a national forest shall not preclude any national forest use that is compatible with parkway use and that is agreed upon by the Secretary of the Interior and the Secretary of Agriculture.

(Pub. L. 90–555, § 1, Oct. 9, 1968, 82 Stat. 967.)

§ 460a–7. Coordination of recreational development on parkway and national forest lands; administration of forest land recreational facilities and access road development by Secretary of Agriculture; forest road and Appalachian Trail relocation and reconstruction and alternative forest road provision by Secretary of the Interior

To effectuate the recommendations in the report to the Congress on the North Carolina-Georgia extension of the Blue Ridge Parkway, made pursuant to the Act of August 10, 1961 (75 Stat. 337)—

(1) The Secretary of the Interior and the Secretary of Agriculture shall, insofar as prac-

ticable, coordinate and correlate recreational development on lands within the parkway and adjacent or related national forests land: *Provided*, That within national forest boundaries recreational developments and facilities on Federal lands other than those actually within the national parkway shall be administered by the Secretary of Agriculture;

(2) Upon the request of the Secretary of Agriculture, the Secretary of the Interior shall relocate and reconstruct any national forest roads that may be disturbed by the parkway extension, or provide alternative roads that are necessary to the protection, administration, or utilization of the national forests, and shall allow access to areas to be developed by the Secretary of Agriculture on adjacent national forest lands unless to do so will materially impair the primary purposes of the parkway;

(3) The Secretary of the Interior may relocate and reconstruct portions of the Appalachian Trail, including trail shelters, that may be disturbed by the parkway extension and such relocation and reconstruction may be performed (A) on non-Federal lands when the Appalachian Trail Conference obtains the consent of the owner to the use of the lands for the purpose and agrees to assume maintenance thereof, and (B) upon national forest lands with the approval of the Secretary of Agriculture.

(Pub. L. 90–555, § 2, Oct. 9, 1968, 82 Stat. 968.)

REFERENCES IN TEXT

Act of August 10, 1961, referred to in text, is Pub. L. 87–135, Aug. 10, 1961, 75 Stat. 337, which was not classified to the Code.

§ 460a–8. Licenses or permits for rights-of-way over parkway lands

The Secretary of the Interior may issue revocable licenses or permits for rights-of-way over, across, and upon parkway lands, or for the use of parkway lands by the owners or lessees of adjacent lands, or for such purposes and under such terms and conditions as he may determine to be consistent with the use of such lands for parkway purposes.

(Pub. L. 90–555, § 3, Oct. 9, 1968, 82 Stat. 968.)

§ 460a–9. Part of Blue Ridge Parkway; administration and maintenance of parkway extension

The parkway extension herein authorized shall be a part of the Blue Ridge Parkway and shall be administered and maintained by the Secretary of the Interior in accordance with the laws and regulations applicable thereto, including section 460a–4 of this title.

(Pub. L. 90–555, § 4, Oct. 9, 1968, 82 Stat. 968.)

§ 460a–10. Transfer of national forest lands to Secretary of Agriculture

With the concurrence of the Secretary of Agriculture the Secretary of the Interior may transfer to the Secretary of Agriculture for national forest purposes lands or interests in lands within national forests acquired for, or in connection with, the parkway extension.

(Pub. L. 90–555, § 5, Oct. 9, 1968, 82 Stat. 968.)

§ 460a–11. Authorization of appropriations

There is hereby authorized to be appropriated, for construction of the Blue Ridge Parkway extension, not more than $87,536,000, plus or minus such amounts, if any, as may be justified by reason of fluctuations in construction costs as indicated by engineering cost indices applicable to the type of construction involved herein.

(Pub. L. 90–555, § 6, Oct. 9, 1968, 82 Stat. 968.)

§§ 460b, 460c. Repealed. Pub. L. 85–767, § 2 [19, 21, 23, 33], Aug. 27, 1958, 72 Stat. 919

Section 460b, acts June 16, 1936, ch. 582, § 5, 49 Stat. 1520; June 8, 1938, ch. 328, § 8, 52 Stat. 635; Sept. 5, 1940, ch. 715, § 9, 54 Stat. 870, related to determination of location of parkways upon public lands, national forests, or other Federal reservations.

Section 460c, act Sept. 7, 1950, ch. 912, § 4(b), 64 Stat. 787, related to administration of parkway appropriations.

SUBCHAPTER LXVI—PUBLIC PARK AND RECREATIONAL FACILITIES AT WATER RESOURCE DEVELOPMENT PROJECTS

§ 460d. Construction and operation of public parks and recreational facilities in water resource development projects; lease of lands; preference for use; penalty; application of section 3401 of title 18; citations and arrests with and without process; limitations; disposition of receipts

The Chief of Engineers, under the supervision of the Secretary of the Army, is authorized to construct, maintain, and operate public park and recreational facilities at water resource development projects under the control of the Department of the Army, to permit the construction of such facilities by local interests (particularly those to be operated and maintained by such interests), and to permit the maintenance and operation of such facilities by local interests. The Secretary of the Army is also authorized to grant leases of lands, including structures or facilities thereon, at water resource development projects for such periods, and upon such terms and for such purposes as he may deem reasonable in the public interest: *Provided*, That leases to nonprofit organizations for park or recreational purposes may be granted at reduced or nominal considerations in recognition of the public service to be rendered in utilizing the leased premises: *Provided further*, That preference shall be given to federally recognized Indian tribes and Federal, State, or local governmental agencies, and licenses or leases where appropriate, may be granted without monetary considerations, to such Indian tribes or agencies for the use of all or any portion of a project area for any public purpose, when the Secretary of the Army determines such action to be in the public interest, and for such periods of time and upon such conditions as he may find advisable: *And provided further*, That in any such lease or license to a federally recognized Indian tribe[1] Federal, State, or local governmental agency

[1] So in original.

which involves lands to be utilized for the development and conservation of fish and wildlife, forests, and other natural resources, the licensee or lessee may be authorized to cut timber and harvest crops as may be necessary to further such beneficial uses and to collect and utilize the proceeds of any sales of timber and crops in the development, conservation, maintenance, and utilization of such lands. Any balance of proceeds not so utilized shall be paid to the United States at such time or times as the Secretary of the Army may determine appropriate. The water areas of all such projects shall be open to public use generally for boating, swimming, bathing, fishing, and other recreational purposes, and ready access to and exit from such areas along the shores of such projects shall be maintained for general public use, when such use is determined by the Secretary of the Army not to be contrary to the public interest, all under such rules and regulations as the Secretary of the Army may deem necessary, including but not limited to prohibitions of dumping and unauthorized disposal in any manner of refuse, garbage, rubbish, trash, debris, or litter of any kind at such water resource development projects, either into the waters of such projects or onto any land federally owned and administered by the Chief of Engineers. Any violation of such rules and regulations shall be punished by a fine of not more than $500 or imprisonment for not more than six months, or both. Any persons charged with the violation of such rules and regulations may be tried and sentenced in accordance with the provisions of section 3401 of title 18. All persons designated by the Chief of Engineers for that purpose shall have the authority to issue a citation for violation of the regulations adopted by the Secretary of the Army, requiring the appearance of any person charged with violation to appear before the United States magistrate judge, within whose jurisdiction the water resource development project is located, for trial; and upon sworn information of any competent person any United States magistrate judge in the proper jurisdiction shall issue process for the arrest of any person charged with the violation of said regulations; but nothing herein contained shall be construed as preventing the arrest by any officer of the United States, without process, of any person taken in the act of violating said regulations. No use of any area to which this section applies shall be permitted which is inconsistent with the laws for the protection of fish and game of the State in which such area is situated. All moneys received by the United States for leases or privileges shall be deposited in the Treasury of the United States as miscellaneous receipts.

(Dec. 22, 1944, ch. 665, § 4, 58 Stat. 889; July 24, 1946, ch. 596, § 4, 60 Stat. 642; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Sept. 3, 1954, ch. 1264, title II, § 209, 68 Stat. 1266; Pub. L. 87–874, title II, § 207, Oct. 23, 1962, 76 Stat. 1195; Pub. L. 88–578, § 2(a), Sept. 3, 1964, 78 Stat. 899; Pub. L. 91–611, title II, § 234, Dec. 31, 1970, 84 Stat. 1833; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 110–114, title II, § 2026, Nov. 8, 2007, 121 Stat. 1079.)

AMENDMENTS

2007—Pub. L. 110–114 inserted ''federally recognized Indian tribes and'' before ''Federal'' and ''Indian tribes or'' after ''considerations, to such'' in second proviso and ''federally recognized Indian tribe'' after ''That in any such lease or license to a'' in third proviso.

1970—Pub. L. 91–611 provided that the rules and regulations should include but not be limited to prohibitions of dumping and unauthorized disposal of refuse, garbage, rubbish, trash, debris, or litter of any kind at water resource development projects, prescribed penalty for violation of the rules and regulations, provided for trial and sentence in accordance with section 3401 of title 18, authorized issuance of citation for violation of the regulations, provided for issuance of process for arrest of any violators, and recognized the authority of Federal officer without process of arrest any person taken in act of violating the regulations.

1964—Pub. L. 88–578 struck out '', without charge,'' after ''The water areas of all such projects shall be open to public use generally''.

1962—Pub. L. 87–874 substituted references to water resource development projects for references to reservoir areas wherever appearing, and authorized the Chief of Engineers to permit the construction, maintenance, and operation of facilities by local interests.

1954—Act Sept. 3, 1954, amended section generally, and, among other changes, inserted ''for park or recreational purposes'' in first proviso, inserted ''or leases where appropriate'' in second proviso, and inserted third proviso permitting lessees and licensees to cut timber and harvest crop in certain cases and containing provisions with respect to the collection, utilization, and disposition of the proceeds from the sale of timber and crops.

1946—Act July 24, 1946, inserted first proviso dealing with leases to nonprofit organizations.

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' wherever appearing in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of Act July 26, 1947, was repealed by section 53 of Act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of Act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–578 effective Jan. 1, 1965, see section 1(a) of Pub. L. 88–578, set out in part as an Effective Date note under section 460*l*–4 of this title.

RECREATION POLICY

Pub. L. 104–303, title II, § 208(a), Oct. 12, 1996, 110 Stat. 3680, provided that:

''(1) IN GENERAL.—The Secretary shall provide increased emphasis on, and opportunities for recreation at, water resources projects operated, maintained, or constructed by the Corps of Engineers.

''(2) REPORT.—Not later than 2 years after the date of the enactment of this Act [Oct. 12, 1996], the Secretary shall transmit to Congress a report on specific measures taken to implement this subsection.''

CABIN SITE LEASES

Pub. L. 99–662, title XI, § 1134(a)–(c), Nov. 17, 1986, 100 Stat. 4250, provided that:

''(a) On and after December 31, 1989, the Secretary shall continue in effect any lease or assignment thereof to which this section applies, until such time as such

lease is terminated by the leaseholder, any successors or assigns of the leaseholder, or by the Secretary under subsection (b) of this section. Any such continuation beyond the date of expiration of such lease as in effect on December 31, 1989, shall be at fair market rentals and on such other reasonable terms and conditions not inconsistent with this section as the Secretary deems necessary. No continuation shall be made beyond such date unless the leaseholder agrees (1) to hold the United States harmless from any claim for damages or injury to persons or property arising from occupancy of or through the use of the property subject to such lease, and (2) to not unreasonably expand existing improvements.

''(b)(1) On and after December 31, 1989, the Secretary and any other officer or employee of the United States shall not terminate a lease to which this section applies, except as provided in paragraph (2) of this subsection.

''(2) On and after December 31, 1989, the Secretary may terminate a lease to which this section applies only if—

''(A) the property covered by the lease is needed for immediate use for public park purposes or other higher public use or for a navigation or flood control project; or

''(B) the leaseholder substantially violates a provision of such lease.

''(c) Subsections (a) and (b) of this section apply to (1) any cottage site lease of property, which lease was entered into by the Secretary of the Army pursuant to section 4 of the Act entitled 'An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes', approved December 22, 1944 (58 Stat. 889; 16 U.S.C. 460d), and is in effect on December 31, 1989, and (2) any assignment of such a lease.''

PROHIBITION ON ORDERS TO REMOVE HOUSEBOATS, ETC., FROM RESERVOIRS OR PROJECTS ADMINISTERED BY SECRETARY OF THE ARMY

Pub. L. 99–662, title XI, §1134(d), Nov. 17, 1986, 100 Stat. 4251, as amended by Pub. L. 101–640, title III, §320, Nov. 28, 1990, 104 Stat. 4643, provided that: ''On and after December 31, 1989, no houseboat, boathouse, floating cabin, sleeping facilities at marinas, or lawfully installed dock or cabin or trailer and appurtenant structures shall be required to be removed from any Federal water resources reservoir or lake project administered by the Secretary on which it was located on the date of enactment of this Act [Nov. 17, 1986], if (1) such property is maintained in usable and safe condition, (2) such property does not occasion a threat to life or property, and (3) the holder of the lease, permit, or license is in substantial compliance with the existing lease or license, except where necessary for immediate use for public purposes or other higher public use or for a navigation or flood control project.''

Pub. L. 97–140, §6, Dec. 29, 1981, 95 Stat. 1718, provided that: ''Notwithstanding any other provision of law, no houseboat, floating cabin, marina (including any with sleeping facilities), or lawfully installed dock or cabin and appurtenant structures shall be required to be removed before December 31, 1989, from any Federal water resources reservoir or lake project administered by the Secretary of the Army, acting through the Chief of Engineers, on which it was located on the date of enactment of this Act [Dec. 29, 1981], if such property is maintained in usable condition, and, in the judgment of the Chief of Engineers, does not occasion a threat to life or property.''

Similar provisions were contained in Pub. L. 97–128, §8, Dec. 29, 1981, 95 Stat. 1685.

SECRETARY OF THE AIR FORCE

For transfer of certain functions relating to real property under jurisdiction of Air Force, and certain functions relating to construction of buildings and facilities insofar as they may pertain to Department of the Air Force, from Secretary of the Army to Secretary of the Air Force, see Secretary of Defense Transfer Order Nos. 14, eff. July 1, 1948; 18, eff. July 7, 1948; and 40 [App. B(66)], July 22, 1949.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

§ 460d–1. Rentals or other considerations in leases for construction, maintenance, and operation of commercial recreational facilities; adjustment by Chief of Engineers

The Chief of Engineers, under the supervision of the Secretary of the Army, is authorized to amend any lease entered into providing for the construction, maintenance, and operation of commercial recreational facilities at a water resource development project under the jurisdiction of the Secretary of the Army so as to provide for the adjustment, either by increase or decrease, from time to time during the term of such lease of the amount of rental or other consideration payable to the United States under such lease, when and to the extent he determines such adjustment or extension to be necessary or advisable in the public interest. No adjustment shall be made under the authority of this section so as to increase or decrease the amount of rental or other consideration payable under such lease for any period prior to the date of such adjustment.

(Pub. L. 87–236, Sept. 14, 1961, 75 Stat. 509; Pub. L. 89–298, title II, §215, Oct. 27, 1965, 79 Stat. 1088.)

AMENDMENTS

1965—Pub. L. 89–298 struck out ''before November 1, 1956'' after ''lease entered into''.

§ 460d–2. Adjustment by Secretary of Agriculture

The Secretary of Agriculture is authorized to amend any lease entered into with respect to lands under the jurisdiction of the Forest Service providing for the construction, maintenance, and operation of commercial recreational facilities at a Federal reservoir project so as to provide for the adjustment, either by increase or decrease, from time to time during the term of such lease of the amount of rental or other consideration payable to the United States under such lease, when and to the extent he determines such adjustment to be necessary or advisable in the public interest. No adjustment shall be made under the authority of this section so as to increase or decrease the amount of rental or other consideration payable under such lease for any period prior to the date of such adjustment.

(Pub. L. 87–411, Mar. 3, 1962, 76 Stat. 20.)

§ 460d–3. Recreational user fees

(a) Prohibition on admissions fees

No entrance or admission fees shall be collected after March 31, 1970, by any officer or employee of the United States at public recreation areas located at lakes and reservoirs under the jurisdiction of the Corps of Engineers, United States Army.

(b) Fees for use of developed recreation sites and facilities

(1) Establishment and collection

Notwithstanding section 460*l*–6a(b)[1] of this title, the Secretary of the Army is authorized, subject to paragraphs (2) and (3), to establish and collect fees for the use of developed recreation sites and facilities, including campsites, swimming beaches, and boat launching ramps but excluding a site or facility which includes only a boat launch ramp and a courtesy dock.

(2) Exemption of certain facilities

The Secretary shall not establish or collect fees under this subsection for the use or provision of drinking water, wayside exhibits, roads, scenic drives, overlook sites, picnic tables, toilet facilities, surface water areas, undeveloped or lightly developed shoreland, or general visitor information.

(3) Per vehicle limit

The fee under this subsection for use of a site or facility (other than an overnight camping site or facility or any other site or facility at which a fee is charged for use of the site or facility as of August 10, 1993) for persons entering the site or facility by private, noncommercial vehicle transporting not more than 8 persons (including the driver) shall not exceed $3 per day per vehicle. Such maximum amount may be adjusted annually by the Secretary for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(4) Deposit into Treasury account

All fees collected under this subsection shall be deposited into the Treasury account for the Corps of Engineers established by section 460*l*–6a(i) of this title and, subject to the availability of appropriations, shall be used for the purposes specified in section 460*l*–6a(i)(3)[1] of this title at the water resources development project at which the fees were collected.

(Pub. L. 90–483, title II, § 210, Aug. 13, 1968, 82 Stat. 746; Pub. L. 103–66, title V, § 5001(a), Aug. 10, 1993, 107 Stat. 378; Pub. L. 104–303, title II, § 208(b)(1), Oct. 12, 1996, 110 Stat. 3680.)

REFERENCES IN TEXT

Subsections (b) and (i)(3) of section 460*l*–6a of this title, referred to in subsec. (b)(1), (4), were repealed by Pub. L. 108–447, div. J, title VIII, § 813(a), Dec. 8, 2004, 118 Stat. 3390, as amended by Pub. L. 109–54, title I, § 132(a), Aug. 2, 2005, 119 Stat. 526.

AMENDMENTS

1996—Subsec. (b)(4). Pub. L. 104–303 inserted before period at end ''and, subject to the availability of appropriations, shall be used for the purposes specified in section 460*l*–6a(i)(3) of this title at the water resources development project at which the fees were collected''.

1993—Pub. L. 103–66 inserted section catchline, struck out second sentence, designated remaining text as subsec. (a) and inserted heading, and added subsec. (b). Prior to amendment, second sentence read as follows: ''User fees at these lakes and reservoirs shall be collected by officers and employees of the United States only from users of highly developed facilities requiring continuous presence of personnel for maintenance and supervision of the facilities, and shall not be collected for access to or use of water areas, undeveloped or lightly developed shoreland, picnic grounds, overlook sites, scenic drives, or boat launching ramps where no mechanical or hydraulic equipment is provided.''

ALTERNATIVE TO ANNUAL PASSES

Section 208(c) of Pub. L. 104–303, as amended by Pub. L. 106–53, title II, § 218, Aug. 17, 1999, 113 Stat. 294, provided that:

''(1) IN GENERAL.—The Secretary shall evaluate the feasibility of implementing an alternative to the $25 annual pass that the Secretary currently offers to users of recreation facilities at water resources projects of the Corps of Engineers.

''(2) ANNUAL PASS.—The evaluation under paragraph (1) shall include the establishment on a test basis of an annual pass that costs $10 or less for the use of recreation facilities, including facilities at Raystown Lake, Pennsylvania.

''(3) REPORT.—Not later than December 31, 1999, the Secretary shall transmit to Congress a report on the results of the evaluation carried out under this subsection, together with recommendations concerning whether annual passes for individual projects should be offered on a nationwide basis.

''(4) EXPIRATION OF AUTHORITY.—The authority to establish an annual pass under paragraph (2) shall expire on the [sic] December 31, 2003.''

§ 460d–3a. Contracts to provide visitor reservation services

The Secretary of the Army may, under such terms and conditions as the Secretary deems appropriate, contract with any public or private entity to provide visitor reservation services. Any such contract in effect on or after October 1, 2004, may provide that the contractor shall be permitted to deduct a commission to be fixed by the Secretary from the amount charged the public for providing such services and to remit the net proceeds therefrom to the contracting agency.

(Pub. L. 110–161, div. C, title I, § 121, Dec. 26, 2007, 121 Stat. 1946.)

SUBCHAPTER LXVII—COTTAGE SITE DEVELOPMENTS AND USES IN RESERVOIR AREAS

§ 460e. Authorization for sale of public lands; rights of lessee

Whenever the Secretary of the Army determines that any Government-owned lands other than lands withdrawn or reserved from the public domain within reservoir areas under his control (1) are not required for project purposes or for public recreational use, and (2) are being used for or are available for cottage site development and use, he is authorized to offer such lands, or any part thereof, for sale for such purposes in accordance with the provisions of this subchapter: *Provided, however*, That any lands held under lease for cottage site purposes on August 6, 1956 shall not be offered for sale to anyone other than the lessee until after sixty days from the date of the written notice to the lessee as provided in section 460f of this title, or the termination or expiration date of such lease, whichever is later, and the lessee shall have the right during such period to purchase any lands leased to him which the Secretary determines are available for sale.

[1] See References in Text note below.

(Aug. 6, 1956, ch. 987, § 1, 70 Stat. 1065.)

§ 460f. Notice and method of sale; price; conveyance

(a) Public notice

Public notice of the availability of the lands for sale for cottage site development and use shall be given in such manner as the Secretary of the Army may by regulation prescribe, including publication within the vicinity of the lands available for sale: *Provided, however*, That notice to lessees of cottage sites shall be given in writing within 90 days after publication of such regulations in the Federal Register and the notice shall state the appraised fair market value of the land available for sale to such lessee.

(b) Method of sale

The sale of lands for cottage site development and use shall be accomplished by any method which the Secretary of the Army determines to be in the public interest, including public auction, seal bids, and by negotiation with lessees and with others after competitive bidding.

(c) Price

The price to be paid for any lands sold for cottage site development and use pursuant to the provisions of this subchapter shall be not less than the appraised fair market value thereof as determined by the Secretary of the Army.

(d) Conveyance

The Secretary of the Army is authorized to convey by quitclaim deed all the right, title, and interest of the United States in and to the lands sold for cottage site development and use pursuant to the provisions of this subchapter, the conveyance to be on condition that the property conveyed shall be used for cottage site purposes only, and in the event of use for any other purposes, title to the land and improvements shall revert to and vest in the United States; and subject to such other conditions, reservations, and restrictions as the Secretary may determine to be necessary for the management and operation of the reservoir, or for the protection of lessees or owners of cottage sites within the area.

(Aug. 6, 1956, ch. 987, § 2, 70 Stat. 1065.)

§ 460g. Transfer to State, etc., for roadway purposes

The Secretary of the Army may, by quitclaim deed, deed of easement, or otherwise, transfer to the State in which lands sold for cottage site development and use pursuant to this subchapter are located, or to any political subdivision thereof, or to any organization consisting of not less than 50 per centum of the owners of cottage sites in the area, without monetary consideration, any lands being used or to be used for roads primarily to serve the cottage site areas: *Provided*, *however*, That the deed or other instrument transferring such land shall specifically provide for appropriate use and maintenance of the property by the State, political subdivision, or organization, and any deed conveying title to such lands for roadway purposes shall contain the condition and limitation that in the event the land conveyed shall fail or cease to be used for roadway purposes the same shall immediately revert to and vest in the United States.

(Aug. 6, 1956, ch. 987, § 3, 70 Stat. 1065.)

§ 460h. Costs of surveys or relocation of boundaries

The costs of any surveys or the relocation of boundary markers necessary as an incident of a conveyance or other property transfer under this subchapter shall be borne by the grantee.

(Aug. 6, 1956, ch. 987, § 4, 70 Stat. 1066.)

§ 460i. Delegation of powers; regulations

The Secretary of the Army may delegate any authority conferred upon him by this subchapter to any officer or employee of the Department of the Army. Any such officer or employee shall exercise the authority so delegated under rules and regulations approved by the Secretary.

(Aug. 6, 1956, ch. 987, § 5, 70 Stat. 1066.)

§ 460j. Disposition of proceeds

The proceeds from any sale made under this subchapter shall be covered into the Treasury of the United States as miscellaneous receipts.

(Aug. 6, 1956, ch. 987, § 6, 70 Stat. 1066.)

SUBCHAPTER LXVIII—NATIONAL CONSERVATION RECREATIONAL AREAS

§ 460k. Public recreation use of fish and wildlife conservation areas; compatibility with conservation purposes; appropriate incidental or secondary use; consistency with other Federal operations and primary objectives of particular areas; curtailment; forms of recreation not directly related to primary purposes of individual areas; repeal or amendment of provisions for particular areas

In recognition of mounting public demands for recreational opportunities on areas within the National Wildlife Refuge System, national fish hatcheries, and other conservation areas administered by the Secretary of the Interior for fish and wildlife purposes; and in recognition also of the resulting imperative need, if such recreational opportunities are provided, to assure that any present or future recreational use will be compatible with, and will not prevent accomplishment of, the primary purposes for which the said conservation areas were acquired or established, the Secretary of the Interior is authorized, as an appropriate incidental or secondary use, to administer such areas or parts thereof for public recreation when in his judgment public recreation can be an appropriate incidental or secondary use: *Provided*, That such public recreation use shall be permitted only to the extent that is practicable and not inconsistent with other previously authorized Federal operations or with the primary objectives for which each particular area is established: *Provided further*, That in order to insure accomplishment of such primary objectives, the Secretary, after consideration of all authorized uses, purposes, and other pertinent factors relating to individual areas, shall curtail public recreation use generally or certain types of public recreation

use within individual areas or in portions thereof whenever he considers such action to be necessary: *And provided further*, That none of the aforesaid refuges, hatcheries, game ranges, and other conservation areas shall be used during any fiscal year for those forms of recreation that are not directly related to the primary purposes and functions of the individual areas until the Secretary shall have determined—

(a) that such recreational use will not interfere with the primary purposes for which the areas were established, and

(b) that funds are available for the development, operation, and maintenance of these permitted forms of recreation. This section shall not be construed to repeal or amend previous enactments relating to particular areas.

(Pub. L. 87–714, §1, Sept. 28, 1962, 76 Stat. 653; Pub. L. 89–669, §9, Oct. 15, 1966, 80 Stat. 930.)

AMENDMENTS

1966—Pub. L. 89–669 substituted ''areas within the National Wildlife Refuge System'' for ''national wildlife refuges, game ranges'' in introductory text.

SHORT TITLE

Pub. L. 87–714, which enacted this subchapter, is popularly known as the ''Refuge Recreation Act''.

§ 460k–1. Acquisition of lands for recreational development; funds

The Secretary is authorized to acquire areas of land, or interests therein, which are suitable for—

(1) incidental fish and wildlife-oriented recreational development,

(2) the protection of natural resources,

(3) the conservation of endangered species or threatened species listed by the Secretary pursuant to section 1533 of this title, or

(4) carrying out two or more of the purposes set forth in paragraphs (1) through (3) of this section, and are adjacent to, or within, the said conservation areas, except that the acquisition of any land or interest therein pursuant to this section shall be accomplished only with such funds as may be appropriated therefor by the Congress or donated for such purposes, but such property shall not be acquired with funds obtained from the sale of Federal migratory bird hunting stamps.

Lands acquired pursuant to this section shall become a part of the particular conservation area to which they are adjacent.

(Pub. L. 87–714, §2, Sept. 28, 1962, 76 Stat. 653; Pub. L. 92–534, Oct. 23, 1972, 86 Stat. 1063; Pub. L. 93–205, §13(d), Dec. 28, 1973, 87 Stat. 902.)

AMENDMENTS

1973—Pub. L. 93–205 inserted references to the acquisition of interest in land the conservation of endangered species or threatened species listed by the Secretary pursuant to section 1533 of this title.

1972—Pub. L. 92–534 substituted provisions authorizing the Secretary to acquire lands suitable for fish and wildlife oriented recreational development, or for the protection of natural resources and adjacent to conservation areas, for provisions authorizing the Secretary to acquire limited areas of land for recreational development adjacent to conservation areas in existence or approved by the Migratory Bird Conservation Commission as of September 28, 1962.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

§ 460k–2. Cooperation with agencies, organizations and individuals; acceptance of donations; restrictive covenants

In furtherance of the purposes of this subchapter, the Secretary is authorized to cooperate with public and private agencies, organizations, and individuals, and he may accept and use, without further authorization, donations of funds and real and personal property. Such acceptance may be accomplished under the terms and conditions of restrictive covenants imposed by donors when such covenants are deemed by the Secretary to be compatible with the purposes of the wildlife refuges, games ranges, fish hatcheries, and other fish and wildlife conservation areas.

(Pub. L. 87–714, §3, Sept. 28, 1962, 76 Stat. 653.)

§ 460k–3. Charges and fees; permits; regulations; penalties; enforcement

The Secretary may establish reasonable charges and fees and issue permits for public use of national wildlife refuges, game ranges, national fish hatcheries, and other conservation areas administered by the Department of the Interior for fish and wildlife purposes. The Secretary may issue regulations to carry out the purposes of this subchapter. A violation of such regulations shall be a misdemeanor with maximum penalties of imprisonment for not more than six months, or a fine of not more than $500, or both. The provisions of this subchapter and any such regulation shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior.

(Pub. L. 87–714, §4, Sept. 28, 1962, 76 Stat. 654; Pub. L. 95–616, §3(e), Nov. 8, 1978, 92 Stat. 3111; Pub. L. 98–473, title II, §221, Oct. 12, 1984, 98 Stat. 2028.)

AMENDMENTS

1984—Pub. L. 98–473 substituted ''misdemeanor'' for ''petty offense (18 U.S.C. 1)''.

1978—Pub. L. 95–616 provided for designation of enforcement personnel.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

§ 460k–4. Authorization of appropriations

There is authorized to be appropriated such funds as may be necessary to carry out the purposes of this subchapter, including the construction and maintenance of public recreational facilities.

(Pub. L. 87–714, §5, Sept. 28, 1962, 76 Stat. 654.)

SUBCHAPTER LXIX—OUTDOOR RECREATION PROGRAMS

PART A—COORDINATION OF PROGRAMS

§ 460*l*. Congressional findings and declaration of policy

The Congress finds and declares it to be desirable that all American people of present and future generations be assured adequate outdoor recreation resources, and that it is desirable for all levels of government and private interests to take prompt and coordinated action to the extent practicable without diminishing or affecting their respective powers and functions to conserve, develop, and utilize such resources for the benefit and enjoyment of the American people.

(Pub. L. 88–29, § 1, May 28, 1963, 77 Stat. 49.)

ENVIRONMENTAL QUALITY COUNCIL

For functions of the Environmental Quality Council concerning outdoor recreation, see sections 102 and 103 of Ex. Ord. No. 11472, May 29, 1969, 34 F.R. 8693, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

A 21ST CENTURY STRATEGY FOR AMERICA'S GREAT OUTDOORS

Memorandum of President of the United States, Apr. 16, 2010, 75 F.R. 20767, provided:

Memorandum for the Secretary of the Interior[,] the Secretary of Agriculture[,] the Administrator of the Environmental Protection Agency[, and] the Chair of the Council on Environmental Quality

Americans are blessed with a vast and varied natural heritage. From mountains to deserts and from sea to shining sea, America's great outdoors have shaped the rugged independence and sense of community that define the American spirit. Our working landscapes, cultural sites, parks, coasts, wild lands, rivers, and streams are gifts that we have inherited from previous generations. They are the places that offer us refuge from daily demands, renew our spirits, and enhance our fondest memories, whether they are fishing with a grandchild in a favorite spot, hiking a trail with a friend, or enjoying a family picnic in a neighborhood park. They also are our farms, ranches, and forests—the working lands that have fed and sustained us for generations. Americans take pride in these places, and share a responsibility to preserve them for our children and grandchildren.

Today, however, we are losing touch with too many of the places and proud traditions that have helped to make America special. Farms, ranches, forests, and other valuable natural resources are disappearing at an alarming rate. Families are spending less time together enjoying their natural surroundings. Despite our conservation efforts, too many of our fields are becoming fragmented, too many of our rivers and streams are becoming polluted, and we are losing our connection to the parks, wild places, and open spaces we grew up with and cherish. Children, especially, are spending less time outside running and playing, fishing and hunting, and connecting to the outdoors just down the street or outside of town.

Across America, communities are uniting to protect the places they love, and developing new approaches to saving and enjoying the outdoors. They are bringing together farmers and ranchers, land trusts, recreation and conservation groups, sportsmen, community park groups, governments and industry, and people from all over the country to develop new partnerships and innovative programs to protect and restore our outdoors legacy. However, these efforts are often scattered and sometimes insufficient. The Federal Government, the Nation's largest land manager, has a responsibility to engage with these partners to help develop a conservation agenda worthy of the 21st Century. We must look to the private sector and nonprofit organizations, as well as towns, cities, and States, and the people who live and work in them, to identify the places that mean the most to Americans, and leverage the support of the Federal Government to help these community-driven efforts to succeed. Through these partnerships, we will work to connect these outdoor spaces to each other, and to reconnect Americans to them.

For these reasons, it is hereby ordered as follows:

SECTION 1. *Establishment*.

(a) There is established the America's Great Outdoors Initiative (Initiative), to be led by the Secretaries of the Interior and Agriculture, the Administrator of the Environmental Protection Agency, and the Chair of the Council on Environmental Quality (CEQ) and implemented in coordination with the agencies listed in section 2(b) of this memorandum. The Initiative may include the heads of other executive branch departments, agencies, and offices (agencies) as the President may, from time to time, designate.

(b) The goals of the Initiative shall be to:

(i) Reconnect Americans, especially children, to America's rivers and waterways, landscapes of national significance, ranches, farms and forests, great parks, and coasts and beaches by exploring a variety of efforts, including:

(A) promoting community-based recreation and conservation, including local parks, greenways, beaches, and waterways;

(B) advancing job and volunteer opportunities related to conservation and outdoor recreation; and

(C) supporting existing programs and projects that educate and engage Americans in our history, culture, and natural bounty.

(ii) Build upon State, local, private, and tribal priorities for the conservation of land, water, wildlife, historic, and cultural resources, creating corridors and connectivity across these outdoor spaces, and for enhancing neighborhood parks; and determine how the Federal Government can best advance those priorities through public private partnerships and locally supported conservation strategies.

(iii) Use science-based management practices to restore and protect our lands and waters for future generations.

SEC. 2. *Functions*. The functions of the Initiative shall include:

(a) *Outreach*. The Initiative shall conduct listening and learning sessions around the country where land and waters are being conserved and community parks are being established in innovative ways. These sessions should engage the full range of interested groups, including tribal leaders, farmers and ranchers, sportsmen, community park groups, foresters, youth groups, businesspeople, educators, State and local governments, and recreation and conservation groups. Special attention should be given to bringing young Americans into the conversation. These listening sessions will inform the reports required in subsection (c) of this section.

(b) *Interagency Coordination*. The following agencies shall work with the Initiative to identify existing resources and align policies and programs to achieve its goals:

(i) the Department of Defense;

(ii) the Department of Commerce;

(iii) the Department of Housing and Urban Development;

(iv) the Department of Health and Human Services;

(v) the Department of Labor;

(vi) the Department of Transportation;

(vii) the Department of Education; and

(viii) the Office of Management and Budget (OMB).

(c) *Reports*. The Initiative shall submit, through the Chair of the CEQ, the following reports to the President:

(i) Report on America's Great Outdoors. By November 15, 2010, the Initiative shall submit a report that includes the following:

(A) a review of successful and promising nonfederal conservation approaches;

(B) an analysis of existing Federal resources and programs that could be used to complement those approaches;

(C) proposed strategies and activities to achieve the goals of the Initiative; and

(D) an action plan to meet the goals of the Initiative.

The report should reflect the constraints in resources available in, and be consistent with, the Federal budget. It should recommend efficient and effective use of existing resources, as well as opportunities to leverage nonfederal public and private resources and nontraditional conservation programs.

(ii) Annual reports. By September 30, 2011, and September 30, 2012, the Initiative shall submit reports on its progress in implementing the action plan developed pursuant to subsection (c)(i)(D) of this section.

SEC. 3. *General Provisions.*

(a) This memorandum shall be implemented consistent with applicable law and subject to the availability of any necessary appropriations.

(b) This memorandum does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(c) The heads of executive departments and agencies shall assist and provide information to the Initiative, consistent with applicable law, as may be necessary to carry out the functions of the Initiative. Each executive department and agency shall bear its own expenses of participating in the Initiative.

(d) Nothing in this memorandum shall be construed to impair or otherwise affect the functions of the Director of the OMB relating to budgetary, administrative, or legislative proposals.

(e) The Chair of the CEQ is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 460*l*–1. Powers and duties of Secretary of the Interior

In order to carry out the purposes of this part, the Secretary of the Interior is authorized to perform the following functions and activities:

(a) Inventory and evaluation of needs and resources

Prepare and maintain a continuing inventory and evaluation of outdoor recreation needs and resources of the United States.

(b) Classification of resources

Prepare a system for classification of outdoor recreation resources to assist in the effective and beneficial use and management of such resources.

(c) Nationwide plan; contents; problems, solutions and actions; initial plan; revisions of plan; transmittal to Congress and Governors

Formulate and maintain a comprehensive nationwide outdoor recreation plan, taking into consideration the plans of the various Federal agencies, States, and their political subdivisions. The plan shall set forth the needs and demands of the public for outdoor recreation and the current and foreseeable availability in the future of outdoor recreation resources to meet those needs. The plan shall identify critical outdoor recreation problems, recommend solutions, and recommend desirable actions to be taken at each level of government and by private interests. The Secretary shall transmit the initial plan, which shall be prepared as soon as practicable within five years on and after May 28, 1963, to the President for transmittal to the Congress. Future revisions of the plan shall be similarly transmitted at succeeding five-year intervals. When a plan or revision is transmitted to the Congress, the Secretary shall transmit copies to the Governors of the several States.

(d) Technical assistance and advice; cooperation with States and private interests

Provide technical assistance and advice to and cooperate with States, political subdivisions, and private interests, including nonprofit organizations, with respect to outdoor recreation.

(e) Interstate and regional cooperation

Encourage interstate and regional cooperation in the planning, acquisition, and development of outdoor recreation resources.

(f) Research and education

(1) Sponsor, engage in, and assist in research relating to outdoor recreation, directly or by contract or cooperative agreements, and make payments for such purposes without regard to the limitations of section 3324(a) and (b) of title 31 concerning advances of funds when he considers such action in the public interest, (2) undertake studies and assemble information concerning outdoor recreation, directly or by contract or cooperative agreement, and disseminate such information without regard to the provisions of section 3204 of title 39, and (3) cooperate with educational institutions and others in order to assist in establishing education programs and activities and to encourage public use and benefits from outdoor recreation.

(g) Federal interdepartmental cooperation; coordination of Federal plans and activities; expenditures; reimbursement

(1) Cooperate with and provide technical assistance to Federal departments and agencies and obtain from them information, data, reports, advice, and assistance that are needed and can reasonably be furnished in carrying out the purposes of this part, and (2) promote coordination of Federal plans and activities generally relating to outdoor recreation. Any department or agency furnishing advice or assistance hereunder may expend its own funds for such purposes, with or without reimbursement, as may be agreed to by that agency.

(h) Donations

Accept and use donations of money, property, personal services, or facilities for the purposes of this part.

(Pub. L. 88–29, § 2, May 28, 1963, 77 Stat. 49; Pub. L. 91–375, § 6(h), Aug. 12, 1970, 84 Stat. 776.)

CODIFICATION

In subsec. (f), ''section 3324(a) and (b) of title 31'' substituted for ''section 3648 of the Revised Statutes (31 U.S.C. 529)'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1970—Subsec. (f). Pub. L. 91–375 substituted ''section 3204 of title 39'' for ''section 4154 of title 39''.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91–375, see section 15(a) of Pub. L. 91–375, set out as an Effec-

tive Dates note preceding section 101 of Title 39, Postal Service.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c) of this section relating to transmittal to Congress, at five-year intervals, of revisions of nationwide outdoor recreation plan, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 112 of House Document No. 103–7.

STUDY REGARDING IMPROVED OUTDOOR RECREATIONAL ACCESS FOR PERSONS WITH DISABILITIES

Pub. L. 105–359, §1, Nov. 10, 1998, 112 Stat. 3275, provided that:

''(a) STUDY REQUIRED.—The Secretary of Agriculture and the Secretary of the Interior shall jointly conduct a study regarding ways to improve the access for persons with disabilities to outdoor recreational opportunities (such as fishing, hunting, trapping, wildlife viewing, hiking, boating, and camping) made available to the public on the Federal lands described in subsection (b).

''(b) COVERED FEDERAL LANDS.—The Federal lands referred to in subsection (a) are the following:

''(1) National Forest System lands.

''(2) Units of the National Park System.

''(3) Areas in the National Wildlife Refuge System.

''(4) Lands administered by the Bureau of Land Management.

''(c) REPORT ON STUDY.—Not later than 18 months after the date of the enactment of this Act [Nov. 10, 1998], the Secretaries shall submit to Congress a report containing the results of the study.''

CONNECTICUT RIVER NATIONAL RECREATION AREA FEASIBILITY STUDY

Pub. L. 89–616, Oct. 3, 1966, 80 Stat. 867, directed Secretary of the Interior to study, investigate, and formulate recommendations on feasibility and desirability of establishing all or parts of Connecticut River Valley from its source to its mouth, in States of Connecticut, Massachusetts, Vermont, and New Hampshire, as a Connecticut River National Recreation Area and to submit to President, within two years after Oct. 3, 1966, a report of his findings and recommendations, with President to submit to Congress such recommendations, including legislation, as he deemed appropriate.

§ 460*l*–2. Consultations of Secretary of the Interior with administrative officers; execution of administrative responsibilities in conformity with nationwide plan

In order further to carry out the policy declared in section 460*l* of this title, the heads of Federal departments and independent agencies having administrative responsibility over activities or resources the conduct or use of which is pertinent to fulfillment of that policy shall, either individually or as a group, (a) consult with and be consulted by the Secretary from time to time both with respect to their conduct of those activities and their use of those resources and with respect to the activities which the Secretary of the Interior carries on under authority of this part which are pertinent to their work, and (b) carry out such responsibilities in general conformance with the nationwide plan authorized under section 460*l*–1(c) of this title.

(Pub. L. 88–29, §3, May 28, 1963, 77 Stat. 50.)

§ 460*l*–3. Definitions

As used in this part, the term ''United States'' shall include the District of Columbia and the terms ''United States'' and ''States'' may, to the extent practicable, include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 88–29, §4, May 28, 1963, 77 Stat. 50; Pub. L. 96–205, title VI, §608(c), Mar. 12, 1980, 94 Stat. 92.)

AMENDMENTS

1980—Pub. L. 96–205 inserted references to the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

PART B—LAND AND WATER CONSERVATION FUND

§ 460*l*–4. Land and water conservation provisions; statement of purposes

The purposes of this part are to assist in preserving, developing, and assuring accessibility to all citizens of the United States of America of present and future generations and visitors who are lawfully present within the boundaries of the United States of America such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation in such recreation and to strengthen the health and vitality of the citizens of the United States by (1) providing funds for and authorizing Federal assistance to the States in planning, acquisition, and development of needed land and water areas and facilities and (2) providing funds for the Federal acquisition and development of certain lands and other areas.

(Pub. L. 88–578, title I, §1(b), Sept. 3, 1964, 78 Stat. 897.)

REFERENCES IN TEXT

This part, referred to in text, was in the original ''this Act'', meaning Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, which is classified principally to this part. For complete classification of this Act to the Code, see Short Title note below and Tables.

EFFECTIVE DATE

Section 1(a) of Pub. L. 88–578 provided in part that: ''This Act [see Short Title note below] shall become effective on January 1, 1965.''

SHORT TITLE

Section 1(a) of Pub. L. 88–578 provided in part that: ''This Act [enacting this part, amending section 460d, repealing section 14 of this title, and amending provisions set out as a note under section 120 of Title 23, Highways] may be cited as the 'Land and Water Conservation Fund Act of 1965'.''

SURVEY OF ENTRANCE AND USER FEES

Secretary of the Interior required by section 4 of Pub. L. 91–308, July 7, 1970, 84 Stat. 410 to complete a survey as to policy to be implemented with regard to entrance and user fees and to report his findings to Senate and House Committees on Interior and Insular Affairs on or before Feb. 1, 1971.

§ 460*l*–5. Land and water conservation fund; establishment; covering certain revenues and collections into fund

During the period ending September 30, 2015, there shall be covered into the land and water conservation fund in the Treasury of the United States, which fund is hereby established and is hereinafter referred to as the ''fund'', the following revenues and collections:

(a) Surplus property sales

All proceeds (except so much thereof as may be otherwise obligated, credited, or paid under authority of those provisions of law set forth in section 572(a) or 574(a)–(c) of title 40 or the Independent Offices Appropriation Act, 1963 (76 Stat. 725) or in any later appropriation Act) hereafter received from any disposal of surplus real property and related personal property under chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Nothing in this part shall affect existing laws or regulations concerning disposal of real or personal surplus property to schools, hospitals, and States and their political subdivisions.

(b) Motorboat fuels tax

The amounts provided for in section 460*l*–11 of this title.

(c) Other revenues

(1) In addition to the sum of the revenues and collections estimated by the Secretary of the Interior to be covered into the fund pursuant to this section, as amended, there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated such amounts as are necessary to make the income of the fund not less than $300,000,000 for fiscal year 1977, and $900,000,000 for fiscal year 1978 and for each fiscal year thereafter through September 30, 2015.

(2) To the extent that any such sums so appropriated are not sufficient to make the total annual income of the fund equivalent to the amounts provided in clause (1), an amount sufficient to cover the remainder thereof shall be credited to the fund from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.): *Provided*, That notwithstanding the provisions of section 460*l*–6 of this title, moneys covered into the fund under this paragraph shall remain in the fund until appropriated by the Congress to carry out the purpose of this part.

(Pub. L. 88–578, title I, § 2, Sept. 3, 1964, 78 Stat. 897; Pub. L. 89–72, § 11, July 9, 1965, 79 Stat. 218; Pub. L. 90–401, §§ 1(a), 2, July 15, 1968, 82 Stat. 354, 355; Pub. L. 91–308, § 2, July 7, 1970, 84 Stat. 410; Pub. L. 91–485, § 1, Oct. 22, 1970, 84 Stat. 1084; Pub. L. 94–273, § 2(7), Apr. 21, 1976, 90 Stat. 375; Pub. L. 94–422, title I, § 101(1), Sept. 28, 1976, 90 Stat. 1313; Pub. L. 95–42, § 1(1), June 10, 1977, 91 Stat. 210; Pub. L. 100–203, title V, § 5201(f)(1), Dec. 22, 1987, 101 Stat. 1330–267.)

REFERENCES IN TEXT

The provisions of the Independent Offices Appropriation Act, referred to in subsec. (a), are the provisions of Pub. L. 87–741, Oct. 3, 1962, 76 Stat. 716, appearing under the heading ''Operating Expenses, Utilization and Disposal Service'' which were not classified to the Code.

This part, referred to in subsecs. (a) and (c)(2), was in the original ''this Act'', meaning Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, which is classified principally to this part. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

The Outer Continental Shelf Lands Act, referred to in subsec. (c)(2), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables.

CODIFICATION

In subsec. (a), ''Section 572(a) or 574(a)–(c) of title 40'' substituted for ''section 485(b)(e), title 40, United States Code,'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works.

In subsec. (a), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949, as amended'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1987—Pub. L. 100–203 substituted ''2015'' for ''1989'' in introductory provisions and in subsec. (c)(1).

1977—Subsec. (c)(1). Pub. L. 95–42 substituted ''and $900,000,000 for fiscal year 1978'' for ''$600,000,000 for fiscal year 1978, $750,000,000 for fiscal year 1979, and $900,000,000 for fiscal year 1980''.

1976—Pub. L. 94–422 struck out '', and during such additional period as may be required to repay any advances made pursuant to section 460*l*–7(b) of this title'' after ''September 30, 1989'' in provisions preceding subsec. (a).

Pub. L. 94–273 substituted ''September'' for ''June'' wherever appearing.

Subsec. (a). Pub. L. 94–422 reenacted subsec. (a) without change except for reference to section 485(b)(e) which as originally enacted read ''section 485(b)–(e)''.

Subsec. (b). Pub. L. 94–422 reenacted subsec. (b) without change.

Subsec. (c)(1). Pub. L. 94–422 substituted ''$300,000,000 for fiscal year 1977, $600,000,000 for fiscal year 1978, $750,000,000 for fiscal year 1979, and $900,000,000 for fiscal year 1980 and for each fiscal year thereafter through September 30, 1989.'' for ''$200,000,000 for each of the fiscal years 1968, 1969, and 1970, and not less than $300,000,000 for each fiscal year thereafter through September 30, 1989.''.

Subsec. (c)(2). Pub. L. 94–422 substituted ''equivalent to the amounts'' for ''amount to $200,000,000 or $300,000,000 for each of such fiscal years, as''.

1970—Subsec. (a)(i). Pub. L. 91–308 purported to substitute ''not more than $10'' for ''not more than $7''. See 1968 Amendment note below.

Subsec. (c)(1). Pub. L. 91–485, § 1(a), substituted ''fiscal years 1968, 1969, and 1970, and not less than $300,000,000 for each fiscal year thereafter through June 30, 1989'' for ''five fiscal years beginning July 1, 1968, and ending June 30, 1973''.

Subsec. (c)(2). Pub. L. 91–485, § 1(b), substituted ''$200,000,000 or $300,000,000 for each of such fiscal years, as provided in cl. (1),'' for ''$200,000,000 for each of such fiscal years,''.

1968—Subsec. (a). Pub. L. 90–401, § 1(a), redesignated subsec. (b) as (a). Former subsec. (a), except for the

fourth paragraph thereof, established a system of admission and user fees for all Federal recreation areas and was eliminated. The fourth paragraph covering the repeal of provisions prohibiting the collection of recreation fees and user charges was redesignated as section 10 of Pub. L. 88–587 and is set out as section 460*l*–10c.

Subsecs. (b), (c). Pub. L. 90–401, §§1(a), 2, added subsec. (c) and redesignated former subsecs. (b) and (c) as (a) and (b), respectively.

1965—Subsec. (a). Pub. L. 89–72 substituted ''notwithstanding any other provision of law:'' for ''notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury:'' and ''or affect any contract heretofore entered into by the United States that provides that such revenues collected at particular Federal areas shall be credited to specific purposes'' for ''of any provision of law that provides that any fees or charges collected at particular Federal areas shall be used for or credited to specific purposes or special funds as authorized by that provision of law.''

EFFECTIVE DATE OF 1968 AMENDMENT

Section 1(d) of Pub. L. 90–401, as amended by section 1 of Pub. L. 91–308, provided that: ''The provisions of subsections (a) and (c) of this section [amending this section] shall be effective December 31, 1971. Until that date revenues derived from the subsection (a) that is repealed by this section shall continue to be covered into the fund.''

ELIMINATION OF SYSTEM OF ADMISSION AND USER FEES FOR FEDERAL RECREATION AREAS

Pub. L. 90–401, §1(b), July 15, 1968, 82 Stat. 354, relating to admission and user fees for Federal recreation areas and facilities, was repealed by Pub. L. 92–347, §1, July 11, 1972, 86 Stat. 459.

EX. ORD. NO. 11200. ESTABLISHMENT OF RECREATION USER FEES

Ex. Ord. No. 11200, Feb. 26, 1965, 30 F.R. 2645, provided:

WHEREAS it is desirable that all American people of present and future generations be assured adequate outdoor recreation resources, and it is desirable for all levels of government and private interests to take prompt and coordinated action to the extent practicable without diminishing or affecting their respective powers and functions to conserve, develop, and utilize such resources for the benefit and enjoyment of the American people; and

WHEREAS these resources are to a considerable extent located on lands administered by the Federal Government through the National Park Service, the Bureau of Land Management, the Bureau of Sport Fisheries and Wildlife, the Bureau of Reclamation, the Forest Service, the Corps of Engineers, the Tennessee Valley Authority and the United States Section of the International Boundary and Water Commission (United States and Mexico); and

WHEREAS the Act of May 28, 1963, 77 Stat. 49 [sections 460*l* to 460*l*–3 of the title], vested the Secretary of the Interior with legal authority to promote coordination of Federal plans and activities generally relating to outdoor recreation; and

WHEREAS it is fair and equitable that the users of certain recreation areas and facilities managed by such agencies pay a reasonable fee for the recreation benefits received; and

WHEREAS it is desirable to establish uniformity of practices among such Federal agencies regarding recreation user fees and related matters; and

WHEREAS the Congress, recognizing the need for urgent and effective action in this regard, enacted the Land and Water Conservation Fund Act of 1965, Public Law 88–578; 78 Stat. 897 [sections 460*l*–4 to 460*l*–11 of this title] (hereafter in this order referred to as ''the Act'');

NOW, THEREFORE, by virtue of the authority vested in me by the Act, by Section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. *Designation of areas for 1965.* (a) All areas administered by the National Park Service, Bureau of Land Management, Bureau of Sport Fisheries and Wildlife, Bureau of Reclamation, Forest Service, Corps of Engineers, Tennessee Valley Authority, and the United States Section of the International Boundary and Water Commission (United States and Mexico), at which entrance, admission, or other recreation user fees (hereafter in this order referred to as ''recreation user fees'') were collected directly by those Federal agencies during any part of 1964 are hereby designated, pursuant to Section 2(a) of the Act [subsec. (a) of this section], as areas at which recreation user fees shall be charged during 1965.

(b) The Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense, the Board of Directors of the Tennessee Valley Authority, and the Commissioner, United States Section of the International Boundary and Water Commission (United States and Mexico), or their designees, shall, by April 1, 1965, designate any additional areas under their respective jurisdictions at which recreation user fees are to be charged during 1965.

(c) Recreation user fees for such areas shall be prescribed as provided in Section 5 of this Order.

SEC. 2. *Designation of areas for years after 1965.* (a) Subject to the provisions of subsection (b) of this section, the areas designated by Section 1(a), or pursuant to Section 1(b), of this Order are hereby designated as areas for which recreation user fees shall be charged for years after 1965.

(b) The officials described in Section 1(b) of this Order shall, before January 1, 1966, and at least annually thereafter, review all areas then under their respective jurisdictions, including those described in subsection (a) of this section, to determine (1) whether any additional areas should, in accordance with the designation criteria prescribed by Section 3 of this Order (or under those designation criteria as revised by the Secretary of the Interior pursuant to Section 6(c) of this Order), be designated as areas for which recreation user fees shall be charged, or (2) whether the recreation user fee for any area theretofore designated should be increased, reduced, or eliminated under the designation criteria then in effect.

(c)(1) Whenever, in accordance with subsection (b) of this section, it is determined that the recreation user fee for an area should be reduced or eliminated, such action shall be taken forthwith.

(2) Whenever, in accordance with subsection (b) of this section, it is determined that a recreation user fee should be charged with respect to an area with respect to which no such fee has theretofore been charged, such new fee shall be charged only after the posting requirements of Section 4 of this Order have been satisfied.

SEC. 3. *Criteria for designation of areas.* Areas shall, in accordance with Section 1(b) and Section 2(b) of this Order and to the extent permitted by the Act, be designated as areas at which recreation user fees shall be charged if the following conditions are found to exist concurrently:

(1) The area is administered by any of the eight agencies specified in Section 1(a) of this Order;

(2) The area is administered primarily for scenic, scientific, historical, cultural, or recreational purposes;

(3) The area has recreation facilities or services provided at Federal expense; and

(4) The nature of the area is such that fee collection is administratively and economically practical.

(b) Areas designated as those at which recreation user fees shall be charged shall hereafter in this Order be referred to as ''designated areas.''

SEC. 4. *Posting of designated areas.* The heads of administering agencies and departments shall provide for the posting of signs at all designated areas such as will clearly notify the visiting public that recreation user fees are charged therein. All areas designated pursuant to Sections 1 and 2 of this Order shall be so posted prior to the beginning of the recreation season or as soon as practicable following designation. No recreation user

fee established pursuant to this Order shall be effective with respect to any designated area until that designated area has been posted.

SEC. 5. *Establishment of fees.* (a) Each official described in Section 1(b) of this Order shall, subject to the criteria prescribed by the Secretary of the Interior, establish a recreation user fee for each designated area administered under his jurisdiction by selecting from a schedule of fees, prescribed by the Secretary of the Interior pursuant to Section 6 of this Order, the fee which is appropriate for each such designated area under criteria prescribed by the Secretary pursuant to that section. Each such official shall also specify which designated areas shall be excluded from the coverage of the annual fee described in Section 2(a)(1) of the Act [subsec. (a)(i) of this section] and which, as a result of that exclusion will be subject to the fee described in Section 2(a)(iii) of the Act [subsec. (a)(iii) of this section]. The range of recreation user fees to be charged and the criteria for their selection shall be established under the procedures prescribed by Section 6 of this Order.

(b) The Secretary of the Interior shall prescribe the procedures for the production, distribution, and sale of the Land and Water Conservation Fund Sticker, which shall be issued to those individuals who elect to pay the annual fees. The Secretary of the Interior shall also prescribe the manner in which the Sticker shall be displayed. The conditions under which it may be used shall be determinated under the procedures prescribed by Section 6 of this Order.

SEC. 6. *Coordination.* (a) The Secretary of the Interior shall after consultation with the heads of other affected departments and agencies, adopt such coordination measures as are necessary to carry out the purposes of Sections 2(a) and 4(a) of the Act [subsec. (a) of this section and section 460*l*–7(a) of this title] and the provisions of this order.

(b)(1) In order that the purposes of the Act and of this Order may be effectuated without delay, the Secretary of the Interior shall, subject to the limitations imposed by the Act and without regard to the other provisions of this section, forthwith issue a schedule of recreation user fees and criteria to be used in determining which such fees shall be charged with respect to each of the designated areas.

(2) Subject to the limitations imposed by the Act and subject to the provisions of subsections (a), (c), and (d) of this section, the Secretary of the Interior may, from time to time, amend or replace the schedule of fees and the criteria prescribed by him pursuant to subsection (b)(1) of this section.

(c) Subject to the limits set forth in the Act, the measures which the Secretary of the Interior may adopt pursuant to subsection (a) of this section may include, but are not limited to, the following—

(1) Initial preparation and coordination of the comprehensive statement of estimated requirements during the ensuing fiscal year for appropriations from the Land and Water Conservation Fund, as required by Section 4(a) of the act [section 460*l*–7(a) of this title].

(2) Development of such additional procedures and interpretive materials as are necessary to facilitate the implementation of this Order and related provisions of the Act.

(3) Review and revision, if needed, of the criteria for designation set forth in Section 3 of this Order.

(d) Except with respect to the schedule of fees and the criteria prescribed by the Secretary pursuant to subsection (b)(1) of this section, measures and regulations adopted by the Secretary pursuant to this Order shall not become effective until 30 days after they are presented for the consideration of the other officials described in Section 1(b). Any such official who does not concur in any such measure or regulation may, within that 30-day period, refer the matter to the Recreation Advisory Council established under Executive Order No. 11017 [superseded by Ex. Ord. No. 11278, which in turn was revoked by Ex. Ord. No. 11472 which is set out as a note under section 4321 of Title 42] for resolution. If a proposed measure is referred to the Council for resolution, it shall not become effective until approved by the Council. With the approval of all other officials described in Section 1(b) of this Order, the provisions of this subsection may be waived with respect to any specific measure or regulation adopted by the Secretary of the Interior pursuant to this order so that any such measure or regulation may be made effective before the expiration of the 30-day waiting period prescribed by the first sentence of this subsection.

SEC. 7. *Review of contracts.* The officials described in Section 1(b) of this Order shall, within a reasonable time, review all existing contracts and other arrangements between their respective agencies and any non-Federal public entity which relate to non-Federal management of Federally-owned outdoor recreation areas. Special attention shall be given to any provision in any such contract or other arrangement which prohibits or discourages in any way such non-Federal public entity from charging recreation user fees. Unless otherwise prohibited by law, each such restrictive provision shall be the subject of renegotiation designed to accomplish a modification thereof that will permit the charging of recreation user fees.

SEC. 8. *Regulations.* The Secretary of the Interior is authorized to issue such regulations as may be necessary to carry out his functions under this Order.

LYNDON B. JOHNSON.

§ 460*l*–5a. Repealed. Pub. L. 100–203, title V, § 5201(d)(1), Dec. 22, 1987, 101 Stat. 1330–266

Section, Pub. L. 96–514, title I, § 100, Dec. 12, 1980, 94 Stat. 2960, provided for revenues received from recreation fee collections by Federal agencies to be paid into the Land and Water Conservation Fund and to be available for appropriation for any and all authorized purposes.

RECREATION USE FEES COLLECTED AND DEPOSITED IN UNITED STATES TREASURY BY CORPS OF ENGINEERS

Pub. L. 97–88, title I, § 100, Dec. 4, 1981, 95 Stat. 1136, related to special recreation use fees collected by, and deposited in the Treasury by the Corps of Engineers, prior to repeal by Pub. L. 100–203, title V, § 5201(d)(3), Dec. 22, 1987, 101 Stat. 1330–267.

§ 460*l*–6. Appropriations for expenditure of land and water conservation fund moneys; transfers to miscellaneous receipts of Treasury

Moneys covered into the fund shall be available for expenditure for the purposes of this part only when appropriated therefor. Such appropriations may be made without fiscal-year limitation. Moneys made available for obligation or expenditure from the fund or from the special account established under section 460*l*–6a(i)(1)[1] of this title may be obligated or expended only as provided in this part.

(Pub. L. 88–578. title I, § 3, Sept. 3, 1964, 78 Stat. 899; Pub. L. 100–203, title V, § 5201(f)(2), Dec. 22, 1987, 101 Stat. 1330–267.)

REFERENCES IN TEXT

This part, referred to in text, was in the original ''this Act'', meaning Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, which is classified principally to this part. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

Section 460*l*–6a(i)(1) of this title, referred to in text, was repealed, with the exception of subpar. (C) of subsec. (i)(1), by Pub. L. 108–447, div. J, title VIII, § 813(a), Dec. 8, 2004, 118 Stat. 3390, as amended by Pub. L. 109–54, title I, § 132(a), Aug. 2, 2005, 119 Stat. 526.

[1] See References in Text note below.

AMENDMENTS

1987—Pub. L. 100–203 amended last sentence generally. Prior to amendment, last sentence read as follows: ''Moneys covered into this fund not subsequently authorized by the Congress for expenditures within two fiscal years following the fiscal year in which such moneys had been credited to the fund, shall be transferred to miscellaneous receipts of the Treasury.''

§ 460*l*–6a. Admission and special recreation use fees

(a) to (g). Repealed. Pub. L. 108–447, div. J, title VIII, § 813(a), Dec. 8, 2004, 118 Stat. 3390, as amended by Pub. L. 109–54, title I, § 132(a), Aug. 2, 2005, 119 Stat. 526

(h) Repealed. Pub. L. 104–66, title I, § 1081(f), Dec. 21, 1995, 109 Stat. 721

(i) Covering of fees collected into special account for agency established in Treasury

(1)(A), (B) Repealed. Pub. L. 108–447, div. J, title VIII, § 813(a), Dec. 8, 2004, 118 Stat. 3390, as amended by Pub. L. 109–54, title I, § 132(a), Aug. 2, 2205, 119 Stat. 526.

(C) UNITS AT WHICH ENTRANCE FEES OR ADMISSIONS FEES CANNOT BE COLLECTED.—

(i) WITHHOLDING OF AMOUNTS.—Notwithstanding section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1998 (16 U.S.C. 460*l*–6a note; Public Law 105–83), the Secretary of the Interior shall withhold from the special account under section 6806(a) of this title 100 percent of the fees and charges collected in connection with any unit of the National Park System at which entrance fees or admission fees cannot be collected by reason of deed restrictions.

(ii) USE OF AMOUNTS.—Amounts withheld under clause (i) shall be retained by the Secretary and shall be available, without further Act of appropriation, for expenditure by the Secretary for the unit with respect to which the amounts were collected for the purposes of enhancing the quality of the visitor experience, protection of resources, repair and maintenance, interpretation, signage, habitat or facility enhancement, resource preservation, annual operation (including fee collection), maintenance, and law enforcement.

(2) to (4) Repealed. Pub. L. 108–447, div. J, title VIII, § 813(a), Dec. 8, 2004, 118 Stat. 3390, as amended by Pub. L. 109–54, title I, § 132(a), Aug. 2, 2205, 119 Stat. 526.

(j) Funds available to National Park Service; required allocations; computations; unexpended funds

(1) 10 percent of the funds made available to the Director of the National Park Service under subsection (i) of this section in each fiscal year shall be allocated among units of the National Park System on the basis of need in a manner to be determined by the Director.

(2) 40 percent of the funds made available to the Director of the National Park Service under subsection (i) of this section in each fiscal year shall be allocated among units of the National Park System in accordance with paragraph (3) of this subsection and 50 percent shall be allocated in accordance with paragraph (4) of this subsection.

(3) The amount allocated to each unit under this paragraph for each fiscal year shall be a fraction of the total allocation to all units under this paragraph. The fraction for each unit shall be determined by dividing the operating expenses at that unit during the prior fiscal year by the total operating expenses at all units during the prior fiscal year.

(4) The amount allocated to each unit under this paragraph for each fiscal year shall be a fraction of the total allocation to all units under this paragraph. The fraction for each unit shall be determined by dividing the user fees and admission fees collected under this section at that unit during the prior fiscal year by the total of user fees and admission fees collected under this section at all units during the prior fiscal year.

(5) Amounts allocated under this subsection to any unit for any fiscal year and not expended in that fiscal year shall remain available for expenditure at that unit until expended.

(k) Selling of permits and collection of fees by volunteers at designated areas; collecting agency duties; surety bonds; selling of annual admission permits by public and private entities under arrangements with collecting agency head

When authorized by the head of the collecting agency, volunteers at designated areas may sell permits and collect fees authorized or established pursuant to this section. The head of such agency shall ensure that such volunteers have adequate training regarding—

(1) the sale of permits and the collection of fees,

(2) the purposes and resources of the areas in which they are assigned, and

(3) the provision of assistance and information to visitors to the designated area.

The Secretary shall require a surety bond for any such volunteer performing services under this subsection. Funds available to the collecting agency may be used to cover the cost of any such surety bond. The head of the collecting agency may enter into arrangements with qualified public or private entities pursuant to which such entities may sell (without cost to the United States) annual admission permits (including Golden Eagle Passports) at any appropriate location. Such arrangements shall require each such entity to reimburse the United States for the full amount to be received from the sale of such permits at or before the agency delivers the permits to such entity for sale.

(*l*) Charge for transportation provided by National Park Service for viewing National Park System units; charge in lieu of admission fee; maximum charge; apportionment and expenditure of charges

(1) Where the National Park Service provides transportation to view all or a portion of any unit of the National Park System, the Director may impose a charge for such service in lieu of an admission fee under this section. The charge imposed under this paragraph shall not exceed the maximum admission fee under subsection (a)[1] of this section.

[1] See References in Text note below.

(2) Notwithstanding any other provision of law, half of the charges imposed under paragraph (1) shall be retained by the unit of the National Park System at which the service was provided. The remainder shall be covered into the special account referred to in subsection (i)[1] of this section in the same manner as receipts from fees collected pursuant to this section. Fifty percent of the amount retained shall be expended only for maintenance of transportation systems at the unit where the charge was imposed. The remaining 50 percent of the retained amount shall be expended only for activities related to resource protection at such units.

(m) Admission fee at National Park System units where primary public access is provided by concessioner; maximum fee

Where the primary public access to a unit of the National Park System is provided by a concessioner, the Secretary may charge an admission fee at such units only to the extent that the total of the fee charged by the concessioner for access to the unit and the admission fee does not exceed the maximum amount of the admission fee which could otherwise be imposed under subsection (a)[1] of this section.

(n) Commercial tour use fees

(1) In the case of each unit of the National Park System for which an admission fee is charged under this section, the Secretary of the Interior shall establish, by October 1, 1993, a commercial tour use fee to be imposed on each vehicle entering the unit for the purpose of providing commercial tour services within the unit. Fee revenue derived from such commercial tour use fees shall be deposited into the special account established under subsection (i)[1] of this section.

(2) The Secretary shall establish the amount of fee per entry as follows:

(A) $25 per vehicle with a passenger capacity of 25 persons or less, and

(B) $50 per vehicle with a passenger capacity of more than 25 persons.

(3) The Secretary may periodically make reasonable adjustments to the commercial tour use fee imposed under this subsection.

(4) The commercial tour use fee imposed under this subsection shall not apply to either of the following:

(A) Any vehicle transporting organized school groups or outings conducted for educational purposes by schools or other bona fide educational institutions.

(B) Any vehicle entering a park system unit pursuant to a contract issued under the Act of October 9, 1965 (16 U.S.C. 20–20g)[1] entitled ''An Act relating to the establishment of concession policies in the areas administered by the National Park Service and for other purposes.''

(5)(A) The provisions of this subsection shall apply to aircraft entering the airspace of units of the National Park System identified in section 2(b) and section 3 of Public Law 100–91 for the specific purpose of providing commercial tour services within the airspace of such units.

(B) The provisions of this subsection shall also apply to aircraft entering the airspace of other units of the National Park System for the specific purpose of providing commercial tour services if the Secretary determines that the level of such services is equal to or greater than the level at those units of the National Park System specified in subparagraph (A).

(Pub. L. 88–578, title I, §4, as added Pub. L. 92–347, §2, July 11, 1972, 86 Stat. 459; amended Pub. L. 93–81, §§1, 2, Aug. 1, 1973, 87 Stat. 178, 179; Pub. L. 93–303, §1, June 7, 1974, 88 Stat. 192; Pub. L. 96–344, §9, Sept. 8, 1980, 94 Stat. 1135; Pub. L. 100–203, title V, §5201(a)–(c), Dec. 22, 1987, 101 Stat. 1330–263, 1330–264; Pub. L. 103–66, title V, §5001(b), title X, §§10001, 10002, Aug. 10, 1993, 107 Stat. 379, 402, 403; Pub. L. 103–437, §6(p)(1), Nov. 2, 1994, 108 Stat. 4586; Pub. L. 104–66, title I, §1081(f), Dec. 21, 1995, 109 Stat. 721; Pub. L. 105–327, §1, Oct. 30, 1998, 112 Stat. 3055; Pub. L. 108–447, div. J, title VIII, §813(a), Dec. 8, 2004, 118 Stat. 3390; Pub. L. 109–54, title I, §132(a), (b), Aug. 2, 2005, 119 Stat. 526.)

REFERENCES IN TEXT

Subsections (a) and (i) (except par. (1)(C)) of this section, referred to in subsecs. (*l*) to (n), were repealed by Pub. L. 108–447, div. J, title VIII, §813(a), Dec. 8, 2004, 118 Stat. 3390.

Act of October 9, 1965, referred to in subsec. (n)(4)(B), is Pub. L. 89–249, Oct. 9, 1965, 79 Stat. 969, known as the National Park System Concessions Policy Act, which was classified generally to subchapter IV (§20 et seq.) of this chapter, prior to repeal by Pub. L. 105–391, title IV, §415(a), Nov. 13, 1998, 112 Stat. 3515.

Public Law 100–91, referred to in subsec. (n)(5)(A), is set out as a note under section 1a–1 of this title.

PRIOR PROVISIONS

A prior section 4 of Pub. L. 88–578 was renumbered section 5 and is classified to section 460*l*–7 of this title.

AMENDMENTS

2005—Pub. L. 109–54, §132(a), amended Pub. L. 108–447, §813(a). See 2004 Amendment notes below.

Subsec. (i)(1)(C)(i). Pub. L. 109–54, §132(b), substituted ''Notwithstanding section 107'' for ''Notwithstanding subparagraph (A), section 315(c) of section 101(c) of the Omnibus Consolidated Recessions and Appropriations Act of 1996 (16 U.S.C. 460*l*–6a note; Public Law 104–134), or section 107'' and ''account under section 6806(a) of this title'' for ''account under subparagraph (A)''.

2004—Subsecs. (a) to (g). Pub. L. 108–447, §813(a), as amended by Pub. L. 109–54, §132(a), struck out subsec. (a) relating to admission fees, Golden Eagle and Golden Age Passports, and permits, subsec. (b) relating to recreation use fees, collection, campgrounds at lakes or reservoirs, and fees for Golden Age passport permittees, subsec. (c) relating to special recreation permits, subsec. (d) relating to criteria, posting, and uniformity of fees, subsec. (e) relating to establishment of rules and regulations, enforcement powers, and penalty for violations, subsec. (f) relating to contracts with any public or private entity to provide visitor registration services, and subsec. (g) relating to effect on Federal and State laws.

Subsec. (i). Pub. L. 108–447, §813(a), as amended by Pub. L. 109–54, §132(a), struck out subsec. (i), relating to covering fees collected into special account for agency established in Treasury, covered agencies, availability of funds, and allocation of National Park Service funds, except for paragraph (1)(C), relating to units at which entrance fees or admissions fees cannot be collected.

1998—Subsec. (i)(1)(C). Pub. L. 105–327 added subpar. (C).

1995—Subsec. (h). Pub. L. 104–66 struck out subsec. (h) which read as follows: ''Periodic reports indicating the number and location of fee collection areas, the num-

ber and location of potential fee collection areas, capacity and visitation information, the fees collected, and other pertinent data, shall be coordinated and compiled by the Bureau of Outdoor Recreation and transmitted to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such reports, which shall be transmitted no later than March 31 annually, shall include any recommendations which the Bureau may have with respect to improving this aspect of the land and water conservation fund program.''

1994—Subsec. (h). Pub. L. 103–437 substituted ''Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate'' for ''Committees on Interior and Insular Affairs of the United States House of Representatives and United States Senate''.

1993—Subsec. (a). Pub. L. 103–66, §10001(a), in first sentence inserted ''or National Conservation Areas'' after ''National Park System'' and '', National Monuments, National Volcanic Monuments, National Scenic Areas, and no more than 21 areas of concentrated public use'' after ''National Recreation Areas'' and inserted new second sentence defining ''area of concentrated public use''.

Subsec. (a)(1)(A). Pub. L. 103–66, §10002(d), (e), designated existing provisions as cl. (i), substituted ''The annual permit shall be valid for a period of 12 months from the date the annual fee is paid'' for ''The annual permit shall be valid during the calendar year for which the annual fee is paid'', and added cl. (ii).

Subsec. (a)(4). Pub. L. 103–66, §10001(b), substituted ''for a one-time charge of $10'' for ''without charge''.

Subsec. (b). Pub. L. 103–66, §10002(a)(1), in first sentence, substituted ''or toilet facilities, nor shall there be any such charge solely for the use of picnic tables: *Provided*, That in no event shall there be a charge for the use of any campground not having a majority of the following: tent or trailer spaces, picnic tables, drinking water, access road, refuse containers, toilet facilities, personal collection of the fee by an employee or agent of the Federal agency operating the facility, reasonable visitor protection, and simple devices for containing a campfire (where campfires are permitted).'' for ''toilet facilities, picnic tables, or boat ramps: *Provided, however*, That a fee shall be charged for boat launching facilities only where specialized facilities or services such as mechanical or hydraulic boat lifts or facilities are provided: *And provided further*, That in no event shall there be a charge for the use of any campground not having the following—tent or trailer spaces, drinking water, access road, refuse containers, toilet facilities, personal collection of the fee by an employee or agent of the Federal agency operating the facility, reasonable visitor protection, and simple devices for containing a campfire (where campfires are permitted).'', and inserted new second sentence defining ''specialized outdoor recreation sites''.

Pub. L. 102–66, §§5001(b) and 10002(a)(2), amended subsec. (b) identically, striking out second sentence which read as follows: ''At each lake or reservoir under the jurisdiction of the Corps of Engineers, United States Army, where camping is permitted, such agency shall provide at least one primitive campground, containing designated campsites, sanitary facilities, and vehicular access, where no charge shall be imposed.''

Subsec. (i)(1). Pub. L. 103–66, §10002(b), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (n). Pub. L. 103–66, §10002(c), added subsec. (n).

1987—Subsec. (a)(1). Pub. L. 100–203, §5201(a)(1), (2), designated existing provisions as subpar. (A) and substituted ''$25'' for ''$10'', and added subpar. (B).

Subsec. (a)(2). Pub. L. 100–203, §5201(a)(3), inserted at end ''The fee for a single-visit permit at any designated area applicable to those persons entering by private, noncommercial vehicle shall be no more than $5 per vehicle. The single-visit permit shall admit the permittee and all persons accompanying him in a single vehicle. The fee for a single-visit permit at any designated area applicable to those persons entering by any means other than a private noncommercial vehicle shall be no more than $3 per person. Except as otherwise provided in this subsection, the maximum fee amounts set forth in this paragraph shall apply to all designated areas.''

Subsec. (a)(3). Pub. L. 100–203, §5201(a)(4), inserted at end ''Notwithstanding any other provision of this part, no admission fee may be charged at any unit of the National Park System which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations.''

Subsec. (a)(6) to (12). Pub. L. 100–203, §5201(a)(5), added pars. (6) to (12).

Subsec. (f). Pub. L. 100–203, §5201(b), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''Except as otherwise provided by law or as may be required by lawful contracts entered into prior to September 3, 1964, providing that revenues collected at particular Federal areas shall be credited to specific purposes, all fees which are collected by any Federal agency shall be covered into a special account in the Treasury of the United States to be administered in conjunction with, but separate from, the revenues in the Land and Water Conservation Fund: *Provided*, That the head of any Federal agency, under such terms and conditions as he deems appropriate, may contract with any public or private entity to provide visitor reservation services; and any such contract may provide that the contractor shall be permitted to deduct a commission to be fixed by the agency head from the amount charged the public for providing such services and to remit the net proceeds therefrom to the contracting agency. Revenues in the special account shall be available for appropriation, without prejudice to appropriations from other sources for the same purposes, for any authorized outdoor recreation function of the agency by which the fees were collected: *Provided, however*, That not more than forty per centum of the amount so credited may be appropriated during the five fiscal years following the enactment of this Act for the enhancement of the fee collection system established by this section, including the promotion and enforcement thereof.''

Subsecs. (i) to (m). Pub. L. 100–203, §5201(c), added subsecs. (i) to (m).

1980—Subsec. (a)(2). Pub. L. 96–344, §9(1), substituted provision defining ''single visit'' as a more or less continuous stay within a designated area and providing that payment of a single visit admission authorizes exits from and reentries to a single designated area for a period of from one to fifteen days, such period to be determined by the administrating Secretary, for provision defining ''single visit'' as the length of time a visitor remained within the exterior boundary of a designated fee area beginning from the first day he entered until he left, except that on the same day the admission fee was paid, the visitor could leave and reenter without paying an additional admission fee.

Subsec. (a)(5). Pub. L. 96–344, §9(2), added par. (5).

Subsec. (b). Pub. L. 96–344, §9(3), inserted '', or permittee under paragraph (5) of subsection (a) of this section,'' after ''Passport permittee''.

1974—Subsec. (a). Pub. L. 93–303, §1(b), inserted ''which are operated and maintained by a Federal agency and'' after ''areas''.

Subsec. (a)(1). Pub. L. 93–303, §1(c), among other changes, substituted ''The permittee'' for ''Any person purchasing the annual permit'', inserted provisions authorizing the permittee and his spouse, children, and parents accompanying him to enter an area where entry is by any means other than private, noncommercial vehicles, changed provisions which relate to the purchase of the annual permit to allow its sale at any designated area instead of through the offices of the Secretary of the Interior and the Secretary of Agriculture, through all post offices of the first- and second-class, and at such other offices as the Postmaster General directed, and struck out provisions which empowered the Secretary of the Interior to transfer to the

Postal Service from the permit receipts such funds as are adequate to reimburse the Postal Service for the cost of the service.

Subsec. (a)(2). Pub. L. 93–303, §1(d), struck out ''or who enter such an area by means other than by private, noncommercial vehicle'' after ''annual permit'' in first sentence. See subsec. (a)(1) of this section.

Subsec. (a)(4). Pub. L. 93–303, §1(e), substituted ''a lifetime admission permit'' for ''an annual entrance permit'', limited the issuance of this permit to citizens of, or persons domiciled in the United States, and inserted provisions to allow the permittee and his spouse and children accompanying him to enter an area which entry is by any means other than private, noncommercial vehicle.

Subsec. (b). Pub. L. 93–303, §1(f), (g), among other changes, substituted ''daily recreation use fee'' for ''special recreation use fees'', authorized a fee for boat launching facilities where specialized facilities or services such as mechanical or hydraulic boat lifts or facilities are provided, required the Corps of Engineers to provide at least one primitive campground where no charge shall be imposed at each lake or reservoir under its jurisdiction, incorporated provisions formerly in subsec. (b)(1) allowing any Golden Age Passport permittee to utilize the recreation facilities at a rate of 50 per centum of the established use fee, struck out the remainder of former subsec. (b)(1) which related to determination of daily use fees for overnight occupancy, and redesignated former subsec. (b)(2) as (c).

Subsec. (c). Pub. L. 93–303, §1(g), redesignated subsec. (b)(2) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 93–303, §1(g), (h), redesignated subsec. (c) as (d), and substituted therein ''a fee has been established pursuant to this section'' for ''an admission fee or special recreation use fee has been established''.

Subsec. (e). Pub. L. 93–303, §1(g), (i), redesignated subsec. (d) as (e), and substituted therein ''collection of any fee established pursuant to this section'' for ''collection of any entrance fee and/or special recreation use fee, as the case may be''.

Subsec. (f). Pub. L. 93–303, §1(g), (j), redesignated subsec. (e) as (f), and inserted provisions therein empowering the head of any Federal agency to contract with any public or private entity to provide visitor reservation services.

Subsecs. (g), (h). Pub. L. 93–303, §1(g), redesignated subsecs. (f) and (g) as (g) and (h), respectively.

1973—Subsec. (a)(2). Pub. L. 93–81, §2, inserted definition of ''single visit''.

Subsec. (b). Pub. L. 93–81, §1, inserted in opening paragraph the proviso that there shall be no charge for the day use or recreational use of facilities such as picnic areas, boat ramps, where no mechanical or hydraulic equipment is provided, drinking water, wayside exhibits, roads, trails, overlook sites, visitors' centers, scenic drives and toilet facilities and that no fee be charged for access to or use of campground not having flush restrooms, showers, access and circulatory roads, sanitary disposal stations, visitor protection control, designated tent or trailer spaces, refuse containers and potable water.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–54, title I, §132(d), Aug. 2, 2005, 119 Stat. 526, provided that: ''This section [amending this section and section 6812 of this title and enacting provisions set out as a note under this section] and the amendments made by this section take effect as of December 8, 2004.''

SAVINGS PROVISION FOR 2004 AMENDMENT

For authority of Secretary to continue to issue Golden Eagle Passports, Golden Age Passports, and Golden Access Passports under this section until Dec. 19, 2006, see section 6812(a) of this title.

CONSTRUCTION

Pub. L. 109–54, title I, §132(c), Aug. 2, 2005, 119 Stat. 526, provided that: ''Except as provided in this section [amending this section and section 6812 of this title and enacting provisions set out as a note under this section], section 4(i)(1)(C) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(i)(1)(C)) shall be applied and administered as if section 813(a) of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6812(a)) (and the amendments made by that section [Pub. L. 108–447, amending this section]) had not been enacted.''

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with rights-of-way across recreation lands issued under this part and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this part with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

NATIONAL PARK SERVICE ENTRANCE AND RECREATIONAL USE FEES

Pub. L. 106–176, title III, §310, Mar. 10, 2000, 114 Stat. 34, provided that:

''(a) The Secretary of the Interior is authorized to retain and expend revenues from entrance and recreation use fees at units of the National Park System where such fees are collected under section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a), notwithstanding the provisions of section 4(i) of such Act. Fees shall be retained and expended in the same manner and for the same purposes as provided under the Recreational Fee Demonstration Program (section 315 of Public Law 104–134, as amended (16 U.S.C. 460l–6a note)[)].

''(b) Nothing in this section shall affect the collection of fees at units of the National Park System designated as fee demonstration projects under the Recreational Fee Demonstration Program.

''(c) The authorities in this section shall expire upon the termination of the Recreational Fee Demonstration Program.''

RECREATION USER FEES

Pub. L. 106–53, title II, §225, Aug. 17, 1999, 113 Stat. 297, provided that:

''(a) WITHHOLDING OF AMOUNTS.—

''(1) IN GENERAL.—During fiscal years 1999 through 2002, the Secretary [of the Army] may withhold from the special account established under section 4(i)(1)(A) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(i)(1)(A)) 100 percent of the amount of receipts above a baseline of $34,000,000 per each fiscal year received from fees imposed at recreation sites under the administrative jurisdiction of the Department of the Army under section 4(b) of that Act (16 U.S.C. 460*l*–6a(b)).

''(2) USE.—The amounts withheld shall be retained by the Secretary and shall be available, without further Act of appropriation, for expenditure by the Secretary in accordance with subsection (b).

''(3) AVAILABILITY.—The amounts withheld shall remain available until September 30, 2005.

''(b) USE OF AMOUNTS WITHHELD.—In order to increase the quality of the visitor experience at public recreational areas and to enhance the protection of resources, the amounts withheld under subsection (a) may be used only for—

''(1) repair and maintenance projects (including projects relating to health and safety);

''(2) interpretation;

''(3) signage;

''(4) habitat or facility enhancement;

''(5) resource preservation;

''(6) annual operation (including fee collection);

''(7) maintenance; and

''(8) law enforcement related to public use.

''(c) AVAILABILITY.—Each amount withheld by the Secretary [of the Army] shall be available for expenditure, without further Act of appropriation, at the specific project from which the amount, above baseline, is collected.''

RECREATIONAL FEE DEMONSTRATION PROGRAM

Pub. L. 108–447, div. E, title III, §319, Dec. 8, 2004, 118 Stat. 3097, provided that: ''A project undertaken by the Forest Service under the Recreation Fee Demonstration Program as authorized by section 315 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1996, as amended [Pub. L. 104–134, title I, §101(c), formerly set out below], shall not result in—

''(1) displacement of the holder of an authorization to provide commercial recreation services on Federal lands. Prior to initiating any project, the Secretary shall consult with potentially affected holders to determine what impacts the project may have on the holders. Any modifications to the authorization shall be made within the terms and conditions of the authorization and authorities of the impacted agency; and

''(2) the return of a commercial recreation service to the Secretary for operation when such services have been provided in the past by a private sector provider, except when—

''(A) the private sector provider fails to bid on such opportunities;

''(B) the private sector provider terminates its relationship with the agency; or

''(C) the agency revokes the permit for non-compliance with the terms and conditions of the authorization.

In such cases, the agency may use the Recreation Fee Demonstration Program to provide for operations until a subsequent operator can be found through the offering of a new prospectus.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–108, title III, §319, Nov. 10, 2003, 117 Stat. 1306.

Pub. L. 108–7, div. F, title III, §319, Feb. 20, 2003, 117 Stat. 274.

Pub. L. 107–63, title III, §325, Nov. 5, 2001, 115 Stat. 470.

Pub. L. 106–291, title III, §334, Oct. 11, 2000, 114 Stat. 997.

Pub. L. 106–113, div. B, §1000(a)(3) [title III, §344], Nov. 29, 1999, 113 Stat. 1535, 1501A–203.

Pub. L. 105–83, title I, §107, Nov. 14, 1997, 111 Stat. 1561, provided that: ''In fiscal year 1998 and thereafter, for those years in which the recreation fee demonstration program authorized in Public Law 104–134 [set out below] is in effect, the fee collection support authority provided in 16 U.S.C. 460*l*–6(i)(1)(B) applies only to parks not included in the fee demonstration program, and that the amount retained under this authority to cover fee collection costs will not exceed those costs at the non-demonstration parks, or 15 percent of all fees collected at non-demonstration parks in a fiscal year whichever is less. Fee collection costs for parks included in the fee demonstration program will be covered by the fees retained at those parks.''

Pub. L. 104–134, title I, §101(c) [title III, §315], Apr. 26, 1996, 110 Stat. 1321–156, 1321–200; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, as amended by Pub. L. 104–208, div. A, title I, §101(d) [title I, title III, §319], Sept. 30, 1996, 110 Stat. 3009–181, 3009–187, 3009–223; Pub. L. 105–18, title II, §5001, June 12, 1997, 111 Stat. 181; Pub. L. 105–83, title III, §320, Nov. 14, 1997, 111 Stat. 1596; Pub. L. 105–277, div. A, §101(e) [title III, §327], Oct. 21, 1998, 112 Stat. 2681–231, 2681–291; Pub. L. 106–291, title III, §336, Oct. 11, 2000, 114 Stat. 997; Pub. L. 107–63, title III, §312, Nov. 5, 2001, 115 Stat. 466; Pub. L. 108–108, title III, §332, Nov. 10, 2003, 117 Stat. 1309; Pub. L. 108–447, div. E, title III, §331, Dec. 8, 2004, 118 Stat. 3099, directed the Secretary of the Interior and Secretary of Agriculture to implement fee programs to demonstrate the feasibility of user-generated cost recovery for operation and maintenance of recreation areas or sites and habitat enhancement projects on Federal lands and to establish various requirements for carrying out the pilot programs, prior to repeal by Pub. L. 108–447, div. J, title VIII, §813(b), Dec. 8, 2004, 118 Stat. 3390.

STUDY TO ASSESS TRAFFIC CONGESTION AND OVERCROWDING AT CERTAIN PARK SYSTEM UNITS

Section 5201(e) of Pub. L. 100–203 directed Secretary of the Interior to assess extent to which traffic congestion and overcrowding occurs at certain park system units during times of seasonally high usage and to conduct a study of (A) feasibility of reducing vehicular traffic within national park system units through fee reductions for visitors traveling by bus and through other means which could shift visitation from automobiles to buses, and (B) feasibility of encouraging more even seasonal distribution of visitation, with study to include a pilot project to be carried out in Yosemite National Park, and a report containing results of study to be transmitted to Committee on Interior and Insular Affairs of House of Representatives and to Committee on Energy and Natural Resources of Senate within 3 years after Dec. 22, 1987.

PROHIBITION ON ENTRANCE FEE AT STATUE OF LIBERTY NATIONAL MONUMENT

Pub. L. 100–55, June 19, 1987, 101 Stat. 371, provided: ''That, notwithstanding any other provision of law, after the date of enactment of this Act [June 19, 1987], the Secretary of the Interior shall not charge any entrance or admission fee at the Statue of Liberty National Monument, New Jersey and New York.''

ESTABLISHMENT AND COLLECTION OF USE OR ROYALTY FEES FOR MANUFACTURE, REPRODUCTION, OR USE OF ''GOLDEN EAGLE INSIGNIA''

Section 3(a) of Pub. L. 92–347 provided that: ''The Secretary of the Interior may establish and collect use or royalty fees for the manufacture, reproduction, or use of 'The Golden Eagle Insignia', originated by the Department of the Interior and announced in the December 3, 1970, issue of the Federal Register (35 Federal Register 18376) as the official symbol for Federal recreation areas designated for recreation fee collection. Any fees collected pursuant to this subsection shall be covered into the Land and Water Conservation Fund.''

TERMINATION OF RIGHTS IN ''GOLDEN EAGLE INSIGNIA''

Section 3(d) of Pub. L. 92–347 provided that: ''The rights in 'The Golden Eagle Insignia' under this Act [which enacted this section and section 715 of title 18, enacted notes set out hereunder, and repealed note set out under section 460*l*–5 of this title], shall terminate if the use by the Secretary of the Interior of 'The Golden Eagle Insignia' is abandoned. Nonuse for a continuous period of two years shall constitute abandonment.''

§ 460*l*–6b. Repealed. Pub. L. 100–203, title V, § 5201(d)(2), Dec. 22, 1987, 101 Stat. 1330–267

Section, Pub. L. 96–87, title IV, §402, Oct. 12, 1979, 93 Stat. 666; Pub. L. 96–487, title II, §202(3)(a), Dec. 2, 1980,

94 Stat. 2382, prohibited entrance or admission fees in excess of amounts in effect Jan. 1, 1979, at any unit of National Park System and user fees for transportation services and facilities in Denali National Park, Alaska.

§ 460*l*–6c. Admission, entrance, and recreation fees

(a) Definitions

As used in this section:

(1) Area of concentrated public use

The term ''area of concentrated public use'' means an area administered by the Secretary that meets each of the following criteria:

(A) The area is managed primarily for outdoor recreation purposes.

(B) Facilities and services necessary to accommodate heavy public use are provided in the area.

(C) The area contains at least 1 major recreation attraction.

(D) Public access to the area is provided in such a manner that admission fees can be efficiently collected at 1 or more centralized locations.

(2) Boat launching facility

The term ''boat launching facility'' includes any boat launching facility, regardless of whether specialized facilities or services, such as mechanical or hydraulic boat lifts or facilities, are provided.

(3) Campground

The term ''campground'' means any campground where a majority of the following amenities are provided, as determined by the Secretary:

(A) Tent or trailer spaces.

(B) Drinking water.

(C) An access road.

(D) Refuse containers.

(E) Toilet facilities.

(F) The personal collection of recreation use fees by an employee or agent of the Secretary.

(G) Reasonable visitor protection.

(H) If campfires are permitted in the campground, simple devices for containing the fires.

(4) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(b) Authority to impose fees

The Secretary may charge—

(1) admission or entrance fees at national monuments, national volcanic monuments, national scenic areas, and areas of concentrated public use administered by the Secretary; and

(2) recreation use fees at lands administered by the Secretary in connection with the use of specialized outdoor recreation sites, equipment, services, and facilities, including visitors' centers, picnic tables, boat launching facilities, and campgrounds.

(c) Amount of fees

The amount of the admission, entrance, and recreation fees authorized to be imposed under this section shall be determined by the Secretary.

(Pub. L. 103–66, title I, § 1401, Aug. 10, 1993, 107 Stat. 331.)

CODIFICATION

Section was enacted as part of the Agricultural Reconciliation Act of 1993 and as part of the Omnibus Budget Reconciliation Act of 1993, and not as part of the Land and Water Conservation Fund Act of 1965 which comprises this part.

§ 460*l*–6d. Commercial filming

(a) Commercial filming fee

The Secretary of the Interior and the Secretary of Agriculture (hereafter individually referred to as the ''Secretary'' with respect to lands under their respective jurisdiction) shall require a permit and shall establish a reasonable fee for commercial filming activities or similar projects on Federal lands administered by the Secretary. Such fee shall provide a fair return to the United States and shall be based upon the following criteria:

(1) The number of days the filming activity or similar project takes place on Federal land under the Secretary's jurisdiction.

(2) The size of the film crew present on Federal land under the Secretary's jurisdiction.

(3) The amount and type of equipment present.

The Secretary may include other factors in determining an appropriate fee as the Secretary deems necessary.

(b) Recovery of costs

The Secretary shall also collect any costs incurred as a result of filming activities or similar project, including but not limited to administrative and personnel costs. All costs recovered shall be in addition to the fee assessed in subsection (a) of this section.

(c) Still photography

(1) Except as provided in paragraph (2), the Secretary shall not require a permit nor assess a fee for still photography on lands administered by the Secretary if such photography takes place where members of the public are generally allowed. The Secretary may require a permit, fee, or both, if such photography takes place at other locations where members of the public are generally not allowed, or where additional administrative costs are likely.

(2) The Secretary shall require and shall establish a reasonable fee for still photography that uses models or props which are not a part of the site's natural or cultural resources or administrative facilities.

(d) Protection of resources

The Secretary shall not permit any filming, still photography or other related activity if the Secretary determines—

(1) there is a likelihood of resource damage;

(2) there would be an unreasonable disruption of the public's use and enjoyment of the site; or

(3) that the activity poses health or safety risks to the public.

(e) Use of proceeds

(1) All fees collected under this section shall be available for expenditure by the Secretary,

without further appropriation, in accordance with the formula and purposes established for the Recreational Fee Demonstration Program (Public Law 104–134). All fees collected shall remain available until expended.

(2) All costs recovered under this section shall be available for expenditure by the Secretary, without further appropriation, at the site where collected. All costs recovered shall remain available until expended.

(f) Processing of permit applications

The Secretary shall establish a process to ensure that permit applicants for commercial filming, still photography, or other activity are responded to in a timely manner.

(Pub. L. 106–206, §1, May 26, 2000, 114 Stat. 314.)

REFERENCES IN TEXT

Public Law 104–134, referred to in subsec. (e)(1), is Pub. L. 104–134, Apr. 26, 1996, 110 Stat. 1321, known as the Omnibus Consolidated Rescissions and Appropriations Act of 1996. The Recreational Fee Demonstration Program was authorized by Pub. L. 104–134, title I, §101(c) [title III, §315], Apr. 26, 1996, 110 Stat. 1321–156, 1321–200, as amended, which was set out as a note under section 460*l*–6a of this title, prior to repeal by Pub. L. 108–447, div. J, title VIII, §813(b), Dec. 8, 2004, 118 Stat. 3390. For complete classification of Pub. L. 104–134 to the Code, see Tables.

CODIFICATION

Section was not enacted as part of the Land and Water Conservation Fund Act of 1965 which comprises this part.

§ 460*l*–7. Allocation of land and water conservation fund for State and Federal purposes

There shall be submitted with the annual budget of the United States a comprehensive statement of estimated requirements during the ensuing fiscal year for appropriations from the fund. Not less than 40 per centum of such appropriations shall be available for Federal purposes. Those appropriations from the fund up to and including $600,000,000 in fiscal year 1978 and up to and including $750,000,000 in fiscal year 1979 shall continue to be allocated in accordance with this section. There shall be credited to a special account within the fund $300,000,000 in fiscal year 1978 and $150,000,000 in fiscal year 1979 from the amounts authorized by section 460*l*–5 of this title. Amounts credited to this account shall remain in the account until appropriated. Appropriations from the special account shall be available only with respect to areas existing and authorizations enacted prior to the convening of the Ninety-fifth Congress, for acquisition of lands, waters, or interests in lands or waters within the exterior boundaries, as aforesaid, of—

(1) the national park system;

(2) national scenic trails;

(3) the national wilderness preservation system;

(4) federally administered components of the National Wild and Scenic Rivers System; and

(5) national recreation areas administered by the Secretary of Agriculture.

(Pub. L. 88–578, title I, §5, formerly §4, Sept. 3, 1964, 78 Stat. 900; Pub. L. 90–401, §3, July 15, 1968, 82 Stat. 355; renumbered §5, Pub. L. 92–347, §2, July 11, 1972, 86 Stat. 459; amended Pub. L. 94–273, §3(4), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–422, title I, §101(2), Sept. 28, 1976, 90 Stat. 1314; Pub. L. 95–42, §1(2), June 10, 1977, 91 Stat. 210.)

REFERENCES IN TEXT

The convening of the Ninety-fifth Congress, referred to in text, took place on Jan. 4, 1977.

PRIOR PROVISIONS

A prior section 5 of Pub. L. 88–578 was renumbered section 6 and is classified to section 460*l*–8 of this title.

AMENDMENTS

1977—Pub. L. 95–42 inserted last four sentences providing that appropriations from the fund up to and including $600,000,000 in fiscal year 1978 and up to and including $750,000,000 in fiscal year 1979 continue to be allocated in accordance with this section, that there be credited to a special account within the fund $300,000,000 in fiscal year 1978 and $150,000,000 in fiscal year 1979 from the amounts authorized by section 460*l*–5 of this title, that amounts credited to this account remain in the account until appropriated, and that appropriations from the special account be available only with respect to areas existing and authorizations enacted prior to the convening of the Ninety-fifth Congress, for acquisition of lands, waters, or interests in lands or waters within the exterior boundaries of the national park system, national scenic trails, the national wilderness preservation system, federally administered components of the National Wild and Scenic Rivers System, and national recreation areas administered by the Secretary of Agriculture.

1976—Pub. L. 94–422 revised subsec. (a), striking out designation ''(a)'' and striking out provisions relating to the authority of the President to vary percentages of the fund to be made available to the States and Federal government, and struck out subsec. (b) relating to advance appropriations to be allocated for State and Federal purposes and the schedule and procedure for repayment of such appropriations.

Subsec. (b). Pub. L. 94–273 substituted ''October'' for ''July'' wherever appearing.

1968—Subsec. (b). Pub. L. 90–401 substituted ''until the end of fiscal year 1969'' for ''for a total of eight years'' in provision spelling out the term during which the advance appropriations are authorized from moneys in the Treasury not otherwise appropriated in amounts averaging not more than $60,000,000 for each fiscal year.

§ 460*l*–8. Financial assistance to States

(a) Authority of Secretary of the Interior; payments to carry out purposes of land and water conservation provisions

The Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to provide financial assistance to the States from moneys available for State purposes. Payments may be made to the States by the Secretary as hereafter provided, subject to such terms and conditions as he considers appropriate and in the public interest to carry out the purposes of this part, for outdoor recreation: (1) planning, (2) acquisition of land, waters, or interests in land or waters, or (3) development.

(b) Apportionment among States; finality of administrative determination; formula; notification; reapportionment of unobligated amounts; definition of State

Sums appropriated and available for State purposes for each fiscal year shall be apportioned among the several States by the Secretary, whose determination shall be final, in accordance with the following formula:

(1) Forty per centum of the first $225,000,000; thirty per centum of the next $275,000,000; and twenty per centum of all additional appropriations shall be apportioned equally among the several States; and[1]

(2) At any time, the remaining appropriation shall be apportioned on the basis of need to individual States by the Secretary in such amounts as in his judgment will best accomplish the purposes of this part. The determination of need shall include among other things a consideration of the proportion which the population of each State bears to the total population of the United States and of the use of outdoor recreation resources of individual States by persons from outside the State as well as a consideration of the Federal resources and programs in the particular States.

(3) The total allocation to an individual State under paragraphs (1) and (2) of this subsection shall not exceed 10 per centum of the total amount allocated to the several States in any one year.

(4) The Secretary shall notify each State of its apportionments; and the amounts thereof shall be available thereafter for payment to such State for planning, acquisition, or development projects as hereafter prescribed. Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such notification is given and for two fiscal years thereafter shall be reapportioned by the Secretary in accordance with paragraph (2) of this subsection, without regard to the 10 per centum limitation to an individual State specified in this subsection.

(5) For the purposes of paragraph (1) of this subsection, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (when such islands achieve Commonwealth status) shall be treated collectively as one State, and shall receive shares of such apportionment in proportion to their populations. The above listed areas shall be treated as States for all other purposes of sections 460*l*–4 to 460*l*–6a and 460*l*–7 to 460*l*–10e of this title.

(c) Matching requirements

Payments to any State shall cover not more than 50 per centum of the cost of planning, acquisition, or development projects that are undertaken by the State. The remaining share of the cost shall be borne by the State in a manner and with such funds or services as shall be satisfactory to the Secretary. No payment may be made to any State for or on account of any cost or obligation incurred or any service rendered prior to September 3, 1964.

(d) Comprehensive State plan; necessity; adequacy; contents; correlation with other plans; factors for formulation of Housing and Home Finance Agency financed plans; planning projects; wetlands consideration; wetlands priority plan

A comprehensive statewide outdoor recreation plan shall be required prior to the consideration by the Secretary of financial assistance for acquisition or development projects. The plan shall be adequate if, in the judgment of the Secretary, it encompasses and will promote the purposes of this part: *Provided*, That no plan shall be approved unless the Governor of the respective State certifies that ample opportunity for public participation in plan development and revision has been accorded. The Secretary shall develop, in consultation with others, criteria for public participation, which criteria shall constitute the basis for the certification by the Governor. The plan shall contain—

(1) the name of the State agency that will have authority to represent and act for the State in dealing with the Secretary for purposes of this part;

(2) an evaluation of the demand for and supply of outdoor recreation resources and facilities in the State;

(3) a program for the implementation of the plan; and

(4) other necessary information, as may be determined by the Secretary.

The plan shall take into account relevant Federal resources and programs and shall be correlated so far as practicable with other State, regional, and local plans. Where there exists or is in preparation for any particular State a comprehensive plan financed in part with funds supplied by the Housing and Home Finance Agency, any statewide outdoor recreation plan prepared for purposes of this part shall be based upon the same population, growth, and other pertinent factors as are used in formulating the Housing and Home Finance Agency financed plans.

The Secretary may provide financial assistance to any State for projects for the preparation of a comprehensive statewide outdoor recreation plan when such plan is not otherwise available or for the maintenance of such plan.

For fiscal year 1988 and thereafter each comprehensive statewide outdoor recreation plan shall specifically address wetlands within that State as an important outdoor recreation resource as a prerequisite to approval, except that a revised comprehensive statewide outdoor recreation plan shall not be required by the Secretary, if a State submits, and the Secretary, acting through the Director of the National Park Service, approves, as a part of and as an addendum to the existing comprehensive statewide outdoor recreation plan, a wetlands priority plan developed in consultation with the State agency with responsibility for fish and wildlife resources and consistent with the national wetlands priority conservation plan developed under section 3921 of this title or, if such national plan has not been completed, consistent with the provisions of that section[2]

(e) Projects for land and water acquisition; development

In addition to assistance for planning projects, the Secretary may provide financial assistance to any State for the following types of projects or combinations thereof if they are in accordance with the State comprehensive plan:

(1) For the acquisition of land, waters, or interests in land or waters, or wetland areas and

[1] So in original. Probably should end with period instead of ''; and''.

[2] So in original. Probably should be followed by a period.

interests therein as identified in the wetlands provisions of the comprehensive plan (other than land, waters, or interests in land or waters acquired from the United States for less than fair market value), but not including incidental costs relating to acquisition.

Whenever a State provides that the owner of a single-family residence may, at his option, elect to retain a right of use and occupancy for not less than six months from the date of acquisition of such residence and such owner elects to retain such a right, such owner shall be deemed to have waived any benefits under sections 4623, 4624, 4625, and 4626 of title 42 and for the purposes of those sections such owner shall not be considered a displaced person as defined in section 4601(6) of title 42.

(2) For development of basic outdoor recreation facilities to serve the general public, including the development of Federal lands under lease to States for terms of twenty-five years or more: *Provided*, That no assistance shall be available under this part to enclose or shelter facilities normally used for outdoor recreation activities, but the Secretary may permit local funding, and after September 28, 1976, not to exceed 10 per centum of the total amount allocated to a State in any one year to be used for sheltered facilities for swimming pools and ice skating rinks in areas where the Secretary determines that the severity of climatic conditions and the increased public use thereby made possible justifies the construction of such facilities.

(f) Requirements for project approval; conditions; progress payments; payments to Governors or State officials or agencies; State transfer of funds to public agencies; conversion of property to other uses; reports to Secretary; accounting; records; audit; discrimination prohibited

(1) Payments may be made to States by the Secretary only for those planning, acquisition, or development projects that are approved by him. No payment may be made by the Secretary for or on account of any project with respect to which financial assistance has been given or promised under any other Federal program or activity, and no financial assistance may be given under any other Federal program or activity for or on account of any project with respect to which such assistance has been given or promised under this part. The Secretary may make payments from time to time in keeping with the rate of progress toward the satisfactory completion of individual projects: *Provided*, That the approval of all projects and all payments, or any commitments relating thereto, shall be withheld until the Secretary receives appropriate written assurance from the State that the State has the ability and intention to finance its share of the cost of the particular project, and to operate and maintain by acceptable standards, at State expense, the particular properties or facilities acquired or developed for public outdoor recreation use.

(2) Payments for all projects shall be made by the Secretary to the Governor of the State or to a State official or agency designated by the Governor or by State law having authority and responsibility to accept and to administer funds paid hereunder for approved projects. If consistent with an approved project, funds may be transferred by the State to a political subdivision or other appropriate public agency.

(3) No property acquired or developed with assistance under this section shall, without the approval of the Secretary, be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location.:[3] *Provided*, That wetland areas and interests therein as identified in the wetlands provisions of the comprehensive plan and proposed to be acquired as suitable replacement property within that same State that is otherwise acceptable to the Secretary, acting through the Director of the National Park Service, shall be considered to be of reasonably equivalent usefulness with the property proposed for conversion.

(4) No payment shall be made to any State until the State has agreed to (1) provide such reports to the Secretary, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his duties under this part, and (2) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting for Federal funds paid to the State under this part.

(5) Each recipient of assistance under this part shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(6) The Secretary, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this part.

(7) Repealed. Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(H), Nov. 12, 1996, 110 Stat. 4196.

(8) With respect to property acquired or developed with assistance from the fund, discrimination on the basis of residence, including preferential reservation or membership systems, is prohibited except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residence.

(g) Coordination with Federal agencies

In order to assure consistency in policies and actions under this part with other related Federal programs and activities (including those conducted pursuant to title VII of the Housing

[3] So in original. The period probably should not appear.

Act of 1961 [42 U.S.C. 1500 et seq.] and section 701[4] of the Housing Act of 1954) and to assure coordination of the planning, acquisition, and development assistance to States under this section with other related Federal programs and activities, the President may issue such regulations with respect thereto as he deems desirable and such assistance may be provided only in accordance with such regulations.

(h) Capital improvement and other projects to reduce crime

(1) Availability of funds

In addition to assistance for planning projects, and in addition to the projects identified in subsection (e) of this section, and from amounts appropriated out of the Violent Crime Reduction Trust Fund, the Secretary may provide financial assistance to the States, not to exceed $15,000,000, for projects or combinations thereof for the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

(A) increase lighting within or adjacent to public parks and recreation areas;

(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

(C) increase security personnel within or adjacent to public parks and recreation areas; and

(D) fund any other project intended to increase the security and safety of public parks and recreation areas.

(2) Eligibility

In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection shall be dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

(3) Federal share

Notwithstanding subsection (c) of this section, the Secretary may provide 70 percent improvement grants for projects undertaken by any State for the purposes described in this subsection, and the remaining share of the cost shall be borne by the State.

(Pub. L. 88–578, title I, § 6, formerly § 5, Sept. 3, 1964, 78 Stat. 900; renumbered § 6, Pub. L. 92–347, § 2, July 11, 1972, 86 Stat. 459; amended Pub. L. 93–303, § 2, June 7, 1974, 88 Stat. 194; Pub. L. 94–422, title I, § 101(3), Sept. 28, 1976, 90 Stat. 1314; Pub. L. 95–625, title VI, § 606, Nov. 10, 1978, 92 Stat. 3519; Pub. L. 99–645, title III, § 303, Nov. 10, 1986, 100 Stat. 3587; Pub. L. 103–322, title IV, § 40133, Sept. 13, 1994, 108 Stat. 1918; Pub. L. 103–437, § 6(p)(2), Nov. 2, 1994, 108 Stat. 4586; Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(H), Nov. 12, 1996, 110 Stat. 4196.)

[4] See References in Text note below.

REFERENCES IN TEXT

This part, referred to in text, was in the original ''this Act'', meaning Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, which is classified principally to this part. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

The Housing Act of 1961, referred to in subsec. (g), is Pub. L. 87–70, June 30, 1961, 75 Stat. 149, as amended. Title VII of the Housing Act of 1961 was classified generally to chapter 8C (§ 1500 et seq.) of Title 42, The Public Health and Welfare, and was omitted from the Code pursuant to section 5316 of Title 42 which terminated authority to make grants or loans under title VII of that Act after Jan. 1, 1975. For complete classification of this Act to the Code, see Short Title of 1961 Amendment note set out under section 1701 of Title 12, Banks and Banking, and Tables.

Section 701 of the Housing Act of 1954, referred to in subsec. (g), is section 701 of act Aug. 2, 1954, ch. 649, title VII, 68 Stat. 640, as amended, which was classified to section 461 of former Title 40, Public Buildings, Property, and Works, and was repealed by Pub. L. 97–35, title III, § 313(b), Aug. 13, 1981, 95 Stat. 398.

PRIOR PROVISIONS

A prior section 6 of Pub. L. 88–578 was renumbered section 7 and is classified to section 460*l*–9 of this title.

AMENDMENTS

1996—Subsec. (f)(7). Pub. L. 104–333 struck out par. (7) relating to annual State evaluations, lists of funded projects, and reports.

1994—Subsec. (f)(7). Pub. L. 103–437 substituted ''Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate'' for ''Committees on Interior and Insular Affairs of the United States Congress''.

Subsec. (h). Pub. L. 103–322 added subsec. (h).

1986—Subsec. (d). Pub. L. 99–645, § 303(1), inserted provision requiring that for fiscal year 1988 and thereafter, each comprehensive statewide outdoor recreation plan specifically address wetlands within the State as an important outdoor recreation resource, or alternatively, submission of a wetlands priority plan developed in consultation with the State agency responsible for fish and wildlife resources in the State.

Subsec. (e)(1). Pub. L. 99–645, § 303(2), inserted '', or wetland areas and interests therein as identified in the wetlands provisions of the comprehensive plan''.

Subsec. (f)(3). Pub. L. 99–645, § 303(3), inserted provision that wetland areas and interests therein as identified in the wetlands provisions of the comprehensive plan and proposed to be acquired as suitable replacement property within that same State that is otherwise acceptable to the Secretary, acting through the Director of the National Park Service, shall be considered to be of reasonably equivalent usefulness with the property proposed for conversion.

1978—Subsec. (f)(7). Pub. L. 95–625 provided that grant program evaluations be transmitted so as to be received by the Secretary no later than December 31 and that reports to Congressional committees be made by no later than March 1 of each year.

1976—Subsec. (a). Pub. L. 94–422 reenacted subsec. (a) without change.

Subsec. (b)(1). Pub. L. 94–422 substituted ''Forty per centum of the first $275,000,000; thirty per centum of the next $275,000,000; and twenty per centum of all additional appropriations'' for ''two-fifths''.

Subsec. (b)(2). Pub. L. 94–422 substituted ''At any time, the remaining appropriations'' for ''three-fifths''.

Subsec. (b)(3). Pub. L. 94–422 designated as par. (3) the first paragraph following par. (2), and substituted ''10 per centum'' for ''7 per centum''.

Subsec. (b)(4). Pub. L. 94–422 designated as par. (4) the second paragraph following par. (2), and substituted ''in accordance with paragraph 2 of this subsection, without regard to the 10 per centum limitation to an indi-

vidual State specified in this subsection'' for ''in accordance with paragraph 2 of this subsection''.

Subsec. (b)(5). Pub. L. 94–422 designated as par. (5) the third paragraph following par. (2), and added Northern Mariana Islands to those areas to be treated and provision that such areas be treated collectively as one State for purposes of subsec. (b)(1) and substituted requirement that a State shall receive shares of apportionment in proportion to their population for requirement that the State's population shall be included as part of the total population in computing apportionment under subsec. (b)(2).

Subsec. (c). Pub. L. 94–422 reenacted subsec. (c) without change.

Subsec. (d). Pub. L. 94–422 inserted proviso that no plan shall be approved unless certified by the Governor that public participation in plan development and revision has been accorded and that the Secretary shall develop criteria for public participation to form basis of certification by Governor.

Subsec. (e). Pub. L. 94–422 inserted proviso that no assistance shall be available under this part to enclose or shelter facilities normally used for outdoor recreation activities and authorized Secretary to permit local funding after Sept. 28, 1976, not to exceed 10 per centum of total amount allocated to States.

Subsec. (f). Pub. L. 94–422 designated existing six paragraphs as pars. (1) to (6), respectively, and added pars. (7) and (8).

Subsec. (g). Pub. L. 94–422 reenacted subsec. (g) without change.

1974—Subsec. (e)(1). Pub. L. 93–303 inserted sentence relating to waiver of benefits by an owner of a single-family residence who elects to retain a right of use and occupancy for not less than six months from the date of acquisition of the residence.

TRANSFER OF FUNCTIONS

All functions of the Housing and Home Finance Agency and the Administrator thereof were transferred to the Secretary of Housing and Urban Development by section 5(a) of the Department of Housing and Urban Development Act (Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669) which is classified to section 3534(a) of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 11237

Ex. Ord. No. 11237, July 27, 1965, 30 F.R. 9433, which related to coordinating planning and acquisition of land under outdoor recreation and open space programs, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§ 460*l*–9. Allocation of land and water conservation fund moneys for Federal purposes

(a) Allowable purposes and subpurposes; acquisition of land and waters and interests therein; offset for specified capital costs

Moneys appropriated from the fund for Federal purposes shall, unless otherwise allotted in the appropriation Act making them available, be allotted by the President to the following purposes and subpurposes:

(1) For the acquisition of land, waters, or interests in land or waters as follows:

National Park System; recreation areas—Within the exterior boundaries of areas of the National Park System now or hereafter authorized or established and of areas now or hereafter authorized to be administered by the Secretary of the Interior for outdoor recreation purposes.

National Forest System—Inholdings within (a) wilderness areas of the National Forest System, and (b) other areas of national forests as the boundaries of those forests exist on the effective date of this Act, or purchase units approved by the National Forest Reservation Commission subsequent to the date of this Act, all of which other areas are primarily of value for outdoor recreation purposes: *Provided*, That lands outside of but adjacent to an existing national forest boundary, not to exceed three thousand acres in the case of any one forest, which would comprise an integral part of a forest recreational management area may also be acquired with moneys appropriated from this fund: *Provided further*, That except for areas specifically authorized by Act of Congress, not more than 15 per centum of the acreage added to the National Forest System pursuant to this section shall be west of the 100th meridian.

National Wildlife Refuge System—Acquisition for (a) endangered species and threatened species authorized under section 1534(a) of this title; (b) areas authorized by section 460k–1 of this title; (c) national wildlife refuge areas under section 742f(a)(4) of this title and wetlands acquired under section 3922 of this title; (d) any areas authorized for the National Wildlife Refuge System by specific Acts.

(2) For payment into miscellaneous receipts of the Treasury as a partial offset for those capital costs, if any, of Federal water development projects hereafter authorized to be constructed by or pursuant to an Act of Congress which are allocated to public recreation and the enhancement of fish and wildlife values and financed through appropriations to water resource agencies.

(3) Appropriations allotted for the acquisition of land, waters, or interests in land or waters as set forth under the headings ''National Park System; Recreation Areas'' and ''National Forest System'' in paragraph (1) of this subsection shall be available therefor notwithstanding any statutory ceiling on such appropriations contained in any other provision of law enacted prior to the convening of the Ninety-fifth Congress or, in the case of national recreation areas, prior to the convening of the Ninety-sixth Congress; except that for any such area expenditures may not exceed a statutory ceiling during any one fiscal year by 10 per centum of such ceiling or $1,000,000, whichever is greater.

(b) Acquisition restrictions

Appropriations from the fund pursuant to this section shall not be used for acquisition unless such acquisition is otherwise authorized by law: *Provided, however*, That appropriations from the fund may be used for preacquisition work in instances where authorization is imminent and where substantial monetary savings could be realized.

(c) Boundary changes; donations; authority of Secretary

(1) Whenever the Secretary of the Interior determines that to do so will contribute to, and is necessary for, the proper preservation, protection, interpretation, or management of an area of the national park system, he may, following timely notice in writing to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate of his intention to do so,

and by publication of a revised boundary map or other description in the Federal Register, (i) make minor revisions of the boundary of the area, and moneys appropriated from the fund shall be available for acquisition of any lands, waters, and interests therein added to the area by such boundary revision subject to such statutory limitations, if any, on methods of acquisition and appropriations thereof as may be specifically applicable to such area; and (ii) acquire by donation, purchase with donated funds, transfer from any other Federal agency, or exchange, lands, waters, or interests therein adjacent to such area, except that in exercising his authority under this clause (ii) the Secretary may not alienate property administered as part of the national park system in order to acquire lands by exchange, the Secretary may not acquire property without the consent of the owner, and the Secretary may acquire property owned by a State or political subdivision thereof only by donation. Prior to making a determination under this subsection, the Secretary shall consult with the duly elected governing body of the county, city, town, or other jurisdiction or jurisdictions having primary taxing authority over the land or interest to be acquired as to the impacts of such proposed action, and he shall also take such steps as he may deem appropriate to advance local public awareness of the proposed action. Lands, waters, and interests therein acquired in accordance with this subsection shall be administered as part of the area to which they are added, subject to the laws and regulations applicable thereto.

(2) For the purposes of clause (i) of paragraph (1), in all cases except the case of technical boundary revisions (resulting from such causes as survey error or changed road alignments), the authority of the Secretary under such clause (i) shall apply only if each of the following conditions is met:

(A) The sum of the total acreage of lands, waters, and interests therein to be added to the area and the total such acreage to be deleted from the area is not more than 5 percent of the total Federal acreage authorized to be included in the area and is less than 200 acres in size.

(B) The acquisition, if any, is not a major Federal action significantly affecting the quality of the human environment, as determined by the Secretary.

(C) The sum of the total appraised value of the lands, waters, and interests therein to be added to the area and the total appraised value of the lands, waters, and interests therein to be deleted from the area does not exceed $750,000.

(D) The proposed boundary revision is not an element of a more comprehensive boundary modification proposal.

(E) The proposed boundary has been subject to a public review and comment period.

(F) The Director of the National Park Service obtains written consent for the boundary modification from all property owners whose lands, waters, or interests therein, or a portion of whose lands, waters, or interests therein, will be added to or deleted from the area by the boundary modification.

(G) The lands abut other Federal lands administered by the Director of the National Park Service.

Minor boundary revisions involving only deletions of acreage owned by the Federal Government and administered by the National Park Service may be made only by Act of Congress.

(Pub. L. 88–578, title I, § 7, formerly § 6, Sept. 3, 1964, 78 Stat. 903; Pub. L. 90–401, § 1(c), July 15, 1968, 82 Stat. 355; renumbered § 7, Pub. L. 92–347, § 2, July 11, 1972, 86 Stat. 459; amended Pub. L. 93–205, § 13(c), Dec. 28, 1973, 87 Stat. 902; Pub. L. 94–422, title I, § 101(4), Sept. 28, 1976, 90 Stat. 1317; Pub. L. 95–42, § 1(3)–(5), June 10, 1977, 91 Stat. 210, 211; Pub. L. 96–203, § 2, Mar. 10, 1980, 94 Stat. 81; Pub. L. 99–645, title III, § 302, Nov. 10, 1986, 100 Stat. 3587; Pub. L. 103–437, § 6(p)(3), Nov. 2, 1994, 108 Stat. 4586; Pub. L. 104–333, div. I, title VIII, § 814(b), (d)(2)(C), Nov. 12, 1996, 110 Stat. 4194, 4196; Pub. L. 106–176, title I, §§ 120(b), 129, Mar. 10, 2000, 114 Stat. 28, 30.)

REFERENCES IN TEXT

The effective date of this Act, referred to in subsec. (a)(1), means the effective date of Pub. L. 88–578, which was Jan. 1, 1965. See Effective Date note set out under section 460*l*–4 of this title.

The convening of the Ninety-fifth Congress, referred to in subsec. (a)(3), took place on Jan. 4, 1977.

The convening of the Ninety-sixth Congress, referred to in subsec. (a)(3), took place on Jan. 15, 1979.

PRIOR PROVISIONS

A prior section 7 of Pub. L. 88–578 was renumbered section 8 and is classified to section 460*l*–10 of this title.

AMENDMENTS

2000—Subsec. (c). Pub. L. 106–176, § 129, which directed the amendment of section 814(b)(2)(G) of Pub. L. 104–333 by substituting ''abut'' for ''are adjacent to'' was executed by making the substitution in subsec. (c)(2)(G) of this section which had been added by section 814(b)(2)(B) of Pub. L. 104–333, to reflect the probable intent of Congress. See 1996 Amendment note below.

Subsec. (c)(2)(C). Pub. L. 106–176, § 120(b)(1), substituted ''lands, waters, and interests therein'' for ''lands, water, and interest therein''.

Subsec. (c)(2)(F). Pub. L. 106–176, § 120(b)(2), substituted ''lands, waters, or interests therein, or a portion of whose lands, waters, or interests therein,'' for ''lands, water, or interests therein, or a portion of whose lands, water, or interests therein,''.

1996—Subsec. (a)(3). Pub. L. 104–333, § 814(d)(2)(C), struck out at end ''The Secretary of the Interior shall, prior to the expenditure of funds which would cause a statutory ceiling to be exceeded by $1,000,000 or more, and with respect to each expenditure of $1,000,000 or more in excess of such a ceiling, provide written notice of such proposed expenditure not less than thirty calendar days in advance to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.''

Subsec. (c). Pub. L. 104–333, § 814(b)(2)(B), as amended by Pub. L. 106–176, § 129, designated existing provisions as par. (1) and added par. (2).

Pub. L. 104–333, § 814(b)(1), (2)(A), substituted ''Committee on Resources'' for ''Committee on Natural Resources'' and struck out '': *Provided, however*, That such authority shall apply only to those boundaries established subsequent to January 1, 1965'' before ''; and (ii)''.

1994—Subsecs. (a)(3), (c). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

1986—Subsec. (a)(1). Pub. L. 99–645, in provisions relating to the National Wildlife Refuge System, substituted ''national wildlife refuge areas under section 742f(a)(4) of this title and wetlands acquired under section 3922 of this title'' for ''national wildlife refuge areas under section 742f(a)(5) of this title except migratory waterfowl areas which are authorized to be acquired by the Migratory Bird Conservation Act of 1929, as amended''.

1980—Subsec. (a)(3). Pub. L. 96–203, §2(1), inserted provisions relating to applicability to national recreation areas.

Subsec. (c). Pub. L. 96–203, §2(2), substituted ''apply only to those boundaries established subsequent to January 1, 1965'' for ''expire ten years from the date of enactment of the authorizing legislation establishing such boundaries''.

1977—Subsec. (a)(3). Pub. L. 95–42, §1(3), added par. (3).

Subsec. (b). Pub. L. 95–42, §1(4), inserted proviso that appropriations from the fund may be used for preacquisition work in instances where authorization is imminent and where substantial monetary savings could be realized.

Subsec. (c). Pub. L. 95–42, §1(5), added subsec. (c).

1976—Subsec. (a)(1). Pub. L. 94–422 in paragraph designated ''National Forest System'' inserted ''or purchase units approved by the National Forest Reservation Commission, subsequent to September 3, 1965, all of'' after ''January 1, 1965,'' and substituted ''three thousand'' for ''five hundred'' and incorporated provisions contained in paragraphs designated ''Endangered Species and Threatened Species'' and ''Recreation at refuges'' into paragraph designated ''National Wildlife Refuge System'' inserting references to section 742f(a)(5) of this title, the Migratory Bird Conservation Act of 1929, and areas authorized for the National Wildlife Refuge System by specific Acts.

Subsec. (b). Pub. L. 94–422 reenacted subsec. (b) without change.

1973—Subsec. (a)(1). Pub. L. 93–205 substituted reference to ''Endangered species and threatened species'' followed by a definition covering ''lands, waters, or interests therein, the acquisition of which is authorized under section 1533(a) of this title, needed for the purpose of conserving endangered or threatened species of fish or wildlife or plants'' for a reference to ''Threatened species'' followed by a definition covering ''any national area which may be authorized for the preservation of species of fish or wildlife that are threatened with extinction''.

1968—Subsec. (a). Pub. L. 90–401 struck out ''in substantially the same proportion as the number of visitor-days in areas and projects hereinafter described for which admission fees are charged under section 460*l*–5 of this title'' after ''purposes and subpurposes'' in text preceding par. (1).

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as an Effective Date note under section 1531 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90–401, see section 1(d) of Pub. L. 90–401, as amended by section 1 of Pub. L. 91–308, set out as a note under section 460*l*–5 of this title.

§ 460*l*–10. Availability of land and water conservation fund for publicity purposes; standardized temporary signing; standards and guidelines

Moneys derived from the sources listed in section 460*l*–5 of this title shall not be available for publicity purposes: *Provided*, *however*, That in each case where significant acquisition or development is initiated, appropriate standardized temporary signing shall be located on or near the affected site, to the extent feasible, so as to indicate the action taken is a product of funding made available through the Land and Water Conservation Fund. Such signing may indicate the per centum and dollar amounts financed by Federal and non-Federal funds, and that the source of the funding includes moneys derived from Outer Continental Shelf receipts. The Secretary shall prescribe standards and guidelines for the usage of such signing to assure consistency of design and application.

(Pub. L. 88–578, title I, §8, formerly §7, Sept. 3, 1964, 78 Stat. 903; renumbered §8, Pub. L. 92–347, §2, July 11, 1972, 86 Stat. 459; amended Pub. L. 94–422, title I, §101(5), Sept. 28, 1976, 90 Stat. 1318.)

PRIOR PROVISIONS

A prior section 8 of Pub. L. 88–578 was renumbered section 9 and is classified to section 460*l*–10a of this title.

AMENDMENTS

1976—Pub. L. 94–422 inserted proviso that temporary standardized signs shall be placed at or near any acquisition or development project undertaken through use of the fund and that the Secretary is to determine the standards and guidelines of such signing.

§ 460*l*–10a. Contracts for acquisition of lands and waters

Not to exceed $30,000,000 of the money authorized to be appropriated from the fund by section 460*l*–6 of this title may be obligated by contract during each fiscal year for the acquisition of lands, waters, or interests therein within areas specified in section 460*l*–9(a)(1) of this title. Any such contract may be executed by the head of the department concerned, within limitations prescribed by the Secretary of the Interior. Any such contract so entered into shall be deemed a contractual obligation of the United States and shall be liquidated with money appropriated from the fund specifically for liquidation of such contract obligation. No contract may be entered into for the acquisition of property pursuant to this section unless such acquisition is otherwise authorized by Federal law.

(Pub. L. 88–578, title I, §9, formerly §8, as added Pub. L. 90–401, §4, July 15, 1968, 82 Stat. 355; amended Pub. L. 91–308, §3, July 7, 1970, 84 Stat. 410; renumbered §9, Pub. L. 92–347, §2, July 11, 1972, 86 Stat. 459, and amended Pub. L. 93–303, §3, June 7, 1974, 88 Stat. 194.)

PRIOR PROVISIONS

A prior section 9 of Pub. L. 88–578 was renumbered section 10 and is classified to section 460*l*–10b of this title.

AMENDMENTS

1974—Pub. L. 93–303 substituted ''section 7(a)(1)'' for ''section 6(a)(1)'', which, for purposes of codification, is translated as ''section 460*l*–9(a)(1)''.

1970—Pub. L. 91–308 substituted ''fiscal year'' for ''of fiscal years 1969 and 1970''.

RESCISSION OF CONTRACT AUTHORITY

Provisions rescinding contract authority provided for specific fiscal years by 16 U.S.C. 460*l*–10a were contained in the following appropriation acts:

Pub. L. 111–88, div. A, title I, Oct. 30, 2009, 123 Stat. 2912.

Pub. L. 111–8, div. E, title I, Mar. 11, 2009, 123 Stat. 709.

Pub. L. 110–161, div. F, title I, Dec. 26, 2007, 121 Stat. 2106.

Pub. L. 109–289, div. B, title II, § 20504, as added by Pub. L. 110–5, § 2, Feb. 15, 2007, 121 Stat. 26.

Pub. L. 109–54, title I, Aug. 2, 2005, 119 Stat. 509.

Pub. L. 108–447, div. E, title I, Dec. 8, 2004, 118 Stat. 3050.

Pub. L. 108–108, title I, Nov. 10, 2003, 117 Stat. 1251.

Pub. L. 108–7, div. F, title I, Feb. 20, 2003, 117 Stat. 226.

Pub. L. 107–63, title I, Nov. 5, 2001, 115 Stat. 425.

Pub. L. 106–291, title I, Oct. 11, 2000, 114 Stat. 930.

Pub. L. 106–113, div. B, § 1000(a)(3) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A–143.

Pub. L. 105–277, div. A, § 101(e) [title I], Oct. 21, 1998, 112 Stat. 2681–231, 2681–240.

Pub. L. 105–83, title I, Nov. 14, 1997, 111 Stat. 1550.

Pub. L. 104–208, div. A, title I, § 101(d) [title I], Sept. 30, 1996, 110 Stat. 3009–181, 3009–188.

Pub. L. 104–134, title I, § 101(c) [title I], Apr. 26, 1996, 110 Stat. 1321–156, 1321–163; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103–332, title I, Sept. 30, 1994, 108 Stat. 2506.

Pub. L. 103–138, title I, Nov. 11, 1993, 107 Stat. 1386.

Pub. L. 102–381, title I, Oct. 5, 1992, 106 Stat. 1383.

Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 998.

Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1922.

Pub. L. 101–121, title I, Oct. 23, 1989, 103 Stat. 708.

Pub. L. 100–446, title I, Sept. 27, 1988, 102 Stat. 1781.

Pub. L. 100–202, § 101(g) [title I], Dec. 22, 1987, 101 Stat. 1329–213, 1329–221.

Pub. L. 100–71, title I, July 11, 1987, 101 Stat. 414.

Pub. L. 99–349, title I, July 2, 1986, 100 Stat. 731.

§ 460*l*–10b. Contracts for options to acquire lands and waters in national park system

The Secretary of the Interior may enter into contracts for options to acquire lands, waters, or interests therein within the exterior boundaries of any area the acquisition of which is authorized by law for inclusion in the national park system. The minimum period of any such option shall be two years, and any sums expended for the purchase thereof shall be credited to the purchase price of said area. Not to exceed $500,000 of the sum authorized to be appropriated from the fund by section 460*l*–6 of this title may be expended by the Secretary in any one fiscal year for such options.

(Pub. L. 88–578, title I, § 10, formerly § 9, as added Pub. L. 90–401, § 4, July 15, 1968, 82 Stat. 355; renumbered § 10, Pub. L. 92–347, § 2, July 11, 1972, 86 Stat. 459.)

PRIOR PROVISIONS

A prior section 10 of Pub. L. 88–578 was renumbered section 11 and is classified to section 460*l*–10c of this title.

§ 460*l*–10c. Repeal of provisions prohibiting collection of recreation fees or user charges

All other provisions of law that prohibit the collection of entrance, admission, or other recreation user fees or charges authorized by this part or that restrict the expenditure of funds if such fees or charges are collected are hereby also repealed: *Provided*, That no provision of any law or treaty which extends to any person or class of persons a right of free access to the shoreline of any reservoir or other body of water, or to hunting and fishing along or on such shoreline, shall be affected by this repealer.

(Pub. L. 88–578, title I, § 11, formerly § 2(a) (in part), Sept. 3, 1964, 78 Stat. 899; renumbered § 10, Pub. L. 90–401, § 1(a), July 15, 1968, 82 Stat. 354; renumbered § 11, Pub. L. 92–347, § 2, July 11, 1972, 86 Stat. 459.)

REFERENCES IN TEXT

This part, referred to in text, was in the original ''this Act'', meaning Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, which is classified principally to this part. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

CODIFICATION

In addition to the text set out in the section above, the original contained provisions directing the repeal of section 14 of this title and the deletion of '', without charge,'' in the sentence of section 460d of this title beginning ''The water areas of all such projects shall be open to public use generally''. The repeals and deletions called for by those provisions were executed as thus directed so that those provisions have been omitted from the text as executed.

Section formerly constituted the fourth paragraph of section 2(a) of Pub. L. 88–578 which was classified to section 460*l*–5(a) of this title. The paragraph was lifted out of section 2(a) and redesignated section 10 by section 1(a) of Pub. L. 90–401, which, for purposes of classification, resulted in the designation of the paragraph as section 460*l*–10c of this title [this section].

EFFECTIVE DATE

Section effective Jan. 1, 1965, see note set out under section 460*l*–4 of this title. Transfer of the provisions of this section from section 460*l*–5(a) of this title to this section effective Dec. 31, 1971, see section 1(d) of Pub. L. 90–401, as amended by section 1 of Pub. L. 91–308, set out as an Effective Date of 1968 Amendment note under section 460*l*–5 of this title.

§ 460*l*–10d. Review and report; submittal to Congressional committees; contents

Within one year of September 28, 1976, the Secretary is authorized and directed to submit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives a comprehensive review and report on the needs, problems, and opportunities associated with urban recreation in highly populated regions, including the resources potentially available for meeting such needs. The report shall include site specific analyses and alternatives, in a selection of geographic environments representative of the Nation as a whole, including, but not limited to, information on needs, local capabilities for action, major site opportunities, trends, and a full range of options and alternatives as to possible solutions and courses of action designed to preserve remaining open space, ameliorate recreational deficiency, and enhance recreational opportunity for urban populations, together with an analysis of the capability of the Federal Government to provide urban-oriented environmental education programs (including, but not limited to, cultural programs in the arts and crafts) within such options. The Secretary shall consult with, and request the views of, the

affected cities, counties, and States on the alternatives and courses of action identified.

(Pub. L. 88–578, title I, §12, as added Pub. L. 94–422, title I, §101(6), Sept. 28, 1976, 90 Stat. 1318.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460*l*–10e. Advisory Commission on water-based recreation

(a) Appointment; report

The President shall appoint an advisory commission to review the opportunities for enhanced opportunities for water-based recreation which shall submit a report to the President and to the Committee on Energy and Natural Resources of the Senate and to the Committee on Transportation and Infrastructure and the Committee on Resources of the House of Representatives within one year from November 12, 1996.

(b) Members

The members of the Commission shall include—

(1) the Secretary of the Interior, or his designee;

(2) the Secretary of the Army, or his designee;

(3) the Chairman of the Tennessee Valley Authority, or his designee;

(4) the Secretary of Agriculture, or his designee;

(5) a person nominated by the National Governor's Association; and

(6) four persons familiar with the interests of the recreation and tourism industry, conservation and recreation use, Indian tribes, and local governments, at least one of whom shall be familiar with the economics and financing of recreation-related infrastructure.

(c) Chairman; vacancies; administration

The President shall appoint one member to serve as Chairman. Any vacancy on the Commission shall be filled in the same manner as the original appointment. Members of the Commission shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties. The Secretary of the Interior shall provide all financial, administrative, and staffing requirements for the Commission, including office space, furnishings, and equipment. The heads of other Federal agencies are authorized, at the request of the Commission, to provide such information or personnel, to the extent permitted by law and within the limits of available funds, to the Commission as may be useful to accomplish the purposes of this section.

(d) Hearings

The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable: *Provided*, That, to the maximum extent possible, the Commission shall use existing data and research. The Commission is authorized to use the United States mail in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) Contents of report

The report shall review the extent of water-related recreation at Federal man-made lakes and reservoirs and shall develop alternatives to enhance the opportunities for such use by the public. In developing the report, the Commission shall—

(1) review the extent to which recreation components identified in specific authorizations associated with individual Federal man-made lakes and reservoirs have been accomplished;

(2) evaluate the feasibility of enhancing recreation opportunities at federally managed lakes and reservoirs under existing statutes;

(3) consider legislative changes that would enhance recreation opportunities consistent with and subject to the achievement of the authorized purposes of Federal water projects; and

(4) make recommendations on alternatives for enhanced recreation opportunities including, but not limited to, the establishment of a National Recreation Lake System under which specific lakes would receive national designation and which would be managed through innovative partnership-based agreements between Federal agencies, State and local units of government, and the private sector.

Any such alternatives shall be consistent with and subject to the authorized purposes for any man-made lakes and reservoirs and shall emphasize private sector initiatives in concert with State and local units of government.

(Pub. L. 88–578, title I, §13, as added Pub. L. 104–333, div. I, title X, §1021(b), Nov. 12, 1996, 110 Stat. 4210; amended Pub. L. 105–83, title V, §505, Nov. 14, 1997, 111 Stat. 1617; Pub. L. 106–176, title I, §123(b), Mar. 10, 2000, 114 Stat. 29.)

AMENDMENTS

2000—Subsec. (b)(6). Pub. L. 106–176, §123(b)(1), substituted ''recreation-related'' for ''recreation related''.

Subsec. (e). Pub. L. 106–176, §123(b)(2)(A), (C), in introductory provisions, substituted ''water-related'' for ''water related'' and ''man-made'' for ''manmade'' and, in concluding provisions, substituted ''man-made'' for ''manmade''.

Subsec. (e)(1). Pub. L. 106–176, §123(b)(2)(C), substituted ''man-made'' for ''manmade''.

Subsec. (e)(2). Pub. L. 106–176, §123(b)(2)(B), substituted ''federally managed'' for ''federally-managed''.

1997—Pub. L. 105–83 made technical amendment to directory language of Pub. L. 104–333, §1021(b), which added this section.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

RECREATIONAL OPPORTUNITIES AT FEDERALLY-MANAGED MANMADE LAKES AND RESERVOIRS

Pub. L. 104–333, div. I, title X, §1021(a), Nov. 12, 1996, 110 Stat. 4210, as amended by Pub. L. 106–176, title I, §123(a), Mar. 10, 2000, 114 Stat. 29, provided that: ''The Congress finds that the Federal Government, under the authority of the Reclamation Act [probably means act June 17, 1902, ch. 1093, 32 Stat. 388, see Short Title note under section 371 of Title 43, Public Lands] and other statutes, has developed man-made lakes and reservoirs that have become a powerful magnet for diverse recreational activities and that such activities contribute to the well-being of families and individuals and the economic viability of local communities. The Congress further finds that in order to further the purposes of the Land and Water Conservation Fund, the President should appoint an advisory commission to review the current and anticipated demand for recreational opportunities at federally managed man-made lakes and reservoirs through creative partnerships involving Federal, State, and local governments and the private sector and to develop alternatives for enhanced recreational use of such facilities.''

§ 460*l*–11. Transfers to and from land and water conservation fund

(a) Motorboat fuel taxes from highway trust fund into conservation fund

There shall be set aside in the land and water conservation fund in the Treasury of the United States provided for in sections 460*l*–4 to 460*l*–6a and 460*l*–7 to 460*l*–10e of this title the amounts specified in section 9503(c)(4)(B)[1] of title 26 (relating to special motor fuels and gasoline used in motorboats).

(b) Refunds of gasoline taxes for certain nonhighway purposes or used by local transit systems and motorboat fuel taxes from conservation fund into general fund of Treasury

There shall be paid from time to time from the land and water conservation fund into the general fund of the Treasury amounts estimated by the Secretary of the Treasury as equivalent to—

(1) the amounts paid before October 1, 2012, under section 6421 of title 26 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems) with respect to gasoline used after December 31, 1964, in motorboats, on the basis of claims filed for periods ending before October 1, 2011; and

(2) 80 percent of the floor stocks refunds made before October 1, 2012, under section 6412(a)(2) of title 26 with respect to gasoline to be used in motorboats.

(Pub. L. 88–578, title II, §201, Sept. 3, 1964, 78 Stat. 904; Pub. L. 91–605, title III, §302, Dec. 31, 1970, 84 Stat. 1743; Pub. L. 94–273, §3(4), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–280, title III, §302, May 5, 1976, 90 Stat. 456; Pub. L. 95–599, title V, §503(b), Nov. 6, 1978, 92 Stat. 2757; Pub. L. 97–424, title V, §531(c), Jan. 6, 1983, 96 Stat. 2191; Pub. L. 99–514, §2, title XVIII, §1875(e), Oct. 22, 1986, 100 Stat. 2095, 2897; Pub. L. 100–17, title V, §503(c), Apr. 2, 1987, 101 Stat. 258; Pub. L. 101–508, title XI, §11211(g)(2), Nov. 5, 1990, 104 Stat. 1388–427; Pub. L. 102–240, title VIII, §8002(d)(2)(B), Dec. 18, 1991, 105 Stat. 2204; Pub. L. 105–178, title IX, §9002(c)(2)(B), June 9, 1998, 112 Stat. 500; Pub. L. 109–59, title XI, §11101(c)(2)(B), Aug. 10, 2005, 119 Stat. 1944.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 9503(c)(4)(B) of title 26, referred to in subsec. (a), was struck out by Pub. L. 109–59, title XI, §11115(a)(1), Aug. 10, 2005, 119 Stat. 1949. Provisions similar to those contained in former subsec. (c)(4)(B) of section 9503 are now contained in subsec. (c)(3)(A) of section 9503.

Section 6412(a)(2) of title 26, referred to in subsec. (b)(2), was redesignated as ''section 6412(a)(1) of title 26'' by Pub. L. 94–455, §1906(22), Oct. 4, 1976, 90 Stat. 1827.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–59 substituted ''2011'' for ''2003'' in par. (1) and ''2012'' for ''2004'' in pars. (1) and (2).

1998—Subsec. (b). Pub. L. 105–178 substituted ''2003'' for ''1997'' in par. (1) and ''2004'' for ''1998'' in pars. (1) and (2).

1991—Subsec. (b). Pub. L. 102–240 substituted ''1997'' for ''1995'' and ''1998'' for ''1996'' wherever appearing.

1990—Subsec. (b). Pub. L. 101–508 substituted ''1995'' for ''1993'' and ''1996'' for ''1994'' wherever appearing.

1987—Subsec. (b). Pub. L. 100–17 substituted ''1993'' for ''1988'' and ''1994'' for ''1989'' wherever appearing.

1986—Subsec. (a). Pub. L. 99–514, §2, substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Pub. L. 99–514, §1875(e), substituted ''section 9503(c)(4)(B) of title 26'' for ''section 209(f)(5) of the Highway Revenue Act of 1956''.

Subsec. (b)(1). Pub. L. 99–514, §2, substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1983—Subsec. (b). Pub. L. 97–424 substituted ''1989'' for ''1985'' and ''1988'' for ''1984'' wherever appearing.

1978—Subsec. (b). Pub. L. 95–599 substituted ''1984'' for ''1979'' and ''1985'' for ''1980'' wherever appearing.

1976—Subsec. (b). Pub. L. 94–280 substituted ''1979'' for ''1977'' and ''1980'' for ''1978'' wherever appearing.

Pub. L. 94–273 substituted ''October'' for ''July'' wherever appearing.

1970—Subsec. (b). Pub. L. 91–605 substituted ''1977'' for ''1972'' and ''1978'' for ''1973'' wherever appearing.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1875(e) of Pub. L. 99–514 effective as if included in the provision of the Tax Reform Act of 1984, Pub. L. 98–369, to which such amendment relates, except as otherwise provided, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–424 effective Jan. 1, 1983, see section 531(e) of Pub. L. 97–424, set out as an Effective Date; Savings Provision note under section 9503 of Title 26, Internal Revenue Code.

EFFECTIVE DATE

Section effective Jan. 1, 1965, see note set out under section 460*l*–4 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101–1147 and 1171–1177] of title XVIII [§§1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

PART C—WATER RESOURCES PROJECTS

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

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

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

REFERENCES IN TEXT

This part, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–72, which enacted sections 460*l*–12 to 460*l*–21 of this title and amended sections 460*l*–5(a) and 662(d) of this title.

SHORT TITLE

Section 12 of Pub. L. 89–72 provided: ''This Act [enacting this section and sections 460*l*–13 to 460*l*–21 of this title and amending sections 460*l*–5(a) and 662(d) of this title], may be cited as the 'Federal Water Project Recreation Act'.''

§ 460*l*–13. Non-Federal administration of project land and water areas

(a) Allocation of costs

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

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

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

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

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

(b) Non-Federal share of costs

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

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

AMENDMENTS

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

1974—Subsec. (a). Pub. L. 93–251 substituted in text preceding item (1) ''separable costs of the project allocated to recreation, and to bear one-quarter of such costs allocated to fish and wildlife enhancement'' for ''separable costs of the project allocated to either or both of said purposes, as the case may be'' and in item (3) ''separable costs of the project allocated to recreation and exactly three-quarters of such costs allocated to fish and wildlife enhancement'' for ''separable costs'', respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 77(b) of Pub. L. 93–251 provided that: ''The amendments made by this section [amending this section and section 460*l*–14 of this title] shall apply to all projects the construction of which is not substantially completed on the date of enactment of this Act [Mar. 7, 1974].''

COST SHARING REQUIREMENTS

Section 77(c) of Pub. L. 93–251 provided that: ''In the case of any project (1) authorized subject to specific cost-sharing requirements which were based on the same percentages as those established in the Federal Water Project Recreation Act [section 460*l*–12 et seq. of this title], and (2) construction of which is not substantially completed on the date of enactment of this Act [Mar. 7, 1974], the cost-sharing requirements for such project shall be the same percentages as are established by the amendments made by subsection (a) of this section [to subsec. (a) of this section and section 460*l*–14(b)(1) of this title] for projects which are subject to the Federal Water Project Recreation Act [section 460*l*–12 et seq. of this title].''

§ 460*l*–14. Facilities or project modifications to be provided without written indication of intent

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

No facilities or project modifications which will furnish recreation or fish and wildlife enhancement benefits shall be provided in the absence of the indication of intent with respect thereto specified in section 460*l*–13(a) of this title unless (1) such facilities or modifications serve other project purposes and are justified thereby without regard to such incidental recreation or fish and wildlife enhancement benefits as they may have or (2) they are minimum facilities which are required for the public health and safety and are located at access points provided by roads existing at the time of project construction or constructed for the administration and management of the project. Calculation of the recreation and fish and wildlife enhancement benefits in any such case shall be based on the number of visitor-days anticipated in the absence of recreation and fish and wildlife enhancement facilities or modifications except as hereinbefore provided and on the value per visitor-day of the project without such facilities or modifications. Project costs allocated to recreation and fish and wildlife enhancement on this basis shall be nonreimbursable.

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

Notwithstanding the absence of an indication of intent as specified in section 460*l*–13(a) of this title, lands may be provided in connection with project construction to preserve the recreation and fish and wildlife enhancement potential of the project:

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

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

(c) Expansion or modification of existing facilities

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

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

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

(i) will administer the expanded or modified facilities pursuant to a plan for development for the project that is approved by the agency with administrative jurisdiction over the project; and

(ii) will bear not less than one-half of the planning and capital costs of such expansion or modification and not less than one-half of the costs of the operation, maintenance, and

replacement attributable to the expansion of the facility.

(2) The Federal share of the cost of expanding or modifying a recreational facility described in paragraph (1) may not exceed 50 percent of the total cost of expanding or modifying the facility.

(Pub. L. 89–72, § 3, July 9, 1965, 79 Stat. 214; Pub. L. 93–251, title I, § 77(a)(3), Mar. 7, 1974, 88 Stat. 33; Pub. L. 102–575, title XXVIII, § 2804(b), (d), Oct. 30, 1992, 106 Stat. 4691.)

REFERENCES IN TEXT

This part, referred to in subsec. (c)(1), was in the original ''this Act'', meaning Pub. L. 89–72, which enacted sections 460*l*–12 to 460*l*–21 of this title and amended sections 460*l*–5(a) and 662(d) of this title.

AMENDMENTS

1992—Subsec. (b)(1). Pub. L. 102–575, § 2804(b), struck out ''within ten years'' after ''execute an agreement'' and substituted ''not less than one-half the costs of planning studies, and the costs of operation, maintenance, and replacement attributable'' for ''all costs of operation, maintenance, and replacement attributable''.

Subsec. (c). Pub. L. 102–575, § 2804(d), added subsec. (c).

1974—Subsec. (b)(1). Pub. L. 93–251 substituted ''modifications provided for recreation, and will bear one-quarter of such costs for fish and wildlife enhancement'' for ''modifications provided for either or both of those purposes, as the case may be''.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–251, see section 77(b) of Pub. L. 93–251, set out as a note under section 460*l*–13 of this title.

§ 460*l*–15. Lease of facilities and lands to non-Federal public bodies

At projects, the construction of which has commenced or been completed as of July 9, 1965, where non-Federal public bodies agree to administer project land and water areas for recreation and fish and wildlife enhancement purposes and to bear the[1] not less than one-half the costs of operation, maintenance, and replacement of existing facilities serving those purposes, such facilities and appropriate project lands may be leased to non-Federal public bodies.

(Pub. L. 89–72, § 4, July 9, 1965, 79 Stat. 215; Pub. L. 102–575, title XXVIII, § 2804(c), Oct. 30, 1992, 106 Stat. 4691.)

AMENDMENTS

1992—Pub. L. 102–575 substituted ''not less than one-half the costs of operation'' for ''costs of operation''.

§ 460*l*–16. Postauthorization development of projects without allocation or reallocation of costs

Nothing herein shall be construed as preventing or discouraging postauthorization development of any project for recreation or fish and wildlife enhancement or both by non-Federal public bodies pursuant to agreement with the head of the Federal agency having jurisdiction over the project. Such development shall not be the basis for any allocation or reallocation of project costs to recreation or fish and wildlife enhancement.

(Pub. L. 89–72, § 5, July 9, 1965, 79 Stat. 215.)

§ 460*l*–17. Miscellaneous provisions

(a) Project reports; outdoor recreation views; conformity to State comprehensive plan

The views of the Secretary of the Interior developed in accordance with section 460*l*–2 of this title, with respect to the outdoor recreation aspects shall be set forth in any report of any project or appropriate unit thereof within the purview of this part. Such views shall include a report on the extent to which the proposed recreation and fish and wildlife development conforms to and is in accord with the State comprehensive plan developed pursuant to section 460*l*–8(d) of this title.

(b) Omitted

(c) Migratory waterfowl refuges at Federal projects; expenditure limitation for acquisition of lands

Expenditures for lands or interests in lands hereafter acquired by project construction agencies for the establishment of migratory waterfowl refuges recommended by the Secretary of the Interior at Federal water resource projects, when such lands or interests in lands would not have been acquired but for the establishment of a migratory waterfowl refuge at the project, shall not exceed $28,000,000: *Provided*, That the aforementioned expenditure limitation in this subsection shall not apply to the costs of mitigating damages to migratory waterfowl caused by such water resource project.

(d) Nonapplication to certain projects

This part shall not apply to the Tennessee Valley Authority, but the Authority is authorized to recognize and provide for recreational and other public uses at any dams and reservoirs heretofore or hereafter constructed in a manner consistent with the promotion of navigation, flood control, and the generation of electrical energy, as otherwise required by law, nor to projects constructed under authority of the Small Reclamation Projects Act, as amended [43 U.S.C. 422a et seq.], or under authority of the Watershed Protection and Flood Prevention Act, as amended [16 U.S.C. 1001 et seq.].

(e) Nonapplication to certain other projects

Sections 460*l*–13, 460*l*–14, 460*l*–15, and 460*l*–16 of this title shall not apply to nonreservoir local flood control projects, beach erosion control projects, small boat harbor projects, hurricane protection projects, or to project areas or facilities authorized by law for inclusion within a national recreation area or appropriate for administration by a Federal agency as a part of the national forest system, as a part of the public lands classified for retention in Federal ownership, or in connection with an authorized Federal program for the conservation and development of fish and wildlife.

(f) Interpretation of "nonreimbursable"

As used in this part, the term ''nonreimbursable'' shall not be construed to prohibit the im-

[1] So in original. The word ''the'' probably should not appear.

position of entrance, admission, and other recreation user fees or charges.

(g) Nonapplication of section 460*l*–9(a)(2) to nonreimbursable costs of the United States

Section 460*l*–9(a)(2) of this title shall not apply to costs allocated to recreation and fish and wildlife enhancement which are borne by the United States as a nonreimbursable project cost pursuant to section 460*l*–13(a) or section 460*l*–14(b)(1) of this title.

(h) Deposits in Treasury as miscellaneous receipts; deposits of revenue from conveyance of certain lands in Land and Water Conservation Fund

All payments and repayment by non-Federal public bodies under the provisions of this part shall be deposited in the Treasury as miscellaneous receipts, and revenue from the conveyance by deed, lease, or otherwise, of lands under section 460*l*–14(b)(2) of this title shall be deposited in the Land and Water Conservation Fund.

(Pub. L. 89–72, § 6, July 9, 1965, 79 Stat. 216; Pub. L. 94–576, Oct. 21, 1976, 90 Stat. 2728.)

REFERENCES IN TEXT

This part, referred to in subsecs. (a), (d), (f), and (h), was in the original ''this Act'', meaning Pub. L. 89–72, which enacted sections 460*l*–12 to 460*l*–21 of this title and amended sections 460*l*–5(a) and 662(d) of this title.

The Small Reclamation Projects Act, referred to in subsec. (d), is act Aug. 6, 1956, ch. 972, 70 Stat. 1044, as amended, which is classified generally to subchapter IV (§ 422a et seq.) of chapter 12 of Title 43, Public Lands. For complete classification of this Act to the Code, see section 422k of Title 43 and Tables.

The Watershed Protection and Flood Prevention Act, referred to in subsec. (d), is act Aug. 4, 1954, ch. 656, 68 Stat. 666, as amended, which is classified generally to chapter 18 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Subsec. (b) of this section amended section 662(d) of this title.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94–576 authorized recreational and other public uses at dams and reservoirs consistent with promotion of navigation, flood control, and generation of electrical energy.

§ 460*l*–18. Authority of Secretary of the Interior

(a) Provision of facilities, acquisition of lands, and provision for public use and enjoyment of project lands, facilities, and water areas in coordination with other project purposes; execution of agreements before providing lands, facilities, and project modifications

The Secretary is authorized, in conjunction with any reservoir heretofore constructed by him pursuant to the Federal reclamation laws or any reservoir which is otherwise under his control, except reservoirs within national wildlife refuges, to investigate, plan, construct, operate and maintain, or otherwise provide for public outdoor recreation and fish and wildlife enhancement facilities, to acquire or otherwise make available such adjacent lands or interests therein as are necessary for public outdoor recreation or fish and wildlife use, and to provide for public use and enjoyment of project lands, facilities, and water areas in a manner coordinated with the other project purposes. Lands, facilities and project modifications for the purposes of this subsection may be provided only after an agreement in accordance with subsection (b) or (c) of section 460*l*–14 of this title has been executed.

(b) Agreements with government agencies to promote development and operation of lands or facilities for recreation and fish and wildlife enhancement purposes

The Secretary of the Interior is authorized to enter into agreements with Federal agencies or State or local public bodies for the administration of project land and water areas and the operation, maintenance, and replacement of facilities and to transfer project lands or facilities to Federal agencies or State or local public bodies by lease agreement or exchange upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for recreation and fish and wildlife enhancement purposes.

(c) Transfer of lands; consent of other Federal agencies to use of lands for recreation or fish and wildlife purposes; transfers to Secretary of Agriculture of forest lands; continuing administration of lands and waters for other project purposes; prohibition against limitation of authority under existing provisions of law

No lands under the jurisdiction of any other Federal agency may be included for or devoted to recreation or fish and wildlife purposes under the authority of this section without the consent of the head of such agency; and the head of any such agency is authorized to transfer any such lands to the jurisdiction of the Secretary of the Interior for purposes of this section. The Secretary of the Interior is authorized to transfer jurisdiction over project lands within or adjacent to the exterior boundaries of national forests and facilities thereon to the Secretary of Agriculture for recreation and other national forest system purposes; and such transfer shall be made in each case in which the project reservoir area is located wholly within the exterior boundaries of a national forest unless the Secretaries of Agriculture and Interior jointly determine otherwise. Where any project lands are transferred hereunder to the jurisdiction of the Secretary of Agriculture, the lands involved shall become national forest lands: *Provided*, That the lands and waters within the flow lines of any reservoir or otherwise needed or used for the operation of the project for other purposes shall continue to be administered by the Secretary of the Interior to the extent he determines to be necessary for such operation. Nothing herein shall limit the authority of the Secretary of the Interior granted by existing provisions of law relating to recreation or fish and wildlife development in connection with water resource projects or to disposition of public lands for such purposes.

(Pub. L. 89–72, § 7, July 9, 1965, 79 Stat. 216; Pub. L. 102–377, title II, § 206, Oct. 2, 1992, 106 Stat. 1332; Pub. L. 102–575, title XXVIII, § 2804(e), Oct. 30, 1992, 106 Stat. 4692.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–575, § 2804(e)(2), substituted ''subsection (b) or (c) of section 460*l*–14'' for ''subsection 460*l*–14(b)''.

Pub. L. 102–575, § 2804(e)(1), which directed amendment of subsec. (a) by striking ''purposes: *Provided*,'' and all that follows through end of sentence and inserting ''purposes'', could not be executed because the words ''purposes: *Provided*,'' did not appear subsequent to amendment by Pub. L. 102–377. See below.

Pub. L. 102–377 substituted ''purposes.'' for ''purposes: *Provided*, That not more than $100,000 shall be available to carry out the provisions of this subsection at any one reservoir.''

§ 460*l*–19. Feasibility reports

Effective on and after July 1, 1966, neither the Secretary of the Interior nor any bureau nor any person acting under his authority shall engage in the preparation of any feasibility report under reclamation law with respect to any water resource project unless the preparation of such feasibility report has been specifically authorized by law, any other provision of law to the contrary notwithstanding.

(Pub. L. 89–72, § 8, July 9, 1965, 79 Stat. 217.)

§ 460*l*–20. Construction of projects under certain laws with allocations to recreation and fish and wildlife enhancement exceeding allocations to other functions unauthorized; exception

Nothing contained in this part shall be taken to authorize or to sanction the construction under the Federal reclamation laws or under any Rivers and Harbors or Flood Control Act of any project in which the sum of the allocations to recreation and fish and wildlife enhancement exceeds the sum of the allocations to irrigation, hydroelectric power, municipal, domestic and industrial water supply, navigation, and flood control, except that this section shall not apply to any such project for the enhancement of anadromous fisheries, shrimp, or for the conservation of migratory birds protected by treaty, when each of the other functions of such a project has, of itself, a favorable benefit-cost ratio.

(Pub. L. 89–72, § 9, July 9, 1965, 79 Stat. 217.)

REFERENCES IN TEXT

This part, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–72, which enacted sections 460*l*–12 to 460*l*–21 of this title and amended sections 460*l*–5(a) and 662(d) of this title.

Rivers and Harbors or Flood Control Act, referred to in text, is classified principally to Title 33, Navigation and Navigable Waters.

§ 460*l*–21. Definitions

As used in this part:

(a) The term ''project'' shall mean a project or any appropriate unit thereof.

(b) The term ''separable costs,'' as applied to any project purpose, means the difference between the capital cost of the entire multiple-purpose project and the capital cost of the project with the purpose omitted.

(c) The term ''joint costs'' means the difference between the capital cost of the entire multiple-purpose project and the sum of the separable costs for all project purposes.

(d) The term ''feasibility report'' shall mean any report of the scope required by the Congress when formally considering authorization of the project of which the report treats.

(e) The term ''capital cost'' includes interest during construction, wherever appropriate.

(Pub. L. 89–72, § 10, July 9, 1965, 79 Stat. 218.)

REFERENCES IN TEXT

This part, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–72, which enacted sections 460*l*–12 to 460*l*–21 of this title and amended sections 460*l*–5(a) and 662(d) of this title.

PART D—LAND TRANSFERS

§ 460*l*–22. Conveyance of property and interests in property in national park system and miscellaneous areas

(a) Freehold and leasehold interests; competitive bidding

With respect to any property acquired by the Secretary of the Interior within a unit of the national park system or miscellaneous area, except property within national parks, or within national monuments of scientific significance, the Secretary may convey a freehold or leasehold interest therein, subject to such terms and conditions as will assure the use of the property in a manner which is, in the judgment of the Secretary, consistent with the purpose for which the area was authorized by the Congress. In any case in which the Secretary exercises his discretion to convey such interest, he shall do so to the highest bidder, in accordance with such regulations as the Secretary may prescribe, but such conveyance shall be at not less than the fair market value of the interest, as determined by the Secretary; except that if any such conveyance is proposed within two years after the property to be conveyed is acquired by the Secretary, he shall allow the last owner or owners of record of such property thirty days following the date on which they are notified by the Secretary in writing that such property is to be conveyed within which to notify the Secretary that such owners wish to acquire such interest. Upon receiving such timely request, the Secretary shall convey such interest to such person or persons, in accordance with such regulations as the Secretary may prescribe, upon payment or agreement to pay an amount equal to the highest bid price.

(b) Exchange of lands; other disposal; equal land values

The Secretary of the Interior is authorized to accept title to any non-Federal property or interest therein within a unit of the National Park System or miscellaneous area under his administration, and in exchange therefor he may convey to the grantor of such property or interest any Federally-owned property or interest therein under his jurisdiction which he determines is suitable for exchange or other disposal and which is located in the same State as the non-Federal property to be acquired: *Provided, however*, That timber lands subject to harvest under a sustained yield program shall not be so exchanged. Upon request of a State or a political subdivision thereof, or of a party in in-

terest, prior to such exchange the Secretary or his designee shall hold a public hearing in the area where the lands to be exchanged are located. The values of the properties so exchanged, either shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor from funds appropriated for the acquisition of land for the area, or to the Secretary as the circumstances require.

(c) Solid waste disposal operations prohibited; exceptions; regulations

In order to protect the air, land, water, and natural and cultural values of the National Park System and the property of the United States therein, no solid waste disposal site (including any site for the disposal of domestic or industrial solid wastes) may be operated within the boundary of any unit of the National Park System, other than—

(1) a site which was operating as of September 1, 1984, or

(2) a site used only for disposal of wastes generated within that unit of the park system so long as such site will not degrade any of the natural or cultural resources of such park unit.

The Secretary of the Interior shall promulgate regulations to carry out the provisions of this subsection, including reasonable regulations to mitigate the adverse effects of solid waste disposal sites in operation as of September 1, 1984, upon property of the United States.

(d) Proceeds credited to land and water conservation fund

The proceeds received from any conveyance under this section shall be credited to the land and water conservation fund in the Treasury of the United States.

(Pub. L. 90–401, § 5, July 15, 1968, 82 Stat. 356; Pub. L. 98–506, § 2, Oct. 19, 1984, 98 Stat. 2338.)

AMENDMENTS

1984—Subsecs. (c), (d). Pub. L. 98–506 added subsec. (c) and redesignated former subsec. (c) as (d).

PART E—RECLAMATION RECREATION MANAGEMENT

§ 460*l*–31. Findings

The Congress finds and declares the following:

(1) There is a Federal responsibility to provide opportunities for public recreation at Federal water projects.

(2) Some provisions of the Federal Water Project Recreation Act [16 U.S.C. 460*l*–12 et seq.] are outdated because of increases in demand for outdoor recreation and changes in the economic climate for recreation managing entities.

(3) Provisions of such Act relating to non-Federal responsibility for all costs of operation, maintenance, and replacement of recreation facilities result in an unfair burden, especially in cases where the facilities are old or underdesigned.

(4) Provisions of such Act that limit the Federal share of recreation facility development at water projects completed before 1965 to $100,000 preclude a responsible Federal share in providing adequate opportunities for safe outdoor recreation.

(5) There should be Federal authority to expand existing recreation facilities to meet public demand, in partnership with non-Federal interests.

(6) Nothing in this part changes the responsibility of the Bureau to meet the purposes for which Federal Reclamation projects were initially authorized and constructed.

(7) It is therefore in the best interest of the people of this Nation to amend the Federal Water Project Recreation Act [16 U.S.C. 460*l*–12 et seq.] to remove outdated restrictions and authorize the Secretary of the Interior to undertake specific measures for the management of Reclamation lands.

(Pub. L. 102–575, title XXVIII, § 2802, Oct. 30, 1992, 106 Stat. 4690.)

REFERENCES IN TEXT

The Federal Water Project Recreation Act, referred to in pars. (2) to (4) and (7), is Pub. L. 89–72, July 9, 1965, 79 Stat. 213, as amended, which is classified principally to part C (§ 460*l*–12 et seq.) of this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–12 of this title and Tables.

This part, referred to in par. (6), was in the original ''this title'', meaning title XXVIII of Pub. L. 102–575, Oct. 30, 1992, 106 Stat. 4690, which enacted sections 460*l*–31 to 460*l*–34 of this title and amended sections 460*l*–13 to 460*l*–15 and 460*l*–18 of this title.

SHORT TITLE

Section 2801 of title XXVIII of Pub. L. 102–575 provided that: ''This title [enacting this part and amending sections 460*l*–13 to 460*l*–15 and 460*l*–18 of this title] may be cited as the 'Reclamation Recreation Management Act of 1992'.''

§ 460*l*–32. Definitions

For the purposes of this part:

(1) The term ''Reclamation lands'' means real property administered by the Secretary, acting through the Commissioner of Reclamation, and includes all acquired and withdrawn lands and water areas under jurisdiction of the Bureau.

(2) The term ''Reclamation program'' means any activity authorized under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371)),[1] and Acts supplementary thereto and amendatory thereof).

(3) The term ''Reclamation project'' means any water supply or water delivery project constructed or administered by the Bureau of Reclamation under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371),[2] and Acts supplementary thereto and amendatory thereof).

(4) The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 102–575, title XXVIII, § 2803, Oct. 30, 1992, 106 Stat. 4691.)

[1] So in original. There should probably be only a single closing parenthesis. See References in Text note below.

[2] See References in Text note below.

REFERENCES IN TEXT

This part, referred to in text, was in the original ''this title'', meaning title XXVIII of Pub. L. 102–575, Oct. 30, 1992, 106 Stat. 4690, which enacted sections 460*l*–31 to 460*l*–34 of this title and amended sections 460*l*–13 to 460*l*–15 and 460*l*–18 of this title.

Act of June 17, 1902, referred to in pars. (2) and (3), is act June 17, 1902, ch. 1093, 32 Stat. 388, popularly known as the Reclamation Act, which is classified generally to chapter 12 (§ 371 et seq.) of Title 43, Public Lands. However, section 371 of Title 43 is act Dec. 5, 1924, ch. 4, § 4, subsec. A, 43 Stat. 701. For complete classification of act June 17, 1902, to the Code, see Short Title note set out under section 371 of Title 43 and Tables.

§ 460*l*–33. Management of reclamation lands

(a) Administration

(1) Upon a determination that any such fee, charge, or commission is reasonable and appropriate, the Secretary acting through the Commissioner of Reclamation, is authorized to establish—

(A) filing fees for applications and other documents concerning entry upon and use of Reclamation lands;

(B) recreation user fees; and

(C) charges or commissions for the use of Reclamation lands.

(2) The Secretary, acting through the Commissioner of Reclamation, shall promulgate such regulations as the Secretary determines to be necessary—

(A) to carry out the provisions of this section and section 460*l*–34 of this title;

(B) to ensure the protection, comfort, and well-being of the public (including the protection of public safety) with respect to the use of Reclamation lands; and

(C) to ensure the protection of resource values.

(b) Inventory

The Secretary, acting through the Commissioner of Reclamation, is authorized to—

(1) prepare and maintain on a continuing basis an inventory of resources and uses made of Reclamation lands and resources, keep records of such inventory, and make such records available to the public; and

(2) ascertain the boundaries of Reclamation lands and provide a means for public identification (including, where appropriate, providing signs and maps).

(c) Planning

(1)(A)[1] The Secretary, acting through the Commissioner of Reclamation, is authorized to develop, maintain, and revise resource management plans for Reclamation lands.

(B) Each plan described in subparagraph (A)—

(i) shall be consistent with applicable laws (including any applicable statute, regulation, or Executive order);

(ii) shall be developed in consultation with—

(I) such heads of Federal and non-Federal departments or agencies as the Secretary determines to be appropriate; and

(II) the authorized beneficiaries (as determined by the Secretary) of any Reclamation project included in the plan; and

(iii) shall be developed with appropriate public participation.

(C) Each plan described in subparagraph (A) shall provide for the development, use, conservation, protection, enhancement, and management of resources of Reclamation lands in a manner that is compatible with the authorized purposes of the Reclamation project associated with the Reclamation lands.

(d) Nonreimbursable funds

Funds expended by the Secretary in carrying out the provisions of this part shall be nonreimbursable under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371),[2] and Acts supplementary thereto and amendatory thereof).

(Pub. L. 102–575, title XXVIII, § 2805, Oct. 30, 1992, 106 Stat. 4692.)

REFERENCES IN TEXT

This part, referred to in subsec. (d), was in the original ''this title'', meaning title XXVIII of Pub. L. 102–575, Oct. 30, 1992, 106 Stat. 4690, which enacted sections 460*l*–31 to 460*l*–34 of this title and amended sections 460*l*–13 to 460*l*–15 and 460*l*–18 of this title.

Act of June 17, 1902, referred to in subsec. (d), is act June 17, 1902, ch. 1093, 32 Stat. 388, popularly known as the Reclamation Act, which is classified generally to chapter 12 (§ 371 et seq.) of Title 43, Public Lands. However, section 371 of Title 43 is act Dec. 5, 1924, ch. 4, § 4, subsec. A, 43 Stat. 701. For complete classification of act June 17, 1902, to the Code, see Short Title note set out under section 371 of Title 43 and Tables.

§ 460*l*–34. Protection of authorized purposes of reclamation projects

(a) Nothing in this part shall be construed to change, modify, or expand the authorized purposes of any Reclamation project.

(b) The expansion or modification of a recreational facility constructed under this part shall not increase the capital repayment responsibilities or operation and maintenance expenses of the beneficiaries of authorized purposes of the associated Reclamation project. The term ''beneficiaries'' does not include those entities who sign agreements or enter into contracts for recreation facilities pursuant to the Federal Water Project Recreation Act [16 U.S.C. 460*l*–12 et seq.].

(Pub. L. 102–575, title XXVIII, § 2806, Oct. 30, 1992, 106 Stat. 4693.)

REFERENCES IN TEXT

This part, referred to in text, was in the original ''this title'', meaning title XXVIII of Pub. L. 102–575, Oct. 30, 1992, 106 Stat. 4690, which enacted sections 460*l*–31 to 460*l*–34 of this title and amended sections 460*l*–13 to 460*l*–15 and 460*l*–18 of this title.

The Federal Water Project Recreation Act, referred to in subsec. (b), is Pub. L. 89–72, July 9, 1965, 79 Stat. 213, as amended, which is classified principally to part C (§ 460*l*–12 et seq.) of this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–12 of this title and Tables.

[1] So in original. No par. (2) has been enacted.

[2] See References in Text note below.

SUBCHAPTER LXX—OZARK NATIONAL SCENIC RIVERWAYS

§ 460m. Establishment

For the purpose of conserving and interpreting unique scenic and other natural values and objects of historic interest, including preservation of portions of the Current River and the Jacks Fork River in Missouri as free-flowing streams, preservation of springs and caves, management of wildlife, and provisions for use and enjoyment of the outdoor recreation resources thereof by the people of the United States, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') shall designate for establishment as the Ozark National Scenic Riverways the area (hereinafter referred to as ''such area'') generally depicted on map numbered NR OZA 7002 entitled ''Proposed Ozark National Rivers'' dated December 1963 which map is on file for public inspection in the office of the National Park Service, Department of the Interior: *Provided*, That the area so designated shall not include more than sixty-five thousand acres of land now in private ownership and that no lands shall be designated within two miles of the present boundaries of the municipalities of Eminence and Van Buren, Missouri. The Secretary, with the concurrence of the State, shall designate for inclusion in the Ozark National Scenic Riverways, the lands composing Big Springs, Alley Springs, and Round Spring State Parks, and the Secretary is hereby directed to negotiate with the State for the donation and the inclusion of such park lands in the Ozark National Scenic Riverways.

(Pub. L. 88–492, § 1, Aug. 27, 1964, 78 Stat. 608.)

§ 460m–1. Acquisition of lands, easements, etc.; exchange of lands; consent of State; reversion to State; administrative jurisdiction of Federal lands or waters

The Secretary may, within the area designated or altered pursuant to section 460m–3 of this title, acquire lands and interests therein, including scenic easements, by such means as he may deem to be in the public interest: *Provided*, That scenic easements may only be acquired with the consent of the owner of the lands or waters thereof: *And provided further*, That any parcel of land containing not more than five hundred acres, which borders either the Current River or the Jacks Fork River, and which is being primarily used for agricultural purposes, shall be acquired by the Secretary in its entirety unless the owner of any such parcel consents to the acquisition of a part thereof. Property so acquired which lies outside the boundary generally depicted on the map referred to in section 460m of this title may be exchanged by the Secretary for any land of approximately equal value within the boundaries. Lands and waters owned by the State of Missouri within such area may be acquired with the consent of the State and, notwithstanding any other provision of law, subject to provision for reversion to such State conditioned upon continued use of the property for National Scenic Riverway. Federally owned lands or water lying within such area shall, upon establishment of the area pursuant to section 460m–3 of this title, be transferred to the administrative jurisdiction of the Secretary, without transfer of funds, for administration as part of the Ozark National Scenic Riverways.

(Pub. L. 88–492, § 2, Aug. 27, 1964, 78 Stat. 608; Pub. L. 92–272, title IV, § 401, Apr. 11, 1972, 86 Stat. 122.)

AMENDMENTS

1972—Pub. L. 92–272 substituted provisions authorizing lands and waters owned by the State of Missouri to be acquired with the consent of the State, subject to reversion to such State conditioned upon the continued use of the property for the National Scenic Riverway, for provisions authorizing lands and waters owned by the State of Missouri to be acquired only with the consent of the State.

§ 460m–2. Reservation of use and occupancy of improved property for noncommercial residential purposes; term; valuation

Any owner or owners, including beneficial owners (hereinafter in this section referred to as ''owner''), of improved property on the date of its acquisition by the Secretary may, as a condition to such acquisition, retain the right of use and occupancy of the improved property for noncommercial residential purposes for a term ending at the death of such owner, or the death of his spouse, or at the death of the survivor of either of them. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(Pub. L. 88–492, § 3, Aug. 27, 1964, 78 Stat. 608.)

§ 460m–3. Establishment; notice in Federal Register; alteration of boundaries; acreage limitation

When the Secretary determines that lands and waters, or interests therein, have been acquired by the United States in sufficient quantity to provide an administrable unit, he shall declare establishment of the Ozark National Scenic Riverways by publication of notice in the Federal Register. The Secretary may thereafter alter such boundaries from time to time, except that the total acreage in the Ozark National Scenic Riverways shall not exceed sixty-five thousand acres, exclusive of land donated by the State of Missouri or its political subdivisions and of federally owned land transferred pursuant to section 460m–1 of this title.

(Pub. L. 88–492, § 4, Aug. 27, 1964, 78 Stat. 609.)

§ 460m–4. Cooperative land development programs; hunting and fishing

(a) Development of comprehensive plans

In furtherance of the purposes of this subchapter, the Secretary is authorized to cooperate with the State of Missouri, its political subdivisions, and other Federal agencies and organizations in formulating comprehensive plans for the Ozark National Scenic Riverways and for the related watershed of the Current and Jacks Fork Rivers in Missouri, and to enter into agreements for the implementation of such plans. Such plans may provide for land use and

development programs, for preservation and enhancement of the natural beauty of the landscape, and for conservation of outdoor resources in the watersheds of the Current and Jacks Fork Rivers.

(b) Establishment of hunting and fishing zones and periods

The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the Ozark National Scenic Riverways area in accordance with applicable Federal and State laws. The Secretary may designate zones where, and establish periods when, no hunting shall be permitted, for reasons of public safety, administration, or public use and enjoyment and shall issue regulations after consultation with the Conservation Commission of the State of Missouri.

(Pub. L. 88–492, § 5, Aug. 27, 1964, 78 Stat. 609.)

§ 460m–5. Administration

The Ozark National Scenic Riverways shall be administered in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and in accordance with other laws of general application relating to the areas administered and supervised by the Secretary through the National Park Service; except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this subchapter.

(Pub. L. 88–492, § 6, Aug. 27, 1964, 78 Stat. 609.)

§ 460m–6. Free-roaming horses

(a) In general

The Secretary, in accordance with this section, shall allow free-roaming horses in the Ozark National Scenic Riverways. Within 180 days after November 12, 1996, the Secretary shall enter into an agreement with the Missouri Wild Horse League or another qualified nonprofit entity to provide for management of free-roaming horses. The agreement shall provide for cost-effective management of the horses and limit Federal expenditures to the costs of monitoring the agreement. The Secretary shall issue permits for adequate pastures to accommodate the historic population level of the free-roaming horse herd, which shall be not less than the number of horses in existence on November 12, 1996, nor more than 50.

(b) Removal of horses

The Secretary may not remove, or assist in, or permit the removal of any free-roaming horses from Federal lands within the boundary of the Ozark National Scenic Riverways unless—

(1) the entity with whom the Secretary has entered into the agreement under subsection (a) of this section, following notice and a 90-day response period, substantially fails to meet the terms and conditions of the agreement;

(2) the number of free-roaming horses exceeds 50; or

(3) in the case of an emergency or to protect public health and safety, as defined in the agreement.

(c) Construction; liability of United States

Nothing in this section shall be construed as creating liability for the United States for any damages caused by the free-roaming horses to property located inside or outside the boundaries of the Ozark National Scenic Riverways.

(Pub. L. 88–492, § 7, Aug. 27, 1964, 78 Stat. 609; Pub. L. 104–333, div. I, title VIII, § 803(b), Nov. 12, 1996, 110 Stat. 4186.)

CODIFICATION

November 12, 1996, referred to in subsec. (a), was in the original ''enactment of this section'' and ''the date of the enactment of this section'', respectively, which were translated as meaning the date of enactment of Pub. L. 104–333, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

1996—Pub. L. 104–333 amended section generally, substituting provisions relating to free-roaming horses for provisions relating to Ozark National Scenic Riverways Commission.

§ 460m–7. Authorization of appropriations

There are hereby authorized to be appropriated such sums (but not more than $10,804,000 for the acquisition of lands or interests in lands) as are necessary to carry out the purposes of this subchapter.

(Pub. L. 88–492, § 8, Aug. 27, 1964, 78 Stat. 610; Pub. L. 92–272, title I, § 101(7), Apr. 11, 1972, 86 Stat. 120.)

AMENDMENTS

1972—Pub. L. 92–272 increased maximum amount authorized to be appropriated for acquisition of lands or interests in lands from not more than $7,000,000 to not more than $10,804,000.

SUBCHAPTER LXXI—BUFFALO NATIONAL RIVER

§ 460m–8. Establishment

For the purposes of conserving and interpreting an area containing unique scenic and scientific features, and preserving as a free-flowing stream an important segment of the Buffalo River in Arkansas for the benefit and enjoyment of present and future generations, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') may establish and administer the Buffalo National River. The boundaries of the national river shall be as generally depicted on the drawing entitled ''Proposed Buffalo National River'' numbered NR–BUF–7103 and dated December 1967, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary is authorized to make minor revisions of the boundaries of the national river when necessary, after advising the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate in writing, but the total acreage within such boundaries shall not exceed ninety-five thousand seven hundred and thirty acres.

(Pub. L. 92–237, § 1, Mar. 1, 1972, 86 Stat. 44; Pub. L. 103–437, § 6(n)(1), Nov. 2, 1994, 108 Stat. 4586.)

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate'' for ''Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate''.

§ 460m–9. Acquisition of lands and waters

(a) Donation, purchase, and exchange; reimbursement of State of Arkansas

Within the boundaries of the Buffalo National River, the Secretary may acquire lands and waters or interests therein by donation, purchase or exchange, except that lands owned by the State of Arkansas or a political subdivision thereof may be acquired only by donation: *Provided*, That the Secretary may, with funds appropriated for development of the area, reimburse such State for its share of the cost of facilities developed on State park lands if such facilities were developed in a manner approved by the Secretary and if the development of such facilities commenced subsequent to March 1, 1972: *Provided further*, That such reimbursement shall not exceed a total of $375,000. When an individual tract of land is only partly within the boundaries of the national river, the Secretary may acquire all of the tract by any of the above methods in order to avoid the payment of severance costs. Land so acquired outside of the boundaries of the national river may be exchanged by the Secretary for non-Federal lands within the national river boundaries, and any portion of the land not utilized for such exchanges may be disposed of in accordance with the provisions of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41. With the concurrence of the agency having custody thereof, any Federal property within the boundaries of the national river may be transferred without consideration to the administrative jurisdiction of the Secretary for administration as part of the national river.

(b) Retention of rights

Except for property which the Secretary determines to be necessary for the purposes of administration, development, access or public use, an owner or owners (hereafter referred to as ''owner'') of any improved property which is used solely for noncommercial residential purposes on the date of its acquisition by the Secretary or any owner of lands used solely for agricultural purposes (including, but not limited to, grazing) may retain, as a condition of the acquisition of such property or lands, a right of use and occupancy of such property for such residential or agricultural purposes. The term of the right retained shall expire upon the death of the owner or the death of his spouse, whichever occurs later, or in lieu thereof, after a definite term which shall not exceed twenty-five years after the date of acquisition. The owner shall elect, at the time of conveyance, the term of the right reserved. The Secretary shall pay the owner the fair market value of the property on the date of such acquisition, less the fair market value of the term retained by the owner. Such right may, during its existence, be conveyed or transferred, but all rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of such property in accordance with the purposes of this subchapter. Upon a determination that the property, or any portion thereof, has ceased to be used in accordance with such terms and conditions, the Secretary may terminate the right of use and occupancy by tendering to the holder of such right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

(c) "Improved property" defined

As used in this section the term ''improved property'' means a detached year-round one-family dwelling which serves as the owner's permanent place of abode at the time of acquisition, and construction of which was begun before September 3, 1969, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use.

(Pub. L. 92–237, § 2, Mar. 1, 1972, 86 Stat. 44.)

CODIFICATION

In subsec. (a), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949 (63 Stat. 377; 40 U.S.C. 471 et seq.), as amended'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§ 460m–10. Hunting and fishing; rules and regulations

The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the Buffalo National River in accordance with applicable Federal and State laws, except that he may designate zones where and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the Arkansas Fish and Game Commission.

(Pub. L. 92–237, § 3, Mar. 1, 1972, 86 Stat. 45.)

§ 460m–11. Water resource projects

The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), on or directly affecting the Buffalo National River and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river is established, as determined

by the Secretary. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above the Buffalo National River or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on March 1, 1972. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river is established, as determined by the Secretary, nor shall such department or agency request appropriations to begin construction on any such project, whether heretofore or hereafter authorized, without, at least sixty days in advance, (i) advising the Secretary, in writing, of its intention so to do and (ii) reporting to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, respectively, the nature of the project involved and the manner in which such project would conflict with the purposes of this subchapter or would affect the national river and the values to be protected by it under this subchapter.

(Pub. L. 92–237, § 4, Mar. 1, 1972, 86 Stat. 45; Pub. L. 95–91, title IV, § 402(a)(1)(A), Aug. 4, 1977, 91 Stat. 583; Pub. L. 103–437, § 6(n)(1), Nov. 2, 1994, 108 Stat. 4586.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate'' for ''Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate''.

TRANSFER OF FUNCTIONS

''Federal Energy Regulatory Commission'' substituted for ''Federal Power Commission'' in text pursuant to Pub. L. 95–91, § 402(a)(1)(A), which is classified to section 7172(a)(1)(A) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

§ 460m–12. Administration, protection, and development

The Secretary shall administer, protect, and develop the Buffalo National River in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented; except that any other statutory authority available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this subchapter.

(Pub. L. 92–237, § 5, Mar. 1, 1972, 86 Stat. 45.)

§ 460m–13. Suitability for preservation as a wilderness; area review and report to President

Within three years from March 1, 1972, the Secretary shall review the area within the boundaries of the national river and shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendation as to the suitability or nonsuitability of any area within the national river for preservation as a wilderness, and any designation of any such area as a wilderness, shall be accomplished in accordance with said section 1132(c) and (d) of this title.

(Pub. L. 92–237, § 6, Mar. 1, 1972, 86 Stat. 46.)

§ 460m–14. Authorization of appropriations

For the acquisition of lands and interests in lands, there are authorized to be appropriated not more than $39,948,000. For development of the national river, there are authorized to be appropriated not to exceed $9,371,000.

(Pub. L. 92–237, § 7, Mar. 1, 1972, 86 Stat. 46; Pub. L. 94–578, title I, § 101(3), title III, § 310, Oct. 21, 1976, 90 Stat. 2732, 2736; Pub. L. 95–625, title II, § 201(2), Nov. 10, 1978, 92 Stat. 3473.)

AMENDMENTS

1978—Pub. L. 95–625 increased land acquisition appropriations authorization to $39,948,000 from $30,071,500.

1976—Pub. L. 94–578 substituted ''$30,071,500'' for ''$16,115,000'' in provision covering the acquisition of lands and interests in lands and substituted ''For development of the national river, there are authorized to be appropriated not to exceed $9,371,000'' for ''For development of the national river, there are authorized to be appropriated not more than $283,000 in fiscal year 1974; $2,923,000 in fiscal year 1975; $3,643,000 in fiscal year 1976; $1,262,000 in fiscal year 1977; and $1,260,000 in fiscal year 1978. The sums appropriated each year shall remain available until expended''.

SUBCHAPTER LXXI–A—NEW RIVER GORGE NATIONAL RIVER

§ 460m–15. Establishment; administration, protection, and development; utilization of other authorities; boundary description, availability for public inspection

For the purpose of conserving and interpreting outstanding natural, scenic, and historic values and objects in and around the New River Gorge and preserving as a free-flowing stream an important segment of the New River in West Virginia for the benefit and enjoyment of present and future generations, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') shall establish and administer the New River Gorge National River. The Secretary shall administer, protect, and develop the national river in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented; except that any other statutory authority available to the Secretary for the preservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this subchapter. The boundaries of the national river shall be as generally depicted on the drawing entitled ''Proposed New River Gorge National River'' numbered NERI 80,034, dated May 2001, which shall be on file and available for public in-

spection in the offices of the National Park Service, Department of the Interior.

(Pub. L. 95–625, title XI, § 1101, Nov. 10, 1978, 92 Stat. 3544; Pub. L. 100–534, title I, § 101, Oct. 26, 1988, 102 Stat. 2700; Pub. L. 104–333, div. I, title IV, § 406(a)(1), Nov. 12, 1996, 110 Stat. 4149; Pub. L. 107–356, § 2(a), Dec. 17, 2002, 116 Stat. 3013.)

AMENDMENTS

2002—Pub. L. 107–356 substituted ''NERI 80,034, dated May 2001'' for ''NERI–80,028A, dated March 1996''.

1996—Pub. L. 104–333 substituted ''NERI–80,028A, dated March 1996'' for ''NERI–80,023, dated January 1987''.

1988—Pub. L. 100–534 substituted ''NERI–80,023, dated January 1987'' for ''NERI–20,002, dated July 1978''.

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–356, § 1, Dec. 17, 2002, 116 Stat. 3013, provided that: ''This Act [amending this section and enacting provisions set out as a note under this section] may be cited as the 'New River Gorge Boundary Act of 2002'.''

SHORT TITLE OF 1988 AMENDMENT

Section 1 of Pub. L. 100–534 provided that: ''This Act [enacting sections 460m–26 to 460m–29 and 460ww to 460ww–5 of this title, amending this section and section 1274 of this title, and enacting provisions set out as notes under this section and section 1274 of this title] may be cited as the 'West Virginia National Interest River Conservation Act of 1987'.''

LAND EXCHANGE

Pub. L. 107–356, § 2(b), Dec. 17, 2002, 116 Stat. 3013, provided that:

''(1) IN GENERAL.—The Secretary of the Interior shall complete a fee simple land exchange in the vicinity of Beauty Mountain, Fayette County, West Virginia, to acquire a tract of land identified as NERI Tract Number 150–07 that lies adjacent to the boundary of the New River Gorge National River in exchange for a tract of land identified as NERI Tract Number 150–08 located within such boundary.

''(2) TREATMENT OF EXCHANGED LANDS.—Upon the completion of such land exchange—

''(A) the land acquired by the United States in the exchange shall be included in the boundaries, and administered as part, of the New River Gorge National River; and

''(B) the land conveyed by the United States in the exchange shall be excluded from the boundaries, and shall not be administered as part, of the New River Gorge National River.''

NEW, GAULEY, MEADOW, AND BLUESTONE RIVERS; CONGRESSIONAL FINDINGS AND PURPOSE

Section 2 of Pub. L. 100–534 provided that:

''(a) FINDINGS.—The Congress finds that—

''(1) The outstanding natural, scenic, cultural and recreational values of the segment of the New River in West Virginia within the boundaries of the New River Gorge National River have been preserved and enhanced by its inclusion in the National Park System.

''(2) The establishment of the New River Gorge National River has provided the basis for increased recreation and tourism activities in southern West Virginia due to its nationally recognized status and has greatly contributed to the regional economy.

''(3) Certain boundary modifications to the New River Gorge National River are necessary to further protect the scenic resources within the river's visual corridor and to provide for better management of the national park unit.

''(4) Several tributaries of the New River in West Virginia also possess remarkable and outstanding features of national significance. The segment of the Gauley River below Summersville Dam has gained national recognition as a premier whitewater recreation resource. The lower section of the Bluestone River and the lower section of the Meadow River possess remarkable and outstanding natural, scenic, and recreational values due to their predominantly undeveloped condition.

''(5) Portions of several of the New River tributaries, including segments of the Gauley River, the Meadow River, and the Bluestone River are suitable for inclusion in the National Park System or the National Wild and Scenic Rivers System.

''(6) It is in the national interest to preserve the natural condition of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia and to enhance recreational opportunities available on the free-flowing segments.

''(b) PURPOSE.—The purpose of this Act [see Short Title of 1988 Amendment note above] is to provide for the protection and enhancement of the natural, scenic, cultural, and recreational values on certain free-flowing segments of the New, Gauley, Meadow, and Bluestone Rivers in the State of West Virginia for the benefit and enjoyment of present and future generations.''

COORDINATION AMONG RECREATIONAL RESOURCES

Section 401 of Pub. L. 100–534 provided that: ''Subject to existing authority, the Secretary of the Interior shall cooperate with, and assist, any regional authority comprised of representatives of West Virginia State authorities and local government authorities in or any combination of the foregoing Nicholas, Fayette, Raleigh, Summers, Greenbrier, and Mercer Counties, West Virginia, for the purposes of providing for coordinated development and promotion of recreation resources of regional or national significance which are located in southern West Virginia and management by State or Federal agencies, including State, local and National Park System units, State and National Forest System units, and historic sites.''

SPECIAL PROVISIONS

Section 402 of Pub. L. 100–534 provided that: ''Subject to his responsibilities to protect the natural resources of the National Park System, the Secretary of the Interior shall enter into a cooperative agreement with the State of West Virginia providing for the State's regulation, in accordance with State law, of persons providing commercial recreational watercraft services on units of the National Park System and components of the National Wild and Scenic Rivers System subject to this Act [see Short Title of 1988 Amendment note above].''

CONSOLIDATED MANAGEMENT

Section 404 of Pub. L. 100–534 provided that: ''In order to achieve the maximum economy and efficiency of operations in the administration of the National Park System units established or expanded pursuant to this Act [see Short Title of 1988 Amendment note above], the Secretary shall consolidate offices and personnel administering all such units to the extent practicable and shall utilize the existing facilities of the New River Gorge National River to the extent practicable.''

NEW SPENDING AUTHORITY

Section 405 of Pub. L. 100–534 provided that: ''Any new spending authority which is provided under this Act [see Short Title of 1988 Amendment note above] shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriation Acts.''

§ 460m–16. Acquisition of property

(a) Authority of Secretary; manner; donation of State lands; improved and unimproved properties

Within the boundaries of the New River Gorge National River, the Secretary may acquire lands

and waters or interests therein by donation, purchase with donated or appropriated funds, transfer, or exchange. Lands owned by the State of West Virginia or a political subdivision thereof may be acquired by donation only. In addition, the Secretary may acquire by any of the foregoing methods not to exceed ten acres outside the boundaries of the national river for an administrative headquarters site, and funds appropriated for land acquisition shall be available for the acquisition of the administrative headquarters site. The authority of the Secretary to condemn in fee, improved properties as defined in subsection (c) of this section shall not be invoked as long as the owner of such improved property holds and uses it in a manner compatible with the purposes of this subchapter. The Secretary may acquire any such improved property without the consent of the owner whenever he finds that such property has undergone, since January 1, 1978, or is imminently about to undergo, changes in land use which are incompatible with the purposes of the national river. The Secretary may acquire less than fee interest in any improved or unimproved property within the boundaries of the national river.

(b) Non-federally owned lands; cooperative agreements affecting properties of historical significance

On non-federally owned lands within the national river boundaries, the Secretary is authorized to enter into cooperative agreements with organizations or individuals to mark or interpret properties of significance to the history of the Gorge area.

(c) "Improved property" defined

For the purposes of this Act, the term ''improved property'' means (i) a detached single family dwelling, the construction of which was begun before January 1, 1977 (hereafter referred to as ''dwelling''), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, or (ii) property developed for agricultural uses, together with any structures accessory thereto which were so used on or before January 1, 1977, or (iii) commercial and small business properties which were so used on or before January 1, 1977, the purpose of which is determined by the Secretary to contribute to visitor use and enjoyment of the national river. In determining when and to what extent a property is to be considered an ''improved property'', the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1977, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date.

(d) Owner's reservation of right of use and occupancy for fixed term of years or for life; election by owner; fair market value; termination; notification

The owner of an improved property, as defined in this subchapter, on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential, or agricultural purposes, or the continuation of existing commercial operations, as the case may be, for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value of the property on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this subchapter, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(Pub. L. 95–625, title XI, § 1102, Nov. 10, 1978, 92 Stat. 3545; Pub. L. 99–500, § 101(h) [title I, § 116(a)], Oct. 18, 1986, 100 Stat. 1783–242, 1783–266, and Pub. L. 99–591, § 101(h) [title I, § 116(a)], Oct. 30, 1986, 100 Stat. 3341–242, 3341–266; Pub. L. 99–590, title X, § 1001, Oct. 30, 1986, 100 Stat. 3339.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is Pub. L. 95–625, Nov. 10, 1978, 92 Stat. 3467, known as the National Parks and Recreation Act of 1978. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 1 of this title and Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–500, Pub. L. 99–590, Pub. L. 99–591, amended subsec. (a) identically inserting provisions relating to acquisition of an administrative headquarters site.

§ 460m–17. Lands and areas plan; submission to Congressional committees

Within two years from November 10, 1978, the Secretary shall submit, in writing, to the House Committee on Interior and Insular Affairs, the Senate Committee on Energy and Natural Resources and the Committees on Appropriations of the United States Congress, a detailed plan which shall indicate—

(i) the lands and areas which he deems essential to the protection and public enjoyment of the natural, scenic, and historic values and objects of this national river;

(ii) the lands which he has previously acquired by purchase, donation, exchange, or transfer for the purpose of this national river;

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing four fiscal years; and

(iv) the feasibility and suitability of including within the boundaries of the national river, the section of the New River from Fayetteville to Gauley Bridge, and reasons therefor.

(Pub. L. 95–625, title XI, § 1103, Nov. 10, 1978, 92 Stat. 3546.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460m–18. Zoning laws and ordinances; establishment; assistance; restrictions; variances

The Secretary shall on his own initiative, or at the request of any local government having jurisdiction over land located in or adjacent to the Gorge area, assist and consult with the appropriate officials and employees of such local government in establishing zoning laws or ordinances which will assist in achieving the purposes of this subchapter. In providing assistance pursuant to this section, the Secretary shall endeavor to obtain provisions in such zoning laws or ordinances which—

(1) have the effect of restricting incompatible commercial and industrial use of all real property in or adjacent to the Gorge area;

(2) aid in preserving the character of the Gorge area by appropriate restrictions on the use of real property in the vicinity, including, but not limited to, restrictions upon building and construction of all types; signs and billboards; the burning of cover; cutting of timber; removal of topsoil, sand, or gravel; dumping, storage, or piling of refuse; or any other use which would detract from the esthetic character of the Gorge area; and

(3) have the effect of providing that the Secretary shall receive advance notice of any hearing for the purpose of granting a variance and any variance granted under, and of any exception made to, the application of such law or ordinance.

(Pub. L. 95–625, title XI, § 1104, Nov. 10, 1978, 92 Stat. 3546.)

§ 460m–19. Mineral lands

(a) Mining; prohibition and limitation

Notwithstanding any other provision of law, no surface mining of any kind shall be permitted on federally owned lands within the boundary of the national river where the subsurface estate is not federally owned. Underground mining on such lands may be permitted by the Secretary only if—

(1) the mining operation will have no significant adverse impact on the public use and enjoyment of the national river;

(2) the mining operation will disturb the minimum amount of surface necessary to extract the mineral; and

(3) the surface is not significantly disturbed, unless there is no technologically feasible alternative.

(b) Timber harvesting

The harvesting of timber on federally owned lands within the national river boundary is prohibited, except insofar as it is necessary for the Secretary to remove trees for river access, historic sites, primitive campgrounds, scenic vistas, or as may be necessary from time to time for reasons of public health and safety.

(c) Civil action; jurisdiction; recovery

The owner of a mineral estate subject to this section who believes he has suffered a loss by operation of this section, may bring an action only in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution.

(Pub. L. 95–625, title XI, § 1105, Nov. 10, 1978, 92 Stat. 3546.)

§ 460m–20. Hunting and fishing zones; designation; rules and regulations, consultation

The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the New River Gorge National River in accordance with applicable Federal and State laws, and he may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State agency responsible for hunting and fishing activities. The Secretary shall permit the State of West Virginia to undertake fish stocking activities carried out by the State, in consultation with the Secretary, on waters within the boundaries of the national river. Nothing in this Act shall be construed as affecting the jurisdiction of the State of West Virginia with respect to fish and wildlife.

(Pub. L. 95–625, title XI, § 1106, Nov. 10, 1978, 92 Stat. 3547; Pub. L. 104–333, div. I, title IV, § 406(a)(2), Nov. 12, 1996, 110 Stat. 4149; Pub. L. 111–11, title VII, § 7115, Mar. 30, 2009, 123 Stat. 1202.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 95–625, Nov. 10, 1978, 92 Stat. 3467, known as the National Parks and Recreation Act of 1978. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 1 of this title and Tables.

AMENDMENTS

2009—Pub. L. 111–11, which directed substitution of ''shall'' for ''may'' in first sentence, was executed by substituting ''shall'' for ''may'' the first time appearing, which was preceding ''permit hunting and fishing''.

1996—Pub. L. 104–333 inserted at end ''The Secretary shall permit the State of West Virginia to undertake fish stocking activities carried out by the State, in consultation with the Secretary, on waters within the boundaries of the national river. Nothing in this Act shall be construed as affecting the jurisdiction of the State of West Virginia with respect to fish and wildlife.''

REGULATIONS

Pub. L. 108–108, title I, § 150, Nov. 10, 2003, 117 Stat. 1281, provided that: ''The National Park Service shall

issue a special regulation concerning continued hunting at New River Gorge National River in compliance with the requirements of the Administrative Procedures [Procedure] Act [see Short Title note preceding section 551 of Title 5, Government Organization and Employees], with opportunity for public comment, and shall also comply with the National Environmental Policy Act [of 1969] [42 U.S.C. 4321 et seq.] as appropriate. Notwithstanding any other provision of law, the September 25, 2003 interim final rule authorizing continued hunting at New River Gorge National River shall be in effect until the final special regulation supercedes it.''

§ 460m–21. Project work prohibition; advisement to Secretary; report to Congress

The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063) as amended (16 U.S.C. 791a et seq.), on or directly affecting the New River Gorge National River, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above the New River Gorge National River or on any stream tributary thereto which will not invade the area or diminish the scenic, recreation, and fish and wildlife values present in the area on November 10, 1978. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary, or request appropriations to begin construction on any such project whether heretofore or hereafter authorized, without advising the Secretary in writing of its intention to do so at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this section and would effect[1] the national river and the values to be protected by it under this section.

(Pub. L. 95–625, title XI, § 1107, Nov. 10, 1978, 92 Stat. 3547.)

REFERENCES IN TEXT

The Federal Power Act (41 Stat. 1063) as amended (16 U.S.C. 791a et seq.), referred to in text, is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

§ 460m–22. General management plan; submission to Congressional committees

Within three years from November 10, 1978, the Secretary shall develop and transmit to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs, a general management plan for the protection and development of the national river consistent with the purposes of this subchapter, indicating—

(1) measures for the preservation of the area's resources;

(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation, and anticipated costs;

(3) identification of and implementation commitments for visitor carrying capacities for all areas of the unit; and

(4) indications of potential modifications to the external boundaries of the unit, and the reasons therefor.

(Pub. L. 95–625, title XI, § 1109, Nov. 10, 1978, 92 Stat. 3548.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460m–23. Cooperation

The Secretary of the Army shall cooperate with the Secretary of the Interior concerning the water requirements of the national river. The Secretary of the Army shall provide for release of water from the Bluestone Lake project consistent with that project's purposes and activities in sufficient quantity and in such manner to facilitate protection of biological resources and recreational use of the national river.

(Pub. L. 95–625, title XI, § 1110, Nov. 10, 1978, 92 Stat. 3548.)

§ 460m–24. Class I or class II redesignation for clean air purposes

For the purposes of part C of the Clean Air Act [42 U.S.C. 7470 et seq.], the State may redesignate the national river only as class I or class II.

(Pub. L. 95–625, title XI, § 1111, Nov. 10, 1978, 92 Stat. 3548.)

REFERENCES IN TEXT

The Clean Air Act, referred to in text, is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88–206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95–95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95–95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. Part C of the Clean Air Act is classified generally to part C (§ 7470 et seq.) of subchapter I of chapter 85 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

§ 460m–25. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this subchapter, but not to exceed $20,000,000 for the acquisition of lands and interests in lands, and not to exceed $3,000,000 for development.

[1] So in original. Probably should be ''affect''.

(Pub. L. 95–625, title XI, § 1112, Nov. 10, 1978, 92 Stat. 3548; Pub. L. 99–500, § 101(h) [title I, § 116(b)], Oct. 18, 1986, 100 Stat. 1783–242, 1783–266, and Pub. L. 99–591, § 101(h) [title I, § 116(b)], Oct. 30, 1986, 100 Stat. 3341–242, 3341–266; Pub. L. 99–590, title X, § 1002, Oct. 30, 1986, 100 Stat. 3340.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1986—Pub. L. 99–500, Pub. L. 99–590, Pub. L. 99–591, amended section identically substituting ''$3,000,000'' for ''$500,000''.

§ 460m–26. Cooperative agreements with State

In administering the national river, the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for the rendering, on a reimbursable or non-reimbursable basis, of rescue, fire fighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(Pub. L. 95–625, title XI, § 1113, as added Pub. L. 100–534, title I, § 102, Oct. 26, 1988, 102 Stat. 2700.)

§ 460m–27. Improvement of access at Cunard

(a) Development and improvement

The Secretary shall expeditiously acquire such lands, and undertake such developments and improvements, as may be necessary to provide for commercial and noncommercial access to the river near Cunard. No restriction shall be imposed on such access based on the time of day, except to the extent required to protect public health and safety.

(b) Interim measures

Pending completion of the developments and improvements referred to in subsection (a) of this section, the Secretary shall permit the motorized towing of whitewater rafts in the section of the national river between Thurmond and Cunard when the volume of flow in the river is less than three thousand cubic feet per second.

(Pub. L. 95–625, title XI, § 1114, as added Pub. L. 100–534, title I, § 103, Oct. 26, 1988, 102 Stat. 2700.)

§ 460m–28. Flow management

(a) Findings

The Congress finds that adjustments of flows from Bluestone Lake project during periods of low flow are necessary to respond to the congressional mandate contained in section 460m–23 of this title and that such adjustments could enhance the quality of the recreational experience in the segments of the river below the lake during those periods as well as protect the biological resources of the river.

(b) Report to Congress required

The Secretary of the Army, in conjunction with the Secretary of the Interior, shall conduct a study and prepare a report under this section. The report shall be submitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives not later than December 31, 1989. Before submission of the report to these Committees, a draft of the report shall be made available for public comment. The final report shall include the comments submitted by the Secretary of the Interior and the public, together with the response of the Secretary of the Army to those comments.

(c) Contents of study

The study under this section shall examine the feasibility of adjusting the timing of daily releases from Bluestone Lake project during periods when flows from the lake are less than three thousand cubic feet per second. The purpose of such adjustment shall be to improve recreation (including, but not limited to, fishing and whitewater recreation) in the New River Gorge National River. Any such adjustments in the timing of flows which are proposed in such report shall be consistent with other project purposes and shall not have significant adverse effects on fishing or on any other form of recreation in Bluestone Lake or in any segment of the river below Bluestone Lake. The study shall assess the effects of such flow adjustments on the quality of recreation on the river in the segments of the river between Hinton and Thurmond and between Thurmond and the downstream boundary of the New River Gorge National River, taking into account the levels of recreational visitation in each of such segments.

(d) Test procedures

As part of the study under this section, the Secretary of the Army shall conduct test releases from Bluestone Lake project during twenty-four-hour periods during the summer of 1989 when flows are less than three thousand cubic feet per second from the project. All such adjustments shall conform to the criteria specified in subsection (c) of this section. The tests shall provide adjustments in the timing of daily flows from Bluestone Lake project which permit flows higher than the twenty-four-hour average to reach downstream recreational segments of the river during morning and afternoon hours. The tests shall develop specific data on the effects of flow adjustments on the speed of the current and on water surface levels in those segments. No test shall be conducted when flows from the lake are less than one thousand seven hundred cubic feet per second and no test shall reduce flows below that level.

(Pub. L. 95–625, title XI, § 1115, as added Pub. L. 100–534, title I, § 104, Oct. 26, 1988, 102 Stat. 2701.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460m–29. Glade Creek visitor facility

In order to provide for public use and enjoyment of the scenic and natural resources of the New River Gorge National River and in order to provide public information to visitors with respect to the national river and associated State parklands, the Secretary is authorized and di-

rected to construct a scenic overlook and visitor information facility at a suitable location accessible from Interstate 64 in the vicinity of Glade Creek within the boundary of the national river. There is authorized to be appropriated such sums as may be necessary to carry out construction (including all related planning and design) of the scenic overlook and visitor information facility.

(Pub. L. 95–625, title XI, § 1116, as added Pub. L. 100–534, title I, § 105, Oct. 26, 1988, 102 Stat. 2702.)

§ 460m–29a. New River Gorge and Gauley River Visitor Center

The Secretary of the Interior is authorized to construct a visitor center and such other related facilities as may be deemed necessary to facilitate visitor understanding and enjoyment of the New River Gorge National River and the Gauley River National Recreation Area in the vicinity of the confluence of the New and Gauley Rivers. Such center and related facilities are authorized to be constructed at a site outside of the boundary of the New River Gorge National River or Gauley River National Recreation Area unless a suitable site is available within the boundaries of either unit.

(Pub. L. 104–333, div. I, title IV, § 406(b), Nov. 12, 1996, 110 Stat. 4150.)

CODIFICATION

Section was enacted as part of the Omnibus Parks and Public Lands Management Act of 1996, and not as part of title XI of the National Parks and Recreation Act of 1978 which comprises this subchapter.

NEW RIVER VISITOR CENTER

Pub. L. 105–178, title I, § 1214(c), June 9, 1998, 112 Stat. 205, provided that:

''(1) IN GENERAL.—The Secretary shall allocate to the Secretary of the Interior amounts made available by this subsection for the planning, design, and construction of a visitor center, and such other related facilities as may be necessary, to facilitate visitor understanding and enjoyment of the scenic, historic, cultural, and recreational resources of the New River Gorge National River in the State of West Virginia. The center and related facilities shall be located at a site for which title is held by the United States in the vicinity of the I–64 Sandstone intersection.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $1,300,000 for fiscal year 1998, $1,200,000 for fiscal year 1999, and $9,900,000 for fiscal year 2000.

''(3) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.''

§ 460m–30. Applicable provisions of other law

(a) Cooperative agreements

The provisions of section 460ww–1(e)(1) of this title shall apply to the New River Gorge National River in the same manner and to the same extent as such provisions apply to the Gauley River National Recreation Area.

(b) Remnant lands

The provisions of the second sentence of section 460ww–2(a) of this title shall apply to tracts of land partially within the boundaries of the New River Gorge National River in the same manner and to the same extent as such provisions apply to tracts of land only partially within the Gauley River National Recreation Area.

(Pub. L. 95–625, title XI, § 1117, as added Pub. L. 104–333, div. I, title IV, § 406(a)(3), Nov. 12, 1996, 110 Stat. 4150.)

SUBCHAPTER LXXII—LAKE MEAD NATIONAL RECREATION AREA

§ 460n. Administration

In recognition of the national significance of the Lake Mead National Recreation Area, in the States of Arizona and Nevada, and in order to establish a more adequate basis for effective administration of such area for the public benefit, the Secretary of the Interior hereafter may exercise the functions and carry out the activities prescribed by this subchapter.

(Pub. L. 88–639, § 1, Oct. 8, 1964, 78 Stat. 1039.)

§ 460n–1. Boundaries of area; filing of map with Federal Register; revision; donations of land; property acquisition and exclusion

Lake Mead National Recreation Area shall comprise that particular land and water area which is shown on a certain map, identified as ''boundary map, RA–LM–7060–B, revised July 17, 1963'', which is on file and which shall be available for public inspection in the office of the National Park Service of the Department of the Interior. An exact copy of such map shall be filed with the Federal Register within thirty days following October 8, 1964, and an exact copy thereof shall be available also for public inspection in the headquarters office of the superintendent of the said Lake Mead National Recreation Area.

The Secretary of the Interior is authorized to revise the boundaries of such national recreation area, subject to the requirement that the total acreage of that area, as revised, shall be no greater than the present acreage thereof. In the event of such boundary revision, maps of the recreation area, as revised, shall be prepared by the Department of the Interior, and shall be filed in the same manner, and shall be available for public inspection also in accordance with the aforesaid procedures and requirements relating to the filing and availability of maps. The Secretary may accept donations of land and interests in land within the exterior boundaries of such area, or such property may be procured by the Secretary in such manner as he shall consider to be in the public interest.

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within the boundaries of the recreation area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary, notwithstanding any other provision of law. The properties so exchanged shall be approximately equal in fair market value: *Provided*, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

Establishment or revision of the boundaries of the said national recreation area, as herein pre-

scribed, shall not affect adversely any valid rights in the area, nor shall it affect the validity of withdrawals heretofore made for reclamation or power purposes. All lands in the recreation area which have been withdrawn or acquired by the United States for reclamation purposes shall remain subject to the primary use thereof for reclamation and power purposes so long as they are withdrawn or needed for such purposes. There shall be excluded from the said national recreation area by the Secretary of the Interior any property for management or protection by the Bureau of Reclamation, which would be subject otherwise to inclusion in the said recreation area, and which the Secretary of the Interior considers in the national interest should be excluded therefrom.

(Pub. L. 88–639, § 2, Oct. 8, 1964, 78 Stat. 1039.)

TRANSFER OF ADMINISTRATIVE JURISDICTION TO NATIONAL PARK SERVICE

Pub. L. 107–282, title III, § 302, Nov. 6, 2002, 116 Stat. 2006, provided that:

''(a) IN GENERAL.—Administrative jurisdiction over the parcel of land described in subsection (b) is transferred from the Bureau of Land Management to the National Park Service for inclusion in the Lake Mead National Recreation Area.

''(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the approximately 10 acres of Bureau of Land Management land, as depicted on the map entitled 'Eldorado/Spirit Mountain' and dated October 1, 2002.

''(c) USE OF LAND.—The parcel of land described in subsection (b) shall be used by the National Park Service for administrative facilities.''

§ 460n–2. Hualapai Indian lands; inclusion within area; mineral rights; leases and permits; hunting and fishing rights

The authorities granted by this subchapter shall be subject to the following exceptions and qualifications when exercised with respect to any tribal or allotted lands of the Hualapai Indians that may be included within the exterior boundaries of the Lake Mead National Recreation Area:

(a) The inclusion of Indian lands within the exterior boundaries of the area shall not be effective until approved by the Hualapai Tribal Council.

(b) Mineral developments or use of the Indian lands shall be permitted only in accordance with the laws that relate to Indian lands.

(c) Leases and permits for general recreational use, business sites, home sites, vacation cabin sites, and grazing shall be executed in accordance with the laws relating to leases of Indian lands, provided that all development and improvement leases so granted shall conform to the development program and standards prescribed for the Lake Mead National Recreation Area.

(d) Nothing in this subchapter shall deprive the members of the Hualapai Tribe of hunting and fishing privileges presently exercised by them, nor diminish those rights and privileges of that part of the reservation which is included in the Lake Mead Recreation Area.[1]

[1] So in original. Probably should be ''Lake Mead National Recreation Area''.

(Pub. L. 88–639, § 3, Oct. 8, 1964, 78 Stat. 1039.)

§ 460n–3. Purposes and uses of area

(a) Public recreation, benefit, and use

Lake Mead National Recreation Area shall be administered by the Secretary of the Interior for general purposes of public recreation, benefit, and use, and in a manner that will preserve, develop, and enhance, so far as practicable, the recreation potential, and in a manner that will preserve the scenic, historic, scientific, and other important features of the area, consistently with applicable reservations and limitations relating to such area and with other authorized uses of the lands and properties within such area.

(b) Specific activities

In carrying out the functions prescribed by this subchapter, in addition to other related activities that may be permitted hereunder, the Secretary may provide for the following activities, subject to such limitations, conditions, or regulations as he may prescribe, and to such extent as will not be inconsistent with either the recreational use or the primary use of that portion of the area heretofore withdrawn for reclamation purposes:

(1) General recreation use, such as bathing, boating, camping, and picnicking;

(2) Grazing;

(3) Mineral leasing;

(4) Vacation cabin site use, in accordance with existing policies of the Department of the Interior relating to such use, or as such policies may be revised hereafter by the Secretary.

(Pub. L. 88–639, § 4, Oct. 8, 1964, 78 Stat. 1040.)

§ 460n–4. Hunting, fishing and trapping

The Secretary of the Interior shall permit hunting, fishing, and trapping on the lands and waters under his jurisdiction within the recreation area in accordance with the applicable laws and regulations of the United States and the respective States: *Provided*, That the Secretary, after consultation with the respective State fish and game commissions, may issue regulations designating zones where and establishing periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment.

(Pub. L. 88–639, § 5, Oct. 8, 1964, 78 Stat. 1040.)

§ 460n–5. Regulation of area; violations and penalties

Such national recreation area shall continue to be administered in accordance with regulations heretofore issued by the Secretary of the Interior relating to such areas, and the Secretary may revise such regulations or issue new regulations to carry out the purposes of this subchapter. In his administration and regulation of the area, the Secretary shall exercise authority, subject to the provisions and limitations of this subchapter, comparable to his general administrative authority relating to areas of the national park system.

Any person who violates a rule or regulation issued pursuant to this subchapter shall be guilty of a misdemeanor, and may be punished by a fine of not more than $500, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

(Pub. L. 88–639, § 6, Oct. 8, 1964, 78 Stat. 1040; Pub. L. 91–383, § 10(a)(4), as added Pub. L. 94–458, § 2, Oct. 7, 1976, 90 Stat. 1941.)

AMENDMENTS

1976—Pub. L. 91–383, § 10(a)(4), as added Pub. L. 94–458, struck out provisions relating to arrest powers of superintendent, caretakers, officers, or rangers of the Lake Mead National Recreation Area.

§ 460n–6. Political jurisdiction; taxing power; Hualapai Indians

Nothing in this subchapter shall deprive any State, or any political subdivision thereof, of its civil and criminal jurisdiction over the lands within the said national recreation area, or of its rights to tax persons, corporations, franchises, or property on the lands included in such area. Nothing in this subchapter shall modify or otherwise affect the existing jurisdiction of the Hualapai Tribe or alter the status of individual Hualapai Indians within that part of the Hualapai Indian Reservation included in said Lake Mead National Recreation Area.

(Pub. L. 88–639, § 7, Oct. 8, 1964, 78 Stat. 1041.)

§ 460n–7. Revenues and fees; disposition

Revenues and fees obtained by the United States from operation of the national recreation area shall be subject to the same statutory provisions concerning the disposition thereof as are similar revenues collected in areas of the national park system with the exception, that those particular revenues and fees including those from mineral developments, which the Secretary of the Interior finds are reasonably attributable to Indian lands shall be paid to the Indian owner of the land, and with the further exception that other fees and revenues obtained from mineral development and from activities under other public land laws within the recreation area shall be disposed of in accordance with the provisions of the applicable laws.

(Pub. L. 88–639, § 8, Oct. 8, 1964, 78 Stat. 1041.)

§ 460n–8. United States magistrate judge: appointment; functions; probation; fees

A United States magistrate judge shall be appointed for that portion of the Lake Mead National Recreation Area that is situated in Mohave County, Arizona. Such magistrate judge shall be appointed by the United States district court having jurisdiction thereover, and the magistrate judge shall serve as directed by such court, as well as pursuant to, and within the limits of, the authority of said court.

The functions of the magistrate judge shall include the trial and sentencing of persons charged with the commission of misdemeanors and infractions as defined in section 3581 of title 18. The exercise of additional functions by the magistrate judge shall be consistent with and be carried out in accordance with the authority, laws, and regulations, of general application to United States magistrate judges. The probation laws shall be applicable to persons tried by the magistrate judge and he shall have power to grant probation. The magistrate judge shall receive the fees, and none other, provided by law for like or similar services.

(Pub. L. 88–639, § 9, Oct. 8, 1964, 78 Stat. 1041; Pub. L. 98–473, title II, § 222, Oct. 12, 1984, 98 Stat. 2028; Pub. L. 100–702, title IV, § 404(c), Nov. 19, 1988, 102 Stat. 4651; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

AMENDMENTS

1988—Pub. L. 100–702 struck out after second sentence of second par. ''The provisions of title 18, section 3402, and the rules of procedure and practice prescribed by the Supreme Court pursuant thereto, shall apply to all cases handled by such magistrate.''

1984—Pub. L. 98–473, § 222(a), substituted ''magistrate'' for ''commissioner'' wherever appearing in first par.

Pub. L. 98–473, § 222(b), substituted provisions relating to trial and sentencing of persons charged with misdemeanors and infractions as defined in section 3581 of title 18, for provisions relating to trial and sentencing of persons committing petty offenses as defined in title 18, section 1, and right of election of such persons to be tried in the district court of the United States.

CHANGE OF NAME

''United States magistrate judge'', ''magistrate judge'', and ''United States magistrate judges'' substituted for ''United States magistrate'', ''magistrate'', and ''United States magistrates'', respectively, wherever appearing in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–702 effective Dec. 1, 1988, see section 407 of Pub. L. 100–702, set out as a note under section 2071 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

§ 460n–9. Authorization of appropriations

There are hereby authorized to be appropriated not more than $7,100,000 for the acquisition of land and interests in land pursuant to section 460n–1 of this title.

(Pub. L. 88–639, § 10, Oct. 8, 1964, 78 Stat. 1041; Pub. L. 93–477, title I, § 101(12), Oct. 26, 1974, 88 Stat. 1445.)

AMENDMENTS

1974—Pub. L. 93–477 substituted ''$7,100,000'' for ''$1,200,000''.

SUBCHAPTER LXXIII—DELAWARE WATER GAP NATIONAL RECREATION AREA

§ 460*o*. Establishment

In order to further the purposes of the joint resolution approved September 27, 1961 (re Delaware River Basin compact; 75 Stat. 688), and to provide in a manner coordinated with the other

purposes of the Tocks Island Reservoir project, for public outdoor recreation use and enjoyment of the proposed Tocks Island Reservoir and lands adjacent thereto by the people of the United States and for preservation of the scenic, scientific, and historic features contributing to public enjoyment of such lands and waters, the Secretary of the Interior is authorized, as herein provided, to establish and administer the Delaware Water Gap National Recreation Area, hereinafter referred to as the ''area'', as part of the Tocks Island Reservoir project, hereinafter referred to as ''the project''.

(Pub. L. 89–158, § 1, Sept. 1, 1965, 79 Stat. 612.)

REFERENCES IN TEXT

The joint resolution approved September 27, 1961, referred to in text, is Pub. L. 87–328, which was not classified to the Code.

JOSEPH M. MCDADE RECREATIONAL TRAIL

Pub. L. 105–277, div. A, § 101(e) [title I, § 118], Oct. 21, 1998, 112 Stat. 2681–231, 2681–257, provided that: ''The 37 mile River Valley Trail from the town of Delaware Gap to the edge of the town of Milford, Pennsylvania located within the Delaware Water Gap National Recreation Area shall hereafter be referred to in any law, regulation, document, or record of the United States as the Joseph M. McDade Recreational Trail.''

DELAWARE WATER GAP NATIONAL RECREATION AREA CITIZEN ADVISORY COMMISSION

Pub. L. 100–573, Oct. 31, 1988, 102 Stat. 2890, as amended by Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(K), Nov. 12, 1996, 110 Stat. 4196; Pub. L. 105–355, title V, § 507, Nov. 6, 1998, 112 Stat. 3264; Pub. L. 106–176, title III, § 301, Mar. 10, 2000, 114 Stat. 31, established Delaware Water Gap National Recreation Area Citizen Advisory Commission to advise Secretary of the Interior on management and operation of Delaware Water Gap National Recreation Area, and other matters affecting the recreation area and surrounding communities, and terminated Commission on the date that is 20 years after Oct. 31, 1988.

§ 460*o*–1. Acquisition of lands

(a) Authority of Secretary of Army; transfer of jurisdiction over lands to Secretary of the Interior; authority of such Secretary; retention of use and occupancy rights; termination and transfer of authority and funds; acquisition priorities

The Secretary of the Army is authorized and directed to acquire, by such means as he may deem to be in the public interest, and as a part of his acquisition of properties for the project, lands and interests therein within the boundaries of the area, as generally depicted on the drawing entitled ''Proposed Tocks Island National Recreation Area'' dated and numbered September 1962, NRA–TI–7100, which drawing is on file in the Office of the National Park Service, Department of the Interior. In acquiring these lands, the Secretary of the Army may utilize such statutory authorities as are available to him for the acquisition of project lands: *Provided*, That the Secretary of the Army shall acquire no lands or interests in land by exchange for lands or interests in land in Federal ownership unless the latter are in the States of Pennsylvania, New Jersey, or New York. Periodically, and as soon as practicable after such lands and interests within the area are acquired, the Secretary of the Army shall transfer jurisdiction thereover to the Secretary of the Interior for the purposes of this subchapter. Beginning on November 10, 1978, the Secretary of the Interior is authorized to acquire for purposes of the recreation area established under this subchapter all lands and interests therein within the exterior boundaries of the area depicted on the drawing referred to in this subsection (including any lands within such exterior boundaries designated for acquisition by the Secretary of the Army in connection with the project referred to in this subsection). In exercising such authority, the Secretary of the Interior may permit the retention of rights of use and occupancy in the same manner as provided in the case of acquisitions by the Secretary of the Army under subsection (d) of this section. On November 10, 1978, the acquisition authorities of any other Federal agency contained in this subsection shall terminate and the head of any other Federal agency shall transfer to the Secretary of the Interior jurisdiction over all lands and interests therein acquired by said agency under the authority of this subchapter, or any other authority of law which lands are within the exterior boundaries of the area depicted on the drawing referred to in this subsection. On November 10, 1978, all unexpended balances available to any other Federal agency for acquisition of land within the exterior boundaries referred to in the preceding sentence shall be transferred to the Secretary of the Interior to be used for such purposes. In carrying out his acquisition authority under this section the Secretary shall give priority to the following:

(1) completion of acquisition of lands for which condemnation proceedings have been started pursuant to the authorization of the project referred to in this subsection;

(2) acquisition of lands of beneficial owners, not being a corporation, who in the judgment of the Secretary would suffer hardship if acquisition of their lands were delayed;

(3) acquisition of lands on which, in the judgment of the Secretary, there is an imminent danger of development that would be incompatible with the purposes of the recreation area;

(4) acquisition of lands of beneficial owners, not being a corporation, who are willing to sell their lands provided they are able to continue to use it for noncommercial residential purposes for a limited period of time which will not, in the judgment of the Secretary, unduly interfere with the development of public use facilities for such national recreation area, pursuant to the authorization for such area;

(5) acquisition of scenic easements when, in the judgment of the Secretary, such easements are sufficient to carry out the purposes for which such national recreation area was authorized; and

(6) acquisition of lands necessary to preserve the integrity of the recreation area.

(b) Omission of designated lands from area

Notwithstanding the provisions of subsection (a) of this section, the Secretary of the Interior is authorized, after consultation with appro-

priate public officials of the affected political subdivisions of the States of Pennsylvania or New Jersey, as the case may be, to designate not more than three hundred acres adjacent and contiguous to the Borough of Milford, Pennsylvania, and not more than one thousand acres in Sussex County, New Jersey, for omission from the Delaware Valley National Recreation Area and the lands so designated shall not be acquired for said national recreation area under authority of this subchapter.

(c) Extension of boundaries; study and report to Congress

The Secretary of the Interior shall investigate, study, and report to the President and the Congress on the feasibility and usefulness of extending the boundaries of the Delaware Water Gap National Recreation Area to include, in whole or in part, that portion of Tocks Island Reservoir which lies upstream from the northern terminus of the national recreation area as shown on the map hereinbefore referred to and lands adjacent to said portion of said reservoir. No such extension of boundaries, however, shall be made until authorized by Act of Congress.

(d) Noncommercial residential occupancy for life or fixed term of years; price for property; "improved residential property" defined; waiver of relocation assistance benefits or rights

The beneficial owner, not being a corporation, of a freehold interest acquired before January 1, 1965, in improved residential property within the area to be acquired by the Secretary of the Army under authority of this subchapter, the continued use of which property for noncommercial residential purposes for a limited time will not, in the judgment of the Secretary of the Interior, unduly interfere with the development of public-use facilities for the national recreation area and will not, in the judgment of the Secretary of the Army, unduly interfere with the operation of the Tocks Island Reservoir project, may retain a right of use and occupancy of such property for noncommercial residential purposes for, as said owner may elect, either (i) a period terminating upon his death or the death of his spouse, whichever occurs later, or (ii) a term of not more than twenty-five years: *Provided*, That in no case shall the period or term for which such right of use and occupancy is retained extend beyond the term of the freehold interest acquired by the United States. The price payable to the owner of such property shall be reduced by an amount equal to the value of the right retained. As used in this subchapter ''improved residential property'' means a single-family year-round dwelling, the construction of which was begun before January 21, 1963, which dwelling serves as the owner's permanent place of abode at the time of its acquisition by the United States, together with not more than three acres of land on which the dwelling and appurtenant buildings are located which land the Secretary of the Interior or the Secretary of the Army, as the case may be, finds is reasonably necessary for the owner's continued use and occupancy of the dwelling: *Provided, further*, That whenever an owner of property elects to retain a right of use and occupancy pursuant to this subchapter, such owner shall be deemed to have waived any benefits or rights under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 [42 U.S.C. 4601 et seq.].

(Pub. L. 89–158, § 2, Sept. 1, 1965, 79 Stat. 612; Pub. L. 92–575, § 2, Oct. 27, 1972, 86 Stat. 1250; Pub. L. 95–625, title III, § 316, Nov. 10, 1978, 92 Stat. 3483.)

REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (d), is Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, as amended, which is classified generally to chapter 61 (§ 4601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 42 and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–625 authorized acquisition of lands within the exterior boundaries of the area by the Secretary of the Interior, retention of use and occupancy rights, termination of Federal agency authority over lands and transfer of authority and funds to the Secretary of the Interior, and prescribed acquisition priorities for the Secretary of the Interior.

1972—Subsec. (d). Pub. L. 92–575 provided for waiver of benefits or rights under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, upon election to retain right of use and occupancy pursuant to this subchapter.

§ 460*o*–2. Designation of area; boundaries

(a) Publication in Federal Register; description of boundaries; administration of transferred lands and waters

As soon as practicable after September 1, 1965, and following the transfer to the Secretary of the Interior by the Secretary of the Army of jurisdiction over those lands and interests therein within the boundary generally depicted on the drawing described in section 460*o*–1 of this title which, in the opinion of the Secretary of the Interior, constitute an efficiently administrable unit, the Secretary of the Interior shall declare establishment of the area by publication of notice thereof in the Federal Register. Such notice shall contain a detailed description of the boundaries of the area which shall encompass, to the extent practicable, the lands and waters shown on said drawing. Prior to such establishment, the Secretary of the Interior shall administer such transferred lands and waters, consistent with the construction of the project, for purposes in contemplation of the establishment of the area pursuant to this subchapter.

(b) Adjustments in boundaries; publication in Federal Register; acquisition of additional lands; acreage limitations

The Secretary of the Interior may subsequently make adjustments in the boundary of the area by publication of the amended description thereof in the Federal Register and acquire, by such means as he may deem to be in the public interest, including an exchange of excluded for included lands or interests therein with or without the payment or receipt of money to equalize values, additional lands and interests therein included in the area by reason of the boundary adjustment: *Provided*, That the area

encompassed by such revised boundary shall not exceed the acreage included within the detailed boundary first described pursuant to this section.

(c) Continuance of existing uses

On lands acquired pursuant to this subchapter for recreation purposes, the Secretary of the Army, with the concurrence of the Secretary of the Interior, may permit the continuance of existing uses consistent with the purposes of this subchapter.

(Pub. L. 89–158, § 3, Sept. 1, 1965, 79 Stat. 613.)

§ 460*o*–3. Administration authorities for conservation, management, or disposal of natural resources; coordination of administrative responsibilities of the Secretary of the Interior and Secretary of the Army

In the administration of the area for the purposes of this subchapter, the Secretary of the Interior may utilize such statutory authorities relating to areas of the national park system and such statutory authorities otherwise available to him for the conservation, management, or disposal of vegetative, mineral, or fish or wildlife resources as he deems appropriate to carry out the purposes of this subchapter. To assure consistent and effective planning, development, and operation for all purposes of the project, the Secretary of the Interior and the Secretary of the Army shall coordinate the administration of their respective responsibilities in the project; and such administration shall be consistent with the joint resolution approved September 27, 1961 (re Delaware River Basin compact; 75 Stat. 688).

(Pub. L. 89–158, § 4, Sept. 1, 1965, 79 Stat. 613.)

§ 460*o*–4. Land and water use management plan; adoption, implementation, and revision; provisions

In the administration of the area for the purposes of this subchapter, the Secretary of the Interior, subject to provisions of section 460*o*–3 of this title, shall adopt and implement, and may from time to time revise, a land and water use management plan, which shall include specific provision for, in order of priority—

(1) public outdoor recreation benefits;

(2) preservation of scenic, scientific, and historic features contributing to public enjoyment;

(3) such utilization of natural resources as in the judgment of the Secretary of the Interior is consistent with, and does not significantly impair, public recreation and protection of scenic, scientific, and historic features contributing to public enjoyment.

(Pub. L. 89–158, § 5, Sept. 1, 1965, 79 Stat. 614.)

§ 460*o*–5. Hunting and fishing

The Secretary of the Interior shall permit hunting and fishing on lands and waters under his jurisdiction within the area in accordance with the applicable laws and regulations of the States concerned and of the United States. The Secretary of the Interior may designate zones where, and establish periods when, no hunting shall be permitted for reasons of public safety, wildlife management, administration, or public use and enjoyment not compatible with hunting, and may, in his plan for the area, provide areas for intensive fish and wildlife management, including public hunting and fishing, and shall issue appropriate regulations after consultation with appropriate officials of the States concerned. The Secretary of the Interior shall encourage such officials to adopt uniform regulations applicable to the whole of the Delaware Water Gap National Recreation Area.

(Pub. L. 89–158, § 6, Sept. 1, 1965, 79 Stat. 614.)

§ 460*o*–6. Civil and criminal jurisdiction and taxing power of State

Nothing in this subchapter shall be construed to deprive any State or political subdivision thereof, of its right to exercise civil and criminal jurisdiction over the lands and waters within the area or of its right to tax persons, corporations, franchises, or property on the lands and waters included in the area.

(Pub. L. 89–158, § 7, Sept. 1, 1965, 79 Stat. 614.)

§ 460*o*–7. Authorization of appropriations

There are hereby authorized to be appropriated to the Secretary of the Interior for the acquisition of lands and interests in land pursuant to the provisions of section 460*o*–1 of this title and for expenses incident thereto not more than $65,000,000 which moneys shall be transferred to the Secretary of the Army. There are also authorized to be appropriated not more than $18,200,000 for the cost of installing and constructing recreation facilities on the lands and interests in lands so acquired. The amounts herein authorized to be appropriated are supplemental to those authorized to be appropriated for the Tocks Island project and related facilities by the Flood Control Act of 1962 (76 Stat. 1182).

(Pub. L. 89–158, § 8, Sept. 1, 1965, 79 Stat. 614; Pub. L. 92–575, § 1, Oct. 27, 1972, 86 Stat. 1250.)

REFERENCES IN TEXT

The amounts authorized to be appropriated for the Tocks Island project and related facilities by the Flood Control Act of 1962, referred to in text, appear at 76 Stat. 1182, and were not classified to the Code. The Flood Control Act of 1962 is Title II of Pub. L. 87–874, Oct. 23, 1962, 76 Stat. 1173. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1972—Pub. L. 92–575 substituted ''$65,000,000'' for ''$37,412,000''.

SUBCHAPTER LXXIV—SPRUCE KNOB-SENECA ROCKS NATIONAL RECREATION AREA

§ 460p. Establishment

In order to provide for the public outdoor recreation use and enjoyment thereof by the people of the United States, the Secretary of Agriculture shall establish the Spruce Knob-Seneca Rocks National Recreation Area in the State of West Virginia.

(Pub. L. 89–207, § 1, Sept. 28, 1965, 79 Stat. 843.)

§ 460p–1. Designation of area; acreage limitation; boundaries; publication in Federal Register

The Secretary of Agriculture (hereinafter called the ''Secretary'') shall—

(1) designate as soon as practicable after September 28, 1965, the Spruce Knob-Seneca Rocks National Recreation Area within and adjacent to, and as a part of, the Monongahela National Forest in West Virginia, not to exceed in the aggregate one hundred thousand acres comprised of the area including Spruce Knob, Smoke Hole, and Seneca Rock, and lying primarily in the drainage of the South Branch of the Potomac River, the boundaries of which shall be those shown on the map entitled ''Proposed Spruce Knob-Seneca Rocks National Recreation Area'', dated March 1965, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture; and

(2) publish notice of the designation in the Federal Register, together with a map showing the boundaries of the recreation area.

(Pub. L. 89–207, § 2, Sept. 28, 1965, 79 Stat. 843.)

§ 460p–2. Acquisition of lands, etc.

(a) Authority of Secretary; manner and place; boundaries of Monongahela National Forest; concurrence of State owner

The Secretary shall acquire by purchase with donated or appropriated funds, by gift, exchange, condemnation, transfer from any Federal agency, or otherwise, such lands, waters, or interests therein within the boundaries of the recreation area as he determines to be needed or desirable for the purposes of this subchapter. For the purposes of section 460*l*–9 of this title, the boundaries of the Monongahela National Forest, as designated by the Secretary pursuant to section 460p–1 of this title, shall be treated as if they were the boundaries of that forest on January 1, 1965. Lands, waters, or interests therein owned by the State of West Virginia or any political subdivision of that State may be acquired only with the concurrence of such owner.

(b) Transfer from Federal agency to administrative jurisdiction of Secretary

Notwithstanding any other provision of law, any Federal property located within the boundaries of the recreation area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in implementing the purposes of this subchapter.

(c) Exchange of property

In exercising his authority to acquire lands by exchange the Secretary may accept title to non-Federal property within the recreation area and convey to the grantor of such property any federally owned property in the State of West Virginia under his jurisdiction.

(d) State expenditures for public schools, public roads, or other public purposes

The portion of the moneys paid to the State of West Virginia under the provisions of section 500 of this title for expenditure for the benefit of Pendleton and Grant Counties, West Virginia, may be expended as the State legislature may prescribe for the benefit of such counties for public schools, public roads, or other public purposes.

(Pub. L. 89–207, § 3, Sept. 28, 1965, 79 Stat. 843.)

§ 460p–3. Outdoor recreation facilities development; cooperation with Federal and State agencies

(a) After the Secretary acquires an acreage within the area designated pursuant to paragraph (1) of section 460p–1 of this title that is in his opinion efficiently administrable to carry out the purposes of this subchapter, he shall institute an accelerated program of development of facilities for outdoor recreation. Said facilities shall be so devised to take advantage of the topography and geographical location of the lands in relation to the growing recreation needs of the people of the United States.

(b) The Secretary may cooperate with all Federal and State authorities and agencies that have programs which will hasten completion of the recreation area and render services which will aid him in evaluating and effectuating the establishment of adequate summer and winter outdoor recreation facilities.

(Pub. L. 89–207, § 4, Sept. 28, 1965, 79 Stat. 843.)

§ 460p–4. Administration, protection, and development

The administration, protection, and development of the recreation area shall be by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to national forests, in such manner as in his judgment will best provide for (1) public outdoor recreation benefits; (2) conservation of scenic, scientific, historic, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of natural resources as in his judgment will promote, or is compatible with, and does not significantly impair the purposes for which the recreation area is established.

(Pub. L. 89–207, § 5, Sept. 28, 1965, 79 Stat. 844.)

§ 460p–5. Hunting and fishing

The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the Spruce Knob-Seneca Rocks National Recreation Area in accordance with applicable Federal and State laws. The Secretary may designate zones where, and establish periods when, no hunting shall be permitted for reasons of public safety, administration, or public use and enjoyment, and shall issue regulations after consultation with the Department of Natural Resources of the State of West Virginia.

(Pub. L. 89–207, § 6, Sept. 28, 1965, 79 Stat. 844.)

SUBCHAPTER LXXV—WHISKEYTOWN-SHASTA-TRINITY NATIONAL RECREATION AREA

§ 460q. Establishment; boundaries; administration; integrated management policies

In order to provide, in a manner coordinated with the other purposes of the Central Valley project, for the public outdoor recreation use and enjoyment of the Whiskeytown, Shasta, Clair Engle, and Lewiston reservoirs and surrounding lands in the State of California by present and future generations and the conservation of scenic, scientific, historic, and other values contributing to public enjoyment of such lands and waters, there is hereby established, subject to valid existing rights, the Whiskeytown-Shasta-Trinity National Recreation Area in the State of California (hereinafter referred to as the ''recreation area''). The boundaries of the recreation area, which consists of the Whiskeytown unit, the Shasta unit, and the Clair Engle-Lewiston unit, shall be those shown in drawing numbered BOR–WST 1004, dated July 1963, entitled ''Proposed Whiskeytown-Shasta-Trinity National Recreation Area'', which is on file and available for public inspection in the office of the Director of the Bureau of Outdoor Recreation, Department of the Interior. The Whiskeytown unit shall be administered by the Secretary of the Interior; and the Shasta and Clair Engle-Lewiston units shall be administered by the Secretary of Agriculture, except that lands or waters needed or used for the operation of the Central Valley project shall continue to be administered by the Secretary of the Interior to the extent he determines to be required for such operation. The two Secretaries shall coordinate their planning and administration of the respective units in such manner as to provide integrated management policies for the recreation area as a whole for the purposes of this subchapter in order to bring about uniformity to the fullest extent feasible in the administration and use of the recreation area.

(Pub. L. 89–336, § 1, Nov. 8, 1965, 79 Stat. 1295.)

CHANGE OF NAME

Pub. L. 105–44, § 1, Sept. 30, 1997, 111 Stat. 1141, provided that:

''(a) DESIGNATION.—The reservoir created by Trinity Dam in the Central Valley project, California, and designated as 'Clair Engle Lake' by Public Law 88–662 (78 Stat. 1093) is hereby redesignated as 'Trinity Lake'.

''(b) REFERENCES.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the reservoir referred to in subsection (a) shall be considered to be a reference to 'Trinity Lake'.

''(c) REPEAL OF EARLIER DESIGNATION.—Public Law 88–662 (78 Stat. 1093) is repealed.''

§ 460q–1. Acquisition of property

(a) Authority of Secretary concerned; manner and place; concurrence of State owner; transfer from Federal agency to administrative jurisdiction of appropriate Secretary; limitation of acquisition of easements during existence of zoning ordinance; uniform policy considerations

Within the boundaries of the portion of the recreation area under his jurisdiction and outside such boundaries when required for the construction or improvement of access roads thereto, each Secretary is authorized to acquire lands, waters, or other property, or any interest therein, in such manner, including exchange as hereinafter provided, as he considers to be in the public interest to carry out the purposes of this subchapter. In connection with any such acquisition, each Secretary may permit the grantor a reservation of all or any part of the minerals or of any other interest or right of use in such lands or waters on such terms and conditions as the Secretary may deem appropriate. Any property or interest therein owned by the State of California or any political subdivision thereof within the recreation area may be acquired under the authority of this subchapter only with the concurrence of the owner. Notwithstanding any other provision of law, any Federal property located within the recreation area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the appropriate Secretary for use by him in carrying out the purposes of this subchapter.

The Secretary of the Interior, in order to assure public access to Clear Creek and to provide hiking and horseback riding trails for the public, may, as he deems necessary for these purposes acquire such easements or other interests on either or both sides of Clear Creek between the south boundary of the Whiskeytown unit and the highway at Igo, California.

The Secretary of Agriculture is authorized to acquire scenic easements or such other interests, including ownership of the land therein, as he determines to be appropriate to protect and assure the appearance of a strip of land not to exceed six hundred and sixty feet on each side of the centerline of Federal Aid Secondary Highway Numbered 1089 between the points where said highway crosses the south line of sections 19 and 20, township 35 north, range 8 west, and where it crosses the south line of section 18, township 36 north, range 7 west, on the northwesterly side of the Clair Engle-Lewiston unit: *Provided*, That such easements or interests shall not be acquired without the consent of the owners so long as the appropriate local zoning agency shall have in force and applicable to such property a duly adopted, valid, zoning ordinance that, in the judgment of the Secretary of Agriculture, conforms to the zoning standards set forth in regulations issued pursuant to subsection (e) of this section.

The two Secretaries shall engage in mutual consultation with respect to such acquisition and to exchange transactions so as to promote uniform policies therefor insofar as practicable, taking into consideration the purposes of the recreation area as a whole, the responsibility of the Secretary of the Interior for the administration of federally owned minerals and of the Central Valley project, and the responsibility of the Secretary of Agriculture for the administration of national forests.

(b) Exchange of property; cash equalization payments; value of mineral interests

When the public interests will be benefited thereby, the Secretary of the Interior and the

Secretary of Agriculture are each authorized to accept title to any non-Federal property within any part of the recreation area and in exchange therefor convey to the grantor of such property any federally owned property under his jurisdiction within the State of California which he classifies as suitable for exchange or other disposal, notwithstanding any other provision of law. The properties so exchanged shall be approximately equal in fair market value: *Provided*, That the Secretary of the Interior or the Secretary of Agriculture, as the case may be, may accept cash from or pay cash to the grantor in such exchange in order to equalize the value of the properties exchanged. The Secretary of Agriculture shall obtain the concurrence of the Secretary of the Interior with respect to the value of any mineral interests in any such exchange proposed to be made by the Secretary of Agriculture.

(c) Reservation of use and occupancy of improved property for noncommercial residential purposes; term; valuation

Any owner or owners of improved residential property on the date of its acquisition by either Secretary may, as a condition to such acquisition, retain the right of use and occupancy of the property by himself and members of his immediate family for noncommercial residential purposes for a term ending at the death of such owner, the death of his spouse, or the day his last surviving child reaches the age of thirty, whichever is the latest. The value of the right retained shall be taken into consideration by the respective Secretary in determining the value of the property being acquired.

(d) Limitation of acquisition of improved property during existence of zoning ordinance; "improved property" defined

Privately owned ''improved property'' or interests therein shall not be acquired under this subchapter without the consent of the owner so long as an appropriate local zoning agency shall have in force and applicable to such property a duly adopted, valid, zoning ordinance that is approved by the Secretary having jurisdiction of the unit wherein the property is located. The term ''improved property'' as used in this subchapter shall mean any building or group of related buildings the actual construction of which was begun before February 7, 1963, together with not more than three acres of the land in the same ownership on which the building or group of buildings is situated: *Provided*, That the respective Secretary may exclude from improved property any shore or waters, together with so much of the land adjoining such shore or waters as he deems necessary for public access thereto.

(e) Zoning regulations; amendments; standards for ordinances; commercial or industrial use prohibition; use, acreage, frontage, setback, density, height, or other requirements; notice of variances; approval of ordinances

Prior to the approval of any zoning ordinance for the purposes of this section, the Secretary of the Interior and the Secretary of Agriculture shall jointly issue regulations, which may be amended from time to time, specifying standards for such zoning ordinances. Standards specified in such regulations shall have the object of (1) prohibiting new commercial or industrial uses, other than commercial or industrial uses which the Secretaries consider to be consistent with the purposes of this subchapter; (2) promoting the protection and development of properties for purposes of this subchapter by means of use, acreage, frontage, setback, density, height, or other requirements; and (3) providing that the appropriate Secretary shall receive notice of any variance granted under, or any exception made to, the application of the zoning ordinance. Following issuance of such regulations, each Secretary shall approve any zoning ordinance or any amendment to an approved zoning ordinance submitted to him that conforms to the standards contained in the regulations in effect at the time of adoption of the ordinance or amendment. Such approval shall remain effective for so long as such ordinance or amendment remains in effect as approved.

(f) Termination of suspension of authority for acquisition without owner's consent because of nonconforming variances and uses

The suspension of the respective Secretary's authority to acquire any improved property without the owner's consent shall automatically cease if (1) such property is made the subject of a variance or exception to any applicable zoning ordinance that does not conform to any applicable standard contained in regulations issued pursuant to this section; or (2) if such property is put to any use which does not conform to any applicable zoning ordinance.

(g) Certificate of suspension of authority for acquisition without owner's consent

Each Secretary shall furnish to any party in interest upon request a certificate indicating the property with respect to which the Secretary's authority to acquire without the owner's consent is suspended.

(h) Development plans; certification of Secretary of Agriculture; suspension of authority for acquisition without owner's consent; exception

Within the Shasta and Clair Engle-Lewiston units any owner of unimproved property who proposes to develop his property or a part thereof for service to the public may submit to the Secretary of Agriculture a development plan which shall set forth the manner in which and the time by which the property is to be developed and the use to which it is proposed to be put. If upon review of such plan the Secretary determines that the development and use of the property in the manner prescribed conforms to a zoning ordinance approved in accordance with the provisions of this section and that such use and development would serve the purposes of this subchapter, the Secretary of Agriculture may in his discretion issue to such owner a certificate to that effect. Upon the issuance of any such certificate and so long as such property is developed, maintained, and used in conformity therewith, the authority of the Secretary of Agriculture to acquire such property or any interest therein without the consent of the owner shall be suspended. This subsection shall not apply to any property which the Secretary of

Agriculture determines to be needed for easements and rights-of-way for access, utilities, or facilities, or for administrative sites, campgrounds, or other areas needed for use by the United States for visitors to the national recreation area.

(Pub. L. 89–336, § 2, Nov. 8, 1965, 79 Stat. 1295.)

§ 460q–2. Establishment of units; publication in Federal Register; boundary descriptions

(a) Shasta; Clair Engle-Lewiston

When the Secretary of Agriculture determines that sufficient lands, waters, or interest therein are owned or have been acquired by the United States within the boundaries of the Shasta unit or within the boundaries of the Clair Engle-Lewiston unit to permit efficient initial development and administration for the purposes of this subchapter, he shall publish in the Federal Register a notice to that effect and a detailed description of the boundaries of such unit.

(b) Whiskeytown

When the Secretary of the Interior determines that sufficient lands, waters, or interest therein are owned or have been acquired by the United States within the boundaries of the Whiskeytown unit to permit efficient initial development and administration for the purposes of this subchapter, he shall publish in the Federal Register a notice to that effect and a detailed description of the boundaries of the unit.

(c) Acquisition of property

Following the publication of any such notice, the respective Secretaries may continue to acquire the remaining property within the recreation area.

(Pub. L. 89–336, § 3, Nov. 8, 1965, 79 Stat. 1297.)

§ 460q–3. Administration; land and water use management plans, preparation and revision; utilization of statutory authorities

(a) Each Secretary is authorized and directed to administer the portion of the recreation area under his jurisdiction in a manner coordinated with the other purposes of the Central Valley project and with the purposes of the recreation area as a whole and in such manner as in his judgment will best provide for (1) public outdoor recreation benefits; (2) conservation of scenic, scientific, historic, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of renewable natural resources as in the judgment of the respective Secretary will promote or is compatible with, and does not significantly impair, public recreation and conservation of scenic, scientific, historic, or other values contributing to public enjoyment. Such administration shall be carried out under land and water use management plans which each Secretary shall prepare and may from time to time revise in consultation with the other.

(b) In the administration of the portion of the recreation area under his jurisdiction—

(1) the Secretary of Agriculture shall utilize statutory authorities relating to the national forests in such manner as he deems appropriate to carry out the purposes of this subchapter; and

(2) the Secretary of the Interior may utilize such statutory authorities relating to areas of the national park system and such statutory authority otherwise available to him for the conservation and development of natural resources as he deems appropriate to carry out the purposes of this subchapter.

(Pub. L. 89–336, § 4, Nov. 8, 1965, 79 Stat. 1298.)

§ 460q–4. Hunting and fishing

Each Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the recreation area in accordance with the applicable laws of the State of California and of the United States: *Provided*, That each Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment not compatible with hunting or fishing. Regulations prescribing any such restrictions shall be issued after consultation with the California Department of Fish and Game.

(Pub. L. 89–336, § 5, Nov. 8, 1965, 79 Stat. 1298.)

§ 460q–5. Mineral development; payment of receipts into certain funds or accounts in Treasury; disposition of receipts

The lands within the recreation area, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws. The Secretary of the Interior, under such regulations as he deems appropriate, may permit the removal of the nonleasable minerals from lands or interests in lands under his jurisdiction within the recreation area in the manner prescribed by section 387 of title 43, and from those under the jurisdiction of the Secretary of Agriculture within the recreation area in accordance with the provisions of section 192c of title 30, and he may permit the removal of leasable minerals from lands or interests in lands within the recreation area in accordance with the Mineral Leasing Act of February 25, 1920, as amended [30 U.S.C. 181 et seq.], or the Acquired Lands Mineral Leasing Act of August 7, 1947 [30 U.S.C. 351 et seq.], if he finds that such disposition would not have significant adverse effects on the purposes of the Central Valley project or the administration of the recreation area: *Provided*, That any lease or permit respecting such minerals in lands administered by the Secretary of Agriculture shall be issued only with his consent and subject to such conditions as he may prescribe.

All receipts derived from permits and leases issued under the authority of this section on lands administered by the Secretary of Agriculture shall be paid into the same funds or accounts in the Treasury of the United States and shall be distributed in the same manner as provided for other receipts from the lands affected by the lease or permit, except that any receipts derived from permits or leases issued on those or other lands in the recreation area under the Mineral Leasing Act of February 25, 1920, as amended, or the Act of August 7, 1947, shall be disposed of as provided in the applicable Act; and receipts from the disposition of nonleasable

minerals from public lands under the jurisdiction of the Secretary of the Interior shall be disposed of in the same manner as moneys received from the sale of public lands.

(Pub. L. 89–336, § 6, Nov. 8, 1965, 79 Stat. 1298.)

REFERENCES IN TEXT

The Acquired Lands Mineral Leasing Act of August 7, 1947, referred to in text, is act Aug. 7, 1947, ch. 513, 61 Stat. 913, which is classified generally to chapter 7 (§ 351 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 351 of Title 30 and Tables.

§ 460q–6. State jurisdiction

Nothing in this subchapter shall deprive any State or political subdivision thereof of its right to exercise civil and criminal jurisdiction within the recreation area or of its right to tax persons, corporations, franchises, or property, including mineral or other interests, in or on lands or waters within the recreation area.

(Pub. L. 89–336, § 7, Nov. 8, 1965, 79 Stat. 1299.)

§ 460q–7. Shasta and Trinity National Forests; additions of lands

The exterior boundaries of the Shasta National Forest in the State of California are hereby extended to include the lands described in the Act of March 19, 1948 (62 Stat. 83), and sections 22 and 27, township 35 north, range 1 west, Mount Diablo base and meridian. The exterior boundaries of the Trinity National Forest in the State of California are hereby extended to include all of sections 4, 5, and 8, the east half and the northwest quarter of section 6, the east half of section 7, the northwest quarter of section 17, and the northeast quarter of section 18, township 33 north, range 8 west, Mount Diablo base and meridian. Subject to any valid claim or entry now existing and hereafter legally maintained, all public lands of the United States and all lands of the United States heretofore or hereafter acquired or reserved for use in connection with the Shasta, Clair Engle, or Lewiston Reservoirs of the Central Valley project within the exterior boundaries of the Shasta and Trinity National Forests which have not heretofore been added to and made a part of such forests, and all lands of the United States acquired for the purposes of the recreation area in the Shasta or Clair Engle-Lewiston units are hereby added to and made a part of the respective national forests within which they are situated: *Provided*, That lands within the flow lines of any reservoir operated and maintained by the Department of the Interior or otherwise needed or used for the operation of the Central Valley project shall continue to be administered by the Secretary of the Interior to the extent he determines to be required for such operation.

(Pub. L. 89–336, § 8, Nov. 8, 1965, 79 Stat. 1299.)

REFERENCES IN TEXT

Act of March 19, 1948 (62 Stat. 83), referred to in text, is act Mar. 19, 1948, ch. 139, 62 Stat. 83. See paragraph entitled ''Shasta National Forest'' set out in the Codification note under sections 486a to 486w of this title.

CHANGE OF NAME

Clair Engle Reservoir, referred to in text, redesignated ''Trinity Lake'' by section 1 of Pub. L. 105–44, set out as a note under section 460q of this title.

§ 460q–8. Revenues and fees; disposition

Revenues and fees obtained by the United States from operation of the national recreation area shall be subject to the same statutory provisions concerning the disposition thereof as are similar revenues collected in areas of the national park system except that fees and revenues obtained from mineral development and from activities under other public land laws within the recreation area shall be disposed of in accordance with the provisions of the applicable laws.

(Pub. L. 89–336, § 9, Nov. 8, 1965, 79 Stat. 1300.)

§ 460q–9. Authorization of appropriations

There are hereby authorized to be appropriated for the acquisition of lands and interests in land pursuant to the provisions of this subchapter not more than $21,600,000. There are also authorized to be appropriated not more than $24,649,000 for the development of recreation facilities pursuant to the provisions of this subchapter.

(Pub. L. 89–336, § 10, Nov. 8, 1965, 79 Stat. 1300; Pub. L. 95–625, title I, § 101(27), Nov. 10, 1978, 92 Stat. 3472.)

AMENDMENTS

1978—Pub. L. 95–625 increased development appropriations authorization to $24,649,000 from $22,700,000.

SUBCHAPTER LXXVI—MOUNT ROGERS NATIONAL RECREATION AREA

§ 460r. Establishment

In order to provide for the public outdoor recreation use and enjoyment of the area in the vicinity of Mount Rogers, the highest mountain in the State of Virginia, and to the extent feasible the conservation of scenic, scientific, historic, and other values of the area, the Secretary of Agriculture shall establish the Mount Rogers National Recreation Area in the Jefferson National Forest in the State of Virginia.

(Pub. L. 89–438, § 1, May 31, 1966, 80 Stat. 190.)

§ 460r–1. Designation of area; boundaries; publication in Federal Register

The Secretary of Agriculture (hereinafter called the ''Secretary'') shall—

(1) designate as soon as practicable after May 31, 1966, the Mount Rogers National Recreation Area within and adjacent to, and as a part of, the Jefferson National Forest in Virginia comprised of the area the boundaries of which shall be those shown on the map entitled ''Proposed Mount Rogers National Recreation Area'', dated 1965, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture; and

(2) publish notice of the designation in the Federal Register, together with a map showing the boundaries of the recreation area.

(Pub. L. 89–438, § 2, May 31, 1966, 80 Stat. 190.)

§ 460r–2. Acquisition of lands

(a) Authority of Secretary; manner and place; concurrence of State owner

The Secretary shall acquire by purchase with donated or appropriated funds, by gift, exchange, condemnation, transfer from any Federal agency, or otherwise, such lands, waters, or interests therein, including scenic or other easements within the boundaries of the recreation area as he determines to be needed or desirable for the purposes of this subchapter. Lands, waters, or interests therein owned by the State of Virginia or any political subdivision of that State may be acquired only with the concurrence of such owner.

(b) Transfer from Federal agency to administrative jurisdiction of Secretary

Notwithstanding any other provision of law, any Federal property located within the boundaries of the recreation area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in implementing the purpose of this subchapter.

(c) Exchange of property

In exercising his authority to acquire lands by exchange the Secretary may accept title to non-Federal property within the recreation area and convey to the grantor of such property any federally owned property in the State of Virginia under his jurisdiction.

(Pub. L. 89–438, § 3, May 31, 1966, 80 Stat. 190.)

§ 460r–3. Outdoor recreation facilities development

(a) Accelerated program

After the Secretary acquires an acreage within the area designated pursuant to section 460r–1 of this title that is in his opinion efficiently administrable to carry out the purposes of this subchapter, he shall institute an accelerated program of development of facilities for outdoor recreation. Said facilities shall be so devised to take advantage of the topography and geographical location of the lands in relation to the growing recreation needs of the people of the United States.

(b) Cooperation with Federal and State agencies

The Secretary may cooperate with all Federal and State authorities and agencies that have programs which will hasten completion of the recreation area and render services which will aid him in evaluating and effectuating the establishment of adequate summer and winter outdoor recreation facilities.

(Pub. L. 89–438, § 4, May 31, 1966, 80 Stat. 191.)

§ 460r–4. Administration, protection, and development of area

The administration, protection, and development of the recreation area shall be by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to national forests, in such manner as in his judgment will best provide for (1) public outdoor recreation benefits; (2) conservation of scenic, scientific, historic, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of natural resources as in his judgment will promote, or is compatible with, and does not significantly impair the purposes for which the recreation area is established.

(Pub. L. 89–438, § 5, May 31, 1966, 80 Stat. 191.)

§ 460r–5. Hunting and fishing

The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the Mount Rogers National Recreation Area in accordance with applicable Federal and State laws. The Secretary may designate zones where, and establish periods when, no hunting shall be permitted for reasons of public safety, administration, or public use and enjoyment, and shall issue regulations after consultation with the Commission of Game and Inland Fisheries of the State of Virginia.

(Pub. L. 89–438, § 6, May, 31, 1966, 80 Stat. 191.)

SUBCHAPTER LXXVII—PICTURED ROCKS NATIONAL LAKESHORE

§ 460s. Establishment

In order to preserve for the benefit, inspiration, education, recreational use, and enjoyment of the public a significant portion of the diminishing shoreline of the United States and its related geographic and scientific features, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to take appropriate action, as herein provided, to establish in the State of Michigan the Pictured Rocks National Lakeshore.

(Pub. L. 89–668, § 1, Oct. 15, 1966, 80 Stat. 922.)

§ 460s–1. Description of area

The area comprising that particular land and water depicted on the map identified as ''Proposed Pictured Rocks National Lakeshore, United States Department of the Interior, National Park Service, Boundary Map, NL–PR–7100A, July 1966'', which is on file and available for public inspection in the office of the National Park Service of the Department of the Interior, is hereby designated for establishment as the Pictured Rocks National Lakeshore. An exact copy of such map shall be filed for publication in the Federal Register within thirty days following October 15, 1966.

(Pub. L. 89–668, § 2, Oct. 15, 1966, 80 Stat. 922.)

§ 460s–2. Establishment; notice in Federal Register

As soon as practicable after October 15, 1966, and following the acquisition by the Secretary of an acreage within the boundaries of the area which in his opinion is efficiently administrable for the purposes of this subchapter, he shall establish the Pictured Rocks National Lakeshore by publication of notice thereof in the Federal Register.

(Pub. L. 89–668, § 3, Oct. 15, 1966, 80 Stat. 922.)

§ 460s–3. Pictured Rocks National Lakeshore Advisory Commission

(a) Establishment; termination

There is hereby established a Pictured Rocks National Lakeshore Advisory Commission. Said commission shall terminate ten years after the date the lakeshore is established pursuant to this subchapter.

(b) Membership; term

The commission shall be composed of five members, each appointed for a term of two years by the Secretary, as follows:

(1) Two members to be appointed from recommendations made by the county in which the lakeshore is situated;

(2) Two members to be appointed from recommendations made by the Governor of the State of Michigan; and

(3) One member to be designated by the Secretary.

(c) Chairman; vacancies

The Secretary shall designate one member to be chairman. Any vacancy in the commission shall be filled in the same manner in which the original appointment was made.

(d) Compensation and expenses

Members of the commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the commission in carrying out its responsibilities under this subchapter on vouchers signed by the chairman.

(e) Development consultations

The Secretary or his designee shall, from time to time, consult with the commission with respect to the matters relating to the development of the Pictured Rocks National Lakeshore.

(Pub. L. 89–668, § 4, Oct. 15, 1966, 80 Stat. 922.)

§ 460s–4. Hunting and fishing

In administering the lakeshore the Secretary shall permit hunting and fishing on lands and waters under his jurisdiction in accordance with the applicable laws of the United States and of Michigan. The Secretary, after consultation with the Michigan Department of Conservation, may designate zones and establish periods where and when no hunting shall be permitted for reasons of public safety, administration, or public use and enjoyment. The Secretary shall, after consultation with such department, issue regulations, consistent with this section, as he may determine necessary to carry out the purposes of this section.

(Pub. L. 89–668, § 5, Oct. 15, 1966, 80 Stat. 923.)

§ 460s–5. Administration, protection, and development

(a) Utilization of authority for conservation and management of natural resources

The administration, protection, and development of the Pictured Rocks National Lakeshore shall be exercised by the Secretary, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, relating to the areas administered and supervised by the Secretary through the National Park Service; except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this subchapter.

(b) Land and water use management plan; preparation and implementation; provisions

In the administration, protection, and development of the lakeshore, the Secretary shall prepare and implement a land and water use management plan, which shall include specific provision for—

(1) development of facilities to provide the benefits of public recreation, including appropriate improvements to Alger County Road H–58;

(2) protection of scenic, scientific, and historic features contributing to public enjoyment; and

(3) such protection, management, and utilization (subject to the provisions of sections 460s–8 and 460s–9 of this title) of renewable natural resources, including forage and forest products, as in the judgment of the Secretary is consistent with, and does not significantly impair public recreation and protection of scenic, scientific, and historic features contributing to public enjoyment.

(c) Prohibition of certain construction

A scenic shoreline drive may not be constructed in the Pictured Rocks National Lakeshore.

(Pub. L. 89–668, § 6, Oct. 15, 1966, 80 Stat. 923; Pub. L. 105–378, title II, § 202, Nov. 12, 1998, 112 Stat. 3398.)

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–378, § 202(1), substituted ''including appropriate improvements to Alger County Road H–58'' for ''including a scenic shoreline drive''.

Subsec. (c). Pub. L. 105–378, § 202(2), added subsec. (c).

§ 460s–6. Taxing power

Nothing in this subchapter shall be construed as prohibiting governmental jurisdiction in the State of Michigan from assessing taxes upon any interest in real estate retained under the provisions of section 460s–10 of this title to the owner of such interest.

(Pub. L. 89–668, § 7, Oct. 15, 1966, 80 Stat. 923.)

§ 460s–7. Acquisition of property

(a) Authority of Secretary; manner and place; condemnation authority

The Secretary is authorized, subject to the limitations, conditions, and restrictions imposed by this subchapter, to acquire the land, water, and other property, and improvements thereon, and any interests therein (including easements) within the boundary described in section 460s–1 of this title by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange, or condemnation; except that such authority to ac-

quire by condemnation shall be exercised only in the manner and to the extent specifically authorized in this subchapter.

(b) Sale offers; hardship from delay

In exercising his authority to acquire property under this subchapter, the Secretary shall give immediate and careful consideration to any offer made by an individual owning property within the lakeshore to sell such property to the Secretary. In considering any such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring his property.

(c) State donations; transfer from Federal agency to administrative jurisdiction of Secretary

Any property or interests therein, owned by the State of Michigan, or any political subdivisions thereof, may be acquired only by donation. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of this subchapter.

(d) Negotiation and purchase; condemnation proceedings; fair market value

The Secretary shall make every reasonable effort to acquire property through negotiation and purchase. Where agreement is not reached and condemnation proceedings are filed, the owner of such property shall be paid the fair market value thereof as determined in such proceedings.

(e) Condemnation to acquire clear, marketable and encumbrance-free title

Nothing in this subchapter shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

(f) Exchange of properties; cash equalization payments

In exercising his authority to acquire property by exchange the Secretary may accept title to any non-Federal property within the area designated by section 460s–1 of this title for inclusion in the lakeshore, and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction within the State of Michigan which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal or, if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(Pub. L. 89–668, § 8, Oct. 15, 1966, 80 Stat. 923.)

§ 460s–8. Inland buffer zone

(a) Statement of purposes

The area hereinafter described in subsection (b) of this section is hereby established as an inland buffer zone in order to stabilize and protect the existing character and uses of the lands, waters, and other properties within such zone for the purpose of preserving the setting of the shoreline and lakes, protecting the watersheds and streams, and providing for the fullest economic utilization of the renewable resources through sustained yield timber management and other resource management compatible with the purposes of this subchapter.

(b) Description of area; places for examination of map

As used in this subchapter, the term ''inland buffer zone'' means that part of the lakeshore delineated as such on the map identified as ''Proposed Pictured Rocks National Lakeshore, United States Department of the Interior, National Park Service, Boundary Map, NL–PR–7100A, July, 1966''. The Secretary shall file the map with the Office of the Federal Register, and it may also be examined in the Offices of the Department of the Interior.

(Pub. L. 89–668, § 9, Oct. 15, 1966, 80 Stat. 924.)

§ 460s–9. Property subject to condemnation

(a) Limitation on condemnation of improved or other property

The Secretary shall be prohibited from acquiring by condemnation any (1) improved property within the inland buffer zone or (2) property within the inland buffer zone during all times when, in his judgment, such property is being used (A) for the growing and harvesting of timber under a scientific program of selective cutting and forest management, or (B) for commercial purposes, if such commercial purposes are the same such purposes for which such property is being used on December 31, 1964, so long as the use of such improved or other property would further the purposes of this subchapter and such use does not impair the usefulness and attractiveness of the lakeshore.

(b) "Improved property" defined

As used in this subchapter, the term ''improved property'' shall mean any one-family dwelling on which construction was begun before December 31, 1964, together with so much of the land on which the dwelling is situated (such land being in the same ownership as the dwelling) as shall be reasonably necessary for the enjoyment of the dwelling.

(Pub. L. 89–668, § 10, Oct. 15, 1966, 80 Stat. 924.)

§ 460s–10. Acquisition of property

(a) Owner's retention of right of use and occupancy for residential purposes for term of years or life; adjustment of compensation; conveyance or lease of right for noncommercial residential purposes

Any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition to such acquisition, retain, for a term of not to exceed twenty-five years, or for a term ending at the death of such owner or owners, the right of use and occupancy of such property for any residential purpose which is not incompatible with the purposes of this subchapter or which does not impair the usefulness and attractiveness of the area designated for inclusion. The Secretary shall pay to the owner the value of the property on the date of such acquisition, less the value on such date of the right retained by the owner. Where any such owner retains a

right of use and occupancy as herein provided, such right during its existence may be conveyed or leased for noncommercial residential purposes in accordance with the provisions of this section.

(b) Termination of use and occupancy because of noncompliance with statutory uses; adjustment of compensation

Any deed or other instrument used to transfer title to property, with respect to which a right of use and occupancy is retained under this section, shall provide that such property shall not be used for any purpose which is incompatible with purposes of this subchapter, or which impairs the usefulness and attractiveness of the lakeshore and if it should be so used, the Secretary shall have authority to terminate such right. In the event the Secretary exercises his power of termination under this subsection he shall pay to the owner of the right terminated an amount equal to the value of that portion of such right which remained unexpired on the date of such termination.

(c) Land subject to lease of cottage or hunting lodge; new lease for term of years or life; conditions of lease

Any land acquired by the Secretary under this subchapter on which there is situated a cottage or hunting lodge which, on December 31, 1964, was under lease to any lessee or lessees shall, if such lease is in effect on the date such land is so acquired, be acquired by the Secretary subject to such lease and the right of such lessee or lessees to continue using the property covered by such lease in accordance with the provisions thereof. Upon the expiration of such lease, the Secretary shall have the authority to enter into a lease with such lessee or lessees authorizing them to continue using such cottage or lodge (as the case may be) for a term of not to exceed twenty-five years, or for a term ending at the death of such lessee or lessees, subject to such conditions as may be prescribed by the Secretary.

(Pub. L. 89–668, § 11, Oct. 15, 1966, 80 Stat. 925.)

§ 460s–11. Zoning bylaws; assistance and consultation with township or county officers or employees; technical aid payments

The Secretary shall, at the request of any township or county in or adjacent to the lakeshore affected by this subchapter, assist and consult with the appropriate officers and employees of such township or county in establishing zoning bylaws. Such assistance may include payments to the county or township for technical aid.

(Pub. L. 89–668, § 12, Oct. 15, 1966, 80 Stat. 925.)

§ 460s–12. Certificate of prohibition of authority for acquisition by condemnation

The Secretary shall furnish to any interested person requesting the same a certificate indicating, with respect to any property which the Secretary has been prohibited from acquiring by condemnation in accordance with provisions of this subchapter, that such authority is prohibited and the reasons therefor.

(Pub. L. 89–668, § 13, Oct. 15, 1966, 80 Stat. 925.)

§ 460s–13. Authorization of appropriations

There are hereby authorized to be appropriated not more than $6,873,000 for the acquisition of lands and interests in land in connection with, and not more than $6,348,000 for development of, the Pictured Rocks National Lakeshore.

(Pub. L. 89–668, § 14, Oct. 15, 1966, 80 Stat. 925.)

§ 460s–14. Pictured Rocks National Lakeshore boundary adjustment

The boundary of Pictured Rocks National Lakeshore is hereby modified as depicted on the map entitled ''Area Proposed for Addition to Pictured Rocks National Lakeshore'', numbered 625–80,043A, and dated July 1992.

(Pub. L. 104–333, div. I, title II, § 203, Nov. 12, 1996, 110 Stat. 4106.)

CODIFICATION

Section was enacted as part of the Omnibus Parks and Public Lands Management Act of 1996, and not as part of Pub. L. 89–668 which comprises this subchapter.

§ 460s–15. Pictured Rocks National Lakeshore boundary revision

(a) Transfer

As soon as practicable after November 25, 2002, the Administrator of General Services may transfer to the Secretary, without consideration, administrative jurisdiction over, and management of, the public land.

(b) Boundary revision

The boundary of the Lakeshore is revised to include the public land transferred under subsection (a) of this section.

(c) Availability of map

The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) Administration

The Secretary may administer the public land transferred under section [1] (a) of this section—

(1) as part of the Lakeshore; and

(2) in accordance with applicable laws (including regulations).

(e) Access to aids to navigation

The Secretary of Transportation, in consultation with the Secretary, may access the front and rear range lights on the public land for the purposes of servicing, operating, maintaining, and repairing those lights.

(f) Definitions

In this section:

(1) Lakeshore

The term ''Lakeshore'' means the Pictured Rocks National Lakeshore in the State of Michigan.

(2) Map

The term ''map'' means the map entitled ''Proposed Addition to Pictured Rocks Na-

[1] So in original. Probably should be ''subsection''.

tional Lakeshore'', numbered 625/80048, and dated April 2002.

(3) Public land

The term ''public land'' means the approximately .32 acres of United States Coast Guard land and improvements to the land, including the United States Coast Guard Auxiliary Operations Station and the front and rear range lights, as depicted on the map.

(4) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(g) Authorization of appropriations

There are authorized to be appropriated to the Secretary $225,000 to restore, preserve, and maintain the public land transferred under subsection (a) of this section.

(Pub. L. 107–295, title IV, § 437, Nov. 25, 2002, 116 Stat. 2129.)

CODIFICATION

Section was enacted as part of the Omnibus Maritime and Coast Guard Improvements Act of 2002, and also as part of the Maritime Transportation Security Act of 2002, and not as part of Pub. L. 89–668 which comprises this subchapter.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

SUBCHAPTER LXXVIII—BIGHORN CANYON NATIONAL RECREATION AREA

§ 460t. Establishment

(a) In general; description of area

In order to provide for public outdoor recreation use and enjoyment of the proposed Yellowtail Reservoir and lands adjacent thereto in the States of Wyoming and Montana by the people of the United States and for preservation of the scenic, scientific, and historic features contributing to public enjoyment of such lands and waters, there is hereby established the Bighorn Canyon National Recreation Area to comprise the area generally depicted on the drawing entitled ''Proposed Bighorn Canyon National Recreation Area'', LNPMW–010A–BC, November 1964, which is on file in the Office of the National Park Service, Department of the Interior.

(b) Publication in Federal Register; boundary descriptions and adjustments

As soon as practicable after October 15, 1966, the Secretary of the Interior shall publish in the Federal Register a detailed description of the boundaries of the area which shall encompass, to the extent practicable, the lands and waters shown on the drawing referred to in subsection (a) of this section. The Secretary may subsequently make adjustments in the boundary of the area, subject to the provisions of section 460t–1(b) of this title, by publication of an amended description in the Federal Register.

(Pub. L. 89–664, § 1, Oct. 15, 1966, 80 Stat. 913.)

§ 460t–1. Acquisition of land

(a) Authority of Secretary; manner and place; visitor contact station and administrative site; exchange of property; cash equalization payments; State property

The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, or otherwise, lands and interests in lands within the boundaries of the area. The Secretary is further authorized to acquire, by any of the above methods, not to exceed ten acres of land or interests therein outside of the boundaries of the area in the vicinity of Lovell, Wyoming, for development and use, pursuant to such special regulations as he may promulgate, as a visitor contact station and administrative site. In the exercise of his exchange authority the Secretary may accept title to any non-Federal property within the area and convey in exchange therefor any federally owned property under his jurisdiction in the States of Montana and Wyoming which he classifies as suitable for exchange or other disposal, notwithstanding any other provision of law. Property so exchanged shall be approximately equal in fair market value: *Provided*, That the Secretary may accept cash from, or pay cash to, the grantor in such an exchange in order to equalize the values of the properties exchanged. Any property or interest therein owned by the State of Montana or the State of Wyoming or any political subdivision thereof within the recreation area may be acquired only by donation or exchange.

(b) Crow Indian tribal lands

No part of the tribal mountain lands or any other lands of the Crow Indian Tribe of Montana shall be included within the recreation area unless requested by the council of the tribe. The Indian lands so included may be developed and administered in accordance with the laws and rules applicable to the recreation area, subject to any limitation specified by the tribal council and approved by the Secretary.

(c) Crow Indian recreational facilities; "shoreline" defined

(1) Notwithstanding any other provisions of this subchapter or of any other law, the Crow Indian Tribe shall be permitted to develop and operate water-based recreational facilities, including landing ramps, boathouses, and fishing facilities, along that part of the shoreline of Yellowtail Reservoir which is adjacent to lands comprising the Crow Indian Reservation. Any such part so developed shall be administered in accordance with the laws and rules applicable to the recreation area, subject to any limitations specified by the tribal council and approved by the Secretary. Any revenues resulting from the operation of such facilities may be retained by the Crow Indian Tribe.

(2) As used in this subsection, the term ''shoreline'' means that land which borders both Yellowtail Reservoir and the exterior boundary of the Crow Indian Reservation, together with that part of the reservoir necessary to the development of the facilities referred to in this subsection.

(Pub. L. 89–664, § 2, Oct. 15, 1966, 80 Stat. 913.)

§ 460t–2. Administration

(a) Coordination

The Secretary shall coordinate administration of the recreation area with the other purposes of the Yellowtail Reservoir project so that it will in his judgment best provide (1) for public outdoor recreation benefits, (2) for conservation of scenic, scientific, historic, and other values contributing to public enjoyment and (3) for management, utilization, and disposal of renewable natural resources in a manner that promotes, or is compatible with, and does not significantly impair, public recreation and conservation of scenic, scientific, historic, or other values contributing to public enjoyment.

(b) Utilization of statutory authorities

In the administration of the area for the purposes of this subchapter, the Secretary may utilize such statutory authorities relating to areas administered and supervised by the Secretary through the National Park Service and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate to carry out the purposes of this subchapter.

(Pub. L. 89–664, § 3, Oct. 15, 1966, 80 Stat. 914.)

§ 460t–3. Hunting and fishing

The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the recreation area in accordance with the appropriate laws of the United States and of the States of Montana or Wyoming to the extent applicable, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment, and except that nothing in this section shall impair the rights under other law of the Crow Tribe and its members to hunt and fish on lands of the Crow Tribe that are included in the recreation area, or the rights of the members of the Crow Tribe to hunt and fish under section 2(d) of the Act of July 15, 1958. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the Montana Fish and Game Department or the Wyoming Game and Fish Commission.

(Pub. L. 89–664, § 4, Oct. 15, 1966, 80 Stat. 914.)

REFERENCES IN TEXT

Section 2(d) of the Act of July 15, 1958, 72 Stat. 363, referred to in text, provided that: ''The members of the Crow Tribe of Indians of Montana shall be permitted to hunt and fish in and on the Yellowtail Reservoir and taking area without a license.'', and was not classified to the Code.

§ 460t–4. Authorization of appropriations

There is hereby authorized to be appropriated not more than $780,000 for the acquisition of land and interests in land pursuant to this subchapter.

(Pub. L. 89–664, § 5, Oct. 15, 1966, 80 Stat. 914; Pub. L. 92–272, title I, § 101(3), Apr. 11, 1972, 86 Stat. 120.)

AMENDMENTS

1972—Pub. L. 92–272 increased the authorization of appropriations from not more than $355,000 to not more than $780,000.

SUBCHAPTER LXXIX—INDIANA DUNES NATIONAL LAKESHORE

§ 460u. Establishment; description of area

In order to preserve for the educational, inspirational, and recreational use of the public certain portions of the Indiana dunes and other areas of scenic, scientific, and historic interest and recreational value in the State of Indiana, the Secretary of the Interior is authorized to establish and administer the Indiana Dunes National Lakeshore (hereinafter referred to as the ''lakeshore'') in accordance with the provisions of this subchapter. The lakeshore shall comprise the area within the boundaries delineated on a map identified as ''Boundary Map, Indiana Dunes National Lakeshore'', dated October 1992, and numbered 626–80,039–C, which map is on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior.

(Pub. L. 89–761, § 1, Nov. 5, 1966, 80 Stat. 1309; Pub. L. 94–549, § 1(1), Oct. 18, 1976, 90 Stat. 2529; Pub. L. 96–612, § 1(2), Dec. 28, 1980, 94 Stat. 3575; Pub. L. 99–583, § 1(a), Oct. 29, 1986, 100 Stat. 3318; Pub. L. 102–430, § 3(a), Oct. 23, 1992, 106 Stat. 2208.)

AMENDMENTS

1992—Pub. L. 102–430, which directed amendment of section by substituting ''October 1992, and numbered 626–80,039–C'' for ''October 1986, and numbered 62680033–B'', was executed by making the substitution for ''October 1986, and numbered 626–80,033–B'' to reflect the probable intent of Congress.

1986—Pub. L. 99–583 substituted ''October 1986, and numbered 626–80,033–B'' for ''December 1980, and bearing the number 626–91014''.

1980—Pub. L. 96–612 substituted ''December 1980, and bearing the number 626–91014'' for ''September 1976 and bearing the number 626–91007.''

1976—Pub. L. 94–549 substituted '' 'Boundary Map, Indiana Dunes National Lakeshore', dated September 1976 and bearing the number '626–91007' '' for '' 'A Proposed Indiana Dunes National Lakeshore', dated September 1966, and bearing the number 'LNPNE–1008–ID' ''.

SHORT TITLE OF 1992 AMENDMENT

Section 1 of Pub. L. 102–430 provided that: ''This Act [enacting sections 460u–25 and 460u–26 of this title, amending this section and sections 460u–3, 460u–5, 460u–9, and 460u–18 of this title, and repealing section 460u–12 of this title] may be cited as the 'Indiana Dunes National Lakeshore Access and Enhancement Act'.''

EFFECTIVE DATE OF AUTHORIZATIONS OF APPROPRIATIONS; AUTHORITY TO CONTRACT, INCUR OBLIGATIONS, AND MAKE PAYMENTS

Section 2 of Pub. L. 96–612 provided that: ''Authorizations of moneys to be appropriated under this Act [enacting sections 460u–20 to 460u–23 of this title and amending this section and sections 460u–1, 460u–3, 460u–5, 460u–7, and 460u–9 of this title] shall be effective on October 1, 1981. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.''

§ 460u–1. Acquisition of property

(a) Authority of Secretary; negotiation for Indiana Dunes State Park; exchange of property; acquisition of land owned for educational purposes

Within the boundaries of the lakeshore the Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to acquire lands, waters, and other property, or any interest therein, by donation, purchase with donated or appropriated funds, exchange, or otherwise. The Indiana Dunes State Park may be acquired only by donation of the State of Indiana, and the Secretary is hereby directed to negotiate with the State for the acquisition of said park. In exercising his authority to acquire property by exchange for the purposes of this subchapter, the Secretary may accept title to non-Federal property located within the area described in section 460u of this title and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary which he classifies as suitable for exchange or other disposal within the State of Indiana or Illinois. Properties so exchanged shall be approximately equal in fair market value, as determined by the Secretary who may, in his discretion, base his determination on an independent appraisal obtained by him: *Provided*, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged. The Secretary is expressly authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, lands or interests therein which are owned for school or educational purposes by a State or a political subdivision thereof.

(b) Liability of United States under contracts contingent on appropriations

In exercising his authority to acquire property under subsection (a) of this section, the Secretary may enter into contracts requiring the expenditure, when appropriated, of funds authorized to be appropriated by section 460u–9 of this title, but the liability of the United States under any such contract shall be contingent on the appropriation of funds sufficient to fulfill the obligations thereby incurred.

(Pub. L. 89–761, § 2, Nov. 5, 1966, 80 Stat. 1309; Pub. L. 96–612, § 1(3), (4), Dec. 28, 1980, 94 Stat. 3575.)

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–612, § 1(3), inserted provision authorizing the Secretary to acquire or exchange lands or interests therein owned for school or educational purposes by a State or political subdivision thereof.

Subsec. (b). Pub. L. 96–612, § 1(4), made technical amendment to reference in original act which appears in text as reference to section 460u–9 of this title.

ACQUISITION OF LANDS BY EXCHANGE

Pub. L. 97–356, Oct. 19, 1982, 96 Stat. 1703, provided: ''That (a) notwithstanding the fourth sentence of section 2(a) of the Act entitled 'An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes', approved November 5, 1966 (16 U.S.C. 460u–1(a)), or any other provision of law, the Secretary of the Interior is authorized—

''(1) to accept from the State of Indiana the conveyance of 69.17 acres of land located within area IV–A, as designated on the map referred to in the first section of such Act (16 U.S.C. 460u), commonly known as 'Blue Heron Rookery', and

''(2) in exchange for such conveyance, to convey to the State of Indiana 31.26 acres of land located within area IV, as designated on such map, commonly known as 'Hoosier Prairie'.

''(b) The Secretary of the Interior may not carry out the conveyance specified in subsection (a)(2) unless, simultaneously with such conveyance and in consideration of such conveyance, the State of Indiana—

''(1) transfers to the Secretary all right, title, and interest in the land described in subsection (a)(1);

''(2) enters into a recordable agreement satisfactory to the Secretary providing that—

''(A) the State will not use, or permit the use, of the land described in subsection (a)(2) for any purpose other than the interpretation and public appreciation and use of the Hoosier Prairie Unit of the Indiana Dunes National Lakeshore;

''(B) the State will not transfer any right, title, or interest in, or control over, any land described in subsection (a)(2) to any person other than the Secretary;

''(C) the State will permit access by the Secretary at reasonable times to the land described in subsection (a)(2); and

''(D) upon a final determination by the Secretary that—

''(i) the State has failed to comply with the requirements of subparagraph (A) or (B), and

''(ii) after receipt of notice from the Secretary respecting such failure, the State has failed or refused to comply with such requirements,

all right, title, and interest in such land shall revert to the United States for administration by the Secretary as part of the lakeshore.

The Secretary may make a determination under subparagraph (D) only after notice and opportunity for hearing on the record. The reversion under subparagraph (D) shall take effect upon publication of such determination by the Secretary in the Federal Register without further notice or requirement for physical entry by the Secretary unless an action for judicial review is brought in the United States court of appeals for the appropriate circuit within ninety days following such publication. In any such action the court may issue such orders as appropriate to carry out the requirements of this subsection.''

§ 460u–2. Direction for establishment; publication in Federal Register; continuing acquisition of lands

As soon as practicable after November 5, 1966, and following the acquisition by the Secretary of an acreage within the boundaries of the area described in section 460u of this title which in his opinion is efficiently administrable for the purposes of this subchapter, he shall establish the Indiana Dunes National Lakeshore by publication of notice thereof in the Federal Register. By no later than October 1, 1977, the Secretary shall publish in the Federal Register a detailed description of the boundaries of the lakeshore and shall from time to time so publish any additional boundary changes as may occur. Following such establishment and subject to the limitations and conditions prescribed in section 460u of this title, the Secretary may continue to acquire lands and interests in lands for the lakeshore.

(Pub. L. 89–761, § 3, Nov. 5, 1966, 80 Stat. 1309; Pub. L. 94–549, § 1(2), Oct. 18, 1976, 90 Stat. 2529.)

AMENDMENTS

1976—Pub. L. 94–549 inserted provision requiring the Secretary to publish in the Federal Register, no later than October 1, 1977, the boundaries of the lakeshore and from time to time publish any additional changes in the boundaries as they occur.

§ 460u–3. "Improved property" and "appropriate map" defined; terms and conditions for rights of use and occupancy

As used in this subchapter, the term ''improved property'' means a detached, one-family dwelling which meets each of the following criteria:

(1) The construction of the dwelling began before the date (shown in the table contained in this section) corresponding to the appropriate map.

(2) The property is located within the boundaries delineated on the map described in such table which corresponds to such date.

(3) The property is not located within the boundaries of any other map referred to in such table which bears an earlier date.

The term ''appropriate map'', means a map identified as ''Boundary Map—Indiana Dunes National Lakeshore'' (or ''A Proposed Indiana Dunes National Lakeshore'' in the case of a dwelling the construction of which was begun before January 4, 1965) which is dated and numbered as provided in the following table.

Property within boundaries of map	Construction began before
Dated October 1992, No. 626–80,039–C	October 1, 1991
Dated October 1986, No. 626–80,033–B	February 1, 1986
Dated December 1980, No. 626–91014	January 1, 1981
Dated September 1976, No. 626–91007	February 1, 1973
Dated September 1966, No. LNPNE–1008–ID	January 4, 1965

The term ''improved property'' also includes the lands on which the dwelling is situated which meets both of the following criteria:

(A) The land is in the same ownership as the dwelling.

(B) The Secretary has designated the lands as reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use.

Such term also includes any structures accessory to the dwelling which are situated on the lands so designated. The maps referred to in this section shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior. The Secretary shall designate the land referred to in subparagraph (B). The amount of land so designated shall in every case be not more than three acres in area, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: *Provided*, That the Secretary may exclude from the land so designated any beach or waters, together with so much of the land adjoining such beach or waters, as he may deem necessary for public access thereto or public use thereof. All rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of such property in accordance with the purposes of this subchapter.

(Pub. L. 89–761, § 4, Nov. 5, 1966, 80 Stat. 1309; Pub. L. 94–549, § 1(3), Oct. 18, 1976, 90 Stat. 2529; Pub. L. 96–612, § 1(5), Dec. 28, 1980, 94 Stat. 3575; Pub. L. 99–583, § 1(b), Oct. 29, 1986, 100 Stat. 3318; Pub. L. 102–430, § 4(a), Oct. 23, 1992, 106 Stat. 2208.)

AMENDMENTS

1992—Pub. L. 102–430 amended table generally. Prior to amendment, table read as follows:

''Property Within Boundaries of Map	Construction Began Before
Dated October 1986, #626–80,033–B	February 1, 1986
Dated December 1980, #626–91014	January 1, 1981
Dated September 1976, #626–91007	February 1, 1973
Dated September 1966, #LNPNE–1008–ID	January 4, 1965''.

1986—Pub. L. 99–583 substituted provisions defining ''improved property'' and ''appropriate map'' for former provisions which read as follows: ''The term ''improved property'', whenever used in this subchapter, shall mean a detached, one-family dwelling, construction of which was begun before January 1, 1981 or, in the case of improved property located within the boundaries delineated on a map identified as ''Boundary Map, Indiana Dunes National Lakeshore'', dated September 1976 and bearing the number 626–91007, before February 1, 1973, or, in the case of improved property located within the boundaries delineated on a map identified as ''A Proposed Indiana Dunes National Lakeshore'', dated September 1966, and bearing the number ''LNPNE–1008–ID'', which map is on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, before January 4, 1965, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the lands so designated.''

1980—Pub. L. 96–612 inserted ''January 1, 1981 or, in the case of improved property located within the boundaries delineated on a map identified as 'Boundary Map, Indiana Dunes National Lakeshore', dated September 1976 and bearing the number 626–91007, before'' after ''begun before''.

1976—Pub. L. 94–549 struck out subsec. (a) which related to the suspension of the authority of the Secretary to acquire improved property by condemnation when an appropriate zoning agency had in force a valid zoning ordinance, designated subsec. (b) as the entire provision, and in the entire provision as so designated, inserted provision including in definition of ''improved property'' a one-family dwelling the construction of which was begun before February 1, 1973, or in the case of improved property located within the boundaries of the map bearing the number ''LNPNE–1008–ID'', property the construction of which was begun before January 4, 1965, and provision which subjected all rights of use and occupancy to terms and conditions the Secretary deems appropriate.

§ 460u–4. Repealed. Pub. L. 94–549, § 1(9), Oct. 18, 1976, 90 Stat. 2533

Section, Pub. L. 89–761, § 5, Nov. 5, 1966, 80 Stat. 1310, authorized Secretary to set standards for and to approve use of local zoning ordinances with regard to preservation and development of lakeshore areas and in event of nonconforming variances, to terminate suspension of his authority to acquire improved property by condemnation.

§ 460u–5. Owner's retention of right of use and occupancy for residential purposes

(a) Election; conveyance or lease of right; adjustment of compensation; retained rights

(1) Except for owners described in paragraph (2) and owners of improved property within the area on the map referred to in section 460u–3 of this title, dated December 1980, and numbered 626–91014, as area II–B, any owner or owners of record of improved property may retain a right of use and occupancy of said improved property for noncommercial residential purposes for a term (A) ending on his or her death or the death of his or her spouse, whichever occurs last, or (B) for a fixed term not to extend beyond September 30, 2010, or such lesser term as the owner or owners may elect at the time of acquisition by the Secretary. In the case of improved property within the boundaries of the map dated December 1980 and numbered 626–91014 the retention of a retained right under clause numbered (A) shall only be available to homeowners of record as of October 1, 1980, who have attained the age of majority as of that date and make a bona fide written offer not later than October 1, 1985, to sell to the Secretary. Where any such owner retains a right of use and occupancy as herein provided, such right during its existence may be conveyed or leased for noncommercial residential purposes. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner.

(2)(A) In the case of property included within the boundaries of the lakeshore after 1980, any owner or owners of record of improved property may retain a right of use and occupancy for noncommercial residential purposes for a term ending at either of the following:

(i) A fixed term not to extend beyond September 30, 2010, or such lesser fixed term as the owner or owners may elect at the time of acquisition.

(ii) A term ending at the death of any owner or of a spouse of any owner, whichever occurs last.

The owner shall elect the term to be reserved.

(B) The retention of rights under subparagraph (A) shall be available only to individuals who are homeowners of record as of July 1, 1986, who have attained the age of majority as of that date and who make a bona fide written offer not later than July 1, 1991, to sell to the Secretary.

(3)(A) In the case of improved property included within the boundaries of the lakeshore after October 1, 1991, that was not included within such boundaries on or before that date, an individual who is an owner of record of such property may retain a right of use and occupancy of such improved property for noncommercial residential purposes for a term ending, subject to subparagraph (B), at either of the following:

(i) A fixed term not to extend beyond October 1, 2020, or such lesser fixed term as the owner may elect at the time of acquisition.

(ii) A term ending at the death of the owner or the owner's spouse, whichever occurs later. The owner or owners shall elect the term to be reserved.

(B) Subparagraph (A)(ii) shall apply only to improved property owned by an individual who—

(i) was an owner of record of the property as of October 1, 1991;

(ii) had attained the age of majority as of that date; and

(iii) made a bona fide written offer not later than October 1, 1997, to sell the property to the Secretary.

(b) Termination of use and occupancy; pre-October 18, 1976, standards of use and occupancy to remain in effect

Upon his determination that the property, or any portion thereof, has ceased to be used in accordance with the applicable terms and conditions, the Secretary may terminate a right of use and occupancy. Nonpayment of property taxes, validly assessed, on any retained right of use and occupancy shall also be grounds for termination of such right by the Secretary. In the event the Secretary terminates a right of use and occupancy under this subsection he shall pay to the owners of the retained right so terminated an amount equal to the fair market value of the portion of said right which remained unexpired on the date of termination. With respect to any right of use and occupancy in existence on the effective date of this sentence, standards for retention of such rights in effect at the time such rights were reserved shall constitute the terms and conditions referred to in section 460u–3 of this title.

(c) Extension of use and occupancy rights

With respect to improved properties acquired prior to December 28, 1980, and upon which a valid existing right of use and occupancy has been reserved for a term of not more than twenty years, the Secretary may, in his discretion, extend the term of such retained right for a period of not more than nine years upon receipt of payment prior to September 30, 1983, from the holder of the retained right. The amount of such payment shall be equivalent to the amount discounted from the purchase price paid by the Secretary for the identical period of time under the terms of the original sale adjusted by a general index adopted by the Secretary reflecting overall value trends within Indiana Dunes National Lakeshore between the time of the original sale and the time of the retained right of extension offered by this subsection.

(Pub. L. 89–761, § 5, formerly § 6, Nov. 5, 1966, 80 Stat. 1311; renumbered § 5 and amended Pub. L. 94–549, § 1(4), (9), Oct. 18, 1976, 90 Stat. 2529, 2533; Pub. L. 96–612, § 1(6), (7), Dec. 28, 1980, 94 Stat. 3576; Pub. L. 99–583, § 1(c), Oct. 29, 1986, 100 Stat. 3319; Pub. L. 102–430, § 4(b), (c), Oct. 23, 1992, 106 Stat. 2208, 2209; Pub. L. 105–277, div. A, § 101(e) [title I, § 141], Oct. 21, 1998, 112 Stat. 2681–231, 2681–266.)

REFERENCES IN TEXT

The effective date of this sentence, referred to in subsec. (b), probably refers to the date of enactment of Pub. L. 94–549, which was approved Oct. 18, 1976.

PRIOR PROVISIONS

A prior section 5 of Pub. L. 89–761 was classified to section 460u–4 of this title, prior to repeal by Pub. L. 94–549, § 1(9).

AMENDMENTS

1998—Subsec. (a)(3)(A). Pub. L. 105–277, §101(e) [title I, §141(1)], in introductory provisions, struck out ''as of that date'' after ''record of such property'' and inserted '', subject to subparagraph (B),'' after ''term ending''.

Subsec. (a)(3)(B). Pub. L. 105–277, §101(e) [title I, §141(2)], substituted ''Subparagraph (A)(ii)'' for ''Subparagraph (A)'' in introductory provisions.

1992—Subsec. (a)(1). Pub. L. 102–430, §4(c), substituted a comma for a period after first reference to ''626–91014''.

Subsec. (a)(3). Pub. L. 102–430, §4(b), added par. (3).

1986—Subsec. (a). Pub. L. 99–583 designated existing provisions as par. (1), inserted ''owners described in paragraph (2) and'' and substituted reference to the map referred to in section 460u–3 of this title for reference to the map referred to in section 460u of this title, ''(A)'' for ''(1)'' in two places, ''(B)'' for ''(2)'', and ''. In the case of improved property within the boundaries of the map dated December 1980 and numbered 626–91014'' for '': *Provided*, That'', and added par. (2).

1980—Subsec. (a). Pub. L. 96–612, §1(6), substituted provisions authorizing certain owners of improved property, except such owners within area II–B, to retain rights of use and occupancy of such property for noncommercial residential purposes for a term either ending at death or at a specified date no later than September 30, 2010, for provisions authorizing certain owners of similar property to retain such rights for similar purposes for a fixed term of twenty years or less, as elected, authorizing the conveyance or leasing of such rights, and specifying the formula for reimbursing such owners upon acquisition of such property by the Secretary.

Subsec. (c). Pub. L. 96–612, §1(7), added subsec. (c).

1976—Subsec. (a). Pub. L. 94–549, §1(4)(a), provided that owners within unit II–B on the map referred to in section 460u of this title be excluded from use and occupancy rights, that owners attain the age of majority to be eligible to retain use and occupancy rights, and that the maximum term that an owner may retain use and occupancy rights be reduced to twenty years from twenty-five years.

Subsec. (b). Pub. L. 94–549, §1(4)(b), substituted provision requiring failure of property to be used in accordance with the terms and applicable conditions as grounds for termination by the Secretary for provision which required failure of the property to be used in accordance with applicable zoning standards, added nonpayment of property taxes as a ground for termination, and provided that the standards for right of use and occupancy applicable prior to Oct. 18, 1976 remain in effect for such right, including applicable zoning regulations.

§ 460u–6. Administration

(a) Utilization of authorities for conservation and management of natural resources

In the administration of the lakeshore the Secretary may utilize such statutory authorities relating to areas of the national park system and such statutory authority otherwise available to him for the conservation and management of natural resources as he deems appropriate to carry out the purposes of this subchapter.

(b) Preservation of lakeshore; incompatible visitor conveniences restricted; provisions for public enjoyment and understanding; developments for public uses

In order that the lakeshore shall be permanently preserved in its present state, no development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing or with the preservation of such historic sites and structures as the Secretary may designate: *Provided*, That the Secretary may provide for the public enjoyment and understanding of the unique natural, historic, and scientific features within the lakeshore by establishing such trails, observation points, and exhibits and providing such services as he may deem desirable for such public enjoyment and understanding: *Provided further*, That the Secretary may develop for appropriate public uses such portions of the lakeshore as he deems especially adaptable for such uses.

(Pub. L. 89–761, §6, formerly §7, Nov. 5, 1966, 80 Stat. 1311; renumbered §6, Pub. L. 94–549, §1(9), Oct. 18, 1976, 90 Stat. 2533.)

PRIOR PROVISIONS

A prior section 6 of Pub. L. 89–761 was renumbered section 5 and is classified to section 460u–5 of this title.

§ 460u–7. Indiana Dunes National Lakeshore Advisory Commission

(a) Establishment; termination

There is hereby established an Indiana Dunes National Lakeshore Advisory Commission. Said Commission shall terminate on September 30, 1985.

(b) Membership; appointment; term of office; recommendation or designation of appointees

The Commission shall be composed of thirteen members, each appointed for a term of two years by the Secretary, as follows: (1) one member who is a year-round resident of Porter County to be appointed from recommendations made by the commissioners of such county; (2) one member who is a year-round resident of the town of Beverly Shores to be appointed from the recommendations made by the board of trustees of such town; (3) one member who is a year-round resident of the towns of Porter, Dune Acres, Pines, Chesterton, Ogden Dunes, or the village of Tremont, such member to be appointed from recommendations made by the boards of trustees or the trustee of the affected town or township; (4) two members who are year-round residents of the city of Michigan City to be appointed from recommendations made by such city; (5) two members to be appointed from recommendations made by the Governor of the State of Indiana; (6) one member to be designated by the Secretary; (7) two members who are year-round residents of the city of Gary to be appointed from recommendations made by the mayor of such city; (8) one member to be appointed from recommendations made by a regional planning agency established under the authority of the laws of the State of Indiana and composed of representatives of local and county governments in northwestern Indiana; (9) one member who is a year-round resident of the city of Portage to be appointed from recommendations made by the mayor of such city; and (10) one member who holds a reservation of use and occupancy and is a year-round resident within the lakeshore to be designated by the Secretary.

(c) Chairman; vacancies

The Secretary shall designate one member to be Chairman. Any vacancy in the Commission

shall be filled in the same manner in which the original appointment was made.

(d) Compensation and expenses; vouchers

A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expense reasonably incurred by the Commission in carrying out its responsibilities under this subchapter on vouchers signed by the Chairman.

(e) Consultation of Secretary with Commission

The Secretary or his designee shall, from time to time, consult with the Commission with respect to matters relating to the development of the Indiana Dunes National Lakeshore and with respect to the provisions of sections 460u–3, 460u–4,[1] and 460u–5 of this title.

(f) Disposal of industrial solid wastes; identification of acceptable areas

The Advisory Commission is authorized to assist with the identification of economically and environmentally acceptable areas, outside of the boundaries of the lakeshore, for the handling and disposal of industrial solid wastes produced by the coal-fired powerplant in Porter County, Indiana, section 21, township 37 north, range 6 west.

(Pub. L. 89–761, §7, formerly §8, Nov. 5, 1966, 80 Stat. 1311; renumbered §7 and amended Pub. L. 94–549, §1(5), (6), (9), Oct. 18, 1976, 90 Stat. 2530, 2533; Pub. L. 96–612, §1(8), (9), Dec. 28, 1980, 94 Stat. 3576.)

REFERENCES IN TEXT

Section 460u–4 of this title, referred to in subsec. (e), was repealed by Pub. L. 94–549, §1(9), Oct. 18, 1976, 90 Stat. 2533.

PRIOR PROVISIONS

A prior section 7 of Pub. L. 89–761 was renumbered section 6 and is classified to section 460u–6 of this title.

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–612, §1(8), substituted ''on September 30, 1985'' for ''ten years after the date of establishment of the national lakeshore pursuant to this subchapter''.

Subsec. (b). Pub. L. 96–612, §1(9), substituted ''thirteen members'' for ''eleven members'' in provisions preceding cl. (1) and ''two members who are year-round residents'' for ''one member who is a year-round resident'' in cls. (4) and (7).

1976—Subsec. (b). Pub. L. 94–549, §1(5), substituted ''eleven members'' for ''seven members'' in provision preceding cl. (1), struck out ''Portage'' after ''Dunes Acres'' in cl. (3), and added cls. (7) to (10).

Subsec. (f). Pub. L. 94–549, §1(6), added subsec. (f).

§ 460u–8. State jurisdiction

Nothing in this subchapter shall deprive the State of Indiana or any political subdivision thereof of its civil and criminal jurisdiction over persons found, acts performed, and offenses committed within the boundaries of the Indiana Dunes National Lakeshore or of its right to tax persons, corporations, franchises, or other non-Federal property on lands included therein.

(Pub. L. 89–761, §8, formerly §9, Nov. 5, 1966, 80 Stat. 1312; renumbered §8, Pub. L. 94–549, §1(9), Oct. 18, 1976, 90 Stat. 2533.)

[1] See References in Text note below.

PRIOR PROVISIONS

A prior section 8 of Pub. L. 89–761 was renumbered section 7 and is classified to section 460u–7 of this title.

§ 460u–9. Authorization of appropriations; general management plan; submittal to Congressional committees; feasibility study

The Secretary may expend such sums as may be necessary from the Land and Water Conservation Fund for acquisition of lands and interests in lands, and not to exceed $27,500,000 for development: *Provided*, That not more than $500,000 of said amount may be appropriated for the development of the Paul H. Douglas Environmental Education Center authorized pursuant to section 460u–20 of this title. By October 1, 1979, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a general management plan detailing the development of the national lakeshore consistent with the preservation objectives of this subchapter, indicating:

(1) the facilities needed to accommodate the health, safety, and recreation needs of the visiting public;

(2) the location and estimated costs of all facilities, together with a review of the consistency of the master plan with State, areawide, and local governmental development plans;

(3) the projected need for any additional facilities within the national lakeshore; and

(4) specific opportunities for citizen participation in the planning and development of proposed facilities and in the implementation of the general management plan generally.

The Secretary shall conduct a feasibility study of establishing United States Highway 12 as the ''Indiana Dunes Parkway'' under the jurisdiction of the National Park Service. The Secretary shall submit the results of such study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within two years after October 29, 1986. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the feasibility study.

(Pub. L. 89–761, §9, formerly §10, Nov. 5, 1966, 80 Stat. 1312; Pub. L. 93–477, title I, §101(6), Oct. 26, 1974, 88 Stat. 1445; renumbered §9 and amended Pub. L. 94–549, §1(7), (9), Oct. 18, 1976, 90 Stat. 2530, 2533; Pub. L. 95–625, title I, §101(16), Nov. 10, 1978, 92 Stat. 3472; Pub. L. 96–612, §1(10), Dec. 28, 1980, 94 Stat. 3576; Pub. L. 99–583, §1(d), Oct. 29, 1986, 100 Stat. 3319; Pub. L. 102–430, §9, Oct. 23, 1992, 106 Stat. 2210.)

CODIFICATION

Amendment by section 101(16) of Pub. L. 95–625 was, in the original, to section 10 of Pub. L. 89–761 but has been executed to section 9 of Pub. L. 89–761, as the probable intent of Congress, in view of the prior redesignation of former section 10 of Pub. L. 89–761 as section 9 by Pub. L. 94–549, §9, Oct. 18, 1976, 90 Stat. 2533.

PRIOR PROVISIONS

A prior section 9 of Pub. L. 89–761 was renumbered section 8 and is classified to section 460u–8 of this title.

AMENDMENTS

1992—Pub. L. 102–430 substituted ''The Secretary may expend such sums as may be necessary from the Land

and Water Conservation Fund for acquisition of lands and interests in lands, and not to exceed $27,500,000 for development:'' for ''The Secretary may not expend more than $60,812,100 from the Land and Water Conservation Fund for the acquisition of lands and interests in lands nor more than $20,000,000 for development:''; struck out second par. which read as follows: ''In addition to any sums heretofore authorized for the acquisitions of lands and interests in lands pursuant to the provisions of this subchapter, there are further authorized to be appropriated an additional $3,120,000.''; and struck out first sentence of last par. which read as follows: ''In addition to any other sums authorized for the acquisition of lands and interests in lands pursuant to the provisions of this subchapter there are authorized to be appropriated an additional $3,500,000 to be used for such purposes.''

1986—Pub. L. 99–583 substituted ''$20,000,000'' for ''$11,000,000'' and inserted provisions authorizing an additional $3,500,000 for acquisition of property and directing the Secretary to conduct a feasibility study of establishing Indiana Dunes Parkway.

1980—Pub. L. 96–612 increased the amount the Secretary could expend for land development from $9,440,000 to $11,000,000, inserted proviso that not more than $500,000 of said amount could be appropriated for the development of the education center, and authorized appropriations of $3,120,000 in addition to sums already authorized for the acquisition of lands and interests in lands.

1978—Pub. L. 95–625 increased development appropriations authorization to $9,440,000 from $8,500,000.

1976—Pub. L. 94–549, §1(7), substituted provision authorizing the Secretary to expend not more than $60,812,100 from the Land and Water Conservation Fund for the acquisition of lands and interest in lands and not more than $8,500,000 for development and requiring the Secretary to develop and submit a general management plan to the Committees on the Interior and Insular Affairs by Oct. 1, 1979 for provision which authorized not more than $35,526,000 for acquisition in land and interest in land.

1974—Pub. L. 93–477 substituted ''$35,526,000'' for ''$27,900,000''.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460u–10. Rights-of-way and easements; existing property rights of Northern Indiana Public Service Company

Nothing in this subchapter shall diminish any existing (as of March 1, 1975) rights-of-way or easements which are necessary for high voltage electrical transmission, pipelines, water mains, or line haul railroad operations and maintenance. Nothing in this subchapter shall be construed to diminish the existing property rights of Northern Indiana Public Service Company (as of October 1, 1986) with respect to—

(1) a parcel of land owned in fee by the Northern Indiana Public Service Company and used for high voltage electrical transmission lines, pipelines, and utility purposes, beginning at said Company's Dune Acres substation and extending east to said Company's Michigan City Generating Station, which parcel by this subchapter is included within the boundaries of the Indiana Dunes National Lakeshore and herein designated as area II–I on National Park Service Boundary Map No. 626–80,033–B, dated October 1986, excluding that certain parcel of approximately 6.0 acres adjacent Mineral Springs Road in areas II–I, and

(2) land owned in fee by the Northern Indiana Public Service Company and used for high voltage electrical transmission lines, pipelines, and utility purposes as has by this subchapter been included within the boundaries of the Indiana Dunes National Lakeshore and herein designated as area II–H on said National Park Service Boundary Map No. 626–80,033–B.

(Pub. L. 89–761, §10, formerly §11, as added and renumbered Pub. L. 94–549, §1(8), (9), Oct. 18, 1976, 90 Stat. 2530, 2533; amended Pub. L. 99–583, §1(e), Oct. 29, 1986, 100 Stat. 3319.)

PRIOR PROVISIONS

A prior section 10 of Pub. L. 89–761 was renumbered section 9 and is classified to section 460u–9 of this title.

AMENDMENTS

1986—Pub. L. 99–583 inserted provisions relating to the existing property rights of the Northern Indiana Public Service Company on Oct. 1, 1986.

§ 460u–11. Legal cooling, process, or surface drainage into Little Calumet River; Federal, State or local air and water pollution standards not affected

(a) Nothing in this subchapter shall be construed as prohibiting any otherwise legal cooling, process, or surface drainage into the part of the Little Calumet River located within the lakeshore: *Provided*, That this subsection shall not affect nor in any way limit the Secretary's authority and responsibility to protect park resources.

(b) The authorization of lands to be added to the lakeshore by the Ninety-fourth Congress and the administration of such lands as part of the lakeshore shall in and of itself in no way operate to render more restrictive the application of Federal, State, or local air and water pollution standards to the uses of property outside the boundaries of the lakeshore, nor shall it be construed to augment the control of water and air pollution sources in the State of Indiana beyond that required pursuant to applicable Federal, State, or local law.

(Pub. L. 89–761, §11, formerly §12, as added and renumbered Pub. L. 94–549, §1(8), (9), Oct. 18, 1976, 90 Stat. 2531, 2533.)

§ 460u–12. Repealed. Pub. L. 102–430, § 3(b), Oct. 23, 1992, 106 Stat. 2208

Section, Pub. L. 89–761, §12, formerly §13, as added and renumbered Pub. L. 94–549, §1(8), (9), Oct. 18, 1976, 90 Stat. 2531, 2533, related to acquisition of area III–B for not more than $800,000.

§ 460u–13. Acquisition of area I–C; owner consent required

(a) The Secretary may acquire that portion of area I–C which is shaded on the map referred to

in section 460u–3 of this title, dated December 1980 and numbered 626–91014 only with the consent of the owner unless the present owner attempts to sell or otherwise dispose of such area.

(b) The Secretary may acquire that portion of area IV–B in private ownership on the map referred to in section 460u of this title only with the consent of the owner: *Provided*, That the Secretary may acquire an agricultural easement should the owner change the use in existence as of September 19, 1986, through eminent domain.

(Pub. L. 89–761, §13, formerly §14, as added and renumbered Pub. L. 94–549, §1(8), (9), Oct. 18, 1976, 90 Stat. 2531, 2533; amended Pub. L. 99–583, §1(f), Oct. 29, 1986, 100 Stat. 3320.)

AMENDMENTS

1986—Pub. L. 99–583 designated existing provisions as subsec. (a), substituted ''460u–3 of this title, dated December 1980 and numbered 626–91014'' for ''460u of this title'', and added subsec. (b).

§ 460u–14. Plan, lands acquired, land acquisition program; submittal to Congressional committees

Within one year after October 18, 1976, the Secretary shall submit, in writing, to the Committees on Interior and Insular Affairs and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate—

(1) the lands which he has previously acquired by purchase, donation, exchange, or transfer for administration for the purpose of the lakeshore; and

(2) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

(Pub. L. 89–761, §14, formerly §15, as added and renumbered Pub. L. 94–549, §1(8), (9), Oct. 18, 1976, 90 Stat. 2531, 2533.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460u–15. Rights-of-way; public access to Little Calumet River

The Secretary may acquire only such interest in the right-of-way designated ''Crossing A'' on map numbered 626–91007 as he determines to be necessary to assure public access to the banks of the Little Calumet River within fifty feet north and south of the centerline of said river. The Secretary may acquire only such interest in the rights-of-way designated ''Crossing B'' and ''Crossing C'' on the map dated October 1986 and numbered 626–80,033–B as he determines to be necessary to assure public access to the banks of the Little Calumet River and the banks of Salt Creek within fifty feet on either side of the centerline of said river and creek.

(Pub. L. 89–761, §15, formerly §16, as added and renumbered Pub. L. 94–549, §1(8), (9), Oct. 18, 1976, 90 Stat. 2531, 2533; amended Pub. L. 99–583, §1(h), Oct. 29, 1986, 100 Stat. 3320.)

AMENDMENTS

1986—Pub. L. 99–583 inserted provisions relating to acquisition of interests in the rights-of-way designated Crossing B and Crossing C.

§ 460u–16. Road construction cooperative agreements with landowners north of Little Calumet River; prevention of soil erosion; minimization of aural and visual impact

The Secretary shall enter into a cooperative agreement with the landowner of those lands north of the Little Calumet River between the Penn Central Railroad bridge within area II–E and ''Crossing A'' within area IV–C on the map referred to in section 460u–3 of this title, dated October 1976, and numbered 626–9100.[1] Such agreement shall provide that any roadway constructed by the landowner south of United States Route 12 within such vicinity shall include grading, landscaping, and plantings of vegetation designed to prevent soil erosion and to minimize the aural and visual impacts of said construction, and of traffic on such roadway, as perceived from the Little Calumet River.

(Pub. L. 89–761, §16, formerly §17, as added and renumbered Pub. L. 94–549, §1(8), (9), Oct. 18, 1976, 90 Stat. 2531, 2533; amended Pub. L. 99–583, §1(g), Oct. 29, 1986, 100 Stat. 3320.)

AMENDMENTS

1986—Pub. L. 99–583 inserted provisions relating to the map referred to in section 460u–3 of this title.

§ 460u–17. Lands within area I–E used for solid waste disposal

(a) Commitment to reclaim land at no expense to Federal Government

The Secretary may not acquire such lands within the western section of area I–E, as designated on map numbered 626–91007, which have been used for solid waste disposal until he has received a commitment, in accordance with a plan acceptable to him, to reclaim such lands at no expense to the Federal Government.

(b) Cooperation with State of Indiana or subdivision thereof to develop area

With respect to the property identified as area I–E on map numbered 626–91007, the Secretary may enter into a cooperative agreement whereby the State of Indiana or any political subdivision thereof may undertake to develop, manage, and interpret such area in a manner consistent with the purposes of this subchapter.

(Pub. L. 89–761, §17, formerly §18, as added and renumbered Pub. L. 94–549, §1(8), (9), Oct. 18, 1976, 90 Stat. 2531, 2533.)

§ 460u–18. Study of areas III–A, III–C, and II–A; report to Congressional committees

(a) By July 1, 1977, the Secretary shall prepare and transmit to the Committees on Interior and

[1] So in original. Probably should be ''September 1976, and numbered 626–91007.''

Insular Affairs of the United States Congress a study of areas III–A, III–C, and II–A, as designated on map numbered 626–91007. The Secretary shall make reasonable provision for the timely participation of the State of Indiana, local public officials, affected property owners, and the general public in the formulation of said study, including, but not limited to, the opportunity to testify at a public hearing. The record of such hearing shall accompany said study. With respect to areas III–A and III–C, the study shall (a) address the desirability of acquisition of any or all of the area from the standpoint of resource management, protection, and public access; (b) develop alternatives for the control of beach erosion if desirable, including recommendations, if control is necessary, of assessing the costs of such control against those agencies responsible for such erosion; (c) consider and propose options to guarantee public access to and use of the beach area, including the location of necessary facilities for transportation, health, and safety; (d) detail the recreational potential of the area and all available alternatives for achieving such potential; (e) review the environmental impact upon the lakeshore resulting from the potential development and improvement of said areas; and (f) assess the cost to the United States from both the acquisition of said areas together with the potential savings from the retention of rights of use and occupancy and from the retention of the boundaries of the lakeshore, as designated on map numbered 626–91007, including the costs of additional administrative responsibilities necessary for the management of the lakeshore, including the maintenance of public services in the town of Beverly Shores, Indiana. With respect to area II–A, the Secretary shall study and report concerning the following objectives: (a) preservation of the remaining dunes, wetlands, native vegetation, and animal life within the area; (b) preservation and restoration of the watersheds of Cowles Bog and its associated wetlands; (c) appropriate public access to and use of lands within the area; (d) protection of the area and the adjacent lakeshore from degradation caused by all forms of construction, pollution, or other adverse impacts including, but not limited to, the discharge of wastes and any excessive subsurface migration of water; and (e) the economic consequences to the utility and its customers of acquisition of such area.

(b)(1) The Secretary shall enter into a memorandum of agreement with the Northern Indiana Public Service Company (referred to as ''NIPSCO'') that shall provide for the following with respect to the area referred to as Unit II–A on the map described in section 460u of this title (referred to as the ''Greenbelt''):

(A) NIPSCO shall provide the National Park Service with access for resource management and interpretation through the Greenbelt and across the dike for purposes of a public hiking trail.

(B) The National Park Service shall have rights of access for resource management and interpretation of the Greenbelt area.

(C) NIPSCO shall preserve the Greenbelt in its natural state. If NIPSCO utilizes the Greenbelt temporarily for a project involving pollution mitigation or construction on its adjacent facilities, it shall restore the project area to its natural state.

(D) If NIPSCO proposes a different use for the Greenbelt, NIPSCO shall notify the National Park Service, the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives and make no change in the use of the property until three years after the date notice is given.

(2) If a memorandum of agreement is entered into pursuant to paragraph (1), so long as the memorandum of agreement is in effect and is being performed, the Secretary may not acquire lands or interests in land in the Greenbelt belonging to NIPSCO.

(Pub. L. 89–761, §18, formerly §19, as added and renumbered Pub. L. 94–549, §1(8), (9), Oct. 18, 1976, 90 Stat. 2532, 2533; Pub. L. 102–430, §5, Oct. 23, 1992, 106 Stat. 2209.)

AMENDMENTS

1992—Pub. L. 102–430 designated existing provisions as subsec. (a) and added subsec. (b).

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate, referred to in subsec. (a), abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460u–19. Acquisition of land outside present boundaries; notice to Congressional committees; publication in Federal Register

After notifying the Committees on Interior and Insular Affairs of the United States Congress, in writing, of his intentions to do so and of the reasons therefor, the Secretary may, if he finds that such lands would make a significant contribution to the purposes for which the lakeshore was established, accept title to any lands, or interests in lands, located outside the present boundaries of the lakeshore but contiguous thereto or to lands acquired under this section, such lands the State of Indiana or its political subdivisions may acquire and offer to donate to the United States or which any private person, organization, or public or private corporation may offer to donate to the United States and he shall administer such lands as a part of the lakeshore after publishing notice to that effect in the Federal Register.

(Pub. L. 89–761, §19, formerly §20, as added and renumbered Pub. L. 94–549, §1(8), (9), Oct. 18, 1976, 90 Stat. 2532, 2533.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as

amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460u–20. Paul H. Douglas Ecological and Recreational Unit and Center for Environmental Education

(a) Dedication of lakeshore

The Indiana Dunes National Lakeshore is hereby dedicated to the memory of Paul H. Douglas in grateful recognition of his leadership in the effort to protect, preserve, and enhance the natural, scientific, historic, and recreational value of the lakeshore for the use, enjoyment, and edification of present and future generations.

(b) Establishment

To further accomplish the purposes of subsection (a) of this section, the Secretary of the Interior shall designate the west unit of the lakeshore as the ''Paul H. Douglas Ecological and Recreational Unit'' and shall, subject to appropriations being granted, design and construct a suitable structure or designate an existing structure within the lakeshore to be known as the ''Paul H. Douglas Center for Environmental Education'' which shall provide facilities designed primarily to familiarize students and other visitors with, among other things: (1) the natural history of the lakeshore and its association with the natural history of the Great Lakes region; (2) the evolution of human activities in the area; and (3) the historical features which led to the establishment of the lakeshore by the Congress of the United States.

(c) Preparation of informative materials

To inform the public of the contributions of Paul H. Douglas to the creation of the lakeshore, the Secretary of the Interior shall provide such signs, markers, maps, interpretive materials, literature, and programs as he deems appropriate.

(Pub. L. 89–761, § 20, as added Pub. L. 96–612, § 1(1), Dec. 28, 1980, 94 Stat. 3575.)

§ 460u–21. Public access study

(a) Preservation of lakeshore and conservation of energy

The Secretary in consultation with the Secretary of Transportation, shall conduct a study of various modes of public access into and within the lakeshore which are consistent with the preservation of the lakeshore and conservation of energy by encouraging the use of transportation modes other than personal motor vehicles.

(b) Utilization of clearinghouse resources and facilities

In carrying out the study, the Secretary shall utilize to the greatest extent practicable the resources and facilities of the organizations designated as clearinghouses under section 6506 of title 31 as implemented by Office of Management and Budget Circular A–95, and which have comprehensive planning responsibilities in the regions where the lakeshore is located, as well as any other agencies or organizations which the Secretary may designate. The Secretary shall make provision for timely and substantive consultations with the appropriate agencies of the States of Indiana and Illinois, local elected officials, and the general public in the formulation and implementation of the study.

(c) Adequacy of access facilities

The study shall address the adequacy of access facilities for members of the public who desire to visit and enjoy the lakeshore. Consideration shall be given to alternatives for alleviating the dependence on automobile transportation. The study of public transportation facilities shall cover the distance from cities of thirty-five thousand population or more within fifty miles of the lakeshore.

(d) Access proposals; retention of lakeshore values

The study shall include proposals deemed necessary to assure equitable visitor access and public enjoyment by all segments of the population, including those who are physically or economically disadvantaged. It shall provide for retention of the natural, scenic, and historic values for which the lakeshore was established, and shall propose plans and alternatives for the protection and maintenance of these values as they relate to transportation improvements.

(e) Renovation and preservation of South Shore Railroad

The study shall examine proposals for the renovation and preservation of a portion of the existing South Shore Railroad passenger car fleet. The study shall consider the historic value of the existing rolling stock and its role in transporting visitors into and within the lakeshore.

(f) Alternative improvement plans; cost estimates; sources of funding

The study shall present alternative plans to improve, construct, and extend access roads, public transportation, and bicycle and pedestrian trails. It shall include cost estimates of all plans considered in this study, and shall discuss existing and proposed sources of funding for the implementation of the recommended plan alternatives.

(g) Submittal to Congress

The study shall be completed and presented to the Congress within two complete fiscal years from the effective date of this provision.

(h) Authorization of appropriations

Effective October 1, 1981, there is hereby authorized to be appropriated not to exceed $200,000 for this study.

(Pub. L. 89–761, § 21, as added Pub. L. 96–612, § 1(11), Dec. 28, 1980, 94 Stat. 3576.)

REFERENCES IN TEXT

The effective date of this provision, referred to in subsec. (g), probably means the date of enactment of Pub. L. 96–612, which was approved Dec. 28, 1980.

CODIFICATION

In subsec. (b), ''section 6506 of title 31'' substituted for ''title IV of the Intergovernmental Cooperation Act

of 1968 [42 U.S.C. 4231 et seq.]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§ 460u–22. Consideration of property owner's hardship in property acquisition

In exercising his authority to acquire property under this subchapter, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the lakeshore to sell such property, if such individual notifies the Secretary in writing that the continued ownership of such property is causing, or would result in, undue hardship.

(Pub. L. 89–761, § 22, as added Pub. L. 96–612, § 1(12), Dec. 28, 1980, 94 Stat. 3577.)

§ 460u–23. Acquisition of interest in area VII–A

(a) Public access requirements

The Secretary may acquire only such interest in that portion of area VII–A which is described in subsection (b) of this section as the Secretary determines is necessary to assure public access over said portion of area VII–A.

(b) Portion of area VII–A subject to acquisition

The portion of area VII–A, as designated on the map referred to in section 460u of this title, to which subsection (a) of this section applies is a parcel of land bounded—

(1) on the east by a line three hundred feet east of the electrical transmission line crossing area VII–A on January 1, 1979;

(2) on the west by a line fifty feet west of such electrical transmission line; and

(3) on the north and south by the northern and southern boundaries, respectively, of area VII–A.

(c) Boundaries of area VII–A

Area VII–A includes the bed of the railroad tracks forming the northern and northwestern boundaries of this area and extends to the northern edge of the bed of the railroad tracks forming the southern boundaries of this area.

(d) Inclusion in area I–D

Area I–D includes the bed of the railroad tracks along the northern boundary of this area.

(e) Exclusions from area VII–C

The area designated as area VII–C on the map referred to in section 460u of this title does not include approximately 1.3 acres of land on which the Linde Air Products plant is situated, nor does it include approximately 1 acre of land on which the Old Union Station building and the adjacent REA building are situated. Except as provided in the foregoing sentence, area VII–C extends to, but does not include, the beds of the railroad tracks forming the northern and southern boundaries of such area.

(Pub. L. 89–761, § 23, as added Pub. L. 96–612, § 1(13), Dec. 28, 1980, 94 Stat. 3577.)

§ 460u–24. Little Calumet River and Burns/Portage Waterway

(a) Cooperative agreement

The Secretary may enter into a cooperative agreement with the Little Calumet River Basin Development Commission, the State of Indiana or any political subdivision thereof for the planning, management, and interpretation of recreational facilities on the tract within the boundaries of Indiana Dunes National Lakeshore identified as tract numbered 09–177 or on lands under the jurisdiction of the State of Indiana or political subdivision thereof along the Little Calumet River and Burns Waterway. The cooperative agreement may include provision for the planning of public facilities for boating, canoeing, fishing, hiking, bicycling, and other compatible recreational activities. Any recreational developments on lands under the jurisdiction of the National Park Service planned pursuant to this cooperative agreement shall be in a manner consistent with the purposes of this subchapter, including section 460u–6(b) of this title.

(b) Study

The Secretary shall conduct a study regarding the options available for linking the portions of the lakeshore which are divided by the Little Calumet River and Burns/Portage Waterway so as to coordinate the management and recreational use of the lakeshore. The Secretary shall submit the results of the study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within two years after October 29, 1986. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the study.

(Pub. L. 89–761, § 24, as added Pub. L. 99–583, § 1(i), Oct. 29, 1986, 100 Stat. 3320.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460u–25. Cooperative agreement with Gary, Indiana

In furtherance of the purposes of this subchapter, the Secretary may enter into a cooperative agreement with the city of Gary, Indiana, pursuant to which the Secretary may provide technical assistance in interpretation, planning, and resource management for programs and developments in the city of Gary's Marquette Park and Lake Street Beach.

(Pub. L. 89–761, § 25, as added Pub. L. 102–430, § 6, Oct. 23, 1992, 106 Stat. 2209.)

§ 460u–26. Units VII–D and I–M

(a) Before acquiring lands or interests in lands in Unit VII–D (as designated on the map described in section 460u of this title) the Secretary shall consult with the Commissioner of the Indiana Department of Transportation to determine what lands or interests in lands are required by the State of Indiana for improvements to 15th Avenue (including the extension known as Old Hobart Road) and reconstruction and relocation of the intersection of 15th Avenue and State Road 51 so that the acquisition by

the Secretary of lands or interests in lands in Unit VII–D will not interfere with planned improvements to the interchange and 15th Avenue in the area.

(b) Before acquiring lands or interests in lands in Unit I–M (as designated on the map referred to in section 460u of this title) the Secretary shall consult with the Commissioner of the Indiana Department of Transportation to determine what lands or interests in lands are required by the State of Indiana for improvements to State Road 49 and reconstruction and relocation of the interchange with State Road 49 and U.S. 20 so that the acquisition by the Secretary of lands or interests in lands in Unit I–M will not interfere with planned improvements to such interchange and State Road 49 in the area.

(Pub. L. 89–761, § 26, as added Pub. L. 102–430, § 7, Oct. 23, 1992, 106 Stat. 2209.)

SUBCHAPTER LXXX—FLAMING GORGE NATIONAL RECREATION AREA

§ 460v. Establishment

In order to provide, in furtherance of the purposes of the Colorado River storage project, for the public outdoor recreation use and enjoyment of the Flaming Gorge Reservoir and surrounding lands in the States of Utah and Wyoming and the conservation of scenic, scientific, historic, and other values contributing to public enjoyment of such lands and waters, there is hereby established, subject to valid existing rights, the Flaming Gorge National Recreation Area in the States of Utah and Wyoming (hereinafter referred to as the ''recreation area''). The boundaries of the recreation area shall be those shown on the map entitled ''Proposed Flaming Gorge National Recreation Area,'' which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture.

(Pub. L. 90–540, § 1, Oct. 1, 1968, 82 Stat. 904.)

DUTCH JOHN FEDERAL PROPERTY DISPOSITION AND ASSISTANCE

Pub. L. 105–326, Oct. 30, 1998, 112 Stat. 3040, as amended by Pub. L. 106–176, title III, § 303, Mar. 10, 2000, 114 Stat. 32, related to disposition of certain Federal properties located in Dutch John, Utah, and to assistance to local government in interim delivery of basic services to Dutch John community.

§ 460v–1. Administration, protection, and development by Secretary of Agriculture; administration of land or waters for Colorado River storage project by Secretary of the Interior

The administration, protection, and development of the recreation area shall be by the Secretary of Agriculture (hereinafter called the ''Secretary'') in accordance with the laws, rules, and regulations applicable to national forests, in a manner coordinated with the other purposes of the Colorado River storage project, and in such manner as in his judgment will best provide for (1) public outdoor recreation benefits; (2) conservation of scenic, scientific, historic, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of natural resources as in his judgment will promote or are compatible with, and do not significantly impair the purposes for which the recreation area is established: *Provided*, That lands or waters needed or used for the operation of the Colorado River storage project shall continue to be administered by the Secretary of the Interior to the extent he determines to be required for such operation.

(Pub. L. 90–540, § 2, Oct. 1, 1968, 82 Stat. 904.)

§ 460v–2. Boundaries; adjustments; publication in Federal Register

Within six months after October 1, 1968, the Secretary shall publish in the Federal Register a detailed description of the boundaries of the recreation area. Following such publication, the Secretary may make minor adjustments in the boundary of the recreation area by publication of the amended description thereof in the Federal Register: *Provided*, That the total acreage of the recreation area within the adjusted boundary does not exceed the acreage of the recreation area as shown on the map referred to in section 460v of this title.

(Pub. L. 90–540, § 3, Oct. 1, 1968, 82 Stat. 904.)

§ 460v–3. Hunting, fishing, and trapping

The Secretary shall permit hunting, fishing, and trapping on the lands and waters under his jurisdiction within the recreation area in accordance with the applicable Federal and State laws: *Provided*, That the Secretary, after consultation with the respective State fish and game commissions, may issue regulations designating zones where and establishing periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Nothing in this subchapter shall affect the jurisdiction or responsibilities of the States of Utah and Wyoming under other provisions of State laws with respect to hunting and fishing.

(Pub. L. 90–540, § 4, Oct. 1, 1968, 82 Stat. 904.)

§ 460v–4. Lands withdrawn from location, entry, and patent under United States mining laws; removal of minerals; receipts, disposition

The lands within the recreation area, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws. The Secretary of the Interior, under such regulations as he deems appropriate, may permit the removal of the nonleasable minerals from lands or interests in lands within the recreation area in the manner prescribed by section 387 of title 43, and he may permit the removal of leasable minerals from lands or interests in lands within the recreation area in accordance with the Mineral Leasing Act of February 24, 1920,[1] as amended [30 U.S.C. 181 et seq.], or the Acquired Lands Mineral Leasing Act of August 7, 1947 [30 U.S.C. 351 et seq.], if he finds that such disposition would not have significant adverse effects on the purposes of the Colorado River storage project and the Secretary of Agriculture finds that such disposition would not have significant adverse effects on the

[1] So in original. Probably should be ''February 25, 1920,''.

purposes of the recreation area: *Provided*, That any lease or permit respecting such minerals in the recreation area shall be issued only with the consent of the Secretary of Agriculture and subject to such conditions as he may prescribe.

All receipts derived from permits and leases issued under the authority of this section for removal of nonleasable minerals shall be paid into the same funds or accounts in the Treasury of the United States and shall be distributed in the same manner as provided for receipts from national forests. Any receipts derived from permits or leases issued on lands in the recreation area under the Mineral Leasing Act of February 25, 1920, as amended, or the Act of August 7, 1947, shall be disposed of as provided in the applicable Act.

(Pub. L. 90–540, § 5, Oct. 1, 1968, 82 Stat. 904.)

REFERENCES IN TEXT

The Acquired Lands Mineral Leasing Act of August 7, 1947, referred to in text, is act Aug. 7, 1947, ch. 513, 61 Stat. 913, which is classified generally to chapter 7 (§ 351 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 351 of Title 30 and Tables.

§ 460v–5. Ashley National Forest; addition of lands of Flaming Gorge National Recreation Area

The boundaries of the Ashley National Forest are hereby extended to include all of the lands not presently within such boundaries lying within the recreation area as described in accordance with sections 460v and 460v–2 of this title.

(Pub. L. 90–540, § 6, Oct. 1, 1968, 82 Stat. 905.)

§ 460v–6. Addition of lands to Forest; administration of land for Colorado River storage project by Secretary of the Interior

Subject to any valid claim or entry now existing and hereafter legally maintained, all public lands of the United States and all lands of the United States heretofore or hereafter acquired or reserved for use in connection with the Colorado River storage project within the exterior boundaries of the recreation area which have not heretofore been added to and made a part of the Ashley National Forest, and all lands of the United States acquired for the purpose of the recreation area, are hereby added to and made a part of the Ashley National Forest: *Provided*, That lands within the flow lines of any reservoir operated and maintained by the Department of the Interior or otherwise needed or used for the operation of the Colorado River storage project shall continue to be administered by the Secretary of the Interior to the extent he determines to be required for such operation.

(Pub. L. 90–540, § 7, Oct. 1, 1968, 82 Stat. 905.)

§ 460v–7. Availability of land and water conservation fund moneys

Funds hereafter appropriated and available for the acquisition of lands and waters and interests therein in the national forest system pursuant to section 460*l*–9 of this title, shall be available for the acquisition of any lands, waters, and interests therein within the boundaries of the recreation area.

(Pub. L. 90–540, § 8, Oct. 1, 1968, 82 Stat. 905.)

§ 460v–8. State and local jurisdiction

Nothing in this subchapter shall deprive any State or political subdivision thereof of its right to exercise civil and criminal jurisdiction within the recreation area consistent with the provisions of this subchapter or of its right to tax persons, corporations, franchises, or other non-Federal property, including mineral or other interests, in or on lands or waters within the recreation area.

(Pub. L. 90–540, § 9, Oct. 1, 1968, 82 Stat. 905.)

SUBCHAPTER LXXXI—APOSTLE ISLANDS NATIONAL LAKESHORE

§ 460w. Establishment; boundaries

In order to conserve and develop for the benefit, inspiration, education, recreational use, and enjoyment of the public certain significant islands and shoreline of the United States and their related geographic, scenic, and scientific values, there is hereby established the Apostle Islands National Lakeshore (hereinafter referred to as the ''lakeshore'') in Ashland and Bayfield Counties, Wisconsin, consisting of:

(a) In general

the[1] area generally depicted on the map entitled ''Apostle Islands National Lakeshore'', numbered NL–AI–91,000, sheets 1 and 2, and dated June 1970; and

(b) Long Island addition

Approximately 200 acres of land at the mouth of Chequamegon Bay known as ''Long Island'', as depicted on the map numbered NL–AI–91,001 and dated December, 1985..[2]

The maps shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior.

(Pub. L. 91–424, § 1, Sept. 26, 1970, 84 Stat. 880; Pub. L. 99–497, § 1(1), Oct. 17, 1986, 100 Stat. 1267.)

AMENDMENTS

1986—Pub. L. 99–497 designated the provision specifying the boundaries of the Apostle Islands National Lakeshore as the area depicted on the map numbered NL–AI–91,000 as par. (a), substituted ''1970; and'' for ''1970'', added par. (b), and in provision following par. (b) substituted ''maps'' for ''map''.

§ 460w–1. Boundaries not to include lands held in trust by United States for Red Cliff Band or Bad River Band of Lake Superior Chippewa Indians; exceptions

No lands held in trust by the United States for either the Red Cliff Band or Bad River Band of the Lake Superior Chippewa Indians, or for allottees thereof, shall be acquired or included within the boundaries of the lakeshore established by this subchapter, with the following exception:

If the Indians who own more than 50 per centum of the interest in allotment number 74 GL or allotment number 135 in the Red Cliff Res-

[1] So in original. Probably should be capitalized.

[2] So in original.

ervation agree to sell the allotment to the Secretary of the Interior (hereinafter referred to as the ''Secretary''), the Secretary may consent to the sale on behalf of the other owners, purchase the allotment for the negotiated price and revise the boundaries of the lakeshore to include the allotment.

(Pub. L. 91–424, § 2, Sept. 26, 1970, 84 Stat. 880.)

§ 460w–2. Acquisition of property; authority of Secretary; State and Federal lands

The Secretary may acquire within the boundaries of the lakeshore lands and interests therein by donation, purchase with donated or appropriated funds, or exchange, but lands and interests in lands owned by the State of Wisconsin may be acquired only by donation. Notwithstanding any other provision of law, any Federal property located within the boundaries of the lakeshore is hereby transferred without transfer of funds to the administrative jurisdiction of the Secretary for the purposes of the lakeshore: *Provided*, That the United States Coast Guard may retain a right to utilize a portion of such land and facilities for use as navigational aids so long as may be required.

(Pub. L. 91–424, § 3, Sept. 26, 1970, 84 Stat. 880; Pub. L. 99–497, § 1(2), Oct. 17, 1986, 100 Stat. 1267.)

AMENDMENTS

1986—Pub. L. 99–497 substituted ''is hereby'' for ''may, with the concurrence of the agency having custody thereof, be'' and inserted proviso permitting the United States Coast Guard to utilize a portion of the lands and facilities for use as navigational aids as long as required.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 460w–3. Retention rights of owners of improved property

(a) Designation of lands as administrative site, visitor center, and related facilities; election by owners of term of rights retained; adjustment of compensation

With the exception of not more than eighty acres of land to be designated within the lakeshore boundaries by the Secretary as an administrative site, visitor center, and related facilities, as soon as practicable, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term not to exceed twenty-five years, or, in lieu thereof, for a term ending at the death of the owner, or the death of his spouse, whichever is the later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(b) Termination right of Secretary upon determination that retained property or any portion thereof has ceased to be used for noncommercial residential or agricultural purposes; adjustment of compensation

A right of use and occupancy retained pursuant to this section may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof has ceased to be used for noncommercial residential or for agricultural purposes, and upon tender to the holder of a right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

(c) "Improved property" defined

The term ''improved property'', as used in this section, shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1967, or before January 1, 1985 for those lands referred to in section 460w(b) of this title (hereinafter referred to as ''dwelling''), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(Pub. L. 91–424, § 4, Sept. 26, 1970, 84 Stat. 880; Pub. L. 99–497, § 1(3), Oct. 17, 1986, 100 Stat. 1267.)

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–497 inserted '', or before January 1, 1985 for those lands referred to in section 460w(b) of this title''.

§ 460w–4. Hunting, fishing, and trapping

The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the lakeshore in accordance with the appropriate laws of Wisconsin and the United States to the extent applicable, except that he may designate zones where, and establish periods when, no hunting, trapping, or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations prescribing any such restrictions shall be put into effect only after consultation with the appropriate State agency responsible for hunting, trapping, and fishing activities.

(Pub. L. 91–424, § 5, Sept. 26, 1970, 84 Stat. 881.)

§ 460w–5. Administration, protection, and development of lakeshore by Secretary

The lakeshore shall be administered, protected, and developed in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented; and sections 8 to 8c of this title, as amended, except that any other statutory authority available to the Sec-

retary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this subchapter.

(Pub. L. 91–424, § 6, Sept. 26, 1970, 84 Stat. 881.)

§ 460w–6. Land and water use management plan; adoption, implementation, and revision of plan by Secretary; required provisions of plan

In the administration, protection, and development of the lakeshore, the Secretary shall adopt and implement, and may from time to time revise, a land and water use management plan which shall include specific provision for—

(a) protection of scenic, scientific, historic, geological, and archeological features contributing to public education, inspiration, and enjoyment;

(b) development of facilities to provide the benefits of public recreation together with such access roads as he deems appropriate; and

(c) preservation of the unique flora and fauna and the physiographic and geologic conditions now prevailing on the Apostle Islands within the lakeshore: *Provided*, That the Secretary may provide for the public enjoyment and understanding of the unique natural, historical, scientific, and archeological features of the Apostle Islands through the establishment of such trails, observation points, exhibits, and services as he may deem desirable.

(Pub. L. 91–424, § 7, Sept. 26, 1970, 84 Stat. 881.)

§ 460w–7. Authorization of appropriations

There are authorized to be appropriated not more than $5,250,000 for the acquisition of lands and interests in lands and not more than $5,000,000 for the development of the Apostle Islands National Lakeshore. Effective October 1, 1986, there are authorized to be appropriated such additional sums as may be necessary for the acquisition of the lands described in section 460w(b) of this title.

(Pub. L. 91–424, § 8, Sept. 26, 1970, 84 Stat. 881; Pub. L. 93–477, title I, § 101(11), Oct. 26, 1974, 88 Stat. 1445; Pub. L. 99–497, § 1(4), Oct. 17, 1986, 100 Stat. 1267.)

AMENDMENTS

1986—Pub. L. 99–497 inserted provision authorizing additional sums to be appropriated as necessary for acquisition of lands described in section 460w(b) of this title.

1974—Pub. L. 93–477 substituted ''$5,250,000'' for ''$4,250,000''.

SUBCHAPTER LXXXII—SLEEPING BEAR DUNES NATIONAL LAKESHORE

§ 460x. Establishment

(a) Purpose; administration

The Congress finds that certain outstanding natural features, including forests, beaches, dune formations, and ancient glacial phenomena, exist along the mainland shore of Lake Michigan and on certain nearby islands in Benzie and Leelanau Counties, Michigan, and that such features ought to be preserved in their natural setting and protected from developments and uses which would destroy the scenic beauty and natural character of the area. In order to accomplish this purpose for the benefit, inspiration, education, recreation, and enjoyment of the public, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to take appropriate action, as herein provided, to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore. In carrying out the provisions of this subchapter, the Secretary shall administer and protect the Sleeping Bear Dunes National Lakeshore in a manner which provides for recreational opportunities consistent with the maximum protection of the natural environment within the area.

(b) Cooperation between Federal, State, and local governments

In preserving the lakeshore and stabilizing its development, substantial reliance shall be placed on cooperation between Federal, State, and local governments to apply sound principles of land use planning and zoning. In developing the lakeshore, full recognition shall be given to protecting the private properties for the enjoyment of the owners.

(Pub. L. 91–479, § 1, Oct. 21, 1970, 84 Stat. 1075.)

§ 460x–1. Description of area

(a) In general

The Sleeping Bear Dunes National Lakeshore (hereinafter referred to as the ''lakeshore'') shall comprise the land and water area generally depicted on the map entitled ''A Proposed Sleeping Bear Dunes National Lakeshore Boundary Map'', numbered NL–SBD–91,000 and dated May 1969, which shall be on file and available for public inspection in the offices of the National Park Service of the Department of the Interior.

(b) Establishment; notice in Federal Register

As soon as practicable after October 21, 1970, and following the acquisition by the Secretary of those lands owned by the State of Michigan within the boundaries of the area designated for inclusion in the lakeshore (excepting not to exceed three hundred acres in the Platte Bay area) and of such additional lands, if any, as are necessary to provide an area which in his opinion is efficiently administrable for the purposes of this subchapter, he shall establish the Sleeping Bear Dunes National Lakeshore by publication of notice thereof in the Federal Register.

(Pub. L. 91–479, § 2, Oct. 21, 1970, 84 Stat. 1075.)

§ 460x–2. Designation of lakeshore areas

(a) Area categories; publication in Federal Register

Within thirty days, or as soon as possible thereafter, after October 21, 1970, the Secretary shall publish in the Federal Register a map or other description of the lakeshore delineating areas constituting the following categories:

Category I, public use and development areas.

Category II, environmental conservation areas.

Category III, private use and development areas.

(b) Acquisition of lands and interests therein of category I areas

Lands and interests therein designated as category I may be acquired by the Secretary in accordance with section 460x–7 of this title.

(c) Designation of lands as within categories II and III for acquisition by Secretary; publication in Federal Register

Within one hundred and fifty days after October 21, 1970, the Secretary shall publish in the Federal Register an additional map or other description of those lands, if any, designated as within categories II and III for acquisition by him in fee in accordance with section 460x–7 of this title.

(d) Acquisition of interests in lands designated as category II; limitations

Except as provided in subsection (f) of this section, the Secretary may, after the publication provided for in subsection (c) of this section, acquire only such interests in lands designated as category II, other than those to be acquired in fee simple, as he deems appropriate to insure the continued conservation and preservation of the environmental quality of the lakeshore.

(e) Acquisition of interests in lands designated as category III; limitations

Except as provided in subsection (f) of this section, the Secretary may, after the publication provided for in subsection (c) of this section, acquire only such interests in lands designated as category III, other than those lands to be acquired in fee simple, as he deems appropriate to protect lands designated for acquisition.

(f) Restrictions on use and development of real property in categories II and III; notification of owners by Secretary of minimum restrictions on use and development for retention of property; compliance with restrictions as barring acquisition by Secretary; applicability to owners not notified by Secretary; acquisition from owners not agreeing to use of property in accordance with notice; acquisition of fee simple title

Not later than one hundred and fifty days after October 21, 1970, the Secretary shall notify owners of real property in categories II and III, other than property designated by him for fee acquisition, of the minimum restrictions on use and development of such property under which such property can be retained in a manner compatible with the purpose for which the lakeshore was established. If the owner of any real property in categories II and III agrees to the use and development of his property in accordance with such restrictions, the Secretary may not acquire, without the consent of such owner, such property or interests therein for so long as the property affected is used in accordance with such restrictions, unless he determines that such property is needed for public use development. The foregoing limitations on acquisition shall also apply to any owners of real property to whom the Secretary did not, within the time set forth, give such a notice, except that if any property owner has not, within ninety days of the notice agreed to use the property in accordance with the notice, then the Secretary may acquire, without limitation, fee or lesser interests in property by any of the methods set forth in section 460x–7 of this title: *Provided*, That nothing contained in subsections (d) and (e) of this section, and in this subsection, which limits the acquisition of the fee simple title to property within the lakeshore, shall prevent the Secretary from acquiring, without the consent of the owner, the fee simple title whenever in the Secretary's judgment the estimated cost of acquiring the lesser interest would be a substantial percentage of the estimated cost of acquiring the fee simple title.

(Pub. L. 91–479, § 3, Oct. 21, 1970, 84 Stat. 1075.)

§ 460x–3. Sleeping Bear Dunes National Lakeshore Advisory Commission

(a) Establishment; termination

There is hereby established a Sleeping Bear Dunes National Lakeshore Advisory Commission. The Commission shall cease to exist twenty years after the establishment of the lakeshore pursuant to section 460x–1 of this title.

(b) Membership; appointment; term of office; recommendation or designation of appointees

The Commission shall be composed of ten members, each appointed for a term of two years by the Secretary, as follows:

(1) Four members to be appointed from recommendations made by the counties in which the lakeshore is situated, two members to represent each such county;

(2) Four members to be appointed from recommendations made by the Governor of the State of Michigan; and

(3) Two members to be designated by the Secretary.

(c) Chairman; vacancies

The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) Compensation and expenses; vouchers

A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this subchapter on vouchers signed by the Chairman.

(e) Consultation of Secretary with Commission

The Secretary or his designee shall consult with the Commission with respect to—

(1) matters relating to the development of the lakeshore and with respect to the provisions of sections 460x–8, 460x–11, and 460x–12 of this title; and

(2) matters relating to the implementation of the General Management Plan provided for in section 460x–5(b) of this title.

(Pub. L. 91–479, § 4, Oct. 21, 1970, 84 Stat. 1076; Pub. L. 100–558, Oct. 28, 1988, 102 Stat. 2796.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–558, § 1(1), substituted ''twenty'' for ''ten''.

Subsec. (e). Pub. L. 100–558, § 1(2), amended subsec. (e) generally, designating existing provisions as par. (1) and adding par. (2).

§ 460x–4. Hunting and fishing; issuance of regulations

In administering the lakeshore the Secretary shall permit hunting and fishing on lands and waters under his jurisdiction in accordance with the laws of the State of Michigan and the United States applicable thereto. The Secretary, after consultation with the appropriate agency of the State of Michigan, may designate zones and establish periods where and when no hunting shall be permitted for reasons of public safety, administration, or public use and enjoyment and issue regulations, consistent with this section, as he may determine necessary to carry out the purposes of this section.

(Pub. L. 91–479, § 5, Oct. 21, 1970, 84 Stat. 1076.)

§ 460x–5. Administration, protection, and development

(a) Applicability of provisions; utilization of statutory authorities

The administration, protection, and development of the lakeshore shall be exercised by the Secretary, subject to the provisions of this subchapter and of sections 1, 2, 3, and 4 of this title, as amended and supplemented, relating to the areas administered and supervised by the Secretary through the National Park Service; except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this subchapter.

(b) Land and water use management plan; preparation and implementation by Secretary; required provisions

In the administration, protection, and development of the area, the Secretary shall prepare and implement a land and water use management plan, which shall include specific provisions for—

(1) development of facilities to provide the benefits of public recreation;

(2) protection of scenic, scientific, and historic features contributing to public enjoyment; and

(3) such protection, management, and utilization of renewable natural resources as in the judgment of the Secretary is consistent with, and will further the purpose of, public recreation and protection of scenic, scientific, and historic features contributing to public enjoyment.

(c) Area review by Secretary; report to President; recommendations for preservation of any area within lakeshore as wilderness; designation as a wilderness

Within four years from October 21, 1970, the Secretary of the Interior shall review the area within the Sleeping Bear Dunes National Lakeshore and shall report to the President, in accordance with subsections (c) and (d) of section 1132 of this title, his recommendation as to the suitability or nonsuitability of any area within the lakeshore for preservation as wilderness, and any designation of any such area as a wilderness shall be accomplished in accordance with said subsections.

(d) Public use areas; preservation of rights of owner or occupant of improved property located within public use area

In developing the lakeshore the Secretary shall provide public use areas in such places and manner as he determines will not diminish the value or enjoyment for the owner or occupant of any improved property located thereon.

(Pub. L. 91–479, § 6, Oct. 21, 1970, 84 Stat. 1077.)

§ 460x–6. Taxing power

Nothing in this subchapter shall be construed as prohibiting any governmental jurisdiction in the State of Michigan from assessing taxes upon any interest in real estate retained under the provisions of section 460x–9 of this title to the owner of such interest.

(Pub. L. 91–479, § 7, Oct. 21, 1970, 84 Stat. 1077.)

§ 460x–7. Acquisition of property

(a) Authority of Secretary; manner of acquisition; procedure for lands partly within designated area

The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer funds, transfer from any Federal agency, or exchange lands and interests therein for the purposes of this subchapter. When an individual tract of land is only partly within the area designated, the Secretary may acquire the entire tract by any of the above methods to avoid the payment of severance costs. Land so acquired outside the designated area may be exchanged by the Secretary for non-Federal lands within such area, and any portion of the land not utilized for such exchanges may be disposed of in accordance with the provisions of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(b) Sale offers; hardship from delay; time and manner of purchase

In exercising his authority to acquire property under this subchapter, the Secretary shall give immediate and careful consideration to any offer made by an individual owning property within the lakeshore to sell such property to the Secretary. An individual owning property within the lakeshore may notify the Secretary that the continued ownership by such individual of that property would result in hardship to him, and the Secretary shall immediately consider such evidence and shall within one year following the submission of such notice, subject to the availability of funds, purchase such property offered for a price which does not exceed its fair market value.

(c) State donations; transfer from Federal agency to administrative jurisdiction of Secretary

Any property or interests therein, owned by the State of Michigan or any political subdivisions thereof, may be acquired only by donation. Notwithstanding any other provision of law, any property owned by the United States on October 21, 1970, located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the

administrative jurisdiction of the Secretary for use by him in carrying out the provisions of this subchapter.

(d) Initiation of condemnation proceedings subsequent to failure of Secretary to negotiate for purchase of property; certificate of compliance with negotiation procedure

With respect to that property which the Secretary is authorized to acquire by condemnation under the terms of this subchapter, the Secretary shall initiate no condemnation proceedings until after he has made every reasonable effort to acquire such property by negotiation and purchase. The certificate of the determination by the Secretary or his designated representative that there has been compliance with the provisions of this subsection and of subsection (b) of this section shall be prima facie evidence of such compliance.

(e) Condemnation to acquire clear, marketable, and encumbrance-free title

Nothing in this subchapter shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

(Pub. L. 91–479, § 8, Oct. 21, 1970, 84 Stat. 1077.)

CODIFICATION

In subsec. (a), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended (40 U.S.C. 471 et seq.)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

SLEEPING BEAR DUNES NATIONAL LAKESHORE

Pub. L. 108–229, May 28, 2004, 118 Stat. 645, provided that:

''SECTION 1. EXPANSION OF SLEEPING BEAR DUNES NATIONAL LAKESHORE.

''(a) IN GENERAL.—When title to the land described in subsection (b) has vested in the United States in fee simple, the boundary of Sleeping Bear Dunes National Lakeshore is revised to include such land in that park.

''(b) LAND DESCRIBED.—The land referred to in subsection (a) consists of approximately 104.45 acres of unimproved lands generally depicted on National Park Service map number 634/80078, entitled 'Bayberry Mills, Inc. Crystal River, MI Proposed Expansion Unit to Sleeping Bear Dunes National Lakeshore'. The Secretary of the Interior shall keep such map on file and available for public inspection in the appropriate offices of the National Park Service.

''(c) PURCHASE OF LANDS AUTHORIZED.—The Secretary of the Interior may acquire the land described in subsection (b), only by purchase from a willing seller.

''SEC. 2. LIMITATION ON ACQUISITION BY EXCHANGE OR CONVEYANCE.

''The Secretary of the Interior may not acquire any of the land described in subsection (b) of section 1 through any exchange or conveyance of lands that are within the boundary of the Sleeping Bear Dunes National Lakeshore as of the date of the enactment of this Act [May 28, 2004].''

§ 460x–8. Zoning bylaws

(a) Authority of Secretary to assist any township or county in or adjacent to lakeshore; payments for technical aid

The Secretary shall, at the request of any township or county in or adjacent to the lakeshore affected by this subchapter, assist and consult with the appropriate officers and employees of such township or county in establishing zoning bylaws for the purpose of this subchapter. Such assistance may include payments to the county or township for technical aid.

(b) Suspension of condemnation power over improved property

No improved property within the area designated for inclusion in the lakeshore shall be acquired by the Secretary by condemnation so long as the affected county or township has in force and applicable thereto a duly adopted, valid zoning bylaw approved by the Secretary in accordance with the provisions of subsection (d) of this section and the use of improved property is in compliance therewith. In the event that the affected county or township does not have in effect and applicable to any improved property a duly adopted, valid zoning bylaw so approved, the Secretary shall be prohibited from acquiring such property by condemnation, if the owner thereof notifies the Secretary in writing of such owner's agreement to use his property in a manner consistent with the applicable standard set forth in subsection (d) of this section, and such prohibition against condemnation shall remain in effect for so long as such property is so used.

(c) Notification of owner by Secretary of use of property inconsistent with applicable bylaws or standards; requirements of notice; discontinuance of use by owner; condemnation upon failure to discontinue use

If the Secretary determines that any such property referred to in subsection (b) of this section covered by any such bylaw is being used in a way which is not in substantial compliance with such bylaw, or that any such property referred to in subsection (b) of this section with respect to which an agreement has been made is being used in a manner which is not substantially consistent with such applicable standards, he shall so notify the owner of any such property in writing. Such notice shall contain a detailed statement as to why the Secretary believes that such use is not in substantial compliance with such zoning bylaw or why such use is not substantially consistent with such applicable standards, as the case may be. Any such owner shall have sixty days following the receipt by him of that written notification within which to discontinue the use referred to in such notification. Discontinuance of such use within such sixty-day period shall have the effect of prohibiting the Secretary from acquiring such property by condemnation by reason of such use. In any case in which such use is not discontinued within such sixty-day period, the Secretary may, in his discretion, acquire such property by condemnation.

(d) Conditions for approval by Secretary

Any zoning bylaw or amendment thereto submitted to the Secretary for approval for the pur-

poses of this subchapter shall be approved by him if such bylaw or amendment contains provisions which—

(1) contribute to the effect of prohibiting the commercial and industrial use (other than a use for a commercial purpose as authorized under section 460x–12 of this title) of all property within the boundaries of such area which is situated within the county or township adopting such bylaw or amendment;

(2) are consistent with the objectives and purposes of this subchapter so that, to the extent possible under Michigan law, the scenic and scientific values of the lakeshore area will be protected;

(3) are designed to preserve the lakeshore character of the area by appropriate restrictions upon the burning of cover, cutting of timber (except tracts managed for sustained yield), removal of sand or gravel, and dumping, storage, or piling of refuse and other unsightly objects or other uses which would detract from the natural or traditional lakeshore scene;

(4) provide that no construction, reconstruction, moving, alteration, or enlargement of any property, including improved property as defined in this subchapter, within the lakeshore area shall be permitted, if such construction, reconstruction, moving, alteration, or enlargement would afford less than a fifty-foot setback from all streets measured at a right angle with the street line, and a twenty-five-foot distance from all contiguous properties. Any owner or zoning authority may request the Secretary of the Interior to determine whether a proposed move, alteration, construction, reconstruction, or enlargement of any such property would subject such property to acquisition by condemnation, and the Secretary, within sixty days of the receipt of such request, shall advise the owner or zoning authority in writing whether the intended use will subject the property to acquisition by condemnation; and

(5) have the effect of providing that the Secretary shall receive notice of any variance granted under, and of any exception made to the application of, such bylaw or amendment.

(e) Withdrawal or revocation of approval by Secretary; retroactive effect

The approval of any bylaw or amendment pursuant to subsection (d) of this section shall not be withdrawn or revoked by the Secretary for so long as such bylaw or amendment remains in effect as approved. Any such bylaw or amendment so approved shall not be retroactive in its application.

(Pub. L. 91–479, § 9, Oct. 21, 1970, 84 Stat. 1078.)

§ 460x–9. Right of retention of residential use in improved lands

(a) Limited term; conforming use; payment for right; sale or lease of right

Any owner or owners of improved property situated within the area designated for inclusion in the lakeshore on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain, for a term of not to exceed twenty-five years, or for a term ending at the death of such owner or owners, the right of use and occupancy of such property for any residential purpose which is not incompatible with the purposes of this subchapter, or which does not impair the usefulness and attractiveness of the area designated for inclusion. The Secretary shall pay to the owner the value of the property on the date of such acquisition, less the value on such date of the right retained by the owner. Where any such owner retains a right of use and occupancy as herein provided, such right during its existence may be conveyed or leased for noncommercial residential purposes in accordance with the provisions of this section.

(b) Option to retain use of land; notice to Secretary; payment

Any person who is—

(1) an owner of improved property described in section 460x–10(a)(2) of this title which is situated within the area designated for inclusion in the lakeshore on the date of its acquisition by the Secretary; or

(2) an occupier of improved property described in section 460x–10(a)(2) of this title which is situated within the area designated for inclusion in the lakeshore on the date of its acquisition by the Secretary, in situations where the fee ownership of such improved property has been heretofore acquired by the United States (whether by donation, purchase, condemnation, exchange or otherwise);

may retain, for a term not to exceed twenty-five years from January 1, 1973, or for a term ending on the death of such owner or occupier, the right of use or occupancy of such property for any residential purpose which is not incompatible with the purposes of this subchapter or which does not impair the usefulness and attractiveness of the area designated for inclusion. Such owner or occupier must notify the Secretary of any intention to exercise such option within 60 days after receipt of the notice referred to in section 460x–10(c)(3) of this title. In situations where the United States has not heretofore acquired fee title to the improved property, the Secretary shall pay to the owner the value of the property on the date of such acquisition, less the value on such date of the right retained by the owner. In situations where the United States has heretofore acquired fee title to the improved property, the occupier may notify the Secretary that such occupier elects to retain continued use and occupancy of such property pursuant to this section, in which event the occupier shall pay to the Secretary the value of the additional right retained, which value shall be based upon the value of the property at the time of its acquisition by the Secretary.

(c) Limitation on use in instrument evidencing right; Secretary's power of termination of right

Any deed or other instrument used to transfer title to property, with respect to which a right of use and occupancy is retained under this section, and any instrument evidencing any right of use and occupancy retained by any occupier under this section, shall provide that such property shall not be used for any purpose which is

incompatible with purposes of this subchapter, or which impairs the usefulness and attractiveness of such area, and if it should be so used, that the Secretary many[1] terminate such right. In the event the Secretary exercises his power of termination under this subsection he shall pay to the owner of the right terminated an amount equal to the value of that portion of such right which remained unexpired on the date of such termination.

(d) Transfer of right to member of immediate family; owner option to terminate; payment by Secretary; "member of the immediate family" defined

(1) Any owner or occupier of improved property who retains a right of use and occupancy under subsection (b) of this section may convey or lease such right during its existence to a member of such owner or occupier's immediate family for noncommercial residential purposes which are not incompatible with the purposes of this subchapter and which do not impair the usefulness and attractiveness of the area designated for inclusion.

(2) Any owner or occupier of improved property who has retained a right of use and occupancy under subsection (b) of this section may terminate such right at any time, and the Secretary shall pay, within 120 days after the date of such termination, to the owner of the right terminated an amount equal to the value of that portion of such right which remained unexpired on the date of such termination.

(3) As used in this subchapter, the term ''member of the immediate family'' means spouse, brother, sister, or child, including persons bearing such relationships through adoption, and step-child.

(Pub. L. 91–479, § 10, Oct. 21, 1970, 84 Stat. 1079; Pub. L. 97–361, § 1, Oct. 22, 1982, 96 Stat. 1720.)

AMENDMENTS

1982—Subsec. (b). Pub. L. 97–361 substituted provisions granting owners and occupiers of improved lakeshore property described in section 460x–10 of this title the right of retention of a compatible residential use for a limited term upon notification of the Secretary and payment for the right retained for former provisions which were redesignated as subsec. (c) and amended.

Subsec. (c). Pub. L. 97–361 redesignated subsec. (b) as (c), and amended it to apply expressly to any instrument evidencing any right of use and occupancy retained by any occupier under this section.

Subsec. (d). Pub. L. 97–361 added subsec. (d).

§ 460x–10. Improved property

(a) General definition

As used in this subchapter, the term ''improved property'' means a detached, one-family dwelling, construction of which—

(1) was begun before December 31, 1964, or

(2) for the purposes of section 460x–9(b) or (d) of this title, was begun on or after December 31, 1964, and before October 21, 1970, and has been openly and continuously used, at least during the summer months of each year when similar dwellings in the area are used, as a residential dwelling since such construction was completed, and with respect to the portion of such period after any acquisition of such property by the United States, by the owner, or a member of the immediate family of the owner, of such dwelling on the date of such acquisition,

together with so much of the land on which the dwelling is situated, such land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the lands so designated. The amount of land so designated shall in every case be at least three acres in area, or all of such lesser acreage as may be held in the same ownership as the dwelling, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed.

(b) Authorization to exclude beach lands

The Secretary may exclude from the land designated under subsection (a) of this section any beach or waters on Lake Michigan, together with so much of the land adjoining any such beach or waters as the Secretary may deem necessary for public access thereto. If the Secretary makes such exclusion, an appropriate buffer zone shall be provided between any residence and the public access or beach.

(c) Authorization to exclude recently improved property; termination, compensation, and notice

(1) The Secretary may exclude from the category of ''improved property'' under this subchapter any property described in subsection (a)(2) of this section which the Secretary determines is in an area required for public use or development in the immediate future. In making any such determination the Secretary shall take into account the proximity of such property to any other improved property, the development or public use of the lakeshore and the related timetable therefor, and the anticipated availability in the immediate future of funds related to such development or public use.

(2)(A) With respect to any improved property, as defined in subsection (a)(2) of this section, with respect to which the occupier has retained a right of use and occupancy under section 460x–9(b) of this title, the Secretary may terminate such right 90 days after notifying in writing the occupier, if the Secretary determines that such improved property is needed for public use or development under this subchapter. In making any such determination the Secretary shall take into account the proximity of such property to any other improved property, the development or public use requirements of the lakeshore and related timetable therefor, and the current availability of funds for the proposed public use or development.

(B) The Secretary shall pay to the owner of the right terminated an amount equal to the value of that portion of such right which remained unexpired on the date of such termination.

[1] So in original. Probably should be ''may''.

(3)(A) The Secretary must, within 60 days after October 22, 1982, notify in writing any owner or occupier of property described in subsection (a)(2) of this section that an option to retain rights with respect to such property exists under section 460x–9(b) of this title, whether such property shall be subject to any action by the Secretary under paragraph (1) of this subsection, the nature of such proposed action, the reasons for such proposed action, and the contemplated timetable therefor.

(B) With respect to any proposed action to be taken under paragraph (2) of this subsection, if the Secretary determines within 60 days after October 22, 1982, after taking into account timetable and funding projections, that, consistent with the General Management Plan dated October 1979, public use or development is anticipated before 1998 for an area containing any improved property described in subsection (a)(2) of this section, the Secretary shall include notice of such determination in any notification under subparagraph (A) of this paragraph. Any failure of the Secretary to so notify an occupier pursuant to this subparagraph shall not preclude the Secretary from taking action under paragraph (2) at some future date.

(Pub. L. 91–479, § 11, Oct. 21, 1970, 84 Stat. 1080; Pub. L. 97–361, § 2, Oct. 22, 1982, 96 Stat. 1721.)

AMENDMENTS

1982—Pub. L. 97–361 designated existing provisions up to the proviso as subsec. (a), added cl. (2), designated existing proviso as subsec. (b), and added subsec. (c).

§ 460x–11. Scenic roads

(a) Authority of Secretary for construction, administration, and procurement of land

In order to facilitate visitor travel, provide scenic overlooks for public enjoyment and interpretation of the national lakeshore and related features, and in order to enhance recreational opportunities, the Secretary is authorized to construct and administer as a part of the national lakeshore scenic roads of parkway standards generally lying within Benzie County and within the parkway zone designated on the map specified in section 460x–1(a) of this title. Such scenic roads shall include necessary connections, bridges, and other structural utilities. Notwithstanding any other provision of this subchapter, the Secretary may procure for this purpose land, or interest therein, by donation, purchase with appropriated or donated funds, or otherwise: *Provided*, That land and interest so procured shall not exceed one hundred and fifty acres per mile of scenic road, except that tracts may be procured in their entirety in order to avoid severances. Property so acquired in excess of the acreage limitation provided in this section may be exchanged by the Secretary for any land of approximately equal value authorized for acquisition by this subchapter.

(b) Exchange or sale of lands in Leelanau County

Except as provided in subsection (c) of this section, any lands in Leelanau County acquired by the Secretary under this section before October 22, 1982, which are within the parkway zone depicted on the map specified in section 460x–1(a) of this title but which are not within, or contiguous to, the lakeshore zone as depicted on such map may be exchanged by the Secretary for other lands of approximately equal value in the lakeshore. If the Secretary is unable to effect such an exchange, such lands may be offered for sale to the person who owned such lands immediately before their acquisition by the Secretary. If such previous owner declines such offer, the Secretary may sell such lands to any buyer. Proceeds from any sale under this subsection shall be credited to the account established under section 17 of this Act.

(c) Administration of certain lands as Resource Preservation Areas

The Secretary is authorized to obtain and administer, according to the provisions of this section, as a part of the lakeshore as Resource Preservation Areas certain interests in the following lands:

(1) Approximately 600 acres designated as ''Miller Hill'' on the map numbered 634–91,001, dated September 1982.

(2) Approximately 975 acres as designated as ''Bow Lakes'' on the map numbered 634–91–002, dated September 1982.

(d) Preservation of scenic values in certain lands; use of lands for educational purposes

(1) The Secretary may obtain fee title under subsection (e) of this section to lands described in subsection (c)(1) of this section or easements or other restrictive agreements for the preservation of scenic values in such lands.

(2) The Secretary may obtain fee title under subsection (e) of this section to lands described in subsection (c)(2) of this section, or public access easements or other restrictive agreements consistent with use of such lands for educational purposes and for research and interpretation of natural features.

(e) Manner of acquiring fee title or lesser interest in land

(1) Except as provided under paragraph (4), the Secretary may obtain fee title or other lesser interests to lands described in subsection (c) of this section only—

(A) by gift, donation, or bequest;

(B) by purchase from a willing seller under paragraph (2); or

(C) as an exercise of a right of first refusal under paragraph (3).

(2) The Secretary may negotiate with willing sellers for the transfer of fee title to other lesser interests to lands described in subsection (c) of this section. If the Secretary and such willing seller are unable to agree to a fair purchase price, that question may, by mutual consent be submitted to the appropriate United States District Court for adjudication.

(3) If the owner of any lands described in subsection (c) of this section intends to transfer any interest in such lands except by gift, donation, or bequest, such owner must notify the Secretary of such intention. The Secretary shall have 90 days after notification in which to exercise a right of first refusal to match any bona fide offer to obtain such interest under the same terms and conditions as are contained in such offer. If the Secretary has not exercised such right within 90 days, the owner may transfer such interest.

(4) Condemnation may be used with respect to any lands described in subsection (c) of this section only—

(A) to clear title if necessary for any transfer to the Secretary under this subsection; or

(B) to purchase fee title or such lesser interest as may be sufficient to prevent significant damage to the scenic, soil, or water resources of the lakeshore. Action under this subparagraph shall be used only after attempts to negotiate a solution to the problem have failed. If the Secretary determines that such attempts have failed, the Secretary shall notify in writing the owner of the property involved of the proposed action to be taken under this subparagraph and the Secretary shall seek an injunction to prevent such resource damage. The Secretary may at any time, and if an injunction is granted under this subparagraph the Secretary shall within 30 days after the date of such injunction, send in writing to the owner of the property the Secretary's best and final offer for the purchase of such property. If the owner does not accept such offer, the Secretary may file for condemnation. The Secretary must notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives of any action taken under this subparagraph.

(f) Zoning restrictions for protection of scenic resources

(1) The Secretary shall enter into discussions with appropriate local government officials to develop mutually agreeable zoning restrictions for the protection of scenic resources with respect to the lands described in subsection (c)(1) of this section.

(2) The Secretary shall enter into discussions with appropriate State and local officials responsible for the administration of the Goemaere-Anderson Wetland Protection Act (Michigan, P.A. 203, 1979) to ensure the protection of natural resources with respect to the lands described in subsection (c)(2) of this section.

(g) Inclusion of certain lands as part of lakeshore

If the owner of the area designated as ''The Kettle'' in the General Management Plan dated October 1, 1979, and comprising 240 acres, agrees to donate fee title or a scenic easement to, or other less than fee interest in, such area, the lands in such area may be included as a part of the lakeshore upon publication in the Federal Register by the Secretary of a revised map of the lakeshore which includes such lands.

(h) Road maintenance and other services

The Secretary may, upon request in writing by any owner or occupier of lands in the lakeshore, provide services, such as road maintenance, subject to reimbursement.

(Pub. L. 91–479, §12, Oct. 21, 1970, 84 Stat. 1080; Pub. L. 97–361, §3, Oct. 22, 1982, 96 Stat. 1722; Pub. L. 103–437, §6(d)(17), Nov. 2, 1994, 108 Stat. 4584.)

REFERENCES IN TEXT

Section 17 of this Act, referred to in subsec. (b), probably means proposed section 17 of Pub. L. 91–479, which was contained in H.R. 3787, 97th Congress, 2d Session, as reported in House Report No. 97–882, page 4, but was omitted in the final version enacted by Congress as Pub. L. 97–361.

AMENDMENTS

1994—Subsec. (e)(4)(B). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

1982—Pub. L. 97–361 designated existing provisions as subsec. (a), inserted ''Benzie County and within'' after ''generally lying within'', and added subsecs. (b) to (h).

§ 460x–12. Condemnation of commercial property

In any case not otherwise provided for in this subchapter, the Secretary shall be prohibited from condemning any commercial property used for commercial purposes in existence on December 31, 1964, so long as, in his opinion, the use thereof would further the purpose of this subchapter, and such use does not impair the usefulness and attractiveness of the area designated for inclusion in the lakeshore. The following uses, among others, shall be considered to be uses compatible with the purposes of this subchapter: Commercial farms, orchards, motels, rental cottages, camps, craft and art studios, marinas, medical, legal, architectural, and other such professional offices, and tree farms.

(Pub. L. 91–479, §13, Oct. 21, 1970, 84 Stat. 1080.)

§ 460x–13. Certificate of Secretary to interested person indicating prohibition from acquiring particular property by condemnation; contents

The Secretary shall furnish to any interested person requesting the same a certificate indicating, with respect to any property which the Secretary has been prohibited from acquiring by condemnation in accordance with provisions of this subchapter, that such authority is prohibited and the reasons therefor.

(Pub. L. 91–479, §14, Oct. 21, 1970, 84 Stat. 1080.)

§ 460x–14. Authorization of appropriations; adjustments

There are authorized to be appropriated not more than $84,149,558 for the acquisition of lands and interests in lands and not more than $18,769,000 (June 1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the type of construction involved herein.

(Pub. L. 91–479, §15, Oct. 21, 1970, 84 Stat. 1081; Pub. L. 93–477, title I, §101(13), Oct. 26, 1974, 88 Stat. 1446; Pub. L. 97–361, §4, Oct. 22, 1982, 96 Stat. 1724; Pub. L. 98–141, §5, Oct. 31, 1983, 97 Stat. 909; Pub. L. 98–505, Oct. 19, 1984, 98 Stat. 2337.)

AMENDMENTS

1984—Pub. L. 98–505 substituted ''$84,149,558'' for ''$82,149,558''.

1983—Pub. L. 98–141 substituted ''$82,149,558'' for ''$66,153,000''.

1982—Pub. L. 97–361 substituted ''$66,153,000'' for ''$57,753,000''.

1974—Pub. L. 93–477 substituted ''$57,753,000'' for ''$19,800,000''.

RETROACTIVE STATUTORY CEILINGS

Section 7 of Pub. L. 97–361 provided that: ''For purposes of section 7(a)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9(a)(3)), the statutory ceilings on appropriations established by the amendments made by this Act [enacting section 460x–15 and amending sections 460x–9, 460x–11 and 460x–14 of this title] shall be deemed to be statutory ceilings contained in a provision of law enacted prior to the convening of the Ninety-fifth Congress.''

§ 460x–15. Lakeshore wilderness report; administration

In accordance with section 1132(c) of this title, the President shall, no later than June 1, 1983, advise the United States Senate and House of Representatives of his recommendations with respect to the suitability or nonsuitability as wilderness of any area within the lakeshore. Subject to existing private rights, the areas described in the report prepared by the National Park Service entitled ''Wilderness Recommendation; Sleeping Bear Dunes National Lakeshore'' dated January, 1981, and recommended for wilderness (approximately 7,128 acres) and for potential wilderness additions (approximately 23,775 acres) shall, until Congress determines otherwise, be administered by the Secretary so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

(Pub. L. 91–479, § 16, as added Pub. L. 97–361, § 5, Oct. 22, 1982, 96 Stat. 1724.)

SUBCHAPTER LXXXIII—KING RANGE NATIONAL CONSERVATION AREA

§ 460y. Establishment; boundaries

The Secretary of the Interior (hereinafter referred to as the ''Secretary'') is hereby authorized and directed, after compliance with sections 460y–2 and 460y–3 of this title, to establish, within the boundaries described in section 460y–8 of this title, the King Range National Conservation Area in the State of California (hereinafter referred to as the ''Area''), and to consolidate and manage the public lands in the area with the purpose of conserving and developing, for the use and benefit of the people of the United States, the lands and other resources therein under a program of multiple usage and of sustained yield.

(Pub. L. 91–476, § 1, Oct. 21, 1970, 84 Stat. 1067.)

§ 460y–1. Management of lands

(a) Utilization and development of resources

In the management of lands in the area, the Secretary shall utilize and develop the resources in such a manner as to satisfy all legitimate requirements for the available resources as fully as possible without undue denial of any of such requirements and without undue impairment of any of the resources, taking into consideration total requirement and total availability of resources, irrespective of ownership or location.

(b) Plan of land use, development, and management

The policy set forth in subsection (a) of this section implies—

(1) that there will be a comprehensive, balanced, and coordinated plan of land use, development, and management of the Area, and that such plan will be based on an inventory and evaluation of the available resources and requirements for such resources, and on the topography and other features of the Area.

(2) that the plan will indicate the primary or dominant uses which will be permitted on various portions of the Area.

(3) that the plan will be based on a weighing of the relative values to be obtained by utilization and development of the resources for alternative possible uses, and will be made with the object of obtaining the greatest values on a continuing basis, and that due consideration will be given to intangible values as well as to tangible values such as dollar return or production per unit.

(4) that secondary or collateral uses may be permitted to the extent that such uses are compatible with and do not unduly impair the primary or dominant uses, according to a seasonal schedule or otherwise.

(5) that management of the renewable resources will be such as to obtain a sustained, regular, or periodic yield or supply of products or services without impairment of the productivity, or the enjoyment or carrying capacity of the land.

(6) that the plan will be reviewed and reevaluated periodically.

(7) that the resources to be considered are all the natural resources including but not limited to the soils, bodies of water including the shorelines thereof, forest growth including timber, vegetative cover including forage, fish, and other wildlife, and geological resources including minerals.

(8) that the uses to be considered are all of the legitimate uses of such resources including but not limited to all forms of outdoor recreation including scenic enjoyment, hunting, fishing, hiking, riding, camping, picknicking,[1] boating, and swimming, all uses of water resources, watershed management, production of timber and other forest producers, grazing and other agricultural uses, fish and wildlife management, mining, preservation of ecological balance, scientific study, occupancy and access.

(Pub. L. 91–476, § 2, Oct. 21, 1970, 84 Stat. 1067.)

§ 460y–2. Program of multiple usage and sustained yield of renewable natural resources; public and private assistance in preparation; provisions

The Secretary shall use public and private assistance as he may require, for the purpose of preparing for the Area a program of multiple usage and of sustained yield of renewable natural resources. Such program shall include but need not be limited to (1) a quantitative and qualitative analysis of the resources of the Area; (2) the proposed boundaries of the Area; (3) a plan of land use, development, and management of the Area together with any proposed cooperative activities with the State of California, local

[1] So in original. Probably should be ''picnicking,''.

governments, and others; (4) a statement of expected costs and an economic analysis of the program with particular reference to costs to the United States and expected economic effects on local communities and governments; and (5) an evaluation by the Secretary of the program in terms of the public interest.

(Pub. L. 91–476, § 3, Oct. 21, 1970, 84 Stat. 1068.)

§ 460y–3. Procedure for establishment

The Secretary shall establish the Area after a period of at least ninety calendar days from and after the date that he has (1) submitted copies of the program required by section 460y–2 of this title to the President of the Senate and the Speaker of the House of Representatives, the Governor of the State of California, and the governing body of the county or counties in which the area is located and (2) published a notice of intention to establish the area in the Federal Register and in at least two newspapers which circulate generally within the Area.

(Pub. L. 91–476, § 4, Oct. 21, 1970, 84 Stat. 1068.)

§ 460y–4. Authority of Secretary

The Secretary is authorized—

(1) Conduct of public hearings

To conduct a public hearing or hearings to receive expression of local views relating to establishment of the area.

(2) Acquisition of land or interests in land by donation, by purchase with donated funds or funds specifically appropriated for such purpose, or by exchange; consent of owner; acquired lands or interests in lands as public lands

To acquire by donation, by purchase with donated funds or with funds appropriated specifically for that purpose, or by exchange, any land or interest in land within the area described in section 460y–8 of this title, which the Secretary, in his judgment, determines to be desirable for consolidation of public lands within the Area in order to facilitate efficient and beneficial management of the public lands or otherwise to accomplish the purposes of this subchapter: *Provided*, That the Secretary may not acquire, without the consent of the owner, any such lands or interests therein which are utilized on October 21, 1970, for residential, agricultural, or commercial purposes so long as he finds such property is devoted to uses compatible with the purposes of this subchapter. Any lands or interests in lands acquired by the United States under the authority of this section shall, upon acceptance of title, become public lands, and shall become a part of the area subject to all the laws and regulations applicable thereto.

(3) Procedure for acquisition of land or interests in land by exchange

In the exercise of his authority to acquire land or interests in land by exchange under this subchapter, to accept title to any non-Federal land located within the Area and to convey to the grantor of such land not to exceed an equal value of surveyed, unappropriated, and unreserved public lands or interests, in lands and appropriated funds when in his judgment the exchange will be in the public interest, and in accordance with the following:

(A) The public lands offered in exchange for non-Federal lands or interests in non-Federal lands must be in the same county or counties, and must be classified by the Secretary as suitable for exchange. For a period of five years, any such public lands suitable for transfer to nonpublic ownership shall be classified for exchange under this subchapter.

(B) If the lands or interests in lands offered in exchange for public lands have a value at least equal to two-thirds of the value of the public lands, the exchange may be completed upon payment to the Secretary of the difference in value, or the submittal of a cash deposit or a performance bond in an amount at least equal to the difference in value assuring that additional lands acceptable to the Secretary and at least equal to the difference in value will be conveyed to the Government within a time certain to be specified by the Secretary. Any such payment made to the Secretary shall be deposited in the Treasury as a miscellaneous receipt.

(C) If the public lands offered in exchange for non-Federal lands or interests in non-Federal lands have a value at least equal to two-thirds of the value of the non-Federal lands, the exchange may be completed upon payment by the Secretary of the difference in value.

(D) Either party to an exchange under this subchapter may reserve minerals, easements, or rights of use either for its own benefit, for the benefit of third parties, or for the benefit of the general public. Any such reservation, whether in lands conveyed to or by the United States, shall be subject to such reasonable conditions respecting ingress and egress and the use of the surface of the land as may be deemed necessary by the Secretary. When minerals are reserved in a conveyance by the United States, any person who prospects for or acquires the right to mine and remove the reserved mineral deposits shall be liable to the surface owners according to their respective interests for any actual damage to the surface or to the improvements thereon resulting from prospecting, entering, or mining operations; and such person shall, prior to entering, either obtain the surface owner's written consent, or file with the Secretary a good and sufficient bond or undertaking to the United States in an amount acceptable to the Secretary for the use and benefit of the surface owner to secure payment of such damages as may be determined in an action brought on the bond or undertaking in a court of competent jurisdiction.

(4) Payment of fair market value for purchased lands; determination by independent appraisal

In the exercise of his authority to purchase lands under this subchapter to pay for any

such purchased lands their fair market value, as determined by the Secretary, who may, in his discretion, base his determination on an independent appraisal obtained by him.

(5) Identification of appropriate public uses of public lands and interests therein within Area; disposition of public lands within Area

To identify the appropriate public uses of all of the public lands and interests therein within the Area. Disposition of the public lands within the Area, or any of the lands subsequently acquired as part of the Area, is prohibited, and the lands in the Area described in section 460y–8 of this title are hereby withdrawn from all forms of entry, selection, or location under existing or subsequent law, except as provided in section 460y–5 of this title. Notwithstanding any provision of this section, the Secretary may (A) exchange public lands or interests therein within the area for privately owned lands or interests therein also located within the Area, and (B) issue leases, licenses, contracts, or permits as provided by other laws.

(6) Construction, operation, and maintenance of roads, trails, and other access and recreational facilities within Area

To construct or cause to be constructed and to operate and maintain such roads, trails, and other access and recreational facilities in the area as the Secretary deems necessary and desirable for the proper protection, utilization, and development of the area.

(7) Reforestation and revegetation of lands within Area; installation of soil- and water-conserving works and practices

To reforest and revegetate such lands within the area and install such soil- and water-conserving works and practices to reduce erosion and improve forage and timber capacity as the Secretary deems necessary and desirable.

(8) Cooperative arrangements with State and local governmental agencies, and nonprofit organizations concerning installation, construction, maintenance, and operation of access and recreational facilities, etc.; designation of zones and establishment of periods for hunting and fishing

To enter into such cooperative arrangements with the State of California, local governmental agencies, and nonprofit organizations as the Secretary deems necessary or desirable concerning but not limited to installation, construction, maintenance, and operation of access and recreational facilities, reforestation, revegetation, soil and moisture conservation, and management of fish and wildlife including hunting and fishing and control of predators. The Secretary shall permit hunting and fishing on lands and waters under the jurisdiction within the boundaries of the recreation area in accordance with the applicable laws of the United States and the State of California, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish and wildlife management, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

(9) Issuance of regulations

To issue such regulations and to do such other things as the Secretary deems necessary and desirable to carry out the terms of this subchapter.

(Pub. L. 91–476, § 5, Oct. 21, 1970, 84 Stat. 1068; Pub. L. 95–352, § 2(1), Aug. 20, 1978, 92 Stat. 516.)

AMENDMENTS

1978—Par. (3)(B). Pub. L. 95–352 inserted provisions relating to deposit of receipts into Treasury.

§ 460y–5. Applicability of mining laws; prospecting commenced or conducted and mining claims located subsequent to October 21, 1970, as subject to regulations; patents issued on mining claims located subsequent to October 21, 1970, as subject to regulations; provisions of regulations; rights of owner of existing valid mining claim as unaffected

(a) Subject to valid existing rights, nothing in this subchapter shall affect the applicability of the United States mining laws on the federally owned lands within the Area, except that all prospecting commenced or conducted and all mining claims located after October 21, 1970, shall be subject to such reasonable regulations as the Secretary may prescribe to effectuate the purposes of this subchapter. Any patent issued on any mining claim located after October 21, 1970, shall recite this limitation and continue to be subject to such regulations. All such regulations shall provide, among other things, for such measures as may be reasonable to protect the scenic and esthetic values of the Area against undue impairment and to assure against pollution of the streams and waters within the Area.

(b) Nothing in this section shall be construed to limit or restrict rights of the owner or owners of any existing valid mining claim.

(Pub. L. 91–476, § 6, Oct. 21, 1970, 84 Stat. 1070.)

§ 460y–6. Administration of public lands within Area

Except as may otherwise be provided in this subchapter, the public lands within the area shall be administered by the Secretary under any authority available to him for the conservation, development, and management of natural resources on public lands in California withdrawn by Executive Order Numbered 6910, dated November 26, 1934, to the extent that he finds such authority will further the purposes of this subchapter.

(Pub. L. 91–476, § 7, Oct. 21, 1970, 84 Stat. 1070.)

REFERENCES IN TEXT

Executive Order Numbered 6910, dated November 26, 1934, referred to in text, is not classified to the Code.

§ 460y–7. Withdrawal of certain public lands for classification; revocation of Executive Order Numbered 5237

The objectives of Executive Order Numbered 5237, dated December 10, 1929, which withdraw

certain public lands for classification, having been accomplished by the enactment of this subchapter, that Executive order is hereby revoked effective as of the date the Secretary establishes the area.

(Pub. L. 91–476, § 8, Oct. 21, 1970, 84 Stat. 1070.)

REFERENCES IN TEXT

Executive Order Numbered 5237, dated December 10, 1929, referred to in text, is not classified to the Code.

§ 460y–8. Survey and investigation area

(a) Description

The survey and investigation area referred to in section 460y of this title is described as follows:

MOUNT DIABLO MERIDIAN, CALIFORNIA

Township 24 north, range 19 west, sections 4 and 5.

HUMBOLDT MERIDIAN, CALIFORNIA

Township 5 south, range 1 east, all sections in township.

Township 5 south, range 2 east, section 6, lots 4 through 9; 16 through 21; and 24 through 26; section 7, lots 2 through 7; 10 through 15; section 18, lots 1 through 16; section 19, lots 1 through 16; southwest quarter northeast quarter and west half southeast quarter and sections 30 and 31; section 32, southwest quarter northeast quarter; south half northwest quarter; northwest quarter northwest quarter; southwest quarter and west half southeast quarter.

Township 4 south, range 1 west, all sections in township.

Township 4 south, range 1 east; section 4, south half; south half northeast quarter and south half northwest quarter; sections 5 through 9; 15 through 23; section 24, west half; section 25, west half; sections 26 through 35; section 36, lots 3 through 5 and 8 through 11 and southeast quarter.

Township 4 south, range 2 east, section 31, west half southeast quarter and southwest quarter.

Township 3 south, range 2 west, section 12, southeast quarter southeast quarter; sections 13 through 16 and 22 through 25.

Township 3 south, range 1 west, section 9, southwest quarter southwest quarter; section 12, south half southeast quarter and south half southwest quarter; sections 13 through 36.

Township 3 south, range 1 east, section 18, lots 1 through 4; section 19, lots 1 and 2, southwest quarter and west half southeast quarter; section 29, southwest quarter northwest quarter and west half southwest quarter; sections 30 and 31; section 32, west half.

Township 2 south, range 2 west, section 31, north half of lot 2 of the southwest quarter (43.40 acres of public land withdrawn by Executive Order 5237 of December 10, 1929); and 22.8 acres of acquired fee lands described by metes and bounds in section 31, township 2 south, range 2 west, and section 36, township 2 south, range 3 west; and 31.27 acres of acquired easements described by metes and bounds across certain sections in township 2 south, ranges 2 and 3 west.

(b) Acquisition of adjacent lands; limitations

In addition to the lands described in subsection (a) of this section, the Secretary is authorized to acquire such land outside the area but in close proximity thereto as is necessary to facilitate sound management. Acquisition hereunder shall, however, not exceed three hundred and twenty acres and shall be limited to such purposes as headquarters facility requirements, ingress and egress routes and, where necessary, to straighten boundaries or round out acquisitions.

(c) Additions

In addition to the lands described in subsection (a) of this section, the land identified as the Punta Gorda Addition and the Southern Additions on the map entitled ''King Range National Conservation Area Boundary Map No. 2'', dated July 29, 1975, is included in the survey and investigation area referred to in section 460y of this title.

(d) Further additions

In addition to the land described in subsections (a) and (c), the land identified as the King Range National Conservation Area Additions on the map entitled ''King Range Wilderness'' and dated November 12, 2004, is included in the Area.

(Pub. L. 91–476, § 9, Oct. 21, 1970, 84 Stat. 1070; Pub. L. 94–579, title VI, § 602, Oct. 21, 1976, 90 Stat. 2784; Pub. L. 109–362, § 8, Oct. 17, 2006, 120 Stat. 2071.)

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–362 added subsec. (d).
1976—Subsec. (c). Pub. L. 94–579 added subsec. (c).

SAVINGS PROVISION

Amendment by Pub. L. 94–579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§ 460y–9. Authorization of appropriations

(a) There are authorized to be appropriated such sums as may be necessary to accomplish the purposes of this subchapter, but not to exceed $1,500,000 for the purchase of lands and interests in lands and not to exceed $3,500,000 for the construction and improvements.

(b) In addition to any amounts authorized to be appropriated under subsection (a) of this section, there are authorized to be appropriated for fiscal years beginning on or after October 1, 1979, for the acquisition of lands and interests in lands under this subchapter—

(1) from the Land and Water Conservation Fund (established under the Land and Water Conservation Fund Act of 1965 [16 U.S.C. 460*l*–4 et seq.]) not to exceed $5,000,000, and

(2) from any other sources an amount not to exceed the sum of (A) $5,000,000, and (B) an amount equal to the amount deposited in the Treasury under section 460y–4(3)(B) of this title after August 20, 1978,

such sums to remain available until expended.

(Pub. L. 91–476, § 10, Oct. 21, 1970, 84 Stat. 1071; Pub. L. 95–352, § 2(2), (3), Aug. 20, 1978, 92 Stat. 516.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (b)(1), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

AMENDMENTS

1978—Pub. L. 95–352 designated existing provisions as subsec. (a) and added subsec. (b).

SUBCHAPTER LXXXIV—OREGON DUNES NATIONAL RECREATION AREA

§ 460z. Establishment

In order to provide for the public outdoor recreation use and enjoyment of certain ocean shorelines and dunes, forested areas, fresh water lakes, and recreational facilities in the State of Oregon by present and future generations and the conservation of scenic, scientific, historic, and other values contributing to public enjoyment of such lands and waters, there is hereby established, subject to valid existing rights, the Oregon Dunes National Recreation Area (hereinafter referred to as the ''recreation area'').

(Pub. L. 92–260, § 1, Mar. 23, 1972, 86 Stat. 99.)

§ 460z–1. Administration, protection, and development

The administration, protection, and development of the recreation area shall be by the Secretary of Agriculture (hereinafter called the ''Secretary'') in accordance with the laws, rules, and regulations applicable to national forests, in such manner as in his judgment will best contribute the attainment of the purposes set forth in section 460z of this title.

(Pub. L. 92–260, § 2, Mar. 23, 1972, 86 Stat. 99.)

§ 460z–2. Inland sector; establishment as buffer sector

The portion of the recreation area delineated as the ''Inland Sector'' on the map referenced in section 460z–3 of this title is hereby established as an inland buffer sector in order to promote such management and use of the lands, waters, and other properties within such sector as will best protect the values which contribute to the purposes set forth in section 460z of this title.

(Pub. L. 92–260, § 3, Mar. 23, 1972, 86 Stat. 99.)

§ 460z–3. Boundary map; revision

The boundaries of the recreation area, as well as the boundaries of the inland sector included therein, shall be as shown on a map entitled ''Proposed Oregon Dunes National Recreation Area'' dated May 1971, which is on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture, and to which is attached and hereby made a part thereof a detailed description by metes and bounds of the exterior boundaries of the recreation area and of the inland sector. The Secretary may by publication of a revised map or description in the Federal Register correct clerical or typographical errors in said map or descriptions.

(Pub. L. 92–260, § 4, Mar. 23, 1972, 86 Stat. 99.)

SIUSLAW NATIONAL FOREST

The boundaries of the Siuslaw National Forest were extended by section 6 of Pub. L. 92–260 to include all lands described in accordance with this section. See note set out under sections 486a to 486w of this title.

§ 460z–4. Transfer of Federal property

Notwithstanding any other provision of law, any Federal property located within the boundaries of the recreation area is hereby transferred without consideration to the administrative jurisdiction of the Secretary for use by him in implementing the purposes of this subchapter, but lands presently administered by the United States Coast Guard or the United States Corps of Engineers may continue to be used by such agencies to the extent required.

(Pub. L. 92–260, § 5, Mar. 23, 1972, 86 Stat. 99.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 460z–5. Land acquisition in inland sector

Within the inland sector established by section 460z–2 of this title the Secretary may acquire the following classes of property only with the consent of the owner:

(a) improved property as hereinafter defined;

(b) property used for commercial or industrial purposes if such commercial or industrial purposes are the same such purposes for which the property was being used on December 31, 1970, or such commercial or industrial purposes have been certified by the Secretary or his designee as compatible with or furthering the purposes of this subchapter;

(c) timberlands under sustained yield management so long as the Secretary determines that such management is being conducted in accordance with standards for timber production, including but not limited to harvesting reforestation, and debris cleanup, not less stringent than management standards imposed by the Secretary on comparable national forest lands: *Provided*, That the Secretary may acquire such lands or interests therein without the consent of the owner if he determines that such lands or interests are essential for recreation use or for access to or protection of recreation developments within the purposes of this subchapter. In any acquisition of such lands or interests the Secretary shall, to the extent practicable, minimize the impact of such acquisition on access to or the reasonable economic use for sustained yield forestry of adjoining lands not acquired; and

(d) property used on December 31, 1970, primarily for private, noncommercial recreational purposes if any improvements made to such property after said date are certified by the Secretary of Agriculture or his des-

ignee as compatible with the purposes of this subchapter.

(Pub. L. 92–260, § 7, Mar. 23, 1972, 86 Stat. 100.)

§ 460z–6. Land acquisition in recreation area; donation and exchange; railway right-of-way; retention rights of owners of improved property

(a) Land acquisition

Within the boundaries of the recreation area lands, waters, and interests therein owned by or under the control of the State of Oregon or any political subdivision thereof may be acquired only by donation or exchange.

(b) Railway right-of-way

No part of the Southern Pacific Railway right-of-way within the boundaries of the recreation area may be acquired without the consent of the railway, so long as it is used for railway purposes: *Provided*, That the Secretary may condemn such easements across said right-of-way as he deems necessary for ingress and egress.

(c) Retention rights of owners of improved property

Any person owning an improved property, as hereafter defined, within the recreation area may reserve for himself and his assigns, as a condition of the acquisition of such property, a right of use and occupancy of the residence and not in excess of three acres of land on which such residence is situated. Such reservation shall be for a term ending at the death of the owner, or the death of his spouse, whichever occurs later, or, in lieu thereof, for a definite term not to exceed twenty-five years: *Provided*, That the Secretary may exclude from such reserved property any lands or waters which he deems necessary for public use, access, or development. The owner shall elect, at the time of conveyance, the term of the right to be reserved. Where any such owner retains a right of use and occupancy as herein provided, such right may during its existence be conveyed or leased in whole, but not in part, for noncommercial residential purposes. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner. At any time subsequent to the acquisition of such property the Secretary may, with the consent of the owner of the retained right of use and occupancy, acquire such right, in which event he shall pay to such owner the fair market value of the remaining portion of such right.

(d) "Improved property" defined

The term ''improved property'' wherever used in this subchapter shall mean a detached one-family dwelling the construction of which was begun before December 31, 1970, together with any structures accessory to it and the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary finds necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use.

(Pub. L. 92–260, § 8, Mar. 23, 1972, 86 Stat. 100.)

§ 460z–7. Hunting, fishing, and trapping

The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the State of Oregon, except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulation of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

(Pub. L. 92–260, § 9, Mar. 23, 1972, 86 Stat. 101.)

§ 460z–8. Mining restriction

The lands within the recreation area, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(Pub. L. 92–260, § 10, Mar. 23, 1972, 86 Stat. 101.)

§ 460z–9. Water utilization; transportation of wastes; easements

(a) Water utilization

The Secretary is authorized and directed, subject to applicable water quality standards now or hereafter established, to permit, subject to reasonable rules and regulations, the investigation for, appropriation, storage, and withdrawal of ground water, surface water, and lake, stream, and river water from the recreation area and the conveyance thereof outside the boundaries of the recreation area for beneficial use in accordance with applicable laws of the United States and of the State of Oregon if permission therefor has been obtained from the State of Oregon before March 23, 1972: *Provided*, That nothing herein shall prohibit or authorize the prohibition of the use of water from Tahkenitch or Siltcoo Lakes in accordance with permission granted by the State of Oregon prior to March 23, 1972, in connection with certain industrial plants developed or being developed at or near Gardiner, Oregon.

(b) Transportation and storage of wastes

The Secretary is authorized and directed, subject to applicable water quality standards now or hereafter established, to permit, subject to reasonable rules and regulations, transportation and storage in pipelines within and through the recreation area of domestic and industrial wastes in accordance with applicable laws of the United States and of the State of Oregon if permission therefor has been obtained from the State of Oregon before March 23, 1972.

(c) Easements and rights for the disposal of wastes

The Secretary is further authorized, subject to applicable water quality standards now or hereafter established, to grant such additional easements and rights, in terms up to perpetuity, as in his judgment would be appropriate and desir-

able for the effective use of the rights to water and the disposal of waste provided for herein and for other utility and private purposes if permission therefor has been obtained from the State of Oregon, subject to such reasonable terms and conditions as he deems necessary for the protection of the scenic, scientific, historic, and recreational features of the recreation area.

(Pub. L. 92–260, § 11, Mar. 23, 1972, 86 Stat. 101.)

§ 460z–10. Advisory Council

(a) Establishment; membership

The Secretary shall establish an advisory council for the Oregon Dunes National Recreation Area, and shall consult on a periodic and regular basis with such council with respect to matters relating to management and development of the recreation area. The members of the advisory council, who shall not exceed fifteen in number, shall serve for individual staggered terms of three years each and shall be appointed by the Secretary as follows:

(i) a member to represent each county in which a portion of the recreation area is located, each such appointee to be designated by the respective governing body of the county involved;

(ii) a member appointed to represent the State of Oregon, who shall be designated by the Governor of Oregon;

(iii) not to exceed eleven members appointed by the Secretary from among persons who, individually or through association with national or local organizations, have an interest in the administration of the recreation area; and

(iv) the Secretary shall designate one member to be Chairman and shall fill vacancies in the same manner as the original appointment.

(b) Private viewpoints

The Secretary shall, in addition to his consultation with the advisory council, seek the views of other private groups and individuals with respect to administration of the recreation area.

(c) Payment of expenses

The members shall not receive any compensation for their services as members of the council, as such, but the Secretary is authorized to pay expenses reasonably incurred by the council in carrying out its responsibilities.

(Pub. L. 92–260, § 12, Mar. 23, 1972, 86 Stat. 102.)

TERMINATION OF ADVISORY COUNCILS

Advisory councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 460z–11. Area review; report to the President; wilderness designation

Within three years from March 23, 1972, the Secretary shall review the area within the boundaries of the recreation area and shall report to the President, in accordance with section 1132(b) and (d) of this title, his recommendation as to the suitability or nonsuitability of any area within the recreation area for preservation as a wilderness, and any designation of any such area as a wilderness shall be accomplished in accordance with section 1132(b) and (d) of this title.

(Pub. L. 92–260, § 13, Mar. 23, 1972, 86 Stat. 102.)

CODIFICATION

Section 1132(b) and (d) of this title, the first time appearing in text, was in the original ''subsections 3(b) and 3(d) of the Wilderness Act'' and, the second time appearing in text, was in the original ''said subsection of the Wilderness Act''.

§ 460z–12. Federal-State cooperation

The Secretary shall cooperate with the State of Oregon or any political subdivision thereof in the administration of the recreation area and in the administration and protection of lands within or adjacent to the recreation area owned or controlled by the State or political subdivision there. Nothing in this subchapter shall deprive the State of Oregon or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the recreation area consistent with this subchapter, or of its right to tax persons, corporations, franchises, or other non-Federal property, including mineral or other interests, in or on lands or waters within the recreation area.

(Pub. L. 92–260, § 14, Mar. 23, 1972, 86 Stat. 102.)

§ 460z–13. Authorization of appropriations

There are hereby authorized to be appropriated for the acquisition of lands, waters, and interests therein such sums as are necessary, not to exceed $5,750,000. For development of the recreation area, not more than $12,700,000 is authorized to be appropriated.

(Pub. L. 92–260, § 15, Mar. 23, 1972, 86 Stat. 102; Pub. L. 94–578, title III, § 316, Oct. 21, 1976, 90 Stat. 2737.)

AMENDMENTS

1976—Pub. L. 94–578 substituted ''There are hereby authorized to be appropriated for the acquisition of lands, waters, and interests therein such sums as are necessary, not to exceed $5,750,000'' for ''Money appropriated from the Land and Water Conservation Fund shall be available for the acquisition of lands, waters, and interests therein within the recreation area, but not more than $2,500,000 is authorized to be appropriated for such purposes''.

SUBCHAPTER LXXXV—SAWTOOTH NATIONAL RECREATION AREA

§ 460aa. Establishment

(a) In general

In order to assure the preservation and protection of the natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreational values associated therewith, the Sawtooth National Recreation Area is hereby established.

(b) Boundaries; publication in Federal Register

The Sawtooth National Recreation Area (hereafter referred to as the ''recreation area''), in-

cluding the Sawtooth Wilderness Area (hereafter referred to as the ''wilderness area''), shall comprise the lands generally depicted on the map entitled ''Sawtooth National Recreation Area'' dated June 1972, which shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture. The Secretary of Agriculture (hereafter referred to as the ''Secretary'') shall, as soon as practicable after August 22, 1972, publish a detailed description and map showing the boundaries of the recreation area in the Federal Register.

(Pub. L. 92–400, § 1, Aug. 22, 1972, 86 Stat. 612.)

§ 460aa–1. Administration

(a) Recreation area

The Secretary shall administer the recreation area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best provide (1) the protection and conservation of the salmon and other fisheries; (2) the conservation and development of scenic, natural, historic, pastoral, wildlife, and other values, contributing to and available for public recreation and enjoyment, including the preservation of sites associated with and typifying the economic and social history of the American West; and (3) the management, utilization, and disposal of natural resources on federally owned lands such as timber, grazing, and mineral resources insofar as their utilization will not substantially impair the purposes for which the recreation area is established.

(b) Wilderness area

The lands designated as the Sawtooth Wilderness Area, which supersedes the Sawtooth Primitive Area, shall be administered in accordance with the provisions of this subchapter and the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.], whichever is more restrictive, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this subchapter.

(Pub. L. 92–400, § 2, Aug. 22, 1972, 86 Stat. 612.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (b), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The effective date of the Wilderness Act, referred to in subsec. (b), means Sept. 3, 1964, the date of enactment of Pub. L. 88–577, which enacted chapter 23 of this title.

The effective date of this subchapter, referred to in subsec. (b), means Aug. 22, 1972, the date of enactment of Pub. L. 92–400, which enacted this subchapter.

§ 460aa–2. Acquisition of land

(a) Authority of Secretary; manner; limitation; "scenic easement" defined

Except as provided in section 460aa–3 of this title, the Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, bequest, or otherwise any lands, or lesser interests therein, including mineral interests and scenic easements, which he determines are needed for the purposes of this subchapter: *Provided*, That acquisitions of lands or interests therein for access to and utilization of public property, and for recreation and other facilities, shall not exceed five per centum of the total acreage of all private property within the recreation area as of August 22, 1972.

As used in this subchapter the term ''scenic easement'' means the right to control the use of land in order to protect the esthetic values for the purposes of this subchapter, but shall not preclude the continuation of any use exercised by the owner as of August 22, 1972.

(b) Offers of land; hardship from acquisition delays

In exercising this authority to acquire lands, the Secretary shall give prompt and careful consideration to any offer made by an individual owning any land, or interest in land, within the boundaries described in section 460aa(b) of this title. In considering such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring his property.

(c) Condemnation proceedings

The Secretary may utilize condemnation proceedings without the consent of the owner to acquire private lands or interests therein pursuant to this section only in cases where, in his judgment, all reasonable efforts to acquire such lands or interests therein by negotiation have failed, and in such cases he shall acquire only such title as, in his judgment, is reasonably necessary to accomplish the objectives of this subchapter.

(d) Exchange of property; cash equalization payments

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property, or interests therein, located within the recreation area and, notwithstanding any other provision of law, he may convey in exchange therefor any federally owned property within the State of Idaho which he classifies as suitable for exchange and which is under his administrative jurisdiction. The values of the properties so exchanged shall be approximately equal or, if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require. In the exercise of his exchange authority, the Secretary may utilize authorities and procedures available to him in connection with exchanges of national forest lands.

(e) Mineral interests

Nothing in this subchapter shall be construed as limiting the authority of the Secretary to acquire mineral interests in lands within the recreation area, with or without the consent of the owner. Upon acquisition of any such interest, the lands and/or minerals covered by such interest are by this subchapter withdrawn from entry or appropriation under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(f) State lands

Any land or interest in land owned by the State of Idaho or any of its political subdivisions may be acquired only by donation or exchange.

(g) Transfer from Federal agency to administrative jurisdiction of Secretary

Notwithstanding any other provision of law, any Federal property located within the recreation area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the purposes of this subchapter. Lands acquired by the Secretary or transferred to his administrative jurisdiction within the recreation area shall become parts of the recreation area and of the national forest within or adjacent to which they are located.

(h) Condemnation authority

Except as otherwise provided, the Secretary shall have the authority to use condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

(Pub. L. 92–400, § 3, Aug. 22, 1972, 86 Stat. 612.)

§ 460aa–3. Private land, regulations

(a) Use, subdivision and development standards; detail and specificity; land differences; amendment; promulgation; civil actions: jurisdiction, complaint, declaratory judgment

The Secretary shall make and publish regulations setting standards for the use, subdivision, and development of privately owned property within the boundaries of the recreation area. Such regulations shall be generally in furtherance of the purposes of this subchapter and shall have the object of assuring that the highest and best private use, subdivision, and development of such privately owned property is consistent with the purposes of this subchapter and with the overall general plan of the recreation area. Such regulations shall be as detailed and specific as is reasonably required to accomplish such objective and purpose. Such regulations may differ amongst the several parcels of private land in the boundaries and may from time to time be amended by the Secretary. All regulations adopted under this section shall be promulgated in conformity with the provisions of subchapter II of chapter 5, and chapter 7, of title 5. The United States District Court for the District of Idaho shall have jurisdiction to review any regulations established pursuant to the first sentence of this subsection, upon a complaint filed within six months after the effective date of such regulations, by any affected landowner in an action for a declaratory judgment.

(b) Condemnation restriction; acquisitions limitation

After publication of such regulations, no privately owned lands shall be acquired by the Secretary by condemnation unless he determines, in his judgment, that such lands are being used, or are in imminent danger of being used, in a manner incompatible with the regulations established pursuant to this section or unless such lands are determined to be necessary for access or development, in which case such acquisitions shall be subject to the 5 per centum limitation established in section 460aa–2(a) of this title.

(Pub. L. 92–400, § 4, Aug. 22, 1972, 86 Stat. 613.)

CODIFICATION

In subsec. (a), ''subchapter II of chapter 5, and chapter 7, of title 5'' was substituted for ''the Administrative Procedure Act'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§ 460aa–4. Administrative determination of suitability for designation as wilderness areas

The Secretary shall, as soon as practicable after August 22, 1972, review the undeveloped and unimproved portion or portions of the recreation area as to suitability or nonsuitability for preservation as a part of the National Wilderness Preservation System. In conducting his review, the Secretary shall comply with the provisions of section 1132(d) of this title, relating to public notice, public hearings, and review by State and other agencies, and shall advise the Senate and House of Representatives of his recommendations with respect to the designation as wilderness of the area or areas reviewed.

(Pub. L. 92–400, § 5, Aug. 22, 1972, 86 Stat. 614.)

§ 460aa–5. Cooperation with other agencies in development and operation of facilities and services; Stanley, restoration

The Secretary may cooperate with other Federal agencies, with State and local public agencies, and with private individuals and agencies in the development and operation of facilities and services in the area in furtherance of the purposes of this subchapter, including, but not limited to, the restoration and maintenance of the historic setting and background of the frontier ranch-type town of Stanley.

(Pub. L. 92–400, § 6, Aug. 22, 1972, 86 Stat. 614.)

§ 460aa–6. State civil and criminal jurisdiction

Nothing in this subchapter shall diminish, enlarge, or modify any right of the State of Idaho, or any political subdivision thereof, to exercise civil and criminal jurisdiction within the recreation area or of rights to tax persons, corporations, franchises, or property, including mineral or other interests, in or on lands or waters within the recreation area.

(Pub. L. 92–400, § 7, Aug. 22, 1972, 86 Stat. 614.)

§ 460aa–7. Hunting and fishing regulations

The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the State of Idaho, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

(Pub. L. 92–400, § 8, Aug. 22, 1972, 86 Stat. 614.)

§ 460aa–8. Federal-State water rights

The jurisdiction of the State and the United States over waters of any stream included in the recreation area shall be determined by established principles of law. Under the provisions of this subchapter, any taking by the United States of a water right which is vested under either State or Federal law at the time of enactment of this subchapter shall entitle the owner thereof to just compensation. Nothing in this subchapter shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(Pub. L. 92–400, § 9, Aug. 22, 1972, 86 Stat. 614.)

REFERENCES IN TEXT

Time of enactment of this subchapter, referred to in text, means Aug. 22, 1972, the date of enactment of Pub. L. 92–400, which enacted this subchapter.

§ 460aa–9. Mining restriction; Federal lands withdrawn from location, entry, and patent under United States mining laws

Subject to valid existing rights, all Federal lands located in the recreation area are hereby withdrawn from all forms of location, entry, and patent under the mining laws of the United States.

(Pub. L. 92–400, § 10, Aug. 22, 1972, 86 Stat. 614.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

§ 460aa–10. Land surface protection; regulations

The Congress hereby recognizes and declares the need to take action to regulate the use of, and protect the surface values of, the Federal lands in the recreation area, and directs that rules and regulations necessary to carry out this section shall be promulgated and issued by the Secretary of Agriculture after consultation with the Secretary of the Interior. Such regulations shall include, when deemed necessary, provisions for control of the use of motorized and mechanical equipment for transportation over, or alteration of, the surface of such Federal land in connection with any authorized activities on such land, including but not limited to mineral prospecting, exploration, or development operations.

(Pub. L. 92–400, § 11, Aug. 22, 1972, 86 Stat. 614.)

§ 460aa–11. Patents; restriction on issuance

Patents shall not hereafter be issued for locations and claims heretofore made in the recreation area under the mining laws of the United States.

(Pub. L. 92–400, § 12, Aug. 22, 1972, 86 Stat. 615.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

§ 460aa–12. Authorization of appropriations; availability of land and water conservation fund money

There are authorized to be appropriated for the purposes of this subchapter not more than $47,802,000 for the acquisition of lands and interests in lands and not more than $26,241,000 for development. Money appropriated from the land and water conservation fund shall be available for the acquisition of lands, waters, and interests therein within the recreation area.

(Pub. L. 92–400, § 13, Aug. 22, 1972, 86 Stat. 615; Pub. L. 95–625, title II, § 202, Nov. 10, 1978, 92 Stat. 3473.)

AMENDMENTS

1978—Pub. L. 95–625 increased land acquisition appropriations authorization to $47,802,000 from $19,802,000.

§ 460aa–13. Area analysis for park or park administrative unit proposal

(a) Report to Congress

The Secretary of the Interior, in consultation with appropriate Federal, State, and local agencies, shall make a comprehensive analysis of the natural, economic, and cultural values of the recreation area and the adjacent Pioneer Mountains for the purpose of evaluating the potentiality of establishing therein a national park or other unit of the national park system. He shall submit a report of the results of the analysis along with his recommendations to the Congress by December 31, 1974.

(b) Considerations manifested in report to Congress

His report shall show that in making the aforesaid recommendations he took into consideration, among other things—

(1) the feasible alternative uses of the land and the long- and short-term effect of such alternative uses upon, but not limited to, the following—

(A) the State and local economy,

(B) the natural and cultural environment,

(C) the management and use of water resources,

(D) the management of grazing, timber, mineral, and other commercial activities,

(E) the management of fish and wildlife resources,

(F) the continued occupancy of existing homesites, campsites, commercial and public recreation enterprises, and other privately owned properties and the future development of the same,

(G) the interrelation between recreation areas, wilderness areas and park lands, and

(2) the establishment of a national park in the mountain peaks and upland areas together with such portions of the national recreation area as may be necessary and appropriate for the proper administration and public use of and access to such parks lands, leaving the valleys and low-lying lands available for multiple-use purposes.

(c) Master plan, cost estimates and proposed legislation for establishment of park administrative unit

Any recommendation for the establishment of a unit of the national park system shall be ac-

companied by (1) a master plan for the development and administration of such unit, indicating proposed boundaries, access or other roads, visitor facilities, and proposed management concepts applicable to such unit; (2) a statement of the estimated Federal cost for acquisition, development, and operation of such unit; and (3) proposed legislation for establishment of such park administrative unit.

(d) Authorization of appropriations

There are authorized to be appropriated not more than $50,000 to carry out the provisions of this section.

(Pub. L. 92–400, § 14, Aug. 22, 1972, 86 Stat. 615.)

§ 460aa–14. Separability

If any provision of this subchapter is declared to be invalid, such declaration shall not affect the validity of any other provision of this subchapter.

(Pub. L. 92–400, § 15, Aug. 22, 1972, 86 Stat. 615.)

SUBCHAPTER LXXXVI—GOLDEN GATE NATIONAL RECREATION AREA

§ 460bb. Establishment

In order to preserve for public use and enjoyment certain areas of Marin and San Francisco Counties, California, possessing outstanding natural, historic, scenic, and recreational values, and in order to provide for the maintenance of needed recreational open space necessary to urban environment and planning, the Golden Gate National Recreation Area (hereinafter referred to as the ''recreation area'') is hereby established. In the management of the recreation area, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') shall utilize the resources in a manner which will provide for recreation and educational opportunities consistent with sound principles of land use planning and management. In carrying out the provisions of this subchapter, the Secretary shall preserve the recreation area, as far as possible, in its natural setting, and protect it from development and uses which would destroy the scenic beauty and natural character of the area.

(Pub. L. 92–589, § 1, Oct. 27, 1972, 86 Stat. 1299.)

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–131, title II, § 201, Dec. 20, 2005, 119 Stat. 2568, provided that: ''This title [amending section 460bb–1 of this title] may be cited as the 'Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act'.''

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–350, § 1, Oct. 24, 2000, 114 Stat. 1361, provided that: ''This Act [amending section 460bb–1 of this title] may be cited as the 'Golden Gate National Recreation Area Boundary Adjustment Act of 2000'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–299, § 1, June 9, 1992, 106 Stat. 236, provided that: ''This Act [amending section 460bb–1 of this title and enacting provisions set out as a note under section 460bb–1 of this title] may be cited as the 'Golden Gate National Recreation Area Addition Act of 1992'.''

VISITOR SERVICES IN CRISSY FIELD AND FORT POINT AREAS

Pub. L. 108–108, title I, § 118, Nov. 10, 2003, 117 Stat. 1268, provided that: ''Notwithstanding other provisions of law, the National Park Service hereafter may authorize, through cooperative agreement, the Golden Gate National Parks Association to provide fee-based education, interpretive and visitor service functions within the Crissy Field and Fort Point areas of the Presidio.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–7, div. F, title I, § 120, Feb. 20, 2003, 117 Stat. 240.

Pub. L. 107–63, title I, § 123, Nov. 5, 2001, 115 Stat. 440.

Pub. L. 106–291, title I, § 140, Oct. 11, 2000, 114 Stat. 949.

EXEMPTION OF PRESIDIO TRUST FROM CALIFORNIA TAXES

Pub. L. 106–291, title III, § 315, Oct. 11, 2000, 114 Stat. 989, provided that: ''All interests created under leases, concessions, permits and other agreements associated with the properties administered by the Presidio Trust, hereafter shall be exempt from all taxes and special assessments of every kind by the State of California and its political subdivisions.''

Similar provisions were contained in Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 316], Nov. 29, 1999, 113 Stat. 1535, 1501A–192.

THE PRESIDIO OF SAN FRANCISCO

Pub. L. 104–333, div. I, title I, Nov. 12, 1996, 110 Stat. 4097, as amended by Pub. L. 105–83, title III, § 351, Nov. 14, 1997, 111 Stat. 1607; Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 334], Nov. 29, 1999, 113 Stat. 1535, 1501A–198; Pub. L. 106–176, title I, § 101, Mar. 10, 2000, 114 Stat. 23; Pub. L. 107–107, div. B, title XXVIII, § 2861, Dec. 28, 2001, 115 Stat. 1328, provided that:

''SEC. 101. FINDINGS.

''The Congress finds that—

''(1) the Presidio, located amidst the incomparable scenic splendor of the Golden Gate, is one of America's great natural and historic sites;

''(2) the Presidio was the oldest continuously operated military post in the Nation dating from 1776, and was designated a National Historic Landmark in 1962;

''(3) preservation of the cultural and historic integrity of the Presidio for public use recognizes its significant role in the history of the United States;

''(4) the Presidio, in its entirety, is a part of the Golden Gate National Recreation Area, in accordance with Public Law 92–589 [16 U.S.C. 460bb et seq.];

''(5) as part of the Golden Gate National Recreation Area, the Presidio's significant natural, historic, scenic, cultural, and recreational resources must be managed in a manner which is consistent with sound principles of land use planning and management, and which protects the Presidio from development and uses which would destroy the scenic beauty and historic and natural character of the area and cultural and recreational resources;

''(6) removal and/or replacement of some structures within the Presidio must be considered as a management option in the administration of the Presidio; and

''(7) the Presidio will be managed through an innovative public/private partnership that minimizes cost to the United States Treasury and makes efficient use of private sector resources.

''SEC. 102. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF THE INTERIOR.

''(a) INTERIM AUTHORITY.—The Secretary of the Interior (hereinafter in this title referred to as the 'Secretary') is authorized to manage leases in existence on the date of this Act [Nov. 12, 1996] for properties under the administrative jurisdiction of the Secretary and located at the Presidio. Upon the expiration of any such lease, the Secretary may extend such lease for a period terminating not later than 6 months after the first meeting of the Presidio Trust. The Secretary may not enter into any new leases for property at the Presidio to be transferred to the Presidio Trust under this title,

however, the Secretary is authorized to enter into agreements for use and occupancy of the Presidio properties which are assignable to the Trust and are terminable with 30 days notice. Prior to the transfer of administrative jurisdiction over any property to the Presidio Trust, and notwithstanding section 1341 of title 31 of the United States Code, the proceeds from any such lease shall be retained by the Secretary and such proceeds shall be available, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties. The Secretary may adjust the rental charge on any such lease for any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to properties and infrastructure within the Presidio.

''(b) PUBLIC INFORMATION AND INTERPRETATION.—The Secretary shall be responsible, in cooperation with the Presidio Trust, for providing public interpretive services, visitor orientation and educational programs on all lands within the Presidio.

''(c) OTHER.—Those lands and facilities within the Presidio that are not transferred to the administrative jurisdiction of the Presidio Trust shall continue to be managed by the Secretary. The Secretary and the Presidio Trust shall cooperate to ensure adequate public access to all portions of the Presidio. Any infrastructure and building improvement projects that were funded prior to the enactment of this Act [Nov. 12, 1996] shall be completed by the National Park Service.

''(d) PARK SERVICE EMPLOYEES.—(1) Any career employee of the National Park Service, employed at the Presidio at the time of the transfer of lands and facilities to the Presidio Trust, shall not be separated from the Service by reason of such transfer, unless such employee is employed by the Trust, other than on detail. Notwithstanding section 3503 of title 5, United States Code, the Trust shall have sole discretion over whether to hire any such employee or request a detail of such employee.

''(2) Any career employee of the National Park Service employed at the Presidio on the date of enactment of this title [Nov. 12, 1996] shall be given priority placement for any available position within the National Park System notwithstanding any priority reemployment lists, directives, rules, regulations or other orders from the Department of the Interior, the Office of Management and Budget, or other Federal agencies.

''SEC. 103. ESTABLISHMENT OF THE PRESIDIO TRUST.

''(a) ESTABLISHMENT.—There is established a wholly owned government corporation to be known as the Presidio Trust (hereinafter in this title referred to as the 'Trust').

''(b) TRANSFER.—(1) Within 60 days after receipt of a request from the Trust for the transfer of any parcel within the area depicted as Area B on the map entitled 'Presidio Trust Number 1', dated December 7, 1995, the Secretary shall transfer such parcel to the administrative jurisdiction of the Trust. Within 1 year after the first meeting of the Board of Directors of the Trust, the Secretary shall transfer to the Trust administrative jurisdiction over all remaining parcels within Area B. Such map shall be on file and available for public inspection in the offices of the Trust and in the offices of the National Park Service, Department of the Interior. The Trust and the Secretary may jointly make technical and clerical revisions in the boundary depicted on such map. The Secretary shall retain jurisdiction over those portions of the building identified as number 102 as the Secretary deems essential for use as a visitor center. The Building shall be named the 'William Penn Mott Visitor Center'. Any parcel of land, the jurisdiction over which is transferred pursuant to this subsection, shall remain within the boundary of the Golden Gate National Recreation Area. With the consent of the Secretary, the Trust may at any time transfer to the administrative jurisdiction of the Secretary any other properties within the Presidio which are surplus to the needs of the Trust and which serve essential purposes of the Golden Gate National Recreation Area. The Trust is encouraged to transfer to the administrative jurisdiction of the Secretary open space areas which have high public use potential and are contiguous to other lands administered by the Secretary.

''(2) Within 60 days after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively which records, equipment, and other personal property are deemed to be necessary for the immediate administration of the properties to be transferred, and the Secretary shall immediately transfer such personal property to the Trust. Within 1 year after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively what, if any, additional records, equipment, and other personal property used by the Secretary in the administration of the properties to be transferred should be transferred to the Trust.

''(3) The Secretary shall transfer, with the transfer of administrative jurisdiction over any property, the unobligated balance of all funds appropriated to the Secretary, all leases, concessions, licenses, permits, and other agreements affecting such property.

''(4) At the request of the Trust, the Secretary shall provide funds to the Trust for preparation of the program required under section 104(c) of this title, hiring of initial staff and other activities deemed by the Trust as essential to the establishment of the Trust prior to the transfer of properties to the Trust.

''(c) BOARD OF DIRECTORS.—

''(1) IN GENERAL.—The powers and management of the Trust shall be vested in a Board of Directors (hereinafter referred to as the 'Board') consisting of the following 7 members:

''(A) The Secretary of the Interior or the Secretary's designee.

''(B) 6 individuals, who are not employees of the Federal Government, appointed by the President, who shall possess extensive knowledge and experience in one or more of the fields of city planning, finance, real estate development, and resource conservation. At least one of these individuals shall be a veteran of the Armed Services. At least 3 of these individuals shall reside in the San Francisco Bay Area. The President shall make the appointments referred to in this subparagraph within 90 days after the enactment of this Act [Nov. 12, 1996] and shall ensure that the fields of city planning, finance, real estate development, and resource conservation are adequately represented. Upon establishment of the Trust, the Chairman of the Board of Directors of the Trust shall meet with the Chairman of the Energy and Natural Resources Committee of the United States Senate and the Chairman of the Resources Committee of the United States House of Representatives.

''(2) TERMS.—Members of the Board appointed under paragraph (1)(B) shall each serve for a term of 4 years, except that of the members first appointed, 3 shall serve for a term of 2 years. Any vacancy in the Board shall be filled in the same manner in which the original appointment was made, and any member appointed to fill a vacancy shall serve for the remainder of that term for which his or her predecessor was appointed. No appointed member may serve more than 8 years in consecutive terms, except that upon the expiration of his or her term, an appointed member may continue to serve until his or her successor has been appointed.

''(3) QUORUM.—Four members of the Board shall constitute a quorum for the conduct of business by the Board.

''(4) ORGANIZATION AND COMPENSATION.—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the authorized activities of the Trust. Board members shall serve without pay, but may be reimbursed for the ac-

tual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Trust.

''(5) LIABILITY OF DIRECTORS.—Members of the Board of Directors shall not be considered Federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act [see Short Title note under section 2671 of Title 28, Judiciary and Judicial Procedure] and the Ethics in Government Act [of 1978] [5 U.S.C. App.], and the provisions of chapter 11 of title 18, United States Code.

''(6) MEETINGS.—The Board shall meet at least three times per year in San Francisco and at least two of those meetings shall be open to the public. Upon a majority vote, the Board may close any other meetings to the public. The Board shall establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues. The Board may establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues through the Golden Gate National Recreation Area Advisory Commission.

''(7) STAFF.—Notwithstanding any other provisions of law, the Trust is authorized to appoint and fix the compensation and duties and terminate the services of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, or other laws related to the appointment, compensation or termination of Federal employees.

''(8) NECESSARY POWERS.—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

''(9) TAXES.—The Trust and all properties administered by the Trust and all interest created under leases, concessions, permits and other agreements associated with the properties shall be exempt from all taxes and special assessments of every kind by the State of California, and its political subdivisions, including the City and County of San Francisco.

''(10) GOVERNMENT CORPORATION.—(A) The Trust shall be treated as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

''(B) At the end of each calendar year, the Trust shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives a comprehensive and detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section that describes in general terms the Trust's goals for the current fiscal year.

''SEC. 104. DUTIES AND AUTHORITIES OF THE TRUST.

''(a) OVERALL REQUIREMENTS OF THE TRUST.—The Trust shall manage the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio under its administrative jurisdiction using the authorities provided in this section, which shall be exercised in accordance with the purposes set forth in section 1 of the Act entitled 'An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes', approved October 27, 1972 (Public Law 92–589; 86 Stat. 1299; 16 U.S.C. 460bb), and in accordance with the general objectives of the General Management Plan (hereinafter referred to as the 'management plan') approved for the Presidio.

''(b) AUTHORITIES.—The Trust may participate in the development of programs and activities at the properties transferred to the Trust, except that the Trust shall have the authority to negotiate and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or governmental entity, including, without limitation, entities of Federal, State and local governments as are necessary and appropriate to carry out its authorized activities. The National Park Service or any other Federal agency is authorized to enter into agreements, leases, contracts and other arrangements with the Presidio Trust which are necessary and appropriate to carry out the purposes of this title. Any such agreement may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b) [now 40 U.S.C. 1302]. The Trust may use alternative means of dispute resolution authorized under subchapter IV of chapter 5 of title 5, United States Code (5 U.S.C. 571 et seq.). The Trust shall establish procedures for lease agreements and other agreements for use and occupancy of Presidio facilities, including a requirement that in entering into such agreements the Trust shall obtain reasonable competition. The Trust may not dispose of or convey fee title to any real property transferred to it under this title. Federal laws and regulations governing procurement by Federal agencies shall not apply to the Trust, with the exception of laws and regulations related to Federal government contracts governing working conditions and wage rates, including the provisions of sections 276a–276a–6 of title 40, United States Code (Davis-Bacon Act) [now 40 U.S.C. 3141–3144, 3146, and 3147], and any civil rights provisions otherwise applicable thereto. The Trust, in consultation with the Administrator of Federal Procurement Policy, shall establish and promulgate procedures applicable to the Trust's procurement of goods and services including, but not limited to, the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition. The Trust is authorized to use funds available to the Trust to purchase insurance and for reasonable reception and representation expenses, including membership dues, business cards and business related meal expenditures.

''(c) MANAGEMENT PROGRAM.—The Trust shall develop a comprehensive program for management of those lands and facilities within the Presidio which are transferred to the administrative jurisdiction of the Trust. Such program shall be designed to reduce expenditures by the National Park Service and increase revenues to the Federal Government to the maximum extent possible. In carrying out this program, the Trust shall be treated as a successor in interest to the National Park Service with respect to compliance with the National Environmental Policy Act [of 1969] [42 U.S.C. 4321 et seq.] and other environmental compliance statutes. Such program shall consist of—

''(1) demolition of structures which in the opinion of the Trust, cannot be cost-effectively rehabilitated, and which are identified in the management plan for demolition,

''(2) evaluation for possible demolition or replacement those buildings identified as categories 2 through 5 in the Presidio of San Francisco Historic Landmark District Historic American Buildings Survey Report, dated 1985,

''(3) new construction limited to replacement of existing structures of similar size in existing areas of development, and

''(4) examination of a full range of reasonable options for carrying out routine administrative and facility management programs.

The Trust shall consult with the Secretary in the preparation of this program.

''(d) FINANCIAL AUTHORITIES.—(1) To augment or encourage the use of non-Federal funds to finance capital improvements on Presidio properties transferred to its jurisdiction, the Trust, in addition to its other authorities, shall have the following authorities subject to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.):

''(A) The authority to guarantee any lender against loss of principal or interest on any loan: *Provided*, That—

''(i) the terms of the guarantee are approved by the Secretary of the Treasury;

''(ii) adequate subsidy budget authority is provided in advance in appropriations Acts; and

''(iii) such guarantees are structured so as to minimize potential cost to the Federal Government. No loan guarantee under this title shall cover more than 75 percent of the unpaid balance of the loan. The Trust may collect a fee sufficient to cover its costs in connection with each loan guaranteed under this title. The authority to enter into any such loan guarantee agreement shall expire at the end of 15 years after the date of enactment of this title [Nov. 12, 1996].

''(B) The authority, subject to appropriations, to make loans to the occupants of property managed by the Trust for the preservation, restoration, maintenance, or repair of such property.

''(2) The Trust shall also have the authority to issue obligations to the Secretary of the Treasury, but only if the Secretary of the Treasury agrees to purchase such obligations to the extent authorized in advance in appropriations acts. The Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes or obligations acquired by the Secretary of the Treasury under this subsection. Obligations issued under this subparagraph shall be in such forms and denominations, bearing such maturities, and subject to such terms and conditions, including a review of the creditworthiness of the loan and establishment of a repayment schedule, as may be prescribed by the Secretary of the Treasury, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. No funds appropriated to the Trust may be used for repayment of principal or interest on, or redemption of, obligations issued under this paragraph.

''(3) The aggregate amount of obligations issued under paragraph (2) of this subsection which are outstanding at any one time may not exceed $150,000,000.

''(e) DONATIONS.—The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purpose of carrying out its duties. The Trust is encouraged to maintain a liaison with the Golden Gate National Park Association.

''(f) PUBLIC AGENCY.—The Trust shall be deemed to be a public agency for purposes of entering into joint exercise of powers agreements pursuant to California government code section 6500 and related provisions of that Code.

''(g) FINANCIAL MANAGEMENT.—Notwithstanding section 1341 of title 31 of the United States Code, all proceeds and other revenues received by the Trust shall be retained by the Trust. Those proceeds shall be available, without further appropriation, to the Trust for the administration, preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties under its administrative jurisdiction. The Secretary of the Treasury shall invest, at the direction of the Trust, such excess moneys that the Trust determines are not required to meet current withdrawals. Such investment shall be in public debt securities with maturities suitable to the needs of the Trust and bearing interest at rates determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity.

''(h) SUITS.—The Trust may sue and be sued in its own name to the same extent as the Federal Government. Litigation arising out of the activities of the Trust shall be conducted by the Attorney General; except that the Trust may retain private attorneys to provide advice and counsel. The District Court for the Northern District of California shall have exclusive jurisdiction over any suit filed against the Trust.

''(i) MEMORANDUM OF AGREEMENT.—The Trust shall enter into a Memorandum of Agreement with the Secretary, acting through the Chief of the United States Park Police, for the conduct of law enforcement activities and services within those portions of the Presidio transferred to the administrative jurisdiction of the Trust.

''(j) BYLAWS, RULES, AND REGULATIONS.—The Trust may adopt, amend, repeal, and enforce bylaws, rules and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised, including rules and regulations for the use and management of the property under the Trust's jurisdiction. The Trust is authorized, in consultation with the Secretary, to adopt and to enforce those rules and regulations that are applicable to the Golden Gate National Recreation Area and that may be necessary and appropriate to carry out its duties and responsibilities under this title. The Trust shall give notice of the adoption of such rules and regulations by publication in the Federal Register.

''(k) DIRECT NEGOTIATIONS.—For the purpose of compliance with applicable laws and regulations concerning properties transferred to the Trust by the Secretary, the Trust shall negotiate directly with regulatory authorities.

''(*l*) INSURANCE.—The Trust shall require that all leaseholders and contractors procure proper insurance against any loss in connection with properties under lease or contract, or the authorized activities granted in such lease or contract, as is reasonable and customary.

''(m) BUILDING CODE COMPLIANCE.—The Trust shall bring all properties under its administrative jurisdiction into compliance with Federal building codes and regulations appropriate to use and occupancy within 10 years after the enactment of this title [Nov. 12, 1996] to the extent practicable.

''(n) LEASING.—In managing and leasing the properties transferred to it, the Trust shall consider the extent to which prospective tenants contribute to the implementation of the general objectives of the General Management Plan for the Presidio and to the reduction of cost to the Federal Government. The Trust shall give priority to the following categories of tenants: Tenants that enhance the financial viability of the Presidio and tenants that facilitate the cost-effective preservation of historic buildings through their reuse of such buildings.

''(*o*) REVERSION.—If, at the expiration of 15 years, the Trust has not accomplished the goals and objectives of the plan required in section 105(b) of this title, then all property under the administrative jurisdiction of the Trust pursuant to section 103(b) of this title shall be transferred to the Administrator of the General Services Administration to be disposed of in accordance with the procedures outlined in the Defense Authorization Act of 1990 (104 Stat. 1809) [probably means part A of title XXIX of div. B of Pub. L. 101–510, Nov. 5, 1990, 104 Stat. 1808, set out as a note under section 2687 of Title 10, Armed Forces], and any real property so transferred shall be deleted from the boundary of the Golden Gate National Recreation Area. In the event of such transfer, the terms and conditions of all agreements and loans regarding such lands and facilities entered into by the Trust shall be binding on any successor in interest.

''(p) EXCLUSIVE RIGHTS TO NAME AND INSIGNIA.—The Trust shall have the sole and exclusive right to use the words 'Presidio Trust' and any seal, emblem, or other insignia adopted by its Board of Directors. Without express written authority of the Trust, no person may use the words 'Presidio Trust', or any combination or variation of those words alone or with other words, as the name under which that person shall do or purport to do business, for the purpose of trade, or by way of advertisement, or in any manner that may falsely suggest any connection with the Trust.

''SEC. 105. LIMITATIONS ON FUNDING.

''(a)(1) From amounts made available to the Secretary for the operation of areas within the Golden

Gate National Recreation Area, not more than $25,000,000 shall be available to carry out this title in each fiscal year after the enactment of this title [Nov. 12, 1996] until the plan is submitted under subsection (b). Such sums shall remain available until expended.

''(2) After the plan required in subsection (b) is submitted, and for each of the 14 fiscal years thereafter, there are authorized to be appropriated to the Trust not more than the amounts specified in such plan. Such sums shall remain available until expended. Of such sums, funds shall be available through the Trust for law enforcement activities and services to be provided by the United States Park Police at the Presidio in accordance with section 104(i) of this title.

''(b) Within 1 year after the first meeting of the Board of Directors of the Trust, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing federally appropriated funding that will achieve, at a minimum, self-sufficiency for the Trust within 15 complete fiscal years after such meeting of the Trust. No further funds shall be authorized for the Trust 15 years after the first meeting of the Board of Directors of the Trust.

''(c) The Administrator of the General Services Administration shall provide necessary assistance, on a reimbursable basis, including detailees as necessary, to the Trust in the formulation and submission of the annual budget request for the administration, operation, and maintenance of the Presidio.

''SEC. 106. GENERAL ACCOUNTING OFFICE STUDY.

''(a) Three years after the first meeting of the Board of Directors of the Trust, the General Accounting Office [now Government Accountability Office] shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources [now Committee on Natural Resources] and Committee on Appropriations of the House of Representatives. The study shall include, but shall not be limited to, details of how the Trust is meeting its obligations under this title.

''(b) In consultation with the Trust, the General Accounting Office [now Government Accountability Office] shall develop an interim schedule and plan to reduce and replace the Federal appropriations to the extent practicable for interpretive services conducted by the National Park Service, and law enforcement activities and services, fire and public safety programs conducted by the Trust.

''(c) Seven years after the first meeting of the Board of Directors of the Trust, the General Accounting Office [now Government Accountability Office] shall conduct a comprehensive study of the activities of the Trust, including the Trust's progress in meeting its obligations under this title, taking into consideration the results of the study described in subsection (a) and the implementation of plan and schedule required in subsection (b). The General Accounting Office shall report the results of the study, including any adjustments to the plan and schedule, to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources [now Committee on Natural Resources] and Committee on Appropriations of the House of Representatives.

''SEC. 107. CONDITIONAL AUTHORITY TO LEASE CERTAIN HOUSING UNITS WITHIN THE PRESIDIO.

''(a) AVAILABILITY OF HOUSING UNITS FOR LONG-TERM ARMY LEASE.—Subject to subsection (c), the Trust shall make available for lease, to those persons designated by the Secretary of the Army and for such length of time as requested by the Secretary of the Army, 22 housing units located within the Presidio that are under the administrative jurisdiction of the Trust and specified in the agreement between the Trust and the Secretary of the Army in existence as of the date of the enactment of this section [Dec. 28, 2001].

''(b) LEASE AMOUNT.—The monthly amount charged by the Trust for the lease of a housing unit under this section shall be equivalent to the monthly rate of the basic allowance for housing that the occupant of the housing unit is entitled to receive under section 403 of title 37, United States Code.

''(c) CONDITION ON CONTINUED AVAILABILITY OF HOUSING UNITS.—Effective after the end of the four-year period beginning on the date of the enactment of this section, the Trust shall have no obligation to make housing units available under subsection (a) unless, during that four-year period, the Secretary of the Treasury purchases new obligations of at least $80,000,000 issued by the Trust under section 104(d)(2). In the event that this condition is not satisfied, the existing agreement referred to in subsection (a) shall be renewed on the same terms and conditions for an additional five years.''

§ 460bb–1. Composition and boundaries

(a) Areas included and excluded

(1) Initial lands

The recreation area shall comprise the lands, waters, and submerged lands generally depicted on the map entitled: ''Revised Boundary Map, Golden Gate National Recreation Area'', numbered NRA–GG–80,003–K and dated October 1978, plus those areas depicted on the map entitled ''Point Reyes and GGNRA Amendments and dated October 25, 1979''. The authority of the Secretary to acquire lands in the tract known as San Francisco Assessor's Block number 1592 shall be limited to an area of not more than one and nine-tenths acres. Notwithstanding any other provision of this subchapter, the Secretary shall not acquire the Marin County Assessor's parcels numbered 199–181–01, 199–181–06, 199–181–08, 199–181–13, and 199–181–14, located in the Muir Beach portion of the recreation area. For the purposes of this subchapter, the southern end of the town of Marshall shall be considered to be the Marshall Boat Works.

(2) Additional lands

In addition to the lands described in paragraph (1), the recreation area shall include the following:

(A) The parcels numbered by the Assessor of Marin County, California, 119–040–04, 119–040–05, 119–040–18, 166–202–03, 166–010–06, 166–010–07, 166–010–24, 166–010–25, 119–240–19, 166–010–10, 166–010–22, 119–240–03, 119–240–51, 119–240–52, 119–240–54, 166–010–12, 166–010–13, and 119–235–10.

(B) Lands and waters in San Mateo County generally depicted on the map entitled ''Sweeney Ridge Addition, Golden Gate National Recreation Area'', numbered NRA GG–80,000–A, and dated May 1980.

(C) Lands acquired under the Golden Gate National Recreation Area Addition Act of 1992 (16 U.S.C. 460bb–1 note; Public Law 102–299).

(D) Lands generally depicted on the map entitled ''Additions to Golden Gate National Recreation Area'', numbered NPS–80–076, and dated July 2000/PWR–PLRPC.

(E) Lands generally depicted on the map entitled ''Rancho Corral de Tierra Additions to the Golden Gate National Recreation Area'', numbered NPS–80,079E, and dated March 2004.

(3) Acquisition limitation

The Secretary may acquire land described in paragraph (2)(E) only from a willing seller.

(b) Boundary revisions; notification of Congressional committees; publication in Federal Register

The maps referred to in this section shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate (hereinafter referred to as the ''committees'') in writing, the Secretary may make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(Pub. L. 92–589, § 2, Oct. 27, 1972, 86 Stat. 1299; Pub. L. 93–544, Dec. 26, 1974, 88 Stat. 1741; Pub. L. 95–625, title III, § 317(a), Nov. 10, 1978, 92 Stat. 3484; Pub. L. 96–199, title I, § 103(a), Mar. 5, 1980, 94 Stat. 68; Pub. L. 96–344, § 4(1), Sept. 8, 1980, 94 Stat. 1134; Pub. L. 96–607, title X, § 1001(1), (2), Dec. 28, 1980, 94 Stat. 3544; Pub. L. 102–299, § 2(b)(1), June 9, 1992, 106 Stat. 236; Pub. L. 103–437, § 6(n)(2), Nov. 2, 1994, 108 Stat. 4586; Pub. L. 106–350, § 2, Oct. 24, 2000, 114 Stat. 1361; Pub. L. 109–131, title II, § 202, Dec. 20, 2005, 119 Stat. 2568.)

REFERENCES IN TEXT

The Golden Gate National Recreational Area Addition Act of 1992, referred to in subsec. (a)(2)(C), is Pub. L. 102–299, June 9, 1992, 106 Stat. 236, which amended this section and enacted provisions set out as a note below. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note below and Tables.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–131 designated first four sentences of existing provisions as par. (1), inserted par. (1) heading, struck out at end ''The following additional lands are also hereby included within the boundaries of the recreation area: Marin County Assessor's parcel numbered 119–040–04, 119–040–05, 119–040–18, 166–202–03, 166–010–06, 166–010–07, 166–010–24, 166–010–25, 119–240–19, 166–010–10, 166–010–22, 119–240–03, 119–240–51, 119–240–52, 119–240–54, 166–010–12, 166–010–13, and 119–235–10. The recreation area shall also include the lands and waters in San Mateo County generally depicted on the map entitled 'Sweeney Ridge Addition, Golden Gate National Recreation Area', numbered NRA GG–80,000–A, and dated May 1980. The recreation area shall also include those lands acquired pursuant to the Golden Gate National Recreation Area Addition Act of 1992. The recreation area shall also include the lands generally depicted on the map entitled 'Additions to Golden Gate National Recreation Area', numbered NPS–80,076, and dated July 2000/PWR–PLRPC.'', and added pars. (2) and (3).

2000—Subsec. (a). Pub. L. 106–350 inserted at end ''The recreation area shall also include the lands generally depicted on the map entitled 'Additions to Golden Gate National Recreation Area', numbered NPS–80,076, and dated July 2000/PWR–PLRPC.''

1994—Subsec. (b). Pub. L. 103–437 substituted ''Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate'' for ''Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate''.

1992—Subsec. (a). Pub. L. 102–299, § 2(b)(1), inserted at end ''The recreation area shall also include those lands acquired pursuant to the Golden Gate National Recreation Area Addition Act of 1992.''

1980—Subsec. (a). Pub. L. 96–607, § 1001(1), included within the recreation area the lands and waters in San Mateo County depicted on the map entitled Sweeney Ridge Addition, Golden Gate National Recreation Area, numbered NRA GG–80,000–A, dated May 1980.

Pub. L. 96–344 designated the southern end of the town of Marshall as the Marshall Boat Works and specified additional lands to be included within the boundaries of the recreation area.

Pub. L. 96–199 inserted '', plus those areas depicted on the map entitled 'Point Reyes and GGNRA Amendments and dated October 25, 1979' '' after ''and dated October 1978''.

Subsec. (b). Pub. L. 96–607, § 1001(2), substituted ''maps'' for ''map''.

1978—Subsec. (a). Pub. L. 95–625 substituted as a description of the recreation area the lands, etc., generally depicted on Revised Boundary Map, Golden Gate National Recreation Area, numbered NRA–GG–80,003–K and dated October 1978 for prior such depiction on predecessor Boundary Map numbered NRA–GG–80,003–G, and dated September 1974; limited amount of acquisition in the tract known as San Francisco Assessor's Block number 1592; prohibited acquisition of Marin County Assessor's parcels located in the Muir Beach area; and deleted provisions including certain Marin and San Francisco County properties and excluding certain Marin County properties.

1974—Subsec. (a). Pub. L. 93–544 substituted the Revised Boundary Map numbered NRA–GG–80,003–G, dated September 1974, with a list of additional properties for the Boundary Map numbered NRA–GG–80,003A, sheets 1 through 3, dated July 1972, as the description of the land comprising the recreation area.

PHLEGER ESTATE ADDITION

Section 2(a) and (b)(2) of Pub. L. 102–299 authorized Secretary of the Interior to acquire by donation or purchase with donated or appropriated funds approximately 1,232 acres of land in San Mateo County, California, known generally as the Phleger property, as generally depicted on map entitled ''1991 addition to Golden Gate National Recreation Area (Phleger Estate)'' and numbered GGNRA$^{641}/_{40062}$, with Federal share of acquisition of land not to exceed 50 percent of purchase price of land, and directed Secretary, upon acquisition of the land and after publication of notice in the Federal Register, to revise boundary of Golden Gate National Recreation Area to reflect inclusion of such land, and to prepare and make available a map displaying such boundary revision in accordance with subsection (b) of this section.

§ 460bb–2. Acquisition policy

(a) Authority of Secretary; exchange of property; disposal of certain lands; transfer from Federal agency to administrative jurisdiction of Secretary; facilities and improvements under permit from Secretary of the Army

Within the boundaries of the recreation area, the Secretary may acquire lands, improvements, waters, or interests therein, by donation, purchase, exchange or transfer. Any lands, or interests therein, owned by the State of California or any political subdivision thereof, may be acquired only by donation. When any tract of land is only partly within such boundaries, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs. Land so acquired outside of the boundaries may be exchanged by the Secretary for non-Federal lands within the boundaries. Any portion of land acquired outside the boundaries and not utilized

for exchange shall be reported to the General Services Administration for disposal under chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41: *Provided*, That no disposal shall be for less than fair market value. Except as hereinafter provided, Federal property within the boundaries of the recreation area is hereby transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of this subchapter, subject to the continuation of such existing uses as may be agreed upon between the Secretary and the head of the agency formerly having jurisdiction over the property. Notwithstanding any other provision of law, the Secretary may develop and administer for the purposes of this subchapter structures or other improvements and facilities on lands for which he receives a permit of use and occupancy from the Secretary of the Army.

(b) Transfer of certain properties to administrative jurisdiction of Secretary; military properties, reservation of use and occupancy by Secretary of the Army; radio receiver station, retention of jurisdiction when not superfluous

Fort Cronkhite, Fort Barry, and the westerly one-half of Fort Baker, in Marin County, California, as depicted on the map entitled ''Golden Gate Military Properties'' numbered NRAGG–20,002 and dated January 1972, which shall be on file and available for public inspection in the offices of the National Park Service, are hereby transferred to the jurisdiction of the Secretary for purposes of this subchapter, subject to continued use and occupancy by the Secretary of the Army of those lands needed for existing air defense missions, reserve activities and family housing, until he determines that such requirements no longer exist. The Coast Guard Radio Receiver Station, shall remain under the jurisdiction of the Secretary of the Department in which the Coast Guard is operating. When this station is determined to be excess to the needs of the Coast Guard, it shall be transferred to the jurisdiction of the Secretary for purposes of this subchapter.

(c) Military property; public service facilities: construction, maintenance, and determinations of identity and location by Secretary of the Army

The easterly one-half of Fort Baker in Marin County, California, shall remain under the jurisdiction of the Department of the Army. When this property is determined by the Department of Defense to be excess to its needs, it shall be transferred to the jurisdiction of the Secretary for purposes of this subchapter. The Secretary of the Army shall grant to the Secretary reasonable public access through such property to Horseshoe Bay, together with the right to construct and maintain such public service facilities as are necessary for the purposes of this subchapter. The precise facilities and location thereof shall be determined between the Secretary and the Secretary of the Army.

(d) Presidio of San Francisco; use and occupation of certain acreage by Secretary

Upon enactment, the Secretary of the Army shall grant to the Secretary the irrevocable use and occupancy of one hundred acres of the Baker Beach area of the Presidio of San Francisco, as depicted on the map referred to in subsection (b) of this section.

(e) Use and occupancy of airfield acreage by Secretary

The Secretary of the Army shall grant to the Secretary within a reasonable time, the irrevocable use and occupancy of forty-five acres of the Crissy Army Airfield of the Presidio, as depicted on the map referred to in subsection (b) of this section.

(f) Transfer of remainder to administrative jurisdiction of Secretary; use and occupancy by Coast Guard under permit from Secretary

When all or any substantial portion of the remainder of the Presidio is determined by the Department of Defense to be excess to its needs, such lands shall be transferred to the jurisdiction of the Secretary for purposes of this subchapter. The Secretary shall grant a permit for continued use and occupancy for that portion of said Fort Point Coast Guard Station necessary for activities of the Coast Guard.

(g) Transfer of certain Coast Guard properties to administrative jurisdiction of Secretary; navigational aids: maintenance and operation by Coast Guard and plans for access to new installations

Point Bonita, Point Diablo, Point Montara, and Lime Point shall remain under the jurisdiction of the Secretary of the Department in which the Coast Guard is operating. When this property is determined to be excess to the needs of the Coast Guard, it shall be transferred to the jurisdiction of the Secretary for purposes of this subchapter. The Coast Guard may continue to maintain and operate existing navigational aids: *Provided*, That access to such navigational aids and the installation of necessary new navigational aids within the recreation area shall be undertaken in accordance with plans which are mutually acceptable to the Secretary and the Secretary of the Department in which the Coast Guard is operating and which are consistent with both the purposes of this subchapter and the purpose of existing statutes dealing with establishment, maintenance, and operation of navigational aids.

(h) Transfer of certain property of Navy Department to administrative jurisdiction of Secretary

That portion of Fort Miley comprising approximately one and seven-tenths acres of land presently used and required by the Secretary of the Navy for its inshore, underseas warfare installations shall remain under the administrative jurisdiction of the Department of the Navy until such time as all or any portion thereof is determined by the Department of Defense to be excess to its needs, at which time such excess portion shall be transferred to the administrative jurisdiction of the Secretary for purposes of this subchapter. That property known as the Pillar Point Military Reservation, under the jurisdiction of the Secretary of Defense shall be transferred to the administrative jurisdiction of the Secretary at such time as the property, or

any portion thereof, becomes excess to the needs of the Department of Defense.

(i) New construction; limitation; notice and public hearing; exceptions

New construction and development within the boundaries described in section 460bb–1(a) of this title on lands under the administrative jurisdiction of a department other than that of the Secretary is prohibited, except that improvements on lands which have not been transferred to his administrative jurisdiction may be reconstructed or demolished. Any such structure which is demolished may be replaced with an improvement of similar size, following consultation with the Secretary or his designated representative, who shall conduct a public hearing at a location in the general vicinity of the area, notice of which shall be given at least one week prior to the date thereof. The foregoing limitation on construction and development shall not apply to expansion of those facilities known as Letterman General Hospital or the Western Medical Institute of Research.

(j) Owner's reservation of right of use and occupancy for residential purposes for fixed term of years or for life; election by owner; adjustment of compensation; termination of use and occupancy inconsistent with statutory purposes and upon tender of sum for unexpired right; lease of Federal lands: restrictive covenants, offer to prior owner or leaseholder

The owner of improved residential property or of agricultural property on the date of its acquisition by the Secretary under this subchapter may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his or her spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her determination that it is being exercised in a manner inconsistent with the purposes of this subchapter, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under this subchapter, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this subchapter. Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land or who was a leaseholder thereon immediately before its acquisition by the United States.

(k) "Improved and agricultural property" defined

The term ''improved property'', as used in subsection (j) of this section, means a detached, noncommercial residential dwelling, the construction of which was begun before June 1, 1971, or, in the case of areas added by action of the Ninety-fifth Congress, October 1, 1978, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated. The term ''agricultural property'' as used in this subchapter means lands which are in regular use for agricultural, ranching, or dairying purposes as of January 1, 1978, together with residential and other structures related to the above uses of the property as such structures exist on said date.

***(l)* Relocation assistance benefits and rights; waiver through retention of right of use and occupancy; displaced person status of owner**

Whenever an owner of property elects to retain a right of use and occupancy as provided for in this subchapter, such owner shall be deemed to have waived any benefits or rights accruing under sections 4623, 4624, 4625, and 4626 of title 42, and for the purposes of those sections such owner shall not be considered a displaced person as defined in section 4601(6) of title 42.

(m) Acquisition of land; contract authority; installment payments; interest rate; provisions applicable to judgments against United States

Notwithstanding any other provision of law, the Secretary shall have the same authority with respect to contracts for the acquisition of land and interests in land for the purposes of this subchapter as was given the Secretary of the Treasury for other land acquisitions by section 3171 of title 40 relating to purchase of sites for public buildings, and the Secretary and the owner of land to be acquired under this subchapter may agree that the purchase price will be paid in periodic installments over a period that does not exceed ten years, with interest on the unpaid balance thereof at a rate which is not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities on the installments. Judgments against the United States for amounts in excess of the deposit in court made in condemnation actions shall be subject to the provisions of section 1304 of title 31 and sections 2414 and 2517 of title 28.

(n) Management of State donated lands

The Secretary shall accept and shall manage in accordance with this subchapter, any land and improvements adjacent to the recreation area which are donated by the State of California or its political subdivisions. The boundaries of the recreation area shall be changed to include such donated lands.

***(o)* Payment deferral; scheduling; interest rate**

In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of this

subchapter, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes.

(p) San Francisco water department property; scenic and recreational easement

With reference to those lands known as the San Francisco water department property shown on map numbered NRA GG–80,000–A, the Secretary shall administer such land in accordance with the provisions of the documents entitled ''Grant of Scenic Easement'', and ''Grant of Scenic and Recreational Easement'', both executed on January 15, 1969, between the city and county of San Francisco and the United States, including such amendments to the subject document as may be agreed to by the affected parties subsequent to December 28, 1980. The Secretary is authorized to seek appropriate agreements needed to establish a trail within this property and connecting with a suitable beach unit under the jurisdiction of the Secretary.

(Pub. L. 92–589, §3, Oct. 27, 1972, 86 Stat. 1299; Pub. L. 95–625, title III, §317(b)–(e), Nov. 10, 1978, 92 Stat. 3485; Pub. L. 96–607, title X, §1001(3)–(5), Dec. 28, 1980, 94 Stat. 3544.)

REFERENCES IN TEXT

Upon enactment, referred to in subsec. (d), probably means the date of enactment of this subchapter by Pub. L. 92–589, which was Oct. 27, 1972.

CODIFICATION

In subsec. (a), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

''Section 3171 of title 40 relating to purchase of sites for public buildings'' substituted in subsec. (m) for ''section 34 of the Act of May 30, 1908, relating to purchase of sites for public buildings (35 Stat. 545)'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

In subsec. (m), ''section 1304 of title 31'' substituted for ''the Act of July 27, 1956 (70 Stat. 624) [31 U.S.C. 724a]'' on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1980—Subsec. (g). Pub. L. 96–607, §1001(3), inserted reference to Point Montara.

Subsec. (h). Pub. L. 96–607, §1001(4), transferred to the jurisdiction of the Secretary the Pillar Point Military Reservation at such time as the property, or any portion thereof, becomes excess to the needs of the Department of Defense.

Subsec. (p). Pub. L. 96–607, §1001(5), added subsec. (p).

1978—Subsec. (i). Pub. L. 95–625, §317(b), in revising the text, substituted provision prohibiting new construction and development in the recreation area on lands under the administrative jurisdiction of a department other than that of the Secretary but authorized reconstruction or demolition of improvements upon the nontransferred lands of such agency after consultations with the Secretary and upon notice and hearing for prior provision limited to new construction and development on property under administrative jurisdiction of the Department of the Army required to accommodate facilities being relocated from property being transferred to administrative jurisdiction of the Secretary or directly related to the essential missions of the Sixth United States Army.

Subsec. (j). Pub. L. 95–625, §317(c), substituted provision making the subsection applicable to improved residential property and agricultural property for prior provision for application to improved property of a noncommercial residential nature and authorized lease of Federally-owned lands, subject to restrictive covenants, with first offer to prior owner or leaseholder.

Subsec. (k). Pub. L. 95–625, §317(d), defined ''improved property'' to include residential dwelling, the construction of which was begun, in the case of areas added by action of the Ninety-fifth Congress, October 1, 1978, and included definition of ''agricultural property''.

Subsecs. (n), (*o*). Pub. L. 95–625, §317(e), added subsecs. (n) and (*o*).

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 460bb–3. Administration

(a) Provisions applicable; utilization of authorities for conservation and management of wildlife and natural resources; provisions applicable to Muir Woods National Monument and Fort Point National Historic Site

The Secretary shall administer the lands, waters and interests therein acquired for the recreation area in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of this subchapter. Notwithstanding their inclusion within the boundaries of the recreation area, the Muir Woods National Monument and Fort Point National Historic Site shall continue to be administered as distinct and identifiable units of the national park system in accordance with the laws applicable to such monument and historic site.

(b) Federal-State cooperative agreements for police and fire protection

The Secretary may enter into cooperative agreements with any Federal agency, the State of California, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement and fire preventive assistance.

(c) Water resource developments

The authority of the Army to undertake or contribute to water resource developments, including shore erosion control, beach protection, and navigation improvements on land and/or waters within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary and the Sec-

retary of the Army and which are consistent with both the purpose of this subchapter and the purpose of existing statutes dealing with water and related resource development.

(d) Transportation system; study for coordinated public and private system

The Secretary, in cooperation with the State of California and affected political subdivisions thereof, local and regional transit agencies, and the Secretaries of Transportation and of the Army, shall make a study for a coordinated public and private transportation system to and within the recreation area and other units of the national park system in Marin and San Francisco Counties.

(e) Fees or admission charges

No fees or admission charges shall be levied for admission of the general public to the recreation area except to portions under lease or permit for a particular and limited purpose authorized by the Secretary. The Secretary may authorize reasonable charges for public transportation and for admission to the sailing vessel Balclutha and other historic vessels of the National Maritime Museum.

(f) Certain rental proceeds; crediting; management contract

Notwithstanding any other provisions of law, in the administration of those parcels of property known as Haslett Warehouse, Cliff House Properties and Louis' Restaurant, the Secretary shall credit any proceeds from the rental of space in the aforementioned properties to the appropriation, if any, bearing the cost of their administration, maintenance, repair and related expenses and also for the maintenance, repair and related expenses of the vessels and the adjacent piers comprising the San Francisco Maritime National Historical Park, and for major renovation and park rehabilitation of those buildings included in the Fort Mason Foundation Cooperative Agreement: *Provided*, That surplus funds, if any, will be deposited into the Treasury of the United States: *Provided further*, That notwithstanding any other provision of law, in the administration of said parcels and of the AFDL–38 Drydock or other vessels or heavy marine equipment, the Secretary may, if he deems appropriate, enter into a contract for the management (including rental or lease) of said properties with such terms and conditions as will protect the Government's interest, with excess funds being used as set forth above.

(Pub. L. 92–589, §4, Oct. 27, 1972, 86 Stat. 1302; Pub. L. 95–625, title III, §317(f), Nov. 10, 1978, 92 Stat. 3486; Pub. L. 99–395, §§1, 2(a), Aug. 27, 1986, 100 Stat. 836; Pub. L. 100–348, §6, June 27, 1988, 102 Stat. 657.)

AMENDMENTS

1988—Subsec. (f). Pub. L. 100–348 substituted ''San Francisco Maritime National Historical Park'' for ''National Maritime Museum''.

1986—Subsec. (e). Pub. L. 99–395, §2(a), substituted ''and for admission to the sailing vessel Balclutha and other historic vessels of the National Maritime Museum'' for ''and, for a period not exceeding five years from November 10, 1978, for admission to the sailing vessel Balclutha''.

Subsec. (f). Pub. L. 99–395, §1, struck out provision which had included a coordinated public and private access system to and within the recreation area and other units of the national park system in Marin and San Francisco Counties among the allowable uses to which rental proceeds from Haslett Warehouse, Cliff House Properties and Louis' Restaurant were to be put, inserted in second proviso a reference to the administration of the AFDL–38 Drydock and other vessels or heavy marine equipment, and inserted parenthetical in second proviso to include rental or lease of properties under management contracts into which the Secretary may enter.

1978—Subsecs. (e), (f). Pub. L. 95–625 added subsecs. (e) and (f).

FORT BAKER AGREEMENTS AND LEASES

Pub. L. 108–7, div. F, title I, §114, Feb. 20, 2003, 117 Stat. 239, as amended by Pub. L. 109–54, title I, §131, Aug. 2, 2005, 119 Stat. 525, provided that: ''Notwithstanding any other provision of law, the Secretary of the Interior hereafter has ongoing authority to negotiate and enter into agreements and leases, without regard to section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b) [now 40 U.S.C. 1302], with any person, firm, association, organization, corporation, or governmental entity, for all or part of the property within Fort Baker administered by the Secretary as part of the Golden Gate National Recreation Area. In furtherance of a lease entered into under the first sentence, the Secretary of the Interior or a lessee may impose fees on overnight lodgers for the purpose of covering the cost of providing utilities and transportation services at Fort Baker properties at a rate not to exceed the annual cost of providing these services. The proceeds of the agreements or leases or any statutorily authorized fees, hereafter shall be retained by the Secretary and such proceeds shall remain available until expended, without further appropriation, for the preservation, restoration, operation, maintenance, interpretation, public programs, and related expenses of the National Park Service and nonprofit park partners incurred with respect to Fort Baker properties, including utility expenses of the National Park Service or lessees of the National Park Service.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 106–291, title I, §115, Oct. 11, 2000, 114 Stat. 943.

Pub. L. 106–113, div. B, §1000(a)(3) [title I, §121], Nov. 29, 1999, 113 Stat. 1535, 1501A–159.

FORT BAKER GOLDEN GATE NATIONAL RECREATION AREA; TAX AND SPECIAL ASSESSMENT EXEMPTION

Pub. L. 106–113, div. B, §1000(a)(3) [title I, §120], Nov. 29, 1999, 113 Stat. 1535, 1501A–159, as amended by Pub. L. 111–88, div. A, title I, §123, Oct. 30, 2009, 123 Stat. 2932, provided that: ''All properties administered by the National Park Service at Fort Baker, Golden Gate National Recreation Area, and leases, concessions, permits and other agreements associated with those properties, hereafter shall be exempt from all taxes and special assessments, except sales tax, by the State of California and its political subdivisions, including the County of Marin and the City of Sausalito.''

Similar provisions were contained in Pub. L. 105–277, div. A, §101(e) [title I, §150], Oct. 21, 1998, 112 Stat. 2681–231, 2681–268.

FEES OR ADMISSION CHARGES; MONEYS COLLECTED SINCE NOVEMBER 10, 1983

Section 2(b) of Pub. L. 99–395 provided that: ''Notwithstanding any other provisions of law, moneys collected pursuant to section 4(e) of the Act of October 27, 1972 (16 U.S.C. 460bb–3; 92 Stat. 3486), since November 10, 1983, shall be deemed to have been collected in accordance with such section as amended by this Act.''

§ 460bb–4. Golden Gate National Recreation Area Advisory Commission

(a) Establishment

There is hereby established the Golden Gate National Recreation Area Advisory Commission (hereinafter referred to as the ''Commission'').

(b) Membership; appointment; term of office

The Commission shall be composed of eighteen members appointed by the Secretary for terms of five years each.[1] *Provided*, That the terms of those members who have been either appointed or reappointed subsequent to January 1, 1979, shall be extended so as to expire not before June 1, 1985.

(c) Vacancies

Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) Compensation and expenses; vouchers

Members of the Commission shall serve without compensation, as such, but the Secretary may pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Commission and its members in carrying out their responsibilities under this subchapter.

(e) Consultations of Secretary with members

The Secretary, or his designee, shall from time to time, but at least annually, meet and consult with the Commission on general policies and specific matters related to planning, administration and development affecting the recreation area and other units of the national park system in Marin, San Mateo, and San Francisco Counties.

(f) Voting

The Commission shall act and advise by affirmative vote of a majority of the members thereof.

(g) Termination date

The Commission shall cease to exist thirty years after October 27, 1972.

(Pub. L. 92–589, §5, Oct. 27, 1972, 86 Stat. 1302; Pub. L. 95–625, title III, §317(g), Nov. 10, 1978, 92 Stat. 3486; Pub. L. 96–344, §4(2), (3), Sept. 8, 1980, 94 Stat. 1134; Pub. L. 96–607, title X, §1001(6), (7), Dec. 28, 1980, 94 Stat. 3545; Pub. L. 102–525, title III, §303, Oct. 26, 1992, 106 Stat. 3441.)

AMENDMENTS

1992—Subsec. (g). Pub. L. 102–525 substituted ''thirty'' for ''twenty''.

1980—Subsec. (b). Pub. L. 96–607, §1001(6), substituted ''eighteen'' for ''seventeen''.

Pub. L. 96–344, §4(2), substituted ''five'' for ''three'' and inserted proviso that the terms of members appointed or reappointed subsequent to Jan. 1, 1979, be extended so as not to expire before June 1, 1985.

Subsec. (e). Pub. L. 96–607, §1001(7), substituted ''Marin, San Mateo,'' for ''Marin''.

Subsec. (g). Pub. L. 96–344, §4(3), substituted ''twenty'' for ''ten''.

1978—Subsec. (b). Pub. L. 95–625 increased Commission membership from fifteen to seventeen.

§ 460bb–5. Authorization of appropriations; limitation; adjustments

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter, but not more than $61,610,000 plus $15,500,000 shall be appropriated for the acquisition of lands and interests in lands. There are authorized to be appropriated not more than $58,000,000 (May 1971 prices) for the development of the recreation area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the type of construction involved herein said total development ceiling to be reduced by $10,000,000.

(Pub. L. 92–589, §6, Oct. 27, 1972, 86 Stat. 1303; Pub. L. 96–199, title I, §103(b), Mar. 5, 1980, 94 Stat. 68.)

AMENDMENTS

1980—Pub. L. 96–199 inserted ''plus $15,500,000'' after ''$61,610,000'' and ''said total development ceiling to be reduced by $10,000,000'' after ''type of construction involved herein''.

SUBCHAPTER LXXXVII—GATEWAY NATIONAL RECREATION AREA

§ 460cc. Establishment

In order to preserve and protect for the use and enjoyment of present and future generations an area possessing outstanding natural and recreational features, the Gateway National Recreation Area (hereinafter referred to as the ''recreation area'') is hereby established.

(a) Composition and boundaries

The recreation area shall comprise the following lands, waters, marshes, and submerged lands in the New York Harbor area generally depicted on the map entitled ''Boundary Map, Gateway National Recreation Area,'' numbered 951–40017 sheets 1 through 3 and dated May, 1972:

(1) Jamaica Bay Unit—including all islands, marshes, hassocks, submerged lands, and waters in Jamaica Bay, Floyd Bennett Field, the lands generally located between highway route 27A and Jamaica Bay, and the area of Jamaica Bay up to the shoreline of John F. Kennedy International Airport;

(2) Breezy Point Unit—the entire area between the eastern boundary of Jacob Riis Park and the westernmost point of the peninsula;

(3) Sandy Hook Unit—the entire area between Highway 36 Bridge and the northernmost point of the peninsula;

(4) Staten Island Unit—including Great Kills Park, World War Veterans Park at Miller Field (except for approximately 26 acres which are to be made available for public school purposes), Fort Wadsworth, and the waterfront lands located between the streets designated as Cedar Grove Avenue, Seaside Boulevard, and Drury Avenue and the bay from Great Kills to Fort Wadsworth;

(5) Hoffman and Swinburne Islands; and

(6) All submerged lands, islands, and waters within one-fourth of a mile of the mean low water line of any waterfront area included above.

(b) Boundary revisions: notification of Congressional committees; publication in Federal Register

The map referred to in this section shall be on file and available for public inspection in the of-

[1] So in original. The period probably should be a colon.

fices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate in writing, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(Pub. L. 92–592, §§1, 3(b)(2), Oct. 27, 1972, 86 Stat. 1308; Pub. L. 103–437, §6(n)(3), Nov. 2, 1994, 108 Stat. 4586; Pub. L. 106–132, §1(2), Dec. 7, 1999, 113 Stat. 1681.)

AMENDMENTS

1999—Subsec. (a)(4). Pub. L. 106–132 added Pub. L. 92–592, §3(b)(2). See 1972 Amendment note below.

1994—Subsec. (b). Pub. L. 103–437 substituted ''Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate'' for ''Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate''.

1972—Subsec. (a)(4). Pub. L. 92–592, §3(b)(2), as added by Pub. L. 106–132, substituted ''World War Veterans Park at Miller Field'' for ''Miller Field''.

DEKORTE STATE PARK; PROTECTION AND USE OF; STUDY FOR ESTABLISHMENT AS A UNIT OF THE NATIONAL PARK SYSTEM AND ADMINISTRATION AS UNIT OF GATEWAY NATIONAL RECREATION AREA; REPORT TO CONGRESSIONAL COMMITTEES; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 96–442, §3, Oct. 13, 1980, 94 Stat. 1887, directed Secretary of the Interior to conduct a study to determine appropriate measures for protection, interpretation, and public use of natural wetlands and undeveloped uplands of that portion of Hackensack Meadowlands District identified as DeKorte State Park on official zoning maps of that District, with Secretary to consult with and seek advice of, representatives of interested local, State, and other Federal agencies, to determine suitability and feasibility of establishing the area as a unit of national park system, including its administration as a unit of Gateway National Recreation Area, together with alternative measures that could be undertaken to protect and interpret resources of area for public, and not later than two complete fiscal years from Oct. 13, 1980, to transmit a report of the study, including estimated development, operation, and maintenance costs of alternatives identified therein, to Senate Committee on Energy and Natural Resources and Committee on Interior and Insular Affairs of House of Representatives, together with his recommendations for such further legislation as may be appropriate, and authorized to be appropriated from amounts previously authorized to study lands for possible inclusion in national park system not to exceed $150,000 to carry out provisions of this Act.

§ 460cc–1. Acquisition of property

(a) Authority of Secretary; donation of State lands

Within the boundaries of the recreation area, the Secretary may acquire lands and waters or interests therein by donation, purchase or exchange, except that lands owned by the States of New York or New Jersey or any political subdivisions thereof may be acquired only by donation.

(b) Transfer from Federal agency to administrative jurisdiction of Secretary

With the concurrence of the agency having custody thereof, any Federal property within the boundaries of the recreation area may be transferred, without consideration, to the administrative jurisdiction of the Secretary for administration as a part of the recreation area.

(c) Breezy Point Unit; public use and access; agreement for use of lands for single-family residential community; specific provisions; Rockaway parking lot conveyance

Within the Breezy Point Unit, (1) the Secretary shall acquire an adequate interest in the area depicted on the map referred to in section 460cc of this title to assure the public use of and access to the entire beach. The Secretary may enter into an agreement with any property owner or owners to assure the continued maintenance and use of all remaining lands in private ownership as a residential community composed of single-family dwellings. Any such agreement shall be irrevocable, unless terminated by mutual agreement, and shall specify, among other things:

(A) that the Secretary may designate, establish and maintain a buffer zone on Federal lands separating the public use area and the private community;

(B) that all construction commencing within the community, including the conversion of dwellings from seasonal to year-round residences, shall comply with standards to be established by the Secretary;

(C) that additional commercial establishments shall be permitted only with the express prior approval of the Secretary or his designee.

(2) If a valid, enforceable agreement is executed pursuant to paragraph (1) of this subsection, the authority of the Secretary to acquire any interest in the property subject to the agreement, except for the beach property, shall be suspended.

(3) The Secretary is authorized to accept by donation from the city of New York any right, title, or interest which it holds in the parking lot at Rockaway which is part of the Marine Bridge project at Riis Park. Nothing herein shall be deemed to authorize the United States to extinguish any present or future encumbrance or to authorize the State of New York or any political subdivision or agency thereof to further encumber any interest in the property so conveyed.

(d) Jamaica Bay Unit; Broad Channel Community; title acceptance conditions

Within the Jamaica Bay Unit, (1) the Secretary may accept title to lands donated by the city of New York subject to a retained right to continue existing uses for a specifically limited period of time if such uses conform to plans agreed to by the Secretary, and (2) the Secretary may accept title to the area known as Broad Channel Community only if, within five years after October 27, 1972, all improvements have been removed from the area and a clear title to the area is tendered to the United States.

(Pub. L. 92–592, § 2, Oct. 27, 1972, 86 Stat. 1308.)

§ 460cc–2. Administration

(a) Provisions applicable; utilization of authorities for conservation and management of wildlife and natural resources; Jamaica Bay Unit

The Secretary shall administer the recreation area in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented. In the administration of the recreation area the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of this subchapter: *Provided*, That the Secretary shall administer and protect the islands and waters within the Jamaica Bay Unit with the primary aim of conserving the natural resources, fish, and wildlife located therein and shall permit no development or use of this area which is incompatible with this purpose.

(b) William Fitts Ryan Visitor Center; designation

(1) The Secretary shall designate the principal visitor center within the recreation area as the ''William Fitts Ryan Visitor Center'' in commemoration of the leadership and contributions which Representative William Fitts Ryan made with respect to the creation and establishment of this public recreation area. To inform the public of the contributions of Representative Ryan to the creation of the recreation area, the Secretary shall provide such signs, markers, maps, interpretive materials, literature, and programs as he deems appropriate. Not later than December 31, 1980, the Secretary shall take such additional actions as he deems appropriate to recognize and commemorate the contributions of Representative Ryan to the recreation area.

(2) The portion of the Staten Island Unit of the recreation area known as Miller Field is hereby designated as ''World War Veterans Park at Miller Field''. Any reference to such Miller Field in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to ''World War Veterans Park at Miller Field''.

(c) Federal-State cooperative agreements for police and fire protection

The Secretary is authorized to enter into cooperative agreements with the States of New York and New Jersey, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(d) Water resource developments

The authority of the Secretary of the Army to undertake or contribute to water resource developments, including shore erosion control, beach protection, and navigation improvements (including the deepening of the shipping channel from the Atlantic Ocean to the New York harbor) on land and/or waters within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of the Army and which are consistent with both the purpose of this subchapter and the purpose of existing statutes dealing with water and related land resource development.

(e) Airway facilities; maintenance, operation, and installation; Jamaica Bay and Floyd Bennett Field restrictions

The authority of the Secretary of Transportation to maintain and operate existing airway facilities and to install necessary new facilities within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of Transportation and which are consistent with both the purpose of this subchapter and the purpose of existing statutes dealing with the establishment, maintenance, and operation of airway facilities: *Provided*, That nothing in this section shall authorize the expansion of airport runways into Jamaica Bay or air facilities at Floyd Bennett Field.

(f) Hunting, fishing, and trapping

The Secretary shall permit hunting, fishing, shellfishing, trapping, and the taking of specimens on the lands and waters under his jurisdiction within the Gateway National Recreation Area in accordance with the applicable laws of the United States and the laws of the States of New York and New Jersey and political subdivisions thereof, except that the Secretary may designate zones where and establish periods when these activities may not be permitted, for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment.

(g) Sandy Hook and Staten Island Units; programs for preservation, restoration, interpretation, and utilization of sites and structures

In the Sandy Hook and Staten Island Units, the Secretary shall inventory and evaluate all sites and structures having present and potential historical, cultural, or architectural significance and shall provide for appropriate programs for the preservation, restoration, interpretation, and utilization of them.

(h) Donations for services and facilities; acceptance

Notwithstanding any other provision of law, the Secretary is authorized to accept donations of funds from individuals, foundations, or corporations for the purpose of providing services and facilities which he deems consistent with the purposes of this subchapter.

(i) Rights to solid waste byproducts of Fountain Avenue Landfill; conveyance from United States to city of New York; rights-of-way and permits; conditions; payments to United States for development and improvement of Gateway National Recreation Area

Notwithstanding the provisions of subsection (a) of this section, the United States hereby conveys to the city of New York all rights to the methane gas and associated byproducts resulting from solid waste decomposition on the area within the Jamaica Bay Unit known as the

Fountain Avenue Landfill site, subject to payments to the United States of 50 per centum of the revenue received by the city of New York, if any, from the development of such rights. The Secretary shall grant to the City, its lessee or assignee, all rights-of-way and other permits necessary from the Department of the Interior to extract and transport the gas from the site: *Provided*, That the rights-of-way and other permits shall provide for reasonable restoration of the site, including removal of any processing or storage facilities used in the disposal, development, or extraction of the gas, access by the Secretary to the site for safety and other recreation area purposes, and such other reasonable conditions as the Secretary deems necessary to further purposes of the recreation area. All such payments to the United States shall be credited to the appropriations of the National Park Service for the development and improvement of Gateway National Recreation Area.

(Pub. L. 92–592, § 3, Oct. 27, 1972, 86 Stat. 1309; Pub. L. 96–344, § 11(1), Sept. 8, 1980, 94 Stat. 1136; Pub. L. 97–232, § 1, Aug. 9, 1982, 96 Stat. 259; Pub. L. 106–132, § 1, Dec. 7, 1999, 113 Stat. 1681.)

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–132 designated existing provisions as par. (1) and added par. (2).

1982—Subsec. (i). Pub. L. 97–232 added subsec. (i).

1980—Subsec. (b). Pub. L. 96–344 struck out ''constructed'' after ''visitor center'' and inserted provision authorizing the Secretary to inform the public of the contributions of Representative Ryan to the creation of the recreation area by means of signs, markers, etc., and to take such additional action, not later than Dec. 31, 1980, as deemed appropriate to recognize and commemorate the contributions of Representative Ryan to the recreation area.

§ 460cc–3. Gateway National Recreation Area Advisory Commission

(a) Establishment; termination date

There is hereby established a Gateway National Recreation Area Advisory Commission (hereinafter referred to as the ''Commission''). Said Commission shall terminate twenty years after the date of the establishment of the recreation area.

(b) Membership; appointment; terms of office; representation of interests

The Commission shall be composed of fifteen members each appointed for a term of two years by the Secretary as follows:

(1) two members to be appointed from recommendations made by the Governor of the State of New York;

(2) two members to be appointed from recommendations made by the Governor of the State of New Jersey;

(3) two members to be appointed from recommendations made by the mayor of New York City;

(4) two members to be appointed from recommendations made by the mayor of Newark, New Jersey; and

(5) seven members to be appointed by the Secretary to represent the general public.

(c) Chairman; vacancies

The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) Compensation and expenses; vouchers

A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibility under this subchapter upon vouchers signed by the Chairman.

(e) Voting

The Commission established by this section shall act and advise by affirmative vote of a majority of the members thereof.

(f) Consultations of Secretary with members

The Secretary or his designee shall, from time to time, consult with the members of the Commission with respect to matters relating to the development of the recreation area.

(Pub. L. 92–592, § 4, Oct. 27, 1972, 86 Stat. 1310; Pub. L. 96–344, § 11(2), Sept. 8, 1980, 94 Stat. 1136; Pub. L. 97–232, § 2, Aug. 9, 1982, 96 Stat. 259.)

AMENDMENTS

1982—Subsec. (a). Pub. L. 97–232 substituted ''twenty'' for ''ten''.

1980—Subsec. (b). Pub. L. 96–344 substituted in provision preceding par. (1) ''fifteen'' for ''eleven'' and in par. (5) ''seven'' for ''three''.

§ 460cc–4. Authorization of appropriations; limitation; adjustments

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter, but not more than $12,125,000 for the acquisition of lands and interests in lands and not more than $92,813,000 (July, 1971 prices) for development of the recreation area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in the construction costs as indicated by engineering cost indices applicable to the type of construction involved herein.

(Pub. L. 92–592, § 5, Oct. 27, 1972, 86 Stat. 1311.)

SUBCHAPTER LXXXVIII—GLEN CANYON NATIONAL RECREATION AREA

§ 460dd. Establishment; boundaries; publication in Federal Register

(a) In order to provide for public outdoor recreation use and enjoyment of Lake Powell and lands adjacent thereto in the States of Arizona and Utah and to preserve scenic, scientific, and historic features contributing to public enjoyment of the area, there is established the Glen Canyon National Recreation Area (hereafter referred to as the ''recreation area'') to comprise the area generally depicted on the drawing entitled ''Boundary Map Glen Canyon National Recreation Area,'' numbered GLC–91,006 and dated August 1972, which is on file and available for public inspection in the office of the National Park Service, Department of the Interior. The Secretary of the Interior (hereafter referred to as the ''Secretary'') may revise the boundaries of the recreation area from time to time by publication in the Federal Register of a revised drawing or other boundary description,

but the total acreage of the national recreation area may not exceed 1,256,000 acres.

(b) In addition to the boundary change authority under subsection (a) of this section, the Secretary may acquire approximately 152 acres of private land in exchange for approximately 370 acres of land within the boundary of Glen Canyon National Recreation Area, as generally depicted on the map entitled ''Page One Land Exchange Proposal'', number 608/60573a–2002, and dated May 16, 2002. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service. Upon conclusion of the exchange, the boundary of the recreation area shall be revised to reflect the exchange.

(Pub. L. 92–593, §1, Oct. 27, 1972, 86 Stat. 1311; Pub. L. 108–43, §2, July 1, 2003, 117 Stat. 841.)

AMENDMENTS

2003—Pub. L. 108–43 designated existing provisions as subsec. (a), substituted ''1,256,000 acres'' for ''one million two hundred and thirty-six thousand eight hundred and eighty acres'', and added subsec. (b).

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–43, §1, July 1, 2003, 117 Stat. 841, provided that: ''This Act [amending this section] may be cited as the 'Glen Canyon National Recreation Area Boundary Revision Act'.''

§ 460dd–1. Acquisition of property

(a) Authority of Secretary; donation or exchange of State lands; concurrence of tribal council respecting trust lands

Within the boundaries of the recreation area, the Secretary may acquire lands and interests in lands by donation, purchase, or exchange. Any lands owned by the States of Utah or Arizona, or any State, political subdivisions thereof, may be acquired only by donation or exchange. No lands held in trust for any Indian tribe may be acquired except with the concurrence of the tribal council.

(b) Navajo Indian Tribe and Tribal Council reserved mineral and land use rights unaffected

Nothing in this subchapter shall be construed to affect the mineral rights reserved to the Navajo Indian Tribe under section 2 of the Act of September 2, 1958 (72 Stat. 1686), or the rights reserved to the Navajo Indian Tribal Council in said section 2 with respect to the use of the lands there described under the heading ''PARCEL B''.

(Pub. L. 92–593, §2, Oct. 27, 1972, 86 Stat. 1311.)

REFERENCES IN TEXT

Act of September 2, 1958 (72 Stat. 1686), referred to in subsec. (b), provided for exchange of lands between United States and Navajo Tribe and for other purposes, and was not classified to the Code.

§ 460dd–2. Public lands

(a) Withdrawal from location, entry, and patent under Federal mining laws; removal of minerals

The lands within the recreation area, subject to valid existing rights, are withdrawn from location, entry, and patent under the United States mining laws. Under such regulations as he deems appropriate, the Secretary shall permit the removal of the nonleasable minerals from lands or interests in lands within the national recreation area in the manner prescribed by section 387 of title 43, and he shall permit the removal of leasable minerals from lands or interests in lands within the recreation area in accordance with the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.), or the Acquired Lands Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351 et seq.), if he finds that such disposition would not have significant adverse effects on the Glen Canyon project or on the administration of the national recreation area pursuant to this subchapter.

(b) Disposition of funds from permits and leases

All receipts derived from permits and leases issued on lands in the recreation area under the Mineral Leasing Act of February 25, 1920, as amended [30 U.S.C. 181 et seq.], or the Act of August 7, 1947 [30 U.S.C. 351 et seq.], shall be disposed of as provided in the applicable Act; and receipts from the disposition of nonleasable minerals within the recreation area shall be disposed of in the same manner as moneys received from the sale of public lands.

(Pub. L. 92–593, §3, Oct. 27, 1972, 86 Stat. 1312.)

REFERENCES IN TEXT

The Mineral Leasing Act of February 25, 1920, as amended, referred to in text, is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§181 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

The Acquired Lands Mineral Leasing Act of August 7, 1947, referred to in text, is act Aug. 7, 1947, ch. 513, 61 Stat. 913, as amended, which is classified generally to chapter 7 (§351 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 351 of Title 30 and Tables.

§ 460dd–3. Administration, protection, and development; statutory authorities for conservation and management of natural resources; Glen Canyon Dam and Reservoir

The Secretary shall administer, protect, and develop the recreation area in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and with any other statutory authority available to him for the conservation and management of natural resources to the extent he finds such authority will further the purposes of this subchapter: *Provided, however*, That nothing in this subchapter shall affect or interfere with the authority of the Secretary granted by Public Law 485, Eighty-fourth Congress, second session [43 U.S.C. 620 et seq.], to operate Glen Canyon Dam and Reservoir in accordance with the purposes of the Colorado River Storage Project Act [43 U.S.C. 620 et seq.] for river regulation, irrigation, flood control, and generation of hydroelectric power.

(Pub. L. 92–593, §4, Oct. 27, 1972, 86 Stat. 1312.)

REFERENCES IN TEXT

Public Law 485, Eighty-fourth Congress, second session, referred to in text, is act Apr. 11, 1956, ch. 203, 70

Stat. 105, as amended, which is popularly known as the Colorado River Storage Project Act, and which is classified generally to chapter 12B (§ 620 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 620 of Title 43 and Tables.

§ 460dd–4. Hunting and fishing

The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the States of Utah and Arizona, except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulation of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

(Pub. L. 92–593, § 5, Oct. 27, 1972, 86 Stat. 1312.)

§ 460dd–5. Mineral and grazing leases; Bureau of Land Management administration and policies

The administration of mineral and grazing leases within the recreation area shall be by the Bureau of Land Management. The same policies followed by the Bureau of Land Management in issuing and administering mineral and grazing leases on other lands under its jurisdiction shall be followed in regard to the lands within the boundaries of the recreation area, subject to the provisions of sections 460dd–2(a) and 460dd–3 of this title.

(Pub. L. 92–593, § 6, Oct. 27, 1972, 86 Stat. 1312.)

§ 460dd–6. Easements and rights-of-way

The Secretary shall grant easements and rights-of-way on a nondiscriminatory basis upon, over, under, across, or along any component of the recreation area unless he finds that the route of such easements and rights-of-way would have significant adverse effects on the administration of the recreation area.

(Pub. L. 92–593, § 7, Oct. 27, 1972, 86 Stat. 1312.)

§ 460dd–7. Proposed road study

(a) Criteria and environmental impact of specific route

The Secretary, together with the Highway Department of the State of Utah, shall conduct a study of proposed road alinements within and adjacent to the recreation area. Such study shall locate the specific route of a scenic, low-speed road, hereby authorized, from Glen Canyon City to Bullfrog Basin, crossing the Escalante River south of the point where the river has entered Lake Powell when the lake is at the three thousand seven hundred-foot level. In determining the route for this road, special care shall be taken to minimize any adverse environmental impact and said road is not required to meet ordinary secondary road standards as to grade, alinement, and curvature. Turnouts, overlooks, and scenic vistas may be included in the road plan. In no event shall said route cross the Escalante River north of Stephens Arch.

(b) Timetable

The study shall include a reasonable timetable for the engineering, planning, and construction of the road authorized in subsection (a) of this section and the Secretary of the Interior shall adhere to said timetable in every way feasible to him.

(c) Markers and other interpretative devices

The Secretary is authorized to construct and maintain markers and other interpretative devices consistent with highway safety standards.

(d) Additional roads

The study specified in subsection (a) of this section shall designate what additional roads are appropriate and necessary for full utilization of the area for the purposes of this subchapter and to connect with all roads of ingress to, and egress from the recreation area.

(e) Report to Congress

The findings and conclusions of the Secretary and the Highway Department of the State of Utah, specified in subsection (a) of this section, shall be submitted to Congress within two years of October 27, 1972, and shall include recommendations for any further legislation necessary to implement the findings and conclusions. It shall specify the funds necessary for appropriation in order to meet the timetable fixed in subsection (b) of this section.

(Pub. L. 92–593, § 8, Oct. 27, 1972, 86 Stat. 1312.)

§ 460dd–8. Report to President

Within two years from October 27, 1972, the Secretary shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act [16 U.S.C. 1132(c) and (d)], his recommendations as to the suitability or nonsuitability of any area within the recreation area for preservation as wilderness, and any designation of any such area as wilderness shall be in accordance with said Wilderness Act [16 U.S.C. 1131 et seq.].

(Pub. L. 92–593, § 9, Oct. 27, 1972, 86 Stat. 1313.)

REFERENCES IN TEXT

The Wilderness Act, referred to in text, is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

§ 460dd–9. Authorization of appropriations; limitation

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter, not to exceed, however, $400,000 for the acquisition of lands and interests in lands and not to exceed $37,325,400 for development. The sums authorized in this section shall be available for acquisition and development undertaken subsequent to the approval of this subchapter.

(Pub. L. 92–593, § 10, Oct. 27, 1972, 86 Stat. 1313.)

SUBCHAPTER LXXXIX—BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA

§ 460ee. Establishment

(a) "Secretary" defined; statement of purposes; boundaries; acquisition of outside sites for administrative, visitor orientation, and recreation facilities

As used in this section the term ''Secretary'' shall mean the Secretary of the Army, acting through the Chief of Engineers. The Secretary, in accordance with the national recreation area concept included in the interagency report prepared pursuant to section 218 of the Flood Control Act of 1968 (Public Law 90–483) by the Corps of Engineers, the Department of the Interior, and the Department of Agriculture, as modified by this section, is authorized and directed to establish on the Big South Fork of the Cumberland River in Kentucky and Tennessee the Big South Fork National River and Recreation Area (hereafter in this section referred to as the ''National Area'') for the purposes of conserving and interpreting an area containing unique cultural, historic, geologic, fish and wildlife, archeologic, scenic, and recreational values, preserving as a natural, free-flowing stream the Big South Fork of the Cumberland River, major portions of its Clear Fork and New River stems, and portions of their various tributaries for the benefit and enjoyment of present and future generations, the preservation of the natural integrity of the scenic gorges and valleys, and the development of the area's potential for healthful outdoor recreation. The boundaries shall be as generally depicted on the drawing prepared by the Corps of Engineers and entitled ''Big South Fork National River and Recreation Area'' identified as map number BSF–NRRA(1)(A) and dated October 1972, which shall be on file and available for public inspection in the office of the District Engineer, U.S. Army Engineer District, Nashville, Tennessee. The Secretary may acquire sites at locations outside such boundaries, as he determines necessary, for administrative and visitor orientation facilities. The Secretary may also acquire a site outside such boundaries at or near the location of the historic Tabard Inn in Ruby, Tennessee, including such lands as he deems necessary, for the establishment of a lodge with recreational facilities as provided in subsection (e)(3) of this section.

(b) Transfer of responsibility for planning, acquisition, and development, and administrative jurisdiction to Secretary of the Interior; boundary revisions; acreage limitation

Effective upon November 15, 1990, responsibility for all planning, acquisition, and development, as well as administrative jurisdiction over all Federal lands, water, interests therein, and improvements thereon, within the National Area is hereby transferred to the Secretary of the Interior. The Secretary may complete all acquisition and development activities in progress on November 15, 1990, and the Secretary and the Secretary of the Interior may, by mutual agreement, provide for an orderly and phased assumption of responsibilities (including but not limited to land acquisition and the construction of necessary access roads, day-use facilities, campground facilities, lodges, and administrative buildings) and available funds by the Secretary of the Interior in furtherance of the purposes of this section. The Secretary of the Interior shall administer the National Area in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented. The authorities set forth in this section which were available to the Secretary immediately prior to November 15, 1990, shall after November 15, 1990, be available to the Secretary of the Interior. In the administration of the National Area the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of this section. The Secretary of the Interior may, after transfer to him, revise the boundaries from time to time, but the total acreage within such boundaries shall not exceed one hundred and twenty-five thousand acres. Following such transfer the authorities available to the Secretary in subsection (c) of this section shall likewise be available to the Secretary of the Interior.

(c) Acquisition of property; tracts; exchange and disposal of property; transfer from Federal agency to administrative jurisdiction of Secretary; residential property, right of use and occupancy; fair market value; transfer or assignment; lifetime residence of tenant or spouse; accrual of obligation or rental to United States; "improved property" defined; mineral rights

(1) Within the boundaries of the National Area, the Secretary may acquire lands and waters or interests therein by donation, purchase with donated or appropriated funds, or exchange or otherwise, except that lands (other than roads and rights-of-way for roads) owned by the States of Kentucky and Tennessee or any political subdivisions thereof which were in public ownership on October 22, 1976, may be acquired only by donation. When an individual tract of land is only partly within the boundaries of the National Area, the Secretary may acquire all of the tract by any of the above methods in order to avoid the payment of severance costs. Land so acquired outside of the boundaries of the National Area may be exchanged by the Secretary for non-Federal lands within the National Area boundaries, and any portion of the land not utilized for such exchanges may be disposed of in accordance with the provisions of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41. Notwithstanding any other provision of law, any Federal property within the boundaries of the National Area shall be transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of this section.

(2) With the exception of property or any interest in property that the Secretary determines is necessary for purposes of administration, preservation, or public use, any owner or owners (hereafter in this section referred to as ''owner'') of improved property used solely for noncommercial residential purposes on the date of its acquisition by the Secretary may retain the

right of use and occupancy of such property for such purposes for a term, as the owner may elect, ending either (A) upon the death of the owner or his spouse, whichever occurs later, or (B) not more than twenty-five years from the date of acquisition. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the term retained by the owner. Such right: shall be subject to such terms and conditions as the Secretary deems appropriate to assure that the property is used in accordance with the purposes of this section; may be transferred or assigned; and may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof has ceased to be used for noncommercial residential purposes, and upon tender to the holder of the right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination. Any person residing upon improved property, subject to the right of acquisition by the Secretary as a tenant or by the sufferance of the owner or owners of the property may be allowed to continue in such residence for the lifetime of such person or his spouse, whichever occurs later, subject to the same restrictions as applicable to owners residing upon such property and provided that any obligation or rental incurred as consideration for such tenancy shall accrue during such term to the United States to be used in the administration of this section.

(3) As used in this section the term ''improved property'' means a detached year-round one-family dwelling which serves as the owner's permanent place of abode at the time of acquisition, and construction of which was begun before January 1, 1974, together with so much of the land on which the dwelling is situated, such land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, except that the Secretary may exclude from any improved property any waters or land fronting thereon, together with so much of the land adjoining such waters or land as he deems necessary for public access thereto.

(4) In any case where the Secretary determines that underlying minerals are removable consistent with the provisions of subsection (e)(3) of this section, the owner of the minerals underlying property acquired for the purposes of this section may retain such interest. The Secretary shall reserve the right to inspect and regulate the extraction of such minerals to insure that the values enumerated in subsection (a) of this section are not reduced and that the purposes declared in subsection (e)(1) of this section are not interfered with.

(d) Hunting, fishing, and trapping; rules and regulations after consultations with State agencies

The Secretary, and the Secretary of the Interior after jurisdiction over the National Area has been transferred to him under subsection (b) of this section, shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the National Area in accordance with applicable Federal and State laws, except that he may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary or the Secretary of the Interior pursuant to this subsection shall be put into effect only after consultation with the appropriate State agency responsible for hunting, fishing, and trapping activities.

(e) Gorge areas division: restrictions, limited motorboat access, operation and maintenance of rail line, access routes, maintenance of roads for nonvehicular traffic, ingress and egress of residents, protection of values; adjacent areas division: restrictions, boundaries; Rugby area; Federal consultations with involved agencies respecting development and management of adjacent National Area; Blue Heron Mine community, restoration; rail and alternative transportation study; report to Congress

(1) The National Area shall be established and managed for the purposes of preserving and interpreting the scenic, biological, archeological, and historical resources of the river gorge areas and developing the natural recreational potential of the area for the enjoyment of the public and for the benefit of the economy of the region. The area within the boundary of the National Area shall be divided into two categories; namely, the gorge areas and adjacent areas as hereinafter defined.

(2)(A) Within the gorge area, no extraction of, or prospecting for minerals, petroleum products, or gas shall be permitted. No timber shall be cut within the gorge area except for limited clearing necessary for establishment of day-use facilities, historical sites, primitive campgrounds, and access roads. No structures shall be constructed within the gorge area except for structures associated with the improvement of historical sites specified in paragraphs (5), (6), and (8), except for day-use facilities and primitive campgrounds along the primary and secondary access routes specified herein and within 500 feet of such roads, and except for primitive campgrounds accessible only by water or on foot. No motorized transportation shall be allowed in the gorge area except on designated access routes, existing routes for administration of the National Area, existing routes for access to cemeteries; except that motorboat access into the gorge area shall be permitted up to a point one-tenth of a mile downstream from Devils' Jumps and except for the continued operation and maintenance of the rail line currently operated and known as the K & T Railroad. The Secretary of the Interior shall impose limitations on the use of existing routes for access to cemeteries. The Secretary shall acquire such interest in the K & T Railroad right-of-way by easement as he deems necessary to protect the scenic, esthetic, and recreational values of the gorge area and the adjacent areas.

(B) Primary access routes into the gorge area may be constructed or improved upon the gen-

eral route of the following designated roads: Tennessee Highway Numbered 52, FAS 2451 (Leatherwood Ford Road), the road into the Blue Heron Community, and Kentucky Highway Numbered 92.

(C) Secondary access roads in the gorge area may be constructed or improved upon the following routes: the roads from Smith Town, Kentucky, to Worley, Kentucky, the road crossing the Clear Fork at Burnt Mill Bridge, the road from Goad, Tennessee, to Zenith, Tennessee, the road from Co-Operative, Kentucky, to Kentucky Highway Numbered 92, the road entering the gorge across from the mouth of Alum Creek in Kentucky, the road crossing the Clear Fork at Peters Bridge, the road entering the gorge across from the mouth of Station Camp Creek.

(D) All other existing roads in the gorge area shall be maintained for nonmotorized traffic only, except that nothing in this section shall abrogate the right of ingress and egress of those who remain in occupancy under subsection (c)(1) of this section.

(E) Road improvement or maintenance and any construction of roads or facilities in the gorge area as permitted by this section shall be accomplished by the Secretary in a manner that will protect the declared values of this unique natural scenic resource.

(3) In adjacent areas: the removal of timber shall be permitted only where required for the development or maintenance of public use and for administrative sites and shall be accomplished with careful regard for scenic and environmental values; prospecting for minerals and the extraction of minerals from the adjacent areas shall be permitted only where the adit to any such mine can be located outside the boundary of the National Area; no surface mining or strip mining shall be permitted; prospecting and drilling for petroleum products and natural gas shall be permitted in the adjacent area under such regulations as the Secretary or the Secretary of the Interior, after jurisdiction over the national river and recreation area has been transferred to him under subsection (b) of this section, may prescribe to minimize detrimental environment impact, such regulations shall provide among other things for an area limitation for each such operation, zones where operations will not be permitted, and safeguards to prevent air and water pollution; no storage facilities for petroleum products or natural gas shall be located within the boundary of the National Area except as necessary and incidental to production; the Secretary is authorized to construct two lodges with recreational facilities within the adjacent areas so as to maximize and enhance public use and enjoyment of the National Area; construction of all roads and facilities in the adjacent areas shall be undertaken with careful regard for the maintenance of the scenic and esthetic values of the gorge area and the adjacent areas.

(4) The gorge area as set out in paragraphs (1) and (2) of this subsection shall consist of all lands and waters of the Big South Fork, Clear Fork, and New York River which lie between the gorge or valley rim on either side (where the rim is not clearly defined by topography, the gorge boundary shall be established at an elevation no lower than that of the nearest clearly demarked rim on the same side of the valley), and those portions of the main tributaries and streams in the watersheds of the Big South Fork, Clear Fork, and New River that lie within a gorge or valley rim on either side, except that no lands or waters north of Kentucky Highway Numbered 92 shall be included. The designated adjacent areas shall consist of the balance of the National Area.

(5) The Secretary, and the Secretary of the Interior, shall consult and cooperate with the Tennessee Historical Commission and the Rugby Restoration Association and with other involved agencies and associations, both public and private concerning the development and management of the National Area in the area adjacent to Rugby, Tennessee. Development within the area adjacent to Rugby, Tennessee, shall be designed toward preserving and enhancing the historical integrity of the community and any historical sites within the boundary of the National Area.

(6) The Secretary, or the Secretary of the Interior, after jurisdiction over the National Area has been transferred to him under subsection (b) of this section, shall provide for the restoration of the Blue Heron Mine community in a manner which will preserve and enhance the historical integrity of the community and will contribute to the public's understanding and enjoyment of its historical value. To that end the Secretary, or the Secretary of the Interior, after jurisdiction over the National Area has been transferred to him under subsection (b) of this section, may construct and improve structures within and may construct and improve a road into this community.

(7) The Secretary shall study the desirability and feasibility of reestablishing rail transportation on the abandoned O&W railbed or an alternative mode of transportation within the National Area upon the O&W roadbed, and shall report to Congress his recommendation with regard to development of this facility.

(8) IMPROVEMENT OF CHARIT CREEK LODGE AND HISTORIC STRUCTURES.—The Secretary of the Interior may make improvements to the Charit Creek Lodge and associated facilities and to historic structures determined to be eligible for listing in the National Register of Historic Places. Such improvements shall be made in a manner consistent with the historic scene and the limited ability of the National Area to accommodate additional use and development. Improvements to the Charit Creek Lodge and associated facilities shall be made within the approximately 30 acres of cleared land existing on November 15, 1990, and within carrying capacity limitations determined by the National Park Service.

(f) Federal power and water resources projects; license and other restrictions; limitations inapplicable to external areas

The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063) as amended (16 U.S.C. 791a et seq.), within or directly affecting

the National Area and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which the National Area was established. Nothing contained in the preceding sentence shall preclude licensing of, or assistance to, developments below or above the National Area or on any stream tributary thereto which will not invade the National Area or unreasonably diminish the scenic, recreation, and fish and wildlife values present in the area on March 7, 1974. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which the National Area was established, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary or the Secretary of the Interior, after jurisdiction over the National Area has been transferred to him under subsection (b) of this section, in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendations or request in what respect construction of such project would be in conflict with the purposes of this section and would affect the National Area and the values to be protected under this section.

(g) Transportation facilities; study and establishment

The Secretary shall study transportation facilities in the region served by the National Area and shall establish transportation facilities to enhance public access to the National Area. In this connection the Secretary is authorized to acquire and maintain public roads, other than State highways, necessary to serve the public use facilities within the National Area, and to establish and maintain, at Federal cost an interior and circulating road system sufficient to meet the purposes of this section. Any existing public road, which at the time of its acquisition continues to be a necessary and essential part of the county highway system, may, upon mutual agreement between the Secretary and the owner of such road, be relocated outside of the National Area and if not so relocated such road shall be maintained at Federal expense and kept open at all times for general travel purposes. Nothing in this subsection shall abrogate the right of egress and ingress of those persons who may remain in occupancy under subsection (c) of this section. Nothing in this subsection shall preclude the adjustment, relocation, reconstruction, or abandonment of State highways situated in the National Area, with the concurrence of the agency having the custody of such highways upon entering into such arrangements as the Secretary or the Secretary of the Interior, after jurisdiction over the National Area has been transferred to him under subsection (b) of this section, deems appropriate and in the best interest of the general welfare.

(h) New River plan and programs; transmittal to Congress

In furtherance of the purpose of this subsection the Secretary in cooperation with the Secretary of Agriculture, the heads of other Federal departments and agencies involved, and the State of Tennessee and its political subdivisions, shall formulate a comprehensive plan for that portion of the New River that lies upstream from United States Highway Numbered 27. Such plan shall include, among other things, programs to enhance the environment and conserve and develop natural resources, and to minimize siltation and acid mine drainage. Such plan, with recommendations, including those as to costs and administrative responsibilities, shall be completed and transmitted to the Congress within one year from March 7, 1974.

(i) Water quality protection; interagency cooperation

The Secretary or the Secretary of the Interior, after jurisdiction over the National Area has been transferred to him under subsection (b) of this subsection, shall consult and cooperate with other departments and agencies of the United States and the States of Tennessee and Kentucky in the development of measures and programs to protect and enhance water quality within the National Area and to insure that such programs for the protection and enhancement of water quality do not diminish other values that are to be protected under this section.

(j) Real and personal property tax losses; reimbursement; authorization of appropriations

(1) Until such time as the transfer of jurisdiction to the Secretary of the Interior authorized by subsection (b) of this section shall take place, for the purpose of financially assisting the States of Tennessee and Kentucky, McCreary County, Kentucky, and Scott, Morgan, Pickett, and Fentress Counties in Tennessee, because of losses which these jurisdictions will sustain by reason of the fact that certain lands and other property within their boundaries may be included within the National Area established by this section and thereafter will no longer be subject to real and personal property taxes levied or imposed by them, payments shall be made to them on an annual basis in an amount equal to those taxes levied or imposed on such property for the last taxable year immediately preceding March 7, 1974.

(2) For the purpose of enabling the Secretary to make such payments during the fiscal years ending June 30, 1975, June 30, 1976, June 30, 1977, June 30, 1978, and June 30, 1979, there are authorized to be appropriated such sums as may be necessary.

(k) Authorization of appropriations; prohibition of appropriation from Land and Water Conservation Fund

There are authorized to be appropriated $156,122,000 to carry out the provisions of this section, other than subsection (j) of this section. Costs for the National Area shall be provided in the same manner as costs for national recreation areas administered by the Secretary of the Interior through the National Park Service.

(Pub. L. 93–251, title I, § 108, Mar. 7, 1974, 88 Stat. 43; Pub. L. 94–587, § 184, Oct. 22, 1976, 90 Stat. 2940; Pub. L. 95–91, title IV, § 402(a)(1)(A), Aug. 4, 1977, 91 Stat. 583; Pub. L. 99–662, title XI, § 1110, Nov. 17, 1986, 100 Stat. 4231; Pub. L. 101–561, § 1, Nov. 15, 1990, 104 Stat. 2778.)

REFERENCES IN TEXT

Section 218 of the Flood Control Act of 1968, referred to in subsec. (a), is section 218 of Pub. L. 90–483, Aug. 13, 1968, 82 Stat. 749, which was not classified to the Code.

The Federal Power Act, referred to in subsec. (f), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

CODIFICATION

In subsec. (c)(1), ''public ownership on October 22, 1976,'' substituted for ''public ownership at the time of enactment of this section'' for purposes of codification, Oct. 22, 1976, being date of approval of Pub. L. 94–587.

In subsec. (c)(1), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949 (63 Stat. 377; 40 U.S.C. 471 et seq.), as amended'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–561, § 1(a), struck out par. (1) designation, substituted ''Effective upon November 15, 1990, responsibility for all planning, acquisition, and development, as well as administrative jurisdiction over all Federal lands, water, interests therein, and improvements thereon, within the National Area is hereby transferred to the Secretary of the Interior. The Secretary may complete all acquisition and development activities in progress on November 15, 1990, and the Secretary and the Secretary of the Interior may, by mutual agreement, provide for an orderly and phased assumption of responsibilities (including but not limited to land acquisition and the construction of necessary access roads, day-use facilities, campground facilities, lodges, and administrative buildings) and available funds by the Secretary of the Interior in furtherance of the purposes of this section. The Secretary of the Interior shall administer the National Area in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented. The authorities set forth in this section which were available to the Secretary immediately prior to November 15, 1990, shall after November 15, 1990, be available to the Secretary of the Interior.'' for ''The Secretary shall establish the National Area by publication of notice thereof in the Federal Register when he determines that the United States has acquired an acreage within the boundaries of the National Area that is efficiently administrable for the purposes of this section. After publication of notice, and after he has completed the construction of necessary access roads, day-use facilities, campground facilities, lodges, and administrative buildings, the Secretary shall transfer the jurisdiction of the National Area to the Secretary of the Interior who shall administer the National Area in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented.'', struck out at end of par. (1) ''The Secretary may, prior to the transfer to the Secretary of the Interior, revise the boundaries from time to time, but the total acreage within such boundaries shall not exceed one hundred and twenty-five thousand acres.'', and struck out par. (2) which read as follows: ''The Secretary may by agreement with the Secretary of the Interior provide for interim management by the Department of the Interior, in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, of any portion or portions of the project which constitute a logically and efficiently administrable area. The Secretary is authorized to transfer funds to the Department of the Interior for the costs of such interim management out of funds appropriated for the project.''

Subsec. (e)(2)(A). Pub. L. 101–561, § 1(b), substituted ''No structures shall be constructed within the gorge area except for structures associated with the improvement of historical sites specified in paragraphs (5), (6), and (8), except for day-use facilities and primitive campgrounds along the primary and secondary access routes specified herein and within 500 feet of such roads, and except for primitive campgrounds accessible only by water or on foot. No motorized transportation shall be allowed in the gorge area except on designated access routes, existing routes for administration of the National Area, existing routes for access to cemeteries; except that motorboat access into the gorge area shall be permitted up to a point one-tenth of a mile downstream from Devils' Jumps and except for the continued operation and maintenance of the rail line currently operated and known as the K & T Railroad. The Secretary of the Interior shall impose limitations on the use of existing routes for access to cemeteries.'' for ''No structures shall be constructed within the gorge except for reconstruction and improvement of the historical sites specified in paragraphs (5) and (6) of this subsection and except for necessary day-use facilities along the primary and secondary access routes specified herein and within five hundred feet of such roads, and except for primitive campgrounds accessible only by water or on foot. No motorized transportation shall be allowed in the gorge area except on designated access routes and except that motorboat access into the gorge area shall be permitted up to a point one-tenth of a mile downstream from Devil's Jumps; and except for the continued operation and maintenance of the rail line currently operated and known as the K & T Railroad.''

Subsec. (e)(2)(D). Pub. L. 101–561, § 1(c), substituted ''nonmotorized'' for ''nonvehicular''.

Subsec. (e)(8). Pub. L. 101–561, § 1(d), added par. (8).

Subsec. (k). Pub. L. 101–561, § 1(e), substituted ''Costs for the National Area shall be provided in the same manner as costs for national recreation areas administered by the Secretary of the Interior through the National Park Service'' for ''No moneys shall be appropriated from the Land and Water Conservation Fund to carry out the purposes of this section''.

1986—Subsec. (k). Pub. L. 99–662 substituted ''$156,122,000'' for ''$103,522,000''.

1976—Subsec. (a). Pub. L. 94–587, § 184(a), provided for acquisition of outside sites for administrative, visitor orientation, and recreation facilities.

Subsec. (b). Pub. L. 94–587, § 184(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(1). Pub. L. 94–587, § 184(c), inserted ''which were in public ownership on October 22, 1976,'' after ''political subdivisions thereof''.

Subsec. (e)(2)(A). Pub. L. 94–587, § 184(d), provided for motorboat access into the gorge area, continued operation and maintenance of the rail line, and acquisition by the Secretary of an interest in the rail line easement for protection of scenic, esthetic, and recreational values of the gorge area and the adjacent areas.

Subsec. (e)(2)(C). Pub. L. 94–587, § 184(e), authorized construction of a secondary access road upon the road entering the gorge across from the mouth of Station Camp Creek.

Subsec. (k). Pub. L. 94–587, § 184(f), substituted ''$103,522,000'' for ''$32,850,000''.

TRANSFER OF FUNCTIONS

''Federal Energy Regulatory Commission'' substituted for ''Federal Power Commission'' in subsec. (f) pursuant to Pub. L. 95–91, § 402(a)(1)(A), which is classified to section 7172(a)(1)(A) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and functions with regard to licenses and permits for dams, reservoirs, or other works for development and improvement of navigation and for development and utilization of power across, along, from, or in navigable waters under part I of Federal Power Act (16 U.S.C. 792 et seq.)

transferred to Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42.

SUBCHAPTER XC—CUYAHOGA VALLEY NATIONAL PARK

§ 460ff. Establishment

For the purpose of preserving and protecting for public use and enjoyment, the historic, scenic, natural, and recreational values of the Cuyahoga River and the adjacent lands of the Cuyahoga Valley and for the purpose of providing for the maintenance of needed recreational open space necessary to the urban environment, the Cuyahoga Valley National Park, hereafter referred to as the ''park'', shall be established within six months after December 27, 1974. In the management of the park, the Secretary of the Interior (hereafter referred to as the ''Secretary'') shall utilize the park resources in a manner which will preserve its scenic, natural, and historic setting while providing for the recreational and educational needs of the visiting public.

(Pub. L. 93–555, §1, Dec. 27, 1974, 88 Stat. 1784; Pub. L. 106–291, title I, §149(c), Oct. 11, 2000, 114 Stat. 956.)

AMENDMENTS

2000—Pub. L. 106–291 substituted ''National Park'' for ''National Recreation Area'' and substituted ''park'' for ''recreation area'' wherever appearing.

REDESIGNATION OF CUYAHOGA VALLEY NATIONAL RECREATION AREA

Pub. L. 106–291, title I, §149(a), (b), Oct. 11, 2000, 114 Stat. 956, provided that:

''(a) REDESIGNATION.—The Cuyahoga Valley National Recreation Area is redesignated as Cuyahoga Valley National Park.

''(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Cuyahoga Valley National Recreation Area is deemed to be a reference to Cuyahoga Valley National Park.''

§ 460ff–1. Acquisition of land

(a) Composition and boundaries; boundary revisions; certain specific property

The park shall comprise the lands and waters generally depicted on the map entitled ''Boundary Map, Cuyahoga Valley National Park, Ohio'', numbered 644–80,054 and dated July 1986, which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and in the main public library of Akron, Ohio, and Cleveland, Ohio. After advising the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, in writing, the Secretary may make minor revisions of the boundaries of the park when necessary by publication of a revised drawing or other boundary description in the Federal Register: *Provided*, That with respect to the property known as the Hydraulic Brick Company located in Independence, Ohio, the Secretary shall have the first right of refusal to purchase such property for a purchase price not exceeding the fair market value of such property on the date it is offered for sale. When acquired such property shall be administered as part of the park, subject to the laws and regulations applicable thereto. The park shall also comprise any lands designated as ''City of Akron Lands'' on the map referred to in the first sentence which are offered as donations to the Department of the Interior or which become privately owned. The Secretary shall revise such map to depict such lands as part of the park.

(b) Manner of acquisition; scenic easements; donation of State lands; private lands essential to area; transfer of Federal property to Secretary

Within the boundaries of the park, the Secretary, after consultation with the Governor of the State of Ohio and the Advisory Commission established in section 460ff–4[1] of this title, may acquire lands, improvements, waters, or interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer. The Secretary may not acquire fee title to any lands included within the park in 1986 which are designated on the map referred to in subsection (a) of this section as ''Scenic Easement Acquisition Areas''. The Secretary may acquire only scenic easements in such designated lands. Unless consented to by the owner from which the easement is acquired, any such scenic easement may not prohibit any activity, the subdivision of any land, or the construction of any building or other facility if such activity, subdivision, or construction would have been permitted under laws and ordinances of the unit of local government in which such land was located on April 1, 1986, as such laws and ordinances were in effect on such date. Any lands or interests owned therein, as well as any lands hereafter acquired, by the State of Ohio or any political subdivision thereof (including any park district or other public entity) within the boundaries of the park may be acquired only by donation or exchange for equal value. In determining the exchange value of lands of the State or any political subdivision thereof under this subsection, the Secretary shall not include in the value of those lands amounts paid from the land and water conservation fund, if any, for the original acquisition of those lands by the State or political subdivision. The Secretary shall not acquire privately owned lands which are held and used for public recreation uses unless he determines that such lands are essential to carry out the purposes of this subchapter. Notwithstanding any other provisions of law, any Federal property located within the boundaries of the park may, with the concurrence of the agency having custody thereof, be transferred without transfer of funds to the administrative jurisdiction of the Secretary for the purposes of the park.

(c) Scenic easements or other interests in improved property; prerequisites to acquisition of fee title

With respect to improved properties, as defined in this subchapter, the Secretary may acquire scenic easements or such other interests as, in his judgment, are necessary for the purposes of the park. Fee title to such improved properties shall not be acquired unless the Sec-

[1] See References in Text note below.

retary finds that such lands are being used, or are threatened with uses, which are detrimental to the purposes of the park, or unless such acquisition is necessary to fulfill the purposes of this subchapter.

(d) Acquired lands partly outside boundaries; exchange for non-Federal lands within boundaries; report to General Services Administration for disposal

When any tract of land is only partly within the boundaries of the park, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs. Land so acquired outside of the boundaries may be exchanged by the Secretary for non-Federal lands within the boundaries. Any portion of the land acquired outside the boundaries and not utilized for exchange shall be reported to the General Services Administration for disposal under chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41: *Provided*, That no disposal shall be for less than the fair market value of the lands involved.

(e) "Improved property" defined; determination by Secretary

For the purposes of this subchapter, the term ''improved property'' means: (i) a detached single family dwelling, the construction of which was begun before January 1, 1975 (hereafter referred to as ''dwelling''), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, or (ii) property developed for agricultural uses, together with any structures accessory thereto which were so used on or before January 1, 1975. In determining when and to what extent a property is to be considered an ''improved property'', the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1975, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date. In applying this subsection with respect to lands and interests therein added to the park by action of the Ninety-fifth Congress, the date ''January 1, 1978,'' shall be substituted for the date ''January 1, 1975,'' in each place it appears.

(f) Retention by owner of right of use and occupancy for noncommercial residential or agricultural purposes; terms; payment of fair market value; termination by Secretary for use inconsistent with statutory purpose

The owner of an improved property, as defined in this subchapter, on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or agricultural purposes, as the case may be, for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this subchapter, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(g) Offers to sell by owners claiming undue hardship

In exercising his authority to acquire property under this subchapter, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the park to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

(Pub. L. 93–555, §2, Dec. 27, 1974, 88 Stat. 1784; Pub. L. 94–578, title III, §323(a), Oct. 21, 1976, 90 Stat. 2742; Pub. L. 95–625, title III, §315(a), (d), (f), Nov. 10, 1978, 92 Stat. 3483; Pub. L. 96–87, title IV, §401(g), Oct. 12, 1979, 93 Stat. 666; Pub. L. 99–606, §16, Nov. 6, 1986, 100 Stat. 3468; Pub. L. 102–431, §1, Oct. 23, 1992, 106 Stat. 2211; Pub. L. 103–437, §6(a)(5), Nov. 2, 1994, 108 Stat. 4583; Pub. L. 106–291, title I, §149(b), (c)(2), Oct. 11, 2000, 114 Stat. 956.)

REFERENCES IN TEXT

Section 460ff–4 of this title, referred to in subsec. (b), was in the original ''section 5 of this Act'' meaning section 5 of Pub. L. 93–555 which was repealed and section 6 was redesignated section 5 by Pub. L. 106–291, title I, §149(d), Oct. 11, 2000, 114 Stat. 956.

CODIFICATION

In subsec. (d), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949, as amended'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2000—Pub. L. 106–291, §149(c)(2), substituted ''the park'' for ''the recreation area'' wherever appearing and ''The park'' for ''The recreation area'' in subsec. (a).

Subsec. (a). Pub. L. 106–291, §149(b), substituted ''The park shall'' for ''The recreational area shall'' and ''National Park'' for ''National Recreation Area''.

1994—Subsec. (a). Pub. L. 103–437 substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives'' for ''Committees on Interior and Insular Affairs of the United States Congress''.

1992—Subsec. (b). Pub. L. 102–431 substituted ''within the boundaries of the recreation area may be acquired only by donation or exchange for equal value. In deter-

mining the exchange value of lands of the State or any political subdivision thereof under this subsection, the Secretary shall not include in the value of those lands amounts paid from the land and water conservation fund, if any, for the original acquisition of those lands by the State or political subdivision'' for ''may be acquired only by donation''.

1986—Subsec. (a). Pub. L. 99–606, §16(1), (2), substituted ''numbered 644–80,054 and dated July 1986'' for ''numbered 655–90,001–A and dated May 1978'' and inserted provisions relating to City of Akron Lands on the map referred to in first sentence offered as donations or privately owned, and revision of such map.

Subsec. (b). Pub. L. 99–606, §16(3), inserted provisions prohibiting acquisition of fee title to any lands designated on the map referred to in subsection (a) as ''Scenic Easement Acquisition Areas'', but acquisition of only scenic easement with no prohibition on activities unless consented to by owner, if such activity, etc. would have been permitted under laws of the local government on Apr. 1, 1986.

1979—Subsec. (a). Pub. L. 96–87 substituted ''numbered 655–90,001–A'' for ''numbered 90,001–A''.

1978—Subsec. (a). Pub. L. 95–625, §315(a), (f), substituted reference to Boundary Map ''numbered 90,001–A, and dated May 1978'' for ''numbered 90,000–A, and dated September 1976'' and inserted provision for land acquisition of the Hydraulic Brick Company and administration of the property as part of the recreation area.

Subsec. (e). Pub. L. 95–625, §315(d), provided for substitution of date ''January 1, 1978'' for ''January 1, 1975'' wherever appearing in application of the subsec. to lands and interests therein added to the recreation area by action of the Ninety-fifth Congress.

1976—Subsec. (a). Pub. L. 94–578 substituted '' 'Boundary Map, Cuyahoga Valley National Recreation Area, Ohio', numbered 90,000–A, and dated September 1976'' for '' 'Boundary Map, Cuyahoga Valley National Recreation Area, Ohio', numbered NRA–CUYA–20,000–A, and dated December 1974''.

§ 460ff–2. Land acquisition plan

(a) Submission to Congressional committees; time; contents

Within one year after December 27, 1974, the Secretary shall submit, in writing, to the Committees on Interior and Insular Affairs and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate:

(i) the lands and areas which he deems essential to the protection and public enjoyment of this park,

(ii) the lands which he has previously acquired by purchase, donation, exchange, or transfer for the purpose of this park, and

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

(b) Congressional intent for land acquisition completion

It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated by this subchapter within six years after December 27, 1974.

(Pub. L. 93–555, §3, Dec. 27, 1974, 88 Stat. 1786; Pub. L. 106–291, title I, §149(c)(2), Oct. 11, 2000, 114 Stat. 956.)

AMENDMENTS

2000—Subsec. (a)(i), (ii). Pub. L. 106–291 substituted ''park'' for ''recreation area''.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460ff–3. Administration

(a) Provisions applicable; utilization of authorities for conservation and management of wildlife and natural resources

The Secretary shall administer the park in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented. In the administration of the park, the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of this subchapter.

(b) Federal-State cooperative agreements for police and fire protection

The Secretary may enter into cooperative agreements with the State of Ohio, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(c) Water resource developments; restoration of vegetative cover to eliminate erosion

(1) The authority of the Secretary of the Army to undertake or contribute to water resource development, including erosion control and flood control, on land or waters within the park shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of the Army and which are consistent with both the purposes of this subchapter and the purposes of existing statutes dealing with water and related land resource development.

(2) The Secretary is authorized and directed, in cooperation with the Secretary of Agriculture, the State of Ohio, and affected local governments, to undertake a program of and treatment for the purpose of restoring suitable vegetative cover to substantially eliminate erosion from all lands, public and private, within the authorized boundaries of the park. In the case of any private lands, within such authorized boundaries such treatment may be undertaken only with the consent of the owner thereof and shall be contingent upon assurances that such land treatment will be maintained by the owner for a period of not less than ten years. The Secretary shall, in conjunction with such program, take such actions as may be required to correct areas of ecological degradation which create hazards to health and safety.

(d) Inventory and evaluation of historical, cultural and architectural sites and structures; programs for preservation, restoration, interpretation and utilization

The Secretary, in consultation with the Governor of the State of Ohio, shall inventory and evaluate all sites and structures within the park having present and potential historical, cultural, or architectural significance and shall provide for appropriate programs for the preservation, restoration, interpretation, and utilization of them.

(e) Donations for services and facilities

Notwithstanding any other provision of law, the Secretary is authorized to accept donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purposes of providing services and facilities which he deems consistent with the purposes of this subchapter.

(f) Zoning laws and ordinances; consultation and assistance with local government or intergovernmental organization in establishment; objectives; technical aid

The Secretary may, on his own initiative, or at the request of any local government (or intergovernmental organization) having jurisdiction over land located within or adjacent to the park, assist and consult with the appropriate officers and employees of such local government (or intergovernmental organization) in establishing zoning laws or ordinances which will assist in achieving the purposes of this subchapter. In providing assistance pursuant to this subsection, the Secretary shall endeavor to obtain provisions in such zoning laws or ordinances which—

(1) have the effect of prohibiting the commercial and industrial use (other than a use for commercial farms and orchards) of all real property adjacent to the park;

(2) aid in preserving the character of the park by appropriate restrictions on the use of real property in the vicinity including, but not limited to, restrictions upon: building and construction of all types; signs and billboards; the burning of cover; cutting of timber (except tracts managed for sustained yield); removal of topsoil, sand, or gravel; dumping, storage, or piling of refuse; or any other use which would detract from the aesthetic character of the park; and

(3) have the effect of providing that the Secretary shall receive notice of any hearing for the purpose of granting a variance and any variance granted under, and of any exception made to, the application of such law or ordinance.

Assistance under this subsection may include payments for technical aid.

(Pub. L. 93–555, §4, Dec. 27, 1974, 88 Stat. 1787; Pub. L. 95–625, title III, §315(e), Nov. 10, 1978, 92 Stat. 3483; Pub. L. 99–658, title I, §104(j)(1), Nov. 14, 1986, 100 Stat. 3677; Pub. L. 106–291, title I, §149(c)(2), Oct. 11, 2000, 114 Stat. 956.)

AMENDMENTS

2000—Pub. L. 106–291 substituted ''park'' for ''recreation area'' wherever appearing.

1986—Subsec. (c). Pub. L. 99–658 designated existing provision as par. (1) and added par. (2).

1978—Subsec. (f). Pub. L. 95–625 inserted in introductory text ''(or intergovernmental organization)'' after ''local government'' in two places, and last sentence providing that assistance may include payments for technical aid.

APPROPRIATIONS FOR ROADS

Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 996, as amended by Pub. L. 106–291, title I, §149(b), Oct. 11, 2000, 114 Stat. 956, provided in part that: ''appropriations for maintenance and improvement of roads within the boundary of the Cuyahoga Valley National Park shall be available for such purposes without regard to whether title to such road rights-of-way is in the United States''.

§ 460ff–4. Repealed. Pub. L. 106–291, title I, § 149(d), Oct. 11, 2000, 114 Stat. 956

Section, Pub. L. 93–555, §5, Dec. 27, 1974, 88 Stat. 1788, established the Cuyahoga Valley National Recreation Area Advisory Commission.

§ 460ff–5. Authorization of appropriations; master plan

(a) Limitation on acquisition of lands and interests in lands

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter, but not more than $70,100,000 for the acquisition of lands and interests in lands.

(b) Development of plan; consultation with State; transmittal to Congressional committees; contents

For the development of the park, including improvements of properties acquired for purposes of this subchapter, there is authorized to be appropriated not more than $13,000,000. Within one year from the date of establishment of the park pursuant to this subchapter, the Secretary shall, after consulting with the Governor of the State of Ohio, develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the development of the park consistent with the objectives of this subchapter, indicating:

(1) the facilities needed to accommodate the health, safety, and recreation needs of the visiting public;

(2) the location and estimated cost of all facilities; and

(3) the projected need for any additional facilities within the area.

(c) Restoration of vegetative cover to eliminate erosion

There are hereby authorized to be appropriated not more than $500,000 for fiscal year 1986, $1,000,000 for fiscal year 1987, $1,500,000 for fiscal year 1988, and $1,750,000 for fiscal year 1989, to carry out the provisions of section 460ff–3(c)(2) of this title. Any amounts authorized to be appropriated for any fiscal year under this subsection which are not appropriated for that fiscal year shall remain available for appropriation in succeeding fiscal years.

(Pub. L. 93–555, §5, formerly §6, Dec. 27, 1974, 88 Stat. 1788; Pub. L. 94–578, title III, §323(b), Oct. 21, 1976, 90 Stat. 2742; Pub. L. 95–625, title III,

§ 315(b), (c), Nov. 10, 1978, 92 Stat. 3483; Pub. L. 99–658, title I, § 104(j)(2), Nov. 14, 1986, 100 Stat. 3678; renumbered § 5 and amended Pub. L. 106–291, title I, § 149(c)(2), (d), Oct. 11, 2000, 114 Stat. 956.)

PRIOR PROVISIONS

A prior section 5 of Pub. L. 93–555 was classified to section 460ff–4 of this title, prior to repeal by Pub. L. 106–291.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–291, § 149(c)(2), substituted ''park'' for ''recreation area'' wherever appearing in introductory provisions.

1986—Subsec. (c). Pub. L. 99–658 added subsec. (c).

1978—Subsec. (a). Pub. L. 95–625, § 315(b), increased appropriations authorization to $70,100,000 from $41,100,000.

Subsec. (b). Pub. L. 95–625, § 315(c), substituted ''For the development of the recreation area, including improvements of properties acquired for purposes of this subchapter, there is authorized to be appropriated not more than $13,000,000'' for ''For the development of essential public facilities there are authorized to be appropriated not more than $500,000''.

1976—Subsec. (a). Pub. L. 94–578 substituted ''$41,100,000'' for ''$34,500,000''.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

EXPENDITURE OF FUNDS TO COMMENCE OCTOBER 1, 1977

Section 323(c) of Pub. L. 94–578 provided that: ''No funds authorized by this section [amending sections 460ff–1(a) and 460ff–5 of this title] in excess of those sums previously authorized by the Act of December 27, 1974, [this section as originally enacted], shall be available for expenditure before October 1, 1977.''

SUBCHAPTER XCI—HELLS CANYON NATIONAL RECREATION AREA

§ 460gg. Establishment

(a) In general

To assure that the natural beauty, and historical and archeological values of the Hells Canyon area and the seventy-one-mile segment of the Snake River between Hells Canyon Dam and the Oregon-Washington border, together with portions of certain of its tributaries and adjacent lands, are preserved for this and future generations, and that the recreational and ecologic values and public enjoyment of the area are thereby enhanced, there is hereby established the Hells Canyon National Recreation Area.

(b) Boundaries; publication in Federal Register

The Hells Canyon National Recreation Area (hereinafter referred to as the ''recreation area''), which includes the Hells Canyon Wilderness (hereinafter referred to as the ''wilderness''), the components of the Wild and Scenic Rivers System designated in section 3 of this Act, and the wilderness study areas designated in section 460gg–5(d) of this title, shall comprise the lands and waters generally depicted on the map entitled ''Hells Canyon National Recreation Area'' dated May 1978, which shall be on file and available for public inspection in the office of the Chief, Forest Service, United States Department of Agriculture. The Secretary of Agriculture (hereinafter referred to as ''the Secretary''), shall, as soon as practicable, but no later than eighteen months after December 31, 1975, publish a detailed boundary description of the recreation area, the wilderness study areas designated in section 460gg–5(d) of this title, and the wilderness established in section 460gg–1 of this title in the Federal Register.

(Pub. L. 94–199, § 1, Dec. 31, 1975, 89 Stat. 1117; Pub. L. 95–625, title VI, § 607, Nov. 10, 1978, 92 Stat. 3520.)

REFERENCES IN TEXT

Section 3 of this Act, referred to in subsec. (b), is section 3 of Pub. L. 94–199. Subsec. (a) of section 3 added pars. (11) and (12) of section 1274(a) of this title, relating to components of the national wild and scenic rivers system. Subsec. (b) of section 3, relating to the administration of those segments of the Snake and Rapid Rivers designated as wild or scenic river areas, is set out as a note under section 1274 of this title.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–625 substituted ''May 1978'' for ''September 1975'' to clarify that the boundary between Saulsberry and Freezeout Saddles is the hydrologic divide.

SEPARABILITY

Section 17 of Pub. L. 94–199 provided that: ''If any provision of this Act [this subchapter] is declared to be invalid, such declaration shall not affect the validity of any other provision hereof.''

§ 460gg–1. Wilderness designation

(a) Map designation

The lands depicted as the ''Hells Canyon Wilderness'' on the map referred to in section 460gg(b) of this title are hereby designated as wilderness.

(b) Application of Wilderness Act

The wilderness designated by this subchapter shall be administered by the Secretary in accordance with the provisions of this subchapter or in accordance with the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.], whichever is the more restrictive, except that any reference in such provisions of the Wilderness Act to the effective date of that Act shall be deemed to be a reference to the effective date of this subchapter. The provisions of section 460gg–6(b) and section 460gg–8 of this title shall apply to the wilderness. The Secretary shall make such boundary revisions to the wilderness as may be necessary due to the exercise of his authority under subsection 3(b) of this Act.

(Pub. L. 94–199, § 2, Dec. 31, 1975, 89 Stat. 1117.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (b), was in the original ''this Act'', which is Pub. L. 94–199, Dec. 31, 1975, 89 Stat. 1117, which enacted sections 460gg to 460gg–13 of this title, amended sections 1274 and 1276 of

this title, and enacted provisions set out as notes under sections 460gg and 1274 of this title.

The Wilderness Act, referred to in subsec. (b), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The effective date of the Wilderness Act, referred to in subsec. (b), means Sept. 3, 1964, the date of enactment of Pub. L. 88–577, which enacted chapter 23 of this title.

The effective date of this subchapter, referred to in subsec. (b), means Dec. 31, 1975, the date of enactment of Pub. L. 94–199.

Subsection 3(b) of this Act, referred to in subsec. (b), is subsec. 3(b) of Pub. L. 94–199, which is set out as a note under section 1274 of this title.

§ 460gg–2. Federal power and water resources projects

(a) Licenses by Federal Energy Regulatory Commission

Notwithstanding any other provision of law, or any authorization heretofore given pursuant to law, the Federal Energy Regulatory Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), within the recreation area: *Provided*, That the provisions of the Federal Power Act (41 Stat. 1063) shall continue to apply to any project (as defined in such Act), and all of the facilities and improvements required or used in connection with the operation and maintenance of said project, in existence within the recreation area which project is already constructed or under construction on December 31, 1975.

(b) Assistance detrimental to protected waters

No department or agency of the United States may assist by loan, grant, license, or otherwise the construction of any water resource facility within the recreation area which the Secretary determines would have a direct and adverse effect on the values for which the waters of the area are protected.

(Pub. L. 94–199, § 4, Dec. 31, 1975, 89 Stat. 1118; Pub. L. 95–91, title IV, § 402(a)(1)(A), Aug. 4, 1977, 91 Stat. 583.)

REFERENCES IN TEXT

The Federal Power Act, referred to in subsec. (a), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

TRANSFER OF FUNCTIONS

''Federal Energy Regulatory Commission'' substituted for ''Federal Power Commission'' in subsec. (a) pursuant to Pub. L. 95–91, § 402(a)(1)(A), which is classified to section 7172(a)(1)(A) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and functions with regard to licenses and permits for dams, reservoirs, or other works for development and improvement of navigation and for development and utilization of power across, along, from, or in navigable waters under part I of Federal Power Act (16 U.S.C. 792 et seq.) transferred to Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42.

§ 460gg–3. Present and future use of Snake River

(a) Waters upstream from boundaries of area

No provision of the Wild and Scenic Rivers Act [16 U.S.C. 1271 et seq.], nor of this subchapter, nor any guidelines, rules, or regulations issued hereunder, shall in any way limit, restrict, or conflict with present and future use of the waters of the Snake River and its tributaries upstream from the boundaries of the Hells Canyon National Recreation Area created hereby, for beneficial uses, whether consumptive or nonconsumptive, now or hereafter existing, including, but not limited to, domestic, municipal, stockwater, irrigation, mining, power, or industrial uses.

(b) Flow requirements

No flow requirements of any kind may be imposed on the waters of the Snake River below Hells Canyon Dam under the provisions of the Wild and Scenic Rivers Act [16 U.S.C. 1271 et seq.], of this subchapter, or any guidelines, rules, or regulations adopted pursuant thereto.

(Pub. L. 94–199, § 6, Dec. 31, 1975, 89 Stat. 1118.)

REFERENCES IN TEXT

The Wild and Scenic Rivers Act, referred to in text, is Pub. L. 90–542, Oct. 2, 1968, 82 Stat. 906, as amended, which is classified generally to chapter 28 (§ 1271 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1271 of this title and Tables.

§ 460gg–4. Administration, protection, and development

Except as otherwise provided in section 460gg–1 of this title and section 3 of this Act, and subject to the provisions of section 460gg–7 of this title, the Secretary shall administer the recreation area in accordance with the laws, rules, and regulations applicable to the national forests for public outdoor recreation in a manner compatible with the following objectives:

(1) the maintenance and protection of the freeflowing nature of the rivers within the recreation area;

(2) conservation of scenic, wilderness, cultural, scientific, and other values contributing to the public benefit;

(3) preservation, especially in the area generally known as Hells Canyon, of all features and peculiarities believed to be biologically unique including, but not limited to, rare and endemic plant species, rare combinations of aquatic, terrestrial, and atmospheric habitats, and the rare combinations of outstanding and diverse ecosystems and parts of ecosystems associated therewith;

(4) protection and maintenance of fish and wildlife habitat;

(5) protection of archeological and paleontologic sites and interpretation of these sites for the public benefit and knowledge insofar as it is compatible with protection;

(6) preservation and restoration of historic sites associated with and typifying the economic and social history of the region and the American West; and

(7) such management, utilization, and disposal of natural resources on federally owned

lands, including, but not limited to, timber harvesting by selective cutting, mining, and grazing and the continuation of such existing uses and developments as are compatible with the provisions of this subchapter.

(Pub. L. 94–199, § 7, Dec. 31, 1975, 89 Stat. 1118.)

REFERENCES IN TEXT

Section 3 of this Act, referred to in text, is section 3 of Pub. L. 94–199. Subsec. (a) of section 3 added pars. (11) and (12) of section 1274(a) of this title, relating to components of the national wild and scenic rivers system. Subsec. (b) of section 3, relating to the administration of those segments of the Snake and Rapid Rivers designated as wild or scenic river areas, is set out as a note under section 1274 of this title.

§ 460gg–5. Management plan for recreation area

(a) Development and submission

Within five years from December 31, 1975, the Secretary shall develop and submit to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives a comprehensive management plan for the recreation area which shall provide for a broad range of land uses and recreation opportunities.

(b) Consideration of historic, archeological and paleontological resources; inventory; recommendation of areas for listing in National Register of Historic Places; recommendation for protection and research of resources

In the development of such plan, the Secretary shall consider the historic, archeological, and paleontological resources within the recreation area which offer significant opportunities for anthropological research. The Secretary shall inventory such resources and may recommend such areas as he deems suitable for listing in the National Register of Historic Places. The Secretary's comprehensive plan shall include recommendations for future protection and controlled research use of all such resources.

(c) Scenic roads and other means of transit

The Secretary shall, as a part of his comprehensive planning process, conduct a detailed study of the need for, and alternative routes of, scenic roads and other means of transit to and within the recreation area. In conducting such study the Secretary shall consider the alternative for upgrading existing roads and shall, in particular, study the need for and alternative routes of roads or other means of transit providing access to scenic views of and from the Western rim of Hells Canyon.

(d) Wilderness areas; review by Secretary; recommendations of President to Congress; notice of hearings and meetings

The Secretary shall review, as to their suitability or nonsuitability for preservation as wilderness, the areas generally depicted on the map referred to in section 460gg of this title as the ''Lord Flat-Somers Point Plateau Wilderness Study Area'', and the ''West Side Reservoir Face Wilderness Study Area'', and the ''Mountain Sheep Wilderness Study Area'' and report his findings to the President. The Secretary shall complete his review and the President shall, within five years from December 31, 1975, advise the United States Senate and House of Representatives of his recommendations with respect to the designation of lands within such area as wilderness. In conducting his review the Secretary shall comply with the provisions of section 1132(d) of this title and shall give public notice at least sixty days in advance of any hearings or other public meeting concerning the wilderness study area. The Secretary shall administer all Federal lands within the study areas so as not to preclude their possible future designation by the Congress as wilderness. Nothing contained herein shall limit the President in proposing, as part of this recommendation to Congress, the designation as wilderness of any additional area within the recreation area which is predominately of wilderness value.

(e) Public participation in reviews and preparation of plan; cooperation of other Federal agencies

In conducting the reviews and preparing the comprehensive management plan required by this section, the Secretary shall provide for full public participation and shall consider the views of all interested agencies, organizations, and individuals including but not limited to, the Nez Perce Tribe of Indians, and the States of Idaho, Oregon, and Washington. The Secretaries or Directors of all Federal departments, agencies, and commissions having a relevant expertise are hereby authorized and directed to cooperate with the Secretary in his review and to make such studies as the Secretary may request on a cost reimbursable basis.

(f) Continuation of ongoing activities

Such activities as are compatible with the provisions of this subchapter, but not limited to, timber harvesting by selective cutting, mining, and grazing may continue during development of the comprehensive management plan, at current levels of activity and in areas of such activity on December 31, 1975. Further, in development of the management plan, the Secretary shall give full consideration to continuation of these ongoing activities in their respective areas.

(Pub. L. 94–199, § 8, Dec. 31, 1975, 89 Stat. 1119.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460gg–6. Acquisition of property

(a) Authority of Secretary; manner of acquisition

The Secretary is authorized to acquire such lands or interests in land (including, but not limited to, scenic easements) as he deems necessary to accomplish the purposes of this subchapter by purchase with donated or appropriated funds with the consent of the owner, donation, or exchange.

(b) Acquisition without consent of owners; limitations; scenic easements

The Secretary is further authorized to acquire by purchase with donated or appropriated funds such lands or interests in lands without the consent of the owner only if (1) he deems that all reasonable efforts to acquire such lands or interests therein by negotiation have failed, and (2) the total acreage of all other lands within the recreation area to which he has acquired fee simple title or, lesser interests therein without the consent of the owner is less than 5 per centum of the total acreage which is privately owned within the recreation area on December 31, 1975: *Provided*, That the Secretary may acquire scenic easements in lands without the consent of the owner and without restriction to such 5 per centum limitation: *Provided further*, That the Secretary may only acquire scenic easements in lands without the consent of the owner after the date of publication of the regulations required by section 460gg–7 of this title when he determines that such lands are being used, or are in imminent danger of being used, in a manner incompatible with such regulations.

(c) Donation of Oregon land; donation or exchange of Idaho land

Any land or interest in land owned by the State of Oregon or any of its political subdivisions may be acquired only by donation. Any land or interest in land owned by the State of Idaho or any of its political subdivisions may be acquired only by donation or exchange.

(d) "Scenic easement" defined

As used in this subchapter the term ''scenic easement'' means the right to control the use of land in order to protect esthetic values for the purposes of this subchapter, but shall not preclude the continuation of any farming or pastoral use exercised by the owner as of December 31, 1975.

(e) Offers to sell land; hardship from delay

The Secretary shall give prompt and careful consideration to any offer made by a person owning land within the recreation area to sell such land to the United States. The Secretary shall specifically consider any hardship to such person which might result from an undue delay in acquiring his property.

(f) Exchange of land; equalization payments

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property, or interests therein, located within the recreation area and, notwithstanding any other provision of law, he may convey in exchange therefor any federally owned property within the same State which he classifies as suitable for exchange and which is under his administrative jurisdiction: *Provided*, That the values of the properties so exchanged shall be approximately equal, or if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the United States as the circumstances require. In the exercise of his exchange authority, the Secretary may utilize authorities and procedures available to him in connection with exchanges of national forest lands.

(g) Acquisition of mineral interests

Notwithstanding any other provision of law, the Secretary is authorized to acquire mineral interests in lands within the recreation area, with or without the consent of the owner. Upon acquisition of any such interest, the lands and/or minerals covered by such interest are by this subchapter withdrawn from entry or appropriation under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(h) Transfer of Federal property to Secretary

Notwithstanding any other provision of law, any Federal property located within the recreation area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the purposes of this subchapter. Lands acquired by the Secretary or transferred to his administrative jurisdiction within the recreation area shall become parts of the national forest within or adjacent to which they are located.

(Pub. L. 94–199, § 9, Dec. 31, 1975, 89 Stat. 1120.)

§ 460gg–7. Rules and regulations

The Secretary shall promulgate, and may amend, such rules and regulations as he deems necessary to accomplish the purposes of this subchapter. Such rules and regulations shall include, but are not limited to—

(a) standards for the use and development of privately owned property within the recreation area, which rules or regulations the Secretary may, to the extent he deems advisable, implement with the authorities delegated to him in section 460gg–6 of this title, and which may differ among the various parcels of land within the recreation area;

(b) standards and guidelines to insure the full protection and preservation of the historic, archeological, and paleontological resources in the recreation area;

(c) provision for the control of the use of motorized and mechanical equipment for transportation over, or alteration of, the surface of any Federal land within the recreation area;

(d) provision for the control of the use and number of motorized and nonmotorized river craft: *Provided*, That the use of such craft is hereby recognized as a valid use of the Snake River within the recreation area; and

(e) standards for such management, utilization, and disposal of natural resources on federally owned lands, including but not limited to, timber harvesting by selective cutting, mining, and grazing and the continuation of such existing uses and developments as are compatible with the provisions of this subchapter.

(Pub. L. 94–199, § 10, Dec. 31, 1975, 89 Stat. 1121.)

§ 460gg–8. Lands withdrawn from location, entry, and patent under United States mining laws

Notwithstanding the provisions of section 1133(d)(2) of this title and subject to valid existing rights, all Federal lands located in the recre-

ation area are hereby withdrawn from all forms of location, entry, and patent under the mining laws of the United States, and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(Pub. L. 94–199, § 11, Dec. 31, 1975, 89 Stat. 1122.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

§ 460gg–9. Hunting and fishing

The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the States wherein the lands and waters are located except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons for public safety, administration, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

(Pub. L. 94–199, § 12, Dec. 31, 1975, 89 Stat. 1122.)

§ 460gg–10. Ranching, grazing, etc., as valid uses of area

Ranching, grazing, farming, timber harvesting, and the occupation of homes and lands associated therewith, as they exist on December 31, 1975, are recognized as traditional and valid uses of the recreation area.

(Pub. L. 94–199, § 13, Dec. 31, 1975, 89 Stat. 1122.)

§ 460gg–11. Civil and criminal jurisdiction of Idaho and Oregon

Nothing in this subchapter shall diminish, enlarge, or modify any right of the States of Idaho, Oregon, or any political subdivisions thereof, to exercise civil and criminal jurisdiction within the recreation area or of rights to tax persons, corporations, franchises, or property, including mineral or other interests, in or on lands or waters within the recreation area.

(Pub. L. 94–199, § 14, Dec. 31, 1975, 89 Stat. 1122.)

§ 460gg–12. Development and operation of facilities and services; cooperation with Federal, State, etc., agencies

The Secretary may cooperate with other Federal agencies, with State and local public agencies, and with private individuals and agencies in the development and operation of facilities and services in the area in furtherance of the purposes of this subchapter, including, but not limited to, restoration and maintenance of the historic setting and background of towns and settlements within the recreation area.

(Pub. L. 94–199, § 15, Dec. 31, 1975, 89 Stat. 1122.)

§ 460gg–13. Authorization of appropriations

(a) Acquisition of lands

There is hereby authorized to be appropriated the sum of not more than $10,000,000 for the acquisition of lands and interests in lands within the recreation area.

(b) Development of recreation facilities

There is hereby authorized to be appropriated the sum of not more than $10,000,000 for the development of recreation facilities within the recreation area.

(c) Inventory, identification, development and protection of historic and archeological sites

There is hereby authorized to be appropriated the sum of not more than $1,500,000 for the inventory, identification, development, and protection of the historic and archeological sites described in section 5 of this Act.

(Pub. L. 94–199, § 16, Dec. 31, 1975, 89 Stat. 1122.)

REFERENCES IN TEXT

Section 5 of this Act, referred to in subsec. (c), is section 5 of Pub. L. 94–199. Subsec. (a) of section 5 added par. (57) to section 1276(a) of this title, relating to the designation of the Snake River for potential addition to the national wildlife and scenic rivers system. Subsec. (b) of section 5, relating to the deauthorization of the Asotin Dam, was not classified to the Code.

SUBCHAPTER XCII—CHICKASAW NATIONAL RECREATION AREA

§ 460hh. Establishment; boundaries; publication in Federal Register

In order to provide for public outdoor recreation use and enjoyment of Arbuckle Reservoir and land adjacent thereto, and to provide for more efficient administration of other adjacent area containing scenic, scientific, natural, and historic values contributing to public enjoyment of the area and to designate the area in such manner as will constitute a fitting memorialization of the Chickasaw Indian Nation, there is hereby established the Chickasaw National Recreation Area (hereinafter referred to as the ''recreation area'') consisting of lands and interests in lands within the area as generally depicted on the drawing entitled ''Boundary Map, Chickasaw National Recreation Area,'' numbered 107–20004–A and dated February 1974, which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the ''Secretary'') may from time to time revise the boundaries of the recreation area by publication of a map or other boundary description in the Federal Register, but the total acreage of the recreation area may not exceed ten thousand acres.

(Pub. L. 94–235, § 1, Mar. 17, 1976, 90 Stat. 235.)

CHICKASAW NATIONAL RECREATION AREA LAND EXCHANGE

Pub. L. 108–389, Oct. 30, 2004, 118 Stat. 2239, known as the Chickasaw National Recreation Area Land Exchange Act of 2004, provided for the facilitation of a land exchange among the National Park Service, the Chickasaw Nation, and the City of Sulphur, Oklahoma, for the construction of the Chickasaw Nation Cultural Center within the Chickasaw National Recreation Area.

§ 460hh–1. Acquisition of property

(a) Authority of Secretary; manner of acquisition

The Secretary may acquire land or interests in lands within the boundaries of the recreation

area by donation, purchase with donated or appropriated funds, or exchange. When any tract of land is only partly within such boundaries, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs. Land so acquired outside of the boundaries may be exchanged by the Secretary for non-Federal lands within the boundaries, and any land so acquired and not utilized for exchange shall be reported to the General Services Administration for disposal under chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41. Any Federal property located within the boundaries of the recreation area may be transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of the recreation area. Lands within the boundaries of the recreation area owned by the State of Oklahoma, or any political subdivision thereof, may be acquired only by donation: *Provided*, That the Secretary may also acquire lands by exchange with the city of Sulphur, utilizing therefor only such lands as may be excluded from the recreation area which were formerly within the Platt National Park.

(b) Acquisition of improved residential property; retention by owners of right of use and occupancy for noncommercial residential purposes; terms; payment of fair market value

With respect to improved residential property acquired for the purposes of this subchapter, which is beneficially owned by a natural person and which the Secretary determines can be continued in that use for a limited period of time without undue interference with the administration, development, or public use of the recreation area, the owner thereof may on the date of its acquisition by the Secretary retain a right of use and occupancy of the property for noncommercial residential purposes for a term, as the owner may elect, ending either (1) at the death of the owner or his spouse, whichever occurs later, or (2) not more than twenty-five years from the date of acquisition. Any right so retained may, during its existence, be transferred or assigned. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner.

(c) "Improved residential property" defined; determination by Secretary

As used in this subchapter, ''improved residential property'' means a single-family year-round dwelling, the construction of which began before March 1, 1975, and which serves as the owner's permanent place of abode at the time of its acquisition by the United States, together with not more than three acres of land on which the dwelling and appurtenant buildings are located that the Secretary finds is reasonably necessary for the owner's continued use and occupancy of the dwelling: *Provided*, That the Secretary may exclude from improved residential property any waters and adjoining land that the Secretary deems is necessary for public access to such waters.

(d) Termination of right of use and occupancy; determination by Secretary

The Secretary may terminate a right to use and occupancy retained pursuant to this section upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of this subchapter, and upon tender to the holder of the right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

(Pub. L. 94–235, § 2, Mar. 17, 1976, 90 Stat. 235.)

CODIFICATION

In subsec. (a), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§ 460hh–2. Establishment of hunting and fishing zones; exceptions; consultation with State agencies

The Secretary shall permit hunting and fishing on lands and waters within the recreation area in accordance with applicable Federal and State laws: *Provided*, That he may designate zones where, and establish periods when, no hunting or fishing will be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations issued by the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State agency responsible for hunting and fishing activities.

(Pub. L. 94–235, § 3, Mar. 17, 1976, 90 Stat. 236.)

§ 460hh–3. Law governing; Arbuckle Dam and Reservoir

(a) Except as otherwise provided in this subchapter, the Secretary shall administer the recreation area in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented.

(b) Nothing contained in this subchapter shall affect or interfere with the authority of the Secretary by the Act of August 24, 1962 (76 Stat. 395) [43 U.S.C. 616k et seq.], to operate the Arbuckle Dam and Reservoir in accordance with and for the purposes set forth in that Act.

(Pub. L. 94–235, § 4, Mar. 17, 1976, 90 Stat. 236.)

REFERENCES IN TEXT

Act of August 24, 1962, referred to in subsec. (b), is Pub. L. 87–594, Aug. 24, 1962, 76 Stat. 395, which was classified to subchapter XL (§ 616k et seq.) of chapter 12 of Title 43, Public Lands, and which was omitted from the Code because of limited applicability.

§ 460hh–4. Platt National Park designation repealed; incorporation of areas into Chickasaw National Recreation Area

The Act of June 29, 1906 (34 Stat. 837), which directed that certain lands now included by this subchapter in the recreation area be designated

as the Platt National Park, is hereby repealed, and such lands shall hereafter be considered and known as an integral part of the Chickasaw National Recreation Area: *Provided*, That within such area the Secretary may cause to be erected suitable markers or plaques to honor the memory of Orville Hitchcock Platt and to commemorate the original establishment of Platt National Park.

(Pub. L. 94–235, § 5, Mar. 17, 1976, 90 Stat. 236.)

REFERENCES IN TEXT

Act of June 29, 1906, referred to in text, is act June 29, 1906, No. 42, 34 Stat. 837, which was classified to sections 151, 152, and 153 of this title, and was repealed by Pub. L. 94–235, § 5, Mar. 17, 1976, 90 Stat. 236.

§ 460hh–5. Concurrent legislative jurisdiction with State of Oklahoma; requisites; notice in Federal Register

Notwithstanding the provisions of section 153 of this title, which retain exclusive jurisdiction in the United States, upon notification in writing to the Secretary by the appropriate State officials of the acceptance by the State of Oklahoma of concurrent legislative jurisdiction over the lands formerly within the Platt National Park, the Secretary shall publish a notice to that effect in the Federal Register and, upon such publication, concurrent legislative jurisdiction over such lands is hereby ceded to the State of Oklahoma: *Provided*, That such cession of jurisdiction shall not occur until a written agreement has been reached between the State of Oklahoma and the Secretary providing for the exercise of concurrent jurisdiction over all other lands and waters within the Chickasaw National Recreation Area.

(Pub. L. 94–235, § 6, Mar. 17, 1976, 90 Stat. 236.)

§ 460hh–6. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter, but not to exceed $1,600,000 for the acquisition of lands and interests in lands, and $4,567,000 for development.

(Pub. L. 94–235, § 7, Mar. 17, 1976, 90 Stat. 237.)

SUBCHAPTER XCIII—CHATTAHOOCHEE RIVER NATIONAL RECREATION AREA

§ 460ii. Establishment; boundaries; publication in Federal Register

The Congress finds the natural, scenic, recreation, historic, and other values of a forty-eight-mile segment of the Chattahoochee River and certain adjoining lands in the State of Georgia from Buford Dam downstream to Peachtree Creek are of special national significance, and that such values should be preserved and protected from developments and uses which would substantially impair or destroy them. In order to assure such preservation and protection for public benefit and enjoyment, there is hereby established the Chattahoochee River National Recreation Area (hereinafter referred to as the ''recreation area''). The recreation area shall consist of the river and its bed together with the lands, waters, and interests therein within the boundary generally depicted on the map entitled ''Chattahoochee River National Recreation Area'', numbered CHAT–20,003, and dated September 1984, and on the maps entitled ''Chattahoochee River National Recreation Area Interim Boundary Map #1'', ''Chattahoochee River National Recreation Area Interim Boundary Map #2'', and ''Chattahoochee River National Recreation Area Interim Boundary Map #3'', and dated August 6, 1998, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior. No sooner than 180 days after December 9, 1999, the Secretary of the Interior (hereafter referred to as the ''Secretary'') may modify the boundaries of the recreation area to include other land within the Chattahoochee River corridor by submitting a revised map or other boundary description to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives. The revised map or other boundary description shall be prepared by the Secretary after consultation with affected landowners, the State of Georgia, and affected political subdivisions of the State. The revised boundaries shall take effect 180 days after the date of submission unless, within the 180-day period, Congress enacts a joint resolution disapproving the revised boundaries. The total area, exclusive of the river and its bed, within the recreation area may not exceed 10,000 acres. For purposes of facilitating Federal technical and other support to State and local governments to assist State and local efforts to protect the scenic, recreational, and natural values of a 2,000 foot wide corridor adjacent to each bank of the Chattahoochee River and its impoundments in the 48-mile segment referred to above, such corridor is hereby declared to be an area of national concern.

(Pub. L. 95–344, title I, § 101, Aug. 15, 1978, 92 Stat. 474; Pub. L. 98–568, § 1(a), (b), Oct. 30, 1984, 98 Stat. 2928; Pub. L. 103–437, § 6(d)(18), Nov. 2, 1994, 108 Stat. 4584; Pub. L. 106–154, § 2(a), Dec. 9, 1999, 113 Stat. 1737.)

AMENDMENTS

1999—Pub. L. 106–154, § 2(a)(3), substituted ''may not exceed 10,000 acres'' for ''may not exceed approximately 6,800 acres'' in penultimate sentence.

Pub. L. 106–154, § 2(a)(2), inserted fourth sentence and struck out former fourth sentence which read as follows: ''Following reasonable notice in writing to the Committee on Natural Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate of his intention to do so, the Secretary of the Interior (hereinafter referred to as the 'Secretary') may, by publication of a revised map or other boundary description in the Federal Register, (1) make minor revisions in the boundary of the recreation area, and (2) revise the boundary to facilitate access to the recreation area, or to delete lands which would be of little or no benefit to the recreation area due to the existence of valuable improvements completely constructed prior to August 15, 1978.''

Pub. L. 106–154, § 2(a)(1), in third sentence, inserted ''and on the maps entitled 'Chattahoochee River National Recreation Area Interim Boundary Map #1', 'Chattahoochee River National Recreation Area Interim Boundary Map #2', and 'Chattahoochee River Na-

tional Recreation Area Interim Boundary Map #3', and dated August 6, 1998,'' after ''numbered CHAT–20,003, and dated September 1984,''.

1994—Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

1984—Pub. L. 98–568 substituted ''CHAT–20,003, and dated September 1984'' for ''CHAT–20,000, and dated July 1976'' and ''approximately 6,800 acres'' for ''six thousand three hundred acres'' and inserted provision declaring the corridor area to be an area of national concern.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

FINDINGS AND PURPOSE

Pub. L. 106–154, §1, Dec. 9, 1999, 106 Stat. 1736, provided that:

''(a) FINDINGS.—Congress finds that—

''(1) the Chattahoochee River National Recreation Area in the State of Georgia is a nationally significant resource;

''(2) the Chattahoochee River National Recreation Area has been adversely affected by land use changes occurring inside and outside the recreation area;

''(3) the population of the metropolitan Atlanta area continues to expand northward, leaving dwindling opportunities to protect the scenic, recreational, natural, and historical values of the 2,000-foot-wide corridor adjacent to each bank of the Chattahoochee River and its impoundments in the 48-mile segment known as the 'area of national concern';

''(4) the State of Georgia has enacted the Metropolitan River Protection Act to ensure protection of the corridor located within 2,000 feet of each bank of the Chattahoochee River, or the corridor located within the 100-year floodplain, whichever is larger;

''(5) the corridor located within the 100-year floodplain includes the area of national concern;

''(6) since establishment of the Chattahoochee River National Recreation Area, visitor use of the recreation area has shifted dramatically from waterborne to water-related and land-based activities;

''(7) the State of Georgia and political subdivisions of the State along the Chattahoochee River have indicated willingness to join in a cooperative effort with the United States to link existing units of the recreation area through a series of linear corridors to be established within the area of national concern and elsewhere on the river; and

''(8) if Congress appropriates funds in support of the cooperative effort described in paragraph (7), funding from the State, political subdivisions of the State, private foundations, corporate entities, private individuals, and other sources will be available to fund more than half the estimated cost of the cooperative effort.

''(b) PURPOSES.—The purposes of this Act [amending this section and sections 460ii–1 to 460ii–5 of this title] are—

''(1) to increase the level of protection of the open spaces within the area of national concern along the Chattahoochee River and to enhance visitor enjoyment of the open spaces by adding land-based linear corridors to link existing units of the recreation area;

''(2) to ensure that the Chattahoochee River National Recreation Area is managed to standardize acquisition, planning, design, construction, and operation of the linear corridors; and

''(3) to authorize the appropriation of Federal funds to cover a portion of the costs of the Federal, State, local, and private cooperative effort to add additional areas to the recreation area so as to establish a series of linear corridors linking existing units of the recreation area and to protect other open spaces of the Chattahoochee River corridor.''

COMPLIANCE WITH CONGRESSIONAL BUDGET ACT

Section 2 of Pub. L. 98–568 provided that: ''Any provision of any amendment made by this Act [enacting section 460ii–5 of this title and amending this section and sections 460ii–1, 460ii–3, and 460ii–4 of this title] which, directly or indirectly, authorizes the enactment of new budget authority described in section 402(a) of the Congressional Budget Act of 1974 [2 U.S.C. 652(a)] shall be effective only for fiscal years beginning after September 30, 1984.''

§ 460ii–1. Acquisition of property

(a) Manner of acquisition of lands, etc., within area

Within the recreation area the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase from willing sellers with donated or appropriated funds, or exchange. Property owned by the State of Georgia or any political subdivision thereof may be acquired only by donation.

(b) Manner of acquisition of lands partly within and partly without area; disposal of unutilized lands

When a tract of land lies partly within and partly without the boundaries of the recreation area, the Secretary may acquire the entire tract by any of the above methods in order to avoid the payment of severance costs. Land so acquired outside of the boundaries of the recreation area may be exchanged by the Secretary for non-Federal land within such boundaries, and any portion of the land not utilized for such exchanges may be disposed of in accordance with the provisions of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(c) Acquisition of improved property used for noncommercial residential purposes; retention by owners of right of use and occupancy for residential purposes; terms; payment of fair market value

Except for property which the Secretary determines to be necessary for the purposes of administration, development, access, or public use, an owner of improved property which is used solely for noncommercial residential purposes on the date of its acquisition by the Secretary may retain, as a condition of such acquisition, a right of use and occupancy of the property for such residential purposes. The right retained may be for a definite term which shall not exceed twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of the spouse, whichever occurs later. The owner shall elect the term to be retained. The Secretary shall pay the owner the fair market value of the property on the date of such acquisition, less the fair market value of the term retained by the owner.

(d) Terms and conditions respecting rights of use and occupancy retained; termination of right of use and occupancy

Any right of use and occupancy retained pursuant to this section may, during its existence, be conveyed or transferred, but all rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appro-

priate to assure the use of the property in accordance with the purposes of this subchapter. Upon his determination that the property, or any portion thereof, has ceased to be so used in accordance with such terms and conditions, the Secretary may terminate the right of use and occupancy by tendering to the holder of such right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

(e) "Improved property" defined

As used in this section, the term ''improved property'' means a detached, year-round noncommercial residential dwelling, the construction of which was begun before January 1, 1975, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(Pub. L. 95–344, title I, §102, Aug. 15, 1978, 92 Stat. 474; Pub. L. 98–568, §1(c), Oct. 30, 1984, 98 Stat. 2928; Pub. L. 106–154, §2(b), (e)(1), Dec. 9, 1999, 113 Stat. 1737, 1738.)

CODIFICATION

In subsec. (b), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–154, §2(b)(1), inserted ''from willing sellers'' after ''purchase''.

Subsec. (d). Pub. L. 106–154, §2(e)(1), substituted ''this subchapter'' for ''this subchapter and chapter 43 of this title''.

Subsec. (f). Pub. L. 106–154, §2(b)(2), struck out subsec. (f) which read as follows:

''(f)(1) The Secretary shall exchange those federally owned lands identified on the map referenced in section 460ii of this title as 'exchange lands' for non-Federal lands which are within the boundaries of the recreation area. The values of the lands exchanged under this subsection shall be equal, or shall be equalized in the same manner as provided in section 1716 of title 43.

''(2) At three year intervals after October 30, 1984, the Secretary shall publish in the Federal Register a progress report on the land exchanges which have taken place and the exchanges which are likely to take place under the authority of this subsection. Such report shall identify the lands which are unsuitable for exchange pursuant to such authority.

''(3) Effective on the date ten years after October 30, 1984, the exchange authority of paragraph (1) shall terminate. The exchange lands identified under paragraph (1) which have not been exchanged prior to such date shall be retained in Federal ownership as a part of the recreation area.

''(4) The Secretary shall publish a revision of the boundary map referred to in section 460ii of this title to exclude from the boundaries of the recreation area any exchange lands which are used to acquire non-Federal lands under paragraph (3).''

1984—Subsec. (f). Pub. L. 98–568 added subsec. (f).

§ 460ii–2. Administration, protection, and development

(a) Applicability of statutory provisions; consideration of Federal, State, and local plans

The Secretary shall administer, protect, and develop the recreation area in accordance with sections 1, 2, 3, and 4 of this title, and in accordance with any other statutory authorities available to him for the conservation and management of historic and natural resources, including fish and wildlife, to the extent he finds such authority will further the purposes of this subchapter. In developing and administering the recreation area, the Secretary shall take into consideration applicable Federal, State, and local recreation plans and resource use and development plans, including, but not limited to, the Atlanta Regional Commission Chattahoochee Corridor Study, dated July 1972.

(b) Cooperative agreements

The Secretary may enter into cooperative agreements with the State of Georgia, political subdivisions of the State, and other entities to ensure standardized acquisition, planning, design, construction, and operation of the recreation area.

(c) Consultation with Secretary of Army

In planning for the development and public use of the recreation area, the Secretary shall consult with the Secretary of the Army to assure that public use of adjacent or related water resource development or flood control projects and that of the recreation area are complementary.

(d) Establishment, regulations governing, etc., of fishing zones

In administering the recreation area, the Secretary may permit fishing in waters under his jurisdiction in accordance with applicable State and Federal laws and regulations. The Secretary, after consultation with the appropriate State agency responsible for fishing activities, may designate zones where, and establish periods when, fishing shall be permitted and issue such regulations as he may determine to be necessary to carry out the provisions of this subsection. Except in emergencies, such regulations shall be put into effect only after consultation with the appropriate State agency.

(Pub. L. 95–344, title I, §103, Aug. 15, 1978, 92 Stat. 475; Pub. L. 106–154, §2(c), (e)(1), Dec. 9, 1999, 113 Stat. 1737, 1738.)

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–154, §2(e)(1), substituted ''of this subchapter'' for ''of this subchapter and chapter 43 of this title''.

Subsec. (b). Pub. L. 106–154, §2(c), added subsec. (b) and struck out former subsec. (b) which read as follows: ''The Secretary is authorized and encouraged to enter into cooperative agreements with the State or its political subdivisions whereby he may assist in the planning for and interpretation of non-Federal publicly owned lands within or adjacent or related to the recreation area to assure that such lands are used in a manner consistent with the findings and purposes of this subchapter and chapter 43 of this title.''

§ 460ii–3. Federal supervision of water resources projects

(a) Limitations on licensing and assistance authorities; criteria for upgrading, improving, etc., supply and quality enhancement programs

The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (16 U.S.C. 791a et seq.), on or directly affecting the recreation area, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such area is established, except where such project is determined by the State of Georgia to be necessary for water supply or water quality enhancement purposes and authorized by the United States Congress. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments upstream or downstream from the recreation area or on any stream tributary thereto which will not invade the recreation area or unreasonably diminish the scenic, recreational, and fish and wildlife values present therein on August 15, 1978. Nothing contained in this subsection shall preclude the upgrading, improvement, expansion or development of facilities or public works for water supply or water quality enhancement purposes if such action would not have a material adverse effect on the values for which the recreation area is established.

(b) Limitations on recommending authorizations and requesting appropriations; applicability of local considerations and criteria

No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such area is established, as determined by the Secretary, nor shall such department or agency request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without at least sixty days in advance, (1) advising the Secretary in writing of its intention to do so and (2) reporting to the Committee on Natural Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate the nature of the project involved and the manner in which such project would conflict with the purposes of this subchapter or would affect the recreation area and the values to be protected by it under this subchapter. It is not the intention of Congress by this subchapter to require the manipulation or reduction of lake water levels in Lake Sidney Lanier. Nothing in this subchapter shall be construed in any way to restrict, prohibit, or affect any recommendation of the Metropolitan Atlanta Water Resources Study as authorized by the Public Works Committee of the United States Senate on March 2, 1972.

(c) Expeditious acquisition of lands and interests in lands necessary for establishment, etc., of area

The Secretary is directed to proceed as expeditiously as possible to acquire the lands and interests in lands necessary to achieve the purposes of this subchapter and chapter 43 of this title.

(d) Mitigation funds for adverse impacts; excepted lands; limitation of amount; replacement lands

(1) Notwithstanding any other authority of law, any department, agency, or instrumentality of the United States or of the State of Georgia, or any other entity which may construct any project recommended in the study entitled ''Metropolitan Atlanta Water Resources Management Study, Georgia: Report of Chief of Engineers,'' dated June 1, 1982, which directly adversely impacts any lands within the authorized recreation boundaries of the Bowman's Island tract as shown on the map numbered and dated CHAT–20,003, September 1984, which were in Federal ownership as of September 1, 1984, shall, upon request by the Secretary, mitigate such adverse impacts. It is expressly provided that use of or adverse impact upon any other lands within the recreation area as result of any such project shall not require mitigation. Mitigation required by this paragraph shall be provided by payment to the United States of a sum not to exceed $3,200,000. The mitigation funds paid pursuant to this paragraph shall be utilized by the Secretary for the acquisition of replacement lands. Such replacement lands shall be acquired only after consultation with the Governor of Georgia.

(2) In acquiring replacement lands under paragraph (1) priority shall be given to acquisition of lands within the recreation area boundary and those lands within or adjacent to the 2,000 foot wide corridor referred to in section 460ii of this title. Any lands acquired pursuant to this subsection lying outside the boundaries of the recreation area shall, upon acquisition, be included within the recreation area and transferred to the Secretary for management under this subchapter. The Secretary shall publish a revised boundary map to include any lands added to the recreation area pursuant to this subsection.

(3) If lands as described in paragraph (2) are not available for acquisition, other lands within the State of Georgia may be acquired as replacement lands under paragraph (1) if such lands are transferred to the State of Georgia for permanent management for public outdoor recreation.

(Pub. L. 95–344, title I, § 104, Aug. 15, 1978, 92 Stat. 476; Pub. L. 98–568, § 1(d), Oct. 30, 1984, 98 Stat. 2928; Pub. L. 103–437, § 6(d)(18), Nov. 2, 1994, 108 Stat. 4584; Pub. L. 106–154, § 2(e)(2), (3), Dec. 9, 1999, 113 Stat. 1739.)

REFERENCES IN TEXT

The Federal Power Act (16 U.S.C. 791a et seq.), referred to in subsec. (a), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–154, §2(e)(2), substituted ''this subchapter'' for ''this subchapter and chapter 43 of this title'' wherever appearing.

Subsec. (d)(2). Pub. L. 106–154, §2(e)(3), substituted ''under this subchapter'' for ''under this subchapter and chapter 43 of this title''.

1994—Subsec. (b). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

1984—Subsec. (d). Pub. L. 98–568 added subsec. (d).

§ 460ii–4. Funding sources and general management plan

(a) Funding

(1) Limitation on use of appropriated funds

From the appropriations authorized for fiscal year 1978 and succeeding fiscal years pursuant to the Land and Water Conservation Fund Act (78 Stat. 897), as amended [16 U.S.C. 460*l*–4 et seq.], not more than $115,000,000 may be expended for the acquisition of lands and interests in lands authorized to be acquired pursuant to the provisions of this subchapter. For purposes of section 7(a)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9(a)(3)), the statutory ceiling on appropriations under this subsection shall be deemed to be a statutory ceiling contained in a provision of law enacted prior to the convening of the Ninety-sixth Congress.

(2) Donations

The Secretary may accept a donation of funds or land or an interest in land to carry out this subchapter.

(3) Relation to other funding sources

Funds made available under paragraph (1) are in addition to funding and the donation of land and interests in land by the State of Georgia, local government authorities, private foundations, corporate entities, and individuals for purposes of this subchapter.

(b) Authorization of appropriations for development of essential public services

Effective on October 1, 1978, there are authorized to be appropriated not to exceed $500,000 for the development of essential public facilities.

(c) General management plan

(1) Initial plan

Within seven years from August 15, 1978, the Secretary shall, after consulting with the Governor of the State of Georgia, develop and transmit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a general management plan for the use and development of the recreation area consistent with the findings and purposes of this subchapter and chapter 43 of this title, indicating:

(A) lands and interests in lands adjacent or related to the recreation area which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this subchapter, the estimated cost of acquisition, and the recommended public acquisition agency;

(B) the number of visitors and types of public use within the recreation area that can be accommodated in accordance with the full protection of its resources; and

(C) the facilities deemed necessary to accommodate and provide access for such visitors and uses, including their location and estimated cost.

(2) Revised plan

(A) In general

Within 3 years after the date funds are made available, the Secretary shall submit to the committees specified in paragraph (1) a revised general management plan to provide for the protection, enhancement, enjoyment, development, and use of the recreation area.

(B) Public participation

In preparing the revised plan, the Secretary shall encourage the participation of the State of Georgia and affected political subdivisions of the State, private landowners, interested citizens, public officials, groups, agencies, educational institutions, and other entities.

(d) Federal actions affecting corridor area; procedural requirements: notification of Secretary, Secretary's recommendations or notification of Congressional committees, copies of decisions and recommendations to Congressional committees; concurrence condition; exemptions

(1) Whenever any Federal department, agency, or instrumentality proposes to undertake any action, or provide Federal assistance for any action, or issue any license or permit for an action within the corridor referred to in section 460ii of this title which may have a direct and adverse effect on the natural or cultural resources of the recreation area, the head of such department, agency, or instrumentality shall—

(A) promptly notify the Secretary of the action at the time it is planning the action, preparing an environmental assessment regarding the action, or preparing an environmental impact statement under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] for the action;

(B) provide the Secretary a reasonable opportunity to comment and make recommendations regarding the effect of the Federal action on the natural and cultural resources of the recreation area; and

(C) notify the Secretary of the specific decisions made in respect to the comments and recommendations of the Secretary.

The requirements of this subsection shall be carried out in accordance with procedures established by the Federal agency responsible for undertaking or approving the Federal action. These procedures may utilize the procedures developed by such Agency pursuant to the National Environmental Policy Act [42 U.S.C. 4321 et seq.].

(2) Following receipt of notification pursuant to paragraph (1)(A), the Secretary, after consultation with the Governor of Georgia, shall make such comments and recommendations as

the Secretary deems appropriate pursuant to paragraph (1)(B) as promptly as practicable in accordance with the notifying agency's procedures established pursuant to paragraph (1)(A). In any instance in which the Secretary does not provide comments and recommendations under paragraph (1)(B), the Secretary shall notify in writing, the appropriate committees of Congress.

(3) Following receipt of the notifying agency's decisions pursuant to paragraph (1)(C), the Secretary shall submit to the appropriate committees of Congress, including the authorizing committees with primary jurisdiction for the program under which the proposed action is being taken, a copy of the notifying agency's specific decisions made pursuant to paragraph (1)(C), along with a copy of the comments and recommendations made pursuant to paragraph (1)(B).

(4) In any instance in which the Secretary has not been notified of a Federal agency's proposed action within the corridor, and on his or her own determination finds that such action may have a significant adverse effect on the natural or cultural resources of the recreation area, the Secretary shall notify the head of such Federal agency in writing. Upon such notification by the Secretary, such agency shall promptly comply with the provisions of subparagraphs (A), (B), and (C) of paragraph (1) of this subsection.

(5) Each agency or instrumentality of the United States conducting Federal action upon federally owned lands or waters which are administered by the Secretary and which are located within the authorized boundary of the recreation area shall not commence such action until such time as the Secretary has concurred in such action.

(6) The following Federal actions which constitute a major and necessary component of an emergency action shall be exempt from the provisions of this subsection—

(A) those necessary for safeguarding of life and property;

(B) those necessary to respond to a declared state of disaster;

(C) those necessary to respond to an imminent threat to national security; and

(D) those that the Secretary has determined to be not inconsistent with the general management plan for the recreation area.

Actions which are part of a project recommended in the study entitled ''Metropolitan Atlanta Water Resources Management Study, Georgia: Report of Chief of Engineers'', dated June 1, 1982, and any Federal action which pertains to the control of air space, which is regulated under the Clean Air Act [42 U.S.C. 7401 et seq.], or which is required for maintenance or rehabilitation of existing structures or facilities shall also be exempt from the provisions of this subsection.

(Pub. L. 95–344, title I, §105, Aug. 15, 1978, 92 Stat. 476; Pub. L. 98–568, §1(e), Oct. 30, 1984, 98 Stat. 2929; Pub. L. 106–154, §2(d), (e)(4), Dec. 9, 1999, 113 Stat. 1738, 1739.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act (78 Stat. 897), as amended, referred to in subsec. (a)(1), probably means the Land and Water Conservation Fund Act of 1965, Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§460*l*–4 et seq.) of subchapter LXIX of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

The convening of the Ninety-sixth Congress, referred to in subsec. (a)(1), took place on Jan. 15, 1979.

The National Environmental Policy Act of 1969, referred to in subsec. (d)(1), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Clean Air Act, referred to in subsec. (d)(6), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

AMENDMENTS

1999—Pub. L. 106–154, §2(d)(1), inserted section catchline.

Subsec. (a). Pub. L. 106–154, §2(d)(1), (2), inserted subsec. heading, designated existing provisions as par. (1), inserted heading, substituted ''$115,000,000'' for ''$79,400,000'' and ''this subchapter'' for ''this subchapter and chapter 43 of this title'', and added pars. (2) and (3).

Subsec. (c). Pub. L. 106–154, §2(d)(3), inserted subsec. heading, designated existing provisions as par. (1), inserted par. (1) heading, redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, substituted ''transmit to the Committee on Resources of the House of Representatives'' for ''transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives'', and added par. (2).

Subsec. (c)(1)(A). Pub. L. 106–154, §2(e)(4), substituted ''of this subchapter'' for ''of this subchapter and chapter 43 of this title''.

1984—Subsec. (a). Pub. L. 98–568, §1(e)(1), substituted ''$79,400,000'' for ''$72,900,000'' and inserted provision respecting applicable statutory ceiling on appropriations.

Subsec. (c). Pub. L. 98–568, §1(e)(2), substituted ''seven years'' for ''three years''.

Subsec. (d). Pub. L. 98–568, §1(e)(3), added subsec. (d).

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 460ii–5. Chattahoochee River National Recreation Area Advisory Commission

(a) Establishment; duties; membership: voting members and Park Superintendent as nonvoting member; Chairman

There is hereby established the Chattahoochee River National Recreation Area Advisory Commission (hereinafter in this subchapter referred to as the ''Advisory Commission'') to advise the Secretary regarding the management and operation of the area, protection of resources with[1] the recreation area, and the priority of lands to be acquired within the recreation area. The Advisory Commission shall be composed of the following thirteen voting members appointed by the Secretary:

(1) four members appointed from among individuals recommended by local governments—

[1] So in original. Probably should be ''within''.

(A) one of whom shall be recommended by the Board of County Commissioners of Forsyth County;

(B) one of whom shall be recommended by the Board of County Commissioners of Fulton County;

(C) one of whom shall be recommended by the Board of County Commissioners of Cobb County; and

(D) one of whom shall be recommended by the Board of County Commissioners of Gwinnett County;

(2) one member appointed from among individuals recommended by the Governor of Georgia;

(3) one member appointed from among individuals recommended by the Atlanta Regional Commission;

(4) four members appointed from among individuals recommended by a coalition of citizens public interest groups, recreational users, and environmental organizations concerned with the protection and preservation of the Chattahoochee River;

(5) one member appointed from among individuals recommended by the Business Council of Georgia or by a local chamber of commerce in the vicinity of the recreation area; and

(6) two members who represent the general public, at least one of whom shall be a resident of one of the counties referred to in paragraph (1).

In addition, the Park Superintendent for the recreation area shall serve as a nonvoting member of the Advisory Commission. The Advisory Commission shall designate one of its members as Chairman.

(b) Terms of office; reappointment

(1) Except as provided in paragraph (2), members of the Advisory Commission shall serve for terms of three years. Any voting member of the Advisory Commission may be reappointed for one additional three-year term.

(2) The members first appointed under paragraph (1) shall serve for a term of one year. The members first appointed under paragraphs (2), (3), (5), and (6) shall serve for a term of two years.

(c) Meetings

The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the park. Commission meetings shall be held at locations and in such a manner as to insure adequate public involvement.

(d) Compensation and expenses

Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this subchapter on vouchers signed by the Chairman.

(e) Termination

The Advisory Commission shall terminate on the date ten years after October 30, 1984.

(Pub. L. 95–344, title I, §106, as added Pub. L. 98–568, §1(f), Oct. 30, 1984, 98 Stat. 2931; amended Pub. L. 106–154, §2(e)(5), (6), Dec. 9, 1999, 113 Stat. 1739.)

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–154, §2(e)(5), substituted ''this subchapter'' for ''this subchapter and chapter 43 of this title'' in introductory provisions.

Subsec. (d). Pub. L. 106–154, §2(e)(6), substituted ''this subchapter'' for ''this subchapter and chapter 43 of this title''.

SUBCHAPTER XCIV—ARAPAHO NATIONAL RECREATION AREA

§ 460jj. Establishment

(a) In general

An area of land comprising approximately 35,235 acres located in Grand County, Colorado, within the Arapaho and the Roosevelt National Forests and the Colorado Big Thompson project (as generally depicted as the ''Arapaho National Recreation Area'' on a map entitled ''Indian Peaks Wilderness Area and Arapaho National Recreation Area'' and dated May 2007) is established as the Arapaho National Recreation Area.

(b) Administration

The Secretary shall administer the Arapaho National Recreation Area, in accordance with the laws and regulations applicable to the national forests, in such a manner as will best provide for—

(1) public recreation and enjoyment;

(2) the conservation and development of the scenic, natural, historic, and pastoral values of the area;

(3) the management, utilization, and disposal of natural resources such as timber, grazing, and mineral resources so that their utilization will not substantially impair the purposes for which the recreation area is established; and

(4) the management of water quality in the recreation area consistent with the development of needed water supply and waste-water systems, including the control of aquatic vegetation in the streams, lakes, and reservoirs within the recreation area.

(c) Management plan

The Secretary shall develop an overall management plan for the Arapaho National Recreation Area. This plan shall be developed in consultation with State and local political subdivisions and other interested persons.

(Pub. L. 95–450, §4, Oct. 11, 1978, 92 Stat. 1095; Pub. L. 111–11, title I, §1955(b), Mar. 30, 2009, 123 Stat. 1075.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–11 substituted ''35,235 acres'' for ''thirty-six thousand two hundred thirty-five acres'' and ''and dated May 2007'' for '', dated July 1978''.

SHORT TITLE

Section 1 of Pub. L. 95–450 provided that: ''This Act [enacting this subchapter and enacting notes set out under this section and section 1132 of this title] may be cited as the 'Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act'.''

LEGISLATIVE FINDINGS; PURPOSES

Section 2 of Pub. L. 95–450 provided that: ''The Congress finds that it is in the national interest—

''(1) to include the land within the Arapaho and the Roosevelt National Forests known as the Indian Peaks Area in the National Wilderness Preservation System so as to protect the area's enduring scenic and historic wilderness character and its unique wildlife and to preserve the area's scientific, educational, recreational, and inspirational resources and challenges; and

''(2) to create the Arapaho National Recreation Area within the Arapaho and the Roosevelt National Forests and the Colorado Big Thompson project so as to preserve and protect the natural, scenic, historic, pastoral, and wildlife resources of the area and to enhance the recreational opportunities provided.''

§ 460jj–1. Land acquisition

(a) Determination of necessity; "scenic easement" defined

(1) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, or bequest, any lands or lesser interests therein, including mineral interests and scenic easements, which the Secretary determines are needed to establish and manage the Arapaho National Recreation Area. In determining what private property is needed to establish and manage the Arapaho National Recreation Area the Secretary shall utilize the approved county zoning plan to identify those properties whose use or intended use is not in conformance with the overall intent of this subchapter.

(2) As used in this section, the term ''scenic easement'' means the right to control the use of land in order to carry out this subchapter, but shall not preclude the continuation of any use that is compatible with the overall management plan for the Arapaho National Recreation Area developed pursuant to subsection (c) of section 460jj of this title.

(b) Privately owned land

In exercising the authority conferred by this section to acquire lands, the Secretary shall give prompt and careful consideration to any offer made by an individual owning any land, or interest in land, within the Arapaho National Recreation Area. In considering any such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property. Purchases made under this authority shall be made on a willing buyer, willing seller basis.

(c) Exchange of property; cash equalization

In exercising the authority conferred by this section to acquire property by exchange, the Secretary may accept title to any non-Federal land, or interests therein, located within the Arapaho National Recreation Area and the Secretary may convey in exchange therefor any federally owned lands or interests inlands within the State of Colorado which are classified by the Secretary as suitable for exchange and which are under the Secretary's administrative jurisdiction. The values of any lands or interests in lands so exchanged shall be approximately equal, or if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the Secretary so long as payment does not exceed 25 per centum of the total value of the land or interest in land. In utilizing cash equalization in exchanges the Secretary shall try to reduce the amount of the payment of money to as small an amount as possible. In the exercise of his exchange authority, the Secretary may utilize authorities and procedures available to him in making exchanges of national forest lands.

(d) State land

Any land or interest in land owned by the State of Colorado or any of its political subdivisions may be acquired only by donation or exchange.

(e) Transfer of Federal land

Notwithstanding any other provision of law, any Federal lands or interests in lands located within the Arapaho National Recreation Area shall be transferred without consideration to the administrative jurisdiction of the Secretary for use by the Secretary in carrying out this subchapter. Lands within the Arapaho National Recreation Area acquired by the Secretary or transferred to the Secretary's administrative jurisdiction shall become part of that recreation area and of the national forest within or adjacent to which they are located: *Provided*, That the operation and facilities of the Colorado Big Thompson project shall remain under the jurisdiction of the United States Bureau of Reclamation.

(Pub. L. 95–450, § 5, Oct. 11, 1978, 92 Stat. 1096.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a) and (e), was in the original ''this Act'', meaning Pub. L. 95–450, Oct. 11, 1978, 92 Stat. 1095, which enacted this subchapter and enacted provisions set out as notes under sections 460jj and 1132 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460jj of this title and Tables.

§ 460jj–2. Hunting and fishing

The Secretary shall permit hunting and fishing on lands and waters under the Secretary's jurisdiction within the boundaries of the Arapaho National Recreation Area in accordance with the laws of the United States and the State of Colorado, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, area general administration, or public use and enjoyment. Except in emergencies, any regulations made by the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

(Pub. L. 95–450, § 6, Oct. 11, 1978, 92 Stat. 1097.)

§ 460jj–3. Permits for facilities and services

The Secretary shall cooperate with other Federal agencies, with State and local public agencies, and with private individuals and organizations in the issuance of permits for facilities and services in the Arapaho National Recreation Area and the development and operation of those facilities and services.

(Pub. L. 95–450, § 7, Oct. 11, 1978, 92 Stat. 1097.)

§ 460jj–4. Application of State water laws

The jurisdiction of the State of Colorado and the United States over waters of any stream in-

cluded in the Arapaho National Recreation Area shall be determined by established principles of law. Nothing in this subchapter shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(Pub. L. 95–450, § 8, Oct. 11, 1978, 92 Stat. 1097.)

§ 460jj–5. Filing of maps

As soon as practicable after October 11, 1978, the Secretary shall file a map and legal description of the Indian Peaks Wilderness Area and the Arapaho National Recreation Area with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives and such description shall have the same force and effect as if included in this subchapter, except that correction of any clerical or typographical errors in such map and description may be made. Such map and the map entitled ''Indian Peaks Wilderness Area and Arapaho National Recreation Area'', dated July 1978, shall be on file and made available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture.

(Pub. L. 95–450, § 9, Oct. 11, 1978, 92 Stat. 1097.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460jj–6. State civil and criminal jurisdiction

Nothing in this subchapter shall diminish, enlarge, or modify any right of the State of Colorado, or any political subdivision thereof, to exercise civil and criminal jurisdiction within the Indian Peaks Wilderness Area or the Arapaho National Recreation Area or of rights to tax persons, franchises, or property, including mineral or other interests, in or on lands or waters within those areas.

(Pub. L. 95–450, § 10, Oct. 11, 1978, 92 Stat. 1098.)

§ 460jj–7. Authorization of appropriations

Effective October 1, 1979, there are authorized to be appropriated to carry out sections 1 through 10 of this Act $5,000,000 for the acquisition of lands and interests in lands and $5,000,000 for water quality and recreation development. Moneys appropriated from the Land and Water Conservation Fund shall be available for the acquisition of lands and interests therein within the Arapaho National Recreation Area.

(Pub. L. 95–450, § 11, Oct. 11, 1978, 92 Stat. 1098.)

REFERENCES IN TEXT

Sections 1 through 10 of this Act, referred to in text, means sections 1 through 10 of Pub. L. 95–450, Oct. 11, 1978, 92 Stat. 1095, which enacted sections 460jj to 460jj–6 of this title and enacted provisions set out as notes under sections 460jj and 1132 of this title.

The Land and Water Conservation Fund, referred to in text, was established by section 460*l*–5 of this title.

SUBCHAPTER XCV—SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA

§ 460kk. Establishment

(a) Findings

The Congress finds that—

(1) there are significant scenic, recreational, educational, scientific, natural, archeological, and public health benefits provided by the Santa Monica Mountains and adjacent coastline area;

(2) there is a national interest in protecting and preserving these benefits for the residents of and visitors to the area; and

(3) the State of California and its local units of government have authority to prevent or minimize adverse uses of the Santa Monica Mountains and adjacent coastline area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority.

(b) Establishment; management

There is hereby established the Santa Monica Mountains National Recreation Area (hereinafter referred to as the ''recreation area''). The Secretary shall manage the recreation area in a manner which will preserve and enhance its scenic, natural, and historical setting and its public health value as an airshed for the Southern California metropolitan area while providing for the recreational and educational need of the visiting public.

(c) Description; boundary revisions: notice to Congressional committees, publication in Federal Register; acquisition of property: manner, transfer from Federal agency to administrative jurisdiction of Secretary, exchange of lands with city of Los Angeles, development of municipal cultural resource management program; Nike Site transfer to Secretary

(1) The recreation area shall consist of the lands and waters and interests generally depicted as the recreation area on the map entitled ''Santa Monica Mountains National Recreation Area and Santa Monica Mountains Zone, California, Boundary Map'', numbered 80,047–C and dated August 2001, which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and in the offices of the General Services Administration in the Federal Office Building in West Los Angeles, California, and in the main public library in Ventura, California. After advising the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, in writing, the Secretary may make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(2)(A) Not later than ninety days after November 10, 1978, the Secretary, after consultation with the Governor of the State of California, the California Coastal Commission, and the Santa Monica Mountains Comprehensive Planning Commission, shall commence acquisition of

lands, improvements, waters, or interests therein within the recreation area. Such acquisition may be by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange, or otherwise. Except as provided in subparagraph (B), any lands or interests therein owned by the State of California or any political subdivision thereof (including any park district or other public entity) may be acquired only by donation, except that such lands acquired after November 10, 1978, by the State of California or its political subdivisions may be acquired by purchase or exchange if the Secretary determines that the lands were acquired for purposes which further the national interest in protecting the area and that the purchase price or value on exchange does not exceed fair market value on the date that the State acquired the land or interest: *Provided, however*, That the value of any lands acquired by the Secretary under the exception in this sentence shall be deducted from the amount of moneys available for grants to the State under subsection (n) of this section. Lands within the ''Wildlife Corridor Expansion Zone'' identified on the boundary map referred to in paragraph (1) may be acquired only by donation or with donated funds. Notwithstanding any other provision of law, any Federal property located within the boundaries of the recreation area shall, with the concurrence of the head of the agency having custody thereof, be transferred without cost, to the administrative jurisdiction of the Secretary for the purposes of the recreation area.

(B) The Secretary shall negotiate, and carry out, and exchange with the city of Los Angeles (acting through its department of water and power) certain federally owned lands managed by the Bureau of Land Management in the vicinity of the Haiwee Reservoir in Inyo County for certain lands owned by the city of Los Angeles which are associated with the Upper Franklin Reservoir in the city of Los Angeles. Lands acquired by the Secretary pursuant to such exchange shall be transferred without cost to the administrative jurisdiction of the National Park Service for inclusion within the recreation area. The Secretary shall include in such exchange a provision for an easement to be granted to the city of Los Angeles for the existing water pipeline associated with the Upper Franklin Reservoir and for the city of Los Angeles to provide for replacement water to maintain the water elevations of the Franklin Reservoir to the current levels. The values of lands exchanged under this provision shall be equal, or shall be equalized, in the same manner as provided in section 1716 of title 43.

(C) The city shall assume full responsibility for the protection of cultural resources and shall develop a cultural resource management program for the public lands to be transferred to the city in the vicinity of the Haiwee Reservoir. The program shall be developed in consultation with the Secretary of the Interior, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation.

(3) The Administrator of the General Services Administration is hereby authorized and directed to transfer the site generally known as Nike Site 78 to the Secretary for inclusion in the recreation area: *Provided*, That the county of Los Angeles shall be permitted to continue to use without charge the facilities together with sufficient land as in the determination of the Secretary shall be necessary to continue to maintain and operate a fire suppression and training facility and shall be excused from payment for any use of the land and facilities on the site prior to November 10, 1978. At such time as the county of Los Angeles, California, relinquishes control of such facilities and adjacent land or ceases the operation of the fire suppression and training facility, the land and facilities shall be managed by the Secretary as a part of the recreation area.

(d) Identification and revision of areas: public ownership for critical purposes; land and area plan: submission to Congressional committees

(1) Within six months after November 10, 1978, the Secretary shall identify the lands, waters, and interests within the recreation area which must be acquired and held in public ownership for the following critical purposes: preservation of beaches and coastal uplands; protection of undeveloped inland stream drainage basins; connection of existing State and local government parks and other publicly owned lands to enhance their potential for public recreation use; protection of existing park roads and scenic corridors, including such right-of-way as is necessary for the protection of the Mulholland Scenic Parkway Corridor; protection of the public health and welfare; and development and interpretation of historic sites and recreation areas in connection therewith, to include, but not be limited to, parks, picnic areas, scenic overlooks, hiking trails, bicycle trails, and equestrian trails. The Secretary may from time to time revise the identification of such areas, and any such revisions shall become effective in the same manner as herein provided for revisions in the boundaries of the recreation area.

(2) By January 1, 1980, the Secretary shall submit, in writing, to the committees referred to in subsection (c) of this section and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate—

(A) the lands and areas identified in paragraph (1),

(B) the lands which he has previously acquired by purchase, donation, exchange, or transfer for the purpose of this recreation area,

(C) the annual acquisition program (including the level of funding) recommended for the ensuing five fiscal years, and

(D) the final boundary map for the recreation area.

(e) Improved property and scenic easement acquisitions

With respect to improved properties, as defined in this section, fee title shall not be acquired unless the Secretary finds that such lands are being used, or are threatened with uses, which are detrimental to the purposes of the recreation area, or unless each acquisition is necessary to fulfill the purposes of this section. The Secretary may acquire scenic easements to such improved property or such other interests

as, in his judgment are necessary for the purposes of the recreation area.

(f) "Improved property" defined

For the purposes of this section, the term ''improved property'' means—

(1) a detached single-family dwelling, the construction of which was begun before January 1, 1978 (hereafter referred to as ''dwelling''), together with so much of the land on which the dwelling is situated as is in the same ownership as the dwelling and as the Secretary designates to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, and

(2) property developed for agricultural uses, together with any structures accessory thereto as were used for agricultural purposes on or before January 1, 1978.

In determining when and to what extent a property is to be treated as ''improved property'' for purposes of this section, the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1978, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date.

(g) Owner's reservation of right of use and occupancy for fixed term of years or life; election of term; fair market value; termination; notification

The owner of an improved property, as defined in this section, on the date of its acquisition, as a condition of such acquisition, may retain for herself or himself, her or his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or agriculture purposes, as the case may be, for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of her or his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this section, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(h) Hardship sale offers

In exercising the authority to acquire property under this section, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the recreation area to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

(i) Administration

The Secretary shall administer the recreation area in accordance with this Act and provisions of laws generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title. In the administration of the recreation area, the Secretary may utilize such statutory authority available for the conservation and management of wildlife and natural resources as appropriate to carry out the purpose of this section. The fragile resource areas of the recreation area shall be administered on a low-intensity basis, as determined by the Secretary.

(j) Cooperative agreements for rescue, fire prevention and firefighting, and law enforcement services

The Secretary may enter into cooperative agreements with the State of California, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(k) Donations

Notwithstanding any other provision of law, the Secretary is authorized to accept donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of land acquisition and providing services and facilities which the Secretary deems consistent with the purposes of this section.

(*l*) Report of Advisory Commission to Secretary

By January 1, 1981, the Santa Monica Mountains National Recreation Area Advisory Commission, established by this section, shall submit a report to the Secretary which shall—

(1) assess the capability and willingness of the State of California and the local units of government to manage and operate the recreation area,

(2) recommend any changes in ownership, management, and operation which would better accomplish the purposes of this section, and

(3) recommend any conditions, joint management agreements, or other land use mechanisms to be contingent on any transfer of land.

(m) Report of Secretary to Congressional committees

The Secretary, after giving careful consideration to the recommendations set forth by the Advisory Commission, shall, by January 1, 1982, submit a report to the committees referred to in subsection (c) of this section which shall incorporate the recommendations of the Advisory Commission as well as set forth the Secretary's recommendations. Such report shall—

(1) assess the benefits and costs of continued management as a unit of the National Park System,

(2) assess the capability and willingness of the State of California and the local units of government to manage and operate the recreation area, and

(3) recommend any changes in ownership, management, and operation which would better accomplish the purposes of this section.

(n) Comprehensive plan; contents; approval considerations; environmental consultations; grants and funds; assurance and grant requirements; plan changes: liability for reimbursement of funds, approval by Secretary

(1) The Secretary shall request the Santa Monica Mountains Comprehensive Planning Commission to submit a comprehensive plan, prepared in accord with this section and title 7.75 of the California Government Code (commencing with section 67450), for the Santa Monica Mountains Zone generally depicted on the map referred to in subsection (c) of this section for approval.

(2) The comprehensive plan shall include, in addition to the requirements of California State law—

(A) an identification and designation of public and private uses which are compatible with and which would not significantly impair the significant scenic, recreational, educational, scientific, natural, archeological, and public health benefits present in the zone and which would not have an adverse impact on the recreation area or on the air quality of the south coast air basin;

(B) a specific minimum land acquisition program which shall include, but not be limited to, fee and less than fee acquisition of strategic and critical sites not to be acquired by the Federal Government for public recreational and other related uses; and a program for the complementary use of State and local authority to regulate the use of lands and waters within the Santa Monica Mountains Zone to the fullest extent practicable consistent with the purposes of this section; and

(C) a recreation transportation system which may include but need not be limited to existing public transit.

(3) No plan submitted to the Secretary under this section shall be approved unless the Secretary finds the plan consistent with paragraph (2) and finds that—

(A) the planning commission has afforded adequate opportunity, including public hearings, for public involvement in the preparation and review of the plan, and public comments were received and considered in the plan or revision as presented to him;

(B) the State and local units of government identified in the plan as responsible for implementing its provisions have the necessary authority to implement the plan and such State and local units of government have indicated their intention to use such authority to implement the plan;

(C) the plan, if implemented, would preserve significant natural, historical, and archeological benefits and, consistent with such benefits, provide increased recreational opportunities for persons residing in the greater Los Angeles-southern California metropolitan area; and

(D) implementation of the plan would not have a serious adverse impact on the air quality or public health of the greater Los Angeles region.

Before making his findings on the air quality and public health impacts of the plan, the Secretary shall consult with the Administrator of the Environmental Protection Agency.

(4) Following approval of the plan with respect to the Santa Monica Mountains Zone, upon receipt of adequate assurances that all aspects of that jurisdiction's implementation responsibilities will be adopted and put into effect, the Secretary shall—

(A) provide grants to the State and through the State to local governmental bodies for acquisition of lands, waters, and interests therein identified in paragraph (2)(B), and for development of essential public facilities, except that such grants shall be made only for the acquisition of lands, waters, and interests therein, and related essential public facilities, for park, recreation, and conservation purposes; and

(B) provide, subject to agreements that in the opinion of the Secretary will assure additional preservation of the lands and waters of the zone, such funds as may be necessary to retire bonded indebtedness for water and sewer and other utilities already incurred by property owners which in the opinion of the Secretary would if left outstanding contribute to further development of the zone in a manner inconsistent with the approved plan developed by the planning commission.

No grant for acquisition of land may be made under subparagraph (A) unless the Secretary receives satisfactory assurances that such lands acquired under subparagraph (A) shall not be converted to other than park, recreation, and conservation purposes without the approval of the Secretary and without provision for suitable replacement land.

(5) Grants under this section shall be made only upon application of the recipient State and shall be in addition to any other Federal financial assistance for any other program, and shall be subject to such terms and conditions as the Secretary deems necessary to carry out the purposes of this section. Any jurisdiction that implements changes to the approved plan which are inconsistent with the purposes of this section, or adopts or acquiesces in changes to laws, regulations or policies necessary to implement or protect the approved plan, without approval of the Secretary, may be liable for reimbursement of all funds previously granted or available to it under the terms of this section without regard to such additional terms and conditions or other requirements of law that may be applicable to such grants. During the life of the planning commission, changes to the plan must be submitted by the planning commission to the Secretary for approval. No such application for a grant may be made after the date five years from the date of the Secretary's approval of the plan.

***(o)* Comments on undertakings prior to expenditure of Federal funds or issuance of licenses or permits**

The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in the lands and waters within the Santa Monica Mountains Zone, generally depicted on the map referred to in subsection (c) of this section, and the head of any Federal agency having authority to license or permit any undertaking in such lands and wa-

ters shall, prior to the approval of the expenditure of any Federal funds on such undertaking or prior to the issuance of any license or permit, as the case may be, afford the Secretary a reasonable opportunity to comment with regard to such undertaking and shall give due consideration to any comments made by the Secretary and to the effect of such undertaking on the ''findings'' and purposes of this section.

(p) State agency recommendations; consideration

The Secretary shall give full consideration to the recommendations of the California Department of Parks and Recreation, the Santa Monica Mountains Comprehensive Planning Commission, and the California Coastal Commission.

(q) Advisory Commission; establishment and termination; membership; term; meetings; notice, publication in newspapers; compensation and expenses; consultations of Secretary with Commission

(1) There is hereby established the Santa Monica Mountains National Recreation Area Advisory Commission (hereinafter referred to as the ''Advisory Commission''). The Advisory Commission shall terminate ten years after the date of establishment of the recreation area.

(2) The Advisory Commission shall be composed of the following members to serve for terms of five years as follows:

(A) one member appointed by the Governor of the State of California;

(B) one member appointed by the mayor of the city of Los Angeles;

(C) one member appointed by the Board of Supervisors of Los Angeles County;

(D) one member appointed by the Board of Supervisors of Ventura County; and

(E) nine members appointed by the Secretary, one of whom shall serve as the Commission Chairperson.

(3) The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area. Commission meetings shall be held at locations and in such a manner as to insure adequate public involvement. Such locations shall be in the region of the Santa Monica Mountains and no more than twenty-five miles from it.

(4) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairperson.

(5) The Secretary, or his or her designee, shall from time to time but at least semiannually, meet and consult with the Advisory Commission on matters relating to the development of this recreation area and with respect to carrying out the provisions of this section.

(r) Authorization of appropriations for property acquisitions and State grants

There are authorized to be appropriated such sums as may be necessary for acquisition of lands and interests in land within the boundaries of the recreation area established under this section, but not more than $15,000,000 for fiscal year 1979, $40,000,000 for fiscal year 1980, $45,000,000 for fiscal year 1981, $10,000,000 for fiscal year 1982, and $15,000,000 for fiscal year 1983, such sums to remain available until expended. For grants to the State pursuant to subsection (n) of this section there are authorized to be appropriated not more than $10,000,000 for fiscal year 1979, $10,000,000 for fiscal year 1980, $5,000,000 for fiscal year 1981, and $5,000,000 for fiscal year 1982, such sums to remain available until expended. For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

(s) Authorization of appropriations for public facilities development

For the development of essential public facilities in the recreation area there are authorized to be appropriated not more than $500,000. The Congress expects that, at least until assessment of the report required by subsection (t) of this section, any further development of the area shall be accomplished by the State of California or local units of government, subject to the approval of the Director, National Park Service.

(t) General management plan; transmission to Congressional committees

Within two years from the date of establishment of the recreation area pursuant to this section, the Secretary shall, after consulting with the Advisory Commission, develop and transmit to the Committees referred to in subsection (c) of this section a general management plan for the recreation area consistent with the objectives of this section. Such plan shall indicate—

(1) a plan for visitor use including the facilities needed to accommodate the health, safety, education and recreation needs of the public;

(2) the location and estimated costs of all facilities;

(3) the projected need for any additional facilities within the area;

(4) any additions or alterations to the boundaries of the recreation area which are necessary or desirable to the better carrying out of the purposes of this section; and

(5) a plan for preservation of scenic, archeological and natural values and of fragile ecological areas.

(Pub. L. 95–625, title V, § 507, Nov. 10, 1978, 92 Stat. 3501; Pub. L. 96–87, title IV, § 401(j), Oct. 12, 1979, 93 Stat. 666; Pub. L. 96–199, title I, § 118, Mar. 5, 1980, 94 Stat. 71; Pub. L. 98–572, Oct. 30, 1984, 98 Stat. 2946; Pub. L. 103–437, § 6(d)(5), Nov. 2, 1994, 108 Stat. 4583; Pub. L. 107–236, §§ 2, 3, Oct. 9, 2002, 116 Stat. 1483.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (i) and (q)(4), means Pub. L. 95–625, Nov. 10, 1978, 92 Stat. 3467, as amended, known as the National Parks and Recreation Act of 1978. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 1 of this title and Tables.

AMENDMENTS

2002—Subsec. (c)(1). Pub. L. 107–236, §§ 2(1), 3(1), substituted ''‘Santa Monica Mountains National Recreation Area and Santa Monica Mountains Zone, Califor-

nia, Boundary Map', numbered 80,047–C and dated August 2001'' for '''Boundary Map, Santa Monica Mountains National Recreation Area, California, and Santa Monica Mountains Zone', numbered SMM–NRA 80,000, and dated May 1978'' and ''Committee on Resources'' for ''Committee on Natural Resources''.

Subsec. (c)(2)(A). Pub. L. 107–236, §2(2), inserted after third sentence ''Lands within the 'Wildlife Corridor Expansion Zone' identified on the boundary map referred to in paragraph (1) may be acquired only by donation or with donated funds.''

Subsec. (c)(2)(B). Pub. L. 107–236, §3(2), substituted ''certain federally owned'' for ''of certain federally owned'' in first sentence.

Subsec. (n)(5). Pub. L. 107–236, §3(3), substituted ''laws,'' for ''laws'' in second sentence.

1994—Subsec. (c)(1). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

1984—Subsec. (c)(2). Pub. L. 98–572 designated existing provisions as subpar. (A), inserted exception clause in third sentence, and added subpars. (B) and (C).

1980—Subsec. (q)(2)(E). Pub. L. 96–199 increased from 5 to 9 the number of members appointed by the Secretary of the Interior.

1979—Subsec. (f)(1). Pub. L. 96–87 substituted ''construction of which was begun before January 1, 1978'' for ''construction of which was begun before January 1, 1976''.

ANTHONY C. BEILENSON VISITOR CENTER

Pub. L. 105–277, div. A, §101(e) [title I, §145], Oct. 21, 1998, 112 Stat. 2681–231, 2681–267, provided that: ''The principal visitor center for the Santa Monica Mountains National Recreation Area, regardless of location, shall be named for Anthony C. Beilenson and shall be referred to in any law, document or record of the United States as the 'Anthony C. Beilenson Visitor Center'.''

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

SUBCHAPTER XCVI—RATTLESNAKE NATIONAL RECREATION AREA

§ 460*ll*. Findings and declaration of policy

(a) The Congress finds that—

(1) certain lands on the Lolo National Forest in Montana have high value for watershed, water storage, wildlife habitat, primitive recreation, historical, scientific, ecological, and educational purposes. This national forest area has long been used as a wilderness by Montanans and by people throughout the Nation who value it as a source of solitude, wildlife, clean, free-flowing waters stored and used for municipal purposes for over a century, and primitive recreation, to include such activities as hiking, camping, backpacking, hunting, fishing, horse riding, and bicycling; and

(2) certain other lands on the Lolo National Forest, while not predominantly of wilderness quality, have high value for municipal watershed, recreation, wildlife habitat, and ecological and educational purposes.

(b) Therefore, it is hereby declared to be the policy of Congress that, to further the purposes of the Wilderness Act of 1964 (16 U.S.C. 1131) and the National Forest Management Act of 1976 (16 U.S.C. 1600), the people of the Nation and Montana would best be served by national recreation area designation of the Rattlesnake area to include the permanent preservation of certain of these lands under established statutory designation as wilderness, and to promote the watershed, recreational, wildlife, and educational values of the remainder of these lands.

(Pub. L. 96–476, §1, Oct. 19, 1980, 94 Stat. 2271.)

REFERENCES IN TEXT

The Wilderness Act (16 U.S.C. 1131), referred to in subsec. (b), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The National Forest Management Act of 1976 (16 U.S.C. 1600), referred to in subsec. (b), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

SHORT TITLE

Pub. L. 96–476, §1, Oct. 19, 1980, 94 Stat. 2271, provided in part: ''That this Act [enacting this subchapter] may be cited as the 'Rattlesnake National Recreation Area and Wilderness Act of 1980'.''

§ 460*ll*–1. Rattlesnake Wilderness

(a) Designation of area

In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131), certain lands within the Rattlesnake National Recreation Area as designated by this subchapter, which comprise approximately 33,000 acres as generally depicted as the ''Rattlesnake Wilderness'' on a map entitled ''Rattlesnake National Recreation Area and Wilderness—Proposed'', and dated October 1, 1980, are hereby designated as wilderness and shall be known as the Rattlesnake Wilderness.

(b) Administration

Subject to valid existing rights, the Rattlesnake Wilderness as designated by this subchapter shall be administered by the Secretary of Agriculture, hereafter referred to as the Secretary, in accordance with the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.] governing areas designated by that Act as wilderness: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this subchapter.

(Pub. L. 96–476, §2, Oct. 19, 1980, 94 Stat. 2271.)

REFERENCES IN TEXT

The Wilderness Act, referred to in text, is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The effective date of the Wilderness Act, referred to in subsec. (b), means Sept. 3, 1964, the date of enactment of Pub. L. 88–577, which enacted chapter 23 of this title.

The effective date of this subchapter, referred to in subsec. (b), means Oct. 19, 1980, the date of enactment of Pub. L. 96–476, which enacted this subchapter.

§ 460*ll*–2. Rattlesnake National Recreation Area

An area of land as generally depicted as the ''Rattlesnake National Recreation Area'' on a map entitled ''Rattlesnake National Recreation area and Wilderness—Proposed'', and dated October 1, 1980, is hereby established as the Rattlesnake National Recreation Area.

(Pub. L. 96–476, § 3, Oct. 19, 1980, 94 Stat. 2272.)

§ 460*ll*–3. Land acquisition and exchange

(a) Authority of Secretary of Agriculture

Within the boundaries of the Rattlesnake National Recreation Area and Rattlesnake Wilderness, the Secretary is authorized and directed to acquire with donated or appropriated funds including amounts appropriated from the Land and Water Conservation Fund, by exchange, gift, or purchase, such non-Federal lands, interests, or any other property, in conformance with the provisions of this section. Nothing in this subchapter shall be construed to limit or diminish the existing authority of the Secretary to acquire lands and interests therein within or contiguous to the Rattlesnake National Recreation Area or Rattlesnake Wilderness.

(b) Exchange of lands for bidding rights on coal lease sales or coal lease modifications; bidding rights as monetary credit; transfer or sale

(1) The Secretary of the Interior, in consultation with the Secretary of Agriculture, is authorized to consider and consummate an exchange with the owner of the private lands or interests therein within or contiguous to the boundaries of the Rattlesnake National Recreation Area and Rattlesnake Wilderness, as described in sections 460*ll*–1 and 460*ll*–2 of this title, by which the Secretary of the Interior may accept conveyance of title to these private lands for the United States and in exchange issue bidding rights that may be exercised in competitive coal lease sales, or in coal lease modifications, or both, under sections 2 and 3 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 201(a), 203). Any lands so acquired shall become national forest lands under the jurisdiction of the Secretary of Agriculture to be managed in accordance with the provisions of this subchapter and other laws applicable to the management of national forest lands. Nothing in this subchapter shall be construed to limit or diminish any existing authority of the Secretaries of the Interior and Agriculture to acquire private lands and interests therein in the Rattlesnake National Recreation Area and Rattlesnake Wilderness. Nothing in this subchapter shall be construed to require any owner of the lands within or contiguous to the Rattlesnake National Recreation Area or Rattlesnake Wilderness to accept coal lease bidding rights in exchange for title to those private lands.

(2) The coal lease bidding rights to be issued may be exercised as payment of bonus or other payment required of the successful bidder for a competitive coal lease, or required of an applicant for a coal lease modification. The bidding rights shall equal the fair market value of the private lands or interests therein conveyed in exchange for their issuance. The use and exercise of the bidding rights shall be subject to the provisions of the Secretary of the Interior's regulations governing coal lease bidding rights, to the extent that they are not inconsistent with this subchapter, that are in effect at the time the bidding rights are issued.

(3) If for any reason, including but not limited to the failure of the Secretary of the Interior to offer for lease lands in the Montana portion of the Powder River Coal Production Region as defined in the Federal Register of November 9, 1979 (44 F.R. 65196), or the failure of the holder of the bidding rights to submit a successful high bid for any such leases, any bidding rights issued in an exchange under this subchapter have not been exercised within two years from October 31, 1983, the bidding rights may be used as a monetary credit, which shall be considered ''money'' within the meaning of section 35 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 191), against that portion of bonus payments, rental or royalty payments paid into the Treasury of the United States and retained by the Federal Government on any Federal coal lease won or otherwise held by the applicant, its successors or assigns. The holder of the bidding rights shall pay the balance due on such bonus payments, rental or royalty payments in cash for transmittal to the States in the same manner and in the same amounts as though the entire payment were made in cash under the provisions of the Mineral Leasing Act of 1920 as amended [30 U.S.C. 181 et seq.]. The bidding rights may be transferred or sold at any time by the owner to any other party with all the rights of the owner to the credit, and after such transfer, the owner shall notify the Secretary.

(4) It is the intent of Congress that the exchange of bidding rights for the private lands or interests therein authorized by this subchapter shall occur within three years of October 19, 1980.

(5) In order to facilitate the exchange authorized by this subchapter, the Executive order captioned ''Order of Withdrawal'', of June 6, 1929, creating ''Coal Reserve No. 1, Montana, No. 1'', is hereby revoked to the extent that it constitutes a withdrawal of the lands therein from disposal under the Mineral Lands Leasing Act of 1920, as amended [30 U.S.C. 181 et seq.].

(c) Exchange of lands involving Burlington Northern, Inc.

The exchange of lands involving Burlington Northern, Inc. shall be in accordance with the agreement entitled ''Statement of Intent'' entered into by Burlington Northern, Inc. and the Regional Forester of the United States Forest Service, Region 1, signed September 18, 1980, and it is the intent of Congress that this exchange shall occur within three years of October 19, 1980.

(d) Non-Federal lands; water rights

(1) As non-Federal lands and interests in the Rattlesnake National Recreation Area are acquired, the lands shall become part of the Rattlesnake National Recreation Area. As non-Federal lands and interests in the Rattlesnake Wilderness are acquired, the lands shall become part of the Rattlesnake Wilderness. The Secretary shall publish from time to time a notice

of such classifications in the Federal Register. It is the intention of Congress that acquisition of the non-Federal lands shall be completed no later than three years after October 19, 1980.

(2) Nothing in this subchapter shall be construed to permit the Secretary to affect or diminish any water right which is vested under either State or Federal law on October 19, 1980, nor the rights of the owner of such water right to the customary and usual access, including necessary motorized use over and along existing roads and trails to any facilities used in connection therewith, and the right to operate and maintain such facilities.

(e) Exchange of land owned by Montana Power Company for bidding rights

The Secretary of the Interior, in consultation with the Secretary of Agriculture, shall consummate the exchange of the lands owned by the Montana Power Company within the boundaries of the Rattlesnake National Recreation Area and Rattlesnake Wilderness by issuing bidding rights to the Montana Power Company which shall equal the negotiated cash equivalent of the fair market value of such Montana Power Company lands, as provided in the agreement of April 4, 1983, signed by the authorized representatives of the Secretary of Agriculture, the Secretary of the Interior and the Montana Power Company, except that adjustments in the ''Cash Equivalency Rate'' referred to in said agreement shall not exceed a rate determined by the Secretary of the Interior taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the remaining period during which the bidding rights may be used.

(Pub. L. 96–476, §4, Oct. 19, 1980, 94 Stat. 2272; Pub. L. 98–140, §7, Oct. 31, 1983, 97 Stat. 907.)

REFERENCES IN TEXT

Section 2 of the Mineral Lands Leasing Act of 1920, referred to in subsec. (b)(1), probably means section 2(a) of the Mineral Lands Leasing Act of 1920, act Feb. 25, 1920, ch. 85, §2(a), 41 Stat. 438, which enacted section 201(a) of Title 30, Mineral Lands and Mining. Section 2(b) to (d) of the Mineral Lands Leasing Act of 1920 enacted sections 201(b), 202, and 202(a) of Title 30, respectively.

The Mineral Lands Leasing Act of 1920, as amended, referred to in subsec. (b)(3), (5), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§181 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

CODIFICATION

In subsec. (b)(3), ''October 31, 1983'' substituted for ''the date of enactment of this Act'', meaning the date of enactment of Pub. L. 98–140, section 7(a) of which amended generally subsec. (b)(3), as the probable intent of Congress.

AMENDMENTS

1983—Subsec. (b)(3). Pub. L. 98–140, §7(a), amended par. (3) generally, substituting ''two years from October 31, 1983, the bidding rights may be used as a monetary credit, which shall be considered 'money' within the meaning of section 35 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 191), against that portion of bonus payments, rental or royalty payments paid into the Treasury of the United States and retained by the Federal Government on any Federal coal lease won or otherwise held by the applicant, its successors or assigns'' for ''three years from October 19, 1980, the holder of the bidding rights may, at its election, use the outstanding bidding rights as a credit against any royalty, rental, or advance royalty payments owed to the United States on any Federal coal lease(s) it may then hold'' and inserting provisions that the holder of the bidding rights shall pay the balance due on such bonus payments, rental or royalty payments in cash for transmittal to the States in the same manner and in the same amounts as though the entire payment were made in cash under the provisions of the Mineral Leasing Act of 1920 as amended, and that the bidding rights may be transferred or sold at any time by the owner to any other party with all the rights of the owner to the credit, and after such transfer, the owner shall notify the Secretary.

Subsec. (e). Pub. L. 98–140, §7(b), added subsec. (e).

§ 460*ll*–4. Filing of maps and descriptions

As soon as practicable after October 19, 1980, a map and legal description of the Rattlesnake National Recreational Area and a map and legal description of the Rattlesnake Wilderness shall be filed with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and such maps and legal descriptions shall have the same force and effect as if included in this subchapter: *Provided, however*, That correction of clerical and typographical errors in such legal descriptions and maps may be made.

(Pub. L. 96–476, §5, Oct. 19, 1980, 94 Stat. 2273.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460*ll*–5. Authorization of appropriations

Effective October 1, 1981, there is hereby authorized to be appropriated such funds as may be necessary to carry out the purposes of this subchapter.

(Pub. L. 96–476, §6, Oct. 19, 1980, 94 Stat. 2274.)

[SUBCHAPTER XCVII—RESERVED]

SUBCHAPTER XCVIII—STEESE NATIONAL CONSERVATION AREA AND WHITE MOUNTAINS NATIONAL RECREATION AREA

§ 460mm. Establishment of conservation area

(a) In general

In order to provide for the immediate and future protection of the lands in Federal ownership within the framework of a program of multiple use and sustained yield and for the maintenance of environmental quality, the Steese National Conservation Area is hereby established.

(b) Boundaries; special values

The Steese National Conservation Area shall include approximately one million two hundred twenty thousand acres of public lands, as generally depicted on the map entitled ''Steese National Conservation Area—proposed'', and dated

October 1978. Special values to be considered in planning and management of the area are: caribou range and Birch Creek.

(Pub. L. 96–487, title IV, § 401, Dec. 2, 1980, 94 Stat. 2396.)

§ 460mm–1. Administration of conservation area

(a) Management and use of land; land use plan

Subject to valid existing rights, the Secretary, through the Bureau of Land Management, shall administer the Steese National Conservation Area established in section 460mm of this title pursuant to the applicable provisions of the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701 et seq.] dealing with the management and use of land in Federal ownership, and shall, within five years of Dec. 2, 1980, develop a land use plan for each such area, and for the area established in section 460mm–2 of this title.

(b) Transfer of lands; mineral exploration and development

No public lands within the national conservation area shall be transferred out of Federal ownership except by exchange pursuant to section 206 of the Federal Land Policy and Management Act [43 U.S.C. 1716]. Where consistent with the land use plans for the area, mineral development may be permitted pursuant to the Mineral Leasing Act of 1920, as amended, and supplemented (30 U.S.C. 181–287) or the Materials Act of 1947, as amended (30 U.S.C. 601–603). Subject to valid existing rights, the minerals in Federal lands within national conservation areas are hereby withdrawn from location, entry, and patent under the United States mining laws (30 U.S.C. 22–54). Where consistent with the land use plan for the area, the Secretary may classify lands within national conservation areas as suitable for locatable mineral exploration and development and open such lands to entry, location, and patent under the United States mining laws (30 U.S.C. 22–54).

(c) Regulation of mining activities

Subject to valid existing rights, all mining claims located within any such unit shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the area and any patent issued after December 2, 1980, shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations as the Secretary may prescribe as aforesaid.

(Pub. L. 96–487, title IV, § 402, Dec. 2, 1980, 94 Stat. 2396.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (a), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

The Mineral Leasing Act of 1920, as amended, and supplemented, referred to in subsec. (b), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

The Materials Act of 1947, as amended, referred to in subsec. (b), is act July 31, 1947, ch. 406, 61 Stat. 681, as amended, which is classified generally to subchapter I (§ 601 et seq.) of chapter 15 of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 30 and Tables.

§ 460mm–2. Establishment of recreation area

There is hereby established the White Mountains National Recreation Area containing approximately one million acres of public lands, as generally depicted on the map entitled ''White Mountains National Recreation Area—proposed'', and dated October 1978. Subject to valid existing rights, the Secretary shall administer the area in accordance with the provisions of section 460mm–4 of this title and other applicable provisions of this Act, the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701 et seq.], and other applicable law. In planning for the recreational use and management of this area, the Secretary shall work closely with the State of Alaska.

(Pub. L. 96–487, title IV, § 403, Dec. 2, 1980, 94 Stat. 2397.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Federal Land Policy and Management Act of 1976, referred to in text, is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

§ 460mm–3. Rights of holders of unperfected mining claims

(a) "Unperfected mining claim" defined

The term ''unperfected mining claim'' as used in this section, means a mining claim which is located on lands within the boundaries of the White Mountains National Recreation Area or Steese National Conservation Area established pursuant to this subchapter with respect to which a valid mineral discovery within the meaning of the mining laws of the United States, was not made as of the date of the withdrawal of such area from further appropriation under the mining laws of the United States.

(b) Moratorium on contest proceedings

Any holder of an unperfected mining claim seeking to protect such claim pursuant to this section must have maintained and must continue to maintain such claim in compliance with applicable Federal and State laws, and where applicable, must have obtained and complied with any mining access permit requirements imposed by the Department of the Interior during the 1979 mining season. Prior to September 30, 1982, no unperfected mining claim

which has been maintained in accordance with this subsection shall be contested by the United States for failure to have made a valid mineral discovery within the meaning of the mining laws of the United States: *Provided*, That such claim shall be diligently prosecuted during this moratorium on contest proceedings as a condition for the moratorium. Any mining operation undertaken pursuant to this subsection, including but not limited to exploration, development, and extraction, shall be subject to such reasonable regulations as the Secretary may prescribe to assure that such operations will, to the maximum extend practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the Steese National Conservation Area or the White Mountains National Recreation Area or any affected conservation system units established or expanded by this Act.

(c) Valid mineral discovery

If the holder of an unperfected mining claim notifies the Secretary by filing an application for a patent that, as a result of mining operations in compliance with the requirements of subsection (b) of this section, he has made a valid mineral discovery of such claim within the meaning of the mining laws of the United States, and if the Secretary determines that such claim contains a valid mineral discovery, the holder of such claim shall be entitled to the issuance of a patent only to the minerals in such claim pursuant to the mining laws of the United States. The holder of such a patent shall also be entitled to the use of so much of the surface estate of the lands comprising the claim as may be necessary for mining purposes: *Provided*, That all mining operations conducted upon a claim after such a valid mineral discovery has been made, shall be in accordance with such reasonable regulations as may be issued by the Secretary pursuant to the authority granted in subsection (b) of this section.

(d) Validity determination

If an application for a patent is filed by the holder of an unperfected mining claim pursuant to subsection (c) of this section or if a contest proceeding is initiated by the United States after September 30, 1982, the validity of each claim shall be determined as of the date of the patent application or September 30, 1982, whichever is earlier. the holder of an unperfected mining claim not subject to a patent application filed prior to September 30, 1982, shall submit to the Secretary within one hundred and eighty days after such date all mineral data compiled during the contest proceeding moratorium which would support a valid mineral discovery within the meaning of the mining laws of the United States. Failure to submit such data within the one-hundred-and-eighty-day period shall preclude its consideration in a subsequent determination of the validity of each affected claim. Except as specifically provided for in this section, nothing shall alter the criteria applied under the general mining laws of the United States to adjudicate the validity of unperfected mining claims.

(e) Access to claims

Pursuant to the provisions of this section and section 3170 of this title, reasonable access shall be granted to an unperfected mining claim for purposes of making a valid discovery of mineral until September 30, 1982.

(f) Preference rights

The holder of any unperfected mining claim which was, prior to November 16, 1978, located, recorded, and maintained in accordance with applicable Federal and State laws on lands located within the boundaries of the Steese National Conservation Area, or the White Mountains National Recreation Area established by this subchapter, shall be entitled during a two-year period after the date that the Secretary exercises his authority under section 460mm–1 or 460mm–4 of this title to open an area containing such claim to mining, (1) to a preference right to rerecord his claim under applicable law and to develop such claim under section 460mm–1 of this title or (2) to obtain a lease to remove nonleasable minerals from the claim under section 460mm–4 of this title.

(Pub. L. 96–487, title IV, §404, Dec. 2, 1980, 94 Stat. 2397.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in subsecs. (a) to (d), are classified generally to Title 30, Mineral Lands and Mining.

This Act, referred to in subsec. (b), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 460mm–4. Administration of recreation area

(a) Recreation, conservation, and resource development

The White Mountains National Recreation area established by this Act shall be administered by the Secretary in order to provide for public outdoor recreation use and enjoyment and for the conservation of the scenic, scientific, historic, fish and wildlife, and other values contributing to public enjoyment of such area. Except as otherwise provided in this Act, the Secretary shall administer the recreation area in a manner which in his judgment will best provide for (1) public outdoor recreation benefits; (2) conservation of scenic, scientific, historic, fish and wildlife, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of natural resources and the continuation of such existing uses and developments as will promote, or are compatible with, or do not significantly impair public recreation and conservation of the scenic, scientific, historic, fish and wildlife, or other values contributing to public enjoyment. In administering the recreation area, the Secretary may utilize such statutory authorities available to him for the conservation and management of natural resources as he deems appropriate for recreation and preservation purposes and for resource development compatible therewith.

(b) Withdrawal of lands from selection and mining; exceptions

The lands within the recreation area, subject to valid existing rights, are hereby withdrawn from State selection under the Alaska Statehood Act or other law, and from location, entry, and patent under the United States mining laws. The Secretary under such reasonable regulations as he deems appropriate, may permit the removal of the nonleasable minerals from lands or interests in lands within the recreation area in the manner described by section 387 of title 43, and he may permit the removal of leasable minerals from lands or interests in lands within the recreation areas in accordance with the mineral leasing laws, if he finds that such disposition would not have significant adverse effects on the administration of the recreation areas.

(c) Disposal of receipts

All receipts derived from permits and leases issued on lands or interest in lands within the recreation area under the mineral leasing laws shall be disposed of as provided in such laws; and receipts from the disposition of nonleasable minerals within the recreation area shall be disposed of in the same manner as moneys received from the sale of public lands.

(Pub. L. 96–487, title XIII, § 1312, Dec. 2, 1980, 94 Stat. 2483.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Alaska Statehood Act, referred to in subsec. (b), is Pub. L. 85–508, July 7, 1958, 72 Stat. 339, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as part of title IV of Pub. L. 96–487, which comprises this subchapter.

SUBCHAPTER XCIX—ROBERT T. STAFFORD WHITE ROCKS NATIONAL RECREATION AREA

§ 460nn. Findings and purpose

(a) Congress finds that—

(1) Vermont is a beautiful but small and rural State, situated near four large cities with combined metropolitan populations of over fifteen million;

(2) geographic and topographic characteristics of Vermont provide opportunities for large numbers of people to experience the beauty of primitive areas, but also place unusual pressure to provide options to maximize the availability of such lands for a variety of forms of recreation;

(3) certain lands designated as the Big Branch and Peru Peak Wilderness Areas by title I of this Act are suitable for inclusion as part of the national recreation area; and

(4) certain other lands in the Green Mountain National Forest not designated as wilderness by this Act are of a predominantly roadless nature and possess outstanding wild values that are important for primitive and semiprimitive recreation, watershed protection, wildlife habitat, ecological study, education, and historic and archeological resources, and are deemed suitable for preservation and protection as part of a national recreation area.

(b) The purpose of this subchapter is to designate certain National Forest System lands in the State of Vermont as the Robert T. Stafford White Rocks National Recreation Area in order to preserve and protect their existing wilderness and wild values and to promote wild forest and aquatic habitat for wildlife, watershed protection, opportunities for primitive and semiprimitive recreation, and scenic, ecological, and scientific values.

(Pub. L. 98–322, title II, § 201, June 19, 1984, 98 Stat. 256; Pub. L. 110–1, § 1(b), Jan. 17, 2007, 121 Stat. 3.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(3), (4), is Pub. L. 98–322, June 19, 1984, 98 Stat. 253. Lands in the Green Mountain National Forest were designated as wilderness areas by title I of this Act, and are listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of this Act to the Code, see Tables.

CHANGE OF NAME

''Robert T. Stafford White Rocks National Recreation Area'' substituted in subsec. (b) for ''White Rocks National Recreation Area'' pursuant to section 1(b) of Pub. L. 110–1, set out as a note under section 460nn–1 of this title.

§ 460nn–1. Establishment

In furtherance of the findings and purposes of this subchapter, certain lands in the Green Mountain National Forest, Vermont, which comprise approximately thirty-six thousand four hundred acres, as generally depicted on a map entitled ''White Rocks National Recreation Area—Proposed'', dated September 1983, are hereby designated as the Robert T. Stafford White Rocks National Recreation Area.

(Pub. L. 98–322, title II, § 202, June 19, 1984, 98 Stat. 257; Pub. L. 110–1, § 1(b), Jan. 17, 2007, 121 Stat. 3.)

CHANGE OF NAME

''Robert T. Stafford White Rocks National Recreation Area'' substituted in text for ''White Rocks National Recreation Area'' pursuant to section 1(b) of Pub. L. 110–1, set out below.

Pub. L. 110–1, § 1, Jan. 17, 2007, 121 Stat. 3, provided that:

''(a) REDESIGNATION.—The White Rocks National Recreation Area in the State of Vermont, as established by section 202 of the Vermont Wilderness Act of 1984 (16 U.S.C. 460nn–1), is redesignated as the 'Robert T. Stafford White Rocks National Recreation Area'.

''(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the recreation area referred to in subsection (a) shall be deemed to be a reference to the Robert T. Stafford White Rocks National Recreation Area.''

§ 460nn–2. Map and description

As soon as practicable after June 19, 1984, the Secretary of Agriculture shall file a map and legal description of the national recreation area

designated by this subchapter with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Such map and description shall have the same force and effect as if included in this subchapter, except that correction of clerical and typographical errors in such map and description may be made by the Secretary. Such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(Pub. L. 98–322, title II, §203, June 19, 1984, 98 Stat. 257.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460nn–3. Administration

(a) Objectives

Subject to valid existing rights, the Robert T. Stafford White Rocks National Recreation Area designated by this subchapter shall be administered by the Secretary of Agriculture in accordance with the findings and purpose of this subchapter and the laws, rules, and regulations applicable to the national forests in a manner compatible with the following objectives:

(1) the continuation of existing primitive and semiprimitive recreational use in a natural environment;

(2) utilization of natural resources shall be permitted only if consistent with the findings and purposes in this subchapter;

(3) preservation and protection of forest and aquatic habitat for fish and wildlife; and

(4) protection and conservation of special areas having uncommon or outstanding wilderness, biological, geological, recreational, cultural, historical or archeological, and scientific, or other values contributing to the public benefit.

(b) Mineral leasing laws

Notwithstanding any other provision of law, federally-owned lands within the Robert T. Stafford White Rocks National Recreation Area as designated by this subchapter are hereby withdrawn from all forms of appropriation under the mineral leasing laws, including all laws pertaining to geothermal leasing, and all amendments thereto.

(c) Hunting, fishing, and trapping

The Secretary shall permit hunting, fishing, and trapping on lands and waters under the Secretary's jurisdiction within the boundaries of the national recreation area designated by this subchapter in accordance with applicable laws of the United States and the State of Vermont.

(d) Comprehensive management plan

Within eighteen months after June 19, 1984, the Secretary shall develop and submit to the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the United States Senate a comprehensive management plan for the national recreation area designated by this subchapter.

(e) Public participation in development of management plan

In conducting the reviews and preparing the comprehensive management plan required by subsection (d) of this section, the Secretary shall provide for full public participation, shall consider the views of all interested agencies, organizations, and individuals, and shall particularly emphasize the values enumerated in section 460nn(a)(4) of this title.

(Pub. L. 98–322, title II, §204, June 19, 1984, 98 Stat. 257; Pub. L. 110–1, §1(b), Jan. 17, 2007, 121 Stat. 3.)

CHANGE OF NAME

''Robert T. Stafford White Rocks National Recreation Area'' substituted in subsecs. (a) and (b) for ''White Rocks National Recreation Area'' pursuant to section 1(b) of Pub. L. 110–1, set out as a note under section 460nn–1 of this title.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

SUBCHAPTER C—OREGON CASCADES RECREATION AREA

§ 460*oo*. Establishment

(a) In general

In order to conserve, protect, and manage, in a substantially undeveloped condition, certain National Forest System lands in the State of Oregon having unique geographic, topographic, biological, ecological features and possessing significant scenic, wildlife, dispersed recreation, and watershed values, there is hereby established, within the Umpqua, Willamette, Winema and Deschutes National Forests, the Oregon Cascades Recreation Area (hereinafter referred to in this subchapter as the ''recreation area'').

(b) Administration

The recreation area shall comprise approximately one hundred fifty-six thousand nine hundred acres as generally depicted on a map entitled ''Oregon Cascades Recreation Area'' dated March 1984. Except as otherwise provided in this section, the Secretary of Agriculture (hereinafter referred to as the ''Secretary'') shall administer and manage the recreation area in accordance with the laws and regulations applicable to the National Forest System so as to enhance scenic and watershed values, wildlife habitat, and dispersed recreation.

(c) Management plan

The recreation area shall be managed in accordance with plans prepared in subsection (g) of this section to:

(1) provide a range of recreation opportunities from primitive to full service developed campgrounds;

(2) provide access for use by the public;

(3) to the extent practicable, maintain the natural and scenic character of the area; and

(4) provide for the use of motorized recreation vehicles.

(d) Mining

(1) Subject to valid existing rights, all mining claims located within the recreation area shall be subject to such reasonable regulations as the Secretary may prescribe to insure that mining activities will, to the maximum extent practicable, be consistent with the purposes for which the recreation area is established. Any patent issued after June 26, 1984, shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations as the Secretary shall prescribe.

(2) Effective January 1, 1989, and subject to valid existing rights, the lands located within the recreation area are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to the mineral leasing and geothermal leasing and all amendments thereto.

(e) Allowance of limited activities and facilities

Within the recreation area, the Secretary may permit, under appropriate regulations those limited activities and facilities which he determines necessary for resource protection and management and for visitor safety and comfort, including—

(1) those necessary to prevent and control wildfire, insects, diseases, soil erosion, and other damaging agents including timber harvesting activities necessary to prevent catastrophic mortality from insects, diseases or fire;

(2) those necessary to maintain or improve wildlife habitat, water yield and quality, forage production, and dispersed outdoor recreation opportunities;

(3) livestock grazing, to the extent that such use will not significantly adversely affect the resources of the recreation area;

(4) salvage of major timber mortality caused by fire, insects, disease, blowdown, or other causes when the scenic characteristics of the recreation area are significantly affected, or the health and safety of the public is threatened, or the overall protection of the forested area inside or outside the recreation area might be adversely affected by failure to remove the dead or damaged timber;

(5) those developments or facilities necessary for the public enjoyment and use of the recreation area, when such development or facilities do not detract from the purposes of the recreation area; and

(6) public service land occupancies, including power transmission lines, provided there is no feasible alternative location, and, the Secretary finds that it is in the public interest to locate such facilities within the recreation area.

(f) Wilderness lands

The following lands within the recreation area are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System, and shall, notwithstanding any other provisions of this section, be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act [16 U.S.C. 1131 et seq.]: Certain lands in the Umpqua, Willamette, and Winema National Forests which comprise approximately fifty-five thousand one hundred acres, are generally depicted on a map dated March 1984, entitled ''Mount Thielsen Wilderness—Proposed'', and which shall be known as the Mount Thielsen Wilderness; and certain lands in the Willamette and Deschutes National Forests, which comprise approximately fifteen thousand seven hundred acres, are generally depicted on a map dated March 1984, entitled ''Diamond Peak Wilderness Additions—Proposed'', and which are hereby incorporated in, and which shall be deemed to be a part of, the Diamond Peak Wilderness as designated in Public Law 88–577.

(g) Forest plans; integrated management plans

Management direction for the recreation area shall be developed in either the forest plans developed for the Umpqua, Winema, Deschutes and Willamette Forests in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended [16 U.S.C. 1604], or in an integrated management plan that shall be prepared within three years from June 26, 1984, and revised in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended [16 U.S.C. 1600 et seq.]. Any plan developed by the Secretary for the recreation area shall identify and designate specific and appropriate areas and routes for the use of motorized recreation vehicles within the recreation area.

(Pub. L. 98–328, § 4, June 26, 1984, 98 Stat. 275.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original ''the Act'', meaning Pub. L. 98–328, June 26, 1984, 98 Stat. 272, known as the Oregon Wilderness Act of 1984, which enacted this subchapter and provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of this Act to the Code, see Tables.

The Wilderness Act and Public Law 88–577, referred to in subsec. (f), are Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (g), is Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, which is classified generally to subchapter I (§ 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

MAP OF RECREATION AREA

Section 5(a) of Pub. L. 98–328 provided in part that as soon as practicable after June 6, 1984, the Secretary of Agriculture was to file the map referred to in this section with the Committee on Energy and Natural Resources, Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and that such map would have the same force and effect as if included in this section: *Provided*, That correction of clerical and typographical errors in such map could be made. Such map was to be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture; and the Director, Bureau of Land Management, Department of the Interior.

SUBCHAPTER CI—MOUNT BAKER RECREATION AREA

§ 460pp. Establishment

(a) In general

In order to assure the conservation and protection of certain natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreational values associated therewith, the Mount Baker National Recreation Area located in the Mount Baker-Snoqualmie National Forest, Washington, is hereby established.

(b) Acreage

The Mount Baker National Recreation Area (hereafter referred to as the ''recreation area'') shall comprise approximately eight thousand six hundred acres as generally depicted on the map entitled ''Mount Baker National Recreation Area—Proposed'', dated March 1984, which shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture.

(c) Map and legal description

The Secretary of Agriculture shall, as soon as practicable after July 3, 1984, file a map and a legal description of the recreation area with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this subchapter: *Provided*, That correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(d) Administration

The Secretary shall administer the recreation area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best provide for (1) public outdoor recreation (including but not limited to snowmobile use); (2) conservation of scenic, natural, historic, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of natural resources on federally owned lands within the recreation area which are compatible with and which do not significantly impair the purposes for which the recreation area is established.

(Pub. L. 98–339, § 7, July 3, 1984, 98 Stat. 304.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (c), was in the original ''this Act'', meaning Pub. L. 98–339, July 3, 1984, 98 Stat. 299, known as the Washington State Wilderness Act of 1984, which enacted this subchapter and provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of this Act to the Code, see Tables.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

SUBCHAPTER CII—ALLEGHENY NATIONAL RECREATION AREA

§ 460qq. Establishment

(a) Designation of area; revision of boundaries

In furtherance of the findings and purposes of this subchapter, certain lands in the Allegheny National Forest, Pennsylvania, which comprise approximately twenty-three thousand one hundred acres, as generally depicted on a map entitled ''Allegheny National Recreation Area—Proposed'', dated March 1984, are hereby designated as the Allegheny National Recreation Area (hereinafter in this subchapter referred to as the ''national recreation area''). The Secretary of Agriculture may revise the boundaries of the national recreation area to correct errors or to include additional lands acquired adjacent to the area.

(b) Description of purposes

The national recreation area shall be managed for the purposes of—

(1) outdoor recreation including, but not limited to, hunting, fishing, hiking, backpacking, camping, nature study, and the use of motorized and nonmotorized boats on the Allegheny Reservoir;

(2) the conservation of fish and wildlife populations and habitat;

(3) the protection of watersheds and the maintenance of free flowing streams and the quality of ground and surface waters in accordance with applicable law;

(4) the conservation of scenic, cultural, and other natural values of the area;

(5) allowing the development of privately owned oil, gas, and mineral resources subject to reasonable conditions prescribed by the Secretary under subsection (c) of this section for the protection of the area; and

(6) minimizing, to the extent practicable, environmental disturbances caused by resource development, consistent with the exercise of private property rights.

(c) Administration; plan of operations

The Secretary shall administer the national recreation area in accordance with the purposes described in subsection (b) of this section and the laws, rules, and regulations applicable to the National Forest System. Subject to valid existing rights, any activity associated with the exploration, development, or transportation of oil, gas, or other minerals shall be subject to such reasonable conditions as the Secretary may prescribe, and in accordance with the management plan described in subsection (d) of this section, to achieve the purposes, described in subsection (b) of this section, of the national recreation area. For any such activity, the Secretary shall require a plan of operations which shall include provisions for adequate reclamation, including, to the extent practicable, revegetation and rehabilitation after each phase of operations is completed.

(d) Management plan

The Secretary shall prepare, and may from time to time amend, a management plan for the national recreation area. The plan may be pre-

pared in conjunction with, or incorporated with, ongoing planning for the Allegheny National Forest in accordance with the National Forest Management Act of 1976. The initial management plan and significant amendments or revisions shall be accompanied by an environmental impact statement prepared in accordance with the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

(e) Hunting, fishing, and trapping

The Secretary shall permit hunting, fishing, and trapping within the boundaries of the national recreation area in accordance with applicable Federal and State laws except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any prohibitions or restrictions made pursuant to this subsection shall be put into effect only after consultation with the appropriate State fish and game department.

(f) Withdrawal of minerals from appropriation and disposition

Subject to valid existing rights, the minerals in all federally owned lands within the national recreation area designated by this subchapter are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, including all laws pertaining to geothermal leasing, and all amendments thereto.

(g) Other National Forest management areas unaffected

Nothing in this section shall be construed to apply to or have any effect on any other management area of the National Forest System, including any wilderness area or any other national recreation area.

(Pub. L. 98–585, § 6, Oct. 30, 1984, 98 Stat. 3101.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a) and (f), was in the original ''this Act'', meaning Pub. L. 98–585, Oct. 30, 1984, 98 Stat. 3100, known as the Pennsylvania Wilderness Act of 1984, which enacted this subchapter and provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of this Act to the Code, see Tables.

The National Forest Management Act of 1976, referred to in subsec. (d), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (d), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

FINDINGS AND PURPOSE; MAP AND DESCRIPTION

For Congressional findings, statement of purpose, and requirements for filing of maps and legal descriptions under Pub. L. 98–585, Pennsylvania Wilderness Act of 1984, see sections 2, 3, and 7 of Pub. L. 98–585, Oct. 30, 1984, 98 Stat. 3100, 3102.

SUBCHAPTER CIII—PINE RIDGE NATIONAL RECREATION AREA

§ 460rr. Establishment

Certain lands in the Nebraska National Forest, Nebraska, which comprise approximately six thousand six hundred acres, as generally depicted on a map entitled ''Pine Ridge National Recreation Area—Proposed'', dated September 1986, are hereby designated as the Pine Ridge National Recreation Area.

(Pub. L. 99–504, title II, § 201, Oct. 20, 1986, 100 Stat. 1804.)

§ 460rr–1. Map and description

As soon as practicable after October 20, 1986, the Secretary of Agriculture shall file a map and legal description of the national recreation area designated by this subchapter with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such map and description shall have the same force and effect as if included in this subchapter, except that correction of clerical and typographical errors in such map and description may be made by the Secretary. Such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(Pub. L. 99–504, title II, § 202, Oct. 20, 1986, 100 Stat. 1804.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460rr–2. Administration

(a) Objectives

Subject to valid existing rights, the Pine Ridge National Recreation Area designated by this subchapter shall be administered by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to the national forests in a manner compatible with the following objectives:

(1) the continuation of existing primitive and semiprimitive recreational use in a natural environment;

(2) preservation and protection of forest, aquatic and grassland habitat;

(3) protection and conservation of special areas having uncommon or outstanding wilderness, biological, geological, recreational, cultural, historical or archeological, and scientific, or other values contributing to the public benefit;

(4) the continuation of existing livestock grazing uses;

(5) the control of noxious weeds and insects and prevention of their spreading onto the nearby private and Federal lands; and

(6) the control of fires and prevention of their spreading onto nearby private and Federal lands.

(b) Fire control; Memorandum of Agreement

The Secretary shall enter into a Memorandum of Agreement with local and State firefighting agencies and individuals to assure the best utilization of the firefighting resources available in the nearby communities for control of fire in the national recreation area.

(c) Hunting, fishing, and trapping

The Secretary shall permit hunting, fishing, and trapping on lands and waters under the Secretary's jurisdiction within the boundaries of the national recreation area designated by this subchapter in accordance with applicable laws of the United States and the State of Nebraska.

(d) Mining and mineral leasing laws

Subject to valid existing rights, all Federal lands within the national recreation area are hereby withdrawn from location, entry, and patent under the United States mining laws, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto.

(e) State responsibilities with respect to wildlife and fish unaffected

Nothing in this subchapter shall be construed as affecting the jurisdiction or responsibilities of the State of Nebraska with respect to wildlife and fish in the national recreation area.

(f) Comprehensive management plan

Within eighteen months after October 20, 1986, the Secretary shall develop and submit to the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a comprehensive management plan for the national recreation area designated by this subchapter.

(g) Public participation in development of management plan

In conducting the reviews and preparing the comprehensive management plan required by subsection (d)[1] of this section, the Secretary shall provide for full public participation, and shall consider the views of all interested agencies, organizations, and individuals.

(Pub. L. 99–504, title II, §203, Oct. 20, 1986, 100 Stat. 1804.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (e), was in the original ''this Act'', meaning Pub. L. 99–504, Oct. 20, 1986, 100 Stat. 1802, known as the Nebraska Wilderness Act of 1985, which enacted this subchapter and provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of this Act to the Code, see Tables.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

[1] So in original. Probably should be subsection ''(f)''.

SUBCHAPTER CIV—KLAMATH RIVER CONSERVATION AREA

§ 460ss. Findings

The Congress finds that—

(1) the Klamath and Trinity Rivers have been placed under the California and National Wild and Scenic Rivers Systems to protect their outstanding anadromous fishery values;

(2) the Klamath and Trinity Rivers provide fishery resources necessary for Indian subsistence and ceremonial purposes, ocean commercial harvest, recreational fishing, and the economic health of many local communities;

(3) floods, the construction and operation of dams, diversions and hydroelectric projects, past mining, timber harvest practices, and roadbuilding have all contributed to sedimentation, reduced flows, and degraded water quality which has significantly reduced the anadromous fish habitat in the Klamath-Trinity River System;

(4) overlapping Federal, State, and local jurisdictions, inadequate enforcement of fishery harvest regulations, and ineffective fishery management have historically hampered fishery conservation efforts and prevented the Federal Government and the State of California from fulfilling their responsibilities to protect the rivers' anadromous fishery values;

(5) the Klamath-Trinity fall chinook salmon populations have declined by 80 percent from historic levels and steelhead trout have also undergone significant reductions;

(6) Klamath River Basin Fisheries Resource Plan has been developed by the Secretary acting through the Bureau of Indian Affairs;

(7) the Klamath Salmon Management Group, a group of agencies with fishery management responsibility, has established, in cooperation with the users of the Klamath-Trinity River Basin fishery resources, a sound framework for the future coordination of fishery harvest management;

(8) a new Klamath-Trinity River Basin Management authority, composed of the Klamath Salmon Management Group and representatives of users of the fishery resources of the Klamath-Trinity River Basin, is needed to ensure more effective long-term coordination of the Klamath-Trinity River fisheries under sound conservation and management principles that ensure adequate spawning escapement; and

(9) the Secretary has the authority to implement a restoration program only in the Trinity River Basin and needs additional authority to implement a restoration program in cooperation with State and local governments to restore anadromous fish populations to optimum levels in both the Klamath and Trinity River Basins;[1]

(Pub. L. 99–552, §1, Oct. 27, 1986, 100 Stat. 3080.)

SHORT TITLE

Section 8 of Pub. L. 99–552, as added by Pub. L. 100–653, title VI, §604, Nov. 14, 1988, 102 Stat. 3830, provided that: ''This Act [enacting this subchapter] may

[1] So in original. The semicolon probably should be a period.

be cited as the 'Klamath River Basin Fishery Resources Restoration Act'.''

SALMON PLAN AND STUDY

Pub. L. 109–479, title I, §113(b), Jan. 12, 2007, 120 Stat. 3602, provided that:

''(1) RECOVERY PLAN.—Not later than 6 months after the date of enactment of this Act [Jan. 12, 2007], the Secretary of Commerce shall complete a recovery plan for Klamath River Coho salmon and make it available to the public.

''(2) ANNUAL REPORT.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Secretary of Commerce shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources [now Committee on Natural Resources] on—

''(A) the actions taken under the recovery plan and other law relating to recovery of Klamath River Coho salmon, and how those actions are specifically contributing to its recovery;

''(B) the progress made on the restoration of salmon spawning habitat, including water conditions as they relate to salmon health and recovery, with emphasis on the Klamath River and its tributaries below Iron Gate Dam;

''(C) the status of other Klamath River anadromous fish populations, particularly Chinook salmon; and

''(D) the actions taken by the Secretary to address the calendar year 2003 National Research Council recommendations regarding monitoring and research on Klamath River Basin salmon stocks.''

§ 460ss–1. Establishment

(a) In general

The Secretary shall designate the anadromous fish habitats and resources of the Klamath River basin as the Klamath River Basin Conservation Area (hereafter in this subchapter referred to as the ''Area'').

(b) Restoration program

(1) Establishment

The Secretary shall, in consultation with the task force established under section 460ss–3 of this title, formulate, establish, and implement a 20-year program to restore the anadromous fish populations of the Area to optimum levels and to maintain such levels. The program shall be based on the Klamath River Basin Fisheries Resource Plan referred to in section 460ss(6) of this title and shall be known as the Klamath River Basin Conservation Area Restoration Program.

(2) Program activities

In carrying out the objectives of the program, the Secretary, in cooperation with the task force established under section 460ss–3 of this title, shall—

(A) monitor and coordinate research evaluating the Area anadromous fish populations and administer and evaluate the success of activities described in subparagraph (B); and

(B) take such actions as are necessary to—

(i) improve and restore Area habitats, and to promote access to blocked Area habitats, to support increased run sizes;

(ii) rehabilitate problem watersheds in the Area to reduce negative impacts on fish and fish habitats;

(iii) improve existing Area hatcheries and rearing ponds to assist in rebuilding the natural populations;

(iv) implement an intensive, short-term stocking program to rebuild run sizes while maintaining the genetic integrity and diversity of Area subbasin stocks; and

(v) improve upstream and downstream migration by removal of obstacles to fish passage and the provision of facilities for avoiding obstacles.

(3) Restoration work

To the extent practicable, any restoration work performed under paragraph (2)(B) shall be performed by unemployed—

(A) commercial fishermen;

(B) Indians; and

(C) other persons whose livelihood depends upon Area fishery resources.

(4) Memorandum of agreement

In order to facilitate the implementation of any activity described in paragraph (2) over which the Secretary does not have jurisdiction, the Secretary shall enter into a memorandum of agreement with the Federal, State, and local agencies having jurisdiction over such activities, and the Area Indian tribes. The memorandum of agreement shall specify the program activities for which the respective signatories to the agreement are responsible and shall contain such provisions as are necessary to ensure the coordinated implementation of the program.

(Pub. L. 99–552, §2, Oct. 27, 1986, 100 Stat. 3081.)

§ 460ss–2. Klamath Fishery Management Council

(a) Establishment

There is established a Klamath Fishery Management Council (hereafter in this subchapter referred to as the ''Council'').

(b) Functions

(1) The Council shall—

(A) establish a comprehensive long-term plan and policy, that must be consistent with the goals of the program, for the management of the in-river and ocean harvesting that affects or may affect Klamath and Trinity River basin anadromous fish populations;

(B) make recommendations, that must be consistent with the plan and policy established under subparagraph (A) and with the standards in paragraph (2)—

(i) to the California Fish and Game Commission regarding in-river and offshore recreational harvesting regulations,

(ii) to the Oregon Department of Fish and Wildlife regarding offshore recreational harvesting regulations,

(iii) to the Pacific Fishery Management Council regarding ocean harvesting regulations,

(iv) to the Bureau of Indian Affairs regarding regulations for harvesting in the Area by non-Hoopa Indians, and

(v) to the Hoopa Valley Business Council regarding regulations for harvesting in the Area by members of the Hoopa Indian Tribe; and

(C) conduct public hearings on any regulation referred to in subparagraph (B)(i) through (v).

(2) Any recommendation made by the Council under paragraph (1)(B) regarding harvesting regulations shall—

(A) be based upon the best scientific information available;

(B) minimize costs where practicable, and avoid unnecessary duplication of regulations;

(C) take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches; and

(D) be designed to achieve an escapement that preserves and strengthens the viability of the Area's natural anadromous fish populations.

(c) Membership and appointment

The Council is composed of 11 members as follows:

(1) A representative, who shall be appointed by the Governor of California, of each of the following:

(A) The commercial salmon fishing industry.

(B) The in-river sportfishing community.

(C) The offshore recreational fishing industry.

(D) The California Department of Fish and Game.

(2) A representative of the Hoopa Indian Tribe who shall be appointed by Hoopa Valley Business Council.

(3) A representative, who shall be appointed by the Secretary, of each of the following:

(A) The non-Hoopa Indians residing in the Area.

(B) The Department of the Interior.

(4) A representative, who shall be appointed by the Secretary of Commerce, of each of the following—

(A) The National Marine Fisheries Service.

(B) The Pacific Fishery Management Council.

(5) A representative, who shall be appointed by the Governor of Oregon, of each of the following:

(A) The commercial salmon fishing industry.

(B) The Oregon Department of Fish and Wildlife.

(d) Consultation requirement

The appointments required under subsection (c) of this section shall be made in consultation with the appropriate users of Area anadromous fish resources.

(e) Qualifications

Council members shall be individuals who are knowledgable[1] and experienced in the management and conservation, or the recreational or commercial harvest, of the anadromous fish resources in Northern California.

(f) Terms

(1) In general

The term of a member is 4 years.

(2) Service

Members of the Council serve at the pleasure of the appointing authority.

(3) Vacancies

Any vacancy on the Council shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(g) Transaction of business

(1) Procedures

The Council shall establish practices and procedures for the carrying out of its functions under subsection (b) of this section. The procedures shall include requirements that—

(A) a quorum of the Council must be present before business may be transacted; and

(B) no comprehensive plan or recommendation referred to in subsection (b)(1)(A) or (B) of this section may be adopted by the Council except by the unanimous vote of all members present and voting.

(2) Chairman

The Council shall elect a Chairman from among its members.

(3) Meetings

The Council shall meet at the call of the Chairman or upon the request of a majority of its members.

(h) Staff and administration

(1) Administrative support

The Secretary and the Director of the California Department of Fish and Game shall provide the Council with such administrative and technical support services as are necessary for the effective functioning of the Council.

(2) Information

The Secretary and the Director of the California Department of Fish and Game shall furnish the Council with relevant information concerning the Area.

(3) Organization

The Council shall determine its organization, and prescribe the practices and procedures for carrying out its functions under subsection (b) of this section.

(i) Federal or State employees

Any Council member who is an officer or employee of the United States, the State of California, or the State of Oregon at the time of appointment to the Council shall cease to be a Council member within 14 days after the date on which he ceases to be so employed.

(j) Expenses

(1) Travel expenses

While away from their homes or regular places of business in the performance of services for the Council, Council members shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed travel ex-

[1] So in original. Probably should be ''knowledgeable''.

penses under section 5703 of title 5. Any Council member who is an employee of an agency or governmental unit and is eligible for travel expenses from that agency or unit for performing services for the Council is not eligible for travel expenses under this paragraph.

(2) Limitation on spending authority

No money authorized to be appropriated under section 460ss–5 of this title may be used to reimburse any agency or governmental unit (whose employees are Council members) for time spent by any such employee performing Council duties.

(Pub. L. 99–552, § 3, Oct. 27, 1986, 100 Stat. 3082; Pub. L. 100–653, title VI, §§ 602(a), 603(1), (2), Nov. 14, 1988, 102 Stat. 3830.)

AMENDMENTS

1988—Subsec. (g)(1). Pub. L. 100–653, § 602(a), substituted ''Procedures'' for ''Decisions of Council'' as par. heading and amended text generally. Prior to amendment, text read as follows: ''All decisions of the Council must be by unanimous vote of all of the members.''

Subsec. (i). Pub. L. 100–653, § 603(1), substituted '', the State of California, or the State of Oregon'' for ''or the State of California''.

Subsec. (j)(1). Pub. L. 100–653, § 603(2), inserted provision at end that any Council member who is employee of agency or governmental unit and is eligible for travel expenses from that agency or unit for performing services for Council not be eligible for travel expenses under this par.

§ 460ss–3. Klamath River Basin Fisheries Task Force

(a) Establishment

There is established a Klamath River Basin Fisheries Task Force (hereafter in this subchapter referred to as the ''Task Force'').

(b) Functions

The Task Force—

(1) shall assist the Secretary in the formulation, coordination, and implementation of the program;

(2) shall assist, and coordinate its activities with, Federal, State, and local governmental or private anadromous fish restoration projects within the Area;

(3) shall conduct any other activity that is necessary to accomplish the objectives of the program; and

(4) may act as an advisor to the Council.

(c) Membership and appointment

The Task Force is composed of 14 members as follows:

(1) A representative, who shall be appointed by the Governor of California, of each of the following:

(A) The commercial salmon fishing industry.

(B) The in-river sport fishing community.

(C) The California Department of Fish and Game.

(2) A representative of the Hoopa Indian Tribe who shall be appointed by the Hoopa Valley Business Council.

(3) A representative of the Department of the Interior who shall be appointed by the Secretary.

(4) A representative of the National Marine Fisheries Service who shall be appointed by the Secretary of Commerce.

(5) A representative of the Department of Agriculture who shall be appointed by the Secretary of Agriculture.

(6) A representative of the Oregon Department of Fish and Wildlife who shall be appointed by the Governor of Oregon.

(7) One individual who shall be appointed by the Board of Supervisors of Del Norte County, California.

(8) One individual who shall be appointed by the Board of Supervisors of Siskiyou County, California.

(9) One individual who shall be appointed by the Board of Supervisors of Humboldt County, California.

(10) One individual who shall be appointed by the Board of Supervisors of Trinity County, California.

(11) A representative of the Karuk Tribe, who shall be appointed by the governing body of the Tribe,[1]

(12) A representative of the Yurok Tribe, who shall be appointed by the Secretary until such time as the Yurok Tribe is organized upon which time the Yurok Tribe shall appoint such representative beginning with the first appointment ordinarily occurring after the Yurok Tribe is organized[2]

(d) Council membership not a bar to Task Force appointment

An individual who is a member of the Council is not ineligible for appointment as a member of the Task Force.

(e) Terms

(1) In general

The term of a member of the Task Force is 4 years.

(2) Service

Members of the Task Force serve at the pleasure of the appointing authorities.

(3) Vacancies

Any vacancy on the Task Force shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(f) Transaction of business

(1) Procedures

The Task Force shall establish practices and procedures for the carrying out of its functions under subsection (b) of this section. The procedures shall include the requirement that a quorum of the Task Force must be present before business may be transacted.

(2) Chairman

The members of the Task Force shall select a Chairman from among its members.

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[1] So in original. The comma probably should be a period.

[2] So in original. Probably should be followed by a period.

(3) Meetings

The Task Force shall meet at the call of the Chairman or upon the request of a majority of its members.

(g) Staff and administration

(1) Administrative support

The Secretary and the Director of the California Department of Fish and Game shall provide the Task Force with the administrative and technical support services necessary for the effective functioning of the Task Force.

(2) Information

The Secretary and the Director of the California Department of Fish and Game shall furnish the members of the Task Force with relevant information concerning the Area.

(3) Organization

The Task Force shall determine its organization, and prescribe the practices and procedures for carrying out its functions under subsection (b) of this section.

(h) Members who are Federal or State employees

Any Task Force member who is an officer or employee of the United States, the State of California, or the State of Oregon at the time of appointment to the Task Force shall cease to be a member of the Task Force within 14 days of the date on which he ceases to be so employed.

(i) Expenses

(1) Travel expenses

While away from their homes or regular places of business in the performance of services for the Task Force, Task Force members shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed travel expenses under section 5703 of title 5. Any Task Force member who is an employee of an agency or governmental unit and is eligible for travel expenses from that agency or unit for performing services for the Task Force is not eligible for travel expenses under this paragraph.

(2) Limitation on spending authority

No money authorized to be appropriated under section 460ss–5 of this title may be used to reimburse any agency or governmental unit (whose employees are Task Force members) for time spent by any such employee performing Task Force duties.

(j) Membership increase upon program expansion

At such time as the program is expanded to include portions of the Klamath River upstream from the Iron Gate dam, membership on the Task Force shall be increased to include the following—

(1) One individual who shall be appointed by the Commissioners of Klamath County, Oregon.

(2) A representative of the Klamath Tribe, who shall be appointed by the governing body of the Tribe.

(Pub. L. 99–552, §4, Oct. 27, 1986, 100 Stat. 3084; Pub. L. 100–580, §12(a), Oct. 31, 1988, 102 Stat. 2935; Pub. L. 100–653, title VI, §§601, 602(b), 603(1), Nov. 14, 1988, 102 Stat. 3829, 3830; Pub. L. 102–570, §2, Oct. 29, 1992, 106 Stat. 4490.)

AMENDMENTS

1992—Subsec. (j). Pub. L. 102–570 added subsec. (j).

1988—Subsec. (c). Pub. L. 100–580, §12(a)(A), substituted ''14'' for ''12'' in introductory provisions.

Subsec. (c)(11), (12). Pub. L. 100–580, §12(a)(B), added pars. (11) and (12).

Subsec. (f)(1). Pub. L. 100–653, §602(b), substituted ''Procedures'' for ''Decisions of Task Force'' as par. heading and amended text generally. Prior to amendment, text read as follows: ''All decisions of the Task Force must be by unanimous vote of all the members.''

Subsec. (h). Pub. L. 100–653, §603(1), substituted '', the State of California, or the State of Oregon'' for ''or the State of California''.

Subsec. (i). Pub. L. 100–653, §601, substituted ''Expenses'' for ''Limitation on spending authority'' in heading and amended text generally, designating existing provisions as par. (2) and adding par. (1).

SPECIAL RULE

Section 12(b) of Pub. L. 100–580 provided that: ''The initial term of the representative appointed pursuant to section 4(c)(11) and (12) of such Act [16 U.S.C. 460ss–3(c)(11), (12)] (as added by the amendment made by subsection (a)) shall be for that time which is the remainder of the terms of the members of the Task Force then serving. Thereafter, the term of such representatives shall be as provided in section 4(e) of such Act.''

§ 460ss–4. Enforcement

(a) Memorandum of agreement [1]

In order to strengthen and facilitate the enforcement of Area fishery harvesting regulations, the Secretary shall enter into a memorandum of agreement with the California Department of Fish and Game. Such agreement shall specify the enforcement activities within the Area for which the respective agencies of the Department of [2] Interior and the California Department of Fish and Game are responsible and shall contain such provisions as are necessary to ensure the coordinated implementation of Federal and State enforcement activities.

(Pub. L. 99–552, §5, Oct. 27, 1986, 100 Stat. 3085.)

§ 460ss–5. Appropriations

(a) Authorization

There are authorized to be appropriated to the Department of the Interior during the period beginning October 1, 1986, and ending on September 30, 2006, $21,000,000 for the design, construction, operation, and maintenance of the program and for the payment of travel expenses under sections 460ss–2(j) and 460ss–3(i) of this title. Monies appropriated under this subsection shall remain available until expended or October 1, 2006, whichever first occurs.

(b) Cost-sharing

(1) 50 percent of the cost of the development and implementation of the program must be provided by one or more non-Federal sources on a basis considered by the Secretary to be timely and appropriate. For purposes of this subsection, the term ''non-Federal source'' includes a State

[1] So in original. No subsec. (b) has been enacted.

[2] So in original. Probably should be ''of the''.

or local government, any private entity, and any individual.

(2) In addition to cash outlays, the Secretary shall consider as financial contributions by a non-Federal source the value of inkind contributions and real and personal property provided by the source for purposes of implementing the program. Valuations made by the Secretary under this paragraph are final and not subject to judicial review.

(3) For purposes of paragraph (2), inkind contributions may be in the form of, but are not limited to, personal services rendered by volunteers.

(4) The Secretary shall by regulation establish—

(A) the training, experience, and other qualifications which such volunteers must have in order for their services to be considered as inkind contributions; and

(B) the standards under which the Secretary will determine the value of inkind contributions and real and personal property for purposes of paragraph (2).

(5) The Secretary may not consider the expenditure, either directly or indirectly, with respect to the program of Federal moneys received by a State or local government to be a financial contribution by a non-Federal source to carry out the program.

(Pub. L. 99–552, § 6, Oct. 27, 1986, 100 Stat. 3085; Pub. L. 100–653, title VI, § 603(3), (4), Nov. 14, 1988, 102 Stat. 3830.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–653, § 603(3), inserted ''and for the payment of travel expenses under sections 460ss–2(j) and 460ss–3(i) of this title'' before period at end of first sentence.

Subsec. (b)(3). Pub. L. 100–653, § 603(4), struck out ''in carrying out surveys, censuses, and other scientific studies'' after ''volunteers''.

§ 460ss–6. Definitions

As used in this subchapter—

(1) The term ''program'' means the Klamath River Basin Conservation Area Restoration Program established under section 460ss–1(b) of this title.

(2) The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 99–552, § 7, Oct. 27, 1986, 100 Stat. 3086.)

SUBCHAPTER CV—CROSS FLORIDA NATIONAL CONSERVATION AREA

§ 460tt. Cross Florida Barge Canal

(a) Deauthorization

The barge canal project located between the Gulf of Mexico and the Atlantic Ocean (hereinafter in this section referred to as the ''project''), as described in the Act of July 23, 1942 (56 Stat. 703), shall be deauthorized by operation of law immediately upon the Governor and Cabinet of the State of Florida adopting a resolution specifically agreeing on behalf of the State of Florida (hereinafter in this section referred to as the ''State'') to all of the terms of the agreement prescribed in subsection (b) of this section.

(b) Transfer of project lands

Notwithstanding any other provision of law, the Secretary is, subject to the provisions of subsections (d) and (e) of this section, directed to transfer to the State all lands and interests in lands acquired by the Secretary and facilities completed for the project in subsection (a) of this section, without consideration, if the State agrees to each of the following:

(1) The State shall agree to hold the United States harmless from all claims arising from or through the operations of the lands and facilities conveyed by the United States.

(2) The State shall agree to preserve and maintain a greenway corridor which shall be open to the public for compatible recreation and conservation activities and which shall be continuous, except for areas referred to in subparagraphs (A) and (C) of this paragraph, along the project route over lands acquired by the Secretary or by the State or State Canal Authority, or lands acquired along the project route in the future by the State or State Canal Authority, to the maximum width possible, as determined in the management plan to be developed by the State for former project lands. Such greenway corridor shall not be less than 300 yards wide, except for the following areas:

(A) Any area of the project corridor where, as of November 28, 1990, no land is owned by the State or State Canal Authority.

(B) Any area of the project corridor where, as of November 28, 1990, the land owned by the State or State Canal Authority is less than 300 yards wide.

(C) Any area of the project corridor where a road or bridge crosses the project corridor.

(3) Consistent with paragraph (2) of this subsection, the State shall create a State park or conservation/recreation area in the lands and interests in lands acquired for the project lying between the Atlantic Ocean and the western boundaries of sections 20 and 29, township 15 south, range 23 east.

(4) The State shall agree, consistent with paragraphs (2), (5) and (6) of this subsection, to preserve, enhance, interpret, and manage the water and related land resources of the area containing cultural, fish and wildlife, scenic, and recreational values in the remaining lands and interests in land acquired for the project, lying west of sections 20 and 29, township 15 south, range 23 east, as determined by the State, for the benefit and enjoyment of present and future generations of people and the development of outdoor recreation.

(5) The State shall agree to pay, from the assets of the State Canal Authority and the Cross Florida Canal Navigation District, including revenues from the sale of former project lands declared surplus by the State management plan, to the counties of Citrus, Clay, Duval, Levy, Marion, and Putnam a minimum aggregate sum of $32,000,000 in cash or, at the option of the counties, payment to be made by conveyance of surplus former project lands selected by the State at current appraised values.

(6) The State shall agree to provide that, after repayment of all sums due to the coun-

ties of Citrus, Clay, Duval, Levy, Marion, and Putnam, the State may use any remaining funds generated from the sale of former project lands declared surplus by the State to acquire the fee title to lands along the project route as to which less than fee title was obtained, or to purchase privately owned lands, or easements over such privately owned lands, lying within the proposed project route, consistent with paragraphs (2), (3), and (4) of this subsection, according to such priorities as are determined in the management plan to be developed by the State for former project lands. Any remaining funds generated from the sale of former project lands declared surplus by the State shall be used for the improvement and management of the greenway corridor consistent with paragraphs (2), (3), and (4) of this subsection.

(c) Enforcement

(1) Remedies and jurisdiction

The United States is directed to vigorously enforce the agreement referred to in subsections (a) and (b) of this section in the courts of the United States and shall be entitled to any remedies in equity or law, including, without limitation, injunctive relief. The court, in issuing any final order in any suit brought pursuant to this subsection, may, in its discretion, award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party. The United States district courts shall have original and exclusive jurisdiction of any action under this subsection.

(2) State remedies

The State shall be entitled to the same remedies listed in paragraph (1) of this subsection in the courts of the State or of the United States.

(d) Time of transfer

Actual transfer of lands and management responsibilities under this section shall not occur on the constructed portions of the project lying between the Atlantic Ocean and the Eureka Lock and Dam, inclusive, and between the Gulf of Mexico and the Inglis Lock and Dam, inclusive, until the last day of the 24-month period beginning on November 28, 1990.

(e) Management pending transfer

In the 24-month period following November 28, 1990, the Secretary shall carry out any and all programmed maintenance on the portions of the project outlined in subsection (d) of this section.

(f) Contract for continued O&M

(1) In general

During the period beginning on November 28, 1992, and ending on September 30, 1993, the Secretary is authorized and directed to offer to enter into a contract with the St. Johns River Water Management District and the Southwest Florida Water Management District of the State of Florida for the continued operation and maintenance by the Secretary of the portions of the project described in subsection (d) of this section. The maintenance shall be performed at a level of service that is necessary to ensure safe operating conditions and to prevent deterioration of the structures. No major rehabilitations or renovations shall be performed by the Secretary in such portions of the project during such period.

(2) Funding

Funding for the continued operation and maintenance of the barge canal project by the Secretary under this subsection shall not exceed $300,000. The State of Florida shall pay a non-Federal share of $600,000 to fund the continued maintenance of the portions of the project described in subsection (d) of this section in accordance with paragraph (1).

(g) Survey

The exact acreage and legal description of the real property to be transferred pursuant to this section shall be determined by a survey which is satisfactory to the Secretary and to the State. The cost of such survey shall be borne by the State.

(Pub. L. 99–662, title XI, § 1114, Nov. 17, 1986, 100 Stat. 4232; Pub. L. 101–640, title IV, § 402, Nov. 28, 1990, 104 Stat. 4644; Pub. L. 102–580, title I, § 102(e), Oct. 31, 1992, 106 Stat. 4805.)

REFERENCES IN TEXT

Act of July 23, 1942, referred to in subsec. (a), is act July 23, 1942, ch. 520, 56 Stat. 703, as amended. See National Defense Pipe Lines note set out preceding section 715 of Title 15, Commerce and Trade.

AMENDMENTS

1992—Subsecs. (f), (g). Pub. L. 102–580 added subsec. (f) and redesignated former subsec. (f) as (g).

1990—Pub. L. 101–640 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (i) which established the Cross Florida National Conservation Area, designated to it lands held for high-level barge canal project, required that certain portions of the barge canal project be operated and maintained for navigation, recreation, and fish and wildlife enhancement and for economic benefit of the region, provided for State of Florida to retain jurisdiction and responsibility over water resources planning, development, and control of surface and ground waters, required the Secretary to develop comprehensive management plan, directed operation of Rodman Dam to assure continuation of Lake Ocklawaha reservoir, required acquisition of lands held by Florida Canal Authority for barge canal project and lands held by State of Florida or Canal Authority which were acquired pursuant to section 104 of the River and Harbor Act of 1960, and set forth conditions for effectiveness of certain provisions.

SUBCHAPTER CVI—EL MALPAIS NATIONAL MONUMENT AND CONSERVATION AREA

PART A—EL MALPAIS NATIONAL MONUMENT

§ 460uu. Establishment; description of area

(a) In order to preserve, for the benefit and enjoyment of present and future generations, that area in western New Mexico containing the nationally significant Grants Lava Flow, the Las Ventanas Chacoan Archeological Site, and other significant natural and cultural resources, there is hereby established the El Malpais National Monument (hereinafter referred to as the ''monument''). The monument shall consist of approximately 114,000 acres as generally depicted on the map entitled ''El Malpais National

Monument and National Conservation Area'' numbered NM–ELMA–80,001–B and dated May 1987. The map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

(b) As soon as practicable after December 31, 1987, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') shall file a legal description of the monument with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this subchapter, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a) of this section. The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(Pub. L. 100–225, title I, § 101, Dec. 31, 1987, 101 Stat. 1539.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460uu–1. Transfer of administrative control of lands and waters

Lands and waters and interests therein within the boundaries of the monument, which as of the day prior to December 31, 1987, were administered by the Forest Service, United States Department of Agriculture, are hereby transferred to the administrative jurisdiction of the Secretary to be managed as part of the monument in accordance with this subchapter. The boundaries of the Cibola National Forest shall be adjusted accordingly.

(Pub. L. 100–225, title I, § 102, Dec. 31, 1987, 101 Stat. 1539.)

§ 460uu–2. Management

The Secretary, acting through the Director of the National Park Service, shall manage the monument in accordance with the provisions of this subchapter, sections 1, 2, 3, and 4 of this title, and other provisions of law applicable to units of the National Park System. The Secretary shall protect, manage, and administer the monument for the purposes of preserving the scenery and the natural, historic, and cultural resources of the monument and providing for the public understanding and enjoyment of the same in such a manner as to perpetuate these qualities for future generations.

(Pub. L. 100–225, title I, § 103, Dec. 31, 1987, 101 Stat. 1539.)

§ 460uu–3. Grazing permits

Where any lands included within the boundary of the monument on the map referred to in subsection[1] 460uu(a) of this title are legally occupied or utilized on December 31, 1987, for grazing purposes, pursuant to a lease, permit, or license which is—

(a) for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, and

(b) scheduled for termination before December 31, 1997,

the Secretary, notwithstanding any other provision of law, shall allow the persons holding such grazing privileges (or their heirs) to retain such grazing privileges until December 31, 1997, subject to such limitations, conditions, or regulations as the Secretary may prescribe to insure proper range management. No grazing shall be permitted on lands within the boundaries of the monument on or after January 1, 1998.

(Pub. L. 100–225, title I, § 104, Dec. 31, 1987, 101 Stat. 1540.)

[1] So in original. Probably should be ''section''.

PART B—MASAU TRAIL

§ 460uu–11. Designation

In order to provide for public appreciation, education, understanding, and enjoyment of certain nationally significant sites of antiquity in New Mexico and eastern Arizona which are accessible by public road,[1] the Secretary, acting through the Director of the National Park Service, with the concurrence of the agency having jurisdiction over such roads, is authorized to designate, by publication of a description thereof in the Federal Register, a vehicular tour route along existing public roads linking prehistoric and historic cultural sites in New Mexico and eastern Arizona. Such a route shall be known as the Masau Trail (hereinafter referred to as the ''trail'').

(Pub. L. 100–225, title II, § 201, Dec. 31, 1987, 101 Stat. 1540.)

§ 460uu–12. Areas included

The trail shall include public roads linking El Malpais National Monument as established pursuant to part A of this subchapter, El Morro National Monument, Chaco Cultural National Historical Park, Aztec Ruins National Monument, Canyon De Chelly National Monument, Pecos National Monument, Gila Cliff Dwellings National Monument, Zuni-Cibola National Historical Park, and Petroglyph National Monument. The Secretary may, in the manner set forth in section 460uu–11 of this title, designate additional segments of the trail from time to time as appropriate to link the foregoing sites with other cultural sites or sites of national significance when such sites are designated and protected by Federal, State, or local governments, Indian tribes, or nonprofit entities.

(Pub. L. 100–225, title II, § 202, Dec. 31, 1987, 101 Stat. 1540; Pub. L. 100–567, § 10, Oct. 31, 1988, 102 Stat. 2852; Pub. L. 101–313, title III, § 301, June 27, 1990, 104 Stat. 279.)

AMENDMENTS

1990—Pub. L. 101–313 inserted reference to Petroglyph National Monument.

[1] So in original. Probably should be ''roads,''.

1988—Pub. L. 100–567, which directed substitution of ''Gila Cliff Dwellings National Monument, and Zuni-Cibola National Historical Park'' for ''and Gila Cliff Dwelling National Monument'' was executed by making substitution for ''and Gila Cliff Dwellings National Monument'' as the probable intent of Congress.

§ 460uu–13. Information and interpretation

With respect to sites linked by segments of the trail which are administered by other Federal, State, local, tribal, or nonprofit entities, the Secretary may, pursuant to cooperative agreements with such entities, provide technical assistance in the development of interpretive devices and materials in order to contribute to public appreciation of the natural and cultural resources of the sites along the trail. The Secretary, in cooperation with State and local governments, Indian tribes, and nonprofit entities, shall prepare and distribute informational material for the public appreciation of sites along the trail.

(Pub. L. 100–225, title II, § 203, Dec. 31, 1987, 101 Stat. 1541.)

§ 460uu–14. Markers

The trail shall be marked with appropriate markers to guide the public. With the concurrence and assistance of the State or local entity having jurisdiction over the roads designated as part of the trail, the Secretary may erect thereon and maintain signs and other informational devices displaying the Masau Trail Marker. The Secretary is authorized to accept the donation of suitable signs and other informational devices for placement at appropriate locations.

(Pub. L. 100–225, title II, § 204, Dec. 31, 1987, 101 Stat. 1541.)

PART C—EL MALPAIS NATIONAL CONSERVATION AREA

§ 460uu–21. Establishment; description of area

(a) In order to protect for the benefit and enjoyment of future generations that area in western New Mexico containing the La Ventana Natural Arch and the other unique and nationally important geological, archeological, ecological, cultural, scenic, scientific, and wilderness resources of the public lands surrounding the Grants Lava Flows, there is hereby established the El Malpais National Conservation Area (hereinafter referred to as the ''conservation area''). The conservation area shall consist of approximately 262,690 acres of federally owned land as generally depicted on a map entitled ''El Malpais National Monument and National Conservation Area'' numbered NM–ELMA–80,001–B and dated May 1987. The map shall be on file and available for inspection in the offices of the Director of the Bureau of Land Management of the Department of the Interior.

(b) As soon as practicable after December 31, 1987, the Secretary shall file a legal description of the conservation area designated under this section with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. Such legal description shall have the same force and effect as if included in this subchapter, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

(Pub. L. 100–225, title III, § 301, Dec. 31, 1987, 101 Stat. 1541.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460uu–22. Management

(a) Provisions applicable

The Secretary, acting through the Director of the Bureau of Land Management, shall manage the conservation area to protect the resources specified in section 460uu–21 of this title and in accordance with this subchapter, the Federal Land Management and Policy[1] Act of 1976 [43 U.S.C. 1701 et seq.] and other applicable provisions of law, including those provisions relating to grazing on public lands.

(b) Hunting and trapping

The Secretary shall permit hunting and trapping within the conservation area in accordance with applicable laws and regulations of the United States and the State of New Mexico; except that the Secretary, after consultation with the New Mexico Department of Game and Fish, may issue regulations designating zones where and establishing periods when no hunting or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment.

(c) Prohibition of collection of green or dead wood for commercial purposes

Collection of green or dead wood for sale or other commercial purposes shall not be permitted in the conservation area.

(d) Grazing

Except as otherwise provided in section 460uu–32(b) of this title, within the conservation area the grazing of livestock shall be permitted to continue, pursuant to applicable Federal law, including this subchapter, and subject to such reasonable regulations, policies, and practices as the Secretary deems necessary.

(Pub. L. 100–225, title III, § 302, Dec. 31, 1987, 101 Stat. 1541.)

REFERENCES IN TEXT

The Federal Land Management and Policy Act of 1976, referred to in subsec. (a), probably means the Federal Land Policy and Management Act of 1976, Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

[1] So in original. See References in Text note below.

PART D—WILDERNESS

§ 460uu–31. Designation; description of area

(a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890) [16 U.S.C. 1131 et seq.], there are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System, the Cebolla Wilderness of approximately 60,000 acres, and the West Malpais Wilderness of approximately 38,210 acres, as each is generally depicted on the map entitled ''El Malpais National Monument and National Conservation Area'' numbered NM–ELMA–80,001–B and dated May 1987. The map shall be on file and available for inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

(b) As soon as practicable after December 31, 1987, the Secretary shall file a legal description of each wilderness area designated by this subchapter with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this subchapter, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

(Pub. L. 100–225, title IV, § 401, Dec. 31, 1987, 101 Stat. 1542.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (a), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460uu–32. Management; provisions applicable

(a) Subject to valid existing rights, each wilderness area designated under this subchapter shall be administered by the Secretary, through the Director of the Bureau of Land Management, in accordance with the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.] governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to December 31, 1987.

(b) Within the wilderness areas designated by this subchapter, the grazing of livestock, where established prior to December 31, 1987, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act [16 U.S.C. 1131 et seq.] and section 108 of Public Law 96–560 (16 U.S.C. 1133 note).

(Pub. L. 100–225, title IV, § 402, Dec. 31, 1987, 101 Stat. 1542.)

REFERENCES IN TEXT

The Wilderness Act, referred to in text, is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The effective date of the Wilderness Act, referred to in subsec. (a), means Sept. 3, 1964, the date of enactment of Pub. L. 88–577, which enacted chapter 23 of this title.

PART E—GENERAL PROVISIONS

§ 460uu–41. Management plans

(a) Development and transmittal to Congress; contents

Within three full fiscal years following the fiscal year of enactment of this subchapter, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, separate general management plans for the monument and the conservation area which shall describe the appropriate uses and development of the monument and the conservation area consistent with the purposes of this subchapter. The plans shall include but not be limited to each of the following:

(1) implementation plans for a continuing program of interpretation and public education about the resources and values of the monument and the conservation area;

(2) proposals for public facilities to be developed for the conservation area or the monument, including a visitors center in the vicinity of Bandera Crater and a multiagency orientation center, to be located in or near Grants, New Mexico, and adjacent to Interstate 40, to accommodate visitors to western New Mexico;

(3) natural and cultural resources management plans for the monument and the conservation area, with a particular emphasis on the preservation and long-term scientific use of archeological resources, giving high priority to the enforcement of the provisions of the Archeological[1] Resources Protection Act of 1979 [16 U.S.C. 470aa et seq.] and the National Historic Preservation Act [16 U.S.C. 470 et seq.] within the monument and the conservation area. The natural and cultural resources management plans shall be prepared in close consultation with the Advisory Council on Historic Preservation, the New Mexico State Historic Preservation Office, and the local Indian people and their traditional cultural and religious authorities; and such plans shall provide for long-term scientific use of archaeological resources in the monument and the conservation area, including the wilderness areas designated by this subchapter; and

(4) wildlife resources management plans for the monument and the conservation area pre-

[1] So in original. Probably should be ''Archaeological''.

pared in close consultation with appropriate departments of the State of New Mexico and using previous studies of the area.

(b) Review and recommendation of suitability or nonsuitability of specific lands

(1) The general management plan for the conservation area shall review and recommend the suitability or nonsuitability for preservation as wilderness of those lands comprising approximately 17,468 acres, identified as ''Wilderness Study Area'' (hereafter in this part referred to as the ''WSA'') on the map referenced in section 460uu of this title.

(2) Pending submission of a recommendation and until otherwise directed by an Act of Congress, the Secretary, acting through the Director of the Bureau of Land Management, shall manage the lands within the WSA so as to maintain their potential for inclusion within the National Wilderness Preservation System.

(c) Review and recommendation of suitability or nonsuitability of roadless lands

(1) The general management plan for the monument shall review and recommend the suitability or nonsuitability for preservation as wilderness of all roadless lands within the boundaries of the monument as established by this subchapter except those lands within the areas identified as ''potential development areas'' on the map referenced in section 460uu of this title.

(2) Pending the submission of a recommendation and until otherwise directed by Act of Congress, the Secretary, through the Director of the National Park Service, shall manage all roadless lands within the boundaries of the monument so as to maintain their potential for inclusion in the National Wilderness Preservation System, except those lands within the areas identified as ''potential development areas'' on the map referenced in section 460uu of this title.

(Pub. L. 100–225, title V, §501, Dec. 31, 1987, 101 Stat. 1543.)

REFERENCES IN TEXT

The fiscal year of enactment of this subchapter, referred to in subsec. (a), is the fiscal year of the enactment of Pub. L. 100–225, which enacted this subchapter, and was approved Dec. 31, 1987.

The Archaeological Resources Protection Act of 1979, referred to in subsec. (a)(3), is Pub. L. 96–95, Oct. 31, 1979, 93 Stat. 721, which is classified generally to chapter 1B (§470aa et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of this title and Tables.

The National Historic Preservation Act, referred to in subsec. (a)(3), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§470 et seq.) of chapter 1A of this title. For complete classification of this Act to the Code, see section 470 of this title and Tables.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§460uu–42. Acquisition of lands and interests

Within the monument and the conservation area, the Secretary is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency, except that such lands or interests therein owned by the State of New Mexico or a political subdivision thereof may be acquired only by exchange. It is the sense of Congress that the Secretary is to complete the acquisition of non-Federal subsurface interests underlying the monument and the conservation area no later than three full fiscal years after the fiscal year of enactment of this subchapter.

(Pub. L. 100–225, title V, §502, Dec. 31, 1987, 101 Stat. 1544.)

REFERENCES IN TEXT

The fiscal year of enactment of this subchapter, referred to in text, is the fiscal year of the enactment of Pub. L. 100–225, which enacted this subchapter, and was approved Dec. 31, 1987.

§460uu–43. State exchanges of lands and interests

(a) Upon the request of the State of New Mexico (hereinafter referred to as the ''State'') and pursuant to the provisions of this section, the Secretary shall exchange public lands or interests in lands elsewhere in the State of New Mexico, of approximately equal value and selected by the State, acting through its Commissioner of Public Lands, for any lands or interests therein owned by the State (hereinafter referred to as ''State lands'') located within the boundaries of the monument or the conservation area which the State wishes to exchange with the United States.

(b) Within six months after December 31, 1987, the Secretary shall notify the New Mexico Commissioner of Public Lands what State lands are within the monument or the conservation area. The notice shall contain a listing of all public lands or interest therein within the boundaries of the State of New Mexico which have not been withdrawn from entry and which the Secretary, pursuant to the provisions of sections 1712 and 1716 of title 43, has identified as appropriate for transfer to the State in exchange for State lands. Such listing shall be updated at least annually. If the New Mexico Commissioner of Public Lands gives notice to the Secretary of the State's desire to obtain public lands so listed, the Secretary shall notify the Commissioner in writing as to whether the Department of the Interior considers the State lands within the monument or conservation area to be of approximately equal value to the listed lands or interests in lands the Commissioner has indicated the State desires to obtain. It is the sense of the Congress that the exchange of lands and interests therein with the State pursuant to this section should be completed within two years after December 31, 1987.

(Pub. L. 100–225, title V, §503, Dec. 31, 1987, 101 Stat. 1544.)

§460uu–44. Mineral exchanges

(a) Authorization; matters considered

The Secretary is authorized and directed to exchange the Federal mineral interests in the lands described in subsection (b) of this section

for the private mineral interests in the lands described in subsection (c) of this section, if—

(1) the owner of such private mineral interests has made available to the Secretary all information requested by the Secretary as to the respective values of the private and Federal mineral interests to be exchanged; and

(2) on the basis of information obtained pursuant to paragraph (1) and any other information available, the Secretary has determined that the mineral interests to be exchanged are of approximately equal value; and

(3) the Secretary has determined—

(A) that except insofar as otherwise provided in this section, the exchange is not inconsistent with the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701 et seq.]; and

(B) that the exchange is in the public interest.

(b) Location of Federal mineral interests

The Federal mineral interests to be exchanged under this section underlie the lands, comprising approximately 15,008 acres, depicted as ''Proposed for transfer to Santa Fe Pacific'' on the map referenced in subsection (d) of this section.

(c) Location of private mineral interests

The private mineral interests to be exchanged pursuant to this section underlie the lands, comprising approximately 15,141 acres, depicted as ''Proposed for transfer to U.S.'' on the map referenced in subsection (d) of this section.

(d) Identification of mineral interests; legal description

(1) The mineral interests identified in this section underlie those lands depicted as ''Proposed for transfer to Santa Fe Pacific'' and as ''Proposed for transfer to U.S.'' on a map entitled ''El Malpais Leg. Boundary, HR3684/S56'', revised 5–8–87.

(2) As soon as practicable after December 31, 1987, the Secretary shall file a legal description of the mineral interest areas designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this subchapter, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

(e) Time of completion of exchanges

It is the sense of the Congress that all exchanges pursuant to this section shall be completed no later than three years after December 31, 1987.

(Pub. L. 100–225, title V, § 504, Dec. 31, 1987, 101 Stat. 1545.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (a)(3)(A), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460uu–45. Acoma Pueblo exchanges

(a) Lands to be exchanged

(1) Upon the request of the Pueblo of Acoma, the Secretary shall acquire by exchange any lands held in trust for the Pueblo of Acoma (hereinafter referred to as ''trust lands'') located within the boundary of the conservation area which the Pueblo wishes to exchange pursuant to this section. Such trust lands shall be exchanged either for—

(A) lands described in subsection (c) of this section (with respect to trust lands west of New Mexico Highway 117); or

(B) public lands of approximately equal value located outside the monument and outside the conservation area but within the boundaries of the State of New Mexico which are selected by the Pueblo of Acoma, so long as such exchange is consistent with applicable law and Bureau of Land Management resource management plans developed pursuant to the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701 et seq.].

(2) All lands selected by and transferred to the Pueblo of Acoma at its request pursuant to this section shall thereafter be held in trust by the Secretary for the Pueblo of Acoma in the same manner as the lands for which they were exchanged.

(3) Any lands west of New Mexico Highway 117 which are acquired by the Secretary pursuant to this section shall be incorporated into the monument and managed accordingly, and section 460uu–3 of this title and all other provisions of this subchapter and other law applicable to lands designated by this subchapter as part of the monument shall apply to such incorporated lands.

(b) Public lands available for exchange

For purposes of acquiring lands pursuant to subsection (a) of this section, the Secretary, consistent with applicable law and Bureau of Land Management resource management plans described in subsection (a) of this section, shall make public lands within the boundaries of the State of New Mexico available for exchange. Nothing in this subchapter shall be construed as authorizing or requiring revocation of any existing withdrawal or classification of public land except in a manner consistent with applicable law.

(c) Public lands available for transfer; management of lands not exchanged or transferred

(1) The Secretary shall make the lands within the areas identified as ''Acoma Potential Exchange Areas'' on the map referenced in section 460uu–21 of this title available for transfer to the Pueblo of Acoma pursuant to this subsection.

(2) Upon a request of the Pueblo of Acoma submitted to the Secretary no later than one year after December 31, 1987, lands within the areas described in paragraph (1) shall be transferred to the Pueblo of Acoma in exchange for trust lands of approximately equal value within that portion of the conservation area west of New Mexico Highway 117. The Secretary may require exchanges of land under this subsection to be on the basis of compact and contiguous parcels.

(3) Any lands within the areas described in paragraph (1) not proposed for exchange by a request submitted to the Secretary by the Pueblo of Acoma within the period specified in paragraph (2), and any lands in such areas not ultimately transferred pursuant to this subsection, shall be incorporated within the conservation area and managed accordingly. In addition, any lands in that portion of the areas described in paragraph (1) lying in section 1, township 7N, range 9W, New Mexico Principal Meridian, not transferred to the Pueblo of Acoma pursuant to this subsection shall be added to and incorporated within the Cebolla Wilderness and managed accordingly.

(Pub. L. 100–225, title V, § 505, Dec. 31, 1987, 101 Stat. 1545.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (a)(1)(B), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

§ 460uu–46. Exchanges and acquisitions generally; withdrawal

(a) Exchanges on basis of equal value; cash equalization; exceptions

All exchanges pursuant to this subchapter shall be made in a manner consistent with applicable provisions of law, including this subchapter, and unless otherwise specified in this subchapter shall be on the basis of equal value; either party to an exchange may pay or accept cash in order to equalize the value of the property exchange, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchange may be made for other than equal value.

(b) "Public lands" defined

For purposes of this subchapter, the term ''public lands'' shall have the same meaning as such term has when used in the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701 et seq.].

(c) Incorporation and management of after-acquired lands

Except as otherwise provided in section 460uu–45 of this title, any lands or interests therein within the boundaries of the monument or conservation area which after December 31, 1987, may be acquired by the United States shall be incorporated into the monument or conservation area, as the case may be, and managed accordingly, and all provisions of this subchapter and other laws applicable to the monument or the conservation area, as the case may be, shall apply to such incorporated lands.

(d) Prohibition on transfer of lands out of Federal ownership; withdrawal of lands from all forms of entry

(1) Except as otherwise provided in this subchapter, no federally-owned lands located within the boundaries of the monument or the conservation area shall be transferred out of Federal ownership, or be placed in trust for any Indian tribe or group, by exchange or otherwise.

(2) Except as otherwise provided in this subchapter, and subject to valid existing rights, all Federal lands within the monument and the conservation area and all lands and interests therein which are acquired on and after December 31, 1987, by the United States are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws and from location, entry and patent under the mining laws, and from operation of the mineral leasing and geothermal leasing laws and all amendments thereto.

(e) Discrepancies in citation of acreage; maps as controlling

The acreages cited in this subchapter are approximate, and in the event of discrepancies between cited acreages and the lands depicted on referenced maps, the maps shall control.

(f) Acceptance of lands proposed for donation

The Secretary is authorized to accept any lands contiguous to the boundaries of the Pecos National Monument (as such boundaries were established on December 31, 1987) which may be proposed for donation to the United States. If acceptance of such lands proposed for donation would be in furtherance of the purposes for which the Pecos National Monument was established, the Secretary shall accept such lands, and upon such acceptance such lands shall be incorporated into such monument and managed accordingly.

(g) Redesignation and revision of boundaries of Capulin Mountain National Monument

(1) Capulin Mountain National Monument is hereby redesignated as Capulin Volcano National Monument.

(2) Any reference in any record, map, or other document of the United States of America to Capulin Mountain National Monument shall hereafter be deemed to be a reference to Capulin Volcano National Monument.

(3) Section 1 of the Act of September 5, 1962 (76 Stat. 436) is hereby amended by striking the remaining portion of section 1 after ''boundaries of the monument'' and inserting ''shall include the lands and interests in lands as generally depicted on the map entitled 'Capulin Volcano National Monument Boundary Map' which is numbered 125–80,014 and dated January 1987.''.

(4) Jurisdiction over federally-owned lands within the revised boundaries of the monument is hereby transferred to the National Park Service, without monetary consideration, for administration as part of the monument.

(Pub. L. 100–225, title V, § 506, Dec. 31, 1987, 101 Stat. 1546.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (b), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

Act of September 5, 1962, referred to in subsec. (g)(3), is Pub. L. 87–635, Sept. 5, 1962, 76 Stat. 436, which enacted provisions listed in the National Monuments Established Under Presidential Proclamation table set out under section 431 of this title.

§ 460uu–47. Access

(a) Nonexclusive access by Indians for cultural and religious purposes

In recognition of the past use of portions of the monument and the conservation area by Indian people for traditional cultural and religious purposes, the Secretary shall assure nonexclusive access to the monument and the conservation area by Indian people for traditional cultural and religious purposes, including the harvesting of pine nuts. Such access shall be consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996 [, 1996a]), and (with respect to areas designated as wilderness) the Wilderness Act (78 Stat. 890) [16 U.S.C. 1131 et seq.].

(b) Recommendations from Indian leaders regarding access and protection of cultural and religious sites

In preparing the plans for the monument and the conservation area pursuant to section 460uu–41 of this title, the Secretary shall request that the Governor of the Pueblo of Acoma and the chief executive officers of other appropriate Indian tribes make recommendations on methods of—

(1) assuring access pursuant to subsection (a) of this section;

(2) enhancing the privacy of traditional cultural and religious activities in the monument and the conservation area; and

(3) protecting traditional cultural and religious sites in the monument and the conservation area.

(c) Temporary closure to public of lands for protection of religious activities

In order to implement this section and in furtherance of the American Indian Religious Freedom Act [42 U.S.C. 1996, 1996a], the Secretary, upon the request of an appropriate Indian tribe, may from time to time temporarily close to general public use one or more specific portions of the monument or the conservation area in order to protect the privacy of religious activities in such areas by Indian people. Any such closure shall be made so as to affect the smallest practicable area for the minimum period necessary for such purposes. Not later than seven days after the initiation of any such closure, the Secretary shall provide written notification of such action to the Energy and Natural Resources Committee of the United States Senate and the Natural Resources Committee of the House of Representatives.

(d) Advisory committee; membership

The Secretary is authorized to establish an advisory committee to advise the Secretary concerning the implementation of this section. Any such advisory committee shall include representatives of the Pueblo of Acoma, the Pueblo of Zuni, other appropriate Indian tribes and other persons or groups interested in the implementation of this section.

(Pub. L. 100–225, title V, § 507, Dec. 31, 1987, 101 Stat. 1548; Pub. L. 103–437, § 6(d)(19), Nov. 2, 1994, 108 Stat. 4584.)

REFERENCES IN TEXT

The American Indian Religious Freedom Act, referred to in subsecs. (a) and (c), is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, as amended, which is classified to sections 1996 and 1996a of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1996 of Title 42 and Tables.

The Wilderness Act, referred to in subsec. (a), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' before ''Committee of the House''.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 460uu–48. Cooperative agreements with Federal, State and local public departments and agencies

In order to encourage unified and cost effective interpretation of prehistoric and historic civilizations in western New Mexico, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State and local public departments and agencies, Indian tribes, and nonprofit entities providing for the interpretation of prehistoric and historic civilizations in New Mexico and eastern Arizona. The Secretary may, pursuant to such agreements, cooperate in the development and operation of a multiagency orientation center and programs on lands and interests in lands inside and outside of the boundaries of the monument and the conservation area generally, with the concurrence of the owner or administrator thereof, and specifically in or near Grants, New Mexico, adjacent to Interstate 40 in accordance with the plan required pursuant to section 460uu–41 of this title.

(Pub. L. 100–225, title V, § 508, Dec. 31, 1987, 101 Stat. 1548.)

§ 460uu–49. Water rights

(a) Reservation to United States of minimum amount of water required

Congress expressly reserves to the United States the minimum amount of water required

to carry out the purposes for which the national monument, the conservation area, and the wilderness areas are designated under this subchapter. The priority date of such reserved rights shall be December 31, 1987.

(b) Effect on existing valid or vested water rights

Nothing in this section shall affect any existing valid or vested water right, or applications for water rights which are pending as of December 31, 1987, and which are subsequently granted: *Provided*, That nothing in this subsection shall be construed to require the National Park Service to allow the drilling of ground water wells within the boundaries of the national monument.

(c) Construction of section as precedent with regard to future designations

Nothing in this section shall be construed as establishing a precedent with regard to any future designations, nor shall it affect the interpretation of any other Act or any designation made pursuant thereto.

(Pub. L. 100–225, title V, § 509, Dec. 31, 1987, 101 Stat. 1549.)

§ 460uu–50. Authorization of appropriations

There is authorized to be appropriated $16,500,000 for the purposes of this subchapter, of which $10,000,000 shall be available for land acquisition in the national monument; $1 million shall be available for development within the national monument; $4 million shall be available for land acquisition within the conservation area; $1 million shall be available for development within the conservation area; and $500,000 shall be available for planning and development of the Masau Trail.

(Pub. L. 100–225, title V, § 510, Dec. 31, 1987, 101 Stat. 1549.)

SUBCHAPTER CVII—WINDING STAIR MOUNTAIN NATIONAL RECREATION AND WILDERNESS AREA

§ 460vv. Findings and purposes

(a) Findings

The Congress finds that—

(1) select areas of undeveloped National Forest System lands in the State of Oklahoma possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (RARE II) and other studies of National Forest System lands in the State of Oklahoma and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System;

(3) the Department of Agriculture's second roadless area review and evaluation, of National Forest System lands in the State of Oklahoma and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values, and which should not be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws;

(4) many areas of the Ouachita National Forest possess qualities that can only be expressed and utilized in such a manner that designation of such areas as a national recreation area is appropriate for the maximum potential and enjoyment of the area by the American people;

(5) select areas possess unique plant and tree species and plant communities that are significant in their occurrence, variety and location and warrant designation as botanical areas; and

(6) select areas possess unique scenic and wildlife qualities that designation of such areas as a national scenic area and a national scenic and wildlife area is appropriate for the preservation of the natural beauty and wildlife habitat for the enjoyment of the American people.

(b) Purposes

The purposes of this subchapter are to—

(1) designate certain National Forest System lands in the State of Oklahoma as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the lands, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and to ensure that certain other National Forest System lands in the State of Oklahoma be available for nonwilderness multiple uses; and

(2) designate certain National Forest System lands in the State of Oklahoma as a national recreation area, 2 botanical areas, a national scenic area, and a national scenic and wildlife area in order to enhance and further certain natural resources characteristics.

(Pub. L. 100–499, § 2, Oct. 18, 1988, 102 Stat. 2491.)

SHORT TITLE

Section 1 of Pub. L. 100–499 provided that: ''This Act [enacting this subchapter] may be referred to as the 'Winding Stair Mountain National Recreation and Wilderness Area Act'.''

§ 460vv–1. Additions to National Wilderness Preservation System

In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131 et seq.) the following lands in the State of Oklahoma are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approxi-

mately 4,583 acres, as generally depicted on a map entitled ''Black Fork Mountain Wilderness—Proposed'', dated March 1988, and which shall be known as the Black Fork Mountain Wilderness.

(2) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately 9,371 acres, as generally depicted on a map entitled ''Upper Kiamichi River Wilderness—Proposed'', dated March 1988, and which shall be known as the Upper Kiamichi River Wilderness.

(Pub. L. 100–499, § 3, Oct. 18, 1988, 102 Stat. 2492.)

REFERENCES IN TEXT

The Wilderness Act of 1964, referred to in text, probably means the Wilderness Act, Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

§ 460vv–2. Maps and descriptions

As soon as practicable after October 18, 1988, the Secretary of Agriculture shall file the maps referred to in section 460vv–1 of this title and legal descriptions of each wilderness area designated by section 460vv–1 of this title with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this subchapter; except that correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(Pub. L. 100–499, § 4, Oct. 18, 1988, 102 Stat. 2492.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460vv–3. Administration

Subject to valid existing rights, each wilderness area designated by section 460vv–1 of this title shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 [16 U.S.C. 1131 et seq.] governing areas designated by that Act as wilderness areas, except that with respect to any area designated in section 460vv–1 of this title, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this subchapter.

(Pub. L. 100–499, § 5, Oct. 18, 1988, 102 Stat. 2492.)

REFERENCES IN TEXT

The Wilderness Act of 1964, referred to in text, probably means the Wilderness Act, Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The effective date of the Wilderness Act of 1964, referred to in text, means Sept. 3, 1964, the date of enactment of Pub. L. 88–577, which enacted chapter 23 of this title.

The effective date of this subchapter, referred to in text, means Oct. 18, 1988, the date of enactment of Pub. L. 100–499, which enacted this subchapter.

§ 460vv–4. Wilderness review

(a) Findings

The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in Oklahoma and of the environmental impacts associated with alternative allocations of such areas.

(b) Congressional determination and direction

On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the questions of the legal and factual sufficiency of the RARE II Final Environmental Impact Statement (dated January 1979) with respect to National Forest System lands in States other than Oklahoma, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Oklahoma;

(2) with respect to the National Forest System lands in the State of Oklahoma which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d) of this section, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 [16 U.S.C. 1600 et seq.], as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Oklahoma reviewed in such final environmental statement or referenced in subsection (d) of this section and not designated wilderness upon enactment of this subchapter shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 [16 U.S.C. 1604], as amended by the National Forest Management Act of 1976, except that such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Oklahoma are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 [16 U.S.C. 1604], as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 [16 U.S.C. 1600 et seq.], as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of the National Forest System lands in the State of Oklahoma for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) Use of term

As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 [16 U.S.C. 1604], as amended by the National Forest Management Act of 1976, the term ''revision'' shall not include an ''amendment'' to a plan.

(d) Application of provisions

The provisions of this section shall also apply to:

(1) those National Forest System roadless lands in the State of Oklahoma in the Ouachita National Forest which were evaluated in the Rich Mountain and Beech Creek unit plans; and

(2) National Forest System roadless lands in the State of Oklahoma which are less than five thousand acres in size.

(Pub. L. 100–499, §6, Oct. 18, 1988, 102 Stat. 2493.)

REFERENCES IN TEXT

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (b)(2), (4), is Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

The National Forest Management Act of 1976, referred to in subsecs. (b)(2)–(4) and (c), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

§ 460vv–5. Adjacent management

Congress does not intend that designation of wilderness areas in the State of Oklahoma lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(Pub. L. 100–499, §7, Oct. 18, 1988, 102 Stat. 2494.)

§ 460vv–6. Winding Stair Mountain National Recreation Area

(a) Establishment

In order to ensure the conservation and protection of certain natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreational values associated therewith, there is hereby established the Winding Stair Mountain National Recreation Area located in the Ouachita National Forest, Oklahoma.

(b) Area included

The Winding Stair Mountain National Recreation Area (hereafter in this subchapter referred to as the ''recreation area'') shall comprise approximately 26,445 acres as generally depicted on the map entitled ''Winding Stair Mountain National Recreation Area—Proposed'', dated March 1988, which shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture.

(c) Maps and description

The Secretary of Agriculture (hereinafter in this section referred to as the ''Secretary'') shall, as soon as practicable after October 18, 1988, file a map and a legal description of the recreation area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate and each such map and legal description shall have the same force and effect as if included in this subchapter; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(d) Administration

The Secretary shall administer the recreation area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a) of this section. Management and utilization of natural resources within the recreation area shall be permitted to the extent such management and utilization is compatible with and does not impair the purposes for which the recreation area is established.

(e) Timber management

Any sales of timber from within the recreation area shall be designed so as to not detract from the scenic values of the recreation area. Management practices that would detract from the scenic quality and natural beauty within view from the Talimena Drive or the Holson Valley Road shall not be conducted in the recreation area. Unevenaged timber management shall be

the timber management practice in the recreation area, except that the Secretary may use evenaged management practices in order to promote public safety, mitigate the effects of fire, insects, and disease, or allow scenic vistas and recreational development or if such practices result in irregular cuts behind geographic barriers blocking the view from the Talimena Drive and the Holson Valley Road.

(Pub. L. 100–499, § 8, Oct. 18, 1988, 102 Stat. 2494.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460vv–7. Botanical areas

(a) Designation

In order to protect and interpret to the public area within the Ouachita National Forest which contain unique plant species and unique plant communities that are significant in their occurrence, variety and location, the following lands are hereby designated as botanical areas:

(1) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately eight thousand and twenty-six acres as generally depicted on a map entitled ''Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area—Proposed'', dated March 1988, which shall be known as the ''Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area''.

(2) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately four hundred acres as generally depicted on a map entitled ''Beech Creek Botanical Area—Proposed'', dated March 1988, which shall be known as the ''Beech Creek Botanical Area''.

(b) Map and description

The Secretary of Agriculture shall, as soon as practicable after October 18, 1988, file a map and a legal description of the botanical areas with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this subchapter; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(c) Administration

The Secretary shall administer the botanical areas in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a) of this section. Except as provided in section 460vv–14 of this title, vegetative manipulation, including the cutting of trees, shall be permitted in such areas only when necessary for the protection and interpretation of the unique plant species and unique plant communities within the area. The Secretary may permit expansion of roads, improvements, and other facilities in the vicinity of the Robert S. Kerr Nature Center.

(Pub. L. 100–499, § 9, Oct. 18, 1988, 102 Stat. 2495.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460vv–8. Indian Nations National Scenic and Wildlife Area

(a) Designation

In order to protect and enhance certain scenery and wildlife within the Ouachita National Forest, Oklahoma, certain lands within such national forest, as generally depicted on a map entitled ''Indian Nations National Scenic and Wildlife Area—Proposed'', dated March 1988, are hereby designated as the ''Indian Nations National Scenic and Wildlife Area'' (hereinafter in this subchapter referred to as the ''national scenic and wildlife area'').

(b) Map and description

The Secretary of Agriculture (hereinafter in this section referred to as the ''Secretary'') shall, as soon as practicable after October 18, 1988, file a map and a legal description of the national scenic and wildlife area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this subchapter; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(c) Administration

The Secretary shall administer the national scenic and wildlife area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a) of this section. Management practices within the national scenic and wildlife area that would detract from the scenic quality and natural beauty of the Talimena Drive and Holson Valley Road viewsheds shall be prohibited. Timber management practices within the national scenic and wildlife area shall promote a mixed hardwood and conifer forest with species and age class diversity approximating natural succession and with significant mast production and den trees for wildlife. Unevenaged timber management shall be the timber management practice in the national scenic and wildlife area, except that the Secretary may use evenaged management practices in order to promote public safety, mitigate the effects of fire, insects, and disease, or if such practices result in irregu-

lar cuts behind geographic barriers blocking the view from the Talimena Drive and the Holson Valley Road.

(Pub. L. 100–499, § 10, Oct. 18, 1988, 102 Stat. 2496.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460vv–9. Beech Creek National Scenic Area

(a) Designation

In order to protect and enhance certain scenery and wildlife within the Ouachita National Forest, Oklahoma, certain lands within such national forest, as generally depicted on a map entitled ''Beech Creek National Scenic Area—Proposed'', dated March 1988, are hereby designated as the ''Beech Creek National Scenic Area'' (hereinafter in this subchapter referred to as the ''national scenic area'').

(b) Map and description

The Secretary of Agriculture (hereinafter in this section referred to as the ''Secretary'') shall, as soon as practicable after October 18, 1988, file a map and a legal description of the national scenic area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this subchapter; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(c) Administration

The Secretary shall administer the national scenic area in accordance with the laws, rules, and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a) of this section. Timber management practices within the area shall promote a mixed hardwood and conifer forest with species and age class diversity approximating natural succession and with significant mast production and den trees for wildlife. Unevenaged management shall be the timber management practice in the area, except that the Secretary is authorized to use evenaged management practices in order to promote public safety or to mitigate the effects of fire, insects, and disease.

(Pub. L. 100–499, § 11, Oct. 18, 1988, 102 Stat. 2496.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460vv–10. Nomenclature

The wilderness areas, the national recreation area, the national scenic and wildlife area, the national scenic area, and the botanical areas designated in this subchapter shall be referred to as the ''Winding Stair Mountain National Recreation and Wilderness Area''.

(Pub. L. 100–499, § 12, Oct. 18, 1988, 102 Stat. 2497.)

§ 460vv–11. Timber management report

The Secretary of Agriculture shall submit to the Committee on Natural Resources and the Committee on Agriculture of the United States House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate a report on the timber management program on those lands of the Ouachita National Forest located in Le Flore County, Oklahoma, each year after October 18, 1988, for a period of 20 years. Each such report shall include information on timber management practices, sale preparation, harvest levels, reforestation, forest pest and damage problems, multiple use mitigation practices, including wildlife enhancement, recreation, protection of scenery, vegetation conversion, roads, and vegetative cover along streams, roads and trails. The report shall also include an economic impact statement of the Ouachita National Forest in Le Flore County, Oklahoma, on the timber industry and the tourism and recreation industry.

(Pub. L. 100–499, § 13, Oct. 18, 1988, 102 Stat. 2497; Pub. L. 103–437, § 6(d)(20), Nov. 2, 1994, 108 Stat. 4584.)

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 460vv–12. Advisory committee

Pursuant to the Federal Advisory Committee Act (Public Law 92–463), no later than 90 days after October 18, 1988, the Secretary is directed to establish an advisory committee for Ouachita National Forest lands in Le Flore County, Oklahoma. The Committee's purpose shall be advisory in nature and the Committee shall provide information and recommendations to the Secretary regarding the operation of the Ouachita National Forest in Le Flore County. The Committee shall be composed of representatives from the local area in which the Ouachita National Forest is located equally divided among conservation, timber, fish and wildlife, tourism and recreation, and economic development interests.

(Pub. L. 100–499, § 14, Oct. 18, 1988, 102 Stat. 2497.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in text, is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to

the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 460vv–13. Planning

(a) Forest management plan

The Secretary shall amend the Ouachita National Forest land and resource management plan to include provisions regarding the wilderness areas, the botanical areas, the national recreation area, the national scenic and wildlife area, and the national scenic area designated by this subchapter. The amendment shall further the purposes for these areas as specified in this subchapter and shall be developed in accordance with the provisions of the National Forest Management Act, including provisions for public involvement. The Secretary shall consult with the local advisory committee established under section 460vv–12 of this title regarding the development and implementation of the amendment required under this subsection.

(b) Tourism and recreation

The plan shall include a section with provisions to promote tourism and recreation in ways consistent with the purposes for which the wilderness areas, the botanical areas, the national recreation area, the national scenic and wildlife area and the national scenic area are designated.

(c) Local advisory group

No later than 90 days after October 18, 1988, the Secretary shall designate a special advisory group from the local area in which the Ouachita National Forest is located to assist in the preparation of the tourism and recreation section of the amendment as required under subsection (b) of this section. The Secretary shall request the group to submit to the Secretary, within 12 months after its designation as an advisory group, a draft for such section. No later than 90 days after receiving such draft, the Secretary shall make any revisions and provide them to the group for review. The Secretary shall allow at least 60 days for the group to submit to the Secretary its comments on the revisions. The Secretary shall attempt to resolve any differences prior to his approval or disapproval of the amendment to the forest plan.

(d) Authorization of appropriations

There are hereby authorized to be appropriated not to exceed $15,000,000 for tourism and recreation improvements related to the Winding Stair Mountain National Recreation and Wilderness Area in Ouachita National Forest in Le Flore County, Oklahoma.

(e) Implementation

The Secretary is authorized and encouraged to seek local nonprofit entities and the private sector for development of tourism and recreation initiatives in implementing the tourism and recreation section of the plan.

(Pub. L. 100–499, § 15, Oct. 18, 1988, 102 Stat. 2498.)

REFERENCES IN TEXT

The National Forest Management Act, referred to in subsec. (a), probably means the National Forest Management Act of 1976, Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

TERMINATION OF ADVISORY GROUPS

Advisory groups established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a group established by the President or an officer of the Federal Government, such group is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a group established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 460vv–14. Fire, insect, and disease

Nothing in this subchapter shall preclude the Secretary of Agriculture from carrying out such measures in the recreation area, the national scenic and wildlife area, the national scenic area, or in the botanical areas established by this subchapter as the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease or for public health and safety. As provided in section 1133(d)(1) of this title, the Secretary may take such measures as may be necessary to control fire, insects, and diseases within the wilderness areas designated by this subchapter.

(Pub. L. 100–499, § 16, Oct. 18, 1988, 102 Stat. 2498.)

§ 460vv–15. Grazing

Subject to such limitations, conditions, or regulations as he may prescribe, the Secretary of Agriculture shall permit grazing on lands within the Ouachita National Forest, Le Flore County, Oklahoma.

(Pub. L. 100–499, § 17, Oct. 18, 1988, 102 Stat. 2499.)

§ 460vv–16. Fishing and wildlife

Nothing in this subchapter shall be construed as affecting the jurisdiction or responsibilities of the State with respect to wildlife and fish in the areas designated by this subchapter.

(Pub. L. 100–499, § 18, Oct. 18, 1988, 102 Stat. 2499.)

§ 460vv–17. Permits

The Secretary shall cooperate with other Federal agencies, with State and local public agencies and bodies, and with private individuals and organizations in the issuance of permits for facilities, services, and recreational facilities in the Winding Stair Mountain National Recreation and Wilderness Area. In issuing such permits, the Secretary is authorized and encouraged to consider local nonprofit entities and the private sector.

(Pub. L. 100–499, § 19, Oct. 18, 1988, 102 Stat. 2499.)

§ 460vv–18. Land acquisition

(a) Authority

The Secretary of Agriculture is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, any lands or interests therein, which the Secretary determines are needed to establish and manage the Winding Stair Mountain National Recreation and Wilderness Area.

(b) Offers

In exercising the authority conferred by this section to acquire lands, the Secretary of Agriculture shall give prompt and careful consideration to any offer made by an individual owning any land, or interest in land, within the Winding Stair Mountain National Recreation and Wilderness Area. In considering any such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property.

(c) Additional facilities

The Secretary of Agriculture may acquire sites at locations outside such boundaries of the Winding Stair Mountain National Recreation and Wilderness Area, as he determines necessary, for visitor orientation and the establishment of a lodge and additional facilities to enhance the quality of the area.

(d) Additional lands

Notwithstanding the limitations contained in section 460*l*–9(a)(1) of this title, the Secretary of Agriculture may acquire by purchase, exchange, donation or otherwise any right, title, and interest in lands in Le Flore County, Oklahoma, which are outside the boundaries of the Ouachita National Forest. No such right, title or interest may be acquired without the consent of the owner thereof. All lands and interests therein acquired under this subsection shall be administered by the Secretary of Agriculture in accordance with the Act of March 1, 1911, commonly referred to as the Weeks Act (36 Stat. 961) and in accordance with the laws, rules, and regulations generally applicable to units of the national forest system. The Secretary of Agriculture shall extend the boundaries of the Ouachita National Forest to include such lands.

(Pub. L. 100–499, § 20, Oct. 18, 1988, 102 Stat. 2499.)

REFERENCES IN TEXT

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

§ 460vv–19. Acreages

The acreage specified in this subchapter is approximate and in the event of discrepancies between cited acreage and the lands depicted on reference maps, the maps shall control.

(Pub. L. 100–499, § 21, Oct. 18, 1988, 102 Stat. 2500.)

SUBCHAPTER CVIII—GAULEY RIVER NATIONAL RECREATION AREA

§ 460ww. Establishment

(a) In general

In order to protect and preserve the scenic, recreational, geological, and fish and wildlife resources of the Gauley River and its tributary, the Meadow River, there is hereby established the Gauley River National Recreation Area (hereinafter in this Act referrred[1] to as the ''recreation area'').

(b) Area included

The recreation area shall consist of the land, waters, and interests therein generally depicted on the boundary map entitled ''Gauley River National Recreation Area'', numbered NRA–GR/20,000A and dated July 1987 and on the boundary map depicting the Meadow River, numbered WSR–MEA/20,000A and dated July 1988. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(c) Boundary modifications

Within five years after October 26, 1988, the Secretary of the Interior (hereinafter in this subchapter referred to as the ''Secretary'') shall submit to the Committee on Natural Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a report containing any boundary modifications which the Secretary recommends, together with the reasons therefor.

(Pub. L. 100–534, title II, § 201, Oct. 26, 1988, 102 Stat. 2702; Pub. L. 103–437, § 6(d)(21), Nov. 2, 1994, 108 Stat. 4584.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 100–534, Oct. 26, 1988, 102 Stat. 2699, known as the West Virginia National Interest River Conservation Act of 1987, which enacted this subchapter and sections 460m–26 to 460m–29 of this title, amended sections 460m–15 and 1274 of this title, and enacted provisions set out as notes under sections 460m–15 and 1274 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 460m–15 of this title and Tables.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 460ww–1. Administration

(a) In general

The recreation area shall be administered by the Secretary in accordance with this Act and with the provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title.

(b) Hunting and fishing; fish stocking

The Secretary shall permit hunting, trapping and fishing on lands and waters within the recreation area in accordance with applicable Federal and State laws. The Secretary may,

[1] So in original. Should be ''referred''.

after consultation with the State of West Virginia Department of Natural Resources, designate zones where, and establish periods when, such activities will not be permitted for reasons of public safety, administration, fish and wildlife habitat or public use and enjoyment subject to such terms and conditions as he deems necessary in the furtherance of this Act. The Secretary shall permit the State of West Virginia to undertake or continue fish stocking activities carried out by the State in consultation with the Secretary on waters within the boundaries of the recreation area. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of West Virginia with respect to fish and wildlife[1]

(c) Cooperative agreements with State

In administering the recreation area the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(d) Application of other provisions

The provisions of section 1278(a) of this title,[2] shall apply to the recreation area in the same manner and to the same extent as such provisions apply to river segments referred to in such provisions.

(e) Recreational access

(1) Existing public roads

The Secretary may enter into a cooperative agreement with the State of West Virginia under which the Secretary shall be authorized to maintain and improve existing public roads and public rights-of-way within the boundaries of the national recreation area to the extent necessary to facilitate and improve reasonable access to the recreation area at existing access points where such actions would not unreasonably diminish the scenic and natural values of the area.

(2) Facilities adjacent to dam

In order to accommodate visitation to the recreation area, the Secretary shall construct such facilities as necessary to enhance and improve access, vehicle parking and related facilities, and provide river access for whitewater recreation and for other recreational activities, immediately downstream of the Summersville Dam, to the extent that such facilities are not provided pursuant to section 460ww–4 of this title and such facilities are within the boundaries of the recreation area. Such construction shall be subject to the memorandum of understanding referred to in subsection (f) of this section.

(3) Other locations

In addition, in order to provide reasonable public access and vehicle parking for public use and enjoyment of the recreation area, consistent with the preservation and enhancement of the natural and scenic values of the recreation area, the Secretary may, with the consent of the owner thereof, acquire such lands and interests in lands to construct such parking and related facilities at other appropriate locations outside the boundaries of, but within one mile of the recreation area as may be necessary and appropriate. Any such lands shall be managed in accordance with the management provisions for the recreation area as defined in subsection (a) of this section.

(4) Access to river

(A) In order to facilitate public safety, use, and enjoyment of the recreation area, and to protect, to the maximum extent feasible, the scenic and natural resources of the area, the Secretary is authorized and directed to acquire such lands or interests in lands and to take such actions as are necessary to provide access by noncommercial entities on the north side of the Gauley River at the area known as Woods Ferry utilizing existing roads and rights-of-way. Such actions by the Secretary shall include the construction of parking and related facilities in the vicinity of Woods Ferry for noncommercial use on lands acquired pursuant to paragraph (3) or on lands acquired with the consent of the owner thereof within the boundaries of the recreation area.

(B) If necessary, in the discretion of the Secretary, in order to minimize environmental impacts, including visual impacts, within portions of the recreation area immediately adjacent to the river, the Secretary may, by contract or otherwise, provide transportation services for noncommercial visitors, at reasonable cost, between such parking facilities and the river.

(C) Nothing in subparagraph (A) shall affect the rights of any person to continue to utilize, pursuant to a lease in effect on April 1, 1993, any right of way acquired pursuant to such lease which authorizes such person to use an existing road referred to in subparagraph (A). Except as provided under paragraph (2) relating to access immediately downstream of the Summersville project, until there is compliance with this paragraph the Secretary is prohibited from acquiring or developing any other river access points within the recreation area.

(f) Properties and facilities of Federal agencies

After consultation with any other Federal agency managing lands and waters within or contiguous to the recreation area, the Secretary shall enter into a memorandum of understanding with such other Federal agency to identify those areas within the recreation area which are (1) under the administrative jurisdiction of such other agency; (2) directly related to the operation of the Summersville project; and (3) essential to the operation of such project. The memorandum of understanding shall also include provisions regarding the management of all such lands and waters in a manner consistent with the operation of such project and the management of the recreation area.

(Pub. L. 100–534, title II, § 202, Oct. 26, 1988, 102 Stat. 2702; Pub. L. 104–333, div. I, title IV, § 406(c)(2), Nov. 12, 1996, 110 Stat. 4150.)

[1] So in original. Probably should be followed by a period.

[2] So in original. The comma probably should not appear.

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b), is Pub. L. 100–534, Oct. 26, 1988, 102 Stat. 2699, known as the West Virginia National Interest River Conservation Act of 1987, which enacted this subchapter and sections 460m–26 to 460m–29 of this title, amended sections 460m–15 and 1274 of this title, and enacted provisions set out as notes under sections 460m–15 and 1274 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 460m–15 of this title and Tables.

AMENDMENTS

1996—Subsec. (e)(4). Pub. L. 104–333 added par. (4).

§ 460ww–2. Miscellaneous

(a) Lands and waters

The Secretary may acquire lands or interests in lands within the boundaries of the recreation area by donation, purchase with donated or appropriated funds, or exchange. When any tract of land is only partly within such boundaries, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs.

(b) Jurisdiction

Lands, waters and interests therein within the recreation area which are administered by any other agency of the United States and which are not identified under section 460ww–1 of this title as directly related to the Summersville project and essential to the operation of that project shall be transferred without reimbursement to the administrative jurisdiction of the Secretary.

(c) Protection of existing project

Nothing in this Act shall impair or affect the requirements of section 1102 of Public Law 99–662 or otherwise affect the authorities of any department or agency of the United States to carry out the project purposes of the Summersville project, including recreation. In releasing water from such project, in order to protect public health and safety and to provide for enjoyment of the resources within the recreation area, other departments and agencies of the United States shall cooperate with the Secretary to facilitate and enhance whitewater recreational use and other recreational use of the recreation area.

(Pub. L. 100–534, title II, § 203, Oct. 26, 1988, 102 Stat. 2704.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is Pub. L. 100–534, Oct. 26, 1988, 102 Stat. 2699, known as the West Virginia National Interest River Conservation Act of 1987, which enacted this subchapter and sections 460m–26 to 460m–29 of this title, amended sections 460m–15 and 1274 of this title, and enacted provisions set out as notes under sections 460m–15 and 1274 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 460m–15 of this title and Tables.

Section 1102 of Public Law 99–662, referred to in subsec. (c), is section 1102 of Pub. L. 99–662, title XI, Nov. 17, 1986, 100 Stat. 4225, which is not classified to the Code.

§ 460ww–3. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purpose of this subchapter.

(Pub. L. 100–534, title II, § 204, Oct. 26, 1988, 102 Stat. 2704.)

§ 460ww–4. Special conditions

(a) New project construction

If, after October 26, 1988, any department, agency, instrumentality or person commences construction of any dam, water conduit, reservoir, powerhouse, transmission line or other project at or in conjunction with the Summersville project, the department, agency, instrumentality or other person which constructs or operates such new project shall comply with such terms and conditions as the Secretary deems necessary, in his discretion, to protect the resources of the recreation area, including such terms and conditions as the Secretary deems necessary to ensure that such new project will not adversely affect whitewater recreation and other recreation activities during or after project construction.

(b) Adverse effects on recreation area

If any such new project referred to in subsection (a) of this section will create a direct, physical, adverse effect on access to the recreation area immediately downstream of the Summersville Dam during or after project construction, including vehicle parking, related facilities, and river access for whitewater recreation and other recreational use of the recreation area, the department, agency, instrumentality or person constructing such project shall replace and enhance the adversely affected facilities in such manner as may be appropriate to accommodate visitation, as determined by the Secretary.

(c) New project permits

The terms and conditions referred to in this section shall be included in any license, permit, or exemption issued for any such new project. Any such new project shall be subject to all provisions of this Act, including section 460ww–1(d) of this title, except that during the four-year period after October 26, 1988, nothing in this Act shall prohibit the licensing of a project adjacent to Summersville Dam as proposed by the city of Summersville, or by any competing project applicant with a permit or license application on file as of August 8, 1988, if such project complies with this section. If such project is licensed within such four-year period, the Secretary shall modify the boundary map referred to in section 460ww of this title to relocate the upstream boundary of the recreation area along a line perpendicular to the river crossing the point five hundred and fifty feet downstream of the existing valve house and one thousand two hundred feet (measured along the river bank) upstream of United States Geological Survey Gauge Numbered 03189600, except in making the modification the Secretary shall maintain within the boundary of the recreation area those lands identified in the boundary map referred to in section 460ww of this title which are not necessary to the operation of such project. If project construction is not commenced within the time required in such license, or if such license is surrendered at any time, such boundary modification shall cease to have any force and effect.

(Pub. L. 100–534, title II, § 205, Oct. 26, 1988, 102 Stat. 2704; Pub. L. 104–333, div. I, title IV, § 406(c)(1), Nov. 12, 1996, 110 Stat. 4150.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is Pub. L. 100–534, Oct. 26, 1988, 102 Stat. 2699, known as the West Virginia National Interest River Conservation Act of 1987, which enacted this subchapter and sections 460m–26 to 460m–29 of this title, amended sections 460m–15 and 1274 of this title, and enacted provisions set out as notes under sections 460m–15 and 1274 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 460m–15 of this title and Tables.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–333 inserted at end ''If project construction is not commenced within the time required in such license, or if such license is surrendered at any time, such boundary modification shall cease to have any force and effect.''

§ 460ww–5. Advisory Committee

(a) Establishment

There is hereby established the Gauley River National Recreation Area Advisory Committee (hereinafter in this Act referred to as the ''Advisory Committee''). The Advisory Committee shall be composed of fifteen members appointed by the Secretary to serve for terms of two years. Any member of the Advisory Committee may serve after the expiration of his term until a successor is appointed. Any member of the Advisory Committee may be appointed to serve more than one term. The Secretary or his designee shall serve as Chairman.

(b) Management and development issues

The Secretary, or his designee, shall meet on a regular basis and consult with the Advisory Committee on matters relating to development of a management plan for the recreation area and on implementation of such plan.

(c) Expenses

Members of the Advisory Committee shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

(d) Membership

The Secretary shall appoint members to the Advisory Committee as follows:

(1) one member to represent other departments or agencies of the United States administering lands affected by the recreation area, to be appointed from among persons nominated by the head of such department or agency;

(2) two members to represent the State Department of Natural Resources, to be appointed from among persons nominated by the Governor of the State of West Virginia;

(3) one member to represent the State Department of Commerce to be appointed from among persons nominated by the Governor of West Virginia;

(4) three members to represent the commercial whitewater rafting industry in West Virginia;

(5) one member to represent noncommercial whitewater boating organizations;

(6) one member to represent conservation organizations in West Virginia;

(7) one member to represent individuals engaged in game fishing in West Virginia;

(8) one member to represent the Nicholas County Chamber of Commerce;

(9) one member to represent the Fayette County Chamber of Commerce;

(10) one member to represent recreational users of Summersville Lake; and

(11) two members to represent local citizens or citizens groups which are concerned with the Gauley River or own lands included within the boundaries of the recreation area.

(e) Termination; charter

The Advisory Committee shall terminate on the date ten years after October 26, 1988, notwithstanding the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776). The provisions of section 14(b) of such Act (relating to the charter of the Committee) are hereby waived with respect to this Advisory Committee.

(Pub. L. 100–534, title II, § 206, Oct. 26, 1988, 102 Stat. 2705.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (c), is Pub. L. 100–534, Oct. 26, 1988, 102 Stat. 2699, known as the West Virginia National Interest River Conservation Act of 1987, which enacted this subchapter and sections 460m–26 to 460m–29 of this title, amended sections 460m–15 and 1274 of this title, and enacted provisions set out as notes under sections 460m–15 and 1274 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 460m–15 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (e), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER CIX—SAN PEDRO RIPARIAN NATIONAL CONSERVATION AREA

§ 460xx. Establishment

(a) In general

In order to protect the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the public lands surrounding the San Pedro River in Cochise County, Arizona, there is hereby established the San Pedro Riparian National Conservation Area (hereafter in this subchapter referred to as the ''conservation area'').

(b) Area included

The conservation area shall consist of public lands as generally depicted on a map entitled ''San Pedro Riparian National Conservation Area—Proposed'' numbered AZ–040–OZ, dated January 1988, and consisting of approximately 56,431 acres.

(c) Map

As soon as is practicable after November 18, 1988, a map and legal description of the conservation area shall be filed by the Secretary of the Interior (hereafter in this subchapter referred to as the ''Secretary'') with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on En-

ergy and Natural Resources of the United States Senate. Each such map shall have the same force and effect as if included in this subchapter. Such map shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior, and in the Bureau of Land Management offices of the State Director for Arizona, and the district office responsible for the management of the conservation area.

(Pub. L. 100–696, title I, §101, Nov. 18, 1988, 102 Stat. 4571.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

SHORT TITLE

Section 1 of Pub. L. 100–696 provided: ''That this Act [enacting this section, sections 460xx–1 to 460xx–6, 460yy, 460yy–1, 460zz to 460zz–11 of this title, sections 2081 to 2086, 2101 to 2106, 2121, and 2122 of Title 2, The Congress, and section 640d–31 of Title 25, Indians, amending sections 2101, 2102, and 2106 of Title 2 and section 640d–11 of Title 25, and enacting provisions set out as notes under section 431 of this title and section 2101 of Title 2] be cited as the 'Arizona-Idaho Conservation Act of 1988'.''

§ 460xx–1. Management

(a) General authorities

The Secretary shall manage the conservation area in a manner that conserves, protects, and enhances the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the conservation area. Such management shall be guided by this subchapter and, where not inconsistent with this subchapter, by the provisions of the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701 et seq.] (hereinafter in this subchapter referred to as ''FLPMA'').

(b) Uses

The Secretary shall only allow such uses of the conservation area as he finds will further the primary purposes for which the conservation area is established. Except where needed for administrative or emergency purposes, the use of motorized vehicles in the conservation area shall only be allowed on roads specifically designated for such use as part of the management plan prepared pursuant to section 460xx–2 of this title. The Secretary shall have the power to implement such reasonable limits to visitation and use of the conservation area as he finds appropriate for the protection of the resources of the conservation area, including requiring permits for public use, or closing portions of the conservation area to public use.

(c) Withdrawals

Subject to valid existing rights, all Federal lands within the conservation area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto.

(d) Water rights

Congress reserves for the purposes of this reservation, a quantity of water sufficient to fulfill the purposes of the San Pedro Riparian National Conservation Area created by this subchapter. The priority date of such reserve rights shall be November 18, 1988. The Secretary shall file a claim for the quantification of such rights in an appropriate stream adjudication.

(e) Enforcement

Any person who violates any provision of this subchapter or any regulation promulgated by the Secretary to implement this subchapter shall be subject to a fine of up to $10,000, or imprisonment for up to one year, or both.

(Pub. L. 100–696, title I, §102, Nov. 18, 1988, 102 Stat. 4571.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (a), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to chapter 35 (§1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

§ 460xx–2. Management plan

(a) Development of plan

No later than 2 years after November 18, 1988, the Secretary shall develop a comprehensive plan for the long-range management and protection of the conservation area. The plan shall be developed with full opportunity for public participation and comment, and shall contain provisions designed to assure protection of the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreation resources and values of the conservation area.

(b) Recommendations

The Secretary shall, in the comprehensive plan referred to in subsection (a) of this section, develop recommendations to Congress on whether additional lands should be included in the conservation area.

(c) Cooperative agreements

The Secretary may enter into cooperative agreements with appropriate State and local agencies, pursuant to section 1737(b) of title 43, to better implement the plan developed pursuant to subsection (a) of this section.

(d) Research

In order to assist in the development of appropriate management strategies for the conservation area, the Secretary may authorize research on matters including the environmental, biological, hydrological, and cultural resources of the conservation area, pursuant to section 1737(a) of title 43.

(Pub. L. 100–696, title I, §103, Nov. 18, 1988, 102 Stat. 4572.)

§ 460xx–3. Advisory Committee

(a) Establishment

The Secretary shall establish a San Pedro Riparian National Conservation Area Advisory

Committee, whose purpose shall be to advise the Secretary with respect to the preparation and implementation of the comprehensive, long-range plan required pursuant to section 460xx–2 of this title.

(b) Representation

There shall be 7 members of the Committee, who shall be appointed by the Secretary. Members of the Committee shall be appointed for terms of three years, except that of the members first appointed 2 shall be appointed for terms of 1 year and 3 shall be appointed for terms of 2 years. The Secretary shall appoint one member from nominations supplied by the Governor of the State of Arizona, and one member from nominations supplied by the Supervisors of Cochise County, Arizona. The other members shall be persons with recognized backgrounds in wildlife conservation, riparian ecology, archeology, paleontology, or other disciplines directly related to the primary purposes for which the conservation area was created.

(Pub. L. 100–696, title I, §104, Nov. 18, 1988, 102 Stat. 4572.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 460xx–4. Land acquisition

The Secretary may acquire lands or interests in lands within the boundaries of the conservation area by exchange, purchase, or donation, except that any lands or interests therein owned by the State or local government may be acquired by donation or exchange only. Any purchase or exchange of lands to be added to the conservation area shall require the consent of the owner of those lands or rights.

(Pub. L. 100–696, title I, §105, Nov. 18, 1988, 102 Stat. 4573.)

§ 460xx–5. Report to Congress

No later than five years after November 18, 1988, and every ten years thereafter, the Secretary shall report to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, on the implementation of this subchapter. Such report shall include a detailed statement on the condition of the resources within the conservation area and of the progress of the Bureau of Land Management in achieving the purposes of this subchapter.

(Pub. L. 100–696, title I, §106, Nov. 18, 1988, 102 Stat. 4573; Pub. L. 103–437, §6(d)(22), Nov. 2, 1994, 108 Stat. 4584.)

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 460xx–6. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 100–696, title I, §107, Nov. 18, 1988, 102 Stat. 4573.)

SUBCHAPTER CX—CITY OF ROCKS NATIONAL RESERVE

§ 460yy. Establishment

(a) In general

There is hereby established the City of Rocks National Reserve (hereinafter referred to as the ''reserve''), in order to preserve and protect the significant historical and cultural resources; to manage recreational use; to protect and maintain scenic quality; and to interpret the nationally significant values of the reserve.

(b) Area included

The reserve shall include approximately fourteen thousand three hundred and twenty acres as depicted on the map entitled ''Boundary Map, City of Rocks National Reserve, Idaho'' numbered P30–80,005 and dated October 1987. The map shall be on file in the offices of the National Park Service, Department of the Interior and the Offices of the Governor, State of Idaho.

(c) Legal description

Within six months after November 18, 1988, the Secretary of the Interior (hereinafter in this subchapter referred to as the ''Secretary'') shall file a legal description of the reserve designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this subchapter, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (b) of this section. The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior and the offices of the Governor of the State of Idaho.

(Pub. L. 100–696, title II, §201, Nov. 18, 1988, 102 Stat. 4573.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460yy–1. Plan and management

(a) Development of plan

To achieve the purpose of this subchapter, the Secretary, acting through the National Park Service, in cooperation with appropriate State and Federal agencies, local units of government and local residents shall formulate a comprehensive plan for the protection, preservation, and interpretation of the reserve. The plan shall identify those areas or zones within the reserve which would most appropriately be devoted to—

(1) public use and development;

(2) historic and natural preservation; and

(3) private use subject to appropriate local ordinances designed to protect the historic rural setting.

(b) Transmittal of plan to Congress and State

Within eighteen months following November 18, 1988, the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives and to the Governor of the State of Idaho.

(c) Transfer of management and administration to State or local units of government

At such time as the State or appropriate units of local government having jurisdiction over land use within the reserve have enacted ordinances or established regulations which in the judgment of the Secretary will protect and preserve the historic and natural features of the area in accordance with the comprehensive plan, the Secretary shall, pursuant to cooperative agreement—

(1) transfer management and administration over all or any part of the property acquired under subsection (d) of this section to the State or appropriate units of local government;

(2) provide technical assistance to such State or units of local government in the management, protection, and interpretation of the reserve; and

(3) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to such State or local unit of government to carry out the purposes of this subchapter.

(d) Acquisition of land

(1) The Secretary is authorized to acquire such lands and interests as he determines are necessary to accomplish the purposes of this subchapter by donation, purchase with donated funds, or appropriated funds, or exchange, except that the Secretary may not acquire the fee simple title to any land without the consent of the owner. The Secretary shall, in addition, give prompt and careful consideration to any offer made by an individual owning property within the reserve to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

(2) Lands and waters, and interests therein, within the boundaries of the reserve which were administered by the Forest Service, United States Department of Agriculture or the Bureau of Land Management, Department of the Interior prior to November 18, 1988, are hereby transferred to the administrative jurisdiction of the Secretary to be administered by the National Park Service in accordance with this subchapter.

(3) Lands and interest therein so acquired shall, so long as responsibility for management and administration remains with the United States, be administered by the Secretary subject to the provisions of sections 1, 2, 3, and 4 of this title, and in a manner consistent with the purpose of this subchapter.

(e) Withdrawal of management and administration from State or local units of government

If, after the transfer of management and administration of any lands pursuant to subsection (c) of this section, the Secretary determines that the reserve is not being managed in a manner consistent with the purposes of this subchapter, he shall so notify the appropriate officers of the State or local unit of government to which such transfer was made and provide for a one hundred and eighty-day period in which the transferee may make such modifications in applicable laws, ordinances, rules, and procedures as will be consistent with such purposes. If, upon the expiration of such one hundred and eighty-day period, the Secretary determines that such modifications have not been made or are inadequate, he shall withdraw the management and administration from the transferee and he shall manage such lands in accordance with the provisions of this subchapter.

(f) Water rights

Congress finds that there are unique circumstances with respect to the water and water related resources within the Reserve[1] designated by this subchapter. The Congress recognizes that the management of this area may be transferred to the State of Idaho, that the State has committed to providing the water necessary to fulfill the purposes of this subchapter, and that there is little or no water or water-related resources that require the protection of a Federal reserved water right. Nothing in this subchapter, nor any action taken pursuant thereto, shall constitute either an express or implied reservation of water or water right for any purpose: *Provided*, That the United States shall retain that reserved water right which is associated with the initial establishment and withdrawal of the national forest lands which will be transferred to the Reserve[1] under this subchapter.

(g) Withdrawal of lands from disposition under other laws

Subject to valid existing rights, Federal lands and interests therein, within the reserve, are hereby withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970, as amended [30 U.S.C. 1001 et seq.].

(h) Authorization of appropriations

There is hereby authorized to be appropriated not to exceed $2,000,000 to carry out the provisions of this subchapter.

(Pub. L. 100–696, title II, § 202, Nov. 18, 1988, 102 Stat. 4574.)

REFERENCES IN TEXT

The Geothermal Steam Act of 1970, referred to in subsec. (g), is Pub. L. 91–581, Dec. 24, 1970, 84 Stat. 1566, which is classified generally to chapter 23 (§ 1001 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 30 and Tables.

[1] So in original. Probably should not be capitalized.

PERMISSION TO HUNT ON RESERVE; RESTRICTIONS

Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1923, provided that: ''with respect to lands and waters under the jurisdiction of the Secretary of the Interior within the City of Rocks National Reserve established by title II of Public Law 100–696 [enacting sections 460yy and 460yy–1 of this title], the Secretary shall hereafter permit hunting in accordance with the otherwise applicable laws of the United States and the State of Idaho, except that he may designate zones where and periods when no hunting may be permitted for reasons of public safety, administration, floral and faunal protection and management, or public use and enjoyment: *Provided further*, That except in emergencies, any regulation prescribing such restrictions shall be put into effect only after consultation with the appropriate State agency having jurisdiction over hunting activities''.

SUBCHAPTER CXI—MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

PART A—MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

§ 460zz. Findings and purposes

(a) Findings

The Congress finds that:

(1) The Mississippi River Corridor within the Saint Paul-Minneapolis Metropolitan Area represents a nationally significant historical, recreational, scenic, cultural, natural, economic, and scientific resource.

(2) There is a national interest in the preservation, protection and enhancement of these resources for the benefit of the people of the United States.

(3) State and local planning efforts along the River Corridor provide a unique foundation for coordinating Federal, State, and local planning and management processes.

(4) Existing Federal agency programs lack sufficient coordination and financial participation with State and local planning and regulatory authorities to provide for adequate and comprehensive resource management and economic development consistent with the protection of the Mississippi River Corridor's nationally significant resources, and the public use and enjoyment of the area.

(5) The preservation, enhancement, enjoyment, and utilization of the nationally significant resources of the Mississippi River Corridor can be accomplished by a cooperative Federal, State, and local comprehensive planning and management effort.

(b) Purposes

The purposes of this part are:

(1) To protect, preserve and enhance the significant values of the waters and land of the Mississippi River Corridor within the Saint Paul-Minneapolis Metropolitan Area.

(2) To encourage adequate coordination of all governmental programs affecting the land and water resources of the Mississippi River Corridor.

(3) To provide a management framework to assist the State of Minnesota and its units of local government in the development and implementation of integrated resource management programs for the Mississippi River Corridor in order to assure orderly public and private development in the area consistent with the findings of this part.

(Pub. L. 100–696, title VII, § 701, Nov. 18, 1988, 102 Stat. 4599.)

§ 460zz–1. Establishment

(a) In general

There is hereby established the Mississippi National River and Recreation Area (hereinafter in this subchapter referred to as the ''Area'') which shall consist of the State designated Mississippi Critical Area encompassing that portion of the Mississippi River and adjacent lands generally within the Saint Paul-Minneapolis Metropolitan Area, as depicted on the map entitled Mississippi National River and Recreation Area numbered MI–NRA/80,000 and dated April 1987. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, District of Columbia, and in the offices of the Metropolitan Council of the Twin Cities Area in Saint Paul, Minnesota.

(b) Boundaries

The Secretary of the Interior (hereinafter referred to as the ''Secretary'') shall publish in the Federal Register, as soon as practicable after November 18, 1988, a detailed description and map of the boundaries established under subsection (a) of this section.

(Pub. L. 100–696, title VII, § 702, Nov. 18, 1988, 102 Stat. 4600.)

§ 460zz–2. Mississippi River Coordinating Commission

(a) Establishment

There is hereby established a Mississippi River Coordinating Commission whose purpose shall be to assist Federal, State, and local authorities in the development and implementation of an integrated resource management plan for those lands and waters as specified in section 460zz–1 of this title. The Commission shall consist of the following 22 members appointed by the Secretary of the Interior:

(1) The Director of the National Park Service, or his designee.

(2) The Chief of the Corps of Engineers, or his designee.

(3) The Director of the Fish and Wildlife Service, or his designee.

(4) Three individuals, from recommendations by the Governor of Minnesota, to represent the Minnesota Department of Natural Resources, Department of Transportation, and Minnesota Environmental Quality Board.

(5) One individual, to represent the Minnesota Historical Society.

(6) One individual, to represent the Metropolitan Council of the Twin Cities Area.

(7) Four elected officials, to represent the cities of Saint Paul and Minneapolis.

(8) Four elected officials, from recommendations by the Governor of Minnesota, to represent the interests of the other affected municipalities and counties.

(9) One individual, to represent the Metropolitan Parks and Open Spaces Commission.

(10) One individual, from recommendations by the Governor of Minnesota, to represent the interests of commercial navigation.

(11) Four individuals, from recommendations by the Governor of Minnesota, to be chosen from the general public.

(b) Terms

(1) Except as provided in paragraphs (2) and (3), members (other than ex officio members) shall be appointed for terms of three years.

(2) Of the members first appointed—

(A) Under paragraph (4) of subsection (a) of this section:

(i) One shall be appointed for a term of one year.

(ii) One shall be appointed for a term of two years.

(B) Under paragraphs (7) and (8) of subsection (a) of this section, one shall be appointed for a term of one year.

(C) Under paragraph (11) of subsection (a) of this section:

(i) One shall be appointed for a term of one year.

(ii) One shall be appointed for a term of two years.

(iii) One shall be appointed for a term of four years.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(c) Compensation

Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5.

(d) Chairperson

The Chairperson of the Commission shall be appointed by the Secretary from among the members of the Commission nominated by the Governor of Minnesota and shall serve for a term of three years.

(e) Quorum

Twelve members of the Commission shall constitute a quorum.

(f) Meetings

The Commission shall meet at the call of the Chairman[1] or a majority of its members.

(g) Development of policies and programs

As a coordinator and advisory organization, the Commission shall assist the Secretary, the State of Minnesota and local units of government, endeavoring to use existing Federal, State, regional, and local plans and programs where consistent with the intent and goals of this part, in developing the following:

(1) Policies and programs for the preservation and enhancement of the environmental values of the Area.

(2) Policies and programs for enhanced public outdoor recreation opportunities in the Area.

(3) Policies and programs for the conservation and protection of the scenic, historical, cultural, natural and scientific values of the Area.

(4) Policies and programs for the commercial utilization of the Area and its related natural resources, consistent with the protection of the values for which the Area is established as the Mississippi National River and Recreation Area.

(h) Staff

The Secretary shall provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties. Upon request of the Secretary, any Federal agency may provide information, personnel, property, and services on a reimbursable basis, to the Commission to assist in carrying out its duties under this part. The Secretary may accept the services of personnel detailed from the State of Minnesota or any political subdivision of the State and may reimburse the State or such political subdivision for such services. The Commission may procure temporary and intermittent services under section 3109(b) of title 5.

(i) Plan

Within 3 years after appointment of the full membership of the Commission, the Commission shall submit to the Secretary and the Governor of Minnesota a comprehensive plan for land and water use measures for the area to be developed and implemented by the responsible Federal agencies, the State of Minnesota, and local political subdivisions. The plan shall endeavor to use existing Federal, State, regional, and local plans and where consistent with the intent and goals of this part shall coordinate those plans to present a unified comprehensive plan for the Area. The plan shall include but not be limited to each of the following:

(1) A program for management of existing and future land and water use which—

(A) considers and details the application of a variety of land and water protection and management techniques;

(B) includes a policy statement for the use of Federal, State, and local regulatory responsibilities to manage land and water resources in a manner consistent with the purposes of this part; and

(C) recognizes existing economic activities within the area[2] and provides for the management of such activities, including barge transportation and fleeting and those indigenous industries and commercial and residential developments which are consistent with the findings and purposes of this part.

(2) A program providing for coordinated implementation and administration of the plan with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, State, regional and local levels, including each of the following:

[1] So in original. Probably should be ''Chairperson''.

[2] So in original. Probably should be capitalized.

(A) Ways in which local, regional, State, and Federal policies and permits may better be coordinated to the goals and policies of this part.

(B) A financial plan to provide and support the public improvements and services recommended in the plan; and a mechanism for coordinating local, regional, State, and Federal planning to promote the purposes of this part.

(C) How the goals and policies of the management plan will be compatible with the existing channel maintenance program on the Mississippi River, and the existing Federal, State, regional, and local programs and goals on the Minnesota and Saint Croix Rivers.

(D) The provisions of the Clean Water Act [33 U.S.C. 1251 et seq.] and the Safe Drinking Water Act (title XIV of the Public Health Service Act) [42 U.S.C. 300f et seq.] which pertain to the surface waters of the Mississippi National River and Recreation Area.

(3) A coordination and consistency component which details the ways in which local, State, and Federal programs and policies may best be coordinated to promote the purposes of this part.

(4) A program for the coordination and consolidation, to the extent feasible, of permits that may be required by Federal, State, and local agencies having jurisdiction over land and waters within the Area.

(j) Development of plan

(1) In developing the plan the Commission shall consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the Area.

(2) In developing the plan the Commission shall consult with interested conservation, business, professional and citizen organizations.

(3) In developing the plan the Commission shall conduct public hearings within the Area, and at such other places as may be appropriate, for the purposes of providing interested persons with the opportunity to testify with respect to matters to be addressed by the plan.

(k) Approval of plan

The Commission shall submit the plan to the Secretary and the Governor of Minnesota, for their review. The Governor shall act on the plan within 90 days and shall submit the plan to the Secretary along with any recommendations. The Secretary shall approve or disapprove the plan within 90 days. In reviewing the plan the Secretary shall consider each of the following:

(1) The adequacy of public participation.

(2) Assurances of plan implementation from State and local officials.

(3) The adequacy of regulatory and financial tools that are in place to implement the plan.

(4) Plan provisions for continuing oversight of the plan implementation by the Secretary and the Governor of Minnesota.

If the Secretary disapproves the plan, he shall, within 60 days after the date of such disapproval advise the Governor and Commission in writing of the reasons therefor, together with his recommendations for revision. The Commission shall within 90 days of receipt of such notice of disapproval revise and resubmit the plan to the Governor for his review. Following his review, the Governor shall submit the revised plan, together with any recommendations he may have, to the Secretary who shall approve or disapprove the revision within 60 days.

(*l*) Interim program

Prior to the adoption of the Commission's plan, the Secretary and the Commission shall monitor all land and water use activities within the Area to ensure that said activities are in keeping with the purposes of this part, and shall advise and cooperate with the appropriate Federal, State, and local governmental entities to minimize adverse impacts on the values for which the Area is established.

(m) Commission review

The Commission shall assist the Secretary and the Governor of Minnesota in reviewing and monitoring the implementation of the plan by Federal, State, and local governmental agencies having jurisdiction in the Area. The Commission may, after providing, for public comment and subject to the review and approval, as set forth in subsection (k) of this section, modify said plan, if the Commission determines that such modification is necessary to further the purposes of this part.

(n) Termination of Commission

The Commission shall terminate on the date 10 years after November 18, 1988. Following termination of the Commission the State is authorized to establish a State Commission which shall exercise the functions and authorities described in subsection (m) of this section. The Secretary of the Interior and the Secretary of the Army are authorized and directed to participate as members of such State Commission.

(Pub. L. 100–696, title VII, § 703, Nov. 18, 1988, 102 Stat. 4600; Pub. L. 101–40, § 4(2), June 20, 1989, 103 Stat. 82; Pub. L. 102–525, title III, § 302, Oct. 26, 1992, 106 Stat. 3441.)

REFERENCES IN TEXT

The Clean Water Act, referred to in subsec. (i)(2)(D), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, also known as the Federal Water Pollution Control Act, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Safe Drinking Water Act, referred to in subsec. (i)(2)(D), is title XIV of act July 1, 1944, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1660, as amended, which is classified generally to subchapter XII (§ 300f et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

1992—Subsec. (i). Pub. L. 102–525 substituted ''3 years after appointment of the full membership of the Commission'' for ''3 years after November 18, 1988''.

1989—Subsec. (d). Pub. L. 101–40 substituted ''and shall serve'' for ''to serve''.

§ 460zz–3. Federal lands and developments

(a) Lands

Notwithstanding any other provision of law, any Federal property located within the boundaries of the Area as identified on the map referred to in section 460zz–1 of this title, is hereby transferred without consideration to the administrative jurisdiction of the Secretary for use by him in implementing the purposes of this part, except as follows:

(1) Facilities and lands administered by the Secretary of the Army through the Corps of Engineers for navigational and flood control purposes may continue to be used by the Secretary of the Army subject to the provisions of subsection (b) of this section.

(2) Federal property on which there is located any building or other structure which is in use (as of November 18, 1988) or for which a lease is in effect shall not be transferred under this subsection without the concurrence of the administering agency.

(b) Federal agency activities

(1) In general

Before any department, agency, or instrumentality of the United States issues or approves any license or permit for any facility or undertaking within the Area and before any such department, agency, or instrumentality commences any undertaking or provides any Federal assistance to the State or any local governmental jurisdiction for any undertaking within the Area, the department, agency, or instrumentality shall notify the Secretary. The Secretary shall review the proposed facility or undertaking to assess its compatibility with the plan approved under section 460zz–2 of this title. The Secretary shall make a determination with respect to the compatibility or incompatibility of a proposed facility or undertaking within 60 days of receiving notice under this subsection. If the Secretary determines that the proposed facility or undertaking is incompatible with the plan, he shall immediately notify such Federal department, agency, or instrumentality and request such department, agency, or instrumentality to take the actions necessary to conform the proposed facility or undertaking to the plan. The Federal department, agency, or instrumentality shall, within 60 days after receiving the Secretary's request, notify the Secretary of the specific decisions made in response to the request. To the extent that such department, agency, or instrumentality does not then conform such facility or undertaking to the request of the Secretary, the Secretary is directed to notify the Congress in writing of the incompatibility of such facility or undertaking with the plan approved under section 460zz–2 of this title.

(2) Navigation

(A) Nothing in this part shall be deemed to impact or otherwise affect such existing statutory authority as may be vested in the Secretary of the Department in which the Coast Guard is operating or the Secretary of the Army for the maintenance of navigation aids and navigation improvements: *Provided*, That in exercising such authority the Secretary of the Army, through the Corps of Engineers and the Secretary of the Department in which the Coast Guard is operating, shall not take any action that would have a direct and adverse effect on the values for which the Area is established unless such action is essential for the protection of public health or safety or is necessary for national security or defense.

(B) In planning for the development and public use of the Area, the Secretary shall consult with the Secretary of the Army to assure that public use of adjacent or related water resource developments or flood control projects and that of the Area are compatible.

(Pub. L. 100–696, title VII, § 704, Nov. 18, 1988, 102 Stat. 4604.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 460zz–4. Administration

(a) Authorities

The Secretary shall administer the Area in accordance with this part. Only those lands within the Area under the direct jurisdiction of the Secretary shall be administered in accordance with the provisions of law generally applicable to units of the National Park System. Other lands and waters within the Area shall be administered under State and local laws. In the case of any conflict between the provisions of this part and such generally applicable provisions of law, the provisions of this part shall govern.

(b) State and local authorities

The Secretary shall consult and cooperate with the State of Minnesota and its political subdivisions concerning the development and management of Federal lands within the Area.

(c) Land acquisition

Within the boundaries of the Area, the Secretary is authorized, in consultation with the State of Minnesota and the affected local governmental unit, to acquire land and interests therein by donation, purchase with donated or appropriated funds, exchange or transfer, except as provided in paragraphs (1) and (2).

(1) Any lands or interests therein owned by the State of Minnesota or any political subdivision thereof may be acquired only by donation.

(2) Privately owned lands or interests therein may be acquired only with the consent of the owner thereof unless the Secretary makes a determination pursuant to subsection (d)(2) of this section. In no event may the Secretary use the authority provided in subsection (d)(3) of this section to acquire land or interests in land without the owner's consent for any use exercised prior to January 1, 1987, that is con-

sistent with the plan under section 460zz–2 of this title.

(d) Review of local plans

(1) Authority

For the purpose of protecting the integrity of the Area the Secretary shall cooperate and consult with the State and the appropriate political subdivisions to review all relevant local plans, laws and ordinances to determine whether they substantially conform to the plan approved pursuant to section 460zz–2 of this title. Additionally the Secretary shall in consultation with the State and its political subdivisions determine the adequacy of enforcement of such plans, laws, and ordinances, including review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances. The Secretary shall enter into agreements with the State or its political subdivisions to provide, on behalf of the Secretary, professional services necessary for the review of such local plans, laws, and ordinances, and of amendments thereto and variances therefrom, and for the monitoring or the enforcement thereof by local governments having jurisdiction over any areas to which the management plan applies.

(2) Purpose

The purpose of review under paragraph (1) shall be to determine the degree to which actions by local governments are compatible with the purposes of this subchapter. Following the approval of the plan under section 460zz–2 of this title and after a reasonable period of time has elapsed, upon a finding by the Secretary that such plans, laws and ordinances are nonexistent, are otherwise not in conformance with the plan or are not being enforced in a manner consistent with the plan, and if the Secretary determines that there is no feasible alternative available to prevent uses which would be substantially incompatible with the plan, the Secretary may exercise the authority available to him under the provisions of paragraph (3).

(3) Enforcement

In those sections of the Area where local plans, laws and ordinances, or amendments thereto or variances therefrom are found by the Secretary not to be in conformance with the plan approved pursuant to section 460zz–2 of this title, or are not being enforced in a manner consistent with the plan, the Secretary shall notify the local government authority concerned. The Secretary may withhold from the local government authority concerned or, require reimbursement of, (A) Federal funds made available for implementation of the plan, or (B) any grant under section 460zz–5(a) of this title if the local plan, law, ordinance, amendment, or variance is not modified to conform with the plan and enforced in such manner as will carry out the purposes of this part. If the State has not initiated, within a 60-day period, such judicial or other action as necessary to ensure conformity with the plan, and if noncompliance with the plan or failure to enforce the plan continues after the end of such 60-day period, the Secretary may acquire, subject to appropriations, land or interests in land under this subsection without the consent of the owner thereof. Land and interests in land acquired pursuant to this subsection shall be restricted to the geographical area of the local government unit failing to conform with the plan and shall be limited to those lands clearly and directly required, in the judgment of the Secretary, for the protection of the Area in a manner compatible with the plan.

(e) Retention by owner of use and occupancy

The Secretary may permit the owner or owners of any improved residential property acquired by the Secretary under this part to retain a right of use and occupancy of the property for noncommerical[1] residential uses not incompatible with the plan approved under section 460zz–2 of this title. The provisions of subsection (c), (d), and (e) of section 460ii–1 of this title shall apply to the retention of such rights, except that for purposes of this part, the applicable date shall be January 1, 1987 in lieu of January 1, 1975 and the purposes of this part shall be substituted for the purposes referred to in section 460ii–1(d) of this title.

(Pub. L. 100–696, title VII, § 705, Nov. 18, 1988, 102 Stat. 4605; Pub. L. 101–40, § 4(1), June 20, 1989, 103 Stat. 82.)

AMENDMENTS

1989—Subsec. (a). Pub. L. 101–40 substituted ''Other'' for ''Our'' in third sentence.

§ 460zz–5. State and local assistance and jurisdiction

(a) Grants

Upon approval of the plan under section 460zz–2 of this title, the Secretary is authorized to make grants to the State of Minnesota, or its political subdivisions, to cover not more than 50 percent of the cost of acquisition and development within the Area of lands and waters or interests therein in a manner consistent with the purposes of this part.

(b) Cooperative agreements

The Secretary is authorized to enter into cooperative agreements with the State of Minnesota or any political subdivision thereof pursuant to which he may assist in the planning for and interpretation of non-Federal publicly owned lands within the Area.

(c) Technical assistance

To enable the State of Minnesota and its political subdivisions to develop and implement programs compatible with the plan, the Secretary shall provide such technical assistance to the State and its political subdivisions as he deems appropriate.

(d) State and local jurisdiction

Nothing in this part shall diminish, enlarge, or modify any right of the State of Minnesota or any political subdivision thereof, to exercise civil and criminal jurisdiction or to carry out

[1] So in original. Probably should be ''noncommercial''.

State fish and wildlife laws, rules, and regulations within the Area, or to tax persons, corporations, franchises, or private property on the lands and waters included in the Area.

(Pub. L. 100–696, title VII, § 706, Nov. 18, 1988, 102 Stat. 4607.)

§ 460zz–6. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out this part.

(Pub. L. 100–696, title VII, § 707, Nov. 18, 1988, 102 Stat. 4607.)

PART B—TRI-RIVERS MANAGEMENT

§ 460zz–11. Tri-Rivers Management Board

(a) Federal representatives

In furtherance of the integrated management of those portions of the Mississippi, Saint Croix, and Minnesota Rivers within the Saint Paul-Minneapolis Metropolitan Area, the Secretary of the Interior and the Secretary of the Army are authorized and directed to appoint representatives to a Tri-Rivers Management Board (hereinafter referred to as the ''Board''), or any similar organization, which may be established by the State of Minnesota to assist in the development and implementation of consistent and coordinated land use planning and management policy for such portions of such rivers.

(b) Personnel

Upon request of the Board, the Secretary of the Interior and the Secretary of the Army may detail, on a reimbursable basis, any personnel to the Board.

(c) Authorization of appropriations

There is hereby authorized to carry out the purposes of this part the sum of $100,000 annually; except that the Federal contribution to the Board shall not exceed one-third of the annual operating costs of the Board.

(Pub. L. 100–696, title VII, § 711, Nov. 18, 1988, 102 Stat. 4607.)

SUBCHAPTER CXII—GRAND ISLAND NATIONAL RECREATION AREA

§ 460aaa. Establishment

In order to preserve and protect for present and future generations the outstanding resources and values of Grand Island in Lake Superior, Michigan, and for the purposes of providing for the conservation, protection, and enhancement of its scenery, recreation, fish and wildlife, vegetation and historical and cultural resources, there is hereby established the Grand Island National Recreation Area (hereafter in this subchapter referred to as the ''national recreation area''). These resources and values include, but are not limited to, cliffs, caves, beaches, forested appearance, natural biological diversity, and features of early settlement.

(Pub. L. 101–292, § 1, May 17, 1990, 104 Stat. 185.)

§ 460aaa–1. Boundaries

The national recreation area shall comprise all of the Grand Island in Lake Superior, Michigan, and all associated rocks, pinnacles, and islands and islets within one-quarter mile of the shore of Grand Island. The boundaries of the Hiawatha National Forest are hereby extended to include all of the lands within the national recreation area. All such extended boundaries shall be deemed boundaries in existence as of January 1, 1965, for the purposes of section 460*l*–9 of this title. All federally owned lands within the national recreation area on May 17, 1990, are hereby components of the National Forest System and shall be administered by the Secretary of Agriculture as provided in this subchapter.

(Pub. L. 101–292, § 2, May 17, 1990, 104 Stat. 185.)

§ 460aaa–2. Administration

(a) Administration

Subject to valid existing rights, the Secretary of Agriculture (hereafter in this subchapter referred to as the ''Secretary'') shall administer the national recreation area in accordance with the laws, rules, and regulations applicable to the National Forest System in furtherance of the purposes for which the national recreation area was established.

(b) Special management requirements

The national recreation area also shall be administered according to the following special management requirements:

(1) Subject to such terms and conditions as may be prescribed by the Secretary, including the protection of threatened and endangered species and the protection of other natural, cultural, and scenic values, owners of privately owned land and homes within the national recreation area shall be afforded access across National Forest System lands.

(2) Consistent with section 460aaa–6 of this title, and the purposes of this subchapter, the Secretary shall provide for and maintain traditional public access, including vehicular roads for general recreational activities such as camping, hiking, hunting, fishing, and trapping.

(3) The Secretary shall permit the use of snowmobiles on Federal lands in the national recreation area in accordance with the rules and regulations of the National Forest System and consistent with the management plan developed pursuant to section 460aaa–6 of this title. Such use shall be regulated to protect the resources of the national recreation area in a way that minimizes the degradation of these resources.

(4) Timber management shall be utilized only as a tool to enhance public recreation, scenic quality, game and nongame wildlife species, and the protection and enhancement of threatened, endangered, or sensitive species. Trees damaged or downed due to fire, insects, disease, or blowdown may be utilized, salvaged, or removed from the recreation area as authorized by the Secretary to further the purposes of the national recreation area.

(5) The Secretary shall, after acquiring fee title to at least 10,000 acres of land on Grand Island, provide reasonable water transportation from the mainland to Grand Island. Transportation may be provided through con-

cession, permit, or other means, and a reasonable charge may be imposed. Transportation shall be subject to reasonable regulation by the Secretary and shall not be required when the Secretary deems it to be unsafe because of factors such as weather and water conditions.

(6) The Secretary shall provide through concession, permit, or other means docking and lodge facilities consistent with the management plan developed pursuant to section 460aaa–6 of this title.

(7) The Secretary shall take reasonable actions to provide for public health and safety and for the protection of the national recreation area in the event of fire or infestation of insects or disease.

(8) Under the authority of the Act of March 4, 1915, as amended (16 U.S.C. 497), the Secretary shall, as a condition of acquisition, issue occupancy and use permits for any privately owned home as of the date of Federal acquisition of the land within the national recreation area on which the home is located. Any such permit shall be issued for an initial period of 20 years and shall be renewed thereafter for successive 20-year periods so long as the permittee is in compliance with the purposes of this subchapter, the terms of the permit, and other applicable rules and regulations. Any such permit shall be issued in accordance with the laws, rules, and regulations of the Secretary pertaining to the National Forest System, except that such permit shall be subject to the following special provisions:

(A) Such permit may only be issued to the owner of such home as of the date of Federal acquisition of the property, such owner's spouse, the children, stepchildren, and grandchildren of such owner and spouse, and their direct lineal descendants (natural or adopted offspring).

(B) Only noncommercial recreation occupancy may be permitted.

(C) The Secretary shall collect fees on an annual basis based on the fair market value of the occupancy permitted.

(D) The expansion, remodeling, or reconstruction of such homes shall be subject to approval of and regulation by the Secretary. No expansion, remodeling, or reconstruction may increase the height of structure or result in an increase of more than 25 percent of the sum of the exterior dimensions of a structure as it existed on May 17, 1990. Any expansion, remodeling, or reconstruction shall be consistent with the criteria developed pursuant to section 460aaa–6(b)(4) of this title and shall be subject to such other terms and conditions as the Secretary may prescribe.

(E) Any such home may be purchased at the fair market value of the structure and improvements by the Secretary on a willing seller basis.

(F) The permit may be terminated at any time for failure to comply with its terms and conditions and applicable regulations without cost to the Federal Government in accordance with the permit.

(G) After termination of any such permit, if any improvements or property are not removed by their owner within one year of the termination, they shall become the property of the Federal Government.

(9) Solely for purposes of payments pursuant to section 6904 of title 31, lands on Grand Island acquired by the United States after January 1, 1990 shall be considered to have been acquired for addition to a National Forest Wilderness Area (national forest portion of the National Wilderness Preservation System).

(Pub. L. 101–292, § 3, May 17, 1990, 104 Stat. 185.)

REFERENCES IN TEXT

Act of March 4, 1915, referred to in subsec. (b)(8), is act Mar. 4, 1915, ch. 144, 38 Stat. 1086, as amended. For complete classification of this Act to the Code, see Tables.

§ 460aaa–3. Acquisition

(a) General authority

Subject to the provisions of section 460aaa–2(b)(8) of this title and subsection (b) of this section, the Secretary is authorized and directed to acquire by purchase, gift, exchange, or otherwise, lands, waters, structures, or interests therein, including scenic or other easements, within the boundaries of the national recreation area to further the purposes of this subchapter: *Provided*, That the Secretary may not acquire any privately owned lands within the national recreation area other than with the consent of the owner so long as the owner agrees to the restrictions contained in subsection (b)(1) of this section and grants the Secretary a right of first refusal as provided in subsection (b)(2) of this section. The Secretary also is authorized and directed to acquire lands or structures by such means on the mainland to the extent necessary for access to and administrative facilities for the national recreation area. In acquiring lands or structures under this subsection, the Secretary is directed to give prompt and careful consideration to any offer to sell land or structures made by an individual, organization, or any legal entity owning property within the boundaries of the national recreation area.

(b) Private lands

(1) An owner of unimproved real property within the national recreation area may construct recreational residences that are architecturally compatible with other structures within the national recreation area, as described by the management plan developed pursuant to section 460aaa–6 of this title.

(2) Any privately owned lands, interests in lands, or structures within the national recreation area shall not be disposed of by donation, exchange, sale, or other conveyance without first being offered at no more than fair market value to the Secretary. The Secretary shall be given a period of 120 days to accept an offer and, after such offer is accepted, a period of 45 days after the end of the fiscal year following the fiscal year in which the offer was accepted to acquire such lands, interests in lands, or structures. No such lands, interests in lands, or structures shall be sold or conveyed at a price below the price at which they have been offered for sale to the Secretary, and if such lands, interest

in lands, or structures are reoffered for sale or conveyance they shall first be reoffered to the Secretary, except that this subsection shall not apply to a change in ownership of a property within the immediate family of the owner of record on January 1, 1989. For the purposes of this subsection, the term ''immediate family'' means, with respect to any such owner of record, the spouse, siblings, children (whether natural or adopted), stepchildren, and lineal descendants of that owner.

(Pub. L. 101–292, § 4, May 17, 1990, 104 Stat. 187.)

§ 460aaa–4. Fish and game

(a) In general

Nothing in this subchapter shall be construed as affecting the responsibilities of the State of Michigan with respect to fish and wildlife, including the regulation of hunting, fishing, and trapping in any lands acquired and managed by the Secretary under this subchapter, except that the Secretary may, in consultation with the State of Michigan, designate zones where, and establish periods when, no hunting, fishing or trapping shall be permitted for reasons of public safety, administration, the protection of nongame species and their habitats, or public use and enjoyment.

(b) Notice of Secretarial action

As soon as practicable after each case in which the Secretary exercises authority under subsection (a) of this section, the Secretary, in consultation with appropriate officials of the State of Michigan, shall take steps to notify area residents as to the nature of actions taken, and the location of zones designated and periods established, under subsection (a) of this section.

(c) Consultation

Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect after consultation with the fish and wildlife agency of the State of Michigan.

(Pub. L. 101–292, § 5, May 17, 1990, 104 Stat. 188.)

§ 460aaa–5. Minerals

Subject to valid existing rights, the lands within the national recreation area are hereby withdrawn from location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing including all laws pertaining to geothermal leasing. Also subject to valid existing rights, the Secretary shall not allow any mineral development on federally owned land within the national recreation area, except that common varieties of mineral materials, such as stone, and gravel, may be utilized only as authorized by the Secretary to the extent necessary for construction and maintenance of roads and facilities within the national recreation area.

(Pub. L. 101–292, § 6, May 17, 1990, 104 Stat. 188.)

§ 460aaa–6. Management plan

(a) Development

After the Secretary acquires fee title to at least 10,000 acres of land on Grand Island, the Secretary, within 30 months, shall develop with public involvement a comprehensive management plan for the national recreation area which implements the provisions of this subchapter.

(b) Special issues to be included

The comprehensive management plan shall include, but not be limited to, the following issues:

(1) Public recreation, including consideration of a range of appropriate recreational opportunities consistent with the rustic, natural, and historic character of the island, including, but not limited to, a system of trails and campsites in conjunction with the lodge referred to in paragraph (2) of this section.[1]

(2) The feasibility of a concessionaire constructed, operated, and maintained rustic lodge and educational facility on no more than 55 acres located so as not to impair or alter existing scenic views or the existing tree line and forested appearance of Grand Island from any point within the boundaries of Pictured Rocks National Lakeshore. The plan shall address the economics of constructing, operating, and maintaining such a facility by a concessionaire or other entity; access by roads and waters; utilities; waste water treatment, garbage disposal, and other associated environmental impacts; management operations including construction, operation and maintenance; and the potential for permitted uses by government agencies, profit and nonprofit organizations, or individuals.

(3) Prescriptions concerning any management and harvest of timber, subject to section 460aaa–2(b)(4) of this title.

(4) General design criteria for new facilities or the improvement of existing facilities that are compatible with the rustic, natural, and historic character of the island and their topographic and geological location, and that do not impair scenic views from the Pictured Rocks National Lakeshore.

(5) Water transportation from the mainland to the national recreation area by a concessionaire or other entity.

(6) The feasibility of concessionaire constructed, operated, and maintained docking facilities in the national recreation area and on the mainland.

(7) An inventory and assessment of existing traditional roads, the level of road use, access needs, and any vehicular regulation and management needed to protect the resources of the national recreation area while, at the same time, providing reasonable access to private property.

(c) Consultation

In preparing the comprehensive management plan, the Secretary shall consult with the appropriate State and local government officials, provide for full public participation, and consider the views of all interested parties, organizations, and individuals.

(Pub. L. 101–292, § 7, May 17, 1990, 104 Stat. 188.)

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[1] So in original. Probably should be ''subsection.''

§ 460aaa–7. Grand Island Advisory Commission

(a) Establishment

Subject to appointments as provided in subsection (b) of this section, there is established a Grand Island Advisory Commission (hereafter in this subchapter referred to as the ''Commission'') comprised of 12 members for the purpose of advising the Secretary on the preparation of the management plan which is provided for in section 460aaa–6 of this title.

(b) Appointment

(1) Commission members shall be appointed by the Secretary as follows:

(A) Three non-voting members, who shall be employees of the Forest Service including the Forest Supervisor of the Hiawatha National Forest.

(B) One member who shall be a resident of Munising, Michigan, who is not a Forest Service employee.

(C) Two members who shall be recreational users of Grand Island who are not Forest Service employees.

(D) One member from nominations made by the Alger County Board of Commissioners who is a member of such board.

(E) One member from nominations made by the Alger County Economic Development Corporation who is a member of such corporation.

(F) One member from nominations made by the Grand Island Association who is a member of such association.

(G) One member from nominations made by the private landowners of Grand Island who is a private landowner on Grand Island.

(H) One member from nominations made by the Grand Island Township Board who is a member of such board.

(I) The Munising city manager, upon accepting the invitation of the Secretary.

(2) Any vacancy shall be filled in the same manner as the original appointment.

(c) Quorum

A quorum shall be six members. The operations of the Commission shall not be impaired by the fact that a member has not been appointed as long as a quorum has been attained.

(d) Procedures

The Commission shall elect a Chairman and establish such rules and procedures as it deems necessary or desirable.

(e) Consultation

The Secretary shall consult with the Commission on a periodic and regular basis with respect to the management plan.

(f) Pay

(1) Members of the Commission who are not full-time officers or employees of the United States shall serve without pay.

(2) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission.

(g) Proposals for non-Federal development on Federal land

The Commission shall recommend proposals for non-Federal development on the 55 acres described in section 460aaa–6(b)(2) of this title. It shall submit any such proposals to the Secretary for approval, rejection, or revision. The Secretary shall include in the management plan a development proposal submitted by the Commission or arrived at by any other means available to the Secretary.

(h) Termination

The Commission shall cease to exist on the date upon which the management plan is adopted.

(Pub. L. 101–292, § 8, May 17, 1990, 104 Stat. 189.)

TERMINATION OF ADVISORY COMMISSIONS

Advisory commissions established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 460aaa–8. Authorization of appropriations

(a) Acquisition of lands

There are hereby authorized to be appropriated an amount not to exceed $5,000,000 for the acquisition of land, interests in land, or structures within the national recreation area and on the mainland as needed for access and administrative facilities.

(b) Other purposes

In addition to the amounts authorized to be appropriated under subsection (a) of this section, there are authorized to be appropriated not more than $5,000,000 for development to carry out the other purposes of this subchapter.

(Pub. L. 101–292, § 9, May 17, 1990, 104 Stat. 190.)

SUBCHAPTER CXIII—SMITH RIVER NATIONAL RECREATION AREA

§ 460bbb. Findings

The Congress finds that—

(1) the Smith River, undammed and free-flowing from its headwaters to the Pacific Ocean, represents one of the last wholly intact vestiges of an invaluable legacy of wild and scenic rivers;

(2) the Smith River watershed, from the diverse conifer forests of the Siskiyou Mountains and unique botanical communities of the North Fork serpentine to the ancient redwoods along the river's lower reaches, exhibits a richness of ecological diversity unusual in a basin of its size;

(3) the Smith River watershed's scenic beauty, renowned anadromous fisheries, exceptional water quality, and abundant wildlife combine with its ready accessibility to offer exceptional opportunities for a wide range of recreational activities, including wilderness, water sports, fishing, hunting, camping, and sightseeing;

(4) careful development and utilization at mutually compatible levels of recreation, fish-

eries, and timber resources on public lands will ensure the continuation of the Smith River watershed's historic role as a significant contributor to the region's local economy; and

(5) protection of the Smith River's unique values can be enhanced by a cooperative effort by Federal, State and local governments to coordinate land-use planning, management, and development of Federal and non-Federal lands throughout the watershed.

(Pub. L. 101–612, § 2, Nov. 16, 1990, 104 Stat. 3209.)

SHORT TITLE

Section 1 of Pub. L. 101–612 provided that: ''Sections 1 through 14 of this Act [enacting this subchapter, amending section 1274 of this title, and enacting provisions set out as a note under section 460bbb–7 of this title] may be cited as the 'Smith River National Recreation Area Act'.''

§ 460bbb–1. Definitions

As used in this subchapter—

(1) the term ''excluded area'' means one of the four areas specifically excluded from the recreation area, as generally depicted on the map referred to in section 460bbb–2(b) of this title;

(2) the term ''forest plan'' means the land and resource management plan for the Six Rivers National Forest prepared pursuant to section 1604 of this title;

(3) the term ''recreation area'' means the Smith River National Recreation Area established by section 460bbb–2 of this title;

(4) the term ''Secretary'' means the Secretary of Agriculture; and

(5) the term ''inner gorge'' means the inherently unstable steep slope (65 percent gradient or more) immediately adjacent to the stream or river channel, extending from the channel or recent floodplain to the first significant break in slope (usually 15 percent or more).

(Pub. L. 101–612, § 3, Nov. 16, 1990, 104 Stat. 3209.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 101–612, Nov. 16, 1990, 104 Stat. 3209, which is classified principally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 460bbb of this title and Tables.

§ 460bbb–2. Establishment

(a) In general

For the purposes of ensuring the preservation, protection, enhancement, and interpretation for present and future generations of the Smith River watershed's outstanding wild and scenic rivers, ecological diversity, and recreation opportunities while providing for the wise use and sustained productivity of its natural resources, there is hereby established the Smith River National Recreation Area.

(b) Boundaries

(1) The recreation area shall consist of those lands within the area generally depicted on the map entitled ''Proposed Smith River National Recreation Area'' and dated July 1990. The map shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture. The Secretary may, by publication of availability of a revised map and after public comment, make corrections or minor changes to the boundary of the recreation area.

(2) The exterior boundary of the recreation area, as generally depicted on the map, shall encompass the recreation area and the four excluded areas.

(c) Boundary modification

The boundaries of the Six Rivers National Forest are hereby modified as generally depicted on the map referred to in subsection (b) of this section. A map and legal description of the boundary of the Six Rivers National Forest as modified by this subsection shall be on file and available for public inspection in the Office of the Chief, Forest Service, and the Office of the Forest Supervisor of the Six Rivers National Forest.

(d) Transfer

The federally owned lands within the recreation area administered by the Secretary of the Interior on November 16, 1990, comprising approximately 20 acres, are hereby transferred to the jurisdiction of the Secretary of Agriculture and shall be managed in accordance with the laws applicable to the National Forest System and this subchapter.

(Pub. L. 101–612, § 4, Nov. 16, 1990, 104 Stat. 3210.)

§ 460bbb–3. Administration

(a) In general

The Secretary shall administer the recreation area in accordance with this subchapter and the laws, rules, and regulations applicable to the National Forest System in furtherance of the purposes for which the recreation area was established. In administering the recreation area, the Secretary shall, consistent with the applicable area management emphasis provided under subsection (b) of this section, undertake the following:

(1) Provide for a broad range of recreation uses and provide recreational and interpretive services and facilities (including trails and campgrounds) for the public.

(2) Provide and maintain adequate public access, including vehicular roads for general recreational activities such as camping, hiking, hunting, and fishing.

(3) Improve the anadromous fishery and water quality, including (but not limited to) stabilizing landslides, improving fish spawning and rearing habitat, and placing appropriate restrictions or limitations on soil disturbing activities.

(4) Permit the use of off-road vehicles only on designated routes.

(5) Provide for public health and safety and for the protection of the recreation area in the event of fire or infestation of insects or disease.

(6) Permit programmed timber harvest only in those management areas where timber harvest is specifically authorized by subsection (b) of this section. Timber management in these areas shall incorporate the use of strategies to reduce habitat fragmentation and em-

ploy silvicultural prescriptions designed to maintain or enhance biological diversity and wildlife habitats (such as retention of standing green trees, snags, and other coarse woody debris) by providing for a high level of structural and compositional diversity in managed stands.

(7) Permit removal of trees within streamside protection zones along those rivers and river segments specified in section 460bbb–8 of this title only when necessary for human health and safety, to maintain trails or existing roads, for the development of recreation or other facilities, for the protection of the recreation area in the event of fire, or to improve fish and wildlife habitat.

(8) Consistent with applicable requirements of law, permit removal of trees in those management areas where timber harvest is not specifically authorized by subsection (b) of this section when necessary for human health and safety, to maintain trails or existing roads, for the development of recreation or other facilities, for the protection of the recreation area in the event of fire, or to improve fish and wildlife habitat. Timber damaged or down in these areas as a result of fire, insects, disease, blowdown or other natural events shall otherwise be retained in its natural condition, with removal permitted only upon a written determination by the Secretary, based upon written findings, that such removal is necessary to provide for or maintain or enhance biological and ecological diversity, without regard for the commodity value of the timber. Such a decision shall not be delegable by the Secretary but shall be subject to administrative appeal and judicial review.

(9) Provide for the long-term viability and presence of Port-Orford-cedar and ensure its continued present economic and noneconomic uses through implementation of management strategies developed by the Forest Service.

(10) Except where timber harvest is specifically authorized by subsection (b) of this section protect, preserve, and increase old growth forest habitat in the recreation area.

(11) Provide for the restoration of landscapes damaged by past human activity consistent with the purposes of this subchapter.

(12) Develop a monitoring program to consistently gather water quality, air quality, wildlife, and fisheries data from representative Smith River subwatersheds.

(13) Develop and implement a management plan to maintain, protect, and promote habitat for native resident trout species in the recreation area.

(14) Cooperate with other Federal, State, and local government agencies in coordinating planning efforts throughout the Smith River watershed.

(b) Management areas

(1) The recreation area shall contain eight management areas, as generally depicted on the map referred to in section 460bbb–2(b) of this title. The Secretary may, pursuant to section 460bbb–2(b) of this title, make minor revisions or amendments to the boundaries of the management areas.

(2) The Secretary shall administer each management area within the recreation area in accordance with the following:

(A) The management emphasis for the North Fork management area shall be on back-country and whitewater recreation, while recognizing unique botanic communities, outstanding whitewater, and historic and scenic values.

(B) The management emphasis for the Upper Middle Fork management area shall be on providing and maintaining ecologic and biologic diversity. Timber harvest shall be permitted, consistent with subsection (a)(6) of this section, only in existing plantations.

(C) The management emphasis for the Middle Fork-Highway 199 management area shall be on maintaining wildlife values and providing for a full range of recreation uses, with particular emphasis on the scenic and recreation values associated with the Smith River, old growth redwoods, and California State Highway 199.

(D) The management emphasis for the Upper South Fork management area shall be on wild river and roadless back-country recreation.

(E) The management emphasis for the Lower South Fork management area shall be on maintaining and protecting natural scenic values in the river canyon while providing for traditional and compatible river sports, including white water rafting, angling, sightseeing, and developed and dispersed recreation. Timber harvests based on uneven-aged management with extended rotations shall be allowed where consistent with protection of the scenic values of the recreation area.

(F) The management emphasis for the Lower Hurdygurdy Creek management area shall be on maintenance of wildlife values while providing rustic family and group recreation facilities for fishing, swimming, hunting, and camping. Timber harvests based on uneven-aged management with extended rotations shall be allowed where consistent with protection of scenic and wildlife values.

(G) The management emphasis for the prescribed timber management area shall be on providing a sustained yield of wood products while maintaining biological and ecological diversity.

(H) The management of the Siskiyou Wilderness management area shall be pursuant to the provisions of the Wilderness Act (16 U.S.C. 1131 et seq.). The Gasquet-Orleans Road corridor between the eastern edge of section 36, T. 14 N., R. 3 E, and the corridor's eastern terminus in the middle of section 26, T. 14 N., R. 4 E. shall be added to the Siskiyou Wilderness.

(c) Wild and scenic rivers

The river segments designated as wild and scenic rivers by the amendments made by section 10(b) of this Act shall be administered in accordance with this subchapter and the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.). In case of conflict between the provisions of these Acts, the more restrictive provision shall apply.

(Pub. L. 101–612, § 5, Nov. 16, 1990, 104 Stat. 3210.)

REFERENCES IN TEXT

The Wilderness Act (16 U.S.C. 1131 et seq.), referred to in subsec. (b)(2)(H), is Pub. L. 88–577, Sept. 3, 1964, 78

Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

Section 10(b) of this Act, referred to in subsec. (c), is section 10(b) of Pub. L. 101–612, Nov. 16, 1990, 104 Stat. 3215, which amended section 1274 of this title.

The Wild and Scenic Rivers Act, referred to in subsec. (c), is Pub. L. 90–542, Oct. 2, 1968, 82 Stat. 906, as amended, which is classified generally to chapter 28 (§ 1271 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1271 of this title and Tables.

§ 460bbb–4. Acquisition and disposal of lands and other property

(a) Acquisition

The Secretary is authorized to acquire by purchase, donation, exchange, or otherwise lands, waters, or interests therein (including scenic or other easements), and structures or other improvements thereon, within the boundaries of the recreation area as the Secretary determines appropriate for the purposes of this subchapter. In exercising this authority, the Secretary is directed to give prompt and careful consideration to any offer to sell, exchange, or otherwise dispose of such property made by an individual or organization. The Secretary shall not acquire any land or interest in land owned by the State of California or any of its political subdivisions within the recreation area except by donation or exchange. All lands acquired by the Secretary pursuant to this subchapter shall be subject to the laws and regulations pertaining to the National Forest System and this subchapter.

(b) Transfers to Del Norte County

(1) Upon the adoption of a resolution by the Board of Supervisors of the County of Del Norte, California, accepting title to the lands described in paragraph (2) and subject to the County of Del Norte bearing the cost of the survey of such lands, the Secretary shall transfer all right, title, and interest of the United States in and to the lands described in paragraph (2).

(2) The lands referred to in paragraph (1) are described as follows:

(A) Lands north of tract 37, T. 17 N., R. 3 E., H.M., containing 6 acres, more or less, and more particularly described as:

Commencing at the N.E. corner of tract 37, T. 17 N., R. 3 E., H.M.; thence, northerly on a line continuing the eastern boundary of said tract 37 to a point where it intersects the southern boundary of the easement for State highway conveyed to the State of California, Department of Transportation, on the 17th day of May 1977, and recorded on June 22, 1977 at book 206 of Official Records, page 256; thence, southwesterly along the southern boundary of said easement to the point where it intersects the northern boundary of said tract 37; thence, easterly along the northern boundary of said tract 37 to the point of beginning.

(B) Lands east of tract 37, T. 17 N., R. 3 E., H.M., containing 6 acres, more or less, and more particularly described as:

Commencing at a point on the eastern boundary of tract 37, T. 17 N., R. 3 E., H.M., lying 332 feet southerly of the N.E. corner of said tract 37; thence, due east to the high water line of the Middle Fork of the Smith River; thence, southwesterly along the high water line of the Middle Fork of the Smith River to its intersection with the northern boundary of tract 38, T. 17 N., R. 3 E.; thence, westerly along the northern boundary of said tract 38 to its intersection with said track 37; thence, northerly along the eastern boundary of said tract 37 to the point of beginning.

(c) Conditions of transfer

Transfer of the lands and interests described in subsection (b)(2) of this section shall be subject to the condition that all right, title, and interest therein shall revert to the United States if the county of Del Norte, California, attempts to transfer any portion of such lands to any other entity or person or if Del Norte County permits any portion of such lands to be used for any purpose incompatible with the purposes of this subchapter. The Secretary shall include in any document of conveyance whereby such lands are transferred to the county of Del Norte appropriate provisions to implement this subsection.

(d) Withdrawal

Subject to valid existing rights, all public lands within the recreation area are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States. This subsection shall not affect the exchange authorities of the Secretary.

(Pub. L. 101–612, § 6, Nov. 16, 1990, 104 Stat. 3213.)

§ 460bbb–5. Fish and game

Nothing in this subchapter shall be construed to affect the jurisdiction or responsibilities of the State of California with respect to fish and wildlife, including the regulation of hunting, fishing, and trapping on any lands managed by the Secretary under this subchapter, except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of protecting nongame species and their habitats, public safety, administration, or public use and enjoyment. Except in emergencies, any regulation of the Secretary pursuant to this section shall be put into effect only after consultation with the fish and wildlife agency of the State of California.

(Pub. L. 101–612, § 7, Nov. 16, 1990, 104 Stat. 3214.)

§ 460bbb–6. Minerals

(a) Withdrawal

Subject to valid existing rights, Federal lands within the exterior boundary of the recreation area are hereby withdrawn from all forms of location, entry, and patent under the United States mining laws and from disposition under the mineral leasing laws, including all laws pertaining to geothermal leasing.

(b) Patents

Patents may not be issued under the mining laws of the United States after November 16, 1990, for locations and claims made before No-

vember 16, 1990, on Federal lands located within the exterior boundaries of the recreation area.

(c) Administration

Subject to valid existing rights except for extraction of common variety minerals such as stone, sand, and gravel for use in construction and maintenance of roads and other facilities within the recreation area and the excluded areas, all other mineral development on federally owned lands within the recreation area is prohibited.

(d) Regulations

The Secretary is authorized and directed to issue supplementary regulations to promote and protect the purposes for which the recreation area is designated.

(Pub. L. 101–612, § 8, Nov. 16, 1990, 104 Stat. 3214.)

§ 460bbb–7. Management planning

The Secretary shall revise the document entitled ''Smith River National Recreation Area Management Plan'' dated February 1990 to conform to the provisions of this subchapter, and such revised plan shall guide management of the recreation area and shall be incorporated in its entirety into the forest plan for the Six Rivers National Forest. This incorporation shall not be deemed a revision or amendment to the forest plan for purposes of the[1] section 1604 of this title. The Secretary shall make such further revisions to the management plan as are necessary in order to include more specific development and use plans for the recreation areas. Such revisions shall be made no later than 5 years after November 16, 1990. Such revisions and any other modifications of the management plan shall be made only through the processes of revision or amendment of the forest plan pursuant to section 1604 of this title, including appropriate consultation with State and local government officials and provision for full public participation considering the views of all interested parties, organizations, and individuals.

(Pub. L. 101–612, § 9, Nov. 16, 1990, 104 Stat. 3214.)

MANAGEMENT

Section 10(c) of Pub. L. 101–612 provided that: ''The management plan prepared under section 9 of this Act [this section] shall be deemed to satisfy the requirement for a comprehensive management plan required under section 3(d)(1) of the Wild and Scenic Rivers Act [section 1274(d)(1) of this title].''

§ 460bbb–8. Streamside protection zones

(a) Three hundred foot zones

For each of the rivers and river segments specified in this subsection, there is hereby established a streamside protection zone in which timber harvesting shall be prohibited except as permitted by section 460bbb–3(a)(7) of this title. Such zone shall extend 300 feet from each bank of the rivers and river segments, or 100 feet from the inner gorge of said rivers and river segments, or within the limit of high and extreme landslide hazards on said rivers and river segments, whichever is greater. The provisions of this subsection shall apply to the following rivers and river segments:

(1) Rowdy Creek (from California-Oregon border to NRA boundary).

(2) Shelly Creek (from its headwaters to Patrick Creek).

(3) East Fork Patrick Creek (from its headwaters to Patrick Creek).

(4) West Fork Patrick Creek (from its headwaters to Patrick Creek).

(5) Little Jones Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(6) Patrick Creek (from the confluence of the East and West forks of Patrick Creek to the Middle Fork of the Smith River).

(7) Monkey Creek (from its headwaters to its confluence with the Middle Fork of the Smith River).

(8) Hardscrabble Creek (from its headwaters to its confluence with the Middle Fork of the Smith River).

(9) Quartz Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(10) Jones Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(11) Upper Hurdygurdy Creek (from its headwaters to Dry Lake).

(12) Gordon Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(13) Coon Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(14) Craigs Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(15) Goose Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(16) East Fork of Goose Creek (from its headwaters to its confluence with Goose Creek).

(17) Muzzleloader Creek (from its headwaters to its confluence with Jones Creek).

(18) Canthook Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(19) Rock Creek (from the NRA boundary to its confluence with the South Fork of the Smith River).

(20) Blackhawk Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(b) One-quarter mile zones

For each of the rivers and river segments specified in this subsection there is established a streamside protection zone in which timber harvesting shall be prohibited except as permitted in section 460bbb–3(a)(7) of this title. Such zone shall extend on the average of one-quarter mile on either side of said rivers and river segments, or 100 feet from the inner gorge of said rivers and river segments, or within the limit of high and extreme landslide hazards on said rivers and river segments, whichever is greater. The provisions of this subsection shall apply to the following rivers and river segments:

(1) Main stem Smith (from the South Fork to the NRA boundary).

[1] So in original. Word ''the'' probably should not appear.

(2) Middle Fork Smith (from its headwaters to its confluence with the Middle Fork of the Smith River).

(3) Myrtle Creek (from its headwaters to its confluence with the Middle Fork of the Smith River).

(4) Kelly Creek (from its headwaters to its confluence with the Middle Fork of the Smith River).

(5) Packsaddle Creek (from its headwaters to its confluence with the Middle Fork of the Smith River).

(6) Griffin Creek (from its headwaters to its confluence with the Middle Fork of the Smith River).

(7) Knopti Creek (from its headwaters to its confluence with the Middle Fork of the Smith River).

(8) North Fork of the Smith River (from the California/Oregon border to its confluence with the Middle Fork of the Smith River).

(9) Diamond Creek (from the California/Oregon border to its confluence with the North Fork of the Smith River).

(10) Bear Creek (from its headwaters to its confluence with Diamond Creek).

(11) Still Creek (from its headwaters to its confluence with the North Fork of the Smith River).

(12) North Fork of Diamond Creek (from the California/Oregon border to its confluence with Diamond Creek).

(13) High Plateau Creek (from its headwaters to its confluence with Diamond Creek).

(14) Stony Creek (from its headwaters to its confluence with the North Fork of the Smith River).

(15) Peridotite Creek (from its headwaters to its confluence with the North Fork of the Smith River).

(16) Siskiyou Fork, Smith River (from its headwaters to the Middle Fork of the Smith River).

(17) South Siskiyou Fork of the Smith River (from its headwaters to its confluence with the Siskiyou Fork of the Smith River).

(18) South Fork[1] Smith River (from its headwaters to its confluence with the Middle Fork of the Smith River).

(19) Williams Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(20) Eight Mile Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(21) Harrington Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(22) Prescott Fork of the Smith River (from its headwaters to its confluence with the South Fork of the Smith River).

(23) Buck Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(c) Lower Hurdygurdy Creek

For the Lower Hurdygurdy Creek (from Dry Lake to its confluence with the South Fork of the Smith River) there is established a streamside protection zone in which timber harvesting shall be prohibited except as permitted by section 460bbb–3(a)(7) of this title. Such zone shall extend one-eighth mile on either side of said Lower Hurdygurdy Creek.

(d) Other restrictions on timber harvesting

The provisions of this section shall be in addition to, and not in lieu of, any restrictions on timber harvesting or other activities applicable to the streamside protection zones established by this section under any other applicable provision of this subchapter.

(Pub. L. 101–612, § 11, Nov. 16, 1990, 104 Stat. 3219.)

§ 460bbb–9. State and local jurisdiction and assistance

(a) State and local jurisdiction

Nothing in this subchapter shall diminish, enlarge, or modify any right of the State of California or any political subdivision thereof, to exercise civil and criminal jurisdiction or to carry out State fish and game laws, rules, and regulations within the recreation area, or to tax persons, franchise, or private property on the lands and waters included in the recreation area, or to regulate the private lands within the recreation area.

(b) Cooperative agreements

The Secretary is authorized and encouraged to enter into cooperative agreements with the State of California or its political subdivisions for—

(1) the rendering on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire prevention agencies; and

(2) the planning for use, management, and development of non-Federal lands within the recreation area and elsewhere in the Smith River watershed in the furtherance of the purposes of this subchapter.

(c) Technical assistance

To enable the State of California and its political subdivisions to develop and implement programs compatible with the purposes of this subchapter, the Secretary, in consultation with the Secretaries of the Interior, Commerce, and Housing and Urban Development, shall consider upon request such technical assistance to the State and its political subdivisions as is necessary to fulfill the purposes of this section. Such assistance may include payments or grants, within existing programs, for technical aid and program development.

(d) Land information system

The Secretary of Agriculture shall assist the county of Del Norte in developing a land information system that will be compatible with the Forest Service and National Park Service systems for the Federal lands in Del Norte County and such non-Federal systems as may be appropriate and that will be made available to Federal and non-Federal entities for use in coordinating planning for the recreation area and other lands in the Smith River watershed.

(Pub. L. 101–612, § 12, Nov. 16, 1990, 104 Stat. 3221.)

[1] So in original. Probably should be followed by ''of the''.

§ 460bbb–10. Savings provision

(a) Activities on lands outside of recreation area

Nothing in this subchapter shall limit, restrict, or require specific management practices on lands outside the recreation area boundary. The fact that activities or uses outside the recreation area can be seen, heard, or otherwise perceived within the recreation area shall not, of itself, limit, restrict, or preclude such activities or uses up to the boundary of the recreation area.

(b) Prior rights

(1) Nothing in this subchapter shall limit, restrict, or preclude the implementation of valid timber sale contracts or other contracts or agreements executed by the Secretary before November 16, 1990.

(2) Except as specifically provided herein nothing in this subchapter shall be construed as diminishing or relinquishing any right, title, or interest of the United States in any lands, waters, or interests therein within the boundaries of the recreation area designated by this subchapter.

(c) Road easements

Nothing in this subchapter shall be construed as affecting the responsibilities of the State of California or any of its political subdivisions with respect to road easements, including maintenance and improvement of State Highway 199 and County Route 427.

(d) Rights of access

Existing rights provided by Federal law for access by private landowners across National Forest System lands shall not be affected by this subchapter.

(e) Entitlement moneys

Annually for the first two full fiscal years after November 16, 1990, the Secretary shall pay for use by units of local government within the recreation area an amount equal to the difference between the amounts payable for such purposes pursuant to the Act of May 23, 1908 (chapter 193; 35 Stat. 251; 16 U.S.C. 500) and the average amount paid for such purpose under such Act during the five fiscal years preceding November 16, 1990. The amount payable under this subsection shall be reduced by 10 percent annually thereafter for each succeeding fiscal year until the amount payable shall be reduced 100 percent by the end of the twelfth fiscal year after November 16, 1990. This subsection shall expire 11 years after the first payment pursuant to this subsection.

(Pub. L. 101–612, § 13, Nov. 16, 1990, 104 Stat. 3222.)

REFERENCES IN TEXT

Act of May 23, 1908 (chapter 193; 35 Stat. 251; 16 U.S.C. 500), referred to in subsec. (e), probably means act May 23, 1908, ch. 192, 35 Stat. 260, which is classified to section 500 of this title.

§ 460bbb–11. Authorization of appropriations

There are authorized to be appropriated such funds as may be necessary to carry out this subchapter and the amendments made by this subchapter.

(Pub. L. 101–612, § 14, Nov. 16, 1990, 104 Stat. 3222.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 101–612, Nov. 16, 1990, 104 Stat. 3209, which enacted this subchapter and amended section 1274 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460bbb of this title and Tables.

SUBCHAPTER CXIV—RED ROCK CANYON NATIONAL CONSERVATION AREA

§ 460ccc. Definitions

For the purposes of this subchapter, the term—

(a) ''conservation area'' means the Red Rock Canyon National Conservation Area established pursuant to section 460ccc–1 of this title;

(b) ''public lands'' has the meaning stated in section 1702(e) of title 43; and

(c) ''Secretary'' means the Secretary of the Interior.

(Pub. L. 101–621, § 2, Nov. 16, 1990, 104 Stat. 3342.)

SHORT TITLE

Section 1 of Pub. L. 101–621 provided that: ''This Act [enacting this subchapter] may be cited as the 'Red Rock Canyon National Conservation Area Establishment Act of 1990'.''

§ 460ccc–1. Establishment

(a) In general

(1) In order to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the area in southern Nevada containing and surrounding the Red Rock Canyon and the unique and nationally important geologic, archeological, ecological, cultural, scenic, scientific, wildlife, riparian, wilderness, endangered species, and recreation resources of the public lands therein contained, there is established the Red Rock Canyon National Conservation Area.

(2) The conservation area shall consist of approximately 195,780 acres as generally depicted on the map entitled ''Red Rock Canyon National Conservation Area Administrative Boundary Modification'', dated August 8, 1996, and such additional areas as are included in the conservation area pursuant to the Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002.

(3) The map referred to in paragraph (2) shall be on file and available for inspection in the appropriate offices of the Bureau of Land Management, Department of the Interior.

(b) Legal description

(1) As soon as practicable after November 16, 1990, the Secretary shall file a legal description of the conservation area established by subsection (a) of this section with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, and such legal description shall have the same force and effect as if included in this subchapter, except that the Secretary may

correct clerical and typographic errors in[1] legal description.

(2) The legal description described in paragraph (1) shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, Department of the Interior.

(c) Discrepancies

In case of any discrepancy between or among the map described in subsection (a) of this section, the amount of acreage stated in subsection (a) of this section, or the legal description filed by the Secretary pursuant to subsection (b) of this section, the map described in subsection (a) of this section shall control any question concerning the boundaries of the conservation area.

(Pub. L. 101–621, §3, Nov. 16, 1990, 104 Stat. 3342; Pub. L. 103–450, §1, Nov. 2, 1994, 108 Stat. 4766; Pub. L. 105–263, §8, Oct. 19, 1998, 112 Stat. 2349; Pub. L. 107–282, title I, §105(c), Nov. 6, 2002, 116 Stat. 1998.)

REFERENCES IN TEXT

The Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002, referred to in subsec. (a)(2), is title I of Pub. L. 107–282, Nov. 6, 2002, 116 Stat. 1995, which amended this section and enacted provisions set out as a note under section 460ccc–4 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2002—Subsec. (a)(2). Pub. L. 107–282 inserted before period at end ", and such additional areas as are included in the conservation area pursuant to the Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002".

1998—Subsec. (a)(2). Pub. L. 105–263 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The conservation area shall consist of approximately 195,610 acres as generally depicted on a map entitled 'Red Rock Canyon National Conservation Area—Proposed Expansion', numbered NV–RRCNCA–002, and dated July 1994."

1994—Subsec. (a)(2). Pub. L. 103–450 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The conservation area shall consist of approximately 83,100 acres of generally depicted on a map entitled 'Red Rock Canyon National Conservation Area—Proposed' numbered NV–RRC–NCA–001, and dated June, 1990."

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

POTENTIAL CONSERVATION LANDS

Pub. L. 103–450, §3, Nov. 2, 1994, 108 Stat. 4767, as amended by Pub. L. 106–113, div. B, §1000(a)(3) [title I, §144(a)], Nov. 29, 1999, 113 Stat. 1535, 1501A–171, provided that:

"(a) WITHDRAWAL.—Subject to valid existing rights, the lands identified in subsection (b) are hereby withdrawn from all forms of entry under the public land laws, including the mining laws, and from operation of the mineral [see 30 U.S.C. 181 et seq., 271 et seq., and 281 et seq.] and geothermal leasing laws: *Provided*, That nothing in this subsection shall limit the issuance of any necessary licenses or public land rights-of-way for any hydroelectric project involving such lands.

"(b) LANDS.—The lands referred to in subsection (a) are the approximately 1,280 acres of public lands as generally depicted on the map entitled 'Potential Conservation Lands: Possible Hydroelectric Project' dated July, 1994.

"(c) FUTURE STATUS.—(1) Effective on May 2, 2000, the lands described in subsection (b) shall be added to the Red Rock Canyon National Conservation Area unless before such effective date all necessary licenses and public land rights-of-way have been issued for a hydroelectric project involving some or all of such lands.

"(2) For purposes of section 10(b) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 [16 U.S.C. 460ccc–8(b)], as amended by this Act, the date on which the lands identified in subsection (b) of this section are added to the Red Rock Canyon National Conservation Area shall be deemed to be the date of enactment of an Act adding such lands to the conservation area."

[Pub. L. 106–113, div. B, §1000(a)(3) [title I, §144(b)], Nov. 29, 1999, 113 Stat. 1535, 1501A–171, provided that: "The amendment made by subsection (a) [amending section 3 of Pub. L. 103–450, set out above] takes effect on November 1, 1999."]

§ 460ccc–2. Management

(a) In general

The Secretary, acting through the Director of the Bureau of Land Management, shall, subject to valid existing rights, manage the conservation area to conserve, protect, and enhance the resources described in section 460ccc–1 of this title, in accordance with this subchapter, the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701 et seq.], and other applicable laws. The Secretary shall only allow such uses of the conservation area as he finds will further the purposes for which the conservation area is established.

(b) Hunting

(1) Subject to paragraph (2), the Secretary shall permit hunting within the conservation area in accordance with the laws of the State of Nevada.

(2) The Secretary, after consultation with the Nevada Department of Wildlife, may issue regulations designating zones where and establishing when hunting shall not be permitted for reasons of public safety, administration, or public use and enjoyment.

(c) Preventive measures

Nothing in this subchapter shall preclude such measures as the Secretary deems necessary to prevent devastating fire or infestation of insects or disease within the conservation area.

(d) Mechanized vehicles

Except when needed for administrative or emergency purposes, the use of mechanized vehicles in the conservation area shall be allowed only on roads and trails specifically designated for such use as provided in the management plan prepared pursuant to section 460ccc–3 of this title.

(e) Limits on visitation and use

The Secretary may limit visitation and use of the conservation area as the Secretary finds appropriate for the protection of the resources of the conservation area.

(Pub. L. 101–621, §4, Nov. 16, 1990, 104 Stat. 3343.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (a), is Pub. L. 94–579, Oct. 21,

[1] So in original. Probably should be "in the".

1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

§ 460ccc–3. Management plan

(a) In general

(1) No later than January 1, 1997, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives, a general management plan for the conservation area, which shall describe the appropriate uses and development of the conservation area consistent with the purposes of this subchapter.

(2) The management plan described in paragraph (1) shall be developed with full public participation and shall include—

(A) an implementation plan for a continuing program of interpretation and public education about the resources and values of the conservation area;

(B) a proposal for administrative and public facilities to be developed, expanded, or improved for the conservation area including the Red Rock Canyon visitors center, to accommodate visitors to the conservation area;

(C) a cultural resources management plan for the conservation area prepared in consultation with the Nevada State Historic Preservation Officer, with emphasis on the preservation of the resources in the conservation area and the interpretive, educational, and long-term scientific uses of these resources, giving priority to the enforcement of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the conservation area;

(D) a wildlife resource management plan for the conservation area prepared in consultation with appropriate departments of the State of Nevada and using previous studies of the area; and

(E) a recreation management plan, including nonmotorized dispersed recreation opportunities for the conservation area in consultation with appropriate departments of the State of Nevada.

(b) Wilderness study areas

Subject to section 460ccc–5 of this title, nothing in this subchapter is intended to alter the requirements of section 1782 of title 43, or section 5(a) of the National Forest and Public Lands of Nevada Enhancement Act of 1988 (102 Stat. 2751), as those requirements apply to the lands within, or adjacent to the conservation area as of November 16, 1990.

(Pub. L. 101–621, § 5, Nov. 16, 1990, 104 Stat. 3343; Pub. L. 103–437, § 6(d)(23), Nov. 2, 1994, 108 Stat. 4584; Pub. L. 103–450, § 2(a), Nov. 2, 1994, 108 Stat. 4766.)

REFERENCES IN TEXT

The Archaeological Resources Protection Act of 1979, referred to in subsec. (a)(2)(C), is Pub. L. 96–95, Oct. 31, 1979, 93 Stat. 721, which is classified generally to chapter 1B (§ 470aa et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of this title and Tables.

The National Historic Preservation Act, referred to in subsec. (a)(2)(C), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of this title. For complete classification of this Act to the Code, see section 470 of this title and Tables.

Section 5(a) of the National Forest and Public Lands of Nevada Enhancement Act of 1988, referred to in subsec. (b), is section 5(a) of Pub. L. 100–550, Oct. 28, 1988, 102 Stat. 2751, which is not classified to the Code.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–450 substituted ''No later than January 1, 1997,'' for ''Within 3 full fiscal years following the fiscal year in which the date of enactment of this subchapter occurs,''.

Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 460ccc–4. Acquisitions

(a) In general

(1) Within the conservation area, and subject to the provisions of this section, the Secretary is authorized to acquire lands, interests in lands, and associated water rights, by donation, purchase, exchange for Federal lands outside the conservation area, or transfer from another Federal agency with the concurrence of the head of the appropriate agency thereof.

(2) No privately owned lands, interests in lands, or associated water rights, may be acquired without the consent of the owner thereof unless the Secretary determines that, in his judgment, the property is subject to, or threatened with, uses which are having, or would have, an adverse impact on the resource values for which the conservation area was established.

(3) Any lands, waters, or interests therein within the boundaries of the conservation area which after November 16, 1990, may be acquired by the United States shall be incorporated into the conservation area and be managed accordingly, and all provisions of this subchapter and other laws applicable to conservation areas shall apply to such incorporated lands.

(b) Land exchanges

All exchanges pursuant to subsection (a) of this section shall be made in a manner consistent with section 1716 of title 43.

(Pub. L. 101–621, § 6, Nov. 16, 1990, 104 Stat. 3344; Pub. L. 110–161, div. F, title I, § 120, Dec. 26, 2007, 121 Stat. 2121.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 110–161, which directed the amendment of section 460ccc–4(a) of the Red Rock Canyon National Conservation Area Establishment Act authorization by striking out ''with donated or appropriated funds'' in par. (1), striking out par. (2), and redesignating pars. (3) and (4) as (2) and (3), respectively, was executed by making the amendments to subsec. (a) of this section, which is section 6 of the Red Rock Canyon National Conservation Area Establishment Act of 1990, to reflect the probable intent of Congress. Prior to amendment, ''with donated or appropriated funds'' appeared after ''purchase'' and par. (2) read as follows: ''Lands or interests therein owned by the State of Nevada or a political subdivision thereof may be acquired by donation or exchange only.''

RED ROCK CANYON NATIONAL CONSERVATION AREA PROTECTION AND ENHANCEMENT

Pub. L. 107–282, title I, Nov. 6, 2002, 116 Stat. 1995, provided that:

''SEC. 101. SHORT TITLE.

''This title [amending section 460ccc–1 of this title and enacting this note] may be cited as the 'Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002'.

''SEC. 102. DEFINITIONS.

''As used in this title:

''(1) CORPORATION.—The term 'Corporation' means the Howard Hughes Corporation, an affiliate of the Rouse Company, with its principal place of business at 10000 West Charleston Boulevard, Las Vegas, Nevada.

''(2) RED ROCK CANYON.—The term 'Red Rock Canyon' means the Red Rock Canyon National Conservation Area, consisting of approximately 195,780 acres of public lands in Clark County, Nevada, specially designated for protection in the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.), as depicted on the Red Rock Canyon Map.

''(3) RED ROCK CANYON MAP.—The term 'Red Rock Canyon Map' means the map entitled 'Southern Nevada Public Land Management Act', dated October 1, 2002.

''SEC. 103. FINDINGS AND PURPOSES.

''(a) FINDINGS.—The Congress makes the following findings:

''(1) Red Rock Canyon is a natural resource of major significance to the people of Nevada and the United States. It must be protected in its natural state for the enjoyment of future generations of Nevadans and Americans, and enhanced wherever possible.

''(2) In 1998, the Congress enacted the Southern Nevada Public Lands [Land] Management Act of 1998 (Public Law 105–263) [see Short Title of 1998 Amendment note set out under section 6901 of Title 31, Money and Finance], which provided among other things for the protection and enhancement of Red Rock Canyon.

''(3) The Corporation owns much of the private land on Red Rock Canyon's eastern boundary, and is engaged in developing a large-scale master-planned community.

''(4) Included in the Corporation's land holdings are 1,071 acres of high-ground lands at the eastern edge of Red Rock Canyon. These lands were intended to be included in Red Rock, but to date have not been acquired by the United States. The protection of this high-ground acreage would preserve an important element of the western Las Vegas Valley viewshed.

''(5) The Corporation has volunteered to forgo development of the high-ground lands, and proposes that the United States acquire title to the lands so that they can be preserved in perpetuity to protect and expand Red Rock Canyon.

''(b) PURPOSES.—The purposes of this title are:

''(1) To accomplish an exchange of lands between the United States and the Corporation that would transfer certain high-ground lands to the United States in exchange for the transfer of other lands of approximately equal value to the Corporation.

''(2) To protect Red Rock Canyon and to expand its boundaries as contemplated by the Bureau of Land Management, as depicted on the Red Rock Canyon Map.

''(3) To further fulfill the purposes of the Southern Nevada Public Lands [Land] Management Act of 1998 and the Red Rock Canyon National Conservation Area Establishment Act of 1990.

''SEC. 104. RED ROCK CANYON LAND EXCHANGE.

''(a) ACQUISITION REQUIREMENT.—If the Corporation offers to convey to the United States all right, title, and interest in and to the approximately 1,082 acres of non-Federal land owned by the Corporation and depicted on the Red Rock Canyon Map as 'Offered Lands proposed addition to the Red Rock Canyon NCA', the Secretary shall accept such offer on behalf of the United States, and not later than 90 days after the date of the offer, except as otherwise provided in this title, shall make the following conveyances:

''(1) To the Corporation, the approximately 998 acres of Federal lands depicted on the Red Rock Canyon Map as 'Public land selected for exchange'.

''(2) To Clark County, Nevada, the approximately 1,221 acres of Federal lands depicted on the Red Rock Canyon Map as 'Proposed BLM transfer for county park'.

''(b) SIMULTANEOUS CONVEYANCES.—Title to the private property and the Federal property to be conveyed pursuant to this section shall be conveyed at the same time.

''(c) MAP.—The Secretary shall keep the Red Rock Canyon Map on file and available for public inspection in the Las Vegas District Office of the Bureau of Land Management in Nevada, and the State Office of the Bureau of Land Management, Reno, Nevada.

''(d) CONDITIONS.—

''(1) HAZARDOUS MATERIALS.—As a condition of the conveyance under —subsection [sic] (a)(1), the Secretary shall require that the Corporation be responsible for removal of and remediation related to any hazardous materials that are present on the property conveyed to the United States under subsection (a).

''(2) SURVEY.—As a condition of the conveyance under subsection (a)(1), the Secretary shall require that not later than 90 days after the date of the offer referred to in subsection (a), the Corporation shall provide a metes and bounds survey, that is acceptable to the Corporation, Clark County, and the Secretary, of the common boundary between the parcels of land to be conveyed under subsection (a).

''(3) LANDS CONVEYED TO CLARK COUNTY.—As a condition of the conveyance under subsection (a)(2), the Secretary shall require that—

''(A) the lands transferred to Clark County by the United States must be held in perpetuity by the County for use only as a public park or as part of a public regional trail system; and

''(B) if the County attempts to transfer the lands or to undertake a use on the lands that is inconsistent with their preservation and use as described in subparagraph (A), such lands shall, at the discretion of the Secretary, revert to the United States.

''(e) VALUATION.—

''(1) EQUAL VALUE EXCHANGE.—The values of the Federal parcel and the non-Federal parcel, as determined under paragraph (2)—

''(A) shall be equal; or

''(B) if the values are not equal, shall be equalized in accordance with paragraph (3).

''(2) APPRAISAL.—The values of the Federal parcel and the non-Federal parcel shall be determined by an appraisal, to be approved by the Secretary, that complies with the Uniform Standards for Federal Land Acquisitions.

''(3) EQUALIZATION.—

''(A) IN GENERAL.—If the value of the non-Federal parcel is less than the value of the Federal parcel—

''(i) the Corporation shall make a cash equalization payment to the Secretary; or

''(ii) the Secretary shall, as determined to be appropriate by the Secretary and the Corporation, reduce the acreage of the Federal parcel.

''(B) DISPOSITION OF PROCEEDS.—The Secretary shall deposit any cash equalization payments received under subparagraph (A)(i) in accordance with section 4(e)(1)(C) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2345).

''SEC. 105. STATUS AND MANAGEMENT OF LANDS.

''(a) INCLUSION AND MANAGEMENT OF LANDS.—Upon the date of the enactment of this Act [Nov. 6, 2002], the

Secretary shall administer the lands depicted on the Red Rock Map as 'Public Lands-proposed addition to the Red Rock Canyon NCA', exclusive of those lands used for the Corps of Engineers R–4 Detention Basin, as part of Red Rock and in accordance with the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.) and all other applicable laws.

''(b) INCLUSION OF ACQUIRED LANDS.—Upon acquisition by the United States of lands under this Act [Pub. L. 107–282, see Short Title note set out under section 460qqq of this title], the Secretary shall—

''(1) administer the lands as part of Red Rock and in accordance with the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.), the Southern Nevada Public Lands [Land] Management Act of 1998 (Public Law 105–263), and all other applicable laws; and

''(2) create new maps showing the boundaries of Red Rock as modified or pursuant to this Act, and make such maps available for review at the Las Vegas District Office of the Bureau of Land Management and the State Office of the Bureau of Land Management, Reno, Nevada.

''(c) CONFORMING AMENDMENT.—[Amended section 460ccc–1 of this title.]

''SEC. 106. GENERAL PROVISIONS.

''(a) REVIEW OF APPRAISAL.—Not later than 90 days after the date of the enactment of this Act [Nov. 6, 2002], the Secretary shall complete a review of the appraisal entitled, 'Complete Self-Contained Appraisal Red Rock Exchange, Las Vegas, Nevada', completed on or about June 3, 2002. The difference in appraisal values shall be reimbursed to the Secretary by the Corporation in accordance with the Southern Nevada Public Lands [Land] Management Act of 1998.

''(b) VALID EXISTING RIGHTS.—The land exchange under this Act shall be subject to valid existing rights. Each party to which property is conveyed under this Act shall succeed to the rights and obligations of the conveying party with respect to any lease, right-of-way, permit, or other valid existing right to which the property is subject.

''(c) TECHNICAL CORRECTIONS.—Nothing in this Act prohibits the parties to the conveyances under this Act from agreeing to the correction of technical errors or omissions in the Red Rock Map.

''(d) WITHDRAWAL OF AFFECTED LANDS.—To the extent not already accomplished under law or administrative action, the Secretary shall withdraw from operation of the public land and mining laws, subject to valid existing rights—

''(1) those Federal lands acquired by the United States under this Act; and

''(2) those Federal lands already owned by the United States on the date of enactment of this Act but included within the Red Rock National Conservation Area boundaries by this Act.''

[For definitions of terms used in title I of Pub. L. 107–282, set out above, see section 3 of Pub. L. 107–282, set out as a note under section 460qqq–1 of this title.]

§ 460ccc–5. Withdrawal; exchange of lands

(a) Except as specifically authorized in this subchapter, and subject to valid existing rights, all Federal lands within the conservation area and all lands and interests therein which are acquired by the United States after November 16, 1990, for inclusion in the conservation area are withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws, and from operation under the mineral leasing and geothermal leasing laws, and all amendments thereto.

(b) The Secretary may transfer to the owner of the Old Nevada recreation facility the approximately 20 acres of Federal lands within the conservation area which, on March 1, 1994, were used to provide parking for visitors to such facility, in exchange for lands of equal or greater value within the conservation area acceptable to the Secretary.

(Pub. L. 101–621, § 7, Nov. 16, 1990, 104 Stat. 3344; Pub. L. 103–450, § 2(b), Nov. 2, 1994, 108 Stat. 4766.)

AMENDMENTS

1994—Pub. L. 103–450 designated existing provisions as subsec. (a) and added subsec. (b).

§ 460ccc–6. Cooperative agreements

In order to encourage unified and cost-effective management and interpretation of natural and cultural resources in the conservation area, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State, and local agencies and nonprofit entities providing for the management and interpretation of natural and cultural resources in the conservation area.

(Pub. L. 101–621, § 8, Nov. 16, 1990, 104 Stat. 3345.)

§ 460ccc–7. Coordinated management

The Secretary shall coordinate the management of the conservation area with that of surrounding State and Federal lands in such a manner as best to meet the present and future needs of the American people.

(Pub. L. 101–621, § 9, Nov. 16, 1990, 104 Stat. 3345.)

§ 460ccc–8. Water

(a) Reservation of rights

Within the conservation area designated by this subchapter, there is hereby reserved a quantity of water sufficient to fulfill the purposes for which the conservation area is established.

(b) Priority date of reservation

The priority date of the water rights reserved in paragraph [1] (a) shall be November 16, 1990, except that as related to rights associated with lands added to the conservation area after November 16, 1990, the priority date shall be the date of enactment of the Act adding such lands to the conservation area.

(c) Protection of rights

The Secretary shall take all steps necessary to protect the water rights reserved by this section, including the filing of a claim for quantification of such rights in any appropriate water adjudication in the courts of the State of Nevada in which the United States is or may be joined and which is conducted in accordance with section 666 of title 43.

(d) Effect on previously secured rights

The Federal water rights reserved by this subchapter shall be in addition to any water rights which may have been previously secured by the United States for purposes other than for the conservation area.

(e) Scope and construction of rights

The Federal water rights reserved by this subchapter are specific to the conservation area

[1] So in original. Probably should be ''subsection''.

designated by this subchapter. Nothing in this subchapter shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation.

(Pub. L. 101–621, § 10, Nov. 16, 1990, 104 Stat. 3345; Pub. L. 103–450, § 2(c), Nov. 2, 1994, 108 Stat. 4766.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–450 inserted before period at end ", except that as related to rights associated with lands added to the conservation area after November 16, 1990, the priority date shall be the date of enactment of the Act adding such lands to the conservation area".

§ 460ccc–9. No buffer zones

The Congress does not intend for the establishment of the conservation area to lead to the creation of protective perimeters or buffer zones around the conservation area. The fact that there may be activities or uses on lands outside the conservation area that would not be permitted in the conservation area shall not preclude such activities or uses on such lands up to the boundary of the conservation area to the extent consistent with other applicable law.

(Pub. L. 101–621, § 11, Nov. 16, 1990, 104 Stat. 3345.)

§ 460ccc–10. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subchapter.

(Pub. L. 101–621, § 12, Nov. 16, 1990, 104 Stat. 3346.)

SUBCHAPTER CXV—GILA BOX RIPARIAN NATIONAL CONSERVATION AREA

§ 460ddd. Establishment

(a) In general

In order to conserve, protect, and enhance the riparian and associated areas described in subsection (b) of this section and the aquatic, wildlife, archeological, paleontological, scientific, cultural, recreational, educational, scenic, and other resources and values of such areas, there is hereby established the Gila Box Riparian National Conservation Area (hereafter in this subchapter referred to as the "conservation area").

(b) Areas included

The conservation area shall consist of the public lands generally depicted on a map entitled "Gila Box Riparian National Conservation Area" dated February 1990, and comprising approximately 20,900 acres.

(c) Map

As soon as practicable after November 28, 1990, a map and legal description of the conservation area shall be filed by the Secretary with the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such map shall have the same force and effect as if included in this section. Copies of such map shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior, and in the appropriate office of the Bureau of Land Management in Arizona.

(d) Management of conservation area

(1) The Secretary shall manage the conservation area in a manner that conserves, protects and enhances its resources and values, including the resources and values specified in subsection (a) of this section, pursuant to the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701 et seq.] and other applicable law, including this subchapter.

(2) The Secretary shall allow only such uses of the conservation area as the Secretary finds will further the purposes for which the conservation area is established. Except where needed for administrative purposes or to respond to an emergency, use of motorized vehicles in the conservation area shall be permitted only on roads specifically designated for such use as part of the management plan prepared pursuant to subsection (g) of this section.

(e) Withdrawal

Subject to valid existing rights, all Federal lands within the conservation area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and all amendments thereto.

(f) Water

(1) Congress hereby reserves a quantity of water sufficient to fulfill the purposes, as specified in subsection (a) of this section, for which the conservation area is established. The priority date of this reserved right shall be November 28, 1990.

(2) The Secretary and all other officers of the United States shall take all steps necessary to protect the right reserved by paragraph (1), including the filing by the Secretary of a claim for the quantification of such right in any present or future appropriate stream adjudication in the courts of the State of Arizona in which the United States is or may be joined and which is conducted in accordance with section 666 of title 43.

(3) Nothing in this subchapter shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of Arizona on or before November 28, 1990.

(4) The Federal rights reserved by this subchapter are specific to the conservation area located in the State of Arizona designated by this subchapter. Nothing in this subchapter related to reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

(5) Nothing in this subchapter shall be construed to impair or conflict with the implementation of the authorization contained in section 1524(f) of title 43.

(g) Management plan

(1) No later than two years after November 28, 1990, the Secretary shall develop a comprehen-

sive plan for the long-term management of the conservation area (hereinafter in this subchapter referred to as the ''management plan'') in order to fulfill the purposes for which the conservation area is established. The management plan shall be developed with full public participation and shall include provisions designed to assure protection of the resources and values (including the resources and values specified in subsection (a) of this section) of the conservation area.

(2) The management plan shall include a discussion of the desirability of the inclusion in the conservation area of additional lands, including the lands not in Federal ownership that are contiguous to the boundary of the conservation area (as depicted on the map referenced in subsection (b) of this section or as hereafter adjusted pursuant to subsection (h) of this section) and within the area extending two miles on either side of the centerline of Eagle Creek from the point where Eagle Creek crosses the southern boundary of the Apache National Forest to the confluence of Eagle Creek with the Gila River (this area is hereafter referred to in this subchapter as the ''Eagle Creek riparian area'').

(3) In order to better implement the management plan, the Secretary may enter into cooperative agreements with appropriate State and local agencies pursuant to section 307(b) of the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1737(b)].

(4) In order to assist in the development and implementation of the management plan, the Secretary may authorize appropriate research, including research concerning the environmental, biological, hydrological, cultural, and other characteristics, resources, and values of the conservation area, pursuant to section 307(a) of the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1737(a)].

(h) Acquisition and boundary adjustments

(1) Subject to the limitations set forth in paragraph (3), the Secretary is authorized to acquire non-Federal lands or interests therein within the boundaries of the conservation area or within the Eagle Creek riparian area.

(2) The Secretary is authorized to adjust the boundaries of the conservation area so as to incorporate within the conservation area any lands or interests within the Eagle Creek riparian area that may be acquired after November 28, 1990, as well as public lands within that portion of the Eagle Creek riparian area west of the centerline of Eagle Creek that the Secretary finds appropriate in order to properly manage such acquired lands as part of the conservation area. Any lands or interests so incorporated shall be managed as part of the conservation area.

(3) No lands or interests therein owned by the State of Arizona or any political subdivision of such State shall be acquired pursuant to this subsection except through donation or exchange, and no lands or interests within the conservation area or the Eagle Creek riparian area shall be acquired from any other party or entity except by donation, exchange, or purchase with the consent of the owner of such lands or interests.

(i) No buffer zones

The Congress does not intend for the establishment of the conservation area to lead to the creation of protective perimeters or buffer zones around the conservation area. The fact that there may be activities or uses on lands outside the conservation area that would not be permitted in the conservation area shall not preclude such activities or uses on such lands up to the boundary of the conservation area to the extent consistent with other applicable law.

(j) Advisory committee

The Secretary shall establish an advisory committee to advise the Secretary with respect to the preparation and implementation of the management plan. Such advisory committee shall consist of seven members appointed by the Secretary. One member shall be appointed from among recommendations submitted by the Governor of Arizona, one member shall be appointed from among recommendations submitted by the Graham County Board of Supervisors and one member shall be appointed from among recommendations submitted by the Greenlee County Board of Supervisors. The remaining members shall be persons recognized as experts in wildlife conservation, riparian ecology, archeology, paleontology, or other disciplines directly related to the purposes for which the conservation area is established.

(k) Report

No later than five years after November 28, 1990, and at least each ten years thereafter, the Secretary shall report to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate on the implementation of this subchapter, the condition of the resources and values of the conservation area, and the progress of the Secretary in achieving the purposes for which the conservation area is established.

***(l)* Enforcement**

Any person who violates any regulation promulgated by the Secretary to implement the provisions of this subchapter shall be subject to a fine in accordance with applicable provisions of the Sentencing Reform Act of 1984, or imprisonment of not more than 1 year, or both such fine and imprisonment.

(m) Authorization

There are hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this subchapter.

(Pub. L. 101–628, title II, § 201, Nov. 28, 1990, 104 Stat. 4475; Pub. L. 103–437, § 6(d)(24), Nov. 2, 1994, 108 Stat. 4584.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (d)(1), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

The Sentencing Reform Act of 1984, referred to in subsec. (*l*), is chapter II (§§ 211–239) of Pub. L. 98–473, title II, Oct. 12, 1984, 98 Stat. 1987, as amended. For

complete classification of chapter II to the Code, see Short Title note set out under section 3551 of Title 18, Crimes and Criminal Procedure, and Tables.

AMENDMENTS

1994—Subsecs. (c), (k). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

SHORT TITLE

Section 1 of Pub. L. 101–628 provided that: ''Titles I through III of this Act [enacting this subchapter and provisions listed in a table of Wilderness Areas set out under section 1132 of this title] may be cited as the 'Arizona Desert Wilderness Act of 1990'.''

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER CXVI—LAKE MEREDITH NATIONAL RECREATION AREA

§ 460eee. Establishment

(a) In general

In order to provide for public outdoor recreation use and enjoyment of the lands and waters associated with Lake Meredith in the State of Texas, and to protect the scenic, scientific, cultural, and other values contributing to the public enjoyment of such lands and waters, there is hereby established the Lake Meredith National Recreation Area (hereafter in this Act referred to as the ''recreation area'').

(b) Area included

The recreation area shall consist of the lands, waters, and interests therein within the area generally depicted on the map entitled ''Lake Meredith National Recreation Area Boundary Map, 'Fee-Take Line' '', numbered SWRO—80,023–A, and dated September 1990. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereafter in this Act referred to as the ''Secretary'') may from time to time make minor revisions in the boundary of the recreation area.

(c) Transfer

(1) Except as provided in paragraph (2), the Federal lands, waters, and interests therein within the recreation area are hereby transferred to the National Park Service.

(2) Those lands depicted on the map referred to in subsection (b) of this section that are necessary for the continued operation, maintenance, and replacement of the Canadian River Project facilities and its purposes of providing for municipal and industrial water supply and flood control shall remain under the jurisdiction of the Bureau of Reclamation.

(Pub. L. 101–628, title V, § 502, Nov. 28, 1990, 104 Stat. 4492.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b), is Pub. L. 101–628, Nov. 28, 1990, 104 Stat. 4469, which enacted this subchapter, subchapters CXV (§ 460ddd) and CXVII (§ 460fff et seq.) of this chapter, chapter 65 (§ 4601 et seq.) of this title, and sections 1a–9 to 1a–13 of this title, amended sections 410ee, 463, 1274, and 1276 of this title, enacted provisions set out as notes under sections 1a–5, 1132, and 1271 of this title and section 1522 of Title 43, Public Lands, and enacted provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of this Act to the Code, see Tables.

§ 460eee–1. Administration

(a) In general

The Secretary shall administer the recreation area in accordance with this Act and the provisions of law generally applicable to units of the national park system, including sections 1, 2, 3, 4, and 17j–2 of this title. In the administration of such recreation area, the Secretary may utilize such statutory authority as may be available to him for the protection of natural and cultural resources as he deems necessary to carry out the purposes of this Act.

(b) Operation of Canadian River Project

Nothing in this Act shall be construed to affect or interfere with the authority of the Secretary under the Act of December 29, 1950 (Public Law 81–898; 43 U.S.C. 600b et seq.), to operate Sanford Dam and Lake Meredith in accordance with and for the purposes set forth in that Act.

(c) Land acquisition

Within the boundary of the recreation area, the Secretary may acquire lands and interests in lands by purchase with donated or appropriated funds, exchange, or transfer without reimbursement from any Federal agency.

(d) Cultural resources

The Secretary shall conduct a survey of the cultural resources in the immediate vicinity of the recreation area. The Secretary is authorized to enter into cooperative agreements with public or private entities, including landowners, for the purpose of conducting the survey required by this subsection. Not later than three years after the date on which funds have been made available, the Secretary shall submit a report to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the results of the survey required by this subsection.

(e) Hunting and fishing

(1) The Secretary shall permit hunting and fishing on lands and waters under the Secretary's jurisdiction within the recreation area in accordance with applicable Federal and State law. The Secretary may designate zones where, and establish periods when, hunting or fishing will not be permitted for reasons of public safety, administration, fish and wildlife management, or public use and enjoyment.

(2) Except in emergencies any regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

(f) Cooperative agreements

For purposes of administering the recreation area, the Secretary may enter into cooperative agreements with any Federal agency, the State of Texas, or any political subdivision thereof, including the Canadian River Municipal Water Authority, for the rendering, on a reimbursable basis, of rescue, firefighting, law enforcement, fire preventive assistance, and other needs. The Secretary may enter into a cooperative agreement with the city of Fritch, Texas, to develop and operate a joint venture information center. Federal funds may be expended on non-Federal lands and improvements through cooperative agreements for the purpose of this section on a 50–50 matching basis.

(Pub. L. 101–628, title V, §503, Nov. 28, 1990, 104 Stat. 4493; Pub. L. 103–437, §6(d)(24), Nov. 2, 1994, 108 Stat. 4584.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b), is Pub. L. 101–628, Nov. 28, 1990, 104 Stat. 4469, which enacted this subchapter, subchapters CXV (§460ddd) and CXVII (§460fff et seq.) of this chapter, chapter 65 (§4601 et seq.) of this title, and sections 1a–9 to 1a–13 of this title, amended sections 410ee, 463, 1274, and 1276 of this title, enacted provisions set out as notes under sections 1a–5, 1132, and 1271 of this title and section 1522 of Title 43, Public Lands, and enacted provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of this Act to the Code, see Tables.

Act of December 29, 1950, referred to in subsec. (b), is act Dec. 29, 1950, ch. 1183, 64 Stat. 1124, which enacted sections 600b and 600c of Title 43 and provisions set out as a note under section 600b of Title 43. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 460eee–2. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 460eee and 460eee–1 of this title.

(Pub. L. 101–628, title V, §504, Nov. 28, 1990, 104 Stat. 4494.)

SUBCHAPTER CXVII—AMISTAD NATIONAL RECREATION AREA

§ 460fff. Establishment

(a) In order to—

(1) provide for public outdoor recreation use and enjoyment of the lands and waters associated with the United States portion of the reservoir known as Lake Amistad, located on the boundary between the State of Texas and Mexico, and

(2) protect the scenic, scientific, cultural, and other value contributing to the public enjoyment of such lands and waters,

there is hereby established the Amistad National Recreation Area (hereafter in this section and section 460fff–1 of this title referred to as the ''recreation area'').

(b) The recreation area shall consist of the Federal lands, waters, and interests therein within the area generally depicted on the map entitled ''Boundary Map, Proposed Amistad National Recreation Area'', numbered 621/20,013–B, and dated July 1969. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereafter in this Act referred to as the ''Secretary'') may from time to time make minor revisions in the boundary of the recreation area, but the total acreage of the recreation area may not exceed 58,500 acres. Within the boundary of the recreation area, the Secretary may acquire lands and interests in lands by purchase with donated or appropriated funds, exchange, or transfer without reimbursement from any Federal agency.

(Pub. L. 101–628, title V, §505, Nov. 28, 1990, 104 Stat. 4494.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is Pub. L. 101–628, Nov. 28, 1990, 104 Stat. 4469, which enacted this subchapter, subchapters CXV (§460ddd) and CXVI (§460eee et seq.) of this chapter, chapter 65 (§4601 et seq.) of this title, and sections 1a–9 to 1a–13 of this title, amended sections 410ee, 463, 1274, and 1276 of this title, enacted provisions set out as notes under sections 1a–5, 1132, and 1271 of this title and section 1522 of Title 43, Public Lands, and enacted provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of this Act to the Code, see Tables.

§ 460fff–1. Administration

(a) In general

The Secretary shall administer the recreation area in accordance with applicable provisions of this Act and the provisions of law generally applicable to units of the national park system, including sections 1, 2, 3, 4, and 17j–2 of this title. In the administration of such recreation area, the Secretary may utilize such statutory authority as may be available to him for the protection of natural and cultural resources as he deems necessary to carry out the purposes of this Act. Nothing in this Act shall be construed to amend or alter the responsibilities of the International Boundary and Water Commission, United States and Mexico, under any applicable treaty.

(b) Compliance with treaties and other commitments or agreements

The administration of the recreation area by the Secretary shall be subject to and in accordance with all applicable treaties, including the treaty between the United States and Mexico relating to the utilization of waters of the Colorado and Tijuana Rivers and the Rio Grande, entered into force November 8, 1945 (59 Stat. 1219,[1] and in accordance with sections 277d–13 to 277d–16 of title 22, and any commitment or agreement entered into pursuant to such treaty or sections, including (but not limited to) commitments or agreements relating to—

(1) the demarcation and maintenance of boundaries;

(2) the use, storage, and furnishing of water;

[1] So in original. Closing parenthesis probably should follow ''1219''.

(3) control of floods;

(4) investigations relative to the operation of the Amistad Dam; and

(5) the production of hydroelectric energy.

(c) Survey of cultural resources; report to Congress

The Secretary shall conduct a survey of the cultural resources in the immediate vicinity of the recreation area. The Secretary is authorized to enter into cooperative agreements with public or private entities, including landowners, for the purpose of conducting the survey required by this subsection. Not later than two years after November 28, 1990, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the results of the survey required by this subsection.

(d) Hunting and fishing

(1) The Secretary shall permit hunting and fishing on lands and waters under the Secretary's jurisdiction within the recreation area in accordance with applicable Federal and State law. The Secretary may designate zones where, and establish periods when, hunting or fishing will not be permitted for reasons of public safety, administration, fish and wildlife management, or public use and enjoyment.

(2) Except in emergencies any regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

(e) Rescue, firefighting, and law enforcement assistance

For purposes of administering the recreation area, the Secretary may enter into cooperative agreements with any Federal agency, the State of Texas, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement and fire preventive assistance.

(Pub. L. 101–628, title V, §506, Nov. 28, 1990, 104 Stat. 4494.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 101–628, Nov. 28, 1990, 104 Stat. 4469, which enacted this subchapter, subchapters CXV (§460ddd) and CXVI (§460eee et seq.) of this chapter, chapter 65 (§4601 et seq.) of this title, and sections 1a–9 to 1a–13 of this title, amended sections 410ee, 463, 1274, and 1276 of this title, enacted provisions set out as notes under sections 1a–5, 1132, and 1271 of this title and section 1522 of Title 43, Public Lands, and enacted provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of this Act to the Code, see Tables.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 460fff–2. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 460fff and 460fff–1 of this title.

(Pub. L. 101–628, title V, §507, Nov. 28, 1990, 104 Stat. 4495.)

SUBCHAPTER CXVIII—ED JENKINS NATIONAL RECREATION AREA AND COOSA BALD NATIONAL SCENIC AREA

§ 460ggg. Wilderness

(a) Designation

In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131–1136), the following lands in the State of Georgia are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) Certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately 7,800 acres, as generally depicted on a map entitled ''Blood Mountain Wilderness—Proposed'', dated October 1991, and which shall be known as Blood Mountain Wilderness.

(2) Certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately 16,880 acres, as generally depicted on a map entitled ''Chattahoochee Headwaters Wilderness—Proposed'', dated July 1991, and which shall be known as Mark Trail Wilderness.

(3) Certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately 1,160 acres, as generally depicted on a map entitled ''Brasstown Wilderness Addition—Proposed'', dated July 1991, and which is hereby incorporated in and shall be part of the Brasstown Wilderness as designated by section 2(2) of the Georgia Wilderness Act of 1986 (100 Stat. 3129).

(b) Administration

Subject to valid existing rights, each wilderness area designated by this subchapter shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.] governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to December 11, 1991.

(Pub. L. 102–217, §2, Dec. 11, 1991, 105 Stat. 1667.)

REFERENCES IN TEXT

The Wilderness Act, referred to in text, is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

Section 2(2) of the Georgia Wilderness Act of 1986, referred to in subsec. (a)(3), is section 2(2) of Pub. L. 99–555, Oct. 27, 1986, 100 Stat. 3129, which enacted provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

The effective date of the Wilderness Act, referred to in subsec. (b), means Sept. 3, 1964, the date of enactment of Pub. L. 88–577, which enacted chapter 23 of this title.

SHORT TITLE

Section 1 of Pub. L. 102–217 provided that: ''This Act [enacting this subchapter] may be cited as the 'Chattahoochee National Forest Protection Act of 1991'.''

SAVINGS PROVISION

Section 6 of Pub. L. 102–217 provided that: ''Privately held lands within the areas designated by this Act [en-

acting this subchapter] will not be administered as wilderness, a national scenic area, or a national recreation area, as appropriate, unless such lands are acquired by the Secretary.''

REDESIGNATION OF NATIONAL RECREATION AREA

Pub. L. 102–456, Oct. 23, 1992, 106 Stat. 2264, provided that:

''SECTION 1. REDESIGNATION.

''Springer Mountain National Recreation Area in the Chattahoochee National Forest, in the State of Georgia, is hereby redesignated as 'Ed Jenkins National Recreation Area'.

''SEC. 2. LEGAL REFERENCES.

''Any reference in any law, regulation, document, record, map, or other paper of the United States to Springer Mountain National Recreation Area is deemed to be a reference to Ed Jenkins National Recreation Area.''

§ 460ggg–1. National scenic area

(a) Designation and purposes

For the purposes of protecting and enhancing the natural beauty, special ecological features, watershed integrity, mature-forest habitat, scenic recreation opportunities and other distinctive values of certain lands in Georgia, the lands in the Chattahoochee National Forest, Georgia, which comprise approximately 7,100 acres, as generally depicted on a map entitled ''Coosa Bald Scenic Area—Proposed'', dated July 1991, are designated as a national scenic area and shall be known as the Coosa Bald National Scenic Area (hereafter in this section referred to as the ''scenic area'').

(b) Administration

(1) Subject to valid existing rights, the Secretary shall administer the scenic area in accordance with the laws, rules, and regulations applicable to the National Forest System in such a way as to further the purposes of this section.

(2) The Secretary may permit additional road construction in the scenic area in furtherance of the purposes for which the scenic area is established. Except as provided in this section, the Secretary may not conduct timber harvesting in the scenic area. The Secretary may remove timber in the scenic area in furtherance of this section, but only in a manner which does not impair the purposes for which the scenic area is established. Salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow or other catastrophe, or are in imminent danger from insect or disease attack, is authorized to maintain forest health. Timber harvesting is authorized to provide for visitor safety.

(3) By virtue of this designation alone, the Secretary need not change patterns of public access or closure on existing permanent national forest development roads. At his discretion, however, the Secretary may open or close such existing roads for public use for reasons of sound resource management.

(4) Nothing in this section shall prevent the completion of existing timber sales under contract.

(5) The scenic area is hereby withdrawn from the operation of all laws pertaining to mineral leasing.

(6) The Secretary may also permit, in his discretion, the continued maintenance of existing wildlife openings, in cooperation with the State of Georgia and other Federal, State, and private cooperators, and may permit new wildlife openings in furtherance of the purposes for which the scenic area is established.

(7) The Secretary shall protect, enhance, and promote the public's opportunities for primitive and semiprimitive experiences in the scenic area.

(Pub. L. 102–217, § 3, Dec. 11, 1991, 105 Stat. 1667.)

REFERENCES IN TEXT

The laws pertaining to mineral leasing, referred to in subsec. (b)(5), are classified generally to Title 30, Mineral Lands and Mining.

§ 460ggg–2. Recreation area

(a) Designation and purposes

For the purposes of ensuring the protection of certain natural, scenic, fish and wildlife, historic and archaeological, wildland and watershed values, and providing for the enhancement of the recreation opportunities associated with these values, certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately 23,330 acres, as generally depicted on a map entitled ''Springer Mountain National Recreation Area—Proposed'', dated October 1991, are hereby designated as a national recreation area and shall be known as Ed Jenkins National Recreation Area (hereafter in this section referred to as the ''recreation area'').

(b) Administration

(1) Subject to valid existing rights, the Secretary shall administer the recreation area in accordance with the laws, rules, and regulations applicable to the national forests in such a way as to further the purposes of this section. Except as provided in this section, the Secretary may not conduct timber harvesting in the recreation area. The Secretary may remove timber in the recreation area in furtherance of this section, but only in a manner which does not impair the purposes for which the recreation area is established. Salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow or other catastrophe, or are in imminent danger from insect or disease attack, is authorized to maintain forest health. Timber harvesting is authorized to provide for visitor safety.

(2) Nothing in this section shall prevent the completion of existing timber sales under contract. The Secretary may permit additional road construction in the area in furtherance of the purposes for which the recreation area is established.

(3) By virtue of the designation under this section, the Secretary need not change patterns of public access or closure on existing permanent national forest development roads. At his discretion, however, the Secretary may open or close such existing roads to public use for reasons of sound resource management.

(4) Lands within the recreation area are hereby withdrawn from the operation of all laws pertaining to mineral leasing.

(5) The Secretary may permit, in his discretion, the continued maintenance of existing

wildlife openings, in cooperation with the State of Georgia and other Federal, State, and private cooperators, and may permit new wildlife openings in furtherance of the purposes for which the recreation area is established.

(6) The Secretary shall protect, enhance, and promote the public's opportunities for primitive and semiprimitive recreation in the recreation area.

(7) Designation by this section shall not interfere with rights of access to privately held lands.

(Pub. L. 102–217, § 4, Dec. 11, 1991, 105 Stat. 1668; Pub. L. 102–456, § 2, Oct. 23, 1992, 106 Stat. 2264.)

REFERENCES IN TEXT

The laws pertaining to mineral leasing, referred to in subsec. (b)(4), are classified generally to Title 30, Mineral Lands and Mining.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–456 substituted ''Ed Jenkins National Recreation Area'' for ''Springer Mountain National Recreation Area''.

§ 460ggg–3. Maps and legal descriptions

As soon as practicable after December 11, 1991, the Secretary of Agriculture shall file a map and a legal description of each area designated by this subchapter with the Committee on Natural Resources and the Committee on Agriculture of the House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the Senate. Each such map and description shall have the same force and effect as if included in this subchapter, except that correction of clerical and typographical errors in each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(Pub. L. 102–217, § 5, Dec. 11, 1991, 105 Stat. 1669; Pub. L. 103–437, § 6(d)(25), Nov. 2, 1994, 108 Stat. 4584.)

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

SUBCHAPTER CXIX—SPRING MOUNTAINS NATIONAL RECREATION AREA

§ 460hhh. Definitions

As used in this subchapter:

(1) National Forest lands

The term ''National Forest lands'' means lands included in the National Forest System (as defined in section 1609(a) of this title).

(2) Recreation Area

The term ''Recreation Area'' means the Spring Mountains National Recreation Area established by this subchapter.

(3) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(Pub. L. 103–63, § 2, Aug. 4, 1993, 107 Stat. 297.)

SHORT TITLE

Section 1 of Pub. L. 103–63 provided that: ''This Act [enacting this subchapter] may be cited as the 'Spring Mountains National Recreation Area Act'.''

§ 460hhh–1. Purposes

The purposes of this subchapter are to—

(1) preserve scenic, scientific, historic, cultural, natural, wilderness, watershed, riparian, wildlife, threatened and endangered species, and other values contributing to public enjoyment and biological diversity in the Spring Mountains of Nevada;

(2) ensure appropriate conservation and management of natural and recreation resources in the Spring Mountains; and

(3) provide for the development of public recreation opportunities in the Spring Mountains for the enjoyment of present and future generations.

(Pub. L. 103–63, § 3, Aug. 4, 1993, 107 Stat. 297.)

§ 460hhh–2. Establishment

(a) In general

Subject to valid existing rights, there is established the Spring Mountains National Recreation Area in Nevada.

(b) Boundaries and map

The Recreation Area shall consist of approximately 316,000 acres of federally owned lands and interests therein in the Toiyabe National Forest, as generally depicted on a map entitled ''Spring Mountain National Recreation Area—Proposed'', numbered NV–CH, and dated August 2, 1992.

(c) Map filing

As soon as practicable after August 4, 1993, the Secretary shall file a map of the Recreation Area with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.

(d) Public inspection

The map shall be on file and available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture.

(e) Discrepancies

In the case of any discrepancy between or among the acreage referred to in subsection (b) of this section and the map described in subsection (b) of this section, the map described in subsection (b) of this section shall control any question concerning the boundaries of the Recreation Area.

(Pub. L. 103–63, § 4, Aug. 4, 1993, 107 Stat. 297.)

§ 460hhh–3. Management

(a) In general

The Secretary, acting through the Chief of the Forest Service, shall manage the Recreation Area in accordance with the laws, rules, and regulations pertaining to the National Forest System and this subchapter to provide for—

(1) the conservation of scenic, scientific, historic, cultural, and other values contributing to public enjoyment;

(2) the conservation of fish and wildlife populations and habitat, including the use of prescribed fire to improve or maintain habitat;

(3) the protection of watersheds and the maintenance of free flowing streams and the

quality of ground and surface waters in accordance with applicable law;

(4) public outdoor recreation benefits, including, but not limited to, hunting, fishing, trapping, hiking, horseback riding, backpacking, rock climbing, camping, and nature study;

(5) wilderness areas as designated by Congress; and

(6) the management and use of natural resources in a manner compatible with the purposes for which the Recreation Area is established.

(b) Hunting, trapping, and fishing

(1) In general

Subject to paragraph (2), the Secretary shall permit hunting, trapping, fishing, and habitat management within the Recreation Area in accordance with the laws of the United States and the State of Nevada.

(2) Exceptions

The Secretary, in consultation with the Nevada Department of Wildlife, may designate zones where and periods when hunting, trapping, or fishing shall not be permitted for reasons of public safety, administration, or public use and enjoyment.

(c) Grazing

The grazing of livestock on Federal lands may be permitted to continue pursuant to Federal law and subject to such reasonable regulations, policies, and practices as the Secretary considers necessary.

(d) Preventive measures

Nothing in this subchapter shall preclude such reasonable measures as the Secretary considers necessary to protect the land and resources from fire or insect or disease infestation in the Recreation Area.

(Pub. L. 103–63, § 5, Aug. 4, 1993, 107 Stat. 298.)

§ 460hhh–4. Management plan

(a) In general

(1) Procedures

Not later than 3 full fiscal years after August 4, 1993, the Secretary shall develop a general management plan for the Recreation Area as an amendment to the Toiyabe National Forest Land and Resource Management Plan. Such an amendment shall reflect the establishment of the Recreation Area and be consistent with the provisions of this subchapter, except that nothing in this subchapter shall require the Secretary to revise the Toiyabe National Forest Land and Resource Management Plan pursuant to section 1604 of this title. The provisions of the national forest land and resource management plan relating to the recreation[1] area[1] shall also be available to the public in a document separate from the rest of the forest plan.

(2) Contents

The management plan described in paragraph (1) shall be developed with full public participation and shall include—

(A) implementation plans for a continuing program of interpretation and public education about the resources and values of the Recreation Area;

(B) proposals for public facilities to be developed, expanded, or improved for the Recreation Area, including one or more visitor centers to accommodate both local and out-of-State visitors;

(C) plans for the management of natural and cultural resources in the Recreation Area, with emphasis on the preservation and long-term scientific use of archaeological resources, with priority in development given to the enforcement of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the Recreation Area;

(D) wildlife and fish resource management plans for the Recreation Area prepared in consultation with appropriate departments of the State of Nevada and using other available studies of the Recreation Area;

(E) recreation management plans for the Recreation Area in consultation with appropriate departments of the State of Nevada;

(F) wild horse and burro herd management plans for the Recreation Area prepared in consultation with appropriate departments and commissions of the State of Nevada; and

(G) an inventory of all lands within the Recreation Area not presently managed as National Forest lands that will permit the Secretary to evaluate possible future acquisitions.

(3) Consultation

The plans for the management of natural and cultural resources described in paragraph (2)(C) shall be prepared in consultation with the Advisory Council on Historic Preservation established by title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.) and the Nevada State Department of Conservation and Natural Resources, Division of Historic Preservation and Archaeology.

(b) Wilderness study areas

(1) Recommendations

The general management plan for the Recreation Area shall include the recommendations of the Bureau of Land Management as to the suitability or nonsuitability for preservation as wilderness those lands within the Recreation Area identified as the Mt. Stirling, La Madre Mountains, and Pine Creek Wilderness Study Areas on the Bureau of Land Management Wilderness Status Map, dated March 1990.

(2) Management

Pending submission of a recommendation and until otherwise directed by Act of Congress, the Secretary, acting through the Chief of the Forest Service, shall manage the lands and waters within the wilderness study areas referred to in paragraph (1) so as to maintain their potential for inclusion within the National Wilderness Preservation System.

(Pub. L. 103–63, § 6, Aug. 4, 1993, 107 Stat. 298.)

[1] So in original. Probably should be capitalized.

REFERENCES IN TEXT

The Archaeological Resources Protection Act of 1979, referred to in subsec. (a)(2)(C), is Pub. L. 96–95, Oct. 31, 1979, 93 Stat. 721, as amended, which is classified generally to chapter 1B (§ 470aa et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of this title and Tables.

The National Historic Preservation Act, referred to in subsec. (a)(2)(C) and (3), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of this title. Title II of the Act is classified generally to part B (§ 470i et seq.) of subchapter II of chapter 1A of this chapter. For complete classification of this Act to the Code, see section 470(a) of this title and Tables.

§ 460hhh–5. Acquisition of lands

(a) In general

The Secretary is authorized to acquire lands and interests therein within the boundaries of the Recreation Area by donation, purchase with donated or appropriated funds, exchange, or transfer from another Federal agency, except that such lands or interests owned by the State of Nevada or a political subdivision thereof may be acquired only by donation or exchange.

(b) Incorporation of acquired lands

Any lands, waters, or interests in lands or interests therein located within the Recreation Area that are acquired by the United States or administratively transferred to the Secretary after August 4, 1993, shall be incorporated into the Recreation Area and managed in accordance with the laws, rules, and regulations applicable to the National Forest System and the provisions of this subchapter.

(c) Land and Water Conservation Fund

For purposes of section 460*l*–9 of this title, where such boundaries are established for units of the National Forest System, such established boundaries shall be treated as if they were the boundaries of the National Forests as of January 1, 1965. Money appropriated from the Land and Water Conservation Fund shall be available for the acquisition of lands and interests therein in furtherance of the purposes of this subchapter.

(Pub. L. 103–63, § 7, Aug. 4, 1993, 107 Stat. 300.)

§ 460hhh–6. Withdrawal

(a) In general

Subject to valid existing rights and except for lands described in subsection (b) of this section, all Federal lands within the Recreation Area are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation under the mineral leasing and geothermal leasing laws.

(b) Exception

The lands referred to in subsection (a) of this section are described as follows:

W½E½ and W½, Sec. 27, T23S, R58E, Mt. Diablo Meridian.

(Pub. L. 103–63, § 8, Aug. 4, 1993, 107 Stat. 300.)

§ 460hhh–7. Cooperative agreements

In order to encourage unified and cost-effective management and interpretation of natural and cultural resources in southern Nevada, the Secretary may enter into cooperative agreements with other Federal, State, and local agencies, and with nonprofit entities, that provide for the management and interpretation of natural and cultural resources.

(Pub. L. 103–63, § 9, Aug. 4, 1993, 107 Stat. 300.)

§ 460hhh–8. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Pub. L. 103–63, § 10, Aug. 4, 1993, 107 Stat. 301.)

SUBCHAPTER CXX—MORLEY NELSON SNAKE RIVER BIRDS OF PREY NATIONAL CONSERVATION AREA

§ 460iii. Findings

The Congress finds the following:

(1) The public lands managed by the Bureau of Land Management in the State of Idaho within the Snake River Birds of Prey Area contain one of the densest known nesting populations of eagles, falcons, owls, hawks, and other birds of prey (raptors) in North America.

(2) These public lands constitute a valuable national biological and educational resource since birds of prey are important components of the ecosystem and indicators of environmental quality, and contribute significantly to the quality of wildlife and human communities.

(3) These public lands also contain important historic and cultural resources (including significant archaeological resources) as well as other resources and values, all of which should be protected and appropriately managed.

(4) A military training area within the Snake River Birds of Prey Area, known as the Orchard Training Area, has been used since 1953 by reserve components of the Armed Forces. Military use of this area is currently governed by a Memorandum of Understanding between the Bureau of Land Management and the State of Idaho Military Division, dated May 1985. Operating under this Memorandum of Understanding, the Idaho National Guard has provided valuable assistance to the Bureau of Land Management with respect to fire control and other aspects of management of the Orchard Training Area and the other lands in the Snake River Birds of Prey Area. Military use of the lands within the Orchard Training Area should continue in accordance with such Memorandum of Understanding (or extension or renewal thereof), to the extent consistent with section 460iii–3(e) of this title, because this would be in the best interest of training of the reserve components (an important aspect of national security) and of the local economy.

(5) Protection of the conservation area as a home for raptors can best and should be accomplished by the Secretary of the Interior, acting through the Bureau of Land Management, under a management plan that—

(A) emphasizes management, protection, and rehabilitation of habitat for these raptors and of other resources and values of the area;

(B) provides for continued military use, consistent with the requirements of section 460iii–3(e) of this title, of the Orchard Training Area by reserve components of the Armed Forces;

(C) addresses the need for public educational and interpretive opportunities;

(D) allows for diverse appropriate uses of lands in the area to the extent consistent with the maintenance and enhancement of raptor populations and habitats and protection and sound management of other resources and values of the area; and

(E) demonstrates management practices and techniques that may be useful to other areas of the public lands and elsewhere.

(6) There exists near the conservation area a facility, the World Center for Birds of Prey operated by The Peregrine Fund, Inc., where research, public education, recovery, and reestablishment operations exist for endangered raptor species. There also exists at Boise State University a raptor study program which attracts national and international graduate and undergraduate students.

(7) The Bureau of Land Management and Boise State University, together with other State, Federal, and private entities, have formed the Raptor Research and Technical Assistance Center to be housed at Boise State University, which provides a unique adjunct to the conservation area for raptor management, recovery, research, and public visitation, interpretation, and education.

(8) Consistent with requirements of sections 1712 and 1732 of title 43, the Secretary has developed a comprehensive management plan and, based on such plan, has implemented a management program for the public lands included in the conservation area established by this subchapter.

(9) Additional authority and guidance must be provided to assure that essential raptor habitat remains in public ownership, to facilitate sound and effective planning and management, to provide for effective public interpretation and education, to ensure continued study of the relationship of humans and these raptors, to preserve the unique and irreplaceable habitat of the conservation area, and to conserve and properly manage the other natural resources of the area in concert with maintenance of this habitat.

(10) An ongoing research program funded by the Bureau of Land Management and the National Guard is intended to provide information to be used in connection with future decisionmaking concerning management of all uses, including continued military use, of public lands within the Snake River Birds of Prey Area.

(11) Public lands in the Snake River Birds of Prey Area have been used for domestic livestock grazing for more than a century, with resultant benefits to community stability and contributions to the local and State economies. It has not been demonstrated that continuation of this use would be incompatible with appropriate protection and sound management of raptor habitat and the other resource values of these lands; therefore, subject to the determination provided for in section 460iii–3(f) of this title, it is expected that such grazing will continue in accordance with applicable regulations of the Secretary and the management plan for the conservation area.

(12) Hydroelectric facilities for the generation and transmission of electricity exist within the Snake River Birds of Prey Area pursuant to a license(s) issued by the Federal Energy Regulatory Commission, or its predecessor, the Federal Power Commission.

(Pub. L. 103–64, § 1, Aug. 4, 1993, 107 Stat. 302.)

CHANGE OF NAME

Pub. L. 111–11, title II, § 2301(b), Mar. 30, 2009, 123 Stat. 1101, provided that: ''Any reference in a law, map, regulation, document, paper, or other record of the United States to the Snake River Birds of Prey National Conservation Area shall be deemed to be a reference to the Morley Nelson Snake River Birds of Prey National Conservation Area.''

§ 460iii–1. Definitions

As used in this subchapter:

(1) The term ''Secretary'' means the Secretary of the Interior.

(2) The term ''conservation area'' means the Morley Nelson Snake River Birds of Prey National Conservation Area established by section 460iii–2 of this title.

(3) The term ''raptor'' or ''raptors'' means individuals or populations of eagles, falcons, owls, hawks, and other birds of prey.

(4) The term ''raptor habitat'' includes the habitat of the raptor prey base as well as the nesting and hunting habitat of raptors within the conservation area.

(5) The term ''Memorandum of Understanding'' means the Memorandum of Understanding #ID–237, dated May 1985, between the State of Idaho Military Division and the Bureau of Land Management.

(6) The term ''Orchard Training Area'' means that area generally so depicted on the map referred to in section 460iii–2(b) of this title, and as described in the Memorandum of Understanding as well as the air space over the same.

(7) The term ''Impact Area'' means that area which was used for the firing of live artillery projectiles and is used for live fire ranges of all types and, therefore, poses a danger to public safety and which is generally so depicted on the map referred to in section 460iii–2(b) of this title.

(8) The term ''Artillery Impact Area'' means that area within the Impact Area into which live projectiles are fired, which is generally described as that area labeled as such on the map referred to in section 460iii–2(b) of this title.

(9) The term ''the plan'' means the comprehensive management plan developed for the conservation area, dated August 30, 1985, together with such revisions thereto as may be required in order to implement this subchapter.

(10) The term ''hydroelectric facilities'' means all facilities related to the generation, transmission, and distribution of hydroelectric power and which are subject to, and authorized by, a license(s), and any and all amendments thereto, issued by the Federal Energy Regulatory Commission.

(Pub. L. 103–64, § 2, Aug. 4, 1993, 107 Stat. 304; Pub. L. 111–11, title II, § 2301(a)(1), Mar. 30, 2009, 123 Stat. 1101.)

AMENDMENTS

2009—Par. (2). Pub. L. 111–11 inserted ''Morley Nelson'' before ''Snake River Birds of Prey National Conservation Area''.

§ 460iii–2. Establishment

(a) In general

(1) There is hereby established the Morley Nelson Snake River Birds of Prey National Conservation Area.

(2) The purposes for which the conservation area is established, and shall be managed, are to provide for the conservation, protection, and enhancement of raptor populations and habitats and the natural and environmental resources and values associated therewith, and of the scientific, cultural, and educational resources and values of the public lands in the conservation area.

(3) Subject to the provisions of subsection (d) of this section and section 460iii–3 of this title, uses of the public lands in the conservation area existing on August 4, 1993, shall be allowed to continue.

(b) Area included

The conservation area shall consist of approximately 482,457 acres of federally owned lands and interests therein managed by the Bureau of Land Management as generally depicted on the map entitled ''Snake River Birds of Prey National Conservation Area'', dated November 1991.

(c) Map and legal description

As soon as is practicable after August 4, 1993, the map referred to in subsection (b) of this section and a legal description of the conservation area shall be filed by the Secretary with the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Each such map shall have the same force and effect as if included in this subchapter; except that the Secretary may correct clerical and typographical errors in such map and legal description. Each such map shall be on file and available for public inspection in the office of the Director and the Idaho State Director of the Bureau of Land Management of the Department of the Interior.

(d) Withdrawals

Subject to valid existing rights, the Federal lands within the conservation area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; and from entry, application, and selection under the Act of March 3, 1877 (Ch. 107, 19 Stat. 377, 43 U.S.C. 321 et seq.; commonly referred to as the ''Desert Lands Act''), section 641 of title 43, the Act of July 3, 1890 (Ch. 656, 26 Stat. 215; commonly referred to as the ''State of Idaho Admissions Act''), section 851 of title 43, and section 852 of title 43. The Secretary shall return to the applicants any such applications pending on August 4, 1993, without further action. Subject to valid existing rights, as of August 4, 1993, lands within the Birds of Prey Conservation Area are withdrawn from location under the general mining laws, the operation of the mineral and geothermal leasing laws, and the mineral material disposal laws, except that mineral materials subject to disposal may be made available from existing sites to the extent compatible with the purposes for which the conservation area is established.

(Pub. L. 103–64, § 3, Aug. 4, 1993, 107 Stat. 304; Pub. L. 111–11, title II, § 2301(a)(2), (c)(1), Mar. 30, 2009, 123 Stat. 1101.)

REFERENCES IN TEXT

Act of March 3, 1877, referred to in subsec. (d), is act Mar. 3, 1877, ch. 107, 19 Stat. 377, as amended, which is classified generally to sections 321 to 323, 325, and 327 to 329 of Title 43. For complete classification of this Act to the Code, see Tables.

Act of July 3, 1890, referred to in subsec. (d), is not classified to the Code.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–11 inserted ''Morley Nelson'' before ''Snake River Birds of Prey National Conservation Area'' and struck out ''(hereafter referred to as the 'conservation area')'' before period at end.

§ 460iii–3. Management and use

(a) In general

(1)(A) Within 1 year after August 4, 1993, the Secretary shall make any revisions in the existing management plan for the conservation area as necessary to assure its conformance with this subchapter, and no later than January 1, 1996, shall finalize a new management plan for the conservation area.

(B) Thereafter, the Secretary shall review the plan at least once every 5 years and shall make such revisions as may be necessary or appropriate.

(C) In reviewing and revising the plan, the Secretary shall provide for appropriate public participation.

(2) Except as otherwise specifically provided in section 460iii–2(d) of this title and subsections (d), (e), and (f) of this section, the Secretary shall allow only such uses of lands in the conservation area as the Secretary determines will further the purposes for which the conservation area is established.

(b) Management guidance

After each review pursuant to subsection (a) of this section, the Secretary shall make such revisions as may be needed so that the plan and management program to implement the plan include, in addition to any other necessary or appropriate provisions, provisions for—

(1) protection for the raptor populations and habitats and the scientific, cultural, and educational resources and values of the public lands in the conservation area;

(2) identifying levels of continued military use of the Orchard Training Area compatible with paragraph (1) of this subsection;

(3) public use of the conservation area consistent with the purposes of this subchapter;

(4) interpretive and educational opportunities for the public;

(5) a program for continued scientific investigation and study to provide information to support sound management in accordance with this subchapter, to advance knowledge of raptor species and the resources and values of the conservation area, and to provide a process for transferring to other areas of the public lands and elsewhere this knowledge and management experience;

(6) such vegetative enhancement and other measures as may be necessary to restore or enhance prey habitat;

(7) the identification of levels, types, timing, and terms and conditions for the allowable nonmilitary uses of lands within the conservation area that will be compatible with the protection, maintenance, and enhancement of raptor populations and habitats and the other purposes for which the conservation area is established; and

(8) assessing the desirability of imposing appropriate fees for public uses (including, but not limited to, recreational use) of lands in the conservation area, which are not now subject to fees, to be used to further the purposes for which the conservation area is established.

(c) Visitors center

The Secretary, acting through the Director of the Bureau of Land Management, is authorized to establish, in cooperation with other public or private entities as the Secretary may deem appropriate, a visitors center designed to interpret the history and the geological, ecological, natural, cultural, and other resources of the conservation area and the biology of the raptors and their relationships to man.

(d) Visitors use of area

In addition to the visitors center, the Secretary may provide for visitor use of the public lands in the conservation area to such extent and in such manner as the Secretary considers consistent with the protection of raptors and raptor habitat, public safety, and the purposes for which the conservation area is established. To the extent practicable, the Secretary shall make available to visitors and other members of the public a map of the conservation area and such other educational and interpretive materials as may be appropriate.

(e) National Guard use of area

(1) Pending completion of the ongoing research concerning military use of lands in the conservation area, or until the date 5 years after August 4, 1993, whichever is the shorter period, the Secretary shall permit continued military use of those portions of the conservation area known as the Orchard Training Area in accordance with the Memorandum of Understanding, to the extent consistent with the use levels identified pursuant to subsection (b)(2) of this section.

(2) Upon completion of the ongoing research concerning military use of lands in the conservation area, the Secretary shall review the management plan and make such additional revisions therein as may be required to assure that it meets the requirements of this subchapter.

(3) Upon completion of the ongoing research concerning military use of lands in the conservation area, the Secretary shall submit to the Committees on Natural Resources and Merchant Marine and Fisheries of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report of the results of such research.

(4) Nothing in this subchapter shall preclude minor adjustment of the boundaries of the Orchard Training Area in accordance with provisions of the Memorandum of Understanding.

(5) After completion of the ongoing research concerning military use of lands in the Orchard Training Area or after the date 5 years after August 4, 1993, whichever first occurs, the Secretary shall continue to permit military use of such lands, unless the Secretary, on the basis of such research, determines such use is not compatible with the purposes set forth in section 460iii–2(a)(2) of this title. Any such use thereafter shall be permitted in accordance with the Memorandum of Understanding, which may be extended or renewed by the Secretary so long as such use continues to meet the requirements of subsection (b)(2) of this section.

(6) In accordance with the Memorandum of Understanding, the Secretary shall require the State of Idaho Military Division to insure that military units involved maintain a program of decontamination.

(7) Nothing in this subchapter shall be construed as by itself precluding the extension or renewal of the Memorandum of Understanding, or the construction of any improvements or buildings in the Orchard Training Area so long as the requirements of this subsection are met.

(f) Livestock grazing

(1) So long as the Secretary determines that domestic livestock grazing is compatible with the purposes for which the conservation area is established, the Secretary shall permit such use of public lands within the conservation area, to the extent such use of such lands is compatible with such purposes. Determinations as to compatibility shall be made in connection with the initial revision of management plans for the conservation area and in connection with each plan review required by subsection (a)(1)(B) of this section.

(2) Any livestock grazing on public lands within the conservation area, and activities the Secretary determines necessary to carry out proper and practical grazing management programs on such lands (such as animal damage control activities) shall be managed in accordance with the Act of June 28, 1934 (43 U.S.C. 315 et seq.; commonly referred to as the ''Taylor Grazing Act''), section 1752 of title 43, other laws applicable to such use and programs on the public lands, and the management plan for the conservation area.

(g) Cooperative agreements

The Secretary is authorized to provide technical assistance to, and to enter into such cooperative agreements and contracts with, the State of Idaho and with local governments and

private entities as the Secretary deems necessary or desirable to carry out the purposes and policies of this subchapter.

(h) Agricultural practices

Nothing in this subchapter shall be construed as constituting a grant of authority to the Secretary to restrict recognized agricultural practices or other activities on private land adjacent to or within the conservation area boundary.

(i) Hydroelectric facilities

Notwithstanding any provision of this subchapter, or regulations and management plans undertaken pursuant to its provisions, the Federal Energy Regulatory Commission shall retain its current jurisdiction concerning all aspects of the continued and future operation of hydroelectric facilities, licensed or relicensed under the Federal Power Act (16 U.S.C. 791a et seq.), located within the boundaries of the conservation area.

(Pub. L. 103–64, § 4, Aug. 4, 1993, 107 Stat. 305; Pub. L. 111–11, title II, § 2301(c)(2), Mar. 30, 2009, 123 Stat. 1101.)

REFERENCES IN TEXT

Act of June 28, 1934, referred to in subsec. (f), is act June 28, 1934, ch. 865, 48 Stat. 1269, as amended, which is classified principally to subchapter I (§ 315 et seq.) of chapter 8A of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 315 of Title 43 and Tables.

The Federal Power Act, referred to in subsec. (i), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

AMENDMENTS

2009—Subsec. (a)(2). Pub. L. 111–11, § 2301(c)(2)(A), substituted ''conservation area is'' for ''Conservation Area is''.

Subsec. (d). Pub. L. 111–11, § 2301(c)(2)(B), substituted ''visitors center'' for ''Visitors Center''.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. For treatment of references to Committee on Merchant Marine and Fisheries, see section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

§ 460iii–4. Additions

(a) Acquisitions

(1) The Secretary is authorized to acquire lands and interests therein within the boundaries of the conservation area by donation, purchase with donated or appropriated funds, exchange, or transfer from another Federal agency, except that such lands or interests owned by the State of Idaho or a political subdivision thereof may be acquired only by donation or exchange.

(2) Any lands located within the boundaries of the conservation area that are acquired by the United States on or after August 4, 1993, shall become a part of the conservation area and shall be subject to this subchapter.

(b) Purchase of lands

In addition to the authority in section 1748(d) of title 43 and notwithstanding section 460*l*–9(a)[1] of this title, monies appropriated from the Land and Water Conservation Fund may be used as authorized in section 1534(b) of this title, for the purposes of acquiring lands or interests therein within the conservation area for administration as public lands as a part of the conservation area.

(c) Land exchanges

The Secretary shall, within 4 years after August 4, 1993, study, identify, and initiate voluntary land exchanges which would resolve ownership related land use conflicts within the conservation area.

(Pub. L. 103–64, § 5, Aug. 4, 1993, 107 Stat. 308.)

REFERENCES IN TEXT

Section 460*l*–9(a) of this title, referred to in subsec. (b), was in the original ''section 7(a) of the Land and Water Conservation Fund Act of 1964 (16 U.S.C. 460*l*–9(a)),'' and was translated as reading section 7(a) of the Land and Water Conservation Fund Act of 1965, to reflect the probable intent of Congress.

§ 460iii–5. Other laws and administrative provisions

(a) Other laws

(1) Nothing in this subchapter shall be construed to supersede, limit, or otherwise affect administration and enforcement of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or to limit the applicability of the National Trails System Act [16 U.S.C. 1241 et seq.] to any lands within the conservation area.

(2) Except as otherwise specifically provided in this subchapter, nothing in this subchapter shall be construed as limiting the applicability to lands in the conservation area of laws applicable to public lands generally, including but not limited to the National Historic Preservation Act [16 U.S.C. 470 et seq.], the Archaeological Resources Protection Act of 1979 [16 U.S.C. 470aa et seq.], or the Native American Graves Protection and Repatriation Act [25 U.S.C. 3001 et seq.].

(3) Nothing in this subchapter shall be construed as by itself altering the status of any lands that on August 4, 1993, were not managed by the Bureau of Land Management.

(4) Nothing in this subchapter shall be construed as prohibiting the Secretary from engaging qualified persons to use public lands within the conservation area for the propagation of plants (including seeds) to be used for vegetative enhancement of the conservation area in accordance with the plan and in furtherance of the purposes for which the conservation area is established.

(b) Release

The Congress finds and directs that the public lands within the Snake River Birds of Prey Natural Area established as a natural area in October 1971 by Public Land Order 5133 have been adequately studied and found unsuitable for wilderness designation pursuant to section 1782 of title 43. Such lands are hereby released from fur-

[1] See References in Text note below.

ther management pursuant to section 1782(c) of title 43 and shall be managed in accordance with other applicable provisions of law, including this subchapter.

(c) Existing administrative withdrawal terminated

Public Land Orders 5133 dated October 12, 1971, and 5777 dated November 21, 1980, issued by the Secretary are hereby revoked subject to subsections (d)(3) and (d)(4) of this section.

(d) Water

(1) The Congress finds that the United States is currently a party in an adjudication of rights to waters of the Snake River, including water rights claimed by the United States on the basis of the reservation of lands for purposes of conservation of fish and wildlife and that consequently there is no need for this subchapter to effect a reservation by the United States of rights with respect to such waters in order to fulfill the purposes for which the conservation area is established.

(2) Nothing in this subchapter or any action taken pursuant thereto shall constitute either an expressed or implied reservation of water or water rights for any purpose.

(3) Nothing in this subchapter shall be construed as effecting a relinquishment or reduction of any of the water rights held or claimed by the United States within the State of Idaho or elsewhere on or before August 4, 1993.

(4) The Secretary and all other officers of the United States shall take all steps necessary to protect all water rights claimed by the United States in the Snake River adjudication now pending in the district court of the State of Idaho in which the United States is joined under section 666 of title 43.

(Pub. L. 103–64, § 6, Aug. 4, 1993, 107 Stat. 308.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (a)(1), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The National Trails System Act, referred to in subsec. (a)(1), is Pub. L. 90–543, Oct. 2, 1968, 82 Stat. 919, as amended, which is classified generally to chapter 27 (§ 1241 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1241 of this title and Tables.

The National Historic Preservation Act, referred to in subsec. (a)(2), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of this title. For complete classification of this Act to the Code, see section 470 of this title and Tables.

The Archaeological Resources Protection Act of 1979, referred to in subsec. (a)(2), is Pub. L. 96–95, Oct. 31, 1979, 93 Stat. 721, which is classified generally to chapter 1B (§ 470aa et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of this title and Tables.

The Native American Graves Protection and Repatriation Act, referred to in subsec. (a)(2), is Pub. L. 101–601, Nov. 16, 1990, 104 Stat. 3048, which is classified principally to chapter 32 (§ 3001 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 25 and Tables.

§ 460iii–6. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Pub. L. 103–64, § 7, Aug. 4, 1993, 107 Stat. 310.)

SUBCHAPTER CXXI—JEMEZ NATIONAL RECREATIONAL AREA

§ 460jjj. Establishment

(a) In general

In order to conserve, protect, and restore the recreational, ecological, cultural, religious, and wildlife resource values of the Jemez Mountains, there is hereby established the Jemez National Recreational Area (hereinafter in this subchapter referred to as the ''recreation area''), to be administered by the Secretary of Agriculture (hereinafter in this subchapter referred to as the ''Secretary'').

(b) Area included

The recreation area shall be comprised of approximately 57,000 acres of lands and interests in lands within the Santa Fe National Forest as generally depicted on the map entitled ''Jemez National Recreation Area—Proposed'' and dated September 1992. The map shall be on file and available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia. The Secretary may from time to time, in consultation with local tribal leaders, make minor revisions in the boundary of the recreation area to promote management effectiveness and efficiency in furtherance of the purposes of this subchapter.

(c) Map and description

As soon as practicable after October 12, 1993, the Secretary shall file a map and legal description of the recreation area with the Committee on Natural Resources of the House of Representatives and with the Committee on Energy and Natural Resources and the Committee on Indian Affairs of the Senate. Such map and legal description shall have the same force and effect as if included in this subchapter, except that correction of clerical and typographical errors in such legal description and map may be made. Such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(d) No additional lands

No lands or interests therein outside of the boundaries of the recreation area may be added to the recreation area without specific authorization by Congress.

(Pub. L. 103–104, § 1, Oct. 12, 1993, 107 Stat. 1025; Pub. L. 103–437, § 6(q), Nov. 2, 1994, 108 Stat. 4587.)

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–437 in first sentence struck out ''Select'' before ''Committee on Indian Affairs''.

§ 460jjj–1. Administration

(a) In general

The Secretary shall administer the recreation area in accordance with this subchapter and the

laws, rules, and regulations applicable to National Forest System lands in a manner that will further the purposes of the recreation area. Management of the natural resources within the recreation area shall be permitted only to the extent that such management is compatible with and does not impair the purposes for which the recreation area is established. Recreational activities within the recreation area shall include (but not be limited to) hiking, camping, hunting, fishing, skiing, backpacking, rock climbing, and swimming.

(b) Management plan

The Secretary shall, no later than 5 years after October 12, 1993, develop a management plan for the recreation area, as an amendment to the Santa Fe National Forest Land and Resource Management Plan, to reflect the establishment of the recreation area and to conform to the provisions of this subchapter. Nothing in this subchapter shall require the Secretary to revise the Santa Fe Forest Land and Resource Management Plan pursuant to section 1604 of this title. During development of the management plan for the recreation area, the Secretary shall study newly designated land within the recreation area, and adjacent national forest land.

(c) Cultural resources

In administering the recreation area, the Secretary shall give particular emphasis to the preservation, stabilization, and protection of cultural resources located within the recreation area in furtherance of the Archaeological Resources Protection Act of 1979 [16 U.S.C. 470aa et seq.], the National Historic Preservation Act [16 U.S.C. 470 et seq.], and the Act of August 11, 1978 [42 U.S.C. 1996, 1996a] (commonly referred to as the ''American Indian Religious Freedom Act'').

(d) Native Americans

(1) In recognition of the historic use of portions of the recreation area by Indian peoples for traditional cultural and customary uses, the Secretary shall, subject to the provisions of subsection (n) of this section in consultation with local tribal leaders, ensure the protection of religious and cultural sites and provide access from time to time to those sites by Indian peoples for traditional cultural and customary uses. Such access shall be consistent with the purpose and intent of the Act of August 11, 1978 [42 U.S.C. 1996, 1996a] (commonly referred to as the ''American Indian Religious Freedom Act''). The Secretary, in accordance with such Act, upon request of an Indian tribe or pueblo, may from time to time temporarily close to general public use one or more specific portions of the recreational area in order to protect traditional and customary uses in such portions by Indian peoples.

(2) In preparing and implementing management plans for the recreation area, the Secretary shall request that the Governor of the Pueblo of Jemez and the chief executive officers of other appropriate Indian tribes and pueblos make recommendations on methods of—

(A) assuring access to religious and cultural sites;

(B) enhancing the privacy and continuity of traditional cultural and religious activities in the recreation area; and

(C) protecting traditional cultural and religious sites in the recreation area.

(e) Wildlife resources

In administering the recreation area, the Secretary shall give particular emphasis to the conservation and protection of wildlife resources, including species listed as sensitive by the Forest Service, within the recreation area and shall comply with applicable Federal and State laws relating to wildlife, including the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.].

(f) Hunting

The Secretary shall permit hunting and fishing on lands and waters under the jurisdiction of the Secretary within the recreation area in accordance with applicable Federal and State law.

(g) Timber harvesting

The Secretary may permit timber harvesting in the recreation area for commercial purposes, including (but not limited to) vigas, latillas, the gathering of fuelwood, and for purposes of public safety, recreation, wildlife, and administration, insofar as the harvesting is compatible with the purposes of the recreation area. Trees damaged or downed due to fire, disease, or insect infestation may be utilized, salvaged, or removed from the recreation area as authorized by the Secretary in furtherance of the purposes of this subchapter. Nothing in this subchapter shall be construed to affect the timber sales under contract on October 12, 1993. Nothing in this subchapter shall be construed to effect the Los Griegos timber sale in the Los Griegos Diversity Unit number 0322 as shown on the West Half Diversity Unit map of the Santa Fe National Forest dated November 1991; except that the Secretary shall manage such sale using uneven aged management including the individual tree selection method.

(h) Grazing

The Secretary may permit grazing within the recreation area in accordance with regulations prescribed by the Secretary. Riparian areas shall be managed in such a manner as to protect their important resource values.

(i) Transportation plan

(1) Within 1 year after October 12, 1993, the Secretary shall prepare a transportation plan that provides for the most efficient use of roads and trails to accomplish the purposes of this subchapter. The plan shall provide for a comprehensive trails system that provides for dispersed recreation while minimizing impact on significant archaeological and religious sites.

(2) The Secretary shall construct, maintain, and close roads within the recreation area after consultation with local tribal leaders and only in accordance with such plan.

(j) Recreational facilities

The Secretary shall provide for recreational facilities within the recreation area. Such facilities shall be constructed so as to minimize impacts on the scenic beauty, the natural character, and the archaeological and religious sites of the recreation area.

(k) Visitor facilities

The Secretary shall establish a visitor center and interpretive facilities in or near the recreation area for the purpose of providing for education relating to the interpretation of cultural and natural resources of the recreation area.

(*l*) Power transmission lines

In accordance with Federal and State laws and regulations, the Secretary may permit a utility corridor for high power electric transmission lines within the recreation area only when the Secretary determines that—

(1) there is not a feasible alternative for the location of such corridor;

(2) damage to the recreational and scenic quality and to the archaeological and religious sites of the recreation area will not be significant;

(3) it is in the public interest that such corridor be located in the recreation area; and

(4) a plan to minimize harm to the resources of the recreation area has been developed.

(m) Scientific investigations

The Secretary may permit scientific investigations within the recreation area upon the Secretary's determination that such investigations are in the public interest and are compatible with the purposes of this subchapter.

(n) Resource protection

The Secretary may designate zones where, and establish periods when, any activity otherwise permitted in the recreation area will not be permitted for reasons of public safety, administration, fish and wildlife management, protection of archaeological or cultural resources, or public use and enjoyment. Except in emergencies such designations by the Secretary shall be put into effect only after consultation with the appropriate State agencies, appropriate tribal leaders, and other affected parties.

(Pub. L. 103–104, § 2, Oct. 12, 1993, 107 Stat. 1025.)

REFERENCES IN TEXT

The Archaeological Resources Protection Act of 1979, referred to in subsec. (c), is Pub. L. 96–95, Oct. 31, 1979, 93 Stat. 721, which is classified generally to chapter 1B (§ 470aa et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of this title and Tables.

The National Historic Preservation Act, referred to in subsec. (c), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of this title. For complete classification of this Act to the Code, see section 470 of this title and Tables.

The American Indian Religious Freedom Act, referred to in subsecs. (c) and (d)(1), is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, as amended, which is classified to sections 1996 and 1996a of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1996 of Title 42 and Tables.

The Endangered Species Act of 1973, referred to in subsec. (e), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

§ 460jjj–2. Minerals and mining

(a) Limitation on patent issuance

(1) Notwithstanding any other provision of law, no patents shall be issued after May 30, 1991, for any location or claim made in the recreation area under the mining laws of the United States.

(2) Notwithstanding any statute of limitations or similar restriction otherwise applicable, any party claiming to have been deprived of any property right by enactment of paragraph (1) may file in the United States Claims Court[1] a claim against the United States within 1 year after October 12, 1993, seeking compensation for such property right. The United States Claims Court[1] shall have jurisdiction to render judgment upon any such claim in accordance with section 1491 of title 28.

(b) Withdrawal

Subject to valid existing rights, after October 12, 1993, lands within the recreation area withdrawn from location under the general mining laws and from the operation of the mineral leasing, geothermal leasing, and mineral material disposal laws.

(c) Reclamation

No mining activity involving any surface disturbance of lands or waters within such area, including disturbance through subsidence, shall be permitted except in accordance with requirements imposed by the Secretary, including requirements for reasonable reclamation of disturbed lands to a visual and hydrological condition as close as practical to their premining condition.

(d) Mining claim validity review

The Secretary of Agriculture shall undertake and complete within 3 years after October 12, 1993, an expedited program to examine all unpatented mining claims, including those for which a patent application has been filed, within the recreation area. Upon determination by the Secretary of Agriculture that the elements of a contest are present, the Secretary of the Interior shall immediately determine the validity of such claims. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void.

(e) Public purposes

The Secretary may utilize mineral materials from within the recreation area for public purposes such as maintenance and construction of roads, trails, and facilities as long as such use is compatible with the purposes of the recreation area.

(Pub. L. 103–104, § 3, Oct. 12, 1993, 107 Stat. 1028.)

CHANGE OF NAME

References to United States Claims Court deemed to refer to United States Court of Federal Claims, see section 902(b) of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

§ 460jjj–3. Adjoining lands

The Secretary may evaluate lands adjoining the recreation area for possible inclusion in the recreation area and make recommendations to Congress, including (but not limited to) that area authorized for study by section 5 of Public

[1] See Change of Name note below.

Law 101–556 (104 Stat. 2764), known as the Baca Location Number 1. The Secretary, in consultation with local tribal leaders and the National Park Service, shall, no later than 2 years after October 12, 1993, submit recommendations with respect to future boundaries for the recreation area.

(Pub. L. 103–104, § 4, Oct. 12, 1993, 107 Stat. 1028.)

REFERENCES IN TEXT

Public Law 101–556, referred to in text, is not classified to the Code.

§ 460jjj–4. Acquisition of land

(a) State land

Land and interests in land within the boundaries of the recreation area that are owned by the State of New Mexico, or a political subdivision of New Mexico, may be acquired only by donation or exchange.

(b) Offers to sell

(1) In general

Subject to paragraph (2), the Secretary may acquire land and interests in land within the boundaries of the recreation area by donation, purchase with donated or appropriated funds, or exchange.

(2) Limitation

The Secretary may not acquire lands within the recreation area without the consent of the owner thereof unless the Secretary has determined that such lands will be put to a use different from their use as of October 12, 1993, and that such new use would be incompatible with the protection of the natural and cultural resources of the recreation area.

(Pub. L. 103–104, § 5, Oct. 12, 1993, 107 Stat. 1029.)

§ 460jjj–5. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter.

(Pub. L. 103–104, § 6, Oct. 12, 1993, 107 Stat. 1029.)

SUBCHAPTER CXXII—BOSTON HARBOR ISLANDS NATIONAL RECREATION AREA

§ 460kkk. Boston Harbor Islands National Recreation Area

(a) Purposes

The purposes of this section are—

(1) to preserve for public use and enjoyment the lands and waters that comprise the Boston Harbor Islands National Recreation Area;

(2) to manage the recreation area in partnership with the private sector, the Commonwealth of Massachusetts, municipalities surrounding Massachusetts and Cape Cod Bays, the Thompson Island Outward Bound Education Center, and Trustees of Reservations, and with historical, business, cultural, civic, recreational and tourism organizations;

(3) to improve access to the Boston Harbor Islands through the use of public water transportation; and

(4) to provide education and visitor information programs to increase public understanding of and appreciation for the natural and cultural resources of the Boston Harbor Islands, including the history of Native American use and involvement.

(b) Definitions

For the purposes of this section—

(1) the term ''recreation area'' means the Boston Harbor Islands National Recreation Area established by subsection (c) of this section; and

(2) the term ''Secretary'' means the Secretary of the Interior.

(c) Boston Harbor Islands National Recreation Area

(1) Establishment

In order to preserve for the benefit and inspiration of the people of the United States as a national recreation area certain lands located in Massachusetts Bay, there is established as a unit of the National Park System the Boston Harbor Islands National Recreation Area.

(2) Boundaries

(A) The recreation area shall be comprised of the lands, waters, and submerged lands generally depicted on the map entitled ''Proposed Boston Harbor Islands NRA'', numbered BOHA 80,002, and dated September 1996. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service. After advising the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, in writing, the Secretary may make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(B) The recreation area shall include the following:

(i) The areas depicted on the map referenced in subparagraph (A).

(ii) Landside points required for access, visitor services, and administration in the city of Boston along its Harborwalk and at Long Wharf, Fan Pier, John F. Kennedy Library, and the Custom House; Charlestown Navy Yard; Old Northern Avenue Bridge; the city of Quincy at Squantum Point/Marina Bay, the Fore River Shipyard, and Town River; the Town of Hingham at Hewitt's Cove; the Town of Hull; the city of Salem at Salem National Historic Site; and the city of Lynn at the Heritage State Park.

(3) Land acquisition

Notwithstanding subsection (h) of this section, the Secretary is authorized to acquire, in partnership with other entities, a less than fee interest in lands at Thompson Island within the recreation area. The Secretary may acquire the lands only by donation, purchase with donated or appropriated funds, or by exchange.

(d) Administration of recreation area

(1) In general

The recreation area shall be administered in partnership by the Secretary, the Common-

wealth of Massachusetts, City of Boston and its applicable subdivisions and others in accordance with the provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title as amended and supplemented and in accordance with the integrated management plan specified in subsection (f) of this section.

(2) State and local jurisdiction

Nothing in this section shall be construed to diminish, enlarge, or modify any right of the Commonwealth of Massachusetts or any political subdivision thereof, to exercise civil and criminal jurisdiction or to carry out State laws, rules, and regulations within the recreation area, including those relating to fish and wildlife, or to tax persons, corporations, franchises, or private property on the lands and waters included in the recreation area.

(3) Agreements

(A) Definition of eligible entity

In this paragraph, the term ''eligible entity'' means—

(i) the Commonwealth of Massachusetts;

(ii) a political subdivision of the Commonwealth of Massachusetts; or

(iii) any other entity that is a member of the Boston Harbor Islands Partnership described in subsection (e)(2).

(B) Authority of Secretary

Subject to subparagraph (C), the Secretary may consult with an eligible entity on, and enter into with the eligible entity—

(i) a cooperative management agreement to acquire from, and provide to, the eligible entity goods and services for the cooperative management of land within the recreation area; and

(ii) notwithstanding section 6305 of title 31, a cooperative agreement for the construction of recreation area facilities on land owned by an eligible entity for purposes consistent with the management plan under subsection (f).

(C) Conditions

The Secretary may enter into an agreement with an eligible entity under subparagraph (B) only if the Secretary determines that—

(i) appropriations for carrying out the purposes of the agreement are available; and

(ii) the agreement is in the best interests of the United States.

(4) Construction of facilities on non-Federal lands

In order to facilitate the administration of the recreation area, the Secretary is authorized, subject to the appropriation of necessary funds in advance, to construct essential administrative or visitor use facilities on non-Federal public lands within the recreation area. Such facilities and the use thereof shall be in conformance with applicable plans.

(5) Other property, funds, and services

The Secretary may accept and use donated funds, property, and services to carry out this section.

(6) Relationship of recreation area to Boston-Logan International Airport

With respect to the recreation area, the present and future maintenance, operation, improvement and use of Boston-Logan International Airport and associated flight patterns from time to time in effect shall not be deemed to constitute the use of publicly owned land of a public park, recreation area, or other resource within the meaning of section 303(c) of title 49, and shall not be deemed to have a significant effect on natural, scenic, and recreation assets within the meaning of section 47101(h)(2) of title 49.

(7) Management in accordance with integrated management plan

The Secretary shall preserve, interpret, manage, and provide educational and recreational uses for the recreation area, in consultation with the owners and managers of lands in the recreation area, in accordance with the integrated management plan.

(e) Boston Harbor Islands Partnership establishment

(1) Establishment

There is hereby established the Boston Harbor Islands Partnership whose purpose shall be to coordinate the activities of Federal, State, and local authorities and the private sector in the development and implementation of an integrated resource management plan for the recreation area.

(2) Membership

The Partnership shall be composed of 13 members, as follows:

(A) One individual, appointed by the Secretary, to represent the National Park Service.

(B) One individual, appointed by the Commandant of the Coast Guard..[1]

(C) Two individuals, appointed by the Secretary, after consideration of recommendations by the Governor of Massachusetts, to represent the Department of Environmental Management and the Metropolitan District Commission.

(D) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Massachusetts Port Authority.

(E) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Massachusetts Water Resources Authority.

(F) One individual, appointed by the Secretary, after consideration of recommendations by the Mayor of Boston, to represent the Office of Environmental Services of the City of Boston.

(G) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Boston Redevelopment Authority.

(H) One individual, appointed by the Secretary, after consideration of recommendations of the President of the Thompson Is-

[1] So in original.

land Outward Bound Education Center, to represent the Center.

(I) One individual, appointed by the Secretary, after consideration of recommendations of the Chair, to represent the Trustees of Reservations.

(J) One individual, appointed by the Secretary, after consideration of recommendations of the President of the Island Alliance, to represent the Alliance, a nonprofit organization whose sole purpose is to provide financial support for the Boston Harbor Islands National Recreation Area.

(K) Two individuals, appointed by the Secretary, to represent the Boston Harbor Islands Advisory Council, established in subsection (g) of this section.

(3) Terms of office; reappointment

(A) Members of the Partnership shall serve for terms of three years. Any member may be reappointed for one additional 3-year term.

(B) The Secretary shall appoint the first members of the Partnership within 30 days after the date on which the Secretary has received all of the recommendations for appointment pursuant to subparagraphs (C), (D), (E), (F), (G), (H), (I), and (J) of paragraph (2).

(C) A member may serve after the expiration of his or her term until a successor has been appointed.

(4) Compensation

Members of the Partnership shall serve without pay, but while away from their homes or regular places of business in the performance of services for the Partnership, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(5) Election of officers

The Partnership shall elect one of its members as Chairperson and one as Vice Chairperson. The term of office of the Chairperson and Vice Chairperson shall be one year. The Vice Chairperson shall serve as chairperson in the absence of the Chairperson.

(6) Vacancy

Any vacancy on the Partnership shall be filled in the same manner in which the original appointment was made.

(7) Meetings

The Partnership shall meet at the call of the Chairperson or a majority of its members.

(8) Quorum

A majority of the Partnership shall constitute a quorum.

(9) Staff of the Partnership

The Secretary shall provide the Partnership with such staff and technical assistance as the Secretary, after consultation with the Partnership, considers appropriate to enable the Partnership to carry out its duties. The Secretary may accept the services of personnel detailed from the Commonwealth of Massachusetts, any political subdivision of the Commonwealth or any entity represented on the Partnership.

(10) Hearings

The Partnership may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Partnership may deem appropriate.

(11) Donations

Notwithstanding any other provision of law, the Partnership may seek and accept donations of funds, property, or services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out this section.

(12) Use of funds to obtain money

The Partnership may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(13) Mails

The Partnership may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(14) Obtaining property

The Partnership may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties, except that the Partnership may not acquire any real property or interest in real property.

(15) Cooperative agreements

For purposes of carrying out the plan described in subsection (f) of this section, the Partnership may enter into cooperative agreements with the Commonwealth of Massachusetts, any political subdivision thereof, or with any organization or person.

(f) Integrated resource management plan

(1) In general

Within three years after November 12, 1996, the Partnership shall submit to the Secretary a management plan for the recreation area to be developed and implemented by the Partnership.

(2) Contents of plan

The plan shall include (but not be limited to) each of the following:

(A) A program providing for coordinated administration of the recreation area with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, State, and local levels, and nonprofit organizations, including each of the following:

(i) A plan to finance and support the public improvements and services recommended in the plan, including allocation of non-Federal matching requirements set forth in subsection (h)(2) of this section and a delineation of private-sector roles and responsibilities.

(ii) A program for the coordination and consolidation, to the extent feasible, of ac-

tivities that may be carried out by Federal, State, and local agencies having jurisdiction over land and waters within the recreation area, including planning and regulatory responsibilities.

(B) Policies and programs for the following purposes:

(i) Enhancing public outdoor recreational opportunities in the recreation area.

(ii) Conserving, protecting, and maintaining the scenic, historical, cultural, natural and scientific values of the islands.

(iii) Developing educational opportunities in the recreation area.

(iv) Enhancing public access to the Islands, including development of transportation networks.

(v) Identifying potential sources of revenue from programs or activities carried out within the recreation area.

(vi) Protecting and preserving Native American burial grounds connected with the King Philip's War internment period and other periods.

(C) A policy statement that recognizes existing economic activities within the recreation area.

(3) Development of plan

In developing the plan, the Partnership shall—

(A) consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the recreation area;

(B) consult with interested conservation, business, professional, and citizen organizations; and

(C) conduct public hearings or meetings for the purposes of providing interested persons with the opportunity to testify with respect to matters to be addressed by the plan.

(4) Approval of plan

(A) The Partnership shall submit the plan to the Governor of Massachusetts for review. The Governor shall have 90 days to review and make any recommendations. After considering the Governor's recommendations, the Partnership shall submit the plan to the Secretary, who shall approve or disapprove the plan within 90 days. In reviewing the plan the Secretary shall consider each of the following:

(i) The adequacy of public participation.

(ii) Assurances of plan implementation from State and local officials.

(iii) The adequacy of regulatory and financial tools that are in place to implement the plan.

(B) If the Secretary disapproves the plan, the Secretary shall within 60 days after the date of such disapproval, advise the Partnership in writing of the reasons therefore, together with recommendations for revision. Within 90 days of receipt of such notice of disapproval, the Partnership shall revise and resubmit the plan to the Secretary who shall approve or disapprove the revision within 60 days.

(5) Interim program

Prior to adoption of the Partnership's plan, the Secretary and the Partnership shall assist the owners and managers of lands and waters within the recreation area to ensure that existing programs, services, and activities that promote the purposes of this section are supported.

(g) Boston Harbor Islands Advisory Council

(1) Establishment

The Secretary, acting through the Director of the National Park Service, shall establish an advisory committee to be known as the Boston Harbor Islands Advisory Council. The purpose of the Advisory Council shall be to represent various groups with interests in the recreation area and make recommendations to the Boston Harbor Islands Partnership on issues related to the development and implementation of the integrated resource management plan developed under subsection (f) of this section. The Advisory Council is encouraged to establish committees relating to specific recreation area management issues, including (but not limited to) education, tourism, transportation, natural resources, cultural and historic resources, and revenue-raising activities. Participation on any such committee shall not be limited to members of the Advisory Council.

(2) Membership

The Advisory Council shall consist of not fewer than 18 individuals, to be appointed by the Secretary, acting through the Director of the National Park Service. The Secretary shall appoint no fewer than three individuals to represent each of the following categories of entities: municipalities; educational and cultural institutions; environmental organizations; business and commercial entities, including those related to transportation, tourism and the maritime industry; and Boston Harbor-related advocacy organizations; and organizations representing Native American interests.

(3) Procedures

Each meeting of the Advisory Council and its committees shall be open to the public.

(4) FACA

The provisions of section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), are hereby waived with respect to the Advisory Council.

(h) Authorization of appropriations

(1) In general

There are authorized to be appropriated such sums as may be necessary to carry out this section, provided that no funds may be appropriated for land acquisition.

(2) Matching requirement

Amounts appropriated in any fiscal year to carry out this section may only be expended on a matching basis in a ratio of at least three non-Federal dollars to every Federal dollar.

The non-Federal share of the match may be in the form of cash, services, or in-kind contributions, fairly valued.

(Pub. L. 104–333, div. I, title X, § 1029, Nov. 12, 1996, 110 Stat. 4232; Pub. L. 105–355, title V, § 513, Nov. 6, 1998, 112 Stat. 3266; Pub. L. 106–176, title I, § 126, Mar. 10, 2000, 114 Stat. 30; Pub. L. 108–352, § 12, Oct. 21, 2004, 118 Stat. 1397; Pub. L. 109–241, title IX, § 902(h)(1), July 11, 2006, 120 Stat. 567; Pub. L. 111–11, title VII, § 7109, Mar. 30, 2009, 123 Stat. 1197; Pub. L. 111–281, title IX, § 903(a)(8), Oct. 15, 2010, 124 Stat. 3010.)

REFERENCES IN TEXT

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (g)(4), is section 14 of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2010—Subsec. (e)(2)(B). Pub. L. 111–281 made technical amendment to directory language of Pub. L. 109–241, § 902(h)(1). See 2006 Amendment note below.

2009—Subsec. (d)(3). Pub. L. 111–11, § 7109(a), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: ''The Secretary may consult and enter into cooperative agreements with the Commonwealth of Massachusetts or its political subdivisions to acquire from and provide to the Commonwealth or its political subdivisions goods and services to be used in the cooperative management of lands within the recreation area, if the Secretary determines that appropriations for that purpose are available and the agreement is in the best interest of the United States.''

Subsec. (e)(2)(B). Pub. L. 111–11, § 7109(b)(1), substituted ''Coast Guard.'' for ''Coast Guard''.

Subsec. (e)(11). Pub. L. 111–11, § 7109(b)(2), substituted ''Notwithstanding'' for ''Nothwithstanding''.

2006—Subsec. (e)(2)(B). Pub. L. 109–241, § 902(h)(1), as amended by Pub. L. 111–281, § 903(a)(8), substituted ''Commandant of the Coast Guard.'' for ''Secretary of Transportation, to represent the United States Coast Guard.''

2004—Subsec. (c)(2)(B)(i). Pub. L. 108–352, § 12(1), substituted ''referenced'' for ''reference''.

Subsec. (d)(4). Pub. L. 108–352, § 12(2), inserted period after ''plans''.

2000—Pub. L. 106–176, § 126(1), substituted ''National Recreation Area'' for ''Recreation Area'' in section catchline.

Subsec. (b)(1). Pub. L. 106–176, § 126(2), inserted quotation marks around ''recreation area''.

Subsec. (e)(3)(B). Pub. L. 106–176, § 126(3), which directed substitution of ''subparagraphs (C), (D), (E), (F), (G), (H), (I), and (J) of paragraph (2).'' for ''subsections (b)(3), (4), (5), (6), (7), (8), (9), and (10) of this section..'', was executed by making the substitution for text that did not include the phrase ''of this section..''

Subsec. (f)(2)(A)(i). Pub. L. 106–176, § 126(4), substituted ''private-sector roles'' for ''profit sector roles''.

Subsec. (g)(1). Pub. L. 106–176, § 126(5), substituted ''and revenue-raising activities.'' for ''and revenue raising activities.''.

Subsec. (h)(2). Pub. L. 106–176, § 126(6), substituted ''ratio'' for ''ration''.

1998—Subsec. (c)(3). Pub. L. 105–355 added par. (3).

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–281, title IX, § 903(a), Oct. 15, 2010, 124 Stat. 3010, provided that the amendment by section 903(a)(8) is effective with enactment of Pub. L. 109–241.

SUBCHAPTER CXXIII—LAND BETWEEN THE LAKES PROTECTION

§ 460*lll*. Definitions

In this subchapter:

(1) Administrator

The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) Advisory Board

The term ''Advisory Board'' means the Land Between the Lakes Advisory Board established under section 460*lll*–22 of this title.

(3) Chairman

The term ''Chairman'' means the Chairman of the Board of Directors of the Tennessee Valley Authority.

(4) Eligible employee

The term ''eligible employee'' means a person that was, on the date of transfer pursuant to section 460*lll*–41 of this title, a full-time or part-time annual employee of the Tennessee Valley Authority at the Recreation Area.

(5) Environmental law

(A) In general

The term ''environmental law'' means all applicable Federal, State, and local laws (including regulations) and requirements related to protection of human health, natural and cultural resources, or the environment.

(B) Inclusions

The term ''environmental law'' includes—

(i) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(ii) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(iii) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(iv) the Clean Air Act (42 U.S.C. 7401 et seq.);

(v) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

(vi) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(vii) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(viii) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ix) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(6) Forest highway

The term ''forest highway'' has the meaning given the term in section 101(a) of title 23.

(7) Governmental unit

The term ''governmental unit'' means an agency of the Federal Government or a State or local government, local governmental unit, public or municipal corporation, or unit of a State university system.

(8) Hazardous substance

The term ''hazardous substance'' has the meaning given the term in section 101 of the Comprehensive Environmental Response,

Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(9) Person

The term ''person'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(10) Pollutant or contaminant

The term ''pollutant or contaminant'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(11) Recreation Area

The term ''Recreation Area'' means the Land Between the Lakes National Recreation Area.

(12) Release

The term ''release'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(13) Response action

The term ''response action'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(14) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(15) State

The term ''State'' means the State of Kentucky and the State of Tennessee.

(Pub. L. 105–277, div. A, §101(e) [title V, §502], Oct. 21, 1998, 112 Stat. 2681–231, 2681–310.)

REFERENCES IN TEXT

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in par. (5)(B)(i), is Pub. L. 96–510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (§9601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

The Solid Waste Disposal Act, referred to in par. (5)(B)(ii), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

The Federal Water Pollution Control Act, referred to in par. (5)(B)(iii), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Clean Air Act, referred to in par. (5)(B)(iv), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in par. (5)(B)(v), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92–516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (§136 et seq.) of chapter 6 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 136 of Title 7 and Tables.

The Toxic Substances Control Act, referred to in par. (5)(B)(vi), is Pub. L. 94–469, Oct. 11, 1976, 90 Stat. 2003, as amended, which is classified generally to chapter 53 (§2601 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

The Safe Drinking Water Act, referred to in par. (5)(B)(vii), is title XIV of act July 1, 1944, as added Pub. L. 93–523, §2(a), Dec. 16, 1974, 88 Stat. 1660, as amended, which is classified generally to subchapter XII (§300f et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The National Environmental Policy Act of 1969, referred to in par. (5)(B)(viii), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Endangered Species Act of 1973, referred to in par. (5)(B)(ix), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

SHORT TITLE

Pub. L. 105–277, div. A, §101(e) [title V, §501], Oct. 21, 1998, 112 Stat. 2681–231, 2681–310, provided that: ''This title [enacting this subchapter] may be referred to as 'The Land Between the Lakes Protection Act of 1998'.''

§ 460*lll*–1. Purposes

The purposes of this subchapter are—

(1) to transfer without consideration administrative jurisdiction over the Recreation Area from the Tennessee Valley Authority to the Secretary so that the Recreation Area may be managed as a unit of the National Forest System;

(2) to protect and manage the resources of the Recreation Area for optimum yield of outdoor recreation and environmental education through multiple use management by the Forest Service;

(3) to authorize, research, test, and demonstrate innovative programs and cost-effective management of the Recreation Area;

(4) to authorize the Secretary to cooperate between and among the States, Federal agencies, private organizations, and corporations, and individuals, as appropriate, in the management of the Recreation Area and to help stimulate the development of the surrounding region and extend the beneficial results as widely as practicable; and

(5) to provide for the smooth and equitable transfer of jurisdiction from the Tennessee Valley Authority to the Secretary.

(Pub. L. 105–277, div. A, §101(e) [title V, §503], Oct. 21, 1998, 112 Stat. 2681–231, 2681–311.)

PART A—ESTABLISHMENT, ADMINISTRATION, AND JURISDICTION

§ 460*lll*–11. Establishment

(a) In general

On the transfer of administrative jurisdiction under section 460*lll*–41 of this title, the Land Between the Lakes National Recreation Area in the States of Kentucky and Tennessee is established as a unit of the National Forest System.

(b) Management

(1) In general

The Secretary shall manage the Recreation Area for multiple use as a unit of the National Forest System.

(2) Emphases

The emphases in the management of the Recreation Area shall be—

(A) to provide public recreational opportunities;

(B) to conserve fish and wildlife and their habitat; and

(C) to provide for diversity of native and desirable non-native plants, animals, opportunities for hunting and fishing, and environmental education.

(3) Status of unit

The Secretary may administer the Recreation Area as a separate unit of the National Forest System or in conjunction with an existing national forest.

(c) Area included

(1) In general

The Recreation Area shall comprise the federally owned land, water, and interests in the land and water lying between Kentucky Lake and Lake Barkley in the States of Kentucky and Tennessee, as generally depicted on the map entitled ''Land Between the Lakes National Recreation Area—January, 1998''.

(2) Map

The map described in paragraph (1) shall be available for public inspection in the Office of the Chief of the Forest Service, Washington, D.C.

(d) Waters

(1) Water levels and navigation

Nothing in this subchapter affects the jurisdiction of the Tennessee Valley Authority or the Army Corps of Engineers to manage and regulate water levels and navigation of Kentucky Lake and Lake Barkley and areas subject to flood easements.

(2) Occupancy and use

Subject to the jurisdiction of the Tennessee Valley Authority and the Army Corps of Engineers, the Secretary shall have jurisdiction to regulate the occupancy and use of the surface waters of the lakes for recreational purposes.

(Pub. L. 105–277, div. A, §101(e) [title V, §511], Oct. 21, 1998, 112 Stat. 2681–231, 2681–312.)

§ 460*lll*–12. Civil and criminal jurisdiction

(a) Administration

The Secretary, acting through the Chief of the Forest Service, shall administer the Recreation Area in accordance with this subchapter and the laws, rules, and regulations pertaining to the National Forest System.

(b) Status

Land within the Recreation Area shall have the status of land acquired under the Act of March 1, 1911 (commonly known as the ''Weeks Act'') (16 U.S.C. 515 et seq.).

(c) Law enforcement

In order to provide for a cost-effective transfer of the law enforcement responsibilities between the Forest Service and the Tennessee Valley Authority, the law enforcement authorities designated under section 831c–3 of this title are hereby granted to special agents and law enforcement officers of the Forest Service. The law enforcement authorities designated under section 551 of this title, section 559 of this title, the National Forest System Drug Control Act of 1986 (16 U.S.C. 559b–559g) are hereby granted to law enforcement agents of the Tennessee Valley Authority, within the boundaries of the Recreation Area, for a period of 1 year from October 21, 1998.

(Pub. L. 105–277, div. A, §101(e) [title V, §512], Oct. 21, 1998, 112 Stat. 2681–231, 2681–313.)

REFERENCES IN TEXT

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

The National Forest System Drug Control Act of 1986, referred to in subsec. (c), is title XV of Pub. L. 99–570, Oct. 27, 1986, 100 Stat. 3207–191, which enacted sections 559b to 559g of this title, amended section 841 of Title 21, Food and Drugs, and enacted provisions set out as a note under section 559b of this title. For complete classification of title XV to the Code, see Short Title note set out under section 559b of this title and Tables.

§ 460*lll*–13. Payments to States and counties

(a) Payments in lieu of taxes

Land within the Recreation Area shall be subject to the provisions for payments in lieu of taxes under chapter 69 of title 31.

(b) Distribution

All amounts received from charges, use fees, and natural resource utilization, including timber and agricultural receipts, shall not be subject to distribution to States under section 500 of this title.

(c) Payments by the Tennessee Valley Authority

After the transfer of administrative jurisdiction is made under section 460*lll*–41 of this title—

(1) the Tennessee Valley Authority shall continue to calculate the amount of payments to be made to States and counties under section 831*l* of this title; and

(2) each State (including, for the purposes of this subsection, the State of Kentucky, the State of Tennessee, and any other State) that receives a payment under that section shall continue to calculate the amounts to be distributed to the State and local governments, as though the transfer had not been made.

(Pub. L. 105–277, div. A, §101(e) [title V, §513], Oct. 21, 1998, 112 Stat. 2681–231, 2681–313.)

§ 460*lll*–14. Forest highways

(a) In general

For purposes of section 204 of title 23, the road known as ''The Trace'' and every other paved road within the Recreation Area (including any road constructed to secondary standards) shall be considered to be a forest highway.

(b) State responsibility

(1) In general

The States shall be responsible for the maintenance of forest highways within the Recreation Area.

(2) Reimbursement

To the maximum extent provided by law, from funds appropriated to the Department of Transportation and available for purposes of highway construction and maintenance, the Secretary of Transportation shall reimburse the States for all or a portion of the costs of maintenance of forest highways in the Recreation Area.

(Pub. L. 105–277, div. A, §101(e) [title V, §514], Oct. 21, 1998, 112 Stat. 2681–231, 2681–313.)

PART B—MANAGEMENT PROVISIONS

§ 460*lll*–21. Land and resource management plan

(a) In general

As soon as practicable after the effective date of the transfer of jurisdiction under section 460*lll*–41 of this title, the Secretary shall prepare a land and resource management plan for the Recreation Area in conformity with the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.) and other applicable law.

(b) Interim provision

Until adoption of the land and resource management plan, the Secretary may use, as appropriate, the existing Tennessee Valley Authority Natural Resource Management Plan to provide interim management direction. Use of all or a portion of the management plan by the Secretary shall not be considered to be a major Federal action significantly affecting the quality of the human environment.

(Pub. L. 105–277, div. A, §101(e) [title V, §521], Oct. 21, 1998, 112 Stat. 2681–231, 2681–314.)

REFERENCES IN TEXT

The National Forest Management Act of 1976, referred to in subsec. (a), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

§ 460*lll*–22. Advisory Board

(a) Establishment

Not later than 90 days after the date of transfer pursuant to section 460*lll*–41 of this title, the Secretary shall establish the Land Between the Lakes Advisory Board.

(b) Membership

The Advisory Board shall be composed of 17 members, of whom—

(1) 4 individuals shall be appointed by the Secretary, including—

(A) 2 residents of the State of Kentucky; and

(B) 2 residents of the State of Tennessee;

(2) 2 individuals shall be appointed by the Kentucky Fish and Wildlife Commissioner or designee;

(3) 1 individual shall be appointed by the Tennessee Fish and Wildlife Commission or designee;

(4) 2 individuals shall be appointed by the Governor of the State of Tennessee;

(5) 2 individuals shall be appointed by the Governor of the State of Kentucky; and

(6) 2 individuals shall be appointed by appropriate officials of each of the 3 counties containing the Recreation Area.

(c) Term

(1) In general

The term of a member of the Advisory Board shall be 5 years.

(2) Succession

Members of the Advisory Board may not succeed themselves.

(d) Chairperson

The Regional Forester shall serve as chairperson of the Advisory Board.

(e) Rules of procedure

The Secretary shall prescribe the rules of procedure for the Advisory Board.

(f) Functions

The Advisory Board may advise the Secretary on—

(1) means of promoting public participation for the land and resource management plan for the Recreation Area; and

(2) environmental education.

(g) Meetings

(1) Frequency

The Advisory Board shall meet at least biannually.

(2) Public meeting

A meeting of the Advisory Board shall be open to the general public.

(3) Notice of meetings

The chairperson, through the placement of notices in local news media and by other appropriate means shall give 2 weeks' public notice of each meeting of the Advisory Board.

(h) No termination

Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Board.

(Pub. L. 105–277, div. A, §101(e) [title V, §522], Oct. 21, 1998, 112 Stat. 2681–231, 2681–314.)

REFERENCES IN TEXT

Section 14(a)(2) of the Federal Advisory Committee Act, referred to in subsec. (h), is section 14(a)(2) of Pub.

L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 460*lll*–23. Fees

(a) Authority

The Secretary may charge reasonable fees for admission to and the use of the designated sites, or for activities, within the Recreation Area.

(b) Factors

In determining whether to charge fees, the Secretary may consider the costs of collection weighed against potential income.

(c) Limitation

No general entrance fees shall be charged within the Recreation Area.

(Pub. L. 105–277, div. A, §101(e) [title V, §523], Oct. 21, 1998, 112 Stat. 2681–231, 2681–315.)

§ 460*lll*–24. Disposition of receipts

(a) In general

All amounts received from charges, use fees, and natural resource utilization, including timber and agricultural receipts, shall be deposited in a special fund in the Treasury of the United States to be known as the ''Land Between the Lakes Management Fund''.

(b) Use

Amounts in the Fund shall be available to the Secretary until expended, without further Act of appropriation, for the management of the Recreation Area, including payment of salaries and expenses.

(Pub. L. 105–277, div. A, §101(e) [title V, §524], Oct. 21, 1998, 112 Stat. 2681–231, 2681–315.)

§ 460*lll*–25. Special use authorizations

(a) In general

In addition to other authorities for the authorization of special uses within the National Forest System, within the Recreation Area, the Secretary may, on such terms and conditions as the Secretary may prescribe—

(1) convey for no consideration perpetual easements to governmental units for public roads over United States Route 68 and the Trace, and such other rights-of-way as the Secretary and a governmental unit may agree;

(2) transfer or lease to governmental units developed recreation sites or other facilities to be managed for public purposes; and

(3) lease or authorize recreational sites or other facilities, consistent with sections 460*lll*–1(2) and 460*lll*–11(b)(2) of this title.

(b) Consideration

(1) In general

Consideration for a lease or other special use authorization within the Recreation Area shall be based on fair market value.

(2) Reduction or waiver

The Secretary may reduce or waive a fee to a governmental unit or nonprofit organization commensurate with other consideration provided to the United States, as determined by the Secretary.

(c) Procedure

The Secretary may use any fair and equitable method for authorizing special uses within the Recreation Area, including public solicitation of proposals.

(d) Existing authorizations

(1) In general

A permit or other authorization granted by the Tennessee Valley Authority that is in effect on the date of transfer pursuant to section 460*lll*–41 of this title may continue on transfer of administration of the Recreation Area to the Secretary.

(2) Reissuance

A permit or authorization described in paragraph (1) may be reissued or terminated under terms and conditions prescribed by the Secretary.

(3) Exercise of rights

The Secretary may exercise any of the rights of the Tennessee Valley Authority contained in any permit or other authorization, including any right to amend, modify, and revoke the permit or authorization.

(Pub. L. 105–277, div. A, §101(e) [title V, §525], Oct. 21, 1998, 112 Stat. 2681–231, 2681–315.)

§ 460*lll*–26. Cooperative authorities and gifts

(a) Fish and Wildlife Service

(1) Management

(A) In general

Subject to such terms and conditions as the Secretary may prescribe, the Secretary may issue a special use authorization to the United States Fish and Wildlife Service for the management by the Service of facilities and land agreed on by the Secretary and the Secretary of the Interior.

(B) Fees

(i) In general

Reasonable admission and use fees may be charged for all areas administered by the United States Fish and Wildlife Service.

(ii) Deposit

The fees shall be deposited in accordance with section 460*lll*–24 of this title.

(2) Cooperation

The Secretary and the Secretary of the Interior may cooperate or act jointly on activities such as population monitoring and inventory of fish and wildlife with emphasis on migratory birds and endangered and threatened species, environmental education, visitor services, conservation demonstration projects and scientific research.

(3) Subordination of fish and wildlife activities to overall management

The management and use of areas and facilities under permit to the United States Fish and Wildlife Service as authorized pursuant to this section shall be subordinate to the overall management of the Recreation Area as directed by the Secretary.

(b) Authorities

For the management, maintenance, operation, and interpretation of the Recreation Area and its facilities, the Secretary may—

(1) make grants and enter into contracts and cooperative agreements with Federal agencies, governmental units, nonprofit organizations, corporations, and individuals; and

(2) accept gifts under section 2269 of title 7 notwithstanding that the donor conducts business with any agency of the Department of Agriculture or is regulated by the Secretary of Agriculture.

(Pub. L. 105–277, div. A, §101(e) [title V, §526], Oct. 21, 1998, 112 Stat. 2681–231, 2681–316.)

§ 460*lll*–27. Designation of national recreation trail

Effective on the date of transfer pursuant to section 460*lll*–41 of this title, the North-South Trail is designated as a national recreation trail under section 1243 of this title.

(Pub. L. 105–277, div. A, §101(e) [title V, §527], Oct. 21, 1998, 112 Stat. 2681–231, 2681–317.)

§ 460*lll*–28. Cemeteries

The Secretary shall maintain an inventory of and ensure access to cemeteries within the Recreation Area for purposes of burial, visitation, and maintenance.

(Pub. L. 105–277, div. A, §101(e) [title V, §528], Oct. 21, 1998, 112 Stat. 2681–231, 2681–317.)

§ 460*lll*–29. Resource management

(a) Minerals

(1) Withdrawal

The land within the Recreation Area is withdrawn from the operation of the mining and mineral leasing laws of the United States.

(2) Use of mineral materials

The Secretary may permit the use of common varieties of mineral materials for the development and maintenance of the Recreation Area.

(b) Hunting and fishing

(1) In general

The Secretary shall permit hunting and fishing on land and water under the jurisdiction of the Secretary within the boundaries of the Recreation Area in accordance with applicable laws of the United States and of each State, respectively.

(2) Prohibition

(A) In general

The Secretary may designate areas where, and establish periods when, hunting or fishing is prohibited for reasons of public safety, administration, or public use and enjoyment.

(B) Consultation

Except in emergencies, a prohibition under subparagraph (A) shall become effective only after consultation with the appropriate fish and game departments of the States.

(3) Fish and wildlife

Nothing in this subchapter affects the jurisdiction or responsibilities of the States with respect to wildlife and fish on national forests.

(Pub. L. 105–277, div. A, §101(e) [title V, §529], Oct. 21, 1998, 112 Stat. 2681–231, 2681–317.)

§ 460*lll*–30. Hematite Dam

Within one year from the date of transfer pursuant to section 460*lll*–41 of this title, the Tennessee Valley Authority shall cause any breach in the Hematite Dam to be repaired, or if such repairs have previously been made, the Tennessee Valley Authority shall certify in a letter to the Secretary the sound condition of the dam. Future repair costs and maintenance of the Hematite Dam shall be the responsibility of the Secretary.

(Pub. L. 105–277, div. A, §101(e) [title V, §530], Oct. 21, 1998, 112 Stat. 2681–231, 2681–317.)

§ 460*lll*–31. Trust Fund

(a) Establishment

There is established in the Treasury of the United States a special interest-bearing fund known as the ''Land Between the Lakes Trust Fund''.

(b) Availability

Amounts in the Fund shall be available to the Secretary, until expended, for—

(1) public education, grants, and internships related to recreation, conservation, and multiple use land management in the Recreation Area; and

(2) regional promotion in the Recreation Area, in cooperation with development districts, chambers of commerce, and State and local governments.

(c) Deposits

The Tennessee Valley Authority shall deposit into the Fund $1,000,000 annually for each of the 5 fiscal years commencing in the first fiscal year of the transfer. Funding to carry out this section shall be derived from funding described in section 460*lll*–49 of this title.

(Pub. L. 105–277, div. A, §101(e) [title V, §531], Oct. 21, 1998, 112 Stat. 2681–231, 2681–317.)

PART C—TRANSFER PROVISIONS

§ 460*lll*–41. Effective date of transfer

Effective on October 1 of the first fiscal year for which Congress does not appropriate to the Tennessee Valley Authority at least $6,000,000 for the Recreation Area, or, if this subchapter is enacted during a fiscal year for which Congress has not made such an appropriation, effective as of October 21, 1998, administrative jurisdiction over the Recreation Area is transferred from the Tennessee Valley Authority to the Secretary.

(Pub. L. 105–277, div. A, §101(e) [title V, §541], Oct. 21, 1998, 112 Stat. 2681–231, 2681–318.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this Act'' and was translated as meaning section 101(e) of div. A of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–231, known as the Department of the Interior and Related Agencies Appropriations Act, 1999. For complete classification of this Act to the Code, see Tables.

§ 460*lll*–42. Statement of policy

It is the policy of the United States that, to the maximum extent practicable—

(1) the transfer of jurisdiction over the Recreation Area from the Tennessee Valley Authority to the Secretary should be effected in an efficient and cost-effective manner; and

(2) due consideration should be given to minimizing—

(A) disruption of the personal lives of the Tennessee Valley Authority and Forest Service employees; and

(B) adverse impacts on permittees, contractees, and others owning or operating businesses affected by the transfer.

(Pub. L. 105–277, div. A, §101(e) [title V, §542], Oct. 21, 1998, 112 Stat. 2681–231, 2681–318.)

§ 460*lll*–43. Memorandum of agreement

(a) In general

Not later than 30 days after the date of transfer pursuant to section 460*lll*–41 of this title, the Secretary and the Tennessee Valley Authority shall enter into a memorandum of agreement concerning implementation of this subchapter.

(b) Provisions

The memorandum of understanding shall provide procedures for—

(1) the orderly withdrawal of officers and employees of the Tennessee Valley Authority;

(2) the transfer of property, fixtures, and facilities;

(3) the interagency transfer of officers and employees;

(4) the transfer of records; and

(5) other transfer issues.

(c) Transition team

(1) In general

The memorandum of understanding may provide for a transition team consisting of the Tennessee Valley Authority and Forest Service employees.

(2) Duration

The team may continue in existence after the date of transfer.

(3) Personnel costs

The Tennessee Valley Authority and the Forest Service shall pay personnel costs of their respective team members.

(Pub. L. 105–277, div. A, §101(e) [title V, §543], Oct. 21, 1998, 112 Stat. 2681–231, 2681–318.)

§ 460*lll*–44. Records

(a) Recreation Area records

The Secretary shall have access to all records of the Tennessee Valley Authority pertaining to the management of the Recreation Area.

(b) Personnel records

The Tennessee Valley Authority personnel records shall be made available to the Secretary, on request, to the extent the records are relevant to Forest Service administration.

(c) Confidentiality

The Tennessee Valley Authority may prescribe terms and conditions on the availability of records to protect the confidentiality of private or proprietary information.

(d) Land title records

The Tennessee Valley Authority shall provide to the Secretary original records pertaining to land titles, surveys, and other records pertaining to transferred personal property and facilities.

(Pub. L. 105–277, div. A, §101(e) [title V, §544], Oct. 21, 1998, 112 Stat. 2681–231, 2681–318.)

§ 460*lll*–45. Transfer of personal property

(a) Subject property

(1) Inventory

Not later than 60 days after the date of transfer pursuant to section 460*lll*–41 of this title, the Tennessee Valley Authority shall provide the Secretary with an inventory of all property and facilities at the Recreation Area.

(2) Availability for transfer

(A) In general

All Tennessee Valley Authority property associated with the administration of the Recreation Area, including any property purchased with Federal funds appropriated for the management of the Tennessee Valley Authority land, shall be available for transfer to the Secretary.

(B) Property included

Property under subparagraph (A) includes buildings, office furniture and supplies, computers, office equipment, buildings, vehicles, tools, equipment, maintenance supplies, boats, engines, and publications.

(3) Exclusion of property

At the request of the authorized representative of the Tennessee Valley Authority, the Secretary may exclude movable property from transfer based on a showing by the Tennessee Valley Authority that the property is vital to the mission of the Tennessee Valley Authority and cannot be replaced in a cost-effective manner, if the Secretary determines that the property is not needed for management of the Recreation Area.

(b) Designation

Pursuant to such procedures as may be prescribed in the memorandum of agreement entered into under section 460*lll*–43 of this title, the Secretary shall identify and designate, in writing, all Tennessee Valley Authority property to be transferred to the Secretary.

(c) Facilitation of transfer

The Tennessee Valley Authority shall, to the maximum extent practicable, use current personnel to facilitate the transfer of necessary property and facilities to the Secretary, including replacement of signs and insignia, repainting of vehicles, printing of public information, and training of new personnel. Funding for these costs shall be derived from funding described in section 460*lll*–49 of this title.

(d) Surplus property

(1) Disposition

Any personal property, including structures and facilities, that the Secretary determines cannot be efficiently managed and maintained

either by the Forest Service or by lease or permit to other persons may be declared excess by the Secretary and—

(A) sold by the Secretary on such terms and conditions as the Secretary may prescribe to achieve the maximum benefit to the Federal Government; or

(B) disposed of under chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(2) Deposit of proceeds

All net proceeds from the disposal of any property shall be deposited into the Fund established by section 460*lll*–31 of this title.

(Pub. L. 105–277, div. A, §101(e) [title V, §545], Oct. 21, 1998, 112 Stat. 2681–231, 2681–319.)

CODIFICATION

In subsec. (d)(1)(B), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§ 460*lll*–46. Compliance with environmental laws

(a) Documentation of existing conditions

(1) In general

Not later than 60 days after the date of transfer pursuant to section 460*lll*–41 of this title, the Chairman and the Administrator shall provide the Secretary all documentation and information that exists on the environmental condition of the land and waters comprising the Recreation Area property.

(2) Additional documentation

The Chairman and the Administrator shall provide the Secretary with any additional documentation and information regarding the environmental condition of the Recreation Area property as such documentation and information becomes available.

(b) Action required

(1) Assessment

Not later than 120 days after the date of transfer pursuant to section 460*lll*–41 of this title, the Chairman shall provide to the Secretary an assessment indicating what action, if any, is required under any environmental law on Recreation Area property.

(2) Memorandum of understanding

If the assessment concludes action is required under any environmental law with respect to any portion of the Recreation Area property, the Secretary and the Chairman shall enter into a memorandum of understanding that—

(A) provides for the performance by the Chairman of the required actions identified in the assessment; and

(B) includes a schedule providing for the prompt completion of the required actions to the satisfaction of the Secretary.

(c) Documentation demonstrating action

On the transfer of jurisdiction over the Recreation Area from the Tennessee Valley Authority to the Secretary, the Chairman shall provide the Secretary with documentation demonstrating that all actions required under any environmental law have been taken, including all response actions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) that are necessary to protect human health and the environment with respect to any hazardous substance, pollutant, contaminant, hazardous waste, hazardous material, or petroleum product or derivative of a petroleum product on Recreation Area property.

(d) Continuation of responsibilities and liabilities

(1) In general

The transfer of the Recreation Area property under this subchapter, and the requirements of this section, shall not in any way affect the responsibilities and liabilities of the Tennessee Valley Authority at the Recreation Area under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or any other environmental law.

(2) Access

After transfer of the Recreation Area property, the Chairman shall be accorded any access to the property that may be reasonably required to carry out the responsibility or satisfy the liability referred to in paragraph (1).

(3) No liability

The Secretary shall not be liable under any environmental law for matters that are related directly or indirectly to present or past activities of the Tennessee Valley Authority on the Recreation Area property, including liability for—

(A) costs or performance of response actions required under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) at or related to the Recreation Area; or

(B) costs, penalties, fines, or performance of actions related to noncompliance with any environmental law at or related to the Recreation Area or related to the presence, release, or threat of release of any hazardous substance, pollutant, or contaminant, hazardous waste, hazardous material, or petroleum product or derivative of a petroleum product of any kind at or related to the Recreation Area, including contamination resulting from migration.

(4) No effect on responsibilities or liabilities

Except as provided in paragraph (3), nothing in this subchapter affects, modifies, amends, repeals, alters, limits or otherwise changes, directly or indirectly, the responsibilities or liabilities under any environmental law with respect to the Secretary.

(e) Other Federal agencies

Subject to the other provisions of this section, a Federal agency that carried or carries out operations at the Recreation Area resulting in the release or threatened release of a hazardous substance, pollutant, or contaminant, hazardous

waste, hazardous material, or petroleum product or derivative of a petroleum product for which that agency would be liable under any environmental law shall pay the costs of related response actions and shall pay the costs of related actions to remediate petroleum products or their derivatives.

(Pub. L. 105–277, div. A, §101(e) [title V, §546], Oct. 21, 1998, 112 Stat. 2681–231, 2681–320.)

REFERENCES IN TEXT

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsecs. (c) and (d)(1), (3)(A), is Pub. L. 96–510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (§9601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

§ 460*lll*–47. Personnel

(a) In general

(1) Hiring

Notwithstanding section 3503 of title 5, and subject to paragraph (2), the Secretary may—

(A) appoint, hire, and discharge officers and employees to administer the Recreation Area; and

(B) pay the officers and employees at levels that are commensurate with levels at other units of the National Forest System.

(2) Interim retention of eligible employees

(A) In general

For a period of not less than 5 months after the effective date of transfer to the Forest Service—

(i) all eligible employees shall be retained in the employment of the Tennessee Valley Authority;

(ii) those eligible employees shall be considered to be placed on detail to the Secretary and shall be subject to the direction of the Secretary; and

(iii) the Secretary shall reimburse the Tennessee Valley Authority for the amount of the basic pay and all other compensation of those eligible employees.

(B) Notice to employees

The Secretary shall provide eligible employees a written notice of not less than 60 days before termination.

(C) Termination for cause

Subparagraph (A) does not preclude a termination for cause during the period described in subparagraph (A).

(b) Applications for transfer and appointment

An eligible employee shall have the right to apply for employment by the Secretary under procedures for transfer and appointment of Federal employees outside the Department of Agriculture.

(c) Hiring by Secretary

(1) In general

Subject to subsection (b) of this section, in filling personnel positions within the Recreation Area, the Secretary shall follow all laws (including regulations) and policies applicable to the Department of Agriculture.

(2) Notification and hiring

Notwithstanding paragraph (1), the Secretary—

(A) shall notify all eligible employees of all openings for positions with the Forest Service at the Recreation Area before notifying other individuals or considering applications by other individuals for the positions; and

(B) after applications by eligible employees have received consideration, if any positions remain unfilled, shall notify other individuals of the openings.

(3) Noncompetitive appointments

Notwithstanding any other placement of career transition programs authorized by the Office of Personnel Management of the United States Department of Agriculture, the Secretary may noncompetitively appoint eligible employees to positions in the Recreation Area.

(4) Period of service

Except to the extent that an eligible employee that is appointed by the Secretary may be otherwise compensated for the period of service as an employee of the Tennessee Valley Authority, that period of service shall be treated as a period of service as an employee of the Secretary for the purposes of probation, career tenure, time-in-grade, and leave.

(d) Transfer to positions in other units of Tennessee Valley Authority

The Tennessee Valley Authority—

(1) shall notify all eligible employees of all openings for positions in other units of the Tennessee Valley Authority before notifying other individuals or considering applications by other individuals for the positions; and

(2) after applications by eligible employees have received consideration, if any positions remain unfilled, shall notify other individuals of the openings.

(e) Employee benefit transition

(1) Memorandum of understanding

(A) In general

The Secretary and the heads of the Office of Personnel Management, the Tennessee Valley Authority and the Tennessee Valley Authority Retirement System shall enter into a memorandum of understanding providing for the transition for all eligible employees of compensation made available through the Tennessee Valley Authority Retirement System.

(B) Employee participation

In deciding on the terms of the memorandum of understanding, the Secretary and the heads of the Office of Personnel Management, the Tennessee Valley Authority and the Tennessee Valley Authority Retirement System shall meet and consult with and give full consideration to the views of employees and representatives of the employees of the Tennessee Valley Authority.

(2) Eligible employees that are transferred to other units of TVA

An eligible employee that is transferred to another unit of the Tennessee Valley Authority shall experience no interruption in coverage for or reduction of any retirement, health, leave, or other employee benefit.

(3) Eligible employees that are hired by the Secretary

(A) Level of benefits

The Secretary shall provide to an eligible employee that is hired by the Forest Service a level of retirement and health benefits that is equivalent to the level to which the eligible employee would have been entitled if the eligible employee had remained an employee of the Tennessee Valley Authority.

(B) Transfer of retirement benefits

(i) In general

Eligible employees hired by the Forest Service shall become members of the Civil Service Retirement System (CSRS) Offset Plan and shall have the option to transfer into the Federal Employees Retirement System (FERS) within six months of their date of transfer. Such employees shall have the option at any time to receive credit in CSRS Offset or FERS for all of their TVA service in accordance with applicable procedures. Any deposits necessary to receive credit for such service shall be considered transfers to a qualified plan for purposes of favorable tax treatment of such amount under title 26.

(ii) Funding shortfall

(I) In general

For all eligible employees that are not part of the Civil Service Retirement System, the Tennessee Valley Authority shall meet any funding shortfall resulting from the transfer of retirement benefits.

(II) Notification

The Secretary shall notify the Tennessee Valley Authority Board of the cost associated with the transfer of retirement benefits.

(III) Payment

The Tennessee Valley Authority shall fully compensate the Secretary for the costs associated with the transfer of retirement benefits.

(IV) No interruption

An eligible employee that is hired by the Forest Service and is eligible for Civil Service Retirement shall not experience any interruption in retirement benefits.

(C) No interruption

An eligible employee that is hired by the Secretary—

(i) shall experience no interruption in coverage for any health, leave, or other employee benefit; and

(ii) shall be entitled to carry over any leave time accumulated during employment by the Tennessee Valley Authority.

(D) Period of service

Notwithstanding section 8411(b)(3) of title 5, except to the extent that an eligible employee may be otherwise compensated (including the provision of retirement benefits in accordance with the memorandum of understanding) for the period of service as an employee of the Tennessee Valley Authority, that period of service shall be treated as a period of service as an employee of the U.S. Department of Agriculture for all purposes relating to the Federal employment of the eligible employee.

(4) Eligible employees that are discharged not for cause

(A) Level of benefits

The parties to the memorandum of understanding shall have authority to deem any applicable requirement to be met, to make payments to an employee, or take any other action necessary to provide to an eligible employee that is discharged as being excess to the needs of the Tennessee Valley Authority or the Secretary and not for cause and that does not accept an offer of employment from the Secretary, an optimum level of retirement and health benefits that is equivalent to the level that has been afforded employees discharged in previous reductions in force by the Tennessee Valley Authority.

(B) Minimum benefits

An eligible employee that is discharged as being excess to the needs of the Tennessee Valley Authority or the Secretary and not for cause shall, at a minimum be entitled to—

(i) at the option of the eligible employee—

(I) a lump-sum equal to $1,000, multiplied by the number of years of service of the eligible employee (but not less that $15,000 nor more than $25,000);

(II) a lump-sum payment equal to the amount of pay earned by the eligible employee for the last 26 weeks of the eligible employee's service; or

(III) the deemed addition of 5 years to the age and the years of service of an eligible employee;

(ii) 15 months of health benefits for employees and dependents at the same level provided as of the date of transfer pursuant to section 460*lll*–41 of this title;

(iii) 1 week of pay per year of service as provided by the Tennessee Valley Authority Retirement System;

(iv) a lump-sum payment of all accumulated annual leave;

(v) unemployment compensation in accordance with State law;

(vi) eligible pension benefits as provided by the Tennessee Valley Authority Retirement System; and

(vii) retraining assistance provided by the Tennessee Valley Authority.

(C) Shortfall

If the board of directors of the Tennessee Valley Authority Retirement System deter-

mines that the cost of providing the benefits described in subparagraphs (A) and (B) would have a negative impact on the overall retirement system, the Tennessee Valley Authority shall be required to meet any funding shortfalls.

(Pub. L. 105–277, div. A, §101(e) [title V, §547], Oct. 21, 1998, 112 Stat. 2681–231, 2681–321.)

§ 460*lll*–48. Tennessee Valley Authority transfer costs

Any costs incurred by Tennessee Valley Authority associated with the transfer under this part shall be derived from funding described in section 460*lll*–49 of this title.

(Pub. L. 105–277, div. A, §101(e) [title V, §548], Oct. 21, 1998, 112 Stat. 2681–231, 2681–325.)

§ 460*lll*–49. Tennessee Valley Authority transfer funding

(a) In general

The funding described in this section is funding derived from only 1 or more of the following sources:

(1) Nonpower fund balances and collections.

(2) Investment returns of the nonpower program.

(3) Applied programmatic savings in the power and nonpower programs.

(4) Savings from the suspension of bonuses and awards.

(5) Savings from reductions in memberships and contributions.

(6) Increases in collections resulting from nonpower activities, including user fees.

(7) Increases in charges to private and public utilities both investor and cooperatively owned, as well as to direct load customers.

(b) Availability

Funds from the sources described in subsection (a) of this section shall be available notwithstanding section 11, 14, 15, or 29 [16 U.S.C. 831j, 831m, 831n, 831bb] or any other provision of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.) or any provisions of the covenants contained in any power bonds issued by the Tennessee Valley Authority.

(c) Sufficiency of savings

The savings from and the revenue adjustment to the budget of the Tennessee Valley Authority for the first fiscal year of the transfer and each fiscal year thereafter shall be sufficient so that the net spending authority and resulting outlays to carry out activities with funding described in subsection (a) of this section shall not exceed $0 for the first fiscal year of the transfer and each fiscal year thereafter.

(d) Itemized list of reductions and increased receipts

(1) Proposed changes

Not later than 30 days after the date of transfer pursuant to section 460*lll*–41 of this title, the Chairman of the Tennessee Valley Authority shall submit to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate an itemized list of the amounts of reductions in spending and increases in receipts that are proposed to be made as a result of activities under this subsection during the first fiscal year of the transfer.

(2) Actual changes

Not later than 24 months after the effective date of the transfer, the Chairman of the Tennessee Valley Authority shall submit to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate an itemized list of the amounts of reductions in spending and increases in receipts as a result of activities under this subsection during the first fiscal year of the transfer.

(Pub. L. 105–277, div. A, §101(e) [title V, §549], Oct. 21, 1998, 112 Stat. 2681–231, 2681–325.)

REFERENCES IN TEXT

The Tennessee Valley Authority Act of 1933, referred to in subsec. (b), is act May 18, 1933, ch. 32, 48 Stat. 58, as amended, which is classified generally to chapter 12A (§831 et seq.) of this title. For complete classification of this Act to the Code, see section 831 of this title and Tables.

PART D—FUNDING

§ 460*lll*–61. Authorization of appropriations

(a) Agriculture

There are authorized to be appropriated to the Secretary of Agriculture such sums as are necessary to—

(1) permit the Secretary to exercise administrative jurisdiction over the Recreation Area under this subchapter; and

(2) administer the Recreation Area area as a unit of the National Forest System.

(b) Interior

There are authorized to be appropriated to the Secretary of the Interior such sums as are necessary to carry out activities within the Recreation Area.

(c) Use of funds

The Secretary of Agriculture may expend amounts appropriated or otherwise made available to carry out this subchapter in a manner consistent with the authorities exercised by the Tennessee Valley Authority before the transfer of the Recreation Area to the administrative jurisdiction of the Secretary, including campground management and visitor services, paid advertisement, and procurement of food and supplies for resale purposes.

(Pub. L. 105–277, div. A, §101(e) [title V, §551], Oct. 21, 1998, 112 Stat. 2681–231, 2681–326; Pub. L. 106–291, title II, Oct. 11, 2000, 114 Stat. 974; Pub. L. 107–63, title III, §335, Nov. 5, 2001, 115 Stat. 472; Pub. L. 108–108, title III, §334, Nov. 10, 2003, 117 Stat. 1312.)

AMENDMENTS

2003—Subsec. (c). Pub. L. 108–108 amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: ''Until September 30, 2004, the Secretary of Agriculture may expend amounts appropriated or otherwise made available to carry out this subchapter in a manner consistent with the authorities exercised by the Tennessee Valley Authority, before

the transfer of the Recreation Area to the administrative jurisdiction of the Secretary, regarding procurement of property, services, supplies, and equipment.''

2001—Subsec. (c). Pub. L. 107–63 substituted ''2004'' for ''2002''.

2000—Subsec. (c). Pub. L. 106–291 added subsec. (c).

SUBCHAPTER CXXIV—McINNIS CANYONS NATIONAL CONSERVATION AREA

§ 460mmm. Findings and purpose

(a) Findings

Congress finds that certain areas located in the Grand Valley in Mesa County, Colorado, and Grand County, Utah, should be protected and enhanced for the benefit and enjoyment of present and future generations. These areas include the following:

(1) The areas making up the Black Ridge and Ruby Canyons of the Grand Valley and Rabbit Valley, which contain unique and valuable scenic, recreational, multiple use opportunities (including grazing), paleontological, natural, and wildlife components enhanced by the rural western setting of the area, provide extensive opportunities for recreational activities, and are publicly used for hiking, camping, and grazing, and are worthy of additional protection as a national conservation area.

(2) The Black Ridge Canyons Wilderness Study Area has wilderness value and offers unique geological, paleontological, scientific, and recreational resources.

(b) Purpose

The purpose of this subchapter is to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the unique and nationally important values of the public lands described in section 460mmm–2(b) of this title, including geological, cultural, paleontological, natural, scientific, recreational, environmental, biological, wilderness, wildlife education, and scenic resources of such public lands, by establishing the McInnis Canyons National Conservation Area and the Black Ridge Canyons Wilderness in the State of Colorado and the State of Utah.

(Pub. L. 106–353, § 2, Oct. 24, 2000, 114 Stat. 1374; Pub. L. 108–400, § 1(a), Oct. 30, 2004, 118 Stat. 2254.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–400 substituted ''McInnis Canyons'' for ''Colorado Canyons''.

CHANGE OF NAME

Pub. L. 108–400, § 1(f), Oct. 30, 2004, 118 Stat. 2254, provided that: ''Any reference in a law, map, regulation, document, paper, or other record of the United States to the 'Colorado Canyons National Conservation Area' shall be deemed to be a reference to the 'McInnis Canyons National Conservation Area'.''

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–400, § 1(g), Oct. 30, 2004, 118 Stat. 2254, provided that: ''This section [amending this section and sections 460mmm–1, 460mmm–2, and 460mmm–6 of this title, enacting provisions set out as a note under this section, and amending provisions set out as a note under this section] and the amendments made by this section take effect on January 1, 2005.''

SHORT TITLE

Pub. L. 106–353, § 1, Oct. 24, 2000, 114 Stat. 1374, as amended by Pub. L. 108–400, § 1(e), Oct. 30, 2004, 118 Stat. 2254, provided that: ''This Act [enacting this subchapter and provisions listed in a table of Wilderness Areas set out under section 1132 of this title] may be cited as the 'McInnis Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000'.''

§ 460mmm–1. Definitions

In this subchapter:

(1) Conservation Area

The term ''Conservation Area'' means the McInnis Canyons National Conservation Area established by section 460mmm–2(a) of this title.

(2) Council

The term ''Council'' means the McInnis Canyons National Conservation Area Advisory Council established under section 460mmm–6 of this title.

(3) Management plan

The term ''management plan'' means the management plan developed for the Conservation Area under section 460mmm–4(h) of this title.

(4) Map

The term ''Map'' means the map entitled ''Proposed Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Area'' and dated July 18, 2000.

(5) Secretary

The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(6) Wilderness

The term ''Wilderness'' means the Black Ridge Canyons Wilderness so designated in section 460mmm–3 of this title.

(Pub. L. 106–353, § 3, Oct. 24, 2000, 114 Stat. 1374; Pub. L. 108–400, § 1(b), Oct. 30, 2004, 118 Stat. 2254.)

AMENDMENTS

2004—Pars. (1), (2). Pub. L. 108–400 substituted ''McInnis'' for ''Colorado''.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–400 effective Jan. 1, 2005, see section 1(g) of Pub. L. 108–400, set out as a note under section 460mmm of this title.

§ 460mmm–2. McInnis Canyons National Conservation Area

(a) In general

There is established the McInnis Canyons National Conservation Area in the State of Colorado and the State of Utah.

(b) Areas included

The Conservation Area shall consist of approximately 122,300 acres of public land as generally depicted on the Map.

(Pub. L. 106–353, § 4, Oct. 24, 2000, 114 Stat. 1375; Pub. L. 108–400, § 1(c), Oct. 30, 2004, 118 Stat. 2254.)

AMENDMENTS

2004—Pub. L. 108–400, § 1(c)(1), substituted ''McInnis'' for ''Colorado'' in section catchline.

Subsec. (a). Pub. L. 108–400, § 1(c)(2), substituted ''McInnis Canyons'' for ''Colorado Canyons''.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–400 effective Jan. 1, 2005, see section 1(g) of Pub. L. 108–400, set out as a note under section 460mmm of this title.

§ 460mmm–3. Black Ridge Canyons Wilderness designation

Certain lands in Mesa County, Colorado, and Grand County, Utah, which comprise approximately 75,550 acres as generally depicted on the Map, are hereby designated as wilderness and therefore as a component of the National Wilderness Preservation System. Such component shall be known as the Black Ridge Canyons Wilderness.

(Pub. L. 106–353, § 5, Oct. 24, 2000, 114 Stat. 1375.)

§ 460mmm–4. Management

(a) Conservation Area

The Secretary shall manage the Conservation Area in a manner that—

(1) conserves, protects, and enhances the resources of the Conservation Area specified in section 460mmm(b)[1] of this title; and

(2) is in accordance with—

(A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(B) other applicable law, including this subchapter.

(b) Uses

The Secretary shall allow only such uses of the Conservation Area as the Secretary determines will further the purposes for which the Conservation Area is established.

(c) Withdrawals

Subject to valid existing rights, all Federal land within the Conservation Area and the Wilderness and all land and interests in land acquired for the Conservation Area or the Wilderness by the United States are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) the operation of the mineral leasing, mineral materials, and geothermal leasing laws, and all amendments thereto.

Nothing in this subsection shall be construed to affect discretionary authority of the Secretary under other Federal laws to grant, issue, or renew rights-of-way or other land use authorizations consistent with the other provisions of this subchapter.

(d) Off-highway vehicle use

(1) In general

Except as provided in paragraph (2), use of motorized vehicles in the Conservation Area—

(A) before the effective date of a management plan under subsection (h) of this section, shall be allowed only on roads and trails designated for use of motor vehicles in the management plan that applies on October 24, 2000, to the public lands in the Conservation Area; and

(B) after the effective date of a management plan under subsection (h) of this section, shall be allowed only on roads and trails designated for use of motor vehicles in that management plan.

(2) Administrative and emergency response use

Paragraph (1) shall not limit the use of motor vehicles in the Conservation Area as needed for administrative purposes or to respond to an emergency.

(e) Wilderness

Subject to valid existing rights, lands designated as wilderness by this subchapter shall be managed by the Secretary, as appropriate, in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this subchapter, except that, with respect to any wilderness areas designated by this subchapter, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to October 24, 2000.

(f) Hunting, trapping, and fishing

(1) In general

Hunting, trapping, and fishing shall be allowed within the Conservation Area and the Wilderness in accordance with applicable laws and regulations of the United States and the States of Colorado and Utah.

(2) Area and time closures

The head of the Colorado Division of Wildlife (in reference to land within the State of Colorado), the head of the Utah Division of Wildlife (in reference to land within the State of Utah), or the Secretary after consultation with the Colorado Division of Wildlife (in reference to land within the State of Colorado) or the head of the Utah Division of Wildlife (in reference to land within the State of Utah), may issue regulations designating zones where, and establishing limited periods when, hunting, trapping, or fishing shall be prohibited in the Conservation Area or the Wilderness for reasons of public safety, administration, or public use and enjoyment.

(g) Grazing

(1) In general

Except as provided by paragraph (2), the Secretary shall issue and administer any grazing leases or permits in the Conservation Area and the Wilderness in accordance with the same laws (including regulations) and Executive orders followed by the Secretary in issuing and administering grazing leases and permits on other land under the jurisdiction of the Bureau of Land Management.

(2) Grazing in wilderness

Grazing of livestock in the Wilderness shall be administered in accordance with the provisions of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), in accordance with the guidelines set forth in Appendix A of House Report 101–405 of the 101st Congress.

(h) Management plan

(1) In general

Not later than 3 years after October 24, 2000, the Secretary shall develop a comprehensive management plan for the long-range protec-

[1] So in original. Probably should be section ''460mmm(a)''.

tion and management of the Conservation Area and the Wilderness and the lands described in paragraph (2)(E).

(2) Purposes

The management plan shall—

(A) describe the appropriate uses and management of the Conservation Area and the Wilderness;

(B) take into consideration any information developed in studies of the land within the Conservation Area or the Wilderness;

(C) provide for the continued management of the utility corridor, Black Ridge Communications Site, and the Federal Aviation Administration site as such for the land designated on the Map as utility corridor, Black Ridge Communications Site, and the Federal Aviation Administration site;

(D) take into consideration the historical involvement of the local community in the interpretation and protection of the resources of the Conservation Area and the Wilderness, as well as the Ruby Canyon/Black Ridge Integrated Resource Management Plan, dated March 1998, which was the result of collaborative efforts on the part of the Bureau of Land Management and the local community; and

(E) include all public lands between the boundary of the Conservation Area and the edge of the Colorado River and, on such lands, the Secretary shall allow only such recreational or other uses as are consistent with this subchapter.

(i) No buffer zones

The Congress does not intend for the establishment of the Conservation Area or the Wilderness to lead to the creation of protective perimeters or buffer zones around the Conservation Area or the Wilderness. The fact that there may be activities or uses on lands outside the Conservation Area or the Wilderness that would not be allowed in the Conservation Area or the Wilderness shall not preclude such activities or uses on such lands up to the boundary of the Conservation Area or the Wilderness consistent with other applicable laws.

(j) Acquisition of land

(1) In general

The Secretary may acquire non-federally owned land within the exterior boundaries of the Conservation Area or the Wilderness only through purchase from a willing seller, exchange, or donation.

(2) Management

Land acquired under paragraph (1) shall be managed as part of the Conservation Area or the Wilderness, as the case may be, in accordance with this subchapter.

(k) Interpretive facilities or sites

The Secretary may establish minimal interpretive facilities or sites in cooperation with other public or private entities as the Secretary considers appropriate. Any facilities or sites shall be designed to protect the resources referred to in section 460mmm(b) of this title.

(*l*) Water rights

(1) Findings

Congress finds that—

(A) the lands designated as wilderness by this subchapter are located at the headwaters of the streams and rivers on those lands, with few, if any, actual or proposed water resource facilities located upstream from such lands and few, if any, opportunities for diversion, storage, or other uses of water occurring outside such lands that would adversely affect the wilderness or other values of such lands;

(B) the lands designated as wilderness by this subchapter generally are not suitable for use for development of new water resource facilities, or for the expansion of existing facilities;

(C) it is possible to provide for proper management and protection of the wilderness and other values of such lands in ways different from those utilized in other legislation designating as wilderness lands not sharing the attributes of the lands designated as wilderness by this subchapter.

(2) Statutory construction

(A) Nothing in this subchapter shall constitute or be construed to constitute either an express or implied reservation of any water or water rights with respect to the lands designated as a national conservation area or as wilderness by this subchapter.

(B) Nothing in this subchapter shall affect any conditional or absolute water rights in the State of Colorado existing on October 24, 2000.

(C) Nothing in this subsection shall be construed as establishing a precedent with regard to any future national conservation area or wilderness designations.

(D) Nothing in this subchapter shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State of Colorado and other States.

(3) Colorado water law

The Secretary shall follow the procedural and substantive requirements of the law of the State of Colorado in order to obtain and hold any new water rights with respect to the Conservation Area and the Wilderness.

(4) New projects

(A) As used in this paragraph, the term ''water resource facility'' means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures. Such term does not include any such facilities related to or used for the purpose of livestock grazing.

(B) Except as otherwise provided by subsection (g) of this section or other provisions of this subchapter, on and after October 24, 2000, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within the wilderness area designated by this subchapter.

(C) Except as provided in this paragraph, nothing in this subchapter shall be construed

to affect or limit the use, operation, maintenance, repair, modification, or replacement of water resource facilities in existence on October 24, 2000, within the boundaries of the Wilderness.

(5) Boundaries along Colorado River

(A) Neither the Conservation Area nor the Wilderness shall include any part of the Colorado River to the 100-year high water mark.

(B) Nothing in this subchapter shall affect the authority that the Secretary may or may not have to manage recreational uses on the Colorado River, except as such authority may be affected by compliance with paragraph (3). Nothing in this subchapter shall be construed to affect the authority of the Secretary to manage the public lands between the boundary of the Conservation Area and the edge of the Colorado River.

(C) Subject to valid existing rights, all lands owned by the Federal Government between the 100-year high water mark on each shore of the Colorado River, as designated on the Map from the line labeled ''Line A'' on the east to the boundary between the States of Colorado and Utah on the west, are hereby withdrawn from—

(i) all forms of entry, appropriation, or disposal under the public land laws;

(ii) location, entry, and patent under the mining laws; and

(iii) the operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(Pub. L. 106–353, § 6, Oct. 24, 2000, 114 Stat. 1375.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (a)(2)(A), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

The Wilderness Act, referred to in subsec. (e), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The effective date of the Wilderness Act, referred to in subsec.(e), means Sept. 3, 1964, the date of enactment of Pub. L. 88–577, which enacted chapter 23 of this title.

§ 460mmm–5. Maps and legal descriptions

(a) In general

As soon as practicable after October 24, 2000, the Secretary shall submit to Congress a copy of the Map and a legal description of the Conservation Area and of the Wilderness.

(b) Force and effect

The Map and legal descriptions shall have the same force and effect as if included in this subchapter, except that the Secretary may correct clerical and typographical errors in the Map and the legal descriptions.

(c) Public availability

Copies of the Map and the legal descriptions shall be on file and available for public inspection in—

(1) the Office of the Director of the Bureau of Land Management;

(2) the Grand Junction District Office of the Bureau of Land Management in Colorado;

(3) the appropriate office of the Bureau of Land Management in Colorado, if the Grand Junction District Office is not deemed the appropriate office; and

(4) the appropriate office of the Bureau of Land Management in Utah.

(d) Map controlling

Subject to section 460mmm–4(*l*)(3)[1] of this title, in the case of a discrepancy between the Map and the descriptions, the Map shall control.

(Pub. L. 106–353, § 7, Oct. 24, 2000, 114 Stat. 1379.)

§ 460mmm–6. Advisory Council

(a) Establishment

Not later than 6 months after October 24, 2000, the Secretary shall establish an advisory council to be known as the ''McInnis Canyons National Conservation Area Advisory Council''.

(b) Duty

The Council shall advise the Secretary with respect to preparation and implementation of the management plan, including budgetary matters, for the Conservation Area and the Wilderness.

(c) Applicable law

The Council shall be subject to—

(1) the Federal Advisory Committee Act (5 U.S.C. App.); and

(2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(d) Members

The Council shall consist of 10 members to be appointed by the Secretary including, to the extent practicable:

(1) A member of or nominated by the Mesa County Commission.

(2) A member nominated by the permittees holding grazing allotments within the Conservation Area or the Wilderness.

(3) A member of or nominated by the Northwest Resource Advisory Council.

(4) Seven members residing in, or within reasonable proximity to, Mesa County, Colorado, with recognized backgrounds reflecting—

(A) the purposes for which the Conservation Area or Wilderness was established; and

(B) the interests of the stakeholders that are affected by the planning and management of the Conservation Area and the Wilderness.

(Pub. L. 106–353, § 8, Oct. 24, 2000, 114 Stat. 1379; Pub. L. 108–400, § 1(d), Oct. 30, 2004, 118 Stat. 2254.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c)(1), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (c)(2), is Pub. L. 94–579, Oct.

[1] So in original. Probably should be section ''460mmm–4(*l*)(5)''.

21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–400 substituted ''McInnis Canyons'' for ''Colorado Canyons''.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–400 effective Jan. 1, 2005, see section 1(g) of Pub. L. 108–400, set out as a note under section 460mmm of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 460mmm–7. Public access

(a) In general

The Secretary shall continue to allow private landowners reasonable access to inholdings in the Conservation Area and Wilderness.

(b) Glade Park

The Secretary shall continue to allow public right of access, including commercial vehicles, to Glade Park, Colorado, in accordance with the decision in Board of County Commissioners of Mesa County v. Watt (634 F. Supp. 1265 (D.Colo.; May 2, 1986)).

(Pub. L. 106–353, § 9, Oct. 24, 2000, 114 Stat. 1380.)

SUBCHAPTER CXXV—STEENS MOUNTAIN COOPERATIVE MANAGEMENT AND PROTECTION AREA

§ 460nnn. Definitions

In this subchapter:

(1) Advisory council

The term ''advisory council'' means the Steens Mountain Advisory Council established by part D of this subchapter.[1]

(2) Cooperative management agreement

An agreement to plan or implement (or both) cooperative recreation, ecological, grazing, fishery, vegetation, prescribed fire, cultural site protection, wildfire or other measures to beneficially meet public use needs and the public land and private land objectives of this subchapter.

(3) Cooperative Management and Protection Area

The term ''Cooperative Management and Protection Area'' means the Steens Mountain Cooperative Management and Protection Area designated by part A of this subchapter.

(4) Easements

(A) Conservation easement

The term ''conservation easement'' means a binding contractual agreement between the Secretary and a landowner in the Cooperative Management and Protection Area under which the landowner, permanently or during a time period specified in the agreement, agrees to conserve or restore habitat, open space, scenic, or other ecological resource values on the land covered by the easement.

(B) Nondevelopment easement

The term ''nondevelopment easement'' means a binding contractual agreement between the Secretary and a landowner in the Cooperative Management and Protection Area that will, permanently or during a time period specified in the agreement—

(i) prevent or restrict development on the land covered by the easement; or

(ii) protect open space or viewshed.

(5) Ecological integrity

The term ''ecological integrity'' means a landscape where ecological processes are functioning to maintain the structure, composition, activity, and resilience of the landscape over time, including—

(A) a complex of plant communities, habitats and conditions representative of variable and sustainable successional conditions; and

(B) the maintenance of biological diversity, soil fertility, and genetic interchange.

(6) Management plan

The term ''management plan'' means the management plan for the Cooperative Management and Protection Area and the Wilderness Area required to be prepared by section 460nnn–21(b) of this title.

(7) Redband Trout Reserve

The term ''Redband Trout Reserve'' means the Donner und Blitzen Redband Trout Reserve designated by section 460nnn–72 of this title.

(8) Secretary

The term ''Secretary'' means the Secretary of the Interior, acting through the Bureau of Land Management.

(9) Science committee

The term ''science committee'' means the committee of independent scientists appointed under section 460nnn–53 of this title.

(10) Wilderness Area

The term ''Wilderness Area'' means the Steens Mountain Wilderness Area designated by part B of this subchapter.

(Pub. L. 106–399, § 2, Oct. 30, 2000, 114 Stat. 1656.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 106–399, Oct. 30, 2000, 114 Stat. 1655, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

Part D of this subchapter, referred to in par. (1), probably should be a reference to subpart 4 of part A of this

[1] See References in Text note below.

subchapter. Part D of this subchapter does not relate to the Steens Mountain Advisory Council.

SHORT TITLE

Pub. L. 106–399, §1(a), Oct. 30, 2000, 114 Stat. 1655, provided that: ''This Act [enacting this subchapter and provisions listed in a table of Wilderness Areas set out under section 1132 of this title and amending section 1274 of this title] may be cited as the 'Steens Mountain Cooperative Management and Protection Act of 2000'.''

PURPOSES

Pub. L. 106–399, §1(b), Oct. 30, 2000, 114 Stat. 1655, provided that: ''The purposes of this Act [see Short Title note above] are the following:

''(1) To maintain the cultural, economic, ecological, and social health of the Steens Mountain area in Harney County, Oregon.

''(2) To designate the Steens Mountain Wilderness Area.

''(3) To designate the Steens Mountain Cooperative Management and Protection Area.

''(4) To provide for the acquisition of private lands through exchange for inclusion in the Wilderness Area and the Cooperative Management and Protection Area.

''(5) To provide for and expand cooperative management activities between public and private landowners in the vicinity of the Wilderness Area and surrounding lands.

''(6) To authorize the purchase of land and development and nondevelopment rights.

''(7) To designate additional components of the National Wild and Scenic Rivers System.

''(8) To establish a reserve for redband trout and a wildlands juniper management area.

''(9) To establish a citizens' management advisory council for the Cooperative Management and Protection Area.

''(10) To maintain and enhance cooperative and innovative management practices between the public and private land managers in the Cooperative Management and Protection Area.

''(11) To promote viable and sustainable grazing and recreation operations on private and public lands.

''(12) To conserve, protect, and manage for healthy watersheds and the long-term ecological integrity of Steens Mountain.

''(13) To authorize only such uses on Federal lands in the Cooperative Management and Protection Area that are consistent with the purposes of this Act.''

§ 460nnn–1. Maps and legal descriptions

(a) Preparation and submission

As soon as practicable after October 30, 2000, the Secretary shall prepare and submit to Congress maps and legal descriptions of the following:

(1) The Cooperative Management and Protection Area.

(2) The Wilderness Area.

(3) The wild and scenic river segments and redband trout reserve designated by part C of this subchapter.

(4) The mineral withdrawal area designated by part D of this subchapter.

(5) The wildlands juniper management area established by part E of this subchapter.

(6) The land exchanges required by part F of this subchapter.

(b) Legal effect and correction

The maps and legal descriptions referred to in subsection (a) of this section shall have the same force and effect as if included in this subchapter, except the Secretary may correct clerical and typographical errors in such maps and legal descriptions.

(c) Public availability

Copies of the maps and legal descriptions referred to in subsection (a) of this section shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management and in the appropriate office of the Bureau of Land Management in the State of Oregon.

(Pub. L. 106–399, §3, Oct. 30, 2000, 114 Stat. 1657.)

§ 460nnn–2. Valid existing rights

Nothing in this subchapter shall effect[1] any valid existing right.

(Pub. L. 106–399, §4, Oct. 30, 2000, 114 Stat. 1658.)

§ 460nnn–3. Protection of tribal rights

Nothing in this subchapter shall be construed to diminish the rights of any Indian tribe. Nothing in this subchapter shall be construed to diminish tribal rights, including those of the Burns Paiute Tribe, regarding access to Federal lands for tribal activities, including spiritual, cultural, and traditional food gathering activities.

(Pub. L. 106–399, §5, Oct. 30, 2000, 114 Stat. 1658.)

PART A—STEENS MOUNTAIN COOPERATIVE MANAGEMENT AND PROTECTION AREA

SUBPART 1—DESIGNATION AND PURPOSES

§ 460nnn–11. Designation of Steens Mountain Cooperative Management and Protection Area

(a) Designation

The Secretary shall designate the Steens Mountain Cooperative Management and Protection Area consisting of approximately 425,550 acres of Federal land located in Harney County, Oregon, in the vicinity of Steens Mountain, as generally depicted on the map entitled ''Steens Mountain Boundary Map'' and dated September 18, 2000.

(b) Contents of map

In addition to the general boundaries of the Cooperative Management and Protection Area, the map referred to in subsection (a) of this section also depicts the general boundaries of the following:

(1) The no livestock grazing area described in section 460nnn–23(e) of this title.

(2) The mineral withdrawal area designated by part D of this subchapter.

(3) The wildlands juniper management area established by part E of this subchapter.

(Pub. L. 106–399, title I, §101, Oct. 30, 2000, 114 Stat. 1658.)

§ 460nnn–12. Purpose and objectives of Cooperative Management and Protection Area

(a) Purpose

The purpose of the Cooperative Management and Protection Area is to conserve, protect, and

[1] So in original. Probably should be ''affect''.

manage the long-term ecological integrity of Steens Mountain for future and present generations.

(b) Objectives

To further the purpose specified in subsection (a) of this section, and consistent with such purpose, the Secretary shall manage the Cooperative Management and Protection Area for the benefit of present and future generations—

(1) to maintain and enhance cooperative and innovative management projects, programs and agreements between tribal, public, and private interests in the Cooperative Management and Protection Area;

(2) to promote grazing, recreation, historic, and other uses that are sustainable;

(3) to conserve, protect and to ensure traditional access to cultural, gathering, religious, and archaeological sites by the Burns Paiute Tribe on Federal lands and to promote cooperation with private landowners;

(4) to ensure the conservation, protection, and improved management of the ecological, social, and economic environment of the Cooperative Management and Protection Area, including geological, biological, wildlife, riparian, and scenic resources; and

(5) to promote and foster cooperation, communication, and understanding and to reduce conflict between Steens Mountain users and interests.

(Pub. L. 106–399, title I, §102, Oct. 30, 2000, 114 Stat. 1658.)

SUBPART 2—MANAGEMENT OF FEDERAL LANDS

§ 460nnn–21. Management authorities and purposes

(a) In general

The Secretary shall manage all Federal lands included in the Cooperative Management and Protection Area pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable provisions of law, including this subchapter, in a manner that—

(1) ensures the conservation, protection, and improved management of the ecological, social and economic environment of the Cooperative Management and Protection Area, including geological, biological, wildlife, riparian, and scenic resources, North American Indian tribal and cultural and archaeological resource sites, and additional cultural and historic sites; and

(2) recognizes and allows current and historic recreational use.

(b) Management plan

Within 4 years after October 30, 2000, the Secretary shall develop a comprehensive plan for the long-range protection and management of the Federal lands included in the Cooperative Management and Protection Area, including the Wilderness Area. The plan shall—

(1) describe the appropriate uses and management of the Cooperative Management and Protection Area consistent with this subchapter;

(2) incorporate, as appropriate, decisions contained in any current or future management or activity plan for the Cooperative Management and Protection Area and use information developed in previous studies of the lands within or adjacent to the Cooperative Management and Protection Area;

(3) provide for coordination with State, county, and private local landowners and the Burns Paiute Tribe; and

(4) determine measurable and achievable management objectives, consistent with the management objectives in section 460nnn–12 of this title, to ensure the ecological integrity of the area.

(c) Monitoring

The Secretary shall implement a monitoring program for Federal lands in the Cooperative Management and Protection Area so that progress towards ecological integrity objectives can be determined.

(Pub. L. 106–399, title I, §111, Oct. 30, 2000, 114 Stat. 1659.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (a), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

This subchapter, referred to in subsecs. (a) and (b)(1), was in the original ''this Act'', meaning Pub. L. 106–399, Oct. 30, 2000, 114 Stat. 1655, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 460nnn of this title and Tables.

§ 460nnn–22. Roads and travel access

(a) Transportation plan

The management plan shall include, as an integral part, a comprehensive transportation plan for the Federal lands included in the Cooperative Management and Protection Area, which shall address the maintenance, improvement, and closure of roads and trails as well as travel access.

(b) Prohibition on off-road motorized travel

(1) Prohibition

The use of motorized or mechanized vehicles on Federal lands included in the Cooperative Management and Protection Area—

(A) is prohibited off road; and

(B) is limited to such roads and trails as may be designated for their use as part of the management plan.

(2) Exceptions

Paragraph (1) does not prohibit the use of motorized or mechanized vehicles on Federal lands included in the Cooperative Management and Protection Area if the Secretary determines that such use—

(A) is needed for administrative purposes or to respond to an emergency; or

(B) is appropriate for the construction or maintenance of agricultural facilities, fish and wildlife management, or ecological restoration projects, except in areas designated as wilderness or managed under the provisions of section 1782(c) of title 43.

(c) Road closures

Any determination to permanently close an existing road in the Cooperative Management and Protection Area or to restrict the access of motorized or mechanized vehicles on certain roads shall be made in consultation with the advisory council and the public.

(d) Prohibition on new construction

(1) Prohibition, exception

No new road or trail for motorized or mechanized vehicles may be constructed on Federal lands in the Cooperative Management and Protection Area unless the Secretary determines that the road or trail is necessary for public safety or protection of the environment. Any determination under this subsection shall be made in consultation with the advisory council and the public.

(2) Trails

Nothing in this subsection is intended to limit the authority of the Secretary to construct or maintain trails for nonmotorized or nonmechanized use.

(e) Access to nonfederally owned lands

(1) Reasonable access

The Secretary shall provide reasonable access to nonfederally owned lands or interests in land within the boundaries of the Cooperative Management and Protection Area and the Wilderness Area to provide the owner of the land or interest the reasonable use thereof.

(2) Effect on existing rights-of-way

Nothing in this subchapter shall have the effect of terminating any valid existing right-of-way on Federal lands included in the Cooperative Management and Protection Area.

(Pub. L. 106–399, title I, §112, Oct. 30, 2000, 114 Stat. 1660.)

§ 460nnn–23. Land use authorities

(a) In general

The Secretary shall allow only such uses of the Federal lands included in the Cooperative Management and Protection Area as the Secretary finds will further the purposes for which the Cooperative Management and Protection Area is established.

(b) Commercial timber

(1) Prohibition

The Federal lands included in the Cooperative Management and Protection Area shall not be made available for commercial timber harvest.

(2) Limited exception

The Secretary may authorize the removal of trees from Federal lands in the Cooperative Management and Protection Area only if the Secretary determines that the removal is clearly needed for purposes of ecological restoration and maintenance or for public safety. Except in the Wilderness Area and the wilderness study areas referred to in section 460nnn–64(a) of this title, the Secretary may authorize the sale of products resulting from the authorized removal of trees under this paragraph.

(c) Juniper management

The Secretary shall emphasize the restoration of the historic fire regime in the Cooperative Management and Protection Area and the resulting native vegetation communities through active management of Western Juniper on a landscape level. Management measures shall include the use of natural and prescribed burning.

(d) Hunting, fishing, and trapping

(1) Authorization

The Secretary shall permit hunting, fishing, and trapping on Federal lands included in the Cooperative Management and Protection Area in accordance with applicable laws and regulations of the United States and the State of Oregon.

(2) Area and time limitations

After consultation with the Oregon Department of Fish and Wildlife, the Secretary may designate zones where, and establish periods when, hunting, trapping or fishing is prohibited on Federal lands included in the Cooperative Management and Protection Area for reasons of public safety, administration, or public use and enjoyment.

(e) Grazing

(1) Continuation of existing law

Except as otherwise provided in this section and part F of this subchapter, the laws, regulations, and executive orders otherwise applicable to the Bureau of Land Management in issuing and administering grazing leases and permits on lands under its jurisdiction shall apply in regard to the Federal lands included in the Cooperative Management and Protection Area.

(2) Cancellation of certain permits

The Secretary shall cancel that portion of the permitted grazing on Federal lands in the Fish Creek/Big Indian, East Ridge, and South Steens allotments located within the area designated as the ''no livestock grazing area'' on the map referred to in section 460nnn–11(a) of this title. Upon cancellation, future grazing use in that designated area is prohibited. The Secretary shall be responsible for installing and maintaining any fencing required for resource protection within the designated no livestock grazing area.

(3) Forage replacement

Reallocation of available forage shall be made as follows:

(A) O'Keefe pasture within the Miners Field allotment to Stafford Ranches.

(B) Fields Seeding and Bone Creek Pasture east of the county road within the Miners Field allotment to Amy Ready.

(C) Miners Field Pasture, Schouver Seeding and Bone Creek Pasture west of the county road within the Miners Field allotment to Roaring Springs Ranch.

(D) 800 animal unit months within the Crows Nest allotment to Lowther (Clemens) Ranch.

(4) Fencing and water systems

The Secretary shall also construct fencing and develop water systems as necessary to

allow reasonable and efficient livestock use of the forage resources referred to in paragraph (3).

(f) Prohibition on construction of facilities

No new facilities may be constructed on Federal lands included in the Cooperative Management and Protection Area unless the Secretary determines that the structure—

(1) will be minimal in nature;

(2) is consistent with the purposes of this subchapter; and

(3) is necessary—

(A) for enhancing botanical, fish, wildlife, or watershed conditions;

(B) for public information, health, or safety;

(C) for the management of livestock; or

(D) for the management of recreation, but not for the promotion of recreation.

(g) Withdrawal

Subject to valid existing rights, the Federal lands and interests in lands included in the Cooperative Management and Protection Areas are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, except in the case of land exchanges if the Secretary determines that the exchange furthers the purpose and objectives specified in section 460nnn–12 of this title and so certifies to Congress.

(Pub. L. 106–399, title I, §113, Oct. 30, 2000, 114 Stat. 1661.)

§ 460nnn–24. Land acquisition authority

(a) Acquisition

(1) Acquisition authorized

In addition to the land acquisitions authorized by part F of this subchapter, the Secretary may acquire other non-Federal lands and interests in lands located within the boundaries of the Cooperative Management and Protection Area or the Wilderness Area.

(2) Acquisition methods

Lands may be acquired under this subsection only by voluntary exchange, donation, or purchase from willing sellers.

(b) Treatment of acquired lands

(1) In general

Subject to paragraphs (2) and (3), lands or interests in lands acquired under subsection (a) of this section or part F of this subchapter that are located within the boundaries of the Cooperative Management and Protection Area shall—

(A) become part of the Cooperative Management and Protection Area; and

(B) be managed pursuant to the laws applicable to the Cooperative Management and Protection Area.

(2) Lands within Wilderness Area

If lands or interests in lands acquired under subsection (a) of this section or part F of this subchapter are within the boundaries of the Wilderness Area, the acquired lands or interests in lands shall—

(A) become part of the Wilderness Area; and

(B) be managed pursuant to part B of this subchapter and the other laws applicable to the Wilderness Area.

(3) Lands within wilderness study area

If the lands or interests in lands acquired under subsection (a) of this section or part F of this subchapter are within the boundaries of a wilderness study area, the acquired lands or interests in lands shall—

(A) become part of that wilderness study area; and

(B) be managed pursuant to the laws applicable to that wilderness study area.

(c) Appraisal

In appraising non-Federal land, development rights, or conservation easements for possible acquisition under this section or section 460nnn–42 of this title, the Secretary shall disregard any adverse impacts on values resulting from the designation of the Cooperative Management and Protection Area or the Wilderness Area.

(Pub. L. 106–399, title I, §114, Oct. 30, 2000, 114 Stat. 1662.)

§ 460nnn–25. Special use permits

The Secretary may renew a special recreational use permit applicable to lands included in the Wilderness Area to the extent that the Secretary determines that the permit is consistent with the Wilderness Act (16 U.S.C. 1131 et seq.). If renewal is not consistent with the Wilderness Act, the Secretary shall seek other opportunities for the permit holder through modification of the permit to realize historic permit use to the extent that the use is consistent with the Wilderness Act and this subchapter, as determined by the Secretary.

(Pub. L. 106–399, title I, §115, Oct. 30, 2000, 114 Stat. 1663.)

REFERENCES IN TEXT

The Wilderness Act, referred to in text, is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

SUBPART 3—COOPERATIVE MANAGEMENT

§ 460nnn–41. Cooperative management agreements

(a) Cooperative efforts

To further the purposes and objectives for which the Cooperative Management and Protection Area is designated, the Secretary may work with non-Federal landowners and other parties who voluntarily agree to participate in the cooperative management of Federal and non-Federal lands in the Cooperative Management and Protection Area.

(b) Agreements authorized

The Secretary may enter into a cooperative management agreement with any party to provide for the cooperative conservation and management of the Federal and non-Federal lands subject to the agreement.

(c) Other participants

With the consent of the landowners involved, the Secretary may permit permittees, special-use permit holders, other Federal and State agencies, and interested members of the public to participate in a cooperative management agreement as appropriate to achieve the resource or land use management objectives of the agreement.

(d) Tribal cultural site protection

The Secretary may enter into agreements with the Burns Paiute Tribe to protect cultural sites in the Cooperative Management and Protection Area of importance to the tribe.

(Pub. L. 106–399, title I, §121, Oct. 30, 2000, 114 Stat. 1663.)

§ 460nnn–42. Cooperative efforts to control development and encourage conservation

(a) Policy

Development on public and private lands within the boundaries of the Cooperative Management and Protection Area which is different from the current character and uses of the lands is inconsistent with the purposes of this subchapter.

(b) Use of nondevelopment and conservation easements

The Secretary may enter into a nondevelopment easement or conservation easement with willing landowners to further the purposes of this subchapter.

(c) Conservation incentive payments

The Secretary may provide technical assistance, cost-share payments, incentive payments, and education to a private landowner in the Cooperative Management and Protection Area who enters into a contract with the Secretary to protect or enhance ecological resources on the private land covered by the contract if those protections or enhancements benefit public lands.

(d) Relation to property rights and State and local law

Nothing in this subchapter is intended to affect rights or interests in real property or supersede State law.

(Pub. L. 106–399, title I, §122, Oct. 30, 2000, 114 Stat. 1664.)

SUBPART 4—ADVISORY COUNCIL

§ 460nnn–51. Establishment of advisory council

(a) Establishment

The Secretary shall establish the Steens Mountain Advisory Council to advise the Secretary in managing the Cooperative Management and Protection Area and in promoting the cooperative management under subpart 3 of this part.

(b) Members

The advisory council shall consist of 12 voting members, to be appointed by the Secretary, as follows:

(1) A private landowner in the Cooperative Management and Protection Area, appointed from nominees submitted by the county court for Harney County, Oregon.

(2) Two persons who are grazing permittees on Federal lands in the Cooperative Management and Protection Area, appointed from nominees submitted by the county court for Harney County, Oregon.

(3) A person interested in fish and recreational fishing in the Cooperative Management and Protection Area, appointed from nominees submitted by the Governor of Oregon.

(4) A member of the Burns Paiute Tribe, appointed from nominees submitted by the Burns Paiute Tribe.

(5) Two persons who are recognized environmental representatives, one of whom shall represent the State as a whole, and one of whom is from the local area, appointed from nominees submitted by the Governor of Oregon.

(6) A person who participates in what is commonly called dispersed recreation, such as hiking, camping, nature viewing, nature photography, bird watching, horse back riding, or trail walking, appointed from nominees submitted by the Oregon State Director of the Bureau of Land Management.

(7) A person who is a recreational permit holder or is a representative of a commercial recreation operation in the Cooperative Management and Protection Area, appointed from nominees submitted jointly by the Oregon State Director of the Bureau of Land Management and the county court for Harney County, Oregon.

(8) A person who participates in what is commonly called mechanized or consumptive recreation, such as hunting, fishing, off-road driving, hang gliding, or parasailing, appointed from nominees submitted by the Oregon State Director of the Bureau of Land Management.

(9) A person with expertise and interest in wild horse management on Steens Mountain, appointed from nominees submitted by the Oregon State Director of the Bureau of Land Management.

(10) A person who has no financial interest in the Cooperative Management and Protection Area to represent statewide interests, appointed from nominees submitted by the Governor of Oregon.

(c) Consultation

In reviewing nominees submitted under subsection (b) of this section for possible appointment to the advisory council, the Secretary shall consult with the respective community of interest that the nominees are to represent to ensure that the nominees have the support of their community of interest.

(d)[1] Terms

(1) Staggered terms

Members of the advisory council shall be appointed for terms of 3 years, except that, of the members first appointed, four members shall be appointed for a term of 1 year and four members shall be appointed for a term of 2 years.

[1] So in original. Two subsecs. (d) have been enacted.

(2) Reappointment

A member may be reappointed to serve on the advisory council.

(3) Vacancy

A vacancy on the advisory council shall be filled in the same manner as the original appointment.

(d)[1] Chairperson and procedures

The advisory council shall elect a chairperson and establish such rules and procedures as it deems necessary or desirable.

(e) Service without compensation

Members of the advisory council shall serve without pay, but the Secretary shall reimburse members for reasonable expenses incurred in carrying out official duties as a member of the council.

(f) Administrative support

The Secretary shall provide the advisory council with necessary administrative support and shall designate an appropriate officer of the Bureau of Land Management to serve as the Secretary's liaison to the council.

(g) State liaison

The Secretary shall appoint one person, nominated by the Governor of Oregon, to serve as the State government liaison to the advisory council.

(h) Applicable law

The advisory committee[2] shall be subject to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and the Federal Advisory Committee Act (5 U.S.C. App.).

(Pub. L. 106–399, title I, §131, Oct. 30, 2000, 114 Stat. 1664.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (h), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

The Federal Advisory Committee Act, referred to in subsec. (h), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 460nnn–52. Advisory role in management activities

(a) Management recommendations

The advisory committee[1] shall utilize sound science, existing plans for the management of Federal lands included in the Cooperative Management and Protection Area, and other tools to formulate recommendations for the Secretary regarding—

(1) new and unique approaches to the management of lands within the boundaries of the Cooperative Management and Protection Area; and

(2) cooperative programs and incentives for seamless landscape management that meets human needs and maintains and improves the ecological and economic integrity of the Cooperative Management and Protection Area.

(b) Preparation of management plan

The Secretary shall consult with the advisory committee[1] as part of the preparation and implementation of the management plan.

(c) Submission of recommendations

No recommendations may be presented to the Secretary by the advisory council without the agreement of at least nine members of the advisory council.

(Pub. L. 106–399, title I, §132, Oct. 30, 2000, 114 Stat. 1665.)

§ 460nnn–53. Science committee

The Secretary shall appoint, as needed or at the request of the advisory council, a team of respected, knowledgeable, and diverse scientists to provide advice on questions relating to the management of the Cooperative Management and Protection Area to the Secretary and the advisory council. The Secretary shall seek the advice of the advisory council in making these appointments.

(Pub. L. 106–399, title I, §133, Oct. 30, 2000, 114 Stat. 1666.)

PART B—STEENS MOUNTAIN WILDERNESS AREA

§ 460nnn–61. Designation of Steens Mountain Wilderness Area

The Federal lands in the Cooperative Management and Protection Area depicted as wilderness on the map entitled ''Steens Mountain Wilderness Area'' and dated September 18, 2000, are hereby designated as wilderness and therefore as a component of the National Wilderness Preservation System. The wilderness area shall be known as the Steens Mountain Wilderness Area.

(Pub. L. 106–399, title II, §201, Oct. 30, 2000, 114 Stat. 1666.)

CODIFICATION

Section is comprised of section 201 of Pub. L. 106–399. Section 201 also enacted provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

§ 460nnn–62. Administration of Wilderness Area

(a) General rule

The Secretary shall administer the Wilderness Area in accordance with this part and the Wilderness Act (16 U.S.C. 1131 et seq.). Any reference in the Wilderness Act to the effective date of that Act (or any similar reference) shall be deemed to be a reference to October 30, 2000.

(b) Wilderness boundaries along roads

Where a wilderness boundary exists along a road, the wilderness boundary shall be set back from the centerline of the road, consistent with the Bureau of Land Management's guidelines as established in its Wilderness Management Policy.

(c) Access to non-Federal lands

The Secretary shall provide reasonable access to private lands within the boundaries of the

[2] So in original. Probably should be ''advisory council''.

[1] So in original. Probably should be ''advisory council''.

Wilderness Area, as provided in section 460nnn–22(d)[1] of this title.

(d) Grazing

(1) Administration

Except as provided in section 460nnn–23(e)(2) of this title, grazing of livestock shall be administered in accordance with the provision of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), in accordance with the provisions of this subchapter, and in accordance with the guidelines set forth in Appendices A and B of House Report 101–405 of the 101st Congress.

(2) Retirement of certain permits

The Secretary shall permanently retire all grazing permits applicable to certain lands in the Wilderness Area, as depicted on the map referred to in section 460nnn–11(a) of this title, and livestock shall be excluded from these lands.

(Pub. L. 106–399, title II, § 202, Oct. 30, 2000, 114 Stat. 1666.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (a), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The effective date of the Wilderness Act, referred to in subsec. (a), means Sept. 3, 1964, the date of enactment of Pub. L. 88–577, which enacted chapter 23 of this title.

This subchapter, referred to in subsec. (d)(1), was in the original ''this Act'', meaning Pub. L. 106–399, Oct. 30, 2000, 114 Stat. 1655, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 460nnn of this title and Tables.

§ 460nnn–63. Water rights

Nothing in this subchapter shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(Pub. L. 106–399, title II, § 203, Oct. 30, 2000, 114 Stat. 1667.)

§ 460nnn–64. Treatment of wilderness study areas

(a) Status unaffected

Except as provided in section 460nnn–92 of this title, any wilderness study area, or portion of a wilderness study area, within the boundaries of the Cooperative Management and Protection Area, but not included in the Wilderness Area, shall remain a wilderness study area notwithstanding the enactment of this subchapter.

(b) Management

The wilderness study areas referred to in subsection (a) of this section shall continue to be managed under section 1782(c) of title 43 in a manner so as not to impair the suitability of the areas for preservation as wilderness.

(c) Expansion of Basque Hills Wilderness Study Area

The boundaries of the Basque Hills Wilderness Study Area are hereby expanded to include the Federal lands within sections 8, 16, 17, 21, 22, and 27 of township 36 south, range 31 east, Willamette Meridian. These lands shall be managed under section 1782(c) of title 43 to protect and enhance the wilderness values of these lands.

(Pub. L. 106–399, title II, § 204, Oct. 30, 2000, 114 Stat. 1667.)

[1] So in original. Probably should be section ''460nnn–22(e)''.

PART C—WILD AND SCENIC RIVERS AND TROUT RESERVE

§ 460nnn–71. Designation of streams for wild and scenic river status in Steens Mountain Area

(a), (b) Omitted

(c) Management

Where management requirements for a stream segment described in the amendments made by this section differ between the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.) and the Wilderness Area, the more restrictive requirements shall apply.

(Pub. L. 106–399, title III, § 301, Oct. 30, 2000, 114 Stat. 1667.)

REFERENCES IN TEXT

For the amendments made by this section, referred to in subsec. (c), see Codification note below.

The Wild and Scenic Rivers Act, referred to in subsec. (c), is Pub. L. 90–542, Oct. 2, 1968, 82 Stat. 906, as amended, which is classified generally to chapter 28 (§ 1271 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1271 of this title and Tables.

CODIFICATION

Section is comprised of section 301 of Pub. L. 106–399. Subsecs. (a) and (b) of section 301 of Pub. L. 106–399 amended section 1274 of this title.

§ 460nnn–72. Donner und Blitzen River Redband Trout Reserve

(a) Findings

The Congress finds the following:

(1) Those portions of the Donner und Blitzen River in the Wilderness Area are an exceptional environmental resource that provides habitat for unique populations of native fish, migratory waterfowl, and other wildlife resources, including a unique population of redband trout.

(2) Redband trout represent a unique natural history reflecting the Pleistocene connection between the lake basins of eastern Oregon and the Snake and Columbia Rivers.

(b) Designation of Reserve

The Secretary shall designate the Donner und Blitzen Redband Trout Reserve consisting of the Donner und Blitzen River in the Wilderness Area above its confluence with Fish Creek and the Federal riparian lands immediately adjacent to the river.

(c) Reserve purposes

The purposes of the Redband Trout Reserve are—

(1) to conserve, protect, and enhance the Donner und Blitzen River population of redband trout and the unique ecosystem of plants, fish, and wildlife of a river system; and

(2) to provide opportunities for scientific research, environmental education, and fish and wildlife oriented recreation and access to the extent compatible with paragraph (1).

(d) Exclusion of private lands

The Redband Trout Reserve does not include any private lands adjacent to the Donner und Blitzen River or its tributaries.

(e) Administration

(1) In general

The Secretary shall administer all lands, waters, and interests therein in the Redband Trout Reserve consistent with the Wilderness Act (16 U.S.C. 1131 et seq.) and the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.).

(2) Consultation

In administering the Redband Trout Reserve, the Secretary shall consult with the advisory council and cooperate with the Oregon Department of Fish and Wildlife.

(3) Relation to recreation

To the extent consistent with applicable law, the Secretary shall manage recreational activities in the Redband Trout Reserve in a manner that conserves the unique population of redband trout native to the Donner und Blitzen River.

(4) Removal of dam

The Secretary shall remove the dam located below the mouth of Fish Creek and above Page Springs if removal of the dam is scientifically justified and funds are available for such purpose.

(f) Outreach and education

The Secretary may work with, provide technical assistance to, provide community outreach and education programs for or with, or enter into cooperative agreements with private landowners, State and local governments or agencies, and conservation organizations to further the purposes of the Redband Trout Reserve.

(Pub. L. 106–399, title III, § 302, Oct. 30, 2000, 114 Stat. 1668.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (e)(1), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The Wild and Scenic Rivers Act, referred to in subsec. (e)(1), is Pub. L. 90–542, Oct. 2, 1968, 82 Stat. 906, as amended, which is classified generally to chapter 28 (§ 1271 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1271 of this title and Tables.

PART D—MINERAL WITHDRAWAL AREA

§ 460nnn–81. Designation of mineral withdrawal area

(a) Designation

Subject to valid existing rights, the Federal lands and interests in lands included within the withdrawal boundary as depicted on the map referred to in section 460nnn–11(a) of this title are hereby withdrawn from—

(1) location, entry and patent under the mining laws; and

(2) operation of the mineral leasing and geothermal leasing laws and from the minerals materials laws and all amendments thereto except as specified in subsection (b) of this section.

(b) Road maintenance

If consistent with the purposes of this subchapter and the management plan for the Cooperative Management and Protection Area, the Secretary may permit the development of saleable mineral resources, for road maintenance use only, in those locations identified on the map referred to in section 460nnn–11(a) of this title as an existing ''gravel pit'' within the mineral withdrawal boundaries (excluding the Wilderness Area, wilderness study areas, and designated segments of the National Wild and Scenic Rivers System) where such development was authorized before October 30, 2000.

(Pub. L. 106–399, title IV, § 401, Oct. 30, 2000, 114 Stat. 1669.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 106–399, Oct. 30, 2000, 114 Stat. 1655, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 460nnn of this title and Tables.

§ 460nnn–82. Treatment of State lands and mineral interests

(a) Acquisition required

The Secretary shall acquire, for approximately equal value and as agreed to by the Secretary and the State of Oregon, lands and interests in lands owned by the State within the boundaries of the mineral withdrawal area designated pursuant to section 460nnn–81 of this title.

(b) Acquisition methods

The Secretary shall acquire such State lands and interests in lands in exchange for—

(1) Federal lands or Federal mineral interests that are outside the boundaries of the mineral withdrawal area;

(2) a monetary payment to the State; or

(3) a combination of a conveyance under paragraph (1) and a monetary payment under paragraph (2).

(Pub. L. 106–399, title IV, § 402, Oct. 30, 2000, 114 Stat. 1669.)

PART E—ESTABLISHMENT OF WILDLANDS JUNIPER MANAGEMENT AREA

§ 460nnn–91. Wildlands Juniper Management Area

(a) Establishment

To further the purposes of section 460nnn–23(c) of this title, the Secretary shall establish a special management area consisting of certain Federal lands in the Cooperative Management and Protection Area, as depicted on the map referred to in section 460nnn–11(a) of this title, which shall be known as the Wildlands Juniper Management Area.

(b) Management

Special management practices shall be adopted for the Wildlands Juniper Management Area for the purposes of experimentation, education, interpretation, and demonstration of active and passive management intended to restore the historic fire regime and native vegetation communities on Steens Mountain.

(c) Authorization of appropriations

In addition to the authorization of appropriations in section 460nnn–121 of this title, there is authorized to be appropriated $5,000,000 to carry out this part and section 460nnn–23(c) of this title regarding juniper management in the Cooperative Management and Protection Area.

(Pub. L. 106–399, title V, § 501, Oct. 30, 2000, 114 Stat. 1670.)

§ 460nnn–92. Release from wilderness study area status

The Federal lands included in the Wildlands Juniper Management Area established under section 460nnn–91 of this title are no longer subject to the requirement of section 1782(c) of title 43 pertaining to managing the lands so as not to impair the suitability of the lands for preservation as wilderness.

(Pub. L. 106–399, title V, § 502, Oct. 30, 2000, 114 Stat. 1670.)

PART F—LAND EXCHANGES

§ 460nnn–101. Land exchange, Roaring Springs Ranch

(a) Exchange authorized

For the purpose of protecting and consolidating Federal lands within the Cooperative Management and Protection Area, the Secretary may carry out a land exchange with Roaring Springs Ranch, Incorporated, to convey all right, title, and interest of the United States in and to certain parcels of land under the jurisdiction of the Bureau of Land Management in the vicinity of Steens Mountain, Oregon, as depicted on the map referred to in section 460nnn–105(a) of this title, consisting of a total of approximately 76,374 acres in exchange for the private lands described in subsection (b) of this section.

(b) Receipt of non-Federal lands

As consideration for the conveyance of the Federal lands referred to in subsection (a) of this section and the disbursement referred to in subsection (d) of this section, Roaring Springs Ranch, Incorporated, shall convey to the Secretary parcels of land consisting of approximately 10,909 acres, as depicted on the map referred to in section 460nnn–105(a) of this title, for inclusion in the Wilderness Area, a wilderness study area, and the no livestock grazing area as appropriate.

(c) Treatment of grazing

Paragraphs (2) and (3) of section 460nnn–23(e) of this title, relating to the effect of the cancellation in part of grazing permits for the South Steens allotment in the Wilderness Area and reassignment of use areas as described in paragraph (3)(C) of such section, shall apply to the land exchange authorized by this section.

(d) Disbursement

Upon completion of the land exchange authorized by this section, the Secretary is authorized to make a disbursement to Roaring Springs Ranch, Incorporated, in the amount of $2,889,000.

(e) Completion of conveyance

The Secretary shall complete the conveyance of the Federal lands under subsection (a) of this section within 70 days after the Secretary accepts the lands described in subsection (b) of this section.

(Pub. L. 106–399, title VI, § 601, Oct. 30, 2000, 114 Stat. 1670.)

§ 460nnn–102. Land exchanges, C. M. Otley and Otley Brothers

(a) C. M. Otley exchange

(1) Exchange authorized

For the purpose of protecting and consolidating Federal lands within the Cooperative Management and Protection Area, the Secretary may carry out a land exchange with C. M. Otley to convey all right, title, and interest of the United States in and to certain parcels of land under the jurisdiction of the Bureau of Land Management in the vicinity of Steens Mountain, Oregon, as depicted on the map referred to in section 460nnn–105(a) of this title, consisting of a total of approximately 3,845 acres in exchange for the private lands described in paragraph (2).

(2) Receipt of non-Federal lands

As consideration for the conveyance of the Federal lands referred to in paragraph (1) and the disbursement referred to in paragraph (3), C. M. Otley shall convey to the Secretary a parcel of land in the headwaters of Kiger gorge consisting of approximately 851 acres, as depicted on the map referred to in section 460nnn–105(a) of this title, for inclusion in the Wilderness Area and the no livestock grazing area as appropriate.

(3) Disbursement

Upon completion of the land exchange authorized by this subsection, the Secretary is authorized to make a disbursement to C.M. Otley, in the amount of $920,000.

(b) Otley Brothers exchange

(1) Exchange authorized

For the purpose of protecting and consolidating Federal lands within the Cooperative Management and Protection Area, the Secretary may carry out a land exchange with the Otley Brother's, Inc., to convey all right, title, and interest of the United States in and to certain parcels of land under the jurisdiction of the Bureau of Land Management in the vicinity of Steens Mountain, Oregon, as depicted on the map referred to in section 460nnn–105(a) of this title, consisting of a total of approximately 6,881 acres in exchange for the private lands described in paragraph (2).

(2) Receipt of non-Federal lands

As consideration for the conveyance of the Federal lands referred to in paragraph (1) and the disbursement referred to in subsection (3),

the Otley Brother's, Inc., shall convey to the Secretary a parcel of land in the headwaters of Kiger gorge consisting of approximately 505 acres, as depicted on the map referred to in section 460nnn–105(a) of this title, for inclusion in the Wilderness Area and the no livestock grazing area as appropriate.

(3) Disbursement

Upon completion of the land exchange authorized by this subsection, the Secretary is authorized to make a disbursement to Otley Brother's, Inc., in the amount of $400,000.

(c) Completion of conveyance

The Secretary shall complete the conveyances of the Federal lands under subsections (a) and (b) of this section within 70 days after the Secretary accepts the lands described in such subsections.

(Pub. L. 106–399, title VI, § 602, Oct. 30, 2000, 114 Stat. 1671.)

§ 460nnn–103. Land Exchange, Tom J. Davis Livestock, Incorporated

(a) Exchange authorized

For the purpose of protecting and consolidating Federal lands within the Wilderness Area, the Secretary may carry out a land exchange with Tom J. Davis Livestock, Incorporated, to convey all right, title, and interest of the United States in and to certain parcels of land under the jurisdiction of the Bureau of Land Management in the vicinity of Steens Mountain, Oregon, as depicted on the map referred to in section 460nnn–105(a) of this title, consisting of a total of approximately 5,340 acres in exchange for the private lands described in subsection (b) of this section.

(b) Receipt of non-Federal lands

As consideration for the conveyance of the Federal lands referred to in subsection (a) of this section and the disbursement referred to in subsection (c) of this section, Tom J. Davis Livestock, Incorporated, shall convey to the Secretary a parcel of land consisting of approximately 5,103 acres, as depicted on the map referred to in section 460nnn–105(a) of this title, for inclusion in the Wilderness Area.

(c) Disbursement

Upon completion of the land exchange authorized by this section, the Secretary is authorized to make a disbursement to Tom J. Davis Livestock, Incorporated, in the amount of $800,000.

(d) Completion of conveyance

The Secretary shall complete the conveyance of the Federal lands under subsection (a) of this section within 70 days after the Secretary accepts the lands described in subsection (b) of this section.

(Pub. L. 106–399, title VI, § 603, Oct. 30, 2000, 114 Stat. 1672.)

§ 460nnn–104. Land exchange, Lowther (Clemens) Ranch

(a) Exchange authorized

For the purpose of protecting and consolidating Federal lands within the Cooperative Management and Protection Area, the Secretary may carry out a land exchange with the Lowther (Clemens) Ranch to convey all right, title, and interest of the United States in and to certain parcels of land under the jurisdiction of the Bureau of Land Management in the vicinity of Steens Mountain, Oregon, as depicted on the map referred to in section 460nnn–105(a) of this title, consisting of a total of approximately 11,796 acres in exchange for the private lands described in subsection (b) of this section.

(b) Receipt of non-Federal lands

As consideration for the conveyance of the Federal lands referred to in subsection (a) of this section and the disbursement referred to in subsection (d) of this section, the Lowther (Clemens) Ranch shall convey to the Secretary a parcel of land consisting of approximately 1,078 acres, as depicted on the map referred to in section 460nnn–105(a) of this title, for inclusion in the Cooperative Management and Protection Area.

(c) Treatment of grazing

Paragraphs (2) and (3) of section 460nnn–23(e) of this title, relating to the effect of the cancellation in whole of the grazing permit for the Fish Creek/Big Indian allotment in the Wilderness Area and reassignment of use areas as described in paragraph (3)(D) of such section, shall apply to the land exchange authorized by this section.

(d) Disbursement

Upon completion of the land exchange authorized by this section, the Secretary is authorized to make a disbursement to Lowther (Clemens) Ranch, in the amount of $148,000.

(e) Completion of conveyance

The Secretary shall complete the conveyance of the Federal lands under subsection (a) of this section within 70 days after the Secretary accepts the lands described in subsection (b) of this section.

(Pub. L. 106–399, title VI, § 604, Oct. 30, 2000, 114 Stat. 1672.)

§ 460nnn–105. General provisions applicable to land exchanges

(a) Map

The land conveyances described in this part are generally depicted on the map entitled ''Steens Mountain Land Exchanges'' and dated September 18, 2000.

(b) Applicable law

Except as otherwise provided in this section, the exchange of Federal land under this part is subject to the existing laws and regulations applicable to the conveyance and acquisition of land under the jurisdiction of the Bureau of Land Management. It is anticipated that the Secretary will be able to carry out such land exchanges without the promulgation of additional regulations and without regard to the notice and comment provisions of section 553 of title 5.

(c) Conditions on acceptance

Title to the non-Federal lands to be conveyed under this part must be acceptable to the Sec-

retary, and the conveyances shall be subject to valid existing rights of record. The non-Federal lands shall conform with the title approval standards applicable to Federal land acquisitions.

(d) Legal descriptions

The exact acreage and legal description of all lands to be exchanged under this part shall be determined by surveys satisfactory to the Secretary. The costs of any such survey, as well as other administrative costs incurred to execute a land exchange under this part, shall be borne by the Secretary.

(Pub. L. 106–399, title VI, § 605, Oct. 30, 2000, 114 Stat. 1673.)

PART G—FUNDING AUTHORITIES

§ 460nnn–121. Authorization of appropriations

Except as provided in sections 460nnn–91(c) and 460nnn–122 of this title, there is hereby authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Pub. L. 106–399, title VII, § 701, Oct. 30, 2000, 114 Stat. 1673.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 106–399, Oct. 30, 2000, 114 Stat. 1655, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 460nnn of this title and Tables.

§ 460nnn–122. Use of land and water conservation fund

(a) Availability of fund

There are authorized to be appropriated $25,000,000 from the land and water conservation fund established under section 460*l*–5 of this title to provide funds for the acquisition of land and interests in land under section 460nnn–24 of this title and to enter into nondevelopment easements and conservation easements under subsections (b) and (c) of section 460nnn–42 of this title.

(b) Term of use

Amounts appropriated pursuant to the authorization of appropriations in subsection (a) of this section shall remain available until expended.

(Pub. L. 106–399, title VII, § 702, Oct. 30, 2000, 114 Stat. 1673.)

SUBCHAPTER CXXVI—LAS CIENEGAS NATIONAL CONSERVATION AREA

§ 460*ooo*. Definitions

For the purposes of this subchapter, the following definitions apply:

(1) Conservation Area

The term ''Conservation Area'' means the Las Cienegas National Conservation Area established by section 460*ooo*–3(a) of this title.

(2) Acquisition Planning District

The term ''Acquisition Planning District'' means the Sonoita Valley Acquisition Planning District established by section 460*ooo*–1(a) of this title.

(3) Management plan

The term ''management plan'' means the management plan for the Conservation Area.

(4) Public lands

The term ''public lands'' has the meaning given the term in section 1702(e) of title 43, except that such term shall not include interest in lands not owned by the United States.

(5) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 106–538, § 1, Dec. 6, 2000, 114 Stat. 2563.)

§ 460*ooo*–1. Establishment of the Sonoita Valley Acquisition Planning District

(a) In general

In order to provide for future acquisitions of important conservation land within the Sonoita Valley region of the State of Arizona, there is hereby established the Sonoita Valley Acquisition Planning District.

(b) Areas included

The Acquisition Planning District shall consist of approximately 142,800 acres of land in the Arizona counties of Pima and Santa Cruz, including the Conservation Area, as generally depicted on the map entitled ''Sonoita Valley Acquisition Planning District and Las Cienegas National Conservation Area'' and dated October 2, 2000.

(c) Map and legal description

As soon as practicable after December 6, 2000, the Secretary shall submit to Congress a map and legal description of the Acquisition Planning District. In case of a conflict between the map referred to in subsection (b) of this section and the map and legal description submitted by the Secretary, the map referred to in subsection (b) of this section shall control. The map and legal description shall have the same force and effect as if included in this subchapter, except that the Secretary may correct clerical and typographical errors in such map and legal description. Copies of the map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, and in the appropriate office of the Bureau of Land Management in Arizona.

(Pub. L. 106–538, § 2, Dec. 6, 2000, 114 Stat. 2563.)

§ 460*ooo*–2. Purposes of the Acquisition Planning District

(a) In general

The Secretary shall negotiate with land owners for the acquisition of lands and interest in lands suitable for Conservation Area expansion that meet the purposes described in section 460*ooo*–3(a) of this title. The Secretary shall only acquire property under this subchapter pursuant to section 460*ooo*–6 of this title.

(b) Federal lands

The Secretary, through the Bureau of Land Management, shall administer the public lands

within the Acquisition Planning District pursuant to this subchapter and the applicable provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), subject to valid existing rights, and in accordance with the management plan. Such public lands shall become part of the Conservation Area when they become contiguous with the Conservation Area.

(c) Fish and wildlife

Nothing in this subchapter shall be construed as affecting the jurisdiction or responsibilities of the State of Arizona with respect to fish and wildlife within the Acquisition Planning District.

(d) Protection of State and private lands and interests

Nothing in this subchapter shall be construed as affecting any property rights or management authority with regard to any lands or interest in lands held by the State of Arizona, any political subdivision of the State of Arizona, or any private property rights within the boundaries of the Acquisition Planning District.

(e) Public lands

Nothing in this subchapter shall be construed as in any way diminishing the Secretary's or the Bureau of Land Management's authorities, rights, or responsibilities for managing the public lands within the Acquisition Planning District.

(f) Coordinated management

The Secretary shall coordinate the management of the public lands within the Acquisition Planning District with that of surrounding county, State, and private lands consistent with the provisions of subsection (d) of this section.

(Pub. L. 106–538, § 3, Dec. 6, 2000, 114 Stat. 2564.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (b), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

§ 460*ooo*–3. Establishment of the Las Cienegas National Conservation Area

(a) In general

In order to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the unique and nationally important aquatic, wildlife, vegetative, archaeological, paleontological, scientific, cave, cultural, historical, recreational, educational, scenic, rangeland, and riparian resources and values of the public lands described in subsection (b) of this section while allowing livestock grazing and recreation to continue in appropriate areas, there is hereby established the Las Cienegas National Conservation Area in the State of Arizona.

(b) Areas included

The Conservation Area shall consist of approximately 42,000 acres of public lands in the Arizona counties of Pima and Santa Cruz, as generally depicted on the map entitled ''Sonoita Valley Acquisition Planning District and Las Cienegas National Conservation Area'' and dated October 2, 2000.

(c) Maps and legal description

As soon as practicable after December 6, 2000, the Secretary shall submit to Congress a map and legal description of the Conservation Area. In case of a conflict between the map referred to in subsection (b) of this section and the map and legal description submitted by the Secretary, the map referred to in subsection (b) of this section shall control. The map and legal description shall have the same force and effect as if included in this subchapter, except that the Secretary may correct clerical and typographical errors in such map and legal description. Copies of the map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, and in the appropriate office of the Bureau of Land Management in Arizona.

(d) Forest lands

Any lands included in the Coronado National Forest that are located within the boundaries of the Conservation Area shall be considered to be a part of the Conservation Area. The Secretary of Agriculture shall revise the boundaries of the Coronado National Forest to reflect the exclusion of such lands from the Coronado National Forest.

(Pub. L. 106–538, § 4, Dec. 6, 2000, 114 Stat. 2564.)

§ 460*ooo*–4. Management of the Las Cienegas National Conservation Area

(a) In general

The Secretary shall manage the Conservation Area in a manner that conserves, protects, and enhances its resources and values, including the resources and values specified in section 460*ooo*–3(a) of this title, pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this subchapter.

(b) Uses

The Secretary shall allow only such uses of the Conservation Area as the Secretary finds will further the purposes for which the Conservation Area is established as set forth in section 460*ooo*–3(a) of this title.

(c) Grazing

The Secretary of the Interior shall permit grazing subject to all applicable laws, regulations, and Executive orders consistent with the purposes of this subchapter.

(d) Motorized vehicles

Except where needed for administrative purposes or to respond to an emergency, use of motorized vehicles on public lands in the Conservation Area shall be allowed only—

(1) before the effective date of a management plan prepared pursuant to section 460*ooo*–5 of this title, on roads and trails designated for use of motorized vehicles in the management plan that applies on December 6, 2000; and

(2) after the effective date of a management plan prepared pursuant to section 460*ooo*–5 of

this title, on roads and trails designated for use of motor vehicles in that management plan.

(e) Military airspace

Prior to December 6, 2000, the Federal Aviation Administration approved restricted military airspace (Areas 2303A and 2303B) which covers portions of the Conservation Area. Designation of the Conservation Area shall not impact or impose any altitude, flight, or other airspace restrictions on current or future military operations or missions. Should the military require additional or modified airspace in the future, the Congress does not intend for the designation of the Conservation Area to impede the military from petitioning the Federal Aviation Administration to change or expand existing restricted military airspace.

(f) Access to State and private lands

Nothing in this subchapter shall affect valid existing rights-of-way within the Conservation Area. The Secretary shall provide reasonable access to nonfederally owned lands or interest in lands within the boundaries of the Conservation Area.

(g) Hunting

Hunting shall be allowed within the Conservation Area in accordance with applicable laws and regulations of the United States and the State of Arizona, except that the Secretary, after consultation with the Arizona State wildlife management agency, may issue regulations designating zones where and establishing periods when no hunting shall be permitted for reasons of public safety, administration, or public use and enjoyment.

(h) Preventative measures

Nothing in this subchapter shall preclude such measures as the Secretary determines necessary to prevent devastating fire or infestation of insects or disease within the Conservation Area.

(i) No buffer zones

The establishment of the Conservation Area shall not lead to the creation of protective perimeters or buffer zones around the Conservation Area. The fact that there may be activities or uses on lands outside the Conservation Area that would not be permitted in the Conservation Area shall not preclude such activities or uses on such lands up to the boundary of the Conservation Area consistent with other applicable laws.

(j) Withdrawals

Subject to valid existing rights all Federal lands within the Conservation Area and all lands and interest therein which are hereafter acquired by the United States are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws and from location, entry, and patent under the mining laws, and from operation of the mineral leasing and geothermal leasing laws and all amendments thereto.

(Pub. L. 106–538, § 5, Dec. 6, 2000, 114 Stat. 2565.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (a), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

§ 460*ooo*–5. Management plan

(a) Plan required

Not later than 2 years after December 6, 2000, the Secretary, through the Bureau of Land Management, shall develop and begin to implement a comprehensive management plan for the long-term management of the public lands within the Conservation Area in order to fulfill the purposes for which it is established, as set forth in section 460*ooo*–3(a) of this title. Consistent with the provisions of this subchapter, the management plan shall be developed—

(1) in consultation with appropriate departments of the State of Arizona, including wildlife and land management agencies, with full public participation;

(2) from the draft Empire-Cienega Ecosystem Management Plan/EIS, dated October 2000, as it applies to Federal lands or lands with conservation easements; and

(3) in accordance with the resource goals and objectives developed through the Sonoita Valley Planning Partnership process as incorporated in the draft Empire-Cienega Ecosystem Management Plan/EIS, dated October 2000, giving full consideration to the management alternative preferred by the Sonoita Valley Planning Partnership, as it applies to Federal lands or lands with conservation easements.

(b) Contents

The management plan shall include—

(1) provisions designed to ensure the protection of the resources and values described in section 460*ooo*–3(a) of this title;

(2) an implementation plan for a continuing program of interpretation and public education about the resources and values of the Conservation Area;

(3) a proposal for minimal administrative and public facilities to be developed or improved at a level compatible with achieving the resource objectives for the Conservation Area and with the other proposed management activities to accommodate visitors to the Conservation Area;

(4) cultural resources management strategies for the Conservation Area, prepared in consultation with appropriate departments of the State of Arizona, with emphasis on the preservation of the resources of the Conservation Area and the interpretive, educational, and long-term scientific uses of these resources, giving priority to the enforcement of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the Conservation Area;

(5) wildlife management strategies for the Conservation Area, prepared in consultation with appropriate departments of the State of Arizona and using previous studies of the Conservation Area;

(6) production livestock grazing management strategies, prepared in consultation with

appropriate departments of the State of Arizona;

(7) provisions designed to ensure the protection of environmentally sustainable livestock use on appropriate lands within the Conservation Area;

(8) recreation management strategies, including motorized and nonmotorized dispersed recreation opportunities for the Conservation Area, prepared in consultation with appropriate departments of the State of Arizona;

(9) cave resources management strategies prepared in compliance with the goals and objectives of the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 et seq.); and

(10) provisions designed to ensure that if a road or trail located on public lands within the Conservation Area, or any portion of such a road or trail, is removed, consideration shall be given to providing similar alternative access to the portion of the Conservation Area serviced by such removed road or trail.

(c) Cooperative agreements

In order to better implement the management plan, the Secretary may enter into cooperative agreements with appropriate Federal, State, and local agencies pursuant to section 1737(b) of title 43.

(d) Research activities

In order to assist in the development and implementation of the management plan, the Secretary may authorize appropriate research, including research concerning the environmental, biological, hydrological, cultural, agricultural, recreational, and other characteristics, resources, and values of the Conservation Area, pursuant to section 1737(a) of title 43.

(Pub. L. 106–538, § 6, Dec. 6, 2000, 114 Stat. 2566.)

REFERENCES IN TEXT

The Archaeological Resources Protection Act of 1979, referred to in subsec. (b)(4), is Pub. L. 96–95, Oct. 31, 1979, 93 Stat. 721, as amended, which is classified generally to chapter 1B (§ 470aa et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of this title and Tables.

The National Historic Preservation Act, referred to in subsec. (b)(4), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of this title. For complete classification of this Act to the Code, see section 470(a) of this title and Tables.

The Federal Cave Resources Protection Act of 1988, referred to in subsec. (b)(9), is Pub. L. 100–691, Nov. 18, 1988, 102 Stat. 4546, which is classified generally to chapter 63 (§ 4301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4301 of this title and Tables.

§ 460*ooo*–6. Land acquisition

(a) In general

(1) Priority to conservation easements

In acquiring lands or interest in lands under this section, the Secretary shall give priority to such acquisitions in the form of conservation easements.

(2) Private lands

The Secretary is authorized to acquire privately held lands or interest in lands within the boundaries of the Acquisition Planning District only from a willing seller through donation, exchange, or purchase.

(3) County lands

The Secretary is authorized to acquire county lands or interest in lands within the boundaries of the Acquisition Planning District only with the consent of the county through donation, exchange, or purchase.

(4) State lands

(A) In general

The Secretary is authorized to acquire lands or interest in lands owned by the State of Arizona located within the boundaries of the Acquisition Planning District only with the consent of the State and in accordance with State law, by donation, exchange, or purchase.

(B) Consideration

As consideration for the acquisitions by the United States of lands or interest in lands under this paragraph, the Secretary shall pay fair market value for such lands or shall convey to the State of Arizona all or some interest in Federal lands (including buildings and other improvements on such lands or other Federal property other than real property) or any other asset of equal value within the State of Arizona.

(C) Transfer of jurisdiction

All Federal agencies are authorized to transfer jurisdiction of Federal lands or interest in lands (including buildings and other improvements on such lands or other Federal property other than real property) or any other asset within the State of Arizona to the Bureau of Land Management for the purpose of acquiring lands or interest in lands as provided for in this paragraph.

(b) Management of acquired lands

Lands acquired under this section shall, upon acquisition, become part of the Conservation Area and shall be administered as part of the Conservation Area. These lands shall be managed in accordance with this subchapter, other applicable laws, and the management plan.

(Pub. L. 106–538, § 7, Dec. 6, 2000, 114 Stat. 2567.)

§ 460*ooo*–7. Reports to Congress

(a) Protection of certain lands

Not later than 2 years after December 6, 2000, the Secretary shall submit to Congress a report describing the most effective measures to protect the lands north of the Acquisition Planning District within the Rincon Valley, Colossal Cave area, and Agua Verde Creek corridor north of Interstate 10 to provide an ecological link to Saguaro National Park and the Rincon Mountains and contribute to local government conservation priorities.

(b) Implementation of this subchapter

Not later than 5 years after December 6, 2000, and at least at the end of every 10-year period thereafter, the Secretary shall submit to Congress a report describing the implementation of this subchapter, the condition of the resources

and values of the Conservation Area, and the progress of the Secretary in achieving the purposes for which the Conservation Area is established as set forth in section 460*ooo*–3(a) of this title.

(Pub. L. 106–538, § 8, Dec. 6, 2000, 114 Stat. 2568.)

SUBCHAPTER CXXVII—BLACK ROCK DESERT-HIGH ROCK CANYON EMIGRANT TRAILS NATIONAL CONSERVATION AREA

§ 460ppp. Findings

The Congress finds the following:

(1) The areas of northwestern Nevada known as the Black Rock Desert and High Rock Canyon contain and surround the last nationally significant, untouched segments of the historic California emigrant Trails,[1] including wagon ruts, historic inscriptions, and a wilderness landscape largely unchanged since the days of the pioneers.

(2) The relative absence of development in the Black Rock Desert and high[2] Rock Canyon areas from emigrant times to the present day offers a unique opportunity to capture the terrain, sights, and conditions of the overland trails as they were experienced by the emigrants and to make available to both present and future generations of Americans the opportunity of experiencing emigrant conditions in an unaltered setting.

(3) The Black Rock Desert and High Rock Canyon areas are unique segments of the Northern Great Basin and contain broad representation of the Great Basin's land forms and plant and animal species, including golden eagles and other birds of prey, sage grouse, mule deer, pronghorn antelope, bighorn sheep, free roaming horses and burros, threatened fish and sensitive plants.

(4) The Black Rock-High Rock region contains a number of cultural and natural resources that have been declared eligible for National Historic Landmark and Natural Landmark status, including a portion of the 1843–44 John Charles Fremont exploration route, the site of the death of Peter Lassen, early military facilities, and examples of early homesteading and mining.

(5) The archeological, paleontological, and geographical resources of the Black Rock-High Rock region include numerous prehistoric and historic Native American sites, wooly mammoth sites, some of the largest natural potholes of North America, and a remnant dry Pleistocene lakebed (playa) where the curvature of the Earth may be observed.

(6) The two large wilderness mosaics that frame the conservation area offer exceptional opportunities for solitude and serve to protect the integrity of the viewshed of the historic emigrant trails.

(7) Public lands in the conservation area have been used for domestic livestock grazing for over a century, with resultant benefits to community stability and contributions to the local and State economies. It has not been demonstrated that continuation of this use would be incompatible with appropriate protection and sound management of the resource values of these lands; therefore, it is expected that such grazing will continue in accordance with the management plan for the conservation area and other applicable laws and regulations.

(8) The Black Rock Desert playa is a unique natural resource that serves as the primary destination for the majority of visitors to the conservation area, including visitors associated with large-scale permitted events. It is expected that such permitted events will continue to be administered in accordance with the management plan for the conservation area and other applicable laws and regulations.

(Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 125 [§ 2]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–353.)

SHORT TITLE

Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 125 [§ 1]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–353, provided that: ''This Act [S. 2273, as enacted by section 1(a)(4)[div. B, title I, § 125] of Pub. L. 106–554, enacting this subchapter and provisions listed in a table of Wilderness Areas set out under section 1132 of this title] may be cited as the 'Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area Act of 2000'.''

§ 460ppp–1. Definitions

As used in this subchapter:

(1) The term ''Secretary'' means the Secretary of the Interior.

(2) The term ''public lands'' has the meaning stated in section 1702(e) of title 43.

(3) The term ''conservation area'' means the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area established pursuant to section 460ppp–2 of this title.

(Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 125 [§ 3]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–354.)

§ 460ppp–2. Establishment of the conservation area

(a) Establishment and purposes

In order to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the unique and nationally important historical, cultural, paleontological, scenic, scientific, biological, educational, wildlife, riparian, wilderness, endangered species, and recreational values and resources associated with the Applegate-Lassen and Nobles Trails corridors and surrounding areas, there is hereby established the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area in the State of Nevada.

(b) Areas included

The conservation area shall consist of approximately 797,100 acres of public lands as generally depicted on the map entitled ''Black Rock Desert Emigrant Trail National Conservation Area'' and dated October 3, 2001.

(c) Maps and legal description

As soon as practicable after December 21, 2000, the Secretary shall submit to Congress a map

[1] So in original. Probably should not be capitalized.

[2] So in original. Probably should be capitalized.

and legal description of the conservation area. The map and legal description shall have the same force and effect as if included in this subchapter, except the Secretary may correct clerical and typographical errors in such map and legal description. Copies of the map and legal description shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 125 [§ 4]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–354; Pub. L. 107–63, title I, § 135(a), Nov. 5, 2001, 115 Stat. 443.)

AMENDMENTS

2001—Subsec. (b). Pub. L. 107–63 substituted ''October 3, 2001'' for ''July 19, 2000''.

§ 460ppp–3. Management

(a) Management

The Secretary, acting through the Bureau of Land Management, shall manage the conservation area in a manner that conserves, protects, and enhances its resources and values, including those resources and values specified in subsection [1] 460ppp–2(a) of this title, in accordance with this subchapter, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable provisions of law.

(b) Access

(1) In general

The Secretary shall maintain adequate access for the reasonable use and enjoyment of the conservation area.

(2) Private land

The Secretary shall provide reasonable access to privately owned land or interests in land within the boundaries of the conservation area.

(3) Existing public roads

The Secretary is authorized to maintain existing public access within the boundaries of the conservation area in a manner consistent with the purposes for which the conservation area was established.

(c) Uses

(1) In general

The Secretary shall only allow such uses of the conservation area as the Secretary finds will further the purposes for which the conservation area is established.

(2) Off-highway vehicle use

Except where needed for administrative purposes or to respond to an emergency, use of motorized vehicles in the conservation area shall be permitted only on roads and trails and in other areas designated for use of motorized vehicles as part of the management plan prepared pursuant to subsection (e) of this section.

(3) Permitted events

The Secretary may continue to permit large-scale events in defined, low impact areas of the Black Rock Desert playa in the conservation area in accordance with the management plan prepared pursuant to subsection (e) of this section.

(d) Hunting, trapping, and fishing

Nothing in this subchapter shall be deemed to diminish the jurisdiction of the State of Nevada with respect to fish and wildlife management, including regulation of hunting and fishing, on public lands within the conservation area.

(e) Management plan

Within three years following December 21, 2000, the Secretary shall develop a comprehensive resource management plan for the long-term protection and management of the conservation area. The plan shall be developed with full public participation and shall describe the appropriate uses and management of the conservation area consistent with the provisions of this subchapter. The plan may incorporate appropriate decisions contained in any current management or activity plan for the area and may use information developed in previous studies of the lands within or adjacent to the conservation area.

(f) Grazing

Where the Secretary of the Interior currently permits livestock grazing in the conservation area, such grazing shall be allowed to continue subject to all applicable laws, regulations, and executive orders.

(g) Visitor service facilities

The Secretary is authorized to establish, in cooperation with other public or private entities as the Secretary may deem appropriate, visitor service facilities for the purpose of providing information about the historical, cultural, ecological, recreational, and other resources of the conservation area.

(h) Road maintenance

Within the conservation area the Secretary may permit the use of gravel pits for the maintenance of roads within the conservation area under the Materials Act of 1947 (30 U.S.C. 601 et seq.) to the extent consistent with this subchapter and subject to such regulations, policies, and practices as the Secretary considers necessary.

(Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 125 [§ 5]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–354; Pub. L. 107–63, title I, § 135(b), Nov. 5, 2001, 115 Stat. 443.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (a), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

The Materials Act of 1947, referred to in subsec. (h), is act July 31, 1947, ch. 406, 61 Stat. 681, as amended, which is classified generally to subchapter I (§ 601 et seq.) of chapter 15 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 30 and Tables.

AMENDMENTS

2001—Subsec. (h). Pub. L. 107–63 added subsec. (h).

[1] So in original. Probably should be ''section''.

§ 460ppp–4. Withdrawal

Subject to valid existing rights, all Federal lands within the conservation area and all lands and interests therein which are hereafter acquired by the United States are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws, from operation of the mineral leasing and geothermal leasing laws and from the minerals materials laws and all amendments thereto.

(Pub. L. 106–554, §1(a)(4) [div. B, title I, §125 [§6]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–355.)

§ 460ppp–5. No buffer zones

The Congress does not intend for the establishment of the conservation area to lead to the creation of protective perimeters or buffer zones around the conservation area. The fact that there may be activities or uses on lands outside the conservation area that would not be permitted in the conservation area shall not preclude such activities or uses on such lands up to the boundary of the conservation area consistent with other applicable laws.

(Pub. L. 106–554, §1(a)(4) [div. B, title I, §125 [§7]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–356.)

§ 460ppp–6. Wilderness

(a) Designation

In furtherance of the purposes of the Wilderness Act of 1964 (16 U.S.C. 1131 et seq.), the following lands in the State of Nevada are designated as wilderness, and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Black Rock Desert Wilderness Study Area comprised of approximately 315,700 acres, as generally depicted on a map entitled ''Black Rock Desert Wilderness—Proposed'' and dated October 3, 2001, and which shall be known as the Black Rock Desert Wilderness.

(2) Certain lands in the Pahute Peak Wilderness Study Area comprised of approximately 57,400 acres, as generally depicted on a map entitled ''Pahute Peak Wilderness—Proposed'' and dated October 3, 2001, and which shall be known as the Pahute Peak Wilderness.

(3) Certain lands in the North Black Rock Range Wilderness Study Area comprised of approximately 30,800 acres, as generally depicted on a map entitled ''North Black Rock Range Wilderness—Proposed'' and dated October 3, 2001, and which shall be known as the North Black Rock Range Wilderness.

(4) Certain lands in the East Fork High Rock Canyon Wilderness Study Area comprised of approximately 52,800 acres, as generally depicted on a map entitled ''East Fork High Rock Canyon Wilderness—Proposed'' and dated October 3, 2001, and which shall be known as the East Fork High Rock Canyon Wilderness.

(5) Certain lands in the High Rock Lake Wilderness Study Area comprised of approximately 59,300 acres, as generally depicted on a map entitled ''High Rock Lake Wilderness—Proposed'' and dated October 3, 2001, and which shall be known as the High Rock Lake Wilderness.

(6) Certain lands in the Little High Rock Canyon Wilderness Study Area comprised of approximately 48,700 acres, as generally depicted on a map entitled ''Little High Rock Canyon Wilderness—Proposed'' and dated October 3, 2001, and which shall be known as the Little High Rock Canyon Wilderness.

(7) Certain lands in the High Rock Canyon Wilderness Study Area and Yellow Rock Canyon Wilderness Study Area comprised of approximately 46,600 acres, as generally depicted on a map entitled ''High Rock Canyon Wilderness—Proposed'' and dated October 3, 2001, and which shall be known as the High Rock Canyon Wilderness.

(8) Certain lands in the Calico Mountains Wilderness Study Area comprised of approximately 65,400 acres, as generally depicted on a map entitled ''Calico Mountains Wilderness—Proposed'' and dated October 3, 2001, and which shall be known as the Calico Mountains Wilderness.

(9) Certain lands in the South Jackson Mountains Wilderness Study Area comprised of approximately 56,800 acres, as generally depicted on a map entitled ''South Jackson Mountains Wilderness—Proposed'' and dated October 3, 2001, and which shall be known as the South Jackson Mountains Wilderness.

(10) Certain lands in the North Jackson Mountains Wilderness Study Area comprised of approximately 24,000 acres, as generally depicted on a map entitled ''North Jackson Mountains Wilderness—Proposed'' and dated October 3, 2001, and which shall be known as the North Jackson Mountains Wilderness.

(b) Administration of wilderness areas

Subject to valid existing rights, each wilderness area designated by this subchapter shall be administered by the Secretary in accordance with the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.], except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to December 21, 2000, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

(c) Maps and legal description

As soon as practicable after December 21, 2000, the Secretary shall submit to Congress a map and legal description of the wilderness areas designated under this subchapter. The map and legal description shall have the same force and effect as if included in this subchapter, except the Secretary may correct clerical and typographical errors in such map and legal description. Copies of the map and legal description shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(d) Grazing

Within the wilderness areas designated under subsection (a) of this section, the grazing of livestock, where established prior to December 21, 2000, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as long

as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and section 101(f) of Public Law 101–628.

(e) Hunting, trapping, and fishing

(1) In general

Nothing in this subchapter diminishes the jurisdiction of the State of Nevada with respect to fish and wildlife management, including regulation of hunting and fishing on public land in the areas designated as wilderness under subsection (a) of this section.

(2) Applicable law

Any action in the areas designated as wilderness under subsection (a) of this section shall be consistent with the Wilderness Act (16 U.S.C. 1131 et seq.).

(f) Wildland fire protection

Nothing in this subchapter or the Wilderness Act (16 U.S.C. 1131 et seq.) precludes a Federal, State, or local agency from conducting wildland fire management operations (including prescribed burns) within the areas designated as wilderness under subsection (a) of this section, subject to any conditions that the Secretary considers appropriate.

(g) Wilderness study release

Congress—

(1) finds that the parcels of land in the wilderness study areas referred to in subsection (a) of this section that are not designated as wilderness by subsection (a) of this section have been adequately studied for wilderness designation under section 1782 of title 43; and

(2) declares that those parcels are no longer subject to the requirement of subsection (c) of that section pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

(Pub. L. 106–554, §1(a)(4) [div. B, title I, §125 [§8]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–356; Pub. L. 107–63, title I, §135(a), (c)–(e), Nov. 5, 2001, 115 Stat. 443.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsecs. (a), (b), (d), (e)(2), and (f), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The effective date of the Wilderness Act, referred to in subsec. (b), means Sept. 3, 1964, the date of enactment of Pub. L. 88–577, which enacted chapter 23 of this title.

Section 101(f) of Public Law 101–628, referred to in subsec. (d), is section 101(f) of Pub. L. 101–628, title I, Nov. 28, 1990, 104 Stat. 4473, which is not classified to the Code.

CODIFICATION

Section is comprised of section 1(a)(4) [div. B, title I, §125 [§8]] of Pub. L. 106–554. Section 1(a)(4) [div. B, title I, §125 [§8(a)(1)–(10)]] of Pub. L. 106–554 also enacted provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–63, §135(a), substituted ''October 3, 2001'' for ''July 19, 2000'' wherever appearing.

Subsecs. (e) to (g). Pub. L. 107–63, §135(c)–(e), added subsecs. (e) to (g).

§ 460ppp–7. Authorization of appropriations

There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 106–554, §1(a)(4) [div. B, title I, §125 [§9]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–357.)

SUBCHAPTER CXXVIII—SLOAN CANYON NATIONAL CONSERVATION AREA

§ 460qqq. Purpose

The purpose of this subchapter is to establish the Sloan Canyon National Conservation Area to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the cultural, archaeological, natural, wilderness, scientific, geological, historical, biological, wildlife, educational, and scenic resources of the Conservation Area.

(Pub. L. 107–282, title VI, §602, Nov. 6, 2002, 116 Stat. 2009.)

SHORT TITLE

Pub. L. 107–282, §1, Nov. 6, 2002, 116 Stat. 1994, provided that: ''This Act [enacting this subchapter, amending section 460ccc–1 of this title, enacting provisions set out as notes under this section and sections 460n–1, 460ccc–4, and 460qqq–1 of this title, enacting provisions listed in a table of National Wildlife Refuges set out under section 668dd of this title, and enacting and amending provisions listed in a table of Wilderness Areas set out under 1132 of this title] may be cited as the 'Clark County Conservation of Public Land and Natural Resources Act of 2002'.''

Pub. L. 107–282, title VI, §601, Nov. 6, 2002, 116 Stat. 2009, provided that: ''This title [enacting this subchapter] may be cited as the 'Sloan Canyon National Conservation Area Act'.''

§ 460qqq–1. Definitions

In this subchapter:

(1) Conservation Area

The term ''Conservation Area'' means the Sloan Canyon National Conservation Area established by section 460qqq–2(a) of this title.

(2) Federal parcel

The term ''Federal parcel'' means the parcel of Federal land consisting of approximately 500 acres that is identified as Tract A on the map entitled ''Southern Nevada Public Land Management Act'' and dated October 1, 2002.

(3) Management plan

The term ''management plan'' means the management plan for the Conservation Area developed under section 460qqq–3(b) of this title.

(4) Map

The term ''map'' means the map entitled ''Southern Nevada Public Land Management Act'' and dated October 1, 2002.

(Pub. L. 107–282, title VI, §603, Nov. 6, 2002, 116 Stat. 2009.)

DEFINITIONS

Pub. L. 107–282, §3, Nov. 6, 2002, 116 Stat. 1995, provided that:

''In this Act [see Short Title note set out under section 460qqq of this title]:

''(1) AGREEMENT.—The term 'Agreement' means the Agreement entitled 'Interim Cooperative Management Agreement Between the United States of the Interior Bureau of Land Management and Clark County', dated November 4, 1992.

''(2) COUNTY.—The term 'County' means Clark County, Nevada.

''(3) SECRETARY.—The term 'Secretary' means—

''(A) the Secretary of Agriculture with respect to land in the National Forest System; or

''(B) the Secretary of the Interior, with respect to other Federal land.

''(4) STATE.—The term 'State' means the State of Nevada.''

§ 460qqq–2. Establishment

(a) In general

For the purpose described in section 460qqq of this title, there is established in the State a conservation area to be known as the Sloan Canyon National Conservation Area.

(b) Area included

The Conservation Area shall consist of approximately 48,438 acres of public land in the County, as generally depicted on the map.

(c) Map and legal description

(1) In general

As soon as practicable after November 6, 2002, the Secretary shall submit to Congress a map and legal description of the Conservation Area.

(2) Effect

The map and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct minor errors in the map or legal description.

(3) Public availability

A copy of the map and legal description shall be on file and available for public inspection in the appropriate office of the Bureau of Land Management.

(Pub. L. 107–282, title VI, §604, Nov. 6, 2002, 116 Stat. 2010.)

§ 460qqq–3. Management

(a) In general

The Secretary, acting through the Director of the Bureau of Land Management, shall manage the Conservation Area—

(1) in a manner that conserves, protects, and enhances the resources of the Conservation Area; and

(2) in accordance with—

(A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(B) other applicable law, including this Act.

(b) Management plan

(1) In general

Not later than 3 years after November 6, 2002, the Secretary, in consultation with the State, the city of Henderson, the County, and any other interested persons, shall develop a management plan for the Conservation Area.

(2) Requirements

The management plan shall—

(A) describe the appropriate uses and management of the Conservation Area;

(B)(i) authorize the use of motorized vehicles in the Conservation Area—

(I) for installing, repairing, maintaining, and reconstructing water development projects, including guzzlers, that would enhance the Conservation Area by promoting healthy, viable, and more naturally distributed wildlife populations; and

(II) subject to any limitations that are not more restrictive than the limitations on such uses authorized in wilderness areas under section 208;[1] and

(ii) include or provide recommendations on ways of minimizing the visual impacts of such activities on the Conservation Area;

(C) include a plan for litter cleanup and public lands awareness campaign on public lands in and around the Conservation Area; and

(D) include a recommendation on the location for a right-of-way for a rural roadway to provide the city of Henderson with access to the Conservation Area, in accordance with the application numbered N–65874.

(c) Uses

The Secretary shall allow only such uses of the Conservation Area that the Secretary determines will further the purpose described in section 460qqq of this title.

(d) Motorized vehicles

Except as needed for administrative purposes or to respond to an emergency, the use of motorized vehicles in the Conservation Area shall be permitted only on roads and trails designated for the use of motorized vehicles by the management plan developed under subsection (b) of this section.

(e) Withdrawal

(1) In general

Subject to valid existing rights, all public land in the Conservation Area is withdrawn from—

(A) all forms of entry and appropriation under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(2) Additional land

Notwithstanding any other provision of law, if the Secretary acquires mineral or other interests in a parcel of land within the Conservation Area after November 6, 2002, the parcel is withdrawn from operation of the laws referred to in paragraph (1) on the date of acquisition of the land.

(f) Hunting, fishing, and trapping

(1) In general

Nothing in this subchapter affects the jurisdiction of the State with respect to fish and wildlife, including hunting, fishing, and trapping in the Conservation Area.

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[1] See References in Text note below.

(2) Limitations

(A) Regulations

The Secretary may designate by regulation areas in which, and establish periods during which, for reasons of public safety, administration, or compliance with applicable laws, no hunting, fishing, or trapping will be permitted in the Conservation Area.

(B) Consultation

Except in emergencies, the Secretary shall consult with the appropriate State agency before promulgating regulations under subparagraph (A) that close a portion of the Conservation Area to hunting, fishing, or trapping.

(g) No buffer zones

(1) In general

The establishment of the Conservation Area shall not create an express or implied protective perimeter or buffer zone around the Conservation Area.

(2) Private land

If the use of, or conduct of an activity on, private land that shares a boundary with the Conservation Area is consistent with applicable law, nothing in this subchapter concerning the establishment of the Conservation Area shall prohibit or limit the use or conduct of the activity.

(Pub. L. 107–282, title VI, § 605, Nov. 6, 2002, 116 Stat. 2010.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (a)(2)(A), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

This Act, referred to in subsec. (a)(2)(B), is Pub. L. 107–282, Nov. 6, 2002, 116 Stat. 1994, known as the Clark County Conservation of Public Land and Natural Resources Act of 2002. For complete classification of this Act to the Code, see Short Title note set out under section 460qqq of this title and Tables.

Section 208, referred to in subsec. (b)(2)(B)(i)(II), is section 208 of Pub. L. 107–282, Nov. 6, 2002, 116 Stat. 2005, which is not classified to the Code.

§ 460qqq–4. Sale of Federal parcel

(a) In general

Notwithstanding sections 1712 and 1713 of title 43 and subject to valid existing rights, not later than 1 year after November 6, 2002, the Secretary shall convey to the highest qualified bidder all right, title, and interest of the United States in and to the Federal parcel.

(b) Disposition of proceeds

Of the gross proceeds from the conveyance of land under subsection (a) of this section—

(1) 5 percent shall be available to the State for use in the general education program of the State; and

(2) the remainder shall be deposited in the special account established under the Southern Nevada Public Lands Management Act of 1998 (Public Law 105–263; 112 Stat. 2345), to be available to the Secretary, without further appropriation for—

(A) the construction and operation of facilities to support the management of the Conservation Area;

(B) the construction and repair of trails and roads in the Conservation Area authorized under the management plan;

(C) research on and interpretation of the archaeological and geological resources of the Conservation Area;

(D) conservation and research relating to the Conservation Area; and

(E) any other purpose that the Secretary determines to be consistent with the purpose described in section 460qqq of this title.

(Pub. L. 107–282, title VI, § 606, Nov. 6, 2002, 116 Stat. 2012.)

REFERENCES IN TEXT

The Southern Nevada Public Lands Management Act of 1998, referred to in subsec. (b)(2), probably means the Southern Nevada Public Land Management Act of 1998, Pub. L. 105–263, Oct. 19, 1998, 112 Stat. 2343, which amended section 460ccc–1 of this title and section 6901 of Title 31, Money and Finance, and enacted provisions set out as a note under section 6901 of Title 31. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 6901 of Title 31 and Tables.

§ 460qqq–5. Right-of-way

Not later than 180 days after November 6, 2002, the Secretary shall convey to the City of Henderson the public right-of-way requested for public trail purposes under the application numbered N–76312 and the public right-of-way requested for public trail purposes under the application numbered N–65874.

(Pub. L. 107–282, title VI, § 607, Nov. 6, 2002, 116 Stat. 2012.)

SUBCHAPTER CXXIX—RIO GRANDE NATURAL AREA

§ 460rrr. Definitions

In this subchapter:

(1) Commission

The term ''Commission'' means the Rio Grande Natural Area Commission established by section 460rrr–2(a) of this title.

(2) Natural Area

The term ''Natural Area'' means the Rio Grande Natural Area established by section 460rrr–1(a) of this title.

(3) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 109–337, § 2, Oct. 12, 2006, 120 Stat. 1777.)

SHORT TITLE

Pub. L. 109–337, § 1, Oct. 12, 2006, 120 Stat. 1777, provided that: ''This Act [enacting this subchapter] may be cited as the 'Rio Grande Natural Area Act'.''

§ 460rrr–1. Establishment of Rio Grande Natural Area

(a) In general

There is established the Rio Grande Natural Area in the State of Colorado to conserve, re-

store, and protect the natural, historic, cultural, scientific, scenic, wildlife, and recreational resources of the Natural Area.

(b) Boundaries

The Natural Area shall include the Rio Grande River from the southern boundary of the Alamosa National Wildlife Refuge to the New Mexico State border, extending ¼ mile on either side of the bank of the River.

(c) Map and legal description

(1) In general

As soon as practicable after October 12, 2006, the Secretary shall prepare a map and legal description of the Natural Area.

(2) Effect

The map and legal description of the Natural Area shall have the same force and effect as if included in this subchapter, except that the Secretary may correct any minor errors in the map and legal description.

(3) Public availability

The map and legal description of the Natural Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

(Pub. L. 109–337, §3, Oct. 12, 2006, 120 Stat. 1777.)

§ 460rrr–2. Establishment of the Commission

(a) Establishment

There is established the Rio Grande Natural Area Commission.

(b) Purpose

The Commission shall—

(1) advise the Secretary with respect to the Natural Area; and

(2) prepare a management plan relating to non-Federal land in the Natural Area under section 460rrr–4(b)(2)(A) of this title.

(c) Membership

The Commission shall be composed of 9 members appointed by the Secretary, of whom—

(1) 1 member shall represent the Colorado State Director of the Bureau of Land Management;

(2) 1 member shall be the manager of the Alamosa National Wildlife Refuge, ex officio;

(3) 3 members shall be appointed based on the recommendation of the Governor of Colorado, of whom—

(A) 1 member shall represent the Colorado Division of Wildlife;

(B) 1 member shall represent the Colorado Division of Water Resources; and

(C) 1 member shall represent the Rio Grande Water Conservation District; and

(4) 4 members shall—

(A) represent the general public;

(B) be citizens of the local region in which the Natural Area is established; and

(C) have knowledge and experience in the fields of interest relating to the preservation, restoration, and use of the Natural Area.

(d) Terms of office

(1) In general

Except for the manager of the Alamosa National Wildlife Refuge, the term of office of a member of the Commission shall be 5 years.

(2) Reappointment

A member may be reappointed to the Commission on completion of the term of office of the member.

(e) Compensation

A member of the Commission shall serve without compensation for service on the Commission.

(f) Chairperson

The Commission shall elect a chairperson of the Commission.

(g) Meetings

(1) In general

The Commission shall meet at least quarterly at the call of the chairperson.

(2) Public meetings

A meeting of the Commission shall be open to the public.

(3) Notice

Notice of any meeting of the Commission shall be published in advance of the meeting.

(h) Technical assistance

The Secretary and the heads of other Federal agencies shall, to the maximum extent practicable, provide any information and technical services requested by the Commission to assist in carrying out the duties of the Commission.

(Pub. L. 109–337, §4, Oct. 12, 2006, 120 Stat. 1777.)

§ 460rrr–3. Powers of the Commission

(a) Hearings

The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this subchapter.

(b) Cooperative agreements

(1) In general

For purposes of carrying out the management plan on non-Federal land in the Natural Area, the Commission may enter into a cooperative agreement with the State of Colorado, a political subdivision of the State, or any person.

(2) Requirements

A cooperative agreement entered into under paragraph (1) shall establish procedures for providing notice to the Commission of any action proposed by the State of Colorado, a political subdivision of the State, or any person that may affect the implementation of the management plan on non-Federal land in the Natural Area.

(3) Effect

A cooperative agreement entered into under paragraph (1) shall not enlarge or diminish any right or duty of a Federal agency under Federal law.

(c) Prohibition of acquisition of real property

The Commission may not acquire any real property or interest in real property.

(d) Implementation of management plan

(1) In general

The Commission shall assist the Secretary in implementing the management plan by car-

rying out the activities described in paragraph (2) to preserve and interpret the natural, historic, cultural, scientific, scenic, wildlife, and recreational resources of the Natural Area.

(2) Authorized activities

In assisting with the implementation of the management plan under paragraph (1), the Commission may—

(A) assist the State of Colorado in preserving State land and wildlife within the Natural Area;

(B) assist the State of Colorado and political subdivisions of the State in increasing public awareness of, and appreciation for, the natural, historic, scientific, scenic, wildlife, and recreational resources in the Natural Area;

(C) encourage political subdivisions of the State of Colorado to adopt and implement land use policies that are consistent with—

(i) the management of the Natural Area; and

(ii) the management plan; and

(D) encourage and assist private landowners in the Natural Area in the implementation of the management plan.

(Pub. L. 109–337, § 5, Oct. 12, 2006, 120 Stat. 1778.)

§ 460rrr–4. Management plan

(a) In general

Not later than 4 years after October 12, 2006, the Secretary and the Commission, in coordination with appropriate agencies in the State of Colorado, political subdivisions of the State, and private landowners in the Natural Area, shall prepare management plans for the Natural Area as provided in subsection (b).

(b) Duties of Secretary and Commission

(1) Secretary

The Secretary shall prepare a management plan relating to the management of Federal land in the Natural Area.

(2) Commission

(A) In general

The Commission shall prepare a management plan relating to the management of the non-Federal land in the Natural Area.

(B) Approval or disapproval

(i) In general

The Commission shall submit to the Secretary the management plan prepared under subparagraph (A) for approval or disapproval.

(ii) Action following disapproval

If the Secretary disapproves the management plan submitted under clause (i), the Secretary shall—

(I) notify the Commission of the reasons for the disapproval; and

(II) allow the Commission to submit to the Secretary revisions to the management plan submitted under clause (i).

(3) Cooperation

The Secretary and the Commission shall cooperate to ensure that the management plans relating to the management of Federal land and non-Federal land are consistent.

(c) Requirements

The management plans shall—

(1) take into consideration Federal, State, and local plans in existence on October 12, 2006, to present a unified preservation, restoration, and conservation plan for the Natural Area;

(2) with respect to Federal land in the Natural Area—

(A) be developed in accordance with section 1712 of title 43;

(B) be consistent, to the maximum extent practicable, with the management plans adopted by the Director of the Bureau of Land Management for land adjacent to the Natural Area; and

(C) be considered to be an amendment to the San Luis Resource Management Plan of the Bureau of Land Management; and

(3) include—

(A) an inventory of the resources contained in the Natural Area (including a list of property in the Natural Area that should be preserved, restored, managed, developed, maintained, or acquired to further the purposes of the Natural Area); and

(B) a recommendation of policies for resource management, including the use of intergovernmental cooperative agreements, that—

(i) protect the resources of the Natural Area; and

(ii) provide for solitude, quiet use, and pristine natural values of the Natural Area.

(d) Publication

The Secretary shall publish notice of the management plans in the Federal Register.

(Pub. L. 109–337, § 6, Oct. 12, 2006, 120 Stat. 1779.)

§ 460rrr–5. Administration of Natural Area

(a) In general

The Secretary shall administer the Federal land in the Natural Area—

(1) in accordance with—

(A) the laws (including regulations) applicable to public land; and

(B) the management plan; and

(2) in a manner that provides for—

(A) the conservation, restoration, and protection of the natural, historic, scientific, scenic, wildlife, and recreational resources of the Natural Area;

(B) the continued use of the Natural Area for purposes of education, scientific study, and limited public recreation in a manner that does not substantially impair the purposes for which the Natural Area is established;

(C) the protection of the wildlife habitat of the Natural Area;

(D) a prohibition on the construction of water storage facilities in the Natural Area; and

(E) the reduction in the use of or removal of roads in the Natural Area and, to the

maximum extent practicable, the reduction in or prohibition against the use of motorized vehicles in the Natural Area (including the removal of roads and a prohibition against motorized use on Federal land in the area on the western side of the Rio Grande River from Lobatos Bridge south to the New Mexico State line).

(b) Changes in streamflow

The Secretary is encouraged to negotiate with the State of Colorado, the Rio Grande Water Conservation District, and affected water users in the State to determine if changes in the streamflow that are beneficial to the Natural Area may be accommodated.

(c) Private land

The management plan prepared under section 460rrr–4(b)(2)(A) of this title shall apply to private land in the Natural Area only to the extent that the private landowner agrees in writing to be bound by the management plan.

(d) Withdrawal

Subject to valid existing rights, all Federal land in the Natural Area is withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under the mineral leasing laws (including geothermal leasing laws).

(e) Acquisition of land

(1) In general

The Secretary may acquire from willing sellers by purchase, exchange, or donation land or an interest in land in the Natural Area.

(2) Administration

Any land or interest in land acquired under paragraph (1) shall be administered in accordance with the management plan and this subchapter.

(f) Applicable law

Section 1276(d)(1) of this title shall not apply to the Natural Area.

(Pub. L. 109–337, §7, Oct. 12, 2006, 120 Stat. 1780.)

§ 460rrr–6. Effect

Nothing in this subchapter—

(1) amends, modifies, or is in conflict with the Rio Grande Compact, consented to by Congress in the Act of May 31, 1939 (53 Stat. 785, ch. 155);

(2) authorizes the regulation of private land in the Natural Area;

(3) authorizes the imposition of any mandatory streamflow requirements;

(4) creates an express or implied Federal reserved water right;

(5) imposes any Federal water quality standard within or upstream of the Natural Area that is more restrictive than would be applicable had the Natural Area not been established; or

(6) prevents the State of Colorado from acquiring an instream flow through the Natural Area under the terms, conditions, and limitations of State law to assist in protecting the natural environment to the extent and for the purposes authorized by State law.

(Pub. L. 109–337, §8, Oct. 12, 2006, 120 Stat. 1781.)

REFERENCES IN TEXT

Act of May 31, 1939, referred to in par. (1), is act May 31, 1939, ch. 155, 53 Stat. 785, which is not classified to the Code.

§ 460rrr–7. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subchapter.

(Pub. L. 109–337, §9, Oct. 12, 2006, 120 Stat. 1782.)

§ 460rrr–8. Termination of Commission

The Commission shall terminate on the date that is 10 years after October 12, 2006.

(Pub. L. 109–337, §10, Oct. 12, 2006, 120 Stat. 1782.)

SUBCHAPTER CXXX—COW MOUNTAIN RECREATION AREA

§ 460sss. Cow Mountain Recreation Area, Lake and Mendocino Counties, California

(a) Establishment

In order to enhance the recreational and scenic values of the Cow Mountain area in Lake and Mendocino Counties, California, while conserving the wildlife and other natural resource values of the area, there is hereby established the Cow Mountain Recreation Area (in this section referred to as the ''recreation area'') consisting of approximately 51,513 acres of land in such counties, as generally depicted on the map entitled ''Cow Mountain Recreation Area'' and dated July 22, 2006, including the following:

(1) The ''South Cow Mountain OHV Management Area'', as generally depicted on the map.

(2) The ''North Cow Mountain Recreation Area'', as generally depicted on the map.

(b) Legal descriptions; correction of errors

(1) Preparation and submission

As soon as practicable after October 17, 2006, the Secretary of the Interior shall prepare a map and legal descriptions of the boundaries of the recreation area. The Secretary shall submit the map and legal descriptions to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate.

(2) Legal effect

The map and legal descriptions of the recreation area shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the map and legal descriptions. The map shall be on file and available for public inspection in appropriate offices of the Bureau of Land Management.

(c) Administration

(1) In general

The Secretary of the Interior shall administer the recreation area in accordance with this section and the laws and regulations generally applicable to the public lands, including

the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(2) Existing rights

The establishment of the recreation area shall be subject to all valid existing rights.

(d) Recreational activities

(1) In general

The Secretary of the Interior shall continue to authorize, maintain, and enhance the recreational use of the land included in the recreation area, including motorized recreation, hiking, camping, mountain biking, sightseeing, and horseback riding, as long as such recreational use is consistent with this section and other applicable law.

(2) Off-road and motorized recreation

Motorized recreation shall be a prescribed use within the South Cow Mountain OHV Management Area, occurring only on roads and trails designated by the Secretary for such use, except as needed for administrative purposes or to respond to an emergency. Nothing in this paragraph shall be construed as precluding the Secretary from closing any trail or route from use for purposes of resource protection or public safety.

(3) Mountain biking

Mountain biking shall be a prescribed use within the recreation area, occurring only on roads and trails designated by the Secretary for such use. Nothing in this paragraph shall be construed as precluding the Secretary from closing any trail or route from use for purposes of resource protection or public safety.

(e) Access to private property

The Secretary of the Interior shall provide any owner of private property within the boundaries of the recreation area adequate access to the property to ensure the reasonable use and enjoyment of the property by the owner.

(f) Land acquisition

(1) Acquisition from willing persons only

The Secretary of the Interior may acquire lands or interests in lands in the recreation area only by—

(A) donation;

(B) exchange with a willing party, as expressed in a written agreement between the Secretary and the party; or

(C) purchase from a willing seller, as expressed in a written agreement between the Secretary and the seller.

(2) Administration of acquired lands

Lands or interests in lands within or adjacent to the boundaries of the recreation area that are acquired by the Bureau of Land Management, and title or possession of which is vested in the United States after October 17, 2006, shall be managed by the Secretary as part of the recreation area.

(g) Adjacent management

Nothing in this section creates protective perimeters or buffer zones around the recreation area.

(Pub. L. 109–362, § 9, Oct. 17, 2006, 120 Stat. 2071.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(2), is Pub. L. 109–362, Oct. 17, 2006, 120 Stat. 2064, known as the Northern California Coastal Wild Heritage Wilderness Act. For complete classification of this Act to the Code, see Short Title note below and Tables.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (c)(1), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

SHORT TITLE

Pub. L. 109–362, § 1(a), Oct. 17, 2006, 120 Stat. 2064, provided that: ''This Act [enacting this section, amending sections 460y–8 and 1274 of this title, and amending provisions listed in a table of Wilderness Areas set out under section 1132 of this title] may be cited as the 'Northern California Coastal Wild Heritage Wilderness Act'.''

SUBCHAPTER CXXXI—MOOSALAMOO NATIONAL RECREATION AREA

§ 460ttt. Designation

Certain Federal land managed by the United States Forest Service, comprising approximately 15,857 acres, as generally depicted on the map entitled ''Moosalamoo National Recreation Area—Proposed'', dated September 2006, is designated as the ''Moosalamoo National Recreation Area''.

(Pub. L. 109–382, title II, § 221, Dec. 1, 2006, 120 Stat. 2676.)

SHORT TITLE

Pub. L. 109–382, § 1(a), Dec. 1, 2006, 120 Stat. 2673, provided that: ''This Act [enacting this subchapter and provisions set out as notes under this section and amending provisions listed in a table of Wilderness Areas under section 1132 of this title] may be cited as the 'New England Wilderness Act of 2006'.''

DEFINITIONS

Pub. L. 109–382, § 2, Dec. 1, 2006, 120 Stat. 2673, provided that: ''In this Act [see Short Title note above], the term 'Secretary' means the Secretary of Agriculture, acting through the Chief of the Forest Service.''

Pub. L. 109–382, title II, § 201, Dec. 1, 2006, 120 Stat. 2675, provided that: ''In this title [enacting this subchapter and amending provisions listed in a table of Wilderness Areas under section 1132 of this title]:

''(1) MANAGEMENT PLAN.—The term 'Management Plan' means the Green Mountain National Forest Land and Resource Management Plan.

''(2) STATE.—The term 'State' means the State of Vermont.''

§ 460ttt–1. Map and description

(a) In general

As soon as practicable after December 1, 2006, the Secretary shall file a map and a legal description of the national recreation area designated by section 460ttt of this title with—

(1) the Committee on Resources of the House of Representatives;

(2) the Committee on Agriculture of the House of Representatives; and

(3) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(b) Force of law

A map and legal description filed under subsection (a) shall have the same force and effect as if included in this subchapter, except that the Secretary may correct clerical and typographical errors in the map and legal description.

(c) Public availability

Each map and legal description filed under subsection (a) shall be filed and made available for public inspection in the Office of the Chief of the Forest Service.

(Pub. L. 109–382, title II, § 222, Dec. 1, 2006, 120 Stat. 2676.)

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 460ttt–2. Administration of national recreation area

(a) In general

Subject to valid rights existing on December 1, 2006, the Secretary shall administer the Moosalamoo National Recreation Area in accordance with—

(1) laws (including rules and regulations) applicable to units of the National Forest System; and

(2) the management direction (including objectives, standards, and guidelines) established for the Moosalamoo Recreation and Education Management Area under the Management Plan.

(b) Fish and wildlife

Nothing in this subchapter affects the jurisdiction of the State with respect to wildlife and fish on the public land located in the State.

(c) Escarpment and ecological areas

Nothing in this subchapter prevents the Secretary from managing the Green Mountain Escarpment Management Area and the Ecological Special Areas, as described in the Management Plan.

(Pub. L. 109–382, title II, § 223, Dec. 1, 2006, 120 Stat. 2677.)

SUBCHAPTER CXXXII—MOUNT HOOD NATIONAL RECREATION AREA

§ 460uuu. Mount Hood National Recreation Area

(a) Designation

To provide for the protection, preservation, and enhancement of recreational, ecological, scenic, cultural, watershed, and fish and wildlife values, there is established the Mount Hood National Recreation Area within the Mount Hood National Forest.

(b) Boundary

The Mount Hood National Recreation Area shall consist of certain Federal land managed by the Forest Service and Bureau of Land Management, comprising approximately 34,550 acres, as generally depicted on the maps entitled ''National Recreation Areas—Mount Hood NRA'', ''National Recreation Areas—Fifteenmile Creek NRA'', and ''National Recreation Areas—Shellrock Mountain'', dated February 2007.

(c) Map and legal description

(1) Submission of legal description

As soon as practicable after March 30, 2009, the Secretary shall file a map and a legal description of the Mount Hood National Recreation Area with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) Force of law

The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct typographical errors in the map and the legal description.

(3) Public availability

The map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(d) Administration

(1) In general

The Secretary shall—

(A) administer the Mount Hood National Recreation Area—

(i) in accordance with the laws (including regulations) and rules applicable to the National Forest System; and

(ii) consistent with the purposes described in subsection (a); and

(B) only allow uses of the Mount Hood National Recreation Area that are consistent with the purposes described in subsection (a).

(2) Applicable law

Any portion of a wilderness area designated by section 1202[1] that is located within the Mount Hood National Recreation Area shall be administered in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.).

(e) Timber

The cutting, sale, or removal of timber within the Mount Hood National Recreation Area may be permitted—

(1) to the extent necessary to improve the health of the forest in a manner that—

(A) maximizes the retention of large trees—

(i) as appropriate to the forest type; and

(ii) to the extent that the trees promote stands that are fire-resilient and healthy;

(B) improves the habitats of threatened, endangered, or sensitive species; or

(C) maintains or restores the composition and structure of the ecosystem by reducing the risk of uncharacteristic wildfire;

[1] See References in Text note below.

(2) to accomplish an approved management activity in furtherance of the purposes established by this section, if the cutting, sale, or removal of timber is incidental to the management activity; or

(3) for de minimus personal or administrative use within the Mount Hood National Recreation Area, where such use will not impair the purposes established by this section.

(f) Road construction

No new or temporary roads shall be constructed or reconstructed within the Mount Hood National Recreation Area except as necessary—

(1) to protect the health and safety of individuals in cases of an imminent threat of flood, fire, or any other catastrophic event that, without intervention, would cause the loss of life or property;

(2) to conduct environmental cleanup required by the United States;

(3) to allow for the exercise of reserved or outstanding rights provided for by a statute or treaty;

(4) to prevent irreparable resource damage by an existing road; or

(5) to rectify a hazardous road condition.

(g) Withdrawal

Subject to valid existing rights, all Federal land within the Mount Hood National Recreation Area is withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws relating to mineral and geothermal leasing.

(h) Transfer of administrative jurisdiction

(1) In general

Administrative jurisdiction over the Federal land described in paragraph (2) is transferred from the Bureau of Land Management to the Forest Service.

(2) Description of land

The land referred to in paragraph (1) is the approximately 130 acres of land administered by the Bureau of Land Management that is within or adjacent to the Mount Hood National Recreation Area and that is identified as ''BLM Lands'' on the map entitled ''National Recreation Areas—Shellrock Mountain'', dated February 2007.

(Pub. L. 111–11, title I, §1204, Mar. 30, 2009, 123 Stat. 1013.)

REFERENCES IN TEXT

This subtitle, referred to in subsec. (c)(2), is subtitle C (§§1201–1207) of title I of Pub. L. 111–11, Mar. 30, 2009, 123 Stat. 1007, which enacted this subchapter and section 539n of this title, amended sections 544k and 1274 of this title, enacted provisions set out as a note under section 1274 of this title, enacted provisions listed in a table of National Memorials set out under section 431 of this title, and enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of subtitle C to the Code, see Tables.

Section 1202, referred to in subsec. (d)(2), is section 1202 of Pub. L. 111–11, which enacted provisions listed in a table of National Memorials set out under section 431 of this title and enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

The Wilderness Act, referred to in subsec. (d)(2), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, which is classified generally to chapter 23 (§1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

DEFINITIONS

Pub. L. 111–11, title I, §1201, Mar. 30, 2009, 123 Stat. 1007, provided that: ''In this subtitle [subtitle C (§§1201–1207) of title I of Pub. L. 111–11, see References in Text note above]:

''(1) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(2) STATE.—The term 'State' means the State of Oregon.''

SUBCHAPTER CXXXIII—BRIDGEPORT WINTER RECREATION AREA

§ 460vvv. Bridgeport Winter Recreation Area

(a) Designation

The approximately 7,254 acres of land in the Humboldt-Toiyabe National Forest identified as the ''Bridgeport Winter Recreation Area'', as generally depicted on the map entitled ''Humboldt-Toiyabe National Forest Proposed Management'' and dated September 17, 2008, is designated as the Bridgeport Winter Recreation Area.

(b) Map and legal description

(1) In general

As soon as practicable after March 30, 2009, the Secretary shall file a map and legal description of the Recreation Area with—

(A) the Committee on Natural Resources of the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate.

(2) Force of law

The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any errors in the map and legal description.

(3) Public availability

The map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(c) Management

(1) Interim management

Until completion of the management plan required under subsection (d), and except as provided in paragraph (2), the Recreation Area shall be managed in accordance with the Toiyabe National Forest Land and Resource Management Plan of 1986 (as in effect on March 30, 2009).

(2) Use of snowmobiles

The winter use of snowmobiles shall be allowed in the Recreation Area—

(A) during periods of adequate snow coverage during the winter season; and

(B) subject to any terms and conditions determined to be necessary by the Secretary.

(d) Management plan

To ensure the sound management and enforcement of the Recreation Area, the Secretary shall, not later than 1 year after March 30, 2009, undergo a public process to develop a winter use management plan that provides for—

(1) adequate signage;

(2) a public education program on allowable usage areas;

(3) measures to ensure adequate sanitation;

(4) a monitoring and enforcement strategy; and

(5) measures to ensure the protection of the Trail.

(e) Enforcement

The Secretary shall prioritize enforcement activities in the Recreation Area—

(1) to prohibit degradation of natural resources in the Recreation Area;

(2) to prevent interference with nonmotorized recreation on the Trail; and

(3) to reduce user conflicts in the Recreation Area.

(f) Pacific Crest National Scenic Trail

The Secretary shall establish an appropriate snowmobile crossing point along the Trail in the area identified as ''Pacific Crest Trail Proposed Crossing Area'' on the map entitled ''Humboldt-Toiyable National Forest Proposed Management'' and dated September 17, 2008—

(1) in accordance with—

(A) the National Trails System Act (16 U.S.C. 1241 et seq.); and

(B) any applicable environmental and public safety laws; and

(2) subject to the terms and conditions the Secretary determines to be necessary to ensure that the crossing would not—

(A) interfere with the nature and purposes of the Trail; or

(B) harm the surrounding landscape.

(g) Military activities at United States Marine Corps Mountain Warfare Training Center

The designation of the Bridgeport Winter Recreation Area by this section is not intended to restrict or preclude the activities conducted by the United States Armed Forces at the United States Marine Corps Mountain Warfare Training Center.

(Pub. L. 111–11, title I, §1806, Mar. 30, 2009, 123 Stat. 1059; Pub. L. 111–84, div. B, title XXVIII, §2874, Oct. 28, 2009, 123 Stat. 2697.)

REFERENCES IN TEXT

This subtitle, referred to in subsec. (b)(2), is subtitle K (§§1801–1808) of title I of Pub. L. 111–11, Mar. 30, 2009, 123 Stat. 1052, which enacted this subchapter and section 539*o* of this title, amended section 1274 of this title, enacted provisions set out as a note under section 1274 of this title, and enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of subtitle K to the Code, see Tables.

AMENDMENTS

2009—Subsec. (g). Pub. L. 111–84 added subsec. (g).

DEFINITIONS

Pub. L. 111–11, title I, §1801, Mar. 30, 2009, 123 Stat. 1052, provided that: ''In this subtitle [subtitle K (§§1801–1808) of title I of Pub. L. 111–11, see References in Text note above]:

''(1) FOREST.—The term 'Forest' means the Ancient Bristlecone Pine Forest designated by section 1808(a) [16 U.S.C. 539*o*(a)].

''(2) RECREATION AREA.—The term 'Recreation Area' means the Bridgeport Winter Recreation Area designated by section 1806(a) [16 U.S.C. 460vvv(a)].

''(3) SECRETARY.—The term 'Secretary' means—

''(A) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

''(B) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

''(4) STATE.—The term 'State' means the State of California.

''(5) TRAIL.—The term 'Trail' means the Pacific Crest National Scenic Trail.''

SUBCHAPTER CXXXIV—RED CLIFFS NATIONAL CONSERVATION AREA

§ 460www. Red Cliffs National Conservation Area

(a) Purposes

The purposes of this section are—

(1) to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the ecological, scenic, wildlife, recreational, cultural, historical, natural, educational, and scientific resources of the National Conservation Area; and

(2) to protect each species that is—

(A) located in the National Conservation Area; and

(B) listed as a threatened or endangered species on the list of threatened species or the list of endangered species published under section 1533(c)(1) of this title.

(b) Definitions

In this section:

(1) Habitat conservation plan

The term ''habitat conservation plan'' means the conservation plan entitled ''Washington County Habitat Conservation Plan'' and dated February 23, 1996.

(2) Management plan

The term ''management plan'' means the management plan for the National Conservation Area developed by the Secretary under subsection (d)(1).

(3) National Conservation Area

The term ''National Conservation Area'' means the Red Cliffs National Conservation Area that—

(A) consists of approximately 44,725 acres of public land in the County, as generally depicted on the Red Cliffs National Conservation Area Map; and

(B) is established by subsection (c).

(4) Public use plan

The term ''public use plan'' means the use plan entitled ''Red Cliffs Desert Reserve Public Use Plan'' and dated June 12, 2000, as amended.

(5) Resource management plan

The term ''resource management plan'' means the management plan entitled ''St. George Field Office Resource Management Plan'' and dated March 15, 1999, as amended.

(c) Establishment

Subject to valid existing rights, there is established in the State the Red Cliffs National Conservation Area.

(d) Management plan

(1) In general

Not later than 3 years after March 30, 2009, and in accordance with paragraph (2), the Secretary shall develop a comprehensive plan for the long-term management of the National Conservation Area.

(2) Consultation

In developing the management plan required under paragraph (1), the Secretary shall consult with—

(A) appropriate State, tribal, and local governmental entities; and

(B) members of the public.

(3) Incorporation of plans

In developing the management plan required under paragraph (1), to the extent consistent with this section, the Secretary may incorporate any provision of—

(A) the habitat conservation plan;

(B) the resource management plan; and

(C) the public use plan.

(e) Management

(1) In general

The Secretary shall manage the National Conservation Area—

(A) in a manner that conserves, protects, and enhances the resources of the National Conservation Area; and

(B) in accordance with—

(i) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(ii) this section; and

(iii) any other applicable law (including regulations).

(2) Uses

The Secretary shall only allow uses of the National Conservation Area that the Secretary determines would further a purpose described in subsection (a).

(3) Motorized vehicles

Except in cases in which motorized vehicles are needed for administrative purposes, or to respond to an emergency, the use of motorized vehicles in the National Conservation Area shall be permitted only on roads designated by the management plan for the use of motorized vehicles.

(4) Grazing

The grazing of livestock in the National Conservation Area, where established before March 30, 2009, shall be permitted to continue—

(A) subject to—

(i) such reasonable regulations, policies, and practices as the Secretary considers necessary; and

(ii) applicable law; and

(B) in a manner consistent with the purposes described in subsection (a).

(5) Wildland fire operations

Nothing in this section prohibits the Secretary, in cooperation with other Federal, State, and local agencies, as appropriate, from conducting wildland fire operations in the National Conservation Area, consistent with the purposes of this section.

(f) Incorporation of acquired land and interests

Any land or interest in land that is located in the National Conservation Area that is acquired by the United States shall—

(1) become part of the National Conservation Area; and

(2) be managed in accordance with—

(A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(B) this section; and

(C) any other applicable law (including regulations).

(g) Withdrawal

(1) In general

Subject to valid existing rights, all Federal land located in the National Conservation Area are[1] withdrawn from—

(A) all forms of entry, appropriation, and disposal under the public land laws;

(B) location, entry, and patenting under the mining laws; and

(C) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(2) Additional land

If the Secretary acquires additional land that is located in the National Conservation Area after March 30, 2009, the land is withdrawn from operation of the laws referred to in paragraph (1) on the date of acquisition of the land.

(h) Effect

Nothing in this section prohibits the authorization of the development of utilities within the National Conservation Area if the development is carried out in accordance with—

(1) each utility development protocol described in the habitat conservation plan; and

(2) any other applicable law (including regulations).

(Pub. L. 111–11, title I, § 1974, Mar. 30, 2009, 123 Stat. 1081.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsecs. (e)(1)(B)(i) and (f)(2)(A), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

DEFINITIONS

Pub. L. 111–11, title I, § 1971, Mar. 30, 2009, 123 Stat. 1075, as amended by Pub. L. 111–88, div. A, title IV, § 436, Oct. 30, 2009, 123 Stat. 2965, provided that: ''In this subtitle [subtitle O (§§ 1971–1983) of title I of Pub. L. 111–11, enacting this subchapter, subchapter CXXXV of this chapter, and section 346a–6 of this title, amending section 1274 of this title, enacting provisions set out as notes under section 1274 of this title and section 766 of Title 25, Indians, and enacting provisions listed in a table of Wilderness Areas set out under section 1132 of this title]:

[1] So in original. Probably should be ''is''.

''(1) BEAVER DAM WASH NATIONAL CONSERVATION AREA MAP.—The term 'Beaver Dam Wash National Conservation Area Map' means the map entitled 'Beaver Dam Wash National Conservation Area' and dated September 20, 2009.

''(2) CANAAN MOUNTAIN WILDERNESS MAP.—The term 'Canaan Mountain Wilderness Map' means the map entitled 'Canaan Mountain Wilderness' and dated June 21, 2008.

''(3) COUNTY.—The term 'County' means Washington County, Utah.

''(4) NORTHEASTERN WASHINGTON COUNTY WILDERNESS MAP.—The term 'Northeastern Washington County Wilderness Map' means the map entitled 'Northeastern Washington County Wilderness' and dated November 12, 2008.

''(5) NORTHWESTERN WASHINGTON COUNTY WILDERNESS MAP.—The term 'Northwestern Washington County Wilderness Map' means the map entitled 'Northwestern Washington County Wilderness' and dated June 21, 2008.

''(6) RED CLIFFS NATIONAL CONSERVATION AREA MAP.—The term 'Red Cliffs National Conservation Area Map' means the map entitled 'Red Cliffs National Conservation Area' and dated November 12, 2008.

''(7) SECRETARY.—The term 'Secretary' means—

''(A) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

''(B) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

''(8) STATE.—The term 'State' means the State of Utah.

''(9) WASHINGTON COUNTY GROWTH AND CONSERVATION ACT MAP.—The term 'Washington County Growth and Conservation Act Map' means the map entitled 'Washington County Growth and Conservation Act Map' and dated November 13, 2008.''

SUBCHAPTER CXXXV—BEAVER DAM WASH NATIONAL CONSERVATION AREA

§ 460xxx. Beaver Dam Wash National Conservation Area

(a) Purpose

The purpose of this section is to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the ecological, scenic, wildlife, recreational, cultural, historical, natural, educational, and scientific resources of the Beaver Dam Wash National Conservation Area.

(b) Definitions

In this section:

(1) Management plan

The term ''management plan'' means the management plan for the National Conservation Area developed by the Secretary under subsection (d)(1).

(2) National Conservation Area

The term ''National Conservation Area'' means the Beaver Dam Wash National Conservation Area that—

(A) consists of approximately 68,083 acres of public land in the County, as generally depicted on the Beaver Dam Wash National Conservation Area Map; and

(B) is established by subsection (c).

(c) Establishment

Subject to valid existing rights, there is established in the State the Beaver Dam Wash National Conservation Area.

(d) Management plan

(1) In general

Not later than 3 years after March 30, 2009, and in accordance with paragraph (2), the Secretary shall develop a comprehensive plan for the long-term management of the National Conservation Area.

(2) Consultation

In developing the management plan required under paragraph (1), the Secretary shall consult with—

(A) appropriate State, tribal, and local governmental entities; and

(B) members of the public.

(3) Motorized vehicles

In developing the management plan required under paragraph (1), the Secretary shall incorporate the restrictions on motorized vehicles described in subsection (e)(3).

(e) Management

(1) In general

The Secretary shall manage the National Conservation Area—

(A) in a manner that conserves, protects, and enhances the resources of the National Conservation Area; and

(B) in accordance with—

(i) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(ii) this section; and

(iii) any other applicable law (including regulations).

(2) Uses

The Secretary shall only allow uses of the National Conservation Area that the Secretary determines would further the purpose described in subsection (a).

(3) Motorized vehicles

(A) In general

Except in cases in which motorized vehicles are needed for administrative purposes, or to respond to an emergency, the use of motorized vehicles in the National Conservation Area shall be permitted only on roads designated by the management plan for the use of motorized vehicles.

(B) Additional requirement relating to certain areas located in the National Conservation Area

In addition to the requirement described in subparagraph (A), with respect to the areas designated on the Beaver Dam Wash National Conservation Area Map as ''Designated Road Areas'', motorized vehicles shall be permitted only on the roads identified on such map.

(4) Grazing

The grazing of livestock in the National Conservation Area, where established before March 30, 2009, shall be permitted to continue—

(A) subject to—

(i) such reasonable regulations, policies, and practices as the Secretary considers necessary; and

(ii) applicable law (including regulations); and

(B) in a manner consistent with the purpose described in subsection (a).

(5) Wildland fire operations

Nothing in this section prohibits the Secretary, in cooperation with other Federal, State, and local agencies, as appropriate, from conducting wildland fire operations in the National Conservation Area, consistent with the purposes of this section.

(f) Incorporation of acquired land and interests

Any land or interest in land that is located in the National Conservation Area that is acquired by the United States shall—

(1) become part of the National Conservation Area; and

(2) be managed in accordance with—

(A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(B) this section; and

(C) any other applicable law (including regulations).

(g) Withdrawal

(1) In general

Subject to valid existing rights, all Federal land located in the National Conservation Area is withdrawn from—

(A) all forms of entry, appropriation, and disposal under the public land laws;

(B) location, entry, and patenting under the mining laws; and

(C) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(2) Additional land

If the Secretary acquires additional land that is located in the National Conservation Area after March 30, 2009, the land is withdrawn from operation of the laws referred to in paragraph (1) on the date of acquisition of the land.

(Pub. L. 111–11, title I, §1975, Mar. 30, 2009, 123 Stat. 1083.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsecs. (e)(1)(B)(i) and (f)(2)(A), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to chapter 35 (§1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

DEFINITIONS

For definitions of terms used in this section, see section 1971 of Pub. L. 111–11, set out as a note under section 460www of this title.

SUBCHAPTER CXXXVI—FORT STANTON-SNOWY RIVER CAVE NATIONAL CONSERVATION AREA

§ 460yyy. Definitions

In this subchapter:

(1) Conservation Area

The term ''Conservation Area'' means the Fort Stanton-Snowy River Cave National Conservation Area established by section 460yyy–1(a) of this title.

(2) Management plan

The term ''management plan'' means the management plan developed for the Conservation Area under section 460yyy–2(c) of this title.

(3) Secretary

The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(Pub. L. 111–11, title II, §2201, Mar. 30, 2009, 123 Stat. 1099.)

§ 460yyy–1. Establishment of the Fort Stanton-Snowy River Cave National Conservation Area

(a) Establishment; purposes

There is established the Fort Stanton-Snowy River Cave National Conservation Area in Lincoln County, New Mexico, to protect, conserve, and enhance the unique and nationally important historic, cultural, scientific, archaeological, natural, and educational subterranean cave resources of the Fort Stanton-Snowy River cave system.

(b) Area included

The Conservation Area shall include the area within the boundaries depicted on the map entitled ''Fort Stanton-Snowy River Cave National Conservation Area'' and dated December 15, 2008.

(c) Map and legal description

(1) In general

As soon as practicable after March 30, 2009, the Secretary shall submit to Congress a map and legal description of the Conservation Area.

(2) Effect

The map and legal description of the Conservation Area shall have the same force and effect as if included in this subchapter, except that the Secretary may correct any minor errors in the map and legal description.

(3) Public availability

The map and legal description of the Conservation Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

(Pub. L. 111–11, title II, §2202, Mar. 30, 2009, 123 Stat. 1099.)

§ 460yyy–2. Management of the Conservation Area

(a) Management

(1) In general

The Secretary shall manage the Conservation Area—

(A) in a manner that conserves, protects, and enhances the resources and values of the Conservation Area, including the resources and values described in section 460yyy–1(a) of this title; and

(B) in accordance with—

(i) this subchapter;

(ii) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(iii) any other applicable laws.

(2) Uses

The Secretary shall only allow uses of the Conservation Area that are consistent with the protection of the cave resources.

(3) Requirements

In administering the Conservation Area, the Secretary shall provide for—

(A) the conservation and protection of the natural and unique features and environs for scientific, educational, and other appropriate public uses of the Conservation Area;

(B) public access, as appropriate, while providing for the protection of the cave resources and for public safety;

(C) the continuation of other existing uses or other new uses of the Conservation Area that do not impair the purposes for which the Conservation Area is established;

(D) management of the surface area of the Conservation Area in accordance with the Fort Stanton Area of Critical Environmental Concern Final Activity Plan dated March, 2001, or any amendments to the plan, consistent with this subchapter; and

(E) scientific investigation and research opportunities within the Conservation Area, including through partnerships with colleges, universities, schools, scientific institutions, researchers, and scientists to conduct research and provide educational and interpretive services within the Conservation Area.

(b) Withdrawals

Subject to valid existing rights, all Federal surface and subsurface land within the Conservation Area and all land and interests in the land that are acquired by the United States after March 30, 2009, for inclusion in the Conservation Area, are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the general land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation under the mineral leasing and geothermal leasing laws.

(c) Management plan

(1) In general

Not later than 2 years after March 30, 2009, the Secretary shall develop a comprehensive plan for the long-term management of the Conservation Area.

(2) Purposes

The management plan shall—

(A) describe the appropriate uses and management of the Conservation Area;

(B) incorporate, as appropriate, decisions contained in any other management or activity plan for the land within or adjacent to the Conservation Area;

(C) take into consideration any information developed in studies of the land and resources within or adjacent to the Conservation Area; and

(D) provide for a cooperative agreement with Lincoln County, New Mexico, to address the historical involvement of the local community in the interpretation and protection of the resources of the Conservation Area.

(d) Research and interpretive facilities

(1) In general

The Secretary may establish facilities for—

(A) the conduct of scientific research; and

(B) the interpretation of the historical, cultural, scientific, archaeological, natural, and educational resources of the Conservation Area.

(2) Cooperative agreements

The Secretary may, in a manner consistent with this subchapter, enter into cooperative agreements with the State of New Mexico and other institutions and organizations to carry out the purposes of this subchapter.

(e) Water rights

Nothing in this subchapter constitutes an express or implied reservation of any water right.

(Pub. L. 111–11, title II, §2203, Mar. 30, 2009, 123 Stat. 1100.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (a)(1)(B)(ii), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to chapter 35 (§1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

§ 460yyy–3. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subchapter.

(Pub. L. 111–11, title II, §2204, Mar. 30, 2009, 123 Stat. 1101.)

SUBCHAPTER CXXXVII—DOMINGUEZ-ESCALANTE NATIONAL CONSERVATION AREA

§ 460zzz. Definitions

In this subchapter:

(1) Conservation Area

The term ''Conservation Area'' means the Dominguez-Escalante National Conservation Area established by section 460zzz–1(a)(1) of this title.

(2) Council

The term ''Council'' means the Dominguez-Escalante National Conservation Area Advisory Council established under section 460zzz–6 of this title.

(3) Management plan

The term ''management plan'' means the management plan developed under section 460zzz–5 of this title.

(4) Map

The term ''Map'' means the map entitled ''Dominguez-Escalante National Conservation Area'' and dated September 15, 2008.

(5) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(6) State

The term ''State'' means the State of Colorado.

(7) Wilderness

The term ''Wilderness'' means the Dominguez Canyon Wilderness Area designated by section 460zzz–2(a) of this title.

(Pub. L. 111–11, title II, § 2401, Mar. 30, 2009, 123 Stat. 1102.)

§ 460zzz–1. Dominguez-Escalante National Conservation Area

(a) Establishment

(1) In general

There is established the Dominguez-Escalante National Conservation Area in the State.

(2) Area included

The Conservation Area shall consist of approximately 209,610 acres of public land, as generally depicted on the Map.

(b) Purposes

The purposes of the Conservation Area are to conserve and protect for the benefit and enjoyment of present and future generations—

(1) the unique and important resources and values of the land, including the geological, cultural, archaeological, paleontological, natural, scientific, recreational, wilderness, wildlife, riparian, historical, educational, and scenic resources of the public land; and

(2) the water resources of area streams, based on seasonally available flows, that are necessary to support aquatic, riparian, and terrestrial species and communities.

(c) Management

(1) In general

The Secretary shall manage the Conservation Area—

(A) as a component of the National Landscape Conservation System;

(B) in a manner that conserves, protects, and enhances the resources and values of the Conservation Area described in subsection (b); and

(C) in accordance with—

(i) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(ii) this subchapter; and

(iii) any other applicable laws.

(2) Uses

(A) In general

The Secretary shall allow only such uses of the Conservation Area as the Secretary determines would further the purposes for which the Conservation Area is established.

(B) Use of motorized vehicles

(i) In general

Except as provided in clauses (ii) and (iii), use of motorized vehicles in the Conservation Area shall be allowed—

(I) before the effective date of the management plan, only on roads and trails designated for use of motor vehicles in the management plan that applies on March 30, 2009, to the public land in the Conservation Area; and

(II) after the effective date of the management plan, only on roads and trails designated in the management plan for the use of motor vehicles.

(ii) Administrative and emergency response use

Clause (i) shall not limit the use of motor vehicles in the Conservation Area for administrative purposes or to respond to an emergency.

(iii) Limitation

This subparagraph shall not apply to the Wilderness.

(Pub. L. 111–11, title II, § 2402, Mar. 30, 2009, 123 Stat. 1102.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (c)(1)(C)(i), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

§ 460zzz–2. Dominguez Canyon Wilderness Area

(a) In general

In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the approximately 66,280 acres of public land in Mesa, Montrose, and Delta Counties, Colorado, as generally depicted on the Map, is designated as wilderness and as a component of the National Wilderness Preservation System, to be known as the ''Dominguez Canyon Wilderness Area''.

(b) Administration of Wilderness

The Wilderness shall be managed by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this subchapter, except that—

(1) any reference in the Wilderness Act to the effective date of that Act shall be considered to be a reference to March 30, 2009; and

(2) any reference in the Wilderness Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior.

(Pub. L. 111–11, title II, § 2403, Mar. 30, 2009, 123 Stat. 1103.)

REFERENCES IN TEXT

The Wilderness Act, referred to in text, is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

CODIFICATION

Section is comprised of section 2403 of Pub. L. 111–11. Section 2403 also enacted provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

§ 460zzz–3. Maps and legal descriptions

(a) In general

As soon as practicable after March 30, 2009, the Secretary shall file a map and a legal description of the Conservation Area and the Wilderness with—

(1) the Committee on Energy and Natural Resources of the Senate; and

(2) the Committee on Natural Resources of the House of Representatives.

(b) Force and effect

The Map and legal descriptions filed under subsection (a) shall have the same force and effect as if included in this subchapter, except that the Secretary may correct clerical and typographical errors in the Map and legal descriptions.

(c) Public availability

The Map and legal descriptions filed under subsection (a) shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

(Pub. L. 111–11, title II, § 2404, Mar. 30, 2009, 123 Stat. 1103.)

§ 460zzz–4. Management of Conservation Area and Wilderness

(a) Withdrawal

Subject to valid existing rights, all Federal land within the Conservation Area and the Wilderness and all land and interests in land acquired by the United States within the Conservation Area or the Wilderness is withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(b) Grazing

(1) Grazing in Conservation Area

Except as provided in paragraph (2), the Secretary shall issue and administer any grazing leases or permits in the Conservation Area in accordance with the laws (including regulations) applicable to the issuance and administration of such leases and permits on other land under the jurisdiction of the Bureau of Land Management.

(2) Grazing in Wilderness

The grazing of livestock in the Wilderness, if established as of March 30, 2009, shall be permitted to continue—

(A) subject to any reasonable regulations, policies, and practices that the Secretary determines to be necessary; and

(B) in accordance with—

(i) section 1133(d)(4) of this title; and

(ii) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(c) No buffer zones

(1) In general

Nothing in this subchapter creates a protective perimeter or buffer zone around the Conservation Area.

(2) Activities outside Conservation Area

The fact that an activity or use on land outside the Conservation Area can be seen or heard within the Conservation Area shall not preclude the activity or use outside the boundary of the Conservation Area.

(d) Acquisition of land

(1) In general

The Secretary may acquire non-Federal land within the boundaries of the Conservation Area or the Wilderness only through exchange, donation, or purchase from a willing seller.

(2) Management

Land acquired under paragraph (1) shall—

(A) become part of the Conservation Area and, if applicable, the Wilderness; and

(B) be managed in accordance with this subchapter and any other applicable laws.

(e) Fire, insects, and diseases

Subject to such terms and conditions as the Secretary determines to be desirable and appropriate, the Secretary may undertake such measures as are necessary to control fire, insects, and diseases—

(1) in the Wilderness, in accordance with section 1133(d)(1) of this title; and

(2) except as provided in paragraph (1), in the Conservation Area in accordance with this subchapter and any other applicable laws.

(f) Access

The Secretary shall continue to provide private landowners adequate access to inholdings in the Conservation Area.

(g) Invasive species and noxious weeds

In accordance with any applicable laws and subject to such terms and conditions as the Secretary determines to be desirable and appropriate, the Secretary may prescribe measures to control nonnative invasive plants and noxious weeds within the Conservation Area.

(h) Water rights

(1) Effect

Nothing in this subchapter—

(A) affects the use or allocation, in existence on March 30, 2009, of any water, water right, or interest in water;

(B) affects any vested absolute or decreed conditional water right in existence on March 30, 2009, including any water right held by the United States;

(C) affects any interstate water compact in existence on March 30, 2009;

(D) authorizes or imposes any new reserved Federal water rights; or

(E) shall be considered to be a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State on or before March 30, 2009.

(2) Wilderness water rights

(A) In general

The Secretary shall ensure that any water rights within the Wilderness required to ful-

fill the purposes of the Wilderness are secured in accordance with subparagraphs (B) through (G).

(B) State law

(i) Procedural requirements

Any water rights within the Wilderness for which the Secretary pursues adjudication shall be adjudicated, changed, and administered in accordance with the procedural requirements and priority system of State law.

(ii) Establishment of water rights

(I) In general

Except as provided in subclause (II), the purposes and other substantive characteristics of the water rights pursued under this paragraph shall be established in accordance with State law.

(II) Exception

Notwithstanding subclause (I) and in accordance with this subchapter, the Secretary may appropriate and seek adjudication of water rights to maintain surface water levels and stream flows on and across the Wilderness to fulfill the purposes of the Wilderness.

(C) Deadline

The Secretary shall promptly, but not earlier than January 2009, appropriate the water rights required to fulfill the purposes of the Wilderness.

(D) Required determination

The Secretary shall not pursue adjudication for any instream flow water rights unless the Secretary makes a determination pursuant to subparagraph (E)(ii) or (F).

(E) Cooperative enforcement

(i) In general

The Secretary shall not pursue adjudication of any Federal instream flow water rights established under this paragraph if—

(I) the Secretary determines, upon adjudication of the water rights by the Colorado Water Conservation Board, that the Board holds water rights sufficient in priority, amount, and timing to fulfill the purposes of the Wilderness; and

(II) the Secretary has entered into a perpetual agreement with the Colorado Water Conservation Board to ensure the full exercise, protection, and enforcement of the State water rights within the Wilderness to reliably fulfill the purposes of the Wilderness.

(ii) Adjudication

If the Secretary determines that the provisions of clause (i) have not been met, the Secretary shall adjudicate and exercise any Federal water rights required to fulfill the purposes of the Wilderness in accordance with this paragraph.

(F) Insufficient water rights

If the Colorado Water Conservation Board modifies the instream flow water rights obtained under subparagraph (E) to such a degree that the Secretary determines that water rights held by the State are insufficient to fulfill the purposes of the Wilderness, the Secretary shall adjudicate and exercise Federal water rights required to fulfill the purposes of the Wilderness in accordance with subparagraph (B).

(G) Failure to comply

The Secretary shall promptly act to exercise and enforce the water rights described in subparagraph (E) if the Secretary determines that—

(i) the State is not exercising its water rights consistent with subparagraph (E)(i)(I); or

(ii) the agreement described in subparagraph (E)(i)(II) is not fulfilled or complied with sufficiently to fulfill the purposes of the Wilderness.

(3) Water resource facility

(A) In general

Notwithstanding any other provision of law and subject to subparagraph (B), beginning on March 30, 2009, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new irrigation and pumping facility, reservoir, water conservation work, aqueduct, canal, ditch, pipeline, well, hydropower project, transmission, other ancillary facility, or other water, diversion, storage, or carriage structure in the Wilderness.

(B) Exception

Notwithstanding subparagraph (A), the Secretary may allow construction of new livestock watering facilities within the Wilderness in accordance with—

(i) section 1133(d)(4) of this title; and

(ii) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(4) Conservation area water rights

With respect to water within the Conservation Area, nothing in this subchapter—

(A) authorizes any Federal agency to appropriate or otherwise acquire any water right on the mainstem of the Gunnison River; or

(B) prevents the State from appropriating or acquiring, or requires the State to appropriate or acquire, an instream flow water right on the mainstem of the Gunnison River.

(5) Wilderness boundaries along Gunnison River

(A) In general

In areas in which the Gunnison River is used as a reference for defining the boundary of the Wilderness, the boundary shall—

(i) be located at the edge of the river; and

(ii) change according to the river level.

(B) Exclusion from Wilderness

Regardless of the level of the Gunnison River, no portion of the Gunnison River is included in the Wilderness.

(i) Effect

Nothing in this subchapter—

(1) diminishes the jurisdiction of the State with respect to fish and wildlife in the State; or

(2) imposes any Federal water quality standard upstream of the Conservation Area or within the mainstem of the Gunnison River that is more restrictive than would be applicable had the Conservation Area not been established.

(j) Valid existing rights

The designation of the Conservation Area and Wilderness is subject to valid rights in existence on March 30, 2009.

(Pub. L. 111–11, title II, § 2405, Mar. 30, 2009, 123 Stat. 1104.)

§ 460zzz–5. Management plan

(a) In general

Not later than 3 years after March 30, 2009, the Secretary shall develop a comprehensive management plan for the long-term protection and management of the Conservation Area.

(b) Purposes

The management plan shall—

(1) describe the appropriate uses and management of the Conservation Area;

(2) be developed with extensive public input;

(3) take into consideration any information developed in studies of the land within the Conservation Area; and

(4) include a comprehensive travel management plan.

(Pub. L. 111–11, title II, § 2406, Mar. 30, 2009, 123 Stat. 1107.)

§ 460zzz–6. Advisory Council

(a) Establishment

Not later than 180 days after March 30, 2009, the Secretary shall establish an advisory council, to be known as the ''Dominguez-Escalante National Conservation Area Advisory Council''.

(b) Duties

The Council shall advise the Secretary with respect to the preparation and implementation of the management plan.

(c) Applicable law

The Council shall be subject to—

(1) the Federal Advisory Committee Act (5 U.S.C. App.); and

(2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(d) Members

The Council shall include 10 members to be appointed by the Secretary, of whom, to the extent practicable—

(1) 1 member shall be appointed after considering the recommendations of the Mesa County Commission;

(2) 1 member shall be appointed after considering the recommendations of the Montrose County Commission;

(3) 1 member shall be appointed after considering the recommendations of the Delta County Commission;

(4) 1 member shall be appointed after considering the recommendations of the permittees holding grazing allotments within the Conservation Area or the Wilderness; and

(5) 5 members shall reside in, or within reasonable proximity to, Mesa County, Delta County, or Montrose County, Colorado, with backgrounds that reflect—

(A) the purposes for which the Conservation Area or Wilderness was established; and

(B) the interests of the stakeholders that are affected by the planning and management of the Conservation Area and Wilderness.

(e) Representation

The Secretary shall ensure that the membership of the Council is fairly balanced in terms of the points of view represented and the functions to be performed by the Council.

(f) Duration

The Council shall terminate on the date that is 1 year from the date on which the management plan is adopted by the Secretary.

(Pub. L. 111–11, title II, § 2407, Mar. 30, 2009, 123 Stat. 1107.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c)(1), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (c)(2), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

§ 460zzz–7. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subchapter.

(Pub. L. 111–11, title II, § 2408, Mar. 30, 2009, 123 Stat. 1108.)

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SUBCHAPTER I—GENERAL PROVISIONS

§ 461. Declaration of national policy

It is declared that it is a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States.

(Aug. 21, 1935, ch. 593, § 1, 49 Stat. 666.)

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–338, § 1(a), Oct. 12, 2006, 120 Stat. 1783, provided that: ''This Act [enacting provisions set out as a note under section 262 of Title 30, Mineral Lands and Mining, enacting provisions listed in a table of National Heritage Routes set out under this section, amending provisions formerly set out as a note under section 1244 of this title, and amending provisions listed in a table of National Heritage and River Corridors, a table of National Heritage Areas, and a table of National Heritage Partnerships set out under this section] may be cited as the 'National Heritage Areas Act of 2006'.''

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–156, § 1, Dec. 30, 2005, 119 Stat. 2946, provided that: ''This Act [amending section 463 of this title and enacting provisions set out as a note under section 463 of this title] may be cited as the 'Delaware Water Gap National Recreation Area Improvement Act'.''

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–291, title I, § 150(a), Oct. 11, 2000, 114 Stat. 956, provided that: ''This section [enacting section 469*l*–2 of this title and provisions set out as a note under section 469*l*–2 of this title] may be cited as the 'National Underground Railroad Freedom Center Act'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–203, § 1, July 21, 1998, 112 Stat. 678, provided that: ''This Act [enacting sections 469*l* and 469*l*–1 of this title] may be cited as the 'National Underground Railroad Network to Freedom Act of 1998'.''

SHORT TITLE

Act Aug. 21, 1935, ch. 593, 49 Stat. 666, which is classified to sections 461 to 467 of this title, is popularly known as the ''Historic Sites, Buildings, and Antiquities Act''.

NATIONAL HISTORIC SITES

Adams National Historic Site, Massachusetts [redesignated Adams National Historical Park by Pub. L. 105–342, § 5(e), Nov. 2, 1998, 112 Stat. 3202 (16 U.S.C. 410eee et seq.)].—Designated Dec. 9, 1946.

Allegheny Portage Railroad National Historic Site, Pennsylvania.—Pub. L. 88–546, Aug. 31, 1964, 78 Stat. 752; Pub. L. 107–369, Dec. 19, 2002, 116 Stat. 3069; Pub. L. 108–352, § 16, Oct. 21, 2004, 118 Stat. 1398.

Andersonville National Historic Site, Georgia.—Pub. L. 91–465, Oct. 16, 1970, 84 Stat. 989; Pub. L. 107–357, § 1, Dec. 17, 2002, 116 Stat. 3014.

Andrew Johnson National Historic Site.—Aug. 29, 1935, ch. 801, 49 Stat. 958 (16 U.S.C. 450*o*–450q); Proc. No. 2554, Apr. 27, 1942, 56 Stat. 1955; Pub. L. 88–197, Dec. 11, 1963, 77 Stat. 349.

Ansley Wilcox House National Historic Site (see Theodore Roosevelt Inaugural National Historic Site, New York).

Bent's Old Fort National Historic Site, Colorado.—Pub. L. 86–487, June 3, 1960, 74 Stat. 155.

NATIONAL HISTORIC SITES—CONTINUED

Boston African American National Historic Site, Massachusetts.—Pub. L. 96–430, title I, Oct. 10, 1980, 94 Stat. 1845.

Brown v. Board of Education National Historic Site, Kansas.—Pub. L. 102–525, title I, Oct. 26, 1992, 106 Stat. 3438.

Carl Sandburg Home National Historic Site, North Carolina.—Pub. L. 90–592, Oct. 17, 1968, 82 Stat. 1968; Pub. L. 110–229, title III, § 311, May 8, 2008, 122 Stat. 769.

Carter G. Woodson Home National Historic Site, District of Columbia.—Pub. L. 108–192, Dec. 19, 2003, 117 Stat. 2873.

Charles Pinckney National Historic Site, South Carolina.—Pub. L. 100–421, Sept. 8, 1988, 102 Stat. 1581.

Clara Barton National Historic Site, Maryland.—Pub. L. 93–486, title I, § 101(a)(1), Oct. 26, 1974, 88 Stat. 1461.

Edgar Allan Poe National Historic Site, Pennsylvania.—Pub. L. 95–625, title V, § 503, Nov. 10, 1978, 92 Stat. 3498.

Edison National Historic Site [references to Edison National Historic Site deemed to refer to the Thomas Edison National Historical Park by Pub. L. 111–11, title VII, § 7110(c)(5), Mar. 30, 2009, 123 Stat. 1198, see section 410mmm of this title].—Pub. L. 87–628, Sept. 5, 1962, 76 Stat. 428; repealed by Pub. L. 111–11, title VII, § 7110(c)(4), Mar. 30, 2009, 123 Stat. 1198.

Eisenhower National Historic Site.—33 F.R. 16031, Nov. 27, 1967; Pub. L. 91–133, Dec. 2, 1969, 83 Stat. 274.

Eleanor Roosevelt National Historic Site, New York.—Pub. L. 95–32, May 26, 1977, 91 Stat. 171; Pub. L. 105–364, Nov. 6, 1998, 112 Stat. 3300.

Eugene O'Neill National Historic Site, California.—Pub. L. 94–539, §§ 1, 2, Oct. 18, 1976, 90 Stat. 2501.

Fallen Timbers Battlefield and Fort Miamis National Historic Site, Ohio.—Pub. L. 106–164, Dec. 9, 1999, 113 Stat. 1792; Pub. L. 106–387, § 1(a) [title VII, § 777], Oct. 28, 2000, 114 Stat. 1549, 1549A–46.

First Ladies National Historic Site, Ohio.—Pub. L. 106–291, title I, § 145, Oct. 11, 2000, 114 Stat. 950.

Ford's Theatre National Historic Site, District of Columbia.—Pub. L. 91–288, June 23, 1970, 84 Stat. 322.

Fort Bowie National Historic Site, Arizona.—Pub. L. 88–510, Aug. 30, 1964, 78 Stat. 681.

Fort Davis National Historic Site, Texas.—Pub. L. 87–213, Sept. 8, 1961, 75 Stat. 488; Pub. L. 105–355, title V, § 506, Nov. 6, 1998, 112 Stat. 3263; Pub. L. 111–11, title VII, § 7118, Mar. 30, 2009, 123 Stat. 1205.

Fort Laramie National Historic Site, Wyoming.—Proc. No. 2292, July 16, 1938, 53 Stat. 2461; Pub. L. 86–444, Apr. 29, 1960, 74 Stat. 83.

Fort Larned National Historic Site, Kansas.—Pub. L. 88–541, Aug. 31, 1964, 78 Stat. 748.

Fort Point National Historic Site, California.—Pub. L. 91–457, Oct. 16, 1970, 84 Stat. 970.

Fort Raleigh National Historic Site, North Carolina.—Designated Apr. 5, 1941; Pub. L. 87–148, Aug. 17, 1961, 75 Stat. 384; Pub. L. 101–603, Nov. 16, 1990, 104 Stat. 3065.

Fort Saint Marks National Historic Site, Florida.—Pub. L. 87–789, Oct. 10, 1962, 76 Stat. 807.

Fort Scott National Historic Site, Kansas.—Pub. L. 95–484, Oct. 19, 1978, 92 Stat. 1610; Pub. L. 95–625, title XII, Nov. 10, 1978, 92 Stat. 3548.

Fort Smith National Historic Site, Arkansas.—Pub. L. 87–215, Sept. 13, 1961, 75 Stat. 489.

Fort Union Trading Post National Historic Site, North Dakota and Montana.—Pub. L. 89–458, June 20, 1966, 80 Stat. 211.

Frederick Law Olmsted National Historic Site, Massachusetts.—Pub. L. 96–87, title II, Oct. 12, 1979, 93 Stat. 664; Pub. L. 105–343, Nov. 2, 1998, 112 Stat. 3203.

Friendship Hill National Historic Site, Pennsylvania.—Pub. L. 95–625, title V, § 509, Nov. 10, 1978, 92 Stat. 3509.

NATIONAL HISTORIC SITES—CONTINUED

Georgia O'Keeffe National Historic Site, New Mexico.—Pub. L. 96–344, §3, Sept. 8, 1980, 94 Stat. 1133; repealed by Pub. L. 98–396, title I, Aug. 22, 1984, 98 Stat. 1387.

Golden Spike National Historic Site, Utah.—Pub. L. 89–102, July 30, 1965, 79 Stat. 426.

Grant-Kohrs Ranch National Historic Site, Montana.—Pub. L. 92–406, Aug. 25, 1972, 86 Stat. 632; Pub. L. 105–365, Nov. 6, 1998, 112 Stat. 3301.

Grey Towers National Historic Site, Pennsylvania.—Pub. L. 108–447, div. E, title III, §348, Dec. 8, 2004, 118 Stat. 3106.

Hampton National Historic Site, Maryland.—Designated June 22, 1948.

Harry S Truman National Historic Site, Missouri.—Pub. L. 98–32, May 23, 1983, 97 Stat. 193; Pub. L. 101–105, Oct. 2, 1989, 103 Stat. 675; Pub. L. 103–184, §1, Dec. 14, 1993, 107 Stat. 2243; Pub. L. 108–396, Oct. 30, 2004, 118 Stat. 2250.

Herbert Hoover National Historic Site, Iowa.—Pub. L. 89–119, Aug. 12, 1965, 79 Stat. 510.

Home of Franklin D. Roosevelt National Historic Site, New York.—Designated Jan. 15, 1944; Pub. L. 105–364, Nov. 6, 1998, 112 Stat. 3300; Pub. L. 106–147, Dec. 9, 1999, 113 Stat. 1717.

Hopewell Furnace [formerly Hopewell Village] National Historic Site, Pennsylvania.—Designated Aug. 3, 1938; redesignated Sept. 19, 1985, 50 F.R. 52385.

Hubbell Trading Post National Historic Site, Arizona.—Pub. L. 89–148, Aug. 28, 1965, 79 Stat. 584.

James A. Garfield National Historic Site, Ohio.—Pub. L. 96–607, title XII, Dec. 28, 1980, 94 Stat. 3545.

Jefferson National Expansion Memorial, National Historical Site, Missouri.—Designated Dec. 21, 1935

Jimmy Carter National Historic Site, Georgia.—Pub. L. 100–206, Dec. 23, 1987, 101 Stat. 1434; Pub. L. 105–106, §1, Nov. 20, 1997, 111 Stat. 2247.

John Fitzgerald Kennedy National Historic Site, Massachusetts.—Pub. L. 90–20, May 26, 1967, 81 Stat. 29.

John Muir National Historic Site, California.—Pub. L. 88–547, Aug. 31, 1964, 78 Stat. 753; Pub. L. 100–563, §5, Oct. 31, 1988, 102 Stat. 2829; Pub. L. 108–385, Oct. 30, 2004, 118 Stat. 2227.

Kate Mullany National Historic Site, New York.–Pub. L. 108–438, Dec. 3, 2004, 118 Stat. 2625.

Knife River Indian Villages National Historic Site, North Dakota.—Pub. L. 93–486, title I, §101(a)(3), Oct. 26, 1974, 88 Stat. 1461; Pub. L. 101–430, §1, Oct. 15, 1990, 104 Stat. 959.

Lincoln Home National Historic Site, Illinois.—Pub. L. 92–127, Aug. 18, 1971, 85 Stat. 347.

Little Rock Central High School National Historic Site, Arkansas.—Pub. L. 105–356, Nov. 6, 1998, 112 Stat. 3268.

Longfellow House-Washington's Headquarters [formerly Longfellow] National Historic Site, Massachusetts.—Pub. L. 92–475, Oct. 9, 1972, 86 Stat. 791; Pub. L. 111–333, Dec. 22, 2010, 124 Stat. 3581.

Lower East Side Tenement National Historic Site, New York.—Pub. L. 105–378, title I, Nov. 12, 1998, 112 Stat. 3395.

Lyndon B. Johnson National Historic Site, Texas [redesignated Lyndon B. Johnson National Historical Park by Pub. L. 96–607, title VI, Dec. 3, 1980, 94 Stat. 3540 (16 U.S.C. 410kk to 410kk–2)].—Pub. L. 91–134, Dec. 2, 1969, 83 Stat. 274.

Maggie L. Walker National Historic Site, Virginia.—Pub. L. 95–625, title V, §511, Nov. 10, 1978, 92 Stat. 3510.

Manzanar National Historic Site, California.—Pub. L. 102–248, title I, Mar. 3, 1992, 106 Stat. 40; Pub. L. 104–333, div. I, title V, §515, Nov. 12, 1996, 110 Stat. 4167.

NATIONAL HISTORIC SITES—CONTINUED

Mar-A-Lago National Historic Site, Florida [redesignated Mar-A-Lago National Historic Landmark by Pub. L. 96–586, §4(a)(2), Dec. 23, 1980, 94 Stat. 3386 (16 U.S.C. 467a note)].—Designated Jan. 16, 1969; Pub. L. 92–527, Oct. 21, 1972, 86 Stat. 1049; repealed by Pub. L. 96–586, §4(a)(1), Dec. 23, 1980, 94 Stat. 3386.

Martin Luther King, Junior, National Historic Site, Georgia.—Pub. L. 96–428, Oct. 10, 1980, 94 Stat. 1839; Pub. L. 102–575, title XL, §4024, Oct. 30, 1992, 106 Stat. 4768; Pub. L. 108–314, Oct. 5, 2004, 118 Stat. 1198.

Martin Van Buren National Historic Site, New York.—Pub. L. 93–486, title I, §101(a)(6), Oct. 26, 1974, 88 Stat. 1462; Pub. L. 111–11, title VII, §7112, Mar. 30, 2009, 123 Stat. 1201.

Mary McLeod Bethune Council House National Historic Site, District of Columbia.—Pub. L. 97–329, Oct. 15, 1982, 96 Stat. 1615; Pub. L. 102–211, Dec. 11, 1991, 105 Stat. 1652.

Minidoka National Historic Site, Idaho.—Pub. L. 110–229, title III, §313, May 8, 2008, 122 Stat. 770.

Minuteman Missile National Historic Site, South Dakota.—Pub. L. 106–115, Nov. 29, 1999, 113 Stat. 1540.

Nicodemus National Historic Site, Kansas.—Pub. L. 104–333, div. I, title V, §512, Nov. 12, 1996, 110 Stat. 4163; Pub. L. 106–176, title I, §112, Mar. 10, 2000, 114 Stat. 27.

Ninety Six National Historic Site, South Carolina.—Pub. L. 94–393, Aug. 19, 1976, 90 Stat. 1196.

Old Philadelphia Custom House National Historic Site, Pennsylvania.—Designated May 26, 1939.

Palo Alto Battlefield National Historic Site, Texas [redesignated Palo Alto Battlefield National Historical Park by Pub. L. 111–11, title VII, §7113(a)(1), Mar. 30, 2009, 123 Stat. 1201 (16 U.S.C. 410nnn et seq.)].—Pub. L. 95–625, title V, §506, Nov. 10, 1978, 92 Stat. 3500; Pub. L. 102–304, June 23, 1992, 106 Stat. 256.

President William Jefferson Clinton Birthplace Home National Historic Site, Arkansas.—Pub. L. 111–11, title VII, §7002, Mar. 30, 2009, 123 Stat. 1188.

Pu`ukoholā Heiau National Historic Site, Hawaii.—Pub. L. 92–388, Aug. 17, 1972, 86 Stat. 562; Pub. L. 106–510, §3(e), Nov. 13, 2000, 114 Stat. 2364.

Ronald Reagan Boyhood Home National Historic Site, Illinois.—Pub. L. 107–137, Feb. 6, 2002, 116 Stat. 3.

Saint Gaudens National Historic Site, New Hampshire.—Pub. L. 88–543, Aug. 31, 1964, 78 Stat. 749; Pub. L. 106–491, Nov. 9, 2000, 114 Stat. 2209.

Salem Maritime National Historic Site, Massachusetts.—Designated Mar. 17, 1938; Pub. L. 100–349, June 27, 1988, 102 Stat. 659; Pub. L. 101–632, Nov. 28, 1990, 104 Stat. 4575.

San Juan National Historic Site, Puerto Rico.—Designated Feb. 14, 1949.

Sand Creek Massacre National Historic Site, Colorado.—Pub. L. 106–465, Nov. 7, 2000, 114 Stat. 2019; Pub. L. 109–45, Aug. 2, 2005, 119 Stat. 445.

Saugus Iron Works National Historic Site, Massachusetts.—Pub. L. 90–282, Apr. 5, 1968, 82 Stat. 72.

Sewall-Belmont House National Historic Site, District of Columbia.—Pub. L. 93–486, title II, Oct. 26, 1974, 88 Stat. 1463.

Springfield Armory National Historic Site, Massachusetts.—Pub. L. 93–486, title I, §101(a)(4), Oct. 26, 1974, 88 Stat. 1461.

Steamtown National Historic Site, Pennsylvania.—Pub. L. 99–500, §101(h) [title I, §§1–5], Oct. 18, 1986, 100 Stat. 1783–248, and Pub. L. 99–591, §101(h) [title I, §§1–5], Oct. 30, 1986, 100 Stat. 3341–248.

Thaddeus Kosciuszko Home National Historic Site, Pennsylvania.—Pub. L. 92–524, Oct. 21, 1972, 86 Stat. 1046.

Theodore Roosevelt Inaugural [formerly Ansley Wilcox House] National Historic Site, New York.—Pub. L. 89–708, Nov. 2, 1966, 80 Stat. 1101; Pub. L. 96–607, title VIII, Dec. 28, 1980, 94 Stat. 3541.

Thomas Cole National Historic Site, New York.—Pub. L. 106–146, Dec. 9, 1999, 113 Stat. 1714.

NATIONAL HISTORIC SITES—CONTINUED

Thomas Stone National Historic Site, Maryland.—Pub. L. 95–625, title V, §510, Nov. 10, 1978, 92 Stat. 3510.

Tuskegee Airmen National Historic Site, Alabama.—Pub. L. 105–355, title III, Nov. 6, 1998, 112 Stat. 3254.

Tuskegee Institute National Historic Site, Alabama.—Pub. L. 93–486, title I, §101(a)(5), Oct. 26, 1974, 88 Stat. 1462.

Ulysses S. Grant National Historic Site, Missouri.—Pub. L. 101–106, Oct. 2, 1989, 103 Stat. 677.

Vanderbilt Mansion National Historic Site, New York.—Designated Dec. 18, 1940.

Weir Farm National Historic Site, Connecticut.—Pub. L. 101–485, Oct. 31, 1990, 104 Stat. 1171; Pub. L. 103–449, title II, Nov. 2, 1994, 108 Stat. 4756; Pub. L. 105–363, §1, Nov. 6, 1998, 112 Stat. 3296; Pub. L. 111–11, title VII, §7102, Mar. 30, 2009, 123 Stat. 1190.

William Howard Taft National Historic Site, Ohio.—Pub. L. 91–132, Dec. 2, 1969, 83 Stat. 273; Pub. L. 107–60, Nov. 5, 2001, 115 Stat. 408.

For other historic sites included within this title, see General Index.

NATIONAL BATTLEFIELD SITES

Cowpens National Battlefield Site, South Carolina.—Act Mar. 4, 1929, ch. 699, 45 Stat. 1558.

Fort Necessity National Battlefield Site, Pennsylvania.—Act Mar. 4, 1931, ch. 504, 46 Stat. 1522 [redesignated Fort Necessity National Battlefield by Pub. L. 87–134, §3, Aug. 10, 1961, 75 Stat. 336. See section 430rr of this title].

Shenandoah Valley Battlefields National Historic District, Virginia.—Pub. L. 104–333, div. I, title VI, §606, Nov. 12, 1996, 110 Stat. 4174; Pub. L. 106–176, title I, §115, Mar. 10, 2000, 114 Stat. 27.

Washita Battlefield National Historic Site, Oklahoma.—Pub. L. 104–333, div. I, title VI, §607, Nov. 12, 1996, 110 Stat. 4180; Pub. L. 106–176, title I, §116, Mar. 10, 2000, 114 Stat. 27.

NATIONAL HERITAGE AND RIVER CORRIDORS

Blackstone River Valley National Heritage Corridor, Massachusetts and Rhode Island (see John H. Chafee Blackstone River Valley National Heritage Corridor, Massachusetts and Rhode Island).

Cache La Poudre Corridor, Colorado.—Pub. L. 104–323, Oct. 19, 1996, 110 Stat. 3889; repealed by Pub. L. 111–11, title VIII, §8002(j), Mar. 30, 2009, 123 Stat. 1235.

Delaware and Lehigh National Heritage Corridor, Pennsylvania.—Pub. L. 100–692, Nov. 18, 1988, 102 Stat. 4552; Pub. L. 105–355, title IV, Nov. 6, 1998, 112 Stat. 3258; Pub. L. 108–199, div. H, §141, Jan. 23, 2004, 118 Stat. 443; Pub. L. 111–11, title VIII, §8202, Mar. 30, 2009, 123 Stat. 1292.

Erie Canalway National Heritage Corridor, New York.—Pub. L. 106–554, §1(a)(4) [div. B, title VIII], Dec. 21, 2000, 114 Stat. 2763, 2763A–295; Pub. L. 111–11, title VIII, §8203, Mar. 30, 2009, 123 Stat. 1294.

Gullah/Geechee Cultural Heritage Corridor, Florida, Georgia, North Carolina, and South Carolina.—Pub. L. 109–338, title II, §§295–295L, Oct. 12, 2006, 120 Stat. 1832–1837.

Illinois and Michigan Canal National Heritage Corridor, Illinois.—Pub. L. 98–398, title I, Aug. 24, 1984, 98 Stat. 1456; Pub. L. 104–333, div. I, title IX, §902, Nov. 12, 1996, 110 Stat. 4204; Pub. L. 105–355, title V, §502, Nov. 6, 1998, 112 Stat. 3261; Pub. L. 106–554, §1(a)(4) [div. B, title I, §126], Dec. 21, 2000, 114 Stat. 2763, 2763A–229; Pub. L. 109–338, title IV, Oct. 12, 2006, 120 Stat. 1850.

NATIONAL HERITAGE AND RIVER CORRIDORS—CONTINUED

John H. Chafee Blackstone River Valley National Heritage Corridor [formerly Blackstone River Valley National Heritage Corridor], Massachusetts and Rhode Island.—Pub. L. 99–647, Nov. 10, 1986, 100 Stat. 3625; Pub. L. 101–441, Oct. 18, 1990, 104 Stat. 1017; Pub. L. 102–154, title I, §118, Nov. 13, 1991, 105 Stat. 1013; Pub. L. 104–208, div. A, title I, §101(d) [title I, §115], Sept. 30, 1996, 110 Stat. 3009–181, 3009–201; Pub. L. 104–333, div. I, title IX, §901, Nov. 12, 1996, 110 Stat. 4201; Pub. L. 105–355, title V, §501, Nov. 6, 1998, 112 Stat. 3261; Pub. L. 106–113, div. B, §1000(a)(3) [title III, §343], Nov. 29, 1999, 113 Stat. 1535, 1501A–202; Pub. L. 106–176, title I, §121, Mar. 10, 2000, 114 Stat. 29; Pub. L. 109–338, title VII, §§701, 702, Oct. 12, 2006, 120 Stat. 1857; Pub. L. 111–11, title VIII, §8204, Mar. 30, 2009, 123 Stat. 1295.

Ohio & Erie Canal National Heritage Corridor, Ohio (see Ohio & Erie National Heritage Canalway, Ohio).

Quinebaug and Shetucket Rivers Valley National Heritage Corridor, Connecticut and Massachusetts.—Pub. L. 103–449, title I, Nov. 2, 1994, 108 Stat. 4752; Pub. L. 106–149, Dec. 9, 1999, 113 Stat. 1726; Pub. L. 111–11, title VIII, §8201, Mar. 30, 2009, 123 Stat. 1291.

South Carolina National Heritage Corridor, South Carolina.—Pub. L. 104–333, div. II, title VI, Nov. 12, 1996, 110 Stat. 4260; Pub. L. 110–229, title IV, §§461, 473, May 8, 2008, 122 Stat. 824, 826.

NATIONAL HERITAGE AREAS

Abraham Lincoln National Heritage Area, Illinois.—Pub. L. 110–229, title IV, §§441–451, May 8, 2008, 122 Stat. 818–824.

Arabia Mountain National Heritage Area, Georgia.—Pub. L. 109–338, title II, §§231–242, Oct. 12, 2006, 120 Stat. 1795–1800.

Atchafalaya National Heritage Area, Louisiana.—Pub. L. 109–338, title II, §§211–221, Oct. 12, 2006, 120 Stat. 1791–1795.

Augusta Canal National Heritage Area, Georgia.—Pub. L. 104–333, div. II, title III, Nov. 12, 1996, 110 Stat. 4249; Pub. L. 106–176, title II, §203, Mar. 10, 2000, 114 Stat. 31; Pub. L. 110–229, title IV, §461, May 8, 2008, 122 Stat. 824.

Automobile National Heritage Area, Michigan.—Pub. L. 105–355, title I, Nov. 6, 1998, 112 Stat. 3247.

Baltimore National Heritage Area, Maryland.—Pub. L. 111–11, title VIII, §8005, Mar. 30, 2009, 123 Stat. 1247.

Blue Ridge National Heritage Area, North Carolina.—Pub. L. 108–108, title I, §140, Nov. 10, 2003, 117 Stat. 1274.

Cache La Poudre River National Heritage Area, Colorado.—Pub. L. 111–11, title VIII, §8002, Mar. 30, 2009, 123 Stat. 1229.

Crossroads of the American Revolution National Heritage Area, New Jersey.—Pub. L. 109–338, title II, §§297–297J, Oct. 12, 2006, 120 Stat. 1837–1844; Pub. L. 111–11, title VII, §7116(i), Mar. 30, 2009, 123 Stat. 1203.

Essex National Heritage Area, Massachusetts.—Pub. L. 104–333, div. II, title V, Nov. 12, 1996, 110 Stat. 4257; Pub. L. 106–176, title II, §204, Mar. 10, 2000, 114 Stat. 31; Pub. L. 110–229, title IV, §461, May 8, 2008, 122 Stat. 824.

Freedom's Frontier National Heritage Area, Kansas and Missouri.—Pub. L. 109–338, title II, §§261–269, Oct. 12, 2006, 120 Stat. 1807–1813.

Freedom's Way National Heritage Area, Massachusetts and New Hampshire.—Pub. L. 111–11, title VIII, §8006, Mar. 30, 2009, 123 Stat. 1253.

Hudson River Valley National Heritage Area, New York.—Pub. L. 104–333, div. II, title IX, Nov. 12, 1996, 110 Stat. 4275; Pub. L. 105–83, title III, §§317, 324, Nov. 14, 1997, 111 Stat. 1595, 1597; Pub. L. 106–176, title II, §206, Mar. 10, 2000, 114 Stat. 31; Pub. L. 110–229, title IV, §461, May 8, 2008, 122 Stat. 824.

NATIONAL HERITAGE AREAS—CONTINUED

Journey Through Hallowed Ground National Heritage Area, Maryland, Pennsylvania, Virginia, West Virginia.—Pub. L. 110–229, title IV, §§ 401–411, May 8, 2008, 122 Stat. 802–809.

Kenai Mountains-Turnagain Arm National Heritage Area, Alaska.—Pub. L. 111–11, title VIII, § 8010, Mar. 30, 2009, 123 Stat. 1282.

Lackawanna Valley National Heritage Area, Pennsylvania.—Pub. L. 106–278, title I, Oct. 6, 2000, 114 Stat. 814; Pub. L. 108–352, § 2, Oct. 21, 2004, 118 Stat. 1395.

Mississippi Delta National Heritage Area, Mississippi.—Pub. L. 111–11, title VIII, § 8008, Mar. 30, 2009, 123 Stat. 1267.

Mississippi Gulf Coast National Heritage Area, Mississippi.—Pub. L. 108–447, div. J, title VII, Dec. 8, 2004, 118 Stat. 3374.

Mississippi Hills National Heritage Area, Mississippi.—Pub. L. 111–11, title VIII, § 8007, Mar. 30, 2009, 123 Stat. 1260.

Mormon Pioneer National Heritage Area, Utah.—Pub. L. 109–338, title II, §§ 251–260, Oct. 12, 2006, 120 Stat. 1800–1807.

Muscle Shoals National Heritage Area, Alabama.—Pub. L. 111–11, title VIII, § 8009, Mar. 30, 2009, 123 Stat. 1275.

National Aviation Heritage Area, Ohio.—Pub. L. 108–447, div. J, title V, Dec. 8, 2004, 118 Stat. 3361; Pub. L. 111–11, title VII, § 7117(d), Mar. 30, 2009, 123 Stat. 1204.

National Coal Heritage Area, West Virginia.—Pub. L. 104–333, div. II, title I, Nov. 12, 1996, 110 Stat. 4243; Pub. L. 106–176, title II, § 201, Mar. 10, 2000, 114 Stat. 31; Pub. L. 109–338, title IX, § 901, Oct. 12, 2006, 120 Stat. 1862; Pub. L. 110–229, title IV, §§ 461, 471, May 8, 2008, 122 Stat. 824, 825.

Niagara Falls National Heritage Area, New York.—Pub. L. 110–229, title IV, §§ 421–432, May 8, 2008, 122 Stat. 809–818.

Northern Plains National Heritage Area, North Dakota.—Pub. L. 111–11, title VIII, § 8004, Mar. 30, 2009, 123 Stat. 1240; Pub. L. 111–88, div. A, title I, § 120, Oct. 30, 2009, 123 Stat. 2929.

Northern Rio Grande National Heritage Area, New Mexico.—Pub. L. 109–338, title II, §§ 201–209, Oct. 12, 2006, 120 Stat. 1787–1790.

Oil Region National Heritage Area, Pennsylvania.—Pub. L. 108–447, div. J, title VI, Dec. 8, 2004, 118 Stat. 3368.

Rivers of Steel National Heritage Area [formerly Steel Industry American Heritage Area], Pennsylvania.—Pub. L. 104–333, div. II, title IV, Nov. 12, 1996, 110 Stat. 4252; Pub. L. 106–113, div. B, § 1000(a)(3) [title I, § 116], Nov. 29, 1999, 113 Stat. 1535, 1501A–158; Pub. L. 110–229, title IV, §§ 461, 472, May 8, 2008, 122 Stat. 824, 826.

Sangre de Cristo National Heritage Area, Colorado.—Pub. L. 111–11, title VIII, § 8001, Mar. 30, 2009, 123 Stat. 1224.

Schuylkill River Valley National Heritage Area, Pennsylvania.—Pub. L. 106–278, title II, Oct. 6, 2000, 114 Stat. 819.

South Park National Heritage Area, Colorado.—Pub. L. 111–11, title VIII, § 8003, Mar. 30, 2009, 123 Stat. 1235.

Steel Industry American Heritage Area (see Rivers of Steel National Heritage Area, Pennsylvania).

Tennessee Civil War Heritage Area, Tennessee.—Pub. L. 104–333, div. II, title II, Nov. 12, 1996, 110 Stat. 4245; Pub. L. 106–176, title II, § 202, Mar. 10, 2000, 114 Stat. 31; Pub. L. 110–229, title IV, § 461, May 8, 2008, 122 Stat. 824.

Upper Housatonic Valley National Heritage Area, Connecticut and Massachusetts.—Pub. L. 109–338, title II, §§ 271–280B, Oct. 12, 2006, 120 Stat. 1813–1819.

Wheeling National Heritage Area, West Virginia.—Pub. L. 106–291, title I, § 157, Oct. 11, 2000, 114 Stat. 963.

NATIONAL HERITAGE AREAS—CONTINUED

Yuma Crossing National Heritage Area, Arizona.—Pub. L. 106–319, Oct. 19, 2000, 114 Stat. 1280; Pub. L. 109–318, § 1, Oct. 11, 2006, 120 Stat. 1745.

NATIONAL HERITAGE CANALWAYS

Ohio & Erie National Heritage Canalway, Ohio [formerly Ohio & Erie Canal National Heritage Corridor].—Pub. L. 104–333, div. II, title VIII, Nov. 12, 1996, 110 Stat. 4267; Pub. L. 106–176, title II, § 205, Mar. 10, 2000, 114 Stat. 31; Pub. L. 110–229, title IV, §§ 461, 474, May 8, 2008, 122 Stat. 824, 826; Pub. L. 111–11, title VII, § 7116(j), Mar. 30, 2009, 123 Stat. 1203.

NATIONAL HERITAGE PARTNERSHIPS

America's Agricultural Heritage Partnership, Iowa.—Pub. L. 104–333, div. II, title VII, Nov. 12, 1996, 110 Stat. 4264; Pub. L. 106–176, title III, § 309, Mar. 10, 2000, 114 Stat. 34; Pub. L. 110–229, title IV, § 461, May 8, 2008, 122 Stat. 824.

Champlain Valley National Heritage Partnership, New York and Vermont.—Pub. L. 109–338, title II, §§ 281–289, Oct. 12, 2006, 120 Stat. 1819–1824.

NATIONAL HERITAGE ROUTES

Great Basin National Heritage Route, Nevada and Utah.—Pub. L. 109–338, title II, §§ 291–291L, Oct. 12, 2006, 120 Stat. 1824–1831.

HISTORIC CONFINEMENT SITES

Pub. L. 109–441, Dec. 21, 2006, 120 Stat. 3288, as amended by Pub. L. 111–88, div. A, title I, § 119, Oct. 30, 2009, 123 Stat. 2929, provided that:

''SECTION 1. PRESERVATION OF HISTORIC CONFINEMENT SITES.

''(a) PRESERVATION PROGRAM.—The Secretary shall create a program within the National Park Service to encourage, support, recognize, and work in partnership with citizens, Federal agencies, State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations for the purpose of identifying, researching, evaluating, interpreting, protecting, restoring, repairing, and acquiring historic confinement sites in order that present and future generations may learn and gain inspiration from these sites and that these sites will demonstrate the Nation's commitment to equal justice under the law.

''(b) GRANTS.—

''(1) CRITERIA.—The Secretary, after consultation with State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations (including organizations involved in the preservation of historic confinement sites), shall develop criteria for making grants under paragraph (2) to assist in carrying out subsection (a).

''(2) PROVISION OF GRANTS.—Not later than 180 days after the date on which funds are made available to carry out this Act, the Secretary shall, subject to the availability of appropriations, make grants to the entities described in paragraph (1) only in accordance with the criteria developed under that paragraph.

''(c) PROPERTY ACQUISITION.—

''(1) AUTHORITY.—Federal funds made available under this section may be used to acquire non-Federal property for the purposes of this section, in accordance with section 3, only if that property is within the areas described in paragraph (2).

''(2) PROPERTY DESCRIPTIONS.—The property referred to in paragraph (2) [probably should be ''(1)''] is the following:

''(A) Jerome, depicted in Figure 7.1 of the Site Document.

''(B) Rohwer, depicted in Figure 11.2 of the Site Document.

''(C) Topaz, depicted in Figure 12.2 of the Site Document.

''(D) Honouliuli, located on the southern part of the Island of Oahu, Hawaii, and within the land

area bounded by H1 to the south, Route 750 (Kunia Road) to the east, the Honouliuli Forest Reserve to the west, and Kunia town and Schofield Barracks to the north.

''(E) Heart Mountain, depicted in Figure 6.3 of the Site Document.

''(3) NO EFFECT ON PRIVATE PROPERTY.—The authority granted in this subsection shall not constitute a Federal designation or have any effect on private property ownership.

''(d) MATCHING FUND REQUIREMENT.—The Secretary shall require a 50 percent non-Federal match for funds provided under this section.

''(e) SUNSET OF AUTHORITY.—This Act shall have no force or effect on and after the date that is 2 years after the disbursement to grantees under this section of the total amount of funds authorized to be appropriated under section 4.

''SEC. 2. DEFINITIONS.

''For purposes of this Act the following definitions apply:

''(1) HISTORIC CONFINEMENT SITES.—(A) The term 'historic confinement sites' means the 10 internment camp sites referred to as Gila River, Granada, Heart Mountain, Jerome, Manzanar, Minidoka, Poston, Rohwer, Topaz, and Tule Lake and depicted in Figures 4.1, 5.1, 6.1, 7.1, 8.4, 9.2, 10.6, 11.2, 12.2, and 13.2, respectively, of the Site Document; and

''(B) other historically significant locations, as determined by the Secretary, where Japanese Americans were detained during World War II.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(3) SITE DOCUMENT.—The term 'Site Document' means the document titled 'Confinement and Ethnicity: An Overview of World War II Japanese American Relocation Sites', published by the Western Archeological and Conservation Center, National Park Service, in 1999.

''SEC. 3. PRIVATE PROPERTY PROTECTION.

''No Federal funds made available to carry out this Act may be used to acquire any real property or any interest in any real property without the written consent of the owner or owners of that property or interest in property.

''SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Secretary $38,000,000 to carry out this Act. Such sums shall remain available until expended.''

CROSSROADS OF THE WEST HISTORIC DISTRICT

Pub. L. 106–577, title III, §302, Dec. 28, 2000, 114 Stat. 3072, established the Crossroads of the West Historic District in Ogden, Utah, provided that the Secretary of the Interior could make grants and enter into cooperative agreements with the State of Utah, local governments, and nonprofit entities for the preparation of a plan for the development of historic, architectural, natural, cultural, and interpretive resources within the District, for implementation of projects approved by the Secretary under that development plan, for an analysis assessing measures that could be taken to encourage economic development and revitalization within the District in a manner consistent with the District's historic character, and for assisting in the restoration, repair, rehabilitation and improvement of historic infrastructure, and the preservation and interpretation of properties, within the District, set forth the application process, and authorized appropriations.

ROUTE 66 CORRIDOR

Pub. L. 106–45, Aug. 10, 1999, 113 Stat. 224, as amended by Pub. L. 111–11, title VII, §7304, Mar. 30, 2009, 123 Stat. 1218, authorized the Secretary of the Interior, acting through the Cultural Resource Programs at the National Park Service, to develop and carry out programs of technical assistance, grants, and coordination of activities for the preservation of the Route 66 corridor and authorized appropriations for these purposes.

CHESAPEAKE BAY INITIATIVE

Pub. L. 105–312, title V, Oct. 30, 1998, 112 Stat. 2961, as amended by Pub. L. 107–308, §9, Dec. 2, 2002, 116 Stat. 2448; Pub. L. 111–212, title III, §3005, July 29, 2010, 124 Stat. 2339, known as the Chesapeake Bay Initiative Act of 1998, authorized Secretary of the Interior, in cooperation with Administrator of the Environmental Protection Agency, to create a Chesapeake Bay Gateways and Watertrails Network and to provide assistance to State and local governments in establishing this network, and authorized appropriations for these purposes.

CHARLESTON, ARKANSAS, NATIONAL COMMEMORATIVE SITE

Pub. L. 105–277, div. A, §101(e) [title I, §128], Oct. 21, 1998, 112 Stat. 2681–231, 2681–262, provided that:

''(a) The Congress finds that—

''(1) the 1954 U.S. Supreme Court decision of Brown v. Board of Education, which mandated an end to the segregation of public schools, was one of the most significant Court decisions in the history of the United States;

''(2) the Charleston Public School District in Charleston, Arkansas, in September, 1954, became the first previously-segregated public school district in the former Confederacy to integrate following the Brown decision;

''(3) the orderly and peaceful integration of the public schools in Charleston served as a model and inspiration in the development of the Civil Rights movement in the United States, particularly with respect to public education; and

''(4) notwithstanding the important role of the Charleston School District in the successful implementation of integrated public schools, the role of the district has not been adequately commemorated and interpreted for the benefit and understanding of the nation.

''(b) The Charleston Public School complex in Charleston, Arkansas is hereby designated as the 'Charleston National Commemorative Site' in commemoration of the Charleston schools' role as the first public school district in the South to integrate following the 1954 United States Supreme Court decision, Brown v. Board of Education.

''(c) The Secretary, after consultation with the Charleston Public School District, shall establish an appropriate commemorative monument and interpretive exhibit at the Charleston National Commemorative Site to commemorate the 1954 integration of Charleston's public schools.''

VANCOUVER NATIONAL HISTORIC RESERVE

Pub. L. 104–333, div. I, title V, §502, Nov. 12, 1996, 110 Stat. 4154, as amended by Pub. L. 106–176, title I, §107, Mar. 10, 2000, 114 Stat. 26; Pub. L. 107–342, §1, Dec. 17, 2002, 116 Stat. 2891, established Vancouver National Historic Reserve, Washington, directed that Reserve be administered through general management plan submitted by National Park Service to Secretary of the Interior within 3 years after Nov. 12, 1996, developed by partnership of interests including National Park Service, Historic Preservation Office of State of Washington, Department of the Army, and City of Vancouver, Washington, and to include specific findings of Vancouver Historic Reserve Report and to meet with approval of Secretary of the Interior and Secretary of the Army, directed that plan not be deemed new unit of National Park System and not limit authority of Federal Aviation Administration, and authorized appropriations.

GREAT FALLS HISTORIC DISTRICT, NEW JERSEY

Pub. L. 104–333, div. I, title V, §510, Nov. 12, 1996, 110 Stat. 4158, as amended by Pub. L. 106–176, title I, §110,

Mar. 10, 2000, 114 Stat. 26, established Great Falls Historic District in Paterson, New Jersey, and included statement of purposes, definitions, development plan, and provisions relating to cooperative agreements and applications for restoration, preservation and interpretation of properties, and authorization of appropriations.

ALEUTIAN WORLD WAR II NATIONAL HISTORIC AREA

Pub. L. 104–333, div. I, title V, § 513, Nov. 12, 1996, 110 Stat. 4165, as amended by Pub. L. 106–176, title I, § 113, Mar. 10, 2000, 114 Stat. 27, cited as ''Aleutian World War II National Historic Areas Act of 1996'', designated and preserved Aleutian World War II National Historic Area within lands owned by Ounalaska Corporation on Island of Amaknak, Alaska, set boundaries of Historic Area, set terms, conditions, and limitations, and authorized Secretary of the Interior to award grants and provide technical assistance to Ounalaska Corporation and City of Unalaska.

MAINE ACADIAN CULTURE PRESERVATION ACT

Pub. L. 101–543, Nov. 8, 1990, 104 Stat. 2389, established Maine Acadian Culture Preservation Commission, prescribed duties of Commission, required Secretary of the Interior within 1 year to prepare and transmit to Congress a comprehensive study of Acadian culture in Maine, authorized cooperative agreements and establishment of Acadian Culture Center, and authorized appropriations.

SOUTHWESTERN PENNSYLVANIA HERITAGE PRESERVATION COMMISSION

Pub. L. 100–698, § 1, title I, §§ 101–105, Nov. 19, 1988, 102 Stat. 4618, as amended by Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(L), Nov. 12, 1996, 110 Stat. 4196; Pub. L. 106–291, title I, § 148, Oct. 11, 2000, 114 Stat. 956, provided for the establishment and staffing of the Southwestern Pennsylvania Heritage Preservation Commission and set forth its powers and functions as a means for recognizing, preserving, promoting, and interpreting the cultural heritage of the 9-county region in southwestern Pennsylvania associated with the three basic industries of iron and steel, coal, and transportation.

HISTORIC RESOURCES OF CAMDEN, SOUTH CAROLINA

Pub. L. 97–184, May 24, 1982, 96 Stat. 99, provided: ''That (a) in order to assist in the preservation of the nationally significant historic resources associated with the town of Camden, South Carolina, a key location in the development of South Carolina and in military operations in the South during the American Revolution, the Secretary of the Interior is authorized, in accordance with subsection 2(e) of the Act of August 21, 1935 (49 Stat. 666) [section 462(e) of this title], to enter into a cooperative agreement or agreements with the Camden Historical Commission, the Camden District Heritage Foundation, or other appropriate public, governmental, or private nonprofit entities pursuant to which the Secretary may assist in the protection, restoration, and interpretation of such resources for the benefit of the public.

''(b) Beginning October 1, 1982, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [this note], but not to exceed $250,000.''

EBEY'S LANDING NATIONAL HISTORICAL RESERVE

Pub. L. 95–625, title V, § 508, Nov. 10, 1978, 92 Stat. 3507, as amended Pub. L. 96–87, title IV, § 401(k), Oct. 12, 1979, 93 Stat. 666, provided:

''(a) [Establishment, area of reserve] There is hereby established the Ebey's Landing National Historical Reserve (hereinafter referred to as the 'reserve'), in order to preserve and protect a rural community which provides an unbroken historical record from nineteenth century exploration and settlement in Puget Sound to the present time, and to commemorate—

''(1) the first thorough exploration of the Puget Sound area, by Captain George Vancouver, in 1792;

''(2) settlement by Colonel Isaac Neff Ebey who led the first permanent settlers to Whidbey Island, quickly became an important figure in Washington Territory, and ultimately was killed by Haidahs from the Queen Charlotte Islands during a period of Indian unrest in 1857;

''(3) early active settlement during the years of the Donation Land Law (1850–1855) [Sept. 27, 1850, ch. 76, 9 Stat. 496, Feb. 14, 1853, ch. 69, 10 Stat. 158, July 17, 1854, ch. 84, 10 Stat. 305] and thereafter; and

''(4) the growth since 1883 of the historic town of Coupeville.

The reserve shall include the area of approximately eight thousand acres identified as the Central Whidbey Island Historic District.

''(b) [Comprehensive plan; transmittal to Congress] (1) To achieve the purpose of this section, the Secretary, in cooperation with the appropriate State and local units of general government, shall formulate a comprehensive plan for the protection, preservation, and interpretation of the reserve. The plan shall identify those areas or zones within the reserve which would most appropriately be devoted to—

''(A) public use and development;

''(B) historic and natural preservation; and

''(C) private use subject to appropriate local zoning ordinances designed to protect the historical rural setting.

''(2) Within eighteen months following the date of enactment of this section [Nov. 10, 1978], the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives.

''(c) [Cooperative agreement; land use controls; transfer of management and administration; assistance; grants, limitation of amount] At such time as the State or appropriate units of local government having jurisdiction over land use within the reserve have enacted such zoning ordinances or other land use controls which in the judgment of the Secretary will protect and preserve the historic and natural features of the area in accordance with the comprehensive plan, the Secretary may, pursuant to cooperative agreement—

''(1) transfer management and administration over all or any part of the property acquired under subsection (d) of this section to the State or appropriate units of local government;

''(2) provide technical assistance to such State or unit of local government in the management, protection, and interpretation of the reserve; and

''(3) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to such State or local unit of government for the annual costs of operation and maintenance, including but not limited to, salaries of personnel and the protection, preservation, and rehabilitation of the reserve except that no such grant may exceed 50 per centum of the estimated annual cost, as determined by the Secretary, of such operation and maintenance.

''(d) [Acquisition of property; administration by Secretary] The Secretary is authorized to acquire such lands and interests as he determines are necessary to accomplish the purposes of this section by donation, purchase with donated or appropriated funds, or exchange, except that the Secretary may not acquire the fee simple title to any land without the consent of the owner. The Secretary shall, in addition, give prompt and careful consideration to any offer made by an individual owning property within the historic district to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

''Lands and interests therein so acquired shall, so long as responsibility for management and administration remains with the United States, be administered by the Secretary subject to the provisions of the Act of August 25, 1916 (39 Stat. 535) [sections 1, 2, 3, and 4 of this title], as amended and supplemented, and in a manner consistent with the purpose of this section.

''(e) [Management inconsistencies; notification; modifications; withdrawal; management by Secretary]

If, after the transfer of management and administration of any lands pursuant to subsection (c) of this section, the Secretary determines that the reserve is not being managed in a manner consistent with the purposes of this section, he shall so notify the appropriate officers of the State or local unit of government to which such transfer was made and provide for a ninety-day period in which the transferee may make such modifications in applicable laws, ordinances, rules, and procedures as will be consistent with such purposes. If, upon the expiration of such ninety-day period, the Secretary determines that such modifications have not been made or are inadequate, he shall withdraw the management and administration from the transferee and he shall manage such lands in accordance with the provisions of this section.

''(f) [Authorization of appropriations] There is hereby authorized to be appropriated not to exceed $5,000,000 to carry out the provisions of this section.''

SAINT PAUL'S CHURCH, EASTCHESTER

Pub. L. 95–625, title V, § 504, Nov. 10, 1978, 92 Stat. 3498, provided:

''(a) [Acquisition of property] In order to preserve and protect Saint Paul's Church, Eastchester, in Mount Vernon, New York, for the benefit of present and future generations, the Secretary may accept any gift or bequest of any property or structure which comprises such church and any other real or personal property located within the square bounded by South Columbus Avenue, South Third Avenue, Edison Avenue, and South Fulton Avenue, in Mount Vernon, New York, including the cemetery located within such square and any real property located within such square which was at any time a part of the old village green, now in Mount Vernon, New York.

''(b) [Administration; repairs; cooperative agreements: management protection, development and interpretation] Any property acquired under subsection (a) shall be administered by the Secretary acting through the National Park Service, in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act approved August 25, 1916 (16 U.S.C. 1 and following) [sections 1, 2, 3, and 4 of this title] and the Act approved August 21, 1935 [sections 461 to 467 of this title]. The Secretary, in carrying out the provisions of such Acts (i) shall give particular attention to assuring the completion of such structural and other repairs as he considers necessary to restore and preserve any property acquired in accordance with this section, and (ii) may enter into cooperative agreements with other public or private entities for the management, protection, development, and interpretation, in whole or in part, of the property so acquired.''

LOWELL HISTORIC CANAL DISTRICT, LOWELL, MASSACHUSETTS

Pub. L. 93–645, Jan. 4, 1975, 88 Stat. 2330, provided that:

''SEC. 1. [Lowell Historic Canal District Commission; establishment purpose] For the purpose of preserving and interpreting for the educational and inspirational benefit of present and future generations the unique and significant contribution to our national heritage of certain historic and cultural lands, waterways, and edifices in the city of Lowell, Massachusetts (the cradle of the industrial revolution in America as well as America's first planned industrial city) with emphasis on harnessing this unique urban environment for its educational value as well as for recreation, there is hereby established the Lowell Historic Canal District Commission (hereinafter referred to as the 'Commission'), the purpose of which shall be to prepare a plan for the preservation, interpretation, development, and use, by public and private entities, of the historic, cultural, and architectural resources of the Lowell Historic Canal District in the city of Lowell, Massachusetts.

''SEC. 2. [Membership; alternate members; compensation] (a) The Commission shall consist of nine members, as follows:

''(1) the Secretary of the Interior, the Secretary of Housing and Urban Development, the Secretary of Transportation, and the Secretary of Commerce, all ex officio; and

''(2) five members appointed by the Secretary of the Interior, one of whom shall be the Director of the National Park Service, two of whom shall be appointed from recommendations submitted by the manager of the city of Lowell, and two of whom shall be appointed from recommendations submitted by the Governor of the Commonwealth of Massachusetts. The members appointed pursuant to this paragraph shall have knowledge and experience in one or more of the fields of history, architecture, the arts, recreation planning, city planning, or government.

''(b) Each member of the Commission specified in paragraph (1) of subsection (a) and the Director of the National Park Service may designate an alternate official to serve in his stead. Members appointed pursuant to paragraph (2) of subsection (a) who are officers or employees of the Federal Government, the city of Lowell, or the Commonwealth of Massachusetts, shall serve without compensation as such. Other members, when engaged in activities of the Commission, shall be entitled to compensation at the rate of not to exceed $100 per diem. All members of the Commission shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Commission.

''SEC. 3. [Personnel; financial and administrative services] (a) The Commission shall elect a Chairman from among its members. Financial and administrative services (including those relating to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided for the Commission by the General Services Administration, for which payments shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator, General Services Administration: *Provided*, That the regulations of the Department of the Interior for the collection of indebtedness of personnel resulting from erroneous payments shall apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of said Secretary for the administrative control of funds shall apply to appropriations of the Commission: *And provided further*, That the Commission shall not be required to prescribe such regulations.

''(b) The Commission shall have power to appoint and fix the compensation of such additional personnel as may be necessary to carry out its duties, without regard to the provisions of the civil service laws and the Classification Act of 1949 [see sections 5101 et seq. and 5331 et seq. of Title 5, Government Organization and Employees].

''(c) The Commission may also procure, without regard to the civil service laws and the Classification Act of 1949 [see sections 5101 et seq. and 5331 et seq. of Title 5], temporary and intermittent services to the same extent as is authorized for the executive departments by section 15 of the Administrative Expenses Act of 1946 [see section 3109 of Title 5], but at rates not to exceed $100 per diem for individuals.

''(d) The members of the Commission specified in paragraph (1) of section 2(a) shall provide the Commission, on a reimbursable basis, with such facilities and services under their jurisdiction and control as may be needed by the Commission to carry out its duties, to the extent that such facilities and services are requested by the Commission and are otherwise available for that purpose. To the extent of available appropriations, the Commission may obtain, by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties. Upon the termination of the Commission all property, personal and real, and unexpended funds shall be transferred to the Department of the Interior.

''SEC. 4. [Plan for preservation, etc., contents; time] It shall be the duty of the Commission to prepare the

plan referred to in the first section of this Act, and to submit the plan together with any recommendations for additional legislation, to the Congress not later than two years from the effective date of this Act. The plan for the Lowell Historic Canal District shall include considerations and recommendations, without limitation, regarding (1) the objectives to be achieved by the establishment, development, and operation of the area; (2) the types of use, both public and private, to be accommodated; (3) criteria for the design and appearance of buildings, facilities, open spaces, and other improvements; (4) a program for the staging of development; (5) the anticipated interpretive, cultural, and recreational programs and uses for the area; (6) the proposed ownership and operation of all structures, facilities, and lands; (7) areas where cooperative agreements may be anticipated; (8) estimates of costs, both public and private, of implementing the plan; and (9) procedures to be used in implementing and insuring continuing conformance to the plan.

''SEC. 5. [Termination of Commission] The Commission shall be dissolved (1) upon the termination, as determined by its members, of need for its continued existence for the implementation of the plan and the operation or coordination of the entity established by the plan, or (2) upon expiration of a two-year period commencing on the effective date of this Act, whereupon the completed plan has not been submitted to the Congress, whichever occurs first.

''SEC. 6. [Contemplated authorizations] It is contemplated that the plan to be developed may propose that the Commission may be authorized to—

''(1) acquire lands and interests therein within the Lowell Historic Canal District by purchase, lease, donation, or exchange;

''(2) hold, maintain, use, develop, or operate buildings, facilities, and any other properties;

''(3) sell, lease, or otherwise dispose of real or personal property as necessary to carry out the plan;

''(4) enter into and perform such contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States, the Commonwealth of Massachusetts, and any governmental unit within its boundaries, or any person, firm, association, or corporation as may be necessary;

''(5) establish (through covenants, regulations, agreements, or otherwise) such restrictions, standards, and requirements as are necessary to assure development, maintenance, use, and protection of the Lowell Historic Canal District in accordance with the plan; and

''(6) borrow money from the Treasury of the United States in such amounts as may be authorized in appropriation Acts on the basis of obligations issued by the Commission in accordance with terms and conditions approved by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any such obligations of the Commission.

''SEC. 7. [Title to property] Title to property of the Commission shall be in the name of the Commission, but it shall not be subject to any Federal, State, or municipal taxes.

''SEC. 8. [Authorization of appropriations] There are authorized to be appropriated not to exceed $150,000 for the preparation of the plan authorized by this Act.''

PROC. NO. 3339. ESTABLISHMENT OF KEY LARGO CORAL REEF PRESERVE

Proc. No. 3339, Mar. 15, 1960, 25 F.R. 2352, provided:

WHEREAS there is situated seaward from the coast of Key Largo, Florida, an undersea coral reef formation which is part of the only living coral reef formation along the coast of North America; and

WHEREAS this unique coral formation and its associated marine life are of great scientific interest and value to students of the sea; and

WHEREAS this coral reef is considered to be one of the most beautiful formations of its kind in the world; and

WHEREAS the reef is being subjected to commercial exploitation and is in danger of destruction; and

WHEREAS it is in the public interest to preserve this formation of great scientific and esthetic importance for the benefit and enjoyment of the people; and

WHEREAS a portion of this reef lies inside the three-mile limit in the area relinquished to the State of Florida by the United States through the Submerged Lands Act, approved May 22, 1953 (67 Stat. 29; 43 U.S.C. 1301 et seq.), and the remainder lies on the sea bed of the outer Continental Shelf outside the seaward boundary of the State of Florida and appertains to the United States, as declared by the Outer Continental Shelf Lands Act, approved August 7, 1953 (67 Stat. 462; 43 U.S.C. 1331 et seq.); and

WHEREAS the United States and the State of Florida are desirous of cooperating for the purpose of preserving the scenic and scientific values of this area unimpaired for the benefit of future generations; and

WHEREAS by the terms of the Outer Continental Shelf Lands Act the United States has jurisdiction over the lands of the outer Continental Shelf and has the exclusive right to dispose of the natural resources of the sea bed and subsoil thereof; and

WHEREAS section 12(a) of the Outer Continental Shelf Lands Act [subsec. (a) of section 1341 of Title 43, Public Lands] authorizes the President to withdraw from disposition any of the unleased lands of the outer Continental Shelf; and

WHEREAS section 5 of the Outer Continental Shelf Lands Act [section 1334 of Title 43] authorizes the Secretary of the Interior to prescribe rules and regulations for the conservation of the natural resources of the outer Continental Shelf and to cooperate with the conservation agencies of adjacent States in the enforcement of conservation laws, rules, and regulations:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under and by virtue of the authority vested in me by the Constitution and the statutes of the United States, particularly section 12(a) of the Outer Continental Shelf Lands Act [subsec. (a) of section 1341 of Title 43], do proclaim that, subject to valid existing rights, the following-described area is designated as the Key Largo Coral Reef Preserve, and so much thereof as lies on the outer Continental Shelf is withdrawn from disposition:

That portion of the outer Continental Shelf situated seaward of a line three geographic miles from Key Largo, Monroe County, Florida, lying and being within the following described area:

Beginning at a point on the 60-foot depth curve (10-fathom line) as delineated on Coast and Geodetic Survey Chart 1249 (approximate Latitude 25°17′36″ N., Longitude 80°10′00″ W.), 200 yards southeast of Flashing White Light—Whistle Buoy ''2''; thence northwesterly approximately 7,000 yards through Whistle Buoy ''2'' to Can Buoy ''21'' (approximate Latitude 25°20′06″ N., Longitude 80°12′36″ W.) southeast of Old Rhodes Key; thence southwesterly about 6,900 yards to Can Buoy ''25''; thence southwesterly approximately 5,500 yards to Can Buoy ''27''; thence southwesterly approximately 5,000 yards to Flashing Green Light ''31BH'' in Hawk Channel southeast of Point Elizabeth; thence southwesterly approximately 10,650 yards to Black Day Beacon ''33'' in Hawk Channel east of Point Willie; thence southwesterly approximately 9,800 yards to Flashing White Light ''35'' on Mosquito Bank east of Point Charles; thence southwesterly approximately 5,400 yards to Black Day Beacon ''37'' (approximate Latitude 25°02′25″ N., Longitude 80°25′36″ W.), southeast of Rodriguez Key; thence southeasterly approximately 7,100 yards (pass 600 yards southwest of Flashing Light ''2'' at Molasses Reef) to the 60-foot depth curve (10-fathom line) 800 yards due south of said light at Molasses Reef (approximate Latitude 25°00′18″ N., Longitude 80°22′30″ W.); thence northeasterly with the 60-foot depth curve and 10-fathom line (passing easterly of French Reef, Dixie Shoal, The Elbow, and Carysfort Reef) approximately 21 miles to the point of beginning.

I call upon all persons to join in the effort to protect and preserve this natural wonder for the benefit of future generations.

The Secretary of the Interior is requested to prescribe rules and regulations governing the protection and conservation of the coral and other mineral resources in this area and to cooperate with the State of Florida and its conservation agencies in the preservation of the reef.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this fifteenth day of March in the year of our Lord nineteen hundred and sixty, and of the Independence of the United States of America the one hundred and eighty-fourth.

[SEAL]

DWIGHT D. EISENHOWER.

§ 462. Administration by Secretary of the Interior; powers and duties enumerated

The Secretary of the Interior (hereinafter in sections 461 to 467 of this title referred to as the Secretary), through the National Park Service, for the purpose of effectuating the policy expressed in section 461 of this title, shall have the following powers and perform the following duties and functions:

(a) Secure, collate, and preserve drawings, plans, photographs, and other data of historic and archaeologic sites, buildings, and objects.

(b) Make a survey of historic and archaeologic sites, buildings, and objects for the purpose of determining which possess exceptional value as commemorating or illustrating the history of the United States.

(c) Make necessary investigations and researches in the United States relating to particular sites, buildings, or objects to obtain true and accurate historical and archaeological facts and information concerning the same.

(d) For the purpose of sections 461 to 467 of this title, acquire in the name of the United States by gift, purchase, or otherwise any property, personal or real, or any interest or estate therein, title to any real property to be satisfactory to the Secretary: *Provided*, That no such property which is owned by any religious or educational institution, or which is owned or administered for the benefit of the public shall be so acquired without the consent of the owner: *Provided further*, That no such property shall be acquired or contract or agreement for the acquisition thereof made which will obligate the general fund of the Treasury for the payment of such property, unless or until Congress has appropriated money which is available for that purpose.

(e) Contract and make cooperative agreements with States, municipal subdivisions, corporations, associations, or individuals, with proper bond where deemed advisable, to protect, preserve, maintain, or operate any historic or archaeologic building, site, object, or property used in connection therewith for public use, regardless as to whether the title thereto is in the United States: *Provided*, That no contract or cooperative agreement shall be made or entered into which will obligate the general fund of the Treasury unless or until Congress has appropriated money for such purpose.

(f) Restore, reconstruct, rehabilitate, preserve, and maintain historic or prehistoric sites, buildings, objects, and properties of national historical or archaeological significance and where deemed desirable establish and maintain museums in connection therewith.

(g) Erect and maintain tablets to mark or commemorate historic or prehistoric places and events of national historical or archaeological significance.

(h) Operate and manage historic and archaeologic sites, buildings, and properties acquired under the provisions of sections 461 to 467 of this title together with lands and subordinate buildings for the benefit of the public, such authority to include the power to charge reasonable visitation fees and grant concessions, leases, or permits for the use of land, building space, roads, or trails when necessary or desirable either to accommodate the public or to facilitate administration: *Provided*, That the Secretary may grant such concessions, leases, or permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids.

(i) When the Secretary determines that it would be administratively burdensome to restore, reconstruct, operate, or maintain any particular historic or archaeologic site, building, or property donated to the United States through the National Park Service, he may cause the same to be done by organizing a corporation for that purpose under the laws of the District of Columbia or any State.

(j) Develop an educational program and service for the purpose of making available to the public facts and information pertaining to American historic and archaeologic sites, buildings, and properties of national significance. Reasonable charges may be made for the dissemination of any such facts or information.

(k) Perform any and all acts, and make such rules and regulations not inconsistent with sections 461 to 467 of this title as may be necessary and proper to carry out the provisions thereof. Any person violating any of the rules and regulations authorized by said sections shall be punished by a fine of not more than $500 and be adjudged to pay all cost of the proceedings.

(Aug. 21, 1935, ch. 593, §2, 49 Stat. 666; Pub. L. 89–249, §8, Oct. 9, 1965, 79 Stat. 971.)

AMENDMENTS

1965—Subsec. (h). Pub. L. 89–249 changed proviso to allow granting concessions, leases, and permits and entering into contracts with responsible persons, firms, or corporations without advertising and without securing competitive bids.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

FINANCIAL ASSISTANCE FOR MAINTENANCE AND PROTECTION OF FOLGER LIBRARY AND CORCORAN GALLERY OF ART; LIMITATION ON CONTRACT AUTHORITY

Pub. L. 96–344, §1, Sept. 8, 1980, 94 Stat. 1133, provided: ''That (a) in furtherance of the purposes of subsection 2(e) of the Act of August 21, 1935 (49 Stat. 666) [subsec. (e) of this section], the Secretary of the Interior may provide financial assistance for the maintenance and protection of the Folger Library and the Corcoran Gallery of Art.

''(b) Authority to enter into contracts or cooperative agreements, to incur obligations, or to make payments under this Act [Pub. L. 96–344, Sept. 8, 1980, 94 Stat. 1133] shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.''

§ 463. National Park System Advisory Board

(a) Establishment; composition; duties

There is hereby established a National Park System Advisory Board, whose purpose shall be to advise the Director of the National Park Service on matters relating to the National Park Service, the National Park System, and programs administered by the National Park Service. The Board shall advise the Director on matters submitted to the Board by the Director as well as any other issues identified by the Board. Members of the Board shall be appointed on a staggered term basis by the Secretary for a term not to exceed 4 years and shall serve at the pleasure of the Secretary. The Board shall be comprised of no more than 12 persons, appointed from among citizens of the United States having a demonstrated commitment to the mission of the National Park Service. Board members shall be selected to represent various geographic regions, including each of the administrative regions of the National Park Service. At least 6 of the members shall have outstanding expertise in 1 or more of the following fields: history, archeology, anthropology, historical or landscape architecture, biology, ecology, geology, marine science, or social science. At least 4 of the members shall have outstanding expertise and prior experience in the management of national or State parks or protected areas, or national or cultural resources management. The remaining members shall have outstanding expertise in 1 or more of the areas described above or in another professional or scientific discipline, such as financial management, recreation use management, land use planning or business management, important to the mission of the National Park Service. At least 1 individual shall be a locally elected official from an area adjacent to a park. The Board shall hold its first meeting by no later than 60 days after the date on which all members of the Advisory Board who are to be appointed have been appointed. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner in which the original appointment was made. The Board may adopt such rules as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel. All members of the Board shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board while away from home or their regular place of business, in accordance with subchapter 1[1] of chapter 57 of title 5. With the exception of travel and per diem as noted above, a member of the Board who is otherwise an officer or employee of the United States Government shall serve on the Board without additional compensation. It shall be the duty of such board to advise the Secretary on matters relating to the National Park System, to other related areas, and to the administration of sections 461 to 467 of this title, including but not limited to matters submitted to it for consideration by the Secretary, but it shall not be required to recommend as to the suitability or desirability of surplus real and related personal property for use as an historic monument. Such board shall also provide recommendations on the designation of national historic landmarks and national natural landmarks. Such board is strongly encouraged to consult with the major scholarly and professional organizations in the appropriate disciplines in making such recommendations.

(b) Staff; applicability of Federal law

(1) The Secretary is authorized to hire 2 full-time staffers to meet the needs of the Advisory Board.

(2) Service of an individual as a member of the Board shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Board, or as an employee of the Board, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5 or comparable provisions of Federal law.

(c) Authority of Board

(1) Upon request of the Director, the Board is authorized to—

(A) hold such hearings and sit and act at such times,

(B) take such testimony,

(C) have such printing and binding done,

(D) enter into such contracts and other arrangements.[2]

(E) make such expenditures, and

(F) take such other actions, as the Board may deem advisable. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

(2) The Board may establish committees or subcommittees. Any such subcommittees or committees shall be chaired by a voting member of the Board.

(d) Federal Advisory Committee Act

The provisions of the Federal Advisory Committee Act shall apply to the Board established under this section with the exception of section 14(b).

(e) Cooperation of Federal agencies; use of mails

(1) The Board is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Board may require for the purpose of this section, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics

[1] So in original. Probably should be subchapter ''I''.

[2] So in original. The period probably should be a comma.

directly to the Board, upon request made by a member of the Board.

(2) Upon the request of the Board, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality to[3] the Board, on a nonreimbursable basis, to assist the Board in carrying out its duties under this section.

(3) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies in the United States.

(f) Termination

The National Park System Advisory Board shall continue to exist until January 1, 2010. The provisions of section 14(b) of the Federal Advisory Committee Act (the Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to the Board, but in all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.

(g) National Park Service Advisory Council

There is hereby established the National Park Service Advisory Council (hereafter in this section referred to as the ''advisory council'') which shall provide advice and counsel to the National Park System Advisory Board. Membership on the advisory council shall be limited to those individuals whose term on the advisory board has expired. Such individuals may serve as long as they remain active except that not more than 12 members may serve on the advisory council at any one time. Members of the advisory council shall not have a vote on the National Park System Advisory Board. Members of the advisory council shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. Initially, the Secretary shall choose 12 former members of the Advisory Board to constitute the advisory council. In so doing, the Secretary shall consider their professional expertise and demonstrated commitment to the National Park System and to the Advisory Board.

(Aug. 21, 1935, ch. 593, §3, 49 Stat. 667; Pub. L. 91–383, §9, Aug. 18, 1970, as added Pub. L. 94–458, §2, Oct. 7, 1976, 90 Stat. 1940; amended Pub. L. 95–625, title VI, §604(2), Nov. 10, 1978, 92 Stat. 3518; Pub. L. 101–628, title XII, §§1211, 1212, Nov. 28, 1990, 104 Stat. 4507; Pub. L. 104–333, div. I, title VIII, §814(f)(1), Nov. 12, 1996, 110 Stat. 4197; Pub. L. 109–156, §5, Dec. 30, 2005, 119 Stat. 2948; Pub. L. 110–161, div. F, title I, Dec. 26, 2007, 121 Stat. 2107; Pub. L. 111–8, div. E, title I, Mar. 11, 2009, 123 Stat. 710.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsecs. (d) and (f), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2009—Subsec. (f). Pub. L. 111–8 substituted ''2010'' for ''2009''.

2007—Subsec. (f). Pub. L. 110–161 substituted ''2009'' for ''2007''.

2005—Subsec. (f). Pub. L. 109–156 substituted ''2007'' for ''2006''.

1996—Subsec. (a). Pub. L. 104–333, §814(f)(1)(A), substituted provisions relating to establishment of Board, its purpose, advisory duties, members' terms, composition, first meeting, vacancies, rules, and members' compensation for ''A general advisory board to be known as the National Park System Advisory Board is hereby established, to be composed of not to exceed sixteen persons, citizens of the United States who have a demonstrated commitment to the National Park System, to include but not be limited to representatives competent in the fields of history, archaeology, architecture, anthropology, biology, geology, and related disciplines, who shall be appointed by the Secretary for a term not to exceed four years. The Secretary shall take into consideration nominations for appointees from public and private, professional, civic, and educational societies, associations, and institutions. The members of such board shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members.''

Subsecs. (b) to (e). Pub. L. 104–333, §814(f)(1)(C), added subsecs. (b) to (e). Former subsecs. (b) and (c) redesignated (f) and (g), respectively.

Subsec. (f). Pub. L. 104–333, §814(f)(1)(B), redesignated former subsec. (b) as (f) and substituted ''2006'' for ''1995''.

Subsec. (g). Pub. L. 104–333, §814(f)(1)(B), redesignated former subsec. (c) as (g).

1990—Subsec. (a). Pub. L. 101–628, §1211(1), (2), substituted ''sixteen'' for ''twelve'', ''United States who have a demonstrated commitment to the National Park System,'' for ''United States,'' and ''anthropology, biology, geology, and related disciplines,'' for ''and natural science,'' and inserted at end ''Such board shall also provide recommendations on the designation of national historic landmarks and national natural landmarks. Such board is strongly encouraged to consult with the major scholarly and professional organizations in the appropriate disciplines in making such recommendations.''

Subsec. (b). Pub. L. 101–628, §1211(3), (4), substituted ''1995'' for ''1990'' and ''The provisions of section 14(b) of the Federal Advisory Committee Act (the Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to the Board, but in'' for ''In''.

Subsec. (c). Pub. L. 101–628, §1212, added subsec. (c).

1978—Subsec. (a). Pub. L. 95–625 increased Board membership to twelve from eleven.

1976—Pub. L. 91–383, §9, as added by Pub. L. 94–458, renamed the Advisory Board on National Parks, Historic Sites, Buildings and Monuments as the National Park System Advisory Board, substituted natural science for human geography as a field from which member selection may be made, limited appointment term to four years rather than at pleasure of Secretary, eliminated duty of Board to make recommendations concerning use of surplus property as an historic monument, provided for continuation of Board until Jan. 1, 1990, and made it subject to the provisions of the Federal Advisory Committee Act.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–156, §5, Dec. 30, 2005, 119 Stat. 2948, provided that the amendment made by section 5 is effective Jan. 1, 2006.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 814(f)(3) of title VIII of div. I of Pub. L. 104–333 provided that: ''This subsection [amending this section and enacting provisions set out as a note below] shall take effect on December 7, 1997.''

AUTHORIZATION OF APPROPRIATIONS

Section 814(f)(2) of title VIII of div. I of Pub. L. 104–333 provided that: ''There are authorized to be appropriated to the National Park System Advisory Board $200,000 per year to carry out the provisions of

[3] So in original. Probably should be ''available to''.

section 3 of the Act of August 21, 1935 (49 Stat. 667; 16 U.S.C. 463).''

NEW YORK CITY NATIONAL SHRINES ADVISORY BOARD

Act Aug. 11, 1955, ch. 779, §§1, 2, 69 Stat. 632, as amended by Pub. L. 85–658, Aug. 14, 1958, 72 Stat. 613, provided for the appointment of an advisory board, to be known as the New York City National Shrines Advisory Board, to render advice to the Secretary of the Interior and to further public participation in the rehabilitation, development and the preservation of those historic properties in the New York City area that are of great national significance, identified as the Federal Hall National Memorial, Castle Clinton National Monument, and the Statue of Liberty National Monument, to conduct a study of these historic properties, and to submit recommendations concerning their preservation and administration to the Secretary of the Interior, such report and recommendations of the Board to be transmitted to the Congress by the Secretary of the Interior, together with his recommendations thereon, within one year following the date of the establishment of the Board, and with the Board to cease to exist when the Secretary of the Interior found that its purposes had been accomplished. The Secretary of the Interior was authorized to accept donations of funds for rehabilitation, development and preservation of the historic properties including any made upon condition that such funds are to be expended only if Federal funds in an amount equal to the donated funds are appropriated for such purposes.

FEDERAL HALL NATIONAL MEMORIAL

Act Aug. 11, 1955, ch. 779, §3, 69 Stat. 633, provided that the Federal Hall Memorial National Historic Site, established pursuant to the Historic Sites Act of August 21, 1935 (49 Stat. 666) [sections 461 to 467 of this title], should thereafter be known as the ''Federal Hall National Memorial''.

§ 464. Cooperation with governmental and private agencies

(a) [1] Authorization

The Secretary, in administering sections 461 to 467 of this title, is authorized to cooperate with and may seek and accept the assistance of any Federal, State, or municipal department or agency, or any educational or scientific institution, or any patriotic association, or any individual.

(b) Advisory committees

When deemed necessary, technical advisory committees may be established to act in an advisory capacity in connection with the restoration or reconstruction of any historic or prehistoric building or structure.

(c) Employment of assistance

Such professional and technical assistance may be employed, and such service may be established as may be required to accomplish the purposes of sections 461 to 467 of this title and for which money may be appropriated by Congress or made available by gifts for such purpose.

(Aug. 21, 1935, ch. 593, §4, 49 Stat. 668.)

CODIFICATION

In subsec. (c), provisions that authorized employment of professional and technical assistance ''without regard to the civil-service laws'' were omitted as such employment is subject to the civil service laws unless specifically excepted by such laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to the Act of Nov. 26, 1940, ch. 919, title I, §1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 465. Jurisdiction of States in acquired lands

Nothing in sections 461 to 467 of this title shall be held to deprive any State, or political subdivision thereof, of its civil and criminal jurisdiction in and over lands acquired by the United States under said sections.

(Aug. 21, 1935, ch. 593, §5, 49 Stat. 668.)

§ 466. Requirement for specific authorization

(a) In general

Except as provided in subsection (b) of this section, notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Secretary of the Interior to carry out section 462(e) or 462(f) of this title may be obligated or expended after October 30, 1992—

(1) unless the appropriation of such funds has been specifically authorized by law enacted on or after October 30, 1992; or

(2) in excess of the amount prescribed by law enacted on or after October 30, 1992.

(b) Savings provision

Nothing in this section shall prohibit or limit the expenditure or obligation of any funds appropriated prior to January 1, 1993.

(c) Authorization of appropriations

Except as provided by subsection (a) of this section, there is authorized to be appropriated for carrying out the purposes of sections 461 to 467 of this title such sums as the Congress may from time to time determine.

(Aug. 21, 1935, ch. 593, §6, 49 Stat. 668; Pub. L. 102–575, title XL, §4023, Oct. 30, 1992, 106 Stat. 4768.)

CODIFICATION

October 30, 1992, referred to in subsec. (a), was in the original ''the date of enactment of this section'' and ''such date'', which were translated as meaning the date of enactment of Pub. L. 102–575 which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

1992—Pub. L. 102–575 amended section generally. Prior to amendment, section read as follows: ''There is authorized to be appropriated for carrying out the purposes of sections 461 to 467 of this title such sums as the Congress may from time to time determine.''

[1] Subsection designation ''(a)'' supplied.

§ 467. Conflict of laws

The provisions of sections 461 to 467 of this title shall control if any of them are in conflict with any other Act or Acts relating to the same subject matter.

(Aug. 21, 1935, ch. 593, § 7, 49 Stat. 668.)

§ 467a. Repealed. Pub. L. 96–586, § 4(a)(1), (b), Dec. 23, 1980, 94 Stat. 3386

Section, Pub. L. 92–527, § 1, Oct. 21, 1972, 86 Stat. 1049, authorized the Secretary of the Interior to accept, maintain, develop, and administer the Mar-A-Lago National Historic Site described in the order of designation dated Jan. 16, 1969, as part of the national park system and directed the Secretary to enter into agreements and take such action as deemed necessary to provide for administration and use of the Mar-A-Lago National Historic Site as a temporary residence for visiting foreign dignitaries or heads of state or members of the executive branch of the United States Government, with any further use determined by the Secretary after conferring with the Mar-A-Lago National Historic Site Advisory Commission.

EFFECTIVE DATE OF REPEAL

For effective date of repeal, see Pub. L. 96–586, § 4, Dec. 23, 1980, 94 Stat. 3386, set out as a note below.

REPEALS, REDESIGNATIONS, CONVEYANCES, ETC., INVOLVING MAR-A-LAGO NATIONAL HISTORIC SITE

Pub. L. 96–586, § 4, Dec. 23, 1980, 94 Stat. 3386, provided that:

''(a)(1) Effective upon the conveyance or transfer authorized in subsection b, the Act of October 21, 1972, entitled 'An Act to provide for the administration of the Mar-A-Lago National Historic Site, in Palm Beach, Florida' [sections 467a and 467a–1 of this title] is repealed.

''(2) The order of designation of the Mar-A-Lago National Historic Site, dated January 16, 1969, is repealed and the site described therein is hereby designated as the Mar-A-Lago National Historic Landmark.

''(b) The Secretary of the Interior shall, within one hundred and twenty days of the date of enactment of this Act [Dec. 23, 1980], take such measures, consistent with the terms and conditions of the deed of conveyance from Marjorie M. Post to the United States of America, dated December 18, 1972, as may be necessary to transfer the property described in the order of designation of the Mar-A-Lago National Historic Site to the Majorie [sic] Merriweather Post Foundation of the District of Columbia (a charitable foundation organized under the District of Columbia Nonprofit Corporation Act).

''(c) The Secretary is authorized upon conveyance, to make appropriate adjustments in the funds available for the administration and management of the property, including but not limited to, return of unobligated donated funds to the trustees of the Marjorie Merriweather Post Foundation of the District of Columbia, and reprogram existing appropriations to related functions and activities of the National Park Service.''

§ 467a–1. Repealed. Pub. L. 96–586, § 4(a)(1), (b), Dec. 23, 1980, 94 Stat. 3386

Section, Pub. L. 92–527, § 2, Oct. 21, 1972, 86 Stat. 1049, established the Mar-A-Lago National Historic Site Advisory Commission and provided for its membership, term of office, designation of a Chairman, filling of vacancies, compensation and expenses, consultations on general policies and specific matters related to administration of the site, and voting.

EFFECTIVE DATE OF REPEAL

For effective date of repeal, see Pub. L. 96–586, § 4, Dec. 23, 1980, 94 Stat. 3386, set out as a note under section 467a of this title.

§ 467b. Survey by Secretary of the Interior of sites for commemoration of former Presidents of the United States

(a) Authority to conduct survey

The Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to conduct a survey of sites which he deems exhibit qualities most appropriate for the commemoration of each former President of the United States. The survey may include sites associated with the deeds, leadership, or lifework of a former President, and it may identify sites or structures historically unrelated to a former President but which may be suitable as a memorial to honor such President.

(b) Preparation and transmittal to Congressional committees of reports on individual sites and structures

The Secretary shall, from time to time, prepare and transmit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate reports on individual sites and structures identified in the survey referred to in subsection (a) of this section, together with his recommendation as to whether such site or structure is suitable for establishment as a national historic site or national memorial to commemorate a former President. Each such report shall include pertinent information with respect to the need for acquisition of lands and interests therein, the development of facilities, and the operation and maintenance of the site or structure and the estimated cost thereof. If during the six-month period following the transmittal of a report pursuant to this subsection neither Committee has by vote of a majority of its members disapproved a recommendation of the Secretary that a site or structure is suitable for establishment as a national historic site, the Secretary may thereafter by appropriate order establish the same as a national historic site, including the lands and interests therein identified in the report accompanying his recommendation. The Secretary may acquire the lands and interests therein by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, and he shall administer the site in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented, and sections 461 to 467 of this title, as amended.

(c) Prohibited statutory constructions

Nothing in this section shall be construed as diminishing the authority of the Secretary under sections 461 to 467 of this title or as authorizing the Secretary to establish any national memorial, creation of which is hereby expressly reserved to the Congress.

(d) Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(Pub. L. 96–199, title I, § 120, Mar. 5, 1980, 94 Stat. 73; Pub. L. 103–437, § 6(d)(26), Nov. 2, 1994, 108 Stat. 4584.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 468. National Trust for Historic Preservation in the United States; creation; purpose

In order to further the policy enunciated in sections 461 to 467 of this title, and to facilitate public participation in the preservation of sites, buildings, and objects of national significance or interest, there is created a charitable, educational, and nonprofit corporation, to be known as the National Trust for Historic Preservation in the United States, hereafter referred to as the ''National Trust''. The purposes of the National Trust shall be to receive donations of sites, buildings, and objects significant in American history and culture, to preserve and administer them for public benefit, to accept, hold, and administer gifts of money, securities, or other property of whatsoever character for the purpose of carrying out the preservation program, and to execute such other functions as are vested in it by sections 468 to 468d of this title.

(Oct. 26, 1949, ch. 755, § 1, 63 Stat. 927.)

RESERVATION OF RIGHTS

Section 7 of act Oct. 26, 1949, provided that: ''The right to repeal, alter or amend this Act [sections 468 to 468d of this title] at any time is hereby expressly reserved, but no contract or individual right made or acquired shall thereby be divested or impaired.''

§ 468a. Principal office of National Trust Commission

The National Trust shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be an inhabitant and resident thereof. The National Trust may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

(Oct. 26, 1949, ch. 755, § 2, 63 Stat. 927.)

§ 468b. Administration of National Trust; composition of board of trustees; terms of office; compensation; expenses

The affairs of the National Trust shall be under the general direction of a board of trustees composed as follows: The Attorney General of the United States; the Secretary of the Interior; and the Director of the National Gallery of Art, ex officio; and not less than six general trustees who shall be citizens of the United States, to be chosen as hereinafter provided. The Attorney General, and the Secretary of the Interior, when it appears desirable in the interest of the conduct of the business of the board and to such extent as they deem it advisable, may, by written notice to the National Trust, designate any officer of their respective departments to act for them in the discharge of their duties as a member of the board of trustees. The number of general trustees shall be fixed by the Board of Trustees of the National Trust and shall be chosen by the members of the National Trust from its members at any regular meeting of said National Trust. The respective terms of office of the general trustees shall be as prescribed by said board of trustees but in no case shall exceed a period of five years from the date of election. A successor to a general trustee shall be chosen in the same manner and shall have a term expiring five years from the date of the expiration of the term for which his predecessor was chosen, except that a successor chosen to fill a vacancy occurring prior to the expiration of such term shall be chosen only for the remainder of that term. The chairman of the board of trustees shall be elected by a majority vote of the members of the board. No compensation shall be paid to the members of the board of trustees for their services as such members, but they shall be reimbursed for travel and actual expenses necessarily incurred by them in attending board meetings and performing other official duties on behalf of the National Trust at the direction of the board.

(Oct. 26, 1949, ch. 755, § 3, 63 Stat. 928; July 28, 1953, ch. 255, 67 Stat. 228.)

AMENDMENTS

1953—Act July 28, 1953, provided that the general trustees be elected by members of the trust rather than by the National Council for Historic Sites and Buildings.

§ 468c. Powers and duties of National Trust

To the extent necessary to enable it to carry out the functions vested in it by sections 468 to 468d of this title, the National Trust shall have the following general powers:

(a) To have succession until dissolved by Act of Congress, in which event title to the properties of the National Trust, both real and personal, shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the National Trust, pass to and become vested in the United States of America.

(b) To sue and be sued in its corporate name.

(c) To adopt, alter, and use a corporate seal which shall be judicially noticed.

(d) To adopt a constitution and to make such bylaws, rules, and regulations, not inconsistent with the laws of the United States or of any State, as it deems necessary for the administration of its functions under sections 468 to 468d of this title, including among other matter, bylaws, rules, and regulations governing visitation to historic properties, administration of corporate funds, and the organization and procedure of the board of trustees.

(e) To accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatsoever character, absolutely or on trust, for the purposes for which the National Trust is created. Unless otherwise restricted by the terms of the gift or bequest, the National Trust is authorized to sell, exchange, or otherwise dispose of and to invest or reinvest in such investments as it may determine from time to time the moneys, securities, or other property given or bequeathed to it. The principal of such corporate funds, together with the income therefrom and all other revenues received by it from any source whatsoever, shall be placed in such depositories as the National Trust shall determine and shall be subject to expenditure by the National Trust for its corporate purposes.

(f) To acquire by gift, devise, purchase, or otherwise, absolutely or on trust, and to hold and, unless otherwise restricted by the terms of the gift or devise, to encumber, convey, or otherwise dispose of, any real property, or any estate or interest therein (except property within the exterior boundaries of national parks and national monuments), as may be necessary and proper in carrying into effect the purposes of the National Trust.

(g) To contract and make cooperative agreements with Federal, State, or municipal departments or agencies, corporations, associations, or individuals, under such terms and conditions as it deems advisable, respecting the protection, preservation, maintenance, or operation of any historic site, building, object, or property used in connection therewith for public use, regardless of whether the National Trust has acquired title to such properties, or any interest therein.

(h) To enter into contracts generally and to execute all instruments necessary or appropriate to carry out its corporate purposes, which instruments shall include such concession contracts, leases, or permits for the use of lands, buildings, or other property deemed desirable either to accommodate the public or to facilitate administration.

(i) To appoint and prescribe the duties of such officers, agents, and employees as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the National Trust may determine.

(j) And generally to do any and all lawful acts necessary or appropriate to carry out the purposes for which the National Trust is created.

(Oct. 26, 1949, ch. 755, § 4, 63 Stat. 928.)

§ 468d. Consultation with Advisory Board on National Parks, Historic Sites, Buildings, and Monuments

In carrying out its functions under sections 468 to 468d of this title, the National Trust is authorized to consult with the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments, on matters relating to the selection of sites, buildings, and objects to be preserved and protected pursuant hereto.

(Oct. 26, 1949, ch. 755, § 5, 63 Stat. 929.)

§ 468e. Repealed. Pub. L. 86–533, § 1(19), June 29, 1960, 74 Stat. 248

Section, act Oct. 26, 1949, ch. 755, § 6, 63 Stat. 929, required the National Trust to report to the Congress its proceedings and activities.

§ 469. Preservation of historical and archeological data threatened by dam construction or alterations of terrain

It is the purpose of sections 469 to 469c–1 of this title to further the policy set forth in sections 461 to 467 of this title, by specifically providing for the preservation of historical and archeological data (including relics and specimens) which might otherwise be irreparably lost or destroyed as the result of (1) flooding, the building of access roads, the erection of workmen's communities, the relocation of railroads and highways, and other alterations of the terrain caused by the construction of a dam by any agency of the United States, or by any private person or corporation holding a license issued by any such agency or (2) any alteration of the terrain caused as a result of any Federal construction project or federally licensed activity or program.

(Pub. L. 86–523, § 1, June 27, 1960, 74 Stat. 220; Pub. L. 93–291, § 1(1), May 24, 1974, 88 Stat. 174.)

AMENDMENTS

1974—Pub. L. 93–291 designated existing provisions as cl. (1) and added cl. (2).

§ 469a. Notice of dam construction to be given Secretary of the Interior by United States agencies

Before any agency of the United States shall undertake the construction of a dam, or issue a license to any private individual or corporation for the construction of a dam, it shall give written notice to the Secretary of the Interior (hereafter referred to as the Secretary) setting forth the site of the proposed dam and the approximate area to be flooded and otherwise changed if such construction is undertaken: *Provided*, That with respect to any flood water retarding dam which provides less than five thousand acre-feet of detention capacity and with respect to any other type of dam which creates a reservoir of less than forty surface acres the provisions of this section shall apply only when the constructing agency, in its preliminary surveys, finds, or is presented with evidence that historical or archeological materials exist or may be present in the proposed reservoir area.

(Pub. L. 86–523, § 2, formerly § 2(a), June 27, 1960, 74 Stat. 220, renumbered and amended Pub. L. 93–291, § 1(2), (5), May 24, 1974, 88 Stat. 174, 175.)

AMENDMENTS

1974—Pub. L. 93–291 struck out designation ''(a)'' before and, in the resulting unlettered provisions, inserted ''(hereafter referred to as the Secretary)'' after ''Secretary of the Interior''. Subsecs. (b) to (e) were disposed of as follows: subsec. (b) was transferred and amended, and as so transferred and amended, is set out as sections 469a–1 and 469a–2 of this title, subsecs. (c) and (e) were redesignated as subsecs. (a) and (b), respectively, of section 469a–3 of this title, and subsec. (d) was struck out.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with system activities requiring coordination and approval under sections 469 to 469c of this title and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with sections 469 to 469c of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority

vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 469a–1. Threat of irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data by Federal construction projects; notice to Secretary of the Interior; survey; recovery, preservation, and protection of data

(a) Notification and request for preservation of data

Whenever any Federal agency finds, or is notified, in writing, by an appropriate historical or archeological authority, that its activities in connection with any Federal construction project or federally licensed project, activity, or program may cause irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data, such agency shall notify the Secretary, in writing, and shall provide the Secretary with appropriate information concerning the project, program, or activity. Such agency may request the Secretary to undertake the recovery, protection, and preservation of such data (including preliminary survey, or other investigation as needed, and analysis and publication of the reports resulting from such investigation), or it may, with funds appropriated for such project, program, or activity, undertake such activities. Copies of reports of any investigations made pursuant to this section shall be submitted to the Secretary, who shall make them available to the public for inspection and review.

(b) Survey of site; preservation of data; compensation

Whenever any Federal agency provides financial assistance by loan, grant, or otherwise to any private person, association, or public entity, the Secretary, if he determines that significant scientific, prehistorical, historical, or archeological data might be irrevocably lost or destroyed, may with funds appropriated expressly for this purpose conduct, with the consent of all persons, associations, or public entities having a legal interest in the property involved, a survey of the affected site and undertake the recovery, protection, and preservation of such data (including analysis and publication). The Secretary shall, unless otherwise mutually agreed to in writing, compensate any person, association, or public entity damaged as a result of delays in construction or as a result of the temporary loss of the use of private or any nonfederally owned lands.

(Pub. L. 86–523, § 3, as added Pub. L. 93–291, § 1(3), May 24, 1974, 88 Stat. 174.)

PRIOR PROVISIONS

A prior section 3 of Pub. L. 86–523 was renumbered section 6 and is classified to section 469b of this title.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior and Secretary or other official in Department of Agriculture to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 469a of this title.

§ 469a–2. Survey by Secretary of the Interior; recovery and preservation of data; compensation for delays in construction and for temporary loss of use of land

(a) Survey conducted; preservation of data

The Secretary, upon notification, in writing, by any Federal or State agency or appropriate historical or archeological authority that scientific, prehistorical, historical, or archeological data is being or may be irrevocably lost or destroyed by any Federal or federally assisted or licensed project, activity, or program, shall, if he determines that such data is significant and is being or may be irrevocably lost or destroyed and after reasonable notice to the agency responsible for funding or licensing such project, activity, or program, conduct or cause to be conducted a survey and other investigation of the areas which are or may be affected and recover and preserve such data (including analysis and publication) which, in his opinion, are not being, but should be, recovered and preserved in the public interest.

(b) Emergency projects

No survey or recovery work shall be required pursuant to this section which, in the determination of the head of the responsible agency, would impede Federal or federally assisted or licensed projects or activities undertaken in connection with any emergency, including projects or activities undertaken in anticipation of, or as a result of, a natural disaster.

(c) Initiation of survey

The Secretary shall initiate the survey or recovery effort within sixty days after notification to him pursuant to subsection (a) of this section or within such time as may be agreed upon with the head of the agency responsible for funding or licensing the project, activity, or program in all other cases.

(d) Compensation by Secretary

The Secretary shall, unless otherwise mutually agreed to in writing, compensate any person, association, or public entity damaged as a result of delays in construction or as a result of the temporary loss of the use of private or nonfederally owned land.

(Pub. L. 86–523, § 4, as added Pub. L. 93–291, § 1(3), May 24, 1974, 88 Stat. 174.)

PRIOR PROVISIONS

A prior section 4 of Pub. L. 86–523 was renumbered section 7 and is classified to section 469c of this title.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior and Secretary or other official in Department of Agriculture to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transpor-

tation Projects, see note set out under section 469a of this title.

§ 469a–3. Progress reports by Secretary of the Interior on surveys and work undertaken as result of surveys; disposition of relics and specimens recovered; coordination of survey and recovery activities; annual report

(a) Progress reports to funding or licensing agency

The Secretary shall keep the agency responsible for funding or licensing the project notified at all times of the progress of any survey made under sections 469 to 469c of this title or of any work undertaken as a result of such survey, in order that there will be as little disruption or delay as possible in the carrying out of the functions of such agency and the survey and recovery programs shall terminate at a time mutually agreed upon by the Secretary and the head of such agency unless extended by mutual agreement.

(b) Disposition of relics and specimens

The Secretary shall consult with any interested Federal and State agencies, educational and scientific organizations, and private institutions and qualified individuals, with a view to determining the ownership of and the most appropriate repository for any relics and specimens recovered as a result of any work performed as provided for in this section.

(c) Coordination of activities; annual report

The Secretary shall coordinate all Federal survey and recovery activities authorized under sections 469 to 469c–1 of this title.

(Pub. L. 86–523, § 5, formerly § 2(c), (e), June 27, 1960, 74 Stat. 220, renumbered and amended Pub. L. 93–291, § 1(4), (6), (7), May 24, 1974, 88 Stat. 175; Pub. L. 96–205, title VI, § 608(b)(1), Mar. 12, 1980, 94 Stat. 92; Pub. L. 103–437, § 6(d)(27), Nov. 2, 1994, 108 Stat. 4584; Pub. L. 104–333, div. I, title VIII, § 814(d)(2)(B), Nov. 12, 1996, 110 Stat. 4196.)

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–333 inserted period after ''469c–1 of this title'' and struck out at end ''and shall submit an annual report at the end of each fiscal year to the Committee on Natural Resources of the House of Representatives and Committee on Energy and Natural Resources of the Senate indicating the scope and effectiveness of the program, the specific projects surveyed and the results produced, and the costs incurred by the Federal Government as a result thereof.''

1994—Subsec. (c). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

1980—Subsec. (c). Pub. L. 96–205 substituted references to the House Committee on Interior and Insular Affairs and Senate Committee on Energy and Natural Resources, for reference to Interior and Insular Affairs Committees of the Congress.

1974—Subsec. (a). Pub. L. 93–291, § 1(4), (6), redesignated subsec. (c) of section 469a of this title as subsec. (a) of this section and substituted ''agency responsible for funding or licensing the project'' for ''instigating agency'' and ''agency and the survey and recovery programs shall terminate at a time mutually agreed upon by the Secretary and the head of such agency unless extended by mutual agreement'' for ''agency''.

Subsec. (b). Pub. L. 93–291, § 1(6), redesignated subsec. (e) of section 469a of this title as subsec. (b) of this section.

Subsec. (c). Pub. L. 93–291, § 1(7), added subsec. (c).

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior and Secretary or other official in Department of Agriculture to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 469a of this title.

§ 469b. Administration; contracts or agreements; services of experts, consultants, or organizations; acceptance of funds

In the administration of sections 469 to 469c–1 of this title, the Secretary may—

(1) enter into contracts or make cooperative agreements with any Federal or State agency, any educational or scientific organization, or any institution, corporation, association, or qualified individual; and

(2) obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of title 5; and

(3) accept and utilize funds made available for salvage archeological purposes by any private person or corporation or transferred to him by any Federal agency.

(Pub. L. 86–523, § 6, formerly § 3, June 27, 1960, 74 Stat. 221, renumbered and amended Pub. L. 93–291, § 1(8), May 24, 1974, 88 Stat. 175.)

AMENDMENTS

1974—Par. (2). Pub. L. 93–291 substituted ''obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of title 5'' for ''procure the temporary or intermittent services of experts or consultants or organizations thereof as provided in section 55a of title 5''.

Par. (3). Pub. L. 93–291 substituted ''or corporation or transferred to him by any Federal agency'' for ''or corporations holding a license issued by an agency of the United States for the construction of a dam or other type of water or power control project''.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior and Secretary or other official in Department of Agriculture to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 469a of this title.

§ 469c. Assistance to Secretary of the Interior by Federal agencies responsible for construction projects; authorization of appropriations

(a) Assistance of Federal agencies

To carry out the purposes of sections 469 to 469c–1 of this title, any Federal agency responsible for a construction project may assist the Secretary and/or it may transfer to him such funds as may be agreed upon, but not more than 1 per centum of the total amount authorized to be appropriated for such project, except that the 1 per centum limitation of this section shall not apply in the event that the project involves $50,000 or less: *Provided*, That the costs of such survey, recovery, analysis, and publication shall be considered nonreimbursable project costs.

(b) Authorization of appropriations for preservation of data

For the purposes of section 469a–1(b) of this title, there are authorized to be appropriated such sums as may be necessary, but not more than $500,000 in fiscal year 1974; $1,000,000 in fiscal year 1975; $1,500,000 in fiscal year 1976; $1,500,000 in fiscal year 1977; $1,500,000 in fiscal year 1978; $500,000 in fiscal year 1979; $1,000,000 in fiscal year 1980; $1,500,000 in fiscal year 1981; $1,500,000 in fiscal year 1982; and $1,500,000 in fiscal year 1983.

(c) Authorization of appropriations for surveys and investigations

For the purposes of section 469a–2(a) of this title, there are authorized to be appropriated not more than $2,000,000 in fiscal year 1974; $2,000,000 in fiscal year 1975; $3,000,000 in fiscal year 1976; $3,000,000 in fiscal year 1977; $3,000,000 in fiscal year 1978; $3,000,000 in fiscal year 1979; $3,000,000 in fiscal year 1980; $3,500,000 in fiscal year 1981; $3,500,000 in fiscal year 1982; and $4,000,000 in fiscal year 1983.

(d) Availability of appropriations

Beginning fiscal year 1979, sums appropriated for purposes of this section shall remain available until expended.

(Pub. L. 86–523, § 7, formerly § 4, June 27, 1960, 74 Stat. 221, renumbered and amended Pub. L. 93–291, § 1(9), May 24, 1974, 88 Stat. 175; Pub. L. 95–625, title VI, § 603, Nov. 10, 1978, 92 Stat. 3518.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–625, § 603(a), (b), authorized appropriation of $500,000 for fiscal year 1979, $1,000,000 for fiscal year 1980, and $1,500,000 for fiscal years 1981 through 1983.

Subsec. (c). Pub. L. 95–625, § 603(a), (c), authorized appropriation of $3,000,000 for fiscal years 1979, and 1980, $3,500,000 for fiscal years 1981, and 1982, and $4,000,000 for fiscal year 1983.

Subsec. (d). Pub. L. 95–625, § 603(a), (d), added subsec. (d).

1974—Subsec. (a). Pub. L. 93–291 added subsec. (a).

Subsecs. (b), (c). Pub. L. 93–291 designated existing unlettered provisions as subsecs. (b) and (c), and in subsecs. (b) and (c) as so designated substituted provisions making separate authorizations of appropriations for purposes of sections 469a–1(b) and 469a–2(a) of this title and covering fiscal years 1974, 1975, 1976, 1977, and 1978 for provisions making a general authorization of appropriations of whatever sums as might be necessary to carry out the purposes of sections 469 to 469c of this title.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior and Secretary or other official in Department of Agriculture to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 469a of this title.

§ 469c–1. "State" defined

As used in sections 469 to 469c–1 of this title, the term ''State'' includes the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 86–523, § 8, as added Pub. L. 96–205, title VI, § 608(b)(2), Mar. 12, 1980, 94 Stat. 92.)

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 469c–2. Costs for identification, surveys, evaluation and data recovery with respect to historic properties

Notwithstanding section 469c(a) of this title, or any other provision of law to the contrary—

(1) identification, surveys, and evaluation carried out with respect to historic properties within project areas may be treated for purposes of any law or rule of law as planning costs of the project and not as costs of mitigation;

(2) reasonable costs for identification, surveys, evaluation, and data recovery carried out with respect to historic properties within project areas may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit; and

(3) Federal agencies, with the concurrence of the Secretary and after notification of the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, are authorized to waive, in appropriate cases, the 1 per centum limitation contained in section 469c(a) of this title.

(Pub. L. 96–515, title II, § 208, Dec. 12, 1980, 94 Stat. 2997; Pub. L. 103–437, § 6(d)(28), Nov. 2, 1994, 108 Stat. 4584.)

AMENDMENTS

1994—Par. (3). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 469d. Ice Age National Scientific Reserve; statement of purpose

It is the purpose of sections 469d to 469i of this title to assure protection, preservation, and interpretation of the nationally significant values of Wisconsin continental glaciation, including moraines, eskers, kames, kettleholes, drumlins, swamps, lakes, and other reminders of the ice age.

(Pub. L. 88–655, § 1, Oct. 13, 1964, 78 Stat. 1087.)

§ 469e. Plan for continental glaciation

(a) Federal funds

To implement the purpose of sections 469d to 469i of this title, the Secretary of the Interior (hereinafter called the ''Secretary''), in cooperation with State and local governmental authorities of Wisconsin, may formulate within two years after October 13, 1964, a comprehensive plan for the protection, preservation, and interpretation of outstanding examples of continental glaciation in Wisconsin; but he shall not spend more than $50,000 of Federal funds thereon.

(b) Copies to Congress; establishment; boundaries

When the comprehensive plan is completed and the Secretary is satisfied that State legislation exists for the preservation of the nationally significant features of the reserve, open to the people of the entire Nation, he shall transmit copies thereof to the President of the Senate and the Speaker of the House of Representatives and may, ninety days thereafter and after consulting with the Governor of the State of Wisconsin, publish notice in the Federal Register of the establishment of the Ice Age National Scientific Reserve and of the boundaries thereof, which boundaries shall comprise lands owned or to be acquired by the State and local governments of Wisconsin in the following areas:

(1) Eastern area (portions of the northern unit of the Kettle Moraine State Forest and Campbellsport drumlin area);

(2) Central area (portions of Devil's Lake State Park);

(3) Northwestern area (portions of Chippewa County);

(4) Related areas (other areas in the State of Wisconsin which the Secretary and the Governor of Wisconsin agree upon as significant examples of continental glaciation).

(c) Inclusion and exclusion of other areas

Any area outside of the national forests that the Secretary and the Governor of Wisconsin agree has significant examples of continental glaciation but is not described in the original notice may be included in the reserve by the Secretary after notice to the President of the Senate and the Speaker of the House of Representatives and publication in the Federal Register, as hereinbefore provided, and any area that they consider to be no longer desirable as a part of the reserve may be excluded from it by the Secretary in the same manner.

(Pub. L. 88–655, § 2, Oct. 13, 1964, 78 Stat. 1087.)

§ 469f. Repealed. Pub. L. 91–483, § 1(1), Oct. 21, 1970, 84 Stat. 1083

Section, Pub. L. 88–655, § 3, Oct. 13, 1964, 78 Stat. 1087, provided for grant of financial assistance to State of Wisconsin of up to $750,000 for acquisition of lands and interests in lands, subject to terms and conditions prescribed by Secretary.

§ 469g. Ice Age National Scientific Reserve; recommendations for Federal and State participation in financing public facilities and services

The comprehensive plan presented by the Secretary to the President of the Senate and the Speaker of the House of Representatives may include such recommendations, if any, as he and the Governor of the State of Wisconsin may wish to make with respect to Federal and State participation in the financing of appropriate interpretive and other public facilities and services within the reserve including facilities and services to be furnished by such private organizations as the Ice Age Park and Trail Foundation, a nonprofit corporation.

(Pub. L. 88–655, § 4, Oct. 13, 1964, 78 Stat. 1087; Pub. L. 91–483, § 1(2), Oct. 21, 1970, 84 Stat. 1083.)

AMENDMENTS

1970—Pub. L. 91–483 removed restriction that the Secretary make no commitment with respect to financing of facilities and services within the reserve and that no Federal appropriations be available for such purpose.

§ 469h. Comprehensive plan for Reserve Development

(a) Technical assistance

The Secretary is authorized to provide technical assistance to the State of Wisconsin for planning and development of the reserve in accordance with the comprehensive plan.

(b) Additional grants

In addition to grants made pursuant to the Land and Water Conservation Fund Act of 1965 [16 U.S.C. 460*l*–4 et seq.], the Secretary is authorized to make grants of not to exceed 25 per centum of the actual cost of each development project within the reserve in accordance with the comprehensive plan: *Provided*, That the maximum amount of such grants for all projects shall not exceed $2,500,000.

(c) Costs of maintenance

The Secretary, pursuant to an agreement with the State of Wisconsin, may pay up to 50 per centum of the annual cost of management, protection, maintenance, and rehabilitation of the reserve.

(d) Termination of Federal contributions

Whenever the Secretary determines that appropriate management and protection set down in the comprehensive plan are not being afforded the nationally significant values within the reserve or that funds are not being provided on the prescribed matching basis by the State of Wisconsin or other non-Federal sources, he may terminate contributions under sections 469d to 469i of this title.

(Pub. L. 88–655, § 5, Oct. 13, 1964, 78 Stat. 1088; Pub. L. 91–483, § 1(3), Oct. 21, 1970, 84 Stat. 1083; Pub. L. 96–199, title I, § 109, Mar. 5, 1980, 94 Stat. 69.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (b), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

AMENDMENTS

1980—Subsec. (b). Pub. L. 96–199 substituted ''$2,500,000'' for ''$425,000''.

1970—Pub. L. 91–483 substituted provisions authorizing the Secretary to provide technical assistance and financial grants in addition to those under the Land and Water Conservation Fund Act of 1965, not exceeding 25 percent of the actual cost of each development project and up to a maximum of $425,000 and to share equally the annual costs of management, protection, maintenance and rehabilitation of the reserve for provisions for part recovery of the funds granted in case of conversion, and use or disposal contrary to the purposes of the establishment of the Ice Age National Scientific Reserve, and reenacted provisions for the termination of the grants.

§ 469i. Repealed. Pub. L. 91–483, § 1(4), Oct. 21, 1970, 84 Stat. 1083

Section, Pub. L. 88–655, § 6, Oct. 13, 1964, 78 Stat. 1088, authorized appropriations of up to $800,000 for carrying out provisions of sections 469d to 469i of this title.

§ 469j. Commission for the Preservation of America's Heritage Abroad

(a) Purpose

Because the fabric of a society is strengthened by visible reminders of the historical roots of the society, it is in the national interest of the United States to encourage the preservation and protection of the cemeteries, monuments, and historic buildings associated with the foreign heritage of United States citizens.

(b) Establishment

There is established a commission to be known as the Commission for the Preservation of America's Heritage Abroad (hereafter in this section referred to as the ''Commission'').

(c) Duties

The Commission shall—

(1) identify and publish a list of those cemeteries, monuments, and historic buildings located abroad which are associated with the foreign heritage of United States citizens from eastern and central Europe, particularly those cemeteries, monuments, and buildings which are in danger of deterioration or destruction;

(2) encourage the preservation and protection of such cemeteries, monuments, and historic buildings by obtaining, in cooperation with the Department of State, assurances from foreign governments that the cemeteries, monuments, and buildings will be preserved and protected; and

(3) prepare and disseminate reports on the condition of and the progress toward preserving and protecting such cemeteries, monuments, and historic buildings.

(d) Membership

(1) The Commission shall consist of 21 members appointed by the President, 7 of whom shall be appointed after consultation with the Speaker of the House of Representatives and 7 of whom shall be appointed after consultation with the President pro tempore of the Senate.

(2)(A) Except as provided in subparagraphs (B) and (C), members of the Commission shall be appointed for terms of 3 years.

(B) Of the members first appointed after consultation with the Speaker of the House of Representatives, 5 shall be appointed for a term of 2 years. Of the members first appointed after consultation with the President pro tempore of the Senate, 5 shall be appointed for 2 years.

(C) A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the member's predecessor was appointed.

(D) A member may retain membership on the Commission until the member's successor has been appointed.

(3) The President shall designate the Chairman of the Commission from among its members.

(e) Meetings

The Commission shall meet at least once every six months.

(f) Compensation and per diem

(1) Members of the Commission shall receive no pay on account of their service on the Commission.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(g) Authorities

(1) The Commission or any member it authorizes may, for the purposes of carrying out this section, hold such hearings, sit and act at such times and places, request such attendance, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may appoint such personnel (subject to the provisions of title 5 which govern appointments in the competitive service) and may fix the pay of such personnel (subject to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates) as the Commission deems desirable.

(3) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay then in effect for grade GS–18 of the General Schedule (5 U.S.C. 5332(a)).

(4) Upon request of the Commission, the head of any Federal department or agency, including the Secretary of State, may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties under this section.

(5) The Commission may secure directly from any department or agency of the United States, including the Department of State, any information necessary to enable it to carry out this section. Upon the request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(6) The Commission may accept, use, and dispose of gifts or donations of money or property.

(7) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(8) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(h) Reports

The Commission shall transmit an annual report to the President and to each House of Congress as soon as practicable after the end of each fiscal year. Each report shall include a detailed statement of the activities and accomplishments of the Commission during the preceding fiscal year and any recommendations by the Commission for legislation and administrative actions.

(Pub. L. 99–83, title XIII, § 1303, Aug. 8, 1985, 99 Stat. 280; Pub. L. 105–277, div. A, § 101(b) [title VI, § 620], Oct. 21, 1998, 112 Stat. 2681–50, 2681–115.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (g)(2), is set out under section 5332 of Title 5.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–277 substituted ''six'' for ''three''.

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of Title 22, Foreign Relations and Intercourse.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (h) of this section relating to transmittal of annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 157 of House Document No. 103–7.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 469k. Repealed. Pub. L. 104–333, div. I, title VI, § 604(e)(1), Nov. 12, 1996, 110 Stat. 4173; Pub. L. 107–359, § 3(4)(A), Dec. 17, 2002, 116 Stat. 3016

Section, Pub. L. 104–333, div. I, title VI, § 604, Nov. 12, 1996, 110 Stat. 4173; Pub. L. 107–359, § 3, Dec. 17, 2002, 116 Stat. 3016, known as the American Battlefield Protection Act of 1996, established the American Battlefield Protection Program. See section 469k–1 of this title.

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–359, § 1, Dec. 17, 2002, 116 Stat. 3016, provided that: ''This Act [amending this section and enacting provisions set out as a note under this section], may be cited as the 'Civil War Battlefield Preservation Act of 2002'.''

§ 469k–1. American Battlefield Protection Program

(a) Purpose

The purpose of this section is to assist citizens, public and private institutions, and governments at all levels in planning, interpreting, and protecting sites where historic battles were fought on American soil during the armed conflicts that shaped the growth and development of the United States, in order that present and future generations may learn and gain inspiration from the ground where Americans made their ultimate sacrifice.

(b) Preservation assistance

(1) In general

Using the established national historic preservation program to the extent practicable, the Secretary of the Interior, acting through the American Battlefield Protection Program, shall encourage, support, assist, recognize, and work in partnership with citizens, Federal, State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations in identifying, researching, evaluating, interpreting, and protecting historic battlefields and associated sites on a National, State, and local level.

(2) Financial assistance

To carry out paragraph (1), the Secretary may use a cooperative agreement, grant, contract, or other generally adopted means of providing financial assistance.

(3) Authorization of appropriations

There are authorized to be appropriated $3,000,000 annually to carry out this subsection, to remain available until expended.

(c) Battlefield acquisition grant program

(1) Definitions

In this subsection:

(A) Battlefield Report

The term ''Battlefield Report'' means the document entitled ''Report on the Nation's Civil War Battlefields'', prepared by the Civil War Sites Advisory Commission, and dated July 1993.

(B) Eligible entity

The term ''eligible entity'' means a State or local government.

(C) Eligible site

The term ''eligible site'' means a site—

(i) that is not within the exterior boundaries of a unit of the National Park System; and

(ii) that is identified in the Battlefield Report.

(D) Secretary

The term ''Secretary'' means the Secretary of the Interior, acting through the American Battlefield Protection Program.

(2) Establishment

The Secretary shall establish a battlefield acquisition grant program under which the Secretary may provide grants to eligible entities to pay the Federal share of the cost of acquiring interests in eligible sites for the preservation and protection of those eligible sites.

(3) Nonprofit partners

An eligible entity may acquire an interest in an eligible site using a grant under this subsection in partnership with a nonprofit organization.

(4) Non-Federal share

The non-Federal share of the total cost of acquiring an interest in an eligible site under this subsection shall be not less than 50 percent.

(5) Limitation on land use

An interest in an eligible site acquired under this subsection shall be subject to section 460*l*–8(f)(3) of this title.

(6) Authorization of appropriations

There is authorized to be appropriated to the Secretary to provide grants under this subsection $10,000,000 for each of fiscal years 2009 through 2013.

(Pub. L. 111–11, title VII, § 7301, Mar. 30, 2009, 123 Stat. 1213.)

§ 469*l*. Findings and purposes

(a) Findings

The Congress finds the following:

(1) The Underground Railroad, which flourished from the end of the 18th century to the end of the Civil War, was one of the most significant expressions of the American civil rights movement during its evolution over more than three centuries.

(2) The Underground Railroad bridged the divides of race, religion, sectional differences, and nationality; spanned State lines and international borders; and joined the American ideals of liberty and freedom expressed in the Declaration of Independence and the Constitution to the extraordinary actions of ordinary men and women working in common purpose to free a people.

(3) Pursuant to title VI of Public Law 101–628 (16 U.S.C. 1a–5 note; 104 Stat. 4495), the Underground Railroad Advisory Committee conducted a study of the appropriate means of establishing an enduring national commemorative Underground Railroad program of education, example, reflection, and reconciliation.

(4) The Underground Railroad Advisory Committee found that—

(A) although a few elements of the Underground Railroad story are represented in existing National Park Service units and other sites, many sites are in imminent danger of being lost or destroyed, and many important resource types are not adequately represented and protected;

(B) there are many important sites which have high potential for preservation and visitor use in 29 States, the District of Columbia, and the Virgin Islands;

(C) no single site or route completely reflects and characterizes the Underground Railroad, since its story and associated resources involve networks and regions of the country rather than individual sites and trails; and

(D) establishment of a variety of partnerships between the Federal Government and other levels of government and the private sector would be most appropriate for the protection and interpretation of the Underground Railroad.

(5) The National Park Service can play a vital role in facilitating the national commemoration of the Underground Railroad.

(6) The story and significance of the Underground Railroad can best engage the American people through a national program of the National Park Service that links historic buildings, structures, and sites; routes, geographic areas, and corridors; interpretive centers, museums, and institutions; and programs, activities, community projects, exhibits, and multimedia materials, in a manner that is both unified and flexible.

(b) Purposes

The purposes of sections 469*l* to 469*l*–2 of this title are the following:

(1) To recognize the importance of the Underground Railroad, the sacrifices made by those who used the Underground Railroad in search of freedom from tyranny and oppression, and the sacrifices made by the people who helped them.

(2) To authorize the National Park Service to coordinate and facilitate Federal and non-Federal activities to commemorate, honor, and interpret the history of the Underground Railroad, its significance as a crucial element in the evolution of the national civil rights movement, and its relevance in fostering the spirit of racial harmony and national reconciliation.

(Pub. L. 105–203, § 2, July 21, 1998, 112 Stat. 678.)

§ 469*l*–1. National Underground Railroad Network to Freedom program

(a) In general

The Secretary of the Interior (in sections 469*l* to 469*l*–3 of this title referred to as the ''Secretary'') shall establish in the National Park Service a program to be known as the ''National Underground Railroad Network to Freedom'' (in sections 469*l* to 469*l*–3 of this title referred to as the ''national network''). Under the program, the Secretary shall—

(1) produce and disseminate appropriate educational materials, such as handbooks, maps, interpretive guides, or electronic information;

(2) enter into appropriate cooperative agreements and memoranda of understanding to provide technical assistance under subsection (c) of this section; and

(3) create and adopt an official, uniform symbol or device for the national network and issue regulations for its use.

(b) Elements

The national network shall encompass the following elements:

(1) All units and programs of the National Park Service determined by the Secretary to pertain to the Underground Railroad.

(2) Other Federal, State, local, and privately owned properties pertaining to the Underground Railroad that have a verifiable connection to the Underground Railroad and that are included on, or determined by the Secretary to be eligible for inclusion on, the National Register of Historic Places.

(3) Other governmental and nongovernmental facilities and programs of an educational, research, or interpretive nature that are directly related to the Underground Railroad.

(c) Cooperative agreements and memoranda of understanding

To achieve the purposes of sections 469*l* to 469*l*–3 of this title and to ensure effective coordination of the Federal and non-Federal elements of the national network referred to in subsection (b) of this section with National Park Service units and programs, the Secretary may enter into cooperative agreements and memoranda of understanding with, and provide technical assistance to—

(1) the heads of other Federal agencies, States, localities, regional governmental bodies, and private entities; and

(2) in cooperation with the Secretary of State, the governments of Canada, Mexico, and any appropriate country in the Caribbean.

(Pub. L. 105–203, §3, July 21, 1998, 112 Stat. 679; Pub. L. 110–229, title III, §361(a)(1), May 8, 2008, 122 Stat. 801.)

AMENDMENTS

2008—Subsec. (d). Pub. L. 110–229 struck out subsec. (d) which authorized appropriations for sections 469*l* to 469*l*–2 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–229, title III, §361(b), May 8, 2008, 122 Stat. 802, provided that: ''The amendments made by subsection (a) [enacting section 469*l*–3 of this title and amending this section and section 469*l*–2 of this title] shall take effect at the beginning of the fiscal year immediately following the date of the enactment of this Act [May 8, 2008].''

§ 469*l*–2. Preservation of historic sites or structures

(a) Authority to make grants

The Secretary of the Interior may make grants in accordance with this section for the preservation and restoration of historic buildings or structures associated with the Underground Railroad, and for related research and documentation to sites, programs, or facilities that have been included in the national network.

(b) Grant conditions

Any grant made under this section shall provide that—

(1) no change or alteration may be made in property for which the grant is used except with the agreement of the property owner and the Secretary;

(2) the Secretary shall have the right of access at reasonable times to the public portions of such property for interpretive and other purposes; and

(3) conversion, use, or disposal of such property for purposes contrary to the purposes of sections 469*l* to 469*l*–3 of this title, as determined by the Secretary, shall result in a right of the United States to compensation equal to all Federal funds made available to the grantee under sections 469*l* to 469*l*–3 of this title.

(c) Matching requirement

The Secretary may obligate funds made available for a grant under this section only if the grantee agrees to match, from funds derived from non-Federal sources, the amount of the grant with an amount that is equal to or greater than the grant. The Secretary may waive the requirement of the preceding sentence with respect to a grant if the Secretary determines that an extreme emergency exists or that such a waiver is in the public interest to assure the preservation of historically significant resources.

(Pub. L. 105–203, §4, as added Pub. L. 106–291, title I, §150(h), Oct. 11, 2000, 114 Stat. 959; amended Pub. L. 110–229, title III, §361(a)(2), May 8, 2008, 122 Stat. 801.)

AMENDMENTS

2008—Subsec. (d). Pub. L. 110–229 struck out subsec. (d) which related to funding for purposes of this section for fiscal year 2001 and each subsequent fiscal year.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–229 effective at the beginning of the fiscal year immediately following May 8, 2008, see section 361(b) of Pub. L. 110–229, set out as a note under section 469*l*–1 of this title.

NATIONAL UNDERGROUND RAILROAD FREEDOM CENTER

Pub. L. 106–291, title I, §150(b), Oct. 11, 2000, 114 Stat. 956, provided that:

''(1) FINDINGS.—Congress finds that—

''(A) the National Underground Railroad Freedom Center (hereinafter 'Freedom Center') is a nonprofit organization incorporated under the laws of the State of Ohio in 1995;

''(B) the objectives of the Freedom Center are to interpret the history of the Underground Railroad through development of a national cultural institution in Cincinnati, Ohio, that will house an interpretive center, including museum, educational, and research facilities, all dedicated to communicating to the public the importance of the quest for human freedom which provided the foundation for the historic and inspiring story of the Underground Railroad;

''(C) the city of Cincinnati has granted exclusive development rights for a prime riverfront location to the Freedom Center;

''(D) the Freedom Center will be a national center linked through state-of-the-art technology to Underground Railroad sites and facilities throughout the United States and to a constituency that reaches across the United States, Canada, Mexico, the Caribbean and beyond; and

''(E) the Freedom Center has reached an agreement with the National Park Service to pursue a range of historical and educational cooperative activities related to the Underground Railroad, including but not limited to assisting the National Park Service in the implementation of the National Underground Railroad Network to Freedom Act [16 U.S.C. 469*l* et seq.].

''(2) PURPOSES.—The purposes of this section are—

''(A) to promote preservation and public awareness of the history of the Underground Railroad;

''(B) to assist the Freedom Center in the development of its programs and facilities in Cincinnati, Ohio; and

''(C) to assist the National Park Service in the implementation of the National Underground Railroad Network to Freedom Act (112 Stat. 679; 16 U.S.C. 469*l* and following).''

§ 469*l*–3. Authorization of appropriations

(a) Amounts

There are authorized to be appropriated to carry out sections 469*l* to 469*l*–3 of this title $2,500,000 for each fiscal year, to be allocated as follows:

(1) $2,000,000 is to be used for the purposes of section 469*l*–1 of this title.

(2) $500,000 is to be used for the purposes of section 469*l*–2 of this title.

(b) Restrictions

No amounts may be appropriated for the purposes of sections 469*l* to 469*l*–3 of this title except to the Secretary for carrying out the responsibilities of the Secretary as set forth in sections 469*l* to 469*l*–3 of this title.

(Pub. L. 105–203, §5, as added Pub. L. 110–229, title III, §361(a)(3), May 8, 2008, 122 Stat. 801.)

EFFECTIVE DATE

Section effective at the beginning of the fiscal year immediately following May 8, 2008, see section 361(b) of Pub. L. 110–229, set out as an Effective Date of 2008 Amendment note under section 469*l*–1 of this title.

§ 469m. Women's Rights National Historical Park

(a) Omitted

(b) National Women's Rights History Project National Registry

(1) In general

The Secretary of the Interior (referred to in this section as the ''Secretary'') may make annual grants to State historic preservation offices for not more than 5 years to assist the State historic preservation offices in surveying, evaluating, and nominating to the National Register of Historic Places women's rights history properties.

(2) Eligibility

In making grants under paragraph (1), the Secretary shall give priority to grants relating to properties associated with the multiple facets of the women's rights movement, such as politics, economics, education, religion, and social and family rights.

(3) Updates

The Secretary shall ensure that the National Register travel itinerary website entitled ''Places Where Women Made History'' is updated to contain—

(A) the results of the inventory conducted under paragraph (1); and

(B) any links to websites related to places on the inventory.

(4) Cost-sharing requirement

The Federal share of the cost of any activity carried out using any assistance made available under this subsection shall be 50 percent.

(5) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this subsection $1,000,000 for each of fiscal years 2009 through 2013.

(c) National Women's Rights History Project Partnerships Network

(1) Grants

The Secretary may make matching grants and give technical assistance for development of a network of governmental and nongovernmental entities (referred to in this subsection as the ''network''), the purpose of which is to provide interpretive and educational program development of national women's rights history, including historic preservation.

(2) Management of network

(A) In general

The Secretary shall, through a competitive process, designate a nongovernmental managing network to manage the network.

(B) Coordination

The nongovernmental managing entity designated under subparagraph (A) shall work in partnership with the Director of the National Park Service and State historic preservation offices to coordinate operation of the network.

(3) Cost-sharing requirement

(A) In general

The Federal share of the cost of any activity carried out using any assistance made available under this subsection shall be 50 percent.

(B) State historic preservation offices

Matching grants for historic preservation specific to the network may be made available through State historic preservation offices.

(4) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this subsection $1,000,000 for each of fiscal years 2009 through 2013.

(Pub. L. 111–11, title VII, § 7111, Mar. 30, 2009, 123 Stat. 1199.)

CODIFICATION

Section is comprised of section 7111 of Pub. L. 111–11. Subsec. (a) of section 7111 of Pub. L. 111–11 enacted section 410*ll*–1 of this title.

§ 469n. Preserve America Program

(a) Purpose

The purpose of this section is to authorize the Preserve America Program, including—

(1) the Preserve America grant program within the Department of the Interior;

(2) the recognition programs administered by the Advisory Council on Historic Preservation; and

(3) the related efforts of Federal agencies, working in partnership with State, tribal, and local governments and the private sector, to support and promote the preservation of historic resources.

(b) Definitions

In this section:

(1) Council

The term ''Council'' means the Advisory Council on Historic Preservation.

(2) Heritage tourism

The term ''heritage tourism'' means the conduct of activities to attract and accommodate visitors to a site or area based on the unique or special aspects of the history, landscape (including trail systems), and culture of the site or area.

(3) Program

The term ''program'' means the Preserve America Program established under subsection (c)(1).

(4) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(c) Establishment

(1) In general

There is established in the Department of the Interior the Preserve America Program, under which the Secretary, in partnership with the Council, may provide competitive grants to States, local governments (including local governments in the process of applying for designation as Preserve America Communities under subsection (d)), Indian tribes, communities designated as Preserve America Communities under subsection (d), State his-

toric preservation offices, and tribal historic preservation offices to support preservation efforts through heritage tourism, education, and historic preservation planning activities.

(2) Eligible projects

(A) In general

The following projects shall be eligible for a grant under this section:

(i) A project for the conduct of—

(I) research on, and documentation of, the history of a community; and

(II) surveys of the historic resources of a community.

(ii) An education and interpretation project that conveys the history of a community or site.

(iii) A planning project (other than building rehabilitation) that advances economic development using heritage tourism and historic preservation.

(iv) A training project that provides opportunities for professional development in areas that would aid a community in using and promoting its historic resources.

(v) A project to support heritage tourism in a Preserve America Community designated under subsection (d).

(vi) Other nonconstruction projects that identify or promote historic properties or provide for the education of the public about historic properties that are consistent with the purposes of this section.

(B) Limitation

In providing grants under this section, the Secretary shall only provide 1 grant to each eligible project selected for a grant.

(3) Preference

In providing grants under this section, the Secretary may give preference to projects that carry out the purposes of both the program and the Save America's Treasures Program.

(4) Consultation and notification

(A) Consultation

The Secretary shall consult with the Council in preparing the list of projects to be provided grants for a fiscal year under the program.

(B) Notification

Not later than 30 days before the date on which the Secretary provides grants for a fiscal year under the program, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate, the Committee on Appropriations of the Senate, the Committee on Natural Resources of the House of Representatives, and the Committee on Appropriations of the House of Representatives a list of any eligible projects that are to be provided grants under the program for the fiscal year.

(5) Cost-sharing requirement

(A) In general

The non-Federal share of the cost of carrying out a project provided a grant under this section shall be not less than 50 percent of the total cost of the project.

(B) Form of non-Federal share

The non-Federal share required under subparagraph (A) shall be in the form of—

(i) cash; or

(ii) donated supplies and related services, the value of which shall be determined by the Secretary.

(C) Requirement

The Secretary shall ensure that each applicant for a grant has the capacity to secure, and a feasible plan for securing, the non-Federal share for an eligible project required under subparagraph (A) before a grant is provided to the eligible project under the program.

(d) Designation of Preserve America Communities

(1) Application

To be considered for designation as a Preserve America Community, a community, tribal area, or neighborhood shall submit to the Council an application containing such information as the Council may require.

(2) Criteria

To be designated as a Preserve America Community under the program, a community, tribal area, or neighborhood that submits an application under paragraph (1) shall, as determined by the Council, in consultation with the Secretary, meet criteria required by the Council and, in addition, consider—

(A) protection and celebration of the heritage of the community, tribal area, or neighborhood;

(B) use of the historic assets of the community, tribal area, or neighborhood for economic development and community revitalization; and

(C) encouragement of people to experience and appreciate local historic resources through education and heritage tourism programs.

(3) Local governments previously certified for historic preservation activities

The Council shall establish an expedited process for Preserve America Community designation for local governments previously certified for historic preservation activities under section 470a(c)(1) of this title.

(4) Guidelines

The Council, in consultation with the Secretary, shall establish any guidelines that are necessary to carry out this subsection.

(e) Regulations

The Secretary shall develop any guidelines and issue any regulations that the Secretary determines to be necessary to carry out this section.

(f) Authorization of appropriations

There is authorized to be appropriated to carry out this section $25,000,000 for each fiscal year, to remain available until expended.

(Pub. L. 111–11, title VII, §7302, Mar. 30, 2009, 123 Stat. 1214.)

§ 469*o*. Save America's Treasures Program

(a) Purpose

The purpose of this section is to authorize within the Department of the Interior the Save America's Treasures Program, to be carried out by the Director of the National Park Service, in partnership with—

(1) the National Endowment for the Arts;

(2) the National Endowment for the Humanities;

(3) the Institute of Museum and Library Services;

(4) the National Trust for Historic Preservation;

(5) the National Conference of State Historic Preservation Officers;

(6) the National Association of Tribal Historic Preservation Officers; and

(7) the President's Committee on the Arts and the Humanities.

(b) Definitions

In this section:

(1) Collection

The term ''collection'' means a collection of intellectual and cultural artifacts, including documents, sculpture, and works of art.

(2) Eligible entity

The term ''eligible entity'' means a Federal entity, State, local, or tribal government, educational institution, or nonprofit organization.

(3) Historic property

The term ''historic property'' has the meaning given the term in section 470w of this title.

(4) Nationally significant

The term ''nationally significant'' means a collection or historic property that meets the applicable criteria for national significance, in accordance with regulations promulgated by the Secretary pursuant to section 470a(a)(2) of this title.

(5) Program

The term ''program'' means the Save America's Treasures Program established under subsection (c)(1).

(6) Secretary

The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the National Park Service.

(c) Establishment

(1) In general

There is established in the Department of the Interior the Save America's Treasures program, under which the amounts made available to the Secretary under subsection (e) shall be used by the Secretary, in consultation with the organizations described in subsection (a), subject to paragraph (6)(A)(ii), to provide grants to eligible entities for projects to preserve nationally significant collections and historic properties.

(2) Determination of grants

Of the amounts made available for grants under subsection (e), not less than 50 percent shall be made available for grants for projects to preserve collections and historic properties, to be distributed through a competitive grant process administered by the Secretary, subject to the eligibility criteria established under paragraph (5).

(3) Applications for grants

To be considered for a competitive grant under the program an eligible entity shall submit to the Secretary an application containing such information as the Secretary may require.

(4) Collections and historic properties eligible for competitive grants

(A) In general

A collection or historic property shall be provided a competitive grant under the program only if the Secretary determines that the collection or historic property is—

(i) nationally significant; and

(ii) threatened or endangered.

(B) Eligible collections

A determination by the Secretary regarding the national significance of collections under subparagraph (A)(i) shall be made in consultation with the organizations described in subsection (a), as appropriate.

(C) Eligible historic properties

To be eligible for a competitive grant under the program, a historic property shall, as of the date of the grant application—

(i) be listed in the National Register of Historic Places at the national level of significance; or

(ii) be designated as a National Historic Landmark.

(5) Selection criteria for grants

(A) In general

The Secretary shall not provide a grant under this section to a project for an eligible collection or historic property unless the project—

(i) eliminates or substantially mitigates the threat of destruction or deterioration of the eligible collection or historic property;

(ii) has a clear public benefit; and

(iii) is able to be completed on schedule and within the budget described in the grant application.

(B) Preference

In providing grants under this section, the Secretary may give preference to projects that carry out the purposes of both the program and the Preserve America Program.

(C) Limitation

In providing grants under this section, the Secretary shall only provide 1 grant to each eligible project selected for a grant.

(6) Consultation and notification by Secretary

(A) Consultation

(i) In general

Subject to clause (ii), the Secretary shall consult with the organizations described in

subsection (a) in preparing the list of projects to be provided grants for a fiscal year by the Secretary under the program.

(ii) Limitation

If an entity described in clause (i) has submitted an application for a grant under the program, the entity shall be recused by the Secretary from the consultation requirements under that clause and paragraph (1).

(B) Notification

Not later than 30 days before the date on which the Secretary provides grants for a fiscal year under the program, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate, the Committee on Appropriations of the Senate, the Committee on Natural Resources of the House of Representatives, and the Committee on Appropriations of the House of Representatives a list of any eligible projects that are to be provided grants under the program for the fiscal year.

(7) Cost-sharing requirement

(A) In general

The non-Federal share of the cost of carrying out a project provided a grant under this section shall be not less than 50 percent of the total cost of the project.

(B) Form of non-Federal share

The non-Federal share required under subparagraph (A) shall be in the form of—

(i) cash; or

(ii) donated supplies or related services, the value of which shall be determined by the Secretary.

(C) Requirement

The Secretary shall ensure that each applicant for a grant has the capacity and a feasible plan for securing the non-Federal share for an eligible project required under subparagraph (A) before a grant is provided to the eligible project under the program.

(d) Regulations

The Secretary shall develop any guidelines and issue any regulations that the Secretary determines to be necessary to carry out this section.

(e) Authorization of appropriations

There is authorized to be appropriated to carry out this section $50,000,000 for each fiscal year, to remain available until expended.

(Pub. L. 111–11, title VII, §7303, Mar. 30, 2009, 123 Stat. 1216.)

SUBCHAPTER II—NATIONAL HISTORIC PRESERVATION

§ 470. Short title; Congressional finding and declaration of policy

(a) This subchapter may be cited as the ''National Historic Preservation Act''.

(b) The Congress finds and declares that—

(1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;

(2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;

(3) historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency;

(4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;

(5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation;

(6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and

(7) although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

(Pub. L. 89–665, §1, Oct. 15, 1966, 80 Stat. 915; Pub. L. 96–515, title I, §101(a), Dec. 12, 1980, 94 Stat. 2987.)

AMENDMENTS

1980—Pub. L. 96–515 added subsec. (a), designated existing provision as subsec. (b), and in subsec. (b) as so designated, redesignated pars. (a) to (d) as (1), (2), (5), and (7), respectively, in par. (1) as so redesignated, substituted ''heritage'' for ''past'', and added pars. (3), (4), and (6).

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–453, §1(a), Dec. 22, 2006, 120 Stat. 3367, provided that: ''This Act [enacting section 470v–2 of this title and amending sections 470h, 470i, 470m, and 470t of this title] may be cited as the 'National Historic Preservation Act Amendments Act of 2006'.''

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–355, §1, Oct. 24, 2000, 114 Stat. 1385, provided that: ''This Act [enacting sections 470w–7 and 470w–8 of this title] may be cited as the 'National Historic Lighthouse Preservation Act of 2000'.''

Pub. L. 106–208, §1, May 26, 2000, 114 Stat. 318, provided that: ''This Act [amending sections 470a, 470b, 470c, 470h, 470h–2, 470h–4, 470n, 470t, 470w, 470w–6, and 470x–3 of this title] may be cited as the 'National Historic Preservation Act Amendments of 2000'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–575, title XL, § 4001, Oct. 30, 1992, 106 Stat. 4753, provided that: ''This title [enacting sections 470h–4, 470h–5, and 470x to 470x–6 of this title, amending sections 466, 470–1, 470a, 470b, 470c, 470h, 470h–2, 470h–3, 470i, 470s, 470t, 470w, and 470w–3 of this title, enacting provisions set out as notes under section 470a of this title, and amending provisions set out as a note under section 461 of this title] may be cited as the 'National Historic Preservation Act Amendments of 1992'.''

SHORT TITLE OF 1980 AMENDMENT

Section 1 of Pub. L. 96–515 provided: ''That this Act [enacting sections 469c–2, 470–1 470a–1, 470a–2, 470h–2, 470h–3, 470u, 470v and 470w to 470w–6 of this title, amending this section and sections 470a, 470b, 470c, 470d, 470h to 470j, 470*l*, 470m, and 470r to 470t of this title, and enacting provisions set out as notes under sections 470a, 470j and 470h of this title and section 874 of former Title 40, Public Buildings, Property, and Works] may be cited as the 'National Historic Preservation Act Amendments of 1980'.''

EX. ORD. NO. 11593. PROTECTION AND ENHANCEMENT OF THE CULTURAL ENVIRONMENT

Ex. Ord. No. 11593, May 13, 1971, 36 F.R. 8921, provided: By virtue of the authority vested in me as President of the United States and in furtherance of the purposes and policies of the National Environmental Policy Act of 1969 (83 Stat. 852, 42 U.S.C. 4321 et seq.), the National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470 et seq.), the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461 et seq.), and the Antiquities Act of 1906 (34 Stat. 225, 16 U.S.C. 431 et seq.), it is ordered as follows:

SECTION 1. *Policy*. The Federal Government shall provide leadership in preserving, restoring and maintaining the historic and cultural environment of the Nation. Agencies of the executive branch of the Government (hereinafter referred to as ''Federal agencies'') shall (1) administer the cultural properties under their control in a spirit of stewardship and trusteeship for future generations, (2) initiate measures necessary to direct their policies, plans and programs in such a way that federally owned sites, structures, and objects of historical, architectural or archaeological significance are preserved, restored and maintained for the inspiration and benefit of the people, and (3), in consultation with the Advisory Council on Historic Preservation (16 U.S.C. 470i), institute procedures to assure that Federal plans and programs contribute to the preservation and enhancement of non-federally owned sites, structures and objects of historical, architectural or archaeological significance.

SEC. 2. *Responsibilities of Federal agencies*. Consonant with the provisions of the acts cited in the first paragraph of this order, the heads of Federal agencies shall:

(a) no later than July 1, 1973, with the advice of the Secretary of the Interior, and in cooperation with the liaison officer for historic preservation for the State or territory involved, locate, inventory, and nominate to the Secretary of the Interior all sites, buildings, districts, and objects under their jurisdiction or control that appear to qualify for listing on the National Register of Historic Places.

(b) exercise caution during the interim period until inventories and evaluations required by subsection (a) are completed to assure that any federally owned property that might qualify for nomination is not inadvertently transferred, sold, demolished or substantially altered. The agency head shall refer any questionable actions to the Secretary of the Interior for an opinion respecting the property's eligibility for inclusion on the National Register of Historic Places. The Secretary shall consult with the liaison officer for historic preservation for the State or territory involved in arriving at his opinion. Where, after a reasonable period in which to review and evaluate the property, the Secretary determines that the property is likely to meet the criteria prescribed for listing on the National Register of Historic Places, the Federal agency head shall reconsider the proposal in light of national environmental and preservation policy. Where, after such reconsideration, the Federal agency head proposes to transfer, sell, demolish or substantially alter the property he shall not act with respect to the property until the Advisory Council on Historic Preservation shall have been provided an opportunity to comment on the proposal.

(c) initiate measures to assure that where as a result of Federal action or assistance a property listed on the National Register of Historic Places is to be substantially altered or demolished, timely steps be taken to make or have made records, including measured drawings, photographs and maps, of the property, and that copy of such records then be deposited in the Library of Congress as part of the Historic American Buildings Survey or Historic American Engineering Record for future use and reference. Agencies may call on the Department of the Interior for advice and technical assistance in the completion of the above records.

(d) initiate measures and procedures to provide for the maintenance, through preservation, rehabilitation, or restoration, of federally owned and registered sites at professional standards prescribed by the Secretary of the Interior.

(e) submit procedures required pursuant to subsection (d) to the Secretary of the Interior and to the Advisory Council on Historic Preservation no later than January 1, 1972, and annually thereafter, for review and comment.

(f) cooperate with purchasers and transferees of a property listed on the National Register of Historic Places in the development of viable plans to use such property in a manner compatible with preservation objectives and which does not result in an unreasonable economic burden to public or private interests.

SEC. 3. *Responsibilities of the Secretary of the Interior*. The Secretary of the Interior shall:

(a) encourage State and local historic preservation officials to evaluate and survey federally owned historic properties and, where appropriate, to nominate such properties for listing on the National Register of Historic Places.

(b) develop criteria and procedures to be applied by Federal agencies in the reviews and nominations required by section 2(a). Such criteria and procedures shall be developed in consultation with the affected agencies.

(c) expedite action upon nominations to the National Register of Historic Places concerning federally owned properties proposed for sale, transfer, demolition or substantial alteration.

(d) encourage State and Territorial liaison officers for historic preservation to furnish information upon request to Federal agencies regarding their properties which have been evaluated with respect to historic, architectural or archaeological significance and which as a result of such evaluations have not been found suitable for listing on the National Register of Historic Places.

(e) develop and make available to Federal agencies and State and local governments information concerning professional methods and techniques for preserving, improving, restoring and maintaining historic properties.

(f) advise Federal agencies in the evaluation, identification, preservation, improvement, restoration and maintenance of historic properties.

(g) review and evaluate the plans of transferees of surplus Federal properties transferred for historic monument purposes to assure that the historic character of such properties is preserved in rehabilitation, restoration, improvement, maintenance and repair of such properties.

(h) review and comment upon Federal agency procedures submitted pursuant to section 2(e) of this order.

RICHARD NIXON.

§ 470–1. Declaration of policy of the Federal Government

It shall be the policy of the Federal Government, in cooperation with other nations and in partnership with the States, local governments, Indian tribes, and private organizations and individuals to—

(1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;

(2) provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiians, and local governments;

(3) administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;

(4) contribute to the preservation of nonfederally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;

(5) encourage the public and private preservation and utilization of all usable elements of the Nation's historic built environment; and

(6) assist State and local governments, Indian tribes and Native Hawaiian organizations and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

(Pub. L. 89–665, § 2, as added Pub. L. 96–515, title I, § 101(a), Dec. 12, 1980, 94 Stat. 2988; amended Pub. L. 102–575, title XL, § 4002, Oct. 30, 1992, 106 Stat. 4753.)

AMENDMENTS

1992—Par. (2). Pub. L. 102–575, § 4002(1), inserted ''and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiians, and local governments'' after ''community of nations''.

Par. (6). Pub. L. 102–575, § 4002(2), inserted '', Indian tribes and Native Hawaiian organizations'' after ''local governments''.

PART A—PROGRAMS

§ 470a. Historic preservation program

(a) National Register of Historic Places; designation of properties as historic landmarks; properties deemed included; criteria; nomination of properties by States, local governments or individuals; regulations; review of threats to properties

(1)(A) The Secretary of the Interior is authorized to expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. Notwithstanding section 1125(c) of title 15, buildings and structures on or eligible for inclusion on the National Register of Historic Places (either individually or as part of a historic district), or designated as an individual landmark or as a contributing building in a historic district by a unit of State or local government, may retain the name historically associated with the building or structure.

(B) Properties meeting the criteria for National Historic Landmarks established pursuant to paragraph (2) shall be designated as ''National Historic Landmarks'' and included on the National Register, subject to the requirements of paragraph (6). All historic properties included on the National Register on December 12, 1980, shall be deemed to be included on the National Register as of their initial listing for purposes of this subchapter. All historic properties listed in the Federal Register of February 6, 1979, as ''National Historic Landmarks'' or thereafter prior to the effective date of this Act are declared by Congress to be National Historic Landmarks of national historic significance as of their initial listing as such in the Federal Register for purposes of this subchapter and sections 461 to 467 of this title; except that in cases of National Historic Landmark districts for which no boundaries have been established, boundaries must first be published in the Federal Register.

(2) The Secretary in consultation with national historical and archaeological associations, shall establish or revise criteria for properties to be included on the National Register and criteria for National Historic Landmarks, and shall also promulgate or revise regulations as may be necessary for—

(A) nominating properties for inclusion in, and removal from, the National Register and the recommendation of properties by certified local governments;

(B) designating properties as National Historic Landmarks and removing such designation;

(C) considering appeals from such recommendations, nominations, removals, and designations (or any failure or refusal by a nominating authority to nominate or designate);

(D) nominating historic properties for inclusion in the World Heritage List in accordance with the terms of the Convention concerning the Protection of the World Cultural and Natural Heritage;

(E) making determinations of eligibility of properties for inclusion on the National Register; and

(F) notifying the owner of a property, any appropriate local governments, and the general public, when the property is being considered for inclusion on the National Register, for designation as a National Historic Landmark or for nomination to the World Heritage List.

(3) Subject to the requirements of paragraph (6), any State which is carrying out a program approved under subsection (b) of this section, shall nominate to the Secretary properties which meet the criteria promulgated under subsection (a) of this section for inclusion on the National Register. Subject to paragraph (6), any property nominated under this paragraph or under section 470h–2(a)(2) of this title shall be

included on the National Register on the date forty-five days after receipt by the Secretary of the nomination and the necessary documentation, unless the Secretary disapproves such nomination within such forty-five day period or unless an appeal is filed under paragraph (5).

(4) Subject to the requirements of paragraph (6) the Secretary may accept a nomination directly from any person or local government for inclusion of a property on the National Register only if such property is located in a State where there is no program approved under subsection (b) of this section. The Secretary may include on the National Register any property for which such a nomination is made if he determines that such property is eligible in accordance with the regulations promulgated under paragraph (2). Such determination shall be made within ninety days from the date of the nomination unless the nomination is appealed under paragraph (5).

(5) Any person or local government may appeal to the Secretary a nomination of any historic property for inclusion on the National Register and may appeal to the Secretary the failure or refusal of a nominating authority to nominate a property in accordance with this subsection.

(6) The Secretary shall promulgate regulations requiring that before any property or district may be included on the National Register or designated as a National Historic Landmark, the owner or owners of such property, or a majority of the owners of the properties within the district in the case of an historic district, shall be given the opportunity (including a reasonable period of time) to concur in, or object to, the nomination of the property or district for such inclusion or designation. If the owner or owners of any privately owned property, or a majority of the owners of such properties within the district in the case of an historic district, object to such inclusion or designation, such property shall not be included on the National Register or designated as a National Historic Landmark until such objection is withdrawn. The Secretary shall review the nomination of the property or district where any such objection has been made and shall determine whether or not the property or district is eligible for such inclusion or designation, and if the Secretary determines that such property or district is eligible for such inclusion or designation, he shall inform the Advisory Council on Historic Preservation, the appropriate State Historic Preservation Officer, the appropriate chief elected local official and the owner or owners of such property, of his determination. The regulations under this paragraph shall include provisions to carry out the purposes of this paragraph in the case of multiple ownership of a single property.

(7) The Secretary shall promulgate, or revise, regulations—

(A) ensuring that significant prehistoric and historic artifacts, and associated records, subject to section 470h–2 of this title, the Act of June 27, 1960 (16 U.S.C. 469c) [16 U.S.C. 469 et seq.], and the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa and following) are deposited in an institution with adequate long-term curatorial capabilities;

(B) establishing a uniform process and standards for documenting historic properties by public agencies and private parties for purposes of incorporation into, or complementing, the national historical architectural and engineering records within the Library of Congress; and

(C) certifying local governments, in accordance with subsection (c)(1) of this section and for the allocation of funds pursuant to section 470c(c) of this title.

(8) The Secretary shall, at least once every 4 years, in consultation with the Council and with State Historic Preservation Officers, review significant threats to properties included in, or eligible for inclusion on, the National Register, in order to—

(A) determine the kinds of properties that may be threatened;

(B) ascertain the causes of the threats; and

(C) develop and submit to the President and Congress recommendations for appropriate action.

(b) Regulations for State Historic Preservation Programs; periodic evaluations and fiscal audits of State programs; administration of State programs; contracts and cooperative agreements with nonprofit or educational institutions and State Historic Preservation Officers; treatment of State programs as approved programs

(1) The Secretary, in consultation with the National Conference of State Historic Preservation Officers and the National Trust for Historic Preservation, shall promulgate or revise regulations for State Historic Preservation Programs. Such regulations shall provide that a State program submitted to the Secretary under this section shall be approved by the Secretary if he determines that the program—

(A) provides for the designation and appointment by the Governor of a ''State Historic Preservation Officer'' to administer such program in accordance with paragraph (3) and for the employment or appointment by such officer of such professionally qualified staff as may be necessary for such purposes;

(B) provides for an adequate and qualified State historic preservation review board designated by the State Historic Preservation Officer unless otherwise provided for by State law; and

(C) provides for adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register.

(2)(A) Periodically, but not less than every 4 years after the approval of any State program under this subsection, the Secretary, in consultation with the Council on the appropriate provisions of this subchapter, and in cooperation with the State Historic Preservation Officer, shall evaluate the program to determine whether it is consistent with this subchapter.

(B) If, at any time, the Secretary determines that a major aspect of a State program is not consistent with this subchapter, the Secretary shall disapprove the program and suspend in whole or in part any contracts or cooperative agreements with the State and the State His-

toric Preservation Officer under this subchapter, until the program is consistent with this subchapter, unless the Secretary determines that the program will be made consistent with this subchapter within a reasonable period of time.

(C) The Secretary, in consultation with State Historic Preservation Officers, shall establish oversight methods to ensure State program consistency and quality without imposing undue review burdens on State Historic Preservation Officers.

(D) At the discretion of the Secretary, a State system of fiscal audit and management may be substituted for comparable Federal systems so long as the State system—

(i) establishes and maintains substantially similar accountability standards; and

(ii) provides for independent professional peer review.

The Secretary may also conduct periodic fiscal audits of State programs approved under this section as needed and shall ensure that such programs meet applicable accountability standards.

(3) It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to—

(A) in cooperation with Federal and State agencies, local governments, and private organizations and individuals, direct and conduct a comprehensive statewide survey of historic properties and maintain inventories of such properties;

(B) identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties on the National Register;

(C) prepare and implement a comprehensive statewide historic preservation plan;

(D) administer the State program of Federal assistance for historic preservation within the State;

(E) advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;

(F) cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal and State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;

(G) provide public information, education, and training and technical assistance in historic preservation;

(H) cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c) of this section;

(I) consult with appropriate Federal agencies in accordance with this subchapter on—

(i) Federal undertakings that may affect historic properties; and

(ii) the content and sufficiency of any plans developed to protect, manage, or reduce or mitigate harm to such properties; and

(J) advise and assist in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance.

(4) Any State may carry out all or any part of its responsibilities under this subsection by contract or cooperative agreement with any qualified nonprofit organization or educational institution.

(5) Any State historic preservation program in effect under prior authority of law may be treated as an approved program for purposes of this subsection until the earlier of—

(A) the date on which the Secretary approves a program submitted by the State under this subsection, or

(B) three years after October 30, 1992.

(6)(A) Subject to subparagraphs (C) and (D), the Secretary may enter into contracts or cooperative agreements with a State Historic Preservation Officer for any State authorizing such Officer to assist the Secretary in carrying out one or more of the following responsibilities within that State—

(i) Identification and preservation of historic properties.

(ii) Determination of the eligibility of properties for listing on the National Register.

(iii) Preparation of nominations for inclusion on the National Register.

(iv) Maintenance of historical and archaeological data bases.

(v) Evaluation of eligibility for Federal preservation incentives.

Nothing in this paragraph shall be construed to provide that any State Historic Preservation Officer or any other person other than the Secretary shall have the authority to maintain the National Register for properties in any State.

(B) The Secretary may enter into a contract or cooperative agreement under subparagraph (A) only if—

(i) the State Historic Preservation Officer has requested the additional responsibility;

(ii) the Secretary has approved the State historic preservation program pursuant to subsection (b)(1) and (2) of this section;

(iii) the State Historic Preservation Officer agrees to carry out the additional responsibility in a timely and efficient manner acceptable to the Secretary and the Secretary determines that such Officer is fully capable of carrying out such responsibility in such manner;

(iv) the State Historic Preservation Officer agrees to permit the Secretary to review and revise, as appropriate in the discretion of the Secretary, decisions made by the Officer pursuant to such contract or cooperative agreement; and

(v) the Secretary and the State Historic Preservation Officer agree on the terms of additional financial assistance to the State, if there is to be any, for the costs of carrying out such responsibility.

(C) For each significant program area under the Secretary's authority, the Secretary shall establish specific conditions and criteria essential for the assumption by State Historic Preservation Officers of the Secretary's duties in each such program.

(D) Nothing in this subsection shall have the effect of diminishing the preservation programs and activities of the National Park Service.

(c) Certification of local governments by State Historic Preservation Officer; transfer of portion of grants; certification by Secretary; nomination of properties by local governments for inclusion on National Register

(1) Any State program approved under this section shall provide a mechanism for the certification by the State Historic Preservation Officer of local governments to carry out the purposes of this subchapter and provide for the transfer, in accordance with section 470c(c) of this title, of a portion of the grants received by the States under this subchapter, to such local governments. Any local government shall be certified to participate under the provisions of this section if the applicable State Historic Preservation Officer, and the Secretary, certifies that the local government—

(A) enforces appropriate State or local legislation for the designation and protection of historic properties;

(B) has established an adequate and qualified historic preservation review commission by State or local legislation;

(C) maintains a system for the survey and inventory of historic properties that furthers the purposes of subsection (b) of this section;

(D) provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register; and

(E) satisfactorily performs the responsibilities delegated to it under this subchapter.

Where there is no approved State program, a local government may be certified by the Secretary if he determines that such local government meets the requirements of subparagraphs (A) through (E); and in any such case the Secretary may make grants-in-aid to the local government for purposes of this section.

(2)(A) Before a property within the jurisdiction of the certified local government may be considered by the State to be nominated to the Secretary for inclusion on the National Register, the State Historic Preservation Officer shall notify the owner, the applicable chief local elected official, and the local historic preservation commission. The commission, after reasonable opportunity for public comment, shall prepare a report as to whether or not such property, in its opinion, meets the criteria of the National Register. Within sixty days of notice from the State Historic Preservation Officer, the chief local elected official shall transmit the report of the commission and his recommendation to the State Historic Preservation Officer. Except as provided in subparagraph (B), after receipt of such report and recommendation, or if no such report and recommendation are received within sixty days, the State shall make the nomination pursuant to subsection (a) of this section. The State may expedite such process with the concurrence of the certified local government.

(B) If both the commission and the chief local elected official recommend that a property not be nominated to the National Register, the State Historic Preservation Officer shall take no further action, unless within thirty days of the receipt of such recommendation by the State Historic Preservation Officer an appeal is filed with the State. If such an appeal is filed, the State shall follow the procedures for making a nomination pursuant to subsection (a) of this section. Any report and recommendations made under this section shall be included with any nomination submitted by the State to the Secretary.

(3) Any local government certified under this section or which is making efforts to become so certified shall be eligible for funds under the provisions of section 470c(c) of this title, and shall carry out any responsibilities delegated to it in accordance with such terms and conditions as the Secretary deems necessary or advisable.

(4) For the purposes of this section the term—

(A) ''designation'' means the identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of a local government; and

(B) ''protection'' means a local review process under State or local law for proposed demolition of, changes to, or other action that may affect historic properties designated pursuant to this subsection.

(d) Historic properties of Indian tribes

(1)(A) The Secretary shall establish a program and promulgate regulations to assist Indian tribes in preserving their particular historic properties. The Secretary shall foster communication and cooperation between Indian tribes and State Historic Preservation Officers in the administration of the national historic preservation program to ensure that all types of historic properties and all public interests in such properties are given due consideration, and to encourage coordination among Indian tribes, State Historic Preservation Officers, and Federal agencies in historic preservation planning and in the identification, evaluation, protection, and interpretation of historic properties.

(B) The program under subparagraph (A) shall be developed in such a manner as to ensure that tribal values are taken into account to the extent feasible. The Secretary may waive or modify requirements of this section to conform to the cultural setting of tribal heritage preservation goals and objectives. The tribal programs implemented by specific tribal organizations may vary in scope, as determined by each tribe's chief governing authority.

(C) The Secretary shall consult with Indian tribes, other Federal agencies, State Historic Preservation Officers, and other interested parties and initiate the program under subparagraph (A) by not later than October 1, 1994.

(2) A tribe may assume all or any part of the functions of a State Historic Preservation Officer in accordance with subsections (b)(2) and (b)(3) of this section, with respect to tribal lands, as such responsibilities may be modified for tribal programs through regulations issued by the Secretary, if—

(A) the tribe's chief governing authority so requests;

(B) the tribe designates a tribal preservation official to administer the tribal historic pres-

ervation program, through appointment by the tribe's chief governing authority or as a tribal ordinance may otherwise provide;

(C) the tribal preservation official provides the Secretary with a plan describing how the functions the tribal preservation official proposes to assume will be carried out;

(D) the Secretary determines, after consulting with the tribe, the appropriate State Historic Preservation Officer, the Council (if the tribe proposes to assume the functions of the State Historic Preservation Officer with respect to review of undertakings under section 470f of this title), and other tribes, if any, whose tribal or aboriginal lands may be affected by conduct of the tribal preservation program—

(i) that the tribal preservation program is fully capable of carrying out the functions specified in the plan provided under subparagraph (C);

(ii) that the plan defines the remaining responsibilities of the Secretary and the State Historic Preservation Officer; and

(iii) that the plan provides, with respect to properties neither owned by a member of the tribe nor held in trust by the Secretary for the benefit of the tribe, at the request of the owner thereof, the State Historic Preservation Officer, in addition to the tribal preservation official, may exercise the historic preservation responsibilities in accordance with subsections (b)(2) and (b)(3) of this section; and

(E) based on satisfaction of the conditions stated in subparagraphs (A), (B), (C), and (D), the Secretary approves the plan.

(3) In consultation with interested Indian tribes, other Native American organizations and affected State Historic Preservation Officers, the Secretary shall establish and implement procedures for carrying out section 470c(a) of this title with respect to tribal programs that assume responsibilities under paragraph (2).

(4) At the request of a tribe whose preservation program has been approved to assume functions and responsibilities pursuant to paragraph (2), the Secretary shall enter into contracts or cooperative agreements with such tribe permitting the assumption by the tribe of any part of the responsibilities referred to in subsection (b)(6) of this section on tribal land, if—

(A) the Secretary and the tribe agree on additional financial assistance, if any, to the tribe for the costs of carrying out such authorities;

(B) the Secretary finds that the tribal historic preservation program has been demonstrated to be sufficient to carry out the contract or cooperative agreement and this subchapter; and

(C) the contract or cooperative agreement specifies the continuing responsibilities of the Secretary or of the appropriate State Historic Preservation Officers and provides for appropriate participation by—

(i) the tribe's traditional cultural authorities;

(ii) representatives of other tribes whose traditional lands are under the jurisdiction of the tribe assuming responsibilities; and

(iii) the interested public.

(5) The Council may enter into an agreement with an Indian tribe to permit undertakings on tribal land to be reviewed under tribal historic preservation regulations in place of review under regulations promulgated by the Council to govern compliance with section 470f of this title, if the Council, after consultation with the tribe and appropriate State Historic Preservation Officers, determines that the tribal preservation regulations will afford historic properties consideration equivalent to those afforded by the Council's regulations.

(6)(A) Properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register.

(B) In carrying out its responsibilities under section 470f of this title, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to properties described in subparagraph (A).

(C) In carrying out his or her responsibilities under subsection (b)(3) of this section, the State Historic Preservation Officer for the State of Hawaii shall—

(i) consult with Native Hawaiian organizations in assessing the cultural significance of any property in determining whether to nominate such property to the National Register;

(ii) consult with Native Hawaiian organizations in developing the cultural component of a preservation program or plan for such property; and

(iii) enter into a memorandum of understanding or agreement with Native Hawaiian organizations for the assessment of the cultural significance of a property in determining whether to nominate such property to the National Register and to carry out the cultural component of such preservation program or plan.

(e) Matching grants to States; grants to National Trust for Historic Preservation in the United States; program of direct grants for preservation of properties included on National Register; grants or loans to Indian tribes and ethnic or minority groups for preservation of cultural heritage; grants for religious properties; direct grants to Indian tribes, Native Hawaiian organizations, and Micronesian States

(1) The Secretary shall administer a program of matching grants to the States for the purposes of carrying out this subchapter.

(2) The Secretary may administer grants to the National Trust for Historic Preservation in the United States, chartered by sections 468 to 468d of this title consistent with the purposes of its charter and this subchapter.

(3)(A) In addition to the programs under paragraphs (1) and (2), the Secretary shall administer a program of direct grants for the preservation of properties included on the National Register. Funds to support such program annually shall not exceed 10 per centum of the amount appropriated annually for the fund established under section 470h of this title. These grants may be made by the Secretary, in consultation

with the appropriate State Historic Preservation Officer—

(i) for the preservation of National Historic Landmarks which are threatened with demolition or impairment and for the preservation of historic properties of World Heritage significance,

(ii) for demonstration projects which will provide information concerning professional methods and techniques having application to historic properties,

(iii) for the training and development of skilled labor in trades and crafts, and in analysis and curation, relating to historic preservation, and

(iv) to assist persons or small businesses within any historic district included in the National Register to remain within the district.

(B) The Secretary may also, in consultation with the appropriate State Historic Preservation Officer, make grants or loans or both under this section to Indian tribes and to nonprofit organizations representing ethnic or minority groups for the preservation of their cultural heritage.

(C) Grants may be made under subparagraph (A)(i) and (iv) only to the extent that the project cannot be carried out in as effective a manner through the use of an insured loan under section 470d of this title.

(4) Grants may be made under this subsection for the preservation, stabilization, restoration, or rehabilitation of religious properties listed in the National Register of Historic Places, provided that the purpose of the grant is secular, does not promote religion, and seeks to protect those qualities that are historically significant. Nothing in this paragraph shall be construed to authorize the use of any funds made available under this section for the acquisition of any property referred to in the preceding sentence.

(5) The Secretary shall administer a program of direct grants to Indian tribes and Native Hawaiian organizations for the purpose of carrying out this subchapter as it pertains to Indian tribes and Native Hawaiian organizations. Matching fund requirements may be modified. Federal funds available to a tribe or Native Hawaiian organization may be used as matching funds for the purposes of the tribe's or organization's conducting its responsibilities pursuant to this section.

(6)(A) As part of the program of matching grant assistance from the Historic Preservation Fund to States, the Secretary shall administer a program of direct grants to the Federated States of Micronesia, the Republic of the Marshall Islands, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau (referred to as the Micronesian States) in furtherance of the Compact of Free Association between the United States and the Federated States of Micronesia and the Marshall Islands, approved by the Compact of Free Association Act of 1985 [48 U.S.C. 1901 et seq., 2001 et seq.], the Trusteeship Agreement for the Trust Territory of the Pacific Islands, and the Compact of Free Association between the United States and Palau, approved by the Joint Resolution entitled ''Joint Resolution to approve the 'Compact of Free Association' between the United States and Government of Palau, and for other purposes'' [48 U.S.C. 1931 et seq.]. The goal of the program shall be to establish historic and cultural preservation programs that meet the unique needs of each Micronesian State so that at the termination of the compacts the programs shall be firmly established. The Secretary may waive or modify the requirements of this section to conform to the cultural setting of those nations.

(B) The amounts to be made available to the Micronesian States shall be allocated by the Secretary on the basis of needs as determined by the Secretary. Matching funds may be waived or modified.

(f) Prohibition of use of funds for compensation of intervenors in preservation program

No part of any grant made under this section may be used to compensate any person intervening in any proceeding under this subchapter.

(g) Guidelines for Federal agency responsibility for agency-owned historic properties

In consultation with the Advisory Council on Historic Preservation, the Secretary shall promulgate guidelines for Federal agency responsibilities under section 470h–2 of this title.

(h) Professional standards for preservation of federally owned or controlled historic properties

Within one year after December 12, 1980, the Secretary shall establish, in consultation with the Secretaries of Agriculture and Defense, the Smithsonian Institution, and the Administrator of the General Services Administration, professional standards for the preservation of historic properties in Federal ownership or control.

(i) Dissemination of information concerning professional methods and techniques for preservation of historic properties

The Secretary shall develop and make available to Federal agencies, State and local governments, private organizations and individuals, and other nations and international organizations pursuant to the World Heritage Convention, training in, and information concerning, professional methods and techniques for the preservation of historic properties and for the administration of the historic preservation program at the Federal, State, and local level. The Secretary shall also develop mechanisms to provide information concerning historic preservation to the general public including students.

(j) Preservation education and training program

(1) The Secretary shall, in consultation with the Council and other appropriate Federal, tribal, Native Hawaiian, and non-Federal organizations, develop and implement a comprehensive preservation education and training program.

(2) The education and training program described in paragraph (1) shall include—

(A) new standards and increased preservation training opportunities for Federal workers involved in preservation-related functions;

(B) increased preservation training opportunities for other Federal, State, tribal and local government workers, and students;

(C) technical or financial assistance, or both, to historically black colleges and universities, to tribal colleges, and to colleges with a high enrollment of Native Americans or Native Hawaiians, to establish preservation training and degree programs; and

(D) coordination of the following activities, where appropriate, with the National Center for Preservation Technology and Training—

(i) distribution of information on preservation technologies;

(ii) provision of training and skill development in trades, crafts, and disciplines related to historic preservation in Federal training and development programs; and

(iii) support for research, analysis, conservation, curation, interpretation, and display related to preservation.

(Pub. L. 89–665, title I, § 101, Oct. 15, 1966, 80 Stat. 915; Pub. L. 93–54, § 1(d), July 1, 1973, 87 Stat. 139; Pub. L. 91–383, § 11, as added Pub. L. 94–458, § 2, Oct. 7, 1976, 90 Stat. 1942; amended Pub. L. 96–205, title VI, § 608(a)(1), (2), Mar. 12, 1980, 94 Stat. 92; Pub. L. 96–515, title II, § 201(a), Dec. 12, 1980, 94 Stat. 2988; Pub. L. 102–575, title XL, §§ 4003–4006(a), 4007, 4008, Oct. 30, 1992, 106 Stat. 4753–4755, 4758; Pub. L. 103–437, § 6(d)(29), Nov. 2, 1994, 108 Stat. 4584; Pub. L. 104–333, div. I, title VIII, § 814(d)(2)(F), Nov. 12, 1996, 110 Stat. 4196; Pub. L. 106–113, div. B, § 1000(a)(9) [title III, § 3007], Nov. 29, 1999, 113 Stat. 1536, 1501A–551; Pub. L. 106–208, § 5(a)(1)–(4), May 26, 2000, 114 Stat. 318.)

REFERENCES IN TEXT

The effective date of this Act, referred to in subsec. (a)(1)(B), probably means the effective date of the National Historic Preservation Act Amendments of 1980, Pub. L. 96–515, approved Dec. 12, 1980, rather than the effective date of the National Historic Preservation Act, Pub. L. 89–665, which was approved Oct. 15, 1966.

Act of June 27, 1960 (16 U.S.C. 469c), referred to in subsec. (a)(7)(A), is Pub. L. 86–523, June 27, 1960, 74 Stat. 220, which enacted sections 469 to 469c–1 of this title. For complete classification of this Act to the Code, see Tables.

The Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa and following), referred to in subsec. (a)(7)(A), is Pub. L. 96–95, Oct. 31, 1979, 93 Stat. 721, which is classified generally to chapter 1B (§ 470aa et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of this title and Tables.

Sections 468 to 468d of this title, referred to in subsec. (e)(2), was in the original ''an Act of Congress approved October 26, 1949 (63 Stat. 947)'', probably meaning Act Oct. 26, 1949, ch. 755, 63 Stat. 927, which is classified to sections 468 to 468d of this title. For complete classification of this Act to the Code, see Tables.

The Compact of Free Association Act of 1985, referred to in subsec. (e)(6)(A), is Pub. L. 99–239, Jan. 14, 1986, 99 Stat. 1770, which is classified principally to part A of subchapter I (§ 1901 et seq.) of chapter 18 and chapter 19 (§ 2001 et seq.) of Title 48, Territories and Insular Possession. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of Title 48 and Tables.

The Joint Resolution entitled ''Joint Resolution to approve the 'Compact of Free Association' between the United States and Government of Palau, and for other purposes'', referred to in subsec. (e)(6)(A), is Pub. L. 99–658, Nov. 14, 1986, 100 Stat. 3672, which is classified generally to part A (§ 1931 et seq.) of subchapter II of chapter 18 of Title 48. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2000—Subsec. (d)(2)(D)(ii). Pub. L. 106–208, § 5(a)(1), inserted ''and'' after semicolon.

Subsec. (e)(2). Pub. L. 106–208, § 5(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary shall administer a program of matching grant-in-aid to the National Trust for Historic Preservation in the United States, chartered by sections 468 to 468e of this title, for the purposes of carrying out the responsibilities of the National Trust.''

Subsec. (e)(3)(A)(iii). Pub. L. 106–208, § 5(a)(3), substituted comma for semicolon after ''preservation''.

Subsec. (j)(2)(C). Pub. L. 106–208, § 5(a)(4), inserted ''and'' after semicolon at end.

1999—Subsec. (a)(1)(A). Pub. L. 106–113 inserted at end ''Notwithstanding section 1125(c) of title 15, buildings and structures on or eligible for inclusion on the National Register of Historic Places (either individually or as part of a historic district), or designated as an individual landmark or as a contributing building in a historic district by a unit of State or local government, may retain the name historically associated with the building or structure.''

1996—Subsec. (a)(1)(B). Pub. L. 104–333 inserted period after ''published in the Federal Register'' and struck out at end ''and submitted to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Natural Resources of the United States House of Representatives.''

1994—Subsec. (a)(1)(B). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

1992—Subsec. (a)(8). Pub. L. 102–575, § 4003, added par. (8).

Subsec. (b)(2). Pub. L. 102–575, § 4004(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Periodically, but not less than every four years after the approval of any State program under this subsection, the Secretary shall evaluate such program to make a determination as to whether or not it is in compliance with the requirements of this subchapter. If at any time, the Secretary determines that a State program does not comply with such requirements, he shall disapprove such program, and suspend in whole or in part assistance to such State under subsection (d)(1) of this section, unless there are adequate assurances that the program will comply with such requirements within a reasonable period of time. The Secretary may also conduct periodic fiscal audits of State programs approved under this section.''

Subsec. (b)(3). Pub. L. 102–575, § 4004(2), substituted ''in historic preservation;'' for ''relating to the Federal and State Historic Preservation Programs; and'' in subpar. (G) and added subpars. (I) and (J).

Subsec. (b)(5)(B). Pub. L. 102–575, § 4004(3), substituted ''October 30, 1992'' for ''December 12, 1980''.

Subsec. (b)(6). Pub. L. 102–575, § 4004(4), added par. (6).

Subsec. (c)(4). Pub. L. 102–575, § 4005, added par. (4).

Subsec. (d). Pub. L. 102–575, § 4006(a)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 102–575, § 4007, amended par. (1) generally and added pars. (4) to (6). Prior to amendment, par. (1) read as follows: ''The Secretary shall administer a program of matching grants-in-aid to the States for historic preservation projects, and State historic preservation programs, approved by the Secretary and having as their purpose the identification of historic properties and the preservation of properties included on the National Register.''

Pub. L. 102–575, § 4006(a)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsecs. (f) to (i). Pub. L. 102–575, § 4006(a)(1), redesignated subsecs. (e) to (h) as (f) to (i), respectively.

Subsec. (j). Pub. L. 102–575, § 4008, added subsec. (j).

1980—Subsec. (a). Pub. L. 96–515 substituted provision designating certain properties as National Historical Landmarks, providing for establishment by the Secretary of the Interior of criteria for inclusion on or removal from the National Register, designation of prop-

erties as National Historical Landmarks and removal of such designation, and nomination of properties for inclusion in the World Heritage List, authorizing any State, local government, or person to nominate properties for inclusion on the National Register and to appeal a nomination or refusal to nominate, requiring that before property be included on the National Register or designated as a National Historic Landmark, the owner or owners of the property be given an opportunity to concur in, or object to, its inclusion, and authorizing the Secretary to promulgate regulations to ensure that significant prehistoric and historic artifacts and records receive proper treatment, to establish standards for documenting historic properties for incorporation in the national historical, architectural, and engineering records within the Library of Congress, and to certify local governments for allocation of funds, for provision authorizing the Secretary to grant funds to States for preparing comprehensive statewide historic surveys and plans for preservation and acquisition of historic properties, to establish programs of matching grants-in-aid to States for the purpose of historical preservation and to the National Trust for Historic Preservation in the United States for the purpose of carrying out the responsibilities of the National Trust, and to withhold from disclosure to the public, information relating to the location of sites or objects listed on the National Register whenever he determines that disclosure of specific information would create a risk of destruction or harm to such sites or objects.

Pub. L. 96–205, § 608(a)(1), in par. (2) struck out ''and'' after ''culture;'', and in par. (3) substituted ''Trust; and'' for ''Trust.''.

Subsec. (b). Pub. L. 96–515 substituted provision authorizing the establishment of State Historic Preservation Programs, providing for periodic evaluation of these programs and periodic fiscal audits, prescribing the responsibilities of the State Historic Preservation Officer, and designating the period within which prior State historic preservation programs are to remain in effect for provision defining the terms ''State'', ''project'', ''historic preservation'', and ''Secretary''.

Pub. L. 96–205, § 608(a)(2), inserted reference to the Commonwealth of the Northern Mariana Islands.

Subsecs. (c) to (h). Pub. L. 96–515 added subsecs. (c) to (h).

1976—Subsec. (a)(4). Pub. L. 91–383, § 11, as added Pub. L. 94–458, § 2, added par. (4).

1973—Subsec. (b)(1). Pub. L. 93–54 defined ''State'' to include the Trust Territory of the Pacific Islands.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands and the Trusteeship Agreement, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

ST. AUGUSTINE 450TH COMMEMORATION COMMISSION

Pub. L. 111–11, title VII, § 7404, Mar. 30, 2009, 123 Stat. 1219, provided that:

''(a) DEFINITIONS.—In this section:

''(1) COMMEMORATION.—The term 'commemoration' means the commemoration of the 450th anniversary of the founding of the settlement of St. Augustine, Florida.

''(2) COMMISSION.—The term 'Commission' means the St. Augustine 450th Commemoration Commission established by subsection (b)(1).

''(3) GOVERNOR.—The term 'Governor' means the Governor of the State.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(5) STATE.—

''(A) IN GENERAL.—The term 'State' means the State of Florida.

''(B) INCLUSION.—The term 'State' includes agencies and entities of the State of Florida.

''(b) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established a commission, to be known as the 'St. Augustine 450th Commemoration Commission'.

''(2) MEMBERSHIP.—

''(A) COMPOSITION.—The Commission shall be composed of 14 members, of whom—

''(i) 3 members shall be appointed by the Secretary, after considering the recommendations of the St. Augustine City Commission;

''(ii) 3 members shall be appointed by the Secretary, after considering the recommendations of the Governor;

''(iii) 1 member shall be an employee of the National Park Service having experience relevant to the historical resources relating to the city of St. Augustine and the commemoration, to be appointed by the Secretary;

''(iv) 1 member shall be appointed by the Secretary, taking into consideration the recommendations of the Mayor of the city of St. Augustine;

''(v) 1 member shall be appointed by the Secretary, after considering the recommendations of the Chancellor of the University System of Florida; and

''(vi) 5 members shall be individuals who are residents of the State who have an interest in, support for, and expertise appropriate to the commemoration, to be appointed by the Secretary, taking into consideration the recommendations of Members of Congress.

''(B) TIME OF APPOINTMENT.—Each appointment of an initial member of the Commission shall be made before the expiration of the 120-day period beginning on the date of enactment of this Act [Mar. 30, 2009].

''(C) TERM; VACANCIES.—

''(i) TERM.—A member of the Commission shall be appointed for the life of the Commission.

''(ii) VACANCIES.—

''(I) IN GENERAL.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

''(II) PARTIAL TERM.—A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the predecessor of the member was appointed.

''(iii) CONTINUATION OF MEMBERSHIP.—If a member of the Commission was appointed to the Commission as Mayor of the city of St. Augustine or as an employee of the National Park Service or the State University System of Florida, and ceases to hold such position, that member may continue to serve on the Commission for not longer than the 30-day period beginning on the date on which that member ceases to hold the position.

''(3) DUTIES.—The Commission shall—

''(A) plan, develop, and carry out programs and activities appropriate for the commemoration;

''(B) facilitate activities relating to the commemoration throughout the United States;

''(C) encourage civic, patriotic, historical, educational, artistic, religious, economic, and other organizations throughout the United States to organize and participate in anniversary activities to expand understanding and appreciation of the significance of the founding and continuing history of St. Augustine;

''(D) provide technical assistance to States, localities, and nonprofit organizations to further the commemoration;

''(E) coordinate and facilitate for the public scholarly research on, publication about, and interpretation of, St. Augustine;

''(F) ensure that the commemoration provides a lasting legacy and long-term public benefit by assisting in the development of appropriate programs; and

''(G) help ensure that the observances of the foundation of St. Augustine are inclusive and appro-

priately recognize the experiences and heritage of all individuals present when St. Augustine was founded.

''(c) COMMISSION MEETINGS.—

''(1) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

''(2) MEETINGS.—The Commission shall meet—

''(A) at least 3 times each year; or

''(B) at the call of the Chairperson or the majority of the members of the Commission.

''(3) QUORUM.—A majority of the voting members shall constitute a quorum, but a lesser number may hold meetings.

''(4) CHAIRPERSON AND VICE CHAIRPERSON.—

''(A) ELECTION.—The Commission shall elect the Chairperson and the Vice Chairperson of the Commission on an annual basis.

''(B) ABSENCE OF THE CHAIRPERSON.—The Vice Chairperson shall serve as the Chairperson in the absence of the Chairperson.

''(5) VOTING.—The Commission shall act only on an affirmative vote of a majority of the members of the Commission.

''(d) COMMISSION POWERS.—

''(1) GIFTS.—The Commission may solicit, accept, use, and dispose of gifts, bequests, or devises of money or other property for aiding or facilitating the work of the Commission.

''(2) APPOINTMENT OF ADVISORY COMMITTEES.—The Commission may appoint such advisory committees as the Commission determines to be necessary to carry out this section.

''(3) AUTHORIZATION OF ACTION.—The Commission may authorize any member or employee of the Commission to take any action that the Commission is authorized to take under this section.

''(4) PROCUREMENT.—

''(A) IN GENERAL.—The Commission may procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements, to carry out this section (except that a contract, lease, or other legal agreement made or entered into by the Commission shall not extend beyond the date of termination of the Commission).

''(B) LIMITATION.—The Commission may not purchase real property.

''(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

''(6) GRANTS AND TECHNICAL ASSISTANCE.—The Commission may—

''(A) provide grants in amounts not to exceed $20,000 per grant to communities and nonprofit organizations for use in developing programs to assist in the commemoration;

''(B) provide grants to research and scholarly organizations to research, publish, or distribute information relating to the early history of St. Augustine; and

''(C) provide technical assistance to States, localities, and nonprofit organizations to further the commemoration.

''(e) COMMISSION PERSONNEL MATTERS.—

''(1) COMPENSATION OF MEMBERS.—

''(A) IN GENERAL.—Except as provided in paragraph (2), a member of the Commission shall serve without compensation.

''(B) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation other than the compensation received for the services of the member as an officer or employee of the Federal Government.

''(2) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

''(3) DIRECTOR AND STAFF.—

''(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), nominate an executive director to enable the Commission to perform the duties of the Commission.

''(B) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

''(4) COMPENSATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

''(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(5) DETAIL OF GOVERNMENT EMPLOYEES.—

''(A) FEDERAL EMPLOYEES.—

''(i) DETAIL.—At the request of the Commission, the head of any Federal agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the duties of the Commission under this section.

''(ii) CIVIL SERVICE STATUS.—The detail of an employee under clause (i) shall be without interruption or loss of civil service status or privilege.

''(B) STATE EMPLOYEES.—The Commission may—

''(i) accept the services of personnel detailed from the State; and

''(ii) reimburse the State for services of detailed personnel.

''(6) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

''(7) VOLUNTEER AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use such voluntary and uncompensated services as the Commission determines to be necessary.

''(8) SUPPORT SERVICES.—

''(A) IN GENERAL.—The Secretary shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

''(B) REIMBURSEMENT.—Any reimbursement under this paragraph shall be credited to the appropriation, fund, or account used for paying the amounts reimbursed.

''(9) FACA NONAPPLICABILITY.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

''(10) NO EFFECT ON AUTHORITY.—Nothing in this subsection supersedes the authority of the State, the National Park Service, the city of St. Augustine, or any designee of those entities, with respect to the commemoration.

''(f) PLANS; REPORTS.—

''(1) STRATEGIC PLAN.—The Commission shall prepare a strategic plan for the activities of the Commission carried out under this section.

''(2) FINAL REPORT.—Not later than September 30, 2015, the Commission shall complete and submit to Congress a final report that contains—

''(A) a summary of the activities of the Commission;

''(B) a final accounting of funds received and expended by the Commission; and

''(C) the findings and recommendations of the Commission.

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to the Commission to carry out this section $500,000 for each of fiscal years 2009 through 2015.

''(2) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until December 31, 2015.

''(h) TERMINATION OF COMMISSION.—

''(1) DATE OF TERMINATION.—The Commission shall terminate on December 31, 2015.

''(2) TRANSFER OF DOCUMENTS AND MATERIALS.—Before the date of termination specified in paragraph (1), the Commission shall transfer all documents and materials of the Commission to the National Archives or another appropriate Federal entity.''

RECOVERY OF FEES FOR REVIEW SERVICES FOR HISTORIC PRESERVATION TAX CERTIFICATION

Pub. L. 106–113, div. B, §1000(a)(3) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A–142, provided in part: ''That notwithstanding any other provision of law, the National Park Service may hereafter recover all fees derived from providing necessary review services associated with historic preservation tax certification, and such funds shall be available until expended without further appropriation for the costs of such review services''.

WOMEN'S PROGRESS COMMEMORATION

Pub. L. 105–341, Oct. 31, 1998, 112 Stat. 3196, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Women's Progress Commemoration Act'.

''SEC. 2. DECLARATION.

''Congress declares that—

''(1) the original Seneca Falls Convention, held in upstate New York in July 1848, convened to consider the social conditions and civil rights of women at that time;

''(2) the convention marked the beginning of an admirable and courageous struggle for equal rights for women;

''(3) the 150th Anniversary of the convention provides an excellent opportunity to examine the history of the women's movement; and

''(4) a Federal Commission should be established for the important task of ensuring the historic preservation of sites that have been instrumental in American women's history, creating a living legacy for generations to come.

''SEC. 3. ESTABLISHMENT OF COMMISSION.

''(a) ESTABLISHMENT.—There is established a commission to be known as the 'Women's Progress Commemoration Commission' (referred to in this Act as the 'Commission').

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Commission shall be composed of 15 members, of whom—

''(A) 3 shall be appointed by the President;

''(B) 3 shall be appointed by the Speaker of the House of Representatives;

''(C) 3 shall be appointed by the minority leader of the House of Representatives;

''(D) 3 shall be appointed by the majority leader of the Senate; and

''(E) 3 shall be appointed by the minority leader of the Senate.

''(2) PERSONS ELIGIBLE.—

''(A) IN GENERAL.—The members of the Commission shall be individuals who have knowledge or expertise, whether by experience or training, in matters to be studied by the Commission. The members may be from the public or private sector, and may include Federal, State, or local employees, members of academia, nonprofit organizations, or industry, or other interested individuals.

''(B) DIVERSITY.—It is the intent of Congress that persons appointed to the Commission under paragraph (1) be persons who represent diverse economic, professional, and cultural backgrounds.

''(3) CONSULTATION AND APPOINTMENT.—

''(A) IN GENERAL.—The President, Speaker of the House of Representatives, minority leader of the House of Representatives, majority leader of the Senate, and minority leader of the Senate shall consult among themselves before appointing the members of the Commission in order to achieve, to the maximum extent practicable, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission.

''(B) COMPLETION OF APPOINTMENTS; VACANCIES.—The President, Speaker of the House of Representatives, minority leader of the House of Representatives, majority leader of the Senate, and minority leader of the Senate shall conduct the consultation under subparagraph (3) and make their respective appointments not later than 60 days after the date of enactment of this Act [Oct. 31, 1998].

''(4) VACANCIES.—A vacancy in the membership of the Commission shall not affect the powers of the Commission and shall be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

''(c) MEETINGS.—

''(1) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

''(2) SUBSEQUENT MEETINGS.—After the initial meeting, the Commission shall meet at the call of the Chairperson.

''(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business, but a lesser number of members may hold hearings.

''(e) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

''SEC. 4. DUTIES OF THE COMMISSION.

''Not later than 1 year after the initial meeting of the Commission, the Commission, in cooperation with the Secretary of the Interior and other appropriate Federal, State, and local public and private entities, shall prepare and submit to the Secretary of the Interior a report that—

''(1) identifies sites of historical significance to the women's movement; and

''(2) recommends actions, under the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other law, to rehabilitate and preserve the sites and provide to the public interpretive and educational materials and activities at the sites.

''SEC. 5. POWERS OF THE COMMISSION.

''(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out its duties of this Act.

''(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. At the request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

''SEC. 6. COMMISSION PERSONNEL MATTERS.

''(a) COMPENSATION OF MEMBERS.—A member of the Commission who is not otherwise an officer or employee of the Federal Government shall be com-

pensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission. A member of the Commission who is otherwise an officer or employee of the United States shall serve without compensation in addition to that received for services as an officer or employee of the United States.

''(b) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of service for the Commission.

''(c) STAFF.—

''(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment and termination of an executive director shall be subject to confirmation by a majority of the members of the Commission.

''(2) COMPENSATION.—The executive director shall be compensated at a rate not to exceed the rate payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. The Chairperson may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for a position at level V of the Executive Schedule under section 5316 of that title.

''(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and the detail shall be without interruption or loss of civil service status, benefits, or privilege.

''(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay prescribed for a position at level V of the Executive Schedule under section 5316 of that title.

''SEC. 7. FUNDING.

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this Act.

''(b) DONATIONS.—The Commission may accept donations from non-Federal sources to defray the costs of the operations of the Commission.

''SEC. 8. TERMINATION.

''The Commission shall terminate on the date that is 30 days after the date on which the Commission submits to the Secretary of the Interior the report under section 4(b) [sic].

''SEC. 9. REPORTS TO CONGRESS.

''Not later than 2 years and not later than 5 years after the date on which the Commission submits to the Secretary of the Interior the report under section 4, the Secretary of the Interior shall submit to Congress a report describing the actions that have been taken to preserve the sites identified in the Commission report as being of historical significance.''

HISTORICALLY BLACK COLLEGES AND UNIVERSITIES HISTORIC BUILDING RESTORATION AND PRESERVATION

Pub. L. 104–333, div. I, title V, § 507, Nov. 12, 1996, 110 Stat. 4156, as amended by Pub. L. 108–7, div. F, title I, § 150, Feb. 20, 2003, 117 Stat. 245, provided that:

''(a) AUTHORITY TO MAKE GRANTS.—From the amounts made available to carry out the National Historic Preservation Act [16 U.S.C. 470 et seq.], the Secretary of the Interior shall make grants in accordance with this section to eligible historically black colleges and universities for the preservation and restoration of historic buildings and structures on the campus of these institutions.

''(b) GRANT CONDITIONS.—Grants made under subsection (a) shall be subject to the condition that the grantee covenants, for the period of time specified by the Secretary, that—

''(1) no alteration will be made in the property with respect to which the grant is made without the concurrence of the Secretary; and

''(2) reasonable public access to the property with respect to which the grant is made will be permitted by the grantee for interpretive and educational purposes.

''(c) MATCHING REQUIREMENT FOR BUILDINGS AND STRUCTURES LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES.—

''(1) IN GENERAL.—Except as provided by paragraphs (2) and (3), the Secretary may obligate funds made available under this section for a grant with respect to a building or structure listed on, or eligible for listing on, the National Register of Historic Places only if the grantee agrees to match, from funds derived from non-Federal sources, the amount of the grant with an amount that is equal or greater than the grant.

''(2) WAIVER.—The Secretary may waive paragraphs (1) and (3) with respect to a grant if the Secretary determines from circumstances that an extreme emergency exists or that such a waiver is in the public interest to assure the preservation of historically significant resources.

''(3) EXCEPTION.—The Secretary shall not obligate funds made available under subsection (d)(2) for a grant with respect to a building or structure listed on, or eligible for listing on, the National Register of Historic Places unless the grantee agrees to provide, from funds derived from non-Federal sources, an amount that is equal to 30 percent of the total cost of the project for which the grant is provided.

''(d) FUNDING PROVISION.—

''(1) IN GENERAL.—Under section 108 of the National Historic Preservation Act [16 U.S.C. 470h], $29,000,000 shall be made available to carry out the purposes of this section. Of amounts made available pursuant to this section, $5,000,000 shall be available for grants to Fisk University, $2,500,000 shall be available for grants to Knoxville College, $2,000,000 shall be available for grants to Miles College, Alabama, $1,500,000 shall be available for grants to Talladega College, Alabama, $1,550,000 shall be available for grants to Selma University, Alabama, $250,000 shall be available for grants to Stillman College, Alabama, $200,000 shall be available for grants to Concordia College, Alabama, $2,900,000 shall be available for grants to Allen University, South Carolina, $1,000,000 shall be available for grants to Claflin College, South Carolina, $2,000,000 shall be available for grants to Voorhees College, South Carolina, $1,000,000 shall be available for grants to Rust College, Mississippi, and $3,000,000 shall be available for grants to Tougaloo College, Mississippi.

''(2) ADDITIONAL FUNDING.—In addition to amounts made available under paragraph (1), there is authorized to be appropriated from the Historic Preservation Fund to carry out this section $10,000,000 for each of fiscal years 2003 through 2008.

''(e) REGULATIONS.—The Secretary shall develop such guidelines as may be necessary to carry out this section.

''(f) DEFINITIONS.—For the purposes of this section:

''(1) HISTORICALLY BLACK COLLEGES.—The term 'historically black colleges and universities' has the same meaning given the term 'part B institution' by section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

''(2) HISTORIC BUILDING AND STRUCTURES.—The term 'historic building and structures' means a building or structure listed on, or eligible for listing on, the National Register of Historic Places or designated a National Historic Landmark.''

RECOMMENDATIONS OF HISTORIC PROPERTIES FOR PRESERVATION

Section 4021 of Pub. L. 102–575 provided that: ''The Secretary of the Interior, in consultation with the Advisory Council, shall seek to ensure that historic properties preserved under the National Historic Preservation Act [16 U.S.C. 470 et seq.] fully reflect the historical experience of this nation.''

SECRETARIAL REPORT

Section 4025 of Pub. L. 102–575 directed Secretary of the Interior, not later than one year after Oct. 30, 1992, to prepare and submit to Congress a report on the manner in which properties are listed or determined to be eligible for listing on the National Register, including but not limited to, the appropriateness of the criteria used in determining such eligibility, and the effect, if any, of such listing or finding of eligibility.

PRESERVATION AND CONSERVATION OF INTANGIBLE ASPECTS OF AMERICAN CULTURAL HERITAGE; REPORT TO PRESIDENT AND CONGRESS

Section 502 of Pub. L. 96–515 directed Secretary, in cooperation with American Folklife Center of Library of Congress, to submit within two years after Dec. 12, 1980, a report to President and Congress on preserving and conserving the intangible elements of our cultural heritage such as arts, skills, folklife, and folkways, the report to take into account the view of other public and private organizations, as appropriate, and to include recommendations for legislative and administrative actions by Federal Government in order to preserve, conserve, and encourage the continuation of the diverse traditional prehistoric, historic, ethnic, and folk cultural traditions that underlie and are a living expression of our American heritage.

COORDINATED SYSTEM OF CULTURAL PARKS AND HISTORIC CONSERVATION DISTRICTS; COMPREHENSIVE STUDY AND FORMULATION OF RECOMMENDATIONS; REPORT TO PRESIDENT AND CONGRESS

Section 506 of Pub. L. 96–515 directed Secretary to undertake a comprehensive study and formulate recommendations for a coordinated system of cultural parks and historic conservation districts that provide for preservation, interpretation, development, and use by public and private entities of prehistoric, historic, architectural, cultural, and recreational resources found in definable urban areas throughout the Nation; the study to propose alternatives concerning management and funding of such system by public and private entities and by various levels of government; and directed Secretary to submit a report of his study and recommendations to President and Congress within two years after Dec. 12, 1980.

FIRE IN HISTORIC PROPERTIES; PROTECTIVE MEASURES; REPORT TO PRESIDENT AND CONGRESS

Section 507 of Pub. L. 96–515 directed Secretary, in cooperation with Secretary of the Treasury, Administrator of United States Fire Administration, and Administrator of Federal Insurance Administration, to submit a report to President and Congress on fire in historic properties, such report to include a review of Federal laws to determine any relationship between these laws and arson or fire by 'suspicious origin', to make recommendations respecting amendments to such laws should a correlation be found to exist, to include the feasibility and necessity of establishing or developing protective measures at the Federal, State, or local level for the prevention, detection, and control of arson or fire by 'suspicious origin' in historic properties, to include recommendations regarding the Federal role in assisting the States and local governments with protecting historic properties from damage by fire, and to be submitted within eighteen months after Dec. 12, 1980.

§ 470a–1. World Heritage Convention

(a) United States participation

The Secretary of the Interior shall direct and coordinate United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the Senate on October 26, 1973, in cooperation with the Secretary of State, the Smithsonian Institution, and the Advisory Council on Historic Preservation. Whenever possible, expenditures incurred in carrying out activities in cooperation with other nations and international organizations shall be paid for in such excess currency of the country or area where the expense is incurred as may be available to the United States.

(b) Nomination of property to World Heritage Committee

The Secretary of the Interior shall periodically nominate properties he determines are of international significance to the World Heritage Committee on behalf of the United States. No property may be so nominated unless it has previously been determined to be of national significance. Each such nomination shall include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment (including restrictive covenants, easements, or other forms of protection). Before making any such nomination, the Secretary shall notify the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(c) Nomination of non-Federal property to World Heritage Committee

No non-Federal property may be nominated by the Secretary of the Interior to the World Heritage Committee for inclusion on the World Heritage List unless the owner of the property concurs in writing to such nomination.

(Pub. L. 96–515, title IV, § 401, Dec. 12, 1980, 94 Stat. 3000; Pub. L. 103–437, § 6(d)(28), Nov. 2, 1994, 108 Stat. 4584.)

CODIFICATION

Section was enacted as part of the National Historic Preservation Act Amendments of 1980, and not as part of the National Historic Preservation Act, Pub. L. 89–665, which is classified generally to this subchapter.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 470a–2. Federal undertakings outside United States; mitigation of adverse effects

Prior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on the applicable country's equivalent of the National Register, the head of a Federal agency having direct or in-

direct jurisdiction over such undertaking shall take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effects.

(Pub. L. 96–515, title IV, § 402, Dec. 12, 1980, 94 Stat. 3000.)

CODIFICATION

Section was enacted as part of the National Historic Preservation Act Amendments of 1980, and not as part of the National Historic Preservation Act, Pub. L. 89–665, which is classified generally to this subchapter.

§ 470b. Requirements for awarding of grant funds

(a) Grant applications; amounts; reports; conditions

No grant may be made under this subchapter—

(1) unless application therefor is submitted to the Secretary in accordance with regulations and procedures prescribed by him;

(2) unless the application is in accordance with the comprehensive statewide historic preservation plan which has been approved by the Secretary after considering its relationship to the comprehensive statewide outdoor recreation plan prepared pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) [16 U.S.C. 460*l*–4 et seq.];

(3) for more than 60 percent of the aggregate costs of carrying out projects and programs under the administrative control of the State Historic Preservation Officer as specified in section 470a(b)(3) of this title in any one fiscal year;

(4) unless the grantee has agreed to make such reports, in such form and containing such information as the Secretary may from time to time require;

(5) unless the grantee has agreed to assume, after completion of the project, the total cost of the continued maintenance, repair, and administration of the property in a manner satisfactory to the Secretary; and

(6) until the grantee has complied with such further terms and conditions as the Secretary may deem necessary or advisable.

Except as permitted by other law, the State share of the costs referred to in paragraph (3) shall be contributed by non-Federal sources. Notwithstanding any other provision of law, no grant made pursuant to this subchapter shall be treated as taxable income for purposes of title 26.

(b) Waiver

The Secretary may in his discretion waive the requirements of subsection (a), paragraphs (2) and (5) of this section for any grant under this subchapter to the National Trust for Historic Preservation in the United States.

(c) Repealed. Pub. L. 96–515, title II, § 202(c), Dec. 12, 1980, 94 Stat. 2993

(d) [1] Remaining cost of project

No State shall be permitted to utilize the value of real property obtained before October 15, 1966, in meeting the remaining cost of a project for which a grant is made under this subchapter.

(d) [1] Availability

The Secretary shall make funding available to individual States and the National Trust for Historic Preservation as soon as practicable after execution of a grant agreement. For purposes of administration, grants to individual States and the National Trust each shall be considered to be one grant and shall be administered by the National Park Service as such.

(e) Administrative costs

The total administrative costs, direct and indirect, charged for carrying out State projects and programs may not exceed 25 percent of the aggregate costs except in the case of grants under section 470a(e)(6) of this title.

(Pub. L. 89–665, title I, § 102, Oct. 15, 1966, 80 Stat. 916; Pub. L. 94–422, title II, § 201(1), Sept. 28, 1976, 90 Stat. 1319; Pub. L. 96–515, title IV, § 202, Dec. 12, 1980, 94 Stat. 2993; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 102–575, title XL, § 4009, Oct. 30, 1992, 106 Stat. 4759; Pub. L. 106–208, § 5(a)(5), May 26, 2000, 114 Stat. 318.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (a)(2), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

AMENDMENTS

2000—Subsec. (a)(3). Pub. L. 106–208 substituted ''year;'' for ''year.'' at end.

1992—Subsec. (a)(3). Pub. L. 102–575, § 4009(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''for more than 50 per centum of the aggregate cost of carrying out projects and programs specified in section 470a(d)(1) and (2) of this title in any one fiscal year, except that for the costs of State or local historic surveys or inventories the Secretary shall provide 70 per centum of the aggregate cost involved in any one fiscal year.''

Subsec. (b). Pub. L. 102–575, § 4009(2), which directed amendment of subsec. (b) by striking out '', in which case a grant to the National Trust may include funds for the maintenance, repair, and administration of the property in a manner satisfactory for the Secretary'', was executed by striking out '', in which case a grant to the National Trust may include funds for the maintenance, repair, and administration of the property in a manner satisfactory to the Secretary'' after ''United States'' to reflect the probable intent of Congress.

Subsecs. (d), (e). Pub. L. 102–575, § 4009(3), added subsec. (d), relating to availability, and subsec. (e).

1986—Subsec. (a). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1980—Subsec. (a). Pub. L. 96–515, § 202(a), (b), in par. (3) substituted provision directing that no grant be made for more than 50 per centum of the aggregate cost of carrying out projects and programs specified in section 470a(d)(1) and (2) of this title in any one fiscal year, except that for costs of State or local historic surveys or inventories the Secretary provide 70 per centum of the aggregate cost involved in any one fiscal year for provision directing that no grant be made for more than 50 per centum of the total cost involved, as determined by the Secretary, which determination was to be final, and inserted provision following cl. (6), that, except as

[1] So in original. Two subsecs. (d) have been enacted.

otherwise permitted, the State share of the costs referred to in par. (3) be contributed by non-Federal sources and no grant made be treated as taxable income.

Subsec. (c). Pub. L. 96–515, § 202(c), struck out subsec. (c) which authorized the Secretary in his discretion to waive the requirements of subsec. (a)(3) of this section for the purposes of making grants for the preparation of statewide historic preservation plans and surveys and project plans and restricted any grant made pursuant to this subsection to not to exceed 70 per centum of the cost of the project, with the total cost of grants made pursuant to this subsection in any fiscal year not to exceed one-half of the funds appropriated for that fiscal year pursuant to section 470h of this title.

1976—Pub. L. 94–422 reenacted subsecs. (a) and (b) without change, added subsec. (c), and redesignated former subsec. (c) as (d).

§ 470b–1. Grants to National Trust for Historic Preservation

(a) Authority of Secretary of Housing and Urban Development; renovation or restoration costs; terms and conditions; amounts

The Secretary of Housing and Urban Development is authorized to make grants to the National Trust for Historic Preservation, on such terms and conditions and in such amounts (not exceeding $90,000 with respect to any one structure) as he deems appropriate, to cover the costs incurred by such Trust in renovating or restoring structures which it considers to be of historic or architectural value and which it has accepted and will maintain (after such renovation or restoration) for historic purposes.

(b) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for the grants to be made under subsection (a) of this section.

(Pub. L. 89–754, title VI, § 603, Nov. 3, 1966, 80 Stat. 1278.)

CODIFICATION

Section was enacted as part of the Demonstration Cities and Metropolitan Development Act of 1966, and not as part of the National Historic Preservation Act, Pub. L. 89–665, which is classified generally to this subchapter.

§ 470c. Apportionment of grant funds

(a) Basis for apportionment

The amounts appropriated and made available for grants to the States for the purposes of this subchapter shall be apportioned among the States by the Secretary on the basis of needs as determined by him.

(b) Basis; notification to State; reapportionment

The amounts appropriated and made available for grants to the States for projects and programs under this subchapter for each fiscal year shall be apportioned among the States as the Secretary determines to be appropriate.

The Secretary shall notify each State of its apportionment under this subsection within thirty days following the date of enactment of legislation appropriating funds under this subchapter. Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such notification is given, and for two fiscal years thereafter, shall be reapportioned by the Secretary in accordance with this subsection. The Secretary shall analyze and revise as necessary the method of apportionment. Such method and any revision thereof shall be published by the Secretary in the Federal Register.

(c) Transfer of funds to local governments

A minimum of 10 per centum of the annual apportionment distributed by the Secretary to each State for the purposes of carrying out this subchapter shall be transferred by the State, pursuant to the requirements of this subchapter, to local governments which are certified under section 470a(c) of this title for historic preservation projects or programs of such local governments. In any year in which the total annual apportionment to the States exceeds $65,000,000, one half of the excess shall also be transferred by the States to local governments certified pursuant to section 470a(c) of this title.

(d) Guidelines for use and distribution of funds to local governments

The Secretary shall establish guidelines for the use and distribution of funds under subsection (c) of this section to insure that no local government receives a disproportionate share of the funds available, and may include a maximum or minimum limitation on the amount of funds distributed to any single local government. The guidelines shall not limit the ability of any State to distribute more than 10 per centum of its annual apportionment under subsection (c) of this section, nor shall the Secretary require any State to exceed the 10 per centum minimum distribution to local governments.

(Pub. L. 89–665, title I, § 103, Oct. 15, 1966, 80 Stat. 916; Pub. L. 94–422, title II, § 201(2), Sept. 28, 1976, 90 Stat. 1319; Pub. L. 96–515, title II, § 203, Dec. 12, 1980, 94 Stat. 2993; Pub. L. 102–575, title XL, § 4010, Oct. 30, 1992, 106 Stat. 4759; Pub. L. 106–208, § 5(a)(6), May 26, 2000, 114 Stat. 318.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–208 substituted ''purposes of this subchapter'' for ''purposes this subchapter'' and ''determined by him.'' for ''determined by him:.''.

1992—Subsec. (a). Pub. L. 102–575, § 4010(1), substituted ''for the purposes this subchapter'' for ''for comprehensive statewide historic surveys and plans under this subchapter''.

Subsec. (b). Pub. L. 102–575, § 4010(2), (3), substituted ''as the Secretary determines to be appropriate'' for ''by the Secretary in accordance with needs as disclosed in approved statewide historic preservation plans'' and inserted at end ''The Secretary shall analyze and revise as necessary the method of apportionment. Such method and any revision thereof shall be published by the Secretary in the Federal Register.''

1980—Subsec. (b). Pub. L. 96–515, § 203(a), inserted ''and programs'' after ''projects'' and substituted provision directing the Secretary to notify each State of its apportionment under this subsection within thirty days following enactment of legislation appropriating funds for provision directing the Secretary to notify each State of its apportionment, with the amounts available thereafter for payment to such State.

Subsecs. (c), (d). Pub. L. 96–515, § 203(b), added subsecs. (c) and (d).

1976—Subsec. (a). Pub. L. 94–422, which directed amendment of subsec. (a) by deleting ''Provided, how-

ever, That the amount granted to any one State shall not exceed 50 per centum of the total cost of the comprehensive statewide historic survey and plan for that State, as determined by the Secretary,'' after ''determined by him:'', was executed by deleting the quoted language, which did not contain a comma after ''Secretary'', to reflect the probable intent of Congress.

§ 470d. Loan insurance program for preservation of property included on National Register

(a) Establishment

The Secretary shall establish and maintain a program by which he may, upon application of a private lender, insure loans (including loans made in accordance with a mortgage) made by such lender to finance any project for the preservation of a property included on the National Register.

(b) Loan qualifications

A loan may be insured under this section only if—

(1) the loan is made by a private lender approved by the Secretary as financially sound and able to service the loan properly;

(2) the amount of the loan, and interest rate charged with respect to the loan, do not exceed such amount, and such a rate, as is established by the Secretary, by rule;

(3) the Secretary has consulted the appropriate State Historic Preservation Officer concerning the preservation of the historic property;

(4) the Secretary has determined that the loan is adequately secured and there is reasonable assurance of repayment;

(5) the repayment period of the loan does not exceed the lesser of forty years or the expected life of the asset financed;

(6) the amount insured with respect to such loan does not exceed 90 per centum of the loss sustained by the lender with respect to the loan; and

(7) the loan, the borrower, and the historic property to be preserved meet other terms and conditions as may be prescribed by the Secretary, by rule, especially terms and conditions relating to the nature and quality of the preservation work.

The Secretary shall consult with the Secretary of the Treasury regarding the interest rate of loans insured under this section.

(c) Limitation on amount of unpaid principal balance of loans

The aggregate unpaid principal balance of loans insured under this section and outstanding at any one time may not exceed the amount which has been covered into the Historic Preservation Fund pursuant to section 470h of this title and subsections (g) and (i) of this section, as in effect on December 12, 1980, but which has not been appropriated for any purpose.

(d) Assignability of insurance contracts; contract as obligation of United States; contestability

Any contract of insurance executed by the Secretary under this section may be assignable, shall be an obligation supported by the full faith and credit of the United States, and shall be incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

(e) Conditions and methods of payment as result of loss

The Secretary shall specify, by rule and in each contract entered into under this section, the conditions and method of payment to a private lender as a result of losses incurred by the lender on any loan insured under this section.

(f) Protection of financial interests of Federal Government

In entering into any contract to insure a loan under this section, the Secretary shall take steps to assure adequate protection of the financial interests of the Federal Government. The Secretary may—

(1) in connection with any foreclosure proceeding, obtain, on behalf of the Federal Government, the property securing a loan insured under this part; and

(2) operate or lease such property for such period as may be necessary to protect the interest of the Federal Government and to carry out subsection (g) of this section.

(g) Conveyance to governmental or nongovernmental entity of property acquired by foreclosure

(1) In any case in which a historic property is obtained pursuant to subsection (f) of this section, the Secretary shall attempt to convey such property to any governmental or nongovernmental entity under such conditions as will ensure the property's continued preservation and use; except that if, after a reasonable time, the Secretary, in consultation with the Advisory Council on Historic Preservation, determines that there is no feasible and prudent means to convey such property and to ensure its continued preservation and use, then the Secretary may convey the property at the fair market value of its interest in such property to any entity without restriction.

(2) Any funds obtained by the Secretary in connection with the conveyance of any property pursuant to paragraph (1) shall be covered into the historic preservation fund, in addition to the amounts covered into such fund pursuant to section 470h of this title and subsection (i) of this section, and shall remain available in such fund until appropriated by the Congress to carry out the purposes of this subchapter.

(h) Assessment of fees in connection with loans

The Secretary may assess appropriate and reasonable fees in connection with insuring loans under this section. Any such fees shall be covered into the Historic Preservation Fund, in addition to the amounts covered into such fund pursuant to section 470h of this title and subsection (g) of this section, and shall remain available in such fund until appropriated by the Congress to carry out purposes of this subchapter.

(i) Treatment of loans as non-Federal funds

Notwithstanding any other provision of law, any loan insured under this section shall be treated as non-Federal funds for the purposes of satisfying any requirement of any other provision of law under which Federal funds to be used for any project or activity are conditioned upon the use of non-Federal funds by the recipient for

payment of any portion of the costs of such project or activity.

(j) Authorization of appropriations for payment of losses

Effective after the fiscal year 1981 there are authorized to be appropriated, such sums as may be necessary to cover payments incurred pursuant to subsection (e) of this section.

(k) Eligibility of debt obligation for purchase, etc., by Federal Financing Bank

No debt obligation which is made or committed to be made, or which is insured or committed to be insured, by the Secretary under this section shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

(Pub. L. 89–665, title I, § 104, Oct. 15, 1966, 80 Stat. 917; Pub. L. 96–515, title II, § 204, Dec. 12, 1980, 94 Stat. 2994.)

CODIFICATION

In subsec. (c), ''December 12, 1980'' substituted for ''the date of enactment of this Act''. ''This Act'' probably meant the National Historic Preservation Act Amendments of 1980 (Pub. L. 96–515) rather than the National Historic Preservation Act of 1966 (Pub. L. 89–665).

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–515 substituted provision authorizing the Secretary to establish and maintain a program by which he, upon application of a private lender, insure loans made by such lender to finance any project for the preservation of a property included on the National Register for provision prohibiting grants to surveys or projects receiving assistance from any other Federal program or activity.

Subsec. (b). Pub. L. 96–515 substituted provision prescribing loan qualifications for provision authorizing the President, in order to assure consistency in policies and actions and coordination of planning, acquisition, and development assistance to States with other related Federal programs, to issue regulations as deemed desirable.

Subsecs. (c) to (k). Pub. L. 96–515 added subsecs. (c) to (k).

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with historic preservation under sections 470 to 470a, 470b, and 470c to 470w–6 of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 470e. Recordkeeping; recipients of assistance; audit

The beneficiary of assistance under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the disposition by the beneficiary of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(Pub. L. 89–665, title I, § 105, Oct. 15, 1966, 80 Stat. 917.)

§ 470f. Effect of Federal undertakings upon property listed in National Register; comment by Advisory Council on Historic Preservation

The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation established under part B of this subchapter a reasonable opportunity to comment with regard to such undertaking.

(Pub. L. 89–665, title I, § 106, Oct. 15, 1966, 80 Stat. 917; Pub. L. 94–422, title II, § 201(3), Sept. 28, 1976, 90 Stat. 1320.)

AMENDMENTS

1976—Pub. L. 94–422 inserted ''or eligible for inclusion in'' after ''included in''.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with historic preservation under sections 470 to 470a, 470b, and 470c to 470w–6 of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

REPORTING REQUIREMENTS OF ADVISORY COUNCIL ON HISTORIC PRESERVATION

Pub. L. 104–333, div. I, title V, § 509(b), Nov. 12, 1996, 110 Stat. 4157, provided that: ''Within 18 months after the date of enactment of this Act [Nov. 12, 1996], the Advisory Council on Historic Preservation shall submit a report to the appropriate congressional committees containing an analysis of alternatives for modifying the regulatory process for addressing impacts of Federal actions on nationally significant historic properties, as well as alternatives for future promulgation and oversight of regulations for implementation of section 106 of the National Historic Preservation Act [16 U.S.C. 470f].''

§ 470g. White House, United States Supreme Court building, and United States Capitol not included in program for preservation of historical properties

Nothing in this subchapter shall be construed to be applicable to the White House and its grounds, the Supreme Court building and its grounds, or the United States Capitol and its related buildings and grounds.

(Pub. L. 89–665, title I, § 107, Oct. 15, 1966, 80 Stat. 917.)

§ 470h. Historic Preservation Fund; establishment; appropriations; source of revenue

To carry out the provisions of this subchapter, there is hereby established the Historic Preservation Fund (hereafter referred to as the ''fund'') in the Treasury of the United States.

There shall be covered into such fund $24,400,000 for fiscal year 1977, $100,000,000 for fiscal year 1978, $100,000,000 for fiscal year 1979, $150,000,000 for fiscal year 1980, and $150,000,000 for fiscal year 1981, and $150,000,000 for each of fiscal years 1982 through 2015, from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469), as amended (43 U.S.C. 1338), and/or under section 7433(b) of title 10, notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purposes of this subchapter and shall be available for expenditure only when appropriated by the Congress. Any moneys not appropriated shall remain available in the fund until appropriated for said purposes: *Provided*, That appropriations made pursuant to this paragraph may be made without fiscal year limitation.

(Pub. L. 89–665, title I, § 108, Oct. 15, 1966, 80 Stat. 917; Pub. L. 91–243, § 1(a), May 9, 1970, 84 Stat. 204; Pub. L. 93–54, § 1(a), July 1, 1973, 87 Stat. 139; Pub. L. 94–422, title II, § 201(4), Sept. 28, 1976, 90 Stat. 1320; Pub. L. 96–515, title II, § 205, Dec. 12, 1980, 94 Stat. 2995; Pub. L. 100–127, Oct. 9, 1987, 101 Stat. 800; Pub. L. 102–575, title XL, § 4011, Oct. 30, 1992, 106 Stat. 4760; Pub. L. 106–208, §§ 2, 5(a)(7), May 26, 2000, 114 Stat. 318, 319; Pub. L. 109–453, § 1(c), Dec. 22, 2006, 120 Stat. 3367.)

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in second par., is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of Title 43, Public Lands. Section 9 of the Act (43 U.S.C. 1338) provides for the disposition of revenues. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables.

CODIFICATION

''Section 7433(b) of title 10'' substituted in text for ''the Act of June 4, 1920 (41 Stat. 813), as amended (30 U.S.C. 191)'', which was classified to section 524 of former Title 34, Navy, on authority of act Aug. 10, 1956, ch. 1041, § 49(b), 70A Stat. 640, the first section of which enacted Title 10, Armed Forces.

AMENDMENTS

2006—Pub. L. 109–453 substituted ''2015'' for ''2005''.

2000—Pub. L. 106–208 substituted ''through 2005'' for ''through 1997'' and ''(43 U.S.C. 1338)'' for ''(43 U.S.C. 338)''.

1992—Pub. L. 102–575 substituted ''1997'' for ''1992''.

1987—Pub. L. 100–127 substituted ''1992'' for ''1987''.

1980—Pub. L. 96–515 inserted ''and $150,000,000 for each of fiscal years 1982 through 1987'' after ''1981''.

1976—Pub. L. 94–422 substituted provisions establishing Historic Preservation Fund which contains appropriations obtained from revenues due and payable to United States pursuant to Outer Continental Shelf Lands Act and Act June 4, 1920 to carry out provisions of sections 470 to 470t of this title for provisions authorizing appropriations to carry out provisions of sections 470a, 470b, and 470c to 470h of this title of not more than $15,600,000 in fiscal year 1974, $20,000,000 in fiscal year 1975, and $24,400,000 in fiscal year 1976 to remain available until expended.

1973—Pub. L. 93–54 substituted appropriations authorization of $15,600,000, $20,000,000 and $24,400,000 for fiscal years 1974 through 1976, respectively, for such authorization of $7,000,000, $10,000,000, and $15,000,000 for fiscal years 1971 through 1973, respectively.

1970—Pub. L. 91–243 substituted provisions authorizing appropriations of not more than $7,000,000 for fiscal year 1971, and $10,000,000 and $15,000,000 for fiscal years 1972 and 1973, respectively, to carry out the provisions of sections 470a, 470b, and 470c, to 470h of this title for provisions authorizing the appropriation of not to exceed $2,000,000 for fiscal year 1967 and not more than $10,000,000 for the three succeeding fiscal years to carry out the provisions of sections 470 to 470b, and 470c to 470n of this title.

REVIEW OF OPERATION OF HISTORIC PRESERVATION FUND AND NATIONAL HISTORIC PRESERVATION PROGRAM; REPORT TO PRESIDENT AND CONGRESS

Section 504 of Pub. L. 96–515 provided that: ''The Secretary shall submit a report directly to the President and the Congress on or before June 1, 1986, reviewing the operation of the Historic Preservation Fund and the national historic preservation program since the enactment of this Act [Dec. 12, 1980] and recommending appropriate funding levels, the time period for the reauthorization for appropriations from the fund, and other appropriate legislative action to be undertaken upon the expiration of the current fund authorization.''

§ 470h–1. Acceptance of privately donated funds by Secretary

(a) Authorization; use of funds

In furtherance of the purposes of this subchapter, the Secretary may accept the donation of funds which may be expended by him for projects to acquire, restore, preserve, or recover data from any district, building, structure, site, or object which is listed on the National Register of Historic Places established pursuant to section 470a of this title, so long as the project is owned by a State, any unit of local government, or any nonprofit entity.

(b) Consideration of factors respecting expenditure of funds

In expending said funds, the Secretary shall give due consideration to the following factors:

the national significance of the project; its historical value to the community; the imminence of its destruction or loss; and the expressed intentions of the donor. Funds expended under this subsection shall be made available without regard to the matching requirements established by section 470b of this title but the recipient of such funds shall be permitted to utilize them to match any grants from the Historic Preservation Fund established by section 470h of this title.

(c) Transfer of unobligated funds

The Secretary is hereby authorized to transfer unobligated funds previously donated to the Secretary for the purposes of the National Park Service, with the consent of the donor, and any funds so transferred shall be used or expended in accordance with the provisions of this subchapter.

(Pub. L. 89–665, title I, § 109, as added Pub. L. 96–244, § 1, May 19, 1980, 94 Stat. 346.)

§ 470h–2. Historic properties owned or controlled by Federal agencies

(a) Responsibilities of Federal agencies; program for identification, evaluation, nomination, and protection

(1) The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each Federal agency shall use, to the maximum extent feasible, historic properties available to the agency, in accordance with Executive Order No. 13006, issued May 21, 1996 (61 Fed. Reg. 26071). Each agency shall undertake, consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 470a(g) of this title, any preservation, as may be necessary to carry out this section.

(2) Each Federal agency shall establish (unless exempted pursuant to section 470v of this title), in consultation with the Secretary, a preservation program for the identification, evaluation, and nomination to the National Register of Historic Places, and protection of historic properties. Such program shall ensure—

(A) that historic properties under the jurisdiction or control of the agency, are identified, evaluated, and nominated to the National Register;

(B) that such properties under the jurisdiction or control of the agency as are listed in or may be eligible for the National Register are managed and maintained in a way that considers the preservation of their historic, archaeological, architectural, and cultural values in compliance with section 470f of this title and gives special consideration to the preservation of such values in the case of properties designated as having National significance;

(C) that the preservation of properties not under the jurisdiction or control of the agency, but subject to be potentially affected by agency actions are given full consideration in planning;

(D) that the agency's preservation-related activities are carried out in consultation with other Federal, State, and local agencies, Indian tribes, Native Hawaiian organizations carrying out historic preservation planning activities, and with the private sector; and

(E) that the agency's procedures for compliance with section 470f of this title—

(i) are consistent with regulations issued by the Council pursuant to section 470s of this title;

(ii) provide a process for the identification and evaluation of historic properties for listing in the National Register and the development and implementation of agreements, in consultation with State Historic Preservation Officers, local governments, Indian tribes, Native Hawaiian organizations, and the interested public, as appropriate, regarding the means by which adverse effects on such properties will be considered; and

(iii) provide for the disposition of Native American cultural items from Federal or tribal land in a manner consistent with section 3002(c) of title 25.

(b) Records on historic properties to be altered or demolished; deposit in Library of Congress or other appropriate agency

Each Federal agency shall initiate measures to assure that where, as a result of Federal action or assistance carried out by such agency, an historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records, and that such records then be deposited, in accordance with section 470a(a) of this title, in the Library of Congress or with such other appropriate agency as may be designated by the Secretary, for future use and reference.

(c) Agency Preservation Officer; responsibilities; qualifications

The head of each Federal agency shall, unless exempted under section 470v of this title, designate a qualified official to be known as the agency's ''preservation officer'' who shall be responsible for coordinating that agency's activities under this subchapter. Each Preservation Officer may, in order to be considered qualified, satisfactorily complete an appropriate training program established by the Secretary under section 470a(h) of this title.

(d) Agency programs and projects

Consistent with the agency's missions and mandates, all Federal agencies shall carry out agency programs and projects (including those under which any Federal assistance is provided or any Federal license, permit, or other approval is required) in accordance with the purposes of this subchapter and, give consideration to programs and projects which will further the purposes of this subchapter.

(e) Review of plans of transferees of surplus federally owned historic properties

The Secretary shall review and approve the plans of transferees of surplus federally owned historic properties not later than ninety days after his receipt of such plans to ensure that the prehistorical, historical, architectural, or cul-

turally significant values will be preserved or enhanced.

(f) Planning and actions to minimize harm to National Historic Landmarks

Prior to the approval of any Federal undertaking which may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking.

(g) Costs of preservation as eligible project costs

Each Federal agency may include the costs of preservation activities of such agency under this subchapter as eligible project costs in all undertakings of such agency or assisted by such agency. The eligible project costs may also include amounts paid by a Federal agency to any State to be used in carrying out such preservation responsibilities of the Federal agency under this subchapter, and reasonable costs may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit.

(h) Annual preservation awards program

The Secretary shall establish an annual preservation awards program under which he may make monetary awards in amounts of not to exceed $1,000 and provide citations for special achievement to officers and employees of Federal, State, and certified local governments in recognition of their outstanding contributions to the preservation of historic resources. Such program may include the issuance of annual awards by the President of the United States to any citizen of the United States recommended for such award by the Secretary.

(i) Environmental impact statement

Nothing in this subchapter shall be construed to require the preparation of an environmental impact statement where such a statement would not otherwise be required under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], and nothing in this subchapter shall be construed to provide any exemption from any requirement respecting the preparation of such a statement under such Act.

(j) Waiver of provisions in event of natural disaster or imminent threat to national security

The Secretary shall promulgate regulations under which the requirements of this section may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the national security.

(k) Assistance for adversely affected historic property

Each Federal agency shall ensure that the agency will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant who, with intent to avoid the requirements of section 470f of this title, has intentionally significantly adversely affected a historic property to which the grant would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the agency, after consultation with the Council, determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant.

(*l*) Documentation of decisions respecting undertakings

With respect to any undertaking subject to section 470f of this title which adversely affects any property included in or eligible for inclusion in the National Register, and for which a Federal agency has not entered into an agreement pursuant to regulations issued by the Council, the head of such agency shall document any decision made pursuant to section 470f of this title. The head of such agency may not delegate his or her responsibilities pursuant to such section. Where a section 106 [16 U.S.C. 470f] memorandum of agreement has been executed with respect to an undertaking, such memorandum shall govern the undertaking and all of its parts.

(Pub. L. 89–665, title I, §110, as added Pub. L. 96–515, title II, §206, Dec. 12, 1980, 94 Stat. 2996; amended Pub. L. 102–575, title XL, §§4006(b), 4012, Oct. 30, 1992, 106 Stat. 4757, 4760; Pub. L. 106–208, §§4, 5(a)(8), May 26, 2000, 114 Stat. 318, 319; Pub. L. 108–352, §13, Oct. 21, 2004, 118 Stat. 1397.)

REFERENCES IN TEXT

Executive Order No. 13006, referred to in subsec. (a)(1), is set out as a note under section 3306 of Title 40, Public Buildings, Property, and Works.

The National Environmental Policy Act of 1969, referred to in subsec. (i), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2004—Subsec. (*l*). Pub. L. 108–352 amended directory language of Pub. L. 106–208, §5(a)(8). See 2000 Amendment note below.

2000—Subsec. (a)(1). Pub. L. 106–208, §4, substituted ''agency, in accordance with Executive Order No. 13006, issued May 21, 1996 (61 Fed. Reg. 26071).'' for ''agency.'' in second sentence.

Subsec. (*l*). Pub. L. 106–208, §5(a)(8), as amended by Pub. L. 108–352, substituted ''pursuant to regulations issued by the Council'' for ''with the Council'',.

1992—Subsec. (a)(1). Pub. L. 102–575, §4012(1), substituted ''section 470a(g)'' for ''section 470a(f)''.

Subsec. (a)(2). Pub. L. 102–575, §4012(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''With the advice of the Secretary and in cooperation with the State historic preservation officer for the State involved, each Federal agency shall establish a program to locate, inventory, and nominate to the Secretary all properties under the agency's ownership or control by the agency, that appear to qualify for inclusion on the National Register in accordance with the regulations promulgated under section 470a(a)(2)(A) of this title. Each Federal agency shall exercise caution to assure that any such property that might qualify for inclusion is not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly.''

Subsec. (c). Pub. L. 102–575, §4006(b), substituted ''section 470a(h)'' for ''section 470a(g)''.

Subsecs. (k), (*l*). Pub. L. 102–575, §4012(3), added subsecs. (k) and (*l*).

EX. ORD. NO. 13287. PRESERVE AMERICA

Ex. Ord. No. 13287, Mar. 3, 2003, 68 F.R. 10635, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Historic Preservation Act (16 U.S.C. 470 *et seq.*) (NHPA) and the National Environmental Policy Act [of 1969] (42 U.S.C. 4321 *et seq.*), it is hereby ordered:

SECTION 1. *Statement of Policy*. It is the policy of the Federal Government to provide leadership in preserving America's heritage by actively advancing the protection, enhancement, and contemporary use of the historic properties owned by the Federal Government, and by promoting intergovernmental cooperation and partnerships for the preservation and use of historic properties. The Federal Government shall recognize and manage the historic properties in its ownership as assets that can support department and agency missions while contributing to the vitality and economic well-being of the Nation's communities and fostering a broader appreciation for the development of the United States and its underlying values. Where consistent with executive branch department and agency missions, governing law, applicable preservation standards, and where appropriate, executive branch departments and agencies (''agency'' or ''agencies'') shall advance this policy through the protection and continued use of the historic properties owned by the Federal Government, and by pursuing partnerships with State and local governments, Indian tribes, and the private sector to promote the preservation of the unique cultural heritage of communities and of the Nation and to realize the economic benefit that these properties can provide. Agencies shall maximize efforts to integrate the policies, procedures, and practices of the NHPA and this order into their program activities in order to efficiently and effectively advance historic preservation objectives in the pursuit of their missions.

SEC. 2. *Building Preservation Partnerships*. When carrying out its mission activities, each agency, where consistent with its mission and governing authorities, and where appropriate, shall seek partnerships with State and local governments, Indian tribes, and the private sector to promote local economic development and vitality through the use of historic properties in a manner that contributes to the long-term preservation and productive use of those properties. Each agency shall examine its policies, procedures, and capabilities to ensure that its actions encourage, support, and foster public-private initiatives and investment in the use, reuse, and rehabilitation of historic properties, to the extent such support is not inconsistent with other provisions of law, the Secretary of the Interior's Standards for Archeology and Historic Preservation, and essential national department and agency mission requirements.

SEC. 3. *Improving Federal Agency Planning and Accountability*. (a) Accurate information on the state of Federally owned historic properties is essential to achieving the goals of this order and to promoting community economic development through local partnerships. Each agency with real property management responsibilities shall prepare an assessment of the current status of its inventory of historic properties required by section 110(a)(2) of the NHPA (16 U.S.C. 470h–2(a)(2)), the general condition and management needs of such properties, and the steps underway or planned to meet those management needs. The assessment shall also include an evaluation of the suitability of the agency's types of historic properties to contribute to community economic development initiatives, including heritage tourism, taking into account agency mission needs, public access considerations, and the long-term preservation of the historic properties. No later than September 30, 2004, each covered agency shall complete a report of the assessment and make it available to the Chairman of the Advisory Council on Historic Preservation (Council) and the Secretary of the Interior (Secretary).

(b) No later than September 30, 2004, each agency with real property management responsibilities shall review its regulations, management policies, and operating procedures for compliance with sections 110 and 111 of the NHPA (16 U.S.C. 470h–2 & 470–3) and make the results of its review available to the Council and the Secretary. If the agency determines that its regulations, management policies, and operating procedures are not in compliance with those authorities, the agency shall make amendments or revisions to bring them into compliance.

(c) Each agency with real property management responsibilities shall, by September 30, 2005, and every third year thereafter, prepare a report on its progress in identifying, protecting, and using historic properties in its ownership and make the report available to the Council and the Secretary. The Council shall incorporate this data into a report on the state of the Federal Government's historic properties and their contribution to local economic development and submit this report to the President by February 15, 2006, and every third year thereafter.

(d) Agencies may use existing information gathering and reporting systems to fulfill the assessment and reporting requirements of subsections 3(a)–(c) of this order. To assist agencies, the Council, in consultation with the Secretary, shall, by September 30, 2003, prepare advisory guidelines for agencies to use at their discretion.

(e) No later than June 30, 2003, the head of each agency shall designate a senior policy level official to have policy oversight responsibility for the agency's historic preservation program and notify the Council and the Secretary of the designation. This senior official shall be an assistant secretary, deputy assistant secretary, or the equivalent, as appropriate to the agency organization. This official, or a subordinate employee reporting directly to the official, shall serve as the agency's Federal Preservation Officer in accordance with section 110(c) of the NHPA. The senior official shall ensure that the Federal Preservation Officer is qualified consistent with guidelines established by the Secretary for that position and has access to adequate expertise and support to carry out the duties of the position.

SEC. 4. *Improving Federal Stewardship of Historic Properties*. (a) Each agency shall ensure that the management of historic properties in its ownership is conducted in a manner that promotes the long-term preservation and use of those properties as Federal assets and, where consistent with agency missions, governing law, and the nature of the properties, contributes to the local community and its economy.

(b) Where consistent with agency missions and the Secretary of the Interior's Standards for Archeology and Historic Preservation, and where appropriate, agencies shall cooperate with communities to increase opportunities for public benefit from, and access to, Federally owned historic properties.

(c) The Council is directed to use its existing authority to encourage and accept donations of money, equipment, and other resources from public and private parties to assist other agencies in the preservation of historic properties in Federal ownership to fulfill the goals of the NHPA and this order.

(d) The National Park Service, working with the Council and in consultation with other agencies, shall make available existing materials and information for education, training, and awareness of historic property stewardship to ensure that all Federal personnel have access to information and can develop the skills necessary to continue the productive use of Federally owned historic properties while meeting their stewardship responsibilities.

(e) The Council, in consultation with the National Park Service and other agencies, shall encourage and recognize exceptional achievement by such agencies in meeting the goals of the NHPA and this order. By March 31, 2004, the Council shall submit to the President and the heads of agencies recommendations to further stimulate initiative, creativity, and efficiency in the Federal stewardship of historic properties.

SEC. 5. *Promoting Preservation Through Heritage Tourism*.

(a) To the extent permitted by law and within existing resources, the Secretary of Commerce, working

with the Council and other agencies, shall assist States, Indian tribes, and local communities in promoting the use of historic properties for heritage tourism and related economic development in a manner that contributes to the long-term preservation and productive use of those properties. Such assistance shall include efforts to strengthen and improve heritage tourism activities throughout the country as they relate to Federally owned historic properties and significant natural assets on Federal lands.

(b) Where consistent with agency missions and governing law, and where appropriate, agencies shall use historic properties in their ownership in conjunction with State, tribal, and local tourism programs to foster viable economic partnerships, including, but not limited to, cooperation and coordination with tourism officials and others with interests in the properties.

SEC. 6. *National and Homeland Security Considerations.* Nothing in this order shall be construed to require any agency to take any action or disclose any information that would conflict with or compromise national and homeland security goals, policies, programs, or activities.

SEC. 7. *Definitions.* For the purposes of this order, the term ''historic property'' means any prehistoric or historic district, site, building, structure, and object included on or eligible for inclusion on the National Register of Historic Places in accordance with section 301(5) of the NHPA (16 U.S.C. 470w(5)). The term ''heritage tourism'' means the business and practice of attracting and accommodating visitors to a place or area based especially on the unique or special aspects of that locale's history, landscape (including trail systems), and culture. The terms ''Federally owned'' and ''in Federal ownership,'' and similar terms, as used in this order, do not include properties acquired by agencies as a result of foreclosure or similar actions and that are held for a period of less than 5 years.

SEC. 8. *Judicial Review.* This order is intended only to improve the internal management of the Federal Government and it is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

§ 470h–3. Lease or exchange of historic property

(a) Authorization; consultation with Council

Notwithstanding any other provision of law, any Federal agency after consultation with the Council, shall, to the extent practicable, establish and implement alternatives for historic properties, including adaptive use, that are not needed for current or projected agency purposes, and may lease an historic property owned by the agency to any person or organization, or exchange any property owned by the agency with comparable historic property, if the agency head determines that the lease or exchange will adequately insure the preservation of the historic property.

(b) Proceeds of lease for administration, etc., of property; deposit of surplus proceeds into Treasury

The proceeds of any lease under subsection (a) of this section may, notwithstanding any other provision of law, be retained by the agency entering into such lease and used to defray the costs of administration, maintenance, repair, and related expenses incurred by the agency with respect to such property or other properties which are on the National Register which are owned by, or are under the jurisdiction or control of, such agency. Any surplus proceeds from such leases shall be deposited into the Treasury of the United States at the end of the second fiscal year following the fiscal year in which such proceeds were received.

(c) Contracts for management of historic property

The head of any Federal agency having responsibility for the management of any historic property may, after consultation with the Advisory Council on Historic Preservation, enter into contracts for the management of such property. Any such contract shall contain such terms and conditions as the head of such agency deems necessary or appropriate to protect the interests of the United States and insure adequate preservation of the historic property.

(Pub. L. 89–665, title I, § 111, as added Pub. L. 96–515, title II, § 207, Dec. 12, 1980, 94 Stat. 2997; amended Pub. L. 102–575, title XL, § 4013, Oct. 30, 1992, 106 Stat. 4761.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–575 substituted ''after consultation with the Council, shall, to the extent practicable, establish and implement alternatives for historic properties, including adaptive use, that are not needed for current or projected agency purposes, and may'' for ''may, after consultation with the Advisory Council on Historic Preservation,''.

HISTORIC LEASE PROCESS SIMPLIFICATION

Pub. L. 105–391, title VIII, § 802(b), Nov. 13, 1998, 112 Stat. 3523, provided that: ''The Secretary is directed to simplify, to the maximum extent possible, the leasing process for historic properties with the goal of leasing available structures in a timely manner.''

§ 470h–4. Professional standards

(a) In general

Each Federal agency that is responsible for the protection of historic resources, including archaeological resources pursuant to this subchapter or any other law shall ensure each of the following—

(1)(A) All actions taken by employees or contractors of such agency shall meet professional standards under regulations developed by the Secretary in consultation with the Council, other affected agencies, and the appropriate professional societies of the disciplines involved, specifically archaeology, architecture, conservation, history, landscape architecture, and planning.

(B) Agency personnel or contractors responsible for historic resources shall meet qualification standards established by the Office of Personnel Management in consultation with the Secretary and appropriate professional societies of the disciplines involved. The Office of Personnel Management shall revise qualification standards within 2 years after October 30, 1992, for the disciplines involved, specifically archaeology, architecture, conservation, curation, history, landscape architecture, and planning. Such standards shall consider the particular skills and expertise needed for the preservation of historic resources and shall be equivalent requirements for the disciplines involved.

(2) Records and other data, including data produced by historical research and archae-

ological surveys and excavations are permanently maintained in appropriate data bases and made available to potential users pursuant to such regulations as the Secretary shall promulgate.

(b) Guidelines

In order to promote the preservation of historic resources on properties eligible for listing in the National Register, the Secretary shall, in consultation with the Council, promulgate guidelines to ensure that Federal, State, and tribal historic preservation programs subject to this subchapter include plans to—

(1) provide information to the owners of properties containing historic (including architectural, curatorial, and archaeological) resources with demonstrated or likely research significance, about the need for protection of such resources, and the available means of protection;

(2) encourage owners to preserve such resources intact and in place and offer the owners of such resources information on the tax and grant assistance available for the donation of the resources or of a preservation easement of the resources;

(3) encourage the protection of Native American cultural items (within the meaning of section 3001(3) and (9) of title 25) and of properties of religious or cultural importance to Indian tribes, Native Hawaiians, or other Native American groups; and

(4) encourage owners who are undertaking archaeological excavations to—

(A) conduct excavations and analyses that meet standards for federally-sponsored excavations established by the Secretary;

(B) donate or lend artifacts of research significance to an appropriate research institution;

(C) allow access to artifacts for research purposes; and

(D) prior to excavating or disposing of a Native American cultural item in which an Indian tribe or Native Hawaiian organization may have an interest under section 3002(a)(2)(B) or (C) of title 25, given[1] notice to and consult with such Indian tribe or Native Hawaiian organization.

(Pub. L. 89–665, title I, § 112, as added Pub. L. 102–575, title XL, § 4014, Oct. 30, 1992, 106 Stat. 4761; amended Pub. L. 106–208, § 5(a)(9), May 26, 2000, 114 Stat. 319.)

CODIFICATION

October 30, 1992, referred to in subsec. (a)(1)(B), was in the original ''the date of enactment of this Act'' which was translated as meaning the date of enactment of Pub. L. 102–575 which enacted this section, to reflect the probable intent of Congress.

AMENDMENTS

2000—Subsec. (b)(3). Pub. L. 106–208 inserted closing parenthesis after ''title 25''.

§ 470h–5. Interstate and international traffic in antiquities

(a) Study

In order to help control illegal interstate and international traffic in antiquities, including archaeological, curatorial, and architectural objects, and historical documents of all kinds, the Secretary shall study and report on the suitability and feasibility of alternatives for controlling illegal interstate and international traffic in antiquities.

(b) Consultation

In conducting the study described in subsection (a) of this section the Secretary shall consult with the Council and other Federal agencies that conduct, cause to be conducted, or permit archaeological surveys or excavations or that have responsibilities for other kinds of antiquities and with State Historic Preservation Officers, archaeological, architectural, historical, conservation, and curatorial organizations, Indian tribes, Native Hawaiian organizations, and other Native American organizations, international organizations and other interested persons.

(c) Report

Not later than 18 months after October 30, 1992, the Secretary shall submit to Congress a report detailing the Secretary's findings and recommendations from the study described in subsection (a) of this section.

(d) Authorization

There are authorized to be appropriated not more than $500,000 for the study described in subsection (a) of this section, such sums to remain available until expended.

(Pub. L. 89–665, title I, § 113, as added Pub. L. 102–575, title XL, § 4015, Oct. 30, 1992, 106 Stat. 4762.)

PART B—ADVISORY COUNCIL ON HISTORIC PRESERVATION

§ 470i. Advisory Council on Historic Preservation

(a) Establishment; membership; Chairman

There is established as an independent agency of the United States Government an Advisory Council on Historic Preservation which shall be composed of the following members:

(1) a Chairman appointed by the President selected from the general public;

(2) the Secretary of the Interior;

(3) the Architect of the Capitol;

(4) the Secretary of Agriculture and the heads of seven other agencies of the United States (other than the Department of the Interior) the activities of which affect historic preservation, designated by the President;

(5) one Governor appointed by the President;

(6) one mayor appointed by the President;

(7) the President of the National Conference of State Historic Preservation Officers;

(8) the Chairman of the National Trust for Historic Preservation;

(9) four experts in the field of historic preservation appointed by the President from the disciplines of architecture, history, archeology, and other appropriate disciplines;

(10) three at-large members from the general public, appointed by the President; and

(11) one member of an Indian tribe or Native Hawaiian organization who represents the interests of the tribe or organization of which he

[1] So in original. Probably should be ''give''.

or she is a member, appointed by the President.

(b) Designation of substitutes

Each member of the Council specified in paragraphs (2) through (8) other than (6) of subsection (a) of this section may designate another officer of his department, agency, or organization to serve on the Council in his stead, except that, in the case of paragraphs (2) and (4), no such officer other than an Assistant Secretary or an officer having major department-wide or agency-wide responsibilities may be so designated.

(c) Term of office

Each member of the Council appointed under paragraph (1), and under paragraphs (9) through (11) of subsection (a) of this section shall serve for a term of four years from the expiration of his predecessor's term; except that the members first appointed under that paragraph shall serve for terms of one to four years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not more than two of them will expire in any one year. The members appointed under paragraphs (5) and (6) shall serve for the term of their elected office but not in excess of four years. An appointed member may not serve more than two terms. An appointed member whose term has expired shall serve until that member's successor has been appointed.

(d) Vacancies; term of office of members already appointed

A vacancy in the Council shall not affect its powers, but shall be filled, not later than sixty days after such vacancy commences, in the same manner as the original appointment (and for the balance of any unexpired terms). The members of the Advisory Council on Historic Preservation appointed by the President under this subchapter as in effect on the day before December 12, 1980, shall remain in office until all members of the Council, as specified in this section, have been appointed. The members first appointed under this section shall be appointed not later than one hundred and eighty days after December 12, 1980.

(e) Designation of Vice Chairman

The President shall designate a Vice Chairman, from the members appointed under paragraph (5), (6), (9), or (10). The Vice Chairman may act in place of the Chairman during the absence or disability of the Chairman or when the office is vacant.

(f) Quorum

12 members of the Council shall constitute a quorum.

(Pub. L. 89–665, title II, §201, Oct. 15, 1966, 80 Stat. 917; Pub. L. 91–243, §1(b)–(e), May 9, 1970, 84 Stat. 204; Pub. L. 93–54, §1(c), July 1, 1973, 87 Stat. 139; Pub. L. 94–422, title II, §201(5), Sept. 28, 1976, 90 Stat. 1320; Pub. L. 96–515, title III, §301(a)–(f), Dec. 12, 1980, 94 Stat. 2998, 2999; Pub. L. 102–575, title XL, §§4016, 4019(b), Oct. 30, 1992, 106 Stat. 4763, 4765; Pub. L. 104–333, div. I, title V, §509(c)(1), (2), Nov. 12, 1996, 110 Stat. 4157; Pub. L. 109–453, §1(d), Dec. 22, 2006, 120 Stat. 3367.)

AMENDMENTS

2006—Subsec. (a)(4). Pub. L. 109–453, §1(d)(1), substituted ''seven'' for ''four''.

Subsec. (b). Pub. L. 109–453, §1(d)(2), struck out ''(5) and'' before ''(6)''.

Subsec. (f). Pub. L. 109–453, §1(d)(3), substituted ''12'' for ''Nine''.

1996—Subsec. (a)(4). Pub. L. 104–333, §509(c)(1), substituted ''designated by the President'' for ''appointed by the President''.

Subsec. (c). Pub. L. 104–333, §509(c)(2), which directed substitution of ''through (11)'' for ''and 10'', was executed by making the substitution for ''and (10)'' to reflect the probable intent of Congress.

1992—Subsec. (a). Pub. L. 102–575, §4019(b), which directed amendment of subsec. (a) by striking ''(hereafter referred to as the 'Council')'', was executed by striking ''(hereinafter referred to as the 'Council')'' after ''Historic Preservation'' in introductory provisions to reflect the probable intent of Congress.

Subsec. (a)(11). Pub. L. 102–575, §4016, added par. (11).

1980—Subsec. (a). Pub. L. 96–515, §301(a), revised the composition of the Council by reducing the membership from twenty-nine to eighteen members, provided flexibility for Federal agencies who will be represented, ensured that appropriate expertise will be available, and provided representation for State and local governments.

Subsec. (b). Pub. L. 96–515, §301(b), substituted ''(2) through (8) (other than (5) and (6))'' and ''(1) through (17)'' and inserted '', except that, in the case of paragraphs (2) and (4), no such officer other than an Assistant Secretary or an officer having major department-wide or agency-wide responsibilities may be so designated'' following ''in his stead''.

Subsec. (c). Pub. L. 96–515, §301(c), substituted provision that the Chairman appointed by the President from the general public, each of the four experts appointed by the President, and each of the three at-large members appointed by the President from the general public serve a term of four years from the expiration of his predecessor's term, except that the members first appointed serve terms of one to four years in such a manner as to insure that the terms of not more than two of them expire in any one year, the one Governor and the one mayor appointed by the President serve for the term of their elected office but not in excess of four years, an appointed member not serve for more than two terms, and an appointed member whose term expired serve until his successor has been appointed for provision that each of the twelve members appointed by the President from outside the Federal Government serve for a term of five years from expiration of his predecessor's term, except that the members first appointed serve for terms of one to five years in such a manner as to insure that the terms of not less than one nor more than two of them expire in any one year.

Subsec. (d). Pub. L. 96–515, §301(d), inserted provision that a vacancy be filled not later than sixty days after it commences, members of the Council appointed by the President before Dec. 12, 1980 remain in office until all members of the Council, as specified by this section, have been appointed, and members first appointed be appointed not later than 180 days after Dec. 12, 1980.

Subsec. (e). Pub. L. 96–515, §301(e), substituted provision authorizing the President to designate a Vice Chairman from among specified members of the Council for provision authorizing the President to designate a Chairman and Vice Chairman.

Subsec. (f). Pub. L. 96–515, §301(f), substituted ''Nine'' for ''Fifteen''.

1976—Subsec. (a)(9) to (18). Pub. L. 94–422 added pars. (9) to (14) and (17), and redesignated former pars. (9), (10), and (11) as (15), (16), and (18), respectively, and in par. (18), as so redesignated, substituted ''twelve'' for ''ten''.

Subsec. (b). Pub. L. 94–422 substituted ''(17)'' for ''(10)''.

Subsec. (c). Pub. L. 94–422 substituted ''(18)'' for ''(11)''.

Subsec. (d). Pub. L. 94–422 reenacted subsec. (d) without change.

Subsec. (e). Pub. L. 94–422 enlarged Presidential authority to include designation of Vice Chairman, who shall act in place of Chairman during the absence or disability of Chairman or when the office is vacant.

Subsec. (f). Pub. L. 94–422 substituted ''Fifteen'' for ''Eleven''.

Subsec. (g). Pub. L. 94–422 struck out subsec. (g) which provided that the Council shall continue in existence until Dec. 31, 1985.

1973—Subsec. (g). Pub. L. 93–54 added subsec. (g).

1970—Subsec. (a). Pub. L. 91–243, §1(b), enlarged the Council from seventeen to twenty members, added pars. (7) to (9), and redesignated former pars. (7) and (8) as (10) and (11), respectively.

Subsec. (b). Pub. L. 91–243, §1(c), substituted ''(10)'' for ''(6)''.

Subsec. (c). Pub. L. 91–243, §1(d), substituted ''(11)'' for ''(8)''.

Subsec. (f). Pub. L. 91–243, §1(e), substituted ''Eleven'' for ''Eight''.

§ 470j. Functions of Council; annual report to President and Congress; recommendations

(a) Duties

The Council shall—

(1) advise the President and the Congress on matters relating to historic preservation; recommend measures to coordinate activities of Federal, State, and local agencies and private institutions and individuals relating to historic preservation; and advise on the dissemination of information pertaining to such activities;

(2) encourage, in cooperation with the National Trust for Historic Preservation and appropriate private agencies, public interest and participation in historic preservation;

(3) recommend the conduct of studies in such areas as the adequacy of legislative and administrative statutes and regulations pertaining to historic preservation activities of State and local governments and the effects of tax policies at all levels of government on historic preservation;

(4) advise as to guidelines for the assistance of State and local governments in drafting legislation relating to historic preservation;

(5) encourage, in cooperation with appropriate public and private agencies and institutions, training and education in the field of historic preservation;

(6) review the policies and programs of Federal agencies and recommend to such agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under this subchapter; and

(7) inform and educate Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council's authorized activities.

(b) Annual report

The Council shall submit annually a comprehensive report of its activities and the results of its studies to the President and the Congress and shall from time to time submit such additional and special reports as it deems advisable. Each report shall propose such legislative enactments and other actions as, in the judgment of the Council, are necessary and appropriate to carry out its recommendations and shall provide the Council's assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector in carrying out the purposes of this subchapter.

(Pub. L. 89–665, title II, §202, Oct. 15, 1966, 80 Stat. 918; Pub. L. 96–515, title III, §301(g), Dec. 12, 1980, 94 Stat. 2999.)

AMENDMENTS

1980—Subsec. (a)(6), (7). Pub. L. 96–515, §301(g)(1), added pars. (6) and (7).

Subsec. (b). Pub. L. 96–515, §301(g)(2), inserted provision requiring in the Council's report an assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to submittal to Congress, annually, of a comprehensive report of activities and results of studies, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 154 of House Document No. 103–7.

RELATIONSHIP OF FEDERAL TAX LAWS TO HISTORIC PRESERVATION; REPORT TO PRESIDENT AND CONGRESS

Section 503 of Pub. L. 96–515 directed the Advisory Council on Historic Preservation to submit a report, within one year of Dec. 12, 1980, to the President and the Congress on Federal tax laws relating to historic preservation or affecting in any manner historic preservation.

§ 470k. Cooperation between Council and instrumentalities of executive branch of Federal Government

The Council is authorized to secure directly from any department, bureau, agency, board, commission, office, independent establishment or instrumentality of the executive branch of the Federal Government information, suggestions, estimates, and statistics for the purpose of this part; and each such department, bureau, agency, board, commission, office, independent establishment or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics to the extent permitted by law and within available funds.

(Pub. L. 89–665, title II, §203, Oct. 15, 1966, 80 Stat. 918.)

§ 470*l*. Compensation of members of Council

The members of the Council specified in paragraphs (2), (3), and (4) of section 470i(a) of this title shall serve without additional compensation. The other members of the Council shall receive $100 per diem when engaged in the performance of the duties of the Council. All members of the Council shall receive reimbursement for necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Council.

(Pub. L. 89–665, title II, §204, Oct. 15, 1966, 80 Stat. 918; Pub. L. 91–243, §1(f), May 9, 1970, 84

Stat. 204; Pub. L. 94–422, title II, § 201(6), Sept. 28, 1976, 90 Stat. 1321; Pub. L. 96–515, title III, § 301(h), Dec. 12, 1980, 94 Stat. 2999.)

AMENDMENTS

1980—Pub. L. 96–515 substituted ''paragraphs (2), (3), and (4)'' for ''paragraphs (1) and (17)'' and ''other members of the Council'' for ''members of the Council under paragraph (18) of section 470i(a) of this title''.

1976—Pub. L. 94–422 substituted ''(17)'' for ''(10)'' and ''(18)'' for ''(11)''.

1970—Pub. L. 91–243 substituted ''(10)'' for ''(7)'' and ''(11)'' for ''(8)''.

§ 470m. Administration

(a) Executive Director of Council; appointment; functions and duties

There shall be an Executive Director of the Council who shall be appointed in the competitive service by the Chairman with the concurrence of the Council. The Executive Director shall report directly to the Council and perform such functions and duties as the Council may prescribe.

(b) General Counsel; appointment; functions and duties

The Council shall have a General Counsel, who shall be appointed by the Executive Director. The General Counsel shall report directly to the Executive Director and serve as the Council's legal advisor. The Executive Director shall appoint such other attorneys as may be necessary to assist the General Counsel, represent the Council in courts of law whenever appropriate, including enforcement of agreements with Federal agencies to which the Council is a party, assist the Department of Justice in handling litigation concerning the Council in courts of law, and perform such other legal duties and functions as the Executive Director and the Council may direct.

(c) Appointment and compensation of officers and employees

The Executive Director of the Council may appoint and fix the compensation of such officers and employees in the competitive service as are necessary to perform the functions of the Council at rates not to exceed that now or hereafter prescribed for the highest rate for grade 15 of the General Schedule under section 5332 of title 5: *Provided*, *however*, That the Executive Director, with the concurrence of the Chairman, may appoint and fix the compensation of not to exceed five employees in the competitive service at rates not to exceed that now or hereafter prescribed for the highest rate of grade 17 of the General Schedule under section 5332 of title 5.

(d) Appointment and compensation of additional personnel

The Executive Director shall have power to appoint and fix the compensation of such additional personnel as may be necessary to carry out its duties, without regard to the provisions of the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5.

(e) Expert and consultant services; procurement

The Executive Director of the Council is authorized to procure expert and consultant services in accordance with the provisions of section 3109 of title 5.

(f) Financial and administrative services

Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) shall be provided the Council by the Department of the Interior or, at the discretion of the Council, such other agency or private entity that reaches an agreement with the Council, for which payments shall be made in advance or by reimbursement from funds of the Council in such amounts as may be agreed upon by the Chairman of the Council and the head of the agency or, in the case of a private entity, the authorized representative of the private entity that will provide the services. When a Federal agency affords such services, the regulations of that agency for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 5514(b)) shall apply to the collection of erroneous payments made to or on behalf of a Council employee and regulations of that agency for the administrative control of funds (31 U.S.C. 1513(d), 1514) shall apply to appropriations of the Council. The Council shall not be required to prescribe such regulations.

(g) Use of funds, personnel, facilities, and services of Federal agencies

Any Federal agency may provide the Council, with or without reimbursement as may be agreed upon by the Chairman and the agency, with such funds, personnel, facilities and services under its jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that such funds, personnel, facilities, and services are requested by the Council and are otherwise available for that purpose. Any funds provided to the Council pursuant to this subsection must be expended by the end of the fiscal year following the fiscal year in which the funds are received by the Council. To the extent of available appropriations, the Council may obtain by purchase, rental, donation, or otherwise, such additional property[1] facilities, and services as may be needed to carry out its duties and may also receive donations of moneys for such purpose, and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this subchapter.

(Pub. L. 89–665, title II, § 205, Oct. 15, 1966, 80 Stat. 919; Pub. L. 91–243, § 1(g), May 9, 1970, 84 Stat. 204; Pub. L. 94–422, title II, § 201(7), Sept. 28, 1976, 90 Stat. 1321; Pub. L. 96–515, title III, § 301(i), (j), Dec. 12, 1980, 94 Stat. 2999; Pub. L. 104–333, div. I, title V, § 509(c)(4), Nov. 12, 1996, 110 Stat. 4158; Pub. L. 106–176, title I, § 109, Mar. 10, 2000, 114 Stat. 26; Pub. L. 109–453, § 1(e), Dec. 22, 2006, 120 Stat. 3367.)

CODIFICATION

In subsec. (d), ''chapter 51 and subchapter III of chapter 53 of title 5'' was substituted for ''the Classification Act of 1949'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

2006—Subsec. (f). Pub. L. 109–453 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as fol-

[1] So in original. Probably should be followed by a comma.

lows: ''Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) shall be provided the Council by the Department of the Interior, for which payments shall be made in advance, or by reimbursement, from funds of the Council in such amounts as may be agreed upon by the Chairman of the Council and the Secretary of the Interior: *Provided*, That the regulations of the Department of the Interior for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 46e) shall apply to the collection of erroneous payments made to or on behalf of a Council employee, and regulations of said Secretary for the administrative control of funds (31 U.S.C. 665(g)) shall apply to appropriations of the Council: *And provided further*, That the Council shall not be required to prescribe such regulations.''

2000—Subsec. (g). Pub. L. 106–176 substituted ''for that purpose.'' for ''for the purpose.''.

1996—Subsec. (g). Pub. L. 104–333 amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''The members of the Council specified in paragraphs (2) through (4) of section 470i(a) of this title shall provide the Council, with or without reimbursement as may be agreed upon by the Chairman and the members, with such funds, personnel, facilities, and services under their jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that such funds, personnel, facilities, and services are requested by the Council and are otherwise available for that purpose. To the extent of available appropriations, the Council may obtain, by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties and may also receive donations of moneys for such purpose, and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this subchapter.''

1980—Subsec. (b). Pub. L. 96–515, § 301(i), inserted '', including enforcement of agreements with Federal agencies to which the Council is a party'' after ''wherever appropriate''.

Subsec. (g). Pub. L. 96–515, § 301(j), substituted ''paragraphs (2) through (4)'' for ''paragraphs (1) through (16)'' and inserted provision authorizing the Council to accept donations of moneys and the Executive Director, in his discretion, to accept, hold, use, expend, and administer such moneys.

1976—Subsec. (a). Pub. L. 94–422 substituted provisions authorizing appointment of the Executive Director by the Chairman and that the Executive Director shall report to the Council who shall prescribe his functions and duties for provisions designating the Director of the National Park Service or his designee as the Executive Director of the Council and incorporated provisions relating to furnishing of financial and administrative services by the Department of the Interior in subsec. (f).

Subsec. (b). Pub. L. 94–422 substituted provisions authorizing appointment of a General Counsel by the Executive Director and such other attorneys as may be necessary to assist General Counsel for provisions authorizing Council to appoint and fix compensation of additional personnel as may be necessary to carry out its duties.

Subsec. (c). Pub. L. 94–422 substituted provisions authorizing Executive Director to appoint and fix the compensation of officers and employees for provisions authorizing Council to procure temporary and intermittent services to the same extent as is authorized by section 55a of title 5, but at rates not to exceed $50 per diem for individuals.

Subsec. (d). Pub. L. 94–422 substituted provisions authorizing Executive Director to appoint and fix compensation of additional personnel for provisions relating to members of Council furnishing, on a reimbursable basis, such facilities and services under their jurisdiction and control as may be needed by the Council.

Subsec. (e). Pub. L. 94–422 added subsec. (e).

Subsec. (f). Pub. L. 94–422 incorporated provisions of former subsec. (a).

Subsec. (g). Pub. L. 94–422 added subsec. (g).

1970—Subsec. (d). Pub. L. 91–243 substituted ''(9)'' for ''(6)''.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 470n. International Centre for Study of Preservation and Restoration of Cultural Property

(a) Authorization of participation

The participation of the United States as a member in the International Centre for the Study of the Preservation and Restoration of Cultural Property is hereby authorized.

(b) Official delegation

The Council shall recommend to the Secretary of State, after consultation with the Smithsonian Institution and other public and private organizations concerned with the technical problems of preservation, the members of the official delegation which will participate in the activities of the Centre on behalf of the United States. The Secretary of State shall appoint the members of the official delegation from the persons recommended to him by the Council.

(c) Authorization of appropriations and payments

For the purposes of this section there is authorized to be appropriated an amount equal to the assessment for United States membership in the Centre for fiscal years 1979, 1980, 1981, and 1982: *Provided*, That no appropriation is authorized and no payment shall be made to the Centre in excess of 25 per centum of the total annual assessment of such organization. Authorization for payment of such assessments shall begin in fiscal year 1981, but shall include earlier costs.

(Pub. L. 89–665, title II, § 206, as added Pub. L. 91–243, § 2, May 9, 1970, 84 Stat. 204; amended Pub. L. 93–54, § 1(b), July 1, 1973, 87 Stat. 139; Pub. L. 94–422, title II, § 201(8), Sept. 28, 1976, 90 Stat. 1322; Pub. L. 96–199, title I, § 114, Mar. 5, 1980, 94 Stat. 71; Pub. L. 106–208, § 5(b), May 26, 2000, 114 Stat. 319.)

AMENDMENTS

2000—Subsec. (c). Pub. L. 106–208, made technical correction to directory language of Pub. L. 96–199. See 1980 Amendment note below.

1980—Subsec. (c). Pub. L. 96–199, as amended by Pub. L. 106–208, substituted ''there is authorized to be appropriated an amount equal to the assessment for United States membership in the Centre for fiscal years 1979, 1980, 1981, and 1982'' for ''there are authorized to be appropriated not more than $175,000 per year for fiscal years 1977, 1978, and 1979'' in the existing provisions and inserted provision that the authorization for the payment of assessments should begin in fiscal year 1981 but should include earlier costs.

1976—Subsec. (c). Pub. L. 94–422 substituted provisions authorizing appropriations of not more than $175,000 per year for fiscal years 1977, 1978, and 1979 for provisions authorizing appropriations of not more than $100,000 in fiscal year 1974, $100,000 in fiscal year 1975, and $125,000 in fiscal year 1976 and struck out ''effective January 1, 1974,'' after ''*Provided*, That''.

1973—Subsec. (c). Pub. L. 93–54 added subsec. (c) and repealed former subsec. (c) authorizing appropriation of $100,000 annually for fiscal years 1971 through 1973.

§ 470*o*. Transfer of personnel, property, etc., by Department of the Interior to Council; time limit

So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, programed, or available or to be made available by the Department of the Interior in connection with the functions of the Council, as the Director of the Office of Management and Budget shall determine, shall be transferred from the Department to the Council within 60 days of the effective date of this Act.

(Pub. L. 89–665, title II, § 207, as added Pub. L. 94–422, title II, § 201(9), Sept. 28, 1976, 90 Stat. 1322.)

REFERENCES IN TEXT

The effective date of this Act, referred to in text, probably means the effective date of Pub. L. 94–422, which was approved on Sept. 28, 1976.

§ 470p. Rights, benefits, and privileges of transferred employees

Any employee in the competitive service of the United States transferred to the Council under the provisions of this section shall retain all the rights, benefits, and privileges pertaining thereto held prior to such transfer.

(Pub. L. 89–665, title II, § 208, as added Pub. L. 94–422, title II, § 201(9), Sept. 28, 1976, 90 Stat. 1322.)

§ 470q. Operations of Council; exemption

The Council is exempt from the provisions of the Federal Advisory Committee Act (86 Stat. 770), and the provisions of subchapter II of chapter 5, and chapter 7, of title 5 shall govern the operations of the Council.

(Pub. L. 89–665, title II, § 209, as added Pub. L. 94–422, title II, § 201(9), Sept. 28, 1976, 90 Stat. 1322.)

REFERENCES IN TEXT

The Federal Advisory Committee Act (86 Stat. 770), referred to in text, is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is classified to the Appendix of Title 5, Government Organization and Employees.

CODIFICATION

''Subchapter II of chapter 5, and chapter 7 of title 5'' substituted in text for ''the Administrative Procedure Act (80 Stat. 381)'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§ 470r. Transmittal of legislative recommendations, or testimony, or comments, to any officer or agency of the United States prior to submission thereof to Congress; prohibition

No officer or agency of the United States shall have any authority to require the Council to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress. In instances in which the Council voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Council shall include a description of such actions in its legislative recommendations, testimony, or comments on legislation which it transmits to the Congress.

(Pub. L. 89–665, title II, § 210, as added Pub. L. 94–422, title II, § 201(9), Sept. 28, 1976, 90 Stat. 1322; amended Pub. L. 96–515, title III, § 301(k), Dec. 12, 1980, 94 Stat. 2999.)

AMENDMENTS

1980—Pub. L. 96–515 struck out provision requiring the Council, whenever it transmits any legislative recommendations, or testimony, or comments on legislation to the President or Office of Management and Budget, to concurrently transmit copies thereof to the House Committee on Interior and Insular Affairs and the Senate Committee on Interior and Insular Affairs.

§ 470s. Rules and regulations; participation by local governments

The Council is authorized to promulgate such rules and regulations as it deems necessary to govern the implementation of section 470f of this title in its entirety. The Council shall, by regulation, establish such procedures as may be necessary to provide for participation by local governments in proceedings and other actions taken by the Council with respect to undertakings referred to in section 470f of this title which affect such local governments.

(Pub. L. 89–665, title II, § 211, as added Pub. L. 94–422, title II, § 201(9), Sept. 28, 1976, 90 Stat. 1322; amended Pub. L. 96–515, title III, § 301(*l*), Dec. 12, 1980, 94 Stat. 2999; Pub. L. 102–575, title XL, § 4018, Oct. 30, 1992, 106 Stat. 4763.)

AMENDMENTS

1992—Pub. L. 102–575 inserted ''in its entirety'' before period at end of first sentence.

1980—Pub. L. 96–515 inserted provision authorizing the Council to establish procedures as necessary to provide for participation by local governments in proceedings and other actions taken by the Council with respect to undertakings referred to in section 470f of this title which affect such local governments.

§ 470t. Budget; authorization of appropriations

(a) Time of submission; related department; authorized appropriations

The Council shall submit its budget annually as a related agency of the Department of the Interior. There are authorized to be appropriated such amounts as may be necessary to carry out this part.

(b) Transmittal of copies to Congressional committees

Whenever the Council submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources.

(Pub. L. 89–665, title II, § 212, as added Pub. L. 94–422, title II, § 201(9), Sept. 28, 1976, 90 Stat.

1323; amended Pub. L. 95–625, title VI, § 614, Nov. 10, 1978, 92 Stat. 3521; Pub. L. 96–205, title VI, § 608(a)(3), Mar. 12, 1980, 94 Stat. 92; Pub. L. 96–244, § 2, May 19, 1980, 94 Stat. 346; Pub. L. 96–515, title III, § 302(b), Dec. 12, 1980, 94 Stat. 3000; Pub. L. 98–483, Oct. 17, 1984, 98 Stat. 2258; Pub. L. 101–70, Aug. 3, 1989, 103 Stat. 180; Pub. L. 102–575, title XL, § 4017, Oct. 30, 1992, 106 Stat. 4763; Pub. L. 103–437, § 6(d)(29), Nov. 2, 1994, 108 Stat. 4584; Pub. L. 104–333, div. I, title V, § 509(a), Nov. 12, 1996, 110 Stat. 4157; Pub. L. 106–208, § 3, May 26, 2000, 114 Stat. 318; Pub. L. 109–453, § 1(f), Dec. 22, 2006, 120 Stat. 3368.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–453, which directed amendment of subsec. (a) by substituting ''such amounts as may be necessary to carry out this part'' for ''for purposes of this part not to exceed $4,000,000 for each fiscal year 1997 through 2005'', was executed by making the substitution for ''for the purposes of this part not to exceed $4,000,000 in each fiscal year 1997 through 2005'' to reflect the probable intent of Congress.

2000—Subsec. (a). Pub. L. 106–208 substituted ''2005'' for ''2000''.

1996—Subsec. (a). Pub. L. 104–333 amended last sentence generally. Prior to amendment, last sentence read as follows: ''There are authorized to be appropriated for purposes of this part not to exceed $5,000,000 for each of the fiscal years 1993 through 1996.''

1994—Subsec. (b). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

1992—Subsec. (a). Pub. L. 102–575 substituted provision authorizing appropriations for purposes of this part of not to exceed $5,000,000 for each of fiscal years 1993 through 1996 for provision authorizing appropriations of not to exceed $2,500,000 in each fiscal year 1990 through 1994.

1989—Subsec. (a). Pub. L. 101–70 substituted provision authorizing appropriations of not to exceed $2,500,000 in each fiscal year 1990 through 1994 for provision authorizing appropriations, to carry out provisions of this part, of not more than $2,500,000 for each of the fiscal years 1985 through 1989.

1984—Subsec. (a). Pub. L. 98–483 substituted provision authorizing appropriations of not more than $2,500,000 for each of the fiscal years 1985 through 1989 for provision authorizing appropriations of not more than $1,500,000 to $2,250,000 in increments of $250,000 for fiscal years 1977 through 1980, and not more than $2,500,000 for each of the fiscal years 1981 through 1983.

1980—Subsec. (a). Pub. L. 96–244 inserted ''$2,500,000 in the fiscal year 1981, $2,500,000 in fiscal year 1982, and $2,500,000 in fiscal year 1983'' after ''in fiscal year 1980''.

Subsec. (b). Pub. L. 96–515 substituted ''Senate Committee on Energy and Natural Resources'' for ''Senate Committee on Interior and Insular Affairs'', which amendment is identical to the amendment by section 608(a)(3) of Pub. L. 96–205, thereby requiring no change in text.

Pub. L. 96–205 substituted ''Energy and Natural Resources'' for ''Interior and Insular Affairs''.

1978—Subsec. (a). Pub. L. 95–625 authorized appropriation of $2,250,000 in fiscal year 1980.

§ 470u. Report by Secretary to Council

To assist the Council in discharging its responsibilities under this subchapter, the Secretary at the request of the Chairman, shall provide a report to the Council detailing the significance of any historic property, describing the effects of any proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects.

(Pub. L. 89–665, title II, § 213, as added Pub. L. 96–515, title III, § 302(a), Dec. 12, 1980, 94 Stat. 3000.)

§ 470v. Exemption for Federal programs or undertakings; regulations

The Council, with the concurrence of the Secretary, shall promulgate regulations or guidelines, as appropriate, under which Federal programs or undertakings may be exempted from any or all of the requirements of this subchapter when such exemption is determined to be consistent with the purposes of this subchapter, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic properties.

(Pub. L. 89–665, title II, § 214, as added Pub. L. 96–515, title III, § 302(a), Dec. 12, 1980, 94 Stat. 3000.)

§ 470v–1. Reimbursements from State and local agencies

Subject to applicable conflict of interest laws, the Council may receive reimbursements from State and local agencies and others pursuant to agreements executed in furtherance of the purposes of this subchapter.

(Pub. L. 89–665, title II, § 215, as added Pub. L. 104–333, div. I, title V, § 509(c)(3), Nov. 12, 1996, 110 Stat. 4157.)

§ 470v–2. Effectiveness of Federal grant and assistance programs

(a) Cooperative agreements

The Council may enter into a cooperative agreement with any Federal agency that administers a grant or assistance program for the purpose of improving the effectiveness of the administration of such program in meeting the purposes and policies of this subchapter. Such cooperative agreements may include provisions that modify the selection criteria for a grant or assistance program to further the purposes of this subchapter or that allow the Council to participate in the selection of recipients, if such provisions are not inconsistent with the grant or assistance program's statutory authorization and purpose.

(b) Review of grant and assistance programs

The Council may—

(1) review the operation of any Federal grant or assistance program to evaluate the effectiveness of such program in meeting the purposes and policies of this subchapter;

(2) make recommendations to the head of any Federal agency that administers such program to further the consistency of the program with the purposes and policies of the subchapter and to improve its effectiveness in carrying out those purposes and policies; and

(3) make recommendations to the President and Congress regarding the effectiveness of Federal grant and assistance programs in meeting the purposes and policies of this subchapter, including recommendations with regard to appropriate funding levels.

(Pub. L. 89–665, title II, § 216, as added Pub. L. 109–453, § 1(g), Dec. 22, 2006, 120 Stat. 3368.)

PART C—GENERAL AND MISCELLANEOUS

§ 470w. Definitions

As used in this subchapter, the term—

(1) ''Agency'' means agency as such term is defined in section 551 of title 5.

(2) ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and, upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau.

(3) ''Local government'' means a city, county, parish, township, municipality, or borough, or any other general purpose political subdivision of any State.

(4) ''Indian tribe'' or ''tribe'' means an Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in section 1602 of title 43, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(5) ''Historic property'' or ''historic resource'' means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register, including artifacts, records, and material remains related to such a property or resource.

(6) ''National Register'' or ''Register'' means the National Register of Historic Places established under section 470a of this title.

(7) ''Undertaking'' means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including—

(A) those carried out by or on behalf of the agency;

(B) those carried out with Federal financial assistance;

(C) those requiring a Federal permit license, or approval; and

(D) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.

(8) ''Preservation'' or ''historic preservation'' includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities, or any combination of the foregoing activities.

(9) ''Cultural park'' means a definable area which is distinguished by historic resources and land related to such resources and which constitutes an interpretive, educational, and recreational resource for the public at large.

(10) ''Historic conservation district'' means an area which contains (A) historic properties, (B) buildings having similar or related architectural characteristics, (C) cultural cohesiveness, or (D) any combination of the foregoing.

(11) ''Secretary'' means the Secretary of the Interior acting through the Director of the National Park Service except where otherwise specified.

(12) ''State historic preservation review board'' means a board, council, commission, or other similar collegial body established as provided in section 470a(b)(1)(B) of this title—

(A) the members of which are appointed by the State Historic Preservation Officer (unless otherwise provided for by State law),

(B) a majority of the members of which are professionals qualified in the following and related disciplines: history, prehistoric and historic archaeology, architectural history, architecture, folklore, cultural anthropology, curation, conservation, and landscape architecture, and

(C) which has the authority to—

(i) review National Register nominations and appeals from nominations;

(ii) review appropriate documentation submitted in conjunction with the Historic Preservation Fund;

(iii) provide general advice and guidance to the State Historic Preservation Officer; and

(iv) perform such other duties as may be appropriate.

(13) ''Historic preservation review commission'' means a board, council, commission, or other similar collegial body which is established by State or local legislation as provided in section 470a(c)(1)(B) of this title, and the members of which are appointed, unless otherwise provided by State or local legislation, by the chief elected official of the jurisdiction concerned from among—

(A) professionals in the disciplines of architecture, history, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture, or related disciplines, to the extent such professionals are available in the community concerned, and

(B) such other persons as have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines and as will provide for an adequate and qualified commission.

(14) ''Tribal lands'' means—

(A) all lands within the exterior boundaries of any Indian reservation; and

(B) all dependent Indian communities.

(15) ''Certified local government'' means a local government whose local historic preservation program has been certified pursuant to section 470a(c) of this title.

(16) ''Council'' means the Advisory Council on Historic Preservation established by section 470i of this title.

(17) ''Native Hawaiian'' means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

(18) ''Native Hawaiian organization'' means any organization which—

(A) serves and represents the interests of Native Hawaiians;

(B) has as a primary and stated purpose the provision of services to Native Hawaiians; and

(C) has demonstrated expertise in aspects of historic preservation that are culturally significant to Native Hawaiians.

The term includes, but is not limited to, the Office of Hawaiian Affairs of the State of Hawaii and Hui Malama I Na Kupuna O Hawai'i Nei, an organization incorporated under the laws of the State of Hawaii.

(Pub. L. 89–665, title III, § 301, as added Pub. L. 96–515, title V, § 501, Dec. 12, 1980, 94 Stat. 3001; amended Pub. L. 102–575, title XL, § 4019(a), Oct. 30, 1992, 106 Stat. 4763; Pub. L. 106–208, § 5(a)(10), May 26, 2000, 114 Stat. 319.)

AMENDMENTS

2000—Par. (12)(C)(iii). Pub. L. 106–208 substituted semicolon for comma after ''Officer''.

1992—Par. (1). Pub. L. 102–575, § 4019(a)(1), struck out '', except that in the case of any Federal program exempted under section 470v of this title, the agency administering such program shall not be treated as an agency with respect to such program'' after ''title 5''.

Par. (2). Pub. L. 102–575, § 4019(a)(2), substituted ''the Trust Territory of the Pacific Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and, upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau'' for ''the Trust Territories of the Pacific Islands''.

Par. (4). Pub. L. 102–575, § 4019(a)(3), amended par. (4) generally. Prior to amendment, par. (4) read as follows: '' 'Indian tribe' means the governing body of any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary of the Interior and for which the United States holds land in trust or restricted status for that entity or its members. Such term also includes any Native village corporation, regional corporation, and Native Group established pursuant to the Alaska Native Claims Settlement Act.''

Par. (5). Pub. L. 102–575, § 4019(a)(4), substituted ''Register, including artifacts, records, and material remains related to such a property or resource.'' for ''Register; such term includes artifacts, records, and remains which are related to such a district, site, building, structure, or object.''

Par. (7). Pub. L. 102–575, § 4019(a)(5), amended par. (7) generally. Prior to amendment, par. (7) read as follows: '' 'Undertaking' means any action as described in section 470f of this title.''

Par. (8). Pub. L. 102–575, § 4019(a)(6), substituted ''maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities,'' for ''maintenance and reconstruction,''.

Par. (9). Pub. L. 102–575, § 4019(a)(7), substituted ''definable area'' for ''definable urban area''.

Par. (10). Pub. L. 102–575, § 4019(a)(8), substituted ''an area'' for ''an urban area of one or more neighborhoods and''.

Par. (11). Pub. L. 102–575, § 4019(a)(9), inserted ''acting through the Director of the National Park Service'' after ''of the Interior''.

Par. (12)(B). Pub. L. 102–575, § 4019(a)(10), substituted ''architecture, folklore, cultural anthropology, curation, conservation, and landscape architecture'' for ''and architecture''.

Par. (13)(A). Pub. L. 102–575, § 4019(a)(11), substituted ''prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture'' for ''archaeology''.

Pars. (14) to (18). Pub. L. 102–575, § 4019(a)(12), added pars. (14) to (18).

HISTORIC PRESERVATION FUND MATCHING GRANT ASSISTANCE

Pub. L. 102–381, title I, Oct. 5, 1992, 106 Stat. 1382, provided in part: ''That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance, in fiscal year 1993 and thereafter, as authorized under 16 U.S.C. 470w(2)''.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands and the Trusteeship Agreement, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 470w–1. Authorization for expenditure of appropriated funds

Where appropriate, each Federal agency is authorized to expend funds appropriated for its authorized programs for the purposes of activities carried out pursuant to this subchapter, except to the extent appropriations legislation expressly provides otherwise.

(Pub. L. 89–665, title III, § 302, as added Pub. L. 96–515, title V, § 501, Dec. 12, 1980, 94 Stat. 3002.)

§ 470w–2. Donations and bequests of money, personal property and less than fee interests in historic property

(a) The Secretary is authorized to accept donations and bequests of money and personal property for the purposes of this subchapter and shall hold, use, expend, and administer the same for such purposes.

(b) The Secretary is authorized to accept gifts or donations of less than fee interests in any historic property where the acceptance of such interests will facilitate the conservation or preservation of such properties. Nothing in this section or in any provision of this subchapter shall be construed to affect or impair any other authority of the Secretary under other provision of law to accept or acquire any property for conservation or preservation or for any other purpose.

(Pub. L. 89–665, title III, § 303, as added Pub. L. 96–515, title V, § 501, Dec. 12, 1980, 94 Stat. 3002.)

§ 470w–3. Access to information

(a) Authority to withhold from disclosure

The head of a Federal agency or other public official receiving grant assistance pursuant to this subchapter, after consultation with the Secretary, shall withhold from disclosure to the public, information about the location, character, or ownership of a historic resource if the Secretary and the agency determine that disclosure may—

(1) cause a significant invasion of privacy;

(2) risk harm to the historic resources; or

(3) impede the use of a traditional religious site by practitioners.

(b) Access determination

When the head of a Federal agency or other public official has determined that information should be withheld from the public pursuant to subsection (a) of this section, the Secretary, in consultation with such Federal agency head or official, shall determine who may have access to

the information for the purpose of carrying out this subchapter.

(c) Consultation with Council

When the information in question has been developed in the course of an agency's compliance with section 470f or 470h–2(f) of this title, the Secretary shall consult with the Council in reaching determinations under subsections (a) and (b) of this section.

(Pub. L. 89–665, title III, § 304, as added Pub. L. 96–515, title V, § 501, Dec. 12, 1980, 94 Stat. 3002; amended Pub. L. 102–575, title XL, § 4020, Oct. 30, 1992, 106 Stat. 4765.)

AMENDMENTS

1992—Pub. L. 102–575 amended section generally. Prior to amendment, section read as follows: ''The head of any Federal agency, after consultation with the Secretary, shall withhold from disclosure to the public, information relating to the location or character of historic resources whenever the head of the agency or the Secretary determines that the disclosure of such information may create a substantial risk of harm, theft, or destruction to such resources or to the area or place where such resources are located.''

§ 470w–4. Attorneys' fees and costs to prevailing parties in civil actions

In any civil action brought in any United States district court by any interested person to enforce the provisions of this subchapter, if such person substantially prevails in such action, the court may award attorneys' fees, expert witness fees, and other costs of participating in such action, as the court deems reasonable.

(Pub. L. 89–665, title III, § 305, as added Pub. L. 96–515, title V, § 501, Dec. 12, 1980, 94 Stat. 3002.)

§ 470w–5. National Museum for the Building Arts

(a) Cooperative agreement between Secretary, Administrator of General Services Administration and Committee for National Museum of the Building Arts; purposes

In order to provide a national center to commemorate and encourage the building arts and to preserve and maintain a nationally significant building which exemplifies the great achievements of the building arts in the United States, the Secretary and the Administrator of the General Services Administration are authorized and directed to enter into a cooperative agreement with the Committee for a National Museum of the Building Arts, Incorporated, a nonprofit corporation organized and existing under the laws of the District of Columbia, or its successor, for the operation of a National Museum for the Building Arts in the Federal Building located in the block bounded by Fourth Street, Fifth Street, F Street, and G Street, Northwest in Washington, District of Columbia. Such museum shall—

(1) collect and disseminate information concerning the building arts, including the establishment of a national reference center for current and historic documents, publications, and research relating to the building arts;

(2) foster educational programs relating to the history, practice and contribution to society of the building arts, including promotion of imaginative educational approaches to enhance understanding and appreciation of all facets of the building arts;

(3) publicly display temporary and permanent exhibits illustrating, interpreting and demonstrating the building arts;

(4) sponsor or conduct research and study into the history of the building arts and their role in shaping our civilization; and

(5) encourage contributions to the building arts.

(b) Provisions of cooperative agreement

The cooperative agreement referred to in subsection (a) of this section shall include provisions which—

(1) make the site available to the Committee referred to in subsection (a) of this section without charge;

(2) provide, subject to available appropriations, such maintenance, security, information, janitorial and other services as may be necessary to assure the preservation and operation of the site; and

(3) prescribe reasonable terms and conditions by which the Committee can fulfill its responsibilities under this subchapter.

(c) Matching grants-in-aid to Committee; limitation on amounts

The Secretary is authorized and directed to provide matching grants-in-aid to the Committee referred to in subsection (a) of this section for its programs related to historic preservation. The Committee shall match such grants-in-aid in a manner and with such funds and services as shall be satisfactory to the Secretary, except that no more than $500,000 may be provided to the Committee in any one fiscal year.

(d) Renovation of site

The renovation of the site shall be carried out by the Administrator with the advice of the Secretary. Such renovation shall, as far as practicable—

(1) be commenced immediately,

(2) preserve, enhance, and restore the distinctive and historically authentic architectural character of the site consistent with the needs of a national museum of the building arts and other compatible use, and

(3) retain the availability of the central court of the building, or portions thereof, for appropriate public activities.

(e) Annual Committee report to Secretary and Administrator

The Committee shall submit an annual report to the Secretary and the Administrator concerning its activities under this section and shall provide the Secretary and the Administrator with such other information as the Secretary may, from time to time, deem necessary or advisable.

(f) "Building arts" defined

For purposes of this section, the term ''building arts'' includes, but shall not be limited to, all practical and scholarly aspects of prehistoric, historic, and contemporary architecture, archaeology, construction, building technology and skills, landscape architecture, preservation and conservation, building and construction, engineering, urban and community

design and renewal, city and regional planning, and related professions, skills, trades, and crafts.

(Pub. L. 89–665, title III, § 306, as added Pub. L. 96–515, title V, § 501, Dec. 12, 1980, 94 Stat. 3002.)

§ 470w–6. Effective date of regulations

(a) Effective date of final regulations

No final regulation of the Secretary shall become effective prior to the expiration of thirty calendar days after it is published in the Federal Register during which either or both Houses of Congress are in session.

(b) Disapproval of regulation by resolution of Congress

The regulation shall not become effective if, within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: ''That Congress disapproves the regulation promulgated by the Secretary dealing with the matter of , which regulation was transmitted to Congress on ,'' the blank spaces therein being appropriately filled.

(c) Failure of Congress to adopt resolution of disapproval of regulation

If at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the regulation, and neither House has adopted such a resolution, the regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, the regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after its promulgation unless disapproved as provided for.

(d) Sessions of Congress

For the purposes of this section—

(1) continuity of session is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of sixty and ninety calendar days of continuous session of Congress.

(e) Congressional inaction or rejection of resolution of disapproval not deemed approval of regulation

Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such regulation.

(Pub. L. 89–665, title III, § 307, as added Pub. L. 96–515, title V, § 501, Dec. 12, 1980, 94 Stat. 3004; amended Pub. L. 103–437, § 6(d)(29), Nov. 2, 1994, 108 Stat. 4584; Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(O), (2)(E), Nov. 12, 1996, 110 Stat. 4196; Pub. L. 106–176, title I, § 120(a)(2), Mar. 10, 2000, 114 Stat. 28; Pub. L. 106–208, § 5(a)(11)–(13), May 26, 2000, 114 Stat. 319.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–208, § 5(a)(11), substituted ''No final regulation'' for ''Except as provided in subsection (b) of this section, no final regulation''.

Pub. L. 106–176 made technical correction to directory language of Pub. L. 104–333, § 814(d)(2)(E). See 1996 Amendment note below.

Subsec. (b). Pub. L. 106–208, § 5(a)(13), redesignated subsec. (c) as (b).

Subsec.(c). Pub. L. 106–208, § 5(a)(13), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Pub. L. 106–208, § 5(a)(12), which directed the amendment of subsec. (c) by substituting ''The regulation'' for ''Except as provided in subsection (b) of this section, the regulation'', was executed by making the substitution for text that did not include the phrase ''of this section''.

Subsecs. (d) to (f). Pub. L. 106–208, § 5(a)(13), redesignated subsecs. (d) to (f) as (c) to (e), respectively.

1996—Subsec. (a). Pub. L. 104–333, § 814(d)(2)(E), as amended by Pub. L. 106–176, struck out first two sentences which read as follows: ''At least thirty days prior to publishing in the Federal Register any proposed regulation required by this subchapter, the Secretary shall transmit a copy of the regulation to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The Secretary also shall transmit to such committees a copy of any final regulation prior to its publication in the Federal Register.''

Subsec. (b). Pub. L. 104–333, § 814(d)(1)(O), struck out subsec. (b) which read as follows: ''In the case of an emergency, a final regulation of the Secretary may become effective without regard to the last sentence of subsection (a) of this section if the Secretary notified in writing the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate setting forth the reasons why it is necessary to make the regulation effective prior to the expiration of the thirty-day period.''

1994—Subsecs. (a), (b). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 470w–7. Historic lighthouse preservation

(a) In general

In order to provide a national historic light station program, the Secretary shall—

(1) collect and disseminate information concerning historic light stations, including historic lighthouses and associated structures;

(2) foster educational programs relating to the history, practice, and contribution to society of historic light stations;

(3) sponsor or conduct research and study into the history of light stations;

(4) maintain a listing of historic light stations; and

(5) assess the effectiveness of the program established by this section regarding the conveyance of historic light stations.

(b) Conveyance of historic light stations

(1) Process and policy

Not later than 1 year after October 24, 2000, the Secretary and the Administrator shall establish a process and policies for identifying, and selecting, an eligible entity to which a historic light station could be conveyed for education, park, recreation, cultural, or historic preservation purposes, and to monitor the use of such light station by the eligible entity.

(2) Application review

The Secretary shall review all applications for the conveyance of a historic light station,

when the agency with administrative jurisdiction over the historic light station has determined the property to be ''excess property'' as that term is defined in section 102(3) of title 40, and forward to the Administrator a single approved application for the conveyance of the historic light station. When selecting an eligible entity, the Secretary shall consult with the State Historic Preservation Officer of the State in which the historic light station is located.

(3) Conveyance of historic light stations

(A) Except as provided in subparagraph (B), the Administrator shall convey, by quitclaim deed, without consideration, all right, title, and interest of the United States in and to the historic light station, subject to the conditions set forth in subsection (c) of this section after the Secretary's selection of an eligible entity. The conveyance of a historic light station under this section shall not be subject to the provisions of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.) or section 416(d) of the Coast Guard Authorization Act of 1998 (Public Law 105–383).

(B)(i) Historic light stations located within the exterior boundaries of a unit of the National Park System or a refuge within the National Wildlife Refuge System shall be conveyed or sold only with the approval of the Secretary.

(ii) If the Secretary approves the conveyance of a historic light station referenced in this paragraph, such conveyance shall be subject to the conditions set forth in subsection (c) of this section and any other terms or conditions the Secretary considers necessary to protect the resources of the park unit or wildlife refuge.

(iii) If the Secretary approves the sale of a historic light station referenced in this paragraph, such sale shall be subject to the conditions set forth in subparagraphs (A) through (D) and (H) of subsection (c)(1) of this section and subsection (c)(2) of this section and any other terms or conditions the Secretary considers necessary to protect the resources of the park unit or wildlife refuge.

(iv) For those historic light stations referenced in this paragraph, the Secretary is encouraged to enter into cooperative agreements with appropriate eligible entities, as provided in this subchapter, to the extent such cooperative agreements are consistent with the Secretary's responsibilities to manage and administer the park unit or wildlife refuge, as appropriate.

(c) Terms of conveyance

(1) In general

The conveyance of a historic light station shall be made subject to any conditions, including the reservation of easements and other rights on behalf of the United States, the Administrator considers necessary to ensure that—

(A) the Federal aids to navigation located at the historic light station in operation on the date of conveyance remain the personal property of the United States and continue to be operated and maintained by the United States for as long as needed for navigational purposes;

(B) there is reserved to the United States the right to remove, replace, or install any Federal aid to navigation located at the historic light station as may be necessary for navigational purposes;

(C) the eligible entity to which the historic light station is conveyed under this section shall not interfere or allow interference in any manner with any Federal aid to navigation, nor hinder activities required for the operation and maintenance of any Federal aid to navigation, without the express written permission of the head of the agency responsible for maintaining the Federal aid to navigation;

(D) the eligible entity to which the historic light station is conveyed under this section shall, at its own cost and expense, use and maintain the historic light station in accordance with this subchapter, the Secretary of the Interior's Standards for the Treatment of Historic Properties, 36 CFR part 68, and other applicable laws, and any proposed changes to the historic light station shall be reviewed and approved by the Secretary in consultation with the State Historic Preservation Officer of the State in which the historic light station is located, for consistency with 36 CFR part 800.5(a)(2)(vii), and the Secretary of the Interior's Standards for Rehabilitation, 36 CFR part 67.7;

(E) the eligible entity to which the historic light station is conveyed under this section shall make the historic light station available for education, park, recreation, cultural or historic preservation purposes for the general public at reasonable times and under reasonable conditions;

(F) the eligible entity to which the historic light station is conveyed shall not sell, convey, assign, exchange, or encumber the historic light station, any part thereof, or any associated historic artifact conveyed to the eligible entity in conjunction with the historic light station conveyance, including but not limited to any lens or lanterns, unless such sale, conveyance, assignment, exchange or encumbrance is approved by the Secretary;

(G) the eligible entity to which the historic light station is conveyed shall not conduct any commercial activities at the historic light station, any part thereof, or in connection with any associated historic artifact conveyed to the eligible entity in conjunction with the historic light station conveyance, in any manner, unless such commercial activities are approved by the Secretary; and

(H) the United States shall have the right, at any time, to enter the historic light station conveyed under this section without notice, for purposes of operating, maintaining, and inspecting any aid to navigation and for the purpose of ensuring compliance with this subsection, to the extent that it is not possible to provide advance notice.

(2) Maintenance of aid to navigation

Any eligible entity to which a historic light station is conveyed under this section shall not be required to maintain any Federal aid to navigation associated with a historic light station, except any private aids to navigation permitted under section 83 of title 14 to the eligible entity.

(3) Reversion

In addition to any term or condition established pursuant to this subsection, the conveyance of a historic light station shall include a condition that the historic light station, or any associated historic artifact conveyed to the eligible entity in conjunction with the historic light station conveyance, including but not limited to any lens or lanterns, at the option of the Administrator, shall revert to the United States and be placed under the administrative control of the Administrator, if—

(A) the historic light station, any part thereof, or any associated historic artifact ceases to be available for education, park, recreation, cultural, or historic preservation purposes for the general public at reasonable times and under reasonable conditions which shall be set forth in the eligible entity's application;

(B) the historic light station or any part thereof ceases to be maintained in a manner that ensures its present or future use as a site for a Federal aid to navigation;

(C) the historic light station, any part thereof, or any associated historic artifact ceases to be maintained in compliance with this subchapter, the Secretary of the Interior's Standards for the Treatment of Historic Properties, 36 CFR part 68, and other applicable laws;

(D) the eligible entity to which the historic light station is conveyed, sells, conveys, assigns, exchanges, or encumbers the historic light station, any part thereof, or any associated historic artifact, without approval of the Secretary;

(E) the eligible entity to which the historic light station is conveyed, conducts any commercial activities at the historic light station, any part thereof, or in conjunction with any associated historic artifact, without approval of the Secretary; or

(F) at least 30 days before the reversion, the Administrator provides written notice to the owner that the historic light station or any part thereof is needed for national security purposes.

(4) Light stations originally conveyed under other authority

Upon receiving notice of an executed or intended conveyance by an owner who—

(A) received from the Federal Government under authority other than this subchapter an historic light station in which the United States retains a reversionary or other interest; and

(B) is conveying it to another person by sale, gift, or any other manner,

the Secretary shall review the terms of the executed or proposed conveyance to ensure that any new owner is capable of or is complying with any and all conditions of the original conveyance. The Secretary may require the parties to the conveyance and relevant Federal agencies to provide such information as is necessary to complete this review. If the Secretary determines that the new owner has not or is unable to comply with those conditions, the Secretary shall immediately advise the Administrator, who shall invoke any reversionary interest or take such other action as may be necessary to protect the interests of the United States.

(d) Description of property

(1) In general

The Administrator shall prepare the legal description of any historic light station conveyed under this section. The Administrator, in consultation with the Commandant, United States Coast Guard, and the Secretary, may retain all right, title, and interest of the United States in and to any historical artifact, including any lens or lantern, that is associated with the historic light station and located at the light station at the time of conveyance. Wherever possible, such historical artifacts should be used in interpreting that station. In cases where there is no method for preserving lenses and other artifacts and equipment in situ, priority should be given to preservation or museum entities most closely associated with the station, if they meet loan requirements.

(2) Artifacts

Artifacts associated with, but not located at, the historic light station at the time of conveyance shall remain the personal property of the United States under the administrative control of the Commandant, United States Coast Guard.

(3) Covenants

All conditions placed with the quitclaim deed of title to the historic light station shall be construed as covenants running with the land.

(4) Submerged lands

No submerged lands shall be conveyed under this section.

(e) Definitions

For purposes of this section:

(1) Administrator

The term ''Administrator'' shall mean the Administrator of General Services.

(2) Historic light station

The term ''historic light station'' includes the light tower, lighthouse, keepers dwelling, garages, storage sheds, oil house, fog signal building, boat house, barn, pumphouse, tramhouse support structures, piers, walkways, underlying and appurtenant land and related real property and improvements associated therewith; provided that the ''historic light station'' shall be included in or eligible for inclusion in the National Register of Historic Places.

(3) Eligible entity

The term ''eligible entity'' shall mean:

(A) any department or agency of the Federal Government; or

(B) any department or agency of the State in which the historic light station is located, the local government of the community in which the historic light station is located, nonprofit corporation, educational agency, or community development organization that—

(i) has agreed to comply with the conditions set forth in subsection (c) of this section and to have such conditions recorded with the deed of title to the historic light station; and

(ii) is financially able to maintain the historic light station in accordance with the conditions set forth in subsection (c) of this section.

(4) Federal aid to navigation

The term ''Federal aid to navigation'' shall mean any device, operated and maintained by the United States, external to a vessel or aircraft, intended to assist a navigator to determine position or safe course, or to warn of dangers or obstructions to navigation, and shall include, but not be limited to, a light, lens, lantern, antenna, sound signal, camera, sensor, electronic navigation equipment, power source, or other associated equipment.

(5) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 89–665, title III, § 308, as added Pub. L. 106–355, § 2, Oct. 24, 2000, 114 Stat. 1385; amended Pub. L. 106–400, § 2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 108–293, title VI, § 627, Aug. 9, 2004, 118 Stat. 1066.)

REFERENCES IN TEXT

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (b)(3)(A), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended, which is classified principally to chapter 119 (§ 11301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

Section 416(d) of the Coast Guard Authorization Act of 1998, referred to in subsec. (b)(3)(A), is section 416(d) of Pub. L. 105–383, which is set out as a note under section 93 of Title 14, Coast Guard.

CODIFICATION

In subsec. (b)(2), ''section 102 of title 40'' substituted for ''the Federal Property Administrative Services Act of 1949 (40 U.S.C. 472(e))'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

2004—Subsec. (c)(4). Pub. L. 108–293 added par. (4).

2000—Subsec. (b)(3)(A). Pub. L. 106–400 substituted ''McKinney-Vento Homeless Assistance Act'' for ''Stewart B. McKinney Homeless Assistance Act''.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 470w–8. Historic light station sales

(a) In general

In the event no applicants are approved for the conveyance of a historic light station pursuant to section 470w–7 of this title, the historic light station shall be offered for sale. Terms of such sales shall be developed by the Administrator of General Services and consistent with the requirements of section 470w–7, subparagraphs (A) through (D) and (H) of subsection (c)(1), and subsection (c)(2), of this title. Conveyance documents shall include all necessary covenants to protect the historical integrity of the historic light station and ensure that any Federal aid to navigation located at the historic light station is operated and maintained by the United States for as long as needed for that purpose.

(b) Net sale proceeds

Net sale proceeds from the disposal of a historic light station—

(1) located on public domain lands shall be transferred to the National Maritime Heritage Grant[1] Program, established by the National Maritime Heritage Act of 1994 (Public Law 103–451) [16 U.S.C. 5401 et seq.] within the Department of the Interior; and

(2) under the administrative control of the Coast Guard shall be credited to the Coast Guard's Operating Expenses appropriation account, and shall be available for obligation and expenditure for the maintenance of light stations remaining under the administrative control of the Coast Guard, such funds to remain available until expended and shall be available in addition to funds available in the Operating Expense appropriation for this purpose.

(Pub. L. 89–665, title III, § 309, as added Pub. L. 106–355, § 3, Oct. 24, 2000, 114 Stat. 1389.)

REFERENCES IN TEXT

The National Maritime Heritage Act of 1994, referred to in subsec. (b)(1), is Pub. L. 103–451, Nov. 2, 1994, 108 Stat. 4769, as amended, which is classified generally to chapter 74 (§ 5401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

PART D—NATIONAL CENTER FOR PRESERVATION TECHNOLOGY AND TRAINING

§ 470x. Findings

The Congress finds and declares that, given the complexity of technical problems encountered in preserving historic properties and the

[1] So in original. Probably should be ''Grants''.

lack of adequate distribution of technical information to preserve such properties, a national initiative to coordinate and promote research, distribute information, and provide training about preservation skills and technologies would be beneficial.

(Pub. L. 89–665, title IV, § 401, as added Pub. L. 102–575, title XL, § 4022, Oct. 30, 1992, 106 Stat. 4765.)

§ 470x–1. Definitions

For the purposes of this part—

(1) The term ''Board'' means the National Preservation Technology and Training Board established pursuant to section 470x–3 of this title.

(2) The term ''Center'' means the National Center for Preservation Technology and Training established pursuant to section 470x–2 of this title.

(3) The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 89–665, title IV, § 402, as added Pub. L. 102–575, title XL, § 4022, Oct. 30, 1992, 106 Stat. 4766.)

§ 470x–2. Establishment of National Center

(a) Establishment

There is hereby established within the Department of the Interior a National Center for Preservation Technology and Training. The Center shall be located at Northwestern State University of Louisiana in Natchitoches, Louisiana.

(b) Purposes

The purposes of the Center shall be to—

(1) develop and distribute preservation and conservation skills and technologies for the identification, evaluation, conservation, and interpretation of prehistoric and historic resources;

(2) develop and facilitate training for Federal, State and local resource preservation professionals, cultural resource managers, maintenance personnel, and others working in the preservation field;

(3) take steps to apply preservation technology benefits from ongoing research by other agencies and institutions;

(4) facilitate the transfer of preservation technology among Federal agencies, State and local governments, universities, international organizations, and the private sector; and

(5) cooperate with related international organizations including, but not limited to the International Council on Monuments and Sites, the International Center for the Study of Preservation and Restoration of Cultural Property, and the International Council on Museums.

(c) Programs

Such purposes shall be carried out through research, professional training, technical assistance, and programs for public awareness, and through a program of grants established under section 470x–4 of this title.

(d) Executive Director

The Center shall be headed by an Executive Director with demonstrated expertise in historic preservation appointed by the Secretary with advice of the Board.

(e) Assistance from Secretary

The Secretary shall provide the Center assistance in obtaining such personnel, equipment, and facilities as may be needed by the Center to carry out its activities.

(Pub. L. 89–665, title IV, § 403, as added Pub. L. 102–575, title XL, § 4022, Oct. 30, 1992, 106 Stat. 4766.)

§ 470x–3. Preservation Technology and Training Board

(a) Establishment

There is established a Preservation Technology and Training Board.

(b) Duties

The Board shall—

(1) provide leadership, policy advice, and professional oversight to the Center;

(2) advise the Secretary on priorities and the allocation of grants among the activities of the Center; and

(3) submit an annual report to the President and the Congress.

(c) Membership

The Board shall be comprised of—

(1) the Secretary, or the Secretary's designee;

(2) 6 members appointed by the Secretary who shall represent appropriate Federal, State, and local agencies, State and local historic preservation commissions, and other public and international organizations; and

(3) 6 members appointed by the Secretary on the basis of outstanding professional qualifications who represent major organizations in the fields of archaeology, architecture, conservation, curation, engineering, history, historic preservation, landscape architecture, planning, or preservation education.

(Pub. L. 89–665, title IV, § 404, as added Pub. L. 102–575, title XL, § 4022, Oct. 30, 1992, 106 Stat. 4766; amended Pub. L. 106–208, § 5(a)(14), May 26, 2000, 114 Stat. 319.)

AMENDMENTS

2000—Subsec. (c)(2). Pub. L. 106–208 substituted a semicolon for a comma after ''organizations''.

§ 470x–4. Preservation grants

(a) In general

The Secretary, in consultation with the Board, shall provide preservation technology and training grants to eligible applicants with a demonstrated institutional capability and commitment to the purposes of the Center, in order to ensure an effective and efficient system of research, information distribution and skills training in all the related historic preservation fields.

(b) Grant requirements

(1) Grants provided under this section shall be allocated in such a fashion to reflect the diversity of the historic preservation fields and shall be geographically distributed.

(2) No grant recipient may receive more than 10 percent of the grants allocated under this section within any year.

(3) The total administrative costs, direct and indirect, charged for carrying out grants under this section may not exceed 25 percent of the aggregate costs.

(c) Eligible applicants

Eligible applicants may include Federal and non-Federal laboratories, accredited museums, universities, nonprofit organizations; offices, units, and Cooperative Park Study Units of the National Park System, State Historic Preservation Offices, tribal preservation offices, and Native Hawaiian organizations.

(d) Standards

All such grants shall be awarded in accordance with accepted professional standards and methods, including peer review of projects.

(e) Authorization of appropriations

There is authorized to be appropriated to carry out this section such sums as may be necessary.

(Pub. L. 89–665, title IV, § 405, as added Pub. L. 102–575, title XL, § 4022, Oct. 30, 1992, 106 Stat. 4767.)

§ 470x–5. General provisions

(a) Acceptance of grants and transfers

The Center may accept—

(1) grants and donations from private individuals, groups, organizations, corporations, foundations, and other entities; and

(2) transfers of funds from other Federal agencies.

(b) Contracts and cooperative agreements

Subject to appropriations, the Center may enter into contracts and cooperative agreements with Federal, State, local, and tribal governments, Native Hawaiian organizations, educational institutions, and other public entities to carry out the Center's responsibilities under this part.

(c) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for the establishment, operation, and maintenance of the Center. Funds for the Center shall be in addition to existing National Park Service programs, centers, and offices.

(Pub. L. 89–665, title IV, § 406, as added Pub. L. 102–575, title XL, § 4022, Oct. 30, 1992, 106 Stat. 4767.)

§ 470x–6. National Park Service preservation

In order to improve the use of existing National Park Service resources, the Secretary shall fully utilize and further develop the National Park Service preservation (including conservation) centers and regional offices. The Secretary shall improve the coordination of such centers and offices within the National Park Service, and shall, where appropriate, coordinate their activities with the Center and with other appropriate parties.

(Pub. L. 89–665, title IV, § 407, as added Pub. L. 102–575, title XL, § 4022, Oct. 30, 1992, 106 Stat. 4768.)

CHAPTER 1B—ARCHAEOLOGICAL RESOURCES PROTECTION

Sec.
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470ee. Prohibited acts and criminal penalties.
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470ii. Rules and regulations; intergovernmental coordination.
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470kk. Savings provisions.
470*ll*. Annual report to Congress.
470mm. Surveying of lands; reporting of violations.

§ 470aa. Congressional findings and declaration of purpose

(a) The Congress finds that—

(1) archaeological resources on public lands and Indian lands are an accessible and irreplaceable part of the Nation's heritage;

(2) these resources are increasingly endangered because of their commercial attractiveness;

(3) existing Federal laws do not provide adequate protection to prevent the loss and destruction of these archaeological resources and sites resulting from uncontrolled excavations and pillage; and

(4) there is a wealth of archaeological information which has been legally obtained by private individuals for noncommercial purposes and which could voluntarily be made available to professional archaeologists and institutions.

(b) The purpose of this chapter is to secure, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public lands and Indian lands, and to foster increased cooperation and exchange of information between governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data which were obtained before October 31, 1979.

(Pub. L. 96–95, § 2, Oct. 31, 1979, 93 Stat. 721.)

SHORT TITLE

Section 1 of Pub. L. 96–95 provided that: ''This Act [enacting this chapter] may be cited as the 'Archaeological Resources Protection Act of 1979'.''

GALISTEO BASIN ARCHAEOLOGICAL SITES PROTECTION

Pub. L. 108–208, Mar. 19, 2004, 118 Stat. 558, known as the ''Galisteo Basin Archaeological Sites Protection Act'', provided for the preservation, protection, and interpretation of nationally significant archaeological resources in the Galisteo Basin of New Mexico by designating Galisteo Basin Archaeological Protection Sites and their acreage and provided for addition, deletion or modification of the sites, administration, cooperative agreements, acquisition of land and interests, withdrawal of lands from mining and other public land laws, and construction of the Act.

§ 470bb. Definitions

As used in this chapter—

(1) The term ''archaeological resource'' means any material remains of past human life or activities which are of archaeological interest, as determined under uniform regulations promulgated pursuant to this chapter. Such regulations containing such determination shall include, but not be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items. Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources, under the regulations under this paragraph, unless found in archaeological context. No item shall be treated as an archaeological resource under regulations under this paragraph unless such item is at least 100 years of age.

(2) The term ''Federal land manager'' means, with respect to any public lands, the Secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over such lands. In the case of any public lands or Indian lands with respect to which no department, agency, or instrumentality has primary management authority, such term means the Secretary of the Interior. If the Secretary of the Interior consents, the responsibilities (in whole or in part) under this chapter of the Secretary of any department (other than the Department of the Interior) or the head of any other agency or instrumentality may be delegated to the Secretary of the Interior with respect to any land managed by such other Secretary or agency head, and in any such case, the term ''Federal land manager'' means the Secretary of the Interior.

(3) The term ''public lands'' means—

(A) lands which are owned and administered by the United States as part of—

(i) the national park system,

(ii) the national wildlife refuge system, or

(iii) the national forest system; and

(B) all other lands the fee title to which is held by the United States, other than lands on the Outer Continental Shelf and lands which are under the jurisdiction of the Smithsonian Institution.

(4) The term ''Indian lands'' means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for any subsurface interests in lands not owned or controlled by an Indian tribe or an Indian individual.

(5) The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 et seq.].

(6) The term ''person'' means an individual, corporation, partnership, trust, institution, association, or any other private entity or any officer, employee, agent, department, or instrumentality of the United States, of any Indian tribe, or of any State or political subdivision thereof.

(7) The term ''State'' means any of the fifty States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(Pub. L. 96–95, § 3, Oct. 31, 1979, 93 Stat. 721; Pub. L. 100–588, § 1(a), Nov. 3, 1988, 102 Stat. 2983.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (5), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1988—Par. (3). Pub. L. 100–588 substituted a period for semicolon at end.

§ 470cc. Excavation and removal

(a) Application for permit

Any person may apply to the Federal land manager for a permit to excavate or remove any archaeological resource located on public lands or Indian lands and to carry out activities associated with such excavation or removal. The application shall be required, under uniform regulations under this chapter, to contain such information as the Federal land manager deems necessary, including information concerning the time, scope, and location and specific purpose of the proposed work.

(b) Determinations by Federal land manager prerequisite to issuance of permit

A permit may be issued pursuant to an application under subsection (a) of this section if the Federal land manager determines, pursuant to uniform regulations under this chapter, that—

(1) the applicant is qualified, to carry out the permitted activity,

(2) the activity is undertaken for the purpose of furthering archaeological knowledge in the public interest,

(3) the archaeological resources which are excavated or removed from public lands will remain the property of the United States, and such resources and copies of associated archaeological records and data will be preserved by a suitable university, museum, or other scientific or educational institution, and

(4) the activity pursuant to such permit is not inconsistent with any management plan applicable to the public lands concerned.

(c) Notification to Indian tribes of possible harm to or destruction of sites having religious or cultural importance

If a permit issued under this section may result in harm to, or destruction of, any religious or cultural site, as determined by the Federal land manager, before issuing such permit, the Federal land manager shall notify any Indian tribe which may consider the site as having religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 470hh of this title.

(d) Terms and conditions of permit

Any permit under this section shall contain such terms and conditions, pursuant to uniform regulations promulgated under this chapter, as the Federal land manager concerned deems necessary to carry out the purposes of this chapter.

(e) Identification of individuals responsible for complying with permit terms and conditions and other applicable laws

Each permit under this section shall identify the individual who shall be responsible for carrying out the terms and conditions of the permit and for otherwise complying with this chapter and other law applicable to the permitted activity.

(f) Suspension or revocation of permits; grounds

Any permit issued under this section may be suspended by the Federal land manager upon his determination that the permittee has violated any provision of subsection (a), (b), or (c) of section 470ee of this title. Any such permit may be revoked by such Federal land manager upon assessment of a civil penalty under section 470ff of this title against the permittee or upon the permittee's conviction under section 470ee of this title.

(g) Excavation or removal by Indian tribes or tribe members; excavation or removal of resources located on Indian lands

(1) No permit shall be required under this section or under the Act of June 8, 1906 (16 U.S.C. 431), for the excavation or removal by any Indian tribe or member thereof of any archaeological resource located on Indian lands of such Indian tribe, except that in the absence of tribal law regulating the excavation or removal of archaeological resources on Indian lands, an individual tribal member shall be required to obtain a permit under this section.

(2) In the case of any permits for the excavation or removal of any archaelogical[1] resource located on Indian lands, the permit may be granted only after obtaining the consent of the Indian or Indian tribe owning or having jurisdiction over such lands. The permit shall include such terms and conditions as may be requested by such Indian or Indian tribe.

(h) Permits issued under Antiquities Act of 1906

(1) No permit or other permission shall be required under the Act of June 8, 1906 (16 U.S.C. 431–433), for any activity for which a permit is issued under this section.

(2) Any permit issued under the Act of June 8, 1906 [16 U.S.C. 431–433], shall remain in effect according to its terms and conditions following the enactment of this chapter. No permit under this chapter shall be required to carry out any activity under a permit issued under the Act of June 8, 1906, before October 31, 1979, which remains in effect as provided in this paragraph, and nothing in this chapter shall modify or affect any such permit.

[1] So in original. Probably should be ''archaeological''.

(i) Compliance with provisions relating to undertakings on property listed in the National Register not required

Issuance of a permit in accordance with this section and applicable regulations shall not require compliance with section 470f of this title.

(j) Issuance of permits to State Governors for archaeological activities on behalf of States or their educational institutions

Upon the written request of the Governor of any State, the Federal land manager shall issue a permit, subject to the provisions of subsections (b)(3), (b)(4), (c), (e), (f), (g), (h), and (i) of this section for the purpose of conducting archaeological research, excavation, removal, and curation, on behalf of the State or its educational institutions, to such Governor or to such designee as the Governor deems qualified to carry out the intent of this chapter.

(Pub. L. 96–95, § 4, Oct. 31, 1979, 93 Stat. 722.)

REFERENCES IN TEXT

Act of June 8, 1906, referred to in subsecs. (g)(1) and (h), is act June 8, 1906, ch. 3060, 34 Stat. 225, known as the Antiquities Act of 1906, which is classified generally to sections 431, 432, and 433 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 431 of this title and Tables.

Following the enactment of this chapter, referred to in subsec. (h)(2), means following the enactment of Pub. L. 96–95, approved Oct. 31, 1979.

§ 470dd. Custody of archaeological resources

The Secretary of the Interior may promulgate regulations providing for—

(1) the exchange, where appropriate, between suitable universities, museums, or other scientific or educational institutions, of archaeological resources removed from public lands and Indian lands pursuant to this chapter, and

(2) the ultimate disposition of such resources and other resources removed pursuant to the Act of June 27, 1960 (16 U.S.C. 469–469c) [16 U.S.C. 469–469c–1] or the Act of June 8, 1906 (16 U.S.C. 431–433).

Any exchange or ultimate disposition under such regulation of archaeological resources excavated or removed from Indian lands shall be subject to the consent of the Indian or Indian tribe which owns or has jurisdiction over such lands. Following promulgation of regulations under this section, notwithstanding any other provision of law, such regulations shall govern the disposition of archaeological resources removed from public lands and Indian lands pursuant to this chapter.

(Pub. L. 96–95, § 5, Oct. 31, 1979, 93 Stat. 724.)

REFERENCES IN TEXT

Act of June 27, 1960 (16 U.S.C. 469–469c), referred to in par. (2), is act June 27, 1960, Pub. L. 86–523, 74 Stat. 220, as amended, which is classified generally to sections 469 to 469c–1 of this title. For complete classification of this Act to the Code, see Tables.

Act of June 8, 1906 (16 U.S.C. 431–433), referred to in par. (2), is act June 8, 1906, ch. 3060, 34 Stat. 225, known as the Antiquities Act of 1906, which is classified generally to sections 431, 432, and 433 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 431 of this title and Tables.

§ 470ee. Prohibited acts and criminal penalties

(a) Unauthorized excavation, removal, damage, alteration, or defacement of archaeological resources

No person may excavate, remove, damage, or otherwise alter or deface, or attempt to excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued under section 470cc of this title, a permit referred to in section 470cc(h)(2) of this title, or the exemption contained in section 470cc(g)(1) of this title.

(b) Trafficking in archaeological resources the excavation or removal of which was wrongful under Federal law

No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource if such resource was excavated or removed from public lands or Indian lands in violation of—

(1) the prohibition contained in subsection (a) of this section, or

(2) any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

(c) Trafficking in interstate or foreign commerce in archaeological resources the excavation, removal, sale, purchase, exchange, transportation or receipt of which was wrongful under State or local law

No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange, in interstate or foreign commerce, any archaeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of any provision, rule, regulation, ordinance, or permit in effect under State or local law.

(d) Penalties

Any person who knowingly violates, or counsels, procures, solicits, or employs any other person to violate, any prohibition contained in subsection (a), (b), or (c) of this section shall, upon conviction, be fined not more than $10,000 or imprisoned not more than one year, or both: *Provided, however*, That if the commercial or archaeological value of the archaeological resources involved and the cost of restoration and repair of such resources exceeds the sum of $500, such person shall be fined not more than $20,000 or imprisoned not more than two years, or both. In the case of a second or subsequent such violation upon conviction such person shall be fined not more than $100,000, or imprisoned not more than five years, or both.

(e) Effective date

The prohibitions contained in this section shall take effect on October 31, 1979.

(f) Prospective application

Nothing in subsection (b)(1) of this section shall be deemed applicable to any person with respect to an archaeological resource which was in the lawful possession of such person prior to October 31, 1979.

(g) Removal of arrowheads located on ground surface

Nothing in subsection (d) of this section shall be deemed applicable to any person with respect to the removal of arrowheads located on the surface of the ground.

(Pub. L. 96–95, § 6, Oct. 31, 1979, 93 Stat. 724; Pub. L. 100–588, § 1(b), (c), Nov. 3, 1988, 102 Stat. 2983.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–588, § 1(b), inserted ‘‘, or attempt to excavate, remove, damage, or otherwise alter or deface’’ after ‘‘deface’’.

Subsec. (d). Pub. L. 100–588, § 1(c), substituted ‘‘$500’’ for ‘‘$5,000’’.

§ 470ff. Civil penalties

(a) Assessment by Federal land manager

(1) Any person who violates any prohibition contained in an applicable regulation or permit issued under this chapter may be assessed a civil penalty by the Federal land manager concerned. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Federal land manager concerned.

(2) The amount of such penalty shall be determined under regulations promulgated pursuant to this chapter, taking into account, in addition to other factors—

(A) the archaeological or commercial value of the archaeological resource involved, and

(B) the cost of restoration and repair of the resource and the archaeological site involved.

Such regulations shall provide that, in the case of a second or subsequent violation by any person, the amount of such civil penalty may be double the amount which would have been assessed if such violation were the first violation by such person. The amount of any penalty assessed under this subsection for any violation shall not exceed an amount equal to double the cost of restoration and repair of resources and archaeological sites damaged and double the fair market value of resources destroyed or not recovered.

(3) No penalty shall be assessed under this section for the removal of arrowheads located on the surface of the ground.

(b) Judicial review of assessed penalties; collection of unpaid assessments

(1) Any person aggrieved by an order assessing a civil penalty under subsection (a) of this section may file a petition for judicial review of such order with the United States District Court for the District of Columbia or for any other district in which such a person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued. The court shall hear such action on the record made before the Federal land manager and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and such person has not filed a petition for judicial review of the order in accordance with paragraph (1), or

(B) after a court in an action brought under paragraph (1) has entered a final judgment upholding the assessment of a civil penalty,

the Federal land managers may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In such action, the validity and amount of such penalty shall not be subject to review.

(c) Hearings

Hearings held during proceedings for the assessment of civil penalties authorized by subsection (a) of this section shall be conducted in accordance with section 554 of title 5. The Federal land manager may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Federal land manager or to appear and produce documents before the Federal land manager, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(Pub. L. 96–95, § 7, Oct. 31, 1979, 93 Stat. 725.)

§ 470gg. Enforcement

(a) Rewards

Upon the certification of the Federal land manager concerned, the Secretary of the Treasury is directed to pay from penalties and fines collected under sections 470ee and 470ff of this title an amount equal to one-half of such penalty or fine, but not to exceed $500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which such penalty or fine was paid. If several persons provided such information, such amount shall be divided among such persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) Forfeitures

All archaeological resources with respect to which a violation of subsection (a), (b), or (c) of section 470ee of this title occurred and which are in the possession of any person, and all vehicles and equipment of any person which were used in connection with such violation, may be (in the discretion of the court or administrative law judge, as the case may be) subject to forfeiture to the United States upon—

(1) such person's conviction of such violation under section 470ee of this title,

(2) assessment of a civil penalty against such person under section 470ff of this title with respect to such violation, or

(3) a determination by any court that such archaeological resources, vehicles, or equipment were involved in such violation.

(c) Disposition of penalties collected and items forfeited in cases involving archaeological resources excavated or removed from Indian lands

In cases in which a violation of the prohibition contained in subsection (a), (b), or (c) of section 470ee of this title involve archaeological resources excavated or removed from Indian lands, the Federal land manager or the court, as the case may be, shall provide for the payment to the Indian or Indian tribe involved of all penalties collected pursuant to section 470ff of this title and for the transfer to such Indian or Indian tribe of all items forfeited under this section.

(Pub. L. 96–95, § 8, Oct. 31, 1979, 93 Stat. 726.)

§ 470hh. Confidentiality of information concerning nature and location of archaeological resources

(a) Disclosure of information

Information concerning the nature and location of any archaeological resource for which the excavation or removal requires a permit or other permission under this chapter or under any other provision of Federal law may not be made available to the public under subchapter II of chapter 5 of title 5 or under any other provision of law unless the Federal land manager concerned determines that such disclosure would—

(1) further the purposes of this chapter or the Act of June 27, 1960 (16 U.S.C. 469–469c) [16 U.S.C. 469–469c–1], and

(2) not create a risk of harm to such resources or to the site at which such resources are located.

(b) Request for disclosure by Governors

Notwithstanding the provisions of subsection (a) of this section, upon the written request of the Governor of any State, which request shall state—

(1) the specific site or area for which information is sought,

(2) the purpose for which such information is sought,

(3) a commitment by the Governor to adequately protect the confidentiality of such information to protect the resource from commercial exploitation,

the Federal land manager concerned shall provide to the Governor information concerning the nature and location of archaeological resources within the State of the requesting Governor.

(Pub. L. 96–95, § 9, Oct. 31, 1979, 93 Stat. 727.)

REFERENCES IN TEXT

Act of June 27, 1960 (16 U.S.C. 469–469c), referred to in subsec. (a)(1), is act June 27, 1960, Pub. L. 86–523, 74

Stat. 220, as amended, which is classified generally to sections 469 to 469c–1 of this title. For complete classification of this Act to the Code, see Tables.

§ 470ii. Rules and regulations; intergovernmental coordination

(a) Promulgation; effective date

The Secretaries of the Interior, Agriculture and Defense and the Chairman of the Board of the Tennessee Valley Authority, after consultation with other Federal land managers, Indian tribes, representatives of concerned State agencies, and after public notice and hearing, shall promulgate such uniform rules and regulations as may be appropriate to carry out the purposes of this chapter. Such rules and regulations may be promulgated only after consideration of the provisions of the American Indian Religious Freedom Act (92 Stat. 469; 42 U.S.C. 1996 [, 1996a]). Each uniform rule or regulation promulgated under this chapter shall be submitted on the same calendar day to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Natural Resources of the United States House of Representatives, and no such uniform rule or regulation may take effect before the expiration of a period of ninety calendar days following the date of its submission to such Committees.

(b) Federal land managers' rules

Each Federal land manager shall promulgate such rules and regulations, consistent with the uniform rules and regulations under subsection (a) of this section, as may be appropriate for the carrying out of his functions and authorities under this chapter.

(c) Federal land managers' public awareness program of archaeological resources on public lands and Indian lands

Each Federal land manager shall establish a program to increase public awareness of the significance of the archaeological resources located on public lands and Indian lands and the need to protect such resources.

(Pub. L. 96–95, § 10, Oct. 31, 1979, 93 Stat. 727; Pub. L. 100–588, § 1(d), Nov. 3, 1988, 102 Stat. 2983; Pub. L. 103–437, § 6(d)(30), Nov. 2, 1994, 108 Stat. 4584; Pub. L. 104–333, div. I, title VIII, § 814(d)(2)(A), Nov. 12, 1996, 110 Stat. 4196.)

REFERENCES IN TEXT

The American Indian Religious Freedom Act, referred to in subsec. (a), is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, as amended, which is classified to sections 1996 and 1996a of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1996 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–333 struck out at end ''Each such land manager shall submit an annual report to the Committee on Natural Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate regarding the actions taken under such program.''

1994—Subsecs. (a), (c). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

1988—Subsec. (c). Pub. L. 100–588 added subsec. (c).

§ 470jj. Cooperation with private individuals

The Secretary of the Interior shall take such action as may be necessary, consistent with the purposes of this chapter, to foster and improve the communication, cooperation, and exchange of information between—

(1) private individuals having collections of archaeological resources and data which were obtained before the date of the enactment of this chapter, and

(2) Federal authorities responsible for the protection of archaeological resources on the public lands and Indian lands and professional archaeologists and associations of professional archaeologists.

In carrying out this section, the Secretary shall, to the extent practicable and consistent with the provisions of this chapter, make efforts to expand the archaeological data base for the archaeological resources of the United States through increased cooperation between private individuals referred to in paragraph (1) and professional archaeologists and archaeological organizations.

(Pub. L. 96–95, § 11, Oct. 31, 1979, 93 Stat. 727.)

§ 470kk. Savings provisions

(a) Mining, mineral leasing, reclamation, and other multiple uses

Nothing in this chapter shall be construed to repeal, modify, or impose additional restrictions on the activities permitted under existing laws and authorities relating to mining, mineral leasing, reclamation, and other multiple uses of the public lands.

(b) Private collections

Nothing in this chapter applies to, or requires a permit for, the collection for private purposes of any rock, coin, bullet, or mineral which is not an archaeological resource, as determined under uniform regulations promulgated under section 470bb(1) of this title.

(c) Lands within chapter

Nothing in this chapter shall be construed to affect any land other than public land or Indian land or to affect the lawful recovery, collection, or sale of archaeological resources from land other than public land or Indian land.

(Pub. L. 96–95, § 12, Oct. 31, 1979, 93 Stat. 728.)

§ 470*ll*. Annual report to Congress

As part of the annual report required to be submitted to the specified committees of the Congress pursuant to section 469a–3(c) of this title, the Secretary of the Interior shall comprehensively report as a separate component on the activities carried out under the provisions of this chapter, and he shall make such recommendations as he deems appropriate as to changes or improvements needed in the provisions of this chapter. Such report shall include a brief summary of the actions undertaken by the Secretary under section 470jj of this title, relating to cooperation with private individuals.

(Pub. L. 96–95, § 13, Oct. 31, 1979, 93 Stat. 728.)

§ 470mm. Surveying of lands; reporting of violations

The Secretaries of the Interior, Agriculture, and Defense and the Chairman of the Board of the Tennessee Valley Authority shall—

(a) develop plans for surveying lands under their control to determine the nature and extent of archeological resources on those lands;

(b) prepare a schedule for surveying lands that are likely to contain the most scientifically valuable archeological resources; and

(c) develop documents for the reporting of suspected violations of this chapter and establish when and how those documents are to be completed by officers, employees, and agents of their respective agencies.

(Pub. L. 96–95, § 14, as added Pub. L. 100–555, Oct. 28, 1988, 102 Stat. 2778.)

CHAPTER 1C—PALEONTOLOGICAL RESOURCES PRESERVATION

Sec.
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§ 470aaa. Definitions

In this chapter:

(1) Casual collecting

The term ''casual collecting'' means the collecting of a reasonable amount of common invertebrate and plant paleontological resources for non-commercial personal use, either by surface collection or the use of non-powered hand tools resulting in only negligible disturbance to the Earth's surface and other resources. As used in this paragraph, the terms ''reasonable amount'', ''common invertebrate and plant paleontological resources'' and ''negligible disturbance'' shall be determined by the Secretary.

(2) Federal land

The term ''Federal land'' means—

(A) land controlled or administered by the Secretary of the Interior, except Indian land; or

(B) National Forest System land controlled or administered by the Secretary of Agriculture.

(3) Indian Land

The term ''Indian Land'' means land of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

(4) Paleontological resource

The term ''paleontological resource'' means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth's crust, that are of paleontological interest and that provide information about the history of life on earth, except that the term does not include—

(A) any materials associated with an archaeological resource (as defined in section 470bb(1) of this title;[1] or

(B) any cultural item (as defined in section 3001 of title 25).

(5) Secretary

The term ''Secretary'' means the Secretary of the Interior with respect to land controlled or administered by the Secretary of the Interior or the Secretary of Agriculture with respect to National Forest System land controlled or administered by the Secretary of Agriculture.

(6) State

The term ''State'' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(Pub. L. 111–11, title VI, § 6301, Mar. 30, 2009, 123 Stat. 1172.)

§ 470aaa–1. Management

(a) In general

The Secretary shall manage and protect paleontological resources on Federal land using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and the scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize interagency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

(b) Coordination

To the extent possible, the Secretary of the Interior and the Secretary of Agriculture shall coordinate in the implementation of this chapter.

(Pub. L. 111–11, title VI, § 6302, Mar. 30, 2009, 123 Stat. 1173.)

§ 470aaa–2. Public awareness and education program

The Secretary shall establish a program to increase public awareness about the significance of paleontological resources.

(Pub. L. 111–11, title VI, § 6303, Mar. 30, 2009, 123 Stat. 1173.)

§ 470aaa–3. Collection of paleontological resources

(a) Permit requirement

(1) In general

Except as provided in this chapter, a paleontological resource may not be collected from Federal land without a permit issued under this chapter by the Secretary.

[1] So in original. A closing parenthesis probably should precede the semicolon.

(2) Casual collecting exception

The Secretary shall allow casual collecting without a permit on Federal land controlled or administered by the Bureau of Land Management, the Bureau of Reclamation, and the Forest Service, where such collection is consistent with the laws governing the management of those Federal land[1] and this chapter.

(3) Previous permit exception

Nothing in this section shall affect a valid permit issued prior to March 30, 2009.

(b) Criteria for issuance of a permit

The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

(1) the applicant is qualified to carry out the permitted activity;

(2) the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education;

(3) the permitted activity is consistent with any management plan applicable to the Federal land concerned; and

(4) the proposed methods of collecting will not threaten significant natural or cultural resources.

(c) Permit specifications

A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems necessary to carry out the purposes of this chapter. Every permit shall include requirements that—

(1) the paleontological resource that is collected from Federal land under the permit will remain the property of the United States;

(2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

(3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

(d) Modification, suspension, and revocation of permits

(1) The Secretary may modify, suspend, or revoke a permit issued under this section—

(A) for resource, safety, or other management considerations; or

(B) when there is a violation of term or condition of a permit issued pursuant to this section.

(2) The permit shall be revoked if any person working under the authority of the permit is convicted under section 470aaa–5 of this title or is assessed a civil penalty under section 470aaa–6 of this title.

(e) Area closures

In order to protect paleontological or other resources or to provide for public safety, the Secretary may restrict access to or close areas under the Secretary's jurisdiction to the collection of paleontological resources.

[1] So in original. Probably should be ''lands''.

(Pub. L. 111–11, title VI, § 6304, Mar. 30, 2009, 123 Stat. 1173.)

§ 470aaa–4. Curation of resources

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

(Pub. L. 111–11, title VI, § 6305, Mar. 30, 2009, 123 Stat. 1174.)

§ 470aaa–5. Prohibited acts; criminal penalties

(a) In general

A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal land unless such activity is conducted in accordance with this chapter;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if the person knew or should have known such resource to have been excavated or removed from Federal land in violation of any provisions, rule, regulation, law, ordinance, or permit in effect under Federal law, including this chapter; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if the person knew or should have known such resource to have been excavated, removed, sold, purchased, exchanged, transported, or received from Federal land.

(b) False labeling offenses

A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal land.

(c) Penalties

A person who knowingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be fined in accordance with title 18 or imprisoned not more than 5 years, or both; but if the sum of the commercial and paleontological value of the paleontological resources involved and the cost of restoration and repair of such resources does not exceed $500, such person shall be fined in accordance with title 18 or imprisoned not more than 2 years, or both.

(d) Multiple offenses

In the case of a second or subsequent violation by the same person, the amount of the penalty assessed under subsection (c) may be doubled.

(e) General exception

Nothing in subsection (a) shall apply to any person with respect to any paleontological resource which was in the lawful possession of such person prior to March 30, 2009.

(Pub. L. 111–11, title VI, § 6306, Mar. 30, 2009, 123 Stat. 1174.)

§ 470aaa–6. Civil penalties

(a) In general

(1) Hearing

A person who violates any prohibition contained in an applicable regulation or permit issued under this chapter may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

(2) Amount of penalty

The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this chapter, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved, as determined by the Secretary.

(B) The cost of response, restoration, and repair of the resource and the paleontological site involved.

(C) Any other factors considered relevant by the Secretary assessing the penalty.

(3) Multiple offenses

In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

(4) Limitation

The amount of any penalty assessed under this subsection for any 1 violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

(b) Petition for judicial review; collection of unpaid assessments

(1) Judicial review

Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred within the 30-day period beginning on the date the order making the assessment was issued. Upon notice of such filing, the Secretary shall promptly file such a certified copy of the record on which the order was issued. The court shall hear the action on the record made before the Secretary and shall sustain the action if it is supported by substantial evidence on the record considered as a whole.

(2) Failure to pay

If any person fails to pay a penalty under this section within 30 days—

(A) after the order making assessment has become final and the person has not filed a petition for judicial review of the order in accordance with paragraph (1); or

(B) after a court in an action brought in paragraph (1) has entered a final judgment upholding the assessment of the penalty,[1] the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which the person if[2] found, resides, or transacts business, to collect the penalty (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). The district court shall have jurisdiction to hear and decide any such action. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings.

(c) Hearings

Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5.

(d) Use of recovered amounts

Penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, and to protect, monitor, and study the resources and sites.

(2) To provide educational materials to the public about paleontological resources and sites.

(3) To provide for the payment of rewards as provided in section 470aaa–7 of this title.

(Pub. L. 111–11, title VI, § 6307, Mar. 30, 2009, 123 Stat. 1175.)

§ 470aaa–7. Rewards and forfeiture

(a) Rewards

The Secretary may pay from penalties collected under section 470aaa–5 or 470aaa–6 of this title or from appropriated funds—

(1) consistent with amounts established in regulations by the Secretary; or

(2) if no such regulation exists, an amount up to ½ of the penalties, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) Forfeiture

All paleontological resources with respect to which a violation under section 470aaa–5 or 470aaa–6 of this title occurred and which are in the possession of any person, shall be subject to civil forfeiture, or upon conviction, to criminal forfeiture.

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[1] So in original. Following provisions probably should be set flush with par. (2).

[2] So in original. Probably should be ''is''.

(c) Transfer of seized resources

The Secretary may transfer administration of seized paleontological resources to Federal or non-Federal educational institutions to be used for scientific or educational purposes.

(Pub. L. 111–11, title VI, §6308, Mar. 30, 2009, 123 Stat. 1176.)

§470aaa–8. Confidentiality

Information concerning the nature and specific location of a paleontological resource shall be exempt from disclosure under section 552 of title 5 and any other law unless the Secretary determines that disclosure would—

(1) further the purposes of this chapter;

(2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) be in accordance with other applicable laws.

(Pub. L. 111–11, title VI, §6309, Mar. 30, 2009, 123 Stat. 1176.)

§470aaa–9. Regulations

As soon as practical after March 30, 2009, the Secretary shall issue such regulations as are appropriate to carry out this chapter, providing opportunities for public notice and comment.

(Pub. L. 111–11, title VI, §6310, Mar. 30, 2009, 123 Stat. 1177.)

§470aaa–10. Savings provisions

Nothing in this chapter shall be construed to—

(1) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under the general mining laws, the mineral or geothermal leasing laws, laws providing for minerals materials disposal, or laws providing for the management or regulation of the activities authorized by the aforementioned laws including but not limited to the Federal Land Policy Management Act (43 U.S.C. 1701–1784),[1] Public Law 94–429 (commonly known as the ''Mining in the Parks Act'') (16 U.S.C. 1901 et seq.), the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1358) [30 U.S.C. 1201 et seq.], and the Organic Administration Act (16 U.S.C. 478, 482, 551);

(2) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under existing laws and authorities relating to reclamation and multiple uses of Federal land;

(3) apply to, or require a permit for, casual collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this chapter;

(4) affect any land other than Federal land or affect the lawful recovery, collection, or sale of paleontological resources from land other than Federal land;

(5) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontological resources on Federal land in addition to the protection provided under this chapter; or

(6) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity. No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this chapter.

(Pub. L. 111–11, title VI, §6311, Mar. 30, 2009, 123 Stat. 1177.)

REFERENCES IN TEXT

The Federal Land Policy Management Act (43 U.S.C. 1701–1784), referred to in par. (1), probably means the Federal Land Policy and Management Act of 1976, Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to chapter 35 (§1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

Public Law 94–429 (commonly known as the ''Mining in the Parks Act''), referred to in par. (1), is Pub. L. 94–429, Sept. 28, 1976, 90 Stat. 1342, which is classified principally to chapter 39 (§1901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

The Surface Mining Control and Reclamation Act of 1977, referred to in par. (1), is Pub. L. 95–87, Aug. 3, 1977, 91 Stat. 445, which is classified generally to chapter 25 (§1201 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 1201 of Title 30 and Tables.

The Organic Administration Act, referred to in par. (1), is the popular name for certain provisions of act June 4, 1897, ch. 2, 30 Stat. 34, under the headings ''UNDER THE DEPARTMENT OF THE INTERIOR.'' and ''SURVEYING THE PUBLIC LANDS.'', which are classified to sections 473 to 475, 477, 478, 479 to 482, and 551 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 473 of this title and Tables.

§470aaa–11. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this chapter.

(Pub. L. 111–11, title VI, §6312, Mar. 30, 2009, 123 Stat. 1177.)

CHAPTER 2—NATIONAL FORESTS

SUBCHAPTER I—ESTABLISHMENT AND ADMINISTRATION

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SUBCHAPTER I—ESTABLISHMENT AND ADMINISTRATION

§ 471. Repealed. Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792

Section, acts Mar. 3, 1891, ch. 561, § 24, 26 Stat. 1103; Mar. 4, 1907, ch. 2907, 34 Stat. 1271; June 25, 1910, ch. 421, § 2, 36 Stat. 847; Aug. 24, 1912, ch. 369, 37 Stat. 497; June 7, 1924, ch. 348, § 9 (first and fifth sentences), 43 Stat. 655, provided for establishment of national forests by the President, limited inclusion of lands in certain States, and authorized addition of lands suitable for production of timber.

Act Mar. 4, 1907, cited above, was not repealed by Pub. L. 94–579.

EFFECTIVE DATE OF REPEAL

Section 704(a) of Pub. L. 94–579 provided that this section is repealed effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§ 471a. Forest reserves in New Mexico and Arizona restricted

No forest reservation shall be created, nor shall any additions be made to one created prior to June 15, 1926, within the limits of the States of New Mexico and Arizona except by Act of Congress.

(June 15, 1926, ch. 587, 44 Stat. 745.)

REFERENCES IN TEXT

Forest reservation, referred to in text, probably should be ''national forest''. See act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

§ 471b. Repealed. Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792

Section, act July 20, 1939, ch. 334, § 1, 53 Stat. 1071, authorized addition of lands within State of Montana to existing or inclusion within new national forests.

EFFECTIVE DATE OF REPEAL

Section 704(a) of Pub. L. 94–579 provided that this section is repealed effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§ 471c. Lands in California set aside as reserved forest lands

The tracts of land in the State of California known and described as follows: Commencing at the northwest corner of township 2 north, range 19 east Mount Diablo meridian, thence eastwardly on the line between townships 2 and 3 north, ranges 24 and 25 east; thence southwardly on the line between ranges 24 and 25 east to the Mount Diablo base line; thence eastwardly on said base line to the corner to township 1 south, ranges 25 and 26 east; thence southwardly on the line between ranges 25 and 26 east to the southeast corner of township 2 south, range 25 east; thence eastwardly on the line between townships 2 and 3 south, range 26 east to the corner to townships 2 and 3 south, ranges 26 and 27 east; thence southwardly on the line between ranges 26 and 27 east to the first standard parallel south; thence westwardly on the first standard parallel south to the southwest corner of township 4 south, range 19 east; thence northwardly on the line between ranges 18 and 19 east to the northwest corner of township 2 south, range 19 east; thence westwardly on the line between townships 1 and 2 south to the southwest corner of township 1 south, range 19 east; thence northwardly on the line between ranges 18 and 19 east to the northwest corner of township 2 north, range 19 east, the place of beginning, are reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States, and set apart as reserved forest lands; and all persons who shall locate or settle upon, or occupy the same or any part thereof, except as hereinafter provided, shall be considered trespassers and removed therefrom. Nothing in this section and sections 55, 61, and 471d of this title shall be construed as in anywise affecting any bona fide entry of land made within the limits above described under any law of the United States prior to October 1, 1890.

(Oct. 1, 1890, ch. 1263, § 1, 26 Stat. 650.)

CODIFICATION

Section was formerly set out as section 44 of this title. As originally enacted, this section contained two further provisions that ''nothing in this act shall be construed as in any wise affecting the grant of lands made to the State of California by virtue of the act entitled 'An act authorizing a grant to the State of California of the Yosemite Valley, and of the land' embracing the Mariposa Big-Tree Grove, approved June thirtieth, eighteen hundred and sixty-four; or as affecting any bona-fide entry of land made within the limits above described under any law of the United States prior to the approval of this act.'' The first quoted provision was omitted from the Code because the land, granted to the state of California pursuant to the Act cited, was receded to the United States. Resolution June 11, 1906, No. 27, accepted the recession.

§ 471d. Additional forest reserves in California

There is reserved and withdrawn from settlement, occupancy or sale under the laws of the United States, and set apart as reserved forest

lands, as provided in section 471c of this title, and subject to all the limitations and provisions therein contained, the following lands, to wit: Township 17 south, range 30 east of the Mount Diablo meridian, excepting sections 31, 32, 33, and 34 of said township, included in section 41 of this title. And there is also reserved and withdrawn from settlement, occupancy or sale under the laws of the United States, and set apart as forest lands, subject to like limitations, conditions, and provisions, all of townships 15 and 16 south, of ranges 29 and 30 east of the Mount Diablo meridian. And there is also reserved and withdrawn from settlement, occupancy or sale under the laws of the United States, and set apart as reserved forest lands under like limitations, restrictions, and provisions, sections 5 and 6 in township 14 south, range 28, east of Mount Diablo meridian, and also sections 31 and 32 of township 13 south, range 28 east of the same meridian. Nothing in this section or sections 55, 61, and 471c of this title, shall authorize rules or contracts touching the protection and improvement of said reservations, beyond the sums that may be received by the Secretary of the Interior under the foregoing provisions, or authorize any charge against the Treasury of the United States.

(Oct. 1, 1890, ch. 1263, § 3, 26 Stat. 651.)

CODIFICATION

Section was formerly classified to section 45 of this title.

§ 471e. Extension of boundaries of Sequoia National Forest

Subject to existing valid claims, the boundaries of the Sequoia National Forest, California, be, and they are, extended to include the following described lands, which shall hereafter be subject to the laws, rules, and regulations relating to said national forest:

Southwest quarter, southwest quarter section 7; section 16 and section 17; east half northeast quarter, southwest quarter, northeast quarter, southeast quarter, northwest quarter, east half southeast quarter section 18; east half northwest quarter, northwest quarter northwest quarter, northeast quarter section 20; northwest quarter northwest quarter section 21; and tract numbered 48 in the southeast quarter section 28, all in township 21 south, range 31 east, of the Mount Diablo meridian in California.

(Dec. 9, 1942, ch. 712, 56 Stat. 1044.)

§ 471f. Cradle of Forestry in America in Pisgah National Forest; establishment; statement of purposes; publication in Federal Register

In order to preserve, develop, and make available to this and future generations the birthplace of forestry and forestry education in America and to promote, demonstrate, and stimulate interest in and knowledge of the management of forest lands under principles of multiple use and sustained yield and the development and progress of management of forest lands in America, the Secretary of Agriculture is hereby authorized to establish the Cradle of Forestry in America in the Pisgah National Forest, North Carolina. As soon as possible after July 11, 1968, the Secretary of Agriculture shall publish notice of the designation thereof in the Federal Register together with a map showing the boundaries which shall be those shown on the map entitled ''Cradle of Forestry in America'' dated April 12, 1967, which shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture.

(Pub. L. 90–398, § 1, July 11, 1968, 82 Stat. 342.)

§ 471g. Administration, protection, and development; use of natural resources

The area designated as the Cradle of Forestry in America shall be administered, protected, and developed within and as a part of the Pisgah National Forest by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to national forests in such manner as in his judgment will best provide for the purposes of sections 471f to 471h of this title and for such management, utilization, and disposal of the natural resources as in his judgment will promote or is compatible with and does not significantly impair the purposes for which the Cradle of Forestry in America is established.

(Pub. L. 90–398, § 2, July 11, 1968, 82 Stat. 342.)

§ 471h. Cooperation with public and private agencies, organizations, and individuals; acceptance of contributions and gifts

The Secretary of Agriculture is hereby authorized to cooperate with and receive the cooperation of public and private agencies and organizations and individuals in the development, administration, and operation of the Cradle of Forestry in America. The Secretary of Agriculture is authorized to accept contributions and gifts to be used to further the purposes of sections 471f to 471h of this title.

(Pub. L. 90–398, § 3, July 11, 1968, 82 Stat. 342.)

§ 471i. Pinelands National Reserve

(a) Congressional findings

The Congress finds that—

(1) the Pinelands area in New Jersey, containing approximately 1,000,000 acres of pine-oak forest, extensive surface and ground water resources of high quality, and a wide diversity of rare plant and animal species, provides significant ecological, natural, cultural, recreational, educational, agricultural, and public health benefits;

(2) there is a national interest in protecting and preserving these benefits for the residents of and visitors to the area;

(3) a primary responsibility for protecting and enhancing these benefits resides with the State of New Jersey and the various local units of government having jurisdiction over the area;

(4) in view of the longstanding Federal practice of assisting the States in creating, protecting, preserving, and enhancing areas of significant regional and urban importance, and in view of the national significance of this resource, the Federal Government has an interest in assisting the State of New Jersey and

its local units of government in fulfilling their responsibilities and in avoiding adverse Federally approved or assisted impacts before these responsibilities can be undertaken;

(5) the State of New Jersey and its local units of government have authority to prevent or minimize adverse uses of the land and water resources of the Pinelands area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority; and

(6) there is a demonstrated need to protect, preserve and enhance the land and water resources of the Pinelands area through a new program which combines the capabilities and resources of the local, State and Federal governments and the private sector and provides an alternative to large-scale direct Federal acquisition and management in cases where such acquisition and management is inappropriate.

(b) Purposes

The purposes of this section are—

(1) to protect, preserve and enhance the significant values of the land and water resources of the Pinelands area;

(2) to encourage and assist the State of New Jersey and its units of local government in the development of a comprehensive management plan for the Pinelands area in order to assure orderly public and private development in the area consistent with the findings of this section;

(3) to provide, during the development of this comprehensive plan, Federal financial assistance for the acquisition of lands in the Pinelands area that have critical ecological values which are in immediate danger of being adversely affected or destroyed;

(4) to encourage and assist the State and its units of local government in developing a governmental mechanism to implement this comprehensive plan, and to provide Federal financial assistance for the acquisition of lands consistent with the comprehensive plan;

(5) to encourage adequate coordination of all government programs affecting the land and water resources of the Pinelands area.

(c) Pinelands National Reserve and Federal Project Review Area; establishment; map, availability

There is hereby established the Pinelands National Reserve which shall consist of the approximately 1,000,000-acre area generally depicted on the map entitled ''Pinelands National Reserve Boundary Map'' numbered NPS/80,011A and dated September 1978. Within the Pinelands National Reserve, there is hereby established the Federal Project Review Area, which shall consist of the approximately 486,000 acre area also depicted on the map. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, and in the offices of the State of New Jersey planning entity established pursuant to subsection (d) of this section, and in locations throughout the Pinelands National Reserve as determined by the planning entity.

(d) State planning entity for development of comprehensive management plan; membership; representation of interests; assistance and grants to State

Within thirty days after November 10, 1978, the Secretary of the Interior (hereinafter referred to as the ''Secretary'') shall request the Governor of the State of New Jersey to establish, within ninety days of such request, a planning entity to develop a comprehensive management plan for the Pinelands National Reserve. In order to carry out the purposes of this section, such planning entity shall be composed of fifteen members to be appointed as follows: one member appointed by the Secretary; one member from each of the seven counties in the Pinelands National Reserve to be appointed by the respective governing bodies of each county; and seven members to be appointed by the Governor. The membership of the planning entity shall include residents of the Pinelands National Reserve who represent economic activities such as agriculture in the area, as well as residents of New Jersey who represent conservation interests. The Secretary shall provide technical assistance and grants to the State for the development of the plan or revisions thereof: *Provided*, That such grants shall not exceed 75 percent of the cost of developing the plan, shall be made only upon application of the Governor, on behalf of the planning entity, and shall be subject to such other conditions as the Secretary may deem appropriate to assure State and local interim protection of the area.

(e) Planning entity consultations; public hearings

During the development of the management plan, the planning entity shall:

(1) consult with appropriate officials of any local government or State or Federal agency which has jurisdiction over lands and waters within the area;

(2) consult with the officials of any local government which has jurisdiction over lands and waters within areas delineated in accordance with subsection (f)(2)(B) of this section;

(3) consult with interested professional, scientific and citizen organizations;

(4) consult with a citizens advisory committee which may be established by the Governor; and

(5) conduct public hearings at places within the area, and at such other places as may be appropriate, for the purpose of providing interested persons with an opportunity to express their views with respect to matters covered by the management plan.

(f) Comprehensive management plan; terms and provisions; resource assessment; boundary map, delineations; land use map and policy statement; coordination and consistency, public use, and financial components; programs; water implementation plan

The comprehensive management plan for the Pinelands National Reserve shall include, but need not be limited to—

(1) A resource assessment which:

(A) determines the amount and type of human development and activity which the

ecosystem can sustain while still maintaining the overall ecological values described in this section with special reference to (i) ground and surface water supply and quality; (ii) natural hazards, including fire; (iii) endangered, unique and unusual plants and animals and biotic communities; (iv) ecological factors relating to the protection and enhancement of blueberry and cranberry production and other agricultural activity; (v) air quality; and (vi) other appropriate considerations affecting the ecological integrity of the area; and

(B) includes an assessment of scenic, aesthetic, cultural, open space, and outdoor recreation resources of the area together with a determination of overall policies required to maintain and enhance these resources.

(2) A map showing the detailed boundary of the Pinelands National Reserve, such map to delineate:

(A) major areas within the boundary which are of critical ecological importance;

(B) major areas and resources adjacent to the boundary that have significance to the ecological integrity of the Pinelands National Reserve; and

(C) areas of scenic, open space, cultural and recreational significance.

(3) A land use capability map and a comprehensive statement of policies for land use management of the area which:

(A) consider and detail the application of a variety of land and water protection and management techniques, including but not limited to, zoning and regulation derived from State and local police powers, development and use standards and permit systems, acquisition of conservation easements and other interests in land, public access agreements with private landowners, purchase of land for resale or lease-back, fee acquisition of public recreation sites and ecologically sensitive areas and any other method of land and water protection and management which will help meet the goals and carry out the policies of the management plan;

(B) include a policy for the use of State and local police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section; and

(C) recognize existing economic activities within the area and provide for the protection and enhancement of such activities as farming, forestry, proprietary recreational facilities, and those indigenous industries and commercial and residential developments which are consistent with the findings and purposes of this section.

(4) A coordination and consistency component which details the ways in which local, State and Federal programs and policies may best be coordinated to promote the goals and policies of the management plan, and which details how land, water and structures managed by governmental or nongovernmental entities in the public interest within the area may be integrated into the management plan.

(5) A public use component including, among other items, a detailed program to educate the public concerning appropriate uses of the area.

(6) A financial component, together with a cash flow timetable, which:

(A) details the cost of implementing the management plan, including, but not limited to, payments in lieu of taxes, general administrative costs, and any anticipated extraordinary or continuing costs; and

(B) details the sources of revenue for covering such costs, including, but not limited to, grants, donations and loans from local, State, and Federal departments and agencies, and from the private sector.

(7) A program to provide for the maximum feasible local government and public participation in the management of the Pinelands National Reserve.

(8) A program for State and local governmental implementation of the comprehensive management plan in a manner that will insure the continued, uniform, consistent protection of this area in accord with the purposes of this section.

(9) In conjunction with existing State programs and planning processes, a plan to implement the provisions of the Clean Water Act [33 U.S.C. 1251 et seq.] and the Safe Drinking Water Act [42 U.S.C. 300f et seq.] which pertain to the surface and ground waters of the Pinelands National Reserve.

(g) Comprehensive management plan and revisions; approval by Secretary; submission to Congress; approval considerations; disapproval and revision recommendations, notification; resubmission and consideration; Federal assistance, termination; modifications and revisions; reimbursement

(1) The State of New Jersey, through the planning entity, shall adopt and submit to the Secretary a comprehensive management plan within eighteen months after the date that funds are first provided for its preparation under subsection (d) of this section. In the event the State fails to submit the plan within such time period, the Secretary may obtain reimbursement or offset from the State of all Federal funds previously granted under this section. The Secretary shall, within ninety days after the date the plan is submitted to him, either approve or disapprove the plan. Should the Secretary fail to act on the proposed plan within ninety days, the plan shall be regarded as approved. Upon approval, the Secretary shall submit the plan to the Congress for a period of ninety days prior to implementation.

(2) In determining whether or not to approve the management plan, the Secretary shall consider whether:

(A) the planning entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation and review of the plan, and whether such review and comment thereon were considered in the plan or revision as presented to him;

(B) he has received adequate assurances from appropriate State officials that the recommended implementation program identified

in the plan will be initiated within a reasonable time after the date of approval of the plan and such program will insure effective implementation of the State and local aspects of the plan;

(C) provision is made for the participation of a Federal representative in the implementation program;

(D) the plan requires the exercise of police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section;

(E) the plan, if implemented, would adequately protect the significant natural, ecological, agricultural, scenic, cultural and recreational resources of the Pinelands National Reserve and, consistent with such protection, provide adequate and appropriate outdoor recreational opportunities and economic activities within the area;

(F) the plan provides for the Governor of the State of New Jersey to exercise effective and continuing oversight over its implementation; and

(G) after consultation with the Secretary of Defense, the national defense mission of the military installations within, contiguous or adjacent to the Pinelands National Reserve has been adequately provided for.

(3) If the Secretary disapproves the management plan or a revision thereof, he shall, within sixty days after the date of such disapproval, advise the planning entity in writing of the reasons therefor, together with his recommendations for revision. The State of New Jersey, through the planning entity shall, within one hundred and twenty days after receipt by the planning entity of notification of such disapproval, revise and resubmit the plan to the Secretary who shall approve or disapprove a proposed revision within sixty days after the date it is submitted to him. Should the Secretary fail to act on a proposed revision within sixty days, the revision shall be considered as approved.

(4) The Secretary shall consider a plan revision in accordance with the procedure set forth in paragraph (2). Such revisions must be consistent with the purposes of this section.

(5) In the event that the planning entity fails to obtain approval of the plan by the Secretary within thirty-six months after the date funds are first provided under subsection (d) of this section for development of the plan, the Secretary shall terminate all Federal assistance for and participation in the development of such plan, and may obtain reimbursement or offset from the State of New Jersey of all Federal funds previously granted under this section.

(6) The Secretary shall provide technical assistance for and monitor at periodic intervals the implementation of the approved management plan. A local jurisdiction or the State shall obtain the approval of the Secretary prior to any modification of the approved plan. The Secretary shall consider a plan revision in accordance with the procedure set forth in paragraph (2). Such revisions must be consistent with the purposes of this section. Any jurisdiction that implements changes to the approved management plan, or adopts or acquiesces in changes to laws, regulations, or policies adopted to implement such plan, without approval of the Secretary, may be liable for reimbursement or offset of all Federal funds previously granted to it under this section without regard to such additional terms and conditions or other requirements of law that may be applicable to such grants.

(h) Grants for State acquisition of property; Secretary's acquisition and administration of property; conveyance by Secretary, terms and conditions; State reimbursement; grant authorization and applications; limitation

(1)(A) During the development of the management plan, the Secretary is authorized to make grants to the State of New Jersey for the acquisition of lands and waters or interests therein within the Pinelands National Reserve that he determines, in consultation with the State planning entity, have critical ecological values which are in immediate danger of being adversely affected or destroyed.

(B) The grants authorized by subsection (h)(1)(A) of this section together with the grants made under paragraph (4) of this subsection, shall (i) be made in a manner consistent with the requirements of the Land and Water Conservation Fund Act [16 U.S.C. 460*l*–4 et seq.]; (ii) not exceed 75 percent of the total cost of all property acquired by the State pursuant to this subsection; (iii) be supplemental to any other Federal financial assistance for any other program; and (iv) be subject to such additional terms and conditions as the Secretary may deem necessary to effectuate the purposes of this section.

(2) In the event the State elects not to make acquisitions as authorized under subsection (h)(1) of this section, the Secretary, during the development of the management plan, is authorized to acquire such lands, waters or interests therein by donation, purchase with donated or appropriated funds, exchange, or otherwise, and to administer such property under the laws generally applicable to units of the National Park System or National Wildlife Refuge System in a manner to carry out the purposes of this section.

(3) After his approval of the management plan, the Secretary (A) is authorized to convey property acquired pursuant to subsection (h)(2) of this section to State or local authorities in accordance with the management plan, under such terms and conditions as he may deem appropriate, which shall include (i) a requirement that where the Secretary transfers land acquired with appropriated funds, the State or local government shall repay not less than 25 percent of the cost of such lands to the Secretary under such terms and conditions as he may deem appropriate, and (ii) a retention of a right of reversion of title to the United States, and (B) shall accept from the State those lands acquired pursuant to subsection (h)(1) of this section, which are identified in the management plan as being appropriate for Federal ownership and management: *Provided*, That the Secretary shall reimburse to the State such sums as are necessary to (i) cover 100 percent of the original cost of acquisition as to each parcel of land so

transferred and (ii) assure that as to the remainder of lands acquired pursuant to subsection (h)(1) of this section not transferred under this subsection, the total Federal land acquisition cost does not exceed 75 percent of the purchase price of such lands.

(4) Upon approval of the management plan, the Secretary is authorized to make grants for the acquisition within the Pinelands National Reserve of lands and waters or interests therein in a manner consistent with the management plan. All applications for such grants shall be made within ten years from the date of implementation of the management plan.

(i) Applications for Federal construction assistance; review by planning entity; notifications; commencement of review process

During the development of the management plan for the Pinelands National Reserve, all applications for Federal assistance under programs covered by Part I of OMB Circular A–95 and direct Federal actions covered by Part II of OMB Circular A–95 within the Federal Project Review Area generally depicted on the map referred to in subsection (c) of this section which involve the construction of housing, industrial parks, highways, or sewage or water treatment facilities shall be reviewed by the planning entity, upon receipt from the New Jersey State A–95 Clearinghouse (hereinafter referred to as the Clearinghouse). If the planning entity finds that such application or proposed action would have no adverse impact on the resources and ecological values of the Federal Project Review Area, the planning entity shall so notify the Clearinghouse. If the planning entity does not so find, Congress authorizes the planning entity to notify the Clearinghouse and other affected parties that such application or proposed action shall not proceed pending further review, and the planning entity shall forward such application or notice of proposed action to the Secretary. Any such application or proposed action which the Secretary determines would be significantly adverse to the purposes of this section shall not proceed while the management plan is being developed. The review process established under this subsection shall begin upon the appropriation of funds under subsection (k) of this section.

(j) Federal action pursuant to Federal court or agency orders related to public health or safety, national security or defense, or environmental values unaffected

Nothing in this section shall be construed to limit or prohibit any Federal action ordered by a court of competent jurisdiction or directed by a Federal agency as essential for the protection of public health or safety, for national security or defense, or for the maintenance of environmental values within the Pinelands National Reserve or the Federal Project Review Area.

(k) Authorization of appropriations; sources for appropriations; acquisitions consistent with management plan

(1) There is authorized to be appropriated not to exceed $26 million to carry out the provisions of this section. Not to exceed $3 million shall be available for planning: *Provided*, That any funds not used for planning shall be available for land acquisition; *Provided further*, That $23,000,000 shall be made available for land acquisition, as authorized by this section. Such appropriations may be made from the general fund of the Treasury or from revenues due and payable to the United States under the Outer Continental Shelf Lands Act, as amended [43 U.S.C. 1331 et seq.], which would otherwise be credited to miscellaneous receipts.

(2) In addition to other funds authorized pursuant to this subsection, there are hereby authorized to be appropriated not to exceed $14,500,000 for land acquisition, the Federal share of which may not exceed 50 percent of the total cost. Land acquisition pursuant to this subsection shall be carried out in accordance with the requirements of subsection (h) of this section insofar as such requirements are not inconsistent with this paragraph. Such acquisitions shall also be carried out in a manner consistent with the management plan and shall include—

(A) lands located within the preservation area of the National Reserve which is designated in the management plan;

(B) lands that are within the areas protected by the management plan and that are threatened by adverse development or have critical ecological values; or

(C) lands that have limited practical use because of their location in the Reserve and that are held by landowners who both own less than 50 acres in the Reserve and have exhausted existing remedies to secure relief.

Additional funds contributed by the State to the Pinelands Development Bank after enactment of this Act, not to exceed $5,000,000, may be counted as part of the State share of land acquisition funds.

(*l*) Pinelands interpretative and educational program; Interior Department study and recommendations

(1) Study and recommendations for interpretative and educational program

For the purpose of enhancing public understanding, awareness, and appreciation with respect to the natural and cultural resources of the Pine Barrens area of New Jersey, the Secretary shall, within 9 months after October 13, 1988, study and recommend appropriate initiatives to provide an educational and interpretative program for the Reserve. The Secretary shall conduct such study in consultation with the planning entity and the appropriate departments and agencies of the State of New Jersey.

(2) Items included

The study and recommendations required by this subsection shall include, but not be limited to each of the following:

(A) Interpretative and informational materials, exhibits, films, lectures, and other devices and educational methods.

(B) A plan to provide for educational and interpretative programs for the Reserve, considering among other things the improvement of existing facilities and interpretative programs in the Reserve, including the possible use of existing facilities such as

Whitesbog, Batsto, Double Trouble State Park and Stockton State College.

(C) The use and enhancement of existing fire towers in the Reserve to serve as observation platforms.

(D) The appropriate role for departments and agencies of the State of New Jersey and the Federal Government in implementing the program.

(3) Study of Development Credit Bank and Development Credit System

The Secretary is authorized and directed to study the State of New Jersey Pinelands Development Credit Bank and Pinelands Development Credit System, and to submit to the Congress within 9 months after October 13, 1988, such recommendations as the Secretary determines appropriate for improvements of the operation of the State Pinelands Development Credit Bank and the overall Pinelands Development Credit Program.

(4) Study of Municipal Council

The Secretary shall study the Pinelands Municipal Council, and submit to the Congress within 9 months after October 13, 1988, such recommendations as the Secretary determines appropriate for improvements of the operation of the council.

(5) Contracts and agreements

The Secretary may enter into such contracts and agreements with the State of New Jersey and other public and private entities as may be necessary and appropriate to carry out the authorities and responsibilities of the Secretary under this subsection. For purposes of this subsection, there is authorized to be appropriated not more than $500,000 to prepare and complete the study pursuant to paragraph (1) and $3,000,000 to implement the recommendations of such study upon its approval by the Congress, the Federal share of which may not exceed 75 percent of the total cost.

(Pub. L. 95–625, title V, § 502, Nov. 10, 1978, 92 Stat. 3492; Pub. L. 100–486, Oct. 13, 1988, 102 Stat. 2429.)

REFERENCES IN TEXT

The Clean Water Act, referred to in subsec. (f)(9), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, also known as the Federal Water Pollution Control Act, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Safe Drinking Water Act, referred to in subsec. (f)(9), is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1660, as amended, which is classified generally to subchapter XII (§ 300f et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Land and Water Conservation Fund Act, referred to in subsec. (h)(1)(B), probably means the Land and Water Conservation Fund Act of 1965, Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

The Outer Continental Shelf Lands Act, as amended, referred to in subsec. (k)(1), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables.

Enactment of this Act, referred to in subsec. (k)(2), probably means date of enactment of Pub. L. 100–486, which enacted subsec. (k)(2) of this section and which was approved Oct. 13, 1988.

AMENDMENTS

1988—Subsec. (k). Pub. L. 100–486, § 2, designated existing provisions as par. (1) and added par. (2).

Subsec. (*l*). Pub. L. 100–486, § 1, added subsec. (*l*).

§ 471j. Headwaters Forest and Elk River Property acquisition

(a) Authorization

Subject to the terms and conditions of this section, up to $250,000,000 from the Land and Water Conservation Fund is authorized to be appropriated to acquire lands referenced in the Agreement of September 28, 1996, which consist of approximately 4,500 acres commonly referred to as the ''Headwaters Forest'', approximately 1,125 acres referred to as the ''Elk Head Forest'', and approximately 9,600 acres referred to as the ''Elk River Property'', which are located in Humboldt County, California. This section is the sole authorization for the acquisition of such property, which is the subject of the Agreement dated September 28, 1996 between the United States of America (hereinafter ''United States''), the State of California, MAXXAM, Inc., and the Pacific Lumber Company. Of the entire Elk River Property, the United States and the State of California are to retain approximately 1,845 acres and transfer the remaining approximately 7,755 acres of Elk River Property to the Pacific Lumber Company. The property to be acquired and retained by the United States and the State of California is that property that is the subject of the Agreement of September 28, 1996 as generally depicted on maps labeled as sheets 1 through 7 of Township 3 and 4 North, Ranges 1 East and 1 West, of the Humboldt Meridian, California, titled ''Dependent Resurvey and Tract Survey'', as approved by Lance J. Bishop, Chief Cadastral Surveyor—California, on August 29, 1997. Such maps shall be on file in the Office of the Chief Cadastral Surveyor, Bureau of Land Management, Sacramento, California. The Secretary of the Interior is authorized to make such typographical and other corrections to this description as are mutually agreed upon by the parties to the Agreement of September 28, 1996. The land retained by the United States and the State of California (approximately 7,470 acres) shall hereafter be the ''Headwaters Forest''. Any funds appropriated by the Federal Government to acquire lands or interests in lands that enlarge the Headwaters Forest by more than five acres per each acquisition shall be subject to specific authorization enacted subsequent to this Act, except that such funds may be used pursuant to existing authorities to acquire such lands up to five acres per each acquisition or interests in lands that may be necessary for roadways to provide access to the Headwaters Forest.

(b) Effective period of authorization

The authorization in subsection (a) of this section expires March 1, 1999 and shall become effective only—

(1) when the State of California provides a $130,000,000 contribution for the transaction;

(2) when the State of California approves a Sustained Yield Plan covering Pacific Lumber Company timber property;

(3) when the Pacific Lumber Company dismisses the following legal actions as evidenced by instruments in form and substance satisfactory to each of the parties to such legal actions: Pacific Lumber Co. v. United States, No. 96–257L (Fed. Cls.) and Salmon Creek Corp. v. California Board of Forestry, No. 96–CS–1057 (Cal. Super. Ct.);

(4) when the incidental take permit under section 10(a) of the Endangered Species Act [16 U.S.C. 1539(a)] (based upon a multispecies Habitat Conservation Plan covering Pacific Lumber Company timber property, including applicable portions of the Elk River Property) is issued by the United States Fish and Wildlife Service and the National Marine Fisheries Service;

(5) after an appraisal of all lands and interests therein to be acquired by the United States has been undertaken, such appraisal has been reviewed for a period not to exceed 30 days by the Comptroller General of the United States, and such appraisal has been provided to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committees on Appropriations of the House and Senate;

(6) after the Secretary of the Interior issues an opinion of value to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committees on Appropriations of the House and Senate for the land and property to be acquired by the Federal Government. Such opinion of value shall also include the total value of all compensation (including tax benefits) proposed to be provided for the acquisition;

(7) after an Environmental Impact Statement for the proposed Habitat Conservation Plan has been prepared and completed in accordance with the applicable provisions of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.]; and

(8) when adequate provision has been made for public access to the property.

(c) Acquisition

Notwithstanding any other provision of law, the amount paid by the United States to acquire identified lands and interests in lands referred to in subsection (a) of this section may differ from the value contained in the appraisal required by subsection (b)(5) of this section if the Secretary of the Interior certifies, in writing, to Congress that such action is in the best interest of the United States.

(d) Habitat conservation plan

(1) Applicable standards

Within 60 days after November 14, 1997, the Secretary of the Interior and the Secretary of Commerce shall report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives on the scientific and legal standards and criteria for threatened, endangered, and candidate species under the Endangered Species Act [16 U.S.C. 1531 et seq.] and any other species used to develop the habitat conservation plan (hereinafter ''HCP'') and the section 10(a) [16 U.S.C. 1539(a)] incidental take permit for the Pacific Lumber Company land.

(2) Report

If the Pacific Lumber Company submits an application for an incidental take permit under section 10(a) of the Endangered Species Act [16 U.S.C. 1539(a)] for the transaction authorized by subsection (a) of this section, and the permit is not issued, then the United States Fish and Wildlife Service and the National Marine Fisheries Service shall set forth the substantive rationale or rationales for why the measures proposed by the applicant for such permit did not meet the issuance criteria for the species at issue. Such report shall be submitted to the Congress within 60 days of the decision not to issue such permit or by May 1, 1999, whichever is earlier.

(3) HCP standards

If a section 10(a) permit for the Pacific Lumber Company HCP is issued, it shall be deemed to be unique to the circumstances associated with the acquisition authorized by this section and shall not establish a higher or lesser standard for any other multispecies HCPs than would otherwise be established under existing law.

(e) Payment to Humboldt County

Within 30 days of the acquisition of the Headwaters Forest, the Secretary of the Interior shall provide a $10,000,000 direct payment to Humboldt County, California.

(f) Payment in lieu of taxes

The Federal portion of the Headwaters Forest acquired pursuant to this section shall be entitlement land under section 6905 of title 31.

(g) Out-year budget limitations

The following funding limitations and parameters shall apply to the Headwaters Forest acquired under subsection (a) of this section—

(1) At least 50 percent of the total funds for management of such lands above the annual level of $100,000 shall (with the exception of law enforcement activities and emergency activities) be from non-Federal sources.

(2) Subject to appropriations, the authorized annual Federal funding for management of such land is $300,000 (with the exception of law enforcement activities and emergency activities).

(3) The Secretary of the Interior or the Headwaters Forest Management Trust referenced in subsection (h) of this section is authorized to accept and use donations of funds and personal property from the State of California, private individuals, and other nongovernmental entities for the purpose of management of the Headwaters Forest.

(h) Headwaters Forest Management Trust

The Secretary of the Interior is authorized, with the written concurrence of the Governor of the State of California, to establish a Headwaters Forest Management Trust (''Trust'') for the management of the Headwaters Forest as follows:

(1) Management authority

The Secretary of the Interior is authorized to vest management authority and responsibility in the Trust composed of a board of five trustees each appointed for terms of three years. Two trustees shall be appointed by the Governor of the State of California. Three trustees shall be appointed by the President of the United States. The first group of trustees shall be appointed within 60 days of exercising the authority under this subsection and the terms of the trustees shall begin on such day. The Secretary of the Interior, the Secretary of Resources of the State of California, and the Chairman of the Humboldt County Board of Supervisors shall be nonvoting, ex officio members of the board of trustees. The Secretary is authorized to make grants to the Trust for the management of the Headwaters Forest from amounts authorized and appropriated.

(2) Operations

The Trust shall have the power to develop and implement the management plan for the Headwaters Forest.

(i) Management plan

(1) In general

A concise management plan for the Headwaters Forest shall be developed and periodically amended as necessary by the Secretary of the Interior in consultation with the State of California (and in the case that the authority provided in subsection (h) of this section is exercised, the trustees shall develop and periodically amend the management plan), and shall meet the following requirements:

(A) Management goals for the plan shall be to conserve and study the land, fish, wildlife, and forests occurring on such land while providing public recreation opportunities and other management needs.

(B) Before a management structure and management plan are adopted for such land, the Secretary of the Interior or the board of trustees, as the case may be, shall submit a proposal for the structure and plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives. The proposed management plan shall not become effective until the passage of 90 days after its submission to the Committees.

(C) The Secretary of the Interior or the board of trustees, as the case may be, shall report annually to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and the House and Senate Committees on Appropriations concerning the management of lands acquired under the authority of this section and activities undertaken on such lands.

(2) Plan

The management plan shall guide general management of the Headwaters Forest. Such plan shall address the following management issues—

(A) scientific research on forests, fish, wildlife, and other such activities that will be fostered and permitted on the Headwaters Forest;

(B) providing recreation opportunities on the Headwaters Forest;

(C) access to the Headwaters Forest;

(D) construction of minimal necessary facilities within the Headwaters Forest so as to maintain the ecological integrity of the Headwaters Forest;

(E) other management needs; and

(F) an annual budget for the management of the Headwaters Forest, which shall include a projected revenue schedule (such as fees for research and recreation) and projected expenses.

(3) Compliance

The National Environmental Policy Act [42 U.S.C. 4321 et seq.] shall apply to the development and implementation of the management plan.

(j) Cooperative management

(1) The Secretary of the Interior may enter into agreements with the State of California for the cooperative management of any of the following: Headwaters Forest, Redwood National Park, and proximate State lands. The purpose of such agreements is to acquire from and provide to the State of California goods and services to be used by the Secretary and the State of California in cooperative management of lands if the Secretary determines that appropriations for that purpose are available and an agreement is in the best interests of the United States; and

(2) an assignment arranged by the Secretary under section 3372 of title 5 of a Federal or State employee for work in any Federal or State of California lands, or an extension of such assignment, may be for any period of time determined by the Secretary or the State of California, as appropriate, to be mutually beneficial.

(Pub. L. 105–83, title V, §501, Nov. 14, 1997, 111 Stat. 1610.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 105–83, Nov. 14, 1997, 111 Stat. 1543, known as the Department of the Interior and Related Agencies Appropriations Act, 1998. For complete classification of this Act to the Code, see Tables.

The National Environmental Policy Act of 1969, referred to in subsecs. (b)(7) and (i)(3), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Endangered Species Act, referred to in subsec. (d)(1), probably means the Endangered Species Act of 1973, Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

TIMING OF ACQUISITIONS

Pub. L. 105–83, title V, § 504, Nov. 14, 1997, 111 Stat. 1617, provided that: ''The acquisitions authorized by sections 501 [16 U.S.C. 471j] and 502 [111 Stat. 1614] of this title may not occur prior to the earlier of: (1) 180 days after enactment of this Act [Nov. 14, 1997]; or (2) enactment of separate authorizing legislation that modifies section 501, 502, or 503 [111 Stat. 1616] of this title. Within 120 days of enactment, the Secretary of the Interior and the Secretary of Agriculture, respectively, shall submit to the Committee on Resources [now Committee on Natural Resources] of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, reports detailing the status of efforts to meet the conditions set forth in this title imposed on the acquisition of the interests to protect and preserve the Headwaters Forest and the acquisition of interests to protect and preserve Yellowstone National Park. For every day beyond 120 days after the enactment of this Act that the appraisals required in subsections [sic] 501(b)(5) and 502(b)(2) are not provided to the Committee on Resources [now Committee on Natural Resources] of the House, the Committee on Energy and Natural Resources of the Senate and the House and Senate Committees on Appropriations in accordance with such subsections, the 180-day period referenced in this section shall be extended by one day.''

§ 472. Laws affecting national forest lands

The Secretary of the Department of Agriculture shall execute or cause to be executed all laws affecting public lands reserved under the provisions of section 471[1] of this title, or sections supplemental to and amendatory thereof, after such lands have been so reserved, excepting such laws as affect the surveying, prospecting, locating, appropriating, entering, relinquishing, reconveying, certifying, or patenting of any of such lands.

(Feb. 1, 1905, ch. 288, § 1, 33 Stat. 628.)

REFERENCES IN TEXT

Section 471 of this title, referred to in text, was in the original a reference to section 24 of act Mar. 3, 1891, ch. 561, 26 Stat. 1103, and was repealed by Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.

CODIFICATION

Words ''subject to the provisions for national forests established under subdivision (b) of section 471 of this title,'' which had been inserted by the original codifiers of the 1926 ed. of the Code, have been omitted because of the repeal of section 471 of this title by Pub. L. 94–579.

§ 472a. Timber sales on National Forest System lands

(a) Authorization; rules and regulations; appraised value as minimum sale price

For the purpose of achieving the policies set forth in the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528–531) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476) [16 U.S.C. 1600 et seq.], the Secretary of Agriculture, under such rules and regulations as he may prescribe, may sell, at not less than appraised value, trees, portions of trees, or forest products located on National Forest System lands.

(b) Designation on map; prospectus

All advertised timber sales shall be designated on maps, and a prospectus shall be available to the public and interested potential bidders.

(c) Terms and conditions of contract

The length and other terms of the contract shall be designed to promote orderly harvesting consistent with the principles set out in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended [16 U.S.C. 1604]. Unless there is a finding by the Secretary of Agriculture that better utilization of the various forest resources (consistent with the provisions of the Multiple-Use Sustained-Yield Act of 1960 [16 U.S.C. 528–531]) will result, sales contracts shall be for a period not to exceed ten years: *Provided*, That such period may be adjusted at the discretion of the Secretary to provide additional time due to time delays caused by an act of an agent of the United States or by other circumstances beyond the control of the purchaser. The Secretary shall require the purchaser to file as soon as practicable after execution of a contract for any advertised sale with a term of two years or more, a plan of operation, which shall be subject to concurrence by the Secretary. The Secretary shall not extend any contract period with an original term of two years or more unless he finds (A) that the purchaser has diligently performed in accordance with an approved plan of operation or (B) that the substantial overriding public interest justifies the extension.

(d) Advertisement of sales; exceptions

The Secretary of Agriculture shall advertise all sales unless he determines that extraordinary conditions exist, as defined by regulation, or that the appraised value of the sale is less than $10,000. If, upon proper offering, no satisfactory bid is received for a sale, or the bidder fails to complete the purchase, the sale may be offered and sold without further advertisement.

(e) Bidding methods; purposes; oral auction procedures; monitoring and enforcement for prevention of collusive practices

(1) In the sale of trees, portions of trees, or forest products from National Forest System lands (hereinafter referred to in this subsection as ''national forest materials''), the Secretary of Agriculture shall select the bidding method or methods which—

(A) insure open and fair competition;

(B) insure that the Federal Government receive not less than the appraised value as required by subsection (a) of this section;

(C) consider the economic stability of communities whose economies are dependent on such national forest materials, or achieve such other objectives as the Secretary deems necessary; and

(D) are consistent with the objectives of this Act and other Federal statutes.

The Secretary shall select or alter the bidding method or methods as he determines necessary

[1] See References in Text note below.

to achieve the objectives stated in clauses (A), (B), (C), and (D) of this paragraph.

(2) In those instances when the Secretary selects oral auction as the bidding method for the sale of any national forest materials, he shall require that all prospective purchasers submit written sealed qualifying bids. Only prospective purchasers whose written sealed qualifying bids are equal to or in excess of the appraised value of such national forest materials may participate in the oral bidding process.

(3) The Secretary shall monitor bidding patterns involved in the sale of national forest materials. If the Secretary has a reasonable belief that collusive bidding practices may be occurring, then—

(A) he shall report any such instances of possible collusive bidding or suspected collusive bidding practices to the Attorney General of the United States with any and all supporting data;

(B) he may alter the bidding methods used within the affected area; and

(C) he shall take such other action as he deems necessary to eliminate such practices within the affected area.

(f) Research and demonstration projects

The Secretary of Agriculture, under such rules and regulations as he may prescribe, is authorized to dispose of, by sale or otherwise, trees, portions of trees, or other forest products related to research and demonstration projects.

(g) Designation, marking, and supervision of harvesting; personnel

Designation, marking when necessary, and supervision of harvesting of trees, portions of trees, or forest products shall be conducted by persons employed by the Secretary of Agriculture. Such persons shall have no personal interest in the purchase or harvest of such products and shall not be directly or indirectly in the employment of the purchaser thereof.

(h) Utilization standards, methods of measurement, and harvesting practices; monetary deposits by purchasers of salvage harvests; nature, purposes and availability of designated fund; return of surplus to Treasury

The Secretary of Agriculture shall develop utilization standards, methods of measurement, and harvesting practices for the removal of trees, portions of trees, or forest products to provide for the optimum practical use of the wood material. Such standards, methods, and practices shall reflect consideration of opportunities to promote more effective wood utilization, regional conditions, and species characteristics and shall be compatible with multiple use resource management objectives in the affected area. To accomplish the purpose of this subsection in situations involving salvage of insect-infested, dead, damaged, or down timber, and to remove associated trees for stand improvement, the Secretary is authorized to require the purchasers of such timber to make monetary deposits, as a part of the payment for the timber, to be deposited in a designated fund from which sums are to be used, to cover the cost to the United States for design, engineering, and supervision of the construction of needed roads and the cost for Forest Service sale preparation and supervision of the harvesting of such timber. Deposits of money pursuant to this subsection are to be available until expended to cover the cost to the United States of accomplishing the purposes for which deposited: *Provided*, That such deposits shall not be considered as moneys received from the national forests within the meaning of sections 500 and 501 of this title: *And provided further*, That sums found to be in excess of the cost of accomplishing the purposes for which deposited on any national forest shall be transferred to miscellaneous receipts in the Treasury of the United States.

(i) Purchaser credit for permanent road construction; right of election of small business concerns; estimated cost; date of completion; use of funds for construction; effective date

(1) For sales of timber which include a provision for purchaser credit for construction of permanent roads with an estimated cost in excess of $20,000, the Secretary of Agriculture shall promulgate regulations requiring that the notice of sale afford timber purchasers qualifying as ''small business concerns'' under the Small Business Act, as amended [15 U.S.C. 631 et seq.], and the regulations issued thereunder, an estimate of the cost and the right, when submitting a bid, to elect that the Secretary build the proposed road.

(2) If the purchaser makes such an election, the price subsequently paid for the timber shall include all of the estimated cost of the road. In the notice of sale, the Secretary of Agriculture shall set a date when such road shall be completed which shall be applicable to either construction by the purchaser or the Secretary, depending on the election. To accomplish requested work, the Secretary is authorized to use from any receipts from the sale of timber a sum equal to the estimate for timber purchaser credits, and such additional sums as may be appropriated for the construction of roads, such funds to be available until expended, to construct a road that meets the standards specified in the notice of sale.

(3) The provisions of this subsection shall become effective on October 1, 1976.

(Pub. L. 94–588, §14, Oct. 22, 1976, 90 Stat. 2958; Pub. L. 95–233, Feb. 20, 1978, 92 Stat. 32; Pub. L. 101–626, title I, §105(a), Nov. 28, 1990, 104 Stat. 4427.)

REFERENCES IN TEXT

The Multiple-Use Sustained-Yield Act of 1960, referred to in subsecs. (a) and (c), is Pub. L. 86–517, June 12, 1960, 74 Stat. 215, as amended, which is classified generally to sections 528 to 531 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 528 of this title and Tables.

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (a), is Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

This Act, referred to in subsec. (e)(1)(D), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, known as the National Forest Management Act of 1976. For complete classification of this Act to the Code, see Short

Title of 1976 Amendment note set out under section 1600 of this title and Tables.

The Small Business Act, referred to in subsec. (i)(1), is Pub. L. 85–536, § 2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§ 631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

AMENDMENTS

1990—Subsec. (i)(1). Pub. L. 101–626 struck out proviso that this subsec. not apply to sales of timber on National Forest System lands in the State of Alaska.

1978—Subsec. (e). Pub. L. 95–233 substituted provisions authorizing the Secretary of Agriculture to select bidding method or methods to achieve the purposes of par. (1) of this subsec., procedures for use of oral auction as the bidding method, and procedures for monitoring and enforcement to prevent collusive practices, for provisions authorizing the Secretary to take such action as deemed necessary to prevent collusive practices, and setting forth requirements for enforcement.

APPLICATION OF AMENDMENTS BY PUB. L. 101–626 TO CERTAIN LONG-TERM TIMBER SALE CONTRACTS

Amendment by Pub. L. 101–626 not applicable to certain long-term timber sale contracts, see section 105(c) of Pub. L. 101–626, set out as a note under section 539d of this title.

QUALIFYING TIMBER CONTRACT OPTIONS

Pub. L. 110–234, title VIII, § 8401, May 22, 2008, 122 Stat. 1300, and Pub. L. 110–246, § 4(a), title VIII, § 8401, June 18, 2008, 122 Stat. 1664, 2061, provided that:

''(a) DEFINITIONS.—In this section:

''(1) AUTHORIZED PRODUCER PRICE INDEX.—The term 'authorized Producer Price Index' includes—

''(A) the softwood commodity index (code number WPU 0811);

''(B) the hardwood commodity index (code number WPU 0812);

''(C) the wood chip index (code number PCU 3211133211135); and

''(D) any other subsequent comparable index, as established by the Bureau of Labor Statistics of the Department of Labor and utilized by the Secretary of Agriculture.

''(2) QUALIFYING CONTRACT.—The term 'qualifying contract' means a contract for the sale of timber on National Forest System land—

''(A) that was awarded during the period beginning on July 1, 2004, and ending on December 31, 2006;

''(B) for which there is unharvested volume remaining;

''(C) for which, not later than 90 days after the date of enactment of this Act [June 18, 2008], the timber purchaser makes a written request to the Secretary for one or more of the options described in subsection (b);

''(D) that is not a salvage sale;

''(E) for which the Secretary determines there is not an urgent need to harvest due to deteriorating timber conditions that developed after the award of the contract; and

''(F) that is not in breach or in default.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

''(b) OPTIONS FOR QUALIFYING CONTRACTS.—

''(1) CANCELLATION OR RATE REDETERMINATION.—Notwithstanding any other provision of law, if the rate at which a qualifying contract would be advertised as of the date of enactment of this Act [June 18, 2008] is at least 50 percent less than the sum of the original bid rates for all of the species of timber that are the subject of the qualifying contract, the Secretary may, at the sole discretion of the Secretary—

''(A) cancel the qualifying contract if the timber purchaser—

''(i) pays 30 percent of the total value of the timber remaining in the qualifying contract based on bid rates;

''(ii) completes each contractual obligation (including the removal of downed timber, the completion of road work, and the completion of erosion control work) of the timber purchaser with respect to each unit on which harvest has begun to a logical stopping point, as determined by the Secretary after consultation with the timber purchaser; and

''(iii) terminates its rights under the qualifying contract; or

''(B) modify the qualifying contract to redetermine the current contract rate of the qualifying contract to equal the sum obtained by adding—

''(i) 25 percent of the bid premium on the qualifying contract; and

''(ii) the rate at which the qualifying contract would be advertised as of the date of enactment of this Act [June 18, 2008].

''(2) SUBSTITUTION OF INDEX.—

''(A) SUBSTITUTION.—Notwithstanding any other provision of law, the Secretary may, at the sole discretion of the Secretary, substitute the Producer Price Index specified in the qualifying contract of a timber purchaser if the timber purchaser identifies—

''(i) the products the timber purchaser intends to produce from the timber harvested under the qualifying contract; and

''(ii) a substitute index from an authorized Producer Price Index that more accurately represents the predominant product identified in clause (i) for which there is an index.

''(B) RATE REDETERMINATION FOLLOWING SUBSTITUTION OF INDEX.—If the Secretary substitutes the Producer Price Index of a qualifying contract under subparagraph (A), the Secretary may, at the sole discretion of the Secretary, modify the qualifying contract to provide for—

''(i) an emergency rate redetermination under the terms of the contract; or

''(ii) a rate redetermination under paragraph (1)(B).

''(C) LIMITATION ON MARKET-RELATED CONTRACT TERM ADDITION; PERIODIC PAYMENTS.—Notwithstanding any other provision of law, if the Secretary substitutes the Producer Price Index of a qualifying contract under subparagraph (A), the Secretary may, at the sole discretion of the Secretary, modify the qualifying contract—

''(i) to adjust the term in accordance with the market-related contract term addition provision in the qualifying contract and section 223.52 of title 36, Code of Federal Regulations, as in effect on the date of the adjustment, but only if the drastic reduction criteria in such section are met for 2 or more consecutive calendar year quarters beginning with the calendar quarter in which the Secretary substitutes the Producer Price Index under subparagraph (A); and

''(ii) to adjust the periodic payments required under the contract in accordance with applicable law and policies.

''(3) CONTRACTS USING HARDWOOD LUMBER INDEX.—With respect to a qualifying contract using the hardwood commodity index referred to in subsection (a)(1)(B) for which the Secretary does not substitute the Producer Price Index under paragraph (2), the Secretary may, at the sole discretion of the Secretary—

''(A) extend the contract term for a 1-year period beginning on the current contract termination date; and

''(B) adjust the periodic payments required under the contract in accordance with applicable law and policies.

''(c) EXTENSION OF MARKET-RELATED CONTRACT TERM ADDITION TIME LIMIT FOR CERTAIN CONTRACTS.—Not-

withstanding any other provision of law, upon the written request of a timber purchaser, the Secretary may, at the sole discretion of the Secretary, modify a timber sale contract (including a qualifying contract) awarded to the purchaser before January 1, 2007, to adjust the term of the contract in accordance with the market-related contract term addition provision in the contract and section 223.52 of title 36, Code of Federal Regulations, as in effect on the date of the modification, except that the Secretary may add no more than 4 years to the original contract length.

''(d) EFFECT OF OPTIONS.—

''(1) NO SURRENDER OF CLAIMS.—Operation of this section shall not have the effect of surrendering any claim by the United States against any timber purchaser that arose—

''(A) under a qualifying contract before the date on which the Secretary cancels the contract or redetermines the rate under subsection (b)(1), substitutes a Producer Price Index under subsection (b)(2), or modifies the contract under subsection (b)(3); or

''(B) under a timber sale contract, including a qualifying contract, before the date on which the Secretary adjusts the contract term under subsection (c).

''(2) RELEASE OF LIABILITY.—In the written request for any option provided under subsections (b) and (c), a timber purchaser shall release the United States from all liability, including further consideration or compensation, resulting from—

''(A) the cancellation of a qualifying contract of the purchaser or rate redetermination under subsection (b)(1), the substitution of a Producer Price Index under subsection (b)(2), the modification of the contract under subsection (b)(3) or a determination by the Secretary not to provide the cancellation, redetermination, substitution, or modification; or

''(B) the modification of the term of a timber sale contract (including a qualifying contract) of the purchaser under subsection (c) or a determination by the Secretary not to provide the modification.

''(3) LIMITATION.—Subject to subsection (b)(1)(A), the cancellation of a qualifying contract by the Secretary under subsection (b)(1) shall release the timber purchaser from further obligation under the canceled contract.''

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

USE OF RECEIPTS FROM TIMBER SALES FOR ROAD CONSTRUCTION

Pub. L. 99–500, § 101(h) [title II], Oct. 18, 1986, 100 Stat. 1783–242, 1783–271, and Pub. L. 99–591, § 101(h) [title II], Oct. 30, 1986, 100 Stat. 3341–242, 3341–271, provided that: ''Notwithstanding any other provision of law, the Secretary of Agriculture is hereafter authorized to use from any receipts from the sale of timber a sum equal to the cost of construction of roads under the purchaser election program as described and authorized in section 14(i) of the National Forest Management Act of 1976 [16 U.S.C. 472a(i)].''

§ 473. Revocation, modification, or vacation of orders or proclamations establishing national forests

The President of the United States is authorized and empowered to revoke, modify, or suspend any and all Executive orders and proclamations or any part thereof issued under section 471[1] of this title, from time to time as he shall deem best for the public interests. By such modification he may reduce the area or change the boundary lines or may vacate altogether any order creating a national forest.

(June 4, 1897, ch. 2, § 1, 30 Stat. 34, 36.)

REFERENCES IN TEXT

Section 471 of this title, referred to in text, was repealed by Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.

CODIFICATION

The two sentences of this section are from provisions in section 1 of the Sundry Civil Appropriation Act for the fiscal year 1898, act June 4, 1897.

The first sentence is a portion of the third paragraph and was prefaced by the words ''To remove any doubt which may exist pertaining to the authority of the President thereunto.'' Other provisions of the same paragraph have been omitted as temporary.

The second sentence is a portion of the seventh paragraph the whole of which reads as follows: ''The President is hereby authorized at any time to modify any Executive order that has been or may hereafter be made establishing any forest reserve, and by such modification may reduce the area or change the boundary lines of such reserve, or may vacate altogether any order creating such reserve.''

SHORT TITLE

Certain provisions of act June 4, 1897, ch. 2, 30 Stat. 34, under the headings ''UNDER THE DEPARTMENT OF THE INTERIOR.'' and ''SURVEYING THE PUBLIC LANDS.'', which enacted sections 473 to 478, 479 to 482, and 551 of this title, are popularly known as the Organic Administration Act.

§ 474. Surveys; plats and field notes; maps; effect under Act June 4, 1897

Surveys, field notes, and plats returned from the survey of public lands designated as national forests undertaken under the supervision of the Director of the United States Geological Survey in accordance with provisions of Act June 4, 1897, chapter 2, section 1, thirtieth Statutes, page 34, shall have the same legal force and effect as surveys, field notes, and plats returned through the Field Surveying Service; and such surveys, which include subdivision surveys under the rectangular system, approved by the Secretary of the Interior or such officer as he may designate as in other cases, and properly certified copies thereof shall be filed in the respective land offices of the districts in which such lands are situated, as in other cases. All laws inconsistent with the provisions hereof are declared inoperative as respects such survey. A copy of every topographic map and other maps showing the distribution of the forests, together with such field notes as may be taken relating thereto, shall be certified thereto by the Director of the Survey and filed in the Bureau of Land Management.

(June 4, 1897, ch. 2, § 1, 30 Stat. 34; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.)

REFERENCES IN TEXT

Act June 4, 1897, chapter 2, section 1, referred to in text, is act June 4, 1897, ch. 2, 30 Stat. 34. For classification of this Act to the Code, see Tables.

CHANGE OF NAME

''United States Geological Survey'' substituted in text for ''Geological Survey'' pursuant to provision of

[1] See References in Text note below.

title I of Pub. L. 102–154, set out as a note under section 31 of Title 43, Public Lands.

TRANSFER OF FUNCTIONS

''Field Surveying Service'' substituted in text for ''office of surveyors-general'' by act Mar. 3, 1925. Subsequently, the Service was abolished and its functions transferred to Secretary of the Interior by Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

''Secretary of the Interior or such officer as he may designate'' substituted in text for ''Commissioner of the General Land Office'' on authority of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5.

''Bureau of Land Management'' substituted for ''General Land Office'' on authority of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5. The ''General Land Office'' was abolished by Reorg. Plan No. 3 of 1946 with its functions consolidated with that of the Grazing Service to form a new agency in the Department of the Interior to be known as the Bureau of Land Management.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5.

§ 475. Purposes for which national forests may be established and administered

All public lands designated and reserved prior to June 4, 1897, by the President of the United States under the provisions of section 471[1] of this title, the orders for which shall be and remain in full force and effect, unsuspended and unrevoked, and all public lands that may hereafter be set aside and reserved as national forests under said section, shall be as far as practicable controlled and administered in accordance with the following provisions. No national forest shall be established, except to improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States; but it is not the purpose or intent of these provisions, or of said section, to authorize the inclusion therein of lands more valuable for the mineral therein, or for agricultural purposes, than for forest purposes.

(June 4, 1897, ch. 2, §1, 30 Stat. 34.)

REFERENCES IN TEXT

Section 471 of this title, referred to in text, was repealed by Pub. L. 94–579, title VII, §704(a), Oct. 21, 1976, 90 Stat. 2792.

CODIFICATION

''National forests'' and ''national forest'' substituted in text for ''public forest reserves'' and ''public forest reservation'', respectively, on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

§ 476. Repealed. Pub. L. 94–588, § 13, Oct. 22, 1976, 90 Stat. 2958

Section, acts June 4, 1897, ch. 2, §1, 30 Stat. 35; June 9, 1900, ch. 804, 31 Stat. 661; Feb. 1, 1905, ch. 288, §1, 33 Stat. 628; June 30, 1906, ch. 3913, 34 Stat. 684; Mar. 3, 1925, ch. 457, §3, 43 Stat. 1132; May 27, 1952, ch. 337, 66 Stat. 95, authorized the Secretary of Agriculture to sell timber from national forests. See section 472a of this title.

VALIDATION OF TIMBER SALES CONTRACTS

Section 15 of Pub. L. 94–588 provided that:

''(a) Timber sales made pursuant to the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476), prior to the date of enactment of this section [Oct. 22, 1976] shall not be invalid if the timber was sold in accord with Forest Service silvicultural practices and sales procedures in effect at the time of the sale, subject to the provisions of subsection (b) of this section.

''(b) The Secretary of Agriculture is directed, in developing five-year operating plans under the provisions of existing fifty-year timber sales contracts in Alaska, to revise such contracts to make them consistent with the guidelines and standards provided for in the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended [16 U.S.C. 1600 et seq.], and to reflect such revisions in the contract price of timber. Any such action shall not be inconsistent with valid contract rights approved by the final judgment of a court of competent jurisdiction.''

§ 477. Use of timber and stone by settlers

The Secretary of Agriculture may permit, under regulations to be prescribed by him, the use of timber and stone found upon national forests, free of charge, by bona fide settlers, miners, residents, and prospectors for minerals, for firewood, fencing, buildings, mining, prospecting, and other domestic purposes, as may be needed by such persons for such purposes; such timber to be used within the State or Territory, respectively, where such national forests may be located.

(June 4, 1897, ch. 2, §1, 30 Stat. 35; Feb. 1, 1905, ch. 288, §1, 33 Stat. 628.)

CODIFICATION

''National forests'' substituted in text for ''reservations'' on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with provisions of sections 473, 474 to 482, and 551 of this title with respect to preconstruction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

Act Feb. 1, 1905 transferred certain functions with regard to administration of public forests from Secretary of the Interior to Secretary of Agriculture.

[1] See References in Text note below.

§ 478. Egress or ingress of actual settlers; prospecting

Nothing in sections 473 to 478, 479 to 482 and 551 of this title shall be construed as prohibiting the egress or ingress of actual settlers residing within the boundaries of national forests, or from crossing the same to and from their property or homes; and such wagon roads and other improvements may be constructed thereon as may be necessary to reach their homes and to utilize their property under such rules and regulations as may be prescribed by the Secretary of Agriculture. Nor shall anything in such sections prohibit any person from entering upon such national forests for all proper and lawful purposes, including that of prospecting, locating, and developing the mineral resources thereof. Such persons must comply with the rules and regulations covering such national forests.

(June 4, 1897, ch. 2, § 1, 30 Stat. 36; Feb. 1, 1905, ch. 288, § 1, 33 Stat. 628.)

CODIFICATION

''National forests'' substituted in text for ''reservations'' and ''forest reservations'' on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with provisions of sections 473, 474 to 482, and 551 of this title with respect to preconstruction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

Act Feb. 1, 1905, transferred certain functions with regard to administration of public forests from Secretary of the Interior to Secretary of Agriculture.

§ 478a. Townsites

When the Secretary of Agriculture determines that a tract of National Forest System land in Alaska or in the eleven contiguous Western States is located adjacent to or contiguous to an established community, and that transfer of such land would serve indigenous community objectives that outweigh the public objectives and values which would be served by maintaining such tract in Federal ownership, he may, upon application, set aside and designate as a townsite an area of not to exceed six hundred and forty acres of National Forest System land for any one application. After public notice, and satisfactory showing of need therefor by any county, city, or other local governmental subdivision, the Secretary may offer such area for sale to a governmental subdivision at a price not less than the fair market value thereof: *Provided, however*, That the Secretary may condition conveyances of townsites upon the enactment, maintenance, and enforcement of a valid ordinance which assures any land so conveyed will be controlled by the governmental subdivision so that use of the area will not interfere with the protection, management, and development of adjacent or contiguous National Forest System lands.

(Pub. L. 85–569, July 31, 1958, 72 Stat. 438; Pub. L. 94–579, title II, § 213, Oct. 21, 1976, 90 Stat. 2760.)

CODIFICATION

Section is also set out as section 1012a of Title 7, Agriculture.

AMENDMENTS

1976—Pub. L. 94–579 substituted provisions setting forth the procedures applicable to designation of townsites of tracts of National Forest System lands in Alaska or the eleven contiguous Western States for provisions setting forth the procedures applicable to designation of townsites from any national forest lands or lands administered by the Secretary of Agriculture under the Bankhead-Jones Farm Tenant Act.

SAVINGS PROVISION

Amendment by Pub. L. 94–579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§ 479. Sites for schools and churches

The settlers residing within the exterior boundaries of national forests, or in the vicinity thereof, may maintain schools and churches within such national forest, and for that purpose may occupy any part of the said national forest, not exceeding two acres for each schoolhouse and one acre for a church.

(June 4, 1897, ch. 2, § 1, 30 Stat. 36.)

CODIFICATION

''National forests'' substituted in text for ''forest reservations'', and ''national forest'' substituted for ''reservation'' and ''forest reservation'' on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

§ 479a. Conveyance of National Forest System lands for educational purposes

(a) Authority to convey

Upon written application, the Secretary of Agriculture may convey National Forest System lands to a public school district for use for educational purposes if the Secretary determines that—

(1) the public school district seeking the conveyance will use the conveyed land for a public or publicly funded elementary or secondary school, to provide grounds or facilities related to such a school, or for both purposes;

(2) the conveyance will serve the public interest;

(3) the land to be conveyed is not otherwise needed for the purposes of the National Forest System;

(4) the total acreage to be conveyed does not exceed the amount reasonably necessary for the proposed use;

(5) the land is to be used for an established or proposed project that is described in detail in the application to the Secretary, and the conveyance would serve public objectives (either locally or at large) that outweigh the objectives and values which would be served by maintaining such land in Federal ownership;

(6) the applicant is financially and otherwise capable of implementing the proposed project;

(7) the land to be conveyed has been identified for disposal in an applicable land and resource management plan under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.); and

(8) an opportunity for public participation in a disposal under this section has been provided, including at least one public hearing or meeting, to provide for public comments.

(b) Acreage limitation

A conveyance under this section may not exceed 80 acres. However, this limitation shall not be construed to preclude an entity from submitting a subsequent application under this section for an additional land conveyance if the entity can demonstrate to the Secretary a need for additional land.

(c) Costs and mineral rights

(1) A conveyance under this section shall be for a nominal cost. The conveyance may not include the transfer of mineral or water rights.

(2) If necessary, the exact acreage and legal description of the real property conveyed under this section shall be determined by a survey satisfactory to the Secretary and the applicant. The cost of the survey shall be borne by the applicant.

(d) Review of applications

When the Secretary receives an application under this section, the Secretary shall—

(1) before the end of the 14-day period beginning on the date of the receipt of the application, provide notice of that receipt to the applicant; and

(2) before the end of the 120-day period beginning on that date—

(A) make a final determination whether or not to convey land pursuant to the application, and notify the applicant of that determination; or

(B) submit written notice to the applicant containing the reasons why a final determination has not been made.

(e) Reversionary interest

If, at any time after lands are conveyed pursuant to this section, the entity to whom the lands were conveyed attempts to transfer title to or control over the lands to another or the lands are devoted to a use other than the use for which the lands were conveyed, title to the lands shall revert to the United States.

(Pub. L. 106–577, title II, § 202, Dec. 28, 2000, 114 Stat. 3070.)

REFERENCES IN TEXT

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (a)(7), is Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§ 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

This section, referred to in subsec. (c)(2), was in the original ''this title'', meaning title II of Pub. L. 106–577, Dec. 28, 2000, 114 Stat. 3070, which enacted this section and provisions set out as a note under this section. For complete classification of title II to the Code, see Short Title note below and Tables.

SHORT TITLE

Pub. L. 106–577, title II, § 201, Dec. 28, 2000, 114 Stat. 3070, provided that: ''This title [enacting this section] may be cited as the 'Education Land Grant Act'.''

§ 480. Civil and criminal jurisdiction

The jurisdiction, both civil and criminal, over persons within national forests shall not be affected or changed by reason of their existence, except so far as the punishment of offenses against the United States therein is concerned; the intent and meaning of this provision being that the State wherein any such national forest is situated shall not, by reason of the establishment thereof, lose its jurisdiction, nor the inhabitants thereof their rights and privileges as citizens, or be absolved from their duties as citizens of the State.

(June 4, 1897, ch. 2, § 1, 30 Stat. 36; Mar. 1, 1911, ch. 186, § 12, 36 Stat. 963.)

CODIFICATION

Provisions substantially in the language of this section are contained in section 12 of act Mar. 1, 1911, applicable to national forest lands acquired on the recommendation of the National Forest Reservation Commission under sections 500, 515 to 519, 521, 552 and 563 of this title.

''National forests'' and ''national forest'' substituted in text for ''forest reservations'' and ''reservation'', respectively, on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

§ 481. Use of waters

All waters within the boundaries of national forests may be used for domestic, mining, milling, or irrigation purposes, under the laws of the State wherein such national forests are situated, or under the laws of the United States and the rules and regulations established thereunder.

(June 4, 1897, ch. 2, § 1, 30 Stat. 36.)

CODIFICATION

''National forests'' substituted in text for ''reservations'' and ''forest reservations'' on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

§ 482. Mineral lands; restoration to public domain; location and entry

Upon the recommendation of the Secretary of the Interior, with the approval of the President, after sixty days' notice thereof, published in two papers of general circulation in the State or Territory wherein any national forest is situated, and near the said national forest, any public lands embraced within the limits of any such forest which, after due examination by personal

inspection of a competent person appointed for that purpose by the Secretary of the Interior, shall be found better adapted for mining or for agricultural purposes than for forest usage, may be restored to the public domain. And any mineral lands in any national forest which have been or which may be shown to be such, and subject to entry under the existing mining laws of the United States and the rules and regulations applying thereto, shall continue to be subject to such location and entry, notwithstanding any provisions contained in sections 473 to 478, 479 to 482 and 551 of this title.

(June 4, 1897, ch. 2, §1, 30 Stat. 36.)

CODIFICATION

''National forest'' substituted in text for ''forest reservation'' twice and ''reservation'' once, on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with provisions of sections 473, 474 to 482, and 551 of this title with respect to preconstruction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

For transfer of certain functions with regard to the administration of national forests from Secretary of the Interior to Secretary of Agriculture, see section 472 of this title.

§ 482a. Mining rights in Prescott National Forest

On and after January 19, 1933, mining locations made under the United States mining laws upon lands within the municipal watershed of the city of Prescott, within the Prescott National Forest in the State of Arizona, specifically described as the west half southwest quarter section 13; south half section 14; southeast quarter, and east half southwest quarter section 15; east half, and south half southwest quarter section 22; all of section 23; west half section 24; all of sections 26 and 27; north half north half section 34; and north half north half section 35, township 13 north, range 2 west, Gila and Salt River Base and meridian, an area of three thousand six hundred acres, more or less, shall confer on the locator the right to occupy and use so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting and mining, including the taking of mineral deposits and timber required by or in the mining operations, and no permit shall be required or charge made for such use or occupancy: *Provided, however*, That the cutting and removal of timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the rules for timber cutting on adjoining national-forest land, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining and prospecting shall be allowed except under the national forest rules and regulations, nor shall the locator prevent or obstruct other occupancy of the surface or use of surface resources under authority of national-forest regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development.

On and after January 19, 1933, all patents issued under the United States mining laws affecting lands within the municipal watershed of the city of Prescott, within the Prescott National Forest, in the State of Arizona, shall convey title to the mineral deposits within the claim, together with the right to cut and remove so much of the mature timber therefrom as may be needed in extracting and removing the mineral deposits, if the timber is cut under sound principles of forest management as defined by the national-forest rules and regulations, but each patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the rules and regulations of the Department of Agriculture.

Valid mining claims within the municipal watershed of the city of Prescott, within the Prescott National Forest in the State of Arizona, existing on January 19, 1933, and thereafter maintained in compliance with the law under which they were initiated and the laws of the State of Arizona, may be perfected under this section, or under the laws under which they were initiated, as the claimant may desire.

(Jan. 19, 1933, ch. 12, §§1–3, 47 Stat. 771.)

§ 482b. Mount Hood National Forest; mining rights

On and after May 11, 1934, mining locations made under the United States mining laws upon lands within the Mount Hood National Forest in the State of Oregon shall confer on the locator the right to occupy and use so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting and mining, including the taking of mineral deposits and timber required by or in the mining operations, and no permit shall be required or charge made for such use or occupancy: *Provided, however*, That the cutting and removal of timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the rules for timber cutting on adjoining national-forest land, and no use of the surface of the claim or the resources there-

from not reasonably required for carrying on mining or prospecting shall be allowed except under the national-forest rules and regulations, nor shall the locator prevent or obstruct other occupancy of the surface or use of surface resources under authority of national-forest regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development.

(May 11, 1934, ch. 280, § 1, 48 Stat. 773.)

BULL RUN WATERSHED MANAGEMENT UNIT

Pub. L. 95–200, Nov. 23, 1977, 91 Stat. 1425, as amended by Pub. L. 104–208, div. B, title VI, §§ 601 to 604, Sept. 30, 1996, 110 Stat. 3009–541; Pub. L. 104–333, div. I, title X, § 1026(a), Nov. 12, 1996, 110 Stat. 4228; Pub. L. 107–30, §§ 1, 2(a), (c), Aug. 20, 2001, 115 Stat. 210, 211, provided that:

''PREAMBLE

''The Congress finds that an area of land in the State of Oregon known variously as the Bull Run National Forest and the Bull Run Forest Reserve is presently the source of the sole domestic water supply for the city of Portland, Oregon (hereinafter called the 'city') and other local governmental units and persons in the Portland metropolitan area, reserved for the city by a Presidential proclamation issued in 1892 and furnishing an extremely valuable resource of pure clear raw potable water, the continued production of which should be the principal management objective in the area hereinafter referred to as 'the unit'; that the said area is now managed under terms of a Federal court decree issued pursuant to turn of the century law which does not appropriately address present and future needs and opportunities for the protection, management, and utilization of the resources contained therein.

''SECTION 1. ESTABLISHMENT OF SPECIAL RESOURCES MANAGEMENT UNIT; DEFINITION OF SECRETARY

''(a) DEFINITION OF SECRETARY.—In this Act, the term 'Secretary' means—

''(1) with respect to land administered by the Secretary of Agriculture, the Secretary of Agriculture; and

''(2) with respect to land administered by the Secretary of the Interior, the Secretary of the Interior.

''(b) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established, subject to valid existing rights, a special resources management unit in the State of Oregon, comprising approximately 98,272 acres, as depicted on a map dated May 2000 and entitled 'Bull Run Watershed Management Unit'.

''(2) MAP.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of—

''(A) the Regional Forester-Pacific Northwest Region of the Forest Service; and

''(B) the Oregon State Director of the Bureau of Land Management.

''(3) BOUNDARY ADJUSTMENTS.—The Secretary may periodically make such minor adjustments in the boundaries of the unit as are necessary, after consulting with the city and providing for appropriate public notice and hearings.

''MANAGEMENT

''SEC. 2. (a) The unit and the renewable resources therein, shall be administered as a watershed by the Secretary in accordance with the laws, rules, and regulations applicable to land under the administrative jurisdiction of the Forest Service (in the case of land administered by the Secretary of Agriculture) or applicable to land under the administrative jurisdiction of the Bureau of Land Management (in the case of land administered by the Secretary of the Interior) except to the extent that any management plan or practice is found by the Secretary to have a significant adverse effect on compliance with the water quality standards referred to in section 2(c) hereof or on the quantity of the water produced thereon for the use of the city, and other local government units and persons using such water under agreements with the city (and the Secretary shall take into consideration the cumulative effect of individually insignificant degradations), in which case, and notwithstanding any other provision of law, the management plan and all relevant leases, permits, contracts, rights-of-way, or other rights or authorizations issued pursuant thereto shall forthwith be altered by the Secretary to eliminate such adverse effect by application of different techniques or prohibitions of one or more such practices or uses: *Provided, however*, That use of such water for the production of energy and the transmission of such energy through and over the unit are deemed consistent with the purposes of this Act and the rights-of-way heretofore granted to Bonneville Power Administration by the Forest Service through and over the unit are validated and confirmed and deemed consistent with the purposes of this Act.

''(b) TIMBER CUTTING.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall prohibit the cutting of trees on Federal land in the unit, as designated in section 1 and depicted on the map referred to in that section.

''(2) PERMITTED CUTTING.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall prohibit the cutting of trees in the area described in paragraph (1).

''(B) PERMITTED CUTTING.—Subject to subparagraph (C), the Secretary may only allow the cutting of trees in the area described in paragraph (1)—

''(i) for the protection or enhancement of water quality in the area described in paragraph (1); or

''(ii) for the protection, enhancement, or maintenance of water quantity available from the area described in paragraph (1); or

''(iii) for the construction, expansion, protection or maintenance of municipal water supply facilities; or

''(iv) for the construction, expansion, protection or maintenance of facilities for the transmission of energy through and over the unit or previously authorized hydroelectric facilities or hydroelectric projects associated with municipal water supply facilities.

''(C) SALVAGE SALES.—The Secretary may not authorize a salvage sale in the area described in paragraph (1).

''(c) The policy set forth in subsections (a) and (b) shall be attained through the development, maintenance, and periodic revision of land management plans in accordance with procedures set forth in section 5 [6] of the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 477, as amended; 16 U.S.C. 1604) (in the case of land administered by the Secretary of Agriculture) or section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) (in the case of land administered by the Secretary of the Interior), through the maintenance of systems for monitoring and evaluating water quality, and through supporting scientific research as the Secretary may deem necessary after consultation and in coordination with the city. In the development and revision of land management plans for the unit, the Secretary, except as otherwise provided in section 2(a) hereof, shall provide for public participation and shall consult and coordinate with appropriate officials and advisors of the city, and shall consider such data and research as the city may collect through its own monitoring systems and scientific efforts, if any. Such plans shall be prepared by an interdisciplinary team; be embodied in appropriate written material, including maps and other descriptive documents; shall contain water quality standards developed by the Secretary after consultation and in cooperation with the city, which standards shall be substantially based on and shall reflect a quality of water

not significantly less than the quality reflected by percentile curves developed from data collected from 1967 through 1975 and, if none, from data collected in the first three years of record thereafter; and be available to the public at convenient locations. The initial plan or plans shall be completed as soon as practicable after the enactment of this Act [Nov. 23, 1977], but not later than September 30, 1979. Current data shall be compared to historical data at least annually for the purpose of determining compliance with the standards and the significance of any deviation therefrom. Deviations occurring from operation, maintenance, alteration, or construction of water storage, or electrical generation and transmission facilities, seasonal fluctuations, variations in climate, and other natural phenomena, fire, or acts of God, shall not be considered in determining the historical or current percentile curves.

''(d) The Secretary or his representative shall, upon request, and at least annually, meet with appropriate officials of the city for the purpose of reviewing planned management programs and the impact thereof on the quality and quantity of the water produced on the unit and assuring that their respective management and operational activities within the unit are appropriately coordinated. The Secretary shall negotiate in good faith cooperative agreements with appropriate officials of the city to effectuate activity coordination.

''(e) In the event there is disagreement between the city and the Secretary with respect to the development or revision of the water quality standards provided for herein, or with respect to the effect or the significance of such effect of one or more proposed or existing programs, practices, uses, regulations, or boundary adjustments (except as otherwise specifically provided for herein), on the quantity of the water produced on said unit, or on compliance with the water quality standards referred to in section 2(a) and (b) [now (c)] hereof and, therefore, with respect to the necessity for an alteration or prohibition of any such program, practice, use, regulation, or boundary adjustment as required in section 2(a) hereof, an arbitration board for resolving such disagreements shall be established. The Secretary and the city shall, each, forthwith appoint one member to such board and those two members shall select a third. In the event agreement cannot be reached on the third member within seven days after the appointment of the first two, the third member shall be appointed by the presiding judge of the United States District Court for the District of Oregon within seven days after being notified of such disagreement by either of the first two members. All of said members shall be qualified to make a scientific determination of the facts. The contentions of the city and the Secretary shall be submitted to the board in the form of written contentions of fact together with the evidence and analysis that tends to support the position being presented. The board shall forthwith consider and decide, on a scientific basis, the issues in disagreement by majority vote, taking into consideration the evidence and data presented by the parties and such other tests and data which the board by majority vote may require. The decision of such board shall be in the form of written findings of fact and conclusions based thereon and shall be final and binding on the parties. The Secretary and the city shall compensate their designees and share equally the compensation of the third member, and shall provide such technical and administrative support as required.

''(f) The Secretary is authorized, after consultation with the city, to promulgate regulations for controlling entry into the unit by all persons including but not limited to—

''(1) employees or contractors of the city engaged in the inspection, maintenance, construction, or improvement of the city's facilities;

''(2)(i) Federal, State, and local government officers and (ii) employees thereof acting in an official capacity;

''(3) Federal, State, and local government permittees and contractors conducting authorized activities;

''(4) members of advisory groups formed pursuant to this Act or ordinances of the city in the performance of their official duties:

Provided, That no regulation promulgated pursuant to this subsection shall prohibit ingress or egress to non-Federal lands or to authorized occupancies on, or uses of, Federal lands: *Provided further*, That the Secretary may independently and directly prohibit or restrict all entry into the unit during fire or other emergencies as he may determine.

''EFFECT ON OTHER LAWS

''SEC. 3. (a) Nothing in this Act shall terminate or affect any lease, permit, contract, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act [Nov. 23, 1977] and otherwise valid except for the provisions of section 1862 of title 18 of the United States Code.

''(b) Nothing in this Act shall in any way affect any law governing appropriation or use of, or Federal right to, water on National Forest System lands; or as expanding or diminishing Federal, State, or local jurisdiction, responsibility, interests, or rights in water resources development or control.

''(c) Section 1862 of title 18 of the United States Code is hereby repealed.

''(d) Except as otherwise provided for herein, this Act shall take precedence over and supersede all State and local laws dealing with or affecting the subject matter of this Act.

''(e) Challenge to actions taken by any governmental unit or official under the provisions of this Act shall not be sustained by any court except upon a showing or arbitrary, unreasonable, capricious, or illegal action or an absence of substantial good faith compliance with the procedural provisions hereof substantially prejudicing the rights of an interested party.''

§ 482c. Patents affecting forest lands

On and after May 11, 1934, all patents issued under the United States mining laws affecting lands within the Mount Hood National Forest within the State of Oregon shall convey title to the mineral deposits within the claim, together with the right to cut and remove so much of the timber therefrom as may be needed in extracting and removing the mineral deposits, if the timber is cut under sound principles of forest management as defined by the national-forest rules and regulations, but each patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the rules and regulations of the Forest Service.

(May 11, 1934, ch. 280, § 2, 48 Stat. 773.)

§ 482d. Perfection of claims within forest

Valid mining claims within the Mount Hood National Forest in the State of Oregon existing on May 11, 1934, and thereafter maintained in compliance with the law under which they were initiated and the laws of the State of Oregon, may be perfected under sections 482b and 482c of this title, or under the law under which they were initiated, as the claimant may desire.

(May 11, 1934, ch. 280, § 3, 48 Stat. 773.)

§ 482e. Lincoln National Forest; mining rights

On and after June 13, 1939, mining locations made under the United States mining laws upon

lands within the watershed of the headwaters of the Bonito River in the Lincoln National Forest within the State of New Mexico, specifically described as those certain pieces or parcels of land situate, lying, and being in the county of Lincoln, State of New Mexico, described as follows:

The east half east half section 12, east half east half section 13, east half northeast quarter section 24, township 10 south, range 10 east, New Mexico principal meridian; southeast quarter section 25, southwest quarter section 26, south half section 27, southeast quarter and south half southwest quarter section 28, southeast quarter section 31, and all of sections 32, 33, 34, 35, and 36, township 9 south, range 11 east, New Mexico principal meridian; all of sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 27, 28, and 29, north half section 19, north half and southwest quarter section 24, northwest quarter section 26, north half northeast quarter section 32, and north half north half section 33, township 10 south, range 11 east, New Mexico principal meridian; southwest quarter section 25, south half of fractional section 26, all of fractional section 35, and all of section 36, township 9 south, range 12 east, New Mexico principal meridian; all of section 1, all of fractional section 2, all of fractional section 11, all of section 12, all of section 13, all of fractional section 14, north half of fractional section 23, and north half section 24, township 10 south, range 12 east, New Mexico principal meridian; having an area of approximately thirty-nine and three hundred and seventy-six one-thousandths square miles, shall confer on the locator the right to occupy and use only so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting and mining, including the taking of mineral deposits and timber required by or in the mining operations, and no permit shall be required or charge made for such use or occupancy: *Provided, however*, That the cutting and removal of timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the rules for timber cutting on adjoining national-forest land, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining and prospecting shall be allowed except under the national-forest rules and regulations, nor shall the locator prevent or obstruct other occupancy of the surface or use of surface resources under authority of national-forest regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development.

(June 13, 1939, ch. 201, § 1, 53 Stat. 817.)

§ 482f. Patents affecting forest lands

On and after June 13, 1939, all patents issued under the United States mining laws affecting lands within the watershed of headwaters of the Bonito River in the Lincoln Forest, in the State of New Mexico, shall convey title to the mineral deposits within the claim, together with the right to cut and remove so much of the mature timber therefrom as may be needed in extracting and removing the mineral deposits, if the timber is removed in accordance with the rules for timber cutting on adjoining national-forest land, but each patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the rules and regulations of the Department of Agriculture.

(June 13, 1939, ch. 201, § 2, 53 Stat. 818.)

§ 482g. Perfection of claims within forest

Valid mining claims within the watershed of the headwaters of the Bonito River in the Lincoln National Forest, within the State of New Mexico, as above described, existing on June 13, 1939, and thereafter maintained in compliance with the law under which they were initiated and the laws of the State of New Mexico, may be perfected under sections 482e and 482f of this title, or under the laws under which they were initiated, as the claimant may desire.

(June 13, 1939, ch. 201, § 3, 53 Stat. 818.)

§ 482h. Coronado National Forest; mining rights

On and after March 15, 1940, mining locations made under the mining laws of the United States upon lands within four hundred feet of the center line of the Catalina Highway, Coronado National Forest, Arizona, which highway begins at the south boundary of said national forest near the southeast corner of section 7, township 13 south, range 16 east, Gila and Salt River base and meridian, and runs in a general northerly direction for a distance of about twenty-five miles to Soldier Camp, shall confer on the locator no right to the surface of the land described in his location other than the right to occupy and use, under the rules and regulations relating to the administration of the Coronado National Forest, so much thereof as may be reasonably necessary to carry on prospecting and mining, and shall not authorize the taking of any resource other than the mineral deposits, or the occupancy of said land for any purpose other than prospecting and mining; and each patent issued thereafter under the United States mining laws upon a mineral location made upon lands within four hundred feet of said center line shall convey title only to the mineral deposits within said land and the right, subject to rules and regulations relating to the national forests, to occupy and use the surface of the land for prospecting and mining only: *Provided*, That valid mining claims within said lands existing on March 15, 1940, and thereafter maintained in compliance with the laws under which they were initiated and the laws of the State of Arizona may be perfected in accordance with the laws under which they were initiated.

(Mar. 15, 1940, ch. 59, 54 Stat. 52.)

§ 482h–1. Protection of scenic values of forest

On and after June 11, 1946, mining locations made under mining laws of the United States within the following-described lands within the Coronado National Forest, Pima County, Arizona: Sections 25, 26, 35, and 36, and the east half

of section 34, township 11 south, range 15 east; sections 30, 31, 32, and 33, and the west half of section 29, township 11 south, range 16 east; sections 1, 2, and 3, township 12 south, range 15 east; sections 3, 4, 5, 6, 7, 8, 9, 10, 15, and 16, the west half of section 11, the west half of section 14, and the northwest quarter of section 23, township 12 south, range 16 east; Gila and Salt River base and meridian, shall confer on the locator the right to occupy and use so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting, mining, and beneficiation of ores including the taking of mineral deposits and timber required by or in the mining and ore reducing operations, and no permit shall be required or charge made for such use or occupancy: *Provided, however*, That the cutting and removal of timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the rules for timber cutting on adjoining national-forest land, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining and prospecting shall be allowed except under the national-forest rules and regulations, nor shall the locator prevent or obstruct other occupancy of the surface or use of surface resources under authority of national-forest regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development.

(June 11, 1946, ch. 377, § 1, 60 Stat. 254.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

§ 482h–2. Cutting of timber; reservation of patent rights

On and after June 11, 1946, all patents issued under the United States mining laws affecting lands within the above-described area shall convey title to the mineral deposits within the claim, together with the right to cut and remove so much of the mature timber therefrom as may be needed in extracting and removing and beneficiation of the mineral deposits, if the timber is cut under sound principles of forest management as defined by the national-forest rules and regulations, but each patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the rules and regulations of the Department of Agriculture.

(June 11, 1946, ch. 377, § 2, 60 Stat. 255.)

§ 482h–3. Perfection of mining claims

Valid mining claims within the said lands, existing on June 11, 1946, and thereafter maintained in compliance with the law under which they were initiated and the laws of the State of Arizona, may be perfected under sections 482h–1 to 482h–3 of this title, or under the laws under which they were initiated, as the claimant may desire.

(June 11, 1946, ch. 377, § 3, 60 Stat. 255.)

§ 482i. Plumas National Forest; offer of lands; additions; mining rights

Within the following-described areas any lands not in Government ownership which are found by the Secretary of Agriculture to be chiefly valuable for national-forest purposes may be offered in exchange under the provisions of sections 485 and 486 of this title, upon notice as therein provided and upon acceptance of title, shall become parts of the Plumas National Forest; and any of such described areas in Government ownership found by the Secretaries of Agriculture and the Interior to be chiefly valuable for national-forest purposes and not now parts of any national forest may be added to said national forest as herein provided by proclamation of the President, subject to all valid claims and provisions of existing withdrawals: *Provided*, That any lands received in exchange under the provisions of this section shall be open to mineral locations, mineral development, and patent in accordance with the mining laws of the United States:

Township 18 north, range 7 east, Mount Diablo base and meridian, California: Sections 3, 4, 5, 9, 10, 11, 12, 13, 15, 22, 23, 26, and 27.

(June 5, 1942, ch. 334, 56 Stat. 311.)

§ 482j. Santa Fe National Forest; mining rights; protection of scenic values

On and after June 10, 1949, mining locations made under mining laws of the United States within the following-described lands within the Santa Fe National Forest, Santa Fe, New Mexico: Sections 1, 2, 3, the northeast quarter of section 11 and the north half of section 12, in surveyed township 17 north, range 10 east; sections 12, 13, 14, 15, 16, 36, and that portion of section 25, outside the boundaries of the Gabaldon Grant in surveyed township 18 north, range 10 east; three thousand eight hundred and forty acres, more or less, in unsurveyed township 18 north, range 11 east, expected to be legally described, when surveyed, as sections 7, 8, 18, 19, and 30, the northeast quarter of section 17, the west half of section 17 and the west half of section 20, township 18 north, range 11 east, New Mexico principal meridian, shall confer on the locator the right to occupy and use so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting, mining, and beneficiation of ores including the taking of mineral deposits and timber required by or in the mining and ore reducing operations, and no permit shall be required or charge made for such use or occupancy: *Provided, however*, That the cutting and removal of timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the rules for timber cutting on adjoining national-forest land, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining and pros-

pecting shall be allowed except under the national-forest rules and regulations, nor shall the locator prevent or obstruct other occupancy of the surface or use of surface resources under authority of national-forest regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development.

(June 10, 1949, ch. 190, § 1, 63 Stat. 168.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

§ 482k. Patents affecting forest lands

On and after June 10, 1949, all patents issued under the United States mining laws affecting lands within the above-described area shall convey title to the mineral deposits within the claim, together with the right to cut and remove so much of the mature timber therefrom as may be needed in extracting and removing and beneficiation of the mineral deposits, if the timber is cut under sound principles of forest management as defined by the national-forest rules and regulations, but each patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the rules and regulations of the Department of Agriculture.

(June 10, 1949, ch. 190, § 2, 63 Stat. 168.)

§ 482*l*. Perfection of mining claims within forest

Valid mining claims within the said lands, existing on June 10, 1949, and thereafter maintained in compliance with the law under which they were initiated and the laws of the State of New Mexico, may be perfected under sections 482j to 482*l* of this title, or under the laws under which they were initiated, as the claimant may desire.

(June 10, 1949, ch. 190, § 3, 63 Stat. 169.)

§ 482m. Teton National Forest in Wyoming; additional lands

The following-described lands of the Jackson Hole National Monument are made a part of the Teton National Forest and shall be administered hereafter in accordance with the laws applicable to said forest:

SIXTH PRINCIPAL MERIDIAN

Township 45 north, range 113 west: Section 21, lot 5; section 22, lots 2 and 6; section 23, lot 3; section 26, lots 2, 3, 6, 7, southwest quarter northwest quarter, southwest quarter and southwest quarter southeast quarter; section 27, lots 1, 2, 4, 6, 7, 8, 9, southeast quarter northeast quarter and south half; section 28, lot 1, southeast quarter northeast quarter and east half southeast quarter; section 29, lots 2, 4, 5, 6, 8, southwest quarter northeast quarter, northwest quarter southeast quarter, south half northwest quarter, and north half southwest quarter; section 30, lot 7, south half northeast quarter, north half southeast quarter and southeast quarter southeast quarter; section 31, lots 1 and 2; section 32, lots 2 and 5; section 33, east half northeast quarter and northeast quarter southeast quarter; section 34, north half and north half south half; section 35, north half, containing in all two thousand eight hundred six and thirty-four one-hundredths acres, more or less.

(Sept. 14, 1950, ch. 950, § 3, 64 Stat. 850.)

REFERENCES IN TEXT

The Jackson Hole National Monument, referred to in text, was created in Wyoming by Presidential Proc. No. 2578, Mar. 15, 1943, 57 Stat. 731. For provisions transferring other lands of such former national monument, see sections 406d–1 and 673b of this title.

REVOCATION OF TEMPORARY WITHDRAWALS OF PUBLIC LANDS

Revocation of temporary withdrawals of public lands in aid of legislation pertaining to parks, monuments, etc., adjacent to Grand Teton National Park in Wyoming, see note under section 406d–1 of this title.

REPEAL OF INCONSISTENT LAWS

Repeal of laws inconsistent with act Sept. 14, 1950, see note set out under section 406d–1 of this title.

§ 482n. Coconino National Forest; mining rights; protection of scenic values

On and after May 24, 1949, mining locations made under the mining laws of the United States within the following-described lands within the Coconino National Forest, Coconino County, Arizona: Sections 14, 15, 19, 20, 22, 27, 28, 29, 34, of township 19 north, range 6 east; and sections 4, 5, 8, 9, 16, 17, 20, 21, 22, 27, 28, 33, and 34 of township 18 north, range 6 east; and sections 1, 2, 3, 4, southeast quarter of section 8, sections 9, 10, 11, and 12, of township 17 north, range 6 east; Gila and Salt River base and meridian, shall confer on the locator the right to occupy and use so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting, mining, and beneficiation of ores including the taking of mineral deposits and timber required by or in the mining and ore reducing operations, and no permit shall be required or charge made for such use or occupancy: *Provided*, *however*, That the cutting and removal of timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the rules for timber cutting on adjoining national-forest land, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining and prospecting shall be allowed except under the national-forest rules and regulations, nor shall the locator prevent or obstruct other occupancy of the surface or use of surface resources under authority of national-forest regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development.

(May 24, 1949, ch. 136, § 1, 63 Stat. 75.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

§ 482n–1. Cutting of timber within forest; reservation of patent rights

On and after May 24, 1949, all patents issued under the United States mining laws affecting lands within the above-described area shall convey title to the mineral deposits within the claim, together with the right to cut and remove so much of the mature timber therefrom as may be needed in extracting and removing and beneficiation of the mineral deposits, if the timber is cut under sound principles of forest management as defined by the national-forest rules and regulations, but each patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the rules and regulations of the Department of Agriculture.

(May 24, 1949, ch. 136, § 2, 63 Stat. 75.)

§ 482n–2. Perfection of mining claims within forest

Valid mining claims within the said lands, existing on May 24, 1949, and thereafter maintained in compliance with the law under which they were initiated and the laws of the State of Arizona, may be perfected under sections 482n to 482n–3 of this title, or under the laws under which they were initiated, as the claimant may desire.

(May 24, 1949, ch. 136, § 3, 63 Stat. 76.)

REFERENCES IN TEXT

May 24, 1949, referred to in text, was in the original ''the date of enactment of this Act''. The date thus referred to is deemed to relate to the date of enactment of section 482n–3 of this title, May 19, 1955, as applied to any land described in section 482n–3 of this title.

§ 482n–3. Sedona-Oak Creek area

The provisions of sections 482n to 482n–2 of this title are extended to the following-described lands within the Coconino National Forest, Coconino and Yavapai Counties, Arizona:

Sections 8, 9, 10, 15, 16, 17, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, and the southwest quarter of section 25, township 18 north, range 4 east;

Sections 13, 14, 15, 20, 21, 22, 23, 24, 25, 26, 27, 28, 31, 32, 33, 34, 35, 36, and the east half of the east half of section 29, township 18 north, range 5 east;

Sections 18, 19, 29, 30, 31, and 32, township 18 north, range 6 east;

Sections 1 to 36, inclusive, township 17 north, range 5 east;

Sections 5, 6, 7, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and all of section 8 except the southeast quarter, township 17 north, range 6 east;

Sections 11, 12, 13, 14, 23, and 24, township 16 north, range 5 east.

Sections 7, 8, 9, 10, 16, 17, 18, 19, and 20, township 16 north, range 6 east, Gila and Salt River Base and meridian: *Provided, however*, That as applied to any lands described in this section, the word ''hereinafter'' in sections 482n and 482n–1 of this title and the words ''date of the enactment of this Act'' in section 482n–2 of this title, shall be deemed to relate to the date of the enactment of this section.

(May 24, 1949, ch. 136, § 4, as added May 19, 1955, ch. 42, 69 Stat. 50.)

REFERENCES IN TEXT

The words ''date of the enactment of this Act'' as relating to section 482n–2 of this title changed to ''May 24, 1949'', for purposes of codification in section 482n–2. The word ''hereinafter'' does not appear in sections 482n and 482n–1 of this title, but the word ''Hereafter'' was changed to ''On and after May 29, 1942'' in those sections for purposes of codification.

The date of the enactment of this section, referred to in text, is May 19, 1955.

§ 482*o*. Kaibab National Forest; mining rights; protection of scenic values

On and after July 12, 1951 mining locations made under the mining laws of the United States within the following-described lands within the Kaibab National Forest, Coconino County, Arizona:

Sections 2, 11, 12, 13, 14, 23, and 26, township 22 north, range 2 east;

Sections 1, 12, and 13, township 28 north, range 2 east;

Sections 1, 12, 13, 24, 25, and 36, township 29 north, range 2 east;

Sections 13, 24, 25, and 36, township 30 north, range 2 east;

Section 18, township 30 north, range 3 east;

Sections 12 and 13, township 30 north, range 5 east;

Sections 7, 18, 19, 29, 30, 32, and 33, township 30 north, range 6 east;

Sections 3 and 4, township 29 north, range 6 east, Gila and Salt River Base and meridian; and also those mining locations made under the mining laws of the United States on public domain lands within those particular sections of townships 23 north, 24 north, 25 north, 26 north, 27 north, and 28 north, all in range 2 east, Gila and Salt River Base and meridian, through which there extends Arizona State Highway numbered 64 and a strip of land one thousand feet wide on each side of the center line of the right-of-way thereof; shall confer on the locator the right to occupy and use so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting, mining, and beneficiation of ores, including the taking of mineral deposits and timber required by or in the mining and ore-reducing operations, and no permit shall be required or charge made for such use or occupancy: *Provided*, *however*, That the cutting and removal of timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the rules for timber cutting on adjoining national-forest land, or rules and regulations issued by the Secretary of the Interior under sections 482*o* to 482q of this title with respect to public domain lands under his jurisdiction, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining and prospecting shall be al-

lowed except under the national-forest rules and regulations or rules and regulations of the Secretary of the Interior, as the case may be, nor shall the locator prevent or obstruct other occupancy of the surface or use of surface resources under authority of such regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development.

(July 12, 1951, ch. 222, § 1, 65 Stat. 118.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

§ 482p. Patents affecting lands within forest

On and after July 12, 1951, all patents issued under the United States mining laws affecting lands within the above-described area shall convey title to the mineral deposits within the claim, together with the right to cut and remove so much of the mature timber therefrom as may be needed in extracting and removing and beneficiation of the mineral deposits, if the timber is cut under sound principles of forest management as defined by such rules and regulations, but each patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the rules and regulations of the Department of Agriculture or the Department of the Interior, respectively.

(July 12, 1951, ch. 222, § 2, 65 Stat. 118.)

§ 482q. Perfection of mining claims within forest

Valid mining claims within the said lands, existing on July 12, 1951, and thereafter maintained in compliance with the law under which they were initiated and the laws of the State of Arizona, may be perfected under sections 482*o* to 482q of this title, or under the laws under which they were initiated, as the claimant may desire.

(July 12, 1951, ch. 222, § 3, 65 Stat. 119.)

§§ 483, 484. Repealed. Pub. L. 86–596, § 3, July 6, 1960, 74 Stat. 335

Sections, act Sept. 22, 1922, ch. 404, §§1, 2, 42 Stat. 1017, related to exchange of lands in national forests with persons who have relinquished lands as basis for lieu selection, procedure, relinquishment of original lands to such persons, and selection of other lands in lieu of lands relinquished.

§ 484a. Exchange of lands in national forests; public schools; deposit of funds by school authority with insufficient exchange land; limitations on use

Whenever an exchange of land is proposed by a State, county, or municipal government or public school district or other public school authority under sections 485 and 486 of this title or other authority under which the Secretary of Agriculture is authorized to exchange national forest lands or other lands administered by the Forest Service, if the State, county, or municipal government or public school authority proposing the exchange has insufficient land to offer, the exchange may be completed upon deposit with the Secretary of Agriculture of a portion or all of the value of the selected land. Any amount so deposited shall be covered into a special fund in the Treasury which when appropriated shall be available until expended by the Secretary of Agriculture for the acquisition of lands in the same State as the selected lands and which are determined by him to be suitable for the same purposes as the selected lands. Lands so acquired shall have the same status and shall be subject to the same laws, regulations, and rules as the selected lands.

The provisions of this section shall not be applicable to the conveyance in exchange of more than eighty acres to any one State, county, or municipal government or public school district or other public school authority. Lands may be conveyed to any State, county, or municipal government pursuant to this section only if the lands were being utilized by such entities on January 12, 1983. Lands so conveyed may be used only for the purposes for which they were being used prior to conveyance.

(Pub. L. 90–171, Dec. 4, 1967, 81 Stat. 531; Pub. L. 97–465, § 8, Jan. 12, 1983, 96 Stat. 2536.)

AMENDMENTS

1983—Pub. L. 97–465 inserted references to State, county, or municipal government in three places in existing provisions and inserted provision authorizing the conveyance of lands to any State, county, or municipal government pursuant to this section only if the lands were being utilized by such entities on January 12, 1983, and requiring that lands so conveyed be used only for the purposes for which they were being used prior to conveyance.

SHORT TITLE

This section is popularly known as the Sisk Act.

§ 485. Exchange of lands in national forests; cutting timber in national forests in exchange for lands therein

When the public interests will be benefited thereby, the Secretary of Agriculture is authorized in his discretion to accept on behalf of the United States title to any lands within the exterior boundaries of the national forests which, in his opinion, are chiefly valuable for national-forest purposes, and in exchange therefor may patent not to exceed an equal value of such national-forest land, in the same State, surveyed and nonmineral in character, or he may authorize the grantor to cut and remove an equal value of timber within the national forests of the same State; the values in each case to be determined by him. Before any such exchange is effected notice of the contemplated exchange reciting the lands involved shall be published once each week for four successive weeks in some newspaper of general circulation in the county or counties in which may be situated the lands to be accepted, and in some like newspaper published in any county in which may be situated any lands or timber to be given in such exchange. Timber given in such exchanges shall be cut and removed under the laws and regulations relating to the national forests, and under the direction and supervision and in accordance

with the requirements of the Secretary of Agriculture. Lands conveyed to the United States under this section and section 486 of this title shall, upon acceptance of title, become parts of the national forest within whose exterior boundaries they are located.

(Mar. 20, 1922, ch. 105, §1, 42 Stat. 465; Pub. L. 86–509, §1(a), June 11, 1960, 74 Stat. 205.)

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior under this section and section 486 of this title, with respect to exchanges of non-Federal lands for national forest lands or timber, transferred to Secretary of Agriculture, see Pub. L. 86–509, June 11, 1960, 74 Stat. 205, set out as a note under section 2201 of Title 7, Agriculture.

''Secretary of Agriculture is authorized'', ''in his opinion'', ''he may authorize'' and ''the values in each case to be determined by him'' substituted in text for ''Secretary of the Interior is authorized'', ''in the opinion of the Secretary of Agriculture'', ''the Secretary of Agriculture may authorize'' and ''the values in each case to be determined by the Secretary of Agriculture'', respectively, in view of transfer of functions under this section to Secretary of Agriculture from Secretary of the Interior by section 1(a) of Pub. L. 86–509, set out as a note under section 2201 of Title 7.

§ 485a. Omitted

CODIFICATION

Section, act Aug. 2, 1935, ch. 424, 49 Stat. 508, related to lands adjacent to Chelan National Forest. See Codification note set out under sections 486a to 486w of this title.

§ 486. Exchange of lands in national forests; reservations of timber, minerals, or easements

Either party to an exchange may make reservations of timber, minerals, or easements, the values of which shall be duly considered in determining the values of the exchanged lands. Where reservations are made in lands conveyed to the United States the right to enjoy them shall be subject to such reasonable conditions respecting ingress and egress and the use of the surface of the land as may be deemed necessary by the Secretary of Agriculture; where mineral reservations are made in lands conveyed by the United States it shall be so stipulated in the patents, and that any person who acquires the right to mine and remove the reserved deposits may enter and occupy so much of the surface as may be required for all purposes incident to the mining and removal of the minerals therefrom, and may mine and remove such minerals upon payment to the owner of the surface for damages caused to the land and improvements thereon. All property, rights, easements, and benefits authorized by this section to be retained by or reserved to owners of lands conveyed to the United States shall be subject to the tax laws of the States where such lands are located.

(Mar. 20, 1922, ch. 105, §2, as added Feb. 28, 1925, ch. 375, 43 Stat. 1090.)

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior under this section and section 485 of this title, with respect to exchanges of non-Federal lands for national forest lands or timber, transferred to Secretary of Agriculture, see Pub. L. 86–509, June 11, 1960, 74 Stat. 205, set out as a note under section 2201 of Title 7, Agriculture.

APPLICATION EXTENDED

Act June 25, 1935, ch. 308, 49 Stat. 422, provided that this section should be extended and made applicable to exchanges of lands under acts Feb. 14, 1923, ch. 75, 42 Stat. 1245, and Feb. 7, 1929, ch. 160, 45 Stat. 1154, which authorize the United States to acquire privately owned lands situated within certain townships in the Lincoln National Forest in the State of New Mexico, by exchanging therefor an equal value of unreserved and unappropriated public lands within said State.

§§ 486a to 486w. Omitted

CODIFICATION

Exchanges of lands in or adjacent to national forests were authorized by Congress in the following instances:

Absaroka National Forest—Act May 26, 1926, ch. 399, §4, 44 Stat. 656.

Arapaho National Forest—Acts Mar. 3, 1927, ch. 340, 44 Stat. 1378; Dec. 31, 1974, Pub. L. 93–575, 88 Stat. 1878.

Ashley National Forest—Act Jan. 26, 1931, ch. 44, 46 Stat. 1040.

Black Hills National Forest—Acts Feb. 15, 1927, ch. 152, 44 Stat. 1099; June 15, 1938, ch. 388, 52 Stat. 686.

Boise National Forest—Acts July 1, 1930, ch. 85, 46 Stat. 841; May 17, 1934, ch. 292, 48 Stat. 779; June 5, 1942, ch. 342, §1, 56 Stat. 320; July 17, 1959, Pub. L. 86–92, 73 Stat. 218; Pub. L. 106–493, §1, Nov. 9, 2000, 114 Stat. 2213.

Cache National Forest—Acts May 14, 1914, ch. 89, 38 Stat. 377; Feb. 17, 1917, ch. 86, 39 Stat. 922; Feb. 28, 1919, chs. 73, 77, 40 Stat. 1204, 1208; Feb. 25, 1932, ch. 57, 47 Stat. 55.

Calaveras Bigtree National Forest—Acts Feb. 18, 1909, ch. 143, 35 Stat. 627; May 7, 1912, ch. 105, 37 Stat. 108.

Caribou National Forest—Acts Apr. 18, 1914, ch. 63, 38 Stat. 346; June 5, 1920, ch. 262, 41 Stat. 1056; June 16, 1948, ch. 476, 62 Stat. 455.

Carson National Forest—Acts Apr. 21, 1926, ch. 167, 44 Stat. 303; Apr. 16, 1928, ch. 378, 45 Stat. 431; May 31, 1949, ch. 152, 63 Stat. 144; Oct. 9, 1972, Pub. L. 92–474, 86 Stat. 790.

Challis National Forest—Act Apr. 10, 1928, chs. 339, 340, 45 Stat. 415.

Chattahoochee National Forest—Act July 20, 1956, ch. 656, 70 Stat. 594.

Chelan National Forest—Act Aug. 2, 1935, ch. 424, 49 Stat. 508.

Chippewa National Forest—Acts June 8, 1940, ch. 285, §3, 54 Stat. 255; Oct. 5, 1949, ch. 597, 63 Stat. 702.

Cleveland National Forest—Act June 11, 1942, ch. 407, 56 Stat. 358.

Cochetopa National Forest—Act May 3, 1934, ch. 192, 48 Stat. 658.

Colorado National Forest—Acts Sept. 8, 1916, ch. 474, 39 Stat. 848; June 4, 1920, ch. 225, 41 Stat. 757; June 2, 1924, ch. 230, 43 Stat. 252; June 9, 1926, ch. 515, §1, 44 Stat. 714.

Columbia National Forest—Act Aug. 12, 1937, ch. 588, 50 Stat. 622.

Colville National Forest—Act Mar. 4, 1927, ch. 493, 44 Stat. 1412.

Crater National Forest—Acts Feb. 11, 1920, ch. 69, 41 Stat. 405; Apr. 23, 1928, chs. 414, 415, 45 Stat. 450.

Crow Creek National Forest—Act Mar. 13, 1908, ch. 84, 35 Stat. 42.

Custer National Forest—Act Mar. 3, 1925, ch. 440, 43 Stat. 1117.

Deschutes National Forest—Acts Feb. 2, 1922, ch. 46, 42 Stat. 362; May 24, 1935, ch. 140, 49 Stat. 288.

Dixie National Forest—Act Mar. 7, 1942, ch. 162, §2, 56 Stat. 142.

Eldorado National Forest—Act Feb. 20, 1925, ch. 272, 43 Stat. 954.

Fishlake National Forest—Act July 28, 1914, ch. 212, 38 Stat. 556.

Fremont National Forest—Acts May 14, 1930, ch. 270, 46 Stat. 278; Apr. 14, 1934, ch. 138, 48 Stat. 590.

Gallatin National Forest—Act May 26, 1926, ch. 399, §5, 44 Stat. 656.

Gunnison National Forest—Acts Apr. 23, 1928, ch. 416, 45 Stat. 451; Mar. 4, 1933, ch. 277, 47 Stat. 1569.

Harney National Forest—Acts Feb. 15, 1927, ch. 152, 44 Stat. 1099; Oct. 6, 1949, ch. 620, 63 Stat. 708.

Helena National Forest—Act Apr. 23, 1930, ch. 206, 46 Stat. 250.

Idaho National Forest—Acts Oct. 17, 1919, ch. 88, 41 Stat. 324; Apr. 10, 1928, ch. 338, 45 Stat. 415; June 30, 1932, ch. 332, 47 Stat. 474.

Idaho, national forests in—Act Apr. 30, 1934, ch. 172, 48 Stat. 649.

Kaniksu National Forest—Acts May 26, 1938, ch. 279, 52 Stat. 443; Aug. 10, 1939, ch. 661, 53 Stat. 1347; June 14, 1965, Pub. L. 89–39, 79 Stat. 129.

Kansas National Forest—Act Feb. 28, 1911, ch. 181, 36 Stat. 960.

Klamath National Forest—Act June 22, 1938, ch. 565, 52 Stat. 836.

Lassen National Forest—Acts June 3, 1924, ch. 238, 43 Stat. 356; June 22, 1938, chs. 564, 566, 52 Stat. 835, 838.

Lemhi National Forest—Act Mar. 1, 1921, ch. 101, 41 Stat. 1199.

Lincoln National Forest—Acts Feb. 14, 1923, ch. 75, 42 Stat. 1245; Feb. 7, 1929, ch. 160, 45 Stat. 1154; June 25, 1935, ch. 308, 49 Stat. 422.

Malheur National Forest—Acts Mar. 8, 1922, ch. 97, 42 Stat. 416; June 17, 1940, ch. 392, 54 Stat. 402.

Manti National Forest—Act Mar. 26, 1928, ch. 250, 45 Stat. 370.

Manzano National Forest—Act Apr. 16, 1928, ch. 378, 45 Stat. 431.

Medicine Bow National Forest—Acts June 7, 1924, ch. 307, 43 Stat. 594; Apr. 13, 1926, ch. 131, 44 Stat. 248; Aug. 20, 1935, ch. 576, 49 Stat. 662.

Minam National Forest—Act Mar. 3, 1919, ch. 107, 40 Stat. 1319.

Minidoka National Forest—Act Jan. 11, 1922, ch. 24, 42 Stat. 355.

Minnesota, national forests in—Act Dec. 7, 1942, ch. 691, 56 Stat. 1042.

Missoula National Forest—Acts Feb. 17, 1917, ch. 85, 39 Stat. 922; May 17, 1928, ch. 611, 45 Stat. 598; Mar. 1, 1929, ch. 425, 45 Stat. 1426.

Modoc National Forest—Acts Mar. 3, 1919, ch. 102, 40 Stat. 1316; Mar. 4, 1933, ch. 272, 47 Stat. 1563; June 22, 1938, ch. 564, 52 Stat. 835; Aug. 4, 1947, ch. 461, 61 Stat. 739.

Modoc, Shasta, and Lassen National Forests—Act June 22, 1938, ch. 564, 52 Stat. 835.

Montana, national forests in—Act Jan. 30, 1929, ch. 122, 45 Stat. 1145.

Montezuma National Forest—Act May 22, 1928, ch. 686, 45 Stat. 711.

Mount Hood National Forest—Acts Feb. 28, 1925, ch. 372, 43 Stat. 1079; May 21, 1934, ch. 317, 48 Stat. 785.

National forests in Montana—Act Jan. 30, 1929, ch. 122, 45 Stat. 1145.

New Mexico, national forests in—Act June 15, 1926, ch. 590, §1, 44 Stat. 747.

Nez Perce National Forest—Act Mar. 1, 1921, ch. 96, 41 Stat. 1196.

Nicolet National Forest—Act June 19, 1948, ch. 550, 62 Stat. 534.

Ochoco National Forest—Acts June 24, 1914, ch. 123, 38 Stat. 387; Feb. 11, 1920, ch. 67, 41 Stat. 404; June 15, 1938, ch. 397, 52 Stat. 692; June 8, 1940, ch. 279, 54 Stat. 251.

Olympic National Forest—Acts Sept. 22, 1922, ch. 424, 42 Stat. 1036; June 29, 1938, ch. 812, 52 Stat. 1241.

Oregon National Forest—Acts Oct. 21, 1918, ch. 192, 40 Stat. 1015; Feb. 11, 1920, ch. 69, 41 Stat. 405; May 20, 1920, ch. 191, 41 Stat. 605.

Paulina (Oregon) National Forest—Act July 25, 1912, ch. 252, 37 Stat. 200.

Payette National Forest—Acts Oct. 17, 1919, ch. 88, 41 Stat. 324; July 17, 1959, Pub. L. 86–92, 73 Stat. 218; Pub. L. 106–493, §1, Nov. 9, 2000, 114 Stat. 2213.

Pike National Forest—Acts Aug. 24, 1914, ch. 285, 38 Stat. 705; Mar. 4, 1915, ch. 173, 38 Stat. 1194; Sept. 8, 1916, chs. 469, 474, 39 Stat. 844, 848; May 3, 1934, ch. 191, 48 Stat. 657; Dec. 23, 1944, ch. 722, 58 Stat. 924.

Pisgah National Forest—Act Aug. 26, 1935, ch. 682, 49 Stat. 800.

Plumas National Forest—Acts June 3, 1924, ch. 238, 43 Stat. 356; Feb. 20, 1925, ch. 272, 43 Stat. 952; June 22, 1938, ch. 566, 52 Stat. 838; June 5, 1942, ch. 334, 56 Stat. 311.

Pocatello National Forest—Act Feb. 18, 1911, ch. 115, 36 Stat. 919.

Rainier National Forest—Acts Mar. 4, 1921, ch. 159, 41 Stat. 159; Dec. 20, 1921, ch. 11, 42 Stat. 350; May 28, 1926, ch. 410, §1, 44 Stat. 668.

Rio Grande National Forest—Acts June 20, 1938, ch. 529, 52 Stat. 781; June 29, 1940, ch. 454, 54 Stat. 695.

Rogue River National Forest—Acts June 4, 1936, ch. 494, 49 Stat. 1460; July 27, 1937, ch. 524, 50 Stat. 534.

Roosevelt National Forest—Pub. L. 85–567, July 28, 1958, 72 Stat. 426.

Salmon National Forest—Act June 5, 1942, ch. 342, §2, 56 Stat. 320.

San Juan National Forest—Act June 29, 1940, ch. 454, 54 Stat. 695.

Santa Fe National Forest—Acts Apr. 21, 1926, ch. 167, 44 Stat. 303; Apr. 16, 1928, ch. 378, 45 Stat. 431; Oct. 9, 1972, Pub. L. 92–474, 86 Stat. 790.

Santiam National Forest—Act Feb. 28, 1925, ch. 373, 43 Stat. 1080.

Sawtooth National Forest—Act Apr. 10, 1928, ch. 339, 45 Stat. 415.

Sequoia National Forest—Acts July 3, 1926, ch. 744, 44 Stat. 818; Dec. 9, 1942, ch. 712, 56 Stat. 1044.

Sevier National Forest—Acts July 3, 1916, ch. 212, 39 Stat. 340; Jan. 7, 1921, ch. 14, 41 Stat. 1087.

Shasta and Klamath National Forests—Act June 22, 1938, ch. 565, 52 Stat. 836.

Shasta National Forest—Acts Feb. 20, 1925, ch. 272, 43 Stat. 954; June 22, 1938, chs. 564, 565, 52 Stat. 835, 836; Mar. 19, 1948, ch. 139, 62 Stat. 83, eff. July 1, 1948; July 28, 1958, Pub. L. 85–565, 72 Stat. 425.

Shoshone National Forest—Acts Dec. 20, 1921, ch. 10, 42 Stat. 350; Mar. 4, 1927, ch. 494, 44 Stat. 1412.

Sierra National Forest—Acts June 11, 1906, Res. No. 27, 34 Stat. 832; Apr. 16, 1914, ch. 58, 38 Stat. 345; May 13, 1914, ch. 88, 38 Stat. 376; June 5, 1920, ch. 242, 41 Stat. 980.

Siskiyou National Forest—Acts Sept. 22, 1922, ch. 407, 42 Stat. 1019; June 13, 1935, ch. 222, 49 Stat. 338.

Siuslaw National Forest—Acts Feb. 11, 1920, ch. 69, 41 Stat. 405; June 30, 1932, ch. 328, 47 Stat. 451; Jan. 17, 1940, ch. 2, 54 Stat. 14; Nov. 25, 1940, ch. 915, 54 Stat. 1210; Mar. 23, 1972, Pub. L. 92–260, §6, 86 Stat. 100.

Snoqualmie National Forest—Acts Sept. 22, 1922, ch. 424, 42 Stat. 1036; Feb. 28, 1925, ch. 369, 43 Stat. 1074; Aug. 21, 1937, ch. 727, 50 Stat. 739.

Stanislaus National Forest—Acts Apr. 16, 1914, ch. 58, 38 Stat. 345; Feb. 20, 1925, ch. 272, 43 Stat. 954.

Tahoe National Forest—Acts Apr. 11, 1922, ch. 129, 42 Stat. 493; Feb. 20, 1925, ch. 272, 43 Stat. 954; Feb. 12, 1938, ch. 27, §§1–4, 52 Stat. 28; June 22, 1938, ch. 566, 52 Stat. 838.

Targhee National Forest—Acts Mar. 1, 1921, ch. 98, 41 Stat. 1198; June 5, 1942, ch. 342, §2, 56 Stat. 320.

Teton National Forest—Acts Aug. 16, 1916, ch. 345, 39 Stat. 515; Dec. 31, 1974, Pub. L. 93–564, 88 Stat. 1843.

Tierra Amarillo Grant adjacent to Rio Grande or San Juan National Forests—Act June 29, 1940, ch. 454, 54 Stat. 695.

Trinity National Forest—Act June 20, 1938, ch. 533, 52 Stat. 797.

Umatilla National Forest—Acts Mar. 4, 1925, ch. 538, 43 Stat. 1279; June 19, 1936, ch. 603, 49 Stat. 1534; June 17, 1940, ch. 392, 54 Stat. 402; Oct. 9, 1980, Pub. L. 96–406, 94 Stat. 1715.

Wallowa National Forest—Acts Mar. 4, 1925, ch. 538, 43 Stat. 1279; Oct. 9, 1980, Pub. L. 96–406, §§1, 2, 94 Stat. 1715.

Washakie National Forest—Acts June 14, 1926, ch. 579, 44 Stat. 742; Mar. 4, 1931, ch. 501, 46 Stat. 1521.

Weiser National Forest—Act Mar. 1, 1921, ch. 92, 41 Stat. 1194.

Wenatchee National Forest—Acts Sept. 22, 1922, ch. 424, 42 Stat. 1036; Aug. 11, 1939, ch. 697, 53 Stat. 1412.

Whitman National Forest—Acts Sept. 8, 1916, ch. 476, 39 Stat. 852; Mar. 4, 1925, chs. 538, 541, 43 Stat. 1279, 1282; June 19, 1936, ch. 603, 49 Stat. 1534; June 17, 1940, ch. 392, 54 Stat. 402.

Willamette National Forest—Act June 13, 1935, ch. 221, 49 Stat. 338.

Wyoming National Forest—Acts Aug. 16, 1916, ch. 345, § 2, 39 Stat. 516; Feb. 25, 1919, ch. 20, 40 Stat. 1152.

§ 487. Cutting timber on land added to Siskiyou National Forest

The Secretary of Agriculture is authorized, in his discretion, to sell the merchantable timber on the land added to the Siskiyou National Forest by section 1 hereof, in accordance with the regulations governing the sale of public timber in the national forests, and the entire proceeds of any sale of the timber on such land shall be deposited in the Treasury of the United States in a special fund designated as ''The Oregon and California land-grant fund'', referred to in the Act of Congress approved June 9, 1916, chapter 137, section 10, Thirty-ninth Statutes, page 222, and be disposed of in the manner therein designated, the land added forming part of the area which revested in the United States under the provisions of the said Act.

(Sept. 22, 1922, ch. 407, § 2, 42 Stat. 1019.)

REFERENCES IN TEXT

Section 1 hereof, referred to in text, means section 1 of act Sept. 22, 1922, ch. 407, 42 Stat. 1019, which related to exchanges of lands in or adjacent to Siskiyou National Forest and was not classified to the Code. See Codification note set out under sections 486a to 486w of this title.

Act of Congress approved June 9, 1916, referred to in text, was not classified to the Code.

§ 487a. Cutting timber on lands added to Rogue River National Forest

When the Secretary of Agriculture finds that merchantable timber may be cut without detriment to the purity or depletion of the water supply from lands added to the Rogue River National Forest by Act of June 4, 1936, chapter 494, section 1, 49 Stat. 1460, title to which has been revested in the United States under the Act of Congress approved June 9, 1916 (39 Stat. 218), said Secretary is authorized to dispose of such merchantable timber on such lands in accordance with the rules and regulations of the Secretary of Agriculture for the national forests and the entire proceeds of any such sale shall be deposited in the Treasury of the United States in a special fund designated ''The Oregon and California Land Grant Fund'', referred to in section 10 of the said Act of June 9, 1916, and be disposed of in the manner therein designated.

(June 4, 1936, ch. 494, § 2, 49 Stat. 1461.)

REFERENCES IN TEXT

Act of June 4, 1936, chapter 494, section 1, 49 Stat. 1460, referred to in text, related to exchanges of lands in or adjacent to Rogue River National Forest and was not classified to the Code. See Codification note set out under sections 486a to 486w of this title.

Act of Congress approved June 9, 1916, referred to in text, was not classified to the Code.

§ 488. Establishment of exterior boundaries of national forests

On and after Mar. 3, 1899, all standard, meander, township, and section lines of the public-land surveys shall be established under the direction and supervision of the Secretary of the Interior or such officer as he may designate, whether the lands to be surveyed are within or without national forests, except that where the exterior boundaries of national forests are required to be coincident with standard, township, or section lines, such boundaries may, if not previously established in the ordinary course of the public-land surveys, be established and marked under the supervision of the Director of the United States Geological Survey whenever necessary to complete the survey of such exterior boundaries.

(Mar. 3, 1899, ch. 424, § 1, 30 Stat. 1097; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

''National forests'' substituted in text for ''reservations'' and ''public forest reservations'' on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

CHANGE OF NAME

''Secretary of the Interior or such officer as he may designate'' substituted in text for ''Commissioner of the General Land Office'' on authority of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 489. Repealed. Pub. L. 87–869, § 5, Oct. 23, 1962, 76 Stat. 1157

Section, act Aug. 10, 1912, ch. 284, 37 Stat. 287, related to sale of mature, dead, and down timber.

§ 490. Deposits from timber purchasers to defray cost of disposing of debris

Purchasers of national-forest timber may be required by the Secretary of Agriculture to deposit the estimated cost to the United States of disposing of brush and other debris resulting from their cutting operations, such deposits to be covered into the Treasury and constitute a special fund, which is appropriated and shall remain available until expended: *Provided*, That any deposits in excess of the amount expended for disposals shall be transferred to miscellaneous receipts, forest-reserve fund, to be credited to the receipts of the year in which such transfer is made.

(Aug. 11, 1916, ch. 313, 39 Stat. 462; Apr. 24, 1950, ch. 97, § 6, 64 Stat. 84.)

AMENDMENTS

1950—Act Apr. 24, 1950, covered excess deposits into miscellaneous receipts instead of returning them to the depositors as was formerly the practice.

§ 491. Omitted

CODIFICATION

Section, act May 11, 1926, ch. 286, 44 Stat. 512, which authorized Secretary of Agriculture to permit expor-

tation of timber and other products from State or Territory when cut or removed from national forests situated therein, was from Department of Agriculture Appropriation Act, 1927, and was not repeated in subsequent appropriations. See section 616 of this title. Similar provisions were contained in the following prior appropriation acts:

Feb. 10, 1925, ch. 200, 43 Stat. 834.
June 5, 1924, ch. 266, 43 Stat. 443.
Feb. 26, 1923, ch. 119, 42 Stat. 1302.
May 11, 1922, ch. 185, 42 Stat. 519.
Mar. 3, 1921, ch. 127, 41 Stat. 1326.
May 31, 1920, ch. 217, 41 Stat. 706.
July 24, 1919, ch. 26, 41 Stat. 248.
Oct. 1, 1918, ch. 178, 40 Stat. 985.
Mar. 4, 1917, ch. 179, 39 Stat. 1145.

§ 492. Earth, stone, and timber for Departments of the Army and Navy, and Government works in Alaska

On and after March 4, 1915 the Secretary of Agriculture, under regulations to be prescribed by him, is authorized to permit the Navy Department to take from the national forests such earth, stone, and timber for the use of the Navy as may be compatible with the administration of the national forests for the purposes for which they are established, and also in the same manner to permit the taking of earth, stone, and timber from the national forests for the construction of Government railways and other Government works in Alaska. He is authorized also to permit the Department of the Army to take earth, stone, and timber from the national forests for use in the construction of river and harbor and other works in charge of that department, subject to such regulations and restrictions as he may prescribe.

(Mar. 4, 1915, ch. 144, 38 Stat. 1100; Mar. 3, 1925, ch. 467, § 13, 43 Stat. 1197; May 29, 1928, ch. 901, § 1(98), 45 Stat. 993; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CODIFICATION

The first sentence of this section is from act Mar. 4, 1915, and the last sentence is from act Mar. 3, 1925.

AMENDMENTS

1928—Act May 29, 1928, struck out provision which required the Secretary of Agriculture to submit with his annual estimates a report of the quantity and market value of earth, stone, and timber furnished.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

§ 493. Omitted

CODIFICATION

Section, act May 11, 1926, ch. 286, 44 Stat. 514, which authorized the Secretary of Agriculture to furnish young trees free from the Nebraska National Forest to homestead settlers, was from the Department of Agriculture Appropriation Act, 1927, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Feb. 10, 1925, ch. 200, 43 Stat. 835.
June 5, 1924, ch. 266, 43 Stat. 445.
Feb. 26, 1923, ch. 119, 42 Stat. 1304.
May 11, 1922, ch. 185, 42 Stat. 520.

The Nebraska National Forest, Niobrara division, was redesignated the Samuel R. McKelvie National Forest by Pub. L. 92–142, Oct. 15, 1971, 85 Stat. 393.

§ 494. Calaveras Bigtree National Forest

The Secretary of Agriculture, to secure and protect for all time the big trees scientifically known as Sequoia washingtoniana, is empowered, in his discretion, to obtain for the United States the complete title to any or all of the following-described lands in the State of California: In township 4 north, range 15 east, Mount Diablo meridian, the northeast quarter of section 1; in township 4 north, range 16 east, Mount Diablo meridian, the north half of section 6; in township 5 north, range 15 east, Mount Diablo meridian, the southwest quarter of section 14, south half of section 15, north half of section 22, northwest quarter of section 23, and southeast quarter of section 36, and in township 5 north, range 16 east, Mount Diablo meridian, the west half of section 28, the east half and southwest quarter of section 29, the southeast quarter of section 30, all of sections 31, 32, and the northwest quarter of section 33. And such area or areas, as fast as complete title is acquired, shall be permanently held by the United States and shall be known as the Calaveras Bigtree National Forest and shall be administered, and protected, by the Secretary of Agriculture from the funds appropriated for the administration of National Forest land to prolong the existence, growth, and promote the reproduction of said big trees. The owners of land acquired hereunder shall convey to the United States full title to any of the above-described areas approved for said national forest by the Secretary of Agriculture, the completeness of such title to be determined by the Secretary of the Interior in each case, and shall be reimbursed therefor only in one or both of the following ways: (1) They may be given the right to file with the Secretary of the Interior, within sixty days after such conveyance, selections of surveyed, unappropriated, nonmineral public lands or of nonmineral national forest lands, and if the lands so selected shall be found subject to selection and of the actual value in lands and stumpage substantially equal to that of the lands and stumpage conveyed they may be patented to said owners in lieu of the conveyed lands. In any case where any part of the lands selected is national forest land, the approval of the Secretary of Agriculture shall first be secured with respect to such part, or (2) the Secretary of Agriculture may grant to any such conveying owner the right to cut from national forest land an amount of timber and wood substantially equal to the amount of timber and wood on the land acquired by the United States under the provisions of this section.

(Feb. 18, 1909, ch. 143, 35 Stat. 626; May 7, 1912, ch. 105, § 1, 37 Stat. 108.)

CODIFICATION

A proviso of the section as originally enacted ''That nothing contained in this Act shall warrant an appro-

priation from the Treasury to carry out the terms of this Act,'' was superseded by the appropriation of a sum for the purposes of the Act by section 2 of act May 7, 1912.

AMENDMENTS

1912—Act May 7, 1912, changed provisions of original act as to modes of reimbursement of owners of lands taken.

TRANSFER OF LANDS IN CALAVERAS BIG TREES NATIONAL FOREST TO STATE OF CALIFORNIA

Pub. L. 101–436, Oct. 17, 1990, 104 Stat. 993, provided that:

''SECTION 1. FINDINGS AND PURPOSE.

''(a) FINDINGS.—The Congress finds and declares that—

''(1) in order to protect certain outstanding examples of ponderosa pine, sugar pine, and giant sequoia trees located in the North and South Calaveras Groves, on the western slope of the Sierra Nevada Mountains, the State of California has established the Calaveras Big Trees State Park;

''(2) for similar purposes, the United States has designated certain adjacent Federal lands, amounting to approximately 379 acres, as the Calaveras Big Trees National Forest; and

''(3) this National Forest (managed as part of the Stanislaus National Forest) is the smallest National Forest in the United States and could be more appropriately and efficiently managed as part of the Calaveras Big Trees State Park.

''(b) PURPOSE.—The purpose of this Act is to improve the management of the lands located in the Calaveras Big Trees National Forest, and to protect certain examples of ponderosa pine, sugar pine, and giant sequoia trees, by unifying the management of the lands in such National Forest and in the California Calaveras Big Trees State Park.

''SEC. 2. LAND CONVEYANCE.

''(a) CONVEYANCE.—Subject to valid existing rights and the provisions of this Act, the Secretary of Agriculture (hereinafter in this Act referred to as the 'Secretary') is authorized and directed to convey all right, title, and interest of the United States in and to lands and interests therein within the Calaveras Big Trees National Forest, as generally depicted on a map numbered 20435 and dated June 5, 1989, prepared by the California Department of Parks and Recreation, to the State of California for inclusion within the Calaveras Big Trees State Park.

''(b) MAP AND DESCRIPTION.—As soon as practicable after the enactment of this Act [Oct. 17, 1990], the Secretary shall submit a map and legal description of the lands referred to in subsection (a) to the Committee on Interior and Insular Affairs [now Committee on Natural Resources] of the United States House of Representatives, and the Committee on Energy and Natural Resources of the Senate. Such map and legal description shall have the same force and effect as if included in this Act, except that any clerical or typographical errors in such map or legal description may be corrected. The Secretary shall place such map and legal description on file, and make them available for public inspection, in the Office of the Chief of the Forest Service.

''(c) CONDITIONS OF CONVEYANCE.—Conveyance of the lands and interests described in subsection (a) of this section shall be subject to the following conditions:

''(1) The conveyance shall take place only if within two years after the date of enactment of this Act [Oct. 17, 1990], there is concluded an agreement between the State of California and the Secretary whereby the State of California agrees to provide to the United States, in exchange for the lands described in subsection (a) and pursuant to terms and conditions which the Secretary finds acceptable, consideration of approximately equal value. Such consideration shall include either lands in California that the Secretary finds suitable for addition to, and are contiguous to, one or more units of the National Forest System, cash payment, or monetary grants awarded to the United States after June 1, 1990, or any combination thereof.

''(2) No harvest of timber (except as may be necessary for the control of fire, insects, or disease) and no mining, mineral leasing, or geothermal exploration or development shall be permitted on such lands;

''(3) Any action by the State of California to convey any portion of such lands or interests to any entity other than the United States shall be void ab initio and shall result in the reversion to the United States of all right, title, and interest in such lands;

''(4) Any action by the State of California to permit the use of any portion of such lands for any purpose prohibited by this subsection or any purpose incompatible with the continued ability of such lands to support ponderosa pine, sugar pine, or giant sequoia trees, shall result in the reversion of all right, title, and interest in such lands to the United States. Any such lands which revert to the United States shall be incorporated into the Stanislaus National Forest and managed to preserve and protect the stands of ponderosa pine, sugar pine, and giant sequoia trees located on such lands.

''(5) The Secretary, acting through the Forest Service, shall be afforded by appropriate officials of the State of California reasonable opportunities to collect seeds from trees located on such lands for scientific or silvicultural purposes.

''(6) The Secretary, upon prior notification to the State of California, shall be entitled at any time to enter upon such lands for the purpose of monitoring the management of such lands and the compliance of the State of California with the provisions of this subsection.

''(7) The conveyance shall be subject to the following reservations or exceptions:

''(A) existing ditches and canals as authorized by the Act of August 30, 1890 (43 U.S.C. 945); and

''(B) any existing rights-of-way to provide the United States and its assigns access to federally owned lands.

''(d) ENFORCEMENT.—Upon the request of the Secretary, the Attorney General shall bring any action or take any other steps necessary to enforce the provisions of subsection (c) of this section.

''(e) TIMING, VALUE, AND STATUS.—(1) Conveyance of lands to the State of California pursuant to this Act shall occur when the agreement described in paragraph (1) of subsection (c) has been reached. The restrictions and conditions specified in paragraphs (2), (3), (4), (5), (6), and (7) of subsection (c) shall be included in the instruments of conveyance of lands to the State of California.

''(2) Effective upon the conveyance to the State of California of lands described in subsection (a) of this section, or two years after the date of enactment of this Act [Oct. 17, 1990], whichever is sooner, the National Forest designation of such lands shall terminate. Any such lands not conveyed to the State of California shall thereupon be incorporated into the Stanislaus National Forest and managed to preserve and protect the stands of ponderosa pine, sugar pine, and giant sequoia trees located on such lands.

''(3) Any lands conveyed to the United States pursuant to this Act shall be deemed national forest lands and managed according to the laws governing the management of the National Forest System. If any such lands are outside existing boundaries of one or more National Forests, the Secretary shall modify such boundaries as he deems appropriate to include such lands.

''(4) Values of the respective lands exchanged between the United States and the State of California pursuant to this Act shall be of 'approximately equal value' as that term is defined by regulations implementing the Act of January 12, 1983, known as the Small Tracts Act (16 U.S.C. 521c–521i).''

§ 495. Leases of lands for sanitariums or hotels

The Secretary of Agriculture is authorized, under such rules and regulations as he from time to time may make, to rent or lease to responsible persons or corporations applying therefor suitable spaces and portions of ground near, or adjacent to, mineral, medicinal, or other springs, within any national forest established within the United States, or hereafter to be established, and where the public is accustomed or desires to frequent, for health or pleasure, for the purpose of erecting upon such leased ground sanitariums or hotels, to be opened for the reception of the public. And he is further authorized to make such regulations, for the convenience of people visiting such springs, with reference to spaces and locations, for the erection of tents or temporary dwelling houses to be erected or constructed for the use of those visiting such springs for health or pleasure. And the Secretary of Agriculture is authorized to prescribe the terms and duration and the compensation to be paid for the privileges granted under the provisions of this section.

(Feb. 28, 1899, ch. 221, § 1, 30 Stat. 908; Feb. 1, 1905, ch. 288, § 1, 33 Stat. 628.)

CODIFICATION

''National forest'' substituted in text for ''forest reserves'' on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

TRANSFER OF FUNCTIONS

Act Feb. 1, 1905 transferred certain functions with regard to administration of national forests from Secretary of the Interior to Secretary of Agriculture.

§ 496. Disposition of funds

All funds arising from the privileges granted under section 495 of this title shall be covered into the Treasury of the United States as provided by law.

(Feb. 28, 1899, ch. 221, § 2, 30 Stat. 908; Mar. 4, 1907, ch. 2907, 34 Stat. 1270.)

CODIFICATION

As enacted by act Feb. 28, 1899, section provided that the funds be ''covered into the Treasury of the United States as a special fund, to be expended in the care of public forest reservations''.

Section was affected by act Mar. 4, 1907, which provides that all revenue from the national forests shall be covered into the Treasury as a miscellaneous receipt.

§ 497. Use and occupation of lands for hotels, resorts, summer homes, stores, and facilities for industrial, commercial, educational or public uses

The Secretary of Agriculture is authorized, under such regulations as he may make and upon such terms and conditions as he may deem proper, (a) to permit the use and occupancy of suitable areas of land within the national forests, not exceeding eighty acres and for periods not exceeding thirty years, for the purpose of constructing or maintaining hotels, resorts, and any other structures or facilities necessary or desirable for recreation, public convenience, or safety; (b) to permit the use and occupancy of suitable areas of land within the national forests, not exceeding five acres and for periods not exceeding thirty years, for the purpose of constructing or maintaining summer homes and stores; (c) to permit the use and occupancy of suitable areas of land within the national forest, not exceeding eighty acres and for periods not exceeding thirty years, for the purpose of constructing or maintaining buildings, structures, and facilities for industrial or commercial purposes whenever such use is related to or consistent with other uses on the national forests; (d) to permit any State or political subdivision thereof, or any public or nonprofit agency, to use and occupy suitable areas of land within the national forests not exceeding eighty acres and for periods not exceeding thirty years, for the purpose of constructing or maintaining any buildings, structures, or facilities necessary or desirable for education or for any public use or in connection with any public activity. The authority provided by this section shall be exercised in such manner as not to preclude the general public from full enjoyment of the natural, scenic, recreational, and other aspects of the national forests.

(Mar. 4, 1915, ch. 144, 38 Stat. 1101; July 28, 1956, ch. 771, 70 Stat. 708.)

AMENDMENTS

1956—Act July 28, 1956, increased maximum area of land for each purpose for which permits may be granted from not more than 5 acres to not more than 80 acres, and authorized permits for facilities for public safety, for buildings, structures, and facilities for industrial or commercial purposes whenever such purposes are related to or consistent with other use of the national forests, and for facilities to be used by public or nonprofit agencies for education or public use or in connection with any public activity.

ENHANCING FOREST SERVICE ADMINISTRATION OF RIGHTS-OF-WAY AND LAND USES

Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 331], Nov. 29, 1999, 113 Stat. 1535, 1501A–196, as amended by Pub. L. 108–447, div. E, title III, § 345, Dec. 8, 2004, 118 Stat. 3105; Pub. L. 109–54, title IV, § 425, Aug. 2, 2005, 119 Stat. 555; Pub. L. 110–161, div. F, title IV, § 416, Dec. 26, 2007, 121 Stat. 2148, provided that:

''(a) The Secretary of Agriculture shall develop and implement a pilot program for the purpose of enhancing forest service administration of rights-of-way and other land uses. The authority for this program shall be for fiscal years 2000 through 2012. Prior to the expiration of the authority for this pilot program, the Secretary shall submit a report to the House and Senate Committees on Appropriations, and the Committee on Energy and Natural Resources of the Senate and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives that evaluates whether the use of funds under this section resulted in more expeditious approval of rights-of-way and special use authorizations. This report shall include the Secretary's recommendation for statutory or regulatory changes to reduce the average processing time for rights-of-way and special use permit applications.

''(b) DEPOSIT OF FEES.—Subject to subsections (a) and (f), during fiscal years 2000 through 2012, the Secretary of Agriculture shall deposit into a special account established in the Treasury all fees collected by the Secretary to recover the costs of processing applications for, and monitoring compliance with, authorizations to use and occupy National Forest System lands pursuant to section 28(*l*) of the Mineral Leasing Act (30 U.S.C.

185(*l*)), section 504(g) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(g)), section 9701 of title 31, United States Code, and section 110(g) of the National Historic Preservation Act (16 U.S.C. 470h–2(g)).

''(c) USE OF RETAINED AMOUNTS.—Amounts deposited pursuant to subsection (b) shall be available, without further appropriation, for expenditure by the Secretary of Agriculture to cover costs incurred by the Forest Service for the processing of applications for special use authorizations and for monitoring activities undertaken in connection with such authorizations. Amounts in the special account shall remain available for such purposes until expended.

''(d) REPORTING REQUIREMENT.—In the budget justification documents submitted by the Secretary of Agriculture in support of the President's budget for a fiscal year under section 1105 of title 31, United States Code, the Secretary shall include a description of the purposes for which amounts were expended from the special account during the preceding fiscal year, including the amounts expended for each purpose, and a description of the purposes for which amounts are proposed to be expended from the special account during the next fiscal year, including the amounts proposed to be expended for each purpose.

''(e) DEFINITION OF AUTHORIZATION.—For purposes of this section, the term 'authorizations' means special use authorizations issued under subpart B of part 251 of title 36, Code of Federal Regulations.

''(f) IMPLEMENTATION.—This section shall take effect upon promulgation of Forest Service regulations for the collection of fees for processing of special use authorizations and for related monitoring activities.''

§ 497a. Occupancy and use under permit of lands in Alaska for various purposes; period of permit; size of allotment; prohibitions; termination

The Secretary of Agriculture, in conformity with regulations prescribed by him, may permit the use and occupancy of national-forest lands in Alaska for purposes of residence, recreation, public convenience, education, industry, agriculture, and commerce, not incompatible with the best use and management of the national forests, for such periods as may be warranted but not exceeding thirty years and of such areas as may be necessary but not exceeding eighty acres, and after such permits have been issued and so long as they continue in full force and effect the lands therein described shall not be subject to location, entry, or appropriation, under the public land laws or mining laws, or to disposition under the mineral leasing laws: *Provided*, That nothing contained in this section shall prevent the said Secretary from canceling, revoking, or otherwise terminating a permit so issued upon proof of a breach of its terms and conditions or for other just cause.

(Mar. 30, 1948, ch. 162, 62 Stat. 100.)

CODIFICATION

Section was formerly classified to section 341 of Title 48, Territories and Insular Possessions.

§ 497b. Ski area permits

(a) Law applicable to permits

The provisions of the Act of March 4, 1915 (16 U.S.C. 497) notwithstanding, the term and acreage of permits for the operation of nordic and alpine ski areas and facilities on National Forest System lands shall on and after October 22, 1986, be governed by this section and other applicable law.

(b) Authority

The Secretary of Agriculture (hereinafter referred to as ''the Secretary'') is authorized to issue permits (hereinafter referred to as ''ski area permits'') for the use and occupancy of suitable lands within the National Forest System for nordic and alpine skiing operations and purposes. A ski area permit—

(1) may be issued for a term not to exceed 40 years;

(2) shall ordinarily be issued for a term of 40 years (unless the Secretary determines that the facilities or operations are of a scale or nature as are not likely to require long-term financing or operation), or that there are public policy reasons specific to a particular permit for a shorter term;

(3) shall encompass such acreage as the Secretary determines sufficient and appropriate to accommodate the permittee's needs for ski operations and appropriate ancillary facilities;

(4) may be renewed at the discretion of the Secretary;

(5) may be cancelled by the Secretary in whole or in part for any violation of the permit terms or conditions, for nonpayment of permit fees, or upon the determination by the Secretary in his planning for the uses of the national forests that the permitted area is needed for higher public purposes;

(6) may be modified from time to time by the Secretary to accommodate changes in plans or operations in accordance with the provisions of applicable law;

(7) shall be subject to such reasonable terms and conditions as the Secretary deems appropriate; and

(8) shall be subject to a permit fee based on fair market value in accordance with applicable law.

(c) Rules and regulations

Within one year after October 22, 1986, the Secretary shall promulgate rules and regulations to implement the provisions of this section, and shall, to the extent practicable and with the consent of existing permit holders, convert all existing ski area permits or leases on National Forest System lands into ski area permits which conform to the provisions of this section within 3 years of October 22, 1986.

(d) Construction with Secretary's duties under other laws

Nothing in this section shall be deemed to amend, modify or otherwise affect the Secretary's duties under the National Environmental Policy Act [42 U.S.C. 4321 et seq.], or the Forest and Rangelands Renewable Resources Planning Act [16 U.S.C. 1600 et seq.] as amended by the National Forest Management Act, including his duties to involve the public in his decisionmaking and planning for the national forests.

(Pub. L. 99–522, § 3, Oct. 22, 1986, 100 Stat. 3000.)

REFERENCES IN TEXT

Act of March 4, 1915 (16 U.S.C. 497), referred to in subsec. (a), is act Mar. 4, 1915, ch. 144, 38 Stat. 1086, as amended. For complete classification of this Act to the Code, see Tables.

This section, referred to in subsecs. (a), (c), and (d), was in the original ''this Act'', meaning Pub. L. 99–522, Oct. 22, 1986, 100 Stat. 3000, known as the National Forest Ski Area Permit Act of 1986, which enacted this section and notes set out under this section. For complete classification of this Act to the Code, see Short Title note below and Tables.

The National Environmental Policy Act, referred to in subsec. (d), probably means the National Environmental Policy Act of 1969, Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Forest and Rangelands Renewable Resources Planning Act, referred to in subsec. (d), probably means the Forest and Rangeland Renewable Resources Planning Act of 1974, Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§ 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

The National Forest Management Act, referred to in subsec. (d), probably means the National Forest Management Act of 1976, Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

SHORT TITLE

Section 1 of Pub. L. 99–522 provided that: ''This Act [enacting this section and provisions set out as a note below] may be cited as the 'National Forest Ski Area Permit Act of 1986'.''

PURPOSES

Section 2 of Pub. L. 99–522 provided that: ''The purposes of this Act [see Short Title note above] are to—

''(a) provide a unified and modern permitting process for nordic and alpine ski areas on national forest lands;

''(b) provide for ski area permits which more closely reflect the acreage and other physical requirements of modern ski area development; and

''(c) provide a permit system which will be more commensurate with the long-term construction, financing, and operation needs of ski areas on national forest lands.''

§ 497c. Ski area permit rental charge

(a) In general

The Secretary of Agriculture shall charge a rental charge for all ski area permits issued pursuant to section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), or the 9th through 20th paragraphs under the heading ''SURVEYING THE PUBLIC LANDS'' under the heading ''UNDER THE DEPARTMENT OF THE INTERIOR'' in the Act of June 4, 1897 (30 Stat. 34, chapter 2), on National Forest System lands. Permit rental charges for permits issued pursuant to the National Forest Ski Area Permit Act of 1986 shall be calculated as set forth in subsection (b) of this section. Permit rental charges for existing ski area permits issued pursuant to the Act of March 4, 1915, and the Act of June 4, 1897, shall be calculated in accordance with those existing permits: *Provided*, That a permittee may, at the permittee's option, use the calculation method set forth in subsection (b) of this section.

(b) Formula

(1) The ski area permit rental charge (SAPRC) shall be calculated by adding the permittee's gross revenues from lift ticket/year-round ski area use pass sales plus revenue from ski school operations (LT+SS) and multiplying such total by the slope transport feet percentage (STFP) on National Forest System land. That amount shall be increased by the gross year-round revenue from ancillary facilities (GRAF) physically located on national forest land, including all permittee or subpermittee lodging, food service, rental shops, parking and other ancillary operations, to determine the adjusted gross revenue (AGR) subject to the permit rental charge. The final rental charge shall be calculated by multiplying the AGR by the following percentages for each revenue bracket and adding the total for each revenue bracket:

(A) 1.5 percent of all adjusted gross revenue below $3,000,000;

(B) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000;

(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000; and

(D) 4.0 percent for the amount of adjusted gross revenue that exceeds $50,000,000.

Utilizing the abbreviations indicated in this subsection the ski area permit fee (SAPF) formula can be simply illustrated as:

$$\text{SAPF} = ((\text{LT} + \text{SS}) \times \text{STFP}) + \text{GRAF} = \text{AGR};$$
$$\text{AGR} \times \%\ \text{BRACKETS}$$

(2) In cases where ski areas are only partially located on national forest lands, the slope transport feet percentage on national forest land referred to in this subsection shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992. Revenues from Nordic ski operations shall be included or excluded from the rental charge calculation according to the percentage of trails physically located on national forest land.

(3) In order to ensure that the rental charge remains fair and equitable to both the United States and the ski area permittees, the adjusted gross revenue figures for each revenue bracket in paragraph (1) shall be adjusted annually by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year. No later than 3 years after November 12, 1996, and every 5 years thereafter the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives a report analyzing whether the ski area permit rental charge required by this section is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications of the system.

(c) Payment

The rental charge set forth in subsection (b) of this section shall be due on June 1 of each year and shall be paid or prepaid by the permittee on a monthly, quarterly, annual or other schedule as determined appropriate by the Secretary in consultation with the permittee. Unless mutually agreed otherwise by the Secretary and the permittee, the payment or prepayment schedule

shall conform to the permittee's schedule in effect prior to November 12, 1996. To reduce costs to the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual rental charge calculation brackets and rates) to be used for rental charge calculation and submitted with the rental charge payment. Information provided on such forms shall be compiled by the Secretary annually and kept in the Office of the Chief, United States Forest Service.

(d) Effective date

The ski area permit rental charge set forth in this section shall become effective on June 1, 1996 and cover receipts retroactive to June 1, 1995: *Provided*, That if a permittee has paid rental charges for the period June 1, 1995, to June 1, 1996, under the graduated rate rental charge system formula in effect prior to November 12, 1996, such rental charges shall be credited toward the new rental charge due on June 1, 1996. In order to ensure increasing rental charge receipt levels to the United States during transition from the graduated rate rental charge system formula to the formula of this section, the rental charge paid by any individual permittee shall be—

(1) for the 1995–1996 permit year, either the rental charge paid for the preceding 1994–1995 base year or the rental charge calculated pursuant to this section, whichever is higher;

(2) for the 1996–1997 permit year, either the rental charge paid for the 1994–1995 base year or the rental charge calculated pursuant to this section, whichever is higher; and

(3) for the 1997–1998 permit year, either the rental charge for the 1994–1995 base year or the rental charge calculated pursuant to this section, whichever is higher.

If an individual permittee's adjusted gross revenue for the 1995–1996, 1996–1997, or 1997–1998 permit years falls more than 10 percent below the adjusted gross revenue for the 1994–1995 base year, the rental charge paid shall be the rental charge calculated pursuant to this section.

(e) Non-national forest land operations

Under no circumstances shall revenue, or subpermittee revenue (other than lift ticket, area use pass, or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit rental charge calculation.

(f) "Revenue" and "sales" defined; limitations

To reduce administrative costs of ski area permittees and the Forest Service the terms ''revenue'' and ''sales'', as used in this section, shall mean actual income from sales and shall not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities or employee lift tickets, discounts, or other goods or services (except for bartered goods and complimentary lift tickets offered for commercial or other promotional purposes) for which the permittee does not receive money.

(g) Minimum rental charge

In cases where an area of national forest land is under a ski area permit but the permittee does not have revenue or sales qualifying for rental charge payment pursuant to subsection (a) of this section, the permittee shall pay an annual minimum rental charge of $2 for each national forest acre under permit or a percentage of appraised land value, as determined appropriate by the Secretary.

(h) Five-year phase-in of increase

Where the new rental charge provided for in subsection (b)(1) of this section results in an increase in permit rental charge greater than one-half of 1 percent of the permittee's adjusted gross revenue as determined under subsection (b)(1) of this section, the new rental charge shall be phased in over a five-year period in a manner providing for increases of approximately equal increments.

(i) Construction with National Environmental Policy Act of 1969

To reduce Federal costs in administering the provisions of this section, the reissuance of a ski area permit to provide activities similar in nature and amount to the activities provided under the previous permit shall not constitute a major Federal action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

(j) Withdrawal from mining laws

Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on or after November 12, 1996, pursuant to authority of the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), and the Act of June 4, 1897, or the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Such withdrawal shall continue for the full term of the permit and any modification, reissuance, or renewal thereof. Unless the Secretary requests otherwise of the Secretary of the Interior, such withdrawal shall be canceled automatically upon expiration or other termination of the permit and the land automatically restored to all appropriation not otherwise restricted under the public land laws.

(Pub. L. 104–333, div. I, title VII, §701, Nov. 12, 1996, 110 Stat. 4182; Pub. L. 106–176, title I, §117, Mar. 10, 2000, 114 Stat. 27.)

REFERENCES IN TEXT

Act of March 4, 1915, referred to in subsecs. (a) and (j), is act Mar. 4, 1915, ch. 144, 38 Stat. 1086. For complete classification of this Act to the Code, see Tables.

Act of June 4, 1897, referred to in subsecs. (a) and (j), is act June 4, 1897, ch. 2, 30 Stat. 11. For complete classification of this Act to the Code, see Tables.

The National Forest Ski Area Permit Act of 1986, referred to in subsecs. (a) and (j), is Pub. L. 99–522, Oct. 22, 1986, 100 Stat. 3000, which enacted section 497b of this title and provisions set out as a note under section 497b of this title. For complete classification of this Act to the Code, see Short Title note set out under section 497b of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (i), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Wel-

fare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2000—Subsec. (b)(3). Pub. L. 106–176, § 117(1), substituted ''required by this section'' for ''legislated by this Act''.

Subsec. (d). Pub. L. 106–176, § 117(2), in introductory provisions, substituted ''formula of this section'' for ''formula of this Act'', in pars. (1) to (3), substituted ''this section'' for ''this Act'', and, in concluding provisions, inserted ''adjusted gross revenue for the'' before ''1994–1995 base year'' and substituted ''this section'' for ''this Act''.

Subsec. (f). Pub. L. 106–176, § 117(3), inserted ''offered for commercial or other promotional purposes'' after ''complimentary lift tickets''.

Subsec. (i). Pub. L. 106–176, § 117(4), substituted ''this section'' for ''this Act''.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 497d. Recreation residence fees

The Secretary of Agriculture shall on and after November 14, 1997, phase in, over a 3-year period in equal annual installments, that portion of the fee increase for a recreation residence special use permit holder which is more than 100 percent of the previous year's fee: *Provided*, That no recreation residence fee may be increased any sooner than one year from the time the permittee has been notified by the Forest Service of the results of an appraisal which has been conducted for the purpose of establishing such fees: *Provided further*, That no increases in recreation residence fees on the Sawtooth National Forest will be implemented prior to January 1, 1999.

(Pub. L. 105–83, title III, § 343, Nov. 14, 1997, 111 Stat. 1604.)

LIMITATION ON INCREASES IN RECREATION RESIDENCE FEES

Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 342], Nov. 29, 1999, 113 Stat. 1535, 1501A–202, provided that: ''Notwithstanding section 343 of Public Law 105–83 [16 U.S.C. 497d], increases in recreation residence fees shall be implemented in fiscal year 2000 only to the extent that the fiscal year 2000 fees do not exceed the fiscal year 1999 fee by more than $2,000.''

LIMITATION ON RECREATION RESIDENCE FEE INCREASES ON SAWTOOTH NATIONAL FOREST

Pub. L. 105–277, div. A, § 101(e) [title III, § 345], Oct. 21, 1998, 112 Stat. 2681–231, 2681–298, provided that: ''Notwithstanding section 343 of Public Law 105–83 [16 U.S.C. 497d], increases in recreation residence fees on the Sawtooth National Forest shall be implemented in fiscal year 1999 only to the extent that such fee increases do not exceed 25 percent.''

§ 498. Cooperative work agreements: disposal of moneys received; refund of excess; payment from appropriation; conflict of interest

On or after June 30, 1914, all moneys received as contributions toward cooperative work in forest investigations, or the protection, management, and improvement of the National Forest System, shall be covered into the Treasury and shall constitute a special fund, which is appropriated and made available until expended, as the Secretary of Agriculture may direct, for the payment of the expenses of said investigations, protection, management, or improvements by the Forest Service, and for refunds to the contributors of amounts heretofore or hereafter paid in by them in excess of their share of the cost of said investigations, protection, management, or improvements. Payment for work undertaken pursuant to this section may be made from any appropriation of the Forest Service that is available for similar work if a written agreement so provides and reimbursement will be provided by a cooperator in the same fiscal year as the expenditure by the Forest Service. A reimbursement received from a cooperator that covers the proportionate share of the cooperator of the cost of the work shall be deposited to the credit of the appropriation of the Forest Service from which the payment was initially made or, if the appropriation is no longer available, to the credit of an appropriation of the Forest Service that is available for similar work. The Secretary of Agriculture shall establish written rules that establish criteria to be used to determine whether the acceptance of contributions of money under this section would adversely affect the ability of an officer or employee of the Department of Agriculture to carry out a duty or program of the officer or employee in a fair and objective manner or would compromise, or appear to compromise, the integrity of the program, officer, or employee. The Secretary of Agriculture shall establish written rules that protect the interests of the Forest Service in cooperative work agreements.

(June 30, 1914, ch. 131, 38 Stat. 430; May 29, 1928, ch. 901, § 1(99), 45 Stat. 993; Pub. L. 104–127, title III, § 372, Apr. 4, 1996, 110 Stat. 1015.)

AMENDMENTS

1996—Pub. L. 104–127 substituted ''the protection, management, and improvement of the National Forest System'' for ''the protection and improvement of the national forests'', inserted ''management,'' after ''protection,'' in two places, and inserted at end ''Payment for work undertaken pursuant to this section may be made from any appropriation of the Forest Service that is available for similar work if a written agreement so provides and reimbursement will be provided by a cooperator in the same fiscal year as the expenditure by the Forest Service. A reimbursement received from a cooperator that covers the proportionate share of the cooperator of the cost of the work shall be deposited to the credit of the appropriation of the Forest Service from which the payment was initially made or, if the appropriation is no longer available, to the credit of an appropriation of the Forest Service that is available for similar work. The Secretary of Agriculture shall establish written rules that establish criteria to be used to determine whether the acceptance of contributions of money under this section would adversely affect the ability of an officer or employee of the Department of Agriculture to carry out a duty or program of the officer or employee in a fair and objective manner or would compromise, or appear to compromise, the integrity of the program, officer, or employee. The Secretary of Agriculture shall establish written rules that protect the interests of the Forest Service in cooperative work agreements.''

1928—Act May 29, 1928, struck out provision which required that annual reports be made to Congress of moneys received as contributions for cooperative work.

§ 499. Disposal of money received by or on account of Forest Service; refund of excess and moneys erroneously collected; receipts from permits

All money received by or on account of the Forest Service for timber, or from any other source of national-forest revenue, including moneys received from sale of products from or for the use of lands in national forests created under section 471(b)[1] of this title, and moneys received on account of permits for hunting, fishing, or camping on lands acquired under authority of sections 513 to 517 and 521 of this title, shall be covered into the Treasury of the United States as a miscellaneous receipt and there is hereby appropriated and made available as the Secretary of Agriculture may direct out of any funds in the Treasury not otherwise appropriated, so much as may be necessary to make refunds to depositors of money heretofore or hereafter deposited by them to secure the purchase price on the sale of any products or for the use of any land or resources of the national forests in excess of amounts found actually due from them to the United States and also so much as may be necessary to refund or pay over to the rightful claimants such sums as may be found by the Secretary of Agriculture to have been erroneously collected for the use of any lands, or for timber or other resources sold from lands located within, but not a part of, the national forests, or for alleged illegal acts done upon such lands, which acts are subsequently found to have been proper and legal.

(Mar. 4, 1907, ch. 2907, 34 Stat. 1270; Mar. 4, 1911, ch. 238, 36 Stat. 1253; Mar. 4, 1917, ch. 179, 39 Stat. 1149; June 7, 1924, ch. 348, § 9, 43 Stat. 655; May 29, 1928, ch. 901, § 1(97), 45 Stat. 993.)

REFERENCES IN TEXT

Section 471(b) of this title, referred to in text, was repealed by section 704(a) of Pub. L. 94–579, title VII, Oct. 21, 1976, 90 Stat. 2792. For further details, see Codification note below.

CODIFICATION

Section is a combination provision the basis for which is Act Mar. 4, 1907, which superseded previous provisions relating to the disposal of money received from sale of products or use of any land or resources of the forest reserves, contained in Act Feb. 1, 1905, ch. 288, § 5, 33 Stat. 628.

Act Mar. 4, 1911, is the source of the last portion of the section beginning with the words, ''and also so much as may be necessary,'' etc. That Act provides that so much of the former Act ''which provides for refunds by the Secretary of Agriculture to depositors of moneys to secure the purchase price of timber or the use of lands or resources of the national forests such sums as may be found to be in excess of the amounts found actually due the United States, be, and is hereby, amended hereafter to appropriate and to include so much;''.

The words of this section reading, ''including moneys received from sale of products from or use of lands in national forests created under section 471(b) of this title'' were derived from the fourth sentence of section 9 of Act of June 7, 1924, which reads as follows: ''All receipts from the sale of products from or for the use of lands in such national forests shall be covered into the Treasury as miscellaneous receipts, forest reserve fund, and shall be disposed of in like manner as the receipts from other national forests as provided by existing law.'' Section 471(b) of this title, referred to in text, was based on the first and fifth sentences of section 9 of the 1924 act, and was repealed by section 704(a) of Pub. L. 94–579. Section 505 of this title is based on the second and third sentences of section 9 of the 1924 act.

The words ''and moneys received on account of permits for hunting, fishing, or camping on lands acquired under authority of sections 513 to 517 and 521 of this title,'' are from a provision of Act Mar. 4, 1917, which reads, ''Hereafter, all moneys received on account of permits for hunting, fishing, or camping, on lands acquired under authority of said Act [Act Mar. 1, 1911, ch. 186, 36 Stat. 961] or any Amendment or extension thereof, shall be disposed of as is provided by existing law for the disposition of receipts from national forests.''

AMENDMENTS

1928—Act May 29, 1928, struck out provision which required the Secretary of Agriculture to make an annual report to Congress of the amounts refunded under this section.

§ 500. Payment and evaluation of receipts to State or Territory for schools and roads; moneys received; projections of revenues and estimated payments

On and after May 23, 1908, an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid, at the end of such year, by the Secretary of the Treasury to the State or Territory in which such national forest is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated: *Provided*, That when any national forest is in more than one State or Territory or county the distributive share to each from the proceeds of such forest shall be proportional to its area therein. In sales of logs, ties, poles, posts, cordwood, pulpwood, and other forest products the amounts made available for schools and roads by this section shall be based upon the stumpage value of the timber. Beginning October 1, 1976, the term ''moneys received'' shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

(May 23, 1908, ch. 192, 35 Stat. 260; Mar. 1, 1911, ch. 186, § 13, 36 Stat. 963; June 30, 1914, ch. 131, 38 Stat. 441; Sept. 21, 1944, ch. 412, title II, § 212, 58 Stat. 737; Apr. 24, 1950, ch. 97, § 17(b), 64 Stat. 87; Pub. L. 94–588, § 16, Oct. 22, 1976, 90 Stat. 2961; Pub. L. 110–343, div. C, title VI, § 601(b), Oct. 3, 2008, 122 Stat. 3910.)

[1] See References in Text note below.

REFERENCES IN TEXT

Act of June 9, 1930, referred to in text, is act June 9, 1930, ch. 416, 46 Stat. 527, as amended, popularly known as the Knutson-Vandenberg Act, which is classified generally to sections 576, 576a, and 576b of this title. For complete classification of this Act to the Code, see Short Title note set out under section 576 of this title and Tables.

Act of May 23, 1908, referred to in text, is act May 23, 1908, ch. 192, 35 Stat. 251, as amended. A portion of that act appearing at 35 Stat. 260 is classified to this section. For complete classification of this Act to the Code, see Tables.

CODIFICATION

''National forest'' substituted in text for ''forest reserve'' the first, third and fourth time appearing, and for ''reserve'' the second time appearing, and ''forest'' substituted for ''reserve'', on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

Section is a combination of acts May 23, 1908, as amended, and Mar. 1, 1911, as amended.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

June 28, 1944, ch. 296, 58 Stat. 444.
July 12, 1943, ch. 215, 57 Stat. 412.
July 22, 1942, ch. 516, 56 Stat. 680.
July 1, 1941, ch. 267, 55 Stat. 423.

AMENDMENTS

2008—Pub. L. 110–343, which directed substitution of ''an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid'' for ''twenty-five percentum'' and all that follows through ''shall be paid'' in provisions of both acts May 23, 1908, and Mar. 1, 1911, on which this section is based, was executed by making the substitution for ''twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid'', to reflect the probable intent of Congress.

1976—Pub. L. 94–588 inserted provision that beginning Oct. 1, 1976, the term ''moneys received'' would include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract, and that the Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

1950—Act Apr. 24, 1950, struck out second proviso relating to limitation paid county.

1944—Act Sept. 21, 1944, inserted sentence relating to stumpage value of the timber.

1914—Act June 30, 1914, changed per centum to be paid to each State from five to twenty-five.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–393, §1(a), Oct. 30, 2000, 114 Stat. 1607, which provided that the Act could be cited as the ''Secure Rural Schools and Community Self-Determination Act of 2000'', was repealed by Pub. L. 110–343, div. C, title VI, §601(a), Oct. 3, 2008, 122 Stat. 3893. See section 1 of Pub. L. 106–393, set out as a Short Title note under section 7101 of this title.

SAVINGS PROVISION

Provisions of Federal Land Policy and Management Act of 1976, Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, not to be construed as affecting the distribution of livestock grazing revenues to local governments under this section, see section 701(j) of Pub. L. 94–579, set out as a note under section 1701 of Title 43, Public Lands.

SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION

Pub. L. 107–76, title VII, §751, Nov. 28, 2001, 115 Stat. 739, provided for the determination of the full payment amount for each eligible State and eligible county for fiscal years 2002 to 2006 under former section 102 of Pub. L. 106–393, formerly set out below.

Pub. L. 106–393, §§2, 3, Oct. 30, 2000, 114 Stat. 1608, 1609, which related to findings and purposes and provided definitions for Pub. L. 106–393, was repealed by Pub. L. 110–343, div. C, title VI, §601(a), Oct. 3, 2008, 122 Stat. 3893. See sections 7101 and 7102 of this title.

Pub. L. 106–393, titles I–IV, Oct. 30, 2000, 114 Stat. 1611–1623, as amended by Pub. L. 110–28, title V, §5401(c), May 25, 2007, 121 Stat. 166; Pub. L. 110–343, div. C, title VI, §601(a), Oct. 3, 2008, 122 Stat. 3893, provided that:

[SECS. 101 to 403. Repealed. Pub. L. 110–343, div. C, title VI, §601(a), Oct. 3, 2008, 122 Stat. 3893. See sections 7111 to 7153 of this title.]

''SEC. 404. CONFORMING AMENDMENTS.''

[Repealed section 13982 of Pub. L. 103–66, which was set out as a note below, and section 13983 of Pub. L. 103–66, which was set out as a note under section 1181f of Title 43, Public Lands.]

ADVISORY COMMITTEE ON FOREST COUNTIES PAYMENTS

Pub. L. 106–291, title III, §320, Oct. 11, 2000, 114 Stat. 990, as amended by Pub. L. 108–319, §1, Oct. 5, 2004, 118 Stat. 1212, provided that:

''(a) DEFINITIONS.—In this section:

''(1) ADVISORY COMMITTEE.—The term 'Advisory Committee' means the Forest Counties Payments Committee established by this section.

''(2) COMMITTEES OF JURISDICTION.—The term 'committees of jurisdiction' means the Committee on Agriculture, the Committee on Resources [now Committee on Natural Resources], and the Committee on Appropriations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, the Committee on Energy and Natural Resources, and the Committee on Appropriations of the Senate.

''(3) ELIGIBLE COUNTY.—The term 'eligible county' means a county that, for one or more of the fiscal years 1986 through 1999, received—

''(A) a payment under title II of the Act of August 28, 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f), or the Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43 U.S.C. 1181f–1 et seq.); or

''(B) a portion of an eligible State's payment, as described in paragraph (4).

''(4) ELIGIBLE STATE.—The term 'eligible State' means a State that, for one or more of the fiscal years 1986 through 1999, received a payment under the sixth paragraph under the heading of 'FOREST SERVICE' in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), or section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

''(5) FEDERAL LANDS.—The term 'Federal lands' means the following:

''(A) Lands within the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)), exclusive of the National Grasslands and land utilization projects designated as National Grasslands administered pursuant to the Act of July 22, 1937 (7 U.S.C. 1010–1012).

''(B) Such portions of the Oregon and California Railroad grant lands revested in the United States by the Act of June 9, 1916 (chapter 137; 39 Stat. 218), and the Coos Bay Wagon Road grant lands reconveyed to the United States by the Act of February 26, 1919 (chapter 47; 40 Stat. 1179), as are or may hereafter come under the jurisdiction of the Sec-

retary of the Interior, which have heretofore or may hereafter be classified as timberlands, and power-site lands valuable for timber, that shall be managed, except as provided in the former section 3 of the Act of August 28, 1937 (50 Stat. 875; 43 U.S.C. 1181c), for permanent forest production.

''(6) SUSTAINABLE FORESTRY.—The term 'sustainable forestry' means the practice of meeting the forest resource needs and values of the present without compromising the similar capability of future generations.

''(b) ESTABLISHMENT OF ADVISORY COMMITTEE.—

''(1) ESTABLISHMENT REQUIRED.—There is hereby established an advisory committee, to be known as the Forest Counties Payments Committee, to develop recommendations, consistent with sustainable forestry, regarding methods to ensure that States and counties in which Federal lands are situated receive adequate Federal payments to be used for the benefit of public education and other public purposes.

''(2) MEMBERS.—The Advisory Committee shall be composed of the following members:

''(A) The Chief of the Forest Service, or a designee of the Chief who has significant expertise in sustainable forestry.

''(B) The Director of the Bureau of Land Management, or a designee of the Director who has significant expertise in sustainable forestry.

''(C) The Director of the Office of Management and Budget, or the Director's designee.

''(D) Two members who are elected members of the governing branches of eligible counties; one such member to be appointed by the President pro tempore of the Senate (in consultation with the chairmen and ranking members of the committees of jurisdiction of the Senate) and one such member to be appointed by the Speaker of the House of Representatives (in consultation with the chairmen and ranking members of the committees of jurisdiction of the House of Representatives) within 60 days of the date of the enactment of this Act [Oct. 11, 2000].

''(E) Two members who are elected members of school boards for, superintendents from, or teachers employed by, school districts in eligible counties; one such member to be appointed by the President pro tempore of the Senate (in consultation with the chairmen and ranking members of the committees of jurisdiction of the Senate) and one such member to be appointed by the Speaker of the House of Representatives (in consultation with the chairmen and ranking members of the committees of jurisdiction of the House of Representatives) within 60 days of the date of the enactment of this Act [Oct. 11, 2000].

''(3) GEOGRAPHIC REPRESENTATION.—In making appointments under subparagraphs (D) and (E) of paragraph (2), the President pro tempore of the Senate and the Speaker of the House of Representatives shall seek to ensure that the Advisory Committee members are selected from geographically diverse locations.

''(4) ORGANIZATION OF ADVISORY COMMITTEE.—

''(A) CHAIRPERSON.—The Chairperson of the Advisory Committee shall be selected from among the members appointed pursuant to subparagraphs (D) and (E) of paragraph (2).

''(B) VACANCIES.—Any vacancy in the membership of the Advisory Committee shall be filled in the same manner as required by paragraph (2). A vacancy shall not impair the authority of the remaining members to perform the functions of the Advisory Committee under this section.

''(C) COMPENSATION.—The members of the Advisory Committee who are not officers or employees of the United States, while attending meetings or other events held by the Advisory Committee or at which the members serve as representatives of the Advisory Committee or while otherwise serving at the request of the Chairperson of the Advisory Committee, shall each be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS–15, as provided in the General Schedule, including traveltime, and while away from their homes or regular places of business, shall each be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

''(5) STAFF AND RULES.—

''(A) EXECUTIVE DIRECTOR.—The Advisory Committee shall have an Executive Director, who shall be appointed by the Advisory Committee and serve at the pleasure of the Advisory Committee. The Executive Director shall report to the Advisory Committee and assume such duties as the Advisory Committee may assign. The Executive Director shall be paid at a rate not in excess of the maximum rate of pay for grade GS–15, as provided in the General Schedule.

''(B) OTHER STAFF.—In addition to authority to appoint personnel subject to the provisions of title 5, United States Code, governing appointments to the competitive service, and to pay such personnel in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the Advisory Committee shall have authority to enter into contracts with private or public organizations which may furnish the Advisory Committee with such administrative and technical personnel as may be necessary to carry out the functions of the Advisory Committee under this section. To the extent practicable, such administrative and technical personnel, and other necessary support services, shall be provided for the Advisory Committee by the Chief of the Forest Service and the Director of the Bureau of Land Management.

''(C) COMMITTEE RULES.—The Advisory Committee may establish such procedural and administrative rules as are necessary for the performance of its functions under this section.

''(6) FEDERAL AGENCY COOPERATION.—The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Advisory Committee in the performance of its functions under this section and should furnish, as practicable, to the Advisory Committee information which the Advisory Committee deems necessary to carry out such functions.

''(c) FUNCTIONS OF ADVISORY COMMITTEE.—

''(1) DEVELOPMENT OF RECOMMENDATIONS.—

''(A) IN GENERAL.—The Advisory Committee shall develop recommendations for policy or legislative initiatives (or both) regarding alternatives for, or substitutes to, the payments required to be made to eligible States and eligible counties under the provisions of law referred to in paragraphs (3) and (4) of subsection (a) in order to provide a long-term method to generate annual payments to eligible States and eligible counties.

''(B) REPORTING REQUIREMENTS.—Not later than 18 months after the date of the enactment of this Act [Oct. 11, 2000], the Advisory Committee shall submit to the committees of jurisdiction a final report containing the recommendations developed under this subsection. The Advisory Committee shall submit semiannual progress reports on its activities and expenditures to the committees of jurisdiction until the final report has been submitted.

''(2) GUIDANCE FOR COMMITTEE.—In developing the recommendations required by paragraph (1), the Advisory Committee shall—

''(A) evaluate the method by which payments are made to eligible States and eligible counties under the provisions of law referred to in paragraphs (3) and (4) of subsection (a), and related laws, and the use of such payments;

''(B) consider the impact on eligible States and eligible counties of revenues derived from the historic multiple use of the Federal lands;

''(C) evaluate the economic, environmental, and social benefits which accrue to counties containing Federal lands, including recreation, natural resources industries, and the value of environmental services that result from Federal lands; and

''(D) evaluate the expenditures by counties on activities on Federal lands which are Federal responsibilities.

''(3) MONITORING AND RELATED REPORTING ACTIVITIES.—The Advisory Committee shall monitor the payments made to eligible States and eligible counties under the provisions of law referred to in paragraphs (3) and (4) of subsection (a), and related laws, and submit to the committees of jurisdiction an annual report describing the amounts and sources of such payments and containing such comments as the Advisory Committee may have regarding such payments.

''(4) TESTIMONY.—The Advisory Committee shall make itself available for testimony or comments on the reports required to be submitted by the Advisory Committee and on any legislation or regulations to implement any recommendations made in such reports in any congressional hearings or any rulemaking or other administrative decision process.

''(d) FEDERAL ADVISORY COMMITTEE ACT REQUIREMENTS.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Advisory Committee.

''(e) TERMINATION OF ADVISORY COMMITTEE.—The Advisory Committee shall terminate on September 30, 2007.

''(f) FUNDING SOURCE.—At the request of the Executive Director of the Advisory Committee, the Secretary of Agriculture shall provide funds from any account available to the Secretary, not to exceed $200,000 in fiscal year 2001, for the work of the Advisory Committee necessary to meet the requirements of this section.''

[Pub. L. 108–319, §1, Oct. 5, 2004, 118 Stat. 1212, provided that the amendment made by section 1 to section 320 of Pub. L. 106–291, set out above, is effective as of Oct. 11, 2003.]

SHARING OF FOREST SERVICE TIMBER SALE RECEIPTS

Pub. L. 103–66, title XIII, §13982, Aug. 10, 1993, 107 Stat. 681, as amended by Pub. L. 103–443, §1(a), Nov. 2, 1994, 108 Stat. 4631, which related to the amount of payments for each fiscal year from 1994 through 2003 that the Secretary of the Treasury was to make, in lieu of making the 25-percent payments to States, for the benefit of counties eligible to receive the 25-percent payments to States, was repealed by Pub. L. 106–393, title IV, §404, Oct. 30, 2000, 114 Stat. 1623.

DISTRIBUTION OF MONEYS RECEIVED FROM TIMBER SALVAGE SALES PROGRAM

Pub. L. 102–381, title II, Oct. 5, 1992, 106 Stat. 1401, provided: ''That notwithstanding any other provision of law, moneys received from the timber salvage sales program in fiscal year 1993 and subsequent fiscal years shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended.''

Similar provisions were contained in the following appropriations act:

Pub. L. 103–138, title II, Nov. 11, 1993, 107 Stat. 1402.

§ 501. Expenditures from receipts for roads and trails; cooperation with State authorities; evaluation of receipts

On or after Mar. 4, 1913, ten per centum of all moneys received from the national forests during each fiscal year shall be available at the end thereof, to be expended by the Secretary of Agriculture for the construction and maintenance of roads and trails within the national forests in the States from which such proceeds are derived; but the Secretary of Agriculture may, whenever practicable, in the construction and maintenance of such roads, secure the cooperation or aid of the proper State or Territorial authorities in the furtherance of any system of highways of which such roads may be made a part. In sales of logs, ties, poles, posts, cordwood, pulpwood, and other forest products the amounts made available for schools and roads by this section shall be based upon the stumpage value of the timber.

(Mar. 4, 1913, ch. 145, §1 (part), 37 Stat. 843; Sept. 21, 1944, ch. 412, title II, §212, 58 Stat. 737.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

June 28, 1944, ch. 296, 58 Stat. 444.
July 12, 1943, ch. 215, 57 Stat. 412.
July 22, 1942, ch. 516, 56 Stat. 680.
July 1, 1941, ch. 267, 55 Stat. 423.

AMENDMENTS

1944—Act Sept. 21, 1944, inserted sentence relating to stumpage value of the timber.

SAVINGS PROVISION

Provisions of Federal Land Policy and Management Act of 1976, Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, not to be construed as affecting the distribution of livestock grazing revenues to local governments under this section, see section 701(j) of Pub. L. 94–579, set out as a note under section 1701 of Title 43, Public Lands.

§ 501a. Omitted

CODIFICATION

Section, acts June 30, 1939, ch. 253, title I, 53 Stat. 956; June 25, 1940, ch. 421, 54 Stat. 547, related to the evaluation of receipts for sections 500 and 501 of this title. See sections 500 and 501 of this title.

§ 502. Rental of property for Forest Service; forage, care, and housing of animals; storage of vehicles and other equipment; pack stock; loss, damage, or destruction of horses, vehicles, and other equipment

The Secretary of Agriculture is authorized, under such regulations as he may prescribe:

(a) To hire or rent property from employees of the Forest Service for the use of that Service whenever the public interest will be promoted thereby.

(b) To provide forage, care, and housing for animals, and storage for vehicles and other equipment obtained by the Forest Service for the use of that service from employees.

(c) To contract with public and private agencies, corporations, firms, associations, or individuals to train, provide forage, care, and housing for, and to work pack stock owned and held in reserve by the Forest Service for fire emergency purposes and as all or part of the consideration therefor to permit such contractors to use the stock for their own purposes during the periods of nonuse by the Forest Service.

(d) To reimburse owners for loss, damage, or destruction of horses, vehicles, and other equipment obtained by the Forest Service for the use of that service from employees or other private owners: *Provided*, That payments or reimbursements herein authorized may be made from the applicable appropriations for the Forest Service:

And provided further, That except for fire fighting emergencies no reimbursement herein authorized shall be made in an amount in excess of $50 to persons who were employees of the Forest Service prior to the time the equipment was obtained or $2,500 in any other case, unless the equipment was made available under a written agreement, contract, or lease.

(Mar. 4, 1913, ch. 145, §1 (part), 37 Stat. 843; Jan. 31, 1931, ch. 76, 46 Stat. 1052; Pub. L. 85–464, §1, June 20, 1958, 72 Stat. 216; Pub. L. 89–270, Oct. 19, 1965, 79 Stat. 991; Pub. L. 97–375, title I, §103(b), Dec. 21, 1982, 96 Stat. 1819.)

AMENDMENTS

1982—Subsec. (a). Pub. L. 97–375 struck out provision that the Secretary transmit to Congress a statement of rentals under the authority of this paragraph as soon as practicable after the end of each fiscal year.

1965—Subsec. (a). Pub. L. 89–270 required the transmittal of statement of rentals during the fiscal year to congressional committees and omitted restriction against use of hired or rented property by the employee from whom hired or rented and $3,000 limitation on aggregate amount of payment in any one year to permanent employees, exclusive of fire emergency obligations.

1958—Subsecs. (c), (d). Pub. L. 85–464 added subsec. (c), redesignated former subsec. (c) as (d) and authorized reimbursement in an amount not in excess of $2,500 in any case where the person is not an employee of the Forest Service at the time the equipment is obtained.

1931—Act Jan. 31, 1931, substituted ''The Secretary of Agriculture is authorized, under such regulations as he may prescribe'' for prior provision which authorized Secretary to reimburse owners of private property lost or damaged while being used for necessary official business.

Subsecs. (a) to (c). Act Jan. 31, 1931, added subsecs. (a) to (c).

§ 503. Repealed. Pub. L. 85–767, § 2[1], Aug. 27, 1958, 72 Stat. 919

Section, act July 11, 1916, ch. 241, §8, 39 Stat. 358, related to appropriations for roads and trails, and cooperative agreements by the Secretary of Agriculture and States.

§ 503a. Omitted

CODIFICATION

Section, acts May 16, 1928, ch. 572, 45 Stat. 569; Feb. 16, 1929, ch. 227, 45 Stat. 1220, which related to purpose for which appropriations for carrying out the provisions of section 503 of this title were available, was omitted in view of repeal of section 503 of this title.

§ 504. Purchases of tree seeds, cones, forage plant seed, and nursery stock for national forests

The provisions of section 6101 of title 41 shall not apply to any purchase by the Forest Service of forest-tree seed or cones or of forage plant seed when the amount involved does not exceed $10,000, nor to any purchase of forest-tree nursery stock when the amount involved does not exceed $500, whenever, in the discretion of the Secretary of Agriculture, such method is in the public interest.

(June 30, 1914, ch. 131, 38 Stat. 429; Apr. 24, 1950, ch. 97, §2, 64 Stat. 83.)

CODIFICATION

In text, ''section 6101 of title 41'' substituted for ''section 3709, Revised Statutes (41 U.S.C. 5),'' on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1950—Act Apr. 24, 1950, increased open market purchase limitation from $500 to $10,000 on forest-tree seed or cones or forage plant seed.

§ 504a. Sale of forest-tree seed and nursery stock to States and political subdivisions; disposition of moneys; exchanges; limitation

The Secretary of Agriculture is authorized, subject to such conditions as he may prescribe, to sell forest-tree seed and nursery stock to States and political subdivisions thereof and to public agencies of other countries, at rates not less than the actual or estimated cost to the United States of procuring or producing such seed or nursery stock, moneys received from the sale thereof to be credited to the appropriation or appropriations of the Forest Service currently available for the procurement or production of seed or nursery stock at the time such moneys are deposited: *Provided*, That the Secretary of Agriculture may exchange with such public agencies forest-tree seed and nursery stock for forest-tree seed or nursery stock of the same or different species upon a determination that such exchange is in the interest of the United States and that the value of the property given in exchange does not exceed the value of the property received: *Provided further*, That no nursery stock shall be sold or exchanged under this section as ornamental or other stock for landscape planting of the types commonly grown by established commercial nurserymen.

(Apr. 24, 1950, ch. 97, §9, 64 Stat. 85.)

§ 505. Use of national forests established on land reserved for purposes of national defense; maintenance available

Where a national forest is established under section 471(b) of this title on land previously reserved for the Army or Navy for purposes of national defense the land shall remain subject to the unhampered use of the Department of the Army or Navy Department for said purposes and nothing in this section or section 471(b) of this title shall be construed to relinquish the authority over such lands for purposes of national defense now vested in the department for which the lands were formerly reserved. Any moneys available for the maintenance, improvement, protection, construction of highways and general administration of the national forests shall be available for expenditure on national forests created under this section.

(June 7, 1924, ch. 348, §9, 43 Stat. 655; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

CODIFICATION

Section is based on the second and third sentences of section 9 of act June 7, 1924. Section 471(b) of this title, referred to in text, was based on the first and fifth sentences of section 9 of the 1924 act, and was repealed by section 704(a) of Pub. L. 94–579. Section 499 of this title is based in part on the fourth sentence of section 9 of the 1924 act.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Sec-

retary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

§ 505a. Interchange of lands between Department of Agriculture and military departments of Department of Defense; report to Congress

The Secretary of Agriculture with respect to National Forest System lands and the Secretary of a military department with respect to lands under the control of the military department which lie within or adjacent to the exterior boundaries of a unit of the National Forest System are authorized, subject to any applicable provisions of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, to interchange such lands, or any part thereof, without reimbursement or transfer of funds whenever they shall determine that such interchange will facilitate land management and will provide maximum use thereof for authorized purposes: *Provided*, That no such interchange of lands shall become effective until forty-five days (counting only days occurring during any regular or special session of the Congress) after the submission to the Congress by the respective Secretaries of notice of intention to make the interchange.

(July 26, 1956, ch. 736, §1, 70 Stat. 656; Pub. L. 100–409, §7(a), (b), Aug. 20, 1988, 102 Stat. 1091.)

CODIFICATION

In text, ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949, as amended'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1988—Pub. L. 100–409 substituted ''National Forest System lands'' for ''national forest lands'' and ''a unit of the National Forest System'' for ''a national forest''.

§ 505b. Laws applicable

Any National Forest System lands which are transferred to a military department in accordance with this section and section 505a of this title shall be thereafter subject only to the laws applicable to other lands within the military installation or other public works project for which such lands are required and any lands which are transferred to the Department of Agriculture in accordance with this section and section 505a of this title shall become subject to the laws applicable to lands acquired under the Act of March 1, 1911 (36 Stat. 961), as amended. Lands interchanged under the authority of this section and section 505a of this title shall be deemed to include interests in lands.

(July 26, 1956, ch. 736, §2, 70 Stat. 657; Pub. L. 100–409, §7(a), (c), Aug. 20, 1988, 102 Stat. 1091.)

REFERENCES IN TEXT

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

AMENDMENTS

1988—Pub. L. 100–409 substituted ''National Forest System lands'' for ''national forest lands'' and inserted provision that lands interchanged under authority of this section and section 505a of this title be deemed to include interests in lands.

§§ 506 to 508. Repealed. Pub. L. 87–869, § 4, Oct. 23, 1962, 76 Stat. 1157

Section 506, acts June 11, 1906, ch. 3074, §1, 34 Stat. 233; May 30, 1908, ch. 233, 35 Stat. 554; Aug. 10, 1912, ch. 284, 37 Stat. 287; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, authorized and directed the Secretary of Agriculture to classify national forest lands chiefly valuable for agriculture and which might be occupied for agricultural purposes without injury to the national forest and which were not needed for public purposes and to list them with the Secretary of the Interior for homestead entry and required such Secretary to declare the agricultural lands open to homestead entry.

Section 507, act June 11, 1906, ch. 3074, §2, 34 Stat. 234, provided for additional homestead right of entry to former settlers.

Section 508, act June 11, 1906, ch. 3074, §3, 34 Stat. 234, provided for entries in Black Hills National Forest subject to mining laws and to appropriation of waters.

§ 508a. Omitted

CODIFICATION

Section, act Feb. 15, 1927, ch. 152, 44 Stat. 1099, related to exchange of lands in Black Hills National or Harney National Forest. See Codification note set out under sections 486a to 486w of this title.

§ 508b. National forests in Minnesota; authority to prospect, develop, mine, remove, and utilize mineral resources

Where, through withdrawal or reservation or by statutory limitation or otherwise, all or any part of the mineral resources in public-domain lands or lands received in exchange for public-domain lands or for timber on such lands situated within the exterior boundaries of the national forests in Minnesota, are not subject to development or utilization under the mining laws of the United States or the mineral leasing laws, and for the development and utilization of which no other statutory authority exists, the Secretary of the Interior is authorized, under general regulations to be prescribed by him and upon such terms and for specified periods or otherwise as he may deem to be for the best interests of the United States, to permit the prospecting for and the development and utilization of such mineral resources: *Provided*, That the development and utilization of such mineral deposits shall not be permitted by the Secretary of the Interior except with the consent of the Secretary of Agriculture. All receipts derived from permits or leases issued under the authority of this section for prospecting for and the development and utilization of such mineral resources

shall be paid into the same funds or accounts in the Treasury and shall be distributed in the same manner as prescribed for national forest revenue by sections 499 to 501 of this title.

(June 30, 1950, ch. 430, 64 Stat. 311.)

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior under this section, with respect to use and disposal from lands under jurisdiction of Secretary of Agriculture of those mineral materials which Secretary of Agriculture is authorized to dispose of from other lands under his jurisdiction under sections 601 to 604 and 611 to 615 of Title 30, Mineral Lands and Mining, transferred to Secretary of Agriculture, see Pub. L. 86–509, June 11, 1960, 74 Stat. 205, set out as a Transfer of Functions note under section 2201 of Title 7, Agriculture.

§ 509. Repealed. Pub. L. 87–869, § 4, Oct. 23, 1962, 76 Stat. 1157

Section, act June 11, 1906, ch. 3074, § 5, 34 Stat. 234, related to future settlements on lands within reserves and rights of former bona fide settlers.

§§ 510, 510a. Omitted

CODIFICATION

Section 510, act Aug. 8, 1916, ch. 295, 39 Stat. 440, which applied the provisions of sections 506 to 508 and 509 of this title to lands within the national forests in Lawrence and Pennington Counties in South Dakota, was omitted because of the repeal of sections 506 to 508 and 509 of this title.

Section 510a, act June 13, 1930, ch. 481, 46 Stat. 583, prohibiting the acceptance of applications for the classification and listing of lands in the Custer National Forest for homestead entry with provision for the Secretary of Agriculture to list, in his discretion, limited tracts when in his opinion such action would be in the public interest and would not be injurious to other settlers or users of the national forest, has been omitted in view of the repeal by Pub. L. 87–869, § 4, Oct. 23, 1962, 76 Stat. 1157, of the provision under which such classification and listing were carried out.

§ 511. Reinstatement of entries canceled or relinquished

All homestead entries which have been canceled or relinquished, or are invalid solely because of the erroneous allowance of such entries after the withdrawal of lands for national-forest purposes, may be reinstated or allowed to remain intact, but in the case of entries canceled prior to March 3, 1911, applications for reinstatement must have been filed in the proper local land office prior to July 1, 1912.

(Mar. 3, 1911, ch. 225, § 1, 36 Stat. 1084.)

§ 512. Omitted

CODIFICATION

Section, acts Mar. 4, 1913, ch. 145, § 1[part], 37 Stat. 842; Mar. 3, 1925, ch. 462, 43 Stat. 1144; Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, which directed the Secretary of Agriculture to select, classify, and segregate lands within the boundaries of national forests that might be opened to settlement and entry under the homestead laws applicable to the national forests, has been omitted in view of the repeal of the Forest Reserve Homestead Act ''as amended and supplemented'' by Pub. L. 87–869, § 4, Oct. 23, 1962, 76 Stat. 1157, which had provided the basic framework under which reserved public domain lands suitable for farming in the national forests had been made available for homesteading.

§ 513. Repealed. Pub. L. 94–588, § 17(a)(1), (2), Oct. 22, 1976, 90 Stat. 2961

Section, acts Mar. 1, 1911, ch. 186, §§ 4, 5, 36 Stat. 962; Sept. 21, 1950, ch. 966, 64 Stat. 872, provided for creation and membership of National Forest Reservation Commission.

TRANSFER OF FUNCTIONS

Section 17(a)(1) of Pub. L. 94–588 provided in part that all functions of National Forest Reservation Commission are transferred to the Secretary of Agriculture.

§ 514. Repealed. Pub. L. 94–588, § 17(a)(6), Oct. 22, 1976, 90 Stat. 2962

Section, acts Mar. 1, 1911, ch. 186, § 14, 36 Stat. 963; June 26, 1934, ch. 756, § 2, 48 Stat. 1225, authorized appropriations for payment of expenses of National Forest Reservation Commission.

§ 515. Examination, location, and purchase of forested, cut-over, or denuded lands; consent of State legislature to acquisition of land by the United States

The Secretary of Agriculture is hereby authorized and directed to examine, locate, and purchase such forested, cut-over, or denuded lands within the watersheds of navigable streams as in his judgment may be necessary to the regulation of the flow of navigable streams or for the production of timber. No deed or other instrument of conveyance of lands referred to herein shall be accepted or approved by the Secretary of Agriculture under this Act until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States for the purpose of preserving the navigability of navigable streams.

(Mar. 1, 1911, ch. 186, § 6, 36 Stat. 962; June 7, 1924, ch. 348, § 6, 43 Stat. 654; Pub. L. 94–588, § 17(a)(3), Oct. 22, 1976, 90 Stat. 2961.)

REFERENCES IN TEXT

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

CODIFICATION

Act Mar. 1, 1911, prior to its amendment, authorized the Secretary to study lands necessary to the regulation of the flow of navigable streams. This authority was enlarged by act June 7, 1924, to include in its scope ''lands necessary for the production of timber''.

AMENDMENTS

1976—Pub. L. 94–588 substituted ''The Secretary of Agriculture is hereby authorized and directed to examine, locate, and purchase such forested, cut-over, or denuded lands within the watersheds of navigable streams as in his judgment may be necessary to the regulation of the flow of navigable streams or for the production of timber. No deed or other instrument of conveyance of lands referred to herein shall be accepted or approved by the Secretary of Agriculture under this Act until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States for the purpose of preserving the navigability of navigable streams'' for ''The Secretary of Agriculture is authorized and directed to examine, locate, and recommend for purchase such forested, cut-over, or denuded lands within the watersheds of navi-

gable streams as in his judgment may be necessary to the regulation of the flow of navigable streams or for the production of timber and to report to the National Forest Reservation Commission the results of such examination; but before any lands are purchased by the commission said lands shall be examined by the Secretary of Agriculture, in cooperation with the Director of the Geological Survey, and a report made by them to the commission showing that the control of such lands by the Federal Government will promote or protect the navigation of streams or by the Secretary of Agriculture showing that such control will promote the production of timber thereon''.

§ 516. Exchange of lands in the public interest; equal value; cutting and removing timber; publication of contemplated exchange

When the public interests will be benefited thereby, the Secretary of Agriculture is hereby authorized, in his discretion, to accept on behalf of the United States title to any lands within the exterior boundaries of national forests which, in his opinion, are chiefly valuable for the purposes of this Act, and in exchange therefor to convey by deed not to exceed an equal value of such national forest land in the same State, or he may authorize the grantor to cut and remove an equal value of timber within such national forests in the same State, the values in each case to be determined by him: *Provided*, That before any such exchange is effected notice of the contemplated exchange reciting the lands involved shall be published once each week for four successive weeks in some newspaper of general circulation in the county or counties in which may be situated the lands to be accepted, and in some like newspaper published in any county in which may be situated any lands or timber to be given in such exchange. Timber given in such exchanges shall be cut and removed under the laws and regulations relating to such national forests, and under the direction and supervision and in accordance with the requirements of the Secretary of Agriculture. Lands so accepted by the Secretary of Agriculture shall, upon acceptance, become parts of the national forests within whose exterior boundaries they are located, and be subjected to all provisions of this Act.

(Mar. 1, 1911, ch. 186, § 7, 36 Stat. 962; Mar. 3, 1925, ch. 473, 43 Stat. 1215; Pub. L. 94–588, § 17(a)(4), Oct. 22, 1976, 90 Stat. 2961.)

REFERENCES IN TEXT

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

AMENDMENTS

1976—Pub. L. 94–588 substituted ''When the public interests will be benefited thereby, the Secretary of Agriculture is hereby authorized, in his discretion, to accept on behalf of the United States title to any lands within the exterior boundaries of national forests which, in his opinion, are chiefly valuable for the purposes of this Act, and in exchange therefor to convey by deed not to exceed an equal value of such national forest land in the same State, or he may authorize the grantor to cut and remove an equal value of timber within such national forests in the same State, the values in each case to be determined by him: *Provided*, That before'' for ''The Secretary of Agriculture is authorized to purchase, in the name of the United States, such lands as have been approved for purchase by the National Forest Reservation Commission at the price or prices fixed by said commission. No deed or other instrument of conveyance shall be accepted or approved by the Secretary of Agriculture under this section until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States for the purpose of preserving the navigability of navigable streams. With the approval of the National Forest Reservation Commission as provided by this section and section 515 of this title, and when the public interests will be benefited thereby, the Secretary of Agriculture is authorized, in his discretion, to accept on behalf of the United States title to any lands within the exterior boundaries of national forests acquired under said sections which, in his opinion, are chiefly valuable for the purposes as therein stated, and in exchange therefor to convey by deed not to exceed an equal value of such national forest land in the same State, or he may authorize the grantor to cut and remove an equal value of timber within such national forests in the same State, the values in each case to be determined by him. Before''.

1925—Act Mar. 3, 1925, inserted provisions covering the exchange of lands.

§ 517. Title to lands to be acquired

The Secretary of Agriculture may do all things necessary to secure the safe title in the United States to the lands to be acquired under this Act, but no payment shall be made for any such lands until the title shall be satisfactory to the Attorney General or his designee and shall be vested in the United States.

(Mar. 1, 1911, ch. 186, § 8 (part), 36 Stat. 962; Pub. L. 91–393, § 3, Sept. 1, 1970, 84 Stat. 835.)

REFERENCES IN TEXT

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

CODIFICATION

Section was amended by act Dec. 11, 1926, ch. 5, 44 Stat. 919. The amendment added a proviso at the end of this section which is set out as section 517a of this title.

AMENDMENTS

1970—Pub. L. 91–393 inserted ''or his designee'' after ''Attorney General''.

§ 517a. Payment of awards in condemnation proceedings

In condemnation proceedings, heretofore or hereafter prosecuted, for the acquisition of lands under this Act, in which a decree is entered vesting title thereto in the United States upon payment of the award into the registry of the court, the Secretary of Agriculture is authorized to make such payment when advised by the Attorney General that the proceedings and the decree are regular.

(Mar. 1, 1911, ch. 186, § 8 (part), 36 Stat. 962; Dec. 11, 1926, ch. 5, 44 Stat. 919.)

REFERENCES IN TEXT

This Act, referred to in text, means act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, popularly known as

the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 552 of this title and Tables.

AMENDMENTS

1926—Act Dec. 11, 1926, amended act Mar. 1, 1911, constituting section 517 of this title, by inserting text of this section as a proviso thereof.

§ 518. Acquisition of lands not defeated by rights-of-way, easements, and reservations

Such acquisition by the United States shall in no case be defeated because of located or defined rights of way, easements, and reservations, which, from their nature will, in the opinion of the Secretary of Agriculture, in no manner interfere with the use of the lands so encumbered, for the purposes of this Act. Such rights of way, easements, and reservations retained by the owner from whom the United States receives title, shall be subject to the rules and regulations prescribed by the Secretary of Agriculture for their occupation, use, operation, protection, and administration, and such rules and regulations shall be expressed in and made part of the written instrument conveying title to the lands to the United States; and the use, occupation, and operation of such rights of way, easements, and reservations shall be under, subject to, and in obedience with the rules and regulations so expressed.

(Mar. 1, 1911, ch. 186, § 9, 36 Stat. 962; Mar. 4, 1913, ch. 145, § 1 (part), 37 Stat. 855; Pub. L. 94–588, § 17(a)(5), Oct. 22, 1976, 90 Stat. 2962.)

REFERENCES IN TEXT

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

AMENDMENTS

1976—Pub. L. 94–588 struck out ''the National Forest Reservation Commission and'' after ''in the opinion of''.

1913—Act Mar. 4, 1913, amended act Mar. 1, 1911, generally to provide that acquisition of lands under this section would not be defeated by rights of way, easements, and reservations retained by the owner from whom title is received.

§ 519. Agricultural lands included in tracts acquired; sale for homesteads

Inasmuch as small areas of land chiefly valuable for agriculture may of necessity or by inadvertence be included in tracts acquired under this Act, the Secretary of Agriculture may, in his discretion, and he is authorized, upon application or otherwise, to examine and ascertain the location and extent of such areas as in his opinion may be occupied for agricultural purposes without injury to the forests or to stream flow and which are not needed for public purposes, and may list and describe the same by metes and bounds, or otherwise, and offer them for sale as homesteads at their true value, to be fixed by him, to actual settlers, in tracts not exceeding eighty acres, in area, under such rules and regulations as he may prescribe; and in case of such sale the jurisdiction over the lands sold shall, ipso facto, revert to the State in which the lands sold lie. And no right, title, interest, or claim in or to any lands acquired under this Act, or the waters thereon, or the products, resources, or use thereof after such lands shall have been so acquired, shall be initiated or perfected, except as in this section provided.

(Mar. 1, 1911, ch. 186, § 10, 36 Stat. 962; Pub. L. 86–509, § 1(k), June 11, 1960, 74 Stat. 205.)

REFERENCES IN TEXT

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

CODIFICATION

''Such rules and regulations as he may prescribe'' was substituted for ''such joint rules and regulations as the Secretary of Agriculture and the Secretary of the Interior may prescribe'' in view of the transfer of functions under this section to the Secretary of Agriculture from the Secretary of the Interior by section 1(k) of Pub. L. 86–509, set out as a note under section 2201 of Title 7, Agriculture.

§ 519a. Transfer of forest reservation lands for military purposes

If any of the lands purchased or to be purchased by the United States under the provisions of the Act approved March 1, 1911, as amended, within the limits of townships 1, 2, and 3 north, ranges 9, 10, 11, 12, and 13, in Forest and Perry Counties, State of Mississippi, are determined to be chiefly valuable and necessary for a National Guard encampment and related military purposes, the Secretary of Agriculture may, and he is, authorized to convey full title to said lands to the State of Mississippi or the Department of the Army: *Provided*, That there is paid into the Treasury of the United States, or made available by transfer on the books of said Treasury, sums of money equal to the full amounts expended by the Department of Agriculture for the purchase of said lands, and the money so paid into or transferred on the books of the Treasury shall be available for expenditure by the Secretary of Agriculture for the purchase of other lands under the provisions of said Act of March 1, 1911, as amended.

(Mar. 2, 1935, ch. 21, 49 Stat. 37; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

REFERENCES IN TEXT

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

CODIFICATION

The words ''with the consent and approval of the National Forest Reservation Commission established by section 4 of said Act of March 1, 1911 [16 U.S.C. 513]'', which appeared immediately following the first reference to the Secretary of Agriculture, have been omitted as obsolete. Section 4 of the 1911 Act was repealed, and all functions of the National Forest Reservation

Commission were transferred to the Secretary of Agriculture, by section 17(a)(1) of Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2961.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

§ 520. Regulations as to mineral resources

The Secretary of Agriculture is authorized, under general regulations to be prescribed by him, to permit the prospecting, development, and utilization of the mineral resources of the lands acquired under the Act of March first, nineteen hundred and eleven, known as the Weeks law, upon such terms and for specified periods or otherwise, as he may deem to be for the best interests of the United States; and all moneys received on account of charges, if any, made under this Act shall be disposed of as is provided by existing law for the disposition of receipts from national forests.

(Mar. 4, 1917, ch. 179, 39 Stat. 1150; 1946 Reorg. Plan No. 3, § 402, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1099; Pub. L. 86–509, § 1(*l*), June 11, 1960, 74 Stat. 205.)

REFERENCES IN TEXT

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

TRANSFER OF FUNCTIONS

Functions of Secretary of Agriculture with respect to uses of mineral deposits under this section transferred to Secretary of the Interior by section 402 of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees, which provided that mineral development on such lands shall be authorized by Secretary of the Interior only when he is advised by Secretary of Agriculture that such development will not interfere with purposes for which land was acquired and only in accordance with such conditions as may be specified by Secretary of Agriculture in order to protect such purposes.

For provisions concerning crediting and distribution of revenues and access to title records, see text of Reorg. Plan No. 3 of 1946.

Functions of Secretary of the Interior under section 402 of Reorg. Plan No. 3 of 1946, with respect to use and disposal from lands under jurisdiction of Secretary of Agriculture of those mineral materials which Secretary of Agriculture is authorized to dispose of from other lands under his jurisdiction under sections 601 to 604 and 611 to 615 of Title 30, Mineral Lands and Mining, transferred to Secretary of Agriculture, see Pub. L. 86–509, June 11, 1960, 74 Stat. 205, set out as a note under section 2201 of Title 7, Agriculture.

§ 521. Lands acquired to be reserved, held, and administered as national forest lands; designation

Subject to the provisions of section 519 of this title the lands acquired under this Act shall be permanently reserved, held, and administered as national forest lands under the provisions of section 471[1] of this title and acts supplemental to and amendatory thereof. And the Secretary of Agriculture may from time to time divide the lands acquired under this Act into such specific national forests and so designate the same as he may deem best for administrative purposes.

(Mar. 1, 1911, ch. 186, § 11, 36 Stat. 963.)

REFERENCES IN TEXT

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

Section 471 of this title, referred to in text, was in the original a reference to section 24 of act Mar. 3, 1891, ch. 561, 26 Stat. 1103, and was repealed by Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.

§ 521a. Administration, management, and consolidation of certain lands

In order to facilitate the administration, management, and consolidation of the national forests, all lands of the United States within the exterior boundaries of national forests which were or hereafter are acquired for or in connection with the national forests or transferred to the Forest Service, Department of Agriculture, for administration and protection substantially in accordance with national forest regulations, policies, and procedures, excepting (a) lands reserved from the public domain or acquired pursuant to laws authorizing the exchange of land or timber reserved from or part of the public domain, and (b) lands within the official limits of towns or cities, notwithstanding the provisions of any other Act, are made subject to the Weeks Act of March 1, 1911 (36 Stat. 961), as amended, and to all laws, rules, and regulations applicable to national forest lands acquired thereunder: *Provided*, That nothing in this section shall be construed as (1) affecting the status of lands administered by the Secretary of Agriculture under the Act of June 24, 1954 (68 Stat. 270), and which are revested Oregon and California Railroad grant lands, administered as national forest lands, or (2) changing the disposition of revenues from or authorizing the exchange of the lands, or the timber thereon, described in the Act of February 11, 1920 (ch. 69, 41 Stat. 405), the Act of September 22, 1922 (ch. 407, 42 Stat. 1019), and the Act of June 4, 1936 (ch. 494, 49 Stat. 1460).

(Pub. L. 85–862, Sept. 2, 1958, 72 Stat. 1571.)

REFERENCES IN TEXT

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

Act June 24, 1954, referred to in text, is classified to sections 1181f and 1181g to 1181j of Title 43, Public Lands.

Act February 11, 1920, referred to in text, related to exchanges of lands in or adjacent to Siuslaw National Forest and was not classified to the Code. See Codifica-

[1] See References in Text note below.

tion note set out under sections 486a to 486w of this title.

Act September 22, 1922, referred to in text, is classified to section 487 of this title.

Act June 4, 1936, referred to in text, is classified to section 487a of this title.

§ 521b. Report of Secretary of Agriculture prior to purchase or exchange of land; contents; waiting period

For purposes of providing information that will aid the Congress in its oversight responsibilities and improve the accountability of expenditures for the acquisition of forest land, the Secretary of Agriculture may not hereafter enter into any land purchase or exchange relating to the National Forest System of $150,000 or more for the types of lands which have been heretofore approved by the National Forest Reservation Commission until after 30 days from the date upon which a detailed report of the facts concerning such proposed purchase or transfer is submitted to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate or such earlier time as may be approved by both such committees. Such report shall contain at least the following:

(1) guidelines utilized by the Secretary in determining that the land should be acquired;

(2) the location and size of the land;

(3) the purchase price of the land and the criteria used by the Secretary in determining such price;

(4) the person from whom the land is being acquired; and

(5) any adjustment made by the Secretary of relative value pursuant to section 1716(f)(2)(B)(ii) of title 43.

(Pub. L. 94–588, § 17(b), Oct. 22, 1976, 90 Stat. 2962; Pub. L. 100–409, § 6, Aug. 20, 1988, 102 Stat. 1090; Pub. L. 103–437, § 6(r), Nov. 2, 1994, 108 Stat. 4587.)

REFERENCES IN TEXT

The National Forest Reservation Commission, referred to in text, was abolished and the functions thereof were transferred to the Secretary of Agriculture by section 17(a)(1) of Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2961.

AMENDMENTS

1994—Pub. L. 103–437 in introductory provisions substituted ''Agriculture, Nutrition, and Forestry of the Senate'' for ''Agriculture and Forestry of the Senate''.

1988—Pub. L. 100–409 substituted ''$150,000'' for ''$25,000'' in introductory provisions and added par. (5).

§ 521c. Definitions

For purposes of sections 521c to 521i of this title—

(1) the term ''person'' includes any State or any political subdivision or entity thereof;

(2) the term ''interchange'' means a land transfer in which the Secretary and another person exchange titles to lands or interests in lands of approximately equal value where the Secretary finds that such a value determination can be made without a formal appraisal and under such regulations as the Secretary may prescribe; and

(3) the term ''Secretary'' means the Secretary of Agriculture of the United States.

(Pub. L. 97–465, § 1, Jan. 12, 1983, 96 Stat. 2535.)

§ 521d. Sale, exchange, or interchange of National Forest System land

The Secretary is authorized, when the Secretary determines it to be in the public interest—

(1) to sell, exchange, or interchange by quitclaim deed, all right, title, and interest, including the mineral estate, of the United States in and to National Forest System lands described in section 521e of this title; and

(2) to accept as consideration for the lands sold, exchanged, or interchanged other lands, interests in lands, or cash payment, or any combination of such forms of consideration, which, in the case of conveyance by sale or exchange, is at least equal in value, including the mineral estate, or, in the case of conveyance by interchange, is of approximately equal value, including the mineral estate, to the lands being conveyed by the Secretary. The Secretary shall insert in any such quitclaim deed such terms, convenants,[1] conditions, and reservations as the Secretary deems necessary to ensure protection of the public interest, including protection of the scenic, wildlife, and recreation values of the National Forest System and provision for appropriate public access to and use of lands within the System. The preceding sentence shall not be applicable to deeds issued by the Secretary to lands outside the boundary of units of the National Forest System.

(Pub. L. 97–465, § 2, Jan. 12, 1983, 96 Stat. 2535.)

§ 521e. Small parcels and road rights-of-way

The National Forest System lands which may be sold, exchanged, or interchanged under sections 521c to 521i of this title are those the sale or exchange of which is not practicable under any other authority of the Secretary, which have a value as determined by the Secretary of not more than $150,000, and which are—

(1) parcels of forty acres or less which are interspersed with or adjacent to lands which have been transferred out of Federal ownership under the mining laws and which are determined by the Secretary, because of location or size, not to be subject to efficient administration;

(2) parcels of ten acres or less which are encroached upon by improvements occupied or used under claim or color of title by persons to whom no advance notice was given that the improvements encroached or would encroach upon such parcels, and who in good faith relied upon an erroneous survey, title search, or other land description indicating that there was not such encroachment; or

(3) road rights-of-way, reserved or acquired, which are substantially surrounded by lands not owned by the United States and which are no longer needed by the United States, subject to the first right of abutting landowners to acquire such rights-of-way.

(Pub. L. 97–465, § 3, Jan. 12, 1983, 96 Stat. 2535.)

[1] So in original. Probably should be ''covenants,''.

§ 521f. Costs of conveyance and value of improvements

Any person to whom lands are conveyed under sections 521c to 521i of this title shall bear all reasonable costs of administration, survey, and appraisal incidental to such conveyance, as determined by the Secretary. In determining the value of any lands or interest in lands to be conveyed under sections 521c to 521i of this title, the Secretary may, in those cases in which the Secretary determines it would be in the public interest, exclude from such determination the value of any improvements to the lands made by any person other than the Government. In the case of road rights-of-way conveyed under sections 521c to 521i of this title, the person to whom the right-of-way is conveyed shall reimburse the United States for the value of any improvements to such right-of-way which may have been made by the United States. The Secretary may, in those cases in which the Secretary determines that it would be in the public interest, waive payment by any person of costs incidental to any conveyance authorized by sections 521c to 521i of this title or reimbursement by any person for the value of improvements to rights-of-way otherwise required by this section.

(Pub. L. 97–465, § 4, Jan. 12, 1983, 96 Stat. 2536.)

§ 521g. Road rights-of-way subject to State or local law

Conveyance of any road rights-of-way under sections 521c to 521i of this title shall not be construed as permitting any designation, maintenance, or use of such rights-of-way for road or other purposes except to the extent permitted by State or local law and under conditions imposed by such law.

(Pub. L. 97–465, § 5, Jan. 12, 1983, 96 Stat. 2536.)

§ 521h. Regulations; contents

The Secretary shall issue regulations to carry out the provisions of sections 521c to 521i of this title, including specification of—

(1) criteria which shall be used in making the determination as to what constitutes the public interest;

(2) the definition of and the procedure for determining ''approximately equal value''; and

(3) factors relating to location or size which shall be considered in connection with determining the lands to be sold, exchanged, or interchanged under clause (1) of section 521e of this title.

(Pub. L. 97–465, § 6, Jan. 12, 1983, 96 Stat. 2536.)

§ 521i. Unaffected lands

Nothing in sections 521c to 521i of this title shall authorize conveyance of Federal lands within the National Wilderness Preservation System, National Wild and Scenic Rivers System, National Trails System, or National Monuments. Nothing in sections 521c to 521i of this title shall authorize sale of Federal lands, within National Recreation Areas.

(Pub. L. 97–465, § 7, Jan. 12, 1983, 96 Stat. 2536.)

§ 522. Omitted

CODIFICATION

Section, acts Feb. 15, 1901, ch. 372, 31 Stat. 790; Feb. 1, 1905, ch. 288, § 1, 33 Stat. 628, insofar as it relates to rights-of-way through public lands, forests, and reservations, and the Yosemite, Sequoia, and General Grant National Parks is set out as section 79 of this title and section 959 of Title 43, Public Lands, and insofar as it related to rights-of-way through national forests was set out as this section. Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, repealed this section insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

§ 523. Rights-of-way through national forests for power and communications facilities

The head of the department having jurisdiction over the lands is authorized and empowered, under general regulations to be fixed by him, to grant an easement for rights-of-way, for a period not exceeding fifty years from the date of the issuance of such grant, over, across, and upon the national forests of the United States for electrical poles and lines for the transmission and distribution of electrical power, and for poles and lines for communication purposes, and for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, to the extent of two hundred feet on each side of the center line of such lines and poles and not to exceed four hundred feet by four hundred feet for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, to any citizen, association, or corporation of the United States, where it is intended by such to exercise the right-of-way herein granted for any one or more of the purposes herein named: *Provided*, That such right-of-way shall be allowed within or through any national forest only upon the approval of the chief officer of the department under whose supervision or control such national forest falls, and upon a finding by him that the same is not incompatible with the public interest: *Provided further*, That all or any part of such right-of-way may be forfeited and annulled by declaration of the head of the department having jurisdiction over the lands for nonuse for a period of two years or for abandonment.

Any citizen, association, or corporation of the United States to whom there has been issued a permit prior to March 4, 1911, for any of the purposes specified herein under any law existing at that date, may obtain the benefit of this section upon the same terms and conditions as shall be required of citizens, associations, or corporations making application under the provisions of this section subsequent to said date.

(Mar. 4, 1911, ch. 238, 36 Stat. 1253; May 27, 1952, ch. 338, 66 Stat. 95.)

REPEALS

Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

CODIFICATION

Section, insofar as it relates to rights-of-way in national parks, military, and other reservations, is set out as sections 5 and 420 of this title, and insofar as it relates to rights-of-way on public lands generally, and Indian reservations, is set out as section 961 of Title 43, Public Lands.

AMENDMENTS

1952—Act May 27, 1952, inserted reference to rights-of-way for radio, television, and other forms of communication, and increased from 40 feet to 400 feet the maximum width of rights-of-way for lines and poles.

SAVINGS PROVISION

Repeal by Pub. L. 94–579, title VII, §706(a), Oct. 21, 1976, 90 Stat. 2793, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§ 524. Rights-of-way for dams, reservoirs, or water plants for municipal, mining, and milling purposes

Rights-of-way for the construction and maintenance of dams, reservoirs, water plants, ditches, flumes, pipes, tunnels, and canals, within and across the national forests of the United States, are granted to citizens and corporations of the United States for municipal or mining purposes, and for the purposes of the milling and reduction of ores, during the period of their beneficial use, under such rules and regulations as may be prescribed by the Secretary of the Interior, and subject to the laws of the State or Territory in which said forests are respectively situated.

(Feb. 1, 1905, ch. 288, §4, 33 Stat. 628.)

REPEALS

Section repealed by Pub. L. 94–579, title VII, §706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

CODIFICATION

''National forests'' and ''forests'' substituted in text for ''forest reserves'' and ''reserves'', respectively, on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

SAVINGS PROVISION

Repeal by Pub. L. 94–579, title VII, §706(a), Oct. 21, 1976, 90 Stat. 2793, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§ 525. Rights-of-way for wagon roads or railroads

In the form provided by existing law the Secretary of the Interior may file and approve surveys and plats of any right of way for a wagon road, railroad, or other highway over and across any national forest when in his judgment the public interests will not be injuriously affected thereby.

(Mar. 3, 1899, ch. 427, §1, 30 Stat. 1233.)

REPEALS

Section repealed by Pub. L. 94–579, title VII, §706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

CODIFICATION

As originally enacted, this section contained following the word ''forest'' the words ''or reservoir site''. See sections 665 and 958 of Title 43, Public Lands, which represent the phase of the section here omitted.

''National forest'' substituted in text for ''forest reserve'' on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

SAVINGS PROVISION

Repeal by Pub. L. 94–579, title VII, §706(a), Oct. 21, 1976, 90 Stat. 2793, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§ 526. Establishment and protection of water rights

There are authorized to be appropriated for expenditure by the Forest Service such sums as may be necessary for the investigation and establishment of water rights, including the purchase thereof or of lands or interests in lands or rights-of-way for use and protection of water rights necessary or beneficial in connection with the administration and public use of the national forests.

(Sept. 21, 1944, ch. 412, title II, §213, 58 Stat. 737.)

CODIFICATION

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

INTERIM MORATORIUM ON BYPASS FLOWS

Pub. L. 104–127, title III, §389, Apr. 4, 1996, 110 Stat. 1021, as amended by Pub. L. 104–180, title VII, §736, Aug. 6, 1996, 110 Stat. 1607, provided that:

''(a) MORATORIUM.—There shall be a 20-month moratorium on any Forest Service decision to require bypass flows or any other relinquishment of the unimpaired use of a decreed water right as a condition of renewal or reissuance of a land use authorization permit.

''(b) LIMITATIONS.—Subsection (a) shall not affect—

''(1) obligations or authority of the Secretary of Agriculture to protect public health and safety; and

''(2) obligations or authority under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or applicable State law.

''(c) RULES OF CONSTRUCTION.—

''(1) EXISTING NON-FEDERAL WATER RIGHTS.—Nothing in this section prevents or inhibits the exercise of the use and operation of existing non-Federal water rights on or above the National Forest land that require land use authorization permits from the Forest Service to access water supply facilities.

''(2) RENEWAL OR REISSUANCE OF EXPIRING LAND USE AUTHORIZATION FOR DECREED WATER RIGHTS.—Nothing in this section prevents or inhibits the renewal or reissuance of expiring land use authorizations for decreed water rights. The Forest Service may extend, as needed, any expiring land use authorization for such time as is necessary to incorporate the results of the study authorized by subsection (d).

''(d) STUDY OF WATER RIGHTS ACROSS FEDERAL LANDS.—

''(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act [Apr. 4, 1996], there shall be established a Water Rights Task Force to study the subjects described in paragraph (3).

''(2) MEMBERSHIP.—The Task Force shall be composed of 7 members appointed as follows:

''(A) 1 member shall be appointed by the Secretary of Agriculture.

''(B) 2 members shall be appointed by the Speaker of the House of Representatives and 1 member shall be appointed by the Minority Leader of the House of Representatives.

''(C) 2 members shall be appointed by the Majority Leader of the Senate and 1 member shall be appointed by the Minority Leader of the Senate.

''(3) SUBJECTS TO BE STUDIED.—The Task Force shall study and make recommendations on—

''(A) whether Federal water rights should be acquired for environmental protection on National Forest land;

''(B) measures necessary to protect the free exercise of non-Federal water rights requiring easements and permits from the Forest Service;

''(C) the protection of minimum instream flows for environmental and watershed management purposes on National Forest land through purchases or exchanges from willing sellers in accordance with State law;

''(D) the effects of any of the recommendations made under this paragraph on existing State laws, regulations, and customs of water usage; and

''(E) measures that would be useful in avoiding or resolving conflicts between the Forest Service's responsibilities for natural resource and environmental protection, the public interest, and the property rights and interests of water holders with special use permits for water facilities, including the study of the Federal acquisition of water rights, dispute resolution, mitigation, and compensation.

''(4) FINAL REPORT.—As soon as practicable, but not later than 14 months, after the date of enactment of this Act [Apr. 4, 1996], the Task Force shall provide the final report of the Task Force to—

''(A) the Secretary of Agriculture;

''(B) the Speaker of the House of Representatives;

''(C) the President pro tempore of the Senate;

''(D) the Chairman of the Committee on Agriculture of the House of Representatives;

''(E) the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate;

''(F) the Chairman of the Committee on Resources [now Committee on Natural Resources] of the House of Representatives; and

''(G) the Chairman of the Committee on Energy and Natural Resources of the Senate.

''(5) AUTHORIZATION OF FUNDS.—The Secretary of Agriculture shall use funds made available for salaries and administrative expenses of the Department of Agriculture to carry out this subsection.

''(e) EXTENSION FOR DELAY.—There shall be a day-for-day extension to the 20-month moratorium required by subsection (a) and a day-for-day extension to the report required by subsection (d)(4)—

''(1) for every day of delay in implementing or establishing the Water Rights Task Force caused by a failure to nominate Task Force members by the Administration or by the Congress; or

''(2) for every day of delay caused by a failure by the Secretary of Agriculture to identify adequate resources as determined by the Secretary of Agriculture to carry out the purposes of the Task Force.''

§ 527. Use of Forest Service funds for administration of certain lands

The Forest Service may expend funds available for national forest protection and management for the administration of lands under contract for purchase or for the acquisition of which condemnation proceedings have been instituted under the Act of March 1, 1911, and the Act of June 7, 1924, and lands transferred to the Forest Service for administration.

(Sept. 21, 1944, ch. 412, title II, § 211, 58 Stat. 737.)

REFERENCES IN TEXT

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

Act of June 7, 1924, referred to in text, is act June 7, 1924, ch. 348, 43 Stat. 653, which is classified to sections 471, 499, 505, 515, 564, 565, 566, 567, 568, 569, and 570 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

§ 528. Development and administration of renewable surface resources for multiple use and sustained yield of products and services; Congressional declaration of policy and purpose

It is the policy of the Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes. The purposes of sections 528 to 531 of this title are declared to be supplemental to, but not in derogation of, the purposes for which the national forests were established as set forth in section 475 of this title. Nothing herein shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish on the national forests. Nothing herein shall be construed so as to affect the use or administration of the mineral resources of national forest lands or to affect the use or administration of Federal lands not within national forests.

(Pub. L. 86–517, § 1, June 12, 1960, 74 Stat. 215.)

SHORT TITLE

Section 5 of Pub. L. 86–517, as added Pub. L. 94–588, § 19, Oct. 22, 1976, 90 Stat. 2962, provided that: ''This Act [enacting this section and sections 529 to 531 of this title] may be cited as the 'Multiple-Use Sustained-Yield Act of 1960'.''

PILOT PROGRAM OF CHARGES AND FEES FOR HARVEST OF FOREST BOTANICAL PRODUCTS

Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 339], Nov. 29, 1999, 113 Stat. 1535, 1501A–199, as amended by Pub. L. 108–108, title III, § 335, Nov. 10, 2003, 117 Stat. 1312; Pub. L. 111–88, div. A, title IV, § 420, Oct. 30, 2009, 123 Stat. 2960, provided that:

''(a) DEFINITION OF FOREST BOTANICAL PRODUCT.—For purposes of this section, the term 'forest botanical product' means any naturally occurring mushrooms, fungi, flowers, seeds, roots, bark, leaves, and other vegetation (or portion thereof) that grow on National Forest System lands. The term does not include trees, except as provided in regulations issued under this section by the Secretary of Agriculture.

''(b) RECOVERY OF FAIR MARKET VALUE FOR PRODUCTS.—The Secretary of Agriculture shall develop and implement a pilot program to charge and collect fees under subsection (c) for forest botanical products harvested on National Forest System lands. The Secretary

shall establish appraisal methods and bidding procedures to determine the fair market value of forest botanical products harvested under the pilot program.

''(c) FEES.—

''(1) IMPOSITION AND COLLECTION.—Under the pilot program, the Secretary of Agriculture shall charge and collect from a person who harvests forest botanical products on National Forest System lands a fee in an amount established by the Secretary to recover at least a portion of the fair market value of the harvested forest botanical products and a portion of the costs incurred by the Department of Agriculture associated with granting, modifying, or monitoring the authorization for harvest of the forest botanical products, including the costs of any environmental or other analysis.

''(2) SECURITY.—The Secretary may require a person assessed a fee under this subsection to provide security to ensure that the Secretary receives the fees imposed under this subsection from the person.

''(d) SUSTAINABLE HARVEST LEVELS FOR FOREST BOTANICAL PRODUCTS.—The Secretary of Agriculture shall conduct appropriate analyses to determine whether and how the harvest of forest botanical products on National Forest System lands can be conducted on a sustainable basis. The Secretary may not permit under the pilot program the harvest of forest botanical products at levels in excess of sustainable harvest levels, as defined pursuant to the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.). The Secretary shall establish procedures and timeframes to monitor and revise the harvest levels established for forest botanical products.

''(e) WAIVER AUTHORITY.—

''(1) PERSONAL USE.—The Secretary of Agriculture shall establish a personal use harvest level for each forest botanical product, and the harvest of a forest botanical product below that level by a person for personal use shall not be subject to a fee under subsection (c).

''(2) OTHER EXCEPTIONS.—The Secretary may also waive the application of subsection (b) or (c) pursuant to such regulations as the Secretary may prescribe.

''(f) DEPOSIT AND USE OF FUNDS.—

''(1) DEPOSIT.—Funds collected under the pilot program in accordance with subsection (c) shall be deposited into a special account in the Treasury of the United States.

''(2) FUNDS AVAILABLE.—Funds deposited into the special account in accordance with paragraph (1) shall be available for expenditure by the Secretary of Agriculture under paragraph (3) without further appropriation, and shall remain available for expenditure until the date specified in subsection (h)(2).

''(3) AUTHORIZED USES.—The funds made available under paragraph (2) shall be expended at units of the National Forest System in proportion to the fees collected at that unit under subsection (c) to pay for the costs of conducting inventories of forest botanical products, determining sustainable levels of harvest, monitoring and assessing the impacts of harvest levels and methods, conducting restoration activities, including any necessary vegetation, and covering costs of the Department of Agriculture described in subsection (c)(1).

''(4) TREATMENT OF FEES.—Funds collected under subsection (c) shall not be taken into account for the purposes of the following laws:

''(A) The sixth paragraph under the heading 'FOREST SERVICE' in the Act of May 23, 1908 (16 U.S.C. 500) and section 13 of the Act of March 1, 1911 (commonly known as the Weeks Act; 16 U.S.C. 500).

''(B) The fourteenth paragraph under the heading 'FOREST SERVICE' in the Act of March 4, 1913 (16 U.S.C. 501).

''(C) Section 33 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1012).

''(D) The Act of August 8 [28], 1937, and the Act of May 24, 1939 (43 U.S.C. 1181a et seq.).

''(E) Section 6 of the Act of June 14, 1926 (commonly known as the Recreation and Public Purposes Act; 43 U.S.C. 869–4).

''(F) Chapter 69 of title 31, United States Code.

''(G) Section 401 of the Act of June 15, 1935 (16 U.S.C. 715s).

''(H) Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a).

''(I) Any other provision of law relating to revenue allocation.

''(g) REPORTING REQUIREMENTS.—As soon as practicable after the end of each fiscal year in which the Secretary of Agriculture collects fees under subsection (c) or expends funds from the special account under subsection (f), the Secretary shall submit to the Congress a report summarizing the activities of the Secretary under the pilot program, including the funds generated under subsection (c), the expenses incurred to carry out the pilot program, and the expenditures made from the special account during that fiscal year.

''(h) DURATION OF PILOT PROGRAM.—

''(1) COLLECTION OF FEES.—The Secretary of Agriculture may collect fees under the authority of subsection (c) until September 30, 2014.

''(2) USE OF SPECIAL ACCOUNT.—The Secretary may make expenditures from the special account under subsection (f) until September 30 of the fiscal year following the last fiscal year specified in paragraph (1). After that date, amounts remaining in the special account shall be transferred to the general fund of the Treasury.''

[Pub. L. 108–108, § 335(3), which directed amendment of section 1000(a)(3) [title III, § 339(d)(1)] of Pub. L. 106–113, set out above, was executed to section 1000(a)(3) [title III, § 339(e)(1)] of Pub. L. 106–113 to reflect the probable intent of Congress.]

§ 529. Authorization of development and administration consideration to relative values of resources; areas of wilderness

The Secretary of Agriculture is authorized and directed to develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom. In the administration of the national forests due consideration shall be given to the relative values of the various resources in particular areas. The establishment and maintenance of areas of wilderness are consistent with the purposes and provisions of sections 528 to 531 of this title.

(Pub. L. 86–517, § 2, June 12, 1960, 74 Stat. 215.)

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with provisions of sections 528 to 531 of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 530. Cooperation for purposes of development and administration with State and local governmental agencies and others

In the effectuation of sections 528 to 531 of this title the Secretary of Agriculture is authorized to cooperate with interested State and local governmental agencies and others in the development and management of the national forests.

(Pub. L. 86–517, § 3, June 12, 1960, 74 Stat. 215.)

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with the provisions of sections 528 to 531 of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas were transferred to the Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, until the first anniversary of date of initial operation of the Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 531. Definitions

As used in sections 528 to 531 of this title the following terms shall have the following meanings:

(a) ''Multiple use'' means: The management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

(b) ''Sustained yield of the several products and services'' means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the national forests without impairment of the productivity of the land.

(Pub. L. 86–517, § 4, June 12, 1960, 74 Stat. 215.)

§ 532. Roads and trails system; Congressional findings and declaration of policy

The Congress hereby finds and declares that the construction and maintenance of an adequate system of roads and trails within and near the national forests and other lands administered by the Forest Service is essential if increasing demands for timber, recreation, and other uses of such lands are to be met; that the existence of such a system would have the effect, among other things, of increasing the value of timber and other resources tributary to such roads; and that such a system is essential to enable the Secretary of Agriculture (hereinafter called the Secretary) to provide for intensive use, protection, development, and management of these lands under principles of multiple use and sustained yield of products and services.

(Pub. L. 88–657, § 1, Oct. 13, 1964, 78 Stat. 1089.)

§ 533. Grant of easements for road rights-of-way; authority of Secretary of Agriculture; regulations

The Secretary is authorized, under such regulations as he may prescribe, subject to the provisions of sections 532 to 538 of this title, to grant permanent or temporary easements for specified periods or otherwise for road rights-of-way (1) over national forest lands and other lands administered by the Forest Service, and (2) over any other related lands with respect to which the Department of Agriculture has rights under the terms of the grant to it.

(Pub. L. 88–657, § 2, Oct. 13, 1964, 78 Stat. 1089.)

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with construction and utilization of national forest roads under sections 532 to 538 of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 534. Termination and cancellation of easements; notice; hearing

An easement granted under sections 532 to 538 of this title may be terminated by consent of the owner of the easement, by condemnation, or after a five-year period of nonuse the Secretary may, if he finds the owner has abandoned the easement, make a determination to cancel it. Before the Secretary may cancel an easement for nonuse the owner of such easement must be notified of the determination to cancel and be given, upon his request made within sixty days after receipt of the notice, a hearing in accordance with such rules and regulations as may be issued by the Secretary.

(Pub. L. 88–657, § 3, Oct. 13, 1964, 78 Stat. 1089.)

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under sections 532 to 538 of this title to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see Transfer of Functions note set out under section 533 of this title.

§ 535. Forest development roads; acquisition, construction, and maintenance; maximum economy; methods of financing; cost arrangements for construction standards; transfer of unused effective purchaser credit for road construction

The Secretary is authorized to provide for the acquisition, construction, and maintenance of forest development roads within and near the national forests and other lands administered by the Forest Service in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management thereof, and for utilization of the other resources thereof. Financing of such roads may be accomplished (1) by the Secretary utilizing appropriated funds, (2) by requirements on purchasers of national forest timber and other products, including provisions for amortization of road costs in contracts, (3) by cooperative financing with other public agencies and with private agencies or persons, or (4) by a combination of these methods: *Provided*, That where roads of a higher standard than that needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed, the purchaser of the national forest timber and other products shall not be required to bear that part of the costs necessary to meet such higher standard, and the Secretary is authorized to make such arrangements to this end as may be appropriate. The Secretary is authorized, under such rules and regulations as he shall prescribe, to permit the transfer of unused effective purchaser credit for road construction earned after December 16, 1975, from one timber sale to a purchaser to another timber sale to the same purchaser within the same National Forest.

(Pub. L. 88–657, § 4, Oct. 13, 1964, 78 Stat. 1089; Pub. L. 94–154, Dec. 16, 1975, 89 Stat. 823.)

AMENDMENTS

1975—Pub. L. 94–154 authorized the Secretary to permit the transfer of unused effective purchaser credit for road construction earned after Dec. 16, 1975, from one timber sale to a purchaser to another timber sale to the same purchaser within the same National Forest.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under sections 532 to 538 of this title to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see Transfer of Functions note set out under section 533 of this title.

FINANCING OF FOREST DEVELOPMENT ROADS

Financing of forest development roads authorized by cl. (2) of this section deemed ''budget authority'' and ''budget outlays'' as defined in section 621(a) of Title 2, The Congress, and effective for purpose specified in section 651(a) of Title 2, see section 1608 of this title.

§ 535a. Forest development roads: prohibition on credits; inclusion of construction costs in notice of sale; special election by small business concerns; construction standards; authorization of harvesting; treatment of road value

(a) Prohibition on timber purchaser road credits

In financing any forest development road pursuant to section 535 of this title, the Secretary of Agriculture may not provide effective credit for road construction to any purchaser of national forest timber or other forest products.

(b) Construction of roads by timber purchasers

(1) Whenever the Secretary of Agriculture makes a determination that a forest development road referred to in subsection (a) of this section shall be constructed or paid for, in whole or in part, by a purchaser of national forest timber or other forest products, the Secretary shall include notice of the determination in the notice of sale of the timber or other forest products. The notice of sale shall contain, or announce the availability of, sufficient information related to the road described in the notice to permit a prospective bidder on the sale to calculate the likely cost that would be incurred by the bidder to construct or finance the construction of the road so that the bidder may reflect such cost in the bid.

(2) If there is an increase or decrease in the cost of roads constructed by the timber purchaser, caused by variations in quantities, changes or modifications subsequent to the sale of timber made in accordance with applicable timber sale contract provisions, then an adjustment to the price paid for timber harvested by the purchaser shall be made. The adjustment shall be applied by the Secretary as soon as practicable after any such design change is implemented.

(c) Special election by small business concerns

(1) A notice of sale referred to in subsection (b) of this section containing specified road construction of $50,000 or more, shall give a purchaser of national forest timber or other forest products that qualifies as a ''small business concern'' under the Small Business Act (15 U.S.C. 631 et seq.), and regulations issued thereunder, the option to elect that the Secretary of Agriculture build the roads described in the notice. The Secretary shall provide the small business concern with an estimate of the cost that would be incurred by the Secretary to construct the roads on behalf of the small business concern. The notice of sale shall also include the date on which the roads described in the notice will be completed by the Secretary if the election is made.

(2) If the election referred to in paragraph (1) is made, the purchaser of the national forest timber or other forest products shall pay to the Secretary of Agriculture, in addition to the price paid for the timber or other forest prod-

ucts, an amount equal to the estimated cost of the roads which otherwise would be paid by the purchaser as provided in the notice of sale. Pending receipt of such amount, the Secretary may use receipts from the sale of national forest timber or other forest products and such additional sums as may be appropriated for the construction of roads, such funds to be available until expended, to accomplish the requested road construction.

(d) Authorization of harvesting

In each sale of national forest timber or other forest products referred to in this section, the Secretary of Agriculture is encouraged to authorize harvest of the timber or other forest products in a unit included in the sale as soon as road work for that unit is completed and the road work is approved by the Secretary.

(e) Construction standard

For any forest development road that is to be constructed or paid for by a purchaser of national forest timber or other forest products, the Secretary of Agriculture may not require the purchaser to design, construct, or maintain the road (or pay for the design, construction, or maintenance of the road) to a standard higher than the standard, consistent with applicable environmental laws and regulations, that is sufficient for the harvesting and removal of the timber or other forest products, unless the Secretary bears that part of the cost necessary to meet the higher standard.

(f) Treatment of road value

For any forest development road that is constructed or paid for by a purchaser of national forest timber or other forest products, the estimated cost of the road construction, including subsequent design changes, shall be considered to be money received for purposes of the payments required to be made under section 500 of this title. To the extent that the appraised value of road construction determined under this subsection reflects funds contributed by the Secretary of Agriculture to build the road to a higher standard pursuant to subsection (e) of this section, the Secretary shall modify the appraisal of the road construction to exclude the effect of the Federal funds.

(g) Effective date

(1) This section and the requirements of this section shall take effect (and apply thereafter) upon the earlier of—

(A) April 1, 1999; or

(B) the date that is the later of—

(i) the effective date of regulations issued by the Secretary of Agriculture to implement this section; and

(ii) the date on which new timber sale contract provisions designed to implement this section, that have been published for public comment, are approved by the Secretary.

(2) Notwithstanding paragraph (1), any sale of national forest timber or other forest products for which notice of sale is provided before the effective date of this section, and any effective purchaser road credit earned pursuant to a contract resulting from such a notice of sale or otherwise earned before that effective date shall remain in effect, and shall continue to be subject to section 535 of this title and section 472a(i) of this title, and rules issued thereunder, as in effect on the day before October 21, 1998.

(Pub. L. 105–277, div. A, § 101(e) [title III, § 329], Oct. 21, 1998, 112 Stat. 2681–231, 2681–292.)

REFERENCES IN TEXT

The Small Business Act, referred to in subsec. (c)(1), is Pub. L. 85–536, § 2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§ 631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

§ 536. Recording of instruments; furnishing of instruments affecting public domain lands to Secretary of the Interior

Copies of all instruments affecting permanent interests in land executed pursuant to sections 532 to 538 of this title shall be recorded in each county where the lands are located. Copies of all instruments affecting interests in lands reserved from the public domain shall be furnished to the Secretary of the Interior.

(Pub. L. 88–657, § 5, Oct. 13, 1964, 78 Stat. 1089.)

§ 537. Maintenance and reconstruction by road users; funds for maintenance and reconstruction; availability of deposits until expended, transfer of funds, and refunds

The Secretary may require the user or users of a road under the control of the Forest Service, including purchasers of Government timber and other products, to maintain such roads in a satisfactory condition commensurate with the particular use requirements of each. Such maintenance to be borne by each user shall be proportionate to total use. The Secretary may also require the user or users of such a road to reconstruct the same when such reconstruction is determined to be necessary to accommodate such use. If such maintenance or reconstruction cannot be so provided or if the Secretary determines that maintenance or reconstruction by a user would not be practical, then the Secretary may require that sufficient funds be deposited by the user to provide his portion of such total maintenance or reconstruction. Deposits made to cover the maintenance or reconstruction of roads are hereby made available until expended to cover the cost to the United States of accomplishing the purpose for which deposited: *Provided*, That deposits received for work on adjacent and overlapping areas may be combined when it is the most practicable and efficient manner of performing the work, and cost thereof may be determined by estimates: *And provided further*, That unexpended balances upon accomplishment of the purpose for which deposited shall be transferred to miscellaneous receipts or refunded.

(Pub. L. 88–657, § 6, Oct. 13, 1964, 78 Stat. 1090.)

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under sections 532 to 538 of this title to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to

Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see Transfer of Functions note set out under section 533 of this title.

§ 538. User fees fund for delayed payments to grantors

Whenever the agreement under which the United States has obtained for the use of, or in connection with, the national forests and other lands administered by the Forest Service a right-of-way or easement for a road or an existing road or the right to use an existing road provides for delayed payments to the Government's grantor, any fees or other collections received by the Secretary for the use of the road may be placed in a fund to be available for making payments to the grantor.

(Pub. L. 88–657, § 7, Oct. 13, 1964, 78 Stat. 1090.)

§ 539. Additions to existing national forests; administration

(a) The following units of the National Forest System are hereby expanded:

(1) Chugach National Forest by the addition of four areas, Nellie Juan, College Fjord, Copper/Rude River, and Controller Bay, containing approximately one million nine hundred thousand acres of public land, as generally depicted on the map entitled ''Chugach National Forest additions—proposed'', and dated October 1978; and

(2) Tongass National Forest by the addition of three areas, Kates Needle, Juneau Icefield, and Brabazon Range, containing approximately one million four hundred and fifty thousand acres of public lands, as generally depicted on the map entitled ''Tongass National Forest additions—proposed'', and dated October 1978.

(b) Subject to valid existing rights, lands added to the Tongass and Chugach National Forests by this section shall be administered by the Secretary in accordance with the applicable provisions of this Act and the laws, rules, and regulations applicable to the national forest system: *Provided*, That the conservation of fish and wildlife and their habitat shall be the primary purpose for the management of the Copper/Rude River addition and the Copper River-Bering River portion of the existing Chugach National Forest, as generally depicted on the map appropriately referenced and dated October 1978: *Provided*, That the taking of fish and wildlife shall be permitted within zones established by this subsection pursuant to the provisions of this Act and other applicable State and Federal law. Multiple use activities shall be permitted in a manner consistent with the conservation of fish and wildlife and their habitat as set forth in special regulations which shall be promulgated by the Secretary.

(Pub. L. 96–487, title V, § 501, Dec. 2, 1980, 94 Stat. 2398.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

CHUGACH NATIONAL FOREST BOUNDARY CHANGE

Pub. L. 102–415, § 6, Oct. 14, 1992, 106 Stat. 2113, provided that:

''(a) BOUNDARY ADJUSTMENT.—The boundary of the Chugach National Forest, Alaska, is modified to include the approximately 9,300 acres as generally depicted on the map entitled 'Official Map, Boundary Modification, Chugach National Forest' and dated September 1988. The map shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

''(b) ADMINISTRATION.—Subject to valid existing rights, all Federal lands brought within the boundary of the Chugach National Forest by subsection (a) are added to and shall be administered as part of the Chugach National Forest.

''(c) TERMS AND CONDITIONS.—(1) Nothing in this Act [see Short Title of 1992 Amendment note set out under section 1601 of Title 43, Public Lands] shall be construed to affect the validity of, or the terms and conditions of, any right-of-way, easement, lease, license, or permit on lands transferred by this section that is in existence on the date of enactment of this Act [Oct. 14, 1992].

''(2) Notwithstanding any other provision of law, the Secretary of the Interior shall delegate, as necessary, to the Secretary of Agriculture the authority to renew or reissue the authorizations described in paragraph (1). The change of administrative jurisdiction over these lands resulting from subsection (a) shall not constitute a ground for the denial of renewal or reissuance of the authorizations described in paragraph (1).

''(d) LAND AND WATER CONSERVATION FUND ACT.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), the boundary of the Chugach National Forest, as modified by this section, shall be treated as if it were the boundary of the Chugach National Forest as of January 1, 1965.''

§ 539a. Mining and mineral leasing on certain national forest lands

Subject to valid existing rights, the minerals in public lands within the Copper River addition to the Chugach National Forest, are hereby withdrawn from location, entry, and patent under the United States mining laws. With respect to such areas, the Secretary, under such reasonable regulations as he deems appropriate, may permit the removal of nonleasable minerals from the lands in the manner prescribed by Reorganization Plan Numbered 3 of 1946 and section 520 of this title, and the removal of leasable minerals from such lands in accordance with the mineral leasing laws, if the Secretary finds that such disposition would not have significant adverse effects on the administration of the area. All receipts derived from disposal of nonleasable minerals under this section shall be paid into the same funds or accounts in the Treasury of the United States and shall be distributed in the same manner as provided for receipts from national forests.

(Pub. L. 96–487, title V, § 502, Dec. 2, 1980, 94 Stat. 2399.)

REFERENCES IN TEXT

Reorganization Plan Numbered 3 of 1946, referred to in text, is Reorg. Plan No. 3 of 1946, July 16, 1946, 11 F.R. 7875, 60 Stat. 1097, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 539b. Fisheries on national forest lands in Alaska

(a) Regulations for protection and maintenance of habitats

The Secretary of Agriculture shall, in consultation with the Secretaries of Commerce and the Interior, and with the State of Alaska, pursuant to his existing authority to manage surface resources, promulgate such reasonable regulations as he determines necessary after consideration of existing laws and regulations to maintain the habitats, to the maximum extent feasible, of anadromous fish and other foodfish, and to maintain the present and continued productivity of such habitat when such habitats are affected by mining activities on national forest lands in Alaska. The Secretary of Agriculture, in consultation with the State, shall assess the effects on the populations of such fish in determinations made pursuant to this subsection.

(b) Approved plan for mining operations; requirements; review; modification; suspension of activities

Because of the large scale of contemplated mining operations and the proximity of such operations to important fishery resources, with respect to mining operations in the Quartz Hill area of the Tongass National Forest, the regulations of the Secretary shall, pursuant to this subsection, include a requirement that all mining operations involving significant surface disturbance shall be in accordance with an approved plan of operations. Before approving any proposed plan or distinct stages of such plan of operations for any such claims when any fishery habitat or fishery value may be affected, the Secretary shall, in consultation with the Secretaries of Commerce and the Interior and the State of Alaska, determine—

(1) that such plan or stages of such plan are based upon and shall include studies or information which he determines are adequate for—

(A) evaluating the water quality and water quantity, fishery habitat, and other fishery values of the affected area; and

(B) evaluating to the maximum extent feasible and relevant, the sensitivity to environmental degradation from activities carried out under such plan of the fishery habitat as it affects the various life stages of anadromous fish and other foodfish and their major food chain components;

(2) that such plan adequately identifies the risks the operations under such plan or such stages might pose to and the benefits the operations under such plan might provide to—

(A) the natural stability and the present and continued productivity of anadromous fish and other foodfish;

(B) fishery habitat, including but not limited to water quality and water quantity; and

(C) other fishery values;

(3) that such plan includes provisions which he determines are adequate for the purposes of—

(A) preventing significant adverse environmental impacts to the fishery habitat (including but not limited to water quality and water quantity) or other fishery values; and

(B) maintaining present and continued productivity of the habitat of anadromous fish and other foodfish which might be affected by the mining and other activities proposed to be conducted in accordance with such plan or such stages of the plan of operations;

(4)(A) the Secretary shall ensure, to the maximum extent feasible, that the cumulative effects of activities carried out under the operating plan will not interfere with the ability to collect baseline information needed by the Secretary to evaluate the effects of various stages of the operating plan on the fishery habitat and productivity of such habitats;

(B) the Secretary shall review such plan and mining activities on at least an annual basis. With respect to any mining or associated activities, the Secretary, if he determines upon notice and hearing, that the activities are harmful to the continued productivity of anadromous fish, or other foodfish populations or fishery habitat, shall require a modification of the plan to eliminate or mitigate, if necessary, the harmful effects of such activities; and

(5) upon a finding by the Secretary that a mining activity conducted as a part of a mining operation exists which constitutes a threat of irreparable harm to anadromous fish, or other foodfish populations or their habitat, and that immediate correction is required to prevent such harm, he may require such activity to be suspended for not to exceed seven days, provided the activity may be resumed at the end of said seven-day period unless otherwise required by a United States district court.

(c) Authority of State of Alaska to manage fish and wildlife

Nothing in this section shall enlarge or diminish the responsibility and authority of the State of Alaska to manage fish and wildlife or to exercise its other responsibilities under applicable law.

(d) Authority of Secretary of Agriculture to manage national forests

Except as specifically provided in subsection (b)(5) of this section nothing in this section shall enlarge or diminish the responsibilities and authorities of the Secretary of Agriculture to manage the national forests.

(Pub. L. 96–487, title V, § 505, Dec. 2, 1980, 94 Stat. 2405.)

§ 539c. Cooperative fisheries planning; report to Congress

(a) The Secretary of Agriculture is directed to implement a cooperative planning process for the enhancement of fisheries resources through fish hatchery and aquaculture facilities and activities in the Tongass National Forest. Participation in this process shall include but not be limited to the State of Alaska and appropriate nonprofit aquaculture corporations. The Secretary may contract with private, nonprofit associations for services in such planning.

(b) Each subsequent revision of National Forest management plans under the Forest and Rangeland Renewable Resources Planning Act of 1974 [16 U.S.C. 1600 et seq.] and the National Forest Management Act of 1976 shall contain a report on the status of the planning process undertaken under this paragraph, including, but not limited to, a description of current hatchery and aquaculture projects, an analysis of the success of these projects, and a prioritized list of projects anticipated for the duration of the management plan. The report shall be submitted by the Secretary to the Congress with recommendations for any legislative action which the Secretary may deem necessary to implement the proposed hatchery and aquaculture projects.

(Pub. L. 96–487, title V, § 507, Dec. 2, 1980, 94 Stat. 2412.)

REFERENCES IN TEXT

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (b), is Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§ 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

The National Forest Management Act of 1976, referred to in subsec. (b), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

§ 539d. National forest timber utilization program

(a) Tongass National Forest timber supply; satisfaction of certain market demands

Subject to appropriations, other applicable law, and the requirements of the National Forest Management Act of 1976 (Public Law 94–588), except as provided in subsection (d) of this section, the Secretary shall, to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest which (1) meets the annual market demand for timber from such forest and (2) meets the market demand from such forest for each planning cycle.

(b) Insured and guaranteed loan program for purchasers of national forests materials in Alaska; authorization of appropriations

(1) The Secretary is authorized and directed to establish a special program of insured or guaranteed loans to purchasers of national forest materials in Alaska to assist such purchasers in the acquisition of equipment and the implementation of new technologies which lead to the utilization of wood products which might otherwise not be utilized. The Secretary is authorized to promulgate such regulations as he deems appropriate to define eligibility requirements for the participation in the loan program and the terms and conditions applicable to loans made under the program. Except as otherwise provided in this section or regulations promulgated specifically for this loan program, such program shall be carried out in a manner which is consistent with other authorities available to the Secretary.

(2) To carry out the special loan program established by this section, there are hereby authorized beginning after the fiscal year 1980 to be appropriated $5,000,000 from National Forest Fund receipts, to be deposited in a special fund in the Treasury of the United States to remain available until expended. Repayments of principal and interest and other recoveries on loans authorized by this section shall be credited to this fund and shall remain available until expended in order to carry out the purposes of this section.

(c) Study on increase of timber yields on national forest lands in Alaska; transmittal to Congress

Within three years after December 2, 1980, the Secretary shall prepare and transmit to the Senate and House of Representatives a study of opportunities (consistent with the laws and regulations applicable to the management of the National Forest System) to increase timber yields on national forest lands in Alaska.

(d) Identification of lands not suited for timber production; consideration of economic factors unnecessary

All provisions of section 6(k) of the National Forest Management Act of 1976 (16 U.S.C. 1604(k)) shall apply to the Tongass National Forest except that the Secretary need not consider economic factors in the identification of lands not suited for timber production.

(e) Protection of riparian habitat; maintenance of buffer zones in Tongass National Forest; relocation of prior independent sale or released volume

In order to assure protection of riparian habitat, the Secretary shall maintain a buffer zone of no less than one hundred feet in width on each side of all Class I streams in the Tongass National Forest, and on those Class II streams which flow directly into a Class I stream, within which commercial timber harvesting shall be prohibited, except where independent national forest timber sales have already been sold prior to March 1, 1990, or where volume has been released prior to March 1, 1990, to either the Alaska Pulp Corporation or the Ketchikan Pulp Company pursuant to the long-term timber sale contracts numbered 12–11–010–1545 and A10fs–1042 respectively. If such an independent timber sale or released volume is within the buffer zone, the Secretary shall make every effort to relocate such independent sale or released volume to an area outside of the buffer zone. The Secretary shall use best management practices, as defined in the Region 10 Soil and Water Conservation handbook[1] (FSH 2509.22), January 1990, to assure the protection of riparian habitat on streams or portions of streams not protected by such buffer zones. For the purposes of this subsection, the terms ''Class I streams'' and ''Class II streams'' mean the same as they do in the Region 10

[1] So in original. Probably should be capitalized.

Aquatic Habitat Management Handbook (FSH 2609.24), June 1986.

(f) Timber supply from Tongass National Forest for purchasers qualifying as "small business concerns"

Subject to appropriations, the provisions of this Act and other applicable law (including but not limited to the requirements of the National Forest Management Act of 1976 (Public Law 94–588)) and in order to assure the continuation of the Small Business Administration timber sale program, the Secretary shall, in consultation with the Administrator of the Small Business Administration and to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest to those purchasers qualifying as ''small business concerns'' under the Small Business Act as amended (15 U.S.C. 631 et seq.).

(Pub. L. 96–487, title VII, § 705, Dec. 2, 1980, 94 Stat. 2420; Pub. L. 101–626, title I, §§ 101–103(a), 105(b), Nov. 28, 1990, 104 Stat. 4426, 4427.)

REFERENCES IN TEXT

The National Forest Management Act of 1976, referred to in subsecs. (a) and (f), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. Section 6(k) of the Act (16 U.S.C. 1604(k)), probably means section 6(k) of the Forest and Rangeland Renewable Resources Planning Act of 1974, which is classified to section 1604(k) of this title, and which was added by section 6 of the Act. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

This Act, referred to in subsec. (f), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Small Business Act, referred to in subsec. (f), is Pub. L. 85–536, § 2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§ 631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–626, § 101, added subsec. (a) and struck out former subsec. (a) which read as follows: ''The Congress authorizes and directs that the Secretary of the Treasury shall make available to the Secretary of Agriculture the sum of at least $40,000,000 annually or as much as the Secretary of Agriculture finds is necessary to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of four billion five hundred million foot board measure per decade. Such sums will be drawn from receipts from oil, gas, timber, coal, and other natural resources collected by the Secretary of Agriculture and the Secretary of the Interior notwithstanding any other law providing for the distribution of such receipts: *Provided*, That such funds shall not be subject to deferral or rescission under the Budget Impoundment and Control Act of 1974, and such funds shall not be subject to annual appropriation.''

Subsec. (d). Pub. L. 101–626, § 102, added subsec. (d) and struck out former subsec. (d) which read as follows: ''The provisions of this section shall apply notwithstanding the provisions of section 6(k) of the National Forest Management Act of 1976 (90 Stat. 2949).''

Subsec. (e). Pub. L. 101–626, § 103(a), added subsec. (e).

Subsec. (f). Pub. L. 101–626, § 105(b), added subsec. (f).

SHORT TITLE OF 1990 AMENDMENT

Section 1(a) of Pub. L. 101–626 provided that: ''This Act [amending this section and sections 472a and 539e of this title, enacting provisions listed in a table of Wilderness Areas set out under section 1132 of this title, and enacting provisions set out as notes under this section and section 539e of this title] may be cited as the 'Tongass Timber Reform Act'.''

STUDY CONTAINING RECOMMENDATIONS ON NEED TO STANDARDIZE RIPARIAN MANAGEMENT PRACTICES IN TONGASS NATIONAL FOREST

Section 103(b) of Pub. L. 101–626 provided that: ''No later than one year after the date of enactment of this Act [Nov. 28, 1990], the Secretary of Agriculture, in consultation with the State of Alaska, the National Marine Fisheries Service, and affected private land owners, shall prepare and transmit to the Congress a study containing recommendations on the need, if any, to standardize riparian management practices for Federal, State, and private lands within the Tongass National Forest.''

APPLICATION OF AMENDMENTS BY PUB. L. 101–626 TO CERTAIN LONG-TERM TIMBER SALE CONTRACTS

Section 105(c) of Pub. L. 101–626 provided that: ''The provisions of subsections (a) and (b) of this section [amending this section and section 472a of this title] shall not apply to the purchase of timber within the Tongass National Forest pursuant to the long-term timber sale contracts numbered 12–11–010–1545 and A10fs–1042 between the United States and the Alaska Pulp Corporation, and between the United States and the Ketchikan Pulp Company, respectively.''

APPLICABILITY OF SUBSECTION (a) FROM OCTOBER 1, 1987 UNTIL SEPTEMBER 30, 1989

Pub. L. 100–203, title V, § 5202, Dec. 22, 1987, 101 Stat. 1330–267, provided that from the period beginning on October 1, 1987, and extending until September 30, 1989, the provisions of subsec. (a) of this section was not effective, and that in lieu thereof, the following provision was to apply: ''There is hereby authorized to be appropriated the sum of at least $40,000,000 annually (or such sums as the Secretary of Agriculture determines necessary) to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of 4,500,000,000 foot board measure per decade.''

§ 539e. Reports

(a) Timber supply and demand in southeastern Alaska

The Secretary is directed to monitor timber supply and demand in southeastern Alaska and report annually thereon to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.

(b) Status of Tongass National Forest in southeastern Alaska; contents

Within five years from December 2, 1980, and every two years thereafter the Secretary shall review and report to Congress on the status of the Tongass National Forest in southeastern Alaska. This report shall include, but not be limited to, (1) the timber harvest levels in the forest since December 2, 1980; (2) the impact of wilderness designation on the timber, fishing, and tourism industry in southeast Alaska; (3)

measures instituted by the Forest Service to protect fish and wildlife in the forest; (4) the status of the small business set aside program in the Tongass Forest,[1] and (5) the impact of timber management on subsistence resources, wildlife, and fisheries habitats.

(c) Cooperation and consultation

The study required by this section shall be conducted in cooperation and consultation with the State, affected Native Corporations, the southeast Alaska timber industry, the Southeast Alaska Conservation Council, the southeast Alaska commercial fishing industry, and the Alaska Land Use Council..[2]

(Pub. L. 96–487, title VII, § 706, Dec. 2, 1980, 94 Stat. 2420; Pub. L. 101–626, title I, § 104, Nov. 28, 1990, 104 Stat. 4427; Pub. L. 103–437, § 6(d)(31), Nov. 2, 1994, 108 Stat. 4584.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

1990—Subsec. (a). Pub. L. 101–626, § 104(a), struck out at end ''If, at any time after December 2, 1980, the Secretary finds that the available land base in the Tongass National Forest is inadequate to maintain the timber supply from the Tongass National Forest to dependent industry at the rate of four billion five hundred million foot board measure per decade, he shall include such information in his report.''

Subsec. (b). Pub. L. 101–626, § 104(a), added cl. (5).

Subsec. (c). Pub. L. 101–626, § 104(b), substituted ''the southeast Alaska commercial fishing industry, and the Alaska Land Use Council.'' for ''and the Alaska Land Use Council''.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to reporting to Congress, every two years, on the status of the Tongass National Forest, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 48 of House Document No. 103–7.

STUDY REGARDING FEASIBILITY OF ACQUIRING PREVIOUSLY HARVESTED PRIVATE LANDS IN TONGASS NATIONAL FOREST

Section 501 of Pub. L. 101–626 directed the Secretary, no later than one year after Nov. 28, 1990, to complete a study regarding feasibility of acquiring private lands located within boundary of the Tongass National Forest, which have been significantly harvested and to transmit the study to specific committees of Congress.

§ 539f. Nonprofit organization user of national forest lands

(a) Permits for organization camps; waiver of charges; performance of services; loss of entitlement

Notwithstanding any other provision of law, the Secretary of Agriculture is directed to waive annually without charge all or a portion of payment or rental fees required under terms of a permit for use of certain lands of the National Forest System as organization camps by local units of the Boy Scouts of America or such other nonprofit organization when such local units of the Boy Scouts of America or such nonprofit organization are willing to perform services, as the Secretary prescribes and determines will yield a valuable benefit to the public and to the program of the Secretary of such lands. If the Secretary determines that a local unit of the Boy Scouts of America or such other nonprofit organization has not fully performed such services, such organization shall not be entitled in the subsequent year to waiver under the provisions of this section.

(b) "Other nonprofit organization" defined

The term ''other nonprofit organization'' shall mean (1) a nonprofit organization holding an exemption under section 501(c) of title 26; and (2) a nonprofit association or nonprofit corporation, which is not controlled or owned by profitmaking corporations or business enterprises, and which is engaged in public or semipublic activity to further public health, safety, or welfare.

(Pub. L. 98–478, § 3, Oct. 16, 1984, 98 Stat. 2216; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

§ 539g. Kings River Special Management Area

(a) Establishment

In order to provide for public outdoor recreation use and enjoyment of certain areas within the Sierra National Forest and the Sequoia National Forest, to protect those areas' natural, archaeological, and scenic resources, and to provide for appropriate fish and wildlife management of those areas, there is hereby established the Kings River Special Management Area (hereinafter in this Act referred to as the ''special management area''). The special management area shall be administered by the Secretary of Agriculture (hereinafter in this Act referred to as ''the Secretary'') through the Sierra National Forest.

(b) Area included

The special management area shall consist of the lands, waters, and interests therein within the area generally depicted on the map entitled ''Boundary Map, Kings River Special Management Area'', dated April 1987. The map shall be on file and available for public inspection in the offices of the National Forest Service, Department of Agriculture. The Secretary of Agriculture may from time to time make minor revisions of the boundary of the special management area.

(c) Administration

The Secretary shall administer the special management area in accordance with this Act and with the provisions of law generally applicable to units of the National Forest System. In the case of any conflict between the provisions of such Acts, the provisions of this Act shall govern. In the administration of the special management area the Secretary may utilize such statutory authority as may be available to him for the conservation of wildlife and natural

[1] So in original. The comma probably should be a semicolon.

[2] So in original.

resources as he deems necessary to carry out the purposes of this Act. Nothing in this Act shall be construed to prohibit grazing within the special management area to the same extent, and in accordance with the same rules and regulations as applicable in the absence of this Act. The Secretary may permit the cutting of timber within the special management area only in those cases where in the judgment of the Secretary the cutting of such timber is required in order to control the attacks of fire, insects, or diseases or to otherwise conserve the scenery or the natural or historical objects in the area.

(d) Mining and mineral leasing

Subject to valid existing rights, lands within the special management area are withdrawn from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States and from operation of the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.].

(e) Hunting and fishing

The Secretary shall permit hunting and fishing on lands and waters within the special management area in accordance with applicable Federal and State law. The Secretary may designate zones where, and establish periods when, such activities will not be permitted for reasons of public safety, administration, fish and wildlife management or public use and enjoyment. Except in emergencies, regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

(f) Management plan

After consultation with the State of California, the Secretary shall publish a management plan for the special management area within three years after November 3, 1987. The plan shall provide for public outdoor recreation use and enjoyment of the special management area, protect the area's natural, archeological, and scenic resources, and provide for appropriate fish and wildlife management within the area. The plan shall contain provisions for management of vegetation within the area designed to enhance the wildlife carrying capacity of the area. The plan shall permit off-road vehicular use of off-road trails to the same extent and in the same locations as was permitted before November 3, 1987. The plan shall provide for the development of hiking trails in the special management area and shall include a trail from Garlic Creek to Little Tehipite Valley.

(g) Access to private lands

If any State or privately owned land or any valid mining claim or other valid occupancy is within the special management area, or if State or private subsurface rights underlie public lands within the special management area, the Secretary shall provide the State or private owner, claimant, or occupier and their successors in interest such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the site concerned. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of the special management area, taking into account the traditional and customary means of access used prior to November 3, 1987.

(h) Specific protections

In recognition of the dispute that exists over whether a dam project should be constructed in the segment of the Main Stem of the Kings River from the point at elevation 1,595 feet above mean sea level downstream to the point at elevation 990 feet above mean sea level, Congress declares its intention at this time not to designate that segment of the Kings River as a component of the Wild and Scenic Rivers System. Notwithstanding any other provision of law, no Federal lands may be used for the construction of any dam or diversion within the boundaries of the special management area without specific authority of the Congress. In order to protect the natural, cultural, recreational, fishery, and wildlife values of the river segment referred to in this subsection, that segment shall be subject to the provisions of section 1278(a) of this title, in the same manner as if it were designated. Nothing in this Act shall preclude the Kings River Conservation District from conducting studies as it may deem appropriate.

(Pub. L. 100–150, § 2, Nov. 3, 1987, 101 Stat. 881.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a), (c), and (h), is Pub. L. 100–150, Nov. 3, 1987, 101 Stat. 881, which enacted this section and amended section 1274 of this title. For complete classification of this Act to the Code, see Tables.

The mining laws and the mineral leasing laws of the United States, referred to in subsec. (d), are classified generally to Title 30, Mineral Lands and Mining.

The Geothermal Steam Act of 1970, referred to in subsec. (d), is Pub. L. 91–581, Dec. 24, 1970, 84 Stat. 1566, as amended, which is classified principally to chapter 23 (§ 1001 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 30 and Tables.

§ 539h. Greer Spring Special Management Area

(a) Objectives and establishments

In order to provide for public outdoor recreation use, including fishing and hunting, in a natural setting, and the enjoyment of certain areas within the Mark Twain National Forest, to protect those areas' natural, archaeological, and scenic resources, and to provide for appropriate resource management of those areas, there is hereby established the Greer Spring Special Management Area (hereinafter referred to as ''the special management area''). The Secretary shall manage the special management area in accordance with this Act, and with provisions of law generally applicable to units of the National Forest System to the extent consistent with this Act.

(b) Area included

The special management area shall consist of lands, waters, and interests therein within the area referred to on the map as ''The Greer Spring Special Management Area''. The Secretary is authorized to make minor revisions to the boundary of the special management area.

(c) Timber harvesting

The Secretary shall permit the harvesting of timber within the special management area only in those cases where, in the judgment of the Secretary, the harvesting of timber is required in order to control insects or disease, for public safety, for salvage sales, or to accomplish the objectives of the special management area as described in subsection (a) of this section. To the extent practicable, timber harvesting shall be conducted only by the individual tree selection method.

(d) Hunting and fishing

The Secretary shall permit hunting and fishing on lands and waters within the special management area in accordance with applicable Federal and State law.

(e) Mining and mineral leasing

Subject to valid, existing rights, lands within the special management areas are withdrawn from location, entry, and patent under the mining laws of the United States, and from the operation of the mineral and geothermal leasing laws of the United States.

(f) Vehicular access

The Secretary shall construct and maintain only those roads within the special management area and corridor which are indicated on the map: *Provided*, That the Secretary shall provide access to such roads, or to timber harvesting pursuant to subsection (c) of this section, in such a manner as to minimize environmental impact.

(Pub. L. 102–220, § 4, Dec. 11, 1991, 105 Stat. 1674.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 102–220, Dec. 11, 1991, 105 Stat. 1674, known as the Greer Spring Acquisition and Protection Act of 1991, which enacted this section and provisions set out below. For complete classification of this Act to the Code, see section 1 of Pub. L. 102–220, set out below, and Tables.

The mining laws and the mineral leasing laws of the United States, referred to in subsec. (e), are classified generally to Title 30, Mineral Lands and Mining.

Geothermal leasing laws of the United States, referred to in subsec. (e), are classified principally to chapter 23 (§ 1001 et seq.) of Title 30.

GREER SPRING ACQUISITION AND PROTECTION

Sections 1 to 3 and 5 of Pub. L. 102–220 provided that:

''SECTION 1. SHORT TITLE.

''This Act [enacting this section] may be cited as the 'Greer Spring Acquisition and Protection Act of 1991'.

''SEC. 2. ACQUISITION OF THE DENNIG TRACT.

''(a) The Secretary of Agriculture (hereinafter referred to as the 'Secretary') is hereby authorized and directed, subject to appropriations, to acquire all of the lands, waters, and interests therein, on a willing seller basis only, within the area generally depicted on a map entitled 'Dennig Tract', dated November 5, 1991 (hereinafter referred to as 'the map'). The map, together with a legal description of such lands, shall be on file and available for public inspection in the offices of the Forest Service, Department of Agriculture. The boundaries of the Mark Twain National Forest are hereby modified to include the area denoted 'Dennig Property Outside of National Forest Boundary' on the map. Such map and legal description shall have the same force and effect as if included in this Act, except that the correction of clerical and typographical errors in such map and legal description may be made by the Secretary.

''(b) Such modified boundaries shall be considered as the boundaries in existence as of January 1, 1965, for the purposes of section 7 of the Land and Water Conservation Fund Act (16 U.S.C. 460*l*–9).

''SEC. 3. ELEVEN POINT WILD AND SCENIC RIVER.

''The Secretary shall manage the lands, waters, and interests therein within the area referred to on the map as 'The Eleven Point Wild and Scenic Corridor' (hereinafter referred to as 'the corridor'), pursuant to the provisions of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287). Lands acquired pursuant to section 2 of this Act within the corridor shall not be counted against the average one-hundred-acre-per-mile fee limitation of Section 6(a)(1) of the Wild and Scenic Rivers Act [16 U.S.C. 1277(a)(1)], nor shall such lands outside the corridor be subject to the provisions of Section 6(a)(2) of the Wild and Scenic Rivers Act.

''SEC. 5. APPROPRIATIONS.

''There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.''

§ 539i. Fossil Ridge Recreation Management Area

(a) Establishment

(1) In order to conserve, protect, and enhance the scenic, wildlife, recreational, and other natural resource values of the Fossil Ridge area, there is hereby established the Fossil Ridge Recreation Management Area (hereinafter referred to as the ''recreation management area'').

(2) The recreation management area shall consist of certain lands in the Gunnison National Forest, Colorado, which comprise approximately 43,900 acres, as generally depicted as ''Area A'' on a map entitled ''Fossil Ridge Wilderness Proposal'', dated January, 1993.

(b) Administration

The Secretary of Agriculture shall administer the recreation management area in accordance with this section and the laws and regulations generally applicable to the National Forest System.

(c) Withdrawal

Subject to valid existing rights, all lands within the recreation management area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws, and from disposition under the mineral and geothermal leasing laws, including all amendments thereto.

(d) Timber harvesting

No timber harvesting shall be allowed within the recreation management area except to the extent that would be permitted in wilderness under section 1133(d)(1) of this title for necessary control of fire, insects, and diseases, and for public safety.

(e) Livestock grazing

The designation of the recreation management area shall not be construed to prohibit, or change the administration of, the grazing of livestock within the recreation management area.

(f) Development

No developed campgrounds shall be constructed within the recreation management area. After August 13, 1993, no new roads or

trails may be constructed within the recreation management area.

(g) Off-road recreation

Motorized travel shall be permitted within the recreation management area only on those established trails and routes existing as of July 1, 1991, on which such travel was permitted as of such date, except that other trails and routes may be used where necessary for administrative purposes or to respond to an emergency. No later than one year after August 13, 1993, the Secretary shall identify such routes and trails and shall prepare and make available to the public a map showing such routes and trails. Nothing in this subsection shall be construed as precluding the Secretary from closing any trail or route from use for purposes of resource protection or public safety.

(Pub. L. 103–77, § 5, Aug. 13, 1993, 107 Stat. 760.)

SHORT TITLE

Section 1(a) of Pub. L. 103–77 provided that: ''This Act [enacting this section and section 539j of this title, enacting provisions set out as a note under section 539j of this title, and enacting and amending provisions listed in a table of Wilderness Areas set out under section 1132 of this title] may be cited as the 'Colorado Wilderness Act of 1993'.''

§ 539j. Bowen Gulch Protection Area

(a) Establishment

(1) There is hereby established in the Arapaho National Forest, Colorado, the Bowen Gulch Protection Area (hereinafter in this Act referred to as the ''protection area'').

(2) The protection area shall consist of certain lands in the Arapaho National Forest, Colorado, which comprise approximately 11,600 acres, as generally depicted as ''Area A'' on a map entitled ''Bowen Gulch Additions to Never Summer Wilderness Proposal'', dated January, 1993.

(b) Administration

The Secretary shall administer the protection area in accordance with this section and the laws and regulations generally applicable to the National Forest System.

(c) Withdrawal

Subject to valid existing rights, all lands within the protection area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws, and from disposition under the mineral and geothermal leasing laws, including all amendments thereto.

(d) Development

No developed campgrounds shall be constructed within the protection area. After August 13, 1993, no new roads or trails may be constructed within the protection area.

(e) Timber harvesting

No timber harvesting shall be allowed within the protection area except to the extent that would be permitted in wilderness under section 1133(d)(1) of this title for necessary control of fire, insects, and diseases, and for public safety.

(f) Motorized travel

Motorized travel shall be permitted within the protection area only on those designated trails and routes existing as of July 1, 1991, and only during periods of adequate snow cover. At all other times, mechanized, non-motorized travel shall be permitted within the protection area.

(g) Management plan

During the revision of the Land and Resource Management Plan for the Arapaho National Forest, the Forest Service shall develop a management plan for the protection area, after providing for public comment.

(Pub. L. 103–77, § 6, Aug. 13, 1993, 107 Stat. 761.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 103–77, Aug. 13, 1993, 107 Stat. 756, known as the Colorado Wilderness Act of 1993. For complete classification of this Act to the Code, see Short Title note set out under section 539i of this title and Tables.

DEFINITIONS

Section 1(b) of Pub. L. 103–77 provided that:

''(1) As used in this Act [see Short Title note set out under section 539i of this title] with reference to lands in the National Forest System, the term 'the Secretary' means the Secretary of Agriculture.

''(2) As used in this Act with respect to lands not in the National Forest System, the term 'the Secretary' means the Secretary of the Interior.''

§ 539k. Kelly Butte Special Management Area

(a) Establishment

Upon conveyance to the United States of the Plum Creek offered lands in the Kelly Butte area, there is hereby established the Kelly Butte Special Management Area in the Mt. Baker-Snoqualmie National Forest, Washington, comprising approximately 5,642 acres, as generally depicted on a map entitled ''Kelly Butte Special Management Area'', dated October 1998.

(b) Management

The Kelly Butte Special Management Area shall be managed by the Secretary in accordance with the laws, rules and regulations generally applicable to National Forest System lands, and subject to the following additional provisions:

(1) the Area shall be managed with special emphasis on:

(A) preserving its natural character and protecting and enhancing water quality in the upper Green River watershed;

(B) permitting hunting and fishing;

(C) providing opportunities for primitive and semi-primitive recreation and scientific research and study;

(D) protecting and enhancing populations of fish, wildlife and native plant species; and

(E) allowing for traditional uses by native American peoples;

(2) commercial timber harvest and road construction shall be prohibited;

(3) the Area shall be closed to the use of motor vehicles, except as may be necessary for administrative purposes or in emergencies (including rescue operations) to protect public health and safety; and

(4) the Area shall, subject to valid existing rights, be permanently withdrawn from all forms of entry and appropriation under the U.S. mining laws and mineral leasing laws, in-

cluding the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.].

(c) No buffer zones

Congress does not intend that the designation of the Kelly Butte Special Management Area lead to the creation of protective perimeters or buffer zones around the Area. The fact that non-compatible activities or uses can be seen or heard from within the Kelly Butte Special Management Area shall not, of itself, preclude such activities or uses up to the boundary of the Area.

(Pub. L. 105–277, div. A, §101(e) [title VI, §611], Oct. 21, 1998, 112 Stat. 2681–231, 2681–334.)

REFERENCES IN TEXT

The Geothermal Steam Act of 1970, referred to in subsec. (b)(4), is Pub. L. 91–581, Dec. 24, 1970, 84 Stat. 1566, which is classified principally to chapter 23 (§1001 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 30 and Tables.

INTERSTATE 90 LAND EXCHANGE

Pub. L. 106–113, div. B, §1000(a)(3) [title III, §346(a), (e)–(g), (i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–204, 1501A–206, provided that:

''(a) This section [enacting and amending provisions set out as notes below] shall be referred to as the 'Interstate 90 Land Exchange Amendment'.

''(e) Section 604(b) [section 101(e) [title VI, §604(b)] of Pub. L. 105–277, set out below] is further amended by inserting the following before the colon: 'except Township 19 North, Range 10 East, W.M., Section 4, Township 20 North, Range 10 East, W.M., Section 32, and Township 21 North, Range 14 East, W.M., W½W½ of Section 16, Township 12 North, Range 7 East, Sections 4 and 5, W.M., Township 13 North, Range 7 East, Sections 32 and 33, W.M., Township 8 North, Range 4 East, Section 17 and the S½ of 16, W.M., which shall be retained by the United States'. The Appraisal shall be adjusted by subtracting the values determined for Township 19 North, Range 10 East, W.M., Section 4, Township 20 North, Range 10 East, W.M., Section 32, Township 12 North, Range 7 East, Sections 4 and 5, W.M., Township 13 North, Range 7 East, Sections 32 and 33, W.M., Township 8 North, Range 4 East, Section 17 and the S½ of Section 16, W.M. during the Appraisal process in the context of the whole estate to be conveyed.

''(f) After adjustment of the Appraisal, the values of the offered and selected lands, including the offered lands held in escrow, shall be equalized as follows:

''(1) the appraised value of the offered lands, as such lands and appraised value have been adjusted hereby, minus the appraised value of the offered lands to be placed into escrow, shall be compared to the appraised value of the selected lands, as such lands and appraised value have been adjusted hereby, and the Secretary shall equalize such values by the payment of cash to Plum Creek at the time that deeds are exchanged, such cash to come from currently appropriated funds, or, if necessary, by reprogramming; and

''(2) the Secretary shall compensate Plum Creek for the lands placed into escrow, based upon the values determined for each such parcel during the Appraisal process in the context of the whole estate to be conveyed, through the following, including any combination thereof:

''(A) conveyance of any other lands under the jurisdiction of the Secretary acceptable to Plum Creek and the Secretary after compliance with all applicable Federal environmental and other laws; and

''(B) to the extent sufficient acceptable lands are not available pursuant to paragraph (A) of this subsection, cash payments as and to the extent funds become available through appropriations, private sources, or, if necessary, by reprogramming.

The Secretary shall promptly seek to identify lands acceptable to equalize values under paragraph (A) of this subsection and shall, not later than July 1, 2000, provide a report to the Congress outlining the results of such efforts.

''(g) As funds or lands are provided to Plum Creek by the Secretary, Plum Creek shall release to the United States deeds for lands and interests in lands held in escrow based on the values determined during the Appraisal process in the context of the whole estate to be conveyed. Deeds shall be released for lands and interests in lands in the following order: Township 21 North, Range 12 East, Section 15, W.M., Township 21 North, Range 12 East, Section 23, W.M., Township 21 North, Range 12 East, Section 25, W.M., Township 19 North, Range 13 East, Section 7, Township 19 North, Range 15 East, Section 31, Township 19 North, Range 14 East, Section 25, Township 22 North, Range 11 East, Section 3, W.M., and Township 22 North, Range 11 East, Section 19, W.M.

''(i) The deadline for the Report to Congress required by section 609(c) of the Interstate 90 Land Exchange Act of 1998 [section 101(e) [title VI, §609(c)] of Pub. L. 105–277, set out below] is hereby extended. Such Report is due to the Congress 18 months from the date of the enactment of this Interstate 90 Land Exchange Amendment [Nov. 29, 1999].''

Pub. L. 105–277, div. A, §101(e) [title VI], Oct. 21, 1998, 112 Stat. 2681–231, 2681–326, as amended by Pub. L. 106–113, div. B, §1000(a)(3) [title III, §346(b)–(e), (h), (j)], Nov. 29, 1999, 113 Stat. 1535, 1501A–204 to 1501A–206, provided that:

''SEC. 601. SHORT TITLE.

''This Act [probably should be ''this title'' meaning Pub. L. 105–277, div. A, §101(e) [title VI]] may be cited as the 'Interstate 90 Land Exchange Act of 1998'.

''SEC. 602. FINDINGS AND PURPOSE.

''(a) FINDINGS.—Congress finds that—

''(1) certain parcels of private land located in central and southwest Washington are intermingled with National Forest System land owned by the United States and administered by the Secretary of Agriculture as parts of the Mt. Baker-Snoqualmie National Forest, Wenatchee National Forest, and Gifford Pinchot National Forest;

''(2) the private land surface estate and some subsurface is owned by the Plum Creek Timber Company, L.P. in an intermingled checkerboard pattern, with the United States or Plum Creek owning alternate square mile sections of land or fractions of square mile sections;

''(3) the checkerboard land ownership pattern in the area has frustrated sound and efficient land management on both private and National Forest lands by complicating fish and wildlife habitat management, watershed protection, recreation use, road construction and timber harvest, boundary administration, and protection and management of threatened and endangered species and old growth forest habitat;

''(4) acquisition by the United States of certain parcels of land that have been offered by Plum Creek for addition to the Mt. Baker-Snoqualmie National Forest and Wenatchee National Forest will serve important public objectives, including—

''(A) enhancement of public access, aesthetics and recreation opportunities within or near areas of very heavy public recreational use including—

''(i) the Alpine Lakes Wilderness Area;

''(ii) the Pacific Crest Trail;

''(iii) Snoqualmie Pass;

''(iv) Cle Elum Lake, Kachess Lake and Keechulus Lake; and

''(v) other popular recreation areas along the Interstate 90 corridor east of the Seattle-Tacoma Metropolitan Area;

''(B) protection and enhancement of old growth forests and habitat for threatened, endangered and

sensitive species, including a net gain of approximately 28,500 acres of habitat for the northern spotted owl;

''(C) consolidation of National Forest holdings for more efficient administration and to meet a broad array of ecosystem protection and other public land management goals, including net public gains of approximately 283 miles of stream ownership, 14 miles of the route of the Pacific Crest Trail, 20,000 acres of unroaded land, and 7,360 acres of riparian land; and

''(D) a significant reduction in administrative costs to the United States through—

''(i) consolidation of Federal land holdings for more efficient land management and planning;

''(ii) elimination of approximately 300 miles of boundary identification and posting;

''(iii) reduced right-of-way, special use, and other permit processing and issuance for roads and other facilities on National Forest System land; and

''(iv) other administrative cost savings;

''(5) Plum Creek has selected certain parcels of National Forest System land that are logical for consolidation into Plum Creek ownership utilizing a land exchange because the parcels—

''(A) are intermingled with parcels owned by Plum Creek; and

''(B)(i) are generally located in less environmentally sensitive areas than the Plum Creek offered land; and

''(ii) have lower public recreation and other public values than the Plum Creek offered land;

''(6) time is of the essence in consummating a land exchange because delays may force Plum Creek to road or log the offered land and thereby diminish the public values for which the offered land is to be acquired; and

''(7) it is in the public interest to complete the land exchange at the earliest practicable date so that the offered land can be acquired and preserved by the United States for permanent public management, use, and enjoyment.

''(b) PURPOSE.—It is the purpose of this Act to further the public interest by authorizing, directing, facilitating, and expediting the consummation of the Interstate 90 land exchange so as to ensure that the offered land is expeditiously acquired for permanent public use and enjoyment.

''SEC. 603. DEFINITIONS.

''In this Act:

''(1) OFFERED LAND.—The term 'offered land' means all right, title and interest, including the surface and subsurface interests, in land described in section 604(a) to be conveyed into the public ownership of the United States under this Act.

''(2) PLUM CREEK.—The term 'Plum Creek' means Plum Creek Timber Company, L.P., a Delaware Limited Partnership, or its successors, heirs, or assigns.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(4) SELECTED LAND.—The term 'selected land' means all right, title and interest, including the surface and subsurface interests, unless Plum Creek agrees otherwise, in land described in section 604(b) to be conveyed into the private ownership of Plum Creek under this Act.

''SEC. 604. LAND EXCHANGE.

''(a) CONDITION AND CONVEYANCE OF OFFERED LAND.—The exchange directed by this Act shall be consummated if Plum Creek conveys title acceptable to the Secretary in and to the lands described in subsection (d), the offered lands described in paragraphs (1) and (2), or, if necessary, the lands and interests in land as provided in subsection (c) except title to offered lands and interests in lands described as follows: Township 21 North, Range 12 East, Section 15, W.M., Township 21 North, Range 12 East, Section 23, W.M., Township 21 North, Range 12 East, Section 25, W.M., Township 19 North, Range 13 East, Section 7, W.M., Township 19 North, Range 15 East, Section 31, W.M., Township 19 North, Range 14 East, Section 25, W.M., Township 22 North, Range 11 East, Section 3, W.M., and Township 22 North, Range 11 East, Section 19, W.M. must be placed in escrow by Plum Creek, according to terms and conditions acceptable to the Secretary and Plum Creek, for a 3-year period beginning on the later of the date of the enactment of this Act [Oct. 21, 1998] or consummation of the exchange. During the period the lands are held in escrow, Plum Creek shall not undertake any activities on these lands, except for fire suppression and road maintenance, without the approval of the Secretary, which shall not be unreasonably withheld.

''(1) Certain land comprising approximately 8,808 acres and located within the exterior boundaries of the Mt. Baker-Snoqualmie National Forest, Washington, as generally depicted on a map entitled 'Interstate 90 Land Exchange', dated October 1998; and

''(2) Certain land comprising approximately 53,576 acres and located within or adjacent to the exterior boundaries of the Wenatchee National Forest, Washington, as generally depicted on a map entitled 'Interstate 90 Land Exchange', dated October 1998 except the following parcels: Township 19 North, Range 15 East, Section 29, W.M., Township 18 North, Range 15 East, Section 3, W.M., Township 19 North, Range 14 East, Section 9, W.M., Township 21 North, Range 14 East, Section 7, W.M., Township 22 North, Range 12 East, Section 35, W.M., Township 22 North, Range 13 East, Section 3, W.M., Township 22 North, Range 13 East, Section 9, W.M., Township 22 North, Range 13 East, Section 11, W.M., Township 22 North, Range 13 East, Section 13, W.M., Township 22 North, Range 13 East, Section 15, W.M., Township 22 North, Range 13 East, Section 25, W.M., Township 22 North, Range 13 East, Section 33, W.M., Township 22 North, Range 13 East, Section 35, W.M., Township 22 North, Range 14 East, Section 7, W.M., Township 22 North, Range 14 East, Section 9, W.M., Township 22 North, Range 14 East, Section 11, W.M., Township 22 North, Range 14 East, Section 15, W.M., Township 22 North, Range 14 East, Section 17, W.M., Township 22 North, Range 14 East, Section 21, W.M., Township 22 North, Range 14 East, Section 31, W.M., Township 22 North, Range 14 East, Section 27, W.M. The appraisal approved by the Secretary of Agriculture on June 14, 1999 (the 'Appraisal') shall be adjusted by subtracting the values for the parcels described in the preceding sentence determined during the Appraisal process in the context of the whole estate to be conveyed.

''(b) CONVEYANCE OF SELECTED LAND BY THE UNITED STATES.—Upon receipt of acceptable title to the offered land, as provided in section 604(a), and placement in escrow of acceptable title to Township 22 North, Range 11 East, Section 3, W.M., Township 22 North, Range 11 East, Section 19, W.M., Township 21 North, Range 12 East, Section 15, W.M., Township 21 North, Range 12 East, Section 23, W.M., Township 21 North, Range 12 East, Section 25, W.M., Township 19 North, Range 13 East, Section 7, W.M., Township 19 North, Range 15 East, Section 31, W.M., and Township 19 North, Range 14 East, Section 25, W.M., and lands and interests described in subsection (d), the Secretary shall simultaneously convey to Plum Creek all right, title and interest of the United States, subject to valid existing rights, in and to the following selected land except Township 19 North, Range 10 East, W.M., Section 4, Township 20 North, Range 10 East, W.M., Section 32, and Township 21 North, Range 14 East, W.M., W½W½ of Section 16, Township 12 North, Range 7 East, Sections 4 and 5, W.M., Township 13 North, Range 7 East, Sections 32 and 33, W.M., Township 8 North, Range 4 East, Section 17 and the S½ of 16, W.M., which shall be retained by the United States:

''(1) Certain land administered, as of the date of enactment of this Act [Oct. 21, 1998], by the Secretary of Agriculture as part of the Mt. Baker-Snoqualmie National Forest, Washington, and comprising approximately 5,697 acres, as generally depicted on a

map entitled 'Interstate 90 Land Exchange', dated October 1998.

''(2) Certain land administered, as of the date of enactment of this Act, by the Secretary of Agriculture as part of the Wenatchee National Forest, Washington, and comprising approximately 5,197 acres, as generally depicted on a map entitled 'Interstate 90 Land Exchange', dated October 1998.

''(3) Certain land administered, as of the date of enactment of this Act, by the Secretary of Agriculture as part of the Gifford Pinchot National Forest, Washington, and comprising approximately 5,601 acres, as generally depicted on a map entitled 'Interstate 90 Land Exchange', dated October 1998.

''(c) OFFERED LAND TITLE.—If Plum Creek conveys title acceptable to the Secretary to less than all rights and interests in the offered lands, but conveys title acceptable to the Secretary to all rights and interests that Plum Creek owns and acquires under previous agreements in the lands described in subsection (d), the offered lands, and lands on the east and west sides of Cle Elum Lake, comprising approximately 252 acres, described as Township 21 North, Range 14 East, Section 5, and Lost Lake lands comprising approximately 272 acres, described as Township 21 North, Range 11 East, W½ of Section 3, the Secretary shall convey to Plum Creek all rights and interest in the selected land after the values of the offered and selected land are equalized. The values of the offered and selected lands shall be equalized as provided in section 605(c)–(e) without regard to the value of lands described in subsection (d) or the Cle Elum or Lost Lake lands.

''(d) LAND DONATION.—Plum Creek agrees that it will convey, in the form of a voluntary donation, title acceptable to the Secretary in and to lands and interests in lands comprising approximately 320 acres, described as Township 22 North, Range 11 East, S½ of Section 13, if Plum Creek conveys title to lands and interests pursuant to subsections (a) or (c). It is the intention of Congress that any portion of such donated land which the Secretary determines qualifies as wilderness be, upon the date of its acquisition by the United States, incorporated in and managed as part of the adjacent Alpine Lakes Wilderness (as designated by Public Law 94–357) in accordance with section 6(a) of the Wilderness Act (16 U.S.C. 1135).

''SEC. 605. EXCHANGE VALUATION, APPRAISALS AND EQUALIZATION.

''(a) EQUAL VALUE EXCHANGE.—

''(1) IN GENERAL.—The values of the offered and selected land—

''(A) shall be equal; or

''(B) if the values are not equal, shall be equalized as set forth in subsections (c)–(e).

''(2) APPRAISAL ASSUMPTION.—In order to ensure the equitable and uniform appraisal of both the offered and selected land directed for exchange by this Act, all appraisals shall determine the highest and best use of the offered and selected land in accordance with applicable provisions of the Washington State Forest Practices Act and rules and regulations thereunder, including alternative measures for protecting critical habitat pursuant to a habitat conservation plan as provided in Washington Administrative Code 222–16–080–(6).

''(3) APPRAISALS.—The values of the offered land and selected land shall be determined by appraisals utilizing nationally recognized appraisal standards, including applicable provisions of the Uniform Appraisal Standards for Federal Land Acquisitions (1992), the Uniform Standards of Professional Appraisal Practice, and section 206(d) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1716(d)).

''(4) APPROVAL BY THE SECRETARY.—The appraisals, if not already completed by the date of enactment of this Act [Oct. 21, 1998], shall be completed and submitted to the Secretary for approval not later than 180 days after the date of enactment of this Act: *Provided*, That all timber harvest cease no later than November 30, 1998, except for any cleanup, reforestation, or other post-harvest work which cannot be completed by November 30, 1998. A comprehensive summary of the appraisal consistent with 7 CFR Part 1.11 shall be made available for public inspection in the Office of the Supervisor, Wenatchee National Forest, not less than 30 days nor more than 45 days prior to the exchange of deeds.

''(b) APPRAISAL PERIOD.—After the final appraised values of the offered and selected lands, or any portion of the land, have been approved by the Secretary or otherwise determined under section 206(d) of the Federal Land Policy and Management Act (43 U.S.C. 1716(d)), the value shall not be reappraised or updated before consummation of the land exchange, except to account for any timber harvest that might occur after completion of the final appraisal, or for any adjustments under section 606(g).

''(c) EQUALIZATION IF SURPLUS OF OFFERED LAND.—

''(1) IN GENERAL.—If the final appraised value of the offered land or lands and interest in lands conveyed by Plum Creek under section 604(c), except for the Cle Elum and Lost Lake lands, exceeds the final appraised value of the selected land, Plum Creek shall delete offered land parcels from the exchange in the exact order each land Section (or offered portion thereof) is listed in paragraph (2) until the values are approximately equal.

''(2) ORDER OF DELETION.—Offered land deletions under paragraph (1) shall be made in the following order:

''(A) Township 22 North, Range 13 East, Section 31, Willamette Meridian;

''(B) Township 21 North, Range 11 East, Section 35;

''(C) Township 19 North, Range 11 East, Section 35;

''(D) Township 19 North, Range 12 East, Section 1;

''(E) Township 20 North, Range 11 East, Sections 1 and 13;

''(F) Township 19 North, Range 12 East, Section 15;

''(G) Township 20 North, Range 11 East, Section 11;

''(H) Township 21 North, Range 11 East, Section 27;

''(I) Township 19 North, Range 13 East, Sections 27 and 15;

''(J) Township 21 North, Range 11 East, Sections 21 and 25;

''(K) Township 19 North, Range 11 East, Section 23;

''(L) Township 19 North, Range 13 East, Sections 21, 9 and 35;

''(M) Township 20 North, Range 12 East, Sections 35 and 27;

''(N) Township 19 North, Range 12 East, Section 11;

''(O) Township 21 North, Range 11 East, Section 17;

''(P) Township 21 North, Range 11 East, Section 5;

''(Q) Township 18 North, Range 15 East, Section 3;

''(R) Township 19 North, Range 14 East, Section 25;

''(S) Township 19 North, Range 15 East, Sections 29 and 31; and

''(T) Township 19 North, Range 13 East, Section 7.

''(d) EQUALIZATION IF SURPLUS OF SELECTED LAND.—

''(1) IN GENERAL.—If the final appraised value of the selected land exceeds the final appraised value of the offered land or lands and interest in lands conveyed by Plum Creek under section 604(c), except for the Cle Elum and Lost Lake lands, the Secretary shall delete selected land parcels from the exchange in the exact order each land Section (or selected portion thereof) is listed in paragraph (2) until the values are approximately equal.

''(2) ORDER OF DELETION.—Selected land deletions under paragraph 1 shall be made in the following listed order:

''(A) the portion of Township 20 North, Range 11 East, Section 30 lying east of the thread of Sawmill Creek;

''(B) the portion of Township 19 North, Range 11 East, Section 6 lying east of the thread of Sawmill Creek;

''(C) Township 20 North, Range 11 East, Section 32;

''(D) Township 21 North, Range 14 East, Sections 28, 22, 36, 26 and 16;

''(E) Township 18 North, Range 15 East, Sections 13, 12 and 2;

''(F) Township 18 North, Range 15 East, Section 1; and

''(G) Township 18 North, Range 15 East, Section 17, Willamette Meridian.

''(e) Once the values of the offered and selected lands are equalized to the maximum extent practicable under subsections (c) or (d), any cash equalization balance due the Secretary or Plum Creek shall be made through cash equalization payments under subsection 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

''(f) USE OF PROCEEDS BY THE SECRETARY.—The amount of any cash equalization payment received by the Secretary under this section shall be retained by the Secretary and shall be used by the Secretary until fully expended to purchase land from willing sellers in the State of Washington for addition to the National Forest System.

''SEC. 606. MISCELLANEOUS PROVISIONS.

''(a) STATUS OF LANDS AFTER EXCHANGE.—

''(1) LAND ACQUIRED BY THE SECRETARY.—

''(A) IN GENERAL.—Land acquired by the Secretary under this Act shall become part of the Mt. Baker-Snoqualmie, Gifford Pinchot or Wenatchee National Forests, as appropriate.

''(B) MODIFICATION OF BOUNDARIES.—

''(1) If any land acquired by the Secretary lies outside the exterior boundaries of the national forests identified in subparagraph (A), the boundaries of the appropriate national forest are hereby modified to include such land.

''(2) Nothing in this section shall limit the authority of the Secretary to adjust the boundaries of such National Forests pursuant to section 11 of the Act of March 1, 1911 (commonly known as the 'Weeks Act') [16 U.S.C. 521].

''(3) For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9 [460*l*–9]) the boundaries of Mt. Baker-Snoqualmie, Wenatchee and Gifford Pinchot as modified by this Act shall be considered to be the boundaries of such forests as of January 1, 1965.

''(C) MANAGEMENT.—Land acquired by the Secretary under this Act shall have the status of lands acquired under the Act of March 1, 1911 [act Mar. 1, 1911, ch. 186, 36 Stat. 961, see Tables for classification] and shall be managed in accordance with the laws, rules, regulations and guidelines applicable to the National Forest System.

''(2) LAND ACQUIRED BY PLUM CREEK.—Land acquired by Plum Creek under this Act shall become private land for all purposes of law, unless the deed by which conveyance is made to Plum Creek contains a specific reservation.

''(b) POST-EXCHANGE ACCESS TO LAND.—

''(1) FINDING.—Congress finds that Plum Creek and the Secretary should have adequate and timely post-exchange access to lands acquired pursuant to this Act over existing primary, secondary, or other national forest system roads as may be needed.

''(2) INTENTION.—It is the intention of Congress that Plum Creek have access to all lands it acquires under this Act, and when such access requires construction of new roads, it shall be granted in compliance with the National Environmental Policy Act [of 1969] [42 U.S.C. 4321 et seq.], the Endangered Species Act [of 1973] [16 U.S.C. 1531 et seq.], the National Historic Preservation Act [16 U.S.C. 470 et seq.], and other applicable laws, rules, and regulations.

''(3) ACCESS WITHIN COST SHARE AGREEMENT AREAS.—Within Cost Share Construction and Use Agreement Areas, Plum Creek and the Secretary will convey road access, at no cost, to the lands acquired by each party upon consummation of the exchange pursuant to this Act in accordance with the appropriate terms and procedures of said cost share construction and use agreements.

''(4) ACCESS OUTSIDE COST SHARE AGREEMENT AREAS.—Outside of Cost Share Construction and Use Agreement Areas, the Secretary shall grant Plum Creek road access easements at no cost in a form set out in Forest Service Handbook 2709.12, 35. In the case of new road construction, they shall conform to the Secretary's rules and regulations 36 CFR 251, subpart B, for the roads identified on the map entitled 'Plum Creek Access Road Needs', dated September 1998, including mitigation under existing law.

''(c) ACCESS TO CERTAIN LANDS ACQUIRED BY THE UNITED STATES.—Outside of Cost Share Construction and Use Agreement Areas, Plum Creek shall grant the Secretary road access easements at no cost on the locations identified by the Secretary in a format acceptable to the Secretary.

''(d) TIMING.—The Secretary and Plum Creek shall make the adjustments directed in section 604(a) and (b) and consummate the land exchange within 30 days of the enactment of the Interstate 90 Land Exchange Amendment [Nov. 29, 1999], unless the Secretary and Plum Creek mutually agree to extend the consummation date.

''(e) WITHDRAWAL OF SELECTED LAND.—Effective upon the date of enactment of this Act [Oct. 21, 1998], all selected land identified for exchange to Plum Creek under section 604(b) is hereby withdrawn from all forms of entry and appropriation under the U.S. mining and mineral leasing laws, including the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.], until such time as the exchange is consummated, or until a particular parcel or parcels are deleted from the exchange under section 605(d).

''(f) WITHDRAWAL OF CLE ELUM RIVER LANDS.—Lands acquired by the Secretary under this Act that are located in Township 23 North, Range 14 East, and Township 22 North, Range 14 East, Willamette Meridian, shall upon the date of their acquisition be permanently withdrawn from all forms of entry and appropriation under the U.S. mining and mineral leasing laws, including the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.].

''(g) PARCELS SUBJECT TO HISTORIC OR CULTURAL RESOURCE RESTRICTIONS.—

''(1) REPORT TO PLUM CREEK.—No later than 180 days after enactment of this Act [Oct. 21, 1998], the Secretary shall complete determinations and consultation under the National Historic Preservation Act [16 U.S.C. 470 et seq.] and submit a report to Plum Creek and other consulting parties under the National Historic Preservation Act listing by exact aliquot part description any parcel or parcels of selected land on which cultural properties have been identified and for which protection, use restrictions or mitigation requirements will be imposed. Such report shall include an exact description of each restriction or mitigation action required.

''(2) PLUM CREEK RESPONSE.—Within 30 days of receipt of the Secretary's report under paragraph (1), Plum Creek shall notify the Secretary as to: (i) those parcels it will accept subject to the identified use restrictions or mitigation requirements; and (ii) those parcels it will not accept because the restrictions or mitigation requirements are deemed by Plum Creek to be an unacceptable encumbrance on the land.

''(3) PARCEL DELETION.—The Secretary shall delete from the selected land those parcels identified by Plum Creek as unacceptable for conveyance under paragraph (2).

''(4) APPRAISAL ADJUSTMENT.—The fair market value of any parcels deleted under paragraph (3), or

any modification in fair market value caused by the use restrictions or mitigation requirements on land accepted by Plum Creek, shall be based on their contributory value to the final approved appraised value of the selected land and subtracted from such value prior to consummation of the exchange.

''(h) ACCESS LIMITATION.—The Secretary shall not grant any road easements that would access the offered lands listed in section 604(a) prior to consummation of the exchange: *Provided*, That this provision shall not apply should either party withdraw from the exchange.

''SEC. 607. LAND PURCHASE.

''(a) FINDING.—The Congress finds that certain lands owned by Plum Creek in the vicinity of the offered lands (but which are not included in the land exchange under this Act, or are deleted under section 605(c)) are highly desirable for addition to the National Forest System, and that Plum Creek has indicated its willingness to sell certain such lands to the United States. It is the intention of Congress that such lands be acquired by the United States, subject to the availability of funds, by purchase at fair market value consistent with the land acquisition procedures of the Secretary, and with the consent of Plum Creek, in order to preserve their outstanding scenic and natural values for the benefit of future generations.

''(b) PURCHASE CONSULTATION.—In furtherance of subsection (a), the Secretary is authorized and directed to consult with Plum Creek to determine the precise lands Plum Creek is willing to sell.

''(c) OTHER AGREEMENTS.—Nothing in this Act shall be construed to prohibit the Secretary from entering into additional agreements or contracts with Plum Creek to purchase, exchange or otherwise acquire lands from Plum Creek in Washington or any other state under the laws, rules and regulations generally applicable to Federal land acquisitions.

''SEC. 608. TIETON RIVER STUDY.

''The Secretary is authorized and directed to consult with Plum Creek concerning opportunities for the United States to acquire by exchange or purchase Plum Creek lands along the Tieton River in Township 14 North, Range 15 East, Willamette Meridian.

''SEC. 609. FUTURE LAND EXCHANGE OPPORTUNITY.

''(a) FINDING.—The Congress finds that certain lands which were identified for exchange to the United States in the I–90 Land Exchange process have been, or may be, deleted from the final exchange under this Act due to value equalization or other reasons. However, some or all of such deleted lands, or other Plum Creek lands, may possess attributes that merit their conveyance to the United States in a follow-up land exchange, including lands in or around the Carbon River, the Yakima River, the Pacific Crest Trail, Watch Mountain and Goat Mountain on the Gifford Pinchot National Forest, the Green River and the Manastash late successional reserve.

''(b) FUTURE EXCHANGE.—In furtherance of subsection (a), the Secretary is authorized and directed to consult with Plum Creek in examining opportunities for the United States to acquire such deleted lands, or other Plum Creek lands in the State of Washington, in a future exchange.

''(c) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act [Oct. 21, 1998], the Secretary shall submit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources [now Committee on Natural Resources] of the United States House of Representatives briefly outlining future land exchange opportunities with Plum Creek, including those for which the Secretary is required to consult under section 608, which the Secretary determines merit detailed analysis and consideration. The Secretary should identify the most urgent acquisitions for purchase or exchange in the report.

''SEC. 610. WILDERNESS STUDY AREA.

''In furtherance of the purposes of the Wilderness Act [16 U.S.C. 1131 et seq.], if the land exchange directed by this Act is consummated, the area of land comprising approximately 15,000 acres, as generally depicted on a map entitled 'Alpine Lakes Wilderness Study Area', dated October 1998, shall be reviewed by the Secretary of Agriculture as to its suitability for preservation as wilderness. The Secretary shall submit a report and findings to the President, and the President shall submit his recommendations to the United States House of Representatives and United States Senate no later than three years after the first date on which deeds are exchanged to consummate the land exchange. Subject to valid existing rights and existing uses, such lands shall, until Congress determines otherwise or until December 31, 2003, be administered by the Secretary to maintain their wilderness character existing as of the date of enactment of this Act and potential for inclusion in the National Wilderness Preservation System, and shall be withdrawn from all forms of entry and appropriation under the U.S. mining and mineral leasing laws, including the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.].

''SEC. 611. KELLY BUTTE SPECIAL MANAGEMENT AREA.

''[Enacted this section.]

''SEC. 612. EFFECT ON COUNTY REVENUES.

''The Secretary shall consult with the appropriate Committees of Congress, and local elected officials in the counties in the State of Washington in which the offered lands are located, regarding options to minimize the adverse effect on county revenues of the transfer of the offered lands from private to Federal ownership.''

§ 539*l*. Designation of James Peak Protection Area, Colorado

(a) Findings and purpose

(1) Findings

The Congress finds the following:

(A) The lands covered by this section include important resources and values, including wildlife habitat, clean water, open space, and opportunities for solitude.

(B) These lands also include areas that are suitable for recreational uses, including use of snowmobiles in times of adequate snow cover as well as use of other motorized and nonmotorized mechanical devices.

(C) These lands should be managed in a way that affords permanent protection to their resources and values while permitting continued recreational uses in appropriate locales and subject to appropriate regulations.

(2) Purpose

The purpose of this section is to provide for management of certain lands in the Arapaho/Roosevelt National Forest in a manner consistent with the 1997 Revised Land and Resources Management Plan for this forest in order to protect the natural qualities of these areas.

(b) Designation

The approximately 16,000 acres of land in the Arapaho/Roosevelt National Forest generally depicted on the map entitled ''Proposed James Peak Protection Area'', dated September 2001, are hereby designated as the James Peak Protection Area (hereafter in this Act referred to as the ''Protection Area'').

(c) Map and boundary description

As soon as practicable after August 21, 2002, the Secretary shall file with the Committee on

Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a map and a boundary description of the Protection Area. The map and boundary description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the map and boundary description. The map and boundary description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture, and in the office of the Forest Supervisor of the Arapaho/Roosevelt National Forest.

(d) Management

(1) In general

Except as otherwise provided in this section, the Protection Area shall be managed and administered by the Secretary in the same manner as the management area prescription designations identified for these lands in the 1997 Revision of the Land and Resource Management Plan for the Arapaho/Roosevelt National Forest and the Pawnee National Grasslands. Such management and administration shall be in accordance with the following:

(A) Grazing

Nothing in this Act, including the establishment of the Protection Area, shall affect grazing on lands within or outside of the Protection Area.

(B) Mining withdrawal

Subject to valid existing rights, all Federal land within the Protection Area and all land and interests in land acquired for the Protection Area by the United States are withdrawn from—

(i) all forms of entry, appropriation, or disposal under the public land laws;

(ii) location, entry, and patent under the mining laws; and

(iii) the operation of the mineral leasing, mineral materials, and geothermal leasing laws, and all amendments thereto.

Nothing in this subparagraph shall be construed to affect discretionary authority of the Secretary under other Federal laws to grant, issue, or renew rights-of-way or other land use authorizations consistent with the other provisions of this Act.

(C) Motorized and mechanized travel

(i) Review and inventory

Not later than two years after August 21, 2002, the Secretary, in consultation with interested parties, shall complete a review and inventory of all roads and trails in the Protection Area on which use was allowed on September 10, 2001, except those lands managed under the management prescription referred to in subparagraph (F). During the review and inventory, the Secretary may—

(I) connect existing roads and trails in the inventoried area to other existing roads and trails in the inventoried area for the purpose of mechanized and other nonmotorized use on any lands within the Protection Area as long as there is no net gain in the total mileage of either roads or trails open for public use within the Protection Area; and

(II) close or remove roads or trails within the Protection Area that the Secretary determines to be undesirable, except those roads or trails managed pursuant to paragraph (2) of this subsection or subsection (e)(3) of this section.

(ii) After completion of inventory

After completion of the review and inventory required by clause (i), the Secretary shall ensure that motorized and mechanized travel within the Protection Area shall be permitted only on those roads and trails identified as open to use in the inventory or established pursuant to subparagraph (D).

(D) New roads and trails

No new roads or trails shall be established within the Protection Area except those which the Secretary shall establish as follows:

(i) Roads and trails established to replace roads or trails of the same character and scope which have become nonserviceable through reasons other than neglect.

(ii) Nonpermanent roads as needed for hazardous fuels reduction or other control of fire, insect or disease control projects, or other management purposes.

(iii) Roads determined to be appropriate for reasonable access under section 539*l*–1(b)(2) of this title.

(iv) A loop trail established pursuant to section 539*l*–3 of this title.

(v) Construction of a trail for nonmotorized use following the corridor designated as the Continental Divide Trail.

(E) Timber harvesting

No timber harvesting shall be allowed within the Protection Area except to the extent needed for hazardous fuels reduction or other control of fire, insect or disease control projects, or protection of public health or safety.

(F) Special interest area

The management prescription applicable to the lands described in the 1997 Revision of the Land and Resource Management Plan as the James Peak Special Interest Area shall also be applicable to all the lands in the Protection Area that are bounded on the north by Rollins Pass Road, on the east by the Continental Divide, and on the west by the 11,300 foot elevation contour as shown on the map referred to in subsection (b) of this section. In addition, motorized vehicle use shall not be permitted on any part of the Rogers Pass trail.

(2) Natural gas pipeline

The Secretary shall allow for maintenance of rights-of-ways and access roads located within the Protection Area to the extent necessary to operate the natural gas pipeline permitted under the Arapaho/Roosevelt National Forest master permit numbered 4138.01 in a

manner that avoids negative impacts on public safety and allows for compliance with Federal pipeline safety requirements. Such maintenance may include vegetation management, road maintenance, ground stabilization, and motorized vehicle access.

(3) Permanent Federal ownership

All right, title, and interest of the United States, held on or acquired after August 21, 2002, to lands within the boundaries of the Protection Area shall be retained by the United States.

(e) Issues related to water

(1) Statutory construction

(A) Nothing in this Act shall constitute or be construed to constitute either an express or implied reservation of any water or water rights with respect to the lands within the Protection Area.

(B) Nothing in this Act shall affect any conditional or absolute water rights in the State of Colorado existing on August 21, 2002.

(C) Nothing in this subsection shall be construed as establishing a precedent with regard to any future protection area designation.

(D) Nothing in this Act shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State of Colorado and other States.

(2) Colorado water law

The Secretary shall follow the procedural and substantive requirements of the law of the State of Colorado in order to obtain and hold any new water rights with respect to the Protection Area.

(3) Water infrastructure

Nothing in this Act (including the provisions related to establishment or management of the Protection Area) shall affect, impede, interfere with, or diminish the operation, existence, access, maintenance, improvement, or construction of water facilities and infrastructure, rights-of-way, or other water-related property, interests, and uses, (including the use of motorized vehicles and equipment existing or located on lands within the Protection Area) on any lands except those lands managed under the management prescription referred to in subsection (d)(1)(F) of this section.

(Pub. L. 107–216, §3, Aug. 21, 2002, 116 Stat. 1056.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 107–216, Aug. 21, 2002, 116 Stat. 1055, which is classified principally to sections 539*l* to 539*l*–5 of this title. For complete classification of this Act to the Code, see Short Title note below and Tables.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

SHORT TITLE

Pub. L. 107–216, §1, Aug. 21, 2002, 116 Stat. 1055, provided that: ''This Act [enacting this section and sections 539*l*–1 to 539*l*–5 of this title and enacting and amending provisions listed in a table of Wilderness Areas set out under section 1132 of this title] may be cited as the 'James Peak Wilderness and Protection Area Act'.''

''SECRETARY'' DEFINED

Pub. L. 107–216, §2(c), Aug. 21, 2002, 116 Stat. 1056, provided in part that in sections 539*l* to 539*l*–5 of this title ''Secretary'' means the Secretary of Agriculture.

§ 539*l*–1. Inholdings

(a) State Land Board lands

If the Colorado State Land Board informs the Secretary that the Board is willing to transfer to the United States some or all of the lands owned by the Board located within the Protection Area, the Secretary shall promptly seek to reach agreement with the Board regarding terms and conditions for acquisition of such lands by the United States by purchase or exchange.

(b) Jim Creek inholding

(1) Acquisition of lands

The Secretary shall enter into negotiations with the owner of lands located within the portion of the Jim Creek drainage within the Protection Area for the purpose of acquiring the lands by purchase or exchange, but the United States shall not acquire such lands without the consent of the owner of the lands.

(2) Landowner rights

Nothing in this Act shall affect any rights of the owner of lands located within the Jim Creek drainage within the Protection Area, including any right to reasonable access to such lands by motorized or other means as determined by the Forest Service and the landowner consistent with applicable law and relevant and appropriate rules and regulations governing such access.

(c) Report

(1) In general

The Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report concerning any agreement or the status of negotiations conducted pursuant to—

(A) subsection (a) of this section, upon conclusion of an agreement for acquisition by the United States of lands referred to in subsection (a) of this section, or 1 year after August 21, 2002, whichever occurs first; and

(B) subsection (b) of this section, upon conclusion of an agreement for acquisition by the United States of lands referred to in subsection (b) of this section, or 1 year after August 21, 2002, whichever occurs first.

(2) Funding information

The report required by this subsection shall indicate to what extent funds are available to the Secretary as of the date of the report for the acquisition of the relevant lands and whether additional funds need to be appropriated or otherwise made available to the Secretary for such purpose.

(d) Management of acquisitions

Any lands within the James Peak Wilderness or the Protection Area acquired by the United

States after August 21, 2002, shall be added to the James Peak Wilderness or the Protection Area, respectively, and managed accordingly.

(Pub. L. 107–216, § 4, Aug. 21, 2002, 116 Stat. 1059.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(2), is Pub. L. 107–216, Aug. 21, 2002, 116 Stat. 1055, which is classified principally to sections 539*l* to 539*l*–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 539*l* of this title and Tables.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 539*l*–2. James Peak Fall River trailhead

(a) Services and facilities

Following the consultation required by subsection (c) of this section, the Forest Supervisor of the Arapaho/Roosevelt National Forest in the State of Colorado (in this section referred to as the ''Forest Supervisor'') shall establish a trailhead and corresponding facilities and services to regulate use of National Forest System lands in the vicinity of the Fall River basin south of the communities of Alice Township and St. Mary's Glacier in the State of Colorado. The facilities and services shall include the following:

(1) Trailhead parking.
(2) Public restroom accommodations.
(3) Trailhead and trail maintenance.

(b) Personnel

The Forest Supervisor shall assign Forest Service personnel to provide appropriate management and oversight of the area described in subsection (a) of this section.

(c) Consultation

The Forest Supervisor shall consult with the Clear Creek County commissioners and with residents of Alice Township and St. Mary's Glacier regarding—

(1) the appropriate location of facilities and services in the area described in subsection (a) of this section; and

(2) appropriate measures that may be needed in this area—

(A) to provide access by emergency or law enforcement vehicles;

(B) for public health; and

(C) to address concerns regarding impeded access by local residents.

(d) Report

After the consultation required by subsection (c) of this section, the Forest Supervisor shall submit to the Committee on Resources and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate a report regarding the amount of any additional funding required to implement this section.

(Pub. L. 107–216, § 5, Aug. 21, 2002, 116 Stat. 1060.)

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 539*l*–3. Loop trail study; authorization

(a) Study

Not later than three years after funds are first made available for this purpose, the Secretary, in consultation with interested parties, shall complete a study of the suitability and feasibility of establishing, consistent with the purpose set forth in section 539*l*(a)(2) of this title, a loop trail for mechanized and other nonmotorized recreation connecting the trail designated as ''Rogers Pass'' and the trail designated as ''Rollins Pass Road''.

(b) Establishment

If the results of the study required by subsection (a) of this section indicate that establishment of such a loop trail would be suitable and feasible, consistent with the purpose set forth in section 539*l*(a)(2) of this title, the Secretary shall establish the loop trail in a manner consistent with that purpose.

(Pub. L. 107–216, § 6, Aug. 21, 2002, 116 Stat. 1060.)

§ 539*l*–4. Other administrative provisions

(a) Buffer zones

The designation by this Act or by amendments made by this Act of wilderness areas and the Protection Area in the State of Colorado shall not create or imply the creation of protective perimeters or buffer zones around any wilderness area or the Protection Area. The fact that nonwilderness activities or uses can be seen or heard from within a wilderness area or Protection Area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area or the Protection Area.

(b) Rollins Pass Road

If requested by one or more of the Colorado Counties of Grand, Gilpin, and Boulder, the Secretary shall provide technical assistance and otherwise cooperate with respect to repairing the Rollins Pass road in those counties sufficiently to allow two-wheel-drive vehicles to travel between Colorado State Highway 119 and U.S. Highway 40. If this road is repaired to such extent, the Secretary shall close the motorized roads and trails on Forest Service land indicated on the map entitled ''Rollins Pass Road Reopening: Attendant Road and Trail Closures'', dated September 2001.

(Pub. L. 107–216, § 7, Aug. 21, 2002, 116 Stat. 1060.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 107–216, Aug. 21, 2002, 116 Stat. 1055, which is classified principally to sections 539*l* to 539*l*–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 539*l* of this title and Tables.

§ 539*l*–5. Wilderness potential

(a) In general

Nothing in this Act shall preclude or restrict the authority of the Secretary to evaluate the suitability of lands in the Protection Area for inclusion in the National Wilderness Preserva-

tion System or to make recommendations to Congress for such inclusion.

(b) Evaluation of certain lands

In connection with the first revision of the land and resources management plan for the Arapaho/Roosevelt National Forest after August 21, 2002, the Secretary shall evaluate the suitability of the lands managed under the management prescription referred to in section 539*l*(d)(1)(F) of this title for inclusion in the National Wilderness Preservation System and make recommendations to Congress regarding such inclusion.

(Pub. L. 107–216, § 8, Aug. 21, 2002, 116 Stat. 1061.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 107–216, Aug. 21, 2002, 116 Stat. 1055, which is classified principally to sections 539*l* to 539*l*–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 539*l* of this title and Tables.

§ 539m. Findings and purposes

(a) Findings

Congress finds that—

(1) in 1748, the Pueblo of Sandia received a grant from a representative of the King of Spain, which grant was recognized and confirmed by Congress in 1858 (11 Stat. 374); and

(2) in 1994, the Pueblo filed a civil action against the Secretary of the Interior and the Secretary of Agriculture in the United States District Court for the District of Columbia (Civil No. 1:94CV02624), asserting that Federal surveys of the grant boundaries erroneously excluded certain land within the Cibola National Forest, including a portion of the Sandia Mountain Wilderness.

(b) Purposes

The purposes of sections 539m to 539m–12 of this title are—

(1) to establish the T'uf Shur Bien Preservation Trust Area in the Cibola National Forest;

(2) to confirm the status of national forest land and wilderness land in the Area while resolving issues associated with the civil action referred to in subsection (a)(2) and the opinions of the Solicitor of the Department of the Interior dated December 9, 1988 (M–36963; 96 I.D. 331) and January 19, 2001 (M–37002); and

(3) to provide the Pueblo, the parties to the civil action, and the public with a fair and just settlement of the Pueblo's claim.

(Pub. L. 108–7, div. F, title IV, § 402, Feb. 20, 2003, 117 Stat. 279.)

REFERENCES IN TEXT

Sections 539m to 539m–12 of this title, referred to in subsec. (b), was in the original ''this title'', meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out below and Tables.

EFFECTIVE DATE

Pub. L. 108–7, div. F, title IV, § 415, Feb. 20, 2003, 117 Stat. 294, provided that: ''The provisions of this title [see Short Title note below] shall take effect immediately on enactment of this Act [Feb. 20, 2003].''

SHORT TITLE

Pub. L. 108–7, div. F, title IV, § 401, Feb. 20, 2003, 117 Stat. 279, provided that: ''This title [enacting this section and sections 539m–1 to 539m–12 of this title, amending section 1746 of Title 43, Public Lands, and enacting provisions set out as a note above] may be cited as the 'T'uf Shur Bien Preservation Trust Area Act'.''

§ 539m–1. Definitions

In sections 539m to 539m–12 of this title:

(1) Area

(A) In general

The term ''Area'' means the T'uf Shur Bien Preservation Trust Area, comprised of approximately 9890 acres of land in the Cibola National Forest, as depicted on the map.

(B) Exclusions

The term ''Area'' does not include—

(i) the subdivisions;

(ii) Pueblo-owned land;

(iii) the crest facilities; or

(iv) the special use permit area.

(2) Crest facilities

The term ''crest facilities'' means—

(A) all facilities and developments located on the crest of Sandia Mountain, including the Sandia Crest Electronic Site;

(B) electronic site access roads;

(C) the Crest House;

(D) the upper terminal, restaurant, and related facilities of Sandia Peak Tram Company;

(E) the Crest Observation Area;

(F) parking lots;

(G) restrooms;

(H) the Crest Trail (Trail No. 130);

(I) hang glider launch sites;

(J) the Kiwanis cabin; and

(K) the land on which the facilities described in subparagraphs (A) through (J) are located and the land extending 100 feet along terrain to the west of each such facility, unless a different distance is agreed to in writing by the Secretary and the Pueblo and documented in the survey of the Area.

(3) Existing use

The term ''existing use'' means a use that—

(A) is occurring in the Area as of February 20, 2003; or

(B) is authorized in the Area after November 1, 1995, but before February 20, 2003.

(4) La Luz tract

The term ''La Luz tract'' means the tract comprised of approximately 31 acres of land owned in fee by the Pueblo and depicted on the map.

(5) Local public body

The term ''local public body'' means a political subdivision of the State of New Mexico (as defined in New Mexico Code 6–5–1).

(6) Map

The term ''map'' means the Forest Service map entitled ''T'uf Shur Bien Preservation Trust Area'' and dated April 2000.

(7) Modified use

(A) In general

The term ''modified use'' means an existing use that, at any time after February 20,

2003, is modified or reconfigured but not significantly expanded.

(B) Inclusions

The term ''modified use'' includes—

(i) a trail or trailhead being modified, such as to accommodate handicapped access;

(ii) a parking area being reconfigured (but not expanded); and

(iii) a special use authorization for a group recreation use being authorized for a different use area or time period.

(8) New use

(A) In general

The term ''new use'' means—

(i) a use that is not occurring in the Area as of February 20, 2003; and

(ii) an existing use that is being modified so as to be significantly expanded or altered in scope, dimension, or impact on the land, water, air, or wildlife resources of the Area.

(B) Exclusions

The term ''new use'' does not include a use that—

(i) is categorically excluded from documentation requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(ii) is carried out to comply with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(9) Piedra Lisa tract

The term ''Piedra Lisa tract'' means the tract comprised of approximately 160 acres of land owned by the Pueblo and depicted on the map.

(10) Pueblo

The term ''Pueblo'' means the Pueblo of Sandia in its governmental capacity.

(11) Secretary

The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(12) Settlement Agreement

The term ''Settlement Agreement'' means the Agreement of Compromise and Settlement dated April 4, 2000, among the United States, the Pueblo, and the Sandia Peak Tram Company.

(13) Special use permit

The term ''special use permit'' means the Special Use Permit issued December 1, 1993, by the Secretary to Sandia Peak Tram Company and Sandia Peak Ski Company.

(14) Special use permit area

(A) In general

The term ''special use permit area'' means the land and facilities subject to the special use permit.

(B) Inclusions

The term ''special use permit area'' includes—

(i) approximately 46 acres of land used as an aerial tramway corridor;

(ii) approximately 945 acres of land used as a ski area; and

(iii) the land and facilities described in Exhibit A to the special use permit, including—

(I) the maintenance road to the lower tram tower;

(II) water storage and water distribution facilities; and

(III) 7 helispots.

(15) Subdivision

The term ''subdivision'' means—

(A) the subdivision of—

(i) Sandia Heights Addition;

(ii) Sandia Heights North Unit I, II, or 3;

(iii) Tierra Monte;

(iv) Valley View Acres; or

(v) Evergreen Hills; and

(B) any additional plat or privately-owned property depicted on the map.

(16) Traditional or cultural use

The term ''traditional or cultural use'' means—

(A) a ceremonial activity (including the placing of ceremonial materials in the Area); and

(B) the use, hunting, trapping, or gathering of plants, animals, wood, water, and other natural resources for a noncommercial purpose.

(Pub. L. 108–7, div. F, title IV, § 403, Feb. 20, 2003, 117 Stat. 280.)

REFERENCES IN TEXT

Sections 539m to 539m–12 of this title, referred to in text, was in the original ''this title'', meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

The National Environmental Policy Act of 1969, referred to in par. (8)(B)(i), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Endangered Species Act of 1973, referred to in par. (8)(B)(ii), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified principally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

§ 539m–2. T'uf Shur Bien Preservation Trust Area

(a) Establishment

The T'uf Shur Bien Preservation Trust Area is established within the Cibola National Forest and the Sandia Mountain Wilderness as depicted on the map—

(1) to recognize and protect in perpetuity the rights and interests of the Pueblo in and to the Area, as specified in section 539m–3(a) of this title;

(2) to preserve in perpetuity the national forest and wilderness character of the Area; and

(3) to recognize and protect in perpetuity the longstanding use and enjoyment of the Area by the public.

(b) Administration and applicable law

(1) In general

The Secretary shall continue to administer the Area as part of the National Forest System subject to and consistent with the provisions of sections 539m to 539m–12 of this title affecting management of the Area.

(2) Traditional or cultural uses

Traditional or cultural uses by Pueblo members and members of other federally-recognized Indian tribes authorized to use the Area by the Pueblo under section 539m–3(a)(4) of this title shall not be restricted except by—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.) (including regulations promulgated under that Act) as in effect on February 20, 2003; and

(B) applicable Federal wildlife protection laws, as provided in section 539m–4(a)(2) of this title.

(3) Later enactments

To the extent that any law enacted or amended after February 20, 2003, is inconsistent with sections 539m to 539m–12 of this title, the law shall not apply to the Area unless expressly made applicable by Congress.

(4) Trust

The use of the word ''Trust'' in the name of the Area—

(A) is in recognition of the specific rights and interests of the Pueblo in the Area; and

(B) does not confer on the Pueblo the ownership interest that exists in a case in which the Secretary of the Interior accepts the title to land held in trust for the benefit of an Indian tribe.

(c) Map

(1) Filing

As soon as practicable after February 20, 2003, the Secretary shall file the map and a legal description of the Area with the Committee on Resources of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate.

(2) Public availability

The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia.

(3) Effect

The map and legal description filed under paragraph (1) shall have the same effect as if the map and legal description were included in sections 539m to 539m–12 of this title, except that—

(A) technical and typographical errors shall be corrected;

(B) changes that may be necessary under subsection (b), (d), or (e) of section 539m–7 of this title or subsection (b) or (c) of section 539m–11 of this title shall be made; and

(C) to the extent that the map and the language of sections 539m to 539m–12 of this title conflict, the language of sections 539m to 539m–12 of this title shall control.

(d) No conveyance of title

No right, title, or interest of the United States in or to the Area or any part of the Area shall be conveyed to or exchanged with any person, trust, or governmental entity, including the Pueblo, without specific authorization of Congress.

(e) Prohibited uses

(1) In general

Notwithstanding any other provision of law—

(A) no use prohibited by the Wilderness Act (16 U.S.C. 1131 et seq.) as of February 20, 2003, shall be permitted in the wilderness portion of the Area; and

(B) none of the following uses shall be permitted in any portion of the Area:

(i) Gaming or gambling.

(ii) Mineral production.

(iii) Timber production.

(iv) Any new use to which the Pueblo objects under section 539m–3(a)(3) of this title.

(2) Mining claims

The Area is closed to the location of mining claims under section 2320 of the Revised Statutes (30 U.S.C. 23) (commonly known as the ''Mining Law of 1872'').

(f) No modification of boundaries

Establishment of the Area shall not—

(1) affect the boundaries of or repeal or disestablish the Sandia Mountain Wilderness or the Cibola National Forest; or

(2) modify the existing boundary of the Pueblo grant.

(Pub. L. 108–7, div. F, title IV, § 404, Feb. 20, 2003, 117 Stat. 282.)

REFERENCES IN TEXT

Sections 539m to 539m–12 of this title, referred to in subsecs. (b)(1), (3) and (c)(3), was in the original ''this title'', meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

The Wilderness Act, referred to in subsecs. (b)(2)(A) and (e)(1)(A), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The Mining Law of 1872, referred to in subsec. (e)(2), is act May 10, 1872, ch. 152, 17 Stat. 91, which was incorporated into the Revised Statutes of 1878 as R.S. §§ 2319 to 2328, 2331, 2333 to 2337, and 2344, which are classified to sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of Title 30, Mineral Lands and Mining. For complete classification of such Revised Statutes sections to the Code, see Tables.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 539m–3. Pueblo rights and interests in the Area

(a) In general

The Pueblo shall have the following rights and interests in the Area:

(1) Free and unrestricted access to the Area for traditional or cultural uses, to the extent that those uses are not inconsistent with—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.) (including regulations promulgated under that Act) as in effect on February 20, 2003; or

(B) applicable Federal wildlife protection laws as provided in section 539m–4(a)(2) of this title.

(2) Perpetual preservation of the national forest and wilderness character of the Area under sections 539m to 539m–12 of this title.

(3) Rights in the management of the Area as specified in section 539m–5 of this title, including—

(A) the right to consent or withhold consent to a new use;

(B) the right to consultation regarding a modified use;

(C) the right to consultation regarding the management and preservation of the Area; and

(D) the right to dispute resolution procedures.

(4) Exclusive authority, in accordance with the customs and laws of the Pueblo, to administer access to the Area for traditional or cultural uses by members of the Pueblo and of other federally-recognized Indian tribes.

(5) Such other rights and interests as are recognized in subsection (c) of this section and sections 539m–2, 539m–5, 539m–6, and 539m–7 of this title.

(b) Access

Except as provided in subsection (a)(4), access to and use of the Area for all other purposes shall continue to be administered by the Secretary.

(c) Compensable interest

(1) In general

If, by an Act of Congress enacted after February 20, 2003, Congress diminishes the national forest or wilderness designation of the Area by authorizing a use prohibited by section 539m–2(e) of this title in all or any portion of the Area, or denies the Pueblo access for any traditional or cultural use in all or any portion of the Area—

(A) the United States shall compensate the Pueblo as if the Pueblo held a fee title interest in the affected portion of the Area and as though the United States had acquired such an interest by legislative exercise of the power of eminent domain; and

(B) the restrictions of sections 539m–2(e) and 539m–4(a) of this title shall be disregarded in determining just compensation owed to the Pueblo.

(2) Effect

Any compensation made to the Pueblo under paragraph (c)[1] shall not affect the extinguishment of claims under section 539m–8 of this title.

(Pub. L. 108–7, div. F, title IV, § 405, Feb. 20, 2003, 117 Stat. 283.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (a)(1)(A), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

Sections 539m to 539m–12 of this title, referred to in subsec. (a)(2), was in the original ''this title'', meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

[1] So in original. Probably should be paragraph ''(1)''.

§ 539m–4. Limitations on Pueblo rights and interests in the Area

(a) Limitations

The rights and interests of the Pueblo recognized in sections 539m to 539m–12 of this title do not include—

(1) any right to sell, grant, lease, convey, encumber, or exchange land or any interest in land in the Area (and any such conveyance shall not have validity in law or equity);

(2) any exemption from applicable Federal wildlife protection laws;

(3) any right to engage in a use prohibited by section 539m–2(e) of this title; or

(4) any right to exclude persons or governmental entities from the Area.

(b) Exception

No person who exercises traditional or cultural use rights as authorized by section 539m–3(a)(4) of this title may be prosecuted for a Federal wildlife offense requiring proof of a violation of a State law (including regulations).

(Pub. L. 108–7, div. F, title IV, § 406, Feb. 20, 2003, 117 Stat. 284.)

REFERENCES IN TEXT

Sections 539m to 539m–12 of this title, referred to in subsec. (a), was in the original ''this title'', meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

§ 539m–5. Management of the Area

(a) Process

(1) In general

The Secretary shall consult with the Pueblo not less than twice each year, unless otherwise mutually agreed, concerning protection, preservation, and management of the Area (including proposed new uses and modified uses in the Area and authorizations that are anticipated during the next 6 months and were approved in the preceding 6 months).

(2) New uses

(A) Request for consent after consultation

(i) Denial of consent

If the Pueblo denies consent for a new use within 30 days after completion of the consultation process, the Secretary shall not proceed with the new use.

(ii) Granting of consent

If the Pueblo consents to the new use in writing or fails to respond within 30 days after completion of the consultation proc-

ess, the Secretary may proceed with the notice and comment process and the environmental analysis.

(B) Final request for consent

(i) Request

Before the Secretary (or a designee) signs a record of decision or decision notice for a proposed new use, the Secretary shall again request the consent of the Pueblo.

(ii) Denial of consent

If the Pueblo denies consent for a new use within 30 days after receipt by the Pueblo of the proposed record of decision or decision notice, the new use shall not be authorized.

(iii) Failure to respond

If the Pueblo fails to respond to the consent request within 30 days after receipt of the proposed record of decision or decision notice—

(I) the Pueblo shall be deemed to have consented to the proposed record of decision or decision notice; and

(II) the Secretary may proceed to issue the final record of decision or decision notice.

(3) Public involvement

(A) In general

With respect to a proposed new use or modified use, the public shall be provided notice of—

(i) the purpose and need for the proposed new use or modified use;

(ii) the role of the Pueblo in the decisionmaking process; and

(iii) the position of the Pueblo on the proposal.

(B) Court challenge

Any person may bring a civil action in the United States District Court for the District of New Mexico to challenge a determination by the Secretary concerning whether a use constitutes a new use or a modified use.

(b) Emergencies and emergency closure orders

(1) Authority

The Secretary shall retain the authority of the Secretary to manage emergency situations, to—

(A) provide for public safety; and

(B) issue emergency closure orders in the Area subject to applicable law.

(2) Notice

The Secretary shall notify the Pueblo regarding emergencies, public safety issues, and emergency closure orders as soon as practicable.

(3) No consent

An action of the Secretary described in paragraph (1) shall not require the consent of the Pueblo.

(c) Disputes involving Forest Service management and Pueblo traditional uses

(1) In general

In a case in which the management of the Area by the Secretary conflicts with a traditional or cultural use, if the conflict does not pertain to a new use subject to the process specified in subsection (a)(2), the process for dispute resolution specified in this subsection shall apply.

(2) Dispute resolution process

(A) In general

In the case of a conflict described in paragraph (1)—

(i) the party identifying the conflict shall notify the other party in writing addressed to the Governor of the Pueblo or the Regional Forester, as appropriate, specifying the nature of the dispute; and

(ii) the Governor of the Pueblo or the Regional Forester shall attempt to resolve the dispute for a period of at least 30 days after notice has been provided before bringing a civil action in the United States District Court for the District of New Mexico.

(B) Disputes requiring immediate resolution

In the case of a conflict that requires immediate resolution to avoid imminent, substantial, and irreparable harm—

(i) the party identifying the conflict shall notify the other party and seek to resolve the dispute within 3 days of the date of notification; and

(ii) if the parties are unable to resolve the dispute within 3 days—

(I) either party may bring a civil action for immediate relief in the United States District Court for the District of New Mexico; and

(II) the procedural requirements specified in subparagraph (A) shall not apply.

(Pub. L. 108–7, div. F, title IV, § 407, Feb. 20, 2003, 117 Stat. 284.)

§ 539m–6. Jurisdiction over the Area

(a) Criminal jurisdiction

(1) In general

Notwithstanding any other provision of law, jurisdiction over crimes committed in the Area shall be allocated as provided in this paragraph.[1]

(2) Jurisdiction of the Pueblo

The Pueblo shall have jurisdiction over an offense committed by a member of the Pueblo or of another federally-recognized Indian tribe who is present in the Area with the permission of the Pueblo under section 539m–3(a)(4) of this title.

(3) Jurisdiction of the United States

The United States shall have jurisdiction over—

(A) an offense described in section 1153 of title 18 committed by a member of the Pueblo or another federally-recognized Indian tribe;

(B) an offense committed by any person in violation of the laws (including regulations) pertaining to the protection and management of national forests;

[1] So in original. Probably should be ''subsection.''

(C) enforcement of Federal criminal laws of general applicability; and

(D) any other offense committed by a member of the Pueblo against a person not a member of the Pueblo.

(4) Jurisdiction of the State of New Mexico

The State of New Mexico shall have jurisdiction over an offense under the law of the State committed by a person not a member of the Pueblo.

(5) Overlapping jurisdiction

To the extent that the respective allocations of jurisdiction over the Area under paragraphs (2), (3), and (4) overlap, the governments shall have concurrent jurisdiction.

(6) Federal use of State law

Under the jurisdiction of the United States described in paragraph (3)(D), Federal law shall incorporate any offense defined and punishable under State law that is not so defined under Federal law.

(b) Civil jurisdiction

(1) In general

Except as provided in paragraphs (2) and (3), the United States, the State of New Mexico, and local public bodies shall have the same civil adjudicatory, regulatory, and taxing jurisdiction over the Area as was exercised by those entities on the day before February 20, 2003.

(2) Jurisdiction of the Pueblo

(A) In general

The Pueblo shall have exclusive civil adjudicatory jurisdiction over—

(i) a dispute involving only members of the Pueblo;

(ii) a civil action brought by the Pueblo against a member of the Pueblo; and

(iii) a civil action brought by the Pueblo against a member of another federally-recognized Indian tribe for a violation of an understanding between the Pueblo and the other tribe regarding use of or access to the Area for traditional or cultural uses.

(B) Regulatory jurisdiction

The Pueblo shall have no regulatory jurisdiction over the Area, except that the Pueblo shall have exclusive authority to—

(i) regulate traditional or cultural uses by the members of the Pueblo and administer access to the Area by other federally-recognized Indian tribes for traditional or cultural uses, to the extent such regulation is consistent with sections 539m to 539m–12 of this title; and

(ii) regulate hunting and trapping in the Area by members of the Pueblo, to the extent that the hunting or trapping is related to traditional or cultural uses, except that such hunting and trapping outside of that portion of the Area in sections 13, 14, 23, 24, and the northeast quarter of section 25 of T12N, R4E, and section 19 of T12N, R5E, N.M.P.M., Sandoval County, New Mexico, shall be regulated by the Pueblo in a manner consistent with the regulations of the State of New Mexico concerning types of weapons and proximity of hunting and trapping to trails and residences.

(C) Taxing jurisdiction

The Pueblo shall have no authority to impose taxes within the Area.

(3) State and local taxing jurisdiction

The State of New Mexico and local public bodies shall have no authority within the Area to tax the uses or the property of the Pueblo, members of the Pueblo, or members of other federally-recognized Indian tribes authorized to use the Area under section 539m–3(a)(4) of this title.

(Pub. L. 108–7, div. F, title IV, § 408, Feb. 20, 2003, 117 Stat. 286.)

REFERENCES IN TEXT

Sections 539m to 539m–12 of this title, referred to in subsec. (b)(2)(B)(i), was in the original ''this title'', meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

§ 539m–7. Subdivisions and other property interests

(a) Subdivisions

(1) In general

The subdivisions are excluded from the Area.

(2) Jurisdiction

(A) In general

The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory or any other form of jurisdiction, over the subdivisions and property interests therein, and the laws of the Pueblo shall not apply to the subdivisions.

(B) State jurisdiction

The jurisdiction of the State of New Mexico and local public bodies over the subdivisions and property interests therein shall continue in effect, except that on application of the Pueblo a tract comprised of approximately 35 contiguous, nonsubdivided acres in the northern section of Evergreen Hills owned in fee by the Pueblo on February 20, 2003, shall be transferred to the United States and held in trust for the Pueblo by the United States and administered by the Secretary of the Interior.

(3) Limitations on trust land

Trust land described in paragraph (2)(B) shall be subject to all limitations on use pertaining to the Area contained in sections 539m to 539m–12 of this title.

(b) Piedra Lisa

(1) In general

The Piedra Lisa tract is excluded from the Area.

(2) Declaration of trust title

The Piedra Lisa tract—

(A) shall be transferred to the United States;

(B) is declared to be held in trust for the Pueblo by the United States; and

(C) shall be administered by the Secretary of the Interior subject to all limitations on use pertaining to the Area contained in sections 539m to 539m–12 of this title.

(3) Applicability of certain restriction

The restriction contained in section 539m–4(a)(4) of this title shall not apply outside of Forest Service System trails.

(c) Crest facilities

(1) In general

The land on which the crest facilities are located is excluded from the Area.

(2) Jurisdiction

The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory or any other form of jurisdiction, over the land on which the crest facilities are located and property interests therein, and the laws of the Pueblo, shall not apply to that land. The preexisting jurisdictional status of that land shall continue in effect.

(d) Special use permit area

(1) In general

The land described in the special use permit is excluded from the Area.

(2) Jurisdiction

(A) In general

The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory, or any other form of jurisdiction, over the land described in the special use permit, and the laws of the Pueblo shall not apply to that land.

(B) Preexisting status

The preexisting jurisdictional status of that land shall continue in effect.

(3) Amendment to plan

In the event the special use permit, during its existing term or any future terms or extensions, requires amendment to include other land in the Area necessary to realign the existing or any future replacement tram line, associated structures, or facilities, the land subject to that amendment shall thereafter be excluded from the Area and shall have the same status under sections 539m to 539m–12 of this title as the land currently described in the special use permit.

(4) Land dedicated to aerial tramway and related uses

Any land dedicated to aerial tramway and related uses and associated facilities that are excluded from the special use permit through expiration, termination or the amendment process shall thereafter be included in the Area, but only after final agency action no longer subject to any appeals.

(e) La Luz tract

(1) In general

The La Luz tract now owned in fee by the Pueblo is excluded from the Area and, on application by the Pueblo, shall be transferred to the United States and held in trust for the Pueblo by the United States and administered by the Secretary of the Interior subject to all limitations on use pertaining to the Area contained in sections 539m to 539m–12 of this title.

(2) Nonapplicability of certain restriction

The restriction contained in section 539m–4(a)(4) of this title shall not apply outside of Forest Service System trails.

(f) Evergreen Hills access

The Secretary shall ensure that Forest Service Road 333D, as depicted on the map, is maintained in an adequate condition in accordance with section 3210(a) of this title.

(g) Pueblo fee land

Those properties not specifically addressed in subsections[1] (a) or (e) that are owned in fee by the Pueblo within the subdivisions are excluded from the Area and shall be subject to the jurisdictional provisions of subsection (a).

(h) Rights-of-way

(1) Road rights-of-way

(A) In general

In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant to the County of Bernalillo, New Mexico, in perpetuity, the following irrevocable rights-of-way for roads identified on the map in order to provide for public access to the subdivisions, the special use permit land and facilities, the other leasehold and easement rights and interests of the Sandia Peak Tram Company and its affiliates, the Sandia Heights South Subdivision, and the Area—

(i) a right-of-way for Tramway Road;

(ii) a right-of-way for Juniper Hill Road North;

(iii) a right-of-way for Juniper Hill Road South;

(iv) a right-of-way for Sandia Heights Road; and

(v) a right-of-way for Juan Tabo Canyon Road (Forest Road No. 333).

(B) Conditions

The road rights-of-way shall be subject to the following conditions:

(i) Such rights-of-way may not be expanded or otherwise modified without the Pueblo's written consent, but road maintenance to the rights-of-way shall not be subject to Pueblo consent.

(ii) The rights-of-way shall not authorize uses for any purpose other than roads without the Pueblo's written consent.

(iii) Except as provided in the Settlement Agreement, existing rights-of-way or leasehold interests and obligations held by the Sandia Peak Tram Company and its affiliates, shall be preserved, protected, and unaffected by sections 539m to 539m–12 of this title.

(2) Utility rights-of-way

In accordance with the Pueblo having given its consent in the Settlement Agreement, the

[1] So in original. Probably should be ''subsection''.

Secretary of the Interior shall grant irrevocable utility rights-of-way in perpetuity across Pueblo land to appropriate utility or other service providers serving Sandia Heights Addition, Sandia Heights North Units I, II, and 3, the special use permit land, Tierra Monte, and Valley View Acres, including rights-of-way for natural gas, power, water, telecommunications, and cable television services. Such rights-of-way shall be within existing utility corridors as depicted on the map or, for certain water lines, as described in the existing grant of easement to the Sandia Peak Utility Company: *Provided*, That use of water line easements outside the utility corridors depicted on the map shall not be used for utility purposes other than water lines and associated facilities. Except where aboveground facilities already exist, all new utility facilities shall be installed underground unless the Pueblo agrees otherwise. To the extent that enlargement of existing utility corridors is required for any technologically-advanced telecommunication, television, or utility services, the Pueblo shall not unreasonably withhold agreement to a reasonable enlargement of the easements described above.

(3) Forest Service rights-of-way

In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant to the Forest Service the following irrevocable rights-of-way in perpetuity for Forest Service trails crossing land of the Pueblo in order to provide for public access to the Area and through Pueblo land—

(A) a right-of-way for a portion of the Crest Spur Trail (Trail No. 84), crossing a portion of the La Luz tract, as identified on the map;

(B) a right-of-way for the extension of the Foothills Trail (Trail No. 365A), as identified on the map; and

(C) a right-of-way for that portion of the Piedra Lisa North-South Trail (Trail No. 135) crossing the Piedra Lisa tract.

(Pub. L. 108–7, div. F, title IV, § 409, Feb. 20, 2003, 117 Stat. 287.)

REFERENCES IN TEXT

Sections 539m to 539m–12 of this title, referred to in subsecs. (a)(3), (b)(2)(C), (d)(3), (e)(1), and (h)(1)(B)(iii), was in the original ''this title'', meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

§ 539m–8. Extinguishment of claims

(a) In general

Except for the rights and interests in and to the Area specifically recognized in sections 539m–2, 539m–3, 539m–5, 539m–6, and 539m–7 of this title, all Pueblo claims to right, title and interest of any kind, including aboriginal claims, in and to land within the Area, any part thereof, and property interests therein, as well as related boundary, survey, trespass, and monetary damage claims, are permanently extinguished. The United States' title to the Area is confirmed.

(b) Subdivisions

Any Pueblo claims to right, title and interest of any kind, including aboriginal claims, in and to the subdivisions and property interests therein (except for land owned in fee by the Pueblo as of February 20, 2003), as well as related boundary, survey, trespass, and monetary damage claims, are permanently extinguished.

(c) Special use and crest facilities areas

Any Pueblo right, title and interest of any kind, including aboriginal claims, and related boundary, survey, trespass, and monetary damage claims, are permanently extinguished in and to—

(1) the land described in the special use permit; and

(2) the land on which the crest facilities are located.

(d) Pueblo agreement

As provided in the Settlement Agreement, the Pueblo has agreed to the relinquishment and extinguishment of those claims, rights, titles and interests extinguished pursuant to subsection[1] (a), (b), and (c).

(e) Consideration

The recognition of the Pueblo's rights and interests in sections 539m to 539m–12 of this title constitutes adequate consideration for the Pueblo's agreement to the extinguishment of the Pueblo's claims in this section and the right-of-way grants contained in section 539m–7 of this title, and it is the intent of Congress that those rights and interests may only be diminished by a future Act of Congress specifically authorizing diminishment of such rights, with express reference to sections 539m to 539m–12 of this title.

(Pub. L. 108–7, div. F, title IV, § 410, Feb. 20, 2003, 117 Stat. 290.)

REFERENCES IN TEXT

Sections 539m to 539m–12 of this title, referred to in subsec. (e), was in the original ''this title'', meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

§ 539m–9. Construction

(a) Strict construction

Sections 539m to 539m–12 of this title recognize only enumerated rights and interests, and no additional rights, interests, obligations, or duties shall be created by implication.

(b) Existing rights

To the extent there exist within the Area as of February 20, 2003, any valid private property rights associated with private land that are not otherwise addressed in sections 539m to 539m–12 of this title, such rights are not modified or otherwise affected by sections 539m to 539m–12 of this title, nor is the exercise of any such right subject to the Pueblo's right to withhold con-

[1] So in original. Probably should be ''subsections''.

sent to new uses in the Area as set forth in section 539m–3(a)(3)(A) of this title.

(c) Not precedent

The provisions of sections 539m to 539m–12 of this title creating certain rights and interests in the National Forest System are uniquely suited to resolve the Pueblo's claim and the geographic and societal situation involved, and shall not be construed as precedent for any other situation involving management of the National Forest System.

(d) Fish and wildlife

Except as provided in section 539m–6(b)(2)(B) of this title, nothing in sections 539m to 539m–12 of this title shall be construed as affecting the responsibilities of the State of New Mexico with respect to fish and wildlife, including the regulation of hunting, fishing, or trapping within the Area.

(Pub. L. 108–7, div. F, title IV, § 411, Feb. 20, 2003, 117 Stat. 291.)

REFERENCES IN TEXT

Sections 539m to 539m–12 of this title, referred to in text, was in the original ''this title'', meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

CODIFICATION

Section is comprised of section 411 of div. F of Pub. L. 108–7. Subsec. (e) of section 411 of div. F of Pub. L. 108–7 amended section 1746 of Title 43, Public Lands.

§ 539m–10. Judicial review

(a) Enforcement

A civil action to enforce the provisions of sections 539m to 539m–12 of this title may be brought to the extent permitted under chapter 7 of title 5. Judicial review shall be based on the administrative record and subject to the applicable standard of review set forth in section 706 of title 5.

(b) Waiver

A civil action may be brought against the Pueblo for declaratory judgment or injunctive relief under sections 539m to 539m–12 of this title, but no money damages, including costs or attorney's fees, may be imposed on the Pueblo as a result of such judicial action.

(c) Venue

Venue for any civil action provided for in this section, as well as any civil action to contest the constitutionality of sections 539m to 539m–12 of this title, shall lie only in the United States District Court for the District of New Mexico.

(Pub. L. 108–7, div. F, title IV, § 412, Feb. 20, 2003, 117 Stat. 291.)

REFERENCES IN TEXT

Sections 539m to 539m–12 of this title, referred to in text, was in the original ''this title'', meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

§ 539m–11. Provisions relating to contributions and land exchange

(a) Contributions

(1) In general

The Secretary may accept contributions from the Pueblo, or from other persons or governmental entities—

(A) to perform and complete a survey of the Area; or

(B) to carry out any other project or activity for the benefit of the Area in accordance with sections 539m to 539m–12 of this title.

(2) Deadline

Not later than 1 year after February 20, 2003, the Secretary shall complete the survey of the Area under paragraph (1)(A).

(b) Land exchange

(1) In general

Not later than 180 days after February 20, 2003, after consultation with the Pueblo, the Secretary shall, in accordance with applicable laws, prepare and offer a land exchange of National Forest land outside the Area and contiguous to the northern boundary of the Pueblo's Reservation within sections 3, 10, 11, and 14 of T12N, R4E, N.M.P.M., Sandoval County, New Mexico excluding wilderness land, for land owned by the Pueblo in the Evergreen Hills subdivision in Sandoval County contiguous to National Forest land, and the La Luz tract in Bernalillo County.

(2) Acceptance of payment

Notwithstanding section 1716(b) of title 43, the Secretary may either make or accept a cash equalization payment in excess of 25 percent of the total value of the land or interests transferred out of Federal ownership.

(3) Funds received

Any funds received by the Secretary as a result of the exchange shall be deposited in the fund established under section 484a of this title, and shall be available to purchase non-Federal land within or adjacent to the National Forests in the State of New Mexico.

(4) Treatment of land exchanged or conveyed

All land exchanged or conveyed to the Pueblo is declared to be held in trust for the Pueblo by the United States and added to the Pueblo's Reservation subject to all existing and outstanding rights and shall, as a condition of the conveyance, remain in its natural state and shall not be subject to commercial development of any kind. Land exchanged or conveyed to the Forest Service shall be subject to all limitations on use pertaining to the Area under sections 539m to 539m–12 of this title.

(5) Failure to make offer

If the land exchange offer is not made by the date that is 180 days after February 20, 2003, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives, a report explaining the reasons for the failure to make the offer including an

assessment of the need for any additional legislation that may be necessary for the exchange. If additional legislation is not necessary, the Secretary, consistent with this section, should proceed with the exchange pursuant to existing law.

(c) Land acquisition and other compensation

(1) In general

The Secretary may acquire land owned by the Pueblo within the Evergreen Hills Subdivision in Sandoval County or any other privately held land inside of the exterior boundaries of the Area. The boundaries of the Cibola National Forest and the Area shall be adjusted to encompass any land acquired pursuant to this section.

(2) Piedra Lisa tract

Subject to the availability of appropriations, the Secretary shall compensate the Pueblo for the fair market value of—

(A) the right-of-way established pursuant to section 539m–7(h)(3)(C) of this title; and

(B) the conservation easement established by the limitations on use of the Piedra Lisa tract pursuant to section 539m–7(b)(2) of this title.

(d) Reimbursement of certain costs

(1) In general

The Pueblo, the County of Bernalillo, New Mexico, and any person that owns or has owned property inside of the exterior boundaries of the Area as designated on the map, and who has incurred actual and direct costs as a result of participating in the case of Pueblo of Sandia v. Babbitt, Civ. No. 94–2624 HHG (D.D.C.), or other proceedings directly related to resolving the issues litigated in that case, may apply for reimbursement in accordance with this section. Costs directly related to such participation which shall qualify for reimbursement shall be—

(A) dues or payments to a homeowner association for the purpose of legal representation; and

(B) legal fees and related expenses.

(2) Treatment of reimbursement

Any reimbursement provided in this subsection shall be in lieu of that which might otherwise be available pursuant to the Equal Access to Justice Act (24[1] U.S.C. 2412).

(3) Payments

Subject to the availability of appropriated funds the Secretary of the Treasury shall make reimbursement payments as provided in this section.

(4) Applications

Not later than 180 days after February 20, 2003, applications for reimbursement shall be filed with the Department of the Treasury, Financial Management Service, Washington, D.C.

(5) Maximum reimbursement

No party shall be reimbursed in excess of $750,000 under this section, and the total amount reimbursed in accordance with this section shall not exceed $3,000,000.

(Pub. L. 108–7, div. F, title IV, § 413, Feb. 20, 2003, 117 Stat. 292; Pub. L. 111–11, title III, § 3309, Mar. 30, 2009, 123 Stat. 1139.)

REFERENCES IN TEXT

Sections 539m to 539m–12 of this title, referred to in subsecs. (a)(1)(B) and (b)(4), was in the original ''this title'', meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

Section 1716(b) of title 43, referred to in subsec. (b)(2), was in the original ''section 206(b) of the Federal Land Policy and Management Act'' and was translated as reading ''section 206(b) of the Federal Land Policy and Management Act of 1976'' to reflect the probable intent of Congress.

The Equal Access to Justice Act, referred to in subsec. (d)(2), is title II of Pub. L. 96–481, Oct. 21, 1980, 94 Stat. 2325, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 504 of Title 5, Government Organization and Employees, and Tables.

AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111–11, § 3309(1), inserted ''3,'' after ''sections''.

Subsec. (b)(4). Pub. L. 111–11, § 3309(2), inserted '', as a condition of the conveyance,'' before ''remain'' in first sentence.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 539m–12. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out sections 539m to 539m–12 of this title, including such sums as are necessary for the Forest Service to carry out responsibilities of the Forest Service in accordance with section 539m–11(c) of this title.

(Pub. L. 108–7, div. F, title IV, § 414, Feb. 20, 2003, 117 Stat. 294.)

REFERENCES IN TEXT

Sections 539m to 539m–12 of this title, referred to in text, was in the original ''this title'', meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

§ 539n. Crystal Springs Watershed Special Resources Management Unit

(1) Establishment

(A) In general

On completion of the land exchange under section 1206(a)(2),[1] there shall be established a special resources management unit in the State consisting of certain Federal land managed by the Forest Service, as generally depicted on the map entitled ''Crystal Springs Watershed Special Resources Management Unit'', dated June 2006 (referred to in this sec-

[1] So in original. Probably should be ''28''.

[1] See References in Text note below.

tion as the ''map''), to be known as the ''Crystal Springs Watershed Special Resources Management Unit'' (referred to in this section as the ''Management Unit'').

(B) Exclusion of certain land

The Management Unit does not include any National Forest System land otherwise covered by subparagraph (A) that is designated as wilderness by section 1202.[1]

(C) Withdrawal

(i) In general

Subject to valid rights in existence on March 30, 2009, the Federal land designated as the Management Unit is withdrawn from all forms of—

(I) entry, appropriation, or disposal under the public land laws;

(II) location, entry, and patent under the mining laws; and

(III) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

(ii) Exception

Clause (i)(I) does not apply to the parcel of land generally depicted as ''HES 151'' on the map.

(2) Purposes

The purposes of the Management Unit are—

(A) to ensure the protection of the quality and quantity of the Crystal Springs watershed as a clean drinking water source for the residents of Hood River County, Oregon; and

(B) to allow visitors to enjoy the special scenic, natural, cultural, and wildlife values of the Crystal Springs watershed.

(3) Map and legal description

(A) Submission of legal description

As soon as practicable after March 30, 2009, the Secretary shall file a map and a legal description of the Management Unit with—

(i) the Committee on Energy and Natural Resources of the Senate; and

(ii) the Committee on Natural Resources of the House of Representatives.

(B) Force of law

The map and legal description filed under subparagraph (A) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct typographical errors in the map and legal description.

(C) Public availability

The map and legal description filed under subparagraph (A) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(4) Administration

(A) In general

The Secretary shall—

(i) administer the Management Unit—

(I) in accordance with the laws (including regulations) and rules applicable to units of the National Forest System; and

(II) consistent with the purposes described in paragraph (2); and

(ii) only allow uses of the Management Unit that are consistent with the purposes described in paragraph (2).

(B) Fuel reduction in proximity to improvements and primary public roads

To protect the water quality, water quantity, and scenic, cultural, natural, and wildlife values of the Management Unit, the Secretary may conduct fuel reduction and forest health management treatments to maintain and restore fire-resilient forest structures containing late successional forest structure characterized by large trees and multistoried canopies, as ecologically appropriate, on National Forest System land in the Management Unit—

(i) in any area located not more than 400 feet from structures located on—

(I) National Forest System land; or

(II) private land adjacent to National Forest System land;

(ii) in any area located not more than 400 feet from the Cooper Spur Road, the Cloud Cap Road, or the Cooper Spur Ski Area Loop Road; and

(iii) on any other National Forest System land in the Management Unit, with priority given to activities that restore previously harvested stands, including the removal of logging slash, smaller diameter material, and ladder fuels.

(5) Prohibited activities

Subject to valid existing rights, the following activities shall be prohibited on National Forest System land in the Management Unit:

(A) New road construction or renovation of existing non-System roads, except as necessary to protect public health and safety.

(B) Projects undertaken for the purpose of harvesting commercial timber (other than activities relating to the harvest of merchantable products that are byproducts of activities conducted to further the purposes described in paragraph (2)).

(C) Commercial livestock grazing.

(D) The placement of new fuel storage tanks.

(E) Except to the extent necessary to further the purposes described in paragraph (2), the application of any toxic chemicals (other than fire retardants), including pesticides, rodenticides, or herbicides.

(6) Forest road closures

(A) In general

Except as provided in subparagraph (B), the Secretary may provide for the closure or gating to the general public of any Forest Service road within the Management Unit.

(B) Exception

Nothing in this section requires the Secretary to close the road commonly known as ''Cloud Cap Road'', which shall be administered in accordance with otherwise applicable law.

(7) Private land

(A) Effect

Nothing in this section affects the use of, or access to, any private property within the area identified on the map as the ''Crystal Springs Zone of Contribution'' by—

(i) the owners of the private property; and
(ii) guests to the private property.

(B) Cooperation

The Secretary is encouraged to work with private landowners who have agreed to cooperate with the Secretary to further the purposes of this section.

(8) Acquisition of land

(A) In general

The Secretary may acquire from willing landowners any land located within the area identified on the map as the ''Crystal Springs Zone of Contribution''.

(B) Inclusion in Management Unit

On the date of acquisition, any land acquired under subparagraph (A) shall be incorporated in, and be managed as part of, the Management Unit.

(Pub. L. 111–11, title I, §1205(a), Mar. 30, 2009, 123 Stat. 1014.)

REFERENCES IN TEXT

Section 1206(a)(2), referred to in par. (1)(A), is section 1206(a)(2) of Pub. L. 111–11, title I, Mar. 30, 2009, 123 Stat. 1018, which is not classified to the Code.

Section 1202, referred to in par. (1)(B), is section 1202 of Pub. L. 111–11, which enacted provisions listed in a table of National Memorials set out under section 431 of this title and enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

This subtitle, referred to in par. (3)(B), is subtitle C (§§1201–1207) of title I of Pub. L. 111–11, Mar. 30, 2009, 123 Stat. 1007, which enacted this section and subchapter CXXXII of chapter 1 of this title, amended sections 544k and 1274 of this title, enacted provisions set out as notes under sections 460uuu and 1274 of this title, enacted provisions listed in a table of National Memorials set out under section 431 of this title, and enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of subtitle C to the Code, see Tables.

DEFINITIONS

For definitions of terms used in this section, see section 1201 of Pub. L. 111–11, set out as a note under section 460uuu of this title.

§ 539*o*. Ancient Bristlecone Pine Forest

(a) Designation

To conserve and protect the Ancient Bristlecone Pines by maintaining near-natural conditions and to ensure the survival of the Pines for the purposes of public enjoyment and scientific study, the approximately 31,700 acres of public land in the State, as generally depicted on the map entitled ''Ancient Bristlecone Pine Forest—Proposed'' and dated July 16, 2008, is designated as the ''Ancient Bristlecone Pine Forest''.

(b) Map and legal description

(1) In general

As soon as practicable, but not later than 3 years after March 30, 2009, the Secretary shall file a map and legal description of the Forest with—

(A) the Committee on Natural Resources of the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate.

(2) Force of law

The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any errors in the map and legal description.

(3) Public availability

The map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(c) Management

(1) In general

The Secretary shall administer the Forest—

(A) in a manner that—

(i) protect[1] the resources and values of the area in accordance with the purposes for which the Forest is established, as described in subsection (a); and

(ii) promotes the objectives of the applicable management plan (as in effect on March 30, 2009), including objectives relating to—

(I) the protection of bristlecone pines for public enjoyment and scientific study;

(II) the recognition of the botanical, scenic, and historical values of the area; and

(III) the maintenance of near-natural conditions by ensuring that all activities are subordinate to the needs of protecting and preserving bristlecone pines and wood remnants; and

(B) in accordance with the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.), this section, and any other applicable laws.

(2) Uses

(A) In general

The Secretary shall allow only such uses of the Forest as the Secretary determines would further the purposes for which the Forest is established, as described in subsection (a).

(B) Scientific research

Scientific research shall be allowed in the Forest in accordance with the Inyo National Forest Land and Resource Management Plan (as in effect on March 30, 2009).

(3) Withdrawal

Subject to valid existing rights, all Federal land within the Forest is withdrawn from—

(A) all forms of entry, appropriation or disposal under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) disposition under all laws relating to mineral and geothermal leasing or mineral materials.

(Pub. L. 111–11, title I, §1808, Mar. 30, 2009, 123 Stat. 1060.)

[1] So in original. Probably should be ''protects''.

REFERENCES IN TEXT

This subtitle, referred to in subsec. (b)(2), is subtitle K (§§ 1801–1808) of title I of Pub. L. 111–11, Mar. 30, 2009, 123 Stat. 1052, which enacted this section and subchapter CXXXIII of chapter 1 of this title, amended section 1274 of this title, enacted provisions set out as notes under sections 460vvv and 1274 of this title, and enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of subtitle K to the Code, see Tables.

The National Forest Management Act of 1976, referred to in subsec. (c)(1)(B), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

DEFINITIONS

For definitions of terms used in this section, see section 1801 of Pub. L. 111–11, set out as a note under section 460vvv of this title.

SUBCHAPTER II—SCENIC AREAS

§ 541. Cascade Head Scenic-Research Area; establishment

In order to provide present and future generations with the use and enjoyment of certain ocean headlands, rivers, streams, estuaries, and forested areas, to insure the protection and encourage the study of significant areas for research and scientific purposes, and to promote a more sensitive relationship between man and his adjacent environment, there is hereby established, subject to valid existing rights, the Cascade Head Scenic-Research Area (hereinafter referred to as ''the Area'') in the Siuslaw National Forest in the State of Oregon.

(Pub. L. 93–535, § 1, Dec. 22, 1974, 88 Stat. 1732.)

§ 541a. Administration, protection, development, and regulation of use

The administration, protection, development, and regulation of use of the Area shall be by the Secretary of Agriculture (hereinafter referred to as the ''Secretary'') in accordance with the laws, rules, and regulations applicable to national forests, in such manner as in his judgment will best contribute to attainment of the purpose of this subchapter.

(Pub. L. 93–535, § 2, Dec. 22, 1974, 88 Stat. 1732.)

§ 541b. Boundaries of scenic-research area; adjustments to subarea boundaries; development of management plan; establishment of subareas; management objectives

(a) Boundaries; adjustments to boundaries of subareas

The boundaries of the Area, and the boundaries of the subareas included therein, shall be those shown on the map entitled ''Proposed Cascade Head Scenic-Research Area'', dated June 1974, which is on file and available for public inspection in the office of the Chief, Forest Service, United States Department of Agriculture: *Provided*, That, from time to time, the Secretary may, after public hearing or other appropriate means for public participation, make adjustments in the boundaries of subareas to reflect changing natural conditions or to provide for more effective management of the Area and each of the subareas in accordance with the purposes and provisions of this subchapter.

(b) Management plan; development; time; contents

As soon as practicable after December 22, 1974, the Secretary shall, with provisions for appropriate public participation in the planning process, develop a comprehensive management plan for the Area. Said plan shall prescribe specific management objectives and management controls necessary for the protection, management, and development of the Area and each of the subareas established pursuant to subsection (c) of this section.

(c) Subareas; establishment; management objectives

Within the Area, the following subareas shall be established and shall be managed in accord with the following primary management objectives which shall be supplemental to the general management objectives applicable to the entire Area:

(1) Estuary and Associated Wetlands Subarea: An area managed to protect and perpetuate the fish and wildlife, scenic, and research-education values, while allowing dispersed recreation use, such as sport fishing, nonmotorized pleasure boating, waterfowl hunting, and other uses which the Secretary determines are compatible with the protection and perpetuation of the unique natural values of the subarea. After appropriate study, breaching of existing dikes may be permitted within the subarea.

(2) Lower Slope-Dispersed Residential Subarea: An area managed to maintain the scenic, soil and watershed, and fish and wildlife values, while allowing dispersed residential occupancy, selective recreation use, and agricultural use.

(3) Upper Timbered Slope and Headlands Subareas: Areas managed to protect the scenic, soil and watershed, and fish and wildlife values while allowing selective recreation and extensive research-educational activities. Timber harvesting activity may occur in these subareas only when the Secretary determines that such harvesting is to be conducted in connection with research activities or that the preservation of the timber resource is imminently threatened by fire, old age, infestation, or similar natural occurrences.

(4) Coastline and Sand Dune-Spit Subareas: Areas managed to protect and maintain the scenic and wildlife values while allowing selective recreation and extensive research-educational activities.

(Pub. L. 93–535, § 3, Dec. 22, 1974, 88 Stat. 1732.)

§ 541c. Extension of boundaries of Siuslaw National Forest; transfer of Federal property to Secretary

(a) The boundaries of the Siuslaw National Forest are hereby extended to include all of the

lands lying within the Area as described in accordance with section 541b of this title which are not within the national forest boundaries on December 22, 1974.

(b) Notwithstanding any other provision of law, any Federal property located on the lands added to the Siuslaw National Forest by this section may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary. Any lands so transferred shall become part of the Siuslaw National Forest.

(Pub. L. 93–535, § 4, Dec. 22, 1974, 88 Stat. 1733.)

§ 541d. Acquisition of property within the scenic-research area; consent of owner; substantial change in use or maintenance of property

(a) Acquisition of lands, waters and interests by donation, purchase, etc.

Subject to the provisions of subsection (b) of this section, the Secretary is authorized to acquire lands, waters, or interests therein within the Area by donation, purchase, exchange, or otherwise.

(b) Consent of owner for acquisition of lands in sub-areas; exceptions; guidelines for determination of substantial change in land use or maintenance

Within all subareas of the Area except the estuary and associated wetlands subarea, the Secretary may not acquire any land or interest in land without the consent of the owner or owners so long as the owner or owners use such land for substantially the same purposes and in the same manner as it was used and maintained on June 1, 1974: *Provided, however*, That the Secretary may acquire any land or interest in land without the consent of the owner or owners when such land is in imminent danger of being used for different purposes or in a different manner from the use or uses existing on June 1, 1974. The Secretary shall publish, within one hundred and eighty days of December 22, 1974, guidelines which shall be used by him to determine what constitutes a substantial change in land use or maintenance for the non-federally-owned lands within the Area. Within the estuary and associated wetlands subarea the Secretary may acquire any land or interest in land without the consent of the owner or owners at any time, after public hearing.

(c) Substantial change in land use or maintenance; notice by owner; time; manner

At least thirty days prior to any substantial change in the use or maintenance of any non-federally-owned land within the Area, the owner or owners of such land shall provide notice of such proposed change to the Secretary or his designee, in accordance with such guidelines as the Secretary may establish.

(Pub. L. 93–535, § 5, Dec. 22, 1974, 88 Stat. 1733.)

§ 541e. Availability of funds for acquisition of lands, etc., within added area

Notwithstanding the provisions of section 460*l*–9(a)(1) of this title, moneys appropriated from the Land and Water Conservation Fund shall be available for the acquisition of any lands, waters, or interests therein within the area added to the Siuslaw National Forest by this subchapter.

(Pub. L. 93–535, § 6, Dec. 22, 1974, 88 Stat. 1733.)

REFERENCES IN TEXT

The Land and Water Conservation Fund, referred to in text, was established by section 460*l*–5 of this title.

§ 541f. Withdrawal from location, entry and patent under mining laws; withdrawal from disposition under mineral leasing laws

The lands within the Area, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(Pub. L. 93–535, § 7, Dec. 22, 1974, 88 Stat. 1733.)

§ 541g. Advisory council for scenic-research area; membership; designation of chairman; compensation; consultation by Secretary

(a) Advisory council; establishment; consultation; members; term; appointment

The Secretary, pursuant to the Federal Advisory Committee Act, shall establish an advisory council for the Area, and shall consult on a periodic and regular basis with such council with respect to matters relating to management of the Area. The members of the advisory council, who shall not exceed eleven in number, shall serve for the individual staggered terms of three years each and shall be appointed by the Secretary as follows—

(1) a member to represent each county in which a portion of the Area is located, each such appointee to be designated by the respective governing body of the county involved;

(2) a member appointed to represent the State of Oregon, who shall be designated by the Governor of Oregon; and

(3) not to exceed eight members appointed by the Secretary from among persons who, individually or through association with national or local organizations, have an interest in the administration of the Area.

(b) Chairman; vacancies

The Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.

(c) Compensation; reimbursement for expenses

The members shall not receive any compensation for their services as members of the advisory council, but they shall be reimbursed for travel expenses and shall be allowed, as appropriate, per diem or actual subsistence expenses.

(d) Consultation by Secretary with private groups, etc.; cooperation with other Federal, State, etc., agencies and organizations

In addition to his consultation with the advisory council, the Secretary shall seek the views of other private groups, individuals, and the public, and shall seek the views and assistance of, and cooperate with all other Federal, State, and local agencies with responsibilities for zoning, planning, migratory fish, waterfowl, and

marine animals, water, and natural resources, and all nonprofit agencies and organizations which may contribute information or expertise about the resources, and the management, of the Area, in order that the knowledge, expertise and views of all agencies and groups may contribute affirmatively to the most sensitive present and future use of the Area and its various subareas for the benefit of the public.

(Pub. L. 93–535, § 8, Dec. 22, 1974, 88 Stat. 1733.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (a), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 541h. Cooperation with State of Oregon in administration and protection of lands; civil and criminal jurisdiction; power of taxation

The Secretary shall cooperate with the State of Oregon and political subdivisions thereof in the administration of the Area and in the administration and protection of lands within and adjacent to the Area owned or controlled by the State or political subdivisions thereof. Nothing in this subchapter shall deprive the State of Oregon or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the Area consistent with the provisions of this subchapter, or of its right to tax persons, corporations, franchises or other non-Federal property, in or on the lands or waters within the Area.

(Pub. L. 93–535, § 9, Dec. 22, 1974, 88 Stat. 1734.)

§ 542. Langmuir Research Site; establishment

That in order to encourage scientific research into atmospheric processes and astronomical phenomena, and to preserve conditions necessary for that research, there is hereby established the Langmuir Research Site (hereinafter referred to as the ''research site'') in the Cibola National Forest in the State of New Mexico.

(Pub. L. 96–550, title II, § 201, Dec. 19, 1980, 94 Stat. 3225.)

§ 542a. Congressional findings

The Congress finds that the high altitude and freedom from air pollution and night luminosity caused by human activity, make the research site uniquely suited to the conduct of research probes into thunder clouds and for other atmospheric and astronomical research purposes.

(Pub. L. 96–550, title II, § 202, Dec. 19, 1980, 94 Stat. 3225.)

§ 542b. Administration, protection, and regulation of use

The Secretary of Agriculture shall administer, protect, and regulate use of the research site in accordance with the laws, rules, and regulations applicable to National Forest System lands, and in such manner as will best contribute to purposes of this Act.

(Pub. L. 96–550, title II, § 203, Dec. 19, 1980, 94 Stat. 3225.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–550, Dec. 19, 1980, 94 Stat. 3221, which enacted sections 410ii to 410ii–7 and 542 to 542d of this title and enacted provisions set out as notes under sections 431 and 1132 of this title. For complete classification of this Act to the Code, see Tables.

§ 542c. Land use agreement

The Secretary of Agriculture in furtherance of the purposes of this Act, is hereby authorized, and directed, to enter into an appropriate land use agreement with New Mexico Institute of Mining and Technology for the Langmuir Research Site for the purpose of establishing conditions for use of the national forest land, and to set forth working relationships during such period of use.

(Pub. L. 96–550, title II, § 204, Dec. 19, 1980, 94 Stat. 3225.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–550, Dec. 19, 1980, 94 Stat. 3221, which enacted sections 410ii to 410ii–7 and 542 to 542d of this title and enacted provisions set out as notes under sections 431 and 1132 of this title. For complete classification of this Act to the Code, see Tables.

§ 542d. Comprehensive management plan

(a) Boundaries

The research site shall consist of approximately thirty-one thousand acres, including a principle[1] research facility of approximately one thousand acres. The boundaries are depicted on a map entitled ''Langmuir Research Site'', dated August 1980, which is on file and available for public inspection in the office of the Chief, Forest Service, United States Department of Agriculture.

(b) Development of plan

As soon as practicable, after December 19, 1980, the Secretary of Agriculture shall develop a comprehensive management plan for the research site consistent with requirements of the National Forest Management Act of 1976 (Public Law 94–588) (16 U.S.C. 1604), which shall be incorporated into the initial Cibola National Forest land and resource management plan as provided for under that Act.

(c) Adjustment in boundaries

Following timely notice in writing to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of his in-

[1] So in original. Probably should be ''principal''.

tention to do so, the Secretary may make minor adjustments in the boundaries of the research site to provide for more effective management or to encourage further research activity. For the purposes of this subsection, minor boundary adjustments shall not increase or decrease the amount of land within the research site by more than seven thousand acres.

(d) Consultation with other public interest groups

In developing the plan, the Secretary shall consult with the National Science Foundation, the New Mexico Institute of Mining and Technology, the New Mexico Academy of Science and appropriate conservation, wilderness, wildlife, industry, and other public interest groups.

(e) Objectives of plan

The plan shall prescribe specific research and management objectives necessary for the protection, management, and regulation of the research site as outlined in subsection (f) of this section.

(f) Management of site in accordance with the objectives

The research site shall be managed in accordance with the following objectives:

(1) The principal research facility shall be managed primarily for scientific research purposes. Dispersed recreation, grazing, and other uses which the Secretary determines to be compatible with scientific research may be permitted.

(2) The research site shall be managed to enhance scientific research objectives. Scientific research activities and associated research equipment and structures shall be permitted within the research site in accordance with the plan.

(3) Roads shall be limited to those necessary for scientific research activities and other reasonable activities as determined by the Secretary. Motor vehicle use shall be restricted to roads designated in the plan.

(4) The landing of small instrumented research rockets shall be permitted to continue in portions of the research site designated for such purposes in the plan.

(Pub. L. 96–550, title II, § 205, Dec. 19, 1980, 94 Stat. 3225; Pub. L. 103–437, § 6(d)(32), Nov. 2, 1994, 108 Stat. 4584.)

REFERENCES IN TEXT

The National Forest Management Act of 1976, referred to in subsec. (b), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 543. Mono Basin National Forest Scenic Area; establishment

The area in the Mono Basin within and adjacent to the Inyo National Forest in the State of California, as generally depicted on a map entitled ''Mono Basin National Forest Scenic Area'' dated June 1983, and numbered 1983–3, is hereby designated as the Mono Basin National Forest Scenic Area (hereafter in sections 543 to 543h of this title referred to as the ''Scenic Area''). Such map shall be on file and available for public inspection in the office of the Forest Supervisor, Inyo National Forest and in the office of the Chief of the Forest Service, Department of Agriculture. The Secretary of Agriculture (hereinafter in sections 543 to 543h of this title referred to as the ''Secretary'') may make minor revisions in the boundary of the Scenic Area after publication of notice to that effect in the Federal Register and submission of notice thereof to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such notice shall be published and submitted at least sixty days before the revision is made.

(Pub. L. 98–425, title III, § 301, Sept. 28, 1984, 98 Stat. 1632; Pub. L. 103–437, § 6(d)(33), Nov. 2, 1994, 108 Stat. 4584.)

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 543a. Extension of National Forest boundary

(a) The exterior boundary of the Inyo National Forest is hereby extended to include the area within the boundary of the Scenic Area. Any lands and interests therein acquired pursuant to section 543b of this title shall become part of the National Forest System.

(b) For the purposes of section 460*l*–9(a)(1) of this title, the boundary of the Inyo National Forest, as modified by this section, shall be treated as if it were the boundary of that forest on January 1, 1964.

(Pub. L. 98–425, title III, § 302, Sept. 28, 1984, 98 Stat. 1633.)

§ 543b. Acquisition of lands

(a) Authority of Secretary; exceptions

The Secretary is authorized to acquire all lands and interests therein within the boundary of the Scenic Area by donation, exchange in accordance with sections 543 to 543h of this title or other provisions of law, or purchase with donated or appropriated funds, except that—

(1) any lands or interests therein within the boundary of the Scenic Area which are owned by the State of California or any political subdivision thereof (including the city of Los Angeles) may be acquired only by donation or exchange; and

(2) lands or interests therein within the boundary of the Scenic Area which are not owned by the State of California or any political subdivision thereof (including the city of Los Angeles) may be acquired only with the

consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the Scenic Area or which is otherwise incompatible with the purposes of sections 543 to 543h of this title.

(b) Guidelines; detrimental or incompatible use

(1) Not later than six months after September 28, 1984, the Secretary shall publish specific guidelines under which determinations shall be made under paragraph (2) of subsection (a) of this section. No use which existed prior to June 1, 1984, within the area included in the Scenic Area shall be treated under such guidelines as a detrimental or incompatible use within the meaning of such paragraph (2).

(2) For purposes of subsection (a)(2) of this section, any development or proposed development of private property within the boundary of the Scenic Area that is significantly different from, or a significant expansion of, development existing as of June 1, 1984, shall be considered by the Secretary as detrimental to the integrity of the Scenic Area. No reconstruction or expansion of a private or commercial building, including—

(A) reconstruction of an existing building,

(B) construction of attached structural additions, not to exceed 100 per centum of the square footage of the original building, and

(C) construction of reasonable support development such as roads, parking, water and sewage systems shall be treated as detrimental to the integrity of the Scenic Area or as an incompatible development within the meaning of paragraph (2) of subsection (a) of this section.

(c) Preparation of environmental assessments

Notwithstanding any other provision of law, the Secretary shall only be required to prepare an environmental assessment of any exchange of mineral or geothermal interest authorized by sections 543 to 543h of this title.

(Pub. L. 98–425, title III, § 303, Sept. 28, 1984, 98 Stat. 1633.)

§ 543c. Administration

(a) Scenic Area and other lands to be administered as part of Inyo National Forest

(1) Except as otherwise provided in sections 543 to 543h of this title, the Secretary, acting through the Chief of the Forest Service, shall administer the Scenic Area as a separate unit within the boundary of the Inyo National Forest in accordance with the laws, rules, and regulations applicable to the National Forest System. All Bureau of Land Management administered lands that fall within the boundaries of the Scenic Area are hereby added to the Inyo National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(2) In addition, the following parcels administered by the Bureau of Land Management are hereby added to the Inyo National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System:

township 1 south; range 26 east; Mount Diablo Meridian:

east half of southwest quarter and south half of southeast quarter of section 10; and

township 1 north; range 26 east; Mount Diablo Meridian:

southwest quarter of northeast quarter and west half of southeast quarter of section 9;

southwest quarter of southwest quarter of section 15;

southwest quarter of northwest quarter and northwest quarter of southwest quarter of section 25;

north half of southeast quarter of section 26, west half of northwest quarter and northwest quarter of southwest quarter of section 27;

township 1 north; range 27 east; Mount Diablo Meridian:

east half of southeast quarter of section 34;

southwest quarter of northwest quarter of section 35; and

west half of section 30 as intersected by Scenic Area Boundary.

(b) Water rights; protection of geologic, ecologic and cultural resources; recreational use of Scenic Area; related facilities and programs; scientific study and research; commercial timber harvesting

(1) In a manner consistent with the protection of the water rights of the State of California or any political subdivision thereof (including the city of Los Angeles) or of any person to the extent that such water rights have been granted or modified under the laws of the State of California, the Secretary shall manage the Scenic Area to protect its geologic, ecologic, and cultural resources. The Secretary shall provide for recreational use of the Scenic Area and shall provide recreational and interpretive facilities (including trails and campgrounds) for the use of the public which are compatible with the provisions of sections 543 to 543h of this title, and may assist adjacent affected local governmental agencies in the development of related interpretive programs. The Secretary shall permit the full use of the Scenic Area for scientific study and research in accordance with such rules and regulations as he may prescribe.

(2) Except as specifically provided in this subsection, no commercial timber harvesting shall be permitted in the Scenic Area, but the Secretary shall permit the utilization of wood material such as firewood, posts, poles, and Christmas trees by individuals for their domestic purposes under such regulations as he may prescribe to protect the natural and cultural resources of the Scenic Area. The Secretary may take action including the use of commercial timber harvest to the minimum extent necessary to control fires, insects and diseases that might—

(A) endanger irreplaceable features within the Scenic Area, or

(B) cause substantial damage to significant resources adjacent to the Scenic Area.

(c) Grazing permits

The Secretary shall permit those persons holding currently valid grazing permits within the

boundary of the Scenic Area to continue to exercise such permits consistent with other applicable law.

(d) Cooperative agreements

The Secretary may enter into cooperative agreements with the State of California and any political subdivision thereof (including the city of Los Angeles) for purposes of protecting Scenic Area resources and administering areas owned by the State or by any such political subdivision which are within the Scenic Area.

(e) Management plan

Within three years after September 28, 1984, the Secretary shall submit to the committees referred to in section 543 of this title, a detailed and comprehensive management plan for the Scenic Area which is consistent with the protection of water rights as provided in subsection (b)(1) of this section. The plan shall include but not be limited to—

(1) an inventory of natural (including geologic) and cultural resources;

(2) general development plans for public use facilities, including cost estimates; and

(3) measures for the preservation of the natural and cultural resources of the Scenic Area in accordance with subsections (a) and (b) of this section.

Such plan shall provide for hunting and fishing (including commercial brine shrimp operations authorized under State law) within the Scenic Area in accordance with applicable Federal and State law, except to the extent otherwise necessary for reasons of public health and safety, the protection of resources, scientific research activities, or public use and enjoyment.

(f) Visitor center

The Secretary is authorized to construct a visitor center in the Scenic Area for the purpose of providing information through appropriate displays, printed material, and other interpretive programs, about the natural and cultural resources of the Scenic Area.

(g) Withdrawal of lands from operation of other Federal laws; regulation of mining claims

(1) Subject to valid existing rights, federally owned lands and interests therein within the Scenic Area are withdrawn from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from operation of the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.], and from disposition under the public land laws.

(2) Subject to valid existing rights, all mining claims located within the Scenic Area shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the area, and any patent which may be issued after September 28, 1984, shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations.

(h) Water rights

Nothing in sections 543 to 543h of this title shall be construed to reserve any water for purposes of the Scenic Area or to affirm, deny, or otherwise affect the present (or prospective) water rights of any person or of the State of California or of any political subdivision thereof (including the city of Los Angeles), nor shall any provision of sections 543 to 543h of this title be construed to cause, authorize, or allow any interference with or infringement of such water rights so long as, and to the extent that, those rights remain valid and enforceable under the laws of the State of California.

(i) Rights-of-way of city of Los Angeles

(1) The Act entitled ''An Act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California; and granting rights-of-way over public lands and reserved lands to the city of Los Angeles in Mono County in the State of California'', approved June 23, 1936 (49 Stat. 1892), is hereby repealed.

(2) The Secretary and the Secretary of the Interior shall grant and convey rights-of-way easements, at no cost, to the city of Los Angeles for those rights-of-way on public lands and national forest lands in Mono County, California, as described and set forth in maps and accompanying descriptions which were—

(A) filed by the city of Los Angeles with the Secretary of the Interior on October 24, 1944, and

(B) accepted as proof of construction on behalf of the United States by the Commissioner of the General Land Office on January 4, 1945.

Such easement conveyances shall provide for the right of the city to continue its present operations and to maintain, reconstruct, and replace all existing water and power facilities located within the bounds of the area described in the maps and descriptions referred to in the preceding sentence. The United States shall reserve in the conveyance easements all rights to use and permit the use by others of the lands so conveyed to the extent that such use does not unreasonably interfere with the rights granted herein to the city of Los Angeles.

(3) The grant in paragraph (2) of this subsection shall become effective upon relinquishment in writing by the city of Los Angeles of its applications dated October 20, 1944, and January 17, 1945, to purchase twenty-three thousand eight hundred and fifty acres of Federal land.

(4) The easements granted under paragraph (2) of this subsection shall provide that whenever the city of Los Angeles ceases to use the land or any part thereof subject to such easements for the purposes for which it is currently being used, as of September 28, 1984, all interests in such land or part thereof shall revert to the United States.

(j) Existing community recreational uses

Existing community recreational uses, as of September 28, 1984, shall be permitted at the levels and locations customarily exercised.

(Pub. L. 98–425, title III, § 304, Sept. 28, 1984, 98 Stat. 1634.)

REFERENCES IN TEXT

The Geothermal Steam Act of 1970, referred to in subsec. (g)(1), is Pub. L. 91–581, Dec. 24, 1970, 84 Stat. 1566,

which is classified principally to chapter 23 (§ 1001 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 30 and Tables.

The Act entitled ''An Act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California; and granting rights-of-way over public lands and reserved lands to the city of Los Angeles in Mono County in the State of California'', referred to in subsec. (i)(1), is act June 23, 1936, ch. 733, 49 Stat. 1892, which was not classified to the Code.

§ 543d. Ecological studies; reports to Congressional committees and to Chief of Forest Service; progress reports

The Secretary shall take such steps as may be necessary to, within one hundred and eighty days of September 28, 1984, enter into a contract with the National Academy of Sciences for the purpose of conducting a scientific study of the ecology of the Scenic Area. The study shall provide for consultation with knowledgeable local, State, Federal, and private persons and organizations and shall provide findings and recommendations to the Congress. Such study shall be conducted in accordance with the best scientific methodology (as set forth by the National Academy of Sciences) and shall be transmitted by the National Academy of Sciences to the Committee on Energy and Natural Resources of the United States Senate, to the Committee on Interior and Insular Affairs of the United States House of Representatives, and to the Chief of the Forest Service not later than January 1, 1987. Progress reports regarding the study shall be transmitted to the above committees on January 1, 1985, and January 1 of each year thereafter.

(Pub. L. 98–425, title III, § 305, Sept. 28, 1984, 98 Stat. 1636.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 543e. Scenic Area Advisory Board

(a) Establishment; consultations with Secretary

There is hereby established the Scenic Area Advisory Board (hereinafter referred to as the ''Board''). The Secretary shall consult with and seek the advice and recommendations of the Board with respect to—

(1) the administration of the Scenic Area with respect to policies, programs, and activities in accordance with sections 543 to 543h of this title;

(2) the preparation and implementation of the comprehensive management plan; and

(3) the location of the visitor center authorized by section 543c(f) of this title.

(b) Composition and selection

The Board shall be composed of nine members, who shall be selected as follows:

(1) five members appointed by the Mono County Board of Supervisors;

(2) two members appointed by the Governor of California (one of whom shall be an employee of the California Division of Parks and Recreation);

(3) one member appointed by the mayor of the city of Los Angeles; and

(4) one member appointed by the Secretary (who shall be an employee of the Forest Service).

(c) Terms of appointment

Each member of the Board shall be appointed to serve for a term of three years except that the initial appointments shall be for terms as follows:

(1) of those members appointed by the Mono County Board of Supervisors one shall be appointed to serve for a term of one year, two shall be for a term of two years, and two shall be for a term of three years;

(2) of those members appointed by the Governor of California one shall be appointed to serve for a term of one year and one shall be appointed to serve for a term of three years;

(3) the member appointed by the mayor of the city of Los Angeles shall be appointed to serve for a term of two years; and

(4) the member appointed by the Secretary shall be appointed to serve for a term of three years.

(d) Initial appointment; Chairman

The members of the Board shall be appointed within ninety days of September 28, 1984. The members of the Board shall, at their first meeting, elect a Chairman.

(e) Annual meetings and consultations with Secretary or designee

The Secretary, or a designee, shall from time to time, but at least annually, meet and consult with the Board on matters relating to the administration of the scenic area.[1]

(f) Compensation; expenses

Members of the Board shall serve without compensation as such, but the Secretary is authorized to pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Board and its members in carrying out their duties under sections 543 to 543h of this title.

(g) Vacancies

Any vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(h) Quorum

A majority of those members appointed shall constitute a quorum for the conduct of all business of the Board.

(i) Termination

The Board shall terminate ten years from the date of its first meeting.

(Pub. L. 98–425, title III, § 306, Sept. 28, 1984, 98 Stat. 1637.)

§ 543f. Traditional Native American uses

In recognition of the past use of the Scenic Area by Indian people for traditional cultural and religious purposes, the Secretary shall insure nonexclusive access to Scenic Area lands by Indian people for such traditional cultural and

[1] So in original. Probably should be capitalized.

religious purposes, including the harvest of the brine fly larvae. Such direction shall be consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (92 Stat. 469) [42 U.S.C. 1996, 1996a]. As a part of the plan prepared pursuant to section 543c(c) of this title, the Secretary shall, in consultation with appropriate Indian tribes, define the past cultural and religious uses of the Scenic Area by Indians.

(Pub. L. 98–425, title III, § 307, Sept. 28, 1984, 98 Stat. 1638.)

REFERENCES IN TEXT

The American Indian Religious Freedom Act, referred to in text, is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, as amended, which is classified to sections 1996 and 1996a of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1996 of Title 42 and Tables.

§ 543g. Authorization of appropriations

In addition to other amounts available for such purposes, effective October 1, 1985, there are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 543 to 543h of this title.

(Pub. L. 98–425, title III, § 308, Sept. 28, 1984, 98 Stat. 1638.)

§ 543h. New spending authority

Any new spending authority described in subsection (c)(2)(A) or (B) of section 651[1] of title 2 which is provided under sections 543 to 543h of this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(Pub. L. 98–425, title III, § 309, Sept. 28, 1984, 98 Stat. 1638.)

REFERENCES IN TEXT

Section 651 of title 2, referred to in text, was amended by Pub. L. 105–33, title X, § 10116(a)(3), (5), Aug. 5, 1997, 111 Stat. 691, by striking out subsec. (c) and redesignating former subsec. (d) as (c).

§ 544. Columbia River Gorge National Scenic Area; definitions

As used in sections 544 to 544p of this title, the term—

(a) ''adversely affect'' or ''adversely affecting'' means, except as used in section 544m of this title, a reasonable likelihood of more than moderate adverse consequences for the scenic, cultural, recreation or natural resources of the scenic area, the determination of which is based on—

(1) the context of a proposed action;

(2) the intensity of a proposed action, including the magnitude and duration of an impact and the likelihood of its occurrence;

(3) the relationship between a proposed action and other similar actions which are individually insignificant but which may have cumulatively significant impacts; and

(4) proven mitigation measures which the proponent of an action will implement as part of the proposal to reduce otherwise significant affects to an insignificant level;

(b) ''agricultural lands'' means lands designated as agricultural lands pursuant to section 544d of this title;

(c) ''Commission'' means the Columbia River Gorge Commission established pursuant to section 544c of this title;

(d) ''counties'' means Hood River, Multnomah, and Wasco Counties, Oregon; and Clark, Klickitat, and Skamania Counties, Washington;

(e) ''Dodson/Warrendale Special Purchase Unit'' means the Dodson/Warrendale Special Purchase Unit established pursuant to section 544b of this title;

(f) ''forest lands'' means lands designated as forest lands pursuant to section 544d of this title;

(g) ''Indian tribes'' means the Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Indian Nation, the Confederated Tribes of the Warm Springs of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation;

(h) ''interim guidelines'' means any interim guidelines developed by the Secretary pursuant to section 544h of this title, and any amendment, revision, or variance;

(i) ''land use ordinance'' or ''ordinance'' means any ordinance adopted by a county or by the Commission pursuant to sections 544 to 544p of this title, and includes any amendment to, revision of, or variance from such ordinance;

(j) ''major development actions'' means any of the following:

(1) subdivisions, partitions and short plat proposals;

(2) any permit for siting or construction outside urban areas of multifamily residential, industrial or commercial facilities, except such facilities as are included in the recreation assessment;

(3) the exploration, development and production of mineral resources unless such exploration, development or production can be conducted without disturbing the surface of any land within the boundaries of a special management area or is for sand, gravel and crushed rock used for the construction, maintenance or reconstruction of roads within the special management areas used for the production of forest products; and

(4) permits for siting or construction within a special management area of any residence or other related major structure on any parcel of land less than forty acres in size;

(k) ''management plan'' means the scenic area management plan adopted pursuant to section 544d of this title;

(*l*) ''open spaces'' means unimproved lands not designated as agricultural lands or forest lands pursuant to section 544d of this title and designated as open space pursuant to section 544d of this title. Open spaces include—

(1) scenic, cultural, and historic areas;

(2) fish and wildlife habitat;

(3) lands which support plant species that are endemic to the scenic area or which are

[1] See References in Text note below.

listed as rare, threatened or endangered species pursuant to State or Federal Endangered Species Acts;

(4) ecologically and scientifically significant natural areas;

(5) outstanding scenic views and sites;

(6) water areas and wetlands;

(7) archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas which are culturally or historically significant;

(8) potential and existing recreation resources; and

(9) Federal and State wild, scenic, and recreation waterways;

(m) ''recreation assessment'' means the recreation assessment adopted pursuant to section 544d of this title;

(n) ''residential development'' means the permitting for siting or construction of any residence or other related major structure;

(*o*) ''scenic area'' means the Columbia River Gorge National Scenic Area established pursuant to section 544b of this title;

(p) ''Secretary'' means the Secretary of Agriculture;

(q) ''special management areas'' means areas within the scenic area established pursuant to section 544b of this title;

(r) ''States'' means the States of Oregon and Washington; and

(s) ''urban areas'' means those areas within the scenic area identified as urban areas on the map referred to in section 544b(e) of this title or within the boundaries of an urban area as revised pursuant to section 544b(f) of this title.

(Pub. L. 99–663, §2, Nov. 17, 1986, 100 Stat. 4274; Pub. L. 103–435, §17(b), Nov. 2, 1994, 108 Stat. 4573.)

REFERENCES IN TEXT

Federal Endangered Species Acts, referred to in subsec. (*l*)(3), are classified principally to chapter 35 (§1531 et seq.) of this title.

AMENDMENTS

1994—Subsec. (g). Pub. L. 103–435 substituted ''Yakama Indian Nation'' for ''Yakima Indian Nation''.

SHORT TITLE

Section 1 of Pub. L. 99–663 provided that: ''This Act [enacting this section and sections 544a to 544p of this title and amending sections 1274 and 1276 of this title] may be referred to as the 'Columbia River Gorge National Scenic Area Act'.''

§ 544a. Purposes

The purposes of sections 544 to 544p of this title are—

(1) to establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge; and

(2) to protect and support the economy of the Columbia River Gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that is consistent with paragraph (1).

(Pub. L. 99–663, §3, Nov. 17, 1986, 100 Stat. 4276.)

§ 544b. Establishment of scenic area

(a) National scenic area

(1) There is hereby established the Columbia River Gorge National Scenic Area.

(2) BOUNDARIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the boundaries of the scenic area shall be generally depicted on the map entitled ''Boundary Map, Columbia River Gorge National Scenic Area,'' numbered NSA–001 sheets 1 and 2, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service.

(B) EXCLUSIONS.—The scenic area shall not include the approximately 29 acres of land owned by the Port of Camas-Washougal in the South ½ of Section 16, Township 1 North, Range 4 East, and the North ½ of Section 21, Township 1 North, Range 4 East, Willamete[1] Meridian, Clark County, Washington, that consists of—

(i) the approximately 19 acres of Port land acquired from the Corps of Engineers under the Second Supplemental Appropriations Act, 1984 (Public Law 98–396); and

(ii) the approximately 10 acres of adjacent Port land to the west of the land described in clause (i).

(b) Special management areas

(1) The following areas within the boundaries of the scenic area are hereby designated ''Special Management Areas'': Gates of the Columbia River Gorge; Wind Mountain; Burdoin Mountain; and Rowena.

(2) The boundaries of the special management areas designated by paragraph (1)—

(A) shall be generally depicted on the map entitled ''Special Management Areas, Columbia River Gorge National Scenic Area'', numbered SMA–002 sheets 1 through 17, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service; and

(B) shall include all islands within the boundaries of the scenic area.

(3) MODIFICATION OF BOUNDARIES.—The boundaries of the special management areas are modified as depicted on a map dated September 20, 2000, which shall be on file and available for public inspection in the office of the Chief of the Forest Service in Washington, District of Columbia, and copies shall be available in the office of the Commission, and the headquarters of the scenic area.

(c) Revision of special management area boundaries

The Secretary, in consultation with the Commission, may make minor revisions in the boundaries of special management areas after publication of notice to that effect in the Federal Register and submission of notice thereof to the Committee on Energy and Natural Resources of the United States Senate and the Committees on Agriculture and Natural Re-

[1] So in original. Probably should be ''Willamette''.

sources of the United States House of Representatives. Such notice shall be published and submitted at least sixty days before the revision is made. Notice of final action regarding such revision shall also be published in the Federal Register.

(d) Dodson/Warrendale Special Purchase Unit

(1) There is hereby established the Dodson/Warrendale Special Purchase Unit.

(2) The boundaries of the Dodson/Warrendale Special Purchase Unit shall be generally depicted on the map entitled ''Dodson/Warrendale Special Purchase Unit, Columbia River Gorge National Scenic Area'', numbered SPU–003 sheet 1, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service.

(e) Urban areas

(1) The following cities and towns are hereby designated as ''Urban Areas'': Cascade Locks, Hood River, Mosier, and The Dalles, Oregon; and Bingen, Carson, Dallesport, Home Valley, Lyle, North Bonneville, Stevenson, White Salmon, and Wishram, Washington.

(2) The boundaries of urban areas shall be generally depicted on the map entitled, ''Urban Areas, Columbia River Gorge National Scenic Area'', numbered UA–004 sheets 1 through 11, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service. The boundaries of urban areas designated in this subsection may be revised pursuant to the provisions of this section.

(f) Revision of urban area boundaries

(1) Upon application of a county and in consultation with the Secretary, the Commission may make minor revisions to the boundaries of any urban area identified in subsection (e) of this section. A majority vote of two-thirds of the members of the Commission, including a majority of the members appointed from each State, shall be required to approve any revision of urban area boundaries.

(2) The Commission may revise the boundaries of an urban area only if it finds that—

(A) a demonstrable need exists to accommodate long-range urban population growth requirements or economic needs consistent with the management plan;

(B) revision of urban area boundaries would be consistent with the standards established in section 544d of this title and the purposes of sections 544 to 544p of this title;

(C) revision of urban area boundaries would result in maximum efficiency of land uses within and on the fringe of existing urban areas; and

(D) revision of urban area boundaries would not result in the significant reduction of agricultural lands, forest lands, or open spaces.

(Pub. L. 99–663, § 4, Nov. 17, 1986, 100 Stat. 4276; Pub. L. 103–437, § 6(d)(34), Nov. 2, 1994, 108 Stat. 4585; Pub. L. 105–277, div. A, § 101(e) [title III, § 354(a)], Oct. 21, 1998, 112 Stat. 2681–231, 2681–303; Pub. L. 106–31, title V, § 5004(3), May 21, 1999, 113 Stat. 110; Pub. L. 106–291, title III, § 346(d), Oct. 11, 2000, 114 Stat. 1000.)

REFERENCES IN TEXT

The Second Supplemental Appropriations Act, 1984, referred to in subsec. (a)(2)(B)(i), is Pub. L. 98–396, Aug. 22, 1984, 98 Stat. 1369. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2000—Subsec. (b)(2). Pub. L. 106–291, § 346(d)(1), substituted ''by paragraph (1)'' for ''in this section'' in introductory provisions.

Subsec. (b)(3). Pub. L. 106–291, § 346(d)(2), which directed amendment of subsec. (b)(2) by adding at the end a par. (3), was executed by adding par. (3) after subsec. (b)(2), to reflect the probable intent of Congress.

1999—Subsec. (a)(2). Pub. L. 106–31 made technical correction to directory language of Pub. L. 105–277. See 1998 Amendment note below.

1998—Subsec. (a)(2). Pub. L. 105–277, as amended by Pub. L. 106–31, inserted par. (2) heading, designated existing provisions as subpar. (A), inserted heading, and substituted ''Except as provided in subparagraph (B), the boundaries'' for ''The boundaries'', and added subpar. (B).

1994—Subsec. (c). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committees on Agriculture and''.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–31, title V, § 5004(4), May 21, 1999, 113 Stat. 110, provided that: ''The amendments made by paragraphs (1), (2), and (3) of this section [amending this section and section 1374 of this title], shall take effect as if included in Public Law 105–277 on the date of its enactment [Oct. 21, 1998].''

CONGRESSIONAL INTENT OF 1998 AMENDMENT

Pub. L. 105–277, div. A, § 101(e) [title III, § 354(b)], Oct. 21, 1998, 112 Stat. 2681–231, 2681–303, provided that: ''The amendment made by subsection (a) [amending this section]—

''(1) is intended to achieve the intent of Congress set forth in Public Law 98–396 [see Tables for classification]; and

''(2) is not intended to set a precedent regarding adjustment or amendment of any boundaries of the Columbia River Gorge National Scenic Area or any other provisions of the Columbia River Gorge National Scenic Area Act [see Short Title note set out under section 544 of this title].''

§ 544c. Columbia River Gorge Commission

(a) Establishment and membership of Commission

(1) To achieve the purposes of sections 544 to 544p of this title and to facilitate cooperation among the States of Oregon and Washington, and with the United States of America, the consent of Congress is given for an agreement described in sections 544 to 544p of this title pursuant to which, within one year after November 17, 1986—

(A) the States of Oregon and Washington shall establish by way of an interstate agreement a regional agency known as the Columbia River Gorge Commission, and shall incorporate sections 544 to 544p of this title by specific reference in such agreement. The Commission shall carry out its functions and responsibilities in accordance with the provisions of the interstate agreement and of sections 544 to 544p of this title and shall not be considered an agency or instrumentality of the United States for the purpose of any Federal law;

(B) the States of Oregon and Washington shall provide to the Commission, State agen-

cies, and the counties under State law the authority to carry out their respective functions and responsibilities in accordance with the provisions of paragraph (1)(A) of this subsection; and

(C) the States of Oregon and Washington shall appoint members of the Commission as provided in clauses (i) through (iii), subject to applicable State law: *Provided*, That the Governor of either State may extend the time for appointment of Commission members ninety days to provide more time for the States and counties to make such appointments. Membership of the Commission shall be as follows:

(i) six members, comprised of one resident from each of the following counties: Hood River, Multnomah, and Wasco Counties, Oregon, and Clark, Klickitat, and Skamania Counties, Washington, to be appointed by the governing body of each of the respective counties: *Provided*, That in the event the governing body of a county fails to make such appointment, the Governor of the State in which the county is located shall appoint such member;

(ii) three members who reside in the State of Oregon, at least one of whom shall be a resident of the scenic area, to be appointed by the Governor of Oregon;

(iii) three members who reside in the State of Washington, at least one of whom shall be a resident of the scenic area, to be appointed by the Governor of Washington; and

(iv) one ex officio, nonvoting member who shall be an employee of the Forest Service, to be appointed by the Secretary.

(2) The agreement shall take effect and the Commission may exercise its authorities pursuant to the agreement upon the appointment of four initial members from each State, subject to applicable State law, and the date of such an agreement shall be the date of establishment of the Commission. Such agreement is hereby consented to by the Congress.

(3) Either State or any county may fill any vacancy occurring prior to the expiration of the term of any member originally appointed by that State or county. Each member appointed to the Commission shall serve a term of four years, except that, with respect to members initially appointed pursuant to paragraph (1)(C)(i), each Governor shall designate one member to serve for a term of five years and one to serve for a term of six years, and one member from each State initially appointed pursuant to paragraph (1)(C)(ii) and (iii) shall be designated by the Governor to serve a term of five years, and one to serve a term of six years. Neither the Governors nor the governing bodies of any of the counties may appoint Federal, State, or local elected or appointed officials to the Commission.

(4) A majority of the members of the Commission shall constitute a quorum. The members of the Commission shall select from among themselves a Chairman by majority vote of the members appointed from each State.

(5) Except for the ex-officio member appointed pursuant to paragraph (1)(C)(iv), the members and officers and employees of the Commission shall not be officers or employees of the United States for any purpose. The Commission shall appoint, fix compensation for, and assign and delegate duties to such officers and employees as the Commission deems necessary to fulfill its functions under sections 544 to 544p of this title. The compensation of Commission members shall be fixed by State law. The compensation of Commission members, officers, and employees and the expenses of the Commission shall be paid from funds provided to the Commission by the States.

(b) Applicable law

For the purposes of providing a uniform system of laws, which, in addition to sections 544 to 544p of this title, are applicable to the Commission, the Commission shall adopt regulations relating to administrative procedure, the making of contracts, conflicts-of-interest, financial disclosure, open meetings of the Commission, advisory committees, and disclosure of information consistent with the more restrictive statutory provisions of either State. Regulations applicable to financial disclosure under this subsection shall be applied to members of the Commission without regard to the duration of their service on the Commission or the amount of compensation received for such service. No contract, obligation, or other action of the Commission shall be an obligation of the United States or an obligation secured by the full faith and credit of the United States.

(c) Assistance to Commission

Upon the request of the Commission, the Secretary and other Federal agencies are authorized to provide information, personnel, property, and services on a reimbursable basis, and the Secretary is authorized to provide technical assistance on a nonreimbursable basis, to the Commission to assist it in carrying out its functions and responsibilities pursuant to sections 544 to 544p of this title.

(d) Advisory committees

The Commission shall establish voluntary technical and citizen advisory committees to assist the Commission in carrying out its functions and responsibilities pursuant to sections 544 to 544p of this title.

(Pub. L. 99–663, §5, Nov. 17, 1986, 100 Stat. 4277.)

§ 544d. Scenic area management plan

(a) Studies

Within one year after the date the Commission is established, it shall, in cooperation with the Secretary, complete the following studies for use in preparing the management plan:

(1) Resource inventory

The Commission shall complete a resource inventory. The resource inventory shall—

(A) document all existing land uses, natural features and limitations, scenic, natural, cultural, archaeological and recreation and economic resources and activities: *Provided*, That the location of any Indian burial grounds, village sites, and other areas of archaeological or religious significance shall not be made public information and such information shall be used for administrative purposes only; and

(B) incorporate without change the resource inventory developed by the Secretary pursuant to section 544f of this title for the special management areas.

(2) Economic opportunity study

The Commission shall complete a study to identify opportunities to enhance the economies of communities in the scenic area in a manner consistent with the purposes of sections 544 to 544p of this title.

(3) Recreation assessment

The Commission shall complete an assessment of recreation resources and opportunities for enhancement of these resources. The recreation assessment shall—

(A) designate the location and specify the construction of an interpretive center or other appropriate facility, to be located in the State of Oregon, and of a conference center or other appropriate facility, to be located in the State of Washington;

(B) identify areas within the scenic area that are suitable for other public use facilities, including but not limited to educational and interpretive facilities, campsites, picnic areas, boat launch facilities and river access areas; and

(C) subject to the treaty and other rights of Indian tribes, designate areas to provide increased access for recreation purposes to the Columbia River and its tributaries; and

(D) incorporate without change the recreation assessment developed by the Secretary pursuant to section 544f of this title for the special management areas;

(b) Land use designations

Within two years after the Commission is established, it shall develop land use designations for the use of non-Federal lands within the scenic area. The land use designations shall—

(1) be based on the results of the resource inventory developed pursuant to subsection (a)(1) of this section, and consistent with the standards established in subsection (d) of this section;

(2) designate those lands used or suitable for the production of crops, fruits or other agricultural products or the sustenance of livestock as agricultural lands;

(3) designate lands used or suitable for the production of forest products as forest lands;

(4) designate lands suitable for the protection and enhancement of open spaces;

(5) designate areas in the scenic area outside special management areas used or suitable for commercial development: *Provided*, That such designation shall encourage, but not require, commercial development to take place in urban areas and shall take into account the physical characteristics of the areas in question and their geographic proximity to transportation, commercial, and industrial facilities and other amenities;

(6) designate areas used or suitable for residential development, taking into account the physical characteristics of the areas in question and their geographic proximity to transportation and commercial facilities and other amenities; and

(7) incorporate without change the designation of urban areas established in section 544b(e) of this title.

(c) Adoption of management plan

Within three years after the date the Commission is established, it shall adopt a management plan for the scenic area. The Commission shall adopt the management plan by a majority vote of the members appointed, including at least three members from each State. The management plan shall—

(1) be based on the results of the resource inventory developed pursuant to subsection (a)(1) of this section;

(2) include land use designations developed pursuant to subsection (b) of this section;

(3) be consistent with the standards established in subsection (d) of this section;

(4) incorporate without change the management direction for the use of Federal lands within and the land use designations for the special management areas adopted by the Secretary pursuant to section 544f of this title; and

(5) include guidelines for the adoption of land use ordinances for lands within the scenic area. The guidelines—

(A) shall incorporate without change the guidelines for the development of special management area land use ordinances developed by the Secretary pursuant to section 544f of this title; and

(B) shall not apply to urban areas designated in section 544b(e) of this title.

(d) Standards for management plan

The management plan and all land use ordinances and interim guidelines adopted pursuant to sections 544 to 544p of this title shall include provisions to—

(1) protect and enhance agricultural lands for agricultural uses and to allow, but not require, conversion of agricultural lands to open space, recreation development or forest lands;

(2) protect and enhance forest lands for forest uses and to allow, but not require, conversion of forest lands to agricultural lands, recreation development or open spaces;

(3) protect and enhance open spaces;

(4) protect and enhance public and private recreation resources and educational and interpretive facilities and opportunities, in accordance with the recreation assessment adopted pursuant to subsection (a) of this section;

(5) prohibit major development actions in special management areas, except for partitions or short plats which the Secretary determines are desirable to facilitate land acquisitions pursuant to sections 544 to 544p of this title;

(6) prohibit industrial development in the scenic area outside urban areas;

(7) require that commercial development outside urban areas take place without adversely affecting the scenic, cultural, recreation, or natural resources of the scenic area;

(8) require that residential development outside urban areas take place without adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area; and

(9) require that the exploration, development and production of mineral resources, and the reclamation of lands thereafter, take place without adversely affecting the scenic, cultural, recreation and natural resources of the scenic area.

(e) Agency consultation and public involvement

The Secretary and the Commission shall exercise their responsibilities pursuant to sections 544 to 544p of this title in consultation with Federal, State, and local governments having jurisdiction within the scenic area or expertise pertaining to its administration and with Indian tribes. The Secretary and the Commission shall conduct public hearings and solicit public comment prior to final adoption of the management plan and the Commission shall conduct public hearings and solicit public comment prior to final adoption of land use ordinances. The Commission and the appropriate county shall promptly notify the Secretary, the States, local governments and Indian tribes of all proposed major development actions and residential development in the scenic area.

(f) Concurrence of management plan

(1) Review by Secretary

Upon adoption of the management plan, the Commission shall promptly submit the plan to the Secretary for review. If the Secretary agrees with the Commission that the management plan is consistent with the standards established in this section and the purposes of sections 544 to 544p of this title, the Secretary shall concur to that effect. Should the Secretary fail to act on the proposed plan within ninety days, the Secretary shall be deemed to have concurred on the management plan.

(2) Denial of concurrence

If concurrence is denied, the Secretary shall state the reasons for finding the plan is inconsistent with the standards established in this section or the purposes of sections 544 to 544p of this title, and shall submit to the Commission suggested modifications to the management plan to make it consistent with such standards and the purposes of sections 544 to 544p of this title.

(3) Commission reconsideration

Within one hundred and twenty days after receipt of notification of non-concurrence, the Commission shall—

(A) revise and resubmit the plan to the Secretary; or

(B) by a vote of two-thirds of its membership, including a majority of the members appointed from each State, reject the suggested modifications of the Secretary and adopt a management plan consistent with the provisions of this section and the purposes of sections 544 to 544p of this title.

(g) Revision of plan

No sooner than five years after adoption of the management plan, but at least every ten years, the Commission shall review the management plan to determine whether it should be revised. The Commission shall submit any revised management plan to the Secretary for review and concurrence, in accordance with the provisions of this section for adoption of the management plan.

(h) Amendment of plan

If the Commission determines at any time that conditions within the scenic area have significantly changed, it may amend the management plan. The Commission shall submit amendments to the management plan to the Secretary for review, in accordance with the provisions of this section for adoption of the management plan.

(Pub. L. 99–663, §6, Nov. 17, 1986, 100 Stat. 4279.)

§ 544e. Administration of scenic area

(a) Management of scenic area

The non-Federal lands within the scenic area shall be administered by the Commission in accordance with the management plan and sections 544 to 544p of this title.

(b) Adoption of scenic area land use ordinances

(1) Within sixty days of initial receipt of the management plan, each county shall submit to the Commission a letter stating that it proposes to adopt a land use ordinance consistent with the management plan. If any county fails to submit such letter or fails to adopt a land use ordinance as provided in this section, the Commission shall carry out the requirements of subsection (c) of this section.

(2) Within two hundred and seventy days of receipt of the management plan, each county shall adopt a land use ordinance consistent with the management plan, and thereafter may adopt an amendment, revision or variance to a land use ordinance at any time. Each county upon adoption of a land use ordinance shall promptly submit the ordinance to the Commission.

(3) APPROVAL BY COMMISSION.—(A) Within ninety days after receipt of a land use ordinance, the Commission, by majority vote including at least three members from each State, shall approve the ordinance unless it determines the ordinance is inconsistent with the management plan. Should the Commission fail to act within ninety days, the ordinance shall be deemed to be approved.

(B) If approval is denied, the Commission shall state the reasons for finding the ordinance is inconsistent with the management plan, and shall submit to the county suggested modifications to the ordinance to make it consistent with the management plan.

(C) Each county shall have ninety days after it receives recommendations from the Commission to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Commission for approval. The Commission shall have sixty days to approve or disapprove the resubmitted ordinance. Any resubmitted ordinance shall become effective upon approval. Should the Commission disapprove the resubmitted ordinance, it shall promptly resubmit the ordinance for reconsideration. Should the Commission fail to act within sixty days, the ordinance shall be deemed to be approved.

(c) Commission land use ordinances

(1) Within ninety days after making a determination that a county has failed to comply

with the provisions of this section, the Commission shall make and publish a land use ordinance setting standard for the use of non-Federal lands in such county within the boundaries of the national scenic area, excluding urban areas identified in section 544b(e) of this title. The ordinance shall have the object of assuring that the use of such non-Federal lands is consistent with the management plan. The ordinance may differ amongst the several parcels of land within the boundaries of the scenic area. The ordinance may from time to time be amended by the Commission.

(2) SUBSEQUENT COMPLIANCE.—In the event the Commission has promulgated regulations pursuant to this section, a county may thereafter upon written notice to the Commission elect to adopt a land use ordinance, in which event it shall comply with the provisions of this section for adoption of a land use ordinance. Upon approval of a land use ordinance by the Commission it shall supersede any regulations for the county developed by the Commission, subject to valid existing rights.

(d) Construction of facilities

The Secretary is hereby authorized to design, construct, operate and maintain such facilities as are included in the recreation assessment.

(Pub. L. 99–663, § 7, Nov. 17, 1986, 100 Stat. 4282.)

§ 544f. Administration of special management areas

(a) Administration of Federal lands

(1)[1] The Secretary shall administer Federal lands within the special management areas in accordance with sections 544 to 544p of this title and other laws, rules and regulations applicable to the national forest system. In addition, the construction of roads and the management, utilization and harvest of timber on Federal lands within the special management areas also shall be subject to Forest Service visual resource management guidelines. The Secretary shall utilize lands acquired through exchange in calculating the allowable sales quantity on the Gifford Pinchot and Mount Hood National Forests.

(b) Withdrawal of Federal lands

Subject to valid existing rights, all Federal lands located in the special management areas are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws of the United States, and from disposition under all laws pertaining to mineral and geothermal leasing: *Provided*, That the Secretary may allow the exploration, development, or production of sand, gravel, and crushed rock as necessary to construct, maintain, or reconstruct roads in the special management areas.

(c) Resource inventory

The Secretary shall complete a resource inventory for the special management areas consistent with the process and substance of the inventory prescribed by section 544d(a)(1) of this title.

(d) Recreation assessment

Within two years after November 17, 1986, the Secretary shall complete an assessment of recreation resources in the special management areas and opportunities for enhancement of these resources. The recreation assessment shall—

(1) identify areas within the special management areas suitable for designation by the Commission pursuant to section 544d of this title for the construction of an interpretive center or other appropriate facility, to be located in the State of Oregon, and of a conference center or other appropriate facility, to be located in the State of Washington;

(2) identify areas within the special management areas suitable for other public use facilities, including but not limited to educational and interpretive facilities, campsites, picnic areas, boat launch facilities, and river access areas; and

(3) subject to the treaty or other rights of Indian tribes, identify areas with the special management areas suitable for use to increase access for recreation purposes to the Columbia River and its tributaries.

(e) Land use designations

Within three years after November 17, 1986, the Secretary shall develop land use designations for the special management areas. The land use designations shall be—

(1) based on the resource inventory prepared by the Secretary pursuant to this section; and

(2) consistent with the standards established in section 544d of this title.

(f) Guidelines for land use ordinances

(1)[2] Within three years after November 17, 1986, the Secretary shall, in consultation with the Commission, develop guidelines to assure that non-Federal lands within the special management areas are managed consistent with the standards in section 544d of this title and the purposes of sections 544 to 544p of this title. The Secretary shall promptly transmit the guidelines to the Commission for inclusion in the management plan. The guidelines shall require that management, utilization, and disposal of timber, and exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest forest products on non-Federal lands within the special management areas take place without adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area.

(h)[3] Adoption of special management area land use ordinances

(1) Within sixty days of receipt of the management plan, each county shall submit to the Commission a letter stating that it proposes to adopt a land use ordinance consistent with the management plan. If any county fails to submit a letter as provided in this subsection, or fails to adopt a land use ordinance as provided in this section, the Commission shall carry out the requirements of subsection (*l*) of this section.

(2) Within two hundred seventy days of receipt of the management plan, each county shall

[1] So in original. No par. (2) has been enacted.

[2] So in original. No par. (2) has been enacted.

[3] So in original. No subsec. (g) has been enacted.

adopt a special management area land use ordinance consistent with the management plan, and thereafter may adopt an amendment, revision or variance to a land use ordinance at any time. Each county upon adoption of a special management area land use ordinance shall promptly submit the adopted ordinance to the Commission.

(i) Review by Commission

(1) The Commission shall review the special management area land use ordinance received from each county, and within ninety days after receipt shall make a tentative determination as to whether the ordinance is consistent with the management plan. If the Commission makes a tentative determination that the land use ordinance is consistent with the management plan, the Commission shall send the ordinance to the Secretary for concurrence.

(2) If the Commission makes a tentative determination that the land use ordinance is inconsistent with the management plan, the Commission shall state the reasons for the determination and shall return the ordinance to the appropriate county with suggested modifications required for consistency with the management plan.

(3) Each county shall have ninety days after it is notified by the Commission to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Commission for tentative determination of consistency. The Commission shall have sixty days to make a tentative consistency determination on the resubmitted ordinance. If found consistent, the land use ordinance shall be transmitted by the Commission to the Secretary for concurrence that the ordinance is consistent with the management plan. If the Commission finds the resubmitted ordinance inconsistent, the Commission shall adopt an ordinance pursuant to subsection (*l*) of this section.

(j) Concurrence by Secretary

(1) Upon receipt of a special management area land use ordinance from the Commission, the Secretary shall notify the public of such receipt and shall, within ninety days thereafter, concur with the Commission's tentative determination of consistency with the management plan unless the Secretary determines the ordinance is inconsistent. Any ordinance submitted to the Secretary shall become effective upon notification of concurrence. Should the Secretary fail to act within ninety days, the Secretary shall be deemed to have concurred with the Commission's tentative consistency determination.

(2) DENIAL OF CONCURRENCE.—If concurrence is denied, the Secretary shall state the reasons therefor and shall submit to the Commission suggested modifications to the land use ordinances to make them consistent with the management plan and the purposes of sections 544 to 544p of this title.

(k) Commission reconsideration

Upon receipt of notification of nonconcurrence by the Secretary, the Commission shall resubmit the land use ordinance to the appropriate county. Such county shall within ninety days, reconsider and revise the ordinance and resubmit the ordinance to the Commission for reconsideration in accordance with the provisions of this section. Should the Secretary again deny concurrence, the Commission shall either prepare a land use ordinance for such county pursuant to subsection (*l*) of this section or, by a two-thirds vote of the membership of the Commission including a majority of the members appointed from each State, determine that the ordinance is consistent with the management plan.

***(l)* Commission ordinances**

(1) Within ninety days after making a determination that a county has failed to comply with the provisions of subsection (h) of this section, the Commission shall make and publish an ordinance setting standards for the use of non-Federal lands of such county within the boundaries of the special management areas. The ordinances shall have the object of assuring that the use of such lands is consistent with the management plan. The ordinances may differ amongst the several parcels of land within the boundaries of the special management areas. The ordinances may from time to time be amended by the Commission.

(2) The Commission shall promptly submit the ordinance to the Secretary. The Secretary shall, within ninety days after receipt of the ordinance from the Commission, concur with the tentative determination that the land use ordinance is consistent with the management plan unless a determination of inconsistency is made. Any ordinance submitted to the Secretary shall become effective upon concurrence. Should the Secretary fail to concur within ninety days, the land use ordinance shall be effective.

(3) If concurrence is denied, the Secretary shall state the reasons for finding the ordinance is inconsistent with the management plan, and shall submit to the Commission suggested modifications to the ordinance to make it consistent with the plan.

(4) The Commission shall have ninety days after it receives recommendations from the Secretary to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Secretary for concurrence. The Secretary shall have sixty days to concur with the resubmitted ordinance. Any resubmitted ordinance shall become effective upon concurrence by the Secretary. Should the Secretary deny concurrence for the resubmitted ordinance, the Secretary shall state the reasons therefor and shall promptly resubmit the ordinance for reconsideration. Should the Secretary fail to concur within sixty days, the ordinance shall be deemed effective.

(5) Within one hundred twenty days after receipt of notification of non-concurrence, the Commission shall—

(A) revise and resubmit the land use ordinance to the Secretary; or

(B) by a vote of two-thirds of its membership, including a majority of the members appointed from each State, reject the suggested modifications of the Secretary and adopt a land use ordinance consistent with the provisions of this section and the purposes of sections 544 to 544p of this title.

(m) Subsequent compliance

In the event the Commission has adopted an ordinance pursuant to this section, the affected county may thereafter, upon written notice to the Commission and to the Secretary, elect to adopt a special management area land use ordinance, in which event it shall comply with the provisions of this section for adoption of special management area land use ordinances. Upon concurrence of such land use ordinances by the Secretary they shall supersede any special management area land use ordinances for the county development by the Commission, subject to valid existing rights.

(n) Effect of Secretary's non-concurrence

If the Secretary does not concur in any land use ordinance approved or adopted by the Commission pursuant to this section, the availability of certain funds to the relevant county shall be governed by section 544n(c) of this title.

(*o*) Special rules

(1) In general

Any ordinance adopted pursuant to this section shall not apply to any parcel or parcels of land within a special management area if, after the date such ordinance has been adopted, three years have elapsed after a landowner has made a bona fide offer to sell at fair market value or otherwise convey such parcel or parcels to the Secretary, unless the affected landowner agrees to an extension of the three year period: *Provided*, That an offer shall not be considered bona fide if the landowner refuses consideration equal to the fair market value as appraised in accordance with section 544g(e) of this title. Lands for which an ordinance is suspended pursuant to this subsection shall be subject to the relevant scenic area land use ordinance adopted pursuant to section 544e of this title.

(2) Applicability

This subsection shall not apply to any land offered to the Secretary for acquisition after March 31, 2001.

(Pub. L. 99–663, §8, Nov. 17, 1986, 100 Stat. 4283; Pub. L. 106–291, title III, §346(b), Oct. 11, 2000, 114 Stat. 999.)

AMENDMENTS

2000—Subsec. (*o*). Pub. L. 106–291 designated existing provisions as par. (1), inserted par. heading, substituted ''section 544g(e) of this title.'' for ''the Uniform Appraisal Standards for Federal Land Acquisitions (Interagency Land Acquisition Conference, 1973).'' in first sentence, and added par. (2).

ADMINISTRATION, OPERATION, AND MAINTENANCE OF PIERCE NATIONAL WILDLIFE REFUGE AND LITTLE WHITE SALMON NATIONAL FISH HATCHERY

Pub. L. 100–71, title I, July 11, 1987, 101 Stat. 418, provided in part that: ''Notwithstanding the provisions of Public Law 99–663 [enacting sections 544 to 544p of this title and amending sections 1274 and 1276 of this title], which established the Columbia River Gorge National Scenic Area, the Pierce National Wildlife Refuge and the Little White Salmon National Fish Hatchery shall continue to be administered, operated and maintained in accordance with the provisions of the National Wildlife Refuge System Administration Act [16 U.S.C. 668dd, 668ee], Fish and Wildlife Coordination Act [16 U.S.C. 661 et seq.], and Fish and Wildlife Act of 1956 [16 U.S.C. 742a et seq.] by the U.S. Fish and Wildlife Service.''

§ 544g. Land acquisition

(a) Acquisition authorized

(1) The Secretary is authorized to acquire any lands or interests therein within the special management areas and the Dodson/Warrendale Special Purchase Unit which the Secretary determines are needed to achieve the purposes of sections 544 to 544p of this title: *Provided*, That any lands, waters, or interests therein owned by either State or any political subdivision thereof may be acquired only by donation or exchange.

(2) Lands within the State of Oregon acquired by the Secretary pursuant to sections 544 to 544p of this title shall become part of the Mount Hood National Forest. Lands within the State of Washington acquired by the Secretary pursuant to this section shall become part of the Gifford Pinchot National Forest. All lands acquired by the Secretary pursuant to sections 544 to 544p of this title shall be subject to the laws and regulations pertaining to the National Forest System and sections 544 to 544p of this title.

(b) Limitations on eminent domain

(1) Where authorized in subsection (a) of this section to acquire land or interests therein without the consent of the owner, the Secretary shall—

(A) acquire only such land or interests therein as is reasonably necessary to accomplish the purposes of sections 544 to 544p of this title; and

(B) do so only in cases where all reasonable efforts to acquire with the consent of the owner such lands, or interests therein, have failed.

(2) Notwithstanding the provisions of subsection (a) of this section, the Secretary may not acquire without the consent of the owner lands or interests therein which—

(A) on November 17, 1986, were used primarily for educational, religious, or charitable purposes, single-family residential purposes, farming, or grazing so long as the existing character of that use is not substantially changed or permitted for change;

(B) are located in counties with land use ordinances in which the Secretary has concurred pursuant to section 544f of this title, unless such lands are being used, or are in imminent danger of being used, in a manner incompatible with such ordinances;

(C) are within the boundaries of the Dodson/Warrendale Special Purchase Unit; or

(D) are owned by an Indian tribe, held in trust by the United States for an Indian tribe or member of an Indian tribe, or otherwise administered by the United States for the benefit of an Indian tribe or member of an Indian tribe.

(c) Hardship cases

In exercising authority to acquire lands pursuant to this section the Secretary shall give prompt and careful consideration to any offer made by any person or entity owning any land, or interest in land, within the boundaries of a special management area. In considering such

offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property.

(d) Land exchanges

(1) The Secretary is authorized and directed, in conformance with the provisions of this subsection, to acquire by exchange any parcel of unimproved forest land at least forty acres in size within the boundaries of the special management areas which is owned by any private forest land owner if, after November 17, 1986, but within one hundred and eighty days after final adoption of the management plan, such private forest land owner offers to the United States such parcel of forest land.

(2) In exercising this authority to acquire forest lands pursuant to this subsection, the Secretary may accept title to such lands and convey to the owner federally owned lands deemed appropriate by the Secretary within the States of Oregon and Washington, regardless of the State in which the transferred lands are located. Forest lands exchanged pursuant to this subsection shall be of approximately equal value: *Provided*, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize minor differences in the values of the properties exchanged: *Provided further*, That the Secretary may reserve in any conveyance pursuant to this subsection such easements, subsurface rights, and any other interests in land deemed necessary or desirable: *Provided further*, That the valuation of lands exchanged shall be determined in terms of forest uses for timber.

(3) It is the intention of Congress that land exchanges pursuant to this subsection shall be completed no later than five years after November 17, 1986.

(4) In the event that exchanges authorized by this section leave any private forest land owner with ownership of an uneconomic remnant of forest land contiguous to a special management area, the Secretary is authorized to acquire such forest lands as if they were within the boundaries of a special management area.

(5) The following-described Federal lands and interests therein are hereby identified as candidate lands for exchanges conducted pursuant to this section: *Provided*, That the determination of which candidate lands will be exchanged, and in what sequence, shall be at the discretion of the Secretary. Subject to valid existing rights, such lands are hereby withdrawn from all forms of entry or appropriation or disposal under the public land laws, and from location, entry, and patent under the United States mining law, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto until the Secretary determines such lands are no longer needed to complete exchanges authorized by this section: *Provided*, That such period shall not extend beyond five years:

GIFFORD PINCHOT NATIONAL FOREST

Wind River-Panther Creek Area

Section	Township	Range
35	4N	7E
36	4N	7E

Approx. 430 acres.

South Swift Area

Section	Township	Range
13	6N	5E
23	6N	5E
17	6N	6E
18	6N	6E

Approx. 1,920 acres.

National Area

Section	Township	Range
6	14N	7E
7	14N	7E
18	14N	7E
30	14N	7E

Approx. 2,560 acres.

Buck Creek-Willard Area

Section	Township	Range
16	3N	9E
1	4N	9E
2	4N	9E
3	4N	9E
10	4N	9E
11	4N	9E
12	4N	9E
15	4N	9E
21	4N	9E
22	4N	9E
26	4N	9E
27	4N	9E
28	4N	9E
29	4N	9E
30	4N	9E
31	4N	9E
32	4N	9E
33	4N	9E
34	4N	9E
35	4N	9E
6	4N	10E
7	4N	10E
5	5N	10E
6	5N	10E
7	5N	10E
8	5N	10E
9	5N	10E
30	5N	10E
31	5N	10E
32	5N	10E

Approx. 14,460 acres.

SIUSLAW NATIONAL FOREST

East Beaver Area

Section	Township	Range
33	2S	9W
34	2S	9W
2	3S	9W
3	3S	9W
4	3S	9W
8	3S	9W
9	3S	9W
17	3S	9W

Approx. 3,053 acres.

WILLAMETTE NATIONAL FOREST

Ida-McCoy Area

Section	Township	Range
21	10S	6E
28	10S	6E

Approx. 680 acres.

MOUNT HOOD NATIONAL FOREST

Estacada Area

Section	Township	Range
15	4S	5E

Approx. 560 acres.

Hood River Area

Section	Township	Range
4	1N	9E
36	1N	10E
31	1N	11E
2	1S	9E
3	1S	9E
4	1S	9E
5	1S	9E
6	1S	9E
Approx. 5,800 acres.		

Zig-Zag Area

Section	Township	Range
22	2S	7E
29	2S	7E
Approx. 280 acres.		
Total acreage: 29,743.		

(e) Appraisals

(1) Definition of landowner

In this subsection, the term ''landowner'' means the owner of legal or equitable title as of September 1, 2000.

(2) Appraisal standards

Except as provided in paragraph (3), land acquired or conveyed by purchase or exchange under this section shall be appraised in conformity with the Uniform Appraisal Standards for Federal Land Acquisitions.

(3) Special management areas

(A) Before April 1, 2001

Land within a special management area for which the landowner, before April 1, 2001, makes a written bona fide offer to convey to the Secretary for fair market value shall be appraised—

(i) without regard to the effect of any zoning or land use restriction made in response to sections 544 to 544p of this title; but

(ii) subject to any other current zoning or land use restriction imposed by the State or locality in which the land is located on the date of the offer.

(B) On or after April 1, 2001

Land within a special management area for which the landowner, on or after April 1, 2001, makes a written bona fide offer to convey to the Secretary for fair market value shall be appraised subject to—

(i) any zoning or land use restriction made in response to sections 544 to 544p of this title; and

(ii) any other current zoning or land use restriction that applies to the land on the date of the offer.

(f) Authorization for certain land exchanges

(1) In general

To facilitate priority land exchanges through which land within the boundaries of the White Salmon Wild and Scenic River or within the scenic area is conveyed to the United States, the Secretary may accept title to such land as the Secretary determines to be appropriate within the States, regardless of the State in which the land conveyed by the Secretary in exchange is located, in accordance with land exchange authorities available to the Secretary under applicable law.

(2) Special rule for land certain exchanges

Notwithstanding any other provision of law—

(A) any exchange described in paragraph (1) for which an agreement to initiate has been executed as of September 30, 2000, shall continue; and

(B) any timber stumpage proceeds collected under the exchange shall be retained by the Forest Service to complete the exchange.

(g) Boundaries

For the purposes of section 460*l*–9 of this title, the boundaries of the scenic area, including special management areas and the Dodson/Warrendale Special Purchase Unit shall be treated as if they were within the boundaries of the Mount Hood or Gifford Pinchot National Forests as of January 1, 1965.

(Pub. L. 99–663, §9, Nov. 17, 1986, 100 Stat. 4287; Pub. L. 104–66, title I, §1011(n), Dec. 21, 1995, 109 Stat. 710; Pub. L. 106–291, title III, §346(a), Oct. 11, 2000, 114 Stat. 999.)

AMENDMENTS

2000—Subsecs. (e) to (g). Pub. L. 106–291 added subsecs. (e) and (f) and redesignated former subsec. (e) as (g).

1995—Subsec. (d)(3). Pub. L. 104–66 struck out provision at end requiring Secretary to report to Congress on status of negotiations with owners of non-Federal lands regarding land exchanges.

PUBLICATION OF NOTICE

Pub. L. 106–291, title III, §346(c), Oct. 11, 2000, 114 Stat. 1000, provided that:

''(1) Not later than November 1, 2000, the Secretary of Agriculture shall provide notice of the provisions contained in the amendments made by subsections (a) and (b) [amending this section and section 544f of this title] through—

''(A) publication of a notice in the Federal Register and in newspapers of general circulation in the counties in the Columbia River Gorge National Scenic Area; and

''(B) posting of a notice in each facility of the United States Postal Service located in those counties.

''(2) If the counties wherein special management areas are located provide the Forest Service administrator of the Columbia River Gorge National Scenic Area lists of the names and addresses of landowners within the special management areas as of September 1, 2000, the Forest Service shall send to such names and addresses by certified first class mail notice of the provisions contained in the amendments made by subsections (a) and (b);

''(A) The mailing shall occur within twenty working days of the receipt of the list; and

''(B) The mailing shall constitute constructive notice to landowners, and proof of receipt by the addressee shall not be required.''

CONVEYANCE OF LANDS BETWEEN SKAMANIA COUNTY AND THE UNITED STATES

Pub. L. 105–277, div. A, §101(e) [title III, §341], Oct. 21, 1998, 112 Stat. 2681–231, 2681–296, provided that:

''Upon the condition that Skamania County conveys title acceptable to the Secretary of Agriculture to all right, title and interest in lands identified on a map dated September 29, 1998 entitled 'Skamania County Lands to be Transferred', such lands being located on Table Mountain lying within the Columbia River Gorge National Scenic Area, there is hereby conveyed to Skamania County, notwithstanding any other provision of law, the Wind River Nursery Site lands and fa-

cilities and all interests therein, except for the corridor of the Pacific Crest National Scenic Trail, as depicted on a map dated September 29, 1998, entitled 'Wind River Conveyance', which is on file and available for public inspection in the Office of the Chief, USDA Forest Service, Washington, D.C.

''The conveyance of lands to Skamania County shall become automatically effective upon a determination by the Secretary that Skamania County has conveyed acceptable title to the United States to the Skamania County lands. Lands conveyed to the United States shall become part of the Gifford Pinchot National Forest and shall have the status of lands acquired under the Act of March 1, 1911, (commonly called the Weeks Act) [see Short Title note set out under section 552 of this title] and shall be managed in accordance with the laws and regulations applicable to the National Forest System.''

LAND EXCHANGES

Pub. L. 105–83, title III, §336, Nov. 14, 1997, 111 Stat. 1602, provided that: ''To facilitate priority land exchanges through which the United States will receive land within the White Salmon Wild and Scenic River boundaries and within the Columbia River Gorge National Scenic Area, the Secretary of Agriculture may, until September 30, 2000, accept title to such lands deemed appropriate by the Secretary within the States of Oregon and Washington, regardless of the State in which the transferred lands are located, following existing exchange authorities.''

WIND RIVER NURSERY

Pub. L. 105–83, title III, §340, Nov. 14, 1997, 111 Stat. 1603, provided that:

''(a) The Secretary of Agriculture is authorized and directed to negotiate with Skamania County for the exchange of lands or interests in lands constituting the Wind River Nursery Site within the Gifford Pinchot National Forest, Washington.

''(b) In return for the Nursery Site properties, Skamania County is authorized and directed to negotiate with the Forest Service the conveyance of approximately 120 acres of high biodiversity, special management lands located near Table Mountain within the Columbia River Gorge National Scenic Area, title to which must be acceptable to the Secretary of Agriculture.

''(c) Before this exchange can occur, it must be of equal value and the Secretary and the Skamania County Board of Commissioners must agree on the exact parcels of land to be included in the exchange. An agreement signed by the Secretary of Agriculture and the Skamania County Board of Commissioners describing the properties involved and a certification that the exchange is of equal value must be completed no later than September 30, 1999.

''(d) During this two-year negotiating period, the Wind River Nursery property shall not be conveyed to another party. The Forest Service shall maintain the site in a tenantable condition.

''(e) Except as provided herein, the exchange shall be for equal value in accordance with land exchange authorities applicable to the National Forest System.

''(f) The Secretary is directed to equalize values by not only cash and exchange of lands, easements, reservations, and other interests in lands, but also by full value credit for such services as Skamania County provides to the Gifford Pinchot and Columbia River Gorge National Scenic Area and as the Secretary and Skamania County deem appropriate. The Secretary may accept services in lieu of cash when the Secretary can discern cash value for the services and when the Secretary determines such services would provide direct benefits to lands and resources and users of such lands and resources under the jurisdiction of the Secretary.

''(g) Any cash equalization which Skamania County elects to make may be made up to 50 percent of the fair market value of the Federal property, and such cash equalization may be made in installments over a period not to exceed 25 years. Payments received as partial consideration shall be deposited into the fund in the Treasury established under the Act of December 4, 1967 [16 U.S.C. 484a], commonly known as the Sisk Act, and shall be available for expenditure as provided in the Act except that the Secretary may not use those funds to purchase lands within Skamania County.

''(h) In defining the Federal estate to be conveyed, the Secretary may require such additional terms and conditions as deemed necessary in connection with assuring equal value and public interest considerations in this exchange including, but not limited to, continued research use of the Wind River Experimental Forest and protection of natural, cultural, and historic resources, existing administrative sites, and a scenic corridor for the Pacific Crest National Scenic Trail.

''(i) This authorization is predicated on Skamania County's Board of Commissioners commitment to give foremost consideration to preservation of the overall integrity of the site and conservation of the educational and research potential of the site, including providing for access to and assurance of the continued administration and operation of forestry research on the adjacent Thornton Munger Research Natural Area.

''(j) The Secretary is further directed to cooperate with Skamania County to address applicable Federal and State environmental laws.

''(k) Notwithstanding the processes involved with the National Environmental Policy Act [of 1969, 42 U.S.C. 4321 et seq.] and the State Environmental Policy Act, should the Secretary of Agriculture and the Skamania County Board of Commissioners fail to reach an agreement on an equal value exchange defined under the terms of this legislation by September 30, 1999, the Wind River Nursery Site shall remain under Forest Service ownership and be maintained by the Forest Service in a tenantable condition.''

§ 544h. Interim management

(a) Interim guidelines

(1)[1] Within one hundred eighty days after November 17, 1986, the Secretary shall develop interim guidelines for the scenic area outside urban areas to identify land use activities which are inconsistent with sections 544 to 544p of this title and to govern the authority to acquire land without the consent of the owner provided by subsection (b) of this section. The Secretary shall promptly notify the public of adoption of the interim guidelines and transmit the guidelines to each county. Guidelines adopted by the Secretary pursuant to this subsection shall remain in effect for each county until the Secretary has developed guidelines for the special management areas pursuant to section 544f of this title and the land use ordinances prescribed by section 544e of this title are in effect.

(b) Interim acquisition authority and injunctive relief

Prior to the concurrence by the Secretary of land use ordinances prescribed by section 544f of this title and the approval by the Commission of land use ordinances prescribed by section 544e of this title, the following authorities are granted:

(1) The Secretary may acquire by condemnation any land or interest which is being used or threatened to be used in a manner inconsistent with the purposes for which the scenic area was established and which will cause or is likely to cause impacts adversely affecting the

[1] So in original. No par. (2) has been enacted.

scenic, cultural, recreation, and natural resources of the scenic area: *Provided*, That no lands or interests therein can be acquired by condemnation pursuant to this section if used in the same manner and for the same purposes as used on November 17, 1986, unless such land is used for or interest is in the development of sand, gravel, or crushed rock, or the disposal of refuse: *Provided further*, That within thirty days of the filing by the Secretary of a complaint for condemnation of any land or interest in the scenic area, outside of the special management areas and urban areas, the Commission, by a vote of two-thirds of its membership including a majority of the members appointed from each State, or if the Commission is not in existence the Governor of the State in which the land or interest is located, may disapprove such proposed complaint.

(2) Upon or after the commencement of any action for condemnation pursuant to this subsection, the Secretary, acting through the Attorney General of the United States, may apply to the appropriate United States District Court for a temporary restraining order or injunction to prohibit the use of any property within the scenic area, but outside of urban areas, which will cause or is likely to cause impacts adversely affecting the scenic, cultural, recreation and natural resources of the scenic area or is otherwise inconsistent with the purposes for which the scenic area was established. During the period of such order or injunction, the Secretary shall diligently and in good faith negotiate with the owner of the property to assure that, following termination of the order or injunction, the inconsistent use is abated or the adverse effect is mitigated.

(c) Review of development action

Prior to the effective date of a land use ordinance for each county pursuant to section 544e of this title, and concurrence of the Secretary on a land use ordinance for each county pursuant to section 544f of this title, the Commission shall review all proposals for major development actions and new residential development in such county in the scenic area, except urban areas. The Commission shall allow major development actions and new residential development only if it determines that such development is consistent with the standards contained in section 544d of this title and the purposes of sections 544 to 544p of this title.

(Pub. L. 99–663, § 10, Nov. 17, 1986, 100 Stat. 4291.)

CODIFICATION

November 17, 1986, referred to in subsec. (b)(1), was in the original ''the effective date of this Act'', which was translated as being the date of enactment of Pub. L. 99–663.

§ 544i. Economic development

(a) Economic development plan

Based on the Economic Opportunity Study and other appropriate information, each State, in consultation with the counties and the Commission, shall develop a plan for economic development projects for which grants under this section may be used in a manner consistent with sections 544 to 544p of this title.

(b) Funds provided to States for grants

Upon certification of the management plan, and receipt of a plan referred to in subsection (a) of this section, the Secretary shall provide $5,000,000 to each State which each State shall use to make grants and loans for economic development projects that further the purposes of sections 544 to 544p of this title.

(c) Conditions of grants

Each State making grants under this section shall require as a condition of a grant that—

(1) all activities undertaken under the grant are certified by the Commission as being consistent with the purposes of sections 544 to 544p of this title, the management plan, and land use ordinances adopted pursuant to sections 544 to 544p of this title;

(2) grants and loans are not used to relocate a business from one community to another;

(3) grants and loans are not used for program administration; and

(4) grants and loans are used only in counties which have in effect land use ordinances found consistent by the Commission and concurred on by the Secretary pursuant to section 544f of this title.

(d) Report

Each State shall—

(1) prepare and provide the Secretary with an annual report to the Secretary on the use of the funds made available under this section;

(2) make available to the Secretary and to the Commission, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this section; and

(3) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

(Pub. L. 99–663, § 11, Nov. 17, 1986, 100 Stat. 4292.)

§ 544j. Old Columbia River Highway

The Oregon Department of Transportation shall, in consultation with the Secretary and the Commission, the State of Oregon and the counties and cities in which the Old Columbia River Highway is located, prepare a program and undertake efforts to preserve and restore the continuity and historic integrity of the remaining segments of the Old Columbia River Highway for public use as a Historic Road, including recreation trails to connect intact and usable segments.

(Pub. L. 99–663, § 12, Nov. 17, 1986, 100 Stat. 4293.)

§ 544k. Tributary rivers and streams

(a) Water resources projects

The following rivers and streams shall be subject to the same restrictions on the licensing, permitting, and exempting from licensing and the construction of water resource projects as provided for components of the National Wild and Scenic Rivers System pursuant to section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)):

(1) any tributary river or stream to the Columbia River not designated in subsections[1]

[1] So in original. Probably should be ''subsection''.

(c) or (d) of this section or otherwise specified in this subsection which flows in whole or in part through a special management area, unless the construction of a water resources project would not have a direct and adverse effect on the scenic, cultural, recreation, and natural resources of the scenic area;

(2) any river or river segment which flows in whole or in part through the scenic area and which is established pursuant to State law as a wild, scenic, or recreation river or which is under study pursuant to State law for the potential inclusion in any such State protected river system, unless such project or projects meet terms and conditions set by State agencies exercising administration over such river or river segment;

(3) the Wind River, Washington, for a period not less than three years following the later of—

(A) final approval of the Gifford Pinchot National Forest Plan, adopted pursuant to the National Forest Management Act of 1976 (Act of October 22, 1976, Public Law 94–588, as amended) (16 U.S.C. 1600 et seq.); or

(B) submittal by the Secretary of a report to the President on the suitability or nonsuitability for addition to the national wild and scenic rivers system and a report by the President to the Congress of recommendations and proposals with respect to the designation of such river under the Wild and Scenic Rivers Act [16 U.S.C. 1271 et seq.];

(4) the Hood River, Oregon, if such facility impounds or diverts water other than by means of a dam or diversion existing as of November 17, 1986; and

(5) the segment of the Little White Salmon, Washington, from the Willard National Fish Hatchery to its confluence with the Columbia River if such facility impounds or diverts water other than by means of a dam or diversion existing as of November 17, 1986.

(b) Exceptions

The provisions of subsection (a) of this section shall not apply to those portions of tributary rivers or streams to the Columbia River which flow through or border on Indian reservations. Nothing in this section shall apply to or affect any segment of any river designated as a wild and scenic river under section 3 of the Wild and Scenic Rivers Act (16 U.S.C. 1274) or any river designated for study under section 5 of such Act (16 U.S.C. 1276).

(Pub. L. 99–663, §13(a), (b), Nov. 17, 1986, 100 Stat. 4293, 4294; Pub. L. 111–11, title I, §1203(b), Mar. 30, 2009, 123 Stat. 1012.)

REFERENCES IN TEXT

Subsection (c) or (d) of this section, referred to in subsec. (a)(1), is subsec. (c) or (d) of section 13 of Pub. L. 99–663, Nov. 17, 1986, 100 Stat. 4294, which amended sections 1274(a) and 1276(a), respectively, of this title.

The National Forest Management Act of 1976, referred to in subsec. (a)(3)(A), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

The Wild and Scenic Rivers Act, referred to in subsec. (a)(3)(B), is Pub. L. 90–542, Oct. 2, 1968, 82 Stat. 906, as amended, which is classified generally to chapter 28 (§1271 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1271 of this title and Tables.

CODIFICATION

Section 13 of Pub. L. 99–663, which enacted this section, consisted of subsecs. (a) to (d). Subsecs. (a) and (b) of section 13 were classified to this section, and subsecs. (c) and (d) of section 13 amended sections 1274 and 1276 of this title, respectively.

AMENDMENTS

2009—Subsec. (a)(4). Pub. L. 111–11 struck out ''for a period not to exceed twenty years from November 17, 1986,'' before ''if such facility''.

§ 544*l*. Implementation measures

(a) Assistance to counties

The Secretary shall provide technical assistance on a nonreimbursable basis to counties for the development of land use ordinances prescribed by sections 544e and 544f of this title: *Provided*, That in the event a county fails to obtain approval by the Commission for a land use ordinance within three years after the date technical assistance is first provided under this subsection for the development of a land use ordinance, the Secretary shall terminate all technical assistance for any participation in the development of such ordinance.

(b) Payment of timber receipts

(1) Notwithstanding the provisions of section 500 of this title, that portion of which is paid under such provisions to the State of Oregon with respect to the special management areas within the Mount Hood National Forest, the Gates of the Columbia Gorge Special Management Area, Mount Hood National Forest, and to the State of Washington with respect to the special management areas within the Gifford Pinchot National Forest—

(A) not less than 50 per centum shall be expended for the benefit of the public schools of the county which has adopted implementation measures pursuant to sections 544 to 544p of this title; and

(B) the remainder shall be expended for the benefit of public roads or any public purposes of any county which has adopted implementation measures pursuant to sections 544 to 544p of this title.

(2) Paragraph (1) of this subsection shall not apply—

(A) to any amount paid by the Secretary of the Treasury under the provisions of law referred to in subsection (b)(1) of this section at the end of any fiscal year ending before November 17, 1986; or

(B) for a particular county, if the county does not have in effect a land use ordinance which has been found consistent by the Commission and concurred on by the Secretary pursuant to section 544f of this title.

(c) Payments to local governments

(1) Subject to section 544n(b) of this title, in the case of any land or interest therein acquired

by the Secretary pursuant to section 544g of this title, which was subject to local real property taxes within the five years preceding such acquisition and which is located in a county which has in effect a land use ordinance which has been found consistent by the Commission and concurred on by the Secretary pursuant to section 544f of this title, the Secretary is authorized and directed to make annual payments to the county in which such lands are located in an amount equal to 1 per centum of the fair market value of such land or interest therein on the date of acquisition by the Secretary.

(2) Notwithstanding paragraph (1) of this subsection, any payment made for any fiscal year to a county pursuant to this subsection shall not exceed the amount of real property taxes assessed and levied on such property during the last full fiscal year before the fiscal year in which such land or interest therein was acquired by the Secretary.

(3) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no payment shall be made under this subsection with respect to any land or interest therein after the eighth full fiscal year beginning after the first fiscal year in which such a payment was made with respect to such land or interest therein.

(B) CONTINUATION OF CERTAIN PAYMENTS.—For any land or interest in land for which the Secretary is making a payment in fiscal year 2000, such payment shall be continued for a total of eight fiscal years.

(d) Federal consistency

Except as otherwise provided in subsection (e) of this section or in section 544*o* of this title, Federal agencies having responsibilities within the scenic area shall exercise such responsibilities consistent with the provisions of sections 544 to 544p of this title as determined by the Secretary.

(e) Limitations on Federal expenditures affecting the scenic area

(1) Except as provided in paragraph (3), if the Commission has not been established pursuant to section 544c of this title within fifteen months after November 17, 1986, or is otherwise disestablished for any reason, no new expenditures or new financial assistance may be made available, and no new license or new permit, or exemption from a license or permit requirement, shall be issued, under authority of any Federal law for any activity within the scenic area, excluding urban areas, which the Secretary,[1] determines is inconsistent with any implementation measure pursuant to, the standards established in section 544d(b) of this title, or the purposes of sections 544 to 544p of this title.

(2)(A)(i) An expenditure or financial assistance made available under authority of Federal law shall be treated, for purposes of this subsection, as a new expenditure or new financial assistance if—

(I) in any case with respect to which specific appropriations are required, no money for construction or purchase was appropriated before October 1, 1986; or

(II) no legally binding commitment for the expenditure or financial assistance was made before October 1, 1986.

(ii) Payments made to the State pursuant to the following Acts shall not be treated as an expenditure or financial assistance for purposes of this subsection: section 500 of this title; the Mineral Lands Leasing Act of 1920 [30 U.S.C. 181 et seq.]; chapter 69 of title 31 (relating to payments in lieu of taxes for entitlement land); the Act of June 9, 1916 (39 Stat. 218), and the Act of Feb. 26, 1919 (40 Stat. 1179).

(B) A license or permit, or exemption from a license or permit requirement, shall be treated, for purposes of this subsection, as a new license or new permit, or exemption from a license or permit requirement, if such license or permit, or exemption from a license or permit requirement, was issued on or after October 1, 1986. A renewal under similar terms and conditions of a license or permit, or exemption from a license or permit requirement, issued before October 1, 1986, shall not be treated as a new license or new permit, or exemption from a license or permit requirement.

(3) Notwithstanding paragraph (1), the appropriate Federal officer, after consultation with the Secretary, may make Federal expenditures or financial assistance available within the area for any of the following:

(A) The maintenance of existing channel improvements and related structures, and including the disposal of dredge materials related to such improvements.

(B) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system.

(C) Military activities essential to national security.

(D) Any of the following actions or projects, but only if the making available of expenditures or assistance therefor is consistent with the standards in section 544d(b) of this title and the purposes of sections 544 to 544p of this title:

(i) Projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.

(ii) The establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

(iii) Projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 through 11) and the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(iv) Scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife, and other research, development, and applications.

(v) Assistance for emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 305 and 306 of the Disaster

[1] So in original. The comma probably should not appear.

Relief Act of 1974 (42 U.S.C. 5145 and 5146)[2] and section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103)[2] and are limited to actions that are necessary to alleviate the emergency.

(vi) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities. This clause shall not apply to roads, structures, or facilities referred to in paragraph (3)(B).

(vii) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

(4) The Director of the Office of Management and Budget shall, on behalf of each Federal agency concerned, make written certification that each such agency has complied with the provisions of this subsection during each fiscal year beginning after September 30, 1987. Such certification shall be submitted on an annual basis to the House of Representatives and the Senate pursuant to the schedule required under the Congressional Budget and Impoundment Control Act of 1974.

(5) Nothing contained in this subsection shall be construed as indicating an intent on the part of the Congress to change the existing relationship of other Federal laws to the law of a State, or a political subdivision of a State, or to relieve any person or any obligation imposed by any law of any State, or political subdivision of a State. No provision of this subsection shall be construed to invalidate any provision of State or local law unless there is a direct conflict between such provision and the law of the State, or political subdivision of the State, so that the two cannot be reconciled or consistently stand together. This subsection shall in no way be interpreted to interfere with a State's right to protect, rehabilitate, preserve, and restore lands within its established boundary.

(f) Transfer of public lands

Subject to valid existing rights, all public lands within the scenic area administered by the Secretary of the Interior through the Bureau of Land Management are hereby transferred without consideration to the jurisdiction of the Secretary to be managed as National Forest lands in accordance with the provisions of sections 544 to 544p of this title.

(Pub. L. 99–663, §14, Nov. 17, 1986, 100 Stat. 4294; Pub. L. 106–291, title III, §346(e), Oct. 11, 2000, 114 Stat. 1000.)

REFERENCES IN TEXT

The Mineral Lands Leasing Act of 1920, referred to in subsec. (e)(2)(A)(ii), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

Act of June 9, 1916, referred to in subsec. (e)(2)(A)(ii), is act June 9, 1916, ch. 137, 39 Stat. 218, which is not classified to the Code.

Act of Feb. 26, 1919, referred to in subsec. (e)(2)(A)(ii), is act Feb. 26, 1919, ch. 47, 40 Stat. 1179, which is not classified to the Code.

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (e)(3)(D)(iii), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§460*l*–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

The Coastal Zone Management Act of 1972, referred to in subsec. (e)(3)(D)(iii), is title III of Pub. L. 89–454 as added by Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to chapter 33 (§1451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of this title and Tables.

The Disaster Relief Act of 1974, referred to in subsec. (e)(3)(D)(v), was renamed The Robert T. Stafford Disaster Relief and Emergency Assistance Act, and was substantially revised by Pub. L. 100–707, Nov. 23, 1988, 102 Stat. 4689. Section 102(b) of Pub. L. 100–707 provided that a reference in any other law to a provision of the Disaster Relief Act of 1974 shall be deemed to be a reference to such provision of The Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Robert T. Stafford Disaster Relief and Emergency Assistance Act was renamed the Robert T. Stafford Disaster Relief and Emergency Assistance Act by Pub. L. 106–390, title III, §301, Oct. 30, 2000, 114 Stat. 1572. Section 105(d) of Pub. L. 100–707 repealed sections 305 and 306 of the Act (42 U.S.C. 5145 and 5146) and redesignated sections 308 and 309 of the Act (42 U.S.C. 5148 and 5149), and any references thereto, as sections 305 and 306, respectively. For corresponding provisions to former sections 305 and 306 of the Act, see sections 5170a, 5170b, and 5192 of Title 42, The Public Health and Welfare.

Section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103), referred to in subsec. (e)(3)(D)(v), was repealed by Pub. L. 103–325, title V, §551(a), Sept. 23, 1994, 108 Stat. 2269.

The Congressional Budget and Impoundment Control Act of 1974, referred to in subsec. (e)(4), is Pub. L. 93–344, July 12, 1974, 88 Stat. 297, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

AMENDMENTS

2000—Subsec. (c)(3). Pub. L. 106–291 inserted par. heading, designated existing provisions as subpar. (A), inserted subpar. heading, substituted ''Except as provided in subparagraph (B), no payment'' for ''No payment'', substituted ''eighth full fiscal year'' for ''fifth full fiscal year'', and added subpar. (B).

§544m. Enforcement

(a) Administrative remedies

(1) Commission orders

The Commission shall monitor activities of counties pursuant to sections 544 to 544p of this title and shall take such actions as it determines are necessary to ensure compliance.

(2) Appeal to the Commission

Any person or entity adversely affected by any final action or order of a county relating to the implementation of sections 544 to 544p of this title may appeal such action or order to the Commission by filing with the Commission within thirty days of such action or order, a written petition requesting that such action or order be modified, terminated, or set aside.

(3) Civil penalties

Any person or entity who willfully violates the management plan or any land use ordinance or any implementation measure or any

[2] See References in Text note below.

order issued by the Commission pursuant to sections 544 to 544p of this title may be assessed a civil penalty by the Commission not to exceed $10,000 for each violation. No penalty may be assessed under this subsection unless such person or entity is given notice and opportunity for a public hearing with respect to such violation. The Commission may compromise, modify, or remit, with or without conditions, any penalty imposed under this subsection, taking into consideration the nature and seriousness of the violation and the efforts of the violator to remedy the violation in a timely manner.

(b) Judicial remedies

(1) Civil actions to enforce sections 544 to 544p of this title

(A) Except as otherwise limited by sections 544 to 544p of this title, the Attorney General of the United States may, at the request of the Secretary, institute a civil action for an injunction or other appropriate order to prevent any person or entity from utilizing lands within the special management areas in violation of the provisions of sections 544 to 544p of this title, interim guideline adopted or other action taken by the Secretary pursuant to sections 544 to 544p of this title.

(B) The Commission, or, at the request of the Commission, or the attorney general of Oregon or Washington, may institute a civil action for an injunction or other appropriate order to prevent any person or entity from utilizing lands within the scenic area outside urban areas in violation of the provisions of sections 544 to 544p of this title, the management plan, or any land use ordinance or interim guideline adopted or other action taken by the Commission or any county pursuant to sections 544 to 544p of this title.

(2) Citizens suits

Any person or entity adversely affected may commence a civil action to compel compliance with sections 544 to 544p of this title—

(A) against the Secretary, the Commission or any county where there is alleged a violation of the provisions of sections 544 to 544p of this title, the management plan or any land use ordinance or interim guideline adopted or other action taken by the Secretary, the Commission, or any county pursuant to or Commission[1] under sections 544 to 544p of this title; or

(B) against the Secretary, the Commission, or any county where there is alleged a failure of the Secretary, the Commission or any county to perform any act or duty under sections 544 to 544p of this title which is not discretionary with the Secretary, the Commission or any county.

(3) Limitation on bringing of citizens suits

No action may be commenced—

(A) under paragraph (2)(A) of this subsection—

(i) prior to sixty days after the plaintiff has given notice in writing of the alleged violation to the Secretary, to the Commission, and to the county in which the violation is alleged to have occurred; or

(ii) if the Attorney General of the United States, or the attorney general of Oregon or Washington, has commenced and is diligently prosecuting a civil action on the same matter pursuant to paragraph (1) of this subsection to require compliance with the management plan or any regulations, guidelines, or standards issued or other actions taken by the Secretary, the Commission, or any county pursuant to sections 544 to 544p of this title: *Provided*, That in any such action any person or entity otherwise entitled to bring an action pursuant to paragraph (2) of this subsection may intervene as a matter of right; or

(iii) which challenges the consistency of the draft management plan with the purposes and standards of sections 544 to 544p of this title or with other applicable law prior to the certification or adoption of the Management Plan pursuant to section 544d of this title; or

(B) under paragraph (2)(B) of this subsection prior to sixty days after the plaintiff has given notice in writing of such action to the Secretary, the Commission, and to the county in which the failure to perform any act or duty pursuant to sections 544 to 544p of this title is alleged: *Provided*, That such action may be brought immediately after such notification where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(4) Judicial review

Any person or entity adversely affected by—

(A) any final action or order of a county, the Commission, or the Secretary relating to the implementation of sections 544 to 544p of this title;

(B) any land use ordinance or interim guideline adopted pursuant to sections 544 to 544p of this title;

(C) any appeal to the Commission pursuant to this section;

(D) any civil penalty assessed by the Commission pursuant to paragraph (a)(3) of this subsection may appeal such action or order by filing in any of the courts specified in paragraph (5) of this subsection, within sixty days after the date of service of such order or within sixty days after such action is taken, a written petition requesting such action, order, land use ordinance, interim guideline, or appeal taken to the Commission be modified, terminated, or set aside.

(5) Federal court jurisdiction

The United States district courts located in the States of Oregon and Washington shall have jurisdiction over—

(A) any criminal penalty imposed pursuant to section 551 of this title, or any other applicable law for violation of any order, regulation or other action taken by the Secretary pursuant to sections 544 to 544p of this title;

[1] So in original. The word ''Commission'' probably should not appear.

(B) any civil action brought against the Secretary pursuant to this section; or

(C) any appeal of any order, regulation, or other action of the Secretary taken pursuant to paragraph (4) of this subsection.

(6) State court jurisdiction

The State courts of the States of Oregon and Washington shall have jurisdiction—

(A) to review any appeals taken to the Commission pursuant to subsection (a)(2) of this section;

(B) over any civil action brought by the Commission pursuant to subsection (b)(1) of this section or against the Commission, a State, or a county pursuant to subsection (b)(2) of this section;

(C) over any appeal of any order, regulation, or other action of the Commission or a county taken pursuant to paragraph 4[2] of this subsection; or

(D) any civil penalties assessed by the Commission pursuant to subsection (a)(3) of this section.

(Pub. L. 99–663, §15, Nov. 17, 1986, 100 Stat. 4297.)

§544n. Authorization of appropriations

(a) General authorizations

There are authorized to be appropriated for fiscal years after the fiscal year 1986 such sums as are described below;[1]

(1) For the purpose of acquisition of lands, water and interests therein pursuant to sections 544 to 544p of this title: $40,000,000: *Provided*, That of this amount no more than $10,000,000 shall be available to acquire lands, water, and interests therein pursuant to section 544h of this title. Such amounts are authorized to be appropriated from amounts covered into the Land and Water Conservation Fund notwithstanding any allocation, apportionment, or limitation contained in the Land and Water Conservation Fund (16 U.S.C. 460*l*–4 and following).

(2) For the purpose of providing payments to local governments pursuant to section 544*l*(c) of this title: $2,000,000.

(b) Specific authorizations

There are authorized to be appropriated for fiscal years after the fiscal year 1986, effective upon concurrence on the management plan pursuant to section 544d of this title:

(1) For the purpose of construction of an interpretive center to be located in the State of Oregon, and a conference center to be located in the State of Washington: $10,000,000.

(2) For the purpose of construction of recreation facilities pursuant to section 544e(d) of this title: $10,000,000.

(3) For the purpose of preparing a program and restoring and reconstructing the Old Columbia River Scenic Highway, Oregon pursuant to section 544j of this title: $2,800,000.

(4) For the purpose of providing economic development grants pursuant to section 544i of this title: $5,000,000 for each State: *Provided*, That funds authorized to be appropriated pursuant to this paragraph shall be available for the acquisition of lands and interests therein pursuant to section 544h of this title if, at the expiration of three years, the States have failed to carry out their respective function pursuant to section 544c of this title.

(c) Availability of funds

Funds appropriated under subsections (a)(2) and (b) of this section shall not be made available for any county which does not have in effect a land use ordinance which has been found to be consistent by the Commission, and concurred on by the Secretary as consistent with the management plan pursuant to section 544f of this title.

(Pub. L. 99–663, §16, Nov. 17, 1986, 100 Stat. 4300.)

REFERENCES IN TEXT

The Land and Water Conservation Fund (16 U.S.C. 460*l*–4 and following), referred to in subsec. (a)(1), probably means the Land and Water Conservation Fund Act of 1965, Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§460*l*–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

§544*o*. Savings provisions

(a) Effect on rights of Indians, use of water, rivers and streams, interstate compacts, existing transmission facilities, hunting and fishing, forest plans, scenic areas

Nothing in sections 544 to 544p of this title shall—

(1) affect or modify any treaty or other rights of any Indian tribe;

(2) except as provided in section 13(c), authorize the appropriation or use of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual;

(3) except as provided in section 13(c), affect the rights or jurisdictions of the United States, the States, Indian tribes or other entities over waters of any river or stream or over any ground water resource or affect or interfere with transportation activities on any such river or stream;

(4) except as provided in section 13(c), alter, establish, or affect the respective rights of the United States, the States, Indian tribes, or any person with respect to any water or water-related right;

(5) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States before November 17, 1986;

(6) affect or modify the ability of the Bonneville Power Administration to operate, maintain, and modify existing transmission facilities;

(7) affect lands held in trust by the Secretary of the Interior for Indian tribes or individual members of Indian tribes or other lands acquired by the Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes and individual members of Indian tribes;

(8) affect the laws, rules and regulations pertaining to hunting and fishing under existing State and Federal laws and Indian treaties;

[2] So in original. Probably should be paragraph ''(4)''.

[1] So in original. The semicolon probably should be a colon.

(9) require any revision or amendment of any forest plan adopted pursuant to the National Forest Management Act of 1976 (Act of October 22, 1976, Public Law 94–588, as amended (16 U.S.C. 1600 et seq.)); or

(10) establish protective perimeters or buffer zones around the scenic area or each special management area. The fact that activities or uses inconsistent with the management directives for the scenic area or special management areas can be seen or heard from these areas shall not, of itself, preclude such activities or uses up to the boundaries of the scenic area or special management areas.

(b) Improvement of navigation facilities at Bonneville Dam

Except for the offsite disposal of excavation material, nothing in sections 544 to 544p of this title shall be construed to affect or modify the responsibility of the United States Army Corps of Engineers to improve navigation facilities at Bonneville Dam pursuant to Federal law.

(c) Rights and responsibilities of non-Federal timber land owners

Except for the management, utilization, or disposal of timber resources of non-Federal lands within the special management areas, nothing in sections 544 to 544p of this title shall affect the rights and responsibilities of non-Federal timber land owners under the Oregon and Washington Forest Practices Acts or any county regulations which under applicable State law supersede such Acts.

(d) Interstate compacts

Mandatory language in sections 544 to 544p of this title respecting the powers and responsibilities of the Commission shall be interpreted as conditions precedent to congressional consent to the interstate compact described in section 544c of this title.

(e) Failure to establish Columbia River Gorge Commission; responsibility of Secretary

In the event that the States of Washington and Oregon fail to comply with the provisions of section 544c of this title, the Secretary shall not be obligated to take actions which are predicated upon the establishment of the Commission.

(f) Actions of Secretary as major Federal actions affecting the environment

(1) Actions by the Secretary pursuant to subsections (f), (g), and (h) of section 544d of this title; subsections (f), (j), (k), and (*l*) of section 544f of this title; section 544g of this title; and subsections (a) and (b)(2) of section 544h of this title shall neither be considered major Federal actions significantly affecting the quality of the environment under section 102 of the National Environmental Policy Act (42 U.S.C. 4332) nor require the preparation of an environmental assessment in accordance with that Act [42 U.S.C. 4321 et seq.].

(2) Except as provided in paragraph (1) of this subsection, nothing in sections 544 to 544p of this title shall expand, restrict, or otherwise alter the duties of the Secretary under the National Environmental Policy Act.

(Pub. L. 99–663, § 17, Nov. 17, 1986, 100 Stat. 4300.)

REFERENCES IN TEXT

Section 13(c), referred to in subsec. (a)(2) to (4), is section 13(c) of Pub. L. 99–663, Nov. 17, 1986, 100 Stat. 4294, which amended section 1274(a) of this title.

The National Forest Management Act of 1976, referred to in subsec. (a)(9), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, 581h, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

The National Environmental Policy Act, referred to in subsec. (f), probably means the National Environmental Policy Act of 1969, Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 544p. Severability

(a)[1] If any provision of sections 544 to 544p of this title or the application thereof to any person, State, Indian tribe, entity, or circumstance is held invalid, neither the remainder of sections 544 to 544p of this title, nor the application of any provisions herein to other persons, States, Indian tribes, entities, or circumstances, shall be affected thereby.

(Pub. L. 99–663, § 18, Nov. 17, 1986, 100 Stat. 4302.)

§ 545. Mount Pleasant National Scenic Area; purposes

The purposes of sections 545 and 545a of this title with respect to the Mount Pleasant National Scenic Area are to—

(1) ensure appropriate protection and preservation of the scenic quality, water quality, natural characteristics, and water resources;

(2) protect and manage vegetation to provide wildlife and fish habitat, consistent with paragraph (1);

(3) provide areas that may develop characteristics of old-growth forests; and

(4) provide a variety of recreation opportunities that are not inconsistent with the preceding purposes.

(Pub. L. 103–314, § 2, Aug. 26, 1994, 108 Stat. 1703; Pub. L. 104–127, title IX, § 915, Apr. 4, 1996, 110 Stat. 1187.)

AMENDMENTS

1996—Pub. L. 104–127 substituted ''Mount Pleasant National Scenic Area'' for ''George Washington National Forest Mount Pleasant Scenic Area'' in introductory provisions.

SHORT TITLE

Section 1 of Pub. L. 103–314, as amended by Pub. L. 104–127, title IX, § 915, Apr. 4, 1996, 110 Stat. 1187, provided that: ''This Act [enacting sections 545 and 545a of this title] may be cited as the 'Mount Pleasant National Scenic Area Act'.''

[1] So in original. No subsec. (b) has been enacted.

§ 545a. Establishment of Mount Pleasant National Scenic Area

(a) In general

(1) Establishment

There is hereby established in the George Washington National Forest, Virginia, the Mount Pleasant National Scenic Area (in this section referred to as the ''scenic area'').

(2) Lands included in scenic area

The scenic area shall consist of certain lands in the George Washington National Forest, Virginia, which comprise approximately seven thousand five hundred and eighty acres, as generally depicted on a map entitled ''Mount Pleasant National Scenic Area—Proposed'', dated June 21, 1993.

(3) Maps and descriptions

As soon as practicable after August 26, 1994, the Secretary shall file a map and boundary description of the scenic area with the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. The map and description shall have the same force and effect as if included in sections 545 and 545a of this title, except that the Secretary is authorized to correct clerical and typographical errors in such boundary description and map. Such map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture. In the case of any discrepancy between the acreage and the map described in paragraph (2), the map shall control.

(b) Administration

(1) In general

The Secretary of Agriculture (in this section referred to as the ''Secretary'') shall administer the scenic area in accordance with sections 545 and 545a of this title and the laws and regulations generally applicable to the National Forest System. In the event of conflict between sections 545 and 545a of this title and other laws and regulations, sections 545 and 545a of this title shall take precedence.

(2) Management plan

Within three years after August 26, 1994, the Secretary shall develop a management plan for the scenic area as an amendment to the Land and Resource Management Plan for the George Washington National Forest. Such an amendment shall conform to the provisions of sections 545 and 545a of this title. Nothing in sections 545 and 545a of this title shall require the Secretary to revise the Land and Resource Management Plan for the George Washington National Forest pursuant to section 1604 of this title.

(c) Roads

After August 26, 1994, no new permanent roads shall be constructed within the scenic area, except that this prohibition shall not be construed to deny access to private lands or interests therein in the scenic area.

(d) Vegetation management

No timber harvest shall be allowed within the scenic area, except as may be necessary in the control of fire, insects, and diseases and to provide for public safety and trail access. Notwithstanding the foregoing, the Secretary may engage in vegetation manipulation practices for maintenance of existing wildlife clearings and visual quality. Firewood may be harvested for personal use along perimeter roads under such conditions as the Secretary may impose.

(e) Motorized travel

(1) Authorized routes

Motorized travel in the scenic area shall be allowed on State Route 635. Subject to such conditions as the Secretary may impose, motorized travel in the scenic area shall also be allowed on Forest Development Road 51.

(2) Other areas

Other than as provided in paragraph (1), motorized travel shall not be permitted within the scenic area, except that the Secretary may authorize motorized travel within the scenic area as necessary for administrative use in furtherance of the purposes of sections 545 and 545a of this title and on temporary routes in support of wildlife management projects.

(f) Fire

Wildfires shall be suppressed in a manner consistent with the purposes of sections 545 and 545a of this title, using such means as the Secretary considers appropriate.

(g) Insects and disease

Insect and disease outbreaks may be controlled in the scenic area to maintain scenic quality, prevent tree mortality, reduce hazards to visitors, or protect private lands.

(h) Water

The scenic area shall be administered so as to maintain or enhance existing water quality.

(i) Mining withdrawal

Subject to valid existing rights, all federally owned lands in the scenic area are hereby withdrawn from location, entry, and patent under the mining laws of the United States and from leasing claims under the mineral and geothermal leasing laws of the United States, including amendments to such laws.

(Pub. L. 103–314, § 3, Aug. 26, 1994, 108 Stat. 1703; Pub. L. 104–127, title IX, § 915, Apr. 4, 1996, 110 Stat. 1187.)

REFERENCES IN TEXT

The mining laws and the mineral leasing laws of the United States, referred to in subsec. (i), are classified generally to Title 30, Mineral Lands and Mining.

The geothermal leasing laws of the United States, referred to in subsec. (i), are classified principally to chapter 23 (§ 1001 et seq.) of Title 30.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–127 substituted ''Mount Pleasant National Scenic Area'' for ''George Washington National Forest Mount Pleasant Scenic Area''.

§ 545b. Opal Creek Wilderness and Scenic Recreation Area

(a) Definitions

In this section:

(1) Bull of the Woods Wilderness

The term ''Bull of the Woods Wilderness'' means the land designated as wilderness by section 3(4) of the Oregon Wilderness Act of 1984 (Public Law 98–328; 16 U.S.C. 1132 note).

(2) Opal Creek Wilderness

The term ''Opal Creek Wilderness'' means certain land in the Willamette National Forest in the State of Oregon comprising approximately 12,800 acres, as generally depicted on the map entitled ''Proposed Opal Creek Wilderness and Scenic Recreation Area'', dated July 1996.

(3) Scenic Recreation Area

The term ''Scenic Recreation Area'' means the Opal Creek Scenic Recreation Area, comprising approximately 13,000 acres, as generally depicted on the map entitled ''Proposed Opal Creek Wilderness and Scenic Recreation Area'', dated July 1996 and established under subsection (c)(1)(C) of this section.

(4) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(b) Purposes

The purposes of this section are—

(1) to establish a wilderness and scenic recreation area to protect and provide for the enhancement of the natural, scenic, recreational, historic and cultural resources of the area in the vicinity of Opal Creek;

(2) to protect and support the economy of the communities of the Santiam Canyon; and

(3) to provide increased protection for an important drinking water source for communities served by the North Santiam River.

(c) Establishment

(1) Establishment

On a determination by the Secretary under paragraph (2)—

(A) the Opal Creek Wilderness, as depicted on the map described in subsection (a)(2) of this section, is hereby designated as wilderness, subject to the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.], shall become a component of the National Wilderness System, and shall be known as the Opal Creek Wilderness;

(B) the part of the Bull of the Woods Wilderness that is located in the Willamette National Forest shall be incorporated into the Opal Creek Wilderness; and

(C) the Secretary shall establish the Opal Creek Scenic Recreation Area in the Willamette National Forest in the State of Oregon, comprising approximately 13,000 acres, as generally depicted on the map described in subsection (a)(3) of this section.

(2) Conditions

The designations in paragraph (1) shall not take effect unless the Secretary makes a determination, not later than 2 years after November 12, 1996, that the following conditions have been met:

(A) the following have been donated to the United States in an acceptable condition and without encumbrances:

(i) all right, title, and interest in the following patented parcels of land—

(I) Santiam Number 1, mineral survey number 992, as described in patent number 39–92–0002, dated December 11, 1991;

(II) Ruth Quartz Mine Number 2, mineral survey number 994, as described in patent number 39–91–0012, dated February 12, 1991;

(III) Morning Star Lode, mineral survey number 993, as described in patent number 36–91–0011, dated February 12, 1991;

(ii) all right, title, and interest held by any entity other than the Times Mirror Land and Timber Company, its successors and assigns, in and to lands located in section 18, township 8 south, range 5 east, Marion County, Oregon, Eureka numbers 6, 7, 8, and 13 mining claims; and

(iii) an easement across the Hewitt, Starvation, and Poor Boy Mill Sites, mineral survey number 990, as described in patent number 36–91–0017, dated May 9, 1991. In the sole discretion of the Secretary, such easement may be limited to administrative use if an alternative access route, adequate and appropriate for public use, is provided.

(B) a binding agreement has been executed by the Secretary and the owners of record as of March 29, 1996, of the following interests, specifying the terms and conditions for the disposition of such interests to the United States Government—

(i) The lode mining claims known as Princess Lode, Black Prince Lode, and King Number 4 Lode, embracing portions of sections 29 and 32, township 8 south, range 5 east, Willamette Meridian, Marion County, Oregon, the claims being more particularly described in the field notes and depicted on the plat of mineral survey number 887, Oregon; and

(ii) Ruth Quartz Mine Number 1, mineral survey number 994, as described in patent number 39–91–0012, dated February 12, 1991.

(3) Additions to the wilderness and scenic recreation areas

(A) Lands or interests in lands conveyed to the United States under this subsection shall be included in and become part of, as appropriate, Opal Creek Wilderness or the Opal Creek Scenic Recreation Area.

(B) On acquiring all or substantially all of the land located in section 36, township 8 south, range 4 east, of the Willamette Meridian, Marion County, Oregon, commonly known as the Rosboro section by exchange, purchase from a willing seller, or by donation, the Secretary shall expand the boundary of the Scenic Recreation Area to include such land.

(C) On acquiring all or substantially all of the land located in section 18, township 8 south, range 5 east, Marion County, Oregon, commonly known as the Time Mirror property, by exchange, purchase from a willing seller, or by donation, such land shall be included in and become a part of the Opal Creek Wilderness.

(d) Administration

(1) In general

The Secretary shall administer the Scenic Recreation Area in accordance with this section and the laws (including regulations) applicable to the National Forest System.

(2) Opal Creek Management Plan

(A) In general

Not later than 2 years after the date of establishment of the Scenic Recreation Area, the Secretary, in consultation with the advisory committee established under subsection (e)(1) of this section, shall prepare a comprehensive Opal Creek Management Plan (Management Plan) for the Scenic Recreation Area.

(B) Incorporation in land and resource management

Upon its completion, the Opal Creek Management Plan shall become part of the land and resource management plan for the Willamette National Forest and supersede any conflicting provision in such land and resource management plan. Nothing in this paragraph shall be construed to supersede the requirements of the Endangered Species Act [16 U.S.C. 1531 et seq.] or the National Forest Management Act or regulations promulgated under those Acts, or any other law.

(C) Requirements

The Opal Creek Management Plan shall provide for a broad range of land uses, including—

(i) recreation;

(ii) harvesting of nontraditional forest products, such as gathering mushrooms and material to make baskets; and

(iii) educational and research opportunities.

(D) Plan amendments

The Secretary may amend the Opal Creek Management Plan as the Secretary may determine to be necessary, consistent with the procedures and purposes of this section.

(3) Cultural and historic resource inventory

(A) In general

Not later than 1 year after the date of establishment of the Scenic Recreation Area, the Secretary shall review and revise the inventory of the cultural and historic resources on the public land in the Scenic Recreation Area developed pursuant to the Oregon Wilderness Act of 1984 (Public Law 98–328).

(B) Interpretation

Interpretive activities shall be developed under the management plan in consultation with State and local historic preservation organizations and shall include a balanced and factual interpretation of the cultural, ecological, and industrial history of forestry and mining in the Scenic Recreation Area.

(4) Transportation planning

(A)[1] In general

Except as provided in this subparagraph, motorized vehicles shall not be permitted in the Scenic Recreation Area. To maintain reasonable motorized and other access to recreation sites and facilities in existence on November 12, 1996, the Secretary shall prepare a transportation plan for the Scenic Recreation Area that—

(i) evaluates the road network within the Scenic Recreation Area to determine which roads should be retained and which roads should be closed;

(ii) provides guidelines for transportation and access consistent with this section;

(iii) considers the access needs of persons with disabilities in preparing the transportation plan for the Scenic Recreation Area;

(iv) allows forest road 2209 beyond the gate to the Scenic Recreation Area, as depicted on the map described in subsection (a)(2) of this section, to be used by motorized vehicles only for administrative purposes and for access by private inholders, subject to such terms and conditions as the Secretary may determine to be necessary; and

(v) restricts construction or improvement of forest road 2209 beyond the gate to the Scenic Recreation Area to maintaining the character of the road as it existed upon November 12, 1996, which shall not include paving or widening.

In order to comply with subsection (f)(2) of this section, the Secretary may make improvements to forest road 2209 and its bridge structures consistent with the character of the road as it existed on November 12, 1996.

(5) Hunting and fishing

(A) In general

Subject to applicable Federal and State law, the Secretary shall permit hunting and fishing in the Scenic Recreation Area.

(B) Limitation

The Secretary may designate zones in which, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment of the Scenic Recreation Area.

(C) Consultation

Except during an emergency, as determined by the Secretary, the Secretary shall consult with the Oregon State Department of Fish and Wildlife before issuing any regulation under this subsection.

(6) Timber cutting

(A) In general

Subject to subparagraph (B), the Secretary shall prohibit the cutting and/or selling of trees in the Scenic Reservation Area.

[1] So in original. No subpar. (B) has been enacted.

(B) Permitted cutting

(i) In general

Subject to clause (ii), the Secretary may allow the cutting of trees in the Scenic Recreation Area only—

(I) for public safety, such as to control the continued spread of a forest fire in the Scenic Recreation Area or on land adjacent to the Scenic Recreation Area;

(II) for activities related to administration of the Scenic Recreation Area, consistent with the Opal Creek Management Plan; or

(III) for removal of hazard trees along trails and roadways.

(ii) Salvage sales

The Secretary may not allow a salvage sale in the Scenic Recreation Area.

(7) Withdrawal

(A)[2] subject[3] to valid existing rights, all lands in the Scenic Recreation Area are withdrawn from—

(i) any form of entry, appropriation, or disposal under the public lands laws;

(ii) location, entry, and patent under the mining laws; and

(iii) disposition under the mineral and geothermal leasing laws.

(8) Bornite Project

(A) Nothing in this section shall be construed to interfere with or approve any exploration, mining, or mining-related activity in the Bornite Project Area, depicted on the map described in subsection (a)(3) of this section, conducted in accordance with applicable laws.

(B) Nothing in this section shall be construed to interfere with the ability of the Secretary to approve and issue, or deny, special use permits in connection with exploration, mining, and mining-related activities in the Bornite Project Area.

(C) Motorized vehicles, roads, structures, and utilities (including but not limited to power lines and water lines) may be allowed inside the Scenic Recreation Area to serve the activities conducted on land within the Bornite Project.

(D) After November 12, 1996, no patent shall be issued for any mining claim under the general mining laws located within the Bornite Project Area.

(9) Water impoundments

Notwithstanding the Federal Power Act (16 U.S.C. 791a et seq.), the Federal Energy Regulatory Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work in the Scenic Recreation Area, except as may be necessary to comply with the provisions of paragraph (8) with regard to the Bornite Project.

(10) Recreations

(A) Recognition

Congress recognizes recreation as an appropriate use of the Scenic Recreation Area.

(B) Minimum levels

The management plan shall permit recreation activities at not less than the levels in existence on November 12, 1996.

(C) Higher levels

The management plan may provide for levels of recreation use higher than the levels in existence on November 12, 1996, if such uses are consistent with the protection of the resource values of the Scenic Recreation Area.

(D) Public trail access

The management plan may include public trail access through section 28, township 8 south, range 5 east, Willamette Meridian, to Battle Ax Creek, Opal Pool and other areas in the Opal Creek Wilderness and the Opal Creek Scenic Recreation Area.

(11) Participation

So that the knowledge, expertise, and views of all agencies and groups may contribute affirmatively to the most sensitive present and future use of the Scenic Recreation Area and its various subareas for the benefit of the public:

(A) Advisory council

The Secretary shall consult on a periodic and regular basis with the advisory council established under subsection (e) of this section with respect to matters relating to management of the Scenic Recreation Area.

(B) Public participation

The Secretary shall seek the views of private groups, individuals, and the public concerning the Scenic Recreation Area.

(C) Other agencies

The Secretary shall seek the views and assistance of, and cooperate with, any other Federal, State, or local agency with any responsibility for the zoning, planning, or natural resources of the Scenic Recreation Area.

(D) Nonprofit agencies and organizations

The Secretary shall seek the views of any nonprofit agency or organization that may contribute information or expertise about the resources and the management of the Scenic Recreation Area.

(e) Advisory council

(1) Establishment

Not later than 90 days after the establishment of the Scenic Recreation Area, the Secretary shall establish an advisory council for the Scenic Recreation Area.

(2) Membership

The advisory council shall consist of not more than 13 members, of whom—

(A) 1 member shall represent Marion County, Oregon, and shall be designated by the governing body of the county;

(B) 1 member shall represent the State of Oregon and shall be designated by the Governor of Oregon;

(C) 1 member shall represent the City of Salem, and shall be designated by the mayor of Salem, Oregon;

[2] So in original. No subpar. (B) has been enacted.

[3] So in original. Probably should be capitalized.

(D) 1 member from a city within a 25-mile radius of the Opal Creek Scenic Recreation Area, to be designated by the Governor of the State of Oregon from a list of candidates provided by the mayors of the cities located within a 25-mile radius of the Opal Creek Scenic Recreation Area; and

(E) not more than 9 members shall be appointed by the Secretary from among persons who, individually or through association with a national or local organization, have an interest in the administration of the Scenic Recreation Area, including, but not limited to, representatives of the timber industry, environmental organizations, the mining industry, inholders in the Opal Creek Wilderness and Scenic Recreation Area, economic development interests and Indian tribes.

(3) Staggered terms

Members of the advisory council shall serve for staggered terms of 3 years.

(4) Chairman

The Secretary shall designate 1 member of the advisory council as chairman.

(5) Vacancies

The Secretary shall fill a vacancy on the advisory council in the same manner as the original appointment.

(6) Compensation

Members of the advisory council shall receive no compensation for their service on the advisory council.

(f) General provisions

(1) Land acquisition

(A) In general

Subject to the other provisions of this section, the Secretary may acquire any lands or interests in land in the Scenic Recreation Area or the Opal Creek Wilderness that the Secretary determines are needed to carry out this section.

(B) Public land

Any lands or interests in land owned by a State or a political subdivision of a State may be acquired only by donation or exchange.

(C) Condemnation

Within the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area, the Secretary may not acquire any privately owned land or interest in land without the consent of the owner unless the Secretary finds that—

(i) the nature of land use has changed significantly, or the landowner has demonstrated intent to change the land use significantly, from the use that existed on November 12, 1996; and

(ii) acquisition by the Secretary of the land or interest in land is essential to ensure use of the land or interest in land in accordance with the purposes of this title[4] or the management plan prepared under subsection (d)(2) of this section.

(D) Construction

Nothing in this section shall be construed to enhance or diminish the condemnation authority available to the Secretary outside the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area.

(2) Environmental response actions and cost recovery

(A) Response actions

Nothing in this section shall limit the authority of the Secretary or a responsible party to conduct an environmental response action in the Scenic Recreation Area in connection with the release, threatened release, or cleanup of a hazardous substance, pollutant, or contaminant, including a response action conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(B) Liability

Nothing in this section shall limit the authority of the Secretary or a responsible party to recover costs related to the release, threatened release, or cleanup of any hazardous substance or pollutant or contaminant in the Scenic Recreation Area.

(3) Maps and description

(A) In general

As soon as practicable after November 12, 1996, the Secretary shall file a map and a boundary description for the Opal Creek Wilderness and for the Scenic Recreation Area with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(B) Force and effect

The boundary description and map shall have the same force and effect as if the description and map were included in this section, except that the Secretary may correct clerical and typographical errors in the boundary description and map.

(C) Availability

The map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(4) Savings provision

Nothing in this section shall interfere with activity for which a special use permit has been issued, has not been revoked, and has not expired, before November 12, 1996, subject to the terms of the permit.

(g) Rosboro land exchange

(1) Authorization

Notwithstanding any other law, if the Rosboro Lumber Company (referred to in this subsection as ''Rosboro'') offers and conveys marketable title to the United States to the land described in paragraph (2), the Secretary of Agriculture shall convey all right, title and

[4] So in original. Probably should be ''section''.

interest held by the United States to sufficient lands described in paragraph (3) to Rosboro, in the order in which they appear in this subsection, as necessary to satisfy the equal value requirements of paragraph (4).

(2) Land to be offered by Rosboro

The land referred to in paragraph (1) as the land to be offered by Rosboro shall comprise Section 36, Township 8 South, Range 4 East, Willamette Meridian.

(3) Land to be conveyed by the United States

The land referred to in paragraph (1) as the land to be conveyed by the United States shall comprise sufficient land from the following prioritized list to be equal value under paragraph (4):

(A) Section 5, Township 17 South, Range 4 East, Lot 7 (37.63 acres);

(B) Section 2, Township 17 South, Range 4 East, Lot 3 (29.28 acres);

(C) Section 13, Township 17 South, Range 4 East, S½SE¼ (80 acres);

(D) Section 2, Township 17 South, Range 4 East, SW¼SW¼ (40 acres);

(E) Section 2, Township 17 South, Range 4 East, NW¼SE¼ (40 acres);

(F) Section 8, Township 17 South, Range 4 East, SE¼SW¼ (40 acres);

(G) Section 11, Township 17 South, Range 4 East, W½NW¼ (80 acres);[5]

(4) Equal value

The land and interests in land exchanged under this subsection shall be of equal market value as determined by nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, or shall be equalized by way of payment of cash pursuant to the provisions of section 1716(d) of title 43, and other applicable law. The appraisal shall consider access costs for the parcels involved.

(5) Timetable

(A) The exchange directed by this subsection shall be consummated not later than 120 days after the date Rosboro offers and conveys the property described in paragraph (2) to the United States.

(B) The authority provided by this subsection shall lapse of[6] Rosboro fails to offer the land described in paragraph (2) within 2 years after November 12, 1996.

(6) Challenge

Rosboro shall have the right to challenge in the United States District Court for the District of Oregon a determination of marketability under paragraph (1) and a determination of value for the lands described in paragraphs (2) and (3) by the Secretary of Agriculture. The court shall have the authority to order the Secretary to complete the transaction contemplated in this subsection.

(7) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subsection.

[5] So in original. The semicolon probably should be a period.

[6] So in original. Probably should be ''if''.

(h) Omitted

(i) Economic development

(1) Economic development plan

As a condition for receiving funding under paragraph (2), the State of Oregon, in consultation with Marion County, Oregon, and the Secretary of Agriculture, shall develop a plan for economic development projects for which grants under this subsection may be used in a manner consistent with this section and to benefit local communities in the vicinity of the Opal Creek area. Such plan shall be based on an economic opportunity study and other appropriate information.

(2) Funds provided to the States for grants

Upon completion of the Opal Creek Management Plan, and receipt of the plan referred to in paragraph (1), the Secretary shall provide, subject to appropriations, $15,000,000 to the State of Oregon. Such funds shall be used to make grants or loans for economic development projects that further the purposes of this section and benefit the local communities in the vicinity of the Opal Creek area.

(3) Report

The State of Oregon shall—

(A) prepare and provide the Secretary and Congress with an annual report on the use of the funds made available under this subsection;

(B) make available to the Secretary and to Congress, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this subsection; and

(C) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

(Pub. L. 104–333, div. I, title X, § 1023, Nov. 12, 1996, 110 Stat. 4215; Pub. L. 106–176, title I, § 125, Mar. 10, 2000, 114 Stat. 30.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (c)(1)(A), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The Endangered Species Act, referred to in subsec. (d)(2)(B), probably means the Endangered Species Act of 1973, Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The National Forest Management Act, referred to in subsec. (d)(2)(B), probably means the National Forest Management Act of 1976, Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

The Oregon Wilderness Act of 1984, referred to in subsec. (d)(3)(A), is Pub. L. 98–328, June 26, 1984, 98 Stat. 272, which enacted subchapter C (§ 460*oo*) of chapter 1 of this title and provisions listed in a table of Wilderness

Areas set out under section 1132 of this title. For complete classification of this Act to the Code, see Tables.

The Federal Power Act, referred to in subsec. (d)(9), is act June 10, 1920, ch. 285, 41 Stat. 1063, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsec. (f)(2)(A), is Pub. L. 96–510, Dec. 11, 1980, 94 Stat. 2767, which is classified principally to chapter 103 (§ 9601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

CODIFICATION

Section is comprised of section 1023 of Pub. L. 104–333. Subsec. (c)(1)(A) of section 1023 of Pub. L. 104–333 also enacted provisions listed in a table of Wilderness Areas set out under section 1132 of this title. Subsec. (h) of section 1023 of Pub. L. 104–333 amended section 1274 of this title.

Provisions substantially identical to the text of this section were enacted by title I of div. B of Pub. L. 104–208, Sept. 30, 1996, 110 Stat. 3009–523, known as the Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996.

AMENDMENTS

2000—Subsec. (c)(1)(A). Pub. L. 106–176 struck out ''of 1964'' after ''Wilderness Act''.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

SHORT TITLE

Pub. L. 104–208, div. B, title I, § 101, Sept. 30, 1996, 110 Stat. 3009–523, provided that: ''This title [see Codification note above] may be cited as the 'Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996'.''

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 546. Establishment of Saint Helena Island National Scenic Area, Michigan

(a) Purpose

The purposes of sections 546 to 546a–5 of this title are—

(1) to preserve and protect for present and future generations the outstanding resources and values of Saint Helena Island in Lake Michigan, Michigan; and

(2) to provide for the conservation, protection, and enhancement of primitive recreation opportunities, fish and wildlife habitat, vegetation, and historical and cultural resources of the island.

(b) Establishment

For the purposes described in subsection (a) of this section, there shall be established the Saint Helena Island National Scenic Area (in sections 546 to 546a–5 of this title referred to as the ''scenic area'').

(c) Effective upon conveyance

Subsection (b) of this section shall be effective upon conveyance of satisfactory title to the United States of the whole of Saint Helena Island, except that portion conveyed to the Great Lakes Lighthouse Keepers Association pursuant to section 1001 of the Coast Guard Authorization Act of 1996 (Public Law 104–324; 110 Stat. 3948).

(Pub. L. 106–431, § 2, Nov. 6, 2000, 114 Stat. 1905.)

REFERENCES IN TEXT

Section 1001 of the Coast Guard Authorization Act of 1996, referred to in subsec. (c), is section 1001 of Pub. L. 104–324, title X, Oct. 19, 1996, 110 Stat. 3948, which is not classified to the Code.

SHORT TITLE

Pub. L. 106–431, § 1, Nov. 6, 2000, 114 Stat. 1905, provided that: ''This Act [enacting sections 546 to 546a–5 of this title] may be cited as the 'Saint Helena Island National Scenic Area Act'.''

§ 546a. Boundaries

(a) Saint Helena Island

The scenic area shall comprise all of Saint Helena Island, in Lake Michigan, Michigan, and all associated rocks, pinnacles, islands, and islets within one-eighth mile of the shore of Saint Helena Island.

(b) Boundaries of Hiawatha National Forest extended

Upon establishment of the scenic area, the boundaries of the Hiawatha National Forest shall be extended to include all of the lands within the scenic area. All such extended boundaries shall be deemed boundaries in existence as of January 1, 1965, for the purposes of section 460*l*–9 of this title.[1]

(c) Payments to local governments

Solely for purposes of payments to local governments pursuant to section 6902 of title 31, lands acquired by the United States under sections 546 to 546a–5 of this title shall be treated as entitlement lands.

(Pub. L. 106–431, § 3, Nov. 6, 2000, 114 Stat. 1905.)

REFERENCES IN TEXT

Section 460*l*–9 of this title, referred to in subsec. (b), was in the original ''section 8 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9)'' which was translated as if it referred to section 7 of the Land and Water Conservation Fund Act of 1965, to reflect the probable intent of Congress. Section 8 of the Act is classified to section 460*l*–10 of this title and does not relate to boundaries of National Forests in existence as of January 1, 1965.

§ 546a–1. Administration and management

(a) Administration

Subject to valid existing rights, the Secretary of Agriculture (in sections 546 to 546a–5 of this title referred to as the ''Secretary'') shall administer the scenic area in accordance with the laws, rules, and regulations applicable to the

[1] See References in Text note below.

National Forest System in furtherance of the purposes of sections 546 to 546a–5 of this title.

(b) Special management requirements

Within 3 years of the acquisition of 50 percent of the land authorized for acquisition under section 546a–4 of this title, the Secretary shall develop an amendment to the land and resources management plan for the Hiawatha National Forest which will direct management of the scenic area. Such an amendment shall conform to the provisions of sections 546 to 546a–5 of this title. Nothing in sections 546 to 546a–5 of this title shall require the Secretary to revise the land and resource management plan for the Hiawatha National Forest pursuant to section 1604 of this title. In developing a plan for management of the scenic area, the Secretary shall address the following special management considerations:

(1) Public access

Alternative means for providing public access from the mainland to the scenic area shall be considered, including any available existing services and facilities, concessionaires, special use permits, or other means of making public access available for the purposes of sections 546 to 546a–5 of this title.

(2) Roads

After November 6, 2000, no new permanent roads shall be constructed within the scenic area.

(3) Vegetation management

No timber harvest shall be allowed within the scenic area, except as may be necessary in the control of fire, insects, and diseases, and to provide for public safety and trail access. Notwithstanding the foregoing, the Secretary may engage in vegetation manipulation practices for maintenance of wildlife habitat and visual quality. Trees cut for these purposes may be utilized, salvaged, or removed from the scenic area as authorized by the Secretary.

(4) Motorized travel

Motorized travel shall not be permitted within the scenic area, except on the waters of Lake Michigan, and as necessary for administrative use in furtherance of the purposes of sections 546 to 546a–5 of this title.

(5) Fire

Wildfires shall be suppressed in a manner consistent with the purposes of sections 546 to 546a–5 of this title, using such means as the Secretary deems appropriate.

(6) Insects and disease

Insect and disease outbreaks may be controlled in the scenic area to maintain scenic quality, prevent tree mortality, or to reduce hazards to visitors.

(7) Dockage

The Secretary shall provide through concession, permit, or other means docking facilities consistent with the management plan developed pursuant to this section.

(8) Safety

The Secretary shall take reasonable actions to provide for public health and safety and for the protection of the scenic area in the event of fire or infestation of insects or disease.

(c) Consultation

In preparing the management plan, the Secretary shall consult with appropriate State and local government officials, provide for full public participation, and consider the views of all interested parties, organizations, and individuals.

(Pub. L. 106–431, § 4, Nov. 6, 2000, 114 Stat. 1906.)

§ 546a–2. Fish and game

Nothing in sections 546 to 546a–5 of this title shall be construed as affecting the jurisdiction or responsibilities of the State of Michigan with respect to fish and wildlife in the scenic area.

(Pub. L. 106–431, § 5, Nov. 6, 2000, 114 Stat. 1907.)

§ 546a–3. Minerals

Subject to valid existing rights, the lands within the scenic area are hereby withdrawn from disposition under all laws pertaining to mineral leasing, including all laws pertaining to geothermal leasing. Also subject to valid existing rights, the Secretary shall not allow any mineral development on federally owned land within the scenic area, except that common varieties of mineral materials, such as stone and gravel, may be utilized only as authorized by the Secretary to the extent necessary for construction and maintenance of roads and facilities within the scenic area.

(Pub. L. 106–431, § 6, Nov. 6, 2000, 114 Stat. 1907.)

§ 546a–4. Acquisition

(a) Acquisition of lands within the scenic area

The Secretary shall acquire, by purchase from willing sellers, gift, or exchange, lands, waters, structures, or interests therein, including scenic or other easements, within the boundaries of the scenic area to further the purposes of sections 546 to 546a–5 of this title.

(b) Acquisition of other lands

The Secretary may acquire, by purchase from willing sellers, gift, or exchange, not more than 10 acres of land, including any improvements thereon, on the mainland to provide access to and administrative facilities for the scenic area.

(Pub. L. 106–431, § 7, Nov. 6, 2000, 114 Stat. 1907.)

§ 546a–5. Authorization of appropriations

(a) Acquisition of lands

There are hereby authorized to be appropriated such sums as may be necessary for the acquisition of land, interests in land, or structures within the scenic area and on the mainland as provided in section 546a–4 of this title.

(b) Other purposes

In addition to the amounts authorized to be appropriated under subsection (a) of this section, there are authorized to be appropriated such sums as may be necessary for the development and implementation of the management plan under section 546a–1(b) of this title.

(Pub. L. 106–431, § 8, Nov. 6, 2000, 114 Stat. 1907.)

§ 546b. Seng Mountain and Bear Creek Scenic Areas, Jefferson National Forest, Virginia

(a) Establishment

There are designated as National Scenic Areas—

(1) certain National Forest System land in the Jefferson National Forest, comprising approximately 5,192 acres, as generally depicted on the map entitled ''Seng Mountain and Raccoon Branch'' and dated April 28, 2008, which shall be known as the ''Seng Mountain National Scenic Area''; and

(2) certain National Forest System land in the Jefferson National Forest, comprising approximately 5,128 acres, as generally depicted on the map entitled ''Bear Creek'' and dated April 28, 2008, which shall be known as the ''Bear Creek National Scenic Area''.

(b) Purposes

The purposes of the scenic areas are—

(1) to ensure the protection and preservation of scenic quality, water quality, natural characteristics, and water resources of the scenic areas;

(2) consistent with paragraph (1), to protect wildlife and fish habitat in the scenic areas;

(3) to protect areas in the scenic areas that may develop characteristics of old-growth forests; and

(4) consistent with paragraphs (1), (2), and (3), to provide a variety of recreation opportunities in the scenic areas.

(c) Administration

(1) In general

The Secretary shall administer the scenic areas in accordance with—

(A) this subtitle; and

(B) the laws (including regulations) generally applicable to the National Forest System.

(2) Authorized uses

The Secretary shall only allow uses of the scenic areas that the Secretary determines will further the purposes of the scenic areas, as described in subsection (b).

(d) Management plan

(1) In general

Not later than 2 years after March 30, 2009, the Secretary shall develop as an amendment to the land and resource management plan for the Jefferson National Forest a management plan for the scenic areas.

(2) Effect

Nothing in this subsection requires the Secretary to revise the land and resource management plan for the Jefferson National Forest under section 1604 of this title.

(e) Roads

(1) In general

Except as provided in paragraph (2), after March 30, 2009, no roads shall be established or constructed within the scenic areas.

(2) Limitation

Nothing in this subsection denies any owner of private land (or an interest in private land) that is located in a scenic area the right to access the private land.

(f) Timber harvest

(1) In general

Except as provided in paragraphs (2) and (3), no harvesting of timber shall be allowed within the scenic areas.

(2) Exceptions

The Secretary may authorize harvesting of timber in the scenic areas if the Secretary determines that the harvesting is necessary to—

(A) control fire;

(B) provide for public safety or trail access; or

(C) control insect and disease outbreaks.

(3) Firewood for personal use

Firewood may be harvested for personal use along perimeter roads in the scenic areas, subject to any conditions that the Secretary may impose.

(g) Insect and disease outbreaks

The Secretary may control insect and disease outbreaks—

(1) to maintain scenic quality;

(2) to prevent tree mortality;

(3) to reduce hazards to visitors; or

(4) to protect private land.

(h) Vegetation management

The Secretary may engage in vegetation manipulation practices in the scenic areas to maintain the visual quality and wildlife clearings in existence on March 30, 2009.

(i) Motorized vehicles

(1) In general

Except as provided in paragraph (2), motorized vehicles shall not be allowed within the scenic areas.

(2) Exceptions

The Secretary may authorize the use of motorized vehicles—

(A) to carry out administrative activities that further the purposes of the scenic areas, as described in subsection (b);

(B) to assist wildlife management projects in existence on March 30, 2009; and

(C) during deer and bear hunting seasons—

(i) on Forest Development Roads 49410 and 84b; and

(ii) on the portion of Forest Development Road 6261 designated on the map described in subsection (a)(2) as ''open seasonally''.

(j) Wildfire suppression

Wildfire suppression within the scenic areas shall be conducted—

(1) in a manner consistent with the purposes of the scenic areas, as described in subsection (b); and

(2) using such means as the Secretary determines to be appropriate.

(k) Water

The Secretary shall administer the scenic areas in a manner that maintains and enhances water quality.

(*l*) Withdrawal

Subject to valid existing rights, all Federal land in the scenic areas is withdrawn from—

(1) location, entry, and patent under the mining laws; and

(2) operation of the mineral leasing and geothermal leasing laws.

(Pub. L. 111–11, title I, §1104, Mar. 30, 2009, 123 Stat. 1004.)

REFERENCES IN TEXT

This subtitle, referred to in subsec. (c)(1)(A), is subtitle B (§§1101–1107) of title I of Pub. L. 111–11, Mar. 30, 2009, 123 Stat. 1002, which enacted this section and section 546b–1 of this title, enacted provisions set out as a note below, and enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of subtitle B to the Code, see Tables.

DEFINITIONS

Pub. L. 111–11, title I, §1101, Mar. 30, 2009, 123 Stat. 1002, provided that: ''In this subtitle [subtitle B (§§1101–1107) of title I of Pub. L. 111–11, enacting this section and section 546b–1 of this title and enacting and amending provisions listed in a table of Wilderness Areas set out under section 1132 of this title]:

''(1) SCENIC AREAS.—The term 'scenic areas' means the Seng Mountain National Scenic Area and the Bear Creek National Scenic Area.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.''

§ 546b–1. Maps and boundary descriptions

(a) In general

As soon as practicable after March 30, 2009, the Secretary shall file with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources and the Committee on Agriculture of the House of Representatives maps and boundary descriptions of—

(1) the scenic areas;

(2) the wilderness areas designated by paragraphs (9) through (20) of section 1 of Public Law 100–326 (16 U.S.C. 1132 note) (as added by section 1102(a)(5));

(3) the wilderness study area designated by section 6(a)(5) of the Virginia Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–586) (as added by section 1102(b)(2)(D)); and

(4) the potential wilderness area designated by section 1103(a).[1]

(b) Force and effect

The maps and boundary descriptions filed under subsection (a) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any minor errors in the maps and boundary descriptions.

(c) Availability of map and boundary description

The maps and boundary descriptions filed under subsection (a) shall be on file and available for public inspection in the Office of the Chief of the Forest Service.

(d) Conflict

In the case of a conflict between a map filed under subsection (a) and the acreage of the applicable areas specified in this subtitle, the map shall control.

[1] See References in Text note below.

(Pub. L. 111–11, title I, §1106, Mar. 30, 2009, 123 Stat. 1007.)

REFERENCES IN TEXT

Paragraphs (9) through (20) of section 1 of Public Law 100–326 as added by section 1102(a)(5), referred to in subsec. (a)(2), means paragraphs (9) through (20) of section 1 of Public Law 100–326 as added by section 1102(a)(5) of Pub. L. 111–11, which enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

Section 6(a)(5) of the Virginia Wilderness Act of 1984 (Public Law 98–586) (as added by section 1102(b)(2)(D)), referred to in subsec. (a)(3), is section 6(a)(5) of Pub. L. 98–586, as added by section 1102(b)(2)(D) of Pub. L. 111–11, title I, Mar. 30, 2009, 123 Stat. 1004, which is not classified to the Code.

Section 1103(a), referred to in subsec. (a)(4), means section 1103(a) of Pub. L. 111–11, which amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

This subtitle, referred to in subsecs. (b) and (d), is subtitle B (§§1101–1107) of title I of Pub. L. 111–11, Mar. 30, 2009, 123 Stat. 1002, which enacted this section and section 546b of this title, enacted provisions set out as a note under section 546b of this title, and enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

DEFINITIONS

For definitions of terms used in this section, see section 1101 of Pub. L. 111–11, set out as a note under section 546b of this title.

CHAPTER 3—FORESTS; FOREST SERVICE; REFORESTATION; MANAGEMENT

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SUBCHAPTER I—GENERAL PROVISIONS

§ 551. Protection of national forests; rules and regulations

The Secretary of Agriculture shall make provisions for the protection against destruction by fire and depredations upon the public forests and national forests which may have been set aside or which may be hereafter set aside under the provisions of section 471[1] of this title, and which may be continued; and he may make such rules and regulations and establish such service as will insure the objects of such reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction; and any violation of the provisions of this section, sections 473 to 478 and 479 to 482 of this title or such rules and regulations shall be punished by a fine of not more than $500 or imprisonment for not more than six months, or both. Any person charged with the violation of such rules and regulations may be tried and sentenced by any United States magistrate judge specially designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401(b) to (e) of title 18.

(June 4, 1897, ch. 2, § 1, 30 Stat. 35; Feb. 1, 1905, ch. 288, § 1, 33 Stat. 628; Pub. L. 87–869, § 6, Oct. 23, 1962, 76 Stat. 1157; Pub. L. 88–537, Aug. 31, 1964, 78 Stat. 745; Pub. L. 90–578, title IV, § 402(b)(2), Oct.

[1] See References in Text note below.

17, 1968, 82 Stat. 1118; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

REPEALS

Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

REFERENCES IN TEXT

Section 471 of this title, referred to in text, was in the original a reference to act Mar. 3, 1891, 26 Stat. 1103, and was repealed by Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.

CODIFICATION

''National forests'' substituted in text for ''forest reservations'' on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

AMENDMENTS

1964—Pub. L. 88–537 provided that persons charged with violation of such rules and regulations may be tried and sentenced by any United States commissioner specially designated for that purpose by the court by which he was appointed, in the same manner as in section 3401(b) to (e) of title 18.

1962—Pub. L. 87–869 substituted ''by a fine of not more than $500 or imprisonment for not more than six months, or both'' for ''as is provided for in section 104 of title 18''.

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''United States magistrate'' substituted for ''United States commissioner'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–286, § 1, May 9, 1990, 104 Stat. 171, provided that: ''This Act [enacting sections 551b and 551c of this title, amending sections 18i and 558c of this title and section 1737 of Title 43, Public Lands, and enacting provisions set out as notes under this section and section 551b of this title] may be cited as the 'Wildfire Disaster Recovery Act of 1989'.''

SAVINGS PROVISION

Repeal by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with provisions of sections 473, 474 to 482, and 551 of this title with respect to preconstruction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

Act Feb. 1, 1905, transferred certain functions with regard to administration of public forests from Secretary of the Interior to Secretary of Agriculture.

NATIONAL COMMISSION ON WILDFIRE DISASTERS

Pub. L. 101–286, title I, May 9, 1990, 104 Stat. 171, established a National Commission on Wildfire Disasters to study the effects of disastrous wildfires, resulting from natural or other causes, and to make recommendations concerning steps necessary for smooth and timely transition from loss of natural resources due to such fires, directed the Commission to make findings and develop recommendations for consideration by the Secretaries of Agriculture and the Interior with respect to future management of National Forest System lands, national parks, Bureau of Land Management public lands, and community redevelopment activities and programs, directed the Commission to submit to the Secretaries of Agriculture and the Interior, not later than Dec. 1, 1991, a report containing its findings and recommendations, directed the Secretaries to submit the report to specific committees of Congress, and provided for the Commission to cease 90 days after submission of the report.

EXISTING RIGHTS-OF-WAY

Provisions of section 706(a) of Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2793, except as pertaining to rights-of-way, not to be construed as affecting the authority of the Secretary of Agriculture under this section, see note set out under section 1701 of Title 43, Public Lands.

§ 551a. Cooperation by Secretary of Agriculture with States and political subdivisions in law enforcement

The Secretary of Agriculture, in connection with the administration and regulation of the use and occupancy of the national forests and national grasslands, is authorized to cooperate with any State or political subdivision thereof, on lands which are within or part of any unit of the national forest system, in the enforcement or supervision of the laws or ordinances of a State or subdivision thereof. Such cooperation may include the reimbursement of a State or its subdivision for expenditures incurred in connection with activities on national forest system lands. This section shall not deprive any State or political subdivision thereof of its right to exercise civil and criminal jurisdiction, within or on lands which are a part of the national forest system.

(Pub. L. 92–82, Aug. 10, 1971, 85 Stat. 303.)

§ 551b. Omitted

CODIFICATION

Section, Pub. L. 101–286, title II, § 202, May 9, 1990, 104 Stat. 174, which required the Secretaries of Agriculture and the Interior, for areas under their respective jurisdictions, to submit annual reports to Congress on rehabilitation needs resulting from disastrous forest fire damage, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, pages 47 and 108 of House Document No. 103–7.

§ 551c. Planning for fire protection

(a) Volunteer firefighters

The Secretaries of Agriculture and the Interior shall annually offer training programs to certify volunteers for suppressing forest fires on National Forest System lands, National Park System lands and Bureau of Land Management public lands in the event that the appropriate Secretary determines that such volunteers are needed. In carrying out this subsection, the Secretaries should utilize existing authorities to train volunteer firefighters for use in fire emergencies. The Secretaries should assess the capabilities of educational institutions and other public and private organizations to provide such training programs.

(b) "Educational institutions" defined

For the purposes of this section, the term ''educational institutions'' shall include institutions established pursuant to the Act of July 2, 1862 (7 U.S.C. 301 et seq., commonly known as the ''Morrill Act''), or the Act of August 30, 1890 (7 U.S.C. 321 et seq., commonly known as the ''Second Morrill Act'').

(c) Mobilization of local equipment

Not later than one year after May 9, 1990—

(1) the Secretary of Agriculture shall submit to the Congress information with respect to regions of the National Forest System, and

(2) the Secretary of the Interior shall submit to the Congress information with respect to the Bureau of Land Management public lands on a State-by-State basis and each region of the National Park System

that documents mobilization plans that provide for the use of firefighting equipment in cases of fire emergencies that may occur in each such area that may be highly prone to disastrous forest fires.

(d) Presuppression needs

Not later than one year after May 9, 1990, information from the Secretary of Agriculture on presuppression needs for each region of the National Forest System and information from the Secretary of the Interior on the presuppression needs for each region of the National Park System and for each State unit of the Bureau of Land Management shall be submitted to Congress. These reports shall include needs, including an estimate of the funds required, for fire prevention, fuel reduction, training and seasonal fire crews.

(Pub. L. 101–286, title II, § 203, May 9, 1990, 104 Stat. 175.)

REFERENCES IN TEXT

Act of July 2, 1862, referred to in subsec. (b), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the Morrill Act and also as the First Morrill Act, which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 301 of Title 7 and Tables.

Act of August 30, 1890, referred to in subsec. (b), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 321 of Title 7 and Tables.

FOREST FIREFIGHTING PLANNING AND COOPERATION; FINDINGS

Pub. L. 101–286, title II, § 201, May 9, 1990, 104 Stat. 174, provided that: ''The Congress finds that—

''(1) it is in the best interest of the Nation to take swift action to rehabilitate burned forests, and an assessment of the situation is necessary to accomplish this; and

''(2) volunteers should be trained to assist where possible.''

§ 551d. Wildland firefighter safety

(a) Definitions

In this section:

(1) Secretaries

The term ''Secretaries'' means—

(A) the Secretary of the Interior, acting through the Directors of the Bureau of Land Management, the United States Fish and Wildlife Service, the National Park Service, and the Bureau of Indian Affairs; and

(B) the Secretary of Agriculture, acting through the Chief of the Forest Service.

(2) Wildland firefighter

The term ''wildland firefighter'' means any person who participates in wildland firefighting activities—

(A) under the direction of either of the Secretaries; or

(B) under a contract or compact with a federally recognized Indian tribe.

(b) Annual report to Congress

(1) In general

The Secretaries shall jointly submit to Congress an annual report on the wildland firefighter safety practices of the Secretaries, including training programs and activities for wildland fire suppression, prescribed burning, and wildland fire use, during the preceding calendar year.

(2) Timeline

Each report under paragraph (1) shall—

(A) be submitted by not later than March of the year following the calendar year covered by the report; and

(B) include—

(i) a description of, and any changes to, wildland firefighter safety practices, including training programs and activities for wildland fire suppression, prescribed burning, and wildland fire use;

(ii) statistics and trend analyses;

(iii) an estimate of the amount of Federal funds expended by the Secretaries on wildland firefighter safety practices, including training programs and activities for wildland fire suppression, prescribed burning, and wildland fire use;

(iv) progress made in implementing recommendations from the Inspector General, the Government Accountability Office, the Occupational Safety and Health Administration, or an agency report relating to a wildland firefighting fatality issued during the preceding 10 years; and

(v) a description of—

(I) the provisions relating to wildland firefighter safety practices in any Federal contract or other agreement governing the provision of wildland firefighters by a non-Federal entity;

(II) a summary of any actions taken by the Secretaries to ensure that the provisions relating to safety practices, including training, are complied with by the non-Federal entity; and

(III) the results of those actions.

(Pub. L. 111–11, title III, § 3101, Mar. 30, 2009, 123 Stat. 1127.)

§ 552. Consent to agreement by States for conservation of forests and water supply

Consent of the Congress of the United States is given to each of the several States of the Union to enter into any agreement or compact, not in conflict with any law of the United States, with any other State or States for the purpose of conserving the forests and the water supply of the States entering into such agreement or compact.

(Mar. 1, 1911, ch. 186, § 1, 36 Stat. 961.)

SHORT TITLE

Act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of this title, is popularly known as the Weeks Law.

§ 552a. Restoration of withdrawn national forest lands to appropriation

The President, upon recommendation of the Secretaries of the Interior and Agriculture, may, by Executive order, when in his judgment the public interest would best be served thereby and after reasonable notice has been given through the Department of the Interior, restore any reserved national-forest lands covered by a cooperative agreement with the Secretary of Agriculture for the protection of a watershed within a national forest from which water is secured, to appropriation under any applicable public-lands law.

(May 28, 1940, ch. 220, § 1, 54 Stat. 224; Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.)

CODIFICATION

The words ''restore any of the lands so withdrawn'' have been changed to ''restore any reserved national-forest lands covered by a cooperative agreement with the Secretary of Agriculture for the protection of a watershed within a national forest from which water is secured'' to reflect the change made by Pub. L. 94–579. See 1976 Amendment note below.

AMENDMENTS

1976—Pub. L. 94–579 struck out everything preceding second proviso which read: ''Whenever a municipality obtains its water supply from a national forest and has entered into a cooperative agreement with the Secretary of Agriculture for the protection of the watershed within the national forest from which the water is secured, the President of the United States may, and he is, authorized, upon application by said municipality, and endorsed by the governing board of the county or counties in which the lands concerned are located and approved by the Secretaries of Agriculture and the Interior, to reserve and set aside from all forms of location, entry, or appropriation any national-forest lands, which are covered by such cooperative agreement, subject, however, to valid, existing rights and claims, and such reservation shall remain in force until revoked by the President or by an Act of Congress: *Provided*, That nothing herein shall affect the power of the Secretary of the Interior to withdraw and utilize withdrawn lands under the Federal reclamation laws''.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 704(a) of Pub. L. 94–579 provided in part that this section is amended effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Amendment by Pub. L. 94–579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§ 552b. Administration of withdrawn lands; rules and regulations

Lands withdrawn under the provisions of sections 552a to 552d of this title shall be administered by the Secretary of Agriculture under such agreements for the protection of the watershed as he may make with the municipality concerned, and the Secretary of Agriculture is authorized, in addition to the rules and regulations adopted for the administration of the national forests, to adopt and prescribe such further rules and regulations as he considers necessary to effect the adequate protection of the watershed, including a rule or regulation forbidding persons other than forest officers and representatives of the municipality from going on the lands so reserved or making any use whatever thereof.

(May 28, 1940, ch. 220, § 2, 54 Stat. 224.)

§ 552c. Reimbursement of United States for loss of revenue

Whenever national-forest lands are withdrawn under sections 552a to 552d of this title, and the municipality concerned objects to the utilization of the timber or other resources of lands withdrawn, and the Secretary of Agriculture agrees to withhold such resources from utilization, said municipality shall pay to the Forest Service annually an amount which the Secretary of Agriculture shall determine is necessary to reimburse the United States for the loss of net annual revenues which would be derived from the resources so withheld from disposition.

(May 28, 1940, ch. 220, § 3, 54 Stat. 225.)

§ 552d. Punishment of violations of regulations

Any violation of the regulations issued under sections 552a to 552d of this title shall be punished as is provided in section 1853 of title 18.

(May 28, 1940, ch. 220, § 4, 54 Stat. 225.)

CODIFICATION

''Section 1853 of title 18'' substituted in text for ''section 104 of title 18'' on authority of act June 25, 1948, ch. 645, 62 Stat. 683, the first section of which enacted Title 18, Crimes and Criminal Procedure.

§ 553. Duties of officials of Forest Service; stock laws; protection of fish and game

Officials of the Forest Service designated by the Secretary of Agriculture shall, in all ways that are practicable, aid in the enforcement of the laws of the States or Territories with regard to stock, for the prevention and extinguishment of forest fires, and for the protection of fish and game, and with respect to national forests, shall aid the other Federal bureaus and departments on request from them, in the performance of the duties imposed on them by law.

(May 23, 1908, ch. 192, 35 Stat. 259.)

TRANSFER OF FUNCTIONS

Functions of Secretary of Agriculture, administered through Bureau of Biological Survey, relating to conservation of wildlife, game, and migratory birds, transferred to Secretary of the Interior by Reorg. Plan No. II of 1939, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, set out in the Appendix to Title 5, Government Organization and Employees.

§ 553a. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 655

Section, acts June 29, 1949, ch. 280, title I, 63 Stat. 337; Oct. 15, 1949, ch. 695, § 6(a), 63 Stat. 881, prescribed salary of Chief Forester. See section 5316 of Title 5, Government Organization and Employees.

§ 554. Forest supervisors and rangers

Forest supervisors and rangers shall be selected, when practicable, from qualified citizens of the States or Territories in which the national forests, respectively, are situated.

(Feb. 1, 1905, ch. 288, § 3, 33 Stat. 628.)

CODIFICATION

''National forests'' substituted in text for ''reserves'' on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

§ 554a. Employees to be appointed without regard to political affiliations

Forest inspectors, superintendents, supervisors, surveyors, rangers, and fire patrol are to be hereafter appointed by the Secretary of Agriculture wholly with reference to their fitness and without regard for their political affiliations.

(July 7, 1898, ch. 571, § 1, 30 Stat. 673; Feb. 1, 1905, ch. 288, § 1, 33 Stat. 628.)

TRANSFER OF FUNCTIONS

Act Feb. 1, 1905, transferred certain functions with regard to the administration of public forests from Secretary of the Interior to Secretary of Agriculture.

§ 554b. Medical care for employees engaged in hazardous work; notification and transportation of employees

Appropriations for the Forest Service shall be available for medical supplies and services and other assistance necessary for the immediate relief of artisans, laborers, and other employees engaged in any hazardous work under the Forest Service, and for expenses of notifying employees of the death or serious illness of close relatives and, in such cases where no public transportation is available, for transporting the employees to a point where public transportation is available.

(Sept. 21, 1944, ch. 412, title II, § 202, 58 Stat. 736; Pub. L. 85–464, § 4, June 20, 1958, 72 Stat. 217.)

CODIFICATION

Section was enacted as a part of the Department of Agriculture Organic Act of 1944.

AMENDMENTS

1958—Pub. L. 85–464 made appropriations available for expenses of notifying employees of the death or serious illness of close relatives, and for transportation of employees.

§ 554c. Care of employees' graves

Appropriations for the Forest Service shall be available within such limitations as may be prescribed therein for the expenses of properly caring for the graves of persons who have lost their lives as a result of fighting fires while employed by the Forest Service.

(Sept. 21, 1944, ch. 412, title II, § 206, 58 Stat. 736.)

CODIFICATION

Section was enacted as a part of the Department of Agriculture Organic Act of 1944.

§ 554d. Recreation facilities for employees of Forest Service and their immediate families

Not to exceed $100,000 annually of funds available to the Forest Service may be expended for providing recreation facilities, equipment, and services for use by employees of the Service located at isolated situations and, where deemed to be in the public interest, by members of the immediate families of such employees.

(Pub. L. 87–869, § 3, Oct. 23, 1962, 76 Stat. 1157; Pub. L. 101–512, title II, Nov. 5, 1990, 104 Stat. 1944.)

AMENDMENTS

1990—Pub. L. 101–512 substituted ''$100,000'' for ''$35,000''.

§ 554e. Employment of workers for emergencies

Notwithstanding any other provision of law, on and after October 21, 1998, the Forest Service is authorized to employ or otherwise contract with persons at regular rates of pay, as determined by the Service, to perform work occasioned by emergencies such as fires, storms, floods, earthquakes or any other unavoidable cause without regard to Sundays, Federal holidays, and the regular workweek.

(Pub. L. 105–277, div. A, § 101(e) [title II], Oct. 21, 1998, 112 Stat. 2681–231, 2681–273.)

SIMILAR PROVISIONS

Provisions similar to this section were contained in the following prior appropriation acts:

Pub. L. 105–83, title II, Nov. 14, 1997, 111 Stat. 1577.

Pub. L. 104–208, div. A, title I, § 101(d) [title II], Sept. 30, 1996, 110 Stat. 3009–181, 3009–208.

Pub. L. 104–134, title I, § 101(c) [title II], Apr. 26, 1996, 110 Stat. 1321–156, 1321–185; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103–332, title II, Sept. 30, 1994, 108 Stat. 2524.

Pub. L. 103–138, title II, Nov. 11, 1993, 107 Stat. 1404.

Pub. L. 102–381, title II, Oct. 5, 1992, 106 Stat. 1402.
Pub. L. 102–154, title II, Nov. 13, 1991, 105 Stat. 1019.
Pub. L. 101–512, title II, Nov. 5, 1990, 104 Stat. 1944.

§ 555. Forest headquarters, ranger stations, dwellings, or other needed sites

Where no suitable Government land is available for national forest headquarters, ranger stations, dwellings, or for other sites required for the effective conduct of the authorized activities of the Forest Service, the Secretary of Agriculture is authorized to purchase such lands out of the appropriation applicable to the purpose for which the land is to be used, and to accept donations of land for any national forest or experimental purpose: *Provided*, That such lands may be acquired subject to such reservations and outstanding interests as the Secretary determines will not interfere with the purpose for which acquired: *Provided further*, That not to exceed $50,000 may be expended in any one fiscal year pursuant to this authority.

(Mar. 3, 1925, ch. 457, § 5, 43 Stat. 1133; Apr. 24, 1950, ch. 97, § 13, 64 Stat. 86; Pub. L. 85–464, § 9, June 20, 1958, 72 Stat. 218.)

AMENDMENTS

1958—Pub. L. 85–464 substituted ''$50,000'' for ''$25,000''.

1950—Act Apr. 24, 1950, applied section to dwellings or other needed sites and inserted provisos.

§ 555a. Exchange of lands

Where lands under the jurisdiction of the Forest Service have been acquired and are being administered under laws which contain no provision for their exchange, the Secretary of Agriculture may convey such lands and in exchange therefor may accept on behalf of the United States title to any lands which in his opinion are suitable for use in connection with activities of the Forest Service. The value of the lands so conveyed by the Secretary of Agriculture shall not exceed the value of the lands accepted by him.

(Pub. L. 87–869, § 1, Oct. 23, 1962, 76 Stat. 1157.)

§ 555b. Street improvements; availability of Forest Service funds

Funds available to the Forest Service shall be available for expenses of, or payment of assessment for, construction of sidewalks, curbs, or street paving along the boundary of Government-owned residential or otherwise improved lots.

(Pub. L. 87–869, § 9, Oct. 23, 1962, 76 Stat. 1157.)

§ 556. Appropriations for Forest Service; use for transportation or traveling expenses; preparation or publication of newspaper or magazine articles

No part of any funds appropriated for the Forest Service shall be used to pay the transportation or traveling expenses of any forest officer or agent except he be traveling on business directly connected with the Forest Service and in furtherance of the works, aims, and objects specified and authorized by law; nor shall any such funds be paid or used for the purpose of paying for, in whole or in part, the preparation or publication of any newspaper or magazine article, but this shall not prevent the giving out to all persons, without discrimination, including newspapers and magazine writers and publishers, of any facts or official information of value to the public: *Provided*, That this prohibition shall not apply to scientific or technical articles prepared for or published in scientific publications.

(May 11, 1922, ch. 185, 42 Stat. 521; Pub. L. 85–464, § 8, June 20, 1958, 72 Stat. 218.)

AMENDMENTS

1958—Pub. L. 85–464 made prohibition inapplicable to scientific or technical articles prepared for or published in scientific publications.

§ 556a. Omitted

CODIFICATION

Section, acts June 16, 1955, ch. 147, title II, § 203, 69 Stat. 156; June 13, 1956, ch. 380, title II, § 202, 70 Stat. 270, which related to expenditures for options to purchase lands from appropriations made for the Forest Service, was superseded by section 428a of Title 7, Agriculture.

§ 556b. Use of appropriations for expenses of transporting automobiles of employees between points in Alaska

Funds available to the Forest Service may be used, in accordance with regulations prescribed by the Secretary of Agriculture for expenses of transporting automobiles of employees of that Service between points in Alaska in connection with transfers of official stations of such employees to meet the needs of the Service.

(Pub. L. 85–464, § 3, June 20, 1958, 72 Stat. 217.)

§ 556c. Reimbursement of employees for property losses resulting from fires, floods, or other casualties

Funds available to the Forest Service may be used in amounts not exceeding $100 in any single claim, for reimbursing employees of the Forest Service for loss of or damage to clothing and other personal effects resulting from fires, floods, or other casualties at or near the place in which such property is temporarily stored during services of the employees in connection with such casualties.

(Pub. L. 85–464, § 2, June 20, 1958, 72 Stat. 217.)

§ 556d. Advances of public moneys to Forest Service for fighting forest fires in emergency cases

Advances of money under any appropriation for the Forest Service may be made to the Forest Service and by authority of the Secretary of Agriculture to chiefs of field parties for fighting forest fires in emergency cases and detailed accounts arising under such advances shall be rendered through and by the Department of Agriculture to the Government Accountability Office.

(May 23, 1908, ch. 192, 35 Stat. 259; June 10, 1921, ch. 18, title III, § 304, 42 Stat. 24; Pub. L. 92–310, title II, § 231(v), June 6, 1972, 86 Stat. 211; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

CODIFICATION

Section was enacted as a part of the Agricultural Appropriation Act for the fiscal year 1909, act May 23, 1908.

Section was formerly classified to section 534 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97–258, §1, Sept. 13, 1982, 96 Stat. 877.

AMENDMENTS

1972—Pub. L. 92–310 struck out provisions which required chiefs of field parties to give bonds.

TRANSFER OF FUNCTIONS

''Government Accountability Office'' substituted in text for ''General Accounting Office'' pursuant to section 8(b) of Pub. L. 108–271, set out as a note under section 702 of Title 31, Money and Finance, which redesignated the General Accounting Office and any references thereto as the Government Accountability Office. Previously, ''General Accounting Office'' substituted in text for ''Treasury Department'' pursuant to act June 10, 1921, which transferred all powers and duties conferred upon Comptroller, six auditors, and certain other officers of the Treasury to General Accounting Office. See section 701 et seq. of Title 31.

§ 556e. Emergency appropriations for rehabilitation and wildfire suppression

Beginning in fiscal year 1993, and in each year thereafter, only amounts for emergency rehabilitation and wildfire suppression activities that are in excess of the average of such costs for the previous ten years shall be considered ''emergency requirements'' pursuant to section 901(b)(2)(D)[1] of title 2, and such amounts shall on and after November 13, 1991, be so designated.

(Pub. L. 102–154, title II, Nov. 13, 1991, 105 Stat. 1015.)

REFERENCES IN TEXT

Section 901 of title 2, referred to in text, was amended by Pub. L. 105–33, title X, §10203(a)(4), Aug. 5, 1997, 111 Stat. 699, and, as so amended, section 901(b)(2)(D) no longer refers to ''emergency requirements''. However, ''emergency requirements'' are referred to elsewhere in section 901.

§ 556f. Expenses of student interns

On and after October 5, 1992, funds appropriated to the Department of Agriculture, Forest Service may be used to pay transportation, lodging, and subsistence expenses of student interns, defined as employees who assist scientific, professional, or technical employees and who are bona fide students of accredited colleges or universities who are pursuing courses related to the field in which employed.

(Pub. L. 102–381, title II, Oct. 5, 1992, 106 Stat. 1403.)

§ 556g. Reimbursement of employee license costs and certification fees

Notwithstanding any other provision of law, in fiscal year 1993 and thereafter, appropriations or funds available to the Department of the Interior or the Forest Service, Department of Agriculture, may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their employment and that are necessary to comply with State or Federal laws, regulations, or requirements.

(Pub. L. 102–381, title III, §317, Oct. 5, 1992, 106 Stat. 1417.)

§ 556h. Recognition of private contributors to Forest Service programs

Notwithstanding any other provision of law, on and after October 21, 1998, any appropriations or funds available to the Forest Service may be used to disseminate program information to private and public individuals and organizations through the use of nonmonetary items of nominal value and to provide nonmonetary awards of nominal value and to incur necessary expenses for the nonmonetary recognition of private individuals and organizations that make contributions to Forest Service programs.

(Pub. L. 105–277, div. A, §101(e) [title II], Oct. 21, 1998, 112 Stat. 2681–231, 2681–272.)

SIMILAR PROVISIONS

Provisions similar to this section were contained in the following prior appropriation acts:

Pub. L. 105–83, title II, Nov. 14, 1997, 111 Stat. 1576.

Pub. L. 104–208, div. A, title I, §101(d) [title II], Sept. 30, 1996, 110 Stat. 3009–181, 3009–208.

Pub. L. 104–134, title I, §101(c) [title II], Apr. 26, 1996, 110 Stat. 1321–156, 1321–184; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103–332, title II, Sept. 30, 1994, 108 Stat. 2524.

Pub. L. 103–138, title II, Nov. 11, 1993, 107 Stat. 1403.

Pub. L. 102–381, title II, Oct. 5, 1992, 106 Stat. 1401.

Pub. L. 102–154, title II, Nov. 13, 1991, 105 Stat. 1017.

Pub. L. 101–512, title II, Nov. 5, 1990, 104 Stat. 1942.

Pub. L. 101–121, title II, Oct. 23, 1989, 103 Stat. 726.

§ 556i. Transfer of funds made available to Forest Service

None of the funds made available to the Forest Service in this Act or any other Act with respect to any fiscal year shall be subject to transfer under the provisions of section 2257 of title 7, section 7772 of title 7, or section 8316(b) of title 7.

(Pub. L. 111–88, div. A, title III, Oct. 30, 2009, 123 Stat. 2944.)

REFERENCES IN TEXT

Section 8316(b) of title 7, referred to in text, was in the original ''section 10417(b) of Public Law 107–107 (7 U.S.C. 8316(b))'' which was translated as meaning section 10417(b) of Pub. L. 107–171 to reflect the probable intent of Congress.

SIMILAR PROVISIONS

Provisions similar to this section were contained in the following prior appropriation acts:

Pub. L. 111–8, div. E, title III, Mar. 11, 2009, 123 Stat. 733.

Pub. L. 110–161, div. F, title III, Dec. 26, 2007, 121 Stat. 2133.

§ 557. Employees of Forest Service; subsistence furnished to; personal equipment; supplies, and medical attention

The Secretary of Agriculture is authorized to furnish subsistence to employees of the Forest Service, to purchase personal equipment and supplies for them, and to make deductions therefor from moneys appropriated for salary

[1] See References in Text note below.

payments or otherwise due such employees. He is also authorized, in his discretion, to provide out of moneys appropriated for the general expenses of the Forest Service medical attention for employees of the Forest Service located at isolated situations, including the moving of such employees to hospitals or other places where medical assistance is available, and in case of death to remove the bodies of deceased employees to the nearest place where they can be prepared for shipment or for burial: *Provided*, That when a transient without permanent residence, or any other person while away from his place of residence, is temporarily employed by the Forest Service and while so employed becomes disabled because of injury or illness not attributable to official work, he may be provided hospitalization and other necessary medical care, subsistence, and lodging for a period of not to exceed fifteen days during such disability, the cost thereof to be payable from any funds available to the Forest Service applicable to the work for which such person is employed.

(Mar. 3, 1925, ch. 457, §§4, 6, 43 Stat. 1133; Apr. 24, 1950, ch. 97, §15, 64 Stat. 86.)

AMENDMENTS

1950—Act Apr. 24, 1950, inserted proviso to provide medical care for temporary employees.

§ 557a. Field season contracts; authority to make prior to appropriation

The Secretary of Agriculture is hereafter authorized, in connection with the administration of the national forests, to enter into contracts for the procurement of services, materials, and supplies for the ensuing fiscal year, prior to the passage of an appropriation therefor: *Provided*, That such contracts shall aliquot the cost for such service by fiscal years and shall not be binding on the United States as to that part for the ensuing year unless and until an appropriation applicable to the payment thereof is made: *And provided further*, That all such contracts shall by their terms provide that the obligation of the United States is contingent upon the passage of an applicable appropriation and that no payment thereunder will be made until such appropriation becomes available for expenditure.

(June 30, 1932, ch. 331, 47 Stat. 473.)

§ 557b. Omitted

CODIFICATION

Section, act June 16, 1955, ch. 147, title II, §202, 69 Stat. 156, which related to employment of aliens in the Forest Service, was enacted as part of the Department of the Interior and Related Agencies Appropriation Act, 1956, and was not repeated in the Department of the Interior and Related Agencies Appropriation Act, 1957 (approved June 13, 1956, ch. 380, 70 Stat. 257), or subsequent appropriation acts.

§ 558. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 642

Section, act Mar. 4, 1913, ch. 145, §1[part], 37 Stat. 843, related to leaves of absence to employees of Forest Service in Alaska.

§ 558a. Volunteers in the National Forests Program

The Secretary of Agriculture (hereinafter referred to as the ''Secretary'') is authorized to recruit, train, and accept without regard to the civil service[1] classification laws, rules, or regulations the services of individuals without compensation as volunteers for or in aid of interpretive functions, visitor services, conservation measures and development, or other activities in and related to areas administered by the Secretary through the Forest Service. In carrying out this section, the Secretary shall consider referrals of prospective volunteers made by the Corporation for National and Community Service.

(Pub. L. 92–300, §1, May 18, 1972, 86 Stat. 147; Pub. L. 103–82, title IV, §405(d), Sept. 21, 1993, 107 Stat. 921.)

AMENDMENTS

1993—Pub. L. 103–82 substituted ''the Corporation for National and Community Service'' for ''ACTION''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103–82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

SHORT TITLE

Section 5 of Pub. L. 92–300 provided that: ''This Act [enacting this section and sections 558b to 558d of this title] may be cited as the 'Volunteers in the National Forests Act of 1972'.''

§ 558b. Incidental expenses of program volunteers

The Secretary is authorized to provide for incidental expenses, such as transportation, uniforms, lodging, and subsistence.

(Pub. L. 92–300, §2, May 18, 1972, 86 Stat. 147.)

§ 558c. Employment status of volunteers

(a) Federal employee status

Except as otherwise provided in this section, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(b) Tort claims

For the purpose of the tort claim provisions of title 28, a volunteer under sections 558a to 558d of this title shall be considered a Federal employee.

(c) Civil employees

For the purposes of subchapter I of chapter 81 of title 5, relating to compensation to Federal employees for work injuries, volunteers under sections 558a to 558d of this title shall be deemed civil employees of the United States within the meaning of the term ''employee'' as defined in section 8101 of title 5, and the provisions of that subchapter shall apply.

(d) Compensation for losses and damages

For the purposes of claims relating to damage to, or loss of, personal property of a volunteer

[1] So in original. The word ''and'' probably should appear after ''civil service''.

incident to volunteer service, a volunteer under sections 558a to 558d of this title shall be considered a Federal employee, and the provisions of section 3721 of title 31 shall apply.

(Pub. L. 92–300, § 3, May 18, 1972, 86 Stat. 147; Pub. L. 101–286, title II, § 204(a), May 9, 1990, 104 Stat. 175.)

AMENDMENTS

1990—Subsec. (d). Pub. L. 101–286 added subsec. (d).

§ 558d. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 558a to 558d of this title.

(Pub. L. 92–300, § 4, May 18, 1972, 86 Stat. 147; Pub. L. 95–289, § 1, June 5, 1978, 92 Stat. 289.)

AMENDMENTS

1978—Pub. L. 95–289 struck out limitation requiring not more than $100,000 to be appropriated in any one year.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 2 of Pub. L. 95–289 provided that: ''The amendment made by this Act to the Volunteers in the National Forests Act of 1972 [amending this section] shall become effective October 1, 1978.''

§ 559. Arrests by employees of Forest Service for violations of laws and regulations

All persons employed in the Forest Service of the United States shall have authority to make arrests for the violation of the laws and regulations relating to the national forests, and any person so arrested shall be taken before the nearest United States magistrate judge, within whose jurisdiction the forest is located, for trial; and upon sworn information by any competent person any United States magistrate judge in the proper jurisdiction shall issue process for the arrest of any person charged with the violation of said laws and regulations; but nothing herein contained shall be construed as preventing the arrest by any officer of the United States, without process, of any person taken in the act of violating said laws and regulations.

(Mar. 3, 1905, ch. 1405, 33 Stat. 873; Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 91–383, § 10(a)(2), Aug. 18, 1970, as added Pub. L. 94–458, § 2, Oct. 7, 1976, 90 Stat. 1941; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

CODIFICATION

''Forest Service of the United States'' substituted for ''forest reserve of the United States'' as the probable intent of Congress in that the federal forest reserves were transferred from Department of the Interior to Department of Agriculture by act Feb. 1, 1905, ch. 288, § 1, 33 Stat. 628, and administration of forest reserves was placed in Forest Service which was created by that act.

Words ''national forests'' and ''forest'' substituted for ''forest reserves'' and ''reservation'', respectively, on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

That part of act Mar. 3, 1905, which related to arrests by employees of the National Park Service for violations of laws and regulations, was (prior to the amendment made by Pub. L 94–458) classified to section 10 of this title.

AMENDMENTS

1976—Pub. L. 91–383, § 10(a)(2), as added Pub. L. 94–458, struck out ''and national parks'' after ''national forests'' and ''or national park'' after ''jurisdiction the forest''.

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' wherever appearing in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''United States magistrate'' substituted for ''United States commissioner'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

§ 559a. Reward for information leading to arrest and conviction for violating laws and regulations

The Secretary of Agriculture may pay rewards from appropriations available for the protection and management of the national forests, under such regulations as he may prescribe, for information leading to the arrest and conviction for violation of the laws and regulations relating to fires in or near national forests, or for the unlawful taking of, or injury to, Government property.

(Sept. 21, 1944, ch. 412, title II, § 201, 58 Stat. 736.)

CODIFICATION

Section was enacted as a part of the Department of Agriculture Organic Act of 1944.

§ 559b. Prevention of manufacture, etc., of marijuana and other controlled substances

(a) Purpose

The purpose of sections 559b to 559f of this title is to authorize the Secretary of Agriculture (hereinafter in sections 559b to 559f of this title referred to as the ''Secretary'') to take actions necessary, in connection with the administration and use of the National Forest System, to prevent the manufacture, distribution, or dispensing of marijuana and other controlled substances.

(b) Law enforcement authority

Nothing in sections 559b to 559f of this title shall diminish in any way the law enforcement authority of the Forest Service.

(c) Definitions

As used in sections 559b to 559f of this title, the terms ''manufacture'', ''dispense'', and ''distribute'' shall have the same meaning given such terms in section 802 of title 21.

(Pub. L. 99–570, title XV, § 15002, Oct. 27, 1986, 100 Stat. 3207–191.)

REFERENCES IN TEXT

Sections 559b to 559f of this title, referred to in text, was in the original ''this title'', meaning title XV of Pub. L. 99–570, Oct. 27, 1986, 100 Stat. 3207–191, known as the National Forest System Drug Control Act of 1986, which enacted sections 559b to 559f of this title, amended section 841 of Title 21, Food and Drugs, and enacted provisions set out as a note below. For complete classification of title XV to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Section 15001 of title XV of Pub. L. 99–570 provided that: ''This title [enacting this section and sections

559c to 559f of this title and amending section 841 of Title 21, Food and Drugs] may be cited as the 'National Forest System Drug Control Act of 1986'.''

NATIONAL FOREST SYSTEM, NATIONAL PARK SYSTEM, AND BUREAU OF LAND MANAGEMENT PUBLIC LANDS SAFETY; FINDINGS

Pub. L. 100–690, title VI, § 6254(a), Nov. 18, 1988, 102 Stat. 4363, provided that: ''Congress finds that—

''(1) National Forest System lands continue to be a haven for the unlawful production of marijuana and other controlled substances, which—

''(A) endangers the public in its use of National Forest System lands;

''(B) interferes with the ability of the Forest Service to effectively manage the natural resources and activities within the National Forest System; and

''(C) causes damage and destruction of the natural resources and facilities managed by the Forest Service;

''(2) the unlawful production of marijuana and other controlled substances often—

''(A) is generally harmful to the environment and public health and safety;

''(B) pollutes the air, soil, and water; and

''(C) is harmful to wildlife;

''(3) the Forest Service needs additional authority to adequately deal with the problem of controlled substance production that affects the administration of the National Forest System;

''(4) the Forest Service needs to be able to exercise its investigative authorities outside the boundaries of the National Forest System for drug-related crimes arising from within the National Forest System in order to be effective in deterring such crime;

''(5) the authority and powers of the Forest Service are not intended to be in conflict or interfere with the statutory authority, powers, or responsibilities of any State or political subdivision thereof; and

''(6) the Forest Service, in the exercise of its law enforcement powers, should cooperate to every extent possible with any other Federal, State, or local law enforcement authority having jurisdiction in areas where national forests are located, particularly where coordinated investigative and enforcement actions can be effective to control crime which affects multiple agencies.''

§ 559c. Powers of officers and employees of Forest Service

For the purposes of sections 559b to 559f of this title, if specifically designated by the Secretary and specially trained, not to exceed 1,000 special agents and law enforcement officers of the Forest Service when in the performance of their duties shall have authority to—

(1) carry firearms;

(2) conduct, within the exterior boundaries of the National Forest System, investigations of violations of and enforce section 841 of title 21 and other criminal violations relating to marijuana and other controlled substances that are manufactured, distributed, or dispensed on National Forest System lands and to conduct such investigations and enforcement of such laws outside the exterior boundaries of the National Forest System for offenses committed within the National Forest System or which affect the administration of the National Forest System (including the pursuit of persons suspected of such offenses who flee the National Forest System to avoid arrest);

(3) make arrests with a warrant or process for misdemeanor violations, or without a warrant or process for violations of such misdemeanors that any such officer or employee has probable cause to believe are being committed in his presence or view, or for a felony with a warrant or without a warrant if he has probable cause to believe that the person to be arrested has committed or is committing such felony, for offenses committed within the National Forest System or which affect the administration of the National Forest System;;[1]

(4) serve warrants and other process issued by a court or officer of competent jurisdiction;

(5) search with or without warrant or process any person, place, or conveyance according to Federal law or rule of law; and

(6) seize with or without warrant or process any evidentiary item according to Federal law or rule of law.

(Pub. L. 99–570, title XV, § 15003, Oct. 27, 1986, 100 Stat. 3207–191; Pub. L. 100–690, title VI, § 6254(b), Nov. 18, 1988, 102 Stat. 4363.)

AMENDMENTS

1988—Pub. L. 100–690, § 6254(b)(1), in introductory provision substituted ''1,000 special agents and law enforcement officers'' for ''500 officers and employees'', and struck out ''within the boundaries of the National Forest System'' after ''shall have authority''.

Par. (2). Pub. L. 100–690, § 6254(b)(2), inserted '', within the exterior boundaries of the National Forest System,'' after ''conduct'' and ''and to conduct such investigations and enforcement of such laws outside the exterior boundaries of the National Forest System for offenses committed within the National Forest System or which affect the administration of the National Forest System (including the pursuit of persons suspected of such offenses who flee the National Forest System to avoid arrest)'' before semicolon at end.

Par. (3). Pub. L. 100–690, § 6254(b)(3), inserted '', for offenses committed within the National Forest System or which affect the administration of the National Forest System;'' before semicolon at end.

§ 559d. Cooperation with other Federal, State, and local law enforcement agencies

For the purposes of sections 559b to 559f of this title, in exercising the authority provided by section 559c of this title—

(1) the Forest Service shall cooperate with any other Federal law enforcement agency having primary investigative jurisdiction over the offense committed;

(2) the Secretary may authorize the Forest Service to cooperate with the law enforcement officials of any Federal agency, State, or political subdivision in the investigation of violations of and enforcement of section 401 of the Controlled Substances Act (21 U.S.C. 841), other laws and regulations relating to marijuana and other controlled substances, and State drug control laws or ordinances for offenses committed within the National Forest System or which affect the administration of the National Forest System.[1]

(3) the Forest Service shall cooperate with the Attorney General in carrying out the seizure and forfeiture provisions of section 511 of the Controlled Substances Act (21 U.S.C. 881) for violations of the Controlled Substances

[1] So in original.

[1] So in original. The period probably should be a semicolon.

Act [21 U.S.C. 801 et seq.] relating to offenses committed within the National Forest System, or which affect the administration of the National Forest System;

(4) the Secretary is authorized to designate law enforcement officers of any other Federal agency, when the Secretary determines such designation to be economical and in the public interest, and with the concurrence of that agency, to exercise the powers and authorities of the Forest Service while assisting the Forest Service in the National Forest System, or for activities administered by the Forest Service; and

(5) the Forest Service is authorized to accept law enforcement designation from any other Federal agency or agency of a State or political subdivision thereof for the purpose of cooperating in a multi-agency law enforcement task force investigation of violations of the Controlled Substances Act [21 U.S.C. 801 et seq.] and other offenses committed in the course of or in connection with such violations.

(Pub. L. 99–570, title XV, § 15004, Oct. 27, 1986, 100 Stat. 3207–191; Pub. L. 100–690, title VI, § 6254(c), Nov. 18, 1988, 102 Stat. 4364.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in pars. (3) and (5), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

AMENDMENTS

1988—Par. (2). Pub. L. 100–690, § 6254(c)(2), substituted ''for offenses committed within the National Forest System or which affect the administration of the National Forest System'' for '', within the boundaries of the National Forest System''.

Pars. (3) to (5). Pub. L. 100–690, § 6254(c)(3), added pars. (3) to (5).

§ 559e. Forest Service authorization

In order to improve Federal law enforcement activities relating to the use and production of narcotics and controlled substances on lands administered by the Forest Service, from amounts appropriated there shall be made available to the Secretary, in addition to sums made available under other authority of law, $10,000,000 for fiscal year 1989, and for each fiscal year thereafter, to be used for employment and training of additional and existing Forest Service law enforcement personnel, for expenses related to such employment, training, equipment, and facilities, and for cooperative programs with State and local law enforcement agencies.

(Pub. L. 99–570, title XV, § 15006, Oct. 27, 1986, 100 Stat. 3207–192; Pub. L. 100–690, title VI, § 6254(d)(1), Nov. 18, 1988, 102 Stat. 4364.)

AMENDMENTS

1988—Pub. L. 100–690 amended section generally. Prior to amendment, section read as follows: ''There is authorized to be appropriated $10,000,000 for each fiscal year to carry out sections 559b to 559f of this title.''

§ 559f. Approval of Secretary of Agriculture and Attorney General

The authorities conferred herein shall be exercised pursuant to an agreement approved by the Secretary of Agriculture and the Attorney General.

(Pub. L. 99–570, title XV, § 15007, Oct. 27, 1986, 100 Stat. 3207–192.)

REFERENCES IN TEXT

Herein, referred to in text, probably means title XV of Pub. L. 99–570, Oct. 27, 1986, 100 Stat. 3207–191, known as the National Forest System Drug Control Act of 1986, which enacted sections 559b to 559f of this title, amended section 841 of Title 21, Food and Drugs, and enacted provisions set out as a note under section 559b of this title. For complete classification of title XV to the Code, see Short Title note set out under section 559b of this title and Tables.

§ 559g. Designation authority of Secretary of Agriculture

(a) Purpose

It is the purpose of this section to authorize the Secretary of Agriculture to make law enforcement operations more efficient in connection with the administration and use of the National Forest System.

(b) Officers of other agencies

The Secretary is authorized to designate law enforcement officers of any other Federal agency, when the Secretary determines such designation to be economical and in the public interest, and with the concurrence of that agency, to exercise the powers and authorities of the Forest Service while assisting the Forest Service in the National Forest System, or for activities administered by the Forest Service.

(c) Acceptance by Forest Service

The Forest Service is authorized to accept law enforcement designation from any other Federal agency or agency of a State or political subdivision thereof for the purpose of cooperating in the investigation and enforcement of any Federal or State law or ordinance and regulation of any such agency, when such investigation or enforcement is mutually beneficial to the National Forest System and the cooperating agency or jurisdiction, upon entering into a memorandum of understanding or cooperative agreement with such agency or jurisdiction.

(Pub. L. 99–570, title XV, § 15008, as added Pub. L. 100–690, title VI, § 6254(e), Nov. 18, 1988, 102 Stat. 4365.)

§ 560. Use of timber for telephone lines for fire protection

The Secretary of Agriculture, whenever he may deem it necessary for the protection of the national forests from fire, may permit the use of timber free of charge for the construction of telephone lines.

(Mar. 4, 1913, ch. 145, § 1 (part), 37 Stat. 843.)

§ 560a. Omitted

CODIFICATION

Section, Pub. L. 93–404, title II, Aug. 31, 1974, 88 Stat. 817, which prohibited expenditure of funds appropriated

to the Forest Service for the purchase of twine manufactured from commodities or materials produced outside of the United States except to provide materials required for research or experimental work where no suitable domestic product was available, was from the Department of the Interior and Related Agencies Appropriation Act, 1975, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Oct. 4, 1973, Pub. L. 93–120, title II, 87 Stat. 442.
Aug. 10, 1972, Pub. L. 92–369, title II, 86 Stat. 521.
Aug. 10, 1971, Pub. L. 92–76, title II, 85 Stat. 241.
July 31, 1970, Pub. L. 91–361, title II, 84 Stat. 682.
Oct. 29, 1969, Pub. L. 91–98, title II, 83 Stat. 161.
July 26, 1968, Pub. L. 90–425, title II, 82 Stat. 440.
June 24, 1967, Pub. L. 90–28, title II, 81 Stat. 72.
May 31, 1966, Pub. L. 89–435, title II, 80 Stat. 184.
June 28, 1965, Pub. L. 89–52, title II, 79 Stat. 188.
July 7, 1964, Pub. L. 88–356, title II, 78 Stat. 287.
July 26, 1963, Pub. L. 88–79, title II, 77 Stat. 110.
Aug. 9, 1962, Pub. L. 87–578, title II, 76 Stat. 348.
Aug. 3, 1961, Pub. L. 87–122, title II, § 201, 75 Stat. 259.
May 13, 1960, Pub. L. 86–455, title II, § 202, 74 Stat. 116.
June 23, 1959, Pub. L. 86–60, title II, § 202, 73 Stat. 105.
June 4, 1958, Pub. L. 85–439, title II, § 202, 72 Stat. 168.
July 1, 1957, Pub. L. 85–77, title II, § 202, 71 Stat. 270.
June 13, 1956, ch. 380, title II, § 203, 70 Stat. 270.
June 16, 1955, ch. 147, title II, § 204, 69 Stat. 156.

§ 561. Repealed. Oct. 31, 1951, ch. 654, § 1(45), 65 Stat. 703

Section, act Mar. 15, 1920, ch. 100, §§ 3, 4, 41 Stat. 531, related to transfer of surplus telephone supplies from the Military Establishment to the Department of Agriculture for use of the Forest Service.

§ 562. Forest experiment station in California

In order to determine and demonstrate the best methods for the conservative management of forest and forest lands and the protection of timber and other forest products, the Secretary of Agriculture is authorized and directed (1) to establish and maintain, in cooperation with the State of California and with the surrounding States, a forest experiment station at such place or places as he may determine to be most suitable, and (2) to conduct, independently or in cooperation with other branches of the Federal Government, the States, universities, colleges, county and municipal agencies, business organizations, and individuals, such silvicultural, dendrological, forest fire, economic, and other experiments and investigations as may be necessary.

(Mar. 3, 1925, ch. 424, § 1, 43 Stat. 1108.)

§ 562a. Forest experiment station in Ohio and Mississippi Valleys

The Secretary of Agriculture is authorized to establish and maintain a forest experiment station in the States of the Ohio Valley and central Mississippi Valley, at such a place or places as may be selected by him, and he is authorized and directed to conduct silvicultural, forest-fire, dendrological, and other experiments and investigations, independently or in cooperation with other branches of the Federal Government, and with States, universities, colleges, county and municipal agencies, associations, and individuals, to determine the best methods for the growing, management, and protection of timber crops on forest lands and farm wood lots. Such annual appropriations as may thereafter be necessary for its maintenance and operation are hereby authorized.

(July 3, 1926, ch. 767, §§ 1, 2, 44 Stat. 838.)

CODIFICATION

A provision authorizing an appropriation of $30,000 for fiscal year ending June 30, 1927, for establishment of the forest experiment station referred to in this section was omitted as executed.

§ 562b. Forest experiment station in Pennsylvania

In order to determine and demonstrate the best methods for the growing, management, and protection of timber crops on forest lands and farm wood lots, the Secretary of Agriculture is authorized and directed to establish and maintain a forest experiment station at such place or places as may be determined as most suitable by him, in cooperation with the State of Pennsylvania and with the neighboring States, and to conduct such silvicultural and other forest experiments and investigations as may be necessary, either independently or in cooperation with other organizations, institutions, or individuals, and to carry out the purposes of this section an appropriation in the amount of $30,000 is authorized.

(July 3, 1926, ch. 770, 44 Stat. 840.)

§ 563. Cooperation with States for fire protection on private or State forest lands upon the watersheds of navigable rivers

The Secretary of Agriculture is authorized, and on such conditions as he deems wise, to stipulate and agree with any State or group of States to cooperate in the organization and maintenance of a system of fire protection on any private or State forest lands within such State or States and situated upon the watershed of a navigable river. No such stipulation or agreement shall be made with any State which has not provided by law for a system of forest-fire protection. In no case shall the amount expended in any State exceed in any fiscal year the amount appropriated by that State for the same purpose during the same fiscal year.

(Mar. 1, 1911, ch. 186, § 2, 36 Stat. 961.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR FOR PURPOSES OF MATCHING REQUIREMENTS

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of this section relating to matching requirements, see section 202(1) of Pub. L. 94–274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 2652 of Title 7, Agriculture.

§§ 564, 565. Repealed. Pub. L. 95–313, § 16(a)(1), formerly § 13(a)(1), July 1, 1978, 92 Stat. 374; renumbered § 16(a)(1), Pub. L. 101–624, title XII, § 1215(1), Nov. 28, 1990, 104 Stat. 3525

Section 564, act June 7, 1924, ch. 348, § 1, 43 Stat. 653, required cooperation between the Secretary of Agriculture and State officials as to recommendations for forest fire prevention and suppression systems.

Section 565, acts June 7, 1924, ch. 348, § 2, 43 Stat. 653; Mar. 3, 1925, ch. 447, 43 Stat. 1127; Apr. 13, 1926, ch. 119, 44 Stat. 242; Sept. 21, 1944, ch. 412, title II, § 207, 58 Stat. 736; July 25, 1947, ch. 327, § 1, 61 Stat. 449, required cooperation between the Secretary of Agriculture and

State officials in fire protection of timbered and forest-producing lands.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 17 of Pub. L. 95–313, set out as an Effective Date note under section 2101 of this title.

§ 565a. Cooperation by Secretary of Agriculture with Territories

The Secretary of Agriculture is authorized to cooperate with the Territories of the United States on the same terms and conditions as with States under sections 564 and 565[1] of this title.

(Feb. 20, 1931, ch. 249, 46 Stat. 1200.)

REFERENCES IN TEXT

Sections 564 and 565 of this title, referred to in text, were repealed by Pub. L. 95–313, § 13(a)(1), July 1, 1978, 92 Stat. 374.

§ 565a–1. Cooperative agreements between Secretary of Agriculture and public or private agencies, organizations, institutions, and persons covering Forest Service programs; authority; funding

To facilitate the administration of the programs and activities of the Forest Service, the Secretary is authorized to negotiate and enter into cooperative agreements with public or private agencies, organizations, institutions, or persons to construct, operate, and maintain cooperative pollution abatement equipment and facilities, including sanitary landfills, water systems, and sewer systems; to engage in cooperative manpower and job training and development programs; to develop and publish cooperative environmental education and forest history materials; and to perform forestry protection, including fire protection, timber stand improvement, debris removal, and thinning of trees. The Secretary may enter into aforesaid agreements when he determines that the public interest will be benefited and that there exists a mutual interest other than monetary considerations. In such cooperative arrangements, the Secretary is authorized to advance or reimburse funds to cooperators from any Forest Service appropriation available for similar kinds of work or by furnishing or sharing materials, supplies, facilities, or equipment without regard to the provisions of section 3324(a) and (b) of title 31, relating to the advance of public moneys.

(Pub. L. 94–148, § 1, Dec. 12, 1975, 89 Stat. 804.)

CODIFICATION

''Section 3324(a) and (b) of title 31'' substituted in text for ''the Act of January 31, 1823 (Rev. Stat. 3648, as amended; 31 U.S.C. 529)'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

MUTUAL BENEFIT OF AGREEMENTS TO FOREST SERVICE AND OTHER PARTIES

Pub. L. 108–7, div. F, title III, § 321, Feb. 20, 2003, 117 Stat. 274, as amended by Pub. L. 109–54, title IV, § 426, Aug. 2, 2005, 119 Stat. 555; Pub. L. 110–161, div. F, title IV, § 417, Dec. 26, 2007, 121 Stat. 2149, provided that: ''Until September 30, 2010, the authority of the Secretary of Agriculture to enter into an agreement under the first section of Public Law 94–148 (16 U.S.C. 565a–1) for a purpose described in such section includes the authority to use that legal instrument when the principal purpose of the resulting relationship is to the mutually significant benefit of the Forest Service and the other party or parties to the agreement, including nonprofit entities. An agreement entered into under this section shall not be subject to Public Law 95–224, Federal Grant and Cooperative Agreement Act (1977) [see section 6301 et seq. of Title 31, Money and Finance].''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 107–63, title III, § 328, Nov. 5, 2001, 115 Stat. 470.

§ 565a–2. Federal employee status of cooperators

In any agreement authorized by section 565a–1 of this title, cooperators and their employees may perform cooperative work under supervision of the Forest Service in emergencies or otherwise as mutually agreed to, but shall not be deemed to be Federal employees other than for the purposes of chapter 171 of title 28 and chapter 81 of title 5.

(Pub. L. 94–148, § 2, Dec. 12, 1975, 89 Stat. 804.)

§ 565a–3. Agreements otherwise authorized by law

Nothing in sections 565a–1 to 565a–3 of this title shall be construed as limiting or modifying the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

(Pub. L. 94–148, § 3, Dec. 12, 1975, 89 Stat. 804.)

§ 565b. Transfer of fire lookout towers and other improvements for fire control to States, political subdivisions or agencies; reversion

The Secretary of Agriculture is authorized, subject to such conditions as he may prescribe, to transfer, without reimbursement or at such prices and upon such terms as he may impose, to States and political subdivisions or agencies thereof fire lookout towers and other structures or improvements used by the Forest Service for fire prevention or suppression purposes, and the land used in connection therewith if such land is outside national forest boundaries, when they are no longer needed by the Forest Service for such purposes but are of value to the State or political subdivision or agency thereof in its fire protection system: *Provided*, That if any property so transferred is not put to use for the purpose for which it was transferred within two years from the date of transfer, or if, within fifteen years from the date of transfer, any such property should cease to be used for the purpose for which it was transferred for a period of two years, title thereto shall revert to and immediately revest in the United States.

(Pub. L. 85–464, § 5, June 20, 1958, 72 Stat. 217.)

§ 566. Repealed. Pub. L. 95–313, § 16(a)(1), formerly § 13(a)(1), July 1, 1978, 92 Stat. 374; renumbered § 16(a)(1), Pub. L. 101–624, title XII, § 1215(1), Nov. 28, 1990, 104 Stat. 3525

Section, acts June 7, 1924, ch. 348, § 3, 43 Stat. 653; May 5, 1944, ch. 189, 58 Stat. 216; May 5, 1972, Pub. L. 92–288, § 3(a), 86 Stat. 134, authorized expenditures by the Secretary of Agriculture for study of effects of tax and other laws on forest perpetuation, etc.

[1] See References in Text note below.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 17 of Pub. L. 95–313, set out as an Effective Date note under section 2101 of this title.

§ 566a. Repealed. Pub. L. 92–288, § 3(b), May 5, 1972, 86 Stat. 134

Section, act Oct. 26, 1949, ch. 735, § 1, 63 Stat. 909, provided for annual authorization of appropriations for carrying out sections 564, 565, and 566 of this title, with maximum limits for the fiscal years ending June 30, 1950 through June 30, 1954.

§ 566b. Annual appropriations; limitation on use of other funds for the purposes of sections 564, 565, and 566 [1]

Notwithstanding any other provision of law, no funds heretofore or hereafter authorized to be appropriated to the Department of Agriculture or available under any other than the Act of June 7, 1924 (43 Stat. 653), shall be used for carrying out the programs or activities authorized by sections 564, 565, and 566 [1] of this title: *Provided*, That whenever the programs and activities being carried out under the provisions of sections 564, 565, and 566 [1] of this title are inadequate to the needs and purposes of programs and activities authorized by other law the use of funds specifically authorized to be appropriated to the Department of Agriculture or made available under other law shall not be prohibited to the extent that the programs and activities under said sections are inadequate to accomplish the purposes of such other programs or activities.

(Oct. 26, 1949, ch. 735, § 4, 63 Stat. 910.)

REFERENCES IN TEXT

Act of June 7, 1924, referred to in text, is act June 7, 1924, ch. 348, 43 Stat. 653, which is classified to sections 471, 499, 505, 515, 564, 565, 566, 567, 568, 569, and 570 of this title. For complete classification of this Act to the Code, see Tables.

Sections 564, 565, and 566 of this title, referred to in text, were repealed by Pub. L. 95–313, § 13(a)(1), July 1, 1978, 92 Stat. 374.

§ 567. Repealed. Pub. L. 95–313, § 16(a)(1), formerly § 13(a)(1), July 1, 1978, 92 Stat. 374; renumbered § 16(a)(1), Pub. L. 101–624, title XII, § 1215(1), Nov. 28, 1990, 104 Stat. 3525

Section, acts June 7, 1924, ch. 348, § 4, 43 Stat. 654; Oct. 26, 1949, ch. 735, § 2, 63 Stat. 909, required cooperation between Secretary of Agriculture and States in procuring, etc., forest-tree seeds and plants.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 17 of Pub. L. 95–313, set out as an Effective Date note under section 2101 of this title.

§ 567a. Cooperation by Secretary of Agriculture with States in acquisition and administration of State forests

For the purpose of stimulating the acquisition, development, and proper administration and management of State forests and of insuring coordinated effort by Federal and State agencies in carrying out a comprehensive national program of forest-land management, the Secretary of Agriculture is authorized to enter into cooperative agreements with appropriate officials of any State or States for acquiring in the name of the United States, by purchase or otherwise, such forest lands within the cooperating State as in his judgment the State is adequately prepared to administer, develop, and manage as State forests in accordance with the provisions of sections 567a to 567c of this title and with such other terms not inconsistent therewith as he shall prescribe, such acquisition to include the mapping, examination, appraisal, and surveying of such lands and the doing of all things necessary to perfect title thereto in the United States: *Provided*, That, since it is the declared policy of Congress to maintain and, where it is in the national interest to extend the national-forest system, nothing herein shall be construed to modify, limit, or change in any manner whatsoever the future ownership and administration by the United States of existing national forests and related facilities, or hereafter to restrict or prevent their extension through the acquisition by purchase or otherwise of additional lands for any national-forest purpose: *Provided further*, That sections 567a to 567c of this title shall not be construed to limit or repeal any legislation authorizing land exchanges by the Federal Government, and private lands acquired by exchange within the limits of any area subject to a cooperative agreement of the character herein authorized shall hereafter be subject to the provisions of sections 567a to 567c of this title.

(Aug. 29, 1935, ch. 808, § 1, 49 Stat. 963.)

§ 567b. Conditions and requirements for cooperation in acquisition and management of State forests

No cooperative agreement shall be entered into or continued in force under the authority of sections 567a to 567c of this title or any land acquired hereunder turned over to the cooperating State for administration, development, and management unless the State concerned, as a consideration for the benefits extended to it thereunder, complies in a manner satisfactory to the Secretary of Agriculture with the following conditions and requirements which shall constitute a part of every such agreement:

(a) In order to reduce the need for public expenditures in the acquisition of lands which may be brought into public ownership through the enforcement of appropriate tax delinquency laws, and, by bringing about the handling of such lands upon a sound social and economic basis, to terminate a system of indeterminate and unsound ownership injurious to the private and public interest alike, no additional lands shall be acquired within any State by the United States under sections 567a to 567c of this title after June 30, 1942, unless the State concerned has prior thereto provided by law for the reversion of title to the State or a political unit thereof of tax-delinquent lands and for blocking into State or other public forests the areas which are more suitable for public than private ownership, and which in the public interest should be devoted primarily to the production of timber crops and/or the maintenance of forests

[1] See References in Text note below.

for watershed protection, and for the enforcement of such law: *Provided*, That in the administration of sections 567a to 567c of this title prior to June 30, 1942, preference will be given to States applying for cooperation hereunder which provided by law for such reversion of title under tax delinquency laws.

(b) In order to insure a stable and efficient organization for the development and administration of the lands acquired under sections 567a to 567c of this title, the State shall provide for the employment of a State forester, who shall be a trained forester of recognized standing.

(c) The Secretary of Agriculture and the appropriate authorities of each cooperating State shall work out a mutually satisfactory plan defining forest areas within the State which can be most effectively and economically administered by said State, which plan shall constitute a part of the cooperative agreement between the United States and the State concerned: *Provided*, That nothing herein shall be held to prevent the Secretary of Agriculture from later agreeing with the proper State authorities to desirable modifications in such plan.

(d) No payment of Federal funds shall be made for land selected for purchase by the United States under sections 567a to 567c of this title until such proposed purchase has been submitted to and approved by the National Forest Reservation Commission created by section 513 of this title.

(e) Subject to the approval of the National Forest Reservation Commission, the Secretary of Agriculture is authorized to pay out of any available money appropriated for carrying out the purposes of sections 567a to 567c of this title any State, county, and/or town taxes, exclusive of penalties, due or accrued on any forest lands acquired by the United States under donations from the owners thereof and which lands are to be included in a State or other public forest pursuant to said sections.

(f) The State shall prepare such standards of forest administration, development, and management as are necessary to insure maximum feasible utility for timber production and watershed protection, and are acceptable to the Secretary of Agriculture and shall apply the same to lands acquired and placed under the jurisdiction of the State pursuant to sections 567a to 567c of this title.

(g) That with the exception of such Federal expenditures as may be made for unemployment relief, the State shall pay without assistance from the Federal Government the entire future cost of administering, developing, and managing all forest lands acquired and over which it has been given jurisdiction under sections 567a to 567c of this title.

(h) During the period any cooperative agreement made under sections 567a to 567c of this title remains in force, one-half of the gross proceeds from all lands covered by said agreement and to which the United States holds title shall be paid by the State to the United States and covered into the Treasury. All such payments shall be credited to the purchase price the State is to pay the United States for said land, such purchase price to be an amount equal to the total sum expended by the United States in acquiring said lands. Upon payments of the full purchase price, either as herein provided or otherwise, title to said lands shall be transferred from the Federal Government to the State, and the Secretary of Agriculture is authorized to take such action and incur such expenditures, as may be necessary to effectuate such transfer.

(i) Upon the request of the State concerned, any agreement made pursuant to sections 567a to 567c of this title may be terminated by the Secretary of Agriculture. The Secretary of Agriculture may, with the consent and approval of the National Forest Reservation Commission, after due notice given the State and an opportunity for hearing by said Commission, terminate any such agreement for violations of its terms and/or the provisions of said sections of this title. If such agreement is terminated, the United States shall reimburse the State for so much of the State funds as have been expended in the administration, development, and management of the lands involved as the Secretary of Agriculture may decide to be fair and equitable.

(j) The State shall furnish the Secretary of Agriculture with such annual, periodic, or special reports as he may require respecting the State's operations under its agreement with him.

(k) When a State or political unit thereof acquires under tax delinquency laws title to forest lands without cost to the United States and which lands are included within a State or other public forest, the Secretary of Agriculture, on behalf of the Federal Government, may contribute annually out of any funds made available under sections 567a to 567c of this title not to exceed one-half the cost of administering, developing, and managing said lands.

(Aug. 29, 1935, ch. 808, § 2, 49 Stat. 963.)

REFERENCES IN TEXT

The National Forest Reservation Commission, referred to in subsecs. (d), (e), and (i), was created by section 4 of act Mar. 1, 1911 (16 U.S.C. 513). Section 4 of the 1911 Act was repealed, and all functions of the National Forest Reservation Commission were transferred to the Secretary of Agriculture, by section 17(a)(1) of Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2961.

§ 567c. Authorization of appropriation for cooperation in acquisition and management of State forests

For the purposes of sections 567a to 567c of this title, there is authorized to be appropriated, a sum or sums out of any money in the Treasury not otherwise appropriated, not to exceed $5,000,000, as Congress may from time to time appropriate.

(Aug. 29, 1935, ch. 808, § 3, 49 Stat. 965.)

§ 568. Cooperation by Secretary of Agriculture with States in establishing, etc., wood lots, shelter belts, windbreaks, etc.; limitation on expenditure; authorization of appropriations

The Secretary of Agriculture is authorized and directed, in cooperation with the land grant colleges and universities of the various States or, in his discretion, with other suitable State agencies, to aid farmers through advice, education,

demonstrations, and other similar means in establishing, renewing, protecting, and managing wood lots, shelter belts, windbreaks, and other valuable forest growth, and in harvesting, utilizing, and marketing the products thereof. Except for preliminary investigations, the amount expended by the Federal Government under this section in cooperation with any State or other cooperating agency during any fiscal year shall not exceed the amount expended by the State or other cooperating agency for the same purpose during the same fiscal year, and the Secretary of Agriculture is authorized to make expenditures on the certificate of the appropriate State official that the State expenditures, as provided for in this section, have been made. There is authorized to be appropriated annually out of any money in the Treasury not otherwise appropriated, not more than $500,000 to enable the Secretary of Agriculture to carry out the provisions of this section.

(June 7, 1924, ch. 348, §5, 43 Stat. 654; Oct. 26, 1949, ch. 735, §3, 63 Stat. 910.)

AMENDMENTS

1949—Act Oct. 26, 1949, enlarged and clarified the Federal-State educational program with small forest-land owners, and increased the annual appropriations from $100,000 to $500,000.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR FOR PURPOSES OF MATCHING REQUIREMENTS

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of this section relating to matching requirements, see section 202(2) of Pub. L. 94–274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 2652 of Title 7, Agriculture.

CONTRIBUTIONS BY STATES, ETC.

Section 208 of act Sept. 21, 1944, ch. 412, title II, 58 Stat. 736, provided: ''No part of any appropriation which is available for carrying out the Cooperative Farm Forestry Act (16 U.S.C. 568b) [repealed] and sections 4 and 5 of the Clarke-McNary Act (16 U.S.C. 567 [repealed], 568) shall be expended in any State or Territory unless the State or Territory, or local subdivision thereof, or individuals, or associations contribute a sum equal to that to be allotted therefrom by the Government or make contributions other than money deemed by the Secretary to be the value equivalent thereof.''

APPROPRIATIONS AVAILABLE FOR 3 YEARS

Section 209 of act Sept. 21, 1944, ch. 412, title II, 58 Stat. 737, provided: ''Appropriations for carrying out the Cooperative Farm Forestry Act (16 U.S.C. 568b) [repealed] and sections 4 and 5 of the Clarke-McNary Act (16 U.S.C. 567 [repealed], 568) and Acts supplementary thereto allocated for the production or procurement of nursery stock by any Federal agency, or funds appropriated to any Federal agency for allocation to cooperating States for the production or procurement of nursery stock, shall remain available for expenditure for not more than three fiscal years.''

§ 568a. Cooperation by Secretary of Agriculture with Territories and other possessions

The Secretary of Agriculture is authorized to cooperate with Territories and other possessions of the United States on the same terms and conditions as with States under sections 566, 567,[1] and 568 of this title.

[1] See References in Text note below.

(Apr. 13, 1926, ch. 134, 44 Stat. 250.)

REFERENCES IN TEXT

Sections 566 and 567 of this title, referred to in text, were repealed by Pub. L. 95–313, §13(a)(1), July 1, 1978, 92 Stat. 374.

§ 568b. Repealed. Aug. 25, 1950, ch. 781, § 3, 64 Stat. 473, eff. June 30, 1951

Section, act May 18, 1937, ch. 226, 50 Stat. 188, related to cooperation by Secretary of Agriculture in development of farm forestry in States and Territories. This section was known as the ''Cooperative Farm Forestry Act''.

§§ 568c to 568e. Repealed. Pub. L. 95–313, § 16(a)(4), (5), formerly § 13(a)(4), (5), July 1, 1978, 92 Stat. 374; renumbered § 16(a)(4), (5), Pub. L. 101–624, title XII, § 1215(1), Nov. 28, 1990, 104 Stat. 3525

Section 568c, acts Aug. 25, 1950, ch. 781, §1, 64 Stat. 473; May 5, 1972, Pub. L. 92–288, §1, 86 Stat. 134, required cooperation between Secretary of Agriculture and State officials in providing technical services to private landowners, etc.

Section 568d, acts Aug. 25, 1950, ch. 781, §2, 64 Stat. 473; Sept. 25, 1962, Pub. L. 87–680, 76 Stat. 569; May 5, 1972, Pub. L. 92–288, §2, 86 Stat. 134, set forth funding requirements for cooperative forest management programs involving private landowners, etc.

Section 568e, act May 28, 1956, ch. 327, title IV, §401, 70 Stat. 207, set forth provisions relating to assistance to States for tree planting and reforestation through the Secretary of Agriculture.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 17 of Pub. L. 95–313, set out as an Effective Date note under section 2101 of this title.

SHORT TITLE

Section 4 of act Aug. 25, 1950, setting forth the popular name of the act of Aug. 25, 1950, as the ''Cooperative Forest Management Act,'' was repealed by Pub. L. 95–313, §16(a)(4), formerly §13(a)(4), July 1, 1978, 92 Stat. 374, renumbered §16(a)(4), Pub. L. 101–624, title XII, §1215(1), Nov. 28, 1990, 104 Stat. 3525.

§§ 568f, 568g. Omitted

CODIFICATION

Section 568f, act May 28, 1956, ch. 327, title IV, §402, 70 Stat. 208, required the Secretary of Agriculture to make a study of price trends and relationships for basic forest products and submit a report to the Congress within one year from May 28, 1956.

Section 568g, act May 28, 1956, ch. 327, title IV, §403, as added Aug. 28, 1958, Pub. L. 85–829, 72 Stat. 986, which provided that as used in section 568e of this title, the term ''State'' included the Territory of Hawaii, is obsolete in view of the repeal of section 568e of this title by Pub. L. 95–313, §13(a)(5), July 1, 1978, 92 Stat. 374.

§ 569. Donations to United States of lands for timber purposes

To enable owners of lands chiefly valuable for the growing of timber crops to donate or devise such lands to the United States in order to assure future timber supplies for the agricultural and other industries of the State or for other national forest purposes, the Secretary of Agriculture is authorized, in his discretion, to accept on behalf of the United States title to any such land so donated or devised, subject to such reservations by the donor of the present stand of

merchantable timber or of mineral or other rights for a period not exceeding twenty years as the Secretary of Agriculture may find to be reasonable and not detrimental to the purposes of this section, and to pay out of any moneys appropriated for the general expenses of the Forest Service the cost of recording deeds or other expenses incident to the examination and acceptance of title. Any lands to which title is so accepted shall be in units of such size or so located as to be capable of economical administration as national forests either separately or jointly with other lands acquired under this section, or jointly with an existing national forest. All lands to which title is accepted under this section shall, upon acceptance of title, become national forest lands, subject to all laws applicable to lands acquired under the Act of March 1, 1911, and amendments thereto. In the sale of timber from national forest lands acquired under this section preference shall be given to applicants who will furnish the products desired therefrom to meet the necessities of citizens of the United States engaged in agriculture in the States in which such national forest is situated. All property, rights, easements, and benefits authorized by this section to be retained by or reserved to owners of lands donated or devised to the United States shall be subject to the tax laws of the States where such lands are located.

(June 7, 1924, ch. 348, § 7, 43 Stat. 654.)

REFERENCES IN TEXT

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

§ 570. Ascertainment by Secretary of Agriculture of public lands valuable for stream-flow protection and report thereof

The Secretary of Agriculture is authorized to ascertain and determine the location of public lands chiefly valuable for stream-flow protection or for timber production, which can be economically administered as parts of national forests, and to report his findings to the National Forest Reservation Commission established under the Act of March 1, 1911, and if the commission shall determine that the administration of said lands by the Federal Government will protect the flow of streams used for navigation or for irrigation, or will promote a future timber supply, the President shall lay the findings of the commission before the Congress of the United States.

(June 7, 1924, ch. 348, § 8, 43 Stat. 655.)

REFERENCES IN TEXT

The National Forest Reservation Commission, referred to in text, was established under section 4 of Act Mar. 1, 1911 (16 U.S.C. 513). Section 4 of the 1911 act was repealed, and all functions of the National Forest Reservation Commission were transferred to the Secretary of Agriculture, by section 17(a)(1) of Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2961.

§ 571. Repealed. Apr. 24, 1950, ch. 97, § 17(a), 64 Stat. 87

Section, act Mar. 3, 1925, ch. 457, § 2, 43 Stat. 1132, related to construction of buildings for national forest purposes.

§§ 571a, 571b. Omitted

CODIFICATION

Section 571a, Pub. L. 85–77, title II, July 1, 1957, 71 Stat. 270, which related to maximum allowance on construction costs, was from the Department of the Interior and Related Agencies Appropriations Act, 1958, and was not repeated in subsequent appropriation acts.

Section 571b, Pub. L. 85–439, title II, June 4, 1958, 72 Stat. 167, which related to maximum allowance for building improvements, was from the Department of the Interior and Related Agencies Appropriation Act, 1959, and was not repeated in subsequent appropriation acts.

PRIOR PROVISIONS

Provisions similar to former section 571a of this title were carried in following prior appropriation acts:
June 13, 1956, ch. 380, title II, 70 Stat. 268.
June 16, 1955, ch. 147, title II, 69 Stat. 153.
June 29, 1954, ch. 409, title I, 68 Stat. 307.
July 28, 1953, ch. 251, title I, 67 Stat. 211.
July 5, 1952, ch. 574, title I, 66 Stat. 342.
Aug. 31, 1951, ch. 374, title I, 65 Stat. 232.
Sept. 6, 1950, ch. 896, Ch. VI, title I, 64 Stat. 665.
June 29, 1949, ch. 280, title I, 63 Stat. 337.
June 19, 1948, ch. 543, 62 Stat. 520.
July 30, 1947, ch. 356, title I, 61 Stat. 523.
June 22, 1946, ch. 445, 60 Stat. 283.
May 5, 1945, ch. 109, 59 Stat. 149.
June 28, 1944, ch. 296, 58 Stat. 442.
July 12, 1943, ch. 215, 57 Stat. 411.
July 22, 1942, ch. 516, 56 Stat. 679.
July 1, 1941, ch. 267, 55 Stat. 421.
June 25, 1940, ch. 421, 54 Stat. 545.
June 30, 1939, ch. 253, title I, 53 Stat. 954.

Provisions similar to former section 571b of this title were contained in the following prior appropriation acts:
July 1, 1957, Pub. L. 85–77, title II, 71 Stat. 270.
June 13, 1956, ch. 380, title II, 70 Stat. 268.
June 16, 1955, ch. 147, title II, 69 Stat. 153.
June 29, 1954, ch. 409, title I, 68 Stat. 309.
July 28, 1953, ch. 251, title I, 67 Stat. 213.
July 5, 1952, ch. 574, title I, 66 Stat. 343.
Aug. 31, 1951, ch. 374, title I, 65 Stat. 233.
Sept. 6, 1950, ch. 896, Ch. VI, title I, 64 Stat. 667.
June 29, 1949, ch. 280, title I, 63 Stat. 339.
June 19, 1948, ch. 543, 62 Stat. 520.
July 30, 1947, ch. 356, title I, 61 Stat. 523.
June 22, 1946, ch. 445, 60 Stat. 283.
May 5, 1945, ch. 109, 59 Stat. 152.

§ 571c. Erection of permanent facilities on land not owned by United States; long term leases

Notwithstanding the provisions of existing law and without regard to sections 3111 and 3112 of title 40, but within the limitations of cost otherwise applicable, appropriations of the Forest Service may be expended for the erection of buildings, lookout towers, and other structures on land owned by States, counties, municipalities, or other political subdivisions, corporations, or individuals: *Provided*, That prior to such erection there is obtained the right to use the land for the estimated life of or need for the structure, including the right to remove any such structure within a reasonable time after the termination of the right to use the land.

(Apr. 24, 1950, ch. 97, § 1, 64 Stat. 82.)

CODIFICATION

''Sections 3111 and 3112 of title 40'' substituted in text for ''section 355, Revised Statutes, as amended (40 U.S.C. 255)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 572. Cooperation between Secretary of Agriculture and public or private agencies in working land under State or private ownership

(a) Payment of expenses by interested parties; work contemplated

The Secretary of Agriculture is authorized, where the public interest justifies, to cooperate with or assist public and private agencies, organizations, institutions, and persons in performing work on land in State, county, municipal, or private ownership, situated within or near a national forest, for which the administering agency, owner, or other interested party deposits in one or more payments a sufficient sum to cover the total estimated cost of the work to be done for the benefit of the depositor, for administration, protection, improvement, reforestation, and such other kinds of work as the Forest Service is authorized to do on lands of the United States: *Provided*, That the United States shall not be liable to the depositor or land-owner for any damage incident to the performance of such work.

(b) Cooperation where national forests or lands are used by permittees

Cooperation and assistance on the same basis as that authorized in subsection (a) of this section is authorized also in the performance of any such kinds of work in connection with the occupancy or use of the national forests or other lands administered by the Forest Service.

(c) Disposition and availability of moneys; advancements; adjustments

Moneys deposited under this section shall be covered into the Treasury and shall constitute a special fund, which is made available until expended for payment of the cost of work performed by the Forest Service and for refunds to depositors of amounts deposited by them in excess of their share of said cost: *Provided*, That when deposits are received for a number of similar types of work on adjacent or overlapping areas, or on areas which in the aggregate are determined to cover a single work unit, they may be expended on such combined areas for the purposes for which deposited, in which event refunds to the depositors of the total amount of the excess deposits involved will be made on a proportionate basis: *Provided further*, That when so provided by written agreement payment for work undertaken pursuant to this section may be made from any Forest Service appropriation available for similar types of work, and reimbursement received from said agencies, organizations, institutions, or persons covering their proportionate share of the cost and the funds received as reimbursement shall be deposited to the credit of the Forest Service appropriation from which initially paid or to appropriations for similar purposes currently available at the time of deposit: *Provided further*, That when by the terms of a written agreement either party thereto furnishes materials, supplies, equipment, or services for fire emergencies in excess of its proportionate share, adjustment may be made by reimbursement or by replacement in kind of supplies, materials, and equipment consumed or destroyed in excess of the furnishing party's proportionate share.

(Mar. 3, 1925, ch. 457, § 1, 43 Stat. 1132; Apr. 24, 1950, ch. 97, § 5, 64 Stat. 83.)

AMENDMENTS

1950—Act Apr. 24, 1950, amended section generally to broaden the authority to permit performance of various kinds of work by the Forest Service, at the expense of interested parties, on national forests and other related lands.

APPROPRIATIONS

Appropriation of all moneys received as contributions toward cooperative work under this section was made by acts Jan. 18, 1927, ch. 39, 44 Stat. 991; Mar. 26, 1934, ch. 89, 48 Stat. 483.

TRUST FUNDS

Classification as trust funds, appropriation and disbursement of funds appearing on books of Government as ''Cooperative work, Forest Service,'' see section 1321 of Title 31, Money and Finance.

§ 572a. Deposits from timber purchasers to defray cost of scaling services

The Forest Service may accept money from timber purchasers for deposit into the Treasury in the trust account, ''Forest Service cooperative fund'', which moneys are made available for scaling services requested by purchasers in addition to those required by the Forest Service, and for refunds of amounts deposited in excess of the cost of such work.

(Sept. 21, 1944, ch. 412, title II, § 210, 58 Stat. 737.)

CODIFICATION

Section was enacted as a part of the Department of Agriculture Organic Act of 1944.

§ 573. Repealed. Apr. 24, 1950, ch. 97, § 17(a), 64 Stat. 87

Section, act May 27, 1930, ch. 337, § 1, 46 Stat. 387, related to water supply and sanitary systems.

§ 574. Damages caused private property in protection, administration, and improvement of national forests; reimbursement

The Secretary of Agriculture is authorized to reimburse owners of private property for damage or destruction thereof caused by employees of the United States in connection with the protection, administration, or improvement of the national forests, payment to be made from any funds appropriated for the protection, administration, and improvement of the national forests: *Provided*, That no payment in excess of $2,500 shall be made on any such claim.

(May 27, 1930, ch. 337, § 2, 46 Stat. 387; Pub. L. 87–869, § 8, Oct. 23, 1962, 76 Stat. 1157.)

AMENDMENTS

1962—Pub. L. 87–869 increased from $500 to $2,500 the authorization for reimbursement of owners of private

property for damages caused in protection, administration, and improvement of national forests.

§ 575. Search for lost persons, and transportation of sick, injured, or dead persons, within national forests; authorization to incur expense

The Secretary of Agriculture is authorized in cases of emergency to incur such expenses as may be necessary in searching for persons lost in the national forests and in transporting persons seriously ill, injured, or who die within the national forests to the nearest place where the sick or injured person, or the body, may be transferred to interested parties or local authorities.

(May 27, 1930, ch. 337, § 3, 46 Stat. 387.)

§ 576. Reforestation; establishment of forest tree nurseries; tree planting; seed sowing and forest improvement work

The Secretary of Agriculture is authorized to establish forest tree nurseries and do all other things needful in preparation for planting on national forests on the scale possible under the appropriations authorized by section 576a of this title: *Provided*, That nothing in this section shall be deemed to restrict the authority of the said Secretary under other authority of law.

(June 9, 1930, ch. 416, § 1, 46 Stat. 527.)

SHORT TITLE

The act of June 9, 1930, ch. 416, 46 Stat. 527, as amended, which is classified to sections 576 to 576b of this title, is popularly known as the ''Knutson-Vandenberg Act''.

§ 576a. Authorization of appropriation for reforestation

There is authorized to be appropriated for each fiscal year after year ending June 30, 1934, not to exceed $400,000, to enable the Secretary of Agriculture to establish and operate nurseries, to collect or to purchase tree seed or young trees, to plant trees, and to do all other things necessary for reforestation by planting or seeding national forests and for the additional protection, care, and improvement of the resulting plantations or young growth.

(June 9, 1930, ch. 416, § 2, 46 Stat. 527.)

§ 576b. Purchasers of national-forest timber; deposits of money in addition to payments for timber; use of deposits; seedlings and young trees for burned-over areas in national parks

(a) The Secretary of Agriculture may, when in his or her judgment such action will be in the public interest, require any purchaser of national-forest timber to make deposits of money in addition to the payments for the timber, to cover the cost to the United States of (1) planting (including the production or purchase of young trees), (2) sowing with tree seeds (including the collection or purchase of such seeds), (3) cutting, destroying, or otherwise removing undesirable trees or other growth, on the national-forest land cut over by the purchaser, in order to improve the future stand of timber, (4) protecting and improving the future productivity of the renewable resources of the forest land on such sale area, including sale area improvement operations, maintenance and construction, reforestation and wildlife habitat management, or (5) watershed restoration, wildlife habitat improvement, control of insects, disease and noxious weeds, community protection activities, and the maintenance of forest roads, within the Forest Service region in which the timber sale occurred: *Provided*, That such activities may be performed through the use of contracts, forest product sales, and cooperative agreements. Such deposits shall be covered into the Treasury and shall constitute a special fund, which is appropriated and made available until expended, to cover the cost to the United States of such tree planting, seed sowing, and forest improvement work, as the Secretary of Agriculture may direct. The Secretary of Agriculture is authorized, upon application of the Secretary of the Interior, to furnish seedlings and/or young trees for replanting of burned-over areas in any national park.

(c)[1] Any portion of the balance at the end of a fiscal year in the special fund established pursuant to this section that the Secretary of Agriculture determines to be in excess of the cost of doing work described in subsection (a) of this section (as well as any portion of the balance in the special fund that the Secretary determined, before October 1, 2004, to be excess of the cost of doing work described in subsection (a) of this section, but which has not been transferred by that date) shall be transferred to miscellaneous receipts, National Forest Fund, as a National Forest receipt, but only if the Secretary also determines that—

(1) the excess amounts will not be needed for emergency wildfire suppression during the fiscal year in which the transfer would be made; and

(2) the amount to be transferred to miscellaneous receipts, National Forest Fund, exceeds the outstanding balance of unreimbursed funds transferred from the special fund in prior fiscal years for wildfire suppression.

(June 9, 1930, ch. 416, § 3, 46 Stat. 527; Pub. L. 94–588, § 18, Oct. 22, 1976, 90 Stat. 2962; Pub. L. 108–447, div. E, title III, § 318, Dec. 8, 2004, 118 Stat. 3096; Pub. L. 109–54, title IV, § 412, Aug. 2, 2005, 119 Stat. 551.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–54 added cl. (5).

2004—Pub. L. 108–447, § 318(1), which directed the amendment of this section ''by striking 'The Secretary of Agriculture may, when in his' and inserting '(a) The Secretary of Agriculture may, when in his or her';

'(b) Amounts deposited under subsection (a) of this section' '',

was partially executed by designating existing text as subsec. (a) and substituting ''The Secretary of Agriculture may, when in his or her'' for ''The Secretary of Agriculture may, when in his''. However, the provisions relating to subsec. (b) were not inserted, because of missing directory language.

Subsec. (a). Pub. L. 108–447, § 318(2), substituted ''may direct. The Secretary of Agriculture'' for ''may direct: *Provided*, That any portion of any deposit found to be in excess of the cost of doing said work shall, upon the determination that it is so in excess, be transferred to

[1] See 2004 Amendment notes below.

miscellaneous receipts, forest reserve fund, as a national-forest receipt of the fiscal year in which such transfer is made: *Provided further*, That the Secretary of Agriculture''.

Subsec. (c). Pub. L. 108–447, § 318(3), added subsec. (c).

1976—Pub. L. 94–588 struck out ''or'' before ''(3)'' and substituted '', or (4) protecting and improving the future productivity of the renewable resources of the forest land on such sale area, including sale area improvement operations, maintenance and construction, reforestation and wildlife habitat management'' for '': *Provided*, That the total amount so required to be deposited by any purchaser shall not exceed, on an acreage basis, the average cost of planting (including the production or purchase of young trees) other comparable national-forest lands during the previous three years''.

§ 576c. Supplemental National Forest Reforestation Fund; establishment; duration; authorization of appropriations

Notwithstanding any other provision of law, the Secretary of Agriculture shall establish a ''Supplemental National Forest Reforestation Fund'', and transfer to that fund beginning with the fiscal year, commencing July 1, 1972, and ending on September 30, 1987, such amounts as may be appropriated therefor. There is hereby authorized to be appropriated for such purpose for each of the fiscal years during such period the sum of $65,000,000.

(Pub. L. 92–421, § 1, Sept. 18, 1972, 86 Stat. 678; Pub. L. 94–273, § 2(9), Apr. 21, 1976, 90 Stat. 375.)

AMENDMENTS

1976—Pub. L. 94–273 substituted ''September'' for ''June''.

§ 576d. Expenditure of Supplemental National Forest Reforestation Fund moneys; availability of moneys from other sources unaffected

Moneys transferred to the National Forest Reforestation Fund under the provisions of sections 576c to 576e[1] of this title shall be available to the Secretary of Agriculture, for expenditure upon appropriation, for the purpose of supplementing programs of tree planting and seeding of national forest lands determined by the Secretary to be in need of reforestation. Such moneys shall be available until expended, and shall be provided without prejudice to appropriations or funds available from other sources for the same purposes, including those available pursuant to section 576b of this title.

(Pub. L. 92–421, § 2, Sept. 18, 1972, 86 Stat. 678.)

REFERENCES IN TEXT

Section 576e of this title, referred to in text, was repealed by Pub. L. 96–470, title I, § 102(b), Oct. 19, 1980, 94 Stat. 2237.

§ 576e. Repealed. Pub. L. 96–470, title I, § 102(b), Oct. 19, 1980, 94 Stat. 2237

Section, Pub. L. 92–421, § 3, Sept. 18, 1972, 86 Stat. 678, required Secretary of Agriculture to provide, within one year after Sept. 18, 1972, a report to Congress setting forth scope of total national forest reforestation needs and a planned program for reforesting such lands, including a description of extent to which funds authorized by sections 576c to 576e of this title were to be applied and to annually thereafter make a report to Congress on use of funds authorized by sections 576c to 576e of this title and progress toward completion of the planned national forest reforestation program.

[1] See References in Text note below.

§ 577. Public lands in northern Minnesota; withdrawal from entry and appropriation

All public lands of the United States situated north of township 60 north in the Counties of Cook and Lake, State of Minnesota, including the natural shore lines of Lake Superior within such area; all public lands of the United States situated in that part of St. Louis County, State of Minnesota, lying north of a line beginning at the northeast corner of Township 63 north, Range 12 west, 4th P. M., thence westerly along the township line to the southwest corner of Township 64 north, Range 18 west, 4th P. M., thence northerly to the northwest corner of Township 65 north, Range 18 west, 4th P. M., thence westerly to the southwest corner, Township 66 north, Range 21 west, 4th P. M., thence northerly along the Township line to its intersection with the international boundary between the United States and the Dominion of Canada; all public lands of the United States on the shore lines of the lakes and streams forming the international boundary, so far as such lands lie within the areas heretofore described in this section; all public lands of the United States in that part of the Superior National Forest located in Townships 61 and 62, Ranges 12 and 13 west, 4th P. M.; and all public lands of the United States on the shore lines of Burntside Lake and Lake Vermilion, State of Minnesota, are withdrawn from all forms of entry or appropriation under the public land laws of the United States, subject to prior existing legal rights initiated under the public land laws, so long as such claims are maintained as required by the applicable law or laws and subject to such permits and licenses as may be granted or issued by the Department of Agriculture under laws or regulations generally applicable to national forests.

(July 10, 1930, ch. 881, § 1, 46 Stat. 1020.)

SHORT TITLE

The act of July 10, 1930, ch. 881, 46 Stat. 1020, which is classified to sections 577 to 577b of this title, is popularly known as the ''Shipstead-Nolan Act''.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 FR 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

§ 577a. Conserving shore line beauty for recreational use of public lands in northern Minnesota; regulation of logging

The principle of conserving the natural beauty of shore lines for recreational use shall apply to all Federal lands which border upon any boundary lake or stream contiguous to this area, or any other lake or stream within this area which is now or eventually to be in general use for boat or canoe travel, and that for the purpose of carrying out this principle logging of all such

shores to a depth of four hundred feet from the natural water line is forbidden except as the Forest Service of the Department of Agriculture may see fit in particular instances to vary the distance for practical reasons: *Provided*, That in no case shall logging of any timber other than diseased, insect infested, dying, or dead be permitted closer to the natural shore line than two hundred feet, except where necessary to open areas for banking grounds, landings, and other uses connected with logging operations.

(July 10, 1930, ch. 881, § 2, 46 Stat. 1021.)

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

§ 577b. Preserving water level of lakes and streams of public lands in northern Minnesota; reservoirs; water power

In order to preserve the shore lines, rapids, waterfalls, beaches, and other natural features of the region in an unmodified state of nature, no further alteration of the natural water level of any lake or stream within or bordering upon the designated area shall be authorized by any permit, license, lease, or other authorization granted by any official or commission of the United States, which will result in flooding lands of the United States within or immediately adjacent to the Superior National Forest, unless and until specific authority for granting such permit, license, lease, or other authorization shall have first been obtained by special Act from the Congress of the United States covering each such project: *Provided*, That nothing in this section shall be construed as interfering with the duties of the International Joint Commission created pursuant to the convention concerning the boundary waters between the United States and Canada and concluded between the United States and Great Britain on January 11, 1909, and action taken or to be taken in accordance with provisions of the convention, protocol, and agreement between the United States and Canada, which were signed at Washington on February 24, 1925, for the purpose of regulating the levels of the Lake of the Woods: *Provided*, That with the written approval and consent of the Forest Service of the Department of Agriculture, reservoirs not exceeding one hundred acres in area may be constructed and maintained for the transportation of logs or in connection with authorized recreational uses of national-forest lands, and maximum water levels not higher than the normal high-water mark may be maintained temporarily where essential strictly for logging purposes, in the streams between lakes by the construction and operation of small temporary dams: *Provided*, *however*, That nothing herein shall be construed to prevent the Secretary of Agriculture from listing for homestead entry under the provisions of the Act of June 11, 1906 (34 Stat. 233), any of the above-described lands found by him to be chiefly valuable for agriculture and not needed for public purposes: *Provided further*, That the provisions of this section shall not apply to any proposed development for water-power purposes for which an application for license was pending under the terms of the Federal Power Act [16 U.S.C. 791a et seq.] on or before January 1, 1928.

(July 10, 1930, ch. 881, § 3, 46 Stat. 1021.)

REFERENCES IN TEXT

Act of June 11, 1906 (34 Stat. 233), referred to in text, which was classified to sections 506 to 508 and 509 of this title, was repealed by Pub. L. 87–869, § 4, Oct. 23, 1962, 76 Stat. 1157.

The Federal Power Act, referred to in text, was in the original the ''Federal Water Power Act'', which was redesignated the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

§ 577c. Acquisition of additional lands in northern Minnesota

To protect and administer more effectively the publicly owned lands within certain parts of the area described in section 577 of this title, and to accomplish certain public purposes explicit and implicit in sections 577a and 577b of this title, the Secretary of Agriculture is authorized and directed to acquire any lands or interest in lands, and appurtenances thereto, situated within the area described in section 577d of this title, where in his opinion development or exploitation, or the potentialities for development or exploitation, impair or threaten to impair the unique qualities and natural features of the remaining wilderness canoe country.

(June 22, 1948, ch. 593, §1, 62 Stat. 568; Pub. L. 87–351, Oct. 4, 1961, 75 Stat. 772.)

AMENDMENTS

1961—Pub. L. 87–351 removed the restriction on condemnation of contiguous tracts of land in one ownership, not exceeding five hundred acres in the aggregate, if the lands were encumbered with structures of a permanent type suitable for human occupancy and if the owners thereof filed written objections before expiration of the time for answering the petition in the proceedings.

SHORT TITLE

The act of June 22, 1948, ch. 593, 62 Stat. 568, as amended, which is classified to sections 577c, 577d, and 577e to 577h of this title, is popularly known as the ''Thye-Blatnik Act''.

§ 577d. Boundary limits of additional lands acquired in northern Minnesota

The authority granted in section 577c of this title shall be supplemental to the authority granted by existing Acts relating to the acquisition of lands for national-forest purposes and shall not be deemed as repealing any portions of those Acts except as provided hereinafter; and

said supplemental authority granted by section 577c of this title, but not the authority granted by existing Acts, shall be confined to the following described areas in Cook, Lake, and Saint Louis Counties, State of Minnesota:

Township 63 north, range 2 west, fourth principal meridian, sections 5 to 8, inclusive.

Township 63 north, range 3 west, fourth principal meridian, sections 1 to 12, inclusive.

Township 63 north, ranges 4, 5, 6, 7 and 8 west, fourth principal meridian, entire townships.

Township 63 north, range 9 west, fourth principal meridian, south half section 19 and sections 20 to 36, inclusive.

Township 63 north, range 13 west, fourth principal meridian, section 6.

Township 63 north, range 14 west, fourth principal meridian, sections 1 to 12, inclusive, and 14 to 22, inclusive.

Township 63 north, range 15 west, fourth principal meridian, sections 1 to 24, inclusive.

Township 63 north, range 16 west, fourth principal meridian, sections 1 to 3 inclusive, 10 to 15, inclusive, and 22 to 24, inclusive.

Township 64 north, range 3 east, fourth principal meridian, south half section 7.

Township 64 north, range 2 east, fourth principal meridian, sections 1 to 12, inclusive.

Township 64 north, range 1 east, fourth principal meridian, sections 1 to 4, inclusive, south half section 7, sections 8 to 12, inclusive, 15 to 17, inclusive, and east half section 18.

Township 64 north, range 1 west, fourth principal meridian, sections 17 to 20, inclusive, and 29 to 32, inclusive.

Township 64 north, range 2 west, fourth principal meridian, sections 7 to 11, inclusive, and 13 to 36, inclusive.

Township 64 north, range 3 west, fourth principal meridian, sections 7 to 36, inclusive.

Township 64 north, range 4 west, fourth principal meridian, sections 6, 7, and 10 to 36, inclusive.

Township 64 north, ranges 5, 6, 7, and 8 west, fourth principal meridian, entire townships.

Township 64 north, range 9 west, fourth principal meridian, sections 1 to 24, inclusive.

Township 64 north, range 10 west, fourth principal meridian, sections 1 to 18, inclusive.

Township 64 north, range 11 west, fourth principal meridian, sections 1 to 4, inclusive, and 9 to 16, inclusive.

Township 64 north, range 13 west, fourth principal meridian, sections 5 to 8, inclusive, 15 to 22, inclusive, and 28 to 32, inclusive.

Township 64 north, range 14 west, fourth principal meridian, sections 6 to 36, inclusive.

Township 64 north, range 15 west, fourth principal meridian, sections 1 to 3, inclusive, and 10 to 36, inclusive.

Township 64 north, range 16 west, fourth principal meridian, sections 22 to 27, inclusive, and 34 to 36, inclusive.

Township 65 north, range 2 east, fourth principal meridian, entire township.

Township 65 north, range 1 east, fourth principal meridian, sections 19 to 30, inclusive, and 33 to 36, inclusive.

Township 65 north, range 1 west, fourth principal meridian, sections 19 to 30, inclusive.

Township 65 north, range 4 west, fourth principal meridian, sections 1 to 3, inclusive, 10 to 14, inclusive, and 31.

Township 65 north, range 5 west, fourth principal meridian, sections 6, 7, and 18 to 36, inclusive.

Township 65 north, ranges 6, 7, 8, 9, 10, and 11 west, fourth principal meridian, entire townships.

Township 65 north, range 12 west, fourth principal meridian, sections 1 to 17, inclusive, 20 to 27, inclusive, and 34 to 36, inclusive.

Township 65 north, range 13 west, fourth principal meridian, sections 1 to 3, inclusive, and 10 to 12, inclusive.

Township 65 north, range 14 west, fourth principal meridian, sections 18, 19, 30, and 31.

Township 65 north, range 15 west, fourth principal meridian, sections 13, 14, 23 to 26, inclusive, 35 to 36.

Township 66 north, range 4 west, fourth principal meridian, sections 3, 9, 16, 21, 22, 26 to 28, inclusive, and 33 to 36, inclusive.

Township 66 north, range 5 west, fourth principal meridian, sections 2, 8, 9, 16 to 20, inclusive, 30 and 31.

Township 66 north, range 6 west, fourth principal meridian, entire township.

Township 66 north, ranges 11, 12, and 13 west, fourth principal meridian, entire townships.

Township 66 north, range 14 west, fourth principal meridian, sections 1 to 28, inclusive, and 33 to 36, inclusive.

Township 66 north, range 15 west, fourth principal meridian, sections 1 to 17, inclusive, and 20 to 24, inclusive.

Township 66 north, range 16 west, fourth principal meridian, sections 1 to 5, inclusive, and 9 to 12, inclusive.

Township 67 north, ranges 13, 14, and 15 west, fourth principal meridian, entire townships.

Township 67 north, range 16 west, fourth principal meridian, sections 6 to 8, inclusive, 16 to 18, inclusive, 20, 21, 28, 29, and 32 to 34, inclusive.

Township 67 north, range 17 west, fourth principal meridian, those portions of sections 1, 12, and 13 east of Crane Lake.

Township 68 north, ranges 13, 14, 15, and 16 west, fourth principal meridian, entire townships.

Township 68 north, range 17 west, fourth principal meridian, that portion of section 36 east of Crane Lake.

(June 22, 1948, ch. 593, § 2, 62 Stat. 568.)

§ 577d–1. Extension to other sections of land

Except as hereinafter provided, the provisions of sections 577c, 577d, 577e to 577h of this title, are extended and made applicable to the following described lands:

Township 61 north, range 6 west, fourth principal meridian: Sections 5 to 8, inclusive; west half section 4; west half section 9.

Township 61 north, range 7 west, fourth principal meridian: Sections 1 to 12, inclusive.

Township 61 north, range 8 west, fourth principal meridian: Sections 3 to 8, inclusive.

Township 61 north, range 9 west, fourth principal meridian: Sections 1 to 12, inclusive.

Township 61 north, range 10 west, fourth principal meridian: Sections 1, 2, 11, and 12.

Township 62 north, range 3 west, fourth principal meridian: West half of section 3; sections 4 to 9, inclusive.

Township 62 north, range 4 west, fourth principal meridian: Sections 1 to 6, inclusive; sections 8 to 15, inclusive.

Township 62 north, range 5 west, fourth principal meridian: Sections 1 to 24, inclusive.

Township 62 north, range 6 west, fourth principal meridian: Sections 1 to 20, inclusive; north half section 21; sections 22 to 24, inclusive; sections 29 to 32, inclusive.

Township 62 north, range 7 west, fourth principal meridian: Entire township.

Township 62 north, range 8 west, fourth principal meridian: Sections 1 to 34, inclusive; north half section 35; north half section 36.

Township 62 north, range 9 west, fourth principal meridian: Entire township.

Township 62 north, range 10 west, fourth principal meridian: Sections 1 to 6 inclusive; sections 8 to 17, inclusive; sections 21 to 28, inclusive; sections 33 to 36, inclusive.

Township 62 north, range 11 west, fourth principal meridian: Sections 1 and 2.

Township 63 north, range 1 west, fourth principal meridian: Sections 4 to 9, inclusive; sections 16 to 21, inclusive.

Township 63 north, range 2 west, fourth principal meridian: Sections 1 to 4, inclusive; sections 9 to 16, inclusive; north half of section 17; north half of section 18; sections 21 to 24, inclusive.

Township 63 north, range 3 west, fourth principal meridian: North half section 13; north half section 14; north half, southwest quarter section 15; sections 16 to 21, inclusive; west half section 22; west half section 27; sections 28 to 33, inclusive; west half section 34.

Township 63 north, range 9 west, fourth principal meridian: Lot 3 section 15; lots 4, 6, 7, 8, 10, 11 and 12 section 16; lots 6 and 7 section 19.

Township 63 north, range 10 west, fourth principal meridian: Section 6, north half section 7; lots 7 and 8 section 24; northeast quarter, lots 1, 3 and 4, southwest quarter southwest quarter, east half southwest quarter, southeast quarter section 25; lots 5, 6, 7, 8, 9, 10, southeast quarter southeast quarter section 26; lots 3 to 6, inclusive, lot 8, southwest quarter, southwest quarter southeast quarter section 27; lots 5 to 8, inclusive, south half section 28; lots 5 to 8, inclusive, south half section 29; lots 10 to 14, inclusive, southeast quarter southeast quarter section 30; sections 31 to 36, inclusive.

Township 63 north, range 11 west, fourth principal meridian: Sections 1 to 4, inclusive; north half of sections 9 to 12, inclusive; lots 9 to 12, inclusive, section 25; lots 5 and 6, section 26; section 35 except lot 3; section 36.

Township 63 north, range 13 west, fourth principal meridian: Sections 5, 7, and 18.

Township 63 north, range 14 west, fourth principal meridian: Sections 12, 23, and 24.

Township 64 north, range 1 east, fourth principal meridian: Lot 15, section 5.

Township 64 north, range 1 west, fourth principal meridian: Sections 21, 22, 27, 28, 33, and 34.

Township 64 north, range 2 west, fourth principal meridian: South half of sections 3 to 6, inclusive.

Township 64 north, range 3 west, fourth principal meridian: South half of sections 1 to 4, inclusive; sections 5 and 6.

Township 64 north, range 4 west, fourth principal meridian: Sections 1 to 5, inclusive; sections 8 and 9.

Township 64 north, range 9 west, fourth principal meridian: North half of sections 25 to 30, inclusive.

Township 64 north, range 10 west, fourth principal meridian: Sections 19 to 24, inclusive; north half of sections 25, 26, and 27; sections 28 to 33, inclusive.

Township 64 north, range 11 west, fourth principal meridian: Sections 8, 17, 21 to 28, inclusive; sections 33 to 36, inclusive.

Township 64 north, range 13 west, fourth principal meridian: Sections 14 and 23; north half northwest quarter, southwest quarter northwest quarter section 26; section 27.

Township 65 north, range 3 west, fourth principal meridian: Section 18.

Township 65 north, range 4 west, fourth principal meridian: South half section 6; sections 7, 18, 19, and 30.

Township 65 north, range 5 west, fourth principal meridian: Sections 1 to 5, inclusive; sections 8 to 17, inclusive.

Township 65 north, range 12 west, fourth principal meridian: Sections 18, 19, 28, 29, 30, 32, and 33.

Township 65 north, range 13 west, fourth principal meridian: Sections 4 to 9, inclusive; sections 13, 14, 16, 17, and 24.

Township 65 north, range 14 west, fourth principal meridian: Sections 1 to 3, inclusive.

Township 66 north, range 4 west, fourth principal meridian: Sections 4 to 8, inclusive; sections 17 to 20, inclusive.

Township 66 north, range 5 west, fourth principal meridian: Section 1; sections 3 to 7, inclusive; sections 10 to 15, inclusive; sections 21 to 29, inclusive; sections 32 to 35, inclusive; west half section 36.

Township 66 north, range 14 west, fourth principal meridian: Sections 29 and 30.

Township 66 north, range 15 west, fourth principal meridian: Sections 18 and 19; sections 25 to 30, inclusive.

Township 66 north, range 16 west, fourth principal meridian: Sections 13, 24, and 25.

Township 67 north, range 4 west, fourth principal meridian: Entire township.

(June 22, 1956, ch. 425, § 1, 70 Stat. 326.)

SHORT TITLE

The act of June 22, 1956, ch. 425, 70 Stat. 326, as amended, which is classified to sections 577d–1, 577g–1 and 577h of this title, is popularly known as the ''Humphrey-Thye-Blatnik-Andresen Act''.

§ 577e. Approval by National Forest Reservation Commission for acquisition of additional lands

Lands shall be acquired by purchase or condemnation under the supplemental authority granted in section 577c of this title only with prior approval of the National Forest Reservation Commission created by section 4 of the Act approved March 1, 1911, as amended, and lands so acquired shall become parts of the Superior National Forest and be subject to the provisions of said Act, as amended, and of such other laws as apply to land acquired under the provisions of

said Act, as amended, except as hereinafter provided.

(June 22, 1948, ch. 593, § 3, 62 Stat. 570.)

REFERENCES IN TEXT

The National Forest Reservation Commission, referred to in text, was created by section 4 of act Mar. 1, 1911 (16 U.S.C. 513). Section 4 of the 1911 Act was repealed, and all functions of the National Forest Reservation Commission were transferred to the Secretary of Agriculture, by section 17(a)(1) of Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2961.

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

§ 577f. Exchange of lands

Upon finding and determination by the Secretary of Agriculture that the public purposes and objectives explicit and implicit in sections 577 to 577b of this title, more effectively can be accomplished by exchanging lands of the United States situated within the boundaries described in said sections for other lands in State, county, or private ownership situated within the said boundaries which are more suitable for public ownership, management, and use, for the purposes contemplated by said sections, such lands of the United States shall be subject to exchange under the provisions of sections 485 and 486 of this title, or the provisions of section 516 of this title.

(June 22, 1948, ch. 593, § 4, 62 Stat. 570.)

§ 577g. Payment for additional lands acquired in northern Minnesota

The Secretary of the Treasury, upon the certification of the Secretary of Agriculture, shall pay to the State of Minnesota, at the close of each fiscal year from any national-forest receipts not otherwise appropriated a sum of money equivalent to three-quarters of 1 per centum of the fair appraised value of such national-forest lands as may be situated within the area described in section 577d of this title at the end of each fiscal year; and the payments made hereunder shall be distributed to each of the three aforesaid counties in conformity with the fair appraised value of such national-forest lands in each county: *Provided*, That the fair appraised value of the lands shall be determined by the Secretary of Agriculture at ten-year intervals and his determination shall be conclusive and final: *Provided further*, That the first payment to the State of Minnesota under the provisions of this section shall not be due until the close of the first full fiscal year after June 22, 1948: *And provided further*, That the provisions of section 500 of this title, shall not be applicable to the national-forest lands to which this section applies.

(June 22, 1948, ch. 593, § 5, 62 Stat. 570.)

CODIFICATION

Section, as amended by act June 22, 1956, ch. 425, § 2, 70 Stat. 328, is set out as section 577g–1 of this title.

§ 577g–1. Payment to State of Minnesota for extension to other sections of land

The Secretary of the Treasury, upon the certification of the Secretary of Agriculture, shall pay to the State of Minnesota, at the close of each fiscal year from any national-forest receipts not otherwise appropriated a sum of money equivalent to three-quarters of 1 per centum of the fair appraised value of such national-forest lands as may be situated within the area described in section 577d–1 of this title at the end of each fiscal year; and the payments made hereunder shall be distributed to each of the three aforesaid counties in conformity with the fair appraised value of such national-forest lands in each county: *Provided*, That the fair appraised value of the lands shall be determined by the Secretary of Agriculture at ten-year intervals and his determination shall be conclusive and final: *Provided further*, That the first payment to the State of Minnesota under the provisions of this section shall be due at the close of the fiscal year 1959: *And provided further*, That the provisions of section 500 of this title, shall not be applicable to the national-forest lands to which this section applies.

(June 22, 1948, ch. 593, § 5, 62 Stat. 570; June 22, 1956, ch. 425, § 2, 70 Stat. 328.)

CODIFICATION

Section 5 of act June 22, 1948, as it read prior to amendment by act June 22, 1956, is set out as section 577g of this title.

AMENDMENTS

1956—Act June 22, 1956, amended section with respect to the lands described in section 577d–1 by revising the proviso to fix the due date of the first payment to Minnesota as of the close of the fiscal year 1959. For payment for lands described in section 577d, see section 577g of this title.

§ 577h. Authorization of appropriations; limitation on amount for purchase of additional lands, water or interests therein; availability of other funds; annual report to Congress

(a) Appropriations authorized; purposes

There are authorized to be appropriated annually such sums as are necessary to implement sections 577c, 577d, and 577e to 577h of this title: *Provided*, That the total appropriations under the authority of said sections shall not exceed $9,000,000 for the purchase and condemnation of lands, water, or interests therein, and that funds made available through the provisions of the Land and Water Conservation Fund Act (78 Stat. 897), as amended [16 U.S.C. 460*l*–4 et seq.], may also be used for such acquisitions: *Provided further*, That such appropriations may be used for the payment of court judgments in condemnation actions brought under authority of sections 577c, 577d, and 577e to 577h of this title without regard to the date such actions were initially instituted.

(b) Reports on acquisitions

Not later than March 1 of each year 1977 through 1980, the Secretary of Agriculture shall submit to the Congress a report concerning the acquisition of lands or interests in lands under sections 577c, 577d, and 577e to 577h of this title.

The final report of the Secretary shall specify whether additional authorizations or appropriations are necessary to carry out the purposes of said sections.

(June 22, 1948, ch. 593, § 6, 62 Stat. 570; June 22, 1956, ch. 425, § 3, 70 Stat. 328; Pub. L. 87–351, Oct. 4, 1961, 75 Stat. 772; Pub. L. 94–384, Aug. 13, 1976, 90 Stat. 1123.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (a), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

AMENDMENTS

1976—Pub. L. 94–384 designated existing provisions as subsec. (a), substituted ''implement'' for ''carry out the provisions of'', ''$9,000,000'' for ''$4,500,000'', and ''lands, water, or interests therein'' for ''land'', struck out ''however'' after ''*Provided*'', inserted provision relating to the availability of funds under the Land and Water Conservation Fund Act and provision relating to the availability of appropriations for payment of court judgments in condemnation actions regardless of the date of institution of such action, and added subsec. (b).

1961—Pub. L. 87–351 increased appropriation for purchase and condemnation of land from $2,500,000 to $4,500,000.

1956—Act June 22, 1956, increased appropriation for purchase and condemnation of land from $500,000 to $2,500,000.

AVAILABILITY OF APPROPRIATIONS

Pub. L. 87–351 provided in part that: ''Funds appropriated to carry out the purposes of the Act [sections 577c, 577d and 577e to 577h of this title] shall remain available until expended.''

§§ 578 to 579. Omitted

CODIFICATION

Section 578, act June 25, 1940, ch. 421, 54 Stat. 546, which authorized rental of Forest Service equipment to other Federal agencies, was from the Department of Agriculture Appropriation Act, 1941, and was not repeated in subsequent appropriation acts. Similar provisions appeared in the Department of Agriculture Appropriation Act, 1940, approved June 30, 1939, ch. 253, title I, 53 Stat. 955.

Section 578a, acts July 1, 1941, ch. 267, 55 Stat. 422; July 22, 1942, ch. 516, 56 Stat. 679; July 12, 1943, ch. 215, 57 Stat. 411; June 28, 1944, ch. 296, 58 Stat. 443, related to rental of foreign service equipment to non-Federal agencies, and is now covered by section 580 of this title.

Section 579, act June 29, 1954, ch. 409, title I, 68 Stat. 307, which authorized the purchase of improvements in lieu of construction, was from the Department of the Interior and Related Agencies Appropriations Act, 1955, and was not repeated in subsequent appropriation acts. Similar provisions were contained in following prior appropriation acts:

July 28, 1953, ch. 251, title I, 67 Stat. 212.
July 5, 1952, ch. 574, title I, 66 Stat. 342.
Aug. 31, 1951, ch. 374, title I, 65 Stat. 232.
Sept. 6, 1950, ch. 896, Ch. VI, title I, 64 Stat. 666.
June 29, 1949, ch. 280, title I, 63 Stat. 337.
June 19, 1948, ch. 543, 62 Stat. 521.
July 30, 1947, ch. 356, title I, 61 Stat. 523.
June 22, 1946, ch. 445, 60 Stat. 283.
May 5, 1945, ch. 109, 59 Stat. 150.
June 28, 1944, ch. 296, 58 Stat. 444.
July 12, 1943, ch. 215, 57 Stat. 412.
July 22, 1942, ch. 516, 56 Stat. 680.
July 1, 1941, ch. 267, 55 Stat. 422.
June 25, 1940, ch. 421, 54 Stat. 546.

§ 579a. Operation of aerial facilities and services

The Forest Service by contract or otherwise may provide for procurement and operation of aerial facilities and services for the protection and management of the national forests and other lands administered by it, including the furnishing, at the airbase, of facilities, equipment, materials and the preparation, mixing and loading into aircraft, with authority to renew any contract for such purpose annually, not more than twice, without additional advertising.

(Sept. 21, 1944, ch. 412, title II, § 205, 58 Stat. 736; Apr. 24, 1950, ch. 97, § 4, 64 Stat. 83; Pub. L. 91–435, Oct. 6, 1970, 84 Stat. 888.)

CODIFICATION

Section was enacted as a part of the Department of Agriculture Organic Act of 1944.

AMENDMENTS

1970—Pub. L. 91–435 authorized the Forest Service to extend aerial facilities and services for the protection and management of other lands administered by the Service and to procure, at the airbase, facilities, equipment, materials and the preparation, mixing and loading into aircraft.

1950—Act Apr. 24, 1950, amended section to provide for aerial facilities and services for the protection and management of our national forests.

§ 579b. Working capital fund; establishment; availability; transfer; capitalization; advance payments credited

There is established a working capital fund which shall be available without fiscal year limitation for expenses necessary, including the purchase or construction of buildings and improvements within the limitations thereon set forth in the appropriations for the Forest Service, for furnishing supply and equipment services in support of programs of the Forest Service. The Secretary of Agriculture is authorized to transfer to the fund, without reimbursement, and to capitalize in the fund at fair and reasonable values, such receivables, inventories, equipment, and other assets as he may determine, and assume the liabilities in connection with such assets: *Provided*, That the fund shall be credited with advance payments in connection with firm orders and reimbursements from appropriations and funds of the Forest Service, other departmental and Federal agencies, and from other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities and service.

(Aug. 3, 1956, ch. 950, § 13, 70 Stat. 1034; Pub. L. 87–869, § 10, Oct. 23, 1962, 76 Stat. 1157.)

AMENDMENTS

1962—Pub. L. 87–869 struck out the $25,000,000 limitation on amount of capitalization in Forest Service working capital fund.

§ 579c. Availability of funds received from forfeitures, judgments, compromises, or settlements

Any moneys received by the United States with respect to lands under the administration

of the Forest Service (1) as a result of the forfeiture of a bond or deposit by a permittee or timber purchaser for failure to complete performance of improvement, protection, or rehabilitation work required under the permit or timber sale contract or (2) as a result of a judgment, compromise, or settlement of any claim, involving present or potential damage to lands or improvements, shall be covered into the Treasury and are hereby appropriated and made available until expended to cover the cost to the United States of any improvement, protection, or rehabilitation work on lands under the administration of the Forest Service rendered necessary by the action which led to the forfeiture, judgment, compromise, or settlement: *Provided*, That any portion of the moneys so received in excess of the amount expended in performing the work necessitated by the action which led to their receipt shall be transferred to miscellaneous receipts.

(Pub. L. 85–464, § 7, June 20, 1958, 72 Stat. 217.)

§ 579d. Indirect expenditures; future budget justifications

The Forest Service shall implement and adhere to the definitions of indirect expenditures established pursuant to Public Law 105–277 on a nationwide basis without flexibility for modification by any organizational level except the Washington Office, and when changed by the Washington Office, such changes in definition shall be reported in budget requests submitted by the Forest Service: *Provided further*, That the Forest Service shall provide in all future budget justifications, planned indirect expenditures in accordance with the definitions, summarized and displayed to the Regional, Station, Area, and detached unit office level. The justification shall display the estimated source and amount of indirect expenditures, by expanded budget line item, of funds in the agency's annual budget justification. The display shall include appropriated funds and the Knutson-Vandenberg, Brush Disposal, Cooperative Work-Other, and Salvage Sale funds. Changes between estimated and actual indirect expenditures shall be reported in subsequent budget justifications.

(Pub. L. 107–63, title II, Nov. 5, 2001, 115 Stat. 452.)

REFERENCES IN TEXT

Public Law 105–277, referred to in text, is Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681, known as the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is from the Department of the Interior and Related Agencies Appropriations Act, 2002.

PRIOR PROVISIONS

Provisions similar to this section were contained in the following prior appropriation acts:

Pub. L. 106–291, title II, Oct. 11, 2000, 114 Stat. 973.

Pub. L. 106–113, div. B, § 1000(a)(3) [title II], Nov. 29, 1999, 113 Stat. 1535, 1501A–178.

DEFINITIONS OF INDIRECT EXPENDITURES

Pub. L. 105–277, div. A, § 101(e) [title II], Oct. 21, 1998, 112 Stat. 2681–231, 2681–274, provided in part: ''That not later than 90 days after the date of the enactment of this Act [Oct. 21, 1998], the Forest Service shall provide, to the Committees on Appropriations of the House of Representatives and Senate, proposed definitions, which are consistent with Federal Accounting Standards Advisory Board standards, to be used with the fiscal year 2000 budget, for indirect expenditures: *Provided further*, That the Forest Service shall implement and adhere to the definitions on a nationwide basis without flexibility for modification by any organizational level except the Washington Office, and when changed by the Washington Office, such changes in definition shall be reported in budget requests submitted by the Forest Service: *Provided further*, That the Forest Service shall provide in the fiscal year 2000 budget justification, planned indirect expenditures in accordance with the definitions, summarized and displayed to the Regional, Station, Area, and detached unit office level. The justification shall display the estimated source and amount of indirect expenditures, by expanded budget line item, of funds in the agency's annual budget justification. The display shall include appropriated funds and the Knutson-Vandenberg, Brush Disposal, Cooperative Work-Other, and Salvage Sale funds. Changes between estimated and actual indirect expenditures shall be reported in subsequent budget justifications''.

§ 580. Use of Forest Service appropriations for repair, etc. of equipment; rental of fire control equipment to non-Federal agencies

Appropriations for the work of the Forest Service available for the operation, repair, maintenance, and replacement of motor and other equipment may be reimbursed for use of such equipment on projects of the Forest Service chargeable to other appropriations, or on work of other Federal agencies, when requested by such agencies, reimbursement to be made from appropriations applicable to the work on which used at rental rates fixed by the Chief Forester based on the actual or estimated cost of operation, repair, maintenance, depreciation, and equipment management control, and credited to appropriations currently available at the time adjustment is effected. The Forest Service may also rent equipment for fire-control purposes to State, county, private, or other non-Federal agencies cooperating with the Forest Service in fire control under the terms of written cooperative agreements, the amount collected for such rental to be credited to appropriations currently available at the time payment is received.

(Sept. 21, 1944, ch. 412, title II, § 204, 58 Stat. 736.)

CODIFICATION

Section was enacted as a part of the Department of Agriculture Organic Act of 1944.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following Department of Agriculture Appropriation Acts:

June 28, 1944, ch. 296, 58 Stat. 443.

July 12, 1943, ch. 215, 57 Stat. 411.

July 22, 1942, ch. 516, 56 Stat. 679.

July 1, 1941, ch. 267, 55 Stat. 421.

§ 580a. Sale and distribution of supplies, equipment, and materials to other Government activities and to cooperating State and private agencies; reimbursement

The Forest Service may sell and distribute supplies, equipment, and materials to other

Government activities and to State and private agencies who cooperate with the Forest Service in fire control under terms of written cooperative agreements, the cost of such supplies, equipment, and materials, including the cost of supervision, transportation, warehousing, and handling, to be reimbursed to appropriations current at the time additional supplies, equipment, and materials are procured for warehouse stocks.

(Sept. 21, 1944, ch. 412, title II, § 203, 58 Stat. 736.)

CODIFICATION

Section was enacted as a part of the Department of Agriculture Organic Act of 1944.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following Department of Agriculture Appropriation Acts:
June 28, 1944, ch. 296, 58 Stat. 443.
July 12, 1943, ch. 215, 57 Stat. 411.
July 22, 1942, ch. 516, 56 Stat. 679.
July 1, 1941, ch. 267, 55 Stat. 421.
June 25, 1940, ch. 421, 54 Stat. 546.
June 30, 1939, ch. 253, 53 Stat. 955.
June 16, 1938, ch. 464, 52 Stat. 726.
June 29, 1937, ch. 404, 50 Stat. 411.
June 4, 1936, ch. 489, title I, 49 Stat. 1436.
May 17, 1935, ch. 131, title I, 49 Stat. 261.
Mar. 26, 1934, ch. 89, title I, 48 Stat. 481.
Mar. 3, 1933, ch. 203, 47 Stat. 1447.
July 7, 1932, ch. 443, 47 Stat. 625.

§ 580b. Forest Service telephone lines; correction of inductive interference

Appropriations for the Forest Service shall be available hereafter for the correction of inductive interference on Forest Service telephone lines caused by transmission lines constructed by organizations financed by loans from the Rural Electrification Administration.

(June 29, 1949, ch. 280, title I, 63 Stat. 338.)

§ 580c. Purchases of experimental materials, special devices, test models, etc.

The provisions of section 6101 of title 41 shall not apply to purchases by the Forest Service of (1) materials to be tested or upon which experiments are to be made or (2) special devices, test models, or parts thereof, to be used (a) for experimentation to determine their suitability for or adaptability to accomplishment of the work for which designed or (b) in the designing or developing of new equipment: *Provided*, That not to exceed $50,000 may be expended in any one fiscal year pursuant to this authority and not to exceed $10,000 on any one item or purchase.

(Apr. 24, 1950, ch. 97, § 3, 64 Stat. 83.)

CODIFICATION

In text, ''section 6101 of title 41'' substituted for ''section 3709, Revised Statutes (41 U.S.C. 5),'' on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§ 580d. Use of Forest Service structures or improvements and land by public and private agencies, etc.; terms

The Secretary of Agriculture, under such regulations as he may prescribe and at rates and for periods not exceeding thirty years as determined by him, is authorized to permit the use by public and private agencies, corporations, firms, associations, or individuals, of structures or improvements under the administrative control of the Forest Service and land used in connection therewith: *Provided*, That as all or a part of the consideration for permits issued under this section, the Secretary may require the permittees at their expense to renovate, recondition, improve, and maintain the structures and land to a satisfactory standard.

(Apr. 24, 1950, ch. 97, § 7, 64 Stat. 84; Pub. L. 105–277, div. A, § 101(e) [title III, § 346], Oct. 21, 1998, 112 Stat. 2681–231, 2681–298.)

AMENDMENTS

1998—Pub. L. 105–277, which directed the substitution of ''renovate, recondition, improve, and maintain'' for ''recondition and maintain,'', was executed by making the substitution for language which did not include a comma after ''maintain'' to reflect the probable intent of Congress.

FOREST SERVICE FACILITY REALIGNMENT AND ENHANCEMENT

Pub. L. 109–54, title V, Aug. 2, 2005, 119 Stat. 559, as amended by Pub. L. 111–8, div. E, title IV, § 422, Mar. 11, 2009, 123 Stat. 748, provided that:

''SEC. 501. SHORT TITLE.

''This title may be cited as the 'Forest Service Facility Realignment and Enhancement Act of 2005'.

''SEC. 502. DEFINITIONS.

''In this title:

''(1) ADMINISTRATIVE SITE.—The term 'administrative site' means—

''(A) any facility or improvement, including curtilage, that was acquired or is used specifically for purposes of administration of the National Forest System;

''(B) any Federal land associated with a facility or improvement described in subparagraph (A) that was acquired or is used specifically for purposes of administration of Forest Service activities and underlies or abuts the facility or improvement; or

''(C) not more than 10 isolated, undeveloped parcels per fiscal year of not more than 40 acres each that were acquired or used for purposes of administration of Forest Service activities, but are not being so utilized, such as vacant lots outside of the proclaimed boundary of a unit of the National Forest System.

''(2) FACILITY OR IMPROVEMENT.—The term 'facility or improvement' includes—

''(A) a forest headquarters;
''(B) a ranger station;
''(C) a research station or laboratory;
''(D) a dwelling;
''(E) a warehouse;
''(F) a scaling station;
''(G) a fire-retardant mixing station;
''(H) a fire-lookout station;
''(I) a guard station;
''(J) a storage facility;
''(K) a telecommunication facility; and
''(L) other administrative installations for conducting Forest Service activities.

''(3) MARKET ANALYSIS.—The term 'market analysis' means the identification and study of the real estate market for a particular economic good or service.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''SEC. 503. AUTHORIZATION FOR CONVEYANCE OF FOREST SERVICE ADMINISTRATIVE SITES.

''(a) CONVEYANCES AUTHORIZED.—In the manner provided by this title, the Secretary may convey an ad-

ministrative site, or an interest in an administrative site, that is under the jurisdiction of the Secretary.

''(b) MEANS OF CONVEYANCE.—The conveyance of an administrative site under this title may be made—

''(1) by sale;

''(2) by lease;

''(3) by exchange;

''(4) by a combination of sale and exchange; or

''(5) by such other means as the Secretary considers appropriate.

''(c) SIZE OF CONVEYANCE.—An administrative site or compound of administrative sites disposed of in a single conveyance under this title may not exceed 40 acres.

''(d) CERTAIN LANDS EXCLUDED.—The following Federal land may not be conveyed under this title:

''(1) Any land within a unit of the National Forest System that is exclusively designated for natural area or recreational purposes.

''(2) Any land included within the National Wilderness Preservation System, the Wild and Scenic River System, or a National Monument.

''(3) Any land that the Secretary determines—

''(A) is needed for resource management purposes or to provide access to other land or water;

''(B) is surrounded by National Forest System land or other publicly owned land, if conveyance would not be in the public interest due to the creation of a non-Federal inholding that would preclude the efficient management of the surrounding land; or

''(C) would be in the public interest to retain.

''(e) CONGRESSIONAL NOTIFICATIONS.—

''(1) NOTICE OF ANTICIPATED USE OF AUTHORITY.—As part of the annual budget justification documents provided to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, the Secretary shall include—

''(A) a list of the anticipated conveyances to be made, including the anticipated revenue that may be obtained, using the authority provided by this title or other conveyance authorities available to the Secretary;

''(B) a discussion of the intended purposes of any new revenue obtained using this authority or other conveyance authorities available to the Secretary, and a list of any individual projects that exceed $500,000; and

''(C) a presentation of accomplishments of previous years using this authority or other conveyance authorities available to the Secretary.

''(2) NOTICE OF CHANGES TO CONVEYANCE LIST.—If the Secretary proposes to convey an administrative site under this title or using other conveyance authorities available to the Secretary and the administrative site is not included on a list provided under paragraph (1)(A), the Secretary shall submit to the congressional committees specified in paragraph (3) written notice of the proposed conveyance, including the anticipated revenue that may be obtained from the conveyance.

''(3) NOTICE OF USE OF AUTHORITY.—At least once a year, the Secretary shall submit to the Committee on Agriculture, the Committee on Appropriations, and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations, and the Committee on Energy and Natural Resources of the Senate a report containing a description of all conveyances of National Forest System land made by the Secretary under this title or other conveyance authorities during the period covered by the report.

''(f) DURATION OF AUTHORITY.—The authority of the Secretary to initiate the conveyance of an administrative site under this title expires on September 30, 2011.

''(g) REPEAL OF PILOT CONVEYANCE AUTHORITY.—Effective September 30, 2006, section 329 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (16 U.S.C. 580d note; Public Law 107–63), is repealed. Notwithstanding the repeal of such section, the Secretary may complete the conveyance under such section of any administrative site whose conveyance was initiated under such section before that date.

''SEC. 504. CONVEYANCE REQUIREMENTS.

''(a) CONFIGURATION OF ADMINISTRATIVE SITES.—

''(1) CONFIGURATION.—To facilitate the conveyance of an administrative site under this title, the Secretary may configure the administrative site—

''(A) to maximize the marketability of the administrative site; and

''(B) to achieve management objectives.

''(2) SEPARATE TREATMENT OF FACILITY OR IMPROVEMENT.—A facility or improvement on an administrative site to be conveyed under this title may be severed from the land and disposed of in a separate conveyance.

''(3) TERMS, CONDITIONS, AND RESERVATIONS.—The conveyance of an administrative site under this title shall be subject to such terms, conditions, and reservations as the Secretary determines to be necessary to protect the public interest[.]

''(b) CONSIDERATION.—

''(1) CONSIDERATION REQUIRED.—A person or entity acquiring an administrative site under this title shall provide to the Secretary consideration in an amount that is at least equal to the market value of the administrative site.

''(2) FORM OF CONSIDERATION.—

''(A) SALE.—Consideration for an administrative site conveyed by sale under this title shall be paid in cash on conveyance of the administrative site.

''(B) EXCHANGE.—If the administrative site is conveyed by exchange, the consideration shall be provided in the form of a conveyance to the Secretary of land or improvements that are equal in market value to the conveyed administrative site. If the market values are not equal, the market values may be equalized by—

''(i) the Secretary making a cash payment to the person or entity acquiring the administrative site; or

''(ii) the person or entity acquiring the administrative site making a cash equalization payment to the Secretary.

''(c) DETERMINATION OF MARKET VALUE.—The Secretary shall determine the market value of an administrative site to be conveyed under this title or of non-Federal land or improvements to be provided as consideration in exchange for an administrative site—

''(1) by conducting an appraisal that is performed in accordance with—

''(A) the Uniform Appraisal Standards for Federal Land Acquisitions, established in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.); and

''(B) the Uniform Standards of Professional Appraisal Practice; or

''(2) by competitive sale.

''(d) RELATION TO OTHER LAWS.—

''(1) FEDERAL PROPERTY DISPOSAL.—Chapter 5 of subtitle I of title 40, United States Code, shall not apply to the conveyance of an administrative site under this title.

''(2) LAND EXCHANGES.—Section 206 of the Federal Land Policy and Management Act [of 1976] (43 U.S.C. 1716) shall not apply to the conveyance of an administrative site under this title carried out by means of an exchange or combination of sale and exchange.

''(3) LEAD-BASED PAINT AND ASBESTOS ABATEMENT.—Notwithstanding any provision of law relating to the mitigation or abatement of lead-based paint or asbestos-containing building materials, the Secretary is not required to mitigate or abate lead-based paint or asbestos-containing building materials with respect to an administrative site to be conveyed under this title. However, if the administrative site has lead-

based paint or asbestos-containing building materials, the Secretary shall—

''(A) provide notice to the person or entity acquiring the administrative site of the presence of the lead-based paint or asbestos-containing building material; and

''(B) obtain written assurance from the person or entity acquiring the administrative site that the person or entity will comply with applicable Federal, State, and local laws relating to the management of the lead-based paint and asbestos-containing building materials.

''(4) ENVIRONMENTAL REVIEW.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to the conveyance of administrative sites under this title, except that, in any environmental review or analysis required under such Act for the conveyance of an administrative site under this title, the Secretary is only required to—

''(A) analyze the most reasonably foreseeable use of the administrative site, as determined through a market analysis;

''(B) determine whether to include terms, conditions, and reservations under subsection (a)(3); and

''(C) evaluate the alternative of not conveying the administrative site, consistent with the National Environmental Policy Act of 1969.

''(e) REJECTION OF OFFERS.—The Secretary shall reject any offer made for the acquisition of an administrative site under this title if the Secretary determines that the offer is—

''(1) not adequate to cover the market value of the administrative site; or

''(2) not otherwise in the public interest.

''(f) CONSULTATION AND PUBLIC NOTICE.—As appropriate, the Secretary is encouraged to work with the Administrator of the General Services Administration with respect to the conveyance of administrative sites under this title. Before making an administrative site available for conveyance under this title, the Secretary shall consult with local governmental officials of the community in which the administrative site is located and provide public notice of the proposed conveyance.

''SEC. 505. DISPOSITION OF PROCEEDS RECEIVED FROM ADMINISTRATIVE SITE CONVEYANCES.

''(a) DEPOSIT.—The Secretary shall deposit in the fund established under Public Law 90–171 (commonly known as the Sisk Act; 16 U.S.C. 484a) all of the proceeds from the conveyance of an administrative site under this title.

''(b) USE.—Amounts deposited under paragraph (1) shall be available to the Secretary, until expended and without further appropriation, to pay any necessary and incidental costs incurred by the Secretary in connection with—

''(1) the acquisition, improvement, maintenance, reconstruction, or construction of a facility or improvement for the National Forest System; and

''(2) the conveyance of administrative sites under this title, including costs described in subsection (c).

''(c) BROKERAGE SERVICES.—The Secretary may use the proceeds from the conveyance of an administrative site under this title to pay reasonable commissions or fees for brokerage services obtained in connection with the conveyance if the Secretary determines that the services are in the public interest. The Secretary shall provide public notice of any brokerage services contract entered into in connection with a conveyance under this title.''

CONVEYANCE OF EXCESS FOREST SERVICE STRUCTURES

Pub. L. 107–63, title III, § 329, Nov. 5, 2001, 115 Stat. 471, as amended by Pub. L. 108–7, div. F, title III, § 325, Feb. 20, 2003, 117 Stat. 275; Pub. L. 108–108, title III, § 322, Nov. 10, 2003, 117 Stat. 1307; Pub. L. 108–447, div. E, title III, § 322, Dec. 8, 2004, 118 Stat. 3098, which gave the Secretary of Agriculture temporary and limited authority to convey excess structures located on National Forest System lands and to use the proceeds from those conveyances for certain maintenance and rehabilitation activities, was repealed, effective Sept. 30, 2006, by Pub. L. 109–54, title V, § 503(g), Aug. 2, 2005, 119 Stat. 561, which also provided that the Secretary could complete any conveyance initiated before the effective date of the repeal.

§ 580e. Services furnished persons attending Forest Service demonstrations and users of national forest resources and recreational facilities; rate of charges; disposition of moneys

The Secretary of Agriculture is authorized to furnish persons attending Forest Service demonstrations, and users of national forest resources and recreational facilities, with meals, lodging, bedding, fuel, and other services, where such facilities are not otherwise available, at rates approximating but not less than the actual or estimated cost thereof and to deposit all moneys received therefor to the credit of the appropriation from which the cost thereof is paid, or a similar appropriation current at the time the moneys are received: *Provided*, That such receipts obtained in excess of $10,000 in any one fiscal year shall be deposited in the Treasury as miscellaneous receipts.

(Apr. 24, 1950, ch. 97, § 8, 64 Stat. 84.)

§ 580f. Telephones for official use in private residences

Notwithstanding the provisions of section 1348 of title 31, appropriations for the protection and management of the national forests and other lands administered by the Forest Service shall be available to pay for telephone service installed in residences of employees and of persons cooperating with the Forest Service who reside within or near such lands when such installation is determined by the Secretary of Agriculture to be needed in protecting such lands: *Provided*, That in addition to the monthly local service charge, the Government may pay only such tolls or other charges as are required strictly for the public business.

(Apr. 24, 1950, ch. 97, § 10, 64 Stat. 85; Pub. L. 85–464, § 6, June 20, 1958, 72 Stat. 217.)

CODIFICATION

''Section 1348 of title 31'' substituted in text for ''section 7 of the Act of August 23, 1912, as amended (31 U.S.C. 679)'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1958—Pub. L. 85–464 inserted ''and other lands administered by the Forest Service'' after ''forests'', and substituted ''residences of employees'' for ''residences of seasonal employees'', and ''such lands'' for ''the national forests'' in two places.

§ 580g. Seeding leased range land; conditions and limitations

Whenever such action is deemed to be in the public interest, the Secretary of Agriculture is authorized to pay from any appropriation available for the protection and management of the national forests all or any part of the cost of leasing, seeding, and protective fencing of public range land (other than national forest land) and

privately owned land intermingled with or adjacent to national forest or other land administered by the Forest Service, if the use of the land to be seeded is controlled by the Forest Service under a lease or agreement which in the judgment of the Chief of the Forest Service gives the Forest Service control over the land for a sufficient period to justify such expenditures: *Provided*, That payment may not be made under authority of this section for the seeding of more than one thousand acres in any one private ownership: *Provided further*, That payment may not be made under authority of this section for the seeding of more than twenty-five thousand acres in any one fiscal year: *Provided further*, That the period of any lease under this authority may not exceed twenty years.

(Apr. 24, 1950, ch. 97, § 11, 64 Stat. 85.)

§ 580h. Range improvements from appropriated funds

Of the moneys received from grazing fees by the Treasury from each national forest during each fiscal year there shall be available at the end thereof when appropriated by Congress an amount equivalent to 2 cents per animal-month for sheep and goats and 10 cents per animal-month for other kinds of livestock under permit on such national forest during the calendar year in which the fiscal year begins, which appropriated amount shall be available until expended on such national forest, under such regulations as the Secretary of Agriculture may prescribe, for (1) artificial revegetation, including the collection or purchase of necessary seed; (2) construction and maintenance of drift or division fences and stock-watering places, bridges, corrals, driveways, or other necessary range improvements; (3) control of range-destroying rodents; or (4) eradication of poisonous plants and noxious weeds, in order to protect or improve the future productivity of the range.

(Apr. 24, 1950, ch. 97, § 12, 64 Stat. 85.)

SAVINGS PROVISION

Provisions of Federal Land Policy and Management Act of 1976, Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, not to be construed as affecting the distribution of livestock grazing revenues to local governments under this section, see section 701(j) of Pub. L. 94–579, set out as a note under section 1701 of Title 43, Public Lands.

§ 580i. Acquisition of winter range, land, and helicopter landing site

There are authorized to be appropriated—

(a) such sums as may be necessary for the acquisition of parcels of land and interests in land in Sanders County, Montana, needed by the Forest Service to provide winter range for its saddle, pack, and draft animals;

(b) not to exceed $50,000 for the acquisition of additional land adjacent to the present site of the Forest Products Laboratory at Madison, Wisconsin; and

(c) not to exceed $25,000 for the acquisition of one helicopter landing site in southern California.

Land acquired under this section may be subject to such reservations and outstanding interests as the Secretary of Agriculture determines will not interfere with the purpose for which acquired.

(Apr. 24, 1950, ch. 97, § 14, 64 Stat. 86.)

§ 580j. Injury benefits for temporary employees

Appropriations of the Forest Service chargeable with salaries and wages shall be available for payment to temporary employees of the Forest Service for loss of time due to injury in official work at rates not in excess of those provided by subchapter I of chapter 81 of title 5, when the injured person is in need of immediate financial assistance to avoid hardship: *Provided*, That such payment shall not be made for a period in excess of fifteen days and the Secretary of Labor shall be notified promptly of the amount so paid, which amount shall be deducted from the amount, if any, otherwise payable by the Secretary of Labor to the employee on account of the injury, the amount so deducted by the Secretary of Labor to be paid to the Forest Service for deposit to the credit of the Forest Service appropriation from which the expenditure was made: *Provided further*, That when any person assisting in the suppression of forest fires or in other emergency work under the direction of the Forest Service, without compensation from the United States, pursuant to the terms of a contract, agreement, or permit, is injured in such work, the Forest Service may furnish hospitalization and other medical care, subsistence, and lodging for a period of not to exceed fifteen days during such disability, the cost thereof to be payable from the appropriation applicable to the work upon which the injury occurred, except that this proviso shall not apply when such person is within the purview of a State or other compensation act: *Provided further*, That determination by the Forest Service that payment is allowable under this section shall be final as to payments made hereunder, but such determination or payments with respect to employees shall not prevent the Secretary of Labor from denying further payments should the Secretary of Labor determine that compensation is not properly allowable under the provisions of subchapter I of chapter 81 of title 5.

(Apr. 24, 1950, ch. 97, § 16, 64 Stat. 86.)

CODIFICATION

''Subchapter I of chapter 81 of title 5'' substituted in text for references to the United States Employees' Compensation Act, on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

References to Secretary of Labor substituted in text for references to the United States Employees' Compensation Commission. United States Employees' Compensation Commission, created by section 28 of act Sept. 7, 1916, ch. 458, 39 Stat. 748, abolished and functions thereof transferred to Federal Security Agency to be performed in such manner and under such rules and regulations as Federal Security Administrator shall prescribe, by section 3 of Reorg. Plan No. 2 of 1946. These functions subsequently transferred to Department of Labor, to be administered under direction and supervision of Secretary of Labor, by section 1 of Reorg. Plan No. 19, of 1950.

§ 580k. Grazing advisory boards

(a) Composition; election meetings

(1) To provide national forest grazing permittees means for the expression of their recommendations concerning the management and administration of national forest grazing lands, a local advisory board shall be constituted and elected as hereinafter provided for each national forest or administrative subdivision thereof, whenever a majority of the grazing permittees of such national forest or administrative subdivision so petitions the Secretary of Agriculture. Each elected local advisory board existing for such purpose on April 24, 1950, and recognized as such by the Department of Agriculture, shall continue to be the local advisory board for the unit or area it represents, until replaced by a local advisory board or boards constituted and elected as hereinafter provided.

(2) Each such local advisory board shall be constituted and elected under rules and regulations, consistent herewith, now or hereafter approved by the Secretary of Agriculture, and shall be recognized by him as representing the grazing permittees of the national forest or administrative subdivision thereof for which such local advisory board has been constituted and elected.

(3) Each such local advisory board shall consist of not less than three nor more than twelve members, who shall be national forest grazing permittees in the area for which such board is constituted, elected, and recognized. In addition, a wildlife representative may be appointed as a member of each such board by the State game commission, or the corresponding public body of the State in which the advisory board is located, to advise on wildlife problems.

(4) Each such local advisory board shall meet at least once annually, at a time to be fixed by such board, and at such other time or times as its members may determine, or on the call of the chairman thereof or of the Secretary of Agriculture or his authorized representative.

(b) Advice and recommendations on matters within jurisdiction

Upon the request of any party affected thereby, the Secretary of Agriculture, or his duly authorized representative, shall refer to the appropriate local advisory board for its advice and recommendations any matter pertaining to (1) the modification of the terms, or the denial of a renewal of, or a reduction in, a grazing permit, or (2) the establishment or modification of an individual or community allotment. In the event the Secretary of Agriculture, or his duly authorized representative, shall overrule, disregard, or modify any such recommendations, he, or such representative, shall furnish in writing to the local advisory board his reasons for such action.

(c) Notification by Secretary of Agriculture of intention to issue regulations; recommendations; written explanation of reasons for overruling

(1) At least thirty days prior to the issuance by the Secretary of Agriculture of any regulation under sections 490, 500, 504, 504a, 555, 557, 571c, 572, 579a, 580c to 580*l*, and 581[1] of this title or otherwise, with respect to the administration of grazing on national forest lands, or of amendments or additions to, or modifications in, any such regulation, which in his judgment would substantially modify existing policy with respect to grazing in national forests, or which would materially affect preferences of permittees in the area involved, the local advisory board for each area that will be affected thereby shall be notified of the intention to take such action. If as a result of this notice the Secretary of Agriculture shall receive any recommendation respecting the issuance of the proposed regulation and shall overrule, disregard, or modify any such regulations, he or his representative shall furnish in writing to the local advisory board his reasons for such action.

(2) Any such local advisory board may at any time recommend to the Secretary of Agriculture, or his representative, the issuance of regulations or instructions relating to the use of national forest lands, seasons of use, grazing capacity of such lands, and any other matters affecting the administration of grazing in the area represented by such board.

(Apr. 24, 1950, ch. 97, § 18, 64 Stat. 87.)

REFERENCES IN TEXT

Section 581 of this title, referred to in subsec. (c)(1), was repealed by Pub. L. 95–307, § 8(a), June 30, 1978, 92 Stat. 356.

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 580*l*. Permits for grazing livestock on national forests

The Secretary of Agriculture in regulating grazing on the national forests and other lands administered by him in connection therewith is authorized, upon such terms and conditions as he may deem proper, to issue permits for the grazing of livestock for periods not exceeding ten years and renewals thereof: *Provided*, That nothing herein shall be construed as limiting or restricting any right, title, or interest of the United States in any land or resources.

(Apr. 24, 1950, ch. 97, § 19, 64 Stat. 88.)

§ 580m. Development of reservoir areas for future resources of timber; Congressional declaration of policy

It is declared to be the policy of the United States to provide that reservoir areas of projects for flood control, navigation, hydroelectric power development, and other related purposes owned in fee and under the jurisdiction of the Secretary of the Army and the Chief of Engi-

[1] See References in Text note below.

neers shall be developed and maintained so as to encourage, promote, and assure fully adequate and dependable future resources of readily available timber, through sustained yield programs, reforestation, and accepted conservation practices, and to increase the value of such areas for conservation, recreation, and other beneficial uses: *Provided*, That such development and management shall be accomplished to the extent practicable and compatible with other uses of the project.

(Pub. L. 86–717, §1, Sept. 6, 1960, 74 Stat. 817.)

§ 580n. Protection and development of forest or other vegetative cover; establishment and maintenance of conservation measures; coordination of programs and policies

In order to carry out the national policy declared in section 580m of this title, the Chief of Engineers, under the supervision of the Secretary of the Army, shall provide for the protection and development of forest or other vegetative cover and the establishment and maintenance of other conservation measures on reservoir areas under his jurisdiction, so as to yield the maximum benefit and otherwise improve such areas. Programs and policies developed pursuant to the preceding sentence shall be coordinated with the Secretary of Agriculture, and with appropriate State conservation agencies.

(Pub. L. 86–717, §2, Sept. 6, 1960, 74 Stat. 817.)

§ 580*o*. Forest Service appropriations

Notwithstanding any other provision of law, there are hereby authorized to be appropriated for the necessary expenses of the Forest Service for carrying out the programs for Forest Research, State and Private Forestry, and National Forest System under the appropriations account for Forest Management, Protection, and Utilization, and the programs under the appropriations account for Construction and Land Acquisition: $1,575,552,000 for fiscal year 1981; $1,498,000,000 for fiscal year 1982; $1,560,000,000 for fiscal year 1983; and $1,620,000,000 for fiscal year 1984: *Provided*, That none of the funds authorized to be appropriated hereby may be used for carrying out the Bald Mountain road in the Siskiyou National Forest.

(Pub. L. 97–35, title I, §122, Aug. 13, 1981, 95 Stat. 368.)

§ 580p. "Woodsy Owl" and "Smokey Bear" characters and names; definitions

As used in this Act—

(1) the term ''Woodsy Owl'' means the name and representation of a fanciful owl, who wears slacks (forest green when colored), a belt (brown when colored), and a Robin Hood style hat (forest green when colored) with a feather (red when colored), and who furthers the slogan, ''Give a Hoot, Don't Pollute'', originated by the Forest Service of the United States Department of Agriculture;

(2) the term ''Smokey Bear'' means the name and character ''Smokey Bear'' originated by the Forest Service of the United States Department of Agriculture in cooperation with the Association of State Foresters and the Advertising Council.

(3) the term ''Secretary'' means the Secretary of Agriculture.

(Pub. L. 93–318, §1, June 22, 1974, 88 Stat. 244.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 93–318, June 22, 1974, 88 Stat. 244, which enacted sections 580p, 580p–1, 580p–3, and 580p–4 of this title and section 711a of Title 18, Crimes and Criminal Procedure, and amended section 580p–2 of this title and section 711 of Title 18. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 488b–3 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97–258, §1, Sept. 13, 1982, 96 Stat. 877.

§ 580p–1. Property of the United States

The following are hereby declared the property of the United States:

(1) The name and character ''Smokey Bear''.

(2) The name and character ''Woodsy Owl'' and the associated slogan, ''Give a Hoot, Don't Pollute''.

(Pub. L. 93–318, §2, June 22, 1974, 88 Stat. 245.)

CODIFICATION

Section was formerly classified to section 488b–4 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97–258, §1, Sept. 13, 1982, 96 Stat. 877.

§ 580p–2. Deposit of fees collected under regulations relating to "Smokey Bear"; availability

The Secretary of Agriculture shall deposit into a special account to be available for furthering the nationwide forest-fire prevention campaign all fees collected under regulations promulgated by him relating to ''Smokey Bear''.

(May 23, 1952, ch. 327, §3, 66 Stat. 92; Pub. L. 93–318, §7, June 22, 1974, 88 Stat. 245.)

CODIFICATION

Section was formerly classified to section 488a of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97–258, §1, Sept. 13, 1982, 96 Stat. 877.

AMENDMENTS

1974—Pub. L. 93–318 struck out ''under the provisions of section 711 of title 18'' after ''relating to 'Smokey Bear'.''

§ 580p–3. Use of royalty fees; special account

(a) The Secretary may establish and collect use or royalty fees for the manufacture, reproduction, or use of the name or character ''Woodsy Owl'' and the associated slogan, ''Give a Hoot, Don't Pollute'', as a symbol for a public service campaign to promote wise use of the environment and programs which foster maintenance and improvement of environmental quality.

(b) The Secretary shall deposit into a special account all fees collected pursuant to this Act. Such fees are hereby made available for obligation and expenditure for the purpose of furthering the ''Woodsy Owl'' campaign.

(Pub. L. 93–318, § 3, June 22, 1974, 88 Stat. 245.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is Pub. L. 93–318, June 22, 1974, 88 Stat. 244, which enacted sections 580p, 580p–1, 580p–3, and 580p–4 of this title and section 711a of Title 18, Crimes and Criminal Procedure, and amended section 580p–2 of this title and section 711 of Title 18. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 488b–5 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97–258, § 1, Sept. 13, 1982, 96 Stat. 877.

§ 580p–4. Injunction against unauthorized manufacture, use, or reproduction

(a) Whoever, except as provided by rules and regulations issued by the Secretary, manufactures, uses, or reproduces the character ''Smokey Bear'', or the name ''Smokey Bear'', or a facsimile or simulation of such character or name in such a manner as suggests ''Smokey Bear'' may be enjoined from such manufacture, use, or reproduction at the suit of the Attorney General upon complaint by the Secretary.

(b) Whoever, except as provided by rules and regulations issued by the Secretary, manufactures, uses, or reproduces the character ''Woodsy Owl'', the name ''Woodsy Owl'', or the slogan ''Give a Hoot, Don't Pollute'', or a facsimile or simulation of such character, name, or slogan in such a manner as suggests ''Woodsy Owl'' may be enjoined from such manufacture, use, or reproduction at the suit of the Attorney General upon complaint by the Secretary.

(Pub. L. 93–318, § 4, June 22, 1974, 88 Stat. 245.)

CODIFICATION

Section was formerly classified to section 488b–6 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97–258, § 1, Sept. 13, 1982, 96 Stat. 877.

§ 580q. National Tree Seed Laboratory; disposition of fees

Notwithstanding any other provision of law, fees received by the National Tree Seed Laboratory, administered by the Forest Service, United States Department of Agriculture, for the provision of a tree seed testing service, shall be retained and deposited as a reimbursement to current appropriations used to cover the costs of providing such service.

(Pub. L. 99–198, title XVII, § 1772, Dec. 23, 1985, 99 Stat. 1658.)

SUBCHAPTER II—INVESTIGATIONS, EXPERIMENTS, AND TESTS AFFECTING REFORESTATION AND FOREST PRODUCTS

§§ 581, 581a. Repealed. Pub. L. 95–307, § 8(a), June 30, 1978, 92 Stat. 356

Section 581, acts May 22, 1928, ch. 678, § 1, 45 Stat. 699; Apr. 24, 1950, ch. 97, § 17(a), 64 Stat. 87, authorized investigations, experiments, and tests affecting reforestation and forest products through cooperation with State and other agencies.

Section 581a, acts May 22, 1928, ch. 678, § 2, 45 Stat. 700; June 15, 1936, ch. 553, 49 Stat. 1515, set forth provisions establishing and authorizing appropriations for specific forest experiment stations.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 9 of Pub. L. 95–307, set out as an Effective Date note under section 1641 of this title.

§ 581a–1. Repealed. Pub. L. 95–307, § 4(d), June 30, 1978, 92 Stat. 355

Section, act Aug. 31, 1951, ch. 374, title I, § 101, 65 Stat. 233, authorized receipt of funds on or after Aug. 31, 1951, from States, etc., for establishment or operation of forest research facilities.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 9 of Pub. L. 95–307, set out as an Effective Date note under section 1641 of this title.

§ 581a–2. Omitted

CODIFICATION

Section, act June 13, 1956, ch. 380, title II, § 200, 70 Stat. 269, which authorized advance of funds to cooperators, was from the Department of the Interior and Related Agencies Appropriation Act, 1957, and was not repeated in subsequent appropriation acts. Similar provisions were contained in following prior appropriation acts:

June 16, 1955, ch. 147, title II, § 200, 69 Stat. 154.
June 29, 1954, ch. 409, title I, § 101, 68 Stat. 308.
July 28, 1953, ch. 251, title I, § 101, 67 Stat. 212.
Act July 5, 1952, ch. 574, title I, § 101, 66 Stat. 343.

§§ 581b to 581i. Repealed. Pub. L. 95–307, § 8(a), June 30, 1978, 92 Stat. 356

Section 581b, act May 22, 1928, ch. 678, § 3, 45 Stat. 701, authorized appropriations for investigations of diseases of forest trees and products.

Section 581c, act May 22, 1928, ch. 678, § 4, 45 Stat. 701, authorized appropriations for investigations of forest insects.

Section 581d, act May 22, 1928, ch. 678, § 5, 45 Stat. 701, authorized appropriations for experiments and investigations of life histories and habits of forest animals, birds, and wildlife.

Section 581e, act May 22, 1928, ch. 678, § 6, 45 Stat. 701, authorized appropriations for investigations of the relationship of weather conditions to forest fires.

Section 581f, act May 22, 1928, ch. 678, § 7, 45 Stat. 701, authorized appropriations for experiments and investigations for development of improved methods of management of forest ranges.

Section 581g, act May 22, 1928, ch. 678, § 8, 45 Stat. 701, authorized appropriations for experiments, investigations, and tests of the physical and chemical properties of forest products.

Section 581h, acts May 22, 1928, ch. 678, § 9, 45 Stat. 702; May 31, 1944, ch. 217, 58 Stat. 265; June 25, 1949, ch. 245, 63 Stat. 271; Aug. 8, 1953, ch. 378, 67 Stat. 489; Sept. 25, 1962, Pub. L. 87–685, 76 Stat. 579; Dec. 14, 1967, Pub. L. 90–193, 81 Stat. 579; Aug. 17, 1974, Pub. L. 93–378, § 3(b), formerly § 2(b), 88 Stat. 476, renumbered Oct. 22, 1976, Pub. L. 94–588, § 2, 90 Stat. 2949, set forth provisions relating to comprehensive survey and analysis of the present and prospective conditions of and requirements for renewable resources.

Section 581i, act May 22, 1928, ch. 678, § 10, 45 Stat. 702, authorized appropriations for economic investigations of forest lands and forest products.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 9 of Pub. L. 95–307, set out as an Effective Date note under section 1641 of this title.

§ 581i–1. Advance of funds for cooperative research

For the purpose of fostering and stimulating participation with the Forest Service in forest, range, and watershed management research through investigations, experiments, tests, or such other means as he may deem advisable, and in order to aid in obtaining the fullest cooperation from States and other public and private agencies, organizations, institutions, and individuals, in effectuating such research the Secretary of Agriculture is authorized in accordance with such regulations as he may issue and when in his judgment such cooperative work will be stimulated or facilitated to make funds available to the cooperators without regard to the provisions of section 3324(a) and (b) of title 31, prohibiting advances of public moneys.

(Apr. 24, 1950, ch. 97, § 20, as added Apr. 6, 1956, ch. 176, 70 Stat. 100.)

CODIFICATION

''Section 3324(a) and (b) of title 31'' substituted in text for ''section 3648, Revised Statutes [31 U.S.C. 529]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§ 581j. Congressional declaration of policy on reforestation and revegetation

It is the declared policy of the Congress to accelerate and provide a continuing basis for the needed reforestation and revegetation of national-forest lands and other lands under administration or control of the Forest Service of the Department of Agriculture in order to obtain the benefits hereinbefore enumerated.

(Oct. 11, 1949, ch. 674, § 1, 63 Stat. 763.)

REFERENCES IN TEXT

The benefits hereinbefore enumerated, referred to in text, means the benefits enumerated in the preamble to Joint Res. 53, Oct. 11, 1949, ch. 674, 63 Stat. 762. The preamble is set out as a note below.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred with certain exceptions, to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note in Appendix to Title 5, Government Organization and Employees.

PREAMBLE

The preamble to act Oct. 11, 1949, provided that:

''Whereas the national forests of the United States contain approximately eighty million acres of the Nation's commercial timber lands and approximately eighty-three million acres of the Nation's important grazing lands; and

''Whereas these national-forest lands comprise the principal source of water supply for domestic, irrigation, and industrial purposes for thousands of communities, farms, and industries, and good forest and other vegetative cover is essential for watershed protection; and

''Whereas these lands annually supply approximately four billion board-feet of forest products through twenty-seven thousand sales transactions and the demand for national forest timber is steadily increasing; and

''Whereas these lands are the sole or main source of summer range for ten million cattle and sheep grazed by thirty thousand livestock permittees whose livelihood is wholly or partially dependent upon livestock grazed on national-forest ranges; and

''Whereas these lands contain over four million acres of denuded and unsatisfactorily stocked timberlands and an additional four million acres of seriously depleted range lands; and

''Whereas all of these lands are potentially capable of producing an important part of the timber and forage needs of local communities, and contributing to the protection of watersheds, thereby alleviating flood damage and insuring a continuing water supply, increasing opportunity for local employment, bringing greater stability to local communities, and increasing returns to counties in the national forests from their share of national forests receipts, together with other benefits; and

''Whereas these lands will not restock or revegetate satisfactorily or within a reasonable time except through reforestation and revegetation or other measures to induce restocking or revegetation; and

''Whereas it is practical to reforest these denuded and unsatisfactorily stocked timber lands and revegetate these seriously depleted range lands in a period of fifteen years; and

''Whereas it is necessary to provide reasonable continuity of reforestation and revegetation programs in order to insure effective, efficient, and economical operations: Therefore be it''.

§ 581k. Authorization of appropriations for reforestation and revegetation

For the purpose of carrying out the provisions of this joint resolution on national-forest lands and other lands under the administration or control of the Forest Service of the Department of Agriculture, including the acquisition of land or interests therein for nurseries, there is authorized to be appropriated to remain available until December 31 of the ensuing fiscal year, $3,000,000 for the fiscal year ending June 30, 1951; $5,000,000 for the fiscal year ending June 30, 1952; $7,000,000 for the fiscal year ending June 30, 1953; $8,000,000 for the fiscal year ending June 30, 1954; $10,000,000 for the fiscal year ending June 30, 1955; a like amount for each subsequent year through the fiscal year ending June 30, 1965, and thereafter such amounts as may be needed for reforestation; and $1,500,000 for the fiscal year ending June 30, 1951; $1,750,000 for the fiscal year ending June 30, 1952; $2,000,000 for the fiscal year ending June 30, 1953; $2,500,000 for the fiscal year ending June 30, 1954; $3,000,000 for the fiscal year ending June 30, 1955; a like amount for each subsequent year through the fiscal year ending June 30, 1965, and thereafter such amounts as may be needed for range revegetation.

(Oct. 11, 1949, ch. 674, § 2, 63 Stat. 763.)

REFERENCES IN TEXT

This joint resolution, referred to in text, means Joint Res. 53, Oct. 11, 1949, ch. 674, 63 Stat. 762, which is classified to this section and section 581j of this title.

§ 582. Puerto Rico; application of forest protection laws

The provisions of sections 515, 564, 565,[1] and 569 of this title are extended to the Territory of Puerto Rico, and the Secretary of Agriculture is authorized to cooperate with the appropriate officials of Puerto Rico on the same terms and conditions as with the States: *Provided*, That not

[1] See References in Text note below.

to exceed fifty thousand acres of land may be acquired in Puerto Rico under section 515 of this title.

(Mar. 3, 1931, ch. 452, 46 Stat. 1516; May 17, 1932, ch. 190, 47 Stat. 158.)

REFERENCES IN TEXT

Sections 564 and 565 of this title, referred to in text, were repealed by Pub. L. 95–313, § 13(a)(1), July 1, 1978, 92 Stat. 374.

CHANGE OF NAME

''Puerto Rico'' substituted in text for ''Porto Rico'' pursuant to act May 17, 1932, which is classified to section 731a of Title 48, Territories and Insular Possessions.

SUBCHAPTER III—RESEARCH PROGRAMS

§ 582a. Congressional findings

It is recognized that research in forestry is the driving force behind progress in developing and utilizing the resources of the Nation's forest and related rangelands. The production, protection, and utilization of the forest resources depend on strong technological advances and continuing development of the knowledge necessary to increase the efficiency of forestry practices and to extend the benefits that flow from forest and related rangelands. It is recognized that the total forestry research efforts of the several State colleges and universities and of the Federal Government are more fully effective if there is close coordination between such programs, and it is further recognized that forestry schools are especially vital in the training of research workers in forestry. It is also recognized that the provisions of this subchapter are essential to assist in providing the research background that undergirds the Forest and Rangeland Renewable Resources Planning Act of 1974 [16 U.S.C. 1600 et seq.], the Renewable Resources Extension Act of 1978 [16 U.S.C. 1671 et seq.], and the Soil and Water Resources Conservation Act of 1977 [16 U.S.C. 2001 et seq.].

(Pub. L. 87–788, § 1, Oct. 10, 1962, 76 Stat. 806; Pub. L. 97–98, title XIV, § 1441(a), Dec. 22, 1981, 95 Stat. 1320.)

REFERENCES IN TEXT

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in text, is Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§ 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

The Renewable Resources Extension Act of 1978, referred to in text, is Pub. L. 95–306, June 30, 1978, 92 Stat. 349, which is classified generally to subchapter III (§ 1671 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 1600 of this title and Tables.

The Soil and Water Resources Conservation Act of 1977, referred to in text, is Pub. L. 95–192, Nov. 18, 1977, 91 Stat. 1407, which is classified generally to chapter 40 (§ 2001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of this title and Tables.

AMENDMENTS

1981—Pub. L. 97–98 inserted provision relating to recognition that provisions of this subchapter are essential to assist in providing the research background that undergirds the Forest and Rangeland Renewable Resources Planning Act of 1974, the Renewable Resources Extension Act of 1978, and the Soil and Water Resources Conservation Act of 1977.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of Title 7, Agriculture.

SHORT TITLE

Pub. L. 87–788, Oct. 10, 1962, 76 Stat. 806, as amended, which is classified generally to this subchapter, is popularly known as the ''McIntire-Stennis Act of 1962'' and also as the ''McIntire-Stennis Cooperative Forestry Act''.

REAFFIRMATION OF MCINTIRE-STENNIS RESEARCH PROGRAM

Pub. L. 101–624, title XII, § 1231, Nov. 28, 1990, 104 Stat. 3543, provided that: ''It is the sense of Congress to reaffirm the importance of Public Law 87–788 (16 U.S.C. 582a et seq.) commonly known as the McIntire-Stennis Cooperative Forestry Act.''

§ 582a–1. Cooperation by Secretary of Agriculture with States; assistance: plans, eligible institutions and amount

In order to promote research in forestry, the Secretary of Agriculture is authorized to cooperate with the several States for the purpose of encouraging and assisting them in carrying out programs of forestry research.

Such assistance shall be in accordance with plans to be agreed upon in advance by the Secretary and (a) land-grant colleges or agricultural experiment stations established under the Morrill Act of July 2, 1862, as amended [7 U.S.C. 301 et seq.], and the Hatch Act of March 2, 1887, as amended [7 U.S.C. 361a et seq.], and 1890 Institutions (as defined in section 7601 of title 7), and (b) other State-supported colleges and universities offering graduate training in the sciences basic to forestry and having a forestry school; however, an appropriate State representative designated by the State's Governor shall, in any agreement drawn up with the Secretary of Agriculture for the purposes of this subchapter, certify those eligible institutions of the State which will qualify for assistance and shall determine the proportionate amounts of assistance to be extended these certified institutions. If more than one institution within a State are certified as qualifying for assistance, then it shall be the responsibility of such institutions, in agreement with the Secretary, to develop complementary programs of forestry research for the State.

(Pub. L. 87–788, § 2, Oct. 10, 1962, 76 Stat. 806; Pub. L. 97–98, title XIV, § 1441(b), Dec. 22, 1981, 95 Stat. 1320; Pub. L. 110–234, title VII, § 7412(a), May 22, 2008, 122 Stat. 1255; Pub. L. 110–246, § 4(a), title VII, § 7412(a), June 18, 2008, 122 Stat. 1664, 2017.)

REFERENCES IN TEXT

The Morrill Act of July 2, 1862, as amended, referred to in text, is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 301 of Title 7 and Tables.

The Hatch Act of March 2, 1887, as amended, referred to in text, is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as

amended, which is classified generally to sections 361a to 361i of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 361a of Title 7 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, §7412(a), inserted ''and 1890 Institutions (as defined in section 7601 of title 7),'' before ''and (b)''.

1981—Pub. L. 97–98 inserted provision that if more than one institution within a State are certified as qualifying for assistance, then it shall be the responsibility of such institutions, in agreement with the Secretary, to develop complimentary programs of forestry research for the State.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110–234, title VII, §7412(b), May 22, 2008, 122 Stat. 1255, and Pub. L. 110–246, §4(a), title VII, §7412(b), June 18, 2008, 122 Stat. 1664, 2017, provided that: ''The amendment made by subsection (a) [amending this section] takes effect on October 1, 2008.''

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of Title 7, Agriculture.

§ 582a–2. Authorization of appropriations; other allotments and grants

To enable the Secretary to carry out the provisions of this subchapter there are authorized to be appropriated such sums as the Congress may from time to time determine to be necessary but not exceeding in any one fiscal year one-half the amount appropriated for Federal forestry research conducted directly by the Department of Agriculture for the fiscal year preceding the year in which the budget is presented for such appropriation. Funds appropriated and made available to the States under this subchapter shall be in addition to allotments or grants that may be made under other authorizations.

(Pub. L. 87–788, §3, Oct. 10, 1962, 76 Stat. 806.)

§ 582a–3. Matching funds; reapportionment to other qualifying institutions; reductions

The amount paid by the Federal Government to any State-certified institutions eligible for assistance under this subchapter shall not exceed during any fiscal year the amount available to and budgeted for expenditure by such college or university during the same fiscal year for forestry research from non-Federal sources, except that for the fiscal years ending June 30, 1971, and June 30, 1972, the matching funds requirement hereof shall not be applicable to the Virgin Islands and Guam, and sums authorized for such years for the Virgin Islands and Guam may be used to pay the total cost of programs for forestry research. The Secretary is authorized to make such expenditures on the certificate of the appropriate official of the college or university having charge of the forestry research for which the expenditures as herein provided are to be made. If any or all of the colleges or universities certified for receipt of funds under this subchapter fails to make available and budget for expenditure for forestry research in any fiscal year sums at least as much as the amount for which it would be eligible for such year under this subchapter, the difference between the Federal funds available and the funds made available and budgeted for expenditure by the college or university shall be reapportioned by the Secretary to other eligible colleges or universities of the same State if there be any which qualify therefor and, if there be none, the Secretary shall reapportion such differences to the qualifying colleges and universities of other States participating in the forestry research program. If in any year the amount made available by a State from its own funds (including any revenue-sharing funds) to a State-certified institution eligible for assistance under this subchapter is reduced because of an increase in the allotment made available under this subchapter, the allotment of such State-certified institution from the next succeeding appropriation shall be reduced in an equivalent amount. The Secretary shall reapportion the amount of such reduction to other eligible colleges and universities of the same State if there be any that qualify therefor and, if there be none, the Secretary shall reapportion such amount to the qualifying colleges and universities of other States participating in the forestry research program.

(Pub. L. 87–788, §4, Oct. 10, 1962, 76 Stat. 806; Pub. L. 92–318, title V, §506(i), June 23, 1972, 86 Stat. 351; Pub. L. 97–98, title XIV, §1442(b), Dec. 22, 1981, 95 Stat. 1321.)

AMENDMENTS

1981—Pub. L. 97–98 inserted provision that if, in any year, the amount made available by a State from its own funds (including any revenue-sharing funds) to a State-certified institution eligible for assistance is reduced because of an increase in the available allotment, the allotment of such State-certified institution from the next succeeding appropriation be reduced in an equivalent amount and that the Secretary reapportion the amount of such reduction to other eligible colleges and universities of the same State if there be any that qualify therefor and, if there be none, the Secretary reapportion such amount to the qualifying colleges and universities of other States participating in the forestry research program.

1972—Pub. L. 92–318 provided that for fiscal years ending June 30, 1971, and June 30, 1972, the matching funds requirement shall not be applicable to the Virgin Islands and Guam and sums authorized for such years for the Virgin Islands and Guam may be used to pay the total cost of programs for forestry research.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of Title 7, Agriculture.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after June 30, 1970, see section 506(n) of Pub. L. 92–318, set out as an

Effective Date note under section 326a of Title 7, Agriculture.

§ 582a–4. Regulations; advice and assistance; appointment, membership, etc., of council

(a) Regulations and assistance

The Secretary shall prescribe such regulations as may be necessary to carry out this subchapter and to furnish such advice and assistance through a cooperative State forestry research unit in the Department as will best promote the purposes of this subchapter.

(b) Advisory council

The Secretary shall appoint a council of not fewer than sixteen members which shall be constituted to give representation to Federal and State agencies concerned with developing and utilizing the Nation's forest resources, the forest industries, the forestry schools of the State-certified eligible institutions, State agricultural experiment stations, and volunteer public groups concerned with forests and related natural resources. The council shall meet at least annually and shall submit a report to the Secretary on regional and national planning and coordination of forestry research within the Federal and State agencies, forestry schools, and the forest industries, and shall advise the Secretary on the apportionment of funds. The Secretary shall seek, at least once each year, the advice of the council to accomplish efficiently the purposes of this subchapter.

(Pub. L. 87–788, § 5, Oct. 10, 1962, 76 Stat. 807; Pub. L. 97–98, title XIV, § 1441(c), Dec. 22, 1981, 95 Stat. 1320.)

AMENDMENTS

1981—Pub. L. 97–98 substituted provisions directing the Secretary to promulgate necessary regulations, furnish necessary advice and assistance, and appoint a council of no fewer than sixteen members in order to give representation to Federal and State agencies in developing cooperative State forestry programs for provisions which had directed the Secretary to make apportionments among participating States only after consulting with a national advisory board of not less than seven officials of the forestry schools of the State-certified eligible colleges and universities chosen by a majority of such schools. See section 582a–5 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of Title 7, Agriculture.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 582a–5. Apportionments, advice, criteria, etc.

Apportionments among participating States shall be determined by the Secretary after consultation with the council appointed under section 582a–4 of this title. In making such apportionments, consideration shall be given to pertinent factors including non-Federal expenditures for forestry research by State-certified eligible institutions, areas of non-Federal commercial forest land, and the volume of timber cut annually. Three per centum of such funds as may be appropriated shall be made available to the Secretary for administration of this subchapter. These administrative funds may be used for transportation of scientists who are not officers or employees of the United States to research meetings convened for purposes of assessing research opportunities or research planning.

(Pub. L. 87–788, § 6, Oct. 10, 1962, 76 Stat. 807; Pub. L. 97–98, title XIV, § 1441(c), Dec. 22, 1981, 95 Stat. 1320.)

AMENDMENTS

1981—Pub. L. 97–98 substituted provisions directing the Secretary to make apportionments among participating States only after consultation with the council appointed under section 582a–4 of this title, enumerating the factors to be considered in making apportionments, and authorizing the expenditure of funds to transport scientists to research meetings for provisions which had authorized the Secretary to prescribe necessary rules and regulations, to furnish necessary advice and assistance, and to appoint an advisory committee. See section 582a–4 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of Title 7, Agriculture.

§ 582a–6. Scope of forestry research

The term ''forestry research'' as used in this subchapter shall include investigations relating to: (1) Reforestation and management of land for the production of crops of timber and other related products of the forest; (2) management of forest and related watershed lands to improve conditions of waterflow and to protect resources against floods and erosion; (3) management of forest and related rangeland for production of forage for domestic livestock and game and improvement of food and habitat for wildlife; (4) management of forest lands for outdoor recreation; (5) protection of forest land and resources against fire, insects, diseases, or other destructive agents; (6) utilization of wood and other forest products; (7) development of sound policies for the management of forest lands and the harvesting and marketing of forest products; and (8) such other studies as may be necessary to obtain the fullest and most effective use of forest resources.

(Pub. L. 87–788, § 7, Oct. 10, 1962, 76 Stat. 807.)

§ 582a–7. "State" defined

The term ''State'' as used in this subchapter shall include Puerto Rico, the Virgin Islands, and Guam.

(Pub. L. 87–788, § 8, Oct. 10, 1962, 76 Stat. 807; Pub. L. 92–318, title V, § 506(j), June 23, 1972, 86 Stat. 351.)

AMENDMENTS

1972—Pub. L. 92–318 inserted reference to Virgin Islands and Guam.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after June 30, 1970, see section 506(n) of Pub. L. 92–318, set out as an Effective Date note under section 326a of Title 7, Agriculture.

§ 582a–8. Competitive forestry, natural resources, and environmental grants program

(a) Establishment

The Secretary of Agriculture (hereafter referred to in this section as the ''Secretary'') shall establish a competitive forestry, natural resources, and environmental grant program to award grants for the conduct of research as described in subsection (c) of this section.

(b) Eligible entities

To be eligible to receive a grant under subsection (a) of this section, an entity shall—

(1) be a State agricultural experiment station, a college or university, a research institution or organization, a Federal agency, a private organization, or a corporation that has a demonstrable capacity to conduct forestry, natural resources, and environmental research as determined by the Secretary; and

(2) prepare and submit to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require, including the proposed use of the amounts that may be received under a grant.

(c) Use

In awarding the initial grants under subsection (a) of this section the Secretary shall give priority to applicants who will use such grants for research concerning—

(1) the biology of forest organisms, including physiology, genetic mechanisms, and biotechnology;

(2) ecosystem function and management, including forest ecosystem research, biodiversity, forest productivity, pest management, water resources, and alternative silvicultural systems;

(3) wood as a raw material, including forest products and harvesting;

(4) human forest interactions, including outdoor recreation, public policy formulation, economics, sociology, and administrative behavior;

(5) international trade, competition, and cooperation related to forest products;

(6) alternative native crops, products, and services that can be produced from renewable natural resources associated with privately held forest lands;

(7) viable economic production and marketing systems for alternative natural resource products and services;

(8) economic and environmental benefits of various conservation practices on forest lands;

(9) genetic tree improvement; and

(10) market expansion.

(d) Facilities and equipment

(1) Authority

Grants made under this section may be used to update research facilities and equipment available to facilitate the conduct of state-of-the-art research in forestry, natural resources, and the environment.

(2) Priorities and criteria

The Secretary, in consultation with the Cooperative Forestry Research Council appointed under section 582a–4(b) of this title, may develop criteria and priorities for the awarding of grants for use under paragraph (1).

(e) Recommendations

The Secretary shall request the Cooperative Forestry Research Council referred to in subsection (d)(2) of this section to provide recommendations regarding grant priorities.

(f) Term

The Secretary may make grants under this section for periods of not to exceed 5 years.

(g) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 101–624, title XII, § 1232, Nov. 28, 1990, 104 Stat. 3543.)

CODIFICATION

Section was enacted as part of the Forest Stewardship Act of 1990 and as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the McIntire-Stennis Act of 1962 which comprises this subchapter.

SUBCHAPTER IV—SUSTAINED-YIELD FOREST MANAGEMENT

§ 583. Establishment of sustained-yield units to stabilize forest industries, employment, communities and taxable wealth

In order to promote the stability of forest industries, of employment, of communities, and of taxable forest wealth, through continuous supplies of timber; in order to provide for a continuous and ample supply of forest products; and in order to secure the benefits of forests in maintenance of water supply, regulation of stream flow, prevention of soil erosion, amelioration of climate, and preservation of wildlife, the Secretary of Agriculture and the Secretary of the Interior are severally authorized to establish by formal declaration, when in their respective judgments such action would be in the public interest, cooperative sustained-yield units which shall consist of federally owned or administered forest land under the jurisdiction of the Secretary establishing the unit and, in addition thereto, land which reasonably may be expected to be made the subject of one or more of the cooperative agreements with private landowners authorized by section 583a of this title.

(Mar. 29, 1944, ch. 146, § 1, 58 Stat. 132.)

§ 583a. Cooperative agreements with private owners; privileges of private owners; recordation of agreements

The Secretary of Agriculture, with respect to forest land under his jurisdiction, and the Secretary of the Interior, with respect to forest land under his jurisdiction, are severally authorized, for the purposes specified in section 583 of this title, to enter into cooperative agreements with private owners of forest land within a cooperative sustained-yield unit, established pursu-

ant to said section, providing for the coordinated management of such private forest land and of federally owned or administered forest lands within the sustained-yield unit involved. Each cooperative agreement may give the cooperating private landowner the privilege of purchasing without competitive bidding at prices not less than their appraised value, subject to periodic readjustments of stumpage rates and to such other conditions and requirements as the Secretary may prescribe, timber and other forest products from federally owned or administered forest land within the unit, in accordance with the provisions of sustained-yield management plans formulated or approved by the Secretary for the unit; shall limit the time, rate, and method of cutting or otherwise harvesting timber and other forest products from the land of the cooperating private landowner, due consideration being given to the character and condition of the timber, to the relation of the proposed cutting to the sustained-yield plan for the unit, and to the productive capacity of the land; shall prescribe the terms and conditions, but not the price, upon which the cooperating private landowner may sell to any person timber and other forest products from his land, compliance by the purchaser with such conditions to be required by the contract of sale; shall contain such provisions as the Secretary deems necessary to protect the reasonable interest of other owners of forest land within the unit; and shall contain such other provisions as the Secretary believes necessary to carry out the purposes of this subchapter.

Each cooperative agreement shall be placed on record in the county or counties in which the lands of the cooperating private landowner covered thereby are located, and the costs incident to such recordation may be paid out of any funds available for the protection or management of federally owned or administered forest land within the unit. When thus recorded, the agreement shall be binding upon the heirs, successors, and assigns of the owner of such land, and upon purchasers of timber or other forest products from such land, throughout the life of such cooperative agreement.

(Mar. 29, 1944, ch. 146, § 2, 58 Stat. 132.)

§ 583b. Establishment of sustained-yield units to stabilize sale of timber and forest products

The Secretary of Agriculture and the Secretary of the Interior are further severally authorized, whenever in their respective judgments the maintenance of a stable community or communities is primarily dependent upon the sale of timber or other forest products from federally owned or administered forest land and such maintenance cannot effectively be secured by following the usual procedures in selling such timber or other forest products, to establish by formal declaration for the purpose of maintaining the stability of such community or communities a sustained-yield unit consisting of forest land under the jurisdiction of the Secretary establishing such unit, to determine and define the boundaries of the community or communities for whose benefit such unit is created, and to sell, subject to such conditions and requirements as the Secretary believes necessary, federally owned or administered timber and other forest products from such unit without competitive bidding at prices not less than their appraised values, to responsible purchasers within such community or communities.

(Mar. 29, 1944, ch. 146, § 3, 58 Stat. 133.)

§ 583c. Agreements between Secretaries of Agriculture and the Interior, or with other Federal agencies having jurisdiction over forest land

Each of the said Secretaries is further authorized in his discretion to enter into cooperative agreements with the other Secretary, or with any Federal agency having jurisdiction over federally owned or administered forest land, or with any State or local agency having jurisdiction over publicly owned or administered forest land, providing for the inclusion of such land in any coordinated plan of management otherwise authorized by the provisions of this subchapter when by such a cooperative agreement he may be aided in accomplishing the purposes of this subchapter; but no federally or publicly owned or administered forest land not under the jurisdiction of the Secretary establishing the sustained-yield unit concerned shall be included in any such plan except in pursuance of a cooperative agreement made under this section.

(Mar. 29, 1944, ch. 146, § 4, 58 Stat. 133.)

§ 583d. Notice; registered mail and publication; costs; contents; request for hearing; time; determination and record available for inspection

Before any sustained-yield unit authorized by section 583 or 583b of this title shall be established, and before any cooperative agreement authorized by section 583a or 583c of this title shall be entered into, advance notice thereof shall be given by registered mail or by certified mail to each landowner whose land is proposed to be included and by publication in one or more newspapers of general circulation in the vicinity of the place where the timber is located, and the costs incident to such publication may be paid out of any funds available for the protection or management of the federally owned or administered forest land involved. This notice shall state: (1) the location of the proposed unit; (2) the name of each proposed cooperator; (3) the duration of the proposed cooperative agreement or agreements; (4) the location and estimated quantity of timber on the land of each proposed cooperator and on the Federal land involved; (5) the expected rate of cutting of such timber; and (6) the time and place of a public hearing to be held not less than thirty days after the first publication of said notice for the presentation of the advantages and disadvantages of the proposed action to the community or communities affected.

Before any sale agreement made without competition and involving more than $500 in stumpage value of federally owned or administered timber shall be entered into under this subchapter, advance notice thereof shall be given by publication once weekly for four consecutive

weeks in one or more newspapers of general circulation in the vicinity of the place where the timber is located, and the costs incident to such publication may be paid out of any funds available for the protection or management of federally owned or administered forest land within the unit concerned. This notice shall state: (1) the quantity and appraised value of the timber; (2) the time and place of a public hearing to be held not less than thirty days after the first publication of said notice if requested by the State or county where the timber is located or by any other person deemed to have a reasonable interest in the proposed sale or in its terms; and (3) the place where any request for a public hearing shall be made. Such requests need be considered only if received at the place designated in the notice not later than fifteen days after the first publication of such notice. If a request for a hearing is received within the time designated, notice of the holding of the hearing shall be given not less than ten days before the time set for such hearing, in the same manner as provided for the original notice.

The determination made by the Secretary having jurisdiction upon the proposals considered at any such hearing, which determination may include the modification of the terms of such proposals, together with the minutes or other record of the hearing, shall be available for public inspection during the life of any coordinated plan of management or agreement entered into in consequence of such determination.

(Mar. 29, 1944, ch. 146, § 5, 58 Stat. 133; Pub. L. 86–507, § 1(17), June 11, 1960, 74 Stat. 201.)

AMENDMENTS

1960—Pub. L. 86–507 inserted ''or by certified mail'' after ''registered mail''.

§ 583e. Remedies against private owners; jurisdiction; final orders; "owner" defined

In addition to any other remedy available under existing law, upon failure of any private owner of forest land which is subject to a cooperative agreement entered into pursuant to this subchapter to comply with the terms of such agreement, or upon failure of any purchaser of timber or other forest products from such land to comply with the terms and conditions required by such agreement to be included in the contract of sale, the Attorney General, at the request of the Secretary concerned, is authorized to institute against such owner or such purchaser a proceeding in equity in the proper district court of the United States, to require compliance with the terms and conditions of said cooperative agreement; and jurisdiction is conferred upon said district courts to hear and determine such proceedings, to order compliance with the terms and conditions of cooperative agreements entered into pursuant to this subchapter, and to make such temporary and final orders as shall be deemed just in the premises. As used in this section the term ''owner'' shall include the heirs, successors, and assigns of the landowner entering into the cooperative agreements.

(Mar. 29, 1944, ch. 146, § 6, 58 Stat. 134.)

§ 583f. "Federally owned or administered forest land" defined

Whenever used in this subchapter, the term ''federally owned or administered forest land'' shall be construed to mean forest land in which, or in the natural resources of which, the United States has a legal or equitable interest of any character sufficient to entitle the United States to control the management or disposition of the timber or other forest products thereon, except land heretofore or hereafter reserved or withdrawn for purposes which are inconsistent with the exercise of the authority conferred by this subchapter; and shall include trust or restricted Indian land, whether tribal or allotted, except that such land shall not be included without the consent of the Indians concerned.

(Mar. 29, 1944, ch. 146, § 7, 58 Stat. 134.)

§ 583g. Rules and regulations; delegation of powers and duties

The Secretary of Agriculture and the Secretary of the Interior may severally prescribe such rules and regulations as may be appropriate to carry out the purposes of this subchapter. Each Secretary may delegate any of his powers and duties under this subchapter to other officers or employees of his Department.

(Mar. 29, 1944, ch. 146, § 8, 58 Stat. 134.)

§ 583h. Prior acts as affecting or affected by subchapter

Nothing contained in this subchapter shall be construed to abrogate or curtail any authority conferred upon the Secretary of Agriculture or the Secretary of the Interior by any Act relating to management of federally owned or administered forest lands, and nothing contained in any such Acts shall be construed to limit or restrict any authority conferred upon the Secretary of Agriculture or the Secretary of the Interior by this subchapter.

(Mar. 29, 1944, ch. 146, § 9, 58 Stat. 134.)

§ 583i. Authorization of appropriations

Funds available for the protection or management of Federally owned or administered forest land within the unit concerned may also be expended in carrying out the purposes of this subchapter, and there are authorized to be appropriated such additional sums for the purposes of this subchapter as the Congress may from time to time deem necessary, but such additional sums shall not exceed $150,000 for the Department of Agriculture and $50,000 for the Department of the Interior, for any fiscal year.

(Mar. 29, 1944, ch. 146, § 10, 58 Stat. 135.)

SUBCHAPTER V—FOREST FOUNDATION

§ 583j. Establishment and purposes of Foundation

(a) Establishment

There is established the National Forest Foundation (hereinafter referred to as the ''Foundation'') as a charitable and nonprofit corporation domiciled in the District of Columbia.

(b) Purposes

The purposes of the Foundation are to—

(1) encourage, accept, and administer private gifts of money, and of real and personal property for the benefit of, or in connection with, the activities and services of the Forest Service of the Department of Agriculture;

(2) undertake and conduct activities that further the purposes for which units of the National Forest System are established and are administered and that are consistent with approved forest plans; and

(3) undertake, conduct and encourage educational, technical and other assistance, and other activities that support the multiple use, research, cooperative forestry and other programs administered by the Forest Service.

(c) Limitation and conflicts of interests

(1) The Foundation shall not participate or intervene in a political campaign on behalf of any candidate for public office.

(2) No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation affecting—

(A) the financial interests of the director, officer, or employee; or

(B) the interests of any corporation partnership, entity, or organization in which such director, officer, or employee—

(i) is an officer, director, or trustee; or

(ii) has any direct or indirect financial interest.

(Pub. L. 101–593, title IV, § 402, Nov. 16, 1990, 104 Stat. 2970.)

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–106, § 1, Oct. 12, 1993, 107 Stat. 1031, provided that: ''This Act [amending sections 583j–3 and 583j–8 of this title and enacting provisions set out as a note under section 583j–3 of this title] may be cited as the 'National Forest Foundation Act Amendment Act of 1993'.''

SHORT TITLE

Section 401 of title IV of Pub. L. 101–593 provided that: ''This title [enacting this subchapter] may be cited as the 'National Forest Foundation Act'.''

§ 583j–1. Board of Directors of Foundation

(a) Establishment and membership

The Foundation shall have a governing Board of Directors (hereinafter referred to as the ''Board''), which shall consist of not more than 30 Directors, each of whom shall be a United States citizen. At the discretion of the Secretary of Agriculture, the Secretary may increase the number of Directors to not more than twenty. At all times, a majority of members of the Board shall be educated or have actual experience in natural or cultural resource management, law, or research. To the extent practicable, members of the Board shall represent diverse points of view relating to natural and cultural resource issues. The Chief of the Forest Service shall be an ex officio nonvoting member of the Board.

(b) Appointment and terms

Within one year from November 16, 1990, the Secretary of Agriculture (hereinafter referred to as the ''Secretary'') shall appoint the Directors of the Board. Directors shall be appointed for terms of six years; except that the Secretary, in making the initial appointments to the Board, shall appoint one-third each of the Directors to terms of two, four, and six years respectively. A vacancy on the Board shall be filled within sixty days of such vacancy in the manner in which the original appointment was made. No individual may serve more than twelve consecutive years as a Director.

(c) Chairman

The Chairman shall be elected by the Board from its members. A chairman shall serve for a two-year term, and may be re-elected to the post during his tenure as a Director.

(d) Quorum

A majority of the current voting membership of the Board shall constitute a quorum for the transaction of business.

(e) Meetings

The Board shall meet at the call of the Chairman at least once a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board by majority vote of the Board of Directors and that vacancy filled in accordance with subsection (b) of this section.

(f) Reimbursement of expenses

Voting members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties for the Foundation. Such reimbursement may not exceed such amount as would be authorized under section 5703 of title 5 for the payment of expenses and allowances for individuals employed intermittently in the Federal Government service.

(g) General powers

The Board may complete the organization of the Foundation by appointing employees, adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this subchapter, and undertaking other such acts as may be necessary to function and to carry out the provisions of this subchapter.

(h) Officers and employees

Officers and employees may not be appointed until the Foundation has sufficient funds to pay for their services. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(Pub. L. 101–593, title IV, § 403, Nov. 16, 1990, 104 Stat. 2970; Pub. L. 107–63, title II, Nov. 5, 2001, 115 Stat. 450; Pub. L. 111–88, div. A, title IV, § 432, Oct. 30, 2009, 123 Stat. 2964.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (g), was in the original ''this subtitle'' and was translated as reading ''this title'', meaning title IV of Pub. L. 101–593, Nov.

16, 1990, 104 Stat. 2969, known as the National Forest Foundation Act, which does not contain subtitles, and which is classified generally to this subchapter. For complete classification of title IV to the Code, see Short Title note set out under section 583j of this title and Tables.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–88 substituted ''not more than 30 Directors'' for ''fifteen Directors'' in first sentence.

2001—Subsec. (a). Pub. L. 107–63 inserted ''At the discretion of the Secretary of Agriculture, the Secretary may increase the number of Directors to not more than twenty.'' after first sentence.

§ 583j–2. Corporate powers and obligations

(a) In general

The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States and in foreign countries;

(3) shall have its principal offices in the Washington, D.C. metropolitan area; and

(4) shall at all times maintain a designated agent in the District of Columbia authorized to accept service of process for the Foundation.

(b) Notice and service of process

The serving of notice to, or service of process upon, the agent required under this paragraph,[1] or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(c) Seal

The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(d) Powers

To carry out its purposes, the Foundation shall have, in addition to powers otherwise authorized under this subchapter, the usual powers of a corporation in the District of Columbia, including the power to—

(1) accept, receive, solicit, hold, administer and use any gift, devise, or bequest, either absolutely or in trust, or real or personal property or any income therefrom or other interest therein;

(2) acquire by donation, gift, devise, purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom;

(4) borrow money and issue bonds, debentures, or other debt instruments;

(5) sue and be sued, and complain and defend itself in any court of competent jurisdiction (except that the Directors of the Board shall not be personally liable, except for gross negligence);

(6) enter into contracts or other arrangements with public agencies, private organizations, and persons and to make such payments as may be necessary to carry out the purposes thereof; and

(7) do any and all acts necessary and proper to carry out the purposes of the Foundation.

(e) Property

(1) The Foundation may acquire, hold and dispose of lands, waters, or other interests in real property by donation, gift, devise, purchase or exchange. For the purposes of this subchapter, an interest in real property shall include, but not be limited to, mineral and water rights, rights of way, and easements appurtenant or in gross. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

(2) No lands or waters, or interests therein, that are owned by the Foundation and are determined by the Chief of the United States Forest Service to be valuable for purposes established in this subchapter shall be subject to condemnation by any State or political subdivision, or any agent or instrumentality thereof.

(3) The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto.

(4) Contributions, gifts, and other transfers made to or for the use of the Foundation shall be treated as contributions, gifts, or transfers to an organization exempt from taxation under section 501(c)(3) of title 26.

(Pub. L. 101–593, title IV, § 404, Nov. 16, 1990, 104 Stat. 2971.)

§ 583j–3. Administrative services and support

(a) Startup funds

For purposes of assisting the Foundation in establishing an office and meeting initial administrative, project, and other startup expenses, the Secretary is authorized to provide to the Foundation $500,000, from funds appropriated pursuant to section 583j–8(a) of this title, per year for the two years beginning October 1, 1992. Such funds shall remain available to the Foundation until they are expended for authorized purposes.

(b) Matching funds

In addition to the startup funds provided under subsection (a) of this section, for a period of five years beginning October 1, 1992, the Secretary is authorized to provide matching funds for administrative and project expenses incurred by the Foundation as authorized by section 583j–8(b) of this title including reimbursement of expenses under section 583j–1 of this title, not to exceed then current Federal Government per diem rates.

(c) Administrative expenses

At any time, the Secretary may provide the Foundation use of Department of Agriculture personnel, facilities, and equipment, with partial or no reimbursement, with such limitations and on such terms and conditions as the Secretary shall establish.

(Pub. L. 101–593, title IV, § 405, Nov. 16, 1990, 104 Stat. 2972; Pub. L. 103–106, § 3(a), Oct. 12, 1993, 107 Stat. 1031.)

[1] So in original. Probably should be ''this section,''.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–106, § 3(a)(1), inserted '', project,'' after ''administrative'' and substituted ''beginning October 1, 1992'' for ''following November 16, 1990''.

Subsec. (b). Pub. L. 103–106, § 3(a)(2), substituted ''beginning October 1, 1992'' for ''from November 16, 1990'' and inserted ''and project'' after ''administrative''.

PURPOSE OF PUB. L. 103–106

Section 2 of Pub. L. 103–106 provided that: ''It is the purpose of this Act [see Short Title of 1993 Amendment note set out under section 583j of this title]—

''(1) to provide for start-up and matching funds for project expenses to carry out the National Forest Foundation Act [16 U.S.C. 583j et seq.]; and

''(2) to extend the funding authorization for start-up expenses for 1 year.''

§ 583j–4. Volunteers

The Secretary may accept, without regard to the civil service classification laws, rules and regulations, any director, officer, employee or agent of the Foundation as a volunteer for purposes of the Volunteers in the National Forests Act of 1972 (16 U.S.C. 558a through 558d; 86 Stat. 147).

(Pub. L. 101–593, title IV, § 406, Nov. 16, 1990, 104 Stat. 2973.)

REFERENCES IN TEXT

The Volunteers in the National Forests Act of 1972, referred to in text, is Pub. L. 92–300, May 18, 1972, 86 Stat. 147, as amended, which is classified generally to section 558a et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 558a of this title and Tables.

§ 583j–5. Audits and report requirements

(a) Audits

For purposes of section 10101 of title 36 the Foundation shall be treated as a corporation in part B of subtitle II of title 36.

(b) Annual reports

The Foundation shall,[1] transmit each year to Congress a report of its proceedings and activities of the previous year, including a full and complete statement of its receipts, expenditures, and investments.

(Pub. L. 101–593, title IV, § 407, Nov. 16, 1990, 104 Stat. 2973.)

CODIFICATION

In subsec. (a), ''section 10101 of title 36'' substituted for ''the Act entitled 'An Act for audit of accounts of private corporations established under Federal law,' approved August 30, 1964 (36 U.S.C. 1101 through 1103; Public Law 88–504)'' and ''a corporation in part B of subtitle II of title 36'' substituted for ''a private corporation established under Federal law'' on authority of Pub. L. 105–225, § 5(b), Aug. 12, 1998, 112 Stat. 1499, the first section of which enacted Title 36, Patriotic and National Observances, Ceremonies, and Organizations.

§ 583j–6. United States release from liability

The United States shall not be liable for any debts, defaults, acts or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligations of the Foundation.

[1] So in original. The comma probably should not appear.

(Pub. L. 101–593, title IV, § 408, Nov. 16, 1990, 104 Stat. 2973.)

§ 583j–7. Activities of Foundation and United States Forest Service

The activities of the Foundation authorized under the provisions of this Act shall be supplemental to and shall not preempt any authority or responsibility of the United States Forest Service under any other provision of law.

(Pub. L. 101–593, title IV, § 409, Nov. 16, 1990, 104 Stat. 2973.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 101–593, Nov. 16, 1990, 104 Stat. 2954, which enacted this subchapter, chapter 32A of this title, and section 777e–1 of this title, amended sections 2910, 3702, 3709, 4403, and 4404 of this title, and enacted provisions listed in a table of National Environmental Centers set out under section 668dd of this title and provisions set out in notes under section 3701 of this title and section 4321 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

§ 583j–8. Authorization of appropriations

(a) Startup funds

For the purposes of section 583j–3 of this title, there are authorized to be appropriated $1,000,000.

(b) Matching funds

For the purposes of section 583j–3 of this title, during the five-year period beginning October 1, 1992, there are authorized to be appropriated $1,000,000 annually to the Secretary of Agriculture to be made available to the Foundation to match, on a one-for-one basis, private contributions made to the Foundation.

(Pub. L. 101–593, title IV, § 410, Nov. 16, 1990, 104 Stat. 2973; Pub. L. 103–106, § 3(b), Oct. 12, 1993, 107 Stat. 1032.)

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–106 substituted ''beginning October 1, 1992'' for ''following November 16, 1990''.

§ 583j–9. Federal funds

On and after November 5, 2001, the National Forest Foundation may hold Federal funds made available but not immediately disbursed and may use any interest or other investment income earned (before, on, or after November 5, 2001) on Federal funds to carry out the purposes of Public Law 101–593: *Provided further*, That such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(Pub. L. 107–63, title II, Nov. 5, 2001, 115 Stat. 450.)

REFERENCES IN TEXT

Public Law 101–593, referred to in text, is Pub. L. 101–593, Nov. 16, 1990, 104 Stat. 2954, which enacted this subchapter, chapter 32A of this title, and section 777e–1 of this title, amended sections 2910, 3702, 3709, 4403, and 4404 of this title, and enacted provisions listed in a table of National Wildlife Refuges set out under section 668dd of this title and provisions set out in notes under section 3701 of this title and section 4321 of Title 42, The

Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 2002, and not as part of the National Forest Foundation Act which comprises this subchapter.

PRIOR PROVISIONS

Provisions similar to this section were contained in the following prior appropriation acts:

Pub. L. 106–291, title II, Oct. 11, 2000, 114 Stat. 972.

Pub. L. 106–113, div. B, §1000(a)(3) [title II], Nov. 29, 1999, 113 Stat. 1535, 1501A–176.

Pub. L. 105–277, div. A, §101(e) [title II], Oct. 21, 1998, 112 Stat. 2681–231, 2681–273.

Pub. L. 105–83, title II, Nov. 14, 1997, 111 Stat. 1577.

AUTHORIZED INVESTMENTS

Provisions similar to the proviso in this section were contained in the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, Pub. L. 109–54, title III, Aug. 2, 2005, 119 Stat. 538, and were repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions also were contained in the following prior appropriations acts:

Pub. L. 108–447, div. E, title II, Dec. 8, 2004, 118 Stat. 3079.

Pub. L. 108–108, title II, Nov. 10, 2003, 117 Stat. 1288.

Pub. L. 108–7, div. F, title II, Feb. 20, 2003, 117 Stat. 256.

CHAPTER 3A—UNEMPLOYMENT RELIEF THROUGH PERFORMANCE OF USEFUL PUBLIC WORK

SUBCHAPTER I—CIVILIAN CONSERVATION CORPS

§§ 584 to 584q. Omitted

CODIFICATION

Section 584, acts June 28, 1937, ch. 383, §1, 50 Stat. 319; Aug. 7, 1939, ch. 553, §1, 53 Stat. 1253, related to establishment of Corps.

Section 584a, act June 28, 1937, ch. 383, §2, 50 Stat. 319, related to appointment, compensation, and authority of Director.

Section 584b, act June 28, 1937, ch. 383, §3, 50 Stat. 319, related to work projects authorized.

Section 584c, act June 28, 1937, ch. 383, §4, 50 Stat. 320, related to transfer of personnel, property, etc., from Emergency Conservation Work and operation of camp exchange.

Section 584d, acts June 28, 1937, ch. 383, §5, 50 Stat. 320; June 13, 1940, ch. 348, 54 Stat. 383, related to appointment of civilian personnel with powers of notaries public.

Section 584e, act June 28, 1937, ch. 383, §6, 50 Stat. 320, related to service of other officers with Corps.

Section 584f, act June 28, 1937, ch. 383, §7, 50 Stat. 320, related to number of enrollees.

Section 584f–1, acts July 1, 1941, ch. 269, title I, §1, 55 Stat. 473; Aug. 25, 1941, ch. 409, title IV, §1, 55 Stat. 683, related to annual expenditures per enrollee.

Section 584g, acts June 28, 1937, ch. 383, §8, 50 Stat. 320; May 12, 1938, ch. 200, §§1, 2, 52 Stat. 349; Oct. 21, 1940, ch. 906, 54 Stat. 1206, related to qualifications of enrollees, term of enrollment, educational leaves, and certificates of merit.

Section 584g–1, act June 26, 1940, ch. 432, §38, 54 Stat. 625, related to training of enrollees in noncombatant subjects.

Section 584h, acts June 28, 1937, ch. 383, §9, 50 Stat. 320; June 25, 1938, ch. 701, 52 Stat. 1198, related to compensation of enrollees and use of pay.

Section 584h–1, acts July 1, 1937, ch. 425, §1, 50 Stat. 470; May 23, 1938, ch. 259, §1, 52 Stat. 414; Mar. 16, 1939, ch. 11, §1, 53 Stat. 529; June 26, 1940, ch. 428, title II, 54 Stat. 581, related to compensation of enrollee blood donors.

Section 584i, act June 28, 1937, ch. 383, §10, 50 Stat. 321, related to subsistence, etc., furnished to enrollees, disability and death benefits.

Section 584j, acts June 28, 1937, ch. 383, §11, 50 Stat. 321; Oct. 10, 1940, ch. 851, §4, 54 Stat. 1112, related to financial administration.

Section 584k, act June 28, 1937, ch. 383, §12, 50 Stat. 321, related to use of services and facilities of other governmental agencies.

Section 584*l*, acts June 28, 1937, ch. 383, §13, 50 Stat. 321; Aug. 7, 1939, ch. 553, §2, 53 Stat. 1253, related to use of services and facilities of state agencies and departments.

Section 584m, act June 28, 1937, ch. 383, §14, 50 Stat. 321, related to expenditures for subsistence, transportation, etc., of enrollees.

Section 584n, act June 28, 1937, ch. 383, §15, 50 Stat. 321, related to disposal of surplus property.

Section 584n–1, acts Mar. 16, 1939, ch. 11, §1, 53 Stat. 529; June 26, 1940, ch. 428, title II, 54 Stat. 581; July 1, 1941, ch. 269, title II, 55 Stat. 473, related to exchange of equipment.

Section 584*o*, act June 28, 1937, ch. 383, §16, 50 Stat. 321, related to claims for property damage or personal injury.

Section 584p, act June 28, 1937, ch. 383, §17, 50 Stat. 322, related to appropriations and restrictions on use for camp exchanges.

Section 584q, act June 28, 1937, ch. 383, §18, 50 Stat. 322, related to effective date.

REPEALS

Sections 1, 2, 5, 8 to 10 of act June 28, 1937, ch. 383, 50 Stat. 319–321, formerly classified to sections 584, 584a, 584d, 584g, 584h, and 584i of this title, were repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 649.

Act May 12, 1938, ch. 200, 52 Stat. 349, formerly classified to section 584g of this title, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 650.

Act June 25, 1938, ch. 701, 52 Stat. 1198, formerly classified to section 584h of this title, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 650.

Act Aug. 7, 1939, ch. 553, 53 Stat. 1253, formerly classified to sections 584 and 584*l* of this title, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 650.

Act June 13, 1940, ch. 348, 54 Stat. 383, formerly classified to section 584d of this title, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 650.

Act Oct. 21, 1940, ch. 906, 54 Stat. 1206, formerly classified to section 584g of this title, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 651.

TRANSFER OF FUNCTIONS

Civilian Conservation Corps camps transferred to Administrator of Food Production and Distribution by former section 1355(e) of Appendix to Title 50, War and National Defense.

Civilian Conservation Corps and its functions consolidated with other agencies under Federal Security Agency, to be administered by Director of said Corps under direction and supervision of Federal Security Administration by Reorg. Plan No. I of 1939, §§201 and 207, eff. July 1, 1939, 4 F.R. 2728, 2729, 53 Stat. 1425, set out in the Appendix to Title 5, Government Organization and Employees.

SECTIONS CONTINUED FOR PURPOSES OF LIQUIDATION

Act July 12, 1943, ch. 221, title II, 57 Stat. 499, provided in part: ''For the purposes hereof the provisions of the Act to establish the Civilian Conservation Corps and for other purposes approved June 28, 1937, as amended, shall continue in full force and effect to such extent as may be necessary to facilitate liquidation of such corps, and the Federal Security Administrator

shall exercise the authority vested in the Director of such corps by such Act.''

LIQUIDATION OF C.C.C.

Acts July 2, 1942, ch. 475, title II, 56 Stat. 569, and July 12, 1943, ch. 221, title II, 57 Stat. 499, appropriated funds to enable the Director of the Civilian Conservation Corps to provide for the liquidation of the Civilian Conservation Corps and the latter provided that ''said liquidation shall be completed as quickly as possible but in any event not later than June 30, 1944.''

Liquidation of all enrollees and overhead personnel was accomplished by August 15, 1942, pursuant to a directive of Director of C.C.C., except for a skeleton force which was retained to transfer supplies and material to Army, Navy, and Civil Aeronautics Authority.

TRANSFER OF EQUIPMENT

Act Dec. 23, 1941, ch. 621, 55 Stat. 855, provided for the transfer during the fiscal years 1942 and 1943 of any motor or other equipment of the Civilian Conservation Corps to any department, etc. of the Government when directed by the Bureau of the Budget before July 1, 1943.

Acts July 2, 1942, ch. 475, title II, 56 Stat. 569, and July 12, 1943, ch. 221, title II, 57 Stat. 499, authorized the disposition during the fiscal years 1943 and 1944 of camp buildings and housekeeping and camp maintenance equipment no longer needed for Civilian Conservation Corps purposes.

CONTINUANCE OF EMPLOYMENT

Act July 1, 1937, ch. 425, §1, 50 Stat. 470, provided for continuance of employment without reappointment of certain employees of Emergency Conservation Work and of cooperating Federal agencies.

COOPERATION OF DEPARTMENT HEADS AUTHORIZED

Ex. Ord. No. 7677–A, §3, July 1, 1937, 2 F.R. 1581 DI, 1346 BV, as amended by Ex. Ord. No. 7717, Sept. 29, 1937, 2 F.R. 2435 DI, 2087 BV; Ex. Ord. No. 8133, May 15, 1939, 4 F.R. 2043; Ex. Ord. No. 8221, July 1, 1939, 4 F.R. 3715, provided for cooperation of Secretary of War, Secretary of the Interior, Secretary of Agriculture and Administrator of Veterans' Affairs with Director of C.C.C.

MEDICAL AND BURIAL EXPENSES

Acts July 12, 1943, ch. 221, title III, 57 Stat. 514; June 28, 1944, ch. 302, title III, 58 Stat. 567; July 3, 1945, ch. 263, title III, 59 Stat. 377; July 26, 1946, ch. 672, title III, §301, 60 Stat. 697, provided for medical and burial expenses of certain enrollees of the Civilian Conservation Corps.

PROJECTS ON PRIVATE LANDS

Ex. Ord. No. 7677–A, §2, July 1, 1937, 2 F.R. 1581 DI, 1346 BV, as amended by Ex. Ord. No. 8221, July 1, 1939, 4 F.R. 3715, authorized Director of C.C.C. to undertake projects on lands of counties and municipalities and lands in private ownership.

SUBCHAPTER II—EMERGENCY CONSERVATION WORK

§§ 585, 586. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 648

Sections, act Mar. 31, 1933, ch. 17, §§1, 2, 46 Stat. 22, 23, provided for employment, in the nature of work relief, in forestation.

§ 587. Repealed. June 19, 1934, ch. 648, title II, § 1, 48 Stat. 1056

Section, act Mar. 31, 1933, ch. 17, §3, 48 Stat. 23, extended benefits of Federal Employees Compensation Act to employees under this subchapter.

§ 587a. Omitted

CODIFICATION

Section, act June 19, 1934, ch. 648, title II, §1, 48 Stat. 1056, made the provisions of the Federal Employees Compensation Act applicable to enrollees under this subchapter and became obsolete with the expiration of the other sections of this subchapter.

§§ 588 to 590. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 648

Sections, act Mar. 31, 1933, ch. 17, §§4–6, 48 Stat. 23, related to appropriations, loans and duration of authority for the period of employment in forestation.

Act Apr. 8, 1935, ch. 48, §14, 49 Stat. 119, formerly classified to section 590 of this title, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 649.

CHAPTER 3B—SOIL CONSERVATION

Sec.

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590q–1. Sale and distribution of supplies, materials, and equipment to other Government agencies; reimbursement.
590q–2. Voluntary relinquishment of allotments.
590q–3. Critical lands resource conservation program in Great Plains area.

§ 590a. Purpose

It is recognized that the wastage of soil and moisture resources on farm, grazing, and forest lands of the Nation, resulting from soil erosion, is a menace to the national welfare and that it is declared to be the policy of Congress to provide permanently for the control and prevention of soil erosion to preserve soil, water, and related resources, promote soil and water quality, control floods, prevent impairment of reservoirs, and maintain the navigability of rivers and harbors, protect public health, public lands and relieve unemployment, and the Secretary of Agriculture, from now on, shall coordinate and di-

rect all activities with relation to soil erosion and in order to effectuate this policy is authorized, from time to time—

(1) To conduct surveys, investigations, and research relating to the character of soil erosion and the preventive measures needed, to publish the results of any such surveys, investigations, or research, to disseminate information concerning such methods, and to conduct demonstrational projects in areas subject to erosion by wind or water;

(2) To carry out preventive measures, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land;

(3) To cooperate or enter into agreements with, or to furnish financial or other aid to, any agency, governmental or otherwise, or any person, subject to such conditions as he may deem necessary, for the purposes of this chapter; and

(4) To acquire lands, or rights or interests therein, by purchase, gift, condemnation, or otherwise, whenever necessary for the purposes of this chapter.

(Apr. 27, 1935, ch. 85, §1, 49 Stat. 163; Pub. L. 110–234, title II, §2802(a)(1), May 22, 2008, 122 Stat. 1085; Pub. L. 110–246, §4(a), title II, §2802(a)(1), June 18, 2008, 122 Stat. 1664, 1813.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, §2802(a)(1), inserted section catchline and substituted ''to preserve soil, water, and related resources, promote soil and water quality,'' for ''and thereby to preserve natural resources,'' in introductory provisions.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

SHORT TITLE

See section 590q of this title.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

Functions of Soil Conservation Service in Department of Agriculture with respect to soil and moisture conservation operations conducted on lands under jurisdiction of Department of the Interior transferred to Department of the Interior, to be administered under direction and supervision of Secretary of the Interior through such agency or agencies in Department of the Interior as Secretary shall designate, by Reorg. Plan No. IV of 1940, §6, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1234, set out in the Appendix to Title 5, Government Organization and Employees.

Soil Conservation Service consolidated with other agencies into Agricultural Conservation and Adjustment Administration for duration of World War II, see Ex. Ord. No. 9069, Feb. 23, 1942.

POLICY

Declaration of policy to continue the Soil Conservation and Domestic Allotment Act, see section 1282 of Title 7, Agriculture.

§ 590b. Lands on which preventive measures may be taken

The acts authorized in section 590a(1) and (2) of this title may be performed—

(a) On lands owned or controlled by the United States or any of its agencies, with the cooperation of the agency having jurisdiction thereof; and

(b) On any other lands, upon obtaining proper consent or the necessary rights or interests in such lands.

(Apr. 27, 1935, ch. 85, §2, 49 Stat. 163.)

§ 590c. Conditions under which benefits of law extended to nongovernment controlled lands

As a condition to the extending of any benefits under this chapter to any lands not owned or controlled by the United States or any of its agencies, the Secretary of Agriculture may, insofar as he may deem necessary for the purposes of this chapter, require—

(1) The enactment and reasonable safeguards for the enforcement of State and local laws imposing suitable permanent restrictions on the use of such lands and otherwise providing for the prevention of soil erosion;

(2) Agreements or covenants as to the permanent use of such lands; and

(3) Contributions in money, services, materials, or otherwise, to any operations conferring such benefits.

(Apr. 27, 1935, ch. 85, §3, 49 Stat. 163.)

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Of-

fice of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

Functions respecting lands under jurisdiction of Department of the Interior, see Transfer of Functions note set out under section 590a of this title.

§ 590d. Cooperation of governmental agencies; officers and employees, appointment and compensation; expenditures for personal services and supplies

For the purposes of this chapter, the Secretary of Agriculture may—

(1) Secure the cooperation of any governmental agency;

(2) Subject to the provisions of the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5, appoint and fix compensation of such officers and employees as he may deem necessary, except for a period not to exceed eight months from April 27, 1935, the Secretary of Agriculture may make appointments and may continue employees of the organization heretofore established for the purpose of administering those provisions of the National Industrial Recovery Act which relate to the prevention of soil erosion, without regard to the civil-service laws or regulations and the Classification Act, as amended; and any persons with technical or practical knowledge may be employed and compensated under this chapter on a basis to be determined by the Director of the Office of Personnel Management; and

(3) Make expenditures for personal services and rent in the District of Columbia and elsewhere, for the purchase of law books and books of reference, for printing and binding, for the purchase, operation, and maintenance of passenger-carrying vehicles, and perform such acts, and prescribe such regulations, as he may deem proper to carry out the provisions of this chapter.

(Apr. 27, 1935, ch. 85, § 4, 49 Stat. 164; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3784.)

REFERENCES IN TEXT

The National Industrial Recovery Act, referred to in par. (2), is act June 16, 1933, ch. 90, 48 Stat. 195, which was classified generally to subchapter I (§ 401 et seq.) of chapter 8 of former Title 40, Public Buildings, Property, and Works, and was terminated June 30, 1943, by act June 27, 1942, ch. 450, § 1, 56 Stat. 410. Provisions of the Act that were classified to former Title 40 were repealed by Pub. L. 107–217, § 6(b), Aug. 21, 2002, 116 Stat. 1304. For complete classification of this Act to the Code, see Tables.

The Classification Act, as amended, referred to in par. (2), is the Classification Act of 1923 (approved Mar. 4, 1923, ch. 265, 42 Stat. 1488), which was repealed by section 1202 of the Classification Act of 1949 (approved Oct. 28, 1949, ch. 782, 63 Stat. 972).

CODIFICATION

In par. (2), ''chapter 51 and subchapter III of chapter 53 of title 5'' substituted for ''the Classification Act of 1949, as amended'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1949—Par. (2). Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act of 1923''.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with system activities requiring coordination and approval under this chapter and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

''Director of the Office of Personnel Management'' substituted for ''Civil Service Commission'' and ''Commission'' in par. (2), pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in the United States Civil Service Commission to the Director of the Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

Transfer of functions respecting lands under jurisdiction of Department of the Interior, see Transfer of Functions note set out under section 590a of this title.

§ 590e. Repealed. Pub. L. 103–354, title II, § 246(f)(1), Oct. 13, 1994, 108 Stat. 3225

Section, act Apr. 27, 1935, ch. 85, § 5, 49 Stat. 164, related to establishment of Soil Conservation Service.

§§ 590e–1, 590e–2. Omitted

CODIFICATION

Sections were omitted in view of the repeal of section 590e of this title which established the Soil Conservation Service.

Section 590e–1, act Sept. 30, 1994, Pub. L. 103–330, title II, 108 Stat. 2449, related to limitations on cost of construction, purchase, or improvement of buildings for Soil Conservation Service.

Section 590e–2, act Sept. 30, 1994, Pub. L. 103–330, title II, 108 Stat. 2450, related to temporary employment of local engineers by Soil Conservation Service.

PRIOR PROVISIONS

Provisions similar to former section 590e–1 of this title were contained in following prior appropriation acts:

Oct. 21, 1993, Pub. L. 103–111, title II, 107 Stat. 1060.

Aug. 14, 1992, Pub. L. 102–341, title II, 106 Stat. 888.

Oct. 28, 1991, Pub. L. 102–142, title II, 105 Stat. 892.
Nov. 5, 1990, Pub. L. 101–506, title II, 104 Stat. 1335.
Nov. 21, 1989, Pub. L. 101–161, title II, 103 Stat. 971.
Oct. 1, 1988, Pub. L. 100–460, title II, 102 Stat. 2249.
Dec. 22, 1987, Pub. L. 100–202, §101(k) [title II], 101 Stat. 1329–322, 1329–343.
Oct. 18, 1986, Pub. L. 99–500, §101(a) [title II], 100 Stat. 1783, 1783–18, and Oct. 30, 1986, Pub. L. 99–591, §101(a) [title II], 100 Stat. 3341, 3341–18.
Dec. 19, 1985, Pub. L. 99–190, §101(a) [H.R. 3037, title II], 99 Stat. 1185; Pub. L. 100–202, §106, Dec. 22, 1987, 101 Stat. 1329–433.
Oct. 12, 1984, Pub. L. 98–473, title I, §101(a) [H.R. 5743, title II], 98 Stat. 1837.
Nov. 14, 1983, Pub. L. 98–151, §101(d) [H.R. 3223, title II], 97 Stat. 972.
Dec. 18, 1982, Pub. L. 97–370, title II, 96 Stat. 1802.
Dec. 23, 1981, Pub. L. 97–103, title II, 95 Stat. 1480.
Dec. 15, 1980, Pub. L. 96–528, title II, 94 Stat. 3108.
Nov. 9, 1979, Pub. L. 96–108, title II, 93 Stat. 833.
Oct. 11, 1978, Pub. L. 95–448, title II, 92 Stat. 1085.
Aug. 12, 1977, Pub. L. 95–97, title II, 91 Stat. 821.
July 12, 1976, Pub. L. 94–351, title II, 90 Stat. 862.
Oct. 21, 1975, Pub. L. 94–122, title II, 89 Stat. 658.
Dec. 31, 1974, Pub. L. 93–563, title III, 88 Stat. 1837.
Oct. 24, 1973, Pub. L. 93–135, title III, 87 Stat. 484.
Aug. 22, 1972, Pub. L. 92–399, title III, 86 Stat. 606.
Aug. 10, 1971, Pub. L. 92–73, title III, 85 Stat. 195.
Dec. 22, 1970, Pub. L. 91–566, title I, 84 Stat. 1484.
Nov. 26, 1969, Pub. L. 91–127, title I, 83 Stat. 248.
Aug. 8, 1968, Pub. L. 90–463, title I, 82 Stat. 642.
Oct. 24, 1967, Pub. L. 90–113, title I, 81 Stat. 323.
Sept. 7, 1966, Pub. L. 89–556, title I, 80 Stat. 692.
Nov. 2, 1965, Pub. L. 89–316, title I, 79 Stat. 1168.
Sept. 2, 1964, Pub. L. 88–573, title I, 78 Stat. 865.
Dec. 30, 1963, Pub. L. 88–250, title I, 77 Stat. 823.
Oct. 24, 1962, Pub. L. 87–879, title I, 76 Stat. 1206.
July 26, 1961, Pub. L. 87–112, title I, 75 Stat. 229.
June 29, 1960, Pub. L. 86–532, title I, 74 Stat. 234.
July 8, 1959, Pub. L. 86–80, title I, 73 Stat. 169.
June 13, 1958, Pub. L. 85–459, title I, 72 Stat. 190.
Aug. 2, 1957, Pub. L. 85–118, title I, 71 Stat. 335.
June 4, 1956, ch. 355, title I, 70 Stat. 231.
May 23, 1955, ch. 43, title I, 69 Stat. 54.
June 29, 1954, ch. 409, title I, 68 Stat. 310.
July 28, 1953, ch. 251, title I, 67 Stat. 215.
July 5, 1952, ch. 574, title I, 66 Stat. 345.
Aug. 31, 1951, ch. 374, title I, 65 Stat. 236.
Sept. 6, 1950, ch. 896, Ch. VI, title I, 64 Stat. 668.
June 29, 1949, ch. 280, title I, 63 Stat. 340.
June 19, 1948, ch. 543, 62 Stat. 524.
July 30, 1947, ch. 356, title I, 61 Stat. 523.
June 22, 1946, ch. 445, 60 Stat. 287.
May 5, 1945, ch. 109, 59 Stat. 156.
June 28, 1944, ch. 296, 58 Stat. 451.
July 12, 1943, ch. 215, 57 Stat. 411.
July 22, 1942, ch. 516, 56 Stat. 679.
July 1, 1941, ch. 267, 55 Stat. 421.
June 25, 1940, ch. 421, 54 Stat. 545.
June 30, 1939, ch. 253, 53 Stat. 954.
June 16, 1938, ch. 464, 52 Stat. 725.
June 29, 1937, ch. 404, 50 Stat. 410.
June 4, 1936, ch. 489, title I, 49 Stat. 1436.

Provisions similar to former section 590e–2 of this title were contained in following prior appropriation acts:

Oct. 21, 1993, Pub. L. 103–111, title II, 107 Stat. 1060.
Aug. 14, 1992, Pub. L. 102–341, title II, 106 Stat. 888.
Oct. 28, 1991, Pub. L. 102–142, title II, 105 Stat. 893.
Nov. 5, 1990, Pub. L. 101–506, title II, 104 Stat. 1336.
Nov. 21, 1989, Pub. L. 101–161, title II, 103 Stat. 972.
Oct. 1, 1988, Pub. L. 100–460, title II, 102 Stat. 2249.
Dec. 22, 1987, Pub. L. 100–202, §101(k) [title II], 101 Stat. 1329–322, 1329–343.
Oct. 18, 1986, Pub. L. 99–500, §101(a) [title II], 100 Stat. 1783, 1783–18, and Oct. 30, 1986, Pub. L. 99–591, §101(a) [title II], 100 Stat. 3341, 3341–18.
Dec. 19, 1985, Pub. L. 99–190, §101(a) [H.R. 3037, title II], 99 Stat. 1185.
Oct. 12, 1984, Pub. L. 98–473, title I, §101(a) [H.R. 5743, title II], 98 Stat. 1837.
Nov. 14, 1983, Pub. L. 98–151, §101(d) [H.R. 3223, title II], 97 Stat. 972.
Dec. 18, 1982, Pub. L. 97–370, title II, 96 Stat. 1802.
Dec. 23, 1981, Pub. L. 97–103, title II, 95 Stat. 1481.
Dec. 15, 1980, Pub. L. 96–528, title II, 94 Stat. 3109.
Nov. 9, 1979, Pub. L. 96–108, title II, 93 Stat. 833.
Oct. 11, 1978, Pub. L. 95–448, title II, 92 Stat. 1086.
Aug. 12, 1977, Pub. L. 95–97, title II, 91 Stat. 822.
July 12, 1976, Pub. L. 94–351, title II, 90 Stat. 862.
Oct. 21, 1975, Pub. L. 94–122, title II, 89 Stat. 658.
Dec. 31, 1974, Pub. L. 93–563, title III, 88 Stat. 1837.
Oct. 24, 1973, Pub. L. 93–135, title III, 87 Stat. 485.
Aug. 22, 1972, Pub. L. 92–399, title III, 86 Stat. 606.
Aug. 10, 1971, Pub. L. 92–73, title III, 85 Stat. 195.
Dec. 22, 1970, Pub. L. 91–566, title I, 84 Stat. 1484.
Nov. 26, 1969, Pub. L. 91–127, title I, 83 Stat. 248.
Aug. 8, 1968, Pub. L. 90–463, title I, 82 Stat. 642.
Oct. 24, 1967, Pub. L. 90–113, title I, 81 Stat. 323.
Sept. 7, 1966, Pub. L. 89–556, title I, 80 Stat. 692.
Nov. 2, 1965, Pub. L. 89–316, title I, 79 Stat. 1168.
Sept. 2, 1964, Pub. L. 88–573, title I, 78 Stat. 865.
Dec. 30, 1963, Pub. L. 88–250, title I, 77 Stat. 823.
Oct. 24, 1962, Pub. L. 87–879, title I, 76 Stat. 1206.
July 26, 1961, Pub. L. 87–112, title I, 75 Stat. 229.
June 29, 1960, Pub. L. 86–532, title I, 74 Stat. 235.
July 8, 1959, Pub. L. 86–80, title I, 73 Stat. 170.
June 13, 1958, Pub. L. 85–459, title I, 72 Stat. 191.
Aug. 2, 1957, Pub. L. 85–118, title I, 71 Stat. 335.
June 4, 1956, ch. 355, title I, 70 Stat. 232.
May 23, 1955, ch. 43, title I, 69 Stat. 54.
June 29, 1954, ch. 409, title I, 68 Stat. 310.
July 28, 1953, ch. 251, title I, 67 Stat. 215.
July 5, 1952, ch. 574, title I, 66 Stat. 346.

§ 590f. Authorization of appropriation

There are authorized to be appropriated for the purposes of this chapter such sums as Congress may from time to time determine to be necessary.

Appropriations for carrying out this chapter allocated for the production or procurement of nursery stock by any Federal agency, or funds appropriated to any Federal agency for allocation to cooperating States for the production or procurement of nursery stock, shall remain available for expenditure for not more than three fiscal years.

(Apr. 27, 1935, ch. 85, §6, 49 Stat. 164; Sept. 21, 1944, ch. 412, title III, §302(a), 58 Stat. 738.)

AMENDMENTS

1944—Act Sept. 21, 1944, inserted second par.

§ 590g. Additional policies and purposes of chapter

(a) Purposes enumerated

It is hereby declared to be the policy of this chapter also to secure, and the purposes of this chapter shall also include, (1) preservation and improvement of soil and water quality and related resources; (2) promotion of the economic use and conservation of land; (3) diminution of exploitation and wasteful and unscientific use of national soil resources; (4) the protection of rivers and harbors against the results of soil erosion in aid of maintaining the navigability of waters and water courses and in aid of flood control; (5) reestablishment, at as rapid a rate as the Secretary of Agriculture determines to be practicable and in the general public interest, of the ratio between the purchasing power of the net income per person on farms and that of the income per person not on farms that prevailed

during the five-year period August 1909–July 1914, inclusive, as determined from statistics available in the United States Department of Agriculture, and the maintenance of such ratio; (6) prevention and abatement of agricultural-related pollution,[1] and (7) the promotion of energy and water conservation through dry land farming. The powers conferred under this section and sections 590h, 590i, and 590j to 590n of this title shall be used to assist voluntary action calculated to effectuate the purposes specified in this section. Such powers shall not be used to discourage the production of supplies of foods and fibers sufficient to maintain normal domestic human consumption as determined by the Secretary from the records of domestic human consumption in the years 1920 to 1929, inclusive, taking into consideration increased population, quantities of any commodity that were forced into domestic consumption by decline in exports during such period, current trends in domestic consumption and exports of particular commodities, and the quantities of substitutes available for domestic consumption within any general class of food commodities. In carrying out the purposes of this section due regard shall be given to the maintenance of a continuous and stable supply of agricultural commodities adequate to meet consumer demand at prices fair to both producers and consumers.

(b) to (g) Repealed. Pub. L. 87–703, title I, § 101(1), Sept. 27, 1962, 76 Stat. 605

(Apr. 27, 1935, ch. 85, § 7, as added Feb. 29, 1936, ch. 104, § 1, 49 Stat. 1148; amended June 28, 1937, ch. 395, § 1, 50 Stat. 329; Pub. L. 87–703, title I, § 101(1), Sept. 27, 1962, 76 Stat. 605; Pub. L. 92–419, title VI, § 606(1), Aug. 30, 1972, 86 Stat. 676; Pub. L. 99–198, title XII, § 1253, Dec. 23, 1985, 99 Stat. 1517; Pub. L. 110–234, title II, § 2802(a)(2), May 22, 2008, 122 Stat. 1085; Pub. L. 110–246, § 4(a), title II, § 2802(a)(2), June 18, 2008, 122 Stat. 1664, 1813.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–246, § 2802(a)(2), substituted ''soil and water quality and related resources'' for ''soil fertility''.

1985—Subsec. (a)(7). Pub. L. 99–198 added cl. (7).

1972—Subsec. (a)(6). Pub. L. 92–419 added cl. (6).

1962—Subsecs. (b) to (g). Pub. L. 87–703 repealed subsecs. (b) to (g) which provided for State plans as follows: subsec. (b), cooperation with States by making grants; subsec. (c), State plans; subsec. (d), conditions of plans; subsec. (e), approval of plans; subsec. (f), allocation of funds; and subsec. (g), apportionment of funds.

1937—Subsec. (g). Act June 28, 1937, substituted ''any such apportionment of funds available for carrying out State plans during any year prior to 1942 may be made at any time prior to or during the year to which such plans relate'' for ''apportionments of funds available for carrying out the purposes specified in this section for the year 1936 may be made at any time during 1936, and apportionments for 1937 may be made at any time during 1937''.

[1] So in original. The comma probably should be a semicolon.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

TRANSFER OF FUNCTIONS

Functions respecting lands under jurisdiction of Department of the Interior, see Transfer of Functions note set out under section 590a of this title.

§§ 590g–1, 590g–2. Omitted

CODIFICATION

Section 590g–1, acts July 5, 1952, ch. 574, title I, 66 Stat. 347; July 28, 1953, ch. 251, title I, 67 Stat. 216, which related to allocations to the Soil Conservation Service for services of its technicians in formulating and carrying out the agricultural conservation program in the participating counties, was apparently restricted to the appropriation acts of which in each case it was a part.

Section 590g–2, act July 5, 1952, ch. 574, title I, 66 Stat. 347, which related to allocations for State agricultural conservation programs to be utilized in determining the most needed conservation practices on individual farms, was apparently restricted to the appropriation act of which it was a part.

§ 590h. Payments and grants of aid

(a) Repealed. Pub. L. 87–703, title I, § 101(2), Sept. 27, 1962, 76 Stat. 605

(b) Conservation and environmental assistance

(1) Environmental quality incentives program

The Secretary shall provide technical assistance, cost-share payments, and incentive payments to operators through the environmental quality incentives program in accordance with chapter 4 of subtitle D of title XII of the Food Security Act of 1985 [16 U.S.C. 3839aa et seq.].

(2) to (4) Repealed. Pub. L. 104–127, title III, § 336(a)(1)(A)(i)(I), Apr. 4, 1996, 110 Stat. 1004

(5) State, county, and area committees

(A) Appointment of State committees

The Secretary shall appoint in each State a State committee composed of not fewer than 3 nor more than 5 members who are fairly representative of the farmers in the State. The members of a State committee shall serve at the pleasure of the Secretary for such term as the Secretary may establish.

(B) Establishment and elections for county, area, or local committees

(i) Establishment

(I) In general

In each county or area in which activities are carried out under this section, the Secretary shall establish a county or area committee.

(II) Local administrative areas

The Secretary may designate local administrative areas within a county or a larger area under the jurisdiction of a committee established under subclause (I).

(ii) Composition of county, area, or local committees

(I) In general

Except as provided in subclause (II), a committee established under clause (i) shall consist of not fewer than 3 nor more than 5 members that—

(aa) are fairly representative of the agricultural producers within the area covered by the county, area, or local committee; and

(bb) are elected by the agricultural producers that participate or cooperate in programs administered within the area under the jurisdiction of the county, area, or local committee.

(II) Combination or consolidation of areas

A committee established by combining or consolidating 2 or more county or area committees shall consist of not fewer than 3 nor more than 11 members that—

(aa) are fairly representative of the agricultural producers within the area covered by the county, area, or local committee; and

(bb) are elected by the agricultural producers that participate or cooperate in programs administered within the area under the jurisdiction of the county, area, or local committee.

(III) Representation of socially disadvantaged farmers and ranchers

The Secretary shall develop procedures to maintain representation of socially disadvantaged farmers and ranchers on combined or consolidated committees.

(IV) Eligibility for membership

Notwithstanding any other producer eligibility requirements for service on county or area committees, if a county or area is consolidated or combined, a producer shall be eligible to serve only as a member of the county or area committee that the producer elects to administer the farm records of the producer.

(iii) Elections

(I) In general

Subject to subclauses (II) through (V), the Secretary shall establish procedures for nominations and elections to county, area, or local committees.

(II) Nondiscrimination statement

Each solicitation of nominations for, and notice of elections of, a county, area, or local committee shall include the nondiscrimination statement used by the Secretary.

(III) Nominations

(aa) Eligibility

To be eligible for nomination and election to the applicable county, area, or local committee, as determined by the Secretary, an agricultural producer shall be located within the area under the jurisdiction of a county, area, or local committee, and participate or cooperate in programs administered within that area.

(bb) Outreach

In addition to such nominating procedures as the Secretary may prescribe, the Secretary shall solicit and accept nominations from organizations representing the interests of socially disadvantaged groups (as defined in section 355(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)(1)).[1]

(IV) Opening of ballots

(aa) Public notice

At least 10 days before the date on which ballots are to be opened and counted, a county, area, or local committee shall announce the date, time, and place at which election ballots will be opened and counted.

(bb) Opening of ballots

Election ballots shall not be opened until the date and time announced under item (aa).

(cc) Observation

Any person may observe the opening and counting of the election ballots.

(V) Report of election

Not later than 20 days after the date on which an election is held, a county, area, or local committee shall file an election report with the Secretary and the State office of the Farm Service Agency that includes—

(aa) the number of eligible voters in the area covered by the county, area, or local committee;

(bb) the number of ballots cast in the election by eligible voters (including the percentage of eligible voters that cast ballots);

(cc) the number of ballots disqualified in the election;

(dd) the percentage that the number of ballots disqualified is of the number of ballots received;

(ee) the number of nominees for each seat up for election;

(ff) the race, ethnicity, and gender of each nominee, as provided through the voluntary self-identification of each nominee; and

(gg) the final election results (including the number of ballots received by each nominee).

(VI) National report

Not later than 90 days after the date on which the first election of a county, area, or local committee that occurs after May 13, 2002, is held, the Secretary shall complete a report that consolidates

[1] So in original. The period probably should be preceded by an additional closing parenthesis.

all the election data reported to the Secretary under subclause (V).

(VII) Election reform

(aa) Analysis

If determined necessary by the Secretary after analyzing the data contained in the report under subclause (VI), the Secretary shall promulgate and publish in the Federal Register proposed uniform guidelines for conducting elections for members and alternate members of county, area, and local committees not later than 1 year after the date of completion of the report.

(bb) Inclusion

The procedures promulgated by the Secretary under item (aa) shall ensure fair representation of socially disadvantaged groups described in subclause (III)(bb) in an area covered by the county, area, or local committee, in cases in which those groups are underrepresented on the county, area, or local committee for that area.

(cc) Methods of inclusion

Notwithstanding clause (ii), the Secretary may ensure inclusion of socially disadvantaged farmers and ranchers through provisions allowing for appointment of 1 additional voting member to a county, area, or local committee or through other methods.

(iv) Term of office

The term of office for a member of a county, area, or local committee shall not exceed 3 years.

(v) Public availability and report to Congress

(I) Public disclosure

The Secretary shall maintain and make readily available to the public, via website and otherwise in electronic and paper form, all data required to be collected and computed under section 2279–1(c) of title 7 and clause (iii)(V) collected annually since the most recent Census of Agriculture.

(II) Report to Congress

After each Census of Agriculture, the Secretary shall report to Congress the rate of loss or gain in participation by each socially disadvantaged group, by race, ethnicity, and gender, since the previous Census.

(C) Termination or combination of committees

The Secretary may not terminate a county or area committee or combine or consolidate two or more county or area committees unless—

(i) the Secretary first notifies the committee or committees involved of the proposed action; and

(ii) the State committee of the State in which the affected counties are located approves of such action in a vote taken after the end of the 60-day period beginning on the date the notification is received.

(D) Use of committees

The Secretary shall use the services of such committees in carrying out programs under this section and the agricultural credit programs under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) and in considering administrative appeals as provided by section 6932(d) of title 7. The Secretary may use the services of such committees in carrying out programs under other authorities administered by the Secretary.

(E) Regulations

The Secretary shall issue such regulations as the Secretary considers necessary relating to the selection and exercise of the functions of the respective committees, and to the administration through such committees of the programs described in subparagraph (D). Pursuant to such regulations, each county and area committee shall select an executive director for the area or county. Such selection shall be made in the same manner as provided for the selection of the county executive director under section 7.21(b)(2) of title 7, Code of Federal Regulations, as in effect on January 1, 1994. Regulations governing payments or grants under this subsection shall be as simple and direct as possible, and, whenever practicable, they shall be classified on the following two bases:

(i) Soil-depleting practices.

(ii) Soil-building practices.

(F) Mandatory duties of Secretary

In carrying out this section, the Secretary shall—

(i) insofar as practicable, protect the interests of tenants and sharecroppers;

(ii) accord such encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in Federal laws and as will tend to promote efficient methods of marketing and distribution;

(iii) in every practicable manner, protect the interests of small producers; and

(iv) in every practical way, encourage and provide for soil-conserving and soil-rebuilding practices.

(G) Discretionary authorities of Secretary

In carrying out this section, the Secretary may use other approved agencies.

(H) Limitations

In carrying out this section, the Secretary shall not have the authority to acquire any land or any right or interest in land.

(c) Apportionment of acreage allotments

(1) In apportioning acreage allotments under this section in the case of wheat and corn, the National and State allotments and the allotments to counties shall be apportioned annually on the basis of the acreage seeded for the pro-

duction of the commodity during the ten calendar years immediately preceding the calendar year in which the national acreage allotment is determined (plus, in applicable years, the acreage diverted under previous agricultural adjustment and conservation programs), with adjustments for abnormal weather conditions and trends in acreage during the applicable period.

(2) In the case of wheat, the allotment to any county shall be apportioned annually by the Secretary, through the local committees, among the farms within such county on the basis of tillable acres, crop-rotation practices, type of soil, and topography. Not more than 3 per centum of such county allotment shall be apportioned to farms on which wheat has not been planted during any of the three marketing years immediately preceding the marketing year in which the allotment is made. Notwithstanding any other provision of this section, the allotments established, or which would have been established, for any farm acquired in 1940 or thereafter by the United States for national-defense purposes shall be placed in an allotment pool and shall be used only to establish allotments for other farms owned or acquired by the owner of the farm so acquired by the United States. The allotments so made for any farm, including a farm on which wheat has not been planted during any of the three marketing years preceding the marketing year in which the allotment is made, shall compare with the allotments established for other farms in the same area which are similar except for the past acreage of wheat.

(3) In the case of corn, the allotment to any county shall be apportioned annually by the Secretary, through the local committees, among the farms within such county on the basis of tillable acreage, type of soil, topography, and crop rotation practices.

(4) Repealed. Apr. 10, 1939, ch. 48, 53 Stat. 573.

(5) In determining normal yield per acre for any county under this section in the case of wheat or corn, the normal yield shall be the average yield per acre therein for such commodity during the ten calendar years immediately preceding the calendar year in which such yield is determined, adjusted for abnormal weather conditions and trends in yields. If for any reason there is no actual yield, or the data therefor are not available for any year, then an appraised yield for such year, determined in accordance with regulations of the Secretary, shall be used. If, on account of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield in any year of such ten-year period is less than 75 per centum of the average (computed without regard to such year), such year shall be eliminated in calculating the normal yield per acre. Such normal yield per acre for any county need be redetermined only when the actual average yield for the ten calendar years immediately preceding the calendar year in which such yield is being reconsidered differs by at least 5 per centum from the actual average yield for the ten years upon which the existing normal yield per acre for the county was based.

(6) In determining normal yield per acre for any farm under this section in the case of wheat or corn, the normal yield shall be the average yield per acre thereon for such commodity during the ten calendar years immediately preceding the calendar year in which such yield is determined, adjusted for abnormal weather conditions and trends in yields. If for any such year the data are not available, or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations of the Secretary, taking into consideration abnormal weather conditions, the normal yield for the county, and the yield in years for which data are available.

(d) to (f) Repealed. Pub. L. 104–127, title III, § 336(a)(1)(A)(ii), Apr. 4, 1996, 110 Stat. 1004

(g) Assignment of payments

A payment that may be made to a producer under this section may be assigned only in accordance with regulations issued by the Secretary. This subsection shall not authorize any suit against or impose any liability on the Secretary, any disbursing agent, or any agency of the United States if payment is made to the producer without regard to the existence of any such assignment.

(Apr. 27, 1935, ch. 85, § 8, as added Feb. 29, 1936, ch. 104, § 1, 49 Stat. 1149; amended June 28, 1937, ch. 395, § 1, 50 Stat. 329; Feb. 16, 1938, ch. 30, title I, §§ 101, 102, 103, 52 Stat. 31, 34, 35; Apr. 7, 1938, ch. 107, §§ 16–18, 52 Stat. 204, 205; Apr. 10, 1939, ch. 48, 53 Stat. 573; May 14, 1940, ch. 200, 54 Stat. 216; July 2, 1940, ch. 521, § 2, 54 Stat. 727; June 21, 1941, ch. 217, 55 Stat. 257; Dec. 26, 1941, ch. 626, § 1, 55 Stat. 860; Feb. 6, 1942, ch. 44, § 4, 56 Stat. 53; Sept. 29, 1942, ch. 568, 56 Stat. 761; Sept. 21, 1944, ch. 412, title III, § 301, 58 Stat. 737; July 25, 1946, ch. 642, 60 Stat. 663; July 3, 1948, ch. 827, title I, § 4, 62 Stat. 1250; Sept. 23, 1950, ch. 997, 64 Stat. 978; May 26, 1952, ch. 335, 66 Stat. 95; Aug. 28, 1954, ch. 1041, title V, § 501, 68 Stat. 907; Aug. 9, 1955, ch. 624, 69 Stat. 545; Apr. 6, 1956, ch. 186, 70 Stat. 105; July 24, 1956, ch. 668, 70 Stat. 597; Pub. L. 85–553, July 25, 1958, 72 Stat. 414; Pub. L. 86–70, § 13(a), June 25, 1959, 73 Stat. 143; Pub. L. 86–624, § 8(a), July 12, 1960, 74 Stat. 412; Pub. L. 87–703, title I, § 101(2), (3), Sept. 27, 1962, 76 Stat. 605, 606; Pub. L. 88–534, § 1, Aug. 31, 1964, 78 Stat. 743; Pub. L. 89–742, Nov. 2, 1966, 80 Stat. 1167; Pub. L. 92–419, title VI, §§ 605, 606(2)–(5), Aug. 30, 1972, 86 Stat. 676, 677; Pub. L. 95–113, title XV, § 1501(a), Sept. 29, 1977, 91 Stat. 1019; Pub. L. 96–294, title II, § 259, June 30, 1980, 94 Stat. 709; Pub. L. 99–198, title XVII, §§ 1711(a), 1712, Dec. 23, 1985, 99 Stat. 1635, 1636; Pub. L. 99–253, § 3, Feb. 28, 1986, 100 Stat. 36; Pub. L. 99–500, § 101(a) [title VI, § 645], Oct. 18, 1986, 100 Stat. 1783, 1783–36, and Pub. L. 99–591, § 101(a) [title VI, § 645], Oct. 30, 1986, 100 Stat. 3341, 3341–36; Pub. L. 99–641, title II, § 204, Nov. 10, 1986, 100 Stat. 3563; Pub. L. 101–624, title XI, § 1146, Nov. 28, 1990, 104 Stat. 3516; Pub. L. 102–237, title II, § 202, Dec. 13, 1991, 105 Stat. 1848; Pub. L. 103–354, title II, § 227(a), Oct. 13, 1994, 108 Stat. 3216; Pub. L. 104–127, title III, § 336(a)(1)(A), Apr. 4, 1996, 110 Stat. 1004; Pub. L. 107–171, title X, § 10708(b), May 13, 2002, 116 Stat. 522; Pub. L. 110–234, title I, § 1615, May 22, 2008, 122 Stat. 1021; Pub. L. 110–246, § 4(a), title I, § 1615, June 18, 2008, 122 Stat. 1664, 1749.)

REFERENCES IN TEXT

The Food Security Act of 1985, referred to in subsec. (b)(1), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as

amended. Chapter 4 of subtitle D of title XII of the Act is classified generally to part IV (§ 3839aa et seq.) of subchapter IV of chapter 58 of this title. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of Title 7, Agriculture, and Tables.

The Consolidated Farm and Rural Development Act, referred to in subsec. (b)(5)(D), is title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§ 1921 et seq.) of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2008—Subsec. (b)(5)(B)(ii). Pub. L. 110–246, § 1615, designated existing provisions as subcl. (I), inserted heading, substituted ''Except as provided in subclause (II), a committee established'' for ''A committee established'' in introductory provisions, redesignated former subcls. (I) and (II) as items (aa) and (bb), respectively, and added subcls. (II) to (IV).

2002—Subsec. (b)(5)(B). Pub. L. 107–171 added subpar. (B) and struck out former subpar. (B) which read as follows:

''(B) ESTABLISHMENT OF COUNTY, AREA, OR LOCAL COMMITTEES.—(i) In each county or area in which activities are carried out under this section, the Secretary shall establish a county or area committee.

''(ii) Any such committee shall consist of not fewer than 3 nor more than 5 members who are fairly representative of the agricultural producers in the county or area and who shall be elected by the agricultural producers in such county or area under such procedures as the Secretary may prescribe.

''(iii) The Secretary may designate local administrative areas within the county or larger area covered by a committee established under clause (i). Only agricultural producers within a local administrative area who participate or cooperate in programs administered within their area shall be eligible for nomination and election to the local committee for that area, under such regulations as the Secretary may prescribe.

''(iv) The Secretary shall solicit and accept nominations from organizations representing the interests of socially disadvantaged groups (as defined in section 355(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)(1)).

''(v) Members of each county, area, or local committee shall serve for terms not to exceed 3 years.''

1996—Subsec. (b)(1) to (4). Pub. L. 104–127, § 336(a)(1)(A)(i)(I), added par. (1) and struck out former pars. (1) to (4), which related to authorization to provide and eligibility for financial assistance in par. (1), description of purposes of assistance in par. (2), amount of assistance in par. (3), and factors to be considered in formulating national program in par. (4).

Subsec. (b)(6) to (8). Pub. L. 104–127, § 336(a)(1)(A)(i)(II), struck out pars. (6) to (8), which related to payments for conservation materials and services in par. (6), appropriations for farming materials and soil-terracing services in par. (7), and agreements with agricultural producers creating obligations in advance of appropriations in par. (8).

Subsecs. (d) to (f). Pub. L. 104–127, § 336(a)(1)(A)(ii), struck out subsecs. (d) to (f), which related to conditions affecting payments or grants of aid in subsec. (d), distribution of payments among landlords, tenants, and sharecroppers in subsec. (e), and change between landlord and tenants or sharecroppers affecting landlord's payments in subsec. (f).

1994—Subsec. (b). Pub. L. 103–354 designated first through eighth undesignated pars. as pars. (1) to (8), respectively, added par. (5), and struck out former par. (5) which related to State and local committees.

1991—Subsec. (b). Pub. L. 102–237, in fourteenth sentence of fifth par., inserted before period '', except that, in the case of a person elected to be a national officer or State president of the National Association of Farmer Elected Committeemen, the limitation shall be four consecutive terms''.

1990—Subsec. (g). Pub. L. 101–624 amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''A payment which may be made to a farmer under this section, may be assigned, without discount, by him in writing as security for cash or advances to finance making a crop, handling or marketing an agricultural commodity, or performing a conservation practice. Such assignment shall be signed by the farmer and witnessed by a member of the county committee or by an employee of such committee, except that where the assignee is a bank whose deposits are insured by the Federal Deposit Insurance Corporation, the Farmers Home Administration, or a production credit association supervised by the Farm Credit Administration, such assignment may be witnessed by a bonded officer of the lending institution. Such assignment shall be filed with the county committee. Such assignment shall not be made to pay or secure any preexisting indebtedness. This provision shall not authorize any suit against or impose any liability upon the Secretary or any disbursing agent if payment to the farmer is made without regard to the existence of any such assignment. The Secretary shall prescribe such regulations as he determines necessary to carry out the provisions of this subsection.''

1986—Subsec. (b). Pub. L. 99–500, Pub. L. 99–591, Pub. L. 99–641, made substantially identical amendments to fifth par. of subsec. (b), inserting provisions which related to one local administrative area in any county for which there had been established less than three local administrative areas as of Dec. 23, 1985, and striking out '': *Provided*, That the foregoing requirement of this sentence shall not apply to any county that, on December 23, 1985, had less than three local administrative areas'' after ''committee for that area''.

Pub. L. 99–253, in fifth par., substituted ''local committee'' for ''community committee'' and provisions that each local administrative area have one local committee of at least three members elected to three-year terms in a local election to be held every third year, with exception for more than one local committee per administrative area, that only one local administrative area hold an election in any given year, that only farmers who are producers who participate or cooperate in the programs within their area be eligible for nomination and election, with this requirement not applying to any county that, on Dec. 23, 1985, had less than three local administrative areas, and that only farmers who are participating or cooperating producers within an area be eligible to vote in the election in that area, for provisions that farmers within any local administrative area, participating or cooperating in programs administered within such area, elect from among their number a local committee of not more than three members, with each member elected for a three-year term.

1985—Subsec. (b). Pub. L. 99–198, § 1712, in first sentence of fifth par., substituted ''In carrying out the provisions of this section in the States of the Union, except Alaska, and as otherwise directed by law with respect to other programs and functions, the Secretary is directed to utilize the services of local and State committees selected as hereinafter provided; and the Secretary may use the services of such committees in carrying out other programs and functions of the Department of Agriculture'' for ''In carrying out the provisions of this section in the States of the Union, except Alaska, the Secretary is directed to utilize the services of local and State committees selected as hereinafter provided''.

Pub. L. 99–198, § 1711(a)(1), in third sentence of fifth par., substituted ''There shall be 3 local administrative

areas in each county, except that, in counties with less than one hundred and fifty farmers, the county committee selected as hereinafter provided may reduce the number of local administrative areas to one, and except that the Secretary may include more than one county or parts of different counties in a local administrative area when the Secretary determines that there are insufficient farmers in an area to establish a slate of candidates for a community committee and hold an election'' for ''No such local area shall include more than one county or parts of different counties''.

Pub. L. 99–198, §1711(a)(2), in fourth sentence of fifth par., struck out ''annually'' after ''shall elect''.

Pub. L. 99–198, §1711(a)(3), in fifth par., inserted provisions directing that each member of a local committee be elected for a term of 3 years, that each local committee meet (A) once each year and shall receive compensation for such meeting by the Secretary at not less than the level in effect on December 31, 1985, and (B) at the direction of the county committee and with the approval of the State committee, such additional times during the year as may be necessary to carry out this section without compensation, and that the meetings of a local committee shall be held on different days of the year.

Pub. L. 99–198, §1711(a)(4), in fifth par., inserted provisions directing that the local committees in each county (A) in a county in which there is more than one local committee, serve as advisors and consultants to the county committee; (B) periodically meet with the county committee and State committee to be informed on farm program issues; (C) communicate with producers within their communities on issues or concerns regarding farm programs; (D) report to the county committee, the State committee, and other interested persons on changes to, or modifications of, farm programs recommended by producers in their communities; and (E) perform such other functions as are required by law or as the Secretary may specify, and that the Secretary ensure that information concerning changes in Federal laws in effect with respect to agricultural programs and the administration of such laws are communicated in a timely manner to local committees in areas that contain agricultural producers who might be affected by such changes.

1980—Subsec. (b). Pub. L. 96–294 added applicability to energy conservation as an area of conservation subject to financial assistance, and provisions setting forth authority for financial assistance to agricultural producers for encouraging energy conservation through cost sharing and technical assistance for shelter belts, etc.

1977—Subsec. (b). Pub. L. 95–113, §1501(a)(1), (2), specified that financial assistance be provided to agricultural producers for carrying out enduring conservation and environmental enhancement measures, that eligibility for financial assistance be determined by the existence of conservation or environmental problems that reduce the productive capacity of the land and water or that cause environmental degradation, that financial assistance be a portion of the cost of the installation of conservation and environmental enhancement measures, that the Secretary of Agriculture be given discretion to set the level of payment based on a number of considerations relating to the level and distribution of benefits and costs accruing from the conservation problem and the applied remedy including the level of expected benefits to society, the total cost of the conservation practice, the degree to which the farmer benefits from other conservation programs, and the degree to which conservation would be applied in the absence of financial assistance, and that the Secretary be required to consider national and local needs and priorities in developing a national cost-share assistance program.

Subsec. (e). Pub. L. 95–113, §1501(a)(3), struck out first three pars. which related to allotment and production adjustment activities and for provisions making small cost-share payments, and substituted a new par. authorizing the Secretary to establish a payment limitation. The first three pars. were deemed by the codifiers to constitute the first par., the flush sentence at the end of the first par., and the second par. to reflect the probable intent of Congress. See pp. 192, 193, 400, 401 of Senate Report 95–180.

1972—Subsec. (b). Pub. L. 92–419, §§605, 606(2), (3), added par. respecting long-term rural environmental protection contracts; included in first sentence reference to cl. (6) of section 590g of this title and in item (2) provided as a measure for amount of payments and grants the treatment or use of the land for the prevention or abatement of agriculture-related pollution; and included in the second paragraph provisions respecting making available pollution prevention or abatement aids and orders covering pollution prevention or abatement aids and carrying out by the producers or pollution prevention or abatement practices, respectfully.

Subsec. (d). Pub. L. 92–419, §606(4), included reference to cl. (6) of section 590g(a) of this title in first par.

Subsec. (e). Pub. L. 92–419, §606(5), inserted in proviso provision for payments based on agriculture-related pollution prevention or abatement practices.

1966—Subsec. (g). Pub. L. 89–742 permitted assignments for handling or marketing an agricultural commodity, or performing a conservation practice, broadened the qualifications as to who may witness the signature of a farmer assigning such payments, and directed the Secretary to promulgate such regulations necessary to carry out the provisions of this subsection.

1964—Subsec. (b). Pub. L. 88–534 provided that members of local committees and not delegates from local areas shall nominate and elect a county committee of three farmers in the county, substituted three year staggered terms of office for county committeemen in place of one year terms, limited committeemen to a maximum of three consecutive terms, and eliminated provisions for the annual election of delegates to a county convention for the election of a county committee.

1962—Subsec. (a). Pub. L. 87–703, §101(2), repealed subsec. (a) which related to duration of authority of Secretary of Agriculture in the operation of a Federal program on a temporary basis.

Subsec. (b). Pub. L. 87–703, §101(3), substituted introductory ''The'' for ''subject to the limitations provided in subsection (a) of this section, the''.

1960—Subsec. (b). Pub. L. 86–624 substituted ''in the States of the Union, except Alaska'' for ''in the continental United States, except in Alaska''.

1959—Subsec. (b). Pub. L. 86–70 inserted '', except in Alaska'' after ''continental United States''.

1958—Subsec. (a). Pub. L. 85–553 substituted ''January 1, 1963'' and ''December 31, 1962'' for ''January 1, 1959'' and ''December 31, 1958'', respectively, whenever appearing.

1956—Subsec. (a). Act July 24, 1956, substituted ''January 1, 1959'' and ''December 31, 1958'' for ''January 1, 1957'' and ''December 31, 1956'', respectively, wherever appearing.

Subsec. (b). Act Apr. 6, 1956, substituted ''Clauses'' for ''In arid or semiarid sections,'' in second sentence.

1955—Subsec. (e). Act Aug. 9, 1955, authorized payments to persons carrying out conservation practices on federally owned noncropland.

1954—Subsec. (a). Act Aug. 28, 1954, §501(a), (b), substituted ''January 1, 1957'' and ''December 31, 1956'' for ''January 1, 1955'' and ''December 31, 1954'' wherever appearing, and inserted last two sentences.

Subsec. (b). Act Aug. 28, 1954, §501(c), struck out ''at not to exceed a fair price fixed in accordance with regulations to be prescribed by the Secretary'' after ''furnished to producers'' in second par., and inserted last sentence.

1952—Subsec. (a). Act May 26, 1952, substituted ''January 1, 1955'' for ''January 1, 1953'' wherever appearing and ''December 31, 1954'' for ''December 31, 1952''.

1950—Subsec. (a). Act Sept. 23, 1950, substituted ''January 1, 1953'' for ''January 1, 1951'' wherever appearing and ''December 31, 1952'' for ''December 31, 1950''.

1948—Subsec. (a). Act July 3, 1948, substituted ''January 1, 1951'' for ''January 1, 1949'' wherever appearing and ''December 31, 1950'' for ''December 31, 1948''.

1946—Subsec. (a). Act July 25, 1946, substituted ''January 1, 1949'' for ''January 1, 1947'' wherever appearing and ''December 31, 1948'' for ''December 31, 1946''.

1944—Subsec. (b). Act Sept. 21, 1944, inserted par. beginning ''Appropriations are hereby''.

Subsec. (e). Act Sept. 21, 1944, inserted par. beginning ''Persons who carry''.

1942—Subsec. (c)(2). Act Feb. 6, 1942, inserted last two sentences.

Subsec. (e). Act Sept. 29, 1942, amended first sentence.

1941—Subsec. (a). Act Dec. 26, 1941, substituted ''January 1, 1947'' for ''January 1, 1942'' wherever appearing and ''December 31, 1946'' for ''December 31, 1941''.

Subsec. (b). Act June 21, 1941, inserted par. beginning ''Notwithstanding any other provisions of law''.

1940—Subsec. (c)(5). Act July 2, 1940, inserted last sentence.

Subsec. (f). Act May 14, 1940, struck out last sentence which provided ''Such limitations shall apply only if the county committee finds that the change or reduction is not justified and disapproves such change or reduction'' and substituted last two sentences.

1939—Subsec. (c)(4). Act Apr. 10, 1939, repealed par. (4) which provided ''Notwithstanding any other provision of this subsection, if, for any reason other than flood or drought, the acreage of wheat, cotton, corn, or rice planted on the farm is less than 80 per centum of the farm acreage allotment for such commodity for the purpose of payment, such farm acreage allotment shall be 25 per centum in excess of such planted acreage''.

1938—Subsecs. (b) and (c) amended generally by act Feb. 16, 1938.

Subsec. (c)(5). Act Apr. 7, 1938, substituted ''for any county'' for ''on any farm'' in first sentence, and ''therein,'' for ''thereon''.

Subsec. (c)(6). Act Apr. 7, 1938, added par. (6).

Subsecs. (d) to (g). Act Feb. 16, 1938, added subsecs. (d) to (g).

Subsec. (g). Act Apr. 7, 1938, substituted second and third sentences for sentences which provided ''Such assignment shall be acknowledged by the farmer before the county agricultural extension agent and filed with such agent. The farmer shall file with such county agricultural extension agent an affidavit stating that the assignment is not made to pay or secure any pre-existing indebtedness.''

1937—Subsec. (a). Act June 28, 1937, substituted ''January 1, 1942'' for ''January 1, 1938'' wherever appearing, and ''December 31, 1941'' for ''December 31, 1937''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1711(b)(1) of Pub. L. 99–198 provided that: ''The amendments made by this section [amending this section] shall become effective on January 1, 1986, except that the amendments made by clauses (2) and (3) of subsection (a) [amending this section] shall not apply with respect to the term of office of any member of a local committee elected before January 1, 1986.''

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of Title 7, Agriculture.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 3 of Pub. L. 88–534 provided that: ''Section 1 of this Act [amending this section] shall become effective for elections of committeemen held on or after January 1, 1965.''

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective July 3, 1948, see section 6 of act July 3, 1948, set out as a note under section 624 of Title 7, Agriculture.

EFFECTIVE DATE OF 1938 AMENDMENT

Section 105 of act Feb. 16, 1938, as amended by section 1 of act Apr. 7, 1938, provided that the amendments by that act, amending this section, ''shall first be effective with respect to farming operations carried out in the calendar year 1938. Notwithstanding such amendments, payments with respect to farming operations carried out in the calendar year 1938 and based upon any soil-depleting crop for which special acreage allotments are established shall be made at not less than 90 per centum of the rates announced by the Secretary prior to the enactment of this act. Nothing contained herein shall require reconstituting, for 1938, any county or other local committee which has been constituted prior to February 1, 1938.''

TRANSFER OF FUNCTIONS

Functions respecting lands under jurisdiction of Department of the Interior, transfer to Department of the Interior, see Transfer of Functions note set out under section 590a of this title.

STATUS OF PERMANENT EMPLOYEES OF COUNTY COMMITTEES

Pub. L. 106–78, title VII, § 740, Oct. 22, 1999, 113 Stat. 1166, provided that: ''Notwithstanding any other provision of law, in fiscal year 2000 and thereafter, permanent employees of county committees employed on or after October 1, 1998, pursuant to [section] 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) shall be considered as having Federal Civil Service status only for the purpose of applying for United States Department of Agriculture Civil Service vacancies.''

Similar provisions were contained in the following prior appropriation act: Pub. L. 105–277, div. A, § 101(a) [title VII, § 765], Oct. 21, 1998, 112 Stat. 2681, 2681–37.

LOCAL COMMITTEE MEMBER ELECTED BEFORE JANUARY 1, 1986; COMPLETION OF UNEXPIRED TERM IN ADMINISTRATIVE AREA OF RESIDENCE

Section 1711(b)(2) of Pub. L. 99–198 provided that: ''If the number of local administrative areas and local committees in a county increases as a result of a change in the number of local administrative areas in the county under section 8(b) of the Soil Conservation and Domestic Allotment Act [subsec. (b) of this section] (as amended by subsection (a)(1)), any member of a local committee in such county elected before January 1, 1986, shall serve the unexpired portion of any term commenced before the date of such increase as a member of the local committee for the administrative area in which such member resides.''

CONGRESSIONAL FINDINGS RESPECTING THE AGRICULTURAL STABILIZATION AND CONSERVATION COUNTY AND COMMUNITY COMMITTEE SYSTEM

Pub. L. 97–218, title IV, § 401, July 20, 1982, 96 Stat. 216, provided that: ''Congress finds that agricultural stabilization and conservation county and community committees have served, and should continue to serve, a vital function in implementing, at the local level, farm commodity, soil conservation, and related programs; and that, by assisting the United States Department of Agriculture to conduct such programs effectively, such committees provide substantial benefits to agriculture and the Nation. Congress further finds that the agricultural stabilization and conservation county and community committee system has developed, over the years, into a highly efficient mechanism for imple-

menting such programs at the local level. Therefore, it is the sense of Congress that the Secretary of Agriculture should ensure that the structure and operations of the agricultural stabilization and conservation county and community committees, as heretofore developed to enable such committees to meet the responsibilities assigned them under section 8(b) of the Soil Conservation and Domestic Allotment Act [subsection (b) of this section], and related statutes and regulations, be preserved and strengthened.''

1970 INCREASE IN RATES OF COMPENSATION OF PERSONS EMPLOYED BY COUNTY COMMITTEES

Adjustment by the Secretary of Agriculture, effective on the first day of the first pay period which begins on or after Dec. 27, 1969, of the rates of pay of personnel subject to this section with respect to individuals employed by county committees under subsec. (b) of this section, by the amounts of the adjustment for corresponding rates for employees subject to the General Schedule, set out in section 5332 of Title 5, which had been made by section 2 of Pub. L. 91–231 raising such rates by 6 percent, see Pub. L. 91–231, formerly set out as a note under section 5332 of Title 5, Government Organization and Employees.

1967 INCREASE IN RATES OF COMPENSATION OF PERSONS EMPLOYED BY COUNTY COMMITTEES

Pub. L. 90–206, title II, §210, Dec. 16, 1967, 81 Stat. 633, provided that: ''The rates of pay of persons employed by the county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) shall be increased by amounts equal, as nearly as may be practicable, to the increases provided by section 202(a) of this title [see section 5332(a) of Title 5, Government Organization and Employees] for corresponding rates of basic pay.''

[Section 210 of Pub. L. 90–206 effective as of beginning of first pay period which begins on or after Oct. 1, 1967, see section 220(a)(2) of Pub. L. 90–206, set out as a note under section 5332 of Title 5.]

1966 INCREASE IN RATES OF COMPENSATION OF PERSONS EMPLOYED BY COUNTY COMMITTEES

Pub. L. 89–504, title I, §107, July 18, 1966, 80 Stat. 293, provided that: ''The rates of compensation of persons employed by the county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) shall be increased by amounts equal, as nearly as may be practicable, to the increases provided by section 102(a) of this title [amending section 1113(b) of former Title 5, Executive Departments and Government Officers and Employees] for corresponding rates of compensation.''

1965 INCREASE IN RATES OF COMPENSATION OF PERSONS EMPLOYED BY COUNTY COMMITTEES

Pub. L. 89–301, §10, Oct. 29, 1965, 79 Stat. 1120, provided that: ''The rates of compensation of persons employed by the county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) shall be increased by amounts equal, as nearly as may be practicable, to the increases provided by section 2(a) of this Act [amending section 1113(b) of former Title 5, Executive Departments and Government Officers and Employees] for corresponding rates of compensation.''

[Provision effective on first day of first pay period which begins on or after July 1, 1966, see section 109(2) of Pub. L. 89–504.]

1964 INCREASE IN RATES OF COMPENSATION OF PERSONS EMPLOYED BY COUNTY COMMITTEES

Pub. L. 88–426, title I, §122, Aug. 14, 1964, 78 Stat. 412, provided that: ''The rates of compensation of persons employed by the county committees establish pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) shall be increased by amounts equal, as nearly as may be practicable to the increases provided by section 102 of this Act [amending section 1113(b) of former Title 5, Executive Departments and Government Officers and Employees] for corresponding rates of compensation in the appropriate schedule or scale of pay.''

1962 INCREASE IN RATES OF COMPENSATION OF PERSONS EMPLOYED BY COUNTY COMMITTEES

Pub. L. 87–793, title VI, §1002, Oct. 11, 1962, 76 Stat. 865, provided that: ''The rates of compensation of persons employed by the county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) shall be increased by amounts equal, as nearly as may be practicable, to the increases provided by title II of this part [amending section 1113(b) of former Title 5, Executive Departments and Government Officers and Employees] for corresponding rates of compensation in the appropriate schedule or scale of pay.''

1960 INCREASE IN RATES OF COMPENSATION OF PERSONS EMPLOYED BY COUNTY COMMITTEES

Pub. L. 86–568, title I, §115(a), July 1, 1960, 74 Stat. 302, provided that: ''The rates of compensation of persons employed by the county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) shall be increased by amounts equal, as nearly as may be practicable, to the increases provided by this title [amending section 1113(b) of former Title 5, Executive Departments and Government Officers and Employees] for corresponding rates of compensation in the appropriate schedule or scale of pay.''

''Increases provided by this title'', referred to above, means increases provided by title I of Pub. L. 86–568.

TWO COUNTY COMMITTEES FOR CERTAIN COUNTIES IN MINNESOTA AND IOWA

Pub. L. 85–278, Sept. 2, 1957, 71 Stat. 601, provided: ''That, notwithstanding the provisions of subsection (b) of section 8 of the Soil Conservation and Domestic Allotment Act [subsec. (b) of this section], two county committees shall be elected annually under such subsection for the counties of Otter Tail, Polk, and Saint Louis, in the State of Minnesota, and for the county of Pottawattamie, in the State of Iowa, and that the actions heretofore or hereafter taken by each of such committees shall be given the same effect in the area served by it as is given to the actions of the county committee in a county served by a single county committee.''

§§ 590h–1, 590h–2. Omitted

CODIFICATION

Section 590h–1, act June 16, 1938, ch. 464, title I, 52 Stat. 746 (the Department of Agriculture Appropriation Act, 1939), which authorized the utilization of certain agencies in administering the naval stores conservation programs and in making payments to gum naval stores producers, was not repeated in subsequent appropriation acts.

Section 590h–2, act July 2, 1940, ch. 521, §9, 54 Stat. 729, which related to correction of certain inequities in agricultural adjustment or conservation payments, was omitted as executed.

§ 590h–3. Repealed. Pub. L. 88–534, § 2, Aug. 31, 1964, 78 Stat. 743

Section, act Aug. 28, 1954, ch. 1041, title V, §503, 68 Stat. 908, provided that nothing in section 590h(b) of this title or in any other law, shall be construed to authorize the imposition of limitations upon the number of terms for which members of county committees established under such section may be reelected. See section 590h(b) of this title.

§ 590h–4. Repealed. Pub. L. 104–127, title III, § 336(a)(2)(G), Apr. 4, 1996, 110 Stat. 1006

Section, act Aug. 3, 1956, ch. 950, § 6(b), 70 Stat. 1033, provided conditions for payments of grants.

§ 590i. Surveys and investigations; publication of information

The Secretary is authorized to conduct surveys, investigations, and research relating to the conditions and factors affecting, and methods of accomplishing most effectively, the policy and purposes of section 590g(a) of this title. Notwithstanding any provision of existing law, the Secretary is authorized to make public such information as he deems necessary to carry out the provisions of this chapter.

(Apr. 27, 1935, ch. 85, § 9, as added Feb. 29, 1936, ch. 104, § 1, 49 Stat. 1150; amended June 28, 1937, ch. 395, § 2, 50 Stat. 329; Pub. L. 97–375, title I, § 103(c), Dec. 21, 1982, 96 Stat. 1819.)

AMENDMENTS

1982—Pub. L. 97–375 struck out requirement that the Secretary transmit to Congress a report on operations under this subchapter, including a statement by classes and amounts of expenditures and obligations, for the fiscal year ending June 30, 1937, and for each fiscal year thereafter.

1937—Act June 28, 1937, inserted last sentence.

TRANSFER OF FUNCTIONS

Functions respecting lands under jurisdiction of Department of the Interior, see Transfer of Functions note set out under section 590a of this title.

§ 590i–1. Omitted

CODIFICATION

Section, act July 22, 1942, ch. 516, 56 Stat. 691 (the Department of Agriculture Appropriation Act, 1943), which related to furnishing photographs, mosaics, and maps required by the Soil Conservation Service, was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

July 1, 1941, ch. 267, 55 Stat. 434.
June 25, 1940, ch. 421, 54 Stat. 560.
June 30, 1939, ch. 253, title I, 53 Stat. 973.
June 16, 1938, ch. 464, title I, 52 Stat. 744.
June 29, 1937, ch. 404, 50 Stat. 429.

§ 590i–2. Omitted

CODIFICATION

Section, act July 2, 1942, ch. 473, 56 Stat. 508 (the Department of the Interior Appropriation Act, 1943), which related to furnishing photographs, mosaics, and maps required in soil conservation operations of the Department of the Interior, was not repeated in subsequent appropriation acts. Similar provision was contained in prior appropriation act of June 28, 1941, ch. 259, 55 Stat. 306.

§ 590j. Definitions

In this chapter:

(1) Agricultural commodity

The term ''agricultural commodity'' means—

(A) an agricultural commodity; and

(B) any regional or market classification, type, or grade of an agricultural commodity.

(2) Technical assistance

(A) In general

The term ''technical assistance'' means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses.

(B) Inclusions

The term ''technical assistance'' includes—

(i) technical services provided directly to farmers, ranchers, and other eligible entities, such as conservation planning, technical consultation, and assistance with design and implementation of conservation practices; and

(ii) technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.

(Apr. 27, 1935, ch. 85, § 10, as added Feb. 29, 1936, ch. 104, § 1, 49 Stat. 1150; amended Pub. L. 110–234, title II, § 2802(b), May 22, 2008, 122 Stat. 1085; Pub. L. 110–246, § 4(a), title II, § 2802(b), June 18, 2008, 122 Stat. 1664, 1813.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, § 2802(b), amended section generally. Prior to amendment, text read as follows: ''The term 'agricultural commodity' as used in this chapter means any such commodity and any regional or market classification, type, or grade thereof.''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 590k. Availability of funds

All funds available for carrying out this chapter shall be available for allotment to the bureaus and offices of the Department of Agriculture and for transfer to such other agencies of the Federal or State Governments, or to local public agencies, as the Secretary may request to cooperate or assist in carrying out this chapter, and for payments to committees or associations of producers in any region or regions to cover the estimated administrative expenses to be incurred by any such committee or association in cooperating in carrying out this chapter: *Provided*, That the Secretary may prescribe that all or part of such estimated expenses of any such committee or association may be deducted pro rata from the payments or grants made to the members thereof: *Provided further*, That the Secretary may make such payments in advance of determination of performance. Funds so transferred may be placed in a single account for each State.

(Apr. 27, 1935, ch. 85, § 11, as added Feb. 29, 1936, ch. 104, § 1, 49 Stat. 1150; amended June 24, 1936, ch. 767, 49 Stat. 1915; Aug. 3, 1956, ch. 950, § 6(c), 70 Stat. 1033; Pub. L. 104–127, title III, § 336(a)(1)(B), Apr. 4, 1996, 110 Stat. 1005.)

AMENDMENTS

1996—Pub. L. 104–127, at end of first sentence, substituted ''performance'' for ''performance: *Provided further*, That the transfer of funds for services of technicians in formulating and carrying out agricultural conservation programs, from allotments for agricultural conservation payments within a State, shall be subject to such limitations and conditions as may be provided in appropriation or other law''.

1956—Act Aug. 3, 1956, authorized transfer of funds to local public agencies and provided that transfer of funds for services of technicians in formulating and carrying out agricultural programs from allotments for agricultural conservation payments within the State shall be subject to such limitations and conditions as may be provided in the appropriation or other law, and that funds so transferred may be placed in a single account for each State.

1936—Act June 24, 1936, authorized availability of funds for payments to committees or associations of producers to cover the estimated administrative expenses.

TRANSFER OF FUNCTIONS

Functions respecting lands under jurisdiction of Department of the Interior, see Transfer of Functions note set out under section 590a of this title.

§ 590*l*. Expansion of domestic and foreign markets for agricultural commodities; advances for crop insurance; transfer of funds to corporation

(a) Market expansion and surplus disposition

Whenever the Secretary finds that the exercise of the powers conferred in this section will tend to carry out the purpose specified in clause (5) of section 590g(a) of this title, or will tend to provide for and maintain a continuous and stable supply of agricultural commodities adequate to meet consumer demand at prices fair to both producers and consumers, or both, he shall use such part as he deems necessary of the sums appropriated to carry out this chapter for the expansion of domestic and foreign markets or for seeking new or additional markets for agricultural commodities or the products thereof or for the removal or disposition of surpluses of such commodities or the products thereof.

(b) Advances for premiums

The Secretary is authorized to make advances to producers for the purpose of assisting them to insure their crops with the Federal Crop Insurance Corporation. The Secretary shall remit the amount of any such advances to a producer directly to such Corporation in payment of the premium on the insurance for which the producer has made application. Advances shall only be made to producers who are participating or who agree to participate in a program formulated pursuant to section 590h of this title. Except as otherwise provided in this subsection, the terms and conditions of such advances shall be fixed by the Secretary. In carrying out the provisions of this subsection, the Secretary may transfer to the Federal Crop Insurance Corporation, prior to the execution of applications for insurance or requests for advances by producers, the funds estimated as necessary to cover the advances which will be requested for the payment of premiums under a crop-insurance program, and any portion of such funds not used for advances to producers under such program shall be returned to the Secretary by the Federal Crop Insurance Corporation.

(Apr. 27, 1935, ch. 85, §12, as added Feb. 29, 1936, ch. 104, §1, 49 Stat. 1151; amended Mar. 25, 1939, ch. 15, 53 Stat. 550; July 2, 1940, ch. 521, §1, 54 Stat. 727.)

AMENDMENTS

1940—Subsec. (b). Act July 2, 1940, inserted last sentence.

1939—Act Mar. 25, 1939, designated existing provisions as subsec. (a) and added subsec. (b).

TRANSFER OF FUNCTIONS

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by Reorg. Plan No. 3 of 1946, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

Federal Crop Insurance Corporation consolidated with other agencies into Agricultural Conservation and Adjustment Administration for duration of World War II, see Ex. Ord. No. 9069, Feb. 23, 1942.

Functions respecting lands under jurisdiction of Department of the Interior, see Transfer of Functions note set out under section 590a of this title.

§ 590m. Execution of powers of Secretary by Production and Marketing Administration

Notwithstanding the foregoing provisions of this chapter, the Secretary is authorized and directed to provide for the execution by the Production and Marketing Administration of such powers conferred upon him under sections 590g, 590h, 590i, and 590j to 590n of this title as he deems may be appropriately exercised by such Administration, and for such purposes the provisions of law applicable to the appointment and compensation of persons employed by the Production and Marketing Administration shall apply.

(Apr. 27, 1935, ch. 85, §13, as added Feb. 29, 1936, ch. 104, §1, 49 Stat. 1151; amended 1946 Reorg. Plan No. 3, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

Production and Marketing Administration functions transferred to other units of Department of Agriculture under Secretary's memorandum 1320, supp. 4, of Nov. 2, 1953.

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Agriculture Adjustment Administration consolidated into Production and Marketing Administration by Secretary of Agriculture's Memorandum No. 1118, Aug. 18, 1945, which consolidation was ratified by 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

Federal Crop Insurance Corporation consolidated with other agencies into Agricultural Conservation and Adjustment Administration for duration of World War II, see Ex. Ord. No. 9069, Feb. 23, 1942.

Functions respecting lands under jurisdiction of Department of the Interior, see Transfer of Functions note set out under section 590a of this title.

§ 590n. Payments reviewable only by Secretary

The facts constituting the bases for any payment or grant or the amount thereof authorized to be made under section 590g of this title, when

officially determined in conformity with rules or regulations prescribed by the Secretary of Agriculture, shall be reviewable only by the Secretary of Agriculture.

(Apr. 27, 1935, ch. 85, § 14, as added Feb. 29, 1936, ch. 104, § 1, 49 Stat. 1151; amended Aug. 3, 1956, ch. 950, § 6(a), 70 Stat. 1033; Pub. L. 104–127, title III, § 336(a)(1)(C), Apr. 4, 1996, 110 Stat. 1005.)

AMENDMENTS

1996—Pub. L. 104–127 struck out ''or 590h'' after ''section 590g'' and struck out at end ''Payments to claimants under sections 590g, 590h, 590i, 590j to 590q, inclusive, of this title may be made upon the certificate of the claimant, which certificate shall be in such form as the Secretary of Agriculture may prescribe, that he has carried out the conservation practice or practices and has complied with all other requirements as conditions for such payments and that the statements and information contained in the application for payment are correct and true, to the best of his knowledge and belief, under the penalties of title 18.''

1956—Act Aug. 3, 1956, inserted provisions relating to payments to be made to claimant upon his certificate, and form of such certificate.

TRANSFER OF FUNCTIONS

Functions respecting lands under jurisdiction of Department of the Interior, see Transfer of Functions note set out under section 590a of this title.

§ 590*o*. Authorization of appropriations; distribution of appropriated funds

To enable the Secretary of Agriculture to carry out the purposes of section 590g of this title there is authorized to be appropriated for any fiscal year not exceeding $500,000,000. The amount appropriated shall be available until expended. The Secretary shall distribute the funds available for financial assistance among the several States in accordance with their conservation needs, as determined by the Secretary.

(Apr. 27, 1935, ch. 85, § 15, as added Feb. 29, 1936, ch. 104, § 1, 49 Stat. 1151; amended Feb. 16, 1938, ch. 30, title I, § 104, 52 Stat. 35; Aug. 28, 1954, ch. 1041, title V, § 502, 68 Stat. 908; Pub. L. 92–419, title VI, § 606(6), Aug. 30, 1972, 86 Stat. 677; Pub. L. 95–113, title XV, § 1501(b), Sept. 29, 1977, 91 Stat. 1020; Pub. L. 104–127, title III, § 336(a)(1)(D), Apr. 4, 1996, 110 Stat. 1005.)

AMENDMENTS

1996—Pub. L. 104–127 substituted ''section 590g'' for ''sections 590g and 590h'', struck out ''A specified amount or percentage of the appropriation shall be designated for long-term agreements based on farm and ranch conservation plans approved by local conservation districts, where such districts are organized.'' before ''The Secretary shall distribute'', and struck out last par. which read as follows: ''Notwithstanding the foregoing provisions of this section and the provisions of section 590g(g) of this title, programs of soil-building practices, soil- and water-conserving practices, and agriculture-related pollution prevention and abatement practices shall be based on a distribution of the funds available for payments and grants among the several States in accordance with their conservation needs, as determinated by the Secretary, except that the proportion allocated to any State shall not be reduced by more than 15 per centum from the distribution of such funds for the next preceding program year. In carrying out such programs, the Secretary shall give particular consideration to conservation problems on farm lands diverted from crops under acreage allotment programs and to the maintenance of a proper balance between soil conserving and soil depleting crops on the farm.''

1977—Pub. L. 95–113 inserted provisions directing that appropriated funds be available until expended, that funds be made available for long-term agreements, and that the Secretary distribute the available funds among the several States in accordance with their conservation needs as determined by the Secretary and struck out provisions setting out a formula for determining the proper allocation of funds as between the various commodities and making reference to programs of soil-building practices, soil-conserving and water-conserving practices, and agricultural-related pollution prevention and abatement practices.

1972—Pub. L. 92–419 made provisions of last paragraph respecting distribution of funds applicable to programs of agriculture-related pollution prevention and abatement practices.

1954—Act Aug. 28, 1954, inserted last par.

1938—Act Feb. 16, 1938, inserted par. beginning ''The funds available''.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of Title 7, Agriculture.

EFFECTIVE DATE OF 1938 AMENDMENT

Section 105 of act Feb. 16, 1938, as amended by section 1 of act Apr. 7, 1938, provided that the amendment made by that act, amending this section, ''shall first be effective with respect to farming operations carried out in the calendar year 1938. Notwithstanding such amendments, payments with respect to farming operations carried out in the calendar year 1938 and based upon any soil-depleting crop for which special acreage allotments are established shall be made at not less than 90 per centum of the rates announced by the Secretary prior to the enactment of this act. Nothing contained herein shall require reconstituting, for 1938, any county or other local committee which has been constituted prior to February 1, 1938.''

TRANSFER OF FUNCTIONS

Functions respecting lands under jurisdiction of Department of the Interior, see Transfer of Functions note set out under section 590a of this title.

§ 590p. Repealed. Pub. L. 104–127, title III, § 336(b)(1), Apr. 4, 1996, 110 Stat. 1006

Section, act Apr. 27, 1935, ch. 85, § 16, as added Feb. 29, 1936, ch. 104, § 1, 49 Stat. 1151; amended Aug. 7, 1956, ch. 1030, § 1, 70 Stat. 1115; Sept. 14, 1960, Pub. L. 86–793, § 1, 74 Stat. 1030; Mar. 22, 1961, Pub. L. 87–5, § 2, 75 Stat. 6; Aug. 8, 1961, Pub. L. 87–128, title I, § 132, title IV, § 401, 75 Stat. 302, 319; Mar. 30, 1962, Pub. L. 87–425, § 2, 76 Stat. 50; May 15, 1962, Pub. L. 87–451, § 4, 76 Stat. 70; Sept. 27, 1962, Pub. L. 87–703, title I, § 101(4), (5), title III, § 302, 76 Stat. 606, 607, 612; May 20, 1963, Pub. L. 88–26, § 3, 77 Stat. 45; Nov. 3, 1965, Pub. L. 89–321, title III, § 302, title VI, § 602(g), 79 Stat. 1190, 1208; Oct. 11, 1968, Pub. L. 90–559, § 1(1), 82 Stat. 996; Nov. 18, 1969, Pub. L. 91–118, §§ 1–3, 83 Stat. 194, 195; Nov. 30, 1970, Pub. L. 91–524, title VIII, § 801, 84 Stat. 1379; June 6, 1980, Pub. L. 96–263, § 1, 94 Stat. 438; Nov. 28, 1990, Pub. L. 101–624, title XIV, § 1455, 104 Stat. 3614; Nov. 2, 1994, Pub. L. 103–437, § 6(s), 108 Stat. 4587, related to limitation on obligations incurred for purpose of carrying out certain sections and Great Plains conservation program.

§ 590p–1. Limitation on wetlands drainage assistance to aid wildlife preservation; termination of limitation; redetermination of need for assistance upon change of ownership of lands

The Secretary of Agriculture shall not enter into an agreement in the States of North Da-

kota, South Dakota, and Minnesota to provide financial or technical assistance for wetland drainage on a farm under authority of this chapter, if the Secretary of the Interior has made a finding that wildlife preservation will be materially harmed on that farm by such drainage and that preservation of such land in its undrained status will materially contribute to wildlife preservation and such finding, identifying specifically the farm and the land on that farm with respect to which the finding was made, has been filed with the Secretary of Agriculture within ninety days after the filing of the application for drainage assistance: *Provided*, That the limitation against furnishing such financial or technical assistance shall terminate (1) at such time as the Secretary of the Interior notifies the Secretary of Agriculture that such limitation should not be applicable, (2) one year after the date on which the adverse finding of the Secretary of the Interior was filed unless during that time an offer has been made by the Secretary of the Interior or a State government agency to lease or to purchase the wetland area from the owner thereof as a waterfowl resource, or (3) five years after the date on which such adverse finding was filed if such an offer to lease or to purchase such wetland area has not been accepted by the owner thereof: *Provided further*, That upon any change in the ownership of the land with respect to which such adverse finding was filed, the eligibility of such land for such financial or technical assistance shall be redetermined in accordance with the provisions of this section.

(Apr. 27, 1935, ch. 85, §16A, as added Pub. L. 87–732, Oct. 2, 1962, 76 Stat. 696.)

§ 590q. Coverage; "State" defined; short title

(a) This chapter shall apply to the States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands, and, as used in this chapter, the term ''State'' includes Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

(b) This chapter may be cited as the ''Soil Conservation and Domestic Allotment Act''.

(Apr. 27, 1935, ch. 85, §17, as added Feb. 29, 1936, ch. 104, §1, 49 Stat. 1151; amended July 26, 1947, ch. 339, §2, 61 Stat. 494; Pub. L. 86–70, §13(b), June 25, 1959, 73 Stat. 143; Pub. L. 86–624. §8(b), July 12, 1960, 74 Stat. 412; Pub. L. 98–454, title VI, §601(d), Oct. 5, 1984, 98 Stat. 1736.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–454 inserted reference to Guam, American Samoa, and the Northern Mariana Islands in two places.

1960—Subsec. (a). Pub. L. 86–624 substituted ''States, the Commonwealth of Puerto Rico'' for ''States, the Territory of Hawaii, and the possessions of Puerto Rico'', and struck out ''Hawaii'' from definition of ''State''.

1959—Subsec. (a). Pub. L. 86–70 substituted ''the States, the Territory of Hawaii,'' for ''the United States, the Territories of Alaska and Hawaii'', and struck out ''Alaska,'' after ''the term 'State' includes''.

1947—Subsec. (a). Act July 26, 1947, included the Virgin Islands.

REPEALS

Section 3 of act July 26, 1947, repealed all laws in conflict therewith.

§ 590q–1. Sale and distribution of supplies, materials, and equipment to other Government agencies; reimbursement

The Soil Conservation Service subject to applicable regulations under chapters 1 to 11 of title 40 and division C (except sections 3302, 3306(f), 3307(e), 3501(b), 3509, 3906, 4104, 4710, and 4711) of subtitle I of title 41 may sell and distribute supplies, materials, and equipment to other Government activities, the cost of such supplies and materials or the value of such equipment (including the cost of transportation and handling) to be reimbursed to appropriations current at the time additional supplies, materials, or equipment are procured from the appropriations chargeable with the cost or value of such supplies, materials, or equipment.

(Sept. 21, 1944, ch. 412, title III, §302(b), 58 Stat. 738; Oct. 31, 1951, ch. 654, §2(12), 65 Stat. 707.)

CODIFICATION

Section was enacted as part of the Department of Agriculture Organic Act of 1944, and not as part of the Soil Conservation and Domestic Allotment Act which comprises this chapter.

In text, ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3306(f), 3307(e), 3501(b), 3509, 3906, 4104, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949, as amended,'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1951—Act Oct. 31, 1951, inserted reference to applicable regulations of the Federal Property and Administrative Services Act of 1949, as amended.

§ 590q–2. Voluntary relinquishment of allotments

Notwithstanding any other provision of law, the Secretary may provide for the reduction or cancellation of any allotment or base when the owner of the farm states in writing that he has no further use of such allotment or base.

(Pub. L. 91–524, title VIII, §803, Nov. 30, 1970, 84 Stat. 1381.)

CODIFICATION

Section was enacted as part of the Agriculture Act of 1970, and not as part of the Soil Conservation and Domestic Allotment Act which comprises this chapter.

§ 590q–3. Critical lands resource conservation program in Great Plains area

Notwithstanding any other provision of law—

(a) Authorization for program

The Secretary of Agriculture is authorized to formulate and carry out a program with owners and operators of land in the Great Plains area as described in section 590p(b)[1] of this title to reduce runoff, soil and water erosion, and otherwise to promote the conservation of soil and

[1] See References in Text note below.

water resources in such area through the conversion of cropland from soil depleting uses to conserving uses including the production of soil conserving cover crops.

(b) Terms of agreements with owners or operators

To effectuate the purposes of the program, the Secretary may enter into an agreement for a two-year period with an owner or operator as described in subsection (a) of this section whereby the owner or operator shall agree to devote to a soil conserving cover crop a specifically designated acreage of cropland on the farm up to 50 per centum of the acreage which had been planted to any soil depleting crop or crops in any of the two years preceding the date of the agreement. The agreement shall be renewable for annual periods thereafter subject to the mutual agreement of the owner or operator and the Secretary. In such agreement, the owner or operator shall agree (1) to plant a legume, or if not adapted to such area, an annual, biennial, or a perennial cover crop, as specified in the agreement; (2) to divert from production such portion of one or more crops designated by the Secretary as the Secretary determines necessary to effectuate the purpose of the program; (3) not to harvest any crop from or graze the designated acreage during the agreement period, unless the Secretary determines that it is necessary to permit grazing or harvesting in order to alleviate damage, hardship, or suffering caused by severe drought, flood, or other natural disaster, and consents to such grazing or harvesting subject to an appropriate reduction in the rate of payment; (4) to give adequate assurance, as specified by the Secretary, that the land was not acquired for the purpose of placing it in the program: *Provided*, That the foregoing provision shall not prohibit the continuation of an agreement by a new owner if an agreement has once been entered into under this section nor prevent an owner or operator from placing a farm in the program if the farm was acquired by the owner to replace an eligible farm from which he was displaced because of its acquisition by any Federal, State, or other agency having the right of eminent domain; (5) to forfeit all rights to further payments under the agreement and refund to the United States all payments received thereunder upon his violation of the agreement at any stage during the time he has control of the land if the Secretary determines that such violation is of such a nature as to warrant termination of the agreement, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if the Secretary determines that the violation by the owner or operator does not warrant termination of the agreement; (6) upon transfer of his right and interest in the farm, during the agreement period, to forfeit all rights to further payments under the agreement and refund to the United States all payments received thereunder unless the transferee of any such land agrees with the Secretary to assume all obligations of the agreement; (7) not to adopt any practice specified by the Secretary in the agreement as a practice which would tend to defeat the purposes of the agreement; and (8) to such additional provisions as the Secretary determines are desirable to effectuate the purposes of the program or to facilitate the practical administration of the program, including such measures as the Secretary may deem appropriate to keep the designated acreage from eroding and free from weeds and rodents in accordance with good conservation systems.

(c) Annual adjustment payments

In consideration for such agreement, the Secretary shall make annual adjustment payments to the owner or operator for the period of the agreement at such rate or rates not in excess of $30 per acre as the Secretary determines to be fair and reasonable. The Secretary may use an advertising and bid procedure in determining the lands in any area to be covered by agreements and the payment rate therefor. The Secretary and the owner or operator may agree that the annual adjustment payments for the agreement period shall be made either upon approval of the agreement or in such installments as they may agree to be desirable: *Provided*, That for each year any annual adjustment payment is made in advance of performance, the annual adjustment payment shall be reduced by 5 per centum.

(d) Termination of agreements

The Secretary may terminate any agreement under the program, by mutual agreement with the owner or operator, if the Secretary determines that such termination would be in the public interest, and may agree with the owner or operator to such modification of agreements as the Secretary may determine to be desirable to carry out the purposes of the program or facilitate its administration.

(e) Preservation of cropland, crop acreage, and allotment history

The Secretary may, to the extent the Secretary deems it desirable, provide by appropriate regulations for preservation of cropland, crop acreage, and allotment history applicable to acreage diverted from the production of crops to establish vegetative cover for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation or for participation in such program.

(f) Utilization of Federal and non-Federal offices

In carrying out the program, the Secretary shall utilize the services of local, county, and State committees established under section 590h of this title and the technical services of the Soil Conservation Service and soil and water conservation districts.

(g) Program payments

In case any producer who is entitled to any payment under the program dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provisions of law, be made as the Secretary may determine to be fair and reasonable.

(h) Tenants and sharecroppers

The Secretary shall provide adequate safeguards to protect the interests of tenants and

sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under the program.

(i) Rules and regulations

The Secretary shall prescribe such regulations as the Secretary determines necessary to carry out the provisions of this section.

(j) Authorization of appropriations; utilization of Commodity Credit Corporation

There are authorized to be appropriated for the period beginning October 1, 1977, and ending September 30, 1981, such sums as may be necessary to carry out the program provided for in this section. The Secretary is authorized to utilize the facilities, services, and authorities of the Commodity Credit Corporation in discharging the Secretary's functions and responsibilities under the program, including payment of costs of administration: *Provided*, That the Commodity Credit Corporation shall not make any expenditures for such purposes unless the Corporation has received funds to cover such expenditures from appropriations made to carry out this section.

(Pub. L. 95–113, title XV, §1511, Sept. 29, 1977, 91 Stat. 1022.)

REFERENCES IN TEXT

Section 590p of this title, referred to in subsec. (a), was repealed by Pub. L. 104–127, title III, §336(b)(1), Apr. 4, 1996, 110 Stat. 1006.

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1977, and not as part of the Soil Conservation and Domestic Allotment Act which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of Title 7, Agriculture.

CHAPTER 3C—WATER CONSERVATION

SUBCHAPTER I—FACILITIES FOR WATER STORAGE AND UTILIZATION

Sec.

590r to 590x–4. Repealed.

SUBCHAPTER II—CONSERVATION AND UTILIZATION PROJECTS

590y. Authorization and purpose of investigation, construction, and maintenance of projects; title to projects; limitation on costs.
590z. Utilization of services, materials, funds, etc., of Federal, State, or municipal agencies, or of individuals.
590z–1. Prerequisites for construction of project.
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590z–7. Provisions for furnishing surplus power and municipal or miscellaneous water supplies.
590z–8. Authority of Secretary of the Interior over lands, contracts, water rights, etc.
590z–9. Powers and duties of Secretaries of the Interior and Agriculture; rules and regulations.
590z–10. Authorization of appropriations.
590z–11. Delegation of powers and duties by Secretary of the Interior.

SUBCHAPTER I—FACILITIES FOR WATER STORAGE AND UTILIZATION

§§ 590r to 590x–4. Repealed. Pub. L. 87–128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318

Section 590r, acts Aug. 28, 1937, ch. 870, §1, 50 Stat. 869; Aug. 17, 1954, ch. 751, §1(1), (2), 68 Stat. 734; July 12, 1960, Pub. L. 86–624, §9, 74 Stat. 412, related to Congressional declaration of policy.

Section 590s, acts Aug. 28, 1937, ch. 870, §2, 50 Stat. 869; Aug. 17, 1954, ch. 751, §1(3), 68 Stat. 735, related to powers and duties of Secretary of Agriculture.

Section 590t, act Aug. 28, 1937, ch. 870, §3, 50 Stat. 869, related to location of projects.

Section 590u, act Aug. 28, 1937, ch. 870, §4, 50 Stat. 870, related to State aid and certain requirements.

Section 590v, act Aug. 28, 1937, ch. 870, §5, 50 Stat. 870, related to use of employees and agencies within Department of Agriculture.

Section 590w, act Aug. 28, 1937, ch. 870, §6, 50 Stat. 870, related to cooperation of governmental agencies, expenditures and rules and regulations.

Section 590x, act Aug. 28, 1937, ch. 870, §7, 50 Stat. 870, authorized appropriations.

Section 590x–1, act Aug. 28, 1937, ch. 870, §8, as added Aug. 17, 1954, ch. 751, §1(4), 68 Stat. 735, prescribed limitations on aid.

Section 590x–2, act Aug. 28, 1937, ch. 870, §9, as added Aug. 17, 1954, ch. 751, §1(4), 68 Stat. 735, authorized loans for farm land improvement.

Section 590x–3, act Aug. 28, 1937, ch. 870, §10(a)–(e), as added Aug. 17, 1954, ch. 751, §1(4), 68 Stat. 735, provided for an insurance program for loans by other than United States, an insurance fund, contents of fund, selling and reinsuring of notes, disposition of insurance charges, insurance contract as United States obligation, incontestability, discharge of obligations, and limitation on aggregate amount of obligations.

Section 590x–4, act Aug. 28, 1937, ch. 870, §11, as added Aug. 25, 1958, Pub. L. 85–748, §2, 72 Stat. 841, related to authorization of Secretary for execution, insurance and sale of loans, insurance, appraisal and delinquency charges, use of proceeds for expenses; computation of aggregate amount of principal obligations which may be insured, insurance of loans from funds advanced by lenders other than United States, provisions applicable to loans, conversion of loans to insured loans, expense funds, sale of loans on noninsured basis and assignment of loans.

The subject matter of former sections 590r to 590x–4 of this title is covered by section 1921 et seq. of Title 7, Agriculture.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of section 1921 et seq. of Title 7, Agriculture, are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87–128, set out as a note under section 1921 of Title 7.

Sections repealed effective Oct. 15, 1961, by section 300.1 of former Title 6, Code of Federal Regulations, see Effective Date note under section 1921 of Title 7.

SUBCHAPTER II—CONSERVATION AND UTILIZATION PROJECTS

§ 590y. Authorization and purpose of investigation, construction, and maintenance of projects; title to projects; limitation on costs

For the purpose of stabilizing water supply and thereby rehabilitating farmers on the land and providing opportunities for permanent settlement of farm families, the Secretary of the Interior (hereinafter referred to as ''the Secretary'') is authorized to investigate and, upon compliance with the provisions of this sub-

chapter, to construct water conservation and utilization projects in the Great Plains and arid and semiarid areas of the United States, and to operate and maintain each such project in accordance with the provisions of this subchapter; *Provided*, That the United States shall retain title to the dams, reservoirs, irrigation, and other project works until Congress otherwise provides: *And provided further*, That expenditures from appropriations made directly pursuant to the authority contained in section 590z–10(1) of this title to meet reimbursable construction costs allocated to irrigation as defined in section 590z–2(b) of this title shall not exceed $2,000,000 for dams and reservoirs in any one project, and that expenditures from appropriations made directly pursuant to the authority contained in section 590z–10(1) of this title to meet costs allocated to flood control by the Secretary after consultation with the Chief of Engineers, Department of the Army, shall not exceed $500,000 on any one project.

(Aug. 11, 1939, ch. 717, §1, 53 Stat. 1418; Oct. 14, 1940, ch. 861, 54 Stat. 1119; Mar. 7, 1942, ch. 164, 56 Stat. 142; July 16, 1943, ch. 242, §1, 57 Stat. 566; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

AMENDMENTS

1943—Act July 16, 1943, raised amount of expenditures for dams and reservoirs on any one project from $1,000,000 to $2,000,000.

1942—Act Mar. 7, 1942, amended last proviso.

1940—Act Oct. 14, 1940, reenacted section.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

ANGOSTURA PROJECT

Act Aug. 9, 1955, ch. 630, 69 Stat. 552, provided: ''That the provisions of sections 41(g), 43, and 51 of the Bankhead-Jones Farm Tenant Act, as amended [sections 1015(g), 1017, and 1025 of Title 7, Agriculture], are hereby extended to apply on the obligations of settlers on the Angostura project in South Dakota developed under the Act of August 11, 1939, as amended [this section].''

§ 590z. Utilization of services, materials, funds, etc., of Federal, State, or municipal agencies, or of individuals

In connection with the investigation, construction, or operation and maintenance of a project, pursuant to the authority of this subchapter, the Secretary is authorized to utilize (1) in such manner as the President may direct, services, labor, materials, or other property, including money, supplied by the Work Projects Administration, the Civilian Conservation Corps, the Office of Indian Affairs, the Department of Agriculture, or any other Federal agency, for which the United States shall be reimbursed in such amounts as the President may fix for each project, within the limits of the water users' ability to repay costs as found by the Secretary under section 590z–1(a)(iv) of this title; and (2) such services, labor, materials, easements or property, including money, as may be contributed by any State or political subdivision thereof, State agency, municipal corporation, or other organization, or individuals, if, in the judgment of the Secretary, the acceptance thereof will not impair the title of the United States to the project works and will not reduce the probability that the project water users can meet the obligations to the United States entered into pursuant to this subchapter. Moneys received and accepted under (2) of this section shall be and remain available for expenditure for the purposes for which contributed in like manner as if said sums had been specifically appropriated for said purposes.

(Aug. 11, 1939, ch. 717, §2, 53 Stat. 1419; Oct. 14, 1940, ch. 861, 54 Stat. 1120.)

AMENDMENTS

1940—Act Oct. 14, 1940, reenacted section.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Works Projects Administration and its functions transferred to Federal Works Agency by Reorg. Plan No. 1 of 1939, §§301, 306, eff. July 1, 1939, 4 F.R. 2729, 53 Stat. 1426, set out in the Appendix to Title 5.

Functions of Federal Works Agency transferred to General Services Administration by act June 30, 1949, ch. 288, title I, §103, 63 Stat. 380. See Historical and Revision Notes under section 303(b) of Title 40, Public Buildings, Property, and Works. Section 303(b) of Title 40 was amended generally by Pub. L. 109–313, §2(a)(1), Oct. 6, 2006, 120 Stat. 1734, and, as so amended, no longer relates to the Federal Works Agency and Commissioner of Public Buildings. See 2006 Amendment note under section 303 of Title 40.

Civilian Conservation Corps and its functions consolidated with other agencies under Federal Security Agency, to be administered by Director of Corps under direction and supervision of Federal Security Administration by Reorg. Plan No. 1 of 1939, §§201, 207, eff. July 1, 1939, 4 F.R. 2728, 2729, 53 Stat. 1425, set out in the Appendix to Title 5, Government Organization and Employees.

Federal Security Agency was abolished by section 8 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, and its functions transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953.

Department of Health, Education, and Welfare was redesignated Department of Health and Human Services by section 3508(b) of Title 20, Education.

DRAINAGE FACILITIES AND MINOR CONSTRUCTION

Contracts with repayment organizations for construction of drainage facilities and minor items in irrigation works, see section 505 of Title 43, Public Lands.

§ 590z–1. Prerequisites for construction of project

(a) Investigation and report to President

No construction of a project may be undertaken pursuant to the authority of this subchapter unless and until the Secretary has made an investigation thereof and has submitted to the President his report and findings on—

(i) the engineering feasibility of the proposed construction;

(ii) the estimated cost of the proposed construction;

(iii) the part of the estimated cost which properly can be allocated to irrigation;

(iv) the part of the estimated cost which probably can be repaid by the water users in accordance with the requirements of section 590z–2 of this title;

(v) the part of the estimated cost which can properly be allocated to municipal or miscellaneous water supplies or power and probably be returned to the United States in revenues therefrom;

(vi) the part of the estimated cost which can properly be allocated to the irrigation of Indian trust and tribal lands, and be repayable in accordance with existing law relating to Indian lands;

(vii) the part of the estimated cost which can properly be allocated to flood control as recommended by the Secretary after consultation with the Chief of Engineers, Department of the Army.

In connection with each such investigation, report, and finding, the Secretary shall consult with the Secretary of Agriculture regarding participation in the proposed project by the Department of Agriculture under the authority of sections 590z–3 and 590z–4 of this title; and the Secretary shall also transmit to the President a report by the Secretary of Agriculture to the President on the participation, if any, proposed by the Department of Agriculture. The project shall be deemed authorized and may be undertaken pursuant to this subchapter if (1) the Secretary finds and certifies to the President that the project has engineering feasibility and that the water users probably can repay, in accordance with the requirements of section 590z–2 of this title an amount equal to or in excess of that part of the estimated cost allocated by him to irrigation to be met by expenditure of moneys appropriated pursuant to section 590z–10(1) of this title; and (2) the President has approved said report and findings and has found that services, labor, materials, easements, and other property, including money, for the construction of the project, should be made available to the Department of the Interior by the Works Projects Administration or other Federal agencies, to the extent found necessary by the Secretary to make up the difference between the estimated cost of project construction and (i) the part thereof to be met by expenditure of moneys appropriated pursuant to section 590z–10(1) of this title, together with (ii) such services, materials, money, easements, and other property as non-Federal agencies or parties have agreed to contribute and the Secretary has found acceptable under section 590z of this title.

(b) Construction of physical features

No actual construction of the physical features of a project shall be undertaken unless and until (1) the Secretary has found that lands, or interests in lands, deemed necessary for the construction and operation of the major features of the projects have been secured, or sufficient progress made in their procurement to indicate the probability that all these lands or interests in lands can be secured, with titles and at prices satisfactory to him; and (2) the Secretary has found (i) that water rights adequate for the purposes of the project have been acquired with titles and at prices satisfactory to him, or that such water rights have been initiated and in his judgment can be perfected in conformity with State law and any applicable interstate agreements and in a manner satisfactory to him; and (ii) that such water rights can be utilized for the purposes of the project in conformity with State law and any applicable interstate agreements and in a manner satisfactory to him.

(c) Division of project

Any part of a project hereunder may be designated as a division of the project by the Secretary if he, after consultation with the Secretary of Agriculture, deems this desirable for orderly and efficient construction or administration. The term ''project'', as used in subsection (b) of this section and section 590z–2 of this title, shall be deemed to mean also ''division of a project'', designated as provided in this subsection. Any project authorized for construction from appropriations under the head ''Water Conservation and Utility Projects'' in the Interior Department Appropriation Act, 1940 [ch. 119] (53 Stat. 685), hereinafter called the 1940 water conservation appropriation, may be designated by the Secretary, upon agreement with the Secretary of Agriculture, a project under this subchapter, and shall thereupon be subject to all the provisions and requirements thereof, except those of subsections (a) and (b) of this section.

(Aug. 11, 1939, ch. 717, §3, 53 Stat. 1419; Oct. 14, 1940, ch. 861, 54 Stat. 1120; July 16, 1943, ch. 242, §§2–4, 57 Stat. 567; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

REFERENCES IN TEXT

The head ''Water Conservation Utility Projects'' in the Interior Department Appropriation Act, 1940 [ch. 119] (53 Stat. 685), referred to in subsec. (c), was not classified to the Code.

AMENDMENTS

1943—Subsec. (a)(vii). Act July 16, 1943, §2, inserted ''Secretary after consultation with the'' after ''as recommended''.

Subsec. (b). Act July 16, 1943, §3, amended subsec. (b) generally.

Subsec. (c). Act July 16, 1943, §4, added subsec. (c).

1940—Act Oct. 14, 1940, reenacted section.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

CONSTRUCTION WITH SECTION 701–1 OF TITLE 33

Section as amended and modified by act Dec. 22, 1944, ch. 665, §1(c), 58 Stat. 665, see section 701–1(c) of Title 33, Navigation and Navigable Waters.

TRANSFER OF FUNCTIONS

Works Projects Administration and its functions transferred to Federal Works Agency by Reorg. Plan No. 1 of 1939, §§301, 306, eff. July 1, 1939, 4 F.R. 2729, 53 Stat. 1426, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Federal Works Agency transferred to General Services Administration by act June 30, 1949, ch. 288, title I, §103, 63 Stat. 380. See Historical and Revision Notes under section 303(b) of Title 40, Public Buildings, Property, and Works. Section 303(b) of Title 40 was amended generally by Pub. L. 109–313, §2(a)(1), Oct. 6, 2006, 120 Stat. 1734, and, as so amended, no longer relates to the Federal Works Agency and Commissioner of Public Buildings. See 2006 Amendment note under section 303 of Title 40.

§ 590z–2. Repayment contracts

(a) Necessity

No water for irrigation may be delivered from the works of any project constructed under the authority of this subchapter until after the repayment contract or contracts required by this section have been executed. Where practicable in the judgment of the Secretary, the repayment contract shall be with a water users' organization or organizations satisfactory in form and powers to the Secretary; and otherwise the repayment contract shall be with the individual landowners. The contract or contracts shall contain such provisions as the Secretary deems necessary to carry out the purposes of this subchapter and to protect the interests of the United States.

(b) "Reimbursable construction costs" defined

The term ''reimbursable construction costs'' as used in this subchapter means that part of the costs of investigating, constructing, and operating and maintaining the project, which are allocated by the Secretary to irrigation, and which are met by expenditures of moneys therefor appropriated under the authority of section 590z–10(1) of this title, plus such amounts as the President, under section 590z(1) of this title, may determine to be reimbursable: *Provided*, That administrative expenses incurred in the District of Columbia in connection with the investigation construction, or operation and maintenance of a project shall not be included in the reimbursable construction costs nor shall they be charged to the water users in any way.

(c) Terms

The repayment contract or contracts for a project shall, in their aggregate, provide for repayment to the United States of the total amount of the reimbursable construction costs of the project allocated to irrigation. Each such contract shall provide, among other things, that—

(1) The Secretary shall fix a development period for each project of not to exceed ten years from and including the first calendar year in which water is delivered for the lands in said project; and during the development period water shall be delivered to the lands in the project involved at a charge per acre-foot, or other charge, to be fixed by the Secretary each year and to be paid in advance of delivery of water. Such charges shall be fixed with a view of returning such amounts as in the Secretary's judgment are justified by the rate of project development, including as a minimum the return over the full development period of that part of the cost of operating and maintaining the project, during said period, allocated by the Secretary to irrigation; and collections of such charges in excess of the cost of the operation and maintenance during the development period, as thereafter determined by the Secretary, shall be credited to the reimbursable construction costs of the project in the manner determined by the Secretary.

(2) The United States shall operate and maintain the project during the development period fixed for it. After the development period, the United States shall operate and maintain the project or any part thereof as long as is deemed necessary by the Secretary, and shall be paid in advance for each year that part of the estimated cost of operating and maintaining the project for such year allocated by the Secretary to irrigation. In the event charges due the United States are not paid when due the United States may, at its election, suspend operations in whole or in part.

(3) The repayment of the reimbursable construction costs, except as to Indian lands which shall be repayable in accordance with existing law relating to Indian lands, shall be spread in not to exceed forty annual installments, of the number and amounts fixed by the Secretary; and the first annual installment under each contract shall become due and payable on the date fixed by the Secretary, in the year next following the last year of the development period fixed under subsection (c)(1) of this section: *Provided*, That the provisions of this subsection shall not be construed to modify the provisions of special legislation pertaining to any particular project.

(4) The water users or their organization will take such measures as the Secretary deems proper to secure the adoption of proper accounting, to protect the condition of project works, and to provide for the proper use thereof, and to protect project lands against deterioration due to improper use of water. Delinquencies in any payments due to the United States shall be penalized by a penalty of not less than one-half of 1 per centum per month. No water shall be delivered to or for any land or party while either said land or the organization in which it is located or said party is in arrears in the advance payment of operation and maintenance charges or development period charges under subsection (c)(1) of this section, or in arrears for more than twelve months in the payment of an installment of the reimbursable construction costs.

(5) The Secretary shall establish the size of farm units of irrigable lands on each project in accordance with his findings of the area sufficient in size for the support of a family on the lands to be irrigated. No water may be delivered to or for more than the farm unit area of irrigable lands in the project owned by a single landowner: *Provided*, That this subsection shall not apply to the United States or any agency or instrumentality thereof, corporate

or otherwise. No water shall be delivered to or for any land, in a project area, transferred or disposed of subsequent to approval of the project by the President, and within three years from the time water becomes available, unless and until it has been shown to the satisfaction of the Secretary or his duly authorized representative that the land has been transferred or disposed of at a price not exceeding the appraised value as determined by the Secretary or his duly authorized representatives, and upon proof of fraudulent representation as to the true consideration involved the Secretary is authorized to cancel the water right attaching to the land involved: *Provided further*, That nothing herein shall be construed to create authority to interfere with the delivery of water under prior rights.

(Aug. 11, 1939, ch. 717, § 4, as added Oct. 14, 1940, ch. 861, 54 Stat. 1121; amended July 16, 1943, ch. 242, § 5, 57 Stat. 567.)

REFERENCES IN TEXT

Herein, referred to in subsec. (c)(5), means act Aug. 11, 1939, which comprises this subchapter.

PRIOR PROVISIONS

A prior section 4 of act Aug. 11, 1939, ch. 717, 53 Stat. 1419, covered authorization of appropriations, prior to the general amendment of that act by act Oct. 14, 1940. See section 590z–10 of this title.

AMENDMENTS

1943—Subsec. (d). Act July 16, 1943, added subsec. (d).

EXPIRATION OF SUBSECTION (d)

Subsection (d) of this section, by the terms thereof, ceased to be of force and effect, except as to certain projects, six months after cessation of hostilities of World War II, which was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F.R. 1, set out as a note preceding section 1 of Appendix to Title 50, War and National Defense.

EXTENSION OF VARIABLE PAYMENT PLAN

Authority of Secretary to extend benefits of variable payment plan to organizations with which he contracts or has contracted for the repayment of construction costs allocated to irrigation on any project undertaken by the United States, including contracts under this subchapter, see section 2 of Pub. L. 85–611, Aug. 8, 1958, 72 Stat. 542, set out as a note under section 485h of Title 43, Public Lands.

§ 590z–3. Settlement of projects on agricultural basis

(a) Rehabilitation; stabilization of agricultural economy; maximum utilization of funds

In connection with the construction or operation and maintenance of projects undertaken pursuant to the authority of this subchapter, and in order to further in the Great Plains and arid and semiarid areas of the United States an effective rehabilitation program, stabilization of the agricultural economy and maximum utilization of funds spent for relief purposes, the Secretary of Agriculture is authorized, pursuant to cooperative agreement with the Secretary of the Interior, (1) to arrange for the settlement of the projects on a sound agricultural basis, and insofar as practicable, the location thereon of persons in need; (2) to extend guidance and advice to settlers thereon in matters of farm practice, soil conservation, and efficient land use; (3) to acquire agricultural lands within the boundaries of such projects, with titles and at prices satisfactory to him; and (4) to arrange for the improvement of lands within the project boundaries, including clearing, leveling, and preparing them for distribution of irrigation water. Contracts between the United States and water users or water users' organizations for the lease or purchase of, or the improvement of, lands within such projects shall provide for annual or semiannual payments to the United States, of the number and amounts fixed by the Secretary of Agriculture. The lease, purchase, or improvement contracts for each tract of land shall provide in the aggregate for the return, in not to exceed fifty years from the date the land is first settled upon, of the costs incurred by the United States in acquiring and improving such tract of land with funds appropriated under authority of section 590z–10(2) of this title, except administrative expenses incurred in the District of Columbia, together with interest on unpaid balances of said costs at not less than 3 per centum per annum. Such lease, purchase, or improvement contracts shall also provide for the fulfillment of such obligations related to reimbursable construction costs and operation and maintenance charges as may be applicable to such lands in accordance with the repayment contract or contracts required by section 590z–2 of this title.

(b) Utilization of other agencies

For the purposes of this section, the Secretary of Agriculture may utilize (1) in such manner as the President may direct, services, labor, materials, or other property, including money, supplied by the Work Projects Administration, the Civilian Conservation Corps, the Office of Indian Affairs, the Department of Agriculture, or any other Federal agency to the extent that the President, upon the report and recommendations of the Secretary of Agriculture, finds that the same should be supplied in assistance of such improvement work, and for which the United States shall be reimbursed in such amounts as the President may fix for each project; and (2) such services, labor, materials, easements, or other property, including money, as may be contributed by any State or political subdivision thereof State agency, municipal corporation, or other organization, or individuals. Moneys received and accepted under (2) of this subsection shall remain available for expenditure for the purposes for which contributed in like manner as if said sums had been specifically appropriated for said purposes.

(c) Advertisement for purchases or services

Where the aggregate amount involved does not exceed $300, the provisions of section 6101 of title 41 shall not apply to any purchase or service authorized for the Department of Agriculture under this subchapter or under the 1940 water conservation appropriation.

(Aug. 11, 1939, ch. 717, § 5, as added Oct. 14, 1940, ch. 861, 54 Stat. 1122; amended July 16, 1943, ch. 242, § 6, 57 Stat. 568.)

REFERENCES IN TEXT

For 1940 water conservation appropriation citation, referred to in subsec. (c), see section 590z–1(c) of this title.

CODIFICATION

In subsec. (c), ''section 6101 of title 41'' substituted for ''section 3709 of the Revised Statutes (41 U.S.C. 5)'' on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1943—Subsec. (c). Act July 16, 1943, added subsec. (c).

TRANSFER OF FUNCTIONS

Works Projects Administration and its functions transferred to Federal Works Agency by Reorg. Plan No. 1 of 1939, §§ 301, 306, eff. July 1, 1939, 4 F.R. 2729, 53 Stat. 1426, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Federal Works Agency transferred to General Services Administration by act June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380. See Historical and Revision Notes under section 303(b) of Title 40, Public Buildings, Property, and Works. Section 303(b) of Title 40 was amended generally by Pub. L. 109–313, § 2(a)(1), Oct. 6, 2006, 120 Stat. 1734, and, as so amended, no longer relates to the Federal Works Agency and Commissioner of Public Buildings. See 2006 Amendment note under section 303 of Title 40.

Civilian Conservation Corps and its functions consolidated with other agencies under Federal Security Agency, to be administered by Director of Corps under direction and supervision of Federal Security Administration by Reorg. Plan No. 1 of 1939, §§ 201, 207, eff. July 1, 1939, 4 F.R. 2728, 2729, 53 Stat. 1425, set out in the Appendix to Title 5, Government Organization and Employees.

Federal Security Agency abolished by section 8 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, and its functions transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan. No. 1 of 1953.

Department of Health, Education, and Welfare redesignated Department of Health and Human Services by section 3508(b) of Title 20, Education.

§ 590z–4. Cooperative agreements with other agencies

The Secretary, by cooperative agreements, may arrange with the Department of Agriculture or with such other Federal or State agencies, as the President may deem desirable, for cooperation in the investigations and surveys of projects proposed under the authority of this subchapter; and in connection with any such project which is undertaken the Secretary by such cooperative agreements may arrange for such cooperation in the construction or operation and maintenance of the project as he deems desirable. Any such cooperative agreement with the Department of Agriculture may provide, among other things (1) that the Secretary of Agriculture shall enter into the repayment contracts, required by section 590z–2 of this title and shall handle the collections of repayments and shall take over the other administrative duties connected with the project, after the Secretary of the Interior announces that the project is ready for operation; (2) if such agreement be entered into after construction of the project has been undertaken by the Secretary of the Interior and after he has entered into the repayment contracts required by section 590z–2 of this title, that the Secretary of Agriculture shall take over the collection of repayments and other administrative duties connected with the project; (3) that no water shall be delivered to or for any land or party while the owner of said land or said party is in arrears for more than twelve months in the payment to the United States of money due and payable under a land contract entered into pursuant to section 590z–3(a) of this title; and (4) that any repayment contract with a water user or water users' organization entered into pursuant to section 590z–2 of this title and any land contract with the same water user or organization entered into pursuant to section 590z–3(a) of this title, if said contracts involve the same land, may be combined in a single instrument. The Secretary of Agriculture is authorized to carry out the provision of any such cooperative agreements.

(Aug. 11, 1939, ch. 717, § 6, as added Oct. 14, 1940, ch. 861, 54 Stat. 1123.)

§ 590z–5. Repealed. Aug. 17, 1954, ch. 751, § 2, 68 Stat. 736

Section, act Aug. 11, 1939, ch. 717, § 7, as added Oct. 14, 1940, ch. 861, 54 Stat. 1124; amended June 10, 1949, ch. 195, 63 Stat. 171, related to limitations on expenditures under former sections 590r to 590x of this title.

§ 590z–6. Disposition of receipts from repayment contracts and project operations

All payments made to the United States under repayment contracts on account of reimbursable construction costs, including penalties collected for delinquencies in such payments, and all other receipts from project operations pursuant to sections 590z–2 and 590z–7 of this title shall be covered into the Treasury to the credit of miscellaneous receipts. Charges collected during the development period of a project under section 590z–2(c)(1) of this title, excepting such amounts thereof as may be credited to reimbursable construction costs, and charges collected for the operation and maintenance of a project under section 590z–2(c)(2) of this title shall be available for expenditure for operation and maintenance of said project in like manner as if said funds had been specifically appropriated for said purposes.

(Aug. 11, 1939, ch. 717, § 8, as added Oct. 14, 1940, ch. 861, 54 Stat. 1124.)

§ 590z–7. Provisions for furnishing surplus power and municipal or miscellaneous water supplies

In connection with any project undertaken pursuant to this subchapter, provisions, including contracts of sale, may be made for furnishing municipal or miscellaneous water supplies, or for developing and furnishing power in addition to the power requirements of irrigation: *Provided*, That expenditures from appropriations made directly pursuant to the authority contained in section 590z–10(1) of this title to meet costs allocated to municipal or miscellaneous water supplies or surplus power shall not exceed $500,000 for any one project: *Provided further*, That no contract relating to a water supply for municipal or miscellaneous purposes or to elec-

tric power shall be made unless, in the judgment of the Secretary, it will not impair the efficiency of the project for irrigation purposes. On any project where such provisions are made, the Secretary shall allocate to municipal or miscellaneous water purposes or to surplus power the part of the estimated construction costs of the project which he deems properly so allocable; and such allocations shall not be included in the reimbursable construction costs covered by the repayment contract or contracts required under section 590z–2 of this title. All right, title, and interest in the facilities provided for such municipal or miscellaneous water supplies or surplus power and the revenues derived therefrom shall be and remain in the United States. Contracts for such municipal or miscellaneous water supplies or for such surplus power shall be at such rates as, in the Secretary's judgment, will produce revenues at least sufficient to cover the appropriate share of the annual operation and maintenance cost of the project and such fixed charges, including interest, as the Secretary deems proper. Contracts for the sale of surplus power shall be for periods not to exceed forty years and contracts for water supply for municipal or miscellaneous purposes shall be for such periods as the Secretary may determine and may include such renewal options as the Secretary deems desirable: *And provided further*, That in sales or leases of such power, preference shall be given to municipalities and other public corporations or agencies; and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936 [7 U.S.C. 901 et seq.] and any amendments thereof.

(Aug. 11, 1939, ch. 717, § 9, as added Oct. 14, 1940, ch. 861, 54 Stat. 1124.)

REFERENCES IN TEXT

The Rural Electrification Act of 1936, referred to in text, is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (§ 901 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 901 of Title 7 and Tables.

§ 590z–8. Authority of Secretary of the Interior over lands, contracts, water rights, etc.

(a) Utilization of lands

In connection with any project constructed pursuant to the provisions of this subchapter, the Secretary shall have the same authority, with regard to the utilization of lands owned by the United States, other than lands acquired under section 590z–3 of this title as he has in connection with projects undertaken pursuant to the Federal reclamation laws, Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto.

(b) Contracts, land acquisitions, etc.

In connection with the construction or operation and maintenance of a project undertaken pursuant to the authority of this subchapter, the Secretary shall have with respect to construction and supply contracts, and with respect to the acquisition, exchange, and disposition of lands, interest in lands, water rights, and other property and the relocation thereof, the same authority, including authority to acquire lands and interests in land and water rights with titles and at prices satisfactory to him, which he has in connection with projects under the Federal reclamation laws.

(Aug. 11, 1939, ch. 717, § 10, as added Oct. 14, 1940, ch. 861, 54 Stat. 1125.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in subsec. (a), is act June 17, 1902, ch. 1093, 32 Stat. 388, popularly known as the Reclamation Act, which is classified generally to chapter 12 (§ 371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables.

§ 590z–9. Powers and duties of Secretaries of the Interior and Agriculture; rules and regulations

The Secretary of the Interior and the Secretary of Agriculture are authorized to perform any and all Acts[1] and to make such rules and regulations as may be necessary and proper for the purpose of carrying out their respective functions under this subchapter and for the purpose of carrying the provisions of this subchapter into full force and effect.

(Aug. 11, 1939, ch. 717, § 11, as added Oct. 14, 1940, ch. 861, 54 Stat. 1125.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 590z–10. Authorization of appropriations

To carry out the purposes of this subchapter there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated (1) for the Department of the Interior such sums as may be necessary to carry out its functions under this subchapter, and (2) for the Department of Agriculture such sums as may be necessary to carry out its functions under this subchapter.

(Aug. 11, 1939, ch. 717, § 12, as added Oct. 14, 1940, ch. 861, 54 Stat. 1125.)

§ 590z–11. Delegation of powers and duties by Secretary of the Interior

For the purpose of facilitating and simplifying the administration of the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and this subchapter, the Secretary of the Interior is authorized to delegate, from time to time and to the extent and under such regulations as he deems proper, his powers and duties under said laws to the Commissioner of Reclamation, an Assistant Commissioner, or the officer in charge of any office, division, district, or project of the Bureau of Reclamation.

(Dec. 19, 1941, ch. 595, 55 Stat. 842.)

[1] So in original.

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, popularly known as the Reclamation Act, which is classified generally to chapter 12 (§ 371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables.

CODIFICATION

This section was not enacted as part of act Aug. 11, 1939, ch. 717, 53 Stat. 1418, which comprises this subchapter.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

CHAPTER 4—PROTECTION OF TIMBER, AND DEPREDATIONS

Sec.

591, 592. Repealed.
593. Protection of timber in Florida.
594. Protection of timber owned by United States from fire, disease, or insect ravages.
594–1 to 600. Repealed.
601. Disposition of moneys collected for depredations.
602. Seizure of timber cut.
603. Omitted.
604. Cutting timber on certain mineral lands; permits to corporations; railroad corporations.
605. Unlawful cutting on mineral lands; notice to Secretary.
606. Offense for unlawful cutting on mineral lands; punishment.
607. Cutting and removal of timber on certain public lands for certain purposes.
607a. Cutting and use of timber in Alaska by settlers, residents, miners, etc.
608. Permits to cut and remove timber; citizens of Malheur County, Oregon.
609. Permits to cut and remove timber; citizens of Modoc County, California.
610. Permits to cut and remove timber; citizens of Washington County and Kane County, Utah.
611. Permits to cut and remove timber; citizens of Idaho and Wyoming.
611a. Permits to cut and remove timber; citizens of Bear Lake County, Idaho.
612. Permits to cut and remove timber to certain corporations.
613. Limitations of use of timber taken not to apply to certain territory.
614, 615. Repealed.
615a. Sale of timber in Alaska; appraisal; local consumption; accounting; deposit in Treasury.
615b. Exportation of timber pulp wood and wood pulp from Alaska.
616. Exportation of timber cut on national forest or public land in Alaska.
617. Exportation of unprocessed timber from Federal lands.
618. Timber contract payment modification.
619. Emergency stumpage rate redeterminations in Alaska.
620. Findings and purposes.
620a. Restrictions on exports of unprocessed timber originating from Federal lands.
620b. Limitations on substitution of unprocessed Federal timber for unprocessed timber exported from private lands.
620c. Restriction on exports of unprocessed timber from State and other public lands.
620d. Monitoring and enforcement.
620e. Definitions.
620f. Regulations and review.
620g. Authorization of appropriations.
620h. Savings provision.
620i. Eastern hardwoods study.
620j. Authority of Export Administration Act of 1979.

§§ 591, 592. Repealed. Feb. 28, 1933, ch. 131, § 1, 47 Stat. 1349

Sections, R.S. §§ 2458, 2459, related to lands producing live oak and red cedar timbers needed by Navy.

§ 593. Protection of timber in Florida

The President is authorized to employ so much of the land and naval forces of the United States as may be necessary effectually to prevent the felling, cutting down, or other destruction of the timber of the United States in Florida, and to prevent the transportation or carrying away any such timber as may be already felled or cut down; and to take such other and further measures as may be deemed advisable for the preservation of the timber of the United States in Florida.

(R.S. § 2460.)

CODIFICATION

R.S. § 2460 derived from act Feb. 23, 1882, ch. 9, 3 Stat. 651.

§ 594. Protection of timber owned by United States from fire, disease, or insect ravages

The Secretary of the Interior is authorized to protect and preserve, from fire, disease, or the ravages of beetles, or other insects, timber owned by the United States upon the public lands, national parks, national monuments, Indian reservations, or other lands under the jurisdiction of the Department of the Interior owned by the United States, either directly or in cooperation with other departments of the Federal Government, with States, or with owners of timber; and appropriations are authorized to be made for such purposes.

(Sept. 20, 1922, ch. 349, 42 Stat. 857.)

§§ 594–1 to 594–5. Repealed. Pub. L. 95–313, § 16(a)(3), formerly § 13(a)(3), July 1, 1978, 92 Stat. 374; renumbered § 16(a)(3), Pub. L. 101–624, title XII, § 1215(1), Nov. 28, 1990, 104 Stat. 3525

Section 594–1, act June 25, 1947, ch. 141, § 1, 61 Stat. 177, set forth policy of Federal Government respecting protection of all forest lands from insects and diseases.

Section 594–2, act June 25, 1947, ch. 141, § 2, 61 Stat. 177, related to conduct of surveys by Secretary of Agriculture to detect infestation by forest insect pests and tree diseases.

Section 594–3, act June 25, 1947, ch. 141, § 3, 61 Stat. 177, related to allocation of funds for pest and plant disease control.

Section 594–4, act June 25, 1947, ch. 141, § 4, 61 Stat. 177, related to contributions for insect or disease control carried out on non-federally owned forest land.

Section 594–5, acts June 25, 1947, ch. 141, § 5, 61 Stat. 177; June 20, 1975, Pub. L. 94–40, 89 Stat. 224, set forth funding requirements for Federal program.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 17 of Pub. L. 95–313, set out as an Effective Date note under section 2101 of this title.

SHORT TITLE

Act June 25, 1947, ch. 141, §7, 61 Stat. 177, providing that sections 594–1 to 594–5 of this title be known as the ''Forest Pest Control Act'', was repealed by Pub. L. 95–313, §16(a)(3), formerly §13(a)(3), July 1, 1978, 92 Stat. 374, renumbered §16(a)(3), Pub. L. 101–624, title XII, §1215(1), Nov. 28, 1990, 104 Stat. 3525.

CONSTRUCTION

Act June 25, 1947, ch. 141, §6, 61 Stat. 177, providing that sections 594–1 to 594–5 of this title not be construed as limiting or repealing existing legislation, was repealed by Pub. L. 95–313, §16(a)(3), formerly §13(a)(3), July 1, 1978, 92 Stat. 374, renumbered §16(a)(3), Pub. L. 101–624, title XII, §1215(1), Nov. 28, 1990, 104 Stat. 3525.

PLAN FOR CONTROL OF DUTCH ELM DISEASE

Pub. L. 94–588, §20, Oct. 22, 1976, 90 Stat. 2963, provided that the Secretary of Agriculture, in consultation with officials of both the States and political subdivisions thereof, conduct a study of the incidence of Dutch elm disease and evaluate methods for controlling the spread of such disease and submit a report on the results of such study to the President and the Congress on or before Mar. 1, 1977.

§ 594a. Repealed. Pub. L. 95–313, §16(a)(2), formerly §13(a)(2), July 1, 1978, 92 Stat. 374; renumbered §16(a)(2), Pub. L. 101–624, title XII, §1215(1), Nov. 28, 1990, 104 Stat. 3525

Section, act Apr. 26, 1940, ch. 159, 54 Stat. 168, set forth provisions relating to white-pine blister rust control by the Secretary of Agriculture, and local authorities.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 17 of Pub. L. 95–313, set out as an Effective Date note under section 2101 of this title.

§§ 595, 596. Repealed. Feb. 28, 1933, ch. 131, § 1, 47 Stat. 1349

Sections, R.S. §§2461, 2462, penalized cutting and provided for forfeiture of vessels carrying away timber on lands reserved or purchased to supply timber for Navy.

§§ 597 to 600. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1028

Sections, R.S. §2463, acts Mar. 3, 1879, ch. 189, §§1, 2, 20 Stat. 470, 471; Mar. 2, 1895, ch. 182, 28 Stat. 814, related to red cedar timber and reservation of lands for naval purposes.

§ 601. Disposition of moneys collected for depredations

All moneys collected for depredations upon the public lands shall be covered into the Treasury of the United States as other moneys received from the sale of public lands.

(Apr. 30, 1878, ch. 76, §2, 20 Stat. 46.)

§ 602. Seizure of timber cut

If any timber cut on the public lands shall be exported from the Territories of the United States, it shall be liable to seizure by United States authority wherever found.

(Apr. 30, 1878, ch. 76, §2, 20 Stat. 46.)

§ 603. Omitted

CODIFICATION

Section, act June 3, 1878, ch. 151, §5, 20 Stat. 90, related to prosecutions for violating former section 595 of this title.

§ 604. Cutting timber on certain mineral lands; permits to corporations; railroad corporations

All citizens of the United States and other persons, bona fide residents of the States of Colorado, Nevada, New Mexico, Arizona, Utah, Wyoming, North Dakota, South Dakota, Idaho, or Montana, and all other mineral districts of the United States, are authorized and permitted to fell and remove, for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being on the public lands, said lands being mineral, and not subject to entry under existing laws of the United States, except for mineral entry, in said States or districts of which such citizens or persons may be at the time bona fide residents, subject to such rules and regulations as the Secretary of the Interior may prescribe for the protection of the timber and of the undergrowth growing upon such lands, and for other purposes. It shall be lawful for the Secretary of the Interior to grant permits in accordance with the provisions of this section, to corporations incorporated under a Federal law of the United States or incorporated under the laws of a State or Territory of the United States, other than the State in which the privilege is requested. Such permits to confer the same rights and benefits upon such corporations as are conferred upon corporations incorporated in the State in which the privilege is to be exercised, but all such corporations shall first have complied with the laws of that State so as to entitle them to do business therein. The provisions of this section and sections 605 and 606 of this title shall not extend to railroad corporations.

(June 3, 1878, ch. 150, §1, 20 Stat. 88; Jan. 11, 1921, ch. 22, 41 Stat. 1088.)

CODIFICATION

The first sentence of this section is from section 1 of act June 3, 1878.

The words of this section reading ''bona fide residents of the States of Colorado, Nevada, New Mexico, Arizona, Utah, Wyoming, North Dakota, South Dakota, Idaho, or Montana,'' read in the original section, ''bona fide residents of the State of Colorado, or Nevada, or either of the Territories of New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho, or Montana.''

A proviso at the close of section 1 of act June 3, 1878, was combined with a similar proviso in act Jan. 11, 1921, to form the last sentence of this section.

Act of Jan. 11, 1921, is the source of the remainder of the section.

As originally enacted that act began with the following language: ''Section 1 of an Act entitled 'An Act authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes,' approved June 3, 1878, chapter 150, page 88, volume 20, United States Statutes at Large, and section 8 of an Act entitled 'An Act to repeal timber-culture laws, and for other purposes,' approved March 3, 1891, as amended by an Act approved March 3, 1891, chapter 559, page 1093, volume 26, United States Statutes at Large, and the several

Acts amendatory thereof, be, and the same are hereby, extended so that,'' etc.

This language was omitted as having been given effect by the combination of the remaining language of the act with section 1 of act June 3, 1878, to form this section, by section 612 of this title.

§ 605. Unlawful cutting on mineral lands; notice to Secretary

It shall be the duty of such officer as the Secretary of the Interior may designate in whose district any mineral land may be situated to ascertain from time to time whether any timber is being cut or used upon any such lands, except for the purposes authorized by section 604 of this title, within such land district; and, if so, he shall immediately notify the Secretary of the Interior of that fact; and all necessary expenses incurred in making such proper examinations shall be paid for and allowed such officer in making up his next quarterly account.

(June 3, 1878, ch. 150, § 2, 20 Stat. 88; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

''Such officer as the Secretary of the Interior may designate'' substituted in text for ''the register and the receiver of any local land office'', ''Secretary of the Interior'' for ''Commissioner of the General Land Office'', and ''such officer'' for ''such register and receiver'' on authority of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5.

§ 606. Offense for unlawful cutting on mineral lands; punishment

Any person or persons who shall violate the provisions of sections 604 and 605 of this title, or any rules and regulations in pursuance thereof made by the Secretary of the Interior, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not exceeding $500, and to which may be added imprisonment for any term not exceeding six months.

(June 3, 1878, ch. 150, § 3, 20 Stat. 89.)

§ 607. Cutting and removal of timber on certain public lands for certain purposes

In the States of Alaska, Colorado, Montana, Idaho, North Dakota, and South Dakota, Wyoming, New Mexico, and Arizona, and the gold and silver regions of Nevada, California, Oregon, Washington, and Utah in any criminal prosecution or civil action by the United States for a trespass on such public timber lands or to recover timber or lumber cut thereon it shall be a defense if the defendant shall show that the said timber was so cut or removed from the timber lands for use in such State by a resident thereof for agricultural, mining, manufacturing, or domestic purposes under rules and regulations made and prescribed by the Secretary of the Interior and has not been transported out of the same, but nothing herein contained shall operate to enlarge the rights of any railway company to cut timber on the public domain. The Secretary of the Interior may make suitable rules and regulations to carry out the provisions of this section, and he may designate the sections or tracts of land where timber may be cut, and it shall not be lawful to cut or remove any timber except as may be prescribed by such rules and regulations, but this section shall not operate to repeal sections 604 to 606 of this title.

(Mar. 3, 1891, ch. 559, 26 Stat. 1093; Mar. 3, 1891, ch. 561, § 8, 26 Stat. 1099; Feb. 13, 1893, ch. 103, 27 Stat. 444; July 1, 1898, ch. 546, § 1, 30 Stat. 618; Mar. 3, 1901, ch. 855, 31 Stat. 1436; Mar. 3, 1901, ch. 862, 31 Stat. 1439; Mar. 3, 1919, ch. 111, 40 Stat. 1321; Mar. 3, 1919, ch. 115, 40 Stat. 1322; Feb. 27, 1922, ch. 82, 42 Stat. 398; Aug. 21, 1935, ch. 591, 49 Stat. 665; Pub. L. 86–70, § 41, June 25, 1959, 73 Stat. 151.)

CODIFICATION

Section was derived from section 8 of act Mar. 3, 1891, ch. 561. The portion of that section set forth here, as originally enacted was as follows: ''And in the States of Colorado, Montana, Idaho, North Dakota, and South Dakota, Wyoming, and in the District of Alaska and the gold and silver regions of Nevada, and the Territory of Utah, in any criminal prosecution or civil action by the United States for a trespass on such public timber lands or to recover timber or lumber cut thereon, it shall be a defense if the defendant shall show that the said timber was so cut or removed from the timber lands for use in such State or Territory by a resident thereof for agricultural, mining, manufacturing, or domestic purposes, and has not been transported out of the same; but nothing herein contained shall apply to operate to enlarge the rights of any railway company to cut timber on the public domain: *Provided*, That the Secretary of the Interior may make suitable rules and regulations to carry out the provisions of this section''. It was amended to read as set forth here by act Mar. 3, 1891, ch. 559, except that after the word ''Wyoming,'' the words ''New Mexico and Arizona,'' were inserted by act Feb. 13, 1893, and after the word ''Nevada,'' the words ''California, Oregon, and Washington'' were inserted by act Mar. 3, 1901, ch. 855.

In the section as originally enacted the words ''Territory of Alaska'' read ''District of Alaska,'' and the words ''the Territory of,'' preceded the word ''Utah''.

Act July 1, 1898, amended section in the manner set out in section 611 of this title.

Act Mar. 3, 1919, ch. 111, amended section in the manner set out in section 608 of this title.

Act Mar. 3, 1919, ch. 115, amended section in the manner set out in section 609 of this title.

Act Feb. 27, 1922, amended section in the manner set out in section 610 of this title.

Act Aug. 21, 1935, amended section in the manner set out in section 611a of this title.

The portion of the section omitted here prescribed the time within which suits by the United States to annul patents should be brought, and is classified to section 1166 of Title 43, Public Lands.

AMENDMENTS

1959—Pub. L. 86–70 included Alaska within the enumeration of States and struck out provisions which related to Territory of Alaska.

§ 607a. Cutting and use of timber in Alaska by settlers, residents, miners, etc.

The Secretary of the Interior may permit under regulations to be prescribed by him the use of timber found upon the public land in Alaska by actual settlers, residents, individual

miners, and prospectors for minerals, for firewood, fencing, buildings, mining, prospecting, and for domestic purposes, as may actually be needed by such persons for such purposes and may permit such use by churches, hospitals, and charitable institutions in Alaska for firewood, fencing, buildings, and for domestic purposes.

(May 14, 1898, ch. 299, § 11, 30 Stat. 414; June 15, 1938, ch. 437, 52 Stat. 699.)

CODIFICATION

Section is comprised of the last sentence of section 11 of act May 14, 1898. The remainder of section 11 of act May 14, 1898, is classified to section 615a of this title.

Section was formerly classified to section 423 of Title 48, Territories and Insular Possessions.

AMENDMENTS

1938—Act June 15, 1938, inserted last clause relating to use of timber by churches, hospitals, and charitable institutions.

§ 608. Permits to cut and remove timber; citizens of Malheur County, Oregon

It shall be lawful for the Secretary of the Interior to grant permits under the provisions of section 607 of this title to citizens of Malheur County, Oregon, to cut timber in the State of Idaho for agricultural, mining, or other domestic purposes, and to remove the timber so cut to Malheur County, State of Oregon.

(Mar. 3, 1891, ch. 561, § 8 (part), as added Mar. 3, 1919, ch. 111, 40 Stat. 1321.)

CODIFICATION

Section is derived from act Mar. 3, 1919, which recites that it amends section 8 of act Mar. 3, 1891, which is the source of section 607 of this title, by adding this section thereto. Section 8 of act Mar. 3, 1891, is classified to sections 607, 608 to 611a of this title.

§ 609. Permits to cut and remove timber; citizens of Modoc County, California

It shall be lawful for the Secretary of the Interior to grant permits under the provisions of section 607 of this title, to citizens of Modoc County, California, to cut timber in the State of Nevada for agricultural, mining, or other domestic purposes, and to remove the timber so cut to Modoc County, State of California.

(Mar. 3, 1891, ch. 561, § 8 (part), as added Mar. 3, 1919, ch. 115, 40 Stat. 1322.)

CODIFICATION

Section is derived from act Mar. 3, 1919, which recites that it amends section 8 of act Mar. 3, 1891, which is the source of section 607 of this title, by adding this section thereto. Section 8 of act Mar. 3, 1891, is classified to sections 607, 608 to 611a of this title.

§ 610. Permits to cut and remove timber; citizens of Washington County and Kane County, Utah

It shall be lawful for the Secretary of the Interior to grant permits under the provisions of section 607 of this title, to citizens of Washington County and of Kane County, Utah, to cut timber on the public lands of the counties of Mohave and Coconino, Arizona, for agricultural, mining, or other domestic purposes, and remove the timber so cut to said Washington County and Kane County, Utah.

(Mar. 3, 1891, ch. 561, § 8 (part), as added Feb. 27, 1922, ch. 82, 42 Stat. 398.)

CODIFICATION

Section is derived from act Feb. 27, 1922, which recites that it amends section 8 of act Mar. 3, 1891, which is the source of section 607 of this title, by adding this section thereto. Section 8 of act Mar. 3, 1891, is classified to sections 607, 608 to 611a of this title.

§ 611. Permits to cut and remove timber; citizens of Idaho and Wyoming

It shall be lawful for the Secretary of the Interior to grant permits under the provisions of section 607 of this title, to citizens of Idaho and Wyoming to cut timber in the State of Wyoming west of the Continental Divide on the Snake River and its tributaries to the boundary line of Idaho, for agricultural, mining, or other domestic purposes, and to remove the timber so cut to the State of Idaho.

(Mar. 3, 1891, ch. 561, § 8 (part), as added July 1, 1898, ch. 546, § 1, 30 Stat. 618.)

CODIFICATION

Section is derived from act July 1, 1898, which recites that it amends section 8 of act Mar. 3, 1891, which is the source of section 607 of this title, by adding this section thereto. Section 8 of act Mar. 3, 1891, is classified to sections 607, 608 to 611a of this title.

§ 611a. Permits to cut and remove timber; citizens of Bear Lake County, Idaho

The Secretary of the Interior is authorized to grant permits, subject to the provisions of section 607 of this title, to citizens of Bear Lake County, Idaho, to cut and remove timber on the unappropriated public domain in Lincoln County, Wyoming, for domestic use in Bear Lake County, Idaho: *Provided*, That no live standing timber shall be taken without compensation.

(Mar. 3, 1891, ch. 561, § 8 (part), as added Aug. 21, 1935, ch. 591, 49 Stat. 665.)

CODIFICATION

Section is derived from act Aug. 1, 1935, which recites that it amends section 8 of act Mar. 31, 1891, which is the source of section 607 of this title, by adding this section thereto. Section 8 of act Mar. 3, 1891, is classified to sections 607, 608 to 611a of this title.

§ 612. Permits to cut and remove timber to certain corporations

It shall be lawful for the Secretary of the Interior to grant permits in accordance with the provisions of section 607 of this title, to corporations incorporated under a Federal law of the United States or incorporated under the laws of a State or Territory of the United States, other than the State in which the privilege is requested, said permits to confer the same rights and benefits upon such corporations as are conferred upon corporations incorporated in the State in which the privilege is to be exercised: *Provided*, That all such corporations shall first have complied with the laws of that State so as to entitle them to do business therein; but nothing herein shall operate to enlarge the rights of any railway company to cut timber on the public domain.

(Jan. 11, 1921, ch. 22, 41 Stat. 1088.)

CODIFICATION

See portion of note under section 604 of this title relative to act Jan. 11, 1921, which is applicable equally to this section.

§ 613. Limitations of use of timber taken not to apply to certain territory

The provisions of section 607 of this title, limiting the use of timber taken from public lands to residents of the State in which such timber is found, for use within said State, shall not apply to the south slope of Pryor Mountains, in the State of Montana, lying south of the Crow Reservation, west of the Big Horn River, and east of Sage Creek; but within the above-described boundaries the provisions of said section shall apply equally to the residents of the States of Wyoming and Montana, and to the use of timber taken from the above-described tract in either of the above-named States.

(Mar. 3, 1901, ch. 862, 31 Stat. 1439.)

§§ 614, 615. Repealed. Pub. L. 87–689, § 2, Sept. 25, 1962, 76 Stat. 588

Sections, acts Mar. 4, 1913, ch. 165, §§ 1, 2, 37 Stat. 1015, 1016; July 3, 1926, ch. 779, §§ 1, 2, 44 Stat. 890, 891, related to sale of timber killed or damaged by forest-fires and to disposal of proceeds of sale of burnt timber on an existing claim.

SAVINGS PROVISION

Section 2 of Pub. L. 87–689 provided in part that rights and liabilities existing under sections 614 and 615 of this title on Sept. 25, 1962, shall not be affected thereby.

§ 615a. Sale of timber in Alaska; appraisal; local consumption; accounting; deposit in Treasury

The Secretary of the Interior, under such rules and regulations as he may prescribe, may cause to be appraised the timber or any part thereof upon public lands in Alaska, and may from time to time sell so much thereof as he may deem proper for not less than the appraised value thereof, in such quantities to each purchaser as he shall prescribe, to be used in Alaska except as aforesaid, but not for export therefrom except as provided under section 615b of this title. And such sales shall at all times be limited to actual necessities for consumption in Alaska from year to year, and payments for such timber shall be made to such officer as the Secretary of the Interior may designate of the local land office of the land district in which said timber may be sold, under such rules and regulations as the Secretary of the Interior may prescribe, and the moneys arising therefrom shall be accounted for by such officer as the Secretary of the Interior may designate to the Secretary of the Interior in a separate account, and shall be covered into the Treasury.

(May 14, 1898, ch. 299, § 11, 30 Stat. 414; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan. No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

Section is comprised of the first two sentences of section 11 of act May 14, 1898, the remainder of section 11 of act May 14, 1898, is classified to section 607a of this title.

Section was formerly classified to section 421 of Title 48, Territories and Insular Possessions.

CHANGE OF NAME

Acts Oct. 28, 1921, and Mar. 3, 1925, consolidated offices of register and receiver and provided for a single officer to be known as register.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Commissioner of General Land Office and registers transferred to Secretary of the Interior or that officer as the Secretary may designate, see Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5.

§ 615b. Exportation of timber pulp wood and wood pulp from Alaska

Birch timber and pulp wood or wood pulp manufactured from timber in Alaska may be exported therefrom.

(Feb. 1, 1905, ch. 288, § 2, 33 Stat. 628; June 5, 1920, ch. 235, § 1, 41 Stat. 917.)

CODIFICATION

Section was formerly classified to section 422 of Title 48, Territories and Insular Possessions.

AMENDMENTS

1920—Act June 5, 1920, authorized exportation of birch timber.

§ 616. Exportation of timber cut on national forest or public land in Alaska

Timber lawfully cut on any national forest, or on the public lands in Alaska, may be exported from the State or Territory where grown if, in the judgment of the Secretary of the department administering the national forests, or the public lands in Alaska, the supply of timber for local use will not be endangered thereby, and the respective Secretaries concerned are authorized to issue rules and regulations to carry out the purposes of this section.

(Apr. 12, 1926, § 1, ch. 117, 44 Stat. 242.)

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 617. Exportation of unprocessed timber from Federal lands

(a) Limitation of quantity available for export

For each of the calendar years 1969 through 1973, inclusive, not more than 350 million board feet, in the aggregate, of unprocessed timber may be sold for export from the United States from Federal lands located west of the 100th meridian.

(b) Surplus quantities and species available for export; public hearing; administrative finding

After public hearing and a finding by the appropriate Secretary of the department administering Federal lands referred to in subsection (a) of this section that specific quantities and species of unprocessed timber are surplus to the needs of domestic users and processors, such quantities and species may be designated by the said Secretary as available for export from the United States in addition to that quantity stated in subsection (a) of this section.

(c) Rules and regulations; prevention of substitution of Federal for non-Federal timber

The Secretaries of the departments administering lands referred to in subsection (a) of this section may issue rules and regulations to carry out the purposes of this section, including the prevention of substitution of timber restricted from export by this section for exported non-Federal timber.

(d) Limitations inapplicable to sales of prescribed minimum value

In issuing rules and regulations pursuant to subsection (c) of this section, the appropriate Secretaries may include therein provisions authorizing the said Secretaries, in their discretion, to exclude from the limitations imposed by this section sales having an appraised value of less than $2,000.

(Apr. 12, 1926, ch. 117, § 2, as added Pub. L. 90–554, pt. IV, § 401, Oct. 8, 1968, 82 Stat. 966; amended Pub. L. 91–609, title IX, § 921, Dec. 31, 1970, 84 Stat. 1817.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–609 extended date for application of limitation provision from 1971 to 1973 calendar year.

§ 618. Timber contract payment modification

(a) Statement of purpose, authorization, scope, qualifications, financial requirements, etc., for buy-out

(1) Notwithstanding any other provisions of law, in order to retain jobs, to preserve free competition, to utilize the potential productive capacity of plants, to preserve small communities dependent on a single economic sector to assure an open and competitive market for future sales of Government timber, and to lessen the impact of unemployment, the Secretary of Agriculture for national forest lands and the Secretary of the Interior for public lands under their respective jurisdictions are authorized and directed to permit a requesting purchaser to return to the Government a volume of the purchaser's timber contracts as determined under paragraph (2) upon payment of a buy-out charge from such purchaser in an amount as determined under paragraph (3). The purchaser shall be released from further obligation to cut, remove, and pay for timber under such contract upon payment, or arrangement for payment as provided under paragraph (3)(E), of such buy-out charge and completion of any obligation required pursuant to paragraph (4)(B). The Government does not hereby surrender any other claim against a purchaser which arose under a contract prior to effectuation of this release and not in connection with this release from obligation to cut, harvest and pay for timber.

(2)(A) To qualify for buy-out under this section, a timber sales contract must have been bid prior to January 1, 1982, for an original contract period of 10 years or less, and be held as of June 1, 1984: *Provided*, That any such contract that was defaulted after January 1, 1981 may qualify for buy-out under this section so long as (i) settlement for damages has not been reached between the purchaser and the United States; and (ii) the purchaser's loss on all of its qualifying timber sales contracts, as determined in paragraph (3)(A), is in excess of 50 per centum of the net book worth of the purchaser. A contract is qualified for buy-out notwithstanding the fact that it was reformed after October 1, 1983, pursuant to Bureau of Land Management Instructional Memorandum 83–743 or is included in a Forest Service multisale plan pursuant to the President's program of July 28, 1983.

(B) A purchaser holding more than twenty-seven million three hundred thousand board feet of net merchantable sawtimber as of January 1, 1982, in qualifying contracts as provided in subparagraph (A) shall be entitled to buy out up to 55 per centum of such timber volume up to a maximum of two hundred million board feet.

(C) A purchaser holding twenty-seven million three hundred thousand or less board feet of net merchantable sawtimber as of January 1, 1982, in qualifying contracts as provided in subparagraph (A) shall be entitled to buy out up to fifteen million board feet of such timber volume or one contract, whichever is greater in volume.

(D) So long as the volume limitation of two hundred million board feet is not exceeded, the percentage limitation of subparagraph (B) or the volume limitation of subparagraph (C) may be exceeded by a volume amount not to exceed the volume of the smallest volume contract bought out by the purchaser if the purchaser could not otherwise attain his percentage or volume entitlement.

(E) Timber returned to the Government pursuant to this subsection shall be available for resale by the Government upon payment, or arrangement for payment, of the buy-out charge and completion of obligations, if any, under paragraph (4)(B).

(3)(A) Sums collected by the appropriate Secretary in connection with the buy-out of contracts pursuant to this subsection shall be deposited in and paid from the Treasury in the same manner as moneys received from timber sales from such lands and shall be determined as follows: The purchaser's loss on any qualifying timber sales contracts shall be determined by the Forest Service or the Bureau of Land Management by subtracting the current delivered log value (as determined by such agency) from the delivered log cost based on the current contract return (as determined by such agency) of any such contracts. If such loss is—

(i) in excess of 100 per centum of the net book worth of the purchaser, the buy-out cost shall be $10 per one thousand board feet of currently held volume bought out;

(ii) in excess of 50 per centum up to 100 per centum of the net book worth of the pur-

chaser, the buy-out cost shall be 10 per centum of the contract overbid but at least $10 per one thousand board feet of currently held volume bought out; or

(iii) up to 50 per centum or less of the net book worth of the purchaser, the buy-out cost shall be 15 per centum for the purchaser's first one hundred twenty-five million board feet, 20 per centum for additional board feet above one hundred twenty-five million up to one hundred fifty million, 25 per centum for additional board feet above one hundred fifty million up to one hundred seventy-five million, and 30 per centum for additional board feet above one hundred seventy-five million up to two hundred million, of the contract overbid but at least $10 per one thousand board feet of currently held volume bought out.

(B) For purposes of this paragraph, the term ''net book worth'' does not include the value of any outstanding uncut Federal timber sales contracts.

(C) Net book worth shall be, subject to agency verification, as determined by an independent certified public accountant in accordance with generally accepted accounting standards for the timber industry.

(D) A purchaser may elect to pay the buy-out cost imposed by subparagraph (A)(iii) in lieu of utilizing loss and net book worth determinations.

(E) Where a purchaser is not able to obtain sufficient credit elsewhere to finance the buy-out charge at reasonable rates and terms, purchaser may, upon payment of 5 per centum of the buy-out charge, pay the remainder of the buy-out charge in equal quarterly payments over a period not to exceed 5 years at an interest rate adjusted with each payment equal to the average market yield of outstanding Treasury obligations with remaining years to maturity of five years payment must be secured by bond, deposited securities or other forms of security acceptable to the appropriate Secretary in an amount sufficient to cover the entire buy-out payment.

(F) For purposes of this paragraph, the term ''contract overbid'' is the difference between the advertised contract rate and the rate the purchaser bid.

(4)(A) Contracts returned pursuant to this subsection under which no harvest has begun shall be returned in full.

(B) Contracts returned to the appropriate Secretary pursuant to this subsection under which harvest has begun, shall be returned conditionally and shall not be considered as part of the outstanding volume of timber under contract for the purposes of this Act. The return shall become final after the purchaser has completed stages of contractual obligations for the units on which the harvest has begun, including work on roads, to logical stopping points as determined by the Secretary after consultation with the purchaser. All remaining unharvested units must be returned.

(C) The appropriate Secretary may reject return of a contract on which harvest has begun if he determines, in his discretion, that the remaining unharvested portion is substantially unrepresentative of the original sale as a whole in terms of species, logging methods, or other appropriate criteria, and that accepting the return of such contract would seriously disadvantage the Government.

(5)(A) Timber from returned or defaulted contracts shall be offered for resale in an orderly fashion as part of, and not in addition to, the normal congressionally authorized timber sales program, and in a manner which does not disrupt regional markets or artificially depress domestic timber prices. Timber from returned or defaulted contracts shall be given preference for resale in the Forest Service timber sales programs.

(B) Timber sales in Forest Service region 6 shall not exceed four billion three hundred million board feet of net merchantable sawtimber in fiscal year 1984.

(C) Beginning in fiscal year 1985 and continuing through fiscal year 1991 or the fiscal year in which timber contract extensions in region 6 granted under the President's program of July 28, 1983 (as constituted on October 16, 1984), are completed, whichever is later, the Secretary of Agriculture shall set, and periodically adjust as necessary, the maximum annual timber sale volume in region 6. Such maximum sale volume shall be set so as to achieve a volume of region 6 net merchantable sawtimber under contract at the end of each fiscal year which does not exceed twelve billion three hundred million board feet: *Provided, however*, That such maximum annual sale volume shall not exceed five billion two hundred million board feet of net merchantable sawtimber. The sale of timber within region 6 shall be made in such a manner as not to result in discriminatory treatment as between different forests in the region.

(6)(A) The Secretary of the Interior and the Secretary of Agriculture shall publish final rules for the implementation of this subsection in the Federal Register within ninety days after October 16, 1984.

(B) Such final rules shall require purchasers to submit buy-out requests to the appropriate Secretary within ninety days after the publication of such rules.

(7)(A) For purposes only of determining a purchaser's buy-out limitation under paragraph (2) and net worth in connection with buy-out cost under paragraph (3), concerns which are affiliates as defined under subparagraph (B) of this paragraph shall be treated as a single entity.

(B) Definition of affiliates: Concerns are affiliates of each other when either directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. In determining whether or not affiliation exists, consideration shall be given to all appropriate factors, including, but not limited to, common ownership, common management, and contractual relationships.

(C) Definition of purchaser: For the purposes of this Act, a purchaser is the holder of a contract to purchase timber from the Secretary of Agriculture or the Secretary of the Interior.

(b) Extension of time for performance of contracts; covered contracts; damages for default

(1) Timber contracts bid prior to January 1, 1982, not bought out pursuant to subsection (a)

of this section and included in the President's program of July 28, 1983, shall not be subject to any further extension of time for performance except as permitted under the President's program of July 28, 1983, as implemented by the Secretary of Agriculture and the Secretary of the Interior, providing for the extension of certain timber sale contracts and requiring the phased harvesting of such extended contracts, which program is hereby ratified except as modified by paragraph (2).

(2) Notwithstanding any other provision of law, timber contracts extended pursuant to the President's program of July 28, 1983, as implemented by the Secretary of Agriculture shall not be subject to inclusion of additional provisions for calculating damages for default.

(c) Monitoring of bidding patterns on timber sale contracts; discouragement of bids; reporting requirements

The Secretary of Agriculture and the Secretary of the Interior shall monitor bidding patterns on timber sale contracts and take action to discourage bidding at such a rate as would indicate that the bidder, if awarded the contract, would be unable to perform the obligations as required, or that the bid is otherwise for the purpose of speculation. Each Secretary shall include in the annual report to Congress information concerning actions taken under this subsection.

(d) Cash down-payment and periodic payments for contracts; effective date

Effective January 1, 1985, in any contract for the sale of timber from the National Forests, the Secretary of Agriculture shall require a cash down-payment at the time the contract is executed and periodic payments to be made over the remaining period of the contract.

(Pub. L. 98–478, § 2, Oct. 16, 1984, 98 Stat. 2213.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(4)(B), (7)(C), is Pub. L. 98–478, Oct. 16, 1984, 98 Stat. 2213, which enacted sections 539f, 618, and 619 of this title and provisions set out as a note under this section. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE

Section 1 of Pub. L. 98–478 provided: ''That this Act [enacting this section and sections 539f and 619 of this title] may be cited as 'Federal Timber Contract Payment Modification Act'.''

ADMINISTRATIVE APPEALS OF TIMBER SALES

Pub. L. 99–500, § 101(h) [title III, § 320], Oct. 18, 1986, 100 Stat. 1783–242, 1783–286, and Pub. L. 99–591, § 101(h) [title III, § 320], Oct. 30, 1986, 100 Stat. 3341–242, 3341–287, provided that: ''To assure that National Forest and Bureau of Land Management timber included in sales defaulted by the purchaser, or returned under the Federal Timber Contract Payment Modification Act (Public Law 98–478) [see Short Title note above], is available for resale in a timely manner, such sales shall be subject only to one level of administrative appeal. This limitation shall not abridge the right of judicial review. Actions on such administrative appeals should be completed within 90 days of receipt of the notice of appeal. Sales that are reoffered shall be modified, including minor additions or deletions, as appropriate, to reduce adverse environmental impacts, pursuant to current land management plans and guidelines, and such modifications in themselves should not be construed to require the preparation of new or supplemental environmental assessments. This section shall not apply to any decision on the determination of damages due to the Government for defaulted or canceled contracts.''

§ 619. Emergency stumpage rate redeterminations in Alaska

(a) Application; applicable period

Emergency stumpage rate redetermination shall be made upon the written application of the purchaser of National Forest timber in Alaska, bid after January 1, 1974, and rates established as a result thereof shall be effective for timber scaled during a period between January 1, 1981, and five years from October 16, 1984.

(b) Competitive effect of modification of contracts

In making the emergency rate redeterminations the Secretary may modify existing contract terms, including the amount of the bid premium, in order to provide rates which will permit the holders of contracts bid after January 1, 1974, to be competitive with other purchasers of National Forest timber.

(c) Excepted contracts

The provisions of this section shall not apply to contracts held by the holders of 50-year timber sale contracts in Alaska.

(Pub. L. 98–478, § 4, Oct. 16, 1984, 98 Stat. 2217.)

§ 620. Findings and purposes

(a) Findings

The Congress makes the following findings:

(1) Timber is essential to the United States.

(2) Forests, forest resources, and the forest environment are exhaustible natural resources that require efficient and effective conservation efforts.

(3) In the interest of conserving those resources, the United States has set aside millions of acres of otherwise harvestable timberlands in the western United States, representing well over 100,000,000,000 board feet of otherwise harvestable timber.

(4) In recent years, administrative, statutory, or judicial action has been taken to set aside an increased amount of otherwise harvestable timberlands for conservation purposes.

(5) In the next few months and years, additional amounts of otherwise harvestable timberlands may be set aside for conservation purposes, pursuant to the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.], the National Forest Management Act of 1976, or other expected statutory, administrative, and judicial actions.

(6) There is evidence of a shortfall in the supply of unprocessed timber in the western United States.

(7) There is reason to believe that any shortfall which may already exist may worsen unless action is taken.

(8) In conjunction with the broad conservation actions expected in the next few months and years, conservation action is necessary with respect to exports of unprocessed timber.

(b) Purposes

The purposes of sections 620 to 620j of this title are—

(1) to promote the conservation of forest resources in conjunction with State and Federal resources management plans, and other actions or decisions, affecting the use of forest resources;

(2) to take action essential for the acquisition and distribution of forest resources or products in short supply in the western United States;

(3) to take action necessary, to meet the goals of Article XI 2.(a) of the GATT 1994 (as defined in section 3501(1)(B) of title 19), to ensure sufficient supplies of certain forest resources or products which are essential to the United States;

(4) to continue and refine the existing Federal policy of restricting the export of unprocessed timber harvested from Federal lands in the western United States; and

(5) to effect measures aimed at meeting these objectives in conformity with the obligations of the United States under the WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 3501 of title 19).

(Pub. L. 101–382, title IV, § 488, Aug. 20, 1990, 104 Stat. 714; Pub. L. 106–36, title I, § 1002(a)(1), June 25, 1999, 113 Stat. 132.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (a)(5), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The National Forest Management Act of 1976, referred to in subsec. (a)(5), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, 581h, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

Sections 620 to 620j of this title, referred to in subsec. (b), was in the original ''this title'', meaning title IV of Pub. L. 101–382, Aug. 20, 1990, 104 Stat. 714, which enacted sections 620 to 620j of this title and provisions set out as notes below. For complete classification of this Act to the Code, see Short Title note below and Tables.

AMENDMENTS

1999—Subsec. (b)(3). Pub. L. 106–36, § 1002(a)(1)(A), substituted ''GATT 1994 (as defined in section 3501(1)(B) of title 19)'' for ''General Agreement on Tariffs and Trade''.

Subsec. (b)(5). Pub. L. 106–36, § 1002(a)(1)(B), substituted ''WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 3501 of title 19)'' for ''General Agreement on Tariffs and Trade''.

EFFECTIVE DATE

Section 494 of title IV of Pub. L. 101–382 provided that: ''Except as otherwise provided in this title, the provisions of this title [enacting this section and sections 620a to 620j of this title and provisions set out as a note below] take effect on the date of the enactment of this Act [Aug. 20, 1990].''

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–83, title VI, § 601, Nov. 14, 1997, 111 Stat. 1617, provided that: ''This title [amending sections 620b to 620f of this title] may be cited as the 'Forest Resources Conservation and Shortage Relief Act of 1997'.''

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–45, § 1, July 1, 1993, 107 Stat. 223, provided that: ''This Act [amending sections 620c and 620d of this title and enacting provisions set out as a note under section 620c of this title] may be cited as the 'Forest Resources Conservation and Shortage Relief Amendments Act of 1993'.''

SHORT TITLE

Section 487 of title IV of Pub. L. 101–382 provided that: ''This title [enacting this section and sections 620a to 620j of this title and provisions set out as a note above] may be cited as the 'Forest Resources Conservation and Shortage Relief Act of 1990'.''

§ 620a. Restrictions on exports of unprocessed timber originating from Federal lands

(a) Prohibition on export of unprocessed timber originating from Federal lands

No person who acquires unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States may export such timber from the United States, or sell, trade, exchange, or otherwise convey such timber to any other person for the purpose of exporting such timber from the United States, unless such timber has been determined under subsection (b) of this section to be surplus to the needs of timber manufacturing facilities in the United States.

(b) Surpluses

(1) Determinations by Secretary concerned

The prohibition contained in subsection (a) of this section shall not apply to specific quantities of grades and species of unprocessed timber originating from Federal lands which the Secretary concerned determines to be surplus to domestic manufacturing needs.

(2) Procedures

Any determination under paragraph (1) shall be made in regulations issued in accordance with section 553 of title 5. Any such determination shall be reviewed at least once in every 3-year period. The Secretary concerned shall publish notice of such review in the Federal Register, and shall give the public an opportunity to comment on such review.

(Pub. L. 101–382, title IV, § 489, Aug. 20, 1990, 104 Stat. 715.)

§ 620b. Limitations on substitution of unprocessed Federal timber for unprocessed timber exported from private lands

(a) Direct substitution

(1) Except as provided in paragraph (3) and subsection (c) of this section, no person may purchase directly from any department or agency of the United States unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States if—

(A) such unprocessed timber is to be used in substitution for exported unprocessed timber originating from private lands; or

(B) such person has, during the preceding 24-month period, exported unprocessed timber originating from private lands.

(2) Notwithstanding paragraph (1)—

(A) Federal timber purchased pursuant to a contract entered into between the purchaser and the Secretary concerned before the date on which regulations to carry out this subsection are issued under section 620f of this title shall be governed by the regulations of the Secretary concerned in effect before such date that restrict the substitution of unprocessed timber originating from Federal lands for exported timber originating from private lands;

(B) in the 1-year period beginning on August 20, 1990, any person who operates under a Cooperative Sustained Yield Unit Agreement, and who has an historic export quota shall be limited to entering into contracts under such a quota to a volume equal to not more than 66 percent of the person's historic export quota used during fiscal year 1989;

(C) a person referred to in subparagraph (B) shall reduce the person's remaining substitution volume by an equal amount each year thereafter such that no volume is substituted under such a quota in fiscal year 1995 or thereafter; and

(D) the 24-month period referred to in paragraph (1)(B) shall not apply to any person who—

(i) before August 20, 1990, has, under an historic export quota approved by the Secretary concerned, purchased unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States in substitution for exported unprocessed timber originating from private lands;

(ii) certifies to the Secretary concerned, within 3 months after August 20, 1990, that the person will, within 6 months after August 20, 1990, cease exporting unprocessed timber originating from private lands; and

(iii) ceases exports in accordance with such certification.

(3) APPLICABILITY.—In the case of the purchase by a person of unprocessed timber originating from Federal lands west of the 119th meridian in the State of Washington, paragraph (1) shall apply only if—

(A) the private lands referred to in paragraph (1) are owned by the person; or

(B) the person has the exclusive right to harvest timber from the private lands described in paragraph (1) during a period of more than 7 years, and may exercise that right at any time of the person's choosing.

(b) Indirect substitution

(1) In general

Except as provided in paragraph (2), no person may, beginning 21 days after August 20, 1990, purchase from any other person unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States if such person would be prohibited from purchasing such timber directly from a department or agency of the United States. Acquisitions of western red cedar which are domestically processed into finished products to be sold into domestic or international markets are exempt from the prohibition contained in this paragraph.

(2) Exceptions

(A) The Secretary of Agriculture shall, as soon as practicable but not later than 9 months after August 20, 1990, establish, by rule, a limited amount of unprocessed timber originating from Federal lands described in subparagraph (B) which may be purchased by a person otherwise covered by the prohibition contained in paragraph (1). Such limit shall equal—

(i) the amount of such timber acquired by such person, based on the higher of the applicant's actual timber purchasing receipts or the appropriate Federal agency's records, during fiscal years 1988, 1989, and 1990, divided by 3, or

(ii) 15 million board feet,

whichever is less, except that such limit shall not exceed such person's proportionate share, with respect to all persons covered under this paragraph, of 50 million board feet.

(B) The Federal lands referred to in subparagraph (A) are Federal lands administered by the United States Forest Service Region 6 that are located north of the Columbia River from its mouth and east to its first intersection with the 119th meridian, and from that point north of the 46th parallel and east.

(C) Any person may sell, trade, or otherwise exchange with any other person the rights obtained under subparagraph (A), except that such rights may not be sold, traded, or otherwise exchanged to persons already in possession of such rights obtained under subparagraph (A).

(D) Federal timber purchased from Federal lands described in subparagraph (B) pursuant to a contract entered into between the purchaser and the Secretary of Agriculture before the date on which regulations to carry out this subsection are issued under section 620f of this title shall be governed by the regulations of the Secretary of Agriculture in effect before such date that restrict the substitution of unprocessed timber originating from Federal lands for exported timber originating from private lands.

(c) Sourcing areas

(1) In general

The prohibitions contained in subsections (a) and (b) of this section shall not apply with respect to the acquisition of unprocessed timber originating from Federal lands within a sourcing area west of the 100th meridian in the contiguous 48 States approved by the Secretary concerned under this subsection by a person who—

(A) in the previous 24 months, has not exported unprocessed timber originating from private lands within the sourcing area; and

(B) during the period in which such approval is in effect, does not export unproc-

essed timber originating from private lands within the sourcing area.

The Secretary concerned may waive the 24-month requirement set forth in subparagraph (A) for any person who, within 3 months after August 20, 1990, certifies that, within 6 months after August 20, 1990, such person will, for a period of not less than 3 years, cease exporting unprocessed timber originating from private lands within the sourcing area.

(2) Requirements for application for sourcing areas for processing facilities located outside the northwestern private timber open market area

The Secretaries concerned shall, not later than 3 months after August 20, 1990, prescribe procedures to be used by a person applying for approval of a sourcing area under paragraph (1). Such procedures shall require, at a minimum, the applicant to provide—

(A) information regarding the location of private lands (except private land located in the northwestern private timber open market area) from which such person has, within the previous year, harvested or otherwise acquired unprocessed timber which has been exported from the United States; and

(B) information regarding the location of each timber manufacturing facility owned or operated by such person within the proposed sourcing area boundaries at which the applicant proposes to process timber originating from Federal lands.

The prohibition contained in subsection (a) of this section shall not apply to a person before the date which is 1 month after the procedures referred to in this paragraph are prescribed. With respect to any person who submits an application in accordance with such procedures by the end of the time period set forth in the preceding sentence, the prohibition contained in subsection (a) of this section shall not apply to such person before the date on which the Secretary concerned approves or disapproves such application.

(3) Grant of approval for sourcing areas for processing facilities located outside of the northwestern private timber open market area

(A) In general

For each applicant, the Secretary concerned shall, on the record and after an opportunity for a hearing, not later than 4 months after receipt of the application for a sourcing area, either approve or disapprove the application. The Secretary concerned may approve such application only if the Secretary determines that the area that is the subject of the application, in which the timber manufacturing facilities at which the applicant desires to process timber originating from Federal lands are located, is geographically and economically separate from any geographic area from which that person harvests for export any unprocessed timber originating from private lands.

(B) For timber manufacturing facilities located in Idaho

Except as provided in subparagraph (D), in making a determination referred to in subparagraph (A), the Secretary concerned shall consider the private timber export and the private and Federal timber sourcing patterns for the applicant's timber manufacturing facilities, as well as the private and Federal timber sourcing patterns for the timber manufacturing facilities of other persons in the same local vicinity of the applicant, and the relative similarity of such private and Federal timber sourcing patterns.

(C) For timber manufacturing facilities located in States other than Idaho

Except as provided in subparagraph (D), in making the determination referred to in subparagraph (A), the Secretary concerned shall consider the private timber export and the Federal timber sourcing patterns for the applicant's timber manufacturing facilities, as well as the Federal timber sourcing patterns for the timber manufacturing facilities of other persons in the same local vicinity of the applicant, and the relative similarity of such Federal timber sourcing patterns. Private timber sourcing patterns shall not be a factor in such determinations in States other than Idaho.

(D) Area not included

In deciding whether to approve or disapprove an application, the Secretary shall not—

(i) consider land located in the northwestern private timber open market area; or

(ii) condition approval of the application on the inclusion of any such land in the applicant's sourcing area, such land being includable in the sourcing area only to the extent requested by the applicant.

(4) Denial of application for sourcing areas for processing facilities located outside the northwestern private timber open market area

(A) Subject to subparagraph (B), and notwithstanding any other provision of law, in the 9-month period after receiving disapproval of an application submitted pursuant to this subsection, the applicant may purchase unprocessed timber originating from Federal lands in the area which is the subject of the application in an amount not to exceed 75 percent of the annual average of such person's purchases of unprocessed timber originating from Federal lands in the same area during the 5 full fiscal years immediately prior to submission of the application. In the subsequent 6-month period, such person may purchase not more than 25 percent of such annual average, after which time the prohibitions contained in subsection (a) of this section shall fully apply.

(B) If a person referred to in subparagraph (A) certifies to the Secretary concerned, within 90 days after receiving disapproval of such application, that such person shall, within 15 months after such disapproval, cease the ex-

port of unprocessed timber originating from private lands from the geographic area determined by the Secretary for which the application would have been approved, such person may continue to purchase unprocessed timber originating from Federal lands in the area which is the subject of the application, without being subject to the restrictions of subparagraph (A), except that such purchases during that 15-month period may not exceed 125 percent of the annual average of such person's purchases of unprocessed timber originating from Federal lands in the same area during the 5 full fiscal years immediately prior to submission of the application which was denied.

(C) Any person to whom subparagraph (B) applies may not, during the 15-month period after the person's application for sourcing area boundaries is denied, export unprocessed timber originating from private lands in the geographic area determined by the Secretary concerned for which the application would have been approved in amounts that exceed 125 percent of the annual average of such person's exports of unprocessed timber from such private lands during the 5 full fiscal years immediately prior to submission of the application.

(5) Review of determinations for sourcing areas for processing facilities located outside the northwestern private timber open market area

Determinations made under paragraph (3) shall be reviewed, in accordance with the procedures prescribed in sections 620 to 620j of this title, not less often than every 5 years.

(6) Sourcing areas for processing facilities located in the northwestern private timber open market area

(A) Establishment

In the northwestern private timber open market area—

(i) a sourcing area boundary shall be a circle around the processing facility of the sourcing area applicant or holder;

(ii) the radius of the circle—

(I) shall be the furthest distance that the sourcing area applicant or holder proposes to haul Federal timber for processing at the processing facility; and

(II) shall be determined solely by the sourcing area applicant or holder;

(iii) a sourcing area shall become effective on written notice to the Regional Forester for Region 6 of the Forest Service of the location of the boundary of the sourcing area;

(iv) the 24-month requirement in paragraph (1)(A) shall not apply;

(v) a sourcing area holder—

(I) may adjust the radius of the sourcing area not more frequently than once every 24 months; and

(II) shall provide written notice to the Regional Forester for Region 6 of the adjusted boundary of its sourcing area before using the adjusted sourcing area; and

(vi) a sourcing area holder that relinquishes a sourcing area may not reestablish a sourcing area for that processing facility before the date that is 24 months after the date on which the sourcing area was relinquished.

(B) Transition

With respect to a portion of a sourcing area established before November 14, 1997, that contains Federal timber under contract before November 14, 1997, and is outside the boundary of a new sourcing area established under subparagraph (A)—

(i) that portion shall continue to be a sourcing area only until unprocessed Federal timber from the portion is no longer in the possession of the sourcing area holder; and

(ii) unprocessed timber from private land in that portion shall be exportable immediately after unprocessed timber from Federal land in the portion is no longer in the possession of the sourcing area holder.

(7) Relinquishment and termination of sourcing areas

(A) In general

A sourcing area may be relinquished at any time.

(B) Effective date

A relinquishment of a sourcing area shall be effective as of the date on which written notice is provided by the sourcing area holder to the Regional Forester with jurisdiction over the sourcing area where the processing facility of the holder is located.

(C) Exportability

(i) In general

On relinquishment or termination of a sourcing area, unprocessed timber from private land within the former boundary of the relinquished or terminated sourcing area is exportable immediately after unprocessed timber from Federal land from within that area is no longer in the possession of the former sourcing area holder.

(ii) No restriction

The exportability of unprocessed timber from private land located outside of a sourcing area shall not be restricted or in any way affected by relinquishment or termination of a sourcing area.

(d) Domestic transportation and processing of private timber

Nothing in this section restricts or authorizes any restriction on the domestic transportation or processing of timber harvested from private land, except that the Secretary may prohibit processing facilities located in the State of Idaho that have sourcing areas from processing timber harvested from private land outside of the boundaries of those sourcing areas.

(Pub. L. 101–382, title IV, § 490, Aug. 20, 1990, 104 Stat. 715; Pub. L. 105–83, title VI, § 602(a), Nov. 14, 1997, 111 Stat. 1618.)

REFERENCES IN TEXT

August 20, 1990, referred to in subsec. (a)(2)(B), was in the original ''the effective date of this title'', which is

the date of enactment of title IV of Pub. L. 101–382, approved Aug. 20, 1990, except as otherwise provided in sections 620 to 620j of this title, see section 494 of Pub. L. 101–382, set out as an Effective Date note under section 620 of this title.

AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105–83, § 602(a)(1)(A), inserted ''paragraph (3) and'' after ''Except as provided in''.

Subsec. (a)(3). Pub. L. 105–83, § 602(a)(1)(B), added par. (3).

Subsec. (c). Pub. L. 105–83, § 602(a)(2)(A), struck out ''Approval of'' before ''Sourcing areas'' in heading.

Subsec. (c)(2). Pub. L. 105–83, § 602(a)(2)(B)(i), inserted ''for sourcing areas for processing facilities located outside the northwestern private timber open market area'' after ''application'' in heading.

Subsec. (c)(2)(A). Pub. L. 105–83, § 602(a)(2)(B)(ii), inserted ''(except private land located in the northwestern private timber open market area)'' after ''private lands''.

Subsec. (c)(3). Pub. L. 105–83, § 602(a)(2)(C), inserted ''for sourcing areas for processing facilities located outside of the northwestern private timber open market area'' in heading, designated existing provisions as subpar. (A), inserted heading, and struck out at end ''In making a determination referred to in this paragraph, the Secretary concerned shall consider equally the timber purchasing patterns, on private and Federal lands, of the applicant as well as other persons in the same local vicinity as the applicant, and the relative similarity of such purchasing patterns.'', and added subpars. (B) to (D).

Subsec. (c)(4), (5). Pub. L. 105–83, § 602(a)(2)(D), (E), inserted ''for sourcing areas for processing facilities located outside the northwestern private timber open market area'' in headings.

Subsec. (c)(6), (7). Pub. L. 105–83, § 602(a)(2)(F), added pars. (6) and (7).

Subsec. (d). Pub. L. 105–83, § 602(a)(3), added subsec. (d).

§ 620c. Restriction on exports of unprocessed timber from State and other public lands

(a) Order to prohibit export of unprocessed timber originating from State or other public lands

Except as provided in subsection (g) of this section, the Secretary of Commerce shall issue orders to prohibit the export from the United States of unprocessed timber originating from public lands, as provided in subsection (b) of this section.

(b) Schedule for determination to prohibit export of unprocessed timber originating from State or other public lands

(1) States with annual sales of 400,000,000 board feet or less

With respect to States with annual sales volumes of 400,000,000 board feet or less, the Secretary of Commerce shall issue an order referred to in subsection (a) of this section to prohibit, notwithstanding any other provision of law, the export of unprocessed timber originating from public lands, effective June 1, 1993.

(2) States with annual sales of greater than 400,000,000 board feet

With respect to any State with an annual sales volume greater than 400,000,000 board feet, the Secretary of Commerce shall issue an order referred to in subsection (a) of this section to prohibit, notwithstanding any other provision of law, the export of unprocessed timber originating from public lands, effective as of November 14, 1997.

(3) Prohibition on substitution

(A) Prohibition

Subject to subparagraph (B), each order of the Secretary of Commerce under paragraph (1) or (2) shall also prohibit, notwithstanding any other provision of law, any person from purchasing, directly or indirectly, unprocessed timber originating from public lands in a State if—

(i) such unprocessed timber would be used in substitution for exported unprocessed timber originating from private lands in that State; or

(ii) such person has, during the preceding 24-month period, exported unprocessed timber originating from private lands in that State.

(B) Exemption

The prohibitions referred to in subparagraph (A) shall not apply in a State on or after the date on which—

(i) the Governor of that State provides the Secretary of Commerce with notification of a prior program under subparagraph (C) of subsection (d)(2) of this section,

(ii) the Secretary of Commerce approves a program of that State under subparagraph (A) of subsection (d)(2) of this section, or

(iii) regulations of the Secretary of Commerce issued under subsection (c) of this section to carry out this section take effect,

whichever occurs first.

(4) Report to Congress

Not later than June 1, 1995, the Secretary of Commerce, in conjunction with the Secretaries of Agriculture and Interior, shall issue a report to the Congress on the effects of the reallocation, as a result of the enactment of sections 620 to 620j of this title, of public lands timber resources to the domestic timber processing sector, the ability of the domestic timber processing sector to meet domestic demand for forest products, the volume of transshipment of timber originating from public lands across State borders, the effectiveness of rules issued and administered by the Secretary of Commerce pursuant to sections 620 to 620j of this title and the effectiveness of State programs authorized under subsection (d) of this section, and trends in growth and productivity in the domestic timber processing sector.

(c) Federal program

(1) Administration by the Secretary of Commerce

(A) In general

Subject to subparagraph (B), the Secretary of Commerce shall, as soon as possible after July 1, 1993—

(i) determine the species, grades, and geographic origin of unprocessed timber to

be prohibited from export in each State that is subject to an order issued under subsection (a) of this section;

(ii) administer the prohibitions consistent with sections 620 to 620j of this title;

(iii) ensure that the species, grades, and geographic origin of unprocessed timber prohibited from export within each State is representative of the species, grades, and geographic origin of timber comprising the total timber sales program of the State; and

(iv) issue such regulations as are necessary to carry out this section.

(B) Exemption

The actions and regulations of the Secretary under subparagraph (A) shall not apply with respect to a State that is administering and enforcing a program under subsection (d) of this section.

(2) Cooperation with other agencies

The Secretary of Commerce is authorized to enter into agreements with Federal and State agencies with appropriate jurisdiction to assist the Secretary in carrying out sections 620 to 620j of this title.

(d) Authorized State programs

(1) Authorization of new State programs

Notwithstanding subsection (c) of this section, the Governor of any State may submit a program to the Secretary of Commerce for approval that—

(A) implements, with respect to unprocessed timber originating from public lands in that State, the prohibition on exports set forth in the Secretary's order under subsection (a) of this section; and

(B) ensures that the species, grades, and geographic origin of unprocessed timber prohibited from export within the State is representative of the species, grades, and geographic origin of timber comprising the total timber sales program of the State.

(2) Approval of State programs

(A) Program approval

Not later than 30 days after the submission of a program under paragraph (1), the Secretary of Commerce shall approve the program unless the Secretary finds that the program will result in the export of unprocessed timber from public lands in violation of sections 620 to 620j of this title and publishes that finding in the Federal Register.

(B) State program in lieu of Federal program

If the Secretary of Commerce approves a program submitted under paragraph (1), the Governor of the State for which the program was submitted, or such other official of that State as the Governor may designate, may administer and enforce the program, which shall apply in that State in lieu of the regulations issued under subsection (c) of this section.

(C) Prior State programs

Not later than 30 days after July 1, 1993, the Governor of any State that had, before May 4, 1993, issued regulations under this subsection as in effect before May 4, 1993, may provide the Secretary of Commerce with written notification that the State has a program that was in effect on May 3, 1993, and that meets the requirements of paragraph (1). Upon such notification, that State may administer and enforce that program in that State until the end of the 9-month period beginning on the date on which the Secretary of Commerce issues regulations under subsection (c) of this section, and that program shall, during the period in which it is so administered and enforced, apply in that State in lieu of the regulations issued under subsection (c) of this section. Such Governor may submit, with such notification, the program for approval by the Secretary under paragraph (1).

(e) Prior contracts

Nothing in this section shall apply to—

(1) any contract for the purchase of unprocessed timber originating from public lands that was entered into before—

(A) September 10, 1990, with respect to States with annual sales volumes of 400,000,000 board feet or less; or

(B) January 1, 1991, with respect to States with annual sales volumes greater than 400,000,000 board feet; or

(2) any contract under which exports of unprocessed timber were permitted pursuant to an order of the Secretary of Commerce in effect under this section before October 23, 1992.

(f) Western red cedar

Nothing in this section shall be construed to supersede section 2406(i) of title 50, Appendix.

(g) Presidential authority

The President is authorized, after suitable notice and a public comment period of not less than 120 days, to suspend the provisions of this section if a panel of experts has reported to the Dispute Settlement Body of the World Trade Organization (as the term ''World Trade Organization'' is defined in section 3501(8) of title 19), or a ruling issued under the formal dispute settlement proceeding provided under any other trade agreement finds, that the provisions of this section are in violation of, or inconsistent with, United States obligations under that trade agreement.

(h) Removal or modifications of State restrictions

Based upon a determination that it is in the national economic interest, the President may remove or modify any prohibition on exports from public lands in a State if that State petitions the President to remove or modify such prohibition.

(i) Effect of prior Federal law

No provision of Federal law which imposes requirements with respect to the generation of revenue from State timberlands and was enacted before August 20, 1990, shall be construed to invalidate, supersede, or otherwise affect any action of a State or political subdivision of a State pursuant to sections 620 to 620j of this title.

(j) Surplus timber

The prohibitions on exports contained in orders of the Secretary of Commerce issued under subsection (a) of this section shall not apply to specific quantities of grades and species of unprocessed timber originating from public lands which the Secretary concerned determines by rule to be surplus to the needs of timber manufacturing facilities in the United States. Any such determination may, by rule, be withdrawn by the Secretary concerned if the Secretary determines that the affected timber is no longer surplus to the needs of timber manufacturing facilities in the United States.

(k) Suspension of prohibitions

Notwithstanding any other provision of this section, beginning on January 1, 1998, and annually thereafter, if the President finds, upon review of the purposes and implementation of sections 620 to 620j of this title, that the prohibitions on exports required by subsection (a) of this section no longer promote the purposes of sections 620 to 620j of this title, then the President may suspend such prohibitions, except that such suspension shall not take effect until 90 days after the President notifies the Congress of such finding.

***(l)* Existing authority not affected**

Nothing in sections 620 to 620j of this title shall be construed to limit the authority of the President or the United States Trade Representative to take action authorized by law to respond appropriately to any measures taken by a foreign government in connection with sections 620 to 620j of this title.

(Pub. L. 101–382, title IV, §491, Aug. 20, 1990, 104 Stat. 719; Pub. L. 103–45, §2, July 1, 1993, 107 Stat. 223; Pub. L. 105–83, title VI, §602(b), Nov. 14, 1997, 111 Stat. 1620; Pub. L. 106–36, title I, §1002(a)(2), June 25, 1999, 113 Stat. 133.)

AMENDMENTS

1999—Subsec. (g). Pub. L. 106–36 substituted ''Dispute Settlement Body of the World Trade Organization (as the term 'World Trade Organization' is defined in section 3501(8) of title 19)'' for ''Contracting Parties to the General Agreement on Tariffs and Trade''.

1997—Subsec. (b)(2). Pub. L. 105–83 struck out ''the following shall apply:'' in introductory provisions, substituted ''the Secretary'' for ''(A) The Secretary'' and ''as of November 14, 1997'' for ''during the period beginning on June 1, 1993, and ending on December 31, 1995'', and struck out subpar. (B) which read as follows: ''For all periods on or after January 1, 1996, the Secretary of Commerce shall issue an order referred to in subsection (a) of this section not later than September 30, 1995. Such order shall prohibit the export of the lesser of 400,000,000 board feet or the annual sales volume in that State of unprocessed timber originating from public lands.''

1993—Subsec. (a). Pub. L. 103–45, §2(1), substituted ''(g)'' for ''(e)'' and ''as provided'' for ''in the amounts specified''.

Subsec. (b)(1). Pub. L. 103–45, §2(2)(A), inserted '', notwithstanding any other provision of law,'' after ''prohibit'' and substituted '', effective June 1, 1993'' for ''not later than 21 days after August 20, 1990''.

Subsec. (b)(2). Pub. L. 103–45, §2(2)(B), added subpar. (A) and struck out former subpar. (A), redesignated subpar. (D) as (B) and substituted ''annual sales volume in that State of unprocessed timber originating from public lands'' for ''total annual sales volume'' at end, and struck out former subpars. (B) and (C). Prior to amendment, former subpars. (A) to (C) read as follows:

''(A) The Secretary of Commerce shall issue an order referred to in subsection (a) of this section not later than 21 days after August 20, 1990. Such order shall cover a period beginning 120 days after the issuance of such an order, or January 1, 1991, whichever is earlier, and shall extend to December 31, 1991. Such order shall prohibit the export of 75 percent of the annual sales volume in such State of unprocessed timber from public lands.

''(B) For the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary of Commerce shall, after notice and an opportunity for a hearing, issue an order referred to in subsection (a) of this section not later than September 30, 1991. Such order shall prohibit the export of at least 75 percent of such State's annual sales volume for this 2-year period.

''(C) For the period beginning on January 1, 1994, and ending on December 31, 1995, the Secretary of Commerce shall, after notice and an opportunity for a hearing, issue an order referred to in subsection (a) of this section not later than September 30, 1993. Such order shall prohibit the export of at least 75 percent of such State's annual sales volume for this 2-year period.''

Subsec. (b)(3), (4). Pub. L. 103–45, §2(2)(C), (D), added par. (3), redesignated former par. (3) as (4), and substituted ''the Secretary of Commerce pursuant to sections 620 to 620j of this title and the effectiveness of State programs authorized under subsection (d) of this section'' for ''States pursuant to sections 620 to 620j of this title''.

Subsecs. (c) to (*l*). Pub. L. 103–45, §2(3), (4), added subsecs. (c) to (f), struck out former subsecs. (c) and (d) which related to basis for increase in volume prohibited from export and administrative provisions, respectively, and redesignated former subsecs. (e) to (j) as (g) to (*l*), respectively.

SEVERABILITY OF PROVISIONS

Section 4 of Pub. L. 103–45 provided that: ''If any provision of this Act [amending this section and section 620d of this title and enacting provisions set out as a note under section 620 of this title], or the amendments made by this Act, or the application thereof to any person or circumstance is held invalid, the remainder of this Act and such amendments and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected by such invalidation.''

EXTENSION AND ISSUANCE OF ORDER UNDER SUBSECTION (b)(2)

Pub. L. 104–208, div. A, title I, §101(d) [title III], Sept. 30, 1996, 110 Stat. 3009–181, 3009–223, which in part directed Secretary of Commerce to extend until Sept. 30, 1997, the order issued under subsec. (b)(2)(A) of this section and to issue an order under subsec. (b)(2)(B) of this section effective Oct. 1, 1997, was from the Department of the Interior and Related Agencies Appropriations Act, 1997, and was not repeated in subsequent appropriations acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104–134, title I, §101(c) [title III, §333], Apr. 26, 1996, 110 Stat. 1321–156, 1321–210; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 104–99, title I, §130, Jan. 26, 1996, 110 Stat. 34.

§ 620d. Monitoring and enforcement

(a) Monitoring and reports

In accordance with regulations issued under this section—

(1) each person who acquires, either directly or indirectly, unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States shall report the receipt and disposition of such timber to the

Secretary concerned, in such form as such Secretary may by rule prescribe; except that nothing in this paragraph shall be construed to hold any person responsible for the reporting of the disposition of any such timber held by subsequent persons;

(2) each person who transfers to another person unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States shall, before completing such transfer—

(A) provide to such other person a written notice, in such form as the Secretary concerned may prescribe, which shall identify the Federal origin of such timber;

(B) receive from such other person a written acknowledgment of such notice and a written agreement that such other person will comply with the requirements of sections 620 to 620j of this title, in such form as the Secretary concerned may prescribe; and

(C) provide to the Secretary concerned copies of all notices, acknowledgments, and agreements referred to in subparagraphs (A) and (B);

(3) each person who acquires, either directly or indirectly, unprocessed timber originating from public lands in a State that is subject to an order issued by the Secretary of Commerce under section 620c(a) of this title, other than a State that is administering and enforcing a program under section 620c(d) of this title, shall report the receipt and disposition of the timber to the Secretary of Commerce, in such form as the Secretary may by rule prescribe, except that nothing in this paragraph shall be construed to hold any person responsible for reporting the disposition of any timber held by subsequent persons; and

(4) each person who transfers to another person unprocessed timber originating from public lands in a State that is subject to an order issued by the Secretary of Commerce under section 620c(a) of this title, other than a State that is administering and enforcing a program under section 620c(d) of this title, shall, before completing the transfer—

(A) provide to such other person a written notice, in such form as the Secretary of Commerce may prescribe, that shall identify the public lands from which the timber originated; and

(B) receive from such other person—

(i) a written acknowledgment of the notice, and

(ii) a written agreement that the recipient of the timber will comply with the requirements of sections 620 to 620j of this title,

in such form as the Secretary of Commerce may prescribe; and

(C) provide to the Secretary of Commerce copies of all notices, acknowledgments, and agreements referred to in subparagraphs (A) and (B).

(b) Report to Congress

Using the information gathered under subsection (a) of this section, the Secretaries of Agriculture and Interior shall, not later than June 1, 1995, submit to the Congress a report on the disposition of unprocessed timber harvested from Federal lands west of the 100th meridian in the contiguous 48 States, and recommendations concerning the practice of indirect substitution of such timber for exported timber harvested from private lands. Specifically, such report shall—

(1) analyze the effects of indirect substitution on market efficiency;

(2) analyze the effects of indirect substitution on domestic log supply;

(3) offer any recommendations that the Secretaries consider necessary for specific statutory or regulatory changes regarding indirect substitution;

(4) provide summaries of the data collected;

(5) analyze the effects of the provisions of section 620b(b)(2)(C) of this title; and

(6) provide such other information as the Secretaries consider appropriate.

(c) Civil penalties for violation

(1) Exports

(A) If the Secretary concerned finds, on the record and after an opportunity for a hearing, that a person, with willful disregard for the prohibition contained in sections 620 to 620j of this title against exporting Federal timber, exported or caused to be exported unprocessed timber originating from Federal lands in violation of sections 620 to 620j of this title, such Secretary may assess against such person a civil penalty of not more than $500,000 for each violation, or 3 times the gross value of the unprocessed timber involved in the violation, whichever amount is greater.

(B)(i) Subject to clause (ii), if the Secretary of Commerce finds, on the record and after an opportunity for a hearing, that a person, with willful disregard for the restrictions contained in an order of the Secretary under section 620c(a) of this title on exports of unprocessed timber from public lands, exported or caused to be exported unprocessed timber originating from public lands in violation of such order, the Secretary may assess against such person a civil penalty of not more than $500,000 for each violation, or 3 times the gross value of the unprocessed timber involved in the violation, whichever amount is greater.

(ii) Clause (i) shall not apply with respect to exports of unprocessed timber originating from public lands in a State that is administering and enforcing a program under section 620c(d) of this title.

(2) Other violations

(A) If the Secretary concerned finds, on the record and after an opportunity for a hearing, that a person has violated any provision of sections 620 to 620j of this title or any regulation issued under sections 620 to 620j of this title relating to lands which they administer (notwithstanding that such violation may not have caused the export of unprocessed Federal timber in violation of sections 620 to 620j of this title), such Secretary may—

(i) assess against such person a civil penalty of not more than $75,000 for each violation if the Secretary determines that the

person committed such violation in disregard of such provision or regulation;

(ii) assess against such person a civil penalty of not more than $50,000 for each violation if the Secretary determines that the person should have known that the action constituted a violation; or

(iii) assess against such person a civil penalty of not more than $500,000 if the Secretary determines that the person committed such violation willfully.

(B)(i) Subject to clause (ii), if the Secretary of Commerce finds, on the record and after an opportunity for a hearing, that a person has violated, on or after June 1, 1993, any provision of sections 620 to 620j of this title or any regulation issued under sections 620 to 620j of this title relating to the export of unprocessed timber originating from public lands (whether or not the violation caused the export of unprocessed timber from public lands in violation of sections 620 to 620j of this title), the Secretary may assess against such person a civil penalty to the same extent as the Secretary concerned may impose a penalty under clause (i), (ii), or (iii) of subparagraph (A).

(ii) Clause (i) shall not apply with respect to unprocessed timber originating from public lands in a State that is administering and enforcing a program under section 620c(d) of this title.

(C) MITIGATION OF PENALTIES.—

(i) IN GENERAL.—The Secretary concerned—

(I) in determining the applicability of any penalty imposed under this paragraph, shall take into account all relevant mitigating factors, including mistake, inadvertence, and error; and

(II) based on any mitigating factor, may, with respect to any penalty imposed under this paragraph—

(aa) reduce the penalty;

(bb) not impose the penalty; or

(cc) on condition of there being no further violation under this paragraph for a prescribed period, suspend imposition of the penalty.

(ii) CONTRACTURAL[1] REMEDIES.—In the case of a minor violation of sections 620 to 620j of this title (including a regulation), the Secretary concerned shall, to the maximum extent practicable, permit a contracting officer to redress the violation in accordance with the applicable timber sale contract rather than assess a penalty under this paragraph.

(3) Penalties not exclusive; judicial review

A penalty assessed under this subsection shall not be exclusive of any other penalty provided by law and shall be subject to review in an appropriate United States district court.

(d) Administrative remedies

(1) Debarment

(A) In general

Subject to subparagraph (B), the head of the appropriate Federal department or agency under sections 620 to 620j of this title may debar any person who violates sections 620 to 620j of this title, or any regulation or contract issued under sections 620 to 620j of this title, from entering into any contract for the purchase of unprocessed timber from Federal lands for a period of not more than 5 years. Such person shall also be precluded from taking delivery of Federal timber purchased by another party for the period of debarment.

(B) Prerequisites for debarment

(i) In general

No person may be debarred from bidding for or entering into a contract for the purchase of unprocessed timber from Federal lands under subparagraph (A) unless the head of the appropriate Federal department or agency first finds, on the record and after an opportunity for a hearing, that debarment is warranted.

(ii) Withholding of awards during debarment proceedings

The head of an appropriate Federal department or agency may withhold an award under sections 620 to 620j of this title of a contract for the purchase of unprocessed timber from Federal lands during a debarment proceeding.

(2) Cancellation of contracts

The head of the appropriate Federal department or agency under sections 620 to 620j of this title may cancel any contract entered into with a person found to have violated sections 620 to 620j of this title or regulations issued under sections 620 to 620j of this title.

(e) Exception

Subsections (c) and (d) of this section do not apply to violations of section 620i of this title.

(Pub. L. 101–382, title IV, § 492, Aug. 20, 1990, 104 Stat. 722; Pub. L. 103–45, § 3, July 1, 1993, 107 Stat. 226; Pub. L. 105–83, title VI, § 603, Nov. 14, 1997, 111 Stat. 1620.)

AMENDMENTS

1997—Subsec. (c)(2)(C). Pub. L. 105–83, § 603(1), added subpar. (C).

Subsec. (d)(1). Pub. L. 105–83, § 603(2), inserted subpar. (A) designation and heading, substituted ''Subject to subparagraph (B), the head'' for ''The head'', and added subpar. (B).

1993—Subsec. (a)(3), (4). Pub. L. 103–45, § 3(a), added pars. (3) and (4).

Subsec. (c)(1). Pub. L. 103–45, § 3(b)(1), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(2). Pub. L. 103–45, § 3(b)(2), designated existing provisions as subpar. (A), redesignated former subpars. (A) to (C) as cls. (i) to (iii) of subpar. (A), and added subpar. (B).

§ 620e. Definitions

For purposes of sections 620 to 620j of this title:

(1) The term ''acquire'' means to come into possession of, whether directly or indirectly, through a sale, trade, exchange, or other transaction, and the term ''acquisition'' means the act of acquiring.

(2) The term ''Federal lands'' means lands that are owned by the United States, but does not include any lands the title to which is—

[1] So in original. Probably should be ''Contractual''.

(A) held in trust by the United States for the benefit of any Indian tribe or individual,

(B) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(C) held by any Native Corporation as defined in section 1602 of title 43.

(3) MINOR VIOLATION.—The term ''minor violation'' means a violation, other than an intentional violation, involving a single contract, purchase order, processing facility, or log yard involving a quantity of logs that is less than 25 logs and has a total value (at the time of the violation) of less than $10,000.

(4) NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA.—The term ''northwestern private timber open market area'' means the State of Washington.

(5) The term ''person'' means any individual, partnership, corporation, association, or other legal entity and includes any subsidiary, subcontractor, or parent company, and business affiliates where 1 affiliate controls or has the power to control the other or when both are controlled directly or indirectly by a third person.

(6) The term ''private lands'' means lands held or owned by a person. Such term does not include Federal lands or public lands, or any lands the title to which is—

(A) held in trust by the United States for the benefit of any Indian tribe or individual,

(B) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(C) held by any Native Corporation as defined in section 1602 of title 43.

(7) The term ''public lands'' means lands west of the 100th meridian in the contiguous 48 States, that are held or owned by a State or political subdivision thereof, or any other public agency. Such term does not include any lands the title to which is—

(A) held by the United States;

(B) held in trust by the United States for the benefit of any Indian tribe or individual,

(C) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(D) held by any Native Corporation as defined in section 1602 of title 43.

(8) The term ''Secretary concerned'' means—

(A) the Secretary of Agriculture, with respect to Federal lands administered by that Secretary; and

(B) the Secretary of the Interior with respect to Federal lands administered by that Secretary.

(9)(A) The term ''unprocessed timber'' means trees or portions of trees or other roundwood not processed to standards and specifications suitable for end product use.

(B) The term ''unprocessed timber'' does not include timber processed into any one of the following:

(i) Lumber or construction timbers, except Western Red Cedar, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list grades, sawn on 4 sides, not intended for remanufacture.

(ii) Lumber, construction timbers, or cants for remanufacture, except Western Red Cedar, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list clear grades, sawn on 4 sides, not to exceed 12 inches in thickness.

(iii) Lumber, construction timbers, or cants for remanufacture, except Western Red Cedar, that do not meet the grades referred to in clause (ii) and are sawn on 4 sides, with wane less than ¼ of any face, not exceeding 8¾ inches in thickness.

(iv) Chips, pulp, or pulp products.

(v) Veneer or plywood.

(vi) Poles, posts, or piling cut or treated with preservatives for use as such.

(vii) Shakes or shingles.

(viii) Aspen or other pulpwood bolts, not exceeding 100 inches in length, exported for processing into pulp.

(ix) Pulp logs, cull logs, and incidental volumes of grade 3 and 4 sawlogs processed at domestic pulp mills, domestic chip plants, or other domestic operations for the primary purpose of conversion of the logs into chips, or to the extent that a small quantity of such logs are processed, into other products at domestic processing facilities.

(10) The acquisition of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States to be used in ''substitution'' for exported unprocessed timber originating from private lands means acquiring unprocessed timber from such Federal lands and engaging in exporting, or selling for export, unprocessed timber originating from private lands within the same geographic and economic area.

(11) VIOLATION.—The term ''violation'' means a violation of sections 620 to 620j of this title (including a regulation issued to implement sections 620 to 620j of this title) with regard to a course of action, including—

(A) in the case of a violation by the original purchaser of unprocessed timber, an act or omission with respect to a single timber sale; and

(B) in the case of a violation of a subsequent purchaser of the timber, an act or omission with respect to an operation at a particular processing facility or log yard.

(Pub. L. 101–382, title IV, §493, Aug. 20, 1990, 104 Stat. 723; Pub. L. 105–83, title VI, §604, Nov. 14, 1997, 111 Stat. 1621.)

REFERENCES IN TEXT

Sections 620 to 620j of this title, referred to in par. (11), was in the original ''this Act'' and was translated as reading ''this title'', meaning title IV of Pub. L. 101–382, Aug. 20, 1990, 104 Stat. 714, as amended, known as the Forest Resources Conservation and Shortage Relief Act of 1990, which enacted sections 620 to 620j of this title and provisions set out as notes under section 620 of this title, to reflect the probable intent of Congress. For complete classification of this Act to the Code, see Short Title note set out under section 620 of this title and Tables.

AMENDMENTS

1997—Pars. (3) to (8). Pub. L. 105–83, §604(1), (2), added pars. (3) and (4) and redesignated former pars. (3) to (6)

as (5) to (8), respectively. Former pars. (7) and (8) redesignated (9) and (10), respectively.

Par. (9). Pub. L. 105–83, § 604(1), redesignated par. (7) as (9).

Par. (9)(B)(ix). Pub. L. 105–83, § 604(3), substituted ''Pulp logs, cull logs, and incidental volumes of grade 3 and 4 sawlogs'' for ''Pulp logs or cull logs'' and inserted ''primary'' before ''purpose'' and '', or to the extent that a small quantity of such logs are processed, into other products at domestic processing facilities'' before period at end.

Par. (10). Pub. L. 105–83, § 604(1), redesignated par. (8) as (10).

Par. (11). Pub. L. 105–83, § 604(4), added par. (11).

§ 620f. Regulations and review

(a) Regulations

(1) Agriculture and Interior

The Secretaries of Agriculture and Interior shall, in consultation, each prescribe new coordinated and consistent regulations to implement sections 620 to 620j of this title on lands which they administer.

(2) Commerce

The Secretary of Commerce shall promulgate such rules and guidelines as may be necessary to carry out sections 620 to 620j of this title.

(3) Deadline

(A) IN GENERAL.—Except as otherwise provided in sections 620 to 620j of this title, regulations and guidelines required under this subsection shall be issued not later than June 1, 1998.

(B) The regulations and guidelines issued under sections 620 to 620j of this title that were in effect prior to September 8, 1995 shall remain in effect until new regulations and guidelines are issued under subparagraph (A).

(4) Painting and branding

(A) In general

The Secretary concerned shall issue regulations that impose reasonable painting, branding, or other forms of marking or tracking requirements on unprocessed timber if—

(i) the benefits of the requirements outweigh the cost of complying with the requirements; and

(ii) the Secretary determines that, without the requirements, it is likely that the unprocessed timber—

(I) would be exported in violation of sections 620 to 620j of this title; or

(II) if the unprocessed timber originated from Federal lands, would be substituted for unprocessed timber originating from private lands west of the 100th Meridian in the contiguous 48 States in violation of sections 620 to 620j of this title.

(B) Minimum size

The Secretary concerned shall not impose painting, branding, or other forms of marking or tracking requirements on—

(i) the face of a log that is less than 7 inches in diameter; or

(ii) unprocessed timber that is less than 8 feet in length or less than ⅓ sound wood.

(C) Waivers

(i) In general

The Secretary concerned may waive log painting and branding requirements—

(I) for a geographic area, if the Secretary determines that the risk of the unprocessed timber being exported from the area or used in substitution is low;

(II) with respect to unprocessed timber originating from private lands located within an approved sourcing area for a person who certifies that the timber will be processed at a specific domestic processing facility to the extent that the processing does occur; or

(III) as part of a log yard agreement that is consistent with the purposes of the export and substitution restrictions imposed under sections 620 to 620j of this title.

(ii) Review and termination of waivers

A waiver granted under clause (i)—

(I) shall, to the maximum extent practicable, be reviewed once a year; and

(II) shall remain effective until terminated by the Secretary.

(D) Factors

In making a determination under this paragraph, the Secretary concerned shall consider—

(i) the risk of unprocessed timber of that species, grade, and size being exported or used in substitution;

(ii) the location of the unprocessed timber and the effect of the location on its being exported or used in substitution;

(iii) the history of the person involved with respect to compliance with log painting and branding requirements; and

(iv) any other factor that is relevant to determining the likelihood of the unprocessed timber being exported or used in substitution.

(5) Reporting

(A) In general

Subject to subparagraph (B), the Secretary concerned shall issue regulations that impose reasonable documentation and reporting requirements if the benefits of the requirements outweigh the cost of complying with the requirements.

(B) Waivers

(i) In general

The Secretary concerned may waive documentation and reporting requirements for a person if—

(I) an audit of the records of the facility of the person reveals substantial compliance with all notice, reporting, painting, and branding requirements during the preceding year; or

(II) the person transferring the unprocessed timber and the person processing the unprocessed timber enter into an advance agreement with the Secretary concerned regarding the disposition of the unprocessed timber by domestic processing.

(ii) Review and termination of waivers

A waiver granted under clause (i)—

(I) shall, to the maximum extent practicable, be reviewed once a year; and

(II) shall remain effective until terminated by the Secretary.

(b) Review

The Secretaries of Agriculture and Interior shall, in consultation, review the definition of unprocessed timber under section 620e(7) of this title for purposes of sections 620 to 620j of this title and, not later than 18 months after August 20, 1990, submit to the Congress any recommendations they have with respect to such definition. Specifically, the Secretaries shall report on the effects of maintaining 2 size standards under section 620e(B)(ii)[1] and (iii) of this title.

(Pub. L. 101–382, title IV, § 495, Aug. 20, 1990, 104 Stat. 725; Pub. L. 105–83, title VI, § 605, Nov. 14, 1997, 111 Stat. 1622.)

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–83 redesignated first two sentences as pars. (1) and (2), respectively, and inserted headings, and substituted pars. (3) to (5) for last sentence which read as follows: ''Except as otherwise provided in sections 620 to 620j of this title, regulations and guidelines under this subsection shall be issued not later than 9 months after August 20, 1990.''

§ 620g. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out sections 620 to 620j of this title.

(Pub. L. 101–382, title IV, § 496, Aug. 20, 1990, 104 Stat. 725.)

§ 620h. Savings provision

Nothing in sections 620 to 620j of this title, or regulations issued under sections 620 to 620j of this title, shall be construed to abrogate or affect any timber sale contract entered into before August 20, 1990.

(Pub. L. 101–382, title IV, § 497, Aug. 20, 1990, 104 Stat. 725.)

REFERENCES IN TEXT

August 20, 1990, referred to in text, was in the original ''the effective date of this title'', which is the date of enactment of title IV of Pub. L. 101–382, approved Aug. 20, 1990, except as otherwise provided in sections 620 to 620j of this title, see section 494 of Pub. L. 101–382, set out as an Effective Date note under section 620 of this title.

§ 620i. Eastern hardwoods study

(a) Study

The Secretary of Commerce, in conjunction with the Secretary of Agriculture and the Secretary of the Interior, shall conduct a study of the export from the United States, during the 2-year period beginning on January 1, 1991, of unprocessed hardwood timber harvested from Federal lands or public lands east of the 100th meridian. In order to carry out the provisions of this section—

(1) the Secretary of Commerce shall require each person exporting such timber from the United States to declare, in addition to the information normally required in the Shipper's Export Declarations, the State in which the timber was grown and harvested; and

(2) the Secretary of Agriculture and the Secretary of the Interior shall ensure that all hardwood saw timber harvested from Federal lands east of the 100th meridian is marked in such a manner as to make it readily identifiable at all times before its manufacture, and shall take such steps as each Secretary considers appropriate to ensure that such markings are not altered or destroyed before manufacturing.

(b) Report to Congress

Not later than April 1, 1993, the Secretary of Commerce shall submit to the Committees on Agriculture, Natural Resources, and Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the volume and value of unprocessed timber grown and harvested from Federal lands or public lands east of the 100th meridian that is exported from the United States during the 2-year period beginning on January 1, 1991, the country to which such timber is exported, and the State in which such timber was grown and harvested.

(Pub. L. 101–382, title IV, § 498, Aug. 20, 1990, 104 Stat. 725; Pub. L. 103–437, § 6(d)(35), Nov. 2, 1994, 108 Stat. 4585.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs''.

§ 620j. Authority of Export Administration Act of 1979

Nothing in sections 620 to 620j of this title shall be construed to—

(1) prejudice the outcome of pending or prospective petitions filed under, or

(2) warrant the exercise of the authority contained in,

section 7 of the Export Administration Act of 1979 [50 U.S.C. App. 2406] with respect to the export of unprocessed timber.

(Pub. L. 101–382, title IV, § 499, Aug. 20, 1990, 104 Stat. 726.)

CHAPTER 5—PROTECTION OF FUR SEALS AND OTHER FUR-BEARING ANIMALS

Sec.
631 to 654. Omitted or Repealed.
655. Agents to be disinterested.
656. Agents; administering oaths and taking testimony.
657, 658. Repealed.
659. Sea lions; acts prohibiting killing repealed.

§ 631. Omitted

CODIFICATION

Section, acts Feb. 14, 1903, ch. 552, § 7, 32 Stat. 828; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, vested control over fur seal, salmon, and other fisheries in Alaska in Department of the Interior.

§§ 631a to 631q. Repealed. Pub. L. 89–702, title IV, § 408(a), Nov. 2, 1966, 80 Stat. 1098

Sections were from act Feb. 26, 1944, ch. 65, §§ 1–17, 58 Stat. 100.

[1] So in original. Probably should be section ''620e(7)(B)(ii)''.

Section 631e amended by act Sept. 27, 1950, ch. 1056, 64 Stat. 1071.

Sections related to protection of fur seals and other fur-bearing animals as follows:

631a, Definitions,

631b, Pelagic sealing, sealing, or sea otter hunting in certain waters of North Pacific prohibited; use of ports of United States; importing illegally taken skins,

631c, Natives permitted to carry on pelagic sealing or sea otter hunting,

631d, Killing of seals on Pribilof Islands, other islands, and shores of waters under United States jurisdiction; permission to designated Fish and Wildlife Service officers and employees and Alaskan natives; pelagic sealing in emergencies,

631e, Sale of seal or sea otter skins; deposit of proceeds,

631f, Pribilof Islands a special reservation; landing on islands unlawful; penalties,

631g, Employment of Pribilof Islands native in killing seals and curing skins,

631h, Depots for and transportation of provisions from mainland to Pribilof Islands; care of natives,

631i, Investigations as to seal life on the Pribilof Islands,

631j, Persons authorized to enforce provisions of seal fisheries law; powers of arrest, search, and seizure; execution of warrants; forfeiture,

631k, Punishment for violation of law; forfeiture,

631*l*, Duties of collectors of customs regarding importation of skins of fur seal and see otter,

631m, Seizure of persons or vessels outside of jurisdiction of signatory powers; procedure,

631n, Guard or patrol of waters; composition,

631*o*, Receipt and disposal of skins by United States,

631p, Killing, capturing, etc., certain fur-bearing animals for scientific purposes,

631q, Secretary's powers and duties; employment of personnel.

Subject matter is covered by section 1151 et seq. of this title.

§ 631r. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449

Section, act Feb. 26, 1944, ch. 65, §19, 58 Stat. 104, limited the duration of the provisions of sections 631a–631q of this title which implement the Provisional Fur-Seal Agreement of 1942 to twelve months after the cessation of hostilities of World War II.

§§ 632 to 644. Repealed. Feb. 26, 1944, ch. 65, § 18, 58 Stat. 104

Section 632, act Aug. 24, 1912, ch. 373, §1, 37 Stat. 499, prohibited killing seal or sea otter in certain waters of North Pacific.

Section 633, act Aug. 24, 1912, ch. 373, §2, 37 Stat. 500, forbade equipping vessels for pelagic sealing or sea-otter hunting and use of ports of United States by such vessels.

Section 634, act Aug. 24, 1912, ch. 373, §3, 37 Stat. 500, permitted natives to carry on pelagic fishing.

Section 635, act Aug. 24, 1912, ch. 373, §4, 37 Stat. 500, prohibited importing illegally taken skins, and forfeiture thereof.

Section 636, acts Aug. 24, 1912, ch. 373, §5, 37 Stat. 500; Mar. 4, 1913, ch. 141, §1, 37 Stat. 736; 1939 Reorg. Plan No. II, §4(e) eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, related to regulations made by President, and enforcement of law and regulations.

Section 637, act Aug. 24, 1912, ch. 373, §6, 37 Stat. 501, related to punishment for violation of law, and forfeitures.

Section 638, act Aug. 24, 1912, ch. 373, §7, 37 Stat. 501, related to presumption as to violations.

Section 639, act Aug. 24, 1912, ch. 373, §8, 37 Stat. 501, related to venue of prosecutions.

Section 640, act Aug. 24, 1912, ch. 373, §9, 37 Stat. 501, related to guard or patrol of waters, and seizure and search of certain vessels.

Section 641, act Aug. 24, 1912, ch. 373, §10, 37 Stat. 501, related to seizure of vessels outside of jurisdiction of signatory powers, and procedure.

Section 642, acts Aug. 24, 1912, ch. 373, §11, 37 Stat. 502; June 22, 1916, ch. 171, 39 Stat. 236; Mar. 4, 1913, ch. 141, §1, 37 Stat. 736; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, which related to delivery by, receipt and disposal of skins by the United States under convention of July 7, 1911, and performance of articles thereunder.

Section 643, act Aug. 24, 1912, ch. 373, §12, 37 Stat. 502, related to definition of ''Pelagic sealing'', and construction of ''person''.

Section 643a, act Aug. 24, 1912, ch. 373, §13, 37 Stat. 502, related to continuance in force of sections 632–643.

Section 644, R.S. §1956; acts Apr. 21, 1910, ch. 183, §4, 36 Stat. 327; Mar. 4, 1913, ch. 141, §1, 37 Stat. 736; Jan. 13, 1925, ch. 75, §§2, 14, 43 Stat. 739, 747; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, forbade killing of certain fur-bearing animals in Alaska, punishment and forfeiture, power of Secretary of the Interior to authorize killing, and duty to execute law.

TERMINATION OF SECTIONS

Sections 632 to 643a were terminated on the authority of former section 643a of this title when Japan abrogated the treaty on Oct. 23, 1940, eff. Oct. 23, 1941. Sections 632 to 644 were later specifically repealed by act Feb. 26, 1944, ch. 65, §18, 58 Stat. 104.

§ 645. Omitted

CODIFICATION

Section, R.S. §1957; acts June 6, 1900, ch. 786, §4, 31 Stat. 322; Feb. 14, 1903, ch. 552, §7, 32 Stat. 828; Mar. 3, 1909, ch. 269, §2, 35 Stat. 839; Mar. 4, 1913, ch. 141, §1, 37 Stat. 736; Mar. 2, 1921, ch. 110, 41 Stat. 1203; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, related to jurisdiction of offenses.

§§ 646 to 653. Repealed. Feb. 26, 1944, ch. 65, § 18, 58 Stat. 104

Section 646, R.S. §1959; acts Apr. 21, 1910, ch. 183, §5, 36 Stat. 327; Mar. 4, 1913, ch. 141, §1, 37 Stat. 736; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, related to Pribilof Islands as a special reservation, and landing on islands unlawful.

Section 647, R.S. §1960; acts Apr. 21, 1910, ch. 183, §6, 36 Stat. 327; Mar. 4, 1913, ch. 141, §1, 37 Stat. 736; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, related to regulation of killing of seals on Pribilof Islands, forbade firearms, and regulation of privileges to natives.

Section 648, acts June 22, 1916, ch. 171, 39 Stat. 236; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, related to killing seals on Pribilof Islands by natives, and disposal of skins by Secretary of the Interior.

Section 649, R.S. §1961; act Apr. 21, 1910, ch. 183, §7, 36 Stat. 328, related to killing female seal or seal less than 1 year old, or killing in waters adjacent to Pribilof Islands or on beaches or cliffs, punishment, and forfeitures.

Section 650, acts Apr. 21, 1910, ch. 183, §1, 36 Stat. 326; Aug. 24, 1912, ch. 373, §11, 37 Stat. 502; Mar. 4, 1913, ch. 141, §1, 37 Stat. 736; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, related to killing of seals on Pribilof Islands, regulations, restricted to officers and natives under their direction, and number to be killed.

Section 651, acts Apr. 21, 1910, ch. 183, §2, 36 Stat. 326; Mar. 4, 1913, ch. 141, §1, 37 Stat. 736; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, related to sale of sealskins, proceeds, and subsequent treaties.

Section 652, acts Apr. 21, 1910, ch. 183, §3, 36 Stat. 327; Mar. 4, 1913, ch. 141, §1, 37 Stat. 736; 1939 Reorg. Plan

No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, related to employment of natives of Pribilof Islands in killing seals and curing skins.

Section 653, acts Apr. 21, 1910, ch. 183, § 9, 36 Stat. 328; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1939 Reorg. Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, related to depots for and transportation of provisions from mainland to Pribilof Islands, and care of natives.

TERMINATION

Termination of section 650, prior to its specific repeal, was done on authority of former section 643a of this title when Japan abrogated the treaty on Oct. 23, 1940, eff. Oct. 23, 1941. For termination of other sections giving effect to said treaty, see note under former sections 632 to 644 of this title.

§ 654. Omitted

CODIFICATION

Section, acts Mar. 3, 1893, ch. 208, 27 Stat. 585; Feb. 14, 1903, ch. 552, § 7, 32 Stat. 828; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1939 Reorg. Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232, related to investigation as to seal life on the Pribilof Islands.

§ 655. Agents to be disinterested

The persons charged with the management of the seal fisheries in Alaska, and the performance of such other duties as may be assigned to them by the Secretary of the Interior, shall never be interested directly or indirectly in any lease of the right to take seals, nor in any proceeds or profits thereof either as owner, agent, partner, or otherwise.

(R.S. §§ 1973, 1975; Feb. 14, 1903, ch. 552, § 7, 32 Stat. 828; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1939 Reorg. Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

CODIFICATION

R.S. §§ 1973, 1975 derived from act Mar. 5, 1872, ch. 31, § 1, 17 Stat. 35.

R.S. § 1973 read as follows: ''The Secretary of the Treasury is authorized to appoint one agent and three assistant agents, who shall be charged with the management of the seal fisheries in Alaska, and the performance of such other duties as may be assigned to them by the Secretary of the Treasury.''

R.S. § 1975 read as follows: ''Such agents shall never be interested, directly or indirectly, in any lease of the right to take seals, nor in any proceeds or profits thereof, either as owner, agent, partner, or otherwise.''

Act. Feb. 14, 1903, transferred jurisdiction, supervision and control over the fur seal, salmon and other fisheries of Alaska from Department of the Treasury to Department of Commerce and Labor.

Act. Mar. 4, 1913, changed designation of Department of Commerce and Labor to Department of Commerce and provided that the Secretary thereof should be called the Secretary of Commerce.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, transferred Bureau of Fisheries in Department of Commerce, and its functions and functions of Secretary of Commerce relating to protection of fur seals and other fur-bearing animals and supervision of Pribilof Islands and care of natives thereof, to Department of the Interior.

Reorg. Plan No. III of 1940, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232, set out in the Appendix to Title 5, consolidated Bureau of Fisheries and Bureau of Biological Survey with their respective functions into one agency in Department of the Interior to be known as Fish and Wildlife Service, and abolished office of Commissioner and Deputy Commissioner of Fisheries and transferred their functions to the consolidated agency.

RESPONSIBILITY FOR MATTERS RELATING TO SEALS

Bureau of Commercial Fisheries within the Fish and Wildlife Service as responsible for matters relating to commercial fisheries and to seals, see section 742b of this title.

§ 656. Agents; administering oaths and taking testimony

The agents are empowered to administer oaths in all cases relating to the service of the United States, and to take testimony in Alaska for the use of the Government in any matter concerning the public revenue.

(R.S. § 1976.)

CODIFICATION

R.S. § 1976 derived from act Mar. 5, 1872, ch. 31, § 3, 17 Stat. 35.

§ 657. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632

Section, R.S. § 1974; act June 10, 1921, ch. 18, § 304, 42 Stat. 204, related to traveling expenses for persons charged with management of seal fisheries in Alaska.

§ 658. Repealed. Feb. 26, 1944, ch. 65, § 18, 58 Stat. 104

Section, acts Apr. 21, 1910, ch. 183, § 9, 36 Stat. 328; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1939 Reorg. Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, related to additional officers and agents to enforce seal fisheries law.

§ 659. Sea lions; acts prohibiting killing repealed

All Acts and parts of Acts making it unlawful to kill sea lions, as game animals or otherwise, in the waters of the Territory of Alaska are repealed.

(June 16, 1934, ch. 556, 48 Stat. 976; 1939 Reorg. Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 92–522, title I, § 113(b), Oct. 21, 1972, 86 Stat. 1042.)

AMENDMENTS

1972—Pub. L. 92–522 struck out proviso prohibiting killing of sea lions in waters of Alaska except under rules and regulations prescribed by Secretary of the Interior.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, transferred Bureau of Fisheries in Department of Commerce, and its functions and functions of Secretary of Commerce relating to protection of fur seals and other fur-bearing animals and supervision of Prib-

ilof Islands and care of natives thereof, to Department of the Interior.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

CHAPTER 5A—PROTECTION AND CONSERVATION OF WILDLIFE

SUBCHAPTER I—GAME, FUR-BEARING ANIMALS, AND FISH

Sec.
661. Declaration of purpose; cooperation of agencies; surveys and investigations; donations.
662. Impounding, diverting, or controlling of waters.
663. Impoundment or diversion of waters.
664. Administration; rules and regulations; availability of lands to State agencies.
665. Investigations as to effect of sewage, industrial wastes; reports.
665a. Maintenance of adequate water levels in upper Mississippi River.
666. Authorization of appropriations.
666a. Penalties.
666b. Definitions.
666c. Applicability to Tennessee Valley Authority.
666d. Skagit National Wildlife Refuge; exchange of lands.
666e. Administration of acquired lands.
666f. Wildlife conservation and agricultural, industrial, recreational, and related uses for certain Federal lands; transfer of lands to Secretary of the Interior; administration, development, and disposition.
666g. Classification of lands; industrial leases; moneys subject to section 715s of this title; administration; jurisdiction of Federal agencies.
667. Game management supply depots; appropriations.
667a. Omitted.
667b. Transfer of certain real property for wildlife conservation purposes; reservation of rights.
667c. Publication of designating order.
667d. Reports to Congress.
667e. Repealed.

SUBCHAPTER II—PROTECTION OF BALD AND GOLDEN EAGLES

668. Bald and golden eagles.
668a. Taking and using of the bald and golden eagle for scientific, exhibition, and religious purposes.
668b. Enforcement provisions.
668c. Definitions.
668d. Availability of appropriations for Migratory Bird Treaty Act.

SUBCHAPTER III—ENDANGERED SPECIES OF FISH AND WILDLIFE

668aa to 668cc–6. Repealed.
668dd. National Wildlife Refuge System.
668ee. Definitions.
668ff to 668ss. Omitted.

SUBCHAPTER I—GAME, FUR-BEARING ANIMALS, AND FISH

§ 661. Declaration of purpose; cooperation of agencies; surveys and investigations; donations

For the purpose of recognizing the vital contribution of our wildlife resources to the Nation, the increasing public interest and significance thereof due to expansion of our national economy and other factors, and to provide that wildlife conservation shall receive equal consideration and be coordinated with other features of water-resource development programs through the effectual and harmonious planning, development, maintenance, and coordination of wildlife conservation and rehabilitation for the purposes of sections 661 to 666c of this title in the United States, its Territories and possessions, the Secretary of the Interior is authorized (1) to provide assistance to, and cooperate with, Federal, State, and public or private agencies and organizations in the development, protection, rearing, and stocking of all species of wildlife, resources thereof, and their habitat, in controlling losses of the same from disease or other causes, in minimizing damages from overabundant species, in providing public shooting and fishing areas, including easements across public lands for access thereto, and in carrying out other measures necessary to effectuate the purposes of said sections; (2) to make surveys and investigations of the wildlife of the public domain, including lands and waters or interests therein acquired or controlled by any agency of the United States; and (3) to accept donations of land and contributions of funds in furtherance of the purposes of said sections.

(Mar. 10, 1934, ch. 55, § 1, 48 Stat. 401; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Aug. 14, 1946, ch. 965, 60 Stat. 1080; Pub. L. 85–624, § 2, Aug. 12, 1958, 72 Stat. 563.)

AMENDMENTS

1958—Pub. L. 85–624 inserted provisions which relate to recognition of the vital contribution of wildlife resources to the Nation, the increasing public interest and significance thereof, and to equal consideration and coordination of wildlife conservation with other water-resources development programs, and which authorize the Secretary to provide public fishing areas, and to accept donations of lands and contributions of funds.

1946—Act Aug. 14, 1946, amended section generally in order to promote more effectual planning and cooperation between Federal, State, public, and private agencies for the conservation and rehabilitation of wildlife.

SHORT TITLE

Section 1 of Pub. L. 85–624 provided: ''That the Act of March 10, 1934, as amended, and as further amended by this Act [sections 661 to 666c of this title] may be cited as the 'Fish and Wildlife Coordination Act'.''

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with wildlife consultation in sections 661 to 666c of this title and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with sections 661 to 666c of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Of-

fice of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5.

Functions, appropriations, records, and property of Secretary of the Interior and Fish and Wildlife Service of Department of the Interior which affect or relate to breeding, raising, producing, marketing, or any other phase of production or distribution of domestically raised fur-bearing animals, or the products thereof transferred to Secretary of Agriculture by section 434 of Title 7, Agriculture.

Reorg. Plan No. III of 1940, §3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232, set out in the Appendix to Title 5, Government Organization and Employees, consolidated Bureau of Fisheries and Bureau of Biological Survey with their respective functions into one agency in Department of the Interior to be known as the Fish and Wildlife Service, and abolished the office of Commissioner and Deputy Commissioner of Fisheries and transferred their functions to the consolidated agency.

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, transferred Bureau of Fisheries in Department of Commerce, and its functions, to Department of the Interior; transferred functions of Secretary of Commerce relating to protection of fur seals and other fur-bearing animals to Secretary of the Interior; and transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior.

APPROPRIATIONS

Section 4 of Pub. L. 85–624 provided that: ''There is hereby authorized to be appropriated and expended such funds as may be necessary to carry out the purposes of this Act [amending this section and sections 662 to 664 of this title and enacting section 1008 of this title].''

STUDY OF SOFT- AND HARD-SHELL CLAMS

Act May 26, 1948, ch. 348, 62 Stat. 274, directed the Fish and Wildlife Service to undertake, in cooperation with appropriate State and interstate agencies in accordance with the provisions of the Act of August 14, 1946 (60 Stat. 1080), comprehensive studies of the soft-shell clam, Mya arenaria, and the hard-shell clam, Venus mercenaria, with particular respect to the biology, propagation, and methods of cultivation of such clams, required the Service to recommend appropriate measures for (1) arresting depletion in existing productive beds; (2) restoring to production beds formerly productive but now barren or unusable; (3) developing new areas which may be found suitable; (4) improving methods and techniques of digging, transplanting, and handling; and (5) otherwise increasing production and improving the quality of such clams for the benefit of both producers and consumers, and authorized for the five-year period beginning July 1, 1948, the sum of $250,000 to carry out the studies of the soft-shell clam and the sum of $250,000 to carry out the studies of the hard-shell clam.

EX. ORD. NO. 13443. FACILITATION OF HUNTING HERITAGE AND WILDLIFE CONSERVATION

Ex. Ord. No. 13443, Aug. 16, 2007, 72 F.R. 46537, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Purpose*. The purpose of this order is to direct Federal agencies that have programs and activities that have a measurable effect on public land management, outdoor recreation, and wildlife management, including the Department of the Interior and the Department of Agriculture, to facilitate the expansion and enhancement of hunting opportunities and the management of game species and their habitat.

SEC. 2. *Federal Activities*. Federal agencies shall, consistent with agency missions:

(a) Evaluate the effect of agency actions on trends in hunting participation and, where appropriate to address declining trends, implement actions that expand and enhance hunting opportunities for the public;

(b) Consider the economic and recreational values of hunting in agency actions, as appropriate;

(c) Manage wildlife and wildlife habitats on public lands in a manner that expands and enhances hunting opportunities, including through the use of hunting in wildlife management planning;

(d) Work collaboratively with State governments to manage and conserve game species and their habitats in a manner that respects private property rights and State management authority over wildlife resources;

(e) Establish short and long term goals, in cooperation with State and tribal governments, and consistent with agency missions, to foster healthy and productive populations of game species and appropriate opportunities for the public to hunt those species;

(f) Ensure that agency plans and actions consider programs and recommendations of comprehensive planning efforts such as State Wildlife Action Plans, the North American Waterfowl Management Plan, and other range-wide management plans for big game and upland game birds;

(g) Seek the advice of State and tribal fish and wildlife agencies, and, as appropriate, consult with the Sporting Conservation Council and other organizations, with respect to the foregoing Federal activities.

SEC. 3. *North American Wildlife Policy Conference*. The Chairman of the Council on Environmental Quality (Chairman) shall, in coordination with the appropriate Federal agencies and in consultation with the Sporting Conservation Council and in cooperation with State and tribal fish and wildlife agencies and the public, convene not later than 1 year after the date of this order, and periodically thereafter at such times as the Chairman deems appropriate, a White House Conference on North American Wildlife Policy (Conference) to facilitate the exchange of information and advice relating to the means for achieving the goals of this order.

SEC. 4. *Recreational Hunting and Wildlife Resource Conservation Plan*. The Chairman shall prepare, consistent with applicable law and subject to the availability of appropriations, in coordination with the appropriate Federal agencies and in consultation with the Sporting Conservation Council, and in cooperation with State and tribal fish and wildlife agencies, not later than 1 year following the conclusion of the Conference, a comprehensive Recreational Hunting and Wildlife Conservation Plan that incorporates existing and ongoing activities and sets forth a 10-year agenda for fulfilling the actions identified in section 2 of this order.

SEC. 5. *Judicial Review*. This order is not intended to, and does not, create any right, benefit, trust responsibility, or privilege, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

§ 662. Impounding, diverting, or controlling of waters

(a) Consultations between agencies

Except as hereafter stated in subsection (h) of this section, whenever the waters of any stream

or other body of water are proposed or authorized to be impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage, by any department or agency of the United States, or by any public or private agency under Federal permit or license, such department or agency first shall consult with the United States Fish and Wildlife Service, Department of the Interior, and with the head of the agency exercising administration over the wildlife resources of the particular State wherein the impoundment, diversion, or other control facility is to be constructed, with a view to the conservation of wildlife resources by preventing loss of and damage to such resources as well as providing for the development and improvement thereof in connection with such water-resource development.

(b) Reports and recommendations; consideration

In furtherance of such purposes, the reports and recommendations of the Secretary of the Interior on the wildlife aspects of such projects, and any report of the head of the State agency exercising administration over the wildlife resources of the State, based on surveys and investigations conducted by the United States Fish and Wildlife Service and such State agency for the purpose of determining the possible damage to wildlife resources and for the purpose of determining means and measures that should be adopted to prevent the loss of or damage to such wildlife resources, as well as to provide concurrently for the development and improvement of such resources, shall be made an integral part of any report prepared or submitted by any agency of the Federal Government responsible for engineering surveys and construction of such projects when such reports are presented to the Congress or to any agency or person having the authority or the power, by administrative action or otherwise, (1) to authorize the construction of water-resource development projects or (2) to approve a report on the modification or supplementation of plans for previously authorized projects, to which sections 661 to 666c of this title apply. Recommendations of the Secretary of the Interior shall be as specific as is practicable with respect to features recommended for wildlife conservation and development, lands to be utilized or acquired for such purposes, the results expected, and shall describe the damage to wildlife attributable to the project and the measures proposed for mitigating or compensating for these damages. The reporting officers in project reports of the Federal agencies shall give full consideration to the report and recommendations of the Secretary of the Interior and to any report of the State agency on the wildlife aspects of such projects, and the project plan shall include such justifiable means and measures for wildlife purposes as the reporting agency finds should be adopted to obtain maximum overall project benefits.

(c) Modification of projects; acquisition of lands

Federal agencies authorized to construct or operate water-control projects are authorized to modify or add to the structures and operations of such projects, the construction of which has not been substantially completed on the date of enactment of the Fish and Wildlife Coordination Act, and to acquire lands in accordance with section 663 of this title, in order to accommodate the means and measures for such conservation of wildlife resources as an integral part of such projects: *Provided*, That for projects authorized by a specific Act of Congress before the date of enactment of the Fish and Wildlife Coordination Act (1) such modification or land acquisition shall be compatible with the purposes for which the project was authorized; (2) the cost of such modifications or land acquisition, as means and measures to prevent loss of and damage to wildlife resources to the extent justifiable, shall be an integral part of the cost of such projects; and (3) the cost of such modifications or land acquisition for the development or improvement of wildlife resources may be included to the extent justifiable, and an appropriate share of the cost of any project may be allocated for this purpose with a finding as to the part of such allocated cost, if any, to be reimbursed by non-Federal interests.

(d) Project costs

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

(e) Transfer of funds

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

(f) Estimation of wildlife benefits or losses

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

(g) Applicability to projects

The provisions of this section shall be applicable with respect to any project for the control or

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

(h) Exempt projects and activities

The provisions of section 661 to 666c of this title shall not be applicable to those projects for the impoundment of water where the maximum surface area of such impoundments is less than ten acres, nor to activities for or in connection with programs primarily for land management and use carried out by Federal agencies with respect to Federal lands under their jurisdiction.

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

REFERENCES IN TEXT

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

AMENDMENTS

1965—Subsec. (d). Pub. L. 89–72 added cl. (2) to proviso, redesignated cls. (2) and (3) thereof as (3) and (4), struck out ''nor the construction of such facilities beyond those herein described'' after ''wildlife facilities'' and struck out a second proviso which applied to projects constructed under Federal reclamation laws and required the Secretary of the Interior, in addition to allocations made under section 485h of Title 43, to make findings on part of estimated cost of the project which can properly be allocated to means and measures to prevent loss and damage to wildlife resources, which costs shall not be reimbursable, and provided for allocation of project costs to development and improvement of wildlife resources, now covered by sections 460*l*–12 to 460*l*–21 of this title.

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

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

TRANSFER OF FUNCTIONS

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

§ 663. Impoundment or diversion of waters

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

Subject to the exceptions prescribed in section 662(h) of this title, whenever the waters of any stream or other body of water are impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage, by any department or agency of the United States, adequate provision, consistent with the primary purposes of such impoundment, diversion, or other control, shall be made for the use thereof, together with any areas of land, water, or interests therein, acquired or administered by a Federal agency in connection therewith, for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon, including the development and improvement of such wildlife resources pursuant to the provisions of section 662 of this title.

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

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

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

When consistent with the purposes of sections 661 to 666c of this title and the reports and findings of the Secretary of the Interior prepared in accordance with section 662 of this title, land, waters, and interests therein may be acquired by Federal construction agencies for the wildlife conservation and development purposes of sections 661 to 666c of this title in connection with a project as reasonably needed to preserve and assure for the public benefit the wildlife poten-

tials of the particular project area: *Provided*, That before properties are acquired for this purpose, the probable extent of such acquisition shall be set forth, along with other data necessary for project authorization, in a report submitted to the Congress, or in the case of a project previously authorized, no such properties shall be acquired unless specifically authorized by Congress, if specific authority for such acquisition is recommended by the construction agency.

(d) Use of acquired properties

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

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

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

(f) National forest lands

Any lands acquired pursuant to this section by any Federal agency within the exterior boundaries of a national forest shall, upon acquisition, be added to and become national forest lands, and shall be administered as a part of the forest within which they are situated, subject to all laws applicable to lands acquired under the provisions of the Act of March 1, 1911 (36 Stat. 961), unless such lands are acquired to carry out the National Migratory Bird Management Program.

(Mar. 10, 1934, ch. 55, § 3, 48 Stat. 401; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Aug. 14, 1946, ch. 965, 60 Stat. 1080; Pub. L. 85–624, § 2, Aug. 12, 1958, 72 Stat. 566.)

REFERENCES IN TEXT

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

AMENDMENTS

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

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

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

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

TRANSFER OF FUNCTIONS

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

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

Such areas as are made available to the Secretary of the Interior for the purposes of sections 661 to 666c of this title, pursuant to sections 661 and 663 of this title or pursuant to any other authorization, shall be administered by him directly or in accordance with cooperative agreements entered into pursuant to the provisions of section 661 of this title and in accordance with such rules and regulations for the conservation, maintenance, and management of wildlife, resources thereof, and its habitat thereon, as may be adopted by the Secretary in accordance with general plans approved jointly by the Secretary of the Interior and the head of the department or agency exercising primary administration of such areas: *Provided*, That such rules and regulations shall not be inconsistent with the laws for the protection of fish and game of the States in which such area is situated: *Provided, further*, That lands having value to the National Migratory Bird Management Program may, pursuant to general plans, be made available without cost directly to the State agency having control over wildlife resources, if it is jointly determined by the Secretary of the Interior and such State agency that this would be in the public interest: *And provided further*, That the Secretary of the Interior shall have the right to assume the management and administration of such lands in behalf of the National Migratory Bird Management Program if the Secretary finds that the State agency has withdrawn from or otherwise relinquished such management and administration.

(Mar. 10, 1934, ch. 55, § 4, 48 Stat. 402; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Aug. 14, 1946, ch. 965, 60 Stat. 1080; Pub. L. 85–624, § 2, Aug. 12, 1958, 72 Stat. 567.)

AMENDMENTS

1958—Pub. L. 85–624 permitted lands having value to the National Bird Management Program to be made available directly to the State agency having control over wildlife resources.

1946—Act Aug. 14, 1946, amended section generally to provide for administration of wildlife areas, and for the promulgation of rules and regulations.

TRANSFER OF FUNCTIONS

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

§ 665. Investigations as to effect of sewage, industrial wastes; reports

The Secretary of the Interior, through the Fish and Wildlife Service and the United States

Bureau of Mines, is authorized to make such investigations as he deems necessary to determine the effects of domestic sewage, mine, petroleum, and industrial wastes, erosion silt, and other polluting substances on wildlife, and to make reports to the Congress concerning such investigations and of recommendations for alleviating dangerous and undesirable effects of such pollution. These investigations shall include (1) the determination of standards of water quality for the maintenance of wildlife; (2) the study of methods of abating and preventing pollution, including methods for the recovery of useful or marketable products and byproducts of wastes; and (3) the collation and distribution of data on the progress and results of such investigations for the use of Federal, State, municipal, and private agencies, individuals, organizations, or enterprises.

(Mar. 10, 1934, ch. 55, §5, 48 Stat. 402; 1940 Reorg. Plan No. III, §3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Aug. 14, 1946, ch. 965, 60 Stat. 1080; Pub. L. 102–285, §10(b), May 18, 1992, 106 Stat. 172.)

AMENDMENTS

1946—Act Aug. 14, 1946, amended section generally to provide for investigations as to the effect of sewage and industrial waste on wildlife.

CHANGE OF NAME

''United States Bureau of Mines'' substituted in text for ''Bureau of Mines'' pursuant to section 10(b) of Pub. L. 102–285, set out as a note under section 1 of Title 30, Mineral Lands and Mining. For provisions relating to closure and transfer of functions of the United States Bureau of Mines, see Transfer of Functions note set out under section 1 of Title 30.

TRANSFER OF FUNCTIONS

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

§ 665a. Maintenance of adequate water levels in upper Mississippi River

In the management of existing facilities (including locks, dams, and pools) in the Mississippi River between Rock Island, Illinois, and Minneapolis, Minnesota, administered by the United States Corps of Engineers of the Department of the Army, that Department is directed to give full consideration and recognition to the needs of fish and other wildlife resources and their habitat dependent on such waters, without increasing additional liability to the Government, and, to the maximum extent possible without causing damage to levee and drainage districts, adjacent railroads and highways, farm lands, and dam structures, shall generally operate and maintain pool levels as though navigation was carried on throughout the year.

(Mar. 10, 1934, ch. 55, §5A, as added June 19, 1948, ch. 528, 62 Stat. 497.)

§ 666. Authorization of appropriations

There is hereby authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions of sections 661 to 666c of this title and regulations made pursuant thereto, including the construction of such facilities, buildings, and other improvements necessary for economical administration of areas made available to the Secretary of the Interior under said sections, and the employment in the city of Washington and elsewhere of such persons and means as the Secretary of the Interior may deem necessary for such purposes.

(Mar. 10, 1934, ch. 55, §6, 48 Stat. 402; Aug. 14, 1946, ch. 965, 60 Stat. 1080.)

AMENDMENTS

1946—Act Aug. 14, 1946, amended section generally to provide for the necessary appropriations to carry out the purposes of sections 661 to 666c of this title.

§ 666a. Penalties

Any person who shall violate any rule or regulation promulgated in accordance with sections 661 to 666c of this title shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $500 or imprisoned for not more than one year, or both.

(Mar. 10, 1934, ch. 55, §7, as added Aug. 14, 1946, ch. 965, 60 Stat. 1080.)

§ 666b. Definitions

The terms ''wildlife'' and ''wildlife resources'' as used herein include birds, fishes, mammals, and all other classes of wild animals and all types of aquatic and land vegetation upon which wildlife is dependent.

(Mar. 10, 1934, ch. 55, §8, as added Aug. 14, 1946, ch. 965, 60 Stat. 1080.)

REFERENCES IN TEXT

Herein, referred to in text, means act Mar. 10, 1934, ch. 55, 48 Stat. 401, which is classified generally to sections 661 to 666c of this title. For complete classification of this Act to the Code, see Short Title note set out under section 661 of this title and Tables.

§ 666c. Applicability to Tennessee Valley Authority

The provisions of sections 661 to 666c of this title shall not apply to the Tennessee Valley Authority.

(Mar. 10, 1934, ch. 55, §9, as added Aug. 14, 1946, ch. 965, 60 Stat. 1080.)

§ 666d. Skagit National Wildlife Refuge; exchange of lands

The Secretary of the Interior is authorized, in his discretion, at any time within ten years from October 6, 1949, to accept from the State of Washington on behalf of the United States title to any lands in the State of Washington which he deems chiefly valuable for wildlife refuge purposes, and which are equivalent in value to the lands of the United States within the Skagit National Wildlife Refuge, and in exchange therefor to convey by deed on behalf of the United States to the State of Washington the said lands of the United States in the Skagit National Wildlife Refuge.

(Oct. 6, 1949, ch. 619, §1, 63 Stat. 708.)

§ 666e. Administration of acquired lands

Any lands acquired by the Secretary of the Interior under the terms of this section and sec-

tion 666d of this title, if located within or adjacent to an existing wildlife refuge or reservation, immediately shall become a part of such refuge or reservation and shall be administered under the laws and regulations applicable thereto, and, if not so located, may be administered as a migratory-waterfowl management area, refuge, reservation, or breeding ground in accordance with the provisions of sections 661 to 666c of this title, and Acts supplementary thereto.

(Oct. 6, 1949, ch. 619, § 2, 63 Stat. 708.)

§ 666f. Wildlife conservation and agricultural, industrial, recreational, and related uses for certain Federal lands; transfer of lands to Secretary of the Interior; administration, development, and disposition

In order to promote the orderly development and use of the lands and interests therein acquired by the United States in connection with the Crab Orchard Creek project and the Illinois Ordnance Plant in Williamson, Jackson, and Union Counties, Illinois, consistent with the needs of agriculture, industry, recreation, and wildlife conservation, all of the interests of the United States in and to such lands are hereby transferred to the Secretary of the Interior for administration, development, and disposition, in accordance with the provisions of this section and section 666g of this title.

(Aug. 5, 1947, ch. 489, § 1, 61 Stat. 770.)

§ 666g. Classification of lands; industrial leases; moneys subject to section 715s of this title; administration; jurisdiction of Federal agencies

All of the lands transferred to the Secretary of the Interior, pursuant to the provisions of section 666f of this title and this section, first shall be classified by him with a view to determining, in cooperation with Federal, State, and public or private agencies and organizations, the most beneficial use that may be made thereof to carry out the purposes of section 666f of this title and this section, including the development of wildlife conservation, agricultural, recreational, industrial, and related purposes. Such lands as have been or may hereafter be determined to be chiefly valuable for industrial purposes shall be leased for such purposes at such time and under such terms and conditions as the Secretary of the Interior shall prescribe. All moneys received or collected in connection with such leases shall be subject to the provisions of section 715s of this title. Except to the extent otherwise provided in section 666f of this title and this section, all lands herein transferred shall be administered by the Secretary of the Interior through the Fish and Wildlife Service in accordance with the provisions of sections 661 to 666c of this title, and Acts supplementary thereto and amendatory thereof for the conservation of wildlife, and for the development of the agricultural, recreational, industrial, and related purposes specified in section 666f of this title and this section: *Provided*, That no jurisdiction shall be exercised by the Secretary of the Interior over that portion of such lands and the improvements thereon which are now utilized by the Department of the Army directly or indirectly until such time as it is determined by the Secretary of the Army that utilization of such portions of such lands and the improvements thereon directly or indirectly by the Department of the Army is no longer required: *Provided further*, That, subsequent to the determination referred to in the preceding proviso, the lands and improvements mentioned therein shall be administered by the Secretary of the Interior, and any lease or other disposition thereof shall be made subject to such terms, conditions, restrictions, and reservations imposed by the Secretary of the Army as will, in the opinion of the Secretary of the Army, be adequate to assure the continued availability for war production purposes of such lands and improvements.

(Aug. 5, 1947, ch. 489, § 2, 61 Stat. 770; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 95–616, § 8, Nov. 8, 1978, 92 Stat. 3114.)

REFERENCES IN TEXT

Section 715s of this title, referred to in text, was in the original ''the Act of June 15, 1935, as amended (49 Stat. 383; 16 U.S.C. 715s)''.

AMENDMENTS

1978—Pub. L. 95–616 substituted in second sentence ''terms and conditions as the Secretary of the Interior shall prescribe'' for ''terms and conditions as are consistent with the general purposes of section 2 of the Surplus Property Act of 1944, as amended, and with the purposes of section 666f of this title and this section'' and made moneys received or collected in connection with the leases to be subject to section 715s of this title.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

§ 667. Game management supply depots; appropriations

Appropriations made for the administration, protection, maintenance, control, improvements, and development of wildlife sanctuaries, reservations, and refuges under the control of the Secretary of the Interior shall be available for the purchase, transportation, and handling of supplies and materials for distribution at cost from game management supply depots maintained by the Department of the Interior to projects specially provided for, and transfers between the appropriations for said purposes are authorized in order that the cost of supplies and materials, and transportation and handling thereof, drawn from central warehouses so maintained may be charged to the particular project benefited; and such supplies and materials as remain in said depots at the end of any fiscal year shall be continuously available for issuance during subsequent fiscal years and to be charged for by such transfers of funds between said appropriations for the fiscal year then current without decreasing in any way the appro-

priations made for that fiscal year: *Provided*, That supplies and materials shall not be purchased solely for the purpose of increasing the value of storehouse stock beyond reasonable requirements for any current fiscal year.

(June 24, 1936, ch. 764, 49 Stat. 1913; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

CODIFICATION

Former first sentence provided for establishment of a game management supply depot and laboratory at Pocatello, Idaho.

TRANSFER OF FUNCTIONS

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

§ 667a. Omitted

CODIFICATION

Section, act June 8, 1940, ch. 295, §§ 1–4, 54 Stat. 261, authorized compacts or agreements between or among the States bordering on the Atlantic Ocean with respect to fishing in the territorial waters and bays and inlets of the Atlantic Ocean on which such States border.

Act May 4, 1942, ch. 283, §§ 1–4, 56 Stat. 267, granted the consent and approval of Congress to an interstate compact relating to the better utilization of the fisheries (marine, shell, and anadromous) of the Atlantic seaboard and creating the Atlantic States Marine Fisheries Commission.

Act Aug. 19, 1950, ch. 763, §§ 1–4, 64 Stat. 467, granted the consent and approval of Congress to an amendment to the Atlantic States Marine Fisheries Compact and repealed limitation on the life of such compact.

§ 667b. Transfer of certain real property for wildlife conservation purposes; reservation of rights

Upon request, real property which is under the jurisdiction or control of a Federal agency and no longer required by such agency, (1) can be utilized for wildlife conservation purposes by the agency of the State exercising administration over the wildlife resources of the State wherein the real property lies or by the Secretary of the Interior; and (2) is valuable for use for any such purpose, and which, in the determination of the Administrator of General Services, is available for such use may, notwithstanding any other provisions of law, be transferred without reimbursement or transfer of funds (with or without improvements as determined by said Administrator) by the Federal agency having jurisdiction or control of the property to (a) such State agency if the management thereof for the conservation of wildlife relates to other than migratory birds, or (b) to the Secretary of the Interior if the real property has particular value in carrying out the national migratory bird management program. Any such transfer to other than the United States shall be subject to the reservation by the United States of all oil, gas, and mineral rights, and to the condition that the property shall continue to be used for wildlife conservation or other of the above-stated purposes and in the event it is no longer used for such purposes or in the event it is needed for national defense purposes title thereto shall revert to the United States.

(May 19, 1948, ch. 310, § 1, 62 Stat. 240; June 30, 1949, ch. 288, title I, § 105, 63 Stat. 381; Pub. L. 92–432, Sept. 26, 1972, 86 Stat. 723.)

AMENDMENTS

1972—Cl. (2). Pub. L. 92–432 struck out ''chiefly'' before ''valuable for use''.

TRANSFER OF FUNCTIONS

Functions, records, property, etc., of War Assets Administration transferred to General Services Administration, functions of War Assets Administrator transferred to Administrator of General Services, and War Assets Administration and office of War Assets Administrator abolished by section 105 of act June 30, 1949. Transfer of functions effective July 1, 1949, see section 605, formerly § 505, of act June 30, 1949, ch. 288, 63 Stat. 403; renumbered by act Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583.

§ 667c. Publication of designating order

Whenever any real property is transferred pursuant to sections 667b to 667d of this title, the Administrator of General Services shall make and have published in the Federal Register an appropriate order, which may be revised from time to time in like manner, designating for which of the purposes specified in section 667b of this title the property so transferred shall be used.

(May 19, 1948, ch. 310, § 2, 62 Stat. 241; June 30, 1949, ch. 288, title I, § 105, 63 Stat. 381.)

TRANSFER OF FUNCTIONS

Functions, records, property, etc., of War Assets Administration transferred to General Services Administration, functions of War Assets Administrator transferred to Administrator of General Services, and War Assets Administration and office of War Assets Administrator abolished by section 105 of act June 30, 1949. Transfer of functions effective July 1, 1949, see section 605, formerly § 505, of act June 30, 1949, ch. 288, 63 Stat. 403; renumbered by act Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583.

§ 667d. Reports to Congress

A statement of the acreage and value of such property as may have been transferred pursuant to sections 667b to 667d of this title during the preceding fiscal year shall be annually prepared by the Administrator of General Services.

(May 19, 1948, ch. 310, § 3, 62 Stat. 241; June 30, 1949, ch. 288, title I, § 105, 63 Stat. 381; Pub. L. 104–66, title II, § 2091(b), Dec. 21, 1995, 109 Stat. 730.)

AMENDMENTS

1995—Pub. L. 104–66 struck out before period at end ''and shall be included in the annual budget transmitted to the Congress''.

TRANSFER OF FUNCTIONS

Functions, records, property, etc., of War Assets Administration transferred to General Services Administration, functions of War Assets Administrator transferred to Administrator of General Services, and War Assets Administration and office of War Assets Administrator abolished by section 105 of act June 30, 1949. Transfer of functions effective July 1, 1949, see section 605, formerly § 505, of act June 30, 1949, ch. 288, 63 Stat. 403; renumbered by act Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583.

§ 667e. Repealed. Pub. L. 97–79, § 9(b)(2), Nov. 16, 1981, 95 Stat. 1079

Section, act May 25, 1900, ch. 553, § 5, 31 Stat. 188, provided that the dead bodies of game animals or game or song birds be subject to the laws of the State into which they are transported. See section 3378(a) of this title.

SUBCHAPTER II—PROTECTION OF BALD AND GOLDEN EAGLES

§ 668. Bald and golden eagles

(a) Prohibited acts; criminal penalties

Whoever, within the United States or any place subject to the jurisdiction thereof, without being permitted to do so as provided in this subchapter, shall knowingly, or with wanton disregard for the consequences of his act take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner any bald eagle commonly known as the American eagle or any golden eagle, alive or dead, or any part, nest, or egg thereof of the foregoing eagles, or whoever violates any permit or regulation issued pursuant to this subchapter, shall be fined not more than $5,000 or imprisoned not more than one year or both: *Provided*, That in the case of a second or subsequent conviction for a violation of this section committed after October 23, 1972, such person shall be fined not more than $10,000 or imprisoned not more than two years, or both: *Provided further*, That the commission of each taking or other act prohibited by this section with respect to a bald or golden eagle shall constitute a separate violation of this section: *Provided further*, That one-half of any such fine, but not to exceed $2,500, shall be paid to the person or persons giving information which leads to conviction: *Provided further*, That nothing herein shall be construed to prohibit possession or transportation of any bald eagle, alive or dead, or any part, nest, or egg thereof, lawfully taken prior to June 8, 1940, and that nothing herein shall be construed to prohibit possession or transportation of any golden eagle, alive or dead, or any part, nest, or egg thereof, lawfully taken prior to the addition to this subchapter of the provisions relating to preservation of the golden eagle.

(b) Civil penalties

Whoever, within the United States or any place subject to the jurisdiction thereof, without being permitted to do so as provided in this subchapter, shall take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner, any bald eagle, commonly known as the American eagle, or any golden eagle, alive or dead, or any part, nest, or egg thereof of the foregoing eagles, or whoever violates any permit or regulation issued pursuant to this subchapter, may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. Each violation shall be a separate offense. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. In determining the amount of the penalty, the gravity of the violation, and the demonstrated good faith of the person charged shall be considered by the Secretary. For good cause shown, the Secretary may remit or mitigate any such penalty. Upon any failure to pay the penalty assessed under this section, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found or resides or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In hearing any such action, the court must sustain the Secretary's action if supported by substantial evidence.

(c) Cancellation of grazing agreements

The head of any Federal agency who has issued a lease, license, permit, or other agreement authorizing the grazing of domestic livestock on Federal lands to any person who is convicted of a violation of this subchapter or of any permit or regulation issued hereunder may immediately cancel each such lease, license, permit, or other agreement. The United States shall not be liable for the payment of any compensation, reimbursement, or damages in connection with the cancellation of any lease, license, permit, or other agreement pursuant to this section.

(June 8, 1940, ch. 278, § 1, 54 Stat. 250; Pub. L. 86–70, § 14, June 25, 1959, 73 Stat. 143; Pub. L. 87–884, Oct. 24, 1962, 76 Stat. 1246; Pub. L. 92–535, § 1, Oct. 23, 1972, 86 Stat. 1064.)

REFERENCES IN TEXT

Prior to the addition to this subchapter of the provisions relating to preservation of the golden eagle, referred to in subsec. (a), means prior to Oct. 24, 1962, the date such provisions were enacted by Pub. L. 87–884 as an amendment of this section and section 668a of this title.

AMENDMENTS

1972—Pub. L. 92–535 designated existing provisions as subsec. (a), substituted ''shall knowingly, or with wanton disregard for the consequences of his act take'' for ''shall take'', increased fine and imprisonment terms from $500 or six months to $5,000 or one year, and inserted provisions that a second conviction carry a penalty of $10,000 fine or imprisonment of not more than two years, that each taking constitute a separate offense, and that informers be rewarded one-half of the fine not exceeding $2,500, and added subsecs. (b) and (c).

1962—Pub. L. 87–884 extended prohibitions against the enumerated acts to the golden eagle and changed proviso by substituting ''bald eagle'', ''June 8, 1940'' and ''and that nothing in said sections shall be construed to prohibit possession or transportation of any golden eagle, alive or dead, or any part, nest, or egg thereof, lawfully taken prior to the addition to said sections of the provisions relating to preservation of the golden eagle'' for ''such eagle,'' ''the effective date of said sections'' and ''but the proof of such taking shall lie upon the accused in any prosecution under said sections'', respectively.

1959—Pub. L. 86–70 struck out ''except the Territory of Alaska,'' after ''subject to the jurisdiction thereof,''.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with this subchapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until

first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

LEGISLATIVE INTENT

Enacting clause of act June 8, 1940, provided:

''Whereas the Continental Congress in 1782 adopted the bald eagle as the national symbol; and

''Whereas the bald eagle thus became the symbolic representation of a new nation under a new government in a new world; and

''Whereas by that act of Congress and by tradition and custom during the life of this Nation, the bald eagle is no longer a mere bird of biological interest but a symbol of the American ideals of freedom; and

''Whereas the bald eagle is now threatened with extinction: Therefore

''Be it enacted * * *'', etc.

§ 668a. Taking and using of the bald and golden eagle for scientific, exhibition, and religious purposes

Whenever, after investigation, the Secretary of the Interior shall determine that it is compatible with the preservation of the bald eagle or the golden eagle to permit the taking, possession, and transportation of specimens thereof for the scientific or exhibition purposes of public museums, scientific societies, and zoological parks, or for the religious purposes of Indian tribes, or that it is necessary to permit the taking of such eagles for the protection of wildlife or of agricultural or other interests in any particular locality, he may authorize the taking of such eagles pursuant to regulations which he is hereby authorized to prescribe: *Provided*, That on request of the Governor of any State, the Secretary of the Interior shall authorize the taking of golden eagles for the purpose of seasonally protecting domesticated flocks and herds in such State, in accordance with regulations established under the provisions of this section, in such part or parts of such State and for such periods as the Secretary determines to be necessary to protect such interests: *Provided further*, That bald eagles may not be taken for any purpose unless, prior to such taking, a permit to do so is procured from the Secretary of the Interior: *Provided further*, That the Secretary of the Interior, pursuant to such regulations as he may prescribe, may permit the taking, possession, and transportation of golden eagles for the purposes of falconry, except that only golden eagles which would be taken because of depredations on livestock or wildlife may be taken for purposes of falconry: *Provided further*, That the Secretary of the Interior, pursuant to such regulations as he may prescribe, may permit the taking of golden eagle nests which interfere with resource development or recovery operations.

(June 8, 1940, ch. 278, § 2, 54 Stat. 251; Pub. L. 87–884, Oct. 24, 1962, 76 Stat. 1246; Pub. L. 92–535, § 2, Oct. 23, 1972, 86 Stat. 1065; Pub. L. 95–616, § 9, Nov. 8, 1979, 92 Stat. 3114.)

AMENDMENTS

1978—Pub. L. 95–616 authorized taking of golden eagle nests which interfere with resource development or recovery operations.

1972—Pub. L. 92–535 inserted proviso that the Secretary of the Interior may permit the taking, possession, and transportation of golden eagles for the purposes of falconry with exception that only golden eagles that cause depredations on livestock and wildlife may be taken for falconry.

1962—Pub. L. 87–884 extended provisions of section to the golden eagle, permitted the taking of specimens for the religious purposes of Indian tribes and authorized the taking of golden eagles for purpose of seasonally protecting domesticated flocks and herds.

POLICY CONCERNING DISTRIBUTION OF EAGLE FEATHERS FOR NATIVE AMERICAN RELIGIOUS PURPOSES

Memorandum of President of the United States, Apr. 29, 1994, 59 F.R. 22953, provided:

Memorandum for the Heads of Executive Departments and Agencies

Eagle feathers hold a sacred place in Native American culture and religious practices. Because of the feathers' significance to Native American heritage and consistent with due respect for the government-to-government relationship between the Federal and Native American tribal governments, this Administration has undertaken policy and procedural changes to facilitate the collection and distribution of scarce eagle bodies and parts for this purpose. This memorandum affirms and formalizes executive branch policy to ensure that progress begun on this important matter continues across the executive branch.

Today, as part of an historic meeting with all federally recognized tribal governments, I am directing executive departments and agencies (hereafter collectively ''agency'' or ''agencies'') to work cooperatively with tribal governments and to reexamine broadly their practices and procedures to seek opportunities to accommodate Native American religious practices to the fullest extent under the law.

As part of these efforts, agencies shall take steps to improve their collection and transfer of eagle carcasses and eagle body parts (''eagles'') for Native American religious purposes. The success of this initiative requires the participation, and is therefore the responsibility, of all Federal land managing agencies, not just those within the Department of the Interior. I therefore direct each agency responsible for managing Federal lands to diligently and expeditiously recover salvageable eagles found on lands under their jurisdiction and ensure that the eagles are promptly shipped to the National Eagle Repository (''Repository''). To assist agencies in this expanded effort, the Secretary of the Interior shall issue guidelines to all relevant agencies for the proper shipment of eagles to the Repository. After receiving these guidelines, agencies shall immediately adopt policies, practices, and procedures necessary in accordance with these guidelines to recover and transfer eagles to the Repository promptly.

I support and encourage the initial steps taken by the Department of the Interior to improve the distribution of eagles for Native American religious purposes. In particular, the Department of the Interior shall continue to adopt policies and procedures and take those actions necessary to:

(a) ensure the priority of distribution of eagles, upon permit application, first for traditional Native American religious purposes, to the extent permitted by law, and then to other uses;

(b) simplify the eagle permit application process quickly and to the greatest extent possible to help achieve the objectives of this memorandum;

(c) minimize the delay and ensure respect and dignity in the process of distributing eagles for Native American religious purposes to the greatest extent possible;

(d) expand efforts to involve Native American tribes, organizations, and individuals in the distribution process, both at the Repository and on tribal lands, consistent with applicable laws;

(e) review means to ensure that adequate refrigerated storage space is available to process the eagles; and

(f) continue efforts to improve the Repository's ability to facilitate the objectives of this memorandum.

The Department of the Interior shall be responsible for coordinating any interagency efforts to address continuing executive branch actions necessary to achieve the objectives of this memorandum.

We must continue to be committed to greater intergovernmental communication and cooperation. In addition to working more closely with tribal governments, we must enlist the assistance of, and cooperate with, State and local governments to achieve the objectives of this memorandum. I therefore request that the Department of the Interior work with State fish and game agencies and other relevant State and local authorities to facilitate the objectives of this memorandum.

With commitment and cooperation by all of the agencies in the executive branch and with tribal governments, I am confident that we will be able to accomplish meaningful progress in the distribution of eagles for Native American religious purposes.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§ 668b. Enforcement provisions

(a) Arrest; search; issuance and execution of warrants and process

Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of this subchapter may, without warrant, arrest any person committing in his presence or view a violation of this subchapter or of any permit or regulations issued hereunder and take such person immediately for examination or trial before an officer or court of competent jurisdiction; may execute any warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this subchapter; and may, with or without a warrant, as authorized by law, search any place. The Secretary of the Interior is authorized to enter into cooperative agreements with State fish and wildlife agencies or other appropriate State authorities to facilitate enforcement of this subchapter, and by said agreements to delegate such enforcement authority to State law enforcement personnel as he deems appropriate for effective enforcement of this subchapter. Any judge of any court established under the laws of the United States, and any United States magistrate judge may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

(b) Forfeiture

All bald or golden eagles, or parts, nests, or eggs thereof, taken, possessed, sold, purchased, bartered, offered for sale, purchase, or barter, transported, exported, or imported contrary to the provisions of this subchapter, or of any permit or regulation issued hereunder, and all guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used to aid in the taking, possessing, selling, purchasing, bartering, offering for sale, purchase, or barter, transporting, exporting, or importing of any bird, or part, nest, or egg thereof, in violation of this subchapter or of any permit or regulation issued hereunder shall be subject to forfeiture to the United States.

(c) Customs laws applied

All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subchapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this subchapter: *Provided*, That all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department shall, for the purposes of this subchapter, be exercised or performed by the Secretary of the Interior or by such persons as he may designate.

(June 8, 1940, ch. 278, § 3, 54 Stat. 251; Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 92–535, § 3, Oct. 23, 1972, 86 Stat. 1065; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

AMENDMENTS

1972—Pub. L. 92–535 substituted provisions relating to enforcement of this subchapter including arrest, without warrant, issuance and execution of warrants and process, search, forfeiture, and applicability of certain customs laws, for provisions incorporating provisions of section 706 in haec verba.

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' in subsec. (a) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''United States magistrate'' substituted for ''United States commissioner'' in subsec. (a) pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with this subchapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 668c. Definitions

As used in this subchapter ''whoever'' includes also associations, partnerships, and corporations; ''take'' includes also pursue, shoot, shoot

at, poison, wound, kill, capture, trap, collect, molest or disturb; ''transport'' includes also ship, convey, carry, or transport by any means whatever, and deliver or receive or cause to be delivered or received for such shipment, conveyance, carriage, or transportation.

(June 8, 1940, ch. 278, §4, 54 Stat. 251; Pub. L. 92–535, §4, Oct. 23, 1972, 86 Stat. 1065.)

AMENDMENTS

1972—Pub. L. 92–535 substituted ''poison, wound, kill, capture, trap, collect, molest'' for ''wound, kill, capture, trap, collect, or otherwise willfully molest''.

§ 668d. Availability of appropriations for Migratory Bird Treaty Act

Moneys now or hereafter available to the Secretary of the Interior for the administration and enforcement of the Migratory Bird Treaty Act of July 3, 1918 [16 U.S.C. 703 et seq.], shall be equally available for the administration and enforcement of this subchapter.

(June 8, 1940, ch. 278, §5, 54 Stat. 251.)

REFERENCES IN TEXT

The Migratory Bird Treaty Act, referred to in text, is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

SUBCHAPTER III—ENDANGERED SPECIES OF FISH AND WILDLIFE

§§ 668aa to 668cc–6. Repealed. Pub. L. 93–205, § 14, Dec. 28, 1973, 87 Stat. 903

The provisions of sections 668aa to 668cc–6, which, pursuant to section 12(d) of Pub. L. 91–135, Dec. 5, 1969, 83 Stat. 283, were known as the ''Endangered Species Conservation Act of 1969'', are covered by section 1531 et seq. of this title.

Section 668aa, Pub. L. 89–669, §1, Oct. 15, 1966, 80 Stat. 926; Pub. L. 91–135, §12(a), (e), Dec. 5, 1969, 83 Stat. 282, 283, set out the Congressional findings, declaration of policy, and statement of purposes in seeking the protection of endangered species of fish and wildlife.

Section 668bb, Pub. L. 89–669, §2, Oct. 15, 1966, 80 Stat. 926; Pub. L. 91–135, §12(b), (c), Dec. 5, 1969, 83 Stat. 282, set out the powers and duties of the Secretary of the Interior in carrying out the mandate of the Endangered Species Conservation Act of 1969.

Section 668cc, Pub. L. 89–669, §3, Oct. 15, 1966, 80 Stat. 927, covered the Secretary's duty to cooperate with the States, area administration, management agreements, and disposition of revenues.

Section 668cc–1, Pub. L. 91–135, §1, Dec. 5, 1969, 83 Stat. 275, defined ''Secretary'', ''fish or wildlife'', ''United States'', and ''person''.

Section 668cc–2, Pub. L. 91–135, §2, Dec. 5, 1969, 83 Stat. 275, covered importation of endangered species and set out civil and criminal penalties by reference to provisions of section 668cc–4 of this title.

Section 668cc–3, Pub. L. 91–135, §3, Dec. 5, 1969, 83 Stat. 275, provided for determination by the Secretary of the species threatened with extinction, methods to be used and factors determinative of Secretary's determination, and rule making procedures to be used.

Section 668cc–4, Pub. L. 91–135, §4, Dec. 5, 1969, 83 Stat. 276, set out penalties for violation of sections 668cc–2 and 668cc–3 of this title and provisions for their enforcement.

Section 668cc–5, Pub. L. 91–135, §5, Dec. 5, 1969, 83 Stat. 278, covered international agreements for fish and wildlife preservation.

Section 668cc–6, Pub. L. 91–135, §6, Dec. 5, 1969, 83 Stat. 278, called for coordination of administration of provisions relating to endangered species of fish and wildlife with animal quarantine and tariff laws, and provided for non-impairment of functions of Secretaries of Agriculture and Treasury under agriculture and tariff laws, including imports.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as an Effective Date note under section 1531 of this title.

§ 668dd. National Wildlife Refuge System

(a) Designation; administration; continuance of resources-management-programs for refuge lands in Alaska; disposal of acquired lands; proceeds

(1) For the purpose of consolidating the authorities relating to the various categories of areas that are administered by the Secretary for the conservation of fish and wildlife, including species that are threatened with extinction, all lands, waters, and interests therein administered by the Secretary as wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, or waterfowl production areas are hereby designated as the ''National Wildlife Refuge System'' (referred to herein as the ''System''), which shall be subject to the provisions of this section, and shall be administered by the Secretary through the United States Fish and Wildlife Service. With respect to refuge lands in the State of Alaska, those programs relating to the management of resources for which any other agency of the Federal Government exercises administrative responsibility through cooperative agreement shall remain in effect, subject to the direct supervision of the United States Fish and Wildlife Service, as long as such agency agrees to exercise such responsibility.

(2) The mission of the System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.

(3) With respect to the System, it is the policy of the United States that—

(A) each refuge shall be managed to fulfill the mission of the System, as well as the specific purposes for which that refuge was established;

(B) compatible wildlife-dependent recreation is a legitimate and appropriate general public use of the System, directly related to the mission of the System and the purposes of many refuges, and which generally fosters refuge management and through which the American public can develop an appreciation for fish and wildlife;

(C) compatible wildlife-dependent recreational uses are the priority general public uses of the System and shall receive priority consideration in refuge planning and management; and

(D) when the Secretary determines that a proposed wildlife-dependent recreational use is

a compatible use within a refuge, that activity should be facilitated, subject to such restrictions or regulations as may be necessary, reasonable, and appropriate.

(4) In administering the System, the Secretary shall—

(A) provide for the conservation of fish, wildlife, and plants, and their habitats within the System;

(B) ensure that the biological integrity, diversity, and environmental health of the System are maintained for the benefit of present and future generations of Americans;

(C) plan and direct the continued growth of the System in a manner that is best designed to accomplish the mission of the System, to contribute to the conservation of the ecosystems of the United States, to complement efforts of States and other Federal agencies to conserve fish and wildlife and their habitats, and to increase support for the System and participation from conservation partners and the public;

(D) ensure that the mission of the System described in paragraph (2) and the purposes of each refuge are carried out, except that if a conflict exists between the purposes of a refuge and the mission of the System, the conflict shall be resolved in a manner that first protects the purposes of the refuge, and, to the extent practicable, that also achieves the mission of the System;

(E) ensure effective coordination, interaction, and cooperation with owners of land adjoining refuges and the fish and wildlife agency of the States in which the units of the System are located;

(F) assist in the maintenance of adequate water quantity and water quality to fulfill the mission of the System and the purposes of each refuge;

(G) acquire, under State law, water rights that are needed for refuge purposes;

(H) recognize compatible wildlife-dependent recreational uses as the priority general public uses of the System through which the American public can develop an appreciation for fish and wildlife;

(I) ensure that opportunities are provided within the System for compatible wildlife-dependent recreational uses;

(J) ensure that priority general public uses of the System receive enhanced consideration over other general public uses in planning and management within the System;

(K) provide increased opportunities for families to experience compatible wildlife-dependent recreation, particularly opportunities for parents and their children to safely engage in traditional outdoor activities, such as fishing and hunting;

(L) continue, consistent with existing laws and interagency agreements, authorized or permitted uses of units of the System by other Federal agencies, including those necessary to facilitate military preparedness;

(M) ensure timely and effective cooperation and collaboration with Federal agencies and State fish and wildlife agencies during the course of acquiring and managing refuges; and

(N) monitor the status and trends of fish, wildlife, and plants in each refuge.

(5) No acquired lands which are or become a part of the System may be transferred or otherwise disposed of under any provision of law (except by exchange pursuant to subsection (b)(3) of this section) unless—

(A) the Secretary determines with the approval of the Migratory Bird Conservation Commission that such lands are no longer needed for the purposes for which the System was established; and

(B) such lands are transferred or otherwise disposed of for an amount not less than—

(i) the acquisition costs of such lands, in the case of lands of the System which were purchased by the United States with funds from the migratory bird conservation fund, or fair market value, whichever is greater; or

(ii) the fair market value of such lands (as determined by the Secretary as of the date of the transfer or disposal), in the case of lands of the System which were donated to the System.

The Secretary shall pay into the migratory bird conservation fund the aggregate amount of the proceeds of any transfer or disposal referred to in the preceding sentence.

(6) Each area which is included within the System on January 1, 1975, or thereafter, and which was or is—

(A) designated as an area within such System by law, Executive order, or secretarial order; or

(B) so included by public land withdrawal, donation, purchase, exchange, or pursuant to a cooperative agreement with any State or local government, any Federal department or agency, or any other governmental entity,

shall continue to be a part of the System until otherwise specified by Act of Congress, except that nothing in this paragraph shall be construed as precluding—

(i) the transfer or disposal of acquired lands within any such area pursuant to paragraph (5) of this subsection;

(ii) the exchange of lands within any such area pursuant to subsection (b)(3) of this section; or

(iii) the disposal of any lands within any such area pursuant to the terms of any cooperative agreement referred to in subparagraph (B) of this paragraph.

(b) Administration; public accommodations contracts; acceptance and use of funds; exchange of properties; cash equalization payments

In administering the System, the Secretary is authorized to take the following actions:

(1) Enter into contracts with any person or public or private agency through negotiation for the provision of public accommodations when, and in such locations, and to the extent that the Secretary determines will not be inconsistent with the primary purpose for which the affected area was established.

(2) Accept donations of funds and to use such funds to acquire or manage lands or interests therein.

(3) Acquire lands or interests therein by exchange (A) for acquired lands or public lands,

or for interests in acquired or public lands, under his jurisdiction which he finds to be suitable for disposition, or (B) for the right to remove, in accordance with such terms and conditions as he may prescribe, products from the acquired or public lands within the System. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(4) Subject to standards established by and the overall management oversight of the Director, and consistent with standards established by this Act, to enter into cooperative agreements with State fish and wildlife agencies for the management of programs on a refuge.

(5) Issue regulations to carry out this Act.

(c) Prohibited and permitted activities; application of mining and mineral leasing laws, hunting or fishing regulations, and State laws or regulations

No person shall disturb, injure, cut, burn, remove, destroy, or possess any real or personal property of the United States, including natural growth, in any area of the System; or take or possess any fish, bird, mammal, or other wild vertebrate or invertebrate animals or part or nest or egg thereof within any such area; or enter, use, or otherwise occupy any such area for any purpose; unless such activities are performed by persons authorized to manage such area, or unless such activities are permitted either under subsection (d) of this section or by express provision of the law, proclamation, Executive order, or public land order establishing the area, or amendment thereof: *Provided*, That the United States mining and mineral leasing laws shall continue to apply to any lands within the System to the same extent they apply prior to October 15, 1966, unless subsequently withdrawn under other authority of law. With the exception of endangered species and threatened species listed by the Secretary pursuant to section 1533 of this title in States wherein a cooperative agreement does not exist pursuant to section 1535(c) of this title, nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of resident fish and wildlife on lands not within the system. The regulations permitting hunting and fishing of resident fish and wildlife within the System shall be, to the extent practicable, consistent with State fish and wildlife laws and regulations.

(d) Use of areas; administration of migratory bird sanctuaries as game taking areas; rights of way, easements, and reservations; payment of fair market value

(1) The Secretary is authorized, under such regulations as he may prescribe, to—

(A) permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access whenever he determines that such uses are compatible with the major purposes for which such areas were established: *Provided*, That not to exceed 40 per centum at any one time of any area that has been, or hereafter may be acquired, reserved, or set apart as an inviolate sanctuary for migratory birds, under any law, proclamation, Executive order, or public land order may be administered by the Secretary as an area within which the taking of migratory game birds may be permitted under such regulations as he may prescribe unless the Secretary finds that the taking of any species of migratory game birds in more than 40 percent of such area would be beneficial to the species; and

(B) permit the use of, or grant easements in, over, across, upon, through, or under any areas within the System for purposes such as but not necessarily limited to, powerlines, telephone lines, canals, ditches, pipelines, and roads, including the construction, operation, and maintenance thereof, whenever he determines that such uses are compatible with the purposes for which these areas are established.

(2) Notwithstanding any other provision of law, the Secretary may not grant to any Federal, State, or local agency or to any private individual or organization any right-of-way, easement, or reservation in, over, across, through, or under any area within the system in connection with any use permitted by him under paragraph (1)(B) of this subsection unless the grantee pays to the Secretary, at the option of the Secretary, either (A) in lump sum the fair market value (determined by the Secretary as of the date of conveyance to the grantee) of the right-of-way, easement, or reservation; or (B) annually in advance the fair market rental value (determined by the Secretary) of the right-of-way, easement, or reservation. If any Federal, State, or local agency is exempted from such payment by any other provision of Federal law, such agency shall otherwise compensate the Secretary by any other means agreeable to the Secretary, including, but not limited to, making other land available or the loan of equipment or personnel; except that (A) any such compensation shall relate to, and be consistent with, the objectives of the National Wildlife Refuge System, and (B) the Secretary may waive such requirement for compensation if he finds such requirement impracticable or unnecessary. All sums received by the Secretary pursuant to this paragraph shall, after payment of any necessary expenses incurred by him in administering this paragraph, be deposited into the Migratory Bird Conservation Fund and shall be available to carry out the provisions for land acquisition of the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.) and the Migratory Bird Hunting Stamp Act (16 U.S.C. 718 et seq.).

(3)(A)(i) Except as provided in clause (iv), the Secretary shall not initiate or permit a new use of a refuge or expand, renew, or extend an existing use of a refuge, unless the Secretary has determined that the use is a compatible use and that the use is not inconsistent with public safety. The Secretary may make the determinations referred to in this paragraph for a refuge concurrently with development of a conservation plan under subsection (e) of this section.

(ii) On lands added to the System after March 25, 1996, the Secretary shall identify, prior to ac-

quisition, withdrawal, transfer, reclassification, or donation of any such lands, existing compatible wildlife-dependent recreational uses that the Secretary determines shall be permitted to continue on an interim basis pending completion of the comprehensive conservation plan for the refuge.

(iii) Wildlife-dependent recreational uses may be authorized on a refuge when they are compatible and not inconsistent with public safety. Except for consideration of consistency with State laws and regulations as provided for in subsection (m) of this section, no other determinations or findings are required to be made by the refuge official under this Act or the Refuge Recreation Act for wildlife-dependent recreation to occur.

(iv) Compatibility determinations in existence on October 9, 1997, shall remain in effect until and unless modified.

(B) Not later than 24 months after October 9, 1997, the Secretary shall issue final regulations establishing the process for determining under subparagraph (A) whether a use of a refuge is a compatible use. These regulations shall—

(i) designate the refuge official responsible for making initial compatibility determinations;

(ii) require an estimate of the timeframe, location, manner, and purpose of each use;

(iii) identify the effects of each use on refuge resources and purposes of each refuge;

(iv) require that compatibility determinations be made in writing;

(v) provide for the expedited consideration of uses that will likely have no detrimental effect on the fulfillment of the purposes of a refuge or the mission of the System;

(vi) provide for the elimination or modification of any use as expeditiously as practicable after a determination is made that the use is not a compatible use;

(vii) require, after an opportunity for public comment, reevaluation of each existing use, other than those uses specified in clause (viii), if conditions under which the use is permitted change significantly or if there is significant new information regarding the effects of the use, but not less frequently than once every 10 years, to ensure that the use remains a compatible use, except that, in the case of any use authorized for a period longer than 10 years (such as an electric utility right-of-way), the reevaluation required by this clause shall examine compliance with the terms and conditions of the authorization, not examine the authorization itself;

(viii) require, after an opportunity for public comment, reevaluation of each compatible wildlife-dependent recreational use when conditions under which the use is permitted change significantly or if there is significant new information regarding the effects of the use, but not less frequently than in conjunction with each preparation or revision of a conservation plan under subsection (e) of this section or at least every 15 years, whichever is earlier; and

(ix) provide an opportunity for public review and comment on each evaluation of a use, unless an opportunity for public review and comment on the evaluation of the use has already been provided during the development or revision of a conservation plan for the refuge under subsection (e) of this section or has otherwise been provided during routine, periodic determinations of compatibility for wildlife-dependent recreational uses.

(4) The provisions of this Act relating to determinations of the compatibility of a use shall not apply to—

(A) overflights above a refuge; and

(B) activities authorized, funded, or conducted by a Federal agency (other than the United States Fish and Wildlife Service) which has primary jurisdiction over a refuge or a portion of a refuge, if the management of those activities is in accordance with a memorandum of understanding between the Secretary or the Director and the head of the Federal agency with primary jurisdiction over the refuge governing the use of the refuge.

(e) Refuge conservation planning program for non-Alaskan refuge lands

(1)(A) Except with respect to refuge lands in Alaska (which shall be governed by the refuge planning provisions of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.)), the Secretary shall—

(i) propose a comprehensive conservation plan for each refuge or related complex of refuges (referred to in this subsection as a ''planning unit'') in the System;

(ii) publish a notice of opportunity for public comment in the Federal Register on each proposed conservation plan;

(iii) issue a final conservation plan for each planning unit consistent with the provisions of this Act and, to the extent practicable, consistent with fish and wildlife conservation plans of the State in which the refuge is located; and

(iv) not less frequently than 15 years after the date of issuance of a conservation plan under clause (iii) and every 15 years thereafter, revise the conservation plan as may be necessary.

(B) The Secretary shall prepare a comprehensive conservation plan under this subsection for each refuge within 15 years after October 9, 1997.

(C) The Secretary shall manage each refuge or planning unit under plans in effect on October 9, 1997, to the extent such plans are consistent with this Act, until such plans are revised or superseded by new comprehensive conservation plans issued under this subsection.

(D) Uses or activities consistent with this Act may occur on any refuge or planning unit before existing plans are revised or new comprehensive conservation plans are issued under this subsection.

(E) Upon completion of a comprehensive conservation plan under this subsection for a refuge or planning unit, the Secretary shall manage the refuge or planning unit in a manner consistent with the plan and shall revise the plan at any time if the Secretary determines that conditions that affect the refuge or planning unit have changed significantly.

(2) In developing each comprehensive conservation plan under this subsection for a plan-

ning unit, the Secretary, acting through the Director, shall identify and describe—

(A) the purposes of each refuge comprising the planning unit;

(B) the distribution, migration patterns, and abundance of fish, wildlife, and plant populations and related habitats within the planning unit;

(C) the archaeological and cultural values of the planning unit;

(D) such areas within the planning unit that are suitable for use as administrative sites or visitor facilities;

(E) significant problems that may adversely affect the populations and habitats of fish, wildlife, and plants within the planning unit and the actions necessary to correct or mitigate such problems; and

(F) opportunities for compatible wildlife-dependent recreational uses.

(3) In preparing each comprehensive conservation plan under this subsection, and any revision to such a plan, the Secretary, acting through the Director, shall, to the maximum extent practicable and consistent with this Act—

(A) consult with adjoining Federal, State, local, and private landowners and affected State conservation agencies; and

(B) coordinate the development of the conservation plan or revision with relevant State conservation plans for fish and wildlife and their habitats.

(4)(A) In accordance with subparagraph (B), the Secretary shall develop and implement a process to ensure an opportunity for active public involvement in the preparation and revision of comprehensive conservation plans under this subsection. At a minimum, the Secretary shall require that publication of any final plan shall include a summary of the comments made by States, owners of adjacent or potentially affected land, local governments, and any other affected persons, and a statement of the disposition of concerns expressed in those comments.

(B) Prior to the adoption of each comprehensive conservation plan under this subsection, the Secretary shall issue public notice of the draft proposed plan, make copies of the plan available at the affected field and regional offices of the United States Fish and Wildlife Service, and provide opportunity for public comment.

(f) Penalties

(1) Knowing violations

Any person who knowingly violates or fails to comply with any of the provisions of this Act or any regulations issued thereunder shall be fined under title 18 or imprisoned for not more than 1 year, or both.

(2) Other violations

Any person who otherwise violates or fails to comply with any of the provisions of this Act (including a regulation issued under this Act) shall be fined under title 18 or imprisoned not more than 180 days, or both.

(g) Enforcement provision; arrests, searches, and seizures; custody of property; forfeitures; disposition

Any person authorized by the Secretary to enforce the provisions of this Act or any regulations issued thereunder, may, without a warrant, arrest any person violating this Act or regulations in his presence or view, and may execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this Act or regulations, and may with a search warrant search for and seize any property, fish, bird, mammal, or other wild vertebrate or invertebrate animals or part or nest or egg thereof, taken or possessed in violation of this Act or the regulations issued thereunder. Any property, fish, bird, mammal, or other wild vertebrate or invertebrate animals or part or egg thereof seized with or without a search warrant shall be held by such person or by a United States marshal, and upon conviction, shall be forfeited to the United States and disposed of by the Secretary, in accordance with law. The Director of the United States Fish and Wildlife Service is authorized to utilize by agreement, with or without reimbursement, the personnel and services of any other Federal or State agency for purposes of enhancing the enforcement of this Act.

(h) Regulations; continuation, modification, or rescission

Regulations applicable to areas of the System that are in effect on October 15, 1966, shall continue in effect until modified or rescinded.

(i) National conservation recreational area provisions; amendment, repeal, or modification

Nothing in this section shall be construed to amend, repeal, or otherwise modify the provision of the Act of September 28, 1962 (76 Stat. 653; 16 U.S.C. 460k—460k–4) which authorizes the Secretary to administer the areas within the System for public recreation. The provisions of this section relating to recreation shall be administered in accordance with the provisions of said sections.

(j) Exemption from State water laws

Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(k) Emergency power

Notwithstanding any other provision of this Act, the Secretary may temporarily suspend, allow, or initiate any activity in a refuge in the System if the Secretary determines it is necessary to protect the health and safety of the public or any fish or wildlife population.

***(l)* Hunting and fishing on lands and waters not within System**

Nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of fish and resident wildlife on lands or waters that are not within the System.

(m) State authority

Nothing in this Act shall be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations in any area within the System. Regulations permitting hunting or fishing of fish and resident wildlife within the Sys-

tem shall be, to the extent practicable, consistent with State fish and wildlife laws, regulations, and management plans.

(n) Water rights

(1) Nothing in this Act shall—

(A) create a reserved water right, express or implied, in the United States for any purpose;

(B) affect any water right in existence on October 9, 1997; or

(C) affect any Federal or State law in existence on October 9, 1997, regarding water quality or water quantity.

(2) Nothing in this Act shall diminish or affect the ability to join the United States in the adjudication of rights to the use of water pursuant to section 666 of title 43.

(*o*) Coordination with State agencies

Coordination with State fish and wildlife agency personnel or with personnel of other affected State agencies pursuant to this Act shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(Pub. L. 89–669, § 4, Oct. 15, 1966, 80 Stat. 927; Pub. L. 90–404, § 1, July 18, 1968, 82 Stat. 359; Pub. L. 93–205, § 13(a), Dec. 28, 1973, 87 Stat. 902; Pub. L. 93–509, § 2, Dec. 3, 1974, 88 Stat. 1603; Pub. L. 94–215, § 5, Feb. 17, 1976, 90 Stat. 190; Pub. L. 94–223, Feb. 27, 1976, 90 Stat. 199; Pub. L. 95–616, §§ 3(f), 6, Nov. 8, 1978, 92 Stat. 3111, 3114; Pub. L. 100–226, § 4, Dec. 31, 1987, 101 Stat. 1551; Pub. L. 100–653, title IX, § 904, Nov. 14, 1988, 102 Stat. 3834; Pub. L. 105–57, §§ 3(b)–8, Oct. 9, 1997, 111 Stat. 1254–1259; Pub. L. 105–312, title II, § 206, Oct. 30, 1998, 112 Stat. 2958.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 89–669, Oct. 15, 1966, 80 Stat. 927, which enacted sections 668aa to 668ee, amended sections 460k, 696, 696b, 715c, 715i to 715k, 718d, and repealed sections 715d–1, 715d–2, 715*l*, 715m of this title. For complete classification of this Act to the Code, see Tables.

The Migratory Bird Conservation Act, referred to in subsec. (d)(2), is act Feb. 18, 1929, ch. 257, 45 Stat. 1222, which is classified generally to subchapter III (§ 715 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 715 of this title and Tables.

The Migratory Bird Hunting Stamp Act, referred to in subsec. (d)(2), subsequently renamed the Migratory Bird Hunting and Conservation Stamp Act, is act Mar. 16, 1934, ch. 71, 48 Stat. 451, which is classified generally to subchapter IV (§ 718 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 718 of this title and Tables.

The Refuge Recreation Act and the Act of September 28, 1962, referred to in subsecs. (d)(3)(A)(iii) and (i), is Pub. L. 87–714, Sept. 28, 1962, 76 Stat. 653, which is classified generally to subchapter LXVIII (§ 460k et seq.) of chapter 1 of this title.

The Alaska National Interest Lands Conservation Act, referred to in subsec. (e)(1)(A), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (*o*), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is classified to the Appendix of Title 5, Government Organization and Employees.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–312, § 206(1), struck out ''knowingly'' after ''No person shall'' in first sentence.

Subsec. (f). Pub. L. 105–312, § 206(2), inserted subsec. heading, par. (1) designation and heading, and ''knowingly'' after ''Any person who'', and added par. (2).

1997—Subsec. (a)(1). Pub. L. 105–57, § 3(b), substituted ''Secretary'' for ''Secretary of the Interior'' before ''for the conservation of fish and wildlife''.

Subsec. (a)(2). Pub. L. 105–57, § 4(1), (3), added par. (2) and redesignated former par. (2) as (5).

Subsec. (a)(2)(A). Pub. L. 105–57, § 3(b), substituted ''Secretary'' for ''Secretary of the Interior'' before ''determines with the approval''.

Subsec. (a)(3). Pub. L. 105–57, §§ 4(1), 5(a), added par. (3) and redesignated former par. (3) as (6).

Subsec. (a)(4). Pub. L. 105–57, § 5(a), added par. (4).

Subsec. (a)(5). Pub. L. 105–57, § 4(1), redesignated par. (2) as (5).

Subsec. (a)(6). Pub. L. 105–57, § 4(1), redesignated par. (3) as (6).

Subsec. (a)(6)(i). Pub. L. 105–57, § 4(2), substituted ''paragraph (5)'' for ''paragraph (2)''.

Subsec. (b). Pub. L. 105–57, § 5(b)(1), substituted ''authorized to take the following actions:'' for ''authorized—'' in introductory provisions.

Subsec. (b)(1). Pub. L. 105–57, § 5(b)(2), substituted ''Enter'' for ''to enter''.

Subsec. (b)(2). Pub. L. 105–57, § 5(b)(3), substituted ''Accept'' for ''to accept'' and substituted a period for '', and'' at end.

Subsec. (b)(3). Pub. L. 105–57, § 5(b)(4), substituted ''Acquire'' for ''to acquire''.

Subsec. (b)(4), (5). Pub. L. 105–57, § 5(b)(5), added pars. (4) and (5).

Subsec. (c). Pub. L. 105–57, § 8(b), struck out at end ''The provisions of this Act shall not be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations in any area within the System.''

Subsec. (d)(2). Pub. L. 105–57, § 3(b), substituted ''Secretary'' for ''Secretary of the Interior'' before ''may not grant to any Federal'' and before ''pursuant to this paragraph''.

Subsec. (d)(3), (4). Pub. L. 105–57, § 6, added pars. (3) and (4).

Subsec. (e). Pub. L. 105–57, § 7(a), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 105–57, § 7(a)(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Pub. L. 105–57, § 3(b), substituted ''Secretary'' for ''Secretary of the Interior'' before ''to enforce the provisions''.

Subsec. (g). Pub. L. 105–57, § 7(a)(1), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 105–57, § 7(a)(1), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Pub. L. 105–57, § 3(b), substituted ''Secretary'' for ''Secretary of the Interior''.

Subsecs. (i), (j). Pub. L. 105–57, § 7(a)(1), redesignated subsecs. (h) and (i) as (i) and (j), respectively.

Subsecs. (k) to (*o*). Pub. L. 105–57, § 8(a), added subsecs. (k) to (*o*).

1988—Subsec. (e). Pub. L. 100–653 substituted ''thereunder shall be fined under title 18 or imprisoned for not more than 1 year, or both'' for ''thereunder shall be fined not more than $500 or be imprisoned not more than six months, or both''.

1987—Subsec. (f). Pub. L. 100–226 inserted at end ''The Director of the United States Fish and Wildlife Service is authorized to utilize by agreement, with or without reimbursement, the personnel and services of any other Federal or State agency for purposes of enhancing the enforcement of this Act.''

1978—Subsec. (d)(1)(A). Pub. L. 95–616, § 6, authorized the Secretary to find that the taking of any species of migratory birds in more than 40 percent of the area would be beneficial to the species.

Subsec. (f). Pub. L. 95–616, § 3(f), substituted ''disposed of by the Secretary, in accordance with law'' for ''disposed of by the court''.

1976—Subsec. (a). Pub. L. 94–223 designated existing first sentence as par. (1), provided for administration of

the System by the Secretary of the Interior through the United States Fish and Wildlife Service and inserted provision respecting continuance of programs relating to management of resources in refuge lands in Alaska, subject to direct supervision of the United States Fish and Wildlife Service; struck out second sentence providing that ''Nothing in this Act shall restrict the authority of the Secretary to modify or revoke public land withdrawals affecting lands in the System as presently constituted, or as it may be constituted, whenever he determines that such action is consistent with the public interest.''; designated existing third sentence as par. (2), redesignated as subpars. (A) and (B) former clauses (1) and (2), redesignated as subpar. (B)(i) and (ii) former cl. (2)(A) and (B), substituted in subpar. (A) ''with the approval of'' for ''after consultation with'', inserted in subpar. (B)(i) ''or fair market value, whichever is greater;'' and reenacted as second sentence of par. (2) former last sentence of subsec. (a); and added par. (3).

Subsec. (b)(3). Pub. L. 94–215 substituted designations ''(A)'' and ''(B)'' for ''(a)'' and ''(b)'', inserted in cl. (A) '', or for interests in acquired or public lands,'' before ''under his jurisdiction'' and substituted in cl. (B) ''he may prescribe'' for ''the Secretary may prescribe''.

1974—Subsec. (d). Pub. L. 93–509 designated existing provisions as par. (1)(A) and (B) and added par. (2).

1973—Subsec. (c). Pub. L. 93–205 inserted ''With the exception of endangered species and threatened species listed by the Secretary pursuant to section 1533 of this title in States wherein a cooperative agreement does not exist pursuant to section 1535(c) of this title'' before ''nothing in this Act shall be construed'' and struck out '', including endangered species thereof,'' before ''on lands not within the System'' in second sentence.

1968—Subsec. (a). Pub. L. 90–404 inserted provisions that no acquired lands which are or become a part of the National Wildlife Refuge System may be transferred or otherwise disposed of except under the specified conditions, and provisions that the Secretary pay into the migratory bird conservation fund the proceeds of any such transfer or disposal.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 3 of Pub. L. 93–509 provided that: ''Section 4 (d)(2) of the Act of October 15, 1966 (as added by this Act) [subsec. (d)(2) of this section], shall apply with respect to any right-of-way, easement, or reservation granted by the Secretary of the Interior on or after the date of the enactment of this Act [Dec. 3, 1974], including any right-of-way, easement, or reservation granted on or after such date in connection with any use permitted by him pursuant to section 4(d)(2) of the Act of October 15, 1966 [now subsec. (d)(1)(B) of this section] (as in effect before the date of the enactment of this Act).''

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as an Effective Date note under section 1531 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 2 of Pub. L. 90–404 provided that: ''The amendments made by the first section of this Act [amending subsec. (a) of this section] shall apply only with respect to transfers and disposals of land initiated and completed after the date of their enactment [July 18, 1968].''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–312, title II, §201, Oct. 30, 1998, 112 Stat. 2957, provided that: ''This title [amending this section, sections 721 and 722 of this title, and section 564w–1 of Title 25, Indians, enacting provisions set out as a note under section 722 of this title, and amending provisions listed in a table of National Wildlife Refuges set out under this section] may be cited as the 'National Wildlife Refuge System Improvement Act of 1998'.''

SHORT TITLE OF 1997 AMENDMENT

Section 1(a) of Pub. L. 105–57 provided that: ''This Act [amending this section and section 668ee of this title and enacting provisions set out as notes under this section] may be cited as the 'National Wildlife Refuge System Improvement Act of 1997'.''

SHORT TITLE OF 1974 AMENDMENT

Section 1 of Pub. L. 93–509 provided: ''That this Act [amending this section and section 715s of this title, and enacting provisions set out as notes under this section] may be cited as the 'National Wildlife Refuge System Administration Act Amendments of 1974'.''

SHORT TITLE

Section 12(f) of Pub. L. 91–135, Dec. 5, 1969, 83 Stat. 283, provided that: ''The provisions of sections 4 and 5 of the Act of October 15, 1966 (80 Stat. 929; 16 U.S.C. 668dd–668ee), as amended, shall hereinafter be cited as the 'National Wildlife Refuge System Administration Act of 1966'.''

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with approval to cross national wildlife refuges under sections 668dd and 668ee of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

NATIONAL WILDLIFE REFUGE SYSTEM CENTENNIAL

Pub. L. 106–408, title III, Nov. 1, 2000, 114 Stat. 1782, provided that:

''SEC. 301. SHORT TITLE.

''This title may be cited as the 'National Wildlife Refuge System Centennial Act'.

''SEC. 302. FINDINGS AND PURPOSES.

''(a) FINDINGS.—Congress finds that—

''(1) President Theodore Roosevelt began the National Wildlife Refuge System by establishing the first refuge at Pelican Island, Florida, on March 14, 1903;

''(2) the National Wildlife Refuge System is comprised of more than 93,000,000 acres of Federal land managed by the United States Fish and Wildlife Service in more than 532 individual refuges and thousands of waterfowl production areas located in all 50 States and the territories of the United States;

''(3) the System is the only network of Federal land dedicated singularly to wildlife conservation and where wildlife-dependent recreation and environmental education are priority public uses;

''(4) the System serves a vital role in the conservation of millions of migratory birds, dozens of endangered species and threatened species, some of the premier fisheries of the United States, marine mammals, and the habitats on which such species of fish and wildlife depend;

''(5) each year the System provides millions of Americans with opportunities to participate in wild-

life-dependent recreation, including hunting, fishing, and wildlife observation;

''(6)(A) public visitation to national wildlife refuges is growing, with more than 35,000,000 visitors annually; and

''(B) it is essential that visitor centers and public use facilities be properly constructed, operated, and maintained;

''(7) the National Wildlife Refuge System Volunteer and Community Partnership Enhancement Act of 1998 (16 U.S.C. 742f note; Public Law 105–242) [see Short Title of 1998 Amendments note under section 742a of this title], and the amendments made by that Act, significantly enhance the ability of the United States Fish and Wildlife Service to incorporate volunteers and partnerships in refuge management;

''(8) as of the date of the enactment of this Act [Nov. 1, 2000], the System has an unacceptable backlog of critical operation and maintenance needs; and

''(9) the occasion of the centennial of the System, in 2003, presents a historic opportunity to enhance natural resource stewardship and expand public enjoyment of the national wildlife refuges of the United States.

''(b) PURPOSES.—The purposes of this title are—

''(1) to establish a commission to promote awareness by the public of the National Wildlife Refuge System as the System celebrates its centennial in 2003;

''(2) to develop a long-term plan to meet the priority operation, maintenance, and construction needs of the System;

''(3) to require an annual report on the needs of the System prepared in the context of—

''(A) the budget submission of the Department of the Interior to the President; and

''(B) the President's budget request to Congress; and

''(4) to improve public use programs and facilities of the System to meet the increasing needs of the public for wildlife-dependent recreation in the 21st century.

''SEC. 303. NATIONAL WILDLIFE REFUGE SYSTEM CENTENNIAL COMMISSION.

''(a) ESTABLISHMENT.—There is established the National Wildlife Refuge System Centennial Commission (referred to in this title as the 'Commission').

''(b) MEMBERS.—

''(1) IN GENERAL.—The Commission shall be composed of—

''(A) the Director of the United States Fish and Wildlife Service;

''(B) up to 10 individuals appointed by the Secretary of the Interior;

''(C) the chairman and ranking minority member of the Committee on Resources [now Committee on Natural Resources] of the House of Representatives and of the Committee on Environment and Public Works of the Senate, who shall be nonvoting members; and

''(D) the congressional representatives of the Migratory Bird Conservation Commission, who shall be nonvoting members.

''(2) APPOINTMENTS.—

''(A) DEADLINE.—The members of the Commission shall be appointed not later than 90 days after the effective date of this title.

''(B) APPOINTMENTS BY THE SECRETARY OF THE INTERIOR.—

''(i) IN GENERAL.—The members of the Commission appointed by the Secretary of the Interior under paragraph (1)(B)—

''(I) shall not be officers or employees of the Federal Government; and

''(II) shall, in the judgment of the Secretary—

''(aa) represent the diverse beneficiaries of the System; and

''(bb) have outstanding knowledge or appreciation of wildlife, natural resource management, or wildlife-dependent recreation.

''(ii) REPRESENTATION OF VIEWS.—In making appointments under paragraph (1)(B), the Secretary of the Interior shall make every effort to ensure that the views of the hunting, fishing, and wildlife observation communities are represented on the Commission.

''(3) VACANCIES.—Any vacancy in the Commission—

''(A) shall not affect the power or duties of the Commission; and

''(B) shall be expeditiously filled in the same manner as the original appointment was made.

''(c) CHAIRPERSON.—The Secretary of the Interior shall appoint one of the members as the Chairperson of the Commission.

''(d) COMPENSATION.—The members of the Commission shall receive no compensation for their service on the Commission.

''(e) TRAVEL EXPENSES.—

''(1) LEGISLATIVE BRANCH MEMBERS.—The members of the Commission from the legislative branch of the Federal Government shall be allowed necessary travel expenses, as authorized by other law for official travel, while away from their homes or regular places of business in the performance of services for the Commission.

''(2) EXECUTIVE BRANCH MEMBERS.—The members of the Commission from the executive branch of the Federal Government shall be allowed necessary travel expenses in accordance with section 5702 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

''(3) OTHER MEMBERS AND STAFF.—The members of the Commission appointed by the Secretary of the Interior and staff of the Commission may be allowed necessary travel expenses as authorized by section 5702 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

''(f) DUTIES.—The Commission shall—

''(1) prepare, in cooperation with Federal, State, local, and nongovernmental partners, a plan to commemorate the centennial of the National Wildlife Refuge System beginning on March 14, 2003;

''(2) coordinate the activities of the partners under the plan; and

''(3) plan and host, in cooperation with the partners, a conference on the National Wildlife Refuge System, and assist in the activities of the conference.

''(g) STAFF.—Subject to the availability of appropriations, the Commission may employ such staff as are necessary to carry out the duties of the Commission.

''(h) DONATIONS.—

''(1) IN GENERAL.—The Commission may, in accordance with criteria established under paragraph (2), accept and use donations of money, personal property, or personal services.

''(2) CRITERIA.—The Commission shall establish written criteria to be used in determining whether the acceptance of gifts or donations under paragraph (1) would—

''(A) reflect unfavorably on the ability of the Commission or any employee of the Commission to carry out its responsibilities or official duties in a fair and objective manner; or

''(B) compromise the integrity or the appearance of the integrity of any person involved in the activities of the Commission.

''(i) ADMINISTRATIVE SUPPORT.—Upon the request of the Commission—

''(1) the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, may provide to the Commission such administrative support services as are necessary for the Commission to carry out the duties of the Commission under this title, including services relating to budgeting, accounting, financial reporting, personnel, and procurement; and

''(2) the head of any other appropriate Federal agency may provide to the Commission such advice

and assistance, with or without reimbursement, as are appropriate to assist the Commission in carrying out the duties of the Commission.

''(j) REPORTS.—

''(1) ANNUAL REPORTS.—Not later than 1 year after the effective date of this title, and annually thereafter, the Commission shall submit to Congress a report on the activities and plans of the Commission.

''(2) FINAL REPORT.—Not later than September 30, 2004, the Commission shall submit to the Committee on Resources [now Committee on Natural Resources] of the House of Representatives and the Committee on Environment and Public Works of the Senate a final report on the activities of the Commission, including an accounting of all funds received and expended by the Commission.

''(k) TERMINATION.—

''(1) IN GENERAL.—The Commission shall terminate 90 days after the date on which the Commission submits the final report under subsection (j).

''(2) DISPOSITION OF MATERIALS.—Upon termination of the Commission and after consultation with the Archivist of the United States and the Secretary of the Smithsonian Institution, the Secretary of the Interior may—

''(A)(i) deposit all books, manuscripts, miscellaneous printed matter, memorabilia, relics, and other similar materials of the Commission relating to the centennial of the National Wildlife Refuge System in Federal, State, or local libraries or museums; or

''(ii) otherwise dispose of such materials; and

''(B)(i) use other property acquired by the Commission for the purposes of the National Wildlife Refuge System; or

''(ii) treat such property as excess property.

''SEC. 304. LONG-TERM PLANNING AND ANNUAL REPORTING REQUIREMENTS REGARDING THE OPERATION AND MAINTENANCE BACKLOG.

''(a) UNIFIED LONG-TERM PLAN.—Not later than March 1, 2002, the Secretary of the Interior shall prepare and submit to Congress and the President a unified long-term plan to address priority operation, maintenance, and construction needs of the National Wildlife Refuge System, including—

''(1) priority staffing needs of the System; and

''(2) operation, maintenance, and construction needs as identified in—

''(A) the Refuge Operating Needs System;

''(B) the Maintenance Management System;

''(C) the 5-year deferred maintenance list;

''(D) the 5-year construction list;

''(E) the United States Fish and Wildlife Service report entitled 'Fulfilling the Promise of America's National Wildlife Refuge System'; and

''(F) individual refuge comprehensive conservation plans.

''(b) ANNUAL SUBMISSION.—Beginning with the submission to Congress of the budget for fiscal year 2003, the Secretary of the Interior shall prepare and submit to Congress, in the context of each annual budget submission, a report that contains—

''(1) an assessment of expenditures in the prior, current, and upcoming fiscal years to meet the operation and maintenance backlog as identified in the long-term plan under subsection (a); and

''(2) a specification of transition costs, in the prior, current, and upcoming fiscal years, as identified in the analysis of newly acquired refuge land prepared by the Department of the Interior, and a description of the method used to determine the priority status of the transition costs.

''SEC. 305. YEAR OF THE NATIONAL WILDLIFE REFUGE.

''(a) FINDING.—Congress finds that designation of the year 2003 as the 'Year of the National Wildlife Refuge' would promote the goal of increasing public appreciation of the importance of the National Wildlife Refuge System.

''(b) PROCLAMATION.—The President is requested to issue a proclamation calling on the people of the United States to conduct appropriate programs, ceremonies, and activities to accomplish the goal of such a year.

''SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out the activities of the Commission under this title—

''(1) $100,000 for fiscal year 2001; and

''(2) $250,000 for each of fiscal years 2002 through 2004.

''SEC. 307. EFFECTIVE DATE.

''This title takes effect on January 20, 2001.''

CONGRESSIONAL FINDINGS

Section 2 of Pub. L. 105–57 provided that: ''The Congress finds the following:

''(1) The National Wildlife Refuge System is comprised of over 92,000,000 acres of Federal lands that have been incorporated within 509 individual units located in all 50 States and the territories of the United States.

''(2) The System was created to conserve fish, wildlife, and plants and their habitats and this conservation mission has been facilitated by providing Americans opportunities to participate in compatible wildlife-dependent recreation, including fishing and hunting, on System lands and to better appreciate the value of and need for fish and wildlife conservation.

''(3) The System serves a pivotal role in the conservation of migratory birds, anadromous and interjurisdictional fish, marine mammals, endangered and threatened species, and the habitats on which these species depend.

''(4) The System assists in the fulfillment of important international treaty obligations of the United States with regard to fish, wildlife, and plants and their habitats.

''(5) The System includes lands purchased not only through the use of tax dollars but also through the proceeds from sales of Duck Stamps and national wildlife refuge entrance fees. It is a System that is financially supported by those benefiting from and utilizing it.

''(6) When managed in accordance with principles of sound fish and wildlife management and administration, fishing, hunting, wildlife observation, and environmental education in national wildlife refuges have been and are expected to continue to be generally compatible uses.

''(7) On March 25, 1996, the President issued Executive Order 12996 [set out below], which recognized 'compatible wildlife-dependent recreational uses involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation as priority public uses of the Refuge System'.

''(8) Executive Order 12996 is a positive step and serves as the foundation for the permanent statutory changes made by this Act [see Short Title of 1997 Amendment note above].''

STATUTORY CONSTRUCTION WITH RESPECT TO ALASKA

Section 9 of Pub. L. 105–57 provided that:

''(a) IN GENERAL.—Nothing in this Act [see Short Title of 1997 Amendment note above] is intended to affect—

''(1) the provisions for subsistence uses in Alaska set forth in the Alaska National Interest Lands Conservation Act (Public Law 96–487) [see Short Title note set out under section 3101 of this title], including those in titles III [enacting provisions listed in a table of National Wildlife Refuges set out below and provisions set out as a note under section 3145 of this title] and VIII [16 U.S.C. 3111 et seq.] of that Act;

''(2) the provisions of section 102 of the Alaska National Interest Lands Conservation Act [16 U.S.C. 3102], the jurisdiction over subsistence uses in Alas-

ka, or any assertion of subsistence uses in Alaska in the Federal courts; and

''(3) the manner in which section 810 of the Alaska National Interest Lands Conservation Act [16 U.S.C. 3120] is implemented in national wildlife refuges in Alaska.

''(b) CONFLICTS OF LAWS.—If any conflict arises between any provision of this Act and any provision of the Alaska National Interest Lands Conservation Act, then the provision in the Alaska National Interest Lands Conservation Act shall prevail.''

LAND TRANSFER AND CONVEYANCE, PEASE AIR FORCE BASE, NEW HAMPSHIRE

Pub. L. 102–154, title III, § 319, Nov. 13, 1991, 105 Stat. 1036, provided that:

''(a) TRANSFER BY THE AIR FORCE.—Notwithstanding any other provision of law, the Secretary of the Air Force shall transfer to the Department of the Interior a parcel of real property located west of McIntyre Road at the site of former Pease Air Force Base, New Hampshire: *Provided*, That the Secretary of the Air Force shall retain responsibility for any hazardous substances which may be found on the property so transferred.

''(b) ESTABLISHMENT OF NATIONAL WILDLIFE REFUGE.—Except as provided in subsection (c), the Secretary of the Interior shall designate the parcel of land transferred under subsection (a) as an area in the National Wildlife Refuge System under the authority of section 4 of the Act of October 15, 1966 (16 U.S.C. 668dd).

''(c) CONVEYANCE TO STATE OF NEW HAMPSHIRE.—

''(1) CONVEYANCE.—Subject to paragraphs (2) through (5), the Secretary of the Interior shall convey to the State of New Hampshire, without consideration, all right, title, and interest of the United States in and to a parcel of real property consisting of not more than 100 acres that is a part of the real property transferred to the Secretary under subsection (a) and that the Secretary determines to be suitable for use as a cemetery.

''(2) CONDITION OF CONVEYANCE.—The conveyance under paragraph (1) shall be subject to the condition that the State of New Hampshire use the property conveyed under that paragraph only for the purpose of establishing and operating a State cemetery for veterans.

''(3) REVERSION.—If the Secretary determines at any time that the State of New Hampshire is not complying with the condition specified in paragraph (2), all right, title, and interest in and to the property conveyed pursuant to paragraph (1), including any improvements thereon, shall revert to the United States and the United States shall have the right of immediate entry thereon.

''(4) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcel of real property to be conveyed under paragraph (1) shall be determined by a survey that is satisfactory to the Secretary.

''(5) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms or conditions in connection with the conveyance under this subsection that the Secretary determines appropriate to protect the interests of the United States.

''(d) The purposes for which this national wildlife refuge is established are—

''(1) to encourage the natural diversity of plant, fish, and wildlife species within the refuge, and to provide for their conservation and management;

''(2) to protect species listed as endangered or threatened, or identified as candidates for listing pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

''(3) to preserve and enhance the water quality of aquatic habitat within the refuge; and

''(4) to fulfill the international treaty obligations of the United States relating to fish and wildlife.''

NATIONAL WILDLIFE REFUGES

Provisions relating to national wildlife refuges were contained in the following acts and executive documents:

Alaska Maritime National Wildlife Refuge, Alaska.—Pub. L. 96–487, title III, § 303(1), Dec. 2, 1980, 94 Stat. 2389; Pub. L. 101–622, Nov. 21, 1990, 104 Stat. 3347; Pub. L. 102–489, Oct. 24, 1992, 106 Stat. 3138; Pub. L. 106–554, § 1(a)(4) [div. A, § 302], Dec. 21, 2000, 114 Stat. 2763, 2763A–180; Pub. L. 107–239, Oct. 11, 2002, 116 Stat. 1488; Pub. L. 107–314, div. B, title XXVIII, § 2853, Dec. 2, 2002, 116 Stat. 2727.

Alaska Peninsula National Wildlife Refuge, Alaska.—Pub. L. 96–498, title III, § 302(1), Dec. 2, 1980, 94 Stat. 2385; Pub. L. 111–11, title VI, §§ 6401–6406, Mar. 30, 2009, 123 Stat. 1177–1182.

Amagansett National Wildlife Refuge, New York.—Pub. L. 104–148, § 1, May 24, 1996, 110 Stat. 1378.

Aransas National Wildlife Refuge, Myrtle Foester Whitmire Division, Texas.—Pub. L. 102–226, § 1, Dec. 11, 1991, 105 Stat. 1685.

Arctic National Wildlife Refuge, Alaska.—Pub. L. 96–498, title III, § 303(2), Dec. 2, 1980, 94 Stat. 2390.

Arthur R. Marshall Loxahatchee National Wildlife Refuge, Florida.—Pub. L. 99–615, Nov. 6, 1986, 100 Stat. 3484.

Atchafalaya National Wildlife Refuge, Louisiana.—Pub. L. 98–548, title III, Oct. 26, 1984, 98 Stat. 2776; Pub. L. 99–625, § 2, Nov. 7, 1986, 100 Stat. 3502.

Baca National Wildlife Refuge, Colorado.—Pub. L. 106–530, § 6, Nov. 22, 2000, 114 Stat. 2530.

Bandon Marsh National Wildlife Refuge, Oregon.—Pub. L. 97–137, title I, Dec. 29, 1981, 95 Stat. 1709; Pub. L. 105–321, § 5, Oct. 30, 1998, 112 Stat. 3025.

Bayou Cocodrie National Wildlife Refuge, Louisiana.—Pub. L. 101–593, title I, § 108, Nov. 16, 1990, 104 Stat. 2956.

Bayou Sauvage Urban National Wildlife Refuge, Louisiana.—Pub. L. 99–645, title V, § 502, Nov. 10, 1986, 100 Stat. 3590; Pub. L. 104–253, § 2, Oct. 9, 1996, 110 Stat. 3167.

Becharof National Wildlife Refuge, Alaska.—Pub. L. 96–498, title III, § 302(2), Dec. 2, 1980, 94 Stat. 2385.

Bitter Lake National Wildlife Refuge, New Mexico.—Pub. L. 108–7, div. F, title I, § 139, Feb. 20, 2003, 117 Stat. 244.

Blackwater National Wildlife Refuge, Maryland.—Pub. L. 108–131, Nov. 22, 2003, 117 Stat. 1372.

Bogue Chitto National Wildlife Refuge, Louisiana-Mississippi.—Pub. L. 96–288, June 28, 1980, 94 Stat. 603; Pub. L. 99–191, § 3, Dec. 19, 1985, 99 Stat. 1327; Pub. L. 101–233, § 17, Dec. 13, 1989, 103 Stat. 1978.

Bon Secour National Wildlife Refuge, Alabama.—Pub. L. 96–267, June 9, 1980, 94 Stat. 483; Pub. L. 99–191, § 1, Dec. 19, 1985, 99 Stat. 1327.

Cache River National Wildlife Refuge, Arkansas.—Pub. L. 102–584, §§ 1–5, Nov. 2, 1992, 106 Stat. 4937–4941.

Cahaba River National Wildlife Refuge, Alabama.—Pub. L. 106–331, Oct. 19, 2000, 114 Stat. 1303; Pub. L. 106–369, § 9(b), Oct. 27, 2000, 114 Stat. 1419; Pub. L. 109–363, title V, Oct. 17, 2006, 120 Stat. 2078.

Cape Romain National Wildlife Refuge, South Carolina.—Pub. L. 107–63, title I, § 129, Nov. 5, 2001, 115 Stat. 442.

Cat Island National Wildlife Refuge, Louisiana.—Pub. L. 106–369, §§ 1–7, Oct. 27, 2000, 114 Stat. 1417–1419.

Charles M. Russell National Wildlife Refuge, Montana.—Pub. L. 106–541, title VIII, Dec. 11, 2000, 114 Stat. 2699; Pub. L. 111–85, title I, § 123, Oct. 28, 2009, 123 Stat. 2852.

Cibola National Wildlife Refuge, California.—Pub. L. 109–127, Dec. 7, 2005, 119 Stat. 2548.

Clarks River National Wildlife Refuge, Kentucky.—Pub. L. 104–208, div. A, title I, § 101(d) [title I], Sept. 30, 1996, 110 Stat. 3009–181, 3009–185.

Columbia National Wildlife Refuge, Washington.—Pub. L. 106–291, title I, § 138, Oct. 11, 2000, 114 Stat. 949.

NATIONAL WILDLIFE REFUGES—CONTINUED

Cossatot National Wildlife Refuge, Arkansas.—Pub. L. 104–333, div. I, title III, §305(h), Nov. 12, 1996, 110 Stat. 4130.

Desert National Wildlife Range, Nevada.—Pub. L. 107–282, title III, §301, Nov. 6, 2002, 116 Stat. 2006; Pub. L. 108–424, title VI, §601, Nov. 30, 2004, 118 Stat. 2419.

Detroit River International Wildlife Refuge (former Wyandotte National Wildlife Refuge), Michigan.—Pub. L. 87–119, Aug. 3, 1961, 75 Stat. 243; Pub. L. 107–91, Dec. 21, 2001, 115 Stat. 894; Pub. L. 108–23, May 19, 2003, 117 Stat. 704.

Don Edwards San Francisco Bay National Wildlife Refuge, California.—Pub. L. 92–326, June 30, 1972, 86 Stat. 391; Pub. L. 96–290, §1, June 28, 1980, 94 Stat. 607; Pub. L. 100–556, title II, Oct. 28, 1988, 102 Stat. 2780; Pub. L. 104–78, §1, Dec. 28, 1995, 109 Stat. 790.

Edwin B. Forsythe National Wildlife Refuge, New Jersey.—Pub. L. 98–293, May 22, 1984, 98 Stat. 207.

Egmont Key National Wildlife Refuge, Florida.—Pub. L. 93–341, July 10, 1974, 88 Stat. 295.

Elizabeth Hartwell Mason Neck National Wildlife Refuge (former Mason Neck National Wildlife Refuge), Virginia.—Pub. L. 106–291, title I, §120, Oct. 11, 2000, 114 Stat. 944; Pub. L. 109–269, §1, Aug. 12, 2006, 120 Stat. 682.

Ernest F. Hollings ACE Basin National Wildlife Refuge, South Carolina.—Pub. L. 108–447, div. E, title I, §137, Dec. 8, 2004, 118 Stat. 3068.

Flattery Rocks National Wildlife Refuge, Washington.—Ex. Ord. No. 703, Oct. 23, 1907; Proc. No. 2416, July 25, 1940, 54 Stat. 2717; Pub. L. 100–226, §3, Dec. 31, 1987, 101 Stat. 1550.

Grays Harbor National Wildlife Refuge, Washington.—Pub. L. 100–406, Aug. 19, 1988, 102 Stat. 1041.

Great Dismal Swamp National Wildlife Refuge, Virginia and North Carolina.—Pub. L. 93–402, Aug. 30, 1974, 88 Stat. 801.

Hart Mountain National Antelope Refuge, Oregon.—Pub. L. 105–321, §4(a)–(d), Oct. 30, 1998, 112 Stat. 3023.

Holt Collier National Wildlife Refuge (former Bogue Phalia Unit of the Yazoo National Wildlife Refuge), Mississippi.—Pub. L. 108–199, div. H, §145(g)(1), Jan. 23, 2004, 118 Stat. 444.

Humboldt Bay National Wildlife Refuge, California.—Pub. L. 96–290, §2, June 28, 1980, 94 Stat. 607; Pub. L. 107–130, Jan. 16, 2002, 115 Stat. 2409.

Innoko National Wildlife Refuge, Alaska.—Pub. L. 96–498, title III, §302(3), Dec. 2, 1980, 94 Stat. 2386.

Izembek National Wildlife Refuge, Alaska.—Pub. L. 96–498, title III, §303(3), Dec. 2, 1980, 94 Stat. 2390; Pub. L. 111–11, title VI, §§6401–6406, Mar. 30, 2009, 123 Stat. 1177–1182.

James Campbell National Wildlife Refuge, Hawaii.—Pub. L. 109–225, May 25, 2006, 120 Stat. 378.

John H. Chafee National Wildlife Refuge (former Pettaquamscutt Cove National Wildlife Refuge), Rhode Island.—Pub. L. 100–610, title II, Nov. 5, 1988, 102 Stat. 3176; Pub. L. 102–212, title II, §202, Dec. 11, 1991, 105 Stat. 1660; Pub. L. 104–212, title II, Oct. 1, 1996, 110 Stat. 3014; Pub. L. 106–53, title V, §565(c), Aug. 17, 1999, 113 Stat. 367.

John Heinz National Wildlife Refuge at Tinicum (former Tinicum National Environmental Center), Pennsylvania.—Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 995; Pub. L. 103–340, §7, formerly §6, Oct. 6, 1994, 108 Stat. 3120, renumbered §7, Pub. L. 106–369, §9(a), Oct. 27, 2000, 114 Stat. 1419; Pub. L. 109–166, §4, Jan. 10, 2006, 119 Stat. 3577.

Kanuti National Wildlife Refuge, Alaska.—Pub. L. 96–498, title III, §302(4), Dec. 2, 1980, 94 Stat. 2386.

Kenai National Wildlife Refuge, Alaska.—Pub. L. 96–487, title III, §303(4), Dec. 2, 1980, 94 Stat. 2391; Pub. L. 104–333, div. I, title III, §311(d)(3), Nov. 12, 1996, 110 Stat. 4142.

Kilauea Point National Wildlife Refuge, Hawaii.—Pub. L. 108–481, Dec. 23, 2004, 118 Stat. 3910.

NATIONAL WILDLIFE REFUGES—CONTINUED

Klamath Marsh National Wildlife Refuge, Oregon.—Act Aug. 13, 1954, ch. 732, §28, as added Pub. L. 85–731, §1, Aug. 23, 1958, 72 Stat. 816; amended Pub. L. 86–247, Sept. 9, 1959, 73 Stat. 477; Pub. L. 105–312, title II, §205, Oct. 30, 1998, 112 Stat. 2957; Pub. L. 105–321, §4(e), Oct. 30, 1998, 112 Stat. 3025.

Kodiak National Wildlife Refuge, Alaska.—Pub. L. 96–498, title III, §303(5), Dec. 2, 1980, 94 Stat. 2391.

Koyukuk National Wildlife Refuge, Alaska.—Pub. L. 96–498, title III, §302(5), Dec. 2, 1980, 94 Stat. 2386.

Mason Neck National Wildlife Refuge, Virginia (see Elizabeth Hartwell Mason Neck National Wildlife Refuge).

McNary National Wildlife Refuge, Washington.—Pub. L. 106–53, title V, §563(*l*), Aug. 17, 1999, 113 Stat. 365; Pub. L. 110–114, title III, §3164, Nov. 8, 2007, 121 Stat. 1151.

Midway Atoll National Wildlife Refuge, Midway Islands.—Ex. Ord. No. 13022, §3(a), Oct. 31, 1996, 61 F.R. 56875; Pub. L. 107–206, title I, §703, Aug. 2, 2002, 116 Stat. 864.

Minnesota Valley National Wildlife Refuge, Minnesota.—Pub. L. 94–466, Oct. 8, 1976, 90 Stat. 1992.

Mountain Longleaf National Wildlife Refuge, Alabama.—Pub. L. 107–314, div. B, title XXVIII, §2821, Dec. 2, 2002, 116 Stat. 2710.

Neal Smith National Wildlife Refuge, Iowa.—Pub. L. 105–83, title III, §341, Nov. 14, 1997, 111 Stat. 1604.

Ninigret National Wildlife Refuge, Rhode Island.—Pub. L. 105–178, title I, §1214(g), (i), June 9, 1998, 112 Stat. 206, 207; Pub. L. 105–206, title IX, §9006(d), July 22, 1998, 112 Stat. 849.

North Platte National Wildlife Refuge, Nebraska.—Pub. L. 104–212, title I, §101, Oct. 1, 1996, 110 Stat. 3014.

Nowitna National Wildlife Refuge, Alaska.—Pub. L. 96–498, title III, §302(6), Dec. 2, 1980, 94 Stat. 2387.

Oahu National Wildlife Refuge Complex, Hawaii.—Pub. L. 104–209, §1, Oct. 1, 1996, 110 Stat. 3010.

Ottawa National Wildlife Refuge Complex, Ohio.—Pub. L. 108–23, May 19, 2003, 117 Stat. 704.

Oxbow National Wildlife Refuge, Massachusetts.—Pub. L. 103–337, div. B, title XXVIII, §2846, Oct. 5, 1994, 108 Stat. 3071; Pub. L. 104–106, div. B, title XXVIII, §2853, Feb. 10, 1996, 110 Stat. 567.

Pettaquamscutt Cove National Wildlife Refuge, Rhode Island (see John H. Chafee National Wildlife Refuge).

Pocosin Lakes National Wildlife Refuge, North Carolina.—Pub. L. 103–232, title III, Apr. 11, 1994, 108 Stat. 339.

Protection Island National Wildlife Refuge, Washington.—Pub. L. 97–333, Oct. 15, 1982, 96 Stat. 1623.

Quillayute Needles National Wildlife Refuge, Washington.—Ex. Ord. No. 705, Oct. 23, 1907; Proc. No. 2416, July 25, 1940, 54 Stat. 2717; Pub. L. 100–226, §3, Dec. 31, 1987, 101 Stat. 1550.

Red River National Wildlife Refuge, Louisiana.—Pub. L. 106–300, Oct. 13, 2000, 114 Stat. 1055; Pub. L. 106–369, §9(c), Oct. 27, 2000, 114 Stat. 1419.

Rhode Island National Wildlife Refuge, Rhode Island.—Pub. L. 105–178, title I, §1214(j), June 9, 1998, 112 Stat. 207.

Ridgefield National Wildlife Refuge, Washington.—Pub. L. 102–570, §1, Oct. 29, 1992, 106 Stat. 4489.

Rocky Flats National Wildlife Refuge, Colorado.—Pub. L. 107–107, div. C, title XXXI, Dec. 28, 2001, 115 Stat. 1379; Pub. L. 109–163, div. C, title XXXI, §3112(b)(7), Jan. 6, 2006, 119 Stat. 3541.

Rocky Mountain Arsenal National Wildlife Refuge, Colorado.—Pub. L. 102–402, Oct. 9, 1992, 106 Stat. 1961; Pub. L. 105–85, div. B, title XXVIII, §2840, Nov. 18, 1997, 111 Stat. 2007.

Sachuest Point National Wildlife Refuge, Rhode Island.—Pub. L. 105–178, title I, §1214(f), (h), June 9, 1998, 112 Stat. 206, 207.

Sailors' Snug Harbor National Wildlife Refuge, New York.—Pub. L. 96–315, §2, July 25, 1980, 94 Stat. 957.

NATIONAL WILDLIFE REFUGES—CONTINUED

St. Marks National Wildlife Refuge, Florida.—Pub. L. 109–241, title V, § 504, July 11, 2006, 120 Stat. 551.
San Diego National Wildlife Refuge, California.—Pub. L. 106–398, § 1 [div. B, title XXVIII, § 2848], Oct. 30, 2000, 114 Stat. 1654, 1654A–426.
Seal Beach National Wildlife Refuge, California.—Pub. L. 92–408, Aug. 29, 1972, 86 Stat. 633.
Selawik National Wildlife Refuge, Alaska.—Pub. L. 96–498, title III, § 302(7), Dec. 2, 1980, 94 Stat. 2387.
Silvio Conte National Fish and Wildlife Refuge, Connecticut, Massachusetts, New Hampshire, and Vermont.—Pub. L. 102–212, title I, Dec. 11, 1991, 105 Stat. 1655.
Sonny Bono Salton Sea National Wildlife Refuge, California.—Pub. L. 105–372, title I, § 103, Nov. 12, 1998, 112 Stat. 3380.
Stewart B. McKinney National Wildlife Refuge, Connecticut.—Pub. L. 98–548, title II, Oct. 26, 1984, 98 Stat. 2774; Pub. L. 100–38, May 13, 1987, 101 Stat. 306; Pub. L. 101–443, § 2, Oct. 19, 1990, 104 Stat. 1028.
Stillwater National Wildlife Refuge, Nevada.—Pub. L. 101–618, title II, § 206(b), Nov. 16, 1990, 104 Stat. 3309.
Tensas River National Wildlife Refuge, Louisiana.—Pub. L. 96–285, June 28, 1980, 94 Stat. 595; Pub. L. 99–191, § 2, Dec. 19, 1985, 99 Stat. 1327; Pub. L. 104–253, § 1, Oct. 9, 1996, 110 Stat. 3167.
Tetlin National Wildlife Refuge, Alaska.—Pub. L. 96–498, title III, § 302(8), Dec. 2, 1980, 94 Stat. 2388.
Theodore Roosevelt National Wildlife Refuge, Mississippi.—Pub. L. 108–199, div. H, § 145, Jan. 23, 2004, 118 Stat. 443.
Theodore Roosevelt National Wildlife Refuge Complex (former Central Mississippi National Wildlife Refuge Complex), Mississippi.—Pub. L. 108–199, div. H, § 145(g)(2), Jan. 23, 2004, 118 Stat. 444.
Togiak National Wildlife Refuge, Alaska.—Pub. L. 96–498, title III, § 303(6), Dec. 2, 1980, 94 Stat. 2392.
Waccamaw National Wildlife Refuge, South Carolina.—Pub. L. 107–63, title I, Nov. 5, 2001, 115 Stat. 420.
Wallkill River National Wildlife Refuge, New Jersey.—Pub. L. 101–593, title I, § 107, Nov. 16, 1990, 104 Stat. 2955.
Wertheim National Wildlife Refuge, New York.—Pub. L. 106–113, div. B, § 1000(a)(5) [title II, § 222], Nov. 29, 1999, 113 Stat. 1536, 1501A–299.
White River National Wildlife Refuge, Arkansas.—Pub. L. 102–584, §§ 1–5, Nov. 2, 1992, 106 Stat. 4937–4941.
Wyandotte National Wildlife Refuge, Michigan (see Detroit River International Wildlife Refuge).
Yukon Delta National Wildlife Refuge, Alaska.—Pub. L. 96–498, title III, § 303(7), Dec. 2, 1980, 94 Stat. 2392; Pub. L. 108–129, Nov. 17, 2003, 117 Stat. 1358.
Yukon Flats National Wildlife Refuge, Alaska.—Pub. L. 96–498, title III, § 302(9), Dec. 2, 1980, 94 Stat. 2388.

NATIONAL WILDLIFE CONSERVATION AREA

Falls of the Ohio National Wildlife Conservation Area, Kentucky.—Pub. L. 97–137, title II, Dec. 29, 1981, 95 Stat. 1710; Pub. L. 98–613, § 10(c), (d), Oct. 31, 1984, 98 Stat. 3191; Pub. L. 105–146, § 2, Dec. 16, 1997, 111 Stat. 2672.

NATIONAL ENVIRONMENTAL CENTERS

Tinicum National Environmental Center, Pennsylvania.—Pub. L. 92–326, June 30, 1972, 86 Stat. 391; renamed John Heinz National Wildlife Refuge at Tinicum, Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 995.

EX. ORD. NO. 12996. MANAGEMENT AND GENERAL PUBLIC USE OF NATIONAL WILDLIFE REFUGE SYSTEM

Ex. Ord. No. 12996, Mar. 25, 1996, 61 F.R. 13647, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in furtherance of the purposes of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a [et seq.]), the Fish and Wildlife Coordination Act (16 U.S.C. 661 [et seq.]), the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd [, 668ee]), the Refuge Recreation Act (16 U.S.C. 460k [et seq.]), the Endangered Species Act of 1973 (16 U.S.C. 1531 [et seq.]), the Emergency Wetlands Resources Act (16 U.S.C. 3901 [et seq.]), the North American Wetlands Conservation Act (16 U.S.C. 4401 [et seq.]), the National Environmental Policy Act (42 U.S.C. 4321 [et seq.]), and other pertinent statutes, and in order to conserve fish and wildlife and their habitat, it is ordered as follows:

SECTION 1. *The Mission of the National Wildlife Refuge System.* The mission of the National Wildlife Refuge System (''Refuge System'') is to preserve a national network of lands and waters for the conservation and management of fish, wildlife, and plant resources of the United States for the benefit of present and future generations.

SEC. 2. *Guiding Principles.* To help ensure a bright future for its treasured national heritage, I hereby affirm the following four guiding principles for the management and general public use of the Refuge System:

(a) *Public Use.* The Refuge System provides important opportunities for compatible wildlife-dependent recreational activities involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

(b) *Habitat.* Fish and wildlife will not prosper without high-quality habitat, and without fish and wildlife, traditional uses of refuges cannot be sustained. The Refuge System will continue to conserve and enhance the quality and diversity of fish and wildlife habitat within refuges.

(c) *Partnerships.* America's sportsmen and women were the first partners who insisted on protecting valuable wildlife habitat within wildlife refuges. Conservation partnerships with other Federal agencies, State agencies, Tribes, organizations, industry, and the general public can make significant contributions to the growth and management of the Refuge System.

(d) *Public Involvement.* The public should be given a full and open opportunity to participate in decisions regarding acquisition and management of our National Wildlife Refuges.

SEC. 3. *Directives to the Secretary of the Interior.* To the extent consistent with existing laws and interagency agreements, the Secretary of the Interior, in carrying out his trustee and stewardship responsibilities for the Refuge System, is directed to:

(a) recognize compatible wildlife-dependent recreational activities involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation as priority general public uses of the Refuge System through which the American public can develop an appreciation for fish and wildlife;

(b) provide expanded opportunities for these priority public uses within the Refuge System when they are compatible and consistent with sound principles of fish and wildlife management, and are otherwise in the public interest;

(c) ensure that such priority public uses receive enhanced attention in planning and management within the Refuge System;

(d) provide increased opportunities for families to experience wildlife-dependent recreation, particularly opportunities for parents and their children to safely engage in traditional outdoor activities, such as fishing and hunting;

(e) ensure that the biological integrity and environmental health of the Refuge System is maintained for the benefit of present and future generations of Americans;

(f) continue, consistent with existing laws and interagency agreements, authorized or permitted uses of units of the Refuge System by other Federal agencies, including those necessary to facilitate military preparedness;

(g) plan and direct the continued growth of the Refuge System in a manner that is best designed to accom-

plish the mission of the Refuge System, to contribute to the conservation of the ecosystems of the United States, and to increase support for the Refuge System and participation from conservation partners and the public;

(h) ensure timely and effective cooperation and collaboration with Federal agencies and State fish and wildlife agencies during the course of acquiring and managing National Wildlife Refuges;

(i) ensure appropriate public involvement opportunities will be provided in conjunction with refuge planning and management activities; and

(j) identify, prior to acquisition, existing compatible wildlife-dependent uses of new refuge lands that shall be permitted to continue on an interim basis pending completion of comprehensive planning.

SEC. 4. *Judicial Review*. This order does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

§ 668ee. Definitions

For purposes of this Act:

(1) The term ''compatible use'' means a wildlife-dependent recreational use or any other use of a refuge that, in the sound professional judgment of the Director, will not materially interfere with or detract from the fulfillment of the mission of the System or the purposes of the refuge.

(2) The terms ''wildlife-dependent recreation'' and ''wildlife-dependent recreational use'' mean a use of a refuge involving hunting, fishing, wildlife observation and photography, or environmental education and interpretation.

(3) The term ''sound professional judgment'' means a finding, determination, or decision that is consistent with principles of sound fish and wildlife management and administration, available science and resources, and adherence to the requirements of this Act and other applicable laws.

(4) The terms ''conserving'', ''conservation'', ''manage'', ''managing'', and ''management'', mean to sustain and, where appropriate, restore and enhance, healthy populations of fish, wildlife, and plants utilizing, in accordance with applicable Federal and State laws, methods and procedures associated with modern scientific resource programs. Such methods and procedures include, consistent with the provisions of this Act, protection, research, census, law enforcement, habitat management, propagation, live trapping and transplantation, and regulated taking.

(5) The term ''Coordination Area'' means a wildlife management area that is made available to a State—

(A) by cooperative agreement between the United States Fish and Wildlife Service and a State agency having control over wildlife resources pursuant to section 664 of this title; or

(B) by long-term leases or agreements pursuant to title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525; 7 U.S.C. 1010 et seq.).

(6) The term ''Director'' means the Director of the United States Fish and Wildlife Service or a designee of that Director.

(7) The terms ''fish'', ''wildlife'', and ''fish and wildlife'' mean any wild member of the animal kingdom whether alive or dead, and regardless of whether the member was bred, hatched, or born in captivity, including a part, product, egg, or offspring of the member.

(8) The term ''person'' means any individual, partnership, corporation, or association.

(9) The term ''plant'' means any member of the plant kingdom in a wild, unconfined state, including any plant community, seed, root, or other part of a plant.

(10) The terms ''purposes of the refuge'' and ''purposes of each refuge'' mean the purposes specified in or derived from the law, proclamation, executive order, agreement, public land order, donation document, or administrative memorandum establishing, authorizing, or expanding a refuge, refuge unit, or refuge subunit.

(11) The term ''refuge'' means a designated area of land, water, or an interest in land or water within the System, but does not include Coordination Areas.

(12) The term ''Secretary'' means the Secretary of the Interior.

(13) The terms ''State'' and ''United States'' mean the several States of the United States, Puerto Rico, American Samoa, the Virgin Islands, Guam, and the territories and possessions of the United States.

(14) The term ''System'' means the National Wildlife Refuge System designated under section 668dd(a)(1) of this title.

(15) The terms ''take'', ''taking'', and ''taken'' mean to pursue, hunt, shoot, capture, collect, or kill, or to attempt to pursue, hunt, shoot, capture, collect, or kill.

(Pub. L. 89–669, § 5, Oct. 15, 1966, 80 Stat. 929; Pub. L. 105–57, § 3(a), Oct. 9, 1997, 111 Stat. 1253.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 89–669, Oct. 15, 1966, 80 Stat. 927, as amended, which enacted sections 668aa to 668ee, amended sections 460k, 696, 696b, 715c, 715i to 715k, 718d, and repealed sections 715d–1, 715d–2, 715*l*, 715m of this title. For complete classification of this Act to the Code, see Tables.

The Bankhead-Jones Farm Tenant Act, referred to in par. (5)(B), is act July 22, 1937, ch. 517, 50 Stat. 522, as amended. Title III of the Act is classified generally to subchapter III (§ 1010 et seq.) of chapter 33 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1000 of Title 7 and Tables.

AMENDMENTS

1997—Pub. L. 105–57 inserted section catchline and amended text generally. Prior to amendment, text read as follows:

''(a) The term 'person' as used in this Act means any individual, partnership, corporation, or association.

''(b) The terms 'take' or 'taking' or 'taken' as used in this Act mean to pursue, hunt, shoot, capture, collect, kill, or attempt to pursue, hunt, shoot, capture, collect, or kill.

''(c) The terms 'State' and the 'United States' as used in this Act mean the several States of the United States, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam.''

§§ 668ff to 668jj. Omitted

Sections, Pub. L. 92–330, June 30, 1972, 86 Stat. 399, which established San Francisco Bay National Wildlife

Refuge to be administered by Secretary of the Interior in accordance with the National Wildlife Refuge System Administration Act, have been omitted because of the limited scope of the subject matter. The San Francisco Bay National Wildlife Refuge [now Don Edwards San Francisco Bay National Wildlife Refuge] has been set out in the table of National Wildlife Refuges under section 668dd of this title.

§§ 668kk to 668ss. Omitted

Sections, Pub. L. 94–466, Oct. 8, 1976, 90 Stat. 1992, which established Minnesota Valley National Wildlife Refuge to be administered by Secretary of the Interior in accordance with the National Wildlife Refuge System Administration Act, have been omitted because of the limited scope of the subject matter. The Minnesota National Wildlife Refuge has been set out in the table of National Wildlife Refuges under section 668dd of this title.

CHAPTER 5B—WILDLIFE RESTORATION

Sec.

669. Cooperation of Secretary of the Interior with States; conditions.
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669h. Requirements and restrictions concerning use of amounts for expenses for administration.
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669i. Rules and regulations.
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669k. Reports and certifications.

§ 669. Cooperation of Secretary of the Interior with States; conditions

The Secretary of the Interior is authorized to cooperate with the States, through their respective State fish and game departments, in wildlife-restoration projects as hereinafter in this chapter set forth; but no money apportioned under this chapter to any State shall be expended therein until its legislature, or other State agency authorized by the State constitution to make laws governing the conservation of wildlife, shall have assented to the provision of this chapter and shall have passed laws for the conservation of wildlife which shall include a prohibition against the diversion of license fees paid by hunters for any other purpose than the administration of said State fish and game department, except that, until the final adjournment of the first regular session of the legislature held after September 2, 1937, the assent of the Governor of the State shall be sufficient. The Secretary of the Interior and the State fish and game department of each State accepting the benefits of this chapter, shall agree upon the wildlife-restoration projects to be aided in such State under the terms of this chapter and all projects shall conform to the standards fixed by the Secretary of the Interior.

(Sept. 2, 1937, ch. 899, § 1, 50 Stat. 917; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–408, § 1(a), Nov. 1, 2000, 114 Stat. 1762, provided that: ''This Act [see Tables for classification] may be cited as the 'Fish and Wildlife Programs Improvement and National Wildlife Refuge System Centennial Act of 2000'.''

Pub. L. 106–408, title I, § 101(a), Nov. 1, 2000, 114 Stat. 1763, provided that: ''This title [enacting sections 669h–1, 669h–2, 669k, 742b–1, and 777m of this title, amending sections 669c, 669d, 669g, 669h, 669i, 777c, 777d and 777h of this title and section 9504 of Title 26, Internal Revenue Code, enacting provisions set out as notes under this section and section 777 of this title, and repealing provisions set out as a note under section 777 of this title] may be cited as the 'Wildlife and Sport Fish Restoration Programs Improvement Act of 2000'.''

SHORT TITLE OF 1970 AMENDMENT

Section 103 of title I of Pub. L. 91–503 provided that: ''This title [amending section 669b and sections 669c to 669g–1 of this title] may be cited as the 'Federal Aid in Wildlife Restoration Act Amendments of 1970'.''

SHORT TITLE

Act Sept. 2, 1937, ch. 899, § 13, as added by Pub. L. 106–408, title I, § 101(b), Nov. 1, 2000, 114 Stat. 1763, provided that: ''This Act [enacting this chapter] may be cited as the 'Pittman-Robertson Wildlife Restoration Act'.''

Act Sept. 2, 1937, ch. 899, as amended, is also popularly known as the ''Federal Aid in Wildlife Restoration Act''.

STATEMENT OF PURPOSE AND DEFINITION IN PUB. L. 106–553

Pub. L. 106–553, § 1(a)(2) [title IX, § 902(a), (b)], Dec. 21, 2000, 114 Stat. 2762, 2762A–119, provided that:

''(a) PURPOSES.—The purposes of this section [amending sections 669a, 669b, 669c, 669g, and 4406 of this title, and enacting provisions set out as notes under this section] are—

''(1) to extend financial and technical assistance to the States under the Federal Aid to [in] Wildlife Restoration Act [16 U.S.C. 669 et seq.] for the benefit of a diverse array of wildlife and associated habitats, including species that are not hunted or fished, to fulfill unmet needs of wildlife within the States in recognition of the primary role of the States to conserve all wildlife;

''(2) to assure sound conservation policies through the development, revision, and implementation of a comprehensive wildlife conservation and restoration plan;

''(3) to encourage State fish and wildlife agencies to participate with the Federal Government, other State agencies, wildlife conservation organizations and outdoor recreation and conservation interests through cooperative planning and implementation of this title [enacting section 1356a of Title 43, Public Lands, amending sections 669a, 669b, 669c, 669g, and

4406 of this title, and enacting provisions set out as notes under this section]; and

''(4) to encourage State fish and wildlife agencies to provide for public involvement in the process of development and implementation of a wildlife conservation and restoration program.

''(b) REFERENCE TO LAW.—In this section, the term 'Federal Aid in Wildlife Restoration Act' means the Act of September 2, 1937 (16 U.S.C. 669 et seq.), commonly referred to as the Federal Aid in Wildlife Restoration Act or the Pittman-Robertson Act.''

INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT

Pub. L. 106–553, §1(a)(2) [title IX, §902(f)], Dec. 21, 2000, 114 Stat. 2762, 2762A–123, provided that: ''Coordination with State fish and wildlife agency personnel or with personnel of other State agencies pursuant to the Federal Aid in Wildlife Restoration Act [16 U.S.C. 669 et seq.] or the Federal Aid in Sport Fish Restoration Act [16 U.S.C. 777 et seq.] shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.). Except for the preceding sentence, the provisions of this title [enacting section 1356a of Title 43, Public Lands, amending sections 669a, 669b, 669c, 669g, and 4406 of this title, and enacting provisions set out as notes under this section] relate solely to wildlife conservation and restoration programs and shall not be construed to affect the provisions of the Federal Aid in Wildlife Restoration Act relating to wildlife restoration projects or the provisions of the Federal Aid in Sport Fish Restoration Act relating to fish restoration and management projects.''

PROHIBITION AGAINST DIVERSION

Pub. L. 106–553, §1(a)(2) [title IX, §902(h)], Dec. 21, 2000, 114 Stat. 2762, 2762A–124, provided that: ''No designated State agency shall be eligible to receive matching funds under this title [enacting section 1356a of Title 43, Public Lands, amending sections 669a, 669b, 669c, 669g, and 4406 of this title, and enacting provisions set out as notes under this section] if sources of revenue available to it after January 1, 2000, for conservation of wildlife are diverted for any purpose other than the administration of the designated State agency, it being the intention of Congress that funds available to States under this title be added to revenues from existing State sources and not serve as a substitute for revenues from such sources. Such revenues shall include interest, dividends, or other income earned on the foregoing.''

DESIGNATION OF PROGRAMS

Pub. L. 106–408, title I, §131, Nov. 1, 2000, 114 Stat. 1775, provided that: ''The programs established under the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 et seq.) and the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 et seq.) shall be known as the 'Federal Assistance Program for State Wildlife and Sport Fish Restoration'.''

§ 669a. Definitions

As used in this chapter—

(1) the term ''conservation'' means the use of methods and procedures necessary or desirable to sustain healthy populations of wildlife, including all activities associated with scientific resources management such as research, census, monitoring of populations, acquisition, improvement and management of habitat, live trapping and transplantation, wildlife damage management, and periodic or total protection of a species or population, as well as the taking of individuals within wildlife stock or population if permitted by applicable State and Federal law;

(2) the term ''Secretary'' means the Secretary of the Interior;

(3) the term ''State fish and game department'' or ''State fish and wildlife department'' means any department or division of department of another name, or commission, or official or officials, of a State empowered under its laws to exercise the functions ordinarily exercised by a State fish and game department or State fish and wildlife department.

(4) the term ''wildlife'' means any species of wild, free-ranging fauna including fish, and also fauna in captive breeding programs the object of which is to reintroduce individuals of a depleted indigenous species into previously occupied range;

(5) the term ''wildlife-associated recreation'' means projects intended to meet the demand for outdoor activities associated with wildlife including, but not limited to, hunting and fishing, wildlife observation and photography, such projects as construction or restoration of wildlife viewing areas, observation towers, blinds, platforms, land and water trails, water access, field trialing, trail heads, and access for such projects;

(6) the term ''wildlife conservation and restoration program'' means a program developed by a State fish and wildlife department and approved by the Secretary under section 669c(d)[1] of this title, the projects that constitute such a program, which may be implemented in whole or part through grants and contracts by a State to other State, Federal, or local agencies (including those that gather, evaluate, and disseminate information on wildlife and their habitats), wildlife conservation organizations, and outdoor recreation and conservation education entities from funds apportioned under this chapter,[1] and maintenance of such projects;

(7) the term ''wildlife conservation education'' means projects, including public outreach, intended to foster responsible natural resource stewardship; and

(8) the term ''wildlife-restoration project'' includes the wildlife conservation and restoration program and means the selection, restoration, rehabilitation, and improvement of areas of land or water adaptable as feeding, resting, or breeding places for wildlife, including acquisition of such areas or estates or interests therein as are suitable or capable of being made suitable therefor, and the construction thereon or therein of such works as may be necessary to make them available for such purposes and also including such research into problems of wildlife management as may be necessary to efficient administration affecting wildlife resources, and such preliminary or incidental costs and expenses as may be incurred in and about such projects.

(Sept. 2, 1937, ch. 899, §2, 50 Stat. 917; July 2, 1956, ch. 489, §1, 70 Stat. 473; Pub. L. 86–624, §10, July 12, 1960, 74 Stat. 412; Pub. L. 106–553, §1(a)(2) [title IX, §902(c)], Dec. 21, 2000, 114 Stat. 2762, 2762A–119.)

REFERENCES IN TEXT

Section 669c(d) of this title, referred to in par. (6), was in the original ''section 304(d)'', and was translated as

[1] See References in Text note below.

reading ''section 4(d)'', meaning section 4(d) of Act Sept. 2, 1937, ch. 899, to reflect the probable intent of Congress, because Act Sept. 2, 1937, ch. 899, does not contain a section 304(d), and section 4(d) relates to wildlife conservation and restoration programs.

This chapter, referred to in par. (6), was in the original ''this title'', and was translated as reading ''this Act'', meaning Act Sept. 2, 1937, ch. 899, to reflect the probable intent of Congress, because Act Sept. 2, 1937, ch. 899, which enacted this chapter, does not contain titles.

AMENDMENTS

2000—Pub. L. 106–553 inserted section catchline and amended text generally. Prior to amendment, text read as follows: ''For the purposes of this chapter the term 'wildlife-restoration project' shall be construed to mean and include the selection, restoration, rehabilitation, and improvement of areas of land or water adaptable as feeding, resting, or breeding places for wildlife, including acquisition by purchase, condemnation, lease, or gift of such areas or estates or interests therein as are suitable or capable of being made suitable therefor, and the construction thereon or therein of such works as may be necessary to make them available for such purposes and also including such research into problems of wildlife management as may be necessary to efficient administration affecting wildlife resources, and such preliminary or incidental costs and expenses as may be incurred in and about such projects; the term 'State fish and game department' shall be construed to mean and include any department or division of department of another name, or commission, or official or officials, of a State empowered under its laws to exercise the functions ordinarily exercised by a State fish and game department.''

1960—Pub. L. 86–624 struck out provisions which defined ''State'' as including the several States and the Territory of Hawaii.

1956—Act July 2, 1956, included definition of ''State''.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 5 of act July 2, 1956, provided in part that: ''The amendments made by this Act [amending this section and sections 669g–1, 777a, and 777k of this title] shall be applicable only with respect to fiscal years beginning after the passage of this Act [July 2, 1956].''

§ 669b. Authorization of appropriations

(a) In general

(1) An amount equal to all revenues accruing each fiscal year (beginning with the fiscal year 1975) from any tax imposed on specified articles by sections 4161(b) and 4181 of title 26, shall, subject to the exemptions in section 4182 of such title, be covered into the Federal aid to wildlife restoration fund in the Treasury (hereinafter referred to as the ''fund'') and is authorized to be appropriated and made available until expended to carry out the purposes of this chapter. So much of such appropriations apportioned to any State for any fiscal year as remains unexpended at the close thereof is authorized to be made available for expenditure in that State until the close of the succeeding fiscal year. Any amount apportioned to any State under the provisions of this chapter which is unexpended or unobligated at the end of the period during which it is available for expenditure on any project is authorized to be made available for expenditure by the Secretary of the Interior in carrying out the provisions of the Migratory Bird Conservation Act [16 U.S.C. 715 et seq.].

(2) There is established in the Federal aid to wildlife restoration fund a subaccount to be known as the ''Wildlife Conservation and Restoration Account''. There are authorized to be appropriated for the purposes of the Wildlife Conservation and Restoration Account $50,000,000 in fiscal year 2001 for apportionment in accordance with this chapter to carry out State wildlife conservation and restoration programs. Further, interest on amounts transferred shall be treated in a manner consistent with 16 U.S.C. 669(b)(1)).[1]

(b) Investment of unexpended amounts

(1) The Secretary of the Treasury shall invest in interest-bearing obligations of the United States such portion of the fund as is not, in his judgment, required for meeting a current year's withdrawals. For purposes of such investment, the Secretary of the Treasury may—

(A) acquire obligations at the issue price and purchase outstanding obligations at the market price; and

(B) sell obligations held in the fund at the market price.

(2) The interest on obligations held in the fund—

(A) shall be credited to the fund;

(B) constitute the sums available for allocation by the Secretary under section 4407 of this title; and

(C) shall become available for apportionment under this chapter at the beginning of fiscal year 2016.

(c) Wildlife Conservation and Restoration Account

(1) Amounts transferred to the Wildlife Conservation and Restoration Account shall supplement, but not replace, existing funds available to the States from the sport fish restoration account and wildlife restoration account and shall be used for the development, revision, and implementation of wildlife conservation and restoration programs and should be used to address the unmet needs for a diverse array of wildlife and associated habitats, including species that are not hunted or fished, for wildlife conservation, wildlife conservation education, and wildlife-associated recreation projects. Such funds may be used for new programs and projects as well as to enhance existing programs and projects.

(2) Funds may be used by a State or an Indian tribe for the planning and implementation of its wildlife conservation and restoration program and wildlife conservation strategy, as provided in sections 669c(d) and (e)[2] of this title, including wildlife conservation, wildlife conservation education, and wildlife-associated recreation projects. Such funds may be used for new programs and projects as well as to enhance existing programs and projects.

(3) Priority for funding from the Wildlife Conservation and Restoration Account shall be for those species with the greatest conservation need as defined by the State wildlife conservation and restoration program.

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[1] So in original. Probably should be ''paragraph (1) of subsection (b)''.

[2] So in original. Section 669c of this title does not contain a subsec. (e).

(d) Obligation of amounts in State

Notwithstanding subsections (a) and (b) of this section, with respect to amounts transferred to the Wildlife Conservation and Restoration Account, so much of such amounts apportioned to any State for any fiscal year as remains unexpended at the close thereof shall remain available for obligation in that State until the close of the second succeeding fiscal year.

(Sept. 2, 1937, ch. 899, §3, 50 Stat. 917; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 91–503, title I, §101, Oct. 23, 1970, 84 Stat. 1097; Pub. L. 92–558, title I, §101(a), Oct. 25, 1972, 86 Stat. 1172; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101–233, §7(a)(1), Dec. 13, 1989, 103 Stat. 1974; Pub. L. 106–553, §1(a)(2) [title IX, §902(d)], Dec. 21, 2000, 114 Stat. 2762, 2762A–120; Pub. L. 109–75, §1, Sept. 29, 2005, 119 Stat. 2034.)

REFERENCES IN TEXT

The Migratory Bird Conservation Act, referred to in subsec. (a), is act Feb. 18, 1929, ch. 257, 45 Stat. 1222, as amended, which is classified generally to subchapter III (§715 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 715 of this title and Tables.

AMENDMENTS

2005—Subsec. (b)(2)(C). Pub. L. 109–75 substituted ''2016'' for ''2006''.

2000—Subsec. (a). Pub. L. 106–553, §1(a)(2) [title IX, §902(d)(1)], designated existing provisions as par. (1) and added par. (2).

Subsecs. (c), (d). Pub. L. 106–553, §1(a)(2) [title IX, §902(d)(2)], added subsecs. (c) and (d).

1989—Pub. L. 101–233 designated existing provisions as subsec. (a) and added subsec. (b).

1986—Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1972—Pub. L. 92–558 substituted ''(beginning with the fiscal year 1975)'' for ''(beginning with the fiscal year 1971)'' and inserted reference to section 4161(b) of title 26.

1970—Pub. L. 91–503 inserted provisions for the deposit of the 10 per cent tax on pistols and revolvers under section 4181 of title 26 into the Federal aid to wildlife restoration fund beginning in fiscal year 1971.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7(a)(3) of Pub. L. 101–233 provided that: ''The amendments made by this subsection of this Act [amending this section and section 669c of this title] take effect October 1, 1989.''

EFFECTIVE DATE OF 1972 AMENDMENT

Section 101(c) of Pub. L. 92–558, as amended by Pub. L. 93–313, June 8, 1974, 88 Stat. 238, provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 669c of this title] shall take effect January 1, 1975.''

TRANSFER OF FUNCTIONS

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior.

§ 669b–1. Authorization of appropriation of accumulated unappropriated receipts

There is hereby authorized to be appropriated, out of the Federal aid to wildlife restoration fund established by this chapter, for the 1956 fiscal year and for each fiscal year thereafter, an amount equal to 20 per centum of the accumulated unappropriated receipts in such fund on August 12, 1955, until the accumulated unappropriated receipts in such fund on such date have been appropriated and expended. Funds appropriated under the authority of this section shall be made available to the States in accordance with the provisions of, and under the apportionment formula set forth in, this chapter, and shall be in addition to the funds appropriated under section 669b of this title.

(Aug. 12, 1955, ch. 861, §1, 69 Stat. 698.)

CODIFICATION

Section was not enacted as part of act Sept. 2, 1937, ch. 899, 50 Stat. 917, which comprises this chapter.

§ 669c. Allocation and apportionment of available amounts

(a) Set-aside for expenses for administration of this chapter

(1) In general

(A) Set-aside

For fiscal year 2001 and each fiscal year thereafter, of the revenues (excluding interest accruing under section 669b(b) of this title) covered into the fund for the fiscal year, the Secretary of the Interior may use not more than the available amount specified in subparagraph (B) for the fiscal year for expenses for administration incurred in implementation of this chapter, in accordance with this subsection and section 669h of this title.

(B) Available amounts

The available amount referred to in subparagraph (A) is—

(i) for each of fiscal years 2001 and 2002, $9,000,000;

(ii) for fiscal year 2003, $8,212,000; and

(iii) for fiscal year 2004 and each fiscal year thereafter, the sum of—

(I) the available amount for the preceding fiscal year; and

(II) the amount determined by multiplying—

(aa) the available amount for the preceding fiscal year; and

(bb) the change, relative to the preceding fiscal year, in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

(2) Period of availability; apportionment of unobligated amounts

(A) Period of availability

For each fiscal year, the available amount under paragraph (1) shall remain available for obligation for use under that paragraph until the end of the fiscal year.

(B) Apportionment of unobligated amounts

Not later than 60 days after the end of a fiscal year, the Secretary of the Interior shall apportion among the States any of the available amount under paragraph (1) that remains unobligated at the end of the fiscal

year, on the same basis and in the same manner as other amounts made available under this chapter are apportioned among the States for the fiscal year.

(b) Apportionment to States

The Secretary of the Interior, after deducting the available amount under subsection (a) of this section, the amount apportioned under subsection (c)[1] of this section, any amount apportioned under section 669g–1 of this title, and amounts provided as grants under sections 669h–1 and 669h–2 of this title, shall apportion the remainder of the revenue in said fund for each fiscal year among the several States in the following manner: One-half in the ratio which the area of each State bears to the total area of all the States, and one-half in the ratio which the number of paid hunting-license holders of each State in the second fiscal year preceding the fiscal year for which such apportionment is made, as certified to said Secretary by the State fish and game departments, bears to the total number of paid hunting-license holders of all the States. Such apportionments shall be adjusted equitably so that no State shall receive less than one-half of 1 per centum nor more than 5 per centum of the total amount apportioned. The term fiscal year as used in this chapter shall be a period of twelve consecutive months from October 1 through the succeeding September 30, except that the period for enumeration of paid hunting-license holders shall be a State's fiscal or license year.

(c)[2] Apportionment of certain taxes

One-half of the revenues accruing to the fund under this chapter each fiscal year (beginning with the fiscal year 1975) from any tax imposed on pistols, revolvers, bows, and arrows shall be apportioned among the States in proportion to the ratio that the population of each State bears to the population of all the States: *Provided*, That each State shall be apportioned not more than 3 per centum and not less than 1 per centum of such revenues and Guam, the Virgin Islands, American Samoa, Puerto Rico, and the Northern Mariana Islands shall each be apportioned one-sixth of 1 per centum of such revenues. For the purpose of this subsection, population shall be determined on the basis of the latest decennial census for which figures are available, as certified by the Secretary of Commerce.

(c)[2] Apportionment of Wildlife Conservation and Restoration Account

(1) The Secretary of the Interior shall make the following apportionment from the Wildlife Conservation and Restoration Account:

(A) to the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to not more than one-half of 1 percent thereof.

(B) to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than one-fourth of 1 percent thereof.

(2)(A) The Secretary of the Interior, after making the apportionment under paragraph (1), shall apportion the remaining amount in the Wildlife Conservation and Restoration Account for each fiscal year among the States in the following manner:

(i) one-third of which is based on the ratio to which the land area of such State bears to the total land area of all such States; and

(ii) two-thirds of which is based on the ratio to which the population of such State bears to the total population of all such States.

(B) The amounts apportioned under this paragraph shall be adjusted equitably so that no such State shall be apportioned a sum which is less than one percent of the amount available for apportionment under this paragraph for any fiscal year or more than five percent of such amount.

(3) Of the amounts transferred to the Wildlife Conservation and Restoration Account, not to exceed 3 percent shall be available for any Federal expenses incurred in the administration and execution of programs carried out with such amounts.

(d) Wildlife conservation and restoration programs

(1) Any State, through its fish and wildlife department, may apply to the Secretary of the Interior for approval of a wildlife conservation and restoration program, or for funds from the Wildlife Conservation and Restoration Account, to develop a program. To apply, a State shall submit a comprehensive plan that includes—

(A) provisions vesting in the fish and wildlife department of the State overall responsibility and accountability for the program;

(B) provisions for the development and implementation of—

(i) wildlife conservation projects that expand and support existing wildlife programs, giving appropriate consideration to all wildlife;

(ii) wildlife-associated recreation projects; and

(iii) wildlife conservation education projects pursuant to programs under section 669g(a) of this title; and

(C) provisions to ensure public participation in the development, revision, and implementation of projects and programs required under this paragraph.

(D) WILDLIFE CONSERVATION STRATEGY.—Within five years of the date of the initial apportionment, develop and begin implementation of a wildlife conservation strategy based upon the best available and appropriate scientific information and data that—

(i) uses such information on the distribution and abundance of species of wildlife, including low population and declining species as the State fish and wildlife department deems appropriate, that are indicative of the diversity and health of wildlife of the State;

(ii) identifies the extent and condition of wildlife habitats and community types essential to conservation of species identified under paragraph (1);

(iii) identifies the problems which may adversely affect the species identified under

[1] Probably means the subsection (c) relating to apportionment of certain taxes.

[2] So in original. Two subsecs. (c) have been enacted.

paragraph (1) or their habitats, and provides for priority research and surveys to identify factors which may assist in restoration and more effective conservation of such species and their habitats;

(iv) determines those actions which should be taken to conserve the species identified under paragraph (1) and their habitats and establishes priorities for implementing such conservation actions;

(v) provides for periodic monitoring of species identified under paragraph (1) and their habitats and the effectiveness of the conservation actions determined under paragraph (4), and for adapting conservation actions as appropriate to respond to new information or changing conditions;

(vi) provides for the review of the State wildlife conservation strategy and, if appropriate, revision at intervals of not more than ten years;

(vii) provides for coordination to the extent feasible the State fish and wildlife department, during the development, implementation, review, and revision of the wildlife conservation strategy, with Federal, State, and local agencies and Indian tribes that manage significant areas of land or water within the State, or administer programs that significantly affect the conservation of species identified under paragraph (1) or their habitats.

(2) A State shall provide an opportunity for public participation in the development of the comprehensive plan required under paragraph (1).

(3) If the Secretary finds that the comprehensive plan submitted by a State complies with paragraph (1), the Secretary shall approve the wildlife conservation and restoration program of the State and set aside from the apportionment to the State made pursuant to subsection (c)[3] of this section an amount that shall not exceed 75 percent of the estimated cost of developing and implementing the program.

(4)(A) Except as provided in subparagraph (B), after the Secretary approves a State's wildlife conservation and restoration program, the Secretary may make payments on a project that is a segment of the State's wildlife conservation and restoration program as the project progresses. Such payments, including previous payments on the project, if any, shall not be more than the United States pro rata share of such project. The Secretary, under such regulations as he may prescribe, may advance funds representing the United States pro rata share of a project that is a segment of a wildlife conservation and restoration program, including funds to develop such program.

(B) Not more than 10 percent of the amounts apportioned to each State under this section for a State's wildlife conservation and restoration program may be used for wildlife-associated recreation.

(5) For purposes of this subsection, the term ''State'' shall include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(Sept. 2, 1937, ch. 899, §4, 50 Stat. 918; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; July 24, 1946, ch. 605, §1, 60 Stat. 656; Pub. L. 91–503, title I, §102, Oct. 23, 1970, 84 Stat. 1098; Pub. L. 92–558, title I, §101(b), Oct. 25, 1972, 86 Stat. 1172; Pub. L. 94–273, §4(1), Apr. 21, 1976, 90 Stat. 377; Pub. L. 99–396, §8(b), Aug. 27, 1986, 100 Stat. 839; Pub. L. 101–233, §7(a)(2), Dec. 13, 1989, 103 Stat. 1975; Pub. L. 106–408, title I, §111(a), Nov. 1, 2000, 114 Stat. 1763; Pub. L. 106–553, §1(a)(2) [title IX, §902(e)], Dec. 21, 2000, 114 Stat. 2762, 2762A–121.)

AMENDMENTS

2000—Pub. L. 106–408 inserted section catchline, substituted subsec. (a) for ''(a) So much, not to exceed 8 per centum, of the revenues (excluding interest accruing under section 669b(b) of this title) covered into said fund in each fiscal year as the Secretary of the Interior may estimate to be necessary for his expenses in the administration and execution of this chapter and the Migratory Bird Conservation Act shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year, and within sixty days after the close of such fiscal year the Secretary of the Interior shall apportion such part thereof as remains unexpended by him, if any, and make certificate thereof to the Secretary of the Treasury and to the State fish and game departments on the same basis and in the same manner as is provided as to other amounts authorized by this chapter to be apportioned among the States for such current fiscal year.'', inserted subsec. (b) designation and heading, substituted ''after deducting the available amount under subsection (a) of this section, the amount apportioned under subsection (c) of this section, any amount apportioned under section 669g–1 of this title, and amounts provided as grants under sections 669h–1 and 669h–2 of this title, shall apportion'' for ''after making the aforesaid deduction, shall apportion, except as provided in subsection (b) of this section,'', redesignated former subsec. (b) as (c), and inserted ''Puerto Rico,'' after ''American Samoa,''.

Subsec. (c). Pub. L. 106–553 added subsec. (c) relating to apportionment of Wildlife Conservation and Restoration Account.

Subsec. (d). Pub. L. 106–553 added subsec. (d).

1989—Subsec. (a). Pub. L. 101–233 inserted ''(excluding interest accruing under section 669b(b) of this title)'' after ''revenues'' in first sentence.

1986—Subsec. (b). Pub. L. 99–396 inserted ''and Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands shall each be apportioned one-sixth of 1 per centum of such revenues''.

1976—Subsec. (a). Pub. L. 94–273 substituted ''September'' for ''June'', and ''October'' for ''July''.

1972—Subsec. (b). Pub. L. 92–558 substituted ''(beginning with the fiscal year 1975)'' for ''(beginning with the fiscal year 1971)'' and ''pistols, revolvers, bows, and arrows'' for ''pistols and revolvers''.

1970—Pub. L. 91–503 designated existing provisions as subsec. (a), substituted ''second fiscal year preceding'' for ''preceding fiscal year'' in provision dealing with the apportionment by the Secretary of the Interior, defined ''fiscal year'', and struck out provisions dealing with the maximum and minimum apportionments ''to all the States'', and added subsec. (b).

1946—Act July 24, 1946, substituted proviso making apportionment upon a percentage basis for provisos providing for certain definite sums to be apportioned to each State.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–233 effective Oct. 1, 1989, see section 7(a)(3) of Pub. L. 101–233, set out as a note under section 669b of this title.

[3] Probably means the subsection (c) relating to apportionment of Wildlife Conservation and Restoration Account.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–558 effective Jan. 1, 1975, see section 101(c) of Pub. L. 92–558, set out as a note under section 669b of this title.

TRANSFER OF FUNCTIONS

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior.

SUSPENSION OF EXPENSE LIMITATION

The Interior Department Appropriation Act, 1945, act June 28, 1944, ch. 298, § 1, 58 Stat. 504, provided that the limitations in this chapter were waived to the extent necessary to provide overtime under the provisions of the War Overtime Pay Act, 1943, former sections 1401 to 1415 of Appendix to Title 50, War and National Defense, which act expired June 30, 1945.

§ 669d. Apportionment; certification to States and Secretary of the Treasury; acceptance by States; disposition of funds not accepted

For each fiscal year, the Secretary of the Interior shall certify, at the time at which a deduction or apportionment is made, to the Secretary of the Treasury and to each State fish and game department the sum which he has estimated to be deducted for administering this chapter and the Migratory Bird Conservation Act [16 U.S.C. 715 et seq.] and the sum which he has apportioned to each State. Any State desiring to avail itself of the benefits of this chapter shall notify the Secretary of the Interior to this effect within sixty days after it has received the certification referred to in this section. The sum apportioned to any State which fails to notify the Secretary of the Interior as herein provided is authorized to be made available for expenditure by the Secretary of the Interior in carrying out the provisions of the Migratory Bird Conservation Act.

(Sept. 2, 1937, ch. 899, § 5, 50 Stat. 918; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 91–503, title I, § 102, Oct. 23, 1970, 84 Stat. 1098; Pub. L. 106–408, title I, § 114, Nov. 1, 2000, 114 Stat. 1769.)

REFERENCES IN TEXT

The Migratory Bird Conservation Act, referred to in text, is act Feb. 18, 1929, ch. 257, 45 Stat. 1222, as amended, which is classified generally to subchapter III (§ 715 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 715 of this title and Tables.

AMENDMENTS

2000—Pub. L. 106–408 in first sentence inserted ‘‘, at the time at which a deduction or apportionment is made,’’ after ‘‘certify’’ and struck out ‘‘and executing’’ after ‘‘for administering’’.

1970—Pub. L. 91–503 struck out requirement that apportionments be made by February 20 of each year preceding commencement of fiscal year in which funds would be used.

TRANSFER OF FUNCTIONS

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior.

§ 669e. Submission and approval of plans and projects

(a) Setting aside funds

Any State desiring to avail itself of the benefits of this chapter shall, by its State fish and game department, submit programs or projects for wildlife restoration in either of the following two ways:

(1) The State shall prepare and submit to the Secretary of the Interior a comprehensive fish and wildlife resource management plan which shall insure the perpetuation of these resources for the economic, scientific, and recreational enrichment of the people. Such plan shall be for a period of not less than five years and be based on projections of desires and needs of the people for a period of not less than fifteen years. It shall include provisions for updating at intervals of not more than three years and be provided in a format as may be required by the Secretary of the Interior. If the Secretary of the Interior finds that such plans conform to standards established by him and approves such plans, he may finance up to 75 per centum of the cost of implementing segments of those plans meeting the purposes of this chapter from funds apportioned under this chapter upon his approval of an annual agreement submitted to him.

(2) A State may elect to avail itself of the benefits of this chapter by its State fish and game department submitting to the Secretary of the Interior full and detailed statements of any wildlife-restoration project proposed for that State. If the Secretary of the Interior finds that such project meets with the standards set by him and approves said project, the State fish and game department shall furnish to him such surveys, plans, specifications, and estimates therefor as he may require. If the Secretary of the Interior approves the plans, specifications, and estimates for the project, he shall notify the State fish and game department and immediately set aside so much of said fund as represents the share of the United States payable under this chapter on account of such project, which sum so set aside shall not exceed 75 per centum of the total estimated cost thereof.

The Secretary of the Interior shall approve only such comprehensive plans or projects as may be substantial in character and design and the expenditure of funds hereby authorized shall be applied only to such approved comprehensive wildlife plans or projects and if otherwise applied they shall be replaced by the State before it may participate in any further apportionment under this chapter. No payment of any money apportioned under this chapter shall be made on any comprehensive wildlife plan or project until an agreement to participate therein shall have been submitted to and approved by the Secretary of the Interior.

(b) “Project” defined

If the State elects to avail itself of the benefits of this chapter by preparing a comprehensive fish and wildlife plan under option (1) of subsection (a) of this section, then the term ‘‘project’’ may be defined for the purposes of this chapter as a wildlife program, all other definitions notwithstanding.

(c) Costs

Administrative costs in the form of overhead or indirect costs for services provided by State central service activities outside of the State agency having primary jurisdiction over the wildlife resources of the State which may be charged against programs or projects supported by the fund established by section 669b of this title shall not exceed in any one fiscal year 3 per centum of the annual apportionment to the State.

(Sept. 2, 1937, ch. 899, § 6, 50 Stat. 918; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 91–503, title I, § 102, Oct. 23, 1970, 84 Stat. 1099.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–503 inserted an alternative method of application for funds by the submission of a comprehensive fish and wildlife resource management plan for a period of five years based on projections for fifteen years, to be updated every three years, laid down a maximum limit of federal assistance of 75 percent of the estimated cost of the implementation of the plan, and, in the existing method of application, now contained in par. (2), struck out reference to Secretary of the Treasury and the requirement that the State pay 10 percent of the costs.

Subsecs. (b), (c). Pub. L. 91–503 added subsecs. (b) and (c).

TRANSFER OF FUNCTIONS

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior.

§ 669f. Payment of funds to States; laws governing construction and labor

(a) When the Secretary of the Interior shall find that any project approved by him has been completed or, if involving research relating to wildlife, is being conducted, in compliance with said plans and specifications, he shall cause to be paid to the proper authority of said State the amount set aside for said project. The Secretary of the Interior may, in his discretion, from time to time, make payments on said project as the same progresses; but these payments, including previous payments, if any, shall not be more than the United States pro rata share of the project in conformity with said plans and specifications. If a State has elected to avail itself of the benefits of this chapter by preparing a comprehensive fish and wildlife plan as provided for under option (1) of subsection (a) of section 669e of this title, and this plan has been approved by the Secretary of the Interior, then the Secretary may, in his discretion, and under such rules and regulations as he may prescribe, advance funds to the State for financing the United States pro rata share agreed upon between the State fish and game department and the Secretary.

(b) Any construction work and labor in each State shall be performed in accordance with its laws and under the direct supervision of the State fish and game department, subject to the inspection and approval of the Secretary of the Interior and in accordance with rules and regulations made pursuant to this chapter. The Secretary of the Interior and the State fish and game department of each State may jointly determine at what times and in what amounts payments shall be made under this chapter. Such payments shall be made by the Secretary of the Treasury, on warrants drawn by the Secretary of the Interior against the said fund to such official or officials, or depository, as may be designated by the State fish and game department and authorized under the laws of the State to receive public funds of the State.

(Sept. 2, 1937, ch. 899, § 7, 50 Stat. 919; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 91–503, title I, § 102, Oct. 23, 1970, 84 Stat. 1100.)

AMENDMENTS

1970—Pub. L. 91–503 divided existing provisions into subsecs. (a) and (b), permitted advance payments to the States for work which has been adequately defined in a comprehensive fish and wildlife plan, and struck out reference to progress payments in provision covering joint determination of time and amounts of payments.

TRANSFER OF FUNCTIONS

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior.

§ 669g. Maintenance of projects; expenditures for management of wildlife areas and resources

(a) Maintenance of wildlife-restoration projects established under the provisions of this chapter shall be the duty of the States in accordance with their respective laws. Beginning July 1, 1945, the term ''wildlife-restoration project'', as defined in section 669a of this title, shall include maintenance of completed projects. Notwithstanding any other provisions of this chapter, funds apportioned to a State under this chapter may be expended by the State for management (exclusive of law enforcement and public relations) of wildlife areas and resources. Funds from the Wildlife Conservation and Restoration Account may be used for a wildlife conservation education program, except that no such funds may be used for education efforts, projects, or programs that promote or encourage opposition to the regulated taking of wildlife.

(b) Each State may use the funds apportioned to it under section 669c(c)[1] of this title to pay up to 75 per centum of the costs of a hunter safety program and the construction, operation, and maintenance of public target ranges, as a part of such program. The non-Federal share of such costs may be derived from license fees paid by hunters, but not from other Federal grant programs. The Secretary shall issue not later than the 120th day after the effective date of this subsection such regulations as he deems advisable relative to the criteria for the establishment of hunter safety programs and public target ranges under this subsection.

(Sept. 2, 1937, ch. 899, § 8, 50 Stat. 919; July 24, 1946, ch. 605, § 2, 60 Stat. 656; Aug. 12, 1955, ch. 861, § 2, 69 Stat. 698; Pub. L. 91–503, title I, § 102, Oct.

[1] Probably means section 669c(c) relating to apportionment of certain taxes.

23, 1970, 84 Stat. 1100; Pub. L. 92–558, title I, §102(a), Oct. 25, 1972, 86 Stat. 1173; Pub. L. 106–408, title I, §111(c), Nov. 1, 2000, 114 Stat. 1766; Pub. L. 106–553, §1(a)(2) [title IX, §902(g)], Dec. 21, 2000, 114 Stat. 2762, 2762A–124.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (b), probably means Oct. 23, 1970, the date of approval of Pub. L. 91–503 which added subsec. (b).

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–553 inserted at end ''Funds from the Wildlife Conservation and Restoration Account may be used for a wildlife conservation education program, except that no such funds may be used for education efforts, projects, or programs that promote or encourage opposition to the regulated taking of wildlife.''

Subsec. (b). Pub. L. 106–408 substituted ''section 669c(c) of this title'' for ''section 669c(b) of this title'' in first sentence.

1972—Subsec. (b). Pub. L. 92–558 substituted ''public target ranges'' for ''public outdoor target ranges'' in two places.

1970—Pub. L. 91–503 designated existing provisions as subsec. (a), struck out the 25 percent limitation on the use of Federal funds for wildlife restoration projects and the 30 percent limitation on the use of Federal funds for the management of wild life areas and resources, and added subsec. (b).

1955—Act Aug. 12, 1955, permitted expenditure of funds for management of wildlife areas and resource.

1946—Act July 24, 1946, inserted proviso defining ''wildlife-restoration project''.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 102(b) of Pub. L. 92–558 provided that: ''The amendments made by subsection (a) of this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 25, 1972].''

§ 669g–1. Payment of funds to and cooperation with Puerto Rico, Guam, American Samoa, Commonwealth of the Northern Mariana Islands, and Virgin Islands

The Secretary of the Interior is authorized to cooperate with the Secretary of Agriculture of Puerto Rico, the Governor of Guam, the Governor of American Samoa, the Governor of the Commonwealth of the Northern Mariana Islands, and the Governor of the Virgin Islands, in the conduct of wildlife-restoration projects, as defined in section 669a of this title, and hunter safety programs as provided by section 669g(b) of this title, upon such terms and conditions as he shall deem fair, just, and equitable, and is authorized to apportion to Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands, out of the money available for apportionment under this chapter, such sums as he shall determine, not exceeding for Puerto Rico one-half of 1 per centum, for Guam one-sixth of 1 per centum, for American Samoa one-sixth of one per centum, for the Commonwealth of the Northern Mariana Islands one-sixth of 1 per centum, and for the Virgin Islands one-sixth of 1 per centum of the total amount apportioned, in any one year, but the Secretary shall in no event require any of said cooperating agencies to pay an amount which will exceed 25 per centum of the cost of any project. Any unexpended or unobligated balance of any apportionment made pursuant to this section shall be available for expenditure in Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands, as the case may be, in the succeeding year, on any approved project, and if unexpended or unobligated at the end of such year is authorized to be made available for expenditure by the Secretary of the Interior in carrying out the provisions of the Migratory Bird Conservation Act [16 U.S.C. 715 et seq.].

(Sept. 2, 1937, ch. 899, §8A, formerly §8(a), as added Aug. 18, 1941, ch. 367, 55 Stat. 632; amended Aug. 3, 1950, ch. 523, 64 Stat. 399; July 2, 1956, ch. 489, §2, 70 Stat. 473; Aug. 1, 1956, ch. 852, §7, 70 Stat. 908; Pub. L. 86–70, §15, June 25, 1959, 73 Stat. 143; renumbered §8A and amended Pub. L. 91–503, title I, §102, Oct. 23, 1970, 84 Stat. 1101; Pub. L. 96–597, title III, §302(b), Dec. 24, 1980, 94 Stat. 3478; Pub. L. 98–347, §2(a), July 9, 1984, 98 Stat. 321; Pub. L. 99–396, §8(a), Aug. 27, 1986, 100 Stat. 839.)

REFERENCES IN TEXT

The Migratory Bird Conservation Act, referred to in text, is act Feb. 18, 1929, ch. 257, 45 Stat. 1222, as amended, which is classified generally to subchapter III (§715 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 715 of this title and Tables.

AMENDMENTS

1986—Pub. L. 99–396 inserted reference to hunter safety programs as provided by section 669g(b) of this title.

1984—Pub. L. 98–347 inserted ''the Governor of American Samoa,'' after ''the Governor of Guam,'', ''American Samoa,'' after ''Puerto Rico, Guam,'' in two places, and ''for American Samoa one-sixth of one per centum,'' after ''for Guam one-sixth of 1 per centum,''.

1980—Pub. L. 96–597 inserted references to Governor and Commonwealth of the Northern Mariana Islands.

1970—Pub. L. 91–503 substituted ''Secretary of Agriculture of Puerto Rico'' for ''Commissioner of Agriculture and Commerce of Puerto Rico'' and substituted maximum limits of apportionment of one half of one percent to Puerto Rico, one sixth of one percent each to the Virgin Islands and Guam, for maximum limit of apportionment of $10,000 for the three governments together.

1959—Pub. L. 86–70 struck out provisions which authorized cooperation with the Alaska Game Commission and permitted apportionment of not more than $75,000 in any one year to the Territory of Alaska.

1956—Act Aug. 1, 1956, inserted ''the Governor of Guam'' after ''Commissioner of Agriculture and Commerce of Puerto Rico,'' and ''Guam'' after ''Puerto Rico'' where they appeared in the three remaining places.

Act July 2, 1956, struck out provisions which authorized the Secretary to cooperate with the Division of Game and Fish of the Board of Commissioners of Agriculture and Forestry of Hawaii, removed the limitation of $25,000 on the amount of funds which could be apportioned to Hawaii in any one year, and substituted ''Territory of Alaska'' for ''Territories'' in two places.

1950—Act Aug. 3, 1950, increased funds allocated annually to Alaska and Hawaii from $25,000 to $10,000, respectively, to $75,000 and $25,000.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 2(b) of Pub. L. 98–347 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect October 1, 1984.''

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 2, 1956, applicable only with respect to fiscal years beginning after July 2, 1956, see

section 5 of such act July 2, 1956, set out as a note under section 669a of this title.

INCREASE OF ANNUAL APPORTIONMENTS

Act May 19, 1956, ch. 313, ch. VI, § 601, 70 Stat. 169, authorized increases of not more than 20 percent in the annual appropriations for the former territories of Alaska and Hawaii, and Puerto Rico and the Virgin Islands.

§ 669h. Requirements and restrictions concerning use of amounts for expenses for administration

(a) Authorized expenses for administration

Except as provided in subsection (b) of this section, the Secretary of the Interior may use available amounts under section 669c(a)(1) of this title only for expenses for administration that directly support the implementation of this chapter that consist of—

(1) personnel costs of employees who directly administer this chapter on a full-time basis;

(2) personnel costs of employees who directly administer this chapter on a part-time basis for at least 20 hours each week, not to exceed the portion of those costs incurred with respect to the work hours of the employee during which the employee directly administers this chapter, as those hours are certified by the supervisor of the employee;

(3) support costs directly associated with personnel costs authorized under paragraphs (1) and (2), excluding costs associated with staffing and operation of regional offices of the United States Fish and Wildlife Service and the Department of the Interior other than for the purposes of this chapter;

(4) costs of determining under section 669e(a) of this title whether State comprehensive plans and projects are substantial in character and design;

(5) overhead costs, including the costs of general administrative services, that are directly attributable to administration of this chapter and are based on—

(A) actual costs, as determined by a direct cost allocation methodology approved by the Director of the Office of Management and Budget for use by Federal agencies; and

(B) in the case of costs that are not determinable under subparagraph (A), an amount per full-time equivalent employee authorized under paragraphs (1) and (2) that does not exceed the amount charged or assessed for costs per full-time equivalent employee for any other division or program of the United States Fish and Wildlife Service;

(6) costs incurred in auditing, every 5 years, the wildlife and sport fish activities of each State fish and game department and the use of funds under section 669e of this title by each State fish and game department;

(7) costs of audits under subsection (d) of this section;

(8) costs of necessary training of Federal and State full-time personnel who administer this chapter to improve administration of this chapter;

(9) costs of travel to States, territories, and Canada by personnel who—

(A) administer this chapter on a full-time basis for purposes directly related to administration of State programs or projects; or

(B) administer grants under section 669e, 669h–1, or 669h–2 of this title;

(10) costs of travel outside the United States (except travel to Canada), by personnel who administer this chapter on a full-time basis, for purposes that directly relate to administration of this chapter and that are approved directly by the Assistant Secretary for Fish and Wildlife and Parks;

(11) relocation expenses for personnel who, after relocation, will administer this chapter on a full-time basis for at least 1 year, as certified by the Director of the United States Fish and Wildlife Service at the time at which the relocation expenses are incurred; and

(12) costs to audit, evaluate, approve, disapprove, and advise concerning grants under sections 669e, 669h–1, and 669h–2 of this title.

(b) Reporting of other uses

(1) In general

Subject to paragraph (2), if the Secretary of the Interior determines that available amounts under section 669c(a)(1) of this title should be used for an expense for administration other than an expense for administration described in subsection (a) of this section, the Secretary—

(A) shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report describing the expense for administration and stating the amount of the expense; and

(B) may use any such available amounts for the expense for administration only after the end of the 30-day period beginning on the date of submission of the report under subparagraph (A).

(2) Maximum amount

For any fiscal year, the Secretary of the Interior may use under paragraph (1) not more than $25,000.

(c) Restriction on use to supplement general appropriations

The Secretary of the Interior shall not use available amounts under subsection (b) of this section to supplement the funding of any function for which general appropriations are made for the United States Fish and Wildlife Service or any other entity of the Department of the Interior.

(d) Audit requirement

(1) In general

The Inspector General of the Department of the Interior shall procure the performance of biennial audits, in accordance with generally accepted accounting principles, of expenditures and obligations of amounts used by the Secretary of the Interior for expenses for administration incurred in implementation of this chapter.

(2) Auditor

(A) In general

An audit under this subsection shall be performed under a contract that is awarded under competitive procedures (as defined in

section 132 of title 41) by a person or entity that is not associated in any way with the Department of the Interior (except by way of a contract for the performance of an audit or other review).

(B) Supervision of auditor

The auditor selected under subparagraph (A) shall report to, and be supervised by, the Inspector General of the Department of the Interior, except that the auditor shall submit a copy of the biennial audit findings to the Secretary of the Interior at the time at which the findings are submitted to the Inspector General of the Department of the Interior.

(3) Report to Congress

The Inspector General of the Department of the Interior shall promptly submit to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate—

(A) a report on the results of each audit under this subsection; and

(B) a copy of each audit under this subsection.

(Sept. 2, 1937, ch. 899, §9, 50 Stat. 919; Pub. L. 106–408, title I, §111(b), Nov. 1, 2000, 114 Stat. 1764.)

CODIFICATION

In subsec. (d)(2)(A), ''section 132 of title 41'' substituted for ''section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)'' on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2000—Pub. L. 106–408 amended section generally. Prior to amendment, section read as follows: ''Out of the deductions set aside for administering and executing this chapter and the Migratory Bird Conservation Act, the Secretary of the Interior is authorized to employ such assistants, clerks, and other persons in the city of Washington and elsewhere, to be taken from the eligible lists of the Civil Service; to rent or construct buildings outside of the city of Washington; to purchase such supplies, materials, equipment, office fixtures, and apparatus; and to incur such travel and other expenses, including purchase, maintenance, and hire of passenger-carrying motor vehicles, as he may deem necessary for carrying out the purposes of this chapter.''

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 669h–1. Firearm and bow hunter education and safety program grants

(a) In general

(1) Grants

Of the revenues covered into the fund, $7,500,000 for each of fiscal years 2001 and 2002, and $8,000,000 for fiscal year 2003 and each fiscal year thereafter, shall be apportioned among the States in the manner specified in section 669c(c)[1] of this title by the Secretary of the Interior and used to make grants to the States to be used for—

(A) in the case of a State that has not used all of the funds apportioned to the State under section 669c(c)[1] of this title for the fiscal year in the manner described in section 669g(b) of this title—

(i) the enhancement of hunter education programs, hunter and sporting firearm safety programs, and hunter development programs;

(ii) the enhancement of interstate coordination and development of hunter education and shooting range programs;

(iii) the enhancement of bow hunter and archery education, safety, and development programs; and

(iv) the enhancement of construction or development of firearm shooting ranges and archery ranges, and the updating of safety features of firearm shooting ranges and archery ranges; and

(B) in the case of a State that has used all of the funds apportioned to the State under section 669c(c)[1] of this title for the fiscal year in the manner described in section 669g(b) of this title, any use authorized by this chapter (including hunter safety programs and the construction, operation, and maintenance of public target ranges).

(2) Limitation on use

Under paragraph (1), a State shall not be required to use more than the amount described in section 669g(b) of this title for hunter safety programs and the construction, operation, and maintenance of public target ranges.

(b) Cost sharing

The Federal share of the cost of any activity carried out with a grant under this section shall not exceed 75 percent of the total cost of the activity.

(c) Period of availability; reapportionment

(1) Period of availability

Amounts made available and apportioned for grants under this section shall remain available only for the fiscal year for which the amounts are apportioned.

(2) Reapportionment

At the end of the period of availability under paragraph (1), the Secretary of the Interior shall apportion amounts made available that have not been used to make grants under this section among the States described in subsection (a)(1)(B) of this section for use by those States in accordance with this chapter.

(Sept. 2, 1937, ch. 899, §10, as added Pub. L. 106–408, title I, §112(2), Nov. 1, 2000, 114 Stat. 1766.)

PRIOR PROVISIONS

A prior section 10 of act Sept. 2, 1937, was renumbered section 12 and is classified to section 669i of this title.

§ 669h–2. Multistate conservation grant program

(a) In general

(1) Amount for grants

Not more than $3,000,000 of the revenues covered into the fund for a fiscal year shall be

[1] Probably means section 669c(c) relating to apportionment of certain taxes.

available to the Secretary of the Interior for making multistate conservation project grants in accordance with this section.

(2) Period of availability; apportionment

(A) Period of availability

Amounts made available under paragraph (1) shall remain available for making grants only for the first fiscal year for which the amount is made available and the following fiscal year.

(B) Apportionment

At the end of the period of availability under subparagraph (A), the Secretary of the Interior shall apportion any amounts that remain available among the States in the manner specified in section 669c(b) of this title for use by the States in the same manner as funds apportioned under section 669c(b) of this title.

(b) Selection of projects

(1) States or entities to be benefited

A project shall not be eligible for a grant under this section unless the project will benefit—

(A) at least 26 States;

(B) a majority of the States in a region of the United States Fish and Wildlife Service; or

(C) a regional association of State fish and game departments.

(2) Use of submitted priority list of projects

The Secretary of the Interior may make grants under this section only for projects identified on a priority list of wildlife restoration projects described in paragraph (3).

(3) Priority list of projects

A priority list referred to in paragraph (2) is a priority list of wildlife restoration projects that the International Association of Fish and Wildlife Agencies—

(A) prepares through a committee comprised of the heads of State fish and game departments (or their designees), in consultation with—

(i) nongovernmental organizations that represent conservation organizations;

(ii) sportsmen organizations; and

(iii) industries that support or promote hunting, trapping, recreational shooting, bow hunting, or archery;

(B) approves by vote of a majority of the heads of State fish and game departments (or their designees); and

(C) not later than October 1 of each fiscal year, submits to the Assistant Director for Wildlife and Sport Fish Restoration Programs.

(4) Publication

The Assistant Director for Wildlife and Sport Fish Restoration Programs shall publish in the Federal Register each priority list submitted under paragraph (3)(C).

(c) Eligible grantees

(1) In general

The Secretary of the Interior may make a grant under this section only to—

(A) a State or group of States;

(B) the United States Fish and Wildlife Service, or a State or group of States, for the purpose of carrying out the National Survey of Fishing, Hunting, and Wildlife-Associated Recreation; and

(C) subject to paragraph (2), a nongovernmental organization.

(2) Nongovernmental organizations

(A) In general

Any nongovernmental organization that applies for a grant under this section shall submit with the application to the International Association of Fish and Wildlife Agencies a certification that the organization—

(i) will not use the grant funds to fund, in whole or in part, any activity of the organization that promotes or encourages opposition to the regulated hunting or trapping of wildlife; and

(ii) will use the grant funds in compliance with subsection (d) of this section.

(B) Penalties for certain activities

Any nongovernmental organization that is found to use grant funds in violation of subparagraph (A) shall return all funds received under this section and be subject to any other applicable penalties under law.

(d) Use of grants

A grant under this section shall not be used, in whole or in part, for an activity, project, or program that promotes or encourages opposition to the regulated hunting or trapping of wildlife.

(e) Nonapplicability of Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any activity carried out under this section.

(Sept. 2, 1937, ch. 899, §11, as added Pub. L. 106–408, title I, §113, Nov. 1, 2000, 114 Stat. 1767.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (e), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 11 of act Sept. 2, 1937, was classified to section 669j of this title prior to repeal by act Aug. 7, 1946.

§ 669i. Rules and regulations

The Secretary of the Interior is authorized to make rules and regulations for carrying out the provisions of this chapter.

(Sept. 2, 1937, ch. 899, §12, formerly §10, 50 Stat. 919; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; renumbered §12, Pub. L. 106–408, title I, §112(1), Nov. 1, 2000, 114 Stat. 1766.)

TRANSFER OF FUNCTIONS

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior.

§ 669j. Repealed. Aug. 7, 1946, ch. 770, § 1(14), 60 Stat. 867

Section, act Sept. 2, 1937, ch. 899, § 11, 50 Stat. 919; Reorg. Plan No. II, § 4(f) of 1939, eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, related to annual report to Congress by the Secretary of the Interior.

§ 669k. Reports and certifications

(a) Implementation report

(1) In general

At the time at which the President submits to Congress a budget request for the Department of the Interior for fiscal year 2002, the Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the steps that have been taken to comply with this title[1] and the amendments made by this title.[1]

(2) Contents

The report under paragraph (1) shall describe—

(A) the extent to which compliance with this title[1] and the amendments made by this title[1] has required a reduction in the number of personnel assigned to administer, manage, and oversee the Federal Assistance Program for State Wildlife and Sport Fish Restoration;

(B) any revisions to this title[1] or the amendments made by this title[1] that would be desirable in order for the Secretary of the Interior to adequately administer the Program and ensure that funds provided to State agencies are properly used; and

(C) any other information concerning the implementation of this title[1] and the amendments made by this title[1] that the Secretary of the Interior considers appropriate.

(b) Projected spending report

At the time at which the President submits a budget request for the Department of the Interior for fiscal year 2002 and each fiscal year thereafter, the Secretary of the Interior shall report in writing to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate the amounts, broken down by category, that are intended to be used for the fiscal year under section 4(a)(1) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c(a)(1)) and section 4(d)(1) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(d)(1)).[1]

(c) Spending certification and report

Not later than 60 days after the end of each fiscal year, the Secretary of the Interior shall certify and report in writing to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate—

(1) the amounts, broken down by category, that were used for the fiscal year under section 4(a)(1) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c(a)(1)) and section 4(d)(1) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(d)(1));[1]

(2) the amounts apportioned to States for the fiscal year under section 4(a)(2) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c(a)(2)) and section 4(d)(2)(A) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(d)(2)(A));[1]

(3) the results of the audits performed under section 9(d) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669h(d)[2] and section 9(d) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777h(d));

(4) that all amounts used for the fiscal year under section 4(a)(1) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c(a)(1)) and section 4(d)(1) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(d)(1))[1] were necessary for expenses for administration incurred in implementation of those Acts;

(5) that all amounts used for the fiscal year to administer those Acts by agency headquarters and by regional offices of the United States Fish and Wildlife Service were used in accordance with those Acts; and

(6) that the Secretary of the Interior, the Assistant Secretary for Fish and Wildlife and Parks, the Director of the United States Fish and Wildlife Service, and the Assistant Director for Wildlife and Sport Fish Restoration Programs each properly discharged their duties under those Acts.

(d) Certifications by States

(1) In general

Not later than 60 days after the end of each fiscal year, each State that received amounts apportioned under the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 et seq.) or the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 et seq.) for the fiscal year shall certify to the Secretary of the Interior in writing that the amounts were expended by the State in accordance with each of those Acts.

(2) Transmission to Congress

Not later than December 31 of a fiscal year, the Secretary of the Interior shall transmit all certifications under paragraph (1) for the previous fiscal year to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(e) Limitation on delegation

The Secretary of the Interior shall not delegate the responsibility for making a certification under subsection (c) of this section to any person except the Assistant Secretary for Fish and Wildlife and Parks.

(Pub. L. 106–408, title I, § 133, Nov. 1, 2000, 114 Stat. 1775.)

REFERENCES IN TEXT

This title, referred to in subsec. (a), is title I of Pub. L. 106–408, Nov. 1, 2000, 114 Stat. 1762, known as the

[1] See References in Text note below.

[2] So in original. Probably should be followed by a second closing parenthesis.

Wildlife and Sport Fish Restoration Programs Improvement Act of 2000. For complete classification of title I to the Code, see Short Title of 2000 Amendment note set out under section 669 of this title and Tables.

The Pittman-Robertson Wildlife Restoration Act, referred to in subsecs. (c)(4) to (6) and (d)(1), is act Sept. 2, 1937, ch. 899, 50 Stat. 917, as amended, also known as the Federal Aid in Wildlife Restoration Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 669 of this title and Tables.

The Dingell-Johnson Sport Fish Restoration Act, referred to in subsecs. (b), (c), and (d)(1), is act Aug. 9, 1950, ch. 658, 64 Stat. 430, as amended, also known as the Federal Aid in Fish Restoration Act and the Fish Restoration and Management Projects Act, which is classified generally to chapter 10B (§ 777 et seq.) of this title. Section 4(d) of the Act was redesignated section 4(b) by Pub. L. 109–59, title X, § 10113(1), Aug. 10, 2005, 119 Stat. 1927, and is classified to section 777c(b) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 777 of this title and Tables.

CODIFICATION

Section was enacted as part of the Fish and Wildlife Programs Improvement and National Wildlife Refuge System Centennial Act of 2000, and not as part of the Pittman-Robertson Wildlife Restoration Act which comprises this chapter.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

CHAPTER 5C—CONSERVATION PROGRAMS ON GOVERNMENT LANDS

SUBCHAPTER I—CONSERVATION PROGRAMS ON MILITARY INSTALLATIONS

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670j. Enforcement provisions.
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SUBCHAPTER I—CONSERVATION PROGRAMS ON MILITARY INSTALLATIONS

§ 670. Definitions

In this subchapter:

(1) Military installation

The term ''military installation''—

(A) means any land or interest in land owned by the United States and administered by the Secretary of Defense or the Secretary of a military department, except land under the jurisdiction of the Assistant Secretary of the Army having responsibility for civil works;

(B) includes all public lands withdrawn from all forms of appropriation under public land laws and reserved for use by the Secretary of Defense or the Secretary of a military department; and

(C) does not include any land described in subparagraph (A) or (B) that is subject to an approved recommendation for closure under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) State fish and wildlife agency

The term ''State fish and wildlife agency'' means the one or more agencies of State government that are responsible under State law for managing fish or wildlife resources.

(3) United States

The term ''United States'' means the States, the District of Columbia, and the territories and possessions of the United States.

(Pub. L. 86–797, title I, § 100, as added Pub. L. 105–85, div. B, title XXIX, § 2911, Nov. 18, 1997, 111 Stat. 2021.)

SHORT TITLE OF 1997 AMENDMENT

Section 2901 of title XXIX of Pub. L. 105–85 provided that: ''This title [enacting this section and sections 670e–1 and 670e–2 of this title, amending sections 670a, 670b, 670c, 670c–1, 670f, and 670*o* of this title, repealing section 670a–1 of this title, and enacting provisions set out as notes under this section and section 670a of this title] may be cited as the 'Sikes Act Improvement Act of 1997'.''

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–420, § 1, Oct. 5, 1978, 92 Stat. 921, provided: ''That this Act [amending sections 670f and 670*o* of this title] may be cited as the 'Sikes Act Amendments of 1978'.''

SHORT TITLE

Section 1 of Pub. L. 86–797, as added by Pub. L. 105–85, div. B, title XXIX, § 2903, Nov. 18, 1997, 111 Stat. 2016, provided that: ''This Act [enacting this chapter] may be cited as the 'Sikes Act'.''

§ 670a. Program for conservation and rehabilitation of natural resources on military installations

(a) Authority of Secretary of Defense

(1) Program

(A) In general

The Secretary of Defense shall carry out a program to provide for the conservation and rehabilitation of natural resources on military installations.

(B) Integrated natural resources management plan

To facilitate the program, the Secretary of each military department shall prepare and implement an integrated natural resources management plan for each military installation in the United States under the jurisdiction of the Secretary, unless the Secretary determines that the absence of significant natural resources on a particular installation makes preparation of such a plan inappropriate.

(2) Cooperative preparation

The Secretary of a military department shall prepare each integrated natural resources management plan for which the Secretary is responsible in cooperation with the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, and the head of each appropriate State fish and wildlife agency for the State in which the military installation concerned is located. Consistent with paragraph (4), the resulting plan for the military installation shall reflect the mutual agreement of the parties concerning conservation, protection, and management of fish and wildlife resources.

(3) Purposes of program

Consistent with the use of military installations to ensure the preparedness of the Armed Forces, the Secretaries of the military departments shall carry out the program required by this subsection to provide for—

(A) the conservation and rehabilitation of natural resources on military installations;

(B) the sustainable multipurpose use of the resources, which shall include hunting, fishing, trapping, and nonconsumptive uses; and

(C) subject to safety requirements and military security, public access to military installations to facilitate the use.

(4) Effect on other law

Nothing in this subchapter—

(A)(i) affects any provision of a Federal law governing the conservation or protection of fish and wildlife resources; or

(ii) enlarges or diminishes the responsibility and authority of any State for the protection and management of fish and resident wildlife; or

(B) except as specifically provided in the other provisions of this section and in section 670b of this title, authorizes the Secretary of a military department to require a Federal license or permit to hunt, fish, or trap on a military installation.

(b) Required elements of plans

Consistent with the use of military installations to ensure the preparedness of the Armed Forces, each integrated natural resources management plan prepared under subsection (a) of this section—

(1) shall, to the extent appropriate and applicable, provide for—

(A) fish and wildlife management, land management, forest management, and fish- and wildlife-oriented recreation;

(B) fish and wildlife habitat enhancement or modifications;

(C) wetland protection, enhancement, and restoration, where necessary for support of fish, wildlife, or plants;

(D) integration of, and consistency among, the various activities conducted under the plan;

(E) establishment of specific natural resource management goals and objectives and time frames for proposed action;

(F) sustainable use by the public of natural resources to the extent that the use is not inconsistent with the needs of fish and wildlife resources;

(G) public access to the military installation that is necessary or appropriate for the use described in subparagraph (F), subject to requirements necessary to ensure safety and military security;

(H) enforcement of applicable natural resource laws (including regulations);

(I) no net loss in the capability of military installation lands to support the military mission of the installation; and

(J) such other activities as the Secretary of the military department determines appropriate;

(2) must be reviewed as to operation and effect by the parties thereto on a regular basis, but not less often than every 5 years; and

(3) may stipulate the issuance of special State hunting and fishing permits to individuals and require payment of nominal fees therefor, which fees shall be utilized for the protection, conservation, and management of fish and wildlife, including habitat improvement and related activities in accordance with the integrated natural resources management plan; except that—

(A) the Commanding Officer of the installation or persons designated by that Officer are authorized to enforce such special hunting and fishing permits and to collect, spend, administer, and account for fees for the permits, acting as agent or agents for the State if the integrated natural resources management plan so provides, and

(B) the fees collected under this paragraph may not be expended with respect to other than the military installation on which collected, unless the military installation is subsequently closed, in which case the fees may be transferred to another military installation to be used for the same purposes.

(c) Prohibitions on sale and lease of lands unless effects compatible with plan

After an integrated natural resources management plan is agreed to under subsection (a) of this section—

(1) no sale of land, or forest products from land, that is within a military installation

covered by that plan may be made under section 2665(a) or (b) of title 10; and

(2) no leasing of land that is within the installation may be made under section 2667 of such title 10;

unless the effects of that sale or leasing are compatible with the purposes of the plan.

(d) Implementation and enforcement of plans

With regard to the implementation and enforcement of integrated natural resources management plans agreed to under subsection (a) of this section—

(1) neither Office of Management and Budget Circular A–76 nor any successor circular thereto applies to the procurement of services that are necessary for that implementation and enforcement; and

(2) priority shall be given to the entering into of contracts for the procurement of such implementation and enforcement services with Federal and State agencies having responsibility for the conservation or management of fish or wildlife.

(e) Applicability of other laws

Integrated natural resources management plans agreed to under the authority of this section and section 670b of this title shall not be deemed to be, nor treated as, cooperative agreements to which chapter 63 of title 31 applies.

(f) Reviews and reports

(1) Secretary of Defense

Not later than March 1 of each year, the Secretary of Defense shall review the extent to which integrated natural resources management plans were prepared or were in effect and implemented in accordance with this subchapter in the preceding year, and submit a report on the findings of the review to the committees. Each report shall include—

(A) the number of integrated natural resources management plans in effect in the year covered by the report, including the date on which each plan was issued in final form or most recently revised;

(B) the amounts expended on conservation activities conducted pursuant to the plans in the year covered by the report; and

(C) an assessment of the extent to which the plans comply with this subchapter.

(2) Secretary of the Interior

Not later than March 1 of each year and in consultation with the heads of State fish and wildlife agencies, the Secretary of the Interior shall submit a report to the committees on the amounts expended by the Department of the Interior and the State fish and wildlife agencies in the year covered by the report on conservation activities conducted pursuant to integrated natural resources management plans.

(3) "Committees" defined

In this subsection, the term ''committees'' means—

(A) the Committee on Resources and the Committee on Armed Services of the House of Representatives; and

(B) the Committee on Armed Services and the Committee on Environment and Public Works of the Senate.

(g) Pilot program for invasive species management for military installations in Guam

(1) Inclusion of invasive species management

During fiscal years 2009 through 2014, the Secretary of Defense shall, to the extent practicable and conducive to military readiness, incorporate in integrated natural resources management plans for military installations in Guam the management, control, and eradication of invasive species—

(A) that are not native to the ecosystem of the military installation; and

(B) the introduction of which cause or may cause harm to military readiness, the environment, or human health and safety.

(2) Consultation

The Secretary of Defense shall carry out this subsection in consultation with the Secretary of the Interior.

(Pub. L. 86–797, title I, §101, formerly §1, Sept. 15, 1960, 74 Stat. 1052; renumbered title I, §101, and amended Pub. L. 93–452, §§1(1), 3(1), (2), Oct. 18, 1974, 88 Stat. 1369, 1375; Pub. L. 97–396, §1, Dec. 31, 1982, 96 Stat. 2005; Pub. L. 99–561, §3(a)(1), Oct. 27, 1986, 100 Stat. 3150; Pub. L. 105–85, div. B, title XXIX, §§2904(a)–(b)(4), (c), 2906, 2907, 2913(2)–(4), Nov. 18, 1997, 111 Stat. 2017, 2018, 2020, 2022; Pub. L. 106–65, div. A, title X, §1067(19), Oct. 5, 1999, 113 Stat. 775; Pub. L. 108–136, div. A, title III, §311(c)(1), Nov. 24, 2003, 117 Stat. 1429; Pub. L. 111–84, div. A, title III, §314, Oct. 28, 2009, 123 Stat. 2248.)

AMENDMENTS

2009—Subsec. (g)(1). Pub. L. 111–84 substituted ''fiscal years 2009 through 2014'' for ''fiscal years 2004 through 2008'' in introductory provisions.

2003—Subsec. (g). Pub. L. 108–136 added subsec. (g).

1999—Subsec. (f)(3)(A). Pub. L. 106–65 substituted ''Committee on Armed Services'' for ''Committee on National Security''.

1997—Subsec. (a). Pub. L. 105–85, §2904(a), added subsec. (a) and struck out former subsec. (a) which read as follows: ''The Secretary of Defense is authorized to carry out a program of planning for, and the development, maintenance, and coordination of, wildlife, fish, and game conservation and rehabilitation in each military reservation in accordance with a cooperative plan mutually agreed upon by the Secretary of Defense, the Secretary of the Interior, and the appropriate State agency designated by the State in which the reservation is located.''

Subsec. (b). Pub. L. 105–85, §2904(c)(1), inserted heading and substituted, in introductory provisions, ''Consistent with the use of military installations to ensure the preparedness of the Armed Forces, each integrated natural resources management plan prepared under subsection (a) of this section—'' for ''Each cooperative plan entered into under subsection (a) of this section—''.

Subsec. (b)(1). Pub. L. 105–85, §2904(c)(1), added par. (1) and struck out former par. (1) which read as follows: ''shall provide for—

''(A) fish and wildlife habitat improvements or modifications,

''(B) range rehabilitation where necessary for support of wildlife,

''(C) control of off-road vehicle traffic, and

''(D) specific habitat improvement projects and related activities and adequate protection for species of fish, wildlife, and plants considered threatened or endangered;''.

Subsec. (b)(2). Pub. L. 105–85, §2904(c)(2), inserted ''and'' at end.

Subsec. (b)(3). Pub. L. 105–85, § 2904(c)(3), (4), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: ''shall, if a multiuse natural resources management plan is applicable to the military reservation, be treated as the exclusive component of that management plan with respect to wildlife, fish, and game conservation and rehabilitation; and''.

Subsec. (b)(3)(A). Pub. L. 105–85, § 2913(2)(A), substituted ''the installation'' for ''the reservation''.

Pub. L. 105–85, § 2904(c)(5), substituted ''collect, spend, administer, and account for fees for the permits,'' for ''collect the fees therefor,''.

Subsec. (b)(3)(B). Pub. L. 105–85, § 2912(2)(B), substituted ''the military installation on'' for ''the military reservation on''.

Pub. L. 105–85, § 2906, inserted before period at end '', unless the military installation is subsequently closed, in which case the fees may be transferred to another military installation to be used for the same purposes''.

Subsec. (b)(4). Pub. L. 105–85, § 2904(c)(4), redesignated par. (4) as (3).

Pub. L. 105–85, § 2904(b)(1), substituted ''integrated natural resources management plan'' for ''cooperative plan'' in introductory provisions and in subpar. (A).

Subsec. (c). Pub. L. 105–85, § 2904(b)(2), substituted ''an integrated natural resources management plan'' for ''a cooperative plan'' in introductory provisions.

Subsec. (c)(1). Pub. L. 105–85, § 2913(3)(A), substituted ''a military installation'' for ''a military reservation''.

Subsec. (c)(2). Pub. L. 105–85, § 2913(3)(B), substituted ''the installation'' for ''the reservation''.

Subsec. (d). Pub. L. 105–85, § 2904(b)(3), substituted ''integrated natural resources management plans'' for ''cooperative plans'' in introductory provisions.

Subsec. (e). Pub. L. 105–85, § 2913(4), substituted ''chapter 63 of title 31'' for ''the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.)''.

Pub. L. 105–85, § 2904(b)(4), substituted ''Integrated natural resources management plans'' for ''Cooperative plans''.

Subsec. (f). Pub. L. 105–85, § 2907, added subsec. (f).

1986—Pub. L. 99–561 amended section generally. Prior to amendment, section read as follows: ''The Secretary of Defense is hereby authorized to carry out a program of planning, development, maintenance and coordination of wildlife, fish and game conservation and rehabilitation in military reservations in accordance with a cooperative plan mutually agreed upon by the Secretary of Defense, the Secretary of Interior and the appropriate State agency designated by the State in which the reservation is located. Such cooperative plan shall provide for (1) fish and wildlife habitat improvements or modifications, (2) range rehabilitation where necessary for support of wildlife, (3) control of off-road vehicle traffic, and (4) specific habitat improvement projects and related activities and adequate protection for species of fish, wildlife, and plants considered threatened or endangered. Such cooperative plan may stipulate the issuance of special State hunting and fishing permits to individuals and require this payment of a nominal fee therefor, which fees shall be utilized for the protection, conservation and management of fish and wildlife, including habitat improvement and related activities in accordance with the cooperative plan: *Provided*, That the Commanding Officer of the reservation or persons designated by him are authorized to enforce such special hunting and fishing permits and to collect the fees therefor, acting as agent or agents for the State if the cooperative plan so provides. Cooperative plans agreed to under the authority of this section and section 670b of this title shall not be deemed to be, nor treated as, cooperative agreements to which chapter 63 of title 31 applies.''

1982—Pub. L. 97–396, § 1(1), added cl. (4).

Pub. L. 97–396, § 1(2), inserted provision that cooperative plans agreed to under the authority of this section and section 670b of this title shall not be deemed to be, nor treated as, cooperative agreements to which chapter 63 of title 31 applies.

1974—Pub. L. 93–452, §§ 1(1), 3(2), inserted provisions requiring the cooperative plan to provide for fish and wildlife habitat improvements, range rehabilitation, and off-road vehicle traffic control.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title III, § 311(c)(2), Nov. 24, 2003, 117 Stat. 1429, provided that: ''Section 101(g) of the Sikes Act, as added by paragraph (1), [subsec. (g) of this section] shall apply—

''(A) to any integrated natural resources management plan prepared for a military installation in Guam under section 101(a)(1) of such Act on or after the date of the enactment of this Act [Nov. 24, 2003]; and

''(B) effective March 1, 2004, to any integrated natural resources management plan prepared for a military installation in Guam under such section before the date of the enactment of this Act.''

REVIEW FOR PREPARATION OF INTEGRATED NATURAL RESOURCES MANAGEMENT PLANS

Section 2905 of title XXIX of Pub. L. 105–85 provided that:

''(a) DEFINITIONS.—In this section, the terms 'military installation' and 'United States' have the meanings provided in section 100 of the Sikes Act [16 U.S.C. 670] (as added by section 2911).

''(b) REVIEW OF MILITARY INSTALLATIONS.—

''(1) REVIEW.—Not later than 270 days after the date of enactment of this Act [Nov. 18, 1997], the Secretary of each military department shall—

''(A) review each military installation in the United States that is under the jurisdiction of that Secretary to determine the military installations for which the preparation of an integrated natural resources management plan under section 101 of the Sikes Act [16 U.S.C. 670a] (as amended by this title) is appropriate; and

''(B) submit to the Secretary of Defense a report on the determinations.

''(2) REPORT TO CONGRESS.—Not later than one year after the date of enactment of this Act, the Secretary of Defense shall submit to Congress a report on the reviews conducted under paragraph (1). The report shall include—

''(A) a list of the military installations reviewed under paragraph (1) for which the Secretary of the appropriate military department determines that the preparation of an integrated natural resources management plan is not appropriate; and

''(B) for each of the military installations listed under subparagraph (A), an explanation of each reason such a plan is not appropriate.

''(c) DEADLINE FOR INTEGRATED NATURAL RESOURCES MANAGEMENT PLANS.—Not later than three years after the date of the submission of the report required under subsection (b)(2), the Secretary of each military department shall, for each military installation with respect to which the Secretary has not determined under subsection (b)(2)(A) that preparation of an integrated natural resources management plan is not appropriate—

''(1) prepare and begin implementing such a plan in accordance with section 101(a) of the Sikes Act [16 U.S.C. 670a(a)] (as amended by this title); or

''(2) in the case of a military installation for which there is in effect a cooperative plan under section 101(a) of the Sikes Act on the day before the date of enactment of this Act [Nov. 18, 1997], complete negotiations with the Secretary of the Interior and the heads of the appropriate State agencies regarding changes to the plan that are necessary for the plan to constitute an integrated natural resources manage-

ment plan that complies with that section, as amended by this title.

''(d) PUBLIC COMMENT.—The Secretary of each military department shall provide an opportunity for the submission of public comments on—

''(1) integrated natural resources management plans proposed under subsection (c)(1); and

''(2) changes to cooperative plans proposed under subsection (c)(2).''

APPLICABILITY OF 1986 AMENDMENTS TO EXISTING CONTRACTS

Section 3(a)(2) of Pub. L. 99–561 provided that: ''Subsection (d)(1) of such section 101 (as added by paragraph (1) [16 U.S.C. 670a(d)(1)]) shall not affect any contract entered into before the date of the enactment of this Act [October 27, 1986] for the provision of services to implement or enforce a cooperative plan under this Act [enacting section 670a–1 of this title and amending this section and sections 670f and 670*o* of this title and section 2665 of Title 10, Armed Forces] on any military installation; but shall apply to the renewal, after such date of enactment, of any such contract.''

§ 670a–1. Repealed. Pub. L. 105–85, div. B, title XXIX, § 2912, Nov. 18, 1997, 111 Stat. 2022

Section, Pub. L. 99–561, § 2, Oct. 27, 1986, 100 Stat. 3149, related to natural resources and fish and wildlife management on military reservations and required report on military expenditures for fish and wildlife management.

§ 670b. Migratory game birds; permits; fees; Stamp Act and State law requirements

The Secretary of Defense in cooperation with the Secretary of the Interior and the appropriate State agency is authorized to carry out a program for the conservation, restoration and management of migratory game birds on military installations, including the issuance of special hunting permits and the collection of fees therefor, in accordance with an integrated natural resources management plan mutually agreed upon by the Secretary of Defense, the Secretary of the Interior and the appropriate State agency: *Provided*, That possession of a special permit for hunting migratory game birds issued pursuant to this subchapter shall not relieve the permittee of the requirements of the Migratory Bird Hunting Stamp Act as amended [16 U.S.C. 718 et seq.] nor of the requirements pertaining to State law set forth in Public Law 85–337.

(Pub. L. 86–797, title I, § 102, formerly § 2, Sept. 15, 1960, 74 Stat. 1053; renumbered title I, § 102, and amended Pub. L. 93–452, § 3(1), (3), Oct. 18, 1974, 88 Stat. 1375; Pub. L. 105–85, div. B, title XXIX, §§ 2904(b)(5), 2913(5), Nov. 18, 1997, 111 Stat. 2018, 2022.)

REFERENCES IN TEXT

The Migratory Bird Hunting Stamp Act, referred to in text, subsequently renamed the Migratory Bird Hunting and Conservation Stamp Act, is act Mar. 16, 1934, ch. 71, 48 Stat. 452, as amended, which is classified generally to subchapter IV (§ 718 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 718 of this title and Tables.

Public Law 85–337, referred to in text, is Pub. L. 85–337, Feb. 28, 1958, 72 Stat. 28, which is classified to section 2671 of Title 10, Armed Forces, section 472 of former Title 40, Public Buildings, Property, and Works [now 40 U.S.C. 102], and sections 155 to 158 of Title 43, Public Lands. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1997—Pub. L. 105–85 substituted ''military installations'' for ''military reservations'' and ''an integrated natural resources management plan'' for ''a cooperative plan''.

1974—Pub. L. 93–452, § 3(3), substituted ''title'' for ''Act'' which for purposes of codification was translated as ''subchapter''.

§ 670c. Program for public outdoor recreation

(a) Program authorized

The Secretary of Defense is also authorized to carry out a program for the development, enhancement, operation, and maintenance of public outdoor recreation resources at military installations in accordance with an integrated natural resources management plan mutually agreed upon by the Secretary of Defense and the Secretary of the Interior, in consultation with the appropriate State agency designated by the State in which the installations are located.

(b) Access for disabled veterans, military dependents with disabilities, and other persons with disabilities

(1) In developing facilities and conducting programs for public outdoor recreation at military installations, consistent with the primary military mission of the installations, the Secretary of Defense shall ensure, to the extent reasonably practicable, that outdoor recreation opportunities (including fishing, hunting, trapping, wildlife viewing, boating, and camping) made available to the public also provide access for persons described in paragraph (2) when topographic, vegetative, and water resources allow access for such persons without substantial modification to the natural environment.

(2) Persons referred to in paragraph (1) are the following:

(A) Disabled veterans.

(B) Military dependents with disabilities.

(C) Other persons with disabilities, when access to a military installation for such persons and other civilians is not otherwise restricted.

(3) The Secretary of Defense shall carry out this subsection in consultation with the Secretary of Veterans Affairs, national service, military, and veterans organizations, and sporting organizations in the private sector that participate in outdoor recreation projects for persons described in paragraph (2).

(c) Acceptance of donations

In connection with the facilities and programs for public outdoor recreation at military installations, in particular the requirement under subsection (b) of this section to provide access for persons described in paragraph (2) of such subsection, the Secretary of Defense may accept—

(1) the voluntary services of individuals and organizations; and

(2) donations of property, whether real or personal.

(d) Treatment of volunteers

A volunteer under subsection (c) of this section shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, includ-

ing those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except that—

(1) for the purposes of the tort claims provisions of chapter 171 of title 28, the volunteer shall be considered to be a Federal employee; and

(2) for the purposes of subchapter I of chapter 81 of title 5, relating to compensation to Federal employees for work injuries, the volunteer shall be considered to be an employee, as defined in section 8101(1)(B) of title 5, and the provisions of such subchapter shall apply.

(Pub. L. 86–797, title I, § 103, formerly § 3, Sept. 15, 1960, 74 Stat. 1053; Pub. L. 90–465, § 1, Aug. 8, 1968, 82 Stat. 661; renumbered title I, § 103, Pub. L. 93–452, § 3(1), Oct. 18, 1974, 88 Stat. 1375; Pub. L. 105–85, div. B, title XXIX, §§ 2904(b)(6), 2913(6), Nov. 18, 1997, 111 Stat. 2018, 2022; Pub. L. 105–261, div. B, title XXVIII, § 2813, Oct. 17, 1998, 112 Stat. 2206.)

AMENDMENTS

1998—Pub. L. 105–261 inserted section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsecs. (b) to (d).

1997—Pub. L. 105–85 substituted ''military installations'' for ''military reservations'', ''an integrated natural resources management plan'' for ''a cooperative plan'', and ''the installations'' for ''such reservations''.

1968—Pub. L. 90–465 authorized the carrying out of a public outdoor recreation resources program under a cooperative plan between Secretary of Defense, Secretary of the Interior, and State agencies, and struck out provisions for expenditure of funds collected and purposes therefor, now incorporated in section 670f(a) of this title.

§ 670c–1. Cooperative and interagency agreements for land management on Department of Defense installations

(a) Authority of Secretary of a military department

The Secretary of a military department may enter into cooperative agreements with States, local governments, nongovernmental organizations, and individuals, and into interagency agreements with the heads of other Federal departments and agencies, to provide for the following:

(1) The maintenance and improvement of natural resources on, or to benefit natural and historic research on, Department of Defense installations.

(2) The maintenance and improvement of natural resources located off of a Department of Defense installation if the purpose of the cooperative agreement or interagency agreement is to relieve or eliminate current or anticipated challenges that could restrict, impede, or otherwise interfere with, whether directly or indirectly, current or anticipated military activities.

(b) Multiyear agreements

Funds appropriated to the Department of Defense for a fiscal year may be obligated to cover the cost of goods and services provided under a cooperative agreement or interagency agreement entered into under subsection (a) of this section or through an agency agreement under section 1535 of title 31 during any 18-month period beginning in that fiscal year, without regard to whether the agreement crosses fiscal years.

(c) Availability of funds; agreements under other laws

Cooperative agreements and interagency agreements entered into under this section shall be subject to the availability of funds and shall not be considered, nor be treated as, cooperative agreements to which chapter 63 of title 31 applies.

(Pub. L. 86–797, title I, § 103a, as added Pub. L. 101–189, div. B, title XXVIII, § 2845(a), Nov. 29, 1989, 103 Stat. 1664; amended Pub. L. 105–85, div. B, title XXIX, § 2908, Nov. 18, 1997, 111 Stat. 2021; Pub. L. 110–417, [div. A], title III, § 313, Oct. 14, 2008, 122 Stat. 4409; Pub. L. 111–84, div. A, title III, § 313, Oct. 28, 2009, 123 Stat. 2248.)

AMENDMENTS

2009—Pub. L. 111–84 inserted, in section catchline, ''and interagency'' after ''Cooperative'', in subsec. (a), '', and into interagency agreements with the heads of other Federal departments and agencies,'' after ''and individuals'' in introductory provisions and ''or interagency agreement'' after ''cooperative agreement'' in par. (2), in subsec. (b), ''or interagency agreement'' after ''cooperative agreement'', and, in subsec. (c), ''and interagency agreements'' after ''Cooperative agreements''.

2008—Subsec. (a). Pub. L. 110–417 substituted ''to provide for the following:

''(1) The''

for ''to provide for the'' and added par. (2).

1997—Subsec. (a). Pub. L. 105–85, § 2908(1), substituted ''Secretary of a military department'' for ''Secretary of Defense''.

Subsec. (b). Pub. L. 105–85, § 2908(2), added heading and text of subsec. (b) and struck out former subsec. (b) which read as follows: ''A cooperative agreement shall provide for the Secretary of Defense and the other party or parties to the agreement—

''(1) to contribute funds on a matching basis to defray the cost of programs, projects, and activities under the agreement; or

''(2) to furnish services on a matching basis to carry out such programs, projects, and activities,

or to do both.''

§ 670d. Liability for funds; accounting to Comptroller General

The Department of Defense is held free from any liability to pay into the Treasury of the United States upon the operation of the program or programs authorized by this subchapter any funds which may have been or may hereafter be collected, received or expended pursuant to, and for the purposes of, this subchapter, and which collections, receipts and expenditures have been properly accounted for to the Comptroller General of the United States.

(Pub. L. 86–797, title I, § 104, formerly § 4, Sept. 15, 1960, 74 Stat. 1053; renumbered title I, § 104, and amended Pub. L. 93–452, § 3(1), (4), Oct. 18, 1974, 88 Stat. 1375.)

AMENDMENTS

1974—Pub. L. 93–452, § 3(4), substituted ''title'' for ''Act'' wherever appearing, which for purposes of codification was translated as ''subchapter''.

§ 670e. Applicability to other laws; national forest lands

Nothing herein contained shall be construed to modify, amend or repeal any provision of Public Law 85–337, nor as applying to national forest lands administered pursuant to the provisions of section 9 of the Act of June 7, 1924 (43 Stat. 655), nor section 315m of title 43.

(Pub. L. 86–797, title I, § 105, formerly § 5, Sept. 15, 1960, 74 Stat. 1053; renumbered title I, § 105, Pub. L. 93–452, § 3(1), Oct. 18, 1974, 88 Stat. 1375.)

REFERENCES IN TEXT

Public Law 85–337, referred to in text, is Pub. L. 85–337, Feb. 28, 1958, 72 Stat. 28, which is classified to section 2671 of Title 10, Armed Forces; section 472 of former Title 40, Public Buildings, Property, and Works [now 40 U.S.C. 102]; and sections 155 to 158 of Title 43, Public Lands. For complete classification of this Act to the Code, see Tables.

Section 9 of the Act of June 7, 1924 [ch. 348, 43 Stat. 655], referred to in text, was classified to the code as follows: The first and fifth sentences were classified to section 471(b) of this title, which was repealed by section 704(a) of Pub. L. 94–579; the second and third sentences were classified to section 505 of this title; and the fourth sentence was classified to section 499 of this title.

§ 670e–1. Federal enforcement of other laws

All Federal laws relating to the management of natural resources on Federal land may be enforced by the Secretary of Defense with respect to violations of the laws that occur on military installations within the United States.

(Pub. L. 86–797, title I, § 106, as added Pub. L. 105–85, div. B, title XXIX, § 2909(2), Nov. 18, 1997, 111 Stat. 2021.)

PRIOR PROVISIONS

A prior section 106 of Pub. L. 86–797 was renumbered section 108, and is classified to section 670f of this title.

§ 670e–2. Natural resources management services

To the extent practicable using available resources, the Secretary of each military department shall ensure that sufficient numbers of professionally trained natural resources management personnel and natural resources law enforcement personnel are available and assigned responsibility to perform tasks necessary to carry out this subchapter, including the preparation and implementation of integrated natural resources management plans.

(Pub. L. 86–797, title I, § 107, as added Pub. L. 105–85, div. B, title XXIX, § 2910, Nov. 18, 1997, 111 Stat. 2021.)

§ 670f. Appropriations and expenditures

(a) Expenditures exclusively under plans; availability of funds until expended

The Secretary of Defense shall expend such funds as may be collected in accordance with the integrated natural resources management plans agreed to under sections 670a and 670b of this title and cooperative agreements agreed to under section 670c–1 of this title and for no other purpose. All funds that are so collected shall remain available until expended.

(b) Authorization of appropriations to Secretary of Defense

Of the amounts authorized to be appropriated to the Department of Defense, there are authorized to be appropriated to the Secretary of Defense not to exceed $1,500,000 for each of the fiscal years 2009 through 2014, to carry out this subchapter, including the enhancement of fish and wildlife habitat and the development of public recreation and other facilities, and to carry out such functions and responsibilities as the Secretary may have under cooperative agreements entered into under section 670c–1 of this title. The Secretary of Defense shall, to the greatest extent practicable, enter into agreements to utilize the services, personnel, equipment, and facilities, with or without reimbursement, of the Secretary of the Interior in carrying out the provisions of this section.

(c) Authorization of appropriations to Secretary of the Interior

Of the amounts authorized to be appropriated to the Department of the Interior, there are authorized to be appropriated to the Secretary of the Interior not to exceed $3,000,000 for each of the fiscal years 2009 through 2014, to carry out such functions and responsibilities as the Secretary may have under integrated natural resources management plans to which such Secretary is a party under this section, including those for the enhancement of fish and wildlife habitat and the development of public recreation and other facilities.

(d) Use of other conservation or rehabilitation authorities

The Secretary of Defense and the Secretary of the Interior may each use any authority available to him under other laws relating to fish, wildlife, or plant conservation or rehabilitation for purposes of carrying out the provisions of this subchapter.

(Pub. L. 86–797, title I, § 108, formerly § 6, as added Pub. L. 90–465, § 2, Aug. 8, 1968, 82 Stat. 661; renumbered title I, § 106, and amended Pub. L. 93–452, §§ 1(2), 3(1), (4), (5), Oct. 18, 1974, 88 Stat. 1369, 1375; Pub. L. 95–420, § 2, Oct. 5, 1978, 92 Stat. 921; Pub. L. 97–396, § 2, Dec. 31, 1982, 96 Stat. 2005; Pub. L. 99–561, §§ 1(a), 3(b), Oct. 27, 1986, 100 Stat. 3149, 3151; Pub. L. 100–653, title II, § 202(a), Nov. 14, 1988, 102 Stat. 3827; Pub. L. 101–189, div. B, title XXVIII, § 2845(b), Nov. 29, 1989, 103 Stat. 1664; renumbered § 108, and amended Pub. L. 105–85, div. B, title XXIX, §§ 2904(b)(7), (8), 2909(1), 2914(a), Nov. 18, 1997, 111 Stat. 2018, 2021, 2022; Pub. L. 108–136, div. A, title III, § 311(a), Nov. 24, 2003, 117 Stat. 1428; Pub. L. 111–84, div. A, title III, § 312, Oct. 28, 2009, 123 Stat. 2247.)

AMENDMENTS

2009—Subsec. (b). Pub. L. 111–84, § 312(a), (b)(1), substituted ''Of the amounts authorized to be appropriated to the Department of Defense, there are authorized'' for ''There are authorized'' and ''fiscal years 2009 through 2014'' for ''fiscal years 2004 through 2008''.

Subsec. (c). Pub. L. 111–84, § 312(a), (b)(2), substituted ''Of the amounts authorized to be appropriated to the Department of the Interior, there are authorized'' for ''There are authorized'' and ''fiscal years 2009 through 2014'' for ''fiscal years 2004 through 2008''.

2003—Subsecs. (b), (c). Pub. L. 108–136 substituted ''fiscal years 2004 through 2008'' for ''fiscal years 1998 through 2003''.

1997—Subsec. (a). Pub. L. 105–85, § 2904(b)(7), substituted ''integrated natural resources management plans'' for ''cooperative plans''.

Subsec. (b). Pub. L. 105–85, § 2914(a), substituted ''1998 through 2003,'' for ''1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, and 1993,''.

Subsec. (c). Pub. L. 105–85, § 2914(a), substituted ''1998 through 2003,'' for ''1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, and 1993,''.

Pub. L. 105–85, § 2904(b)(8), substituted ''integrated natural resources management plans'' for ''cooperative plans''.

1989—Subsec. (a). Pub. L. 101–189, § 2845(b)(1), inserted ''and cooperative agreements agreed to under section 670c–1 of this title'' after ''sections 670a and 670b of this title''.

Subsec. (b). Pub. L. 101–189, § 2845(b)(2), inserted '', and to carry out such functions and responsibilities as the Secretary may have under cooperative agreements entered into under section 670c–1 of this title'' before period at end of first sentence.

1988—Subsecs. (b), (c). Pub. L. 100–653 substituted ''1988, 1989, 1990, 1991, 1992, and 1993'' for ''and 1988''.

1986—Subsec. (a). Pub. L. 99–561, § 3(b), inserted provision that all funds collected remain available until expended.

Subsecs. (b), (c). Pub. L. 99–561, § 1(a), substituted ''1985, 1986, 1987, and 1988'' for ''and 1985''.

1982—Subsecs. (b), (c). Pub. L. 97–396, § 2(1), substituted ''1983, 1984, and 1985,'' for ''ending September 30, 1979, September 30, 1980, and September 30, 1981,'' wherever appearing.

Subsec. (d). Pub. L. 97–396, § 2(2), added subsec. (d).

1978—Subsec. (b). Pub. L. 95–420 substituted provisions authorizing the appropriation of not to exceed $1,500,000 for each of the fiscal years ending Sept. 30, 1979, 1980 and 1981 for provisions authorizing the appropriation of not to exceed $500,000 per fiscal year for fiscal years beginning July 1, 1969, 1970, and 1971 and not to exceed $1,500,000 for fiscal year beginning July 1, 1972 and for each of the next five fiscal years thereafter and struck out provisions relating to the authorization of appropriations to the Secretary of the Interior not to exceed $2,000,000 for the fiscal year beginning July 1, 1973 and for each of the next four fiscal years thereafter to enable the Secretary to carry out the functions and responsibilities under cooperative plans, sums appropriated under this subchapter to be available until expended.

Subsec. (c). Pub. L. 95–420 added subsec. (c).

1974—Subsec. (a). Pub. L. 93–452, § 3(5), substituted ''sections 101 and 102'' for ''sections 1 and 2'' which for purposes of codification was translated as ''sections 670a and 670b'', therefore requiring no change in text because of redesignation of former sections 1 and 2 of Pub. L. 86–797 by section 3(1) of Pub. L. 93–452.

Subsec. (b). Pub. L. 93–452, §§ 1(2), 3(4), inserted provisions authorizing appropriations of not to exceed $1,500,000 for the fiscal year beginning July 1, 1972, and for each of the next five fiscal years thereafter, and authorizing appropriations to the Secretary of the Interior not to exceed $2,000,000 for the fiscal year beginning July 1, 1973, and for each of the next four fiscal years thereafter, and substituted ''title'' for ''Act'' wherever appearing, which for purposes of codification was translated as ''subchapter''.

SUBCHAPTER II—CONSERVATION PROGRAMS ON PUBLIC LANDS

§ 670g. Wildlife, fish, and game conservation and rehabilitation programs; cooperation between Secretary of the Interior, Secretary of Agriculture, and State agencies in planning, etc., in accordance with comprehensive plans; scope and implementation of programs

(a) Conservation and rehabilitation programs

The Secretary of the Interior and the Secretary of Agriculture shall each, in cooperation with the State agencies and in accordance with comprehensive plans developed pursuant to section 670h of this title, plan, develop, maintain, and coordinate programs for the conservation and rehabilitation of wildlife, fish, and game. Such conservation and rehabilitation programs shall include, but not be limited to, specific habitat improvement projects and related activities and adequate protection for species of fish, wildlife, and plants considered threatened or endangered.

(b) Implementation of programs

The Secretary of the Interior shall implement the conservation and rehabilitation programs required under subsection (a) of this section on public land under his jurisdiction. The Secretary of the Interior shall adopt, modify, and implement the conservation and rehabilitation programs required under subsection (a) of this section on public land under the jurisdiction of the Chairman, but only with the prior written approval of the Atomic Energy Commission, and on public land under the jurisdiction of the Administrator, but only with the prior written approval of the Administrator. The Secretary of Agriculture shall implement such conservation and rehabilitation programs on public land under his jurisdiction.

(Pub. L. 86–797, title II, § 201, as added Pub. L. 93–452, § 2, Oct. 18, 1974, 88 Stat. 1369; amended Pub. L. 97–396, § 3, Dec. 31, 1982, 96 Stat. 2005.)

AMENDMENTS

1982—Subsec. (a). Pub. L. 97–396 inserted ''of fish, wildlife, and plants'' after ''species''.

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

DESERT TORTOISE PLAN

Pub. L. 100–275, § 12, Mar. 31, 1988, 102 Stat. 60, directed Secretary of the Interior to review status of populations of desert tortoises on lands in Nevada and other States managed by Secretary, other than lands conveyed or leased pursuant to Pub. L. 100–275, assess nature and extent of threats to continued health or stability of such populations on such lands, and prepare a comprehensive plan to address such threats, with Secretary to consult with State officials, other Federal agencies responsible for management of lands where desert tortoise populations are located, the Desert Tortoise Council, and other persons or groups identified by Secretary as having expertise relevant to requirements of this section; such review and assessment to be completed and results to be made available to the public and transmitted to certain committees of Congress no later than two years after Mar. 31, 1988, and such plan to be developed and transmitted to such committees no later than three years after Mar. 31, 1988; with a failure by Secretary to transmit such report within such three-year period not to relieve the Secretary from requirement to prepare such plan.

§ 670h. Comprehensive plans for conservation and rehabilitation programs

(a) Development by Secretary of the Interior and Secretary of Agriculture; consultation with State agencies; prior written approval of concerned Federal agencies

(1) The Secretary of the Interior shall develop, in consultation with the State agencies, a com-

prehensive plan for conservation and rehabilitation programs to be implemented on public land under his jurisdiction and the Secretary of Agriculture shall do the same in connection with public land under his jurisdiction.

(2) The Secretary of the Interior shall develop, with the prior written approval of the Atomic Energy Commission, a comprehensive plan for conservation and rehabilitation programs to be implemented on public land under the jurisdiction of the Chairman and develop, with the prior written approval of the Administrator, a comprehensive plan for such programs to be implemented on public land under the jurisdiction of the Administrator. Each such plan shall be developed after the Secretary of the Interior makes, with the prior written approval of the Chairman or the Administrator, as the case may be, and in consultation with the State agencies, necessary studies and surveys of the land concerned to determine where conservation and rehabilitation programs are most needed.

(b) Development consistent with overall land use and management plans; hunting, trapping, and fishing authorized in accordance with applicable State laws and regulations

Each comprehensive plan developed pursuant to this section shall be consistent with any overall land use and management plans for the lands involved. In any case in which hunting, trapping, or fishing (or any combination thereof) of resident fish and wildlife is to be permitted on public land under a comprehensive plan, such hunting, trapping, and fishing shall be conducted in accordance with applicable laws and regulations of the State in which such land is located.

(c) Cooperative agreements by State agencies for implementation of programs; modifications; contents; hunting, trapping and fishing authorized in accordance with applicable State laws and regulations; regulations

(1) Each State agency may enter into a cooperative agreement with—

(A) the Secretary of the Interior with respect to those conservation and rehabilitation programs to be implemented under this subchapter within the State on public land which is under his jurisdiction;

(B) the Secretary of Agriculture with respect to those conservation and rehabilitation programs to be implemented under this subchapter within the State on public land which is under his jurisdiction; and

(C) the Secretary of the Interior and the Chairman or the Administrator, as the case may be, with respect to those conservation and rehabilitation programs to be implemented under this subchapter within the State on public land under the jurisdiction of the Chairman or the Administrator; except that before entering into any cooperative agreement which affects public land under the jurisdiction of the Chairman, the Secretary of the Interior shall obtain the prior written approval of the Atomic Energy Commission and before entering into any cooperative agreement which affects public lands under the jurisdiction of the Administrator, the Secretary of the Interior shall obtain the prior written approval of the Administrator.

Conservation and rehabilitation programs developed and implemented pursuant to this subchapter shall be deemed as supplemental to wildlife, fish, and game-related programs conducted by the Secretary of the Interior and the Secretary of Agriculture pursuant to other provisions of law. Nothing in this subchapter shall be construed as limiting the authority of the Secretary of the Interior or the Secretary of Agriculture, as the case may be, to manage the national forests or other public lands for wildlife and fish and other purposes in accordance with the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528–531) or other applicable authority.

(2) Any conservation and rehabilitation program included within a cooperative agreement entered into under this subsection may be modified in a manner mutually agreeable to the State agency and the Secretary concerned (and the Chairman or the Administrator, as the case may be, if public land under his jurisdiction is involved). Before modifying any cooperative agreement which affects public land under the jurisdiction of the Chairman, the Secretary of the Interior shall obtain the prior written approval of the Atomic Energy Commission and before modifying any cooperative agreement which affects public land under the jurisdiction of the Administrator, the Secretary of the Interior shall obtain the prior written approval of the Administrator.

(3) Each cooperative agreement entered into under this subsection shall—

(A) specify those areas of public land within the State on which conservation and rehabilitation programs will be implemented;

(B) provide for fish and wildlife habitat improvements or modifications, or both;

(C) provide for range rehabilitation where necessary for support of wildlife;

(D) provide adequate protection for fish and wildlife officially classified as threatened or endangered pursuant to section 1533 of this title or considered to be threatened, rare, or endangered by the State agency;

(E) require the control of off-road vehicle traffic;

(F) if the issuance of public land area management stamps is agreed to pursuant to section 670i(a) of this title—

(i) contain such terms and conditions as are required under section 670i(b) of this title;

(ii) require the maintenance of accurate records and the filing of annual reports by the State agency to the Secretary of the Interior or the Secretary of Agriculture, or both, as the case may be, setting forth the amount and disposition of the fees collected for such stamps; and

(iii) authorize the Secretary concerned and the Comptroller General of the United States, or their authorized representatives, to have access to such records for purposes of audit and examination; and

(G) contain such other terms and conditions as the Secretary concerned and the State agency deem necessary and appropriate to carry out the purposes of this subchapter.

A cooperative agreement may also provide for arrangements under which the Secretary con-

cerned may authorize officers and employees of the State agency to enforce, or to assist in the enforcement of, section 670j(a) of this title.

(4) Except where limited under a comprehensive plan or pursuant to cooperative agreement, hunting, fishing, and trapping shall be permitted with respect to resident fish and wildlife in accordance with applicable laws and regulations of the State in which such land is located on public land which is the subject of a conservation and rehabilitation program implemented under this subchapter.

(5) The Secretary of the Interior and the Secretary of Agriculture, as the case may be, shall prescribe such regulations as are deemed necessary to control, in a manner consistent with the applicable comprehensive plan and cooperative agreement, the public use of public land which is the subject of any conservation and rehabilitation program implemented by him under this subchapter.

(d) State agency agreements not cooperative agreements under other provisions

Agreements entered into by State agencies under the authority of this section shall not be deemed to be, or treated as, cooperative agreements to which chapter 63 of title 31 applies.

(Pub. L. 86–797, title II, § 202, as added Pub. L. 93–452, § 2, Oct. 18, 1974, 88 Stat. 1369; amended Pub. L. 97–396, § 4, Dec. 31, 1982, 96 Stat. 2005.)

REFERENCES IN TEXT

The Multiple-Use Sustained-Yield Act of 1960, referred to in subsec. (c)(1), is Pub. L. 86–517, June 12, 1960, 74 Stat. 215, which is classified generally to sections 528 to 531 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 528 of this title and Tables.

CODIFICATION

In subsec. (d), ''chapter 63 of title 31'' substituted for ''the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.)'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1982—Subsec. (d). Pub. L. 97–396 added subsec. (d).

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

§ 670i. Public land management area stamps; agreement between State agencies and Secretary of the Interior and Secretary of Agriculture requiring stamps for hunting, trapping, and fishing on public lands subject to programs; conditions of agreement

(a) Any State agency may agree with the Secretary of the Interior and the Secretary of Agriculture (or with the Secretary of the Interior or the Secretary of Agriculture, as the case may be, if within the State concerned all conservation and rehabilitation programs under this subchapter will be implemented by him) that no individual will be permitted to hunt, trap, or fish on any public land within the State which is subject to a conservation and rehabilitation program implemented under this subchapter unless at the time such individual is engaged in such activity he has on his person a valid public land management area stamp issued pursuant to this section.

(b) Any agreement made pursuant to subsection (a) of this section to require the issuance of public land management area stamps shall be subject to the following conditions:

(1) Such stamps shall be issued, sold, and the fees therefor collected, by the State agency or by the authorized agents of such agency.

(2) Notice of the requirement to possess such stamps shall be displayed prominently in all places where State hunting, trapping, or fishing licenses are sold. To the maximum extent practicable, the sale of such stamps shall be combined with the sale of such State hunting, trapping, and fishing licenses.

(3) Except for expenses incurred in the printing, issuing, or selling of such stamps, the fees collected for such stamps by the State agency shall be utilized in carrying out conservation and rehabilitation programs implemented under this subchapter in the State concerned. Such fees may be used by the State agency to acquire lands or interests therein from willing sellers or donors to provide public access to program lands that have no existing public access for enhancement of outdoor recreation and wildlife conservation: *Provided*, That the Secretary of Agriculture and the Secretary of the Interior maintain such access, or ensure that maintenance is provided for such access, through or to lands within their respective jurisdiction.

(4) The purchase of any such stamp shall entitle the purchaser thereof to hunt, trap, and fish on any public land within such State which is the subject of a conservation or rehabilitation program implemented under this subchapter except to the extent that the public use of such land is limited pursuant to a comprehensive plan or cooperative agreement; but the purchase of any such stamp shall not be construed as (A) eliminating the requirement for the purchase of a migratory bird hunting stamp as set forth in section 718a of this title, or (B) relieving the purchaser from compliance with any applicable State game and fish laws and regulations.

(5) The amount of the fee to be charged for such stamps, the age at which the individual is required to acquire such a stamp, and the expiration date for such stamps shall be mutually agreed upon by the State agency and the Secretary or Secretaries concerned; except that each such stamp shall be void not later than one year after the date of issuance.

(6) Each such stamp must be validated by the purchaser thereof by signing his name across the face of the stamp.

(7) Any individual to whom a stamp is sold pursuant to this section shall upon request exhibit such stamp for inspection to any officer or employee of the Department of the Interior or the Department of Agriculture, or to any other person who is authorized to enforce section 670j(a) of this title.

(Pub. L. 86–797, title II, § 203, as added Pub. L. 93–452, § 2, Oct. 18, 1974, 88 Stat. 1371; amended

Pub. L. 100–653, title II, § 201, Nov. 14, 1988, 102 Stat. 3826.)

AMENDMENTS

1988—Subsec. (b)(3). Pub. L. 100–653 amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''Except for expenses incurred in the printing, issuing, or selling of such stamps, the fees collected for such stamps by the State agency shall be utilized in carrying out conservation and rehabilitation programs implemented under this subchapter in the State concerned and for no other purpose. If such programs are implemented by both the Secretary of the Interior and the Secretary of Agriculture in the State, the Secretaries shall mutually agree, on such basis as they deem reasonable, on the proportion of such fees that shall be applied by the State agency to their respective programs.''

§ 670j. Enforcement provisions

(a) Violations and penalties

(1) Any person who hunts, traps, or fishes on any public land which is subject to a conservation and rehabilitation program implemented under this subchapter without having on his person a valid public land management area stamp, if the possession of such a stamp is required, shall be fined not more than $1,000, or imprisoned for not more than six months, or both.

(2) Any person who knowingly violates or fails to comply with any regulations prescribed under section 670h(c)(5) of this title shall be fined not more than $500, or imprisoned not more than six months, or both.

(b) Designation of enforcement personnel powers; issuance of arrest warrants; trial and sentencing by United States magistrate judges

(1) For the purpose of enforcing subsection (a) of this section, the Secretary of the Interior and the Secretary of Agriculture may designate any employee of their respective departments, and any State officer or employee authorized under a cooperative agreement to enforce subsection (a) of this section to (i) carry firearms; (ii) execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; (iii) make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view; (iv) search without warrant or process any person, place, or conveyance as provided by law; and (v) seize without warrant or process any evidentiary item as provided by law.

(2) Upon the sworn information by a competent person, any United States magistrate judge or court of competent jurisdiction may issue process for the arrest of any person charged with committing any offense under subsection (a) of this section.

(3) Any person charged with committing any offense under subsection (a) of this section may be tried and sentenced by any United States magistrate judge designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401 of title 18.

(c) Seizure and forfeiture of equipment and vessels

All guns, traps, nets, and other equipment, vessels, vehicles, and other means of transportation used by any person when engaged in committing an offense under subsection (a) of this section shall be subject to forfeiture to the United States and may be seized and held pending the prosecution of any person arrested for committing such offense. Upon conviction for such offense, such forfeiture may be adjudicated as a penalty in addition to any other provided for committing such offense.

(d) Applicability of customs laws to seizures and forfeitures; exceptions

All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as such provisions of law are applicable and not inconsistent with the provisions of this section; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Department of the Treasury shall, for the purposes of this section, be exercised or performed by the Secretary of the Interior or the Secretary of Agriculture, as the case may be, or by such persons as he may designate.

(Pub. L. 86–797, title II, § 204, as added Pub. L. 93–452, § 2, Oct. 18, 1974, 88 Stat. 1372; amended Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' in subsec. (b)(2), (3) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 670k. Definitions

As used in this subchapter—

(1) The term ''Administrator'' means the Administrator of the National Aeronautics and Space Administration.

(2) The term ''Chairman'' means the Chairman of the Atomic Energy Commission.

(3) The term ''off-road vehicle'' means any motorized vehicle designed for, or capable of, cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; but such term does not include—

(A) any registered motorboat at the option of each State;

(B) any military, fire, emergency, or law enforcement vehicle when used for emergency purposes; and

(C) any vehicle the use of which is expressly authorized by the Secretary of the Interior or the Secretary of Agriculture under a permit, lease, license, or contract.

(4) The term ''public land'' means all lands, under the respective jurisdiction of the Secretary of the Interior, the Secretary of Agriculture, the Chairman, and the Administrator, except land which is, or hereafter may be, within or designated as—

(A) a military reservation;

(B) a unit of the National Park System;

(C) an area within the national wildlife refuge system;

(D) an Indian reservation; or

(E) an area within an Indian reservation or land held in trust by the United States for an Indian or Indian tribe.

(5) The term ''State agency'' means the agency or agencies of a State responsible for the administration of the fish and game laws of the State.

(6) The term ''conservation and rehabilitation programs'' means to utilize those methods and procedures which are necessary to protect, conserve, and enhance wildlife, fish, and game resources to the maximum extent practicable on public lands subject to this subchapter consistent with any overall land use and management plans for the lands involved. Such methods and procedures shall include, but shall not be limited to, all activities associated with scientific resources management such as protection, research, census, law enforcement, habitat management, propagation, live trapping and transplantation, and regulated taking in conformance with the provisions of this subchapter. Nothing in this term shall be construed as diminishing the authority or jurisdiction of the States with respect to the management of resident species of fish, wildlife, or game, except as otherwise provided by law.

(Pub. L. 86–797, title II, § 205, as added Pub. L. 93–452, § 2, Oct. 18, 1974, 88 Stat. 1373.)

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

§ 670*l*. Applicability to Forest Service and Bureau of Land Management lands of public land management area stamp requirements; authorized fees

Notwithstanding any other provision in this subchapter, section 670i of this title shall not apply to land which is, or hereafter may be, within or designated as Forest Service land or as Bureau of Land Management land of any State in which all Federal lands therein comprise 60 percent or more of the total area of such State; except that in any such State, any appropriate State agency may agree with the Secretary of Agriculture or the Secretary of the Interior, or both, as the case may be, to collect a fee as specified in such agreement at the point of sale of regular licenses to hunt, trap, or fish in such State, the proceeds of which shall be utilized in carrying out conservation and rehabilitation programs implemented under this subchapter in the State concerned and for no other purpose.

(Pub. L. 86–797, title II, § 206, as added Pub. L. 93–452, § 2, Oct. 18, 1974, 88 Stat. 1374.)

§ 670m. Indian rights unaffected; State or Federal jurisdiction regulating Indian rights preserved

Nothing in this subchapter shall enlarge or diminish or in any way affect (1) the rights of Indians or Indian tribes to the use of water or natural resources or their rights to fish, trap, or hunt wildlife as secured by statute, agreement, treaty, Executive order, or court decree; or (2) existing State or Federal jurisdiction to regulate those rights either on or off reservations.

(Pub. L. 86–797, title II, § 207, as added Pub. L. 93–452, § 2, Oct. 18, 1974, 88 Stat. 1374.)

§ 670n. Omitted

CODIFICATION

Section, Pub. L. 86–797, title II, § 208, as added Pub. L. 93–452, § 2, Oct. 18, 1974, 88 Stat. 1374, which provided that nothing in this chapter in any way affect the jurisdiction, authority, duties, or activities of the Joint Federal-State Land Use Planning Commission established pursuant to section 1616 of Title 43, Public Lands, and that during the development of any cooperative plan for Alaska which may be agreed to under subchapter I of this chapter after the effective date of this section and of any comprehensive program for Alaska under this subchapter, such Commission shall be given an opportunity to submit its comments on such plan or program, was omitted in view of the termination of the Joint Federal-State Land Use Planning Commission on June 30, 1979.

§ 670*o*. Authorization of appropriations

(a) Functions and responsibilities of Secretary of the Interior

There are authorized to be appropriated $4,000,000 for each of fiscal years 1998 through 2003, to enable the Secretary of the Interior to carry out his functions and responsibilities under this subchapter, including data collection, research, planning, and conservation and rehabilitation programs on public lands. Such funds shall be in addition to those authorized for wildlife, range, soil, and water management pursuant to section 1748 of title 43, or other provisions of law.

(b) Functions and responsibilities of Secretary of Agriculture

There are authorized to be appropriated $5,000,000 for each of fiscal years 1998 through 2003, to enable the Secretary of Agriculture to carry out his functions and responsibilities under this subchapter. Such funds shall be in addition to those provided under other provisions of law. In requesting funds under this subsection the Secretary shall take into account fish and wildlife program needs, including those for projects, identified in the State comprehensive plans as contained in the program developed pursuant to the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1601–1610).

(c) Use of other conservation or rehabilitation authorities

The Secretary of the Interior and the Secretary of Agriculture may each use any authority available to him under other laws relating to fish, wildlife, or plant conservation or rehabilitation for purposes of carrying out the provisions of this subchapter.

(d) Contract authority respecting property, services or assistance affecting State agencies; appropriations requirement

The Secretary of the Interior and the Secretary of Agriculture may each make purchases

and contracts for property and services from, or provide assistance to, the State agencies concerned, if such property, services or assistance is required to implement those projects and programs carried out on, or of benefit to, Federal lands and identified in the comprehensive plans or cooperative agreements developed under section 670h of this title without regard to division C (except sections 3302, 3307(e), 3501(b), 3509, 3901, 3905, 3906, 4710, and 4711) of subtitle I of title 41. Contract authority provided in this section is effective only to such extent or in such amounts as are provided in appropriation Acts.

(Pub. L. 86–797, title II, §209, as added Pub. L. 93–452, §2, Oct. 18, 1974, 88 Stat. 1374; amended Pub. L. 95–420, §3, Oct. 5, 1978, 92 Stat. 921; Pub. L. 97–396, §5, Dec. 31, 1982, 96 Stat. 2005; Pub. L. 99–561, §1(b), Oct. 27, 1986, 100 Stat. 3149; Pub. L. 100–653, title II, §202(b), Nov. 14, 1988, 102 Stat. 3827; Pub. L. 105–85, div. B, title XXIX, §2914(b), Nov. 18, 1997, 111 Stat. 2023.)

REFERENCES IN TEXT

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (b), is Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, which is classified generally to subchapter I (§1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

CODIFICATION

In subsec. (d), ''division C (except sections 3302, 3307(e), 3501(b), 3509, 3901, 3905, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''title III (other than section 304) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251–260)'' on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–85, §2914(b)(1), substituted ''$4,000,000 for each of fiscal years 1998 through 2003,'' for ''the sum of $10,000,000 for each of the fiscal years 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, and 1993,''.

Subsec. (b). Pub. L. 105–85, §2914(b)(2), substituted ''$5,000,000 for each of fiscal years 1998 through 2003,'' for ''the sum of $12,000,000 for each of the fiscal years 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, and 1993,''.

1988—Subsecs. (a), (b). Pub. L. 100–653 substituted ''1988, 1989, 1990, 1991, 1992, and 1993'' for ''and 1988''.

1986—Subsecs. (a), (b). Pub. L. 99–561 substituted ''1985, 1986, 1987, and 1988'' for ''and 1985''.

1982—Subsecs. (a), (b). Pub. L. 97–396, §5(1), substituted ''1983, 1984, and 1985,'' for ''ending September 30, 1979, September 30, 1980, and September 30, 1981,'' wherever appearing.

Subsecs. (c), (d). Pub. L. 97–396, §5(2), added subsecs. (c) and (d).

1978—Subsec. (a). Pub. L. 95–420 substituted provisions authorizing appropriation of $10,000,000 for each of fiscal years ending Sept. 30, 1979, 1980, and 1981 to enable the Secretary to carry out his functions, including data collection, research, planning, and conservation and rehabilitation programs, such funds to be in addition to those authorized for wildlife, range, soil and water management pursuant to section 1748 of title 43, for provisions authorizing appropriation of $10,000,000 for fiscal year ending June 30, 1974, and for each of next four fiscal years to enable Department of the Interior to carry out its functions.

Subsec. (b). Pub. L. 95–420 substituted provisions authorizing appropriation of $12,000,000 for fiscal years ending Sept. 30, 1979, 1980, and 1981 to enable Secretary of Agriculture to carry out his functions, such funds to be in addition to those otherwise provided, and provisions relating to fish and wildlife program needs including those identified in State plans developed pursuant to Forest and Rangeland Renewable Resources Planning Act of 1974, for provisions authorizing appropriation of $10,000,000 for fiscal year ending June 30, 1974, and for each of next four fiscal years to enable Department of Agriculture to carry out its functions.

CHAPTER 6—GAME AND BIRD PRESERVES; PROTECTION

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§ 671. National Bison Range

There is reserved and excepted from the unallotted lands now embraced within the Flathead Indian Reservation, in the State of Montana, a parcel not to exceed twenty thousand acres of said lands, near the confluence of the Pend d'Oreille and Jocko Rivers, for a permanent National Bison Range for the herd of bison presented by the American Bison Society. The Secretary of the Interior is authorized and directed to inclose said lands with a good and substantial fence and to erect thereon the necessary sheds and buildings for the proper care and maintenance of the said bison.

(May 23, 1908, ch. 192, 35 Stat. 267; Mar. 4, 1909, ch. 301, 35 Stat. 1051; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

CODIFICATION

Act May 23, 1908, authorized President to reserve and except 12,800 acres, only, for the purposes of this section.

Act May 23, 1908, also made an appropriation to enable Secretary of the Interior to pay the confederated tribes of the Flathead, Kootenai, and Upper Pend d'Oreille, and such other Indians as rightfully belonged on the reservation, the appraised value of the lands which provision was omitted as temporary and executed.

Act Mar. 4, 1909, directed President to reserve and except a sufficient area to enlarge the range to not to exceed 20,000 acres.

TRANSFER OF FUNCTIONS

Functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds transferred to Secretary of the Interior by Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees.

§ 672. Omitted

CODIFICATION

Section, act Aug. 10, 1912, ch. 284, 37 Stat. 293, established Wind Cave National Game Preserve. Preserve abolished and property transferred to Wind Cave National Park, to be administered by Secretary of the Interior for purposes expressed in this section, see section 141b of this title.

§ 673. Wyoming Elk Reserve

There is established a winter game (elk) reserve in the State of Wyoming, which shall be located in that section of Wyoming lying south of the Yellowstone Park, and shall include not less than two thousand acres in township 41 north, ranges 115 and 116 west, and the Secretary of the Interior is authorized to purchase said lands with improvements, to erect necessary buildings and inclosures, and to incur other expenses necessary for the maintenance of the reserve. The Secretary of the Interior is authorized to include in said refuge and to inclose not more than one thousand acres of unoccupied public lands, which when selected shall be made to conform to the lines of the public surveys, and shall be adjacent to or partly inclosed by said refuge.

(Aug. 10, 1912, ch. 284, 37 Stat. 293; Mar. 4, 1913, ch. 145, §1 (part), 37 Stat. 847; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

CODIFICATION

Section is a combination provision, the first sentence being from act Aug. 10, 1912, and the last from act Mar. 4, 1913.

As originally enacted, the first sentence was in the form of an appropriation for the purposes thereof as was also the second sentence which began with the following words: ''For the establishment and maintenance of a winter elk refuge in the State of Wyoming, $5,000, to be available until expended, and the Secretary, etc.''

Res. Feb. 25, 1927, ch. 205, 44 Stat. 1246, authorized the acceptance of title to certain lands in accordance with this section.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 671 of this title.

§ 673a. Addition to the Wyoming Elk Reserve

The Secretary of the Interior is authorized to accept, on behalf of and without expense to the United States, from the Izaak Walton League of America, or its authorized trustees, a gift of certain lands in Teton County, Wyoming, described as the south half of section 4; the east half of the southeast quarter of section 5; the southwest quarter of the southeast quarter of section 5; the south half of the southwest quarter of section 5; the southeast quarter of the northeast quarter of section 7; the east half of the southeast quarter of section 7; the southwest quarter of the southeast quarter of section 7, and lot 4 of section 7; all of section 8; the north half of the northeast quarter of section 9; the north half of the northwest quarter of section 9; and the southwest quarter of the northwest quarter of section 9; the north half of the northeast quarter

of section 17; lot 1 of section 18; and the east half of the northwest quarter of section 18; all in township 41 north, range 115 west, of the sixth principal meridian, including all the buildings and improvements thereon, and all rights, easements, and appurtenances thereunto appertaining, subject to the conditions that they be used and administered by the United States, under the supervision and control of the Secretary of the Interior, for the grazing of, and as a refuge for, American elk and other big game animals, and that they be known as the Izaak Walton League addition to the winter elk refuge: *Provided*, That upon the conveyance of said lands to the United States, as herein provided, they shall become a part of the winter elk refuge established under section 673 of this title, and shall be subject to any laws governing the administration and protection of said refuge.

(Feb. 25, 1927, ch. 205, 44 Stat. 1246; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 671 of this title.

§ 673b. National Elk Refuge in Wyoming

The following-described lands of the Jackson Hole National Monument are made a part of the National Elk Refuge and shall be administered hereafter in accordance with the laws applicable to said refuge:

SIXTH PRINCIPAL MERIDIAN

Township 42 north, range 116 west: Those portions of sections 24, 25, 26, and 35 lying east of the east right-of-way line of United States Highway Numbered 187, and lying south and east of the north and west bank of the Gros Ventre River.

Township 42 north, range 115 west: Those portions of sections 8, 9, 10, 17, 18, and 19 lying south and east of the north and west bank of the Gros Ventre River; section 20; section 29, northwest quarter; section 30, north half.

Township 41 north, range 116 west: Entire portion now in Jackson Hole National Monument except that portion in section 2 lying west of the east right-of-way line of United States Highway Numbered 187.

Containing in all six thousand three hundred and seventy-six acres, more or less.

(Sept. 14, 1950, ch. 950, § 2, 64 Stat. 849.)

REFERENCES IN TEXT

The Jackson Hole National Monument, referred to in text, was created in Wyoming by Presidential Proc. No. 2578, Mar. 15, 1943, 57 Stat. 731. For provisions transferring other lands of such former national monument, see sections 406d–1 and 482m of this title.

REVOCATION OF TEMPORARY WITHDRAWALS OF PUBLIC LANDS

Revocation of temporary withdrawals of public lands in aid of legislation pertaining to parks, monuments, etc., adjacent to Grand Teton National Park in Wyoming, see note set out under section 406d–1 of this title.

REPEAL OF INCONSISTENT LAWS

Repeal of laws inconsistent with act Sept. 14, 1950, see note set out under section 406d–1 of this title.

§ 673c. Conservation of elk in Wyoming

(a) Creation of program; licensed hunters deputized as rangers

The Wyoming Game and Fish Commission and the National Park Service shall devise, from technical information and other pertinent data assembled or produced by necessary field studies or investigations conducted jointly by the technical and administrative personnel of the agencies involved, and recommend to the Secretary of the Interior and the Governor of Wyoming for their joint approval, a program to insure the permanent conservation of the elk within the Grand Teton National Park established by this Act. Such program shall include the controlled reduction of elk in such park, by hunters licensed by the State of Wyoming and deputized as rangers by the Secretary of the Interior, when it is found necessary for the purpose of proper management and protection of the elk.

(b) Recommendations by Wyoming Game and Fish Commission, and National Park Service; controlled reduction; deputation of hunters; removal of carcasses

At least once a year between February 1 and April 1, the Wyoming Game and Fish Commission and the National Park Service shall submit to the Secretary of the Interior and to the Governor of Wyoming, for their joint approval, their joint recommendations for the management, protection, and control of the elk for that year. The yearly plan recommended by the Wyoming Game and Fish Commission and the National Park Service shall become effective when approved by the Secretary of the Interior and the Governor of Wyoming, and thereupon the Wyoming Game and Fish Commission and the Secretary of the Interior shall issue separately, but simultaneously such appropriate orders and regulations as are necessary to carry out those portions of the approved plan that fall within their respective jurisdictions. Such orders and regulations, to be issued by the Secretary of the Interior and the Wyoming Game and Fish Commission, shall include provision for controlled and managed reduction by qualified and experienced hunters licensed by the State of Wyoming and deputized as rangers by the Secretary of the Interior, if and when a reduction in the number of elk by this method within the Grand Teton National Park established by this Act is required as a part of the approved plan for the year, provided that one elk only may be killed by each such licensed and deputized ranger. Such orders and regulations of the Secretary of the Interior for controlled reduction shall apply only to the lands within the Park which lie east of the Snake River and those lands west of Jackson Lake and the Snake River which lie north of the present north boundaries of Grand Teton National Park, but shall not be applicable to lands within the Jackson Hole Wildlife Park. After the Wyoming Game and Fish Commission and the National Park Service shall have recommended to the Secretary of the Interior and the Governor of Wyoming in any specified year

a plan, which has received the joint approval of the Secretary of the Interior and the Governor of Wyoming, calling for the controlled and managed reduction by the method prescribed herein of the number of elk within the Grand Teton National Park established by this Act, and after the Wyoming Game and Fish Commission shall have transmitted to the Secretary of the Interior a list of persons who have elk hunting licenses issued by the State of Wyoming and who are qualified and experienced hunters, on or before July 1 of that year the Secretary of the Interior, without charge, shall cause to be issued orders deputizing the persons whose names appear on such list, in the number specified by the plan, as rangers for the purpose of entering the park and assisting in the controlled reduction plan. Each such qualified hunter, deputized as a ranger, participating in the controlled reduction plan shall be permitted to remove from the park the carcass of the elk he has killed as a part of the plan.

(Sept. 14, 1950, ch. 950, § 6, 64 Stat. 851.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b), is act Sept. 14, 1950, which is classified to sections 406d–1 to 406d–5, 531a, 451a, 482m, 673b, 673c of this title. For complete classification of this Act to the Code, see Tables.

REPEAL OF INCONSISTENT LAWS

Repeal of laws inconsistent with act Sept. 14, 1950, see note set out under section 406d–1 of this title.

§ 673d. Restoration and conservation of elk in California

It is the sense of Congress that the restoration and conservation of a Tule elk population in California of at least two thousand, except that the number of Tule elk in the Owens River Watershed area shall at no time exceed four hundred and ninety or such greater number which is determined by the State of California to be the maximum holding capacity of such area, is an appropriate national goal.

(Pub. L. 94–389, § 1, Aug. 14, 1976, 90 Stat. 1189.)

§ 673e. Cooperation of Secretaries of the Interior, Agriculture and Defense with State of California

The Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense shall cooperate with the State of California in making the lands under their respective jurisdictions reasonably available for the preservation and grazing of Tule elk in such manner and to such extent as may be consistent with Federal law.

(Pub. L. 94–389, § 2, Aug. 14, 1976, 90 Stat. 1190.)

§ 673f. Repealed. Pub. L. 105–362, title IX, § 901(b)(1), Nov. 10, 1998, 112 Stat. 3289

Section, Pub. L. 94–389, § 3, Aug. 14, 1976, 90 Stat. 1190; Pub. L. 97–375, title II, § 208(c), Dec. 21, 1982, 96 Stat. 1825, related to report to Congress by Secretary of the Interior concerning Tule elk herds in California.

§ 673g. Plan for elk restoration and conservation; coordination of Secretary of the Interior with Federal, State and other officers; integration with State plans

The Secretary of the Interior, in coordination with all Federal, State, and other officers having jurisdiction over lands on which Tule elk herds are located or lands which would provide suitable Tule elk habitat, shall develop a plan for Tule elk restoration and conservation, including habitat management, which shall be integrated with the comparable plans of State and local authorities in California.

(Pub. L. 94–389, § 3, formerly § 4, Aug. 14, 1976, 90 Stat. 1190; Pub. L. 97–375, title I, § 108(a), Dec. 21, 1982, 96 Stat. 1820; renumbered § 3, Pub. L. 105–362, title IX, § 901(b)(2), Nov. 10, 1998, 112 Stat. 3289.)

PRIOR PROVISIONS

A prior section 3 of Pub. L. 94–389 was classified to section 673f of this title, prior to repeal by Pub. L. 105–362.

AMENDMENTS

1982—Pub. L. 97–375 struck out requirement that the Secretary's annual report to Congress describe the development and implementation of the plan.

§ 674. Sullys Hill National Game Preserve

The Secretary of the Interior is authorized to inclose the Sullys Hill National Game Preserve with a good and substantial fence, to construct thereon all sheds, buildings, and corrals necessary for the proper care and maintenance of the animals and birds therein, to erect a suitable headquarters, to construct and maintain roads, trails, and other structures necessary for the convenience of visitors, and to incur such other expenses as may be necessary for the proper maintenance of the preserve and the animals and birds placed therein. He is also authorized to place in the park buffalos, elk, deer, and such other wild or rare animals and birds as he may in his discretion decide.

(June 30, 1914, ch. 131, 38 Stat. 434; Mar. 3, 1931, ch. 439, § 1, 46 Stat. 1509; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

CODIFICATION

This section was a provision of the agricultural appropriation act for the fiscal year 1915, act June 30, 1914, which, in the first sentence, made an appropriation of $5,000 for the improvement of a game preserve in Sullys Hill National Park, the same to be available until expended.

CHANGE OF NAME

Act Mar. 3, 1931, provided that the Sullys Hill National Park should be administered as a big-game preserve, refuge and breeding grounds for wild animals and birds, which should be known as the Sullys Hill National Game Preserve.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 671 of this title.

§ 674a. Sullys Hill National Park; transfer of control; change of name to Sullys Hill National Game Preserve; boundaries; use by public; hunting

The Secretary of the Interior shall administer Sullys Hill National Park, together with all improvements thereon, in the State of North Dakota, as a big game preserve, refuge, and breeding grounds for wild animals and birds, which shall be known as the Sullys Hill National Game Preserve and shall embrace within its boundaries the lands described in the proclamation of June 2, 1904, establishing Sullys Hill Park, together with all unsurveyed or public lands uncovered by the recession of the waters of Devils Lake in front of said reservation, the preserve to be bounded on the north and northwest by the waters of Devils Lake, and on the west and southwest by a stream which flows through lands uncovered by the recession of the waters of Devils Lake, approximately midway between lots 10 and 11, section 17; lots 1, 2, 6, and 8, section 16; and lot 2, section 9; lots 3, 4, and 5, section 16, township 152 north, range 65 west, fifth principal meridian, as meandered on the official plats of survey approved June 23, 1904, and June 2, 1927: *Provided*, That the said game preserve is to be made available to the public for recreational purposes insofar as consistent with the use of this area as a game preserve: *Provided further*, That hunting shall not be permitted on said game preserve.

(Mar. 3, 1931, ch. 439, § 1, 46 Stat. 1509; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 671 of this title.

§ 674b. Sullys Hill National Game Preserve; acquisition of additional lands

The Secretary of the Interior is authorized to acquire, by purchase or otherwise, after July 1, 1932, an area of land not to exceed three thousand acres, at an average cost of not more than $10 per acre, with the improvements thereon, situated on the east and south of said preserve as described in section 674a of this title, within sections 10, 11, 12, 13, 14, 15, 22, 23, and 24, township 152 north, range 65 west, fifth principal meridian, said lands, upon acquisition by the United States, to become a part of the Sullys Hill National Game Preserve.

(Mar. 3, 1931, ch. 439, § 2, 46 Stat. 1509; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 671 of this title.

§ 674c. Boundary and division fences for Sullys Hill National Game Preserve; buildings and improvements; supplies; employees

The Secretary of the Interior is authorized to construct and maintain such boundary and division fences as are required to inclose and subdivide the preserve; to construct such buildings and improvements, to install and maintain a suitable water-supply and sanitary system, to purchase such supplies, and to employ such assistants as are necessary for the maintenance of the preserve and the improvements thereon and for the accommodation of visitors thereto.

(Mar. 3, 1931, ch. 439, § 3, 46 Stat. 1510; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 671 of this title.

§ 674d. Authorization of appropriations

There is hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated such sums as Congress shall from time to time deem necessary to carry out the purposes of sections 674a to 674c of this title.

(Mar. 3, 1931, ch. 439, § 4, 46 Stat. 1510.)

§ 675. Norbeck Wildlife Preserve; establishment

There is designated as the Norbeck Wildlife Preserve such areas, not exceeding forty-six thousand acres, of the Harney National Forest, and adjoining or in the vicinity of the Custer State Park, in the State of South Dakota, as should, in the opinion of the President of the United States, be set aside for the protection of game animals and birds, and be recognized as a breeding place therefor.

(June 5, 1920, ch. 247, § 1, 41 Stat. 986; June 7, 1924, ch. 324, 43 Stat. 632; Oct. 6, 1949, ch. 620, § 1, 63 Stat. 708.)

CODIFICATION

As enacted by act June 5, 1920, this section authorized the President to designate areas not exceeding 30,000 acres, but by amendment by act June 7, 1924, the President was authorized, upon recommendation of the Secretary of Agriculture, to enlarge the area by proclamation to embrace a total of not to exceed 46,000 acres and the provisions of sections 676 to 678 of this title, apply with equal force to the additional area.

CHANGE OF NAME

''Custer State Park Game Sanctuary'' changed to ''Norbeck Wildlife Preserve'' by act Oct. 6, 1949.

Harney National Forest abolished and its lands transferred to and consolidated with those of Black Hills National Forest by Public Land Order No. 1016 of Oct. 4, 1954, 19 F.R. 6500.

PRESIDENTIAL DESIGNATION

Areas comprising the Norbeck Wildlife Preserve, formerly known as the Custer State Park Game Sanctuary, were designated by Proclamations of Oct. 9, 1920 (41 Stat. 1805), Jan. 8, 1925 (43 Stat. 1981), and Jan. 14, 1929 (45 Stat. 2985).

§ 676. Hunting, trapping, killing, or capturing game on Norbeck Wildlife Preserve unlawful

When such areas have been designated as provided for in section 675 of this title, hunting, trapping, killing, or capturing of game animals and birds upon the lands of the United States

within the limits of said areas shall be unlawful, except under such regulations as may be prescribed from time to time by the Secretary of Agriculture. It is the purpose of this section to protect from trespass the public lands of the United States and the game animals and birds which may be thereon, and not to interfere with the operation of the local game laws as affecting private or State lands.

(June 5, 1920, ch. 247, §§2, 3, 41 Stat. 986; June 25, 1948, ch. 645, §11, 62 Stat. 860.)

CODIFICATION

First sentence of section is from section 2 and the last from section 3 of act June 5, 1920.

AMENDMENTS

1948—Act June 25, 1948, struck out penal provisions. See section 41 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 20 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

§ 677. Inclosure of Norbeck Wildlife Preserve

The State of South Dakota is authorized and permitted to erect and maintain a good substantial fence, inclosing in whole or in part Norbeck Wildlife Preserve. The State shall erect and maintain such gates in this fence as may be required by the authorized agents of the Federal Government in administering this wildlife preserve and the adjoining national forest lands, and may erect and maintain such additional inclosures as may be agreed upon with the Secretary of Agriculture. The right of the State to maintain this fence shall continue so long as Norbeck Wildlife Preserve is also given similar protection by the laws of the State of South Dakota.

(June 5, 1920, ch. 247, §4, 41 Stat. 986; Oct. 6, 1949, ch. 620, §1, 63 Stat. 708.)

CHANGE OF NAME

''Custer State Park Game Sanctuary'' changed to ''Norbeck Wildlife Preserve'' by act Oct. 6, 1949.

§ 678. Exchange of lands with State of South Dakota and Norbeck Wildlife Preserve

Upon recommendation of the Secretary of Agriculture, the Secretary of the Interior may patent to the State of South Dakota not to exceed one thousand six hundred acres of nonmineral national forest lands not otherwise appropriated or withdrawn within the areas of Norbeck Wildlife Preserve: *Provided*, That the State of South Dakota conveys to the Government good and sufficient title to other lands of equal value owned by the State and lying within the exterior boundaries of a national forest in the State of South Dakota and approved by the Secretary of Agriculture as equally desirable for national forest purposes, the lands thus conveyed to the Government to become a part of the national forest. This shall not operate to restrict any selection rights which the State may have or may be hereafter granted, excepting as to the specific lands conveyed to the Government under authority of this section.

(June 5, 1920, ch. 247, §5, 41 Stat. 986; Oct. 6, 1949, ch. 620, §1, 63 Stat. 708.)

CHANGE OF NAME

''Custer State Park Game Sanctuary'' changed to ''Norbeck Wildlife Preserve'' by act Oct. 6, 1949.

§ 678a. Mining locations in Norbeck Wildlife Preserve; rules and regulations

Subject to the conditions herein provided, mining locations may be made under the general mining laws of the United States on lands of the United States situated within the exterior boundaries of that portion of the Harney National Forest designated as the Norbeck Wildlife Preserve, South Dakota, created pursuant to the provisions of sections 675 to 678 of this title. A locator shall have the right to occupy and use so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting and mining, including the taking of mineral deposits and timber required by or in the mining operations, and no permit shall be required or charge made for such use or occupancy: *Provided, however*, That the mining operations herein authorized shall be subject to such rules and regulations as the Secretary of Agriculture may deem necessary in furtherance of the purposes for which the said preserve was established: *Provided further*, That the cutting and removal of timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the marking rules and timber sale practices applicable to the Harney National Forest, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining and prospecting shall be allowed except under the national-forest rules and regulations, nor shall the locator prevent or obstruct other occupancy of the surface or use of surface resources under authority of national-forest regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development: *Provided further*, That the Secretary of Agriculture in his discretion may prohibit the location of mining claims within six hundred and sixty feet of any Federal, State, or county road, and within such other areas where the location of mining claims would not be in the public interest: *And provided further*, That no patent shall be issued by the United States on any location filed pursuant to the authority contained in this section.

(June 24, 1948, ch. 611, §1, 62 Stat. 580; Oct. 6, 1949, ch. 620, §1, 63 Stat. 708.)

REFERENCES IN TEXT

The general mining laws of the United States, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

CHANGE OF NAME

''Custer State Park Game Sanctuary'' changed to ''Norbeck Wildlife Preserve'' by act Oct. 6, 1949.

Harney National Forest abolished and its lands transferred to and consolidated with those of Black Hills National Forest by Public Land Order No. 1016 of Oct. 4, 1954, 19 F.R. 6500.

§ 678b. Redefinition of western boundary of Norbeck Wildlife Preserve

To facilitate administration for the purpose for which the preserve has been established, the western boundary of the preserve lying north of Custer State Park is redefined as follows:

Beginning at the east quarter corner of section 7, township 2 south, range 5 east, Black Hills meridian; thence south along said section line to its intersection with a line three hundred feet north of the Horse Thief Lake Road; thence southwesterly along a line three hundred feet northwesterly from the center line of said road and running approximately parallel thereto to the intersection of said road with United States Highway 85A; thence southerly along a line three hundred feet west of United States Highway 85A and approximately parallel thereto to the present south boundary of said preserve in section 3 south, range 4 east, Black Hills meridian.

(June 24, 1948, ch. 611, § 2, 62 Stat. 581; Oct. 6, 1949, ch. 620, § 1, 63 Stat. 708.)

CHANGE OF NAME

''Custer State Park Game Sanctuary'' changed to ''Norbeck Wildlife Preserve'' by act Oct. 6, 1949.

§ 679. Patents to State of South Dakota of certain lands in Custer State Park; reservation of coal, oil, gas, and other mineral rights

The Secretary of the Interior is authorized and directed to issue to the State of South Dakota patents conveying title, but reserving the minerals therein, to any unpatented lands of the United States held or claimed by virtue of locations made prior to March 3, 1925, under the United States general mining laws, within the Custer State Park, not exceeding a total of two thousand acres, upon payment to the United States of $1.25 per acre therefor, and upon evidence being furnished that all claim, right, title, and interest of such claimants have been transferred to the State or have been abandoned. Patents so issued to the State of South Dakota shall be conditioned upon the lands being used for park purposes, and provide for the reversion of the lands of the United States in the event of failure to so hold and use. The United States reserves all coal, oil, gas, or other minerals in the lands patented under this section with the right, in case any of said patented lands are found by the Secretary of the Interior to be more valuable for the minerals therein than for park purposes, to provide, by special legislation, having due regard for the rights of the State of South Dakota, for the disposition and extraction of the coal, oil, gas or other minerals therein. The provisions of this section are limited to lands lying within the limits of the Custer State Park, within townships 3 and 4 south, range 6 east, and the east one-third of townships 3 and 4 south, range 5 east, Black Hills meridian.

(Mar. 3, 1925, ch. 465, 43 Stat. 1185.)

§ 680. Game animal and bird refuge in South Dakota; establishment

Subject to valid rights and entries initiated under the public land laws, prior to June 7, 1924, any or all of the following described lands in Government ownership may be withdrawn from entry and disposition by proclamation of the President for the purpose of protecting and propagating antelope and other game animals and birds: National forest lands—Township 18 north, range 7 east, Black Hills meridian, section 24, south half, and south half north half; section 25, all; township 18 north, range 8 east, sections 17 to 20, inclusive; section 21, west half; sections 29 to 32, inclusive. Public lands—Township 18 north, range 7 east, sections 5 to 9, inclusive; sections 13 to 23, inclusive; section 24, north half north half; sections 26 to 36, inclusive; and those parts of sections 3, 4, 10, and 11 lying south and west of the Riva Road. The withdrawal of the lands herein authorized shall not affect withdrawals for national forest purposes made prior to June 7, 1924.

(June 7, 1924, ch. 326, § 1, 43 Stat. 634.)

§ 681. Erection of fence by South Dakota for game animal and bird refuge

The State of South Dakota is authorized and permitted to erect and maintain a good, substantial fence inclosing in whole or in part such areas as may be designated and set aside by the President under the authority of section 680 of this title. The State shall erect and maintain such gates in this fence as may be required by the authorized agents of the Federal Government in the administration of the National forest lands embraced therein, or to provide ingress and egress to persons occupying lands within said inclosure. The right of the State to maintain said fence shall continue so long as the area designated by the President shall be given protection by the laws of the State of South Dakota as a game refuge.

(June 7, 1924, ch. 326, § 2, 43 Stat. 634.)

§ 682. Game refuge in Ozark National Forest

The President of the United States is authorized to designate such national forest lands within the Ozark National Forest, within the State of Arkansas, as should, in his discretion, be set aside for the protection of game animals, birds, or fish; and, except under such rules and regulations as the Secretary of Agriculture may from time to time prescribe, it shall be unlawful for any person to hunt, catch, trap, willfully disturb, or kill any kind of game animal, game or nongame bird, or fish, or take the eggs of any such bird on any lands so set aside, or in or on the waters thereof.

(Feb. 28, 1925, ch. 376, 43 Stat. 1091; Aug. 11, 1945, ch. 365, 59 Stat. 531; June 25, 1948, ch. 645, § 12, 62 Stat. 861.)

AMENDMENTS

1948—Act June 25, 1948, struck out penal provisions (see section 41 of Title 18, Crimes and Criminal Procedure), and inserted provision relating to the unlawfulness in hunting, catching, etc., game animals, etc., under rules and regulations of the Secretary of Agriculture.

1945—Act Aug. 11, 1945, struck out last sentence which read ''No lands within the present limits of the fourth congressional district shall be included in such designations.''

EFFECTIVE DATE OF 1948 AMENDMENT

Section 20 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

PRESIDENTIAL DESIGNATION

Lands comprising the Ozark National Game Refuge were designated by Proclamations of June 13, 1928 (45 Stat. 2953), and Oct. 25, 1935 (49 Stat. 3478).

§ 683. Areas set aside for protection of game and fish; unlawfully taking game or fish

The President of the United States is authorized to designate such areas on any lands which have been, or which may hereafter be, purchased by the United States under the provisions of the Act of March first, nineteen hundred and eleven, and Acts supplementary thereto and amendatory thereof, as should, in his opinion, be set aside for the protection of game animals, birds, or fish; and, except under such rules and regulations as the Secretary of Agriculture may from time to time prescribe, it shall be unlawful for any person to hunt, catch, trap, willfully disturb or kill any kind of game animal, game or nongame bird, or fish, or take the eggs of any such bird on any lands so set aside, or in or on the waters thereof.

(Aug. 11, 1916, ch. 313, 39 Stat. 476; June 25, 1948, ch. 645, § 10, 62 Stat. 860.)

REFERENCES IN TEXT

Act of March first, nineteen hundred and eleven, referred to in text, was in the original ''Act of March first, nineteen hundred and eleven (Thirty-six Statutes at Large, page nine hundred and sixty-one), entitled 'An Act to enable any State to cooperate with any other State or States, or with the United States, for the protection of watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable streams' '', which is popularly known as the Weeks Law, and is classified to sections 480, 500, 513 to 519, 521, 552, and 553 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 552 of this title and Tables.

AMENDMENTS

1948—Act June 25, 1948, struck out penal provisions (see section 41 of Title 18, Crimes and Criminal Procedure), and inserted provision relating to the unlawfulness in hunting, catching, etc. game animals, etc. under rules and regulations of Secretary of Agriculture.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 20 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

PRESIDENTIAL DESIGNATION

The following areas have been designated by the President:

Big Levels Game Refuge. Proclamation of July 6, 1935 (49 Stat. 3448).

Cherokee National Game Refuges. Proclamation of Aug. 5, 1924 (43 Stat. 1964), and Oct. 22, 1934 (49 Stat. 3423).

National Catahoula Wildlife Management Preserve. Proclamation of Sept. 27, 1941 (55 Stat. 1689).

National Red Dirt Wildlife Management Preserve. Proclamation of Sept. 27, 1941 (55 Stat. 1688).

Noontootly National Game Refuge. Proclamation of July 6, 1938 (52 Stat. 1549).

Pisgah National Game Preserve. Proclamation of Oct. 17, 1916 (39 Stat. 1811).

§ 684. Game breeding areas in Wichita and Grand Canyon National Forests

The President of the United States is authorized to designate such areas in the Wichita National Forest and in the Grand Canyon National Forest as should, in his opinion, be set aside for the protection of game animals and birds and be recognized as a breeding place therefor.

(Jan. 24, 1905, ch. 137, § 1, 33 Stat. 614; June 29, 1906, ch. 3593, § 1, 34 Stat. 607.)

CODIFICATION

Act Jan. 24, 1905, and act June 29, 1906, are identical in language throughout, except that the earlier act authorizes the setting aside of areas in Wichita National Forest, while the latter authorizes areas in Grand Canyon National Forest. The two acts have been combined to form this section and sections 685 and 686 of this title.

''Wichita National Forest'' and ''Grand Canyon National Forest'' substituted for ''Wichita Forest Reserve'' and ''Grand Canyon Forest Reserve'', respectively, on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

PRESIDENTIAL DESIGNATION; ABOLITION OF WICHITA NATIONAL FOREST

The entire Wichita National Forest was designated a Game Preserve by Proclamation of June 2, 1905 (34 Stat. 3062), enlarged by Executive Order No. 7116, July 26, 1935, and designated the Wichita Mountains Wildlife Refuge by Act June 4, 1936, ch. 489, title I, § 1, 49 Stat. 1446. Proclamation No. 2211, Nov. 27, 1936 (50 Stat. 1797), revoked the proclamations of July 4, 1901 (32 Stat. 1973), May 29, 1906 (34 Stat. 3207), and Oct. 13, 1910 (36 Stat. 2754), establishing, enlarging, and modifying the Wichita National Forest, but did affect the Wichita Mountains Wildlife Refuge.

The Grand Canyon National Game Preserve was established by Proclamation of Nov. 28, 1906 (34 Stat. 3263), enlarged by Proclamation of June 23, 1908 (35 Stat. 2192), and diminished by Proclamation of June 3, 1909 (36 Stat. 2496). The lands of the Grand Canyon National Forest were divided among and combined with those of the Coconino and Kaibab National Forests by Proclamation of July 2, 1908 (35 Stat. 2196).

§ 685. Hunting, trapping, killing, or capturing game in designated breeding areas unlawful

When such areas have been designated in the Wichita National Forest as provided for in section 684 of this title, hunting, trapping, killing, or capturing of game animals and birds upon the lands of the United States within the limits of said areas shall be unlawful, except under such regulations as may be prescribed from time to time, by the Secretary of the Interior.

When such areas have been designated in the Grand Canyon National Forest as provided in section 684 of this title, hunting, trapping, killing, or capturing of game animals upon the lands of the United States within the limits of said areas shall be unlawful, except under such regulations as may be prescribed from time to time by the Secretary of Agriculture.

(Jan. 24, 1905, ch. 137, § 2, 33 Stat. 614; June 29, 1906, ch. 3593, § 2, 34 Stat. 607; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; June 25, 1948, ch. 645, §§ 8, 9, 62 Stat. 860.)

CODIFICATION

Words ''in the Wichita National Forest and in the Grand Canyon National Forest'' inserted, and ''Sec-

retary of the Interior and Secretary of Agriculture, respectively'' substituted for ''Secretary of Agriculture'' because of Reorg. Plan No. II of 1939, which transferred Bureau of Biological Survey from Department of Agriculture to Department of the Interior. The successor to Wichita National Forest, which was then administered by that Bureau, was affected by the transfer. However, the successor to Grand Canyon National Forest was administered by Forest Service and was consequently not affected.

For successors to Wichita National Forest and Grand Canyon National Forest, see Presidential Designation note set out under section 684 of this title.

AMENDMENTS

1948—Act June 25, 1948, struck out penal provisions. See section 41 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 20 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 671 of this title.

§ 686. Operation of local game laws not affected

It is the purpose of sections 684 and 685 of this title to protect from trespass the public lands of the United States and the game animals and birds which may be thereon, and not to interfere with the operation of the local game laws as affecting private, State, or Territorial lands.

(Jan. 24, 1905, ch. 137, § 3, 33 Stat. 614; June 29, 1906, ch. 3593, § 3, 34 Stat. 607.)

§ 687. Grand Canyon Game Preserve included in park

Such parts of the Grand Canyon National Game Preserve, designated under authority of section 684 of this title, as are by this Act included with[1] the Grand Canyon National Park are excluded and eliminated from said game preserve.

(Feb. 26, 1919, ch. 44, § 9, 40 Stat. 1178.)

REFERENCES IN TEXT

This Act, referred to in text, is act Feb. 26, 1919, ch. 44, 40 Stat. 1175, as amended, which is classified principally to subchapter XXIV (§ 221 et seq.) of chapter 1 of this title. For complete classification of this Act to the Code, see Tables.

§ 688. Repealed. Pub. L. 95–625, title III, § 314(g), Nov. 10, 1978, 92 Stat. 3483

Section, acts July 3, 1926, ch. 744, § 6, 44 Stat. 821; June 25, 1948, ch. 645, § 13, 62 Stat. 861, related to designation of Sequoia National Game Refuge. See section 45f(b)(2) of this title.

EFFECTIVE DATE OF REPEAL

Section 314(g) of Pub. L. 95–625 provided in part that the repeal of this section and section 45a–3 of this title is effective upon the transfer of abolished Sequoia National Game Refuge by the Secretary of Agriculture to the administrative jurisdiction of the Secretary of the Interior under section 45f(b)(2) of this title.

WILD ANIMAL PROTECTION

Section 314(g) of Pub. L. 95–625 provided in part that repeal of this section should not be construed to prohibit or prevent the Secretary of the Interior from exercising any authority applicable to the national parks respecting protection of birds, game, or other wild animals.

§ 689. Tahquitz National Game Preserve

There is created within the San Bernardino National Forest in Riverside County, California, for the protection of game animals, and as the recognized breeding place therefor, the Tahquitz National Game Preserve, which shall include the following lands: Sections 28, 29, 30, 31, 32, 33, 34, and 35, township 3 south, range 3 east, San Bernardino meridian; sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36, township 4 south, range 3 east, San Bernardino meridian; and sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, and 24, township 5 south, range 3 east, San Bernardino meridian; but the establishment of this reservation shall not interfere with any existing right or withdrawals made prior to July 3, 1926: *Provided*, That all the land with[1] the exterior boundary of the aforesaid tract shall first become the property of the United States.

That where the Government survey has not been completed the aforesaid description shall be deemed to refer to and be determined by lines projected from the official survey.

(July 3, 1926, ch. 776, § 1, 44 Stat. 889.)

§ 689a. Other uses of land permitted in Tahquitz National Game Preserve

The lands included in said game preserve shall continue to be parts of the national forest and nothing contained in sections 689 to 689d of this title shall prevent the Secretary of Agriculture from permitting other uses of said lands under and in conformity with the laws and rules and regulations applicable thereto so far as any such use may be consistent with the purposes for which said game preserve is established.

(July 3, 1926, ch. 776, § 2, 44 Stat. 889.)

§ 689b. Hunting, pursuing, capturing in Tahquitz National Game Preserve unlawful

On lands within the game preserve established in section 689a of this title, hunting, pursuing, poisoning, killing, or capturing by trapping, netting, or any other means, or attempting to hunt, pursue, kill, or capture any wild animals or birds for any purpose whatever upon the lands of the United States within the limits of said game preserve shall be unlawful except as hereinafter provided.

(July 3, 1926, ch. 776, § 3, 44 Stat. 889; June 25, 1948, ch. 645, § 14, 62 Stat. 861.)

AMENDMENTS

1948—Act June 25, 1948, struck out penal provisions. See section 41 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 20 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

[1] So in original. Probably should be ''within''.

[1] So in original. Probably should be ''within''.

§ 689c. Rules and regulations for administration of the Tahquitz Preserve; predatory animals

The Secretary of Agriculture shall execute the provisions of sections 689 to 689d of this title, and he is authorized to make all needful rules and regulations for the administration of such game preserves in accordance with the purposes of said sections, including regulations for hunting, capturing, or killing predatory animals, such as wolves, coyotes, cougar, and other species destructive to livestock or wildlife within the limits of said game preserve.

(July 3, 1926, ch. 776, § 4, 44 Stat. 889.)

§ 689d. Acceptance of title to privately owned lands within Tahquitz Preserve

Upon the recommendation of the Secretary of Agriculture the Secretary of the Interior is authorized in his discretion to accept, on behalf of the United States, title to any lands in private ownership within the boundaries of the game preserve established, and make exchange therefor under the provisions of sections 485 and 486 of this title.

(July 3, 1926, ch. 776, § 5, 44 Stat. 889.)

§ 690. Bear River Migratory Bird Refuge; establishment; acquisition of lands

The Secretary of the Interior is authorized to construct, at Bear River Bay and vicinity, Utah, such dikes, ditches, spillways, buildings, and improvements as may be necessary, in his judgment, for the establishment of a suitable refuge and feeding and breeding grounds for migratory wild fowl; also to acquire, by purchase, gift, or lease, water rights and privately owned lands, including the improvements thereon, deemed necessary by him for the purpose, or, in lieu of purchase, to compensate any owner for any damage sustained by reason of the submergence of his lands.

(Apr. 23, 1928, ch. 413, § 1, 45 Stat. 448; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 671 of this title.

§ 690a. Maintenance of lands acquired as refuge and breeding place for migratory birds

Such lands, when acquired in accordance with the provisions of sections 690 to 690i of this title, together with such lands of the United States as may be designated for the purpose by proclamations or Executive orders of the President, shall constitute the Bear River Migratory Bird Refuge and shall be maintained as a refuge and breeding place for migratory birds included in the terms of the convention between the United States and Great Britain for the protection of migratory birds, concluded August 16, 1916.

(Apr. 23, 1928, ch. 413, § 2, 45 Stat. 448.)

REFERENCES IN TEXT

Section 690i, included within the reference to sections 690 to 690i, was omitted from the Code.

§ 690b. Consent of Utah to acquisition of lands for Bear River Refuge; approval of title to lands acquired

No such area shall be acquired by the Secretary of the Interior unless or until the Legislature of the State of Utah has consented to the acquisition of lands by the United States for use as a refuge for migratory wild fowl, and shall have provided for the use as a refuge for migratory wild fowl by the United States of any lands owned or controlled by the State in Bear River Bay, Utah, and vicinity, which the Secretary of the Interior may deem necessary for such purpose, and which the Secretary of the Interior is authorized to accept on behalf of the United States; and, except in the case of a lease, no payments shall be made by the United States for any such area until title thereto is satisfactory to the Attorney General.

(Apr. 23, 1928, ch. 413, § 3, 45 Stat. 449; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 671 of this title.

§ 690c. Existence of easements, reservations, or exceptions as barring acquisition of lands

The existence of a right-of-way easement or other reservation or exception in respect of such area shall not be a bar to its acquisition (1) if the Secretary of the Interior determines that any such reservation or exception will in no manner interfere with the use of the area for the purposes of sections 690 to 690i of this title, or (2) if in the deed or other conveyance it is stipulated that any reservation or exception in respect of such area, in favor of the person from whom the United States receives title, shall be subject to regulations prescribed under authority of sections 690 to 690i of this title.

(Apr. 23, 1928, ch. 413, § 4, 45 Stat. 449; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

REFERENCES IN TEXT

Section 690i, included within the reference to sections 690 to 690i, was omitted from the Code.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 671 of this title.

§ 690d. Injuries to property on Bear River Refuge; disturbance of birds, etc.; violation of regulations for use of refuge

No person shall take, injure, or disturb any bird, or nest or egg thereof, or injure or destroy any notice, signboard, fence, dike, ditch, dam, spillway, improvement, or other property of the United States on any area acquired or received under sections 690 to 690i of this title, or remove therefrom or cut, burn, injure, or destroy any grass or other natural growth thereon, or enter, use, or occupy the refuge for any purpose, except

in accordance with regulations prescribed by the Secretary of the Interior: *Provided*, That at no time shall less than 60 per centum of the total acreage of the said refuge be maintained as an inviolate sanctuary for such migratory birds.

(Apr. 23, 1928, ch. 413, § 5, 45 Stat. 449; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

REFERENCES IN TEXT

Section 690i, included within the reference to sections 690 to 690i, was omitted from the Code.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 671 of this title.

§ 690e. Enforcement of laws and regulations; warrants and processes; jurisdiction of courts; forfeiture of property captured, injured, killed or removed

(a) Arrests and warrants

Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of sections 690 to 690i of this title (1) shall have power, without warrant, to arrest any person committing in the presence of such employee a violation of sections 690 to 690i of this title or of any regulation made pursuant thereto, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction, and (2) shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of said sections or regulations made pursuant thereto. Any judge of a court established under the laws of the United States, or any United States magistrate judge may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

(b) Seizures and forfeitures

All birds or animals, or parts thereof, captured, injured, or killed, and all grass and other natural growths, and nests and eggs of birds removed contrary to the provisions of sections 690 to 690i of this title or any regulation made pursuant thereto, shall, when found by such employee or by any marshal or deputy marshal, be summarily seized by him, and upon conviction of the offender or upon judgment of a court of the United States that the same were captured, killed, taken, or removed contrary to the provisions of sections 690 to 690i of this title or of any regulation made pursuant thereto, shall be forfeited to the United States and disposed of as directed by the Secretary of the Interior, in accordance with law.

(Apr. 23, 1928, ch. 413, § 6, 45 Stat. 449; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 95–616, § 3(g), Nov. 8, 1978, 92 Stat. 3111; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

REFERENCES IN TEXT

Section 690i, included within the reference to sections 690 to 690i, was omitted from the Code.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–616 substituted ''as directed by the Secretary of the Interior, in accordance with law'' for ''as directed by the court having jurisdiction''.

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' in subsec. (a) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''United States magistrate'' substituted for ''United States commissioner'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 671 of this title.

§ 690f. Expenditures by Secretary of the Interior for construction, maintenance, etc., of Bear River Refuge; employment of necessary means to execute functions imposed on him

The Secretary of the Interior is authorized to make such expenditures for construction, equipment, maintenance, repairs, and improvements, including necessary investigations, and expenditures for personal services and office expenses at the seat of government and elsewhere, and to employ such means as may be necessary to execute the functions imposed upon him by this section or sections 690 to 690i of this title and as may be provided for by Congress from time to time.

(Apr. 23, 1928, ch. 413, § 7, 45 Stat. 449; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

REFERENCES IN TEXT

Section 690i, included within the reference to sections 690 to 690i, was omitted from the Code.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 671 of this title.

§ 690g. Violation of laws and regulations; penalties

Any person who shall violate or fail to comply with any provision of, or any regulation made pursuant to sections 690d to 690i of this title shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $500 or be imprisoned not more than six months, or both.

(Apr. 23, 1928, ch. 413, § 9, 45 Stat. 450.)

REFERENCES IN TEXT

Section 690i, included within the reference to sections 690 to 690i, was omitted from the Code.

§ 690h. "Person" defined

As used in sections 690 to 690i of this title the term ''person'' includes an individual, partnership, association, or corporation.

(Apr. 23, 1928, ch. 413, § 10, 45 Stat. 450.)

REFERENCES IN TEXT

Section 690i, included within the reference to sections 690 to 690i, was omitted from the Code.

§ 690i. Omitted

CODIFICATION

Section, act Apr. 23, 1928, ch. 413, § 8, 45 Stat. 450, authorized the appropriation of $350,000 for purposes of sections 690 to 690h of this title, including $50,000 for purchase of land and improvements thereon.

§ 691. Cheyenne Bottoms Migratory Bird Refuge; location; acquisition of land

The Secretary of the Interior is authorized to acquire by purchase, gift, or lease not to exceed twenty thousand acres of land in what is known as the Cheyenne Bottoms, in Barton County, Kansas, or, in lieu of purchase, to compensate any owner for any damage sustained by reason of submergence of his lands.

(June 12, 1930, ch. 469, § 1, 46 Stat. 579; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 671 of this title.

§ 691a. Establishment of Cheyenne Bottoms Migratory Bird Refuge; purpose

Such lands, when acquired in accordance with the provisions of section 691 of this title, shall constitute the Cheyenne Bottoms Migratory Bird Refuge, and shall be maintained as a refuge and breeding place for migratory birds included in the terms of the convention between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916.

(June 12, 1930, ch. 469, § 2, 46 Stat. 579.)

§ 691b. Omitted

CODIFICATION

Section, act June 12, 1930, ch. 469, § 3, 46 Stat. 579, authorized the appropriation of $250,000 for purchase of land described in section 691 of this title.

§ 691c. Acquisition of areas for Cheyenne Bottoms Refuge; title; rights-of-way, easements, and reservations

The Secretary of the Interior may do all things and make all expenditures necessary to secure the safe title in the United States to the areas which may be acquired under section 691 of this title, including purchase of options when deemed necessary by the Secretary of the Interior, and expenses incident to the location, examination, and survey of such areas and the acquisition of title thereto, but no payment shall be made for any such areas until the title thereto shall be satisfactory to the Attorney General. That the acquisition of such areas by the United States shall in no case be defeated because of rights-of-way, easements, and reservations which from their nature will in the opinion of the Secretary of the Interior in no manner interfere with the use of the areas so encumbered for the purpose of section 691a of this title.

(June 12, 1930, ch. 469, § 4, 46 Stat. 579; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 671 of this title.

§ 691d. Applicability of certain statutes

Sections 715f to 715i and 715*l* to 715n[1] of this title are made applicable for the purposes of sections 691, 691a, and 691c of this title in the same manner and to the same extent as though they were enacted as a part of those sections.

(June 12, 1930, ch. 469, § 5, 46 Stat. 579.)

REFERENCES IN TEXT

Sections 715*l* and 715m of this title, referred to in text, were repealed by Pub. L. 89–669, § 7(d), Oct. 15, 1966, 80 Stat. 930. See section 668dd(f) and (e) of this title.

§ 692. Game sanctuaries or refuges in Ocala National Forest; creation

The President of the United States is authorized to designate as game refuges such lands of the United States within the Ocala National Forest, in the State of Florida, as in his judgment should be set aside for the protection of game animals and birds, but it is not intended that the lands so designated shall cease to be parts of the national forest within which they are located, and the establishment of such game sanctuaries or refuges shall not prevent the Secretary of Agriculture from permitting other uses of the lands under and in conformity with the laws and regulations applicable thereto so far as such uses may be consistent with the purposes for which such game sanctuaries or refuges are established.

(June 28, 1930, ch. 709, § 1, 46 Stat. 827.)

PRESIDENTIAL DESIGNATION

Lands comprising the Ocala National Game Refuge were designated by Proclamation of July 24, 1930 (46 Stat. 3031), and Executive Order No. 5814 of Mar. 1, 1932.

§ 692a. Hunting, pursuing, capturing, etc., in Ocala National Forest unlawful

When such game sanctuaries or refuges have been established as provided in section 692 of this title, the hunting, pursuing, poisoning, killing, or capturing by trapping, netting, or any other means, or attempting to hunt, pursue, kill, or capture any game animals or birds upon the lands of the United States within the limits of such game sanctuaries or refuges shall be unlawful except under such rules and regulations as the Secretary of Agriculture may from time to time prescribe.

(June 28, 1930, ch. 709, § 2, 46 Stat. 828; June 25, 1948, ch. 645, § 15, 62 Stat. 861.)

AMENDMENTS

1948—Act June 25, 1948, struck out penal provisions (see section 41 of Title 18, Crimes and Criminal Procedure), and inserted reference to rules and regulations of the Secretary of Agriculture.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 20 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

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[1] See References in Text note below.

§ 693. Game sanctuaries and refuges in Ouachita National Forest

For the purpose of providing breeding places and for the protection and administration of game animals, birds, and fish, the President of the United States is authorized, upon the recommendation of the Secretary of Agriculture, to establish by public proclamation certain specified areas within the Ouachita National Forest as game sanctuaries and refuges.

(June 13, 1933, ch. 63, § 1, 48 Stat. 128.)

PRESIDENTIAL DESIGNATION

Areas comprising the Ouachita National Wildlife Preserve, formerly known as the Muddy Creek Refuge, were designated by Proclamations of Mar. 8, 1935 (49 Stat. 3439), and Oct. 29, 1938 (53 Stat. 2495).

§ 693a. Rules and regulations for administration of Ouachita National Forest; violations; penalties

The Secretary of Agriculture shall execute the provisions of this section and section 693 of this title, and he is authorized to prescribe all general rules and regulations for the administration of such game sanctuaries and refuges, and violation of such rules and regulations shall be punished by fine of not more than $500 or imprisonment for not more than six months or both.

(June 13, 1933, ch. 63, § 2, 48 Stat. 128.)

§ 693b. Robert S. Kerr Memorial Arboretum and Nature Center in Ouachita National Forest; authority to establish

In order to preserve, develop, and make available to this and future generations the opportunity to advance themselves morally, intellectually, and spiritually by learning about nature and to promote, demonstrate, and stimulate interest in and knowledge of the management of forest lands under principles of multiple use and sustained yield and the development and progress of management of forest lands in America, the Secretary of Agriculture is hereby authorized to establish the Robert S. Kerr Memorial Arboretum and Nature Center in the Ouachita National Forest. As soon as possible after June 4, 1968, the Secretary of Agriculture shall publish notice of the designation thereof in the Federal Register, together with an appropriate legal description of the property. A map showing the location of the designated arboretum and center shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture.

(Pub. L. 90–327, § 1, June 4, 1968, 82 Stat. 169.)

§ 693c. Administration by Secretary of Agriculture of the Robert S. Kerr Center

The area designated as the Robert S. Kerr Memorial Arboretum and Nature Center shall be administered, protected, and developed within and as a part of the Ouachita National Forest by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to national forests in such manner as in his judgment will best provide for the purposes of sections 693b to 693d of this title and to provide for such management, utilization, and disposal of the natural resources as in his judgment will promote or is compatible with and does not significantly impair the purposes for which the Robert S. Kerr Memorial Arboretum and Nature Center is established.

(Pub. L. 90–327, § 2, June 4, 1968, 82 Stat. 169.)

§ 693d. Cooperation with public and private agencies; contributions and gifts for Robert S. Kerr Center

The Secretary of Agriculture is hereby authorized to cooperate with and receive the cooperation of public and private agencies and organizations and individuals in the development, administration, and operation of the Robert S. Kerr Memorial Arboretum and Nature Center. The Secretary of Agriculture is authorized to accept contributions and gifts to be used to further the purposes of sections 693b to 693d of this title.

(Pub. L. 90–327, § 3, June 4, 1968, 82 Stat. 169.)

§ 694. Fish and game sanctuaries in national forests; establishment by President

For the purpose of providing breeding places for game birds, game animals, and fish on lands and waters in the national forests not chiefly suitable for agriculture, the President of the United States is authorized, upon recommendation of the Secretary of Agriculture and the Secretary of Commerce and with the approval of the State legislatures of the respective States in which said national forests are situated, to establish by public proclamation certain specified and limited areas within said forests as fish and game sanctuaries or refuges which shall be devoted to the increase of game birds, game animals, and fish of all kinds naturally adapted thereto, but it is not intended that the lands included in such fish and game sanctuaries or refuges shall cease to be parts of the national forests wherein they are located, and the establishment of such fish and game sanctuaries or refuges shall not prevent the Secretary of Agriculture from permitting other uses of the national forests under and in conformity with the laws and the rules and regulations applicable thereto so far as such uses may be consistent with the purposes for which such fish and game sanctuaries or refuges are authorized to be established.

(Mar. 10, 1934, ch. 54, § 1, 48 Stat. 400.)

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with sections 694 to 694b of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of

Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 694a. Hunting, pursuing, capturing, etc., in sanctuaries in national forests unlawful

When such fish and game sanctuaries or refuges have been established as provided in section 694 of this title, hunting, pursuing, poisoning, angling for, killing, or capturing by trapping, netting, or any other means, or attempting to hunt, pursue, angle for, kill, or capture any wild animals or fish for any purpose whatever upon the lands of the United States within the limits of said fish and game sanctuaries or refuges shall be unlawful except as hereinafter provided.

(Mar. 10, 1934, ch. 54, § 2, 48 Stat. 400; June 25, 1948, ch. 645, § 16, 62 Stat. 861.)

AMENDMENTS

1948—Act June 25, 1948, struck out penal provisions. See section 41 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 10 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

§ 694b. Rules and regulations for administration of sanctuaries in national forests; jurisdiction of States

The Secretaries of Agriculture and Commerce shall execute the provisions of sections 694 to 694b of this title, and they are jointly authorized to make all needful rules and regulations for the administration of such fish and game sanctuaries or refuges in accordance with the purpose of sections 694 to 694b of this title, including regulations not in contravention of State laws for hunting, capturing, or killing predatory animals, such as wolves, coyotes, foxes, pumas, and other species destructive to livestock or wildlife or agriculture within the limits of said fish and game sanctuaries or refuges: *Provided*, That the present jurisdiction of the States shall not be altered or changed without the legislative approval of such States.

(Mar. 10, 1934, ch. 54, § 3, 48 Stat. 401.)

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with sections 694 to 694b of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 695. Migratory waterfowl and other wildlife refuge in California; participation by State of California

The Secretary of the Interior is authorized to purchase or rent not to exceed twenty thousand acres of land or interests therein in suitable locations in the State of California, for the management and control of migratory waterfowl and other wildlife in connection therewith, from moneys to be appropriated by Congress from time to time: *Provided*, That no sums appropriated under this authority for the acquisition of lands shall be expended for such purpose unless and until the State of California shall have set aside and made available for expenditure funds for the purchase of equivalent acreages as determined by the Secretary of the Interior.

(May 18, 1948, ch. 303, § 1, 62 Stat. 238.)

§ 695a. Title in United States of California refuge areas; existence of easements, reservations, etc.; affecting acquisition

The Secretary of the Interior may do all things and make all expenditures necessary to secure the safe title in the United States to the areas which may be acquired under sections 695 to 695c of this title, including purchase of options when deemed necessary, and expenses incident to the location, examination and survey of such areas and the acquisition of title thereto, but no payments shall be made for any such areas until the title thereto shall be satisfactory to the Attorney General. The acquisition of such areas by the United States shall in no case be defeated because of rights-of-way, easements, exceptions, and reservations which from their nature will, in the opinion of the Secretary of the Interior, in no manner interfere with the use of the areas so encumbered for the purposes of said sections.

(May 18, 1948, ch. 303, § 2, 62 Stat. 238.)

§ 695b. Applicability of certain statutes

Sections 715g to 715i and 715*l* to 715n of this title are made applicable for the purposes of sections 695 to 695c of this title in the same manner and to the same extent as though they were enacted as part of sections 695 to 695c of this title, except that lands acquired hereunder may be administered primarily as wildlife management areas not subject to the prohibition against the taking of birds or nests or the eggs thereof, as contained in section 715i of this title, and hunting thereon may be regulated, at the option of the Fish and Game Commission of the State of California, in such cooperative manner as is deemed necessary to carry out the purposes of sections 695 to 695c of this title subject, however, to the provisions of the Migratory Bird Treaty Act of July 3, 1918 [16 U.S.C. 703 et seq.].

(May 18, 1948, ch. 303, § 3, 62 Stat. 239.)

REFERENCES IN TEXT

The Migratory Bird Treaty Act of July 3, 1918, referred to in text, is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II of chapter 7 (§ 703 et seq.) of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

Sections 715*l* and 715m of this title, referred to in text, were repealed by Pub. L. 89–669, § 7(d), Oct. 15, 1966, 80 Stat. 930. See section 668d(f) and (e) of this title.

§ 695c. Availability of funds for construction of dams, buildings, etc., for California refuge

Funds made available under sections 695 to 695c of this title or any other Act for the administration, maintenance, and development of any areas acquired under said sections, shall be available also for the construction of dams, dikes, ditches, buildings, and other necessary improvements and for the purchase, planting, growing, and harvesting of grains and other crops for the feeding of waterfowl and other wildlife frequenting the localities where such lands may be purchased or rented.

(May 18, 1948, ch. 303, § 4, 62 Stat. 239.)

§ 695d. Development of water supplies for waterfowl management in California; reauthorization of Central Valley Project

The entire Central Valley project, California, heretofore authorized under the Act of August 26, 1937 (50 Stat. 844, 850), and reauthorized under the Act of October 17, 1940 (54 Stat. 1198, 1199), the Act of October 14, 1949 (63 Stat. 852), and the Act of September 26, 1950 (64 Stat. 1036), is reauthorized and declared to be for the purposes set forth in said Acts, and also for the use of the waters thereof for fish and wildlife purposes, subject to such priorities as are applicable under said Acts.

(Aug. 27, 1954, ch. 1012, § 1, 68 Stat. 879.)

REFERENCES IN TEXT

Act of August 26, 1937 (50 Stat. 844, 850), Act of October 17, 1940 (54 Stat. 1198, 1199), Act of October 14, 1949 (63 Stat. 852), and Act of September 26, 1950 (64 Stat. 1036), referred to in text, are acts Aug. 26, 1937, ch. 832, 50 Stat. 844; Oct. 17, 1940, ch. 895, 54 Stat. 1198; Oct. 14, 1949, ch. 690, 63 Stat. 852; Sept. 26, 1950, ch. 1047, 64 Stat. 1036, which were not classified to the Code.

§ 695e. Construction, operation, and maintenance of water supply development works

The Secretary of the Interior is authorized to construct, operate, and maintain such works on waterfowl management areas and refuges owned and operated by the State of California or the United States as may be necessary or desirable for the development of a water supply by means of wells and the recovery of drainage, and to furnish water available from such works, and water available from Central Valley project sources, for wildlife management purposes substantially in accordance with the recommendations set forth in the report of the United States Department of the Interior entitled ''Waterfowl Conservation in the Lower San Joaquin Valley, Its Relation to the Grasslands and the Central Valley Project,'' dated October 1950, and such works should be developed in cooperation with the State of California.

(Aug. 27, 1954, ch. 1012, § 2, 68 Stat. 879.)

§ 695f. Construction, etc., authorized by section 695e as not reimbursable or returnable under reclamation laws

The cost of investigation, planning, and construction of the works and the delivery of water as authorized in section 695e of this title shall not be reimbursable or returnable under the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and the Acts amendatory thereof and supplementary thereto).

(Aug. 27, 1954, ch. 1012, § 3, 68 Stat. 879.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, popularly known as the Reclamation Act, which is classified generally to chapter 12 (§ 371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables.

§ 695g. Authorization of appropriations

There are hereby authorized to be appropriated such funds, not to exceed $400,000, for construction of necessary works to supply water for State and federally owned and operated waterfowl management areas in the San Joaquin Valley to carry out the purposes of sections 695d to 695j–1 of this title.

(Aug. 27, 1954, ch. 1012, § 4, 68 Stat. 879.)

§ 695h. Ownership by State of California of works constructed

Works constructed under the authorization of section 695e of this title, for the purpose of supplying State wildlife management areas with water, shall become the property of the State of California when constructed.

(Aug. 27, 1954, ch. 1012, § 5, 68 Stat. 879.)

§ 695i. Authorization of Secretary of the Interior to contract for water delivery; nonreimbursable or nonreturnable basis of delivery

The Secretary of the Interior is authorized to contract for the delivery of water to public organizations or agencies for use within the boundaries of such organizations or agencies for waterfowl purposes in the Grasslands area of the San Joaquin Valley. If and when available, such water shall be delivered from the Central Valley project to the contracting entity, and the cost of furnishing the water shall not be reimbursable or returnable under the Federal reclamation laws: *Provided*, That, in order for the delivery of such water to continue on a nonreimbursable or nonreturnable basis—

(a) Amount and time of water delivery to Service

the public organizations or agencies contracting with the Secretary of the Interior, excluding the State of California, shall deliver annually to the United States Fish and Wildlife Service (hereinafter referred to as the ''Service''), at no cost to the United States, not less than three thousand five hundred acre-feet of water during the period October 1

through November 30, inclusive, and not less than four thousand acre-feet of water during the period May 1 through September 30, inclusive, if available: *Provided*, That such amounts of water and times of delivery may be changed upon approval of the Secretary of the Interior;

(b) Construction, operation, and maintenance of water conveyance facilities

the public organizations or agencies, excluding the State of California, shall construct, operate, and maintain any water conveyance facilities necessary to deliver the water referred to in subsection (a) of this section to a point or points within the boundaries of such public organization or agency as designated by the Service, or to such points as may be mutually agreed upon by the public organization or agency and the Service. The Service shall be responsible for delivering the water from such point or points to appropriate locations within lands under its jurisdiction;

(c) Reversionary rights of Secretary

any contract entered into by the Secretary of the Interior and any public organization or agency pursuant to sections 695d to 695j–1 of this title shall provide that in the event the public organization or agency for any reason fails to carry out the obligations imposed upon it by said contract or by sections 695d to 695j–1 of this title, the rights of use of any facilities referred to in subsection (b) of this section, and the rights to all water contracted for by the organization or agency pursuant to sections 695d to 695j–1 of this title shall revert to the Secretary of the Interior for migratory waterfowl purposes in accordance with the laws of the State of California; and

(d) Restrictive covenants

in accordance with existing or future contracts, the use of lands located within the boundaries of the public organizations or agencies shall be restricted by covenants requiring that such lands be used only for the purpose of waterfowl and wildlife habitat conservation or other uses as may be mutually agreed upon by the public organizations or agencies and the Service.

(Aug. 27, 1954, ch. 1012, §6, 68 Stat. 879; Pub. L. 95–616, §10(a), Nov. 8, 1978, 92 Stat. 3115.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in introductory text, are identified in section 695f of this title.

AMENDMENTS

1978—Pub. L. 95–616 inserted second sentence, including pars. (a) to (d), and struck out prior second sentence which read as follows: ''If and when available, such water shall be delivered from the Central Valley project at a charge not to exceed the prevailing charge for class 2 water.''

§ 695j. Conformity of water use with California laws; construction of sections 695d to 695j–1

The use of all water furnished by the Secretary of the Interior under sections 695e and 695i of this title shall be subject to and not inconsistent with the laws of the State of California relating to priorities of deliveries and use of water. Nothing contained in sections 695d to 695j–1 of this title shall be construed as an allocation of water.

(Aug. 27, 1954, ch. 1012, §7, 68 Stat. 880.)

§ 695j–1. Conformity of contracts with Federal law through negotiation of amendments

The Secretary is hereby authorized to negotiate amendments to existing contracts to conform said contracts to the provisions of sections 695d to 695j–1 of this title.

(Aug. 27, 1954, ch. 1012, §8, as added Pub. L. 95–616, §10(b), Nov. 8, 1978, 92 Stat. 3115.)

§ 695k. Congressional declaration of policy for preservation of habitat for migratory waterfowl and prevention of depredations on agricultural crops

It is hereby declared to be the policy of the Congress to stabilize the ownership of the land in the Klamath Federal reclamation project, Oregon and California, as well as the administration and management of the Klamath Federal reclamation project and the Tule Lake National Wildlife Refuge, Lower Klamath National Wildlife Refuge, Upper Klamath National Wildlife Refuge, and Clear Lake National Wildlife Refuge, to preserve intact the necessary existing habitat for migratory waterfowl in this vital area of the Pacific flyway, and to prevent depredations of migratory waterfowl on agricultural crops in the Pacific Coast States.

(Pub. L. 88–567, §1, Sept. 2, 1964, 78 Stat. 850.)

§ 695*l*. Dedication of lands within boundaries of refuges to wildlife conservation; administration of lands for waterfowl management and optimum agricultural use; homestead entry prohibition; inclusion of other public lands; property of the United States

Notwithstanding any other provisions of law, all lands owned by the United States lying within the Executive order boundaries of the Tule Lake National Wildlife Refuge, the Lower Klamath National Wildlife Refuge, the Upper Klamath National Wildlife Refuge, and the Clear Lake Wildlife Refuge are hereby dedicated to wildlife conservation. Such lands shall be administered by the Secretary of the Interior for the major purpose of waterfowl management, but with full consideration to optimum agricultural use that is consistent therewith. Such lands shall not be opened to homestead entry. The following public lands shall also be included within the boundaries of the area dedicated to wildlife conservation, shall be administered by the Secretary of the Interior for the major purpose of waterfowl management, but with full consideration to optimum agricultural use that is consistent therewith, and shall not be opened to homestead entry: Hanks Marsh, and first form withdrawal lands (approximately one thousand four hundred and forty acres) in Klamath County, Oregon, lying adjacent to Upper Klamath National Wildlife Refuge; White Lake in Klamath County, Oregon, and Siskiyou County, California; and thirteen tracts of land in Siskiyou County, California, lettered as tracts ''A'', ''B'', ''C'', ''D'', ''E'', ''F'', ''G'', ''H'', ''I'',

''J'', ''K'', ''L'', and ''N'' totaling approximately three thousand two hundred and ninety-two acres, and tract ''P'' in Modoc County, California, containing about ten acres, all as shown on plate 4 of the report entitled ''Plan for Wildlife Use of Federal Lands in the Upper Klamath Basin, Oregon-California,'' dated April 1956, prepared by the United States Fish and Wildlife Service. All the above lands shall remain permanently the property of the United States.

(Pub. L. 88–567, § 2, Sept. 2, 1964, 78 Stat. 850.)

§ 695m. Annual percentage payments of net revenues from leases of Klamath project lands on pro rata basis; limitation on payments; priority of use of net revenues

Subject to conditions hereafter prescribed, and pursuant to such regulations as may be issued by the Secretary, 25 per centum of the net revenues collected during each fiscal year from the leasing of Klamath project reserved Federal lands within the Executive order boundaries of the Lower Klamath National Wildlife Refuge and the Tule Lake National Wildlife Refuge shall be paid annually by the Secretary, without further authorization, for each full fiscal year after September 2, 1964 to the counties in which such refuges are located, such payments to be made on a pro rata basis to each county based upon the refuge acreage in each county: *Provided*, That the total annual payment per acre to each county shall not exceed 50 per centum of the average per acre tax levied on similar lands in private ownership in each county, as determined by the Secretary: *Provided further*, That no such payments shall be made which will reduce the credits or the payments to be made pursuant to contractual obligations of the United States with the Tulelake Irrigation District or the payments to the Klamath Drainage District as full reimbursement for the construction of irrigation facilities within said district, and that the priority of use of the total net revenues collected from the leasing of the lands described in this section shall be (1) to credit or pay from each revenues to the Tulelake Irrigation District the amounts already committed to such payment or credit; (2) to pay from such revenues to the Klamath Drainage District the sum of $197,315; and (3) to pay from such revenues to the counties the amounts prescribed by this section.

(Pub. L. 88–567, § 3, Sept. 2, 1964, 78 Stat. 850.)

§ 695n. Leases of Lower Klamath and Tule Lake National Wildlife Refuge reserved lands; management of other reserved public lands for waterfowl purposes

The Secretary shall, consistent with proper waterfowl management, continue the present pattern of leasing the reserved lands of the Klamath Straits unit, the Southwest Sump, the League of Nations unit, the Henzel lease, and the Frog Pond unit, all within the Executive order boundaries of the Lower Klamath and Tule Lake National Wildlife Refuges and shown in plate 4 of the report entitled ''Plan for Wildlife Use of Federal Lands in the Upper Klamath Basin, Oregon-California,'' dated April 1956. Leases for these lands shall be at a price or prices designed to obtain the maximum lease revenues. The leases shall provide for the growing of grain, forage, and soil-building crops, except that not more than 25 per centum of the total leased lands may be planted to row crops. All other reserved public lands included in section 695*l* of this title shall continue to be managed by the Secretary for waterfowl purposes, including the growing of agricultural crops by direct planting and sharecrop agreements with local cooperators where necessary.

(Pub. L. 88–567, § 4, Sept. 2, 1964, 78 Stat. 851.)

§ 695*o*. Limitation on reduction of areas by diking or other construction

The areas of sumps 1(a) and 1(b) in the Klamath project lying within the Executive order boundaries of the Tule Lake National Wildlife Refuge shall not be reduced by diking or by any other construction to less than the existing thirteen thousand acres.

(Pub. L. 88–567, § 5, Sept. 2, 1964, 78 Stat. 851.)

§ 695p. Regulation of waters to maintain sump levels

In carrying out the obligations of the United States under any migratory bird treaty, the Migratory Bird Treaty Act (40 Stat. 755), as amended [16 U.S.C. 703 et seq.], or the Migratory Bird Conservation Act (45 Stat. 1222), as amended [16 U.S.C. 715 et seq.], waters under the control of the Secretary of the Interior shall be regulated, subject to valid existing rights, to maintain sump levels in the Tule Lake National Wildlife Refuge at levels established by regulations issued by the Secretary pursuant to the contract between the United States and the Tulelake Irrigation District, dated September 10, 1956, or any amendment thereof. Such regulations shall accommodate to the maximum extent practicable waterfowl management needs.

(Pub. L. 88–567, § 6, Sept. 2, 1964, 78 Stat. 851.)

REFERENCES IN TEXT

The Migratory Bird Treaty Act (40 Stat. 755), as amended, referred to in text, is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II of chapter 7 (§ 703 et seq.) of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

The Migratory Bird Conservation Act (45 Stat. 1222), as amended, referred to in text, is act Feb. 18, 1929, ch. 257, 45 Stat. 1222, as amended, which is classified generally to subchapter III (§ 715 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 715 of this title and Tables.

§ 695q. Research studies on Clear Lake Refuge; report to Congress

The Secretary is hereby directed to complete studies that have been undertaken relating to the development of the water resources and waterfowl management potential of the Clear Lake National Wildlife Refuge. The results of such studies, when completed, and the recommendations of the Secretary shall be submitted to the Congress.

(Pub. L. 88–567, § 7, Sept. 2, 1964, 78 Stat. 851.)

§ 695r. Regulations by Secretary

The Secretary may prescribe such regulations as may be necessary to carry out the provisions of sections 695k to 695r of this title.

(Pub. L. 88–567, § 8, Sept. 2, 1964, 78 Stat. 851.)

§ 696. National Key Deer Refuge; establishment; acquisition of property: exchanges, cash equalization payments; administration

In order to protect and preserve in the national interest the key deer and other wildlife resources in the Florida Keys, the Secretary of the Interior is authorized to acquire by purchase, lease, exchange, and donations, including the use of donated funds, such lands or interests therein in townships 65 and 66 south, ranges 28, 29, and 30 east, Monroe County, Florida, as he shall find to be suitable for the conservation and management of the said key deer and other wildlife: *Provided*, That no lands within a one thousand-foot zone adjacent to either side of United States Highway Numbered 1 in Monroe County shall be acquired for the Key Deer National Wildlife Refuge by condemnation. The Secretary, in the exercise of his exchange authority, may accept title to any non-Federal property in townships 65 and 66 south, ranges 28, 29, and 30 east, Monroe County, Florida, and in exchange therefor convey to the grantor of such property any federally owned property in the State of Florida under his jurisdiction which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require. The properties so acquired shall constitute the National Key Deer Refuge, and shall be administered by the Secretary of the Interior in accordance with the laws and regulations relating to the national wildlife refuges, including, but not limited to, sections 664, 666a, and 666b of this title, relating to the conservation of wildlife, fish, and game.

(Pub. L. 85–164, § 1, Aug. 22, 1957, 71 Stat. 412; Pub. L. 89–669, § 10(a), Oct. 15, 1966, 80 Stat. 930.)

AMENDMENTS

1966—Pub. L. 89–669 struck out one thousand acres limitation on acquisition of property, substituted prohibition against condemnation of lands within a one thousand-foot zone adjacent to either side of U.S. Highway Numbered 1 for the Key Deer National Wildlife Refuge for former prohibition against condemnation of lands on an island that is traversed at any point by U.S. Highway Numbered 1, and required cash equalization payment when making unequal exchanges of properties.

§ 696a. Acquisition of title to properties for National Key Deer Refuge; rights-of-way and easements

In furtherance of the aforesaid purposes, the Secretary may take such action and make such expenditures as he shall find to be necessary in order to secure satisfactory title in the United States to such properties, including the payment of expenses incidental to the location, examination, and survey of such lands and the acquisition of title thereto; but no payment shall be made for any such lands until the title thereto shall be satisfactory to the Attorney General: *Provided*, That the acquisition of such lands or interests therein by the United States shall in no case be defeated because of rights-of-ways, easements, exceptions, and reservations which, in the opinion of the Secretary of the Interior, will not interfere materially with the use of such properties for the purposes of sections 696 to 696b of this title.

(Pub. L. 85–164, § 2, Aug. 22, 1957, 71 Stat. 412.)

§ 696b. Authorization of appropriations; limitation

There is hereby authorized to be appropriated from time to time out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to effectuate the purposes of sections 696 to 696b of this title. The Secretary shall not utilize more than $2,035,000 from appropriated funds for the acquisition of land and interests in land for the purposes of sections 696 to 696b of this title.

(Pub. L. 85–164, § 3, Aug. 22, 1957, 71 Stat. 413; Pub. L. 89–669, § 10(b), Oct. 15, 1966, 80 Stat. 930.)

AMENDMENTS

1966—Pub. L. 89–669 increased from $35,000 to $2,035,000 the limitation on funds for acquisition of land, provided for such acquisition ''for the purposes of sections 696 to 696b of this title'', and struck out sentence which provided that exchange by the Secretary of lands and interests therein shall not be considered an expenditure from appropriated funds for acquisition of land.

§§ 697, 697a. Omitted

CODIFICATION

Sections, Pub. L. 87–119, Aug. 3, 1961, 75 Stat. 243, which established the Wyandotte National Wildlife Refuge to be administered by the Secretary of the Interior in accordance with the laws and regulations relating to national wildlife refuges, have been omitted because of the limited scope of the subject matter. The Wyandotte National Wildlife Refuge, was included within and made a part of the Detroit River International Wildlife Refuge by Pub. L. 107–91, § 5(b), Dec. 21, 2001, 115 Stat. 896, set out in the table of National Wildlife Refuges under section 668dd of this title.

§ 698. Big Thicket National Preserve

(a) Establishment

In order to assure the preservation, conservation, and protection of the natural, scenic, and recreational values of a significant portion of the Big Thicket area in the State of Texas and to provide for the enhancement and public enjoyment thereof, the Big Thicket National Preserve is hereby established.

(b) Location; boundaries; publication in Federal Register

The Big Thicket National Preserve (hereafter referred to as the ''preserve'') shall include the units generally depicted on the map entitled ''Big Thicket National Preserve'', dated October 1992, and numbered 175–80008, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and the offices of the Superintendent of the preserve. After advising the

Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives, in writing, the Secretary of the Interior (hereafter referred to as the ''Secretary'') may make minor revisions of the boundaries of the preserve when necessary by publication of a revised drawing or other boundary description in the Federal Register. The Secretary shall, as soon as practicable, but no later than six months after October 11, 1974, publish a detailed description of the boundaries of the preserve in the Federal Register. In establishing such boundaries, the Secretary shall locate stream corridor unit boundaries referenced from the stream bank on each side thereof and he shall further make every reasonable effort to exclude from the units hereafter described any improved year-round residential properties which he determines, in his discretion, are not necessary for the protection of the values of the area or for its proper administration. The preserve shall consist of the following units:

Big Sandy Creek unit, Polk County, Texas, comprising approximately fourteen thousand three hundred acres;

Menard Creek Corridor unit, Polk, Hardin, and Liberty Counties, Texas, including a module at its confluence with the Trinity River, comprising approximately three thousand three hundred and fifty-nine acres;

Hickory Creek Savannah unit, Tyler County, Texas, comprising approximately six hundred and sixty-eight acres;

Turkey Creek unit, Tyler and Hardin Counties, Texas, comprising approximately seven thousand eight hundred acres;

Beech Creek unit, Tyler County, Texas, comprising approximately four thousand eight hundred and fifty-six acres;

Upper Neches River corridor unit, Jasper, Tyler, and Hardin Counties, Texas, including the Sally Withers Addition, comprising approximately three thousand seven hundred and seventy-five acres;

Neches Bottom and Jack Gore Baygall unit, Hardin and Jasper Counties, Texas, comprising approximately thirteen thousand three hundred acres;

Lower Neches River corridor unit, Hardin, Jasper, and Orange Counties, Texas, except for a one-mile segment on the east side of the river including the site of the papermill near Evandale, comprising approximately two thousand six hundred acres;

Beaumont unit, Orange, Hardin, and Jefferson Counties, Texas, comprising approximately six thousand two hundred and eighteen acres;

Loblolly unit, Liberty County, Texas, comprising approximately five hundred and fifty acres;

Little Pine Island-Pine Island Bayou corridor unit, Hardin and Jefferson Counties, Texas, comprising approximately two thousand one hundred acres;

Lance Rosier Unit, Hardin County, Texas, comprising approximately twenty-five thousand and twenty-four acres;

Village Creek Corridor unit, Hardin County, Texas, comprising approximately four thousand seven hundred and ninety-three acres;

Big Sandy Corridor unit, Hardin, Polk, and Tyler Counties, Texas, comprising approximately four thousand four hundred and ninety-seven acres; and

Canyonlands unit, Tyler County, Texas, comprising approximately one thousand four hundred and seventy-six acres.

(c) Methods of acquisition of land

The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, any lands, waters, or interests therein which are located within the boundaries of the preserve: *Provided*, That privately owned lands located within the Village Creek Corridor, Big Sandy Corridor, and Canyonlands units may be acquired only with the consent of the owner: *Provided further*, That the Secretary may acquire lands owned by commercial timber companies only by donation or exchange: *Provided further*, That any lands owned by the State of Texas, or any political subdivisions thereof may be acquired by donation only. The Secretary may also acquire, by any of the above methods, approximately 15 acres of land outside of the boundaries of the preserve in the vicinity of the intersection of United States Highway 69 and State Farm-Market Road 420, in Hardin County, Texas, for purposes of a visitor contact and administrative site. After notifying the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, in writing, of his intention to do so and of the reasons therefor, the Secretary may, if he finds that such lands would make a significant contribution to the purposes for which the preserve was created, accept title to any lands, or interests in lands, located outside of the boundaries of the preserve which the State of Texas or its political subdivisions may acquire and offer to donate to the United States or which any private person, organization, or public or private corporation may offer to donate to the United States and he may administer such lands as a part of the preserve after publishing notice to that effect in the Federal Register. Notwithstanding any other provision of law, any federally owned lands within the preserve shall, with the concurrence of the head of the administering agency, be transferred to the administrative jurisdiction of the Secretary for the purposes of sections 698 to 698e of this title, without transfer of funds.

(d) Exchanges of land

Within sixty days after July 1, 1993, the Secretary and the Secretary of Agriculture shall identify lands within their jurisdiction located within the vicinity of the preserve which may be suitable for exchange for commercial timber lands within the preserve. In so doing, the Secretary of Agriculture shall seek to identify for exchange National Forest lands that are near or adjacent to private lands that are already owned by the commercial timber companies. Such National Forest lands shall be located in the Sabine National Forest in Sabine County, Texas, in the Davy Crockett National Forest south of Texas State Highway 7, or in other sites deemed mutually agreeable, and within reasonable distance of the timber companies' existing

mills. In exercising this exchange authority, the Secretary and the Secretary of Agriculture may utilize any authorities or procedures otherwise available to them in connection with land exchanges, and which are not inconsistent with the purposes of sections 698 to 698e of this title. Land exchanges authorized pursuant to this subsection shall be of equal value and shall be completed as soon as possible, but no later than five years after July 1, 1993. The Secretary, in considering the values of the private lands to be exchanged under this subsection, shall consider independent appraisals submitted by the owners of the private lands. The authority to exchange lands under this subsection shall expire on July 1, 1998.

(e) Indian Springs Youth Camp

With respect to the thirty-seven-acre area owned by the Louisiana-Pacific Corporation or its subsidiary, Kirby Forest Industries, Inc., on Big Sandy Creek in Hardin County, Texas, and now utilized as part of the Indian Springs Youth Camp (H.G. King Abstract 822), the Secretary shall not acquire such area without the consent of the owner so long as the area is used exclusively as a youth camp.

(Pub. L. 93–439, §1, Oct. 11, 1974, 88 Stat. 1254; Pub. L. 98–489, §1(a), Oct. 17, 1984, 98 Stat. 2267; Pub. L. 103–46, §2(a), (b), July 1, 1993, 107 Stat. 229, 230; Pub. L. 103–437, §6(a)(6), Nov. 2, 1994, 108 Stat. 4583; Pub. L. 104–333, div. I, title III, §306(a)–(c), Nov. 12, 1996, 110 Stat. 4132.)

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–333 substituted ''five years after July 1, 1993'' for ''two years after July 1, 1993'' and inserted at end ''The Secretary, in considering the values of the private lands to be exchanged under this subsection, shall consider independent appraisals submitted by the owners of the private lands. The authority to exchange lands under this subsection shall expire on July 1, 1998.''

1994—Subsec. (c). Pub. L. 103–437 substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives'' for ''Committees on Interior and Insular Affairs of the United States Congress''.

1993—Subsec. (b). Pub. L. 103–46, §2(a), substituted ''map entitled 'Big Thicket National Preserve', dated October 1992, and numbered 175–80008, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and the offices of the Superintendent of the preserve. After advising the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives, in writing, the Secretary of the Interior (hereafter referred to as the 'Secretary') may make minor revisions of the boundaries of the preserve when necessary by publication of a revised drawing or other boundary description in the Federal Register. The Secretary'' for ''map entitled 'Big Thicket National Preserve', dated November 1973 and numbered NBR–BT 91,027 which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and shall be filed with appropriate offices of Tyler, Hardin, Jasper, Polk, Liberty, Jefferson, and Orange Counties in the State of Texas. The Secretary of the Interior (hereafter referred to as the 'Secretary')'' and added undesignated pars. relating to Village Creek Corridor unit, Big Sandy Corridor unit, and Canyonlands unit.

Subsec. (c). Pub. L. 103–46, §2(b)(1), inserted first sentence and struck out former first sentence which read as follows: ''The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, any lands, waters, or interests therein which are located within the boundaries of the preserve: *Provided*, That any lands owned or acquired by the State of Texas, or any of its political subdivisions, may be acquired by donation only.''

Subsecs. (d) and (e). Pub. L. 103–46, §2(b)(2), added subsecs. (d) and (e).

1984—Subsec. (c). Pub. L. 98–489 authorized acquisition of acreage for a visitor contact and administrative site outside the boundaries of the preserve.

SHORT TITLE OF 1993 AMENDMENT

Section 1 of Pub. L. 103–46 provided that: ''This Act [amending this section and section 698e of this title and enacting provisions set out as a note below] may be referred to as the 'Big Thicket National Preserve Addition Act of 1993'.''

REPORTING REQUIREMENT

Pub. L. 104–333, div. I, title III, §306(d), Nov. 12, 1996, 110 Stat. 4132, as amended by Pub. L. 106–176, title I, §104(1), Mar. 10, 2000, 114 Stat. 25, provided that: ''Not later than 6 months after the date of the enactment of this Act [Nov. 12, 1996] and every 6 months thereafter until the earlier of the consummation of the exchange or July 1, 1998, the Secretary of the Interior and the Secretary of Agriculture shall each submit a report to the Committee on Resources [now Committee on Natural Resources] of the House of Representatives and the Committee on Energy and Natural Resources of the Senate concerning the progress in consummating the land exchange authorized by the amendments made by the Big Thicket National Preserve Addition Act of 1993 (Public Law 103–46) [see Short Title of 1993 Amendment note above].''

LAND EXCHANGE

Section 306(e)–(g) of title III of div. I of Pub. L. 104–333, as amended by Pub. L. 106–176, title I, §104(2), Mar. 10, 2000, 114 Stat. 25, provided that:

''(e) LAND EXCHANGE IN LIBERTY COUNTY, TEXAS.—If, within one year after the date of the enactment of this Act [Nov. 12, 1996]—

''(1) the owners of the private lands described in subsection (f)(1) offer to transfer all their right, title, and interest in and to such lands to the Secretary of the Interior, and

''(2) Liberty County, Texas, agrees to accept the transfer of the Federal lands described in subsection (f)(2),

the Secretary shall accept such offer of private lands and, in exchange and without additional consideration, transfer to Liberty County, Texas, all right, title, and interest of the United States in and to the Federal lands described in subsection (f)(2).

''(f) LANDS DESCRIBED.—

''(1) PRIVATE LANDS.—The private lands described in this paragraph are approximately 3.76 acres of lands located in Liberty County, Texas, as generally depicted on the map entitled 'Big Thicket Lake Estates Access—Proposed'.

''(2) FEDERAL LANDS.—The Federal lands described in this paragraph are approximately 2.38 acres of lands located in the Menard Creek Corridor Unit of the Big Thicket National Preserve, as generally depicted on the map referred to in paragraph (1).

''(g) ADMINISTRATION OF LANDS ACQUIRED BY THE UNITED STATES.—The lands acquired by the Secretary under subsection (e) shall be added to and administered as part of the Menard Creek Corridor Unit of the Big Thicket National Preserve.''

PUBLICATION OF BOUNDARY DESCRIPTION

Section 2(c) of Pub. L. 103–46 provided that: ''Not later than six months after the date of enactment of this subsection [July 1, 1993], the Secretary shall pub-

lish in the Federal Register a detailed description of the boundary of the Village Creek Corridor unit, the Big Sandy Corridor unit, and the Canyonlands unit of the Big Thicket National Preserve.''

§ 698a. Acquisition of property for Big Thicket Preserve

(a) Mineral rights; easements; improved properties

The Secretary shall, immediately after the publication of the boundaries of the preserve, commence negotiations for the acquisition of the lands located therein: *Provided*, That he shall not acquire the mineral estate in any property or existing easements for public utilities, pipelines or railroads without the consent of the owner unless, in his judgment, he first determines that such property or estate is subject to, or threatened with, uses which are, or would be, detrimental to the purposes and objectives of sections 698 to 698e of this title: *Provided further*, That the Secretary, insofar as is reasonably possible, may avoid the acquisition of improved properties, as defined in sections 698 to 698e of this title, and shall make every effort to minimize the acquisition of land where he finds it necessary to acquire properties containing improvements.

(b) Plan to Congressional committees; time; contents

Within one year after October 11, 1974, the Secretary shall submit, in writing, to the Committee[1] on Interior and Insular Affairs and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate:

(i) the lands and areas which he deems essential to the protection and public enjoyment of this preserve,

(ii) the lands which he has previously acquired by purchase, donation, exchange or transfer for administration for the purpose of this preserve, and

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

(c) Completion of land acquisition program; time

It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated by sections 698 to 698e of this title within six years after October 11, 1974.

(Pub. L. 93–439, § 2, Oct. 11, 1974, 88 Stat. 1256.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

[1] So in original. Probably should be ''Committees''.

§ 698b. Right of use and occupancy of improved property on Big Thicket Preserve

(a) Election of right of use and occupancy; payment of fair market value; termination of right

The owner of an improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition less the fair market value, on that date, of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of sections 698 to 698e of this title, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(b) "Improved property" defined

As used in sections 698 to 698e of this title, the term ''improved property'' means a detached year-round one-family dwelling which serves as the owner's permanent place of abode at the time of acquisition, and construction of which was begun before July 1, 1973, which is used for noncommercial residential purposes, together with not to exceed three acres of land on which the dwelling is situated and together with such additional lands or interests therein as the Secretary deems to be reasonably necessary for access thereto, such lands being in the same ownership as the dwelling, together with any structures accessory to the dwelling which are situated on such land.

(c) Waiver of right to relocation assistance by election of right of use and occupancy

Whenever an owner of property elects to retain a right of use and occupancy as provided in this section, such owner shall be deemed to have waived any benefits or rights accruing under sections 4623, 4624, 4625, and 4626 of title 42, and for the purposes of such sections such owner shall not be considered a displaced person as defined in section 4601(6) of title 42.

(Pub. L. 93–439, § 3, Oct. 11, 1974, 88 Stat. 1256; Pub. L. 94–578, title III, § 322, Oct. 21, 1976, 90 Stat. 2742.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94–578 substituted ''detached year-round one-family dwelling which serves as the owner's permanent place of abode at the time of acquisition, and'' for ''detached, one-family dwelling,''.

§ 698c. Administration of Big Thicket Preserve

(a) Natural and ecological integrity

The area within the boundaries depicted on the map referred to in section 698 of this title shall be known as the Big Thicket National Preserve. Such lands shall be administered by the Secretary as a unit of the National Park System in a manner which will assure their natural and ecological integrity in perpetuity in accordance with the provisions of sections 698 to 698e of this title and with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented.

(b) Limitation on construction of roads, campgrounds, etc.; rules and regulations for use of Federal lands and waters

In the interest of maintaining the ecological integrity of the preserve, the Secretary shall limit the construction of roads, vehicular campgrounds, employee housing, and other public use and administrative facilities and he shall promulgate and publish such rules and regulations in the Federal Register as he deems necessary and appropriate to limit and control the use of, and activities on, Federal lands and waters with respect to:

(1) motorized land and water vehicles;

(2) exploration for, and extraction of, oil, gas, and other minerals;

(3) new construction of any kind;

(4) grazing and agriculture; and

(5) such other uses as the Secretary determines must be limited or controlled in order to carry out the purposes of sections 698 to 698e of this title.

(c) Hunting, fishing, and trapping authorized in accordance with applicable Federal and State laws; consultation with appropriate State agency prior to implementation of regulations restricting activities

The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the preserve in accordance with the applicable laws of the United States and the State of Texas, except that he may designate zones where and periods when, no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral and faunal protection and management, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting, fishing, or trapping shall be put into effect only after consultation with the appropriate State agency having jurisdiction over hunting, fishing and trapping activities.

(Pub. L. 93–439, § 4, Oct. 11, 1974, 88 Stat. 1257.)

§ 698d. Review of Big Thicket Preserve area by Secretary; report to President

Within five years from October 11, 1974, the Secretary shall review the area within the preserve and shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendations as to the suitability or nonsuitability of any area within the preserve for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with section 1132(c) and (d) of this title.

(Pub. L. 93–439, § 5, Oct. 11, 1974, 88 Stat. 1257.)

§ 698e. Authorization of appropriations for Big Thicket Preserve

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 698 to 698e of this title, but not to exceed $63,812,000 for the acquisition of lands and interests in lands and not to exceed $7,000,000 for development. Effective October 1, 1984, there is authorized to be appropriated such sums as may be necessary for the acquisition of the visitor contact and administrative site referred to in subsection (c) of section 698 of this title. Effective upon July 1, 1993, there is authorized to be appropriated such sums as may be necessary to carry out the purposes of subsections (c) and (d) of section 698 of this title.

(Pub. L. 93–439, § 6, Oct. 11, 1974, 88 Stat. 1257; Pub. L. 98–489, § 1(b), Oct. 17, 1984, 98 Stat. 2267; Pub. L. 103–46, § 2(d), July 1, 1993, 107 Stat. 231.)

AMENDMENTS

1993—Pub. L. 103–46 inserted at end ''Effective upon July 1, 1993, there is authorized to be appropriated such sums as may be necessary to carry out the purposes of subsections (c) and (d) of section 698 of this title.''

1984—Pub. L. 98–489 authorized appropriations for acquisition of a visitor contact and administrative site.

§ 698f. Big Cypress National Preserve; Big Cypress National Preserve Addition

(a) Establishment

In order to assure the preservation, conservation, and protection of the natural, scenic, hydrologic, floral and faunal, and recreational values of the Big Cypress Watershed in the State of Florida and to provide for the enhancement and public enjoyment thereof, the Big Cypress National Preserve is hereby established.

(b) Location; boundaries; publication in Federal Register; area

The Big Cypress National Preserve (hereafter referred to as the ''preserve'') shall comprise the area generally depicted on the map entitled ''Big Cypress National Preserve'', dated November 1971 and numbered BC–91,001, which shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and shall be filed with appropriate offices of Collier, Monroe, and Dade Counties in the State of Florida. The Secretary of the Interior (hereafter referred to as the ''Secretary'') shall, as soon as practicable, publish a detailed description of the boundaries of the preserve in the Federal Register which shall include not more than five hundred and seventy thousand acres of land and water.

(c) Methods of acquisition of land; prerequisites to Federal appropriations; improved property; oil and gas rights; appraisal of property; transfer of Federal property to Secretary

The Secretary is authorized to acquire by donation, purchase with donated or appropriated

funds, transfer from any other Federal agency, or exchange, any lands, waters, or interests therein which are located within the boundaries of the preserve or the Addition: *Provided*, That any lands owned or acquired by the State of Florida, or any of its subdivisions, in the preserve may be acquired by donation only and, any land acquired by the State of Florida, or any of its subdivisions, in the Addition shall be acquired in accordance with subsection (d) of this section: *Provided further*, That no Federal funds shall be appropriated until the Governor of Florida executes an agreement on behalf of the State which (i) provides for the transfer to the United States of all lands within the preserve previously owned or acquired by the State and (ii) provides for the donation to the United States of all lands acquired by the State within the preserve pursuant to the provision of ''the Big Cypress Conservation Act of 1973'' (Chapter 73–131 of the Florida Statutes) or provides for the donation to the United States of any remaining moneys appropriated pursuant to such Act for the purchase of lands within the preserve. No improved property, as defined by sections 698f to 698m–4 of this title, nor oil and gas rights, shall be acquired without the consent of the owner unless the Secretary, in his judgment, determines that such property is subject to, or threatened with, uses which are, or would be, detrimental to the purposes of the preserve. The Secretary may, if he determines that the acquisition of any other subsurface estate is not needed for the purposes of the preserve and the Addition, exclude such interest in acquiring any lands within the preserve and the Addition. Notwithstanding the provisions of section 4651 of title 42 the Secretary (i) may evaluate any offer to sell land within the preserve or the Addition by any landowner and may, in his discretion, accept any offer not in excess of $10,000 without an appraisal and (ii) may direct an appraisal to be made of any unimproved property within the preserve or the Addition without notice to the owner or owners, thereof. Notwithstanding any other provision of law, any federally owned lands within the preserve shall, with the concurrence of the head of the administering agency, be transferred to the administrative jurisdiction of the Secretary for the purposes of sections 698f to 698m–4 of this title, without transfer of funds. Nothing in sections 698f to 698m–4 of this title shall be construed to interfere with the right of the State of Florida to acquire such property rights as may be necessary for Interstate 75.

(d) Land within Addition; United States share of acquisition costs

(1) The aggregate cost to the United States of acquiring lands within the Addition may not exceed 80 percent of the total cost of such lands.

(2) Except as provided in paragraph (3), if the State of Florida transfers to the Secretary lands within the Addition, the Secretary shall pay to or reimburse the State of Florida (out of funds appropriated for such purpose) an amount equal to 80 percent of the total costs to the State of Florida of acquiring such lands.

(3) The amount described in paragraph (2) shall be reduced by an amount equal to 20 percent of the amount of the total cost incurred by the Secretary in acquiring lands in the Addition other than from the State of Florida.

(4) For purposes of this subsection, the term ''total cost'' means that amount of the total acquisition costs (including the value of exchanged or donated lands) less the amount of the costs incurred by the Federal Highway Administration and the Florida Department of Transportation, including severance damages paid to private property owners as a result of the construction of Interstate 75.

(Pub. L. 93–440, §1, Oct. 11, 1974, 88 Stat. 1258; Pub. L. 100–301, §4(a)–(e), Apr. 29, 1988, 102 Stat. 444, 445; Pub. L. 108–483, §2, Dec. 23, 2004, 118 Stat. 3920.)

AMENDMENTS

2004—Subsec. (d)(3). Pub. L. 108–483 substituted ''The amount described in paragraph (2)'' for ''The amount described in paragraph (1)''.

1988—Subsec. (c). Pub. L. 100–301, §4(b), inserted in provisions before first proviso ''or the Addition'' after ''boundaries of the preserve'' and in first proviso ''in the preserve'' after ''subdivisions,'' and ''and, any land acquired by the State of Florida, or any of its subdivisions, in the Addition shall be acquired in accordance with subsection (d) of this section'' before the colon.

Pub. L. 100–301, §4(e), inserted ''and the Addition'' after ''for the purposes of the preserve'' and after ''any lands within the preserve'' in third sentence.

Pub. L. 100–301, §4(c), inserted ''or the Addition'' after ''land within the preserve'' and after ''property within the preserve'' in fourth sentence.

Pub. L. 100–301, §4(d), inserted at end ''Nothing in sections 698f to 698m–4 of this title shall be construed to interfere with the right of the State of Florida to acquire such property rights as may be necessary for Interstate 75.''

Subsec. (d). Pub. L. 100–301, §4(a), added subsec. (d).

SHORT TITLE OF 1988 AMENDMENT

Section 1(a) of Pub. L. 100–301 provided that: ''This Act [enacting sections 698m–1 to 698m–4 of this title, amending this section and sections 698h and 698j to 698m of this title, and enacting provisions set out below] may be cited as the 'Big Cypress National Preserve Addition Act'.''

FINDINGS AND PURPOSE

Section 2 of Pub. L. 100–301 provided that:

''(a) FINDINGS.—The Congress finds that—

''(1) the planned construction of Interstate 75 is presently being designed in such a way as to improve the natural water flow to the Everglades National Park, which has been disrupted by State Road 84 (commonly known as 'Alligator Alley');

''(2) the planned construction of Interstate 75 provides an opportunity to enhance protection of the Everglades National Park, to promote protection of the endangered Florida panther, and to provide for public recreational use and enjoyment of public lands by expanding the Big Cypress National Preserve to include those lands adjacent to Interstate 75 in Collier County north and east of the Big Cypress National Preserve, west of the Broward County line, and south of the Hendry County line;

''(3) the Federal acquisition of lands bordering the Big Cypress National Preserve in conjunction with the construction of Interstate 75 would provide significant public benefits by limiting development pressure on lands which are important both in terms of fish and wildlife habitat supporting endangered species and of wetlands which are the headwaters of the Big Cypress National Preserve; and

''(4) public ownership of lands adjacent to the Big Cypress National Preserve would enhance the protection of the Everglades National Park while providing

recreational opportunities and other public uses currently offered by the Big Cypress National Preserve.

''(b) PURPOSE.—It is the purpose of this Act [see Short Title of 1988 Amendment note above] to establish the Big Cypress National Preserve Addition.''

§ 698g. Acquisition of lands for Big Cypress Preserve

(a) Expeditious acquisition of Florida lands

In recognition of the efforts of the State of Florida in the preservation of the area, through the enactment of chapter 73–131 of the Florida statutes, ''The Big Cypress Conservation Act of 1973'', the Secretary is directed to proceed as expeditiously as possible to acquire the lands and interests in lands necessary to achieve the purposes of sections 698f to 698m–4 of this title.

(b) Submission of plan to Congressional committees; time; contents

Within one year after October 11, 1974, the Secretary shall submit, in writing, to the Committee[1] on Interior and Insular Affairs and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate:

(i) the lands and areas which he deems essential to the protection and public enjoyment of this preserve.

(ii) the lands which he has previously acquired by purchase, donation, exchange or transfer for administration for the purpose of this preserve, and

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

(c) Time for completion of land acquisition program

It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated by sections 698f to 698m–4 of this title within six years after October 11, 1974.

(Pub. L. 93–440, § 2, Oct. 11, 1974, 88 Stat. 1259.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 698h. Right of use and occupancy of improved property on Big Cypress Preserve and Addition

(a) Election of right of use and occupancy; payment of fair market value; termination of right

The owner of an improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use of and occupancy of the improved property for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition less the fair market value, on that date, of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of sections 698f to 698m–4 of this title, which shall include the exercise of such right in violation of any applicable State or local laws and ordinances, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(b) "Improved property" defined

As used in sections 698f to 698m–4 of this title, the term ''improved property'' means:

(i) a detached one family dwelling, construction of which was begun before November 23, 1971, with respect to the preserve and January 1, 1986, with respect to the Addition which is used for noncommercial residential purposes, together with not to exceed three acres of land on which the dwelling is situated and such additional lands as the Secretary deems reasonably necessary for access thereto, such land being in the same ownership as the dwelling, and together with any structures accessory to the dwelling which are situated on such lands and

(ii) any other building, construction of which was begun before November 23, 1971, with respect to the preserve and January 1, 1986, with respect to the Addition which was constructed and is used in accordance with all applicable State and local laws and ordinances, together with as much of the land on which the building is situated, such land being in the same ownership as the building, as the Secretary shall designate to be reasonably necessary for the continued enjoyment and use of the building in the same manner and to the same extent as existed in November 23, 1971, or January 1, 1986, as the case may be, together with any structures accessory to the building which are situated on the lands so designated. In making such designation the Secretary shall take into account the manner of use in which the building, accessory structures, and lands were customarily enjoyed prior to November 23, 1971 or January 1, 1986, as the case may be.[1]

(c) Waiver of right to relocation assistance by election of right of use and occupancy

Whenever an owner of property elects to retain a right of use and occupancy as provided in this section, such owner shall be deemed to have waived any benefits or rights accruing under

[1] So in original. Probably should be ''Committees''.

[1] See 1988 Amendment note below.

sections 4623, 4624, 4625, and 4626 of title 42, and for the purposes of such sections such owner shall not be considered a displaced person as defined in section 4601(6) of title 42.

(Pub. L. 93–440, § 3, Oct. 11, 1974, 88 Stat. 1259; Pub. L. 100–301, § 4(f), Apr. 29, 1988, 102 Stat. 445.)

AMENDMENTS

1988—Subsec. (b)(i). Pub. L. 100–301, § 4(f)(1), inserted ''with respect to the preserve and January 1, 1986, with respect to the Addition'' after ''November 23, 1971,''.

Subsec. (b)(ii). Pub. L. 100–301, § 4(f)(2)(A), inserted ''with respect to the preserve and January 1, 1986, with respect to the Addition'' after ''November 23, 1971,''.

Pub. L. 100–301, § 4(f)(2)(B), which directed insertion of ''or January 1, 1986, as the case may be,'' after ''November 23, 1971,'' the second and third places it appears, was executed by making the insertion after ''November 23, 1971,'' the second place it appears and after ''November 23, 1971'' preceding the period as the probable intent of Congress.

§ 698i. Administration of Big Cypress Preserve; applicability of other laws; rules and regulations for use of lands and waters; transportation facilities; consultation and cooperation with Secretary of Transportation

(a) The area within the boundaries depicted on the map referred to in section 698f of this title shall be known as the Big Cypress National Preserve. Such lands shall be administered by the Secretary as a unit of the National Park System in a manner which will assure their natural and ecological integrity in perpetuity in accordance with the provisions of sections 698f to 698m–4 of this title and with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented.

(b) In administering the preserve, the Secretary shall develop and publish in the Federal Register such rules and regulations as he deems necessary and appropriate to limit or control the use of Federal lands and waters with respect to:

(1) motorized vehicles,

(2) exploration for and extraction of oil, gas, and other minerals,

(3) grazing,

(4) draining or constructing of works or structures which alter the natural water courses,

(5) agriculture,

(6) hunting, fishing, and trapping,

(7) new construction of any kind, and

(8) such other uses as the Secretary determines must be limited or controlled in order to carry out the purposes of sections 698f to 698m–4 of this title: *Provided*, That the Secretary shall consult and cooperate with the Secretary of Transportation to assure that necessary transportation facilities shall be located within existing or reasonably expanded rights-of-way and constructed within the reserve[1] in a manner consistent with the purposes of sections 698f to 698m–4 of this title.

(Pub. L. 93–440, § 4, Oct. 11, 1974, 88 Stat. 1260.)

[1] So in original. Probably should be ''preserve''.

§ 698j. Hunting, fishing, and trapping in Big Cypress Preserve and Addition authorized in accordance with applicable Federal and State laws; consultation with appropriate State agency prior to implementation of regulations restricting activities; land use and retention rights of Miccosukee and Seminole Indian Tribes

The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the preserve and the Addition in accordance with the applicable laws of the United States and the State of Florida, except that he may designate zones where and periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral and faunal protection and management, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting, fishing, or trapping shall be put into effect only after consultation with the appropriate State agency having jurisdiction over hunting, fishing, and trapping activities. Notwithstanding this section or any other provision of sections 698f to 698m–4 of this title, members of the Miccosukee Tribe of Indians of Florida and members of the Seminole Tribe of Florida shall be permitted, subject to reasonable regulations established by the Secretary, to continue their usual and customary use and occupancy of Federal or federally acquired lands and waters within the preserve and the Addition, including hunting, fishing, and trapping on a subsistence basis and traditional tribal ceremonials.

(Pub. L. 93–440, § 5, Oct. 11, 1974, 88 Stat. 1260; Pub. L. 100–301, § 3(b), Apr. 29, 1988, 102 Stat. 444.)

AMENDMENTS

1988—Pub. L. 100–301 inserted ''and the Addition'' in two places.

§ 698k. Contracts for providing visitor services in Big Cypress Preserve and Addition; right of first refusal to Miccosukee and Seminole Tribes

Notwithstanding any other provision of law, before entering into any contract for the provision of revenue producing visitor services,

(i) the Secretary shall offer those members of the Miccosukee and Seminole Indian Tribes who, on January 1, 1972 (January 1, 1985, in the case of the Addition), were engaged in the provision of similar services, a right of first refusal to continue providing such services within the preserve and the Addition subject to such terms and conditions as he may deem appropriate, and

(ii) before entering into any contract or agreement to provide new revenue-producing visitor services within the preserve or within the Addition, the Secretary shall offer to the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida the right of first refusal to provide such services, the right to be open for a period of ninety days. Should both Tribes respond with proposals that satisfy the terms and conditions established by the Secretary, the Secretary may allow the Tribes an additional period of ninety days in which to

enter into an inter-Tribal cooperative agreement to provide such visitor services, but if neither tribe responds with proposals that satisfy the terms and conditions established by the Secretary, then the Secretary shall provide such visitor services in accordance with subchapter IV of chapter 1 of this title. No such agreement may be assigned or otherwise transferred without the consent of the Secretary.

(Pub. L. 93–440, §6, Oct. 11, 1974, 88 Stat. 1260; Pub. L. 100–301, §3(d), Apr. 29, 1988, 102 Stat. 444.)

AMENDMENTS

1988—Pub. L. 100–301 in cl. (i) inserted ''(January 1, 1985, in the case of the Addition)'' after ''1972'' and ''and the Addition'' after ''preserve'', and in cl. (ii) inserted ''or within the Addition'' after ''preserve''.

§ 698*l*. Review of Big Cypress Preserve area and Addition area by Secretary; report to President

Within five years from October 11, 1974, with respect to the preserve and five years from April 29, 1988, with respect to the Addition, the Secretary shall review the area within the preserve or the area within the Addition (as the case may be) and shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendations as to the suitability or nonsuitability of any area within the preserve or the area within the Addition (as the case may be) for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with section 1132(c) and (d) of this title.

(Pub. L. 93–440, §7, Oct. 11, 1974, 88 Stat. 1261; Pub. L. 100–301, §3(c), Apr. 29, 1988, 102 Stat. 444.)

AMENDMENTS

1988—Pub. L. 100–301 inserted ''with respect to the preserve and five years from April 29, 1988, with respect to the Addition'' after ''October 11, 1974,'' and ''or the area within the Addition (as the case may be)'' after ''preserve'' in two places.

§ 698m. Authorization of appropriations for Big Cypress Preserve and Addition

(a) Except as provided in subsection (b) of this section, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 698f to 698m–4 of this title, but not to exceed $156,700,000 for the acquisition of lands and interests in lands and not to exceed $900,000 for development. Any funds donated to the United States by the State of Florida pursuant to chapter 73–131 of the Florida statutes shall be used solely for the acquisition of lands and interests in land within the preserve.

(b) There is hereby authorized to be appropriated from the Land and Water Conservation Fund not to exceed $49,500,000 for the acquisition of lands within the Addition. There is hereby authorized to be appropriated such sums as may be necessary for development in the Addition.

(Pub. L. 93–440, §8, Oct. 11, 1974, 88 Stat. 1261; Pub. L. 95–625, title II, §201(1), Nov. 10, 1978, 92 Stat. 3473; Pub. L. 100–301, §7, Apr. 29, 1988, 102 Stat. 446.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–301, §7(1), designated existing provisions as subsec. (a), substituted ''Except as provided in subsection (b) of this section, there'' for ''There'', and added subsec. (b).

1978—Pub. L. 95–625 increased land acquisition appropriations authorization to $156,700,000 from $116,000,000.

§ 698m–1. Big Cypress National Preserve Addition

(a) Establishment

In order to—

(1) achieve the purposes of section 698f of this title;

(2) complete the preserve in conjunction with the planned construction of Interstate Highway 75; and

(3) insure appropriately managed use and access to the Big Cypress Watershed in the State of Florida,

the Big Cypress National Preserve Addition is established.

(b) Location; boundaries; publication in Federal Register

The Big Cypress National Preserve Addition (referred to in sections 698f to 698m–4 of this title as the ''Addition'') shall comprise approximately 146,000 acres as generally depicted on the map entitled Big Cypress National Preserve Addition, dated April, 1987, and numbered 176–91000C, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior, Washington, D.C., and shall be filed with appropriate offices of Collier County in the State of Florida. The Secretary shall, as soon as practicable, publish a detailed description of the boundaries of the Addition in the Federal Register.

(c) Designation; management

The area within the boundaries depicted on the map referred to in subsection (b) of this section shall be known as the ''Big Cypress National Preserve Addition'' and shall be managed in accordance with section 698i of this title.

(d) Completion of land acquisition; time

For purposes of administering the Addition and notwithstanding section 698g(c) of this title, it is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated with respect to the Addition in not more than five years after April 29, 1988.

(Pub. L. 93–440, §9, as added Pub. L. 100–301, §3(a), Apr. 29, 1988, 102 Stat. 444.)

§ 698m–2. Establishment of recreational access points, roads, etc., in conjunction with creation of Big Cypress National Preserve Addition; cooperation among agencies

The Secretary and other involved Federal agencies shall cooperate with the State of Florida to establish recreational access points and roads, rest and recreation areas, wildlife protection, hunting, fishing, frogging, and other traditional recreational opportunities in conjunction with the creation of the Addition and in the con-

struction of Interstate Highway 75. Three of such access points shall be located within the preserve (including the Addition).

(Pub. L. 93–440, § 10, as added Pub. L. 100–301, § 5, Apr. 29, 1988, 102 Stat. 445.)

§ 698m–3. Status of Big Cypress National Preserve and Addition; report to Congress; plan

Not later than two years after April 29, 1988, the Secretary shall submit to the Congress a detailed report on, and further plan for, the preserve and Addition including—

(1) the status of the existing preserve, the effectiveness of past regulation and management of the preserve, and recommendations for future management of the preserve and the Addition;

(2) a summary of the public's use of the preserve and the status of the access points developed pursuant to section 698m–2 of this title;

(3) the need for involvement of other State and Federal agencies in the management and expansion of the preserve and Addition;

(4) the status of land acquisition; and

(5) a determination, made in conjunction with the State of Florida, of the adequacy of the number, location, and design of the recreational access points on I–75/Alligator Alley for access to the Big Cypress National Preserve, including the Addition.

The determination required by paragraph (5) shall incorporate the results of any related studies of the State of Florida Department of Transportation and other Florida State agencies. Any recommendation for significant changes in the approved recreational access points, including any proposed additions, shall be accompanied by an assessment of the environmental impact of such changes.

(Pub. L. 93–440, § 11, as added Pub. L. 100–301, § 6, Apr. 29, 1988, 102 Stat. 446.)

§ 698m–4. Oil and gas exploration, development, and production in Big Cypress National Preserve and Addition

(a) Promulgation of rules and regulations

Within nine months from April 29, 1988, the Secretary shall promulgate, subject to the requirements of subsections (b)–(e) of this section, such rules and regulations governing the exploration for and development and production of non-Federal interests in oil and gas located within the boundaries of the Big Cypress National Preserve and the Addition, including but not limited to access on, across, or through all lands within the boundaries of the Big Cypress National Preserve and the Addition for the purpose of conducting such exploration or development and production, as are necessary and appropriate to provide reasonable use and enjoyment of privately owned oil and gas interests, and consistent with the purposes for which the Big Cypress National Preserve and the Addition were established. Rules and regulations promulgated pursuant to the authority of this section may be made by appropriate amendment to or in substitution of the rules and regulations respecting non-Federal oil and gas rights (currently codified at 36 CFR 9.30, et seq. (1986)).

(b) Contents of rule or regulation; permit from National Park Service

Any rule or regulation promulgated by the Secretary under subsection (a) of this section shall provide that—

(1) exploration or development and production activities may not be undertaken, except pursuant to a permit issued by the National Park Service authorizing such activities or access; and

(2) final action by the National Park Service with respect to any application for a permit authorizing such activities shall occur within 90 days from the date such an application is submitted unless—

(A) the National Park Service and the applicant agree that such final action shall occur within a shorter or longer period of time; or

(B) the National Park Service determines that an additional period of time is required to ensure that the National Park Service has, in reviewing the application, complied with other applicable law, Executive orders and regulations; or

(C) the National Park Service, within 30 days from the date of submission of such application, notifies the applicant that such application does not contain all information reasonably necessary to allow the National Park Service to consider such application and requests that such additional information be provided. After receipt of such notification to the applicant, the applicant shall supply any reasonably necessary additional information and shall advise the National Park Service that the applicant believes that the application contains all reasonably necessary information and is therefore complete, whereupon the National Park Service may—

(i) within 30 days of receipt of such notice from the applicant to the National Park Service determine that the application does not contain all reasonably necessary additional information and, on that basis, deny the application; or

(ii) review the application and take final action within 60 days from the date that the applicant provides notification to the National Park Service that its application is complete.

(c) Activities to conform to requirements of National Park Service

Such activities shall be permitted to occur if such activities conform to requirements established by the National Park Service under authority of law.

(d) Consideration of practices used in similar habitats or ecosystems

In establishing standards governing the conduct of exploration or development and production activities within the boundaries of the Big Cypress National Preserve or the Addition, the Secretary shall take into consideration oil and gas exploration and development and production practices used in similar habitats or ecosystems within the Big Cypress National Preserve or the Addition at the time of promulgation of the

rules and regulations under subsection (a) of this section or at the time of the submission of the application seeking authorization for such activities, as appropriate.

(e) Interim agreements with owners of non-Federal oil and gas interests prior to promulgation of rules and regulations

Prior to the promulgation of rules or regulations under this section, the Secretary is authorized, consistent with the purposes of which the Big Cypress National Preserve Addition was established, to enter into interim agreements with owners of non-Federal oil and gas interests governing the conduct of oil and gas exploration, development or production activities within the boundaries of the Addition, which agreements shall be superseded by the rules and regulations promulgated by the Secretary when applicable: *Provided*, That such agreement shall be consistent with the requirements of subsections (b)–(d) of this section and may be altered by the terms of rules and regulations subsequently promulgated by the Secretary: *Provided further*, That this provision shall not be construed to enlarge or diminish the authority of the Secretary to establish rules and regulations applicable to the conduct of exploration or development and production activities within the Big Cypress National Preserve or the Addition.

(f) Minerals Management Office; establishment; duties

There is hereby authorized to be established a Minerals Management Office within the Office of the Superintendent of the Big Cypress National Preserve, for the purpose of ensuring, consistent with the purposes for which the Big Cypress National Preserve was established, timely consideration of and final action on applications for the exploration or development and production of non-Federal oil and gas rights located beneath the surface of lands within the boundaries of the Big Cypress National Preserve and the Addition.

(g) Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the activities set forth in this section.

(Pub. L. 93–440, §12, as added Pub. L. 100–301, §8, Apr. 29, 1988, 102 Stat. 446.)

§ 698n. Timucuan Ecological and Historic Preserve

(a) Establishment

(1) In general

There is established in the St. Johns River Valley, Florida, where the Timucuan Indians lived in prehistoric and historic times, the Timucuan Ecological and Historic Preserve (hereafter in sections 698n to 698p of this title referred to as the ''Preserve''). The Preserve shall comprise the lands, waters, and interests therein within the boundaries generally depicted on a map of Duval County, Florida, entitled ''Timucuan Ecological and Historic Preserve'' numbered NA–TEHP 80,003–A and dated July 1987. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior may make minor revisions in the boundary of the Preserve in accordance with section 460*l*–9(c) of this title. The Preserve shall also include within its boundaries all that land consisting of approximately 500 acres adjacent to Fort Caroline National Memorial and known as the Theodore Roosevelt Preserve, being land formerly owned by one Willie Brown and donated by him to The Nature Conservancy.

(2) Modification of boundary

(A) In general

In addition to the land described in paragraph (1), the Preserve shall include approximately 8.5 acres of land located in Nassau County, Florida, as generally depicted on the map entitled ''Timucuan Ecological and Historic Preserve American Beach Adjustment'', numbered 006/80012 and dated June 2003.

(B) Duties of Secretary

The Secretary of the Interior shall—

(i) revise the boundaries of the Preserve so as to encompass the land described in subparagraph (A); and

(ii) maintain the map described in subparagraph (A) on file and available for public inspection in the appropriate offices of the National Park Service.

(b) Land acquisition

The Secretary of the Interior (hereinafter in sections 698n to 698p of this title referred to as the ''Secretary'') is authorized to acquire lands and interests therein within the Preserve by donation, purchase with donated or appropriated funds, or exchange, but no lands other than wetlands or interests therein may be acquired without the consent of the owner. For purposes of this subsection, the term ''wetlands'' has the same meaning as provided by section 3902 of this title. Lands, interests in lands, and improvements thereon within the boundaries of the Preserve which are owned by the State of Florida or any political subdivision thereof may be acquired only by donation or exchange. On lands acquired for inclusion within the Preserve, the Secretary shall not impair any legal riparian right of access nor shall he preclude the continued use of any legal right of way.

(c) Administration

The Secretary shall administer those lands acquired for inclusion within the Preserve in such a manner as to protect the natural ecology of such land and water areas in accordance with sections 698n to 698p of this title and the provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title. The Secretary shall permit boating, boating-related activities, hunting, and fishing within the Preserve in accordance with applicable Federal and State laws. The Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety.

(d) Development of multiunit residential/resort project

Nothing in sections 698n to 698p of this title shall affect development of a multiunit residen-

tial/resort project currently proposed for Fort George Island, nor shall any provision of sections 698n to 698p of this title be construed to affect any Federal, State or local law applicable to such project.

(Pub. L. 100–249, title II, § 201, Feb. 16, 1988, 102 Stat. 13; Pub. L. 108–321, § 2, Oct. 5, 2004, 118 Stat. 1214.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–321 designated existing provisions as par. (1), inserted heading, substituted ''There is'' for ''There is hereby'', and added par. (2).

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–321, § 1, Oct. 5, 2004, 118 Stat. 1214, provided that: ''This Act [amending this section] may be cited as the 'Timucuan Ecological and Historic Preserve Boundary Revision Act of 2004'.''

§ 698*o*. Protection of significant historic assets

The Secretary, with the consent of the owners thereof, may acquire by donation or purchase with donated funds the following properties or sites of significant historic interest in Duval County, Florida:

(1) Spanish sixteenth century forts San Gabriel and San Estaban.

(2) Spanish eighteenth century fort Dos Hermanas.

(3) English eighteenth century forts at Saint Johns Bluff and Fort George Island.

(4) Spanish sixteenth and seventeenth century mission San Juan del Puerto.

(5) Site of the American Revolutionary War battle of Thomas Creek.

(6) The Zephaniah Kingsley plantation, with its eighteenth and nineteenth century buildings.

(7) The Spanish American War fortification on Saint Johns Bluff.

(8) The confederate fort known as the Yellow Bluff Fort State Historic Site.

(Pub. L. 100–249, title II, § 202, Feb. 16, 1988, 102 Stat. 14.)

§ 698p. Integrated administration and interpretation

Any properties of historic interest acquired under section 698*o* of this title shall become part of the Preserve established under section 698n of this title. The Secretary shall administer such properties in accordance with a plan that integrates the administration and interpretation of the ecological values of the Preserve and the historical values of the sites so acquired and the historical features of Fort Caroline. Such administration and interpretation shall be conducted through the facilities and staff of Fort Caroline National Memorial consistent with section 2 of the Act of September 21, 1950 (64 Stat. 897).

(Pub. L. 100–249, title II, § 203, Feb. 16, 1988, 102 Stat. 15.)

REFERENCES IN TEXT

Section 2 of the Act of September 21, 1950, referred to in text, is section 2 of act Sept. 21, 1950, ch. 973, 64 Stat. 897, which is not classified to the Code.

§ 698q. Little River Canyon National Preserve; establishment

(a) In general

In order to protect and preserve the natural, scenic, recreational, and cultural resources of the Little River Canyon area in DeKalb and Cherokee Counties, Alabama, and to provide for the protection and public enjoyment of the resources, there is established the Little River Canyon National Preserve (referred to in sections 698q to 698t of this title as the ''Preserve'').

(b) Area included

(1) In general

The Preserve shall consist of the lands, waters, and interests in lands and waters generally depicted on the boundary map entitled ''Little River Canyon National Preserve'', numbered NA–LRNP–80,001C, and dated March 1992.

(2) Boundary expansion

The boundary of the Preserve is modified to include the land depicted on the map entitled ''Little River Canyon National Preserve Proposed Boundary'', numbered 152/80,004, and dated December 2007.

(c) Map

The maps referred to in subsection (b) of this section shall—

(1) be on file and available for public inspection in the offices of the National Park Service of the Department of the Interior in Washington, District of Columbia; and

(2) be filed with the appropriate offices of DeKalb and Cherokee Counties in the State of Alabama.

(d) Publication of description

Not later than 6 months after October 21, 1992, the Secretary of the Interior (referred to in sections 698q to 698t of this title as the ''Secretary'') shall publish in the Federal Register a detailed description of the boundaries of the Preserve.

(Pub. L. 102–427, § 2, Oct. 21, 1992, 106 Stat. 2179; Pub. L. 111–11, title VII, § 7103, Mar. 30, 2009, 123 Stat. 1190.)

AMENDMENTS

2009—Subsec. (b). Pub. L. 111–11, § 7103(1), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (c). Pub. L. 111–11, § 7103(2), substituted ''maps'' for ''map'' in introductory provisions.

SHORT TITLE

Section 1 of Pub. L. 102–427 provided that: ''This Act [enacting this section and sections 698r to 698t of this title] may be cited as the 'Little River Canyon National Preserve Act of 1992'.''

§ 698r. Administration

(a) In general

The Preserve shall be administered by the Secretary in accordance with sections 698q to 698t of this title and in accordance with the laws generally applicable to units of the National Park System, including—

(1) sections 1, 2, 3, and 4 of this title; and

(2) sections 461 to 467 of this title.

(b) Hunting and fishing

(1) In general

Subject to paragraphs (2) and (3), the Secretary shall permit hunting, trapping, and fishing on lands and waters under the jurisdiction of the Secretary within the Preserve in accordance with applicable Federal and State laws.

(2) Time and place restrictions

Subject to such terms and conditions as the Secretary considers necessary in furtherance of sections 698q to 698t of this title, and after consultation with the Department of Conservation and Natural Resources of the State of Alabama and owners of lands adjacent to the Preserve, the Secretary may designate zones where, and establish periods when, the activities described in paragraph (1) will not be permitted within the Preserve for reasons of public safety, administration, fish and wildlife habitat, or public use and enjoyment.

(3) Restrictions in boundary areas

After consultation with the Department of Conservation and Natural Resources of the State of Alabama and with the owners of lands adjacent to the Preserve, the Secretary may restrict hunting in areas within the Preserve that are adjacent to the boundaries of the Preserve where the restriction is necessary or appropriate to protect public safety.

(4) Congressional intent

Nothing in sections 698q to 698t of this title is intended to affect the jurisdiction or responsibilities of the State of Alabama with respect to fish and wildlife.

(c) Water resources projects

Subsection (a) of section 1278 of this title shall apply to that portion of the Little River that flows through the Preserve in the same manner and to the same extent as such subsection applies to the rivers referred to in such subsection. The application of such subsection to the Preserve shall not affect any determination of the value of the lands, waters, or interests in lands and waters within the boundaries of the Preserve.

(d) Cooperative agreements with State

(1) Law enforcement and fire prevention

In administering the Preserve, the Secretary may enter into cooperative agreements with the State of Alabama, or any political subdivision of the State, for the rendering of—

(A) rescue, fire fighting, and law enforcement services; and

(B) cooperative assistance by law enforcement and fire preventive agencies located in the vicinity of the Preserve.

(2) Preparation of management plan

To facilitate the purposes of this section, the Secretary may enter into cooperative agreements with the State of Alabama and directly affected political subdivisions of the State to provide professional assistance in the preparation of the management plan for the Preserve.

(e) DeSoto State Park

If lands within DeSoto State Park are acquired by the Secretary, at the request of the Department of Conservation and Natural Resources of the State of Alabama, the Secretary shall enter into a cooperative agreement with the Department for the continued management by the Department of the lodge and other facilities that, as of October 21, 1992, are part of DeSoto State Park. The cooperative agreement shall provide for the management and operation of the lodge and facilities in a manner that, to the maximum extent practicable, is consistent with similar operations elsewhere in the National Park System.

(f) Public involvement

(1) Public awareness and participation program

The Secretary shall develop and conduct a program to promote and encourage awareness of and participation in the development of the general management plan for the Preserve by persons owning property in the vicinity of the Preserve, other interested groups and individuals, State, county, and municipal agencies, and the general public. Prior to final approval of the plan, the Secretary shall hold public meetings in DeKalb and Cherokee Counties.

(2) Consideration of public comment

In preparing and implementing the plan described in paragraph (1), the Secretary shall give full consideration to the views and comments of the individuals, groups, and agencies described in paragraph (1).

(g) Green Pitcher Plant

Upon the transfer by Alabama Power Company to the United States of any lands within the boundaries of the Preserve that contain the Green Pitcher Plant (Sarracenia oreophila), all rights and obligations of Alabama Power Company under the agreement entered into between the company and the Department of the Interior (including the United States Fish and Wildlife Service) on May 12, 1983, in settlement of the action brought on September 24, 1980, against the Secretary and the Director of the Fish and Wildlife Service in the United States District Court for the Northern District of Alabama (Civil Action No. CV 80–C–1242–M), shall be extinguished.

(Pub. L. 102–427, § 3, Oct. 21, 1992, 106 Stat. 2179.)

§ 698s. Acquisition

(a) Authorization

(1) In general

Subject to paragraphs (2) and (3), the Secretary is authorized to acquire lands, waters, and interests in lands and waters within the boundaries of the Preserve by donation, purchase with donated or appropriated funds, or exchange.

(2) Consent of the owner

The Secretary may not acquire lands, waters, or interests in lands and waters for the Preserve without the consent of the owner.

(3) State lands

Lands, waters, and interests in lands and waters within the boundaries of the Preserve

that are owned by the State of Alabama, or any political subdivision of the State, may be acquired only by donation or exchange.

(b) Negotiations for acquisition

(1) Commencement of negotiations

Immediately after publication of a description of the boundaries of the Preserve in accordance with section 698q(d) of this title, the Secretary shall commence negotiations for the acquisition of the lands, waters, and interests in lands and waters within the boundaries of the Preserve.

(2) Report to Congress

Not later than 1 year after October 21, 1992, the Secretary shall submit, in writing, a detailed schedule of actions and a progress report regarding the acquisition to—

(A) the Committee on Energy and Natural Resources of the Senate;

(B) the Committee on Natural Resources of the House of Representatives; and

(C) the Committees on Appropriations of Congress.

(3) Acquisition deadline

The Secretary shall substantially complete the acquisition of the lands, waters, and interests in lands and waters within the Preserve, in accordance with the purposes of sections 698q to 698t of this title, not later than 2 years after October 21, 1992, subject to the availability of funds.

(c) Environmental audits

(1) Availability to owner

Promptly following completion of any environmental audit performed by or on behalf of the Secretary with respect to any property proposed to be acquired for the purposes of sections 698q to 698t of this title, the Secretary shall make available to the owner of the property a copy of the audit.

(2) Inclusion in documents transferring title

Any audit described in paragraph (1), and any environmental audit performed by the owner of the property and submitted to the Secretary prior to the date of the acquisition, shall be included as part of the documents transferring title to the property to the United States.

(d) Future additions

No lands or interest in lands may be added to the Preserve after October 21, 1992, without specific authorization by Congress and the consent of the owner of the lands or interest.

(Pub. L. 102–427, § 4, Oct. 21, 1992, 106 Stat. 2181; Pub. L. 103–437, § 6(d)(36), Nov. 2, 1994, 108 Stat. 4585.)

AMENDMENTS

1994—Subsec. (b)(2)(B). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs''.

§ 698t. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out sections 698q to 698t of this title.

(Pub. L. 102–427, § 5, Oct. 21, 1992, 106 Stat. 2182.)

§ 698u. Tallgrass Prairie National Preserve: findings and purposes

(a) Findings

Congress finds that—

(1) of the 400,000 square miles of tallgrass prairie that once covered the North American Continent, less than 1 percent remains, primarily in the Flint Hills of Kansas;

(2) in 1991, the National Park Service conducted a special resource study of the Spring Hill Ranch, located in the Flint Hills of Kansas;

(3) the study concludes that the Spring Hill Ranch—

(A) is a nationally significant example of the once vast tallgrass ecosystem, and includes buildings listed on the National Register of Historic Places pursuant to section 470a of this title that represent outstanding examples of Second Empire and other 19th Century architectural styles; and

(B) is suitable and feasible as a potential addition to the National Park System; and

(4) the National Park Trust, which owns the Spring Hill Ranch, has agreed to permit the National Park Service—

(A) to acquire a portion of the ranch, as specified in sections 698u to 698u–7 of this title; and

(B) to manage the ranch in order to—

(i) conserve the scenery, natural and historic objects, and wildlife of the ranch; and

(ii) provide for the enjoyment of the ranch in such a manner and by such means as will leave the scenery, natural and historic objects, and wildlife unimpaired for the enjoyment of future generations.

(b) Purposes

The purposes of sections 698u to 698u–7 of this title are—

(1) to preserve, protect, and interpret for the public an example of a tallgrass prairie ecosystem on the Spring Hill Ranch, located in the Flint Hills of Kansas; and

(2) to preserve and interpret for the public the historic and cultural values represented on the Spring Hill Ranch.

(Pub. L. 104–333, div. I, title X, § 1002, Nov. 12, 1996, 110 Stat. 4204; Pub. L. 106–176, title I, § 122(1), Mar. 10, 2000, 114 Stat. 29.)

AMENDMENTS

2000—Subsec. (a)(4)(A). Pub. L. 106–176 substituted ''to acquire'' for ''to purchase''.

SHORT TITLE

Section 1001 of title X of div. I of Pub. L. 104–333 provided that: ''This subtitle [subtitle A (§§ 1001–1009) of title X of div. I of Pub. L. 104–333, enacting this section and sections 698u–1 to 698u–7 of this title] may be cited as the 'Tallgrass Prairie National Preserve Act of 1996'.''

§ 698u–1. Definitions

In sections 698u to 698u–7 of this title:

(1) Advisory Committee

The term ''Advisory Committee'' means the Advisory Committee established under section 698u–5 of this title.

(2) Preserve

The term ''Preserve'' means the Tallgrass Prairie National Preserve established by section 698u–2 of this title.

(3) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(4) Trust

The term ''Trust'' means the National Park Trust, Inc., a District of Columbia nonprofit corporation, or any successor-in-interest.

(Pub. L. 104–333, div. I, title X, §1003, Nov. 12, 1996, 110 Stat. 4205.)

§ 698u–2. Establishment of Tallgrass Prairie National Preserve

(a) In general

In order to provide for the preservation, restoration, and interpretation of the Spring Hill Ranch area of the Flint Hills of Kansas, for the benefit and enjoyment of present and future generations, there is established the Tallgrass Prairie National Preserve.

(b) Description

The Preserve shall consist of the lands and interests in land, including approximately 10,894 acres, generally depicted on the map entitled ''Boundary Map, Flint Hills Prairie National Monument'' numbered NM–TGP 80,000 and dated June 1994, more particularly described in the deed filed at 8:22 a.m. on June 3, 1994, with the Office of the Register of Deeds in Chase County, Kansas, and recorded in Book L–106 at pages 328 through 339, inclusive. In the case of any difference between the map and the legal description, the legal description shall govern, except that if, as a result of a survey, the Secretary determines that there is a discrepancy with respect to the boundary of the Preserve that may be corrected by making minor changes to the map, the Secretary shall make changes to the map as appropriate, and the boundaries of the Preserve shall be adjusted accordingly. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service of the Department of the Interior.

(Pub. L. 104–333, div. I, title X, §1004, Nov. 12, 1996, 110 Stat. 4205; Pub. L. 106–176, title I, §122(2), Mar. 10, 2000, 114 Stat. 29.)

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–176 substituted ''on June 3, 1994,'' for ''of June 3, 1994,''.

§ 698u–3. Administration of National Preserve

(a) In general

The Secretary shall administer the Preserve in accordance with sections 698u to 698u–7 of this title, the cooperative agreements described in subsection (f)(1) of this section, and the provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title and sections 461 to 467 of this title.

(b) Application of regulations

With the consent of a private owner of land within the boundaries of the Preserve, the regulations issued by the Secretary concerning the National Park Service that provide for the proper use, management, and protection of persons, property, and natural and cultural resources shall apply to the private land.

(c) Facilities

For purposes of carrying out the duties of the Secretary under sections 698u to 698u–7 of this title relating to the Preserve, the Secretary may, with the consent of a landowner, directly or by contract, construct, reconstruct, rehabilitate, or develop essential buildings, structures, and related facilities including roads, trails, and other interpretive facilities on real property that is not owned by the Federal Government and is located within the Preserve.

(d) Liability

(1) Liability of the United States and its officers and employees

Except as otherwise provided in this subsection, the liability of the United States is subject to the terms and conditions of the Federal Tort Claims Act, as amended, 28 U.S.C. 2671 et seq., with respect to the claims arising by virtue of the Secretary's administration of the Preserve pursuant to sections 698u to 698u–7 of this title.

(2) Liability of landowners

(A) The Secretary of the Interior is authorized, under such terms and conditions as he deems appropriate, to include in any cooperative agreement entered into in accordance with subsection (f)(1) of this section an indemnification provision by which the United States agrees to hold harmless, defend and indemnify the landowner in full from and against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim of personal injury or property damage that occurs in connection with the operation of the Preserve under the agreement: *Provided however*, That indemnification shall not exceed $3 million per claimant per occurrence.

(B) The indemnification provision authorized by subparagraph (A) shall not include claims for personal injury or property damage proximately caused by the wanton or willful misconduct of the landowner.

(e) Unit of National Park System

The Preserve shall be a unit of the National Park System for all purposes, including the purpose of exercising authority to charge entrance and admission fees under section 460*l*–6a of this title.

(f) Agreement and donations

(1) Agreements

The Secretary may expend Federal funds for the cooperative management of private property within the Preserve for research, resource management (including pest control and noxious weed control, fire protection, and the restoration of buildings), and visitor protection and use.

(2) Donations

The Secretary may accept, retain, and expend donations of funds, property (other than

real property), or services from individuals, foundations, corporations, or public entities for the purposes of providing programs, services, facilities, or technical assistance that further the purposes of sections 698u to 698u–7 of this title.

(g) General management plan

(1) In general

Not later than the end of the third full fiscal year beginning after November 12, 1996, the Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a general management plan for the Preserve.

(2) Consultation

In preparing the general management plan, the Secretary, acting through the Director of the National Park Service, shall consult with—

(A)(i) appropriate officials of the Trust; and

(ii) the Advisory Committee; and

(B) adjacent landowners, appropriate officials of nearby communities, the Kansas Department of Wildlife and Parks, the Kansas Historical Society, and other interested parties.

(3) Content of plan

The general management plan shall provide for the following:

(A) Maintaining and enhancing the tallgrass prairie within the boundaries of the Preserve.

(B) Public access and enjoyment of the property that is consistent with the conservation and proper management of the historical, cultural, and natural resources of the ranch.

(C) Interpretive and educational programs covering the natural history of the prairie, the cultural history of Native Americans, and the legacy of ranching in the Flint Hills region.

(D) Provisions requiring the application of applicable State law concerning the maintenance of adequate fences within the boundaries of the Preserve. In any case in which an activity of the National Park Service requires fences that exceed the legal fence standard otherwise applicable to the Preserve, the National Park Service shall pay the additional cost of constructing and maintaining the fences to meet the applicable requirements for that activity.

(E) Provisions requiring the Secretary to comply with applicable State noxious weed, pesticide, and animal health laws.

(F) Provisions requiring compliance with applicable State water laws and Federal and State waste disposal laws (including regulations) and any other applicable law.

(G) Provisions requiring the Secretary to honor each valid existing oil and gas lease for lands within the boundaries of the Preserve (as described in section 698u–2(b) of this title) that is in effect on November 12, 1996.

(H) Provisions requiring the Secretary to offer to enter into an agreement with each individual who, as of November 12, 1996, holds rights for cattle grazing within the boundaries of the Preserve (as described in section 698u–2(b) of this title).

(4) Hunting and fishing

The Secretary may allow hunting and fishing on Federal lands within the Preserve.

(5) Financial analysis

As part of the development of the general management plan, the Secretary shall prepare a financial analysis indicating how the management of the Preserve may be fully supported through fees, private donations, and other forms of non-Federal funding.

(Pub. L. 104–333, div. I, title X, § 1005, Nov. 12, 1996, 110 Stat. 4205; Pub. L. 106–176, title I, § 122(3), Mar. 10, 2000, 114 Stat. 29.)

REFERENCES IN TEXT

The Federal Tort Claims Act, referred to in subsec. (d)(1), is title IV of act Aug. 2, 1946, ch. 753, 60 Stat. 842, which was classified principally to chapter 20 (§§ 921, 922, 931–934, 941–946) of former Title 28, Judicial Code and Judiciary. Title IV of act Aug. 2, 1946, was substantially repealed and reenacted as sections 1346(b) and 2671 et seq. of Title 28, Judiciary and Judicial Procedure, by act June 25, 1948, ch. 646, 62 Stat. 992, the first section of which enacted Title 28. The Federal Tort Claims Act is also commonly used to refer to chapter 171 of Title 28, Judiciary and Judicial Procedure. For complete classification of title IV to the Code, see Tables. For distribution of former sections of Title 28 into the revised Title 28, see Table at the beginning of Title 28.

AMENDMENTS

2000—Subsec. (d)(1). Pub. L. 106–176, § 122(3)(A), made technical amendment to reference in original act which appears in text as reference to sections 698u to 698u–7 of this title.

Subsec. (g)(3)(A). Pub. L. 106–176, § 122(3)(B), substituted ''the tallgrass prairie'' for ''the tall grass prairie''.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 698u–4. Limited authority to acquire

(a) In general

The Secretary shall acquire, by donation, not more than 180 acres of real property within the boundaries of the Preserve (as described in section 698u–2(b) of this title) and the improvements on the real property.

(b) Payments in lieu of taxes

For the purposes of payments made under chapter 69 of title 31, the real property described in subsection (a) of this section shall be deemed to have been acquired for the purposes specified in section 6904(a) of that title.

(c) Prohibitions

No property may be acquired under this section without the consent of the owner of the property. The United States may not acquire fee ownership of any lands within the Preserve other than lands described in this section.

(Pub. L. 104–333, div. I, title X, § 1006, Nov. 12, 1996, 110 Stat. 4208; Pub. L. 108–352, § 17, Oct. 21, 2004, 118 Stat. 1398.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–352 substituted ''subsection (a)'' for ''subsection (a)(1)''.

§ 698u–5. Advisory Committee

(a) Establishment

There is established an advisory committee to be known as the ''Tallgrass Prairie National Preserve Advisory Committee''.

(b) Duties

The Advisory Committee shall advise the Secretary and the Director of the National Park Service concerning the development, management, and interpretation of the Preserve. In carrying out those duties, the Advisory Committee shall provide timely advice to the Secretary and the Director during the preparation of the general management plan under section 698u–3(g) of this title.

(c) Membership

The Advisory Committee shall consist of 13 members, who shall be appointed by the Secretary as follows:

(1) Three members shall be representatives of the Trust.

(2) Three members shall be representatives of local landowners, cattle ranchers, or other agricultural interests.

(3) Three members shall be representatives of conservation or historic preservation interests.

(4)(A) One member shall be selected from a list of persons recommended by the Chase County Commission in the State of Kansas.

(B) One member shall be selected from a list of persons recommended by appropriate officials of Strong City, Kansas, and Cottonwood Falls, Kansas.

(C) One member shall be selected from a list of persons recommended by the Governor of the State of Kansas.

(5) One member shall be a range management specialist representing institutions of higher education (as defined in section 1001 of title 20) in the State of Kansas.

(d) Terms

(1) In general

Each member of the Advisory Committee shall be appointed to serve for a term of 3 years, except that the initial members shall be appointed as follows:

(A) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c) of this section, to serve for a term of 3 years.

(B) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c) of this section, to serve for a term of 4 years.

(C) Five members shall be appointed, one each from paragraphs (1) through (5) of subsection (c) of this section, to serve for a term of 5 years.

(2) Reappointment

Each member may be reappointed to serve a subsequent term.

(3) Expiration

Each member shall continue to serve after the expiration of the term of the member until a successor is appointed.

(4) Vacancies

A vacancy on the Advisory Committee shall be filled in the same manner as an original appointment is made. The member appointed to fill the vacancy shall serve until the expiration of the term in which the vacancy occurred.

(e) Chairperson

The members of the Advisory Committee shall select 1 of the members to serve as Chairperson.

(f) Meetings

Meetings of the Advisory Committee shall be held at the call of the Chairperson or the majority of the Advisory Committee. Meetings shall be held at such locations and in such a manner as to ensure adequate opportunity for public involvement. In compliance with the requirements of the Federal Advisory Committee Act (5 U.S.C. App.), the Advisory Committee shall choose an appropriate means of providing interested members of the public advance notice of scheduled meetings.

(g) Quorum

A majority of the members of the Advisory Committee shall constitute a quorum.

(h) Compensation

Each member of the Advisory Committee shall serve without compensation, except that while engaged in official business of the Advisory Committee, the member shall be entitled to travel expenses, including per diem in lieu of subsistence in the same manner as persons employed intermittently in Government service under section 5703 of title 5.

(i) Charter

The rechartering provisions of section 14(b) of the Federal Advisory Committee Act (15[1] U.S.C. App.) shall not apply to the Advisory Committee.

(Pub. L. 104–333, div. I, title X, § 1007, Nov. 12, 1996, 110 Stat. 4208; Pub. L. 105–244, title I, § 102(a)(4), Oct. 7, 1998, 112 Stat. 1618.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (f), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1998—Subsec. (c)(5). Pub. L. 105–244 substituted ''section 1001 of title 20)'' for ''section 1141(a) of title 20)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of

[1] So in original. Probably should be ''5''.

a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 698u–6. Restriction on authority

Nothing in sections 698u to 698u–7 of this title shall give the Secretary authority to regulate lands outside the land area acquired by the Secretary under section 698u–4(a) of this title.

(Pub. L. 104–333, div. I, title X, § 1008, Nov. 12, 1996, 110 Stat. 4209.)

§ 698u–7. Authorization of appropriations

There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out sections 698u to 698u–7 of this title.

(Pub. L. 104–333, div. I, title X, § 1009, Nov. 12, 1996, 110 Stat. 4209.)

§ 698v. Findings and purposes

(a) Findings

Congress finds that—

(1) the Baca ranch comprises most of the Valles Caldera in central New Mexico, and constitutes a unique land mass, with significant scientific, cultural, historic, recreational, ecological, wildlife, fisheries, and productive values;

(2) the Valles Caldera is a large resurgent lava dome with potential geothermal activity;

(3) the land comprising the Baca ranch was originally granted to the heirs of Don Luis Maria Cabeza de Vaca in 1860;

(4) historical evidence, in the form of old logging camps and other artifacts, and the history of territorial New Mexico indicate the importance of this land over many generations for domesticated livestock production and timber supply;

(5) the careful husbandry of the Baca ranch by the current owners, including selective timbering, limited grazing and hunting, and the use of prescribed fire, have preserved a mix of healthy range and timber land with significant species diversity, thereby serving as a model for sustainable land development and use;

(6) the Baca ranch's natural beauty and abundant resources, and its proximity to large municipal populations, could provide numerous recreational opportunities for hiking, fishing, camping, cross-country skiing, and hunting;

(7) the Forest Service documented the scenic and natural values of the Baca ranch in its 1993 study entitled ''Report on the Study of the Baca Location No. 1, Santa Fe National Forest, New Mexico'', as directed by Public Law 101–556;

(8) the Baca ranch can be protected for current and future generations by continued operation as a working ranch under a unique management regime which would protect the land and resource values of the property and surrounding ecosystem while allowing and providing for the ranch to eventually become financially self-sustaining;

(9) the current owners have indicated that they wish to sell the Baca ranch, creating an opportunity for Federal acquisition and public access and enjoyment of these lands;

(10) certain features on the Baca ranch have historical and religious significance to Native Americans which can be preserved and protected through Federal acquisition of the property;

(11) the unique nature of the Valles Caldera and the potential uses of its resources with different resulting impacts warrants a management regime uniquely capable of developing an operational program for appropriate preservation and development of the land and resources of the Baca ranch in the interest of the public;

(12) an experimental management regime should be provided by the establishment of a Trust capable of using new methods of public land management that may prove to be cost-effective and environmentally sensitive; and

(13) the Secretary may promote more efficient management of the Valles Caldera and the watershed of the Santa Clara Creek through the assignment of purchase rights of such watershed to the Pueblo of Santa Clara.

(b) Purposes

The purposes of sections 698v to 698v–10 of this title are—

(1) to authorize Federal acquisition of the Baca ranch;

(2) to protect and preserve for future generations the scientific, scenic, historic, and natural values of the Baca ranch, including rivers and ecosystems and archaeological, geological, and cultural resources;

(3) to provide opportunities for public recreation;

(4) to establish a demonstration area for an experimental management regime adapted to this unique property which incorporates elements of public and private administration in order to promote long term financial sustainability consistent with the other purposes enumerated in this subsection; and

(5) to provide for sustained yield management of Baca ranch for timber production and domesticated livestock grazing insofar as is consistent with the other purposes stated herein.

(Pub. L. 106–248, title I, § 102, July 25, 2000, 114 Stat. 598.)

REFERENCES IN TEXT

Pub. L. 101–556, referred to in subsec. (a)(7), is Pub. L. 101–556, Nov. 15, 1990, 104 Stat. 2762, which is not classified to the Code.

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–132, § 1, Dec. 20, 2005, 119 Stat. 2570, provided that: ''This Act [amending sections 698v–2 and 698v–4 to 698v–6 of this title] may be cited as the 'Valles Caldera Preservation Act of 2005'.''

SHORT TITLE

Pub. L. 106–248, title I, § 101, July 25, 2000, 114 Stat. 598, provided that: ''This title [enacting this section and sections 698v–1 to 698v–10 of this title] may be cited as the 'Valles Caldera Preservation Act'.''

§ 698v–1. Definitions

In sections 698v to 698v–10 of this title:

(1) Baca ranch

The term ''Baca ranch'' means the lands and facilities described in section 698v–2(a) of this title.

(2) Board of Trustees

The terms ''Board of Trustees'' and ''Board'' mean the Board of Trustees as described in section 698v–5 of this title.

(3) Committees of Congress

The term ''Committees of Congress'' means the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(4) Financially self-sustaining

The term ''financially self-sustaining'' means management and operating expenditures equal to or less than proceeds derived from fees and other receipts for resource use and development and interest on invested funds. Management and operating expenditures shall include Trustee expenses, salaries and benefits of staff, administrative and operating expenses, improvements to and maintenance of lands and facilities of the Preserve, and other similar expenses. Funds appropriated to the Trust by Congress, either directly or through the Secretary, for the purposes of sections 698v to 698v–10 of this title shall not be considered.

(5) Multiple use and sustained yield

The term ''multiple use and sustained yield'' has the combined meaning of the terms ''multiple use'' and ''sustained yield of the several products and services'', as defined under the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 531).

(6) Preserve

The term ''Preserve'' means the Valles Caldera National Preserve established under section 698v–3 of this title.

(7) Secretary

Except where otherwise provided, the term ''Secretary'' means the Secretary of Agriculture.

(8) Trust

The term ''Trust'' means the Valles Caldera Trust established under section 698v–4 of this title.

(Pub. L. 106–248, title I, §103, July 25, 2000, 114 Stat. 599.)

REFERENCES IN TEXT

The Multiple-Use Sustained-Yield Act of 1960, referred to in par. (5), is Pub. L. 86–517, June 12, 1960, 74 Stat. 215, as amended, which is classified generally to sections 528 to 531 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 528 of this title and Tables.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 698v–2. Acquisition of lands

(a) Acquisition of Baca ranch

(1) In general

In compliance with section 471a of this title, the Secretary is authorized to acquire all or part of the rights, title, and interests in and to approximately 94,761 acres of the Baca ranch, comprising the lands, facilities, and structures referred to as the Baca Location No. 1, and generally depicted on a plat entitled ''Independent Resurvey of the Baca Location No. 1'', made by L.A. Osterhoudt, W.V. Hall, and Charles W. Devendorf, U.S. Cadastral Engineers, June 30, 1920–August 24, 1921, under special instructions for Group No. 107 dated February 12, 1920, in New Mexico.

(2) Source of funds

The acquisition under paragraph (1) may be made by purchase through appropriated or donated funds, by exchange, by contribution, or by donation of land. Funds appropriated to the Secretary from the Land and Water Conservation Fund shall be available for this purpose.

(3) Basis of sale

The acquisition under paragraph (1) shall be based on an appraisal done in conformity with the Uniform Appraisal Standards for Federal Land Acquisitions and—

(A) in the case of purchase, such purchase shall be on a willing seller basis for no more than the fair market value of the land or interests therein acquired; and

(B) in the case of exchange, such exchange shall be for lands, or interests therein, of equal value, in conformity with the existing exchange authorities of the Secretary.

(4) Deed

The conveyance of the offered lands to the United States under this subsection shall be by general warranty or other deed acceptable to the Secretary and in conformity with applicable title standards of the Attorney General.

(b) Addition of land to Bandelier National Monument

Upon acquisition of the Baca ranch under subsection (a) of this section, the Secretary of the Interior shall assume administrative jurisdiction over those lands within the boundaries of the Bandelier National Monument as modified under section 3 of Public Law 105–376 (112 Stat. 3389).

(c) Plat and maps

(1) Plat and maps prevail

In case of any conflict between a plat or a map and acreages, the plat or map shall prevail.

(2) Minor corrections

The Secretary and the Secretary of the Interior may make minor corrections in the boundaries of the Upper Alamo watershed as depicted on the map referred to in section 3 of Public Law 105–376 (112 Stat. 3389).

(3) Boundary modification

Upon the conveyance of any lands to any entity other than the Secretary, the boundary of

the Preserve shall be modified to exclude such lands.

(4) Final maps

Within 180 days of the date of acquisition of the Baca ranch under subsection (a) of this section, the Secretary and the Secretary of the Interior shall submit to the Committees of Congress a final map of the Preserve and a final map of Bandelier National Monument, respectively.

(5) Public availability

The plat and maps referred to in the[1] subsection shall be kept and made available for public inspection in the offices of the Chief, Forest Service, and Director, National Park Service, in Washington, D.C., and Supervisor, Santa Fe National Forest, and Superintendent, Bandelier National Monument, in the State of New Mexico.

(d) Watershed management report

The Secretary, acting through the Forest Service, in cooperation with the Secretary of the Interior, acting through the National Park Service, shall—

(1) prepare a report of management alternatives which may—

(A) provide more coordinated land management within the area known as the upper watersheds of Alamo, Capulin, Medio, and Sanchez Canyons, including the areas known as the Dome Diversity Unit and the Dome Wilderness;

(B) allow for improved management of elk and other wildlife populations ranging between the Santa Fe National Forest and the Bandelier National Monument; and

(C) include proposed boundary adjustments between the Santa Fe National Forest and the Bandelier National Monument to facilitate the objectives under subparagraphs (A) and (B); and

(2) submit the report to the Committees of Congress within 120 days of July 25, 2000.

(e) Outstanding mineral interests

(1) In general

The acquisition of the Baca ranch by the Secretary shall be subject to all outstanding valid existing mineral interests.

(2) Acquisition

The Secretary is authorized and directed to negotiate with the owners of any fractional interest in the subsurface estate for the acquisition of such fractional interest for not to exceed its fair market value, as determined by appraisal done in conformity with the Uniform Appraisal Standards for Federal Land Acquisitions.

(3) Administration

Any such interests acquired within the boundaries of the Upper Alamo watershed, as referred to in subsection (b) of this section, shall be administered by the Secretary of the Interior as part of Bandelier National Monument.

(4) Available funds

Any such interests shall be acquired with available funds.

(5) Declaration of taking

(A) In general

If negotiations to acquire the interests are unsuccessful by the date that is 60 days after Dec. 20, 2005, the Secretary shall acquire the interests pursuant to section 3114 of title 40.

(B) Source of funds

Any difference between the sum of money estimated to be just compensation by the Secretary and the amount awarded shall be paid from the permanent judgment appropriation under section 1304 of title 31.

(f) Boundaries of the Baca ranch

For purposes of section 460*l*–9 of this title, the boundaries of the Baca ranch shall be treated as if they were National Forest boundaries existing as of January 1, 1965.

(g) Pueblo of Santa Clara

(1) In general

The Secretary may assign to the Pueblo of Santa Clara rights to acquire for fair market value portions of the Baca ranch. The portion that may be assigned shall be determined by mutual agreement between the Pueblo and the Secretary based on optimal management considerations for the Preserve including manageable land line locations, public access, and retention of scenic and natural values. All appraisals shall be done in conformity with the Uniform Appraisal Standards for Federal Land Acquisition.

(2) Status of land acquired

As of the date of acquisition, the fee title lands, and any mineral estate underlying such lands, acquired under this subsection by the Pueblo of Santa Clara are deemed transferred into trust in the name of the United States for the benefit of the Pueblo of Santa Clara and such lands and mineral estate are declared to be part of the existing Santa Clara Indian Reservation.

(3) Mineral estate

Any mineral estate acquired by the United States pursuant to subsection (e) of this section underlying fee title lands acquired by the Pueblo of Santa Clara shall not be developed without the consent of the Secretary of the Interior and the Pueblo of Santa Clara.

(4) Savings

Any reservations, easements, and covenants contained in an assignment agreement entered into under paragraph (1) shall not be affected by the acquisition of the Baca ranch by the United States, the assumption of management by the Valles Caldera Trust, or the lands acquired by the Pueblo being taken into trust.

(Pub. L. 106–248, title I, § 104, July 25, 2000, 114 Stat. 600; Pub. L. 109–132, § 2(a), Dec. 20, 2005, 119 Stat. 2570.)

REFERENCES IN TEXT

Section 3 of Pub. L. 105–376, referred to in subsecs. (b) and (c)(2), appears in the item for Bandelier National

[1] So in original. Probably should be ''this''.

Monument, New Mexico, in the table under the heading ''National Monuments Established Under Presidential Proclamation'', set out as a note under section 431 of this title.

AMENDMENTS

2005—Subsec. (e). Pub. L. 109–132 designated existing provisions as pars. (1) to (3), inserted par. headings, struck out ''on a willing seller basis'' after ''such fractional interest'' in par. (2), and added pars. (4) and (5).

§ 698v–3. The Valles Caldera National Preserve

(a) Establishment

Upon the date of acquisition of the Baca ranch under section 698v–2(a) of this title, there is hereby established the Valles Caldera National Preserve as a unit of the National Forest System which shall include all Federal lands and interests in land acquired under sections 698v–2(a) and 698v–2(e) of this title, except those lands and interests in land administered or held in trust by the Secretary of the Interior under sections 698v–2(b) and 698v–2(g) of this title, and shall be managed in accordance with the purposes and requirements of sections 698v to 698v–10 of this title.

(b) Purposes

The purposes for which the Preserve is established are to protect and preserve the scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the Preserve, and to provide for multiple use and sustained yield of renewable resources within the Preserve, consistent with sections 698v to 698v–10 of this title.

(c) Management authority

Except for the powers of the Secretary enumerated in sections 698v to 698v–10 of this title, the Preserve shall be managed by the Valles Caldera Trust established by section 698v–4 of this title.

(d) Eligibility for payment in lieu of taxes

Lands acquired by the United States under section 698v–2(a) of this title shall constitute entitlement lands for purposes of the Payment in Lieu of Taxes Act (31 U.S.C. 6901–6904).

(e) Withdrawals

(1) In general

Upon acquisition of all interests in minerals within the boundaries of the Baca ranch under section 698v–2(e) of this title, subject to valid existing rights, the lands comprising the Preserve are thereby withdrawn from disposition under all laws pertaining to mineral leasing, including geothermal leasing.

(2) Materials for roads and facilities

Nothing in sections 698v to 698v–10 of this title shall preclude the Secretary, prior to assumption of management of the Preserve by the Trust, and the Trust thereafter, from allowing the utilization of common varieties of mineral materials such as sand, stone, and gravel as necessary for construction and maintenance of roads and facilities within the Preserve.

(f) Fish and game

Nothing in sections 698v to 698v–10 of this title shall be construed as affecting the responsibilities of the State of New Mexico with respect to fish and wildlife, including the regulation of hunting, fishing, and trapping within the Preserve, except that the Trust may, in consultation with the Secretary and the State of New Mexico, designate zones where and establish periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, the protection of nongame species and their habitats, or public use and enjoyment.

(g) Redondo Peak

(1) In general

For the purposes of preserving the natural, cultural, religious, and historic resources on Redondo Peak upon acquisition of the Baca ranch under section 698v–2(a) of this title, except as provided in paragraph (2), within the area of Redondo Peak above 10,000 feet in elevation—

(A) no roads, structures, or facilities shall be constructed; and

(B) no motorized access shall be allowed.

(2) Exceptions

Nothing in this subsection shall preclude—

(A) the use and maintenance of roads and trails existing as of July 25, 2000;

(B) the construction, use and maintenance of new trails, and the relocation of existing roads, if located to avoid Native American religious and cultural sites; and

(C) motorized access necessary to administer the area by the Trust (including measures required in emergencies involving the health or safety of persons within the area).

(Pub. L. 106–248, title I, §105, July 25, 2000, 114 Stat. 602.)

REFERENCES IN TEXT

The Payment in Lieu of Taxes Act, referred to in subsec. (d), is the popular name for Pub. L. 94–565, Oct. 20, 1976, 90 Stat. 2662, as amended, which was classified generally to sections 1601 to 1607 of former Title 31, Money and Finance. Sections 1601 to 1607 of former Title 31 were repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068, and reenacted by the first section thereof as sections 6901 to 6904 and 6906 of Title 31, Money and Finance.

The laws pertaining to mineral leasing, referred to in subsec. (e)(1), are classified generally to Title 30, Mineral Lands and Mining.

Laws pertaining to geothermal leasing, referred to in subsec. (e)(1), are classified principally to chapter 23 (§1001 et seq.) of Title 30, Mineral Lands and Mining.

§ 698v–4. The Valles Caldera Trust

(a) Establishment

There is hereby established a wholly owned government corporation known as the Valles Caldera Trust which is empowered to conduct business in the State of New Mexico and elsewhere in the United States in furtherance of its corporate purposes.

(b) Corporate purposes

The purposes of the Trust are—

(1) to provide management and administrative services for the Preserve;

(2) to establish and implement management policies which will best achieve the purposes and requirements of sections 698v to 698v–10 of this title;

(3) to receive and collect funds from private and public sources and to make dispositions in support of the management and administration of the Preserve; and

(4) to cooperate with Federal, State, and local governmental units, and with Indian tribes and Pueblos, to further the purposes for which the Preserve was established.

(c) Necessary powers

The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(d) Staff

(1) In general

The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5 governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, relating to classification and General Schedule pay rates. No employee of the Trust shall be paid at a rate in excess of that payable to the Supervisor of the Santa Fe National Forest or the Superintendent of the Bandelier National Monument, whichever is greater.

(2) Federal employees

(A) In general

Except as provided in sections 698v to 698v–10 of this title, employees of the Trust shall be Federal employees as defined by title 5 and shall be subject to all rights and obligations applicable thereto.

(B) Use of Federal employees

At the request of the Trust, the employees of any Federal agency may be provided for implementation of sections 698v to 698v–10 of this title. Such employees detailed to the Trust for more than 30 days shall be provided on a reimbursable basis.

(e) Government Corporation

(1) In general

The Trust shall be a Government Corporation subject to chapter 91 of title 31 (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31.

(2) Reports

Not later than January 15 of each year, the Trust shall submit to the Secretary and the Committees of Congress a comprehensive and detailed report of its operations, activities, and accomplishments for the prior year including information on the status of ecological, cultural, and financial resources being managed by the Trust, and benefits provided by the Preserve to local communities. The report shall also include a section that describes the Trust's goals for the current year.

(3) Annual budget

(A) In general

The Trust shall prepare an annual budget with the goal of achieving a financially self-sustaining operation within 15 full fiscal years after the date of acquisition of the Baca ranch under section 698v–2(a) of this title.

(B) Budget request

The Secretary shall provide necessary assistance (including detailees as necessary) to the Trust for the timely formulation and submission of the annual budget request for appropriations, as authorized under section 698v–9(a) of this title, to support the administration, operation, and maintenance of the Preserve.

(4) Obligations and expenditures

Subject to the laws applicable to Government corporations, the Trust shall determine—

(A) the character of, and the necessity for, any obligations and expenditures of the Trust; and

(B) the manner in which obligations and expenditures shall be incurred, allowed, and paid.

(f) Taxes

The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of New Mexico, and its political subdivisions including the counties of Sandoval and Rio Arriba.

(g) Donations

The members of the Board of Trustees, the executive director, and one additional employee of the Trust in an executive position designated by the Board of Trustees or the executive director may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purposes of carrying out its duties. The Secretary, prior to assumption of management of the Preserve by the Trust, and the Trust thereafter, may accept donations from such entities notwithstanding that such donors may conduct business with the Department of Agriculture or any other department or agency of the United States.

(h) Proceeds

(1) In general

Notwithstanding sections 1341 and 3302 of title 31, all monies received from donations under subsection (g) of this section, from claims, judgments, or settlements arising from activities occurring on the Baca Ranch or the Preserve after October 27, 1999, or from the management of the Preserve shall be retained and shall be available, without further appropriation, for the administration, preservation, restoration, operation and maintenance, improvement, repair, and related expenses incurred with respect to properties under its management jurisdiction.

(2) Fund

There is hereby established in the Treasury of the United States a special interest bearing fund entitled ''Valles Caldera Fund'' which shall be available, without further appropriation for any purpose consistent with the purposes of sections 698v to 698v–10 of this title.

At the option of the Trust, or the Secretary in accordance with section 698v–8 of this title, the Secretary of the Treasury shall invest excess monies of the Trust in such account, which shall bear interest at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity.

(i) Restrictions on disposition of receipts

Any funds received by the Trust, or the Secretary in accordance with section 698v–7(b) of this title, from the management of the Preserve shall not be subject to partial distribution to the State under—

(1) the Act of May 23, 1908, entitled ''an Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and nine'' (35 Stat. 260, chapter 192; 16 U.S.C. 500);

(2) section 13 of the Act of March 1, 1911 (36 Stat. 963, chapter 186; 16 U.S.C. 500); or

(3) any other law.

(j) Suits

The Trust may sue and be sued in its own name to the same extent as the Federal Government. For purposes of such suits, the residence of the Trust shall be the State of New Mexico. The Trust shall be represented by the Attorney General in any litigation arising out of the activities of the Trust, except that the Trust may retain private attorneys to provide advice and counsel.

(k) Bylaws

The Trust shall adopt necessary bylaws to govern its activities.

(*l*) Insurance and bond

The Trust shall require that all holders of leases from, or parties in contract with, the Trust that are authorized to occupy, use, or develop properties under the management jurisdiction of the Trust, procure proper insurance against any loss in connection with such properties, or activities authorized in such lease or contract, as is reasonable and customary.

(m) Name and insignia

The Trust shall have the sole and exclusive right to use the words ''Valles Caldera Trust'', and any seal, emblem, or other insignia adopted by the Board of Trustees. Without express written authority of the Trust, no person may use the words ''Valles Caldera Trust'' as the name under which that person shall do or purport to do business, for the purpose of trade, or by way of advertisement, or in any manner that may falsely suggest any connection with the Trust.

(Pub. L. 106–248, title I, §106, July 25, 2000, 114 Stat. 603; Pub. L. 109–132, §2(b)–(d), Dec. 20, 2005, 119 Stat. 2570, 2571.)

AMENDMENTS

2005—Subsec. (e)(4). Pub. L. 109–132, §2(b), added par. (4).

Subsec. (g). Pub. L. 109–132, §2(c), substituted ''The members of the Board of Trustees, the executive director, and one additional employee of the Trust in an executive position designated by the Board of Trustees or the executive director may solicit'' for ''The Trust may solicit''.

Subsec. (h)(1). Pub. L. 109–132, §2(d), substituted ''subsection (g) of this section, from claims, judgments, or settlements arising from activities occurring on the Baca Ranch or the Preserve after October 27, 1999,'' for ''subsection (g) of this section''.

§ 698v–5. Board of Trustees

(a) In general

The Trust shall be governed by a 9-member Board of Trustees consisting of the following:

(1) Voting trustees

The voting Trustees shall be—

(A) the Supervisor of the Santa Fe National Forest, United States Forest Service;

(B) the Superintendent of the Bandelier National Monument, National Park Service; and

(C) seven individuals, appointed by the President, in consultation with the congressional delegation from the State of New Mexico. The seven individuals shall have specific expertise or represent an organization or government entity as follows—

(i) one trustee shall have expertise in aspects of domesticated livestock management, production, and marketing, including range management and livestock business management;

(ii) one trustee shall have expertise in the management of game and nongame wildlife and fish populations, including hunting, fishing, and other recreational activities;

(iii) one trustee shall have expertise in the sustainable management of forest lands for commodity and noncommodity purposes;

(iv) one trustee shall be active in a nonprofit conservation organization concerned with the activities of the Forest Service;

(v) one trustee shall have expertise in financial management, budget and program analysis, and small business operations;

(vi) one trustee shall have expertise in the cultural and natural history of the region; and

(vii) one trustee shall be active in State or local government in New Mexico, with expertise in the customs of the local area.

(2) Qualifications

Of the trustees appointed by the President—

(A) none shall be employees of the Federal Government; and

(B) at least five shall be residents of the State of New Mexico.

(b) Initial appointments

The President shall make the initial appointments to the Board of Trustees within 90 days after acquisition of the Baca ranch under section 698v–2(a) of this title.

(c) Terms

(1) In general

Appointed trustees shall each serve a term of 4 years, except that of the trustees first appointed, four shall serve for a term of 4 years, and three shall serve for a term of 2 years.

(2) Vacancies

Any vacancy among the appointed trustees shall be filled in the same manner in which

the original appointment was made, and any trustee appointed to fill a vacancy shall serve for the remainder of that term for which his or her predecessor was appointed.

(3) Limitations

No appointed trustee may serve more than 8 years in consecutive terms.

(d) Quorum

A majority of trustees shall constitute a quorum of the Board for the conduct of business.

(e) Organization and compensation

(1) In general

The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the activities of the Trust.

(2) Compensation of trustees

Except as provided in paragraph (3), trustees shall serve without pay, but may be reimbursed from the funds of the Trust for the actual and necessary travel and subsistence expenses incurred by them in the performance of their duties.

(3) Chair

(A) Selection

Trustees shall select a chair from the membership of the Board.

(B) Compensation

On request of the chair, the chair may be compensated at a rate determined by the Board of Trustees, but not to exceed the daily equivalent of the annual rate of pay for level IV of the Executive Schedule under section 5315 of title 5 for each day (including travel time) in which the chair is engaged in the performance of duties of the Board of Trustees.

(C) Maximum rate of pay

The total amount of compensation paid to the chair for a fiscal year under subparagraph (B) shall not exceed 25 percent of the annual rate of pay for level IV of the Executive Schedule under section 5315 of title 5.

(f) Liability of trustees

Appointed trustees shall not be considered Federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act, the Ethics in Government Act, and the provisions of chapter 11 of title 18.

(g) Meetings

(1) Location and timing of meetings

The Board shall meet in sessions open to the public at least three times per year in New Mexico. Upon a majority vote made in open session, and a public statement of the reasons therefore, the Board may close any other meetings to the public: *Provided*, That any final decision of the Board to adopt or amend the comprehensive management program under section 698v–6(d) of this title or to approve any activity related to the management of the land or resources of the Preserve shall be made in open public session.

(2) Public information

In addition to other requirements of applicable law, the Board shall establish procedures for providing appropriate public information and periodic opportunities for public comment regarding the management of the Preserve.

(Pub. L. 106–248, title I, § 107, July 25, 2000, 114 Stat. 606; Pub. L. 109–132, § 3, Dec. 20, 2005, 119 Stat. 2571.)

REFERENCES IN TEXT

The Federal Tort Claims Act, referred to in subsec. (f), is title IV of act Aug. 2, 1946, ch. 753, 60 Stat. 842, which was classified principally to chapter 20 (§§ 921, 922, 931–934, 941–946) of former Title 28, Judicial Code and Judiciary. Title IV of act Aug. 2, 1946, was substantially repealed and reenacted as sections 1346(b) and 2671 et seq. of Title 28, Judiciary and Judicial Procedure, by act June 25, 1948, ch. 646, 62 Stat. 992, the first section of which enacted Title 28. The Federal Tort Claims Act is also commonly used to refer to chapter 171 of Title 28, Judiciary and Judicial Procedure. For complete classification of title IV to the Code, see Tables. For distribution of former sections of Title 28 into the revised Title 28, see Table at the beginning of Title 28.

The Ethics in Government Act, referred to in subsec. (f), probably means the Ethics in Government Act of 1978, Pub. L. 95–521, Oct. 26, 1978, 92 Stat. 1824, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95–521 in the Appendix to Title 5, Government Organization and Employees, and Tables.

AMENDMENTS

2005—Subsec. (e)(2). Pub. L. 109–132, § 3(1), substituted ''Except as provided in paragraph (3), trustees'' for ''Trustees''.

Subsec. (e)(3). Pub. L. 109–132, § 3(2), designated existing provisions as subpar. (A), inserted subpar. heading, and added subpars. (B) and (C).

COMPENSATION FOR TRUSTEES

Pub. L. 106–291, title II, Oct. 11, 2000, 114 Stat. 968, provided in part: ''That notwithstanding the limitations of 107(e)(2) of the Valles Caldera Preservation Act (Public Law 106–248) [16 U.S.C. 698v–5(e)(2)], for fiscal years 2001 and 2002, the members of the Board of Trustees of the Valles Caldera Trust may receive, upon request, compensation for each day (including travel time) that they are engaged in the performance of the functions of the Board. Compensation shall not exceed the daily equivalent of the annual rate in effect for members of the Senior Executive Service at the ES–1 level, and shall be in addition to any reimbursement for travel, subsistence and other necessary expenses incurred by them in the performance of their duties. Members of the Board who are officers or employees of the United States shall not receive any additional compensation by reason of service on the Board''.

§ 698v–6. Resource management

(a) Assumption of management

The Trust shall assume all authority provided by sections 698v to 698v–10 of this title to manage the Preserve upon a determination by the Secretary, which to the maximum extent practicable shall be made within 60 days after the appointment of the Board, that—

(1) the Board is duly appointed, and able to conduct business; and

(2) provision has been made for essential management services.

(b) Management responsibilities

Upon assumption of management of the Preserve under subsection (a) of this section, the Trust shall manage the land and resources of the

Preserve and the use thereof including, but not limited to such activities as—

(1) administration of the operations of the Preserve;

(2) preservation and development of the land and resources of the Preserve;

(3) interpretation of the Preserve and its history for the public;

(4) management of public use and occupancy of the Preserve; and

(5) maintenance, rehabilitation, repair, and improvement of property within the Preserve.

(c) Authorities

(1) In general

The Trust shall develop programs and activities at the Preserve, and shall have the authority to negotiate directly and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or governmental entity, including without limitation, entities of Federal, State, and local governments, and consultation with Indian tribes and Pueblos, as are necessary and appropriate to carry out its authorized activities or fulfill the purposes of sections 698v to 698v–10 of this title. Any such agreements may be entered into without regard to section 1302 of title 40.

(2) Procedures

The Trust shall establish procedures for entering into lease agreements and other agreements for the use and occupancy of facilities of the Preserve. The procedures shall ensure reasonable competition, and set guidelines for determining reasonable fees, terms, and conditions for such agreements.

(3) Limitations

(A) In general

The Trust may not dispose of any real property in, or convey any water rights appurtenant to the Preserve.

(B) Maximum duration

The Trust may not convey any easement, or enter into any contract, lease, or other agreement related to use and occupancy of property within the Preserve for a period greater than 10 years.

(C) Termination

The easement, contract, lease, or other agreement shall provide that, upon termination of the Trust, such easement, contract, lease or agreement is terminated.

(D) Exclusions

For the purposes of this paragraph, the disposal of real property does not include the sale or other disposal of forage, forest products, or marketable renewable resources.

(4) Application of procurement laws

(A) In general

Notwithstanding any other provision of law, Federal laws and regulations governing procurement by Federal agencies shall not apply to the Trust, with the exception of laws and regulations related to Federal Government contracts governing health and safety requirements, wage rates, and civil rights.

(B) Procedures

The Trust, in consultation with the Administrator of Federal Procurement Policy, Office of Management and Budget, shall establish and adopt procedures applicable to the Trust's procurement of goods and services, including the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition.

(d) Management program

Within two years after assumption of management responsibilities for the Preserve, the Trust shall, in accordance with subsection (f) of this section, develop a comprehensive program for the management of lands, resources, and facilities within the Preserve to carry out the purposes under section 698v–3(b) of this title. To the extent consistent with such purposes, such program shall provide for—

(1) operation of the Preserve as a working ranch, consistent with paragraphs (2) through (4);

(2) the protection and preservation of the scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural and recreational values of the Preserve;

(3) multiple use and sustained yield of renewable resources within the Preserve;

(4) public use of and access to the Preserve for recreation;

(5) renewable resource utilization and management alternatives that, to the extent practicable—

(A) benefit local communities and small businesses;

(B) enhance coordination of management objectives with those on surrounding National Forest System land; and

(C) provide cost savings to the Trust through the exchange of services, including but not limited to labor and maintenance of facilities, for resources or services provided by the Trust; and

(6) optimizing the generation of income based on existing market conditions, to the extent that it does not unreasonably diminish the long-term scenic and natural values of the area, or the multiple use and sustained yield capability of the land.

(e) Public use and recreation

(1) In general

The Trust shall give thorough consideration to the provision of appropriate opportunities for public use and recreation that are consistent with the other purposes under section 698v–3(b) of this title. The Trust is expressly authorized to construct and upgrade roads and bridges, and provide other facilities for activities including, but not limited to camping and picnicking, hiking, and cross country skiing. Roads, trails, bridges, and recreational facilities constructed within the Preserve shall meet public safety standards applicable to units of the National Forest System and the State of New Mexico.

(2) Fees

Notwithstanding any other provision of law, the Trust is authorized to assess reasonable fees for admission to, and the use and occupancy of, the Preserve: *Provided*, That admission fees and any fees assessed for recreational activities shall be implemented only after public notice and a period of not less than 60 days for public comment.

(3) Public access

Upon the acquisition of the Baca ranch under section 698v–2(a) of this title, and after an interim planning period of no more than two years, the public shall have reasonable access to the Preserve for recreation purposes. The Secretary, prior to assumption of management of the Preserve by the Trust, and the Trust thereafter, may reasonably limit the number and types of recreational admissions to the Preserve, or any part thereof, based on the capability of the land, resources, and facilities. The use of reservation or lottery systems is expressly authorized to implement this paragraph.

(f) Applicable laws

(1) In general

The Trust, and the Secretary in accordance with section 698v–7(b) of this title, shall administer the Preserve in conformity with sections 698v to 698v–10 of this title and all laws pertaining to the National Forest System, except the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1600 et seq.).

(2) Environmental laws

The Trust shall be deemed a Federal agency for the purposes of compliance with Federal environmental laws.

(3) Criminal laws

All criminal laws relating to Federal property shall apply to the same extent as on adjacent units of the National Forest System.

(4) Reports on applicable rules and regulations

The Trust may submit to the Secretary and the Committees of Congress a compilation of applicable rules and regulations which in the view of the Trust are inappropriate, incompatible with sections 698v to 698v–10 of this title, or unduly burdensome.

(5) Consultation with tribes and Pueblos

The Trust is authorized and directed to cooperate and consult with Indian tribes and Pueblos on management policies and practices for the Preserve which may affect them. The Trust is authorized to allow the use of lands within the Preserve for religious and cultural uses by Native Americans and, in so doing, may set aside places and times of exclusive use consistent with the American Indian Religious Freedom Act [42 U.S.C. 1996, 1996a] and other applicable statutes.

(6) No administrative appeal

The administrative appeals regulations of the Secretary shall not apply to activities of the Trust and decisions of the Board.

(g) Law enforcement and fire management

(1) Law enforcement

(A) In general

The Secretary shall provide law enforcement services under a cooperative agreement with the Trust to the extent generally authorized in other units of the National Forest System.

(B) Federal agency

The Trust shall be deemed a Federal agency for purposes of the law enforcement authorities of the Secretary (within the meaning of section 559g of this title).

(2) [1] Fire management

(A) Non-reimbursable services

(i) Development of plan

The Secretary shall, in consultation with the Trust, develop a plan to carry out fire preparedness, suppression, and emergency rehabilitation services on the Preserve.

(ii) Consistency with management program

The plan shall be consistent with the management program developed pursuant to subsection (d) of this section.

(iii) Cooperative agreement

To the extent generally authorized at other units of the National Forest System, the Secretary shall provide the services to be carried out pursuant to the plan under a cooperative agreement entered into between the Secretary and the Trust.

(B) Reimbursable services

To the extent generally authorized at other units of the National Forest System, the Secretary may provide presuppression and nonemergency rehabilitation and restoration services for the Trust at any time on a reimbursable basis.

(2) [1] Fire management

(A) Non-reimbursable services

(i) Development of plan

Subject to the availability of appropriations under section 698v–9(a) of this title, the Secretary shall, in consultation with the Trust, develop a plan to carry out fire preparedness, suppression, and emergency rehabilitation services on the Preserve.

(ii) Consistency with management program

The plan shall be consistent with the management program developed pursuant to subsection (d) of this section.

(iii) Cooperative agreement

To the extent generally authorized at other units of the National Forest System, the Secretary shall provide the services to be carried out pursuant to the plan under a cooperative agreement entered into between the Secretary and the Trust.

(B) Reimbursable services

To the extent generally authorized at other units of the National Forest System

[1] So in original. Two pars. (2) have been enacted.

and subject to the availability of appropriations under section 698v–9(a) of this title, the Secretary shall provide presuppression and nonemergency rehabilitation and restoration services for the Trust at any time on a reimbursable basis.

(Pub. L. 106–248, title I, §108, July 25, 2000, 114 Stat. 607; Pub. L. 109–54, title IV, §432(a), Aug. 2, 2005, 119 Stat. 556; Pub. L. 109–132, §4, Dec. 20, 2005, 119 Stat. 2571.)

REFERENCES IN TEXT

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (f)(1), is Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

The American Indian Religious Freedom Act, referred to in subsec. (f)(5), is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, as amended, which is classified to sections 1996 and 1996a of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1996 of Title 42 and Tables.

CODIFICATION

''Section 1302 of title 40'' substituted in subsec. (c)(1) for ''section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

2005—Subsec. (c)(3). Pub. L. 109–132, §4(a), designated existing provisions as subpars. (A) to (C), inserted subpar. headings, in subpar. (C), substituted ''The easement'' for ''Any such easement'', and added subpar. (D).

Subsec. (g). Pub. L. 109–54, §432(a)(3), and Pub. L. 109–132, §4(b)(3), which both directed amendment of subsec. (g) by substituting slightly different pars. (2) for ''At the request of the Trust, the Secretary may provide fire presuppression, fire suppression, and rehabilitation services: *Provided*, That the Trust shall reimburse the Secretary for salaries and expenses of fire management personnel, commensurate with services provided.'' at end, were executed by adding the par. (2) from Pub. L. 109–132 first and the par. (2) from Pub. L. 109–54 second.

Pub. L. 109–54, §432(a)(1), (2), and Pub. L. 109–132, §4(b)(1), (2), amended subsec. (g) identically inserting par. (1) designation and heading at beginning of subsec., subpar. (A) designation and heading at beginning of first sentence, and subpar. (B) designation and heading at beginning of second sentence.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–54, title IV, §432(b), Aug. 2, 2005, 119 Stat. 557, provided that: ''The amendments made by subsection (a) [amending this section] take effect as of January 1, 2005.''

§ 698v–7. Authorities of the Secretary

(a) In general

Notwithstanding the assumption of management of the Preserve by the Trust, the Secretary is authorized to—

(1) issue any rights-of-way, as defined in the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701 et seq.], of over 10 years duration, in cooperation with the Trust, including, but not limited to, road and utility rights-of-way, and communication sites;

(2) issue orders under and enforce prohibitions generally applicable on other units of the National Forest System, in cooperation with the Trust;

(3) exercise the authorities of the Secretary under the Wild and Scenic Rivers Act (16 U.S.C. 1278, et seq.) and the Federal Power Act (16 U.S.C. 797, et seq.), in cooperation with the Trust;

(4) acquire the mineral rights referred to in section 698v–2(e) of this title;

(5) provide law enforcement and fire management services under section 698v–6(g) of this title;

(6) at the request of the Trust, exchange land or interests in land within the Preserve under laws generally applicable to other units of the National Forest System, or otherwise dispose of land or interests in land within the Preserve under sections 521c through 521i of this title;

(7) in consultation with the Trust, refer civil and criminal cases pertaining to the Preserve to the Department of Justice for prosecution;

(8) retain title to and control over fossils and archaeological artifacts found within the Preserve;

(9) at the request of the Trust, construct and operate a visitors' center in or near the Preserve, subject to the availability of appropriated funds;

(10) conduct the assessment of the Trust's performance, and, if the Secretary determines it necessary, recommend to Congress the termination of the Trust, under section 698v–8(b)(2) of this title; and

(11) conduct such other activities for which express authorization is provided to the Secretary by sections 698v to 698v–10 of this title.

(b) Interim management

(1) In general

The Secretary shall manage the Preserve in accordance with sections 698v to 698v–10 of this title during the interim period from the date of acquisition of the Baca ranch under section 698v–2(a) of this title to the date of assumption of management of the Preserve by the Trust under section 698v–6 of this title. The Secretary may enter into any agreement, lease, contract, or other arrangement on the same basis as the Trust under section 698v–6(c)(1) of this title: *Provided*, That any agreement, lease, contract, or other arrangement entered into by the Secretary shall not exceed two years in duration unless expressly extended by the Trust upon its assumption of management of the Preserve.

(2) Use of the fund

All monies received by the Secretary from the management of the Preserve during the interim period under paragraph (1) shall be deposited into the ''Valles Caldera Fund'' established under section 698v–4(h)(2) of this title, and such monies in the fund shall be available to the Secretary, without further appropriation, for the purpose of managing the Preserve in accordance with the responsibilities and authorities provided to the Trust under section 698v–6 of this title.

(c) Secretarial authority

The Secretary retains the authority to suspend any decision of the Board with respect to

the management of the Preserve if he finds that the decision is clearly inconsistent with sections 698v to 698v–10 of this title. Such authority shall only be exercised personally by the Secretary, and may not be delegated. Any exercise of this authority shall be in writing to the Board, and notification of the decision shall be given to the Committees of Congress. Any suspended decision shall be referred back to the Board for reconsideration.

(d) Access

The Secretary shall at all times have access to the Preserve for administrative purposes.

(Pub. L. 106–248, title I, §109, July 25, 2000, 114 Stat. 610.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (a)(1), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

The Wild and Scenic Rivers Act, referred to in subsec. (a)(3), is Pub. L. 90–542, Oct. 2, 1968, 82 Stat. 906, as amended, which is classified generally to chapter 28 (§1271 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1271 of this title and Tables.

The Federal Power Act, referred to in subsec. (a)(3), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

§ 698v–8. Termination of the Trust

(a) In general

The Valles Caldera Trust shall terminate at the end of the twentieth full fiscal year following acquisition of the Baca ranch under section 698v–2(a) of this title.

(b) Recommendations

(1) Board

(A) If after the fourteenth full fiscal years[1] from the date of acquisition of the Baca ranch under section 698v–2(a) of this title, the Board believes the Trust has met the goals and objectives of the comprehensive management program under section 698v–6(d) of this title, but has not become financially self-sustaining, the Board may submit to the Committees of Congress, a recommendation for authorization of appropriations beyond that provided under sections 698v to 698v–10 of this title.

(B) During the eighteenth full fiscal year from the date of acquisition of the Baca ranch under section 698v–2(a) of this title, the Board shall submit to the Secretary its recommendation that the Trust be either extended or terminated including the reasons for such recommendation.

(2) Secretary

Within 120 days after receipt of the recommendation of the Board under paragraph (1)(B), the Secretary shall submit to the Committees of Congress the Board's recommendation on extension or termination along with the recommendation of the Secretary with respect to the same and stating the reasons for such recommendation.

(c) Effect of termination

In the event of termination of the Trust, the Secretary shall assume all management and administrative functions over the Preserve, and it shall thereafter be managed as a part of the Santa Fe National Forest, subject to all laws applicable to the National Forest System.

(d) Assets

In the event of termination of the Trust, all assets of the Trust shall be used to satisfy any outstanding liabilities, and any funds remaining shall be transferred to the Secretary for use, without further appropriation, for the management of the Preserve.

(e) Valles Caldera Fund

In the event of termination, the Secretary shall assume the powers of the Trust over funds under section 698v–4(h) of this title, and the Valles Caldera Fund shall not terminate. Any balances remaining in the fund shall be available to the Secretary, without further appropriation, for any purpose consistent with the purposes of sections 698v to 698v–10 of this title.

(Pub. L. 106–248, title I, §110, July 25, 2000, 114 Stat. 611.)

§ 698v–9. Limitations on funding

(a) Authorization of appropriations

There is hereby authorized to be appropriated to the Secretary and the Trust such funds as are necessary for them to carry out the purposes of sections 698v to 698v–10 of this title for each of the 15 full fiscal years after the date of acquisition of the Baca ranch under section 698v–2(a) of this title.

(b) Schedule of appropriations

Within two years after the first meeting of the Board, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing appropriated funds that will achieve, at a minimum, the financially self-sustained operation of the Trust within 15 full fiscal years after the date of acquisition of the Baca ranch under section 698v–2(a) of this title.

(Pub. L. 106–248, title I, §111, July 25, 2000, 114 Stat. 612.)

§ 698v–10. Government Accountability Office study

(a) Initial study

Three years after the assumption of management by the Trust, the Government Accountability Office shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committees of Congress. The study shall include, but shall not be limited to, details of programs and activities operated by the Trust and whether it met its obligations under sections 698v to 698v–10 of this title.

(b) Second study

Seven years after the assumption of management by the Trust, the Government Account-

[1] So in original. Probably should be ''year''.

ability Office shall conduct a study of the activities of the Trust and shall report the results of the study to the Committees of Congress. The study shall provide an assessment of any failure to meet obligations that may be identified under subsection (a) of this section, and further evaluation on the ability of the Trust to meet its obligations under sections 698v to 698v–10 of this title.

(Pub. L. 106–248, title I, §112, July 25, 2000, 114 Stat. 612; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in section catchline and two places in text.

§ 698w. Special management requirements for Federal lands recently added to Craters of the Moon National Monument, Idaho

(a) Redesignation

The approximately 410,000 acres of land added to the Craters of the Moon National Monument by Presidential Proclamation 7373 of November 9, 2000, and identified on the map accompanying the Proclamation for administration by the National Park Service, shall, on and after August 21, 2002, be known as the ''Craters of the Moon National Preserve''.

(b) Administration

(1) In general

Except as provided by paragraph (2), the Craters of the Moon National Preserve shall be administered in accordance with—

(A) Presidential Proclamation 7373 of November 9, 2000;

(B) the Act of June 8, 1906, (commonly referred to as the ''Antiquities Act''; 34 Stat. 225; 16 U.S.C. 431); and

(C) the laws generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title.

(2) Hunting

The Secretary of the Interior shall permit hunting on lands within the Craters of the Moon National Preserve in accordance with the applicable laws of the United States and the State of Idaho. The Secretary, in consultation with the State of Idaho, may designate zones where, and establish periods when, no hunting may be permitted for reasons of public safety, protection of the area's resources, administration, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting shall be put into effect only after consultation with the State of Idaho.

(Pub. L. 107–213, §1, Aug. 21, 2002, 116 Stat. 1052.)

REFERENCES IN TEXT

Presidential Proclamation 7373, referred to in subsecs. (a) and (b)(1)(A), appears in the item for Craters of the Moon National Monument, Idaho, in the table under the heading ''National Monuments Established Under Presidential Proclamation'', set out as a note under section 431 of this title.

Act of June 8, 1906, referred to in subsec. (b)(1)(B), is act June 8, 1906, ch. 3060, 34 Stat. 225, known as the Antiquities Act of 1906, which is classified generally to sections 431, 432, and 433 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 431 of this title and Tables.

CODIFICATION

Section is comprised of section 1 of Pub. L. 107–213. Section 1 also enacted provisions listed in a table of National Monuments Established Under Presidential Proclamation set out under section 431 of this title.

CHAPTER 7—PROTECTION OF MIGRATORY GAME AND INSECTIVOROUS BIRDS

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SUBCHAPTER I—GENERALLY

§ 701. Game and wild birds; preservation

The duties and powers of the Department of the Interior include the preservation, distribution, introduction, and restoration of game birds and other wild birds. The Secretary of the Interior is authorized to adopt such measures as may be necessary to carry out the purposes of this Act, and to purchase such game birds and other wild birds as may be required therefor, subject, however, to the laws of the various States and Territories. The object and purpose of this Act is to aid in the restoration of such birds in those parts of the United States adapted thereto where the same have become scarce or extinct, and also to regulate the introduction of American or foreign birds or animals in localities where they have not heretofore existed.

The Secretary of the Interior shall from time to time collect and publish useful information as to the propagation, uses, and preservation of such birds.

And the Secretary of the Interior shall make and publish all needful rules and regulations for carrying out the purposes of this Act, and shall expend for said purposes such sums as Congress may appropriate therefor.

(May 25, 1900, ch. 553, § 1, 31 Stat. 187; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

References in Text

This Act, referred to in text, is act May 25, 1900, section 1 of which is classified to this section. Sections 2 to 4 of the Act were repealed and restated by sections 241 to 244 of the Criminal Code of 1909 (approved Mar. 4, 1909, ch. 321) which were classified to sections 391 to 394 of former Title 18. Such sections were subsequently repealed and reenacted as sections 42 to 44 of Title 18, Crimes and Criminal Procedure. Section 5 of the Act which was classified to section 667e of this title was repealed by Pub. L. 97–79, § 9(b)(2), Nov. 16, 1981, 95 Stat. 1079.

Transfer of Functions

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior.

Ex. Ord. No. 13186. Responsibilities of Federal Agencies To Protect Migratory Birds

Ex. Ord. No. 13186, Jan. 10, 2001, 66 F.R. 3853, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in furtherance of the purposes of the migratory bird conventions, the Migratory Bird Treaty Act (16 U.S.C. 703–711), the Bald and Golden Eagle Protection Acts (16 U.S.C. 668–668d), the Fish and Wildlife Coordination Act (16 U.S.C. 661–666c), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), and other pertinent statutes, it is hereby ordered as follows:

SECTION 1. *Policy*. Migratory birds are of great ecological and economic value to this country and to other countries. They contribute to biological diversity and bring tremendous enjoyment to millions of Americans who study, watch, feed, or hunt these birds throughout the United States and other countries. The United States has recognized the critical importance of this shared resource by ratifying international, bilateral conventions for the conservation of migratory birds. Such conventions include the Convention for the Protection of Migratory Birds with Great Britain on behalf of Canada 1916, the Convention for the Protection of Migratory Birds and Game Mammals-Mexico 1936, the Convention for the Protection of Birds and Their Environment-Japan 1972, and the Convention for the Conservation of Migratory Birds and Their Environment-Union of Soviet Socialist Republics 1978.

These migratory bird conventions impose substantive obligations on the United States for the conservation of migratory birds and their habitats, and through the Migratory Bird Treaty Act (Act), the United States has implemented these migratory bird conventions with respect to the United States. This Executive Order directs executive departments and agencies to take certain actions to further implement the Act.

SEC. 2. *Definitions*. For purposes of this order:

(a) ''Take'' means take as defined in 50 C.F.R. 10.12, and includes both ''intentional'' and ''unintentional'' take.

(b) ''Intentional take'' means take that is the purpose of the activity in question.

(c) ''Unintentional take'' means take that results from, but is not the purpose of, the activity in question.

(d) ''Migratory bird'' means any bird listed in 50 C.F.R. 10.13.

(e) ''Migratory bird resources'' means migratory birds and the habitats upon which they depend.

(f) ''Migratory bird convention'' means, collectively, the bilateral conventions (with Great Britain/Canada, Mexico, Japan, and Russia) for the conservation of migratory bird resources.

(g) ''Federal agency'' means an executive department or agency, but does not include independent establishments as defined by 5 U.S.C. 104.

(h) ''Action'' means a program, activity, project, official policy (such as a rule or regulation), or formal plan directly carried out by a Federal agency. Each Federal agency will further define what the term ''action'' means with respect to its own authorities and what programs should be included in the agency-specific Memoranda of Understanding required by this order. Actions delegated to or assumed by nonfederal entities, or carried out by nonfederal entities with Federal assistance, are not subject to this order. Such actions, however, continue to be subject to the Migratory Bird Treaty Act.

(i) ''Species of concern'' refers to those species listed in the periodic report ''Migratory Nongame Birds of

Management Concern in the United States,'' priority migratory bird species as documented by established plans (such as Bird Conservation Regions in the North American Bird Conservation Initiative or Partners in Flight physiographic areas), and those species listed in 50 C.F.R. 17.11.

SEC. 3. *Federal Agency Responsibilities.* (a) Each Federal agency taking actions that have, or are likely to have, a measurable negative effect on migratory bird populations is directed to develop and implement, within 2 years, a Memorandum of Understanding (MOU) with the Fish and Wildlife Service (Service) that shall promote the conservation of migratory bird populations.

(b) In coordination with affected Federal agencies, the Service shall develop a schedule for completion of the MOUs within 180 days of the date of this order. The schedule shall give priority to completing the MOUs with agencies having the most substantive impacts on migratory birds.

(c) Each MOU shall establish protocols for implementation of the MOU and for reporting accomplishments. These protocols may be incorporated into existing actions; however, the MOU shall recognize that the agency may not be able to implement some elements of the MOU until such time as the agency has successfully included them in each agency's formal planning processes (such as revision of agency land management plans, land use compatibility guidelines, integrated resource management plans, and fishery management plans), including public participation and NEPA analysis, as appropriate. This order and the MOUs to be developed by the agencies are intended to be implemented when new actions or renewal of contracts, permits, delegations, or other third party agreements are initiated as well as during the initiation of new, or revisions to, land management plans.

(d) Each MOU shall include an elevation process to resolve any dispute between the signatory agencies regarding a particular practice or activity.

(e) Pursuant to its MOU, each agency shall, to the extent permitted by law and subject to the availability of appropriations and within Administration budgetary limits, and in harmony with agency missions:

(1) support the conservation intent of the migratory bird conventions by integrating bird conservation principles, measures, and practices into agency activities and by avoiding or minimizing, to the extent practicable, adverse impacts on migratory bird resources when conducting agency actions;

(2) restore and enhance the habitat of migratory birds, as practicable;

(3) prevent or abate the pollution or detrimental alteration of the environment for the benefit of migratory birds, as practicable;

(4) design migratory bird habitat and population conservation principles, measures, and practices, into agency plans and planning processes (natural resource, land management, and environmental quality planning, including, but not limited to, forest and rangeland planning, coastal management planning, watershed planning, etc.) as practicable, and coordinate with other agencies and nonfederal partners in planning efforts;

(5) within established authorities and in conjunction with the adoption, amendment, or revision of agency management plans and guidance, ensure that agency plans and actions promote programs and recommendations of comprehensive migratory bird planning efforts such as Partners-in-Flight, U.S. National Shorebird Plan, North American Waterfowl Management Plan, North American Colonial Waterbird Plan, and other planning efforts, as well as guidance from other sources, including the Food and Agricultural Organization's International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries;

(6) ensure that environmental analyses of Federal actions required by the NEPA or other established environmental review processes evaluate the effects of actions and agency plans on migratory birds, with emphasis on species of concern;

(7) provide notice to the Service in advance of conducting an action that is intended to take migratory birds, or annually report to the Service on the number of individuals of each species of migratory birds intentionally taken during the conduct of any agency action, including but not limited to banding or marking, scientific collecting, taxidermy, and depredation control;

(8) minimize the intentional take of species of concern by: (i) delineating standards and procedures for such take; and (ii) developing procedures for the review and evaluation of take actions. With respect to intentional take, the MOU shall be consistent with the appropriate sections of 50 C.F.R. parts 10, 21, and 22;

(9) identify where unintentional take reasonably attributable to agency actions is having, or is likely to have, a measurable negative effect on migratory bird populations, focusing first on species of concern, priority habitats, and key risk factors. With respect to those actions so identified, the agency shall develop and use principles, standards, and practices that will lessen the amount of unintentional take, developing any such conservation efforts in cooperation with the Service. These principles, standards, and practices shall be regularly evaluated and revised to ensure that they are effective in lessening the detrimental effect of agency actions on migratory bird populations. The agency also shall inventory and monitor bird habitat and populations within the agency's capabilities and authorities to the extent feasible to facilitate decisions about the need for, and effectiveness of, conservation efforts;

(10) within the scope of its statutorily-designated authorities, control the import, export, and establishment in the wild of live exotic animals and plants that may be harmful to migratory bird resources;

(11) promote research and information exchange related to the conservation of migratory bird resources, including coordinated inventorying and monitoring and the collection and assessment of information on environmental contaminants and other physical or biological stressors having potential relevance to migratory bird conservation. Where such information is collected in the course of agency actions or supported through Federal financial assistance, reasonable efforts shall be made to share such information with the Service, the Biological Resources Division of the U.S. Geological Survey, and other appropriate repositories of such data (e.g, the Cornell Laboratory of Ornithology);

(12) provide training and information to appropriate employees on methods and means of avoiding or minimizing the take of migratory birds and conserving and restoring migratory bird habitat;

(13) promote migratory bird conservation in international activities and with other countries and international partners, in consultation with the Department of State, as appropriate or relevant to the agency's authorities;

(14) recognize and promote economic and recreational values of birds, as appropriate; and

(15) develop partnerships with non-Federal entities to further bird conservation.

(f) Notwithstanding the requirement to finalize an MOU within 2 years, each agency is encouraged to immediately begin implementing the conservation measures set forth above in subparagraphs (1) through (15) of this section, as appropriate and practicable.

(g) Each agency shall advise the public of the availability of its MOU through a notice published in the Federal Register.

SEC. 4. *Council for the Conservation of Migratory Birds.* (a) The Secretary of Interior shall establish an interagency Council for the Conservation of Migratory Birds (Council) to oversee the implementation of this order. The Council's duties shall include the following: (1) sharing the latest resource information to assist in the conservation and management of migratory birds; (2) developing an annual report of accomplishments and recommendations related to this order; (3) fostering partnerships to further the goals of this order; and (4)

selecting an annual recipient of a Presidential Migratory Bird Federal Stewardship Award for contributions to the protection of migratory birds.

(b) The Council shall include representation, at the bureau director/administrator level, from the Departments of the Interior, State, Commerce, Agriculture, Transportation, Energy, Defense, and the Environmental Protection Agency and from such other agencies as appropriate.

SEC. 5. *Application and Judicial Review*. (a) This order and the MOU to be developed by the agencies do not require changes to current contracts, permits, or other third party agreements.

(b) This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, separately enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

§ 702. Importation of eggs of game birds for propagation

The Secretary of the Interior shall have the power to authorize the importation of eggs of game birds for purposes of propagation, and he shall prescribe all necessary rules and regulations governing the importation of eggs of said birds for such purposes.

(June 3, 1902, ch. 983, 32 Stat. 285; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 701 of this title.

SUBCHAPTER II—MIGRATORY BIRD TREATY

§ 703. Taking, killing, or possessing migratory birds unlawful

(a) In general

Unless and except as permitted by regulations made as hereinafter provided in this subchapter, it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported, or imported, deliver for transportation, transport or cause to be transported, carry or cause to be carried, or receive for shipment, transportation, carriage, or export, any migratory bird, any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or part, of any such bird or any part, nest, or egg thereof, included in the terms of the conventions between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916 (39 Stat. 1702), the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment concluded March 4, 1972, and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environments concluded November 19, 1976.

(b) Limitation on application to introduced species

(1) In general

This subchapter applies only to migratory bird species that are native to the United States or its territories.

(2) Native to the United States defined

(A) In general

Subject to subparagraph (B), in this subsection the term ''native to the United States or its territories'' means occurring in the United States or its territories as the result of natural biological or ecological processes.

(B) Treatment of introduced species

For purposes of paragraph (1), a migratory bird species that occurs in the United States or its territories solely as a result of intentional or unintentional human-assisted introduction shall not be considered native to the United States or its territories unless—

(i) it was native to the United States or its territories and extant in 1918;

(ii) it was extirpated after 1918 throughout its range in the United States and its territories; and

(iii) after such extirpation, it was reintroduced in the United States or its territories as a part of a program carried out by a Federal agency.

(July 3, 1918, ch. 128, § 2, 40 Stat. 755; June 20, 1936, ch. 634, § 3, 49 Stat. 1556; Pub. L. 93–300, § 1, June 1, 1974, 88 Stat. 190; Pub. L. 101–233, § 15, Dec. 13, 1989, 103 Stat. 1977; Pub. L. 108–447, div. E, title I, § 143(b), Dec. 8, 2004, 118 Stat. 3071.)

AMENDMENTS

2004—Pub. L. 108–447 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1989—Pub. L. 101–233 struck out ''and'' after ''1936,'' and inserted before period at end ''and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environments concluded November 19, 1976''.

1974—Pub. L. 93–300 substituted '', any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or part, of any such bird or any part, nest, or egg thereof'' for '', or any part, nest, or egg of any such birds'', and '', and the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment concluded March 4, 1972.'' for period at end.

1936—Act June 20, 1936, amended section generally. Prior to amendment, text read as follows: ''Unless and except as permitted by regulations made as hereinafter provided, it shall be unlawful to hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry or cause to be carried by any means whatever, receive for shipment, transportation or carriage, or export, at any time or in any manner, any migratory bird, included in the terms of the convention between the United States and Great Britain for the protection of migratory birds

concluded August sixteenth, nineteen hundred and sixteen, or any part, nest, or egg of any such bird.''

EFFECTIVE DATE OF 1974 AMENDMENT

Section 3 of Pub. L. 93–300 provided that: ''The amendments made by this Act [amending this section] shall take effect on the date on which the President proclaims the exchange of ratifications of the convention between the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment, concluded March 4, 1972, or on the date of the enactment of this Act [June 1, 1974], whichever date is later.''

EFFECTIVE DATE OF 1936 AMENDMENT

Act June 20, 1936, ch. 634, §3, 49 Stat. 1556, provided in part that the amendment by section 3 is effective as of the day aforesaid, meaning the day on which the President shall proclaim the exchange of ratifications of the convention between the United States and the United Mexican States for the protection of migratory birds and game mammals concluded Feb. 7, 1936, or on June 20, 1936, whichever date is later. Such proclamation was made on June 30, 1937. See section 1 of act June 20, 1936, ch. 634, 49 Stat. 1555.

PUBLICATION OF LIST

Pub. L. 108–447, div. E, title I, §143(c), Dec. 8, 2004, 118 Stat. 3072, provided that:

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section [Dec. 8, 2004], the Secretary of the Interior shall publish in the Federal Register a list of all nonnative, human-introduced bird species to which the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) does not apply. As necessary, the Secretary may update and publish the list of species exempted from protection of the Migratory Bird Treaty Act.

''(2) PUBLIC COMMENT.—Before publishing the list under paragraph (1), the Secretary shall provide adequate time for public comment.

''(3) EFFECT OF SECTION.—Nothing in this subsection shall delay implementation of other provisions of this section [amending this section and enacting provisions set out as notes under this section and section 710 of this title] or amendments made by this section that exclude nonnative, human-introduced bird species from the application of the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.).''

RELATIONSHIP OF PUB. L. 108–447 TO TREATIES

Pub. L. 108–447, div. E, title I, §143(d), Dec. 8, 2004, 118 Stat. 3072, provided that: ''It is the sense of Congress that the language of this section [amending this section and enacting provisions set out as notes under this section and section 710 of this title] is consistent with the intent and language of the 4 bilateral treaties implemented by this section.''

INCIDENTAL TAKING OF MIGRATORY BIRDS DURING MILITARY READINESS ACTIVITIES

Pub. L. 107–314, div. A, title III, §315, Dec. 2, 2002, 116 Stat. 2509, provided that:

''(a) INTERIM AUTHORITY FOR INCIDENTAL TAKINGS.—During the period described in subsection (c), section 2 of the Migratory Bird Treaty Act (16 U.S.C. 703) shall not apply to the incidental taking of a migratory bird by a member of the Armed Forces during a military readiness activity authorized by the Secretary of Defense or the Secretary of the military department concerned.

''(b) IDENTIFICATION OF MEASURES TO MINIMIZE IMPACT OF ACTIVITIES.—During the periods described in subsections (c) and (d), the Secretary of Defense shall, in consultation with the Secretary of the Interior, identify measures—

''(1) to minimize and mitigate, to the extent practicable, any adverse impacts of authorized military readiness activities on affected species of migratory birds; and

''(2) to monitor the impacts of such military readiness activities on affected species of migratory birds.

''(c) PERIOD OF APPLICATION FOR INTERIM AUTHORITY.—The period described in this subsection is the period beginning on the date of the enactment of this Act [Dec. 2, 2002] and ending on the date on which the Secretary of the Interior publishes in the Federal Register a notice that—

''(1) regulations authorizing the incidental taking of migratory birds by members of the Armed Forces have been prescribed in accordance with the requirements of subsection (d);

''(2) all legal challenges to the regulations and to the manner of their promulgation (if any) have been exhausted as provided in subsection (e); and

''(3) the regulations have taken effect.

''(d) INCIDENTAL TAKINGS AFTER INTERIM PERIOD.—(1) Not later than the expiration of the one-year period beginning on the date of the enactment of this Act, the Secretary of the Interior shall exercise the authority of that Secretary under section 3(a) of the Migratory Bird Treaty Act (16 U.S.C. 704(a)) to prescribe regulations to exempt the Armed Forces for the incidental taking of migratory birds during military readiness activities authorized by the Secretary of Defense or the Secretary of the military department concerned.

''(2) The Secretary of the Interior shall exercise authority under paragraph (1) with the concurrence of the Secretary of Defense.

''(e) LIMITATION ON JUDICIAL REVIEW.—An action seeking judicial review of regulations prescribed pursuant to this section or of the manner of their promulgation must be filed in the appropriate Federal court by not later than the expiration of the 120-day period beginning on the date on which such regulations are published in the Federal Register. Upon the expiration of such period and the exhaustion of any legal challenges to the regulations pursuant to any action filed in such period, there shall be no further judicial review of such regulations or of the manner of their promulgation.

''(f) MILITARY READINESS ACTIVITY.—(1) In this section the term 'military readiness activity' includes—

''(A) all training and operations of the Armed Forces that relate to combat; and

''(B) the adequate and realistic testing of military equipment, vehicles, weapons, and sensors for proper operation and suitability for combat use.

''(2) The term does not include—

''(A) the routine operation of installation operating support functions, such as administrative offices, military exchanges, commissaries, water treatment facilities, storage facilities, schools, housing, motor pools, laundries, morale, welfare, and recreation activities, shops, and mess halls;

''(B) the operation of industrial activities; or

''(C) the construction or demolition of facilities used for a purpose described in subparagraph (A) or (B).''

ARCTIC TUNDRA HABITAT EMERGENCY CONSERVATION

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

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Arctic Tundra Habitat Emergency Conservation Act'.

''SEC. 2. FINDINGS AND PURPOSES.

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

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

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

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

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

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

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

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

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

''(A) Canada Goose.

''(B) American Wigeon.

''(C) Dowitcher.

''(D) Hudsonian Godwit.

''(E) Stilt Sandpiper.

''(F) Northern Shoveler.

''(G) Red-Breasted Merganser.

''(H) Oldsquaw.

''(I) Parasitic Jaeger.

''(J) Whimbrel.

''(K) Yellow Rail.

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

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

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

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

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

''(a) FORCE AND EFFECT.—

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

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

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

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

''(2) ends on the latest of—

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

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

''(C) May 15, 2001.

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

''SEC. 4. COMPREHENSIVE MANAGEMENT PLAN.

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

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

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

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

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

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

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

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

''SEC. 5. DEFINITIONS.

''In this Act:

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

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(3) SERVICE.—The term 'Service' means the United States Fish and Wildlife Service.''

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

(a) Subject to the provisions and in order to carry out the purposes of the conventions, referred to in section 703 of this title, the Secretary of the Interior is authorized and directed, from time to time, having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of such birds, to determine when, to what extent, if at all, and by what means, it is compatible with the terms of the conventions to allow hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any such bird, or any part, nest, or egg thereof, and to adopt suitable regulations permitting and governing the same, in accordance with such determinations, which regulations shall become effective when approved by the President.

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

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

(2) place or direct the placement of bait on or adjacent to an area for the purpose of causing, inducing, or allowing any person to take

or attempt to take any migratory game bird by the aid of baiting on or over the baited area.

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

AMENDMENTS

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

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

EFFECTIVE DATE OF 1936 AMENDMENT

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

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan, No. II of 1939, see Transfer of Functions note set out under section 701 of this title.

DELEGATION OF FUNCTIONS

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

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

REPORT ON EFFECTS OF 1998 AMENDMENTS

Pub. L. 105–312, title I, §104, Oct. 30, 1998, 112 Stat. 2956, provided that: ''Not later than 5 years after the date of enactment of this Act [Oct. 30, 1998], the Secretary of the Interior shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives a report analyzing the effect of the amendments made by section 2 [probably should be section 102, which amended this section], and the general practice of baiting, on migratory bird conservation and law enforcement efforts under the Migratory Bird Treaty Act (16 U.S.C. 701 et seq.) [16 U.S.C. 703 et seq.].''

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

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

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

AMENDMENTS

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

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

EFFECTIVE DATE OF 1969 AMENDMENT

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

EFFECTIVE DATE OF 1936 AMENDMENT

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

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 701 of this title.

§ 706. Arrests; search warrants

Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of this subchapter shall have power, without warrant, to arrest any person committing a violation of this subchapter in his presence or view and to take such person immediately for examination or trial before an officer or court of competent jurisdiction; shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this subchapter; and shall have authority, with a search warrant, to search any place. The several judges of the courts established under the laws of the United States, and United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. All birds, or parts, nests, or eggs thereof, captured, killed, taken, sold or offered for sale, bartered or offered for barter, purchased, shipped, transported, carried, imported, exported, or possessed contrary to the provisions of this subchapter or of any regulation prescribed thereunder shall, when found, be seized and, upon conviction of the offender or upon judgment of a court of the United States that the same were captured, killed, taken, sold or offered for sale, bartered or offered for barter, purchased, shipped, transported, carried, imported, exported, or possessed contrary to the provisions of this subchapter or of any regulation prescribed thereunder, shall be forfeited to the United States and disposed of by the Secretary of the Interior in such manner as he deems appropriate.

(July 3, 1918, ch. 128, §5, 40 Stat. 756; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 90–578, title IV, §402(b)(2), Oct.

17, 1968, 82 Stat. 1118; Pub. L. 95–616, § 3(h)(1), Nov. 8, 1978, 92 Stat. 3111; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

AMENDMENTS

1978—Pub. L. 95–616 made provisions respecting seizures and judgment of court applicable to birds, or parts, nests, or eggs sold or offered for sale, bartered or offered for barter, purchased, imported and exported and substituted ''any regulation prescribed thereunder'' in two places for ''any regulations made pursuant thereto'' and ''any regulation made pursuant thereto'' and provision for disposition of the birds, etc., by Secretary of the Interior in such manner as he deems appropriate for prior provision for such disposition as directed by court having jurisdiction.

CHANGE OF NAME

''United States magistrate judges'' substituted for ''United States magistrates'' in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''United States magistrates'' substituted in text for ''United States commissioners'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with protection of certain birds under this subchapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 701 of this title.

§ 707. Violations and penalties; forfeitures

(a) Except as otherwise provided in this section, any person, association, partnership, or corporation who shall violate any provisions of said conventions or of this subchapter, or who shall violate or fail to comply with any regulation made pursuant to this subchapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $15,000 or be imprisoned not more than six months, or both.

(b) Whoever, in violation of this subchapter, shall knowingly—

(1) take by any manner whatsoever any migratory bird with intent to sell, offer to sell, barter or offer to barter such bird, or

(2) sell, offer for sale, barter or offer to barter, any migratory bird shall be guilty of a felony and shall be fined not more than $2,000 or imprisoned not more than two years, or both.

(c) Whoever violates section 704(b)(2) of this title shall be fined under title 18, imprisoned not more than 1 year, or both.

(d) All guns, traps, nets and other equipment, vessels, vehicles, and other means of transportation used by any person when engaged in pursuing, hunting, taking, trapping, ensnaring, capturing, killing, or attempting to take, capture, or kill any migratory bird in violation of this subchapter with the intent to offer for sale, or sell, or offer for barter, or barter such bird in violation of this subchapter shall be forfeited to the United States and may be seized and held pending the prosecution of any person arrested for violating this subchapter and upon conviction for such violation, such forfeiture shall be adjudicated as a penalty in addition to any other provided for violation of this subchapter. Such forfeited property shall be disposed of and accounted for by, and under the authority of, the Secretary of the Interior.

(July 3, 1918, ch. 128, § 6, 40 Stat. 756; June 20, 1936, ch. 634, § 2, 49 Stat. 1556; Pub. L. 86–732, Sept. 8, 1960, 74 Stat. 866; Pub. L. 99–645, title V, § 501, Nov. 10, 1986, 100 Stat. 3590; Pub. L. 105–312, title I, § 103, Oct. 30, 1998, 112 Stat. 2956.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–312, § 103(1), substituted ''$15,000'' for ''$500''.

Subsecs. (c), (d). Pub. L. 105–312, § 103(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d).

1986—Subsec. (b). Pub. L. 99–645 substituted ''shall knowingly'' for ''shall'' in introductory provisions.

1960—Pub. L. 86–732 designated existing provisions as subsec. (a), inserted ''Except as otherwise provided in this section'', and added subsecs. (b) and (c).

1936—Act June 20, 1936, substituted ''conventions'' for ''convention''.

EFFECTIVE DATE OF 1936 AMENDMENT

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

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior under this subchapter to Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see Transfer of Functions note set out under section 706 of this title.

§ 708. State or Territorial laws or regulations

Nothing in this subchapter shall be construed to prevent the several States and Territories from making or enforcing laws or regulations not inconsistent with the provisions of said conventions or of this subchapter, or from making or enforcing laws or regulations which shall give further protection to migratory birds, their nests, and eggs, if such laws or regulations do not extend the open seasons for such birds beyond the dates approved by the President in accordance with section 704 of this title.

(July 3, 1918, ch. 128, § 7, 40 Stat. 756; June 20, 1936, ch. 634, § 2, 49 Stat. 1556.)

AMENDMENTS

1936—Act June 20, 1936, substituted ''conventions'' for ''convention''.

EFFECTIVE DATE OF 1936 AMENDMENT

Act June 20, 1936, ch. 634, § 2, 49 Stat. 1556, provided in part that the amendment by section 2 is effective as of

the day aforesaid (June 30, 1937). See note under section 703 of this title.

§ 709. Omitted

CODIFICATION

Section, act July 3, 1918, ch. 128, § 8, 40 Stat. 756, authorized taking and use of migratory birds, nests, or eggs for scientific or propagating purposes until adoption and approval, pursuant to section 704 of this title, of regulations dealing therewith. Regulations were promulgated by Proc. July 31, 1918, 40 Stat. 1812.

§ 709a. Authorization of appropriations

There is hereby authorized to be appropriated, from time to time, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions and to accomplish the purposes of said conventions and of this subchapter and regulations made pursuant thereto, and the Secretary of the Interior is authorized out of such moneys to employ in the city of Washington and elsewhere such persons and means as he may deem necessary for such purpose and may cooperate with local authorities in the protection of migratory birds and make the necessary investigations connected therewith.

(July 3, 1918, ch. 128, § 9, as added June 20, 1936, ch. 634, § 5, 49 Stat. 1556; amended 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

EFFECTIVE DATE

Act June 20, 1936, ch. 634, § 5, 49 Stat. 1556, provided in part that this section is effective as of the day aforesaid (June 30, 1937). See Effective Date of 1936 Amendment note set out under section 703 of this title.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior under this subchapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see Transfer of Functions note set out under section 706 of this title.

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 701 of this title.

AVAILABILITY OF FUNDS

Section 6 of act June 20, 1936, provided: ''That all moneys now or hereafter available for administration and enforcement of said Act approved July 3, 1918 [this subchapter], shall be equally available for the administration and enforcement of said Act as hereby amended.''

§ 710. Partial invalidity; short title

If any clause, sentence, paragraph, or part of this subchapter, which shall be known by the short title of the ''Migratory Bird Treaty Act'', shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

(July 3, 1918, ch. 128, §§ 1, 10, 40 Stat. 755, 757.)

CODIFICATION

The provisions of this section relating to short title are from section 1 of act July 3, 1918, and the provisions relating to severability are from section 10 of that act.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–447, div. E, title I, § 143(a), Dec. 8, 2004, 118 Stat. 3071, provided that: ''This section [amending section 703 of this title and enacting provisions set out as notes under section 703 of this title] may be cited as the 'Migratory Bird Treaty Reform Act of 2004'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–312, title I, § 101, Oct. 30, 1998, 112 Stat. 2956, provided that: ''This title [amending sections 704 and 707 of this title and enacting provisions set out as a note under section 704 of this title] may be cited as the 'Migratory Bird Treaty Reform Act of 1998'.''

§ 711. Breeding and sale for food supply

Nothing in this subchapter shall be construed to prevent the breeding of migratory game birds on farms and preserves and the sale of birds so bred under proper regulation for the purpose of increasing the food supply.

(July 3, 1918, ch. 128, § 12, 40 Stat. 757.)

§ 712. Treaty and convention implementing regulations; seasonal taking of migratory birds for essential needs of indigenous Alaskans to preserve and maintain stocks of the birds; protection and conservation of the birds

(1) In accordance with the various migratory bird treaties and conventions with Canada, Japan, Mexico, and the Union of Soviet Socialist Republics, the Secretary of the Interior is authorized to issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.

(2) The Secretary of the Interior is authorized to issue such regulations as may be necessary to implement the provisions of the convention between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916, the convention between the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the convention between the United States and the Government of Japan for the protection of migratory birds in danger of extinction, and their environment concluded March 4, 1972, and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environment concluded November 19, 1976.

(Pub. L. 95–616, § 3(h)(2), (3), Nov. 8, 1978, 92 Stat. 3112.)

CODIFICATION

Par. (1) of section 3(h) of Pub. L. 95–616 amended section 706 of this title. Pars. (2) and (3) of such section 3(h) were redesignated (1) and (2) for codification purposes.

Section was enacted as part of the Fish and Wildlife Improvement Act of 1978, and not as part of the Migratory Bird Treaty Act which comprises this subchapter.

SUBCHAPTER III—MIGRATORY BIRD CONSERVATION

§ 715. Short title

This subchapter shall be known by the short title of ''Migratory Bird Conservation Act.''

(Feb. 18, 1929, ch. 257, § 1, 45 Stat. 1222.)

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–215, § 1, Feb 17, 1976, 90 Stat. 189, provided: ''That this Act [amending sections 668dd, 715a, 715k–3, 715k–5, 718a, 718b, and 718d of this title] may be cited as the 'Wetlands Loan Extension Act of 1976'.''

§ 715a. Migratory Bird Conservation Commission; creation; composition; duties; approval of areas of land and water recommended for purchase or rental

A commission to be known as the Migratory Bird Conservation Commission, consisting of the Secretary of the Interior, as chairman, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture and two Members of the Senate, to be selected by the President of the Senate, and two Members of the House of Representatives to be selected by the Speaker, is created and authorized to consider and pass upon any area of land, water, or land and water that may be recommended by the Secretary of the Interior for purchase or rental under this subchapter, and to fix the price or prices at which such area may be purchased or rented; and no purchase or rental shall be made of any such area until it has been duly approved for purchase or rental by said commission. Any Member of the House of Representatives who is a member of the commission, if reelected to the succeeding Congress, may serve on the commission notwithstanding the expiration of a Congress. Any vacancy on the commission shall be filled in the same manner as the original appointment. The ranking officer of the branch or department of a State to which is committed the administration of its game laws, or his authorized representative, and in a State having no such branch or department, the governor thereof, or his authorized representative, shall be a member ex officio of said commission for the purpose of considering and voting on all questions relating to the acquisition, under this subchapter, of areas in his State. For purposes of this subchapter, the purchase or rental of any area of land, water, or land and water includes the purchase or rental of any interest in any such area of land, water, or land and water.

(Feb. 18, 1929, ch. 257, § 2, 45 Stat. 1222; 1939 Reorg. Plan No. II, § 4(f), (h), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 90–261, Mar. 2, 1968, 82 Stat. 39; Pub. L. 94–215, § 4, Feb. 17, 1976, 90 Stat. 190; Pub. L. 101–233, § 13, Dec. 13, 1989, 103 Stat. 1977.)

AMENDMENTS

1989—Pub. L. 101–233 substituted ''Administrator of the Environmental Protection Agency'' for ''Secretary of Transportation''.

1976—Pub. L. 94–215 inserted provision including in the purchase or rental of any area of land, water, or land and water the purchase or rental of any interest in any such area of land, water, or land and water.

1968—Pub. L. 90–261 substituted the Secretary of Transportation for the Secretary of Commerce in the membership of the Commission.

TRANSFER OF FUNCTIONS

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior, and provided that Secretary of the Interior should be chairman of Migratory Bird Conservation Commission and that Secretary of Agriculture should be a member thereof.

§ 715b. Omitted

CODIFICATION

Section, act Feb. 18, 1929, ch. 257, § 3, 45 Stat. 1223, which required the commission created by section 715a of this title, through its chairman, to annually report in detail to Congress on operations of the commission, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 177 of House Document No. 103–7.

§ 715c. Areas recommended for approval; character

The Secretary of the Interior may not recommend any area for purchase or rental under the terms of this subchapter unless the Secretary of the Interior—

(1) has determined that such area is necessary for the conservation of migratory birds; and

(2) has consulted with the county or other unit of local government in which such area is located and with the Governor of the State concerned or the appropriate State agency.

(Feb. 18, 1929, ch. 257, § 4, 45 Stat. 1223; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 89–669, § 7(a), Oct. 15, 1966, 80 Stat. 929; Pub. L. 95–552, § 2, Oct. 30, 1978, 92 Stat. 2071.)

AMENDMENTS

1978—Pub. L. 95–552 substituted ''may not recommend any area'' for ''shall recommend no area'', incorporated existing provision in item (1) and added item (2).

1966—Pub. L. 89–669 struck out ''game'' from ''migratory game birds''.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 715a of this title.

§ 715d. Purchase or rental of approved areas or interests therein; gifts and devises; United States lands

The Secretary of the Interior may—

(1) purchase or rent such areas or interests therein as have been approved for purchase or rental by the Commission at the price or prices fixed by the Commission; and

(2) acquire, by gift or devise, any area or interests therein;

which he determines to be suitable for use as an inviolate sanctuary, or for any other management purpose, for migratory birds. The Sec-

retary may pay, when deemed necessary by him and from moneys authorized to be appropriated for the purposes of this subchapter (A) the purchase or rental price of any such area or interest therein, and (B) the expenses incident to the location, examination, survey, and acquisition of title (including options) of any such area or interest therein. No lands acquired, held, or used by the United States for military purposes shall be subject to any provisions of this subchapter.

(Feb. 18, 1929, ch. 257, § 5, 45 Stat. 1223; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 95–616, § 5(a), Nov. 8, 1978, 92 Stat. 3113.)

AMENDMENTS

1978—Pub. L. 95–616 incorporated existing provisions in pars. (1) and (2) and cls. (A) and (B), made provisions applicable to interests in approved areas, and inserted authority for purchase or acquisition for other management purposes.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 715a of this title.

§§ 715d–1, 715d–2. Repealed. Pub. L. 89–669, § 8(a), Oct. 15, 1966, 80 Stat. 930

Sections, act June 15, 1935, ch. 261, title III, §§ 302, 303, 49 Stat. 382, provided for acceptance of land in exchange for other land or timber, etc. rights and for acceptance of land in exchange for patent to nonmineral public land. See section 668dd(b)(3) of this title.

§ 715d–3. Omitted

CODIFICATION

Section, act June 15, 1935, ch. 261, title V, § 501, 49 Stat. 383, authorized President to allocate out of appropriation made to him by resolution of April 8, 1935, a sum for acquisition of areas for bird sanctuaries and refuges.

§ 715e. Examination of title; easements and reservations

The Secretary of the Interior may do all things and make all expenditures necessary to secure the safe title in the United States to the areas which may be acquired under this subchapter, but no payment shall be made for any such areas until the title thereto shall be satisfactory to the Attorney General or his designee, but the acquisition of such areas by the United States shall in no case be defeated because of rights-of-way, easements, and reservations which from their nature will in the opinion of the Secretary of the Interior in no manner interfere with the use of the areas so encumbered for the purposes of this subchapter, but such rights-of-way, easements, and reservations retained by the grantor or lessor from whom the United States receives title under this subchapter or any other Act for the acquisition by the Secretary of the Interior of areas for wildlife refuges shall be subject to rules and regulations prescribed by the Secretary of the Interior for the occupation, use, operation, protection, and administration of such areas as inviolate sanctuaries for migratory birds or as refuges for wildlife; and it shall be expressed in the deed or lease that the use, occupation, and operation of such rights-of-way, easements, and reservations shall be subordinate to and subject to such rules and regulations as are set out in such deed or lease or, if deemed necessary by the Secretary of the Interior, to such rules and regulations as may be prescribed by him from time to time.

(Feb. 18, 1929, ch. 257, § 6, 45 Stat. 1223; June 15, 1935, ch. 261, title III, § 301, 49 Stat. 381; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 91–393, § 6, Sept. 1, 1970, 84 Stat. 835.)

AMENDMENTS

1970—Pub. L. 91–393 inserted ''or his designee'' after ''Attorney General''.

1935—Act June 15, 1935, inserted ''under said sections or any other Act for the acquisition by the Secretary of Agriculture of areas for wildlife refuges'' and ''or as refuges for wildlife'', and inserted clause beginning ''as are set out in such deed or lease or, if deemed necessary'' etc.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 715a of this title.

§ 715e–1. Omitted

CODIFICATION

Section, act June 15, 1935, ch. 261, title III, § 304, 49 Stat. 382, applying section 715e of this title to exchanges effected under former sections 715d–1 and 715d–2, has been omitted due to the repeal of sections 715d–1 and 715d–2 by Pub. L. 89–669, § 8(a), Oct. 15, 1966, 80 Stat. 930.

§ 715f. Consent of State to conveyance in fee

No deed or instrument of conveyance in fee shall be accepted by the Secretary of the Interior under this subchapter unless the State in which the area lies shall have consented by law to the acquisition by the United States of lands in that State.

(Feb. 18, 1929, ch. 257, § 7, 45 Stat. 1223; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 103–434, title XIII, Oct. 31, 1994, 108 Stat. 4565.)

AMENDMENTS

1994—Pub. L. 103–434 inserted ''in fee'' after ''conveyance''.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 715a of this title.

§ 715g. Jurisdiction of State over areas acquired

The jurisdiction of the State, both civil and criminal, over persons upon areas acquired under this subchapter shall not be affected or changed by reason of their acquisition and administration by the United States as migratory-bird reservations, except so far as the punishment of offenses against the United States is concerned.

(Feb. 18, 1929, ch. 257, § 8, 45 Stat. 1224.)

§ 715h. Operation of State game laws

Nothing in this subchapter is intended to interfere with the operation of the game laws of the several States applying to migratory game birds insofar as they do not permit what is forbidden by Federal law.

(Feb. 18, 1929, ch. 257, § 9, 45 Stat. 1224.)

§ 715i. Administration

(a) Treaty obligations; rules and regulations

Areas of lands, waters, or interests therein acquired or reserved pursuant to this subchapter shall, unless otherwise provided by law, be administered by the Secretary of the Interior under rules and regulations prescribed by him to conserve and protect migratory birds in accordance with treaty obligations with Mexico, Canada, Japan, and the Union of Soviet Socialist Republics, and other species of wildlife found thereon, including species that are listed pursuant to section 1533 of this title as endangered species or threatened species, and to restore or develop adequate wildlife habitat.

(b) Management and public and private agency agreements authorization

In administering such areas, the Secretary is authorized to manage timber, range, and agricultural crops; to manage other species of animals, including but not limited to fenced range animals, with the objectives of perpetuating, distributing, and utilizing the resources; and to enter into agreements with public and private agencies.

(Feb. 18, 1929, ch. 257, § 10, 45 Stat. 1224; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 89–669, § 7(b), Oct. 15, 1966, 80 Stat. 929; Pub. L. 93–205, § 13(b), Dec. 28, 1973, 87 Stat. 902; Pub. L. 95–616, § 5(b), Nov. 8, 1978, 92 Stat. 3114.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–616 provided for treaty obligations with Japan and the Union of Soviet Socialist Republics.

1973—Subsec. (a). Pub. L. 93–205 substituted ''listed pursuant to section 1533 of this title as endangered species or threatened species,'' for ''threatened with extinction,''.

1966—Subsecs. (a), (b). Pub. L. 89–669 added subsecs. (a) and (b). Former paragraph prohibited acts on acquired areas and is now covered by section 668dd(c) and (d)(1) of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 715a of this title.

§ 715j. "Migratory birds" defined

For the purposes of this subchapter and the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.), migratory birds are those defined as such by the treaty between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916 (39 Stat. 1702), the treaty between the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936 (50 Stat. 1311), the Convention between the Government of the United States of America and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction, and their Environment concluded March 4, 1972, and the Convention between the United States and the Union of Soviet Socialist Republics for the Conservation of Migratory Birds and their Environment concluded November 19, 1976.

(Feb. 18, 1929, ch. 257, § 11, 45 Stat. 1224; Pub. L. 89–669, § 7(c), Oct. 15, 1966, 80 Stat. 930; Pub. L. 95–616, § 5(c), Nov. 8, 1978, 92 Stat. 3114.)

REFERENCES IN TEXT

The Migratory Bird Treaty Act, referred to in text, is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§ 703 et seq.) of this chapter. For complete classification of this Act to the Code, see section 710 of this title and Tables.

AMENDMENTS

1978—Pub. L. 95–616 defined migratory birds for purposes of the Migratory Bird Treaty Act and to include those defined in the Convention of Mar. 4, 1972, concluded with Government of Japan and the Convention of Nov. 19, 1976, concluded with Union of Soviet Socialist Republics.

1966—Pub. L. 89–669 inserted ''(39 Stat. 1702)'' and defined migratory birds to include those defined in the Treaty of Feb. 7, 1936 (50 Stat. 1311) with the United Mexican States.

§ 715k. Authorization of appropriations for purposes of subchapter; disposal; reservation protectors

For the acquisition, including the location, examination, and survey, of suitable areas of land, water, or land and water, for use as migratory bird reservations, and necessary expenses incident thereto, and for the administration, maintenance, and development of such areas and other preserves, reservations, or breeding grounds frequented by migratory birds and under the administration of the Secretary of the Interior, including the construction of dams, dikes, ditches, flumes, spillways, buildings, and other necessary improvements, and for the elimination of the loss of migratory birds from alkali poisoning, oil pollution of waters, or other causes, for cooperation with local authorities in wildlife conservation, for investigations and publications relating to North American birds, for personal services, printing, engraving, and issuance of circulars, posters, and other necessary matter and for the enforcement of the provisions of this subchapter, there are hereby authorized to be appropriated, in addition to all other amounts authorized by law to be appropriated, $200,000 for the fiscal year ending June 30, 1940, and for each fiscal year thereafter. No part of any appropriation authorized by this section shall be used for payment of the salary, compensation, or expenses of any United States protector, except reservation protectors for the administration, maintenance and protection of such reservations and the birds thereon: *Provided*, That reservation protectors appointed

under the provisions of this subchapter, shall be selected, when practicable, from qualified citizens of the State in which they are to be employed. The Secretary of the Interior is authorized and directed to make such expenditures and to employ such means, including personal services in the District of Columbia and elsewhere, as may be necessary to carry out the foregoing objects.

(Feb. 18, 1929, ch. 257, §12, 45 Stat. 1224; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 89–669, §7(a), Oct. 15, 1966, 80 Stat. 929.)

CODIFICATION

Provisions of this section which related to appropriations for the fiscal year ending June 30, 1930, to June 30, 1939, were omitted.

AMENDMENTS

1966—Pub. L. 89–669 substituted ''grounds frequented by migratory birds'' for ''grounds frequented by migratory game birds'', and ''United States protector'' for ''United States game protector''.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 715a of this title.

§ 715k–1. Expenditures for personal services

In the execution of this Act, the Secretary of the Interior is authorized to make such expenditures for personal services in the District of Columbia and elsewhere as he shall deem necessary.

(June 15, 1935, ch. 261, title VII, §701, 49 Stat. 384; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

REFERENCES IN TEXT

This Act, referred to in text, probably means the act of June 15, 1935, ch. 261, 49 Stat. 378, as amended, which is classified in part to certain sections of this subchapter and of subchapter IV of this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Act June 15, 1935, in addition to the provisions set out in the text, made an appropriation for the acquisition of lands necessary to provide for the restoration, rehabilitation and protection of migratory waterfowl and other wildlife and for the erection and construction of necessary buildings, dikes, dams, canals, and other works.

Section was not enacted as part of the Migratory Bird Conservation Act which comprises this subchapter.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 715a of this title.

§ 715k–2. Omitted

CODIFICATION

Section, acts June 29, 1937, ch. 404, title I, 50 Stat. 421; June 16, 1938, ch. 464, title I, 52 Stat. 736; June 30, 1939, ch. 253, title I, 53 Stat. 965, made an earlier specific appropriation available for maintenance and operation of motor-propelled passenger-carrying vehicles.

§ 715k–3. Authorization of appropriations for the preservation of wetlands and other waterfowl habitat

In order to promote the conservation of migratory waterfowl and to offset or prevent the serious loss of important wetlands and other waterfowl habitat essential to the preservation of such waterfowl, there is authorized to be appropriated for the period beginning on July 1, 1961, and ending when all amounts authorized to be appropriated have been expended, not to exceed $200,000,000.

(Pub. L. 87–383, §1, Oct. 4, 1961, 75 Stat. 813; Pub. L. 90–205, §1(a), Dec. 15, 1967, 81 Stat. 612; Pub. L. 94–215, §2(a), Feb. 17, 1976, 90 Stat. 189; Pub. L. 98–200, §1, Dec. 2, 1983, 97 Stat. 1378; Pub. L. 98–548, title I, §101, Oct. 26, 1984, 98 Stat. 2774; Pub. L. 99–645, title I, §101(a), Nov. 10, 1986, 100 Stat. 3584; Pub. L. 100–653, title III, §301, Nov. 14, 1988, 102 Stat. 3827.)

CODIFICATION

Section was not enacted as part of the Migratory Bird Conservation Act which comprises this subchapter.

AMENDMENTS

1988—Pub. L. 100–653 substituted ''when all amounts authorized to be appropriated have been expended'' for ''at the close of September 30, 1988''.

1986—Pub. L. 99–645 substituted ''September 30, 1988'' for ''September 30, 1986''.

1984—Pub. L. 98–548 substituted ''September 30, 1986'' for ''September 30, 1984''.

1983—Pub. L. 98–200 substituted ''September 30, 1984'' for ''September 30, 1983''.

1976—Pub. L. 94–215 substituted ''period beginning on July 1, 1961, and ending at the close of September 30, 1983, not to exceed $200,000,000'' for ''fifteen-year period beginning with fiscal year 1962, not to exceed $105,000,000''.

1967—Pub. L. 90–205 substituted ''fifteen-year period'' for ''seven-year period''.

SHORT TITLE

Pub. L. 87–383, which enacted this section and sections 715k–4 and 715k–5 of this title, is popularly known as the ''Wetlands Loan Act''.

§ 715k–4. Accounting and use of appropriations

Funds appropriated each fiscal year pursuant to sections 715k–3 to 715k–5 of this title shall be accounted for, added to, and used for purposes of the migratory bird conservation fund[1] established pursuant to section 718d of this title.

(Pub. L. 87–383, §2, Oct. 4, 1961, 75 Stat. 813.)

CODIFICATION

Section was not enacted as part of the Migratory Bird Conservation Act which comprises this subchapter.

§ 715k–5. Acquisition of lands

No land shall be acquired with moneys from the migratory bird conservation fund[1] unless the acquisition thereof has been approved by the Governor of the State or appropriate State agency.

(Pub. L. 87–383, §3, Oct. 4, 1961, 75 Stat. 813; Pub. L. 90–205, §1(b), Dec. 15, 1967, 81 Stat. 612; Pub. L.

[1] So in original. Probably should be capitalized.

[1] So in original. Probably should be capitalized.

94–215, § 2(b), Feb. 17, 1976, 90 Stat. 189; Pub. L. 98–200, § 2, Dec. 2, 1983, 97 Stat. 1378; Pub. L. 98–548, title I, § 102, Oct. 26, 1984, 98 Stat. 2774; Pub. L. 99–645, title I, § 101(b), Nov. 10, 1986, 100 Stat. 3584.)

CODIFICATION

Section was not enacted as part of the Migratory Bird Conservation Act which comprises this subchapter.

AMENDMENTS

1986—Pub. L. 99–645 struck out first three sentences which read as follows: ''Funds appropriated pursuant to sections 715k–3 to 715k–5 of this title shall be treated as an advance, without interest, to the migratory bird conservation fund. Such appropriated funds, beginning on October 1, 1986, shall be repaid to the Treasury out of the migratory bird conservation fund, such repayment shall be made in annual amounts comprising 75 per centum of the moneys accruing annually to such fund. In the event the full amount authorized by section 715k–3 of this title is appropriated before October 1, 1986, the repayment of such funds pursuant to this section shall begin with the next full fiscal year.''

1984—Pub. L. 98–548 substituted ''October 1, 1986'' for ''October 1, 1984'' in two places.

1983—Pub. L. 98–200 substituted ''October 1, 1984'' for ''October 1, 1983'' in two places.

1976—Pub. L. 94–215 substituted ''on October 1, 1983'' for ''with fiscal year 1977'', ''before October 1, 1983'' for ''prior to the end of the aforesaid fifteen-year period'' and ''year. No'' for ''year: *Provided further*, That no''.

1967—Pub. L. 90–205 made minor structural changes and substituted ''1977'' for ''1969'' and ''fifteen-year period'' for ''seven-year period''.

§§ 715*l*, 715m. Repealed. Pub. L. 89–669, § 7(d), Oct. 15, 1966, 80 Stat. 930

Sections, act Feb. 18, 1929, ch. 257, §§ 13, 14, 45 Stat. 1225, related to: execution of provisions, powers and duties of United States judges, commissioners and employees of Department of the Interior; and penalty for violation of provisions. See section 668dd(f) and (e) of this title, respectively.

§ 715n. "Take" defined

For the purposes of this subchapter the word ''take'' shall be construed to mean pursue, hunt, shoot, capture, collect, kill, or attempt to pursue, hunt, shoot, capture, collect, or kill, unless the context otherwise requires.

(Feb. 18, 1929, ch. 257, § 15, 45 Stat. 1225.)

§ 715*o*. National forest and power sites; use for migratory bird reservations

Nothing in this subchapter shall be construed as authorizing or empowering the Migratory Bird Conservation Commission herein created, the Secretary of the Interior, or any other board, commission, or officer, to declare, withdraw, or determine, except heretofore designated, any part of any national forest or power site, a migratory bird reservation under any of the provisions of this subchapter, except by and with the consent of the legislature of the State wherein such forest or power site is located.

(Feb. 18, 1929, ch. 257, § 16, 45 Stat. 1225; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

REFERENCES IN TEXT

Herein created, referred to in text, means created by section 715a of this title.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 715a of this title.

§ 715p. Cooperation of State in enforcement of provisions

When any State shall, by suitable legislation, make provision adequately to enforce the provisions of this subchapter and all regulations promulgated thereunder, the Secretary of the Interior may so certify, and then and thereafter said State may cooperate with the Secretary of the Interior in the enforcement of this subchapter and the regulations thereunder.

(Feb. 18, 1929, ch. 257, § 17, 45 Stat. 1225; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 715a of this title.

§ 715q. Expenses of commission; authorization of appropriations

A sum sufficient to pay the necessary expenses of the commission and its members, not to exceed an annual expenditure of $7,500, is authorized to be appropriated out of any money in the Treasury not otherwise appropriated. Said appropriation shall be paid out on the audit and order of the chairman of said commission, which audit and order shall be conclusive and binding upon the Government Accountability Office as to the correctness of the accounts of said commission.

(Feb. 18, 1929, ch. 257, § 18, 45 Stat. 1225; Pub. L. 87–812, Oct. 15, 1962, 76 Stat. 922; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1962—Pub. L. 87–812 increased annual expenditures from not more than $5,000 to not more than $7,500 and corrected a misspelling of ''commission''.

§ 715r. Partial invalidity; validity of remainder

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid the validity of the remainder of this subchapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Feb. 18, 1929, ch. 257, § 19, 45 Stat. 1226.)

§ 715s. Participation of local governments in revenue from areas administered by the United States Fish and Wildlife Service

(a) Separate fund in the United States Treasury; availability of funds until expended; "National Wildlife Refuge System" defined

Beginning with the next full fiscal year and for each fiscal year thereafter, all revenues received by the Secretary of the Interior from the sale or other disposition of animals, salmonoid

carcassas,[1] timber, hay, grass, or other products of the soil, minerals, shells, sand, or gravel, from other privileges, or from leases for public accommodations or facilities incidental to but not in conflict with the basic purposes for which those areas of the National Wildlife Refuge System were established, during each fiscal year in connection with the operation and management of those areas of the National Wildlife Refuge System, National Fish Hatcheries, or other areas, that are solely or primarily administered by him, through the United States Fish and Wildlife Service, shall be covered into the United States Treasury and be reserved in a separate fund for disposition as hereafter prescribed. Amounts in the fund shall remain available until expended, and may be expended by the Secretary without further appropriation in the manner hereafter prescribed. The National Wildlife Refuge System (hereafter referred to as the ''System'') includes those lands and waters administered by the Secretary as wildlife refuges, lands acquired or reserved for the protection and conservation of fish and wildlife that are listed pursuant to section 1533 of this title as endangered species or threatened species, wildlife ranges, game ranges, wildlife management areas, and waterfowl production areas established under any law, proclamation, Executive, or public land order.

(b) Deduction of expenses

The Secretary may pay from the fund any necessary expenses incurred by him in connection with the revenue-producing and revenue-sharing measures.

(c) Payment to counties

(1) The Secretary shall pay out the fund, for each fiscal year beginning with the fiscal year ending September 30, 1979, to each county in which is situated any fee area whichever of the following amounts is greater:

(A) An amount equal to the product of 75 cents multiplied by the total acreage of that portion of the fee area which is located within such county.

(B) An amount equal to three-fourths of 1 per centum of the fair market value, as determined by the Secretary, of that portion of the fee area (excluding any improvements thereto made after the date of Federal acquisition) which is located within such county.

(C) An amount equal to 25 per centum of the net receipts collected by the Secretary in connection with the operation and management of such fee area during such fiscal year; but if a fee area is located in two or more counties, the amount each such county is entitled to shall be the amount which bears to such 25 per centum the same ratio as that portion of the fee area acreage which is within such county bears to the total acreage of such fee area.

(2) At the end of each fiscal year the Secretary shall pay out of the fund for such fiscal year to each county in which any reserve area is situated, an amount equal to 25 per centum of the net receipts collected by the Secretary in connection with the operation and management of such area during such fiscal year: *Provided*, That when any such area is situated in more than one county the distributive share to each county from the aforesaid receipts shall be proportional to its acreage of such reserve area.

(3) For purposes of this section, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands shall each be treated as a county.

(4)(A) For purposes of determining the fair market value of fee areas under paragraph (1)(B), the Secretary shall—

(i) appraise before September 30, 1979, all fee areas for which payments under this section were not authorized for fiscal years occurring before October 1, 1977; and

(ii) appraise all other fee areas, within five years after October 17, 1978, in the order in which such areas were first established by the Service.

After initial appraisal under clause (i) or (ii), each fee area shall thereafter be reappraised by the Secretary at least once during each five-year period occurring after the date of the initial appraisal. Until any fee area referred to in clause (ii) is initially appraised under this subparagraph, the fair market value of such area shall be deemed to be that adjusted cost of the area which was used to determine payments under this subsection for fiscal year 1977; and in no case may the amount of any payment to any local government under paragraph (1)(B) with respect to any fee area be less than the amount paid under paragraph (2)(A) of this subsection (as in effect on September 30, 1977) with respect to such area.

(B) The Secretary shall make the determinations required under this subsection in such manner as the Secretary considers to be equitable and in the public interest. All such determinations shall be final and conclusive.

(5)(A) Each county which receives payments under paragraphs (1) and (2) with respect to any fee area or reserve area shall distribute, under guidelines established by the Secretary, such payments on a proportional basis to those units of local government (including, but not limited to, school districts and the county itself in appropriate cases) which have incurred the loss or reduction of real property tax revenues by reason of the existence of such area. In any case in which a unit of local government other than the county acts as the collecting and distributing agency for real property taxes, the payments under paragraphs (1) and (2) shall be made to such other unit which shall distribute the payments in accordance with the guidelines.

(B) The Secretary may prescribe regulations under which payments under this paragraph may be made to units of local government in cases in which subparagraph (A) will not effect the purposes of this paragraph.

(C) Payments received by units of local government under this subsection may be used by such units for any governmental purpose.

(d) Authorization of appropriations equal to difference between amount of net receipts and aggregate amount of required payments

If the net receipts in the fund which are attributable to revenue collections for any fiscal year do not equal the aggregate amount of pay-

[1] So in original. Probably should be ''carcasses,''.

ments required to be made for such fiscal year under subsection (c) of this section to counties, there are authorized to be appropriated to the fund an amount equal to the difference between the total amount of net receipts and such aggregate amount of payments.

(e) Transfer and use of excess of net receipts over aggregate amount of required payments

If the net receipts in the fund which are attributable to revenue collections for any fiscal year exceed the aggregate amount of payments required to be made for such fiscal year under subsection (c) of this section to counties, the amount of such excess shall be transferred to the Migratory Bird Conservation Fund for use in the acquisition of suitable areas for migratory bird refuges under the provisions of the Migratory Bird Conservation Act (16 U.S.C. 715–715r).

(f) Terms, conditions, and regulations for execution of revenue producing activities; disposal of animals

The Secretary shall carry out any revenue producing activity referred to in subsection (a)(1), (2), and (3) of this section within any fee area or reserve area subject to such terms, conditions, or regulations, including sales in the open markets, as the Secretary determines to be in the best interest of the United States. The Secretary may, in accordance with such regulations as the Secretary may prescribe, dispose of animals which are surplus to any such area by exchange of the same or other kinds, gift or loan to public institutions for exhibition or propagation purposes, and for the advancement of knowledge and the dissemination of information relating to the conservation of wildlife.

(g) Definitions

As used in this section—

(1) The term ''Secretary'' means the Secretary of the Interior.

(2) The term ''fee area'' means any area which was acquired in fee by the United States and is administered, either solely or primarily, by the Secretary through the Service.

(3) The term ''reserve area'' means any area of land withdrawn from the public domain and administered, either solely or primarily, by the Secretary through the Service.

(4) The term ''Service'' means the United States Fish and Wildlife Service.

(5) The term ''county'' means any county, parish, or organized or unorganized borough.

(June 15, 1935, ch. 261, title IV, § 401, 49 Stat. 383; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Oct. 31, 1951, ch. 654, § 2(13), 65 Stat. 707; Pub. L. 88–523, Aug. 30, 1964, 78 Stat. 701; Pub. L. 89–669, § 8(b), Oct. 15, 1966, 80 Stat. 930; Pub. L. 93–205, § 13(b), Dec. 28, 1973, 87 Stat. 902; Pub. L. 93–509, § 4, Dec. 3, 1974, 88 Stat. 1603; Pub. L. 95–469, § 1(a), Oct. 17, 1978, 92 Stat. 1319; Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068.)

REFERENCES IN TEXT

Beginning with the next full fiscal year and for each fiscal year thereafter, referred to in subsec. (a), probably means the next full fiscal year following Aug. 30, 1964, the date of enactment of Pub. L. 88–523, which amended this section.

The Migratory Bird Conservation Act, referred to in subsec. (e), is act Feb. 18, 1929, ch. 257, 45 Stat. 1222, which is classified generally to this subchapter. For complete classification of this Act to the Code, see section 715 of this title and Tables.

CODIFICATION

The reference in subsec. (f) to ''revenue producing activity referred to in subsection (a)(1), (2), and (3) of this section'', enacted as an amendment to subsec. (f) by section 1(a)(3) of Pub. L. 95–469, is a reference to the proposed amendment as set out on pg. 1 of House Report No. 95–1197 of the 95th Congress, 2d Session, May 15, 1978, and reading in part:

''(a) All revenues received during each fiscal year by the Secretary in connection with the operation and management of fee areas and reserve areas from—

''(1) the sale or disposition of animals, salmonoid carcasses, products of the soil (including, but not limited to, timber, hay, and grass), minerals (including, but not limited to, crude petroleum and natural gas), shells, sand, and gravel;

''(2) leases for public accommodations or facilities incidental to, but not in conflict with, the major purposes of such areas; and

''(3) other privileges;

shall be covered'' which was not enacted by the Congress but subsec. (a) was amended as provided in the 1978 Amendment note below.

Section was not enacted as part of the ''Migratory Bird Conservation Act'' which comprises this subchapter.

AMENDMENTS

1982—Subsec. (h). Pub. L. 97–258 struck out subsec. (h) which had provided for administration of payments to local governments for entitlement lands, reserve areas as entitlement lands, and payments received by any unit of local government to be deemed payments under specified provisions. See sections 6901 and 6903 of Title 31, Money and Finance.

1978—Subsec. (a). Pub. L. 95–469, § 1(a)(1), authorized the separate fund in the United States Treasury to include revenues from sale or other disposition of salmonoid carcasses and extended the operation and management provision to areas of National Fish Hatcheries and other areas administered by the Secretary.

Subsec. (b). Pub. L. 95–469, § 1(a)(2), substituted ''revenue-producing and revenue-sharing measures'' for ''revenue-producing measures set forth in subsection (a) of this section''.

Subsec. (c). Pub. L. 95–469, § 1(a)(3), in revising subsec. (c), substituted pars. (1) to (5) for prior text consisting of: introductory text authorizing expenditures solely for benefit of public schools and roads, now covered in par. (5)(C); par. (1) of first sentence, now included in par. (2); par. (2) of first sentence, now covered in pars. (1)(B), (C) and (4) in part; and second sentence now incorporated in par. (4)(B).

Subsec. (d). Pub. L. 95–469, § 1(a)(3), substituted provision for authorization of appropriations equal to difference between amount of net receipts and aggregate amount of required payments for prior provision limiting amount payable to the counties to amount of net receipts in the fund for any fiscal year and a proportionate reduction of payments when net receipts are insufficient for aggregate amount of payments for any fiscal year.

Subsec. (e). Pub. L. 95–469, § 1(a)(3), in revising subsec. (e), substituted provision authorizing use of surplus funds for acquisition of suitable areas for migratory bird refuges for prior provision making remaining funds available for such land acquisition and eliminated provision prohibiting funds available for the Management of the National Wildlife Refuge System or for enforcement of the Migratory Bird Treaty Act from being diminished by the amendments made by Pub. L. 93–509 to this subsection unless by specific congressional enactment.

Subsec. (f). Pub. L. 95–469, §1(a)(3), substituted ''The Secretary shall carry out any revenue producing activity referred to in subsection (a)(1), (2), and (3) of this section within any fee area or reserve area subject to such terms, conditions, or regulations, including sales in the open markets, as the Secretary determines to be in the best interest of the United States.'' for ''The disposition or sale of surplus animals, minerals, and other products, the grant of privileges, and the carrying out of any other activities that result in the collection of revenues within any areas of the System may be accomplished upon such terms, conditions, or regulations, including sale in the open markets, as the Secretary shall determine to be in the best interest of the United States.'' and reenacted substance of second sentence, setting out provision for regulations at beginning rather than end of sentence.

Subsec. (g). Pub. L. 95–469, §1(a)(3), substituted definitions of certain terms for prior provision for supersedure by Pub. L. 88–523 of repealed paragraph of ''Management of National Wildlife Refuges'' in the General Appropriation Act, 1951, approved Sept. 6, 1950 (64 Stat. 595, 693 to 694).

Subsec. (h). Pub. L. 95–469, §1(a)(4), added subsec. (h).

1974—Subsec. (e). Pub. L. 93–509 substituted provisions that moneys remaining in the fund after all payments under this section are made for any fiscal year shall be transferred to the Migratory Bird Conservation Fund and shall be available for land acquisition under the Migratory Bird Conservation Act with exception that the funds available for the management of the National Wildlife Refuge System or for enforcement of the Migratory Bird Treaty Act shall not be diminished for provisions that moneys remaining in the fund after all payments are made for any fiscal year may be used by the Secretary thereafter for management of the System, including but not limited to the construction, improvement, repair, and alteration of buildings, roads, and other facilities, and for enforcement of the Migratory Bird Treaty Act.

1973—Subsec. (a). Pub. L. 93–205 substituted ''listed pursuant to section 1533 of this title as endangered species or threatened species,'' for ''threatened with extinction,''.

1966—Subsec. (a). Pub. L. 89–669 defined the National Wildlife Refuge System to include lands acquired or reserved for the protection and conservation of fish and wildlife that are threatened with extinction.

1964—Pub. L. 88–523 substituted provisions designated as subsecs. (a) to (g) for former provisions constituting one paragraph consisting of a first clause with three provisos and a second clause; required in subsec. (a) all receipts from the National Wildlife Refuge System to be covered into a separate fund in the United States Treasury, made the fund available until expended, provided for expenditures without further appropriation, and defined the National Wildlife Refuge System; incorporated the third proviso of the first clause and the second clause in subsec. (b) and the parenthetical matter of subsec. (c); incorporated in the reserved public lands provision of subsec. (c)(1) the formula of the first clause for returning twenty-five per centum of the net revenues from the System to the counties in which the producing refuges are located for the benefit of the public schools and roads therein; incorporated the first proviso of the first clause in subsec. (c)(1) proviso; substituted subsec. (c)(2) providing an option plan for payment of either 25 per centum of the net receipts from lands acquired in fee by the United States to the counties in which such acquired lands are located or three-fourths of 1 per centum of the adjusted cost of the acquired lands, whichever is higher, for the formula of the first clause for returning 25 per centum of the revenues; inserted provisions of subsecs. (d), (e), and (g); and incorporated the second proviso of the first clause in subsec. (f).

1951—Act Oct. 31, 1951, in second proviso, inserted reference to application regulations of the Federal Property and Administrative Services Act of 1949, as amended, and, in third proviso, inserted reference to section 485 of Title 40.

EFFECTIVE DATE OF 1978 AMENDMENT; FISCAL YEAR OF AVAILABILITY OF APPROPRIATION AUTHORIZATION

Section 2 of Pub. L. 95–469 provided that: ''The amendments made by this Act [amending this section and sections 1603, 1605 and 1606 of former Title 31, Money and Finance], shall apply with respect to payments made to counties under title IV of the Act of June 15, 1935 [this section], for the fiscal year ending September 30, 1979, and for fiscal years thereafter; except that the amendments made to such title IV [this section] which amend section 401(a) and (g), add paragraph (4) to section 401(c) [subsecs. (a) and (g), and (c)(4) of this section], and amend the title heading [of this section] shall take effect on the date of the enactment of this Act [Oct. 17, 1978]. No authorization for appropriation shall be available under this Act before the fiscal year ending September 30, 1980.''

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as an Effective Date note under section 1531 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reorg. Plan No. III of 1940, set out in the Appendix to Title 5, consolidated Bureau of Fisheries and Bureau of Biological Survey, with their respective functions, into one agency in Department of the Interior to be known as the Fish and Wildlife Service.

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 715a of this title.

REFUGE REVENUE SHARING

Pub. L. 105–83, title I, §132, Nov. 14, 1997, 111 Stat. 1570, provided that: ''Notwithstanding any other provision of law, hereafter the United States Fish and Wildlife Service may disburse to local entities impact funding pursuant to Refuge Revenue Sharing that is associated with Federal real property transferred to the United States Geological Survey from the United States Fish and Wildlife Service.''

SUBCHAPTER IV—HUNTING AND CONSERVATION STAMP TAX

§ 718. Repealed. Pub. L. 109–266, § 10(h), Aug. 3, 2006, 120 Stat. 677

Section, act Mar. 16, 1934, ch. 71, §9, 48 Stat. 452, defined subchapter terms.

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–266, §1, Aug. 3, 2006, 120 Stat. 670, provided that: ''This Act [enacting sections 718g to 718j of this title, amending sections 718a to 718f of this title, repealing this section and former sections 718g, 718h, and 718j of this title, and enacting provisions set out as notes under this section] may be cited as the 'Electronic Duck Stamp Act of 2005'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–269, §1, Oct. 19, 1998, 112 Stat. 2381, provided that: ''This Act [amending section 718d of this title] may be cited as the 'Migratory Bird Hunting and Conservation Stamp Promotion Act'.''

SHORT TITLE

Act Mar. 16, 1934, ch. 71, §11, as added by Pub. L. 109–266, §10(h), Aug. 3, 2006, 120 Stat. 679, provided that:

''This Act [enacting this subchapter] may be cited as the 'Migratory Bird Hunting and Conservation Stamp Act'.''

ELECTRONIC DUCK STAMP PILOT PROGRAM

Pub. L. 109–266, §§2–9, Aug. 3, 2006, 120 Stat. 670–673, provided that:

''SEC. 2. FINDINGS.

''Congress finds that—

''(1) on March 16, 1934, Congress passed and President Roosevelt signed the Act of March 16, 1934 (16 U.S.C. 718a [718] et seq.) (popularly known as the 'Duck Stamp Act'), which requires all migratory waterfowl hunters 16 years of age or older to buy a Federal migratory bird hunting and conservation stamp annually;

''(2) the Federal Duck Stamp program has become one of the most popular and successful conservation programs ever initiated;

''(3) because of that program, the United States again is teeming with migratory waterfowl and other wildlife that benefit from wetland habitats;

''(4) as of the date of enactment of this Act [Aug. 3, 2006], 1,700,000 migratory bird hunting and conservation stamps are sold each year;

''(5) as of 2003, those stamps have generated more than $600,000,000 in revenue that has been used to preserve more than 5,000,000 acres of migratory waterfowl habitat in the United States; and

''(6) many of the more than 540 national wildlife refuges have been paid for wholly or partially with that revenue.

''SEC. 3. DEFINITIONS.

''In this Act [see Short Title of 2006 Amendment note above]:

''(1) ACTUAL STAMP.—The term 'actual stamp' means a Federal migratory-bird hunting and conservation stamp required under the Act of March 16, 1934 (16 U.S.C. 718a [718] et seq.) (popularly known as the 'Duck Stamp Act'), that is printed on paper and sold through a means in use immediately before the date of enactment of this Act [Aug. 3, 2006].

''(2) AUTOMATED LICENSING SYSTEM.—

''(A) IN GENERAL.—The term 'automated licensing system' means an electronic, computerized licensing system used by a State fish and wildlife agency to issue hunting, fishing, and other associated licenses and products.

''(B) INCLUSION.—The term 'automated licensing system' includes a point-of-sale, Internet, or telephonic system used for a purpose described in subparagraph (A).

''(3) ELECTRONIC STAMP.—The term 'electronic stamp' means an electronic version of an actual stamp that—

''(A) is a unique identifier for the individual to whom it is issued;

''(B) can be printed on paper;

''(C) is issued through a State automated licensing system that is authorized, under State law and by the Secretary under this Act, to issue electronic stamps;

''(D) is compatible with the hunting licensing system of the State that issues the electronic stamp; and

''(E) is described in the State application approved by the Secretary under section 4(b).

''(4) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''SEC. 4. ELECTRONIC DUCK STAMP PILOT PROGRAM.

''(a) REQUIREMENT TO CONDUCT PROGRAM.—The Secretary shall conduct a 3-year pilot program under which up to 15 States authorized by the Secretary may issue electronic stamps.

''(b) COMMENCEMENT AND DURATION OF PROGRAM.—The Secretary shall—

''(1) use all means necessary to expeditiously implement this section by the date that is 1 year after the beginning of the first full Federal migratory waterfowl hunting season after the date of enactment of this Act [Aug. 3, 2006]; and

''(2) carry out the pilot program for 3 Federal migratory waterfowl hunting seasons.

''(c) CONSULTATION.—The Secretary shall carry out the program in consultation with State management agencies.

''SEC. 5. STATE APPLICATION.

''(a) APPROVAL OF APPLICATION REQUIRED.—A State may not participate in the pilot program under this Act unless the Secretary has received and approved an application submitted by the State in accordance with this section.

''(b) CONTENTS OF APPLICATION.—The Secretary may not approve a State application unless the application contains—

''(1) a description of the format of the electronic stamp that the State will issue under the pilot program, including identifying features of the licensee that will be specified on the stamp;

''(2) a description of any fee the State will charge for issuance of an electronic stamp;

''(3) a description of the process the State will use to account for and transfer to the Secretary the amounts collected by the State that are required to be transferred to the Secretary under the program;

''(4) the manner by which the State will transmit electronic stamp customer data to the Secretary;

''(5) the manner by which actual stamps will be delivered;

''(6) the policies and procedures under which the State will issue duplicate electronic stamps; and

''(7) such other policies, procedures, and information as may be reasonably required by the Secretary.

''(c) PUBLICATION OF DEADLINES, ELIGIBILITY REQUIREMENTS, AND SELECTION CRITERIA.—Not later than 30 days before the date on which the Secretary begins accepting applications for participation in the pilot program, the Secretary shall publish—

''(1) deadlines for submission of applications to participate in the program;

''(2) eligibility requirements for participation in the program; and

''(3) criteria for selecting States to participate in the program.

''SEC. 6. STATE OBLIGATIONS AND AUTHORITIES.

''(a) DELIVERY OF ACTUAL STAMP.—The Secretary shall require that each individual to whom a State sells an electronic stamp under the pilot program shall receive an actual stamp—

''(1) by not later than the date on which the electronic stamp expires under section 7(c); and

''(2) in a manner agreed upon by the State and Secretary.

''(b) COLLECTION AND TRANSFER OF ELECTRONIC STAMP REVENUE AND CUSTOMER INFORMATION.—

''(1) REQUIREMENT TO TRANSMIT.—The Secretary shall require each State participating in the pilot program to collect and submit to the Secretary in accordance with this section—

''(A) the first name, last name, and complete mailing address of each individual that purchases an electronic stamp from the State;

''(B) the face value amount of each electronic stamp sold by the State; and

''(C) the amount of the Federal portion of any fee required by the agreement for each stamp sold.

''(2) TIME OF TRANSMITTAL.—The Secretary shall require the submission under paragraph (1) to be made with respect to sales of electronic stamps by a State occurring in a month—

''(A) by not later than the 15th day of the subsequent month; or

''(B) as otherwise specified in the application of the State approved by the Secretary under section 5.

''(3) ADDITIONAL FEES NOT AFFECTED.—This section shall not apply to the State portion of any fee collected by a State under subsection (c).

''(c) ELECTRONIC STAMP ISSUANCE FEE.—A State participating in the pilot program may charge a reasonable fee to cover costs incurred by the State and the Department of the Interior in issuing electronic stamps under the program, including costs of delivery of actual stamps.

''(d) DUPLICATE ELECTRONIC STAMPS.—A State participating in the pilot program may issue a duplicate electronic stamp to replace an electronic stamp issued by the State that is lost or damaged.

''(e) LIMITATION ON AUTHORITY TO REQUIRE PURCHASE OF STATE LICENSE.—A State may not require that an individual purchase a State hunting license as a condition of issuing an electronic stamp under the pilot program.

''SEC. 7. ELECTRONIC STAMP REQUIREMENTS; RECOGNITION OF ELECTRONIC STAMP.

''(a) STAMP REQUIREMENTS.—The Secretary shall require an electronic stamp issued by a State under the pilot program—

''(1) to have the same format as any other license, validation, or privilege the State issues under the automated licensing system of the State; and

''(2) to specify identifying features of the licensee that are adequate to enable Federal, State, and other law enforcement officers to identify the holder.

''(b) RECOGNITION OF ELECTRONIC STAMP.—Any electronic stamp issued by a State under the pilot program shall, during the effective period of the electronic stamp—

''(1) bestow upon the licensee the same privileges as are bestowed by an actual stamp;

''(2) be recognized nationally as a valid Federal migratory bird hunting and conservation stamp; and

''(3) authorize the licensee to hunt migratory waterfowl in any other State, in accordance with the laws of the other State governing that hunting.

''(c) DURATION.—An electronic stamp issued by a State under the pilot program shall be valid for a period agreed to by the State and the Secretary, which shall not exceed 45 days.

''SEC. 8. TERMINATION OF STATE PARTICIPATION.

''Participation by a State in the pilot program may be terminated—

''(1) by the Secretary, if the Secretary—

''(A) finds that the State has violated any of the terms of the application of the State approved by the Secretary under section 5; and

''(B) provides to the State written notice of the termination by not later than the date that is 30 days before the date of termination; or

''(2) by the State, by providing written notice to the Secretary by not later than the date that is 30 days before the termination date.

''SEC. 9. EVALUATION.

''(a) EVALUATION.—The Secretary, in consultation with State fish and wildlife management agencies and appropriate stakeholders with expertise specific to the duck stamp program, shall evaluate the pilot program and determine whether the pilot program has provided a cost-effective and convenient means for issuing migratory-bird hunting and conservation stamps, including whether the program has—

''(1) increased the availability of those stamps;

''(2) assisted States in meeting the customer service objectives of the States with respect to those stamps;

''(3) maintained actual stamps as an effective and viable conservation tool; and

''(4) maintained adequate retail availability of the actual stamp.

''(b) REPORT.—The Secretary shall submit to Congress a report on the findings of the Secretary under subsection (a).''

§ 718a. Prohibition on taking

(a) Prohibition

(1) In general

Except as provided in paragraph (2), no individual who has attained the age of 16 years shall take any migratory waterfowl unless, at the time of the taking, the individual carries on the person of the individual a valid Migratory Bird Hunting and Conservation Stamp, validated by the signature of the individual written in ink across the face of the stamp prior to the time of the taking by the individual of the waterfowl.

(2) Exception

No stamp described in paragraph (1) shall be required for the taking of migratory waterfowl—

(A) by Federal or State agencies;

(B) for propagation; or

(C) by the resident owner, tenant, or sharecropper of the property, or officially designated agencies of the Department of the Interior, for the killing, under such restrictions as the Secretary may by regulation prescribe, of such waterfowl when found damaging crops or other property.

(b) Display of stamp

Any individual to whom a stamp has been sold under this subchapter shall, upon request, display the stamp for inspection to—

(1) any officer or employee of the Department of the Interior who is authorized to enforce this subchapter; or

(2) any officer of any State or political subdivision of a State authorized to enforce State game laws.

(c) Other licenses

Nothing in this section requires any individual to affix the Migratory Bird Hunting and Conservation Stamp to any other license prior to taking 1 or more migratory waterfowl.

(Mar. 16, 1934, ch. 71, §1, 48 Stat. 451; June 15, 1935, ch. 261, title I, §1, 49 Stat. 378; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; July 30, 1956, ch. 782, §1, 70 Stat. 722; Pub. L. 94–215, §3(a), Feb. 17, 1976, 90 Stat. 189; Pub. L. 109–266, §10(a), Aug. 3, 2006, 120 Stat. 674.)

AMENDMENTS

2006—Pub. L. 109–266 amended section generally. Prior to amendment, section related to hunting and conservation stamp for taking migratory waterfowl.

1976—Pub. L. 94–215 substituted ''hunting and conservation stamp'' for ''hunting stamp'' in first sentence.

1956—Act July 30, 1956, substituted ''no person who has attained the age of sixteen years'', for ''no person over sixteen years of age''.

1935—Act June 15, 1935, substituted ''validated by his signature written by himself in ink across the face of the stamp prior to his taking such birds'' for ''issued to him in the manner hereinafter provided,'' and struck out provisions which authorized the Secretary of Agriculture to adopt and promulgate regulations for the protection of private property in the injury of crops.

TRANSFER OF FUNCTIONS

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior.

§ 718b. Sales; fund disposition; unsold stamps

(a) Sales

(1) In general

The stamps required under section 718a of this title shall be sold by the Postal Service

and may be sold by the Department of the Interior, pursuant to regulations promulgated jointly by the Postal Service and the Secretary, at—

(A) any post office; and

(B) such other establishments, facilities, or locations as the Postal Service or the Secretary (or a designee) may direct or authorize.

(2) Proceeds

The funds received from the sale of stamps under this subchapter by the Department of the Interior shall be deposited in the Migratory Bird Conservation Fund in accordance with section 718d of this title.

(3) Minimum and maximum values

Except as provided in subsection (b), the Postal Service shall collect the full face value of each stamp sold under this section for the applicable hunting year.

(4) Validity

No stamp sold under this subchapter shall be valid under any circumstances to authorize the taking of migratory waterfowl except—

(A) in compliance with Federal and State laws (including regulations);

(B) on the condition that the individual so taking the waterfowl wrote the signature of the individual in ink across the face of the stamp prior to the taking; and

(C) during the hunting year for which the stamp was issued.

(5) Unused stamps

(A) Definition of retail dealer

In this paragraph, the term ''retail dealer'' means—

(i) any individual or entity that is regularly engaged in the business of retailing hunting or fishing equipment; and

(ii) any individual or entity duly authorized to act as an agent of a State or political subdivision of a State for the sale of State or county hunting or fishing licenses.

(B) Redemption of unused stamps

The Department of the Interior, pursuant to regulations promulgated by the Secretary, shall provide for the redemption, on or before the 30th day of June of each year, of unused stamps issued for the year under this subchapter that—

(i) were sold on consignment to any person authorized by the Secretary to sell stamps on consignment (including retail dealers for resale to customers); and

(ii) have not been resold by any such person.

(6) Prohibition on certain stamp sales

The Postal Service shall not—

(A) sell on consignment any stamps issued under this subchapter to any individual, business, or organization; or

(B) redeem stamps issued under this subchapter that are sold on consignment by the Secretary (or any agent of the Secretary).

(b) Cost of stamps

The Postal Service shall collect $10.00 for each stamp sold under the provisions of this section for hunting years 1987 and 1988, $12.50 for hunting years 1989 and 1990, and $15.00 for each hunting year thereafter, if the Secretary determines, at any time before February 1 of the calendar year in which such hunting year begins, that all sums in the Migratory Bird Conservation Fund available for obligation and attributable to—

(1) amounts appropriated pursuant to this subchapter for the fiscal year ending in the immediately preceding calendar year; and

(2) the sale of stamps under this section during such fiscal year

have been obligated for expenditure.

(Mar. 16, 1934, ch. 71, §2, 48 Stat. 451; June 15, 1935, ch. 261, title I, §2, 49 Stat. 379; Aug. 12, 1949, ch. 421, §1, 63 Stat. 599; July 30, 1956, ch. 782, §§2, 3(c), formerly §3(b), 70 Stat. 722, renumbered Pub. L. 109–266, §10(i)(1), Aug. 3, 2006, 120 Stat. 679; Pub. L. 85–585, §1, Aug. 1, 1958, 72 Stat. 486; Pub. L. 92–214, §§1, 2, Dec. 22, 1971, 85 Stat. 777; Pub. L. 94–215, §3(b), (c), Feb. 17, 1976, 90 Stat. 189; Pub. L. 94–273, §34, Apr. 21, 1976, 90 Stat. 380; Pub. L. 95–552, §1, Oct. 30, 1978, 92 Stat. 2071; Pub. L. 95–616, §7(a), Nov. 8, 1978, 92 Stat. 3114; Pub. L. 99–625, §3, Nov. 7, 1986, 100 Stat. 3502; Pub. L. 99–645, title II, §202, Nov. 10, 1986, 100 Stat. 3586; Pub. L. 109–266, §10(b), (c), Aug. 3, 2006, 120 Stat. 674, 675.)

AMENDMENTS

2006—Pub. L. 109–266, §10(b), inserted section catchline.

Subsec. (a). Pub. L. 109–266, §10(b), added subsec. (a) and struck out former subsec. (a) which related to issuance and sale of stamps, fund disposition, and unsold stamps.

Subsec. (b). Pub. L. 109–266, §10(c)(4), which directed amendment of par. (2) by striking ''For purposes'' and all that follows through ''of any such year.'', was executed by striking ''For purposes of this section, the term 'hunting year' means the 12-month period beginning on July 1 of any such year.'' at the end of the concluding provisions following par. (2), to reflect the probable intent of Congress.

Pub. L. 109–266, §10(c)(1)–(3), inserted heading and substituted ''Secretary'' for ''Secretary of the Interior'' and ''Migratory Bird Conservation Fund'' for ''migratory bird conservation fund'' in introductory provisions.

1986—Subsec. (b). Pub. L. 99–645, §202(1), (2), in introductory provisions, substituted ''$10.00 for each stamp sold under the provisions of this section for hunting years 1987 and 1988, $12.50 for hunting years 1989 and 1990, and $15.00 for each hunting year thereafter, if'' for ''$7.50 for each stamp sold under the provisions of this section for any hunting year if''.

Pub. L. 99–625 and Pub. L. 99–645, §202(3), amended subsec. (b) identically, inserting ''available for obligation'' before ''attributable to''.

1978—Subsec. (a). Pub. L. 95–616 substituted ''June'' for ''September'' in sixth sentence.

Pub. L. 95–552, §1(1), (2), designated existing provisions as subsec. (a), inserted in third sentence introductory text ''Except as provided in subsection (b) of this section,'' and ''for any hunting year'' before ''there shall be collected''.

Subsec. (b). Pub. L. 95–552, §1(3), added subsec. (b).

1976—Pub. L. 94–273 substituted ''the year'' for ''the fiscal year'' and ''each year'' for ''each fiscal year''.

Pub. L. 94–215 authorized sale of stamps by the Department of the Interior, substituted provision for prescription of regulations jointly by the Postal Service and the Secretary of the Interior for prior provision for such prescription by the Postal Service and provision for sale of stamps at any establishment, facility, or lo-

cation as the Postal Service and the Secretary of the Interior shall direct and authorize for prior provision for sale of stamps at such post offices other than first- and second-class post offices as the Postal Service shall direct and inserted provision respecting deposit of funds from sale of stamps by the Department of the Interior in the migratory bird conservation fund; and substituted ''September'' for ''June'' in relation to redemption of blocks of stamps, designated existing provisions as cls. (A) and (B), and substituted ''consignment to any person, including, but not limited to, ''retail dealers'' for ''consignment to retail dealers'' in cl. (A) and ''by any such person'' for ''by such dealers'' in cl. (B), respectively.

1971—Pub. L. 92–214 substituted ''Postal Service'' for ''Post Office Department'' and ''Postmaster General'' and inserted provisions authorizing the collection of up to $5 for each stamp sold to be determined by the Secretary of the Interior after taking into consideration, among other matters, the increased cost of lands needed for the conservation of migratory birds.

1958—Pub. L. 85–585 increased cost of stamp from $2 to $3.

1956—Act July 30, 1956, § 2, struck out in existing next to last sentence requirement that stamps remaining unsold by the Post Office Department subsequent to becoming void after the 30th day of June next succeeding issuance be destroyed, substituted provisions in existing last sentence relating to redemption of blocks of unused stamps sold on consignment to retail dealers for resale to their customers, for provisions prohibiting the redemption by the Department in cash or kind of stamps sold under this Act, and inserted sentence defining ''retail dealers''. For further amendment of next to last sentence of this section, see section 3(c) of act July 30, 1956, set out below.

Act July 30, 1956, § 3(c), formerly § 3(b), as renumbered by Pub. L. 109–266, § 10(i)(1), substituted provisions in fourth sentence authorizing use as migratory-bird stamps only during fiscal year for which issued, for provisions requiring stamps to expire and be void after the 30th day of June next succeeding issuance. Amendment of fourth sentence by section 3(c) further amends amendments made to next to last sentence by section 2 of act July 30, 1956, as set out above.

1949—Act Aug. 12, 1949, increased cost of stamp from $1 to $2.

1935—Act June 15, 1935, amended section generally.

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85–585, § 4, Aug. 1, 1958, 72 Stat. 487, provided that: ''The amendment made by the first section of this Act [amending this section] shall become effective on July 1, 1959. The amendment made by section 2 of this Act [amending section 718d of this title] making available the net proceeds of all moneys received in the migratory bird conservation fund for the location, ascertainment, and acquisition of Waterfowl Production Areas and suitable areas for migratory bird refuges shall become effective on July 1, 1960. The remaining amendments made by this Act [amending section 718d of this title] shall become effective on the date of the enactment of this Act [Aug. 1, 1958]. Any unobligated balance remaining in the migratory bird conservation fund on June 30, 1960, shall thereafter be available for expenditure only for the purposes specified in the Migratory Bird Hunting Stamp Act [now Migratory Bird Hunting and Conservation Stamp Act] of March 16, 1934 [this subchapter], as amended by this Act.''

SPENDING OF STAMP MONEY

Section 1 of act Aug. 12, 1949, provided in part: ''That the moneys derived from the sale of such stamps shall be spent only upon specific appropriation by the Congress.''

§ 718b–1. Disposition of unsold stamps

(a) Disposition of unsold stamps

A Migratory Bird Hunting and Conservation Stamp shall be transferred to the Postal Service or the Secretary of the Interior (or a designee) for sale to a collector if the stamp—

(1) has not been sold by the end of the hunting year (as that term is defined in section 718j of this title) during which the stamp is issued; and

(2) as determined by the Postal Service or the Secretary of the Interior—

(A) is appropriate to supply a market for sale to collectors; and

(B) is in suitable condition for sale to a collector.

(b) Surplus stock

The Postal Service or the Secretary of the Interior may destroy any surplus stock of Migratory Bird Hunting and Conservation Stamps at such time and in such manner as the Postal Service or the Secretary of the Interior determines to be appropriate.

(July 30, 1956, ch. 782, § 3(a), (b), formerly § 3(a), 70 Stat. 722; Pub. L. 92–214, § 3, Dec. 22, 1971, 85 Stat. 777; renumbered § 3(a), (b) and amended Pub. L. 109–266, § 10(i)(2), Aug. 3, 2006, 120 Stat. 679.)

CODIFICATION

Section was not enacted as part of act Mar. 16, 1934, which comprises this subchapter.

PRIOR PROVISIONS

A prior section 3(b) of act July 30, 1956, ch. 782, 70 Stat. 722, amended section 718b of this title prior to being redesignated 3(c) by section 10(i)(1) of Pub. L. 109–266.

AMENDMENTS

2006—Pub. L. 109–266 inserted section catchline and substituted subsecs. (a) and (b) for former text which read: ''On or after July 30, 1956, such quantity of migratory-bird hunting stamps, not sold at the end of the fiscal year for which issued, as determined by the Postal Service to be (1) required to supply the market for sale to collectors, and (2) in suitable condition for such sale to collectors, shall be turned over to the Philatelic Agency and therein placed on sale. Any surplus stock of such migratory-bird hunting stamps may be destroyed in such manner as the Postal Service shall direct.''

1971—Pub. L. 92–214 substituted ''Postal Service'' for ''Postmaster General''.

§ 718c. Authorization and exemption

Nothing in this subchapter shall be construed to authorize any person to take any migratory waterfowl otherwise than in accordance with regulations adopted and approved pursuant to any treaty or convention heretofore or hereafter entered into between the United States and any other country for the protection of migratory birds, nor to exempt any person from complying with the game laws of the several States.

(Mar. 16, 1934, ch. 71, § 3, 48 Stat. 451; Pub. L. 95–616, § 7(b), Nov. 8, 1978, 92 Stat. 3114; Pub. L. 109–266, § 10(d), Aug. 3, 2006, 120 Stat. 675.)

AMENDMENTS

2006—Pub. L. 109–266 inserted section catchline.

1978—Pub. L. 95–616 inserted ''or convention'' after ''treaty''.

§ 718d. Expenditure of funds

(a) In general

All funds received for stamps sold under this subchapter shall be—

(1) accounted for by the Postal Service or the Secretary, as appropriate;

(2) paid into the Treasury of the United States; and

(3) reserved and set aside as a special fund, to be known as the ''Migratory Bird Conservation Fund'' (referred to in this section as the ''fund''), to be administered by the Secretary.

(b) Use of funds

All funds received into the fund are appropriated for the following purposes, to remain available until expended:

(1) Advance allotments

So much as may be necessary shall be used by the Secretary for engraving, printing, issuing, selling, and accounting for Migratory Bird Hunting and Conservation Stamps and moneys received from the sale thereof, in addition to expenses for personnel services in the District of Columbia and elsewhere, and such other expenses as may be necessary in executing the duties and functions required of the Postal Service.

(2) Areas for refuges

Except as provided in paragraph (3) and subsection (c), the remainder shall be available for the location, ascertainment, and acquisition of suitable areas for migratory bird refuges under the provisions of the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.) and for the administrative costs incurred in the acquisition of such areas.

(3) Conditions on use of funds

The Secretary may use funds made available under paragraph (2) for the purposes of that paragraph, and such other funds as may be appropriated for the purposes of that paragraph or this paragraph, to acquire, or defray the expense incident to the acquisition by gift, devise, lease, purchase, or exchange of, small wetland and pothole areas, interests therein, and rights-of-way to provide access thereto. Such small areas, to be designated as ''Waterfowl Production Areas'', may be acquired without regard to the limitations and requirements of the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.), but all of the provisions of such Act which govern the administration and protection of lands acquired thereunder, except the inviolate sanctuary provisions of such Act, shall be applicable to areas acquired pursuant to this paragraph.

(c) Promotion of stamp sales

(1) In general

The Secretary may use funds from the sale of Migratory Bird Hunting and Conservation Stamps, not to exceed $1,000,000 in each of fiscal years 1999, 2000, 2001, 2002, and 2003, for the promotion of additional sales of those stamps, in accordance with a Migratory Bird Conservation Commission approved annual marketing plan. Such promotion shall include the preparation of reports, brochures, or other appropriate materials to be made available to the public that describe the benefits to wildlife derived from stamp sales.

(2) Components of report

The Secretary shall include in each annual report of the Commission under section 715b[1] of this title a description of activities conducted under this subsection in the year covered by the report.

(Mar. 16, 1934, ch. 71, § 4, 48 Stat. 451; June 15, 1935, ch. 261, title I, §§ 3, 4, 49 Stat. 379, 380; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Aug. 12, 1949, ch. 421, § 2, 63 Stat. 600; Oct. 20, 1951, ch. 520, 65 Stat. 451; Pub. L. 85–585, §§ 2, 3, Aug. 1, 1958, 72 Stat. 486, 487; Pub. L. 89–669, § 6, Oct. 15, 1966, 80 Stat. 929; Pub. L. 92–214, § 2, Dec. 22, 1971, 85 Stat. 777; Pub. L. 94–215, § 3(d), Feb. 17, 1976, 90 Stat. 190; Pub. L. 105–269, § 2, Oct. 19, 1998, 112 Stat. 2381; Pub. L. 109–266, § 10(e), Aug. 3, 2006, 120 Stat. 676.)

REFERENCES IN TEXT

The Migratory Bird Conservation Act, referred to in subsec. (b)(2), (3), is act Feb. 18, 1929, ch. 257, 45 Stat. 1222, as amended, which is classified generally to subchapter III (§ 715 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 715 of this title and Tables.

Section 715b of this title, referred to in subsec. (c)(2), was omitted from the Code.

AMENDMENTS

2006—Pub. L. 109–266, § 10(e)(1), (2), inserted section catchline, substituted subsec. (a) for introductory provisions which read ''All moneys received for such stamps shall be accounted for by the Postal Service or the Department of the Interior, whichever is appropriate, and paid into the Treasury of the United States, and shall be reserved and set aside as a special fund to be known as the migratory bird conservation fund, to be administered by the Secretary of the Interior. All moneys received into such fund are appropriated for the following objects and shall be available therefor until expended:'', inserted subsec. (b) designation, heading, and introductory provisions, redesignated former subsecs. (a) to (c) as pars. (1) to (3), respectively, of subsec. (b), and realigned margins.

Subsec. (b)(1). Pub. L. 109–266, § 10(e)(3), inserted heading and substituted ''So much as may be necessary shall be used by the Secretary for engraving'' for ''So much as may be necessary shall be used by the Secretary of the Interior to make advance allotments to the Postal Service at such times and in such amounts as may be mutually agreed upon by the Secretary of the Interior and the Postal Service for direct expenditure by the Postal Service for engraving'', ''Migratory Bird Hunting and Conservation Stamps'' for ''migratory bird hunting stamps'', ''personnel'' for ''personal'', and ''Postal Service'' for ''postal service''.

Subsec. (b)(2). Pub. L. 109–266, § 10(e)(4)(B), inserted ''(16 U.S.C. 715 et seq.)'' after ''Migratory Bird Conservation Act''.

Pub. L. 109–266, § 10(e)(4)(A), which directed amendment of par. (2) by substituting heading ''Areas for refuges'' and text ''Except as provided in paragraph (3) and subsection (c)'' for ''Except as provided in subsections (c) and (d) of this section'', was executed by making the substitution for ''Except as authorized in subsections (c) and (d) of this section'' to reflect the probable intent of Congress.

Subsec. (b)(3). Pub. L. 109–266, § 10(e)(5), inserted heading, inserted ''(16 U.S.C. 715 et seq.)'' after ''Migratory Bird Conservation Act'', and substituted ''The Secretary may use funds made available under paragraph (2) for the purposes of that paragraph, and such other funds as may be appropriated for the purposes of that paragraph or this paragraph,'' for ''The Secretary of

[1] See References in Text note below.

the Interior is authorized to utilize funds made available under subsection (b) of this section for the purposes of such subsection, and such other funds as may be appropriated for the purposes of such subsection, or of this subsection,'' and ''pursuant to this paragraph'' for ''pursuant to this subsection''.

Subsec. (c). Pub. L. 109–266, §10(e)(6), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b)(3).

Subsec. (c)(1). Pub. L. 109–266, §10(e)(7)(A), inserted heading and substituted ''The Secretary may use'' for ''The Secretary of the Interior may utilize'' and ''Migratory Bird Hunting and Conservation Stamps'' for ''migratory bird hunting and conservation stamps''.

Subsec. (c)(2). Pub. L. 109–266, §10(e)(7)(B), inserted heading and substituted ''The Secretary'' for ''The Secretary of the Interior''.

Subsec. (d). Pub. L. 109–266, §10(e)(6), redesignated subsec. (d) as (c).

1998—Subsecs. (b), (d). Pub. L. 105–269 substituted ''subsections (c) and (d)'' for ''subsection (c)'' in subsec. (b) and added subsec. (d).

1976—Pub. L. 94–215 inserted ''or the Department of the Interior, whichever is appropriate,'' after ''Postal Service'' in first sentence.

1971—Pub. L. 92–214 substituted ''Postal Service'' for ''Post Office Department'' in introductory provisions and ''Postal Service'' for ''Post Office Department'' and ''Postmaster General'' in subsec. (a).

1966—Subsec. (b). Pub. L. 89–669 struck out provisos relating to wildlife management areas and rule making for such areas which are now covered by section 668bb(d) (1) of this title.

1958—Subsecs. (a), (b). Pub. L. 85–585 earmarked proceeds from sale of stamps, less expenses of Post Office Department in connection with fish and wildlife matters, for the acquisition of migratory bird refuges, and permitted hunting of resident game birds in designated wildlife management areas.

Subsec. (c). Pub. L. 85–585 added subsec. (c).

1951—Subsec. (a). Act Oct. 20, 1951, substituted ''85 per centum'' for ''90 per centum''.

Subsec. (b). Act Oct. 20, 1951, inserted ''in enforcing'' after ''The remainder shall be available for expenses''.

1949—Subsec. (a). Act Aug. 12, 1949, inserted proviso.

1935—Act June 15, 1935, amended section generally.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment by Pub. L. 85–585, see section 4 of Pub. L. 85–585, set out as a note under section 718b of this title.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 718a of this title.

§ 718e. Loans and transfers, alteration, and reproduction of stamps

(a) In general

No person to whom has been sold a Migratory Bird Hunting and Conservation Stamp, validated as provided in section 718a of this title, shall loan or transfer such stamp to any person during the period of its validity; nor shall any person other than the person validating such stamp use it for any purpose during such period.

(b) Alteration

Except as provided in clauses (i) and (ii) of section 504(*l*)(D)[1] of title 18, no person shall alter, mutilate, imitate, or counterfeit any stamp authorized by this subchapter, or imitate or counterfeit any die, plate, or engraving therefor, or make, print, or knowingly use, sell, or have in his possession any such counterfeit, die, plate, or engraving.

(c) Reproduction

Notwithstanding the provisions of subsection (b) of this section, or the prohibition in section 474 of title 18, or other provisions of law, the Secretary may authorize, with the concurrence of the Secretary of the Treasury,

(1) the color reproduction, or

(2) the black and white reproduction,

of Migratory Bird Hunting and Conservation Stamps authorized by sections 718 to 718b, 718c, 718d, and 718f to 718h of this title, which otherwise satisfies the requirements of clauses (ii) and (iii) of section 504(1) of title 18. Any such reproduction shall be subject to those terms and conditions deemed necessary by the Secretary by regulation or otherwise and any proceeds received by the Federal Government as a result of such reproduction shall be paid, after deducting expenses for marketing, into the Migratory Bird Conservation Fund established under section 718d of this title.

(Mar. 16, 1934, ch. 71, §5, 48 Stat. 452; June 15, 1935, ch. 261, title I, §5, 49 Stat. 380; Pub. L. 98–369, div. A, title X, §1077(a), (b)(3), July 18, 1984, 98 Stat. 1054, 1055; Pub. L. 100–653, title III, §302, Nov. 14, 1988, 102 Stat. 3827; Pub. L. 109–266, §10(f), Aug. 3, 2006, 120 Stat. 677.)

AMENDMENTS

2006—Pub. L. 109–266, §10(f)(1), inserted section catchline.

Subsec. (a). Pub. L. 109–266, §10(f)(1), inserted heading and substituted ''Migratory Bird Hunting and Conservation Stamp'' for ''migratory-bird hunting stamp'' in text.

Subsec. (b). Pub. L. 109–266, §10(f)(2), inserted heading and substituted ''Except as provided in clauses (i) and (ii) of section 504(*l*)(D) of title 18, no person shall alter'' for ''Except as provided in clauses (i) and (ii) of section 504(1)(D) of title 18, no person shall alter'' in text.

Subsec. (c). Pub. L. 109–266, §10(f)(3)(C)(ii), which directed substitution of ''shall be paid, after deducting expenses for marketing, into the Migratory Bird Conservation Fund'' for ''shall be paid into the migratory bird conservation fund'' in concluding provisions, was executed by making the substitution for ''shall be paid, after deducting expenses for marketing, into the migratory bird conservation fund'' to reflect the probable intent of Congress.

Pub. L. 109–266, §10(f)(3)(A), (B), (C)(i), inserted heading, substituted ''Secretary may'' for ''Secretary of the Interior may'' in introductory provisions, and substituted ''Secretary'' for ''Secretary of the Interior'' and ''Migratory Bird Hunting and Conservation Stamps'' for ''migratory bird hunting stamps'' in concluding provisions.

1988—Subsec. (c). Pub. L. 100–653 inserted '', after deducting expenses for marketing,'' after ''paid''.

1984—Subsec. (b). Pub. L. 98–369, §1077(b)(3), substituted ''Except as provided in clauses (i) and (ii) of section 504(1)(D) of title 18, no person'' for ''No person''.

Subsec. (c). Pub. L. 98–369, §1077(a), added subsec. (c).

1935—Act June 15, 1935, amended section generally.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 1077(c) of Pub. L. 98–369 provided that: ''The amendments made by this section [amending this section and section 504 of Title 18, Crimes and Criminal Procedure] shall take effect on the date of the enactment of this Act [July 18, 1984].''

[1] So in original. Probably should be ''504(1)(D)''.

§ 718f. Enforcement

For the efficient execution of this subchapter, the judges of the several courts, established under the laws of the United States, United States magistrate judges, and persons appointed by the Secretary to enforce the provisions of this subchapter, shall have, with respect thereto, like powers and duties as are conferred upon said judges, magistrate judges, and employees of the Department of the Interior by the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.), or any other Act to carry into effect any treaty for the protection of migratory birds with respect to that Act. Any bird or part thereof taken or possessed contrary to this subchapter shall, when seized, be disposed of by the Secretary in accordance with law.

(Mar. 16, 1934, ch. 71, § 6, 48 Stat. 452; Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 95–616, § 3(i), Nov. 8, 1978, 92 Stat. 3112; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 109–266, § 10(g), Aug. 3, 2006, 120 Stat. 677.)

REFERENCES IN TEXT

The Migratory Bird Treaty Act, and ''that Act'', referred to in text, is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§ 703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

AMENDMENTS

2006—Pub. L. 109–266 inserted section catchline, substituted ''Secretary to'' for ''Secretary of Agriculture to'' and ''Department of the Interior'' for ''Department of Agriculture'', and inserted ''(16 U.S.C. 703 et seq.)'' after ''Migratory Bird Treaty Act''.

1978—Pub. L. 95–616 substituted in last sentence ''contrary to this subchapter shall, when seized, be disposed of by the Secretary in accordance with law'' for ''contrary to such Acts shall, when seized, be disposed of as provided by the Migratory Bird Treaty Act, or Acts aforesaid''.

CHANGE OF NAME

''United States magistrate judges'' and ''magistrate judges'' substituted for ''United States magistrates'' and ''magistrates'', respectively, in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''magistrates'' substituted in text for ''commissioners'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

§ 718g. Violations

Any person that violates or fails to comply with any provision of this subchapter (including a regulation promulgated under this subchapter) shall be subject to the penalties described in section 707 of this title.

(Mar. 16, 1934, ch. 71, § 7, as added Pub. L. 109–266, § 10(h), Aug. 3, 2006, 120 Stat. 678.)

PRIOR PROVISIONS

A prior section 718g, act Mar. 16, 1934, ch. 71, § 7, 48 Stat. 452, related to penalties prior to repeal by Pub. L. 109–266, § 10(h), Aug. 3, 2006, 120 Stat. 677.

§ 718h. Cooperation

The Secretary is authorized to cooperate with the States and the territories and possessions of the United States in the enforcement of this subchapter.

(Mar. 16, 1934, ch. 71, § 8, as added Pub. L. 109–266, § 10(h), Aug. 3, 2006, 120 Stat. 678.)

PRIOR PROVISIONS

A prior section 718h, act Mar. 16, 1934, ch. 71, § 8, 48 Stat. 452; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, related to cooperation with States and Territories prior to repeal by Pub. L. 109–266, § 10(h), Aug. 3, 2006, 120 Stat. 677.

§ 718i. Use of contest fees

Notwithstanding any other provision of law, funds received by the United States Fish and Wildlife Service in the form of fees for entering any Migratory Bird Hunting and Conservation Stamp contest shall be credited—

(1) first, to the appropriation account from which expenditures for the administration of the contest are made; and

(2) second, to the extent any funds remain, to the Migratory Bird Conservation Fund.

(Mar. 16, 1934, ch. 71, § 9, as added Pub. L. 109–266, § 10(h), Aug. 3, 2006, 120 Stat. 678.)

PRIOR PROVISIONS

A prior section 9 of act Mar. 16, 1934, was classified to section 718 of this title prior to repeal by Pub. L. 109–266, § 10(h), Aug. 3, 2006, 120 Stat. 677.

A prior section 718i, act June 28, 1941, ch. 259, § 1, 55 Stat. 356, related to disposal of surplus stamps and restricted use of stamps to the fiscal year for which issued prior to repeal by act July 30, 1956, ch. 782, § 3(d), formerly § 3(c), 70 Stat. 722, renumbered Pub. L. 109–266, § 10(i)(1), Aug. 3, 2006, 120 Stat. 679.

§ 718j. Definitions

(a) In general

In this subchapter, the terms defined in the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.) and the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) have the meanings given those terms in those Acts.

(b) Other definitions

In this subchapter:

(1) Hunting year

The term ''hunting year'' means the 1-year period beginning on July 1 of each year.

(2) Migratory waterfowl

The term ''migratory waterfowl'' means the species enumerated in paragraph (a) of subdivision 1 of article I of the Convention between the United States and Great Britain for the Protection of Migratory Birds, signed at Washington on August 16, 1916 (USTS 628) (16 U.S.C. 703 et seq.).

(3) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(4) State

The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) Guam;

(E) American Samoa;

(F) the Commonwealth of the Northern Mariana Islands;
(G) the Federated States of Micronesia;
(H) the Republic of the Marshall Islands;
(I) the Republic of Palau; and
(J) the United States Virgin Islands.

(5) Take

The term ''take'' means—
(A) to pursue, hunt, shoot, capture, collect, or kill; or
(B) to attempt to pursue, hunt, shoot, capture, collect, or kill.

(Mar. 16, 1934, ch. 71, §10, as added Pub. L. 109–266, §10(h), Aug. 3, 2006, 120 Stat. 678.)

REFERENCES IN TEXT

The Migratory Bird Conservation Act, referred to in subsec. (a), is act Feb. 18, 1929, ch. 257, 45 Stat. 1222, which is classified generally to subchapter III (§715 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 715 of this title and Tables.

The Migratory Bird Treaty Act, referred to in subsec. (a), is act July 3, 1918, ch. 128, 40 Stat. 755, which is classified generally to subchapter II (§703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

PRIOR PROVISIONS

A prior section 718j, Mar. 16, 1934, ch. 71, §10, as added Pub. L. 97–307, Oct. 14, 1982, 96 Stat. 1450, related to crediting of funds received as fees for entering migratory-bird hunting and conservation stamp contest prior to repeal by Pub. L. 109–266, §10(h), Aug. 3, 2006, 120 Stat. 677.

§ 718k. Use of fees collected for Federal migratory bird permits

On and after October 21, 1998, all fees collected for Federal migratory bird permits shall be available to the Secretary, without further appropriation, to be used for the expenses of the U.S. Fish and Wildlife Service in administering such Federal migratory bird permits, and shall remain available until expended.

(Pub. L. 105–277, div. A, §101(e) [title I], Oct. 21, 1998, 112 Stat. 2681–231, 2681–236.)

SUBCHAPTER V—JUNIOR DUCK STAMP CONSERVATION AND DESIGN PROGRAM

§ 719. Establishment of Program

(a) In general

The Secretary of the Interior (in this subchapter referred to as the ''Secretary'') may carry out in accordance with this subchapter a program to be known as the ''Junior Duck Stamp Conservation and Design Program'' (in this subchapter referred to as the ''Program'') to accomplish the goals of—

(1) providing to school children environmental education opportunities relating to the conservation and management of migratory birds; and

(2) increasing the capacity for schools, States, and other educational programs to conduct conservation and education programs.

(b) Program features

The Program shall consist of—

(1) conducting in all interested States the activities which on the day before October 6, 1994, are conducted under the program known as the Junior Duck Stamp Conservation and Design Program;

(2) other activities authorized under the Program by this subchapter or any other Act; and

(3) any other activity necessary to carry out the conservation and education goals of the Program.

(c) Effort to conduct Program in all States

(1) In general

The Secretary shall take appropriate steps to seek to conduct the Program in all of the States.

(2) Annual report

The Secretary shall annually submit a report to the Congress on the status of the Program in each of the States.

(Pub. L. 103–340, §2, Oct. 6, 1994, 108 Stat. 3119; Pub. L. 106–316, §2(1), Oct. 19, 2000, 114 Stat. 1276.)

AMENDMENTS

2000—Subsec. (c). Pub. L. 106–316 struck out ''50'' before ''States'' in pars. (1) and (2).

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–166, §1, Jan. 10, 2006, 119 Stat. 3576, provided that: ''This Act [amending sections 719a and 719c of this title and provisions listed in a table of National Wildlife Refuges set out under section 668dd of this title] may be cited as the 'Junior Duck Stamp Reauthorization Amendments Act of 2005'.''

SHORT TITLE

Section 1 of Pub. L. 103–340 provided that: ''This Act [enacting this subchapter and provisions listed in a table of National Wildlife Refuges set out under section 668dd of this title] may be cited as the 'Junior Duck Stamp Conservation and Design Program Act of 1994'.''

§ 719a. Junior Duck Stamp

(a) Competition

As part of the Program, the Secretary may annually conduct a competition to—

(1) solicit the submission by students at elementary and secondary schools of designs relating to conservation of migratory birds; and

(2) select winning designs from among those submissions for use for licensing and marketing under subsection (b) of this section.

(b) Licensing and marketing of design of Junior Duck Stamps

As part of the Program, the Secretary may—

(1) license and market winning designs selected in competitions under subsection (a) of this section; and

(2) license and market stamps bearing those designs, which shall be known as Junior Duck Stamps.

(c) Use of proceeds

Amounts received under subsection (b) of this section—

(1)[1] shall be available to the Secretary until expended, without further appropriations, solely for—

(A) awards, prizes, and scholarships to individuals who submit designs in competi-

[1] So in original. Subsec. (c), as amended by Pub. L. 109–166, does not contain a par. (2).

tions under subsection (a) of this section, that are—

(i) selected in such a competition as winning designs; or

(ii) otherwise determined in such a competition to be superior;

(B) awards and prizes to schools, students, teachers, and other participants to further education activities related to the conservation education goals of the Program;

(C) award ceremonies for winners of national and State Junior Duck Stamp competitions;

(D) travel expenses for winners of national and State Junior Duck Stamp competitions to award ceremonies, if—

(i) the event is intended to honor students for winning a national competition; or

(ii) the event is intended to honor students for winning a State competition;

(E) expenses for licensing and marketing under subsection (b) of this section;

(F) expenses for migratory bird reference materials or supplies awarded to schools that participate in the Program; and

(G) expenses for marketing and educational materials developed to promote the Program;[2]

(Pub. L. 103–340, § 3, Oct. 6, 1994, 108 Stat. 3119; Pub. L. 109–166, § 2, Jan. 10, 2006, 119 Stat. 3576.)

AMENDMENTS

2006—Subsec. (c). Pub. L. 109–166 amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: ''Amounts received under subsection (b) of this section—

''(1) shall be available to the Secretary until expended, without further appropriations, solely for—

''(A) awards and scholarships to individuals who submit designs in competitions under subsection (a) of this section, that are—

''(i) selected in such a competition as winning designs; or

''(ii) otherwise determined in such a competition to be superior;

''(B) awards to schools and other participants to further education activities related to the conservation education goals of the Program; and

''(C) expenses for licensing and marketing under subsection (b) of this section; and

''(2) may not be used for administrative expenses of the Program.''

§ 719b. Acceptance of gifts, devises, and bequests

The Secretary may accept and use any gift, devise, or bequest of personal property, or proceeds thereof, for the purpose of funding the activities described in section 719a(c)(1)(A) and (B) of this title.

(Pub. L. 103–340, § 4, Oct. 6, 1994, 108 Stat. 3120.)

§ 719b–1. Definition of State

For the purposes of this subchapter, the term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and any other territory or possession of the United States.

[2] So in original.

(Pub. L. 103–340, § 5, as added Pub. L. 106–316, § 2(3), Oct. 19, 2000, 114 Stat. 1276.)

PRIOR PROVISIONS

A prior section 5 of Pub. L. 103–340 was renumbered section 6 and is classified to section 719c of this title.

§ 719c. Authorization of appropriations

(a) Authorization

There are authorized to be appropriated to the Secretary for administrative expenses of the Program $350,000 for each of the fiscal years 2006 through 2010.

(b) Limitations on use for distribution to State and regional coordinators to implement competitions

Of the amount appropriated under this section for a fiscal year—

(1) not more than $100,000 may be used by the Secretary to administer the Program; and

(2) not more than $250,000 may be distributed to State and regional coordinators to implement competitions under the Program.

(Pub. L. 103–340, § 6, formerly § 5, Oct. 6, 1994, 108 Stat. 3120; renumbered § 6 and amended Pub. L. 106–316, §§ 1, 2(2), Oct. 19, 2000, 114 Stat. 1276; Pub. L. 109–166, § 3, Jan. 10, 2006, 119 Stat. 3577.)

CODIFICATION

Another section 6 of Pub. L. 103–340 was renumbered section 7 and enacted provisions listed in a table of National Wildlife Refuges set out under section 668dd of this title.

AMENDMENTS

2006—Pub. L. 109–166 designated existing provisions as subsec. (a), inserted subsec. (a) heading, substituted ''$350,000'' for ''$250,000'' and ''fiscal years 2006 through 2010'' for ''fiscal years 2001 through 2005'', and added subsec. (b).

2000—Pub. L. 106–316, § 1, substituted ''for each of the fiscal years 2001 through 2005'' for ''for each of the fiscal years 1995 through 2000''.

CHAPTER 8—UPPER MISSISSIPPI RIVER NATIONAL WILDLIFE AND FISH REFUGE

Sec.
721. Short title; ''person'' defined.
722. Acquisition of lands and water.
723. Purposes of refuge; regulations by Secretary of the Interior.
724. Consent of States to acquisition; existing rights-of-way, easements, etc.
725. Regulations, etc., by Secretary of the Interior.
726. Acts prohibited in refuge; commercial fishing.
727. Powers of employees of Department of the Interior.
728. Expenditures.
729. Price per acre.
730. Violations of law or regulations; punishment.
731. Effect on other laws.

§ 721. Short title; "person" defined

This chapter may be cited as ''The Upper Mississippi River National Wildlife and Fish Refuge Act.'' The term ''person'' as used therein includes an individual, partnership, association, or corporation.

(June 7, 1924, ch. 346, §§ 1, 12, 43 Stat. 650, 652; Pub. L. 105–312, title II, § 202(b), Oct. 30, 1998, 112 Stat. 2957.)

CODIFICATION

Section is a combination provision, the first sentence being derived from section 1 and the last from section 12, of act June 7, 1924.

AMENDMENTS

1998—Pub. L. 105–312 substituted ''National Wildlife'' for ''Wild Life''.

§ 722. Acquisition of lands and water

The Secretary of the Interior is authorized to acquire, by purchase, gift, or lease, such areas of land, or of land and water, situated between Rock Island, Illinois, and Wabasha, Minnesota, on either side of or upon islands in the Mississippi River which are not used for agricultural purposes, as he determines suitable for the purposes of this chapter, and any such area when acquired shall become a part of the Upper Mississippi River National Wildlife and Fish Refuge (referred to in this chapter as the ''refuge'').

(June 7, 1924, ch. 346, §§2, 3, 43 Stat. 650; June 18, 1934, ch. 602, 48 Stat. 1015; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 105–312, title II, §202(b), Oct. 30, 1998, 112 Stat. 2957.)

CODIFICATION

Section is a combination provision, the latter portion beginning with the words ''and any such area,'' being from section 3, and the remainder of the section from section 2 of act June 7, 1924.

AMENDMENTS

1998—Pub. L. 105–312, which directed the amendment of section 2 of the Upper Mississippi River Wild Life and Fish Refuge Act by substituting ''National Wildlife'' for ''Wild Life'', was executed to the part of this section based on section 3 of the act, to reflect the probable intent of Congress. See Codification note above.

1934—Act June 18, 1934, struck out ''which are subject to overflow by such river'' after ''Mississippi River''.

TRANSFER OF FUNCTIONS

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior.

LAND CONVEYANCE, UPPER MISSISSIPPI RIVER NATIONAL WILDLIFE AND FISH REFUGE

Pub. L. 105–312, title II, §202(a), Oct. 30, 1998, 112 Stat. 2957, provided that: ''In accordance with section 4(a)(5) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)(5)), there are transferred to the Corps of Engineers, without reimbursement, approximately 37.36 acres of land of the Upper Mississippi River Wildlife and Fish Refuge in the State of Minnesota, as designated on the map entitled 'Upper Mississippi National Wildlife and Fish Refuge lands transferred to Corps of Engineers', dated January 1998, and available, with accompanying legal descriptions of the land, for inspection in appropriate offices of the United States Fish and Wildlife Service.''

ADDITIONAL LANDS

Act June 13, 1944, ch. 243, 58 Stat. 274, provided for the acquisition of certain tracts of land situated in Wabasha County, Minnesota.

§ 723. Purposes of refuge; regulations by Secretary of the Interior

The refuge shall be established and maintained (a) as a refuge and breeding place for migratory birds included in the terms of the convention between the United States and Great Britain for the protection of migratory birds, concluded August 16, 1916, and (b) to such extent as the Secretary of the Interior may by regulations prescribe, as a refuge and breeding place for other wild birds, game animals, fur-bearing animals, and for the conservation of wild flowers and aquatic plants, and (c) to such extent as the Secretary of the Interior may by regulations prescribe as a refuge and breeding place for fish and other aquatic animal life.

(June 7, 1924, ch. 346, §3, 43 Stat. 650; 1939 Reorg. Plan No. II, §4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

Reorg. Plan No. III of 1940, §3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232, set out in the Appendix to Title 5, Government Organization and Employees, consolidated Bureau of Fisheries and Bureau of Biological Survey into one agency in Department of the Interior to be known as Fish and Wildlife Service.

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, transferred Bureau of Fisheries in Department of Commerce and its functions to Department of the Interior; transferred functions of Secretary of Commerce relating to protection of fur-bearing animals to Secretary of the Interior; and transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior.

§ 724. Consent of States to acquisition; existing rights-of-way, easements, etc.

(a) No such area shall be acquired by the Secretary of the Interior until the legislature of each State in which is situated any part of the areas to be acquired under this chapter has consented to the acquisition of such part by the United States for the purposes of this chapter, and, except in the case of a lease, no payment shall be made by the United States for any such area until title thereto is satisfactory to the Attorney General and is vested in the United States.

(b) The existence of a right of way, easement, or other reservation or exception in respect of such area shall not be a bar to its acquisition (1) if the Secretary of the Interior determines that any such reservation or exception will in no manner interfere with the use of the area for the purposes of this chapter, or (2) if in the deed or other conveyance it is stipulated that any reservation or exception in respect of such area, in favor of the person from whom the United States receives title, shall be subject to regulations prescribed under authority of this chapter.

(June 7, 1924, ch. 346, §4, 43 Stat. 650; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 723 of this title.

§ 725. Regulations, etc., by Secretary of the Interior

Except where it is specifically provided otherwise, the Secretary of the Interior shall pre-

scribe such regulations, exercise such functions, and perform such duties as may be necessary to carry out the purposes of this chapter.

(June 7, 1924, ch. 346, § 5, 43 Stat. 651; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with approval to cross national wildlife refuges under this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

Transfer of functions of Secretary of Agriculture and Secretary of Commerce to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 723 of this title.

§ 726. Acts prohibited in refuge; commercial fishing

No person shall, except in accordance with regulations prescribed by the Secretary of the Interior in respect of wild birds, game animals, fur-bearing animals, wild flowers, and aquatic plants, or in respect of fish and other aquatic-animal life—

(a) Enter the refuge for any purpose; or

(b) Disturb, injure, kill, or remove, or attempt to disturb, injure, kill, or remove any wild bird, game animal, fur-bearing animal, fish, or other aquatic-animal life, on the refuge; or

(c) Remove from the refuge, or injure or destroy thereon any flower, plant, tree, or other natural growth, or the nest or egg of any wild bird; or

(d) Injure or destroy any notice, sign board, fence, building, or other property of the United States thereon.

Commercial fishing may, however, be conducted in the waters of this refuge under regulation by the Secretary of the Interior.

(June 7, 1924, ch. 346, §§ 6, 7, 43 Stat. 651; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

CODIFICATION

Section is a combination of sections 6 and 7 of act June 7, 1924, the last sentence only being from section 7.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior under this chapter to Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see Transfer of Functions note set out under section 725 of this title.

Transfer of functions of Secretary of Agriculture and Secretary of Commerce to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 723 of this title.

§ 727. Powers of employees of Department of the Interior

(a) Arrest; execution of warrants; searches

Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of this chapter (1) shall have power, without warrant, to arrest any person committing in the presence of such employee a violation of this chapter or of any regulation made pursuant to this chapter, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction, (2) shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this chapter or regulations made pursuant thereto, and (3) shall have authority, with a search warrant issued by an officer or court of competent jurisdiction to make a search in accordance with the terms of such warrant. Any judge of a court established under the laws of the United States, or any United States magistrate judge may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

(b) Seizures

All birds, animals, fish, or parts thereof captured, injured, or killed, and all flowers, plants, trees, and other natural growths, and nests and eggs of birds removed, and all implements or paraphernalia, including guns, fishing equipment, and boats used or attempted to be used contrary to the provisions of this chapter or any regulations made pursuant thereto, shall, when found by such employee or by any marshal or deputy marshal, be summarily seized by him and placed in the custody of such persons as the Secretary of the Interior may by regulation prescribe.

(c) Reports of seizures; forfeiture and libel proceedings

A report of the seizure shall be made to the United States attorney for the judicial district in which the seizure is made, for forfeiture either (1) upon conviction of the offender under section 730 of this title, or (2) by proceedings by libel in rem. Such libel proceedings shall conform as near as may be to civil suits in admiralty, except that either party may demand trial by jury upon any issue of fact when the value in controversy exceeds $20. In case of a jury trial the verdict of the jury shall have the same effect as the finding of the court upon the facts. Libel proceedings shall be at the suit and in the name of the United States. If such forfeiture proceedings are not instituted within a reasonable time, the United States attorney shall give notice thereof, and the custodian shall thereupon release the articles seized.

(June 7, 1924, ch. 346, § 8, 43 Stat. 651; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731,

53 Stat. 1433; Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' in subsec. (a) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''United States magistrate'' substituted in subsec. (a) for ''United States commissioner'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior under this chapter to Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see Transfer of Functions note set out under section 725 of this title.

Transfer of functions of Secretary of Agriculture and Secretary of Commerce to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 723 of this title.

§ 728. Expenditures

The Secretary of the Interior is authorized to make such expenditures for construction, equipment, maintenance, repairs, and improvements, including expenditures for personal services at the seat of government and elsewhere, as may be necessary to execute the functions imposed upon him by this chapter and as may be provided for by Congress from time to time.

(June 7, 1924, ch. 346, § 9, 43 Stat. 652; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

CODIFICATION

As originally enacted, this section contained an additional paragraph which appropriated a sum half of which was to be available, until expended, for the expenditures mentioned herein.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture and Secretary of Commerce to Secretary of the Interior, by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 723 of this title.

§ 729. Price per acre

The Secretary of the Interior shall not pay for any land or land and water a price which shall exceed an average cost of $10 per acre: *Provided*, That this provision shall not apply to any land or land and water prior to May 12, 1928, acquired or contracted for under the provisions of this chapter.

(June 7, 1924, ch. 346, § 10, 43 Stat. 652; Mar. 4, 1925, ch. 558, 43 Stat. 1354; May 12, 1928, ch. 534, 45 Stat. 502; 1939 Reorg. Plan No. II, § 4 (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

CODIFICATION

Provisions of this section, which authorized an appropriation of $1,500,000 for the acquisition of authorized areas and for all necessary expenses thereto, were omitted. The text set out above constituted the first and second provisos to the omitted provisions.

AMENDMENTS

1928—Act May 12, 1928, substituted ''which shall exceed an average cost of $10 per acre'' for ''which when added to the price of land or land and water theretofore purchased, shall exceed an average cost of $5 per acre'', and inserted proviso making the provision of this section inapplicable to any land or land and water prior to May 12, 1928.

1925—Act Mar. 4, 1925, substituted proviso for restriction on availability of money for acquisition of areas.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 723 of this title.

§ 730. Violations of law or regulations; punishment

Any person who shall violate or fail to comply with any provision of or any regulation made pursuant to this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $500 or be imprisoned not more than six months, or both.

(June 7, 1924, ch. 346, § 11, 43 Stat. 652.)

§ 731. Effect on other laws

Nothing in this chapter shall be construed as exempting any portion of the Mississippi River from the provisions of Federal laws for the improvement, preservation, and protection of navigable waters, nor as authorizing any interference with the operations of the Department of the Army in carrying out any project now or hereafter adopted for the improvement of said river.

(June 7, 1924, ch. 346, § 13, 43 Stat. 652; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE IN NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

CHAPTER 9—FISH AND WILDLIFE SERVICE

Sec.

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742c. Loans for financing or refinancing of cost of purchasing, constructing, equipping, maintaining, repairing, or operating commercial fishing vessels or gear.
742c–1. Investment in obligations of the United States; proceeds to be used for fisheries.
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742f–1. National Volunteer Coordination Program.
742g. Cooperation with State Department.
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742i. Effect on rights of States and international commissions.
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Sec.
742j–1. Airborne hunting.
742j–2. Uniform allowance.
742k. Management and disposition of vessels and other property acquired and arising out of fishery loans or related type of activities.
742*l*. Enforcement authority for the protection of fish and wildlife resources.
742m. Relinquishment of exclusive legislative jurisdiction.
743. Repealed.
743a. Detail of personnel and loan of equipment to Director of Bureau of Sport Fisheries and Wildlife.
744. Investigations; fish propagation; investigations of damages by predacious fishes; executive assistance.
745. Powers of Secretary.
746. Vessels of Fish and Wildlife Service.
746a. Operation and maintenance fees for the M/V Tiglax and other vessels.
747. Omitted.
748. Expenditure of appropriations for propagation of food fishes.
749. Omitted.
750. Station on Mississippi River for rescue of fishes and propagation of mussels.
751. Personnel.
752. Omitted.
753. Cooperative work.
753a. Cooperative research and training programs for fish and wildlife resources.
753b. Authorization of appropriations.
754. Commutation of rations for officers and crews of vessels of Service.
754a. Appropriations for United States Fish and Wildlife Service; purchases from.
754b. Funds from private entities credited to Resource Management account.
754c. Work under reimbursable agreements; recording obligations and crediting amounts received.
754d. Fee schedule for forensic laboratory services.

§ 741. Repealed. Pub. L. 88–488, title IV, § 402(a)(3), Aug. 19, 1964, 78 Stat. 492

Section, R.S. § 4395; acts Jan. 20, 1888, ch. 1, 25 Stat. 1; Feb. 27, 1925, ch. 364, 43 Stat. 1046, related to appointment, etc. of a Commissioner of Fisheries.

§ 742. Omitted

CODIFICATION

Section, acts Mar. 4, 1911, ch. 285, § 1, 36 Stat. 1436; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, provided for an acting Commissioner of Fisheries.

TRANSFER OF FUNCTIONS

Reorg. Plan No. II of 1939, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, set out in the Appendix to Title 5, transferred Bureau of Fisheries in Department of Commerce and its functions, and Bureau of Biological Survey in Department of Agriculture and its functions, to Department of the Interior, to be administered under direction and supervision of Secretary of the Interior.

Reorg. Plan No. III of 1940, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232, set out in the Appendix to Title 5, Government Organization and Employees, consolidated Bureau of Fisheries and Bureau of Biological Survey into one agency in Department of the Interior to be known as the Fish and Wildlife Service. It was further provided that functions of consolidated agency should be administered under direction and supervision of Secretary of the Interior by a director and assistants, and that offices of Commissioner and Deputy Commissioner of Fisheries and offices of Chief and Associate Chief of Bureau of Biological Survey should be abolished and their functions transferred to consolidated agency.

The Fish and Wildlife Service, created by Reorg. Plan No. III of 1940 was succeeded by United States Fish and Wildlife Service established by act Aug. 8, 1956, ch. 1036, § 3, 70 Stat. 1119. See section 742b of this title.

EX. ORD. NO. 9634. ESTABLISHMENT OF FISHERY CONSERVATION ZONES

Ex. Ord. No. 9634, Sept. 28, 1945, 10 F.R. 12305, provided in part:

By virtue of and pursuant to the authority vested in me as President of the United States, it is hereby ordered that the Secretary of State and the Secretary of the Interior shall from time to time jointly recommend the establishment by Executive orders of fishery conservation zones in areas of the high seas contiguous to the coasts of the United States, pursuant to the proclamation entitled ''Policy of the United States With Respect to Coastal Fisheries in Certain Areas of the High Seas'' [Proc. No. 2668, Sept. 28, 1945, 10 F.R. 12304], this day signed by me, and said Secretaries shall in each case recommend provisions to be incorporated in such orders relating to the administration, regulation and control of the fishery resources of and fishing activities in such zones, pursuant to authority of law heretofore or hereafter provided.

HARRY S TRUMAN.

§ 742a. Declaration of policy

The Congress declares that the fish, shellfish, and wildlife resources of the Nation make a material contribution to our national economy and food supply, as well as a material contribution to the health, recreation, and well-being of our citizens; that such resources are a living, renewable form of national wealth that is capable of being maintained and greatly increased with proper management, but equally capable of destruction if neglected or unwisely exploited; that such resources afford outdoor recreation throughout the Nation and provide employment, directly or indirectly, to a substantial number of citizens; that the fishing industries strengthen the defense of the United States through the provision of a trained seafaring citizenry and action-ready fleets of seaworthy vessels; that the training and sport afforded by fish and wildlife resources strengthen the national defense by contributing to the general health and physical fitness of millions of citizens; and that properly developed, such fish and wildlife resources are capable of steadily increasing these valuable contributions to the life of the Nation.

The Congress further declares that the fishing industry, in its several branches, can prosper and thus fulfill its proper function in national life only if certain fundamental needs are satisfied by means that are consistent with the public interest and in accord with constitutional functions of governments. Among these needs are:

(1) Freedom of enterprise—freedom to develop new areas, methods, products, and markets in accordance with sound economic principles, as well as freedom from unnecessary administrative or legal restrictions that unreasonably conflict with or ignore economic needs;

(2) Protection of opportunity—maintenance of an economic atmosphere in which domestic production and processing can prosper; protection from subsidized competing products; protection of opportunity to fish on the high seas in accordance with international law;

(3) Assistance—assistance consistent with that provided by the Government for industry generally, such as is involved in promoting good industrial relations, fair trade standards, harmonious labor relations, better health standards and sanitation; and including, but not limited to—

(a) services to provide current information on production and trade, market promotion and development, and an extension service,

(b) research services for economic and technologic development and resource conservation, and

(c) resource management to assure the maximum sustainable production for the fisheries.

The Congress further declares that the provisions of this Act are necessary in order to accomplish the objective of proper resource development, and that this Act shall be administered with due regard to the inherent right of every citizen and resident of the United States to engage in fishing for his own pleasure, enjoyment, and betterment, and with the intent of maintaining and increasing the public opportunities for recreational use of our fish and wildlife resources, and stimulating the development of a strong, prosperous, and thriving fishery and fish processing industry.

(Aug. 8, 1956, ch. 1036, §2, 70 Stat. 1119.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 8, 1956, ch. 1036, 70 Stat. 1119, as amended, known as the Fish and Wildlife Act of 1956, which is classified generally to sections 742a to 742d and 742e to 742j–2 of this title. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE OF 2011 AMENDMENT

Pub. L. 111–357, §1, Jan. 4, 2011, 124 Stat. 3979, provided that: ''This Act [amending sections 742f and 742f–1 of this title] may be cited as the 'National Wildlife Refuge Volunteer Improvement Act of 2010'.''

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–327, §1, Oct. 16, 2004, 118 Stat. 1271, provided that: ''This Act [amending sections 742f and 742f–1 of this title] may be cited as the 'National Wildlife Refuge Volunteer Act of 2004'.''

SHORT TITLE OF 1998 AMENDMENTS

Pub. L. 105–328, §1, Oct. 30, 1998, 112 Stat. 3057, provided that: ''This Act [amending section 742*l* of this title and enacting provisions set out as a note under section 742*l* of this title] may be cited as the 'Fish and Wildlife Revenue Enhancement Act of 1998'.''

Pub. L. 105–242, §1, Oct. 5, 1998, 112 Stat. 1574, provided that: ''This Act [amending section 742f of this title and enacting provisions set out as notes under section 742f of this title] may be cited as the 'National Wildlife Refuge System Volunteer and Community Partnership Enhancement Act of 1998'.''

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–616, §1, Nov. 8, 1978, 92 Stat. 3110, provided: ''That this Act [enacting sections 695j–1, 712, 742*l* of this title and amending sections 460k–3, 666g, 668a, 668dd, 690e, 695i, 706, 715d, 715i, 715j, 718b, 718c, 718f, 742f, 753a of this title and sections 1114, 3112 of Title 18, Crimes and Criminal Procedure] may be cited as the 'Fish and Wildlife Improvement Act of 1978'.''

SHORT TITLE

Section 1 of act Aug. 8, 1956, provided: ''This Act [enacting this section and sections 742b to 742d and 742e to 742j of this title and amending section 713c–3 of Title 15, Commerce and Trade] may be cited as the 'Fish and Wildlife Act of 1956'.''

§ 742b. United States Fish and Wildlife Service

(a) Assistant Secretary for Fish and Wildlife

There is established within the Department of the Interior the position of Assistant Secretary for Fish and Wildlife. Such Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the same rate as other Assistant Secretaries.

(b) Establishment; Director of United States Fish and Wildlife Service; appointment; qualifications

There is established within the Department of the Interior the United States Fish and Wildlife Service. The functions of the United States Fish and Wildlife Service shall be administered under the supervision of the Director, who shall be subject to the supervision of the Assistant Secretary for Fish and Wildlife. The Director of the United States Fish and Wildlife Service shall be appointed by the President, by and with the advice and consent of the Senate. No individual may be appointed as the Director unless he is, by reason of scientific education and experience, knowledgeable in the principles of fisheries and wildlife management.

(c) Succession to United States Fish and Wildlife Service and Bureau of Sport Fisheries and Wildlife

The United States Fish and Wildlife Service established by subsection (b) of this section shall succeed to and replace the United States Fish and Wildlife Service (as constituted on June 30, 1974) and the Bureau of Sport Fisheries and Wildlife (as constituted on such date). All laws and regulations in effect on June 30, 1974, which relate to matters administered by the Department of the Interior through the United States Fish and Wildlife Service (as constituted on such date) and the Bureau of Sport Fisheries and Wildlife (as constituted on such date) shall remain in effect.

(d) Functions and responsibilities of Secretary of the Interior

All functions and responsibilities placed in the Department of the Interior or any official thereof by this Act shall be included among the functions and responsibilities of the Secretary of the Interior, as the head of the Department, and shall be carried out under his direction pursuant to such procedures or delegations of authority as he may deem advisable and in the public interest.

(Aug. 8, 1956, ch. 1036, §3, 70 Stat. 1120; Pub. L. 87–367, title I, §103(14), Oct. 4, 1961, 75 Stat. 788; Pub. L. 87–793, §607(a)(5), Oct. 11, 1962, 76 Stat. 849; Pub. L. 93–271, §1, Apr. 22, 1974, 88 Stat. 92.)

REFERENCES IN TEXT

This Act, referred to in subsec. (d), is act Aug. 8, 1956, ch. 1036, 70 Stat. 1119, as amended, known as the Fish and Wildlife Act of 1956, which is classified generally to sections 742a to 742d and 742e to 742j–2 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 742a of this title and Tables.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–271, §1(1), (2), struck out provisions relating to the establishment of the position of and the appointment of the Commissioner of Fish and Wildlife. Provisions for the establishment of the United States Fish and Wildlife Service within the Department of the Interior, consisting of the Bureau of Commercial Fisheries and the Bureau of Sport Fisheries and Wildlife, the appointment of a Director for each of the Bureaus, and the succession of the United States Fish and Wildlife Service to the Fish and Wildlife Service of the Department, were also struck out.

Subsec. (b). Pub. L. 93–271, §1(3), substituted provisions for the establishment of the United States Fish and Wildlife Service within the Department of the Interior, for its administration by a Director subject to the supervision of the Assistant Secretary for Fish and Wildlife, the qualifications for and the appointment of the Director, for provisions relating to the administration of the United States Fish and Wildlife Service by the Commissioner of Fish and Wildlife subject to the supervision of the Assistant Secretary for Fish and Wildlife.

Subsecs. (c), (d). Pub. L. 93–271, §1(3), added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d), relating to the distribution of functions, powers, and duties of former Fish and Wildlife Service, was struck out.

Subsec. (e). Pub. L. 93–271, §1(3), struck out subsec. (e) which related to continuation of all laws, rules, and regulations administered by the Fish and Wildlife Service.

Subsec. (f). Pub. L. 93–271, §1(3), struck out subsec. (f) which provided for administrative authority in the Secretary of the Interior to carry out the provisions of Act Aug. 8, 1956, and for effective procedure for reorganization.

1962—Subsec. (a). Pub. L. 87–793 struck out provisions which authorized the Commissioner to receive compensation at the same rate as that provided for grade GS–18.

1961—Subsec. (a). Pub. L. 87–367 struck out ''at Grades GS–17 each'' after ''by the Secretary''.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 3 of Pub. L. 93–271 provided that: ''The amendments made by this Act [amending this section and section 5316 of Title 5, Government Organization and Employees] shall take effect on July 1, 1974.''

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–793 effective on first day of first pay period which begins on or after Oct. 11, 1962, see section 610 of Pub. L. 87–793.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior in view of: creation of National Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in the Interior Department and Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in Secretary of the Interior or the Interior Department which were administered through Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

FEES FOR TRAINING BY NATIONAL CONSERVATION TRAINING CENTER

Pub. L. 104–208, div. A, title I, §101(d) [title I], Sept. 30, 1996, 110 Stat. 3009–181, 3009–185, as amended by Pub. L. 105–83, title I, Nov. 14, 1997, 111 Stat. 1547, provided in part: ''That hereafter, pursuant to 31 U.S.C. 9701, the Secretary shall charge reasonable fees for the full costs of providing training by the National Conservation Training Center, to be credited to this account, notwithstanding 31 U.S.C. 3302, for the full costs of providing such training, to remain available until expended.''

§ 742b–1. Assistant Director for Wildlife and Sport Fish Restoration Programs

(a) Establishment

There is established in the United States Fish and Wildlife Service of the Department of the Interior the position of Assistant Director for Wildlife and Sport Fish Restoration Programs.

(b) Superior

The Assistant Director for Wildlife and Sport Fish Restoration Programs shall report directly to the Director of the United States Fish and Wildlife Service.

(c) Responsibilities

The Assistant Director for Wildlife and Sport Fish Restoration Programs shall be responsible for the administration, management, and oversight of the Federal Assistance Program for State Wildlife and Sport Fish Restoration under the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 et seq.) and the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 et seq.).

(Pub. L. 106–408, title I, §132, Nov. 1, 2000, 114 Stat. 1775.)

REFERENCES IN TEXT

The Pittman-Robertson Wildlife Restoration Act, referred to in subsec. (c), is act Sept. 2, 1937, ch. 899, 50 Stat. 917, as amended, also known as the Federal Aid in Wildlife Restoration Act, which is classified generally to chapter 5B (§669 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 669 of this title and Tables.

The Dingell-Johnson Sport Fish Restoration Act, referred to in subsec. (c), is act Aug. 9, 1950, ch. 658, 64 Stat. 430, as amended, also known as the Federal Aid in Fish Restoration Act and the Fish Restoration and Management Projects Act, which is classified generally to chapter 10B (§777 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 777 of this title and Tables.

§ 742c. Loans for financing or refinancing of cost of purchasing, constructing, equipping, maintaining, repairing, or operating commercial fishing vessels or gear

(a) Authorization

The Secretary of the Interior is authorized, under such rules and regulations and under such terms and conditions as he may prescribe, to make loans for financing or refinancing of the cost of purchasing, constructing, equipping, maintaining, repairing, or operating new or used commercial fishing vessels or gear.

(b) Conditions

Any loans made under the provisions of this section shall be subject to the following restrictions:

(1) Bear an interest rate of not less than (a) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury ob-

ligations of comparable maturity, plus (b) such additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purpose.

(2) Mature in not more than ten years, except that where a loan is for all or part of the costs of constructing a new fishing vessel, such period may be fourteen years.

(3) No financial assistance shall be extended pursuant to this section unless reasonable financial assistance applied for is not otherwise available on reasonable terms.

(4) Loans shall be approved only upon the furnishing of such security or other reasonable assurance of repayment as the Secretary may require considering the objectives of this section which are to upgrade commercial fishing vessels and gear and to provide reasonable financial assistance not otherwise available to commercial fishermen. The proposed collateral for a loan must be of such a nature that, when considered with the integrity and ability of the management, and the applicant's past and prospective earnings, repayment of the loan will be reasonably assured.

(5) The applicant shall possess the ability, experience, resources, and other qualifications necessary to enable him to operate and maintain new or used commercial fishing vessels or gear.

(6) Before the Secretary approves a loan for the purchase or construction of a new or used vessel which will not replace an existing commercial fishing vessel, he shall determine that the applicant's contemplated operation of such vessel in a fishery will not cause economic hardship or injury to the efficient vessel operators already operating in that fishery.

(7) An applicant for a fishery loan must be a citizen or national of the United States.

(8) Within the meaning of this section, a corporation, partnership, or association shall not be deemed to be a citizen of the United States unless the Secretary determines that it satisfactorily meets all of the requirements set forth in section 50501 of title 46 for determining the United States citizenship of a corporation, partnership, or association operating a vessel in the coastwise trade.

(9)(A) The nationality of an applicant shall be established to the satisfaction of the Secretary. Within the meaning of this section, no corporation, partnership, or association organized under the laws of American Samoa shall be deemed a national of the United States unless 75 per centum of the interest therein is owned by nationals of the United States, citizens of the United States, or both, and in the case of a corporation, unless its president or other chief executive officer and the chairman of its board are nationals or citizens of the United States and unless no more of its directors than a minority of the number necessary to constitute a quorum are nonnationals and noncitizens.

(B) Seventy-five per centum of the interest in a corporation shall not be deemed to be owned by nationals of the United States, citizens of the United States, or both, (i) if the title to 75 per centum of its stock is not vested in such nationals and citizens free from any trust or fiduciary obligation in favor of any person not a national or citizen of the United States; or (ii) if 75 per centum of the voting power in such corporation is not vested in nationals of the United States, citizens of the United States, or both; or (iii) if through any contract or understanding it is so arranged that more than 25 per centum of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a national or citizen of the United States; or (iv) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a national or citizen of the United States.

(c) Fisheries loan fund; interest payments on appropriations available as capital to the fund less average undispersed cash balance

There is created a fisheries loan fund, which shall be used by the Secretary as a revolving fund to make loans for financing and refinancing under this section. Any funds received by the Secretary on or before September 30, 1986, in payment of principal or interest on any loans so made shall be deposited in the fund and be available for making additional loans under this section. Any funds received in the fisheries loan fund after September 30, 1986, shall be covered into the Treasury as miscellaneous receipts. There is authorized to be appropriated to the fisheries loan fund the sum of $20,000,000 to provide initial capital.

(d) Modification of loan contract

The Secretary, subject to the specific limitations in this section, may consent to the modification, with respect to the rate of interest, time of payment of any installment of principal, or security, of any loan contract to which he is a party.

(e) Chartering vessels; loans to Alaskan earthquake victims; termination date

The Secretary is authorized under such terms and conditions and pursuant to regulations prescribed by him to use the funds appropriated under this section to make loans to commercial fishermen for the purpose of chartering fishing vessels pending the construction or repair of vessels lost, destroyed, or damaged by the earthquake of March 27, 1964, and subsequent tidal waves related thereto: *Provided*, That any loans made under this subsection shall only be repaid from the net profits of the operations of such chartered vessels, which profits shall be reduced by such reasonable amount as determined by the Secretary for the salary of the fishermen chartering such vessels. The funds authorized herein shall not be available for such loans after June 30, 1966.

(Aug. 8, 1956, ch. 1036, §4, 70 Stat. 1121; Pub. L. 85–888, Sept. 2, 1958, 72 Stat. 1710; Pub. L. 88–309, §9, May 20, 1964, 78 Stat. 199; Pub. L. 89–85, §§1–4, July 24, 1965, 79 Stat. 262; Pub. L. 91–279, §9, June 12, 1970, 84 Stat. 309; Pub. L. 91–387, §§1, 2, Aug. 24, 1970, 84 Stat. 829; Pub. L. 94–273, §2(8), Apr. 21, 1976, 90 Stat. 375; Pub. L. 96–478, §16(a), Oct. 21, 1980, 94 Stat. 2303; Pub. L. 97–347, §1, Oct. 18, 1982,

96 Stat. 1652; Pub. L. 98–44, title I, §103(a)(1), July 12, 1983, 97 Stat. 216; Pub. L. 98–498, title IV, §430(1), Oct. 19, 1984, 98 Stat. 2310; Pub. L. 99–659, title IV, §409, Nov. 14, 1986, 100 Stat. 3740.)

CODIFICATION

In subsec. (b)(8), ''section 50501 of title 46'' substituted for ''section 2 of the Shipping Act, 1916, as amended,'' on authority of Pub. L. 109–304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 50501 of Title 46, Shipping.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–659 amended third sentence generally, striking out ''and any balance remaining therein at the close of September 30, 1986 (at which time the fund shall cease to exist),'' after ''1986,''.

1984—Subsec. (c). Pub. L. 98–498 substituted ''September 30, 1986'' for ''September 30, 1984'' wherever appearing.

1983—Subsec. (c). Pub. L. 98–44 substituted ''September 30, 1984'' for ''September 30, 1983'' wherever appearing.

1982—Subsec. (c). Pub. L. 97–347 substituted ''September 30, 1983'' for ''September 30, 1982'' wherever appearing.

1980—Subsec. (c). Pub. L. 96–478 substituted ''September 30, 1982'' for ''September 30, 1980'' wherever appearing and struck out interest payment provisions respecting, payment at close of each fiscal year from fisheries loan fund into miscellaneous receipts of the Treasury on cumulative amount of appropriations available as capital to the fund from and after July 1, 1965, less average undispersed balance in the fund during the year, determination of interest rate on basis of average market yield during month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to average maturity of loans made from the fund, and interest payment deferrals approved by the Secretary of the Treasury subject to interest on deferred amounts.

1976—Subsec. (c). Pub. L. 94–273 substituted ''September'' for ''June'' wherever appearing.

1970—Subsec. (b)(2). Pub. L. 91–279 provided maturity period of fourteen years for loans for all or part of costs of constructing new fishing vessels.

Subsec. (b)(7). Pub. L. 91–387, §2, permitted a national of the United States to be an applicant for a fishery loan.

Subsec. (b)(8). Pub. L. 91–387, §2, substituted provision for Secretary's determination of United States citizenship of a corporation, partnership, or association by satisfactorily meeting all requirements set forth in section 802 of title 46 for determination of citizenship of such entity operating a vessel in coastwise trade, for prior provision for establishment of such citizenship within meaning of section 802 of title 46 to satisfaction of the Secretary.

Subsec. (b)(9). Pub. L. 91–387, §2, added par. (9).

Subsec. (c). Pub. L. 91–387, §1, extended term for making fisheries loans, substituting ''June 30, 1980'' for ''June 30, 1970'' wherever appearing.

1965—Subsec. (a). Pub. L. 89–85, §1, substituted ''financing or refinancing of the cost of purchasing, constructing, equipping, maintaining, repairing, or operating new or used commercial fishing vessels or gear'' for ''financing and refinancing of operations, maintenance, replacement, repair, and equipment of fishing gear and vessels'' and struck out provision for research into basic problems of fisheries.

Subsec. (b). Pub. L. 89–85, §§2, 3, substituted in par. (1) provision respecting determination of interest rate taking into consideration average market yield on outstanding Treasury obligations of comparable maturity plus additional charge toward coverage of other costs of program for former provision prescribing an interest rate of not less than 3 per centum per annum and added pars. (4) to (8), respectively.

Subsec. (c). Pub. L. 89–85, §4, extended term for making fisheries loans from June 30, 1965, to June 30, 1970, required Secretary to pay at end of each fiscal year into miscellaneous receipts of the Treasury interest on cumulative amount of appropriations available as capital to fund after July 1, 1965, less average undispersed cash balance in fund during the year, provided formula for determination of rate of interest, and authorized deferral of interest payments but with payment of interest on deferred payments.

1964—Subsec. (e). Pub. L. 88–309 added subsec. (e).

1958—Subsec. (c). Pub. L. 85–888 increased authorization for $10,000,000 to $20,000,000.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 16(b) of Pub. L. 96–478 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on September 1, 1980.''

EFFECTIVE DATE OF 1970 AMENDMENT; FISHERIES LOAN FUND AVAILABLE FOR LOANS FROM JULY 1, 1970 TO CLOSE OF JUNE 30, 1980

Section 3 of Pub. L. 91–387 provided that: ''The provisions of this Act [amending this section] shall be effective July 1, 1970. Notwithstanding the provisions of section 4(c) of the Fish and Wildlife Act of 1956, as amended [subsec. (c) of this section], any balance remaining in the fisheries loan fund at the close of June 30, 1970, shall be available to make loans for the purposes of section 4 of said Act [this section] from July 1, 1970, to the close of June 30, 1980.''

EFFECTIVE DATE OF 1965 AMENDMENT; REMAINING FUNDS; AVAILABILITY FOR LOANS

Section 5 of Pub. L. 89–85 provided that: ''The provisions of this Act [amending this section] shall be effective July 1, 1965. Notwithstanding the provisions of section 4(c) of the Fish and Wildlife Act of 1956, as amended [subsec. (c) of this section], any balance remaining in the fisheries loan fund at the close of June 30, 1965, shall be available to make loans for the purposes of section 4 of said Act [this section] from July 1, 1965, to the close of June 30, 1970.''

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 742b of this title.

LOANS UNDER FISH AND WILDLIFE ACT OF 1956

Pub. L. 96–561, title II, §221, Dec. 22, 1980, 94 Stat. 3295, as amended by Pub. L. 98–44, title I, §103(b), July 12, 1983, 97 Stat. 216; Pub. L. 98–498, title IV, §431, Oct. 19, 1984, 98 Stat. 2310, provided that during the period beginning Dec. 22, 1980, through the close of Sept. 30, 1986, the Secretary of Commerce could make loans from the fisheries loan fund established under subsec. (c) of this section only for the purpose of assisting obligors to avoid default on obligations covering fishing vessels and to cover operating losses.

§ 742c–1. Investment in obligations of the United States; proceeds to be used for fisheries

All moneys in the Fisheries Loan Fund established under Section[1] 742c of this title shall be invested by the Secretary of Commerce in obligations of the United States, except so much as shall be currently needed for loans or administrative expenses authorized under the Fisheries Loan Fund. All accrued proceeds from such investment shall be, subject to amounts provided in advance by appropriations, credited by the Secretary of the Treasury to the debt of the Secretary of Commerce incurred under section 53723 of title 46 in connection with fisheries financing

[1] So in original. Probably should not be capitalized.

under chapter 537 of title 46 for so long as such debt exists. All accrued proceeds from such investment, after such debt has been liquidated, shall be, subject to amounts provided in advance by appropriations, credited to the fisheries portion of the Federal Ship Financing Fund established under section 1102 of the Merchant Marine Act, 1936, as amended, and used for the fisheries purposes provided in chapter 537 of title 46.

(Pub. L. 98–498, title IV, § 432, Oct. 19, 1984, 98 Stat. 2310.)

REFERENCES IN TEXT

Section 1102 of the Merchant Marine Act, 1936, referred to in text, is section 1102 of Act June 29, 1936, ch. 858, which was classified to section 1272 of former Title 46, Appendix, Shipping. Section 1102 was repealed by Pub. L. 109–304, § 19, Oct. 6, 2006, 120 Stat. 1710. See also Historical and Revision Notes under section 53717 of Title 46, Shipping.

CODIFICATION

In text, ''section 53723 of title 46'' substituted for ''section 1105(d) of the Merchant Marine Act, 1936 (46 U.S.C. 1275), as amended,'' and ''chapter 537 of title 46'' substituted for ''title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1280), as amended,'' and for ''title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1280), as amended'', on authority of Pub. L. 109–304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted chapter 537 of Title 46, Shipping.

§ 742d. Investigations; preparation and dissemination of information; reports

(a)[1] The Secretary shall conduct continuing investigations, prepare and disseminate information, and make periodical reports to the public, to the President, and to Congress, with respect to the following matters:

(1) The production and flow to market of fish and fishery products domestically produced, and also those produced by foreign producers which affect the domestic fisheries;

(2) The availability and abundance and the biological requirements of the fish and wildlife resources;

(3) The competitive economic position of the various fish and fishery products with respect to each other, and with respect to competitive domestic and foreign-produced commodities;

(4) The collection and dissemination of statistics on commercial and sport fishing;

(5) The collection and dissemination of statistics on the nature and availability of wildlife, progress in acquisition of additional refuges and measures being taken to foster a coordinated program to encourage and develop wildlife values;

(6) The improvement of production and marketing practices in regard to commercial species and the conduct of educational and extension services relative to commercial and sport fishing, and wildlife matters;

(7) Any other matters which in the judgment of the Secretary are of public interest in connection with any phases of fish and wildlife operations.

(Aug. 8, 1956, ch. 1036, § 5, 70 Stat. 1121.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report to Congress required under this section is listed on page 54), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 742b of this title.

§ 742d–1. Studies of effects in use of chemicals

The Administrator of the Environmental Protection Agency is authorized and directed to undertake comprehensive continuing studies on the effects of insecticides, herbicides, fungicides and pesticides, upon the fish and wildlife resources of the United States, for the purpose of determining the amounts, percentages, and formulations of such chemicals that are lethal to or injurious to fish and wildlife and the amounts, percentages, mixtures, or formulations that can be used safely, and thereby prevent losses of fish and wildlife from such spraying, dusting, or other treatment.

(Pub. L. 85–582, § 1, Aug. 1, 1958, 72 Stat. 479; 1970 Reorg. Plan No. 3, § 2(a)(2)(i), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086.)

TRANSFER OF FUNCTIONS

''Administrator of the Environmental Protection Agency'' substituted in text for ''Secretary of the Interior'' pursuant to Reorg. Plan No. 3 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the Federal Water Quality Administration in Department of the Interior and transferred to Administrator of Environmental Protection Agency all functions vested in Secretary of the Interior by this section.

APPROPRIATIONS

Section 2 of Pub. L. 85–582, Aug. 1, 1958, 72 Stat. 479, as amended by Pub. L. 86–279, Sept. 16, 1959, 73 Stat. 563; Pub. L. 89–232, Oct. 1, 1965, 79 Stat. 902; Pub. L. 90–394, July 11, 1968, 82 Stat. 338, provided that: ''In order to carry out the provisions of this Act [this section], there is authorized to be appropriated $3,500,000 for the fiscal year ending June 30, 1969, and for each of the two fiscal years immediately following such year. Such sums shall remain available until expended.''

§ 742e. Transfer of functions to Secretary

(a) Functions of Secretaries of Agriculture, Commerce, etc.

There shall be transferred to the Secretary all functions of the Secretary of Agriculture, the Secretary of Commerce, and the head of any other department or agency, as determined by the Director of the Office of Management and Budget to relate primarily to the development, advancement, management, conservation, and protection of commercial fisheries; but nothing in this section shall be construed to modify the authority of the Department of State or the Secretary of State to negotiate or enter into any international agreements, or conventions with respect to the development, management, or protection of any fisheries and wildlife resources or with respect to international commissions operating under conventions to which the United States is a party.

[1] So in original. No subsec. (b) has been enacted.

(b) Transfer of personnel, property, records, etc.

There shall be transferred to the Department of the Interior so much of the personnel, property, facilities, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) as the Director of the Office of Management and Budget determines to be necessary in connection with the exercise of any functions transferred to the Secretary pursuant to subsection (a) of this section.

(c) Cooperation of other departments and agencies

The Secretary may request and secure the advice or assistance of any department or agency of the Government in carrying out the provisions of this Act, and any such department or agency which furnishes advice or assistance to the Secretary may expend its own funds for such purposes, with or without reimbursement from the Secretary as may be agreed upon between the Secretary and the department or agency.

(Aug. 8, 1956, ch. 1036, § 6, 70 Stat. 1122; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is act Aug. 8, 1956, ch. 1036, 70 Stat. 1119, as amended, known as the Fish and Wildlife Act of 1956, which is classified generally to sections 742a to 742d and 742e to 742j–2 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 742a of this title and Tables.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of 1970 Reorg. Plan No. 2 redesignated Bureau of the Budget as Office of Management and Budget.

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 742b of this title.

§ 742f. Powers of Secretaries of the Interior and Commerce

(a) Policies, procedures, and recommendations

The Secretary of the Interior, with such advice and assistance as he may require from the Assistant Secretary for Fish and Wildlife, shall consider and determine the policies and procedures that are necessary and desirable in carrying out efficiently and in the public interest the laws relating to fish and wildlife. The Secretary, with the assistance of the departmental staff herein authorized, shall—

(1) develop and recommend measures which are appropriate to assure the maximum sustainable production of fish and fishery products and to prevent unnecessary and excessive fluctuations in such production;

(2) study the economic condition of the industry, and whenever he determines that any segment of the domestic fisheries has been seriously disturbed either by wide fluctuation in the abundance of the resource supporting it, or by unstable market or fishing conditions or due to any other factors he shall make such recommendations to the President and the Congress as he deems appropriate to aid in stabilizing the domestic fisheries;

(3) develop and recommend special promotional and informational activities with a view to stimulating the consumption of fishery products whenever he determines that there is a prospective or actual surplus of such products; and

(4) take such steps as may be required for the development, advancement, management, conservation, and protection of fish and wildlife resources including, but not limited to, research, development of existing facilities, and acquisition by purchase or exchange of land and water, or interests therein.

(b) Gifts, devises, or bequests for performance of activities and services of United States Fish and Wildlife Service; restrictive or affirmative covenants or conditions of servitude; separate account in Treasury; disbursement orders; gifts or bequests to United States for Federal tax purposes

(1) In furtherance of the purposes of this Act, the Secretary of the Interior is authorized to accept any gifts, devises, or bequests of real and personal property, or proceeds therefrom, or interests therein, for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are deemed by the Secretary to be in accordance with law and compatible with the purpose for which acceptance is sought.

(2) USE OF GIFTS, DEVISES, AND BEQUESTS.—

(A) IN GENERAL.—Any gifts and bequests of money and proceeds from the sales of other property received as gifts or bequests pursuant to this subsection shall be deposited in a separate account in the Treasury and shall be disbursed upon order of the Secretary for the benefit of programs administered by the United States Fish and Wildlife Service.

(B) GIFTS, DEVISES, AND BEQUESTS TO PARTICULAR REFUGES.—

(i) DISBURSAL.—Any gift, devise, or bequest made for the benefit of a particular national wildlife refuge or complex of geographically related refuges shall be disbursed only for the benefit of that refuge or complex of refuges and without further appropriations.

(ii) MATCHING.—Subject to the availability of appropriations and the requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and other applicable law, the Secretary may provide funds to match gifts, devises, and bequests made for the benefit of a particular national wildlife refuge or complex of geographically related refuges. With respect to each gift, devise, or bequest, the amount of Federal funds may not exceed the amount (or, in the case of property or in-kind services, the fair market value) of the gift, devise, or bequest.

(3) For the purpose of Federal income, estate, and gift taxes, property, or proceeds therefrom, or interests therein, accepted under this subsection shall be considered as a gift or bequest to the United States.

(c) Volunteer services; incidental expenses; Federal employee status; authorization of appropriations

(1) The Secretary of the Interior and the Secretary of Commerce may each recruit, train, and accept, without regard to the provisions of title 5, the services of individuals without compensation as volunteers for, or in aid of programs conducted by either Secretary through the United States Fish and Wildlife Service or the National Oceanic and Atmospheric Administration.

(2) The Secretary of the Interior and the Secretary of Commerce are each authorized to provide for incidental expenses such as transportation, uniforms, lodging, awards (including nominal cash awards) and recognition, and subsistence of such volunteers without regard to their places of residence.

(3) Except as otherwise provided in this subsection, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relative to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(4) For the purpose of the tort claim provisions of title 28, a volunteer under this subsection shall be considered a Federal employee.

(5) For the purposes of subchapter I of chapter 81 of title 5, relating to compensation to Federal employees for work injuries, volunteers under this subsection shall be deemed employees of the United States within the meaning of the term ''employees'' as defined in section 8101 of title 5, and the provisions of that subchapter shall apply.

(6) SENIOR VOLUNTEER CORPS.—The Secretary of the Interior may establish a Senior Volunteer Corps, consisting of volunteers over the age of 50. To assist in the recruitment and retention of the volunteers, the Secretary may provide for additional incidental expenses to members of the Corps beyond the incidental expenses otherwise provided to volunteers under this subsection. The members of the Corps shall be subject to the other provisions of this subsection.

(d) Community partnership enhancement

(1) Definition of partner organization

In this subsection, the term ''partner organization'' means an organization that—

(A) draws its membership from private individuals, organizations, corporations, academic institutions, or State or local governments;

(B) is established to promote the understanding of, education relating to, and the conservation of the fish, wildlife, plants, and cultural and historical resources of a particular refuge or complex of geographically related refuges; and

(C) is described in section 501(c)(3) of title 26 and is exempt from taxation under section 501(a) of that title.

(2) Cooperative agreements

(A) In general

Notwithstanding chapter 63 of title 31, the Secretary of the Interior may negotiate and enter into a cooperative agreement with a partner organization, academic institution, State or local government agency, or other person to implement one or more projects or programs for a refuge or complex of geographically related refuges in accordance with the purposes of this subsection and in compliance with the policies of other relevant authorities, regulations, and policy guidance.

(B) Projects and programs

Subject to the requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and other applicable law, and such terms and conditions as the Secretary determines to be appropriate, the Secretary may approve projects and programs for a refuge or complex of geographically related refuges that—

(i) promote the stewardship of resources of the refuge through habitat maintenance, restoration, and improvement, biological monitoring, or research;

(ii) support the operation and maintenance of the refuge through constructing, operating, maintaining, or improving the facilities and services of the refuge;

(iii) increase awareness and understanding of the refuge and the National Wildlife Refuge System through the development, publication, or distribution of educational materials and products;

(iv) advance education concerning the purposes of the refuge and the mission of the System through the use of the refuge as an outdoor classroom and development of other educational programs; or

(v) contribute financial resources to the refuge, under terms that require that the net revenues be used exclusively for the benefit of the refuge, through donation of net revenues from the sale of educational materials and products and through encouragement of gifts, devises, and bequests.

(C) Federal funding and ownership

(i) Matching

Subject to the availability of appropriations and the requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and other applicable law, the Secretary may provide funds to match non-Federal funds donated under a cooperative agreement under this paragraph. With respect to each project or program, the amount of funds provided by the Secretary may not exceed the amount of the non-Federal funds donated through the project or program.

(ii) Use of Federal funds

Any Federal funds used to fund a project or program under a cooperative agreement may be used only for expenses directly related to the project or program and may

not be used for operation or administration of any non-Federal entity.

(iii) Ownership of facilities

Any new facility, improvement to an existing facility, or other permanent improvement to a refuge constructed under this subsection shall be the property of the United States Government.

(D) Treasury account

Amounts received by the Secretary of the Interior as a result of projects and programs under subparagraph (B) shall be deposited in a separate account in the Treasury. Amounts in the account that are attributable to activities at a particular refuge or complex of geographically related refuges shall be available to the Secretary of the Interior, without further appropriation, to pay the costs of incidental expenses related to volunteer activities, and to carry out cooperative agreements for the refuge or complex of refuges.

(e) Refuge education program enhancement

(1) Guidance

Not later than 1 year after October 5, 1998, the Secretary of the Interior shall develop guidance for refuge education programs to further the mission of the National Wildlife Refuge System and the purposes of individual refuges through—

(A) providing outdoor classroom opportunities for students on national wildlife refuges that combine educational curricula with the personal experiences of students relating to fish, wildlife, and plants and their habitat and to the cultural and historical resources of the refuges;

(B) promoting understanding and conservation of fish, wildlife, and plants and cultural and historical resources of the refuges; and

(C) improving scientific literacy in conjunction with both formal and nonformal education programs.

(2) Refuge programs

Based on the guidance developed under paragraph (1), the Secretary of the Interior may develop or enhance refuge education programs as appropriate, based on the resources of individual refuges and the opportunities available for such programs in State, local, and private schools. In developing and implementing each program, the Secretary should cooperate with State and local education authorities, and may cooperate with partner organizations in accordance with subsection (d) of this section.

(f) Report

Not later than 1 year after January 4, 2011, and every 5 years thereafter, the Secretary of the Interior shall submit a report to the Committee on Natural Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate—

(1) evaluating the accomplishments of the volunteer program, the community partnerships program, and the refuge education programs authorized under this section, and of the National Volunteer Coordination Program and volunteer coordination strategy under section 742f–1(a) of this title; and

(2) making recommendations to improve the effectiveness of such programs, including regarding implementing subparagraphs (A), (B), and (C) of paragraph (1) of subsection (e).

(g) Authorization of appropriations

There is authorized to be appropriated to the Secretary of the Interior to carry out subsections (b), (c), (d), (e), and (f), $2,000,000 for each of fiscal years 2011 through 2014.

(Aug. 8, 1956, ch. 1036, § 7, 70 Stat. 1122; Pub. L. 95–616, § 4, Nov. 8, 1978, 92 Stat. 3112; Pub. L. 97–347, § 2, Oct. 18, 1982, 96 Stat. 1652; Pub. L. 98–44, title I, § 103(a)(2), July 12, 1983, 97 Stat. 216; Pub. L. 98–498, title IV, § 430(2), Oct. 19, 1984, 98 Stat. 2310; Pub. L. 105–242, §§ 3, 4(b), (c), 5–7, Oct. 5, 1998, 112 Stat. 1574–1578; Pub. L. 108–327, §§ 2, 4, Oct. 16, 2004, 118 Stat. 1271; Pub. L. 111–357, §§ 2, 4(a), Jan. 4, 2011, 124 Stat. 3979, 3980.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(1), is act Aug. 8, 1956, ch. 1036, known as the Fish and Wildlife Act of 1956, which is classified generally to sections 742a to 742d and 742e to 742j–2 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 742a of this title and Tables.

The National Wildlife Refuge System Administration Act of 1966, referred to in subsecs. (b)(2)(B)(ii) and (d)(2)(B), (C)(i), consists of sections 4 and 5 of Pub. L. 89–699, Oct. 15, 1966, 80 Stat. 927, and is classified to sections 668dd and 668ee of this title. For further details, see Short Title note set out under section 668dd of this title.

AMENDMENTS

2011—Subsec. (b)(2)(B)(ii). Pub. L. 111–357, § 2(b), substituted ''National Wildlife Refuge System Administration Act of 1966'' for ''National Wildlife Refuge Administration Act of 1966''.

Subsec. (d)(2)(C)(i). Pub. L. 111–357, § 2(b), substituted ''National Wildlife Refuge System Administration Act of 1966'' for ''National Wildlife Refuge Administration Act of 1966''.

Subsec. (f). Pub. L. 111–357, § 4(a)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Pub. L. 111–357, § 2(a), amended subsec. (f) generally. Prior to amendment, text read as follows: ''There is authorized to be appropriated to the Secretary of the Interior to carry out subsections (b), (c), (d), and (e) of this section $2,000,000 for each of fiscal years 2004 through 2009.''

Subsec. (g). Pub. L. 111–357, § 4(a)(1), redesignated subsec. (f) as (g).

2004—Subsec. (d)(2)(A). Pub. L. 108–327, § 4, reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''The Secretary of the Interior may enter into a cooperative agreement (within the meaning of chapter 63 of title 31) with any partner organization, academic institution, or State or local government agency to carry out 1 or more projects or programs for a refuge or complex of geographically related refuges in accordance with this subsection.''

Subsec. (f). Pub. L. 108–327, § 2, reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''There is authorized to be appropriated to the Secretary of the Interior to carry out subsections (b), (c), (d), and (e) of this section $2,000,000 for each of fiscal years 1999 through 2004.''

1998—Subsec. (b)(2). Pub. L. 105–242, § 3, inserted par. (2) heading, designated existing provisions as subpar. (A) and inserted heading, and added subpar. (B).

Subsec. (c)(2). Pub. L. 105–242, § 4(b), inserted ''awards (including nominal cash awards) and recognition,'' after ''lodging,'' and ''without regard to their places of residence'' after ''volunteers''.

Subsec. (c)(6). Pub. L. 105–242, § 4(c), added par. (6) and struck out former par. (6) which read as follows: ''There are authorized to be appropriated to carry out this subsection $100,000 for the Secretary of the Interior and $50,000 for the Secretary of Commerce for each of the fiscal years 1980, 1981, 1982, 1983, 1984, 1985, and 1986.''

Subsecs. (d) to (f). Pub. L. 105–242, §§ 5–7, added subsecs. (d) to (f).

1984—Subsec. (c)(6). Pub. L. 98–498 substituted ''1984, 1985, and 1986'' for ''and 1984''.

1983—Subsec. (c)(6). Pub. L. 98–44 substituted '', 1983, and 1984'' for ''and 1983''.

1982—Subsec. (c)(6). Pub. L. 97–347 substituted ''1982 and 1983'' for ''and 1982''.

1978—Subsec. (a)(4). Pub. L. 95–616, § 4(1), reenacted existing provisions, substituting reference to fish resources for prior reference to fisheries resources and incorporated provisions of par. (5) relating to wildlife resources, substituting reference to acquisition by purchase or exchange of land and water for prior reference to acquisition of refuge lands.

Subsec. (a)(5). Pub. L. 95–616, § 4(1), struck out par. (5) relating to wildlife resources. See par. (4).

Subsecs. (b), (c). Pub. L. 95–616, § 4(3), added subsecs. (b) and (c).

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 742b of this title.

CONGRESSIONAL FINDINGS AND PURPOSES

Pub. L. 105–242, § 2, Oct. 5, 1998, 112 Stat. 1574, provided that:

''(a) FINDINGS.—Congress finds that—

''(1) the National Wildlife Refuge System (referred to in this Act [amending this section and enacting provisions set out as notes under this section and section 742a of this title] as the 'System'), consisting of more than 500 refuges and 93,000,000 acres, plays an integral role in the protection of the natural resources of the United States;

''(2) the National Wildlife Refuge System Improvement Act of 1997 (Public Law 105–57; 111 Stat. 1252) [see Tables for classification] significantly improved the law governing the System, although the financial resources for implementing this law and managing the System remain limited;

''(3) by encouraging volunteer programs and donations, and facilitating non-Federal partnerships with refuges, Federal funding for the refuges can be supplemented and the System can fully benefit from the amendments made by the National Wildlife Refuge System Improvement Act of 1997; and

''(4) by encouraging refuge educational programs, public awareness of the resources of the System and public participation in the conservation of those resources can be promoted.

''(b) PURPOSES.—The purposes of this Act are—

''(1) to encourage the use of volunteers to assist the United States Fish and Wildlife Service in the management of refuges within the System;

''(2) to facilitate partnerships between the System and non-Federal entities to promote public awareness of the resources of the System and public participation in the conservation of those resources; and

''(3) to encourage donations and other contributions by persons and organizations to the System.''

PILOT PROJECTS

Pub. L. 105–242, § 4(a), Oct. 5, 1998, 112 Stat. 1575, as amended, formerly set out as a note under this section, was transferred and is classified to section 742f–1 of this title.

§ 742f–1. National Volunteer Coordination Program

(1) In general

Subject to the availability of appropriations, and in conformance with the strategy developed under paragraph (2) and consistent with the authorities regarding gifts, volunteer services, community partnerships, and refuge education enhancement under section 742f of this title, the Secretary of the Interior, through the Director of the United States Fish and Wildlife Service, shall carry out a National Volunteer Coordination Program within the National Wildlife Refuge System to—

(A) augment and support the capabilities and efforts of Federal employees to implement resource management, conservation, and public education programs and activities across the National Wildlife Refuge System;

(B) provide meaningful opportunities for volunteers to support the resource management, conservation, and public education programs and activities of national wildlife refuges or complexes of geographically related national wildlife refuges in each United States Fish and Wildlife Service region; and

(C) fulfill the purpose and mission of the National Wildlife Refuge System under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(2) Volunteer coordination strategy

(A) In general

No later than one year after January 4, 2011, the Director shall publish in the Federal Register a national strategy for the coordination and utilization of volunteers within the National Wildlife Refuge System.

(B) Consultation required

The strategy shall be developed in consultation with State fish and wildlife agencies, Indian tribes, refuge friends groups or similar volunteer organizations, and other relevant stakeholders.

(C) Volunteer coordinators

The Director shall provide, subject to the availability of appropriations, no less than one regional volunteer coordinator for each United States Fish and Wildlife Service region to implement the strategy published under this paragraph. Such coordinators may be responsible for assisting partner organizations in developing and implementing volunteer projects and activities under cooperative agreements under section 742f(d) of this title.

(3) Authorization of appropriations

There is authorized to be appropriated to carry out this subsection $2,000,000 for each fiscal year through fiscal year 2014.

(Pub. L. 105–242, § 4(a), Oct. 5, 1998, 112 Stat. 1575; Pub. L. 108–327, § 3, Oct. 16, 2004, 118 Stat. 1271; Pub. L. 111–357, §§ 3, 4(b), Jan. 4, 2011, 124 Stat. 3979, 3981.)

REFERENCES IN TEXT

The National Wildlife Refuge System Administration Act of 1966, referred to in par. (1)(C), consists of sections 4 and 5 of Pub. L. 89–669, Oct. 15, 1966, 80 Stat. 927

and is classified to sections 668dd and 668ee of this title. For further details, see Short Title note set out under section 668dd of this title.

CODIFICATION

Section was formerly set out as a note under section 742f of this title.

AMENDMENTS

2011—Pub. L. 111–357, § 3(1), substituted ''National Volunteer Coordination Program'' for ''Projects'' in section catchline.

Par. (1). Pub. L. 111–357, § 3(2), amended par. (1) generally. Prior to amendment, text read as follows: ''Subject to the availability of appropriations, the Secretary of the Interior shall carry out a project at 2 or more national wildlife refuges or complexes of geographically related refuges in each United States Fish and Wildlife Service region.''

Par. (2). Pub. L. 111–357, § 3(3), amended par. (2) generally. Prior to amendment, text read as follows: ''Each project shall provide for the employment of a full-time volunteer coordinator for the refuge or complex of geographically related refuges. The volunteer coordinator shall be responsible for recruiting, training, and supervising volunteers. The volunteer coordinator may be responsible for assisting partner organizations in developing projects and programs under cooperative agreements under section 742f(d) of this title and coordinating volunteer activities with partner organizations to carry out the projects and programs.''

Par. (3). Pub. L. 111–357, § 4(b), redesignated par. (4) as (3) and struck out former par. (3) relating to reports.

Par. (4). Pub. L. 111–357, § 4(b), redesignated par. (4) as (3).

Pub. L. 111–357, § 3(4), substituted ''for each fiscal year through fiscal year 2014'' for ''for for each fiscal year through fiscal year 2009''.

2004–Pub. L. 108–327, § 3(1), struck out ''Pilot'' before ''Projects'' in section catchline.

Par. (1). Pub. L. 108–327, § 3(2), (3), substituted ''project'' for ''pilot project'' and struck out '', but not more than 20 pilot projects nationwide'' before period at end.

Par. (2). Pub. L. 108–327, § 3(2), substituted ''project'' for ''pilot project''.

Par. (3). Pub. L. 108–327, § 3(4), substituted ''after October 16, 2004, and every 3 years thereafter'' for ''after October 5, 1998'' and ''projects'' for ''pilot projects''.

Par. (4). Pub. L. 108–327, § 3(5), substituted ''for each fiscal year through fiscal year 2009'' for ''each of fiscal years 1999 through 2002''.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 742g. Cooperation with State Department

(a) Representation at international meetings

The Secretary shall cooperate to the fullest practicable extent with the Secretary of State in providing representation at all meetings and conferences relating to fish and wildlife in which representatives of the United States and foreign countries participate.

The Secretary of State shall designate the Secretary of the Interior or the Assistant Secretary for Fish and Wildlife, or a person designated by the Secretary of the Interior to represent the Department of the Interior, as a member of the United States delegation attending such meetings and conferences and also as a member of the negotiating team of any such delegation.

(b) Consultation with officials responsible for technical and economic aid

The Secretary of State and all other officials having responsibilities in the fields of technical and economic aid to foreign nations shall consult with the Secretary in all cases in which the interests of fish and wildlife are involved, with a view to assuring that such interests are adequately represented at all times.

(c) International negotiations

Notwithstanding any other provision of law, the Secretary shall be represented in all international negotiations conducted by the United States pursuant to section 1351 of title 19, in any case in which fish products are directly affected by such negotiations.

(d) Consultation with governmental, private nonprofit, and other organizations

The Secretary shall consult periodically with the various governmental, private nonprofit, and other organizations and agencies which have to do with any phase of fish and wildlife with respect to any problems that may arise in connection with such fish and wildlife.

(Aug. 8, 1956, ch. 1036, § 8, 70 Stat. 1123.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 742b of this title.

§ 742h. Reports on fishery products

(a) Repealed. Pub. L. 96–470, title I, § 103(a), Oct. 19, 1980, 94 Stat. 2237.

(b) The Secretary is authorized to make a report to the President and the Congress, and, when requested by the United States International Trade Commission in connection with section 1364 of title 19, or when an investigation is made under the Tariff Act of 1930 (19 U.S.C. 1332), the Secretary is authorized to make a report to such Commission, concerning the following matters with respect to any fishery product which is imported into the United States, or such reports may be made upon a request from any segment of the domestic industry producing a like or directly competitive product—

(1) whether there has been a downward trend in the production, employment in the production, or prices, or a decline in the sales, of the like or directly competitive product by the domestic industry; and

(2) whether there has been an increase in the imports of the fishery products into the United States, either actual or relative to the production of the like or directly competitive product produced by the domestic industry.

(Aug. 8, 1956, ch. 1036, § 9, 70 Stat. 1123; Pub. L. 93–618, title I, § 171(b), Jan. 3, 1975, 88 Stat. 2009; Pub. L. 96–470, title I, § 103(a), Oct. 19, 1980, 94 Stat. 2237.)

REFERENCES IN TEXT

Section 1364 of title 19, referred to in subsec. (b), was repealed by Pub. L. 87–794, title II, § 257(e)(1), Oct. 11, 1962, 76 Stat. 882.

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–470 struck out subsec. (a) which required Secretary of the Interior to make an

annual report to Congress with respect to activities of United States Fish and Wildlife Service under this Act, accompanied by appropriate legislative recommendations.

1975—Subsec. (b). Pub. L. 93–618 substituted ''United States International Trade Commission'' for ''United States Tariff Commission''.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 742b of this title.

§ 742i. Effect on rights of States and international commissions

Nothing in this Act shall be construed (1) to interfere in any manner with the rights of any State under the Submerged Lands Act [43 U.S.C. 1301 et seq.] or otherwise provided by law, or to supersede any regulatory authority over fisheries exercised by the States either individually or under interstate compacts; or (2) to interfere in any manner with the authority exercised by any International Commission established under any treaty or convention to which the United States is a party.

(Aug. 8, 1956, ch. 1036, § 10, 70 Stat. 1124.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 8, 1956, ch. 1036, 70 Stat. 1119, as amended, known as the Fish and Wildlife Act of 1956, which is classified generally to sections 742a to 742d and 742e to 742j–2 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 742a of this title and Tables.

The Submerged Lands Act, referred to in text, is act May 22, 1953, ch. 65, 67 Stat. 29, as amended, which is classified generally to subchapters I and II (§§ 1301 et seq., 1311 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43 and Tables.

§ 742j. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(Aug. 8, 1956, ch. 1036, § 11, 70 Stat. 1124.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 8, 1956, ch. 1036, 70 Stat. 1119, as amended, known as the Fish and Wildlife Act of 1956, which is classified generally to sections 742a to 742d and 742e to 742j–2 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 742a of this title and Tables.

§ 742j–1. Airborne hunting

(a) Prohibition; penalty

Any person who—

(1) while airborne in an aircraft shoots or attempts to shoot for the purpose of capturing or killing any bird, fish, or other animal; or

(2) uses an aircraft to harass any bird, fish, or other animal; or

(3) knowingly participates in using an aircraft for any purpose referred to in paragraph (1) or (2);

shall be fined not more than $5,000 or imprisoned not more than one year, or both.

(b) Exception; report of State to Secretary

(1) This section shall not apply to any person if such person is employed by, or is an authorized agent of or is operating under a license or permit of, any State or the United States to administer or protect or aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops, and each such person so operating under a license or permit shall report to the applicable issuing authority each calendar quarter the number and type of animals so taken.

(2) In any case in which a State, or any agency thereof, issues a permit referred to in paragraph (1) of this subsection, it shall file with the Secretary of the Interior an annual report containing such information as the Secretary shall prescribe, including but not limited to—

(A) the name and address of each person to whom a permit was issued;

(B) a description of the animals authorized to be taken thereunder, the number of animals authorized to be taken, and a description of the area from which the animals are authorized to be taken;

(C) the number and type of animals taken by such person to whom a permit was issued; and

(D) the reason for issuing the permit.

(c) "Aircraft" defined

As used in this section, the term ''aircraft'' means any contrivance used for flight in the air.

(d) Enforcement; regulations; arrest; search; issuance and execution of warrants and process; cooperative agreements

The Secretary of the Interior shall enforce the provisions of this section and shall promulgate such regulations as he deems necessary and appropriate to carry out such enforcement. Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of this section may, without warrant, arrest any person committing in his presence or view a violation of this section or of any regulation issued hereunder and take such person immediately for examination or trial before an officer or court of competent jurisdiction; may execute any warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this section; and may, with or without a warrant, as authorized by law, search any place. The Secretary of the Interior is authorized to enter into cooperative agreements with State fish and wildlife agencies or other appropriate State authorities to facilitate enforcement of this section, and by such agreements to delegate such enforcement authority to State law enforcement personnel as he deems appropriate for effective enforcement of this section. Any judge of any court established under the laws of the United States, and any United States magistrate judge may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

(e) Forfeiture

All birds, fish, or other animals shot or captured contrary to the provisions of this section, or of any regulation issued hereunder, and all guns, aircraft, and other equipment used to aid

in the shooting, attempting to shoot, capturing, or harassing of any bird, fish, or other animal in violation of this section or of any regulation issued hereunder shall be subject to forfeiture to the United States.

(f) Certain customs laws applied

All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as such provisions of law are applicable and not inconsistent with the provisions of this section; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department shall, for the purposes of this section, be exercised or performed by the Secretary of the Interior or by such persons as he may designate.

(Aug. 8, 1956, ch. 1036, §13, as added Pub. L. 92–159, §1, Nov. 18, 1971, 85 Stat. 480; amended Pub. L. 92–502, Oct. 18, 1972, 86 Stat. 905; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

AMENDMENTS

1972—Subsecs. (d) to (f). Pub. L. 92–502 added subsecs. (d) to (f).

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' in subsec. (d) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section 3 of Pub. L. 92–159 provided that: ''The amendments made by the first section of this Act [enacting this section] shall take effect as of the thirtieth day after the date of enactment of such section [Nov. 18, 1971]; except that, in any case in which a State is not authorized to issue any permit referred to in the amendments made by such first section, such amendments shall take effect in any such State as of the thirtieth day after the expiration of the next regular session of the legislature of such State which begins on or after the date of enactment of this Act.''

§ 742j–2. Uniform allowance

Notwithstanding subsection[1] 5901(a) of title 5, the uniform allowance for each uniformed employee of the United States Fish and Wildlife Service may be up to $400 annually.

(Aug. 8, 1956, ch. 1036, §14, as added Pub. L. 96–291, §2, June 28, 1980, 94 Stat. 608.)

§ 742k. Management and disposition of vessels and other property acquired and arising out of fishery loans or related type of activities

For the purpose of facilitating administration of, and protecting the interest of the Government in, the fishery loan fund established by section 742c of this title and any related type of activities relating to fisheries for which the Department of the Interior is now or may hereafter be responsible, the Secretary of the Interior, notwithstanding any other provisions of law, may hereafter administer, complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, assign, or sell upon such terms and conditions as he may deem most advantageous to the United States, any vessel, plant, or other property acquired by him on behalf of the United States and arising out of any fishery loan or any related type of activity by the Secretary of the Interior. The Secretary may use any of the applicable funds in each particular instance for the aforesaid purposes.

(Pub. L. 87–219, Sept. 13, 1961, 75 Stat. 493.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see Transfer of Functions note set out under section 742b of this title.

§ 742*l*. Enforcement authority for the protection of fish and wildlife resources

(a) Law enforcement training program

(1) In order to provide for and encourage training, research, and development for the purpose of improving fish and wildlife law enforcement and developing new methods for the prevention, detection, and reduction of violation of fish and wildlife laws, and the apprehension of violators of such laws, the Secretary of the Interior and the Secretary of Commerce may each—

(A) establish and conduct national training programs to provide, at the request of any State, training for State fish and wildlife law enforcement personnel;

(B) develop new or improved approaches, techniques, systems, equipment, and service to improve and strengthen fish and wildlife law enforcement; and

(C) assist in conducting, at the request of any appropriate State official, local or regional training programs for the training of State fish and wildlife law enforcement personnel.

Such training programs shall be conducted to the maximum extent practicable through established programs.

(2) There are authorized to be appropriated beginning with fiscal year 1980 such funds as may be necessary to carry out the purposes of subsection (b) of this section, and the Secretary of the Interior and the Secretary of Commerce may each require reimbursement from the States for expenditures made pursuant to subsections (b)(1)(A) and (C) of this section.

(b) Law enforcement cooperative agreement

Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Commerce may each utilize by agreement, with or without reimbursement, the personnel, services and facilities of any other Federal or State agency to the extent he deems it necessary and appropriate for effective enforcement of any Federal or State laws on lands, waters, or interests therein under his jurisdiction which are administered or managed for fish and wildlife purposes and for enforcement of any laws administered by him relating to fish and wild-

[1] So in original. Probably should be ''section''.

life. Persons so designated by either Secretary, who are not employees of another Federal agency—

(1) shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, competitive examination, rates of compensation, and Federal employee benefits, but may be considered eligible for compensation for work injuries under subchapter III of chapter 81 of title 5;

(2) shall be considered to be investigative or law enforcement officers of the United States for the purposes of the tort claim provisions of title 28;

(3) may, to the extent specified by either Secretary, search, seize, arrest, and exercise any other law enforcement functions or authorities under Federal laws relating to fish and wildlife, where such authorities are made applicable by this or any other law to employees, officers, or other persons designated or employed by either Secretary; and

(4) shall be considered to be officers or employees of the Department of the Interior or the Department of Commerce, as the case may be, within the meaning of sections 111 and 1114 of title 18.

(c) Disposal of abandoned or forfeited property

(1) In general

Subject to paragraph (2), notwithstanding any other provision of law, all fish, wildlife, plants, or any other items abandoned or forfeited to the United States under any laws administered by the Secretary of the Interior or the Secretary of Commerce relating to fish, wildlife, or plants, shall be disposed of by either Secretary in such a manner as he deems appropriate (including, but not limited to, loan, gift, sale, or destruction).

(2) Prohibition on sale of certain items

In carrying out paragraph (1), the Secretary of the Interior and the Secretary of Commerce may not sell any species of fish, wildlife, or plant, or derivative thereof, for which the sale is prohibited by another Federal law.

(3) Use of revenues

The Secretary of the Interior and the Secretary of Commerce may each expend any revenues received from the disposal of items under paragraph (1), and all sums referred to in the first sentence of section 1540(d) of this title and the first sentence of section 3375(d) of this title—

(A) to make payments in accordance with those sections; and

(B) to pay costs associated with—

(i) shipping items referred to in paragraph (1) to and from the place of storage, sale, or temporary or final disposal, including temporary or permanent loan;

(ii) storage of the items, including inventory of, and security for, the items;

(iii) appraisal of the items;

(iv) sale or other disposal of the items in accordance with applicable law, including auctioneer commissions and related expenses;

(v) payment of any valid liens or other encumbrances on the items and payment for other measures required to clear title to the items; and

(vi) in the case of the Secretary of the Interior only, processing and shipping of eagles and other migratory birds, and parts of migratory birds, for Native American religious purposes.

(d) Disclaimer

Nothing in this section shall be construed to invalidate any law enforcement agreement or delegation made by the Secretary of the Interior or the Secretary of Commerce with respect to fish and wildlife matters prior to November 8, 1978.

(e) to (j) Omitted

(k) Law enforcement operations

With respect to any undercover or other enforcement operation which is necessary for the detection and prosecution of violations of any laws administered by the United States Fish and Wildlife Service or the National Marine Fisheries Service relating to fish, wildlife, or plants, the Secretary of the Interior or the Secretary of Commerce may, notwithstanding any other provision of law—

(1) direct the advance of funds which may be deposited in commercial banks or other financial institutions;

(2) use appropriations for payment for information, rewards, or evidence concerning violations, without reference to any rewards to which such persons may otherwise be entitled by law, and any moneys subsequently recovered shall be reimbursed to the current appropriation; and

(3) use appropriations to establish or acquire proprietary corporations or business entities as part of an undercover operation, operate such corporations or business entities on a commercial basis, lease space and make other necessary expenditures, and use the proceeds from such undercover operations to offset necessary and reasonable expenses incurred in such operations: *Provided*, That at the conclusion of each such operation the proceeds shall be deposited in the Treasury of the United States as miscellaneous receipts.

(Pub. L. 95–616, §3 (less (e)–(j)), Nov. 8, 1978, 92 Stat. 3110; Pub. L. 97–396, §7, Dec. 31, 1982, 96 Stat. 2006; Pub. L. 105–328, §3, Oct. 30, 1998, 112 Stat. 3058.)

REFERENCES IN TEXT

This section, referred to in subsec. (d), means section 3 of Pub. L. 95–616, which in addition to enacting this section, enacted section 712 of this title and amended sections 460k–3, 668dd, 690e, 706, and 718f of this title and sections 1114 and 3112 of Title 18, Crimes and Criminal Procedure.

CODIFICATION

Section is comprised of subsecs. (a) to (d) and (k) of section 3 of Pub. L. 95–616, as amended. For classification of subsecs. (e) through (j) of section 3, see References in Text note above and Tables.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–328 designated existing provisions as par. (1) and inserted heading, substituted ''Subject to paragraph (2), notwithstanding'' for ''Notwithstanding'', and added pars. (2) and (3).

1982—Subsec. (k). Pub. L. 97–396 added subsec. (k).

CONGRESSIONAL FINDINGS AND PURPOSES

Pub. L. 105–328, § 2, Oct. 30, 1998, 112 Stat. 3057, provided that:

''(a) FINDINGS.—Congress finds that—

''(1) the United States Fish and Wildlife Service (referred to in this Act [amending this section and enacting provisions set out as a note under section 742a of this title] as the 'Service')—

''(A) is responsible for storage and disposal of items derived from fish, wildlife, and plants, including eagles and eagle parts, and other items that have become the property of the United States through abandonment or forfeiture under applicable laws relating to fish, wildlife, or plants;

''(B) distributes many of those items for educational and scientific uses and for religious purposes of Native Americans; and

''(C) unless otherwise prohibited by law, may dispose of some of those items by sale, except items derived from endangered or threatened species, marine mammals, and migratory birds;

''(2) under law in effect on the date of enactment of this Act [Oct. 30, 1998], the revenue from sale of abandoned items is not available to the Service, although approximately 90 percent of the items in possession of the Service have been abandoned; and

''(3) making revenue from the sale of abandoned items available to the Service will enable the Service—

''(A) to cover costs incurred in shipping, storing, and disposing of items derived from fish, wildlife, and plants; and

''(B) to make more extensive distributions of those items for educational, scientific, and Native American religious purposes.

''(b) PURPOSES.—The purposes of this Act are to make proceeds from sales of abandoned items derived from fish, wildlife, and plants available to the Service and to authorize the use of those proceeds to cover costs incurred in shipping, storing, and disposing of those items.''

§ 742m. Relinquishment of exclusive legislative jurisdiction

Notwithstanding any other provision of law, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, may relinquish to a State, or to a Commonwealth, territory, or possession of the United States, the exclusive legislative jurisdiction of the United States over all or part of any United States Fish and Wildlife Service lands or interests therein, including but not limited to National Wildlife Refuge System and National Fish Hatchery System lands, in that State, Commonwealth, territory, or possession. Relinquishment of exclusive legislative jurisdiction under this subsection may be accomplished (1) by filing with the Governor (or, if none, the chief executive officer) of the State, Commonwealth, territory, or possession concerned, a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State, Commonwealth, territory, or possession may otherwise provide.

(Pub. L. 100–653, title IX, § 901, Nov. 14, 1988, 102 Stat. 3834.)

§ 743. Repealed. Pub. L. 93–280, § 1(2), May 10, 1974, 88 Stat. 123

Section, act Mar. 3, 1885, ch. 360, § 1(1), 23 Stat. 494, renumbered by Pub. L. 93–280, § 1(1), May 10, 1974, 88 Stat. 123, was part of a paragraph entitled: ''Propagation of Food Fishes'' in the Sundry Civil Expenses Appropriation Act, 1886. It authorized the Secretary of the Treasury to detail Coast Guard personnel to the Fish and Wildlife Services for duty. See section 743a of this title.

§ 743a. Detail of personnel and loan of equipment to Director of Bureau of Sport Fisheries and Wildlife

(a) "Agency" defined

As used in this section, the term ''agency'' means the department in which the Coast Guard is operating, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Atomic Energy Commission, and the National Aeronautics and Space Administration.

(b) Personnel and equipment available

The chief executive officer of each agency may from time to time—

(i) detail from the agency for duty under the Director of the Bureau of Sport Fisheries and Wildlife, Department of the Interior, such commissioned and enlisted personnel and civilian employees as may be spared for such duty; and

(ii) consonant with the operational needs of the agency, loan equipment of the agency to the Director.

(c) Reports to Congress

The Director of the United States Fish and Wildlife Service shall make a report to Congress at the end of any fiscal year that the provisions of this section are utilized, which describes the use of the provisions of this section, and the additional cost, if any, to the Federal Government resulting therefrom. Such report shall be referred in the Senate to the Committee on Commerce, Science, and Transportation and in the House of Representatives to the Committee on Merchant Marine and Fisheries.

(Mar. 3, 1885, ch. 360, § 1(2), as added Pub. L. 93–280, § 1(3), May 10, 1974, 88 Stat. 123; amended Pub. L. 96–470, title II, § 206(a), Oct. 19, 1980, 94 Stat. 2244; Pub. L. 103–437, § 6(t), Nov. 2, 1994, 108 Stat. 4587.)

REFERENCES IN TEXT

The Bureau of Sport Fisheries and Wildlife, referred to in subsec. (b), was replaced and succeeded by the United States Fish and Wildlife Service. See section 742b(c) of this title.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–437 substituted ''Committee on Commerce, Science, and Transportation'' for ''Committee on Commerce''.

1980—Subsec. (c). Pub. L. 96–470 substituted provision requiring that a report to Congress be made at the end of any fiscal year that provisions of this section are utilized for provision requiring an annual report to Congress be made on utilization of the provisions of this section and struck out ''annual'' before ''report shall be''.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Secu-

rity, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See also Transfer of Functions notes set out under those sections.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 744. Investigations; fish propagation; investigations of damages by predacious fishes; executive assistance

The Secretary of the Interior or the Secretary of Commerce, as appropriate, shall prosecute investigations and inquiries on the subject, with the view of ascertaining whether any and what diminution in the number of the food fishes of the coast and the lakes of the United States has taken place; and, if so, to what causes the same is due; and also whether any and what protective, prohibitory, or precautionary measures should be adopted in the premises; and shall report upon the same to Congress. He is authorized and directed to conduct investigations and experiments for the purpose of ameliorating the damage wrought to the fisheries by dogfish and other predacious fishes and aquatic animals. Said investigations and experiments shall be such as to develop the best and cheapest means of taking such fishes and aquatic animals, of utilizing them for economic purposes, especially for food, and to encourage the establishment of fisheries and markets for them.

The heads of the several executive departments shall cause to be rendered all necessary and practicable aid to the Secretary in the prosecution of his investigations and inquiries.

(R.S. §§ 4396, 4397; Mar. 3, 1887, ch. 362, 24 Stat. 523; June 21, 1916, ch. 160, §§ 1, 2, 39 Stat. 232; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 62 Stat. 1262; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 96–470, title I, § 101(c), Oct. 19, 1980, 94 Stat. 2237.)

CODIFICATION

R.S. § 4396 derived from Res. Feb. 9, 1871, No. 22, § 2, 16 Stat. 594.

R.S. § 4397 derived from Res. Feb. 9, 1871, No. 22, § 3, 16 Stat. 594.

AMENDMENTS

1980—Pub. L. 96–470 struck out provision requiring a detailed statement of expenditures under all appropriations for ''propagation of fishes'' be submitted annually to Congress at the beginning of each session.

TRANSFER OF FUNCTIONS

Secretary of the Interior or Secretary of Commerce, as appropriate, and Secretary substituted for Director of Fish and Wildlife Service and Director in view of: creation of National Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in Department of the Interior and Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in Secretary of the Interior or Department of the Interior which were administered through Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5.

Reorg. Plan No. III of 1940, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232, set out in the Appendix to Title 5, Government Organization and Employees, consolidated Bureau of Fisheries and Bureau of Biological Survey into one agency in Department of the Interior to be known as Fish and Wildlife Service. It was further provided that functions of consolidated agency should be administered under direction and supervision of Secretary of the Interior by a director and assistants, and that offices of Commissioner and Deputy Commissioner of Fisheries and offices of Chief and Associate Chief of Bureau of Biological Survey should be abolished and their functions transferred to consolidated agency.

Reorg. Plan No. II of 1939, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, set out in the Appendix to Title 5, transferred Bureau of Fisheries in Department of Commerce and its functions, and Bureau of Biological Survey in Department of Agriculture and its functions, to Department of the Interior, to be administered under direction and supervision of Secretary of the Interior.

SURVEY OF MARINE AND FRESH-WATER RESOURCES

Act May 11, 1944, ch. 195, 58 Stat. 220, which expired January 1, 1945, provided for a comprehensive survey of all marine, fresh-water, and other aquatic resources of the United States, its Territories, and possessions; and for a report on survey, together with recommendations to Congress. It also appropriated $20,000 to carry out the purposes of the act.

§ 745. Powers of Secretary

The Secretary of the Interior or the Secretary of Commerce, as appropriate, may take or cause to be taken at all times, in the waters of the seacoast of the United States, where the tide ebbs and flows, and also in the waters of the lakes, such fish or specimens thereof as may in his judgment, from time to time, be needful or proper for the conduct of his duties, any law, custom, or usage of any State to the contrary notwithstanding.

(R.S. § 4398; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; 1970 Reorg.

Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

CODIFICATION

R.S. § 4398 derived from Res. Feb. 9, 1871, No. 22, § 4, 16 Stat. 594.

TRANSFER OF FUNCTIONS

Secretary of the Interior or Secretary of Commerce, as appropriate, substituted for Director of Fish and Wildlife Service in view of transfer of functions by Reorg. Plan No. 4 of 1970, see note set out under section 744 of this title.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Transfer and consolidation of bureaus and functions, see note set out under section 742 of this title.

§ 746. Vessels of Fish and Wildlife Service

The Secretary of the Navy is authorized to place the vessels of the United States Fish and Wildlife Service on the same footing with the Navy Department as those of the National Ocean Survey.

(May 31, 1880, ch. 113, 21 Stat. 151; 1939 Reorg. Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Aug. 8, 1956, ch. 1036, § 3, 70 Stat. 1120.)

CHANGE OF NAME

Coast and Geodetic Survey consolidated with National Weather Bureau in 1965 to form Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. Environmental Science Services Administration abolished in 1970 and its personnel, property, records, etc., transferred to National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of Acting Associate Administrator of National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, Coast and Geodetic Survey redesignated National Ocean Survey. See notes under section 851 of Title 33, Navigation and Navigable Waters. See, also, notes under section 311 of Title 15, Commerce and Trade.

TRANSFER OF FUNCTIONS

Fish and Wildlife Service, created by Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, succeeded by United States Fish and Wildlife Service established by act Aug. 8, 1956, ch. 1036, § 3, 70 Stat. 1120. See section 742b of this title.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Transfer and consolidation of bureaus and functions, see note set out under section 742 of this title.

§ 746a. Operation and maintenance fees for the M/V Tiglax and other vessels

On and after October 21, 1998, pursuant to section 9701 of title 31 and notwithstanding section 3302 of title 31, the Secretary shall charge reasonable fees for the full costs of the U.S. Fish and Wildlife Service in operating and maintaining the M/V Tiglax and other vessels, to be credited to this account and to be available until expended.

(Pub. L. 105–277, div. A, § 101(e) [title I], Oct. 21, 1998, 112 Stat. 2681–231, 2681–236.)

§ 747. Omitted

CODIFICATION

Section, acts Mar. 28, 1922, ch. 117, title I, 42 Stat. 484; Jan. 5, 1923, ch. 24, title I, 42 Stat. 1125; May 28, 1924, ch. 204, title III, 43 Stat. 238; Feb. 27, 1925, ch. 364, title III, 43 Stat. 1047, which related to the commutation of rations of officers and crews on vessels, was provision of an appropriation act which was confined to specific appropriations.

§ 748. Expenditure of appropriations for propagation of food fishes

Appropriations for propagation of food fishes shall not be expended for hatching or planting fish or eggs in any State in which, in the judgment of the Secretary of the Interior, there are not adequate laws for the protection of the fishes, nor in any State in which the United States Director of the Fish and Wildlife Service and his duly authorized agents are not accorded full and free right to conduct fish-cultural operations, and all fishing and other operations necessary therefor, in such manner and at such times as is considered necessary and proper by the said director or his agents.

(July 1, 1918, ch. 113, § 1, 40 Stat. 693; 1939 Reorg. Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Aug. 8, 1956, ch. 1036, § 3, 70 Stat. 1120.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 742b of this title.

Fish and Wildlife Service, created by Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, succeeded by United States Fish and Wildlife Service established by act Aug. 8, 1956, ch. 1036, § 3, 70 Stat. 1120. See section 742b of this title.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Transfer and consolidation of bureaus and functions, see note set out under sections 742 and 744 of this title.

§ 749. Omitted

CODIFICATION

Section, act June 16, 1921, ch. 23, § 4, 42 Stat. 63, provided for an advisory committee to report on condition and needs of the Fish and Wildlife Service, and is omitted since it was derived from an appropriation act and is obsolete.

§ 750. Station on Mississippi River for rescue of fishes and propagation of mussels

There shall be established on the Mississippi River, at a point to be selected by the Secretary of the Interior or the Secretary of Commerce, as appropriate, a station for the rescue of fishes

and the propagation of mussels in connection with fish-rescue operations throughout the Mississippi Valley.

(Apr. 28, 1922, ch. 153, §1, 42 Stat. 501; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, §3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232.)

TRANSFER OF FUNCTIONS

Secretary of Commerce also empowered to carry out statutory provisions in view of: creation of National Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in Department of the Interior and Office of Director of such Bureau; transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife; and certain transfers of functions, including functions formerly vested by law in Secretary of the Interior or Department of the Interior which were administered through Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf Breeze Biological Laboratory, and Trans-Alaska pipeline investigations by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5.

Transfer and consolidation of bureaus and functions, see note set out under section 742 of this title.

§ 751. Personnel

In connection with the establishment of such fish-rescue station there is authorized the following personnel, namely: One district supervisor, to have general charge of fish-rescue and fish-cultural operations in the Mississippi Valley; a superintendent, two field foremen, four fish-culturists at large, one engineer at large, one clerk, two coxswains at large, and two apprentice fish-culturists.

(Apr. 28, 1922, ch. 153, §2, 42 Stat. 501.)

CODIFICATION

Provisions relating to the compensation of such personnel have been omitted as such pay is fixed pursuant to chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 752. Omitted

CODIFICATION

Section, act July 2, 1942, ch. 473, §1, 56 Stat. 557, which authorized the Fish and Wildlife Service to exchange equipment as part payment for other equipment, was from the Interior Department Appropriation Act, 1943, and was not repeated in subsequent appropriation acts. Similar provisions were contained in act June 28, 1941, ch. 259, §1, 55 Stat. 357.

§ 753. Cooperative work

On and after July 2, 1942, cooperative work conducted by the United States Fish and Wildlife Service shall be subject to the provisions of the Act of July 24, 1919 [7 U.S.C. 450b, 2220].

(July 2, 1942, ch. 473, §1, 56 Stat. 558; Aug. 8, 1956, ch. 1036, §3, 70 Stat. 1120.)

REFERENCES IN TEXT

Act of July 24, 1919, referred to in text, was formerly classified to sections 563 and 564 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act June 28, 1941, ch. 259, §1, 55 Stat. 357.

TRANSFER OF FUNCTIONS

Fish and Wildlife Service, created by Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, succeeded by United States Fish and Wildlife Service established by act Aug. 8, 1956, ch. 1036, §3, 70 Stat. 1120. See section 742b of this title.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 753a. Cooperative research and training programs for fish and wildlife resources

For the purpose of developing adequate, coordinated, cooperative research and training programs for fish and wildlife resources, the Secretary of the Interior or the Secretary of Commerce, as appropriate, is authorized to continue to enter into cooperative agreements with colleges and universities, with game and fish departments of the several States, and with nonprofit organizations relating to cooperative research units: *Provided*, That Federal participation in the conduct of such cooperative unit programs shall be limited to the assignment of Department of the Interior or Department of Commerce scientific personnel by the Secretary to serve at the respective units, to the provision of assistance (including reasonable financial compensation) for the work of researchers on fish and wildlife ecology and resource management projects funded under this subsection[1] to supply for the use of the particular units' operations such equipment as may be available to the Secretary for such purposes, and the payment of incidental expenses of Federal personnel and employees of cooperating agencies assigned to the units.

(Pub. L. 86–686, §1, Sept. 2, 1960, 74 Stat. 733; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 95–616, §2, Nov. 8, 1978, 92 Stat. 3110.)

AMENDMENTS

1978—Pub. L. 95–616, in proviso, substituted ''scientific personnel'' for ''technical personnel'' and authorized provision of assistance (including reasonable financial compensation) for the work of researchers on

[1] So in original. Probably should be ''section''.

funded fish and wildlife ecology and resource management projects.

TRANSFER OF FUNCTIONS

Reference to Secretary of Commerce and Department of Commerce inserted in view of: creation of National Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in Department of the Interior and Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in Secretary of the Interior or Department of the Interior which were administered through Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

§ 753b. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of section 753a of this title.

(Pub. L. 86–686, § 2, Sept. 2, 1960, 74 Stat. 733.)

§ 754. Commutation of rations for officers and crews of vessels of Service

On and after July 2, 1942, commutation of rations (not to exceed $1 per man per day) may be paid to officers and crews of vessels of the United States Fish and Wildlife Service under regulations prescribed by the Secretary of the Interior, and money accruing from commutation of rations on board vessels may be paid on proper vouchers to the persons having charge of the mess of such vessels; and section 5911 of title 5, shall not be construed to require deductions from the salaries of officers and crews of vessels of the United States Fish and Wildlife Service for quarters and rations furnished on vessels of said Service.

(July 2, 1942, ch. 473, § 1, 56 Stat. 558; Aug. 8, 1956, ch. 1036, § 3, 70 Stat. 1120.)

CODIFICATION

''Section 5911 of title 5'' substituted in text for ''the Act of March 5, 1928 (5 U.S.C. 75a)'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act June 28, 1941, ch. 259, § 1, 55 Stat. 357.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 742b of this title.

Fish and Wildlife Service, created by Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, succeeded by United States Fish and Wildlife Service established by act Aug. 8, 1956, ch. 1036, § 3, 70 Stat. 1120. See section 742b of this title.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 754a. Appropriations for United States Fish and Wildlife Service; purchases from

The Secretary of the Interior may purchase, to the extent of not to exceed $5,000, from the appropriations for the United States Fish and Wildlife Service, clothing and small stores for the crews of vessels, to be sold to the employees of said service and the appropriations reimbursed.

(July 1, 1918, ch. 113, § 1, 40 Stat. 694; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Aug. 8, 1956, ch. 1036, § 3, 70 Stat. 1120.)

CODIFICATION

Section was formerly classified to section 662 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97–258, § 1, Sept. 13, 1982, 96 Stat. 877.

TRANSFER OF FUNCTIONS

Fish and Wildlife Service, created by Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, succeeded by United States Fish and Wildlife Service established by act Aug. 8, 1956, ch. 1036, § 3, 70 Stat. 1120. See section 742b of this title.

Functions of all other officers of Department of the Interior and functions of all agencies and employees of Department, with two exceptions, transferred to Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Bureau of Fisheries consolidated with Bureau of Biological Survey into Fish and Wildlife Service in Department of the Interior, and offices of Commissioner and Deputy Commissioner of Fisheries abolished by Reorg. Plan No. III of 1940, set out in the Appendix to Title 5, Government Organization and Employees. See, also, sections 8 and 9 of that plan for provisions relating to transfer of records, property, personnel, and funds. Bureau previously transferred to Department of the Interior by Reorg. Plan No. II of 1939, § 4(e), also set out in the Appendix to Title 5.

§ 754b. Funds from private entities credited to Resource Management account

Notwithstanding any other provision of law, in fiscal year 1999 and thereafter, sums provided by private entities for activities pursuant to reimbursable agreements shall be credited to the ''Resource Management'' account and shall remain available until expended.

(Pub. L. 106–113, div. B, § 1000(a)(3) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A–139.)

§ 754c. Work under reimbursable agreements; recording obligations and crediting amounts received

Before, on, and after November 29, 1999, in carrying out work under reimbursable agreements with any State, local, or tribal government, the United States Fish and Wildlife Service may, without regard to section 1341 of title 31 and notwithstanding any other provision of law or regulation, record obligations against accounts

receivable from such entities, and shall credit amounts received from such entities to this appropriation, such credit to occur within 90 days of the date of the original request by the Service for payment.

(Pub. L. 106–113, div. B, §1000(a)(3) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A–140.)

§ 754d. Fee schedule for forensic laboratory services

In fiscal year 2001 and thereafter and notwithstanding any other provision of law, the United States Fish and Wildlife Service shall establish and implement a fee schedule to permit a return to the Service for forensic laboratory services provided to non-Department of the Interior entities. Fees shall be collected as determined appropriate by the Director of the Fish and Wildlife Service and shall be credited to this appropriation and be available for expenditure without further appropriation until expended.

(Pub. L. 106–291, title I, §136, Oct. 11, 2000, 114 Stat. 948.)

CHAPTER 9A—PRESERVATION OF FISHERY RESOURCES

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755. Salmon-cultural stations; establishment; expenditure of funds.
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760e. Study of migratory game fish; waters; research; purpose.
760f. Migratory game fish study; authorization to acquire facilities, employ officers and employees, cooperate with State and other agencies, and to publish results.
760g. Authorization of appropriations for migratory game fish study.
760h to 760*l*. Omitted.

§ 755. Salmon-cultural stations; establishment; expenditure of funds

The Secretary of Commerce is authorized and directed to establish one or more salmon-cultural stations in the Columbia River Basin in each of the States of Oregon, Washington, and Idaho. Any sums appropriated for the purpose of establishing such stations may be expended, and such stations shall be established, operated and maintained, in accordance with the provisions of the Act entitled ''An Act to provide for a five-year construction and maintenance program for the United States Bureau of Fisheries'', approved May 21, 1930, ch. 306, 46 Stat. 371, insofar as the provisions of such Act are not inconsistent with the provisions of this section and sections 756 and 757 of this title.

(May 11, 1938, ch. 193, §1, 52 Stat. 345; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

REFERENCES IN TEXT

Act May 21, 1930, ch. 306, 46 Stat. 371, referred to in text, was not classified to the Code.

TRANSFER OF FUNCTIONS

Secretary of Commerce substituted for Secretary of the Interior in view of: creation of National Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in Department of the Interior and Office of Director of

such Bureau; transfers of functions, including functions formerly vested by law in Secretary of the Interior or Department of the Interior which were administered through Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5.

Reorg. Plan No. III of 1940, §3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232, set out in the Appendix to Title 5, consolidated Bureau of Fisheries and Bureau of Biological Survey with their respective functions into one agency in Department of the Interior to be known as Fish and Wildlife Service, and provided that functions of consolidated agency shall be administered under direction and supervision of Secretary of the Interior.

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, transferred Bureau of Fisheries in Department of Commerce and its functions to Department of the Interior, to be administered under direction and supervision of Secretary of the Interior.

§ 756. Investigations, surveys, and experiments; construction and installation of conservation devices, etc.

The Secretary of Commerce is further authorized and directed (1) to conduct such investigations, and such engineering and biological surveys and experiments, as may be necessary to direct and facilitate conservation of the fishery resources of the Columbia River and its tributaries; (2) to construct and install devices in the Columbia River Basin for the improvement of feeding and spawning conditions for fish, for the protection of migratory fish from irrigation projects, and for facilitating free migration of fish over obstructions; and (3) to perform all other activities necessary for the conservation of fish in the Columbia River Basin in accordance with law.

(May 11, 1938, ch. 193, §2, 52 Stat. 345; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Aug. 8, 1946, ch. 883, §1, 60 Stat. 932; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

AMENDMENTS

1946—Act Aug. 8, 1946, struck out requirement to maintain conservation devices, etc.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior and prior transfers, see note set out under section 755 of this title.

§ 757. Utilization of State services; expenditure of funds

In carrying out the authorizations and duties imposed by section 756 of this title, the Secretary of Commerce is authorized to utilize the facilities and services of the agencies of the States of Oregon, Washington, and Idaho responsible for the conservation of the fish and wildlife resources in such States, under the terms of agreements entered into between the United States and these States, without regard to the provisions of section 6101 of title 41, and funds appropriated to carry out the purposes of sections 755 to 757 of this title may be expended for the construction of facilities on and the improvement of lands not owned or controlled by the United States: *Provided*, That the appropriate agency of the State wherein such construction or improvement is to be carried on first shall have obtained without cost to the United States the necessary title to, interest therein, rights-of-way over, or licenses covering the use of such lands.

(May 11, 1938, ch. 193, §3, 52 Stat. 345; Aug. 8, 1946, ch. 883, §2, 60 Stat. 932; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

CODIFICATION

In text, ''section 6101 of title 41'' substituted for ''section 3709 of the Revised Statutes'' on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1946—Act Aug. 8, 1946, amended section generally to provide for utilization of State services, and for expenditure of funds for construction of facilities and improvements on lands not owned by the United States.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior, by Reorg. Plan No. 4 of 1970, see note set out under section 755 of this title.

§ 757a. Anadromous, Great Lakes, and Lake Champlain fisheries

(a) Conservation, development, and enhancement; cooperative agreements; costs

For the purpose of conserving, developing, and enhancing within the several States the anadromous fishery resources of the Nation that are subject to depletion from water resources developments and other causes, or with respect to which the United States has made conservation commitments by international agreements, and for the purpose of conserving, developing, and enhancing the fish in the Great Lakes and Lake Champlain that ascend streams to spawn, the Secretary of the Interior is authorized to enter into cooperative agreements with one or more States, acting jointly or severally, that are concerned with the development, conservation, and enhancement of such fish, and, whenever he deems it appropriate, with other non-Federal interests. Such agreements shall describe (1) the actions to be taken by the Secretary and the cooperating parties, (2) the benefits that are expected to be derived by the States and other non-Federal interests, (3) the estimated cost of these actions, (4) the share of such costs to be borne by the Federal Government and by the States and other non-Federal interests: *Provided*, That, except as provided in subsection (c) of this section, the Federal share, including the operation and maintenance costs of any facilities constructed by the Secretary pursuant to sections 757a to 757f of this title, which he annually determines to be a proper Federal cost, shall not exceed 50 per centum of such costs ex-

clusive of the value of any Federal land involved: *Provided further*, That the non-Federal share may be in the form of real or personal property, the value of which will be determined by the Secretary, as well as money, (5) the term of the agreement, (6) the terms and conditions for disposing of any real or personal property acquired by the Secretary during or at the end of the term of the agreement, and (7) such other terms and conditions as he deems desirable.

(b) Operation, management, and administration of property; research

(1) The Secretary may also enter into agreements with the States for the operation of any facilities and management and administration of any lands or interests therein acquired or facilities constructed pursuant to sections 757a to 757f of this title.

(2) In carrying out responsibilities under this section, the Secretary shall conduct, promote, and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of anadromous and Great Lakes fishery resources.

(c) Increase of Federal share

(1) Whenever two or more States having a common interest in any basin jointly enter into a cooperative agreement with the Secretary under subsection (a) of this section to carry out a research and development program to conserve, develop, and enhance anadromous fishery resources of the Nation, or fish in the Great Lakes and Lake Champlain that ascend streams to spawn, the Federal share of the program costs shall be increased to a maximum of 66⅔ per centum. For the purpose of this subsection, the term ''basin'' includes rivers and their tributaries, lakes, and other bodies of water or portions thereof.

(2) In the case of any State that has implemented an interstate fisheries management plan for anadromous fishery resources, prepared by an interstate commission, the Federal share of any grant made under this section to carry out activities required by such plan shall be up to 90 percent. For purposes of this paragraph, the term ''interstate commission'' means—

(A) the commission established by the Atlantic States Marine Fisheries Compact (as consented to and approved by Public Law 80–77 [1]), approved May 4, 1942 (56 Stat. 267);

(B) the commission established by the Pacific Marine Fisheries Compact (as consented to and approved by Public Law 80–232 [1]), approved July 24, 1947 (16 Stat. 419); and

(C) the commission established by the Gulf States Marine Fisheries Compact (as consented to and approved by Public Law 81–66), approved May 19, 1949 (63 Stat. 70).

(Pub. L. 89–304, §1, Oct. 30, 1965, 79 Stat. 1125; Pub. L. 91–249, §1, May 14, 1970, 84 Stat. 214; Pub. L. 93–362, §3(a), July 30, 1974, 88 Stat. 398; Pub. L. 95–464, Oct. 17, 1978, 92 Stat. 1278; Pub. L. 96–118, §1, Nov. 16, 1979, 93 Stat. 859; Pub. L. 97–453, §14(b)(1), Jan. 12, 1983, 96 Stat. 2492; Pub. L. 98–44, title I, §104, July 12, 1983, 97 Stat. 216; Pub. L. 107–372, title III, §303(b), Dec. 19, 2002, 116 Stat. 3095.)

[1] See References in Text note below.

REFERENCES IN TEXT

Public Law 80–77, May 4, 1942, 56 Stat. 267, referred to in subsec. (c)(2)(A), probably means act May 4, 1942, ch. 283 [Public Law 539, 77th Cong.], 56 Stat. 267, which is not classified to the Code.

Public Law 80–232, July 24, 1947, 16 Stat. 419, referred to in subsec. (c)(2)(B), probably means act July 24, 1947, ch. 316 [Public Law 232, 80th Cong.], 61 Stat. 419, which is not classified to the Code.

Public Law 81–66, May 19, 1949, 63 Stat. 70, referred to in subsec. (c)(2)(C), is act May 19, 1949, ch. 128 [Public Law 66, 81st Cong.], 63 Stat. 70, which is not classified to the Code.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–372 designated existing provisions as par. (1) and added par. (2).

1983—Subsec. (c)(2). Pub. L. 98–44 substituted ''resources, prepared by an interstate commission'' for ''resources'', substituted ''up to 90 percent'' for ''90 percent'', and inserted provision defining interstate commission for purposes of this paragraph.

Subsec. (c). Pub. L. 97–453 designated existing provisions as par. (1) and added par. (2).

1979—Subsec. (c). Pub. L. 96–118 struck out provisions respecting cost to Federal government of operation and maintenance of structures, devices, etc., constructed by States under cooperative agreements.

1978—Subsecs. (a), (c). Pub. L. 95–464 inserted ''and Lake Champlain'' after ''Great Lakes''.

1974—Subsec. (c). Pub. L. 93–362 substituted ''66⅔ per centum'' for ''60 per centum''.

1970—Subsec. (a). Pub. L. 91–249, §1(a), made the Federal share of the cost of conservation, development and enhancement of the anadromous fishery resources subject to the provisions of subsec. (c) of this section.

Subsec. (c). Pub. L. 91–249, §1(b), added subsec. (c).

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–372, title III, §301, Dec. 19, 2002, 116 Stat. 3094, provided that: ''This title [amending this section, sections 757d, 971h, 4101, 4107, and 5610 of this title, and provisions set out as a note under section 857–19 of Title 33, Navigation and Navigable Waters] may be cited as the 'Fisheries Conservation Act of 2002'.''

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–130, §1, Oct. 17, 1991, 105 Stat. 626, provided that: ''This Act [amending section 757g of this title and provisions set out as notes under section 1851 of this title] may be cited as the 'Striped Bass Act of 1991'.''

SHORT TITLE

Section 8, formerly section 7, of Pub. L. 89–304, as added by Pub. L. 91–249, §3, May 14, 1970, 84 Stat. 214, and renumbered by Pub. L. 96–118, §4, Nov. 16, 1979, 93 Stat. 859, provided that: ''This Act [enacting this section and sections 757b to 757g of this title] may be cited as the 'Anadromous Fish Conservation Act'.''

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior, by Reorg. Plan No. 4 of 1970, see note set out under section 755 of this title.

§ 757b. Authority of the Secretary with regards to Anadromous and Great Lakes fisheries; development and management

The Secretary, in accordance with any agreements entered into pursuant to section 757a(a) of this title, is authorized (1) to conduct such investigations, engineering and biological surveys, and research as may be desirable to carry out the program; (2) to carry out stream clearance

activities; (3) to construct, install, maintain, and operate devices and structures for the improvement of feeding and spawning conditions, for the protection of fishery resources, and for facilitating the free migration of the fish, and for the control of the sea lamprey; (4) to construct, operate, and maintain fish hatcheries wherever necessary to accomplish the purposes of sections 757a to 757f of this title; (5) to conduct such studies and make such recommendations as the Secretary determines to be appropriate regarding the development and management of any stream or other body of water for the conservation and enhancement of anadromous fishery resources and the fish in the Great Lakes and Lake Champlain that ascend streams to spawn: *Provided*, That the reports on such studies and the recommendations of the Secretary shall be transmitted to the States, the Congress, and the Federal water resources construction agencies for their information: *Provided further*, That sections 757a to 757f of this title shall not be construed as authorizing the formulation or construction of water resources projects, except that water resources projects which are determined by the Seretary[1] to be needed solely for the conservation, protection, and enhancement of such fish may be planned and constructed by the Bureau of Reclamation in its currently authorized geographic area of responsibility or by the Corps of Engineers, or by the Department of Agriculture, or by the States, with funds made available by the Secretary under sections 757a to 757f of this title and subject to the cost-sharing and appropriations provisions of sections 757a to 757f of this title; (6) to acquire lands or interests therein by purchase, lease, donation, or exchange for acquired lands or public lands under his jurisdiction which he finds suitable for disposition: *Provided*, That the lands or interests therein so exchanged shall involve approximately equal values, as determined by the Secretary: *Provided further*, That the Secretary may accept cash from, or pay cash to, the grantor in such an exchange in order to equalize the values of the properties exchanged; (7) to accept donations of funds and to use such funds to acquire or manage lands or interests therein; and (8) to administer such lands or interests therein for the purposes of sections 757a to 757f of this title. Title to lands or interests therein acquired pursuant to sections 757a to 757f of this title shall be in the cooperating States or other non-Federal interests.

(Pub. L. 89–304, § 2, Oct. 30, 1965, 79 Stat. 1125; Pub. L. 93–362, § 1, July 30, 1974, 88 Stat. 398; Pub. L. 95–464, Oct. 17, 1978, 92 Stat. 1278; Pub. L. 96–118, § 2, Nov. 16, 1979, 93 Stat. 859.)

AMENDMENTS

1979—Pub. L. 96–118 substituted ''cooperating States or other non-Federal interests'' for ''United States''.

1978—Cl. (5). Pub. L. 95–464 inserted ''and Lake Champlain'' after ''Great Lakes''.

1974—Cl. (3). Pub. L. 93–362 inserted reference to the control of the sea lamprey.

[1] So in original. Probably should be ''Secretary''.

§ 757c. Approval for activities on land administered by other Federal departments or agencies

Activities authorized by sections 757a to 757f of this title to be performed on lands administered by other Federal departments or agencies shall be carried out only with the prior approval of such departments or agencies.

(Pub. L. 89–304, § 3, Oct. 30, 1965, 79 Stat. 1126.)

§ 757d. Authorization of appropriations

There are authorized to be appropriated to carry out the purposes of sections 757a to 757f of this title not to exceed $4,500,000 for each of fiscal years 2007 through 2012.

(Pub. L. 89–304, § 4, Oct. 30, 1965, 79 Stat. 1126; Pub. L. 91–249, § 2, May 14, 1970, 84 Stat. 214; Pub. L. 93–362, §§ 2, 3(b), July 30, 1974, 88 Stat. 398; Pub. L. 96–118, § 3, Nov. 16, 1979, 93 Stat. 859; Pub. L. 97–453, § 14(b)(2), Jan. 12, 1983, 96 Stat. 2492; Pub. L. 99–659, title IV, § 402, Nov. 14, 1986, 100 Stat. 3737; Pub. L. 101–627, title IV, § 401, Nov. 28, 1990, 104 Stat. 4462; Pub. L. 104–297, title IV, § 403, Oct. 11, 1996, 110 Stat. 3619; Pub. L. 107–372, title III, § 303(a), Dec. 19, 2002, 116 Stat. 3095; Pub. L. 109–479, title III, § 302(h), Jan. 12, 2007, 120 Stat. 3625.)

AMENDMENTS

2007—Pub. L. 109–479 amended section generally. Prior to amendment, section authorized appropriations to carry out sections 757a to 757f of this title for fiscal years 2003 to 2006 and limited the obligation of funds in any one State to not more than $625,000.

2002—Pub. L. 107–372 amended section generally. Prior to amendment, section authorized appropriations to carry out sections 757a to 757f of this title of not to exceed $4,000,000 for fiscal year 1997 and $4,250,000 for each of fiscal years 1998, 1999, and 2000, and limited the obligation of funds in any one State to not more than $625,000.

1996—Pub. L. 104–297 amended section generally. Prior to amendment, section authorized appropriations to carry out sections 757a to 757g of this title of not to exceed $8,152,500 for fiscal year 1989 and $8,000,000 for each of fiscal years 1990 to 1995, and limited the obligation of funds in any one State to not more than $1,250,000.

1990—Subsec. (a)(1). Pub. L. 101–627, § 401(1), (2), redesignated par. (7) as (1) and struck out former par. (1) which authorized appropriations of $11,000,000 for fiscal year 1980.

Subsec. (a)(2). Pub. L. 101–627, § 401(1), (3), added par. (2) and struck out former par. (2) which authorized appropriations of $13,000,000 for fiscal year 1981.

Subsec. (a)(3) to (6). Pub. L. 101–627, § 401(1), struck out pars. (3) to (6) which authorized appropriations of $15,000,000 for fiscal year 1982, $7,500,000 for fiscal years 1983, 1984, 1985, and 1986, $7,702,500 for fiscal year 1987, and $7,920,000 for fiscal year 1988, respectively.

Subsec. (a)(7). Pub. L. 101–627, § 401(2), redesignated par. (7) as (1).

1986—Subsec. (a)(4) to (7). Pub. L. 99–659 inserted reference to fiscal year 1986 in par. (4) and added pars. (5) to (7).

1983—Subsec. (a)(4). Pub. L. 97–453 added par. (4).

1979—Subsec. (a). Pub. L. 96–118, § 3(a), substituted provisions authorizing appropriations of not to exceed $11,000,000, $13,000,000, and $15,000,000 for fiscal years 1980 through 1982, respectively, for provisions authorizing appropriations of not to exceed $25,000,000, $6,000,000, $7,500,000, $8,500,000, $20,000,000, $20,000,000, $20,000,000, $20,000,000, $20,000,000, and $20,000,000 for fiscal years ending June 30, 1970, through June 30, 1979, respectively.

Subsec. (b). Pub. L. 96–118, §3(b), substituted ''$1,250,000'' for ''$1,000,000''.

1974—Subsec. (a). Pub. L. 93–362 substituted ''$20,000,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, June 30, 1977, June 30, 1978, and June 30, 1979'' for ''$10,000,000 for the fiscal year ending June 30, 1974''.

1970—Subsec. (a). Pub. L. 91–249 authorized appropriation of not to exceed $6,000,000, $7,500,000, $8,500,000 and $10,000,000 for fiscal years ending June 30, 1971, June 30, 1972, June 30, 1973, and June 30, 1974, respectively, to be available until expended.

§ 757e. Application to Columbia River basin

Sections 757a to 757f of this title shall not be construed to affect, modify, or apply to the same area as the provisions of sections 755 to 757 of this title. The State of Idaho shall be eligible on an equal standing with other States for Federal funding for purposes authorized by sections 757a to 757f of this title.

(Pub. L. 89–304, §5, Oct. 30, 1965, 79 Stat. 1126; Pub. L. 98–146, title I, Nov. 4, 1983, 97 Stat. 922.)

CODIFICATION

Although the intent of Congress to amend this section is clear from the directory language of Pub. L. 98–146 which states that the sentence relating to the eligibility of the State of Idaho be added to ''16 U.S.C. 757e'', that directory language has been editorially interpreted as directing the addition of that sentence to section 5 of Pub. L. 89–304, because Title 16 of the United States Code [this title] has never been enacted into positive law and its sections are therefore not susceptible of amendment as sections of ''16 U.S.C.—'' and because section 5 of Pub. L. 89–304 is the statute which was classified to, and serves as the source for 16 U.S.C. 757e [this section].

AMENDMENTS

1983—Pub. L. 98–146 inserted provision that the State of Idaho shall be eligible on an equal standing with other States for Federal funding for purposes authorized by sections 757a to 757f of this title.

§ 757f. Studies on pollution; recommendations to Secretary of Health and Human Services

The Secretary of the Interior shall, on the basis of studies carried out pursuant to sections 757a to 757f of this title and section 665 of this title, make recommendations to the Secretary of Health and Human Services concerning the elimination or reduction of polluting substances detrimental to fish and wildlife in interstate or navigable waters or the tributaries thereof. Such recommendations and any enforcement measures initiated pursuant thereto by the Secretary of Health and Human Services shall be designed to enhance the quality of such waters, and shall take into consideration all other legitimate uses of such waters.

(Pub. L. 89–304, §6, Oct. 30, 1965, 79 Stat. 1126; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted in text for ''Secretary of Health, Education, and Welfare'' pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 755 of this title.

§ 757g. Repealed. Pub. L. 105–146, §3(a), Dec. 16, 1997, 111 Stat. 2677

Section, Pub. L. 89–304, §7, as added Pub. L. 96–118, §4, Nov. 16, 1979, 93 Stat. 859; amended Pub. L. 97–453, §14(b)(3), Jan. 12, 1983, 96 Stat. 2492; Pub. L. 98–613, §10(a), Oct. 31, 1984, 98 Stat. 3190; Pub. L. 99–432, §6, Oct. 1, 1986, 100 Stat. 990; Pub. L. 100–589, §3, Nov. 3, 1988, 102 Stat. 2984; Pub. L. 102–130, §3, Oct. 17, 1991, 105 Stat. 626, related to striped bass population studies.

§ 758. Exploration, investigation, development, and maintenance of fishing resources and industry of Pacific Ocean

It is the policy of the United States to provide for the exploration, investigation, development, and maintenance of the fishing resources and development of the high seas fishing industry of the United States and its island possessions in the tropical and subtropical Pacific Ocean and intervening seas, for the benefit of the residents of the Pacific island possessions and of the people of the United States.

(Aug. 4, 1947, ch. 451, §1, 61 Stat. 726; Pub. L. 86–624, §11(a), (b), July 12, 1960, 74 Stat. 412.)

AMENDMENTS

1960—Pub. L. 86–624 substituted ''the United States and its island possessions'' for ''the Territories and island possessions of the United States'', and struck out ''Territory of Hawaii and'' before ''Pacific island possessions''.

§ 758a. Conduct of explorations and related work in Pacific Ocean

The Secretary of Commerce is authorized and directed to conduct such fishing explorations and such necessary related work as oceanographical, biological, technological, statistical, and economic studies to insure maximum development and utilization of the high seas fishery resources of the United States and its island possessions in the tropical and subtropical Pacific Ocean and intervening areas as may be consistent with developing and sustaining such fishery resources at maximum levels of production in perpetuity and to provide for the best possible utilization thereof.

(Aug. 4, 1947, ch. 451, §2, 61 Stat. 726; Pub. L. 86–624, §11(a), July 12, 1960, 74 Stat. 412; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

AMENDMENTS

1960—Pub. L. 86–624 substituted ''the United States and its island possessions'' for ''the Territories and island possessions of the United States''.

TRANSFER OF FUNCTIONS

''Secretary of Commerce'' substituted for ''Secretary of the Interior, through the United States Fish and Wildlife Service of the Department of the Interior,'' in view of: creation of National Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in Department of the Interior and Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in Secretary of the Interior or Department of the Interior which were administered through Bureau of

Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

United States Fish and Wildlife Service, consisting of Bureau of Commercial Fisheries and Bureau of Sport Fisheries and Wildlife, succeeded and replaced Fish and Wildlife Service of Department of the Interior under provisions of Fish and Wildlife Act of 1956, as originally provided in section 742b(a) and (d) of this title.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

DOGFISH SHARKS: RESEARCH TO CONTROL AND ERADICATE OR TO DISCOVER COMMERCIAL USES

Pub. L. 85–887, Sept. 2, 1958, 72 Stat. 1710, directed Secretary of the Interior to prosecute, for a period of not to exceed four years from Sept. 2, 1958, investigations of the abundance and distribution of dogfish sharks, experiments to develop control measures, and a vigorous program for the elimination and eradication or development of economic uses of dogfish shark populations.

§ 758b. Cooperation with agencies, organizations, and others

In carrying out the purposes and objectives of sections 758 and 758a of this title, the Secretary of Commerce may cooperate with appropriate agencies of the State and island governments, and with such educational, industrial, or other organizations, enterprises, and individuals as may be expedient.

(Aug. 4, 1947, ch. 451, §3, 61 Stat. 726; Pub. L. 86–624, §11(c), July 12, 1960, 74 Stat. 412; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

AMENDMENTS

1960—Pub. L. 86–624 substituted ''State'' for ''Territorial''.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 758a of this title.

§ 758c. Authorization of appropriations for research laboratory, experiment stations, dock and storehouse facilities, vessels, etc., for activities in the Pacific Ocean; transfer of surplus vessels

There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary for the construction, including architectural services, and for furnishings and equipment of a fishery research laboratory and experiment stations in the State of Hawaii and necessary substations at suitable locations, together with suitable dock and storehouse facilities to be used in conjunction with the operation of research and experimental fishing vessels and for the procurement and for the modification, refitting, and equipment of two experimental high-sea fishing vessels, together with all necessary gear and appurtenances, and of one multiple purpose high-seas fishing and oceanographical research vessel, together with all necessary gear and appurtenances, including necessary naval architectural and engineering services: *Provided*, *however*, That no part of said appropriation shall be expended for the acquisition of lands for sites for said laboratory, experiment station, or substations in the State of Hawaii: *Provided further*, That there are authorized to be transferred to the Secretary of Commerce not to exceed three surplus vessels suitable for conversion and use in oceanographic and biological research and exploratory fishing, by any disposal agency of the Government without reimbursement or transfer of funds.

(Aug. 4, 1947, ch. 451, §4, 61 Stat. 726; Pub. L. 86–624, §11(d), July 12, 1960, 74 Stat. 412; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

AMENDMENTS

1960—Pub. L. 86–624 substituted ''State of Hawaii'' for ''Hawaiian Islands'' and for ''Territory of Hawaii''.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 758a of this title.

§ 758d. Pacific Ocean activities; future appropriations

There is hereby authorized to be appropriated from time to time in fiscal years after 1947—1948 such sums as may be necessary to enable the Secretary of Commerce to carry out the purposes of sections 758 to 758d of this title, including personal services, traveling expenses, transportation of things, purchase, maintenance, and operation of motor vehicles, miscellaneous equipment, and supplies, communications, other contractual services, necessary printing locally, and maintenance, repair, improvement, equipment, and operation of vessels and buildings or other structures.

(Aug. 4, 1947, ch. 451, §6, 61 Stat. 726; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

CODIFICATION

Words ''personal services, traveling expenses, transportation of things, purchase, maintenance, and operation of motor vehicles, miscellaneous equipment, and supplies, communications, other contractual services, necessary printing locally, and maintenance, repair, improvement, equipment, and operation of vessels and buildings or other structures'', appearing in text, were inserted in place of words ''all the classes of expenditures enumerated in the foregoing section''. The ''foregoing section'' referred to section 5 of Act Aug. 4, 1947, which is set out as a note under this section.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 758a of this title.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with

power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

APPROPRIATIONS FOR FISCAL YEAR 1947–1948

Section 5 of act Aug. 4, 1947, authorized appropriation of additional sums for expenses during the fiscal year 1947–1948 to carry out the purposes of sections 758 to 758d of this title.

§ 758e. Central, Western, and South Pacific Ocean fisheries development program

The Secretary of Commerce (hereafter referred to in sections 758e to 758e–5 of this title as the ''Secretary'') is authorized to carry out, directly or by contract, with the Pacific Fisheries Development Foundation or other agency or organization, a program for the development of the tuna and other latent fisheries resources of the Central, Western, and South Pacific Ocean. The program shall include, but not be limited to, exploration for, and stock assessment of, tuna and other fish; improvement of harvesting techniques; gear development; biological resource monitoring; and an economic evaluation of the potential for tuna and other fisheries in such area.

(Pub. L. 92–444, §2, Sept. 29, 1972, 86 Stat. 745; Pub. L. 94–343, §1(1), July 6, 1976, 90 Stat. 809; Pub. L. 95–295, §1(1), June 16, 1978, 92 Stat. 319; Pub. L. 98–498, title IV, §410, Oct. 19, 1984, 98 Stat. 2309.)

AMENDMENTS

1984—Pub. L. 98–498 substituted ''Pacific Fisheries Development Foundation'' for ''Pacific Tuna Development Foundation''.

1978—Pub. L. 95–295 inserted provision authorizing contracts for programs with the Pacific Tuna Development Foundation or other agency or organization.

1976—Pub. L. 94–343 struck ''three year'' before ''program for''.

SHORT TITLE

Section 1 of Pub. L. 92–444 provided: ''That this Act [enacting this section and sections 758e–1 to 758e–5 of this title] may be cited as the 'Central, Western, and South Pacific Fisheries Development Act'.''

§ 758e–1. Consultation and cooperation between certain Federal officers, affected States, etc., in carrying out program

In carrying out the purposes of sections 758e to 758e–5 of this title, the Secretary shall consult, and may otherwise cooperate, with the Secretary of the Interior, the Secretary of State, the State of Hawaii and other affected States, the governments of American Samoa and Guam, the Office of the High Commissioner of the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, educational institutions, the commercial fishing industry, and all appropriate member nations of a South Pacific regional fishery agency (hereinafter referred to in sections 758e to 758e–5 of this title as the ''agency''), if such an agency is formed.

(Pub. L. 92–444, §3, Sept. 29, 1972, 86 Stat. 745; Pub. L. 95–295, §1(2), June 16, 1978, 92 Stat. 319.)

AMENDMENTS

1978—Pub. L. 95–295 inserted provisions requiring consultation and cooperation with the Secretary of State, Commonwealth of the Northern Mariana Islands, and all appropriate member nations of a South Pacific regional fishery agency, if such an agency is formed.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 758e–1a. Cooperative program for development of tuna and other latent fishery resources in area; establishment; availability of project information

In addition to the authority granted in section 758e of this title, the Secretary, in consultation with representatives of all interested member nations of the agency, and those parties set forth in section 758e–1 of this title, may establish in accordance with section 758e of this title, a cooperative program for the development of tuna and other latent fisheries resources of the Central, Western, and South Pacific Ocean to be submitted to the President and the Congress within one year following official formation of the agency. The Secretary shall make available to all interested member nations of the agency the results and findings of research or development projects carried out under sections 758e to 758e–5 of this title.

(Pub. L. 92–444, §4, as added Pub. L. 95–295, §1(3), June 16, 1978, 92 Stat. 319.)

§ 758e–2. Repealed. Pub. L. 99–386, title I, § 102, Aug. 22, 1986, 100 Stat. 821

Section, Pub. L. 92–444, §5, formerly §4, Sept. 29, 1972, 86 Stat. 745; Pub. L. 94–273, §2(10), Apr. 21, 1976, 90 Stat. 375; Pub. L. 94–343, §1(2), July 6, 1976, 90 Stat. 809; renumbered Pub. L. 95–295, §1(4), June 16, 1978, 92 Stat. 319, related to submission to President and Congress of annual report by Secretary on Central, Western, and South Pacific Ocean fisheries development program.

§ 758e–3. Regulations; contract terms and conditions

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of sections 758e to 758e–5 of this title. Any contract entered into pursuant to section 758e of this title shall be subject to such terms and conditions as the Secretary deems necessary and appropriate to protect the interests of the United States.

(Pub. L. 92–444, §6, formerly §5, Sept. 29, 1972, 86 Stat. 745; renumbered §6, Pub. L. 95–295, §1(4), June 16, 1978, 92 Stat. 319.)

§ 758e–4. "Central, Western, and South Pacific Ocean area" defined

As used in sections 758e to 758e–5 of this title, the term ''Central, Western, and South Pacific Ocean'' means that area of the Pacific Ocean between latitudes 30 degrees north to 30 degrees south and from longitudes 120 degrees east to 130 degrees west.

(Pub. L. 92–444, §7, formerly §6, Sept. 29, 1972, 86 Stat. 745; renumbered §7, Pub. L. 95–295, §1(4), June 16, 1978, 92 Stat. 319.)

§ 758e–5. Authorization of appropriations

There is authorized to be appropriated for the period beginning July 1, 1973, and ending June 30, 1976, the sum of $3,000,000, and for the period beginning July 1, 1976, and ending September 30, 1979, the sum of $4,000,000, and for each of the fiscal years 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, and 1995, the sum of $5,000,000, to carry out the purposes of sections 758e to 758e–5 of this title. Sums appropriated pursuant to this section shall remain available until expended.

(Pub. L. 92–444, § 8, formerly § 7, Sept. 29, 1972, 86 Stat. 745; Pub. L. 94–343, § 1(3), July 6, 1976, 90 Stat. 809; renumbered § 8 and amended Pub. L. 95–295, §§ 1(4), 2, June 16, 1978, 92 Stat. 319, 320; Pub. L. 97–453, § 15(d), Jan. 12, 1983, 96 Stat. 2493; Pub. L. 99–659, title IV, § 403, Nov. 14, 1986, 100 Stat. 3737; Pub. L. 101–627, title VI, § 601, Nov. 28, 1990, 104 Stat. 4463.)

AMENDMENTS

1990—Pub. L. 101–627, which directed the substitution of ''1988, 1989, 1990, 1991, 1992, 1993, 1994, and 1995'' for ''and 1988'' in section 7 of the Central, Western, and South Pacific Fisheries Development Act, meaning section 7 of Pub. L. 92–444, was executed by making the substitution in section 8 of Pub. L. 92–444, this section, to reflect the probable intent of Congress and the renumbering of section 7 as 8 by Pub. L. 95–295, § 1(4).

1986—Pub. L. 99–659 inserted provision authorizing appropriations for each of fiscal years 1986, 1987, and 1988.

1983—Pub. L. 97–453 substituted ''1982, 1983, 1984, and 1985'' for ''and 1982''.

1978—Pub. L. 95–295 inserted provision authorizing appropriations of $5,000,000 for each of fiscal years 1980 to 1982, and substituted ''$4,000,000'' for ''$3,000,000''.

1976—Pub. L. 94–343 inserted provision authorizing appropriations for period beginning July 1, 1976, and ending Sept. 30, 1979, the sum of $3,000,000.

§ 759. Omitted

CODIFICATION

Section, act Aug. 18, 1949, ch. 478, § 2, 63 Stat. 616, authorized Secretary of the Interior through the Fish and Wildlife Service to undertake an Atlantic Coast shad study, prescribed a $75,000 per annum cost limitation for a six year period, and authorized transfer to such Service from Federal agencies or corporations surplus boats or equipment for conduct of the studies.

Section 4 of act Aug. 18, 1949 authorized appropriations for carrying out the purposes of act Aug. 18, 1949.

§ 760. Establishment of rearing ponds and fish hatchery in Kentucky

The Secretary of the Interior is authorized to construct, equip, maintain, and operate rearing ponds and a fish hatchery at a suitable location in Kentucky.

(July 18, 1950, ch. 465, § 1, 64 Stat. 343.)

§ 760–1. Kentucky fish hatchery; authorization of appropriations

There is hereby authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the purposes of section 760 of this title.

(July 18, 1950, ch. 465, § 2, 64 Stat. 343.)

APPROPRIATION FOR ACQUISITION OF LANDS AND CONSTRUCTION

In addition to enacting this section, section 2 of act July 18, 1950, authorized a maximum appropriation of $275,000 for the acquisition of lands and water rights or interests therein and the construction and equipment of the station provided for by section 760.

§ 760–2. Establishment of fish hatchery in Montana

The Secretary of the Interior is authorized to establish, construct, equip, operate, and maintain a new fish hatchery in the vicinity of Miles City, Montana.

(June 4, 1956, ch. 366, § 1, 70 Stat. 247.)

TRANSFER OF MILES CITY NATIONAL FISH HATCHERY

Pub. L. 99–432, § 7, Oct. 1, 1986, 100 Stat. 990, provided that: ''Notwithstanding any other law, the Secretary of the Interior shall convey to the State of Montana, without reimbursement to the United States and no later than thirty days following enactment of this legislation [Oct. 1, 1986], all of the rights (including all water rights), title, and interest of the United States in and to the fish hatchery property located south of Miles City, Montana, and known as the Miles City National Fish Hatchery, consisting of 168.22 acres, more or less, of land, together with any improvements and related personal property thereon. The property conveyed shall be used by the Montana Department of Fish, Wildlife and Parks as part of the Montana fishery resources management program. If the property conveyed is ever used for other than these purposes, title to such property shall revert to the United States.''

Similar provisions were contained in Pub. L. 99–500, § 101(h) [title I, § 112], Oct. 18, 1986, 100 Stat. 1783–242, 1783–262, and Pub. L. 99–591, § 101(h) [title I, § 112], Oct. 30, 1986, 100 Stat. 3341–242, 3341–262.

APPROPRIATIONS

Section 2 of act June 4, 1956, authorized an appropriation of $465,000 to carry out this section.

§ 760–3. Establishment of trout hatchery in Pisgah National Forest

The Secretary of the Interior, after consulting with the Secretary of Agriculture, shall establish, construct, equip, operate, and maintain a trout hatchery at an appropriate location on the Davidson River in the Pisgah National Forest, North Carolina.

(June 18, 1956, ch. 404, § 1, 70 Stat. 292.)

APPROPRIATIONS

Section 2 of act June 18, 1956, authorized the appropriation of $375,000 to carry out the purposes of this section.

§ 760–4. Establishment of trout hatchery at Pittsford, Vermont

The Secretary of the Interior shall develop, reconstruct, equip, operate, and maintain the Federal fish hatchery, known as the Holden trout hatchery, at Pittsford, Vermont, in accordance with the program established by the Fish and Wildlife Service, Department of the Interior, for the improvement of such hatchery.

(Aug. 1, 1956, ch. 845, § 1, 70 Stat. 897.)

CHANGE OF NAME

Pub. L. 111–8, div. E, title I, § 116, Mar. 11, 2009, 123 Stat. 724, provided that: ''The Pittsford National Fish

Hatchery in Chittenden, Vermont is hereby renamed the Dwight D. Eisenhower National Fish Hatchery.''

APPROPRIATIONS

Section 2 of act Aug. 1, 1956, authorized the appropriation of $220,000 to carry out the provisions of this section.

§ 760–5. Establishment of fish hatchery at Paint Bank, Virginia

The Secretary of the Interior is authorized and directed to construct, equip, maintain, and operate a new fish hatchery in the vicinity of Paint Bank, Virginia.

(Aug. 3, 1956, ch. 943, § 1, 70 Stat. 1020.)

§ 760–6. Virginia fish hatchery; authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out section 760–5 of this title.

(Aug. 3, 1956, ch. 943, § 2, 70 Stat. 1020.)

§ 760–7. Establishment of fish hatchery in West Virginia

The Secretary of the Interior is authorized to establish, construct, equip, operate, and maintain a new fish hatchery in the State of West Virginia.

(Aug. 6, 1956, ch. 978, § 1, 70 Stat. 1057.)

§ 760–8. West Virginia fish hatchery; authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of section 760–7 of this title.

(Aug. 6, 1956, ch. 978, § 2, 70 Stat. 1057.)

§ 760–9. Establishment of fish hatchery in Pennsylvania

The Secretary of the Interior is authorized to establish, construct, equip, operate, and maintain a new fish hatchery in the northwestern part of the State of Pennsylvania.

(Pub. L. 86–205, § 1, Aug. 25, 1959, 73 Stat. 430.)

§ 760–10. Pennsylvania fish hatchery; authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of section 760–9 of this title.

(Pub. L. 86–205, § 2, Aug. 25, 1959, 73 Stat. 430.)

§ 760–11. Acceptance and development of fish hatchery in South Carolina

The Secretary of the Interior is authorized, in his discretion and upon such terms and conditions as he shall consider to be in the public interest, to accept by donation on behalf of the United States, title to the Orangeburg County, South Carolina, fish hatchery, together with the right to take adequate water from Orangeburg County Lake therefor. The Secretary is authorized to rehabilitate and expand the rearing ponds and other hatchery facilities, to purchase lands adjoining such station in connection with the rehabilitation and expansion of such facilities, and to equip, operate, and maintain said fish hatchery.

(Pub. L. 86–572, § 1, July 5, 1960, 74 Stat. 311.)

§ 760–12. South Carolina fish hatchery; authorization of appropriations

There are hereby authorized to be appropriated such funds as may be necessary to carry out the purposes of section 760–11 of this title.

(Pub. L. 86–572, § 2, July 5, 1960, 74 Stat. 311.)

§ 760a. Atlantic Coast fish study for development and protection of fish resources

The Secretary of Commerce is directed to undertake a comprehensive continuing study of species of fish of the Atlantic coast, including bays, sounds, and tributaries, for the purpose of recommending to the States of such coast appropriate measures for the development and protection of such resources and their wisest utilization, whether for sports or commercial fishing or both, including the limitations on season, take per unit of time, per man, or per gear, or such other recommendations as will most effectively provide for the public the maximum production and utilization of such fish consistent with the maintenance of an adequate brood reserve.

(Aug. 25, 1950, ch. 782, § 1, 64 Stat. 474; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 755 of this title.

§ 760b. Equipment for studies; cooperation of Federal departments and agencies

The Secretary is directed to make application through appropriate channels to other Federal departments or agencies for such boats and other equipment in custody of such departments or agencies as may be suitable for studies authorized hereunder, and such Federal departments and agencies are authorized to transfer such boats and other equipment to the Department of Commerce without reimbursement of funds.

(Aug. 25, 1950, ch. 782, § 2, 64 Stat. 474; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

''Department of Commerce'' substituted in text for ''Department of the Interior'' in view of transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 755 of this title.

§ 760c. Studies; authorization of appropriations

There is authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums, not in excess of $250,000 per annum, as may be necessary to carry out the purposes and objectives of sections 760a to 760c of this title.

(Aug. 25, 1950, ch. 782, § 3, 64 Stat. 474.)

§ 760d. Grants for education and training of personnel in the field of commercial fishing

(a) Public and private nonprofit universities and colleges

The Secretary of Commerce is authorized to make grants, out of funds appropriated for the purposes of this section, to public and nonprofit private universities and colleges in the several States and Territories of the United States for such purposes as may be necessary to promote the education and training of professionally trained personnel (including scientists, technicians, and teachers) needed in the field of commercial fishing. Any amount appropriated for the purposes of this section shall be apportioned on an equitable basis, as determined by the Secretary of Commerce, among the several States and Territories for the purpose of making grants within each such State and Territory. In making such apportionment the Secretary of Commerce shall take into account the extent of the fishing industry within each State and Territory as compared with the total fishing industry of the United States (including Territories), and such other factors as may be relevant in view of the purposes of this section.

(b) Authorization of appropriations

There are authorized to be appropriated not in excess of $550,000 for the fiscal year beginning on July 1, 1955, and for each fiscal year thereafter for the purposes of this section.

(c) Regulations

The Secretary of Commerce may establish such regulations as may be necessary to carry out the provisions of this section.

(Aug. 8, 1956, ch. 1039, §1, 70 Stat. 1126; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 755 of this title.

§ 760e. Study of migratory game fish; waters; research; purpose

The Secretary of Commerce is directed to undertake a comprehensive continuing study of the migratory marine fish of interest to recreational fishermen of the United States, including species inhabiting the offshore waters of the United States and species which migrate through or spend a part of their lives in the inshore waters of the United States. The study shall include, but not be limited to, research on migrations, identity of stocks, growth rates, mortality rates, variations in survival, environmental influences, both natural and artificial, including pollution, and effects of fishing on the species, for the purpose of developing wise conservation policies and constructive management activities.

(Pub. L. 86–359, §1, Sept. 22, 1959, 73 Stat. 642; 1970 Reorg. Plan No. 4, §1(b), eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 755 of this title.

§ 760f. Migratory game fish study; authorization to acquire facilities, employ officers and employees, cooperate with State and other agencies, and to publish results

For the purpose of carrying out the provisions of sections 760e to 760g of this title, the Secretary of Commerce is authorized (1) to acquire lands, construct laboratory or other buildings, purchase boats, acquire such other equipment and apparatus, and to employ such officers and employees as he deems necessary; (2) to cooperate or contract with State and other institutions and agencies upon such terms and conditions as he determines to be appropriate; and (3) to make public the results of such research conducted pursuant to section 760e of this title.

(Pub. L. 86–359, §2, Sept. 22, 1959, 73 Stat. 642; 1970 Reorg. Plan No. 4, §1(b), eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 755 of this title.

§ 760g. Authorization of appropriations for migratory game fish study

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 760e to 760g of this title: *Provided*, That no more than $2,700,000 be appropriated for this purpose in any one fiscal year.

(Pub. L. 86–359, §3, Sept. 22, 1959, 73 Stat. 643.)

§§ 760h to 760*l*. Omitted

CODIFICATION

Section 760h, Pub. L. 87–173, §1, Aug. 30, 1961, 75 Stat. 409, provided for establishment of shellfisheries research center at Milford, Connecticut and included a statement of purpose.

Section 760i, Pub. L. 87–173, §2, Aug. 30, 1961, 75 Stat. 409, authorized appropriation of $1,325,000 to carry out section 760h of this title.

Section 760j, Pub. L. 87–580, §1, Aug. 9, 1962, 76 Stat. 356, related to propagation of disease resistant oysters, acquisition of brood stock, transfer and distribution, and for State sharing of costs.

Section 760k, Pub. L. 87–580, §2, Aug. 9, 1962, 76 Stat. 356, authorized grants to States for research and other necessary activities in development and propagation of disease-resistant strains of oysters and conditions of such grants.

Section 760*l*, Pub. L. 87–580, §3, Aug. 9, 1962, 76 Stat. 357, authorized appropriation of $100,000 to carry out sections 760j to 760*l* of this title.

CHAPTER 9B—NATIONAL FISH HATCHERY SYSTEM ENHANCEMENT

Sec.
760aa. Findings and purposes.
760aa–1. Gifts to system and particular national fish hatcheries.
760aa–2. Volunteer enhancement pilot projects.
760aa–3. Community partnership enhancement.
760aa–4. Hatchery education program development.

§ 760aa. Findings and purposes

(a) Findings

Congress finds the following:

(1) The National Fish Hatchery System (in this chapter referred to as the ''System'')—

(A) consists of more than 60 hatcheries, seven fish technology centers, 9 fish health centers, and other fisheries program offices;

(B) plays an integral role in the recovery of more than 50 threatened species and endangered species and the restoration of over 100 native species;

(C) provides healthy fish populations that support recreational fishing opportunities, many of which are related to Federal water control structures; and

(D) works with over 250 partners to help mitigate the impacts of aquatic habitat loss and invasive species.

(2) The System faces many challenges, including aging facilities, some of which date back to the late 1800s, and maintenance of intensive infrastructures such as wells, pumps, valves, pipes, filters, heaters, chillers, and treatment systems that must keep clean water moving 24 hours a day, 365 days a year.

(3) By encouraging volunteer programs and donations and fostering non-Federal partnerships with hatchery facilities, Federal funding for the hatcheries can be supplemented.

(4) By encouraging hatchery educational programs, public awareness of the resources of the System and public participation in the conservation of aquatic resources can be promoted.

(b) Purposes

The purposes of this chapter are the following:

(1) To encourage the use of volunteers to assist the United States Fish and Wildlife Service in the management of hatcheries within the System.

(2) To facilitate partnerships between the System and non-Federal entities to promote public awareness of the resources of the System and public participation in the conservation of those resources.

(3) To encourage donations and other contributions by individuals and organizations to the System.

(Pub. L. 109–360, §2, Oct. 16, 2006, 120 Stat. 2058.)

SHORT TITLE

Pub. L. 109–360, §1, Oct. 16, 2006, 120 Stat. 2058, provided that: ''This Act [enacting this chapter] may be cited as the 'National Fish Hatchery System Volunteer Act of 2006'.''

§ 760aa–1. Gifts to system and particular national fish hatcheries

(a) Authorization of gifts, devises, and bequests for system

In furtherance of the purposes of this chapter, the Secretary of the Interior may accept any gifts, devises, or bequests of real and personal property, or proceeds therefrom, or interests therein, for the benefit of the National Fish Hatchery System. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are deemed by the Secretary to be in accordance with law and compatible with the purpose for which acceptance is sought.

(b) Use of gifts, devises, and bequests

(1) In general

Any gifts and bequests of money and proceeds from the sales of other property received as gifts or bequests pursuant to this subsection shall be deposited in a separate account in the Treasury and may be expended without further appropriation by the Secretary for the benefit of the System programs administered by the United States Fish and Wildlife Service.

(2) Gifts, devises, and bequests for particular facilities

(A) Disbursal

Any gift, devise, or bequest made for the benefit of a facility of the System shall be disbursed only for the benefit of that facility and without further appropriations.

(B) Matching

Subject to the availability of appropriations and the requirements of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) and other applicable law, the Secretary may provide funds to match gifts, devises, and bequests made for the benefit of a facility of the System. With respect to each gift, devise, or bequest, the amount of Federal funds may not exceed the amount (or, in the case of property or in-kind services, the fair market value) of the gift, devise, or bequest.

(Pub. L. 109–360, §3, Oct. 16, 2006, 120 Stat. 2059.)

REFERENCES IN TEXT

The Fish and Wildlife Coordination Act, referred to in subsec. (b)(2)(B), is act Mar. 10, 1934, ch. 55, 48 Stat. 401, as amended, which is classified generally to sections 661 to 666c of this title. For complete classification of this Act to the Code, see Short Title note set out under section 661 of this title and Tables.

§ 760aa–2. Volunteer enhancement pilot projects

(a) In general

Subject to the availability of appropriations, the Secretary of the Interior shall carry out a pilot project at 1 or more facilities of the System. Each pilot project shall provide for a volunteer coordinator for the hatchery facility. The volunteer coordinator shall be responsible for recruiting, training, and supervising volunteers. The volunteer coordinator may be responsible for assisting partner organizations in developing projects and programs under cooperative agreements under section 742f(d) of this title and coordinating volunteer activities with partner organizations to carry out the projects and programs.

(b) Report

Not later than 3 years after October 16, 2006, the Secretary shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate evaluating and making recommendations regarding the pilot projects.

(Pub. L. 109–360, §4, Oct. 16, 2006, 120 Stat. 2059.)

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 760aa–3. Community partnership enhancement

(a) Projects and programs

Subject to the requirements of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) and other applicable law, and such terms and conditions as the Secretary of the Interior determines to be appropriate, the Secretary may approve projects and programs for a facility of the System that—

(1) promote the stewardship of resources of the hatchery through habitat maintenance, restoration, and improvement, biological monitoring, or research;

(2) support the operation and maintenance of the hatchery through constructing, operating, maintaining, or improving the facilities and services of the hatchery;

(3) increase the awareness and understanding of the hatchery and the System, through the development, publication, or distribution of educational materials and products;

(4) advance education concerning the purposes of the hatchery and the mission of the System, through the use of the hatchery as an outdoor classroom and development of other educational programs; or

(5) contribute financial resources to the hatchery, under the terms that require that the net revenues be used exclusively for the benefit of the hatchery, through donation of net revenues from the sale of educational materials and products and through encouragement of gifts, devises, and bequests.

(b) Treasury account

Amounts received by the Secretary of the Interior as a result of projects and programs under subsection (a) shall be deposited in a separate account in the Treasury. Amounts in the account that are attributable to activities at a particular facility of the System shall be available to the Secretary of the Interior, without further appropriation, to pay the costs of incidental expenses related to volunteer activities, and to carry out cooperative agreements for the hatchery facility.

(Pub. L. 109–360, § 5, Oct. 16, 2006, 120 Stat. 2060.)

REFERENCES IN TEXT

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

§ 760aa–4. Hatchery education program development

(a) Guidance

Not later than 1 year after October 16, 2006, the Secretary of the Interior shall develop guidance for the hatchery education programs to further the mission of the System and the purposes of individual hatcheries through—

(1) providing outdoor classroom opportunities for students on fish hatcheries that combine educational curricula with the personal experiences of students relating to fish, aquatic species, and their habitat, and to the cultural and historical resources of the hatcheries;

(2) promoting understanding and conservation of fish, aquatic species, and the cultural and historical resources of the hatcheries; and

(3) improving scientific literacy in conjunction with both formal and nonformal education programs.

(b) Hatchery programs

Based on the guidance developed under subsection (a), the Secretary of the Interior may, with assistance from the Fish and Wildlife Management Assistance Program, develop or enhance hatchery educational programs as appropriate, based on the resources of individual hatcheries and the opportunities available for such programs in State, local, and private schools. In developing and implementing each program, the Secretary should cooperate with State and local education authorities, and may cooperate with partner organizations in accordance with subsection (d).[1]

(Pub. L. 109–360, § 6, Oct. 16, 2006, 120 Stat. 2060.)

CHAPTER 10—NORTHERN PACIFIC HALIBUT FISHING

SUBCHAPTER I—NORTHERN PACIFIC HALIBUT ACT OF 1924

Sec.
761 to 769. Omitted.

SUBCHAPTER II—NORTHERN PACIFIC HALIBUT ACT OF 1932

771 to 771j. Omitted.

SUBCHAPTER III—NORTHERN PACIFIC HALIBUT ACT OF 1937

772 to 772j. Repealed.

SUBCHAPTER IV—NORTHERN PACIFIC HALIBUT ACT OF 1982

773. Definitions.
773a. International Pacific Halibut Commission.
773b. Acceptance or rejection of Commission recommendations.
773c. General responsibility.
773d. Cooperation of Federal agencies.
773e. Prohibited acts.
773f. Civil penalties.
773g. Crimes and criminal penalties.
773h. Forfeitures.
773i. Administration and enforcement.
773j. Authorization of appropriations.
773k. Location of office space and other facilities on or near University of Washington campus in State of Washington.

SUBCHAPTER I—NORTHERN PACIFIC HALIBUT ACT OF 1924

§§ 761 to 769. Omitted

CODIFICATION

Sections, act June 7, 1924, ch. 345, §§ 1–10, 12, 43 Stat. 648–650, constituting the Northern Pacific Halibut Act of 1924, are covered by act May 17, 1982, Pub. L. 97–176, §§ 1–13, 96 Stat. 78–84, incorporated in sections 773 to 773k of this title.

SUBCHAPTER II—NORTHERN PACIFIC HALIBUT ACT OF 1932

§§ 771 to 771j. Omitted

CODIFICATION

Sections, act May 2, 1932, ch. 154, §§ 1–11, 47 Stat. 142–144, constituting the Northern Pacific Halibut Act

[1] So in original. No subsec. (d) has been enacted.

of 1932, are covered by act May 17, 1982, Pub. L. 97–176, §§1–13, 96 Stat. 78–84, incorporated in sections 773 to 773k of this title.

SUBCHAPTER III—NORTHERN PACIFIC HALIBUT ACT OF 1937

§§ 772 to 772j. Repealed. Pub. L. 97–176, § 14, May 17, 1982, 96 Stat. 84

Section 772, act June 28, ch. 392, §1, 50 Stat. 325, provided that this subchapter may be cited as the ''Northern Pacific Halibut Act of 1937''. See section 1 of Pub. L. 97–176, set out as a Short Title note under section 773 of this title, for the short title of the successor Northern Pacific Halibut Act of 1982.

Section 772a, acts June 28, 1937, ch. 392, §2, 50 Stat. 325; Aug. 8, 1953, ch. 382, 67 Stat. 494, defined ''Convention'', ''Commission'', ''person'', ''Territorial waters of the United States'', ''Territorial waters of Canada'', ''Convention waters'', ''halibut'', and ''vessel''. See section 773 of this title.

Section 772b, act June 28, 1937, ch. 392, §3, 50 Stat. 326, enumerated the unlawful acts under the terms of the Northern Pacific Halibut Act of 1937. See section 773e of this title.

Section 772c, act June 28, 1937, ch. 392, §4, 50 Stat. 327, related to the duty of the owner or master of vessels to keep records and reports and to make them available for inspection.

Section 772d, act June 28, 1937, ch. 392, §5, 50 Stat. 327; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, §3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, related to enforcement, arrest and seizure of offending persons and vessels, detention, and use of the testimony of Federal officers and employees. See section 773i of this title.

Section 772e, act June 28, 1937, ch. 392, §6, 50 Stat. 328; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, related to penalties and forfeitures. See sections 773f to 773h of this title.

Section 772f, act June 28, 1937, ch. 392, §7, 50 Stat. 328; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, related to penalties relative to records and reports.

Section 772g, act June 28, 1937, ch. 392, §8, 50 Stat. 328, exempted the Commission and its agents when engaged in scientific investigations from the prohibitions of the subchapter.

Section 772h, act June 28, 1937, ch. 392, §9, 50 Stat. 328; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, authorized promulgation of rules and regulations. See section 773c of this title.

Section 772i, act June 28, 1937, ch. 392, §10, 50 Stat. 328, set the effective date for the Northern Pacific Halibut Act of 1937 as the date of exchange of ratifications of the Convention of January 29, 1937, signed by the United States and Canada [July 28, 1937].

Section 772j, act June 28, 1937, ch. 392, §11, as added Oct. 1, 1965, Pub. L. 89–233, 79 Stat. 902, provided for the location of office facilities on or near the campus of the University of Washington. See section 773k of this title.

EFFECTIVE DATE OF REPEAL

Section 14 of Pub. L. 97–176 provided that the Northern Pacific Halibut Act of 1937 [sections 772 to 772j of this title] is repealed effective as of the 90th day after the date of enactment of Pub. L. 97–176 [May 17, 1982].

SUBCHAPTER IV—NORTHERN PACIFIC HALIBUT ACT OF 1982

§ 773. Definitions

As used in this subchapter the term:

(a) ''Convention'' means the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Ottawa, Canada on March 2, 1953, as amended by the Protocol Amending the Convention, signed at Washington March 29, 1979, and includes the regulations promulgated thereunder.

(b) ''Commission'' means the International Pacific Halibut Commission provided for by article III of the Convention.

(c) ''Fishery conservation zone'' means the fishery conservation zone of the United States established by section 1811[1] of this title.

(d) ''Convention waters'' means the maritime areas off the west coast of the United States and Canada described in article I of the Convention.

(e) ''Halibut'' means fish of the species Hippoglossus stenolepis inhabiting Convention waters.

(f) ''Fishing vessel'' means—

(1) any vessel engaged in catching fish in Convention waters or in processing or transporting fish loaded in Convention waters;

(2) any vessel outfitted to engage in any activity described in paragraph (1); or

(3) any vessel in normal support of any vessel described in paragraph (1) or (2).

(g) ''Secretary'' means the Secretary of Commerce.

(Pub. L. 97–176, §2, May 17, 1982, 96 Stat. 78; Pub. L. 102–251, title III, §302(a), Mar. 9, 1992, 106 Stat. 64; Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

AMENDMENT OF SECTION

Pub. L. 102–251, title III, §§302(a), 308, Mar. 9, 1992, 106 Stat. 64, 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, section is amended by amending subsection (c) generally and adding subsection (h) to read as follows:

(c) ''Exclusive economic zone'' means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this subchapter, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

(h) ''Special areas'' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.

[1] See References in Text note below.

REFERENCES IN TEXT

Section 1811 of this title, referred to in subsec. (c), which established the fishery conservation zone, was amended generally by Pub. L. 99–659, title I, §101(b), Nov. 14, 1986, 100 Stat. 3706, and now relates to United States sovereign rights to fish and fishery management authority within the exclusive economic zone.

Proclamation Numbered 5030, referred to in subsec. (c), is Proc. No. 5030, Mar. 10, 1983, 48 F.R. 10605, which is set out as a note under section 1453 of this title.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–208 made technical amendment to reference in original act which appears in text as reference to section 1811 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, §211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 308 of title III of Pub. L. 102–251 provided that:

''(a) IN GENERAL.—The amendment made by section 301(e)(3) [amending section 1822 of this title] takes effect on the date of enactment of this Act [Mar. 9, 1992], and the amendments made by the other provisions of this title [amending this section and sections 773e, 1151, 1362, 1801, 1802, 1811, 1821, 1822, 1824, 1853, 1857, 1861, 3631, and 3636 of this title and sections 1122 and 1124a of Title 33, Navigation and Navigable Waters], except as provided in subsection (b), shall be effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.

''(b) AUTHORITY TO PRESCRIBE REGULATIONS.—The authority to prescribe regulations to implement the amendments made by this title shall be effective on the date of enactment of this Act [Mar. 9, 1992], but no such regulation may be effective until the date on which the Agreement described in subsection (a) enters into force for the United States.''

SHORT TITLE

Section 1 of Pub. L. 97–176 provided: ''That this Act [enacting this subchapter and repealing subchapter III of this chapter] may be cited as the 'Northern Pacific Halibut Act of 1982'.''

§ 773a. International Pacific Halibut Commission

(a) United States Commissioners

The United States shall be represented on the Commission by three United States Commissioners to be appointed by the President and to serve at his pleasure. The Commissioners shall receive no compensation for their services as Commissioners. Each United States Commissioner shall be appointed for a term of office not to exceed 2 years, but is eligible for reappointment. Any United States Commissioner may be appointed for a term of less than 2 years if such appointment is necessary to ensure that the terms of office of not more than two Commissioners will expire in any 1 year. A vacancy among the United States Commissioners shall be filled by the President in the manner in which the original appointment was made, but any Commissioner appointed to fill a vacancy occurring before the expiration of the term for which the Commissioner's predecessor was appointed shall be appointed only for the remainder of such term. Of the Commissioners—

(1) one shall be an official of the National Oceanic and Atmospheric Administration; and

(2) two shall be knowledgeable or experienced concerning the Northern Pacific halibut fishery; of these, one shall be a resident of Alaska and the other shall be a nonresident of Alaska. Of the three commissioners described in paragraphs (1) and (2), one shall be a voting member of the North Pacific Fishery Management Council.

(3) Commissioners shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in section 8101 et seq. of title 5 and section 2671 et seq. of title 28. This subsection shall take effect on the 90th day after May 17, 1982.

(b) Alternate United States Commissioners

The Secretary of State, in consultation with the Secretary, may designate from time to time alternate United States Commissioners to the commission. An Alternate United States Commissioner may exercise, at any meeting of the Commission, all powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

(Pub. L. 97–176, §3, May 17, 1982, 96 Stat. 78.)

§ 773b. Acceptance or rejection of Commission recommendations

The Secretary of State, with the concurrence of the Secretary, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article III of the Convention and paragraphs 14 and 15 of the annex to the Convention.

(Pub. L. 97–176, §4, May 17, 1982, 96 Stat. 79.)

§ 773c. General responsibility

(a) Secretary of Commerce

The Secretary shall have general responsibility to carry out the Convention and this subchapter.

(b) Adoption of regulations; cooperation with Canadian officials

In fulfilling this responsibility, the Secretary—

(1) shall, in consultation with the Secretary of the department in which the Coast Guard is operating, adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this subchapter; and

(2) may, with the concurrence of the Secretary of State, cooperate with the duly authorized officials of the Government of Canada.

(c) Regional Fishery Management Council involvement

The Regional Fishery Management Council having authority for the geographic area concerned may develop regulations governing the United States portion of Convention waters, including limited access regulations, applicable to

nationals or vessels of the United States, or both, which are in addition to, and not in conflict with regulations adopted by the Commission. Such regulations shall only be implemented with the approval of the Secretary, shall not discriminate between residents of different States, and shall be consistent with the limited entry criteria set forth in section 1853(b)(6) of this title. If it becomes necessary to allocate or assign halibut fishing privileges among various United States fishermen, such allocation shall be fair and equitable to all such fishermen, based upon the rights and obligations in existing Federal law, reasonably calculated to promote conservation, and carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of the halibut fishing privileges: *Provided*, That the Regional Council may provide for the rural coastal villages of Alaska the opportunity to establish a commercial halibut fishery in areas in the Bering Sea to the north of 56 degrees north latitude during a 3 year development period.

(Pub. L. 97–176, § 5, May 17, 1982, 96 Stat. 79; Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–208 made technical amendment to reference in original act which appears in text as reference to section 1853(b)(6) of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, § 211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 773d. Cooperation of Federal agencies

Any agency of the Federal Government is authorized upon request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish on a reimbursable basis, facilities and personnel for the purposes of assisting the Commission in carrying out its duties under the Convention. Such agency may accept reimbursement from the Commission.

(Pub. L. 97–176, § 6, May 17, 1982, 96 Stat. 80.)

§ 773e. Prohibited acts

It is unlawful—

(a) for any person subject to the jurisdiction of the United States—

(1) to violate any provision of the Convention, this subchapter or any regulation adopted under this subchapter;

(2) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this subchapter or any regulation adopted under this subchapter;

(3) to forcibly assault, resist, oppose, impede, intimidate or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (2);

(4) to resist a lawful arrest or detention for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export or have custody, control or possession of, any fish taken or retained in violation of the Convention, this subchapter, or any regulation adopted under this subchapter; or

(6) to interfere with, delay or prevent, by any means, the apprehension, arrest or detention of another person, knowing that such person has committed any act prohibited by this section.

(b) for any foreign fishing vessel, and for the owner or operator of any foreign fishing vessel, to engage in fishing for halibut in the fishery conservation zone, unless such fishing is authorized by, and conducted in accordance with the Convention, this subchapter and regulations adopted under this subchapter.

(Pub. L. 97–176, § 7, May 17, 1982, 96 Stat. 80; Pub. L. 102–251, title III, § 302(b), Mar. 9, 1992, 106 Stat. 65.)

AMENDMENT OF SUBSECTION (b)

Pub. L. 102–251, title III, §§ 302(b), 308, Mar. 9, 1992, 106 Stat. 65, 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, subsection (b) is amended by substituting ''exclusive economic zone or special areas'' for ''fishery conservation zone''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102–251, set out as a note under section 773 of this title.

§ 773f. Civil penalties

(a) Liability; continuing violations; notice; determination of amount

Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, to have committed an act prohibited by section 773e of this title shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $200,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the

amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require. In assessing such penalty, the Secretary may also consider any information provided by the violator relating to the ability of the violator to pay if the information is provided to the Secretary at least 30 days prior to an administrative hearing.

(b) Judicial review

Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary and the Attorney General. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, in accordance with rules prescribed pursuant to section 2112 of title 28. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5.

(c) Recovery of assessed penalties by Attorney General

If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) Compromise, modification, and remission of penalties

The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(e) Revocation or suspension of permit

(1) In general

The Secretary may take any action described in paragraph (2) in any case in which—

(A) a vessel has been used in the commission of any act prohibited under section 773e of this title;

(B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under this subchapter has acted in violation of section 773e of this title; or

(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary has not been paid and is overdue.

(2) Permit-related actions

Under the circumstances described in paragraph (1) the Secretary may—

(A) revoke any permit issued with respect to such vessel or person, with or without prejudice to the issuance of subsequent permits;

(B) suspend such permit for a period of time considered by the Secretary to be appropriate;

(C) deny such permit; or

(D) impose additional conditions and restrictions on any permit issued to or applied for by such vessel or person under this subchapter and, with respect to any foreign fishing vessel, on the approved application of the foreign nation involved and on any permit issued under that application.

(3) Factors to be considered

In imposing a sanction under this subsection, the Secretary shall take into account—

(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(4) Transfers of ownership

Transfer of ownership of a vessel, a permit, or any interest in a permit, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, permit, or interest in a permit, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel, permit, or interest at the time of the transfer.

(5) Reinstatement

In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty, criminal fine, or any amount in settlement of a civil forfeiture, the Secretary shall reinstate the permit upon payment of the penalty, fine, or settlement amount and interest thereon at the prevailing rate.

(6) Hearing

No sanction shall be imposed under this subsection unless there has been prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed either in conjunction with a civil penalty proceeding under this section or otherwise.

(7) Permit defined

In this subsection, the term ''permit'' means any license, certificate, approval, registration, charter, membership, exemption, or other form of permission issued by the Commission or the Secretary, and includes any quota share or other transferable quota issued by the Secretary.

(Pub. L. 97–176, § 8, May 17, 1982, 96 Stat. 80; Pub. L. 109–479, title III, § 301(a), (b), Jan. 12, 2007, 120 Stat. 3621, 3622.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 109–479, § 301(a), substituted ''$200,000'' for ''$25,000'' and ''violator, the degree of culpability, any history of prior offenses,'' for ''violation, the degree of culpability, and history of prior offenses, ability to pay,'' and inserted at end ''In assessing such penalty, the Secretary may also consider any information provided by the violator relating to the ability of the violator to pay if the information is provided to the Secretary at least 30 days prior to an administrative hearing.''

Subsec. (e). Pub. L. 109–479, § 301(b), added subsec. (e).

§ 773g. Crimes and criminal penalties

(a) Offenses

A person is guilty of any[1] offense if he commits an act prohibited by section 773e(a)(2), (3), (4), or (6) of this title; or section 773e(b) of this title.

(b) Fines; imprisonment

Any offense described in subsection (a) of this section is punishable by a fine of not more than $200,000 or imprisonment for not more than 6 months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this subchapter, or places any such officer in fear of imminent bodily injury the offense is punishable by a fine of not more than $400,000, or imprisonment for not more than 10 years or both.

(c) Federal jurisdiction

There is Federal jurisdiction over any offense described in this section.

(Pub. L. 97–176, § 9, May 17, 1982, 96 Stat. 81; Pub. L. 109–479, title III, § 301(c), Jan. 12, 2007, 120 Stat. 3623.)

AMENDMENTS

2007—Subsec. (b). Pub. L. 109–479 substituted ''$200,000'' for ''$50,000'' and ''$400,000,'' for ''$100,000,''.

§ 773h. Forfeitures

(a) Civil forfeiture proceeding

Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 773e of this title shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) United States district court jurisdiction

Any district court of the United States shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) of this section and any action provided for under subsection (d) of this section.

(c) Seizure of forfeited property

If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this subchapter or for which security has not previously been obtained under subsection (d) of this section. The provisions of the customs laws relating to—

(1) the disposition of forfeited property;

(2) the proceeds from the sale of forfeited property;

(3) the remission or mitigation of forfeitures; and

(4) the compromise of claims;

shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes, policy, and provisions of this subchapter. The duties and powers imposed upon the Commissioner of Customs or other persons under such provisions shall, with respect to this subchapter, be performed by officers or other persons designated for such purpose by the Secretary.

(d) Bond or other security; disposal of seized fish

(1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 773i(d) of this title shall—

(A) stay the execution of such process; or

(B) discharge any fish seized pursuant to such process;

upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any fish seized pursuant to this subchapter may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulations of the Secretary or the Secretary of the department in which the Coast Guard is operating.

(e) Presumption of violation

For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 773e of this title were taken or retained in violation of the Convention and this subchapter.

(Pub. L. 97–176, § 10, May 17, 1982, 96 Stat. 81.)

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relat-

[1] So in original. Probably should be ''an''.

ing thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 773i. Administration and enforcement

(a) Secretary of Commerce and Secretary of department in which Coast Guard is operating

The Convention, this subchapter, and any regulation adopted under this subchapter, shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, and of any State agency, in the performance of such duties.

(b) Arrest, search and inspection, seizure; execution of warrants or other process

Any officer who is authorized by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with such Secretaries under subsection (a) of this section to enforce the Convention, this subchapter or any regulation adopted under this subchapter may—

(1) with or without a warrant or other process—

(A) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 773e of this title;

(B) board, and search or inspect, any fishing vessel which is subject to this subchapter;

(C) at reasonable times enter, and search or inspect, shoreside facilities in which fish taken subject to this subchapter are processed, packed or held;

(D) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, an act prohibited by section 773e of this title;

(E) seize any fish (wherever found) taken or retained in the course of an act prohibited by section 773e of this title, or the proceeds of the sale of such fish; and

(F) seize any other evidence related to an act prohibited by section 773e of this title;

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(c) Citation of owner or operator of offending vessel

If any officer authorized to enforce this subchapter (as provided for in this section) finds that a fishing vessel is operating or has been operated in the commission of an act prohibited by section 773e of this title, such officer may, in accordance with regulations issued jointly by the Secretary and the Secretary of the department in which the Coast Guard is operating, issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (b) of this section. If a permit has been issued pursuant to this subchapter for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(d) United States district court jurisdiction

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this subchapter. Any such court may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

(e) Witnesses; records and files

When requested by the appropriate authorities of Canada, officers or employees of the Coast Guard, the National Oceanic and Atmospheric Administration or any other agency of the United States may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary for the prosecution in Canada of any violation of the Convention or any Canadian law relating to the enforcement thereof.

(f) Investigations by Secretary of Commerce; powers; process

(1) In cooperation with such other agencies as may be appropriate, the Secretary may conduct or cause to be conducted such law enforcement investigations as are deemed necessary to carry out the purposes of this subchapter.

(2) For the purpose of all investigations which, in the opinion of the Secretary, are necessary and proper for the enforcement of this subchapter, the Secretary or any officer designated by him is empowered to administer oaths and affirmations, subpena witnesses, take evidence, and require the production of any books, papers, or other documents which the Secretary deems relevant or material to the inquiry. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place or hearing.

(3) Process of the Secretary may be served by anyone duly authorized by him either—

(A) by delivering a copy thereof to the individual to be served, or to a member of the partnership to be served, or the president, secretary, or other executive officer or a director of the corporation to be served; or the agent designated for service of process;

(B) by leaving a copy thereof at the residence or the principal office or place of business of such individual, partnership, or corporation; or

(C) by mailing a copy thereof by registered or certified mail addressed to such individual, partnership, or corporation at his or its residence or principal office or place of business. The verified return by the individual so serv-

ing such complaint, order, or other process setting forth the manner of service shall be proof of same, and the returned post office receipt for such complaint, order, or other process mailed by registered or certified mail shall be proof of the service of the same.

(Pub. L. 97–176, § 11, May 17, 1982, 96 Stat. 82.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 773j. Authorization of appropriations

There is hereby authorized to be appropriated for fiscal year 1983 and beyond, such sums as may be necessary for carrying out the Convention and this subchapter, including—

(a) necessary travel expenses of the United States Commissioners or alternate Commissioners; and

(b) the United States share of the joint expenses of the Commission: *Provided*, That the Commissioners shall not, with respect to commitments concerning the United States share of the joint expenses of the Commission, be subject to section 262(b)[1] of title 22 insofar as it limits the authority of United States representatives to international organizations with respect to such commitments.

(Pub. L. 97–176, § 12, May 17, 1982, 96 Stat. 84.)

§ 773k. Location of office space and other facilities on or near University of Washington campus in State of Washington

There are hereby authorized to be appropriated such sums as may be necessary for the Secretary of State to provide for fiscal year 1983 and beyond, by contract, grant, or otherwise, facilities for office and any other necessary space for the Commission. Such facilities shall be located on or near the campus of the University of Washington in the State of Washington and shall be provided without regard to the cost-sharing provisions in the Convention.

(Pub. L. 97–176, § 13, May 17, 1982, 96 Stat. 84.)

CHAPTER 10A—SOCKEYE OR PINK SALMON FISHING

§§ 776 to 776f. Repealed. Pub. L. 99–5, § 13, Mar. 15, 1985, 99 Stat. 15

Section 776, acts July 29, 1947, ch. 345, § 2, 61 Stat. 511; July 11, 1957, Pub. L. 85–102, §§ 1–3, 71 Stat. 293, provided definitions for this chapter. See section 3631 et seq. of this title.

Section 776a, acts July 29, 1947, ch. 345, § 3, 61 Stat. 511; July 11, 1957, Pub. L. 85–102, § 3, 71 Stat. 294, related to unlawful acts by persons or vessels. See section 3631 et seq. of this title.

Section 776b, acts July 29, 1947, ch. 345, § 4, 61 Stat. 512; July 11, 1957, Pub. L. 85–102, § 3, 71 Stat. 294, related to penalties imposed for the omission of or fraudulent returns, records, and reports. See section 3631 et seq. of this title.

Section 776c, acts July 29, 1947, ch. 345, § 5, 61 Stat. 512; July 11, 1957, Pub. L. 85–102, § 3, 71 Stat. 294, related to penalties and forfeitures, and procedures involving violations. See section 3631 et seq. of this title.

Section 776d, acts July 29, 1947, ch. 345, § 6, 61 Stat. 513; July 11, 1957, Pub. L. 85–102, § 3, 71 Stat. 294; Oct. 17, 1968, Pub. L. 90–578, title IV, § 402(b)(2), 82 Stat. 1118; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, provided enforcement procedures for this chapter. See section 3631 et seq. of this title.

Section 776e, acts July 29, 1947, ch. 345, § 7, 61 Stat. 514; July 11, 1957, Pub. L. 85–102, § 4, 71 Stat. 294, related to the cooperation of Federal agencies and the conduct of scientific investigations. See section 3631 et seq. of this title.

Section 776f, acts July 29, 1947, ch. 345, § 8, 61 Stat. 514; Oct. 18, 1972, Pub. L. 92–504, 86 Stat. 907, related to authorizations. See section 3631 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Section 13 of Pub. L. 99–5 provided that the repeal of this chapter is effective Dec. 31, 1985.

EFFECTIVE DATE

Section 10 of act July 29, 1947, which provided that this Act [this chapter] shall be effective thirty days from the date of its approval [July 29, 1947], was repealed by Pub. L. 99–5, § 13, Mar. 15, 1985, 99 Stat. 15.

SHORT TITLE

Section 1 of act July 29, 1947, as amended by Pub. L. 85–102, § 3, July 11, 1957, 71 Stat. 294, which provided that this Act [this chapter] may be cited as the ''Sockeye Salmon or Pink Salmon Fishing Act of 1947'', was repealed by Pub. L. 99–5, § 13, Mar. 15, 1985, 99 Stat. 15.

SAVINGS PROVISION

Section 9 of act July 29, 1947, which provided that if any provision of this Act [this chapter] is held invalid for any cause, such invalidity shall not affect the other provisions hereof, was repealed by Pub. L. 99–5, § 13, Mar. 15, 1985, 99 Stat. 15.

CHAPTER 10B—FISH RESTORATION AND MANAGEMENT PROJECTS

Sec.

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777n. Expenditure of remaining balance in Boat Safety Account.

[1] So in original. Probably should be section ''262b''.

§ 777. Federal-State relationships

(a) Cooperation between Federal Government and State fish and game departments; expenditure of funds

The Secretary of the Interior is authorized and directed to cooperate with the States through their respective State fish and game departments in fish restoration and management projects as hereinafter set forth: No money apportioned under this chapter to any State, except as hereinafter provided, shall be expended therein until its legislature, or other State agency authorized by the State constitution to make laws governing the conservation of fish, shall have assented to the provisions of this chapter and shall have passed laws for the conservation of fish, which shall include a prohibition against the diversion of license fees paid by fishermen for any other purpose than the administration of said State fish and game department, except that, until the final adjournment of the first regular session of the legislature held after passage of this chapter, the assent of the governor of the State shall be sufficient. The Secretary of the Interior and the State fish and game department of each State accepting the benefits of this chapter shall agree upon the fish restoration and management projects to be aided in such State under the terms of this chapter, and all projects shall conform to the standards fixed by the Secretary of the Interior.

(b) Allocation of amounts by coastal States between marine fish projects and freshwater fish projects

(1) In general

Subject to paragraph (2), each coastal State, to the extent practicable, shall equitably allocate amounts apportioned to such State under this chapter between marine fish projects and freshwater fish projects in the same proportion as the estimated number of resident marine anglers and the estimated number of resident freshwater anglers, respectively, bear to the estimated number of all resident anglers in that State.

(2) Preservation of freshwater project allocation at 1988 level

(A) Subject to subparagraph (B), the amount allocated by a State pursuant to this subsection to freshwater fish projects for each fiscal year shall not be less than the amount allocated by such State to such projects for fiscal year 1988.

(B) Subparagraph (A) shall not apply to a State with respect to any fiscal year for which the amount apportioned to the State under this chapter is less than the amount apportioned to the State under this chapter for fiscal year 1988.

(3) "Coastal State" defined

As used in this subsection, the term ''coastal State'' means any one of the States of Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Virginia, and Washington. The term also includes the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(Aug. 9, 1950, ch. 658, §1, 64 Stat. 430; Pub. L. 98–369, div. A, title X, §1014(a)(1), July 18, 1984, 98 Stat. 1015; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–448, §6(c)(1), Sept. 28, 1988, 102 Stat. 1840.)

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–448 substituted ''Allocation of amounts by coastal States between marine fish projects and freshwater fish projects'' for ''Allocation of funds by coastal States; formula; 'coastal State' defined'' in heading and amended text generally. Prior to amendment, text read as follows: ''Each coastal State, to the extent practicable, shall equitably allocate the following sums between marine fish projects and freshwater fish projects in the same proportion as the estimated number of resident marine anglers and the estimated number of resident freshwater anglers, respectively, bear to the estimated number of all resident anglers in that State:

''(1) The additional sums apportioned to such State under this chapter as a result of the taxes imposed by the amendments made by section 1015 of the Tax Reform Act of 1984 on items not taxed under section 4161(a) of title 26 before October 1, 1984.

''(2) The sums apportioned to such State under this chapter that are not attributable to any tax imposed by such section 4161(a).

As used in this subsection, the term 'coastal State' means any one of the States of Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Virginia, and Washington. The term also includes the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas.''

1986—Subsec. (b)(1). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1984—Pub. L. 98–369 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1988 AMENDMENT

Section 6(e) of Pub. L. 100–448 provided that: ''This section [enacting section 777*l* of this title, amending this section, sections 9503 and 9504 of Title 26, Internal Revenue Code, and sections 13102 and 13106 of Title 46, Shipping, enacting provisions set out as a note under section 13101 of Title 46, and repealing provisions set out as a note under section 13103 of Title 46] shall take effect October 1, 1988.''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 1014(b) of Pub. L. 98–369 provided that: ''The amendments made by subsection (a) [amending this section and sections 777b, 777c to 777e, 777g, and 777k of this title] shall take effect on October 1, 1984, and shall apply with respect to fiscal years beginning after September 30, 1984.''

EFFECTIVE DATE

Section 13 of act Aug. 9, 1950, which provided that the effective date of this chapter was July 1, 1950, was repealed by Pub. L. 106–408, title I, §122(a)(1), Nov. 1, 2000, 114 Stat. 1772.

SHORT TITLE OF 2005 AMENDMENTS

Pub. L. 109–74, §1, Sept. 29, 2005, 119 Stat. 2030, provided that: ''This Act [amending sections 777c and 777n of this title, section 9504 of Title 26, Internal Revenue

Code, and section 13106 of Title 46, Shipping, enacting provisions set out as notes under section 777b of this title and section 9504 of Title 26, and repealing provisions set out as a note under section 777b of this title] may be cited as the 'Sportfishing and Recreational Boating Safety Amendments Act of 2005'.''

Pub. L. 109–59, title X, §10101, Aug. 10, 2005, 119 Stat. 1926, provided that: ''This subtitle [subtitle A (§§10101–10143) of title X of Pub. L. 109–59, enacting section 777n of this title, amending sections 777b, 777c, 777g, 777g–1, 777h, 777k, and 777m of this title and sections 13102, 13104, and 13106 of Title 46, Shipping, enacting provisions set out as a note under section 777b of this title, and amending provisions set out as a note under this section and section 1322 of Title 33, Navigation and Navigable Waters] may be cited as the 'Sportfishing and Recreational Boating Safety Act of 2005'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–178, title VII, §7401(a), June 9, 1998, 112 Stat. 482, provided that: ''This subtitle [subtitle D (§§7401–7405) of title VII of Pub. L. 105–178, enacting section 777g–1 of this title and amending sections 777a, 777c, and 777g of this title and sections 13104 and 13106 of Title 46, Shipping] may be cited as the 'Sportfishing and Boating Safety Act of 1998'.''

SHORT TITLE OF 1970 AMENDMENT

Section 204 of title II of Pub. L. 91–503, Oct. 23, 1970, 84 Stat. 1104, provided that: ''This title [amending sections 777c, 777e to 777g, and 777k of this title] may be cited as the 'Federal Aid in Fish Restoration Act Amendments of 1970'.''

SHORT TITLE

Act Aug. 9, 1950, ch. 658, §16, formerly §15, as added by Pub. L. 106–408, title I, §101(c), Nov. 1, 2000, 114 Stat. 1763; renumbered §16, Pub. L. 109–59, title X, §10119, Aug. 10, 2005, 119 Stat. 1929, provided that: ''This Act [enacting this chapter] may be cited as the 'Dingell-Johnson Sport Fish Restoration Act'.''

Act Aug. 9, 1950, ch. 658, as amended, is also popularly known as the ''Federal Aid in Fish Restoration Act'' and the ''Fish Restoration and Management Projects Act''.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior in view of: creation of National Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in Department of the Interior and Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in Secretary of the Interior or Department of the Interior which were administered through Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf-Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

FISHERIES RESTORATION AND IRRIGATION MITIGATION

Pub. L. 106–502, Nov. 13, 2000, 114 Stat. 2294, as amended by Pub. L. 111–11, title XIII, §13002, Mar. 30, 2009, 123 Stat. 1447, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Fisheries Restoration and Irrigation Mitigation Act of 2000'.

''SEC. 2. DEFINITIONS.

''In this Act:

''(1) PACIFIC OCEAN DRAINAGE AREA.—The term 'Pacific Ocean drainage area' means the area comprised of portions of the States of Oregon, Washington, Montana, and Idaho from which water drains into the Pacific Ocean.

''(2) PROGRAM.—The term 'Program' means the Fisheries Restoration and Irrigation Mitigation Program established by section 3(a).

''(3) SECRETARY.—The term 'Secretary' means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

''SEC. 3. ESTABLISHMENT OF THE PROGRAM.

''(a) ESTABLISHMENT.—There is established the Fisheries Restoration and Irrigation Mitigation Program within the Department of the Interior.

''(b) GOALS.—The goals of the Program are—

''(1) to decrease fish mortality associated with the withdrawal of water for irrigation and other purposes without impairing the continued withdrawal of water for those purposes; and

''(2) to decrease the incidence of juvenile and adult fish entering water supply systems.

''(c) IMPACTS ON FISHERIES.—

''(1) IN GENERAL.—Under the Program, the Secretary, in consultation with the heads of other appropriate agencies, shall develop and implement projects to mitigate impacts to fisheries resulting from the construction and operation of water diversions by local governmental entities (including soil and water conservation districts) in the Pacific Ocean drainage area.

''(2) TYPES OF PROJECTS.—Projects eligible under the Program may include—

''(A) the development, improvement, or installation of—

''(i) fish screens;

''(ii) fish passage devices; and

''(iii) other related features agreed to by non-Federal interests, relevant Federal and tribal agencies, and affected States; and

''(B) inventories by the States on the need and priority for projects described in clauses (i) through (iii).

''(3) PRIORITY.—The Secretary shall give priority to any project that has a total cost of less than $2,500,000.

''SEC. 4. PARTICIPATION IN THE PROGRAM.

''(a) NON-FEDERAL.—

''(1) IN GENERAL.—Non-Federal participation in the Program shall be voluntary.

''(2) FEDERAL ACTION.—The Secretary shall take no action that would result in any non-Federal entity being held financially responsible for any action under the Program, unless the entity applies to participate in the Program.

''(b) FEDERAL.—Development and implementation of projects under the Program on land or facilities owned by the United States shall be nonreimbursable Federal expenditures.

''SEC. 5. EVALUATION AND PRIORITIZATION OF PROJECTS.

''Evaluation and prioritization of projects for development under the Program shall be conducted on the basis of—

''(1) benefits to fish species native to the project area, particularly to species that are listed as being, or considered by Federal or State authorities to be, endangered, threatened, or sensitive;

''(2) the size and type of water diversion;

''(3) the availability of other funding sources;

''(4) cost effectiveness; and

''(5) additional opportunities for biological or water delivery system benefits.

''SEC. 6. ELIGIBILITY REQUIREMENTS.

''(a) IN GENERAL.—A project carried out under the Program shall not be eligible for funding unless—

''(1) the project meets the requirements of the Secretary, as applicable, and any applicable State requirements; and

''(2) the project is agreed to by all Federal and non-Federal entities with authority and responsibility for the project.

''(b) DETERMINATION OF ELIGIBILITY.—In determining the eligibility of a project under this Act, the Secretary shall—

''(1) consult with other Federal, State, tribal, and local agencies; and

''(2) make maximum use of all available data.

''SEC. 7. COST SHARING.

''(a) NON-FEDERAL SHARE.—The non-Federal share of the cost of development and implementation of any project under the Program on land or at a facility that is not owned by the United States shall be 35 percent.

''(b) NON-FEDERAL CONTRIBUTIONS.—The non-Federal participants in any project under the Program on land or at a facility that is not owned by the United States shall provide all land, easements, rights-of-way, dredged material disposal areas, and relocations necessary for the project.

''(c) CREDIT FOR CONTRIBUTIONS.—

''(1) IN GENERAL.—The value of land, easements, rights-of-way, dredged material disposal areas, and relocations provided under subsection (b) for a project shall be credited toward the non-Federal share of the costs of the project.

''(2) BONNEVILLE POWER ADMINISTRATION.—

''(A) IN GENERAL.—The Secretary may, without further appropriation and without fiscal year limitation, accept any amounts provided to the Secretary by the Administrator of the Bonneville Power Administration.

''(B) NON-FEDERAL SHARE.—Any amounts provided by the Bonneville Power Administration directly or through a grant to another entity for a project carried under the Program shall be credited toward the non-Federal share of the costs of the project.

''(d) ADDITIONAL COSTS.—

''(1) NON-FEDERAL RESPONSIBILITIES.—The non-Federal participants in any project carried out under the Program on land or at a facility that is not owned by the United States shall be responsible for all costs associated with operating, maintaining, repairing, rehabilitating, and replacing the project.

''(2) FEDERAL RESPONSIBILITY.—The Federal Government shall be responsible for costs referred to in paragraph (1) for projects carried out on Federal land or at a Federal facility.

''SEC. 8. LIMITATION ON ELIGIBILITY FOR FUNDING.

''A project that receives funds under this Act shall be ineligible to receive Federal funds from any other source for the same purpose.

''SEC. 9. REPORT.

''On the expiration of the third fiscal year for which any amounts are made available to carry out this Act, the Secretary shall, after partnering with local governmental entities and the States in the Pacific Ocean drainage area, submit to Congress a report describing—

''(1) the projects that have been completed under this Act;

''(2) the projects that will be completed with amounts made available under this Act during the remaining fiscal years for which amounts are authorized to be appropriated under section 10; and

''(3) recommended changes to the Program as a result of projects that have been carried out under this Act.

''SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $25,000,000 for each of fiscal years 2009 through 2015.

''(b) LIMITATIONS.—

''(1) SINGLE STATE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), not more than 25 percent of the total amount of funds made available under this section may be used for one or more projects in any single State.

''(B) WAIVER.—On notification to Congress, the Secretary may waive the limitation under subparagraph (A) if a State is unable to use the entire amount of funding made available to the State under this Act.

''(2) ADMINISTRATIVE EXPENSES.—

''(A) DEFINITION OF ADMINISTRATIVE EXPENSE.—In this paragraph, the term 'administrative expense' means, except as provided in subparagraph (B)(iii)(II), any expenditure relating to—

''(i) staffing and overhead, such as the rental of office space and the acquisition of office equipment; and

''(ii) the review, processing, and provision of applications for funding under the Program.

''(B) LIMITATION.—

''(i) IN GENERAL.—Not more than 6 percent of amounts made available to carry out this Act for each fiscal year may be used for Federal and State administrative expenses of carrying out this Act.

''(ii) FEDERAL AND STATE SHARES.—To the maximum extent practicable, of the amounts made available for administrative expenses under clause (i)—

''(I) 50 percent shall be provided to the State agencies provided assistance under the Program; and

''(II) an amount equal to the cost of 1 full-time equivalent Federal employee, as determined by the Secretary, shall be provided to the Federal agency carrying out the Program.

''(iii) STATE EXPENSES.—Amounts made available to States for administrative expenses under clause (i)—

''(I) shall be divided evenly among all States provided assistance under the Program; and

''(II) may be used by a State to provide technical assistance relating to the program, including any staffing expenditures (including staff travel expenses) associated with—

''(aa) arranging meetings to promote the Program to potential applicants;

''(bb) assisting applicants with the preparation of applications for funding under the Program; and

''(cc) visiting construction sites to provide technical assistance, if requested by the applicant.''

§ 777a. Definitions

For purposes of this chapter—

(1) the term ''fish restoration and management projects'' shall be construed to mean projects designed for the restoration and management of all species of fish which have material value in connection with sport or recreation in the marine and/or fresh waters of the United States and include—

(A) such research into problems of fish management and culture as may be necessary to efficient administration affecting fish resources;

(B) the acquisition of such facts as are necessary to guide and direct the regulation of fishing by law, including the extent of the fish population, the drain on the fish supply from fishing and/or natural causes, the necessity of legal regulation of fishing, and the effects of any measures of regulation that are applied;

(C) the formulation and adoption of plans of restocking waters with food and game fishes according to natural areas or districts

to which such plans are applicable, together with the acquisition of such facts as are necessary to the formulation, execution, and testing the efficacy of such plans;

(D) the selection, restoration, rehabilitation, and improvement of areas of water or land adaptable as hatching, feeding, resting, or breeding places for fish, including acquisition by purchase, condemnation, lease, or gift of such areas or estates or interests therein as are suitable or capable of being made suitable therefor, and the construction thereon or therein of such works as may be necessary to make them available for such purposes, and such preliminary or incidental costs and expenses as may be incurred in and about such works; the term ''State fish and game department'' shall be construed to mean and include any department or division of department of another name, or commission, or official or officials, of a State empowered under its laws to exercise the functions ordinarily exercised by a State fish and game department;

(2) the term ''outreach and communications program'' means a program to improve communications with anglers, boaters, and the general public regarding angling and boating opportunities, to reduce barriers to participation in these activities, to advance adoption of sound fishing and boating practices, to promote conservation and the responsible use of the Nation's aquatic resources, and to further safety in fishing and boating; and

(3) the term ''aquatic resource education program'' means a program designed to enhance the public's understanding of aquatic resources and sportfishing, and to promote the development of responsible attitudes and ethics toward the aquatic environment.

(Aug. 9, 1950, ch. 658, §2, 64 Stat. 431; July 2, 1956, ch. 489, §3, 70 Stat. 473; Pub. L. 86–624, §12, July 12, 1960, 74 Stat. 413; Pub. L. 105–178, title VII, §7402(a), June 9, 1998, 112 Stat. 483.)

AMENDMENTS

1998—Pub. L. 105–178 inserted introductory provisions ''For purposes of this chapter—'', designated existing provisions as par. (1), substituted ''the term'' for ''For the purpose of this chapter the term'', redesignated subsecs. (a) to (d) as subpars. (A) to (D), respectively, of par. (1), substituted ''department;'' for ''department.'' at end of subpar. (D), realigned margins, and added pars. (2) and (3).

1960—Subsec. (d). Pub. L. 86–624 struck out provisions which defined ''State'' as including the several States and the Territory of Hawaii.

1956—Act July 2, 1956, included definition of ''State''.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 2, 1956, as applicable only with respect to fiscal years beginning after July 2, 1956, see section 5 of act July 2, 1956, set out as a note under section 669a of this title.

§ 777b. Authorization of appropriations

To carry out the provisions of this chapter for fiscal years after September 30, 1984, there are authorized to be appropriated from the Sport Fish Restoration and Boating Trust Fund established by section 9504(a) of title 26 the amounts paid, transferred, or otherwise credited to that Trust Fund, except as provided in section 9504(c) of title 26. For purposes of the provision of the Act of August 31, 1951, which refers to this section, such amounts shall be treated as the amounts that are equal to the revenues described in this section. The appropriation made under the provisions of this section for each fiscal year shall continue available during succeeding fiscal years. So much of such appropriation apportioned to any State for any fiscal year as remains unexpended at the close thereof is authorized to be made available for expenditure in that State until the close of the succeeding fiscal year. Any amount apportioned to any State under the provisions of this chapter which is unexpended or unobligated at the end of the period during which it is available for expenditure on any project is authorized to be made available for expenditure by the Secretary of the Interior to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States, as provided for in section 777c(c) of this title.

(Aug. 9, 1950, ch. 658, §3, 64 Stat. 431; Pub. L. 98–369, div. A, title X, §1014(a)(2), July 18, 1984, 98 Stat. 1015; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 109–59, title X, §10112(a), (b)(1), Aug. 10, 2005, 119 Stat. 1927.)

REFERENCES IN TEXT

The provision of the Act of August 31, 1951, referred to in text, is set out as a note below.

AMENDMENTS

2005—Pub. L. 109–59 substituted ''Sport Fish Restoration and Boating Trust Fund'' for ''Sport Fish Restoration Account'', ''that Trust Fund, except as provided in section 9504(c) of title 26'' for ''that Account'', ''during succeeding fiscal years'' for ''during the succeeding fiscal year'', and ''to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States, as provided for in section 777c(c) of this title'' for ''in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport and recreation''.

1986—Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1984—Pub. L. 98–369 substituted ''To carry out the provisions of this chapter for fiscal years after September 30, 1984, there are authorized to be appropriated from the Sport Fish Restoration Account established by section 9504(a) of title 26 the amounts paid, transferred, or otherwise credited to that Account. For purposes of the provision of the Act of August 31, 1951, which refers to this section, such amounts shall be treated as the amounts that are equal to the revenues described in this section'' for ''To carry out the provisions of this chapter, there is hereby authorized to be appropriated an amount equal to the revenue accruing from tax imposed by section 3406 of the Internal Revenue Code, as heretofore of hereafter extended and amended, on fishing rods, creels, reels, and artificial lures, baits, and flies during the fiscal year ending June 30, 1951, and each fiscal year thereafter''.

EFFECTIVE DATE OF 2005 AMENDMENTS

Pub. L. 109–74, title I, §101(b), Sept. 29, 2005, 119 Stat. 2030, provided that: ''Except as provided by the amendments made by title II of this Act [amending section 777c of this title and section 13106 of Title 46, Shipping], during the period beginning on the date of the enactment of the Sportfishing and Recreational Boating Safety Act of 2005 [Aug. 10, 2005], and ending upon the

expiration of fiscal year 2005, the provisions of law amended by the Sportfishing and Recreational Boating Safety Act of 2005 [see Short Title of 2005 Amendments note set out under section 777 of this title] (as amended by this Act) shall be considered to read as such laws read immediately before the enactment of that Act.''

Pub. L. 109–59, title X, §10102, as added by Pub. L. 109–74, title I, §101(a)(2), Sept. 29, 2005, 119 Stat. 2030, provided that: ''The amendments made by this subtitle [subtitle A (§§10101–10143) of title X of Pub. L. 109–59, see Short Title of 2005 Amendments note set out under section 777 of this title] shall take effect October 1, 2005.''

Pub. L. 109–59, title X, §10112(b)(2), Aug. 10, 2005, 119 Stat. 1927, which provided that the amendments made by section 10112(b)(1) of Pub. L. 109–59 (amending this section) would take effect on Oct. 1, 2005, was repealed by Pub. L. 109–74, title I, §101(a)(1), Sept. 29, 2005, 119 Stat. 2030. See section 10102 of Pub. L. 109–59, set out above.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective Oct. 1, 1984, and applicable with respect to fiscal years beginning after Sept. 30, 1984, see section 1014(b) of Pub. L. 98–369, set out as a note under section 777 of this title.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

AVAILABILITY OF FUNDS UNTIL EXPENDED

Section 101 of act Aug. 31, 1951, ch. 375, title I, 65 Stat. 262, provided that: ''For carrying out the provisions of the Act of August 9, 1950 (Public Law 681) [this chapter], amounts equal to the revenues described in section 3 of said Act [this section] and credited during the next preceding fiscal year and each fiscal year thereafter, to remain available until expended.''

§ 777c. Division of annual appropriations

(a) In general

For each of fiscal years 2006 through 2010, and for the period beginning on October 1, 2010, and ending on March 4, 2011, the balance of each annual appropriation made in accordance with the provisions of section 777b of this title remaining after the distributions for administrative expenses and other purposes under subsection (b) and for multistate conservation grants under section 777m of this title shall be distributed as follows:

(1) Coastal wetlands

An amount equal to 18.5 percent to the Secretary of the Interior for distribution as provided in the Coastal Wetlands Planning, Protection,[1] and Restoration Act (16 U.S.C. 3951 et seq.).

(2) Boating safety

An amount equal to 18.5 percent to the Secretary of the department in which the Coast Guard is operating for State recreational boating safety programs under section 13107 of title 46.

(3) Clean Vessel Act

An amount equal to 2.0 percent to the Secretary of the Interior for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

[1] So in original. The comma probably should not appear.

(4) Boating infrastructure

An amount equal to 2.0 percent to the Secretary of the Interior for obligation for qualified projects under section 777g–1(d) of this title.

(5) National outreach and communications

An amount equal to 2.0 percent to the Secretary of the Interior for the National Outreach and Communications Program under section 777g(d) of this title. Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary for that program may be expended by the Secretary under subsection (c) of this section.

(b) Set-aside for expenses for administration of this chapter

(1) In general

(A) Set-aside for administration

From the annual appropriation made in accordance with section 777b of this title, for each of fiscal years 2006 through 2010, and for the period beginning on October 1, 2010, and ending on March 4, 2011, the Secretary of the Interior may use no more than the amount specified in subparagraph (B) for the fiscal year for expenses for administration incurred in the implementation of this chapter, in accordance with this section and section 777h of this title. The amount specified in subparagraph (B) for a fiscal year may not be included in the amount of the annual appropriation distributed under subsection (a) of this section for the fiscal year.

(B) Available amounts

The available amount referred to in subparagraph (A) is—

(i) for each of fiscal years 2001 and 2002, $9,000,000;

(ii) for fiscal year 2003, $8,212,000; and

(iii) for fiscal year 2004 and each fiscal year thereafter, the sum of—

(I) the available amount for the preceding fiscal year; and

(II) the amount determined by multiplying—

(aa) the available amount for the preceding fiscal year; and

(bb) the change, relative to the preceding fiscal year, in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

(2) Period of availability; apportionment of unobligated amounts

(A) Period of availability

For each fiscal year, the available amount under paragraph (1) shall remain available for obligation for use under that paragraph until the end of the fiscal year.

(B) Apportionment of unobligated amounts

Not later than 60 days after the end of a fiscal year, the Secretary of the Interior shall apportion among the States any of the available amount under paragraph (1) that remains unobligated at the end of the fiscal year, on the same basis and in the same

manner as other amounts made available under this chapter are apportioned among the States under subsection (e)[2] of this section for the fiscal year.

(c) Apportionment among States

The Secretary[3] after the distribution, transfer, use and deduction under subsection (b) of this section, and after deducting amounts used for grants under section 777m of this title, shall apportion 57 percent of the balance of each such annual appropriation among the several States in the following manner: 40 percent in the ratio which the area of each State including coastal and Great Lakes waters (as determined by the Secretary of the Interior) bears to the total area of all the States, and 60 percent in the ratio which the number of persons holding paid licenses to fish for sport or recreation in the State in the second fiscal year preceding the fiscal year for which such apportionment is made, as certified to said Secretary by the State fish and game departments, bears to the number of such persons in all the States. Such apportionments shall be adjusted equitably so that no State shall receive less than 1 percent nor more than 5 percent of the total amount apportioned. Where the apportionment to any State under this section is less than $4,500 annually, the Secretary of the Interior may allocate not more than $4,500 of said appropriation to said State to carry out the purposes of this chapter when said State certifies to the Secretary of the Interior that it has set aside not less than $1,500 from its fish-and-game funds or has made, through its legislature, an appropriation in this amount of said purposes.

(d) Unallocated funds

So much of any sum not allocated under the provisions of this section for any fiscal year is hereby authorized to be made available for expenditure to carry out the purposes of this chapter until the close of the succeeding fiscal year. The term fiscal year as used in this section shall be a period of twelve consecutive months from October 1 through the succeeding September 30, except that the period for enumeration of persons holding licenses to fish shall be a State's fiscal or license year.

(e) Expenses for administration of certain programs

(1) In general

For each fiscal year, of the amounts appropriated under section 777b of this title, the Secretary of the Interior shall use only funds authorized for use under paragraphs (1), (3), (4), and (5) of subsection (a) of this section to pay the expenses for administration incurred in carrying out the provisions of law referred to in those subsections,[4] respectively.

(2) Maximum amount

For each fiscal year, the Secretary of the Interior may use not more than $900,000 in accordance with paragraph (1).

(f) Transfer of certain funds

Amounts available under paragraphs (3) and (4) of subsection (a) of this section that are unobligated by the Secretary of the Interior after 3 fiscal years shall be transferred to the Secretary of the department in which the Coast Guard is operating and shall be expended for State recreational boating safety programs under section 13107(a) of title 46.

(Aug. 9, 1950, ch. 658, §4, 64 Stat. 432; Pub. L. 91–503, title II, §201, Oct. 23, 1970, 84 Stat. 1101; Pub. L. 94–273, §4(2), Apr. 21, 1976, 90 Stat. 377; Pub. L. 98–369, div. A, title X, §1014(a)(3), July 18, 1984, 98 Stat. 1015; Pub. L. 101–646, title III, §308, Nov. 29, 1990, 104 Stat. 4787; Pub. L. 102–587, title V, §5604(a), Nov. 4, 1992, 106 Stat. 5087; Pub. L. 105–178, title VII, §§7402(b), 7403, June 9, 1998, 112 Stat. 483, 485; Pub. L. 105–206, title IX, §9012(b), July 22, 1998, 112 Stat. 864; Pub. L. 106–74, title IV, §430, Oct. 20, 1999, 113 Stat. 1096; Pub. L. 106–377, §1(a)(2) [title VI, §605], Oct. 27, 2000, 114 Stat. 1441, 1441A–85; Pub. L. 106–408, title I, §§121(a), (c), 122(b)–124, Nov. 1, 2000, 114 Stat. 1769, 1772, 1774; Pub. L. 108–88, §9(a), (b), Sept. 30, 2003, 117 Stat. 1126; Pub. L. 108–202, §7(a), (b), Feb. 29, 2004, 118 Stat. 483; Pub. L. 108–224, §6(a), (b), Apr. 30, 2004, 118 Stat. 632; Pub. L. 108–263, §6(a), (b), June 30, 2004, 118 Stat. 703; Pub. L. 108–280, §6(a), (b), July 30, 2004, 118 Stat. 881, 882; Pub. L. 108–310, §9(a), (b), Sept. 30, 2004, 118 Stat. 1159; Pub. L. 108–447, div. C, title I, §114(b), Dec. 8, 2004, 118 Stat. 2944; Pub. L. 109–14, §8(a), (b), May 31, 2005, 119 Stat. 334; Pub. L. 109–20, §8(a), (b), July 1, 2005, 119 Stat. 356; Pub. L. 109–35, §8(a), (b), July 20, 2005, 119 Stat. 389; Pub. L. 109–37, §8(a), (b), July 22, 2005, 119 Stat. 404, 405; Pub. L. 109–40, §8(a), (b), July 28, 2005, 119 Stat. 421; Pub. L. 109–59, title X, §10113, Aug. 10, 2005, 119 Stat. 1927; Pub. L. 109–74, title II, §§201, 202, Sept. 29, 2005, 119 Stat. 2031; Pub. L. 109–241, title IX, §901(r)(1), July 11, 2006, 120 Stat. 566; Pub. L. 109–304, §16(c)(1), Oct. 6, 2006, 120 Stat. 1705; Pub. L. 111–68, div. B, §160, Oct. 1, 2009, 123 Stat. 2052; Pub. L. 111–147, title IV, §423(b), Mar. 18, 2010, 124 Stat. 87; Pub. L. 111–322, title II, §2203(b), Dec. 22, 2010, 124 Stat. 3526.)

REFERENCES IN TEXT

The Coastal Wetlands Planning, Protection and Restoration Act, referred to in subsec. (a)(1), is title III of Pub. L. 101–646, Nov. 29, 1990, 104 Stat. 4778, which is classified generally to chapter 59A (§3951 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3951 of this title and Tables.

Section 5604(c) of the Clean Vessel Act of 1992, referred to in subsec. (a)(3), is section 5604(c) of Pub. L. 102–587, which is set out as a note under section 1322 of Title 33, Navigation and Navigable Waters.

Subsection (e) of this section, referred to in subsec. (b)(2)(B), was redesignated subsection (c) by Pub. L. 109–59, title X, §10113(1), Aug. 10, 2005, 119 Stat. 1927.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–322, §2203(b), substituted ''For each of fiscal years 2006 through 2010, and for the period beginning on October 1, 2010, and ending on March 4, 2011, the balance of each annual appropriation made in accordance with the provisions of section 777b of this title remaining after the distributions for administrative expenses and other purposes under subsection (b) and for multistate conservation grants under section 777m of this title shall be distributed as

[2] See References in Text note below.

[3] So in original. Probably should be followed by a comma.

[4] So in original. Probably should be ''paragraphs,''.

follows:'' for introductory provisions which read as follows: ''For each of fiscal years 2006 through 2010 and for the period beginning on October 1, 2010, and ending on December 31, 2010, and the period from October 1, 2009, through the date specified in section 106(3) of the first Continuing Appropriations Resolution for Fiscal Year 2010 enacted into law, the balance of each annual appropriation made in accordance with the provisions of section 777b of this title remaining after the distributions for administrative expenses and other purposes under subsection (b) of this section and for multistate conservation grants under section 777m of this title shall be distributed as follows:''.

Pub. L. 111–147, § 423(b)(1), which directed substitution of ''2010 and for the period beginning on October 1, 2010, and ending on December 31, 2010,'' for ''2009,'' in introductory provisions, was executed by making the substitution for ''2009,'' the first place it appeared.

Subsec. (b)(1)(A). Pub. L. 111–322, § 2203(b)(2), substituted ''From the annual appropriation made in accordance with section 777b of this title, for each of fiscal years 2006 through 2010, and for the period beginning on October 1, 2010, and ending on March 4, 2011, the Secretary of the Interior may use no more than the amount specified in subparagraph (B) for the fiscal year for expenses for administration incurred in the implementation of this chapter, in accordance with this section and section 777h of this title.'' for ''From the annual appropriation made in accordance with section 777b of this title, for each of fiscal years 2006 through 2009 and the period from October 1, 2009, through the date specified in section 106(3) of the first Continuing Appropriations Resolution for Fiscal Year 2010 enacted into law,, the Secretary of the Interior may use no more than the amount specified in subparagraph (B) for the fiscal year for expenses for administration incurred in the implementation of this chapter, in accordance with this section and section 777h of this title.''

Pub. L. 111–147, § 423(b)(2), which directed substitution of ''and for the period beginning on October 1, 2010, and ending on December 31, 2010,'' for ''2010,'', could not be executed because ''2010,'' did not appear.

2009—Subsec. (a). Pub. L. 111–68, § 160(1), inserted ''and the period from October 1, 2009, through the date specified in section 106(3) of the first Continuing Appropriations Resolution for Fiscal Year 2010 enacted into law,'' after ''2009,'' in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 111–68, § 160(2), inserted ''and the period from October 1, 2009, through the date specified in section 106(3) of the first Continuing Appropriations Resolution for Fiscal Year 2010 enacted into law,'' after ''2009''.

2006—Subsec. (a)(2). Pub. L. 109–304 substituted ''13107'' for ''13106''.

Subsec. (c). Pub. L. 109–241 struck out '', for each of fiscal years 2006 through 2009,'' after ''The Secretary''.

Subsec. (f). Pub. L. 109–304 substituted ''13107(a)'' for ''13106(a)''.

2005—Subsec. (a). Pub. L. 109–59, § 10113(1), (2), added subsec. (a) and struck out former subsec. (a) which read as follows: ''The Secretary of the Interior shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 777b of this title as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (title III, Public Law 101–646). Notwithstanding the provisions of section 777b of this title, such sums shall remain available to carry out such Act through fiscal year 2019.''

Subsec. (b). Pub. L. 109–59, § 10113(1), redesignated subsec. (d) as (b) and struck out former subsec. (b) which related to use of the balance of each annual appropriation remaining after making the distribution under subsec. (a) in fiscal years 1998 through 2005.

Subsec. (b)(1)(A). Pub. L. 109–59, § 10113(3), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: ''For fiscal year 2001 and each fiscal year thereafter, of the balance of each such annual appropriation remaining after the distribution and use under subsections (a), (b), and (c) of this section and section 777m of this title, the Secretary of the Interior may use not more than the available amount specified in subparagraph (B) for the fiscal year for expenses for administration incurred in implementation of this chapter, in accordance with this subsection and section 777h of this title.''

Subsec. (b)(4). Pub. L. 109–74, § 202, substituted ''Fiscal'' for ''First 303 days of fiscal'' in heading, ''September 30, 2005'' for ''July 30, 2005'' and ''$82,000,000'' for ''$68,071,233'' in introductory provisions, ''$10,000,000'' for ''$8,301,370'' in subpar. (A), and ''$8,000,000'' for ''$6,641,096'' in subpar. (B).

Pub. L. 109–40, § 8(b), amended heading and text of par. (4) generally, substituting provisions relating to use of funds for first 303 days of fiscal year 2005 for similar provisions relating to use of funds for first 300 days of fiscal year 2005.

Pub. L. 109–37, § 8(b), amended heading and text of par. (4) generally, substituting provisions relating to use of funds for first 300 days of fiscal year 2005 for similar provisions relating to use of funds for first 42 weeks of fiscal year 2005.

Pub. L. 109–35, § 8(b), amended heading and text of par. (4) generally, substituting provisions relating to use of funds for first 42 weeks of fiscal year 2005 for similar provisions relating to use of funds for first 292 days of fiscal year 2005.

Pub. L. 109–20, § 8(b), amended heading and text of par. (4) generally, substituting provisions relating to use of funds for first 292 days of fiscal year 2005 for similar provisions relating to use of funds for first 9 months of fiscal year 2005.

Pub. L. 109–14, § 8(b), amended heading and text of par. (4) generally, substituting provisions relating to use of funds for first 9 months of fiscal year 2005 for similar provisions relating to use of funds for fiscal year 2004.

Subsec. (c). Pub. L. 109–59, § 10113(4), (5), substituted ''Secretary, for each of fiscal years 2006 through 2009, after the distribution, transfer, use and deduction under subsection (b) of this section, and after deducting amounts used for grants under section 777m of this title, shall apportion 57 percent of the balance'' for ''Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), (c), and (d) of this section, respectively, and after deducting amounts used for grants under section 777m of this title, shall apportion the remainder'' and ''percent'' for ''per centum'' after ''40'', ''60'', ''1'', and ''5''.

Pub. L. 109–59, § 10113(1), redesignated subsec. (e) as (c) and struck out former subsec. (c) which obligated amounts for the National Outreach and Communications Program for fiscal years 1999 through 2005.

Subsec. (c)(7). Pub. L. 109–74, § 201, amended par. (7) generally, substituting ''$10,000,000 for fiscal year 2005;'' for ''$8,301,370 for the period of October 1, 2004, through July 30, 2005;''.

Pub. L. 109–40, § 8(a), amended par. (7) generally. Prior to amendment, par. (7) read as follows: ''$8,219,180 for the period of October 1, 2004, through July 27, 2005;''.

Pub. L. 109–37, § 8(a), amended par. (7) generally. Prior to amendment, par. (7) read as follows: ''$8,099,997 for the period of October 1, 2004, through July 21, 2005;''.

Pub. L. 109–35, § 8(a), amended par. (7) generally. Prior to amendment, par. (7) read as follows: ''$8,000,000 for the period of October 1, 2004, through July 19, 2005;''.

Pub. L. 109–20, § 8(a), substituted ''(7) $8,000,000 for the period of October 1, 2004, through July 19, 2005;'' for ''(6) $7,499,997 for the period of October 1, 2004, through June 30, 2005;''.

Pub. L. 109–14, § 8(a), directed amendment of par. (7) generally by substituting ''(6) $7,499,997 for the period of October 1, 2004, through June 30, 2005;'' for ''(7) $6,666,664 for the period of October 1, 2004, through May 31, 2005;''. See above.

Subsec. (d). Pub. L. 109–59, § 10113(1), redesignated subsec. (f) as (d). Former subsec. (d) redesignated (b).

Subsec. (e). Pub. L. 109–59, § 10113(1), redesignated subsec. (g) as (e). Former subsec. (e) redesignated (c).

Subsec. (e)(1). Pub. L. 109–59, § 10113(6), substituted ''paragraphs (1), (3), (4), and (5) of subsection (a)'' for ''subsections (a), (b)(3)(A), (b)(3)(B), and (c)''.

Subsec. (f). Pub. L. 109–59, §10113(7), added subsec. (f). Former subsec. (f) redesignated (d).

Subsec. (g). Pub. L. 109–59, §10113(1), redesignated subsec. (g) as (e).

2004—Subsec. (a). Pub. L. 108–447 substituted ''2019'' for ''2009''.

Subsec. (b)(4). Pub. L. 108–310, §9(b)(1), inserted heading and struck out former heading which read ''First 10 months of fiscal year 2004''.

Pub. L. 108–280, §6(b), substituted ''fiscal year 2004'' for ''the period of October 1, 2003, through July 31, 2004'' and ''$82,000,000'' for ''$68,333,332'' in introductory provisions, ''$10,000,000'' for ''$8,333,332'' in subpar. (A), and ''$8,000,000'' for ''$6,666,668'' in subpar. (B) and directed amendment of heading by striking ''First 9 months of'', which could not be executed.

Pub. L. 108–263, §6(b), substituted ''10 months'' for ''9 months'' in heading, ''July 31'' for ''April 30'' and ''$68,333,332'' for ''$61,499,999'' in introductory provisions, ''$8,333,332'' for ''$7,499,999'' in subpar. (A), and ''$6,666,668'' for ''$6,000,001'' in subpar. (B).

Pub. L. 108–224, §6(b), substituted ''9 months'' for ''7 months'' in heading, ''$61,499,999'' for ''$47,833,333'' in introductory provisions, ''$7,499,999'' for ''$5,833,333'' in subpar. (A), and ''$6,000,001'' for ''$4,666,667'' in subpar. (B).

Pub. L. 108–202, §7(b), amended heading and text of par. (4) generally, substituting provisions relating to use of funds for first 7 months of fiscal year 2004 for similar provisions relating to use of funds for first 5 months of fiscal year 2004.

Subsec. (b)(5), (6). Pub. L. 108–310, §9(b)(2), (3), added par. (5) and redesignated former par. (5) as (6).

Subsec. (c)(6). Pub. L. 108–280, §6(a), amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''$8,333,332 for the period of October 1, 2003, through July 31, 2004;''.

Pub. L. 108–263, §6(a), amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''$7,499,999 for the period of October 1, 2003, through June 30, 2004;''.

Pub. L. 108–224, §6(a), amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''$5,833,333 for the period of October 1, 2003, through April 30, 2004;''.

Pub. L. 108–202, §7(a), amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''$4,166,667 for the period of October 1, 2003, through February 29, 2004;''.

Subsec. (c)(7). Pub. L. 108–310, §9(a), added par. (7).

2003—Subsec. (b)(4), (5). Pub. L. 108–88, §9(b), added par. (4) and redesignated former par. (4) as (5).

Subsec. (c)(6). Pub. L. 108–88, §9(a), added par. (6).

2000—Subsec. (a). Pub. L. 106–377 and Pub. L. 106–408, §123, amended subsec. (a) identically, substituting ''fiscal year 2009'' for ''fiscal year 2000''.

Subsec. (d). Pub. L. 106–408, §121(a), added subsec. (d) and struck out former subsec. (d) which read as follows: ''Of the balance of each such annual appropriation remaining after the distribution and use under subsections (a), (b), and (c) of this section, respectively, so much, not to exceed 6 per centum of such balance, as the Secretary of the Interior may estimate to be necessary for his or her expenses in the conduct of necessary investigations, administration, and the execution of this chapter, for an outreach and communications program and for aiding in the formulation, adoption, or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or freshwaters, shall be deducted for that purpose, and such sum is authorized to be made available until the expiration of the next succeeding fiscal year. Of the sum available to the Secretary of the Interior under this subsection for any fiscal year, up to $2,500,000 may be used for the National Outreach and Communications Program under section 777g(d) of this title in addition to the amount available for that program under subsection (c) of this section. No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this chapter. The Secretary shall publish a detailed accounting of the projects, programs, and activities funded under this subsection annually in the Federal Register.''

Subsec. (e). Pub. L. 106–408, §122(b), inserted ''and after deducting amounts used for grants under section 777m of this title,'' after ''respectively,'' in first sentence.

Subsec. (f). Pub. L. 106–408, §124, struck out before period at end of first sentence '', and if unexpended or unobligated at the end of such year, such sum is hereby authorized to be made available for expenditure by the Secretary of the Interior in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation''.

Subsec. (g). Pub. L. 106–408, §121(c), added subsec. (g).

1999—Subsec. (a). Pub. L. 106–74 substituted ''fiscal year 2000'' for ''fiscal year 1999'' in second sentence.

1998—Subsec. (b). Pub. L. 105–178, §7403(a), as amended by Pub. L. 105–206, §9012(b)(1), inserted heading and amended text generally, substituting provisions relating to fiscal years 1998 to 2003 for provisions relating to fiscal years 1993 to 1998.

Subsec. (b)(3)(B). Pub. L. 105–178, §7403(b), as added by Pub. L. 105–206, §9012(b)(2), made a technical amendment to reference in original act which appears in text as reference to section 777g–1(d) of this title.

Subsec. (c). Pub. L. 105–178, §7402(b)(1), (2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 105–178, §7402(b)(3)–(5), substituted ''subsections (a), (b), and (c) of this section,'' for ''subsections (a) and (b) of this section,'', inserted '', for an outreach and communications program'' after ''chapter'', and inserted at end ''Of the sum available to the Secretary of the Interior under this subsection for any fiscal year, up to $2,500,000 may be used for the National Outreach and Communications Program under section 777g(d) of this title in addition to the amount available for that program under subsection (c) of this section. No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this chapter. The Secretary shall publish a detailed accounting of the projects, programs, and activities funded under this subsection annually in the Federal Register.''

Pub. L. 105–178, §7402(b)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 105–178, §7402(b)(6), substituted ''subsections (a), (b), (c), and (d) of this section'' for ''subsections (a), (b), and (c) of this section''.

Pub. L. 105–178, §7402(b)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 105–178, §7402(b)(1), redesignated subsec. (e) as (f).

1992—Pub. L. 102–587 added subsecs. (a) to (c), inserted subsec. (d) designation and substituted ''The Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), and (c) of this section, respectively, shall apportion the remainder of each such annual appropriation among the several States'' for ''So much, not to exceed 6 per centum, of each annual appropriation made in accordance with the provisions of section 777b of this title as the Secretary of the Interior may estimate to be necessary for his expenses in the conduct of necessary investigations, administration, and the execution of this chapter and for aiding in the formulation, adoption, or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or freshwaters shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year. The Secretary shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 777b of this title as provided in the Coastal Wetlands Planning, Protection and Restoration Act: *Provided*, That, notwithstanding the provisions of section 777b of this title, such sums shall re-

main available to carry out such Act through fiscal year 1999. The Secretary of the Interior, after making the aforesaid deduction, shall apportion the remainder of the appropriation for each fiscal year among the several States'', and inserted subsec. (e) designation.

1990—Pub. L. 101–646 inserted after first sentence ''The Secretary shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 777b of this title as provided in the Coastal Wetlands Planning, Protection and Restoration Act: *Provided*, That, notwithstanding the provisions of section 777b of this title, such sums shall remain available to carry out such Act through fiscal year 1999.''

1984—Pub. L. 98–369 revised deductible amount from not to exceed 8 per centum to not to exceed 6 per centum.

1976—Pub. L. 94–273 substituted ''September'' for ''June'', and ''October'' for ''July''.

1970—Pub. L. 91–503 changed method of apportionment of funds by striking out reference to ''to all the States'' and inserted definition of ''fiscal year''.

EFFECTIVE DATE OF 2005 AMENDMENTS

From Aug. 10, 2005, to end of fiscal year 2005, section considered to read as immediately before enactment of Pub. L. 109–59, except as provided by the amendments by sections 201 and 202 of Pub. L. 109–74, see section 101(b) of Pub. L. 109–74, set out as a note under section 777b of this title.

Amendment by Pub. L. 109–59 effective Oct. 1, 2005, see section 10102 of Pub. L. 109–59, set out as a note under section 777b of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective Oct. 1, 1984, and applicable with respect to fiscal years beginning after Sept. 30, 1984, see section 1014(b) of Pub. L. 98–369, set out as a note under section 777 of this title.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

§ 777d. Certification of funds deducted for expenses and amounts apportioned to States

For each fiscal year beginning with the fiscal year ending June 30, 1951, the Secretary of the Interior shall certify, at the time at which a deduction or apportionment is made, to the Secretary of the Treasury, and to each State fish and game department, the sum which he has estimated to be deducted for administering this chapter and the sum which he has apportioned to each State for such fiscal year.

(Aug. 9, 1950, ch. 658, § 5, 64 Stat. 432; Pub. L. 98–369, div. A, title X, § 1014(a)(4), July 18, 1984, 98 Stat. 1015; Pub. L. 106–408, title I, § 125, Nov. 1, 2000, 114 Stat. 1775.)

AMENDMENTS

2000—Pub. L. 106–408 inserted '', at the time at which a deduction or apportionment is made,'' after ''certify'' and struck out ''and executing'' after ''administering''.

1984—Pub. L. 98–369 struck out provisions relating to notice by the State to the Secretary of intention to accept, and use of funds where the State fails to accept.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective Oct. 1, 1984, and applicable with respect to fiscal years beginning after Sept. 30, 1984, see section 1014(b) of Pub. L. 98–369, set out as a note under section 777 of this title.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

§ 777e. Submission and approval of plans and projects

(a) Apportionment of funds

Any State desiring to avail itself of the benefits of this chapter shall, by its State fish and game department, submit programs or projects for fish restoration in either of the following two ways:

(1) The State shall prepare and submit to the Secretary of the Interior a comprehensive fish and wildlife resource management plan which shall insure the perpetuation of these resources for the economic, scientific, and recreational enrichment of the people. Such plan shall be for a period of not less than five years and be based on projections of desires and needs of the people for a period of not less than fifteen years. It shall include provisions for updating at intervals of not more than three years and be provided in a format as may be required by the Secretary of the Interior. If the Secretary of the Interior finds that such plans conform to standards established by him and approves such plans, he may finance up to 75 per centum of the cost of implementing segments of those plans meeting the purposes of this chapter from funds apportioned under this chapter upon his approval of an annual agreement submitted to him.

(2) A State may elect to avail itself of the benefits of this chapter by its State fish and game department submitting to the Secretary of the Interior full and detailed statements of any fish restoration and management project proposed for that State. If the Secretary of the Interior finds that such project meets with the standards set by him and approves said project, the State fish and game department shall furnish to him such surveys, plans, specifications, and estimates therefor as he may require. If the Secretary of the Interior approves the plans, specifications, and estimates for the project, he shall notify the State fish and game department and immediately set aside so much of said appropriation as represents the share of the United States payable under this chapter on account of such project, which sum so set aside shall not exceed 75 per centum of the total estimated cost thereof.

The Secretary of the Interior shall approve only such comprehensive plans or projects as may be substantial in character and design and the expenditure of funds hereby authorized shall be applied only to such approved comprehensive fishery plan or projects and if otherwise applied they shall be replaced by the State before it may participate in any further apportionment under this chapter. No payment of any money apportioned under this chapter shall be made on any comprehensive fishery plan or project until

an agreement to participate therein shall have been submitted to and approved by the Secretary of the Interior.

(b) "Project" defined

If the State elects to avail itself of the benefits of this chapter by preparing a comprehensive fish and wildlife plan under option (1) of subsection (a) of this section, then the term ''project'' may be defined for the purpose of this chapter as a fishery program, all other definitions notwithstanding.

(c) Costs

Administrative costs in the form of overhead or indirect costs for services provided by State central service activities outside of the State fish and game department charged against programs or projects supported by funds made available under this chapter shall not exceed in any one fiscal year 3 per centum of the annual apportionment to the State.

(d) Agreements to finance initial costs of acquisition of lands and construction of structures

The Secretary of the Interior may enter into agreements to finance up to 75 per centum of the initial costs of the acquisition of lands or interests therein and the construction of structures or facilities for[1] appropriations currently available for the purposes of this chapter; and to agree to finance up to 75 per centum of the remaining costs over such a period of time as the Secretary may consider necessary. The liability of the United States in any such agreement is contingent upon the continued availability of funds for the purposes of this chapter.

(Aug. 9, 1950, ch. 658, §6, 64 Stat. 432; Pub. L. 91–503, title II, §202, Oct. 23, 1970, 84 Stat. 1102; Pub. L. 98–369, div. A, title X, §1014(a)(5), July 18, 1984, 98 Stat. 1016.)

AMENDMENTS

1984—Subsec. (d). Pub. L. 98–369 added subsec. (d).

1970—Subsec. (a). Pub. L. 91–503 added an alternative method of application for funds by submission of a comprehensive fish and wildlife resource management plan for a period of five years based on projections for fifteen years, to be updated every three years, laid down a maximum limit of assistance of 75 percent of the estimated cost of the implementation of plan, and in existing method of application struck out reference to Secretary of the Treasury and requirement that State pay 10 percent of costs.

Subsecs. (b), (c). Pub. L. 91–503 added subsecs. (b) and (c).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective Oct. 1, 1984, and applicable with respect to fiscal years beginning after Sept. 30, 1984, see section 1014(b) of Pub. L. 98–369, set out as a note under section 777 of this title.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

§ 777e–1. New England Fishery Resources Restoration Act of 1990

(a) Short title

This section may be cited as the ''New England Fishery Resources Restoration Act of 1990''.

(b) Purposes

The purposes of this section are to—

(1) ensure timely and effective implementation of restoration plans and programs for Atlantic salmon and other fishery resources of selected river systems in New England;

(2) complete a study of fish passage impediments and requirements on small streams and rivers in New England; and

(3) develop an inventory of important fish and wildlife habitat and other natural areas of river basins in New England.

(c) Implementation of fishery resource restoration plans

The Director of the United States Fish and Wildlife Service, hereinafter referred to as the Director, in consultation with the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration shall formulate, establish and implement programs to restore and maintain nationally significant, interjurisdictional fishery resources originating in New England river systems, including the Connecticut, Thames, Pawcatuck, Merrimack, Saco, Androscoggin, Kennebec, Sheepscot, Duck Trap, St. George, Penobscot, Union, Narraguagus, Pleasant, Machias, Dennys, St. Croix, Meduxnekeag and Aroostock and their tributaries. These programs shall be in accordance with the schedule and responsibilities established in comprehensive basin-wide restoration plans prepared by the Director in cooperation with State, local, and other entities involved and interested in the conservation and management of the affected fishery resources. Preparation and periodic revision of restoration plans, and their implementation, shall be based on a Memorandum of Agreement for each restoration program which shall be entered into by the Director and cooperating entities. The Director shall prepare and submit to the House Committee on Merchant Marine and Fisheries and the Senate Committee on Environment and Public Works an annual report documenting activities undertaken and accomplishments achieved in fulfillment of this section, including an assessment of the prognosis for restoration of each of the stocks and species involved.

(d) Fish passage study

The Director shall conduct a study to identify impediments to upstream and downstream passage of fish in rivers and streams in the New England States due to dams that are not licensed by the Federal Energy Regulatory Commission or other human-caused obstructions. In addition, the study shall identify actions needed to alleviate those impediments where desirable and feasible. The study shall include, but not be limited to, identifying—

(1) all dams not licensed by the Federal Energy Regulatory Commission and other human-caused obstructions on New England rivers and streams where construction of upstream or downstream fish passage facilities or their removal would benefit fishery resources, including an estimate of the degree of benefits expected; and

(2) the proposed nature and size and estimated cost of appropriate fish passage facili-

[1] So in original. Probably should be ''from''.

ties or other actions determined to be necessary and feasible or each dam or other obstruction identified in response to paragraph (1).

The Director shall provide notice to the public of the extent and nature of the study by publication of such information in major newspapers in the region and by other appropriate means. Within three years of November 16, 1990, the Director shall submit a report containing the findings, conclusions and recommendations of the study to the House Committee on Merchant Marine and Fisheries and the Senate Committee on Environment and Public Works.

(e) New England rivers fish and wildlife inventory

The Director shall inventory the natural values of river basins in New England, including the Connecticut, Pawcatuck, Acushnet, North and South (in Plymouth County, Massachusetts), Charles, Merrimack, Saco, Androscoggin, Kennebec, Penobscot, Union, St. Croix, and Aroostock Rivers and their tributaries, and identify fish and wildlife habitat in most need of protection or where public access to the rivers should be provided. In addition, the Director shall, in cooperation with appropriate State agencies and local governments and after providing notice and opportunity for public comment, identify appropriate public or private measures for providing the necessary protection or access for each area included in the inventory. Within two years of November 16, 1990, the Director shall submit a report containing the findings, conclusions, and recommendations of the inventory and assessment to the House Committee on Merchant Marine and Fisheries and the Senate Committee on Environment and Public Works.

(f) Authorization of appropriations

There are authorized to be appropriated to the Director—

(1) $5,000,000 per year for fiscal years 1991, 1992, 1993, 1994, and 1995 to implement fishery resource restoration plans and programs, except for activities related to the design and construction of fish passage facilities, as directed by subsection (c) of this section;

(2) $500,000 per year for fiscal years 1991, 1992, and 1993 to conduct the study required under subsection (d) of this section; and

(3) $500,000 to conduct the inventory and assessment required under section[1] (e) of this section.

(Pub. L. 101–593, title I, §111, Nov. 16, 1990, 104 Stat. 2960.)

REFERENCES IN TEXT

This section, referred to in subsec. (b), was in the original ''this Act'', which probably was intended as a reference to New England Fishery Resources Restoration Act of 1990, section 111 of Pub. L. 101–593, title I, Nov. 16, 1990, 104 Stat. 2960, which is classified generally to this section.

CODIFICATION

Section was enacted as the New England Fishery Resources Restoration Act of 1990, and not as part of the Fish Restoration and Management Projects Act which comprises this chapter.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 777f. Payments by United States

(a) Payments and advances to States

When the Secretary of the Interior shall find that any project approved by him has been completed or, if involving research relating to fish, is being conducted, in compliance with said plans and specifications, he shall cause to be paid to the proper authority of said State the amount set aside for said project. The Secretary of the Interior may, in his discretion, from time to time, make payments on said project as the same progresses; but these payments, including previous payments, if any, shall not be more than the United States' pro rata share of the project in conformity with said plans and specifications. If a State has elected to avail itself of the benefits of this chapter by preparing a comprehensive fish and wildlife plan as provided for under option (1) of subsection (a) of section 777e of this title, and this plan has been approved by the Secretary of the Interior, then the Secretary may, in his discretion, and under such rules and regulations, as he may prescribe, advance funds to the State for financing the United States' pro rata share agreed upon between the State fish and game department and the Secretary.

(b) Construction work; joint payments

Any construction work and labor in each State shall be performed in accordance with its laws and under the direct supervision of the State fish and game department, subject to the inspection and approval of the Secretary of the Interior and in accordance with the rules and regulations made pursuant to this chapter. The Secretary of the Interior and the State fish and game department of each State may jointly determine at what times and in what amounts payments shall be made under this chapter. Such payments shall be made against the said appropriation to such official or officials, or depository, as may be designated by the State fish and game department and authorized under the laws of the State to receive public funds of the State.

(Aug. 9, 1950, ch. 658, §7, 64 Stat. 433; Pub. L. 91–503, title II, §202, Oct. 23, 1970, 84 Stat. 1103.)

AMENDMENTS

1970—Pub. L. 91–503 divided existing provisions into subsecs. (a) and (b) and authorized advance payments

[1] So in original. Probably should be ''subsection''.

by the Secretary to the States for financing the United States' pro rata share of the comprehensive fish and wildlife plan.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

§ 777g. Maintenance of projects

(a) Duty of States; status of projects; title to property

To maintain fish-restoration and management projects established under the provisions of this chapter shall be the duty of the States according to their respective laws. Beginning July 1, 1953, maintenance of projects heretofore completed under the provisions of this chapter may be considered as projects under this chapter. Title to any real or personal property acquired by any State, and to improvements placed on State-owned lands through the use of funds paid to the State under the provisions of this chapter, shall be vested in such State.

(b) Funding requirements

(1) Each State shall allocate 15 percent of the funds apportioned to it for each fiscal year under section 777c of this title for the payment of up to 75 per centum of the costs of the acquisition, development, renovation, or improvement of facilities (and auxiliary facilities necessary to insure the safe use of such facilities) that create, or add to, public access to the waters of the United States to improve the suitability of such waters for recreational boating purposes. Notwithstanding this provision, States within a United States Fish and Wildlife Service Administrative Region may allocate more or less than 15 percent in a fiscal year, provided that the total regional allocation averages 15 percent over a 5 year period.

(2) So much of the funds that are allocated by a State under paragraph (1) in any fiscal year that remained unexpended or unobligated at the close of such year are authorized to be made available for the purposes described in paragraph (1) during the succeeding four fiscal years, but any portion of such funds that remain unexpended or unobligated at the close of such period are authorized to be made available for expenditure by the Secretary of the Interior to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States under section 777c(c) of this title.

(c) Aquatic resource education program; funding, etc.

Each State may use not to exceed 15 percent of the funds apportioned to it under section 777c of this title to pay up to 75 per centum of the costs of an aquatic resource education and outreach and communications program for the purpose of increasing public understanding of the Nation's water resources and associated aquatic life forms. The non-Federal share of such costs may not be derived from other Federal grant programs. The Secretary shall issue not later than the one hundred and twentieth day after the effective date of this subsection such regulations as he deems advisable regarding the criteria for such programs.

(d) National Outreach and Communications Program

(1) Implementation

Within 1 year after June 9, 1998, the Secretary of the Interior shall develop and implement, in cooperation and consultation with the Sport Fishing and Boating Partnership Council, a national plan for outreach and communications.

(2) Content

The plan shall provide—

(A) guidance, including guidance on the development of an administrative process and funding priorities, for outreach and communications programs; and

(B) for the establishment of a national program.

(3) Secretary may match or fund programs

Under the plan, the Secretary may obligate amounts available under subsection (a)(5) or subsection (b) of section 777c of this title—

(A) to make grants to any State or private entity to pay all or any portion of the cost of carrying out any outreach and communications program under the plan; or

(B) to fund contracts with States or private entities to carry out such a program.

(4) Review

The plan shall be reviewed periodically, but not less frequently than once every 3 years.

(e) State outreach and communications program

Within 12 months after the completion of the national plan under subsection (d)(1) of this section, a State shall develop a plan for an outreach and communications program and submit it to the Secretary. In developing the plan, a State shall—

(1) review the national plan developed under subsection (d) of this section;

(2) consult with anglers, boaters, the sportfishing and boating industries, and the general public; and

(3) establish priorities for the State outreach and communications program proposed for implementation.

(f) Pumpout stations and waste reception facilities

Amounts apportioned to States under section 777c of this title may be used to pay not more than 75 percent of the costs of constructing, renovating, operating, or maintaining pumpout stations and waste reception facilities (as those terms are defined in the Clean Vessel Act of 1992).

(g) Surveys

(1) National framework

Within 6 months after June 9, 1998, the Secretary, in consultation with the States, shall adopt a national framework for a public boat access needs assessment which may be used by States to conduct surveys to determine the adequacy, number, location, and quality of facilities providing access to recreational waters for all sizes of recreational boats.

(2) State surveys

Within 18 months after June 9, 1998, each State that agrees to conduct a public boat ac-

cess needs survey following the recommended national framework shall report its findings to the Secretary for use in the development of a comprehensive national assessment of recreational boat access needs and facilities.

(3) Exception

Paragraph (2) does not apply to a State if, within 18 months after June 9, 1998, the Secretary certifies that the State has developed and is implementing a plan that ensures there are and will be public boat access adequate to meet the needs of recreational boaters on its waters.

(4) Funding

A State that conducts a public boat access needs survey under paragraph (2) may fund the costs of conducting that assessment out of amounts allocated to it as funding dedicated to motorboat access to recreational waters under subsection (b)(1) of this section.

(Aug. 9, 1950, ch. 658, §8, 64 Stat. 433; Pub. L. 91–503, title II, §202, Oct. 23, 1970, 84 Stat. 1103; Pub. L. 98–369, div. A, title X, §1014(a)(6), July 18, 1984, 98 Stat. 1016; Pub. L. 102–587, title V, §5604(b), Nov. 4, 1992, 106 Stat. 5088; Pub. L. 105–178, title VII, §§7402(c), 7404(b), June 9, 1998, 112 Stat. 484, 486; Pub. L. 105–206, title IX, §9012(c), July 22, 1998, 112 Stat. 864; Pub. L. 109–59, title X, §10114, Aug. 10, 2005, 119 Stat. 1928.)

REFERENCES IN TEXT

For effective date of this subsection, referred to in subsec. (c), see Effective Date of 1984 Amendment note below.

The Clean Vessel Act of 1992, referred to in subsec. (f), is subtitle F of title V of Pub. L. 102–587, Nov. 4, 1992, 106 Stat. 5086, which amended this section and section 777c of this title and enacted provisions set out as a note under section 1322 of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1322 of Title 33 and Tables.

AMENDMENTS

2005—Subsec. (b)(2). Pub. L. 109–59, §10114(1), substituted ''to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States under section 777c(c) of this title'' for ''in carrying out the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation''.

Subsec. (d)(3). Pub. L. 109–59, §10114(2), substituted ''subsection (a)(5) or subsection (b)'' for ''subsection (c) or (d)'' in introductory provisions.

1998—Subsec. (b)(1). Pub. L. 105–178, §7402(c)(1), which directed the substitution of ''15 percent'' for ''12½ percentum'' wherever appearing, was executed by making the substitution for ''12½ per centum'' to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 105–178, §7402(c)(3), inserted ''and communications'' after ''outreach''.

Pub. L. 105–178, §7402(c)(2), which directed the substitution of ''15 percent'' for ''10 percentum'', was executed by making the substitution for ''10 per centum'' to reflect the probable intent of Congress.

Subsecs. (d) to (f). Pub. L. 105–178, §7402(c)(4), added subsecs. (d) and (e) and redesignated former subsec. (d) as (f).

Subsec. (g). Pub. L. 105–178, §7404(b), as amended by Pub. L. 105–206, §9012(c), added subsec. (g).

1992—Subsec. (b)(1). Pub. L. 102–587, §5604(b)(1), substituted ''12½ per centum'' for ''10 per centum'' after ''allocate'' and inserted at end ''Notwithstanding this provision, States within a United States Fish and Wildlife Service Administrative Region may allocate more or less than 12½ per centum in a fiscal year, provided that the total regional allocation averages 12½ per centum over a 5 year period.''

Subsec. (b)(2). Pub. L. 102–587, §5604(b)(2), substituted ''four fiscal years'' for ''fiscal year'' after first reference to ''succeeding'' and ''period'' for second reference to ''succeeding fiscal year''.

Subsec. (c). Pub. L. 102–587, §5604(b)(3), inserted ''and outreach'' after ''education''.

Subsec. (d). Pub. L. 102–587, §5604(b)(4), added subsec. (d).

1984—Pub. L. 98–369 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

1970—Pub. L. 91–503 struck out restriction that not more than 25 percent of the Federal funds be set aside for maintenance projects.

EFFECTIVE DATE OF 2005 AMENDMENTS

From Aug. 10, 2005, to end of fiscal year 2005, subsecs. (b)(2) and (d)(3) of this section considered to read as immediately before enactment of Pub. L. 109–59, see section 101(b) of Pub. L. 109–74, set out as a note under section 777b of this title.

Amendment by Pub. L. 109–59 effective Oct. 1, 2005, see section 10102 of Pub. L. 109–59, set out as a note under section 777b of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective Oct. 1, 1984, and applicable with respect to fiscal years beginning after Sept. 30, 1984, see section 1014(b) of Pub. L. 98–369, set out as a note under section 777 of this title.

§ 777g–1. Boating infrastructure

(a) Purpose

The purpose of this section is to provide funds to States for the development and maintenance of facilities for transient nontrailerable recreational vessels.

(b) Omitted

(c) Plan

Within 6 months after submitting a survey to the Secretary under section 777g(g) of this title, a State may develop and submit to the Secretary a plan for the construction, renovation, and maintenance of facilities for transient nontrailerable recreational vessels, and access to those facilities, to meet the needs of nontrailerable recreational vessels operating on navigable waters in the State.

(d) Grant program

(1) Matching grants

The Secretary of the Interior shall obligate amounts made available under section 777c(a)(4) of this title to make grants to any State to pay not more than 75 percent of the cost to a State of constructing, renovating, or maintaining facilities for transient nontrailerable recreational vessels.

(2) Priorities

In awarding grants under paragraph (1), the Secretary shall give priority to projects that—

(A) consist of the construction, renovation, or maintenance of facilities for transient nontrailerable recreational vessels in accordance with a plan submitted by a State under subsection (c) of this section;

(B) provide for public/private partnership efforts to develop, maintain, and operate facilities for transient nontrailerable recreational vessels; and

(C) propose innovative ways to increase the availability of facilities for transient nontrailerable recreational vessels.

(e) Definitions

For purposes of this section, the term—

(1) ''nontrailerable recreational vessel'' means a recreational vessel 26 feet in length or longer—

(A) operated primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure;

(2) ''facilities for transient nontrailerable recreational vessels'' includes mooring buoys, day-docks, navigational aids, seasonal slips, safe harbors, or similar structures located on navigable waters, that are available to the general public (as determined by the Secretary of the Interior) and designed for temporary use by nontrailerable recreational vessels; and

(3) ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 105–178, title VII, § 7404, June 9, 1998, 112 Stat. 486; Pub. L. 105–206, title IX, § 9012(c), July 22, 1998, 112 Stat. 864; Pub. L. 109–59, title X, § 10115, Aug. 10, 2005, 119 Stat. 1928.)

CODIFICATION

Section is comprised of section 7404 of Pub. L. 105–178. Subsec. (b) of section 7404 of Pub. L. 105–178, as amended by Pub. L. 105–206, § 9012(c), amended section 777g of this title.

Section was enacted as part of the Sportfishing and Boating Safety Act of 1998, and also as part of the Transportation Equity Act for the 21st Century, and not as part of the Fish Restoration and Management Projects Act which comprises this chapter.

AMENDMENTS

2005—Subsec. (d)(1). Pub. L. 109–59 substituted ''section 777c(a)(4) of this title'' for ''section 777c(b)(3)(B) of this title''.

1998—Subsec. (b). Pub. L. 105–206, § 9012(c), made a technical amendment to directory language of Pub. L. 105–178, § 7404(b). See Codification note above.

EFFECTIVE DATE OF 2005 AMENDMENTS

From Aug. 10, 2005, to end of fiscal year 2005, subsec. (d)(1) of this section considered to read as immediately before enactment of Pub. L. 109–59, see section 101(b) of Pub. L. 109–74, set out as a note under section 777b of this title.

Amendment by Pub. L. 109–59 effective Oct. 1, 2005, see section 10102 of Pub. L. 109–59, set out as a note under section 777b of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

§ 777h. Requirements and restrictions concerning use of amounts for expenses for administration

(a) Authorized expenses for administration

Except as provided in subsection (b) of this section, the Secretary of the Interior may use available amounts under section 777c(b) of this title only for expenses for administration that directly support the implementation of this chapter that consist of—

(1) personnel costs of employees who directly administer this chapter on a full-time basis;

(2) personnel costs of employees who directly administer this chapter on a part-time basis for at least 20 hours each week, not to exceed the portion of those costs incurred with respect to the work hours of the employee during which the employee directly administers this chapter, as those hours are certified by the supervisor of the employee;

(3) support costs directly associated with personnel costs authorized under paragraphs (1) and (2), excluding costs associated with staffing and operation of regional offices of the United States Fish and Wildlife Service and the Department of the Interior other than for the purposes of this chapter;

(4) costs of determining under section 777e(a) of this title whether State comprehensive plans and projects are substantial in character and design;

(5) overhead costs, including the costs of general administrative services, that are directly attributable to administration of this chapter and are based on—

(A) actual costs, as determined by a direct cost allocation methodology approved by the Director of the Office of Management and Budget for use by Federal agencies; and

(B) in the case of costs that are not determinable under subparagraph (A), an amount per full-time equivalent employee authorized under paragraphs (1) and (2) that does not exceed the amount charged or assessed for costs per full-time equivalent employee for any other division or program of the United States Fish and Wildlife Service;

(6) costs incurred in auditing, every 5 years, the wildlife and sport fish activities of each State fish and game department and the use of funds under section 777e of this title by each State fish and game department;

(7) costs of audits under subsection (d) of this section;

(8) costs of necessary training of Federal and State full-time personnel who administer this chapter to improve administration of this chapter;

(9) costs of travel to States, territories, and Canada by personnel who—

(A) administer this chapter on a full-time basis for purposes directly related to administration of State programs or projects; or

(B) administer grants under section 777e or 777m of this title;

(10) costs of travel outside the United States (except travel to Canada), by personnel who administer this chapter on a full-time basis, for purposes that directly relate to administration of this chapter and that are approved directly by the Assistant Secretary for Fish and Wildlife and Parks;

(11) relocation expenses for personnel who, after relocation, will administer this chapter on a full-time basis for at least 1 year, as certified by the Director of the United States Fish and Wildlife Service at the time at which the relocation expenses are incurred; and

(12) costs to audit, evaluate, approve, disapprove, and advise concerning grants under sections 777e and 777m of this title.

(b) Reporting of other uses

(1) In general

Subject to paragraph (2), if the Secretary of the Interior determines that available amounts under section 777c(b) of this title should be used for an expense for administration other than an expense for administration described in subsection (a) of this section, the Secretary—

(A) shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report describing the expense for administration and stating the amount of the expense; and

(B) may use any such available amounts for the expense for administration only after the end of the 30-day period beginning on the date of submission of the report under subparagraph (A).

(2) Maximum amount

For any fiscal year, the Secretary of the Interior may use under paragraph (1) not more than $25,000.

(c) Restriction on use to supplement general appropriations

The Secretary of the Interior shall not use available amounts under subsection (b) of this section to supplement the funding of any function for which general appropriations are made for the United States Fish and Wildlife Service or any other entity of the Department of the Interior.

(d) Audit requirement

(1) In general

The Inspector General of the Department of the Interior shall procure the performance of biennial audits, in accordance with generally accepted accounting principles, of expenditures and obligations of amounts used by the Secretary of the Interior for expenses for administration incurred in implementation of this chapter.

(2) Auditor

(A) In general

An audit under this subsection shall be performed under a contract that is awarded under competitive procedures (as defined in section 132 of title 41) by a person or entity that is not associated in any way with the Department of the Interior (except by way of a contract for the performance of an audit or other review).

(B) Supervision of auditor

The auditor selected under subparagraph (A) shall report to, and be supervised by, the Inspector General of the Department of the Interior, except that the auditor shall submit a copy of the biennial audit findings to the Secretary of the Interior at the time at which the findings are submitted to the Inspector General of the Department of the Interior.

(3) Report to Congress

The Inspector General of the Department of the Interior shall promptly submit to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate—

(A) a report on the results of each audit under this subsection; and

(B) a copy of each audit under this subsection.

(Aug. 9, 1950, ch. 658, § 9, 64 Stat. 433; Pub. L. 106–408, title I, § 121(b), Nov. 1, 2000, 114 Stat. 1770; Pub. L. 109–59, title X, § 10116, Aug. 10, 2005, 119 Stat. 1929.)

CODIFICATION

In subsec. (d)(2)(A), ''section 132 of title 41'' substituted for ''section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)'' on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2005—Subsecs. (a), (b)(1). Pub. L. 109–59 substituted ''section 777c(b)'' for ''section 777c(d)(1)'' in introductory provisions.

2000—Pub. L. 106–408 amended section generally. Prior to amendment, section read as follows: ''Out of the deductions set aside for administering and executing this chapter the Secretary of the Interior is authorized to employ such assistants, clerks, and other persons in the District of Columbia and elsewhere, to be taken from the eligible lists of the civil service; to rent or construct buildings outside of the District of Columbia; to purchase such supplies, materials, equipment, office fixtures, and apparatus; and to incur such travel and other expenses, including publication of technical and administrative reports, purchase, maintenance, and hire of passenger-carrying motor vehicles, as he may deem necessary for carrying out the provisions of this chapter.''

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 2005 AMENDMENTS

From Aug. 10, 2005, to end of fiscal year 2005, subsecs. (a) and (b)(1) of this section considered to read as immediately before enactment of Pub. L. 109–59, see section 101(b) of Pub. L. 109–74, set out as a note under section 777b of this title.

Amendment by Pub. L. 109–59 effective Oct. 1, 2005, see section 10102 of Pub. L. 109–59, set out as a note under section 777b of this title.

§ 777i. Rules and regulations

The Secretary of the Interior is authorized to make rules and regulations for carrying out the provisions of this chapter.

(Aug. 9, 1950, ch. 658, §10, 64 Stat. 434.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

§ 777j. Repealed. Pub. L. 89–348, § 1(14), Nov. 8, 1965, 79 Stat. 1311

Section, act Aug. 9, 1950, ch. 658, §11, 64 Stat. 434, required the Secretary of the Interior to make an annual report to the Congress giving detailed information as to the projects established under this chapter and expenditures therefor.

§ 777k. Payments of funds to and cooperation with Puerto Rico, the District of Columbia, Guam, American Samoa, Commonwealth of the Northern Mariana Islands, and Virgin Islands

The Secretary of the Interior is authorized to cooperate with the Secretary of Agriculture of Puerto Rico, the Mayor of the District of Columbia, the Governor of Guam, the Governor of American Samoa, the Governor of the Commonwealth of the Northern Mariana Islands, and the Governor of the Virgin Islands, in the conduct of fish restoration and management projects, as defined in section 777a of this title, upon such terms and conditions as he shall deem fair, just, and equitable, and is authorized to apportion to Puerto Rico, the District of Columbia, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands, out of money available for apportionment under this chapter, such sums as he shall determine, not exceeding for Puerto Rico 1 per centum, for the District of Columbia one-third of 1 per centum, for Guam one-third of 1 per centum, for American Samoa one-third of 1 per centum, for the Commonwealth of the Northern Mariana Islands one-third of 1 per centum, and for the Virgin Islands one-third of 1 per centum of the total amount apportioned in any one year, but the Secretary shall in no event require any of said cooperating agencies to pay an amount which will exceed 25 per centum of the cost of any project. Any unexpected or unobligated balance of any apportionment made pursuant to this section shall be made available for expenditure in Puerto Rico, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands, as the case may be, in the succeeding year, on any approved projects, and if unexpended or unobligated at the end of such year is authorized to be made available for expenditure by the Secretary of the Interior to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States under section 777c(b) of this title.

(Aug. 9, 1950, ch. 658, §12, 64 Stat. 434; July 2, 1956, ch. 489, §4, 70 Stat. 473; Aug. 1, 1956, ch. 852, §8, 70 Stat. 908; Pub. L. 86–70, §16, June 25, 1959, 73 Stat. 143; Pub. L. 91–503, title II, §203, Oct. 23, 1970, 84 Stat. 1103; Pub. L. 96–597, title III, §302(a), Dec. 24, 1980, 94 Stat. 3477; Pub. L. 98–369, div. A, title X, §1014(a)(7), July 18, 1984, 98 Stat. 1016; Pub. L. 109–59, title X, §10117, Aug. 10, 2005, 119 Stat. 1929.)

AMENDMENTS

2005—Pub. L. 109–59 substituted ''to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States under section 777c(b) of this title'' for ''in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation'' before period at end.

1984—Pub. L. 98–369 inserted ''the Mayor of the District of Columbia,'' after ''the Secretary of Agriculture of Puerto Rico,'', ''for the District of Columbia one-third of 1 per centum,'' after ''for Puerto Rico 1 per centum,'' and ''the District of Columbia,'' after ''Puerto Rico,'' in two places.

1980—Pub. L. 96–597 inserted references to the Governor and the Commonwealth of the Northern Mariana Islands.

1970—Pub. L. 91–503 substituted ''Secretary of Agriculture of Puerto Rico'' for ''Commissioner of Agriculture and Commerce of Puerto Rico'', added American Samoa to the list of recipients, and substituted maximum limits of apportionment of one percent for Puerto Rico, one-third of one percent for Guam, one-third of one percent for American Samoa and one-third of one percent for Virgin Islands for maximum limit of $10,000 for Puerto Rico, Guam and Virgin Islands together.

1959—Pub. L. 86–70 struck out provisions which authorized cooperation with the Alaska Game Commission and permitted apportionment of not more than $75,000 in any one year to the Territory of Alaska.

1956—Act Aug. 1, 1956, inserted ''the Governor of Guam'' after ''Commissioner of Agriculture and Commerce of Puerto Rico,'' and ''Guam'' after ''Puerto Rico'' in three remaining places those words appear.

Act July 2, 1956, struck out provisions which authorized the Secretary to cooperate with the Division of Game and Fish of the Board of Commissioners of Agriculture and Forestry of Hawaii, struck out limitation of $25,000 on the amount of funds which could be apportioned to Hawaii in any one year, and substituted ''Territory of Alaska'' for ''Territories'' in two places.

EFFECTIVE DATE OF 2005 AMENDMENTS

From Aug. 10, 2005, to end of fiscal year 2005, section considered to read as immediately before enactment of Pub. L. 109–59, see section 101(b) of Pub. L. 109–74, set out as a note under section 777b of this title.

Amendment by Pub. L. 109–59 effective Oct. 1, 2005, see section 10102 of Pub. L. 109–59, set out as a note under section 777b of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective Oct. 1, 1984, and applicable with respect to fiscal years beginning after Sept. 30, 1984, see section 1014(b) of Pub. L. 98–369, set out as a note under section 777 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 2, 1956, as applicable only with respect to fiscal years beginning after July 2, 1956, see section 5 of act July 2, 1956, set out as a note under section 669a of this title.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 777 of this title.

§ 777*l*. State use of contributions

A State may use contributions of funds, real property, materials, and services to carry out an activity under this chapter in lieu of payment by the State of the State share of the cost of such activity. Such a State share shall be considered to be paid in an amount equal to the fair market value of any contribution so used.

(Aug. 9, 1950, ch. 658, §13, as added Pub. L. 100–448, §6(c)(2), Sept. 28, 1988, 102 Stat. 1841.)

CODIFICATION

Another section 13 of act Aug. 9, 1950, ch. 658, which was classified as a note under section 777 of this title, was repealed by Pub. L. 106–408, title I, §122(a)(1), Nov. 1, 2000, 114 Stat. 1772.

EFFECTIVE DATE

Section effective Oct. 1, 1988, see section 6(e) of Pub. L. 100–448, set out as an Effective Date of 1988 Amendment note under section 777 of this title.

§ 777m. Multistate conservation grant program

(a) In general

(1) Amount for grants

Not more than $3,000,000 of each annual appropriation made in accordance with the provisions of section 777b of this title shall be distributed to the Secretary of the Interior for making multistate conservation project grants in accordance with this section.

(2) Period of availability; apportionment

(A) Period of availability

Amounts made available under paragraph (1) shall remain available for making grants only for the first fiscal year for which the amount is made available and the following fiscal year.

(B) Apportionment

At the end of the period of availability under subparagraph (A), the Secretary of the Interior shall apportion any amounts that remain available among the States in the manner specified in section 777c(c) of this title for use by the States in the same manner as funds apportioned under section 777c(c) of this title.

(b) Selection of projects

(1) States or entities to be benefited

A project shall not be eligible for a grant under this section unless the project will benefit—

(A) at least 26 States;

(B) a majority of the States in a region of the United States Fish and Wildlife Service; or

(C) a regional association of State fish and game departments.

(2) Use of submitted priority list of projects

The Secretary of the Interior may make grants under this section only for projects identified on a priority list of sport fish restoration projects described in paragraph (3).

(3) Priority list of projects

A priority list referred to in paragraph (2) is a priority list of sport fish restoration projects that the International Association of Fish and Wildlife Agencies—

(A) prepares through a committee comprised of the heads of State fish and game departments (or their designees), in consultation with—

(i) nongovernmental organizations that represent conservation organizations;

(ii) sportsmen organizations; and

(iii) industries that fund the sport fish restoration programs under this chapter;

(B) approves by vote of a majority of the heads of State fish and game departments (or their designees); and

(C) not later than October 1 of each fiscal year, submits to the Assistant Director for Wildlife and Sport Fish Restoration Programs.

(4) Publication

The Assistant Director for Wildlife and Sport Fish Restoration Programs shall publish in the Federal Register each priority list submitted under paragraph (3)(C).

(c) Eligible grantees

(1) In general

The Secretary of the Interior may make a grant under this section only to—

(A) a State or group of States;

(B) the United States Fish and Wildlife Service, or a State or group of States, for the purpose of carrying out the National Survey of Fishing, Hunting, and Wildlife-Associated Recreation; and

(C) subject to paragraph (2), a nongovernmental organization.

(2) Nongovernmental organizations

(A) In general

Any nongovernmental organization that applies for a grant under this section shall submit with the application to the International Association of Fish and Wildlife Agencies a certification that the organization—

(i) will not use the grant funds to fund, in whole or in part, any activity of the organization that promotes or encourages opposition to the regulated taking of fish; and

(ii) will use the grant funds in compliance with subsection (d) of this section.

(B) Penalties for certain activities

Any nongovernmental organization that is found to use grant funds in violation of subparagraph (A) shall return all funds received under this section and be subject to any other applicable penalties under law.

(d) Use of grants

A grant under this section shall not be used, in whole or in part, for an activity, project, or program that promotes or encourages opposition to the regulated taking of fish.

(e) Funding for other activities

Of amounts made available under section 777c(b) of this title for each fiscal year—

(1) $200,000 shall be made available for each of—

(A) the Atlantic States Marine Fisheries Commission;

(B) the Gulf States Marine Fisheries Commission;

(C) the Pacific States Marine Fisheries Commission; and

(D) the Great Lakes Fisheries Commission; and

(2) $400,000 shall be made available for the Sport Fishing and Boating Partnership Coun-

cil established by the United States Fish and Wildlife Service.

(f) Nonapplicability of Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any activity carried out under this section.

(Aug. 9, 1950, ch. 658, §14, as added Pub. L. 106–408, title I, §122(a), Nov. 1, 2000, 114 Stat. 1772; amended Pub. L. 109–59, title X, §10118, Aug. 10, 2005, 119 Stat. 1929; Pub. L. 109–241, title IX, §901(r)(2), July 11, 2006, 120 Stat. 566; Pub. L. 111–281, title IX, §903(a)(3), Oct. 15, 2010, 124 Stat. 3010.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (f), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111–281 made technical correction to directory language of Pub. L. 109–241, §901(r)(2). See 2006 Amendment note below.

2006—Subsec. (a)(1). Pub. L. 109–241, §901(r)(2), as amended by Pub. L. 111–281, substituted ''Not more than'' for ''For each of fiscal years 2006 through 2009, not more than''.

2005—Subsec. (a)(1). Pub. L. 109–59, §10118(1), reenacted subsec. (a) and par. (1) headings without change and amended text of par. (1) generally. Prior to amendment, text read as follows: ''Of the balance of each annual appropriation made under section 777b of this title remaining after the distribution and use under subsections (a), (b), and (c) of section 777c of this title in a fiscal year, not more than $3,000,000 shall be available to the Secretary of the Interior for making multistate conservation project grants in accordance with this section.''

Subsec. (a)(2)(B). Pub. L. 109–59, §10118(2), substituted ''section 777c(c)'' for ''section 777c(e)'' in two places.

Subsec. (e). Pub. L. 109–59, §10118(3), added introductory provisions and struck out former introductory provisions which read as follows: ''Of the balance of each annual appropriation made under section 777b of this title remaining after the distribution and use under subsections (a), (b), and (c) of section 777c of this title for each fiscal year and after deducting amounts used for grants under subsection (a) of this section—''.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–281, title IX, §903(a), Oct. 15, 2010, 124 Stat. 3010, provided that the amendment by section 903(a)(3) is effective with enactment of Pub. L. 109–241.

EFFECTIVE DATE OF 2005 AMENDMENTS

From Aug. 10, 2005, to end of fiscal year 2005, subsecs. (a)(1), (2)(B) and (e) of this section considered to read as immediately before enactment of Pub. L. 109–59, see section 101(b) of Pub. L. 109–74, set out as a note under section 777b of this title.

Amendment by Pub. L. 109–59 effective Oct. 1, 2005, see section 10102 of Pub. L. 109–59, set out as a note under section 777b of this title.

§ 777n. Expenditure of remaining balance in Boat Safety Account

Amounts remaining in the Boat Safety Account on October 1, 2005, and amounts thereafter credited to the Account under section 9602(b) of title 26, shall be available, without further appropriation, for making expenditures before October 1, 2010, to carry out the purposes of this section and shall be distributed as follows:

(1) In fiscal year 2006, $28,155,000 shall be distributed—

(A) under section 777c of this title in the following manner:

(i) $11,200,000 to be added to funds available under subsection (a)(2) of that section;

(ii) $1,245,000 to be added to funds available under subsection (a)(3) of that section;

(iii) $1,245,000 to be added to funds available under subsection (a)(4) of that section;

(iv) $1,245,000 to be added to funds available under subsection (a)(5) of that section; and

(v) $12,800,000 to be added to funds available under subsection (c) of that section; and

(B) under section 777m of this title, $420,000, to be added to funds available under subsection (a)(1) of that section.

(2) In fiscal year 2007, $22,419,000 shall be distributed—

(A) under section 777c of this title in the following manner:

(i) $8,075,000 to be added to funds available under subsection (a)(2) of that section;

(ii) $713,000 to be added to funds available under subsection (a)(3) of that section;

(iii) $713,000 to be added to funds available under subsection (a)(4) of that section;

(iv) $713,000 to be added to funds available under subsection (a)(5) of that section; and

(v) $11,925,000 to be added to funds available under subsection (c) of that section; and

(B) under section 777m of this title, $280,000 to be added to funds available under subsection (a)(1) of that section.

(3) In fiscal year 2008, $17,139,000 shall be distributed—

(A) under section 777c of this title in the following manner:

(i) $6,800,000 to be added to funds available under subsection (a)(2) of that section;

(ii) $333,000 to be added to funds available under subsection (a)(3) of that section;

(iii) $333,000 to be added to funds available under subsection (a)(4) of that section;

(iv) $333,000 to be added to funds available under subsection (a)(5) of that section; and

(v) $9,200,000 to be added to funds available under subsection (c) of that section; and

(B) under section 777m of this title, $140,000, to be added to funds available under subsection (a)(1) of that section.

(4) In fiscal year 2009, $12,287,000 shall be distributed—

(A) under section 777c of this title in the following manner:

(i) $5,100,000 to be added to funds available under subsection (a)(2) of that section;

(ii) $48,000 to be added to funds available under subsection (a)(3) of that section;

(iii) $48,000 to be added to funds available under subsection (a)(4) of that section;

(iv) $48,000 to be added to funds available under subsection (a)(5) of that section; and

(v) $6,900,000 to be added to funds available under subsection (c) of that section; and

(B) under section 777m of this title, $143,000, to be added to funds available under subsection (a)(1) of that section.

(5) In fiscal year 2010, all remaining funds in the Account shall be distributed under section 777c of this title in the following manner:

(A) one-third to be added to funds available under subsection (a)(2) of that section; and

(B) two-thirds to be added to funds available under subsection (c) of that section.

(Aug. 9, 1950, ch. 658, § 15, as added Pub. L. 109–59, title X, § 10119, Aug. 10, 2005, 119 Stat. 1929; amended Pub. L. 109–74, title I, § 103, Sept. 29, 2005, 119 Stat. 2031.)

CODIFICATION

The amendments by Pub. L. 109–74 were directed to section 10119 of Pub. L. 109–59 ''in the text proposed to be inserted as section 15 of the Dingell-Johnson Sport Fish Restoration Act'' (this section). Those amendments were effective on enactment of Pub. L. 109–74 (Sept. 29, 2005) and were incorporated into the text of this section when it became effective on Oct. 1, 2005. See Effective Date notes below.

PRIOR PROVISIONS

A prior section 15 of act Aug. 9, 1950, was renumbered section 16 and is set out as a note under section 777 of this title.

AMENDMENTS

2005—Par. (1)(A)(v). Pub. L. 109–74, § 103(2), substituted ''subsection (c) of that section'' for ''subsection (b) of that section''.

Par. (2)(A)(v). Pub. L. 109–74, § 103(1), (2), substituted ''subsection (c) of that section'' for ''subsection (b) of this Act''.

Pars. (3)(A)(v), (4)(A)(v). Pub. L. 109–74, § 103(2), substituted ''subsection (c) of that section'' for ''subsection (b) of that section''.

Par. (5)(A). Pub. L. 109–74, § 103(3)(A), substituted ''subsection (a)(2) of that section'' for ''subsection (b)''.

Par. (5)(B). Pub. L. 109–74, § 103(3)(B), substituted ''subsection (c) of that section'' for ''subsection (h)''.

EFFECTIVE DATE

From Aug. 10, 2005, to the end of fiscal year 2005, the provisions of law amended by section 10119 of Pub. L. 109–59, which added section 15 (this section) to the Dingell-Johnson Sport Fish Restoration Act, to be considered to read as immediately before enactment of Pub. L. 109–59, see section 101(b) of Pub. L. 109–74, set out as an Effective Date of 2005 Amendment note under section 777b of this title.

Section effective Oct. 1, 2005, see section 10102 of Pub. L. 109–59, set out as an Effective Date of 2005 Amendments note under section 777b of this title.

CHAPTER 10C—FISH RESEARCH AND EXPERIMENTATION PROGRAM

Sec.

778. Establishment of experiment stations; purpose of research.
778a. Acquisition of lands; construction of buildings; employment of personnel; cooperation with other agencies; publication of results.
778b. Cooperation with Secretary of the Interior.
778c. Authorization of appropriations.
778d to 778h. Omitted.

§ 778. Establishment of experiment stations; purpose of research

The Secretary of Agriculture shall establish 1 or more centers for the purpose of carrying on a program of research and experimentation—

(1) to determine species of fishes most suitable for culture on a commercial basis in shallow reservoirs and flooded rice lands;

(2) to determine methods for production of fingerling fishes for stocking in commercial reservoirs;

(3) to develop methods for the control of parasites and diseases of brood fishes and of fingerlings prior to stocking;

(4) to develop economical methods for raising the more desirable species of fishes to a marketable size;

(5) to determine, in cooperation with the Secretary of the Interior, the effects of fish-rice rotations, including crops other than rice commonly grown on rice farms, upon both the fish and other crops; and

(6) to develop suitable methods for harvesting the fish crop and preparing it for marketing, including a study of sport fishing as a means of such harvest.

(Pub. L. 85–342, § 1, Mar. 15, 1958, 72 Stat. 35; Pub. L. 104–127, title VIII, § 889(a)(1), Apr. 4, 1996, 110 Stat. 1180.)

AMENDMENTS

1996—Pub. L. 104–127, in introductory provisions, substituted ''Secretary of Agriculture shall'' for ''Secretary of the Interior is authorized and directed to'' and ''1 or more centers'' for ''an experiment station or stations'' and, in par. (5), substituted ''Secretary of the Interior'' for ''Department of Agriculture''.

§ 778a. Acquisition of lands; construction of buildings; employment of personnel; cooperation with other agencies; publication of results

For the purpose of carrying out the provisions of this chapter, the Secretary of Agriculture is authorized (1) to acquire by purchase, condemnation, or otherwise such suitable lands, to construct such buildings, to acquire such equipment and apparatus, and to employ such officers and employees as he deems necessary; (2) to cooperate with State and other institutions and agencies upon such terms and conditions as he determines to be appropriate; and (3) to make public the results of such research and experiments conducted pursuant to section 778 of this title.

(Pub. L. 85–342, § 2, Mar. 15, 1958, 72 Stat. 35; Pub. L. 104–127, title VIII, § 889(a)(2), Apr. 4, 1996, 110 Stat. 1180.)

AMENDMENTS

1996—Pub. L. 104–127 substituted ''the Secretary of Agriculture is authorized'' for ''the Secretary of the Interior is authorized''.

§ 778b. Cooperation with Secretary of the Interior

The Secretary of the Interior is authorized to cooperate in carrying out the provisions of this chapter by furnishing such information and assistance as may be requested by the Secretary of Agriculture.

(Pub. L. 85–342, § 3, Mar. 15, 1958, 72 Stat. 35; Pub. L. 104–127, title VIII, § 889(a)(3), Apr. 4, 1996, 110 Stat. 1180.)

AMENDMENTS

1996—Pub. L. 104–127 substituted ''the Secretary of the Interior'' for ''The Department of Agriculture'' and ''requested by the Secretary of Agriculture'' for ''requested by the Secretary of the Interior''.

§ 778c. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(Pub. L. 85–342, § 4, Mar. 15, 1958, 72 Stat. 35.)

§§ 778d to 778h. Omitted

CODIFICATION

Sections, Pub. L. 89–701, §§ 1–5, Nov. 2, 1966, 80 Stat. 1089, 1090, related to fish protein concentrate and authorized the Secretary of the Interior to promote studies, conduct research and experiments, and construct and lease experiment and demonstration plants. The authority of the Secretary under these sections expired at the expiration of five years from Nov. 2, 1966 by the express terms of section 778h of this title.

Section 778f was amended by Pub. L. 90–549, Oct. 4, 1968, 82 Stat. 936.

CHAPTER 10D—STATE COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT PROJECTS

§§ 779 to 779f. Repealed. Pub. L. 99–659, title III, § 309, Nov. 14, 1986, 100 Stat. 3736

Section 779, Pub. L. 88–309, § 2, May 20, 1964, 78 Stat. 197; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 94–273, § 4(3), Apr. 21, 1976, 90 Stat. 377; Pub. L. 94–485, § 1(1), Oct. 12, 1976, 90 Stat. 2326, defined terms used in this chapter.

Section 779a, Pub. L. 88–309, § 3, May 20, 1964, 78 Stat. 197; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, related to cooperation with States on projects for the research and development of commercial fisheries resources, joint projects between States, consent to interstate compacts, and reservation of right to alter, amend or repeal consent.

Section 779b, Pub. L. 88–309, § 4, May 20, 1964, 78 Stat. 197; Pub. L. 90–551, §§ 1–3, Oct. 4, 1968, 82 Stat. 957; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 92–590, §§ 1–3, Oct. 27, 1972, 86 Stat. 1303; Pub. L. 95–53, June 22, 1977, 91 Stat. 249; Pub. L. 96–262, § 1, June 5, 1980, 94 Stat. 437; Pub. L. 97–389, title I, § 101, Dec. 29, 1982, 96 Stat. 1949, authorized appropriations to carry out this chapter.

Section 779c, Pub. L. 88–309, § 5, May 20, 1964, 78 Stat. 198; Pub. L. 94–273, § 3(3), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–485, § 1(2), (3), Oct. 12, 1976, 90 Stat. 2326, provided for apportionment among States of funds appropriated under former section 779b of this title.

Section 779d, Pub. L. 88–309, § 6, May 20, 1964, 78 Stat. 198; Pub. L. 94–485, § 1(4), Oct. 12, 1976, 90 Stat. 2326, provided for approval of projects for funding, and payment of benefits, under this chapter.

Section 779e, Pub. L. 88–309, § 7, May 20, 1964, 78 Stat. 199, related to working conditions on projects funded, and to disposal of property acquired, under this chapter.

Section 779f, Pub. L. 88–309, § 8, May 20, 1964, 78 Stat. 199, authorized promulgation of rules and regulations.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1987, see section 310 of Pub. L. 99–659, set out as an Effective Date note under section 4101 of this title.

CHAPTER 11—REGULATION OF LANDING, CURING, AND SALE OF SPONGES TAKEN FROM GULF OF MEXICO AND STRAITS OF FLORIDA

Sec.

781. Taking or catching, in waters of Gulf or Straits of Florida, commercial sponges of less than prescribed size, and landing or possession of same.
782. Sponges of less than prescribed size; possession prima facie evidence.
783. Punishment for violations of law; liability of vessels.
784. Jurisdiction of prosecutions.
785. Enforcement of law prohibiting taking of sponges of specified sizes; employment of Coast Guard vessels and Customs Service employees.

§ 781. Taking or catching, in waters of Gulf or Straits of Florida, commercial sponges of less than prescribed size, and landing or possession of same

It is unlawful for any citizen of the United States, or person owing duty of obedience to the laws of the United States, or any boat or vessel of the United States, or person belonging to or on any such boat or vessel, to take or catch, by any means or method, in the waters of the Gulf of Mexico or the Straits of Florida outside of State territorial limits, any commercial sponges measuring when wet less than five inches in their maximum diameter, or for any person or vessel to land, deliver, cure, offer for sale, or have in possession at any port or place in the United States, or on any boat or vessel of the United States, any such commercial sponges.

(Aug. 15, 1914, ch. 253, § 1, 38 Stat. 692.)

§ 782. Sponges of less than prescribed size; possession prima facie evidence

The presence of sponges of a diameter of less than five inches on any vessel or boat of the United States engaged in sponging in the waters of the Gulf of Mexico or the Straits of Florida outside of State territorial limits, or the possession of any sponges of less than the said diameter sold or delivered by such vessels, shall be prima facie evidence of a violation of the provisions of this chapter.

(Aug. 15, 1914, ch. 253, § 2, 38 Stat. 692.)

§ 783. Punishment for violations of law; liability of vessels

Every person, partnership, or association guilty of a violation of the provisions of this chapter shall be liable to a fine of not more than $500, and in addition such fine shall be a lien against the vessel or boat on which the offense is committed, and said vessel or boat shall be seized and proceeded against by process of libel in any court having jurisdiction of the offense.

(Aug. 15, 1914, ch. 253, § 3, 38 Stat. 692.)

§ 784. Jurisdiction of prosecutions

Any violation of the provisions of this chapter shall be prosecuted in the district court of the United States of the district wherein the offender is found or into which he is first brought.

(Aug. 15, 1914, ch. 253, § 4, 38 Stat. 692.)

§ 785. Enforcement of law prohibiting taking of sponges of specified sizes; employment of Coast Guard vessels and Customs Service employees

The Secretary of Commerce shall enforce the provisions of this chapter, and he is authorized to empower such officers and employees of the Department of Commerce as he may designate, or such officers and employees of other departments as may be detailed for the purpose, to make arrests and seize vessels and sponges, and upon his request the Secretary of the Treasury may employ the vessels of the Coast Guard or the employees of the Customs Service to that end.

(Aug. 15, 1914, ch. 253, § 5, 38 Stat. 692; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; 1939 Reorg. Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1431; Aug. 4, 1949, ch. 393, §§ 1, 20, 63 Stat. 495, 561; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

''Secretary of Commerce'' and ''Department of Commerce'' substituted in text for ''Secretary of the Interior'' and ''Department of the Interior'' in view of: creation of National Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in Department of the Interior and Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in Secretary of the Interior or Department of the Interior which were administered through Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5.

''Coast Guard'' substituted in text for ''Revenue Cutter Service'' on authority of act Jan. 28, 1915, which combined Revenue Cutter Service and Life-Saving Service to form Coast Guard. That act was repealed by section 20 of act Aug. 4, 1949, section 1 of which reestablished Coast Guard by enacting Title 14, Coast Guard.

Coast Guard transferred to Department of Transportation and all functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of other offices and officers of Department of the Treasury transferred to Secretary of Transportation by section 6(b)(1) of Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 938. See section 108 of Title 49, Transportation.

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5. Customs Service, referred to in this section, was a service under Department of the Treasury, and Coast Guard, also referred to in this section, was generally a service under such Department, but such Plan excepted, from transfer, functions of Coast Guard, and of Commandant thereof, when Coast Guard was operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Reorg. Plan No. III of 1940, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232, set out in the Appendix to Title 5, Government Organization and Employees, consolidated Bureau of Fisheries and Bureau of Biological Survey with their respective functions into one agency in Department of the Interior to be known as Fish and Wildlife Service, and provided that functions of the consolidated agency shall be administered under direction and supervision of Secretary of the Interior.

Reorg. Plan No. II of 1930, set out in the Appendix to Title 5, transferred Bureau of Fisheries in Department of Commerce and its functions to Department of the Interior, to be administered under direction and supervision of Secretary of the Interior.

CHAPTER 12—FEDERAL REGULATION AND DEVELOPMENT OF POWER

SUBCHAPTER I—REGULATION OF THE DEVELOPMENT OF WATER POWER AND RESOURCES

Sec.
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792. Federal Power Commission; creation; number; appointment; term; qualifications; vacancies; quorum; chairman; salary; place of holding sessions.
793. Appointment of officers and employees of Commission; duties, and salaries; detail of officers and employees from other departments; expenditures authorized.
793a to 795. Repealed or Omitted.
796. Definitions.
797. General powers of Commission.
797a. Congressional authorization for permits, licenses, leases, or authorizations for dams, conduits, reservoirs, etc., within national parks or monuments.
797b. Duty to keep Congress fully and currently informed.
797c. Dams in National Park System units.
797d. Third party contracting by FERC.
798. Purpose and scope of preliminary permits; transfer and cancellation.
799. License; duration, conditions, revocation, alteration, or surrender.

Sec.
800. Issuance of preliminary permits or licenses.
801. Transfer of license; obligations of transferee.
802. Information to accompany application for license; landowner notification.
803. Conditions of license generally.
804. Project works affecting navigable waters; requirements insertable in license.
805. Participation by Government in costs of locks, etc.
806. Time limit for construction of project works; extension of time; termination or revocation of licenses for delay.
807. Right of Government to take over project works.
808. New licenses and renewals.
809. Temporary use by Government of project works for national safety; compensation for use.
810. Disposition of charges arising from licenses.
811. Operation of navigation facilities; rules and regulations; penalties.
812. Public-service licensee; regulations by State or by commission as to service, rates, charges, etc.
813. Power entering into interstate commerce; regulation of rates, charges, etc.
814. Exercise by licensee of power of eminent domain.
815. Contract to furnish power extending beyond period of license; obligations of new licensee.
816. Preservation of rights vested prior to June 10, 1920.
817. Projects not affecting navigable waters; necessity for Federal license, permit or right-of-way; unauthorized activities.
818. Public lands included in project; reservation of lands from entry.
819. Repealed.
820. Proceedings for revocation of license or to prevent violations of license.
821. State laws and water rights unaffected.
822. Reservation of right to alter or repeal chapter.
823. Repeal of inconsistent laws.
823a. Conduit hydroelectric facilities.
823b. Enforcement.
823c. Alaska State jurisdiction over small hydroelectric projects.
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SUBCHAPTER II—REGULATION OF ELECTRIC UTILITY COMPANIES ENGAGED IN INTERSTATE COMMERCE

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824a–2. Reliability.
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824c. Issuance of securities; assumption of liabilities.
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824e. Power of Commission to fix rates and charges; determination of cost of production or transmission.
824f. Ordering furnishing of adequate service.
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824k. Orders requiring interconnection or wheeling.
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828. Facilitation of development and construction of water conservation facilities; exemption from certain Federal requirements.

Sec.
828a. Definitions.
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828c. Applicability of this subchapter.

SUBCHAPTER I—REGULATION OF THE DEVELOPMENT OF WATER POWER AND RESOURCES

CODIFICATION

Section 212 of act of Aug. 26, 1935, ch. 687, 49 Stat. 847, provided that sections 1 to 29 of the Federal Water Power Act, as amended (sections 792, 793, 794 to 797, 798 to 818, 819, and 820 to 823 of this title) shall constitute part I of the act. Said section 212 also repealed sections 25 and 30 of the act (sections 819, 791 of this title). It also contained a proviso as follows: ''That nothing in that Act, as amended, shall be construed to repeal or amend the provisions of the amendment to the Federal Water Power Act approved March 3, 1921 (41 Stat. 1353 [section 797a of this title]), or the provisions of any other Act relating to national parks and national monuments.''

§ 791. Repealed. Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847

Section, act June 10, 1920, ch. 285, § 30, 41 Stat. 1077, designated the act as The Federal Water Power Act.

§ 791a. Short title

This chapter may be cited as the ''Federal Power Act''.

(June 10, 1920, ch. 285, pt. III, § 321, formerly § 320, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 863; renumbered Pub. L. 95–617, title II, § 212, Nov. 9, 1978, 92 Stat. 3148.)

CODIFICATION

Section was enacted as part of part III of the Federal Power Act, and not as part of part I of that Act which comprises this subchapter.

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–575, § 1, Nov. 15, 1990, 104 Stat. 2834, provided that: ''This Act [enacting section 2243 of Title 42, The Public Health and Welfare, amending sections 796 and 824a–3 of this title and sections 2014, 2061, 2201, and 2284 of Title 42, and enacting provisions set out as a note under section 796 of this title] may be cited as the 'Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–473, § 1, Oct. 6, 1988, 102 Stat. 2299, provided that: ''This Act [amending section 824e of this title and enacting provisions set out as notes under section 824e of this title] may be cited as the 'Regulatory Fairness Act'.''

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–495, § 1(a), Oct. 16, 1986, 100 Stat. 1243, provided that: ''This Act [enacting sections 797b and 823b of this title, amending sections 797, 800, 802, 803, 807, 808, 817, 823a, 824a–3, and 824j of this title, and enacting provisions set out as notes under sections 797, 803, 823a, 824a–3, and 825h of this title] may be cited as the 'Electric Consumers Protection Act of 1986'.''

§ 792. Federal Power Commission; creation; number; appointment; term; qualifications; vacancies; quorum; chairman; salary; place of holding sessions

A commission is created and established to be known as the Federal Power Commission (hereinafter referred to as the ''commission'') which shall be composed of five commissioners who shall be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated by the President as chairman and shall be the principal executive officer of the commission. Each chairman, when so designated, shall act as such until the expiration of his term of office.

The commissioners first appointed under this section, as amended, shall continue in office for terms of one, two, three, four, and five years, respectively, from June 23, 1930, the term of each to be designated by the President at the time of nomination. Their successors shall be appointed each for a term of five years from the date of the expiration of the term for which his predecessor was appointed and until his successor is appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office, and except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term. Not more than three of the commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any licensee or to any person, firm, association, or corporation engaged in the generation, transmission, distribution, or sale of power, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold the office of commissioners. Said commissioners shall not engage in any other business, vocation, or employment. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission. Three members of the commission shall constitute a quorum for the transaction of business, and the commission shall have an official seal of which judicial notice shall be taken. The commission shall annually elect a vice chairman to act in case of the absence or disability of the chairman or in case of a vacancy in the office of chairman.

Each commissioner shall receive necessary traveling and subsistence expenses, or per diem allowance in lieu thereof, within the limitation prescribed by law, while away from the seat of government upon official business.

The principal office of the commission shall be in the District of Columbia, where its general sessions shall be held; but whenever the convenience of the public or of the parties may be promoted or delay or expense prevented thereby, the commission may hold special sessions in any part of the United States.

(June 10, 1920, ch. 285, pt. I, § 1, 41 Stat. 1063; June 23, 1930, ch. 572, § 1, 46 Stat. 797; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847; 1950 Reorg. Plan No. 9, § 3, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265; Pub. L. 86–619, § 1, July 12, 1960, 74 Stat. 407.)

CODIFICATION

Provisions which prescribed the compensation of commissioners were omitted as obsolete. Compensation of the Chairman and members of the Commission was

prescribed by sections 5314 and 5315 of Title 5, Government Organization and Employees, prior to termination of the Commission. See Termination of Federal Power Commission; Transfer of Functions note below.

AMENDMENTS

1960—Pub. L. 86–619 provided for continuation in office of a commissioner upon termination of his term until a successor is appointed and has qualified, not beyond expiration of next session of Congress subsequent to the expiration of said fixed term of office.

1930—Act June 23, 1938, amended section generally. Prior to amendment section read as follows: ''A commission is hereby created and established, to be known as the Federal Power Commission (hereinafter referred to as the commission), which shall be composed of the Secretary of War, the Secretary of the Interior, and the Secretary of Agriculture. Two members of the commission shall constitute a quorum for the transaction of business, and the commission shall have an official seal, which shall be judicially noticed. The President shall designate the chairman of the commission.''

REPEALS

Act Oct. 15, 1949, ch. 695, §5(a), 63 Stat. 880, formerly cited as a credit to this section, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 655.

TERMINATION OF FEDERAL POWER COMMISSION; TRANSFER OF FUNCTIONS

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

Executive and administrative functions of Federal Power Commission, with certain reservations, transferred to Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by Reorg. Plan No. 9 of 1950, set out below.

REORGANIZATION PLAN NO. 9 OF 1950

Eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see 5 U.S.C. 901 et seq.].

FEDERAL POWER COMMISSION

SECTION 1. TRANSFER OF FUNCTIONS TO THE CHAIRMAN

(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Federal Power Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b)(1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

SEC. 2. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any functions transferred to the Chairman by the provisions of this reorganization plan.

SEC. 3. DESIGNATION OF CHAIRMAN

The functions of the Commission with respect to choosing a chairman from among the commissioners composing the Commission are hereby transferred to the President.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 10 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Securities and Exchange Commission. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 10 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, March 13, 1950.

§ 793. Appointment of officers and employees of Commission; duties, and salaries; detail of officers and employees from other departments; expenditures authorized

The commission shall have authority to appoint, prescribe the duties, and fix the salaries of, a secretary, a chief engineer, a general counsel, a solicitor, and a chief accountant; and may, subject to the civil service laws, appoint such other officers and employees as are necessary in the execution of its functions and fix their salaries in accordance with chapter 51 and subchapter III of chapter 53 of title 5. The commission may request the President to detail an officer or officers from the Corps of Engineers, or other branches of the United States Army, to serve the commission as engineer officer or officers, or in any other capacity, in field work outside the seat of government, their duties to be prescribed by the commission; and such detail is authorized. The President may also, at the request of the commission, detail, assign, or transfer to the commission, engineers in or under the Departments of the Interior or Agriculture for field work outside the seat of government under the direction of the commission.

The commission may make such expenditures (including expenditures for rent and personal services at the seat of government and elsewhere, for law books, periodicals, and books of

reference, and for printing and binding) as are necessary to execute its functions. Expenditures by the commission shall be allowed and paid upon the presentation of itemized vouchers therefor, approved by the chairman of the commission or by such other member or officer as may be authorized by the commission for that purpose subject to applicable regulations under chapters 1 to 11 of title 40 and division C (except sections 3302, 3306(f), 3307(e), 3501(b), 3509, 3906, 4104, 4710, and 4711) of subtitle I of title 41.

(June 10, 1920, ch. 285, pt. I, § 2, 41 Stat. 1063; June 23, 1930, ch. 572, § 1, 46 Stat. 798; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; Oct. 31, 1951, ch. 654, § 2(14), 65 Stat. 707.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, as amended, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Except for title III of the Act, which is classified generally to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts, the Act was repealed and reenacted by Pub. L. 107–217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304, as chapters 1 to 11 of Title 40, Public Buildings, Property, and Works.

CODIFICATION

All appointments referred to in the first sentence are subject to the civil service laws unless specifically excepted by those laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to the Act of Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and Employees.

As to the compensation of such personnel, sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed Pub. L. 89–554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5. Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

In text, ''Chapter 51 and subchapter III of chapter 53 of title 5'' substituted for ''the Classification Act of 1949, as amended'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

In text, ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3306(f), 3307(e), 3501(b), 3509, 3906, 4104, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949, as amended'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1951—Act Oct. 31, 1951, inserted reference to applicable regulations of the Federal Property and Administrative Services Act of 1949, as amended, at end of section.

1949—Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act of 1923''.

1930—Act June 23, 1930, substituted provisions permitting the commission to appoint, prescribe the duties, and fix the salaries of, a secretary, a chief engineer, a general counsel, a solicitor, and a chief accountant, and to appoint such other officers and employees as are necessary in the execution of its functions and fix their salaries, and authorizing the detail of officers from the Corps of Engineers, or other branches of the United States Army, to serve the commission as engineer officers, or in any other capacity, in field work outside the seat of government, and the detail, assignment or transfer to the commission of engineers in or under the Departments of the Interior or Agriculture for work outside the seat of government for provisions which required the commission to appoint an executive secretary at a salary of $5,000 per year and prescribe his duties, and which permitted the detail of an officer from the United States Engineer Corps to serve the commission as engineer officer; and inserted provisions permitting the commission to make certain expenditures necessary in the execution of its functions, and allowing the payment of expenditures upon the presentation of itemized vouchers approved by authorized persons.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

§ 793a. Repealed. Pub. L. 87–367, title I, § 103(5), Oct. 4, 1961, 75 Stat. 787

Section, Pub. L. 86–626, title I, § 101, July 12, 1960, 74 Stat. 430, authorized the Federal Power Commission to place four additional positions in grade 18, one in grade 17 and one in grade 16 of the General Schedule of the Classification Act of 1949.

§§ 794, 795. Omitted

CODIFICATION

Section 794, which required the work of the commission to be performed by and through the Departments of War, Interior, and Agriculture and their personnel, consisted of the second paragraph of section 2 of act June 10, 1920, ch. 285, 41 Stat. 1063, which was omitted in the revision of said section 2 by act June 23, 1930, ch. 572, § 1, 46 Stat. 798. The first and third paragraphs of said section 2 were formerly classified to sections 793 and 795 of this title.

Section 795, which related to expenses of the commission generally, consisted of the third paragraph of section 2 of act June 10, 1920, ch. 285, 41 Stat. 1063. Such section 2 was amended generally by act June 23, 1930, ch. 572, § 1, 46 Stat. 798, and is classified to section 793 of this title. The first and second paragraphs of said section 2 were formerly classified to sections 793 and 794 of this title.

§ 796. Definitions

The words defined in this section shall have the following meanings for purposes of this chapter, to wit:

(1) ''public lands'' means such lands and interest in lands owned by the United States as are subject to private appropriation and disposal under public land laws. It shall not include ''reservations'', as hereinafter defined;

(2) ''reservations'' means national forests, tribal lands embraced within Indian reservations, military reservations, and other lands and interests in lands owned by the United States, and withdrawn, reserved, or withheld from private appropriation and disposal under the public land laws; also lands and interests in lands acquired and held for any public purposes; but shall not include national monuments or national parks;

(3) ''corporation'' means any corporation, joint-stock company, partnership, association,

business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing. It shall not include ''municipalities'' as hereinafter defined;

(4) ''person'' means an individual or a corporation;

(5) ''licensee'' means any person, State, or municipality licensed under the provisions of section 797 of this title, and any assignee or successor in interest thereof;

(6) ''State'' means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States;

(7) ''municipality'' means a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power;

(8) ''navigable waters'' means those parts of streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, and which either in their natural or improved condition notwithstanding interruptions between the navigable parts of such streams or waters by falls, shallows, or rapids compelling land carriage, are used or suitable for use for the transportation of persons or property in interstate or foreign commerce, including therein all such interrupting falls, shallows, or rapids, together with such other parts of streams as shall have been authorized by Congress for improvement by the United States or shall have been recommended to Congress for such improvement after investigation under its authority;

(9) ''municipal purposes'' means and includes all purposes within municipal powers as defined by the constitution or laws of the State or by the charter of the municipality;

(10) ''Government dam'' means a dam or other work constructed or owned by the United States for Government purposes with or without contribution from others;

(11) ''project'' means complete unit of improvement or development, consisting of a power house, all water conduits, all dams and appurtenant works and structures (including navigation structures) which are a part of said unit, and all storage, diverting, or forebay reservoirs directly connected therewith, the primary line or lines transmitting power therefrom to the point of junction with the distribution system or with the interconnected primary transmission system, all miscellaneous structures used and useful in connection with said unit or any part thereof, and all water-rights, rights-of-way, ditches, dams, reservoirs, lands, or interest in lands the use and occupancy of which are necessary or appropriate in the maintenance and operation of such unit;

(12) ''project works'' means the physical structures of a project;

(13) ''net investment'' in a project means the actual legitimate original cost thereof as defined and interpreted in the ''classification of investment in road and equipment of steam roads, issue of 1914, Interstate Commerce Commission'', plus similar costs of additions thereto and betterments thereof, minus the sum of the following items properly allocated thereto, if and to the extent that such items have been accumulated during the period of the license from earnings in excess of a fair return on such investment: (a) Unappropriated surplus, (b) aggregate credit balances of current depreciation accounts, and (c) aggregate appropriations of surplus or income held in amortization, sinking fund, or similar reserves, or expended for additions or betterments or used for the purposes for which such reserves were created. The term ''cost'' shall include, insofar as applicable, the elements thereof prescribed in said classification, but shall not include expenditures from funds obtained through donations by States, municipalities, individuals, or others, and said classification of investment of the Interstate Commerce Commission shall insofar as applicable be published and promulgated as a part of the rules and regulations of the Commission;

(14) ''Commission'' and ''Commissioner'' means the Federal Power Commission, and a member thereof, respectively;

(15) ''State commission'' means the regulatory body of the State or municipality having jurisdiction to regulate rates and charges for the sale of electric energy to consumers within the State or municipality;

(16) ''security'' means any note, stock, treasury stock, bond, debenture, or other evidence of interest in or indebtedness of a corporation subject to the provisions of this chapter;

(17)(A) ''small power production facility'' means a facility which is an eligible solar, wind, waste, or geothermal facility, or a facility which—

(i) produces electric energy solely by the use, as a primary energy source, of biomass, waste, renewable resources, geothermal resources, or any combination thereof; and

(ii) has a power production capacity which, together with any other facilities located at the same site (as determined by the Commission), is not greater than 80 megawatts;

(B) ''primary energy source'' means the fuel or fuels used for the generation of electric energy, except that such term does not include, as determined under rules prescribed by the Commission, in consultation with the Secretary of Energy—

(i) the minimum amounts of fuel required for ignition, startup, testing, flame stabilization, and control uses, and

(ii) the minimum amounts of fuel required to alleviate or prevent—

(I) unanticipated equipment outages, and

(II) emergencies, directly affecting the public health, safety, or welfare, which would result from electric power outages;

(C) ''qualifying small power production facility'' means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe;

(D) ''qualifying small power producer'' means the owner or operator of a qualifying small power production facility;

(E) ''eligible solar, wind, waste or geothermal facility'' means a facility which produces electric energy solely by the use, as a primary energy source, of solar energy, wind energy, waste resources or geothermal resources; but only if—

(i) either of the following is submitted to the Commission not later than December 31, 1994:

(I) an application for certification of the facility as a qualifying small power production facility; or

(II) notice that the facility meets the requirements for qualification; and

(ii) construction of such facility commences not later than December 31, 1999, or, if not, reasonable diligence is exercised toward the completion of such facility taking into account all factors relevant to construction of the facility.[1]

(18)(A) ''cogeneration facility'' means a facility which produces—

(i) electric energy, and

(ii) steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes;

(B) ''qualifying cogeneration facility'' means a cogeneration facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe;

(C) ''qualifying cogenerator'' means the owner or operator of a qualifying cogeneration facility;

(19) ''Federal power marketing agency'' means any agency or instrumentality of the United States (other than the Tennessee Valley Authority) which sells electric energy;

(20) ''evidentiary hearings'' and ''evidentiary proceeding'' mean a proceeding conducted as provided in sections 554, 556, and 557 of title 5;

(21) ''State regulatory authority'' has the same meaning as the term ''State commission'', except that in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority (as defined in section 2602 of this title), such term means the Tennessee Valley Authority;

(22) ELECTRIC UTILITY.—(A) The term ''electric utility'' means a person or Federal or State agency (including an entity described in section 824(f) of this title) that sells electric energy.[1]

(B) The term ''electric utility'' includes the Tennessee Valley Authority and each Federal power marketing administration.[1]

(23) TRANSMITTING UTILITY.—The term ''transmitting utility'' means an entity (including an entity described in section 824(f) of this title) that owns, operates, or controls facilities used for the transmission of electric energy—

(A) in interstate commerce;

(B) for the sale of electric energy at wholesale.[1]

(24) WHOLESALE TRANSMISSION SERVICES.—The term ''wholesale transmission services'' means the transmission of electric energy sold, or to be sold, at wholesale in interstate commerce.[1]

(25) EXEMPT WHOLESALE GENERATOR.—The term ''exempt wholesale generator'' shall have the meaning provided by section 79z–5a[2] of title 15.[1]

(26) ELECTRIC COOPERATIVE.—The term ''electric cooperative'' means a cooperatively owned electric utility.[1]

(27) RTO.—The term ''Regional Transmission Organization'' or ''RTO'' means an entity of sufficient regional scope approved by the Commission—

(A) to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce; and

(B) to ensure nondiscriminatory access to the facilities.[1]

(28) ISO.—The term ''Independent System Operator'' or ''ISO'' means an entity approved by the Commission—

(A) to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce; and

(B) to ensure nondiscriminatory access to the facilities.[3]

(29) TRANSMISSION ORGANIZATION.—The term ''Transmission Organization'' means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

(June 10, 1920, ch. 285, pt. I, § 3, 41 Stat. 1063; renumbered pt. I and amended, Aug. 26, 1935, ch. 687, title II, §§ 201, 212, 49 Stat. 838, 847; Pub. L. 95–617, title II, § 201, Nov. 9, 1978, 92 Stat. 3134; Pub. L. 96–294, title VI, § 643(a)(1), June 30, 1980, 94 Stat. 770; Pub. L. 101–575, § 3, Nov. 15, 1990, 104 Stat. 2834; Pub. L. 102–46, May 17, 1991, 105 Stat. 249; Pub. L. 102–486, title VII, § 726, Oct. 24, 1992, 106 Stat. 2921; Pub. L. 109–58, title XII, §§ 1253(b), 1291(b), Aug. 8, 2005, 119 Stat. 970, 984.)

REFERENCES IN TEXT

Section 79z–5a of title 15, referred to in par. (25), was repealed by Pub. L. 109–58, title XII, § 1263, Aug. 8, 2005, 119 Stat. 974.

AMENDMENTS

2005—Par. (17)(C). Pub. L. 109–58, § 1253(b)(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: '' 'qualifying small power production facility' means a small power production facility—

''(i) which the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe; and

''(ii) which is owned by a person not primarily engaged in the generation or sale of electric power (other than electric power solely from cogeneration facilities or small power production facilities);''.

Par. (18)(B). Pub. L. 109–58, § 1253(b)(2), amended subpar. (B) generally. Prior to amendment, subpar. (B)

[1] So in original. The period probably should be a semicolon.

[2] See References in Text note below.

[3] So in original. The period probably should be ''; and''.

read as follows: ''`qualifying cogeneration facility' means a cogeneration facility which—

''(i) the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe; and

''(ii) is owned by a person not primarily engaged in the generation or sale of electric power (other than electric power solely from cogeneration facilities or small power production facilities);''.

Pars. (22), (23). Pub. L. 109–58, §1291(b)(1), added pars. (22) and (23) and struck out former pars. (22) and (23) which read as follows:

''(22) `electric utility' means any person or State agency (including any municipality) which sells electric energy; such term includes the Tennessee Valley Authority, but does not include any Federal power marketing agency.

''(23) TRANSMITTING UTILITY.—The term `transmitting utility' means any electric utility, qualifying cogeneration facility, qualifying small power production facility, or Federal power marketing agency which owns or operates electric power transmission facilities which are used for the sale of electric energy at wholesale.''

Pars. (26) to (29). Pub. L. 109–58, §1291(b)(2), added pars. (26) to (29).

1992—Par. (22). Pub. L. 102–486, §726(b), inserted ''(including any municipality)'' after ''State agency''.

Pars. (23) to (25). Pub. L. 102–486, §726(a), added pars. (23) to (25).

1991—Par. (17)(E). Pub. L. 102–46 struck out '', and which would otherwise not qualify as a small power production facility because of the power production capacity limitation contained in subparagraph (A)(ii)'' after ''geothermal resources'' in introductory provisions.

1990—Par. (17)(A). Pub. L. 101–575, §3(a), inserted ''a facility which is an eligible solar, wind, waste, or geothermal facility, or''.

Par. (17)(E). Pub. L. 101–575, §3(b), added subpar. (E).

1980—Par. (17)(A)(i). Pub. L. 96–294 added applicability to geothermal resources.

1978—Pars. (17) to (22). Pub. L. 95–617 added pars. (17) to (22).

1935—Act Aug. 26, 1935, §201, amended definitions of ''reservations'' and ''corporations'', and inserted definitions of ''person'', ''licensee'', ''commission'', ''commissioner'', ''State commission'' and ''security''.

FERC REGULATIONS

Section 4 of Pub. L. 101–575 provided that: ''Unless the Federal Energy Regulatory Commission otherwise specifies, by rule after enactment of this Act [Nov. 15, 1990], any eligible solar, wind, waste, or geothermal facility (as defined in section 3(17)(E) of the Federal Power Act as amended by this Act [16 U.S.C. 796(17)(E)]), which is a qualifying small power production facility (as defined in subparagraph (C) of section 3(17) of the Federal Power Act as amended by this Act)—

''(1) shall be considered a qualifying small power production facility for purposes of part 292 of title 18, Code of Federal Regulations, notwithstanding any size limitations contained in such part, and

''(2) shall not be subject to the size limitation contained in section 292.601(b) of such part.''

STATE AUTHORITIES; CONSTRUCTION

Pub. L. 102–486, title VII, §731, Oct. 24, 1992, 106 Stat. 2921, provided that: ''Nothing in this title [enacting sections 824*l*, 824m, and 825*o*–1 of this title and former sections 79z–5a and 79z–5b of Title 15, Commerce and Trade, and amending this section, sections 824, 824j, 824k, 825n, 825*o*, and 2621 of this title, and provisions formerly set out as a note under former section 79k of Title 15] or in any amendment made by this title shall be construed as affecting or intending to affect, or in any way to interfere with, the authority of any State or local government relating to environmental protection or the siting of facilities.''

TERMINATION OF FEDERAL POWER COMMISSION; TRANSFER OF FUNCTIONS

Federal Power Commission terminated and functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104–88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 701 of Title 49.

§ 797. General powers of Commission

The Commission is authorized and empowered—

(a) Investigations and data

To make investigations and to collect and record data concerning the utilization of the water resources of any region to be developed, the water-power industry and its relation to other industries and to interstate or foreign commerce, and concerning the location, capacity, development costs, and relation to markets of power sites, and whether the power from Government dams can be advantageously used by the United States for its public purposes, and what is a fair value of such power, to the extent the Commission may deem necessary or useful for the purposes of this chapter.

(b) Statements as to investment of licensees in projects; access to projects, maps, etc.

To determine the actual legitimate original cost of and the net investment in a licensed project, and to aid the Commission in such determinations, each licensee shall, upon oath, within a reasonable period of time to be fixed by the Commission, after the construction of the original project or any addition thereto or betterment thereof, file with the Commission in such detail as the Commission may require, a statement in duplicate showing the actual legitimate original cost of construction of such project addition, or betterment, and of the price paid for water rights, rights-of-way, lands, or interest in lands. The licensee shall grant to the Commission or to its duly authorized agent or agents, at all reasonable times, free access to such project, addition, or betterment, and to all maps, profiles, contracts, reports of engineers, accounts, books, records, and all other papers and documents relating thereto. The statement of actual legitimate original cost of said project, and revisions thereof as determined by the Commission, shall be filed with the Secretary of the Treasury.

(c) Cooperation with executive departments; information and aid furnished Commission

To cooperate with the executive departments and other agencies of State or National Govern-

ments in such investigations; and for such purpose the several departments and agencies of the National Government are authorized and directed upon the request of the Commission, to furnish such records, papers, and information in their possession as may be requested by the Commission, and temporarily to detail to the Commission such officers or experts as may be necessary in such investigations.

(d) Publication of information, etc.; reports to Congress

To make public from time to time the information secured hereunder, and to provide for the publication of its reports and investigations in such form and manner as may be best adapted for public information and use. The Commission, on or before the 3d day of January of each year, shall submit to Congress for the fiscal year preceding a classified report showing the permits and licenses issued under this subchapter, and in each case the parties thereto, the terms prescribed, and the moneys received if any, or account thereof.

(e) Issue of licenses for construction, etc., of dams, conduits, reservoirs, etc.

To issue licenses to citizens of the United States, or to any association of such citizens, or to any corporation organized under the laws of the United States or any State thereof, or to any State or municipality for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along, from, or in any of the streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water or water power from any Government dam, except as herein provided: *Provided*, That licenses shall be issued within any reservation only after a finding by the Commission that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired, and shall be subject to and contain such conditions as the Secretary of the department under whose supervision such reservation falls shall deem necessary for the adequate protection and utilization of such reservation:[1] The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such conditions. All disputed issues of material fact raised by any party shall be determined in a single trial-type hearing to be conducted by the relevant resource agency in accordance with the regulations promulgated under this subsection and within the time frame established by the Commission for each license proceeding. Within 90 days of August 8, 2005, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission.[2] *Provided further*, That no license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting the navigation have been approved by the Chief of Engineers and the Secretary of the Army. Whenever the contemplated improvement is, in the judgment of the Commission, desirable and justified in the public interest for the purpose of improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, a finding to that effect shall be made by the Commission and shall become a part of the records of the Commission: *Provided further*, That in case the Commission shall find that any Government dam may be advantageously used by the United States for public purposes in addition to navigation, no license therefor shall be issued until two years after it shall have reported to Congress the facts and conditions relating thereto, except that this provision shall not apply to any Government dam constructed prior to June 10, 1920: *And provided further*, That upon the filing of any application for a license which has not been preceded by a preliminary permit under subsection (f) of this section, notice shall be given and published as required by the proviso of said subsection. In deciding whether to issue any license under this subchapter for any project, the Commission, in addition to the power and development purposes for which licenses are issued, shall give equal consideration to the purposes of energy conservation, the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat), the protection of recreational opportunities, and the preservation of other aspects of environmental quality.

(f) Preliminary permits; notice of application

To issue preliminary permits for the purpose of enabling applicants for a license hereunder to secure the data and to perform the acts required by section 802 of this title: *Provided, however*, That upon the filing of any application for a preliminary permit by any person, association, or corporation the Commission, before granting such application, shall at once give notice of such application in writing to any State or municipality likely to be interested in or affected by such application; and shall also publish notice of such application once each week for four weeks in a daily or weekly newspaper published in the county or counties in which the project or any part hereof or the lands affected thereby are situated.

(g) Investigation of occupancy for developing power; orders

Upon its own motion to order an investigation of any occupancy of, or evidenced intention to occupy, for the purpose of developing electric power, public lands, reservations, or streams or other bodies of water over which Congress has

[1] So in original. The colon probably should be a period.

[2] So in original. The period probably should be a colon.

jurisdiction under its authority to regulate commerce with foreign nations and among the several States by any person, corporation, State, or municipality and to issue such order as it may find appropriate, expedient, and in the public interest to conserve and utilize the navigation and water-power resources of the region.

(June 10, 1920, ch. 285, pt. I, §4, 41 Stat. 1065; June 23, 1930, ch. 572, §2, 46 Stat. 798; renumbered pt. I and amended, Aug. 26, 1935, ch. 687, title II, §§202, 212, 49 Stat. 839, 847; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Pub. L. 97–375, title II, §212, Dec. 21, 1982, 96 Stat. 1826; Pub. L. 99–495, §3(a), Oct. 16, 1986, 100 Stat. 1243; Pub. L. 109–58, title II, §241(a), Aug. 8, 2005, 119 Stat. 674.)

AMENDMENTS

2005—Subsec. (e). Pub. L. 109–58, which directed amendment of subsec. (e) by inserting after ''adequate protection and utilization of such reservation.'' at end of first proviso ''The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such conditions. All disputed issues of material fact raised by any party shall be determined in a single trial-type hearing to be conducted by the relevant resource agency in accordance with the regulations promulgated under this subsection and within the time frame established by the Commission for each license proceeding. Within 90 days of August 8, 2005, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission.'', was executed by making the insertion after ''adequate protection and utilization of such reservation:'' at end of first proviso, to reflect the probable intent of Congress.

1986—Subsec. (e). Pub. L. 99–495 inserted provisions that in deciding whether to issue any license under this subchapter, the Commission, in addition to power and development purposes, is required to give equal consideration to purposes of energy conservation, the protection, mitigation of damage to, and enhancement of, fish and wildlife, the protection of recreational opportunities, and the preservation of environmental quality.

1982—Subsec. (d). Pub. L. 97–375 struck out provision that the report contain the names and show the compensation of the persons employed by the Commission.

1935—Subsec. (a). Act Aug. 26, 1935, §202, struck out last paragraph of subsec. (a) which related to statements of cost of construction, etc., and free access to projects, maps, etc., and is now covered by subsec. (b).

Subsecs. (b), (c). Act Aug. 26, 1935, §202, added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

Subsec. (d). Act Aug. 26, 1935, §202, redesignated subsec. (c) as (d) and substituted ''3d day of January'' for ''first Monday in December'' in second sentence. Former subsec. (d) redesignated (e).

Subsec. (e). Act Aug. 26, 1935, §202, redesignated subsec. (d) as (e) and substituted ''streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States'' for ''navigable waters of the United States'' and ''subsection (f)'' for ''subsection (e)''. Former subsec. (e) redesignated (f).

Subsec. (f). Act Aug. 26, 1935, §202, redesignated subsec. (e) as (f) and substituted ''once each week for four weeks'' for ''for eight weeks''. Former section (f), which related to the power of the Commission to prescribe regulations for the establishment of a system of accounts and the maintenance thereof, was struck out by act Aug. 26, 1935.

Subsec. (g). Act Aug. 26, 1935, §202, added subsec. (g). Former subsec. (g), which related to the power of the Commission to hold hearings and take testimony by deposition, was struck out.

Subsec. (h). Act Aug. 26, 1935, §202, struck out subsec. (h) which related to the power of the Commission to perform any and all acts necessary and proper for the purpose of carrying out the provisions of this chapter.

1930—Subsec. (d). Act June 23, 1930, inserted sentence respecting contents of report.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 18 of Pub. L. 99–495 provided that: ''Except as otherwise provided in this Act, the amendments made by this Act [enacting section 823b of this title and amending this section and sections 800, 802, 803, 807, 808, 817, 823a, 824a–3, and 824j of this title] shall take effect with respect to each license, permit, or exemption issued under the Federal Power Act after the enactment of this Act [Oct. 16, 1986]. The amendments made by sections 6 and 12 of this Act [enacting section 823b of this title and amending section 817 of this title] shall apply to licenses, permits, and exemptions without regard to when issued.''

SAVINGS PROVISION

Section 17(a) of Pub. L. 99–495 provided that: ''Nothing in this Act [see Short Title of 1986 Amendment note set out under section 791a of this title] shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this Act—

''(1) affect the rights or jurisdiction of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any ground water resource;

''(2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States;

''(3) alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right;

''(4) affect, expand, or create rights to use transmission facilities owned by the Federal Government;

''(5) alter, amend, repeal, interpret, modify, or be in conflict with, the Treaty rights or other rights of any Indian tribe;

''(6) permit the filing of any competing application in any relicensing proceeding where the time for filing a competing application expired before the enactment of this Act [Oct. 16, 1986]; or

''(7) modify, supersede, or affect the Pacific Northwest Electric Power Planning and Conservation Act [16 U.S.C. 839 et seq.].''

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (d) of this section relating to submitting a classified annual report to Congress showing permits and licenses issued under this subchapter, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 91 of House Document No. 103–7.

IMPROVEMENT AT EXISTING FEDERAL FACILITIES

Pub. L. 102–486, title XXIV, §2404, Oct. 24, 1992, 106 Stat. 3097, as amended by Pub. L. 103–437, §6(d)(37), Nov. 2, 1994, 108 Stat. 4585; Pub. L. 104–66, title I, §1052(h),

Dec. 21, 1995, 109 Stat. 718, directed Secretary of the Interior and Secretary of the Army, in consultation with Secretary of Energy, to perform reconnaissance level studies, for each of the Nation's principal river basins, of cost effective opportunities to increase hydropower production at existing federally-owned or operated water regulation, storage, and conveyance facilities, with such studies to be completed within 2 years after Oct. 24, 1992, and transmitted to Congress, further provided that in cases where such studies had been prepared by any agency of the United States and published within ten years prior to Oct. 24, 1992, Secretary of the Interior, or Secretary of the Army, could choose to rely on information developed by prior studies rather than conduct new studies, and further provided for appropriations for fiscal years 1993 to 1995.

WATER CONSERVATION AND ENERGY PRODUCTION

Pub. L. 102–486, title XXIV, § 2405, Oct. 24, 1992, 106 Stat. 3098, provided that:

''(a) STUDIES.—The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388) [see Short Title note under section 371 of Title 43, Public Lands], and Acts supplementary thereto and amendatory thereof, is authorized and directed to conduct feasibility investigations of opportunities to increase the amount of hydroelectric energy available for marketing by the Secretary from Federal hydroelectric power generation facilities resulting from a reduction in the consumptive use of such power for Federal reclamation project purposes or as a result of an increase in the amount of water available for such generation because of water conservation efforts on Federal reclamation projects or a combination thereof. The Secretary of the Interior is further authorized and directed to conduct feasibility investigations of opportunities to mitigate damages to or enhance fish and wildlife as a result of increasing the amount of water available for such purposes because of water conservation efforts on Federal reclamation projects. Such feasibility investigations shall include, but not be limited to—

''(1) an analysis of the technical, environmental, and economic feasibility of reducing the amount of water diverted upstream of such Federal hydroelectric power generation facilities by Federal reclamation projects;

''(2) an estimate of the reduction, if any, of project power consumed as a result of the decreased amount of diversion;

''(3) an estimate of the increase in the amount of electrical energy and related revenues which would result from the marketing of such power by the Secretary;

''(4) an estimate of the fish and wildlife benefits which would result from the decreased or modified diversions;

''(5) a finding by the Secretary of the Interior that the activities proposed in the feasibility study can be carried out in accordance with applicable Federal and State law, interstate compacts and the contractual obligations of the Secretary; and

''(6) a finding by the affected Federal Power Marketing Administrator that the hydroelectric component of the proposed water conservation feature is cost-effective and that the affected Administrator is able to market the hydro-electric power expected to be generated.

''(b) CONSULTATION.—In preparing feasibility studies pursuant to this section, the Secretary of the Interior shall consult with, and seek the recommendations of, affected State, local and Indian tribal interests, and shall provide for appropriate public comment.

''(c) AUTHORIZATION.—There is hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to carry out this section.''

PROJECTS ON FRESH WATERS IN STATE OF HAWAII

Pub. L. 102–486, title XXIV, § 2408, Oct. 24, 1992, 106 Stat. 3100, directed Federal Energy Regulatory Commission, in consultation with State of Hawaii, to carry out study of hydroelectric licensing in State of Hawaii for purposes of considering whether such licensing should be transferred to State, and directed Commission to complete study and submit report containing results of study to Congress within 18 months after Oct. 24, 1992.

§ 797a. Congressional authorization for permits, licenses, leases, or authorizations for dams, conduits, reservoirs, etc., within national parks or monuments

On and after March 3, 1921, no permit, license, lease, or authorization for dams, conduits, reservoirs, power houses, transmission lines, or other works for storage or carriage of water, or for the development, transmission, or utilization of power within the limits as constituted, March 3, 1921, of any national park or national monument shall be granted or made without specific authority of Congress.

(Mar. 3, 1921, ch. 129, 41 Stat. 1353.)

CODIFICATION

Provisions repealing so much of this chapter ''as authorizes licensing such uses of existing national parks and national monuments by the Federal Power Commission'' have been omitted.

Section was not enacted as part of the Federal Power Act which generally comprises this chapter.

Section 212 of act Aug. 26, 1935, ch. 687, title II, 49 Stat. 847, provided that nothing in this chapter, as amended should be construed to repeal or amend the provisions of the act approved Mar. 3, 1921 (41 Stat. 1353) [16 U.S.C. 797a] or the provisions of any other Act relating to national parks and national monuments.

§ 797b. Duty to keep Congress fully and currently informed

The Federal Energy Regulatory Commission shall keep the Committee on Energy and Commerce of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate fully and currently informed regarding actions of the Commission with respect to the provisions of Part I of the Federal Power Act [16 U.S.C. 791a et seq.].

(Pub. L. 99–495, § 16, Oct. 16, 1986, 100 Stat. 1259.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended. Part I of the Federal Power Act is classified generally to this subchapter (§ 791a et seq.). For complete classification of this Act to the Code, see section 791a of this title and Tables.

CODIFICATION

Section was enacted as part of the Electric Consumers Protection Act of 1986, and not as part of the Federal Power Act which generally comprises this chapter.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representa-

tives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§ 797c. Dams in National Park System units

After October 24, 1992, the Federal Energy Regulatory Commission may not issue an original license under Part I of the Federal Power Act [16 U.S.C. 791a et seq.] (nor an exemption from such Part) for any new hydroelectric power project located within the boundaries of any unit of the National Park System that would have a direct adverse effect on Federal lands within any such unit. Nothing in this section shall be construed as repealing any existing provision of law (or affecting any treaty) explicitly authorizing a hydroelectric power project.

(Pub. L. 102–486, title XXIV, § 2402, Oct. 24, 1992, 106 Stat. 3097.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended. Part I of the Act is classified generally to this subchapter (§ 791a et seq.). For complete classification of this Act to the Code, see section 791a of this title and Tables.

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Federal Power Act which generally comprises this chapter.

§ 797d. Third party contracting by FERC

(a) Environmental impact statements

Where the Federal Energy Regulatory Commission is required to prepare a draft or final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 and following) in connection with an application for a license under part I of the Federal Power Act [16 U.S.C. 791a et seq.], the Commission may permit, at the election of the applicant, a contractor, consultant or other person funded by the applicant and chosen by the Commission from among a list of such individuals or companies determined by the Commission to be qualified to do such work, to prepare such statement for the Commission. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall establish the scope of work and procedures to assure that the contractor, consultant or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(b) Environmental assessments

Where an environmental assessment is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 and following) in connection with an application for a license under part I of the Federal Power Act [16 U.S.C. 791a et seq.], the Commission may permit an applicant, or a contractor, consultant or other person selected by the applicant, to prepare such environmental assessment. The Commission shall institute procedures, including pre-application consultations, to advise potential applicants of studies or other information foreseeably required by the Commission. The Commission may allow the filing of such applicant-prepared environmental assessments as part of the application. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(c) Effective date

This section shall take effect with respect to license applications filed after October 24, 1992.

(Pub. L. 102–486, title XXIV, § 2403, Oct. 24, 1992, 106 Stat. 3097.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a) and (b), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Federal Power Act, referred to in subsecs. (a) and (b), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended. Part I of the Act is classified generally to this subchapter (§ 791a et seq.). For complete classification of this Act to the Code, see section 791a of this title and Tables.

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Federal Power Act which generally comprises this chapter.

§ 798. Purpose and scope of preliminary permits; transfer and cancellation

Each preliminary permit issued under this subchapter shall be for the sole purpose of maintaining priority of application for a license under the terms of this chapter for such period or periods, not exceeding a total of three years, as in the discretion of the Commission may be necessary for making examinations and surveys, for preparing maps, plans, specifications, and estimates, and for making financial arrangements. Each such permit shall set forth the conditions under which priority shall be maintained. Such permits shall not be transferable, and may be canceled by order of the Commission upon failure of permittees to comply with the conditions thereof or for other good cause shown after notice and opportunity for hearing.

(June 10, 1920, ch. 285, pt. I, § 5, 41 Stat. 1067; renumbered pt. I and amended, Aug. 26, 1935, ch. 687, title II, §§ 203, 212, 49 Stat. 841, 847.)

AMENDMENTS

1935—Act Aug. 26, 1935, § 203, amended section generally, striking out ''and a license issued'' at end of second sentence and inserting ''or for other good cause shown after notice and opportunity for hearing'' in last sentence.

§ 799. License; duration, conditions, revocation, alteration, or surrender

Licenses under this subchapter shall be issued for a period not exceeding fifty years. Each such license shall be conditioned upon acceptance by the licensee of all of the terms and conditions of this chapter and such further conditions, if any, as the Commission shall prescribe in conformity with this chapter, which said terms and condi-

tions and the acceptance thereof shall be expressed in said license. Licenses may be revoked only for the reasons and in the manner prescribed under the provisions of this chapter, and may be altered or surrendered only upon mutual agreement between the licensee and the Commission after thirty days' public notice.

(June 10, 1920, ch. 285, pt. I, § 6, 41 Stat. 1067; renumbered pt. I and amended, Aug. 26, 1935, ch. 687, title II, §§ 204, 212, 49 Stat. 841, 847; Pub. L. 104–106, div. D, title XLIII, § 4321(i)(6), Feb. 10, 1996, 110 Stat. 676; Pub. L. 104–316, title I, § 108(a), Oct. 19, 1996, 110 Stat. 3832; Pub. L. 105–192, § 2, July 14, 1998, 112 Stat. 625.)

AMENDMENTS

1998—Pub. L. 105–192 inserted at end ''Licenses may be revoked only for the reasons and in the manner prescribed under the provisions of this chapter, and may be altered or surrendered only upon mutual agreement between the licensee and the Commission after thirty days' public notice.''

1996—Pub. L. 104–316 struck out at end ''Licenses may be revoked only for the reasons and in the manner prescribed under the provisions of this chapter, and may be altered or surrendered only upon mutual agreement between the licensee and the Commission after thirty days' public notice.''

Pub. L. 104–106 struck out at end ''Copies of all licenses issued under the provisions of this subchapter and calling for the payment of annual charges shall be deposited with the General Accounting Office, in compliance with section 20 of title 41.''

1935—Act Aug. 26, 1935, § 204, amended section generally, substituting ''thirty days'' for ''ninety days'' in third sentence and inserting last sentence.

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2302 of Title 10, Armed Forces.

§ 800. Issuance of preliminary permits or licenses

(a) Preference

In issuing preliminary permits hereunder or original licenses where no preliminary permit has been issued, the Commission shall give preference to applications therefor by States and municipalities, provided the plans for the same are deemed by the Commission equally well adapted, or shall within a reasonable time to be fixed by the Commission be made equally well adapted, to conserve and utilize in the public interest the water resources of the region; and as between other applicants, the Commission may give preference to the applicant the plans of which it finds and determines are best adapted to develop, conserve, and utilize in the public interest the water resources of the region, if it be satisfied as to the ability of the applicant to carry out such plans.

(b) Development of water resources by United States; reports

Whenever, in the judgment of the Commission, the development of any water resources for public purposes should be undertaken by the United States itself, the Commission shall not approve any application for any project affecting such development, but shall cause to be made such examinations, surveys, reports, plans, and estimates of the cost of the proposed development as it may find necessary, and shall submit its findings to Congress with such recommendations as it may find appropriate concerning such development.

(c) Assumption of project by United States after expiration of license

Whenever, after notice and opportunity for hearing, the Commission determines that the United States should exercise its right upon or after the expiration of any license to take over any project or projects for public purposes, the Commission shall not issue a new license to the original licensee or to a new licensee but shall submit its recommendation to Congress together with such information as it may consider appropriate.

(June 10, 1920, ch. 285, pt. I, § 7, 41 Stat. 1067; renumbered pt. I and amended, Aug. 26, 1935, ch. 687, title II, §§ 205, 212, 49 Stat. 842, 847; Pub. L. 90–451, § 1, Aug. 3, 1968, 82 Stat. 616; Pub. L. 99–495, § 2, Oct. 16, 1986, 100 Stat. 1243.)

CODIFICATION

Additional provisions in the section as enacted by act June 10, 1920, directing the commission to investigate the cost and economic value of the power plant outlined in project numbered 3, House Document numbered 1400, Sixty-second Congress, third session, and also in connection with such project to submit plans and estimates of cost necessary to secure an increased water supply for the District of Columbia, have been omitted as temporary and executed.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–495 inserted ''original'' after ''hereunder or'' and substituted ''issued,'' for ''issued and in issuing licenses to new licensees under section 808 of this title''.

1968—Subsec. (c). Pub. L. 90–451 added subsec. (c).

1935—Act Aug. 26, 1935, § 205, amended section generally, striking out ''navigation and'' before ''water resources'' wherever appearing, and designating paragraphs as subsecs. (a) and (b).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–495 effective with respect to each license, permit, or exemption issued under this chapter after Oct. 16, 1986, see section 18 of Pub. L. 99–495, set out as a note under section 797 of this title.

§ 801. Transfer of license; obligations of transferee

No voluntary transfer of any license, or of the rights thereunder granted, shall be made without the written approval of the commission; and any successor or assign of the rights of such licensee, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the conditions of the license under which such rights are held by such licensee and also subject to all the provisions and conditions of this chapter to the same extent as though such successor or assign were the original licensee under this chapter: *Provided*, That a mortgage or trust deed or judicial sales made thereunder or under tax sales shall not be deemed voluntary transfers within the meaning of this section.

(June 10, 1920, ch. 285, pt. I, § 8, 41 Stat. 1068; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847.)

§ 802. Information to accompany application for license; landowner notification

(a) Each applicant for a license under this chapter shall submit to the commission—

(1) Such maps, plans, specifications, and estimates of cost as may be required for a full understanding of the proposed project. Such maps, plans, and specifications when approved by the commission shall be made a part of the license; and thereafter no change shall be made in said maps, plans, or specifications until such changes shall have been approved and made a part of such license by the commission.

(2) Satisfactory evidence that the applicant has complied with the requirements of the laws of the State or States within which the proposed project is to be located with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes and with respect to the right to engage in the business of developing, transmitting and distributing power, and in any other business necessary to effect the purposes of a license under this chapter.

(3)[1] Such additional information as the commission may require.

(b) Upon the filing of any application for a license (other than a license under section 808 of this title) the applicant shall make a good faith effort to notify each of the following by certified mail:

(1) Any person who is an owner of record of any interest in the property within the bounds of the project.

(2) Any Federal, State, municipal or other local governmental agency likely to be interested in or affected by such application.

(June 10, 1920, ch. 285, pt. I, § 9, 41 Stat. 1068; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847; Pub. L. 99–495, § 14, Oct. 16, 1986, 100 Stat. 1257.)

CODIFICATION

Former subsec. (c), included in the provisions designated as subsec. (a) by Pub. L. 99–495, has been editorially redesignated as par. (3) of subsec. (a) as the probable intent of Congress.

AMENDMENTS

1986—Pub. L. 99–495 designated existing provisions as subsec. (a), redesignated former subsecs. (a) and (b) as pars. (1) and (2) of subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–495 effective with respect to each license, permit, or exemption issued under this chapter after Oct. 16, 1986, see section 18 of Pub. L. 99–495, set out as a note under section 797 of this title.

§ 803. Conditions of license generally

All licenses issued under this subchapter shall be on the following conditions:

(a) Modification of plans; factors considered to secure adaptability of project; recommendations for proposed terms and conditions

(1) That the project adopted, including the maps, plans, and specifications, shall be such as in the judgment of the Commission will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, for the adequate protection, mitigation, and enhancement of fish and wildlife (including related spawning grounds and habitat), and for other beneficial public uses, including irrigation, flood control, water supply, and recreational and other purposes referred to in section 797(e) of this title[1] if necessary in order to secure such plan the Commission shall have authority to require the modification of any project and of the plans and specifications of the project works before approval.

(2) In order to ensure that the project adopted will be best adapted to the comprehensive plan described in paragraph (1), the Commission shall consider each of the following:

(A) The extent to which the project is consistent with a comprehensive plan (where one exists) for improving, developing, or conserving a waterway or waterways affected by the project that is prepared by—

(i) an agency established pursuant to Federal law that has the authority to prepare such a plan; or

(ii) the State in which the facility is or will be located.

(B) The recommendations of Federal and State agencies exercising administration over flood control, navigation, irrigation, recreation, cultural and other relevant resources of the State in which the project is located, and the recommendations (including fish and wildlife recommendations) of Indian tribes affected by the project.

(C) In the case of a State or municipal applicant, or an applicant which is primarily engaged in the generation or sale of electric power (other than electric power solely from cogeneration facilities or small power production facilities), the electricity consumption efficiency improvement program of the applicant, including its plans, performance and capabilities for encouraging or assisting its customers to conserve electricity cost-effectively, taking into account the published policies, restrictions, and requirements of relevant State regulatory authorities applicable to such applicant.

(3) Upon receipt of an application for a license, the Commission shall solicit recommendations from the agencies and Indian tribes identified in subparagraphs (A) and (B) of paragraph (2) for proposed terms and conditions for the Commission's consideration for inclusion in the license.

(b) Alterations in project works

That except when emergency shall require for the protection of navigation, life, health, or property, no substantial alteration or addition not in conformity with the approved plans shall be made to any dam or other project works constructed hereunder of an installed capacity in excess of two thousand horsepower without the prior approval of the Commission; and any emergency alteration or addition so made shall thereafter be subject to such modification and change as the Commission may direct.

[1] See Codification note below.

[1] So in original. Probably should be followed by ''; and''.

(c) Maintenance and repair of project works; liability of licensee for damages

That the licensee shall maintain the project works in a condition of repair adequate for the purposes of navigation and for the efficient operation of said works in the development and transmission of power, shall make all necessary renewals and replacements, shall establish and maintain adequate depreciation reserves for such purposes, shall so maintain, and operate said works as not to impair navigation, and shall conform to such rules and regulations as the Commission may from time to time prescribe for the protection of life, health, and property. Each licensee hereunder shall be liable for all damages occasioned to the property of others by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto, constructed under the license and in no event shall the United States be liable therefor.

(d) Amortization reserves

That after the first twenty years of operation, out of surplus earned thereafter, if any, accumulated in excess of a specified reasonable rate of return upon the net investment of a licensee in any project or projects under license, the licensee shall establish and maintain amortization reserves, which reserves shall, in the discretion of the Commission, be held until the termination of the license or be applied from time to time in reduction of the net investment. Such specified rate of return and the proportion of such surplus earnings to be paid into and held in such reserves shall be set forth in the license. For any new license issued under section 808 of this title, the amortization reserves under this subsection shall be maintained on and after the effective date of such new license.

(e) Annual charges payable by licensees; maximum rates; application; review and report to Congress

(1) That the licensee shall pay to the United States reasonable annual charges in an amount to be fixed by the Commission for the purpose of reimbursing the United States for the costs of the administration of this subchapter, including any reasonable and necessary costs incurred by Federal and State fish and wildlife agencies and other natural and cultural resource agencies in connection with studies or other reviews carried out by such agencies for purposes of administering their responsibilities under this subchapter; for recompensing it for the use, occupancy, and enjoyment of its lands or other property; and for the expropriation to the Government of excessive profits until the respective States shall make provision for preventing excessive profits or for the expropriation thereof to themselves, or until the period of amortization as herein provided is reached, and in fixing such charges the Commission shall seek to avoid increasing the price to the consumers of power by such charges, and any such charges may be adjusted from time to time by the Commission as conditions may require: *Provided*, That, subject to annual appropriations Acts, the portion of such annual charges imposed by the Commission under this subsection to cover the reasonable and necessary costs of such agencies shall be available to such agencies (in addition to other funds appropriated for such purposes) solely for carrying out such studies and reviews and shall remain available until expended: *Provided*, That when licenses are issued involving the use of Government dams or other structures owned by the United States or tribal lands embraced within Indian reservations the Commission shall, subject to the approval of the Secretary of the Interior in the case of such dams or structures in reclamation projects and, in the case of such tribal lands, subject to the approval of the Indian tribe having jurisdiction of such lands as provided in section 476 of title 25, fix a reasonable annual charge for the use thereof, and such charges may with like approval be readjusted by the Commission at the end of twenty years after the project is available for service and at periods of not less than ten years thereafter upon notice and opportunity for hearing: *Provided further*, That licenses for the development, transmission, or distribution of power by States or municipalities shall be issued and enjoyed without charge to the extent such power is sold to the public without profit or is used by such State or municipality for State or municipal purposes, except that as to projects constructed or to be constructed by States or municipalities primarily designed to provide or improve navigation, licenses therefor shall be issued without charge; and that licenses for the development, transmission, or distribution of power for domestic, mining, or other beneficial use in projects of not more than two thousand horsepower installed capacity may be issued without charge, except on tribal lands within Indian reservations; but in no case shall a license be issued free of charge for the development and utilization of power created by any Government dam and that the amount charged therefor in any license shall be such as determined by the Commission: *Provided however*, That no charge shall be assessed for the use of any Government dam or structure by any licensee if, before January 1, 1985, the Secretary of the Interior has entered into a contract with such licensee that meets each of the following requirements:

(A) The contract covers one or more projects for which a license was issued by the Commission before January 1, 1985.

(B) The contract contains provisions specifically providing each of the following:

(i) A powerplant may be built by the licensee utilizing irrigation facilities constructed by the United States.

(ii) The powerplant shall remain in the exclusive control, possession, and ownership of the licensee concerned.

(iii) All revenue from the powerplant and from the use, sale, or disposal of electric energy from the powerplant shall be, and remain, the property of such licensee.

(C) The contract is an amendatory, supplemental and replacement contract between the United States and: (i) the Quincy-Columbia Basin Irrigation District (Contract No. 14–06–100–6418); (ii) the East Columbia Basin Irrigation District (Contract No. 14–06–100–6419); or, (iii) the South Columbia Basin Irrigation District (Contract No. 14–06–100–6420).

This paragraph shall apply to any project covered by a contract referred to in this paragraph only during the term of such contract unless otherwise provided by subsequent Act of Congress. In the event an overpayment of any charge due under this section shall be made by a licensee, the Commission is authorized to allow a credit for such overpayment when charges are due for any subsequent period.

(2) In the case of licenses involving the use of Government dams or other structures owned by the United States, the charges fixed (or readjusted) by the Commission under paragraph (1) for the use of such dams or structures shall not exceed 1 mill per kilowatt-hour for the first 40 gigawatt-hours of energy a project produces in any year, 1½ mills per kilowatt-hour for over 40 up to and including 80 gigawatt-hours in any year, and 2 mills per kilowatt-hour for any energy the project produces over 80 gigawatt-hours in any year. Except as provided in subsection (f) of this section, such charge shall be the only charge assessed by any agency of the United States for the use of such dams or structures.

(3) The provisions of paragraph (2) shall apply with respect to—

(A) all licenses issued after October 16, 1986; and

(B) all licenses issued before October 16, 1986, which—

(i) did not fix a specific charge for the use of the Government dam or structure involved; and

(ii) did not specify that no charge would be fixed for the use of such dam or structure.

(4) Every 5 years, the Commission shall review the appropriateness of the annual charge limitations provided for in this subsection and report to Congress concerning its recommendations thereon.

(f) Reimbursement by licensee of other licensees, etc.

That whenever any licensee hereunder is directly benefited by the construction work of another licensee, a permittee, or of the United States of a storage reservoir or other headwater improvement, the Commission shall require as a condition of the license that the licensee so benefited shall reimburse the owner of such reservoir or other improvements for such part of the annual charges for interest, maintenance, and depreciation thereon as the Commission may deem equitable. The proportion of such charges to be paid by any licensee shall be determined by the Commission. The licensees or permittees affected shall pay to the United States the cost of making such determination as fixed by the Commission.

Whenever such reservoir or other improvement is constructed by the United States the Commission shall assess similar charges against any licensee directly benefited thereby, and any amount so assessed shall be paid into the Treasury of the United States, to be reserved and appropriated as a part of the special fund for headwater improvements as provided in section 810 of this title.

Whenever any power project not under license is benefited by the construction work of a licensee or permittee, the United States or any agency thereof, the Commission, after notice to the owner or owners of such unlicensed project, shall determine and fix a reasonable and equitable annual charge to be paid to the licensee or permittee on account of such benefits, or to the United States if it be the owner of such headwater improvement.

(g) Conditions in discretion of commission

Such other conditions not inconsistent with the provisions of this chapter as the commission may require.

(h) Monopolistic combinations; prevention or minimization of anticompetitive conduct; action by Commission regarding license and operation and maintenance of project

(1) Combinations, agreements, arrangements, or understandings, express or implied, to limit the output of electrical energy, to restrain trade, or to fix, maintain, or increase prices for electrical energy or service are hereby prohibited.

(2) That conduct under the license that: (A) results in the contravention of the policies expressed in the antitrust laws; and (B) is not otherwise justified by the public interest considering regulatory policies expressed in other applicable law (including but not limited to those contained in subchapter II of this chapter) shall be prevented or adequately minimized by means of conditions included in the license prior to its issuance. In the event it is impossible to prevent or adequately minimize the contravention, the Commission shall refuse to issue any license to the applicant for the project and, in the case of an existing project, shall take appropriate action to provide thereafter for the operation and maintenance of the affected project and for the issuing of a new license in accordance with section 808 of this title.

(i) Waiver of conditions

In issuing licenses for a minor part only of a complete project, or for a complete project of not more than two thousand horsepower installed capacity, the Commission may in its discretion waive such conditions, provisions, and requirements of this subchapter, except the license period of fifty years, as it may deem to be to the public interest to waive under the circumstances: *Provided*, That the provisions hereof shall not apply to annual charges for use of lands within Indian reservations.

(j) Fish and wildlife protection, mitigation and enhancement; consideration of recommendations; findings

(1) That in order to adequately and equitably protect, mitigate damages to, and enhance, fish and wildlife (including related spawning grounds and habitat) affected by the development, operation, and management of the project, each license issued under this subchapter shall include conditions for such protection, mitigation, and enhancement. Subject to paragraph (2), such conditions shall be based on recommendations received pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) from the National Marine Fisheries Service, the United States Fish and Wildlife Service, and State fish and wildlife agencies.

(2) Whenever the Commission believes that any recommendation referred to in paragraph (1) may be inconsistent with the purposes and requirements of this subchapter or other applicable law, the Commission and the agencies referred to in paragraph (1) shall attempt to resolve any such inconsistency, giving due weight to the recommendations, expertise, and statutory responsibilities of such agencies. If, after such attempt, the Commission does not adopt in whole or in part a recommendation of any such agency, the Commission shall publish each of the following findings (together with a statement of the basis for each of the findings):

(A) A finding that adoption of such recommendation is inconsistent with the purposes and requirements of this subchapter or with other applicable provisions of law.

(B) A finding that the conditions selected by the Commission comply with the requirements of paragraph (1).

Subsection (i) of this section shall not apply to the conditions required under this subsection.

(June 10, 1920, ch. 285, pt. I, § 10, 41 Stat. 1068; renumbered pt. I and amended, Aug. 26, 1935, ch. 687, title II, §§ 206, 212, 49 Stat. 842, 847; Pub. L. 87–647, Sept. 7, 1962, 76 Stat. 447; Pub. L. 90–451, § 4, Aug. 3, 1968, 82 Stat. 617; Pub. L. 99–495, §§ 3(b), (c), 9(a), 13, Oct. 16, 1986, 100 Stat. 1243, 1244, 1252, 1257; Pub. L. 99–546, title IV, § 401, Oct. 27, 1986, 100 Stat. 3056; Pub. L. 102–486, title XVII, § 1701(a), Oct. 24, 1992, 106 Stat. 3008.)

REFERENCES IN TEXT

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

AMENDMENTS

1992—Subsec. (e)(1). Pub. L. 102–486, in introductory provisions, substituted ''administration of this subchapter, including any reasonable and necessary costs incurred by Federal and State fish and wildlife agencies and other natural and cultural resource agencies in connection with studies or other reviews carried out by such agencies for purposes of administering their responsibilities under this subchapter;'' for ''administration of this subchapter;'' and inserted ''*Provided*, That, subject to annual appropriations Acts, the portion of such annual charges imposed by the Commission under this subsection to cover the reasonable and necessary costs of such agencies shall be available to such agencies (in addition to other funds appropriated for such purposes) solely for carrying out such studies and reviews and shall remain available until expended:'' after ''as conditions may require:''.

1986—Subsec. (a). Pub. L. 99–495, § 3(b), designated existing provisions as par. (1), inserted ''for the adequate protection, mitigation, and enhancement of fish and wildlife (including related spawning grounds and habitat),'' after ''water-power development'', inserted ''irrigation, flood control, water supply, and'' after ''including'', which words were inserted after ''public uses, including'' as the probable intent of Congress, substituted ''and other purposes referred to in section 797(e) of this title'' for ''purposes; and'', and added pars. (2) and (3).

Subsec. (e). Pub. L. 99–546 inserted proviso that no charge be assessed for use of Government dam or structure by licensee if, before Jan. 1, 1985, licensee and Secretary entered into contract which met requirements of date of license, powerplant construction, ownership, and revenue, etc.

Pub. L. 99–495, § 9(a), designated existing provisions as par. (1) and added pars. (2) to (4).

Subsec. (h). Pub. L. 99–495, § 13, designated existing provisions as par. (1) and added par. (2).

Subsec. (j). Pub. L. 99–495, § 3(c), added subsec. (j).

1968—Subsec. (d). Pub. L. 90–451 provided for maintenance of amortization reserves on and after effective date of new licenses.

1962—Subsecs. (b), (e), (i). Pub. L. 87–647 substituted ''two thousand horsepower'' for ''one hundred horsepower''.

1935—Subsec. (a). Act Aug. 26, 1935, § 206, substituted ''plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, and for other beneficial uses, including recreational purposes'' for ''scheme of improvement and utilization for the purposes of navigation, of water-power development, and of other beneficial public uses,'' and ''such plan'' for ''such scheme''.

Subsec. (b). Act Aug. 26, 1935, § 206, inserted ''installed'' before ''capacity''.

Subsec. (d). Act Aug. 26, 1935, § 206, substituted ''net investment'' for ''actual, legitimate investment''.

Subsec. (e). Act Aug. 26, 1935, § 206, amended subsec. (e) generally.

Subsec. (f). Act Aug. 26, 1935, § 206, inserted last sentence to first par., and inserted last par.

Subsec. (i). Act Aug. 26, 1935, § 206, inserted ''installed'' before ''capacity'', and ''annual charges for use of'' before ''lands'' in proviso.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–495 effective with respect to each license, permit, or exemption issued under this chapter after Oct. 16, 1986, see section 18 of Pub. L. 99–495, set out as a note under section 797 of this title.

SAVINGS PROVISION

Section 9(b) of Pub. L. 99–495 provided that: ''Nothing in this Act [see Short Title of 1986 Amendment note set out under section 791a of this title] shall affect any annual charge to be paid pursuant to section 10(e) of the Federal Power Act [16 U.S.C. 803(e)] to Indian tribes for the use of their lands within Indian reservations.''

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (e)(4) of this section relating to reporting recommendations to Congress every 5 years, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 91 of House Document No. 103–7.

§ 804. Project works affecting navigable waters; requirements insertable in license

If the dam or other project works are to be constructed across, along, or in any of the navigable waters of the United States, the commission may, insofar as it deems the same reasonably necessary to promote the present and future needs of navigation and consistent with a reasonable investment cost to the licensee, include in the license any one or more of the following provisions or requirements:

(a) That such licensee shall, to the extent necessary to preserve and improve navigation facilities, construct, in whole or in part, without expense to the United States, in connection with such dam, a lock or locks, booms, sluices, or other structures for navigation purposes, in accordance with plans and specifications approved by the Chief of Engineers and the Secretary of the Army and made part of such license.

(b) That in case such structures for navigation purposes are not made a part of the original construction at the expense of the licensee, then whenever the United States shall desire to complete such navigation facilities the licensee shall convey to the United States, free of cost, such of its land and its rights-of-way and such right of passage through its dams or other structures, and permit such control of pools as may be required to complete such navigation facilities.

(c) That such licensee shall furnish free of cost to the United States power for the operation of such navigation facilities, whether constructed by the licensee or by the United States.

(June 10, 1920, ch. 285, pt. I, § 11, 41 Stat. 1070; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

§ 805. Participation by Government in costs of locks, etc.

Whenever application is filed for a project hereunder involving navigable waters of the United States, and the commission shall find upon investigation that the needs of navigation require the construction of a lock or locks or other navigation structures, and that such structures cannot, consistent with a reasonable investment cost to the applicant, be provided in the manner specified in subsection (a) of section 804 of this title, the commission may grant the application with the provision to be expressed in the license that the licensee will install the necessary navigation structures if the Government fails to make provision therefor within a time to be fixed in the license and cause a report upon such project to be prepared, with estimates of cost of the power development and of the navigation structures, and shall submit such report to Congress with such recommendations as it deems appropriate concerning the participation of the United States in the cost of construction of such navigation structures.

(June 10, 1920, ch. 285, pt. I, § 12, 41 Stat. 1070; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847.)

§ 806. Time limit for construction of project works; extension of time; termination or revocation of licenses for delay

The licensee shall commence the construction of the project works within the time fixed in the license, which shall not be more than two years from the date thereof, shall thereafter in good faith and with due diligence prosecute such construction, and shall within the time fixed in the license complete and put into operation such part of the ultimate development as the commission shall deem necessary to supply the reasonable needs of the then available market, and shall from time to time thereafter construct such portion of the balance of such development as the commission may direct, so as to supply adequately the reasonable market demands until such development shall have been completed. The periods for the commencement of construction may be extended once but not longer than two additional years and the period for the completion of construction carried on in good faith and with reasonable diligence may be extended by the commission when not incompatible with the public interests. In case the licensee shall not commence actual construction of the project works, or of any specified part thereof, within the time prescribed in the license or as extended by the commission, then, after due notice given, the license shall, as to such project works or part thereof, be terminated upon written order of the commission. In case the construction of the project works, or of any specified part thereof, has been begun but not completed within the time prescribed in the license, or as extended by the commission, then the Attorney General, upon the request of the commission, shall institute proceedings in equity in the district court of the United States for the district in which any part of the project is situated for the revocation of said license, the sale of the works constructed, and such other equitable relief as the case may demand, as provided for in section 820 of this title.

(June 10, 1920, ch. 285, pt. I, § 13, 41 Stat. 1071; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847.)

REFERENCES IN TEXT

Proceedings in equity, referred to in text, were abolished by the adoption of rule 2 of the Federal Rules of Civil Procedure, set out in the Appendix to Title 28, Judiciary and Judicial Procedure, which provided that ''there shall be one form of action to be known as 'civil action' ''.

§ 807. Right of Government to take over project works

(a) Compensation; condemnation by Federal or State Government

Upon not less than two years' notice in writing from the commission the United States shall have the right upon or after the expiration of any license to take over and thereafter to maintain and operate any project or projects as defined in section 796 of this title, and covered in whole or in part by the license, or the right to take over upon mutual agreement with the licensee all property owned and held by the licensee then valuable and serviceable in the development, transmission, or distribution of power and which is then dependent for its usefulness upon the continuance of the license, together with any lock or locks or other aids to navigation constructed at the expense of the licensee, upon the condition that before taking possession it shall pay the net investment of the licensee in the project or projects taken, not to exceed the fair value of the property taken, plus such reasonable damages, if any, to property of the licensee valuable, serviceable, and dependent as above set forth but not taken, as may be

caused by the severance therefrom of property taken, and shall assume all contracts entered into by the licensee with the approval of the Commission. The net investment of the licensee in the project or projects so taken and the amount of such severance damages, if any, shall be determined by the Commission after notice and opportunity for hearing. Such net investment shall not include or be affected by the value of any lands, rights-of-way, or other property of the United States licensed by the Commission under this chapter, by the license or by good will, going value, or prospective revenues; nor shall the values allowed for water rights, rights-of-way, lands, or interest in lands be in excess of the actual reasonable cost thereof at the time of acquisition by the licensee: *Provided*, That the right of the United States or any State or municipality to take over, maintain, and operate any project licensed under this chapter at any time by condemnation proceedings upon payment of just compensation is expressly reserved.

(b) Relicensing proceedings; Federal agency recommendations of take over by Government; stay of orders for new licenses; termination of stay; notice to Congress

In any relicensing proceeding before the Commission any Federal department or agency may timely recommend, pursuant to such rules as the Commission shall prescribe, that the United States exercise its right to take over any project or projects. Thereafter, the Commission, if its[1] does not itself recommend such action pursuant to the provisions of section 800(c) of this title, shall upon motion of such department or agency stay the effective date of any order issuing a license, except an order issuing an annual license in accordance with the proviso of section 808(a) of this title, for two years after the date of issuance of such order, after which period the stay shall terminate, unless terminated earlier upon motion of the department or agency requesting the stay or by action of Congress. The Commission shall notify the Congress of any stay granted pursuant to this subsection.

(June 10, 1920, ch. 285, pt. I, § 14, 41 Stat. 1071; renumbered pt. I and amended, Aug. 26, 1935, ch. 687, title II, §§ 207, 212, 49 Stat. 844, 847; Pub. L. 90–451, § 2, Aug. 3, 1968, 82 Stat. 617; Pub. L. 99–495, § 4(b)(2), Oct. 16, 1986, 100 Stat. 1248.)

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–495 struck out first sentence which read as follows: ''No earlier than five years before the expiration of any license, the Commission shall entertain applications for a new license and decide them in a relicensing proceeding pursuant to the provisions of section 808 of this title.''

1968—Pub. L. 90–451 designated existing provisions as subsec. (a) and added subsec. (b).

1935—Act Aug. 26, 1935, § 207, amended section generally.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–495 effective with respect to each license, permit, or exemption issued under this chapter after Oct. 16, 1986, see section 18 of Pub. L. 99–495, set out as a note under section 797 of this title.

[1] So in original. Probably should be ''it''.

§ 808. New licenses and renewals

(a) Relicensing procedures; terms and conditions; issuance to applicant with proposal best adapted to serve public interest; factors considered

(1) If the United States does not, at the expiration of the existing license, exercise its right to take over, maintain, and operate any project or projects of the licensee, as provided in section 807 of this title, the commission is authorized to issue a new license to the existing licensee upon such terms and conditions as may be authorized or required under the then existing laws and regulations, or to issue a new license under said terms and conditions to a new licensee, which license may cover any project or projects covered by the existing license, and shall be issued on the condition that the new licensee shall, before taking possession of such project or projects, pay such amount, and assume such contracts as the United States is required to do in the manner specified in section 807 of this title: *Provided*, That in the event the United States does not exercise the right to take over or does not issue a license to a new licensee, or issue a new license to the existing licensee, upon reasonable terms, then the commission shall issue from year to year an annual license to the then licensee under the terms and conditions of the existing license until the property is taken over or a new license is issued as aforesaid.

(2) Any new license issued under this section shall be issued to the applicant having the final proposal which the Commission determines is best adapted to serve the public interest, except that in making this determination the Commission shall ensure that insignificant differences with regard to subparagraphs (A) through (G) of this paragraph between competing applications are not determinative and shall not result in the transfer of a project. In making a determination under this section (whether or not more than one application is submitted for the project), the Commission shall, in addition to the requirements of section 803 of this title, consider (and explain such consideration in writing) each of the following:

(A) The plans and abilities of the applicant to comply with (i) the articles, terms, and conditions of any license issued to it and (ii) other applicable provisions of this subchapter.

(B) The plans of the applicant to manage, operate, and maintain the project safely.

(C) The plans and abilities of the applicant to operate and maintain the project in a manner most likely to provide efficient and reliable electric service.

(D) The need of the applicant over the short and long term for the electricity generated by the project or projects to serve its customers, including, among other relevant considerations, the reasonable costs and reasonable availability of alternative sources of power, taking into consideration conservation and other relevant factors and taking into consideration the effect on the provider (including its customers) of the alternative source of power, the effect on the applicant's operating and load characteristics, the effect on communities served or to be served by the project,

and in the case of an applicant using power for the applicant's own industrial facility and related operations, the effect on the operation and efficiency of such facility or related operations, its workers, and the related community. In the case of an applicant that is an Indian tribe applying for a license for a project located on the tribal reservation, a statement of the need of such tribe for electricity generated by the project to foster the purposes of the reservation may be included.

(E) The existing and planned transmission services of the applicant, taking into consideration system reliability, costs, and other applicable economic and technical factors.

(F) Whether the plans of the applicant will be achieved, to the greatest extent possible, in a cost effective manner.

(G) Such other factors as the Commission may deem relevant, except that the terms and conditions in the license for the protection, mitigation, or enhancement of fish and wildlife resources affected by the development, operation, and management of the project shall be determined in accordance with section 803 of this title, and the plans of an applicant concerning fish and wildlife shall not be subject to a comparative evaluation under this subsection.

(3) In the case of an application by the existing licensee, the Commission shall also take into consideration each of the following:

(A) The existing licensee's record of compliance with the terms and conditions of the existing license.

(B) The actions taken by the existing licensee related to the project which affect the public.

(b) Notification of intention regarding renewal; public availability of documents; notice to public and Federal agencies; identification of Federal or Indian lands included; additional information required

(1) Each existing licensee shall notify the Commission whether the licensee intends to file an application for a new license or not. Such notice shall be submitted at least 5 years before the expiration of the existing license.

(2) At the time notice is provided under paragraph (1), the existing licensee shall make each of the following reasonably available to the public for inspection at the offices of such licensee: current maps, drawings, data, and such other information as the Commission shall, by rule, require regarding the construction and operation of the licensed project. Such information shall include, to the greatest extent practicable pertinent energy conservation, recreation, fish and wildlife, and other environmental information. Copies of the information shall be made available at reasonable costs of reproduction. Within 180 days after October 16, 1986, the Commission shall promulgate regulations regarding the information to be provided under this paragraph.

(3) Promptly following receipt of notice under paragraph (1), the Commission shall provide public notice of whether an existing licensee intends to file or not to file an application for a new license. The Commission shall also promptly notify the National Marine Fisheries Service and the United States Fish and Wildlife Service, and the appropriate State fish and wildlife agencies.

(4) The Commission shall require the applicant to identify any Federal or Indian lands included in the project boundary, together with a statement of the annual fees paid as required by this subchapter for such lands, and to provide such additional information as the Commission deems appropriate to carry out the Commission's responsibilities under this section.

(c) Time of filing application; consultation and participation in studies with fish and wildlife agencies; notice to applicants; adjustment of time periods

(1) Each application for a new license pursuant to this section shall be filed with the Commission at least 24 months before the expiration of the term of the existing license. Each applicant shall consult with the fish and wildlife agencies referred to in subsection (b) of this section and, as appropriate, conduct studies with such agencies. Within 60 days after the statutory deadline for the submission of applications, the Commission shall issue a notice establishing expeditious procedures for relicensing and a deadline for submission of final amendments, if any, to the application.

(2) The time periods specified in this subsection and in subsection (b) of this section shall be adjusted, in a manner that achieves the objectives of this section, by the Commission by rule or order with respect to existing licensees who, by reason of the expiration dates of their licenses, are unable to comply with a specified time period.

(d) Adequacy of transmission facilities; provision of services to successor by existing licensee; tariff; final order; modification, extension or termination of order

(1) In evaluating applications for new licenses pursuant to this section, the Commission shall not consider whether an applicant has adequate transmission facilities with regard to the project.

(2) When the Commission issues a new license (pursuant to this section) to an applicant which is not the existing licensee of the project and finds that it is not feasible for the new licensee to utilize the energy from such project without provision by the existing licensee of reasonable services, including transmission services, the Commission shall give notice to the existing licensee and the new licensee to immediately enter into negotiations for such services and the costs demonstrated by the existing licensee as being related to the provision of such services. It is the intent of the Congress that such negotiations be carried out in good faith and that a timely agreement be reached between the parties in order to facilitate the transfer of the license by the date established when the Commission issued the new license. If such parties do not notify the Commission that within the time established by the Commission in such notice (and if appropriate, in the judgment of the Commission, one 45-day extension thereof), a mutually satisfactory arrangement for such services that is consistent with the provisions of this chapter has been executed, the Commission

shall order the existing licensee to file (pursuant to section 824d of this title) with the Commission a tariff, subject to refund, ensuring such services beginning on the date of transfer of the project and including just and reasonable rates and reasonable terms and conditions. After notice and opportunity for a hearing, the Commission shall issue a final order adopting or modifying such tariff for such services at just and reasonable rates in accordance with section 824d of this title and in accordance with reasonable terms and conditions. The Commission, in issuing such order, shall ensure the services necessary for the full and efficient utilization and benefits for the license term of the electric energy from the project by the new licensee in accordance with the license and this subchapter, except that in issuing such order the Commission—

(A) shall not compel the existing licensee to enlarge generating facilities, transmit electric energy other than to the distribution system (providing service to customers) of the new licensee identified as of the date one day preceding the date of license award, or require the acquisition of new facilities, including the upgrading of existing facilities other than any reasonable enhancement or improvement of existing facilities controlled by the existing licensee (including any acquisition related to such enhancement or improvement) necessary to carry out the purposes of this paragraph;

(B) shall not adversely affect the continuity and reliability of service to the customers of the existing licensee;

(C) shall not adversely affect the operational integrity of the transmission and electric systems of the existing licensee;

(D) shall not cause any reasonably quantifiable increase in the jurisdictional rates of the existing licensee; and

(E) shall not order any entity other than the existing licensee to provide transmission or other services.

Such order shall be for such period as the Commission deems appropriate, not to exceed the term of the license. At any time, the Commission, upon its own motion or upon a petition by the existing or new licensee and after notice and opportunity for a hearing, may modify, extend, or terminate such order.

(e) License term on relicensing

Except for an annual license, any license issued by the Commission under this section shall be for a term which the Commission determines to be in the public interest but not less than 30 years, nor more than 50 years, from the date on which the license is issued.

(f) Nonpower use licenses; recordkeeping

In issuing any licenses under this section except an annual license, the Commission, on its own motion or upon application of any licensee, person, State, municipality, or State commission, after notice to each State commission and licensee affected, and after opportunity for hearing, whenever it finds that in conformity with a comprehensive plan for improving or developing a waterway or waterways for beneficial public uses all or part of any licensed project should no longer be used or adapted for use for power purposes, may license all or part of the project works for nonpower use. A license for nonpower use shall be issued to a new licensee only on the condition that the new licensee shall, before taking possession of the facilities encompassed thereunder, pay such amount and assume such contracts as the United States is required to do, in the manner specified in section 807 of this title. Any license for nonpower use shall be a temporary license. Whenever, in the judgment of the Commission, a State, municipality, interstate agency, or another Federal agency is authorized and willing to assume regulatory supervision of the lands and facilities included under the nonpower license and does so, the Commission shall thereupon terminate the license. Consistent with the provisions of subchapter IV of this chapter, every licensee for nonpower use shall keep such accounts and file such annual and other periodic or special reports concerning the removal, alteration, nonpower use, or other disposition of any project works or parts thereof covered by the nonpower use license as the Commission may by rules and regulations or order prescribe as necessary or appropriate.

(June 10, 1920, ch. 285, pt. I, § 15, 41 Stat. 1072; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847; Pub. L. 90–451, § 3, Aug. 3, 1968, 82 Stat. 617; Pub. L. 99–495, §§ 4(a), (b)(1), 5, Oct. 16, 1986, 100 Stat. 1245, 1248.)

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–495, § 4(a), (b)(1), designated existing provisions as par. (1), substituted ''existing'' for ''original'' wherever appearing, and added pars. (2) and (3).

Subsecs. (b) to (f). Pub. L. 99–495, §§ 4(a), 5, added subsecs. (b) to (e) and redesignated former subsec. (b) as (f).

1968—Pub. L. 90–451 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–495 effective with respect to each license, permit, or exemption issued under this chapter after Oct. 16, 1986, see section 18 of Pub. L. 99–495, set out as a note under section 797 of this title.

§ 809. Temporary use by Government of project works for national safety; compensation for use

When in the opinion of the President of the United States, evidenced by a written order addressed to the holder of any license under this chapter, the safety of the United States demands it, the United States shall have the right to enter upon and take possession of any project or part thereof, constructed, maintained, or operated under said license, for the purpose of manufacturing nitrates, explosives, or munitions of war, or for any other purpose involving the safety of the United States, to retain possession, management, and control thereof for such length of time as may appear to the President to be necessary to accomplish said purposes, and then to restore possession and control to the party or parties entitled thereto; and in the event that the United States shall exercise such right it shall pay to the party or parties entitled thereto just and fair compensation for the use of said property as may be fixed by the commission

upon the basis of a reasonable profit in time of peace, and the cost of restoring said property to as good condition as existed at the time of the taking over thereof, less the reasonable value of any improvements that may be made thereto by the United States and which are valuable and serviceable to the licensee.

(June 10, 1920, ch. 285, pt. I, § 16, 41 Stat. 1072; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847.)

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 810. Disposition of charges arising from licenses

(a) Receipts from charges

All proceeds from any Indian reservation shall be placed to the credit of the Indians of such reservation. All other charges arising from licenses hereunder, except charges fixed by the Commission for the purpose of reimbursing the United States for the costs of administration of this subchapter, shall be paid into the Treasury of the United States, subject to the following distribution: 12½ per centum thereof is hereby appropriated to be paid into the Treasury of the United States and credited to ''Miscellaneous receipts''; 50 per centum of the charges arising from licenses hereunder for the occupancy and use of public lands and national forests shall be paid into, reserved, and appropriated as a part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902; and 37½ per centum of the charges arising from licenses hereunder for the occupancy and use of national forests and public lands from development within the boundaries of any State shall be paid by the Secretary of the Treasury to such State; and 50 per centum of the charges arising from all other licenses hereunder is reserved and appropriated as a special fund in the Treasury to be expended under the direction of the Secretary of the Army in the maintenance and operation of dams and other navigation structures owned by the United States or in the construction, maintenance, or operation of headwater or other improvements of navigable waters of the United States. The proceeds of charges made by the Commission for the purpose of reimbursing the United States for the costs of the administration of this subchapter shall be paid into the Treasury of the United States and credited to miscellaneous receipts.

(b) Delinquent payments

In case of delinquency on the part of any licensee in the payment of annual charges a penalty of 5 per centum of the total amount so delinquent may be added to the total charges which shall apply for the first month or part of month so delinquent with an additional penalty of 3 per centum for each subsequent month until the total of the charges and penalties are paid or until the license is canceled and the charges and penalties satisfied in accordance with law.

(June 10, 1920, ch. 285, pt. I, § 17, 41 Stat. 1072; renumbered pt. I and amended, Aug. 26, 1935, ch. 687, title II, §§ 208, 212, 49 Stat. 845, 847; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

REFERENCES IN TEXT

The Act of Congress known as the Reclamation Act, approved June 17, 1902, referred to in subsec. (a), probably means act June 17, 1902, ch. 1093, 32 Stat. 388, which is classified generally to chapter 12 (§ 371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables. The reclamation fund created by that Act was established by section 391 of Title 43.

AMENDMENTS

1935—Act Aug. 26, 1935, § 208, amended section generally, designating existing provisions as subsec. (a), inserting ''except charges fixed by the Commission for the purpose of reimbursing the United States for the costs of administration of this Part,'', substituting ''national forests'' for ''national monuments, national forests, and national parks'' wherever appearing, inserting last sentence relating to payment of proceeds of charges into Treasury, and adding subsec. (b).

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

§ 811. Operation of navigation facilities; rules and regulations; penalties

The Commission shall require the construction, maintenance, and operation by a licensee at its own expense of such lights and signals as may be directed by the Secretary of the Department in which the Coast Guard is operating, and such fishways as may be prescribed by the Secretary of the Interior or the Secretary of Commerce, as appropriate. The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such fishways. All disputed issues of material fact raised by any party shall be determined in a single trial-type hearing to be conducted by the relevant resource agency in accordance with the regulations promulgated under this subsection[1] and within the time frame established by the Commission for each license proceeding. Within 90 days of August 8, 2005, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission. The operation of any navigation facilities which may be constructed as a part of or in connection with any dam or diversion structure built under the provisions of this chapter, whether at the expense of a licensee

[1] So in original. Probably should be ''section''.

hereunder or of the United States, shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by such dam or diversion structure as may be made from time to time by the Secretary of the Army; and for willful failure to comply with any such rule or regulation such licensee shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 825*o* of this title.

(June 10, 1920, ch. 285, pt. I, § 18, 41 Stat. 1073; renumbered pt. I and amended, Aug. 26, 1935, ch. 687, title II, §§ 209, 212, 49 Stat. 845, 847; 1939 Reorg. Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; June 4, 1956, ch. 351, § 2, 70 Stat. 226; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 109–58, title II, § 241(b), Aug. 8, 2005, 119 Stat. 674.)

AMENDMENTS

2005—Pub. L. 109–58 inserted after first sentence ''The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such fishways. All disputed issues of material fact raised by any party shall be determined in a single trial-type hearing to be conducted by the relevant resource agency in accordance with the regulations promulgated under this subsection and within the time frame established by the Commission for each license proceeding. Within 90 days of August 8, 2005, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission.''

1956—Act June 4, 1956, substituted ''Secretary of the Department in which the Coast Guard is operating'' for ''Secretary of War'' in first sentence.

1935—Act Aug. 26, 1935, § 209, amended section generally, inserting first sentence, striking out ''Such rules and regulations may include the maintenance and operation of such licensee at its own expense of such lights and signals as may be directed by the Secretary of War, and such fishways as may be prescribed by the Secretary of Commerce.'', and substituting section ''825*o*'' for section ''819''.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Reference to Secretary of Commerce inserted in view of: creation of National Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in Department of the Interior and Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in Secretary of the Interior or Department of the Interior which were administered through Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

Coast Guard transferred to Department of Transportation and all functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of other offices and officers of Department of the Treasury transferred to Secretary of Transportation by section 6(b)(1) of Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 938. See Section 108 of Title 49, Transportation.

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred Bureau of Fisheries in Department of Commerce and its functions to Department of the Interior, to be administered under direction and supervision of Secretary of the Interior.

CLARIFICATION OF AUTHORITY REGARDING FISHWAYS

Pub. L. 102–486, title XVII, § 1701(b), Oct. 24, 1992, 106 Stat. 3008, provided that: ''The definition of the term 'fishway' contained in 18 C.F.R. 4.30(b)(9)(iii), as in effect on the date of enactment of this Act [Oct. 24, 1992], is vacated without prejudice to any definition or interpretation by rule of the term 'fishway' by the Federal Energy Regulatory Commission for purposes of implementing section 18 of the Federal Power Act [16 U.S.C. 811]: *Provided*, That any future definition promulgated by regulatory rulemaking shall have no force or effect unless concurred in by the Secretary of the Interior and the Secretary of Commerce: *Provided further*, That the items which may constitute a 'fishway' under section 18 for the safe and timely upstream and downstream passage of fish shall be limited to physical structures, facilities, or devices necessary to maintain all life stages of such fish, and project operations and measures related to such structures, facilities, or devices which are necessary to ensure the effectiveness of such structures, facilities, or devices for such fish.''

§ 812. Public-service licensee; regulations by State or by commission as to service, rates, charges, etc.

As a condition of the license, every licensee under this chapter which is a public-service corporation, or a person, association, or corporation owning or operating any project and developing, transmitting, or distributing power for sale or use in public service, shall abide by such reasonable regulation of the services to be rendered to customers or consumers of power, and of rates and charges of payment therefor, as may from time to time be prescribed by any duly constituted agency of the State in which the service is rendered or the rate charged. That in case of the development, transmission, or distribution, or use in public service of power by any licensee under this chapter or by its customer engaged in public service within a State which has not authorized and empowered a commission or other agency or agencies within said State to regulate and control the services to be rendered by such licensee or by its customer en-

gaged in public service, or the rates and charges of payment therefor, or the amount or character of securities to be issued by any of said parties, it is agreed as a condition of such license that jurisdiction is conferred upon the commission, upon complaint of any person aggrieved or upon its own initiative, to exercise such regulation and control until such time as the State shall have provided a commission or other authority for such regulation and control: *Provided*, That the jurisdiction of the commission shall cease and determine as to each specific matter of regulation and control prescribed in this section as soon as the State shall have provided a commission or other authority for the regulation and control of that specific matter.

(June 10, 1920, ch. 285, pt. I, § 19, 41 Stat. 1073; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847.)

§ 813. Power entering into interstate commerce; regulation of rates, charges, etc.

When said power or any part thereof shall enter into interstate or foreign commerce the rates charged and the service rendered by any such licensee, or by any subsidiary corporation, the stock of which is owned or controlled directly or indirectly by such licensee, or by any person, corporation, or association purchasing power from such licensee for sale and distribution or use in public service shall be reasonable, nondiscriminatory, and just to the customer and all unreasonable discriminatory and unjust rates or services are prohibited and declared to be unlawful; and whenever any of the States directly concerned has not provided a commission or other authority to enforce the requirements of this section within such State or to regulate and control the amount and character of securities to be issued by any of such parties, or such States are unable to agree through their properly constituted authorities on the services to be rendered, or on the rates or charges of payment therefor, or on the amount or character of securities to be issued by any of said parties, jurisdiction is conferred upon the commission, upon complaint of any person, aggrieved, upon the request of any State concerned, or upon its own initiative to enforce the provisions of this section, to regulate and control so much of the services rendered, and of the rates and charges of payment therefor as constitute interstate or foreign commerce and to regulate the issuance of securities by the parties included within this section, and securities issued by the licensee subject to such regulations shall be allowed only for the bona fide purpose of financing and conducting the business of such licensee.

The administration of the provisions of this section, so far as applicable, shall be according to the procedure and practice in fixing and regulating the rates, charges, and practices of railroad companies as provided in subtitle IV of title 49, and the parties subject to such regulation shall have the same rights of hearing, defense, and review as said companies in such cases.

In any valuation of the property of any licensee hereunder for purposes of rate making, no value shall be claimed by the licensee or allowed by the commission for any project or projects under license in excess of the value or values prescribed in section 807 of this title for the purposes of purchase by the United States, but there shall be included the cost to such licensee of the construction of the lock or locks or other aids of navigation and all other capital expenditures required by the United States, and no value shall be claimed or allowed for the rights granted by the commission or by this chapter.

(June 10, 1920, ch. 285, pt. I, § 20, 41 Stat. 1073; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847.)

CODIFICATION

''Subtitle IV of title 49'' substituted in text for ''the Act to regulate commerce, approved February 4, 1887, as amended'' on authority of Pub. L. 95–473, § 3(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV of Title 49, Transportation.

§ 814. Exercise by licensee of power of eminent domain

When any licensee cannot acquire by contract or pledges an unimproved dam site or the right to use or damage the lands or property of others necessary to the construction, maintenance, or operation of any dam, reservoir, diversion structure, or the works appurtenant or accessory thereto, in conjunction with any improvement which in the judgment of the commission is desirable and justified in the public interest for the purpose of improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, it may acquire the same by the exercise of the right of eminent domain in the district court of the United States for the district in which such land or other property may be located, or in the State courts. The practice and procedure in any action or proceeding for that purpose in the district court of the United States shall conform as nearly as may be with the practice and procedure in similar action or proceeding in the courts of the State where the property is situated: *Provided*, That United States district courts shall only have jurisdiction of cases when the amount claimed by the owner of the property to be condemned exceeds $3,000[1] *Provided further*, That no licensee may use the right of eminent domain under this section to acquire any lands or other property that, prior to October 24, 1992, were owned by a State or political subdivision thereof and were part of or included within any public park, recreation area or wildlife refuge established under State or local law. In the case of lands or other property that are owned by a State or political subdivision and are part of or included within a public park, recreation area or wildlife refuge established under State or local law on or after October 24, 1992, no licensee may use the right of eminent domain under this section to acquire such lands or property unless there has been a public hearing held in the affected community and a finding by the Commission, after due consideration of expressed public views and the recommendations of the State or political subdivision that owns the lands or property,

[1] So in original. Probably should be followed by a colon.

that the license will not interfere or be inconsistent with the purposes for which such lands or property are owned.

(June 10, 1920, ch. 285, pt. I, § 21, 41 Stat. 1074; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847; Pub. L. 102–486, title XVII, § 1701(d), Oct. 24, 1992, 106 Stat. 3009.)

AMENDMENTS

1992—Pub. L. 102–486 substituted final proviso and sentence for period at end.

§ 815. Contract to furnish power extending beyond period of license; obligations of new licensee

Whenever the public interest requires or justifies the execution by the licensee of contracts for the sale and delivery of power for periods extending beyond the date of termination of the license, such contracts may be entered into upon the joint approval of the commission and of the public-service commission or other similar authority in the State in which the sale or delivery of power is made, or if sold or delivered in a State which has no such public-service commission, then upon the approval of the commission, and thereafter, in the event of failure to issue a new license to the original licensee at the termination of the license, the United States or the new licensee, as the case may be, shall assume and fulfill all such contracts.

(June 10, 1920, ch. 285, pt. I, § 22, 41 Stat. 1074; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847.)

§ 816. Preservation of rights vested prior to June 10, 1920

The provisions of this subchapter shall not be construed as affecting any permit or valid existing right-of-way granted prior to June 10, 1920, or as confirming or otherwise affecting any claim, or as affecting any authority heretofore given pursuant to law, but any person, association, corporation, State, or municipality holding or possessing such permit, right-of-way or authority may apply for a license under this chapter, and upon such application the Commission may issue to any such applicant a license in accordance with the provisions of this subchapter and in such case the provisions of this chapter shall apply to such applicant as a licensee under this chapter: *Provided*, That when application is made for a license under this section for a project or projects already constructed the fair value of said project or projects determined as provided in this section, shall for the purposes of this subchapter and of said license be deemed to be the amount to be allowed as the net investment of the applicant in such project or projects as of the date of such license, or as of the date of such determination, if license has not been issued. Such fair value shall be determined by the Commission after notice and opportunity for hearing.

(June 10, 1920, ch. 285, pt. I, § 23(a), 41 Stat. 1075; renumbered pt. I and amended, Aug. 26, 1935, ch. 687, title II, §§ 210, 212, 49 Stat. 846, 847.)

CODIFICATION

Section consists of subsec. (a) of section 23 of act June 10, 1920, as so designated by act Aug. 26, 1935. Subsec. (b) of section 23 of act June 10, 1920, is set out as section 817 of this title.

AMENDMENTS

1935—Act Aug. 26, 1935, § 210, amended section generally, substituting ''part'' for ''chapter'' wherever appearing, substituting ''heretofore'' for ''then'', and substituting the last sentence for ''Such fair value may, in the discretion of the commission, be determined by mutual agreement between the commission and the applicant or, in case they cannot agree, jurisdiction is hereby conferred upon the district court of the United States in the district within which such project or projects may be located, upon the application of either party, to hear and determine the amount of such fair value.''

§ 817. Projects not affecting navigable waters; necessity for Federal license, permit or right-of-way; unauthorized activities

(1) It shall be unlawful for any person, State, or municipality, for the purpose of developing electric power, to construct, operate, or maintain any dam, water conduit, reservoir, power house, or other works incidental thereto across, along, or in any of the navigable waters of the United States, or upon any part of the public lands or reservations of the United States (including the Territories), or utilize the surplus water or water power from any Government dam, except under and in accordance with the terms of a permit or valid existing right-of-way granted prior to June 10, 1920, or a license granted pursuant to this chapter. Any person, association, corporation, State, or municipality intending to construct a dam or other project works, across, along, over, or in any stream or part thereof, other than those defined in this chapter as navigable waters, and over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States shall before such construction file declaration of such intention with the Commission, whereupon the Commission shall cause immediate investigation of such proposed construction to be made, and if upon investigation it shall find that the interests of interstate or foreign commerce would be affected by such proposed construction, such person, association, corporation, State, or municipality shall not construct, maintain, or operate such dam or other project works until it shall have applied for and shall have received a license under the provisions of this chapter. If the Commission shall not so find, and if no public lands or reservations are affected, permission is granted to construct such dam or other project works in such stream upon compliance with State laws.

(2) No person may commence any significant modification of any project licensed under, or exempted from, this chapter unless such modification is authorized in accordance with terms and conditions of such license or exemption and the applicable requirements of this subchapter. As used in this paragraph, the term ''commence'' refers to the beginning of physical onsite activity other than surveys or testing.

(June 10, 1920, ch. 285, pt. I, § 23(b), 41 Stat. 1075; renumbered pt. I and amended, Aug. 26, 1935, ch. 687, title II, §§ 210, 212, 49 Stat. 846, 847; Pub. L. 99–495, § 6, Oct. 16, 1986, 100 Stat. 1248.)

CODIFICATION

Section consists of subsec. (b) of section 23 of act June 10, 1920, as so designated by act Aug. 26, 1935. Subsec. (a) of section 23 of act June 10, 1920, is set out as section 816 of this title.

AMENDMENTS

1986—Pub. L. 99–495 designated existing provisions as par. (1) and added par. (2).

1935—Act Aug. 26, 1935, § 210, amended section generally, inserting first sentence, and substituting ''with foreign nations'' for ''between foreign nations'', ''shall before such construction'' for ''may in their discretion'' and ''shall not construct, maintain, or operate such dam or other project works'' for ''shall not proceed with such construction''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–495 applicable to licenses, permits, and exemptions without regard to when issued, see section 18 of Pub. L. 99–495, set out as a note under section 797 of this title.

§ 818. Public lands included in project; reservation of lands from entry

Any lands of the United States included in any proposed project under the provisions of this subchapter shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress. Notice that such application has been made, together with the date of filing thereof and a description of the lands of the United States affected thereby, shall be filed in the local land office for the district in which such lands are located. Whenever the Commission shall determine that the value of any lands of the United States so applied for, or heretofore or hereafter reserved or classified as power sites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public-land laws, the Secretary of the Interior, upon notice of such determination, shall declare such lands open to location, entry, or selection, for such purpose or purposes and under such restrictions as the Commission may determine, subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the Commission, for the purposes of this subchapter, which right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands hereunder may enter thereupon for the purposes of this subchapter, upon payment of any damages to crops, buildings, or other improvements caused thereby to the owner thereof, or upon giving a good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be determined and fixed in an action brought upon the bond in a court of competent jurisdiction, said bond to be in the form prescribed by the Commission: *Provided*, That locations, entries, selections, or filings heretofore made for lands reserved as water-power sites, or in connection with water-power development, or electrical transmission may proceed to approval or patent under and subject to the limitations and conditions in this section contained: *Provided further*, That before any lands applied for, or heretofore or hereafter reserved, or classified as power sites, are declared open to location, entry, or selection by the Secretary of the Interior, notice of intention to make such declaration shall be given to the Governor of the State within which such lands are located, and such State shall have ninety days from the date of such notice within which to file, under any statute or regulation applicable thereto, an application for the reservation to the State, or any political subdivision thereof, of any lands required as a right-of-way for a public highway or as a source of materials for the construction and maintenance of such highways, and a copy of such application shall be filed with the Federal Power Commission; and any location, entry, or selection of such lands, or subsequent patent thereof, shall be subject to any rights granted the State pursuant to such application.

(June 10, 1920, ch. 285, pt. I, § 24, 41 Stat. 1075; renumbered pt. I and amended, Aug. 26, 1935, ch. 687, title II, §§ 211, 212, 49 Stat. 846, 847; May 28, 1948, ch. 351, 62 Stat. 275.)

AMENDMENTS

1948—Act May 28, 1948, inserted second proviso in last sentence so that States may apply for reservations of portions of power sites released for entry, location, or selection to the States for highway purposes.

1935—Act Aug. 26, 1935, § 211, amended section generally, inserting ''for such purpose or purposes and under such restrictions as the commission may determine'', substituted ''part'' for ''chapter'' wherever appearing, and striking out from proviso ''prior to June 10, 1920'' after ''made''.

§ 819. Repealed. Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847

Section, act June 10, 1920, ch. 285, pt. I, § 25, 41 Stat. 1076, related to offenses and punishment. See section 825m et seq. of this title.

§ 820. Proceedings for revocation of license or to prevent violations of license

The Attorney General may, on request of the commission or of the Secretary of the Army, institute proceedings in equity in the district court of the United States in the district in which any project or part thereof is situated for the purpose of revoking for violation of its terms any permit or license issued hereunder, or for the purpose of remedying or correcting by injunction, mandamus, or other process any act of commission or omission in violation of the provisions of this chapter or of any lawful regulation or order promulgated hereunder. The district courts shall have jurisdiction over all of the above-mentioned proceedings and shall have power to issue and execute all necessary process and to make and enforce all writs, orders and decrees to compel compliance with the lawful orders and regulations of the commission and of the Secretary of the Army, and to compel the performance of any condition imposed under the provisions of this chapter. In the event a decree revoking a license is entered, the court is empowered to sell the whole or any part of the

project or projects under license, to wind up the business of such licensee conducted in connection with such project or projects, to distribute the proceeds to the parties entitled to the same, and to make and enforce such further orders and decrees as equity and justice may require. At such sale or sales the vendee shall take the rights and privileges belonging to the licensee and shall perform the duties of such licensee and assume all outstanding obligations and liabilities of the licensee which the court may deem equitable in the premises; and at such sale or sales the United States may become a purchaser, but it shall not be required to pay a greater amount than it would be required to pay under the provisions of section 807 of this title at the termination of the license.

(June 10, 1920, ch. 285, pt. I, § 26, 41 Stat. 1076; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

REFERENCES IN TEXT

Proceedings in equity, referred to in text, were abolished by the adoption of Rule 2 of the Federal Rules of Civil Procedure, set out in the Appendix to Title 28, Judiciary and Judicial Procedure, which provided that ''there shall be one form of action to be known as 'civil action' ''.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

§ 821. State laws and water rights unaffected

Nothing contained in this chapter shall be construed as affecting or intending to affect or in any way to interfere with the laws of the respective States relating to the control, appropriation, use, or distribution of water used in irrigation or for municipal or other uses, or any vested right acquired therein.

(June 10, 1920, ch. 285, pt. I, § 27, 41 Stat. 1077; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847.)

§ 822. Reservation of right to alter or repeal chapter

The right to alter, amend, or repeal this chapter is expressly reserved; but no such alteration, amendment, or repeal shall affect any license theretofore issued under the provisions of this chapter or the rights of any licensee thereunder.

(June 10, 1920, ch. 285, pt. I, § 28, 41 Stat. 1077; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847.)

§ 823. Repeal of inconsistent laws

All Acts or parts of Acts inconsistent with this chapter are repealed: *Provided*, That nothing contained herein shall be held or construed to modify or repeal any of the provisions of the Act of Congress approved December 19, 1913, granting certain rights-of-way to the city and county of San Francisco, in the State of California.

(June 10, 1920, ch. 285, pt. I, § 29, 41 Stat. 1077; renumbered pt. I, Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847.)

REFERENCES IN TEXT

Herein, referred to in text, means act June 10, 1920, which is classified generally to this chapter.

The Act of Congress approved December 19, 1913, referred to in text, was not classified to the Code.

CODIFICATION

As originally enacted, this section contained the further proviso: ''That section 18 of an Act making appropriations for the construction, repair and preservation, of certain public works on rivers and harbors, and for other purposes, approved August 8, 1917, is hereby repealed.''

§ 823a. Conduit hydroelectric facilities

(a) Exemption qualifications

Except as provided in subsection (b) or (c) of this section, the Commission may grant an exemption in whole or in part, from the requirements of this subchapter, including any license requirements contained in this subchapter, to any facility (not including any dam or other impoundment) constructed, operated, or maintained for the generation of electric power which the Commission determines, by rule or order—

(1) is located on non-Federal lands, and

(2) utilizes for such generation only the hydroelectric potential of a manmade conduit, which is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.

(b) Maximum installation capacity for exemption

The Commission may not grant any exemption under subsection (a) of this section to any facility the installed capacity of which exceeds 15 megawatts (40 megawatts in the case of a facility constructed, operated, and maintained by an agency or instrumentality of a State or local government solely for water supply for municipal purposes).

(c) Consultation with Federal and State agencies

In making the determination under subsection (a) of this section the Commission shall consult with the United States Fish and Wildlife Service[1] National Marine Fisheries Service[1] and the State agency exercising administration over the fish and wildlife resources of the State in which the facility is or will be located, in the manner provided by the Fish and Wildlife Coordination Act (16 U.S.C. 661, et seq.), and shall include in any such exemption—

(1) such terms and conditions as the Fish and Wildlife Service[1] National Marine Fisheries Service[1] and the State agency each determine are appropriate to prevent loss of, or damage to, such resources and to otherwise carry out the purposes of such Act, and

(2) such terms and conditions as the Commission deems appropriate to insure that such

[1] So in original. Probably should be followed by a comma.

facility continues to comply with the provisions of this section and terms and conditions included in any such exemption.

(d) Violation of terms of exemption

Any violation of a term or condition of any exemption granted under subsection (a) of this section shall be treated as a violation of a rule or order of the Commission under this chapter.

(e) Fees for studies

The Commission, in addition to the requirements of section 803(e) of this title, shall establish fees which shall be paid by an applicant for a license or exemption for a project that is required to meet terms and conditions set by fish and wildlife agencies under subsection (c) of this section. Such fees shall be adequate to reimburse the fish and wildlife agencies referred to in subsection (c) of this section for any reasonable costs incurred in connection with any studies or other reviews carried out by such agencies for purposes of compliance with this section. The fees shall, subject to annual appropriations Acts, be transferred to such agencies by the Commission for use solely for purposes of carrying out such studies and shall remain available until expended.

(June 10, 1920, ch. 285, pt. I, §30, as added Pub. L. 95–617, title II, §213, Nov. 9, 1978, 92 Stat. 3148; amended Pub. L. 99–495, §7, Oct. 16, 1986, 100 Stat. 1248.)

REFERENCES IN TEXT

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

PRIOR PROVISIONS

A prior section 30 of act June 10, 1920, was classified to section 791 of this title, prior to repeal by act Aug. 26, 1935, ch. 687, title II, §212, 49 Stat. 847.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–495, §7(a), inserted provision setting the maximum installation capacity for exemptions under subsec. (a) at 40 megawatts in the case of a facility constructed, operated, and maintained by an agency or instrumentality of a State or local government solely for water supply for municipal purposes.

Subsec. (c). Pub. L. 99–495, §7(b), which directed the insertion of ''National Marine Fisheries Service'' after ''the Fish and Wildlife Service'' in both places such term appears, was executed by inserting ''National Marine Fisheries Service'' after ''the United States Fish and Wildlife Service'' and ''the Fish and Wildlife Service'', as the probable intent of Congress.

Subsec. (e). Pub. L. 99–495, §7(c), added subsec. (e).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–495 effective with respect to each license, permit, or exemption issued under this chapter after Oct. 16, 1986, see section 18 of Pub. L. 99–495, set out as a note under section 797 of this title.

APPLICATION OF SUBSECTION (c)

Section 8(c) of Pub. L. 99–495 provided that: ''Nothing in this Act [see Short Title of 1986 Amendment note set out under section 791a of this title] shall affect the application of section 30(c) of the Federal Power Act [16 U.S.C. 823a(c)] to any exemption issued after the enactment of this Act [Oct. 16, 1986].''

§ 823b. Enforcement

(a) Monitoring and investigation

The Commission shall monitor and investigate compliance with each license and permit issued under this subchapter and with each exemption granted from any requirement of this subchapter. The Commission shall conduct such investigations as may be necessary and proper in accordance with this chapter. After notice and opportunity for public hearing, the Commission may issue such orders as necessary to require compliance with the terms and conditions of licenses and permits issued under this subchapter and with the terms and conditions of exemptions granted from any requirement of this subchapter.

(b) Revocation orders

After notice and opportunity for an evidentiary hearing, the Commission may also issue an order revoking any license issued under this subchapter or any exemption granted from any requirement of this subchapter where any licensee or exemptee is found by the Commission:

(1) to have knowingly violated a final order issued under subsection (a) of this section after completion of judicial review (or the opportunity for judicial review); and

(2) to have been given reasonable time to comply fully with such order prior to commencing any revocation proceeding.

In any such proceeding, the order issued under subsection (a) of this section shall be subject to de novo review by the Commission. No order shall be issued under this subsection until after the Commission has taken into consideration the nature and seriousness of the violation and the efforts of the licensee to remedy the violation.

(c) Civil penalty

Any licensee, permittee, or exemptee who violates or fails or refuses to comply with any rule or regulation under this subchapter, any term, or condition of a license, permit, or exemption under this subchapter, or any order issued under subsection (a) of this section shall be subject to a civil penalty in an amount not to exceed $10,000 for each day that such violation or failure or refusal continues. Such penalty shall be assessed by the Commission after notice and opportunity for public hearing. In determining the amount of a proposed penalty, the Commission shall take into consideration the nature and seriousness of the violation, failure, or refusal and the efforts of the licensee to remedy the violation, failure, or refusal in a timely manner. No civil penalty shall be assessed where revocation is ordered.

(d) Assessment

(1) Before issuing an order assessing a civil penalty against any person under this section, the Commission shall provide to such person notice of the proposed penalty. Such notice shall, except in the case of a violation of a final order issued under subsection (a) of this section, inform such person of his opportunity to elect in writing within 30 days after the date of receipt of such notice to have the procedures of para-

graph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

(2)(A) In the case of the violation of a final order issued under subsection (a) of this section, or unless an election is made within 30 calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Commission shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5 before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

(B) Any person against whom a penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Commission assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in Part,[1] the order of the Commission, or the court may remand the proceeding to the Commission for such further action as the court may direct.

(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Commission shall promptly assess such penalty, by order, after the date of the receipt of the notice under paragraph (1) of the proposed penalty.

(B) If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (A), the Commission shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in Part,[1] such assessment.

(C) Any election to have this paragraph apply may not be revoked except with the consent of the Commission.

(4) The Commission may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this subsection, taking into consideration the nature and seriousness of the violation and the efforts of the licensee to remedy the violation in a timely manner at any time prior to a final decision by the court of appeals under paragraph (2) or by the district court under paragraph (3).

(5) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Commission under paragraph (3), the Commission shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

(6)(A) Notwithstanding the provisions of title 28 or of this chapter, the Commission may be represented by the general counsel of the Commission (or any attorney or attorneys within the Commission designated by the Chairman) who shall supervise, conduct, and argue any civil litigation to which paragraph (3) of this subsection applies (including any related collection action under paragraph (5)) in a court of the United States or in any other court, except the Supreme Court. However, the Commission or the general counsel shall consult with the Attorney General concerning such litigation, and the Attorney General shall provide, on request, such assistance in the conduct of such litigation as may be appropriate.

(B) The Commission shall be represented by the Attorney General, or the Solicitor General, as appropriate, in actions under this subsection, except to the extent provided in subparagraph (A) of this paragraph.

(June 10, 1920, ch. 285, pt. I, § 31, as added Pub. L. 99–495, § 12, Oct. 16, 1986, 100 Stat. 1255.)

EFFECTIVE DATE

Section applicable to licenses, permits, and exemptions without regard to when issued, see section 18 of Pub. L. 99–495, set out as an Effective Date of 1986 Amendment note under section 797 of this title.

§ 823c. Alaska State jurisdiction over small hydroelectric projects

(a) Discontinuance of regulation by the Commission

Notwithstanding sections 797(e) and 817 of this title, the Commission shall discontinue exercising licensing and regulatory authority under this subchapter over qualifying project works in the State of Alaska, effective on the date on which the Commission certifies that the State of Alaska has in place a regulatory program for water-power development that—

(1) protects the public interest, the purposes listed in paragraph (2), and the environment to the same extent provided by licensing and regulation by the Commission under this subchapter and other applicable Federal laws, including the Endangered Species Act (16 U.S.C. 1531 et seq.) and the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(2) gives equal consideration to the purposes of—

(A) energy conservation;

(B) the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat);

(C) the protection of recreational opportunities;

(D) the preservation of other aspects of environmental quality;

(E) the interests of Alaska Natives; and

(F) other beneficial public uses, including irrigation, flood control, water supply, and navigation; and

(3) requires, as a condition of a license for any project works—

(A) the construction, maintenance, and operation by a licensee at its own expense of such lights and signals as may be directed by

[1] So in original. Probably should not be capitalized.

the Secretary of the Department in which the Coast Guard is operating, and such fishways as may be prescribed by the Secretary of the Interior or the Secretary of Commerce, as appropriate;

(B) the operation of any navigation facilities which may be constructed as part of any project to be controlled at all times by such reasonable rules and regulations as may be made by the Secretary of the Army; and

(C) except as provided in subsection (j) of this section, conditions for the protection, mitigation, and enhancement of fish and wildlife based on recommendations received pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) from the National Marine Fisheries Service, the United States Fish and Wildlife Service, and State fish and wildlife agencies.

(b) Definition of "qualifying project works"

For purposes of this section, the term ''qualifying project works'' means project works—

(1) that are not part of a project licensed under this part or exempted from licensing under this subchapter or section 2705 of this title prior to November 9, 2000;

(2) for which a preliminary permit, a license application, or an application for an exemption from licensing has not been accepted for filing by the Commission prior to November 9, 2000 (unless such application is withdrawn at the election of the applicant);

(3) that are part of a project that has a power production capacity of 5,000 kilowatts or less;

(4) that are located entirely within the boundaries of the State of Alaska; and

(5) that are not located in whole or in part on any Indian reservation, a conservation system unit (as defined in section 3102(4) of this title), or segment of a river designated for study for addition to the Wild and Scenic Rivers System.

(c) Election of State licensing

In the case of nonqualifying project works that would be a qualifying project works but for the fact that the project has been licensed (or exempted from licensing) by the Commission prior to November 9, 2000, the licensee of such project may in its discretion elect to make the project subject to licensing and regulation by the State of Alaska under this section.

(d) Project works on Federal lands

With respect to projects located in whole or in part on a reservation, a conservation system unit, or the public lands, a State license or exemption from licensing shall be subject to—

(1) the approval of the Secretary having jurisdiction over such lands; and

(2) such conditions as the Secretary may prescribe.

(e) Consultation with affected agencies

The Commission shall consult with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce before certifying the State of Alaska's regulatory program.

(f) Application of Federal laws

Nothing in this section shall preempt the application of Federal environmental, natural resources, or cultural resources protection laws according to their terms.

(g) Oversight by the Commission

The State of Alaska shall notify the Commission not later than 30 days after making any significant modification to its regulatory program. The Commission shall periodically review the State's program to ensure compliance with the provisions of this section.

(h) Resumption of Commission authority

Notwithstanding subsection (a) of this section, the Commission shall reassert its licensing and regulatory authority under this subchapter if the Commission finds that the State of Alaska has not complied with one or more of the requirements of this section.

(i) Determination by the Commission

(1) Upon application by the Governor of the State of Alaska, the Commission shall within 30 days commence a review of the State of Alaska's regulatory program for water-power development to determine whether it complies with the requirements of subsection (a) of this section.

(2) The Commission's review required by paragraph (1) shall be completed within 1 year of initiation, and the Commission shall within 30 days thereafter issue a final order determining whether or not the State of Alaska's regulatory program for water-power development complies with the requirements of subsection (a) of this section.

(3) If the Commission fails to issue a final order in accordance with paragraph (2) the State of Alaska's regulatory program for water-power development shall be deemed to be in compliance with subsection (a) of this section.

(j) Fish and wildlife

If the State of Alaska determines that a recommendation under subsection (a)(3)(C) of this section is inconsistent with paragraphs (1) and (2) of subsection (a) of this section, the State of Alaska may decline to adopt all or part of the recommendations in accordance with the procedures established under section 803(j)(2) of this title.

(June 10, 1920, ch. 285, pt. I, § 32, as added Pub. L. 106–469, title V, § 501, Nov. 9, 2000, 114 Stat. 2037; amended Pub. L. 109–58, title II, § 244, Aug. 8, 2005, 119 Stat. 678.)

REFERENCES IN TEXT

The Endangered Species Act, referred to in subsec. (a)(1), probably means the Endangered Species Act of 1973, Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Fish and Wildlife Coordination Act, referred to in subsec. (a)(1), (3)(C), is act Mar. 10, 1934, ch. 55, 48 Stat. 401, as amended, which is classified generally to sections 661 to 666c of this title. For complete classification of this Act to the Code, see Short Title note set out under section 661 of this title and Tables.

AMENDMENTS

2005—Subsec. (a)(3)(C). Pub. L. 109–58, § 244(1), inserted ''except as provided in subsection (j) of this section,'' before ''conditions''.

Subsec. (j). Pub. L. 109–58, § 244(2), added subsec. (j).

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 823d. Alternative conditions and prescriptions

(a) Alternative conditions

(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the department under whose supervision such reservation falls (referred to in this subsection as the ''Secretary'') deems a condition to such license to be necessary under the first proviso of section 797(e) of this title, the license applicant or any other party to the license proceeding may propose an alternative condition.

(2) Notwithstanding the first proviso of section 797(e) of this title, the Secretary shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary determines, based on substantial evidence provided by the license applicant, any other party to the proceeding, or otherwise available to the Secretary, that such alternative condition—

(A) provides for the adequate protection and utilization of the reservation; and

(B) will either, as compared to the condition initially by the Secretary—

(i) cost significantly less to implement; or

(ii) result in improved operation of the project works for electricity production.

(3) In making a determination under paragraph (2), the Secretary shall consider evidence provided for the record by any party to a licensing proceeding, or otherwise available to the Secretary, including any evidence provided by the Commission, on the implementation costs or operational impacts for electricity production of a proposed alternative.

(4) The Secretary concerned shall submit into the public record of the Commission proceeding with any condition under section 797(e) of this title or alternative condition it accepts under this section, a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

(5) If the Commission finds that the Secretary's final condition would be inconsistent with the purposes of this subchapter, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a non-binding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the reservation. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.

(b) Alternative prescriptions

(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under section 811 of this title, the license applicant or any other party to the license proceeding may propose an alternative to such prescription to construct, maintain, or operate a fishway.

(2) Notwithstanding section 811 of this title, the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the license applicant, any other party to the proceeding, or otherwise available to the Secretary, that such alternative—

(A) will be no less protective than the fishway initially prescribed by the Secretary; and

(B) will either, as compared to the fishway initially prescribed by the Secretary—

(i) cost significantly less to implement; or

(ii) result in improved operation of the project works for electricity production.

(3) In making a determination under paragraph (2), the Secretary shall consider evidence provided for the record by any party to a licensing proceeding, or otherwise available to the Secretary, including any evidence provided by the Commission, on the implementation costs or operational impacts for electricity production of a proposed alternative.

(4) The Secretary concerned shall submit into the public record of the Commission proceeding with any prescription under section 811 of this title or alternative prescription it accepts under this section, a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the prescription adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

(5) If the Commission finds that the Secretary's final prescription would be inconsistent

with the purposes of this subchapter, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a non-binding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the fish resources. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.

(June 10, 1920, ch. 285, pt. I, § 33, as added Pub. L. 109–58, title II, § 241(c), Aug. 8, 2005, 119 Stat. 675.)

SUBCHAPTER II—REGULATION OF ELECTRIC UTILITY COMPANIES ENGAGED IN INTERSTATE COMMERCE

§ 824. Declaration of policy; application of subchapter

(a) Federal regulation of transmission and sale of electric energy

It is declared that the business of transmitting and selling electric energy for ultimate distribution to the public is affected with a public interest, and that Federal regulation of matters relating to generation to the extent provided in this subchapter and subchapter III of this chapter and of that part of such business which consists of the transmission of electric energy in interstate commerce and the sale of such energy at wholesale in interstate commerce is necessary in the public interest, such Federal regulation, however, to extend only to those matters which are not subject to regulation by the States.

(b) Use or sale of electric energy in interstate commerce

(1) The provisions of this subchapter shall apply to the transmission of electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce, but except as provided in paragraph (2) shall not apply to any other sale of electric energy or deprive a State or State commission of its lawful authority now exercised over the exportation of hydroelectric energy which is transmitted across a State line. The Commission shall have jurisdiction over all facilities for such transmission or sale of electric energy, but shall not have jurisdiction, except as specifically provided in this subchapter and subchapter III of this chapter, over facilities used for the generation of electric energy or over facilities used in local distribution or only for the transmission of electric energy in intrastate commerce, or over facilities for the transmission of electric energy consumed wholly by the transmitter.

(2) Notwithstanding subsection (f) of this section, the provisions of sections 824b(a)(2), 824e(e), 824i, 824j, 824j–1, 824k, 824*o*, 824p, 824q, 824r, 824s, 824t, 824u, and 824v of this title shall apply to the entities described in such provisions, and such entities shall be subject to the jurisdiction of the Commission for purposes of carrying out such provisions and for purposes of applying the enforcement authorities of this chapter with respect to such provisions. Compliance with any order or rule of the Commission under the provisions of section 824b(a)(2), 824e(e), 824i, 824j, 824j–1, 824k, 824*o*, 824p, 824q, 824r, 824s, 824t, 824u, or 824v of this title, shall not make an electric utility or other entity subject to the jurisdiction of the Commission for any purposes other than the purposes specified in the preceding sentence.

(c) Electric energy in interstate commerce

For the purpose of this subchapter, electric energy shall be held to be transmitted in interstate commerce if transmitted from a State and consumed at any point outside thereof; but only insofar as such transmission takes place within the United States.

(d) "Sale of electric energy at wholesale" defined

The term ''sale of electric energy at wholesale'' when used in this subchapter, means a sale of electric energy to any person for resale.

(e) "Public utility" defined

The term ''public utility'' when used in this subchapter and subchapter III of this chapter means any person who owns or operates facilities subject to the jurisdiction of the Commission under this subchapter (other than facilities subject to such jurisdiction solely by reason of section 824e(e), 824e(f),[1] 824i, 824j, 824j–1, 824k, 824*o*, 824p, 824q, 824r, 824s, 824t, 824u, or 824v of this title).

(f) United States, State, political subdivision of a State, or agency or instrumentality thereof exempt

No provision in this subchapter shall apply to, or be deemed to include, the United States, a State or any political subdivision of a State, an electric cooperative that receives financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or that sells less than 4,000,000 megawatt hours of electricity per year, or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned, directly or indirectly, by any one or more of the foregoing, or any officer, agent, or employee of any of the foregoing acting as such in the course of his official duty, unless such provision makes specific reference thereto.

(g) Books and records

(1) Upon written order of a State commission, a State commission may examine the books, accounts, memoranda, contracts, and records of—

(A) an electric utility company subject to its regulatory authority under State law,

(B) any exempt wholesale generator selling energy at wholesale to such electric utility, and

(C) any electric utility company, or holding company thereof, which is an associate company or affiliate of an exempt wholesale generator which sells electric energy to an electric utility company referred to in subparagraph (A),

wherever located, if such examination is required for the effective discharge of the State

[1] So in original. Section 824e of this title does not contain a subsec. (f).

commission's regulatory responsibilities affecting the provision of electric service.

(2) Where a State commission issues an order pursuant to paragraph (1), the State commission shall not publicly disclose trade secrets or sensitive commercial information.

(3) Any United States district court located in the State in which the State commission referred to in paragraph (1) is located shall have jurisdiction to enforce compliance with this subsection.

(4) Nothing in this section shall—

(A) preempt applicable State law concerning the provision of records and other information; or

(B) in any way limit rights to obtain records and other information under Federal law, contracts, or otherwise.

(5) As used in this subsection the terms ''affiliate'', ''associate company'', ''electric utility company'', ''holding company'', ''subsidiary company'', and ''exempt wholesale generator'' shall have the same meaning as when used in the Public Utility Holding Company Act of 2005 [42 U.S.C. 16451 et seq.].

(June 10, 1920, ch. 285, pt. II, § 201, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 847; amended Pub. L. 95–617, title II, § 204(b), Nov. 9, 1978, 92 Stat. 3140; Pub. L. 102–486, title VII, § 714, Oct. 24, 1992, 106 Stat. 2911; Pub. L. 109–58, title XII, §§ 1277(b)(1), 1291(c), 1295(a), Aug. 8, 2005, 119 Stat. 978, 985.)

REFERENCES IN TEXT

The Rural Electrification Act of 1936, referred to in subsec. (f), is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (§ 901 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 901 of Title 7 and Tables.

The Public Utility Holding Company Act of 2005, referred to in subsec. (g)(5), is subtitle F of title XII of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 972, which is classified principally to part D (§ 16451 et seq.) of subchapter XII of chapter 149 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of Title 42 and Tables.

AMENDMENTS

2005—Subsec. (b)(2). Pub. L. 109–58, § 1295(a)(1), substituted ''Notwithstanding subsection (f) of this section, the provisions of sections 824b(a)(2), 824e(e), 824i, 824j, 824j–1, 824k, 824*o*, 824p, 824q, 824r, 824s, 824t, 824u, and 824v of this title'' for ''The provisions of sections 824i, 824j, and 824k of this title'' and ''Compliance with any order or rule of the Commission under the provisions of section 824b(a)(2), 824e(e), 824i, 824j, 824j–1, 824k, 824*o*, 824p, 824q, 824r, 824s, 824t, 824u, or 824v of this title'' for ''Compliance with any order of the Commission under the provisions of section 824i or 824j of this title''.

Subsec. (e). Pub. L. 109–58, § 1295(a)(2), substituted ''section 824e(e), 824e(f), 824i, 824j, 824j–1, 824k, 824*o*, 824p, 824q, 824r, 824s, 824t, 824u, or 824v of this title'' for ''section 824i, 824j, or 824k of this title''.

Subsec. (f). Pub. L. 109–58, § 1291(c), which directed amendment of subsec. (f) by substituting ''political subdivision of a State, an electric cooperative that receives financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or that sells less than 4,000,000 megawatt hours of electricity per year,'' for ''political subdivision of a state,'', was executed by making the substitution for ''political subdivision of a State,'' to reflect the probable intent of Congress.

Subsec. (g)(5). Pub. L. 109–58, § 1277(b)(1), substituted ''2005'' for ''1935''.

1992—Subsec. (g). Pub. L. 102–486 added subsec. (g).

1978—Subsec. (b). Pub. L. 95–617, § 204(b)(1), designated existing provisions as par. (1), inserted ''except as provided in paragraph (2)'' after ''in interstate commerce, but'', and added par. (2).

Subsec. (e). Pub. L. 95–617, § 204(b)(2), inserted ''(other than facilities subject to such jurisdiction solely by reason of section 824i, 824j, or 824k of this title)'' after ''under this subchapter''.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 1277(b)(1) of Pub. L. 109–58 effective 6 months after Aug. 8, 2005, with provisions relating to effect of compliance with certain regulations approved and made effective prior to such date, see section 1274 of Pub. L. 109–58, set out as an Effective Date note under section 16451 of Title 42, The Public Health and Welfare.

STATE AUTHORITIES; CONSTRUCTION

Nothing in amendment by Pub. L. 102–486 to be construed as affecting or intending to affect, or in any way to interfere with, authority of any State or local government relating to environmental protection or siting of facilities, see section 731 of Pub. L. 102–486, set out as a note under section 796 of this title.

PRIOR ACTIONS; EFFECT ON OTHER AUTHORITIES

Section 214 of Pub. L. 95–617 provided that:

''(a) PRIOR ACTIONS.—No provision of this title [enacting sections 823a, 824i to 824k, 824a–1 to 824a–3 and 825q–1 of this title, amending sections 796, 824, 824a, 824d, and 825d of this title and enacting provisions set out as notes under sections 824a, 824d, and 825d of this title] or of any amendment made by this title shall apply to, or affect, any action taken by the Commission [Federal Energy Regulatory Commission] before the date of the enactment of this Act [Nov. 9, 1978].

''(b) OTHER AUTHORITIES.—No provision of this title [enacting sections 823a, 824i to 824k, 824a–1 to 824a–3 and 825q–1 of this title, amending sections 796, 824, 824a, 824d, and 825d of this title and enacting provisions set out as notes under sections 824a, 824d, and 825d of this title] or of any amendment made by this title shall limit, impair or otherwise affect any authority of the Commission or any other agency or instrumentality of the United States under any other provision of law except as specifically provided in this title.''

§ 824a. Interconnection and coordination of facilities; emergencies; transmission to foreign countries

(a) Regional districts; establishment; notice to State commissions

For the purpose of assuring an abundant supply of electric energy throughout the United States with the greatest possible economy and with regard to the proper utilization and conservation of natural resources, the Commission is empowered and directed to divide the country into regional districts for the voluntary interconnection and coordination of facilities for the generation, transmission, and sale of electric energy, and it may at any time thereafter, upon its own motion or upon application, make such modifications thereof as in its judgment will promote the public interest. Each such district shall embrace an area which, in the judgment of the Commission, can economically be served by such interconnection and coordinated electric facilities. It shall be the duty of the Commission to promote and encourage such interconnection and coordination within each such district and

between such districts. Before establishing any such district and fixing or modifying the boundaries thereof the Commission shall give notice to the State commission of each State situated wholly or in part within such district, and shall afford each such State commission reasonable opportunity to present its views and recommendations, and shall receive and consider such views and recommendations.

(b) Sale or exchange of energy; establishing physical connections

Whenever the Commission, upon application of any State commission or of any person engaged in the transmission or sale of electric energy, and after notice to each State commission and public utility affected and after opportunity for hearing, finds such action necessary or appropriate in the public interest it may by order direct a public utility (if the Commission finds that no undue burden will be placed upon such public utility thereby) to establish physical connection of its transmission facilities with the facilities of one or more other persons engaged in the transmission or sale of electric energy, to sell energy to or exchange energy with such persons: *Provided*, That the Commission shall have no authority to compel the enlargement of generating facilities for such purposes, nor to compel such public utility to sell or exchange energy when to do so would impair its ability to render adequate service to its customers. The Commission may prescribe the terms and conditions of the arrangement to be made between the persons affected by any such order, including the apportionment of cost between them and the compensation or reimbursement reasonably due to any of them.

(c) Temporary connection and exchange of facilities during emergency

During the continuance of any war in which the United States is engaged, or whenever the Commission determines that an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy or of facilities for the generation or transmission of electric energy, or of fuel or water for generating facilities, or other causes, the Commission shall have authority, either upon its own motion or upon complaint, with or without notice, hearing, or report, to require by order such temporary connections of facilities and such generation, delivery, interchange, or transmission of electric energy as in its judgment will best meet the emergency and serve the public interest. If the parties affected by such order fail to agree upon the terms of any arrangement between them in carrying out such order, the Commission, after hearing held either before or after such order takes effect, may prescribe by supplemental order such terms as it finds to be just and reasonable, including the compensation or reimbursement which should be paid to or by any such party.

(d) Temporary connection during emergency by persons without jurisdiction of Commission

During the continuance of any emergency requiring immediate action, any person engaged in the transmission or sale of electric energy and not otherwise subject to the jurisdiction of the Commission may make such temporary connections with any public utility subject to the jurisdiction of the Commission or may construct such temporary facilities for the transmission of electric energy in interstate commerce as may be necessary or appropriate to meet such emergency, and shall not become subject to the jurisdiction of the Commission by reason of such temporary connection or temporary construction: *Provided*, That such temporary connection shall be discontinued or such temporary construction removed or otherwise disposed of upon the termination of such emergency: *Provided further*, That upon approval of the Commission permanent connections for emergency use only may be made hereunder.

(e) Transmission of electric energy to foreign country

After six months from August 26, 1935, no person shall transmit any electric energy from the United States to a foreign country without first having secured an order of the Commission authorizing it to do so. The Commission shall issue such order upon application unless, after opportunity for hearing, it finds that the proposed transmission would impair the sufficiency of electric supply within the United States or would impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Commission. The Commission may by its order grant such application in whole or in part, with such modifications and upon such terms and conditions as the Commission may find necessary or appropriate, and may from time to time, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as it may find necessary or appropriate.

(f) Transmission or sale at wholesale of electric energy; regulation

The ownership or operation of facilities for the transmission or sale at wholesale of electric energy which is (a) generated within a State and transmitted from the State across an international boundary and not thereafter transmitted into any other State, or (b) generated in a foreign country and transmitted across an international boundary into a State and not thereafter transmitted into any other State, shall not make a person a public utility subject to regulation as such under other provisions of this subchapter. The State within which any such facilities are located may regulate any such transaction insofar as such State regulation does not conflict with the exercise of the Commission's powers under or relating to subsection (e) of this section.

(g) Continuance of service

In order to insure continuity of service to customers of public utilities, the Commission shall require, by rule, each public utility to—

(1) report promptly to the Commission and any appropriate State regulatory authorities any anticipated shortage of electric energy or capacity which would affect such utility's capability of serving its wholesale customers,

(2) submit to the Commission, and to any appropriate State regulatory authority, and periodically revise, contingency plans respecting—

(A) shortages of electric energy or capacity, and

(B) circumstances which may result in such shortages, and

(3) accommodate any such shortages or circumstances in a manner which shall—

(A) give due consideration to the public health, safety, and welfare, and

(B) provide that all persons served directly or indirectly by such public utility will be treated, without undue prejudice or disadvantage.

(June 10, 1920, ch. 285, pt. II, § 202, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 848; amended Aug. 7, 1953, ch. 343, 67 Stat. 461; Pub. L. 95–617, title II, § 206(a), Nov. 9, 1978, 92 Stat. 3141.)

AMENDMENTS

1978—Subsec. (g). Pub. L. 95–617 added subsec. (g).
1953—Subsec. (f). Act Aug. 7, 1953, added subsec. (f).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 206(b) of Pub. L. 95–617 provided that: ''The amendment made by subsection (a) [adding subsec. (g) of this section] shall not affect any proceeding of the Commission [Federal Energy Regulatory Commission] pending on the date of the enactment of this Act [Nov. 9, 1978] or any case pending on such date respecting a proceeding of the Commission.''

DELEGATION OF FUNCTIONS

Functions of President respecting certain facilities constructed and maintained on United States borders delegated to Secretary of State, see Ex. Ord. No. 11423, Aug. 16, 1968. 33 F.R. 11741, set out as a note under section 301 of Title 3, The President.

PERFORMANCE OF FUNCTIONS RESPECTING ELECTRIC POWER AND NATURAL GAS FACILITIES LOCATED ON UNITED STATES BORDERS

For provisions relating to performance of functions by Secretary of Energy respecting electric power and natural gas facilities located on United States borders, see Ex. Ord. No. 10485, Sept. 8, 1953, 18 F.R. 5397, as amended by Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out as a note under section 717b of Title 15, Commerce and Trade.

§ 824a–1. Pooling

(a) State laws

The Commission may, on its own motion, and shall, on application of any person or governmental entity, after public notice and notice to the Governor of the affected State and after affording an opportunity for public hearing, exempt electric utilities, in whole or in part, from any provision of State law, or from any State rule or regulation, which prohibits or prevents the voluntary coordination of electric utilities, including any agreement for central dispatch, if the Commission determines that such voluntary coordination is designed to obtain economical utilization of facilities and resources in any area. No such exemption may be granted if the Commission finds that such provision of State law, or rule or regulation—

(1) is required by any authority of Federal law, or

(2) is designed to protect public health, safety, or welfare, or the environment or conserve energy or is designed to mitigate the effects of emergencies resulting from fuel shortages.

(b) Pooling study

(1) The Commission, in consultation with the reliability councils established under section 202(a) of the Federal Power Act [16 U.S.C. 824a], the Secretary, and the electric utility industry shall study the opportunities for—

(A) conservation of energy,

(B) optimization in the efficiency of use of facilities and resources, and

(C) increased reliability,

through pooling arrangements. Not later than 18 months after November 9, 1978, the Commission shall submit a report containing the results of such study to the President and the Congress.

(2) The Commission may recommend to electric utilities that such utilities should voluntarily enter into negotiations where the opportunities referred to in paragraph (1) exist. The Commission shall report annually to the President and the Congress regarding any such recommendations and subsequent actions taken by electric utilities, by the Commission, and by the Secretary under this Act, the Federal Power Act [16 U.S.C. 791a et seq.], and any other provision of law. Such annual reports shall be included in the Commission's annual report required under the Department of Energy Organization Act [42 U.S.C. 7101 et seq.].

(Pub. L. 95–617, title II, § 205, Nov. 9, 1978, 92 Stat. 3140.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(2), means Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117, known as the ''Public Utility Regulatory Policies Act of 1978''. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

The Federal Power Act, referred to in subsec. (b)(2), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see section 791a of this title and Tables.

The Department of Energy Organization Act, referred to in subsec. (b)(2), is Pub. L. 95–91, Aug. 4, 1977, 91 Stat. 565, as amended, which is classified principally to chapter 84 (§ 7101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of Title 42 and Tables.

CODIFICATION

Section was enacted as part of the Public Utility Regulatory Policies Act of 1978, and not as part of the Federal Power Act which generally comprises this chapter.

DEFINITIONS

For definitions of terms used in this section, see section 2602 of this title.

§ 824a–2. Reliability

(a) Study

(1) The Secretary, in consultation with the Commission, shall conduct a study with respect to—

(A) the level of reliability appropriate to adequately serve the needs of electric consumers, taking into account cost effectiveness and the need for energy conservation,

(B) the various methods which could be used in order to achieve such level of reliability and the cost effectiveness of such methods, and

(C) the various procedures that might be used in case of an emergency outage to minimize the public disruption and economic loss that might be caused by such an outage and the cost effectiveness of such procedures.

Such study shall be completed and submitted to the President and the Congress not later than 18 months after November 9, 1978. Before such submittal the Secretary shall provide an opportunity for public comment on the results of such study.

(2) The study under paragraph (1) shall include consideration of the following:

(A) the cost effectiveness of investments in each of the components involved in providing adequate and reliable electric service, including generation, transmission, and distribution facilities, and devices available to the electric consumer;

(B) the environmental and other effects of the investments considered under subparagraph (A);

(C) various types of electric utility systems in terms of generation, transmission, distribution and customer mix, the extent to which differences in reliability levels may be desirable, and the cost-effectiveness of the various methods which could be used to decrease the number and severity of any outages among the various types of systems;

(D) alternatives to adding new generation facilities to achieve such desired levels of reliability (including conservation);

(E) the cost-effectiveness of adding a number of small, decentralized conventional and nonconventional generating units rather than a small number of large generating units with a similar total megawatt capacity for achieving the desired level of reliability; and

(F) any standards for electric utility reliability used by, or suggested for use by, the electric utility industry in terms of cost-effectiveness in achieving the desired level of reliability, including equipment standards, standards for operating procedures and training of personnel, and standards relating the number and severity of outages to periods of time.

(b) Examination of reliability issues by reliability councils

The Secretary, in consultation with the Commission, may, from time to time, request the reliability councils established under section 202(a) of the Federal Power Act [16 U.S.C. 824a(a) of this title] or other appropriate persons (including Federal agencies) to examine and report to him concerning any electric utility reliability issue. The Secretary shall report to the Congress (in its annual report or in the report required under subsection (a) of this section if appropriate) the results of any examination under the preceding sentence.

(c) Department of Energy recommendations

The Secretary, in consultation with the Commission, and after opportunity for public comment, may recommend industry standards for reliability to the electric utility industry, including standards with respect to equipment, operating procedures and training of personnel, and standards relating to the level or levels of reliability appropriate to adequately and reliably serve the needs of electric consumers. The Secretary shall include in his annual report—

(1) any recommendations made under this subsection or any recommendations respecting electric utility reliability problems under any other provision of law, and

(2) a description of actions taken by electric utilities with respect to such recommendations.

(Pub. L. 95–617, title II, § 209, Nov. 9, 1978, 92 Stat. 3143.)

CODIFICATION

Section was enacted as part of the Public Utility Regulatory Policies Act of 1978, and not as part of the Federal Power Act which generally comprises this chapter.

DEFINITIONS

For definitions of terms used in this section, see section 2602 of this title.

§ 824a–3. Cogeneration and small power production

(a) Cogeneration and small power production rules

Not later than 1 year after November 9, 1978, the Commission shall prescribe, and from time to time thereafter revise, such rules as it determines necessary to encourage cogeneration and small power production, and to encourage geothermal small power production facilities of not more than 80 megawatts capacity, which rules require electric utilities to offer to—

(1) sell electric energy to qualifying cogeneration facilities and qualifying small power production facilities[1] and

(2) purchase electric energy from such facilities.

Such rules shall be prescribed, after consultation with representatives of Federal and State regulatory agencies having ratemaking authority for electric utilities, and after public notice and a reasonable opportunity for interested persons (including State and Federal agencies) to submit oral as well as written data, views, and arguments. Such rules shall include provisions respecting minimum reliability of qualifying cogeneration facilities and qualifying small power production facilities (including reliability of such facilities during emergencies) and rules respecting reliability of electric energy service to be available to such facilities from electric utilities during emergencies. Such rules may not authorize a qualifying cogeneration facility or qualifying small power production facility to make any sale for purposes other than resale.

(b) Rates for purchases by electric utilities

The rules prescribed under subsection (a) of this section shall insure that, in requiring any electric utility to offer to purchase electric energy from any qualifying cogeneration facility or qualifying small power production facility, the rates for such purchase—

(1) shall be just and reasonable to the electric consumers of the electric utility and in the public interest, and

[1] So in original. Probably should be followed by a comma.

(2) shall not discriminate against qualifying cogenerators or qualifying small power producers.

No such rule prescribed under subsection (a) of this section shall provide for a rate which exceeds the incremental cost to the electric utility of alternative electric energy.

(c) Rates for sales by utilities

The rules prescribed under subsection (a) of this section shall insure that, in requiring any electric utility to offer to sell electric energy to any qualifying cogeneration facility or qualifying small power production facility, the rates for such sale—

(1) shall be just and reasonable and in the public interest, and

(2) shall not discriminate against the qualifying cogenerators or qualifying small power producers.

(d) "Incremental cost of alternative electric energy" defined

For purposes of this section, the term ''incremental cost of alternative electric energy'' means, with respect to electric energy purchased from a qualifying cogenerator or qualifying small power producer, the cost to the electric utility of the electric energy which, but for the purchase from such cogenerator or small power producer, such utility would generate or purchase from another source.

(e) Exemptions

(1) Not later than 1 year after November 9, 1978, and from time to time thereafter, the Commission shall, after consultation with representatives of State regulatory authorities, electric utilities, owners of cogeneration facilities and owners of small power production facilities, and after public notice and a reasonable opportunity for interested persons (including State and Federal agencies) to submit oral as well as written data, views, and arguments, prescribe rules under which geothermal small power production facilities of not more than 80 megawatts capacity, qualifying cogeneration facilities, and qualifying small power production facilities are exempted in whole or part from the Federal Power Act [16 U.S.C. 791a et seq.], from the Public Utility Holding Company Act,[2] from State laws and regulations respecting the rates, or respecting the financial or organizational regulation, of electric utilities, or from any combination of the foregoing, if the Commission determines such exemption is necessary to encourage cogeneration and small power production.

(2) No qualifying small power production facility (other than a qualifying small power production facility which is an eligible solar, wind, waste, or geothermal facility as defined in section 3(17)(E) of the Federal Power Act [16 U.S.C. 796(17)(E)]) which has a power production capacity which, together with any other facilities located at the same site (as determined by the Commission), exceeds 30 megawatts, or 80 megawatts for a qualifying small power production facility using geothermal energy as the primary energy source, may be exempted under rules under paragraph (1) from any provision of law or regulation referred to in paragraph (1), except that any qualifying small power production facility which produces electric energy solely by the use of biomass as a primary energy source, may be exempted by the Commission under such rules from the Public Utility Holding Company Act[2] and from State laws and regulations referred to in such paragraph (1).

(3) No qualifying small power production facility or qualifying cogeneration facility may be exempted under this subsection from—

(A) any State law or regulation in effect in a State pursuant to subsection (f) of this section,

(B) the provisions of section 210, 211, or 212 of the Federal Power Act [16 U.S.C. 824i, 824j, or 824k] or the necessary authorities for enforcement of any such provision under the Federal Power Act [16 U.S.C. 791a et seq.], or

(C) any license or permit requirement under part I of the Federal Power Act [16 U.S.C. 791a et seq.] any provision under such Act related to such a license or permit requirement, or the necessary authorities for enforcement of any such requirement.

(f) Implementation of rules for qualifying cogeneration and qualifying small power production facilities

(1) Beginning on or before the date one year after any rule is prescribed by the Commission under subsection (a) of this section or revised under such subsection, each State regulatory authority shall, after notice and opportunity for public hearing, implement such rule (or revised rule) for each electric utility for which it has ratemaking authority.

(2) Beginning on or before the date one year after any rule is prescribed by the Commission under subsection (a) of this section or revised under such subsection, each nonregulated electric utility shall, after notice and opportunity for public hearing, implement such rule (or revised rule).

(g) Judicial review and enforcement

(1) Judicial review may be obtained respecting any proceeding conducted by a State regulatory authority or nonregulated electric utility for purposes of implementing any requirement of a rule under subsection (a) of this section in the same manner, and under the same requirements, as judicial review may be obtained under section 2633 of this title in the case of a proceeding to which section 2633 of this title applies.

(2) Any person (including the Secretary) may bring an action against any electric utility, qualifying small power producer, or qualifying cogenerator to enforce any requirement established by a State regulatory authority or nonregulated electric utility pursuant to subsection (f) of this section. Any such action shall be brought only in the manner, and under the requirements, as provided under section 2633 of this title with respect to an action to which section 2633 of this title applies.

(h) Commission enforcement

(1) For purposes of enforcement of any rule prescribed by the Commission under subsection (a) of this section with respect to any operations

[2] See References in Text note below.

of an electric utility, a qualifying cogeneration facility or a qualifying small power production facility which are subject to the jurisdiction of the Commission under part II of the Federal Power Act [16 U.S.C. 824 et seq.], such rule shall be treated as a rule under the Federal Power Act [16 U.S.C. 791a et seq.]. Nothing in subsection (g) of this section shall apply to so much of the operations of an electric utility, a qualifying cogeneration facility or a qualifying small power production facility as are subject to the jurisdiction of the Commission under part II of the Federal Power Act.

(2)(A) The Commission may enforce the requirements of subsection (f) of this section against any State regulatory authority or nonregulated electric utility. For purposes of any such enforcement, the requirements of subsection (f)(1) of this section shall be treated as a rule enforceable under the Federal Power Act [16 U.S.C. 791a et seq.]. For purposes of any such action, a State regulatory authority or nonregulated electric utility shall be treated as a person within the meaning of the Federal Power Act. No enforcement action may be brought by the Commission under this section other than—

(i) an action against the State regulatory authority or nonregulated electric utility for failure to comply with the requirements of subsection (f) of this section[3] or

(ii) an action under paragraph (1).

(B) Any electric utility, qualifying cogenerator, or qualifying small power producer may petition the Commission to enforce the requirements of subsection (f) of this section as provided in subparagraph (A) of this paragraph. If the Commission does not initiate an enforcement action under subparagraph (A) against a State regulatory authority or nonregulated electric utility within 60 days following the date on which a petition is filed under this subparagraph with respect to such authority, the petitioner may bring an action in the appropriate United States district court to require such State regulatory authority or nonregulated electric utility to comply with such requirements, and such court may issue such injunctive or other relief as may be appropriate. The Commission may intervene as a matter of right in any such action.

(i) Federal contracts

No contract between a Federal agency and any electric utility for the sale of electric energy by such Federal agency for resale which is entered into after November 9, 1978, may contain any provision which will have the effect of preventing the implementation of any rule under this section with respect to such utility. Any provision in any such contract which has such effect shall be null and void.

(j) New dams and diversions

Except for a hydroelectric project located at a Government dam (as defined in section 3(10) of the Federal Power Act [16 U.S.C. 796(10)]) at which non-Federal hydroelectric development is permissible, this section shall not apply to any hydroelectric project which impounds or diverts the water of a natural watercourse by means of a new dam or diversion unless the project meets each of the following requirements:

(1) No substantial adverse effects

At the time of issuance of the license or exemption for the project, the Commission finds that the project will not have substantial adverse effects on the environment, including recreation and water quality. Such finding shall be made by the Commission after taking into consideration terms and conditions imposed under either paragraph (3) of this subsection or section 10 of the Federal Power Act [16 U.S.C. 803] (whichever is appropriate as required by that Act [16 U.S.C. 791a et seq.] or the Electric Consumers Protection Act of 1986) and compliance with other environmental requirements applicable to the project.

(2) Protected rivers

At the time the application for a license or exemption for the project is accepted by the Commission (in accordance with the Commission's regulations and procedures in effect on January 1, 1986, including those relating to environmental consultation), such project is not located on either of the following:

(A) Any segment of a natural watercourse which is included in (or designated for potential inclusion in) a State or national wild and scenic river system.

(B) Any segment of a natural watercourse which the State has determined, in accordance with applicable State law, to possess unique natural, recreational, cultural, or scenic attributes which would be adversely affected by hydroelectric development.

(3) Fish and wildlife terms and conditions

The project meets the terms and conditions set by fish and wildlife agencies under the same procedures as provided for under section 30(c) of the Federal Power Act [16 U.S.C. 823a(c)].

(k) "New dam or diversion" defined

For purposes of this section, the term ''new dam or diversion'' means a dam or diversion which requires, for purposes of installing any hydroelectric power project, any construction, or enlargement of any impoundment or diversion structure (other than repairs or reconstruction or the addition of flashboards or similar adjustable devices)[4]

(*l*) Definitions

For purposes of this section, the terms ''small power production facility'', ''qualifying small power production facility'', ''qualifying small power producer'', ''primary energy source'', ''cogeneration facility'', ''qualifying cogeneration facility'', and ''qualifying cogenerator'' have the respective meanings provided for such terms under section 3(17) and (18) of the Federal Power Act [16 U.S.C. 796(17), (18)].

(m) Termination of mandatory purchase and sale requirements

(1) Obligation to purchase

After August 8, 2005, no electric utility shall be required to enter into a new contract or ob-

[3] So in original. Probably should be followed by a comma.

[4] So in original. Probably should be followed by a period.

ligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has nondiscriminatory access to—

(A)(i) independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy; and (ii) wholesale markets for long-term sales of capacity and electric energy; or

(B)(i) transmission and interconnection services that are provided by a Commission-approved regional transmission entity and administered pursuant to an open access transmission tariff that affords nondiscriminatory treatment to all customers; and (ii) competitive wholesale markets that provide a meaningful opportunity to sell capacity, including long-term and short-term sales, and electric energy, including long-term, short-term and real-time sales, to buyers other than the utility to which the qualifying facility is interconnected. In determining whether a meaningful opportunity to sell exists, the Commission shall consider, among other factors, evidence of transactions within the relevant market; or

(C) wholesale markets for the sale of capacity and electric energy that are, at a minimum, of comparable competitive quality as markets described in subparagraphs (A) and (B).

(2) Revised purchase and sale obligation for new facilities

(A) After August 8, 2005, no electric utility shall be required pursuant to this section to enter into a new contract or obligation to purchase from or sell electric energy to a facility that is not an existing qualifying cogeneration facility unless the facility meets the criteria for qualifying cogeneration facilities established by the Commission pursuant to the rulemaking required by subsection (n) of this section.

(B) For the purposes of this paragraph, the term ''existing qualifying cogeneration facility'' means a facility that—

(i) was a qualifying cogeneration facility on August 8, 2005; or

(ii) had filed with the Commission a notice of self-certification, self recertification or an application for Commission certification under 18 CFR 292.207 prior to the date on which the Commission issues the final rule required by subsection (n) of this section.

(3) Commission review

Any electric utility may file an application with the Commission for relief from the mandatory purchase obligation pursuant to this subsection on a service territory-wide basis. Such application shall set forth the factual basis upon which relief is requested and describe why the conditions set forth in subparagraph (A), (B), or (C) of paragraph (1) of this subsection have been met. After notice, including sufficient notice to potentially affected qualifying cogeneration facilities and qualifying small power production facilities, and an opportunity for comment, the Commission shall make a final determination within 90 days of such application regarding whether the conditions set forth in subparagraph (A), (B), or (C) of paragraph (1) have been met.

(4) Reinstatement of obligation to purchase

At any time after the Commission makes a finding under paragraph (3) relieving an electric utility of its obligation to purchase electric energy, a qualifying cogeneration facility, a qualifying small power production facility, a State agency, or any other affected person may apply to the Commission for an order reinstating the electric utility's obligation to purchase electric energy under this section. Such application shall set forth the factual basis upon which the application is based and describe why the conditions set forth in subparagraph (A), (B), or (C) of paragraph (1) of this subsection are no longer met. After notice, including sufficient notice to potentially affected utilities, and opportunity for comment, the Commission shall issue an order within 90 days of such application reinstating the electric utility's obligation to purchase electric energy under this section if the Commission finds that the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) which relieved the obligation to purchase, are no longer met.

(5) Obligation to sell

After August 8, 2005, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that—

(A) competing retail electric suppliers are willing and able to sell and deliver electric energy to the qualifying cogeneration facility or qualifying small power production facility; and

(B) the electric utility is not required by State law to sell electric energy in its service territory.

(6) No effect on existing rights and remedies

Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect or pending approval before the appropriate State regulatory authority or non-regulated electric utility on August 8, 2005, to purchase electric energy or capacity from or to sell electric energy or capacity to a qualifying cogeneration facility or qualifying small power production facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

(7) Recovery of costs

(A) The Commission shall issue and enforce such regulations as are necessary to ensure that an electric utility that purchases electric energy or capacity from a qualifying cogeneration facility or qualifying small power production facility in accordance with any legally enforceable obligation entered into or imposed under this section recovers all prudently incurred costs associated with the purchase.

(B) A regulation under subparagraph (A) shall be enforceable in accordance with the

provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).

(n) Rulemaking for new qualifying facilities

(1)(A) Not later than 180 days after August 8, 2005, the Commission shall issue a rule revising the criteria in 18 CFR 292.205 for new qualifying cogeneration facilities seeking to sell electric energy pursuant to this section to ensure—

(i) that the thermal energy output of a new qualifying cogeneration facility is used in a productive and beneficial manner;

(ii) the electrical, thermal, and chemical output of the cogeneration facility is used fundamentally for industrial, commercial, or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as State laws applicable to sales of electric energy from a qualifying facility to its host facility; and

(iii) continuing progress in the development of efficient electric energy generating technology.

(B) The rule issued pursuant to paragraph (1)(A) of this subsection shall be applicable only to facilities that seek to sell electric energy pursuant to this section. For all other purposes, except as specifically provided in subsection (m)(2)(A) of this section, qualifying facility status shall be determined in accordance with the rules and regulations of this Act.

(2) Notwithstanding rule revisions under paragraph (1), the Commission's criteria for qualifying cogeneration facilities in effect prior to the date on which the Commission issues the final rule required by paragraph (1) shall continue to apply to any cogeneration facility that—

(A) was a qualifying cogeneration facility on August 8, 2005, or

(B) had filed with the Commission a notice of self-certification, self-recertification or an application for Commission certification under 18 CFR 292.207 prior to the date on which the Commission issues the final rule required by paragraph (1).

(Pub. L. 95–617, title II, §210, Nov. 9, 1978, 92 Stat. 3144; Pub. L. 96–294, title VI, §643(b), June 30, 1980, 94 Stat. 770; Pub. L. 99–495, §8(a), Oct. 16, 1986, 100 Stat. 1249; Pub. L. 101–575, §2, Nov. 15, 1990, 104 Stat. 2834; Pub. L. 109–58, title XII, §1253(a), Aug. 8, 2005, 119 Stat. 967.)

REFERENCES IN TEXT

The Federal Power Act, referred to in subsecs. (e), (h), (j)(1), and (m)(7)(B), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to this chapter (§791a et seq.). Part I of the Federal Power Act is classified generally to subchapter I (§791a et seq.) of this chapter. Part II of the Federal Power Act is classified generally to this subchapter (§824 et seq.). For complete classification of this Act to the Code, see section 791a of this title and Tables.

The Public Utility Holding Company Act, referred to in subsec. (e), probably means the Public Utility Holding Company Act of 1935, title I of act Aug. 26, 1935, ch. 687, 49 Stat. 803, as amended, which was classified generally to chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, prior to repeal by Pub. L. 109–58, title XII, §1263, Aug. 8, 2005, 119 Stat. 974. For complete classification of this Act to the Code, see Tables.

The Electric Consumers Protection Act of 1986, referred to in subsec. (j)(1), is Pub. L. 99–495, Oct. 16, 1986, 100 Stat. 1243. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 791a of this title and Tables.

This Act, referred to in subsecs. (m)(6) and (n)(1)(B), is Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117, as amended, known as the Public Utility Regulatory Policies Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

CODIFICATION

Section was enacted as part of the Public Utility Regulatory Policies Act of 1978, and not as part of the Federal Power Act which generally comprises this chapter.

August 8, 2005, referred to in subsec. (n)(1)(A), was in the original ''the date of enactment of this section'', which was translated as meaning the date of enactment of Pub. L. 109–58, which enacted subsecs. (m) and (n) of this section, to reflect the probable intent of Congress.

AMENDMENTS

2005—Subsecs. (m), (n). Pub. L. 109–58 added subsecs. (m) and (n).

1990—Subsec. (e)(2). Pub. L. 101–575 inserted ''(other than a qualifying small power production facility which is an eligible solar, wind, waste, or geothermal facility as defined in section 3(17)(E) of the Federal Power Act)'' after first reference to ''facility''.

1986—Subsecs. (j) to (*l*). Pub. L. 99–495 added subsecs. (j) and (k) and redesignated former subsec. (j) as (*l*).

1980—Subsec. (a). Pub. L. 96–294, §643(b)(1), inserted provisions relating to encouragement of geothermal small power production facilities.

Subsec. (e)(1). Pub. L. 96–294, §643(b)(2), inserted provisions relating to applicability to geothermal small power production facilities.

Subsec. (e)(2). Pub. L. 96–294, §643(b)(3), inserted provisions respecting a qualifying small power production facility using geothermal energy as the primary energy source.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 8(b) of Pub. L. 99–495 provided that:

''(1) Subsection (j) of section 210 of the Public Utility Regulatory Policies Act of 1978 (as amended by subsection (a) of this section) [16 U.S.C. 824a–3(j)] shall apply to any project for which benefits under section 210 of the Public Utility Regulatory Policies Act of 1978 are sought and for which a license or exemption is issued by the Federal Energy Regulatory Commission after the enactment of this Act [Oct. 16, 1986], except as otherwise provided in paragraph (2), (3) or (4) of this subsection.

''(2) Subsection (j) shall not apply to the project if the application for license or exemption for the project was filed, and accepted for filing by the Commission, before the enactment of this Act [Oct. 16, 1986].

''(3) Paragraphs (1) and (3) of such subsection (j) shall not apply if the application for the license or exemption for the project was filed before the enactment of this Act [Oct. 16, 1986] and accepted for filing by the Commission (in accordance with the Commission's regulations and procedures in effect on January 1, 1986, including those relating to the requirement for environmental consultation) within 3 years after such enactment.

''(4)(A) Paragraph (3) of subsection (j) shall not apply for projects where the license or exemption application was filed after enactment of this Act [Oct. 16, 1986] if, based on a petition filed by the applicant for such project within 18 months after such enactment, the Commission determines (after public notice and opportunity for public comment of at least 45 days) that the applicant has demonstrated that he had committed (prior to the enactment of this Act) substantial monetary resources directly related to the development of

the project and to the diligent and timely completion of all requirements of the Commission for filing an acceptable application for license or exemption. Such petition shall be publicly available and shall be filed in such form as the Commission shall require by rule issued within 120 days after the enactment of this Act. The public notice required under this subparagraph shall include written notice by the petitioner to affected Federal and State agencies.

''(B) In the case of any petition referred to in subparagraph (A), if the applicant had a preliminary permit and had completed environmental consultations (required by Commission regulations and procedures in effect on January 1, 1986) prior to enactment, there shall be a rebuttable presumption that such applicant had committed substantial monetary resources prior to enactment.

''(C) The applicant for a license or exemption for a project described in subparagraph (A) may petition the Commission for an initial determination under paragraph (1) of section 210(j) of the Public Utility Regulatory Policies Act of 1978 [16 U.S.C. 824a–3(j)(1)] prior to the time the license or exemption is issued. If the Commission initially finds that the project will have substantial adverse effects on the environment within the meaning of such paragraph (1), prior to making a final finding under that paragraph the Commission shall afford the applicant a reasonable opportunity to provide for mitigation of such adverse effects. The Commission shall make a final finding under such paragraph (1) at the time the license or exemption is issued. If the Federal Energy Regulatory Commission has notified the State of its initial finding and the State has not taken any action described in paragraph (2) of section 210(j) before such final finding, the failure to take such action shall be the basis for a rebuttable presumption that there is not a substantial adverse effect on the environment related to natural, recreational, cultural, or scenic attributes for purposes of such finding.

''(D) If a petition under subparagraph (A) is denied, all provisions of section 210(j) of the Public Utility Regulatory Policies Act of 1978 [16 U.S.C. 824a–3(j)] shall apply to the project regardless of when the license or exemption is issued.''

Amendment by Pub. L. 99–495 effective with respect to each license, permit, or exemption issued under this chapter after Oct. 16, 1986, see section 18 of Pub. L. 99–495, set out as a note under section 797 of this title.

Calculation of Avoided Cost

Pub. L. 102–486, title XIII, § 1335, Oct. 24, 1992, 106 Stat. 2984, provided that: ''Nothing in section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95–617) [16 U.S.C. 824a–3] requires a State regulatory authority or nonregulated electric utility to treat a cost reasonably identified to be incurred or to have been incurred in the construction or operation of a facility or a project which has been selected by the Department of Energy and provided Federal funding pursuant to the Clean Coal Program authorized by Public Law 98–473 [see Tables for classification] as an incremental cost of alternative electric energy.''

Applicability of 1980 Amendment to Facilities Using Solar Energy as Primary Energy Source

Pub. L. 100–202, § 101(d) [title III, § 310], Dec. 22, 1987, 101 Stat. 1329–104, 1329–126, provided that:

''(a) The amendments made by section 643(b) of the Energy Security Act (Public Law 96–294) [amending this section] and any regulations issued to implement such amendment shall apply to qualifying small power production facilities (as such term is defined in the Federal Power Act [16 U.S.C. 791a et seq.]) using solar energy as the primary energy source to the same extent such amendments and regulations apply to qualifying small power production facilities using geothermal energy as the primary energy source, except that nothing in this Act [see Tables for classification] shall preclude the Federal Energy Regulatory Commission from revising its regulations to limit the availability of exemptions authorized under this Act as it determines to be required in the public interest and consistent with its obligations and duties under section 210 of the Public Utility Regulatory Policies Act of 1978 [this section].

''(b) The provisions of subsection (a) shall apply to a facility using solar energy as the primary energy source only if either of the following is submitted to the Federal Energy Regulatory Commission during the two-year period beginning on the date of enactment of this Act [Dec. 22, 1987]:

''(1) An application for certification of the facility as a qualifying small power production facility.

''(2) Notice that the facility meets the requirements for qualification.''

Study and Report to Congressional Committees on Application of Provisions Relating to Cogeneration, Small Power Production, and Interconnection Authority to Hydroelectric Power Facilities

Section 8(d) of Pub. L. 99–495 provided that:

''(1) The Commission shall conduct a study (in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 [42 U.S.C. 4332(2)(C)]) of whether the benefits of section 210 of the Public Utility Regulatory Policies Act of 1978 [16 U.S.C. 824a–3] and section 210 of the Federal Power Act [16 U.S.C. 824i] should be applied to hydroelectric power facilities utilizing new dams or diversions (within the meaning of section 210(k) of the Public Utility Regulatory Policies Act of 1978).

''(2) The study under this subsection shall take into consideration the need for such new dams or diversions for power purposes, the environmental impacts of such new dams and diversions (both with and without the application of the amendments made by this Act to sections 4, 10, and 30 of the Federal Power Act [16 U.S.C. 797, 803, 823a] and section 210 of the Public Utility Regulatory Policies Act of 1978 [16 U.S.C. 824a–3]), the environmental effects of such facilities alone and in combination with other existing or proposed dams or diversions on the same waterway, the intent of Congress to encourage and give priority to the application of section 210 of Public Utility Regulatory Policies Act of 1978 to existing dams and diversions rather than such new dams or diversions, and the impact of such section 210 on the rates paid by electric power consumers.

''(3) The study under this subsection shall be initiated within 3 months after enactment of this Act [Oct. 16, 1986] and completed as promptly as practicable.

''(4) A report containing the results of the study conducted under this subsection shall be submitted to the Committee on Energy and Commerce of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate while both Houses are in session.

''(5) The report submitted under paragraph (4) shall include a determination (and the basis thereof) by the Commission, based on the study and a public hearing and subject to review under section 313(b) of the Federal Power Act [16 U.S.C. 825*l*(b)], whether any of the benefits referred to in paragraph (1) should be available for such facilities and whether applications for preliminary permits (or licenses where no preliminary permit has been issued) for such small power production facilities utilizing new dams or diversions should be accepted by the Commission after the moratorium period specified in subsection (e). The report shall include such other administrative and legislative recommendations as the Commission deems appropriate.

''(6) If the study under this subsection has not been completed within 18 months after its initiation, the Commission shall notify the Committees referred to in paragraph (4) of the reasons for the delay and specify a date when it will be completed and a report submitted.''

MORATORIUM ON APPLICATION OF THIS SECTION TO NEW DAMS

Section 8(e) of Pub. L. 99–495 provided that: ''Notwithstanding the amendments made by subsection (a) of this section [amending section 824a–3 of this title], in the case of a project for which a license or exemption is issued after the enactment of this Act [Oct. 16, 1986], section 210 of the Public Utility Regulatory Policies Act of 1978 [16 U.S.C. 824a–3] shall not apply during the moratorium period if the project utilizes a new dam or diversion (as defined in section 210(k) of such Act) unless the project is either—

''(1) a project located at a Government dam (as defined in section 3(10) of the Federal Power Act [16 U.S.C. 796(10)]) at which non-Federal hydroelectric development is permissible, or

''(2) a project described in paragraphs (2), (3), or (4) of subsection (b) [set out as a note above].

For purposes of this subsection, the term 'moratorium period' means the period beginning on the date of the enactment of this Act and ending at the expiration of the first full session of Congress after the session during which the report under subsection (d) [set out as a note above] has been submitted to the Congress.''

DEFINITIONS

For definitions of terms used in this section, see section 2602 of this title.

§ 824a–4. Seasonal diversity electricity exchange

(a) Authority

The Secretary may acquire rights-of-way by purchase, including eminent domain, through North Dakota, South Dakota, and Nebraska for transmission facilities for the seasonal diversity exchange of electric power to and from Canada if he determines—

(1) after opportunity for public hearing—

(A) that the exchange is in the public interest and would further the purposes referred to in section 2611(1) and (2) of this title and that the acquisition of such rights-of-way and the construction and operation of such transmission facilities for such purposes is otherwise in the public interest,

(B) that a permit has been issued in accordance with subsection (b) of this section for such construction, operation, maintenance, and connection of the facilities at the border for the transmission of electric energy between the United States and Canada as is necessary for such exchange of electric power, and

(C) that each affected State has approved the portion of the transmission route located in each State in accordance with applicable State law, or if there is no such applicable State law in such State, the Governor has approved such portion; and

(2) after consultation with the Secretary of the Interior and the heads of other affected Federal agencies, that the Secretary of the Interior and the heads of such,[1] other agencies concur in writing in the location of such portion of the transmission facilities as crosses Federal land under the jurisdiction of such Secretary or such other Federal agency, as the case may be.

The Secretary shall provide to any State such cooperation and technical assistance as the State may request and as he determines appropriate in the selection of a transmission route. If the transmission route approved by any State does not appear to be feasible and in the public interest, the Secretary shall encourage such State to review such route and to develop a route that is feasible and in the public interest. Any exercise by the Secretary of the power of eminent domain under this section shall be in accordance with other applicable provisions of Federal law. The Secretary shall provide public notice of his intention to acquire any right-of-way before exercising such power of eminent domain with respect to such right-of-way.

(b) Permit

Notwithstanding any transfer of functions under the first sentence of section 301(b) of the Department of Energy Organization Act [42 U.S.C. 7151(b)], no permit referred to in subsection (a)(1)(B) may be issued unless the Commission has conducted hearings and made the findings required under section 202(e) of the Federal Power Act [16 U.S.C. 824a(e)] and under the applicable execution order respecting the construction, operation, maintenance, or connection at the borders of the United States of facilities for the transmission of electric energy between the United States and a foreign country. Any finding of the Commission under an applicable executive order referred to in this subsection shall be treated for purposes of judicial review as an order issued under section 202(e) of the Federal Power Act.

(c) Timely acquisition by other means

The Secretary may not acquire any rights-of-day[2] under this section unless he determines that the holder or holders of a permit referred to in subsection (a)(1)(B) of this section are unable to acquire such rights-of-way under State condemnation authority, or after reasonable opportunity for negotiation, without unreasonably delaying construction, taking into consideration the impact of such delay on completion of the facilities in a timely fashion.

(d) Payments by permittees

(1) The property interest acquired by the Secretary under this section (whether by eminent domain or other purchase) shall be transferred by the Secretary to the holder of a permit referred to in subsection (b) of this section if such holder has made payment to the Secretary of the entire costs of the acquisition of such property interest, including administrative costs. The Secretary may accept, and expend, for purposes of such acquisition, amounts from any such person before acquiring a property interest to be transferred to such person under this section.

(2) If no payment is made by a permit holder under paragraph (1), within a reasonable time, the Secretary shall offer such rights-of-way to the original owner for reacquisition at the original price paid by the Secretary. If such original owner refuses to reacquire such property after a reasonable period, the Secretary shall dispose of such property in accordance with applicable provisions of law governing disposal of property of the United States.

[1] So in original. Comma probably should be deleted.

[2] So in original. Probably should be ''rights-of-way''.

(e) Federal law governing Federal lands

This section shall not affect any Federal law governing Federal lands.

(Pub. L. 95–617, title VI, § 602, Nov. 9, 1978, 92 Stat. 3164.)

CODIFICATION

Subsection (f), which required the Secretary to report annually to Congress on actions taken pursuant to this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 90 of House Document No. 103–7.

Section was enacted as part of the Public Utility Regulatory Policies Act of 1978, and not as part of the Federal Power Act which generally comprises this chapter.

DEFINITIONS

For definitions of terms used in this section, see section 2602 of this title.

§ 824b. Disposition of property; consolidations; purchase of securities

(a) Authorization

(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so—

(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $10,000,000;

(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with those of any other person, by any means whatsoever;

(C) purchase, acquire, or take any security with a value in excess of $10,000,000 of any other public utility; or

(D) purchase, lease, or otherwise acquire an existing generation facility—

(i) that has a value in excess of $10,000,000; and

(ii) that is used for interstate wholesale sales and over which the Commission has jurisdiction for ratemaking purposes.

(2) No holding company in a holding company system that includes a transmitting utility or an electric utility shall purchase, acquire, or take any security with a value in excess of $10,000,000 of, or, by any means whatsoever, directly or indirectly, merge or consolidate with, a transmitting utility, an electric utility company, or a holding company in a holding company system that includes a transmitting utility, or an electric utility company, with a value in excess of $10,000,000 without first having secured an order of the Commission authorizing it to do so.

(3) Upon receipt of an application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.

(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or change in control, if it finds that the proposed transaction will be consistent with the public interest, and will not result in cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company, unless the Commission determines that the cross-subsidization, pledge, or encumbrance will be consistent with the public interest.

(5) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, or acquisitions, under this section. Such rules shall identify classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4). The Commission shall provide expedited review for such transactions. The Commission shall grant or deny any other application for approval of a transaction not later than 180 days after the application is filed. If the Commission does not act within 180 days, such application shall be deemed granted unless the Commission finds, based on good cause, that further consideration is required to determine whether the proposed transaction meets the standards of paragraph (4) and issues an order tolling the time for acting on the application for not more than 180 days, at the end of which additional period the Commission shall grant or deny the application.

(6) For purposes of this subsection, the terms ''associate company'', ''holding company'', and ''holding company system'' have the meaning given those terms in the Public Utility Holding Company Act of 2005 [42 U.S.C. 16451 et seq.].

(b) Orders of Commission

The Commission may grant any application for an order under this section in whole or in part and upon such terms and conditions as it finds necessary or appropriate to secure the maintenance of adequate service and the coordination in the public interest of facilities subject to the jurisdiction of the Commission. The Commission may from time to time for good cause shown make such orders supplemental to any order made under this section as it may find necessary or appropriate.

(June 10, 1920, ch. 285, pt. II, § 203, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 849; amended Pub. L. 109–58, title XII, § 1289(a), Aug. 8, 2005, 119 Stat. 982.)

REFERENCES IN TEXT

The Public Utility Holding Company Act of 2005, referred to in subsec. (a)(6), is subtitle F of title XII of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 972, which is classified principally to part D (§ 16451 et seq.) of subchapter XII of chapter 149 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of Title 42 and Tables.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–58 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''No public utility shall sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $50,000, or by any means whatsoever, directly or indirectly, merge or consolidate such facilities or any part thereof with those of any other person, or purchase, acquire, or take any security of any other

public utility, without first having secured an order of the Commission authorizing it to do so. Upon application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable. After notice and opportunity for hearing, if the Commission finds that the proposed disposition, consolidation, acquisition, or control will be consistent with the public interest, it shall approve the same.''

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–58, title XII, §1289(b), (c), Aug. 8, 2005, 119 Stat. 983, provided that:

''(b) EFFECTIVE DATE.—The amendments made by this section [amending this section] shall take effect 6 months after the date of enactment of this Act [Aug. 8, 2005].

''(c) TRANSITION PROVISION.—The amendments made by subsection (a) [amending this section] shall not apply to any application under section 203 of the Federal Power Act (16 U.S.C. 824b) that was filed on or before the date of enactment of this Act [Aug. 8, 2005].''

§ 824c. Issuance of securities; assumption of liabilities

(a) Authorization by Commission

No public utility shall issue any security, or assume any obligation or liability as guarantor, indorser, surety, or otherwise in respect of any security of another person, unless and until, and then only to the extent that, upon application by the public utility, the Commission by order authorizes such issue or assumption of liability. The Commission shall make such order only if it finds that such issue or assumption (a) is for some lawful object, within the corporate purposes of the applicant and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant of service as a public utility and which will not impair its ability to perform that service, and (b) is reasonably necessary or appropriate for such purposes. The provisions of this section shall be effective six months after August 26, 1935.

(b) Application approval or modification; supplemental orders

The Commission, after opportunity for hearing, may grant any application under this section in whole or in part, and with such modifications and upon such terms and conditions as it may find necessary or appropriate, and may from time to time, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as it may find necessary or appropriate, and may by any such supplemental order modify the provisions of any previous order as to the particular purposes, uses, and extent to which, or the conditions under which, any security so theretofore authorized or the proceeds thereof may be applied, subject always to the requirements of subsection (a) of this section.

(c) Compliance with order of Commission

No public utility shall, without the consent of the Commission, apply any security or any proceeds thereof to any purpose not specified in the Commission's order, or supplemental order, or to any purpose in excess of the amount allowed for such purpose in such order, or otherwise in contravention of such order.

(d) Authorization of capitalization not to exceed amount paid

The Commission shall not authorize the capitalization of the right to be a corporation or of any franchise, permit, or contract for consolidation, merger, or lease in excess of the amount (exclusive of any tax or annual charge) actually paid as the consideration for such right, franchise, permit, or contract.

(e) Notes or drafts maturing less than one year after issuance

Subsection (a) of this section shall not apply to the issue or renewal of, or assumption of liability on, a note or draft maturing not more than one year after the date of such issue, renewal, or assumption of liability, and aggregating (together with all other then outstanding notes and drafts of a maturity of one year or less on which such public utility is primarily or secondarily liable) not more than 5 per centum of the par value of the other securities of the public utility then outstanding. In the case of securities having no par value, the par value for the purpose of this subsection shall be the fair market value as of the date of issue. Within ten days after any such issue, renewal, or assumption of liability, the public utility shall file with the Commission a certificate of notification, in such form as may be prescribed by the Commission, setting forth such matters as the Commission shall by regulation require.

(f) Public utility securities regulated by State not affected

The provisions of this section shall not extend to a public utility organized and operating in a State under the laws of which its security issues are regulated by a State commission.

(g) Guarantee or obligation on part of United States

Nothing in this section shall be construed to imply any guarantee or obligation on the part of the United States in respect of any securities to which the provisions of this section relate.

(h) Filing duplicate reports with the Securities and Exchange Commission

Any public utility whose security issues are approved by the Commission under this section may file with the Securities and Exchange Commission duplicate copies of reports filed with the Federal Power Commission in lieu of the reports, information, and documents required under sections 77g, 78*l*, and 78m of title 15.

(June 10, 1920, ch. 285, pt. II, §204, as added Aug. 26, 1935, ch. 687, title II, §213, 49 Stat. 850.)

TRANSFER OF FUNCTIONS

Executive and administrative functions of Securities and Exchange Commission, with certain exceptions, transferred to Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by Reorg. Plan No. 10 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out in the Appendix to Title 5, Government Organization and Employees.

§ 824d. Rates and charges; schedules; suspension of new rates; automatic adjustment clauses

(a) Just and reasonable rates

All rates and charges made, demanded, or received by any public utility for or in connection with the transmission or sale of electric energy subject to the jurisdiction of the Commission, and all rules and regulations affecting or pertaining to such rates or charges shall be just and reasonable, and any such rate or charge that is not just and reasonable is hereby declared to be unlawful.

(b) Preference or advantage unlawful

No public utility shall, with respect to any transmission or sale subject to the jurisdiction of the Commission, (1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, or (2) maintain any unreasonable difference in rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service.

(c) Schedules

Under such rules and regulations as the Commission may prescribe, every public utility shall file with the Commission, within such time and in such form as the Commission may designate, and shall keep open in convenient form and place for public inspection schedules showing all rates and charges for any transmission or sale subject to the jurisdiction of the Commission, and the classifications, practices, and regulations affecting such rates and charges, together with all contracts which in any manner affect or relate to such rates, charges, classifications, and services.

(d) Notice required for rate changes

Unless the Commission otherwise orders, no change shall be made by any public utility in any such rate, charge, classification, or service, or in any rule, regulation, or contract relating thereto, except after sixty days' notice to the Commission and to the public. Such notice shall be given by filing with the Commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force and the time when the change or changes will go into effect. The Commission, for good cause shown, may allow changes to take effect without requiring the sixty days' notice herein provided for by an order specifying the changes so to be made and the time when they shall take effect and the manner in which they shall be filed and published.

(e) Suspension of new rates; hearings; five-month period

Whenever any such new schedule is filed the Commission shall have authority, either upon complaint or upon its own initiative without complaint, at once, and, if it so orders, without answer or formal pleading by the public utility, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, charge, classification, or service; and, pending such hearing and the decision thereon, the Commission, upon filing with such schedules and delivering to the public utility affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, classification, or service, but not for a longer period than five months beyond the time when it would otherwise go into effect; and after full hearings, either completed before or after the rate, charge, classification, or service goes into effect, the Commission may make such orders with reference thereto as would be proper in a proceeding initiated after it had become effective. If the proceeding has not been concluded and an order made at the expiration of such five months, the proposed change of rate, charge, classification, or service shall go into effect at the end of such period, but in case of a proposed increased rate or charge, the Commission may by order require the interested public utility or public utilities to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require such public utility or public utilities to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such increased rates or charges as by its decision shall be found not justified. At any hearing involving a rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the public utility, and the Commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible.

(f) Review of automatic adjustment clauses and public utility practices; action by Commission; "automatic adjustment clause" defined

(1) Not later than 2 years after November 9, 1978, and not less often than every 4 years thereafter, the Commission shall make a thorough review of automatic adjustment clauses in public utility rate schedules to examine—

(A) whether or not each such clause effectively provides incentives for efficient use of resources (including economical purchase and use of fuel and electric energy), and

(B) whether any such clause reflects any costs other than costs which are—

(i) subject to periodic fluctuations and

(ii) not susceptible to precise determinations in rate cases prior to the time such costs are incurred.

Such review may take place in individual rate proceedings or in generic or other separate proceedings applicable to one or more utilities.

(2) Not less frequently than every 2 years, in rate proceedings or in generic or other separate proceedings, the Commission shall review, with respect to each public utility, practices under any automatic adjustment clauses of such utility to insure efficient use of resources (including economical purchase and use of fuel and electric energy) under such clauses.

(3) The Commission may, on its own motion or upon complaint, after an opportunity for an evidentiary hearing, order a public utility to—

(A) modify the terms and provisions of any automatic adjustment clause, or

(B) cease any practice in connection with the clause,

if such clause or practice does not result in the economical purchase and use of fuel, electric energy, or other items, the cost of which is included in any rate schedule under an automatic adjustment clause.

(4) As used in this subsection, the term ''automatic adjustment clause'' means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing, in rates reflecting increases or decreases (or both) in costs incurred by an electric utility. Such term does not include any rate which takes effect subject to refund and subject to a later determination of the appropriate amount of such rate.

(June 10, 1920, ch. 285, pt. II, § 205, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 851; amended Pub. L. 95–617, title II, §§ 207(a), 208, Nov. 9, 1978, 92 Stat. 3142.)

AMENDMENTS

1978—Subsec. (d). Pub. L. 95–617, § 207(a), substituted ''sixty'' for ''thirty'' in two places.

Subsec. (f). Pub. L. 95–617, § 208, added subsec. (f).

STUDY OF ELECTRIC RATE INCREASES UNDER FEDERAL POWER ACT

Section 207(b) of Pub. L. 95–617 directed chairman of Federal Energy Regulatory Commission, in consultation with Secretary, to conduct a study of legal requirements and administrative procedures involved in consideration and resolution of proposed wholesale electric rate increases under Federal Power Act, section 791a et seq. of this title, for purposes of providing for expeditious handling of hearings consistent with due process, preventing imposition of successive rate increases before they have been determined by Commission to be just and reasonable and otherwise lawful, and improving procedures designed to prohibit anticompetitive or unreasonable differences in wholesale and retail rates, or both, and that chairman report to Congress within nine months from Nov. 9, 1978, on results of study, on administrative actions taken as a result of this study, and on any recommendations for changes in existing law that will aid purposes of this section.

§ 824e. Power of Commission to fix rates and charges; determination of cost of production or transmission

(a) Unjust or preferential rates, etc.; statement of reasons for changes; hearing; specification of issues

Whenever the Commission, after a hearing held upon its own motion or upon complaint, shall find that any rate, charge, or classification, demanded, observed, charged, or collected by any public utility for any transmission or sale subject to the jurisdiction of the Commission, or that any rule, regulation, practice, or contract affecting such rate, charge, or classification is unjust, unreasonable, unduly discriminatory or preferential, the Commission shall determine the just and reasonable rate, charge, classification, rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by order. Any complaint or motion of the Commission to initiate a proceeding under this section shall state the change or changes to be made in the rate, charge, classification, rule, regulation, practice, or contract then in force, and the reasons for any proposed change or changes therein. If, after review of any motion or complaint and answer, the Commission shall decide to hold a hearing, it shall fix by order the time and place of such hearing and shall specify the issues to be adjudicated.

(b) Refund effective date; preferential proceedings; statement of reasons for delay; burden of proof; scope of refund order; refund orders in cases of dilatory behavior; interest

Whenever the Commission institutes a proceeding under this section, the Commission shall establish a refund effective date. In the case of a proceeding instituted on complaint, the refund effective date shall not be earlier than the date of the filing of such complaint nor later than 5 months after the filing of such complaint. In the case of a proceeding instituted by the Commission on its own motion, the refund effective date shall not be earlier than the date of the publication by the Commission of notice of its intention to initiate such proceeding nor later than 5 months after the publication date. Upon institution of a proceeding under this section, the Commission shall give to the decision of such proceeding the same preference as provided under section 824d of this title and otherwise act as speedily as possible. If no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision. In any proceeding under this section, the burden of proof to show that any rate, charge, classification, rule, regulation, practice, or contract is unjust, unreasonable, unduly discriminatory, or preferential shall be upon the Commission or the complainant. At the conclusion of any proceeding under this section, the Commission may order refunds of any amounts paid, for the period subsequent to the refund effective date through a date fifteen months after such refund effective date, in excess of those which would have been paid under the just and reasonable rate, charge, classification, rule, regulation, practice, or contract which the Commission orders to be thereafter observed and in force: *Provided*, That if the proceeding is not concluded within fifteen months after the refund effective date and if the Commission determines at the conclusion of the proceeding that the proceeding was not resolved within the fifteen-month period primarily because of dilatory behavior by the public utility, the Commission may order refunds of any or all amounts paid for the period subsequent to the refund effective date and prior to the conclusion of the proceeding. The refunds shall be made, with interest, to those persons who have paid those rates or charges which are the subject of the proceeding.

(c) Refund considerations; shifting costs; reduction in revenues; "electric utility companies" and "registered holding company" defined

Notwithstanding subsection (b) of this section, in a proceeding commenced under this section involving two or more electric utility companies

of a registered holding company, refunds which might otherwise be payable under subsection (b) of this section shall not be ordered to the extent that such refunds would result from any portion of a Commission order that (1) requires a decrease in system production or transmission costs to be paid by one or more of such electric companies; and (2) is based upon a determination that the amount of such decrease should be paid through an increase in the costs to be paid by other electric utility companies of such registered holding company: *Provided*, That refunds, in whole or in part, may be ordered by the Commission if it determines that the registered holding company would not experience any reduction in revenues which results from an inability of an electric utility company of the holding company to recover such increase in costs for the period between the refund effective date and the effective date of the Commission's order. For purposes of this subsection, the terms ''electric utility companies'' and ''registered holding company'' shall have the same meanings as provided in the Public Utility Holding Company Act of 1935, as amended.[1]

(d) Investigation of costs

The Commission upon its own motion, or upon the request of any State commission whenever it can do so without prejudice to the efficient and proper conduct of its affairs, may investigate and determine the cost of the production or transmission of electric energy by means of facilities under the jurisdiction of the Commission in cases where the Commission has no authority to establish a rate governing the sale of such energy.

(e) Short-term sales

(1) In this subsection:

(A) The term ''short-term sale'' means an agreement for the sale of electric energy at wholesale in interstate commerce that is for a period of 31 days or less (excluding monthly contracts subject to automatic renewal).

(B) The term ''applicable Commission rule'' means a Commission rule applicable to sales at wholesale by public utilities that the Commission determines after notice and comment should also be applicable to entities subject to this subsection.

(2) If an entity described in section 824(f) of this title voluntarily makes a short-term sale of electric energy through an organized market in which the rates for the sale are established by Commission-approved tariff (rather than by contract) and the sale violates the terms of the tariff or applicable Commission rules in effect at the time of the sale, the entity shall be subject to the refund authority of the Commission under this section with respect to the violation.

(3) This section shall not apply to—

(A) any entity that sells in total (including affiliates of the entity) less than 8,000,000 megawatt hours of electricity per year; or

(B) an electric cooperative.

(4)(A) The Commission shall have refund authority under paragraph (2) with respect to a voluntary short term sale of electric energy by the Bonneville Power Administration only if the sale is at an unjust and unreasonable rate.

(B) The Commission may order a refund under subparagraph (A) only for short-term sales made by the Bonneville Power Administration at rates that are higher than the highest just and reasonable rate charged by any other entity for a short-term sale of electric energy in the same geographic market for the same, or most nearly comparable, period as the sale by the Bonneville Power Administration.

(C) In the case of any Federal power marketing agency or the Tennessee Valley Authority, the Commission shall not assert or exercise any regulatory authority or power under paragraph (2) other than the ordering of refunds to achieve a just and reasonable rate.

(June 10, 1920, ch. 285, pt. II, § 206, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 852; amended Pub. L. 100–473, § 2, Oct. 6, 1988, 102 Stat. 2299; Pub. L. 109–58, title XII, §§ 1285, 1286, 1295(b), Aug. 8, 2005, 119 Stat. 980, 981, 985.)

REFERENCES IN TEXT

The Public Utility Holding Company Act of 1935, referred to in subsec. (c), is title I of act Aug. 26, 1935, ch. 687, 49 Stat. 803, as amended, which was classified generally to chapter 2C (§ 79 et seq.) of Title 15, Commerce and Trade, prior to repeal by Pub. L. 109–58, title XII, § 1263, Aug. 8, 2005, 119 Stat. 974. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–58, § 1295(b)(1), substituted ''hearing held'' for ''hearing had'' in first sentence.

Subsec. (b). Pub. L. 109–58, § 1295(b)(2), struck out ''the public utility to make'' before ''refunds of any amounts paid'' in seventh sentence.

Pub. L. 109–58, § 1285, in second sentence, substituted ''the date of the filing of such complaint nor later than 5 months after the filing of such complaint'' for ''the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period'', in third sentence, substituted ''the date of the publication'' for ''the date 60 days after the publication'' and ''5 months after the publication date'' for ''5 months after the expiration of such 60-day period'', and in fifth sentence, substituted ''If no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision'' for ''If no final decision is rendered by the refund effective date or by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, whichever is earlier, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision''.

Subsec. (e). Pub. L. 109–58, § 1286, added subsec. (e).

1988—Subsec. (a). Pub. L. 100–473, § 2(1), inserted provisions for a statement of reasons for listed changes, hearings, and specification of issues.

Subsecs. (b) to (d). Pub. L. 100–473, § 2(2), added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

EFFECTIVE DATE OF 1988 AMENDMENT

Section 4 of Pub. L. 100–473 provided that: ''The amendments made by this Act [amending this section] are not applicable to complaints filed or motions initiated before the date of enactment of this Act [Oct. 6, 1988] pursuant to section 206 of the Federal Power Act [this section]: *Provided, however*, That such complaints may be withdrawn and refiled without prejudice.''

[1] See References in Text note below.

LIMITATION ON AUTHORITY PROVIDED

Section 3 of Pub. L. 100–473 provided that: ''Nothing in subsection (c) of section 206 of the Federal Power Act, as amended (16 U.S.C. 824e(c)) shall be interpreted to confer upon the Federal Energy Regulatory Commission any authority not granted to it elsewhere in such Act [16 U.S.C. 791a et seq.] to issue an order that (1) requires a decrease in system production or transmission costs to be paid by one or more electric utility companies of a registered holding company; and (2) is based upon a determination that the amount of such decrease should be paid through an increase in the costs to be paid by other electric utility companies of such registered holding company. For purposes of this section, the terms 'electric utility companies' and 'registered holding company' shall have the same meanings as provided in the Public Utility Holding Company Act of 1935, as amended [15 U.S.C. 79 et seq.].''

STUDY

Section 5 of Pub. L. 100–473 directed that, no earlier than three years and no later than four years after Oct. 6, 1988, Federal Energy Regulatory Commission perform a study of effect of amendments to this section, analyzing (1) impact, if any, of such amendments on cost of capital paid by public utilities, (2) any change in average time taken to resolve proceedings under this section, and (3) such other matters as Commission may deem appropriate in public interest, with study to be sent to Committee on Energy and Natural Resources of Senate and Committee on Energy and Commerce of House of Representatives.

§ 824f. Ordering furnishing of adequate service

Whenever the Commission, upon complaint of a State commission, after notice to each State commission and public utility affected and after opportunity for hearing, shall find that any interstate service of any public utility is inadequate or insufficient, the Commission shall determine the proper, adequate, or sufficient service to be furnished, and shall fix the same by its order, rule, or regulation: *Provided*, That the Commission shall have no authority to compel the enlargement of generating facilities for such purposes, nor to compel the public utility to sell or exchange energy when to do so would impair its ability to render adequate service to its customers.

(June 10, 1920, ch. 285, pt. II, § 207, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 853.)

§ 824g. Ascertainment of cost of property and depreciation

(a) Investigation of property costs

The Commission may investigate and ascertain the actual legitimate cost of the property of every public utility, the depreciation therein, and, when found necessary for rate-making purposes, other facts which bear on the determination of such cost or depreciation, and the fair value of such property.

(b) Request for inventory and cost statements

Every public utility upon request shall file with the Commission an inventory of all or any part of its property and a statement of the original cost thereof, and shall keep the Commission informed regarding the cost of all additions, betterments, extensions, and new construction.

(June 10, 1920, ch. 285, pt. II, § 208, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 853.)

§ 824h. References to State boards by Commission

(a) Composition of boards; force and effect of proceedings

The Commission may refer any matter arising in the administration of this subchapter to a board to be composed of a member or members, as determined by the Commission, from the State or each of the States affected or to be affected by such matter. Any such board shall be vested with the same power and be subject to the same duties and liabilities as in the case of a member of the Commission when designated by the Commission to hold any hearings. The action of such board shall have such force and effect and its proceedings shall be conducted in such manner as the Commission shall by regulations prescribe. The board shall be appointed by the Commission from persons nominated by the State commission of each State affected or by the Governor of such State if there is no State commission. Each State affected shall be entitled to the same number of representatives on the board unless the nominating power of such State waives such right. The Commission shall have discretion to reject the nominee from any State, but shall thereupon invite a new nomination from that State. The members of a board shall receive such allowances for expenses as the Commission shall provide. The Commission may, when in its discretion sufficient reason exists therefor, revoke any reference to such a board.

(b) Cooperation with State commissions

The Commission may confer with any State commission regarding the relationship between rate structures, costs, accounts, charges, practices, classifications, and regulations of public utilities subject to the jurisdiction of such State commission and of the Commission; and the Commission is authorized, under such rules and regulations as it shall prescribe, to hold joint hearings with any State commission in connection with any matter with respect to which the Commission is authorized to act. The Commission is authorized in the administration of this chapter to avail itself of such cooperation, services, records, and facilities as may be afforded by any State commission.

(c) Availability of information and reports to State commissions; Commission experts

The Commission shall make available to the several State commissions such information and reports as may be of assistance in State regulation of public utilities. Whenever the Commission can do so without prejudice to the efficient and proper conduct of its affairs, it may upon request from a State make available to such State as witnesses any of its trained rate, valuation, or other experts, subject to reimbursement to the Commission by such State of the compensation and traveling expenses of such witnesses. All sums collected hereunder shall be credited to the appropriation from which the amounts were expended in carrying out the provisions of this subsection.

(June 10, 1920, ch. 285, pt. II, § 209, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 853.)

§ 824i. Interconnection authority

(a) Powers of Commission; application by State regulatory authority

(1) Upon application of any electric utility, Federal power marketing agency, geothermal power producer (including a producer which is not an electric utility), qualifying cogenerator, or qualifying small power producer, the Commission may issue an order requiring—

(A) the physical connection of any cogeneration facility, any small power production facility, or the transmission facilities of any electric utility, with the facilities of such applicant,

(B) such action as may be necessary to make effective any physical connection described in subparagraph (A), which physical connection is ineffective for any reason, such as inadequate size, poor maintenance, or physical unreliability,

(C) such sale or exchange of electric energy or other coordination, as may be necessary to carry out the purposes of any order under subparagraph (A) or (B), or

(D) such increase in transmission capacity as may be necessary to carry out the purposes of any order under subparagraph (A) or (B).

(2) Any State regulatory authority may apply to the Commission for an order for any action referred to in subparagraph (A), (B), (C), or (D) of paragraph (1). No such order may be issued by the Commission with respect to a Federal power marketing agency upon application of a State regulatory authority.

(b) Notice, hearing and determination by Commission

Upon receipt of an application under subsection (a) of this section, the Commission shall—

(1) issue notice to each affected State regulatory authority, each affected electric utility, each affected Federal power marketing agency, each affected owner or operator of a cogeneration facility or of a small power production facility, and to the public.

(2) afford an opportunity for an evidentiary hearing, and

(3) make a determination with respect to the matters referred to in subsection (c) of this section.

(c) Necessary findings

No order may be issued by the Commission under subsection (a) of this section unless the Commission determines that such order—

(1) is in the public interest,

(2) would—

(A) encourage overall conservation of energy or capital,

(B) optimize the efficiency of use of facilities and resources, or

(C) improve the reliability of any electric utility system or Federal power marketing agency to which the order applies, and

(3) meets the requirements of section 824k of this title.

(d) Motion of Commission

The Commission may, on its own motion, after compliance with the requirements of paragraphs (1) and (2) of subsection (b) of this section, issue an order requiring any action described in subsection (a)(1) of this section if the Commission determines that such order meets the requirements of subsection (c) of this section. No such order may be issued upon the Commission's own motion with respect to a Federal power marketing agency.

(e) Definitions

(1) As used in this section, the term ''facilities'' means only facilities used for the generation or transmission of electric energy.

(2) With respect to an order issued pursuant to an application of a qualifying cogenerator or qualifying small power producer under subsection (a)(1) of this section, the term ''facilities of such applicant'' means the qualifying cogeneration facilities or qualifying small power production facilities of the applicant, as specified in the application. With respect to an order issued pursuant to an application under subsection (a)(2) of this section, the term ''facilities of such applicant'' means the qualifying cogeneration facilities, qualifying small power production facilities, or the transmission facilities of an electric utility, as specified in the application. With respect to an order issued by the Commission on its own motion under subsection (d) of this section, such term means the qualifying cogeneration facilities, qualifying small power production facilities, or the transmission facilities of an electric utility, as specified in the proposed order.

(June 10, 1920, ch. 285, pt. II, § 210, as added Pub. L. 95–617, title II, § 202, Nov. 9, 1978, 92 Stat. 3135; amended Pub. L. 96–294, title VI, § 643(a)(2), June 30, 1980, 94 Stat. 770.)

AMENDMENTS

1980—Subsec. (a)(1). Pub. L. 96–294 added applicability to geothermal power producers.

STUDY AND REPORT TO CONGRESSIONAL COMMITTEES ON APPLICATION OF PROVISIONS RELATING TO COGENERATION, SMALL POWER PRODUCTION, AND INTERCONNECTION AUTHORITY TO HYDROELECTRIC POWER FACILITIES

For provisions requiring the Federal Energy Regulatory Commission to conduct a study and report to Congress on whether the benefits of this section and section 824a–3 of this title should be applied to hydroelectric power facilities utilizing new dams or diversions, within the meaning of section 824a–3(k) of this title, see section 8(d) of Pub. L. 99–495, set out as a note under section 824a–3 of this title.

§ 824j. Wheeling authority

(a) Transmission service by any electric utility; notice, hearing and findings by Commission

Any electric utility, Federal power marketing agency, or any other person generating electric energy for sale for resale, may apply to the Commission for an order under this subsection requiring a transmitting utility to provide transmission services (including any enlargement of transmission capacity necessary to provide such services) to the applicant. Upon receipt of such application, after public notice and notice to each affected State regulatory authority, each affected electric utility, and each affected Federal power marketing agency, and

after affording an opportunity for an evidentiary hearing, the Commission may issue such order if it finds that such order meets the requirements of section 824k of this title, and would otherwise be in the public interest. No order may be issued under this subsection unless the applicant has made a request for transmission services to the transmitting utility that would be the subject of such order at least 60 days prior to its filing of an application for such order.

(b) Reliability of electric service

No order may be issued under this section or section 824i of this title if, after giving consideration to consistently applied regional or national reliability standards, guidelines, or criteria, the Commission finds that such order would unreasonably impair the continued reliability of electric systems affected by the order.

(c) Replacement of electric energy

No order may be issued under subsection (a) or (b) of this section which requires the transmitting utility subject to the order to transmit, during any period, an amount of electric energy which replaces any amount of electric energy—

(1) required to be provided to such applicant pursuant to a contract during such period, or

(2) currently provided to the applicant by the utility subject to the order pursuant to a rate schedule on file during such period with the Commission: *Provided*, That nothing in this subparagraph shall prevent an application for an order hereunder to be filed prior to termination or modification of an existing rate schedule: *Provided*, That such order shall not become effective until termination of such rate schedule or the modification becomes effective.

(d) Termination or modification of order; notice, hearing and findings of Commission; contents of order; inclusion in order of terms and conditions agreed upon by parties

(1) Any transmitting utility ordered under subsection (a) or (b) of this section to provide transmission services may apply to the Commission for an order permitting such transmitting utility to cease providing all, or any portion of, such services. After public notice, notice to each affected State regulatory authority, each affected Federal power marketing agency, each affected transmitting utility, and each affected electric utility, and after an opportunity for an evidentiary hearing, the Commission shall issue an order terminating or modifying the order issued under subsection (a) or (b) of this section, if the transmitting utility providing such transmission services has demonstrated, and the Commission has found, that—

(A) due to changed circumstances, the requirements applicable, under this section and section 824k of this title, to the issuance of an order under subsection (a) or (b) of this section are no longer met, or[1]

(B) any transmission capacity of the utility providing transmission services under such order which was, at the time such order was issued, in excess of the capacity necessary to serve its own customers is no longer in excess of the capacity necessary for such purposes, or

(C) the ordered transmission services require enlargement of transmission capacity and the transmitting utility subject to the order has failed, after making a good faith effort, to obtain the necessary approvals or property rights under applicable Federal, State, and local laws.

No order shall be issued under this subsection pursuant to a finding under subparagraph (A) unless the Commission finds that such order is in the public interest.

(2) Any order issued under this subsection terminating or modifying an order issued under subsection (a) or (b) of this section shall—

(A) provide for any appropriate compensation, and

(B) provide the affected electric utilities adequate opportunity and time to—

(i) make suitable alternative arrangements for any transmission services terminated or modified, and

(ii) insure that the interests of ratepayers of such utilities are adequately protected.

(3) No order may be issued under this subsection terminating or modifying any order issued under subsection (a) or (b) of this section if the order under subsection (a) or (b) of this section includes terms and conditions agreed upon by the parties which—

(A) fix a period during which transmission services are to be provided under the order under subsection (a) or (b) of this section, or

(B) otherwise provide procedures or methods for terminating or modifying such order (including, if appropriate, the return of the transmission capacity when necessary to take into account an increase, after the issuance of such order, in the needs of the transmitting utility subject to such order for transmission capacity).

(e) "Facilities" defined

As used in this section, the term ''facilities'' means only facilities used for the generation or transmission of electric energy.

(June 10, 1920, ch. 285, pt. II, §211, as added Pub. L. 95–617, title II, §203, Nov. 9, 1978, 92 Stat. 3136; amended Pub. L. 96–294, title VI, §643(a)(3), June 30, 1980, 94 Stat. 770; Pub. L. 99–495, §15, Oct. 16, 1986, 100 Stat. 1257; Pub. L. 102–486, title VII, §721, Oct. 24, 1992, 106 Stat. 2915; Pub. L. 109–58, title XII, §1295(c), Aug. 8, 2005, 119 Stat. 985.)

AMENDMENTS

2005—Subsec. (c). Pub. L. 109–58, §1295(c)(1), struck out par. (2) designation before introductory provisions, redesignated former subpars. (A) and (B) as pars. (1) and (2), respectively, and in par. (2) substituted ''termination or modification'' for ''termination of modification''.

Subsec. (d)(1). Pub. L. 109–58, §1295(c)(2), substituted ''if the transmitting utility providing'' for ''if the electric utility providing'' in introductory provisions.

1992—Subsec. (a). Pub. L. 102–486, §721(1), amended first sentence generally. Prior to amendment, first sentence read as follows: ''Any electric utility, geothermal power producer (including a producer which is not an electric utility), or Federal power marketing agency may apply to the Commission for an order under this subsection requiring any other electric utility to pro-

[1] So in original. The word ''or'' probably should not appear.

vide transmission services to the applicant (including any enlargement of transmission capacity necessary to provide such services).''

Pub. L. 102–486, §721(2), in second sentence, substituted ''the Commission may issue such order if it finds that such order meets the requirements of section 824k of this title, and would otherwise be in the public interest. No order may be issued under this subsection unless the applicant has made a request for transmission services to the transmitting utility that would be the subject of such order at least 60 days prior to its filing of an application for such order.'' for ''the Commission may issue such order if it finds that such order—

''(1) is in the public interest,

''(2) would—

''(A) conserve a significant amount of energy,

''(B) significantly promote the efficient use of facilities and resources, or

''(C) improve the reliability of any electric utility system to which the order applies, and

''(3) meets the requirements of section 824k of this title.''

Subsec. (b). Pub. L. 102–486, §721(3), amended subsec. (b) generally, substituting provisions relating to reliability of electric service for provisions which related to transmission service by sellers of electric energy for resale and notice, hearing, and determinations by Commission.

Subsec. (c). Pub. L. 102–486, §721(4), struck out pars. (1), (3), and (4), and substituted ''which requires the transmitting'' for ''which requires the electric'' in introductory provisions of par. (2). Prior to amendment, pars. (1), (3), and (4) read as follows:

''(1) No order may be issued under subsection (a) of this section unless the Commission determines that such order would reasonably preserve existing competitive relationships.

''(3) No order may be issued under the authority of subsection (a) or (b) of this section which is inconsistent with any State law which governs the retail marketing areas of electric utilities.

''(4) No order may be issued under subsection (a) or (b) of this section which provides for the transmission of electric energy directly to an ultimate consumer.''

Subsec. (d). Pub. L. 102–486, §721(5), in first sentence substituted ''transmitting'' for ''electric'' before ''utility'' in two places, in second sentence inserted ''each affected transmitting utility,'' before ''and each affected electric utility'', in par. (1) substituted '', or'' for period at end of subpar. (B) and added subpar. (C), and in par. (3)(B) substituted ''transmitting'' for ''electric'' before ''utility''.

1986—Subsec. (c)(2)(B). Pub. L. 99–495 inserted provisions that nothing in this subparagraph shall prevent an application for an order hereunder to be filed prior to termination or modification of an existing rate schedule, provided that such order shall not become effective until termination of such rate schedule or the modification becomes effective.

1980—Subsec. (a). Pub. L. 96–294 added applicability to geothermal power producers.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–495 effective with respect to each license, permit, or exemption issued under this chapter after Oct. 16, 1986, see section 18 of Pub. L. 99–495, set out as a note under section 797 of this title.

STATE AUTHORITIES; CONSTRUCTION

Nothing in amendment by Pub. L. 102–486 to be construed as affecting or intending to affect, or in any way to interfere with, authority of any State or local government relating to environmental protection or siting of facilities, see section 731 of Pub. L. 102–486, set out as a note under section 796 of this title.

§ 824j–1. Open access by unregulated transmitting utilities

(a) Definition of unregulated transmitting utility

In this section, the term ''unregulated transmitting utility'' means an entity that—

(1) owns or operates facilities used for the transmission of electric energy in interstate commerce; and

(2) is an entity described in section 824(f) of this title.

(b) Transmission operation services

Subject to section 824k(h) of this title, the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

(2) on terms and conditions (not relating to rates) that are comparable to those under which the unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

(c) Exemption

The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that—

(1) sells not more than 4,000,000 megawatt hours of electricity per year;

(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion of the system); or

(3) meets other criteria the Commission determines to be in the public interest.

(d) Local distribution facilities

The requirements of subsection (b) of this section shall not apply to facilities used in local distribution.

(e) Exemption termination

If the Commission, after an evidentiary hearing held on a complaint and after giving consideration to reliability standards established under section 824*o* of this title, finds on the basis of a preponderance of the evidence that any exemption granted pursuant to subsection (c) of this section unreasonably impairs the continued reliability of an interconnected transmission system, the Commission shall revoke the exemption granted to the transmitting utility.

(f) Application to unregulated transmitting utilities

The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 824d of this title are applicable to unregulated transmitting utilities for purposes of this section.

(g) Remand

In exercising authority under subsection (b)(1) of this section, the Commission may remand transmission rates to an unregulated transmitting utility for review and revision if necessary to meet the requirements of subsection (b) of this section.

(h) Other requests

The provision of transmission services under subsection (b) of this section does not preclude

a request for transmission services under section 824j of this title.

(i) Limitation

The Commission may not require a State or municipality to take action under this section that would violate a private activity bond rule for purposes of section 141 of title 26.

(j) Transfer of control of transmitting facilities

Nothing in this section authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to a Transmission Organization that is designated to provide nondiscriminatory transmission access.

(June 10, 1920, ch. 285, pt. II, § 211A, as added Pub. L. 109–58, title XII, § 1231, Aug. 8, 2005, 119 Stat. 955.)

§ 824k. Orders requiring interconnection or wheeling

(a) Rates, charges, terms, and conditions for wholesale transmission services

An order under section 824j of this title shall require the transmitting utility subject to the order to provide wholesale transmission services at rates, charges, terms, and conditions which permit the recovery by such utility of all the costs incurred in connection with the transmission services and necessary associated services, including, but not limited to, an appropriate share, if any, of legitimate, verifiable and economic costs, including taking into account any benefits to the transmission system of providing the transmission service, and the costs of any enlargement of transmission facilities. Such rates, charges, terms, and conditions shall promote the economically efficient transmission and generation of electricity and shall be just and reasonable, and not unduly discriminatory or preferential. Rates, charges, terms, and conditions for transmission services provided pursuant to an order under section 824j of this title shall ensure that, to the extent practicable, costs incurred in providing the wholesale transmission services, and properly allocable to the provision of such services, are recovered from the applicant for such order and not from a transmitting utility's existing wholesale, retail, and transmission customers.

(b) Repealed. Pub. L. 102–486, title VII, § 722(1), Oct. 24, 1992, 106 Stat. 2916

(c) Issuance of proposed order; agreement by parties to terms and conditions of order; approval by Commission; inclusion in final order; failure to agree

(1) Before issuing an order under section 824i of this title or subsection (a) or (b) of section 824j of this title, the Commission shall issue a proposed order and set a reasonable time for parties to the proposed interconnection or transmission order to agree to terms and conditions under which such order is to be carried out, including the apportionment of costs between them and the compensation or reimbursement reasonably due to any of them. Such proposed order shall not be reviewable or enforceable in any court. The time set for such parties to agree to such terms and conditions may be shortened if the Commission determines that delay would jeopardize the attainment of the purposes of any proposed order. Any terms and conditions agreed to by the parties shall be subject to the approval of the Commission.

(2)(A) If the parties agree as provided in paragraph (1) within the time set by the Commission and the Commission approves such agreement, the terms and conditions shall be included in the final order. In the case of an order under section 824i of this title, if the parties fail to agree within the time set by the Commission or if the Commission does not approve any such agreement, the Commission shall prescribe such terms and conditions and include such terms and conditions in the final order.

(B) In the case of any order applied for under section 824j of this title, if the parties fail to agree within the time set by the Commission, the Commission shall prescribe such terms and conditions in the final order.

(d) Statement of reasons for denial

If the Commission does not issue any order applied for under section 824i or 824j of this title, the Commission shall, by order, deny such application and state the reasons for such denial.

(e) Savings provisions

(1) No provision of section 824i, 824j, 824m of this title, or this section shall be treated as requiring any person to utilize the authority of any such section in lieu of any other authority of law. Except as provided in section 824i, 824j, 824m of this title, or this section, such sections shall not be construed as limiting or impairing any authority of the Commission under any other provision of law.

(2) Sections 824i, 824j, 824*l*, 824m of this title, and this section, shall not be construed to modify, impair, or supersede the antitrust laws. For purposes of this section, the term ''antitrust laws'' has the meaning given in subsection (a) of the first sentence of section 12 of title 15, except that such term includes section 45 of title 15 to the extent that such section relates to unfair methods of competition.

(f) Effective date of order; hearing; notice; review

(1) No order under section 824i or 824j of this title requiring the Tennessee Valley Authority (hereinafter in this subsection referred to as the ''TVA'') to take any action shall take effect for 60 days following the date of issuance of the order. Within 60 days following the issuance by the Commission of any order under section 824i or of section 824j of this title requiring the TVA to enter into any contract for the sale or delivery of power, the Commission may on its own motion initiate, or upon petition of any aggrieved person shall initiate, an evidentiary hearing to determine whether or not such sale or delivery would result in violation of the third sentence of section 15d(a) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4), hereinafter in this subsection referred to as the TVA Act [16 U.S.C. 831 et seq.].

(2) Upon initiation of any evidentiary hearing under paragraph (1), the Commission shall give notice thereof to any applicant who applied for

and obtained the order from the Commission, to any electric utility or other entity subject to such order, and to the public, and shall promptly make the determination referred to in paragraph (1). Upon initiation of such hearing, the Commission shall stay the effectiveness of the order under section 824i or 824j of this title until whichever of the following dates is applicable—

(A) the date on which there is a final determination (including any judicial review thereof under paragraph (3)) that no such violation would result from such order, or

(B) the date on which a specific authorization of the Congress (within the meaning of the third sentence of section 15d(a) of the TVA Act [16 U.S.C. 831n–4(a)]) takes effect.

(3) Any determination under paragraph (1) shall be reviewable only in the appropriate court of the United States upon petition filed by any aggrieved person or municipality within 60 days after such determination, and such court shall have jurisdiction to grant appropriate relief. Any applicant who applied for and obtained the order under section 824i or 824j of this title, and any electric utility or other entity subject to such order shall have the right to intervene in any such proceeding in such court. Except for review by such court (and any appeal or other review by an appellate court of the United States), no court shall have jurisdiction to consider any action brought by any person to enjoin the carrying out of any order of the Commission under section 824i or section 824j of this title requiring the TVA to take any action on the grounds that such action requires a specific authorization of the Congress pursuant to the third sentence of section 15d(a) of the TVA Act [16 U.S.C. 831n–4(a)].

(g) Prohibition on orders inconsistent with retail marketing areas

No order may be issued under this chapter which is inconsistent with any State law which governs the retail marketing areas of electric utilities.

(h) Prohibition on mandatory retail wheeling and sham wholesale transactions

No order issued under this chapter shall be conditioned upon or require the transmission of electric energy:

(1) directly to an ultimate consumer, or

(2) to, or for the benefit of, an entity if such electric energy would be sold by such entity directly to an ultimate consumer, unless:

(A) such entity is a Federal power marketing agency; the Tennessee Valley Authority; a State or any political subdivision of a State (or an agency, authority, or instrumentality of a State or a political subdivision); a corporation or association that has ever received a loan for the purposes of providing electric service from the Administrator of the Rural Electrification Administration under the Rural Electrification Act of 1936 [7 U.S.C. 901 et seq.]; a person having an obligation arising under State or local law (exclusive of an obligation arising solely from a contract entered into by such person) to provide electric service to the public; or any corporation or association which is wholly owned, directly or indirectly, by any one or more of the foregoing; and

(B) such entity was providing electric service to such ultimate consumer on October 24, 1992, or would utilize transmission or distribution facilities that it owns or controls to deliver all such electric energy to such electric consumer.

Nothing in this subsection shall affect any authority of any State or local government under State law concerning the transmission of electric energy directly to an ultimate consumer.

(i) Laws applicable to Federal Columbia River Transmission System

(1) The Commission shall have authority pursuant to section 824i of this title, section 824j of this title, this section, and section 824*l* of this title to (A) order the Administrator of the Bonneville Power Administration to provide transmission service and (B) establish the terms and conditions of such service. In applying such sections to the Federal Columbia River Transmission System, the Commission shall assure that—

(i) the provisions of otherwise applicable Federal laws shall continue in full force and effect and shall continue to be applicable to the system; and

(ii) the rates for the transmission of electric power on the system shall be governed only by such otherwise applicable provisions of law and not by any provision of section 824i of this title, section 824j of this title, this section, or section 824*l* of this title, except that no rate for the transmission of power on the system shall be unjust, unreasonable, or unduly discriminatory or preferential, as determined by the Commission.

(2) Notwithstanding any other provision of this chapter with respect to the procedures for the determination of terms and conditions for transmission service—

(A) when the Administrator of the Bonneville Power Administration either (i) in response to a written request for specific transmission service terms and conditions does not offer the requested terms and conditions, or (ii) proposes to establish terms and conditions of general applicability for transmission service on the Federal Columbia River Transmission System, then the Administrator may provide opportunity for a hearing and, in so doing, shall—

(I) give notice in the Federal Register and state in such notice the written explanation of the reasons why the specific terms and conditions for transmission services are not being offered or are being proposed;

(II) adhere to the procedural requirements of paragraphs (1) through (3) of section 839e(i) of this title, except that the hearing officer shall, unless the hearing officer becomes unavailable to the agency, make a recommended decision to the Administrator that states the hearing officer's findings and conclusions, and the reasons or basis thereof, on all material issues of fact, law, or discretion presented on the record; and

(III) make a determination, setting forth the reasons for reaching any findings and

conclusions which may differ from those of the hearing officer, based on the hearing record, consideration of the hearing officer's recommended decision, section 824j of this title and this section, as amended by the Energy Policy Act of 1992, and the provisions of law as preserved in this section; and

(B) if application is made to the Commission under section 824j of this title for transmission service under terms and conditions different than those offered by the Administrator, or following the denial of a request for transmission service by the Administrator, and such application is filed within 60 days of the Administrator's final determination and in accordance with Commission procedures, the Commission shall—

(i) in the event the Administrator has conducted a hearing as herein provided for (I) accord parties to the Administrator's hearing the opportunity to offer for the Commission record materials excluded by the Administrator from the hearing record, (II) accord such parties the opportunity to submit for the Commission record comments on appropriate terms and conditions, (III) afford those parties the opportunity for a hearing if and to the extent that the Commission finds the Administrator's hearing record to be inadequate to support a decision by the Commission, and (IV) establish terms and conditions for or deny transmission service based on the Administrator's hearing record, the Commission record, section 824j of this title and this section, as amended by the Energy Policy Act of 1992, and the provisions of law as preserved in this section, or

(ii) in the event the Administrator has not conducted a hearing as herein provided for, determine whether to issue an order for transmission service in accordance with section 824j of this title and this section, including providing the opportunity for a hearing.

(3) Notwithstanding those provisions of section 825*l*(b) of this title which designate the court in which review may be obtained, any party to a proceeding concerning transmission service sought to be furnished by the Administrator of the Bonneville Power Administration seeking review of an order issued by the Commission in such proceeding shall obtain a review of such order in the United States Court of Appeals for the Pacific Northwest, as that region is defined by section 839a(14) of this title.

(4) To the extent the Administrator of the Bonneville Power Administration cannot be required under section 824j of this title, as a result of the Administrator's other statutory mandates, either to (A) provide transmission service to an applicant which the Commission would otherwise order, or (B) provide such service under rates, terms, and conditions which the Commission would otherwise require, the applicant shall not be required to provide similar transmission services to the Administrator or to provide such services under similar rates, terms, and conditions.

(5) The Commission shall not issue any order under section 824i of this title, section 824j of this title, this section, or section 824*l* of this title requiring the Administrator of the Bonneville Power Administration to provide transmission service if such an order would impair the Administrator's ability to provide such transmission service to the Administrator's power and transmission customers in the Pacific Northwest, as that region is defined in section 839a(14) of this title, as is needed to assure adequate and reliable service to loads in that region.

(j) Equitability within territory restricted electric systems

With respect to an electric utility which is prohibited by Federal law from being a source of power supply, either directly or through a distributor of its electric energy, outside an area set forth in such law, no order issued under section 824j of this title may require such electric utility (or a distributor of such electric utility) to provide transmission services to another entity if the electric energy to be transmitted will be consumed within the area set forth in such Federal law, unless the order is in furtherance of a sale of electric energy to that electric utility: *Provided, however*, That the foregoing provision shall not apply to any area served at retail by an electric transmission system which was such a distributor on October 24, 1992, and which before October 1, 1991, gave its notice of termination under its power supply contract with such electric utility.

(k) ERCOT utilities

(1) Rates

Any order under section 824j of this title requiring provision of transmission services in whole or in part within ERCOT shall provide that any ERCOT utility which is not a public utility and the transmission facilities of which are actually used for such transmission service is entitled to receive compensation based, insofar as practicable and consistent with subsection (a) of this section, on the transmission ratemaking methodology used by the Public Utility Commission of Texas.

(2) Definitions

For purposes of this subsection—

(A) the term ''ERCOT'' means the Electric Reliability Council of Texas; and

(B) the term ''ERCOT utility'' means a transmitting utility which is a member of ERCOT.

(June 10, 1920, ch. 285, pt. II, § 212, as added Pub. L. 95–617, title II, § 204(a), Nov. 9, 1978, 92 Stat. 3138; amended Pub. L. 102–486, title VII, § 722, Oct. 24, 1992, 106 Stat. 2916.)

REFERENCES IN TEXT

The TVA Act, referred to in subsec. (f)(1), means act May 18, 1933, ch. 32, 48 Stat. 58, as amended, known as the Tennessee Valley Authority Act of 1933, which is classified generally to chapter 12A (§ 831 et seq.) of this title. For complete classification of this Act to the Code, see section 831 of this title and Tables.

The Rural Electrification Act of 1936, referred to in subsec. (h)(2)(A), is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (§ 901 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 901 of Title 7 and Tables.

The Energy Policy Act of 1992, referred to in subsec. (i)(2)(A)(III), (B)(i), is Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2776. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of Title 42, The Public Health and Welfare and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–486, § 722(1), added subsec. (a) and struck out former subsec. (a) which related to determinations by Commission.

Subsec. (b). Pub. L. 102–486, § 722(1), struck out subsec. (b) which required applicants for orders to be ready, willing, and able to reimburse parties subject to such orders.

Subsec. (e). Pub. L. 102–486, § 722(2), amended subsec. (e) generally. Prior to amendment, subsec. (e) related to utilization of interconnection or wheeling authority in lieu of other authority and limitation of Commission authority.

Subsecs. (g) to (k). Pub. L. 102–486, § 722(3), added subsecs. (g) to (k).

STATE AUTHORITIES; CONSTRUCTION

Nothing in amendment by Pub. L. 102–486 to be construed as affecting or intending to affect, or in any way to interfere with, authority of any State or local government relating to environmental protection or siting of facilities, see section 731 of Pub. L. 102–486, set out as a note under section 796 of this title.

§ 824*l*. Information requirements

(a) Requests for wholesale transmission services

Whenever any electric utility, Federal power marketing agency, or any other person generating electric energy for sale for resale makes a good faith request to a transmitting utility to provide wholesale transmission services and requests specific rates and charges, and other terms and conditions, unless the transmitting utility agrees to provide such services at rates, charges, terms and conditions acceptable to such person, the transmitting utility shall, within 60 days of its receipt of the request, or other mutually agreed upon period, provide such person with a detailed written explanation, with specific reference to the facts and circumstances of the request, stating (1) the transmitting utility's basis for the proposed rates, charges, terms, and conditions for such services, and (2) its analysis of any physical or other constraints affecting the provision of such services.

(b) Transmission capacity and constraints

Not later than 1 year after October 24, 1992, the Commission shall promulgate a rule requiring that information be submitted annually to the Commission by transmitting utilities which is adequate to inform potential transmission customers, State regulatory authorities, and the public of potentially available transmission capacity and known constraints.

(June 10, 1920, ch. 285, pt. II, § 213, as added Pub. L. 102–486, title VII, § 723, Oct. 24, 1992, 106 Stat. 2919.)

STATE AUTHORITIES; CONSTRUCTION

Nothing in this section to be construed as affecting or intending to affect, or in any way to interfere with, authority of any State or local government relating to environmental protection or siting of facilities, see section 731 of Pub. L. 102–486, set out as a note under section 796 of this title.

§ 824m. Sales by exempt wholesale generators

No rate or charge received by an exempt wholesale generator for the sale of electric energy shall be lawful under section 824d of this title if, after notice and opportunity for hearing, the Commission finds that such rate or charge results from the receipt of any undue preference or advantage from an electric utility which is an associate company or an affiliate of the exempt wholesale generator. For purposes of this section, the terms ''associate company'' and ''affiliate'' shall have the same meaning as provided in section 16451 of title 42.[1]

(June 10, 1920, ch. 285, pt. II, § 214, as added Pub. L. 102–486, title VII, § 724, Oct. 24, 1992, 106 Stat. 2920; amended Pub. L. 109–58, title XII, § 1277(b)(2), Aug. 8, 2005, 119 Stat. 978.)

REFERENCES IN TEXT

Section 16451 of title 42, referred to in text, was in the original ''section 2(a) of the Public Utility Holding Company Act of 2005'' and was translated as reading ''section 1262'' of that Act, meaning section 1262 of subtitle F of title XII of Pub. L. 109–58, to reflect the probable intent of Congress, because subtitle F of title XII of Pub. L. 109–58 does not contain a section 2 and section 1262 of subtitle F of title XII of Pub. L. 109–58 defines terms.

AMENDMENTS

2005—Pub. L. 109–58 substituted ''section 16451 of title 42'' for ''section 79b(a) of title 15''.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–58 effective 6 months after Aug. 8, 2005, with provisions relating to effect of compliance with certain regulations approved and made effective prior to such date, see section 1274 of Pub. L. 109–58, set out as an Effective Date note under section 16451 of Title 42, The Public Health and Welfare.

STATE AUTHORITIES; CONSTRUCTION

Nothing in this section to be construed as affecting or intending to affect, or in any way to interfere with, authority of any State or local government relating to environmental protection or siting of facilities, see section 731 of Pub. L. 102–486, set out as a note under section 796 of this title.

§ 824n. Repealed. Pub. L. 109–58, title XII, § 1232(e)(3), Aug. 8, 2005, 119 Stat. 957

Section, Pub. L. 106–377, § 1(a)(2) [title III, § 311], Oct. 27, 2000, 114 Stat. 1441, 1441A–80, related to authority regarding formation and operation of regional transmission organizations.

§ 824*o*. Electric reliability

(a) Definitions

For purposes of this section:

(1) The term ''bulk-power system'' means—

(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

[1] See References in Text note below.

(2) The terms ''Electric Reliability Organization'' and ''ERO'' mean the organization certified by the Commission under subsection (c) of this section the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

(3) The term ''reliability standard'' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

(4) The term ''reliable operation'' means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.

(5) The term ''Interconnection'' means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

(6) The term ''transmission organization'' means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

(7) The term ''regional entity'' means an entity having enforcement authority pursuant to subsection (e)(4) of this section.

(8) The term ''cybersecurity incident'' means a malicious act or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communication networks including hardware, software and data that are essential to the reliable operation of the bulk power system.

(b) Jurisdiction and applicability

(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c) of this section, any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 824(f) of this title, for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after August 8, 2005.

(c) Certification

Following the issuance of a Commission rule under subsection (b)(2) of this section, any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify one such ERO if the Commission determines that such ERO—

(1) has the ability to develop and enforce, subject to subsection (e)(2) of this section, reliability standards that provide for an adequate level of reliability of the bulk-power system; and

(2) has established rules that—

(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) of this section (including limitations on activities, functions, or operations, or other appropriate sanctions);

(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

(d) Reliability standards

(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

(2) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

(6) The final rule adopted under subsection (b)(2) of this section shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted, approved, or ordered by the Commission until—

(A) the Commission finds a conflict exists between a reliability standard and any such provision;

(B) the Commission orders a change to such provision pursuant to section 824e of this title; and

(C) the ordered change becomes effective under this subchapter.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

(e) Enforcement

(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) of this section if the ERO, after notice and an opportunity for a hearing—

(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d) of this section; and

(B) files notice and the record of the proceeding with the Commission.

(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

(4) The Commission shall issue regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

(A) the regional entity is governed by—

(i) an independent board;

(ii) a balanced stakeholder board; or

(iii) a combination independent and balanced stakeholder board.

(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2) of this section; and

(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

(f) Changes in Electric Reliability Organization rules

The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that

the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c) of this section.

(g) Reliability reports

The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

(h) Coordination with Canada and Mexico

The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

(i) Savings provisions

(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard, except that the State of New York may establish rules that result in greater reliability within that State, as long as such action does not result in lesser reliability outside the State than that provided by the reliability standards.

(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

(5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

(j) Regional advisory bodies

The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

(k) Alaska and Hawaii

The provisions of this section do not apply to Alaska or Hawaii.

(June 10, 1920, ch. 285, pt. II, §215, as added Pub. L. 109–58, title XII, §1211(a), Aug. 8, 2005, 119 Stat. 941.)

STATUS OF ERO

Pub. L. 109–58, title XII, §1211(b), Aug. 8, 2005, 119 Stat. 946, provided that: ''The Electric Reliability Organization certified by the Federal Energy Regulatory Commission under section 215(c) of the Federal Power Act [16 U.S.C. 824*o*(c)] and any regional entity delegated enforcement authority pursuant to section 215(e)(4) of that Act [16 U.S.C. 824*o*(e)(4)] are not departments, agencies, or instrumentalities of the United States Government.''

ACCESS APPROVALS BY FEDERAL AGENCIES

Pub. L. 109–58, title XII, §1211(c), Aug. 8, 2005, 119 Stat. 946, provided that: ''Federal agencies responsible for approving access to electric transmission or distribution facilities located on lands within the United States shall, in accordance with applicable law, expedite any Federal agency approvals that are necessary to allow the owners or operators of such facilities to comply with any reliability standard, approved by the [Federal Energy Regulatory] Commission under section 215 of the Federal Power Act [16 U.S.C. 824*o*], that pertains to vegetation management, electric service restoration, or resolution of situations that imminently endanger the reliability or safety of the facilities.''

§ 824p. Siting of interstate electric transmission facilities

(a) Designation of national interest electric transmission corridors

(1) Not later than 1 year after August 8, 2005, and every 3 years thereafter, the Secretary of Energy (referred to in this section as the ''Secretary''), in consultation with affected States, shall conduct a study of electric transmission congestion.

(2) After considering alternatives and recommendations from interested parties (including an opportunity for comment from affected States), the Secretary shall issue a report, based on the study, which may designate any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers as a national interest electric transmission corridor.

(3) The Secretary shall conduct the study and issue the report in consultation with any appropriate regional entity referred to in section 824*o* of this title.

(4) In determining whether to designate a national interest electric transmission corridor under paragraph (2), the Secretary may consider whether—

(A) the economic vitality and development of the corridor, or the end markets served by the corridor, may be constrained by lack of adequate or reasonably priced electricity;

(B)(i) economic growth in the corridor, or the end markets served by the corridor, may

be jeopardized by reliance on limited sources of energy; and

(ii) a diversification of supply is warranted;

(C) the energy independence of the United States would be served by the designation;

(D) the designation would be in the interest of national energy policy; and

(E) the designation would enhance national defense and homeland security.

(b) Construction permit

Except as provided in subsection (i) of this section, the Commission may, after notice and an opportunity for hearing, issue one or more permits for the construction or modification of electric transmission facilities in a national interest electric transmission corridor designated by the Secretary under subsection (a) of this section if the Commission finds that—

(1)(A) a State in which the transmission facilities are to be constructed or modified does not have authority to—

(i) approve the siting of the facilities; or

(ii) consider the interstate benefits expected to be achieved by the proposed construction or modification of transmission facilities in the State;

(B) the applicant for a permit is a transmitting utility under this chapter but does not qualify to apply for a permit or siting approval for the proposed project in a State because the applicant does not serve end-use customers in the State; or

(C) a State commission or other entity that has authority to approve the siting of the facilities has—

(i) withheld approval for more than 1 year after the filing of an application seeking approval pursuant to applicable law or 1 year after the designation of the relevant national interest electric transmission corridor, whichever is later; or

(ii) conditioned its approval in such a manner that the proposed construction or modification will not significantly reduce transmission congestion in interstate commerce or is not economically feasible;

(2) the facilities to be authorized by the permit will be used for the transmission of electric energy in interstate commerce;

(3) the proposed construction or modification is consistent with the public interest;

(4) the proposed construction or modification will significantly reduce transmission congestion in interstate commerce and protects or benefits consumers;

(5) the proposed construction or modification is consistent with sound national energy policy and will enhance energy independence; and

(6) the proposed modification will maximize, to the extent reasonable and economical, the transmission capabilities of existing towers or structures.

(c) Permit applications

(1) Permit applications under subsection (b) of this section shall be made in writing to the Commission.

(2) The Commission shall issue rules specifying—

(A) the form of the application;

(B) the information to be contained in the application; and

(C) the manner of service of notice of the permit application on interested persons.

(d) Comments

In any proceeding before the Commission under subsection (b) of this section, the Commission shall afford each State in which a transmission facility covered by the permit is or will be located, each affected Federal agency and Indian tribe, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the need for and impact of a facility covered by the permit.

(e) Rights-of-way

(1) In the case of a permit under subsection (b) of this section for electric transmission facilities to be located on property other than property owned by the United States or a State, if the permit holder cannot acquire by contract, or is unable to agree with the owner of the property to the compensation to be paid for, the necessary right-of-way to construct or modify the transmission facilities, the permit holder may acquire the right-of-way by the exercise of the right of eminent domain in the district court of the United States for the district in which the property concerned is located, or in the appropriate court of the State in which the property is located.

(2) Any right-of-way acquired under paragraph (1) shall be used exclusively for the construction or modification of electric transmission facilities within a reasonable period of time after the acquisition.

(3) The practice and procedure in any action or proceeding under this subsection in the district court of the United States shall conform as nearly as practicable to the practice and procedure in a similar action or proceeding in the courts of the State in which the property is located.

(4) Nothing in this subsection shall be construed to authorize the use of eminent domain to acquire a right-of-way for any purpose other than the construction, modification, operation, or maintenance of electric transmission facilities and related facilities. The right-of-way cannot be used for any other purpose, and the right-of-way shall terminate upon the termination of the use for which the right-of-way was acquired.

(f) Compensation

(1) Any right-of-way acquired pursuant to subsection (e) of this section shall be considered a taking of private property for which just compensation is due.

(2) Just compensation shall be an amount equal to the fair market value (including applicable severance damages) of the property taken on the date of the exercise of eminent domain authority.

(g) State law

Nothing in this section precludes any person from constructing or modifying any transmission facility in accordance with State law.

(h) Coordination of Federal authorizations for transmission facilities

(1) In this subsection:

(A) The term ''Federal authorization'' means any authorization required under Federal law in order to site a transmission facility.

(B) The term ''Federal authorization'' includes such permits, special use authorizations, certifications, opinions, or other approvals as may be required under Federal law in order to site a transmission facility.

(2) The Department of Energy shall act as the lead agency for purposes of coordinating all applicable Federal authorizations and related environmental reviews of the facility.

(3) To the maximum extent practicable under applicable Federal law, the Secretary shall coordinate the Federal authorization and review process under this subsection with any Indian tribes, multistate entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the facility, to ensure timely and efficient review and permit decisions.

(4)(A) As head of the lead agency, the Secretary, in consultation with agencies responsible for Federal authorizations and, as appropriate, with Indian tribes, multistate entities, and State agencies that are willing to coordinate their own separate permitting and environmental reviews with the Federal authorization and environmental reviews, shall establish prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, the proposed facility.

(B) The Secretary shall ensure that, once an application has been submitted with such data as the Secretary considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed—

(i) within 1 year; or

(ii) if a requirement of another provision of Federal law does not permit compliance with clause (i), as soon thereafter as is practicable.

(C) The Secretary shall provide an expeditious pre-application mechanism for prospective applicants to confer with the agencies involved to have each such agency determine and communicate to the prospective applicant not later than 60 days after the prospective applicant submits a request for such information concerning—

(i) the likelihood of approval for a potential facility; and

(ii) key issues of concern to the agencies and public.

(5)(A) As lead agency head, the Secretary, in consultation with the affected agencies, shall prepare a single environmental review document, which shall be used as the basis for all decisions on the proposed project under Federal law.

(B) The Secretary and the heads of other agencies shall streamline the review and permitting of transmission within corridors designated under section 503 of the Federal Land Policy and Management Act[1] (43 U.S.C. 1763) by fully taking into account prior analyses and decisions relating to the corridors.

(C) The document shall include consideration by the relevant agencies of any applicable criteria or other matters as required under applicable law.

(6)(A) If any agency has denied a Federal authorization required for a transmission facility, or has failed to act by the deadline established by the Secretary pursuant to this section for deciding whether to issue the authorization, the applicant or any State in which the facility would be located may file an appeal with the President, who shall, in consultation with the affected agency, review the denial or failure to take action on the pending application.

(B) Based on the overall record and in consultation with the affected agency, the President may—

(i) issue the necessary authorization with any appropriate conditions; or

(ii) deny the application.

(C) The President shall issue a decision not later than 90 days after the date of the filing of the appeal.

(D) In making a decision under this paragraph, the President shall comply with applicable requirements of Federal law, including any requirements of—

(i) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

(ii) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(iii) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(iv) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(v) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(7)(A) Not later than 18 months after August 8, 2005, the Secretary shall issue any regulations necessary to implement this subsection.

(B)(i) Not later than 1 year after August 8, 2005, the Secretary and the heads of all Federal agencies with authority to issue Federal authorizations shall enter into a memorandum of understanding to ensure the timely and coordinated review and permitting of electricity transmission facilities.

(ii) Interested Indian tribes, multistate entities, and State agencies may enter the memorandum of understanding.

(C) The head of each Federal agency with authority to issue a Federal authorization shall designate a senior official responsible for, and dedicate sufficient other staff and resources to ensure, full implementation of the regulations and memorandum required under this paragraph.

(8)(A) Each Federal land use authorization for an electricity transmission facility shall be issued—

(i) for a duration, as determined by the Secretary, commensurate with the anticipated use of the facility; and

(ii) with appropriate authority to manage the right-of-way for reliability and environmental protection.

(B) On the expiration of the authorization (including an authorization issued before August 8,

[1] So in original. Probably should be followed by ''of 1976''.

2005), the authorization shall be reviewed for renewal taking fully into account reliance on such electricity infrastructure, recognizing the importance of the authorization for public health, safety, and economic welfare and as a legitimate use of Federal land.

(9) In exercising the responsibilities under this section, the Secretary shall consult regularly with—

(A) the Federal Energy Regulatory Commission;

(B) electric reliability organizations (including related regional entities) approved by the Commission; and

(C) Transmission Organizations approved by the Commission.

(i) Interstate compacts

(1) The consent of Congress is given for three or more contiguous States to enter into an interstate compact, subject to approval by Congress, establishing regional transmission siting agencies to—

(A) facilitate siting of future electric energy transmission facilities within those States; and

(B) carry out the electric energy transmission siting responsibilities of those States.

(2) The Secretary may provide technical assistance to regional transmission siting agencies established under this subsection.

(3) The regional transmission siting agencies shall have the authority to review, certify, and permit siting of transmission facilities, including facilities in national interest electric transmission corridors (other than facilities on property owned by the United States).

(4) The Commission shall have no authority to issue a permit for the construction or modification of an electric transmission facility within a State that is a party to a compact, unless the members of the compact are in disagreement and the Secretary makes, after notice and an opportunity for a hearing, the finding described in subsection (b)(1)(C) of this section.

(j) Relationship to other laws

(1) Except as specifically provided, nothing in this section affects any requirement of an environmental law of the United States, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) Subsection (h)(6) of this section shall not apply to any unit of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Trails System, the National Wilderness Preservation System, or a National Monument.

(k) ERCOT

This section shall not apply within the area referred to in section 824k(k)(2)(A) of this title.

(June 10, 1920, ch. 285, pt. II, § 216, as added Pub. L. 109–58, title XII, § 1221(a), Aug. 8, 2005, 119 Stat. 946.)

REFERENCES IN TEXT

The National Forest Management Act of 1976, referred to in subsec. (h)(6)(D)(i), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

The Endangered Species Act of 1973, referred to in subsec. (h)(6)(D)(ii), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified principally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (h)(6)(D)(iii), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The National Environmental Policy Act of 1969, referred to in subsecs. (h)(6)(D)(iv) and (j), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (h)(6)(D)(v), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

§ 824q. Native load service obligation

(a) Definitions

In this section:

(1) The term ''distribution utility'' means an electric utility that has a service obligation to end-users or to a State utility or electric cooperative that, directly or indirectly, through one or more additional State utilities or electric cooperatives, provides electric service to end-users.

(2) The term ''load-serving entity'' means a distribution utility or an electric utility that has a service obligation.

(3) The term ''service obligation'' means a requirement applicable to, or the exercise of authority granted to, an electric utility under Federal, State, or local law or under long-term contracts to provide electric service to end-users or to a distribution utility.

(4) The term ''State utility'' means a State or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or a corporation that is wholly owned, directly or indirectly, by any one or more of the foregoing, competent to carry on the business of developing, transmitting, utilizing, or distributing power.

(b) Meeting service obligations

(1) Paragraph (2) applies to any load-serving entity that, as of August 8, 2005—

(A) owns generation facilities, markets the output of Federal generation facilities, or holds rights under one or more wholesale contracts to purchase electric energy, for the purpose of meeting a service obligation; and

(B) by reason of ownership of transmission facilities, or one or more contracts or service agreements for firm transmission service,

holds firm transmission rights for delivery of the output of the generation facilities or the purchased energy to meet the service obligation.

(2) Any load-serving entity described in paragraph (1) is entitled to use the firm transmission rights, or, equivalent tradable or financial transmission rights, in order to deliver the output or purchased energy, or the output of other generating facilities or purchased energy to the extent deliverable using the rights, to the extent required to meet the service obligation of the load-serving entity.

(3)(A) To the extent that all or a portion of the service obligation covered by the firm transmission rights or equivalent tradable or financial transmission rights is transferred to another load-serving entity, the successor load-serving entity shall be entitled to use the firm transmission rights or equivalent tradable or financial transmission rights associated with the transferred service obligation.

(B) Subsequent transfers to another load-serving entity, or back to the original load-serving entity, shall be entitled to the same rights.

(4) The Commission shall exercise the authority of the Commission under this chapter in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy the service obligations of the load-serving entities, and enables load-serving entities to secure firm transmission rights (or equivalent tradable or financial rights) on a long-term basis for long-term power supply arrangements made, or planned, to meet such needs.

(c) Allocation of transmission rights

Nothing in subsections (b)(1), (b)(2), and (b)(3) of this section shall affect any existing or future methodology employed by a Transmission Organization for allocating or auctioning transmission rights if such Transmission Organization was authorized by the Commission to allocate or auction financial transmission rights on its system as of January 1, 2005, and the Commission determines that any future allocation or auction is just, reasonable and not unduly discriminatory or preferential, provided, however, that if such a Transmission Organization never allocated financial transmission rights on its system that pertained to a period before January 1, 2005, with respect to any application by such Transmission Organization that would change its methodology the Commission shall exercise its authority in a manner consistent with the[1] chapter and that takes into account the policies expressed in subsections (b)(1), (b)(2), and (b)(3) of this section as applied to firm transmission rights held by a load-serving entity as of January 1, 2005, to the extent the associated generation ownership or power purchase arrangements remain in effect.

(d) Certain transmission rights

The Commission may exercise authority under this chapter to make transmission rights not used to meet an obligation covered by subsection (b) of this section available to other entities in a manner determined by the Commission to be just, reasonable, and not unduly discriminatory or preferential.

(e) Obligation to build

Nothing in this chapter relieves a load-serving entity from any obligation under State or local law to build transmission or distribution facilities adequate to meet the service obligations of the load-serving entity.

(f) Contracts

Nothing in this section shall provide a basis for abrogating any contract or service agreement for firm transmission service or rights in effect as of August 8, 2005. If an ISO in the Western Interconnection had allocated financial transmission rights prior to August 8, 2005, but had not done so with respect to one or more load-serving entities' firm transmission rights held under contracts to which the preceding sentence applies (or held by reason of ownership or future ownership of transmission facilities), such load-serving entities may not be required, without their consent, to convert such firm transmission rights to tradable or financial rights, except where the load-serving entity has voluntarily joined the ISO as a participating transmission owner (or its successor) in accordance with the ISO tariff.

(g) Water pumping facilities

The Commission shall ensure that any entity described in section 824(f) of this title that owns transmission facilities used predominately to support its own water pumping facilities shall have, with respect to the facilities, protections for transmission service comparable to those provided to load-serving entities pursuant to this section.

(h) ERCOT

This section shall not apply within the area referred to in section 824k(k)(2)(A) of this title.

(i) Jurisdiction

This section does not authorize the Commission to take any action not otherwise within the jurisdiction of the Commission.

(j) TVA area

(1) Subject to paragraphs (2) and (3), for purposes of subsection (b)(1)(B) of this section, a load-serving entity that is located within the service area of the Tennessee Valley Authority and that has a firm wholesale power supply contract with the Tennessee Valley Authority shall be considered to hold firm transmission rights for the transmission of the power provided.

(2) Nothing in this subsection affects the requirements of section 824k(j) of this title.

(3) The Commission shall not issue an order on the basis of this subsection that is contrary to the purposes of section 824k(j) of this title.

(k) Effect of exercising rights

An entity that to the extent required to meet its service obligations exercises rights described in subsection (b) of this section shall not be considered by such action as engaging in undue discrimination or preference under this chapter.

(June 10, 1920, ch. 285, pt. II, § 217, as added Pub. L. 109–58, title XII, § 1233(a), Aug. 8, 2005, 119 Stat. 957.)

[1] So in original. Probably should be ''this''.

FERC RULEMAKING ON LONG-TERM TRANSMISSION RIGHTS IN ORGANIZED MARKETS

Pub. L. 109–58, title XII, §1233(b), Aug. 8, 2005, 119 Stat. 960, provided that: ''Within 1 year after the date of enactment of this section [Aug. 8, 2005] and after notice and an opportunity for comment, the [Federal Energy Regulatory] Commission shall by rule or order, implement section 217(b)(4) of the Federal Power Act [16 U.S.C. 824q(b)(4)] in Transmission Organizations, as defined by that Act [16 U.S.C. 791a et seq.] with organized electricity markets.''

§ 824r. Protection of transmission contracts in the Pacific Northwest

(a) Definition of electric utility or person

In this section, the term ''electric utility or person'' means an electric utility or person that—

(1) as of August 8, 2005, holds firm transmission rights pursuant to contract or by reason of ownership of transmission facilities; and

(2) is located—

(A) in the Pacific Northwest, as that region is defined in section 839a of this title; or

(B) in that portion of a State included in the geographic area proposed for a regional transmission organization in Commission Docket Number RT01–35 on the date on which that docket was opened.

(b) Protection of transmission contracts

Nothing in this chapter confers on the Commission the authority to require an electric utility or person to convert to tradable or financial rights—

(1) firm transmission rights described in subsection (a) of this section; or

(2) firm transmission rights obtained by exercising contract or tariff rights associated with the firm transmission rights described in subsection (a) of this section.

(June 10, 1920, ch. 285, pt. II, §218, as added Pub. L. 109–58, title XII, §1235, Aug. 8, 2005, 119 Stat. 960.)

§ 824s. Transmission infrastructure investment

(a) Rulemaking requirement

Not later than 1 year after August 8, 2005, the Commission shall establish, by rule, incentive-based (including performance-based) rate treatments for the transmission of electric energy in interstate commerce by public utilities for the purpose of benefitting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion.

(b) Contents

The rule shall—

(1) promote reliable and economically efficient transmission and generation of electricity by promoting capital investment in the enlargement, improvement, maintenance, and operation of all facilities for the transmission of electric energy in interstate commerce, regardless of the ownership of the facilities;

(2) provide a return on equity that attracts new investment in transmission facilities (including related transmission technologies);

(3) encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of the facilities; and

(4) allow recovery of—

(A) all prudently incurred costs necessary to comply with mandatory reliability standards issued pursuant to section 824*o* of this title; and

(B) all prudently incurred costs related to transmission infrastructure development pursuant to section 824p of this title.

(c) Incentives

In the rule issued under this section, the Commission shall, to the extent within its jurisdiction, provide for incentives to each transmitting utility or electric utility that joins a Transmission Organization. The Commission shall ensure that any costs recoverable pursuant to this subsection may be recovered by such utility through the transmission rates charged by such utility or through the transmission rates charged by the Transmission Organization that provides transmission service to such utility.

(d) Just and reasonable rates

All rates approved under the rules adopted pursuant to this section, including any revisions to the rules, are subject to the requirements of sections 824d and 824e of this title that all rates, charges, terms, and conditions be just and reasonable and not unduly discriminatory or preferential.

(June 10, 1920, ch. 285, pt. II, §219, as added Pub. L. 109–58, title XII, §1241, Aug. 8, 2005, 119 Stat. 961.)

§ 824t. Electricity market transparency rules

(a) In general

(1) The Commission is directed to facilitate price transparency in markets for the sale and transmission of electric energy in interstate commerce, having due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

(2) The Commission may prescribe such rules as the Commission determines necessary and appropriate to carry out the purposes of this section. The rules shall provide for the dissemination, on a timely basis, of information about the availability and prices of wholesale electric energy and transmission service to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public.

(3) The Commission may—

(A) obtain the information described in paragraph (2) from any market participant; and

(B) rely on entities other than the Commission to receive and make public the information, subject to the disclosure rules in subsection (b) of this section.

(4) In carrying out this section, the Commission shall consider the degree of price transparency provided by existing price publishers and providers of trade processing services, and shall rely on such publishers and services to the maximum extent possible. The Commission may establish an electronic information system if it determines that existing price publications are

not adequately providing price discovery or market transparency. Nothing in this section, however, shall affect any electronic information filing requirements in effect under this chapter as of August 8, 2005.

(b) Exemption of information from disclosure

(1) Rules described in subsection (a)(2) of this section, if adopted, shall exempt from disclosure information the Commission determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security.

(2) In determining the information to be made available under this section and time to make the information available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

(c) Information sharing

(1) Within 180 days of August 8, 2005, the Commission shall conclude a memorandum of understanding with the Commodity Futures Trading Commission relating to information sharing, which shall include, among other things, provisions ensuring that information requests to markets within the respective jurisdiction of each agency are properly coordinated to minimize duplicative information requests, and provisions regarding the treatment of proprietary trading information.

(2) Nothing in this section may be construed to limit or affect the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(d) Exemption from reporting requirements

The Commission shall not require entities who have a de minimis market presence to comply with the reporting requirements of this section.

(e) Penalties for violations occurring before notice

(1) Except as provided in paragraph (2), no person shall be subject to any civil penalty under this section with respect to any violation occurring more than 3 years before the date on which the person is provided notice of the proposed penalty under section 825*o*–1 of this title.

(2) Paragraph (1) shall not apply in any case in which the Commission finds that a seller that has entered into a contract for the sale of electric energy at wholesale or transmission service subject to the jurisdiction of the Commission has engaged in fraudulent market manipulation activities materially affecting the contract in violation of section 824v of this title.

(f) ERCOT utilities

This section shall not apply to a transaction for the purchase or sale of wholesale electric energy or transmission services within the area described in section 824k(k)(2)(A) of this title.

(June 10, 1920, ch. 285, pt. II, §220, as added Pub. L. 109–58, title XII, §1281, Aug. 8, 2005, 119 Stat. 978.)

REFERENCES IN TEXT

The Commodity Exchange Act, referred to in subsec. (c)(2), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, which is classified generally to chapter 1 (§1 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1 of Title 7 and Tables.

§ 824u. Prohibition on filing false information

No entity (including an entity described in section 824(f) of this title) shall willfully and knowingly report any information relating to the price of electricity sold at wholesale or the availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by the Federal agency.

(June 10, 1920, ch. 285, pt. II, §221, as added Pub. L. 109–58, title XII, §1282, Aug. 8, 2005, 119 Stat. 979.)

§ 824v. Prohibition of energy market manipulation

(a) In general

It shall be unlawful for any entity (including an entity described in section 824(f) of this title), directly or indirectly, to use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance (as those terms are used in section 78j(b) of title 15), in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of electric ratepayers.

(b) No private right of action

Nothing in this section shall be construed to create a private right of action.

(June 10, 1920, ch. 285, pt. II, §222, as added Pub. L. 109–58, title XII, §1283, Aug. 8, 2005, 119 Stat. 979.)

§ 824w. Joint boards on economic dispatch

(a) In general

The Commission shall convene joint boards on a regional basis pursuant to section 824h of this title to study the issue of security constrained economic dispatch for the various market regions. The Commission shall designate the appropriate regions to be covered by each such joint board for purposes of this section.

(b) Membership

The Commission shall request each State to nominate a representative for the appropriate regional joint board, and shall designate a member of the Commission to chair and participate as a member of each such board.

(c) Powers

The sole authority of each joint board convened under this section shall be to consider issues relevant to what constitutes ''security constrained economic dispatch'' and how such a mode of operating an electric energy system affects or enhances the reliability and affordability of service to customers in the region concerned and to make recommendations to the Commission regarding such issues.

(d) Report to the Congress

Within 1 year after August 8, 2005, the Commission shall issue a report and submit such report to the Congress regarding the recommendations of the joint boards under this section and the Commission may consolidate the recommendations of more than one such regional joint board, including any consensus recommendations for statutory or regulatory reform.

(June 10, 1920, ch. 285, pt. II, § 223, as added Pub. L. 109–58, title XII, § 1298, Aug. 8, 2005, 119 Stat. 986.)

SUBCHAPTER III—LICENSEES AND PUBLIC UTILITIES; PROCEDURAL AND ADMINISTRATIVE PROVISIONS

§ 825. Accounts and records

(a) Duty to keep

Every licensee and public utility shall make, keep, and preserve for such periods, such accounts, records of cost-accounting procedures, correspondence, memoranda, papers, books, and other records as the Commission may by rules and regulations prescribe as necessary or appropriate for purposes of the administration of this chapter, including accounts, records, and memoranda of the generation, transmission, distribution, delivery, or sale of electric energy, the furnishing of services or facilities in connection therewith, and receipts and expenditures with respect to any of the foregoing: *Provided, however*, That nothing in this chapter shall relieve any public utility from keeping any accounts, memoranda, or records which such public utility may be required to keep by or under authority of the laws of any State. The Commission may prescribe a system of accounts to be kept by licensees and public utilities and may classify such licensees and public utilities and prescribe a system of accounts for each class. The Commission, after notice and opportunity for hearing, may determine by order the accounts in which particular outlays and receipts shall be entered, charged, or credited. The burden of proof to justify every accounting entry questioned by the Commission shall be on the person making, authorizing, or requiring such entry, and the Commission may suspend a charge or credit pending submission of satisfactory proof in support thereof.

(b) Access to and examination by the Commission

The Commission shall at all times have access to and the right to inspect and examine all accounts, records, and memoranda of licensees and public utilities, and it shall be the duty of such licensees and public utilities to furnish to the Commission, within such reasonable time as the Commission may order, any information with respect thereto which the Commission may by order require, including copies of maps, contracts, reports of engineers, and other data, records, and papers, and to grant to all agents of the Commission free access to its property and its accounts, records, and memoranda when requested so to do. No member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge during the course of examination of books or other accounts, as hereinbefore provided, except insofar as he may be directed by the Commission or by a court.

(c) Controlling individual

The books, accounts, memoranda, and records of any person who controls, directly or indirectly, a licensee or public utility subject to the jurisdiction of the Commission, and of any other company controlled by such person, insofar as they relate to transactions with or the business of such licensee or public utility, shall be subject to examination on the order of the Commission.

(June 10, 1920, ch. 285, pt. III, § 301, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 854.)

§ 825a. Rates of depreciation; notice to State authorities before fixing

(a) The Commission may, after hearing, require licensees and public utilities to carry a proper and adequate depreciation account in accordance with such rules, regulations, and forms of account as the Commission may prescribe. The Commission may, from time to time, ascertain and determine, and by order fix, the proper and adequate rates of depreciation of the several classes of property of each licensee and public utility. Each licensee and public utility shall conform its depreciation accounts to the rates so ascertained, determined, and fixed. The licensees and public utilities subject to the jurisdiction of the Commission shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the Commission. No such licensee or public utility shall in any case include in any form under its operating or other expenses any depreciation or other charge or expenditure included elsewhere as a depreciation charge or otherwise under its operating or other expenses. Nothing in this section shall limit the power of a State commission to determine in the exercise of its jurisdiction, with respect to any public utility, the percentage rate of depreciation to be allowed, as to any class of property of such public utility, or the composite depreciation rate, for the purpose of determining rates or charges.

(b) The Commission, before prescribing any rules or requirements as to accounts, records, or memoranda, or as to depreciation rates, shall notify each State commission having jurisdiction with respect to any public utility involved, and shall give reasonable opportunity to each such commission to present its views, and shall receive and consider such views and recommendations.

(June 10, 1920, ch. 285, pt. III, § 302, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 855.)

§ 825b. Requirements applicable to agencies of United States

All agencies of the United States engaged in the generation and sale of electric energy for ultimate distribution to the public shall be subject, as to all facilities used for such generation

and sale, and as to the electric energy sold by such agency, to the provisions of sections 825 and 825a of this title, so far as may be practicable, and shall comply with the provisions of such sections and with the rules and regulations of the Commission thereunder to the same extent as may be required in the case of a public utility.

(June 10, 1920, ch. 285, pt. III, § 303, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 855.)

§ 825c. Periodic and special reports; obstructing filing reports or keeping accounts, etc.

(a) Every licensee and every public utility shall file with the Commission such annual and other periodic or special reports as the Commission may by rules and regulations or order prescribe as necessary or appropriate to assist the Commission in the proper administration of this chapter. The Commission may prescribe the manner and form in which such reports shall be made, and require from such persons specific answers to all questions upon which the Commission may need information. The Commission may require that such reports shall include, among other things, full information as to assets and liabilities, capitalization, net investment, and reduction thereof, gross receipts, interest due and paid, depreciation, and other reserves, cost of project and other facilities, cost of maintenance and operation of the project and other facilities, cost of renewals and replacement of the project works and other facilities, depreciation, generation, transmission, distribution, delivery, use, and sale of electric energy. The Commission may require any such person to make adequate provision for currently determining such costs and other facts. Such reports shall be made under oath unless the Commission otherwise specifies.

(b) It shall be unlawful for any person willfully to hinder, delay, or obstruct the making, filing, or keeping of any information, document, report, memorandum, record, or account required to be made, filed, or kept under this chapter or any rule, regulation, or order thereunder.

(June 10, 1920, ch. 285, pt. III, § 304, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 855.)

§ 825d. Officials dealing in securities

(a) Benefits; making or declaring dividends out of capital account

It shall be unlawful for any officer or director of any public utility to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation, or sale by such public utility of any security issued or to be issued by such public utility, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of such public utility from any funds properly included in capital account.

(b) Interlocking directorates

(1) In general

After 6 months from August 26, 1935, it shall be unlawful for any person to hold the position of officer or director of more than one public utility or to hold the position of officer or director of a public utility and the position of officer or director of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility, or officer or director of any company supplying electrical equipment to such public utility, unless the holding of such positions shall have been authorized by order of the Commission, upon due showing in form and manner prescribed by the Commission, that neither public nor private interests will be adversely affected thereby. The Commission shall not grant any such authorization in respect of such positions held on August 26, 1935, unless application for such authorization is filed with the Commission within sixty days after that date.

(2) Applicability

(A) In general

In the circumstances described in subparagraph (B), paragraph (1) shall not apply to a person that holds or proposes to hold the positions of—

(i) officer or director of a public utility; and

(ii) officer or director of a bank, trust company, banking association, or firm authorized by law to underwrite or participate in the marketing of securities of a public utility.

(B) Circumstances

The circumstances described in this subparagraph are that—

(i) a person described in subparagraph (A) does not participate in any deliberations or decisions of the public utility regarding the selection of a bank, trust company, banking association, or firm to underwrite or participate in the marketing of securities of the public utility, if the person serves as an officer or director of a bank, trust company, banking association, or firm that is under consideration in the deliberation process;

(ii) the bank, trust company, banking association, or firm of which the person is an officer or director does not engage in the underwriting of, or participate in the marketing of, securities of the public utility of which the person holds the position of officer or director;

(iii) the public utility for which the person serves or proposes to serve as an officer or director selects underwriters by competitive procedures; or

(iv) the issuance of securities of the public utility for which the person serves or proposes to serve as an officer or director has been approved by all Federal and State regulatory agencies having jurisdiction over the issuance.

(c) Statement of prior positions; definitions

(1) On or before April 30 of each year, any person, who, during the calendar year preceding the filing date under this subsection, was an officer or director of a public utility and who held, during such calendar year, the position of officer, director, partner, appointee, or representative of

any other entity listed in paragraph (2) shall file with the Commission, in such form and manner as the Commission shall by rule prescribe, a written statement concerning such positions held by such person. Such statement shall be available to the public.

(2) The entities listed for purposes of paragraph (1) are as follows—

(A) any investment bank, bank holding company, foreign bank or subsidiary thereof doing business in the United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit, a mutual savings bank, or a savings and loan association;

(B) any company, firm, or organization which is authorized by law to underwrite or participate in the marketing of securities of a public utility;

(C) any company, firm, or organization which produces or supplies electrical equipment or coal, natural gas, oil, nuclear fuel, or other fuel, for the use of any public utility;

(D) any company, firm, or organization which during any one of the 3 calendar years immediately preceding the filing date was one of the 20 purchasers of electric energy which purchased (for purposes other than for resale) one of the 20 largest annual amounts of electric energy sold by such public utility (or by any public utility which is part of the same holding company system) during any one of such three calendar years;

(E) any entity referred to in subsection (b) of this section; and

(F) any company, firm, or organization which is controlled by any company, firm, or organization referred to in this paragraph.

On or before January 31 of each calendar year, each public utility shall publish a list, pursuant to rules prescribed by the Commission, of the purchasers to which subparagraph (D) applies, for purposes of any filing under paragraph (1) of such calendar year.

(3) For purposes of this subsection—

(A) The term ''public utility'' includes any company which is a part of a holding company system which includes a registered holding company, unless no company in such system is an electric utility.

(B) The terms ''holding company'', ''registered holding company'', and ''holding company system'' have the same meaning as when used in the Public Utility Holding Company Act of 1935.[1]

(June 10, 1920, ch. 285, pt. III, § 305, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 856; amended Pub. L. 95–617, title II, § 211(a), Nov. 9, 1978, 92 Stat. 3147; Pub. L. 106–102, title VII, § 737, Nov. 12, 1999, 113 Stat. 1479.)

REFERENCES IN TEXT

The Public Utility Holding Company Act of 1935, referred to in subsec. (c)(3)(B), is title I of act Aug. 26, 1935, ch. 687, 49 Stat. 803, as amended, which was classified generally to chapter 2C (§ 79 et seq.) of Title 15, Commerce and Trade, prior to repeal by Pub. L. 109–58, title XII, § 1263, Aug. 8, 2005, 119 Stat. 974. For complete classification of this Act to the Code, see Tables.

[1] See References in Text note below.

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–102 inserted subsec. heading, designated existing provisions as par. (1), inserted heading, and substituted ''After 6'' for ''After six'', and added par. (2).

1978—Subsec. (c). Pub. L. 95–617 added subsec. (c).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 211(b) of Pub. L. 95–617 provided that: ''No person shall be required to file a statement under section 305(c)(1) of the Federal Power Act [subsec. (c)(1) of this section] before April 30 of the second calendar year which begins after the date of the enactment of this Act [Nov. 9, 1978] and no public utility shall be required to publish a list under section 305(c)(2) of such Act [subsec. (c)(2) of this section] before January 31 of such second calendar year.''

§ 825e. Complaints

Any person, electric utility, State, municipality, or State commission complaining of anything done or omitted to be done by any licensee, transmitting utility, or public utility in contravention of the provisions of this chapter may apply to the Commission by petition which shall briefly state the facts, whereupon a statement of the complaint thus made shall be forwarded by the Commission to such licensee, transmitting utility, or public utility, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time to be specified by the Commission. If such licensee, transmitting utility, or public utility shall not satisfy the complaint within the time specified or there shall appear to be any reasonable ground for investigating such complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall find proper.

(June 10, 1920, ch. 285, pt. III, § 306, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 856; amended Pub. L. 109–58, title XII, § 1284(a), Aug. 8, 2005, 119 Stat. 980.)

AMENDMENTS

2005—Pub. L. 109–58 inserted ''electric utility,'' after ''Any person,'' and '', transmitting utility,'' after ''licensee'' wherever appearing.

§ 825f. Investigations by Commission

(a) Scope

The Commission may investigate any facts, conditions, practices, or matters which it may find necessary or proper in order to determine whether any person, electric utility, transmitting utility, or other entity has violated or is about to violate any provision of this chapter or any rule, regulation, or order thereunder, or to aid in the enforcement of the provisions of this chapter or in prescribing rules or regulations thereunder, or in obtaining information to serve as a basis for recommending further legislation concerning the matters to which this chapter relates, or in obtaining information about the sale of electric energy at wholesale in interstate commerce and the transmission of electric energy in interstate commerce. The Commission may permit any person, electric utility, transmitting utility, or other entity to file with it a statement in writing under oath or otherwise, as it shall determine, as to any or all facts and cir-

cumstances concerning a matter which may be the subject of investigation. The Commission, in its discretion, may publish or make available to State commissions information concerning any such subject.

(b) Attendance of witnesses and production of documents

For the purpose of any investigation or any other proceeding under this chapter, any member of the Commission, or any officer designated by it, is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records which the Commission finds relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States at any designated place of hearing. Witnesses summoned by the Commission to appear before it shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(c) Resort to courts of United States for failure to obey subpena; punishment

In case of contumacy by, or refusal to obey a subpena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, contracts, agreements, and other records. Such court may issue an order requiring such person to appear before the Commission or member or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found or may be doing business. Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in his or its power so to do, in obedience to the subpena of the Commission, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year, or both.

(d) Testimony by deposition

The testimony of any witness may be taken, at the instance of a party, in any proceeding or investigation pending before the Commission, by deposition, at any time after the proceeding is at issue. The Commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any person authorized to administer oaths not being of counsel or attorney to either of the parties, nor interested in the proceeding or investigation. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce documentary evidence, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission, as hereinbefore provided. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

(e) Deposition of witness in a foreign country

If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken before an officer or person designated by the Commission, or agreed upon by the parties by stipulation in writing to be filed with the Commission. All depositions must be promptly filed with the Commission.

(f) Deposition fees

Witnesses whose depositions are taken as authorized in this chapter, and the person or officer taking the same, shall be entitled to the same fees as are paid for like services in the courts of the United States.

(June 10, 1920, ch. 285, pt. III, § 307, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 856; amended Pub. L. 91–452, title II, § 221, Oct. 15, 1970, 84 Stat. 929; Pub. L. 109–58, title XII, § 1284(b), Aug. 8, 2005, 119 Stat. 980.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–58 inserted ‘‘, electric utility, transmitting utility, or other entity’’ after ‘‘person’’ in two places and inserted ‘‘, or in obtaining information about the sale of electric energy at wholesale in interstate commerce and the transmission of electric energy in interstate commerce’’ before period at end of first sentence.

1970—Subsec. (g). Pub. L. 91–452 struck out subsec. (g) which related to the immunity from prosecution of any individual compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on 60th day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before 60th day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

§ 825g. Hearings; rules of procedure

(a) Hearings under this chapter may be held before the Commission, any member or members thereof or any representative of the Commission designated by it, and appropriate records thereof shall be kept. In any proceeding before it, the Commission, in accordance with such rules and regulations as it may prescribe, may admit as a party any interested State, State commission, municipality, or any representative of inter-

ested consumers or security holders, or any competitor of a party to such proceeding, or any other person whose participation in the proceeding may be in the public interest.

(b) All hearings, investigations, and proceedings under this chapter shall be governed by rules of practice and procedure to be adopted by the Commission, and in the conduct thereof the technical rules of evidence need not be applied. No informality in any hearing, investigation, or proceeding or in the manner of taking testimony shall invalidate any order, decision, rule, or regulation issued under the authority of this chapter.

(June 10, 1920, ch. 285, pt. III, § 308, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 858.)

§ 825h. Administrative powers of Commission; rules, regulations, and orders

The Commission shall have power to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this chapter. Among other things, such rules and regulations may define accounting, technical, and trade terms used in this chapter; and may prescribe the form or forms of all statements, declarations, applications, and reports to be filed with the Commission, the information which they shall contain, and the time within which they shall be filed. Unless a different date is specified therein, rules and regulations of the Commission shall be effective thirty days after publication in the manner which the Commission shall prescribe. Orders of the Commission shall be effective on the date and in the manner which the Commission shall prescribe. For the purposes of its rules and regulations, the Commission may classify persons and matters within its jurisdiction and prescribe different requirements for different classes of persons or matters. All rules and regulations of the Commission shall be filed with its secretary and shall be kept open in convenient form for public inspection and examination during reasonable business hours.

(June 10, 1920, ch. 285, pt. III, § 309, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 858.)

COMMISSION REVIEW

Pub. L. 99–495, § 4(c), Oct. 16, 1986, 100 Stat. 1248, provided that: ''In order to ensure that the provisions of Part I of the Federal Power Act [16 U.S.C. 791a et seq.], as amended by this Act, are fully, fairly, and efficiently implemented, that other governmental agencies identified in such Part I are able to carry out their responsibilities, and that the increased workload of the Federal Energy Regulatory Commission and other agencies is facilitated, the Commission shall, consistent with the provisions of section 309 of the Federal Power Act [16 U.S.C. 825h], review all provisions of that Act [16 U.S.C. 791a et seq.] requiring an action within a 30-day period and, as the Commission deems appropriate, amend its regulations to interpret such period as meaning 'working days', rather than 'calendar days' unless calendar days is specified in such Act for such action.''

§ 825i. Appointment of officers and employees; compensation

The Commission is authorized to appoint and fix the compensation of such officers, attorneys, examiners, and experts as may be necessary for carrying out its functions under this chapter; and the Commission may, subject to civil-service laws, appoint such other officers and employees as are necessary for carrying out such functions and fix their salaries in accordance with chapter 51 and subchapter III of chapter 53 of title 5.

(June 10, 1920, ch. 285, pt. III, § 310, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 859; amended Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972.)

CODIFICATION

Provisions that authorized the Commission to appoint and fix the compensation of such officers, attorneys, examiners, and experts as may be necessary for carrying out its functions under this chapter ''without regard to the provisions of other laws applicable to the employment and compensation of officers and employees of the United States'' have been omitted as obsolete and superseded.

Such appointments are subject to the civil service laws unless specifically excepted by those laws or by laws enacted subsequent to Executive Order No. 8743, Apr. 23, 1941, issued by the President pursuant to the Act of Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and Employees.

As to the compensation of such personnel, sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed Pub. L. 89–554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5. Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

''Chapter 51 and subchapter III of chapter 53 of title 5'' substituted in text for ''the Classification Act of 1949, as amended'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5.

AMENDMENTS

1949—Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act of 1923''.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

§ 825j. Investigations relating to electric energy; reports to Congress

In order to secure information necessary or appropriate as a basis for recommending legislation, the Commission is authorized and directed to conduct investigations regarding the generation, transmission, distribution, and sale of electric energy, however produced, throughout the United States and its possessions, whether or not otherwise subject to the jurisdiction of the Commission, including the generation, transmission, distribution, and sale of electric energy by any agency, authority, or instrumentality of the United States, or of any State or municipality or other political subdivision of a State. It shall, so far as practicable, secure and keep current information regarding the ownership, oper-

ation, management, and control of all facilities for such generation, transmission, distribution, and sale; the capacity and output thereof and the relationship between the two; the cost of generation, transmission, and distribution; the rates, charges, and contracts in respect of the sale of electric energy and its service to residential, rural, commercial, and industrial consumers and other purchasers by private and public agencies; and the relation of any or all such facts to the development of navigation, industry, commerce, and the national defense. The Commission shall report to Congress the results of investigations made under authority of this section.

(June 10, 1920, ch. 285, pt. III, § 311, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 859.)

§ 825k. Publication and sale of reports

The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and is authorized to sell at reasonable prices copies of all maps, atlases, and reports as it may from time to time publish. Such reasonable prices may include the cost of compilation, composition, and reproduction. The Commission is also authorized to make such charges as it deems reasonable for special statistical services and other special or periodic services. The amounts collected under this section shall be deposited in the Treasury to the credit of miscellaneous receipts. All printing for the Federal Power Commission making use of engraving, lithography, and photolithography, together with the plates for the same, shall be contracted for and performed under the direction of the Commission, under such limitations and conditions as the Joint Committee on Printing may from time to time prescribe, and all other printing for the Commission shall be done by the Public Printer under such limitations and conditions as the Joint Committee on Printing may from time to time prescribe. The entire work may be done at, or ordered through, the Government Printing Office whenever, in the judgment of the Joint Committee on Printing, the same would be to the interest of the Government: *Provided*, That when the exigencies of the public service so require, the Joint Committee on Printing may authorize the Commission to make immediate contracts for engraving, lithographing, and photolithographing, without advertisement for proposals: *Provided further*, That nothing contained in this chapter or any other Act shall prevent the Federal Power Commission from placing orders with other departments or establishments for engraving, lithographing, and photolithographing, in accordance with the provisions of sections 1535 and 1536 of title 31, providing for interdepartmental work.

(June 10, 1920, ch. 285, pt. III, § 312, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 859.)

CODIFICATION

''Sections 1535 and 1536 of title 31'' substituted in text for ''sections 601 and 602 of the Act of June 30, 1932 (47 Stat. 417 [31 U.S.C. 686, 686b])'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§ 825*l*. Review of orders

(a) Application for rehearing; time periods; modification of order

Any person, electric utility, State, municipality, or State commission aggrieved by an order issued by the Commission in a proceeding under this chapter to which such person, electric utility, State, municipality, or State commission is a party may apply for a rehearing within thirty days after the issuance of such order. The application for rehearing shall set forth specifically the ground or grounds upon which such application is based. Upon such application the Commission shall have power to grant or deny rehearing or to abrogate or modify its order without further hearing. Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied. No proceeding to review any order of the Commission shall be brought by any entity unless such entity shall have made application to the Commission for a rehearing thereon. Until the record in a proceeding shall have been filed in a court of appeals, as provided in subsection (b) of this section, the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it under the provisions of this chapter.

(b) Judicial review

Any party to a proceeding under this chapter aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the United States court of appeals for any circuit wherein the licensee or public utility to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. A copy of such petition shall forthwith be transmitted by the clerk of the court to any member of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28. Upon the filing of such petition such court shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to affirm, modify, or set aside such order in whole or in part. No objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission in the application for rehearing unless there is reasonable ground for failure so to do. The finding of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceedings before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the

hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts by reason of the additional evidence so taken, and it shall file with the court such modified or new findings which, if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court, affirming, modifying, or setting aside, in whole or in part, any such order of the Commission, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(c) Stay of Commission's order

The filing of an application for rehearing under subsection (a) of this section shall not, unless specifically ordered by the Commission, operate as a stay of the Commission's order. The commencement of proceedings under subsection (b) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

(June 10, 1920, ch. 285, pt. III, § 313, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 860; amended June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Pub. L. 85–791, § 16, Aug. 28, 1958, 72 Stat. 947; Pub. L. 109–58, title XII, § 1284(c), Aug. 8, 2005, 119 Stat. 980.)

CODIFICATION

In subsec. (b), ''section 1254 of title 28'' substituted for ''sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 346 and 347)'' on authority of act June 25, 1948, ch. 646, 62 Stat. 869, the first section of which enacted Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–58 inserted ''electric utility,'' after ''Any person,'' and ''to which such person,'' and substituted ''brought by any entity unless such entity'' for ''brought by any person unless such person''.

1958—Subsec. (a). Pub. L. 85–791, § 16(a), inserted sentence to provide that Commission may modify or set aside findings or orders until record has been filed in court of appeals.

Subsec. (b). Pub. L. 85–791, § 16(b), in second sentence, substituted ''transmitted by the clerk of the court to'' for ''served upon'', substituted ''file with the court'' for ''certify and file with the court a transcript of'', and inserted ''as provided in section 2112 of title 28'', and in third sentence, substituted ''jurisdiction, which upon the filing of the record with it shall be exclusive'' for ''exclusive jurisdiction''.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, substituted ''court of appeals'' for ''circuit court of appeals''.

§ 825m. Enforcement provisions

(a) Enjoining and restraining violations

Whenever it shall appear to the Commission that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this chapter, or of any rule, regulation, or order thereunder, it may in its discretion bring an action in the proper District Court of the United States or the United States courts of any Territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices and to enforce compliance with this chapter or any rule, regulation, or order thereunder, and upon a proper showing a permanent or temporary injunction or decree or restraining order shall be granted without bond. The Commission may transmit such evidence as may be available concerning such acts or practices to the Attorney General, who, in his discretion, may institute the necessary criminal proceedings under this chapter.

(b) Writs of mandamus

Upon application of the Commission the district courts of the United States and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this chapter or any rule, regulation, or order of the Commission thereunder.

(c) Employment of attorneys

The Commission may employ such attorneys as it finds necessary for proper legal aid and service of the Commission or its members in the conduct of their work, or for proper representation of the public interests in investigations made by it or cases or proceedings pending before it, whether at the Commission's own instance or upon complaint, or to appear for or represent the Commission in any case in court; and the expenses of such employment shall be paid out of the appropriation for the Commission.

(d) Prohibitions on violators

In any proceedings under subsection (a) of this section, the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as the court determines, any individual who is engaged or has engaged in practices constituting a violation of section 824u of this title (and related rules and regulations) from—

(1) acting as an officer or director of an electric utility; or

(2) engaging in the business of purchasing or selling—

(A) electric energy; or

(B) transmission services subject to the jurisdiction of the Commission.

(June 10, 1920, ch. 285, pt. III, § 314, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 861; amended June 25, 1936, ch. 804, 49 Stat. 1921; June 25, 1948, ch. 646, § 32(b), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Pub. L. 109–58, title XII, § 1288, Aug. 8, 2005, 119 Stat. 982.)

CODIFICATION

As originally enacted subsecs. (a) and (b) contained references to the Supreme Court of the District of Columbia. Act June 25, 1936, substituted ''the district court of the United States for the District of Columbia'' for ''the Supreme Court of the District of Columbia'', and act June 25, 1948, as amended by act May 24, 1949, substituted ''United States District Court for the District of Columbia'' for ''district court of the United States for the District of Columbia''. However, the words ''United States District Court for the District of Columbia'' have been deleted entirely as superfluous in

view of section 132(a) of Title 28, Judiciary and Judicial Procedure, which states that ''There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district'', and section 88 of Title 28 which states that ''the District of Columbia constitutes one judicial district''.

AMENDMENTS

2005—Subsec. (d). Pub. L. 109–58 added subsec. (d).

§ 825n. Forfeiture for violations; recovery; applicability

(a) Forfeiture

Any licensee or public utility which willfully fails, within the time prescribed by the Commission, to comply with any order of the Commission, to file any report required under this chapter or any rule or regulation of the Commission thereunder, to submit any information or document required by the Commission in the course of an investigation conducted under this chapter, or to appear by an officer or agent at any hearing or investigation in response to a subpena issued under this chapter, shall forfeit to the United States an amount not exceeding $1,000 to be fixed by the Commission after notice and opportunity for hearing. The imposition or payment of any such forfeiture shall not bar or affect any penalty prescribed in this chapter but such forfeiture shall be in addition to any such penalty.

(b) Recovery

The forfeitures provided for in this chapter shall be payable into the Treasury of the United States and shall be recoverable in a civil suit in the name of the United States, brought in the district where the person is an inhabitant or has his principal place of business, or if a licensee or public utility, in any district in which such licensee or public utility transacts business. It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures under this chapter. The costs and expenses of such prosecution shall be paid from the appropriations for the expenses of the courts of the United States.

(c) Applicability

This section shall not apply in the case of any provision of section 824j, 824k, 824*l*, or 824m of this title or any rule or order issued under any such provision.

(June 10, 1920, ch. 285, pt. III, § 315, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 861; amended June 25, 1948, ch. 646, § 1, 62 Stat. 909; Pub. L. 102–486, title VII, § 725(a), Oct. 24, 1992, 106 Stat. 2920; Pub. L. 109–58, title XII, § 1295(d), Aug. 8, 2005, 119 Stat. 985.)

AMENDMENTS

2005—Subsec. (c). Pub. L. 109–58 substituted ''This section'' for ''This subsection''.

1992—Subsec. (c). Pub. L. 102–486 added subsec. (c).

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted ''United States attorney'' for ''district attorney''. See section 541 of Title 28, Judiciary and Judicial Procedure.

STATE AUTHORITIES; CONSTRUCTION

Nothing in amendment by Pub. L. 102–486 to be construed as affecting or intending to affect, or in any way to interfere with, authority of any State or local government relating to environmental protection or siting of facilities, see section 731 of Pub. L. 102–486, set out as a note under section 796 of this title.

§ 825*o*. Penalties for violations; applicability of section

(a) Statutory violations

Any person who willfully and knowingly does or causes or suffers to be done any act, matter, or thing in this chapter prohibited or declared to be unlawful, or who willfully and knowingly omits or fails to do any act, matter, or thing in this chapter required to be done, or willfully and knowingly causes or suffers such omission or failure, shall, upon conviction thereof, be punished by a fine of not more than $1,000,000 or by imprisonment for not more than 5 years, or both.

(b) Rules violations

Any person who willfully and knowingly violates any rule, regulation, restriction, condition, or order made or imposed by the Commission under authority of this chapter, or any rule or regulation imposed by the Secretary of the Army under authority of subchapter I of this chapter shall, in addition to any other penalties provided by law, be punished upon conviction thereof by a fine of not exceeding $25,000 for each and every day during which such offense occurs.

(June 10, 1920, ch. 285, pt. III, § 316, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 862; amended July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 102–486, title VII, § 725(a), Oct. 24, 1992, 106 Stat. 2920; Pub. L. 109–58, title XII, § 1284(d), Aug. 8, 2005, 119 Stat. 980.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–58, § 1284(d)(1), substituted ''$1,000,000'' for ''$5,000'' and ''5 years'' for ''two years''.

Subsec. (b). Pub. L. 109–58, § 1284(d)(2), substituted ''$25,000'' for ''$500''.

Subsec. (c). Pub. L. 109–58, § 1284(d)(3), struck out subsec. (c) which read as follows: ''This subsection shall not apply in the case of any provision of section 824j, 824k, 824*l*, or 824m of this title or any rule or order issued under any such provision.''

1992—Subsec. (c). Pub. L. 102–486 added subsec. (c).

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

STATE AUTHORITIES; CONSTRUCTION

Nothing in amendment by Pub. L. 102–486 to be construed as affecting or intending to affect, or in any way to interfere with, authority of any State or local government relating to environmental protection or siting of facilities, see section 731 of Pub. L. 102–486, set out as a note under section 796 of this title.

§ 825*o*–1. Enforcement of certain provisions

(a) Violations

It shall be unlawful for any person to violate any provision of subchapter II of this chapter or any rule or order issued under any such provision.

(b) Civil penalties

Any person who violates any provision of subchapter II of this chapter or any provision of any rule or order thereunder shall be subject to a civil penalty of not more than $1,000,000 for each day that such violation continues. Such penalty shall be assessed by the Commission, after notice and opportunity for public hearing, in accordance with the same provisions as are applicable under section 823b(d) of this title in the case of civil penalties assessed under section 823b of this title. In determining the amount of a proposed penalty, the Commission shall take into consideration the seriousness of the violation and the efforts of such person to remedy the violation in a timely manner.

(June 10, 1920, ch. 285, pt. III, § 316A, as added Pub. L. 102–486, title VII, § 725(b), Oct. 24, 1992, 106 Stat. 2920; amended Pub. L. 109–58, title XII, § 1284(e), Aug. 8, 2005, 119 Stat. 980.)

AMENDMENTS

2005—Pub. L. 109–58 substituted ''subchapter II of this chapter'' for ''section 824j, 824k, 824*l*, or 824m of this title'' in subsecs. (a) and (b) and ''$1,000,000'' for ''$10,000'' in subsec. (b).

STATE AUTHORITIES; CONSTRUCTION

Nothing in this section to be construed as affecting or intending to affect, or in any way to interfere with, authority of any State or local government relating to environmental protection or siting of facilities, see section 731 of Pub. L. 102–486, set out as a note under section 796 of this title.

§ 825p. Jurisdiction of offenses; enforcement of liabilities and duties

The District Courts of the United States, and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have exclusive jurisdiction of violations of this chapter or the rules, regulations, and orders thereunder, and of all suits in equity and actions at law brought to enforce any liability or duty created by, or to enjoin any violation of this chapter or any rule, regulation, or order thereunder. Any criminal proceeding shall be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created by, or to enjoin any violation of, this chapter or any rule, regulation, or order thereunder may be brought in any such district or in the district wherein the defendant is an inhabitant, and process in such cases may be served wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 1254, 1291, and 1292 of title 28. No costs shall be assessed against the Commission in any judicial proceeding by or against the Commission under this chapter.

(June 10, 1920, ch. 285, pt. III, § 317, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 862; amended June 25, 1936, ch. 804, 49 Stat. 1921; June 25, 1948, ch. 646, § 32(b), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

CODIFICATION

As originally enacted, this section contained reference to the Supreme Court of the District of Columbia. Act June 25, 1936, substituted ''the district court of the United States for the District of Columbia'' for ''the Supreme Court of the District of Columbia'', and act June 25, 1948, as amended by act May 24, 1949, substituted ''United States District Court for the District of Columbia'' for ''district court of the United States for the District of Columbia''. However, the words ''United States District Court for the District of Columbia'' have been deleted entirely as superfluous in view of section 132(a) of Title 28, Judiciary and Judicial Procedure, which states that ''There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district'', and section 88 of Title 28 which states that ''the District of Columbia constitutes one judicial district''.

''Sections 1254, 1291, and 1292 of title 28'', referred to in text, were substituted for ''sections 128 and 240 of the Judicial Code, as amended (U.S.C. title 28, secs. 225 and 347)'' on authority of act June 25, 1948, ch. 646, 62 Stat. 869, the first section of which enacted Title 28, Judiciary and Judicial Procedure.

§ 825q. Repealed. Pub. L. 109–58, title XII, § 1277(a), Aug. 8, 2005, 119 Stat. 978

Section, act June 10, 1920, ch. 285, pt. III, § 318, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 863, related to conflict of jurisdiction.

EFFECTIVE DATE OF REPEAL

Repeal effective 6 months after Aug. 8, 2005, with provisions relating to effect of compliance with certain regulations approved and made effective prior to such date, see section 1274 of Pub. L. 109–58, set out as an Effective Date note under section 16451 of Title 42, The Public Health and Welfare.

§ 825q–1. Office of Public Participation

(a)(1) There shall be an office in the Commission to be known as the Office of Public Participation (hereinafter in this section referred to as the ''Office'').

(2)(A) The Office shall be administered by a Director. The Director shall be appointed by the Chairman with the approval of the Commission. The Director may be removed during his term of office by the Chairman, with the approval of the Commission, only for inefficiency, neglect of duty, or malfeasance in office.

(B) The term of office of the Director shall be 4 years. The Director shall be responsible for the discharge of the functions and duties of the Office. He shall be appointed and compensated at a rate not in excess of the maximum rate prescribed for GS–18 of the General Schedule under section 5332 of title 5.

(3) The Director may appoint, and assign the duties of, employees of such Office, and with the concurrence of the Commission he may fix the compensation of such employees and procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5.

(b)(1) The Director shall coordinate assistance to the public with respect to authorities exercised by the Commission. The Director shall also coordinate assistance available to persons

intervening or participating or proposing to intervene or participate in proceedings before the Commission.

(2) The Commission may, under rules promulgated by it, provide compensation for reasonable attorney's fees, expert witness fees, and other costs of intervening or participating in any proceeding before the Commission to any person whose intervention or participation substantially contributed to the approval, in whole or in part, of a position advocated by such person. Such compensation may be paid only if the Commission has determined that—

(A) the proceeding is significant, and

(B) such person's intervention or participation in such proceeding without receipt of compensation constitutes a significant financial hardship to him.

(3) Nothing in this subsection affects or restricts any rights of any intervenor or participant under any other applicable law or rule of law.

(4) There are authorized to be appropriated to the Secretary of Energy to be used by the Office for purposes of compensation of persons under the provisions of this subsection not to exceed $500,000 for the fiscal year 1978, not to exceed $2,000,000 for the fiscal year 1979, not to exceed $2,200,000 for the fiscal year 1980, and not to exceed $2,400,000 for the fiscal year 1981.

(June 10, 1920, ch. 285, pt. III, §319, as added Pub. L. 95–617, title II, §212, Nov. 9, 1978, 92 Stat. 3148.)

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 825r. Separability

If any provision of this chapter, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of the chapter, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(June 10, 1920, ch. 285, pt. III, §320, formerly §319, as added Aug. 26, 1935, ch. 687, title II, §213, 49 Stat. 863, and renumbered §320, Pub. L. 95–617, title II, §212, Nov. 9, 1978, 92 Stat. 3148.)

§ 825s. Sale of electric power from reservoir projects; rate schedules; preference in sale; construction of transmission lines; disposition of moneys

Electric power and energy generated at reservoir projects under the control of the Department of the Army and in the opinion of the Secretary of the Army not required in the operation of such projects shall be delivered to the Secretary of Energy who shall transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles, the rate schedules to become effective upon confirmation and approval by the Secretary of Energy. Rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the cost of producing and transmitting such electric energy, including the amortization of the capital investment allocated to power over a reasonable period of years. Preference in the sale of such power and energy shall be given to public bodies and cooperatives. The Secretary of Energy is authorized, from funds to be appropriated by the Congress, to construct or acquire, by purchase or other agreement, only such transmission lines and related facilities as may be necessary in order to make the power and energy generated at said projects available in wholesale quantities for sale on fair and reasonable terms and conditions to facilities owned by the Federal Government, public bodies, cooperatives, and privately owned companies. All moneys received from such sales shall be deposited in the Treasury of the United States as miscellaneous receipts.

(Dec. 22, 1944, ch. 665, §5, 58 Stat. 890; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Pub. L. 95–91, title III, §§301(b), 302(a)(1), Aug. 4, 1977, 91 Stat. 578.)

CODIFICATION

Section was not enacted as part of the Federal Power Act which generally comprises this chapter.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

''Secretary of Energy'' substituted in text for ''Secretary of the Interior'' in two places and for ''Federal Power Commission'' pursuant to Pub. L. 95–91, §§301(b), 302(a)(1), which are classified to sections 7151(b) and 7152(a)(1) of Title 42, The Public Health and Welfare.

Functions of Secretary of the Interior under this section transferred to Secretary of Energy by section 7152(a)(1) of Title 42.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

Executive and administrative functions of Federal Power Commission, with certain reservations, transferred to Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by Reorg. Plan No. 9 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out as a note under section 792 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act [43 U.S.C. 1301 et seq.], see section 1303 of Title 43, Public Lands.

§ 825s–1. Southwestern area sale and transmission of electric power; disposition of receipts; creation of continuing fund; use of fund

All receipts from the transmission and sale of electric power and energy under the provisions of section 825s of this title, generated or purchased in the southwestern power area, shall be covered into the Treasury of the United States as miscellaneous receipts, except that the Treasury shall set up and maintain from such receipts a continuing fund of $300,000, including the sum of $100,000 in the continuing fund established under the Administrator of the Southwestern Power Administration in the First Supplemental National Defense Appropriation Act, 1944 (57 Stat. 621), which shall be transferred to the fund established; and said fund of $300,000 shall be placed to the credit of the Secretary and shall be subject to check by him to defray emergency expenses necessary to insure continuity of electric service and continuous operation of the facilities, and to cover all costs in connection with the purchase of electric power and energy and rentals for the use of facilities for the transmission and distribution of electric power and energy to public bodies, cooperatives, and privately owned companies: *Provided*, That expenditures from this fund to cover such costs in connection with the purchase of electric power and energy and rentals for the use of facilities are to be made only in such amounts as may be approved annually in appropriation Acts.

(Oct. 12, 1949, ch. 680, title I, § 101, 63 Stat. 767; Aug. 31, 1951, ch. 375, title I, § 101, 65 Stat. 249.)

REFERENCES IN TEXT

The First Supplemental National Defense Appropriation Act, 1944, referred to in text, was act Dec. 23, 1943, ch. 380, title I, § 101, 57 Stat. 621, which was not classified to the Code.

CODIFICATION

Section was not enacted as part of the Federal Power Act which generally comprises this chapter.

Section as originally enacted contained a provision relating to maximum expenditures for the fiscal year 1952.

AMENDMENTS

1951—Act Aug. 31, 1951, inserted proviso.

USE OF FUND TO PAY FOR PURCHASE POWER AND WHEELING EXPENSES TO MEET CONTRACTUAL OBLIGATIONS DURING PERIODS OF BELOW-AVERAGE HYDROPOWER GENERATION

Pub. L. 101–101, title III, Sept. 29, 1989, 103 Stat. 660, provided: ''That the continuing fund established by the Act of October 12, 1949, c. 680, title I, section 101, as amended [16 U.S.C. 825s–1], shall also be available on an ongoing basis for paying for purchase power and wheeling expenses when the Administrator determines that such expenditures are necessary to meet contractual obligations for the sale and delivery of power during periods of below-average hydropower generation. Payments from the continuing fund shall be limited to the amount required to replace the generation deficiency, and only for the project where the deficiency occurred. Replenishment of the fund shall occur within twelve months of the month in which the funds were first expended.''

§ 825s–2. Southeastern area sale and transmission of electric power; disposition of receipts; creation of continuing funds; use of fund

All receipts from the transmission and sale of electric power and energy under the provisions of section 825s of this title, generated or purchased in the southeastern power area, shall be covered into the Treasury of the United States as miscellaneous receipts, except that the Treasury shall set up and maintain from such receipts a continuing fund of $50,000, and said fund shall be placed to the credit of the Secretary, and shall be subject to check by him to defray emergency expenses necessary to insure continuity of electric service and continuous operation of Government facilities in said area.

(Aug. 31, 1951, ch. 375, title I, § 101, 65 Stat. 249.)

CODIFICATION

Section was not enacted as part of the Federal Power Act which generally comprises this chapter.

§ 825s–3. Southwestern area sale at uniform systemwide rates of electric power over transmission lines constructed with appropriated funds or used under contractual arrangements

Power and energy marketed by the Southwestern Power Administration pursuant to section 825s of this title, shall be sold at uniform systemwide rates, without discrimination between customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities constructed with appropriated funds, and customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities, the use of which is acquired by lease, wheeling, or other contractual arrangements.

(Pub. L. 95–456, § 1, Oct. 13, 1978, 92 Stat. 1230.)

CODIFICATION

Section was not enacted as part of the Federal Power Act which generally comprises this chapter.

EFFECTIVE DATE

Section 2 of Pub. L. 95–456 provided that: ''This Act [enacting this section] shall not become effective until Contract No. 14–02–00001–1002, effective August 1, 1962, between the United States of America and Associated Electric Cooperative, Inc., Springfield, Missouri, has been amended in a manner mutually agreeable to the parties thereto.''

§ 825s–4. Southwestern Power Administration; deposit and availability of advance payments

Notwithstanding section 3302 of title 31, beginning in fiscal year 2005 and thereafter, such funds as are received by the Southwestern Power Administration from any State, municipality, corporation, association, firm, district, or individual as advance payment for work that is associated with Southwestern's transmission facilities, consistent with that authorized in section 825s of this title, shall be credited to this account and be available until expended.

(Pub. L. 108–447, div. C, title III, Dec. 8, 2004, 118 Stat. 2956.)

CODIFICATION

Section was enacted as part of the Energy and Water Development Appropriations Act, 2005, and also as part of the Consolidated Appropriations Act, 2005, and not as part of the Federal Power Act which generally comprises this chapter. Section is based on the proviso in the paragraph under the headings ''POWER MARKETING ADMINISTRATIONS'' and ''OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION'' in title III of div. C of Pub. L. 108–447.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation act:
Pub. L. 108–137, title III, Dec. 1, 2003, 117 Stat. 1858.

§ 825s–5. Southeastern Power Administration; deposit and availability of advance payments

Notwithstanding the provisions of section 3302 of title 31, beginning in fiscal year 2008 and thereafter, such funds as are received by the Southeastern Power Administration from any State, municipality, corporation, association, firm, district, or individual as advance payment for work that is associated with Southeastern's Operations and Maintenance, consistent with that authorized in section 825s of this title, shall be credited to this account and be available until expended.

(Pub. L. 110–161, div. C, title III, Dec. 26, 2007, 121 Stat. 1965.)

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2008, and also as part of the Consolidated Appropriations Act, 2008, and not as part of the Federal Power Act which generally comprises this chapter.

§ 825s–6. Southeastern Power Administration; deposit and availability of discretionary offsetting collections

Notwithstanding the provisions of section 3302 of title 31 and section 825s of this title, all funds collected by the Southeastern Power Administration that are applicable to the repayment of the annual expenses of this account in this and subsequent fiscal years shall be credited to this account as discretionary offsetting collections for the sole purpose of funding such expenses, with such funds remaining available until expended: *Provided further*, That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred (excluding purchase power and wheeling expenses).

(Pub. L. 111–85, title III, Oct. 28, 2009, 123 Stat. 2869.)

REFERENCES IN TEXT

This fiscal year, referred to in text, is the fiscal year ending Sept. 30, 2010.

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2010, and not as part of the Federal Power Act which generally comprises this chapter.

§ 825s–7. Southwestern Power Administration; deposit and availability of discretionary offsetting collections

Notwithstanding section 3302 of title 31 and section 825s of this title, all funds collected by the Southwestern Power Administration that are applicable to the repayment of the annual expenses of this account in this and subsequent fiscal years shall be credited to this account as discretionary offsetting collections for the sole purpose of funding such expenses, with such funds remaining available until expended: *Provided further*, That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred (excluding purchase power and wheeling expenses).

(Pub. L. 111–85, title III, Oct. 28, 2009, 123 Stat. 2869.)

REFERENCES IN TEXT

This fiscal year, referred to in text, is the fiscal year ending Sept. 30, 2010.

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2010, and not as part of the Federal Power Act which generally comprises this chapter.

§ 825t. Utilization of power revenues

No power revenues on any project shall be distributed as profits, before or after retirement of the project debt, and nothing contained in any previous appropriation Act shall be deemed to have authorized such distribution: *Provided*, That the application of such revenues to the cost of operation, maintenance, and debt service of the irrigation system of the project, or to other purposes in aid of such irrigation system, shall not be construed to be such a distribution.

(July 1, 1946, ch. 529, § 1, 60 Stat. 366.)

CODIFICATION

Section was not enacted as part of the Federal Power Act which generally comprises this chapter.

§ 825u. Interest rate on power bonds held by Administrator of General Services

The Administrator of General Services or his successor in interest is authorized to reduce the rate of interest to 2½ per centum on all power bonds held by such Agency issued by States, public authorities, counties, municipalities, and other subdivisions of State governments for power projects financed by the Public Works Administration.

(July 31, 1946, ch. 710, § 6, 60 Stat. 744; June 30, 1949, ch. 288, title I, § 103(a), 63 Stat. 380.)

CODIFICATION

This section was not enacted as part of the Federal Power Act which generally comprises this chapter.

TRANSFER OF FUNCTIONS

Functions of Federal Works Agency and of all agencies thereof, together with functions of Federal Works Administrator, transferred to Administrator of General Services by section 103(a) of act June 30, 1949. Both Federal Works Agency and office of Federal Works Administrator abolished by section 103(b) of said act. See Historical and Revision Notes under section 303(b) of Title 40, Public Buildings, Property, and Works. Transfer of functions of Federal Works Agency effective July 1, 1949, see section 605, formerly § 505, of act June 30, 1949, ch. 288, 63 Stat. 403; renumbered by act Sept. 5, 1950, ch.

849, § 6(a), (b), 64 Stat. 583. Section 303(b) of Title 40 was amended generally by Pub. L. 109–313, § 2(a)(1), Oct. 6, 2006, 120 Stat. 1734, and, as so amended, no longer relates to the Federal Works Agency and Commissioner of Public Buildings. See 2006 Amendment note under section 303 of Title 40.

Functions of Public Works Administration transferred to Federal Works Administrator by Ex. Ord. No. 9357, June 30, 1943, 8 F.R. 9041.

SUBCHAPTER IV—STATE AND MUNICIPAL WATER CONSERVATION FACILITIES

§ 828. Facilitation of development and construction of water conservation facilities; exemption from certain Federal requirements

In order to facilitate the development and construction by States and municipalities of water conservation facilities, certain requirements in this chapter are made inapplicable to States and municipalities as provided in this subchapter.

(Aug. 15, 1953, ch. 503, § 1, 67 Stat. 587.)

CODIFICATION

Section was not enacted as part of the Federal Power Act which generally comprises this chapter.

§ 828a. Definitions

The words used in this subchapter shall have the same meanings ascribed to them in this chapter.

(Aug. 15, 1953, ch. 503, § 2, 67 Stat. 587.)

CODIFICATION

Section was not enacted as part of the Federal Power Act which generally comprises this chapter.

§ 828b. Exemption from formula, books and records, and project cost statement requirements; annual charges

Section 807 of this title pertaining to the taking over by the United States of any project upon or after the expiration of a license, and sections 825 and 825a of this title requiring certain records and accounting procedures and section 797(b) of this title requiring the preparation and filing of the statement of actual legitimate original cost of a project, shall not be applicable to any project owned by a State or municipality, and such rights and requirements shall not exist under any license heretofore or hereafter granted to any State or municipality. The Secretary of Energy in determining the amount of annual charges applicable to any such project may determine the annual charges with reference to the actual cost of services incurred by the Secretary with respect to the project.

(Aug. 15, 1953, ch. 503, § 3, 67 Stat. 587; Pub. L. 86–124, July 31, 1959, 73 Stat. 271; Pub. L. 95–91, title III, § 301(b), Aug. 4, 1977, 91 Stat. 578.)

CODIFICATION

Section was not enacted as part of the Federal Power Act which generally comprises this chapter.

AMENDMENTS

1959—Pub. L. 86–124 struck out ''except that the provisions of sections 797(b) and 807 of this title shall continue to be applicable to any license issued for a hydroelectric development in the International Rapids section of the Saint Lawrence River'' in first sentence.

TRANSFER OF FUNCTIONS

''Secretary of Energy'' and ''Secretary'' substituted in text for ''Federal Power Commission'' and ''Commission'', respectively, pursuant to Pub. L. 95–91, § 301(b), which is classified to section 7151(b) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

§ 828c. Applicability of this subchapter

Except as herein provided, the provisions of this subchapter shall not be construed as repealing or affecting any of the provisions of this chapter.

(Aug. 15, 1953, ch. 503, § 4, 67 Stat. 587.)

CODIFICATION

Section was not enacted as part of the Federal Power Act which generally comprises this chapter.

CHAPTER 12A—TENNESSEE VALLEY AUTHORITY

Sec.

831. Creation; short title.
831a. Membership, operation, and duties of the Board of Directors.
831b. Officers and employees; wages of laborers and mechanics; application of employees' compensation provisions.
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Sec.
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831r. Patents; access to Patent and Trademark Office and right to copy patents; compensation to patentees.
831s. Possession by Government in time of war; damages to contract holders.
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831v. Legislation to carry out purposes of chapter; recommendation by President.
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831x. Condemnation proceedings; institution by Corporation; venue.
831y. Net proceeds over expense payable into Treasury.
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831aa. Laws repealed.
831bb. Reservation of right to amend or repeal.
831cc. Separability.
831dd. Liberal construction of chapter; sale of surplus lands.
831ee. Essential stewardship activities.

§ 831. Creation; short title

For the purpose of maintaining and operating the properties now owned by the United States in the vicinity of Muscle Shoals, Alabama, in the interest of the National defense and for agricultural and industrial development, and to improve navigation in the Tennessee River and to control the destructive flood waters in the Tennessee River and Mississippi River Basins, there is created a body corporate by the name of the ''Tennessee Valley Authority'' (hereinafter referred to as the ''Corporation''). The Board of Directors first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from the date of the first meeting of the Board. This chapter may be cited as the ''Tennessee Valley Authority Act of 1933.''

(May 18, 1933, ch. 32, §1, 48 Stat. 58; Pub. L. 108–447, div. C, title VI, §603(a), Dec. 8, 2004, 118 Stat. 2966.)

AMENDMENTS

2004—Pub. L. 108–447 substituted ''Board of Directors'' for ''board of directors'' and ''Board'' for ''board''.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108–447 take office or May 18, 2005, see section 604(b) of Pub. L. 108–447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

§ 831a. Membership, operation, and duties of the Board of Directors

(a) Membership

(1) Appointment

The Board of Directors of the Corporation (referred to in this chapter as the ''Board'') shall be composed of 9 members appointed by the President by and with the advice and consent of the Senate, at least 7 of whom shall be a legal resident of the service area of the Corporation.

(2) Chairman

The members of the Board shall select 1 of the members to act as chairman of the Board.

(b) Qualifications

To be eligible to be appointed as a member of the Board, an individual—

(1) shall be a citizen of the United States;

(2) shall have management expertise relative to a large for-profit or nonprofit corporate, government, or academic structure;

(3) shall not be an employee of the Corporation;

(4) shall make full disclosure to Congress of any investment or other financial interest that the individual holds in the energy industry; and

(5) shall affirm support for the objectives and missions of the Corporation, including being a national leader in technological innovation, low-cost power, and environmental stewardship.

(c) Recommendations

In appointing members of the Board, the President shall—

(1) consider recommendations from such public officials as—

(A) the Governors of States in the service area;

(B) individual citizens;

(C) business, industrial, labor, electric power distribution, environmental, civic, and service organizations; and

(D) the congressional delegations of the States in the service area; and

(2) seek qualified members from among persons who reflect the diversity, including the geographical diversity, and needs of the service area of the Corporation.

(d) Terms

(1) In general

A member of the Board shall serve a term of 5 years. A member of the Board whose term has expired may continue to serve after the member's term has expired until the date on which a successor takes office, except that the member shall not serve beyond the end of the session of Congress in which the term of the member expires.

(2) Vacancies

A member appointed to fill a vacancy on the Board occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of that term.

(e) Quorum

(1) In general

Five of the members of the Board shall constitute a quorum for the transaction of business.

(2) Vacancies

A vacancy on the Board shall not impair the power of the Board to act.

(f) Compensation

(1) In general

A member of the Board shall be entitled to receive—

(A) a stipend of—

(i) $45,000 per year; or

(ii)(I) in the case of the chairman of any committee of the Board created by the Board, $46,000 per year; or

(II) in the case of the chairman of the Board, $50,000 per year; and

(B) travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under section 5703 of title 5.

(2) Adjustments in stipends

The amount of the stipends under paragraph (1)(A) shall be adjusted by the same percentage, at the same time and manner, and subject to the same limitations as are applicable to adjustments under section 5318 of title 5.

(g) Duties

(1) In general

The Board shall—

(A) establish the broad goals, objectives, and policies of the Corporation that are appropriate to carry out this chapter;

(B) develop long-range plans to guide the Corporation in achieving the goals, objectives, and policies of the Corporation and provide assistance to the chief executive officer to achieve those goals, objectives, and policies;

(C) ensure that those goals, objectives, and policies are achieved;

(D) approve an annual budget for the Corporation;

(E) adopt and submit to Congress a conflict-of-interest policy applicable to members of the Board and employees of the Corporation;

(F) establish a compensation plan for employees of the Corporation in accordance with subsection (i) of this section;

(G) approve all compensation (including salary or any other pay, bonuses, benefits, incentives, and any other form of remuneration) of all managers and technical personnel that report directly to the chief executive officer (including any adjustment to compensation);

(H) ensure that all activities of the Corporation are carried out in compliance with applicable law;

(I) create an audit committee, composed solely of Board members independent of the management of the Corporation, which shall—

(i) in consultation with the inspector general of the Corporation, recommend to the Board an external auditor;

(ii) receive and review reports from the external auditor of the Corporation and inspector general of the Corporation; and

(iii) make such recommendations to the Board as the audit committee considers necessary;

(J) create such other committees of Board members as the Board considers to be appropriate;

(K) conduct such public hearings as it deems appropriate on issues that could have a substantial effect on—

(i) the electric ratepayers in the service area; or

(ii) the economic, environmental, social, or physical well-being of the people of the service area;

(L) establish the electricity rates charged by the Corporation; and

(M) engage the services of an external auditor for the Corporation.

(2) Meetings

The Board shall meet at least 4 times each year.

(h) Chief executive officer

(1) Appointment

The Board shall appoint a person to serve as chief executive officer of the Corporation.

(2) Qualifications

(A) In general

To serve as chief executive officer of the Corporation, a person—

(i) shall have senior executive-level management experience in large, complex organizations;

(ii) shall not be a current member of the Board or have served as a member of the Board within 2 years before being appointed chief executive officer; and

(iii) shall comply with the conflict-of-interest policy adopted by the Board.

(B) Expertise

In appointing a chief executive officer, the Board shall give particular consideration to appointing an individual with expertise in the electric industry and with strong financial skills.

(3) Tenure

The chief executive officer shall serve at the pleasure of the Board.

(i) Compensation plan

(1) In general

The Board shall approve a compensation plan that specifies all compensation (including salary or any other pay, bonuses, benefits, incentives, and any other form of remuneration) for the chief executive officer and employees of the Corporation.

(2) Annual survey

The compensation plan shall be based on an annual survey of the prevailing compensation for similar positions in private industry, including engineering and electric utility companies, publicly owned electric utilities, and Federal, State, and local governments.

(3) Considerations

The compensation plan shall provide that education, experience, level of responsibility, geographic differences, and retention and recruitment needs will be taken into account in determining compensation of employees.

(4) Positions at or below level IV

The chief executive officer shall determine the salary and benefits of employees whose annual salary is not greater than the annual rate payable for positions at level IV of the Executive Schedule under section 5315 of title 5.

(5) Positions above level IV

On the recommendation of the chief executive officer, the Board shall approve the salaries of employees whose annual salaries would be in excess of the annual rate payable for positions at level IV of the Executive Schedule under section 5315 of title 5.

(May 18, 1933, ch. 32, § 2, as added Pub. L. 108–447, div. C, title VI, § 601, Dec. 8, 2004, 118 Stat. 2963; amended Pub. L. 110–161, div. C, title IV, § 401, Dec. 26, 2007, 121 Stat. 1971.)

PRIOR PROVISIONS

A prior section, act May 18, 1933, ch. 32, § 2, 48 Stat. 59, related to the Directors of the Authority, prior to repeal by Pub. L. 108–447, div. C, title VI, § 601, Dec. 8, 2004, 118 Stat. 2963.

AMENDMENTS

2007—Subsec. (f)(2). Pub. L. 110–161 substituted ''stipends under paragraph (1)(A)'' for ''stipend under paragraph (1)(A)(i)''.

APPOINTMENTS; EFFECTIVE DATE; TRANSITION

Pub. L. 108–447, div. C, title VI, § 604, Dec. 8, 2004, 118 Stat. 2967, provided that:

''(a) APPOINTMENTS.—

''(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act [Dec. 8, 2004], the President shall submit to the Senate nominations of six persons to serve as members of the Board of Directors of the Tennessee Valley Authority in addition to the members serving on the date of enactment of this Act.

''(2) INITIAL TERMS.—Notwithstanding section 2(d) of the Tennessee Valley Authority Act of 1933 [16 U.S.C. 831a(d)] (as amended by this title), in making the appointments under paragraph (1), the President shall appoint—

''(A) two members for a term to expire on May 18, 2007;

''(B) two members for a term to expire on May 18, 2009; and

''(C) two members for a term to expire on May 18, 2011.

''(b) EFFECTIVE DATE.—The amendments made by this title [enacting this section, amending sections 831, 831b, 831c, 831c–3, 831d, 831e, 831g, 831h, 831k, 831*l*, 831n, 831*o*, 831q, and 831w of this title and sections 5314 and 5315 of Title 5, Government Organization and Employees, and repealing prior section 831a of this title] take effect on the later of—

''(1) the date on which at least three persons nominated under subsection (a) take office; or

''(2) May 18, 2005.

''(c) SELECTION OF CHAIRMAN.—The Board of Directors of the Tennessee Valley Authority shall select one of the members to act as chairman of the Board not later than 30 days after the effective date specified in subsection (b).

''(d) CONFLICT-OF-INTEREST POLICY.—The Board of Directors of the Tennessee Valley Authority shall adopt and submit to Congress a conflict-of-interest policy, as required by section 2(g)(1)(E) of the Tennessee Valley Authority Act of 1933 [16 U.S.C. 831a(g)(1)(E)] (as amended by this title), as soon as practicable after the effective date specified in subsection (b).

''(e) TRANSITION.—A person who is serving as a member of the board of directors of the Tennessee Valley Authority on the date of enactment of this Act [Dec. 8, 2004]—

''(1) shall continue to serve until the end of the current term of the member; but

''(2) after the effective date specified in subsection (b), shall serve under the terms of the Tennessee Valley Authority Act of 1933 [16 U.S.C. 831 et seq.] (as amended by this title).''

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Board of Directors of Tennessee Valley Authority, see Parts 1, 2, and 24 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

§ 831b. Officers and employees; wages of laborers and mechanics; application of employees' compensation provisions

(a) Appointment by the chief executive officer

The chief executive officer shall appoint, with the advice and consent of the Board, and without regard to the provisions of the civil service laws applicable to officers and employees of the United States, such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of the business of the Corporation.

(b) Wage rates

All contracts to which the Corporation is a party and which require the employment of laborers and mechanics in the construction, alteration, maintenance, or repair of buildings, dams, locks, or other projects shall contain a provision that not less than the prevailing rate of wages for work of a similar nature prevailing in the vicinity shall be paid to such laborers or mechanics.

In the event any dispute arises as to what are the prevailing rates of wages, the question shall be referred to the Secretary of Labor for determination, and his decision shall be final. In the determination of such prevailing rate or rates, due regard shall be given to those rates which have been secured through collective agreement by representatives of employers and employees.

Where such work as is described in the two preceding paragraphs is done directly by the Corporation the prevailing rate of wages shall be paid in the same manner as though such work had been let by contract.

Insofar as applicable, the benefits of subchapter I of chapter 81 of title 5 shall extend to persons given employment under the provisions of this chapter.

(May 18, 1933, ch. 32, § 3, 48 Stat. 59; Pub. L. 92–310, title II, § 225(a), June 6, 1972, 86 Stat. 206; Pub. L. 108–447, div. C, title VI, § 602, Dec. 8, 2004, 118 Stat. 2966.)

CODIFICATION

In the last par. of subsec. (b), ''subchapter I of chapter 81 of title 5'' substituted for ''the Act entitled 'An Act to provide compensation for employees of the United States suffering injuries while in the perform-

ance of their duties, and for other purposes,' approved September 7, 1916, as amended'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

2004—Pub. L. 108–447 added subsec. (a), designated existing provisions as subsec. (b) and inserted heading, and struck out former first undesignated par. which read as follows: ''The board shall without regard to the provisions of Civil Service laws applicable to officers and employees of the United States, appoint such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of its business, fix their compensation, define their duties, and provide a system of organization to fix responsibility and promote efficiency. Any appointee of the board may be removed in the discretion of the board. No regular officer or employee of the Corporation shall receive a salary in excess of that received by the members of the board.''

1972—Pub. L. 92–310 struck out provisions which permitted the board to require bonds from managers, assistant managers, officers, employees, attorneys, and agents.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108–447 take office or May 18, 2005, see section 604(b) of Pub. L. 108–447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

PAYMENT OF PHYSICIANS ALLOWANCES

Pub. L. 102–377, title IV, Oct. 2, 1992, 106 Stat. 1342, provided: ''That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code''.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–104, title IV, Aug. 17, 1991, 105 Stat. 535.

Pub. L. 101–514, title IV, Nov. 5, 1990, 104 Stat. 2097.

Pub. L. 101–101, title IV, Sept. 29, 1989, 103 Stat. 665.

Pub. L. 100–371, title IV, July 19, 1988, 102 Stat. 873.

Pub. L. 100–202, § 101(d) [title IV], Dec. 22, 1987, 101 Stat. 1329–104, 1329–129.

Pub. L. 99–500, § 101(e) [title IV], Oct. 18, 1986, 100 Stat. 1783–194, 1783–212, and Pub. L. 99–591, § 101(e) [title IV], Oct. 30, 1986, 100 Stat. 3341–194, 3341–212.

LEGAL REPRESENTATION

Customs Courts Act of 1980 as not affecting authority of Tennessee Valley Authority under this chapter to represent itself by attorneys of its choosing, see Pub. L. 96–417, title VII, § 705, Oct. 10, 1980, 94 Stat. 1748, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

§ 831b–1. Acceptance of services of volunteers

The Tennessee Valley Authority may on and after September 29, 1989, accept the services of volunteers and, from any funds available to it, provide for their incidental expenses to carry out any activity of the Tennessee Valley Authority except policymaking or law or regulatory enforcement. Such volunteers shall not be deemed employees of the United States Government, except for the purposes of chapter 81 of title 5 relating to compensation for work injuries, and shall not be deemed employees of the Tennessee Valley Authority except for the purposes of tort claims to the same extent as a regular employee of the Tennessee Valley Authority would be under identical circumstances.

(Pub. L. 101–101, title IV, Sept. 29, 1989, 103 Stat. 665.)

CODIFICATION

Section was enacted as part of the Energy and Water Development Appropriations Act, 1990, and not as part of the Tennessee Valley Authority Act of 1933 which comprises this chapter.

§ 831c. Corporate powers generally; eminent domain; construction of dams, transmission lines, etc.

Except as otherwise specifically provided in this chapter, the Corporation—

(a) Shall have succession in its corporate name.

(b) May sue and be sued in its corporate name.

(c) May adopt and use a corporate seal, which shall be judicially noticed.

(d) May make contracts, as herein authorized.

(e) May adopt, amend, and repeal bylaws.

(f) May purchase or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal property held by it.

The Board shall select a treasurer and as many assistant treasurers as it deems proper: *Provided*, That any member of said Board may be removed from office at any time by a concurrent resolution of the Senate and the House of Representatives.

(g) Shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation.

(h) Shall have power in the name of the United States of America to exercise the right of eminent domain, and in the purchase of any real estate or the acquisition of real estate by condemnation proceedings, the title to such real estate shall be taken in the name of the United States of America, and thereupon all such real estate shall be entrusted to the Corporation as the agent of the United States to accomplish the purposes of this chapter.

(i) Shall have power to acquire real estate for the construction of dams, reservoirs, transmission lines, power houses, and other structures, and navigation projects at any point along the Tennessee River, or any of its tributaries, and in the event that the owner or owners of such property shall fail and refuse to sell to the Corporation at a price deemed fair and reasonable by the Board, then the Corporation may proceed to exercise the right of eminent domain, and to condemn all property that it deems necessary for carrying out the purposes of this chapter, and all such condemnation proceedings shall be had pursuant to the provisions and requirements hereinafter specified, with reference to any and all condemnation proceedings: *Provided*, That nothing contained herein or elsewhere in this chapter shall be construed to deprive the Corporation of the rights conferred by sections 3114, 3115, and 3118 of title 40.

(j) Shall have power to construct such dams, and reservoirs, in the Tennessee River and its tributaries, as in conjunction with Wilson Dam, and Norris, Wheeler, and Pickwick Landing Dams, now under construction, will provide a

nine-foot channel in the said river and maintain a water supply for the same, from Knoxville to its mouth, and will best serve to promote navigation on the Tennessee River and its tributaries and control destructive flood waters in the Tennessee and Mississippi River drainage basins; and shall have power to acquire or construct power houses, power structures, transmission lines, navigation projects, and incidental works in the Tennessee River and its tributaries, and to unite the various power installations into one or more systems by transmission lines.

(k) Shall have power in the name of the United States—

(a) to convey by deed, lease, or otherwise, any real property in the possession of or under the control of the Corporation to any person or persons, for the purpose of recreation or use as a summer residence, or for the operation on such premises of pleasure resorts for boating, fishing, bathing, or any similar purpose;

(b) to convey by deed, lease, or otherwise, the possession and control of any such real property to any corporation, partnership, person, or persons for the purpose of erecting thereon docks and buildings for shipping purposes or the manufacture or storage thereon of products for the purpose of trading or shipping in transportation: *Provided*, That no transfer authorized herein in (b) shall be made without the approval of Congress: *And provided further*, That said corporation, without further action of Congress, shall have power to convey by deed, lease, or otherwise, to the Ingalls Shipbuilding Corporation, a tract or tracts of land at or near Decatur, Alabama, and to the Commercial Barge Lines, Inc., a tract or tracts of land at or near Guntersville, Alabama;

(c) to transfer any part of the possession and control of the real estate now in possession of and under the control of said Corporation to any other department, agency, or instrumentality of the United States: *Provided, however*, That no land shall be conveyed, leased, or transferred, upon which there is located any permanent dam, hydroelectric power plant, or munitions plant heretofore or hereafter built by or for the United States or for the Authority, except that this prohibition shall not apply to the transfer of Nitrate Plant Numbered 1, at Muscle Shoals, Alabama, or to Waco Quarry: *And provided further*, That no transfer authorized herein in (a) or (c) except leases for terms of less than twenty years, shall be made without the approval of the President of the United States, if the property to be conveyed exceeds $500 in value; and

(d) to convey by warranty deed, or otherwise, lands, easements, and rights-of-way to States, counties, municipalities, school districts, railroad companies, telephone, telegraph, water, and power companies, where any such conveyance is necessary in order to replace any such lands, easements, or rights-of-way to be flooded or destroyed as the result of the construction of any dam or reservoir now under construction by the Corporation, or subsequently authorized by Congress, and easements and rights-of-way upon which are located transmission or distribution lines. The Corporation shall also have power to convey or lease Nitrate Plant Numbered 1, at Muscle Shoals, Alabama, and Waco Quarry, with the approval of the Department of the Army and the President.

(*l*) Shall have power to advise and cooperate in the readjustment of the population displaced by the construction of dams, the acquisition of reservoir areas, the protection of watersheds, the acquisition of rights-of-way, and other necessary acquisitions of land, in order to effectuate the purposes of the chapter; and may cooperate with Federal, State, and local agencies to that end.

(May 18, 1933, ch. 32, §4, 48 Stat. 60; Aug. 31, 1935, ch. 836, §§1–3, 13, 49 Stat. 1075, 1076, 1080; July 18, 1941, ch. 309, 55 Stat. 599; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Pub. L. 92–310, title II, §225(b), June 6, 1972, 86 Stat. 206; Pub. L. 108–447, div. C, title VI, §603(a)(2), Dec. 8, 2004, 118 Stat. 2966.)

CODIFICATION

''Sections 3114, 3115, and 3118 of title 40'' substituted in subsec. (i) for ''the Act of February 26, 1931 (46 Stat. 1422, ch. 307, secs. 1 to 5, inclusive), as now compiled in section 258a to 258e, inclusive, of Title 40 of the United States Code'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Subsec. (j), last sentence, directed the directors of the Authority to report their recommendations to Congress not later than April 1, 1936, and has been omitted as executed.

AMENDMENTS

2004—Subsecs. (f), (i). Pub. L. 108–447 substituted ''Board'' for ''board'' wherever appearing.

1972—Subsec. (f). Pub. L. 92–310 struck out provisions which required the treasurer and assistant treasurers to give bonds for the safekeeping of securities and moneys of the Corporation.

1941—Subsec. (k). Act July 18, 1941, amended subsec. (k) generally.

1935—Subsec. (i). Act Aug. 31, 1935, §1, inserted proviso.

Subsec. (j). Act Aug. 31, 1935, §2, amended subsec. (j) generally.

Subsec. (k). Act Aug. 31, 1935, §3, added subsec. (k).

Subsec. (*l*). Act Aug. 31, 1935, §13, added subsec. (*l*).

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108–447 take office or May 18, 2005, see section 604(b) of Pub. L. 108–447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

DELEGATION OF FUNCTIONS

Authority of President under subsec. (k) of this section to approve transfers under subsecs. (a) and (c) of this section, other than leases for terms of less than 20

years and conveyances of property having a value not in excess of $500, delegated to Administrator of General Services, see section 1(16) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 831c–1. Bridges endangered or damaged by dams, etc.; compensation of and contracts with owner for protection, replacement, etc.

(a) Structures on Tennessee River or tributaries

Whenever, as the result of the construction of any dam, reservoir, or other improvement under the provisions of this chapter, or amendments thereto, including any improvement of the navigable channel to accommodate the growth of navigation or changes in navigation requirements within the reservoir created by any dam in the custody of the Tennessee Valley Authority, any bridge, trestle, or other highway or railroad structure located over, upon, or across the Tennessee River or any of its navigable tributaries, including approaches, fenders and appurtenances thereto, is endangered or otherwise adversely affected and damaged, including any interference with or impairment of its use, or, in the judgment of the Board of Directors of the Tennessee Valley Authority, needs to be raised, widened, or otherwise altered to provide the navigation clearances required for completion of the navigable channel to be provided by such improvement, to the extent that protection, alteration, reconstruction, relocation, or replacement is necessary or proper to preserve its safety or utility or to meet the requirements of navigation or flood control, or both, the owner or owners of such bridge, trestle, or structure shall be compensated by the Tennessee Valley Authority in the sum of the reasonable actual cost of such protection, alteration, reconstruction, relocation, or replacement: *Provided*, That in arriving at the amount of such compensation the bridge owner shall be charged with a sum which shall equal the net value to the owner of any direct and special benefits accruing to the owner from any improvement or addition or betterment of the altered, reconstructed, relocated, or replaced bridge, trestle, or structure. The Tennessee Valley Authority is empowered to contract with such owner with respect to any such protection, alteration, reconstruction, relocation, or replacement, the payment of the cost thereof and its proper division, which contract may provide either for money compensation or for the performance of all or any part of the work by the Tennessee Valley Authority.

(b) Suit on contracts

In the event of a failure to agree upon the terms and conditions of any such contract, or upon any default in the performance of any contract entered into pursuant to this section, the bridge owner or the Tennessee Valley Authority shall have the right to bring suit to enforce its rights or for a declaration of its rights under this section, or under any such contract, in the district court of the United States for the district in which the property in question is located. In any such proceeding the court shall apportion the total cost of the work between the Tennessee Valley Authority and the owner in accord with the provisions contained in this section. The Tennessee Valley Authority's share of the cost of any such protection, alteration, reconstruction, relocation, or replacement, under any contract made or judgment, award, or decree rendered under the provisions of this section may be paid out of any funds available for carrying out the provisions of this chapter, and appropriations for that purpose are hereby authorized: *Provided*, That, prior to such alteration, reconstruction, or relocation of said bridges, the location and plans shall be submitted to and approved by the Secretary of Transportation in accordance with existing laws.

(Nov. 21, 1941, ch. 480, 55 Stat. 773; Pub. L. 90–524, Sept. 26, 1968, 82 Stat. 876.)

CODIFICATION

Section was not enacted as part of the Tennessee Valley Authority Act which comprises this chapter.

AMENDMENTS

1968—Pub. L. 90–524 permitted the Authority to use appropriated funds to cover the Federal share of the cost of necessary bridge alterations where the alterations are obtained by agreement with the bridge owner, made this section applicable to alterations required by new reservoir projects and by realignment or other changes of the navigation channel to accommodate the growth of traffic or changes in navigation requirements within existing reservoirs, and substituted the Secretary of Transportation for the Chief of Engineers and the Secretary of the Army as the approving official.

§ 831c–2. Civil actions for injury or loss of property or personal injury or death

(a) Exclusiveness of remedy

(1) An action against the Tennessee Valley Authority for injury or loss of property, or personal injury or death arising or resulting from the negligent or wrongful act or omission of any employee of the Tennessee Valley Authority while acting within the scope of this office or employment is exlusive[1] of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim. Any other civil action or proceeding arising out of or relating to the same subject matter against the employee or his estate is precluded without regard to when the act or omission occurred.

(2) Paragraph (1) does not extend or apply to a cognizable action against an employee of the Tennessee Valley Authority for money damages for a violation of the Constitution of the United States.

(b) Representation and removal

(1) Upon certification by the Tennessee Valley Authority that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding heretofore or hereafter commenced upon such claim in a United States district court shall be deemed an action against the Tennessee Valley Authority pursuant to 16 U.S.C. 831c(b) and the Tennessee Valley Authority shall be substituted as the party defendant.

(2) Upon certification by the Tennessee Valley Authority that the defendant employee was act-

[1] So in original. Probably should be ''exclusive''.

ing within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a State court shall be removed without bond at any time before trial by the Tennessee Valley Authority to the district court of the United States for the district and division embracing the place wherein it is pending. Such action shall be deemed an action brought against the Tennessee Valley Authority under the provisions of this title[2] and all references thereto, and the Tennessee Valley Authority shall be substituted as the party defendant. This certification of the Tennessee Valley Authority shall conclusively establish scope of office or employment for purposes of removal.

(3) In the event that the Tennessee Valley Authority has refused to certify scope of office or employment under this section, the employee may at any time before trial petition the court to find and certify that the employee was acting within the scope of his office or employment. Upon such certification by the court, such action shall be deemed an action brought against the Tennessee Valley Authority, and the Tennessee Valley Authority shall be substituted as the party defendant. A copy of the petition shall be served upon the Tennessee Valley Authority in accordance with the Federal Rules of Civil Procedure. In the event the petition is filed in a civil action or proceeding pending in a State court, the action or proceeding may be removed without bond by the Tennessee Valley Authority to the district court of the United States for the district and division embracing the place in which it is pending. If, in considering the petition, the district court determines that the employee was not acting within the scope of his office or employment, the action or proceeding shall be remanded to the State court.

(4) Upon certification, any actions subject to paragraph (1), (2), or (3) shall proceed in the same manner as any action against the Tennessee Valley Authority and shall be subject to the limitations and exceptions applicable to those actions.

(Pub. L. 100–694, § 9(a), (b), Nov. 18, 1988, 102 Stat. 4566.)

REFERENCES IN TEXT

This title, referred to in subsec. (b)(2), probably should be this section, as Pub. L. 100–694, which enacted this section, did not contain titles.

The Federal Rules of Civil Procedure, referred to in subsec. (b)(3), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

CODIFICATION

Section was enacted as part of the Federal Employees Liability Reform and Tort Compensation Act of 1988, and not as part of the Tennessee Valley Authority Act of 1933, which comprises this chapter.

EFFECTIVE DATE

Section effective Nov. 18, 1988, and applicable to all claims, civil actions, and proceedings pending on, or filed on or after Nov. 18, 1988, see section 8 of Pub. L. 100–694, set out as an Effective Date of 1988 Amendment note under section 2679 of Title 28, Judiciary and Judicial Procedure.

[2] See References in Text note below.

§ 831c–3. Law enforcement

(a) Designation of law enforcement agents

The Board may designate employees of the corporation to act as law enforcement agents in the area of jurisdiction described in subsection (c) of this section.

(b) Duties and powers

(1) Duties

A law enforcement agent designated under subsection (a) of this section shall maintain law and order and protect persons and property in the area of jurisdiction described in subsection (c) of this section and protect property and officials and employees of the corporation outside that area.

(2) Powers

In the performance of duties described in paragraph (1), a law enforcement agent designated under subsection (a) of this section may—

(A) make arrests without warrant for any offense against the United States committed in the agent's presence, or for any felony cognizable under the laws of the United States if the agent has probable cause to believe that the person to be arrested has committed or is committing such a felony;

(B) execute any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of any Federal law or regulation issued pursuant to law in connection with the investigation of an offense described in subparagraph (A);

(C) conduct an investigation of an offense described in subparagraph (A) in the absence of investigation of the offense by any Federal law enforcement agency having investigative jurisdiction over the offense or with the concurrence of that agency; and

(D) carry firearms in carrying out any activity described in subparagraph (A), (B), or (C).

(c) Area of jurisdiction

A law enforcement agent designated under subsection (a) of this section shall be authorized to exercise the law enforcement duties and powers described in subsection (b) of this section—

(1) on any lands or facilities owned or leased by the corporation or within such adjoining areas in the vicinities of such lands or facilities as may be determined by the Board under subsection (e) of this section; and

(2) on other lands or facilities—

(A) when the person to be arrested is in the process of fleeing from such lands, facilities, or adjoining areas to avoid arrest;

(B) in conjunction with the protection of property or officials or employees of the corporation on or within lands or facilities other than those owned or leased by the corporation; or

(C) in cooperation with other Federal, State, or local law enforcement agencies.

(d) Federal investigative jurisdiction and State civil and criminal jurisdiction not preempted

Nothing in this section shall be construed to—

(1) limit or restrict the investigative jurisdiction of any Federal law enforcement agency; or

(2) affect any right of a State or a political subdivision thereof to exercise civil and criminal jurisdiction on or within lands or facilities owned or leased by the corporation.

(e) Determination of adjoining areas

(1) In general

The Board shall determine and may from time-to-time modify the adjoining areas for each facility or particular area of land, or for individual categories of such facilities or lands, for the purposes of subsection (c)(1) of this section.

(2) Notice

A notice and description of each adjoining area determination or modification of a determination made under paragraph (1) shall be published in the Federal Register.

(f) Qualifications and training

The Board, in consultation with the Attorney General, shall adopt qualification and training standards for law enforcement agents designated under subsection (a) of this section.

(g) Relation to other law

A law enforcement agent designated under subsection (a) of this section shall not be considered to be a law enforcement officer of the United States for the purposes of any other law, and no law enforcement agent designated under subsection (a) of this section or other employee of the corporation shall receive an increase in compensation solely on account of this section.

(h) Relationship with Attorney General

The duties and powers of law enforcement agents designated under subsection (a) of this section that are described in subsection (b) of this section shall be exercised in accordance with guidelines approved by the Attorney General.

(May 18, 1933, ch. 32, § 4A, as added Pub. L. 103–322, title XXXII, § 320929, Sept. 13, 1994, 108 Stat. 2133; Pub. L. 108–447, div. C, title VI, § 603(a)(2), Dec. 8, 2004, 118 Stat. 2966.)

AMENDMENTS

2004—Subsecs. (c)(1), (e)(1), (f). Pub. L. 108–447 substituted ''Board'' for ''board''.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108–447 take office or May 18, 2005, see section 604(b) of Pub. L. 108–447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

§ 831d. Directors; maintenance and operation of plant for production, sale, and distribution of fertilizer and power

The Board is authorized—

(a) To contract with commercial producers for the production of such fertilizers or fertilizer materials as may be needed in the Government's program of development and introduction in excess of that produced by Government plants. Such contracts may provide either for outright purchase of materials by the Board or only for the payment of carrying charges on special materials manufactured at the board's[1] request for its program.

(b) To arrange with farmers and farm organizations for large-scale practical use of the new forms of fertilizers under conditions permitting an accurate measure of the economic return they produce.

(c) To cooperate with National, State, district, or county experimental stations or demonstration farms, with farmers, landowners, and associations of farmers or landowners, for the use of new forms of fertilizer or fertilizer practices during the initial or experimental period of their introduction, and for promoting the prevention of soil erosion by the use of fertilizers and otherwise.

(d) The Board, in order to improve and cheapen the production of fertilizer, is authorized to manufacture and sell fixed nitrogen, fertilizer, and fertilizer ingredients at Muscle Shoals by the employment of existing facilities, by modernizing existing plants, or by any other process or processes that in its judgment shall appear wise and profitable for the fixation of atmospheric nitrogen or the cheapening of the production of fertilizer.

(e) Under the authority of this chapter the Board may make donations or sales of the product of the plant or plants operated by it to be fairly and equitably distributed through the agency of county demonstration agents, agricultural colleges, or otherwise as the Board may direct, for experimentation, education, and introduction of the use of such products in cooperation with practical farmers so as to obtain information as to the value, effect, and best methods of their use.

(f) The Board is authorized to make alterations, modifications, or improvements in existing plants and facilities, and to construct new plants.

(g) In the event it is not used for the fixation of nitrogen for agricultural purposes or leased, then the Board shall maintain in stand-by condition nitrate plant numbered 2, or its equivalent, for the fixation of atmospheric nitrogen, for the production of explosives in the event of war or a national emergency, until the Congress shall by joint resolution release the Board from this obligation, and if any part thereof be used by the Board for the manufacture of phosphoric acid or potash, the balance of nitrate plant numbered 2 shall be kept in stand-by condition.

(h) To establish, maintain, and operate laboratories and experimental plants, and to undertake experiments for the purpose of enabling the Corporation to furnish nitrogen products for military purposes, and nitrogen and other fertilizer products for agricultural purposes in the most economical manner and at the highest standard of efficiency.

(i) To request the assistance and advice of any officer, agent, or employee of any executive department or of any independent office of the United States, to enable the Corporation the better to carry out its powers successfully, and as far as practicable shall utilize the services of such officers, agents, and employees, and the President shall, if in his opinion the public in-

[1] So in original. Probably should be ''Board's''.

terest, service, or economy so require, direct that such assistance, advice, and service be rendered to the Corporation, and any individual that may be by the President directed to render such assistance, advice, and service shall be thereafter subject to the orders, rules, and regulations of the Board: *Provided*, That any invention or discovery made by virtue of and incidental to such service by an employee of the Government of the United States serving under this section, or by any employee of the Corporation, together with any patents which may be granted thereon, shall be the sole and exclusive property of the Corporation, which is authorized to grant such licenses thereunder as shall be authorized by the Board: *Provided further*, That the Board may pay to such inventor such sum from the income from sale of licenses as it may deem proper.

(j) Upon the requisition of the Secretary of the Army or the Secretary of the Navy to manufacture for and sell at cost to the United States explosives or their nitrogenous content.

(k) Upon the requisition of the Secretary of the Army, the Corporation shall allot and deliver without charge to the Department of the Army so much power as shall be necessary in the judgment of said Department for use in operation of all locks, lifts, or other facilities in aid of navigation.

(*l*) To produce, distribute, and sell electric power, as herein particularly specified.

(May 18, 1933, ch. 32, §5, 48 Stat. 61; Aug. 31, 1935, ch. 836, §4, 49 Stat. 1076; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; July 3, 1952, ch. 570, §2(a), 66 Stat. 334; Pub. L. 86–137, §3, Aug. 6, 1959, 73 Stat. 285; Pub. L. 94–412, title V, §501(d), Sept. 14, 1976, 90 Stat. 1258; Pub. L. 108–447, div. C, title VI, §603(a)(2), Dec. 8, 2004, 118 Stat. 2966.)

CODIFICATION

Former subsec. (n) authorized President within twelve months after May 18, 1933, to lease nitrate plant numbered 2 and Waco Quarry for production of fertilizer, and has been omitted as executed.

AMENDMENTS

2004—Pub. L. 108–447 substituted ''Board'' for ''board'' wherever appearing.

1976—Subsec. (m). Pub. L. 94–412 struck out subsec. (m) which barred sale of TVA products outside United States except to Government for military use or its allies in case of war or until six months after termination of Korean emergency.

1959—Subsec. (m). Pub. L. 86–137 excepted ferrophosphorus.

1952—Subsec. (m). Joint Res. July 3, 1952, inserted ''or, until six months after the termination of the national emergency proclaimed by the President on December 16, 1950, or until such earlier date or dates as the Congress by concurrent resolution or the President may provide but in no event after April 1, 1953, to nations associated with the United States in defense activities''.

1935—Subsec. (c). Act Aug. 31, 1935, inserted ''with farmers, landowners, and associations of farmers and landowners,'' after ''demonstration farms'' and ''and for promoting the prevention of soil erosion by the use of fertilizers and otherwise'' after ''period of their introduction''.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108–447 take office or May 18, 2005, see section 604(b) of Pub. L. 108–447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Section 7 of Joint Res. July 3, 1952, provided that the amendment is effective June 16, 1952.

REPEAL OF PRIOR ACTS CONTINUING SUBSECTION (m)

Section 6 of Joint Res. July 3, 1952, ch. 570, 66 Stat. 334, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54, as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions of subsection (m) relating to sales to allies until July 3, 1952. This repeal was to take effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

SAVINGS PROVISION

Repeal of subsec. (m) of this section by Pub. L. 94–412, not to affect any action taken or proceeding pending at the time of repeal, see section 501(h) of Pub. L. 94–412, set out as a note under section 1601 of Title 50, War and National Defense.

SECRETARY OF THE AIR FORCE

For transfer of certain functions insofar as they pertain to Air Force, and to extent that they were not previously transferred to Secretary of the Air Force from Secretary of the Army, see Secretary of Defense Transfer Order No. 40 [App. A(40)], July 22, 1949.

TERMINATION OF FOREIGN SALES

Section 1 of Joint Res. Mar. 31, 1953, ch. 13, 67 Stat. 18, provided for the extension of certain emergency provisions (previously extended to April 1, 1953, by Joint Res. July 3, 1952, ch. 570, §2(a), 66 Stat. 334) until July 1, 1953. Section 2 of said Joint Res. Mar. 31, 1953, provided that such extension did not apply to the provisions of this section.

§ 831e. Officers and employees; nonpolitical appointment; removal for violation

In the appointment of officials and the selection of employees for said Corporation, and in the promotion of any such employees or officials, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency. Any member of said Board who is found by the President of the United States to be guilty of a violation of this section shall be removed from office by the President of the United States, and any appointee of said Board who is found by the Board to be guilty of a violation of this section shall be removed from office by said Board.

(May 18, 1933, ch. 32, §6, 48 Stat. 63; Pub. L. 108–447, div. C, title VI, §603(a)(2), Dec. 8, 2004, 118 Stat. 2966.)

AMENDMENTS

2004—Pub. L. 108–447 substituted ''Board'' for ''board'' wherever appearing.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108–447 take office or May 18, 2005, see section 604(b) of Pub. L. 108–447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

§ 831f. Control of plants and property vested in Corporation; transfer of other property to Corporation

In order to enable the Corporation to exercise the powers and duties vested in it by this chapter—

(a) The exclusive use, possession, and control of the United States nitrate plants numbered 1 and 2, including steam plants, located, respectively, at Sheffield, Alabama, and Muscle Shoals, Alabama, together with all real estate and buildings connected therewith, all tools and machinery, equipment, accessories, and materials belonging thereto, and all laboratories and plants used as auxiliaries thereto; the fixed-nitrogen research laboratory, the Waco limestone quarry, in Alabama, and Dam Numbered 2, located at Muscle Shoals, its power house, and all hydroelectric and operating appurtenances (except the locks), and all machinery, lands, and buildings in connection therewith, and all appurtenances thereof, and all other property to be acquired by the Corporation in its own name or in the name of the United States of America, are intrusted to the Corporation for the purposes of this chapter.

(b) The President of the United States is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real or personal property of the United States as he may from time to time deem necessary and proper for the purposes of the Corporation as herein stated.

(May 18, 1933, ch. 32, § 7, 48 Stat. 63.)

DELEGATION OF FUNCTIONS

Authority of President under subsection (b) of this section to provide for transfer to Tennessee Valley Authority of use, possession, and control of real or personal property of United States deemed by Administrator of General Services to be necessary and proper for purposes of that Authority as provided for in this section, delegated to Administrator of General Services, see section 1(17) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 831g. Principal office of Corporation; books; directors' oath

(a) Location

The Corporation shall maintain its principal office in the immediate vicinity of Muscle Shoals, Alabama. The Corporation shall be held to be an inhabitant and resident of the northern judicial district of Alabama within the meaning of the laws of the United States relating to the venue of civil suits.

(b) Account books

The Corporation shall at all times maintain complete and accurate books of accounts.

(c) Oath of office

Each member of the Board, before entering upon the duties of his office, shall subscribe to an oath (or affirmation) to support the Constitution of the United States and to faithfully and impartially perform the duties imposed upon him by this chapter.

(May 18, 1933, ch. 32, § 8, 48 Stat. 63; Pub. L. 108–447, div. C, title VI, § 603(a)(2), Dec. 8, 2004, 118 Stat. 2966.)

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–447 substituted ''Board'' for ''board''.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108–447 take office or May 18, 2005, see section 604(b) of Pub. L. 108–447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

§ 831h. Annual financial statement; purchases and contracts; audit by Comptroller General

(a) Financial statement and report

The Board shall file with the President and with the Congress, in March of each year, a financial statement and a complete report as to the business of the Corporation covering the preceding governmental fiscal year. This report shall include an itemized statement of the cost of power at each power station, the total number of employees and the names, salaries, and duties of those receiving compensation at the rate of more than $1,500 a year.

(b) Bids

All purchases and contracts for supplies or services, except for personal services, made by the Corporation, shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Board shall determine to be adequate to insure notice and opportunity for competition: *Provided*, That advertisement shall not be required when, (1) an emergency requires immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed $25,000; in which cases such purchases of supplies or procurement of services may be made in the open market in the manner common among businessmen: *Provided further*, That in comparing bids and in making awards the Board may consider such factors as relative quality and adaptability of supplies or services, the bidder's financial responsibility, skill, experience, record of integrity in dealing, ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications.

(c) Audits

The Comptroller General of the United States shall audit the transactions of the Corporation at such times as he shall determine, but not less frequently than once each governmental fiscal year, with personnel of his selection. In such connection he and his representatives shall have

free and open access to all papers, books, records, files, accounts, plants, warehouses, offices, and all other things, property, and places belonging to or under the control of or used or employed by the Corporation, and shall be afforded full facilities for counting all cash and verifying transactions with and balances in depositaries. He shall make report of each such audit in quadruplicate, one copy for the President of the United States, one for the chairman of the Board, one for public inspection at the principal office of the Corporation, and the other to be retained by him for the uses of the Congress: *Provided*, That such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the Government Accountability Office, to point out errors therein, explain or answer the same, and to file a statement which shall be submitted by the Comptroller General with his report. The expenses for each such audit shall be paid from any appropriation or appropriations for the Government Accountability Office, and such part of such expenses as may be allocated to the cost of generating, transmitting, and distributing electric energy shall be reimbursed promptly by the Corporation as billed by the Comptroller General. Nothing in this chapter shall be construed to relieve the Treasurer or other accountable officers or employees of the Corporation from compliance with the provisions of existing law requiring the rendition of accounts for adjustment and settlement pursuant to sections 3526(a) and 3702(a) of title 31, and accounts for all receipts and disbursements by or for the Corporation shall be rendered accordingly: *Provided*, That, subject only to the provisions of this chapter, the Corporation is authorized to make such expenditures and to enter into such contracts, agreements, and arrangements, upon such terms and conditions and in such manner as it may deem necessary, including the final settlement of all claims and litigation by or against the Corporation; and, notwithstanding the provisions of any other law governing the expenditure of public funds, the Government Accountability Office, in the settlement of the accounts of the Treasurer or other accountable officer or employee of the Corporation, shall not disallow credit for, nor withhold funds because of, any expenditure which the Board shall determine to have been necessary to carry out the provisions of said chapter.

(d) Administrative accounts and business documents

The Corporation shall determine its own system of administrative accounts and the forms and contents of its contracts and other business documents except as otherwise provided in this chapter.

(May 18, 1933, ch. 32, §9, 48 Stat. 63; Aug. 31, 1935, ch. 836, §14, 49 Stat. 1080; Nov. 21, 1941, ch. 485, 55 Stat. 775; Aug. 30, 1954, ch. 1076, §1 (32), 68 Stat. 968; Pub. L. 93–356, §5, July 25, 1974, 88 Stat. 390; Pub. L. 94–273, §5(1), Apr. 21, 1976, 90 Stat. 377; Pub. L. 98–191, §9(d), Dec. 1, 1983, 97 Stat. 1332; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 108–447, div. C, title VI, §603(a)(2), (b), Dec. 8, 2004, 118 Stat. 2966.)

CODIFICATION

In subsec. (c), ''sections 3526(a) and 3702(a) of title 31'' substituted for ''section 236, Revised Statutes, as amended by section 305 of the Budget and Accounting Act, 1921 (42 Stat. 24 [31 U.S.C. 71])'' on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–447, §603(a)(2), substituted ''Board'' for ''board''.

Subsec. (b). Pub. L. 108–447, §603(b), designated second and third pars. as subsecs. (c) and (d), respectively.

Pub. L. 108–271, in second par., substituted ''Government Accountability Office'' for ''General Accounting Office'' wherever appearing.

Subsecs. (c), (d). Pub. L. 108–447, §603(b), designated second and third pars. of subsec. (b) as subsecs. (c) and (d), respectively, and inserted headings.

1983—Subsec. (b)(3). Pub. L. 98–191 substituted ''$25,000'' for ''$10,000''.

1976—Subsec. (a). Pub. L. 94–273 substituted ''March'' for ''December''.

1974—Subsec. (b)(3). Pub. L. 93–356 substituted ''$10,000'' for ''$500''.

1954—Subsec. (b). Act Aug. 30, 1954, in second paragraph, repealed a sentence requiring the Comptroller General to make special reports of any transactions or conditions found to be in conflict with the powers or duties entrusted to the Tennessee Valley Authority by law, such provision now being covered by section 9101 et seq. of Title 31, Money and Finance.

1941—Subsec. (b). Act Nov. 21, 1941, inserted last paragraph and last sentence of next to last paragraph.

1935—Subsec. (b). Act Aug. 31, 1935, amended subsec. (b) generally.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108–447 take office or May 18, 2005, see section 604(b) of Pub. L. 108–447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which certain reporting requirements under subsec. (a) of this section are listed in item 3 on page 193), see section 3003 of Pub. L. 104–66, as amended, and section 1(a)(4) [div. A, §1402(1)] of Pub. L. 106–554, set out as notes under section 1113 of Title 31, Money and Finance.

SINGLE AUDIT REQUIREMENTS

Tennessee Valley Authority audits unaffected by single audit requirements of chapter 75 (§7501 et seq.) of Title 31, Money and Finance, see section 2(b) of Pub. L. 98–502, set out as a note under section 7501 of Title 31.

§ 831h–1. Operation of dams primarily for promotion of navigation and controlling floods; generation and sale of electricity

The Board is directed in the operation of any dam or reservoir in its possession and control to regulate the stream flow primarily for the purposes of promoting navigation and controlling floods. So far as may be consistent with such purposes, the Board is authorized to provide and operate facilities for the generation of electric energy at any such dam for the use of the Corporation and for the use of the United States or any agency thereof, and the Board is further au-

thorized, whenever an opportunity is afforded, to provide and operate facilities for the generation of electric energy in order to avoid the waste of water power, to transmit and market such power as in this chapter provided, and thereby, so far as may be practicable, to assist in liquidating the cost or aid in the maintenance of the projects of the Authority.

(May 18, 1933, ch. 32, § 9a, as added Aug. 31, 1935, ch. 836, § 5, 49 Stat. 1076.)

§ 831h–2. Repealed. Pub. L. 86–137, § 1, Aug. 6, 1959, 73 Stat. 280

Section, act July 30, 1947, ch. 358, title II, § 201, 61 Stat. 574, placed a limitation on use of power revenues of the Tennessee Valley Authority. See section 831n–4 of this title.

§ 831i. Sale of surplus power; preferences; experimental work; acquisition of existing electric facilities

The Board is empowered and authorized to sell the surplus power not used in its operations, and for operation of locks and other works generated by it, to States, counties, municipalities, corporations, partnerships, or individuals, according to the policies hereinafter set forth; and to carry out said authority, the Board is authorized to enter into contracts for such sale for a term not exceeding twenty years, and in the sale of such current by the Board it shall give preference to States, counties, municipalities, and cooperative organizations of citizens or farmers, not organized or doing business for profit, but primarily for the purpose of supplying electricity to its own citizens or members: *Provided*, That all contracts made with private companies or individuals for the sale of power, which power is to be resold for a profit, shall contain a provision authorizing the Board to cancel said contract upon five years' notice in writing, if the Board needs said power to supply the demands of States, counties, or municipalities. In order to promote and encourage the fullest possible use of electric light and power on farms within reasonable distance of any of its transmission lines the Board in its discretion shall have power to construct transmission lines to farms and small villages that are not otherwise supplied with electricity at reasonable rates, and to make such rules and regulations governing such sale and distribution of such electric power as in its judgment may be just and equitable: *Provided further*, That the Board is authorized and directed to make studies, experiments, and determinations to promote the wider and better use of electric power for agricultural and domestic use, or for small or local industries, and it may cooperate with State governments, or their subdivisions or agencies, with educational or research institutions, and with cooperatives or other organizations, in the application of electric power to the fuller and better balanced development of the resources of the region: *Provided further*, That the Board is authorized to include in any contract for the sale of power such terms and conditions, including resale rate schedules, and to provide for such rules and regulations as in its judgment may be necessary or desirable for carrying out the purposes of this chapter, and in case the purchaser shall fail to comply with any such terms and conditions, or violate any such rules and regulations, said contract may provide that it shall be voidable at the election of the Board: *Provided further*, That in order to supply farms and small villages with electric power directly as contemplated by this section, the Board in its discretion shall have power to acquire existing electric facilities used in serving such farms and small villages: *And provided further*, That the terms ''States'', ''counties'', and ''municipalities'' as used in this chapter shall be construed to include the public agencies of any of them unless the context requires a different construction.

(May 18, 1933, ch. 32, § 10, 48 Stat. 64; Aug. 31, 1935, ch. 836, § 6, 49 Stat. 1076.)

AMENDMENTS

1935—Act Aug. 31, 1935, inserted last three provisos.

§ 831j. Equitable distribution of surplus power among States and municipalities; improvement in production of fertilizer

It is declared to be the policy of the Government so far as practical to distribute and sell the surplus power generated at Muscle Shoals equitably among the States, counties, and municipalities within transmission distance. This policy is further declared to be that the projects herein provided for shall be considered primarily as for the benefit of the people of the section as a whole and particularly the domestic and rural consumers to whom the power can economically be made available, and accordingly that sale to and use by industry shall be a secondary purpose, to be utilized principally to secure a sufficiently high load factor and revenue returns which will permit domestic and rural use at the lowest possible rates and in such manner as to encourage increased domestic and rural use of electricity. It is further declared to be the policy of the Government to utilize the Muscle Shoals properties so far as may be necessary to improve, increase, and cheapen the production of fertilizer and fertilizer ingredients by carrying out the provisions of this chapter.

(May 18, 1933, ch. 32, § 11, 48 Stat. 64.)

§ 831k. Transmission lines; construction or lease; sale of power over other than Government lines; rates when sold for resale at profit

In order to place the Board upon a fair basis for making such contracts and for receiving bids for the sale of such power, it is expressly authorized, either from appropriations made by Congress or from funds secured from the sale of such power, or from funds, secured by the sale of bonds hereafter provided for, to construct, lease, purchase, or authorize the construction of transmission lines within transmission distance from the place where generated, and to interconnect with other systems. The Board is also authorized to lease to any person, persons, or corporation the use of any transmission line owned by the Government and operated by the Board, but no such lease shall be made that in any way interferes with the use of such transmission line by the Board: *Provided*, That if any State, county, municipality, or other public or cooperative

organization of citizens or farmers, not organized or doing business for profit, but primarily for the purpose of supplying electricity to its own citizens or members, or any two or more of such municipalities or organizations, shall construct or agree to construct and maintain a properly designed and built transmission line to the Government reservation upon which is located a Government generating plant, or to a main transmission line owned by the Government or leased by the Board and under the control of the Board, the Board is authorized and directed to contract with such State, county, municipality, or other organization, or two or more of them, for the sale of electricity for a term not exceeding thirty years; and in any such case the Board shall give to such State, county, municipality, or other organization ample time to fully comply with any local law now in existence or hereafter enacted providing for the necessary legal authority for such State, county, municipality, or other organization to contract with the Board for such power: *Provided further*, That all contracts entered into between the Corporation and any municipality or other political subdivision or cooperative organization shall provide that the electric power shall be sold and distributed to the ultimate consumer without discrimination as between consumers of the same class, and such contract shall be voidable at the election of the Board if a discriminatory rate, rebate, or other special concession is made or given to any consumer or user by the municipality or other political subdivision or cooperative organization: *And provided further*, That as to any surplus power not so sold as above provided to States, counties, municipalities, or other said organizations, before the Board shall sell the same to any person or corporation engaged in the distribution and resale of electricity for profit, it shall require said person or corporation to agree that any resale of such electric power by said person or corporation shall be made to the ultimate consumer of such electric power at prices that shall not exceed a schedule fixed by the Board from time to time as reasonable, just, and fair; and in case of any such sale, if an amount is charged the ultimate consumer which is in excess of the price so deemed to be just, reasonable, and fair by the Board, the contract for such sale between the Board and such distributor of electricity shall be voidable at the election of the Board: *And provided further*, That the Board is authorized to enter into contracts with other power systems for the mutual exchange of unused excess power upon suitable terms, for the conservation of stored water, and as an emergency or breakdown relief.

(May 18, 1933, ch. 32, §12, 48 Stat. 65; Pub. L. 108–447, div. C, title VI, §603(a)(2), Dec. 8, 2004, 118 Stat. 2966.)

AMENDMENTS

2004—Pub. L. 108–447 substituted ''Board'' for ''board'' wherever appearing.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108–447 take office or May 18, 2005, see section 604(b) of Pub. L. 108–447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

§ 831k–1. Extension of credit to States, municipalities and nonprofit organizations to assist in operation of existing facilities

In order (1) to facilitate the disposition of the surplus power of the Corporation according to the policies set forth in this chapter; (2) to give effect to the priority herein accorded to States, counties, municipalities, and nonprofit organizations in the purchase of such power by enabling them to acquire facilities for the distribution of such power; and (3) at the same time to preserve existing distribution facilities as going concerns and avoid duplication of such facilities, the Board is authorized to advise and cooperate with and assist, by extending credit for a period of not exceeding five years to, States, counties, municipalities and nonprofit organizations situated within transmission distance from any dam where such power is generated by the Corporation in acquiring, improving, and operating (a) existing distribution facilities and incidental works, including generating plants; and (b) interconnecting transmission lines; or in acquiring any interest in such facilities, incidental works, and lines.

(May 18, 1933, ch. 32, §12a, as added Aug. 31, 1935, ch. 836, §7, 49 Stat. 1076.)

§ 831*l*. Financial assistance to States and local governments in lieu of taxation; apportionment; limitation on contracts for sale of power to municipalities; report to Congress

In order to render financial assistance to those States and local governments in which the power operations of the Corporation are carried on and in which the Corporation has acquired properties previously subject to State and local taxation, the Board is authorized and directed to pay to said States, and the counties therein, for each fiscal year, beginning July 1, 1940, the following percentages of the gross proceeds derived from the sale of power by the Corporation for the preceding fiscal year as hereinafter provided, together with such additional amounts as may be payable pursuant to the provisions hereinafter set forth, said payments to constitute a charge against the power operations of the Corporation: For the fiscal year (beginning July 1) 1940, 10 per centum; 1941, 9 per centum; 1942, 8 per centum; 1943, 7½ per centum; 1944, 7 per centum; 1945, 6½ per centum; 1946, 6 per centum; 1947, 5½ per centum; 1948 and each fiscal year thereafter, 5 per centum. ''Gross proceeds'', as used in this section, is defined as the total gross proceeds derived by the Corporation from the sale of power for the preceding fiscal year, excluding power used by the Corporation or sold or delivered to any other department or agency of the Government of the United States for any purpose other than the resale thereof. The payments herein authorized are in lieu of taxation, and the Corporation, its property, franchises and income, are expressly exempted from taxation in any manner or form by any State, county, municipality, or any subdivision or district thereof.

The payment for each fiscal year shall be apportioned among said States in the following

manner: One-half of said payment shall be apportioned by paying to each State the percentage thereof which the gross proceeds of the power sales by the Corporation within said State during the preceding fiscal year bears to the total gross proceeds from all power sales by the Corporation during the preceding fiscal year; the remaining one-half of said payment shall be apportioned by paying to each State the percentage thereof which the book value of the power property held by the Corporation within said State at the end of the preceding fiscal year bears to the total book value of all such property held by the Corporation on the same date. The book value of power property shall include that portion of the investment allocated or estimated to be allocable to power: *Provided*, That the minimum annual payment to each State (including payments to counties therein) shall not be less than an amount equal to the two-year average of the State and local ad valorem property taxes levied against power property purchased and operated by the Corporation in said State and against that portion of reservoir lands related to dams constructed by or on behalf of the United States Government and held or operated by the Corporation and allocated or estimated to be allocable to power. The said two-year average shall be calculated for the last two tax years during which said property was privately owned and operated or said land was privately owned: *Provided further*, That the minimum annual payment to each State in which the Corporation owns and operates power property (including payments to counties therein) shall not be less than $10,000 in any case: *Provided further*, That the corporation[1] shall pay directly to the respective counties the two-year average of county ad valorem property taxes (including taxes levied by taxing districts within the respective counties) upon power property and reservoir lands allocable to power, determined as above provided, and all payments to any such county within a State shall be deducted from the payment otherwise due to such State under the provisions of this section. The determination of the Board of the amounts due hereunder to the respective States and counties shall be final.

The payments above provided shall in each case be made to the State or county in equal monthly installments beginning not later than July 31, 1940.

Nothing herein shall be construed to limit the authority of the Corporation in its contracts for the sale of power to municipalities, to permit or provide for the resale of power at rates which may include an amount to cover tax-equivalent payments to the municipality in lieu of State, county, and municipal taxes upon any distribution system or property owned by the municipality, or any agency thereof, conditioned upon a proper distribution by the municipality of any amounts collected by it in lieu of State or county taxes upon any such distribution system or property; it being the intention of Congress that either the municipality or the State in which the municipality is situated shall provide for the proper distribution to the State and county of any portion of tax equivalent so collected by the municipality in lieu of State or county taxes upon any such distribution system or property.

The Corporation shall, not later than January 1, 1945, submit to the Congress a report on the operation of the provisions of this section, including a statement of the distribution to the various States and counties hereunder; the effect of the operation of the provisions of this section on State and local finances; an appraisal of the benefits of the program of the Corporation to the States and counties receiving payments hereunder, and the effect of such benefits in increasing taxable values within such States and counties; and such other data, information, and recommendations as may be pertinent to future legislation.

(May 18, 1933, ch. 32, § 13, 48 Stat. 66; June 26, 1940, ch. 432, § 39, 54 Stat. 626; Pub. L. 108–447, div. C, title VI, § 603(a)(2), Dec. 8, 2004, 118 Stat. 2966.)

AMENDMENTS

2004—Pub. L. 108–447 substituted ''Board'' for ''board'' in first and second pars.

1940—Act June 26, 1940, amended section generally.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108–447 take office or May 18, 2005, see section 604(b) of Pub. L. 108–447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

§ 831m. Allocation and charge of value and cost of plants to particular objects; cost accounting; reports of costs of operation; sale of surplus power at profit

The Board shall make a thorough investigation as to the present value of Dam Numbered 2, and the steam plants at nitrate plant numbered 1, and nitrate plant numbered 2, and as to the cost of Cove Creek Dam, for the purpose of ascertaining how much of the value or the cost of said properties shall be allocated and charged up to (1) flood control, (2) navigation, (3) fertilizer, (4) national defense, and (5) the development of power. The findings thus made by the Board, when approved by the President of the United States, shall be final, and such findings shall thereafter be used in all allocation of value for the purpose of keeping the book value of said properties. In like manner, the cost and book value of any dams, steam plants, or other similar improvements hereafter constructed and turned over to said Board for the purpose of control and management shall be ascertained and allocated. The Board shall, on or before January 1, 1937, file with Congress a statement of its allocation of the value of all such properties turned over to said Board, and which have been completed prior to the end of the preceding fiscal year, and shall thereafter in its annual report to Congress file a statement of its allocation of the value of such properties as have been completed during the preceding fiscal year.

For the purpose of accumulating data useful to the Congress in the formulation of legislative policy in matters relating to the generation, transmission, and distribution of electric energy and the production of chemicals necessary to

[1] So in original. Probably should be capitalized.

national defense and useful in agriculture, and to the Federal Power Commission and other Federal and State agencies, and to the public, the Board shall keep complete accounts of its costs of generation, transmission, and distribution of electric energy and shall keep a complete account of the total cost of generating and transmission facilities constructed or otherwise acquired by the Corporation, and of producing such chemicals, and a description of the major components of such costs according to such uniform systems of accounting for public utilities as the Federal Power Commission has, and if it have none, then it is empowered and directed to prescribe such uniform system of accounting, together with records of such other physical data and operating statistics of the Authority as may be helpful in determining the actual cost and value of services, and the practices, methods, facilities, equipment, appliances, and standards and sizes, types, location, and geographical and economic integration of plants and systems best suited to promote the public interest, efficiency, and the wider and more economical use of electric energy. Such data shall be reported to the Congress by the Board from time to time, with appropriate analyses and recommendations, and, so far as practicable, shall be made available to the Federal Power Commission and other Federal and State agencies which may be concerned with the administration of legislation relating to the generation, transmission, or distribution of electric energy and chemicals useful to agriculture. It is declared to be the policy of this chapter that, in order, as soon as practicable, to make the power projects self-supporting and self-liquidating, the surplus power shall be sold at rates which, in the opinion of the Board, when applied to the normal capacity of the Authority's power facilities, will produce gross revenues in excess of the cost of production of said power and in addition to the statement of the cost of power at each power station as required by section 831h of this title, the Board shall file with each annual report, a statement of the total cost of all power generated by it at all power stations during each year, the average cost of such power per kilowatt hour, the rates at which sold, and to whom sold, and copies of all contracts for the sale of power.

(May 18, 1933, ch. 32, §14, 48 Stat. 66; Aug. 31, 1935, ch. 836, §8, 49 Stat. 1077.)

AMENDMENTS

1935—Act of Aug. 31, 1935, inserted provision requiring the Board to report to Congress on the allocation of the value of the properties turned over to the Board and paragraph requiring the Board to keep complete accounts on the cost of generation, transmission and distribution of electric energy and production of chemicals necessary to national defense and useful to agriculture and to report to Congress the total cost of all power generated by all power stations and authorized the sale of surplus power.

TRANSFER OF FUNCTIONS

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 831m–1. Tennessee Valley Authority least-cost planning program

(a) In general

The Tennessee Valley Authority shall conduct a least-cost planning program in accordance with this section.

(b) Conduct of program

(1) In general

In conducting a least-cost planning program under subsection (a) of this section, the Tennessee Valley Authority shall employ and implement a planning and selection process for new energy resources which evaluates the full range of existing and incremental resources (including new power supplies, energy conservation and efficiency, and renewable energy resources) in order to provide adequate and reliable service to electric customers of the Tennessee Valley Authority at the lowest system cost.

(2) Planning and selection process

The planning and selection process referred to in paragraph (1) shall—

(A) take into account necessary features for system operation, including diversity, reliability, dispatchability, and other factors of risk;

(B) take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and

(C) treat demand and supply resources on a consistent and integrated basis.

(3) "System cost" defined

As used in paragraph (1), the term ''system cost'' means all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(c) Participation by distributors

(1) In general

In conducting a least-cost planning program under subsection (a) of this section, the Tennessee Valley Authority shall—

(A) provide an opportunity for distributors of the Tennessee Valley Authority to recommend cost-effective energy efficiency opportunities, rate structure incentives, and renewable energy proposals for inclusion in such program; and

(B) encourage and assist such distributors in the planning and implementation of cost-effective energy efficiency options.

(2) Assistance

The Tennessee Valley Authority shall provide appropriate assistance to distributors under paragraph (1)(B). Such assistance shall, where cost effective, be provided by the Tennessee Valley Authority acting through, or in cooperation with, an association of distributors. Such assistance may include publications, workshops, conferences, one-on-one as-

sistance, financial assistance, equipment loans, technology assessment studies, marketing studies, and other appropriate mechanisms to transfer information on energy efficiency and renewable energy options and programs to customers.

(d) Public review and comment

Before the selection and addition of a major new energy resource on the Tennessee Valley Authority system, the Tennessee Valley Authority shall provide an opportunity for public review and comment and shall include a description of any such action in an annual report to the President and Congress.

(e) Exemption from certain requirements

The Tennessee Valley Authority shall not be subject to the least-cost planning requirements contained in section 2621(d) of this title or any similar requirement which might arise out of the Tennessee Valley Authority's electric power transactions with the Southeastern Power Administration.

(Pub. L. 102–486, title I, §113, Oct. 24, 1992, 106 Stat. 2798.)

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Tennessee Valley Authority Act of 1933 which comprises this chapter.

§ 831n. Bonds for future construction; amount, terms, and conditions

In the construction of any future dam, steam plant, or other facility, to be used in whole or in part for the generation or transmission of electric power the Board is authorized and empowered to issue on the credit of the United States and to sell serial bonds not exceeding $50,000,000 in amount, having a maturity not more than fifty years from the date of issue thereof, and bearing interest not exceeding 3½ per centum per annum. Said bonds shall be issued and sold in amounts and prices approved by the Secretary of the Treasury, but all such bonds as may be so issued and sold shall have equal rank. None of said bonds shall be sold below par, and no fee, commission, or compensation whatever shall be paid to any person, firm, or corporation for handling, negotiating the sale, or selling the said bonds. All of such bonds so issued and sold shall have all the rights and privileges accorded by law to Panama Canal bonds, authorized by section 8 of the Act of June 28, 1902, chapter 1302, as amended by the Act of December 21, 1905 (ch. 3, sec. 1, 34 Stat. 5). All funds derived from the sale of such bonds shall be paid over to the Corporation.

(May 18, 1933, ch. 32, §15, 48 Stat. 66; Pub. L. 108–447, div. C, title VI, §603(a)(2), Dec. 8, 2004, 118 Stat. 2966.)

REFERENCES IN TEXT

Section 8 of the Act of June 28, 1902, chapter 1302, as amended by the Act of December 21, 1905 (ch. 3, sec. 1, 34 Stat. 5), referred to in text, was classified to sections 743, 744, and 744 note of former Title 31 and was repealed in part by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31, Money and Finance, and in part by Pub. L. 97–452, §4(b), Jan. 12, 1983, 96 Stat. 2480.

AMENDMENTS

2004—Pub. L. 108–447 substituted ''Board'' for ''board'' in first sentence.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108–447 take office or May 18, 2005, see section 604(b) of Pub. L. 108–447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

§ 831n–1. Bonds to carry out provisions of section 831k–1; amount, terms, and conditions

With the approval of the Secretary of the Treasury, the Corporation is authorized to issue bonds not to exceed in the aggregate $50,000,000 outstanding at any one time, which bonds may be sold by the Corporation to obtain funds to carry out the provisions of section 831k–1 of this title. Such bonds shall be in such forms and denominations, shall mature within such periods not more than fifty years from the date of their issue, may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein, shall bear such rates of interest not exceeding 3½ per centum per annum, shall be subject to such terms and conditions, shall be issued in such manner and amount, and sold at such prices, as may be prescribed by the Corporation, with the approval of the Secretary of the Treasury: *Provided*, That such bonds shall not be sold at such prices or on such terms as to afford an investment yield to the holders in excess of 3½ per centum per annum. Such bonds shall be fully and unconditionally guaranteed both as to interest and principal by the United States, and such guaranty shall be expressed on the face thereof, and such bonds shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. In the event that the Corporation should not pay upon demand, when due, the principal of, or interest on, such bonds, the Secretary of the Treasury shall pay to the holder the amount thereof, which is authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such bonds. The Secretary of the Treasury, in his discretion, is authorized to purchase any bonds issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities hereafter issued under chapter 31 of title 31, and the purposes for which securities may be issued under such chapter are extended to include any purchases of the Corporation's bonds hereunder. The Secretary of the Treasury may, at any time, sell any of the bonds of the Corporation acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of the bonds of the Corporation shall be treated as public-debt transactions of the United States. With the approval of the Secretary of the Treasury, the Corporation shall have power

to purchase such bonds in the open market at any time and at any price. No bonds shall be issued hereunder to provide funds or bonds necessary for the performance of any proposed contract negotiated by the Corporation under the authority of section 831k–1 of this title until the proposed contract shall have been submitted to and approved by the Federal Power Commission. When any such proposed contract shall have been submitted to the said Commission, the matter shall be given precedence and shall be in every way expedited and the Commission's determination of the matter shall be final. The authority of the Corporation to issue bonds hereunder shall expire at the end of five years from the date when this section as amended herein becomes law, except that such bonds may be issued at any time after the expiration of said period to provide bonds or funds necessary for the performance of any contract entered into by the Corporation, prior to the expiration of said period, under the authority of section 831k–1 of this title.

(May 18, 1933, ch. 32, § 15a, as added Aug. 31, 1935, ch. 836, § 9, 49 Stat. 1078.)

REFERENCES IN TEXT

The date when this section as amended herein becomes law, referred to in text, probably means August 31, 1935.

CODIFICATION

''Chapter 31 of title 31'' and ''such chapter'' substituted in text for ''the Second Liberty Bond Act, as amended'' and ''such Act, as amended,'', respectively, on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 831n–2. Bonds; limitation of issuance under sections 831n and 831n–1

No bonds shall be issued by the Corporation after the date of enactment of this section under section 831n or 831n–1 of this title.

(May 18, 1933, ch. 32, § 15b, as added July 26, 1939, ch. 366, 53 Stat. 1083.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in text, probably means July 26, 1939.

§ 831n–3. Use of funds; limitation of issuance

With the approval of the Secretary of the Treasury the Corporation is authorized, after the date of enactment of this section, to issue bonds not to exceed in the aggregate $61,500,000. Such bonds may be sold by the Corporation to obtain funds which may be used for the following purposes only:

(1) Not to exceed $46,000,000 may be used for the purchase of electric utility properties of the Tennessee Electric Power Company and Southern Tennessee Power Company, as contemplated in the contract between the Corporation and the Commonwealth and Southern Corporation and others, dated as of May 12, 1939.

(2) Not to exceed $6,500,000 may be used for the purchase and rehabilitation of electric utility properties of the Alabama Power Company and Mississippi Power Company in the following named counties in northern Alabama and northern Mississippi: The counties of Jackson, Madison, Limestone, Lauderdale, Colbert, Lawrence, Morgan, Marshall, De Kalb, Cherokee, Cullman, Winston, Franklin, Marion, and Lamar in northern Alabama, and the counties of Calhoun, Chickasaw, Monroe, Clay, Lowndes, Oktibbeha, Choctaw, Webster, Noxubee, Winston, Neshoba, and Kemper in northern Mississippi.

(3) Not to exceed $3,500,000 may be used for rebuilding, replacing, and repairing electric utility properties purchased by the Corporation in accordance with the foregoing provisions of this section.

(4) Not to exceed $3,500,000 may be used for constructing electric transmission lines, substations, and other electrical facilities necessary to connect the electric utility properties purchased by the Corporation in accordance with the foregoing provisions of this section with the electric power system of the Corporation.

(5) Not to exceed $2,000,000 may be used for making loans under section 831k–1 of this title to States, counties, municipalities, and nonprofit organizations to enable them to purchase any electric utility properties referred to in the contract between the Corporation and the Commonwealth and Southern Corporation and others, dated as of May 12, 1939, or any electric utility properties of the Alabama Power Company or Mississippi Power Company in any of the counties in northern Alabama or northern Mississippi named in paragraph (2) of this section.

The Corporation shall file with the President and with the Congress in December of each year a financial statement and complete report as to the expenditure of funds derived from the sale of bonds under this section covering the period not covered by any such previous statement or report. Such bonds shall be in such forms and denominations, shall mature within such periods not more than fifty years from the date of their issue, may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein, shall bear such rates of interest not exceeding 3½ per centum per annum, shall be subject to such terms and conditions, shall be issued in such manner and amount, and sold at such prices, as may be prescribed by the Corporation with the approval of the Secretary of the Treasury: *Provided*, That such bonds shall not be sold at such prices or on such terms as to afford an investment yield to the holders in excess of 3½ per centum per annum. Such bonds shall be fully and unconditionally guaranteed both as to interest and principal by the United States, and such guaranty shall be expressed on the face thereof, and such bonds shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof.

In the event that the Corporation should not pay upon demand when due, the principal of, or interest on, such bonds, the Secretary of the Treasury shall pay to the holder the amount thereof, which is authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such bonds. The Secretary of the Treasury, in his discretion, is authorized to purchase any bonds issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities hereafter issued under chapter 31 of title 31, and the purposes for which securities may be issued under such chapter are extended to include any purchases of the Corporation's bonds hereunder. The Secretary of the Treasury may, at any time, sell any of the bonds of the Corporation acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of the bonds of the Corporation shall be treated as public-debt transactions of the United States. With the approval of the Secretary of the Treasury, the Corporation shall have power to purchase such bonds in the open market at any time and at any price. None of the proceeds of the bonds shall be used for the performance of any proposed contract negotiated by the Corporation under the authority of section 831k–1 of this title until the proposed contract shall have been submitted to and approved by the Federal Power Commission. When any such proposed contract shall have been submitted to the said Commission, the matter shall be given precedence and shall be in every way expedited and the Commission's determination of the matter shall be final. The authority of the Corporation to issue bonds under this section shall expire January 1, 1941, except that if at the time such authority expires the amount of bonds issued by the Corporation under this section is less than $61,500,000, the Corporation may, subject to the foregoing provisions of this section, issue, after the expiration of such period, bonds in an amount not in excess of the amount by which the bonds so issued prior to the expiration of such period is less than $61,500,000, for refunding purposes, or, subject to the provisions of paragraph (5) of this section (limiting the purposes for which loans under section 831k–1 of this title of funds derived from bonds proceeds may be made) to provide funds found necessary in the performance of any contract entered into by the Corporation prior to the expiration of such period, under the authority of section 831k–1 of this title.

(May 18, 1933, ch. 32, § 15c, as added July 26, 1939, ch. 366, 53 Stat. 1083.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in text, probably means July 26, 1939.

CODIFICATION

''Chapter 31 of title 31'' and ''such chapter'' substituted in text for ''the Second Liberty Bond Act, as amended'' and ''such Act, as amended,'', respectively, on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

Executive and administrative functions of Federal Power Commission, with certain reservations, transferred to Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by Reorg. Plan No. 9 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out as a note under section 792 of this title.

§ 831n–4. Bonds for financing power program

(a) Authorization; amount; use of proceeds; restriction on contracts for sale or delivery of power; exchange power arrangements; payment of principal and interest; bond contracts

The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as ''bonds'') in an amount not exceeding $30,000,000,000 outstanding at any one time to assist in financing its power program and to refund such bonds. The Corporation may, in performing functions authorized by this chapter, use the proceeds of such bonds for the construction, acquisition, enlargement, improvement, or replacement of any plant or other facility used or to be used for the generation or transmission of electric power (including the portion of any multiple-purpose structure used or to be used for power generation); as may be required in connection with the lease, lease-purchase, or any contract for the power output of any such plant or other facility; and for other purposes incidental thereto. Unless otherwise specifically authorized by Act of Congress the Corporation shall make no contracts for the sale or delivery of power which would have the effect of making the Corporation or its distributors, directly or indirectly, a source of power supply outside the area for which the Corporation or its distributors were the primary source of power supply on July 1, 1957, and such additional area extending not more than five miles around the periphery of such area as may be necessary to care for the growth of the Corporation and its distributors within said area: *Provided, however*, That such additional area shall not in any event increase by more than 2½ per centum (or two thousand square miles, whichever is the lesser) the area for which the Corporation and its distributors were the primary source of power supply on July 1, 1957: *And provided further*, That no part of such additional area may be in a State not now served by the Corporation or its distributors or in a municipality receiving electric service from another source on or after July 1, 1957, and no more than five hundred square miles of such additional area may be in any one State now served by the Corporation or its distributors.

Nothing in this subsection shall prevent the Corporation or its distributors from supplying electric power to any customer within any area

in which the Corporation or its distributors had generally established electric service on July 1, 1957, and to which electric service was not being supplied from any other source on the effective date of this Act.

Nothing in this subsection shall prevent the Corporation, when economically feasible, from making exchange power arrangements with other power-generating organizations with which the Corporation had such arrangements on July 1, 1957, nor prevent the Corporation from continuing to supply power to Dyersburg, Tennessee, and Covington, Tennessee, or from entering into contracts to supply or from supplying power to the cities of Paducah, Kentucky; Princeton, Kentucky; Glasgow, Kentucky; Fulton, Kentucky; Monticello, Kentucky; Hickman, Kentucky; Chickamauga, Georgia; Ringgold, Georgia; Oak Ridge, Tennessee; and South Fulton, Tennessee; or agencies thereof; or from entering into contracts to supply or from supplying power for the Naval Auxiliary Air Station in Lauderdale and Kemper Counties, Mississippi, through the facilities of the East Mississippi Electric Power Association: *Provided further*, That nothing herein contained shall prevent the transmission of TVA power to the Atomic Energy Commission or the Department of Defense or any agency thereof, on certification by the President of the United States that an emergency defense need for such power exists. Nothing in this chapter shall affect the present rights of the parties in any existing lawsuits involving efforts of towns in the same general area where TVA power is supplied to obtain TVA power.

The principal of and interest on said bonds shall be payable solely from the Corporation's net power proceeds as hereinafter defined. Net power proceeds are defined for purposes of this section as the remainder of the Corporation's gross power revenues after deducting the costs of operating, maintaining, and administering its power properties (including costs applicable to that portion of its multiple-purpose properties allocated to power) and payments to States and counties in lieu of taxes but before deducting depreciation accruals or other charges representing the amortization of capital expenditures, plus the net proceeds of the sale or other disposition of any power facility or interest therein, and shall include reserve or other funds created from such sources. Notwithstanding the provisions of section 831y of this title or any other provision of law, the Corporation may pledge and use its net power proceeds for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable. The Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof (any such agreement being hereinafter referred to as a ''bond contract'') with respect to the establishment of reserve funds and other funds, adequacy of charges for supply of power, application and use of net power proceeds, stipulations concerning the subsequent issuance of bonds or the execution of leases or lease-purchase agreements relating to power properties, and such other matters, not inconsistent with this chapter, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds. The issuance and sale of bonds by the Corporation and the expenditure of bond proceeds for the purposes specified herein, including the addition of generating units to existing power-producing projects and the construction of additional power-producing projects, shall not be subject to the requirements or limitations of any other law.

(b) Bonds not obligations of or guaranteed by United States; apportionment of proceeds

Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the United States. Proceeds realized by the Corporation from issuance of such bonds and from power operations and the expenditure of such proceeds shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31.

(c) Sale; terms and conditions; method; limitation on amount; statement in annual report

Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than fifty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such relative priorities of claim on the Corporation's net power proceeds with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: *Provided*, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible and, if the Secretary shall so request, shall consult with him or his designee thereon, but the sale and issuance of such bonds shall not be subject to approval by the Secretary of the Treasury except as to the time of issuance and the maximum rates of interest to be borne by the bonds: *Provided further*, That if the Secretary of the Treasury does not approve a proposed issue of bonds hereunder within seven working days following the date on which he is advised of the proposed sale, the Corporation may issue to the Secretary interim obligations in the amount of the proposed issue, which the Secretary is directed to purchase. In case the Corporation determines that a proposed issue of bonds hereunder cannot be sold on reasonable terms, it may issue to the Secretary interim obligations which the Secretary is authorized to purchase.

Notwithstanding the foregoing provisions of this subsection, obligations issued by the Corporation to the Secretary shall not exceed $150,000,000 outstanding at any one time, shall mature on or before one year from date of issue, and shall bear interest equal to the average rate (rounded to the nearest one-eighth of a percent) on outstanding marketable obligations of the United States with maturities from dates of issue of one year or less as of the close of the month preceding the issuance of the obligations of the Corporation. If agreement is not reached within eight months concerning the issuance of any bonds which the Secretary has failed to approve, the Corporation may nevertheless proceed to sell such bonds on any date thereafter without approval by the Secretary in amount sufficient to retire the interim obligations issued to the Treasury and such interim obligations shall be retired from the proceeds of such bonds. For the purpose of any purchase of the Corporation's obligations the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under chapter 31 of title 31 are extended to include any purchases of the Corporation's obligations hereunder. The Corporation may sell its bonds by negotiation or on the basis of competitive bids, subject to the right, if reserved, to reject all bids; may designate trustees, registrars, and paying agents in connection with said bonds and the issuance thereof; may arrange for audits of its accounts and for reports concerning its financial condition and operations by certified public accounting firms (which audits and reports shall be in addition to those required by sections 9105 and 9106 of title 31, may, subject to any covenants contained in any bond contract, invest the proceeds of any bonds and other funds under its control which derive from or pertain to its power program in any securities approved for investment of national bank funds and deposit said proceeds and other funds, subject to withdrawal by check or otherwise, in any Federal Reserve Bank or bank having membership in the Federal Reserve System; and may perform such other acts not prohibited by law as it deems necessary or desirable to accomplish the purposes of this section. Bonds issued by the Corporation hereunder shall contain a recital that they are issued pursuant to this section, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such bonds and of their validity. The annual report of the Board filed pursuant to section 831h of this title shall contain a detailed statement of the operation of the provisions of this section during the year.

(d) Lawful investment; exemption from taxation

Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section. Bonds issued by the Corporation hereunder shall be exempt both as to principal and interest from all taxation now or hereafter imposed by any State or local taxing authority except estate, inheritance, and gift taxes.

(e) Payment of excess power proceeds into Treasury; deferral

From net power proceeds in excess of those required to meet the Corporation's obligations under the provisions of any bond or bond contract, the Corporation shall, beginning with fiscal year 1961, make payments into the Treasury as miscellaneous receipts on or before September 30, of each fiscal year as a return on the appropriation investment in the Corporation's power facilities, plus a repayment sum of not less than $10,000,000 for each of the first five fiscal years, $15,000,000 for each of the next five fiscal years, and $20,000,000 for each fiscal year thereafter, which repayment sum shall be applied to reduction of said appropriation investment until a total of $1,000,000,000 of said appropriation investment shall have been repaid. The said appropriation investment shall consist, in any fiscal year, of that part of the Corporation's total investment assigned to power as of the beginning of the fiscal year (including both completed plant and construction in progress) which has been provided from appropriations or by transfers of property from other Government agencies without reimbursement by the Corporation, less repayments of such appropriation investment made under title II of the Government Corporations Appropriation Act, 1948, this chapter, or other applicable legislation. The payment as a return on the appropriation investment in each fiscal year shall be equal to the computed average interest rate payable by the Treasury upon its total marketable public obligations as of the beginning of said fiscal year applied to said appropriation investment. Payments due hereunder may be deferred for not more than two years when, in the judgment of the Board of Directors of the Corporation, such payments cannot feasibly be made because of inadequacy of funds occasioned by drought, poor business conditions, emergency replacements, or other factors beyond the control of the Corporation.

(f) Rates for sale of power; application of net proceeds

The Corporation shall charge rates for power which will produce gross revenues sufficient to provide funds for operation, maintenance, and administration of its power system; payments to States and counties in lieu of taxes; debt service on outstanding bonds, including provision and maintenance of reserve funds and other funds established in connection therewith; payments to the Treasury as a return on the appropriation investment pursuant to subsection (e) of this section; payment to the Treasury of the repayment sums specified in subsection (e) of this section; and such additional margin as the Board may consider desirable for investment in power system assets, retirement of outstanding bonds in advance of maturity, additional reduction of appropriation investment, and other purposes

connected with the Corporation's power business, having due regard for the primary objectives of the chapter, including the objective that power shall be sold at rates as low as are feasible. In order to protect the investment of holders of the Corporation's securities and the appropriation investment as defined in subsection (e) of this section, the Corporation, during each successive five-year period beginning with the five-year period which commences on July 1 of the first full fiscal year after the effective date of this section, shall apply net power proceeds either in reduction (directly or through payments into reserve or sinking funds) of its capital obligations, including bonds and the appropriation investment, or to reinvestment in power assets, at least to the extent of the combined amount of the aggregate of the depreciation accruals and other charges representing the amortization of capital expenditures applicable to its power properties plus the net proceeds realized from any disposition of power facilities in said period. As of October 1, 1975, the five-year periods described herein shall be computed as beginning on October 1 of that year and of each fifth year thereafter.

(g) Power property; lease and lease-purchase agreements

Power generating and related facilities operated by the Corporation under lease and lease-purchase agreements shall constitute power property held by the Corporation within the meaning of section 831*l* of this title, but that portion of the payment due for any fiscal year under said section 831*l* of this title to a State where such facilities are located which is determined or estimated by the Board to result from holding such facilities or selling electric energy generated thereby shall be reduced by the amount of any taxes or tax equivalents applicable to such fiscal year paid by the owners or others on account of said facilities to said State and to local taxing jurisdictions therein. In connection with the construction of a generating plant or other facilities under an agreement providing for lease or purchase of said facilities or any interest therein by or on behalf of the Corporation, or for the purchase of the output thereof, the Corporation may convey, in the name of the United States by deed, lease, or otherwise, any real property in its possession or control, may perform necessary engineering and construction work and other services, and may enter into any necessary contractual arrangements.

(h) Congressional declaration of intent

It is declared to be the intent of this section to aid the Corporation in discharging its responsibility for the advancement of the national defense and the physical, social and economic development of the area in which it conducts its operations by providing it with adequate authority and administrative flexibility to obtain the necessary funds with which to assure an ample supply of electric power for such purposes by issuance of bonds and as otherwise provided herein, and this section shall be construed to effectuate such intent.

(May 18, 1933, ch. 32, §15d, as added Pub. L. 86–137, §1, Aug. 6, 1959, 73 Stat. 280; amended Pub. L. 86–157, Aug. 14, 1959, 73 Stat. 338; Pub. L. 89–537, Aug. 12, 1966, 80 Stat. 346; Pub. L. 91–446, Oct. 14, 1970, 84 Stat. 915; Pub. L. 94–139, §1, Nov. 28, 1975, 89 Stat. 750; Pub. L. 94–273, §§2(30), 35(a), Apr. 21, 1976, 90 Stat. 376, 380; Pub. L. 96–97, Oct. 31, 1979, 93 Stat. 730.)

REFERENCES IN TEXT

The effective date of this Act, referred to in subsec. (a), and ''the effective date of this section'', referred to in subsec. (f), probably means the effective date of Pub. L. 86–137, which was approved Aug. 6, 1959.

Title II of the Government Corporations Appropriation Act, 1948, referred to in subsec. (e), means title II of act July 30, 1947, ch. 358, 61 Stat. 576, which was not classified to the Code.

CODIFICATION

In subsecs. (b) and (c), ''subchapter II of chapter 15 of title 31'', ''chapter 31 of title 31'', and ''sections 9105 and 9106 of title 31'' substituted for ''Revised Statutes 3679, as amended (31 U.S.C. 665)'', ''the Second Liberty Bond Act, as amended'', and ''sections 105 and 106 of the Act of December 6, 1945 (59 Stat. 599; 31 U.S.C. 850–851)'', respectively, on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–97 substituted ''$30,000,000,000'' for ''$15,000,000,000''.

1976—Subsec. (e). Pub. L. 94–273, §2(30), substituted ''September'' for ''June''.

Subsec. (f). Pub. L. 94–273, §35(a), inserted provision relating to computation of five-year periods as of Oct. 1, 1975.

1975—Subsec. (a). Pub. L. 94–139, §1(a), substituted ''$15,000,000,000'' for ''$5,000,000,000''.

Subsec. (e). Pub. L. 94–139, §1(b), struck out ''December 31 and'' before ''June 30''.

1970—Subsec. (a). Pub. L. 91–446 substituted ''$5,000,000,000'' for ''$1,750,000,000''.

1966—Subsec. (a). Pub. L. 89–537 increased the limitation on the amount of revenue bonds the TVA may issue and sell from $750,000,000 to $1,750,000,000.

1959—Subsec. (a). Pub. L. 86–157 struck out proviso relating to the transmission of the power construction program to the Congress by the President with the budget estimates, and the provision for withholding initiation of construction of new power producing projects until the construction program of the Corporation has been before Congress in session for ninety calendar days.

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See also Transfer of Functions notes set out under those sections.

§ 831*o*. Completion of unfinished plants authorized

The Board, whenever the President deems it advisable, is empowered and directed to complete Dam Numbered 2 at Muscle Shoals, Alabama, and the steam plant at nitrate plant numbered 2, in the vicinity of Muscle Shoals, by installing in Dam Numbered 2 the additional power units according to the plans and specifications of said dam, and the additional power unit in the steam plant at nitrate plant numbered 2.

(May 18, 1933, ch. 32, §16, 48 Stat. 67; Pub. L. 108–447, div. C, title VI, §603(a)(2), Dec. 8, 2004, 118 Stat. 2966.)

AMENDMENTS

2004—Pub. L. 108–447 substituted ''Board'' for ''board''.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108–447 take office or May 18, 2005, see section 604(b) of Pub. L. 108–447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

§ 831p. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 648

Section, act May 18, 1933, ch. 32, § 17, 48 Stat. 67, authorized construction of the Cove Creek Dam across Clinch River.

§ 831q. Eminent domain; contracts for relocation of railroads, highways, industrial plants, etc.

In order to enable and empower the Secretary of the Army, the Secretary of the Interior, or the Board to carry out the authority conferred in this chapter, in the most economical and efficient manner, he or it is authorized and empowered in the exercise of the powers of national defense in aid of navigation, and in the control of the flood waters of the Tennessee and Mississippi Rivers, constituting channels of interstate commerce, to exercise the right of eminent domain for all purposes of this chapter, and to condemn all lands, easements, rights of way, and other area necessary in order to obtain a site for said Cove Creek Dam, and the flowage rights for the reservoir of water above said dam, and to negotiate and conclude contracts with States, counties, municipalities, and all State agencies and with railroads, railroad corporations, common carriers, and all public utility commissions and any other person, firm, or corporation, for the relocation of railroad tracks, highways, highway bridges, mills, ferries, electric-light plants, and any and all other properties, enterprises, and projects whose removal may be necessary in order to carry out the provisions of this chapter. When said Cove Creek Dam, transmission line, and power house shall have been completed, the possession, use, and control thereof shall be intrusted to the Corporation for use and operation in connection with the general Tennessee Valley project, and to promote flood control and navigation in the Tennessee River.

(May 18, 1933, ch. 32, § 18, 48 Stat. 67; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 108–447, div. C, title VI, § 603(a)(2), Dec. 8, 2004, 118 Stat. 2966.)

AMENDMENTS

2004—Pub. L. 108–447 substituted ''Board'' for ''board'' in first sentence.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108–447 take office or May 18, 2005, see section 604(b) of Pub. L. 108–447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

COMPLETION OF DAM

The site for the Cove Creek Dam has been obtained and the dam completed.

§ 831r. Patents; access to Patent and Trademark Office and right to copy patents; compensation to patentees

The Corporation, as an instrumentality and agency of the Government of the United States for the purpose of executing its constitutional powers, shall have access to the United States Patent and Trademark Office for the purpose of studying, ascertaining, and copying all methods, formula, and scientific information (not including access to pending applications for patents) necessary to enable the Corporation to use and employ the most efficacious and economical process for the production of fixed nitrogen, or any essential ingredient of fertilizer, or any method of improving and cheapening the production of hydroelectric power, and any owner of a patent whose patent rights may have been thus in any way copied, used, infringed, or employed by the exercise of this authority by the Corporation shall have as the exclusive remedy a cause of action against the Corporation to be instituted and prosecuted on the equity side of the appropriate district court of the United States, for the recovery of reasonable compensation for such infringement. The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office shall furnish to the Corporation, at its request and without payment of fees, copies of documents on file in his office: *Provided*, That the benefits of this section shall not apply to any art, machine, method of manufacture, or composition of matter, discovered or invented by such employee during the time of his employment or service with the Corporation or with the Government of the United States.

(May 18, 1933, ch. 32, § 19, 48 Stat. 68; Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4732(b)(7)], Nov. 29, 1999, 113 Stat. 1536, 1501A–583.)

AMENDMENTS

1999—Pub. L. 106–113 substituted ''United States Patent and Trademark Office'' for ''Patent Office of the United States'' and ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office'' for ''Commissioner of Patents''.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106–113, set out as a note under section 1 of Title 35, Patents.

§ 831s. Possession by Government in time of war; damages to contract holders

The Government of the United States reserves the right, in case of war or national emergency declared by Congress, to take possession of all or any part of the property described or referred to in this chapter for the purpose of manufacturing explosives or for other war purposes; but, if

this right is exercised by the Government, it shall pay the reasonable and fair damages that may be suffered by any party whose contract for the purchase of electric power or fixed nitrogen or fertilizer ingredients is violated, after the amount of the damages has been fixed by the United States Court of Federal Claims in proceedings instituted and conducted for that purpose under rules prescribed by the court.

(May 18, 1933, ch. 32, § 20, 48 Stat. 68; Pub. L. 97–164, title I, § 161(2), Apr. 2, 1982, 96 Stat. 49; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

AMENDMENTS

1992—Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

1982—Pub. L. 97–164 substituted ''Claims Court'' for ''Court of Claims''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 831t. Offenses; fines and punishment

(a) Larceny, embezzlement and conversion

All general penal statutes relating to the larceny, embezzlement, conversion, or to the improper handling, retention, use, or disposal of public moneys or property of the United States, shall apply to the moneys and property of the Corporation and to moneys and properties of the United States intrusted to the Corporation.

(b) False entry, report or statement

Any person who, with intent to defraud the Corporation, or to deceive any director, officer, or employee of the Corporation or any officer or employee of the United States (1) makes any false entry in any book of the Corporation, or (2) makes any false report or statement for the Corporation, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

(c) Conspiracy to defraud

Any person who shall receive any compensation, rebate, or reward, or shall enter into any conspiracy, collusion, or agreement, express or implied, with intent to defraud the Corporation or wrongfully and unlawfully to defeat its purposes, shall, on conviction thereof, be fined not more than $5,000 or imprisoned not more than five years, or both.

(May 18, 1933, ch. 32, § 21, 48 Stat. 68.)

§ 831u. Surveys; cooperation with States or other agencies

To aid further the proper use, conservation, and development of the natural resources of the Tennessee River drainage basin and of such adjoining territory as may be related to or materially affected by the development consequent to this chapter, and to provide for the general welfare of the citizens of said areas, the President is authorized, by such means or methods as he may deem proper within the limits of appropriations made therefor by Congress, to make such surveys of and general plans for said Tennessee basin and adjoining territory as may be useful to the Congress and to the several States in guiding and controlling the extent, sequence, and nature of development that may be equitably and economically advanced through the expenditure of public funds, or through the guidance or control of public authority, all for the general purpose of fostering an orderly and proper physical, economic, and social development of said areas; and the President is further authorized in making said surveys and plans to cooperate with the States affected thereby, or subdivisions or agencies of such States, or with cooperative or other organizations, and to make such studies, experiments, or demonstrations as may be necessary and suitable to that end.

(May 18, 1933, ch. 32, § 22, 48 Stat. 69.)

EX. ORD. NO. 6161. CONSERVATION AND DEVELOPMENT OF THE NATURAL RESOURCES OF THE TENNESSEE RIVER DRAINAGE BASIN

Ex. Ord. No. 6161, June 8, 1933, provided:

In accordance with the provisions of section 22 and section 23 of the Tennessee Valley Authority Act of 1933 [sections 831u and 831v of this title], the President hereby authorizes and directs the Board of Directors of the Tennessee Valley Authority to make such surveys, general plans, studies, experiments, and demonstrations as may be necessary and suitable to aid the proper use, conservation, and development of the natural resources of the Tennessee River drainage basin, and of such adjoining territory as may be related to or materially affected by the development consequent to this act, and to promote the general welfare of the citizens of said area; within the limits of appropriations made therefor by Congress.

FRANKLIN D. ROOSEVELT.

§ 831v. Legislation to carry out purposes of chapter; recommendation by President

The President shall, from time to time, as the work provided for in section 831u of this title progresses, recommend to Congress such legislation as he deems proper to carry out the general purposes stated in said section, and for the especial purpose of bringing about in said Tennessee drainage basin and adjoining territory in conformity with said general purposes (1) the maximum amount of flood control; (2) the maximum development of said Tennessee River for navigation purposes; (3) the maximum generation of electric power consistent with flood control and navigation; (4) the proper use of marginal lands; (5) the proper method of reforestation of all lands in said drainage basin suitable for reforestation; and (6) the economic and social well-being of the people living in said river basin.

(May 18, 1933, ch. 32, § 23, 48 Stat. 69.)

§ 831w. Acquisition of real or personal property; payment by delivery of power; sale or lease of vacant land for industrial purposes

For the purpose of securing any rights of flowage, or obtaining title to or possession of any property, real or personal, that may be necessary or may become necessary, in the carrying out of any of the provisions of this chapter, the President of the United States for a period of three years from May 18, 1933, is authorized to acquire title in the name of the United States to such rights or such property, and to provide for the payment for same by directing the Board to contract to deliver power generated at any of the plants now owned or hereafter owned or constructed by the Government or by said Corporation, such future delivery of power to continue for a period not exceeding thirty years. Likewise, for one year after May 18, 1933, the President is further authorized to sell or lease any parcel or part of any vacant real estate now owned by the Government in said Tennessee River Basin, to persons, firms, or corporations who shall contract to erect thereon factories or manufacturing establishments, and who shall contract to purchase of said Corporation electric power for the operation of any such factory or manufacturing establishment. No contract shall be made by the President for the sale of any of such real estate as may be necessary for present or future use on the part of the Government for any of the purposes of this chapter. Any such contract made by the President of the United States shall be carried out by the Board: *Provided*, That no such contract shall be made that will in any way abridge or take away the preference right to purchase power given in this chapter to States, counties, municipalities, or farm organizations: *Provided further*, That no lease shall be for a term to exceed fifty years: *Provided further*, That any sale shall be on condition that said land shall be used for industrial purposes only.

(May 18, 1933, ch. 32, § 24, 48 Stat. 69; Pub. L. 108–447, div. C, title VI, § 603(a)(2), Dec. 8, 2004, 118 Stat. 2966.)

AMENDMENTS

2004—Pub. L. 108–447 substituted ''Board'' for ''board'' in two places.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108–447 take office or May 18, 2005, see section 604(b) of Pub. L. 108–447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

§ 831x. Condemnation proceedings; institution by Corporation; venue

The Corporation may cause proceedings to be instituted for the acquisition by condemnation of any lands, easements, or rights-of-way which, in the opinion of the Corporation, are necessary to carry out the provisions of this chapter. The proceedings shall be instituted in the United States district court for the district in which the land, easement, right-of-way, or other interest, or any part thereof, is located, and such court shall have full jurisdiction to divest the complete title to the property sought to be acquired out of all persons or claimants and vest the same in the United States in fee simple, and to enter a decree quieting the title thereto in the United States of America.

(May 18, 1933, ch. 32, § 25, 48 Stat. 70; July 12, 1952, ch. 700, 66 Stat. 591; Pub. L. 90–536, § 1, Sept. 28, 1968, 82 Stat. 885.)

AMENDMENTS

1968—Pub. L. 90–536 repealed six paragraphs following initial paragraph which provided as follows: appointment of three commissioners, oath as to absence of interest, and per diem for services and subsistence, and transportation expenses; duties of commissioners as to valuation of lands, conduct of hearings, taking of evidence, administration of oaths, subpoena of witnesses, submission of report as to value of land, and notice of award to parties; hearing de novo of exceptions to award by three Federal district judges and judicial award; disposition upon record after appeal from decision of judges; passage of title and possession to property and enforcement by writ of dispossession; and legal representatives for minors, insane or incompetents, and estates of deceased, or guardians ad litem for wards.

1952—Act July 12, 1952, increased the commissioners' per diem from $15 to $30, their sustenance from $5 to $10 a day, and allowed them 7 cents mileage.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 2 of Pub. L. 90–536 provided that: ''The amendment made by this Act [amending this section] shall be effective only with respect to condemnation proceedings initiated after thirty days following the date of enactment of this Act [Sept. 28, 1968].''

§ 831y. Net proceeds over expense payable into Treasury

Commencing July 1, 1936, the proceeds for each fiscal year derived by the Board from the sale of power or any other products manufactured by the Corporation, and from any other activities of the Corporation including the disposition of any real or personal property, shall be paid into the Treasury of the United States on March 31 of each year, save and except such part of such proceeds as in the opinion of the Board shall be necessary for the Corporation in the operation of dams and reservoirs, in conducting its business in generating, transmitting, and distributing electric energy and in manufacturing, selling, and distributing fertilizer and fertilizer ingredients. A continuing fund of $1,000,000 is also excepted from the requirements of this section and may be withheld by the Board to defray emergency expenses and to insure continuous operation: *Provided*, That nothing in this section shall be construed to prevent the use by the Board, after June 30, 1936, of proceeds accruing prior to July 1, 1936, for the payment of obligations lawfully incurred prior to such latter date.

(May 18, 1933, ch. 32, § 26, 48 Stat. 71; Aug. 31, 1935, ch. 836, § 10, 49 Stat. 1079; Pub. L. 94–273, § 35(b), Apr. 21, 1976, 90 Stat. 380.)

AMENDMENTS

1976—Pub. L. 94–273 substituted ''on March 31 of each year'' for ''at the end of each calendar year''.

1935—Act Aug. 31, 1935, amended section generally.

§ 831y–1. Approval of plans by Board as condition precedent to construction and operation; restraining action without approval; other laws unaffected

The unified development and regulation of the Tennessee River system requires that no dam, appurtenant works, or other obstruction, affecting navigation, flood control, or public lands or reservations shall be constructed, and thereafter operated or maintained across, along, or in the said river or any of its tributaries until plans for such construction, operation, and maintenance shall have been submitted to and approved by the Board; and the construction, commencement of construction, operation, or maintenance of such structures without such approval is prohibited. When such plans shall have been approved, deviation therefrom either before or after completion of such structures is prohibited unless the modification of such plans has previously been submitted to and approved by the Board.

In the event the Board shall, within sixty days after their formal submission to the Board, fail to approve any plans or modifications, as the case may be, for construction, operation, or maintenance of any such structures on the Little Tennessee River, the above requirements shall be deemed satisfied, if upon application to the Secretary of the Army, with due notice to the Corporation, and hearing thereon, such plans or modifications are approved by the said Secretary of the Army as reasonably adequate and effective for the unified development and regulation of the Tennessee River system.

Such construction, commencement of construction, operation, or maintenance of any structures or parts thereof in violation of the provisions of this section may be prevented, and the removal or discontinuation thereof required by the injunction or order of any district court exercising jurisdiction in any district in which such structures or parts thereof may be situated, and the Corporation is authorized to bring appropriate proceedings to this end.

The requirements of this section shall not be construed to be a substitute for the requirements of any other law of the United States or of any State, now in effect or hereafter enacted, but shall be in addition thereto, so that any approval, license, permit, or other sanction now or hereafter required by the provisions of any such law for the construction, operation, or maintenance of any structures whatever, except such as may be constructed, operated, or maintained by the Corporation, shall be required, notwithstanding the provisions of this section.

(May 18, 1933, ch. 32, § 26a, as added Aug. 31, 1935, ch. 836, § 11, 49 Stat. 1079; amended July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

§ 831z. Authorization of appropriations

All appropriations necessary to carry out the provisions of this chapter are authorized.

(May 18, 1933, ch. 32, § 27, 48 Stat. 71.)

§ 831aa. Laws repealed

All acts or parts of acts in conflict with this chapter are repealed, so far as they affect the operations contemplated by this chapter.

(May 18, 1933, ch. 32, § 28, 48 Stat. 71.)

§ 831bb. Reservation of right to amend or repeal

The right to alter, amend, or repeal this chapter is expressly declared and reserved, but no such amendment or repeal shall operate to impair the obligation of any contract made by said Corporation under any power conferred by this chapter.

(May 18, 1933, ch. 32, § 29, 48 Stat. 72.)

§ 831cc. Separability

The sections of this chapter are declared to be separable, and in the event any one or more sections of this chapter be held to be unconstitutional, the same shall not affect the validity of other sections of this chapter.

(May 18, 1933, ch. 32, § 30, 48 Stat. 72; Aug. 31, 1935, ch. 836, § 15, 49 Stat. 1081.)

AMENDMENTS

1935—Act Aug. 31, 1935, reenacted provisions of this section without change.

§ 831dd. Liberal construction of chapter; sale of surplus lands

This chapter shall be liberally construed to carry out the purposes of Congress to provide for the disposition of and make needful rules and regulations respecting Government properties entrusted to the Authority, provide for the national defense, improve navigation, control destructive floods, and promote interstate commerce and the general welfare, but no real estate shall be held except what is necessary in the opinion of the Board to carry out plans and projects actually decided upon requiring the use of such land: *Provided*, That any land purchased by the Authority and not necessary to carry out plans and projects actually decided upon shall be sold by the Authority as agent of the United States, after due advertisement, at public auction to the highest bidder.

(May 18, 1933, ch. 32, § 31, as added Aug. 31, 1935, ch. 836, § 12, 49 Stat. 1080.)

CODIFICATION

As originally enacted, the last sentence of this section contained, at the end thereof, the words ''or at private sale as provided in section 3 of this amendatory Act.'' Section 3 of the amendatory act of Aug. 31, 1935, added subsec. (k) to section 831c of this title.

§ 831ee. Essential stewardship activities

For essential stewardship activities for which appropriations were provided to the Tennessee Valley Authority in Public Law 104–206, such sums as are necessary in fiscal year 1999 and

thereafter, to be derived only from one or more of the following sources: nonpower fund balances and collections; investment returns of the nonpower program; applied programmatic savings in the power and nonpower programs; savings from the suspension of bonuses and awards; savings from reductions in memberships and contributions; increases in collections resulting from nonpower activities, including user fees; or increases in charges to private and public utilities both investor and cooperatively owned, as well as to direct load customers: *Provided*, That such funds are available to fund the stewardship activities under this section, notwithstanding sections 11, 14, 15, 29 [16 U.S.C. 831j, 831m, 831n, 831bb], or other provisions of the Tennessee Valley Authority Act [16 U.S.C. 831 et seq.], as amended, or provisions of the TVA power bond covenants: *Provided further*, That the savings from, and revenue adjustments to, the TVA budget in fiscal year 1999 and thereafter shall be sufficient to fund the aforementioned stewardship activities such that the net spending authority and resulting outlays for these activities shall not exceed $0 in fiscal year 1999 and thereafter.

(Pub. L. 105–62, title IV, Oct. 13, 1997, 111 Stat. 1338.)

REFERENCES IN TEXT

Public Law 104–206, referred to in text, is Pub. L. 104–206, Sept. 30, 1996, 110 Stat. 2984, known as the Energy and Water Development Appropriations Act, 1997. For complete classification of this Act to the Code, see Tables.

The Tennessee Valley Authority Act, referred to in text, probably means the Tennessee Valley Authority Act of 1933, act May 18, 1933, ch. 32, 48 Stat. 58, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see section 831 of this title and Tables.

CODIFICATION

Section was enacted as part of the Energy and Water Development Appropriations Act, 1998, and not as part of the Tennessee Valley Authority Act of 1933 which comprises this chapter.

CHAPTER 12B—BONNEVILLE PROJECT

Sec.
832. Completion and maintenance of project; generation of electricity.
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§ 832. Completion and maintenance of project; generation of electricity

For the purpose of improving navigation on the Columbia River, and for other purposes incidental thereto, the dam, locks, power plant, and appurtenant works under construction on August 20, 1937, at Bonneville, Oregon and North Bonneville, Washington (called Bonneville project in this chapter), shall be completed, maintained, and operated under the direction of the Secretary of the Army and the supervision of the Chief of Engineers, subject to the provisions of this chapter relating to the powers and duties of the Bonneville power administrator provided for in section 832a(a) of this title (called the administrator in this chapter) respecting the transmission and sale of electric energy generated at said project. The Secretary of the Army shall provide, construct, operate, maintain, and improve at Bonneville project such machinery, equipment, and facilities for the generation of electric energy as the administrator may deem necessary to develop such electric energy as rapidly as markets may be found therefor. The electric energy thus generated and not required for the operation of the dam and locks at such project and the navigation facilities employed in connection therewith shall be delivered to the administrator, for disposition as provided in this chapter.

(Aug. 20, 1937, ch. 720, § 1, 50 Stat. 731; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of a Secretary of the Army.

SHORT TITLE

Act Aug. 20, 1937, ch. 720, 50 Stat. 731, which enacted this chapter, is popularly known as the ''Bonneville Project Act of 1937''.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

§ 832a. General administrative provisions

(a) Appointment of Administrator; powers and duties

The electric energy generated in the operation of the said Bonneville project shall be disposed of by the said administrator as provided in this chapter. The administrator shall be appointed by the Secretary of Energy; shall be responsible to said Secretary of Energy; and shall maintain his principal office at a place selected by him in the vicinity of the Bonneville project.

The Administrator shall, as in this chapter provided, make all arrangements for the sale and disposition of electric energy generated at Bonneville project not required for the operation of the dam and locks at such project and the navigation facilities employed in connection

therewith. He shall act in consultation with the Secretary of Energy. The form of administration established in this chapter for the Bonneville project is intended to be provisional pending the establishment of a permanent administration for Bonneville and other projects in the Columbia River Basin. The Secretary of the Army shall install and maintain additional machinery, equipment, and facilities for the generation of electric energy at the Bonneville project when in the judgment of the administrator such additional generating facilities are desirable to meet actual or potential market requirements for such electric energy. The Secretary of the Army shall schedule the operations of the several electrical generating units and appurtenant equipment of the Bonneville project in accordance with the requirements of the administrator. The Secretary of the Army shall provide and maintain for the use of the administrator at said Bonneville project adequate station space and equipment, including such switches, switchboards, instruments, and dispatching facilities as may be required by the administrator for proper reception, handling, and dispatching of the electric energy produced at the said project, together with transformers and other equipment required by the administrator for the transmission of such energy from that place at suitable voltage to the markets which the administrator desires to serve.

The office of the Administrator of the Bonneville project is constituted an office in the Department of Energy and shall be under the jurisdiction and control of the Secretary of Energy. All functions vested in the Administrator of the Bonneville project under this chapter may be exercised by the Secretary of Energy and, subject to his supervision and direction, by the Administrator and other personnel of the project.

(b) Electric transmission lines and equipment

In order to encourage the widest possible use of all electric energy that can be generated and marketed and to provide reasonable outlets therefor, and to prevent the monopolization thereof by limited groups, the administrator is authorized and directed to provide, construct, operate, maintain, and improve such electric transmission lines and substations, and facilities and structures appurtenant thereto, as he finds necessary, desirable, or appropriate for the purpose of transmitting electric energy, available for sale, from the Bonneville project to existing and potential markets, and, for the purpose of interchange of electric energy, to interconnect the Bonneville project with other Federal projects and publicly owned power systems constructed on or after August 20, 1937.

(c) Acquisition of property

The administrator is authorized, in the name of the United States, to acquire, by purchase, lease, condemnation, or donation, such real and personal property, or any interest therein, including lands, easements, rights-of-way, franchises, electric transmission lines, substations, and facilities and structures appurtenant thereto, as the administrator finds necessary or appropriate to carry out the purposes of this chapter. Title to all property and property rights acquired by the administrator shall be taken in the name of the United States.

(d) Condemnation

The administrator shall have power to acquire any property or property rights, including patent rights, which in his opinion are necessary to carry out the purposes of this chapter, by the exercise of the right of eminent domain and to institute condemnation proceedings therefor in the same manner as is provided by law for the condemnation of real estate.

(e) Disposal of property

The administrator is authorized, in the name of the United States, to sell, lease, or otherwise dispose of such personal property as in his judgment is not required for the purposes of this chapter and such real property and interests in land acquired in connection with construction or operation of electric transmission lines or substations as in his judgment are not required for the purposes of this chapter: *Provided, however*, That before the sale, lease, or disposition of real property or transmission lines, as herein provided, the administrator shall secure the approval of the President of the United States.

(f) Contracts

Subject only to the provisions of this chapter, the Administrator is authorized to enter into such contracts, agreements, and arrangements, including the amendment, modification, adjustment, or cancelation[1] thereof and the compromise or final settlement of any claim arising thereunder, and to make such expenditures, upon such terms and conditions and in such manner as he may deem necessary.

(Aug. 20, 1937, ch. 720, §2, 50 Stat. 732; Mar. 6, 1940, ch. 47, §§1, 2, 54 Stat. 47; Oct. 23, 1945, ch. 433, §§1, 5, 59 Stat. 546, 547; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; 1965 Reorg. Plan No. 4, §§11(c), 13(a), eff. July 27, 1965, 30 F.R. 9353, 79 Stat. 1321; Pub. L. 95–91, title III, §302(a)(1)(D), (2), Aug. 4, 1977, 91 Stat. 578.)

CODIFICATION

Provisions of the first par. of subsec. (a) which prescribed the compensation of the Administrator were omitted as compensation of the Administrator is prescribed by section 5316 of Title 5, Government Organization and Employees.

AMENDMENTS

1945—Subsec. (a). Act Oct. 23, 1945, §5, struck out provisions relating to the appointment and compensation of an Assistant Administrator, chief engineer and general counsel and to the powers and duties of the Assistant Administrator. See section 832i of this title.

Subsec. (f). Act Oct. 23, 1945, §1, substituted ''is authorized to enter into such contracts, agreements, and arrangements, including the amendment, modification, adjustment, or cancelation thereof and the compromise or final settlement of any claim arising thereunder, and to make such expenditures, upon such terms and conditions and in such manner as he may deem necessary'' for ''is authorized, in the name of the United States, to negotiate and enter into such contracts, agreements, and arrangements as he shall find necessary or appropriate to carry out the purposes of this chapter''.

1940—Subsec. (a). Act Mar. 6, 1940, inserted provisions relating to jurisdiction and functions of administrator.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Sec-

[1] So in original. Probably should be ''cancellation''.

retary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

REPEALS

Act Mar. 6, 1940, ch. 47, § 1, 54 Stat. 47, cited as a credit to this section, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 650.

TRANSFER OF FUNCTIONS

In subsec. (a), ''Secretary of Energy'' substituted for ''Secretary of the Interior'' in five places and ''Department of Energy'' substituted for ''Department of the Interior'' pursuant to Pub. L. 95–91, § 302(a)(1)(D), (2), which is classified to section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, and which transferred functions of Secretary of the Interior with respect to Bonneville Power Administration to Secretary of Energy, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

Provisions of the second sentence of the second par. of subsec. (a), which related to the advisory board and its composition, were omitted pursuant to Reorg. Plan No. 4 of 1965, §§ 11(c) and 13(a), set out in the Appendix to Title 5, Government Organization and Employees, which abolished the advisory board and transferred its functions, including the functions of the chairman and other officers, to the Secretary of the Interior.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 832a–1. Repealed. Pub. L. 88–426, title III, § 305(36), Aug. 14, 1964, 78 Stat. 427

Section, Pub. L. 87–330, title II, § 200, Sept. 30, 1961, 75 Stat. 728, prescribed the compensation of the Administrator, Bonneville Power Administration, and is prescribed by section 5316 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first pay period which begins on or after July 1, 1964, see section 501 of Pub. L. 88–426.

§ 832b. Definitions

As employed in this chapter, the term ''public body'', or ''public bodies'', means States, public power districts, counties, and municipalities, including agencies or subdivisions of any thereof.

As employed in this chapter, the term ''cooperative'', or ''cooperatives'', means any form of nonprofit-making organization or organizations of citizens supplying, or which may be created to supply, members with any kind of goods, commodities, or services, as nearly as possible at cost.

(Aug. 20, 1937, ch. 720, § 3, 50 Stat. 733.)

§ 832c. Distribution of electricity; preference to public bodies and cooperatives

(a) General provisions

In order to insure that the facilities for the generation of electric energy at the Bonneville project shall be operated for the benefit of the general public, and particularly of domestic and rural consumers, the administrator shall at all times, in disposing of electric energy generated at said project, give preference and priority to public bodies and cooperatives.

(b) Prior to January 1, 1942; subsequent thereto

To preserve and protect the preferential rights and priorities of public bodies and cooperatives as provided in subsection (a) of this section and to effectuate the intent and purpose of this chapter that at all times up to January 1, 1942, there shall be available for sale to public bodies and cooperatives not less than 50 per centum of the electric energy produced at the Bonneville project, it shall be the duty of the administrator in making contracts for the sale of such energy to so arrange such contracts as to make such 50 per centum of such energy available to said public bodies and cooperatives until January 1, 1942: *Provided*, That the electric energy so reserved for but not actually purchased by and delivered to such public bodies and cooperatives prior to January 1, 1942, may be disposed of temporarily so long as such temporary disposition will not interfere with the purchase by and delivery to such public bodies and cooperatives at any time prior to January 1, 1942: *Provided further*, That nothing herein contained shall be construed to limit or impair the preferential and priority rights of such public bodies or cooperatives after January 1, 1942; and in the event that after such date there shall be conflicting or competing applications for an allocation of electric energy between any public body or cooperative on the one hand and a private agency of any character on the other, the application of such public body or cooperative shall be granted.

(c) Allowance of time for financing

An application by any public body or cooperative for an allocation of electric energy shall not be denied, or another application competing or in conflict therewith be granted, to any private corporation, company, agency, or person, on the ground that any proposed bond or other security issue of any such public body or cooperative, the sale of which is necessary to enable such prospective purchaser to enter into the public business of selling and distributing the electric energy proposed to be purchased, has not been authorized or marketed, until after a reasonable time, to be determined by the administrator, has been afforded such public body or cooperative to have such bond or other security issue authorized or marketed.

(d) Congressional declaration of policy; allowance of time for creation and organization

It is declared to be the policy of the Congress, as expressed in this chapter, to preserve the said preferential status of the public bodies and cooperatives herein referred to, and to give to the people of the States within economic transmission distance of the Bonneville project reasonable opportunity and time to hold any election or elections or take any action necessary to create such public bodies and cooperatives as the laws of such States authorize and permit, and to afford such public bodies or cooperatives reasonable time and opportunity to take any ac-

tion necessary to authorize the issuance of bonds or to arrange other financing necessary to construct or acquire necessary and desirable electric distribution facilities, and in all other respects legally to become qualified purchasers and distributors of electric energy available under this chapter.

(Aug. 20, 1937, ch. 720, §4, 50 Stat. 733; Mar. 6, 1940, ch. 47, §3, 54 Stat. 47.)

AMENDMENTS

1940—Subsec. (b). Act Mar. 6, 1940, substituted ''January 1, 1942'' for ''January 1, 1941'' wherever appearing.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

§ 832d. Contracts for sale of electricity

(a) Authorization of Administrator; contents of contracts

Subject to the provisions of this chapter and to such rate schedules as the Secretary of Energy may approve, as provided in this chapter, the administrator shall negotiate and enter into contracts for the sale at wholesale of electric energy, either for resale or direct consumption, to public bodies and cooperatives and to private agencies and persons and for the disposition of electric energy to Federal agencies. Contracts for the sale of electric energy to any private person or agency other than a privately owned public utility engaged in selling electric energy to the general public, shall contain a provision forbidding such private purchaser to resell any of such electric energy so purchased to any private utility or agency engaged in the sale of electric energy to the general public, and requiring the immediate canceling of such contract of sale in the event of violation of such provision. Contracts entered into under this subsection shall be binding in accordance with the terms thereof and shall be effective for such period or periods, including renewals or extensions, as may be provided therein, not exceeding in the aggregate twenty years from the respective dates of the making of such contracts. Contracts entered into under this subsection shall contain (1) such provisions as the administrator and purchaser agree upon for the equitable adjustment of rates at appropriate intervals, not less frequently than once in every five years, and (2) in the case of a contract with any purchaser engaged in the business of selling electric energy to the general public, the contract shall provide that the administrator may cancel such contract upon five years' notice in writing if in the judgment of the administrator any part of the electric energy purchased under such contract is likely to be needed to satisfy the requirements of the said public bodies or cooperatives referred to in this chapter, and that such cancelation may be with respect to all or any part of the electric energy so purchased under said contract to the end that the preferential rights and priorities accorded public bodies and cooperatives under this chapter shall at all times be preserved. Contracts entered into with any utility engaged in the sale of electric energy to the general public shall contain such terms and conditions, including among other things stipulations concerning resale and resale rates by any such utility, as the administrator may deem necessary, desirable or appropriate to effectuate the purposes of this chapter and to insure that resale by such utility to the ultimate consumer shall be at rates which are reasonable and nondiscriminatory. Such contracts shall also require such utility to keep on file in the office of the administrator a schedule of all its rates and charges to the public for electric energy and such alterations and changes therein as may be put into effect by such utility.

(b) Exchange of excess power

The administrator is authorized to enter into contracts with public or private power systems for the mutual exchange of unused excess power upon suitable exchange terms for the purpose of economical operation or of providing emergency or break-down relief.

(Aug. 20, 1937, ch. 720, §5, 50 Stat. 734; Oct. 23, 1945, ch. 433, §2, 59 Stat. 546; Pub. L. 95–91, title III, §301(b), Aug. 4, 1977, 91 Stat. 578.)

AMENDMENTS

1945—Subsec. (a). Act Oct. 23, 1945, inserted ''and for the disposition of electric energy to Federal agencies'' in first sentence.

TRANSFER OF FUNCTIONS

''Secretary of Energy'' substituted for ''Federal Power Commission'' in subsec. (a) pursuant to Pub. L. 95–91, §301(b), which is classified to section 7151(b) of Title 42, The Public Health and Welfare.

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

Executive and administrative functions of Federal Power Commission, with certain reservations, transferred to Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by Reorg. Plan No. 9 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out as a note under section 792 of this title.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 832e. Rate schedules

Schedules of rates and charges for electric energy produced at the Bonneville project and sold to purchasers as in this chapter provided shall be prepared by the administrator and become effective upon confirmation and approval thereof by the Secretary of Energy; and such rates and

charges shall also be applicable to dispositions of electric energy to Federal agencies. Subject to confirmation and approval by the Secretary of Energy, such rate schedules may be modified from time to time by the administrator, and shall be fixed and established with a view to encouraging the widest possible diversified use of electric energy. The said rate schedules may provide for uniform rates or rates uniform throughout prescribed transmission areas in order to extend the benefits of an integrated transmission system and encourage the equitable distribution of the electric energy developed at the Bonneville project.

(Aug. 20, 1937, ch. 720, § 6, 50 Stat. 735; Oct. 23, 1945, ch. 433, § 3, 59 Stat. 546; Pub. L. 95–91, title III, § 301(b), Aug. 4, 1977, 91 Stat. 578.)

AMENDMENTS

1945—Act Oct. 23, 1945, inserted ''and such rates and charges shall also be applicable to dispositions of electric energy to Federal agencies'' in first sentence.

TRANSFER OF FUNCTIONS

''Secretary of Energy'' substituted in text for ''Federal Power Commission'' pursuant to Pub. L. 95–91, § 301(b), which is classified to section 7151(b) of Title 42, The Public Health and Welfare.

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

Executive and administrative functions of Federal Power Commission, with certain reservations, transferred to Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by Reorg. Plan No. 9 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out as a note under section 792 of this title.

§ 832f. Elements in determining rates

It is the intent of Congress that rate schedules for the sale of electric energy which is or may be generated at the Bonneville project in excess of the amount required for operating the dam, locks, and appurtenant works at said project shall be determined with due regard to and predicated upon the fact that such electric energy is developed from water power created as an incident to the construction of the dam in the Columbia River at the Bonneville project for the purposes set forth in section 832 of this title. Rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of Bonneville project) of the cost of producing and transmitting such electric energy, including the amortization of the capital investment over a reasonable period of years. Rate schedules shall be based upon an allocation of costs made by the Secretary of Energy. In computing the cost of electric energy developed from water power created as an incident to and a byproduct of the construction of the Bonneville project, the Secretary of Energy may allocate to the costs of electric facilities such a share of the cost of facilities having joint value for the production of electric energy and other purposes as the power development may fairly bear as compared with such other purposes.

(Aug. 20, 1937, ch. 720, § 7, 50 Stat. 735; Pub. L. 95–91, title III, § 301(b), Aug. 4, 1977, 91 Stat. 578.)

TRANSFER OF FUNCTIONS

''Secretary of Energy'' substituted in text for ''Federal Power Commission'' pursuant to Pub. L. 95–91, § 301(b), which is classified to section 7151(b) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

§ 832g. Purchase of supplies and services

Notwithstanding any other provision of law, all purchases and contracts made by the administrator or the Secretary of the Army for supplies or for services except for personal services, shall be made after advertising, in such manner and at such times, sufficiently in advance of opening bids, as the administrator or Secretary of the Army, as the case may be, shall determine to be adequate to insure notice and opportunity for competition. Such advertisement shall not be required, however, when (1) an emergency requires immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed $500; in which cases such purchases of supplies or procurement of services may be made in the open market in the manner common among businessmen. In comparing bids and in making awards, the administrator or the Secretary of the Army, as the case may be, may consider such factors as relative quality and adaptability of supplies or services, the bidder's financial responsibility, skill, experience, record of integrity in dealing, and ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications.

(Aug. 20, 1937, ch. 720, § 8, 50 Stat. 735; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Sec-

retary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

§ 832h. Miscellaneous administrative provisions

(a) Accounts; audit; procedures, etc., prescribed

The administrator, subject to the requirements of the Federal Power Act [16 U.S.C. 791a et seq.], shall keep complete and accurate accounts of operations, including all funds expended and received in connection with transmission and sale of electric energy generated at the Bonneville project, and in the maintenance of such accounts, appropriate obligations shall be established for annual and sick leave of absence as earned. The Administrator shall, after the close of each fiscal year, obtain an independent commercial-type audit of such accounts. The forms, systems, and procedures prescribed by the Comptroller General for the Administrator's appropriation and fund accounting shall be in accordance with the requirements of the Federal Power Act with respect to accounts of electric operations of public utilities and the regulations of the Federal Energy Regulatory Commission pursuant thereto.

(b) Current expenses

The administrator may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for attendance at meetings; and for such other facilities and services as he may find necessary for the proper administration of this chapter.

(Aug. 20, 1937, ch. 720, §9, 50 Stat. 736; Oct. 23, 1945, ch. 433, §4, 59 Stat. 547; Pub. L. 89–448, §2(a), formerly §2, June 14, 1966, 80 Stat. 200, as renumbered Pub. L. 89–561, §6(1), Sept. 7, 1966, 80 Stat. 714; Pub. L. 95–91, title IV, §402(a)(1)(B), Aug. 4, 1977, 91 Stat. 583.)

REFERENCES IN TEXT

Federal Power Act, referred to in subsec. (a), was in the original the ''Federal Water Power Act'', and was redesignated the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

AMENDMENTS

1966—Subsec. (c). Pub. L. 89–448 repealed subsec. (c) which provided for annual financial statement to Congress. See section 835j of this title.

1945—Subsec. (a). Act Oct. 23, 1945, inserted provisions relating to obligations for annual and sick leave of absence, annual commercial-type audits and forms, systems and procedures for the Administrator's appropriation and fund accounting.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

''Federal Energy Regulatory Commission'' substituted for ''Federal Power Commission'' in subsec. (a) pursuant to Pub. L. 95–91, §402(a)(1)(B), which is classified to section 7172(a)(1)(B) of Title 42.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

Executive and administrative functions of Federal Power Commission, with certain reservations, transferred to Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by Reorg. Plan No. 9 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out as a note under section 792 of this title.

§ 832i. Employment of personnel

(a) Appointment of Assistant Administrator, chief engineer, and general counsel; compensation; duties

The Secretary of Energy shall appoint, without regard to the civil-service laws, an Assistant Administrator, chief engineer, and general counsel and shall fix the compensation of each in accordance with chapter 51 and subchapter III of chapter 53 of title 5. The Assistant Administrator shall perform the duties and exercise the powers of the Administrator, in the event of the absence or sickness of the Administrator until such absence or sickness shall cease and in the event of a vacancy in the office of Administrator until a successor is appointed

(b) Officers and employees; compensation

The Administrator, the Secretary of the Army, and the Secretary of Energy, respectively, are authorized to appoint, subject to the civil-service laws, such officers and employees as may be necessary to carry out the purposes of this chapter, the appointment of whom is not otherwise provided for, and to fix their compensation in accordance with chapter 51 and subchapter III of chapter 53 of title 5. The Administrator may employ laborers, mechanics, and workmen in connection with construction work or the operation and maintenance of electrical facilities (hereinafter called ''laborers, mechanics, and workmen''), subject to the civil-service laws. The Administrator is further authorized to employ physicians, under agreement and without regard to civil-service laws or regulations, to make physical examinations of employees or prospective employees who are or may become laborers, mechanics, and workmen. The Administrator, the Secretary of the Army, and the Secretary of Energy, respectively, are also authorized to appoint, without regard to the civil-service laws, such experts as may be necessary for carrying out the functions entrusted to them under this chapter.

(c) Voluntary and uncompensated services; utilization of personnel and equipment of other governmental agencies

The Administrator may accept and utilize such voluntary and uncompensated services and with the consent of the agency concerned may utilize such officers, employees, or equipment of any agency of the Federal, State, or local governments which he finds helpful in carrying out the purposes of this chapter; in connection with the utilization of such services, reasonable payments may be allowed for necessary travel and other expenses.

(Aug. 20, 1937, ch. 720, § 10, 50 Stat. 736; Oct. 23, 1945, ch. 433, § 5, 59 Stat. 547; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; Pub. L. 95–91, title III, §§ 301(b), 302(a)(1)(D), (2), Aug. 4, 1977, 91 Stat. 578.)

CODIFICATION

In subsecs. (a) and (b), ''chapter 51 and subchapter III of chapter 53 of title 5'' substituted for ''the Classification Act of 1949, as amended'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Provisions of the second and fourth sentences of subsec. (b) which authorized the Administrator to fix the compensation of laborers, mechanics and workmen without regard to the Classification Act of 1923, and any other laws, rules, or regulations relating to the payment of employees of the United States and which authorized the Administrator, the Secretary of the Army and the Secretary of Energy to fix the compensation of experts without regard to the Classification Act of 1923, were omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exceptions contained in this subsection because of section 1106(b) which provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). [But see *Abell v. United States*, 1975, 518 F.2d 1369, cert. denied 429 U.S. 817, and *Columbia Power Trades Council v. United States Department of Energy*, 1980, 496 F.Supp. 186.] The Classification Act of 1949 was repealed by Act Sept. 6, 1966, Pub. L. 89–554, § 8(a), 80 Stat. 632 (the first section of which revised and enacted Title 5, Government Organization and Employees, into law). Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

AMENDMENTS

1949—Subsecs. (a) and (b). Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act of 1923''.

1945—Act Oct. 23, 1945, added subsecs. (a) and (c), designated existing provisions as subsec. (b), and amended such provisions generally.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

''Secretary of Energy'' substituted for ''Secretary of the Interior'' in subsec. (a) pursuant to Pub. L. 95–91, § 302(a)(1)(D), (2), which is classified to section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, which transferred functions of Secretary of the Interior with respect to Bonneville Power Administration to Secretary of Energy, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

''Secretary of Energy'' substituted for ''Federal Power Commission'' in subsec. (b) pursuant to Pub. L. 95–91, § 301(b), which is classified to section 7151(b) of Title 42.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

Executive and administrative functions of Federal Power Commission, with certain reservations, transferred to Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by Reorg. Plan No. 9 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out as a note under section 792 of this title.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 832j. Deposit of receipts; authorization of appropriations

All receipts from transmission and sale of electric energy generated at the Bonneville project shall be covered into the Treasury of the United States to the credit of miscellaneous receipts, save and except that the Treasury shall set up and maintain from such receipts a continuing fund of $500,000, to the credit of the administrator and subject to check by him, to defray emergency expenses and to insure continuous operation. There is authorized to be appropriated from time to time, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this chapter, including installation of equipment and machinery for the generation of electric energy and facilities for its transmission and sale.

(Aug. 20, 1937, ch. 720, § 11, 50 Stat. 736.)

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7193 of Title 42.

§ 832k. Authority of Administrator

(a) Settlement, compromise, and payment of claims; limitations; conclusiveness of settlements; restoration of damage

The Administrator is authorized to determine, settle, compromise, and pay claims and demands against the United States which are not in excess of $1,000 and are presented to the Adminis-

trator in writing within one year from the date of accrual thereof, for any losses, injuries, or damages to persons or property, or for the death of persons, resulting from acts or omissions of employees acting within the scope of their employment pursuant to this chapter. The Administrator is also authorized to determine, compromise, and settle any claims and demands of the United States for any losses, injuries, or damages to property under the Administrator's control, against other persons or public or private corporations. The Administrator's determination, compromise, settlement, or payment of any of the claims referred to in this subsection shall be final and conclusive upon all officers of the Government, notwithstanding the provisions of any other Act to the contrary. When claims presented to the Administrator under this subsection arise, in whole or in part, out of any damage done to private property, the Administrator may repair all or any part of such damage in lieu of making such payments.

(b) Authorization to bring legal proceedings; representation; supervision by Attorney General

The Administrator may, in the name of the United States, under the supervision of the Attorney General, bring such suits at law or in equity as in his judgment may be necessary to carry out the purposes of this chapter; and he shall be represented in the prosecution and defense of all litigation, affecting the status or operation of Bonneville project by the United States attorneys for the districts, respectively, in which such litigation may arise, or by such attorney or attorneys as the Attorney General may designate as authorized by law, in conjunction with the regularly employed attorneys of the Administrator.

(Aug. 20, 1937, ch. 720, §12, 50 Stat. 736; Oct. 23, 1945, ch. 433, §6, 59 Stat. 547; July 26, 1946, ch. 673, 60 Stat. 701.)

AMENDMENTS

1946—Subsec. (b). Act July 26, 1946, took from the Administrator the authority to make settlement of suits.

1945—Act Oct. 23, 1945, added subsec. (a), designated existing provisions as subsec. (b), and amended such provisions generally.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

§ 832*l*. Separability

If any provision of this chapter or the application of such provision to any person or circumstance shall be held invalid, the remainder of the chapter and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

(Aug. 20, 1937, ch. 720, §13, 50 Stat. 736.)

§ 832m. Sale of excess Federal power; fish and wildlife conservation within Federal Columbia River Power System; residential exchange; personnel flexibility

(a) Definitions

In this section:

(1) Administrator

The term ''Administrator'' means the Administrator of the Bonneville Power Administration.

(2) Council

The term ''Council'' means the Northwest Power and Conservation Planning Council.

(3) Excess Federal power

The term ''excess Federal power'' means such electric power that has become surplus to the firm contractual obligations of the Administrator under section 839c(f) of this title due to either—

(A) any reduction in the quantity of electric power that the Administrator is contractually required to supply under subsections (b) and (d) of section 839c of this title, due to the election by customers of the Bonneville Power Administration to purchase electric power from other suppliers, as compared to the quantity of electric power that the Administrator was contractually required to supply as of January 1, 1995; or

(B) those operations of the Federal Columbia River Power System that are primarily for the benefit of fish and wildlife affected by the development, operation, or management of the System.

(b) Sale of excess Federal power

Notwithstanding section 837a of this title, subsections (a), (b), and (c) of section 837b of this title, and section 837f of this title, and section 839f(c) of this title, the Administrator may, as permitted by otherwise applicable law, sell or otherwise dispose of excess Federal power—

(1) outside the Pacific Northwest on a firm basis for a contract term of not to exceed 7 years, if the excess Federal power is first offered for a reasonable period of time and under the same essential rate, terms and conditions to those Pacific Northwest public body, cooperative and investor-owned utilities and those direct service industrial customers identified in subsection (b) or (d)(1)(A) of section 839c of this title; and

(2) in any region without the prohibition on resale established by the second sentence of section 832d(a) of this title.

(c) Study by Council

(1)[1] Within 180 days of November 13, 1995, the Council shall review and report to Congress regarding the most appropriate governance structure to allow more effective regional control over efforts to conserve and enhance anadromous and resident fish and wildlife within the Federal Columbia River Power System.

(d) Corps of Engineers procurement

The Assistant Secretary of the Army for Civil Works, acting through the North Pacific Divi-

[1] So in original. No par. (2) has been enacted.

sion of the Corps of Engineers, is authorized to place orders for goods and services related to facilities for electric power generation and fish and wildlife mitigation associated with the Federal Columbia River Power System with and through the Administrator using the authorities available to the Administrator.

(e) Residential exchange

Notwithstanding the establishment, confirmation and approval of rates pursuant to section 839e of this title, and notwithstanding the provisions of section 839c(c) of this title, the cost benefits of eligible utilities' total purchase and exchange sales under section 839c(c)(1) of this title shall be $145,000,000 for fiscal year 1997, and the net benefits paid to each eligible electric utility shall be $145,000,000 multiplied by the percentage of the total of such net benefits paid by the Administrator to such utility for fiscal year 1995.

(f) Personnel flexibility

The Administrator may offer employees voluntary separation incentives as deemed necessary which shall not exceed $25,000. Recipients who accept employment with the United States within five years after separation shall repay the entire amount to the Bonneville Power Administration.

(g) Savings

Unless superseded by an Act of Congress, the authority provided by this section is expressly intended to extend beyond the fiscal year.

(Pub. L. 104–46, title V, § 508, Nov. 13, 1995, 109 Stat. 419.)

CODIFICATION

Section was enacted as part of the Energy and Water Development Appropriations Act, 1996, and not as part of the Bonneville Project Act of 1937 which comprises this chapter.

VOLUNTARY SEPARATION INCENTIVES TO EMPLOYEES

Pub. L. 104–206, title V, § 511, Sept. 30, 1996, 110 Stat. 3004, as amended by Pub. L. 106–377, § 1(a)(2) [title III], Oct. 27, 2000, 114 Stat. 1441, 1441A–76, provided that: ''The Administrator may offer employees voluntary separation incentives as deemed necessary which shall not exceed $25,000. Recipients who accept employment with the United States within five years after separation shall repay the entire amount to the Bonneville Power Administration. This authority shall expire January 1, 2003.''

CHAPTER 12C—FORT PECK PROJECT

Sec.
833. Completion and maintenance of project; generation of electricity.
833a. Administration of project.
833b. Definitions.
833c. Preference to public bodies and cooperatives.
833d. Rate schedules; preparation, approval, and uniformity.
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833m. Determination of compensation for acquisition of Indian lands; funds payable from; disposition of moneys.
833n. Use of deposits by allottees; nontaxability of lands.
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§ 833. Completion and maintenance of project; generation of electricity

For the purpose of improving navigation on the Missouri River, and for other purposes incidental thereto, the dam and appurtenant works now under construction at Fort Peck, Montana, and a suitable power plant for the production of hydroelectric power (which dam, power plant, and appurtenant works are hereinafter called Fort Peck project), shall be completed, maintained, and operated under the direction of the Secretary of the Army and the supervision of the Chief of Engineers, subject to the provisions of this chapter relating to the powers and duties of the Bureau of Reclamation (hereinafter called the Bureau), as provided for in section 833a(a) of this title, respecting the transmission and sale of electric energy generated at said project. The Secretary of the Army shall provide, construct, operate, maintain, and improve at Fort Peck project such machinery, equipment, and facilities for the generation of electric energy as the Bureau may deem necessary to develop such electric energy as rapidly as markets may be found therefor. The electric energy thus generated and not required for the operation of the dam at such project and the navigation facilities employed in connection therewith shall be delivered to the Bureau for disposition as provided in this chapter.

(May 18, 1938, ch. 250, § 1, 52 Stat. 403; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 833a. Administration of project

(a) Disposal of energy; temporary administration; installation and maintenance of equipment

The electric energy generated in the operation of the said Fort Peck project shall be disposed of by the Bureau as hereinafter provided. The Bureau shall exercise the powers and perform the duties provided for in this chapter under the supervision and direction of the Secretary of the Interior in accordance with section 373a of title 43. The Bureau shall, as hereinafter provided, make all arrangements for the sale and disposition of electric energy generated at the Fort Peck project not required for the operation of the dam at such project and the navigation facilities employed in connection therewith. The form of administration herein established for the Fort Peck project is intended to be provisional pending the establishment of a permanent administration for Fort Peck and other projects in the Missouri River Basin. The Secretary of the Army shall install and maintain additional machinery, equipment, and facilities for the generation of electric energy at the Fort Peck project when in the judgment of the Bureau such additional generating facilities are desirable to meet actual or potential market requirements for such electric energy. The Secretary of the Army shall schedule the operations of the several electrical generating units and appurtenant equipment of the Fort Peck project in accordance with the requirements of the Bureau. The Secretary of the Army shall provide and maintain for the use of the Bureau at said Fort Peck project adequate station space and equipment, including such switches, switchboards, instruments, and dispatching facilities as may be required by the Bureau for proper reception, handling, and dispatching of the electric energy produced at the said project, together with transformers and other equipment required by the Bureau for the transmission of such energy from that place at suitable voltage to the markets which the Bureau desires to serve.

(b) Construction and maintenance of electric transmission lines, substations, and interconnections

In order to encourage the widest possible use of all electric energy that can be generated and marketed and to provide reasonable outlets therefor, and to prevent the monopolization thereof by limited groups, the Bureau is authorized and directed to provide, construct, operate, maintain, and improve such electric transmission lines and substations, and facilities and structures appurtenant thereto, as it finds necessary, desirable, or appropriate for the purpose of transmitting electric energy, available for sale, from the Fort Peck project to existing and potential markets, and, for the purpose of interchange of electric energy, to interconnect the Fort Peck project with either private or with other Federal projects and publicly owned power systems now or hereafter constructed.

(c) Acquisition of real and personal property

The Secretary of the Interior is authorized, in the name of the United States, to acquire, by purchase, lease, condemnation, or donation, such real and personal property, or any interest therein, including lands, easements, rights-of-way, franchises, electric transmission lines, substations, and facilities and structures appurtenant thereto, as he finds necessary or appropriate to carry out the purposes of this chapter. Title to all property and property rights acquired by said Secretary shall be taken in the name of the United States.

(d) Acquisition of any property or property rights

The Secretary of the Interior shall have power to acquire any property or property rights, including patent rights, which in his opinion are necessary to carry out the purposes of this chapter, by purchase, lease, donation, or by the exercise of the right of eminent domain and to institute condemnation proceedings therefor in the same manner as is provided by law for the condemnation of real estate.

(e) Disposal of real and personal property

The Secretary of the Interior is authorized, in the name of the United States, to sell, lease, or otherwise dispose of such personal property as in his judgment is not required for the purposes of this chapter and such real property and interests in land acquired in connection with construction or operation of electric transmission lines or substations as in his judgment are not required for the purposes of this chapter.

(f) Contracts by Bureau

Subject to the provisions of this chapter, the Bureau is authorized, in the name of the United States, to negotiate and enter into such contracts, agreements, and arrangements as it shall find necessary or appropriate to carry out the purposes of this chapter.

(May 18, 1938, ch. 250, § 2, 52 Stat. 404; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

TRANSFER OF CERTAIN FACILITIES

Act Aug. 31, 1951, ch. 375, title I, § 101, 65 Stat. 257, provided in part: ''The Secretary of the Army is hereby au-

thorized to transfer to the Department of the Interior without exchange of funds, all of the right, title, and interest of the Department of the Army in and to the following facilities, including rights-of-way (except that portion of the rights-of-way within the Fort Peck Reservoir area), but there shall be reserved the right to use the power facilities for the purpose of transmitting power to the Fort Peck project during emergency periods when the Fort Peck power plant is not functioning: (a) the Fort Peck-Rainbow (Great Falls) 161 kilovolt transmission line; (b) the Rainbow (Great Falls) terminal facilities; and (c) the Fort Peck-Whatley 50 kilovolt transmission line and substation.''

TRANSFER OF TRANSMISSION LINES, SUBSTATIONS, ETC.; COST PRICE; AUTHORITY OF SECRETARY

Act Feb. 27, 1948, ch. 75, 62 Stat. 36, provided: ''That, in aid of the administration of the Fort Peck project, there is hereby granted to the United States, for use by the Bureau of Reclamation, Department of the Interior (hereinafter referred to as the 'Bureau'), in the discharge of its duties pursuant to the Act of May 18, 1938 (52 Stat. 403) [this chapter], the electric-transmission lines, substations, rights-of-way, and other property described in section 7 of that certain permit and memorandum of understanding, dated November 2, 1945, between the Bureau and the Office of Indian Affairs, Department of the Interior (hereinafter referred to as the 'Indian Office'): *Provided, however*, That the Bureau shall continue to furnish electric service for the uses and purposes of the Indian Office on the Fort Peck Indian Reservation, pursuant to the terms and conditions of said permit and memorandum of understanding, except as the same may be modified by the Secretary of the Interior.

''SEC. 2. That the amount of money to be paid for said property shall be $58,577.52, or so much thereof as the Secretary of the Interior shall determine to be needed pursuant to the provisions of said permit and memorandum of understanding. Such sum shall be paid, from funds now or hereafter made available to the Department of the Interior for the construction of transmission lines and substations of the Fort Peck project, to the Commissioner of Indian Affairs, who shall deposit such sum in the Treasury of the United States as a credit on expenditures made for irrigation and power construction on the Fort Peck Indian irrigation project.

''SEC. 3. The Secretary of the Interior is authorized to perform any and all acts as may be deemed necessary to carry out the provisions of this Act [Act Feb. 27, 1948, ch. 75, 62 Stat. 36].''

§ 833b. Definitions

As employed in this chapter, the term ''public body,'' or ''public bodies,'' means States, public power districts, counties, and municipalities, including agencies or subdivisions of any thereof.

As employed in this chapter, the term ''cooperative,'' or ''cooperatives,'' means any form of nonprofit-making organization or organizations of citizens supplying, or which may be created to supply, members with any kind of goods, commodities, or services, as nearly as possible at cost.

(May 18, 1938, ch. 250, § 3, 52 Stat. 405.)

§ 833c. Preference to public bodies and cooperatives

In order to insure that the facilities for the generation of electric energy at the Fort Peck project shall be operated for the benefit of the general public, and particularly of domestic and rural consumers, the Bureau shall at all times, in disposing of electric energy generated at said project, give preference and priority to public bodies and cooperatives.

(May 18, 1938, ch. 250, § 4, 52 Stat. 405.)

TRANSFER OF FUNCTIONS

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 833d. Rate schedules; preparation, approval, and uniformity

Schedules of rates and charges for electric energy produced at the Fort Peck project and sold to purchasers as in this chapter provided shall be prepared by the Bureau and become effective upon confirmation and approval thereof by the Secretary of Energy. Subject to confirmation and approval by the Secretary of Energy, such rate schedules may be modified from time to time by the Bureau and shall be fixed and established with a view to encouraging the widest possible diversified use of electric energy. The said rate schedules may provide for uniform rate or rates uniform throughout prescribed transmission areas in order to extend the benefits of an integrated transmission system and encourage the equitable distribution of the electric energy developed at the Fort Peck project.

(May 18, 1938, ch. 250, § 5, 52 Stat. 405; Pub. L. 95–91, title III, § 301(b), Aug. 4, 1977, 91 Stat. 578.)

TRANSFER OF FUNCTIONS

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

''Secretary of Energy'' substituted in text for ''Federal Power Commission'' pursuant to Pub. L. 95–91, § 301(b), which is classified to section 7151(b) of Title 42.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

Executive and administrative functions of Federal Power Commission, with certain reservations, transferred to Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by Reorg. Plan No. 9 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out as a note under section 792 of this title.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 833e. Factors in determining rate schedules

It is the intent of Congress that rate schedules for the sale of electric energy which is or may be generated at the Fort Peck project in excess of the amount required for operating the dam and appurtenant works at said project shall be determined with due regard to and predicated upon the fact that such electric energy is developed from water power created as an incident to the construction of the dam in the Missouri River at the Fort Peck project for the purposes set forth in section 833 of this title. Rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of Fort Peck project) of the cost of producing and transmitting such electric energy, including the amortization of the capital investment over a reasonable period of years. Rate schedules shall be based upon an allocation of costs made by the Secretary of Energy. In computing the cost of electric energy developed from water power created as an incident to and a byproduct of the construction of Fort Peck project, the Secretary of Energy may allocate to the costs of electric facilities such a share of the cost of facilities having joint value for the production of electric energy and other purposes as the power development may fairly bear as compared with such other purposes.

(May 18, 1938, ch. 250, § 6, 52 Stat. 405; Pub. L. 95–91, title III, § 301(b), Aug. 4, 1977, 91 Stat. 578.)

TRANSFER OF FUNCTIONS

''Secretary of Energy'' substituted in text for ''Federal Power Commission'' pursuant to Pub. L. 95–91, § 301(b), which is classified to section 7151(b) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

Executive and administrative functions of Federal Power Commission, with certain reservations, transferred to Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by Reorg. Plan No. 9 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out as a note under section 792 of this title.

§ 833f. Purchase of supplies and services

Notwithstanding any other provision of law, all purchases and contracts made by the Bureau or the Secretary of the Army for supplies or for services, except for personal services, shall be made after advertising, in such manner and at such times, sufficiently in advance of opening bids, as the Bureau or Secretary of the Army, as the case may be, shall determine to be adequate to insure notice and opportunity for competition. Such advertisement shall not be required, however, when (1) an emergency requires immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed $500; in which cases such purchase of supplies or procurement of services may be made in the open market in the manner common among businessmen. In comparing bids and in making awards, the Bureau or the Secretary of the Army, as the case may be, may consider such factors as relative quality and adaptability of supplies or services, the bidder's financial responsibility, skill, experience, record of integrity in dealing, and ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications.

(May 18, 1938, ch. 250, § 7, 52 Stat. 406; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 833g. Miscellaneous administrative provisions

(a) Accounts

The Bureau, subject to the requirements of the Federal Power Act [16 U.S.C. 791a et seq.], shall keep complete and accurate accounts of operations, including all funds expended and received in connection with transmission and sale of electric energy generated at the Fort Peck project.

(b) Expenditures

The Bureau may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for attendance at meetings; and for such other facilities and services as it may find necessary for the proper administration of this chapter.

(May 18, 1938, ch. 250, § 8, 52 Stat. 406; Aug. 30, 1954, ch. 1076, § 1(23), 68 Stat. 968.)

REFERENCES IN TEXT

The Federal Power Act, referred to in subsec. (a), was in the original the ''Federal Water Power Act'', and was redesignated the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

AMENDMENTS

1954—Subsec. (c). Act Aug. 30, 1954, repealed subsec. (c) which required the Secretary of the Interior to submit an annual financial statement and report to Congress concerning the transmission and sale of electric energy generated at the Fort Peck project.

TRANSFER OF FUNCTIONS

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 833h. Personnel; appointment and compensation

The Secretary of the Interior, the Secretary of the Army, and the Secretary of Energy, respectively, shall appoint such attorneys, engineers, and other experts as may be necessary for carrying out the functions entrusted to them under this chapter, and shall fix the compensation of each of such attorneys, engineers, and other experts; and they may, subject to the civil-service laws, appoint such other officers and employees as may be necessary to carry out such functions and fix their salaries in accordance with chapter 51 and subchapter III of chapter 53 of title 5. In the administration of this chapter the services of regular employees in the Bureau may be utilized and an equitable part of the salaries of such employees whose services are thus utilized may be charged by the Bureau to the operating costs of the power features of the Fort Peck project. The Bureau similarly may utilize and charge for facilities of the Bureau which economically can be used in connection with the administration of this chapter.

(May 18, 1938, ch. 250, §9, 52 Stat. 406; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; Pub. L. 95–91, title III, §301(b), Aug. 4, 1977, 91 Stat. 578.)

CODIFICATION

Provisions which authorized the Secretary of the Interior, the Secretary of the Army, and the Secretary of Energy to appoint such attorneys, engineers, and other experts as may be necessary for carrying out the functions entrusted to them under this chapter ''without regard to the provisions of the civil-service laws'', and to fix their compensation ''at not to exceed $7,500 per annum'', have been omitted as obsolete and superseded.

Such appointments are subject to the civil service laws unless specifically excepted by those laws or by laws enacted subsequent to Executive Order No. 8743, Apr. 23, 1941, issued by the President pursuant to the Act of Nov. 26, 1940, ch. 919, title I, §1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and Employees.

As to the compensation of such personnel, sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed by Pub. L. 89–554, Sept. 6, 1966, §8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5. Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

''Chapter 51 and subchapter III of chapter 53 of title 5'' substituted in text for ''the Classification Act of 1949, as amended'' on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5.

AMENDMENTS

1949—Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act of 1923''.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

''Secretary of Energy'' substituted in text for ''Federal Power Commission'' pursuant to Pub. L. 95–91, §301(b), which is classified to section 7151(b) of Title 42.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

Executive and administrative functions of Federal Power Commission, with certain reservations, transferred to Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by Reorg. Plan No. 9 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out as a note under section 792 of this title.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 833i. Deposit of receipts; establishment of continuing fund; authorization of appropriations

All receipts from transmission and sale of electric energy generated at the Fort Peck project shall be covered into the Treasury of the United States to the credit of miscellaneous receipts, save and except that the Treasury shall set up and maintain from such receipts a con-

tinuing fund of $500,000, to the credit of the Bureau and subject to expenditure by it, to defray the operating expense of generation and transmission of power delivered to the Bureau for disposal under this chapter, to defray emergency expenses and to insure continuous operation. There is authorized to be appropriated from time to time, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this chapter, including installation of equipment and machinery for the generation of electric energy, and facilities for its transmission and sale.

(May 18, 1938, ch. 250, § 10, 52 Stat. 406.)

TRANSFER OF FUNCTIONS

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 833j. Suits for and against project; legal representation

The Secretary of the Interior may, in the name of the United States, under the supervision of the Attorney General, bring such suits at law or in equity as in his judgment may be necessary to carry out the purposes of this chapter; and he shall be represented in the prosecution and defense of all litigation affecting the status or operation of the Fort Peck project by the United States attorneys for the districts, respectively, in which such litigation may arise, or by such attorney or attorneys as the Attorney General may designate as authorized by law, in conjunction with the regularly employed attorneys of the Bureau.

(May 18, 1938, ch. 250, § 11, 52 Stat. 407.)

TRANSFER OF FUNCTIONS

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 833k. Separability

If any provision of this chapter or the application of such provision to any person or circumstances shall be held invalid, the remainder of the chapter and the application of such provisions to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

(May 18, 1938, ch. 250, § 12, 52 Stat. 407.)

§ 833*l*. Acquisition of Indian lands

In aid of the construction of the Fort Peck project, there is granted to the United States, subject to the provisions of sections 833*l* to 833p of this title, such right, title, and interest of the Indians as may be required in and to such tribal and allotted lands as may be designated by the Secretary of the Interior from time to time for the construction, operation, and maintenance of electric transmission lines and other works of the project or for the relocation or reconstruction of properties made necessary by the construction of the project.

(Apr. 23, 1946, ch. 199, § 1, 60 Stat. 118.)

CODIFICATION

Section was not enacted as part of act May 18, 1938, which comprises this chapter.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 833m. Determination of compensation for acquisition of Indian lands; funds payable from; disposition of moneys

As lands or interests in lands are designated from time to time under sections 833*l* to 833p of this title, the Secretary of the Interior shall determine the amount of money to be paid to the Indians as just and equitable compensation therefor. The amounts due the tribe and the individual allottees or their heirs or devisees shall be paid from funds now or hereafter made available to the Department of the Interior for the Fort Peck project to the superintendent of the appropriate Indian agency, or such other officer as may be designated by the Secretary of the Interior, for credit on the books of such agency to the accounts of the tribe and the individuals concerned.

(Apr. 23, 1946, ch. 199, § 2, 60 Stat. 118.)

CODIFICATION

Section was not enacted as part of act May 18, 1938, which comprises this chapter.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 833n. Use of deposits by allottees; nontaxability of lands

Funds deposited to the credit of allottees, their heirs, or devisees may be used, in the discretion of the Secretary of the Interior, for the acquisition of other lands and improvements, or the relocation of existing improvements or construction of new improvements on the lands so

acquired for the allottees or heirs whose lands and improvements are acquired under the provisions of sections 833*l* to 833p of this title. Lands so acquired shall be held in the same status as those from which the funds were derived, and shall be nontaxable until otherwise provided by Congress.

(Apr. 23, 1946, ch. 199, § 3, 60 Stat. 118.)

CODIFICATION

Section was not enacted as part of act May 18, 1938, which comprises this chapter.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 833*o*. Authority of Secretary of the Interior for acquisition of Indian land

The Secretary of the Interior is authorized to perform any and all acts and to prescribe such regulations as he may deem appropriate to carry out the provisions of sections 833*l* to 833p of this title.

(Apr. 23, 1946, ch. 199, § 4, 60 Stat. 118.)

CODIFICATION

Section was not enacted as part of act May 18, 1938, which comprises this chapter.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 833p. Reversion of title

All designations of Indian lands pursuant to sections 833*l* to 833p of this title shall be made subject to the condition that in the event any such lands shall no longer be required for the purposes for which they were designated, then the right, title, or interest so acquired in lands so designated shall revert to the United States in trust for the Fort Peck Indian Tribes.

(Apr. 23, 1946, ch. 199, § 5, 60 Stat. 118.)

CODIFICATION

Section was not enacted as part of act May 18, 1938, which comprises this chapter.

§ 833q. Educational costs of dependents of employees; payments to school districts; reimbursement from continuing fund

Under regulations prescribed by the Secretary of the Army, payments may be made, in advance or otherwise, from any funds available for the Fort Peck project, Montana, to the school district or districts serving that project as reimbursement for educational facilities (including, where appropriate, transportation to and from school) furnished by the said district or districts to pupils who are dependents of persons engaged in the construction, operation, and maintenance of the project and living at or near Fort Peck upon real property of the United States not subject to taxation by State or local agencies and upon which payments in lieu of taxes are not made by the United States, which payments for any school year shall not exceed that part of the cost of operating and maintaining such facilities which the number of pupils aforesaid in average daily attendance during that year bears to the whole number of pupils in average daily attendance at those schools during that year: *Provided*, That of the whole amount so paid in any fiscal year, the Bureau of Reclamation, Department of the Interior, shall reimburse the Secretary of the Army from the continuing fund provided in section 833i of this title, that part which is properly chargeable as an operation expense incident to the generation and transmission of power delivered to the Bureau under said section.

(June 3, 1948, ch. 389, 62 Stat. 297.)

CODIFICATION

Section was not enacted as part of act May 18, 1938, which comprises this chapter.

TRANSFER OF FUNCTIONS

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

CHAPTER 12D—COLUMBIA BASIN PROJECT

Sec.

835. Project authorized; laws applicable.
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835c. Duties of Secretary of the Interior.
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835j. Projects marketing commercial power and energy; consolidated financial statement to President and Congress; adjustment of rates to assure return of reimbursable construction costs within prescribed period.
835k. Return of construction costs from marketing revenues in event of inability of irrigation water users to repay within repayment period and lack of other sources of revenue.

Sec.
835*l*. Congressional declaration of financial policy; limitations on assistance; analyses and studies; ''net revenues'' defined.
835m. Recommendations for changes in limitations on financial assistance; time and frequency of submission.

§ 835. Project authorized; laws applicable

In addition to the primary purposes for which the Grand Coulee Dam project (hereafter to be known as the Columbia Basin project and herein called the ''project'') was authorized under the provisions of the Act of August 30, 1935 (49 Stat. 1028), the project is authorized and reauthorized as a project subject to the Reclamation Project Act of 1939; and the provisions of each of those two Acts together with the provisions of this Act shall govern the repayment of expenditures and the construction, operation, and maintenance of the works constructed as a part of the project.

(May 27, 1937, ch. 269, §1, 50 Stat. 208; Mar. 10, 1943, ch. 14, 57 Stat. 14.)

REFERENCES IN TEXT

Act of August 30, 1935 (49 Stat. 1028), referred to in text, is act Aug. 30, 1935, ch. 831, 49 Stat. 1028, as amended, which act, by section 2, authorized the construction of the Grand Coulee Dam.

The Reclamation Project Act of 1939, referred to in text, is act Aug. 4, 1939, ch. 418, 53 Stat. 1187, as amended, which is classified generally to sections 375a, 387 to 389, 485 to 485h, and 485i to 485k of Title 43, Public Lands. For complete classification of this Act to the Code, see section 485k of Title 43 and Tables.

Those two Acts, referred to in text, refer to the act of Aug. 30, 1935, and to the Reclamation Project Act of 1939. See notes above.

This Act, referred to in text, is act May 27, 1937, ch. 269, as amended generally by act Mar. 10, 1943, ch. 14, 57 Stat. 14, known as The Columbia Basin Project Act, which enacted this section, sections 835a to 835c–5 of this title, and provisions set out as a note under this section. For complete classification of this Act to the Code, see Short Title note set out under this section and Tables.

AMENDMENTS

1943—Act Mar. 10, 1943, amended section generally.

SHORT TITLE

Act May 27, 1937, ch. 269, §11, as added by Mar. 10, 1943, ch. 14, 57 Stat. 20, provided that: ''This Act [enacting this section, sections 835a to 835c–5 of this title, and provisions set out as a note below] may be cited as 'The Columbia Basin Project Act'.''

SEPARABILITY

Act May 27, 1937, ch. 269, §10, as added by Mar. 10, 1943, ch. 14, 57 Stat. 20, provided that: ''If any provision of this Act [see Short Title note above] or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.''

TRANSFER OF FUNCTIONS

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

§ 835–1. Laws governing

The Columbia Basin project shall be governed by the Federal reclamation laws, being the Act of June 17, 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto.

(Pub. L. 87–728, §3, Oct. 1, 1962, 76 Stat. 678.)

REFERENCES IN TEXT

Act of June 17, 1902 (32 Stat. 388), referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, popularly known as the Reclamation Act, which is classified generally to chapter 12 (§371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables.

CODIFICATION

Section is derived from part of section 3 of Pub. L. 87–728. Remainder of such section amended section 835c of this title, and repealed sections 835a, 835b, 835c–3, and 835c–5 of this title.

TRANSFER OF FUNCTIONS

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

§§ 835a, 835b. Repealed. Pub. L. 87–728, § 3, Oct. 1, 1962, 76 Stat. 678

Section 835a, acts May 27, 1937, ch. 269, §2, 50 Stat. 210; Mar. 10, 1943, ch. 14, 57 Stat. 14; Sept. 26, 1950, ch. 1048, §1(1), (2), 64 Stat. 1037; Sept. 2, 1957, Pub. L. 85–264, §1(a)–(c), 71 Stat. 590, related to the use of project appropriations for irrigation features; appraisals and reappraisals of lands; contracts with subdivisions of state; irrigation blocks; boundaries as determining right to water; temporary delivery to excess lands; definition of owners, community property; necessity of execution of recordable contract; contractual requirements; filing of instruments.

Section 835b, acts May 27, 1937, ch. 269, §3, 50 Stat. 210; Mar. 10, 1943, ch. 14, 57 Stat. 18; Sept. 26, 1950, ch. 1048, §1(3), 64 Stat. 1037, related to consideration for conveyance of lands.

SAVINGS PROVISION

Section 5(b) of Pub. L. 87–728 provided that: ''The rights of any vendee or grantee as defined in section 3 of the Columbia Basin Project Act of 1943 [section 835b of this title] are hereby preserved as to any transactions that were consummated by contract or deed prior to repeal of said section 3 by this Act.''

AMENDATORY REPAYMENT CONTRACT

Sections 1 and 2 of Pub. L. 87–728 provided: ''That the amendatory repayment contract with the Quincy Columbia Basin Irrigation District negotiated by the Secretary of the Interior, pursuant to subsection (a) of section 7 of the Reclamation Project Act of 1939 (53 Stat. 1192; 43 U.S.C. 485f) [section 485f(a) of Title 43, Public Lands], which contract was approved by the district electors on February 13, 1962, is hereby approved and the Secretary is hereby authorized to execute it on behalf of the United States and to negotiate and execute on behalf of the United States amendatory repayment contracts in substantially the same form or amendatory repayment contracts containing substantially the same provisions with the South and East Columbia Basin Irrigation Districts.

''SEC. 2. Upon any amendatory repayment contract with a Columbia Basin Irrigation District approved or authorized by this Act [enacting section 835–1 of this

title, amending section 835c, 835c–1, 835c–2, 835c–4 of this title, repealing sections 835a, 835b, 835c–3, and 835c–5 of this title, and enacting provisions set out as notes under sections 835a, 835b, and 835c of the title] becoming effective to bind the United States, that district's share of the operation and maintenance funds expended or obligated for the construction of drainage works including appropriate interest thereon during calendar years 1960, 1961, and 1962 shall be capitalized and charged as a part of the construction cost of the project assigned directly to irrigation and the Secretary shall either refund to it or give it credit for (as it may elect) all operation and maintenance payments (including interest paid by it in connection therewith) which it has made for the construction of drainage works during those years, such credit, if so elected by the district, to be applied against future development period and/or construction charges of the district as they become due.''

SALE OF PROJECT LANDS TO STATE OF WASHINGTON

Pub. L. 86–52, June 23, 1959, 73 Stat. 87, provided: ''That notwithstanding any provisions of sections 2(b)(iii), 2(b)(iv), and 4(b) of the Columbia Basin Project Act, as amended [former section 835a(b)(iii), (iv) of this title and section 835c(b) of this title] (16 U.S.C., ch. 12D) [this chapter], conformed farm units, or portions of farm units, comprising not more than six hundred and forty acres of irrigable land on the Columbia Basin project may be sold by the Secretary of the Interior and others to the State of Washington for use by the State College of Washington for agricultural research purposes, and water may be delivered from, through, or by means of the project works to or for conformed farm units comprising no more than that acreage, as nonexcess lands, whether so acquired or already held by the State, as long as they are used for those purposes. Except as otherwise provided in this Act, any lands sold to the State under this Act shall be governed by the provisions of the Columbia Basin Project Act, as amended [sections 835, 835a to 835c–5 of this title] and regulations of the Secretary issued pursuant thereto.''

Pub. L. 86–52 was amended to permit delivery of water to State owned lands, see section 7 of Pub. L. 87–728, set out as a note below.

DELIVERY OF WATER TO STATE OWNED LAND

Section 7 of Pub. L. 87–728 provided that: ''The Act of June 23, 1959 (73 Stat. 87) [set out as a note above] is hereby amended to permit delivery of water to not to exceed six hundred and forty acres of irrigable lands whether or not said lands are in conformed farm units, owned by the State of Washington for use by the Washington State University for agricultural research purposes.''

DELIVERY OF WATER TO FARMS PLATTED PRIOR TO OCTOBER 1, 1962, EXCEEDING 160 ACRES

Pub. L. 87–728, § 5(a), Oct. 1, 1962, 76 Stat. 679, provided that: ''Notwithstanding the provisions of the Federal reclamation laws [for definition, see section 835–1 of this title], water may be delivered to farm unit platted before the enactment of this Act [Oct. 1, 1962] that contains a nominal quarter section of land exceeding one hundred and sixty irrigable acres insofar as those provisions limit the delivery of water to irrigable lands in excess of one hundred and sixty irrigable acres.''

§ 835c. Duties of Secretary of the Interior

(a) Administer, sell, and exchange lands, dedicate portions for public purposes, etc.

For the purposes of assisting in the permanent settlement of farm families, protecting project land, and facilitating project development, the Secretary is authorized to administer public lands of the United States in the project area and lands acquired under this section; to sell, exchange, or lease such lands; to dedicate portions of such lands for public purposes in keeping with sound project development; to acquire in the name of the United States, at prices satisfactory to him, such lands or interests in lands, within or adjacent to the project area, as he deems appropriate for the protection, development, or improvement of the project; and to accept donations of real and personal property for the purposes of this Act. Any moneys realized on account of donations for purposes of this Act shall be covered into the Treasury as trust funds.

(b) Terms of contracts; qualifications of applicants; prohibited disposals

Contracts, exchanges, and leases made under this section shall be on terms that, in the Secretary's judgment, are in keeping with sound project development. In addition, land sale and exchange contracts shall be on a basis that, in the Secretary's judgment, provides for the return, in a reasonable period of years, of not less than the appraised value of the land and improvements thereon. Qualification of applicants for the purchase of land for irrigation farming shall be prescribed as provided in section 433 of title 43, notwithstanding any other provisions of law. No farm unit shall be sold to, and no contract to sell a farm unit shall be entered into with, any person, corporation, or joint-stock association which has theretofore purchased or entered into a contract to purchase a farm unit from the United States on the Columbia Basin project. The foregoing provisions of this subsection shall apply only to the sale of farm units which are suitable for settlement purposes. Farm units which, in the opinion of the Secretary, are not suitable for settlement purposes may be sold with a preference to resident project landowners as supplemental units, subject to the applicable irrigable acreage limitations on the delivery of water, but the purchasers thereof shall not be entitled to benefits of the Act of August 13, 1953 (67 Stat. 566) [43 U.S.C. 451 et seq.] with respect thereto.

(May 27, 1937, ch. 269, § 4, 50 Stat. 210; Mar. 10, 1943, ch. 14, 57 Stat. 18; Sept. 26, 1950, ch. 1048, § 1(4), 64 Stat. 1037; Pub. L. 85–264, § 1(d), Sept. 2, 1957, 71 Stat. 591; Pub. L. 87–728, § 3, Oct. 1, 1962, 76 Stat. 678.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is act May 27, 1937, ch. 269, as amended generally by act Mar. 10, 1943, ch. 14, 57 Stat. 14, known as The Columbia Basin Project Act, which enacted this section, sections 835, 835a, 835b, and 835c–1 to 835c–5 of this title, and provisions set out as a note under section 835 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 835 of this title and Tables.

Act of August 13, 1953, referred to in text, is act Aug. 13, 1953, ch. 428, 67 Stat. 566, as amended, which is classified generally to subchapter VII (§ 451 et seq.) of chapter 12 of Title 43, Public Lands. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–728 struck out provisions stating as a purpose of this section the prevention of speculation in project lands, and deleted from among the duties of the Secretary, those to establish town sites on such lands, and to disseminate information by appropriate means and methods.

Subsec. (b). Pub. L. 87–728 authorized farm units which are not suitable for settlement purposes to be sold with a preference to resident project landowners as supplemental units, subject to the applicable irrigable acreage limitations on the delivery of water, and prohibiting purchasers thereof from receiving benefits of the Act of August 13, 1953, with respect thereto, eliminated provisions which required land sale and exchange contracts, in the case of lands to be included in farm units, to provide for the application of provisions similar to those of the recordable contracts provided under section 835a(c) of this title, and each applicant for the purchase of land for irrigation farming to agree that he, his heirs and assigns will not, except with the Secretary's approval, sell, assign, lease, or otherwise dispose of his land during a period ending five years from the date of his purchase contract, and prohibiting applications for a farm unit from any person who, or a member of whose family, then has outstanding another application for a farm unit on the project or to whom a farm unit could not at the time of application lawfully be sold under sections 835 and 835a to 835c–5 of this title, substituted provisions prohibiting the sale of a farm unit to, and the entering into a contract to sell a farm unit with, any person, corporation, or joint-stock association which has theretofore purchased or entered into a contract to purchase a farm unit from the United States on the Columbia Basin project for provisions which prohibited the sale of a farm unit to, and the entering into a contract to sell a farm unit with, any person, corporation, joint-stock association, or family which has theretofore purchased or entered into a contract to purchase a farm unit under sections 835 and 835a to 835c–5 of this title or which then owns a farm unit within the Columbia Basin project, but not precluding a purchase or contract to purchase by a person, otherwise eligible, whose farm unit has been or is acquired by the United States for exchange purposes or, if he is 18 years of age or older, whose family purchased or entered into a contract to purchase a farm unit at a time when he was under 18 years of age.

1957—Subsec. (b). Pub. L. 85–264 inserted provisions to require applicant's agreement not to dispose of his land for 5 years from the date of his purchase contract except with approval of Secretary, to prohibit receiving application from a person who, or a member of whose family, has outstanding another application, or to whom a unit could not at the time of application be lawfully sold, and to prohibit sale or contracts of sale with those who theretofore purchased or contracted to purchase, a unit under sections 835 and 835a to 835c–5 of this title, or then own a unit within the project.

1950—Subsec. (b). Act Sept. 26, 1950, permitted the Secretary to make recordable contract provisions applicable to lands to be included in farm units.

1943—Act Mar. 10, 1943, amended section generally.

Amendment of Contracts, Instruments, Rules, Regulations, Forms, and Procedures

Section 4 of Pub. L. 87–728 provided that: ''The Secretary is hereby authorized and directed to amend or modify all existing contracts, instruments, rules, regulations, forms, and procedures entered into or issued under the Columbia Basin Project Act, as amended (16 U.S.C., chap. 12D) [sections 835 and 835a to 835c–5 of this title] prior to the date of enactment of this act [Oct. 1, 1962] to conform to the provisions of this Act [enacting section 835–1 of this title, amending sections 835c, 835c–1, 835–2, 835c–4 of this title, repealing sections 835a, 835b, 835c–3, and 835c–5 of this title, and enacting provisions set out as notes under sections 835a and 835b of this title].''

Amendment of Contracts, Deeds or Documents by Secretary

Section 2 of Pub. L. 85–264 provided that: ''The Secretary of the Interior is authorized to amend any contract, which has been entered into prior to the date of enactment of this Act [Sept. 2, 1957], or any existing deed or other document to conform with the provisions of the first section of this Act [amending this section and section 835a of this title]. The consent of the United States is hereby given to the recording, at the expense of the party benefited thereby, of any such amendment.''

Coulee Dam Community Act of 1957

Pub. L. 85–240, Aug. 30, 1957, 71 Stat. 524, provided:

''[Sec. 1. Purpose Lands Included]. That it is the purpose of this Act, in connection with the Columbia Basin project, to authorize the disposal of certain Federal property in the unincorporated area in the State of Washington commonly known as the town of Coulee Dam in order that the United States may withdraw from the ownership and operation of the town and that the people of that area may enjoy self-government, to facilitate the establishment by them of a municipal corporation under the laws of the State of Washington, and to authorize the disposal of certain Federal property in and in the immediate vicinity of the city of Grand Coulee, Washington, in order to reduce restrictions on the growth thereof. The area herein referred to as the town area is situated in Douglas, Grant, and Okanogan counties and comprises the following lands:

''Douglas County: Township 29 north, range 30 east, Willamette meridian, section 36, lots 2, 3, 4, east half southwest quarter and southwest quarter southwest quarter.

''Grant County: Township 28 north, range 30 east, Willamette meridian, section 1, lots 1 and 2.

''Okanogan County: Township 28 north, range 31 east, Willamette meridian, section 6, lot 3.

''Township 29 north, range 30 east, Willamette meridian, section 36, lots 5, 6, and 7.

''Township 29 north, range 31 east, Willamette meridian, section 30, all those portions of the south 300 feet of lot 4 included within the area conveyed to the United States of America by warranty deed executed by Charles E. Hopkins, and others on September 11, 1946, and recorded in book 107 of deeds at pages 175 and 176 under Okanogan County auditor's file numbered 346972 and by warranty deed executed by Charles E. Hopkins, and others on November 7, 1945, recorded in book 102 of deeds at pages 441 and 442 under Okanogan County auditor's file numbered 339487.

''Section 31, west half northeast quarter, southeast quarter northwest quarter, east half southwest quarter, northwest quarter northwest quarter southeast quarter, and lots 1, 2, 3, and 4.

''The area herein referred to as the Grand Coulee area is situated in Grant County and comprises the following lands:

''Township 28 north, range 30 east, Willamette meridian, section 11, south one-half north one-half north one-half southwest one-quarter, northeast one-quarter southeast one-quarter.

''The term 'the municipality', as used in this Act, refers to any municipal corporation organized hereafter embracing any part of the town area described.

''Sec. 2. [Authority of Secretary to Sell Property]. Except for property, disposal of which is authorized under section 6 of this Act, the Secretary of the Interior, hereinafter referred to as the Secretary, is authorized to sell all lands and improvements situated in the town and Grand Coulee areas which was acquired or built by the United States for the construction, operation, and maintenance of Grand Coulee Dam and its appurtenant works and which is not needed for Federal purposes. Such disposals shall be made in accordance with the terms and conditions set forth in section 3 of this Act, but lands to be sold in the Grand Coulee area shall be sold at public sale to the highest responsible bidder.

''Sec. 3. [Manner of Disposal Priority of Purchasers; Terms of Sale]. (a) All land authorized to be sold under section 2 of this Act which, when offered for sale, is occupied by improvements owned by the United States shall be sold with the improvements in place.

''(b) Of the property authorized to be sold under section 2 of this Act, lands in the town area occupied by

dwelling units shall be sold in accordance with the following terms and conditions:

''(1) First priority to purchase shall be given to the tenant of the United States in the town area who occupies the land and dwelling unit to be sold. The land and dwelling unit shall be offered at the appraised value as established under section 5 less any applicable discounts under this Act. This right of priority shall expire unless a deposit of earnest money in an amount to be fixed by the Secretary is received by him before the expiration of sixty days after the date on which the property has been offered for sale, and the right of priority shall be deemed abandoned unless within an additional one hundred and eighty days the prospective purchaser shall have signed a contract to purchase the property.

''Any tenant having a priority under (1) who desires to continue to rent the property occupied by him rather than to purchase it may assign his priority to a person who has entered into a valid contract to lease the property back to him. The Secretary may permit such other assignments of priorities under (1) as he finds to be fair and equitable. Assignments under this paragraph shall be subject to such general rules and regulations as the Secretary may prescribe, including denial, in any instance where the Secretary in his judgment finds it proper, to the assignee concerned, or his successors, assigns, or legal representatives, of any discount in or rebate of the purchase price to which such person or persons would otherwise be entitled under this Act.

''(2) Second priority to purchase shall apply to property in the town area not purchased under (1) and shall be given to persons who are tenants of the United States in Federal housing in the town area or who would meet the requirements for eligibility to become such tenants under the most recent regulations of the Bureau of Reclamation for the assignment of persons to Federal housing in the town area. Applicants to purchase shall be placed in order of opportunity to choose pursuant to a public drawing, but spouses of such applicants shall not be entitled to apply. Sales shall be at the appraised value as established under section 5, less applicable discounts under this Act. Selection of dwelling units by successful applicants, to be accompanied by a deposit of earnest money fixed as under (1), shall be concluded within limits of time established by the Secretary, and thereafter the purchase shall be concluded in the same manner as provided under (1). A purchase under (1) or (2) shall render the purchaser and any spouse of such purchaser ineligible thereafter to purchase under either (1) or (2).

''(3) Property not sold under (1) or (2) shall be opened to bids from the general public and shall be sold to the highest responsible bidder.

''(c)(1) Of the property authorized to be sold under section 2 of this Act, land in the town area occupied by privately owned improvements shall be offered for sale to the owner of such improvements at the appraised value as established under section 5 less applicable discounts under this Act. This preference right shall expire unless a deposit of earnest money in an amount to be fixed by the Secretary is received by the Secretary before the expiration of sixty days after the date on which the property has been offered for sale, and thereafter the purchase shall be concluded in the same manner as provided under subsection (b)(1) of this section.

''(2) Land not purchased by the owner of the improvements (except church or hospital improvements) thereon under (1) shall be made available for sale for a period of thirty days to those eligible for purchase under subsection (f) of this section, and thereafter shall be opened to bids from the general public and sold to the highest responsible bidder.

''(3) Land with church or hospital improvements thereon which has not been purchased by the owners of the improvements under (1) may be disposed of by advertising and competitive bids, or by negotiated sale or other transfer at such prices and on such other terms and conditions as the Secretary shall determine to be fair and equitable.

''(d)(1) Of the property authorized to be sold under section 2 of this Act, land in the town area occupied by improvements owned by the United States other than dwelling units shall be offered to the lessee of the United States in such improvements at the appraised value as established under section 5 less applicable discounts under this Act: *Provided*, That where there is more than one lessee in a given improvement and the Secretary finds it impractical to offer each lessee an interest in the property, the Secretary, pursuant to such standards as he deems appropriate, shall designate an order of priority among such lessees for acceptance of the offer of sale of such property, which shall be sold at the appraised value as established under section 5 less applicable discounts under this Act and pursuant to such other terms and conditions as the Secretary deems proper. Any preference or priority right under this paragraph shall expire unless a deposit of earnest money in an amount to be fixed by the Secretary is received by the Secretary before the expiration of sixty days after the date on which the property has been offered for sale, and thereafter the purchase shall be concluded in the same manner as provided under subsection (b)(1) of this section.

''(2) Property referred to in (1) which is not under lease granted by the United States or which has not been purchased under (1) shall be made available for sale for a period of thirty days to those eligible for purchase under subsection (f) of this section and thereafter may be opened to bids from the general public and sold to the highest responsible bidder.

''(e) Of the property authorized to be sold under section 2 of this Act, land in the town area which has not been improved or land from which the improvements have been removed shall be sold in accordance with the following terms and conditions.

''(1) Residential property in the town area shall be offered for sale to persons who are tenants of the United States in Federal housing in the town area or who would meet the requirements for eligibility to become such tenants under the most recent regulations of the Bureau of Reclamation for the assignment of persons to Federal housing in the town area. Applicants to purchase shall be placed in order of opportunity to choose pursuant to a public drawing. No application shall be accepted from the spouse of any applicant or from a person, or the spouse of such person, who owns, has owned, or has contracted to buy other residential property in the town area. Sales shall be at the appraised value as established under section 5 less applicable discounts under this Act, and selection and purchase under this priority by successful applicants shall be concluded within limits of time to be established by the Secretary. Residential property which is not sold under the preceding provisions of this subsection shall be open to bids from the general public and shall be sold to the highest responsible bidder.

''(2) Property which at the time of sale is zoned for other than residential use, except such as is disposed of under subsection (f) of this section and land with church or hospital improvements thereon, shall be open to bids from the general public and shall be sold to the highest responsible bidder.

''(f) Of the property in the town area authorized to be sold under section 2 of this Act, except that which is covered by subsections (b), (c)(3), and (e)(1) of this section, land not purchased by the holders of a priority or preference under this section shall, for thirty days following the period during which holders of a priority or preference could purchase the same, be offered for sale at the appraised value as established under section 5 less applicable discounts under this Act to persons leasing property in the town area from the United States for business or commercial uses. The Secretary may, in his discretion, permit more than one lot to be included in a single purchase, but only if the property to be purchased is compact and contiguous. If two or more applicants to purchase under this subsection desire the same property, their order of opportunity to purchase shall be determined pursuant to a public drawing. A pur-

chase under this subsection shall render the purchaser and any spouse of such purchaser ineligible either to make an additional purchase under this subsection or to purchase the business or commercial property he is renting from the United States.

''(g) Any improvement owned by the United States located on lands in the town area subject to being purchased by the holder of a priority or preference right hereunder and not purchased, after being offered for sale, within one year following the expiration of the period within which the priority or preference right can be exercised, may be opened to bids from the general public and may be sold to the highest responsible bidder.

''(h) In all public sales of property under this Act to the highest responsible bidder, which shall include all sales of property to be sold in the Grand Coulee area, the Secretary shall reserve the right to reject all bids; and, in the event all bids are less than the appraised value of the property as established under section 5 or in the event no bids are received, the property shall be available for sale to the first taker from the general public at not less than aforesaid appraised value until all such property has been sold.

''(i)(1) Whenever the Secretary, on presentation of adequate evidence by a prospective purchaser or purchasers under subsections (b)(1) or (b)(2) of this section, shall determine that financing of purchases on reasonable terms cannot be arranged from other sources, he is authorized to enter into contracts with such purchasers under which the purchaser would not be required to make a downpayment of more than 10 per centum of the appraised value of the property as established under section 5 less applicable discounts under this Act and the remainder of the repayment obligation shall be paid on terms as to amount, repayment period, installments, and interest rate not more favorable to the purchasers than those which would be available were the purchases to be financed under mortgages eligible for insurance under subsection 223(a) of the National Housing Act, as herein amended [section 1715n(a) of Title 12]: *Provided*, That the Secretary may increase the interest rate by additional components equal to the premium being charged (and any periodic service charge being authorized by the Federal Housing Commissioner for property of a similar character) under subsection 223(a) of the National Housing Act, as herein amended [section 1715n(a) of Title 12], at the effective date of the aforesaid contracts.

''(2) Whenever the Secretary, on presentation of adequate evidence by a prospective purchaser or purchasers under subsections (c)(1), (d)(1), or (f) of this section, shall determine that financing of purchases on reasonable terms cannot be arranged from other sources, he is authorized to enter into contracts with such purchasers under which the purchaser would not be required to make a down payment of more than 10 per centum of the appraised value of the property as established under section 5, less applicable discounts under this Act. The remainder of the repayment obligation shall be paid with such terms as to amount, repayment period, installments, and interest rate as the Secretary shall determine to be fair and equitable.

''(3) The Secretary may assign any installment contract under this section at such times and on such terms and conditions as he deems appropriate. Any such assignment made at a discount shall be defeasible if within sixty days after receipt of notification of such assignment the original obligor of the assigned contract, or his successors, assigns, or legal representative, shall cause to be received by the Secretary a tender of the amount for which such assignment was made, in which event such tender shall be accepted as full payment of the contract.

''(j) Except in the case of property sold to the highest responsible bidder under this section or property sold to the first taker from the general public under subsection (h) of this section or by negotiated sale under subsection (c)(3) of this section, persons purchasing property under this section or their successors, assigns, or legal representatives, shall be entitled to a discount in the purchase price at the time they enter into a purchase contract equal to 5 per centum of its appraised value as established under section 5 and, in the event of incorporation of the municipality within four years from the date of this Act [Aug. 30, 1957], they shall be entitled to an additional discount in the purchase price (or rebate as appropriate) equal to 10 per centum of the aforesaid appraised value.

''(k) In establishing rules and regulations governing sales of property in the town area under this section, and in determining the terms and conditions of such sales other than those prescribed in this Act, the Secretary shall consult with the representatives of the Coulee Dam Community as determined by him.

''SEC. 4. [SECTION AMENDED SECTION 1715n(a)(3) OF TITLE 12, BANKS AND BANKING].

''SEC. 5. [APPRAISALS AND REAPPRAISALS OF VALUE]. The appraised values referred to in section 3 of this Act shall be determined from time to time for a period of five years after the date of this Act [Aug. 30, 1957] by the Administrator of Housing and Home Finance Agency or his designee at the request of the Secretary. Thereafter, the Secretary may make such reappraisals as he deems necessary. Appraisals or reappraisals in the town area shall be made only after representatives of the Coulee Dam community, as determined by the Secretary, and of the Columbia River Commission, or such corresponding organization as may succeed it, have been granted an opportunity to offer advice. All appraisals and reappraisals shall be made on the basis of the properties' fair market value in the locality. In the sale of property to a tenant under subsections 3(b)(1) and (3)(d)(1) of this Act, the value of structural improvements made at such tenant's own expense shall, to the extent the appraiser or appraisers hereunder determine that such improvements actually enhance the value of the property, be deducted from what would otherwise be the appraised value of the property to be sold; and the difference shall be deemed the appraised value for the purposes of this Act.

''SEC. 6. [AUTHORITY OF SECRETARY TO TRANSFER PROPERTY AND FACILITIES]. The Secretary is authorized to transfer without cost out of the properties in his custody within the town and Grand Coulee areas ownership of—

''(a) any Federally owned municipal-type property and facilities together with rights-of-way therefor, equipment, materials, and supplies, in or serving said areas, including but not limited to the sewer, water, fire-alarm, street-lighting, electric feeder lines, and power-distribution systems, and the highways, streets, alleys, sidewalks, parks, and parking areas to the municipality or Grand Coulee if their respective areas are substantially served by such properties. Any such transfer to the municipality, however, will not be made unless the town area or a part thereof is incorporated within four years from the date of this Act [Aug. 30, 1957];

''(b) the school buildings and grounds, athletic fields, tennis courts, and other properties currently used for educational purposes to the appropriate school district; and

''(c) highway improvements in and connecting the town and Grand Coulee areas and the bridge across the Columbia River, together with the necessary rights-of-way therefor to the State of Washington.

''SEC. 7. [AVAILABILITY OF FUNDS]. (a) There is hereby made available out of the proceeds of sales made pursuant to section 3 of this Act an amount not to exceed $130,000 for expenditure, directly or through the local units of government involved, for work in connection with the disposal of sewage in the immediate vicinity of the town of Coulee Dam and the city of Grand Coulee, including betterment work on the existing open drain along the north side of the highway through the city of Grand Coulee. Of this amount the Secretary shall pay not more than $100,000 to Grand Coulee and not more than $30,000 to the municipality. Except to the extent that any expenditures have been made di-

rectly as provided in the preceding sentence, the Secretary shall, upon application, pay to Grand Coulee the amount of $10,000 and to the municipality the amount of $3,000 for engineering surveys and drafting of specifications for proposed construction and/or improvement of sewage disposal and drainage facilities. After final drawings and specifications have been approved by the Secretary and the construction contracts have been entered into, the Secretary shall pay monthly to Grand Coulee and to the municipality additional amounts equivalent to earnings under their contracts as evidenced by construction progress reports certified by their contractors and by Grand Coulee and the municipality, but not to exceed a total of $90,000 for the former and $27,000 for the latter.

''(b) Subject to the provisions of subsection 9(a) of this Act, the following amounts shall be made available, out of the proceeds of sales made pursuant to section 3 of this Act, to the municipality if incorporated within four years from the date of this Act [Aug. 30, 1957]: (1) On incorporation, $44,000; (2) at the end of one year after incorporation, $21,000; and (3) at the end of two years after incorporation, $15,000.

''(c) The Secretary is hereby authorized to make available as herein provided, as power and energy reserved for the operation and maintenance of the Columbia Basin project, for users in the town area and, to other communities within three and one-half miles of Grand Coulee Dam which are served by municipally owned distribution systems such amount of power and energy as, in his judgment, is needed to meet load requirements for space-heating purposes existing at the time of incorporation of the municipality. Such power and energy may be made available directly to the users or indirectly through distributing agencies, for a period of ten years from the date of this Act [Aug. 30, 1957] and may be at such special rates as the Secretary finds to be proper but at not less than cost.

''SEC. 8. [TAXES ON PROPERTY SOLD UNDER CONTRACTS DEFERRING TRANSFER OF TITLE]. Property sold under any contract deferring transfer of title pending payment of the purchase price upon recordation of such contract in the county records shall be subject to the provisions of the laws of the State of Washington relating to the assessment and collection of property taxes, and to liens for such taxes and to all proceedings for the enforcement thereof, in the same manner and to the same extent as privately owned property. The United States does not assume any obligation for the amounts so assessed or taxed; and any proceedings to enforce them shall be subject to any title then remaining in the United States and to any prior lien reserved to the United States for unpaid installments under sale contracts made hereunder.

''SEC. 9. [PROCEEDS FROM SALES]. (a) All proceeds from sales of property (including the assignment of contracts) authorized under section 2 of this Act are hereby appropriated for expenditure by the Secretary for (1) expenses of disposal of Federal property under this Act, including rebates, where appropriate, to vendees of the United States entitled to the discount provided under section 3 of this Act for attainment of early incorporation of the municipality, and (2) for purposes authorized in subsection 7(a) and (1) of subsection 7(b) of this Act: *Provided*, That amounts referred to in (2) and (3) of subsection 7(b) of this Act shall be expended only after specific appropriation has been made by Congress therefor. So much of the aforesaid proceeds as is in excess of amounts which may be necessary for expenditures referred to in this subsection shall be covered into the reclamation fund.

''(b) Transfers under this Act of Federal property to non-Federal ownership shall not result in any diminution of the reimbursable costs of the Columbia Basin project except to the extent that any net proceeds from sales of property under this Act are credited to said project.

''SEC. 10 [RIGHTS UNDER LEASES]. Transfers of Federal property under this Act shall not impair rights under leases granted by the United States.

''SEC. 11. [POWERS OF SECRETARY; RULES AND REGULATIONS; APPROPRIATION; CONTRACTS]. (a) The Secretary is authorized to perform such acts, to make such rules and regulations, and to include in any contracts and conveyances such provisions as he deems proper for the purpose of carrying out the provisions of this Act, including provisions for payment for furnishing of municipal facilities and services while such facilities and services are provided by the United States and for the establishment of liens in connection therewith. There are hereby authorized to be appropriated such sums, not otherwise appropriated, as may be required to carry out the purposes of this Act. Wherever in this Act functions, powers, and other duties are conferred upon the Secretary, such functions, powers, and duties may be performed, exercised, or discharged by his duly authorized representatives.

''(b) The Secretary is authorized to enter into contracts with the municipality whereby either party might undertake to render to the other such services in aid of the performance of activities and functions of the municipality and of the Department of the Interior within or near Coulee Dam as will, in the Secretary's judgment, contribute substantially to the efficiency or economy of the operations of the Department of the Interior.

''(c) The authority conferred by this Act is in addition to any authority conferred by any other law and shall not be subject to the provisions of any law inconsistent herewith.

''SEC. 12. [SHORT TITLE]. This Act may be cited as the 'Coulee Dam Community Act of 1957'.''

§ 835c–1. Taxation and assessments; applicability of State laws

(a) Payments in lieu of taxes

The Secretary may enter into agreements to pay annual sums in lieu of taxes to any State or political subdivision thereof with respect to any real property situated therein after it is acquired pursuant to the authority of this Act and before execution by the United States of a contract of sale covering it, out of funds derived from the leasing of such lands. The amount so paid for any year upon any such property shall not exceed the taxes that would be paid to the State or subdivision as the case may be upon such property if it were not exempt from taxation thereby.

(b) Lands acquired by United States

Any public lands within the project and any lands or interests in lands acquired by the United States under this Act, beginning at such date or dates and subject to such provisions and limitations as may be fixed or provided by regulations made under section 8 [16 U.S.C. 835c–4], shall be (i) subject to the provisions of the laws of the State of Washington relating to the organization, government, and regulation of irrigation, reclamation, and conservancy districts, and (ii) subject to legal assessment or taxation by any such district, and to liens for such assessments and taxes and to all proceedings for the enforcement thereof, in the same manner and to the same extent as privately owned lands of like character. The United States does not assume any obligation for amounts so assessed or taxed; and any proceedings to enforce them shall be subject to any title then remaining in the United States, to any prior lien reserved to the United States for unpaid installments under land sale contracts made under this Act, and to any lien for any other charges, accrued or un-

accrued, under and by virtue of such contracts or any contract between the United States and the district in which the land is located.

(c) Sale of project lands

In addition to taxation or assessment under subsection (b) of this section upon execution by the United States of a contract of sale of any lands within the project, the lands under contract may be taxed by the State or political subdivision thereof in the same manner and to the same extent as privately owned lands of a like character. All taxes legally so assessed may be enforced in the same manner and under the same proceeding whereby said taxes are enforced against privately owned lands, subject to the limitations in favor of the United States that govern the enforcement of district assessments or taxes as provided in subsection (b) of this section. If lands under any such contract shall at any time revert to the United States before transfer of title under the contract by reason of default thereunder, all liens or tax titles resulting from taxes levied pursuant to the authority of this subsection upon such lands shall be thereupon extinguished; and the levying of any such tax by such State or political subdivision shall be deemed to be an agreement on its part, in the event of such reversion, to execute and record a formal release of such lien or tax title.

(May 27, 1937, ch. 269, § 5, as added Mar. 10, 1943, ch. 14, 57 Stat. 19; amended Pub. L. 87–728, § 6(a), Oct. 1, 1962, 76 Stat. 679.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b), is act May 27, 1937, ch. 269, as amended generally by act Mar. 10, 1943, ch. 14, 57 Stat. 14, known as The Columbia Basin Project Act, which enacted this section, sections 835, 835a to 835c, and 835c–2 to 835c–5 of this title, and provisions set out as a note under section 835 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 835 of this title and Tables.

AMENDMENTS

1962—Subsec. (b). Pub. L. 87–728 struck out ''Regulations to carry out this subsection shall be effective when filed for record in the manner provided in section 835a(f) of this title''.

§ 835c–2. Authorization of appropriations; establishment of Columbia Basin Land Development Account

There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such moneys as may be necessary to carry out the provisions of this Act, to be reimbursable to the extent required by this Act. All revenues received in carrying out the provisions of section 4 hereof [16 U.S.C. 835c] shall be covered into the General Treasury as miscellaneous receipts. Amounts equal to appropriated funds requisitioned by the Secretary and made available for disbursement on the books of the Treasurer of the United States shall be debited in a special account in the Treasury, to be known as the Columbia Basin Land Development Account. Amounts equal to revenues covered into the General Treasury as miscellaneous receipts shall be credited in said special account. After such credits equal the amount of the debits with interest thereon at the rate of 3 per centum per annum from the respective dates of the debits, additional credits in said special account shall be made by the Secretary, in the manner determined by him, the basis of corresponding credits to the construction cost obligations of the district or districts entering into contracts for the repayment thereof.

(May 27, 1937, ch. 269, § 6, as added Mar. 10, 1943, ch. 14, 57 Stat. 19; amended Pub. L. 87–728, § 6(b), Oct. 1, 1962, 76 Stat. 679.)

REFERENCES IN TEXT

This Act, referred to in text, is act May 27, 1937, ch. 269, as amended generally by act Mar. 10, 1943, ch. 14, 57 Stat. 14, known as The Columbia Basin Project Act, which enacted this section, sections 835, 835a to 835c–1, and 835c–3 to 835c–5 of this title, and provisions set out as a note under section 835 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 835 of this title and Tables.

AMENDMENTS

1962—Pub. L. 87–728 substituted ''for the repayment thereof'' for ''under section 835a of this title''.

§ 835c–3. Repealed. Pub. L. 87–728, § 3, Oct. 1, 1962, 76 Stat. 678

Section, act May 27, 1937, ch. 269, § 7, as added Mar. 10, 1943, ch. 14, 57 Stat. 20; amended Sept. 27, 1950, ch. 1060, 64 Stat. 1074, related to the consent of the State of Washington to the provisions of sections 835 and 835a to 835c–5 of this title, and to the effect of constitutional limitations.

§ 835c–4. General powers of Secretary of the Interior; delegation to authorized representatives

The Secretary is authorized to perform such acts, to make such rules and regulations, and to include in contracts relating to the Columbia Basin project such provisions as he deems proper for carrying out the provisions of this Act; and in connection with sales or exchanges under the Act, he is authorized to effect conveyances without regard to the law governing the patenting of public lands. Wherever in this Act functions, powers, or duties are conferred upon the Secretary, said functions, powers, or duties may be performed, exercised, or discharged by his duly authorized representatives.

(May 27, 1937, ch. 269, § 8, as added Mar. 10, 1943, ch. 14, 57 Stat. 20; amended Pub. L. 87–728, § 6(c), Oct. 1, 1962, 76 Stat. 679.)

REFERENCES IN TEXT

This Act and the Act, referred to in text, are references to act May 27, 1937, ch. 269, as amended generally by act Mar. 10, 1943, ch. 14, 57 Stat. 14, known as The Columbia Basin Project Act, which enacted this section, sections 835, 835a to 835c–3, and 835c–5 of this title, and provisions set out as a note under section 835 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 835 of this title and Tables.

AMENDMENTS

1962—Pub. L. 87–728 substituted ''contracts relating to the Columbia Basin project'' for ''the contracts hereinbefore provided for''.

TRANSFER OF FUNCTIONS

Power marketing functions of Bureau of Reclamation, including construction, operation, and mainte-

nance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 835c–5. Repealed. Pub. L. 87–728, § 3, Oct. 1, 1962, 76 Stat. 678

Section, act May 27, 1937, ch. 269, § 9, as added Mar. 10, 1943, ch. 14, 57 Stat. 20, related to the consent of the Government to the sale of school and public lands of the State of Washington.

§ 835d. Acquisition of Indian lands, Spokane and Colville Reservations

In aid of the construction, operation and maintenance of the Columbia Basin project (formerly the Grand Coulee Dam project), authorized by the Act of August 30, 1935 (49 Stat. 1028), the Act of August 4, 1939 (53 Stat. 1187), and the Columbia Basin Project Act (Public, Numbered 8, Seventy-eighth Congress, first session, 57 Stat. 14), there is hereby granted to the United States, subject to the provisions of this section and sections 835e to 835h of this title, (a) all the right, title, and interest of the Indians in and to the tribal and allotted lands within the Spokane and Colville Reservations, including sites of agency and school buildings and related structures and unsold lands in the Klaxta town site, as may be designated therefor by the Secretary of the Interior from time to time: *Provided*, That no lands shall be taken for reservoir purposes above the elevation of one thousand three hundred and ten feet above sea level as shown by Bureau of Land Management surveys, except in Klaxta town site and except where in the judgment of the Secretary of the Interior, special circumstances concerning the reservoir or its operation and maintenance require the taking of land above that elevation; and (b) such other interests in or to any such lands and property within these reservations as may be required and as may be designated by the Secretary of the Interior from time to time for the construction of pipe lines, highways, railroads, telegraph, telephone, and electric-transmission lines in connection with the project, or for the relocation or reconstruction of such facilities made necessary by the construction of the project.

The Secretary of the Interior, in lieu of reserving rights of hunting, fishing, and boating to the Indians in the areas granted under this section and sections 835e to 835h of this title, shall set aside approximately one-quarter of the entire reservoir area for the paramount use of the Indians of the Spokane and Colville Reservations for hunting, fishing, and boating purposes, which rights shall be subject only to such reasonable regulations as the Secretary may prescribe for the protection and conservation of fish and wildlife: *Provided*, That the exercise of the Indians' rights shall not interfere with project operations. The Secretary shall also, where necessary, grant to the Indians reasonable rights of access to such area or areas across any project lands.

(June 29, 1940, ch. 460, § 1, 54 Stat. 703; Dec. 16, 1944, ch. 602, 58 Stat. 813; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

Act of August 30, 1935 (49 Stat. 1028), referred to in text, is act Aug. 30, 1935, ch. 831, 49 Stat. 1028, as amended, which act, by section 2, authorized the construction of the Grand Coulee Dam.

Act of August 4, 1939, referred to in text, is act Aug. 4, 1939, ch. 418, 53 Stat. 1187, as amended, popularly known as the ''Reclamation Project Act of 1939'', which is classified to sections 375a, 387 to 389, 485 to 485h, and 485i to 485k of Title 43, Public Lands. For complete classification of this Act to the Code, see section 485k of Title 43 and Tables.

The Columbia Basin Project Act, referred to in text, is act May 27, 1937, ch. 269, as amended generally by act Mar. 10, 1943, ch. 14, 57 Stat. 14, which enacted sections 835 and 835a to 835c–5 of this title and provisions set out as a note under section 835 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 835 of this title and Tables.

AMENDMENTS

1944—Act Dec. 16, 1944, among other changes, inserted reference to the Act of August 4, 1939, and the Columbia Basin Project Act in first par.

TRANSFER OF FUNCTIONS

Functions of General Land Office transferred to Bureau of Land Management by Reorg. Plan No. 3 of 1946. See note set out under section 1 of Title 43, Public Lands.

§ 835e. Payment for lands acquired from Spokane and Colville Reservations

As lands or interests in lands are designated from time to time under sections 835d to 835h of this title, the Secretary of the Interior shall determine the amount of money to be paid to the Indians as just and equitable compensation therefor. As to the tribal lands, the amounts so determined shall be transferred in the Treasury of the United States from the funds now or hereafter made available for the construction of the Columbia Basin project to the credit of the appropriate tribe pursuant to the provisions of section 155 of title 25. The amounts due individual landowners or their heirs or devisees shall be paid from funds now or hereafter made available for the construction of said project to the superintendent of the Colville Indian Agency or such other officer as shall be designated by the Secretary of the Interior for credit on the books of said agency to the accounts of the individuals concerned.

(June 29, 1940, ch. 460, § 2, 54 Stat. 703; May 27, 1937, ch. 269, § 1, 50 Stat. 208; Mar. 10, 1943, ch. 14, 57 Stat. 14.)

CHANGE OF NAME

Act May 27, 1937, as amended by act Mar. 10, 1943, changed name of project from ''Grand Coulee Dam'' to ''Columbia Basin''.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2,

eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 835f. Use of funds deposited to allottees; land and improvements

Funds deposited to the credit of allottees, their heirs or devisees may be used in the discretion of the Secretary of the Interior, for the acquisition of other lands and improvements, or the relocation of existing improvements or construction of new improvements on the lands so acquired for the allottees or heirs whose lands and improvements are acquired under the provisions of sections 835d to 835h of this title. Lands so acquired shall be held in the same status as those from which the funds were derived, and shall be nontaxable until otherwise provided by Congress.

(June 29, 1940, ch. 460, § 3, 54 Stat. 703.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 835g. Relocation of Indian cemeteries

As to any Indian cemetery lands required for the project, the Secretary of the Interior is authorized, in his discretion, in lieu of requiring payment therefor, to establish cemeteries on other lands that he may select and acquire for the purpose, and to remove bodies, markers, and other appurtenances to the new sites. All costs incurred in connection with any such relocation shall be paid from moneys appropriated for the project. All right, title, and interest of the Indians in the lands within any cemetery so relocated shall terminate and the grant of title under sections 835d to 835h of this title take effect as of the date the Secretary of the Interior authorizes the relocation. Sites of the relocated cemeteries shall be held in trust by the United States for the Spokane or Colville Tribe, as the case may be, and shall be nontaxable.

(June 29, 1940, ch. 460, § 4, 54 Stat. 703.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 835h. Acts and regulations by Secretary of the Interior

The Secretary of the Interior is authorized to perform any and all acts and to prescribe such regulations as he may deem appropriate to carry out the provisions of sections 835d to 835g of this title.

(June 29, 1940, ch. 460, § 5, 54 Stat. 704.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 835i. Contracts with State of Washington for maintenance and operation of fish hatcheries

In connection with fish hatcheries built or to be built as a part of the fish-protection program required on the Columbia Basin Dam project, the Secretary of the Interior is authorized to contract with the State of Washington for the maintenance and operation of any of them at the expense of said State.

(Oct. 9, 1940, ch. 794, 54 Stat. 1085; May 27, 1937, ch. 269, § 1, 50 Stat. 208; Mar. 10, 1943, ch. 14, 57 Stat. 14.)

CHANGE OF NAME

Act May 27, 1937, as amended by act Mar. 10, 1943, changed name of project from ''Grand Coulee Dam'' to ''Columbia Basin''.

§ 835j. Projects marketing commercial power and energy; consolidated financial statement to President and Congress; adjustment of rates to assure return of reimbursable construction costs within prescribed period

The Secretary of the Interior shall prepare, maintain, and present annually to the President and the Congress a consolidated financial statement for all projects heretofore or hereafter authorized, including the third powerplant at Grand Coulee Dam, from or by means of which commercial power and energy is marketed through the facilities of the Federal Columbia River power system and for all other projects associated therewith to the extent that the costs of these projects are required by law to be charged to and returned from net revenues derived from the power and energy, or any power and energy, so marketed, and he shall, if said consolidated statement indicates that the reimbursable construction costs of the projects, or any of the projects, covered thereby which are chargeable to and returnable from the commercial power and energy so marketed are likely not to be returned within the period prescribed by law, take prompt action to adjust the rates charged for such power and energy to the extent necessary to assure such return.

(Pub. L. 89–448, § 2(a), formerly § 2, June 14, 1966, 80 Stat. 200, renumbered Pub. L. 89–561, § 6(1), Sept. 7, 1966, 80 Stat. 714.)

CODIFICATION

Section is comprised of first sentence of first par. of section 2(a) of Pub. L. 89–448, as so designated by Pub. L. 89–561. Second sentence of the first par. repealed section 832h(c) of this title; second par. of such section 2(a) is classified to section 835k of this title; subsecs. (b) and (c) of section 2 are classified to sections 835*l* and 835m of this title, respectively.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of this section requiring annual presentation to Congress of a consolidated financial statement, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 11th item on page 86 of House Document No. 103–7.

TRANSFER OF FUNCTIONS

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

EX. ORD. NO. 8526. COORDINATING THE ELECTRICAL FACILITIES OF GRAND COULEE DAM PROJECT AND BONNEVILLE PROJECT

Ex. Ord. No. 8526, Aug. 26, 1940, 5 F.R. 3390, as amended by Ex. Ord. No. 12038, § 3(a), Feb. 3, 1978, 43 F.R. 4957, provided:

WHEREAS the Bureau of Reclamation is constructing the Grand Coulee Dam Project [now Columbia Basin Project] pursuant to authority delegated under section 2 of the act of August 30, 1935, 49 Stat. 1028, 1039, and in connection therewith will operate and maintain facilities for the generation of electrical power and energy; and

WHEREAS the Bonneville Power Administrator is now disposing of power and energy generated at the Bonneville Project; and

WHEREAS integration and coordination of the electrical facilities of the two projects will be facilitated by a mutual exchange of the electrical power and energy generated at the Bonneville Project and the Grand Coulee Dam Project and by marketing the power and energy from both projects through a single agency:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by section 2 of the act of August 30, 1935, *supra*, and supplementing my letter of January 29, 1936, to the Secretary of the Interior, it is hereby ordered as follows:

1. The Bonneville Power Administrator is hereby designated, under the supervision and direction of the Secretary of Energy, as agent for the sale and distribution of electrical power and energy generated at the Grand Coulee Dam Project and not required for operation of that Project, including its irrigation features.

2. The Administrator shall construct, operate, and maintain the transmission lines and substations and appurtenant structures and facilities necessary for marketing the power and energy delivered to him from the Grand Coulee Dam Project; except that the Bureau of Reclamation may construct, operate, or maintain such transmission facilities as the Secretary of the Interior, in his discretion, deems necessary or desirable. The Bureau of Reclamation and the Administrator, with the approval of the Secretary of the Interior, shall agree upon and schedule the installation of additional generators at the Grand Coulee Dam Project.

3. The Bureau of Reclamation, with the approval of the Secretary of the Interior, shall provide the Administrator with a basic schedule of the power and energy to be available to him from the Grand Coulee Dam Project. The Bureau, with the Secretary's approval, may revise the schedule from time to time, except that no revision decreasing the amount of power and energy available under an existing schedule shall be effective unless agreed to by the Administrator. The Bureau will make power and energy from the Grand Coulee Dam Project available to the Administrator in accordance with these schedules.

4. The Administrator shall market the power and energy delivered to him from the Grand Coulee Dam Project at rates to be fixed by the Secretary of Energy consistently with all applicable provisions of law and allocations of cost determined as provided thereunder. From time to time the Secretary of Energy, consistently with all applicable provisions of law and allocations of cost made pursuant thereto, shall determine the basis on which the Administrator and the Bureau shall compute the returns to be made to the Bureau for power and energy delivered to the Administrator from the Grand Coulee Dam Project pursuant to this order. All receipts collected by the Administrator from transmission and sale of power and energy shall be deposited with the Treasurer of the United States for credit to a special account, subject to allocation by the Secretary of Energy in accordance with the computations above provided for. Upon certification by the Secretary of Energy, the amounts of receipts properly allocable to the Bonneville Project shall be covered into the Treasury of the United States to the credit of miscellaneous receipts subject to the provisions of section 2 of the act of August 20, 1937, 50 Stat. 731, 732 [16 U.S.C. 832a]. The amounts certified by the Secretary of Energy as being allocable to the Grand Coulee Dam Project shall be covered into the Treasury for credit to the Reclamation Fund to the extent authorized by law.

5. In aid of this delegation of authority to the Secretary of the Interior and the Secretary of Energy, the Commissioner of the Bureau of Reclamation and the Bonneville Power Administrator shall, subject to the approval of the Secretary of the Interior and the Secretary of Energy, and the terms of this order, enter into any and all agreements that are necessary for the interconnection of the Bonneville Project and the Grand Coulee Dam Project and to carry out the provisions of this order.

§ 835k. Return of construction costs from marketing revenues in event of inability of irrigation water users to repay within repayment period and lack of other sources of revenue

Subject to the provisions of section 835*l* of this title, that portion of the construction cost of any project hereafter authorized to be constructed, operated, and maintained by the Secretary of the Interior under the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) within the Pacific Northwest which, though allocated to irrigation, is beyond the ability of the irrigation water users to repay within the repayment period prescribed by law for that project and cannot be returned within the same period from other project sources of revenue shall be charged to and returned within that period from net revenues derived from the marketing of commercial power and energy through the Federal Columbia River power system, unless otherwise provided by law. As used in this section, the term ''Pacific Northwest'' has the meaning ascribed to it in section 837 of this title.

(Pub. L. 89–448, § 2(a), formerly § 2, June 14, 1966, 80 Stat. 200, renumbered and amended Pub. L. 89–561, § 6(1), (2), Sept. 7, 1966, 80 Stat. 714.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, popularly known as the Reclamation Act, which is classified generally to chapter 12 (§ 371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables.

CODIFICATION

Section is comprised of second par. of section 2(a) of Pub. L. 89–448, as so designated by Pub. L. 89–561. First sentence of first par. of such section 2(a) is classified to section 835j of this title; second sentence of such first par. repealed section 832h(c) of this title; subsecs. (b) and (c) of section 2 are classified to sections 835*l* and 835m of this title, respectively.

AMENDMENTS

1966—Pub. L. 89–561, § 6(2), substituted ''Subject to the provisions of section 835*l* of this title, that'' for ''That''.

TRANSFER OF FUNCTIONS

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

§ 835*l*. Congressional declaration of financial policy; limitations on assistance; analyses and studies; "net revenues" defined

It is declared to be the policy of the Congress that reclamation projects hereafter authorized in the Pacific Northwest to receive financial assistance from the Federal Columbia River power system shall receive such assistance only from the net revenues of that system as provided in this section, and that their construction shall be so scheduled that such assistance, together with similar assistance for previously authorized reclamation projects (including projects not now receiving such assistance for which the Congress may hereafter authorize financial assistance) will not cause increases in the rates and charges of the Bonneville Power Administration. It is further declared to be the policy of the Congress that the total assistance to all irrigation projects, both existing and future, in the Pacific Northwest shall not average more than $30,000,000 annually in any period of twenty consecutive years. Any analyses and studies authorized by the Congress for reclamation projects in the Pacific Northwest shall be prepared in accordance with the provisions of sections 835j to 835m of this title. As used in sections 835j to 835m of this title, the term ''net revenues'' means revenues as determined from time to time which are not required for the repayment of (1) all costs allocated to power at projects in the Pacific Northwest then existing or authorized, including the cost of acquiring power by purchase or exchange, and (2) presently authorized assistance from power to irrigation at projects in the Pacific Northwest existing and authorized prior to September 7, 1966.

(Pub. L. 89–448, §2(b), as added Pub. L. 89–561, §6(3), Sept. 7, 1966, 80 Stat. 714.)

CODIFICATION

Section is comprised of subsec. (b) of section 2 of Pub. L. 89–448, as added by Pub. L. 89–561. Subsecs. (a) and (c) of section 2 are classified to sections 835j and 835k, and 835m of this title, respectively.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

§ 835m. Recommendations for changes in limitations on financial assistance; time and frequency of submission

On December 20, 1974, and thereafter at intervals coinciding with anniversary dates of Federal Energy Regulatory Commission general review of the rates and charges of the Bonneville Power Administration, the Secretary of the Interior shall recommend to the Congress any changes in the dollar limitations herein placed upon financial assistance to Pacific Northwest reclamation projects that he believes justified by changes in the cost-price levels existing on July 1, 1966, or by other relevant changes of circumstances.

(Pub. L. 89–448, §2(c), as added Pub. L. 89–561, §6(3), Sept. 7, 1966, 80 Stat. 715; amended Pub. L. 95–91, title IV, §402(a)(1)(B), Aug. 4, 1977, 91 Stat. 583.)

CODIFICATION

Section is comprised of subsec. (c) of section 2 of Pub. L. 89–448, as added by Pub. L. 89–561. Subsecs. (a) and (b) of section 2 are classified to sections 835j and 835k, and 835*l* of this title, respectively.

TRANSFER OF FUNCTIONS

''Federal Energy Regulatory Commission'' substituted in text for ''Federal Power Commission'' pursuant to Pub. L. 95–91, §402(a)(1)(B), which is classified to section 7172(a)(1)(B) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

CHAPTER 12E—NIAGARA POWER PROJECT

Sec.
836. Authorization to license construction and operation; licensing conditions.
836a. Rules governing issuance of license.

§ 836. Authorization to license construction and operation; licensing conditions

(a) The Federal Energy Regulatory Commission is expressly authorized and directed to issue a license to the Power Authority of the State of New York for the construction and operation of a power project with capacity to utilize all of the United States share of the water of the Niagara River permitted to be used by international agreement.

(b) The Federal Energy Regulatory Commission shall include among the licensing conditions, in addition to those deemed necessary and required under the terms of the Federal Power Act [16 U.S.C. 791a et seq.], the following:

(1) In order to assure that at least 50 per centum of the project power shall be available for sale and distribution primarily for the benefit of the people as consumers, particularly domestic and rural consumers, to whom such power shall be made available at the lowest rates reasonably possible and in such manner as to encourage the widest possible use, the licensee in disposing of 50 per centum of the project power shall give preference and priority to public bodies and nonprofit cooperatives within economic transmission distance. In any case in which project power subject to the preference provisions of this paragraph is sold to utility companies organized and adminis-

tered for profit, the licensee shall make flexible arrangements and contracts providing for the withdrawal upon reasonable notice and fair terms of enough power to meet the reasonably foreseeable needs of the preference customers.

(2) The licensee shall make a reasonable portion of the project power subject to the preference provisions of paragraph (1) of this subsection available for use within reasonable economic transmission distance in neighboring States, but this paragraph shall not be construed to require more than 20 per centum of the project power subject to such preference provisions to be made available for use in such States. The licensee shall cooperate with the appropriate agencies in such States to insure compliance with this requirement. In the event of disagreement between the licensee and the power-marketing agencies of any of such States, the Federal Energy Regulatory Commission may, after public hearings, determine and fix the applicable portion of power to be made available and the terms applicable thereto: *Provided*, That if any such State shall have designated a bargaining agency for the procurement of such power on behalf of such State, the licensee shall deal only with such agency in that State. The arrangements made by the licensee for the sale of power to or in such States shall include observance of the preferences in paragraph (1) of this subsection.

(3) The licensee shall contract, with the approval of the Governor of the State of New York, pursuant to the procedure established by New York law, to sell to the licensee of Federal Energy Regulatory Commission project 16 for a period ending not later than the final maturity date of the bonds initially issued to finance the project works herein specifically authorized, four hundred and forty-five thousand kilowatts of the remaining project power, which is equivalent to the amount produced by project 16 prior to June 7, 1956, for resale generally to the industries which purchased power produced by project 16 prior to such date, or their successors, in order as nearly as possible to restore low power costs to such industries and for the same general purposes for which power from project 16 was utilized: *Provided*, That the licensee of project 16 consents to the surrender of its license at the completion of the construction of such project works upon terms agreed to by both licensees and approved by the Federal Energy Regulatory Commission which shall include the following: (a) the licensee of project 16 shall waive and release any claim for compensation or damages from the Power Authority of the State of New York or from the State of New York, except just compensation for tangible property and rights-of-way actually taken, and (b) without limiting the generality of the foregoing, the licensee of project 16 shall waive all claims to compensation or damages based upon loss of or damage to riparian rights, diversionary rights, or other rights relating to the diversion or use of water, whether founded on legislative grant or otherwise.

(4) The licensee shall, if available on reasonable terms and conditions, acquire by purchase or other agreement, the ownership or use of, or if unable to do so, construct such transmission lines as may be necessary to make the power and energy generated at the project available in wholesale quantities for sale on fair and reasonable terms and conditions to privately owned companies, to the preference customers enumerated in paragraph (1) of this subsection, and to the neighboring States in accordance with paragraph (2) of this subsection.

(5) In the event project power is sold to any purchaser for resale, contracts for such sale shall include adequate provisions for establishing resale rates, to be approved by the licensee, consistent with paragraphs (1) and (3) of this subsection.

(6) The licensee, in cooperation with the appropriate agency of the State of New York which is concerned with the development of parks in such State, may construct a scenic drive and park on the American side of the Niagara River, near the Niagara Falls, pursuant to a plan the general outlines of which shall be approved by the Federal Energy Regulatory Commission; and the cost of such drive and park shall be considered a part of the cost of the power project and part of the licensee's net investment in said project: *Provided*, That the maximum part of the cost of such drive and park to be borne by the power project and to be considered a part of the licensee's net investment shall not exceed $15,000,000.

(7) The licensee shall pay to the United States and include in its net investment in the project herein authorized the United States share of the cost of the construction of the remedial works, including engineering and economic investigations, undertaken in accordance with article II of the treaty between the United States of America and Canada concerning uses of the waters of the Niagara River signed February 27, 1950, whenever such remedial works are constructed.

(Pub. L. 85–159, § 1, Aug. 21, 1957, 71 Stat. 401; Pub. L. 95–91, title IV, § 402(a)(1)(A), Aug. 4, 1977, 91 Stat. 583.)

REFERENCES IN TEXT

The Federal Power Act, referred to in subsec. (b), is act June 10, 1920, ch. 285, 41 Stat. 1063, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

TRANSFER OF FUNCTIONS

''Federal Energy Regulatory Commission'' substituted in text for ''Federal Power Commission'' pursuant to Pub. L. 95–91, § 402(a)(1)(A), which is classified to section 7172(a)(1)(A) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

§ 836a. Rules governing issuance of license

The license issued under the terms of this chapter shall be granted in conformance with Rules of Practice and Procedure of the Federal

Energy Regulatory Commission, but in the event of any conflict, the provisions of this chapter shall govern in respect of the project herein authorized.

(Pub. L. 85–159, § 2, Aug. 21, 1957, 71 Stat. 402; Pub. L. 95–91, title IV, § 402(a)(1)(A), Aug. 4, 1977, 91 Stat. 583.)

TRANSFER OF FUNCTIONS

''Federal Energy Regulatory Commission'' substituted for ''Federal Power Commission'' in subsecs. (a) and (b) pursuant to Pub. L. 95–91, § 402(a)(1)(A), which is classified to section 7172(a)(1)(A) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

CHAPTER 12F—PACIFIC NORTHWEST CONSUMER POWER PREFERENCE; RECIPROCAL PRIORITY IN OTHER REGIONS

Sec.

837. Definitions.

837a. Limitation of sale, delivery, and exchange of electric energy and electric peaking capacity for use outside Pacific Northwest to surplus energy and surplus peaking capacity; notice to customers; inspection of contract drafts.

837b. Contract terms and conditions for use of electric energy outside Pacific Northwest.

837c. Contract limitations and conditions for use of electric energy and peaking capacity of plants in other marketing areas for use within Pacific Northwest.

837d. Exchange contracts.

837e. Transmission lines for other electric energy; rates.

837f. Purchaser priority on Pacific Northwest power; amendment of existing contracts and new contracts to include priority provisions.

837g. Transmission lines between Pacific Northwest and Pacific Southwest; prohibition against construction of lines or related facilities; exceptions of lines and facilities recommended by Secretary or authorized by Congress; authority of Secretary to construct other transmission lines unaffected.

837g–1. Construction of additional facilities by Secretary of Energy for mutually beneficial power sales between Pacific Northwest and California; contribution of funds by non-Federal entities.

837h. Provisions not applicable to Canyon Ferry project or benefits and exchanges under Treaty between Canada and United States; preference of power users in Montana not modified.

§ 837. Definitions

As used in this chapter—

(a) ''Secretary'' means the Secretary of Energy.

(b) ''Pacific Northwest'' means (1) the region consisting of the States of Oregon and Washington, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming within the Columbia drainage basin and of the State of Idaho as the Secretary may determine to be within the marketing area of the Federal Columbia River power system, and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a rural electric cooperative served by the Administrator on December 5, 1980, which has a distribution system from which it serves both within and without said region.

(c) ''Surplus energy'' means electric energy generated at Federal hydroelectric plants in the Pacific Northwest which would otherwise be wasted because of the lack of a market therefor in the Pacific Northwest at any established rate.

(d) ''Surplus peaking capacity'' means electric peaking capacity at Federal hydroelectric plants in the Pacific Northwest for which there is no demand in the Pacific Northwest at any established rate.

(e) ''Non-Federal utility'' means any utility not owned or controlled by the United States, including any entity (1) which such a utility owns or controls, in whole or in part, or is controlled by, (2) which is controlled by those controlling such utility, or (3) of which such utility is a member.

(f) ''Energy requirements of any Pacific Northwest customer'' means the full requirements for electric energy of (1) any purchaser from the United States for direct consumption in the Pacific Northwest, and (2) any non-Federal utility in that region in excess of (i) the hydroelectric energy available for its own use from its generating plants in the Pacific Northwest, and (ii) any additional energy available for use in the Pacific Northwest which, under a then existing contract, the utility (A) can obtain at no higher incremental cost than the rate charged by the United States, or (B) is required to accept.

(g) Terms not defined herein shall, unless the context requires otherwise, have the meaning given them in the March 1949 Glossary of Important Power and Rate Terms prepared under the supervision of the Federal Power Commission.

(Pub. L. 88–552, § 1, Aug. 31, 1964, 78 Stat. 756; Pub. L. 95–91, title III, § 302(a), Aug. 4, 1977, 91 Stat. 578; Pub. L. 96–501, § 8(e), Dec. 5, 1980, 94 Stat. 2729.)

AMENDMENTS

1980—Subsec. (b)(2). Pub. L. 96–501 substituted ''(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a rural electric cooperative served by the Administrator on December 5, 1980, which has a distribution system from which it serves both within and without said region'' for ''(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative which has (i) no generating facilities, and (ii) a distribution system from which it serves both within and without said region''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–501 effective Dec. 5, 1980, see section 11 of Pub. L. 96–501, set out as an Effective Date note under section 839 of this title.

TRANSFER OF FUNCTIONS

''Secretary of Energy'' substituted for ''Secretary of the Interior'' in subsec. (a) pursuant to Pub. L. 95–91, § 302(a), which is classified to section 7152(a) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and the functions, personnel, property, funds, etc., thereof trans-

ferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

§ 837a. Limitation of sale, delivery, and exchange of electric energy and electric peaking capacity for use outside Pacific Northwest to surplus energy and surplus peaking capacity; notice to customers; inspection of contract drafts

Subject to the provisions of this chapter, the sale, delivery, and exchange of electric energy generated at, and peaking capacity of, Federal hydroelectric plants in the Pacific Northwest for use outside the Pacific Northwest shall be limited to surplus energy and surplus peaking capacity. At least 30 days prior to the execution of any contract for the sale, delivery, or exchange of surplus energy or surplus peaking capacity for use outside the Pacific Northwest, the Secretary shall give the then customers of the Bonneville Power Administration written notice that negotiations for such a contract are pending, and thereafter, at any customer's request, make available for its inspection current drafts of the proposed contract.

(Pub. L. 88–552, § 2, Aug. 31, 1964, 78 Stat. 756.)

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

§ 837b. Contract terms and conditions for use of electric energy outside Pacific Northwest

(a) Surplus energy; discontinuance of deliveries to maintain ability to meet requirements of Pacific Northwest customers; purchaser's responsibility for hardships; deliveries by non-Federal utility for use on contiguous distribution system not deemed deliveries for use outside Pacific Northwest

Any contract for the sale or exchange of surplus energy for use outside the Pacific Northwest, or as replacement, directly or indirectly, within the Pacific Northwest for hydroelectric energy delivered for use outside that region by a non-Federal utility, shall provide that the Secretary, after giving the purchaser notice not in excess of sixty days, will not deliver electric energy under such contract whenever it can reasonably be foreseen that such delivery would impair his ability to meet, either at or after the time of such delivery, the energy requirements of any Pacific Northwest customer. The purchaser shall obligate himself not to take delivery of or use any such energy to supply any load under such conditions that discontinuance of deliveries from the Pacific Northwest in sixty days would cause undue hardship to the purchaser or in his territory, and, further, the purchaser shall acknowledge full responsibility if any such hardship occurs. Deliveries by a non-Federal utility from its generating plants in the Pacific Northwest for use on its own distribution system in an area outside but contiguous to the Pacific Northwest (not including any extension of its outside service area by merger or acquisition after August 31, 1964) shall not be deemed deliveries by such utility for use outside the Pacific Northwest.

(b) Conservable electric energy; provisional basis for delivery; return of energy to meet requirements of Pacific Northwest customers; time and extent of return of energy

Electric energy generated at Federal hydroelectric plants in the Pacific Northwest which can be conserved, for which there is no immediate demand in the Pacific Northwest at any established rate, but for which the Secretary determines there may be a demand in meeting the future requirements of the Pacific Northwest, may be delivered for use outside that region only on a provisional basis under contracts providing that if the Secretary determines at a subsequent time that, by virtue of prior deliveries under such contract, the Secretary is or will be unable to meet the energy requirements of any Pacific Northwest customer, the purchaser will return the full amount of energy delivered to him, or such portion or portions thereof as may be required, at such time or times as may be specified by the Secretary, except that the Secretary shall not require return during the purchaser's daily peak periods. The Secretary shall require the return of the energy provisionally delivered hereunder, to such extent and at such times, as may be necessary to meet demands at any established rate for use within the Pacific Northwest.

(c) Surplus peaking capacity; termination clause; advance or return of energy; time of return of energy; sale under subsection (a) conditions

Any contract for the disposition of surplus peaking capacity shall provide that (1) the Secretary may terminate the contract upon notice not in excess of sixty months, and (2) the purchaser shall advance or return the energy necessary to supply the peaking capacity, except that the Secretary shall not require such advance or return during the purchaser's daily peak periods. The Secretary may contract for the sale of such energy to the purchaser, in lieu of its return, under the conditions prescribed in subsection (a) of this section.

(d) Determination of energy requirements of Pacific Northwest non-Federal utility customer; exclusion of conservable energy; sale of surplus energy to the utility

The Secretary, in making any determination of the energy requirements of any Pacific Northwest customer which is a non-Federal utility having hydroelectric generating facilities, shall exclude any amounts of hydroelectric energy generated in the Pacific Northwest and disposed of outside the Pacific Northwest by the utility which, through reasonable measures, could have been conserved or otherwise kept available for the utility's own needs in the Pacific Northwest. The Secretary may sell the utility as a replacement therefor only what would otherwise be surplus energy.

(Pub. L. 88–552, § 3, Aug. 31, 1964, 78 Stat. 756.)

§ 837c. Contract limitations and conditions for use of electric energy and peaking capacity of plants in other marketing areas for use within Pacific Northwest

Any contract of the Secretary for the sale or exchange of electric energy generated at, or peaking capacity of, Federal hydroelectric plants in marketing areas outside the Pacific Northwest for use within the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 837a and 837b of this title for any contract for the sale or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest.

(Pub. L. 88–552, § 4, Aug. 31, 1964, 78 Stat. 757.)

§ 837d. Exchange contracts

Without regard to the limitations specified in sections 837a and 837b of this title, the Secretary may enter into contracts for the exchange with areas other than the Pacific Northwest of (1) surplus energy during the Pacific Northwest storage refill period, (2) any hydroelectric energy during the Pacific Northwest storage refill period which will be returned to the Pacific Northwest in equal amounts during the same Pacific Northwest refill period or the succeeding storage drawdown period, (3) any hydroelectric energy which will be returned to the Pacific Northwest in equal amounts during the same Pacific Northwest storage drawdown period, (4) hydroelectric peaking capacity, or (5) surplus peaking capacity for energy. All benefits from such exchanges, including resulting increases of firm power, shall be shared equitably by the areas involved, having regard to the secondary energy and other contributions made by each.

(Pub. L. 88–552, § 5, Aug. 31, 1964, 78 Stat. 758.)

§ 837e. Transmission lines for other electric energy; rates

Any capacity in Federal transmission lines connecting, either by themselves or with non-Federal lines, a generating plant in the Pacific Northwest or Canada with the other area or with any other area outside the Pacific Northwest, which is not required for the transmission of Federal energy or the energy described in section 837h of this title, shall be made available as a carrier for transmission of other electric energy between such areas. The transmission of other electric energy shall be at equitable rates determined by the Secretary, but such rates shall be subject to equitable adjustment at appropriate intervals not less frequently than once in every five years as agreed to by the parties. No contract for the transmission of non-Federal energy on a firm basis shall be affected by any increase, subsequent to the execution of such contract, in the requirements for transmission of Federal energy, the energy described in section 837h of this title, or other electric energy.

(Pub. L. 88–552, § 6, Aug. 31, 1964, 78 Stat. 758.)

§ 837f. Purchaser priority on Pacific Northwest power; amendment of existing contracts and new contracts to include priority provisions

The Secretary shall offer to amend, without imposing any other requirements as a condition to such amendment, all existing contracts for the sale or exchange of electric power generated at Federal hydroelectric plants in the Pacific Northwest to include, and shall include in all new contracts, provisions giving the purchaser priority on electric power generated at such plants in conformity with the provisions of this chapter.

(Pub. L. 88–552, § 7, Aug. 31, 1964, 78 Stat. 758.)

§ 837g. Transmission lines between Pacific Northwest and Pacific Southwest; prohibition against construction of lines or related facilities; exceptions of lines and facilities recommended by Secretary or authorized by Congress; authority of Secretary to construct other transmission lines unaffected

No electric transmission lines or related facilities shall be constructed by any Federal agency outside the Pacific Northwest for the purpose of transmitting electric energy between the Pacific Northwest and Pacific Southwest, nor shall any arrangement for transmission capacity be executed by any Federal agency for the purpose of financing such lines and related facilities to be constructed by non-Federal entities, except those lines and facilities recommended for Federal construction in the Report of the Secretary of the Interior submitted to Congress on June 24, 1964, as supplemented on July 27, 1964, or as hereafter specifically authorized by Congress: *Provided*, That, except with respect to electric transmission lines and related facilities for the purpose of transmitting electric energy between the two regions above mentioned, nothing herein shall be construed as expanding or diminishing in any way the present authority of the Secretary of Energy to construct transmission lines to market power and energy.

(Pub. L. 88–552, § 8, Aug. 31, 1964, 78 Stat. 758; Pub. L. 95–91, title III, § 302(a), Aug. 4, 1977, 91 Stat. 578.)

TRANSFER OF FUNCTIONS

''Secretary of Energy'' substituted for ''Secretary of the Interior'' in the proviso in text pursuant to Pub. L. 95–91, § 302(a), which is classified to section 7152(a) of Title 42, The Public Health and Welfare.

§ 837g–1. Construction of additional facilities by Secretary of Energy for mutually beneficial power sales between Pacific Northwest and California; contribution of funds by non-Federal entities

Notwithstanding the provisions of section 837g of this title, the Secretary of Energy is authorized to construct or participate in the construction of such additional facilities as he deems necessary to allow mutually beneficial power sales between the Pacific Northwest and California and to accept funds contributed by non-Federal entities for that purpose.

(Pub. L. 98–360, title III, July 16, 1984, 98 Stat. 416.)

CODIFICATION

Section was not enacted as part of Pub. L. 88–552 which comprises this chapter.

§ 837h. Provisions not applicable to Canyon Ferry project or benefits and exchanges under Treaty between Canada and United States; preference of power users in Montana not modified

The provisions of this chapter shall not be applicable to (1) the Canyon Ferry project and (2), except as provided in section 837e of this title, downstream power benefits to which Canada is entitled under the treaty between Canada and the United States relating to the cooperative development of the water resources of the Columbia River Basin, signed at Washington, January 17, 1961, nor to energy or capacity disposed of to Canada in any exchange pursuant to paragraph 1 or 2 of article VIII thereof. Nothing in this chapter shall be construed to modify the geographical preference of power users in the State of Montana which is established by the Hungry Horse Dam Act (Act of June 4, 1944, 58 Stat. 270), as amended.

(Pub. L. 88–552, § 9, Aug. 31, 1964, 78 Stat. 758.)

REFERENCES IN TEXT

The Hungry Horse Dam Act (Act of June 4, 1944, 58 Stat. 270), as amended, referred to in text, probably means act June 5, 1944, ch. 234, 58 Stat. 270, as amended, which is classified to sections 593a and 593b of Title 43, Public Lands.

CHAPTER 12G—PACIFIC NORTHWEST FEDERAL TRANSMISSION SYSTEM

Sec.

838. Congressional findings; authority and duties of Secretary of Energy relating to Federal Columbia River Power System unaffected.
838a. Definitions.
838b. Operation and maintenance of Federal transmission system; construction of improvements, betterments, additions and replacements; criteria.
838c. Acquisition by condemnation of transmission facilities.
838d. Transmission of non-Federal power.
838e. Acquisition of property.
838f. Marketing of Federal power; sales agent.
838g. Schedules of rates and charges for sale of Federal power and transmission of non-Federal power; confirmation and approval; criteria for modification and establishment.
838h. Uniform schedules of rates and charges for sale of Federal power and transmission of non-Federal power; allocation of cost recovery.
838i. Bonneville Power Administration fund.
838j. Investment of excess moneys; deposit of moneys.
838k. Bonneville Power Administration bonds.
838*l*. Bonneville Power Administration refinancing.

§ 838. Congressional findings; authority and duties of Secretary of Energy relating to Federal Columbia River Power System unaffected

(a) Congress finds that in order to enable the Secretary of Energy to carry out the policies of Public Law 88–552 [16 U.S.C. 837 et seq.] relating to the marketing of electric power from hydroelectric projects in the Pacific Northwest, Public Laws 89–448 and 89–561 relating to use of revenues of the Federal Columbia River Power System to provide financial assistance to reclamation projects in the Pacific Northwest, the treaty between the United States and Canada relating to the cooperative development of the resources of the Columbia River Basin, and other applicable law, it is desirable and appropriate that the revenues of the Federal Columbia River Power System and the proceeds of revenue bonds be used to further the operation, maintenance, and further construction of the Federal transmission system in the Pacific Northwest.

(b) Other than as specifically provided herein, the present authority and duties of the Secretary of Energy relating to the Federal Columbia River Power System shall not be affected by this chapter. The authority and duties of the Administrator referred to herein are subject to the supervision and direction of the Secretary.

(Pub. L. 93–454, § 2, Oct. 18, 1974, 88 Stat. 1376; Pub. L. 95–91, title III, § 302(a)(1)(D), Aug. 4, 1977, 91 Stat. 578.)

REFERENCES IN TEXT

Public Law 88–552, referred to in subsec. (a), is act Aug. 31, 1964, 78 Stat. 756, as amended, which is classified generally to chapter 12F (§ 837 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

Public Law 89–448, referred to in subsec. (a), is Pub. L. 89–448, §§ 1–3, June 14, 1966, 80 Stat. 200, as amended, which enacted sections 835j and 835k of this title and amended section 832h of this title.

Public Law 89–561, referred to in subsec. (a), is Pub. L. 89–561, §§ 1–6, Sept. 7, 1966, 80 Stat. 707, which enacted sections 835*l* and 835m of this title and section 1962d–6 of Title 42, The Public Health and Welfare, and amended sections 835j and 835k of this title.

SHORT TITLE

Section 1 of Pub. L. 93–454 provided that: ''This Act [enacting this chapter] may be cited as the 'Federal Columbia River Transmission System Act'.''

TRANSFER OF FUNCTIONS

''Secretary of Energy'' substituted in text for ''Secretary of the Interior'' pursuant to Pub. L. 95–91, § 302(a)(1)(D), which is classified to section 7152(a)(1)(D) of Title 42, The Public Health and Welfare.

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

§ 838a. Definitions

As used in this chapter—

(a) The term ''Administrator'' means the Administrator, Bonneville Power Administration.

(b) The term ''electric power'' means electric peaking capacity or electric energy, or both.

(c) The term ''major transmission facilities'' means transmission facilities intended to be used to provide services not previously provided by the Bonneville Power Administration with its own facilities.

(Pub. L. 93–454, § 3, Oct. 18, 1974, 88 Stat. 1376.)

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power

Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

§ 838b. Operation and maintenance of Federal transmission system; construction of improvements, betterments, additions and replacements; criteria

The Secretary of Energy, acting by and through the Administrator, shall operate and maintain the Federal transmission system within the Pacific Northwest and shall construct improvements, betterments, and additions to and replacements of such system within the Pacific Northwest as he determines are appropriate and required to:

(a) integrate and transmit the electric power from existing or additional Federal or non-Federal generating units;

(b) provide service to the Administrator's customers;

(c) provide interregional transmission facilities; or

(d) maintain the electrical stability and electrical reliability of the Federal system: *Provided, however*, That the Administrator shall not construct any transmission facilities outside the Pacific Northwest, excepting customer service facilities within any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative which has (i) no generating facilities, and (ii) a distribution system from which it serves both within and without said region, nor shall he commence construction of any major transmission facility within the Pacific Northwest, unless the expenditure of the funds for the initiation of such construction is specifically approved by Act of Congress.

(Pub. L. 93–454, § 4, Oct. 18, 1974, 88 Stat. 1376; Pub. L. 95–91, title III, § 302(a)(1)(D), Aug. 4, 1977, 91 Stat. 578.)

TRANSFER OF FUNCTIONS

''Secretary of Energy'' substituted in text for ''Secretary of the Interior'' pursuant to Pub. L. 95–91, § 302(a)(1)(D), which is classified to section 7152(a)(1)(D) of Title 42, The Public Health and Welfare.

§ 838c. Acquisition by condemnation of transmission facilities

(a) Approval by Congress; exceptions

Unless specifically authorized by Act of Congress, the Administrator shall not expend funds made available under this chapter, other than funds specifically appropriated by the Congress for such purpose, to acquire any operating transmission facility by condemnation: *Provided*, That this provision shall not restrict the acquisition of the right to cross such a facility by condemnation.

(b) Notice of request for approval for construction or condemnation to contracting or interconnected entities in Pacific Northwest

At least sixty days prior to the time a request for approval or authority under this section or section 838b of this title is sent to Congress, the Administrator shall give notice of such request to entities in the Pacific Northwest with which the Administrator has power sales or exchange contracts or transmission contracts or which have a transmission interconnection with the Federal transmission system.

(Pub. L. 93–454, § 5, Oct. 18, 1974, 88 Stat. 1377.)

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

§ 838d. Transmission of non-Federal power

The Administrator shall make available to all utilities on a fair and nondiscriminatory basis, any capacity in the Federal transmission system which he determines to be in excess of the capacity required to transmit electric power generated or acquired by the United States.

(Pub. L. 93–454, § 6, Oct. 18, 1974, 88 Stat. 1377.)

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

§ 838e. Acquisition of property

Subject to the provisions of section 838c of this title the Administrator may purchase or lease or otherwise acquire and hold such real and personal property in the name of the United States as he deems necessary or appropriate to carry out his duties pursuant to law.

(Pub. L. 93–454, § 7, Oct. 18, 1974, 88 Stat. 1377.)

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

§ 838f. Marketing of Federal power; sales agent

The Administrator is hereby designated as the marketing agent for all electric power generated by Federal generating plants in the Pacific Northwest, constructed by, under construction by, or presently authorized for construction by the Bureau of Reclamation or the United States Corps of Engineers except electric power required for the operation of each Federal project and except electric power from the Green Springs project of the Bureau of Reclamation.

(Pub. L. 93–454, § 8, Oct. 18, 1974, 88 Stat. 1377.)

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, and are to be exercised by Secretary through a separate Administration within Department of Energy.

§ 838g. Schedules of rates and charges for sale of Federal power and transmission of non-Federal power; confirmation and approval; criteria for modification and establishment

Schedules of rates and charges for the sale, including dispositions to Federal agencies, of all electric power made available to the Administrator pursuant to section 838f of this title or otherwise acquired, and for the transmission of non-Federal electric power over the Federal transmission system, shall become effective upon confirmation and approval thereof by the Secretary of Energy. Such rate schedules may be modified from time to time by the Secretary of Energy, acting by and through the Administrator, subject to confirmation and approval by the Secretary of Energy, and shall be fixed and established (1) with a view to encouraging the widest possible diversified use of electric power at the lowest possible rates to consumers consistent with sound business principles, (2) having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the cost of producing and transmitting such electric power, including the amortization of the capital investment allocated to power over a reasonable period of years and payments provided for in section 838i(b)(9) of this title, and (3) at levels to produce such additional revenues as may be required, in the aggregate with all other revenues of the Administrator, to pay when due the principal of, premiums, discounts, and expenses in connection with the issuance of and interest on all bonds issued and outstanding pursuant to this chapter, and amounts required to establish and maintain reserve and other funds and accounts established in connection therewith.

(Pub. L. 93–454, § 9, Oct. 18, 1974, 88 Stat. 1377; Pub. L. 95–91, title III, §§ 301(b), 302(a)(1)(D), Aug. 4, 1977, 91 Stat. 578.)

TRANSFER OF FUNCTIONS

''Secretary of Energy'' substituted in text for ''Secretary of the Interior'' and ''Federal Power Commission'' pursuant to Pub. L. 95–91, §§ 301(b), 302(a)(1)(D), which are classified to sections 7151(b) and 7152(a)(1)(D) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

§ 838h. Uniform schedules of rates and charges for sale of Federal power and transmission of non-Federal power; allocation of cost recovery

The said schedules of rates and charges for transmission, the said schedules of rates and charges for the sale of electric power, or both such schedules, may provide, among other things, for uniform rates or rates uniform throughout prescribed transmission areas. The recovery of the cost of the Federal transmission system shall be equitably allocated between Federal and non-Federal power utilizing such system.

(Pub. L. 93–454, § 10, Oct. 18, 1974, 88 Stat. 1378.)

§ 838i. Bonneville Power Administration fund

(a) Establishment; composition; availability of transferred funds for expenditures

There is hereby established in the Treasury of the United States a Bonneville Power Administration fund (hereinafter referred to as the ''fund''). The fund shall consist of (1) all receipts, collections, and recoveries of the Administrator in cash from all sources, including trust funds, (2) all proceeds derived from the sale of bonds by the Administrator, (3) any appropriations made by the Congress for the fund, and (4) the following funds which are hereby transferred to the Administrator: (i) all moneys in the special account in the Treasury established pursuant to Executive Order Numbered 8526 dated August 26, 1940, (ii) the unexpended balances in the continuing fund established by the provisions of section 832j of this title, and (iii) the unexpended balances of funds appropriated or otherwise made available for the Bonneville Power Administration. All funds transferred hereunder shall be available for expenditure by the Secretary of Energy, acting by and through the Administrator, as authorized in this chapter and any other Act relating to the Federal Columbia River transmission system, subject to such limitations as may be prescribed by any applicable appropriation act effective during such period as may elapse between their transfer and the approval by the Congress of the first subsequent annual budget program of the Administrator.

(b) Authorized purposes of expenditures

The Administrator may make expenditures from the fund, which shall have been included in his annual budget submitted to Congress, without further appropriation and without fiscal year limitation, but within such specific directives or limitations as may be included in appropriation acts, for any purpose necessary or appropriate to carry out the duties imposed upon the Administrator pursuant to law, including but not limited to—

(1) construction, acquisition, and replacement of (i) the transmission system, including facilities and structures appurtenant thereto, and (ii) additions, improvements, and betterments thereto (hereinafter in this chapter referred to as ''transmission system'');

(2) operation, maintenance, repair, and relocation, to the extent such relocation is not provided for under subsection (1) above, of the transmission system;

(3) electrical research, development, experimentation, test, and investigation related to construction, operation, and maintenance of transmission systems and facilities;

(4) marketing of electric power;

(5) transmission over facilities of others and rental, lease, or lease-purchase of facilities;

(6) purchase of electric power (including the entitlement of electric plant capability) (i) on a short-term basis to meet temporary deficiencies in electric power which the Administrator is obligated by contract to supply, or[1] (ii) if such purchase has been heretofore authorized or is made with funds expressly appropriated for such purchase by the Congress, (iii) if to be paid for with funds provided by other entities for such purpose under a trust or agency arrangement, or (iv) on a short term basis to meet the Administrator's obligations under section 4(h) of the Pacific Northwest Electric Power Planning and Conservation Act [16 U.S.C. 839b(h)];

(7) defraying emergency expenses or insuring continuous operation;

(8) paying the interest on, premiums, discounts, and expenses, if any, in connection with the issuance of, and principal of all bonds issued under section 838k(a) of this title, including provision for and maintenance of reserve and other funds established in connection therewith;

(9) making such payments to the credit of the reclamation fund or other funds as are required by or pursuant to law to be made into such funds in connection with reclamation projects in the Pacific Northwest: *Provided*, That this clause shall not be construed as permitting the use of revenues for repayment of costs allocated to irrigation at any project except as otherwise expressly authorized by law;

(10) making payments to the credit of miscellaneous receipts of the Treasury for all unpaid costs required by or pursuant to law to be charged to and returned to the general fund of the Treasury for the repayment of the Federal investment in the Federal Columbia River Power System from electric power marketed by the Administrator;

(11) acquiring such goods and services, and paying dues and membership fees in such professional, utility, industry, and other societies, associations, and institutes, together with expenses related to such memberships, including but not limited to the acquisitions and payments set forth in the general provisions of the annual appropriations Act for the Department of Energy, as the Administrator determines to be necessary or appropriate in carrying out the purposes of this chapter; and

(12) making such payments, as shall be required to carry out the purposes and provisions of the Pacific Northwest Electric Power Planning and Conservation Act [16 U.S.C. 839 et seq.].

(c) Restriction on use of expenditures to authorized purposes; expenditures of moneys received in trust; applicability of provisions relating to control of Government corporations

Moneys heretofore or hereafter appropriated shall be used only for the purposes for which appropriated, and moneys received by the Administrator in trust shall be used only for carrying out such trust. The provisions of chapter 91 of title 31 shall be applicable to the Administrator in the same manner as they are applied to the wholly owned Government corporations named in section 9101 of title 31, but nothing in section 9105(d)[2] of title 31 shall be construed as affecting the powers granted in subsection (b)(11) of this section and in sections 832a(f), 832i(b), and 832k(a) of this title.

(d) Audit of financial transactions by Comptroller General; report to Congress

Notwithstanding the provisions of sections 9105 and 9106 of title 31, the financial transactions of the Administrator shall be audited by the Comptroller General at such times and to such extent as the Comptroller General deems necessary, and reports of the results of each such audit shall be made to the Congress within 6½ months following the end of the fiscal year covered by the audit.

(Pub. L. 93–454, §11, Oct. 18, 1974, 88 Stat. 1378; Pub. L. 95–91, title III, §302(a)(1)(D), Aug. 4, 1977, 91 Stat. 578; Pub. L. 96–501, §8(a), (b), Dec. 5, 1980, 94 Stat. 2728.)

REFERENCES IN TEXT

Executive Order Numbered 8526 dated August 26, 1940, referred to in subsec. (a), is not classified to the Code.

The Pacific Northwest Electric Power Planning and Conservation Act, referred to in subsec. (b)(12), is Pub. L. 96–501, Dec. 5, 1980, 94 Stat. 2697, which is classified principally to chapter 12H (§839 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 839 of this title and Tables.

Section 9105 of title 31, referred to in subsec. (c), was amended generally by Pub. L. 101–576, title III, §305, Nov. 15, 1990, 104 Stat. 2853, and, as so amended, does not contain a subsec. (d).

CODIFICATION

In subsec. (c), ''chapter 91 of title 31'', ''section 9101 of title 31'', and ''section 9105(d) of title 31'' substituted for ''the Government Corporation Control Act (31 U.S.C. 841 et seq.)'', ''section 101 of such Act (31 U.S.C. 846)'', and ''the proviso in section 850 of title 31, United States Code,'', respectively, on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

In subsec. (d), ''sections 9105 and 9106 of title 31'' substituted for ''sections 105 and 106 of the Government Corporation Control Act [31 U.S.C. 850, 851]'' on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31.

AMENDMENTS

1980—Subsec. (b)(6)(iv). Pub. L. 96–501, §8(a), added cl. (iv).

Subsec. (b)(12). Pub. L. 96–501, §8(b), added par. (12).

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–501 effective Dec. 5, 1980, see section 11 of Pub. L. 96–501, set out as an Effective Date note under section 839 of this title.

TRANSFER OF FUNCTIONS

''Secretary of Energy'' substituted for ''Secretary of the Interior'' in subsec. (a) and ''Department of Energy'' substituted for ''Department of Interior'' in subsec. (b)(11) pursuant to Pub. L. 95–91, §302(a)(1)(D),

[1] So in original. The word ''or'' probably should not appear.

[2] See References in Text note below.

which is classified to section 7152(a)(1)(D) of Title 42, The Public Health and Welfare.

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

AUTHORITY TO INCUR OBLIGATIONS IN EXCESS OF BORROWING AUTHORITY AND CASH IN FUND

Pub. L. 100–371, title III, July 19, 1988, 102 Stat. 869, provided that: ''Without fiscal year limitation, the Bonneville Power Administration continues to be authorized to incur obligations for authorized purposes and may do so in excess of borrowing authority and cash in the Bonneville Power Administration Fund.''

§ 838j. Investment of excess moneys; deposit of moneys

(a) If the Administrator determines that moneys in the fund are in excess of current needs he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in direct, general obligations of, or obligations guaranteed as to both principal and interest by, the United States of America.

(b) With the approval of the Secretary of the Treasury, the Administrator may deposit moneys of the fund in any Federal Reserve bank or other depository for funds of the United States of America, or in such other banks and financial institutions and under such terms and conditions as the Administrator and the Secretary of the Treasury may mutually agree.

(Pub. L. 93–454, § 12, Oct. 18, 1974, 88 Stat. 1380.)

§ 838k. Bonneville Power Administration bonds

(a) Issuance and sale; terms and conditions; interest rate; limitation on aggregate principal amount outstanding

The Administrator is authorized to issue and sell to the Secretary of the Treasury from time to time in the name and for and on behalf of the Bonneville Power Administration bonds, notes, and other evidences of indebtedness (in this chapter collectively referred to as ''bonds'') to assist in financing the construction, acquisition, and replacement of the transmission system, to implement the Administrator's authority pursuant to the Pacific Northwest Electric Power Planning and Conservation Act [16 U.S.C. 839 et seq.] (including his authority to provide financial assistance for conservation measures, renewable resources, and fish and wildlife, but not including the authority to acquire under section 6 of that Act [16 U.S.C. 839d] electric power from a generating facility having a planned capability greater than 50 average megawatts), and to issue and sell bonds to refund such bonds. Such bonds shall be in such forms and denominations, bear such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary of the Treasury taking into account terms and conditions prevailing in the market for similar bonds, the useful life of the facilities for which the bonds are issued, and financing practices of the utility industry. Refunding provisions may be prescribed by the Administrator. Such bonds shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities, plus an amount in the judgment of the Secretary of the Treasury to provide for a rate comparable to the rates prevailing in the market for similar bonds issued by Government corporations. Beginning in fiscal year 1982, if the Administrator fails to repay by the end of any fiscal year all of the amounts projected immediately prior to such year to be repaid to the Treasury by the end of such year under the repayment criteria of the Secretary of Energy and if such failure is due to reasons other than (A) a decrease in power sale revenues due to fluctuating streamflows or (B) other reasons beyond the control of the Administrator, the Secretary of the Treasury may increase the interest rate applicable to the outstanding bonds issued by the Administrator during such fiscal year. Such increase shall be effective commencing with the fiscal year immediately following the fiscal year during which such failure occurred and shall not exceed 1 per centum for each such fiscal year during which such repayments are not in accord with such criteria. The Secretary of the Treasury shall take into account amounts that the Administrator has repaid in advance of any repayment criteria in determining whether to increase such rate. Before such rate is increased, the Secretary of the Treasury, in consultation with the Administrator and the Federal Energy Regulatory Commission, must be satisfied that the Administrator will have the ability to pay such increased rate, taking into account the Administrator's obligations. Such increase shall terminate with the fiscal year in which repayments (including repayments of the increased rate) are in accordance with the repayment criteria of the Secretary of Energy. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed $1,250,000,000 prior to October 1, 1981. Such aggregate principal limitation shall be increased by an additional $1,250,000,000 after October 1, 1981, as provided in advance in annual appropriation Acts, and such increased amount shall be reserved for the purpose of providing funds for conservation and renewable resource loans and grants in a special revolving account created therefor in the Fund. The funds from such revolving account shall not be deemed State or local funds.

(b) Payment of principal, premiums, and interest from net proceeds; "net proceeds" defined

The principal of, premiums, if any, and interest on such bonds shall be payable solely from the Administrator's net proceeds as hereinafter defined. ''Net proceeds'' shall mean for the purposes of this section the remainder of the Administrator's gross receipts from all sources after first deducting trust funds and the costs listed in section 838i(b)(2) through (b)(7), (b)(11), and (b)(12) of this title, and shall include reserve or other funds created from such receipts.

(c) Purchase and sale by Secretary of the Treasury; public debt transactions

The Secretary of the Treasury shall purchase forthwith any bonds issued by the Administrator under this chapter and for that purpose is authorized to use as a public debt transaction

the proceeds from the sale of any securities issued under chapter 31 of title 31, as now or hereafter in force, and the purposes for which securities may be issued under chapter 31 of title 31, as now or hereafter in force, are extended to include any purchases of the bonds issued by the Administrator under this chapter. The Secretary of the Treasury may, at any time, sell any of the bonds acquired by him under this chapter. All redemptions, purchases, and sales by the Secretary of the Treasury of such bonds shall be treated as public debt transactions of the United States.

(Pub. L. 93–454, §13, Oct. 18, 1974, 88 Stat. 1380; Pub. L. 96–501, §8(c), (d), Dec. 5, 1980, 94 Stat. 2728, 2729.)

REFERENCES IN TEXT

The Pacific Northwest Electric Power Planning and Conservation Act, referred to in subsec. (a), is Pub. L. 96–501, Dec. 5, 1980, 94 Stat. 2697, which is classified principally to chapter 12H (§839 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 839 of this title and Tables.

CODIFICATION

In subsec. (c), ''chapter 31 of title 31'' substituted ''the Second Liberty Bond Act'' on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–501, §8(d), inserted provision relating to the implementation of the Administrator's authority pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, inserted ''issued by Government corporations'' after ''rates prevailing in the market for similar bonds'', increased the existing $1,250,000,000 aggregate principal limitation by an additional $1,250,000,000 after Oct. 1, 1981, to be used to provide funds for conservation and renewable resource loans and grants in a special revolving account created for that purpose, and inserted provision that, beginning in fiscal year 1982, if the Administrator fails to repay by the end of any fiscal year all of the amounts projected immediately prior to that year to be repaid to the Treasury by the end of that year under the repayment criteria of the Secretary of Energy and if that failure is due to reasons other than a decrease in power sale revenues due to fluctuating streamflows or other reasons beyond the control of the Administrator, the Secretary of the Treasury may increase the interest rate applicable to the outstanding bonds issued by the Administrator during that fiscal year.

Subsec. (b). Pub. L. 96–501, §8(c), substituted '', (b)(11), and (b)(12) of this title,'' for ''and (b)(11) of this title,''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–501 effective Dec. 5, 1980, see section 11 of Pub. L. 96–501, set out as an Effective Date note under section 839 of this title.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

§838*l*. Bonneville Power Administration refinancing

(a) Definitions

For the purposes of this section—

(1) ''Administrator'' means the Administrator of the Bonneville Power Administration;

(2) ''capital investment'' means a capitalized cost funded by Federal appropriations that—

(A) is for a project, facility, or separable unit or feature of a project or facility;

(B) is a cost for which the Administrator is required by law to establish rates to repay to the United States Treasury through the sale of electric power, transmission, or other services;

(C) excludes a Federal irrigation investment; and

(D) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 838k of this title;

(3) ''new capital investment'' means a capital investment for a project, facility, or separable unit or feature of a project or facility, placed in service after September 30, 1996;

(4) ''old capital investment'' means a capital investment the capitalized cost of which—

(A) was incurred, but not repaid, before October 1, 1996, and

(B) was for a project, facility, or separable unit or feature of a project or facility, placed in service before October 1, 1996;

(5) ''repayment date'' means the end of the period within which the Administrator's rates are to assure the repayment of the principal amount of a capital investment; and

(6) ''Treasury rate'' means—

(A) for an old capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1996, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1996, and the repayment date for the old capital investment; and

(B) for a new capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the new capital investment.

(b) New principal amounts

(1) Principal amount

Effective October 1, 1996, an old capital investment has a new principal amount that is the sum of—

(A) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and

(B) an amount equal to $100,000,000 multiplied by a fraction whose numerator is the principal amount of the old payment

amounts for the old capital investment and whose denominator is the sum of the principal amounts of the old payment amounts for all old capital investments.

(2) Determination

With the approval of the Secretary of the Treasury based solely on consistency with this section, the Administrator shall determine the new principal amounts under subsection (b) of this section and the assignment of interest rates to the new principal amounts under subsection (c) of this section.

(3) Old payment amounts

For the purposes of this subsection, ''old payment amounts'' means, for an old capital investment, the annual interest and principal that the Administrator would have paid to the United States Treasury from October 1, 1996, if this section had not been enacted, assuming that—

(A) the principal were repaid—

(i) on the repayment date the Administrator assigned before October 1, 1994, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1994, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1994; and

(B) interest were paid—

(i) at the interest rate the Administrator assigned before October 1, 1994, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1994, at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the old capital investment.

(c) Interest rate for new principal amounts

As of October 1, 1996, the unpaid balance on the new principal amount established for an old capital investment under subsection (b) of this section bears interest annually at the Treasury rate for the old capital investment until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

(d) Repayment dates

As of October 1, 1996, the repayment date for the new principal amount established for an old capital investment under subsection (b) of this section is no earlier than the repayment date for the old capital investment assumed in subsection (b)(3)(A) of this section.

(e) Prepayment limitations

During the period October 1, 1996, through September 30, 2001, the total new principal amounts of old capital investments, as established under subsection (b) of this section, that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.

(f) Interest rates for new capital investments during construction

(1) New capital investment

The principal amount of a new capital investment includes interest in each fiscal year of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year on the sum of—

(A) construction expenditures that were made from the date construction commenced through the end of the fiscal year, and

(B) accrued interest during construction.

(2) Payment

The Administrator is not required to pay, during construction of the project, facility, or separable unit or feature, the interest calculated, accrued, and capitalized under subsection (f)(1) of this section.

(3) One-year rate

For the purposes of this section, ''one-year rate'' for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding interest-bearing obligations of the United States with periods to maturity of approximately one year.

(g) Interest rates for new capital investments

The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

(h) Omitted

(i) Contract provisions

In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1996, the Administrator shall offer to include, or as the case may be, shall offer to amend to include, provisions specifying that after September 30, 1996—

(1) the Administrator shall establish rates and charges on the basis that—

(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under subsection (b) of this section;

(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under subsection (c) of this section;

(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and

(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under subsection (b) of this section and to pay the interest on the principal amount under subsection (c) of this section, no amount may be charged for return to the United States Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

(3) amounts provided under section 1304 of title 31 shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by this Part;[1] and

(4) the contract provisions specified in this Part[1] do not—

(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or

(B) affect the Administrator's authority under applicable law, including section 839e(g) of this title, to—

(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or

(ii) design rates.

(j) Savings provisions

(1) Repayment

This section does not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, only from the ''Administrator's net proceeds,'' as defined in section 838k(b) of this title.

(2) Payment of capital investment

Except as provided in subsection (e) of this section, this section does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.

(Pub. L. 104–134, title III, §3201, Apr. 26, 1996, 110 Stat. 1321–350.)

CODIFICATION

Section was enacted as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Federal Columbia River Transmission System Act which comprises this chapter.

Section is comprised of section 3201 of Pub. L. 104–134. Subsec. (h) of section 3201 of Pub. L. 104–134 amended section 6 of Pub. L. 103–436, which is not classified to the Code.

[1] So in original. Probably should be ''section;'' or ''section''.

CHAPTER 12H—PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION

Sec.
839. Congressional declaration of purpose.
839a. Definitions.
839b. Regional planning and participation.
839c. Sale of power.
839d. Conservation and resource acquisition.
839d–1. Federal projects in Pacific Northwest.
839e. Rates.
839f. Administrative provisions.
839g. Savings provisions.
839h. Separability.

§ 839. Congressional declaration of purpose

The purposes of this chapter, together with the provisions of other laws applicable to the Federal Columbia River Power System, are all intended to be construed in a consistent manner. Such purposes are also intended to be construed in a manner consistent with applicable environmental laws. Such purposes are:

(1) to encourage, through the unique opportunity provided by the Federal Columbia River Power System—

(A) conservation and efficiency in the use of electric power, and

(B) the development of renewable resources within the Pacific Northwest;

(2) to assure the Pacific Northwest of an adequate, efficient, economical, and reliable power supply;

(3) to provide for the participation and consultation of the Pacific Northwest States, local governments, consumers, customers, users of the Columbia River System (including Federal and State fish and wildlife agencies and appropriate Indian tribes), and the public at large within the region in—

(A) the development of regional plans and programs related to energy conservation, renewable resources, other resources, and protecting, mitigating and enhancing fish and wildlife resources,

(B) facilitating the orderly planning of the region's power system, and

(C) providing environmental quality;

(4) to provide that the customers of the Bonneville Power Administration and their consumers continue to pay all costs necessary to produce, transmit, and conserve resources to meet the region's electric power requirements, including the amortization on a current basis of the Federal investment in the Federal Columbia River Power System;

(5) to insure, subject to the provisions of this chapter—

(A) that the authorities and responsibilities of State and local governments, electric utility systems, water management agencies, and other non-Federal entities for the regulation, planning, conservation, supply, distribution, and use of electric power shall be construed to be maintained, and

(B) that Congress intends that this chapter not be construed to limit or restrict the ability of customers to take actions in accordance with other applicable provisions of Federal or State law, including, but not lim-

ited to, actions to plan, develop, and operate resources and to achieve conservation, without regard to this chapter; and

(6) to protect, mitigate and enhance the fish and wildlife, including related spawning grounds and habitat, of the Columbia River and its tributaries, particularly anadromous fish which are of significant importance to the social and economic well-being of the Pacific Northwest and the Nation and which are dependent on suitable environmental conditions substantially obtainable from the management and operation of the Federal Columbia River Power System and other power generating facilities on the Columbia River and its tributaries.

(Pub. L. 96–501, § 2, Dec. 5, 1980, 94 Stat. 2697.)

REFERENCES IN TEXT

This chapter, referred to in provision preceding par. (1) and in par. (5), was in the original ''this Act'', meaning Pub. L. 96–501, Dec. 5, 1980, 94 Stat. 2697, known as the Pacific Northwest Electric Power Planning and Conservation Act, which enacted this chapter, amended sections 837, 838i, and 838k of this title, and enacted provisions set out as notes under this section. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

EFFECTIVE DATE

Section 11 of Pub. L. 96–501 provided that: ''This Act [enacting this chapter, amending sections 837, 838i, and 838k of this title, and enacting provisions set out as notes under this section] shall be effective on the date of enactment [Dec. 5, 1980], or October 1, 1980, whichever is later. For purposes of this Act, the term 'date of the enactment of this Act' means such date of enactment [Dec. 5, 1980] or October 1, 1980, whichever is later.''

SHORT TITLE

Section 1 of Pub. L. 96–501 provided in part that: ''This Act [enacting this chapter, amending sections 837, 838i, and 838k of this title, and enacting provisions set out as notes under this section] may be cited as the 'Pacific Northwest Electric Power Planning and Conservation Act'.''

§ 839a. Definitions

As used in this chapter, the term—

(1) ''Acquire'' and ''acquisition'' shall not be construed as authorizing the Administrator to construct, or have ownership of, under this chapter or any other law, any electric generating facility.

(2) ''Administrator'' means the Administrator of the Bonneville Power Administration.

(3) ''Conservation'' means any reduction in electric power consumption as a result of increases in the efficiency of energy use, production, or distribution.

(4)(A) ''Cost-effective'', when applied to any measure or resource referred to in this chapter, means that such measure or resource must be forecast—

(i) to be reliable and available within the time it is needed, and

(ii) to meet or reduce the electric power demand, as determined by the Council or the Administrator, as appropriate, of the consumers of the customers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative measure or resource, or any combination thereof.

(B) For purposes of this paragraph, the term ''system cost'' means an estimate of all direct costs of a measure or resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer and, among other factors, waste disposal costs, end-of-cycle costs, and fuel costs (including projected increases), and such quantifiable environmental costs and benefits as the Administrator determines, on the basis of a methodology developed by the Council as part of the plan, or in the absence of the plan by the Administrator, are directly attributable to such measure or resource.

(C) In determining the amount of power that a conservation measure or other resource may be expected to save or to produce, the Council or the Administrator, as the case may be, shall take into account projected realization factors and plant factors, including appropriate historical experience with similar measures or resources.

(D) For purposes of this paragraph, the ''estimated incremental system cost'' of any conservation measure or resource shall not be treated as greater than that of any nonconservation measure or resource unless the incremental system cost of such conservation measure or resource is in excess of 110 per centum of the incremental system cost of the nonconservation measure or resource.

(5) ''Consumer'' means any end user of electric power.

(6) ''Council'' means, unless otherwise specifically provided, the members appointed to the Pacific Northwest Electric Power and Conservation Planning Council established pursuant to section 839b of this title.

(7) ''Customer'' means anyone who contracts for the purchase of power from the Administrator pursuant to this chapter.

(8) ''Direct service industrial customer'' means an industrial customer that contracts for the purchase of power from the Administrator for direct consumption.

(9) ''Electric power'' means electric peaking capacity, or electric energy, or both.

(10) ''Federal base system resources'' means—

(A) the Federal Columbia River Power System hydroelectric projects;

(B) resources acquired by the Administrator under long-term contracts in force on December 5, 1980; and

(C) resources acquired by the Administrator in an amount necessary to replace reductions in capability of the resources referred to in subparagraphs (A) and (B) of this paragraph.

(11) ''Indian tribe'' means any Indian tribe or band which is located in whole or in part in the region and which has a governing body which is recognized by the Secretary of the Interior.

(12) ''Major resource'' means any resource that—

(A) has a planned capability greater than fifty average megawatts, and

(B) if acquired by the Administrator, is acquired for a period of more than five years.

Such term does not include any resource acquired pursuant to section 838i(b)(6) of this title.

(13) ''New large single load'' means any load associated with a new facility, an existing facility, or an expansion of an existing facility—

(A) which is not contracted for, or committed to, as determined by the Administrator, by a public body, cooperative, investor-owned utility, or Federal agency customer prior to September 1, 1979, and

(B) which will result in an increase in power requirements of such customer of ten average megawatts or more in any consecutive twelve-month period.

(14) ''Pacific Northwest'', ''region'', or ''regional'' means—

(A) the area consisting of the States of Oregon, Washington, and Idaho, the portion of the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(B) any contiguous areas, not in excess of seventy-five air miles from the area referred to in subparagraph (A), which are a part of the service area of a rural electric cooperative customer served by the Administrator on December 5, 1980, which has a distribution system from which it serves both within and without such region.

(15) ''Plan'' means the Regional Electric Power and Conservation plan (including any amendments thereto) adopted pursuant to this chapter and such plan shall apply to actions of the Administrator as specified in this chapter.

(16) ''Renewable resource'' means a resource which utilizes solar, wind, hydro, geothermal, biomass, or similar sources of energy and which either is used for electric power generation or will reduce the electric power requirements of a consumer, including by direct application.

(17) ''Reserves'' means the electric power needed to avert particular planning or operating shortages for the benefit of firm power customers of the Administrator and available to the Administrator (A) from resources or (B) from rights to interrupt, curtail, or otherwise withdraw, as provided by specific contract provisions, portions of the electric power supplied to customers.

(18) ''Residential use'' or ''residential load'' means all usual residential, apartment, seasonal dwelling and farm electrical loads or uses, but only the first four hundred horsepower during any monthly billing period of farm irrigation and pumping for any farm.

(19) ''Resource'' means—

(A) electric power, including the actual or planned electric power capability of generating facilities, or

(B) actual or planned load reduction resulting from direct application of a renewable energy resource by a consumer, or from a conservation measure.

(20) ''Secretary'' means the Secretary of Energy.

(Pub. L. 96–501, § 3, Dec. 5, 1980, 94 Stat. 2698.)

§ 839b. Regional planning and participation

(a) Pacific Northwest Electric Power and Conservation Planning Council; establishment and operation as regional agency

(1) The purposes of this section are to provide for the prompt establishment and effective operation of the Pacific Northwest Electric Power and Conservation Planning Council, to further the purposes of this chapter by the Council promptly preparing and adopting (A) a regional conservation and electric power plan and (B) a program to protect, mitigate, and enhance fish and wildlife, and to otherwise expeditiously and effectively carry out the Council's responsibilities and functions under this chapter.

(2) To achieve such purposes and facilitate cooperation among the States of Idaho, Montana, Oregon, and Washington, and with the Bonneville Power Administration, the consent of Congress is given for an agreement described in this paragraph and not in conflict with this chapter, pursuant to which—

(A) there shall be established a regional agency known as the ''Pacific Northwest Electric Power and Conservation Planning Council'' which (i) shall have its offices in the Pacific Northwest, (ii) shall carry out its functions and responsibilities in accordance with the provisions of this chapter, (iii) shall continue in force and effect in accordance with the provisions of this chapter, and (iv) except as otherwise provided in this chapter, shall not be considered an agency or instrumentality of the United States for the purpose of any Federal law; and

(B) two persons from each State may be appointed, subject to the applicable laws of each such State, to undertake the functions and duties of members of the Council.

The State may fill any vacancy occurring prior to the expiration of the term of any member. The appointment of six initial members, subject to applicable State law, by June 30, 1981, by at least three of such States shall constitute an agreement by the States establishing the Council and such agreement is hereby consented to by the Congress. Upon request of the Governors of two of the States, the Secretary shall extend the June 30, 1981, date for six additional months to provide more time for the States to make such appointments.

(3) Except as otherwise provided by State law, each member appointed to the Council shall serve for a term of three years, except that, with respect to members initially appointed, each Governor shall designate one member to serve a term of two years and one member to serve a term of three years. The members of the Council shall select from among themselves a chairman. The members and officers and employees of the Council shall not be deemed to be officers or employees of the United States for any purpose. The Council shall appoint, fix compensation, assign and delegate duties to such executive and additional personnel as the Council deems nec-

essary to fulfill its functions under this chapter, taking into account such information and analyses as are, or are likely to be, available from other sources pursuant to provisions of this chapter. The compensation of the members shall be fixed by State law. The compensation of the members and the officers shall not exceed the rate prescribed for Federal officers and positions at step 1 of level GS–18 of the General Schedule.

(4) For the purpose of providing a uniform system of laws, in addition to this chapter, applicable to the Council relating to the making of contracts, conflicts-of-interest, financial disclosure, open meetings of the Council, advisory committees, disclosure of information, judicial review of Council functions and actions under this chapter, and related matters, the Federal laws applicable to such matters in the case of the Bonneville Power Administration shall apply to the Council to the extent appropriate, except that with respect to open meetings, the Federal laws applicable to open meetings in the case of the Federal Energy Regulatory Commission shall apply to the Council to the extent appropriate. In applying the Federal laws applicable to financial disclosure under the preceding sentence, such laws shall be applied to members of the Council without regard to the duration of their service on the Council or the amount of compensation received for such service. No contract, obligation, or other action of the Council shall be construed as an obligation of the United States or an obligation secured by the full faith and credit of the United States. For the purpose of judicial review of any action of the Council or challenging any provision of this chapter relating to functions and responsibilities of the Council, notwithstanding any other provision of law, the courts of the United States shall have exclusive jurisdiction of any such review.

(b) Alternative establishment of Council as Federal agency

(1) If the Council is not established and its members are not timely appointed in accordance with subsection (a) of this section, or if, at any time after such Council is established and its members are appointed in accordance with subsection (a) of this section—

(A) any provision of this chapter relating to the establishment of the Council or to any substantial function or responsibility of the Council (including any function or responsibility under subsection (d) or (h) of this section or under section 839d(c) of this title) is held to be unlawful by a final determination of any Federal court, or

(B) the plan or any program adopted by such Council under this section is held by a final determination of such a court to be ineffective by reason of subsection (a)(2)(B) of this section,

the Secretary shall establish the Council pursuant to this subsection as a Federal agency. The Secretary shall promptly publish a notice thereof in the Federal Register and notify the Governors of each of the States referred to in subsection (a) of this section.

(2) As soon as practicable, but not more than thirty days after the publication of the notice referred to in paragraph (1) of this subsection, and thereafter within forty-five days after a vacancy occurs, the Governors of the States of Washington, Oregon, Idaho, and Montana may each (under applicable State laws, if any) provide to the Secretary a list of nominations from such State for each of the State's positions to be selected for such Council. The Secretary may extend this time an additional thirty days. The list shall include at least two persons for each such position. The list shall include such information about such nominees as the Secretary may request. The Secretary shall appoint the Council members from each Governor's list of nominations for each State's positions, except that the Secretary may decline to appoint for any reason any of a Governor's nominees for a position and shall so notify the Governor. The Governor may thereafter make successive nominations within forty-five days of receipt of such notice until nominees acceptable to the Secretary are appointed for each position. In the event the Governor of any such State fails to make the required nominations for any State position on such Council within the time specified for such nominations, the Secretary shall select from such State and appoint the Council member or members for such position. The members of the Council shall select from among themselves one member of the Council as Chairman.

(3) The members of the Council established by this subsection who are not employed by the United States or a State shall receive compensation at a rate equal to the rate prescribed for offices and positions at level GS–18 of the General Schedule for each day such members are engaged in the actual performance of duties as members of such Council, except that no such member may be paid more in any calendar year than an officer or employee at step 1 of level GS–18 is paid during such year. Members of such Council shall be considered officers or employees of the United States for purposes of title II of the Ethics in Government Act of 1978 (5 U.S.C. app.)[1] and shall also be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5. Such Council may appoint, and assign duties to, an executive director who shall serve at the pleasure of such Council and who shall be compensated at the rate established for GS–18 of the General Schedule. The executive director shall exercise the powers and duties delegated to such director by such Council, including the power to appoint and fix compensation of additional personnel in accordance with applicable Federal law to carry out the functions and responsibilities of such Council.

(4) When a Council is established under this subsection after a Council was established pursuant to subsection (a) of this section, the Secretary shall provide, to the greatest extent feasible, for the transfer to the Council established by this subsection of all funds, books, papers, documents, equipment, and other matters in order to facilitate the Council's capability to

[1] See References in Text note below.

achieve the requirements of subsections (d) and (h) of this section. In order to carry out its functions and responsibilities under this chapter expeditiously, the Council shall take into consideration any actions of the Council under subsection (a) of this section and may review, modify, or confirm such actions without further proceedings.

(5)(A) At any time beginning one year after the plan referred to in such subsection (d) of this section and the program referred to in such subsection (h) of this section are both finally adopted in accordance with this chapter, the Council established pursuant to this subsection shall be terminated by the Secretary 90 days after the Governors of three of the States referred to in this subsection jointly provide for any reason to the Secretary a written request for such termination. Except as provided in subparagraph (B), upon such termination all functions and responsibilities of the Council under this chapter shall also terminate.

(B) Upon such termination of the Council, the functions and responsibilities of the Council set forth in subsection (h) of this section shall be transferred to, and continue to be funded and carried out, jointly, by the Administrator, the Secretary of the Interior, and the Administrator of the National Marine Fisheries Service, in the same manner and to the same extent as required by such subsection and in cooperation with the Federal and the region's State fish and wildlife agencies and Indian tribes referred to in subsection (h) of this section and the Secretary shall provide for the transfer to them of all records, books, documents, funds, and personnel of such Council that relate to subsection (h) matters. In order to carry out such functions and responsibilities expeditiously, the Administrator, the Secretary of the Interior, and the Administrator of the National Marine Fisheries Service shall take into consideration any actions of the Council under this subsection, and may review, modify, or confirm such actions without further proceedings. In the event the Council is terminated pursuant to this paragraph, whenever any action of the Administrator requires any approval or other action by the Council, the Administrator may take such action without such approval or action, except that the Administrator may not implement any proposal to acquire a major generating resource or to grant billing credits involving a major generating resource until the expenditure of funds for that purpose is specifically authorized by Act of Congress enacted after such termination.

(c) Organization and operation of Council

(1) The provisions of this subsection shall, except as specifically provided in this subsection, apply to the Council established pursuant to either subsection (a) or (b) of this section.

(2) A majority of the members of the Council shall constitute a quorum. Except as otherwise provided specifically in this chapter, all actions and decisions of the Council shall be by majority vote of the members present and voting. The plan or any part thereof and any amendment thereto shall not be approved unless such plan or amendment receives the votes of—

(A) a majority of the members appointed to the Council, including the vote of at least one member from each State with members on the Council; or

(B) at least six members of the Council.

(3) The Council shall meet at the call of the Chairman or upon the request of any three members of the Council. If any member of the Council disagrees with respect to any matter transmitted to any Federal or State official or any other person or wishes to express additional views concerning such matter, such member may submit a statement to accompany such matter setting forth the reasons for such disagreement or views.

(4) The Council shall determine its organization and prescribe its practices and procedures for carrying out its functions and responsibilities under this chapter. The Council shall make available to the public a statement of its organization, practices, and procedures, and make available to the public its annual work program budget at the time the President submits his annual budget to Congress.

(5) Upon request of the Council established pursuant to subsection (b) of this section, the head of any Federal agency is authorized to detail or assign to the Council, on a reimbursable basis, any of the personnel of such agency to assist the Council in the performance of its functions under this chapter.

(6) At the Council's request the Administrator of the General Services Administration shall furnish the Council established pursuant to subsection (b) of this section with such offices, equipment, supplies, and services in the same manner and to the same extent as such Administrator is authorized to furnish to any other Federal agency or instrumentality such offices, supplies, equipment, and services.

(7) Upon the request of the Congress or any committee thereof, the Council shall promptly provide to the Congress, or to such committee, any record, report, document, material, and other information which is in the possession of the Council.

(8) To obtain such information and advice as the Council determines to be necessary or appropriate to carry out its functions and responsibilities pursuant to this chapter, the Council shall, to the greatest extent practicable, solicit engineering, economic, social, environmental, and other technical studies from customers of the Administrator and from other bodies or organizations in the region with particular expertise.

(9) The Administrator and other Federal agencies, to the extent authorized by other provisions of law, shall furnish the Council all information requested by the Council as necessary for performance of its functions, subject to such requirements of law concerning trade secrets and proprietary data as may be applicable.

(10)(A) At the request of the Council, the Administrator shall pay from funds available to the Administrator the compensation and other expenses of the Council as are authorized by this chapter, including the reimbursement of those States with members on the Council for services and personnel to assist in preparing a plan pursuant to subsection (d) of this section and a program pursuant to subsection (h) of this section, as the Council determines are necessary or appropriate for the performance of its functions

and responsibilities. Such payments shall be included by the Administrator in his annual budgets submitted to Congress pursuant to the Federal Columbia River Transmission System Act [16 U.S.C. 838 et seq.] and shall be subject to the requirements of that Act, including the audit requirements of section 11(d) of such Act [16 U.S.C. 838i(d)]. The records, reports, and other documents of the Council shall be available to the Comptroller General for review in connection with such audit or other review and examination by the Comptroller General pursuant to other provisions of law applicable to the Comptroller General. Funds provided by the Administrator for such payments shall not exceed annually an amount equal to 0.02 mill multiplied by the kilowatt hours of firm power forecast to be sold by the Administrator during the year to be funded. In order to assist the Council's initial organization, the Administrator after December 5, 1980, shall promptly prepare and propose an amended annual budget to expedite payment for Council activities.

(B) Notwithstanding the limitation contained in the fourth sentence of subparagraph (A) of this paragraph, upon an annual showing by the Council that such limitation will not permit the Council to carry out its functions and responsibilities under this chapter the Administrator may raise such limit up to any amount not in excess of 0.10 mill multiplied by the kilowatt hours of firm power forecast to be sold by the Administrator during the year to be funded.

(11) The Council shall establish a voluntary scientific and statistical advisory committee to assist in the development, collection, and evaluation of such statistical, biological, economic, social, environmental, and other scientific information as is relevant to the Council's development and amendment of a regional conservation and electric power plan.

(12) The Council may establish such other voluntary advisory committees as it determines are necessary or appropriate to assist it in carrying out its functions and responsibilities under this chapter.

(13) The Council shall ensure that the membership for any advisory committee established or formed pursuant to this section shall, to the extent feasible, include representatives of, and seek the advice of, the Federal, and the various regional, State, local, and Indian Tribal Governments, consumer groups, and customers.

(d) Regional conservation and electric power plan

(1) Within two years after the Council is established and the members are appointed pursuant to subsection (a) or (b) of this section, the Council shall prepare, adopt, and promptly transmit to the Administrator a regional conservation and electric power plan. The adopted plan, or any portion thereof, may be amended from time to time, and shall be reviewed by the Council not less frequently than once every five years. Prior to such adoption, public hearings shall be held in each Council member's State on the plan or substantial, nontechnical amendments to the plan proposed by the Council for adoption. A public hearing shall also be held in any other State of the region on the plan or amendments thereto, if the Council determines that the plan or amendments would likely have a substantial impact on that State in terms of major resources which may be developed in that State and which the Administrator may seek to acquire. Action of the Council under this subsection concerning such hearings shall be subject to section 553 of title 5 and such procedure as the Council shall adopt.

(2) Following adoption of the plan and any amendment thereto, all actions of the Administrator pursuant to section 839d of this title shall be consistent with the plan and any amendment thereto, except as otherwise specifically provided in this chapter.

(e) Plan priorities and requisite features; studies

(1) The plan shall, as provided in this paragraph, give priority to resources which the Council determines to be cost-effective. Priority shall be given: first, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat or generating resources of high fuel conversion efficiency; and fourth, to all other resources.

(2) The plan shall set forth a general scheme for implementing conservation measures and developing resources pursuant to section 839d of this title to reduce or meet the Administrator's obligations with due consideration by the Council for (A) environmental quality, (B) compatibility with the existing regional power system, (C) protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat, including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish, and (D) other criteria which may be set forth in the plan.

(3) To accomplish the priorities established by this subsection, the plan shall include the following elements which shall be set forth in such detail as the Council determines to be appropriate:

(A) an energy conservation program to be implemented under this chapter, including, but not limited to, model conservation standards;

(B) recommendation for research and development;

(C) a methodology for determining quantifiable environmental costs and benefits under section 839a(4) of this title;

(D) a demand forecast of at least twenty years (developed in consultation with the Administrator, the customers, the States, including State agencies with ratemaking authority over electric utilities, and the public, in such manner as the Council deems appropriate) and a forecast of power resources estimated by the Council to be required to meet the Administrator's obligations and the portion of such obligations the Council determines can be met by resources in each of the priority categories referred to in paragraph (1) of this subsection which forecast (i) shall include regional reliability and reserve requirements, (ii) shall take into account the effect, if any, of the requirements of subsection (h) of this section on the availability of resources to the Administrator, and (iii) shall include the approximate

amounts of power the Council recommends should be acquired by the Administrator on a long-term basis and may include, to the extent practicable, an estimate of the types of resources from which such power should be acquired;

(E) an analysis of reserve and reliability requirements and cost-effective methods of providing reserves designed to insure adequate electric power at the lowest probable cost;

(F) the program adopted pursuant to subsection (h) of this section; and

(G) if the Council recommends surcharges pursuant to subsection (f) of this section, a methodology for calculating such surcharges.

(4) The Council, taking into consideration the requirement that it devote its principal efforts to carrying out its responsibilities under subsections (d) and (h) of this section, shall undertake studies of conservation measures reasonably available to direct service industrial customers and other major consumers of electric power within the region and make an analysis of the estimated reduction in energy use which would result from the implementation of such measures as rapidly as possible, consistent with sound business practices. The Council shall consult with such customers and consumers in the conduct of such studies.

(f) Model conservation standards; surcharges

(1) Model conservation standards to be included in the plan shall include, but not be limited to, standards applicable to (A) new and existing structures, (B) utility, customer, and governmental conservation programs, and (C) other consumer actions for achieving conservation. Model conservation standards shall reflect geographic and climatic differences within the region and other appropriate considerations, and shall be designed to produce all power savings that are cost-effective for the region and economically feasible for consumers, taking into account financial assistance made available to consumers under section 839d(a) of this title. These model conservation standards shall be adopted by the Council and included in the plan after consultation, in such manner as the Council deems appropriate, with the Administrator, States, and political subdivisions, customers of the Administrator, and the public.

(2) The Council by a majority vote of the members of the Council is authorized to recommend to the Administrator a surcharge and the Administrator may thereafter impose such a surcharge, in accordance with the methodology provided in the plan, on customers for those portions of their loads within the region that are within States or political subdivisions which have not, or on the Administrator's customers which have not, implemented conservation measures that achieve energy savings which the Administrator determines are comparable to those which would be obtained under such standards. Such surcharges shall be established to recover such additional costs as the Administrator determines will be incurred because such projected energy savings attributable to such conservation measures have not been achieved, but in no case may such surcharges be less than 10 per centum or more than 50 per centum of the Administrator's applicable rates for such load or portion thereof.

(g) Public information; consultation; contracts and technical assistance

(1) To insure widespread public involvement in the formulation of regional power policies, the Council and Administrator shall maintain comprehensive programs to—

(A) inform the Pacific Northwest public of major regional power issues,

(B) obtain public views concerning major regional power issues, and

(C) secure advice and consultation from the Administrator's customers and others.

(2) In carrying out the provisions of this section, the Council and the Administrator shall—

(A) consult with the Administrator's customers;

(B) include the comments of such customers in the record of the Council's proceedings; and

(C) recognize and not abridge the authorities of State and local governments, electric utility systems, and other non-Federal entities responsible to the people of the Pacific Northwest for the planning, conservation, supply, distribution, and use of electric power and the operation of electric generating facilities.

(3) In the preparation, adoption, and implementation of the plan, the Council and the Administrator shall encourage the cooperation, participation, and assistance of appropriate Federal agencies, State entities, State political subdivisions, and Indian tribes. The Council and the Administrator are authorized to contract, in accordance with applicable law, with such agencies, entities, tribes, and subdivisions individually, in groups, or through associations thereof to (A) investigate possible measures to be included in the plan, (B) provide public involvement and information regarding a proposed plan or amendment thereto, and (C) provide services which will assist in the implementation of the plan. In order to assist in the implementation of the plan, particularly conservation, renewable resource, and fish and wildlife activities, the Administrator, when requested and subject to available funds, may provide technical assistance in establishing conservation, renewable resource, and fish and wildlife objectives by individual States or subdivisions thereof or Indian tribes. Such objectives, if adopted by a State or subdivision thereof or Indian tribes, may be submitted to the Council and the Administrator for review, and upon approval by the Council, may be incorporated as part of the plan.

(h) Fish and wildlife

(1)(A) The Council shall promptly develop and adopt, pursuant to this subsection, a program to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, on the Columbia River and its tributaries. Because of the unique history, problems, and opportunities presented by the development and operation of hydroelectric facilities on the Columbia River and its tributaries, the program, to the greatest extent possible, shall be designed to deal with that river and its tributaries as a system.

(B) This subsection shall be applicable solely to fish and wildlife, including related spawning

grounds and habitat, located on the Columbia River and its tributaries. Nothing in this subsection shall alter, modify, or affect in any way the laws applicable to rivers or river systems, including electric power facilities related thereto, other than the Columbia River and its tributaries, or affect the rights and obligations of any agency, entity, or person under such laws.

(2) The Council shall request, in writing, promptly after the Council is established under either subsection (a) or (b) of this section and prior to the development or review of the plan, or any major revision thereto, from the Federal, and the region's State, fish and wildlife agencies and from the region's appropriate Indian tribes, recommendations for—

(A) measures which can be expected to be implemented by the Administrator, using authorities under this chapter and other laws, and other Federal agencies to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development and operation of any hydroelectric project on the Columbia River and its tributaries;

(B) establishing objectives for the development and operation of such projects on the Columbia River and its tributaries in a manner designed to protect, mitigate, and enhance fish and wildlife; and

(C) fish and wildlife management coordination and research and development (including funding) which, among other things, will assist protection, mitigation, and enhancement of anadromous fish at, and between, the region's hydroelectric dams.

(3) Such agencies and tribes shall have 90 days to respond to such request, unless the Council extends the time for making such recommendations. The Federal, and the region's, water management agencies, and the region's electric power producing agencies, customers, and public may submit recommendations of the type referred to in paragraph (2) of this subsection. All recommendations shall be accompanied by detailed information and data in support of the recommendations.

(4)(A) The Council shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Administrator, to the Federal, and the region's, State fish and wildlife agencies, to the appropriate Indian tribes, to Federal agencies responsible for managing, operating, or regulating hydroelectric facilities located on the Columbia River or its tributaries, and to any customer or other electric utility which owns or operates any such facility. Notice shall also be given to the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Council and shall be available for reproduction at reasonable cost.

(B) The Council shall provide for public participation and comment regarding the recommendations and supporting documents, including an opportunity for written and oral comments, within such reasonable time as the Council deems appropriate.

(5) The Council shall develop a program on the basis of such recommendations supporting documents, and views and information obtained through public comment and participation, and consultation with the agencies, tribes, and customers referred to in subparagraph (A) of paragraph (4). The program shall consist of measures to protect, mitigate, and enhance fish and wildlife affected by the development, operation, and management of such facilities while assuring the Pacific Northwest an adequate, efficient economical, and reliable power supply. Enhancement measures shall be included in the program to the extent such measures are designed to achieve improved protection and mitigation.

(6) The Council shall include in the program measures which it determines, on the basis set forth in paragraph (5), will—

(A) complement the existing and future activities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological objective exist, the alternative with the minimum economic cost;

(D) be consistent with the legal rights of appropriate Indian tribes in the region; and

(E) in the case of anadromous fish—

(i) provide for improved survival of such fish at hydroelectric facilities located on the Columbia River system; and

(ii) provide flows of sufficient quality and quantity between such facilities to improve production, migration, and survival of such fish as necessary to meet sound biological objectives.

(7) The Council shall determine whether each recommendation received is consistent with the purposes of this chapter. In the event such recommendations are inconsistent with each other, the Council, in consultation with appropriate entities, shall resolve such inconsistency in the program giving due weight to the recommendations, expertise, and legal rights and responsibilities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes. If the Council does not adopt any recommendation of the fish and wildlife agencies and Indian tribes as part of the program or any other recommendation, it shall explain in writing, as part of the program, the basis for its finding that the adoption of such recommendation would be—

(A) inconsistent with paragraph (5) of this subsection;

(B) inconsistent with paragraph (6) of this subsection; or

(C) less effective than the adopted recommendations for the protection, mitigation, and enhancement of fish and wildlife.

(8) The Council shall consider, in developing and adopting a program pursuant to this subsection, the following principles:

(A) Enhancement measures may be used, in appropriate circumstances, as a means of achieving offsite protection and mitigation with respect to compensation for losses arising from the development and operation of the hydroelectric facilities of the Columbia River and its tributaries as a system.

(B) Consumers of electric power shall bear the cost of measures designed to deal with adverse impacts caused by the development and operation of electric power facilities and programs only.

(C) To the extent the program provides for coordination of its measures with additional measures (including additional enhancement measures to deal with impacts caused by factors other than the development and operation of electric power facilities and programs), such additional measures are to be implemented in accordance with agreements among the appropriate parties providing for the administration and funding of such additional measures.

(D) Monetary costs and electric power losses resulting from the implementation of the program shall be allocated by the Administrator consistent with individual project impacts and system wide objectives of this subsection.

(9) The Council shall adopt such program or amendments thereto within one year after the time provided for receipt of the recommendations. Such program shall also be included in the plan adopted by the Council under subsection (d) of this section.

(10)(A) The Administrator shall use the Bonneville Power Administration fund and the authorities available to the Administrator under this chapter and other laws administered by the Administrator to protect, mitigate, and enhance fish and wildlife to the extent affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries in a manner consistent with the plan, if in existence, the program adopted by the Council under this subsection, and the purposes of this chapter. Expenditures of the Administrator pursuant to this paragraph shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(B) The Administrator may make expenditures from such fund which shall be included in the annual or supplementary budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act [16 U.S.C. 838 et seq.]. Any amounts included in such budget for the construction of capital facilities with an estimated life of greater than 15 years and an estimated cost of at least $1,000,000 shall be funded in the same manner and in accordance with the same procedures as major transmission facilities under the Federal Columbia River Transmission System Act.

(C) The amounts expended by the Administrator for each activity pursuant to this subsection shall be allocated as appropriate by the Administrator, in consultation with the Corps of Engineers and the Water and Power Resources Service, among the various hydroelectric projects of the Federal Columbia River Power System. Amounts so allocated shall be allocated to the various project purposes in accordance with existing accounting procedures for the Federal Columbia River Power System.

(D) INDEPENDENT SCIENTIFIC REVIEW PANEL.—(i) The Northwest Power Planning Council (Council) shall appoint an Independent Scientific Review Panel (Panel), which shall be comprised of eleven members, to review projects proposed to be funded through that portion of the Bonneville Power Administration's (BPA) annual fish and wildlife budget that implements the Council's fish and wildlife program. Members shall be appointed from a list of no fewer than 20 scientists submitted by the National Academy of Sciences (Academy), provided that Pacific Northwest scientists with expertise in Columbia River anadromous and non-anadromous fish and wildlife and ocean experts shall be among those represented on the Panel. The Academy shall provide such nominations within 90 days of September 30, 1996, and in any case not later than December 31, 1996. If appointments are required in subsequent years, the Council shall request nominations from the Academy and the Academy shall provide nominations not later than 90 days after the date of this request. If the Academy does not provide nominations within these time requirements, the Council may appoint such members as the Council deems appropriate.

(ii) SCIENTIFIC PEER REVIEW GROUPS.—The Council shall establish Scientific Peer Review Groups (Peer Review Groups), which shall be comprised of the appropriate number of scientists, from a list submitted by the Academy to assist the Panel in making its recommendations to the Council for projects to be funded through BPA's annual fish and wildlife budget, provided that Pacific Northwest scientists with expertise in Columbia River anadromous and non-anadromous fish and wildlife and ocean experts shall be among those represented on the Peer Review Groups. The Academy shall provide such nominations within 90 days of September 30, 1996, and in any case not later than December 31, 1996. If appointments are required in subsequent years, the Council shall request nominations from the Academy and the Academy shall provide nominations not later than 90 days after the date of this request. If the Academy does not provide nominations within these time requirements, the Council may appoint such members as the Council deems appropriate.

(iii) CONFLICT OF INTEREST AND COMPENSATION.—Panel and Peer Review Group members may be compensated and shall be considered subject to the conflict of interest standards that apply to scientists performing comparable work for the National Academy of Sciences; provided that a Panel or Peer Review Group members with a direct or indirect financial interest in a project, or projects, shall recuse himself or herself from review of, or recommendations associated with, such project or projects. All expenses of the Panel and the Peer Review Groups shall be paid by BPA as provided for under paragraph (vii). Neither the Panel nor the Peer Review Groups shall be deemed advisory committees within the meaning of the Federal Advisory Committee Act.

(iv) PROJECT CRITERIA AND REVIEW.—The Peer Groups, in conjunction with the Panel, shall review projects proposed to be funded through BPA's annual fish and wildlife budget and make recommendations on matters related to such projects to the Council no later than June 15 of each year. If the recommendations are not received by the Council by this date, the Council may proceed to make final recommendations on

project funding to BPA, relying on the best information available. The Panel and Peer Review Groups shall review a sufficient number of projects to adequately ensure that the list of prioritized projects recommended is consistent with the Council's program. Project recommendations shall be based on a determination that projects: are based on sound science principles; benefit fish and wildlife; and have a clearly defined objective and outcome with provisions for monitoring and evaluation of results. The Panel, with assistance from the Peer Review Groups, shall review, on an annual basis, the results of prior year expenditures based upon these criteria and submit its findings to the Council for its review.

(v) PUBLIC REVIEW.—Upon completion of the review of projects to be funded through BPA's annual fish and wildlife budget, the Peer Review Groups shall submit its findings to the Panel. The Panel shall analyze the information submitted by the Peer Review Groups and submit recommendations on project priorities to the Council. The Council shall make the Panel's findings available to the public and subject to public comment.

(vi) RESPONSIBILITIES OF THE COUNCIL.—The Council shall fully consider the recommendations of the Panel when making its final recommendations of projects to be funded through BPA's annual fish and wildlife budget, and if the Council does not incorporate a recommendation of the Panel, the Council shall explain in writing its reasons for not accepting Panel recommendations. In making its recommendations to BPA, the Council shall consider the impact of ocean conditions on fish and wildlife populations and shall determine whether the projects employ cost-effective measures to achieve program objectives. The Council, after consideration of the recommendations of the Panel and other appropriate entities, shall be responsible for making the final recommendations of projects to be funded through BPA's annual fish and wildlife budget.

(vii) COST LIMITATION.—The annual cost of this provision shall not exceed $500,000 in 1997 dollars.

(11)(A) The Administrator and other Federal agencies responsible for managing, operating, or regulating Federal or non-Federal hydroelectric facilities located on the Columbia River or its tributaries shall—

(i) exercise such responsibilities consistent with the purposes of this chapter and other applicable laws, to adequately protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by such projects or facilities in a manner that provides equitable treatment for such fish and wildlife with the other purposes for which such system and facilities are managed and operated;

(ii) exercise such responsibilities, taking into account at each relevant stage of decisionmaking processes to the fullest extent practicable, the program adopted by the Council under this subsection. If, and to the extent that, such other Federal agencies as a result of such consideration impose upon any non-Federal electric power project measures to protect, mitigate, and enhance fish and wildlife which are not attributable to the development and operation of such project, then the resulting monetary costs and power losses (if any) shall be borne by the Administrator in accordance with this subsection.

(B) The Administrator and such Federal agencies shall consult with the Secretary of the Interior, the Administrator of the National Marine Fisheries Service, and the State fish and wildlife agencies of the region, appropriate Indian tribes, and affected project operators in carrying out the provisions of this paragraph and shall, to the greatest extent practicable, coordinate their actions.

(12)(A) Beginning on October 1 of the first fiscal year after all members to the Council are appointed initially, the Council shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate and to the Committees on Energy and Commerce and on Natural Resources of the House of Representatives. The report shall describe the actions taken and to be taken by the Council under this chapter, including this subsection, the effectiveness of the fish and wildlife program, and potential revisions or modifications to the program to be included in the plan when adopted. At least ninety days prior to its submission of such report, the Council shall make available to such fish and wildlife agencies, and tribes, the Administrator and the customers a draft of such report. The Council shall establish procedures for timely comments thereon. The Council shall include as an appendix to such report such comments or a summary thereof.

(B) The Administrator shall keep such committees fully and currently informed of the actions taken and to be taken by the Administrator under this chapter, including this subsection.

(i) Review

The Council may from time to time review the actions of the Administrator pursuant to this section and section 839d of this title to determine whether such actions are consistent with the plan and programs, the extent to which the plan and programs is being implemented, and to assist the Council in preparing amendments to the plan and programs.

(j) Requests by Council for action

(1) The Council may request the Administrator to take an action under section 839d of this title to carry out the Administrator's responsibilities under the plan.

(2) To the greatest extent practicable within ninety days after the Council's request, the Administrator shall respond to the Council in writing specifying—

(A) the means by which the Administrator will undertake the action or any modification thereof requested by the Council, or

(B) the reasons why such action would not be consistent with the plan, or with the Administrator's legal obligations under this chapter, or other provisions of law, which the Administrator shall specifically identify.

(3) If the Administrator determines not to undertake the requested action, the Council, with-

in sixty days after notice of the Administrator's determination, may request the Administrator to hold an informal hearing and make a final decision.

(k) Review and analysis of 5-year period of Council activities

(1) Not later than October 1, 1987, or six years after the Council is established under this chapter, whichever is later, the Council shall complete a thorough analysis of conservation measures and conservation resources implemented pursuant to this chapter during the five-year period beginning on the date the Council is established under this chapter to determine if such measures or resources:

(A) have resulted or are likely to result in costs to consumers in the region greater than the costs of additional generating resources or additional fuel which the Council determines would be necessary in the absence of such measures or resources;

(B) have not been or are likely not to be generally equitable to all consumers in the region; or

(C) have impaired or are likely to impair the ability of the Administrator to carry out his obligations under this chapter and other laws, consistent with sound business practices.

(2) The Administrator may determine that section 839a(4)(D) of this title shall not apply to any proposed conservation measure or resource if the Administrator finds after receipt of such analysis from the Council that such measure or resource would have any result or effect described in subparagraph (A), (B) or (C) of paragraph (1).

(Pub. L. 96–501, § 4, Dec. 5, 1980, 94 Stat. 2700; Pub. L. 103–437, § 6(u), Nov. 2, 1994, 108 Stat. 4587; Pub. L. 104–206, title V, § 512, Sept. 30, 1996, 110 Stat. 3005; Pub. L. 106–60, title VI, § 610, Sept. 29, 1999, 113 Stat. 502.)

REFERENCES IN TEXT

The Ethics in Government Act of 1978, referred to in subsec. (b)(3), is Pub. L. 95–521, Oct. 26, 1978, 92 Stat. 1824. Title II of the Ethics in Government Act of 1978 was set out in the Appendix to Title 5, Government Organization and Employees, prior to repeal by Pub. L. 101–194, title II, § 201, Nov. 30, 1989, 103 Stat. 1724. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95–521 in the Appendix to Title 5 and Tables.

The Federal Columbia River Transmission System Act, referred to in subsecs. (c)(10)(A) and (h)(10)(B), is Pub. L. 93–454, Oct. 18, 1974, 88 Stat. 1376, which is classified generally to chapter 12G (§ 838 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 838 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (h)(10)(D)(iii), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

September 30, 1996, referred to in subsec. (h)(10)(D)(i), (ii), was in the original ''the date of this enactment'', which was translated as meaning the date of enactment of Pub. L. 104–206, which enacted subsec. (h)(10)(D), to reflect the probable intent of Congress.

AMENDMENTS

1999—Subsec. (h)(10)(D)(vii), (viii). Pub. L. 106–60 added cl. (vii) and struck out former cls. (vii) and (viii) which read as follows:

''(vii) COST LIMITATION.—The cost of this provision shall not exceed $2,000,000 in 1997 dollars.

''(viii) EXPIRATION.—This paragraph shall expire on September 30, 2000.''

1996—Subsec. (h)(10)(D). Pub. L. 104–206, which directed that subpar. (D) be inserted after subsec. (h)(10)(C) of the Northwest Power Planning and Conservation Act, was executed by adding subsec. (h)(10)(D) to this section, which is from the Pacific Northwest Electric Power Planning and Conservation Act, to reflect the probable intent of Congress.

1994—Subsec. (h)(12)(A). Pub. L. 103–437 substituted ''Committees on Energy and Commerce and on Natural Resources'' for ''Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs''.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

The Water and Power Resources Service, referred to in subsec. (h)(10)(C), changed to the Bureau of Reclamation on May 18, 1981. See 155 Dep't of the Interior, Departmental Manual 1.1 (2008 repl.); Sec'y James G. Watt, Dep't of the Interior, Secretarial Order 3064, §§ 3, 5 (May 18, 1981).

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (h)(12)(A) of this section relating to submitting annually a detailed report to the Committee on Energy and Natural Resources of the Senate and to the Committees on Energy and Commerce and on Natural Resources of the House of Representatives, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 188 of House Document No. 103–7.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

OPERATION AND MAINTENANCE OF FISH PASSAGE FACILITIES WITHIN THE YAKIMA RIVER BASIN; FUNDING

Pub. L. 98–381, title I, § 109, Aug. 17, 1984, 98 Stat. 1340, provided that: ''The Secretary of the Interior, acting pursuant to Federal reclamation law (Act of June 17, 1902, 32 Stat. 388 [see Short Title note under section 371 of Title 43, Public Lands], and Acts amendatory thereof and supplementary thereto) and in accordance with the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697) [16 U.S.C. 839 et seq.] is authorized to design, construct, operate, and maintain fish passage facilities within the Yakima River Basin, and to accept funds from any entity, public or private, to design, construct, operate, and maintain such facilities.''

§ 839c. Sale of power

(a) Preferences and priorities

All power sales under this chapter shall be subject at all times to the preference and prior-

ity provisions of the Bonneville Project Act of 1937 (16 U.S.C. 832 and following) and, in particular, sections 4 and 5 thereof [16 U.S.C. 832c and 832d]. Such sales shall be at rates established pursuant to section 839e of this title.

(b) Sales to public bodies, cooperatives, and Federal agency customers

(1) Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under the Bonneville Project Act of 1937 [16 U.S.C. 832 et seq.] and to each requesting investor-owned utility electric power to meet the firm power load of such public body, cooperative or investor-owned utility in the Region to the extent that such firm power load exceeds—

(A) the capability of such entity's firm peaking and energy resources used in the year prior to December 5, 1980, to serve its firm load in the region, and

(B) such other resources as such entity determines, pursuant to contracts under this chapter, will be used to serve its firm load in the region.

In determining the resources which are used to serve a firm load, for purposes of subparagraphs (A) and (B), any resources used to serve a firm load under such subparagraphs shall be treated as continuing to be so used, unless such use is discontinued with the consent of the Administrator, or unless such use is discontinued because of obsolescence, retirement, loss of resource, or loss of contract rights.

(2) Contracts with investor-owned utilities shall provide that the Administrator may reduce his obligations under such contracts in accordance with section 5(a) of the Bonneville Project Act of 1937 [16 U.S.C. 832d(a)].

(3) In addition to his authorities to sell electric power under paragraph (1), the Administrator is also authorized to sell electric power to Federal agencies in the region.

(4) Sales under this subsection shall be made only if the public body, cooperative, Federal agency or investor-owned utility complies with the Administrator's standards for service in effect on December 5, 1980, or as subsequently revised.

(5) The Administrator shall include in contracts executed in accordance with this subsection provisions that enable the Administrator to restrict his contractual obligations to meet the loads referred to in this subsection in the future if the Administrator determines, after a reasonable period of experience under this chapter, that the Administrator cannot be assured on a planning basis of acquiring sufficient resources to meet such loads during a specified period of insufficiency. Any such contract with a public body, cooperative, or Federal agency shall specify a reasonable minimum period between a notice of restriction and the earliest date such restriction may be imposed.

(6) Contracts executed in accordance with this subsection with public body, cooperative, and Federal agency customers shall—

(A) provide that the restriction referred to in paragraph (5) shall not be applicable to any such customers until the operating year in which the total of such customers' firm loads to be served by the Administrator equals or exceeds the firm capability of the Federal base system resources;

(B) not permit restrictions which would reduce the total contractual entitlement of such customers to an amount less than the firm capability of the Federal base system resources; and

(C) contain a formula for determining annually, on a uniform basis, each such customer's contractual entitlement to firm power during such a period of restriction, which formula shall not consider customer resources other than those the customer has determined, as of December 5, 1980, to be used to serve its own firm loads.

The formula referred to in subparagraph (C) shall obligate the Administrator to provide on an annual basis only firm power needed to serve the portion of such customer's firm load in excess of the capability of such customer's own firm resources determined by such customer under paragraph (1) of this subsection to be used to serve its firm load.

(7) REQUIRED SALE.—

(A) DEFINITION OF A JOINT OPERATING ENTITY.—In this section, the term ''joint operating entity'' means an entity that is lawfully organized under State law as a public body or cooperative prior to September 22, 2000, and is formed by and whose members or participants are two or more public bodies or cooperatives, each of which was a customer of the Bonneville Power Administration on or before January 1, 1999.

(B) SALE.—Pursuant to paragraph (1), the Administrator shall sell, at wholesale to a joint operating entity, electric power solely for the purpose of meeting the regional firm power consumer loads of regional public bodies and cooperatives that are members of or participants in the joint operating entity.

(C) NO RESALE.—A public body or cooperative to which a joint operating entity sells electric power under subparagraph (B) shall not resell that power except to retail customers of the public body or cooperative or to another regional member or participant of the same joint operating entity, or except as otherwise permitted by law.

(c) Purchase and exchange sales

(1) Whenever a Pacific Northwest electric utility offers to sell electric power to the Administrator at the average system cost of that utility's resources in each year, the Administrator shall acquire by purchase such power and shall offer, in exchange, to sell an equivalent amount of electric power to such utility for resale to that utility's residential users within the region.

(2) The purchase and exchange sale referred to in paragraph (1) of this subsection with any electric utility shall be limited to an amount not in excess of 50 per centum of such utility's Regional residential load in the year beginning July 1, 1980, such 50 per centum limit increasing in equal annual increments to 100 per centum of such load in the year beginning July 1, 1985, and each year thereafter.

(3) The cost benefits, as specified in contracts with the Administrator, of any purchase and ex-

change sale referred to in paragraph (1) of this subsection which are attributable to any electric utility's residential load within a State shall be passed through directly to such utility's residential loads within such State, except that a State which lies partially within and partially without the region may require that such cost benefits be distributed among all of the utility's residential loads in that State.

(4) An electric utility may terminate, upon reasonable terms and conditions agreed to by the Administrator and such utility prior to such termination, its purchase and sale under this subsection if the supplemental rate charge provided for in section 839e(b)(3) of this title is applied and the cost of electric power sold to such utility under this subsection exceeds, after application of such rate charge, the average system cost of power sold by such utility to the Administrator under this subsection.

(5) Subject to the provisions of sections 839b and 839d of this title, in lieu of purchasing any amount of electric power offered by a utility under paragraph (1) of this subsection, the Administrator may acquire an equivalent amount of electric power from other sources to replace power sold to such utility as part of an exchange sale if the cost of such acquisition is less than the cost of purchasing the electric power offered by such utility.

(6) Exchange sales to a utility pursuant to this subsection shall not be restricted below the amounts of electric power acquired by the Administrator from, or on behalf of, such utility pursuant to this subsection.

(7) The ''average system cost'' for electric power sold to the Administrator under this subsection shall be determined by the Administrator on the basis of a methodology developed for this purpose in consultation with the Council, the Administrator's customers, and appropriate State regulatory bodies in the region. Such methodology shall be subject to review and approval by the Federal Energy Regulatory Commission. Such average system cost shall not include—

(A) the cost of additional resources in an amount sufficient to serve any new large single load of the utility;

(B) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after December 5, 1980; and

(C) any costs of any generating facility which is terminated prior to initial commercial operation.

(d) Sales to existing direct service industrial customers

(1)(A) The Administrator is authorized to sell in accordance with this subsection electric power to existing direct service industrial customers. Such sales shall provide a portion of the Administrator's reserves for firm power loads within the region.

(B) After December 5, 1980, the Administrator shall offer in accordance with subsection (g) of this section to each existing direct service industrial customer an initial long term contract that provides such customer an amount of power equivalent to that to which such customer is entitled under its contract dated January or April 1975 providing for the sale of ''industrial firm power.''

(2) The Administrator shall not sell electric power, including reserves, directly to new direct service industrial customers.

(3) The Administrator shall not sell amounts of electric power, including reserves, to existing direct service industrial customers in excess of the amount permitted under paragraph (1) unless the Administrator determines, after a plan has been adopted pursuant to section 839b of this title, that such proposed sale is consistent with the plan and that—

(A) additional power system reserves are required for the region's firm loads,

(B) the proposed sale would provide a cost-effective method of supplying such reserves,

(C) such loads or loads of similar character cannot provide equivalent operating or planning benefits to the region if served by an electric utility under contractual arrangements providing reserves, and

(D) the Administrator has or can acquire sufficient electric power to serve such loads, and

unless the Council has determined such sale is consistent with the plan. After such determination by the Administrator and by the Council, the Administrator is authorized to offer to existing direct service industrial customers power in such amounts in excess of the amount permitted under paragraph (1) of this subsection as the Administrator determines to be necessary to provide additional power system reserves to meet the region's firm loads.

(4)(A) As used in this section, the term ''existing direct service industrial customer'' means any direct service industrial customer of the Administrator which has a contract for the purchase of electric power from the Administrator on December 5, 1980.

(B) The term ''new direct service industrial customer'' means any industrial entity other than an existing direct service industrial customer.

(C)(i) Where a new contract is offered in accordance with subsection (g) of this section to any existing direct service industrial customer which has not received electric power prior to December 5, 1980, from the Administrator pursuant to a contract with the Administrator existing on December 5, 1980, electric power delivered under such new contract shall be conditioned on the Administrator reasonably acquiring, in accordance with this chapter and within such estimated period of time (as specified in the contract) as he deems reasonable, sufficient resources to meet, on a planning basis, the load requirement of such customer. Such contract shall also provide that the obligation of the Administrator to acquire such resources to meet such load requirement shall, except as provided in clause (ii) of this subparagraph, apply only to such customer and shall not be sold or exchanged by such customer to any other person.

(ii) Rights under a contract described in clause (i) of this subparagraph may be transferred by an existing direct service industrial customer referred to in clause (i) to a successor in interest in connection with a reorganization or other

transfer of all major assets of such customer. Following such a transfer, such successor in interest (or any other subsequent successor in interest) may also transfer rights under such a contract only in connection with a reorganization or other transfer of all assets of such successor in interest.

(iii) The limitations of clause (i) of this subparagraph shall not apply to any customer referred to in clause (i) whenever the Administrator determines that such customer is receiving electric power pursuant to a contract referred to in such clause (ii).

(e) Contractual entitlements to firm power

(1) The contractual entitlement to firm power of any customer from whom, or on whose behalf, the Administrator has acquired electric power pursuant to section 839d of this title may not be restricted below the amount of electric power so acquired from, or on behalf of, such customer. If in any year such customer's requirements are less than such entitlement, any excess of such entitlement shall be first made available to increase the entitlement of other customers of the same class before being available for the entitlement of other customers. For purposes of this paragraph, the following entities shall each constitute a class:

(A) public bodies and cooperatives;

(B) Federal agencies;

(C) direct service industrial; and

(D) investor owned utilities.

(2) Any contractual entitlement to firm power which is based on electric power acquired from, or on behalf of, a customer pursuant to section 839d of this title shall be in addition to any other contractual entitlement to firm power not subject to restriction that such customer may have under this section. For the purposes of this subsection, references to amounts of power acquired by the Administrator pursuant to section 839d of this title shall be deemed to mean the amounts specified in the resource acquisition contracts exclusive of any amounts recognized in such contracts as replacement for Federal base system resources.

(3) The Administrator shall, consistent with the provisions of this chapter, insure that any restrictions upon any particular customer class made pursuant to this subsection and subsection (b) of this section are distributed equitably throughout the region.

(f) Surplus power

The Administrator is authorized to sell, or otherwise dispose of, electric power, including power acquired pursuant to this and other Acts, that is surplus to his obligations incurred pursuant to subsections (b), (c), and (d) of this section in accordance with this and other Acts applicable to the Administrator, including the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), and the Act of August 31, 1964 (16 U.S.C. 837–837h).

(g) Long-term contracts

(1) As soon as practicable within nine months after December 5, 1980, the Administrator shall commence necessary negotiations for, and offer, initial long-term contracts (within the limitations of the third sentence of section 5(a) of the Bonneville Project Act [16 U.S.C. 832d(a)]) simultaneously to—

(A) existing public body and cooperative customers and investor-owned utility customers under subsection (b) of this section;

(B) Federal agency customers under subsection (b) of this section;

(C) electric utility customers under subsection (c) of this section; and

(D) direct service industrial customers under subsection (d)(1) of this section.

(2) Each customer offered a contract pursuant to this subsection shall have one year from the date of such offer to accept such contract. Such contract shall be effective as provided in this subsection.

(3) An initial contract with a public body, cooperative or investor-owned electric utility customer or a Federal agency customer pursuant to subsection (b) of this section shall be effective on the date executed by such customer, unless another effective date is otherwise agreed to by the Administrator and the customer.

(4) An initial contract with an electric utility customer pursuant to subsection (c) of this section shall be effective on the date executed by such customer, but no earlier than the first day of the tenth month after December 5, 1980.

(5) An initial contract with a direct service industrial customer pursuant to subsection (d)(1) of this section, shall be effective on the date agreed upon by the Administrator and such customer, but no later than the first day of the tenth month after December 5, 1980. When such contract is executed, it may for rate purposes be given retroactive effect to such first day.

(6) Initial contracts offered public body, cooperative and Federal agency customers in accordance with this subsection shall provide that during a period of insufficiency declared in accordance with subsection (b) of this section each customer's contractual entitlement shall, to the extent of its requirements on the Administrator, be no less than the amount of firm power received from the Administrator in the year immediately preceding the period of insufficiency.

(7) The Administrator shall be deemed to have sufficient resources for the purpose of entering into the initial contracts specified in paragraph (1)(A) through (D).

(Pub. L. 96–501, § 5, Dec. 5, 1980, 94 Stat. 2712; Pub. L. 106–273, § 1, Sept. 22, 2000, 114 Stat. 802.)

REFERENCES IN TEXT

The Bonneville Project Act of 1937, referred to in subsecs. (a), (b)(1), and (f), is act Aug. 20, 1937, ch. 720, 50 Stat. 731, which is classified generally to chapter 12B (§ 832 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 832 of this title and Tables.

The Federal Columbia River Transmission System Act, referred to in subsec. (f), is Pub. L. 93–454, Oct. 18, 1974, 88 Stat. 1376, which is classified generally to chapter 12G (§ 838 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 838 of this title and Tables.

Act of August 31, 1964, referred to in subsec. (f), is Pub. L. 88–552, Aug. 31, 1964, 78 Stat. 756, which is classified generally to chapter 12F (§ 837 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2000—Subsec. (b)(7). Pub. L. 106–273 added par. (7).

§ 839d. Conservation and resource acquisition

(a) Conservation measures; resources

(1) The Administrator shall acquire such resources through conservation, implement all such conservation measures, and acquire such renewable resources which are installed by a residential or small commercial consumer to reduce load, as the Administrator determines are consistent with the plan, or if no plan is in effect with the criteria of section 839b(e)(1) of this title and the considerations of section 839b(e)(2) of this title and, in the case of major resources, in accordance with subsection (c) of this section. Such conservation measures and such resources may include, but are not limited to—

(A) loans and grants to consumers for insulation or weatherization, increased system efficiency, and waste energy recovery by direct application,

(B) technical and financial assistance to, and other cooperation with, the Administrator's customers and governmental authorities to encourage maximum cost-effective voluntary conservation and the attainment of any cost-effective conservation objectives adopted by individual States or subdivisions thereof,

(C) aiding the Administrator's customers and governmental authorities in implementing model conservation standards adopted pursuant to section 839b(f) of this title, and

(D) conducting demonstration projects to determine the cost effectiveness of conservation measures and direct application of renewable energy resources.

(2) In addition to acquiring electric power pursuant to section 839c(c) of this title, or on a short-term basis pursuant to section 11(b)(6)(i) of the Federal Columbia River Transmission System Act [16 U.S.C. 838i(b)(6)(i)], the Administrator shall acquire, in accordance with this section, sufficient resources—

(A) to meet his contractual obligations that remain after taking into account planned savings from measures provided for in paragraph (1) of this subsection, and

(B) to assist in meeting the requirements of section 839b(h) of this title.

The Administrator shall acquire such resources without considering restrictions which may apply pursuant to section 839c(b) of this title.

(b) Acquisition of resources

(1) Except as specifically provided in this section, acquisition of resources under this chapter shall be consistent with the plan, as determined by the Administrator.

(2) The Administrator may acquire resources (other than major resources) under this chapter which are not consistent with the plan, but which are determined by the Administrator to be consistent with the criteria of section 839b(e)(1) of this title and the considerations of section 839b(e)(2) of this title.

(3) If no plan is in effect, the Administrator may acquire resources under this chapter which are determined by the Administrator to be consistent with the criteria of section 839b(e)(1) of this title and the considerations of section 839b(e)(2) of this title.

(4) The Administrator shall acquire any non-Federal resources to replace Federal base system resources only in accordance with the provisions of this section. The Administrator shall include in the contracts for the acquisition of any such non-Federal replacement resources provisions which will enable him to ensure that such non-Federal replacement resources are developed and operated in a manner consistent with the considerations specified in section 839b(e)(2) of this title.

(5) Notwithstanding any acquisition of resources pursuant to this section, the Administrator shall not reduce his efforts to achieve conservation and to acquire renewable resources installed by a residential or small commercial consumer to reduce load, pursuant to subsection (a)(1) of this section.

(c) Procedure for acquiring major resources, implementing conservation measures, paying or reimbursing investigation and preconstruction expenses, or granting billing credits

(1) For each proposal under subsection (a), (b), (f), (h), or (*l*) of this section to acquire a major resource, to implement a conservation measure which will conserve an amount of electric power equivalent to that of a major resource, to pay or reimburse investigation and preconstruction expenses of the sponsors of a major resource, or to grant billing credits or services involving a major resource, the Administrator shall—

(A) publish notice of the proposed action in the Federal Register and provide a copy of such notice to the Council, the Governor of each State in which facilities would be constructed or a conservation measure implemented, and the Administrator's customers;

(B) not less than sixty days following publication of such notice, conduct one or more public hearings, presided over by a hearing officer, at which testimony and evidence shall be received, with opportunity for such rebuttal and cross-examination as the hearing officer deems appropriate in the development of an adequate hearing record;

(C) develop a record to assist in evaluating the proposal which shall include the transcript of the public hearings, together with exhibits, and such other materials and information as may have been submitted to, or developed by, the Administrator; and

(D) following completion of such hearings, promptly provide to the Council and make public a written decision that includes, in addition to a determination respecting the requirements of subsection (a), (b), (f), (h), (*l*), or (m) of this section, as appropriate—

(i) if a plan is in effect, a finding that the proposal is either consistent or inconsistent with the plan or, notwithstanding its inconsistency with the plan, a finding that it is needed to meet the Administrator's obligations under this chapter, or

(ii) if no plan is in effect, a finding that the proposal is either consistent or inconsistent with the criteria of section 839b(e)(1) of this title and the considerations of sec-

tion 839b(e)(2) of this title or notwithstanding its inconsistency, a finding that it is needed to meet the Administrator's obligations under this chapter.

In the case of subsection (f) of this section, such decision shall be treated as satisfying the applicable requirements of this subsection and of subsection (f) of this section, if it includes a finding of probable consistency, based upon the Administrator's evaluation of information available at the time of completion of the hearing under this paragraph. Such decision shall include the reasons for such finding.

(2) Within sixty days of the receipt of the Administrator's decision pursuant to paragraph (1)(D) of this subsection, the Council may determine by a majority vote of all members of the Council, and notify the Administrator—

(A) that the proposal is either consistent or inconsistent with the plan, or

(B) if no plan is in effect, that the proposal is either consistent or inconsistent with the criteria of section 839b(e)(1) of this title and the considerations of section 839b(e)(2) of this title.

(3) The Administrator may not implement any proposal referred to in paragraph (1) that is determined pursuant to paragraph (1) or (2) by either the Administrator or the Council to be inconsistent with the plan or, if no plan is in effect, with the criteria of section 839b(e)(1) of this title and the considerations of section 839b(e)(2) of this title—

(A) unless the Administrator finds that, notwithstanding such inconsistency, such resource is needed to meet the Administrator's obligations under this chapter, and

(B) until the expenditure of funds for that purpose has been specifically authorized by Act of Congress enacted after December 5, 1980.

(4) Before the Administrator implements any proposal referred to in paragraph (1) of this subsection, the Administrator shall—

(A) submit to the appropriate committees of the Congress the administrative record of the decision (including any determination by the Council under paragraph (2)) and a statement of the procedures followed or to be followed for compliance with the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.],

(B) publish notice of the decision in the Federal Register, and

(C) note the proposal in the Administrator's annual or supplementary budget submittal made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following).

The Administrator may not implement any such proposal until ninety days after the date on which such proposal has been noted in such budget or after the date on which such decision has been published in the Federal Register, whichever is later.

(5) The authority of the Council to make a determination under paragraph (2)(B) if no plan is in effect shall expire on the date two years after the establishment of the Council.

(d) Acquisition of resources other than major resources

The Administrator is authorized to acquire a resource, other than a major resource, whether or not such resource meets the criteria of section 839b(e)(1) of this title and the considerations of section 839b(e)(2) of this title but which he determines is an experimental, developmental, demonstration, or pilot project of a type with a potential for providing cost-effective service to the region. The Administrator shall make no obligation for the acquisition of such resource until it is included in the annual budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act [16 U.S.C. 838 et seq.].

(e) Effectuation of priorities; use of customers and local entities

(1) In order to effectuate the priority given to conservation measures and renewable resources under this chapter, the Administrator shall, to the maximum extent practicable, make use of his authorities under this chapter to acquire conservation measures and renewable resources, to implement conservation measures, and to provide credits and technical and financial assistance for the development and implementation of such resources and measures (including the funding of, and the securing of debt for, expenses incurred during the investigation and preconstruction of resources, as authorized in subsection (f) of this section).

(2) To the extent conservation measures or acquisition of resources require direct arrangements with consumers, the Administrator shall make maximum practicable use of customers and local entities capable of administering and carrying out such arrangements.

(f) Agreements; investigation and initial development of renewable resources other than major resources; reimbursement of investigation and preconstruction expenses

(1) For resources which the Administrator determines may be eligible for acquisition under this section and satisfy the criteria of section 839b(e)(1) of this title and the considerations of section 839b(e)(2) of this title or, if a plan is in effect, to be consistent with the plan, the Administrator is authorized to enter into agreements with sponsors of—

(A) a renewable resource, other than a major resource, to fund or secure debt incurred in the investigation and initial development of such resource, or

(B) any other resource to provide for the reimbursement of the sponsor's investigation and preconstruction expenses concerning such resource (which expenses shall not include procurement of capital equipment or construction material for such resource).

In the case of any resource referred to in subparagraph (B) of this paragraph, such reimbursement is authorized only if—

(i) such resource is subsequently denied State siting approval or other necessary Federal or State permits, or approvals,

(ii) such investigation subsequently demonstrates, as determined by the Administrator, that such resource does not meet the

criteria of section 839b(e)(1) of this title and the considerations of section 839b(e)(2) of this title or is not acceptable because of environmental impacts, or

(iii) after such investigation the Administrator determines not to acquire the resource and the sponsor determines not to construct the resource.

(2) The Administrator may exercise the authority of this subsection only after he determines that the failure to do so would result in inequitable hardship to the consumers of such sponsors. The Administrator may provide reimbursement under this subsection only for expenses incurred after December 5, 1980.

(3) Any agreement under paragraph (1) of this subsection shall provide the Administrator an option to acquire any such resource, including a renewable resource, and shall include such other provisions, as the Administrator deems appropriate, for the Administrator's recovery from such sponsors or any assignee of the sponsors, if such sponsor or assignee continues development of the resource, of any advances made by the Administrator pursuant to such agreement.

(4) The Administrator shall not reimburse any expense incurred by the sponsors (except necessary expenses involved in the liquidation of the resource) after the date of a final denial of application for State siting approval or after the date the Administrator determines that the resource to be inconsistent with the plan or the criteria of section 839b(e)(1) of this title and the considerations of section 839b(e)(2) of this title.

(g) Environmental impact statements

At the request of the appropriate State, any environmental impact statement which may be required with respect to a resource, to the extent determined possible by the Administrator in accordance with applicable law and regulations, may be prepared jointly and in coordination with any required environmental impact statement of the State or any other statement which serves the purpose of an environmental impact statement which is required by State law.

(h) Billing credits

(1) If a customer so requests, the Administrator shall grant billing credits to such customer, and provide services to such customer at rates established for such services, for—

(A) conservation activities independently undertaken or continued after December 5, 1980, by such customer or political subdivision served by such customer which reduce the obligation of the Administrator that would otherwise have existed to acquire other resources under this chapter, or

(B) resources constructed, completed, or acquired after December 5, 1980, by a customer, an entity acting on behalf of such customer, or political subdivision served by the customer which reduce the obligation of the Administrator to acquire resources under this chapter. Such resources shall be renewable resources or multipurpose projects or other resources which are not inconsistent with the plan or, in the absence of a plan, not inconsistent with the criteria of section 839b(e)(1) of this title and the considerations of section 839b(e)(2) of this title.

(2) The energy and capacity on which a credit under this subsection to a customer is based shall be the amount by which a conservation activity or resource actually changes the customer's net requirement for supply of electric power or reserves from the Administrator.

(3) The amount of credits for conservation under this subsection shall be set to credit the customer implementing or continuing the conservation activity for which the credit is granted for the savings resulting from such activity. The rate impact on the Administrator's other customers of granting the credit shall be equal to the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually saved by the activity for which the credit is granted.

(4) For resources other than conservation, the customer shall be credited for net costs actually incurred by such customer, an entity acting on behalf of such customer, or political subdivision served by such customer, in acquiring, constructing, or operating the resource for which the credit is granted. The rate impact to the Administrator's other customers of granting the credit shall be no greater than the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually produced by the resource for which the credit is granted.

(5) Retail rate structures which are voluntarily implemented by the Administrator's customers and which induce conservation or installation of consumer-owned renewable resources shall be considered, for purposes of this subsection, to be (A) conservation activities independently undertaken or carried on by such customers, or (B) customer-owned renewable resources, and shall qualify for billing credits upon the same showing as that required for other conservation or renewable resource activities.

(6) Prior to granting any credit or providing services pursuant to this subsection, the Administrator shall—

(A) comply with the notice provisions of subsection (c) of this section, and include in such notice the methodology the Administrator proposes to use in determining the amount of any such credit;

(B) include the cost of such credit in the Administrator's annual or amended budget submittal to the Congress made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838(j)) [16 U.S.C. 838 et seq.];

(C) require that resources in excess of customer's reasonable load growth shall have been offered to others for ownership, participation or other sponsorship pursuant to subsection (m) of this section, except in the case of conservation, multi-purpose projects uniquely suitable for development by the customer, or renewable resources; and

(D) require that the operators of any generating resource for which a billing credit is to be granted agree to operate such resource in a manner compatible with the planning and operation of the region's power system.

(i) Contracts

Contracts for the acquisition of resources and for billing credits for major resources, including conservation activities, entered into pursuant to this section shall contain such terms and conditions, applicable after the contract is entered into, as will—

(1) insure timely construction, scheduling, completion, and operation of resources,

(2) insure that the costs of any acquisition are as low as reasonably possible, consistent (A) with sound engineering, operating, and safety practices, and (B) the protection, mitigation, and enhancement of fish and wildlife, including related spawning grounds and habitat affected by the development of such resources, and

(3) insure that the Administrator exercises effective oversight, inspection, audit, and review of all aspects of such construction and operation.

Such contracts shall contain provisions assuring that the Administrator has the authority to approve all costs of, and proposals for, major modifications in construction, scheduling or operations and to assure that the Administrator is provided with such current information as he deems necessary to evaluate such construction and operation.

(j) Obligations not to be considered general obligations of United States or secured by full faith and credit of United States

(1) All contractual and other obligations required to be carried out by the Administrator pursuant to this chapter shall be secured solely by the Administrator's revenues received from the sale of electric power and other services. Such obligations are not, nor shall they be construed to be, general obligations of the United States, nor are such obligations intended to be or are they secured by the full faith and credit of the United States.

(2) All contracts entered into by the Administrator for the acquisition of resources pursuant to this chapter shall require that, in the sale of any obligations, all offerings and promotional material for the sale of such obligations shall include the language contained in the second sentence of paragraph (1) of this subsection. The Administrator shall monitor and enforce such requirement.

(k) Equitable distribution of benefits

In the exercise of his authorities pursuant to this section, the Administrator shall, consistent with the provisions of this chapter and the Administrator's obligations to particular customer classes, insure that benefits under this section, including financial and technical assistance, conduct of conservation demonstrations, and experimental projects, services, and billing credits, are distributed equitably throughout the region.

(*l*) Investigations

(1) The Administrator is authorized and directed to investigate opportunities for adding to the region's resources or reducing the region's power costs through the accelerated or cooperative development of resources located outside the States of Idaho, Montana, Oregon, and Washington if such resources are renewable resources, and are now or in the future planned or considered for eventual development by nonregional agencies or authorities that will or would own, sponsor, or otherwise develop them. The Administrator shall keep the Council fully and currently informed of such investigations, and seek the Council's advice as to the desirability of pursuing such investigations.

(2) The Administrator is authorized and directed to investigate periodically opportunities for mutually beneficial interregional exchanges of electric power that reduce the need for additional generation or generating capacity in the Pacific Northwest and the regions with which such exchanges may occur. The Council shall take into consideration in formulating a plan such investigations.

(3) After the Administrator submits a report to Congress pursuant to paragraph (5) of this subsection, the Administrator is authorized to acquire resources consistent with such investigations and consistent with the plan or, if no plan is in effect, with the priorities of section 839b(e)(1) of this title and the considerations of section 839b(e)(2) of this title. Such acquisitions shall be in accordance with the provisions of this subsection.

(4) The Administrator shall conduct the investigations and the acquisitions, if any, authorized under this subsection with the assistance of other Federal agencies as may be appropriate.

(5) No later than July 1, 1981, the Administrator shall submit to the Congress a report of the results of the investigations undertaken pursuant to this subsection, together with the prospects for obtaining additional resources under the authority granted by this subsection and for reductions in generation or generating capacity through exchanges.

(m) Offering of reasonable shares to each Pacific Northwest electric utility

Except as to resources under construction on December 5, 1980, the Administrator shall determine in each case of a major resource acquisition that a reasonable share of the particular resource, or a reasonable equivalent, has been offered to each Pacific Northwest electric utility for ownership, participation, or other sponsorship, but not in excess of the amounts needed to meet such utility's Regional load.

(Pub. L. 96–501, § 6, Dec. 5, 1980, 94 Stat. 2717.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (c)(4)(A), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Federal Columbia River Transmission System Act, referred to in subsecs. (c)(4)(C), (d), and (h)(6)(B), is Pub. L. 93–454, Oct. 18, 1974, 88 Stat. 1376, which is classified generally to chapter 12G (§ 838 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 838 of this title and Tables.

§ 839d–1. Federal projects in Pacific Northwest

Without further appropriation and without fiscal year limitation, the Secretaries of the Inte-

rior and Army are authorized to plan, design, construct, operate and maintain generation additions, improvements and replacements, at their respective Federal projects in the Pacific Northwest Region as defined in the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), Public Law 96–501 (16 U.S.C. 839a(14)), and to operate and maintain the respective Secretary's power facilities in the Region, that the respective Secretary determines necessary or appropriate and that the Bonneville Power Administrator subsequently determines necessary or appropriate, with any funds that the Administrator determines to make available to the respective Secretary for such purposes. Each Secretary is authorized, without further appropriation, to accept and use such funds for such purposes: *Provided*, That, such funds shall continue to be exempt from sequestration pursuant to section 905(g)(1) of title 2: *Provided further*, That this section shall not modify or affect the applicability of any provision of the Northwest Power Act [16 U.S.C. 839 et seq.]. This provision shall be effective on October 1, 1993.

(Pub. L. 102–486, title XXIV, §2406, Oct. 24, 1992, 106 Stat. 3099.)

REFERENCES IN TEXT

The Pacific Northwest Electric Power Planning and Conservation Act, referred to in text, is Pub. L. 96–501, Dec. 5, 1980, 94 Stat. 2697, which is classified principally to this chapter (§839 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 839 of this title and Tables.

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Pacific Northwest Electric Power Planning and Conservation Act which comprises this chapter.

§ 839e. Rates

(a) Establishment; periodic review and revision; confirmation and approval by Federal Energy Regulatory Commission

(1) The Administrator shall establish, and periodically review and revise, rates for the sale and disposition of electric energy and capacity and for the transmission of non-Federal power. Such rates shall be established and, as appropriate, revised to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to this chapter and other provisions of law. Such rates shall be established in accordance with sections 9 and 10 of the Federal Columbia River Transmission System Act (16 U.S.C. 838) [16 U.S.C. 838g and 838h], section 5 of the Flood Control Act of 1944 [16 U.S.C. 825s], and the provisions of this chapter.

(2) Rates established under this section shall become effective only, except in the case of interim rules as provided in subsection (i)(6) of this section, upon confirmation and approval by the Federal Energy Regulatory Commission upon a finding by the Commission, that such rates—

(A) are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs,

(B) are based upon the Administrator's total system costs, and

(C) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system.

(b) General application of rates to meet general requirements

(1) The Administrator shall establish a rate or rates of general application for electric power sold to meet the general requirements of public body, cooperative, and Federal agency customers within the Pacific Northwest, and loads of electric utilities under section 839c(c) of this title. Such rate or rates shall recover the costs of that portion of the Federal base system resources needed to supply such loads until such sales exceed the Federal base system resources. Thereafter, such rate or rates shall recover the cost of additional electric power as needed to supply such loads, first from the electric power acquired by the Administrator under section 839c(c) of this title and then from other resources.

(2) After July 1, 1985, the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative and Federal agency customers, exclusive of amounts charged such customers under subsection (g) of this section for the costs of conservation, resource and conservation credits, experimental resources and uncontrollable events, may not exceed in total, as determined by the Administrator, during any year after July 1, 1985, plus the ensuing four years, an amount equal to the power costs for general requirements of such customers if, the Administrator assumes that—

(A) the public body and cooperative customers' general requirements had included during such five-year period the direct service industrial customer loads which are—

(i) served by the Administrator, and

(ii) located within or adjacent to the geographic service boundaries of such public bodies and cooperatives;

(B) public body, cooperative, and Federal agency customers were served, during such five-year period, with Federal base system resources not obligated to other entities under contracts existing as of December 5, 1980, (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in subparagraph (A) of this paragraph;

(C) no purchases or sales by the Administrator as provided in section 839c(c) of this title were made during such five-year period;

(D) all resources that would have been required, during such five-year period, to meet remaining general requirements of the public body, cooperative and Federal agency cus-

tomers (other than requirements met by the available Federal base system resources determined under subparagraph (B) of this paragraph) were—

(i) purchased from such customers by the Administrator pursuant to section 839d of this title, or

(ii) not committed to load pursuant to section 839c(b) of this title,

and were the least expensive resources owned or purchased by public bodies or cooperatives; and any additional needed resources were obtained at the average cost of all other new resources acquired by the Administrator; and

(E) the quantifiable monetary savings, during such five-year period, to public body, cooperative and Federal agency customers resulting from—

(i) reduced public body and cooperative financing costs as applied to the total amount of resources, other than Federal base system resources, identified under subparagraph (D) of this paragraph, and

(ii) reserve benefits as a result of the Administrator's actions under this chapter[1]

were not achieved.

(3) Any amounts not charged to public body, cooperative, and Federal agency customers by reason of paragraph (2) of this subsection shall be recovered through supplemental rate charges for all other power sold by the Administrator to all customers. Rates charged public body, cooperative, or Federal agency customers pursuant to this subsection shall not include any costs or benefits of a net revenue surplus or deficiency occurring for the period ending June 30, 1985, to the extent such surplus or deficiency is caused by—

(A) a difference between actual power deliveries and power deliveries projected for the purpose of establishing rates to direct service industrial customers under subsection (c)(1) of this subsection, and

(B) an overrecovery or underrecovery of the net costs incurred by the Administrator under section 839c(c) of this title as a result of such difference.

Any such revenue surplus or deficiency incurred shall be recovered from, or repaid to, customers over a reasonable period of time after July 1, 1985, through a supplemental rate charge or credit applied proportionately for all other power sold by the Administrator at rates established under other subsections of this section prior to July 1, 1985.

(4) The term ''general requirements'' as used in this section means the public body, cooperative or Federal agency customer's electric power purchased from the Administrator under section 839c(b) of this title, exclusive of any new large single load.

(c) Rates applicable to direct service industrial customers

(1) The rate or rates applicable to direct service industrial customers shall be established—

(A) for the period prior to July 1, 1985, at a level which the Administrator estimates will be sufficient to recover the cost of resources the Administrator determines are required to serve such customers' load and the net costs incurred by the Administrator pursuant to section 839c(c) of this title, based upon the Administrator's projected ability to make power available to such customers pursuant to their contracts, to the extent that such costs are not recovered through rates applicable to other customers; and

(B) for the period beginning July 1, 1985, at a level which the Administrator determines to be equitable in relation to the retail rates charged by the public body and cooperative customers to their industrial consumers in the region.

(2) The determination under paragraph (1)(B) of this subsection shall be based upon the Administrator's applicable wholesale rates to such public body and cooperative customers and the typical margins included by such public body and cooperative customers in their retail industrial rates but shall take into account—

(A) the comparative size and character of the loads served,

(B) the relative costs of electric capacity, energy, transmission, and related delivery facilities provided and other service provisions, and

(C) direct and indirect overhead costs,

all as related to the delivery of power to industrial customers, except that the Administrator's rates during such period shall in no event be less than the rates in effect for the contract year ending on June 30, 1985.

(3) The Administrator shall adjust such rates to take into account the value of power system reserves made available to the Administrator through his rights to interrupt or curtail service to such direct service industrial customers.

(d) Discount rates; special rates

(1) In order to avoid adverse impacts on retail rates of the Administrator's customers with low system densities, the Administrator shall, to the extent appropriate, apply discounts to the rate or rates for such customers.

(2) In order to avoid adverse impacts of increased rates pursuant to this chapter on any direct service industrial customer using raw minerals indigenous to the region as its primary resource, the Administrator, upon request of such customer showing such impacts and after considering the effect of such request on his other obligations under this chapter, is authorized, if the Administrator determines that such impacts will be significant, to establish a special rate applicable to such customer if all power sold to such customer may be interrupted, curtailed, or withdrawn to meet firm loads in the region. Such rate shall be established in accordance with this section and shall include such terms and conditions as the Administrator deems appropriate.

(e) Uniform rates; rates for sale of peaking capacity; time-of-day, seasonal, and other rates

Nothing in this chapter prohibits the Administrator from establishing, in rate schedules of general application, a uniform rate or rates for sale of peaking capacity or from establishing time-of-day, seasonal rates, or other rate forms.

[1] So in original. Probably should be followed by a comma.

(f) Basis for rates

Rates for all other firm power sold by the Administrator for use in the Pacific Northwest shall be based upon the cost of the portions of Federal base system resources, purchases of power under section 839c(c) of this title and additional resources which, in the determination of the Administrator, are applicable to such sales.

(g) Allocation of costs and benefits

Except to the extent that the allocation of costs and benefits is governed by provisions of law in effect on December 5, 1980, or by other provisions of this section, the Administrator shall equitably allocate to power rates, in accordance with generally accepted ratemaking principles and the provisions of this chapter, all costs and benefits not otherwise allocated under this section, including, but not limited to, conservation, fish and wildlife measures, uncontrollable events, reserves, the excess costs of experimental resources acquired under section 839d of this title, the cost of credits granted pursuant to section 839d of this title, operating services, and the sale of or inability to sell excess electric power.

(h) Surcharges

Notwithstanding any other provision of this section (except the provisions of subsection (a) of this section), the Administrator shall adjust power rates to include any surcharges arising under section 839b(f) of this title, and shall allocate any revenues from such charges in such manner as the Administrator determines will help achieve the purposes of section 839b(f) of this title.

(i) Procedures

In establishing rates under this section, the Administrator shall use the following procedures:

(1) Notice of the proposed rates shall be published in the Federal Register with a statement of the justification and reasons supporting such rates. Such notice shall include a date for a hearing in accordance with paragraph (2) of this subsection.

(2) One or more hearings shall be conducted as expeditiously as practicable by a hearing officer to develop a full and complete record and to receive public comment in the form of written and oral presentation of views, data, questions, and argument related to such proposed rates. In any such hearing—

(A) any person shall be provided an adequate opportunity by the hearing officer to offer refutation or rebuttal of any material submitted by any other person or the Administrator, and

(B) the hearing officer, in his discretion, shall allow a reasonable opportunity for cross examination, which, as determined by the hearing officer, is not dilatory, in order to develop information and material relevant to any such proposed rate.

(3) In addition to the opportunity to submit oral and written material at the hearings, any written views, data, questions, and arguments submitted by persons prior to, or before the close of, hearings shall be made a part of the administrative record.

(4) After such a hearing, the Administrator may propose revised rates, publish such proposed rates in the Federal Register, and conduct additional hearings in accordance with this subsection.

(5) The Administrator shall make a final decision establishing a rate or rates based on the record which shall include the hearing transcript, together with exhibits, and such other materials and information as may have been submitted to, or developed by, the Administrator. The decision shall include a full and complete justification of the final rates pursuant to this section.

(6) The final decision of the Administrator shall become effective on confirmation and approval of such rates by the Federal Energy Regulatory Commission pursuant to subsection (a)(2) of this section. The Commission shall have the authority, in accordance with such procedures, if any, as the Commission shall promptly establish and make effective within one year after December 5, 1980, to approve the final rate submitted by the Administrator on an interim basis, pending the Commission's final decision in accordance with such subsection. Pending the establishment of such procedures by the Commission, if such procedures are required, the Secretary is authorized to approve such interim rates during such one-year period in accordance with the applicable procedures followed by the Secretary prior to December 5, 1980. Such interim rates, at the discretion of the Secretary, shall continue in effect until July 1, 1982.

(j) Cost figures to be indicated on rate schedules and power billings

All rate schedules adopted, and all power billings rendered, by the Administrator pursuant to this section shall indicate—

(1) the approximate cost contribution of different resource categories to the Administrator's rates for the sale of energy and capacity, and

(2) the cost of resources acquired to meet load growth within the region and the relation of such cost to the average cost of resources available to the Administrator.

(k) Statutory basis for procedures used in establishing rates or rate schedules

Notwithstanding any other provision of this chapter, all rates or rate schedules for the sale of nonfirm electric power within the United States, but outside the region, shall be established after December 5, 1980, by the Administrator in accordance with the procedures of subsection (i) of this section (other than the first sentence of paragraph (6) thereof) and in accordance with the Bonneville Project Act [16 U.S.C. 832 et seq.], the Flood Control Act of 1944, and the Federal Columbia River Transmission System Act [16 U.S.C. 838 et seq.]. Notwithstanding section 201(f) of the Federal Power Act [16 U.S.C. 824(f)], such rates or rate schedules shall become effective after review by the Federal Energy Regulatory Commission for conformance with the requirements of such Acts and after approval thereof by the Commission. Such review

shall be based on the record of proceedings established under subsection (i) of this section. The parties to such proceedings under subsection (i) of this section shall be afforded an opportunity by the Commission for an additional hearing in accordance with the procedures established for ratemaking by the Commission pursuant to the Federal Power Act [16 U.S.C. 791a et seq.].

(*l*) Rates for sales outside United States; negotiations

In order to further the purposes of this chapter and to protect the consumers of the region, the Administrator may negotiate, or establish, rates for electric power sold by the Administrator to any entity not located in the United States which shall be equitable in relation to rates for all electric power which is, or may be, purchased by the Administrator or the Administrator's customers from entities outside the United States. In establishing rates other than by negotiation, the provisions of subsection (i) of this section shall apply. In the case of any negotiation with an entity not located in the United States, the Administrator shall provide public notice of any proposal to negotiate such rates. Such negotiated rates shall be not less than the rates established under this chapter for nonfirm power sold within the United States but outside the region. The Administrator shall also afford notice of any rates negotiated pursuant to this subsection.

(m) Impact aid payments; formula

(1) Beginning the first fiscal year after the plan and program required by section 839b(d) and (h) of this title are finally adopted, the Administrator may, subject to the provisions of this section, make annual impact aid payments to the appropriate local governments within the region with respect to major transmission facilities of the Administrator, as defined in section 3(c) of the Federal Columbia River Transmission Act [16 U.S.C. 838a(c)]—

(A) which are located within the jurisdictional boundaries of such governments,

(B) which are determined by the Administrator to have a substantial impact on such governments, and

(C) where the construction of such facilities, or any modification thereof, is completed after December 5, 1980, and, in the case of a modification of an existing facility, such modification substantially increases the capacity of such existing transmission facility.

(2) Payments made under this subsection for any fiscal year shall be determined by the Administrator pursuant to a regionwide, uniform formula to be established by rule in accordance with the procedures set forth in subsection (i) of this section. Such rule shall become effective on its approval, after considering its effect on rates established pursuant to this section, by the Federal Energy Regulatory Commission. In developing such formula, the Administrator shall identify, and take into account, the local governmental services provided to the Administrator concerning such facilities and the associated costs to such governments as the result of such facilities.

(3) Payments made pursuant to this subsection shall be made solely from the fund established by section 11 of the Federal Columbia River Transmission System Act [16 U.S.C. 838i]. The provisions of section 13 of such Act [16 U.S.C. 838k], and any appropriations provided to the Administrator under any law, shall not be available for such payments. The authorization of payments under this subsection shall not be construed as an obligation of the United States.

(4) No payment may be made under this subsection with respect to any land or interests in land owned by the United States within the region and administered by any Federal agency (other than the Administrator), without regard to how the United States obtained ownership thereof, including lands or interests therein acquired or withdrawn by a Federal agency for purposes of such agency and subsequently made available to the Administrator for such facilities.

(n) Limiting the inclusion of costs of protection of, mitigation of damage to, and enhancement of fish and wildlife, within rates charged by the Bonneville Power Administration, to the rate period in which the costs are incurred

Notwithstanding any other provision of this section, rates established by the Administrator, under this section shall recover costs for protection, mitigation and enhancement of fish and wildlife, whether under this chapter or any other Act, not to exceed such amounts the Administrator forecasts will be expended during the fiscal year 2002–2006 rate period, while preserving the Administrator's ability to establish appropriate reserves and maintain a high Treasury payment probability for the subsequent rate period.

(Pub. L. 96–501, § 7, Dec. 5, 1980, 94 Stat. 2723; Pub. L. 106–60, title III, § 316, Sept. 29, 1999, 113 Stat. 497.)

REFERENCES IN TEXT

The Bonneville Project Act, referred to in subsec. (k), is act Aug. 20, 1937, ch. 720, 50 Stat. 731, popularly known as the Bonneville Project Act of 1937, which is classified generally to chapter 12B (§ 832 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 832 of this title and Tables.

The Flood Control Act of 1944, referred to in subsec. (k), is act Dec. 22, 1944, ch. 665, 58 Stat. 887, which enacted sections 460d and 825s of this title, sections 701–1, 701a–1, 708, and 709 of Title 33, Navigation and Navigable Waters, and section 390 of Title 43, Public Lands, and enacted provisions set out as notes under sections 701c, 701f, and 701j of Title 33. For complete classification of this Act to the Code, see Tables. For provisions of the Act relating to sale of electric power, see section 825s of this title.

The Federal Columbia River Transmission System Act, referred to in subsec. (k), is Pub. L. 93–454, Oct. 18, 1974, 88 Stat. 1376, which is classified generally to chapter 12G (§ 838 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 838 of this title and Tables.

The Federal Power Act, referred to in subsec. (k), is act June 10, 1920, ch. 285, 41 Stat. 1063, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

AMENDMENTS

1999—Subsec. (n). Pub. L. 106–60 added subsec. (n).

§ 839f. Administrative provisions

(a) Contract authority

Subject to the provisions of this chapter, the Administrator is authorized to contract in accordance with section 2(f) of the Bonneville Project Act of 1937 (16 U.S.C. 832a(f)). Other provisions of law applicable to such contracts on December 5, 1980, shall continue to be applicable.

(b) Executive and administrative functions of Administrator of Bonneville Power Administration; sound and businesslike implementation of chapter

The Administrator shall discharge the executive and administrative functions of his office in accordance with the policy established by the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), section 7152(a)(2) and (3) of title 42, and this chapter. The Secretary of Energy, the Council, and the Administrator shall take such steps as are necessary to assure the timely implementation of this chapter in a sound and businesslike manner. Nothing in this chapter shall be construed by the Secretary, the Administrator, or any other official of the Department of Energy to modify, alter, or otherwise affect the requirements and directives expressed by the Congress in section 7152(a)(2) and (3) of title 42 or the operations of such officials as they existed prior to December 5, 1980.

(c) Limitations and conditions on contracts for sale or exchange of electric power for use outside Pacific Northwest

Any contract of the Administrator for the sale or exchange of electric power for use outside the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 2 and 3 of the Act of August 31, 1964 (16 U.S.C. 837a and 837b) for any contract for the sale, delivery, or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest. In applying such sections for the purposes of this subsection, the term ''surplus energy'' shall mean electric energy for which there is no market in the Pacific Northwest at any rate established for the disposition of such energy, and the term ''surplus peaking capacity'' shall mean electric peaking capacity for which there is no demand in the Pacific Northwest at the rate established for the disposition of such capacity. The authority granted, and duties imposed upon, the Secretary by sections 5 and 7 of such Act (16 U.S.C. 837e and 837f) [16 U.S.C. 837d and 837f] shall also apply to the Administrator in connection with resources acquired by the Administrator pursuant to this chapter. The Administrator shall, in making any determination, under any contract executed pursuant to section 839c of this title, of the electric power requirements of any Pacific Northwest customer, which is a non-Federal entity having its own generation, exclude, in addition to hydroelectric generated energy excluded from such requirements pursuant to section 3(d) of such Act (16 U.S.C. 837b(d)), any amount of energy included in the resources of such customer for service to firm loads in the region if (1) such amount was disposed of by such customer outside the region, and (2) as a result of such disposition, the firm energy requirements of such customer or other customers of the Administrator are increased. Such amount of energy shall not be excluded, if the Administrator determines that through reasonable measures such amount of energy could not be conserved or otherwise retained for service to regional loads. The Administrator may sell as replacement for any amount of energy so excluded only energy that would otherwise be surplus.

(d) Disposition of power which does not increase amount of firm power Administrator is obligated to provide to any customer

No restrictions contained in subsection (c) of this section shall limit or interfere with the sale, exchange or other disposition of any power by any utility or group thereof from any existing or new non-Federal resource if such sale, exchange or disposition does not increase the amount of firm power the Administrator would be obligated to provide to any customer. In addition to the directives contained in subsections (i)(1)(B) and (i)(3) of this section and subject to:

(1) any contractual obligations of the Administrator,

(2) any other obligations under existing law, and

(3) the availability of capacity in the Federal transmission system,

the Administrator shall provide transmission access, load factoring, storage and other services normally attendant thereto to such utilities and shall not discriminate against any utility or group thereof on the basis of independent development of such resource in providing such services.

(e) Judicial review; suits

(1) For purposes of sections 701 through 706 of title 5, the following actions shall be final actions subject to judicial review—

(A) adoption of the plan or amendments thereto by the Council under section 839b of this title, adoption of the program by the Council, and any determination by the Council under section 839b(h) of this title;

(B) sales, exchanges, and purchases of electric power under section 839c of this title;

(C) the Administrator's acquisition of resources under section 839d of this title;

(D) implementation of conservation measures under section 839d of this title;

(E) execution of contracts for assistance to sponsors under section 839d(f) of this title;

(F) granting of credits under section 839d(h) of this title;

(G) final rate determinations under section 839e of this title; and

(H) any rule prescribed by the Administrator under section 839e(m)(2) of this title.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with this chapter. The scope of review of such actions without a hearing or after a hearing shall be governed by section 706 of title 5, except that final determinations regarding rates under section 839e of this title shall be supported by substantial evidence in the rulemaking record required by sec-

tion 839e(i) of this title considered as a whole. The scope of review of an action under section 839d(c) of this title shall be governed by section 706 of title 5. Nothing in this section shall be construed to require a hearing pursuant to section 554, 556, or 557 of title 5.

(3) Nothing in this section shall be construed to preclude judicial review of other final actions and decisions by the Council or Administrator.

(4) For purposes of this subsection—

(A) major resources shall be deemed to be acquired upon publication in the Federal Register pursuant to section 839d(c)(4)(B) of this title;

(B) resources, other than major resources, shall be deemed to be acquired upon execution of the contract therefor;

(C) conservation measures shall be deemed to be implemented upon execution of the contract or grant therefor; and

(D) rate determinations pursuant to section 839e of this title shall be deemed final upon confirmation and approval by the Federal Energy Regulatory Commission.

(5) Suits to challenge the constitutionality of this chapter, or any action thereunder, final actions and decisions taken pursuant to this chapter by the Administrator or the Council, or the implementation of such final actions, whether brought pursuant to this chapter, the Bonneville Project Act [16 U.S.C. 832 et seq.], the Act of August 31, 1964 (16 U.S.C. 837–837h), or the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), shall be filed in the United States court of appeals for the region. Such suits shall be filed within ninety days of the time such action or decision is deemed final, or, if notice of the action is required by this chapter to be published in the Federal Register, within ninety days from such notice, or be barred. In the case of a challenge of the plan or programs or amendments thereto, such suit shall be filed within sixty days after publication of a notice of such final action in the Federal Register. Such court shall have jurisdiction to hear and determine any suit brought as provided in this section. The plan and program, as finally adopted or portions thereof, or amendments thereto, shall not thereafter be reviewable as a part of any other action under this chapter or any other law. Suits challenging any other actions under this chapter shall be filed in the appropriate court.

(f) Tax treatment of interest on governmental obligations

For purposes of enabling the Administrator to acquire resources necessary to meet the firm load of public bodies, cooperatives, and Federal agencies from a governmental unit at a cost no greater than the cost which would be applicable in the absence of such acquisition, the exemption from gross income of interest on certain governmental obligations provided in section 103(a)(1)[1] of title 26 shall not be affected by the Administrator's acquisition of such resources if—

(1) the Administrator, prior to contracting for such acquisition, certifies to his reasonable belief, that the persons for whom the Administrator is acquiring such resources for sale pursuant to section 839c of this title are public bodies, cooperatives, and Federal agencies, unless the Administrator also certifies that he is unable to acquire such resources without selling a portion thereof to persons who are not exempt persons (as defined in section 103(b)[1] of title 26), and

(2) based upon such certification, the Secretary of the Treasury determines in accordance with applicable regulations that less than a major portion of the resource is to be furnished to persons who are not exempt persons (as defined in section 103(b)[1] of title 26).

The certification under paragraph (1) shall be made in accordance with this subsection and a procedure and methodology approved by the Secretary of the Treasury. For purposes of this subsection, the term ''major portion'' shall have the meaning provided by regulations issued by the Secretary of the Treasury.

(g) Review of rates for sale of power to Administrator by investor-owned utility customers

When reviewing rates for the sale of power to the Administrator by an investor-owned utility customer under section 839c(c) or 839d of this title, the Federal Energy Regulatory Commission shall, in accordance with section 824h of this title—

(1) convene a joint State board, and

(2) invest such board with such duties and authority as will assist the Commission in its review of such rates.

(h) Companies which own or operate facilities for the generation of electricity primarily for sale to Administrator

(1) No ''company'' (as defined in section 79b(a)(2)[1] of title 15), which owns or operates facilities for the generation of electricity (together with associated transmission and other facilities) primarily for sale to the Administrator under section 839d of this title shall be deemed an ''electric utility company'' (as defined in section 79b(a)(3)[1] of title 15), within the meaning of any provision or provisions of chapter 2C[1] of title 15, if at least 90 per centum of the electricity generated by such company is sold to the Administrator under section 839d of this title, and if—

(A) the organization of such company is consistent with the policies of section 79a(b) and (c)[1] of title 15, as determined by the Securities and Exchange Commission, with the concurrence of the Administrator, at the time of such organization; and

(B) participation in any facilities of such ''company'' has been offered to public bodies and cooperatives in the region pursuant to section 839d(m) of this title.

(2) The Administrator shall include in any contract for the acquisition of a major resource from such ''company'' provisions limiting the amount of equity investment, if any, in such ''company'' to that which the Administrator determines will be consistent with achieving the lowest attainable power costs attributable to such major resource.

(3) In the case of any ''company'' which meets the requirements of paragraph (1), the Adminis-

[1] See References in Text note below.

trator, with the concurrence of such Commission, shall approve all significant contracts entered into by, and between, such ''company'' and any sponsor company or any subsidiary of such sponsor company which are determined to be consistent with the policies of section 79a(b) and (c)[1] of title 15 at the time such contracts are entered into. The Administrator and the Securities and Exchange Commission shall exercise such approval authority within sixty days after receipt of such contracts. Such contracts shall not be effective without such approval.

(4) Paragraph (1) of this subsection shall continue to apply to any such ''company'' unless the Administrator or the Securities and Exchange Commission, or both, through periodic review, (A) determine at any time that the ''company'' no longer operates in a manner consistent with the policies of section 79a(b) and (c)[1] of title 15 and in accordance with this subsection, and (B) notify the ''company'' in writing of such preliminary determination. This subsection shall cease to apply to such ''company'' thirty days after receipt of notification of a final determination thereof. A final determination shall be made only after public notice of the preliminary determination and after a hearing completed not later than sixty days from the date of publication of such notice. Such final determination shall be made within thirty days after the date of completion of such hearing.

(i) Electric power acquisition or disposition

(1) At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable—

(A) acquire any electric power required by (i) any customer or group of customers to enable them to replace resources determined to serve firm load under section 839c(b) of this title, or (ii) direct service industrial customers to replace electric power that is or may be curtailed or interrupted by the Administrator (other than power the Administrator is obligated to replace), with the cost of such replacement power to be distributed among the direct service industrial customers requesting such power; and

(B) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this chapter and other applicable laws.

(2) In implementing the provisions of subparagraphs (A) and (B) of paragraph (1), the Administrator may prescribe policies and conditions for the independent acquisition or disposition of electric power by any direct service industrial customer or group of such customers for the purpose of assuring each direct service industrial customer an opportunity to participate in such acquisition or disposition.

(3) The Administrator shall furnish services including transmission, storage, and load factoring unless he determines such services cannot be furnished without substantial interference with his power marketing program, applicable operating limitations or existing contractual obligations. The Administrator shall, to the extent practicable, give priority in making such services available for the marketing, within and without the Pacific Northwest, of capability from projects under construction on December 5, 1980, if such capability has been offered for sale at cost, including a reasonable rate of return, to the Administrator pursuant to this chapter and such offer is not accepted within one year.

(j) Retail rate designs which encourage conservation and efficient use of electric energy, installation of consumer-owned renewable resources, and rate research and development

(1) The Council, as soon as practicable after December 5, 1980 shall prepare, in consultation with the Administrator, the customers, appropriate State regulatory bodies, and the public, a report and shall make recommendations with respect to the various retail rate designs which will encourage conservation and efficient use of electric energy and the installation of consumer-owned renewable resources on a cost-effective basis, as well as areas for research and development for possible application to retail utility rates within the region. Studies undertaken pursuant to this subsection shall not affect the responsibilities of any customer or the Administrator which may exist under the Public Utility Regulatory Policies Act of 1978.

(2) Upon request, and solely on behalf of customers so requesting, the Administrator is authorized to (A) provide assistance in analyzing and developing retail rate structures that will encourage cost-effective conservation and the installation of cost-effective consumer-owned renewable resources; (B) provide estimates of the probable power savings and the probable amount of billing credits under section 839d(h) of this title that might be realized by such customers as a result of adopting and implementing such retail rate structures; and (C) solicit additional information and analytical assistance from appropriate State regulatory bodies and the Administrator's other customers.

(k) Executive position for conservation and renewable resources

There is hereby established within the administration an executive position for conservation and renewable resources. Such executive shall be appointed by the Administrator and shall be assigned responsibility for conservation and direct-application renewable resource programs (including the administration of financial assistance for such programs). Such position is hereby established in the senior executive service in addition to the number of such positions heretofore established in accordance with other provisions of law applicable to such positions.

(Pub. L. 96–501, § 9, Dec. 5, 1980, 94 Stat. 2729; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

The Bonneville Project Act of 1937, referred to in subsecs. (b) and (e)(5), is act Aug. 20, 1937, ch. 720, 50 Stat. 731, as amended, which is classified generally to chapter 12B (§ 832 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 832 of this title and Tables.

Act of August 31, 1964, referred to in subsec. (e)(5), is Pub. L. 88–552, Aug. 31, 1964, 78 Stat. 756, as amended, which is classified generally to chapter 12F (§ 837 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

The Federal Columbia River Transmission System Act, referred to in subsec. (e)(5), is Pub. L. 93–454, Oct. 18, 1974, 88 Stat. 1376, as amended, which is classified generally to chapter 12G (§ 838 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 838 of this title and Tables.

Section 103 of title 26, referred to in subsec. (f), which related to interest on certain governmental obligations was amended generally by Pub. L. 99–514, title XIII, § 1301(a), Oct. 22, 1986, 100 Stat. 2602, and as so amended relates to interest on State and local bonds. Section 103(b)(3), which prior to the general amendment defined exempt persons, relates to the applicability of the interest exclusion to bonds not in registered form, etc.

Chapter 2C of title 15, referred to in subsec. (h), contained the Public Utility Holding Company Act of 1935, act Aug. 26, 1935, ch. 687, title I, 49 Stat. 803, as amended, and consisted of section 79 et seq. of Title 15, Commerce and Trade, prior to repeal by Pub. L. 109–58, title XII, § 1263, Aug. 8, 2005, 119 Stat. 974. For complete classification of this Act to the Code, see Tables.

The Public Utility Regulatory Policies Act of 1978, referred to in subsec. (j)(1), is Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117, as amended. For complete classification of this Act to Code, see Short Title note set out under section 2601 of this title and Tables.

AMENDMENTS

1986—Subsec. (f). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

§ 839g. Savings provisions

(a) Rights of States and political subdivisions of States

Nothing in this chapter shall be construed to affect or modify any right of any State or political subdivision thereof or electric utility to—

(1) determine retail electric rates, except as provided by section 839c(c)(3) of this title;

(2) develop and implement plans and programs for the conservation, development, and use of resources; or

(3) make energy facility siting decisions, including, but not limited to, determining the need for a particular facility, evaluating alternative sites, and considering alternative methods of meeting the determined need.

(b) Rights and obligations under existing contracts

Nothing in this chapter shall alter, diminish, or abridge the rights and obligations of the Administrator or any customer under any contract existing as of December 5, 1980.

(c) Statutory preferences and priorities of public bodies and cooperatives in sale of federally generated power

Nothing in this chapter shall alter, diminish, abridge, or otherwise affect the provisions of other Federal laws by which public bodies and cooperatives are entitled to preference and priority in the sale of federally generated electric power.

(d) Contractual rights under provisions later found to be unconstitutional

If any provision of this chapter is found to be unconstitutional, then any contract entered into by the Administrator, prior to such finding and in accordance with such provisions, to sell power, acquire or credit resources, or to reimburse investigation and preconstruction expenses pursuant to section 839c of this title, and section 839d(a), (f) or (h) of this title shall not be affected by such finding.

(e) Treaty and other rights of Indian tribes

Nothing in this chapter shall be construed to affect or modify any treaty or other right of an Indian tribe.

(f) Reservation of electric power for Montana; Hungry Horse and Libby Dams and Reservoirs

The reservation under law of electric power primarily for use in the State of Montana by reason of the construction of Hungry Horse and Libby Dams and Reservoirs within that State is hereby affirmed. Such reservation shall also apply to 50 per centum of any electric power produced at Libby Reregulating Dam if built. Electric power so reserved shall be sold at the rate or rates set pursuant to section 839e of this title.

(g) Rights of States to prohibit recovery of resource construction costs through retail rates

Nothing in this chapter shall be construed to affect or modify the right of any State to prohibit utilities regulated by the appropriate State regulatory body from recovering, through their retail rates, costs during any period of resource construction.

(h) Water appropriations

Nothing in this chapter shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this chapter of any plan or program adopted pursuant to the chapter (1) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any groundwater resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States, or (3) otherwise be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.

(i) Existing Federal licenses, permits, and certificates

Nothing in this chapter shall be construed to affect the validity of any existing license, permit, or certificate issued by any Federal agency pursuant to any other Federal law.

(Pub. L. 96–501, § 10, Dec. 5, 1980, 94 Stat. 2734.)

§ 839h. Separability

If any provision of section 839b(a) through (c) of this title or any other provision of this chapter or the application thereof to any person, State, Indian tribe, entity, or circumstance is held invalid, neither the remainder of section 839b of this title or any other provisions of this chapter, nor the application of such provisions to other persons, States, Indian tribes, entities, or circumstances, shall be affected thereby.

(Pub. L. 96–501, §12, Dec. 5, 1980, 94 Stat. 2736.)

CHAPTER 13—REGULATION OF TRANSPORTATION IN INTERSTATE OR FOREIGN COMMERCE OF BLACK BASS AND OTHER FISH

§§ 851 to 856. Repealed. Pub. L. 97–79, §9(b)(1), Nov. 16, 1981, 95 Stat. 1079

Section 851, acts May 20, 1926 ch 346, §1, 44 Stat. 576; July 2, 1930, ch. 801, 46 Stat. 845; July 30, 1947, ch. 348, 61 Stat. 517; July 16, 1952, ch. 911, §1, 66 Stat. 736; Dec. 5, 1969, Pub. L. 91–135, §9(d), 83 Stat. 282, defined the terms ''person'' and ''State''. See section 3371 of this title.

Section 852, acts May 20, 1926, ch. 346, §2, 44 Stat. 576; July 2, 1930, ch. 801, 46 Stat. 845; July 30, 1947, ch. 348, 61 Stat. 517; July 16, 1952, ch. 911, §2, 66 Stat. 736; Dec. 5, 1969, Pub. L. 91–135, §9(a), 83 Stat. 281, made illegal the transportation of illegally taken black bass or other fish. See section 3372 of this title.

Section 852a, act May 20, 1926, ch. 346, §3, as added July 2, 1930, ch. 801, 46 Stat. 846; amended July 30, 1947, ch. 348, 61 Stat. 517; July 16, 1952, ch. 911, §2, 66 Stat. 736; Dec. 5, 1969, Pub. L. 91–135, §9(b), 83 Stat. 282, provided for the markings on the outside of packages and containers used in the transportation of fish. See section 3376(a) of this title.

Section 852b, act May 20, 1926, ch. 346, §4, as added July 2, 1930, ch. 801, 46 Stat. 846; amended July 30, 1947, ch. 348, 61 Stat. 517; July 16, 1952, ch. 911, §2, 66 Stat. 736, related to the application of State laws with regard to fish arriving in the State. See section 3378(a) of this title.

Section 852c, act May 20, 1926, ch. 346, §5, as added July 2, 1930, ch. 801, 46 Stat. 846; amended 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; July 30, 1947, ch. 348, 61 Stat. 517; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, authorized the making of expenditures by the Secretary in carrying out the responsibilities under this chapter. See section 3378(d) and (e) of this title.

Section 852d, act May 20, 1926, ch. 346, §6, as added July 2, 1930, ch. 801, 46 Stat. 846; amended 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; July 30, 1947, ch. 348, 61 Stat 517; Oct. 17, 1968, Pub. L. 90–578, title IV, §402(b)(2), 82 Stat. 1118; Dec. 5, 1969, Pub. L. 91–135, §9(c), 83 Stat. 282; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, related to the power of arrest without warrant, utilization of Federal agencies, searches and seizures, and forfeitures. See sections 3374 and 3375 of this title.

Section 853, act May 20, 1926, ch. 346, §7, as added July 2, 1930, ch. 801, 46 Stat. 847; amended July 30, 1947, ch. 348, 61 Stat. 517, set out the penalties for the violation of the provisions of this chapter. See section 3373 of this title.

Section 854, act May 20, 1926, ch. 346, §8, as added July 2, 1930, ch. 801, 46 Stat. 847; amended July 30, 1947, ch. 348, 61 Stat. 517; July 16, 1952, ch. 911, §2, 66 Stat. 736, related to the effect of this chapter on the power of States. See section 3378(a) of this title.

Section 855, act May 20, 1926, ch. 346, §9, as added July 2, 1930, ch. 801, 46 Stat. 847; amended July 30, 1947, ch. 348, 61 Stat. 517; Aug. 25, 1959, Pub. L. 86–207, 73 Stat. 430, related to the effect of this chapter on breeding and stocking. See section 3377(c) of this title.

Section 856, act May 20, 1926, ch. 346, §10, as added July 30, 1947, ch. 348, 61 Stat. 517; amended July 16, 1952, ch. 911, §2, 66 Stat. 736, directed that this chapter not apply to steelhead trout (salmo gairderii) legally taken in the Columbia River between the States of Washington and Oregon.

CHAPTER 14—REGULATION OF WHALING

SUBCHAPTER I—WHALING TREATY ACT

Sec.
901 to 915. Repealed.

Sec.
SUBCHAPTER II—WHALING CONVENTION ACT

916. Definitions.
916a. United States Commissioner.
916b. Acceptance or rejection by United States Government of regulations, etc.; acceptance of reports, recommendations, etc., of Commission.
916c. Unlawful acts.
916d. Licenses.
916e. Failure to keep returns, records, reports.
916f. Violations; fines and penalties.
916g. Enforcement.
916h. Cooperation between Federal and State and private agencies and organizations in scientific and other programs.
916i. Taking of whales for biological experiments.
916j. Allocation of responsibility for administration and enforcement.
916k. Regulations; submission; publication; effectiveness.
916*l*. Authorization of appropriations.

SUBCHAPTER I—WHALING TREATY ACT

§§ 901 to 915. Repealed. Aug. 9, 1950, ch. 653, § 16, 64 Stat. 425

Sections, act May 1, 1936, ch. 251, §§1–15, 49 Stat. 1246–1249, related to hunting of whales. See sections 916 to 916*l* of this title.

SUBCHAPTER II—WHALING CONVENTION ACT

§ 916. Definitions

When used in this subchapter—

(a) Convention: The word ''convention'' means the International Convention for the Regulation of Whaling signed at Washington under date of December 2, 1946, by the United States of America and certain other governments.

(b) Commission: The word ''Commission'' means the International Whaling Commission established by article III of the convention.

(c) United States Commissioner: The words ''United States Commissioner'' mean the member of the International Whaling Commission representing the United States of America appointed pursuant to article III of the convention and section 916a of this title.

(d) Person: The word ''person'' denotes every individual, partnership, corporation, and association subject to the jurisdiction of the United States.

(e) Vessel: The word ''vessel'' denotes every kind, type, or description of water craft or contrivance subject to the jurisdiction of the United States used, or capable of being used, as a means of transportation.

(f) Factory ship: The words ''factory ship'' mean a vessel in which or on which whales are treated or processed, whether wholly or in part.

(g) Land station: The words ''land station'' mean a factory on the land at which whales are treated or processed, whether wholly or in part.

(h) Whale catcher: The words ''whale catcher'' mean a vessel used for the purpose of hunting, killing, taking, towing, holding onto, or scouting for whales.

(i) Whale products: The words ''whale products'' mean any unprocessed part of a whale and blubber, meat, bones, whale oil, sperm oil, spermaceti, meal, and baleen.

(j) Whaling: The word ''whaling'' means the scouting for, hunting, killing, taking, towing, holding onto, and flensing of whales, and the possession, treatment, or processing of whales or of whale products.

(k) Regulations of the Commission: The words ''regulations of the Commission'' mean the whaling regulations in the schedule annexed to and constituting a part of the convention in their original form or as modified, revised, or amended by the Commission from time to time, in pursuance of article V of the convention.

(*l*) Regulations of the Secretary of Commerce: The words ''regulations of the Secretary of Commerce'' mean such regulations as may be issued by the Secretary of Commerce, from time to time, in accordance with sections 916i and 916j of this title.

(Aug. 9, 1950, ch. 653, § 2, 64 Stat. 421; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

SHORT TITLE

Section 1 of act Aug. 9, 1950, provided: ''That this Act [enacting this subchapter] may be cited as the 'Whaling Convention Act of 1949'.''

SEPARABILITY

Section 15 of act Aug. 9, 1950, provided that: ''If any provision of this Act [this subchapter] or the application of such provisions to any circumstances or persons shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other circumstances or persons shall not be affected thereby.''

TRANSFER OF FUNCTIONS

In subsec. (*l*), ''Secretary of Commerce'' substituted for ''Secretary of the Interior'' in view of: creation of National Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in Department of the Interior and Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in Secretary of the Interior or Department of the Interior which were administered through Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

WILDLIFE SANCTUARY FOR HUMPBACK WHALES IN WEST INDIES

Pub. L. 99–630, Nov. 7, 1986, 100 Stat. 3514, provided: ''That the President shall, in concert with the International Whaling Commission, seek a treaty or other appropriate international agreement establishing a wildlife sanctuary for humpback whales in the West Indies, in the area encompassing the Turks Islands, Mouchoir Passage, Silver Bank Passage, Navidad Bank, and such additional areas in the West Indies as may be necessary to ensure the protection of the breeding grounds of the humpback whales.''

MORATORIUM ON COMMERCIAL KILLING OF WHALES

Pub. L. 96–60, title IV, § 405, Aug. 15, 1979, 93 Stat. 403, provided that:

''(a) The Congress finds and declares that—

''(1) whales are a unique marine resource of great esthetic and scientific interest to mankind and are a vital part of the marine ecosystem;

''(2) the protection and conservation of whales are of particular interest to citizens of the United States;

''(3) in 1971 the Congress adopted resolutions requesting the Secretary of State to negotiate a ten-year moratorium on the commercial killing of whales;

''(4) the United States, which effectively banned all commercial whaling by United States nationals in December 1971, has sought an international moratorium on the commercial killing of whales since 1972;

''(5) the United Nations Conference on the Human Environment adopted a resolution in 1972 calling for a ten-year moratorium on commercial whaling;

''(6) the United Nations Governing Council for Environment Programs in 1973 and 1974 confirmed such call for a ten-year moratorium, and the Council continues to support ongoing efforts relating to whale conservation;

''(7) the International Convention for the Regulation of Whaling, signed in 1946, as implemented by the International Whaling Commission, is not providing adequate protection to whales;

''(8) the data-gathering structure established under the International Whaling Commission has not provided all the available data necessary for sound whale conservation;

''(9) there is strong evidence that the members of the International Whaling Commission continue to import, in some instances in increasing amounts, whale products from countries not members of the Commission; and

''(10) defects in the implementation of the International Convention for the Regulation of Whaling by the International Whaling Commission allow harvests of the declining whale species.

''(b) The Congress urges—

''(1) the International Whaling Commission to agree to a moratorium on the commercial killing of whales; and

''(2) Brazil, Denmark, Iceland, Japan, Norway, the Soviet Union, and the Republic of Korea, as parties to the International Convention for the Regulation of Whaling and which still engage in commercial whaling, and Chile, the People's Republic of China, Peru, Portugal, the Democratic Republic of Korea, Spain, and Taiwan, as countries which are not parties to the Convention and which still engage in commercial whaling, to recognize and comply voluntarily with a moratorium on the commercial killing of whales, as endorsed by the United Nations Conference on the Human Environment and the United Nations Governing Council for Environment Programs.''

§ 916a. United States Commissioner

(a) Appointment

The United States Commissioner shall be appointed by the President, on the concurrent recommendations of the Secretary of State and the Secretary of Commerce, and shall serve at the pleasure of the President.

(b) Deputy Commissioner

The President may appoint a Deputy United States Commissioner, on the concurrent recommendations of the Secretary of State and the Secretary of Commerce. The Deputy United States Commissioner shall serve at the pleasure of the President and shall be the principal technical adviser to the United States Commissioner, and shall be empowered to perform the duties of the Commissioner in case of the death, resignation, absence, or illness of the Commissioner.

(c) Compensation

The United States Commissioner and Deputy Commissioner, although officers of the United

States Government, shall receive no compensation for their services.

(Aug. 9, 1950, ch. 653, § 3, 64 Stat. 421; 1970 Reorg. Plan. No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

ALTERNATE UNITED STATES COMMISSIONERS

Secretary of State authorized to designate Alternate United States Commissioners, see sections 2672a and 2672b of Title 22, Foreign Relations and Intercourse.

§ 916b. Acceptance or rejection by United States Government of regulations, etc.; acceptance of reports, recommendations, etc., of Commission

The Secretary of State is authorized, with the concurrence of the Secretary of Commerce, to present or withdraw any objections on behalf of the United States Government to such regulations or amendments of the schedule to the convention as are adopted by the Commission and submitted to the United States Government in accordance with article V of the convention. The Secretary of State is further authorized to receive on behalf of the United States Government reports, requests, recommendations, and other communications of the Commission, and to act thereon either directly or by reference to the appropriate authority.

(Aug. 9, 1950, ch. 653, § 4, 64 Stat. 422; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

§ 916c. Unlawful acts

(a) Whaling, transporting, or selling violations; records; reports

It shall be unlawful for any person subject to the jurisdiction of the United States (1) to engage in whaling in violation of the convention or of any regulation of the Commission, or of this subchapter, or of any regulation of the Secretary of Commerce; (2) to ship, transport, purchase, sell, offer for sale, import, export, or have in possession any whale or whale products taken or processed in violation of the convention, or of any regulation of the Commission, or of this subchapter, or of any regulation of the Secretary of Commerce; (3) to fail to make, keep, submit, or furnish any record or report required of him by the convention, or by any regulation of the Commission, or by any regulation of the Secretary of Commerce, or to refuse to permit any officer authorized to enforce the convention, the regulations of the Commission, this subchapter, and the regulations of the Secretary of Commerce, to inspect such record or report at any reasonable time.

(b) Acts of commission or omission

It shall be unlawful for any person or vessel subject to the jurisdiction of the United States to do any act prohibited or to fail to do any act required by the convention, or by this subchapter, or by any regulation adopted by the Commission, or by any regulation of the Secretary of Commerce.

(Aug. 9, 1950, ch. 653, § 5, 64 Stat. 422; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

EMERGENCY ASSISTANCE FOR SUBSISTENCE WHALE HUNTERS

Pub. L. 107–372, title IV, § 403, Dec. 19, 2002, 116 Stat. 3102, provided that: ''Notwithstanding any provision of law, the use of a vessel to tow a whale taken in a traditional subsistence whale hunt permitted by Federal law and conducted in waters off the coast of Alaska is authorized, if such towing is performed upon a request for emergency assistance made by a subsistence whale hunting organization formally recognized by an agency of the United States Government, or made by a member of such an organization, to prevent the loss of a whale.''

§ 916d. Licenses

(a) Issuance

No person shall engage in whaling without first having obtained an appropriate license or scientific permit. Such licenses shall be issued by the Secretary of Commerce or such officer of the Department of Commerce as may be designated by him: *Provided*, That the Secretary, in his discretion and by appropriate regulation, may waive the payment of any license fee or the requirement that a license first be obtained, in connection with the salvage of any ''Dauhval'' or unclaimed dead whale found floating or stranded.

(b) Licenses and fees required

The following licenses and fees shall be required for each calendar year or any fraction thereof and shall be nontransferable except under such conditions as may be prescribed by the Secretary:

(1) Land-station license for primary processing of whales, $250.

(2) Land-station license for secondary processing of parts of whales delivered to it by a land station licensed as a primary processor, $100.

(3) Factory-ship license for primary processing of whales delivered by whale catchers, $250.

(4) License for any vessel used exclusively for transporting whale products from a factory ship to a port during the whaling season, $100.

(5) Whale-catcher license, $100.

(c) Disposition of fees

All moneys derived from the issuance of whaling licenses shall be covered into the Treasury of the United States, and no license fee shall be refunded by reason of the failure of any person to whom a license has been issued to utilize the facility in whaling for which such license was issued.

(d) Application; conditions precedent

Any person, in making application for a license to operate a whale catcher, must furnish

evidence or affidavit satisfactory to the Secretary of Commerce that, in addition to conforming to other applicable laws and regulations, (1) the whale catcher is adequately equipped and competently manned to engage in whaling in accordance with the provisions of the convention, the regulations of the Commission, and the regulations of the Secretary of Commerce; (2) gunners and crews will be compensated on some basis that does not depend primarily on the number of whales taken; and (3) no bonus or other partial remuneration with relation to the number of whales taken shall be paid to gunners and crews in respect of the taking of any whales, the taking of which is prohibited.

(e) Additional conditions

Any person, in making application for a license to operate a land station or a factory ship must furnish evidence or affidavits to the satisfaction of the Secretary of Commerce that, in addition to conforming to other applicable laws and regulations, such land station or factory ship is adequately equipped to comply with provisions of the convention, of the regulations of the Commission, and of the regulations of the Secretary of Commerce with respect to the processing of whales or the manufacture of whale products.

(Aug. 9, 1950, ch. 653, § 6, 64 Stat. 422; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

REFUND OF LICENSE FEES PAID UNDER SUBCHAPTER I OF THIS CHAPTER

Section 16 of act Aug. 9, 1950, provided in part that the Secretary of the Interior is authorized to refund any part of a license fee paid under former section 908 of this title that is in excess of the license fee required under this section.

§ 916e. Failure to keep returns, records, reports

Any person who fails to make, keep, or furnish any catch return, statistical record, or any report that may be required by the convention, or by any regulation of the Commission, or by this subchapter, or by a regulation of the Secretary of Commerce, or any person who furnishes a false return, record, or report, upon conviction, shall be subject to such fine as may be imposed by the court not to exceed $500, and shall in addition be prohibited from whaling, processing, or possessing whales and whale products from the date of conviction until such time as any delinquent return, record, or report shall have been submitted or any false return, record, or report shall have been replaced by a duly certified correct and true return, record, or report to the satisfaction of the court. The penalties imposed by section 916f of this title shall not be invoked for failure to comply with requirements respecting returns, records, and reports.

(Aug. 9, 1950, ch. 653, § 7, 64 Stat. 423; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

§ 916f. Violations; fines and penalties

Except as to violations defined in clause 3 of subsection (a) of section 916c of this title, any person violating any provision of the convention, or of any regulation of the Commission, or of this subchapter, or of any regulation of the Secretary of Commerce upon conviction, shall be fined not more than $10,000 or be imprisoned not more than one year, or both. In addition the court may prohibit such person from whaling for such period of time as it may determine, and may order forfeited, in whole or in part, the whales taken by such person in whaling during the season, or the whale products derived therefrom or the monetary value thereof. Such forfeited whales or whale products shall be disposed of in accordance with the direction of the court.

(Aug. 9, 1950, ch. 653, § 8, 64 Stat. 423; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

§ 916g. Enforcement

(a) Enforcement officers; arrests; search and seizure of vessels; disposal of property

Any duly authorized enforcement officer or employee of the Department of Commerce; any Coast Guard officer; any United States marshal or deputy United States marshal; any customs officer; and any other person authorized to enforce the provisions of the convention, the regulations of the Commission, this subchapter, and the regulations of the Secretary of Commerce, shall have power, without warrant or other process but subject to the provisions of the convention, to arrest any person subject to the jurisdiction of the United States committing in his presence or view a violation of the convention or of this subchapter, or of the regulations of the Commission, or of the regulations of the Secretary of Commerce and to take such person immediately for examination before a justice or judge or any other official designated in section 3041 of title 18; and shall have power, without warrant or other process, to search any vessel subject to the jurisdiction of the United States or land station when he has reasonable cause to believe that such vessel or land station is engaged in whaling in violation of the provisions of the convention or this subchapter or the regulations of the Commission, or the regulations of the Secretary of Commerce. Any person authorized to enforce the provisions of the convention, this subchapter, the regulations of the Commission, or the regulations of the Secretary of Commerce shall have power to execute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of this subchapter, and shall have power with a search warrant to search any vessel, person, or place at any time. The judges of the United States dis-

trict courts and the United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. Subject to the provisions of the convention, any person authorized to enforce the convention, this subchapter, the regulations of the Commission, and the regulations of the Secretary of Commerce may seize, whenever and wherever lawfully found, all whales or whale products taken, processed, or possessed contrary to the provisions of the convention, of this subchapter of the regulations of the Commission, or of the regulations of the Secretary of Commerce.

Any property so seized shall not be disposed of except pursuant to the order of a court of competent jurisdiction or the provisions of subsection (b) of this section, or, if perishable, in the manner prescribed by regulations of the Secretary of Commerce.

(b) Stay of execution upon posting of bond; bond requirements

Notwithstanding the provisions of section 2464 of title 28, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any property seized if the process has been levied, on receiving from the claimant of the property a bond or stipulation for double the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction, conditioned to deliver the property seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court.

(Aug. 9, 1950, ch. 653, §9, 64 Stat. 423; Pub. L. 90–578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

CHANGE OF NAME

''United States magistrate judges'' substituted for ''United States magistrates'' in subsec. (a) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''United States magistrates'' substituted for ''United States commissioners'' in subsec. (a) pursuant to Pub. L. 90–578. See chapter 43 (§631 et seq.) of Title 28.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

In subsec. (a), ''Department of Commerce'' substituted for ''United States Fish and Wildlife Service of the Department of the Interior'' and ''Secretary of Commerce'' for ''Secretary of the Interior'', see note set out under section 916 of this title.

United States Fish and Wildlife Service, consisting of Bureau of Commercial Fisheries and Bureau of Sport Fisheries and Wildlife, succeeded and replaced Fish and Wildlife Service of Department of the Interior under provisions of Fish and Wildlife Act of 1956, as originally provided in section 742b(a) and (d) of this title.

§ 916h. Cooperation between Federal and State and private agencies and organizations in scientific and other programs

(a) Agency cooperation

In order to avoid duplication in scientific and other programs, the Secretary of State, with the concurrence of the agency, institution, or organization concerned, may direct the United States Commissioner to arrange for the cooperation of agencies of the United States Government, and of State and private institutions and organizations in carrying out the provisions of article IV of the convention.

(b) Authorization for Federal agency cooperation

All agencies of the Federal Government are authorized, on request of the Commission, to cooperate in the conduct of scientific and other programs, or to furnish facilities and personnel for the purpose of assisting the Commission in the performance of its duties as prescribed by the convention.

(Aug. 9, 1950, ch. 653, §10, 64 Stat. 424.)

§ 916i. Taking of whales for biological experiments

Nothing contained in this subchapter shall prevent the taking of whales and the conducting of biological experiments at any time for purposes of scientific investigation in accordance with scientific permits and regulations issued by the Secretary of Commerce or shall prevent the Commission from discharging its duties as prescribed by the convention.

(Aug. 9, 1950, ch. 653, §11, 64 Stat. 424; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

§ 916j. Allocation of responsibility for administration and enforcement

(a) Administration and general enforcement

The Secretary of Commerce is authorized and directed to administer and enforce all of the provisions of this subchapter and regulations issued pursuant thereto and all of the provisions of the convention and of the regulations of the Commission, except to the extent otherwise provided for in this subchapter, in the convention, or in the regulations of the Commission. In carrying out such functions he is authorized to adopt such regulations as may be necessary to carry out the purposes and objectives of the convention, the regulations of the Commission, this subchapter, and with the concurrence of the Secretary of State, to cooperate with the duly authorized officials of the government of any party to the convention.

(b) Enforcement relating to whaling vessels

Enforcement activities under the provisions of this subchapter relating to vessels engaged in whaling and subject to the jurisdiction of the United States primarily shall be the responsibility of the Secretary of the Treasury in cooperation with the Secretary of Commerce.

(c) Enforcement by officers and employees of coastal States

The Secretary of Commerce may authorize officers and employees of the coastal States of the United States to enforce the provisions of the convention, or of the regulations of the Commission, or of this subchapter, or of the regulations of the Secretary of Commerce. When so authorized such officers and employees may function as Federal law-enforcement officers for the purposes of this subchapter.

(Aug. 9, 1950, ch. 653, § 12, 64 Stat. 425; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

§ 916k. Regulations; submission; publication; effectiveness

Regulations of the Commission approved and effective in accordance with section 916b of this title and article V of the convention shall be submitted for appropriate action or publication in the Federal Register by the Secretary of Commerce and shall become effective with respect to all persons and vessels subject to the jurisdiction of the United States in accordance with the terms of such regulations and the provisions of article V of the convention.

(Aug. 9, 1950, ch. 653, § 13, 64 Stat. 425; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

§ 916*l*. Authorization of appropriations

There is hereby authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of the convention and of this subchapter, including (1) contributions to the Commission for the United States share of any joint expenses of the Commission agreed by the United States and any of the other contracting governments, and (2) the expenses of the United States Commissioner and his staff, including (a) personal services in the District of Columbia and elsewhere, without regard to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5; (b) travel expenses without regard to subchapter I of chapter 57 of title 5 and section 5731(a) of title 5; (c) transportation of things, communication services; (d) rent of offices; (e) printing and binding without regard to section 501 of title 44, and section 6101 of title 41; (f) stenographic and other services by contract, if deemed necessary, without regard to section 6101 of title 41; (g) supplies and materials; (h) equipment; (i) purchase, hire, operation, maintenance, and repair of aircraft, motor vehicles (including passenger-carrying vehicles), boats, and research vessels.

(Aug. 9, 1950, ch. 653, § 14, 64 Stat. 425.)

CODIFICATION

In par. 2(a), ''chapter 51 and subchapter III of chapter 53 of title 5'' substituted for ''the Classification Act of 1923, as amended'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631 (the first section of which enacted Title 5, Government Organization and Employees), and of section 1106(a) of act Oct. 28, 1949, ch. 782, title XI, 63 Stat. 972, which provided that references in other laws to the Classification Act of 1923 shall be considered to mean the Classification Act of 1949.

In par. 2(b), ''subchapter I of chapter 57 of title 5 and section 5731(a) of title 5'' substituted for ''the Travel Expense Act of 1949 and section 10 of the Act of March 3, 1933 (U.S.C., title 5, sec. 73b)'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5.

In par. 2(e), ''section 501 of title 44 and section 6101 of title 41'' substituted for ''section 11 of the Act of March 1, 1919 (U.S.C., title 44, sec. 111), and section 3709 of the Revised Statutes (U.S.C., title 41, sec. 5)'' on authority of Pub. L. 90–620, § 2(b), Oct. 22, 1968, 82 Stat. 1305, which Act enacted Title 44, Public Printing and Documents, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In par. 2(f), ''section 6101 of title 41'' substituted for ''section 3709 of the Revised Statutes (U.S.C., title 41, sec. 5)'' on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

CHAPTER 14A—WHALE CONSERVATION AND PROTECTION

Sec.
917. Congressional findings.
917a. Study by Secretary of Commerce; report to Congress.
917b. Cooperation of other Federal agencies.
917c. Negotiations with Mexico and Canada.
917d. Authorization of appropriations.

§ 917. Congressional findings

The Congress finds that—

(1) whales are a unique resource of great aesthetic and scientific interest to mankind and are a vital part of the marine ecosystem;

(2) whales have been overexploited by man for many years, severely reducing several species and endangering others;

(3) the United States has extended its authority and responsibility to conserve and protect all marine mammals, including whales, out to a two hundred nautical mile limit by enactment of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1801 et seq.];

(4) the conservation and protection of certain species of whales, including the California gray, bowhead, sperm, and killer whale, are of particular interest to citizens of the United States;

(5) increased ocean activity of all types may threaten the whale stocks found within the two hundred-mile jurisdiction of the United States and added protection of such stocks may be necessary;

(6) there is inadequate knowledge of the ecology, habitat, requirements, and population levels and dynamics of all whales found in waters subject to the jurisdiction of the United States; and

(7) further study of such matters is required in order for the United States to carry out its responsibilities for the conservation and protection of marine mammals.

(Pub. L. 94–532, § 2, Oct. 17, 1976, 90 Stat. 2491; Pub. L. 96–561, title II, § 238(b), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in par. (3), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

1996—Par. (3). Pub. L. 104–208 substituted ''Magnuson-Stevens Fishery'' for ''Magnuson Fishery''.

1980—Par. (3). Pub. L. 96–561 substituted ''Magnuson Fishery Conservation and Management Act'' for ''Fishery Conservation and Management Act of 1976''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, § 211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 238(b) of Pub. L. 96–561 provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

SHORT TITLE

Section 1 of Pub. L. 94–532 provided: ''That this Act [enacting this chapter] may be cited as the 'Whale Conservation and Protection Study Act'.''

§ 917a. Study by Secretary of Commerce; report to Congress

The Secretary of Commerce, in consultation with the Marine Mammal Commission and the coastal States, shall undertake comprehensive studies of all whales found in waters subject to the jurisdiction of the United States, including the fishery conservation zone as defined in section 1802(8)[1] of this title. Such studies shall take into consideration all relevant factors regarding (1) the conservation and protection of all such whales, (2) the distribution, migration patterns, and population dynamics of these mammals, and (3) the effects on all such whales of habitat destruction, disease, pesticides, and other chemicals, disruption of migration patterns, and food shortages for the purpose of developing adequate and effective measures, including appropriate laws and regulations, to conserve and protect such mammals. The Secretary of Commerce shall report on such studies, together with such recommendations as he deems appropriate, including suggested legislation, to the Congress no later than January 1, 1980.

(Pub. L. 94–532, § 3, Oct. 17, 1976, 90 Stat. 2491.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 1802(8) of this title, referred to in text, which defined ''fishery conservation zone'', was repealed and section 1802(6) of this title, defining ''exclusive economic zone'', was added by Pub. L. 99–659, title I, § 101(a), Nov. 14, 1986, 100 Stat. 3706. Section 1802 was subsequently amended and the term ''exclusive economic zone'' is defined elsewhere in that section.

STUDY OF EASTERN GRAY WHALE POPULATION

Pub. L. 106–562, title IV, § 401, Dec. 23, 2000, 114 Stat. 2807, provided that:

''(a) STUDY.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2000] and subject to the availability of appropriations, the Secretary of Commerce shall initiate a study of the environmental and biological factors responsible for the significant increase in mortality events of the eastern gray whale population, and the other potential impacts these factors may be having on the eastern gray whale population.

''(b) CONSIDERATION OF WESTERN POPULATION INFORMATION.—The Secretary should ensure that, to the greatest extent practicable, information from current and future studies of the western gray whale population is considered in the study under this section, so as to better understand the dynamics of each population and to test different hypotheses that may lead to an increased understanding of the mechanism driving their respective population dynamics.

''(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to other amounts authorized under this title [this note], there are authorized to be appropriated to the Secretary to carry out this section—

''(1) $290,000 for fiscal year 2001; and

''(2) $500,000 for each of fiscal years 2002 through 2004.''

Substantially identical provisions were contained in Pub. L. 106–555, title II, § 203, Dec. 21, 2000, 114 Stat. 2768.

§ 917b. Cooperation of other Federal agencies

All Federal agencies shall cooperate, to the fullest extent possible, with the Secretary of Commerce in preparing the study and recommendations required by section 917a of this title.

(Pub. L. 94–532, § 4, Oct. 17, 1976, 90 Stat. 2492.)

§ 917c. Negotiations with Mexico and Canada

The Secretary of Commerce, through the Secretary of State, shall immediately initiate negotiations for the purpose of developing appropriate bilateral agreements with Mexico and Canada for the protection and conservation of whales.

(Pub. L. 94–532, § 5, Oct. 17, 1976, 90 Stat. 2492.)

§ 917d. Authorization of appropriations

For the purpose of carrying out the provisions of this chapter, there is hereby authorized to be appropriated a sum not to exceed $1,000,000 for fiscal years 1978 and 1979.

(Pub. L. 94–532, § 6, Oct. 17, 1976, 90 Stat. 2492.)

CHAPTER 15—PREDATORY SEA LAMPREYS IN THE GREAT LAKES

§§ 921 to 923. Omitted

CODIFICATION

Section 921, acts Aug. 8, 1946, ch. 879, § 1, 60 Stat. 930; Aug. 18, 1949, ch. 478, § 3, 63 Stat. 616; July 30, 1951, ch. 256, 65 Stat. 131; July 1, 1952, ch. 537, 66 Stat. 314, directed the Director of the Fish and Wildlife Service to

investigate the abundance and distribution of sea lampreys, required a report to the Congress not later than Dec. 31, 1950, and authorized appropriations through the fiscal year ending June 30, 1953.

Sections 922, 923, act Aug. 8, 1946, ch. 879, §§2, 3, 60 Stat. 930, 931, which related to cooperation between Federal, State, and local agencies and the annual cost of the program, were omitted by act Aug. 18, 1949, ch. 478, §3, 63 Stat. 616, which amended act Aug. 8, 1946.

CHAPTER 15A—GREAT LAKES FISHERIES

Sec.
931. Definitions.
932. Commissioners; appointment, number, and compensation; term of office; vacancy.
933. Advisory Committee.
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935. Acquisition of real property; construction and operation of lamprey control works; entry into agreements for construction and operation of works.
936. Secretary of the Interior; authority to transfer lamprey control projects and act on behalf of United States Section.
937. United States Section as agency of United States.
938. Notice of proposals.
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939a. Cooperation with other agencies.
939b. State laws and regulations.
939c. Authorization of appropriations.

§ 931. Definitions

As used in this chapter, the term—

(a) ''Convention'' means the Convention on Great Lakes Fisheries between the United States of America and Canada signed at Washington, September 10, 1954;

(b) ''Commission'' means the Great Lakes Fishery Commission provided for by article II of the convention;

(c) ''United States Section'' means the United States Commissioners on the Commission;

(d) ''Great Lakes State'' means any of the following States: Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, or Wisconsin;

(e) ''Great Lakes'' means any of the following bodies of water: Lake Ontario (including the Saint Lawrence River from Lake Ontario to the forty-fifth parallel of latitude), Lake Erie, Lake Huron (including Lake Saint Clair), Lake Michigan, or Lake Superior.

(June 4, 1956, ch. 358, §2, 70 Stat. 242.)

SHORT TITLE

Section 1 of act June 4, 1956, provided: ''That this Act [enacting this chapter] may be cited as the 'Great Lakes Fishery Act of 1956'.''

SEPARABILITY

Section 14 of act June 4, 1956, provided that: ''If any provision of this Act [this chapter] or the application of such provision to any circumstances or persons shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other circumstances or persons shall not be affected thereby''.

§ 932. Commissioners; appointment, number, and compensation; term of office; vacancy

(a)(1) The United States shall be represented on the Commission by 4 Commissioners who shall be appointed by the President and who may not receive compensation for service as Commissioners. Of the Commissioners—

(A) 1 shall be an official of the United States Government; and

(B) 3 shall be individuals who reside in different Great Lakes States and who are knowledgeable regarding the fisheries of the Great Lakes, except that 1 of them must also be an official of[1] Great Lakes State.

(2) The President shall appoint an alternate Commissioner who shall perform the duties of a Commissioner—

(A) until a vacancy referred to in subsection (b)(3) of this section is filled; and

(B) in the event of the absence of a Commissioner from any meeting of the United States Section or the Commission.

(3) Individuals serving as such Commissioners shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28.

(b)(1) Except as provided in paragraph (2), the term of office of Commissioners appointed under subsection (a)(1)(B) of this section is 6 years.

(2) Of the Commissioners first appointed under subsection (a)(1)(B) of this section after November 14, 1986, 1 shall be appointed for a term of 2 years, 1 shall be appointed for a term of 4 years, and 1 shall be appointed for a term of 6 years.

(3) Whenever a vacancy occurs among Commissioners appointed under subsection (a)(1)(B) of this section, the President shall appoint an individual to fill that vacancy for the remainder of the applicable term.

(June 4, 1956, ch. 358, §3, 70 Stat. 242; Pub. L. 99–659, title IV, §405(a), Nov. 14, 1986, 100 Stat. 3737; Pub. L. 106–562, title III, §301, Dec. 23, 2000, 114 Stat. 2806.)

AMENDMENTS

2000—Subsec. (a)(3). Pub. L. 106–562 added par. (3).

1986—Pub. L. 99–659 amended section generally. Prior to amendment, section read as follows: ''The United States shall be represented on the Commission by three Commissioners to be appointed by the President, to serve as such during his pleasure, and to receive no compensation for their services as such Commissioners. Of such Commissioners—

''(a) one shall be an official of the United States Government; and

''(b) two shall be persons residing in Great Lakes States, duly qualified by reason of knowledge of the fisheries of the Great Lakes, of whom one shall be an official of a Great Lakes State: *Provided, however*, That the Commissioners appointed under this subsection shall not be residents of the same State.''

TERMINATION AND TRANSITIONAL SERVICE OF INCUMBENT COMMISSIONERS

Section 405(b) of Pub. L. 99–659 provided that: ''The term of office of each United States Commissioner on the Great Lakes Fishery Commission who is serving on the date of enactment of this Act [Nov. 14, 1986] is terminated (except the United States Government official appointed under section 3(a) of the Great Lakes Fishery Act of 1956 (16 U.S.C. 932(a), as in effect before the date of enactment). However, the individuals appointed to those terms shall continue to serve as Commissioners until the President makes appointments under section 3(b)(2) of the Act of 1956 (as added by subsection (a)), which appointments shall be made within 60 days after the date of enactment.''

[1] So in original. Probably should be followed by ''a''.

ALTERNATE UNITED STATES COMMISSIONERS

Secretary of State authorized to designate Alternate United States Commissioners, see sections 2672a and 2672b of Title 22, Foreign Relations and Intercourse.

§ 933. Advisory Committee

(a) Appointment and number of members; factors in selection

The United States Section shall appoint an advisory committee for each of the Great Lakes, upon which committee each State bordering on the lake may be represented by not more than four members. In making such appointments, the United States Section shall make its selection for each State from a list proposed by the Governor of that State; and shall give due consideration to the interests of—

(1) State agencies having jurisdiction over fisheries;

(2) the commercial fishing industry of the lake;

(3) the sports fishing of the lake; and

(4) the public at large.

(b) Membership on other committees

A member of the advisory committee for one lake may also be a member of the advisory committee for one or more other lakes.

(c) Compensation

The members of the advisory committee shall receive no compensation from the Government of the United States for their services as such members. Not more than ten members of all the committees, designated by the committees and approved by the United States Section, may be paid by the Government of the United States for transportation expenses and per diem incident to attendance at the annual meeting of the Commission or of the United States Section.

(d) Meetings

The members of the advisory committee for each lake shall be invited to attend all nonexecutive meetings of the United States Section relating to that lake and at such meetings shall be granted opportunity to examine and be heard on all proposed recommendations, programs, and activities relating to that lake.

(June 4, 1956, ch. 358, § 4, 70 Stat. 242; Pub. L. 107–228, div. A, title II, § 208, Sept. 30, 2002, 116 Stat. 1364.)

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–228, which directed the substitution of ''ten'' for ''five'' and ''the annual'' for ''each'' in subsec. (c) of section 4 of the Great Lakes Fisheries Act of 1956, was executed by making the substitutions in subsec. (c) of this section, which is section 4 of the Great Lakes Fishery Act of 1956, to reflect the probable intent of Congress.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 934. Repealed. Pub. L. 92–471, title II, § 203(a), Oct. 9, 1972, 86 Stat. 787

Section, act June 4, 1956, ch. 358, § 5, 70 Stat. 243, provided that service of individuals appointed as United States Commissioners shall not be treated as service for the purposes of certain sections of Title 18, Crimes and Criminal Procedure, and Title 5, Government Organization and Employees.

§ 935. Acquisition of real property; construction and operation of lamprey control works; entry into agreements for construction and operation of works

In order to carry out the obligations of the United States under the Convention, the United States Section is authorized—

(a) to acquire any real property, or any interest therein, by purchase, exchange, gift, dedication, condemnation, or otherwise;

(b) to construct, operate, and maintain any project or works designed to facilitate compliance with the provisions of the Convention relating to the sea lamprey control program; and

(c) to enter into contract or agreement with any State or other public agency or private agency or individual for the construction, operation, or maintenance of any such project or works.

(June 4, 1956, ch. 358, § 6, 70 Stat. 243.)

UNITED STATES FISH AND WILDLIFE SERVICE; WORK ON SEA LAMPREY PROGRAM; REIMBURSEMENTS

Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1918, provided in part that: ''beginning October 1, 1990, and thereafter, the United States Fish and Wildlife Service can perform work for the Great Lakes Fishery Commission, authorized by 16 U.S.C. 931–939c, Great Lakes Fisheries [Fishery] Act of 1956, on the sea lamprey program on a reimbursable basis: *Provided further*, That such reimbursements are to be treated as Intragovernmental funds as defined in the publication titled 'A Glossary of Terms Used in the Federal Budget Process'.''

§ 936. Secretary of the Interior; authority to transfer lamprey control projects and act on behalf of United States Section

The Secretary of the Interior is authorized, upon the request of the United States Section—

(a) to transfer to the United States Section any lamprey control project or works under his jurisdiction now existing or now under construction; and

(b) to act for or on behalf of the United States Section in the exercise of the powers granted by this chapter.

(June 4, 1956, ch. 358, § 7, 70 Stat. 243.)

§ 937. United States Section as agency of United States

The United States Section shall, for the purposes of these[1] provisions of title 28, relating to claims against the United States and tort claims procedure, be deemed to be an agency of the United States.

(June 4, 1956, ch. 358, § 8, 70 Stat. 243.)

[1] So in original. Probably should be ''those''.

REFERENCES IN TEXT

Provisions of title 28, relating to claims against the United States, referred to in text, include sections 1346(b), 2501 et seq., and 2671 et seq., of Title 28, Judiciary and Judicial Procedure.

§ 938. Notice of proposals

At least thirty days before approving a proposal to utilize a lamprey control measure or install a device in any stream, the United States Section shall cause notice of such proposal to be sent to the official agency having jurisdiction over fisheries in each of the States through which the stream flows.

(June 4, 1956, ch. 358, § 9, 70 Stat. 243.)

§ 939. Transmission of recommendations

The Secretary of State shall upon the receipt from the Commission of any recommendation of a conservation measure made in accordance with article IV of the Convention transmit a copy of the recommendation with his comments thereon to the Governor of each Great Lakes State for consideration and such action as may be found to be appropriate. The Secretary of State shall also inform such other public agencies as he may deem appropriate.

(June 4, 1956, ch. 358, § 10, 70 Stat. 244.)

§ 939a. Cooperation with other agencies

Any agency of the United States Government is authorized to cooperate with the United States Section in the conduct of research programs and related activities and, on a reimbursable or other basis, to enter into agreements with the United States Section for the purpose of assisting it in carrying out the program for the control of lamprey populations.

(June 4, 1956, ch. 358, § 11, 70 Stat. 244.)

§ 939b. State laws and regulations

Nothing in this chapter shall be construed as preventing any of the Great Lakes States from making or enforcing laws or regulations within their respective jurisdictions so far as such laws or regulations do not conflict with the Convention or this chapter.

(June 4, 1956, ch. 358, § 12, 70 Stat. 244.)

§ 939c. Authorization of appropriations

There is hereby authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this chapter.

(June 4, 1956, ch. 358, § 13, 70 Stat. 244.)

CHAPTER 15B—GREAT LAKES FISH AND WILDLIFE RESTORATION

Sec.
941. Findings.
941a. Purpose.
941b. Definitions.
941c. Identification, review, and implementation of proposals and regional projects.
941d. Goals of United States Fish and Wildlife Service programs related to Great Lakes fish and wildlife resources.
941e. Establishment of offices.
941f. Reports.
941g. Authorization of appropriations.

§ 941. Findings

The Congress finds and declares the following:

(1) As the human population of the Great Lakes Basin has expanded to over 35,000,000 people, great demands have been placed on the lakes for use for boating and other recreation, navigation, municipal and industrial water supply, waste disposal, power production, and other purposes. These growing and often conflicting demands exert pressure on the fish and wildlife resources of the Great Lakes Basin, including in the form of contaminants, invasion by nonindigenous species, habitat degradation and destruction, legal and illegal fishery resource harvest levels, and sea lamprey predation.

(2) The fishery resources of the Great Lakes support recreational fisheries enjoyed by more than 5,000,000 people annually and commercial fisheries providing approximately 9,000 jobs. Together, these fisheries generate economic activity worth more than $4,400,000,000 annually to the United States.

(3) The availability of a suitable forage base is essential to lake trout, walleye, yellow perch, and other recreational and commercially valuable fishery resources of the Great Lakes Basin. Protecting and restoring productive fish habitat, including by protecting water quality, is essential to the successful recovery of Great Lakes Basin fishery resources.

(4) The Great Lakes Basin contains important breeding and migration habitat for all types of migratory birds. Many migratory bird species dependent on deteriorating Great Lakes Basin habitat have suffered serious population declines in recent years.

(5) Over 80 percent of the original wetlands in the Great Lakes Basin have been destroyed and such losses continue at a rate of 20,000 acres annually.

(6) Contaminant burdens in the fish and wildlife resources of the Great Lakes Basin are substantial and the impacts of those contaminants on the life functions of important fish and wildlife resources are poorly understood. Concern over the effects of those contaminants on human health have resulted in numerous public health advisories recommending restricted or no consumption of Great Lakes fish.

(7) The lower Great Lakes are uniquely different from the upper Great Lakes biologically, physically, and in the degree of human use and shoreline development, and special fishery resource assessments and management activities are necessary to respond effectively to these special circumstances.

(Pub. L. 101–537, title I, § 1002, Nov. 8, 1990, 104 Stat. 2370; Pub. L. 101–646, title II, § 2002, Nov. 29, 1990, 104 Stat. 4773; Pub. L. 104–332, § 2(h)(1), Oct. 26, 1996, 110 Stat. 4091; Pub. L. 105–265, § 3(b), Oct. 19, 1998, 112 Stat. 2358.)

CODIFICATION

Title I of Pub. L. 101–537 and title II of Pub. L. 101–646 enacted identical sections. Title II of Pub. L. 101–646 was repealed by Pub. L. 105–265.

AMENDMENTS

1996—Pub. L. 104–332 made technical amendment to Pub. L. 101–646, § 2002, which enacted this section.

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–326, § 1, Oct. 11, 2006, 120 Stat. 1761, provided that: ''This Act [amending sections 941b to 941g of this title and enacting provisions set out as notes under this section] may be cited as the 'Great Lakes Fish and Wildlife Restoration Act of 2006'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–265, § 1, Oct. 19, 1998, 112 Stat. 2358, provided that: ''This Act [amending this section and sections 941 to 941g of this title and enacting provisions set out as a note under this section] may be cited as the 'Great Lakes Fish and Wildlife Restoration Act of 1998'.''

SHORT TITLE

Section 1001 of title I of Pub. L. 101–537, and section 2001 of title II of Pub. L. 101–646, as amended by Pub. L. 104–332, § 2(h)(1), Oct. 26, 1996, 110 Stat. 4091, provided that: ''This title [enacting this chapter] may be cited as the 'Great Lakes Fish and Wildlife Restoration Act of 1990'.'' Title II of Pub. L. 101–646 was repealed by Pub. L. 105–265, § 3(b), Oct. 19, 1998, 112 Stat. 2358.

CONTINUED MONITORING AND ASSESSMENT OF STUDY FINDINGS AND RECOMMENDATIONS

Pub. L. 109–326, § 8, Oct. 11, 2006, 120 Stat. 1766, provided that: ''The Director of the United States Fish and Wildlife Service—

''(1) shall continue to monitor the status, and the assessment, management, and restoration needs, of the fish and wildlife resources of the Great Lakes Basin; and

''(2) may reassess and update, as necessary, the findings and recommendations of the report entitled 'Great Lakes Fishery Resources Restoration Study', submitted to the President of the Senate and the Speaker of the House of Representatives on September 13, 1995.''

CONGRESSIONAL FINDINGS

Pub. L. 109–326, § 2, Oct. 11, 2006, 120 Stat. 1761, provided that: ''Congress finds that—

''(1) the Great Lakes have fish and wildlife communities that are structurally and functionally changing;

''(2) successful fish and wildlife management focuses on the lakes as ecosystems, and effective management requires the coordination and integration of efforts of many partners;

''(3) it is in the national interest to undertake activities in the Great Lakes Basin that support sustainable fish and wildlife resources of common concern provided under the recommendations of the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force) [33 U.S.C. 1268 note];

''(4) additional actions and better coordination are needed to protect and effectively manage the fish and wildlife resources, and the habitats upon which the resources depend, in the Great Lakes Basin;

''(5) as of the date of enactment of this Act [Oct. 11, 2006], actions are not funded that are considered essential to meet the goals and objectives in managing the fish and wildlife resources, and the habitats upon which the resources depend, in the Great Lakes Basin; and

''(6) the Great Lakes Fish and Wildlife Restoration Act [of 1990] (16 U.S.C. 941 et seq.) allows Federal agencies, States, and tribes to work in an effective partnership by providing the funding for restoration work.''

Pub. L. 105–265, § 2, Oct. 19, 1998, 112 Stat. 2358, provided that: ''Congress finds that—

''(1) the Great Lakes Fishery Resources Restoration Study, for which a report was submitted to Congress in 1995, was a comprehensive study of the status, and the assessment, management, and restoration needs, of the fishery resources of the Great Lakes Basin, and was conducted through the joint effort of the United States Fish and Wildlife Service, State fish and wildlife resource management agencies, Indian tribes, and the Great Lakes Fishery Commission; and

''(2) the study—

''(A) found that, although State, Provincial, Native American Tribal, and Federal agencies have made significant progress toward the goal of restoring a healthy fish community to the Great Lakes Basin, additional actions and better coordination are needed to protect and effectively manage the fisheries and related resources in the Great Lakes Basin; and

''(B) recommended actions that are not currently funded but are considered essential to meet goals and objectives in managing the resources of the Great Lakes Basin.''

§ 941a. Purpose

The purposes of this chapter are—

(1) to develop and implement proposals for the restoration of fish and wildlife resources in the Great Lakes Basin; and

(2) to provide assistance to the Great Lakes Fisheries Commission, States, Indian Tribes, and other interested entities to encourage cooperative conservation, restoration and management of the fish and wildlife resources and their habitat in the Great Lakes Basin.

(Pub. L. 101–537, title I, § 1003, Nov. 8, 1990, 104 Stat. 2371; Pub. L. 101–646, title II, § 2003, Nov. 29, 1990, 104 Stat. 4774; Pub. L. 104–332, § 2(h)(1), Oct. 26, 1996, 110 Stat. 4091; Pub. L. 105–265, §§ 3(b), 4, Oct. 19, 1998, 112 Stat. 2358.)

CODIFICATION

Title I of Pub. L. 101–537 and title II of Pub. L. 101–646 enacted identical sections. Title II of Pub. L. 101–646 was repealed by Pub. L. 105–265, § 3(b).

AMENDMENTS

1998—Pub. L. 105–265, § 4(1), made technical amendment to reference in original act which appears in introductory provisions as reference to this chapter.

Par. (1). Pub. L. 105–265, § 4(4), added par. (1) and struck out former par. (1) which read as follows: ''to develop proposals to implement recommendations resulting from that study; and''.

Pub. L. 105–265, § 4(2), (3), redesignated par. (2) as (1) and struck out former par. (1) which read as follows: ''to carry out a comprehensive study of the status, and the assessment, management, and restoration needs, of the fishery resources of the Great Lakes Basin;''.

Pars. (2), (3). Pub. L. 105–265, § 4(3), (5), redesignated par. (3) as (2) and substituted ''habitat in'' for ''habitat of''. Former par. (2) redesignated (1).

1996—Pub. L. 104–332 made technical amendment to Pub. L. 101–646, § 2003, which enacted this section.

§ 941b. Definitions

In this chapter—

(1) the term ''Committee'' means the Great Lakes Fish and Wildlife Restoration Proposal Review Committee established by section 941c(c) of this title;

(2) the term ''Director'' means the Director of the United States Fish and Wildlife Service;

(3) the term ''Great Lakes Basin'' means the air, land, water, and living organisms within the drainage basin of the Saint Lawrence

River at or upstream from the point at which the river becomes the international boundary between Canada and the United States;

(4) the term ''Indian Tribe'' means any Indian tribe, band, village, nation, or other organized group or community that is recognized by the Bureau of Indian Affairs as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and that has Great Lakes fish and wildlife management authority in the Great Lakes Basin;

(5) the term ''lower Great Lakes'' means the region in which is located that portion of the Great Lakes Basin which is downstream from the confluence of the Saint Clair River and Lake Huron near Port Huron, Michigan;

(6) the term ''non-Federal source'' includes a State government, local government, Indian tribe, other non-Federal governmental entity, private entity, and individual;

(7) the term ''nonindigenous species'' means a species of plant, animal, or other organism that did not occur in the Great Lakes Basin before European colonization of North America;

(8) the term ''regional project'' means authorized activities of the United States Fish and Wildlife Service related to fish and wildlife resource protection, restoration, maintenance, and enhancement impacting multiple States or Indian Tribes with fish and wildlife management authority in the Great Lakes basin;

(9) the term ''Report'' means the United States Fish and Wildlife Service report entitled ''Great Lakes Fishery Resources Restoration Study'', submitted to the President of the Senate and the Speaker of the House of Representatives on September 13, 1995;

(10) the term ''restoration'' means rehabilitation and maintenance of the structure, function, diversity, and dynamics of a biological system, including reestablishment of self-sustaining populations of fish and wildlife;

(11) the term ''State Director'' means the head of the agency, department, board, commission, or other governmental entity of each of the States of New York, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, and the Commonwealth of Pennsylvania which is responsible for the management and conservation of the fish and wildlife resources of that State; and

(12) the term ''upper Great Lakes'' means that portion of the Great Lakes Basin which is upstream from the confluence of the Saint Clair River and Lake Huron near Port Huron, Michigan.

(Pub. L. 101–537, title I, §1004, Nov. 8, 1990, 104 Stat. 2371; Pub. L. 101–646, title II, §2004, Nov. 29, 1990, 104 Stat. 4774; Pub. L. 104–332, §2(h)(1), Oct. 26, 1996, 110 Stat. 4091; Pub. L. 105–265, §§3(b), 5, Oct. 19, 1998, 112 Stat. 2358, 2359; Pub. L. 109–326, §3, Oct. 11, 2006, 120 Stat. 1761.)

CODIFICATION

Title I of Pub. L. 101–537 and title II of Pub. L. 101–646 enacted substantially identical sections. Title II of Pub. L. 101–646 was repealed by Pub. L. 105–265, §3(b).

AMENDMENTS

2006—Pars. (1) to (3). Pub. L. 109–326, §3(1), (2), redesignated pars. (2), (3), and (5) as (1) to (3), respectively, and struck out former par. (1) which defined the term ''Administrator''.

Par. (4). Pub. L. 109–326, §3(3), inserted before semicolon at end '', and that has Great Lakes fish and wildlife management authority in the Great Lakes Basin''.

Pub. L. 109–326, §3(1), (2), redesignated par. (6) as (4) and struck out former par. (4) which defined the term ''fish stock''.

Pars. (5) to (7). Pub. L. 109–326, §3(2), redesignated pars. (7) to (9) as (5) to (7), respectively.

Par. (8). Pub. L. 109–326, §3(2), (4), added par. (8) and redesignated former par. (8) as (6).

Pars. (9) to (14). Pub. L. 109–326, §3(1), (2), redesignated pars. (10), (11), (13), and (14) as (9) to (12), respectively, and struck out former par. (12) which defined the term ''Secretary''.

1998—Pub. L. 105–265, §5(1), made technical amendment to reference in original act which appears in introductory provisions as reference to this chapter.

Pars. (2) to (7). Pub. L. 105–265, §5(2), (5), added par. (2) and redesignated former pars. (2) to (6) as (3) to (7), respectively. Former par. (7) redesignated (14).

Par. (8). Pub. L. 105–265, §5(6), added par. (8). Former par. (8) redesignated (9).

Par. (9). Pub. L. 105–265, §5(2), (4), redesignated par. (8) as (9) and substituted ''plant, animal, or other organism'' for ''plant or animal''. Former par. (9) redesignated (12).

Pars. (10), (11). Pub. L. 105–265, §5(7), added pars. (10) and (11). Former par. (10) redesignated (13).

Par. (12). Pub. L. 105–265, §5(2), (8), redesignated par. (9) as (12) and struck out ''and'' at end.

Par. (13). Pub. L. 105–265, §5(2), (9), redesignated par. (10) as (13) and substituted ''; and'' for period at end.

Par. (14). Pub. L. 105–265, §5(2), (3), redesignated par. (7) as (14).

1996—Pub. L. 104–332 made technical amendment to Pub. L. 101–646, §2004, which enacted this section.

§ 941c. Identification, review, and implementation of proposals and regional projects

(a) In general

Subject to subsection (b)(2), the Director—

(1) shall encourage the development and, subject to the availability of appropriations, the implementation of fish and wildlife restoration proposals and regional projects based on the results of the Report; and

(2) in cooperation with the State Directors and Indian Tribes, shall identify, develop, and, subject to the availability of appropriations, implement regional projects in the Great Lakes Basin to be administered by Director in accordance with this section.

(b) Identification of proposals and regional projects

(1) Request by the Director

The Director shall annually request that State Directors and Indian Tribes, in cooperation or partnership with other interested entities and in accordance with subsection (a), submit proposals or regional projects for the restoration of fish and wildlife resources.

(2) Requirements for proposals and regional projects

A proposal or regional project under paragraph (1) shall be—

(A) submitted in the manner and form prescribed by the Director; and

(B) consistent with—

(i) the goals of the Great Lakes Water Quality Agreement, as amended;

(ii) the 1954 Great Lakes Fisheries Convention;

(iii) the 1980 Joint Strategic Plan for Management of Great Lakes Fisheries, as revised in 1997, and Fish Community Objectives for each Great Lake and connecting water as established under the Joint Strategic Plan;

(iv) the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.);

(v) the North American Waterfowl Management Plan and joint ventures established under the plan; and

(vi) the strategies outlined through the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force).

(3) Sea lamprey authority

The Great Lakes Fishery Commission shall retain authority and responsibility to formulate and implement a comprehensive program to eradicate or minimize sea lamprey populations in the Great Lakes Basin.

(c) Review of proposals

(1) Establishment of Committee

There is established the Great Lakes Fish and Wildlife Restoration Proposal Review Committee, which shall operate under the guidance of the United States Fish and Wildlife Service.

(2) Membership and appointment

(A) In general

The Committee shall consist of 2 representatives of each of the State Directors and Indian Tribes, of whom—

(i) 1 representative shall be the individual appointed by the State Director or Indian Tribe to the Council of Lake Committees of the Great Lakes Fishery Commission; and

(ii) 1 representative shall have expertise in wildlife management.

(B) Appointments

Each representative shall serve at the pleasure of the appointing State Director or Tribal Chair.

(C) Observer

The Great Lakes Coordinator of the United States Fish and Wildlife Service shall participate as an observer of the Committee.

(D) Recusal

A member of the Committee shall recuse himself or herself from consideration of proposals that the member, or the entity that the member represents, has submitted.

(3) Functions

The Committee shall—

(A) meet at least annually;

(B) review proposals and regional projects developed in accordance with subsection (b) to assess the effectiveness and appropriateness of the proposals and regional projects in fulfilling the purposes of this chapter; and

(C) recommend to the Director any of those proposals and regional projects that should be funded and implemented under this section.

(d) Implementation of proposals and regional projects

(1) In general

After considering recommendations of the Committee and the goals specified in section 941d of this title, the Director shall—

(A) select proposals and regional projects to be implemented; and

(B) subject to the availability of appropriations and subsection (e), fund implementation of the proposals and regional projects.

(2) Selection criteria

In selecting and funding proposals and regional projects, the Director shall take into account the effectiveness and appropriateness of the proposals and regional projects in fulfilling the purposes of other laws applicable to restoration of the fish and wildlife resources and habitat of the Great Lakes Basin.

(e) Cost sharing

(1) In general

Except as provided in paragraphs (2) and (4), not less than 25 percent of the cost of implementing a proposal selected under subsection (d) (excluding the cost of establishing sea lamprey barriers) shall be paid in cash or in-kind contributions by non-Federal sources.

(2) Regional projects

Regional projects selected under subsection (d) shall be exempt from cost sharing if the Director determines that the authorization for the project does not require a non-Federal cost-share.

(3) Exclusion of Federal funds from non-Federal share

The Director may not consider the expenditure, directly or indirectly, of Federal funds received by any entity to be a contribution by a non-Federal source for purposes of this subsection.

(4) Effect on certain Indian tribes

Nothing in this subsection affects an Indian tribe affected by an alternative applicable cost sharing requirement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(Pub. L. 101–537, title I, §1005, Nov. 8, 1990, 104 Stat. 2372; Pub. L. 101–646, title II, §2005, Nov. 29, 1990, 104 Stat. 4775; Pub. L. 104–332, §2(h)(1), Oct. 26, 1996, 110 Stat. 4091; Pub. L. 105–265, §§3(b), 6, Oct. 19, 1998, 112 Stat. 2358, 2359; Pub. L. 109–326, §4, Oct. 11, 2006, 120 Stat. 1762.)

REFERENCES IN TEXT

The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, referred to in subsec. (b)(2)(B)(iv), is title I of Pub. L. 101–646, Nov. 29, 1990, 104 Stat. 4761, which is classified principally to chapter 67 (§4701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of this title and Tables.

Executive Order 13340, referred to in subsec. (b)(2)(B)(vi), is Ex. Ord. No. 13340, May 18, 2004, 69 F.R.

29043, which is set out as a note under section 1268 of Title 33, Navigation and Navigable Waters.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (e)(4), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

CODIFICATION

Title I of Pub. L. 101–537 and title II of Pub. L. 101–646 enacted substantially identical sections. Title II of Pub. L. 101–646 was repealed by Pub. L. 105–265, § 3(b).

AMENDMENTS

2006—Pub. L. 109–326 amended section generally. Prior to amendment, section related to identification, review, and implementation of proposals.

1998—Pub. L. 105–265 amended section generally, substituting present provisions for provisions requiring a Great Lakes fishery resources restoration study and development of proposals for implementing recommendations.

1996—Pub. L. 104–332 made technical amendment to Pub. L. 101–646, § 2005, which enacted this section.

§ 941d. Goals of United States Fish and Wildlife Service programs related to Great Lakes fish and wildlife resources

In administering programs of the United States Fish and Wildlife Service related to the Great Lakes Basin, the Director shall seek to achieve the following goals:

(1) Restoring and maintaining self-sustaining fish and wildlife resources.

(2) Minimizing the impacts of contaminants on fishery and wildlife resources.

(3) Protecting, maintaining, and, where degraded and destroyed, restoring fish and wildlife habitat, including the enhancement and creation of wetlands that result in a net gain in the amount of those habitats.

(4) Stopping illegal activities adversely impacting fishery and wildlife resources.

(5) Restoring threatened and endangered species to viable, self-sustaining levels.

(6) Protecting, managing, and conserving migratory birds.

(Pub. L. 101–537, title I, § 1006, Nov. 8, 1990, 104 Stat. 2373; Pub. L. 101–646, title II, § 2006, Nov. 29, 1990, 104 Stat. 4777; Pub. L. 104–332, § 2(h)(1), Oct. 26, 1996, 110 Stat. 4091; Pub. L. 105–265, § 3(b), Oct. 19, 1998, 112 Stat. 2358; Pub. L. 109–326, § 5, Oct. 11, 2006, 120 Stat. 1764.)

CODIFICATION

Title I of Pub. L. 101–537 and title II of Pub. L. 101–646 enacted identical sections. Title II of Pub. L. 101–646 was repealed by Pub. L. 105–265.

AMENDMENTS

2006—Par. (1). Pub. L. 109–326 added par. (1) and struck out former par. (1) which read as follows: ''Restoring and maintaining self-sustaining fishery resource populations.''

1996—Pub. L. 104–332 made technical amendment to Pub. L. 101–646, § 2006, which enacted this section.

§ 941e. Establishment of offices

(a) Great Lakes Coordination Office

(1) In general

The Director shall establish a centrally located facility for the coordination of all United States Fish and Wildlife Service activities in the Great Lakes Basin, to be known as the ''Great Lakes Coordination Office''.

(2) Functional responsibilities

The functional responsibilities of the Great Lakes Coordination Office shall include—

(A) intra- and interagency coordination;

(B) information distribution; and

(C) public outreach.

(3) Requirements

The Great Lakes Coordination Office shall—

(A) ensure that information acquired under this chapter is made available to the public; and

(B) report to the Director of Region 3, Great Lakes Big Rivers.

(b) Lower Great Lakes Fishery Resources Office

(1) In general

The Director shall establish an office with necessary administrative and technical support services to carry out all United States Fish and Wildlife Service operational activities related to fishery resource protection, restoration, maintenance, and enhancement in the lower Great Lakes.

(2) Name and location

The office shall be known as the ''Lower Great Lakes Fishery Resources Office'', and shall be centrally located in the lower Great Lakes so as to facilitate fishery resource restoration and enhancement activities relating to the lower Great Lakes.

(3) Responsibilities

The responsibilities of the Lower Great Lakes Fishery Resources Office shall include operational activities of the United States Fish and Wildlife Service related to fishery resource protection, restoration, maintenance, and enhancement in the Lower Great Lakes.

(c) Upper Great Lakes Fishery Resources Offices

(1) In general

The Director shall establish one or more offices with necessary administrative and technical support services to carry out United States Fish and Wildlife Service operational activities related to fishery resource protection, restoration, maintenance, and enhancement in the upper Great Lakes.

(2) Name and location

Each of the offices shall be known as an ''Upper Great Lakes Fishery Resources Office'', and shall be appropriately located so as to facilitate fishery resource activities in the upper Great Lakes.

(3) Responsibilities

The responsibilities of the Upper Great Lakes Fishery Resources Offices shall include operational activities of the United States Fish and Wildlife Service related to fishery resource protection, restoration, maintenance, and enhancement in the Upper Great Lakes.

(Pub. L. 101–537, title I, § 1007, Nov. 8, 1990, 104 Stat. 2374; Pub. L. 101–646, title II, § 2007, Nov. 29, 1990, 104 Stat. 4777; Pub. L. 104–332, § 2(h)(1), Oct. 26, 1996, 110 Stat. 4091; Pub. L. 105–265, § 3(b), Oct.

19, 1998, 112 Stat. 2358; Pub. L. 109–326, § 6, Oct. 11, 2006, 120 Stat. 1764.)

CODIFICATION

Title I of Pub. L. 101–537 and title II of Pub. L. 101–646 enacted substantially identical sections. Title II of Pub. L. 101–646 was repealed by Pub. L. 105–265.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–326, § 6(1), added subsec. (a) and struck out former subsec. (a). Text read as follows: ''The Director shall establish a centrally located facility for the coordination of all United States Fish and Wildlife Service activities in the Great Lakes Basin, to be known as the 'Great Lakes Coordination Office'. The functional responsibilities of the Great Lakes Coordination Office shall include intra- and interagency coordination, information distribution, and public awareness outreach. The Great Lakes Coordination Office shall include all administrative and technical support necessary to carry out its responsibilities.''

Subsec. (b). Pub. L. 109–326, § 6(2), designated first and second sentences of subsec. (b) as pars. (1) and (2), respectively, inserted headings, and added par. (3).

Subsec. (c). Pub. L. 109–326, § 6(3), designated first and second sentences of subsec. (c) as pars. (1) and (2), respectively, inserted headings, and added par. (3).

1996—Pub. L. 104–332 made technical amendment to Pub. L. 101–646, § 2007, which enacted this section.

§ 941f. Reports

(a) In general

Not later than December 31, 2011, the Director shall submit to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes—

(1) actions taken to solicit and review proposals under section 941c of this title;

(2) the results of proposals implemented under section 941c of this title; and

(3) progress toward the accomplishment of the goals specified in section 941d of this title.

(b) Public access to data

For each of fiscal years 2007 through 2012, the Director shall make available through a public access website of the Department information that describes—

(1) actions taken to solicit and review proposals under section 941c of this title;

(2) the results of proposals implemented under section 941c of this title;

(3) progress toward the accomplishment of the goals specified in section 941d of this title;

(4) the priorities proposed for funding in the annual budget process under this chapter; and

(5) actions taken in support of the recommendations of the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force).

(c) Report

Not later than June 30, 2007, the Director shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives the 2002 report required under this section as in effect on the day before October 11, 2006.

(Pub. L. 101–537, title I, § 1008, Nov. 8, 1990, 104 Stat. 2374; Pub. L. 101–646, title II, § 2008, Nov. 29, 1990, 104 Stat. 4777; Pub. L. 104–332, § 2(h)(1), Oct. 26, 1996, 110 Stat. 4091; Pub. L. 105–265, §§ 3(b), 7, Oct. 19, 1998, 112 Stat. 2358, 2361; Pub. L. 109–326, § 7, Oct. 11, 2006, 120 Stat. 1765.)

REFERENCES IN TEXT

Executive Order 13340, referred to in subsec. (b)(5), is Ex. Ord. No. 13340, May 18, 2004, 69 F.R. 29043, which is set out as a note under section 1268 of Title 33, Navigation and Navigable Waters.

CODIFICATION

Title I of Pub. L. 101–537 and title II of Pub. L. 101–646 enacted substantially identical sections. Title II of Pub. L. 101–646 was repealed by Pub. L. 105–265, § 3(b).

AMENDMENTS

2006—Pub. L. 109–326 amended section catchline and text generally. Prior to amendment, text read as follows: ''On December 31, 2002, the Director shall submit to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes—

''(1) actions taken to solicit and review proposals under section 941c of this title;

''(2) the results of proposals implemented under section 941c of this title; and

''(3) progress toward the accomplishment of the goals specified in section 941d of this title.''

1998—Pub. L. 105–265 amended section generally, substituting present provisions for provisions which had required report not later than 1 year after date of enactment and annually thereafter.

1996—Pub. L. 104–332 made technical amendment to Pub. L. 101–646, § 2008, which enacted this section.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 941g. Authorization of appropriations

There are authorized to be appropriated to the Director for each of fiscal years 2007 through 2012—

(1) $14,000,000 to implement fish and wildlife restoration proposals as selected by the Director under section 941c(e) of this title, of which—

(A) not more than the lesser of 33 1/3 percent or $4,600,000 may be allocated to implement regional projects by the United States Fish and Wildlife Service, as selected by the Director under section 941c(e) of this title; and

(B) the lesser of 5 percent or $700,000 shall be allocated to the United States Fish and Wildlife Service to cover costs incurred in administering the proposals by any entity; and

(2) $2,000,000, which shall be allocated for the activities of the Great Lakes Coordination Office in East Lansing, Michigan, of the Upper Great Lakes Fishery Resources Office, and the Lower Great Lakes Fishery Resources Office under section 941e of this title.

(Pub. L. 101–537, title I, § 1009, Nov. 8, 1990, 104 Stat. 2374; Pub. L. 101–646, title II, § 2009, Nov. 29, 1990, 104 Stat. 4778; Pub. L. 104–332, § 2(h)(1), (2), Oct. 26, 1996, 110 Stat. 4091; Pub. L. 105–265, §§ 3(b), 8, Oct. 19, 1998, 112 Stat. 2358, 2361; Pub. L. 109–326, § 9, Oct. 11, 2006, 120 Stat. 1766.)

CODIFICATION

Title I of Pub. L. 101–537 and title II of Pub. L. 101–646 enacted substantially identical provisions of subsec. (a), but Pub. L. 101–537 did not enact a subsec. (b). Title II of Pub. L. 101–646 was repealed by Pub. L. 105–265, § 3(b).

AMENDMENTS

2006—Pub. L. 109–326 amended section generally, substituting provisions authorizing appropriations for fiscal years 2007 to 2012 for provisions authorizing appropriations for fiscal years 1999 to 2004.

1998—Pub. L. 105–265 amended section generally, substituting provisions authorizing appropriations for fiscal years 1999 to 2004 for provisions authorizing appropriations for fiscal years 1991 to 1994 to conduct a study under section 941c of this title and for fiscal years 1991 to 1995 to establish and operate Great Lakes Coordination and Upper and Lower Great Lakes Fishery Resources Offices.

1996—Pub. L. 104–332 made technical amendment to Pub. L. 101–646, § 2009, which enacted this section.

CHAPTER 15C—GREAT LAKES FISH AND WILDLIFE TISSUE BANK

Sec.
943. Tissue bank.
943a. Data base.
943b. Definitions.
943c. Authorization of appropriations.

§ 943. Tissue bank

(a) In general

The Secretary shall coordinate existing facilities for the storage, preparation, examination, and archiving of tissues from selected Great Lakes fish and wildlife, which shall be known as the ''Great Lakes Fish and Wildlife Tissue Bank''.

(b) Guidance

The Secretary shall, in consultation with appropriate Federal and State agencies and the Council of Great Lakes Research Managers, issue guidance, after an opportunity for public review and comment, for Great Lakes fish and wildlife tissue collection, preparation, archiving, quality control procedures, and access that will ensure—

(1) appropriate uniform methods and standards for those activities to provide confidence in Great Lakes fish and wildlife tissue samples used for research;

(2) documentation of procedures used for collecting, preparing, and archiving those samples; and

(3) appropriate scientific use of the tissues in the Great Lakes Fish and Wildlife Tissue Bank.

(Pub. L. 102–440, title II, § 202, Oct. 23, 1992, 106 Stat. 2233.)

SHORT TITLE

Section 201 of title II of Pub. L. 102–440 provided that: ''This title [enacting this chapter] may be cited as 'The Great Lakes Fish and Wildlife Tissue Bank Act'.''

§ 943a. Data base

(a) Maintenance

The Secretary shall maintain a central data base which provides an effective means for tracking and assessing relevant reference data on Great Lakes fish and wildlife, including data on tissues collected for and maintained in the Great Lakes Fish and Wildlife Tissue Bank.

(b) Access

The Secretary shall establish criteria, after an opportunity for public review and comment, for access to the data base which provides for appropriate use of the information by the public.

(Pub. L. 102–440, title II, § 203, Oct. 23, 1992, 106 Stat. 2233.)

§ 943b. Definitions

In this chapter—

(1) ''Secretary'' means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(2) ''Great Lakes fish and wildlife'' means fauna, fish, and invertebrates dependent on Great Lakes resources, and located within the Great Lakes Basin.

(Pub. L. 102–440, title II, § 204, Oct. 23, 1992, 106 Stat. 2233.)

§ 943c. Authorization of appropriations

There is authorized to be appropriated to the Secretary, $250,000 for each of fiscal years 1993 and 1994 to carry out this chapter.

(Pub. L. 102–440, title II, § 205, Oct. 23, 1992, 106 Stat. 2234.)

CHAPTER 16—TUNA CONVENTIONS

Sec.
951. Definitions.
952. Commissioners; number, appointment, and qualification.
953. General Advisory Committee and Scientific Advisory Subcommittee.
954. Repealed.
955. Secretary of State to act for United States.
956. Inspection of returns, records, or other reports.
957. Violations; fines and forfeitures; application of related laws.
958. Cooperation with other agencies.
959. Enforcement of chapter.
960. Commissions' functions not restrained by this chapter or State laws.
961. Authorization of appropriations.
962. Reduction of bycatch in eastern tropical Pacific Ocean.

§ 951. Definitions

As used in this chapter, the term—

(a) ''convention'' includes (1) the Convention for the Establishment of an International Commission for the Scientific Investigation of Tuna, signed at Mexico City, January 25, 1949, by the United States of America and the United Mexican States, (2) the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, May 31, 1949, by the United States of America and the Republic of Costa Rica, or both such conventions, as the context requires;

(b) ''commission'' includes (1) the International Commission for the Scientific Investigation of Tuna, (2) the Inter-American Tropical Tuna Commission provided for by the conventions referred to in subsection (a) of this section, or both such commissions, as the context requires;

(c) ''United States Commissioners'' means the members of the commissions referred to in subsection (b) of this section representing the United States of America and appointed pursuant to the terms of the pertinent convention and section 952 of this title;

(d) ''person'' means every individual, partnership, corporation, and association subject to the jurisdiction of the United States; and

(e) ''United States'' shall include all areas under the sovereignty of the United States, the Trust Territory of the Pacific Islands, and the Canal Zone.

(Sept. 7, 1950, ch. 907, §2, 64 Stat. 777; Pub. L. 87–814, §1, Oct. 15, 1962, 76 Stat. 923.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (e), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1962—Subsec. (e). Pub. L. 87–814 substituted definition of ''United States'' for definition of ''enforcement agency''.

EFFECTIVE DATE

Section 14 of act Sept. 7, 1950, provided: ''This Act [this chapter] shall take effect with respect to each of the conventions upon the entry into force of that convention, unless such entry into force shall be prior to the date of approval of this Act [Sept. 7, 1950] in which case this Act [this chapter] shall take effect immediately.'' The Costa Rican convention was ratified on March 3, 1950, and the Mexican convention on July 11, 1950. Therefore, the act took effect upon its approval on Sept. 7, 1950.

SHORT TITLE

Section 1 of act Sept. 7, 1950, provided: ''That this Act [enacting this chapter] may be cited as the 'Tuna Conventions Act of 1950'.''

SEPARABILITY

Section 13 of act Sept. 7, 1950, provided: ''If any provision of this Act [this chapter] or the application of such provision to any circumstances or persons shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other circumstances or persons shall not be affected thereby.''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

LANDING OF CATCH OF FISH BY FOREIGN VESSELS

Pub. L. 87–814, §6, Oct. 15, 1962, 76 Stat. 926, provided that: ''Nothing in this Act [amending this section and sections 955 to 957, 959 of this title] shall be construed to amend or repeal the provisions of section 4311 of the Revised Statutes, as amended ([former] 46 U.S.C. [App.] 251) [see 46 U.S.C. 55114].''

§ 952. Commissioners; number, appointment, and qualification

The United States shall be represented on the two commissions by a total of not more than four United States Commissioners, who shall be appointed by the President, serve as such during his pleasure, and receive no compensation for their services as such Commissioners. Individuals serving as such Commissioners shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28. Of such Commissioners—

(a) not more than one shall be a person residing elsewhere than in a State whose vessels maintain a substantial fishery in the areas of the conventions;

(b) at least one of the Commissioners who are such legal residents shall be a person chosen from the public at large, and who is not a salaried employee of a State or of the Federal Government;

(c) at least one shall be either the Administrator, or an appropriate officer, of the National Marine Fisheries Service; and

(d) at least one shall be chosen from a nongovernmental conservation organization.

(Sept. 7, 1950, ch. 907, §3, 64 Stat. 777; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 102–523, §3(a)(1), Oct. 26, 1992, 106 Stat. 3433; Pub. L. 105–42, §7(a), Aug. 15, 1997, 111 Stat. 1137; Pub. L. 106–562, title III, §302, Dec. 23, 2000, 114 Stat. 2806.)

AMENDMENTS

2000—Pub. L. 106–562 inserted after first sentence ''Individuals serving as such Commissioners shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28.''

1997—Subsec. (c). Pub. L. 105–42, which directed the general amendment of section 3(c) of the Tuna Convention Act, was executed by making the amendment to subsec. (c) of this section, to reflect the probable intent of Congress. Prior to amendment, subsec. (c) read as follows: ''at least one shall be an officer of the Department of Commerce; and''.

1992—Par. (d). Pub. L. 102–523 added par. (d).

EFFECTIVE DATE OF 1997 AMENDMENT

For effective date of amendment by Pub. L. 105–42, see section 8 of Pub. L. 105–42, set out as a note under section 1362 of this title.

ALTERNATE UNITED STATES COMMISSIONERS

Secretary of State authorized to designate Alternate United States Commissioners, see sections 2672a and 2672b of Title 22, Foreign Relations and Intercourse.

§ 953. General Advisory Committee and Scientific Advisory Subcommittee

(a) Appointments; public participation; compensation

The Secretary, in consultation with the United States Commissioners, shall—

(1) appoint a General Advisory Committee which shall be composed of not less than 5 nor more than 15 persons with balanced representation from the various groups participating in the fisheries included under the conventions, and from nongovernmental conservation organizations;

(2) appoint a Scientific Advisory Subcommittee which shall be composed of not less than 5 nor more than 15 qualified scientists with balanced representation from the public and private sectors, including nongovernmental conservation organizations;

(3) establish procedures to provide for appropriate public participation and public meet-

ings and to provide for the confidentiality of confidential business data; and

(4) fix the terms of office of the members of the General Advisory Committee and Scientific Advisory Subcommittee, who shall receive no compensation for their services as such members.

(b) Functions

(1) General Advisory Committee

The General Advisory Committee shall be invited to have representatives attend all nonexecutive meetings of the United States sections and shall be given full opportunity to examine and to be heard on all proposed programs of investigations, reports, recommendations, and regulations of the Commission. The General Advisory Committee may attend all meetings of the international commissions to which they are invited by such commissions.

(2) Scientific Advisory Subcommittee

(A) Advice

The Scientific Advisory Subcommittee shall advise the General Advisory Committee and the Commissioners on matters including—

(i) the conservation of ecosystems;

(ii) the sustainable uses of living marine resources related to the tuna fishery in the eastern Pacific Ocean; and

(iii) the long-term conservation and management of stocks of living marine resources in the eastern tropical Pacific Ocean.

(B) Other functions and assistance

The Scientific Advisory Subcommittee shall, as requested by the General Advisory Committee, the United States Commissioners, or the Secretary, perform functions and provide assistance required by formal agreements entered into by the United States for this fishery, including the International Dolphin Conservation Program. These functions may include—

(i) the review of data from the Program, including data received from the Inter-American Tropical Tuna Commission;

(ii) recommendations on research needs, including ecosystems, fishing practices, and gear technology research, including the development and use of selective, environmentally safe and cost-effective fishing gear, and on the coordination and facilitation of such research;

(iii) recommendations concerning scientific reviews and assessments required under the Program and engaging, as appropriate, in such reviews and assessments;

(iv) consulting with other experts as needed; and

(v) recommending measures to assure the regular and timely full exchange of data among the parties to the Program and each nation's National Scientific Advisory Committee (or its equivalent).

(3) Attendance at meetings

The Scientific Advisory Subcommittee shall be invited to have representatives attend all nonexecutive meetings of the United States sections and the General Advisory Subcommittee and shall be given full opportunity to examine and to be heard on all proposed programs of scientific investigation, scientific reports, and scientific recommendations of the commission. Representatives of the Scientific Advisory Subcommittee may attend meetings of the Inter-American Tropical Tuna Commission in accordance with the rules of such Commission.

(Sept. 7, 1950, ch. 907, § 4, 64 Stat. 778; Pub. L. 102–523, § 3(a)(2), Oct. 26, 1992, 106 Stat. 3433; Pub. L. 105–42, § 7(b), Aug. 15, 1997, 111 Stat. 1137.)

AMENDMENTS

1997—Pub. L. 105–42 which directed insertion of catchline and general amendment of text of section 4 of the Tuna Conventions Act, was executed to this section, to reflect the probable intent of Congress. Prior to amendment, text read as follows: ''The United States Commissioners shall (a) appoint an advisory committee which shall be composed of not less than five nor more than fifteen persons who shall be selected from the various groups participating in the fisheries included under the conventions, and from nongovernmental conservation organizations, and (b) shall fix the terms of office of the members of such committee, who shall receive no compensation for their services as such members. The advisory committee shall be invited to attend all nonexecutive meetings of the United States sections and shall be given full opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the commissions. The advisory committee may attend all meetings of the international commissions to which they are invited by such commissions.''

1992—Pub. L. 102–523 inserted ''and from nongovernmental conservation organizations,'' after ''under the conventions,''.

EFFECTIVE DATE OF 1997 AMENDMENT

For effective date of amendment by Pub. L. 105–42, see section 8 of Pub. L. 105–42, set out as a note under section 1362 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 954. Repealed. Pub. L. 92–471, title II, § 203(b), Oct. 9, 1972, 86 Stat. 787

Section, act Sept. 7, 1950, ch. 907, § 5, 64 Stat. 778, provided that service of individuals appointed as United States Commissioners shall not be treated as service for the purposes of certain sections of Title 18, Crimes and Criminal Procedure, and Title 5, Government Organization and Employees.

§ 955. Secretary of State to act for United States

(a) Approval of commission bylaws and rules; action on reports, requests, and recommendations

The Secretary of State is authorized to approve or disapprove, on behalf of the United States Government, bylaws and rules, or amend-

ments thereof, adopted by each commission and submitted for approval of the United States Government in accordance with the provisions of the conventions, and, with the concurrence of the Secretary of Commerce, to approve or disapprove the general annual programs of the commissions. The Secretary of State is further authorized to receive, on behalf of the United States Government, reports, requests, recommendations, and other communications of the commissions, and to take appropriate action thereon either directly or by reference to the appropriate authority.

(b) Regulations

Regulations recommended by each commission pursuant to the convention requiring the submission to the commission of records of operations by boat captains or other persons who participate in the fisheries covered by the convention, upon the concurrent approval of the Secretary of State and the Secretary of Commerce, shall be promulgated by the latter and upon publication in the Federal Register, shall be applicable to all vessels and persons subject to the jurisdiction of the United States.

(c) Rulemaking procedures; prohibitions

Regulations required to carry out recommendations of the commission made pursuant to paragraph 5 of article II of the Convention for the Establishment of an Inter-American Tropical Tuna Commission shall be promulgated as hereinafter provided by the Secretary of Commerce upon approval of such recommendations by the Secretary of State and the Secretary of Commerce. The Secretary of Commerce shall cause to be published in the Federal Register a general notice of proposed rulemaking and shall afford interested persons an opportunity to participate in the rulemaking through (1) submission of written data, views, or arguments, and (2) oral presentation at a public hearing. Such regulations shall be published in the Federal Register and shall be accompanied by a statement of the considerations involved in the issuance of the regulations. After publication in the Federal Register such regulations shall be applicable to all vessels and persons subject to the jurisdiction of the United States on such date as the Secretary of Commerce shall prescribe, but in no event prior to an agreed date for the application by all countries whose vessels engage in fishing for species covered by the convention in the regulatory area on a meaningful scale, in terms of effect upon the success of the conservation program, of effective measures for the implementation of the commission's recommendations applicable to all vessels and persons subject to their respective jurisdictions. The Secretary of Commerce shall suspend at any time the application of any such regulations when, after consultation with the Secretary of State and the United States Commissioners, he determines that foreign fishing operations in the regulatory area are such as to constitute a serious threat to the achievement of the objectives of the commission's recommendations. The regulations thus promulgated may include the selection for regulation of one or more of the species covered by the convention; the division of the convention waters into areas; the establishment of one or more open or closed seasons as to each area; the limitation of the size of the fish and quantity of the catch which may be taken from each area within any season during which fishing is allowed; the limitation or prohibition of the incidental catch of a regulated species which may be retained, taken, possessed, or landed by vessels or persons fishing for other species of fish; the requiring of such clearance certificates for vessels as may be necessary to carry out the purposes of the convention and this chapter; and such other measures incidental thereto as the Secretary of Commerce may deem necessary to implement the recommendations of the commission: *Provided*, That upon the promulgation of any such regulations the Secretary of Commerce shall promulgate additional regulations, with the concurrence of the Secretary of State, which shall become effective simultaneously with the application of the regulations hereinbefore referred to (1) to prohibit the entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the commission and which were taken from the regulatory area; and (2) to prohibit entry into the United States, from any country, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the commission and which were taken from the regulatory area by vessels other than those of such country in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the commission. In the case of repeated and flagrant fishing operations in the regulatory area by the vessels of any country which seriously threaten the achievement of the objectives of the commission's recommendations, the Secretary of Commerce, with the concurrence of the Secretary of State, may, in his discretion, also prohibit the entry from such country of such other species of tuna, in any form, as may be under investigation by the commission and which were taken in the regulatory area. The aforesaid prohibitions shall continue until the Secretary of Commerce is satisfied that the condition warranting the prohibition no longer exists, except that all fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry.

(Sept. 7, 1950, ch. 907, §6, 64 Stat. 778; Pub. L. 87–814, §2, Oct. 15, 1962, 76 Stat. 923; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

AMENDMENTS

1962—Subsecs. (a), (b). Pub. L. 87–814 substituted ''Secretary of the Interior'' for ''head of the enforcement agency''.

Subsec. (c). Pub. L. 87–814 added subsec. (c).

TRANSFER OF FUNCTIONS

''Secretary of Commerce'' substituted in text for ''Secretary of the Interior'' in view of: creation of Na-

tional Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in Department of the Interior and Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in Secretary of the Interior or Department of the Interior which were administered through Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

§ 956. Inspection of returns, records, or other reports

Any person authorized to carry out enforcement activities under this chapter and any person authorized by the commissions shall have power without warrant or other process, to inspect, at any reasonable time, catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this chapter to be made, kept, or furnished.

(Sept. 7, 1950, ch. 907, § 7, 64 Stat. 778; Pub. L. 87–814, § 3, Oct. 15, 1962, 76 Stat. 924.)

AMENDMENTS

1962—Pub. L. 87–814 substituted provisions respecting inspection of returns, records, or other reports for provisions authorizing a fine not exceeding $1,000 and proceedings for injunction against fishing for or possessing the kind of fish covered by the convention for failure to make, keep, furnish, or refusal to permit inspection of returns, records, or reports or for furnishing a false return, record, or report.

§ 957. Violations; fines and forfeitures; application of related laws

(a) It shall be unlawful for any master or other person in charge of a fishing vessel of the United States to engage in fishing in violation of any regulation adopted pursuant to section 955(c) of this title or for any person knowingly to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations.

(b) It shall be unlawful for the master or any person in charge of any fishing vessel of the United States or any person on board such vessel to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this chapter to be made, kept, or furnished; or to fail to stop upon being hailed by a duly authorized official of the United States; or to refuse to permit the duly authorized officials of the United States or authorized officials of the commissions to board such vessel or inspect its catch, equipment, books, documents, records, or other articles or question the persons on board in accordance with the provisions of this chapter, or the convention, as the case may be.

(c) It shall be unlawful for any person to import, in violation of any regulation adopted pursuant to section 955(c) of this title, from any country, any fish in any form of those species subject to regulation pursuant to a recommendation of the commission, or any tuna in any form not under regulation but under investigation by the commission, during the period such fish have been denied entry in accordance with the provisions of section 955(c) of this title. In the case of any fish as described in this subsection offered for entry into the United States, the Secretary of Commerce shall require proof satisfactory to him that such fish is not ineligible for such entry under the terms of section 955(c) of this title.

(d) Any person violating any provisions of subsection (a) of this section shall be fined not more than $25,000, and for a subsequent violation of any provisions of said subsection (a) shall be fined not more than $50,000.

(e) Any person violating any provision of subsection (b) of this section shall be fined not more than $1,000, and for a subsequent violation of any provision of subsection (b) shall be fined not more than $5,000.

(f) Any person violating any provision of subsection (c) of this section shall be fined not more than $100,000.

(g) All fish taken or retained in violation of subsection (a) of this section, or the monetary value thereof, may be forfeited.

(h) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter.

(Sept. 7, 1950, ch. 907, § 8, 64 Stat. 779; Pub. L. 87–814, § 4, Oct. 15, 1962, 76 Stat. 924; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

AMENDMENTS

1962—Pub. L. 87–814 substituted provisions respecting violations, fines, and forfeitures, and application of related laws for provisions respecting enforcement of chapter.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 955 of this title.

§ 958. Cooperation with other agencies

(a) Coordination of programs

In order to provide coordination between the general annual programs of the commissions and programs of other agencies, relating to the exploration, development, and conservation of fishery resources, the Secretary of State may recommend to the United States Commissioners that they consider the relationship of the commissions' programs to those of such agencies and when necessary arrange, with the concurrence of such agencies, for mutual cooperation between the commissions and such agencies for carrying out their respective programs.

(b) Scientific and other programs; facilities and personnel

All agencies of the Federal Government are authorized on request of the commissions to co-

operate in the conduct of scientific and other programs, or to furnish facilities and personnel for the purpose of assisting the commissions in the performance of their duties.

(c) Facilities and personnel to non-Federal agencies

The commissions are authorized and empowered to supply facilities and personnel to existing non-Federal agencies to expedite research work which in the judgment of the commissions is contributing or will contribute directly to the purposes of the conventions.

(Sept. 7, 1950, ch. 907, § 9, 64 Stat. 779.)

§ 959. Enforcement of chapter

(a) Issuance of process

The judges of the United States district courts and United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this chapter and the regulations issued pursuant thereto.

(b) Federal law enforcement agents

Enforcement of the provisions of this chapter and the regulations issued pursuant thereto shall be the joint responsibility of the United States Coast Guard, the United States Department of Commerce, and the United States Customs Service. In addition, the Secretary of Commerce may designate officers and employees of the States of the United States, of the Commonwealth of Puerto Rico, and of American Samoa to carry out enforcement activities hereunder. When so designated, such officers and employees are authorized to function as Federal law enforcement agents for these purposes.

(c) Execution of process

Any person authorized to carry out enforcement activities hereunder shall have the power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this chapter.

(d) Arrests

Such person so authorized shall have the power—

(1) with or without a warrant or other process, to arrest any persons subject to the jurisdiction of the United States at any place within the jurisdiction of the United States committing in his presence or view a violation of this chapter or the regulations issued thereunder;

(2) with or without a warrant or other process, to search any vessel subject to the jurisdiction of the United States, and, if as a result of such search he has reasonable cause to believe that such vessel or any person on board is engaging in operations in violation of the provisions of this chapter or the regulations issued thereunder, then to arrest such person.

(e) Seizures and disposition of fish

Such person so authorized may seize, whenever and wherever lawfully found, all fish taken or retained in violation of the provisions of this chapter or the regulations issued pursuant thereto. Any fish so seized may be disposed of pursuant to the order of a court of competent jurisdiction, pursuant to the provisions of subsection (f) of this section or, if perishable, in a manner prescribed by regulations of the Secretary of Commerce.

(f) Security

Notwithstanding the provisions of section 2464 of title 28, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any fish seized if the process has been levied, on receiving from the claimant of the fish a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case.

(Sept. 7, 1950, ch. 907, § 10, 64 Stat. 779; Pub. L. 87–814, § 5, Oct. 15, 1962, 76 Stat. 925; Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–814 substituted provisions for issuance of process for provisions respecting arrest and execution of process, incorporated in subsecs. (c) and (d)(1) of this section.

Subsec. (b). Pub. L. 87–814 substituted provisions respecting Federal law enforcement agents for provisions relating to inspections, incorporated in section 956 of this title.

Subsec. (c). Pub. L. 87–814 substituted provisions for execution of process, formerly incorporated in subsec. (a), for provisions respecting the functioning of officers and law enforcement officers, incorporated in subsec. (b) of this section.

Subsec. (d). Pub. L. 87–814 incorporated provisions of former subsec. (a) in par. (1) and added par. (2).

Subsecs. (e), (f). Pub. L. 87–814 added subsecs. (e) and (f).

CHANGE OF NAME

''United States magistrate judges'' substituted for ''United States magistrates'' in subsec. (a) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''United States magistrates'' substituted for ''United States commissioners'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

''Customs Service'' substituted for ''Bureau of Customs'' in subsec. (b) pursuant to Treasury Department Order 165–23, Apr. 4, 1973, eff. Aug. 1, 1973, 38 F.R. 13037. See, also, section 308 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities

and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

In subsecs. (b) and (e), ''Department of Commerce'' substituted for ''Department of the Interior'' and ''Secretary of Commerce'' for ''Secretary of the Interior'' pursuant to Reorg. Plan No. 4 of 1970, see note set out under section 955 of this title.

§ 960. Commissions' functions not restrained by this chapter or State laws

None of the prohibitions contained in this chapter or in the laws and regulations of the States shall prevent the commissions from conducting or authorizing the conduct of fishing operations and biological experiments at any time for the purpose of scientific investigations as authorized by the conventions, or shall prevent the commissions from discharging any of its or their functions or duties prescribed by the conventions.

(Sept. 7, 1950, ch. 907, § 11, 64 Stat. 779.)

§ 961. Authorization of appropriations

There is hereby authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of each convention and of this chapter, including—

(a) contributions to each commission for the United States share of any joint expenses of the commission and the expenses of the United States Commissioners and their staff, including personal services in the District of Columbia and elsewhere;

(b) travel expenses without regard to the Standardized Government Travel Regulations, as amended, subchapter I of chapter 57 of title 5, or section 5731(a) of title 5;

(c) printing and binding without regard to section 501 of title 44 or section 6101 of title 41;

(d) stenographic and other services by contract, if deemed necessary, without regard to section 6101 of title 41; and

(e) purchase, hire, operation, maintenance, and repair of aircraft, motor vehicles (including passenger-carrying vehicles), boats and research vessels.

(Sept. 7, 1950, ch. 907, § 12, 64 Stat. 780.)

CODIFICATION

In subsec. (b), ''subchapter I of chapter 57 of title 5, or section 5731(a) of title 5'' substituted for ''the Travel Expense Act of 1949, or section 10 of the Act of March 3, 1933 (U.S.C., title 5, sec. 73b)'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

In subsec. (c), ''section 501 of title 44 or section 6101 of title 41'' substituted for ''section 11 of the Act of March 1, 1919 (U.S.C., title 44, sec. 111), or section 3709 of the Revised Statutes (U.S.C., title 41, sec. 5)'' on authority of Pub. L. 90–620, § 2(b), Oct. 22, 1968, 82 Stat. 1305, which Act enacted Title 44, Public Printing and Documents, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (d), ''section 6101 of title 41'' substituted for ''section 3709 of the Revised Statutes (U.S.C., title 41, sec. 5)'' on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§ 962. Reduction of bycatch in eastern tropical Pacific Ocean

The Secretary of State, in consultation with the Secretary of Commerce and acting through the United States Commissioners, shall seek, in cooperation with other nations whose vessel[1] fish for tuna in the eastern tropical Pacific Ocean, to establish standards and measures for a bycatch reduction program for vessels fishing for yellowfin tuna in the eastern tropical Pacific Ocean. The bycatch reduction program shall include measures—

(1) to require, to the maximum extent practicable, that sea turtles and other threatened species and endangered species are released alive;

(2) to reduce, to the maximum extent practicable, the harvest of nontarget species;

(3) to reduce, to the maximum extent practicable, the mortality of nontarget species; and

(4) to reduce, to the maximum extent practicable, the mortality of juveniles of the target species.

(Sept. 7, 1950, ch. 907, § 15, as added Pub. L. 105–42, § 7(c), Aug. 15, 1997, 111 Stat. 1138.)

CODIFICATION

Section 7(c) of Pub. L. 105–42, which directed the addition of this section at the end of the Tuna Conventions Act, was executed by adding this section at the end of the Tuna Conventions Act of 1950, to reflect the probable intent of Congress.

EFFECTIVE DATE

Section effective upon certification by Secretary of Commerce that sufficient funding is available to complete first year of study required by section 1414a(a) of this title and that study has commenced, and certification by Secretary of State to Congress that binding resolution of Inter-American Tropical Tuna Commission or other legally binding instrument establishing International Dolphin Conservation Program has been adopted and is in force, see section 8 of Pub. L. 105–42, set out as an Effective Date of 1997 Amendment note under section 1362 of this title.

CHAPTER 16A—ATLANTIC TUNAS CONVENTION

Sec.

971. Definitions.
971a. Commissioners.
971b. Advisory committee.
971b–1. Species working groups.
971c. Authority of Secretary of State; cooperative enforcement agreements.
971d. Administration.

[1] So in original. Probably should be ''vessels''.

Sec.
971e. Violations.
971f. Enforcement.
971g. Cooperation in carrying out Convention.
971h. Authorization of appropriations.
971i. Research on Atlantic highly migratory species.
971j. Annual report.
971k. Savings clause.

§ 971. Definitions

For the purpose of this chapter—

(1) The term ''Convention'' means the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro May 14, 1966, including any amendments or protocols which are or become effective for the United States.

(2) The term ''Commission'' means the International Commission for the Conservation of Atlantic Tunas provided for in article III of the Convention.

(3) The term ''conservation recommendation'' means any recommendation of the Commission made pursuant to Article VIII of the Convention and acted upon favorably by the Secretary of State under section 971c(a) of this title.

(4) The term ''Council'' means the Council established within the International Commission for the Conservation of Atlantic Tunas pursuant to article V of the Convention.

(5) The term ''exclusive economic zone'' means an exclusive economic zone as defined in section 1802 of this title.

(6) The term ''fishing'' means the catching, taking, or fishing for or the attempted catching, taking, or fishing for any species of fish covered by the Convention, or any activities in support thereof.

(7) The term ''fishing vessel'' means any vessel engaged in catching fish or processing or transporting fish loaded on the high seas, or any vessel outfitted for such activities.

(8) The term ''Panel'' means any panel established by the Commission pursuant to article VI of the Convention.

(9) The term ''person'' means every individual, partnership, corporation, and association subject to the jurisdiction of the United States.

(10) The term ''Secretary'' means the Secretary of Commerce.

(11) The term ''State'' includes each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(Pub. L. 94–70, § 2, Aug. 5, 1975, 89 Stat. 385; Pub. L. 94–265, title IV, § 405(a), Apr. 13, 1976, 90 Stat. 361; Pub. L. 95–33, § 2, May 26, 1977, 91 Stat. 173; Pub. L. 104–43, title III, § 303(1), (2), Nov. 3, 1995, 109 Stat. 384; Pub. L. 105–384, title II, § 202(b)(1)(A), (F), Nov. 13, 1998, 112 Stat. 3452, 3453.)

AMENDMENTS

1998—Pars. (4), (5). Pub. L. 105–384 renumbered par. (4) defining ''exclusive economic zone'' as par. (5) and made technical amendment to reference in original act which appears in text as reference to section 1802 of this title.

1995—Par. (3). Pub. L. 104–43, § 303(1), added par. (3). Former par. (3) redesignated (4).

Par. (4). Pub. L. 104–43, § 303(2), added par. (4) defining ''exclusive economic zone''. Former par. (4) redesignated (5).

Pub. L. 104–43, § 303(1), redesignated par. (3) defining ''Council'' as (4).

Par. (5). Pub. L. 104–43, § 303(2), struck out par. (5) which read as follows: ''The term 'fisheries zone' means the waters included within a zone contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is two hundred nautical miles from the baseline from which the territorial sea is measured; or similar zones established by other parties to the Convention to the extent that such zones are recognized by the United States.''

Pub. L. 104–43, § 303(1), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Pars. (6) to (11). Pub. L. 104–43, § 303(1), redesignated pars. (5) to (10) as (6) to (11), respectively.

1977—Par. (4). Pub. L. 95–33 struck out the comma between ''zone'' and ''contiguous'', substituted ''two hundred'' for ''200'', and substituted a semicolon for a comma after ''is measured''.

1976—Par. (4). Pub. L. 94–265, which directed the substitution of ''the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal state, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured,'' for ''the fisheries zone established pursuant to the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091–1094)'', was executed by making the substitution for ''the entire zone established by the United States under the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091–1094)'', to reflect the probable intent of Congress.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 405(b) of Pub. L. 94–265 provided that the amendment made by section 405(a) of Pub. L. 94–265 to this section was to take effect Mar. 1, 1977, prior to the general amendment of title IV of Pub. L. 94–265 by Pub. L. 104–297.

SHORT TITLE OF 1995 AMENDMENT

Section 301 of title III of Pub. L. 104–43 provided that: ''This title [enacting sections 971j and 971k of this title, amending this section and sections 971b, 971c to 971e, 971h, and 971i of this title, and enacting provisions set out as a note under section 971c of this title] may be cited as the 'Atlantic Tunas Convention Authorization Act of 1995'.''

SHORT TITLE

Section 1 of Pub. L. 94–70 provided: ''That this Act [enacting this chapter and provisions set out below] may be cited as the 'Atlantic Tunas Convention Act of 1975'.''

SEPARABILITY

Pub. L. 94–70, § 13, formerly § 11, Aug. 5, 1975, 89 Stat. 394; renumbered § 13, Pub. L. 105–384, title II, § 202(b)(1)(D), Nov. 13, 1998, 112 Stat. 3452, provided that: ''If any provision of this Act [this chapter] or the application of such provision to any circumstance or persons shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other circumstances or persons shall not be affected thereby.''

§ 971a. Commissioners

(a) Appointment and number; selection of Chairman; rules of procedure; term

(1) The United States shall be represented by not more than three Commissioners who shall

serve as delegates of the United States on the Commission, and who may serve on the Council and Panels of the Commission as provided for in the Convention. Such Commissioners shall be appointed by and serve at the pleasure of the President. Not more than one such Commissioner shall be a salaried employee of any State or political subdivision thereof, or the Federal Government. Individuals serving as such Commissioners shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28. The Commissioners shall be entitled to select a Chairman and to adopt such rules of procedure as they find necessary.

(2) Of the Commissioners appointed under paragraph (1) who are not governmental employees—

(A) one shall be appointed from among individuals with knowledge and experience regarding commercial fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea; and

(B) one shall be appointed from among individuals with knowledge and experience regarding recreational fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea.

(3)(A) The term of a Commissioner shall be three years.

(B) An individual appointed in accordance with paragraph (2) shall not be eligible to serve more than two consecutive terms as a Commissioner.

(b) Alternate Commissioners

The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise at any meeting of the Commission, Council, any Panel, or the advisory committee established pursuant to section 971b of this title, all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

(c) Compensation

The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such Commissioners or Alternate Commissioners.

(d) Travel expenses

(1) The Secretary of State shall pay the necessary travel expenses of United States Commissioners, Alternate United States Commissioners, and authorized advisors in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5.

(2) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.

(e) Sense of Congress regarding fish habitat

It is the sense of the Congress that the United States Commissioners should seek to include ecosystem considerations in fisheries management, including the conservation of fish habitat.

(Pub. L. 94–70, § 3, Aug. 5, 1975, 89 Stat. 385; Pub. L. 101–627, title II, §§ 201(a), 203, Nov. 28, 1990, 104 Stat. 4459, 4460; Pub. L. 106–562, title III, § 303, Dec. 23, 2000, 114 Stat. 2806; Pub. L. 109–479, title IV, § 405(c), Jan. 12, 2007, 120 Stat. 3633.)

AMENDMENTS

2007—Subsec. (e). Pub. L. 109–479 added subsec. (e).

2000—Subsec. (a)(1). Pub. L. 106–562 inserted before last sentence ''Individuals serving as such Commissioners shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28.''

1990—Subsec. (a). Pub. L. 101–627, § 201(a), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (d). Pub. L. 101–627, § 203, added subsec. (d).

LIMITATIONS ON APPOINTMENTS OF COMMISSIONERS; APPLICATION TO CURRENT COMMISSIONERS

Section 201(b) of title II of Pub. L. 101–627 provided that:

''(1) Paragraph (2) of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, shall not apply to reappointment of an individual as a United States Commissioner of the International Commission for the Conservation of Atlantic Tunas (hereinafter in this title [enacting section 971b–1 of this title, amending this section and sections 971b, 971d, and 971h of this title, and enacting provisions set out as a note below] referred to as a 'Commissioner') if that individual is serving in that position on the date of enactment of this Act [Nov. 28, 1990].

''(2) An individual serving a term as a Commissioner on the date of enactment of this Act shall not, by reason of that term of service, be ineligible under paragraph (3)(B) of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, for reappointment as a Commissioner.''

TERMINATION OF CURRENT TERMS AND COMPLETION OF PENDING APPOINTMENTS

Section 202 of Pub. L. 101–627 provided that: ''The term as Commissioner of each individual serving in that position on the date of enactment of this Act [Nov. 28, 1990] shall terminate March 1, 1991. Not later than that date, the President shall complete appointment (or reappointment) of individuals to serve as Commissioners on and after that date.''

§ 971b. Advisory committee

(a) There is established an advisory committee which shall be composed of—

(1) not less than five nor more than twenty individuals appointed by the United States Commissioners who shall select such individuals from the various groups concerned with the fisheries covered by the Convention; and

(2) the chairmen (or their designees) of the New England, Mid-Atlantic, South Atlantic, Caribbean, and Gulf Fishery Management Councils established under section 302(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)).

Each member of the advisory committee appointed under paragraph (1) shall serve for a term of two years and shall be eligible for reappointment. Members of the advisory commit-

tee may attend all public meetings of the Commission, Council, or any Panel and any other meetings to which they are invited by the Commission, Council, or any Panel. The advisory committee shall be invited to attend all nonexecutive meetings of the United States Commissioners and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission. Members of the advisory committee shall receive no compensation for their services as such members. The Secretary and the Secretary of State may pay the necessary travel expenses of members of the advisory committee in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5.

(b)(1) A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommendations.

(2) The advisory committee shall elect a Chairman for a 2-year term from among its members.

(3) The advisory committee shall meet at appropriate times and places at least twice a year, at the call of the Chairman or upon the request of the majority of its voting members, the United States Commissioners, the Secretary, or the Secretary of State. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

(4)(A) The Secretary shall provide to the advisory committee in a timely manner such administrative and technical support services as are necessary for the effective functioning of the committee.

(B) The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

(5) The advisory committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures.

(6) The advisory committee shall, to the maximum extent practicable, consist of an equitable balance among the various groups concerned with the fisheries covered by the Convention and shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(Pub. L. 94–70, § 4, Aug. 5, 1975, 89 Stat. 386; Pub. L. 96–339, § 1(1), Sept. 4, 1980, 94 Stat. 1069; Pub. L. 96–561, title II, § 238(b), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 101–627, title II, § 204, Nov. 28, 1990, 104 Stat. 4460; Pub. L. 104–43, title III, § 304, Nov. 3, 1995, 109 Stat. 384; Pub. L. 105–384, title II, § 202(b)(1)(F), Nov. 13, 1998, 112 Stat. 3453.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (b)(5), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (b)(6), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1998—Subsecs. (a)(2), (b)(5). Pub. L. 105–384 substituted ''Magnuson-Stevens Fishery'' for ''Magnuson Fishery''.

1995—Pub. L. 104–43 designated existing provisions as subsec. (a) and added subsec. (b).

1990—Pub. L. 101–627 amended last sentence generally. Prior to amendment, last sentence read as follows: ''On approval by the United States Commissioners—

''(A) if not more than three members of the advisory committee are designated by the committee to attend any meeting of the Commission, Council, or advisory committee, or of any Panel, each of such members shall be paid for his actual transportation expenses and per diem incident to his attendance; and

''(B) in any case in which more than three members are designated by the advisory committee to attend any such meeting, each such member to whom subparagraph (A) does not apply may be paid for his actual transportation expenses and per diem incident to his attendance.''

1980—Pub. L. 96–339 incorporated existing provision in par. designated (1), added par. (2), redesignated as subpars. (A) and (B) former pars. (1) and (2), substituted in subpar. (B) reference to ''subparagraph (A)'' for ''paragraph (1)'', and made specific reference to appointment of committee member under paragraph (1).

Par. (2). Pub. L. 96–561 substituted ''Magnuson Fishery Conservation and Management Act'' for ''Fishery Conservation and Management Act of 1976''.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 238(b) of Pub. L. 96–561 provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

§ 971b–1. Species working groups

The United States Commissioners may establish species working groups for the purpose of providing advice and recommendations to the Commissioners and the advisory committee on matters relating to the conservation and management of any highly migratory species covered by the Convention. Any species working group shall consist of no more than seven members of the advisory committee and no more than four scientific or technical personnel, as considered necessary by the Commissioner.

(Pub. L. 94–70, § 4A, as added Pub. L. 101–627, title II, § 205, Nov. 28, 1990, 104 Stat. 4460.)

§ 971c. Authority of Secretary of State; cooperative enforcement agreements

(a) Recommendations from Commission

The Secretary of State is authorized to receive on behalf of the United States, reports, requests, and other communications of the Commission, and to act thereon directly or by reference to the appropriate authorities. The Secretary of State, with the concurrence of the Secretary and, for matters relating to enforcement, the Secretary of the department in which the Coast

Guard is operating, is authorized to take appropriate action on behalf of the United States with regard to recommendations received from the Commission pursuant to article VIII of the Convention. The Secretary and, when appropriate, the Secretary of the department in which the Coast Guard is operating, shall inform the Secretary of State as to what action he considers appropriate within five months of the date of the notification of the recommendation from the Commission, and again within forty-five days of the additional sixty-day period provided by the Convention if any objection is presented by another contracting party to the Convention, or within thirty days of the date of the notification of an objection made within the additional sixty-day period, whichever date shall be the later. After any notification from the Commission that an objection of the United States is to be considered as having no effect, the Secretary shall inform the Secretary of State as to what action he considers appropriate within forty-five days of the sixty-day period provided by the Convention for reaffirming objections. The Secretary of State shall take steps under the Convention to insure that a recommendation pursuant to article VIII of the Convention does not become effective for the United States prior to its becoming effective for all contracting parties conducting fisheries affected by such recommendation on a meaningful scale in terms of their effect upon the success of the conservation program, unless he determines, with the concurrence of the Secretary, and, for matters relating to enforcement, the Secretary of the department in which the Coast Guard is operating, that the purposes of the Convention would be served by allowing a recommendation to take effect for the United States at some earlier time.

(b) Enforcement agreements

The Secretary of State, in consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, is authorized to enter into agreements with any contracting party, pursuant to paragraph 3 of article IX of the Convention, relating to cooperative enforcement of the provisions of the Convention, recommendations in force for the United States and such party or parties under the Convention, and regulations adopted by the United States and such contracting party or parties pursuant to recommendations of the Commission. Such agreements may authorize personnel of the United States to enforce measures under the Convention and under regulations of another party with respect to persons under that party's jurisdiction, and may authorize personnel of another party to enforce measures under the Convention and under United States regulations with respect to persons subject to the jurisdiction of the United States. Enforcement under such an agreement may not take place within the territorial seas or exclusive economic zone of the United States. Such agreements shall not subject persons or vessels under the jurisdiction of the United States to prosecution or assessment of penalties by any court or tribunal of a foreign country.

(Pub. L. 94–70, § 5, Aug. 5, 1975, 89 Stat. 386; Pub. L. 104–43, title III, § 303(3), Nov. 3, 1995, 109 Stat. 384; Pub. L. 105–384, title II, § 202(b)(1)(B), Nov. 13, 1998, 112 Stat. 3452.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–384 directed amendment identical to amendment by Pub. L. 104–43. See 1995 Amendment note below.

1995—Subsec. (b). Pub. L. 104–43 substituted ''exclusive economic zone'' for ''fisheries zone'' after ''territorial seas or'' in third sentence.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

MANAGEMENT OF ATLANTIC YELLOWFIN TUNA

Section 309(b) of Pub. L. 104–43, as amended by Pub. L. 104–297, title IV, § 406, Oct. 11, 1996, 110 Stat. 3621, provided that: ''Not later than July 1, 1997, the Secretary of Commerce shall implement the recommendations of the International Commission for the Conservation of Atlantic Tunas regarding yellowfin tuna made pursuant to Article VIII of the International Convention for the Conservation of Atlantic Tunas and acted upon favorably by the Secretary of State under section 5(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971c(a)).''

§ 971d. Administration

(a) Regulations; cooperation with other parties to Convention; utilization of personnel, services, and facilities for enforcement

The Secretary is authorized and directed to administer and enforce all of the provisions of the Convention, this chapter, and regulations issued pursuant thereto, except to the extent otherwise provided for in this chapter. In carrying out such functions the Secretary is authorized and directed to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this chapter, and with the concurrence of the Secretary of State, he may cooperate with the duly authorized officials of the government of any party to the Convention. In addition, the Secretary may utilize, with the concurrence of the Secretary of the department in which the Coast Guard is operating insofar as such utilization involves enforcement at sea, with or without reimbursement and by agreement with any other Federal department or agency, or with any agency of any State, the personnel, services, and facilities of that agency for enforcement purposes with respect to any vessel in the exclusive economic zone, or wherever found, with respect to any vessel documented under the laws of the United States, and any vessel numbered or otherwise licensed under the laws of any State. When so utilized, such personnel of the States of the United States are authorized to function as Federal law enforcement agents for these purposes, but they shall not be held and considered as employees of the United States for the purposes of any laws administered by the Director of the Office of Personnel Management.

(b) Primary enforcement responsibility

Enforcement activities at sea under the provisions of this chapter for fishing vessels subject

to the jurisdiction of the United States shall be primarily the responsibility of the Secretary of the department in which the Coast Guard is operating, in cooperation with the Secretary and the United States Customs Service. The Secretary after consultation with the Secretary of the department in which the Coast Guard is operating, shall adopt such regulations as may be necessary to provide for procedures and methods of enforcement pursuant to article IX of the Convention.

(c) Regulations and other measures to carry out Commission recommendations

(1)(A) Upon favorable action by the Secretary of State under section 971c(a) of this title on any recommendation of the Commission made pursuant to article VIII of the Convention, the Secretary shall promulgate, pursuant to this subsection, such regulations as may be necessary and appropriate to carry out such recommendation.

(B) Not later than June 30, 1991, the Secretary shall promulgate any additional regulations necessary to ensure that the United States is in full compliance with all recommendations made by the Commission that have been accepted by the United States and with other agreements under the Convention between the United States and any nation which is a party to the Convention.

(C) Regulations promulgated under this paragraph shall, to the extent practicable, be consistent with fishery management plans prepared and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) To promulgate regulations referred to in paragraph (1) of this subsection, the Secretary shall publish in the Federal Register a general notice of proposed rulemaking and shall afford interested persons an opportunity to participate in the rulemaking through (A) submission of written data, views, or arguments, and (B) oral presentation at a public hearing. Such regulations shall be published in the Federal Register and shall be accompanied by a statement of the considerations involved in the issuance of the regulations, and by a statement, based on inquiries and investigations, assessing the nature and effectiveness of the measures for the implementation of the Commission's recommendations which are being or will be carried out by countries whose vessels engage in fishing the species subject to such recommendations within the waters to which the Convention applies. After publication in the Federal Register, such regulations shall be applicable to all vessels and persons subject to the jurisdiction of the United States on such date as the Secretary shall prescribe. The Secretary shall suspend at any time the application of any such regulation when, after consultation with the Secretary of State and the United States Commissioners, he determines that fishing operations in the Convention area of a contracting party for whom the regulations are effective are such as to constitute a serious threat to the achievement of the Commission's recommendations.

(3) The regulations required to be promulgated under paragraph (1) of this subsection may—

(A) select for regulation one or more of the species covered by the Convention;

(B) divide the Convention waters into areas;

(C) establish one or more open or closed seasons as to each such area;

(D) limit the size of the fish and quantity of the catch which may be taken from each area within any season during which fishing is allowed;

(E) limit or prohibit the incidental catch of a regulated species which may be retained, taken, possessed, or landed by vessels or persons fishing for other species of fish;

(F) require records of operations to be kept by any master or other person in charge of any fishing vessel;

(G) require such clearance certificates for vessels as may be necessary to carry out the purposes of the Convention and this chapter;

(H) require proof satisfactory to the Secretary that any fish subject to regulation pursuant to a recommendation of the Commission offered for entry into the United States has not been taken or retained contrary to the recommendations of the Commission made pursuant to article VIII of the Convention which have been adopted as regulations pursuant to this section;

(I) require any commercial or recreational fisherman to obtain a permit from the Secretary and report the quantity of the catch of a regulated species;

(J) require that observers be carried aboard fishing vessels for the purpose of providing statistically reliable scientific data; and

(K) impose such other requirements and provide for such other measures as the Secretary may determine necessary to implement any recommendation of the Convention or to obtain scientific data necessary to accomplish the purpose of the Convention;

except that no regulation promulgated under this section may have the effect of increasing or decreasing any allocation or quota of fish or fishing mortality level to the United States agreed to pursuant to a recommendation of the Commission.

(4) Upon the promulgation of regulations provided for in paragraph (3) of this subsection, the Secretary shall promulgate, with the concurrence of the Secretary of State and pursuant to the procedures prescribed in paragraph (2) of this subsection, additional regulations which shall become effective simultaneously with the application of the regulations provided for in paragraph (3) of this subsection, which prohibit—

(A) the entry into the United States of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission; and

(B) the entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation

recommendations of the Commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area.

(5) In the case of repeated and flagrant fishing operations in the Convention area by the vessels of any country which seriously threaten the achievement of the objectives of the Commission's recommendations, the Secretary with the concurrence of the Secretary of State, may by regulations promulgated pursuant to paragraph (2) of this subsection prohibit the entry in any form from such country of other species covered by the Convention as may be under investigation by the Commission and which were taken in the Convention area. Any such prohibition shall continue until the Secretary is satisfied that the condition warranting the prohibition no longer exists, except that all fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry.

(6) IDENTIFICATION AND NOTIFICATION.—

(A) Not later than July 1, 1996, and annually thereafter, the Secretary, in consultation with the Secretary of State, the Commissioners, and the advisory committee, shall—

(i) identify those nations whose fishing vessels are fishing, or have fished during the preceding calendar year, within the convention area in a manner or under circumstances that diminish the effectiveness of a conservation recommendation;

(ii) notify the President and the nation so identified, including an explanation of the reasons therefor; and

(iii) publish a list of those Nations identified under clause (i).

(B) In identifying those Nations, the Secretary shall consider, based on the best available information, whether those Nations have measures in place for reporting, monitoring, and enforcement, and whether those measures diminish the effectiveness of any conservation recommendation.

(7) CONSULTATION.—Not later than 30 days after a Nation is notified under paragraph (6), the President may enter into consultations with the Government of that Nation for the purpose of obtaining an agreement that will—

(A) effect the immediate termination and prevent the resumption of any fishing operation by vessels of that Nation within the Convention area which is conducted in a manner or under circumstances that diminish the effectiveness of the conservation recommendation;

(B) when practicable, require actions by that Nation, or vessels of that Nation, to mitigate the negative impacts of fishing operations on the effectiveness of the conservation recommendation involved, including but not limited to, the imposition of subsequent-year deductions for quota overages; and

(C) result in the establishment, if necessary, by such Nation of reporting, monitoring, and enforcement measures that are adequate to ensure the effectiveness of conservation recommendations.

(d) Recommended Commission actions regarding large-scale driftnet fishing and conservation of Atlantic swordfish

(1) It is the sense of the Congress that the Secretary, in consultation with the Secretary of State, should seek support for a recommendation by the Commission to ban large-scale driftnet fishing (as that term is defined in section 3(16)[1] of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1802(16)]) in the Convention area.

(2) The Secretary, in consultation with the Secretary of State, shall request the Commission to adopt recommendations necessary for the conservation and management of Atlantic swordfish. In making the request, the Secretary shall seek the establishment of an international minimum harvest size and a reduction in harvest levels to the extent necessary to conserve the stock. Until the Commission adopts all the conservation and management measures requested by the Secretary, the Secretary, within 3 months after each annual meeting of the Commission, shall notify Congress as to the nature and results of his request. These notifications shall identify those nations not acting to conserve and manage Atlantic swordfish, and recommend measures which could be taken to achieve effective international conservation and management of the stock.

(Pub. L. 94–70, § 6, Aug. 5, 1975, 89 Stat. 387; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3784; Pub. L. 101–627, title II, §§ 206, 207, Nov. 28, 1990, 104 Stat. 4461; Pub. L. 104–43, title III, §§ 303(3), 305, Nov. 3, 1995, 109 Stat. 384, 385; Pub. L. 105–384, title II, § 202(b)(1)(C), (F), Nov. 13, 1998, 112 Stat. 3452, 3453.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (c)(1)(C), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Section 3 of the Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (d)(1), was subsequently amended, and section 3(16) no longer defines the term ''large-scale driftnet fishing''. However, such term is defined elsewhere in that section.

AMENDMENTS

1998—Subsec. (c)(1)(C). Pub. L. 105–384, § 202(b)(1)(F), substituted ''Magnuson-Stevens Fishery'' for ''Magnuson Fishery''.

Subsecs. (c)(6)(A)(iii), (B). Pub. L. 105–384, § 202(b)(1)(C), substituted ''clause (i)'' for ''subparagraph (A)'' in cl. (iii), and redesignated last sentence of subpar. (A) as subpar. (B) and realigned margin.

Subsec. (d)(1). Pub. L. 105–384, § 202(b)(1)(F), substituted ''Magnuson-Stevens Fishery'' for ''Magnuson Fishery''.

1995—Subsec. (a). Pub. L. 104–43, § 303(3), substituted ''exclusive economic zone'' for ''fisheries zone'' after ''any vessel in the'' in third sentence.

Subsec. (c). Pub. L. 104–43, § 305(1), inserted ''and other measures'' after ''Regulations'' in heading.

Subsec. (c)(3). Pub. L. 104–43, § 305(2), inserted ''or fishing mortality level'' after ''quota of fish'' in concluding provisions.

[1] See References in Text note below.

Subsec. (c)(6), (7). Pub. L. 104–43, §305(3), added pars. (6) and (7).

1990—Subsec. (c)(1). Pub. L. 101–627, §206(a), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (c)(3). Pub. L. 101–627, §206(b), added subpars. (I) to (K) and concluding provisions and struck out former subpar. (I) which read as follows: ''impose such other requirements and provide for such other measures as the Secretary may deem necessary to implement any recommendation of the Commission.''

Subsec. (d). Pub. L. 101–627, §207, amended subsec. (d) generally, substituting provisions relating to recommended Commission actions regarding large-scale driftnet fishing and conservation of Atlantic swordfish for provisions relating to Commission recommendations concerning bluefin tuna and issuance of regulations.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

''Director of the Office of Personnel Management'' substituted for ''Civil Service Commission'' in subsec. (a) pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in the Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

USE OF AIRCRAFT IN ATLANTIC BLUEFIN TUNA FISHING

Pub. L. 106–553, §1(a)(2) [title VI, §634], Dec. 21, 2000, 114 Stat. 2762, 2762A–114, provided that none of the funds of the Department of Commerce would be available to issue or renew, for any fishing vessel, any general or harpoon category fishing permit for Atlantic bluefin tuna that would allow the vessel to use an aircraft to locate, or otherwise assist in fishing for, catching, or possessing Atlantic bluefin tuna, or to fish for, catch, or possess Atlantic bluefin tuna located by the use of an aircraft.

§ 971e. Violations

(a) In general

It shall be unlawful—

(1) for any person in charge of a fishing vessel or any fishing vessel subject to the jurisdiction of the United States to engage in fishing in violation of any regulation adopted pursuant to section 971d of this title; or

(2) for any person subject to the jurisdiction of the United States to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish which he knows, or should have known, were taken or retained contrary to the recommendations of the Commission made pursuant to article VIII of the Convention and adopted as regulations pursuant to section 971d of this title, without regard to the citizenship of the person or vessel which took the fish.

(b) Failure to furnish returns, records, or reports

It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this chapter to be made, kept, or furnished by such master or person.

(c) Refusal of request to board and inspect vessel

It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to refuse to permit any person authorized to enforce the provisions of this chapter and any regulations adopted pursuant thereto, to board such vessel and inspect its catch, equipment, books, documents, records, or other articles or question the persons onboard in accordance with the provisions of this chapter, or the Convention, as the case may be, or to obstruct such officials in the execution of such duties.

(d) Importation of ineligible species or species under investigation

It shall be unlawful for any person to import, in violation of any regulation adopted pursuant to section 971d(c) or (d)[1] of this title, from any country, any fish in any form of those species subject to regulation pursuant to a recommendation of the Commission, or any fish in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section 971d(c) or (d)[1] of this title. In the case of any fish as described in this subsection offered for entry in the United States, the Secretary shall require proof satisfactory to him that such fish is not ineligible for such entry under the terms of section 971d(c) or (d)[1] of this title.

(e) Sanctions

The civil penalty and permit sanctions of section 1858 of this title are hereby made applicable to violations of this section as if they were violations of section 1857 of this title.

(f) Forfeiture

All fish taken or retained in violation of subsection (a) of this section, or the monetary value thereof, may be forfeited.

(g) Applicability of other laws

All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter.

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[1] See References in Text note below.

(Pub. L. 94–70, § 7, Aug. 5, 1975, 89 Stat. 390; Pub. L. 104–43, title III, § 306, Nov. 3, 1995, 109 Stat. 385; Pub. L. 105–384, title II, § 202(b)(1)(F), Nov. 13, 1998, 112 Stat. 3453.)

REFERENCES IN TEXT

Section 971d(d) of this title, referred to in subsec. (d), was amended generally by Pub. L. 101–627, title II, § 207, Nov. 28, 1990, 104 Stat. 4461. Prior to amendment, subsec. (d) related to Commission recommendations concerning bluefin tuna and issuance of regulations in that regard.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–384 made technical amendment to reference in original act which appears in text as reference to section 1858 of this title.

1995—Subsec. (e). Pub. L. 104–43 amended subsec. (e) generally, substituting present provisions for provisions establishing civil penalties for violations of this section, providing for authority of Secretary to assess, remit, or mitigate any civil penalty, providing for notice and hearing prior to assessment, and providing for civil action upon failure to pay penalty.

§ 971f. Enforcement

(a) Particular powers

Any person authorized in accordance with the provisions of this chapter to enforce the provisions of this chapter and the regulations issued thereunder may—

(1) with or without a warrant, board any vessel subject to the jurisdiction of the United States and inspect such vessel and its catch and, if as a result of such inspection, he has reasonable cause to believe that such vessel or any person on board is engaging in operations in violation of this chapter or any regulations issued thereunder, he may, with or without a warrant or other process, arrest such person;

(2) arrest, with or without a warrant, any person who violates the provisions of this chapter or any regulation issued thereunder in his presence or view;

(3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and

(4) seize, whenever and wherever lawfully found, all fish taken or retained by a vessel subject to the jurisdiction of the United States in violation of the provisions of this chapter or any regulations issued pursuant thereto. Any fish so seized may be disposed of pursuant to an order of a court of competent jurisdiction, or, if perishable, in a manner prescribed by regulation of the Secretary.

(b) International enforcement

To the extent authorized under the convention or by agreements between the United States and any contracting party concluded pursuant to section 971c(b) of this title for international enforcement, the duly authorized officials of such party shall have the authority to carry out the enforcement activities specified in subsection (a) of this section with respect to persons or vessels subject to the jurisdiction of the United States, and the officials of the United States authorized pursuant to this section shall have the authority to carry out the enforcement activities specified in subsection (a) of this section with respect to persons or vessels subject to the jurisdiction of such party, except that where any agreement provides for arrest or seizure of persons or vessels under United States jurisdiction it shall also provide that the person or vessel arrested or seized shall be promptly handed over to a United States enforcement officer or another authorized United States official.

(c) Bonds or stipulations

Notwithstanding the provisions of section 2464 of title 28, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any fish seized if the process has been levied, on receiving from the claimant of the fish a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value at the time of seizure and the proceeds of such sale placed in the registry of the court pending judgment in the case.

(Pub. L. 94–70, § 8, Aug. 5, 1975, 89 Stat. 391.)

§ 971g. Cooperation in carrying out Convention

(a) Federal and State agencies; private institutions and organizations

The United States Commissioners, through the Secretary of State and with the concurrence of the agency, institution, or organization concerned, may arrange for the cooperation of agencies of the United States Government, and of State and private institutions and organizations in carrying out the provisions of article IV of the Convention.

(b) Scientific and other programs; facilities and personnel

All agencies of the Federal Government are authorized, upon the request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention.

(c) Fishing operations and biological experiments

None of the prohibitions deriving from this chapter, or contained in the laws or regulations of any State, shall prevent the Commission from conducting or authorizing the conduct of fishing operations and biological experiments at any time for purposes of scientific investigation, or shall prevent the Commission from discharging any other duties prescribed by the Convention.

(d) State jurisdiction; preemption by Federal regulations

(1) Except as provided in paragraph (2) of this subsection, nothing in this chapter shall be con-

strued so as to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.

(2) In the event a State does not request a formal hearing and after notice by the Secretary, the regulations promulgated pursuant to this chapter to implement recommendations of the Commission shall apply within the boundaries of any State bordering on any Convention area if the Secretary determines that any such State—

(A) has not, within a reasonable period of time after the promulgation of regulations pursuant to this chapter, enacted laws or promulgated regulations which implement any such recommendation of the Commission within the boundaries of such State; or

(B) has enacted laws or promulgated regulations which (i) are less restrictive than the regulations promulgated pursuant to this chapter, or (ii) are not effectively enforced.

If a State requests the opportunity for an agency hearing on the record, the Secretary shall not apply regulations promulgated pursuant to this chapter within that State's boundaries unless the hearing record supports a determination under paragraph (A) or (B). Such regulations shall apply until the Secretary determines that the State is effectively enforcing within its boundaries measures which are not less restrictive than such regulations.

(e) Continuing review of State laws and regulations

To insure that the purposes of subsection (d) of this section are carried out, the Secretary shall undertake a continuing review of the laws and regulations of all States to which subsection (d) of this section applies or may apply and the extent to which such laws and regulations are enforced.

(Pub. L. 94–70, § 9, Aug. 5, 1975, 89 Stat. 392.)

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§ 971h. Authorization of appropriations

(a) In general

There are authorized to be appropriated to the Secretary to carry out this chapter, including use for payment of the United States share of the joint expenses of the Commission as provided in Article X of the Convention—

(1) $5,770,000 for each of fiscal years 2007 and 2008;

(2) $6,058,000 for each of fiscal years 2009 and 2010; and

(3) $6,361,000 for each of fiscal years 2011 and 2013.

(b) Allocation

Of the amounts made available under subsection (a) for each fiscal year—

(1) $160,000 are authorized for the advisory committee established under section 971b of this title and the species working groups established under section 971b–1 of this title; and

(2) $7,500,000 are authorized for research activities under this chapter and section 971i of this title, of which $3,000,000 shall be for the cooperative research program under section 971i(b)(2)(H) of this title.[1]

(Pub. L. 94–70, § 10, Aug. 5, 1975, 89 Stat. 393; Pub. L. 95–33, § 1, May 26, 1977, 91 Stat. 173; Pub. L. 96–339, § 1(2), Sept. 4, 1980, 94 Stat. 1069; Pub. L. 98–44, title I, § 101, July 12, 1983, 97 Stat. 216; Pub. L. 99–659, title IV, § 404, Nov. 14, 1986, 100 Stat. 3737; Pub. L. 101–627, title II, § 208, Nov. 28, 1990, 104 Stat. 4462; Pub. L. 104–43, title III, § 307, Nov. 3, 1995, 109 Stat. 386; Pub. L. 105–384, title II, § 202(a), Nov. 13, 1998, 112 Stat. 3452; Pub. L. 107–372, title III, § 304, Dec. 19, 2002, 116 Stat. 3095; Pub. L. 109–479, title IV, § 405(a), Jan. 12, 2007, 120 Stat. 3633.)

REFERENCES IN TEXT

Section 971i(b)(2)(H) of this title, referred to in subsec. (b)(2), was in the original ''section 3(b)(2)(H) of that section'' and was translated as reading ''section 3(b)(2)(H) of that Act'', meaning Pub. L. 96–339, to reflect the probable intent of Congress.

AMENDMENTS

2007—Pub. L. 109–479 amended section generally, substituting provisions authorizing appropriations for fiscal years 2007 to 2013 for provisions authorizing appropriations for fiscal years 2003 to 2006.

2002—Pub. L. 107–372 amended section generally, substituting provisions authorizing appropriations for fiscal years 2003 to 2006 for provisions authorizing appropriations for fiscal years 1995 to 2001.

1998—Par. (4). Pub. L. 105–384 substituted ''For each of fiscal years 1998, 1999, 2000, and 2001,'' for ''For fiscal year 1998,''.

1995—Pub. L. 104–43 amended section generally, substituting provisions authorizing appropriations for fiscal years 1995 to 1998 for provisions authorizing appropriations for fiscal years 1989 to 1993.

1990—Pub. L. 101–627 amended section generally, substituting provisions authorizing appropriations for fiscal years 1989 to 1993 for provisions authorizing appropriations for fiscal years 1986 to 1989 and striking out provisions relating to use of sums for travel expenses.

1986—Pub. L. 99–659 substituted authorization of appropriations for fiscal years 1986 through 1989 for former authorization of appropriations for fiscal year 1976, the period beginning July 1, 1976, and ending Sept. 30, 1976, and fiscal years 1977 through 1986.

1983—Pub. L. 98–44 authorized appropriations for fiscal years 1984 through 1986.

1980—Pub. L. 96–339 authorized appropriations for fiscal years 1981 through 1983.

1977—Pub. L. 95–33 authorized appropriations for fiscal years 1978 through 1980.

§ 971i. Research on Atlantic highly migratory species

(a) Omitted

(b) Highly migratory species research and monitoring

(1) Within 6 months after November 3, 1995, the Secretary of Commerce, in cooperation with the advisory committee established under section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) and in consultation with the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas (referred to elsewhere in this section as the ''Commission'') and the Secretary of State, shall develop and implement a comprehensive

[1] See References in Text note below.

research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species that shall—

(A) identify and define the range of stocks of highly migratory species in the Atlantic Ocean, including Atlantic bluefin tuna; and

(B) provide for appropriate participation by nations which are members of the Commission.

(2) The program shall provide for, but not be limited to—

(A) statistically designed cooperative tagging studies;

(B) genetic and biochemical stock analyses;

(C) population censuses carried out through aerial surveys of fishing grounds and known migration areas;

(D) adequate observer coverage and port sampling of commercial and recreational fishing activity;

(E) collection of comparable real-time data on commercial and recreational catches and landings through the use of permits, logbooks, landing reports for charter operations and fishing tournaments, and programs to provide reliable reporting of the catch by private anglers;

(F) studies of the life history parameters of Atlantic bluefin tuna and other highly migratory species;

(G) integration of data from all sources and the preparation of data bases to support management decisions;

(H) include a cooperative research program on Atlantic billfish based on the Southeast Fisheries Science Center Atlantic Billfish Research Plan of 2002; and

(I) other research as necessary.

(3) In developing a program under this section, the Secretary shall—

(A) ensure that personnel and resources of each regional research center shall have substantial participation in the stock assessments and monitoring of highly migratory species that occur in the region;

(B) provide for comparable monitoring of all United States fishermen to which the Atlantic Tunas Convention Act of 1975 applies with respect to effort and species composition of catch and discards;

(C) consult with relevant Federal and State agencies, scientific and technical experts, commercial and recreational fishermen, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan; and

(D) through the Secretary of State, encourage other member nations to adopt a similar program.

(Pub. L. 96–339, § 3, Sept. 4, 1980, 94 Stat. 1070; Pub. L. 104–43, title III, § 302(b), Nov. 3, 1995, 109 Stat. 382; Pub. L. 105–384, title II, § 202(b)(2), Nov. 13, 1998, 112 Stat. 3453; Pub. L. 109–479, title IV, § 405(b), Jan. 12, 2007, 120 Stat. 3633.)

REFERENCES IN TEXT

The Atlantic Tunas Convention Act of 1975, referred to in subsec. (b)(3)(B), is Pub. L. 94–70, Aug. 5, 1975, 89 Stat. 385, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 971 of this title and Tables.

CODIFICATION

Subsection (a), which required the Secretary of Commerce to prepare and submit to Congress a biennial report on the level of taking of bluefin tuna by United States fishermen in the Convention area as defined in Article I of the International Convention for the Conservation of Atlantic Tunas, the status of bluefin tuna stocks within the Convention area and the trends in their population level, and related information resulting from implementation of the observer program under section 1827 of this title, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 50 of House Document No. 103–7.

Section was not enacted as part of the Atlantic Tunas Convention Act of 1975 which comprises this chapter.

AMENDMENTS

2007—Subsec. (b)(2)(H), (I). Pub. L. 109–479 added subpar. (H) and redesignated former subpar. (H) as (I).

1998—Subsec. (b)(3)(B). Pub. L. 105–384 inserted ''of 1975'' after ''Act''.

1995—Pub. L. 104–43 amended section catchline generally, designated existing provisions as subsec. (a), inserted heading, struck out last sentence which read as follows: ''There are authorized to be appropriated such sums as may be necessary to carry out this section.'', and added subsec. (b).

§ 971j. Annual report

Not later than April 1, 1996, and annually thereafter, the Secretary shall prepare and transmit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, that—

(1) details for the previous 10-year period the catches and exports to the United States of highly migratory species (including tunas, swordfish, marlin and sharks) from Nations fishing on Atlantic stocks of such species that are subject to management by the Commission;

(2) identifies those fishing Nations whose harvests are inconsistent with conservation and management recommendations of the Commission;

(3) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including minimum size requirements, established by the Commission and other international fishery organizations to which the United States is a party; and

(4) describes actions taken by the Secretary under section 971d of this title.

(Pub. L. 94–70, § 11, as added Pub. L. 104–43, title III, § 308, Nov. 3, 1995, 109 Stat. 386; amended Pub. L. 105–384, title II, § 202(b)(1)(E), Nov. 13, 1998, 112 Stat. 3453.)

PRIOR PROVISIONS

A prior section 11 of Pub. L. 94–70 was renumbered section 13 and is set out as a Separability note under section 971 of this title.

AMENDMENTS

1998—Pub. L. 105–384 made technical amendment to style of heading and section designation in original act.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 971k. Savings clause

Nothing in this chapter shall have the effect of diminishing the rights and obligations of any Nation under Article VIII(3) of the Convention.

(Pub. L. 94–70, § 12, as added Pub. L. 104–43, title III, § 308, Nov. 3, 1995, 109 Stat. 387; amended Pub. L. 105–384, title II, § 202(b)(1)(E), Nov. 13, 1998, 112 Stat. 3453.)

AMENDMENTS

1998—Pub. L. 105–384 made technical amendment to style of heading and section designation in original act.

CHAPTER 16B—EASTERN PACIFIC TUNA FISHING

Sec.

972. Definitions.
972a. United States representation on the Council.
972b. Secretary of State to act for United States.
972c. Application to other laws.
972d. Disposition of fees.
972e. Regulations.
972f. Prohibited acts.
972g. Enforcement.
972h. Authorization of appropriations.

§ 972. Definitions

As used in this chapter—

(1) The term ''Agreement'' means the Eastern Pacific Ocean Tuna Fishing Agreement, signed in San Jose, Costa Rica, March 15, 1983.

(2) The term ''Agreement Area'' means the area within a perimeter determined as follows: From the point on the mainland where the parallel of 40 degrees north latitude intersects the coast westward along the parallel of 40 degrees north latitude to 40 degrees north latitude by 125 degrees west longitude, thence southerly along the meridian of 125 degrees west longitude to 20 degrees north latitude by 125 degrees west longitude, thence easterly along the parallel of 20 degrees north latitude to 20 degrees north latitude by 120 degrees west longitude, thence southerly along the meridian of 120 degrees west longitude to 5 degrees north latitude by 120 degrees west longitude, thence easterly along the parallel of 5 degrees north latitude to 5 degrees north latitude by 110 degrees west longitude, thence southerly along the meridian of 110 degrees west longitude to 10 degrees south latitude by 110 degrees west longitude, thence easterly along the parallel of 10 degrees south latitude to 10 degrees south latitude by 90 degrees west longitude, thence southerly along the meridian of 90 degrees west longitude to 30 degrees south latitude by 90 degrees west longitude, thence easterly along the parallel of 30 degrees south latitude to the point on the mainland where the parallel intersects the coast; but the Agreement Area does not include the zones within twelve nautical miles of the baseline from which the breadth of territorial sea is measured and the zones within two hundred nautical miles of the baselines of Coastal States not signatories to the Agreement, measured from the same baseline.

(3) The term ''designated species of tuna'' means yellowfin tuna, Thunnus albacares (Bonnaterre, 1788); bigeye tuna, Thunnus obesus (Lowe, 1839); albacore tuna, Thunnus alalunga (Bonnaterre, 1788); northern bluefin tuna, Thunnus thynnus (Linnaeus, 1758); southern bluefin tuna, Thunnus maccoyil (Castelnau, 1872); skipjack tuna, Katsuwonus pelamis (Linnaeus[1] 1578); black skipjack, Euthynnus Lineatus (Kishinouye[1] 1920); kawakawa, Euthynnus affinis (Cantor, 1849); bullet tuna, Auxis rochei (Risso, 1810),[2] frigate tuna, Ausix[3] thazard (Lacepede, 1800); eastern Pacific bonito, Sarda chiliensis (Cuvier in Cuvier and Valenciennes, 1831); and Indo-Pacific bonito, Sarda orientalis (Temminck and Schlegel, 1844).

(4) The term ''Council'' means the body consisting of the representatives from each Contracting Party to the Agreement which is a Coastal State of the eastern Pacific Ocean or a member of the Inter-American Tropical Tuna Commission at the time of entry into force of the Agreement.

(Pub. L. 98–445, § 2, Oct. 4, 1984, 98 Stat. 1715.)

SHORT TITLE

Section 1 of Pub. L. 98–445 provided: ''That this Act [enacting this chapter] may be cited as the 'Eastern Pacific Tuna Licensing Act of 1984'.''

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§ 972a. United States representation on the Council

(a) Appointment by Secretary of State

The Secretary of State—

(1) shall appoint a United States representative to the Council; and

(2) may appoint not more than three alternate United States representatives to the Council.

(b) Qualification

An individual is not eligible for appointment as, or to serve as, the United States representative under subsection (a)(1) of this section unless the individual is an officer or employee of the United States Government.

(c) Compensation

An individual is not entitled to compensation for serving as the United States representative or an alternate United States representative.

(d) Travel expenses

While away from home or a regular place of business in the performance of service as the United States representative or an alternate United States representative, an individual is entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as individuals employed intermittently in Govern-

[1] So in original. Probably should be followed by a comma.

[2] So in original. The comma probably should be a semicolon.

[3] So in original. Probably should be ''Auxis''.

ment service are allowed expenses under section 5703(b)[1] of title 5.

(Pub. L. 98–445, § 3, Oct. 4, 1984, 98 Stat. 1716.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (d), was amended generally by Pub. L. 94–22, § 4, May 19, 1975, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

§ 972b. Secretary of State to act for United States

The Secretary of State shall receive, on behalf of the United States Government, reports, requests, recommendations and other communications of the Council, and, in consultation with the Secretary of Commerce, shall act directly thereon or by reference to the appropriate authorities.

(Pub. L. 98–445, § 4, Oct. 4, 1984, 98 Stat. 1716.)

§ 972c. Application to other laws

(a) Notwithstanding section 4 of the Fishermen's Protective Act of 1967 [22 U.S.C. 1974], such Act [22 U.S.C. 1971 et seq.] applies with respect to a seizure by a Contracting Party to the Agreement of a vessel of the United States within the Agreement Area for violation of the Agreement if the Secretary of State determines that the violation is not of such seriousness as to diminish the effectiveness of the Agreement.

(b) The seizure by a Contracting Party to the Agreement of a vessel of the United States shall not be considered to be a seizure described in section 1825(a)(4)(C) of this title if the seizure is consistent with the Agreement.

(Pub. L. 98–445, § 5, Oct. 4, 1984, 98 Stat. 1716; Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

REFERENCES IN TEXT

The Fishermen's Protective Act of 1967, referred to in subsec. (a), is act Aug. 27, 1954, ch. 1018, 68 Stat. 883, as amended, which is classified generally to chapter 25 (§ 1971 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 1971 of Title 22 and Tables.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–208 made technical amendment to reference in original act which appears in text as reference to section 1825(a)(4)(C) of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, § 211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

§ 972d. Disposition of fees

All fees accruing to the United States under Article III of the Agreement shall be deposited into the Treasury of the United States.

(Pub. L. 98–445, § 6, Oct. 4, 1984, 98 Stat. 1716.)

§ 972e. Regulations

The Secretary of Commerce, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall issue such regulations as may be necessary to carry out the purposes and objectives of the Agreement and this chapter. Regulations may be made applicable as necessary to all persons and vessels subject to the jurisdiction of the United States, wherever located. Regulations concerning the conservation of a designated species of tuna may be issued only to implement conservation recommendations made by the Council under Article 3(D) of the Agreement.

(Pub. L. 98–445, § 7, Oct. 4, 1984, 98 Stat. 1716.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 972f. Prohibited acts

(a) Unlawful acts

It is unlawful for any person subject to the jurisdiction of the United States—

(1) to engage in fishing for a designated species of tuna within the Agreement Area unless issued a license under the Agreement authorizing such fishing;

(2) to engage in fishing for a designated species of tuna within the Agreement area[1] in contravention of regulations promulgated by the Secretary of Commerce under the Agreement;

(3) knowingly to ship, transport, purchase, sell, offer for sale, export, or have in custody, possession, or control any designated species of tuna taken or retained in violation of regulations issued under section 972e of this title;

(4) to fail to make, keep, or furnish any catch return, statistical record, or other report required by regulations issued under section 972e of this title;

(5) being a person in charge of a vessel of the United States, to fail to stop upon being hailed by an authorized official of the United States, or to refuse to permit officials of the United States to board the vessel or inspect its catch, equipment, books, documents, records, or other articles, or to question individuals on board; or

(6) to import from any country, in violation of any regulation issued under section 972e of this title, any designated species of tuna.

(b) Penalties

Any person who is convicted of violating—

(1) subsection (a)(1), (a)(2), or (a)(3) of this section shall be fined or assessed a civil penalty not more than $25,000, and for a subsequent violation shall be fined or assessed a civil penalty not more than $50,000;

(2) subsection (a)(4) or (a)(5) of this section shall be fined or assessed a civil penalty not more than $5,000, and for a subsequent violation shall be fined or assessed a civil penalty not more than $5,000; or

[1] See References in Text note below.

[1] So in original. Probably should be capitalized.

(3) subsection (a)(6) of this section shall be fined or assessed a civil penalty not more than $100,000.

(c) Forfeiture

All designated species of tuna taken or retained in violation of subsection (a)(1), (2), (3), or (6) of this section, or the monetary value thereof, is subject to forfeiture.

(d) Application of laws relating to seizures and forfeitures

All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter.

(Pub. L. 98–445, § 8, Oct. 4, 1984, 98 Stat. 1717.)

§ 972g. Enforcement

(a) Warrants

The judges of the United States district courts and United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this chapter and the regulations issued under section 972e of this title.

(b) Joint responsibility for enforcement

The enforcement of this chapter and the regulations issued under section 972e of this title shall be the joint responsibility of the department in which the Coast Guard is operating, the Department of Commerce, and the United States Customs Service. In addition, the Secretary of Commerce may designate officers and employees of the States of the United States, of the Commonwealth of Puerto Rico, and of American Samoa to carry out enforcement activities under this section. When so designated, such officers and employees may function as Federal law enforcement agents for these purposes.

(c) Execution of warrants and process

An individual authorized to carry out enforcement activities under this section has power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this chapter.

(d) Arrest; search

An individual so authorized to carry out enforcement activities under this section has power—

(1) with or without a warrant or other process, to arrest any person subject to the jurisdiction of the United States at any place within the jurisdiction of the United States committing in his presence or view a violation of this chapter or the regulations issued under section 972e of this title;

(2) with or without a warrant or other process, to search any vessel subject to the jurisdiction of the United States, and, if, as a result of the search he has reasonable cause to believe that such vessel or any individual on board is engaging in operations in violation of this chapter or any regulation issued thereunder to arrest such person.

(e) Seizure

An individual authorized to enforce this chapter may seize, whenever or wherever lawfully found, all species of designated tuna taken or retained in violation of this chapter or the regulations issued under section 972e of this title. Any species so seized may be disposed of pursuant to the order of a court of competent jurisdiction, under subsection (f) of this section or, if perishable, in a manner prescribed by regulations of the Secretary of Commerce.

(f) Bond or stipulation for value of the property

Notwithstanding the provisions of section 2464 of title 28, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any species of designated tuna seized if the process has been levied, on receiving from the claimant of the species a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the species seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the species may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case.

(Pub. L. 98–445, § 9, Oct. 4, 1984, 98 Stat. 1717; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

CHANGE OF NAME

''United States magistrate judges'' substituted for ''United States magistrates'' in subsec. (a) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 972h. Authorization of appropriations

There are authorized to be appropriated for fiscal years after fiscal year 1984 such sums as may be necessary to carry out this chapter.

(Pub. L. 98–445, § 10, Oct. 4, 1984, 98 Stat. 1719.)

CHAPTER 16C—SOUTH PACIFIC TUNA FISHING

Sec.
973. Definitions.
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973b. Regulations.
973c. Prohibited acts.
973d. Exceptions.
973e. Criminal offenses.
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973*l*. Observers.
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973n. Arbitration.
973*o*. Disposition of fees, penalties, forfeitures, and other moneys.
973p. Additional agreements.
973q. Secretary of State to act for United States.
973r. Authorization of appropriations.

§ 973. Definitions

As used in this chapter—

(1) The term ''Administrator'' means the individual or organization designated by the Pacific Island Parties to act on their behalf under the Treaty and notified to the United States Government.

(2) The term ''Authorized Officer'' means any officer who is authorized by the Secretary, or the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an enforcement agreement with the Secretary under section 973h(a) of this title.

(3) The term ''Authorized Party Officer'' means any officer authorized by a Pacific Island Party to enforce the provisions of the Treaty.

(4) The term ''applicable national law'' means any provision of law of a Pacific Island Party which is described in paragraph 1(a) of Annex I of the Treaty.

(5) The term ''Closed Area'' means any of the closed areas identified in Schedule 2 of Annex I of the Treaty.

(6) The term ''fishing'' means—

(A) searching for, catching, taking, or harvesting fish;

(B) attempting to search for, catch, take, or harvest fish;

(C) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish;

(D) placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

(E) any operations at sea directly in support of, or in preparation for, any activity described in this paragraph; or

(F) aircraft use, relating to the activities described in this paragraph except for flights in emergencies involving the health or safety of crew members or the safety of a vessel.

(7) The term ''fishing vessel'' or ''vessel'' means any boat, ship, or other craft which is used for, equipped to be used for, or of a type normally used for commercial fishing, and which is documented under the laws of the United States.

(8) The term ''Licensing Area'' means all waters in the Treaty Area except for—

(A) those waters subject to the jurisdiction of the United States in accordance with international law;

(B) those waters within Closed Areas; and

(C) those waters within Limited Areas closed to fishing.

(9) The term ''licensing period'' means the period of validity of licenses issued in accordance with the Treaty.

(10) The term ''Limited Area'' means any area so identified in Schedule 3 of Annex I of the Treaty.

(11) The term ''operator'' means any person who is in charge of, directs or controls a vessel, including the owner, charterer, and master.

(12) The term ''Pacific Island Party'' means a Pacific Island nation which is a party to the Treaty.

(13) The term ''Party'' means a nation which is a party to the Treaty.

(14) The term ''person'' means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(15) The term ''Secretary'' means the Secretary of Commerce, or the designee of the Secretary of Commerce.

(16) The term ''State'' means each of the several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.

(17) The term ''Treaty'' means the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed in Port Moresby, Papua New Guinea, April 2, 1987, and its Annexes, Schedules, and implementing agreements.

(18) The term ''Treaty Area'' means the area so described in paragraph 1(k) of Article 1 of the Treaty.

(Pub. L. 100–330, § 2, June 7, 1988, 102 Stat. 591.)

EFFECTIVE DATE

Section 21 of Pub. L. 100–330 provided that:

''(a) Except as provided in subsection (b) of this section, this Act [enacting this chapter] shall be effective on the date on which the Treaty enters into force for the United States. [The Treaty entered into force for the United States June 15, 1988.]

''(b)(1) The authority to promulgate regulations pursuant to this Act shall be effective on the date of enactment of this Act [June 7, 1988].

''(2) Any regulation promulgated pursuant to this Act shall not be effective before the date on which the Treaty enters into force for the United States.''

SHORT TITLE

Section 1 of Pub. L. 100–330 provided: ''That this Act [enacting this chapter] may be cited as the 'South Pacific Tuna Act of 1988'.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 973a. Application to other laws

The seizure by a Pacific Island Party of a vessel of the United States shall not be determined to be a seizure described in section 1825(a)(4)(C) of this title or section 1972 of title 22 if the seizure is found by the Secretary of State to be in accordance with the provisions of the Treaty.

(Pub. L. 100–330, § 3, June 7, 1988, 102 Stat. 592; Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

AMENDMENTS

1996—Pub. L. 104–208 made technical amendment to reference in original act which appears in text as reference to section 1825(a)(4)(C) of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, § 211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

§ 973b. Regulations

The Secretary of Commerce, with the concurrence of the Secretary of State and after consultation with the Secretary of the department in which the Coast Guard is operating, shall issue regulations as may be necessary to carry out the purposes and objectives of the Treaty and this chapter. These regulations shall be made applicable as necessary to all persons and vessels subject to the jurisdiction of the United States, wherever located.

(Pub. L. 100–330, § 4, June 7, 1988, 102 Stat. 592.)

EFFECTIVE DATE

Authority to promulgate regulations effective on June 7, 1988, with any such regulation not to be effective before date on which Treaty enters into force for the United States, see section 21 of Pub. L. 100–330, set out as an Effective Date note under section 973 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 973c. Prohibited acts

(a) Except as provided in section 973d of this title, it is unlawful for any person subject to the jurisdiction of the United States—

(1) to violate any provision of this chapter or any regulation or order issued pursuant to this chapter;

(2) to use a vessel for fishing in violation of an applicable national law;

(3) who has entered into a fishing arrangement under paragraph 3 of Article 3 of the Treaty, to violate the terms and conditions of such fishing arrangement if the Secretary of State has decided under section 973p of this title that Article 4 and paragraph 6 of Article 5 of the Treaty shall apply to the arrangement;

(4) to use a vessel for fishing in any Limited Area in violation of any requirement in Schedule 3 of Annex I of the Treaty;

(5) to use a vessel for fishing in any Closed Area;

(6) to falsify any information required to be reported, notified, communicated, or recorded pursuant to a requirement of this chapter, or to fail to submit any required information, or to fail to report to the Secretary immediately any change in circumstances which has the effect of rendering any such information false, incomplete, or misleading;

(7) to intentionally destroy evidence which could be used to determine if a violation of this chapter or the Treaty has occurred;

(8) to refuse to permit any Authorized Officer or Authorized Party Officer to board a fishing vessel for purposes of conducting a search or inspection in connection with the enforcement of this chapter or the Treaty;

(9) to refuse to comply with the instructions of an Authorized Officer or Authorized Party Officer relating to fishing activities under the Treaty;

(10) to forcibly assault, resist, oppose, impede, intimidate, or interfere with—

(A) any Authorized Officer or Authorized Party Officer in the conduct of a search or inspection in connection with the enforcement of this chapter or the Treaty; or

(B) an observer in the conduct of observer duties under the Treaty;

(11) to resist a lawful arrest for any act prohibited by this section;

(12) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section; or

(13) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this chapter or any regulation, permit, or the Treaty, with the knowledge that the fish were so taken or retained.

(b) Except as provided in section 973d of this title, it is unlawful for any person subject to the jurisdiction of the United States when in the Licensing Area—

(1) to use a vessel to fish unless validly licensed as required by the Administrator;

(2) to use a vessel for directed fishing for southern bluefin tuna or for fishing for any

kinds of fish other than tunas, except that fish may be caught as an incidental by-catch;

(3) to use a vessel for fishing by any method other than the purse-seine method;

(4) to use any vessel to engage in fishing after the revocation of its license, or during the period of suspension of an applicable license;

(5) to operate a vessel in such a way as to disrupt or in any other way adversely affect the activities of traditional and locally based fishermen and fishing vessels;

(6) to use a vessel to fish in a manner inconsistent with an order issued by the Secretary under section 973i of this title; or

(7) except for circumstances involving force majeure and other emergencies involving the health or safety of crew members or the safety of the vessel, to use an aircraft in association with the fishing activities of a vessel unless it is identified in the license application for the vessel, or any amendment thereto.

(Pub. L. 100–330, § 5, June 7, 1988, 102 Stat. 592.)

§ 973d. Exceptions

(a) The prohibitions of section 973c of this title and the licensing requirements of section 973g of this title shall not apply to fishing for albacore tuna by vessels using the trolling method or to fishing by vessels using the longline method in the high seas areas of the Treaty area.

(b) The prohibitions of section 973c(a)(4), (a)(5), and (b)(3) of this title shall not apply to fishing under the terms and conditions of an arrangement which has been reached under paragraph 3 of Article 3 of the Treaty and which, pursuant to a decision by the Secretary of State under section 973p of this title, is covered by Article 4 and paragraph 6 of Article 5 of the Treaty.

(Pub. L. 100–330, § 6, June 7, 1988, 102 Stat. 594; Pub. L. 108–219, title IV, § 402, Apr. 13, 2004, 118 Stat. 617.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–219 substituted ''or to fishing by vessels using the longline method in the high seas areas of the Treaty area'' for ''outside of the 200 nautical mile fisheries zones of the Pacific Island Parties''.

§ 973e. Criminal offenses

(a) Prohibited acts

A person is guilty of a criminal offense if he or she commits any act prohibited by section 973c(a)(8), (10), (11), or (12) of this title.

(b) Sentence and fine

Any offense described in subsection (a) of this section is punishable by a fine of not more than $50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any Authorized Officer, Authorized Party Officer, or observer under the Treaty in the conduct of their duties, or places any such Authorized Officer, Authorized Party Officer, or observer in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 or imprisonment for not more than 10 years, or both.

(c) Jurisdiction

The district courts of the United States shall have jurisdiction over any offense described in this section.

(Pub. L. 100–330, § 7, June 7, 1988, 102 Stat. 594.)

§ 973f. Civil penalties

(a) Determination of liability; amount; participation by Secretary of State in assessment proceeding

Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, to have committed an act prohibited by section 973c of this title, shall be liable to the United States Code[1] for a civil penalty. Before issuing a notice of violation, the Secretary shall consult with the Secretary of State. The amount of the civil penalty shall be determined in accordance with considerations set forth in the Treaty and shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require. Except for those acts prohibited by section 973c(a)(4), (5), (7), (8), (10), (11), and (12), and section 973c(b)(1), (2), (3), and (7) of this title, the amount of the civil penalty shall not exceed $250,000 for each violation. Upon written notice, the Secretary of State shall have the right to participate in any proceeding initiated to assess a civil penalty for violation of this chapter.

(b) Judicial review of assessment; procedures applicable

Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the United States district court for the appropriate district by filing a complaint in such court within 30 days from the date of the order and by simultaneously serving a copy of the complaint by certified mail on the Secretary, the Attorney General of the United States, and the appropriate United States Attorney. The Secretary shall promptly file in the court a certified copy of the record upon which the violation was found or the penalty imposed. The findings and order of the Secretary shall be set aside or modified by the court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5.

(c) Failure to pay assessment of civil penalty; recovery by Attorney General

Except as provided in subsection (g) of this section, if any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States.

[1] So in original. ''Code'' probably should not appear.

(d) In rem liability for civil penalty; jurisdiction; maritime lien on vessel

Except as provided in subsection (g) of this section, a fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 973c of this title shall be liable in rem for any civil penalty assessed for the violation under this section and may be proceeded against in any district court of the United States having jurisdiction thereof. The penalty shall constitute a maritime lien on the vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(e) Compromise, etc., of civil penalty

The Secretary, after consultation with the Secretary of State, may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(f) Conduct of hearings

For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon a person pursuant to this subsection, the district court of the United States for any district in which the person is found, resides, or transacts business, upon application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring the person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(g) Waiver of referral to Attorney General

If a vessel used in a violation of section 973c(a)(1), (2), (3), (4), (5), (6), (7), (8), (9), or (13) or section 973c(b) of this title for which a civil penalty has been assessed—

(1) had a valid license under the Treaty at the time of the violation, and

(2) within 60 days after the penalty assessment has become final, leaves and remains outside of the Licensing Area, all Limited Areas closed to fishing, and all Closed Areas until the final penalty has been paid,

there shall be no referral to the Attorney General under subsection (c) of this section or in rem action under subsection (d) of this section in connection with such civil penalty.

(Pub. L. 100–330, §8, June 7, 1988, 102 Stat. 594; Pub. L. 100–350, §4(1), (2), June 27, 1988, 102 Stat. 660.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–350, §4(1), substituted ''and gravity'' for ''any gravity'' and ''history of prior'' for ''history or prior''.

Subsec. (g)(1). Pub. L. 100–350, §4(2), substituted ''Treaty'' for ''Treasury''.

§ 973g. Licenses

(a) Issuance; establishment of procedures; designation of agent for service of legal process in license application; reception and response to process

Licenses to fish in the Licensing Area, to be issued by the Administrator in accordance with the Treaty, may be requested from the Secretary by operators of vessels, under procedures established by the Secretary. The license application shall designate an agent for the service of legal process to be located in Port Moresby, Papua New Guinea. The applicant shall ensure that the designated agent for service of process, acting on behalf of the license holder, will receive and respond to any legal process issued in accordance with the Treaty and will, within 21 days after notification, travel if necessary for this purpose to any Pacific Island Party at no expense to that Party.

(b) Forwarding and transmittal of vessel license application

Except as provided in subsections (e), (f), and (g) of this section, the Secretary shall forward a vessel license application to the Secretary of State for transmittal to the Administrator whenever such application is in accordance with application procedures established by the Secretary, includes a complete application form as required by Annex II of the Treaty, and is accompanied by the required license fee.

(c) Fees and fee schedules

(1) In the initial year of implementation, fees for the first 40 vessel licenses shall be at least $50,000 each, for any 10 vessel licenses in addition to the first 40 shall be $60,000 each, and for vessel licenses in addition to the first 50 shall be in accordance with Annex II of the Treaty.

(2) After such initial year, fees for vessel licenses shall be paid in accordance with fee schedules established under Annex II of the Treaty and published by the Secretary.

(d) Period of validity

Licenses shall be valid for the licensing period specified by the Administrator.

(e) Allocation system

The Secretary may establish a system of allocating licenses in the event more applications are received than there are licenses available.

(f) Minimum fees required to be received in initial year of implementation for forwarding and transmittal of license applications

For the initial year of implementation, license fees totaling at least $1,750,000 must be received by the Secretary before any license applications will be forwarded to the Secretary of State for transmittal to the Administrator.

(g) Grounds for denial of forwarding of license application

The Secretary, in consultation with the Secretary of State, may determine that a license application should not be forwarded to the Administrator for one of the following reasons:

(1) where the application is not in accordance with the Treaty or the procedures established by the Secretary;

(2) where the owner or charterer is the subject of proceedings under the bankruptcy laws of the United States, unless reasonable financial assurances have been provided to the Secretary;

(3) where the owner or charterer has not established to the satisfaction of the Secretary that the fishing vessel is fully insured against all risks and liabilities normally provided in maritime liability insurance;

(4) where the owner or charterer has not paid any penalty which has become final, assessed by the Secretary in accordance with this chapter.

(h) Grandfathering of vessels documented before November 3, 1995

Notwithstanding the requirements of—

(1) section 12108 of title 46;

(2) the general permit issued on December 1, 1980, to the American Tunaboat Association under section 1374(h)(1) of this title; and

(3) sections 1374(h)(2) and 1416(a) of this title—[1]

any vessel documented under the laws of the United States as of November 3, 1995, for which a license has been issued under subsection (a) of this section may fish for tuna in the Treaty Area, including those waters subject to the jurisdiction of the United States in accordance with international law, subject to the provisions of the treaty[2] and this chapter, provided that no such vessel fishing in the Treaty Area intentionally deploys a purse seine net to encircle any dolphin or other marine mammal in the course of fishing under the provisions of the Treaty or this chapter.

(Pub. L. 100–330, § 9, June 7, 1988, 102 Stat. 596; Pub. L. 104–43, title VIII, § 801, Nov. 3, 1995, 109 Stat. 395.)

REFERENCES IN TEXT

The bankruptcy laws of the United States, referred to in subsec. (g)(2), are generally classified to Title 11, Bankruptcy.

Section 12108 of title 46, referred to in subsec. (h)(1), was in the original ''section 1 of the Act of August 26, 1983 (97 Stat. 587; 46 U.S.C. 12108)'', and was translated to reflect the probable intent of Congress. Section 1 of act Aug. 26, 1983, Pub. L. 98–89, 97 Stat. 500, enacted Title 46, Shipping. Section 12108 of Title 46 was subsequently omitted, and its provisions restated, in the general amendment of chapter 121 of Title 46 by Pub. L. 109–304, § 5, Oct. 6, 2006, 120 Stat. 1491. See sections 12102, 12113, and 12116 of Title 46 and Prior Provisions note under section 12107 of Title 46.

Sections 1374(h)(1), 1374(h)(2), and 1416(a) of this title, referred to in subsec. (h)(2), (3), were in the original references to sections 104(h)(1), 104(h)(2), and 306(a) of the Marine Mammal Protection Act, and were translated as meaning sections 104(h)(1), 104(h)(2), and 306(a), respectively, of the Marine Mammal Protection Act of 1972, Pub. L. 92–522, to reflect the probable intent of Congress.

AMENDMENTS

1995—Subsec. (h). Pub. L. 104–43 added subsec. (h).

[1] So in original. The dash probably should be a semicolon.

[2] So in original. Probably should be capitalized.

§ 973h. Enforcement

(a) Federal responsibilities; utilization of personnel, etc., of other Federal and State agencies

The provisions of this chapter shall be enforced by the Secretary in cooperation with the Secretary of State. The Secretary, after consultation with the Secretary of State, may by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency and of any State agency in the performance of these duties.

(b) Investigation and report of alleged Treaty infringement involving U.S. vessel; notice requirements to operator of vessel; comments, information, or evidence by operator

(1) The Secretary shall, at the request of a Pacific Island Party made to the Secretary of State, fully investigate any alleged infringement of the Treaty involving a vessel of the United States, and report as soon as practicable, and in any case within 2 months, to that Party through the Secretary of State on any action taken or proposed by the Secretary in regard to the alleged infringement.

(2) Upon commencement of an investigation under paragraph (1) of this subsection, the Secretary shall notify the operator of any vessel concerned regarding—

(A) the nature of the investigation;

(B) the right of the operator to submit comments, information, or evidence bearing on the investigation and to receive, upon the operator's timely written request to the Secretary, an opportunity to present such comments, information, or evidence orally to the Secretary or the Secretary's representative within 30 days after receipt of such notification.

(c) Notice requirements to Pacific Island Party concerning institution and outcome of legal proceedings

(1) Prior to instituting any legal proceedings under this chapter for any action which involves an alleged infringement of the Treaty in waters within the jurisdiction of a Pacific Island Party, the Secretary, through the Secretary of State, shall notify the Pacific Island Party in accordance with paragraph 8 of Article 4 of the Treaty that the proceedings will be instituted. Such notice shall include a statement of the facts believed to show an infringement of the Treaty and the nature of the proposed proceedings, including any proposed charges and any proposed penalties. The Secretary shall not institute such proceedings if the Pacific Island Party objects within 30 days after the effective date of the notice under Article 10 of the Treaty.

(2) The Pacific Island Party exercising jurisdiction over the waters involved in such a legal proceeding shall be promptly notified by the Secretary, through the Secretary of State, concerning the outcome of the proceeding.

(d) Searches and seizures by Authorized Officers; limitations on powers

(1) Any Authorized Officer may—

(A) with or without a warrant or other process—

(i) arrest any person, if he has reasonable cause to believe that the person has committed any act subject to prosecution under section 973e of this title;

(ii) board, and search or inspect, any fishing vessel which is subject to the provisions of this chapter; or

(iii) seize samples of fish or items for evidence (other than the vessel or its fishing gear or equipment) related to any violation of any provision of this chapter;

(iv) order a vessel into the most convenient port of the United States for investigation when an investigation has been requested by a Pacific Island Party in accordance with the Treaty and when such an order is necessary to gather information for such an investigation;

(B) execute any warrant or other process issued by any court of competent jurisdiction;

(C) exercise any other lawful authority; and

(D) investigate alleged violations of the Treaty to the same extent authorized to investigate alleged violations of this chapter.

(2) To the extent possible, Authorized Officers shall exercise their powers under paragraph (1)(A)(ii), (iii), and (iv) of this subsection so as not to interfere unduly with the lawful operation of the vessel.

(3) Nothing in this chapter shall be construed to limit the enforcement of this or other applicable Federal laws under section 89 of title 14.

(e) Exclusive jurisdiction

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this chapter.

(Pub. L. 100–330, §10, June 7, 1988, 102 Stat. 597.)

§ 973i. Findings by Secretary

(a) Order of vessel to leave waters upon failure to submit to jurisdiction of Pacific Island Party; procedure applicable

Following any investigation conducted in accordance with section 973h(b) of this title, the Secretary, with the concurrence of the Secretary of State, and upon the request of the Pacific Island Party concerned, may order a fishing vessel which has not submitted to the jurisdiction of that Pacific Island Party to leave immediately the Licensing Area, all Limited Areas, and all Closed Areas upon making a finding—

(1) that the fishing vessel—

(A) while fishing in the Licensing Area did not have a license under the Treaty to fish in the Licensing Area, and that under paragraph 2 of Article 3 of the Treaty, such fishing is not authorized to be conducted in the Licensing Area without a license;

(B) was involved in any incident in which an Authorized Officer, Authorized Party Officer, or observer was allegedly assaulted with resultant bodily harm, physically threatened, forcefully resisted, refused boarding, or subjected to physical intimidation or physical interference in the performance of duties as authorized by this chapter or the Treaty;

(C) has not made full payment within 60 days of any amount due as a result of a final judgment or other final determination deriving from a violation in waters within the Treaty Area of a Pacific Island Party; or

(D) was not represented by an agent for service of process in accordance with the Treaty; or

(2) that there is probable cause to believe that the fishing vessel—

(A) was used in violation of section 973c(a)(4), (a)(5), (b)(2), or (b)(3) of this title;

(B) used an aircraft in violation of section 973c(b)(7) of this title; or

(C) was involved in an incident in which section 973c(a)(7) of this title was violated.

(b) Order of vessel to leave waters where Pacific Island Party investigating alleged Treaty infringement

Upon being advised by the Secretary of State that proper notification to Parties has been made under paragraph 7 of Article 5 of the Treaty that a Pacific Island Party is investigating an alleged infringement of the Treaty by a vessel in waters under the jurisdiction of such Pacific Island Party, the Secretary shall order the vessel to leave such waters until the Secretary of State notifies the Secretary that such order is no longer necessary.

(c) Rescission of orders

The Secretary shall rescind any order issued on the basis of a finding under subsection (a)(1)(C) or (D) of this section as soon as the Secretary determines that the facts underlying the finding do not apply.

(d) Prohibition on judicial review of orders

No order issued in accordance with this section is subject to judicial review.

(e) Enforcement of orders by Attorney General

Upon a request by the Secretary, the Attorney General shall commence a civil action for appropriate relief, including permanent or temporary injunction, to enforce any order issued by the Secretary under this section.

(Pub. L. 100–330, §11, June 7, 1988, 102 Stat. 598; Pub. L. 100–350, §4(3), June 27, 1988, 102 Stat. 660.)

AMENDMENTS

1988—Subsec. (a)(2)(C). Pub. L. 100–350 substituted ''section 973c(a)(7) of this title'' for ''section 973c(b)(7) of this title''.

§ 973j. Reporting requirements; disclosure of information

(a) Holders of licenses shall comply with the reporting requirements of part 4 of Annex I to the Treaty.

(b) Information provided by license holders in Schedules 5 and 6 of Annex I of the Treaty shall be provided to the Secretary for transmittal to the Administrator and to an entity designated by the license holder. Such information thereafter shall not be released and shall be maintained as confidential by the Secretary, including information requested under the Freedom of Information Act [5 U.S.C. 552], unless disclosure is required under court order or unless the infor-

mation is essential for an enforcement action under section 973c, 973h(b), 973h(c), or 973i of this title, or any other proper law enforcement action.

(Pub. L. 100–330, § 12, June 7, 1988, 102 Stat. 599.)

§ 973k. Closed Area stowage requirements

At all times while a vessel is in a Closed Area, the fishing gear of the vessel shall be stowed in such a manner as not to be readily available for fishing. In particular, the boom shall be lowered as far as possible so that the vessel cannot be used for fishing, but so that the skiff is accessible for use in emergency situations; the helicopter, if any, shall be tied down; and launches shall be secured.

(Pub. L. 100–330, § 13, June 7, 1988, 102 Stat. 599.)

§ 973*l*. Observers

(a) Required access and assistance; scope of authorities

The operator and each member of the crew of a vessel shall allow and assist any individual identified as an observer under the Treaty by the Pacific Island Parties—

(1) to board the vessel for scientific, compliance, monitoring and other functions at the point and time notified by the Pacific Island Parties to the Secretary;

(2) without interfering unduly with the lawful operation of the vessel, to have full access to and use of facilities and equipment on board the vessel which the observer may determine are necessary to carry out observer duties; have full access to the bridge, fish on board, and areas which may be used to hold, process, weigh, and store fish; remove samples; have full access to the vessel's records, including its log and documentation for the purpose of inspection and copying; and gather any other information relating to fisheries in the Licensing Area;

(3) to disembark at the point and time notified by the Pacific Island Parties to the Secretary; and

(4) to carry out observer duties safely.

(b) Free provision of food, etc., while on vessel

The operator shall provide any such observer, while on board the vessel, at no expense to the Pacific Island Parties, with food, accommodation, and medical facilities of such reasonable standard as may be acceptable to the Pacific Island Party whose representative is serving as the observer.

(c) Removal of fish samples and gathering of other information relating to fisheries

The operator of any vessel from which any fish taken in the Licensing Area is unloaded shall allow, or arrange for, and assist any individual so authorized by the Pacific Island Parties to have full access to any place where such fish is unloaded, to remove samples, and to gather any other information relating to fisheries in the Licensing Area.

(Pub. L. 100–330, § 14, June 7, 1988, 102 Stat. 599.)

§ 973m. Technical assistance

The United States tuna industry shall provide $250,000 annually in technical assistance, including provision of assistance by technicians, in response to requests coordinated through the Administrator. The Secretary of State shall designate an entity to coordinate the provision of such technical assistance as provided by the United States tuna industry and to provide an annual report to the Secretary of State regarding the provision of such technical assistance.

(Pub. L. 100–330, § 15, June 7, 1988, 102 Stat. 600.)

§ 973n. Arbitration

In the event of a dispute requiring the establishment of an arbitral tribunal under Article 6 of the Treaty, the Secretary of State, in consultation with the Secretary, shall appoint the arbitrator to be appointed by the United States under paragraph 3 of that Article, and shall represent the United States in reaching agreement under such paragraph with each Pacific Island Party involved concerning the appointment of the presiding arbitrator of the tribunal.

(Pub. L. 100–330, § 16, June 7, 1988, 102 Stat. 600.)

§ 973*o*. Disposition of fees, penalties, forfeitures, and other moneys

To the extent required by Article 4 of the Treaty, an amount equivalent to the total value of any fine, penalty, or other amount collected as a result of any action, judicial or otherwise, taken pursuant to sections 973e and 973f of this title shall be paid by the United States through the Secretary of State to the Administrator as soon as reasonably possible following the date that such amount is collected.

(Pub. L. 100–330, § 17, June 7, 1988, 102 Stat. 600.)

§ 973p. Additional agreements

Within 30 days after the Secretary of State's receipt of notice from a Pacific Island Party that it has concluded an arrangement pursuant to paragraph 3 of Article 3 of the Treaty, the Secretary of State shall consult with the Secretary concerning whether the procedures of Article 4 and paragraph 6 of Article 5 of the Treaty should be made applicable to such arrangement. At the conclusion of the consultations the Pacific Island Party and all other persons agreeing to the arrangement shall be notified by the Secretary of State of the resulting decision.

(Pub. L. 100–330, § 18, June 7, 1988, 102 Stat. 600.)

§ 973q. Secretary of State to act for United States

The Secretary of State is authorized to receive on behalf of the United States reports, requests, and other communications from the Administrator and to act thereon directly or by reference to the appropriate authorities. The Secretary of State, after consultations with the Secretary, may accept or reject, on behalf of the United States, changes or amendments to Annex I of the Treaty and its Schedules and Annex II to the Treaty and its Schedules.

(Pub. L. 100–330, § 19, June 7, 1988, 102 Stat. 600.)

§ 973r. Authorization of appropriations

(a) There are authorized to be appropriated for fiscal years 1992, 1993, 1994, 1995, 1996, 1997, 1998,

1999, 2000, 2001, and 2002 such sums as may be necessary for carrying out the purposes and provisions of the Treaty and this chapter including—

(1) for fiscal years 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, and 2002, an amount not to exceed $350,000 annually to the Department of Commerce for administrative expenses; and

(2) for fiscal years 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, and 2002, an amount not to exceed $50,000 annually to the Department of State for administrative expenses.

(b) Funds appropriated for the purposes of the Treaty may be used notwithstanding any of the provisions of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or of any appropriations Act that imposes restrictions on the maintenance or use of cash transfer assistance, which are inconsistent with the provisions of the Treaty.

(Pub. L. 100–330, §20, June 7, 1988, 102 Stat. 601; Pub. L. 102–523, §3(b), Oct. 26, 1992, 106 Stat. 3433.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–523 substituted ''1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, and 2002'' for ''1988, 1989, 1990, 1991, and 1992'' in three places.

CHAPTER 17—NORTHWEST ATLANTIC FISHERIES

§§ 981 to 991. Repealed. Pub. L. 95–6, § 4, Feb. 21, 1977, 91 Stat. 16

Section 981, acts Sept. 27, 1950, ch. 1054, §2, 64 Stat. 1067; July 24, 1968, Pub. L. 90–420, §1(a) to (c), 82 Stat. 419; Aug. 11, 1971, Pub. L. 92–87, §§101 to 103, 85 Stat. 310; July 10, 1974, Pub. L. 93–339, §1(a), 88 Stat. 293, covered definitions of ''convention'', ''Commission'', ''person'', ''vessel'', ''fishing gear'', ''fishing'', ''fish'', ''international measures of control'', and ''national measures of control''.

Section 982, acts Sept. 27, 1950, ch. 1054, §3, 64 Stat. 1068; Aug. 11, 1971, Pub. L. 92–87, §111(a), (b), 85 Stat. 313, related to appointment and compensation of Commissioners for the International Commission for the Northwest Atlantic Fisheries.

Section 983, acts Sept. 27, 1950, ch. 1054, §4, 64 Stat. 1068; July 24, 1968, Pub. L. 90–420, §1(d), 82 Stat. 419; July 10, 1974, Pub. L. 93–339, §1(b), (c), (g), 88 Stat. 293, provided for appointment, compensation, and travel expenses of an advisory committee.

Section 984, acts Sept. 27, 1950, ch. 1054, §5, 64 Stat. 1068; Aug. 11, 1971, Pub. L. 92–87, §111(c), 85 Stat. 313, deemed service of a United States Commissioner or member of the advisory committee as service as a special government employee of the United States, as defined in section 202 of Title 18.

Section 985, acts Sept. 27, 1950, ch. 1054, §6, 64 Stat. 1069; Aug. 11, 1971, Pub. L. 92–87, §§104, 105, 85 Stat. 310, 311, authorized Secretary of State to receive on behalf of the United States reports, requests, recommendations, and other communications of the Commission, and to act thereon.

Section 986, acts Sept. 27, 1950, ch. 1054, §7, 64 Stat. 1069; Aug. 11, 1971, Pub. L. 92–87, §§106, 107, 110(a), (b), 85 Stat. 311, 312; July 10, 1974, Pub. L. 93–339, §1(d), (e), 88 Stat. 293, authorized Secretary of Commerce to enforce this chapter.

Section 987, act Sept. 27, 1950, ch. 1054, §8, 64 Stat. 1069, related to Commissioner's cooperation with agencies of United States Government and State and private institutions and organizations.

Section 988, acts Sept. 27, 1950, ch. 1054, §9, 64 Stat. 1069; Aug. 11, 1971, Pub. L. 92–87, §108, 85 Stat. 312; July 10, 1974, Pub. L. 93–339, §1(f), 88 Stat. 293, related to activities declared unlawful with respect to this chapter.

Section 989, acts Sept. 27, 1950, ch. 1054, §10, 64 Stat. 1070; Aug. 11, 1971, Pub. L. 92–87, §109, 85 Stat. 312, covered the penalties for violations of section 988 of this title or any regulations adopted pursuant to this chapter.

Section 990, acts Sept. 27, 1950, ch. 1054, §11, 64 Stat. 1070; Oct. 17, 1968, Pub. L. 90–578, title IV, §402(b)(2), 82 Stat. 1118; Aug. 11, 1971, Pub. L. 92–87, §110(c), (d), 85 Stat. 312, related to procedures for arrest, search and seizure, warrants, stay of execution, and bond or stipulation with respect to persons committing violations of the convention, this chapter, or adopted regulations.

Section 991, acts Sept. 27, 1950, ch. 1054, §12, 64 Stat. 1071; Aug. 11, 1971, Pub. L. 92–87, §111(d), 85 Stat. 313, authorized appropriation to carry out the purposes and provisions of this chapter.

EFFECTIVE DATE OF REPEAL

Section 4 of Pub. L. 95–6 provided that repeal of sections 981 to 991 of this title is effective Mar. 1, 1977.

CHAPTER 18—WATERSHED PROTECTION AND FLOOD PREVENTION

Sec.

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§ 1001. Declaration of policy

Erosion, floodwater, and sediment damages in the watersheds of the rivers and streams of the United States, causing loss of life and damage to property, constitute a menace to the national welfare; and it is the sense of Congress that the Federal Government should cooperate with States and their political subdivisions, soil or water conservation districts, flood prevention or control districts, and other local public agencies for the purpose of preventing such damages, of furthering the conservation, development, utilization, and disposal of water, and the conserva-

tion and utilization of land and thereby of preserving, protecting, and improving the Nation's land and water resources and the quality of the environment.

(Aug. 4, 1954, ch. 656, §1, 68 Stat. 666; Pub. L. 92–419, title II, §201(a), Aug. 30, 1972, 86 Stat. 667.)

AMENDMENTS

1972—Pub. L. 92–419 expanded the declaration of policy to include conservation and utilization of land, improvement of land and water resources, and quality of the environment.

SHORT TITLE

Section 11 of act Aug. 4, 1954, as renumbered by act Aug. 7, 1956, ch. 1027, §1(g), 70 Stat. 1088, provided that: ''This Act [enacting this chapter, amending section 701b of Title 33, Navigation and Navigable Waters, and enacting provisions set out as notes under this section and section 701b of Title 33] may be cited as the 'Watershed Protection and Flood Prevention Act'.''

WATERSHED PROTECTION AND FLOOD PREVENTION PROJECTS EXEMPT FROM REQUIREMENTS FOR INDEPENDENT WATER PROJECT REVIEW

For exemption of projects under this chapter from independent water project review requirements of Ex. Ords. No. 12113 and 12141, see Pub. L. 96–528, title VI, §622, Dec. 15, 1980, 94 Stat. 3118, set out as a note under section 1962 of Title 42, The Public Health and Welfare.

EXTENSION OF BENEFITS TO PROJECTS AUTHORIZED BEFORE AUG. 7, 1956

Section 2 of act Aug. 7, 1956, ch. 1027, 70 Stat. 1090, provided that sections 1006a and 1006b of this title and the amendments made by act Aug. 7, 1956 to sections 1002 to 1005 of this title should be applicable to all works of improvement and plans for such works under the provisions of this chapter and that any plans for works of improvement with respect to which the Secretary of Agriculture was authorized prior to Aug. 7, 1956 to participate in the installation of works of improvement in accordance with such plan, or any plan for works of improvement which had received prior to Aug. 7, 1956 the approval of congressional committees, need not be submitted to the congressional committees as required by this chapter.

§ 1002. Definitions

For the purposes of this chapter, the following terms shall mean:

The ''Secretary''—the Secretary of Agriculture of the United States.

''Works of improvement''—any undertaking for—

(1) flood prevention (including structural and land treatment measures),

(2) the conservation, development, utilization, and disposal of water, or

(3) the conservation and proper utilization of land,

in watershed or subwatershed area not exceeding two hundred and fifty thousand acres and not including any single structure which provides more than twelve thousand five hundred acre-feet of floodwater detention capacity, and more than twenty-five thousand acre-feet of total capacity. No appropriation shall be made for any plan involving an estimated Federal contribution to construction costs in excess of $5,000,000, or which includes any structure which provides more than twenty-five hundred acre-feet of total capacity unless such plan has been approved by resolutions adopted by the appropriate committees of the Senate and House of Representatives: *Provided*, That in the case of any plan involving no single structure providing more than 4,000 acre-feet of total capacity the appropriate committees shall be the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and in the case of any plan involving any single structure of more than 4,000 acre-feet of total capacity the appropriate committees shall be the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives, respectively. Each project must contain benefits directly related to agriculture, including rural communities, that account for at least 20 percent of the total benefits of the project. A number of such subwatersheds when they are component parts of a larger watershed may be planned together when the local sponsoring organizations so desire.

''Local organization''—any State, political subdivision thereof, soil or water conservation district, flood prevention or control district, or combinations thereof, or any other agency having authority under State law to carry out, maintain and operate the works of improvement; or any irrigation or reservoir company, water users' association, or similar organization having such authority and not being operated for profit that may be approved by the Secretary; or any Indian tribe or tribal organization, as defined in section 450b of title 25, having authority under Federal, State, or Indian tribal law to carry out, maintain, and operate the works of improvement.

(Aug. 4, 1954, ch. 656, §2, 68 Stat. 666; Aug. 7, 1956, ch. 1027, §1(a), 70 Stat. 1088; Pub. L. 87–170, Aug. 30, 1961, 75 Stat. 408; Pub. L. 89–337, Nov. 8, 1965, 79 Stat. 1300; Pub. L. 92–419, title II, §201(b), Aug. 30, 1972, 86 Stat. 667; Pub. L. 95–113, title XV, §1506(a), Sept. 29, 1977, 91 Stat. 1022; Pub. L. 97–98, title XV, §1512(a), (b), Dec. 22, 1981, 95 Stat. 1332, 1333; Pub. L. 99–662, title IX, §929, Nov. 17, 1986, 100 Stat. 4196; Pub. L. 101–624, title XIV, §1461, Nov. 28, 1990, 104 Stat. 3615; Pub. L. 103–437, §6(v), Nov. 2, 1994, 108 Stat. 4587.)

AMENDMENTS

1994—Pub. L. 103–437 in closing provisions of par. defining ''Works of improvement'' substituted ''Committee on Agriculture, Nutrition, and Forestry'' for ''Committee on Agriculture and Forestry'' and ''Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House'' for ''Committee on Public Works of the Senate and the Committee on Public Works of the House''.

1990—Pub. L. 101–624, which directed amendment of third sentence by substituting ''Each project'' for ''Each such project submitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives after July 1, 1987,'' and inserting '', including rural communities,'' after ''agriculture'', was executed to third sentence of par. defining ''Works of improvement'' to reflect the probable intent of Congress.

1986—Pub. L. 99–662 inserted in definition of ''Works of improvement'' provision requiring that projects submitted after July 1, 1987, contain benefits directly re-

lated to agriculture accounting for at least 20 percent of the total benefits of the project.

1981—Pub. L. 97–98 substituted ''$5,000,000'' for ''$1,000,000'' in definition of ''Works of improvement'' and expanded definition of ''Local organization'' to include any Indian tribe or tribal organization having authority under Federal, State, or Indian tribal law to carry out, maintain, and operate works of improvement.

1977—Pub. L. 95–113 substituted ''$1,000,000'' for ''$250,000''.

1972—Pub. L. 92–419 defined ''Works of improvement'' to include any undertaking for the conservation and proper utilization of land.

1965—Pub. L. 89–337 substituted ''more than twelve thousand five hundred acre-feet of floodwater detention capacity'' for ''more than five thousand acre-feet of floodwater detention capacity''.

1961—Pub. L. 87–170 included irrigation or reservoir companies, water users' associations and similar organizations not operated for profit in the definition of local organization.

1956—Act Aug. 7, 1956, struck out provisions which limited works of improvement to agriculture phases of conservation, development, utilization, and disposal of water, increased the limits of total capacity of any single structure from 5,000 acre-feet to 25,000 acre-feet, exclude single structures which provide more than 5,000 acre-feet of floodwater detention capacity, required approval of plans involving an estimated Federal contribution to construction costs of more than $250,000, and specified the Congressional committees that must approve the plans where structures are under and over 4,000 acre-feet of total capacity.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of Title 7, Agriculture.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of Title 7, Agriculture.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

EXTENSION OF BENEFITS TO PROJECTS AUTHORIZED BEFORE AUG. 7, 1956

Amendment by act Aug. 7, 1956, as applicable to all works of improvements and plans for such works under the provisions of this chapter, see Extension of Benefits note set out under section 1001 of this title.

§ 1003. Assistance to local organizations

In order to assist local organizations in preparing and carrying out plans for works of improvement, the Secretary is authorized, upon application of local organizations if such application has been submitted to, and not disapproved within 45 days by, the State agency having supervisory responsibility over programs provided for in this chapter, or by the Governor if there is no State agency having such responsibility—

(1) to conduct such investigations and surveys as may be necessary to prepare plans for works of improvement;

(2) to prepare plans and estimates required for adequate engineering evaluation;

(3) to make allocations of costs to the various purposes to show the basis of such allocations and to determine whether benefits exceed costs;

(4) to cooperate and enter into agreements with and to furnish financial and other assistance to local organizations: *Provided*, That, for the land-treatment measures, the Federal assistance shall not exceed the rate of assistance for similar practices under existing national programs;

(5) to obtain the cooperation and assistance of other Federal agencies in carrying out the purposes of this section;

(6) to enter into agreements with landowners, operators, and occupiers, individually or collectively, based on conservation plans of such landowners, operators, and occupiers which are developed in cooperation with and approved by the soil and water conservation district in which the land described in the agreement is situated, to be carried out on such land during a period of not to exceed ten years, providing for changes in cropping systems and land uses and for the installation of soil and water conservation practices and measures needed to conserve and develop the soil, water, woodland, wildlife, energy, and recreation resources of and enhance the water quality of lands within the area included in plans for works of improvement, as provided for in such plans, including watershed or subwatershed work plans in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented. Applications for assistance in developing such conservation plans shall be made in writing to the soil and water conservation district involved, and the proposed agreement shall be reviewed by such district. In return for such agreements by landowners, operators, and occupiers the Secretary shall agree to share the costs of carrying out those practices and measures set forth in the agreement for which he determines that cost sharing is appropriate and in the public interest. The portion of such costs, including labor, to be

shared shall be that part which the Secretary determines is appropriate and in the public interest for the carrying out of the practices and measures set forth in the agreement, except that the Federal assistance shall not exceed the rate of assistance for similar practices and measures under existing national programs. The Secretary may terminate any agreement with a landowner, operator, or occupier by mutual agreement if the Secretary determines that such termination would be in the public interest, and may agree to such modifications of agreements, previously entered into hereunder, as he deems desirable to carry out the purposes of this paragraph or to facilitate the practical administration of the agreements provided for herein. Notwithstanding any other provision of law, the Secretary, to the extent he deems it desirable to carry out the purposes of this paragraph, may provide in any agreement hereunder for (1) preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation on the production of any crop; or (2) surrender of any such history and allotments.

(Aug. 4, 1954, ch. 656, § 3, 68 Stat. 666; Aug. 7, 1956, ch. 1027, § 1(b), 70 Stat. 1088; Pub. L. 92–419, title II, § 201(c), Aug. 30, 1972, 86 Stat. 667; Pub. L. 97–98, title XV, § 1512(c), Dec. 22, 1981, 95 Stat. 1333; Pub. L. 101–624, title XIV, § 1464, Nov. 28, 1990, 104 Stat. 3616.)

REFERENCES IN TEXT

Section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented, referred to in par. (6), is section 13 of act Dec. 22, 1944, ch. 665, 58 Stat. 887, which was not classified to the Code.

AMENDMENTS

1990—Par. (6). Pub. L. 101–624 inserted ''and enhance the water quality of'' after ''recreation resources of''.

1981—Par. (6). Pub. L. 97–98 inserted reference to energy in the enumeration of the various aspects of lands to be conserved and developed within areas included under plans for works of improvement.

1972—Par. (6). Pub. L. 92–419 added par. (6).

1956—Pars. (2) to (6). Act Aug. 7, 1956, substituted in par. (2) provisions authorizing the Secretary to prepare plans and estimates required for adequate engineering evaluation for provisions which authorized the Secretary to make studies for physical and economic soundness of plans for works of improvement, added par. (3), and redesignated former pars. (3) and (4) as (4) and (5), respectively.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of Title 7, Agriculture.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this chapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1002 of this title.

EXTENSION OF BENEFITS TO PROJECTS AUTHORIZED BEFORE AUG. 7, 1956

Amendment by act Aug. 7, 1956, as applicable to all works of improvement and plans for such works under the provisions of this chapter, see Extension of Benefits note set out under section 1001 of this title.

§ 1003a. Cost share assistance

(a) Easements

The Secretary may provide cost share assistance to project sponsors to enable such sponsors to acquire perpetual wetland or floodplain conservation easements to perpetuate, restore and enhance the natural capability of wetlands and floodplains to retain excessive floodwaters, improve water quality and quantity, and provide habitat for fish and wildlife.

(b) Amount

The Secretary shall require that project sponsors of watershed projects provide up to 50 percent of the cost of acquiring easements under subsection (a) of this section.

(Aug. 4, 1954, ch. 656, § 3A, as added Pub. L. 101–624, title XIV, § 1462, Nov. 28, 1990, 104 Stat. 3615.)

§ 1004. Conditions for Federal assistance

The Secretary shall require as a condition to providing Federal assistance for the installation of works of improvement that local organizations shall—

(1) acquire, or with respect to interests in land to be acquired by condemnation provide assurances satisfactory to the Secretary that they will acquire, without cost to the Federal Government from funds appropriated for the purposes of this chapter, such land, easements, or rights-of-way as will be needed in connection with works of improvement installed with Federal assistance: *Provided*, That when a local organization agrees to operate and maintain any reservoir or other area included in a plan for public fish and wildlife or recreational development, the Secretary shall be authorized to bear not to exceed one-half of the costs of (a) the land, easements, or rights-of-way acquired or to be acquired by the local organization for such reservoir or other area, and (b) minimum basic facilities needed for public health and safety, access to, and use of such reservoir or other area for such purposes: *Provided further*, That the Secretary shall be authorized to participate in recreational development in any watershed project only to the extent that the need therefor is demonstrated in accordance with standards established by him, taking into account the anticipated mandays of use of the projected recreational development and giving consideration to the availability within the region of existing water-based outdoor recreational developments: *Provided further*, That the Secretary shall be authorized to participate in not more than one recreational development in a watershed project containing less than seventy-five thousand acres, or two such developments in a project containing between seventy-five thousand and one hundred and fifty thousand acres, or three such developments in projects

exceeding one hundred and fifty thousand acres: *Provided further*, That when the Secretary and a local organization have agreed that the immediate acquisition by the local organization of land, easements, or rights-of-way is advisable for the preservation of sites for works of improvement included in a plan from encroachment by residential, commercial, industrial, or other development, the Secretary shall be authorized to advance to the local organization from funds appropriated for construction of works of improvement the amounts required for the acquisition of such land, easements or rights-of-way; and, except where such costs are to be borne by the Secretary, such advance shall be repaid by the local organization, with interest, prior to construction of the works of improvement, for credit to such construction funds: *Provided further*, That the Secretary shall be authorized to bear an amount not to exceed one-half of the costs of the land, easements, or rights-of-way acquired or to be acquired by the local organization for mitigation of fish and wildlife habitat losses, and that such acquisition is not limited to the confines of the watershed project boundaries;

(2) assume (A) such proportionate share, as is determined by the Secretary to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs, of the costs of installing any works of improvement, involving Federal assistance (excluding engineering costs), which is applicable to the agricultural phases of the conservation, development, utilization, and disposal of water or for fish and wildlife development, recreational development, ground water recharge, water quality management, or the conservation and proper utilization of land: *Provided*, That works of improvement for water quality management shall consist primarily of water storage capacity in reservoirs for regulation of streamflow, except that any such storage and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source, and shall be consistent with standards and regulations adopted by the Water Resources Council on Federal cost sharing for water quality management, and (B) all of the cost of installing any portion of such works applicable to other purposes except that any part of the construction cost (including engineering costs) applicable to flood prevention and features relating thereto shall be borne by the Federal Government and paid for by the Secretary out of funds appropriated for the purposes of this chapter: *Provided*, That, in addition to and without limitation on the authority of the Secretary to make loans or advancements under section 1006a of this title, the Secretary may pay for any storage of water for present or anticipated future demands or needs for municipal or industrial water included in any reservoir structure constructed or modified under the provisions of this chapter as hereinafter provided: *Provided further*, That the cost of water storage to meet future demands may not exceed 30 per centum of the total estimated cost of such reservoir structure and the local organization shall give reasonable assurances, and there is evidence, that such demands for the use of such storage will be made within a period of time which will permit repayment within the life of the reservoir structure of the cost of such storage: *Provided further*, That the Secretary shall determine prior to initiation of construction or modification of any reservoir structure including such water supply storage that there are adequate assurances by the local organization or by an agency of the State having authority to give such assurances, that the Secretary will be reimbursed the cost of water supply storage for anticipated future demands, and that the local organization will pay not less than 50 per centum of the cost of storage for present water supply demands: *And provided further*, That the cost to be borne by the local organization for anticipated future demands may be repaid within the life of the reservoir structure but in no event to exceed fifty years after the reservoir structure is first used for the storage of water for anticipated future water supply demands, except that (1) no reimbursement of the cost of such water supply storage for anticipated future demands need be made until such supply is first used, and (2) no interest shall be charged on the cost of such water-supply storage for anticipated future demands until such supply is first used, but in no case shall the interest-free period exceed ten years. The interest rate used for purposes of computing the interest on the unpaid balance shall be determined in accordance with the provisions of section 1006a of this title.

(3) make arrangements satisfactory to the Secretary for defraying costs of operating and maintaining such works of improvement, in accordance with regulations presented by the Secretary of Agriculture;

(4) acquire, or provide assurance that landowners or water users have acquired, such water rights, pursuant to State law, as may be needed in the installation and operation of the work of improvement;

(5) obtain agreements to carry out recommended soil conservation measures and proper farm plans from owners of not less than 50 per centum of the land situated in the drainage area above each retention reservoir to be installed with Federal assistance; and

(6) submit a plan of repayment satisfactory to the Secretary for any loan or advancement made under the provisions of section 1006a of this title.

(Aug. 4, 1954, ch. 656, §4, 68 Stat. 667; Aug. 7, 1956, ch. 1027, §1(c)–(e), 70 Stat. 1088; Pub. L. 85–865, §1, Sept. 2, 1958, 72 Stat. 1605; Pub. L. 86–545, June 29, 1960, 74 Stat. 254; Pub. L. 87–703, title I, §§103, 104, Sept. 27, 1962, 76 Stat. 608, 609; Pub. L. 92–419, title II, §201(d)–(f), Aug. 30, 1972, 86 Stat. 668; Pub. L. 97–98, title XV, §1512(d), Dec. 22, 1981, 95 Stat. 1333.)

AMENDMENTS

1981—Par. (1). Pub. L. 97–98 inserted proviso authorizing the Secretary to bear an amount not to exceed one-half of the costs of the land, easements, or rights-of-way acquired or to be acquired by the local organiza-

tion for mitigation of fish and wildlife habitat losses and directing that such acquisitions are not limited to the confines of the watershed project boundaries.

1972—Par. (1). Pub. L. 92–419, § 201(d), inserted ''from funds appropriated for the purposes of this chapter'' after ''without cost to the Federal Government''.

Par. (2)(A). Pub. L. 92–419, § 201(e), substituted ''fish and wildlife development, recreational development, ground water recharge, water quality management, or the conservation and proper utilization of land'', for ''fish and wildlife or recreational development'' and inserted water quality management proviso.

Par. (2)(B). Pub. L. 92–419, § 201(f), in revising text and making changes in phraseology, authorized payment for water storage for present demands, inserted at end of first proviso ''as hereinafter provided'', substituted provisions respecting Secretary's determination of adequate assurances by the local agency or by an agency of the State having authority to give such assurances that the Secretary will be reimbursed the cost of water supply storage for anticipated future demands, and that the local organization will pay not less than 50 per centum of the cost of storage for present water supply demands, for provisions respecting the giving of reasonable assurances by the local organization of repayment of cost of such water supply storage for anticipated future demands, and substituted permissive provisions for repayment of cost for anticipated future demands within life of the reservoir structure for former mandatory provisions.

1962—Par. (1). Pub. L. 87–703, § 103(1), inserted provisos respecting cost sharing, participation, number of recreational developments and advances of funds.

Par. (2)(A). Pub. L. 87–703, § 103(2), substituted ''national needs and assistance authorized for similar purposes under other Federal programs'' for ''the direct identifiable benefits'' and inserted ''(excluding engineering costs)'' after ''Federal assistance'' and ''or recreational'' before ''development''.

Par. (2)(B). Pub. L. 87–703, § 104, inserted provisos respecting water storage payments and limitation on amount of such payments, repayment agreements and period of time for repayment and provisions for commencement of repayment, interest-free period and rate of interest.

1960—Par. (1). Pub. L. 86–545 inserted provisions requiring local organizations to provide assurances with respect to interests in land to be acquired by condemnation.

1958—Par. (2)(A). Pub. L. 85–865 inserted ''or for fish and wildlife development'' after ''and disposal of water''.

1956—Par. (2). Act Aug. 7, 1956, § 1(c), required local organizations to assume a proportionate share of costs applicable to agricultural water management in consideration of the direct identifiable benefits, and all the costs of works applicable to other purposes, and provided that the Federal Government shall bear the entire construction costs for flood prevention.

Par. (4). Act Aug. 7, 1956, § 1(d), inserted ''or water users'' after ''landowners''.

Par. (6). Act Aug. 7, 1956, § 1(e), added par. (6).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of Title 7, Agriculture.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 2 of Pub. L. 85–865 provided that: ''The Secretary of Agriculture shall not furnish or agree to furnish financial assistance to local organizations for the institution of works of improvement for fish and wildlife development pursuant to the authority of this Act [amending this section] prior to July 1, 1958.''

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this chapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1002 of this title.

PUBLIC ACCESS TO WATER IMPOUNDMENTS

Pub. L. 99–662, title IX, § 930, Nov. 17, 1986, 100 Stat. 4196, provided that: ''The Secretary of Agriculture, acting through the Administrator of the Soil Conservation Service, shall study and report to the appropriate committees of the Senate and the House of Representatives by April 1, 1988, on the feasibility, the desirability, and the public interest involved in requiring that public access be provided to any or all water impoundments that have recreation-related potential and that were authorized pursuant to the Watershed Protection and Flood Protection Act (68 Stat. 666; 16 U.S.C. 1001 et seq.).''

EXTENSION OF BENEFITS TO PROJECTS AUTHORIZED BEFORE AUG. 7, 1956

Amendment by act Aug. 7, 1956, as applicable to all works of improvement and plans for such works under the provisions of this chapter, see Extension of Benefits note set out under section 1001 of this title.

§ 1005. Works of improvement

(1) Engineering and other services; reimbursement; advances

At such time as the Secretary and the interested local organization have agreed on a plan for works of improvement, and the Secretary has determined that the benefits exceed the costs, and the local organization has met the requirements for participation in carrying out the works of improvement as set forth in section 1004 of this title, the local organization may secure engineering and other services, including the design, preparation of contracts and specifications, awarding of contracts, and supervision of construction, in connection with such works of improvement, by retaining or employing a professional engineer or engineers satisfactory to the Secretary or may request the Secretary to provide such services: *Provided*, That if the local organization elects to employ a professional engineer or engineers, the Secretary shall reimburse the local organization for the costs of such engineering and other services secured by the local organization as are properly chargeable to such works of improvement in an amount not to exceed the amount agreed upon in the plan for works of improvement or any modification thereof: *Provided further*, That the Secretary may advance such amounts as may be necessary to pay for such services, but such advances with respect to any works of improvement shall not exceed 5 per centum of the estimated installation cost of such works.

(2) Federal construction; request by local organization

Except as to the installation of works of improvement on Federal lands, the Secretary shall not construct or enter into any contract for the construction of any structure: *Provided*, That, if requested to do so by the local organization, the Secretary may enter into contracts for the construction of structures.

(3) Transmission of certain plans to Congress

Whenever the estimated Federal contribution to the construction cost of works of improve-

ment in the plan for any watershed or subwatershed area shall exceed $5,000,000 or the works of improvement include any structure having a total capacity in excess of twenty-five hundred acre-feet, the Secretary shall transmit a copy of the plan and the justification therefor to the Congress through the President.

(4) Transmission of certain plans and recommendations to Congress

Any plans for works of improvement involving an estimated Federal contribution to construction costs in excess of $5,000,000 or including any structure having a total capacity in excess of twenty-five hundred acre-feet (a) which includes works of improvement for reclamation or irrigation, or which affects public or other lands or wildlife under the jurisdiction of the Secretary of the Interior, (b) which includes Federal assistance for goodwater[1] detention structures, (c) which includes features which may affect the public health, or (d) which includes measures for control or abatement of water pollution, shall be submitted to the Secretary of the Interior, the Secretary of the Army, the Secretary of Health and Human Services, or the Administrator of the Environmental Protection Agency, respectively, for his views and recommendations at least thirty days prior to transmission of the plan to the Congress through the President. The views and recommendations of the Secretary of the Interior, the Secretary of the Army, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, if received by the Secretary prior to the expiration of the above thirty-day period, shall accompany the plan transmitted by the Secretary to the Congress through the President.

(5) Rules and regulations

Prior to any Federal participation in the works of improvement under this chapter, the President shall issue such rules and regulations as he deems necessary or desirable to carry out the purposes of this chapter, and to assure the coordination of the work authorized under this chapter and related work of other agencies, including the Department of the Interior and the Department of the Army.

(Aug. 4, 1954, ch. 656, §5, 68 Stat. 667; July 19, 1956, ch. 639, 70 Stat. 580; Aug. 7, 1956, ch. 1027, §1(f), 70 Stat. 1089; Pub. L. 87–703, title I, §105, Sept. 27, 1962, 76 Stat. 609; Pub. L. 90–361, June 27, 1968, 82 Stat. 250; Pub. L. 92–419, title II, §201(g), Aug. 30, 1972, 86 Stat. 669; Pub. L. 95–113, title XV, §1506(b), (c), Sept. 29, 1977, 91 Stat. 1022; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 97–98, title XV, §1512(e), (f), Dec. 22, 1981, 95 Stat. 1333.)

AMENDMENTS

1981—Subd. (3). Pub. L. 97–98, §1512(e), substituted ''$5,000,000'' for ''$1,000,000''.

Subd. (4). Pub. L. 97–98, §1512(f), substituted ''$5,000,000'' for ''$1,000,000''.

1977—Subd. (3). Pub. L. 95–113, §1506(b), substituted ''$1,000,000'' for ''$250,000''.

Subd. (4). Pub. L. 95–113, §1506(c), substituted ''$1,000,000'' for ''$250,000''.

1972—Subd. (4). Pub. L. 92–419 substituted in item (a) ''works of improvement for reclamation or irrigation'' for ''reclamation or irrigation works'', in item (b) ''goodwater'' for ''floodwater'', added items (c) and (d), required submission of plans to Secretary of Health, Education, and Welfare, or the Administrator of the Environmental Protection Agency and transmittal of views and recommendations of such officials to the Congress.

1968—Subd. (2). Pub. L. 90–361 inserted proviso authorizing the Secretary to enter into contracts for the construction of structures if requested to do so by the local organization.

1962—Subd. (1). Pub. L. 87–703 designated existing provisions as subd. (1); substituted ''local organization may secure'' for ''local organization with such assistance as it may request from the Secretary, which assistance the Secretary is authorized to give, shall secure'' and ''by retaining or employing a professional engineer or engineers satisfactory to the Secretary or may request the Secretary to provide such services'' for ''and in order to properly carry out such services in such projects as to such structures therein providing for municipal or industrial water supplies, the local organization shall, and in such projects not providing for municipal or industrial water supplies, the local organization may, retain or employ a professional engineer or engineers satisfactory to the Secretary''; struck out '', except that if the local organization decides not to retain or employ a professional engineer or if the Secretary determines that competent engineering services are not available he may contract for a competent engineer to provide such services or arrange for employees of the Federal Government to provide such services'' after ''chargeable to such works of improvement''; provided for reimbursement for other services; and required the reimbursement not to exceed the amount agreed upon in the plan for works of improvement or any modification thereof.

Subd. (2). Pub. L. 87–703 designated existing provisions as subd. (2), and struck out ''unless there is no local organization authorized by State law to undertake such construction or to enter into such contract, and in no event after July 1, 1956: *Provided*, That in participating in the installation of such works of improvement the Secretary, as far as practicable and consistent with his responsibilities for administering the overall national agricultural program, shall utilize the authority conferred upon him by the provisions of this chapter'' after ''structure''.

Subds. (3) to (5). Pub. L. 87–703 designated existing provisions as subds. (3) to (5) and made phraseological changes.

1956—Act Aug. 7, 1956, required local organization to secure engineering and other services and to employ engineers, except in projects not providing for municipal or industrial water supplies, when the local organization may or may not employ engineers, provided for reimbursement of costs of engineers, authorized the Secretary to contract for engineers or to utilize engineers employed by the Federal Government when local organizations do not employ any, permitted advances, required transmittal of plans when Federal contributions to construction costs are more than $250,000 or the works include any structures with more than 2,500 acre-feet of total capacity, eliminated provisions which required transmittal 45 days prior to commencement of installation, and reduced the period for submission of plans to the Secretaries of the Interior and the Army from 60 days to 30 days prior to transmittal to Congress.

Act July 19, 1956, substituted ''fifteen'' for ''forty-five''.

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in par. (4) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

[1] So in original. Probably should be ''floodwater''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of Title 7, Agriculture.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of Title 7, Agriculture.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this chapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1002 of this title.

EXTENSION OF BENEFITS TO PROJECTS AUTHORIZED BEFORE AUG. 7, 1956

Amendment by act Aug. 7, 1956, as applicable to all works of improvement and plans for such works under the provisions of this chapter, see Extension of Benefits note set out under section 1001 of this title.

EX. ORD. NO. 10584. RULES AND REGULATIONS RELATING TO ADMINISTRATION

Ex. Ord. No. 10584, Dec. 18, 1954, 19 F.R. 8725, as amended by Ex. Ord. No. 10913, Jan. 18, 1961, 26 F.R. 510, provided:

SECTION 1. *Scope of order*. This order shall apply (a) to the planning, construction, operation, and maintenance of all works of improvement under the authority of the Watershed Protection and Flood Prevention Act (Public Law 566, as approved August 4, 1954, as amended; U.S.C. 1001 et seq.) [this chapter], hereinafter referred to as the Act, and (b) to other programs and projects of the Department of Agriculture, and to programs and projects of the Department of the Interior, the Department of the Army, and other Federal agencies to the extent that such programs or projects affect, or are affected significantly by, works of improvement provided for in the Act.

SEC. 2. *General administration*. The Secretary of Agriculture shall have the following-described responsibilities under the Act [this chapter]:

(a) Approval or disapproval of applications for Federal assistance in preparing plans for works of improvement, and the assignment of priorities for the provision of such assistance.

(b) Establishing criteria for the formulation and justification of plans for works of improvement and criteria for the sharing of the cost of both structural and land-treatment measures which conform with the provisions of the Act and with policies established by or at the direction of the President for watershed protection, flood prevention, irrigation, drainage, water supply, and related water-resources development purposes.

(c) Establishing engineering and economic standards and objectives, including standards as to degrees of flood protection, for works of improvement planned and carried out under the authority of the Act.

(d) Determination and definition of (1) those land-treatment measures and structural improvements for flood prevention and measures for the agricultural phases of conservation, development, use and disposal of water or for fish and wildlife development which are eligible for assistance under the Act and (2) the nature and extent of such assistance and the conditions under which such assistance shall be rendered.

(e) Planning and installing works of improvement on lands under his jurisdiction, and arranging for the participation of other Federal agencies in the planning and installation of works of improvement on lands under their jurisdiction. Recommendations of the heads of other Federal agencies for necessary works of improvement on lands under their jurisdiction shall be submitted as an integral part of the plans of the Department of Agriculture for works of improvement. Arrangements for construction, operation, and maintenance of works of improvement on such lands shall be mutually satisfactory to the Secretary of Agriculture and the head of the Federal agency concerned.

(f) Submitting plans for works of improvement to the State Governor or Governors concerned and to the Federal agencies concerned for review and comment when the Secretary and the interested local organization have agreed on such plans; and, when and as required by the Act, submitting such plans to the Secretary of the Interior and the Secretary of the Army for their review and comment prior to transmission of the plans to the Congress through the President.

(g) Giving full consideration to the recommendations concerning the conservation and development of fish and wildlife resources contained in any report of the Secretary of the Interior which is submitted to him, in accordance with section 12 of the Act [section 1008 of this title] and section 5 of this order, prior to the time he and the local organization have agreed on a plan for works of improvement, and including in the plan such works of improvement for fish and wildlife purposes recommended in the report as are acceptable to him and the local organization.

(h) Holding public hearings at suitable times and places when he determines that such action will further the purposes of the Act.

SEC. 3. *Notification*. (a) The Secretary of Agriculture shall:

(1) Notify in writing the State Governor or Governors concerned, the Secretary of the Interior, the Secretary of the Army, and other Federal agencies concerned of his decision to initiate any survey or field investigation involving water-resources development work, and furnish them with appropriate information regarding the scope, nature, status, and results of such survey or investigation.

(2) Notify the following, severally, in writing of all approvals or disapprovals of applications for planning assistance: the sponsoring organization, the State Governor or Governors concerned, the Secretary of the Interior, the Secretary of the Army, and other Federal agencies concerned.

(b) The Secretary of the Interior shall notify in writing the State Governor or Governors concerned, the Secretary of Agriculture, the Secretary of the Army, and other Federal agencies concerned of his decision to initiate any survey or field investigation involving water-resources development work, and furnish them with appropriate information regarding the scope, nature, status, and results of such survey or investigation.

(c) The Secretary of the Army shall notify in writing the State Governor or Governors concerned, the Secretary of Agriculture, the Secretary of the Interior, and other Federal agencies concerned of his decision to initiate any survey or field investigation involving water-resources development work, and furnish them with appropriate information regarding the scope, nature, status, and results of such survey or investigation.

SEC. 4. *Coordination*. In order to assure the coordination of work authorized under the Act [this chapter] and the related work of other agencies, so that the proper use, conservation, and development of water and related land resources through Federal programs and financial assistance may be achieved in the most orderly, economical, and effective manner.

(a) The Secretary of Agriculture, before authorizing planning assistance in response to an application from a local organization for assistance under the Act [this chapter] shall:

(1) When an application applies to a watershed located in one of the seventeen western reclamation States or Hawaii and it appears that a major objective is the agricultural phases of the conservation, development, utilization, and disposal of water for irrigation

purposes, request the views of the Secretary of the Interior concerning the feasibility of achieving equivalent irrigation benefits by means of works of improvement constructed pursuant to the Reclamation Act of June 17, 1902 (43 U.S.C. 391), and acts amendatory or supplementary thereto, or by means of assistance furnished pursuant to the Small Reclamation Projects Act of 1956, as amended (43 U.S.C. 422a–422k) [43 U.S.C. 422a to 422k–1], and authorize planning assistance under the Act only after carefully considering whether works of improvement under the Act would be a more appropriate method of achieving that objective.

(2) When it appears that a major objective of an application is the reduction of flood damages in urban areas (as defined in the most recent census), request the views of the Secretary of the Army concerning the feasibility of achieving equivalent urban flood protection benefits by means of works of improvement constructed pursuant to the Flood Control Act of March 1, 1917 (39 Stat. 948), the Flood Control Act of May 15, 1928 (45 Stat. 534), the Flood Control Act of June 22, 1936 (49 Stat. 1570), or acts amendatory or supplementary thereto, and authorize planning assistance under the Act only after carefully considering whether works of improvement under the Act would be a more appropriate method of achieving that objective.

(3) When an application applies to a watershed located in the Tennessee River drainage basin, request the views of the Board of Directors of the Tennessee Valley Authority concerning the feasibility of achieving the objectives of the application by means of works of improvement for flood control or watershed protection constructed under the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831 et seq.), and authorize planning assistance under the Act only after carefully considering whether works of improvement under the Act would be a more appropriate method of achieving such objectives; and when such planning assistance is authorized, consult with the Tennessee Valley Authority throughout all phases of project development concerning the relationship of works of improvement under the Act to the unified development and regulation of the Tennessee River system.

(b) The Secretary of the Interior shall, prior to undertaking any survey or field investigation under the Reclamation Act of June 17, 1902 (43 U.S.C. 391), and acts amendatory or supplementary thereto, or prior to initiating investigations after receipt of a Notice of Intent to apply for a loan under the Small Reclamation Projects Act of 1956, as amended (43 U.S.C. 422a–422k) [43 U.S.C. 422a to 422k–1], relating to works of improvements wholly within a watershed or subwatershed area of not more than 250,000 acres, request the views of the Secretary of Agriculture concerning the feasibility of achieving the major objectives of the project proposal by means of Federal assistance furnished pursuant to the Act [this chapter], and submit a report on such a survey or field investigation or approve such application for assistance only after carefully considering whether works of improvement under his authorities would be a more appropriate method of achieving such objectives.

(c) The Secretary of the Army shall, prior to undertaking any survey or field investigation pursuant to the Flood Control Act of March 1, 1917 (39 Stat. 948), the Flood Control Act of May 15, 1928 (45 Stat. 534), the Flood Control Act of June 22, 1936 (49 Stat. 1570), and acts amendatory or supplementary thereto, relating to works of improvement wholly within a watershed or subwatershed area of not more than 250,000 acres, request the views of the Secretary of Agriculture concerning the feasibility of achieving the major objectives of the project proposal by means of Federal assistance furnished pursuant to the Act [this chapter], and submit a report on such survey or field investigation only after carefully considering whether works of improvement under his authorities would be a more appropriate method of achieving such objectives.

(d) The Board of Directors of the Tennessee Valley Authority shall, prior to undertaking any survey or field investigation under the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831 et seq.), relating to works of improvement for flood control or watershed protection to be installed wholly within a watershed or subwatershed area of not more than 250,000 acres, request the views of the Secretary of Agriculture concerning the feasibility of achieving the major objectives of the works of improvement for flood control or watershed protections by means of works of improvement constructed under the Act [this chapter], and proceed with such survey or investigation only after carefully considering whether works of improvement under the Tennessee Valley Authority Act would be a more appropriate method of achieving such objectives.

(e) Whenever the foregoing provisions of this section require an agency head to request the views of another agency head, such request shall be effected prior to the making of any commitment to local interests, and local interests shall be informed at the outset of negotiations that any plan resulting therefrom is subject to coordination as required by this section.

(f) When any agency having responsibilities for water resources development is considering the initiation of surveys or field investigations in a watershed or subwatershed area of not more than 250,000 acres and it appears that the purposes to be served by the project under investigation could more advantageously be met by means of a combination of works of improvement under the statutory authority available to that and other agencies, the appropriate agency head shall consider with the other agency heads concerned and the cooperating local interests the feasibility of preparing a jointly developed plan for coordinated action under available statutory authority.

SEC. 5. *Fish and wildlife development.* Upon receipt of the notice required by section 12 of the Act [section 1008 of this title] and section 3(a)(1) of this order, the Secretary of the Interior, as he desires, may make surveys and investigations and prepare a report with recommendations concerning the conservation and development of fish and wildlife resources and participate, under arrangements satisfactory to the Secretary of Agriculture, in the preparation of a plan for works of improvement which will be acceptable to the local organization and the Secretary of Agriculture.

SEC. 6. *Relationship to comprehensive development.* (a) The Secretary of Agriculture shall submit plans for installation of works of improvement under the Act [this chapter] to the Congress through the President only if the Secretary is satisfied that such works constitute needed and harmonious elements in the comprehensive development of the river subbasin or river basin involved.

(b) Federal agencies having responsibilities for water resource developments shall, in the design and justification of works of improvement, take cognizance of all upstream and downstream works in place and in operation, or soon to be brought into operation. The guiding principle shall be to adjust the nature, capacity, and operating characteristics of works of improvement in a manner that (1) reflects the respective contributions of upstream and downstream works to flood protection and to the conservation, development, use, and disposal of water, and (2) provides the best use and control of water resources at minimum cost. Whenever approximately equivalent benefits can be obtained from alternative works of improvement, or combinations of improvements, with approximately the same cost the alternative or combination lease costly to the Federal Government shall be given preferential consideration. In case benefits are produced jointly by more than one work of improvement, or in case complementary relationships exist between the projects and plans of the several agencies, the benefits claimed in justification of a system of improvements shall not include any duplication or compounding of benefits.

SEC. 7. *Basic data.* In the utilization of existing basic physical and economic data, and in the acquisition of additional basic data required for planning, design, construction, operation and evaluation of works of im-

provement authorized under the Act [this chapter], the Department of Agriculture shall be assisted by the principal basic-data collection agencies, including the Geological Survey in the Department of the Interior and the Weather Bureau [now the National Weather Service] in the Department of Commerce. The basic-data collection agencies shall assist and cooperate with the Department of Agriculture with respect to the following:

(a) Provision of pertinent information in the preliminary planning of works of improvement.

(b) Collaboration in planning programs of hydrologic-data collection in project areas, in the selection of station sites and installation of equipment for collecting hydrologic data, and in the collection of such data.

(c) Collaboration in the analysis and interpretation of hydrologic data collected specifically for projects initiated under the Act, and of relevant data which may contribute to an analysis of the effects of such projects.

DWIGHT D. EISENHOWER.

EX. ORD. NO. 10654. DELEGATION OF FUNCTIONS TO DIRECTOR OF BUREAU OF THE BUDGET

Ex. Ord. No. 10654, Jan. 20, 1956, 21 F.R. 511, provided: The functions vested in the President by the third proviso of section 5 of the Watershed Protection and Flood Prevention Act (68 Stat. 667) [this section], relating to the transmittal to the Congress of copies of plans for certain works of improvement and the justifications therefor, are hereby delegated to the Director of the Bureau of the Budget.

DWIGHT D. EISENHOWER.

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget, referred to in Ex. Ord. No. 10654, transferred to President by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970 redesignated Bureau of the Budget as Office of Management and Budget and Director of Bureau of the Budget as Director of Office of Management and Budget.

§ 1006. Cooperative programs

The Secretary is authorized in cooperation with other Federal and with States and local agencies to make investigations and surveys of the watershed of rivers and other waterways as a basis for the development of coordinated programs. In areas where the programs of the Secretary of Agriculture may affect public or other lands under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior is authorized to cooperate with the Secretary of Agriculture in the planning and development of works or programs for such lands.

(Aug. 4, 1954, ch. 656, § 6, 68 Stat. 668.)

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this chapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1002 of this title.

§ 1006a. Loans or advancements for financing local share of costs; repayment; interest; maximum amount

The Secretary is authorized to make loans or advancements (a) to local organizations to finance the local share of costs of carrying out works of improvement provided for in this chapter, and (b) to State and local agencies to finance the local share of costs of carrying out works of improvement (as defined in section 1002 of this title) in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented: *Provided*, That the works of improvement in connection with said eleven watershed improvement programs shall be integral parts of watershed or subwatershed work plans agreed upon by the Secretary of Agriculture and the concerned State and local agencies. A loan or advance under this section shall be made under a contract or agreement that provides, under such terms and conditions as the Secretary considers appropriate, for the repayment of the loan or advance in not more than 50 years from the date when the principal benefits of the works of improvement first become available, with interest at a rate not to exceed the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for the loan, adjusted to the nearest ⅛ of 1 percent. With respect to any single plan for works of improvement, the amount of any such loan or advancement shall not exceed $10,000,000.

(Aug. 4, 1954, ch. 656, § 8, as added Aug. 7, 1956, ch. 1027, § 1(g), 70 Stat. 1090; amended Pub. L. 86–468, § 1, May 13, 1960, 74 Stat. 131; Pub. L. 95–113, title XV, § 1508, Sept. 29, 1977, 91 Stat. 1022; Pub. L. 104–127, title VII, § 791(b), Apr. 4, 1996, 110 Stat. 1151.)

REFERENCES IN TEXT

Section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented, referred to in text, is section 13 of act Dec. 22, 1944, ch. 665, 58 Stat. 887, which was not classified to the Code.

AMENDMENTS

1996—Pub. L. 104–127 added second sentence and struck out former second sentence which read as follows: ''Such loans or advancements shall be made under contracts or agreements which will provide, under such terms and conditions as the Secretary deems appropriate, for the repayment thereof in not more than fifty years from the date when the principal benefits of the works of improvement first become available, with interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which the loan or advancement is made, which are neither due nor callable for redemption for fifteen years from date of issue.''

1977—Pub. L. 95–113 substituted ''$10,000,000'' for ''five million dollars'' as the maximum amount of a loan or advancement for any single plan for works of improvement.

1960—Pub. L. 86–468 authorized the Secretary to make loans or advancements to state and local agencies to finance the local share of costs of carrying out works of improvement in connection with the 11 watershed improvement programs authorized by section 13 of the act of Dec. 22, 1944.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of Title 7, Agriculture.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this chapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1002 of this title.

EXTENSION OF BENEFITS TO PROJECTS AUTHORIZED BEFORE AUG. 7, 1956

Section as applicable to all works of improvement and plans for such works under the provisions of this chapter, see Extension of Benefits note set out under section 1001 of this title.

§ 1006b. Territorial application

The provisions of this chapter shall be applicable to Hawaii, Alaska, Puerto Rico, and the Virgin Islands.

(Aug. 4, 1954, ch. 656, § 9, as added Aug. 7, 1956, ch. 1027, § 1(g), 70 Stat. 1090.)

EXTENSION OF BENEFITS TO PROJECTS AUTHORIZED BEFORE AUG. 7, 1956

Section as applicable to all works of improvement and plans for such works under the provisions of this chapter, see Extension of Benefits note set out under section 1001 of this title.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding former section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding former section 491 of Title 48.

§ 1007. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this chapter, such sums to remain available until expended. No appropriation hereafter available for assisting local organizations in preparing and carrying out plans for works of improvement under the provisions of section 1003 of this title or clause (a) of section 1006a of this title shall be available for any works of improvement pursuant to this chapter or otherwise in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented, or for making loans or advancements to State and local agencies as authorized by clause (b) of section 1006a of this title.

(Aug. 4, 1954, ch. 656, § 10, formerly § 8, 68 Stat. 668; renumbered § 10, Aug. 7, 1956, ch. 1027, § 1(g), 70 Stat. 1090; amended Pub. L. 86–468, § 3, May 13, 1960, 74 Stat. 132.)

REFERENCES IN TEXT

Section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented, referred to in text, is section 13 of act Dec. 22, 1944, ch. 665, 58 Stat. 887, which was not classified to the Code.

AMENDMENTS

1960—Pub. L. 86–468 prohibited appropriations available for assisting local organizations in preparing and carrying out plans for works of improvement under sections 1003 and 1006a(a) of this title from being used for works of improvement in connection with the 11 watershed improvement programs authorized by section 13 of the act of Dec. 22, 1944, or for making loans or advancements to state and local agencies as authorized by section 1006a(b) of this title.

§ 1008. Notification of Secretary of the Interior of approval of assistance; surveys and investigations; report and recommendations; consideration; cost of surveys, investigations and reports

When the Secretary approves the furnishing of assistance to a local organization in preparing a plan for works of improvement as provided for in section 1003 of this title:

(1) The Secretary shall so notify the Secretary of the Interior in order that the latter, as he desires, may make surveys and investigations and prepare a report with recommendations concerning the conservation and development of wildlife resources and participate, under arrangements satisfactory to the Secretary of Agriculture, in the preparation of a plan for works of improvement that is acceptable to the local organization and the Secretary of Agriculture.

(2) Full consideration shall be given to the recommendations contained in any such report of the Secretary of the Interior as he may submit to the Secretary of Agriculture prior to the time the local organization and the Secretary of Agriculture have agreed on a plan for works of improvement. The plan shall include such of the technically and economically feasible works of improvement for wildlife purposes recommended in the report by the Secretary of the Interior as are acceptable to, and agreed to by, the local organization and the Secretary of Agriculture, and such report of the Secretary of the Interior shall, if requested by the Secretary of the Interior, accompany the plan for works of improvement when it is submitted to the Secretary of Agriculture for approval or transmitted to the Congress through the President.

(3) The cost of making surveys and investigations and of preparing reports concerning the conservation and development of wildlife resources shall be borne by the Secretary of the Interior out of funds appropriated to his Department.

(Aug. 4, 1954, ch. 656, § 12, as added Pub. L. 85–624, § 3, Aug. 12, 1958, 72 Stat. 567.)

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this chapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1002 of this title.

§ 1009. Joint investigations and surveys by Secretary of the Army and Secretary of Agriculture; reports to Congress

The Secretary of the Army and the Secretary of Agriculture, when authorized to do so by resolutions adopted by the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation

of the House of Representatives, are authorized and directed to make joint investigations and surveys in accordance with their existing authorities of watershed areas in the United States, Puerto Rico, and the Virgin Islands, and to prepare joint reports on such investigations and surveys setting forth their recommendations for the installation of the works of improvement needed for flood prevention or the conservation, development, utilization, and disposal of water, and for flood control and allied purposes. Such joint reports shall be submitted to the Congress through the President for adoption and authorization by the Congress of the recommended works of improvement: *Provided*, That the project authorization procedure established by this chapter shall not be affected.

(Pub. L. 87–639, § 1, Sept. 5, 1962, 76 Stat. 438; Pub. L. 103–437, § 6(w), Nov. 2, 1994, 108 Stat. 4587.)

CODIFICATION

Section was not enacted as part of the Watershed Protection and Flood Prevention Act which comprises this chapter.

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House'' for ''Committee on Public Works of the Senate or the Committee on Public Works of the House''.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

AUTHORIZATION OF APPROPRIATIONS

Section 2 of Pub. L. 87–639 provided that: ''There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act [this section], such sums to remain available until expended.''

§ 1010. Data

The Secretary shall collect and maintain data on a national and State by State basis concerning—

(1) expenditures for the individual flood control and conservation measures for which assistance is provided under this chapter; and

(2) the expected flood control or environmental (including soil erosion) benefits that will result from the implementation of such measures.

(Aug. 4, 1954, ch. 656, § 13, as added Pub. L. 101–624, title XIV, § 1463, Nov. 28, 1990, 104 Stat. 3615.)

§ 1011. Watershed restoration and enhancement agreements

(a) In general

For fiscal year 1997 and each fiscal year thereafter, appropriations made for the Bureau of Land Management including appropriations for the Wildland Fire Management account allocated to the National Park Service, Fish and Wildlife Service, and Bureau of Indian Affairs may be used by the Secretary of the Interior for the purpose of entering into cooperative agreements with the heads of other Federal agencies, tribal, State, and local governments, private and nonprofit entities, and landowners for the protection, restoration, and enhancement of fish and wildlife habitat and other resources on public or private land and the reduction of risk from natural disaster where public safety is threatened that benefit these resources on public lands within the watershed.

(b) Direct and indirect watershed agreements

The Secretary of the Interior may enter into a watershed restoration and enhancement agreement—

(1) directly with a willing private landowner; or

(2) indirectly through an agreement with a state, local, or tribal government or other public entity, educational institution, or private nonprofit organization.

(c) Terms and conditions

In order for the Secretary to enter into a watershed restoration and enhancement agreement—

(1) the agreement shall—

(A) include such terms and conditions mutually agreed to by the Secretary and the landowner;

(B) improve the viability of and otherwise benefit the fish, wildlife, and other biotic resources on public land in the watershed;

(C) authorize the provision of technical assistance by the Secretary in the planning of management activities that will further the purposes of the agreement;

(D) provide for the sharing of costs of implementing the agreement among the Federal government,[1] the landowner, and other entities, as mutually agreed on by the affected interests; and

(E) ensure that any expenditure by the Secretary pursuant to the agreement is determined by the Secretary to be in the public interest; and

(2) the Secretary may require such other terms and conditions as are necessary to protect the public investment on private lands, provided such terms and conditions are mutually agreed to by the Secretary and the landowner.

(Pub. L. 104–208, div. A, title I, § 101(d) [title I, § 124], Sept. 30, 1996, 110 Stat. 3009–181, 3009–204; Pub. L. 105–277, div. A, § 101(e) [title I, § 136], Oct. 21, 1998, 112 Stat. 2681–231, 2681–266; Pub. L. 108–7, div. F, title I, § 135, Feb. 20, 2003, 117 Stat. 243.)

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1997, and also as part of the Omnibus Consolidated Appropriations Act, 1997, and not as part of the Watershed Protection and Flood Prevention Act which comprises this chapter.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–7 inserted ''including appropriations for the Wildland Fire Management ac-

[1] So in original. Probably should be capitalized.

count allocated to the National Park Service, Fish and Wildlife Service, and Bureau of Indian Affairs'' after ''appropriations made for the Bureau of Land Management''.

1998—Subsec. (a). Pub. L. 105–277 substituted ''with the heads of other Federal agencies, tribal, State, and local governments, private and nonprofit entities, and landowners for the protection, restoration, and enhancement of fish and wildlife habitat and other resources on public or private land and the reduction of risk from natural disaster where public safety is threatened'' for ''with willing private landowners for restoration and enhancement of fish, wildlife, and other biotic resources on public or private land or both''.

WATERSHED AGREEMENTS

Pub. L. 105–277, div. A, §101(e) [title III, §323], Oct. 21, 1998, 112 Stat. 2681–231, 2681–290, as amended, formerly set out as a note under this section, was transferred and is classified to section 1011a of this title.

§ 1011a. Watershed agreements

(a) Watershed restoration and enhancement agreements

For fiscal year 2006 and each fiscal year thereafter, to the extent funds are otherwise available, appropriations for the Forest Service may be used by the Secretary of Agriculture for the purpose of entering into cooperative agreements with willing Federal, tribal, State and local governments, private and nonprofit entities and landowners for the protection, restoration and enhancement of fish and wildlife habitat, and other resources on public or private land, the reduction of risk from natural disaster where public safety is threatened, or a combination thereof or both that benefit these resources within the watershed.

(b) Direct and indirect watershed agreements

The Secretary of Agriculture may enter into a watershed restoration and enhancement agreement—

(1) directly with a willing private landowner; or

(2) indirectly through an agreement with a State, local or tribal government or other public entity, educational institution, or private nonprofit organization.

(c) Terms and conditions

In order for the Secretary to enter into a watershed restoration and enhancement agreement—

(1) the agreement shall—

(A) include such terms and conditions mutually agreed to by the Secretary and the landowner, state[1] or local government, or private or nonprofit entity;

(B) improve the viability of and otherwise benefit the fish, wildlife, and other resources on national forests lands within the watershed;

(C) authorize the provision of technical assistance by the Secretary in the planning of management activities that will further the purposes of the agreement;

(D) provide for the sharing of costs of implementing the agreement among the Federal Government, the landowner(s), and other entities, as mutually agreed on by the affected interests; and

(E) ensure that any expenditure by the Secretary pursuant to the agreement is determined by the Secretary to be in the public interest; and

(2) the Secretary may require such other terms and conditions as are necessary to protect the public investment on non-Federal lands, provided such terms and conditions are mutually agreed to by the Secretary and other landowners, State and local governments or both.

(d) Applicable law

Chapter 63 of title 31 shall not apply to—

(1) a watershed restoration and enhancement agreement entered into under this section; or

(2) an agreement entered into under section 565a–1 of this title.

(e) Reporting requirements

Not later than December 31, 1999, the Secretary shall submit a report to the Committees on Appropriations of the House and Senate, which contains—

(1) A[2] concise description of each project, including the project purpose, location on federal[1] and non-federal[3] land, key activities, and all parties to the agreement.

(2) the funding and/or other contributions provided by each party for each project agreement.

(Pub. L. 105–277, div. A, §101(e) [title III, §323], Oct. 21, 1998, 112 Stat. 2681–231, 2681–290; Pub. L. 107–63, title III, §330, Nov. 5, 2001, 115 Stat. 471; Pub. L. 109–54, title IV, §434, Aug. 2, 2005, 119 Stat. 557; Pub. L. 111–11, title III, §3001, Mar. 30, 2009, 123 Stat. 1126.)

CODIFICATION

Section was formerly set out as a note under section 1011 of this title.

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1999, and also as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, and not as part of the Watershed Protection and Flood Prevention Act which comprises this chapter.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–11, §3001(1), substituted ''fiscal year 2006 and each fiscal year thereafter'' for ''each of fiscal years 2006 through 2011''.

Subsecs. (d), (e). Pub. L. 111–11, §3001(2), (3), added subsec. (d) and redesignated former subsec. (d) as (e).

2005—Subsec. (a). Pub. L. 109–54 substituted ''each of fiscal years 2006 through 2011'' for ''fiscal year 1999, 2000 and 2001, and fiscal years 2002 through 2005''.

2001—Subsec. (a). Pub. L. 107–63 inserted ''and fiscal years 2002 through 2005,'' before ''to the extent funds are otherwise available''.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation act:

Pub. L. 105–83, title III, §334, Nov. 14, 1997, 111 Stat. 1601.

§ 1012. Rehabilitation of structural measures near, at, or past their evaluated life expectancy

(a) Definitions

For purposes of this section:

[1] So in original. Probably should be capitalized.

[2] So in original. Probably should not be capitalized.

[3] So in original. Probably should be ''non-Federal''.

(1) Rehabilitation

The term ''rehabilitation'', with respect to a structural measure constructed as part of a covered water resource project, means the completion of all work necessary to extend the service life of the structural measure and meet applicable safety and performance standards. This may include: (A) protecting the integrity of the structural measure or prolonging the useful life of the structural measure beyond the original evaluated life expectancy; (B) correcting damage to the structural measure from a catastrophic event; (C) correcting the deterioration of structural components that are deteriorating at an abnormal rate; (D) upgrading the structural measure to meet changed land use conditions in the watershed served by the structural measure or changed safety criteria applicable to the structural measure; or (E) decommissioning the structure, if requested by the local organization.

(2) Covered water resource project

The term ''covered water resource project'' means a work of improvement carried out under any of the following:

(A) This chapter.

(B) Section 13 of the Act of December 22, 1944 (Public Law 78–534; 58 Stat. 905).

(C) The pilot watershed program authorized under the heading ''FLOOD PREVENTION'' of the Department of Agriculture Appropriation Act, 1954 (Public Law 156; 67 Stat. 214).

(D) Subtitle H of title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451 et seq.; commonly known as the Resource Conservation and Development Program).

(3) Structural measure

The term ''structural measure'' means a physical improvement that impounds water, commonly known as a dam, which was constructed as part of a covered water resource project, including the impoundment area and flood pool.

(b) Cost share assistance for rehabilitation

(1) Assistance authorized

The Secretary may provide financial assistance to a local organization to cover a portion of the total costs incurred for the rehabilitation of structural measures originally constructed as part of a covered water resource project. The total costs of rehabilitation include the costs associated with all components of the rehabilitation project, including acquisition of land, easements, and rights-of-ways, rehabilitation project administration, the provision of technical assistance, contracting, and construction costs, except that the local organization shall be responsible for securing all land, easements, or rights-of-ways necessary for the project.

(2) Amount of assistance; limitations

The amount of Federal funds that may be made available under this subsection to a local organization for construction of a particular rehabilitation project shall be equal to 65 percent of the total rehabilitation costs, but not to exceed 100 percent of actual construction costs incurred in the rehabilitation. However, the local organization shall be responsible for the costs of water, mineral, and other resource rights and all Federal, State, and local permits.

(3) Relation to land use and development regulations

As a condition on entering into an agreement to provide financial assistance under this subsection, the Secretary, working in concert with the affected unit or units of general purpose local government, may require that proper zoning or other developmental regulations are in place in the watershed in which the structural measures to be rehabilitated under the agreement are located so that—

(A) the completed rehabilitation project is not quickly rendered inadequate by additional development; and

(B) society can realize the full benefits of the rehabilitation investment.

(c) Technical assistance for watershed project rehabilitation

The Secretary, acting through the Natural Resources Conservation Service, may provide technical assistance in planning, designing, and implementing rehabilitation projects should a local organization request such assistance. Such assistance may consist of specialists in such fields as engineering, geology, soils, agronomy, biology, hydraulics, hydrology, economics, water quality, and contract administration.

(d) Prohibited use

(1) Performance of operation and maintenance

Rehabilitation assistance provided under this section may not be used to perform operation and maintenance activities specified in the agreement for the covered water resource project entered into between the Secretary and the local organization responsible for the works of improvement. Such operation and maintenance activities shall remain the responsibility of the local organization, as provided in the project work plan.

(2) Renegotiation

Notwithstanding paragraph (1), as part of the provision of financial assistance under subsection (b) of this section, the Secretary may renegotiate the original agreement for the covered water resource project entered into between the Secretary and the local organization regarding responsibility for the operation and maintenance of the project when the rehabilitation is finished.

(e) Application for rehabilitation assistance

A local organization may apply to the Secretary for technical and financial assistance under this section if the application has also been submitted to and approved by the State agency having supervisory responsibility over the covered water resource project at issue or, if there is no State agency having such responsibility, by the Governor of the State. The Secretary shall request the State dam safety officer (or equivalent State official) to be involved in the application process if State permits or approvals are required. The rehabilitation of struc-

tural measures shall meet standards established by the Secretary and address other dam safety issues. At the request of the local organization, personnel of the Natural Resources Conservation Service of the Department of Agriculture may assist in preparing applications for assistance.

(f) Ranking of requests for rehabilitation assistance

The Secretary shall establish such system of approving rehabilitation requests, recognizing that such requests will be received throughout the fiscal year and subject to the availability of funds to carry out this section, as is necessary for proper administration by the Department of Agriculture and equitable for all local organizations. The approval process shall be in writing, and made known to all local organizations and appropriate State agencies.

(g) Prohibition on certain rehabilitation assistance

The Secretary may not approve a rehabilitation request if the need for rehabilitation of the structure is the result of a lack of adequate maintenance by the party responsible for the maintenance.

(h) Funding

(1) Funds of Commodity Credit Corporation

In carrying out this section, of the funds of the Commodity Credit Corporation, the Secretary shall make available, to remain available until expended—

(A) $45,000,000 for fiscal year 2003;
(B) $50,000,000 for fiscal year 2004;
(C) $55,000,000 for fiscal year 2005;
(D) $60,000,000 for fiscal year 2006;
(E) $65,000,000 for fiscal year 2007; and[1]
(F) $0 for fiscal year 2008.[2]
(G) $100,000,000 for fiscal year 2009, to be available until expended.

(2) Authorization of appropriations

In addition to amounts made available under paragraph (1), there are authorized to be appropriated to the Secretary to carry out this section, to remain available until expended—

(A) $45,000,000 for fiscal year 2003;
(B) $55,000,000 for fiscal year 2004;
(C) $65,000,000 for fiscal year 2005;
(D) $75,000,000 for fiscal year 2006; and
(E) $85,000,000 for each of fiscal years 2008 through 2012.

(i) Assessment of rehabilitation needs

The Secretary, in concert with the responsible State agencies, shall conduct an assessment of the rehabilitation needs of covered water resource projects in all States in which such projects are located.

(j) Recordkeeping and reports

(1) Secretary

The Secretary shall maintain a data base to track the benefits derived from rehabilitation projects supported under this section and the expenditures made under this section. On the basis of such data and the reports submitted under paragraph (2), the Secretary shall prepare and submit to Congress an annual report providing the status of activities conducted under this section.

(2) Grant recipients

Not later than 90 days after the completion of a specific rehabilitation project for which assistance is provided under this section, the local organization that received the assistance shall make a report to the Secretary giving the status of any rehabilitation effort undertaken using financial assistance provided under this section.

(Aug. 4, 1954, ch. 656, §14, as added Pub. L. 106–472, title III, §313, Nov. 9, 2000, 114 Stat. 2077; amended Pub. L. 107–171, title II, §2505, May 13, 2002, 116 Stat. 274; Pub. L. 110–234, title II, §2803, May 22, 2008, 122 Stat. 1086; Pub. L. 110–246, §4(a), title II, §2803, June 18, 2008, 122 Stat. 1664, 1814.)

REFERENCES IN TEXT

Section 13 of the Act of December 22, 1944, referred to in subsec. (a)(2)(B), is section 13 of act Dec. 22, 1944, ch. 665, 58 Stat. 905, as amended, which is not classified to the Code.

The Department of Agriculture Appropriation Act, 1954, referred to in subsec. (a)(2)(C), is act July 28, 1953, ch. 251, 67 Stat. 205. Provisions under the heading ''FLOOD PREVENTION'' are not classified to the Code. For complete classification of this Act to the Code, see Tables.

The Agriculture and Food Act of 1981, referred to in subsec. (a)(2)(D), is Pub. L. 97–98, Dec. 22, 1981, 95 Stat. 1213, as amended. Subtitle H of title XV of the Act is classified generally to subchapter V (§3451 et seq.) of chapter 54 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (h)(1)(G). Pub. L. 110–246, §2803(a), added subpar. (G).

Subsec. (h)(2)(E). Pub. L. 110–246, §2803(b), substituted ''each of fiscal years 2008 through 2012'' for ''fiscal year 2007''.

2002—Subsec. (h). Pub. L. 107–171 added subsec. (h) and struck out heading and text of former subsec. (h). Text read as follows: ''There is authorized to be appropriated to the Secretary to provide financial and technical assistance under this section—

''(1) $5,000,000 for fiscal year 2001;
''(2) $10,000,000 for fiscal year 2002;
''(3) $15,000,000 for fiscal year 2003;
''(4) $25,000,000 for fiscal year 2004; and
''(5) $35,000,000 for fiscal year 2005.''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

CHAPTER 18A—COOPERATIVE WATERSHED MANAGEMENT PROGRAM

Sec.
1015. Definitions.
1015a. Program.
1015b. Effect of chapter.

[1] So in original. The word ''and'' probably should not appear.
[2] So in original. The period probably should be ''; and''

§ 1015. Definitions

In this chapter:

(1) Affected stakeholder

The term ''affected stakeholder'' means an entity that significantly affects, or is significantly affected by, the quality or quantity of water in a watershed, as determined by the Secretary.

(2) Grant recipient

The term ''grant recipient'' means a watershed group that the Secretary has selected to receive a grant under section 1015a(c)(2) of this title.

(3) Program

The term ''program'' means the Cooperative Watershed Management Program established by the Secretary under section 1015a(a) of this title.

(4) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(5) Watershed group

The term ''watershed group'' means a self-sustaining, cooperative watershed-wide group that—

(A) is comprised of representatives of the affected stakeholders of the relevant watershed;

(B) incorporates the perspectives of a diverse array of stakeholders, including, to the maximum extent practicable—

(i) representatives of—

(I) hydroelectric production;

(II) livestock grazing;

(III) timber production;

(IV) land development;

(V) recreation or tourism;

(VI) irrigated agricultural production;

(VII) the environment;

(VIII) potable water purveyors and industrial water users; and

(IX) private property owners within the watershed;

(ii) any Federal agency that has authority with respect to the watershed;

(iii) any State agency that has authority with respect to the watershed;

(iv) any local agency that has authority with respect to the watershed; and

(v) any Indian tribe that—

(I) owns land within the watershed; or

(II) has land in the watershed that is held in trust;

(C) is a grassroots, nonregulatory entity that addresses water availability and quality issues within the relevant watershed;

(D) is capable of promoting the sustainable use of the water resources of the relevant watershed and improving the functioning condition of rivers and streams through—

(i) water conservation;

(ii) improved water quality;

(iii) ecological resiliency; and

(iv) the reduction of water conflicts; and

(E) makes decisions on a consensus basis, as defined in the bylaws of the watershed group.

(6) Watershed management project

The term ''watershed management project'' means any project (including a demonstration project) that—

(A) enhances water conservation, including alternative water uses;

(B) improves water quality;

(C) improves ecological resiliency of a river or stream;

(D) reduces the potential for water conflicts; or

(E) advances any other goals associated with water quality or quantity that the Secretary determines to be appropriate.

(Pub. L. 111–11, title VI, § 6001, Mar. 30, 2009, 123 Stat. 1165.)

§ 1015a. Program

(a) Establishment

Not later than 180 days after March 30, 2009, the Secretary shall establish a program, to be known as the ''Cooperative Watershed Management Program'', under which the Secretary shall provide grants—

(1)(A) to form a watershed group; or

(B) to enlarge a watershed group; and

(2) to conduct 1 or more projects in accordance with the goals of a watershed group.

(b) Application

(1) Establishment of application process; criteria

Not later than 1 year after March 30, 2009, the Secretary shall establish—

(A) an application process for the program; and

(B) in consultation with the States, prioritization and eligibility criteria for considering applications submitted in accordance with the application process.

(c) Distribution of grant funds

(1) In general

In distributing grant funds under this section, the Secretary—

(A) shall comply with paragraph (2); and

(B) may give priority to watershed groups that—

(i) represent maximum diversity of interests; or

(ii) serve subbasin-sized watersheds with an 8-digit hydrologic unit code, as defined by the United States Geological Survey.

(2) Funding procedure

(A) First phase

(i) In general

The Secretary may provide to a grant recipient a first-phase grant in an amount not greater than $100,000 each year for a period of not more than 3 years.

(ii) Mandatory use of funds

A grant recipient that receives a first-phase grant shall use the funds—

(I) to establish or enlarge a watershed group;

(II) to develop a mission statement for the watershed group;

(III) to develop project concepts; and

(IV) to develop a restoration plan.

(iii) Annual determination of eligibility

(I) Determination

For each year of a first-phase grant, not later than 270 days after the date on which a grant recipient first receives grant funds for the year, the Secretary shall determine whether the grant recipient has made sufficient progress during the year to justify additional funding.

(II) Effect of determination

If the Secretary determines under subclause (I) that the progress of a grant recipient during the year covered by the determination justifies additional funding, the Secretary shall provide to the grant recipient grant funds for the following year.

(iv) Advancement conditions

A grant recipient shall not be eligible to receive a second-phase grant under subparagraph (B) until the date on which the Secretary determines that the watershed group—

(I) has approved articles of incorporation and bylaws governing the organization; and

(II)(aa) holds regular meetings;

(bb) has completed a mission statement; and

(cc) has developed a restoration plan and project concepts for the watershed.

(v) Exception

A watershed group that has not applied for or received first-phase grants may apply for and receive second-phase grants under subparagraph (B) if the Secretary determines that the group has satisfied the requirements of first-phase grants.

(B) Second phase

(i) In general

A watershed group may apply for and receive second-phase grants of $1,000,000 each year for a period of not more than 4 years if—

(I) the watershed group has applied for and received watershed grants under subparagraph (A); or

(II) the Secretary determines that the watershed group has satisfied the requirements of first-phase grants.

(ii) Mandatory use of funds

A grant recipient that receives a second-phase grant shall use the funds to plan and carry out watershed management projects.

(iii) Annual determination of eligibility

(I) Determination

For each year of the second-phase grant, not later than 270 days after the date on which a grant recipient first receives grant funds for the year, the Secretary shall determine whether the grant recipient has made sufficient progress during the year to justify additional funding.

(II) Effect of determination

If the Secretary determines under subclause (I) that the progress of a grant recipient during the year justifies additional funding, the Secretary shall provide to the grant recipient grant funds for the following year.

(iv) Advancement condition

A grant recipient shall not be eligible to receive a third-phase grant under subparagraph (C) until the date on which the Secretary determines that the grant recipient has—

(I) completed each requirement of the second-phase grant; and

(II) demonstrated that 1 or more pilot projects of the grant recipient have resulted in demonstrable improvements, as determined by the Secretary, in the functioning condition of at least 1 river or stream in the watershed.

(C) Third phase

(i) Funding limitation

(I) In general

Except as provided in subclause (II), the Secretary may provide to a grant recipient a third-phase grant in an amount not greater than $5,000,000 for a period of not more than 5 years.

(II) Exception

The Secretary may provide to a grant recipient a third-phase grant in an amount that is greater than the amount described in subclause (I) if the Secretary determines that the grant recipient is capable of using the additional amount to further the purposes of the program in a way that could not otherwise be achieved by the grant recipient using the amount described in subclause (I).

(ii) Mandatory use of funds

A grant recipient that receives a third-phase grant shall use the funds to plan and carry out at least 1 watershed management project.

(3) Authorizing use of funds for administrative and other costs

A grant recipient that receives a grant under this section may use the funds—

(A) to pay for—

(i) administrative and coordination costs, if the costs are not greater than the lesser of—

(I) 20 percent of the total amount of the grant; or

(II) $100,000;

(ii) the salary of not more than 1 full-time employee of the watershed group; and

(iii) any legal fees arising from the establishment of the relevant watershed group; and

(B) to fund—

(i) water quality and quantity studies of the relevant watershed; and

(ii) the planning, design, and implementation of any projects relating to water quality or quantity.

(d) Cost share

(1) Planning

The Federal share of the cost of an activity provided assistance through a first-phase grant shall be 100 percent.

(2) Projects carried out under second phase

(A) In general

The Federal share of the cost of any activity of a watershed management project provided assistance through a second-phase grant shall not exceed 50 percent of the total cost of the activity.

(B) Form of non-Federal share

The non-Federal share under subparagraph (A) may be in the form of in-kind contributions.

(3) Projects carried out under third phase

(A) In general

The Federal share of the costs of any activity of a watershed group of a grant recipient relating to a watershed management project provided assistance through a third-phase grant shall not exceed 50 percent of the total costs of the watershed management project.

(B) Form of non-Federal share

The non-Federal share under subparagraph (A) may be in the form of in-kind contributions.

(e) Annual reports

(1) In general

Not later than 1 year after the date on which a grant recipient first receives funds under this section, and annually thereafter, in accordance with paragraph (2), the watershed group shall submit to the Secretary a report that describes the progress of the watershed group.

(2) Required degree of detail

The contents of an annual report required under paragraph (1) shall contain sufficient information to enable the Secretary to complete each report required under subsection (f), as determined by the Secretary.

(f) Report

Not later than 5 years after March 30, 2009, and every 5 years thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes—

(1) the ways in which the program assists the Secretary—

(A) in addressing water conflicts;

(B) in conserving water;

(C) in improving water quality; and

(D) in improving the ecological resiliency of a river or stream; and

(2) benefits that the program provides, including, to the maximum extent practicable, a quantitative analysis of economic, social, and environmental benefits.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section—

(1) $2,000,000 for each of fiscal years 2008 and 2009;

(2) $5,000,000 for fiscal year 2010;

(3) $10,000,000 for fiscal year 2011; and

(4) $20,000,000 for each of fiscal years 2012 through 2020.

(Pub. L. 111–11, title VI, §6002, Mar. 30, 2009, 123 Stat. 1166.)

§1015b. Effect of chapter

Nothing in this chapter affects the applicability of any Federal, State, or local law with respect to any watershed group.

(Pub. L. 111–11, title VI, §6003, Mar. 30, 2009, 123 Stat. 1170.)

CHAPTER 19—NORTH PACIFIC FISHERIES

§§ 1021 to 1023. Repealed. Pub. L. 102–567, title VIII, §814, Oct. 29, 1992, 106 Stat. 4316, and Pub. L. 102–587, title VIII, §8014, Nov. 4, 1992, 106 Stat. 5106

Section 1021, acts Aug. 12, 1954, ch. 669, §2, 68 Stat. 698; July 28, 1978, Pub. L. 95–326, §1(1), 92 Stat. 399, defined terms used in this chapter.

Section 1022, acts Aug. 12, 1954, ch. 669, §3, 68 Stat. 698; Oct. 9, 1972, Pub. L. 92–471, title I, §108(a), 86 Stat. 786; July 28, 1978, Pub. L. 95–326, §1(2)(A), 92 Stat. 399, related to United States Commissioners to International North Pacific Fisheries Commission.

Section 1023, acts Aug. 12, 1954, ch. 669, §4, 68 Stat. 698; Oct. 9, 1972, Pub. L. 92–471, title I, §108(b), 86 Stat. 787; July 28, 1978, Pub. L. 95–326, §1(3), 92 Stat. 400, related to advisory committee.

SHORT TITLE

Section 1 of act Aug. 12, 1954, which provided that such Act was to be cited as the ''North Pacific Fisheries Act of 1954'', was repealed by Pub. L. 102–567, title VIII, §814, Oct. 29, 1992, 106 Stat. 4316, and Pub. L. 102–587, title VIII, §8014, Nov. 4, 1992, 106 Stat. 5106.

§1024. Repealed. Pub. L. 92–471, title I, §108(c), Oct. 9, 1972, 86 Stat. 787

Section, act Aug. 12, 1954, ch. 669, §5, 68 Stat. 698, provided that service of individuals appointed as United States Commissioners shall not be treated as service for purposes of certain sections of Title 18, Crimes and Criminal Procedure, and Title 5, Government Organization and Employees.

§§ 1025 to 1027. Repealed. Pub. L. 102–567, title VIII, §814, Oct. 29, 1992, 106 Stat. 4316, and Pub. L. 102–587, title VIII, §8014, Nov. 4, 1992, 106 Stat. 5106

Section 1025, acts Aug. 12, 1954, ch. 669, §6, 68 Stat. 699; July 28, 1978, Pub. L. 95–326, §1(4), 92 Stat. 400, related to acceptance or rejection of recommendations of Commission by Secretary of State.

Section 1025a, act Aug. 12, 1954, ch. 669, §7, as added Oct. 9, 1972, Pub. L. 92–471, title I, §101, 86 Stat. 784; amended July 28, 1978, Pub. L. 95–326, §1(5), 92 Stat. 400, related to administration and enforcement of Convention, this chapter, and regulations.

Section 1026, acts Aug. 12, 1954, ch. 669, §8, formerly §7, 68 Stat. 699; renumbered §8, Oct. 9, 1972, Pub. L. 92–471, title I, §101, 86 Stat. 784, related to cooperation with other agencies.

Section 1027, acts Aug. 12, 1954, ch. 669, §9, formerly §8, 68 Stat. 699; renumbered §9 and amended Oct. 9, 1972, Pub. L. 92–471, title I, §§102, 103, 107, 86 Stat. 784, 786; July 28, 1978, Pub. L. 95–326, §1(6), 92 Stat. 400, related to enforcement of this chapter.

§ 1028. Transferred

CODIFICATION

Section, act Aug. 12, 1954, ch. 669, § 9, 68 Stat 699, was redesignated as subsec. (f) of section 9 of act Aug. 12, 1954, ch. 669, by Pub. L. 92–471, title I, § 102(1), Oct. 9, 1972, 86 Stat. 784, and transferred to section 1027(f) of this title.

§§ 1029, 1030. Repealed. Pub. L. 102–567, title VIII, § 814, Oct. 29, 1992, 106 Stat. 4316, and Pub. L. 102–587, title VIII, § 8014, Nov. 4, 1992, 106 Stat. 5106

Section 1029, acts Aug. 12, 1954, ch. 669, § 10, 68 Stat. 699; Oct. 9, 1972, Pub. L. 92–471, title I, § 104, 86 Stat. 784; July 28, 1978, Pub. L. 95–326, § 1(7), 92 Stat. 402, related to unlawful activities.

Section 1030, acts Aug. 12, 1954, ch. 669, § 11, 68 Stat. 700; Oct. 9, 1972, Pub. L. 92–471, title I, § 105, 86 Stat. 785; July 28, 1978, Pub. L. 95–326, § 1(8), 92 Stat. 402; Oct. 30, 1978, Pub. L. 95–553, § 1(1), 92 Stat. 2072, related to penalties.

§ 1031. Repealed. Pub. L. 95–326, § 1(9), July 28, 1978, 92 Stat. 404

Section, acts Aug. 12, 1954, ch. 669, § 12, 68 Stat. 700; July 24, 1957, Pub. L. 85–114, 71 Stat. 310; Oct. 9, 1972, Pub. L. 92–471, title I, § 106, 86 Stat. 785, set forth provisions relating to powers and authorities of enforcement officers.

EFFECTIVE DATE OF REPEAL

Repeal effective July 28, 1978, see section 2 of Pub. L. 95–326, set out as an Effective Date of 1978 Amendment note under section 1021 of this title.

§§ 1032 to 1035. Repealed. Pub. L. 102–567, title VIII, § 814, Oct. 29, 1992, 106 Stat. 4316, and Pub. L. 102–587, title VIII, § 8014, Nov. 4, 1992, 106 Stat. 5106

Section 1032, acts Aug. 12, 1954, ch. 669, § 12, formerly § 13, 68 Stat. 701; Oct. 9, 1972, Pub. L. 92–471, title I, §§ 107(c), 108(d), 86 Stat. 786, 787; renumbered § 12 and amended July 28, 1978, Pub. L. 95–326, § 1(9), (10), 92 Stat. 404, related to funding requirements.

Section 1033, act Aug. 12, 1954, ch. 669, § 13, as added July 28, 1978, Pub. L. 95–326, § 1(12), 92 Stat. 404, related to registration permits for Canadian or Japanese fishing vessels in fishery conservation zone.

Section 1034, act Aug. 12, 1954, ch. 669, § 14, as added July 28, 1978, Pub. L. 95–326, § 1(12), 92 Stat. 405; amended Oct. 30, 1978, Pub. L. 95–553, § 1(2), 92 Stat. 2072; Dec. 29, 1982, Pub. L. 97–389, title II, § 201, 96 Stat. 1949, related to protection of marine mammals.

Section 1035, act Aug. 12, 1954, ch. 669, § 15, as added July 28, 1978, Pub. L. 95–326, § 1(12), 92 Stat. 406, related to provisional administrative authorization.

CHAPTER 20—NATIONAL FISHERIES CENTER AND AQUARIUM

Sec.

1051. Authorization of Administrator of General Services.
1052. Authorization of Secretary of the Interior.
1053. Delegation of responsibility for operation.
1054. Advisory Board; establishment; meetings; functions; quorum; executive secretary.
1055. Members of Advisory Board.
1056. Compensation of Advisory Board.
1057. Preparation of annual report by Director.
1058. Limitation on appropriations and expenditures; charges for visitation and use.

§ 1051. Authorization of Administrator of General Services

(a) Planning, construction, and maintenance of Center and Aquarium

The Administrator of General Services (hereinafter referred to as the ''Administrator'') is authorized to plan, construct, and maintain a National Fisheries Center and Aquarium in the District of Columbia or its vicinity for research in fisheries and for the display of fresh water and marine fishes and other aquatic resources for educational, recreational, cultural, and scientific purposes.

(b) Use, purchase, lease, etc. of Federal lands

The Administrator is further authorized to use Federal land and property for purposes of this chapter with the consent of the particular agency having administrative jurisdiction thereover, and, if said property is unavailable for purposes hereof, he may purchase, lease, or otherwise acquire such lands, waters, and interests therein, as he may deem necessary to carry out the provisions of subsection (a) of this section.

(Pub. L. 87–758, § 1, Oct. 9, 1962, 76 Stat. 752.)

§ 1052. Authorization of Secretary of the Interior

(a) Operation of Center and Aquarium

The Secretary of the Interior (hereinafter referred to as the ''Secretary'') shall operate the National Fisheries Center and Aquarium.

(b) Specimens and exhibits; catalogs and other printed matter and films, animations and photographic and other material; employment of experts, consultants, and organizations; use of auditorium and other areas; use of facilities by foreigners

The Secretary is further authorized to—

(1) construct, purchase or lease, and operate and maintain vessels for specimen collecting purposes and, without regard to section 6101 of title 41, to contract for such collection of specimens and to purchase or exchange specimens and exhibit materials;

(2) prepare for free distribution or exhibit or to offer for sale at cost illustrated catalogs of specimens, brochures, and other printed matter and films, animations and photographic and other material pertaining to the National Fisheries Center and Aquarium and its objectives and to aquariums generally, all or any of which may be reproduced by any printing or other process without regard to existing regulations, the proceeds of sales to be covered into the United States Treasury;

(3) employ, as authorized by section 3109 of title 5, but at rates not to exceed $50 per diem plus expenses, experts, consultants, or organizations thereof, as required to assist with the planning, design, construction, and operation of the National Fisheries Center and Aquarium;

(4) permit on such terms and conditions as he shall consider to be in the public interest the use of auditorium and other areas for meetings and exhibits of societies and groups whose purposes are related to fish and wildlife generally; and

(5) encourage the use of the educational and scientific facilities and equipment at the Na-

tional Fisheries Center and Aquarium by individuals of any nation with which the United States maintains diplomatic relations and which extends similar use of its educational and scientific facilities and equipment to citizens of the United States.

(Pub. L. 87–758, § 2, Oct. 9, 1962, 76 Stat. 752.)

CODIFICATION

In subsec. (b)(1), ''section 6101 of title 41'' substituted for ''section 3709 of the Revised Statutes of the United States (41 U.S.C. 5)'' on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (b)(3), ''section 3109 of title 5'' substituted for ''section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a)'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§ 1053. Delegation of responsibility for operation

The Secretary shall assign the responsibility for the operation of the National Fisheries Center and Aquarium and related activities to that branch of the United States Fish and Wildlife Service having as its major activity the rearing and holding of living fishes, including the operation of aquariums.

(Pub. L. 87–758, § 3, Oct. 9, 1962, 76 Stat. 753; Pub. L. 93–271, § 1(3), Apr. 22, 1974, 88 Stat. 92.)

CHANGE OF NAME

''United States Fish and Wildlife Service'' substituted in text for ''Bureau of Sport Fisheries and Wildlife'' on authority of Pub. L. 93–271, § 1(3), which is classified to section 742b(c) of this title.

§ 1054. Advisory Board; establishment; meetings; functions; quorum; executive secretary

There is established a nonpartisan Advisory Board to be known as the National Fisheries Center and Aquarium Advisory Board. The Advisory Board shall meet from time to time on the call of the Chairman. The functions of the Board shall be to render advice and to submit recommendations to the Secretary of the Interior upon his request, or upon its own initiative, concerning the management and operation of the National Fisheries Center and Aquarium. Five members shall constitute a quorum to transact business. The Secretary may designate an employee of the Department to serve as Executive Secretary to the Board.

(Pub. L. 87–758, § 4, Oct. 9, 1962, 76 Stat. 753.)

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Officers and Employees.

§ 1055. Members of Advisory Board

(a) Appointment and number of members

The Advisory Board shall be composed of nine members. The Secretary shall designate the Chairman of the Advisory Board. The Assistant Secretary of the Interior for Fish and Wildlife shall be a member of such Board ex officio. The remaining eight members of such Board shall be appointed as follows—

(1) two Members of the Senate, appointed by the President of the Senate;

(2) two Members of the House of Representatives, appointed by the Speaker of the House of Representatives;

(3) two individuals appointed by the Secretary, one of whom shall be engaged in or closely associated with, sport fishing, and one of whom shall be engaged in, or closely associated with, commercial fishing; and

(4) two individuals appointed by the Secretary from the public at large.

(b) Terms of office

Each class of two members of the Advisory Board referred to in subsection (a) of this section shall be appointed for terms of four years, except that, of each such class of two members initially appointed, one shall be appointed for a term of two years. Any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Of each class of two members of such Board referred to in paragraphs (1) and (2) of subsection (a) of this section, not more than one shall be from the same political party, and not more than one shall be from the same State. Any member of such Board referred to in such paragraphs (1) and (2) who shall cease to be a Member of Congress during the term of his appointment under this section shall cease to be a member of such Board.

(c) Vacancies

Any vacancy in the Advisory Board shall be filled in the same manner as in the case of the original appointment.

(Pub. L. 87–758, § 5, Oct. 9, 1962, 76 Stat. 753.)

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Officers and Employees.

§ 1056. Compensation of Advisory Board

Members of the Advisory Board, other than members appointed under paragraphs (3) and (4) of subsection (a) of section 1055 of this title, shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Board. Members of the Board appointed under paragraphs (3) and (4) of subsection (a) of section 1055 of this title may each receive $50 per diem when engaged in the actual performance of duties vested in the Board, in addition to reimbursement for travel, subsistence, and other nec-

essary expenses incurred by them in the performance of such duties.

(Pub. L. 87–758, § 6, Oct. 9, 1962, 76 Stat. 754.)

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Officers and Employees.

§ 1057. Preparation of annual report by Director

The Director of the National Fisheries Center and Aquarium shall prepare for the Advisory Board an annual report for presentation to the Secretary of the Interior and to the Congress.

(Pub. L. 87–758, § 7, Oct. 9, 1962, 76 Stat. 754.)

§ 1058. Limitation on appropriations and expenditures; charges for visitation and use

Funds appropriated and expended hereunder for construction of the buildings for the National Fisheries Center and Aquarium shall not exceed $10,000,000: *Provided*, That the expenditure of such funds shall be made subject to the condition that the Secretary of the Interior shall establish charges relating to visitation to and uses of the National Fisheries Center and Aquarium at such rates as in the Secretary's judgment will produce revenues to (a) liquidate the costs of construction within a period of not to exceed thirty years and (b) pay for the annual operation and maintenance costs thereof.

(Pub. L. 87–758, § 8, Oct. 9, 1962, 76 Stat. 754.)

CHAPTER 21—PROHIBITION OF FOREIGN FISHING VESSELS IN THE TERRITORIAL WATERS OF THE UNITED STATES

§§ 1081 to 1086. Repealed. Pub. L. 94–265, title IV, § 402(b), Apr. 13, 1976, 90 Stat. 360

Section 1081, Pub. L. 88–308, § 1, May 20, 1964, 78 Stat. 194; Pub. L. 90–427, July 26, 1968, 82 Stat. 445; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, dealt with prohibition against foreign fishing within the territorial waters of the United States and conditions under which exceptions to prohibition will be recognized. See sections 1821 to 1825 of this title.

Section 1082, Pub. L. 88–308, § 2, May 20, 1964, 78 Stat. 195; Pub. L. 91–514, § 1, Oct. 27, 1970, 84 Stat. 1296, covered violations and penalties, seizure, forfeiture, and condemnation of property belonging to anyone violating the provisions relating to the territorial waters of the United States. See sections 1857 to 1860 of this title.

Section 1083, Pub. L. 88–308, § 3, May 20, 1964, 78 Stat. 195; Pub. L. 90–578, title IV, § 402, Oct. 17, 1968, 82 Stat. 1118; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 91–514, § 2, Oct. 27, 1970, 84 Stat. 1297, related to enforcement responsibilities and joint responsibility of the Secretaries of Commerce, Treasury, and the department in which the Coast Guard is operating. See section 1861 of this title.

Section 1084, Pub. L. 88–308, § 4, May 20, 1964, 78 Stat. 196; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, covered authority of Secretaries of Commerce and Treasury to jointly or severally issue regulations under this chapter.

Section 1085, Pub. L. 88–308, § 5, May 20, 1964, 78 Stat. 196; Pub. L. 93–242, § 15, Jan. 2, 1974, 87 Stat. 1068, covered definitions of ''Continental Shelf fishery resource'', ''fisheries'', ''Continental Shelf'', and authorized Secretary of Commerce to enlarge list of covered organisms. See section 1802 of this title.

Section 1086, Pub. L. 88–308, § 6, as added Pub. L. 91–514, § 3, Oct. 27, 1970, 84 Stat. 1297, authorized Secretary of the Treasury to pay up to $5,000 to an informer for original information concerning violations under this chapter.

EFFECTIVE DATE OF REPEAL

Section 402(b) of Pub. L. 94–265 provided that repeal of sections 1081 to 1086 of this title is effective Mar. 1, 1977.

CHAPTER 21A—FISHERIES ZONE CONTIGUOUS TO TERRITORIAL SEA OF THE UNITED STATES

§§ 1091 to 1094. Repealed. Pub. L. 94–265, title IV, § 402(a), Apr. 13, 1976, 90 Stat. 360

Sections, Pub. L. 89–658, §§ 1–4, Oct. 14, 1966, 80 Stat. 908, set out provisions authorizing the establishment of a fishery zone contiguous to the territorial sea of the United States. See section 1801 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Section 402(a) of Pub. L. 94–265 provided that repeal of sections 1091 to 1094 of this title is effective Mar. 1, 1977.

CHAPTER 21B—PROHIBITION OF CERTAIN FOREIGN FISHING VESSELS IN UNITED STATES FISHERIES

§§ 1100 to 1100a–3. Omitted

CODIFICATION

Sections 1100 to 1100a–3 were omitted pursuant to section 1100 which prohibited certain activities during the five-year period beginning on Oct. 27, 1972.

Section 1100, Pub. L. 92–601, § 1, Oct. 27, 1972, 86 Stat. 1327, provided that during the five-year period beginning on October 27, 1972, it shall be unlawful for any person on board any prohibited vessel to transfer at sea or cause to be transferred at sea any prohibited fish; or to land or cause to be landed any prohibited fish in any port of the United States.

Section 1100a, Pub. L. 92–601, § 2, Oct. 27, 1972, 86 Stat. 1327, prescribed penalties for violations of this chapter.

Section 1100a–1, Pub. L. 92–601, § 3, Oct. 27, 1972, 86 Stat. 1327, provided for enforcement of this chapter.

Section 1100a–2, Pub. L. 92–601, § 4, Oct. 27, 1972, 86 Stat. 1328, authorized the issuance of regulations to implement this chapter.

Section 1100a–3, Pub. L. 92–601, § 5, Oct. 27, 1972, 86 Stat. 1328, provided definitions for this chapter.

CHAPTER 21C—OFFSHORE SHRIMP FISHERIES

§§ 1100b to 1100b–10. Omitted

CODIFICATION

Sections 1100b to 1100b–10 were omitted pursuant to section 13 of Pub. L. 93–242, Jan. 2, 1974, 87 Stat. 1068, as amended by Pub. L. 94–58, § 2, July 24, 1975, 89 Stat. 266, which provided that the provisions of this chapter would expire Sept. 30, 1977.

Section 1100b, Pub. L. 93–242, § 2, Jan. 2, 1974, 87 Stat. 1061; Pub. L. 94–58, § 3(a), July 24, 1975, 89 Stat. 266, provided definitions for this chapter.

Section 1100b–1, Pub. L. 93–242, § 3, Jan. 2, 1974, 87 Stat. 1063; Pub. L. 94–58, § 3(b), July 24, 1975, 89 Stat. 266, authorized the issuance of permits for vessels documented under the laws of the United States to engage in fishing.

Section 1100b–2, Pub. L. 93–242, § 4, Jan. 2, 1974, 87 Stat. 1064; Pub. L. 94–58, § 3(c), July 24, 1975, 89 Stat. 266, established procedures for applying for and granting permits.

Section 1100b–3, Pub. L. 93–242, § 5, Jan. 2, 1974, 87 Stat. 1065; Pub. L. 94–58, § 3(d), July 24, 1975, 89 Stat. 267, provided for issuance of letters of voluntary compliance.

Section 1100b–4, Pub. L. 93–242, § 6, Jan. 2, 1974, 87 Stat. 1065; Pub. L. 94–58, § 3(e), July 24, 1975, 89 Stat. 267, established the Offshore Shrimp Fisheries Fund.

Section 1100b–5, Pub. L. 93–242, § 7, Jan. 2, 1974, 87 Stat. 1065, established requirements for maintaining a logbook and providing the Secretary of Commerce with any other necessary information.

Section 1100b–6, Pub. L. 93–242, § 8, Jan. 2, 1974, 87 Stat. 1066; Pub. L. 94–58, § 3(f), July 24, 1975, 89 Stat. 267, detailed prohibited activities.

Section 1100b–7, Pub. L. 93–242, § 9, Jan. 2, 1974, 87 Stat. 1066; Pub. L. 94–58, § 3(g), July 24, 1975, 89 Stat. 267, prescribed penalties and procedures for violations of this chapter.

Section 1100b–8, Pub. L. 93–242, § 10, Jan. 2, 1974, 87 Stat. 1067, provided for enforcement of this chapter.

Section 1100b–9, Pub. L. 93–242, § 11, Jan. 2, 1974, 87 Stat. 1067, authorized the issuance of regulations to implement this chapter.

Section 1100b–10, Pub. L. 93–142, § 12, Jan. 2, 1974, 87 Stat. 1068, authorized appropriations for the enforcement of this chapter.

CHAPTER 22—INTERNATIONAL PARKS

Sec.
1101. Definitions.
1102. Joint United States-Canadian Commission; establishment; functions.
1103. Powers of Commission.
1104. Membership of Commission.
1105. Compensation.
1106. Employees.
1107. Meetings and reports; inspection of records.
1108. Insurance.
1109. Court action; service of process.
1110. Liability.
1111. Exemption from taxation.
1112. Tax treatment of any gift, devise or bequest to the Commission.
1113. Authorization of appropriations.

§ 1101. Definitions

For the purposes of this chapter:

(a) The term ''Commission'' means the Roosevelt Campobello International Park Commission.

(b) The term ''United States members'' means members of the Commission appointed by the President. The term ''Canadian members'' means members of the Commission appointed by the appropriate authorities in Canada.

(Pub. L. 88–363, § 2, July 7, 1964, 78 Stat. 299.)

SHORT TITLE

Section 1 of Pub. L. 88–363 provided: ''That this Act [enacting this chapter] may be cited as the 'Roosevelt Campobello International Park Act'.''

§ 1102. Joint United States-Canadian Commission; establishment; functions

There shall be established, in accordance with the agreement between the Governments of the United States and Canada, signed January 22, 1964, a joint United States-Canadian Commission, to be called the ''Roosevelt Campobello International Park Commission,'' which shall have as its functions—

(a) to accept title from the Hammer family to the former Roosevelt estate comprising the Roosevelt home and other grounds on Campobello Island;

(b) to take the necessary measures to restore the Roosevelt home as closely as possible to its condition when it was occupied by President Franklin Delano Roosevelt;

(c) to administer as a memorial the Roosevelt Campobello International Park comprising the Roosevelt estate and such other lands as may be acquired.

(Pub. L. 88–363, § 3, July 7, 1964, 78 Stat. 299.)

§ 1103. Powers of Commission

The Commission shall have juridical personality and all powers and capacity necessary or appropriate for the purpose of performing its functions pursuant to the agreement between the Governments of the United States and Canada signed January 22, 1964, which shall include but not be limited to the power and capacity—

(a) to acquire property, both real and personal, or interests therein, by gift, including conditional gifts whether conditioned on the expenditure of funds to be met therefrom or not, by purchase, by lease or otherwise, and to hold or dispose of the same under such terms and conditions as it sees fit, excepting the power to dispose of the Roosevelt home and the tract of land on which it is located;

(b) to enter into contracts;

(c) to sue or be sued, complain and defend, implead and be impleaded, in any United States district court. In such suits, the Attorney General shall supervise and control the litigation;

(d) to appoint its own employees, including an executive secretary who shall act as secretary at meetings of the Commission and to fix the terms and conditions of their employment and compensation;

(e) to delegate to the executive secretary or other officials and to authorize the redelegation of such authority respecting the employment and direction of its employees and the other responsibilities of the Commission as it deems desirable and appropriate;

(f) to adopt such rules of procedure as it deems desirable to enable it to perform the functions set forth in this agreement;

(g) to charge admission fees for entrance to the park should the Commission consider such fees desirable; however, such fees shall be set at a level which will make the facilities readily available to visitors; any revenues derived from admission fees or concession operations of the Commission shall be transmitted in equal shares to the two Governments within sixty days of the end of the Commission's fiscal year, the United States share to be turned over to the appropriate Federal agency for deposit into the United States Treasury in accordance with the laws governing entrance fees received by the National Park Service;

(h) to grant concessions; if deemed desirable;

(i) to adopt and use a seal;

(j) to obtain without reimbursement for use either in the United States or in Canada, legal, engineering, architectural, accounting,

financial, maintenance, and other services, whether by assignment, detail, or otherwise, from competent agencies in the United States or in Canada, by arrangements with such agencies.

(Pub. L. 88–363, § 4, July 7, 1964, 78 Stat. 299.)

§ 1104. Membership of Commission

(a) Selection

The Commission shall consist of six members, of whom three shall be the United States members and three shall be the Canadian members. The United States members shall be three persons appointed by the President, of whom one shall be selected from nominations which may be made by the Governor of the State of Maine. Alternates to United States members shall be appointed in the same manner as the members themselves. The United States members and their alternates shall hold office at the pleasure of the President. A vacancy among the United States members of the Commission or their alternates shall be filled in the same manner in which the original appointment was made. An alternate shall, in the absence of the member of the Commission for whom he is alternate, attend meetings of the Commission and act and vote in the place and instead of that member of the Commission.

(b) Chairman and Vice Chairman

The Commission shall elect a Chairman and a Vice Chairman from among its members, each of whom shall hold office for a term of two years. The post of Chairman shall be filled for alternate terms by a Canadian and by a United States member. The post of Vice Chairman shall be filled by a Canadian member if the post of Chairman is held by a United States member, and by a United States member if the post of Chairman is held by a Canadian member. In the event of a vacancy in the office of Chairman or Vice Chairman within the two-year term, the vacancy shall be filled for the remainder of the term by special election in accordance with the foregoing requirements. The Vice Chairman shall act as Chairman in the absence of the Chairman.

(c) Quorum

Four members of the Commission shall constitute a quorum for the transaction of business, but the affirmative votes of at least two United States members, or their alternates, and at least two Canadian members, or their alternates, shall be required for any decision to be made by the Commission.

(Pub. L. 88–363, § 5, July 7, 1964, 78 Stat. 300.)

§ 1105. Compensation

No compensation will be attached to the position of United States members of the Commission. United States members or their alternates shall be reimbursed by the Commission for travel expenses in accordance with section 5703 of title 5 and the Standardized Government Travel Regulations.

(Pub. L. 88–363, § 6, July 7, 1964, 78 Stat. 300.)

CODIFICATION

''Section 5703 of title 5'' substituted in text for ''section 5 of the Administrative Expenses Act of 1946, as amended [5 U.S.C. 73b–2],'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§ 1106. Employees

The Commission may employ both United States and Canadian citizens.

(Pub. L. 88–363, § 7, July 7, 1964, 78 Stat. 300.)

§ 1107. Meetings and reports; inspection of records

The Commission shall hold at least one meeting every calendar year and shall submit an annual report to the United States and Canadian Governments on or before March 31 of each year, including a general statement of the operation for the previous year and the results of an independent audit of the financial operations of the Commission. The Commission shall permit inspection of its records by the accounting agencies of both the United States and Canadian Governments.

(Pub. L. 88–363, § 8, July 7, 1964, 78 Stat. 301.)

§ 1108. Insurance

The Commission shall maintain insurance in reasonable amounts, including, but not limited to, liability and property insurance. Such insurance may not cover the Commissioners or employees of the Commission except when sued by name for acts done in the scope of their employment.

(Pub. L. 88–363, § 9, July 7, 1964, 78 Stat. 301.)

§ 1109. Court action; service of process

In an action against the Commission instituted in a district court of the United States, service of the summons and of the complaint upon the Commission shall be made by delivering a copy thereof to the United States attorney for the district in which the action is brought, or to an assistant United States attorney, or to a clerical employee designated by the United States attorney to accept service in a writing filed with the clerk of the court, and by sending a copy of the summons and of the complaint to the Commission by registered or certified mail.

(Pub. L. 88–363, § 10, July 7, 1964, 78 Stat. 301.)

§ 1110. Liability

(a) United States

The United States Government shall not be liable for any act or omission of the Commission or of any person employed by, or assigned or detailed to, the Commission.

(b) Payment; exemption of property from attachment, execution, etc.

Any liability of the Commission shall be met from funds of the Commission to the extent that it is not covered by insurance, or otherwise. Property belonging to the Commission shall be exempt from attachment, execution, or other process for satisfaction of claims, debts, or judgments.

(c) Individual members of Commission

No liability of the Commission shall be imputed to any member of the Commission solely

on the basis that he occupies the position of member of the Commission.

(Pub. L. 88–363, § 11, July 7, 1964, 78 Stat. 301.)

§ 1111. Exemption from taxation

The Commission shall not be subject to Federal, State, or municipal taxation in the United States on any real or personal property held by it or on any gift, bequest, or devise to it of any personal or real property, or on its income, whether from governmental appropriations, admission fees, concessions, or donations.

(Pub. L. 88–363, § 12, July 7, 1964, 78 Stat. 301.)

§ 1112. Tax treatment of any gift, devise or bequest to the Commission

For the purpose of Federal income, estate, and gift taxes, any gift, devise, or bequest to or for the use of the Commission, and accepted by the Commission under authority of this chapter, shall be deemed to be a gift, devise, or bequest to or for the use of the United States, as the case may be, if it is not deducted as a gift, devise, or bequest to or for the use of the Government of Canada under the income, estate, or gift tax laws of the Government of Canada.

(Pub. L. 88–363, § 13, July 7, 1964, 78 Stat. 301.)

§ 1113. Authorization of appropriations

There are hereby authorized to be appropriated to the Department of the Interior without fiscal year limitation such sums as may be necessary for the purposes of this chapter and the agreement with the Government of Canada signed January 22, 1964, article 11 of which provides that the Governments of the United States and Canada shall share equally the costs of developing and the annual cost of operating and maintaining the Roosevelt Campobello International Park.

(Pub. L. 88–363, § 14, July 7, 1964, 78 Stat. 301.)

CHAPTER 23—NATIONAL WILDERNESS PRESERVATION SYSTEM

Sec.
1131. National Wilderness Preservation System.
1132. Extent of System.
1133. Use of wilderness areas.
1134. State and private lands within wilderness areas.
1135. Gifts, bequests, and contributions.
1136. Annual reports to Congress.

§ 1131. National Wilderness Preservation System

(a) Establishment; Congressional declaration of policy; wilderness areas; administration for public use and enjoyment, protection, preservation, and gathering and dissemination of information; provisions for designation as wilderness areas

In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness. For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by Congress as ''wilderness areas'', and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness; and no Federal lands shall be designated as ''wilderness areas'' except as provided for in this chapter or by a subsequent Act.

(b) Management of area included in System; appropriations

The inclusion of an area in the National Wilderness Preservation System notwithstanding, the area shall continue to be managed by the Department and agency having jurisdiction thereover immediately before its inclusion in the National Wilderness Preservation System unless otherwise provided by Act of Congress. No appropriation shall be available for the payment of expenses or salaries for the administration of the National Wilderness Preservation System as a separate unit nor shall any appropriations be available for additional personnel stated as being required solely for the purpose of managing or administering areas solely because they are included within the National Wilderness Preservation System.

(c) "Wilderness" defined

A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this chapter an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

(Pub. L. 88–577, § 2, Sept. 3, 1964, 78 Stat. 890.)

SHORT TITLE

Section 1 of Pub. L. 88–577 provided that: ''This Act [enacting this chapter] may be cited as the 'Wilderness Act'.''

§ 1132. Extent of System

(a) Designation of wilderness areas; filing of maps and descriptions with Congressional committees; correction of errors; public records; availability of records in regional offices

All areas within the national forests classified at least 30 days before September 3, 1964 by the Secretary of Agriculture or the Chief of the Forest Service as ''wilderness'', ''wild'', or ''canoe'' are hereby designated as wilderness areas. The Secretary of Agriculture shall—

(1) Within one year after September 3, 1964, file a map and legal description of each wilderness area with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such descriptions shall have the same force and effect as if included in this chapter: *Provided, however*, That correction of clerical and typographical errors in such legal descriptions and maps may be made.

(2) Maintain, available to the public, records pertaining to said wilderness areas, including maps and legal descriptions, copies of regulations governing them, copies of public notices of, and reports submitted to Congress regarding pending additions, eliminations, or modifications. Maps, legal descriptions, and regulations pertaining to wilderness areas within their respective jurisdictions also shall be available to the public in the offices of regional foresters, national forest supervisors, and forest rangers.

(b) Review by Secretary of Agriculture of classifications as primitive areas; Presidential recommendations to Congress; approval of Congress; size of primitive areas; Gore Range-Eagles Nest Primitive Area, Colorado

The Secretary of Agriculture shall, within ten years after September 3, 1964, review, as to its suitability or nonsuitability for preservation as wilderness, each area in the national forests classified on September 3, 1964 by the Secretary of Agriculture or the Chief of the Forest Service as ''primitive'' and report his findings to the President. The President shall advise the United States Senate and House of Representatives of his recommendations with respect to the designation as ''wilderness'' or other reclassification of each area on which review has been completed, together with maps and a definition of boundaries. Such advice shall be given with respect to not less than one-third of all the areas now classified as ''primitive'' within three years after September 3, 1964, not less than two-thirds within seven years after September 3, 1964, and the remaining areas within ten years after September 3, 1964. Each recommendation of the President for designation as ''wilderness'' shall become effective only if so provided by an Act of Congress. Areas classified as ''primitive'' on September 3, 1964 shall continue to be administered under the rules and regulations affecting such areas on September 3, 1964 until Congress has determined otherwise. Any such area may be increased in size by the President at the time he submits his recommendations to the Congress by not more than five thousand acres with no more than one thousand two hundred and eighty acres of such increase in any one compact unit; if it is proposed to increase the size of any such area by more than five thousand acres or by more than one thousand two hundred and eighty acres in any one compact unit the increase in size shall not become effective until acted upon by Congress. Nothing herein contained shall limit the President in proposing, as part of his recommendations to Congress, the alteration of existing boundaries of primitive areas or recommending the addition of any contiguous area of national forest lands predominantly of wilderness value. Notwithstanding any other provisions of this chapter, the Secretary of Agriculture may complete his review and delete such area as may be necessary, but not to exceed seven thousand acres, from the southern tip of the Gore Range-Eagles Nest Primitive Area, Colorado, if the Secretary determines that such action is in the public interest.

(c) Review by Secretary of the Interior of roadless areas of national park system and national wildlife refuges and game ranges and suitability of areas for preservation as wilderness; authority of Secretary of the Interior to maintain roadless areas in national park system unaffected

Within ten years after September 3, 1964 the Secretary of the Interior shall review every roadless area of five thousand contiguous acres or more in the national parks, monuments and other units of the national park system and every such area of, and every roadless island within the national wildlife refuges and game ranges, under his jurisdiction on September 3, 1964 and shall report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendation with respect to the designation as wilderness of each such area or island on which review has been completed, together with a map thereof and a definition of its boundaries. Such advice shall be given with respect to not less than one-third of the areas and islands to be reviewed under this subsection within three years after September 3, 1964, not less than two-thirds within seven years of September 3, 1964 and the remainder within ten years of September 3, 1964. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress. Nothing contained herein shall, by implication or otherwise, be construed to lessen the present statutory authority of the Secretary of the Interior with respect to the maintenance of roadless areas within units of the national park system.

(d) Conditions precedent to administrative recommendations of suitability of areas for preservation as wilderness; publication in Federal Register; public hearings; views of State, county, and Federal officials; submission of views to Congress

(1) The Secretary of Agriculture and the Secretary of the Interior shall, prior to submitting any recommendations to the President with respect to the suitability of any area for preservation as wilderness—

(A) give such public notice of the proposed action as they deem appropriate, including publication in the Federal Register and in a newspaper having general circulation in the area or areas in the vicinity of the affected land;

(B) hold a public hearing or hearings at a location or locations convenient to the area affected. The hearings shall be announced through such means as the respective Secretaries involved deem appropriate, including notices in the Federal Register and in newspapers of general circulation in the area: *Provided*, That if the lands involved are located in more than one State, at least one hearing shall be held in each State in which a portion of the land lies;

(C) at least thirty days before the date of a hearing advise the Governor of each State and the governing board of each county, or in Alaska the borough, in which the lands are located, and Federal departments and agencies concerned, and invite such officials and Federal agencies to submit their views on the proposed action at the hearing or by no later than thirty days following the date of the hearing.

(2) Any views submitted to the appropriate Secretary under the provisions of (1) of this subsection with respect to any area shall be included with any recommendations to the President and to Congress with respect to such area.

(e) Modification or adjustment of boundaries; public notice and hearings; administrative and executive recommendations to Congress; approval of Congress

Any modification or adjustment of boundaries of any wilderness area shall be recommended by the appropriate Secretary after public notice of such proposal and public hearing or hearings as provided in subsection (d) of this section. The proposed modification or adjustment shall then be recommended with map and description thereof to the President. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to such modification or adjustment and such recommendations shall become effective only in the same manner as provided for in subsections (b) and (c) of this section.

(Pub. L. 88–577, § 3, Sept. 3, 1964, 78 Stat. 891.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

WILDERNESS AREAS

Absaroka-Beartooth Wilderness, Custer, Gallatin, and Shoshone National Forests, Montana.—Pub. L. 95–249, Mar. 27, 1978, 92 Stat. 162; Pub. L. 98–550, title II, § 201(a)(13), Oct. 30, 1984, 98 Stat. 2809; Pub. L. 98–140, § 3(d), Oct. 31, 1983, 97 Stat. 903.

WILDERNESS AREAS—CONTINUED

Agassiz Wilderness, Agassiz National Wildlife Refuge, Minnesota.—Pub. L. 94–557, § 1(h), Oct. 19, 1976, 90 Stat. 2633.

Agua Tibia Wilderness, Cleveland National Forest, California.—Pub. L. 93–632, § 2(a), Jan. 3, 1975, 88 Stat. 2154; Pub. L. 111–11, title I, § 1851(b)(1)(A), Mar. 30, 2009, 123 Stat. 1062.

Alaska Peninsula National Wildlife Refuge Wilderness, Alaska.—Pub. L. 111–11, title VI, § 6404(3), Mar. 30, 2009, 123 Stat. 1182.

Aldo Leopold Wilderness, Gila National Forest, New Mexico.—Pub. L. 96–550, title I, § 102(a)(1), Dec. 19, 1980, 94 Stat. 3221.

Aleutian Islands Wilderness, Alaska Maritime National Wildlife Refuge, Aleutian Islands Unit, Alaska.—Pub. L. 96–487, title VII, § 702(1), Dec. 2, 1980, 94 Stat. 2417.

Alexander Springs Wilderness, Ocala National Forest, Florida.—Pub. L. 98–430, § 1(4), Sept. 28, 1984, 98 Stat. 1665.

Allegheny Islands Wilderness, Allegheny National Forest, Pennsylvania.—Pub. L. 98–585, § 4(1), Oct. 30, 1984, 98 Stat. 3100.

Alpine Lakes Wilderness, Mount Baker-Snoqualmie and Wenatchee National Forests, Washington.—Pub. L. 94–357, July 12, 1976, 90 Stat. 905; Pub. L. 105–277, div. A, § 101(e) [title VI, § 604(d)], Oct. 21, 1998, 112 Stat. 2681–231, 2681–329.

Alta Toquima Wilderness, Toiyabe National Forest, Nevada.—Pub. L. 101–195, § 2(1), Dec. 5, 1989, 103 Stat. 1784.

Anaconda-Pintler Wilderness, Beaverhead, Bitterroot, and Deerlodge National Forests, Montana.—Pub. L. 88–577, § 3, Sept. 3, 1964, 78 Stat. 891.

Andreafsky Wilderness, Yukon Delta National Wildlife Refuge, Alaska.—Pub. L. 96–487, title VII, § 702(2), Dec. 2, 1980, 94 Stat. 2418.

Ansel Adams Wilderness, Sierra and Inyo National Forests, California.—Pub. L. 88–577, § 3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–425, title I, § 101(a)(15), (25), Sept. 28, 1984, 98 Stat. 1621, 1622; Pub. L. 111–11, title I, § 1802(4), Mar. 30, 2009, 123 Stat. 1054.

Apache Creek Wilderness, Prescott National Forest, Arizona.—Pub. L. 98–406, title I, § 101(a)(1), Aug. 28, 1984, 98 Stat. 1485; Pub. L. 103–365, Oct. 14, 1994, 108 Stat. 3469.

Apache Kid Wilderness, Cibola National Forest, New Mexico.—Pub. L. 96–550, title I, § 102(a)(2), Dec. 19, 1980, 94 Stat. 3221.

Aravaipa Canyon Wilderness, Graham and Pinal Counties, Arizona.—Pub. L. 98–406, title II, Aug. 28, 1984, 98 Stat. 1491; Pub. L. 101–628, title I, § 101(a)(39), Nov. 28, 1990, 104 Stat. 4472.

Arc Dome Wilderness, Toiyabe National Forest, Nevada.—Pub. L. 101–195, § 2(2), Dec. 5, 1989, 103 Stat. 1784.

Argus Range Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, § 102(1), Oct. 31, 1994, 108 Stat. 4472; Pub. L. 106–291, title I, § 137, Oct. 11, 2000, 114 Stat. 948.

Arrastra Mountain Wilderness, Mohave, Yavapai, and La Paz Counties, Arizona.—Pub. L. 101–628, title I, § 101(a)(8), Nov. 28, 1990, 104 Stat. 4470.

Arrow Canyon Wilderness, of Bureau of Land Management, Nevada.—Pub. L. 107–282, title II, § 202(a)(1), Nov. 6, 2002, 116 Stat. 1999.

Ashdown Gorge Wilderness, Dixie National Forest, Utah.—Pub. L. 98–428, title I, § 102(a)(9), Sept. 28, 1984, 98 Stat. 1658.

Aubrey Peak Wilderness, Mohave County, Arizona.—Pub. L. 101–628, title I, § 101(a)(5), Nov. 28, 1990, 104 Stat. 4469.

Baboquivari Peak Wilderness, Pima County, Arizona.—Pub. L. 101–628, title I, § 101(a)(19), Nov. 28, 1990, 104 Stat. 4471.

WILDERNESS AREAS—CONTINUED

Badger Creek Wilderness, Mount Hood National Forest, Oregon.—Pub. L. 98–328, §3(3), June 26, 1984, 98 Stat. 273; Pub. L. 111–11, title I, §§1202(a)(1), 1301(a)(1), Mar. 30, 2009, 123 Stat. 1008, 1025.

Badlands Wilderness, Badlands National Monument, South Dakota.—Pub. L. 94–567, §1(*l*), Oct. 20, 1976, 90 Stat. 2693.

Bald Knob Wilderness, Shawnee National Forest, Illinois.—Pub. L. 101–633, §3(1), Nov. 28, 1990, 104 Stat. 4577.

Bald Mountain Wilderness, Western White Pine County, Nevada.—Pub. L. 109–432, div. C, title III, §323(a)(8), Dec. 20, 2006, 120 Stat. 3032.

Bald River Gorge Wilderness, Cherokee National Forest, Tennessee.—Pub. L. 98–578, §2(3), Oct. 30, 1984, 98 Stat. 3088.

Bandelier Wilderness, Bandelier National Monument, New Mexico.—Pub. L. 94–567, §1(a), Oct. 20, 1976, 90 Stat. 2692.

Barbours Creek Wilderness Area, Jefferson and George Washington National Forests, Virginia.—Pub. L. 100–326, §1(3), June 7, 1988, 102 Stat. 584; Pub. L. 111–11, title I, §1102(a)(1)–(3), Mar. 30, 2009, 123 Stat. 1002.

Bay Creek Wilderness, Shawnee National Forest, Illinois.—Pub. L. 101–633, §3(2), Nov. 28, 1990, 104 Stat. 4577.

Bear Wallow Wilderness, Apache-Sitgreaves National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(3), Aug. 28, 1984, 98 Stat. 1488.

Beartown Wilderness, Jefferson National Forest, Virginia.—Pub. L. 98–586, §2(1), Oct. 30, 1984, 98 Stat. 3105.

Beartrap Canyon Wilderness, Washington County, Utah.—Pub. L. 111–11, title I, §1972(a)(1)(A), Mar. 30, 2009, 123 Stat. 1076.

Beauty Mountain Wilderness, California.—Pub. L. 111–11, title I, §1851(b)(1)(E), Mar. 30, 2009, 123 Stat. 1062.

Beaver Basin Wilderness, Pictured Rocks National Lakeshore, Michigan.—Pub. L. 111–11, title I, §1652(a)–(c), Mar. 30, 2009, 123 Stat. 1043.

Beaver Creek Wilderness, Daniel Boone National Forest, Kentucky.—Pub. L. 93–622, §3(a)(5), Jan. 3, 1975, 88 Stat. 2097.

Beaver Dam Mountains Wilderness, Arizona Strip District, Arizona, and Cedar City District, Utah, of Bureau of Land Management.—Pub. L. 98–406, title III, §301(a)(9), Aug. 28, 1984, 98 Stat. 1493.

Becharof Wilderness, Becharof National Wildlife Refuge, Alaska.—Pub. L. 96–487, title VII, §702(4), Dec. 2, 1980, 94 Stat. 2418.

Becky Peak Wilderness, Northern White Pine County, Nevada.—Pub. L. 109–432, div. C, title III, §323(a)(12), Dec. 20, 2006, 120 Stat. 3032.

Bell Mountain Wilderness, Mark Twain National Forest, Missouri.—Pub. L. 96–560, title II, §201(a), Dec. 22, 1980, 94 Stat. 3273.

Bering Sea Wilderness, Bering Sea National Wildlife Refuge, Alaska.—Pub. L. 91–504, §1(a), Oct. 23, 1970, 84 Stat. 1104.

Big Branch Wilderness, Green Mountain National Forest, Vermont.—Pub. L. 98–322, title I, §102(2), June 19, 1984, 98 Stat. 254; Pub. L. 109–382, title II, §211(6), Dec. 1, 2006, 120 Stat. 2675.

Big Draft Wilderness, Monongahela National Forest, West Virginia.—Pub. L. 111–11, title I, §1001(a)(1), Mar. 30, 2009, 123 Stat. 1000.

Big Frog Wilderness, Cherokee National Forest, Tennessee.—Pub. L. 98–578, §2(1), Oct. 30, 1984, 98 Stat. 3088; Pub. L. 99–490, §2(6), Oct. 16, 1986, 100 Stat. 1235.

Big Gum Swamp Wilderness, Osceola National Forest, Florida.—Pub. L. 98–430, §1(3), Sept. 28, 1984, 98 Stat. 1665.

Big Horn Mountains Wilderness, Maricopa County, Arizona.—Pub. L. 101–628, title I, §101(a)(11), Nov. 28, 1990, 104 Stat. 4470.

WILDERNESS AREAS—CONTINUED

Big Island Lake Wilderness, Hiawatha National Forest, Michigan.—Pub. L. 100–184, §3(e), Dec. 8, 1987, 101 Stat. 1275.

Big Jacks Creek Wilderness, Idaho.—Pub. L. 111–11, title I, §1503(a)(1)(A), Mar. 30, 2009, 123 Stat. 1032.

Big Lake Wilderness, Big Lake National Wildlife Refuge, Arkansas.—Pub. L. 94–557, §1(b), Oct. 19, 1976, 90 Stat. 2633.

Big Laurel Branch Wilderness, Cherokee National Forest, Tennessee.—Pub. L. 99–490, §2(2), Oct. 16, 1986, 100 Stat. 1235.

Big Maria Mountains Wilderness, California Desert Conservation Area and Yuma District, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(4), Oct. 31, 1994, 108 Stat. 4473.

Big Rocks Wilderness, of Bureau of Land Management, Nevada.–Pub. L. 108–424, title II, §203(a)(13), Nov. 30, 2004, 118 Stat. 2408.

Big Slough Wilderness, Davy Crockett National Forest, Texas.—Pub. L. 98–574, §2(3), Oct. 30, 1984, 98 Stat. 3051.

Bigelow Cholla Garden Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(2), Oct. 31, 1994, 108 Stat. 4473.

Bighorn Mountain Wilderness, California Desert Conservation Area, of Bureau of Land Management, and San Bernardino National Forest, California.—Pub. L. 103–433, title I, §102(3), Oct. 31, 1994, 108 Stat. 4473.

Billies Bay Wilderness, Ocala National Forest, Florida.—Pub. L. 98–430, §1(7), Sept. 28, 1984, 98 Stat. 1665.

Birkhead Mountains Wilderness, Uwharrie National Forest, North Carolina.—Pub. L. 98–324, §2(1), June 19, 1984, 98 Stat. 263.

Bisti/De-Na-Zin Wilderness, Albuquerque and Farmington Districts of Bureau of Land Management, New Mexico.—Pub. L. 98–603, title I, §102, Oct. 30, 1984, 98 Stat. 3155; Pub. L. 104–333, div. I, title X, §1022(b), Nov. 12, 1996, 110 Stat. 4211.

Black Canyon of the Gunnison Wilderness, Black Canyon of the Gunnison National Monument, Colorado.—Pub. L. 94–567, §1(b), Oct. 20, 1976, 90 Stat. 2692; Pub. L. 106–76, §6, Oct. 21, 1999, 113 Stat. 1129.

Black Canyon Wilderness, Lake Mead National Recreation Area, Nevada.—Pub. L. 107–282, title II, §202(a)(2), Nov. 6, 2002, 116 Stat. 1999.

Black Canyon Wilderness, Ochoco National Forest, Oregon.—Pub. L. 98–328, §3(18), June 26, 1984, 98 Stat. 274; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Black Creek Wilderness, De Soto National Forest, Mississippi.—Pub. L. 98–515, §2(1), Oct. 19, 1984, 98 Stat. 2420.

Black Elk Wilderness, Black Hills National Forest, South Dakota.—Pub. L. 96–560, title I, §103, Dec. 22, 1980, 94 Stat. 3268; Pub. L. 107–206, title I, §706(n), Aug. 2, 2002, 116 Stat. 869.

Black Fork Mountain Wilderness, Ouachita National Forest, Arkansas and Oklahoma.—Pub. L. 98–508, §3(a), Oct. 19, 1984, 98 Stat. 2349; Pub. L. 100–499, §3(1), Oct. 18, 1988, 102 Stat. 2492.

Black Mountain Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(5), Oct. 31, 1994, 108 Stat. 4473.

Black Ridge Canyons Wilderness, Colorado and Utah.—Pub. L. 106–353, §5, Oct. 24, 2000, 114 Stat. 1375.

Black Rock Desert Wilderness, Nevada.—Pub. L. 106–554, §1(a)(4) [div. B, title I, §125 [§8(a)(1)]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–356; Pub. L. 107–63, title I, §135(a), Nov. 5, 2001, 115 Stat. 443.

Blackbeard Island Wilderness, Blackbeard Island National Wildlife Refuge, Georgia.—Pub. L. 93–632, §1(d), Jan. 3, 1975, 88 Stat. 2153.

Blackjack Springs Wilderness, Nicolet National Forest, Wisconsin.—Pub. L. 95–494, §1(1), Oct. 21, 1978, 92 Stat. 1648.

WILDERNESS AREAS—CONTINUED

Blackridge Wilderness, Washington County, Utah.—Pub. L. 111–11, title I, §1972(a)(1)(B), Mar. 30, 2009, 123 Stat. 1076.

Blood Mountain Wilderness, Chattahoochee National Forest, Georgia.—Pub. L. 102–217, §2(a)(1), Dec. 11, 1991, 105 Stat. 1667.

Blue Range Wilderness, Apache and Gila National Forests, New Mexico.—Pub. L. 96–550, title I, §102(a)(3), Dec. 19, 1980, 94 Stat. 3221.

Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, Montana.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 95–546, Oct. 28, 1978, 92 Stat. 2062.

Bogoslof Wilderness, Bogoslof National Wildlife Refuge, Alaska.—Pub. L. 91–504, §1(a), Oct. 23, 1970, 84 Stat. 1104.

Bosque del Apache Wilderness, Bosque del Apache National Wildlife Refuge, New Mexico.—Pub. L. 93–632, §1(i), Jan. 3, 1975, 88 Stat. 2154.

Boulder Creek Wilderness, Umpqua National Forest, Oregon.—Pub. L. 98–328, §3(8), June 26, 1984, 98 Stat. 273; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Boulder River Wilderness, Mount Baker-Snoqualmie National Forest, Washington.—Pub. L. 98–339, §3(1), July 3, 1984, 98 Stat. 300.

Boundary Peak Wilderness, Inyo National Forest, Nevada.—Pub. L. 101–195, §2(3), Dec. 5, 1989, 103 Stat. 1784.

Boundary Waters Canoe Area Wilderness, Superior National Forest, Minnesota.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 95–495, §3, Oct. 21, 1978, 92 Stat. 1649.

Box-Death Hollow Wilderness, Dixie National Forest, Utah.—Pub. L. 98–428, title I, §102(a)(10), Sept. 28, 1984, 98 Stat. 1658.

Bradwell Bay Wilderness, Apalachicola National Forest, Florida.—Pub. L. 93–622, §3(a)(4), Jan. 3, 1975, 88 Stat. 2097; Pub. L. 98–430, §1(1), Sept. 28, 1984, 98 Stat. 1665.

Brasstown Wilderness, Chattahoochee National Forest, Georgia.—Pub. L. 99–555, §2(2), Oct. 27, 1986, 100 Stat. 3129; Pub. L. 102–217, §2(a)(3), Dec. 11, 1991, 105 Stat. 1667.

Breadloaf Wilderness, Green Mountain National Forest, Vermont.—Pub. L. 98–322, title I, §102(1), June 19, 1984, 98 Stat. 254; Pub. L. 109–382, title II, §211(3), Dec. 1, 2006, 120 Stat. 2675.

Breton Wilderness, Breton National Wildlife Refuge, Louisiana.—Pub. L. 93–632, §1(f), Jan. 3, 1975, 88 Stat. 2154.

Bridge Canyon Wilderness, Lake Mead National Recreation Area, Nevada.—Pub. L. 107–282, title II, §202(a)(3), Nov. 6, 2002, 116 Stat. 1999.

Bridge Creek Wilderness, Ochoco National Forest, Oregon.—Pub. L. 98–328, §3(16), June 26, 1984, 98 Stat. 274; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Bridger Wilderness, Bridger National Forest, Wyoming.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–550, title II, §201(a)(10), Oct. 30, 1984, 98 Stat. 2809.

Brigantine Wilderness, Edwin B. Forsythe National Wildlife Refuge, New Jersey.—Pub. L. 93–632, §1(h), Jan. 3, 1975, 88 Stat. 2154; Pub. L. 98–293, May 22, 1984, 98 Stat. 207.

Bright Star Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(6), Oct. 31, 1994, 108 Stat. 4473.

Bristlecone Wilderness, Eastern White Pine County, Nevada.—Pub. L. 109–432, div. C, title III, §323(a)(14), Dec. 20, 2006, 120 Stat. 3032.

Bristol Cliffs Wilderness, Green Mountain National Forest, Vermont.—Pub. L. 93–622, §3(a)(10), Jan. 3, 1975, 88 Stat. 2097; Pub. L. 94–268, Apr. 16, 1976, 90 Stat. 370.

WILDERNESS AREAS—CONTINUED

Bristol Mountains Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(7), Oct. 31, 1994, 108 Stat. 4473.

Bruneau-Jarbidge Rivers Wilderness, Idaho.—Pub. L. 111–11, title I, §1503(a)(1)(B), Mar. 30, 2009, 123 Stat. 1032.

Brush Mountain East Wilderness, Jefferson National Forest, Virginia.—Pub. L. 100–326, §1(9), as added and amended Pub. L. 111–11, title I, §1102(a)(1), (5), Mar. 30, 2009, 123 Stat. 1002, 1003.

Brush Mountain Wilderness, Jefferson National Forest, Virginia.—Pub. L. 100–326, §1(10), as added and amended Pub. L. 111–11, title I, §1102(a)(1), (5), Mar. 30, 2009, 123 Stat. 1002, 1003.

Buckhorn Wilderness, Olympic National Forest, Washington.—Pub. L. 98–339, §3(2), July 3, 1984, 98 Stat. 300; Pub. L. 99–635, §1(c)(1), Nov. 7, 1986, 100 Stat. 3528.

Bucks Lake Wilderness, Plumas National Forest, California.—Pub. L. 98–425, title I, §101(a)(37), Sept. 28, 1984, 98 Stat. 1624.

Buffalo National River Wilderness, Buffalo National River, Arkansas.—Pub. L. 95–625, title IV, §401(1), Nov. 10, 1978, 92 Stat. 3489.

Buffalo Peaks Wilderness, Pike and San Isabel National Forests, Colorado.—Pub. L. 103–77, §2(a)(3), Aug. 13, 1993, 107 Stat. 756.

Bull of the Woods Wilderness, Mount Hood National Forest, Oregon.—Pub. L. 98–328, §3(4), June 26, 1984, 98 Stat. 273; Pub. L. 104–208, div. B, title I, §104(a)(2), Sept. 30, 1996, 110 Stat. 3009–523; Pub. L. 111–11, title I, §§1202(a)(2), 1301(a)(1), Mar. 30, 2009, 123 Stat. 1008, 1025.

Burden Falls Wilderness, Shawnee National Forest, Illinois.—Pub. L. 101–633, §3(3), Nov. 28, 1990, 104 Stat. 4577.

Byers Peak Wilderness, Arapaho National Forest, Colorado.—Pub. L. 103–77, §2(a)(14), Aug. 13, 1993, 107 Stat. 758.

Cabeza Prieta Wilderness, Cabeza Prieta National Wildlife Refuge, Arizona.—Pub. L. 101–628, title III, §301(a)(4), Nov. 28, 1990, 104 Stat. 4478.

Cabinet Mountains Wilderness, Kaniksu and Kootenai National Forests, Montana.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891.

Cache Creek Wilderness, Lake County, California.—Pub. L. 109–362, §3(8), Oct. 17, 2006, 120 Stat. 2066.

Cache La Poudre Wilderness, Roosevelt National Forest, Colorado.—Pub. L. 96–560, title I, §102(a)(2), Dec. 22, 1980, 94 Stat. 3266.

Cadiz Dunes Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(8), Oct. 31, 1994, 108 Stat. 4474.

Cahuilla Mountain Wilderness, San Bernardino National Forest, California.—Pub. L. 111–11, title I, §1851(b)(1)(B), Mar. 30, 2009, 123 Stat. 1062.

Calico Mountains Wilderness, Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area, Nevada.—Pub. L. 106–554, §1(a)(4) [div. B, title I, §125 [§8(a)(8)]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–357; Pub. L. 107–63, title I, §135(a), Nov. 5, 2001, 115 Stat. 443.

Canaan Mountain Wilderness, Washington County, Utah.—Pub. L. 111–11, title I, §1972(a)(1)(C), Mar. 30, 2009, 123 Stat. 1076.

Caney Creek Wilderness, Ouachita National Forest, Arkansas.—Pub. L. 93–622, §3(a)(2), Jan. 3, 1975, 88 Stat. 2097.

Cape Romain Wilderness, Cape Romain National Wildlife Refuge, South Carolina.—Pub. L. 93–632, §1(m), Jan. 3, 1975, 88 Stat. 2154.

Capitan Mountains Wilderness, Lincoln National Forest, New Mexico.—Pub. L. 96–550, title I, §102(a)(4), Dec. 19, 1980, 94 Stat. 3221.

WILDERNESS AREAS—CONTINUED

Caribou-Speckled Mountain Wilderness, White Mountain National Forest, Maine.—Pub. L. 101–401, §2, Sept. 28, 1990, 104 Stat. 863.

Caribou Wilderness, Lassen National Forest, California.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–425, title I, §101(a)(1), Sept. 28, 1984, 98 Stat. 1619.

Carlsbad Caverns Wilderness, Carlsbad Caverns National Park, New Mexico.—Pub. L. 95–625, title IV, §401(2), Nov. 10, 1978, 92 Stat. 3489.

Carrizo Gorge Wilderness, California Desert Conservation Area, of Bureau of Land Management, and Eastern San Diego County, California.—Pub. L. 103–433, title I, §102(9), Oct. 31, 1994, 108 Stat. 4474.

Carson-Iceberg Wilderness, Stanislaus and Toiyabe National Forests, California.—Pub. L. 98–425, title I, §101(a)(2), Sept. 28, 1984, 98 Stat. 1619.

Castle Crags Wilderness, Shasta-Trinity National Forest, California.—Pub. L. 98–425, title I, §101(a)(3), Sept. 28, 1984, 98 Stat. 1619.

Castle Creek Wilderness, Prescott National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(4), Aug. 28, 1984, 98 Stat. 1488.

Catfish Lake South Wilderness, Croatan National Forest, North Carolina.—Pub. L. 98–324, §2(2), June 19, 1984, 98 Stat. 263.

Cebolla Wilderness, El Malpais National Monument and National Conservation Area, New Mexico.—Pub. L. 100–225, title IV, §401(a), Dec. 31, 1987, 101 Stat. 1542.

Cedar Bench Wilderness, Prescott National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(2), Aug. 28, 1984, 98 Stat. 1485.

Cedar Keys Wilderness, Cedar Keys National Wildlife Refuge, Florida.—Pub. L. 92–364, Aug. 7, 1972, 86 Stat. 505.

Cedar Mountain Wilderness Area, Utah.—Pub. L. 109–163, div. A, title III, §384(a), Jan. 6, 2006, 119 Stat. 3217.

Cedar Roughs Wilderness, Napa County, California.—Pub. L. 109–362, §3(9), Oct. 17, 2006, 120 Stat. 2066.

Chama River Canyon Wilderness, Santa Fe and Carson National Forests, New Mexico.—Pub. L. 95–237, §2(h), Feb. 24, 1978, 92 Stat. 42.

Chamisso Wilderness, Chamisso National Wildlife Refuge, Alaska.—Pub. L. 93–632, §1(a), Jan. 3, 1975, 88 Stat. 2153.

Chanchelulla Wilderness, Shasta-Trinity National Forest, California.—Pub. L. 98–425, title I, §101(a)(4), Sept. 28, 1984, 98 Stat. 1619.

Charles C. Deam Wilderness, Hoosier National Forest, Indiana.—Pub. L. 97–384, Dec. 22, 1982, 96 Stat. 1942.

Chase Lake Wilderness, Chase Lake National Wildlife Refuge, North Dakota.—Pub. L. 93–632, §1(j), Jan. 3, 1975, 88 Stat. 2154.

Chassahowitzka Wilderness, Chassahowitzka National Wildlife Refuge, Florida.—Pub. L. 94–557, §1(c), Oct. 19, 1976, 90 Stat. 2633.

Cheaha Wilderness, Talladega National Forest, Alabama.—Pub. L. 97–411, Jan. 3, 1983, 96 Stat. 2046; Pub. L. 100–547, title II, §201(a)(2), Oct. 28, 1988, 102 Stat. 2737.

Chemehuevi Mountains Wilderness, California Desert Conservation Area and Yuma District, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(10), Oct. 31, 1994, 108 Stat. 4474.

Chimney Peak Wilderness, Bakersfield District, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(11), Oct. 31, 1994, 108 Stat. 4474.

Chiricahua National Monument Wilderness, Chiricahua National Monument, Arizona.—Pub. L. 94–567, §1(c), Oct. 20, 1976, 90 Stat. 2692.

Chiricahua Wilderness, Coronado National Forest, Arizona.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–406, title I, §101(a)(5), Aug. 28, 1984, 98 Stat. 1485.

WILDERNESS AREAS—CONTINUED

Chuck River Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(c)(4), as added Pub. L. 101–626, title II, §202, Nov. 28, 1990, 104 Stat. 4429.

Chuckwalla Mountains Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(12), Oct. 31, 1994, 108 Stat. 4474; Pub. L. 111–11, title I, §1851(b)(1)(J), Mar. 30, 2009, 123 Stat. 1064.

Chumash Wilderness, Los Padres National Forest, California.—Pub. L. 102–301, §2(5), June 19, 1992, 106 Stat. 243.

Citico Creek Wilderness, Cherokee National Forest, Tennessee.—Pub. L. 98–578, §2(2), Oct. 30, 1984, 98 Stat. 3088.

Clackamas Wilderness, Oregon.—Pub. L. 111–11, title I, §1202(a)(3), Mar. 30, 2009, 123 Stat. 1008.

Clear Springs Wilderness, Shawnee National Forest, Illinois.—Pub. L. 101–633, §3(4), Nov. 28, 1990, 104 Stat. 4577.

Clearwater Wilderness, Mount Baker-Snoqualmie National Forest, Washington.—Pub. L. 98–339, §3(3), July 3, 1984, 98 Stat. 300.

Cleghorn Lakes Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(13), Oct. 31, 1994, 108 Stat. 4474.

Clifty Wilderness, Daniel Boone National Forest, Kentucky.—Pub. L. 99–197, §2, Dec. 23, 1985, 99 Stat. 1351.

Clipper Mountain Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(14), Oct. 31, 1994, 108 Stat. 4474.

Cloud Peak Wilderness, Bighorn National Forest, Wyoming.—Pub. L. 98–550, title II, §201(a)(1), Oct. 30, 1984, 98 Stat. 2808.

Clover Mountains Wilderness, of Bureau of Land Management, Nevada.–Pub. L. 108–424, title II, §203(a)(4), Nov. 30, 2004, 118 Stat. 2407.

Cohutta Wilderness, Chattahoochee and Cherokee National Forests, Georgia and Tennessee.—Pub. L. 93–622, §3(b), Jan. 3, 1975, 88 Stat. 2098; Pub. L. 99–555, §2(5), Oct. 27, 1986, 100 Stat. 3129.

Collegiate Peaks Wilderness, Gunnison, San Isabel, and White River National Forests, Colorado.—Pub. L. 96–560, title I, §102(a)(3), Dec. 22, 1980, 94 Stat. 3266; Pub. L. 103–255, §4, May 19, 1994, 108 Stat. 686.

Colonel Bob Wilderness, Olympic National Forest, Washington.—Pub. L. 98–339, §3(4), July 3, 1984, 98 Stat. 300.

Comanche Peak Wilderness, Roosevelt National Forest, Colorado.—Pub. L. 96–560, title I, §102(a)(4), Dec. 22, 1980, 94 Stat. 3266.

Congaree National Park Wilderness, Congaree Swamp National Park, South Carolina.—Pub. L. 100–524, §2, Oct. 24, 1988, 102 Stat. 2606; Pub. L. 108–108, title I, §135, Nov. 10, 2003, 117 Stat. 1270; Pub. L. 108–199, div. H, §139(b), Jan. 23, 2004, 118 Stat. 442.

Copper Salmon Wilderness, Siskiyou National Forest, Oregon.—Pub. L. 98–328, §3(30), as added Pub. L. 111–11, title I, §1301(a)(1), (3), Mar. 30, 2009, 123 Stat. 1025.

Coronation Island Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(a)(2), Dec. 2, 1980, 94 Stat. 2418.

Coso Range Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(15), Oct. 31, 1994, 108 Stat. 4474.

Cottonwood Canyon Wilderness, Washington County, Utah.—Pub. L. 111–11, title I, §1972(a)(1)(D), Mar. 30, 2009, 123 Stat. 1076.

Cottonwood Forest Wilderness, Washington County, Utah.—Pub. L. 111–11, title I, §1972(a)(1)(E), Mar. 30, 2009, 123 Stat. 1076.

Cottonwood Point Wilderness, Arizona Strip District of Bureau of Land Management, Arizona.—Pub. L. 98–406, title III, §301(a)(1), Aug. 28, 1984, 98 Stat. 1492.

WILDERNESS AREAS—CONTINUED

Cougar Canyon Wilderness, Washington County, Utah.—Pub. L. 111–11, title I, §1972(a)(1)(F), Mar. 30, 2009, 123 Stat. 1076.

Coyote Mountains Wilderness, Pima County, Arizona.—Pub. L. 101–628, title I, §101(a)(18), Nov. 28, 1990, 104 Stat. 4470.

Coyote Mountains Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(16), Oct. 31, 1994, 108 Stat. 4474.

Crab Orchard Wilderness, Crab Orchard National Wildlife Refuge, Illinois.—Pub. L. 94–557, §1(f), Oct. 19, 1976, 90 Stat. 2633.

Cranberry Wilderness, Monongahela National Forest, West Virginia.—Pub. L. 97–466, §1(1), Jan. 13, 1983, 96 Stat. 2538; Pub. L. 101–512, title I, §122, Nov. 5, 1990, 104 Stat. 1938; Pub. L. 111–11, title I, §1001(a)(2), Mar. 30, 2009, 123 Stat. 1000.

Craters of the Moon National Wilderness, Craters of the Moon National Monument, Idaho.—Pub. L. 91–504, §2(a), Oct. 23, 1970, 84 Stat. 1105.

Cruces Basin Wilderness, Carson National Forest, New Mexico.—Pub. L. 96–550, title I, §102(a)(5), Dec. 19, 1980, 94 Stat. 3222.

Cucamonga Wilderness, Angeles and San Bernardino National Forests, California.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–425, title I, §101(a)(5), Sept. 28, 1984, 98 Stat. 1619.

Cumberland Island Wilderness, Cumberland Island National Seashore, Georgia.—Pub. L. 97–250, §2, as added Pub. L. 108–447, div. E, title I, §145(a), Dec. 8, 2004, 118 Stat. 3072; Pub. L. 111–11, title VII, §7116(c), Mar. 30, 2009, 123 Stat. 1203.

Cummins Creek Wilderness, Siuslaw National Forest, Oregon.—Pub. L. 98–328, §3(7), June 26, 1984, 98 Stat. 273; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Currant Mountain Wilderness, Humboldt National Forest, Nevada.—Pub. L. 101–195, §2(4), Dec. 5, 1989, 103 Stat. 1784; Pub. L. 109–432, div. C, title III, §323(a)(6), Dec. 20, 2006, 120 Stat. 3031.

Dark Canyon Wilderness, Manti-LaSal National Forest, Utah.—Pub. L. 98–428, title I, §102(a)(8), Sept. 28, 1984, 98 Stat. 1658.

Darwin Falls Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(17), Oct. 31, 1994, 108 Stat. 4475.

Dead Mountains Wilderness, California Desert Conservation Area, and Yuma District, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(18), Oct. 31, 1994, 108 Stat. 4475.

Death Valley Wilderness, Death Valley National Park, California.—Pub. L. 103–433, title VI, §601(a)(1), Oct. 31, 1994, 108 Stat. 4496.

Deep Creek North Wilderness, Washington County, Utah.—Pub. L. 111–11, title I, §1972(a)(1)(H), Mar. 30, 2009, 123 Stat. 1076.

Deep Creek Wilderness, Washington County, Utah.—Pub. L. 111–11, title I, §1972(a)(1)(G), Mar. 30, 2009, 123 Stat. 1076.

Delamar Mountains Wilderness, of Bureau of Land Management, Nevada.–Pub. L. 108–424, title II, §203(a)(3), Nov. 30, 2004, 118 Stat. 2407.

Delirium Wilderness, Hiawatha National Forest, Michigan.—Pub. L. 100–184, §3(j), Dec. 8, 1987, 101 Stat. 1275.

Denali Wilderness, Denali National Park and Preserve, Alaska.—Pub. L. 96–487, title VII, §701(1), Dec. 2, 1980, 94 Stat. 2417; Pub. L. 110–229, title III, §351, May 8, 2008, 122 Stat. 800.

Deseret Peak Wilderness, Wasatch National Forest, Utah.—Pub. L. 98–428, title I, §102(a)(12), Sept. 28, 1984, 98 Stat. 1658.

Desolation Wilderness, Eldorado National Forest, California.—Pub. L. 91–82, Oct. 10, 1969, 83 Stat. 131.

WILDERNESS AREAS—CONTINUED

Devils Backbone Wilderness, Mark Twain National Forest, Missouri.—Pub. L. 96–560, title II, §201(d), Dec. 22, 1980, 94 Stat. 3273; Pub. L. 105–210, §1, July 29, 1998, 112 Stat. 881.

Diamond Peak Wilderness, Deschutes and Willamette National Forests, Oregon.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–328, §4(f), June 26, 1984, 98 Stat. 277.

Dick Smith Wilderness, Los Padres National Forest, California.—Pub. L. 98–425, title I, §101(a)(6), Sept. 28, 1984, 98 Stat. 1620.

Dinkey Lakes Wilderness, Sierra National Forest, California.—Pub. L. 98–425, title I, §101(a)(7), (13), Sept. 28, 1984, 98 Stat. 1620.

Doc's Pass Wilderness, Washington County, Utah.—Pub. L. 111–11, title I, §1972(a)(1)(I), Mar. 30, 2009, 123 Stat. 1076.

Dolly Sods Wilderness, Monongahela National Forest, West Virginia.—Pub. L. 93–622, §3(a)(13), Jan. 3, 1975, 88 Stat. 2098; Pub. L. 111–11, title I, §1001(a)(3), Mar. 30, 2009, 123 Stat. 1000.

Dome Wilderness, Santa Fe National Forest, New Mexico.—Pub. L. 96–550, title I, §102(a)(6), Dec. 19, 1980, 94 Stat. 3222.

Domeland Wilderness, Sequoia National Forest, California.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–425, title I, §101(a)(8), Sept. 28, 1984, 98 Stat. 1620; Pub. L. 103–433, title I, §102(19), Oct. 31, 1994, 108 Stat. 4475.

Dominguez Canyon Wilderness Area, Mesa, Montrose, and Delta Counties, Colorado.—Pub. L. 111–11, title II, §2403(a), Mar. 30, 2009, 123 Stat. 1103.

Dos Cabezas Mountains Wilderness, Cochise County, Arizona.—Pub. L. 101–628, title I, §101(a)(23), Nov. 28, 1990, 104 Stat. 4471.

Drift Creek Wilderness, Siuslaw National Forest, Oregon.—Pub. L. 98–328, §3(5), June 26, 1984, 98 Stat. 273; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Dry Creek Wilderness, Ouachita National Forest, Arkansas.—Pub. L. 98–508, §3(b), Oct. 19, 1984, 98 Stat. 2350.

Dugger Mountain Wilderness, Alabama.—Pub. L. 106–156, §2(a), Dec. 9, 1999, 113 Stat. 1741.

Eagle Cap Wilderness, Wallowa and Whitman National Forests, Oregon.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 92–521, Oct. 21, 1972, 86 Stat. 1026; Pub. L. 98–328, §3(28), June 26, 1984, 98 Stat. 275; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Eagles Nest Wilderness, Arapaho and White River National Forests, Colorado.—Pub. L. 94–352, July 12, 1976, 90 Stat. 870; Pub. L. 105–75, §1, Nov. 12, 1997, 111 Stat. 1462.

Eagletail Mountains Wilderness, La Paz, Yuma, and Maricopa Counties, Arizona.—Pub. L. 101–628, title I, §101(a)(13), Nov. 28, 1990, 104 Stat. 4470.

East Cactus Plain Wilderness, La Paz County, Arizona.—Pub. L. 101–628, title I, §101(a)(6), Nov. 28, 1990, 104 Stat. 4469.

East Fork High Rock Canyon Wilderness, Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area, Nevada.—Pub. L. 106–554, §1(a)(4) [div. B, title I, §125 [§8(a)(4)]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–356; Pub. L. 107–63, title I, §135(a), Nov. 5, 2001, 115 Stat. 443.

East Fork Wilderness, Ozark-Saint Francis National Forest, Arkansas.—Pub. L. 98–508, §3(h), Oct. 19, 1984, 98 Stat. 2350.

East Humboldts Wilderness, Humboldt National Forest, Nevada.—Pub. L. 101–195, §2(5), Dec. 5, 1989, 103 Stat. 1784.

El Paso Mountains Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(20), Oct. 31, 1994, 108 Stat. 4475.

WILDERNESS AREAS—CONTINUED

El Toro Wilderness, Caribbean National Forest [El Yunque National Forest]/Luquillo Experimental Forest, Puerto Rico.—Pub. L. 109–118, § 3(a), Dec. 1, 2005, 119 Stat. 2527.

Eldorado Wilderness, Lake Mead National Recreation Area, Nevada.—Pub. L. 107–282, title II, § 202(a)(4), Nov. 6, 2002, 116 Stat. 1999.

Elkhorn Ridge Wilderness, California.—Pub. L. 109–362, § 6, Oct. 17, 2006, 120 Stat. 2070.

Ellicott Rock Wilderness, Sumter, Nantahala, and Chattahoochee National Forests, South Carolina, North Carolina, and Georgia.—Pub. L. 93–622, § 3(a)(8), Jan. 3, 1975, 88 Stat. 2097; Pub. L. 98–324, § 2(3), June 19, 1984, 98 Stat. 263; Pub. L. 98–514, § 2(1), Oct. 19, 1984, 98 Stat. 2416.

Emigrant Wilderness, Stanislaus National Forest, California.—Pub. L. 93–632, § 2(b), Jan. 3, 1975, 88 Stat. 2154; Pub. L. 98–425, title I, § 101(a)(9), Sept. 28, 1984, 98 Stat. 1620.

Encampment River Wilderness, Medicine Bow National Forest, Wyoming.—Pub. L. 98–550, title II, § 201(a)(7), Oct. 30, 1984, 98 Stat. 2808.

Endicott River Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, § 703(a)(3), Dec. 2, 1980, 94 Stat. 2418.

Escudilla Wilderness, Apache-Sitgreaves National Forest, Arizona.—Pub. L. 98–406, title I, § 101(a)(30), Aug. 28, 1984, 98 Stat. 1488.

Far South Egans Wilderness, of Bureau of Land Management, Nevada.–Pub. L. 108–424, title II, § 203(a)(11), Nov. 30, 2004, 118 Stat. 2408.

Farallon Wilderness, Farallon National Wildlife Refuge, California.—Pub. L. 93–550, title I, Dec. 26, 1974, 88 Stat. 1744.

Fire Island Wilderness, Fire Island National Seashore, New York.—Pub. L. 96–585, § 1(a)–(d), Dec. 23, 1980, 94 Stat. 3379.

Fish Creek Mountains Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, § 102(21), Oct. 31, 1994, 108 Stat. 4475.

Fishhooks Wilderness, Graham County, Arizona.—Pub. L. 101–628, title I, § 101(a)(22), Nov. 28, 1990, 104 Stat. 4471.

Fitzpatrick Wilderness, Shoshone National Forest, Wyoming.—Pub. L. 94–557, § 2(a), Oct. 19, 1976, 90 Stat. 2635; Pub. L. 94–567, § 8, Oct. 20, 1976, 90 Stat. 2695; Pub. L. 98–550, title II, § 201(a)(11), Oct. 30, 1984, 98 Stat. 2809.

Flat Tops Wilderness, Routt and White River National Forests, Colorado.—Pub. L. 94–146, Dec. 12, 1975, 89 Stat. 802.

Flatside Wilderness, Ouachita National Forest, Arkansas.—Pub. L. 98–508, § 3(d), Oct. 19, 1984, 98 Stat. 2350.

Florida Keys Wilderness, Key Deer, Great White Heron and Key West National Wildlife Refuges, Florida.—Pub. L. 93–632, § 1(b), Jan. 3, 1975, 88 Stat. 2153.

Forrester Island Wilderness, Forrester Island National Wildlife Refuge, Alaska.—Pub. L. 91–504, § 1(a), Oct. 23, 1970, 84 Stat. 1104.

Fort Niobrara Wilderness, Fort Niobrara National Wildlife Refuge, Nebraska.—Pub. L. 94–557, § 1(n), Oct. 19, 1976, 90 Stat. 2634.

Fortification Range Wilderness, of Bureau of Land Management, Nevada.–Pub. L. 108–424, title II, § 203(a)(10), Nov. 30, 2004, 118 Stat. 2408.

Fossil Ridge Wilderness, Gunnison National Forest, Colorado.—Pub. L. 103–77, § 2(a)(6), Aug. 13, 1993, 107 Stat. 757.

Fossil Springs Wilderness, Coconino National Forest, Arizona.—Pub. L. 98–406, title I, § 101(a)(6), Aug. 28, 1984, 98 Stat. 1485.

Four Peaks Wilderness, Tonto National Forest, Arizona.—Pub. L. 98–406, title I, § 101(a)(7), Aug. 28, 1984, 98 Stat. 1485.

WILDERNESS AREAS—CONTINUED

Frank Church—River of No Return Wilderness, Boise, Challis, Payette, Salmon, Bitterroot, and Nezperce National Forests, Idaho.—Pub. L. 96–312, § 3, July 23, 1980, 94 Stat. 948; Pub. L. 98–231, § 1, Mar. 14, 1984, 98 Stat. 60; Pub. L. 111–11, title III, § 3308, Mar. 30, 2009, 123 Stat. 1137.

Funeral Mountains Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, § 102(22), Oct. 31, 1994, 108 Stat. 4475.

Galiuro Wilderness, Coronado National Forest, Arizona.—Pub. L. 88–577, § 3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–406, title I, § 101(a)(8), Aug. 28, 1984, 98 Stat. 1486.

Garcia Wilderness, Los Padres National Forest, California.—Pub. L. 102–301, § 2(4), June 19, 1992, 106 Stat. 243.

Garden Mountain Wilderness, Jefferson National Forest, Virginia.—Pub. L. 100–326, § 1(14), as added and amended Pub. L. 111–11, title I, § 1102(a)(1), (5), Mar. 30, 2009, 123 Stat. 1002, 1003.

Garden of the Gods Wilderness, Shawnee National Forest, Illinois.—Pub. L. 101–633, § 3(5), Nov. 28, 1990, 104 Stat. 4577.

Gates of the Arctic Wilderness, Gates of the Arctic National Park, Alaska.—Pub. L. 96–487, title VII, § 701(2), Dec. 2, 1980, 94 Stat. 2417; Pub. L. 104–333, div. I, title III, § 302(c)(1), Nov. 12, 1996, 110 Stat. 4118.

Gates of the Mountains Wilderness, Helena National Forest, Montana.—Pub. L. 88–577, § 3, Sept. 3, 1964, 78 Stat. 891.

Gaylord Nelson Wilderness (former Gaylord A. Nelson Wilderness, former Gaylord A. Nelson National Wilderness), Apostle Islands National Lakeshore, Wisconsin.—Pub. L. 108–447, div. E, title I, § 140(c), Dec. 8, 2004, 118 Stat. 3069; Pub. L. 109–54, title IV, § 440, as added Pub. L. 109–97, title VII, § 799(6), Nov. 10, 2005, 119 Stat. 2167; Pub. L. 111–11, title VII, § 7116(a)(1)(B), (2), Mar. 30, 2009, 123 Stat. 1202, 1203.

Gearhart Mountain Wilderness, Fremont National Forest, Oregon.—Pub. L. 88–577, § 3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–328, § 3(26), June 26, 1984, 98 Stat. 275; Pub. L. 111–11, title I, § 1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Gee Creek Wilderness, Cherokee National Forest, Tennessee.—Pub. L. 93–622, § 3(a)(9), Jan. 3, 1975, 88 Stat. 2097.

George D. Aiken Wilderness, Green Mountain National Forest, Vermont.—Pub. L. 98–322, title I, § 102(5), June 19, 1984, 98 Stat. 254.

Gibraltar Mountain Wilderness, La Paz County, Arizona.—Pub. L. 101–628, title I, § 101(a)(25), Nov. 28, 1990, 104 Stat. 4471.

Gila Wilderness, Gila National Forest, New Mexico.—Pub. L. 88–577, § 3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 96–550, title I, § 102(a)(7), Dec. 19, 1980, 94 Stat. 3222.

Glacier Bay Wilderness, Glacier Bay National Park and Preserve, Alaska.—Pub. L. 96–487, title VII, § 701(3), Dec. 2, 1980, 94 Stat. 2417.

Glacier Peak Wilderness, Mount Baker and Wenatchee National Forest, Washington [see section 90e–1 of this title].—Pub. L. 88–577, § 3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 90–544, title VI, § 602, Oct. 2, 1968, 82 Stat. 930; Pub. L. 98–339, § 3(5), July 3, 1984, 98 Stat. 300.

Glacier View Wilderness, Gifford Pinchot National Forest, Washington.—Pub. L. 98–339, § 3(6), July 3, 1984, 98 Stat. 300.

Glastenbury Wilderness, Vermont.—Pub. L. 109–382, title II, § 211(1), Dec. 1, 2006, 120 Stat. 2675.

Goat Rocks Wilderness, Gifford Pinchot and Snoqualmie National Forests, Washington.—Pub. L. 88–577, § 3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–339, § 3(7), July 3, 1984, 98 Stat. 300.

Golden Trout Wilderness, Inyo and Sequoia National Forests, California.—Pub. L. 95–237, § 2(b), Feb. 24, 1978, 92 Stat. 41.

WILDERNESS AREAS—CONTINUED

Golden Valley Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(23), Oct. 31, 1994, 108 Stat. 4475.

Goose Creek Wilderness, Washington County, Utah.—Pub. L. 111–11, title I, §1972(a)(1)(J), Mar. 30, 2009, 123 Stat. 1077.

Goshute Canyon Wilderness, Northern White Pine County, Nevada.—Pub. L. 109–432, div. C, title III, §323(a)(13), Dec. 20, 2006, 120 Stat. 3032.

Gospel-Hump Wilderness, Nezperce National Forest, Idaho.—Pub. L. 95–237, §4(a), Feb. 24, 1978, 92 Stat. 43.

Government Peak Wilderness, Eastern White Pine County, Nevada.—Pub. L. 109–432, div. C, title III, §323(a)(5), Dec. 20, 2006, 120 Stat. 3031.

Grand Wash Cliffs Wilderness, Arizona Strip District of Bureau of Land Management, Arizona.—Pub. L. 98–406, title III, §301(a)(2), Aug. 28, 1984, 98 Stat. 1492.

Granite Chief Wilderness, Tahoe National Forest, California.—Pub. L. 98–425, title I, §101(a)(10), Sept. 28, 1984, 98 Stat. 1620.

Granite Mountain Wilderness, Mono County, and Inyo National Forest, California.—Pub. L. 111–11, title I, §1802(6), Mar. 30, 2009, 123 Stat. 1054.

Granite Mountain Wilderness, Prescott National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(9), Aug. 28, 1984, 98 Stat. 1486.

Grant Range Wilderness, Humboldt National Forest, Nevada.—Pub. L. 101–195, §2(12), Dec. 5, 1989, 103 Stat. 1785.

Grass Valley Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(24), Oct. 31, 1994, 108 Stat. 4475.

Grassy Knob Wilderness, Siskiyou National Forest, Oregon.—Pub. L. 98–328, §3(13), June 26, 1984, 98 Stat. 274; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Great Bear Wilderness, Flathead National Forest, Montana.—Pub. L. 95–546, Oct. 28, 1978, 92 Stat. 2062.

Great Gulf Wilderness, White Mountain National Forest, New Hampshire.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891.

Great Sand Dunes Wilderness, Great Sand Dunes National Park, Colorado.—Pub. L. 94–567, §1(d), Oct. 20, 1976, 90 Stat. 2692; Pub. L. 106–530, §4(d), Nov. 22, 2000, 114 Stat. 2529.

Great Swamp National Wildlife Refuge Wilderness, Morris County, New Jersey.—Pub. L. 90–532, Sept. 28, 1968, 82 Stat. 883.

Greenhorn Mountain Wilderness, San Isabel National Forest, Colorado.—Pub. L. 103–77, §2(a)(7), Aug. 13, 1993, 107 Stat. 757.

Gros Ventre Wilderness, Bridger-Teton National Forest, Wyoming.—Pub. L. 98–550, title II, §201(a)(3), Oct. 30, 1984, 98 Stat. 2808.

Guadalupe Mountains Wilderness, Guadalupe Mountains National Park, Texas.—Pub. L. 95–625, title IV, §401(4), Nov. 10, 1978, 92 Stat. 3490.

Gulf Islands Wilderness, Gulf Islands National Seashore, Florida and Mississippi.—Pub. L. 95–625, title IV, §401(5), Nov. 10, 1978, 92 Stat. 3490.

Gunnison Gorge Wilderness, Gunnison Gorge National Conservation Area, Colorado.—Pub. L. 106–76, §8, Oct. 21, 1999, 113 Stat. 1130.

Haleakalā Wilderness, Haleakalā National Park, Hawaii.—Pub. L. 94–567, §1(e), Oct. 20, 1976, 90 Stat. 2692; Pub. L. 106–510, §4(b), Nov. 13, 2000, 114 Stat. 2364.

Harcuvar Mountains Wilderness, La Paz County, Arizona.—Pub. L. 101–628, title I, §101(a)(9), Nov. 28, 1990, 104 Stat. 4470.

Harquahala Mountains Wilderness, La Paz and Maricopa Counties, Arizona.—Pub. L. 101–628, title I, §101(a)(10), Nov. 28, 1990, 104 Stat. 4470.

Hassayampa River Canyon Wilderness, Yavapai County, Arizona.—Pub. L. 101–628, title I, §101(a)(34), Nov. 28, 1990, 104 Stat. 4472.

WILDERNESS AREAS—CONTINUED

Hauser Wilderness, Cleveland National Forest, California.—Pub. L. 98–425, title I, §101(a)(11), Sept. 28, 1984, 98 Stat. 1620.

Havasu Wilderness, Havasu National Wildlife Refuge, Arizona.—Pub. L. 101–628, title III, §301(a)(1), Nov. 28, 1990, 104 Stat. 4478.

Havasu Wilderness, Havasu National Wildlife Refuge, California.—Pub. L. 103–433, title II, §201(a)(1), Oct. 31, 1994, 108 Stat. 4484.

Hawai`i Volcanoes Wilderness, Hawai`i Volcanoes National Park, Hawaii.—Pub. L. 95–625, title IV, §401(6), Nov. 10, 1978, 92 Stat. 3490; Pub. L. 106–510, §4(a), Nov. 13, 2000, 114 Stat. 2364.

Hazy Islands Wilderness, Hazy Island National Wildlife Refuge, Alaska.—Pub. L. 91–504, §1(a), Oct. 23, 1970, 84 Stat. 1104.

Headwaters Wilderness, Nicolet National Forest, Wisconsin.—Pub. L. 98–321, §2(2), June 19, 1984, 98 Stat. 250.

Hell Hole Bay Wilderness, Francis Marion National Forest, South Carolina.—Pub. L. 96–560, title II, §201(f), Dec. 22, 1980, 94 Stat. 3273.

Hells Canyon Wilderness, Hells Canyon National Recreation Area, Nez Perce, Payette, Wallowa, and Whitman National Forests, Idaho and Oregon.—Pub. L. 94–199, §2, Dec. 31, 1975, 89 Stat. 1117; Pub. L. 98–328, §3(29), June 26, 1984, 98 Stat. 275; Pub. L. 111–11, title I, §1301(a)(1), (2), Mar. 30, 2009, 123 Stat. 1025.

Hells Canyon Wilderness, Yavapai and Maricopa Counties, Arizona.—Pub. L. 101–628, title I, §101(a)(29), Nov. 28, 1990, 104 Stat. 4471.

Hellsgate Wilderness, Tonto National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(10), Aug. 28, 1984, 98 Stat. 1486.

Henry M. Jackson Wilderness, Wenatchee and Mount Baker-Snoqualmie National Forests, Washington.—Pub. L. 98–339, §3(8), July 3, 1984, 98 Stat. 300.

Hercules-Glades Wilderness, Mark Twain National Forest, Missouri.—Pub. L. 94–557, §2(b)(2), Oct. 19, 1976, 90 Stat. 2635.

Hickory Creek Wilderness, Allegheny National Forest, Pennsylvania.—Pub. L. 98–585, §4(2), Oct. 30, 1984, 98 Stat. 3100.

High Rock Canyon Wilderness, Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area, Nevada.—Pub. L. 106–554, §1(a)(4) [div. B, title I, §125 [§8(a)(7)]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–356; Pub. L. 107–63, title I, §135(a), Nov. 5, 2001, 115 Stat. 443.

High Rock Lake Wilderness, Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area, Nevada.—Pub. L. 106–554, §1(a)(4) [div. B, title I, §125 [§8(a)(5)]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–356; Pub. L. 107–63, title I, §135(a), Nov. 5, 2001, 115 Stat. 443.

High Schells Wilderness, Eastern White Pine County, Nevada.—Pub. L. 109–432, div. C, title III, §323(a)(11), Dec. 20, 2006, 120 Stat. 3032.

High Uintas Wilderness, Wasatch-Cache and Ashley National Forests, Utah.—Pub. L. 98–428, title I, §102(a)(5), Sept. 28, 1984, 98 Stat. 1658.

Highland Ridge Wilderness, Southern White Pine County, Nevada.—Pub. L. 109–432, div. C, title III, §323(a)(4), Dec. 20, 2006, 120 Stat. 3031.

Hollow Hills Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(25), Oct. 31, 1994, 108 Stat. 4475.

Holy Cross Wilderness, San Isabel and White River National Forests, Colorado.—Pub. L. 96–560, title I, §102(a)(5), Dec. 22, 1980, 94 Stat. 3266; Pub. L. 103–255, §4, May 19, 1994, 108 Stat. 686.

Hoover Wilderness, Inyo and Toiyabe National Forests, California.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 111–11, title I, §1802(1), Mar. 30, 2009, 123 Stat. 1053.

WILDERNESS AREAS—CONTINUED

Horseshoe Bay Wilderness, Hiawatha National Forest, Michigan.—Pub. L. 100–184, §3(g), Dec. 8, 1987, 101 Stat. 1275.

Hummingbird Springs Wilderness, Maricopa County, Arizona.—Pub. L. 101–628, title I, §101(a)(12), Nov. 28, 1990, 104 Stat. 4470.

Hunter-Fryingpan Wilderness, White River National Forest, Colorado.—Pub. L. 95–237, §2(e), Feb. 24, 1978, 92 Stat. 41; Pub. L. 103–77, §§2(a)(13), 3(d), Aug. 13, 1993, 107 Stat. 758, 759; Pub. L. 103–255, §4, May 19, 1994, 108 Stat. 686.

Hunting Camp Creek Wilderness, Jefferson National Forest, Virginia.—Pub. L. 100–326, §1(13), as added and amended Pub. L. 111–11, title I, §1102(a)(1), (5), Mar. 30, 2009, 123 Stat. 1002, 1003.

Huron Islands Wilderness, Huron Islands National Wildlife Refuge, Michigan.—Pub. L. 91–504, §1(e), Oct. 23, 1970, 84 Stat. 1105.

Hurricane Creek Wilderness, Ozark-Saint Francis National Forests, Arkansas.—Pub. L. 98–508, §3(f), Oct. 19, 1984, 98 Stat. 2350.

Huston Park Wilderness, Medicine Bow National Forest, Wyoming.—Pub. L. 98–550, title II, §201(a)(6), Oct. 30, 1984, 98 Stat. 2808.

Ibex Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(26), Oct. 31, 1994, 108 Stat. 4476.

Imperial Refuge Wilderness, Imperial National Wildlife Refuge, Arizona.—Pub. L. 101–628, title III, §301(a)(2), Nov. 28, 1990, 104 Stat. 4478.

Imperial Refuge Wilderness, Imperial National Wildlife Refuge, California.—Pub. L. 103–433, title II, §201(a)(2), Oct. 31, 1994, 108 Stat. 4484.

Indian Heaven Wilderness, Gifford Pinchot National Forest, Washington.—Pub. L. 98–339, §3(9), July 3, 1984, 98 Stat. 300.

Indian Mounds Wilderness, Sabine National Forest, Texas.—Pub. L. 98–574, §2(4), Oct. 30, 1984, 98 Stat. 3051; Pub. L. 99–584, Oct. 29, 1986, 100 Stat. 3322.

Indian Pass Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(27), Oct. 31, 1994, 108 Stat. 4476.

Indian Peaks Wilderness, Arapaho and Roosevelt National Forests, Colorado.—Pub. L. 95–450, §3, Oct. 11, 1978, 92 Stat. 1095; Pub. L. 96–560, title I, §111(a), Dec. 22, 1980, 94 Stat. 3271; Pub. L. 107–216, §2(b), Aug. 21, 2002, 116 Stat. 1055; Pub. L. 111–11, title I, §1955(a), Mar. 30, 2009, 123 Stat. 1074.

Innoko Wilderness, Innoko National Wildlife Refuge, Alaska.—Pub. L. 96–487, title VII, §702(5), Dec. 2, 1980, 94 Stat. 2418.

Inyo Mountains Wilderness, California Desert Conservation Area and Bakersfield District, of Bureau of Land Management, and Inyo National Forest, California.—Pub. L. 103–433, title I, §102(28), Oct. 31, 1994, 108 Stat. 4476.

Ireteba Peaks Wilderness, Lake Mead National Recreation Area, Nevada.—Pub. L. 107–282, title II, §202(a)(5), Nov. 6, 2002, 116 Stat. 2000.

Irish Wilderness, Mark Twain National Forest, Missouri.—Pub. L. 98–289, §2, May 21, 1984, 98 Stat. 199.

Ishi Wilderness, Ukiah District Conservation Area, of Bureau of Land Management, and Lassen National Forest, California.—Pub. L. 98–425, title I, §101(a)(12), Sept. 28, 1984, 98 Stat. 1620.

Island Bay Wilderness, Island Bay National Wildlife Refuge, Florida.—Pub. L. 91–504, §1(d), Oct. 23, 1970, 84 Stat. 1105.

Isle Royale Wilderness, Isle Royale National Park, Michigan.—Pub. L. 94–567, §1(f), Oct. 20, 1976, 90 Stat. 2692.

Izembek Wilderness, Izembek National Wildlife Refuge, Alaska.—Pub. L. 96–487, title VII, §702(6), Dec. 2, 1980, 94 Stat. 2418; Pub. L. 111–11, title VI, §6404(3), Mar. 30, 2009, 123 Stat. 1182.

WILDERNESS AREAS—CONTINUED

Jacumba Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(29), Oct. 31, 1994, 108 Stat. 4476.

James Peak Wilderness, Arapaho/Roosevelt National Forest, Colorado.—Pub. L. 103–77, §2(a)(21), as added Pub. L. 107–216, §2(a), Aug. 21, 2002, 116 Stat. 1055.

James River Face Wilderness, Jefferson National Forest, Virginia.—Pub. L. 93–622, §3(a)(12), Jan. 3, 1975, 88 Stat. 2098; Pub. L. 98–586, §2(9), Oct. 30, 1984, 98 Stat. 3106.

Jarbidge Wilderness, Humboldt National Forest, Nevada.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 101–195, §2(6), Dec. 5, 1989, 103 Stat. 1784.

Jedediah Smith Wilderness, Targhee National Forest, Wyoming.—Pub. L. 98–550, title II, §201(a)(5), Oct. 30, 1984, 98 Stat. 2808.

Jennie Lakes Wilderness, Sequoia National Forest, California.—Pub. L. 98–425, title I, §101(a)(39), Sept. 28, 1984, 98 Stat. 1624.

Jimbilnan Wilderness, Lake Mead National Recreation Area, Nevada.—Pub. L. 107–282, title II, §202(a)(6), Nov. 6, 2002, 116 Stat. 2000.

J. N. ''Ding'' Darling Wilderness, J. N. ''Ding'' Darling National Wildlife Refuge, Florida.—Pub. L. 94–557, §1(d), Oct. 19, 1976, 90 Stat. 2633.

John Krebs Wilderness, Sequoia and Kings Canyon National Parks, California.—Pub. L. 111–11, title I, §1902(1), Mar. 30, 2009, 123 Stat. 1068.

John Muir Wilderness, Inyo and Sierra National Forests, California.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–425, title I, §101(a)(13), Sept. 28, 1984, 98 Stat. 1620; Pub. L. 111–11, title I, §1802(3), Mar. 30, 2009, 123 Stat. 1053.

Joseph Battell Wilderness, Vermont.—Pub. L. 109–382, title II, §211(2), Dec. 1, 2006, 120 Stat. 2675.

Joshua Tree Wilderness, Joshua Tree National Park, California.—Pub. L. 94–567, §1(g), Oct. 20, 1976, 90 Stat. 2692; Pub. L. 103–433, title IV, §402, title VI, §601(a)(2), Oct. 31, 1994, 108 Stat. 4488, 4496; Pub. L. 111–11, title I, §1851(b)(1)(F), (c), Mar. 30, 2009, 123 Stat. 1063, 1064.

Joyce Kilmer-Slickrock Wilderness, Nantahala and Cherokee National Forests, North Carolina and Tennessee.—Pub. L. 93–622, §3(a)(7), Jan. 3, 1975, 88 Stat. 2097; Pub. L. 98–324, §2(4), June 19, 1984, 98 Stat. 263.

Jumbo Springs Wilderness, of Bureau of Land Management, Nevada.—Pub. L. 107–282, title II, §202(a)(7), Nov. 6, 2002, 116 Stat. 2000.

Juniper Dunes Wilderness, Franklin County, Washington.—Pub. L. 98–339, §6, July 3, 1984, 98 Stat. 304.

Juniper Mesa Wilderness, Prescott National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(11), Aug. 28, 1984, 98 Stat. 1486; Pub. L. 103–365, Oct. 14, 1994, 108 Stat. 3469.

Juniper Prairie Wilderness, Ocala National Forest, Florida.—Pub. L. 98–430, §1(5), Sept. 28, 1984, 98 Stat. 1665.

Kachina Peaks Wilderness, Coconino National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(22), Aug. 28, 1984, 98 Stat. 1487.

Kaiser Wilderness, Sierra National Forest, California.—Pub. L. 94–557, §2(b)(1), Oct. 19, 1976, 90 Stat. 2635.

Kalmiopsis Wilderness, Siskiyou National Forest, Oregon.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 95–237, §3(a), Feb. 24, 1978, 92 Stat. 43.

Kanab Creek Wilderness, Kaibab National Forest and Arizona Strip District of Bureau of Land Management, Arizona.—Pub. L. 98–406, title III, §301(a)(3), Aug. 28, 1984, 98 Stat. 1492.

Karta River Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(c)(5), as added Pub. L. 101–626, title II, §202, Nov. 28, 1990, 104 Stat. 4429.

WILDERNESS AREAS—CONTINUED

Katmai Wilderness, Katmai National Park and Preserve, Alaska.—Pub. L. 96–487, title VII, §701(4), Dec. 2, 1980, 94 Stat. 2417; Pub. L. 105–277, div. A, §101(e) [title I, §135(b)], Oct. 21, 1998, 112 Stat. 2681–231, 2681–265.

Kelso Dunes Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(30), Oct. 31, 1994, 108 Stat. 4476.

Kenai Wilderness, Kenai National Wildlife Refuge, Alaska.—Pub. L. 96–487, title VII, §702(7), Dec. 2, 1980, 94 Stat. 2418; Pub. L. 104–333, div. I, title III, §311(e), Nov. 12, 1996, 110 Stat. 4144.

Kendrick Mountain Wilderness, Kaibab and Coconino National Forests, Arizona.—Pub. L. 98–406, title I, §101(a)(12), Aug. 28, 1984, 98 Stat. 1486.

Kiavah Wilderness, California Desert Conservation Area, of Bureau of Land Management, and Sequoia National Forest, California.—Pub. L. 103–433, title I, §102(31), Oct. 31, 1994, 108 Stat. 4476.

Kimberling Creek Wilderness, Jefferson National Forest, Virginia.—Pub. L. 98–586, §2(2), Oct. 30, 1984, 98 Stat. 3105; Pub. L. 100–326, §1(20), as added and amended Pub. L. 111–11, title I, §§1102(a)(1), (5), 1103, Mar. 30, 2009, 123 Stat. 1002–1004.

King Range Wilderness, Humboldt and Mendocino Counties, California.—Pub. L. 109–362, §3(11), Oct. 17, 2006, 120 Stat. 2066.

Kingston Range Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(32), Oct. 31, 1994, 108 Stat. 4476.

Kisatchie Hills Wilderness, Kisatchie National Forest, Louisiana.—Pub. L. 96–560, title II, §201(i), Dec. 22, 1980, 94 Stat. 3273.

Kobuk Valley Wilderness, Kobuk Valley National Park, Alaska.—Pub. L. 96–487, title VII, §701(5), Dec. 2, 1980, 94 Stat. 2417.

Kofa Wilderness, Kofa National Wildlife Refuge, Arizona.—Pub. L. 101–628, title III, §301(a)(3), Nov. 28, 1990, 104 Stat. 4478.

Kootznoowoo Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(a)(1), (c)(2), Dec. 2, 1980, 94 Stat. 2418; Pub. L. 101–378, title II, §205(a), Aug. 17, 1990, 104 Stat. 470; Pub. L. 101–626, title II, §202, Nov. 28, 1990, 104 Stat. 4429; Pub. L. 105–60, Oct. 10, 1997, 111 Stat. 1269.

Koyukuk Wilderness, Koyukuk National Wildlife Refuge, Alaska.—Pub. L. 96–487, title VII, §702(8), Dec. 2, 1980, 94 Stat. 2418.

Kuiu Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(c)(6), as added Pub. L. 101–626, title II, §202, Nov. 28, 1990, 104 Stat. 4430.

Lacassine Wilderness, Lacassine National Wildlife Refuge, Louisiana.—Pub. L. 94–557, §1(g), Oct. 19, 1976, 90 Stat. 2633.

La Garita Wilderness, Gunnison and Rio Grande National Forests, Colorado.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 96–560, title I, §102(a)(6), Dec. 22, 1980, 94 Stat. 3266; Pub. L. 103–77, §2(a)(17), Aug. 13, 1993, 107 Stat. 758.

La Madre Mountain Wilderness, Toiyabe National Forest, Nevada.—Pub. L. 107–282, title II, §202(a)(8), Nov. 6, 2002, 116 Stat. 2000.

Lake Chelan-Sawtooth Wilderness, Okanogan and Wenatchee National Forests, Washington.—Pub. L. 98–339, §3(10), July 3, 1984, 98 Stat. 301.

Lake Clark Wilderness, Lake Clark National Park, Alaska.—Pub. L. 96–487, title VII, §701(6), Dec. 2, 1980, 94 Stat. 2417.

Lake Woodruff Wilderness, Lake Woodruff National Wildlife Refuge, Florida.—Pub. L. 94–557, §1(e), Oct. 19, 1976, 90 Stat. 2633.

Lassen Volcanic Wilderness, Lassen Volcanic National Park, California.—Pub. L. 92–510, §§1–3, Oct. 19, 1972, 86 Stat. 918.

WILDERNESS AREAS—CONTINUED

Latir Peak Wilderness, Carson National Forest, New Mexico.—Pub. L. 96–550, title I, §102(a)(8), Dec. 19, 1980, 94 Stat. 3222.

Laurel Fork North Wilderness, Monongahela National Forest, West Virginia.—Pub. L. 97–466, §1(2), Jan. 13, 1983, 96 Stat. 2538.

Laurel Fork South Wilderness, Monongahela National Forest, West Virginia.—Pub. L. 97–466, §1(3), Jan. 13, 1983, 96 Stat. 2538; Pub. L. 111–11, title I, §1002(a), Mar. 30, 2009, 123 Stat. 1001.

Lava Beds Wilderness, Lava Beds National Monument, California.—Pub. L. 92–493, Oct. 13, 1972, 86 Stat. 811.

LaVerkin Creek Wilderness, Washington County, Utah.—Pub. L. 111–11, title I, §1972(a)(1)(K), Mar. 30, 2009, 123 Stat. 1077.

Leaf Wilderness, De Soto National Forest, Mississippi.—Pub. L. 98–515, §2(2), Oct. 19, 1984, 98 Stat. 2420.

Leatherwood Wilderness, Ozark-Saint Francis National Forest, Arkansas.—Pub. L. 98–508, §3(i), Oct. 19, 1984, 98 Stat. 2350.

Lee Metcalf Wilderness, Beaverhead and Gallatin National Forests and Dillon Resource Area, Montana.—Pub. L. 98–140, §2, Oct. 31, 1983, 97 Stat. 901.

Lewis Fork Wilderness, Jefferson National Forest, Virginia.—Pub. L. 98–586, §2(3), Oct. 30, 1984, 98 Stat. 3105; Pub. L. 100–326, §1(5), (16), June 7, 1988, 102 Stat. 584; Pub. L. 106–471, §1(1), Nov. 9, 2000, 114 Stat. 2057; Pub. L. 111–11, title I, §1102(a)(1)–(3), (5), Mar. 30, 2009, 123 Stat. 1002, 1003.

Lime Canyon Wilderness, of Bureau of Land Management, Nevada.—Pub. L. 107–282, title II, §202(a)(9), Nov. 6, 2002, 116 Stat. 2000.

Linville Gorge Wilderness, Pisgah National Forest, North Carolina.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–324, §2(5), June 19, 1984, 98 Stat. 263.

Little Chuckwalla Mountains Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(33), Oct. 31, 1994, 108 Stat. 4476.

Little Dry Run Wilderness, Jefferson National Forest, Virginia.—Pub. L. 98–586, §2(4), Oct. 30, 1984, 98 Stat. 3105.

Little Frog Mountain Wilderness, Cherokee National Forest, Tennessee.—Pub. L. 99–490, §2(5), Oct. 16, 1986, 100 Stat. 1235.

Little High Rock Canyon Wilderness, Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area, Nevada.—Pub. L. 106–554, §1(a)(4) [div. B, title I, §125 [§8(a)(6)]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–356; Pub. L. 107–63, title I, §135(a), Nov. 5, 2001, 115 Stat. 443.

Little Jacks Creek Wilderness, Idaho.—Pub. L. 111–11, title I, §1503(a)(1)(C), Mar. 30, 2009, 123 Stat. 1033.

Little Lake Creek Wilderness, Sam Houston National Forest, Texas.—Pub. L. 98–574, §2(5), Oct. 30, 1984, 98 Stat. 3051; Pub. L. 99–584, Oct. 29, 1986, 100 Stat. 3322.

Little Lake George Wilderness, Ocala National Forest, Florida.—Pub. L. 98–430, §1(6), Sept. 28, 1984, 98 Stat. 1665.

Little Picacho Wilderness, California Desert Conservation Area and Yuma District, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(34), Oct. 31, 1994, 108 Stat. 4477.

Little Wilson Creek Wilderness, Jefferson National Forest, Virginia.—Pub. L. 98–586, §2(5), Oct. 30, 1984, 98 Stat. 3105; Pub. L. 100–326, §1(17), as added and amended Pub. L. 111–11, title I, §1102(a)(1), (5), Mar. 30, 2009, 123 Stat. 1002, 1003.

Lizard Head Wilderness, San Juan and Uncompahgre National Forests, Colorado.—Pub. L. 96–560, title I, §102(a)(7), Dec. 22, 1980, 94 Stat. 3266.

Lone Peak Wilderness, Wasatch and Uinta National Forests, Utah.—Pub. L. 95–237, §2(i), Feb. 24, 1978, 92 Stat. 42.

WILDERNESS AREAS—CONTINUED

Lost Creek Wilderness, Pike National Forest, Colorado.—Pub. L. 96–560, title I, §102(a)(8), Dec. 22, 1980, 94 Stat. 3266; Pub. L. 103–77, §2(a)(8), Aug. 13, 1993, 107 Stat. 757.

Lostwood Wilderness, Lostwood National Wildlife Refuge, North Dakota.—Pub. L. 93–632, §1(k), Jan. 3, 1975, 88 Stat. 2154.

Lower White River Wilderness, Oregon.—Pub. L. 111–11, title I, §1202(a)(8), Mar. 30, 2009, 123 Stat. 1009.

Lusk Creek Wilderness, Shawnee National Forest, Illinois.—Pub. L. 101–633, §3(6), Nov. 28, 1990, 104 Stat. 4577.

Lye Brook Wilderness, Green Mountain National Forest, Vermont.—Pub. L. 93–622, §3(a)(11), Jan. 3, 1975, 88 Stat. 2097; Pub. L. 98–322, title I, §102(4), June 19, 1984, 98 Stat. 254; Pub. L. 109–382, title II, §211(4), Dec. 1, 2006, 120 Stat. 2675.

Machesna Mountain Wilderness, Bakersfield District Conservation Area, of Bureau of Land Management, and Los Padres National Forest, California.—Pub. L. 98–425, title I, §101(a)(38), Sept. 28, 1984, 98 Stat. 1624.

Mackinac Wilderness, Hiawatha National Forest, Michigan.—Pub. L. 100–184, §3(f), Dec. 8, 1987, 101 Stat. 1275.

Magic Mountain Wilderness, Angeles National Forest, California.—Pub. L. 111–11, title I, §1802(7), Mar. 30, 2009, 123 Stat. 1054.

Malpais Mesa Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(35), Oct. 31, 1994, 108 Stat. 4477.

Manly Peak Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(36), Oct. 31, 1994, 108 Stat. 4477.

Manzano Mountain Wilderness, Cibola National Forest, New Mexico.—Pub. L. 95–237, §2(f), Feb. 24, 1978, 92 Stat. 42.

Marble Mountain Wilderness, Klamath National Forest, California.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–425, title I, §101(a)(14), Sept. 28, 1984, 98 Stat. 1621.

Marjory Stoneman Douglas Wilderness (former Everglades Wilderness), Everglades National Park, Florida.—Pub. L. 95–625, title IV, §401(3), Nov. 10, 1978, 92 Stat. 3490; Pub. L. 105–82, §3, Nov. 13, 1997, 111 Stat. 1541.

Mark O. Hatfield Wilderness (former Columbia Wilderness), Mount Hood National Forest, Oregon.—Pub. L. 98–328, §3(1), June 26, 1984, 98 Stat. 273; Pub. L. 104–208, div. A, title I, §101(d) [title III, §328], Sept. 30, 1996, 110 Stat. 3009–181, 3009–227; Pub. L. 111–11, title I, §§1202(a)(4), 1301(a)(1), Mar. 30, 2009, 123 Stat. 1008, 1025.

Mark Trail Wilderness, Chattahoochee National Forest, Georgia.—Pub. L. 102–217, §2(a)(2), Dec. 11, 1991, 105 Stat. 1667.

Maroon Bells-Snowmass Wilderness, Gunnison and White River National Forests, Colorado.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 96–560, title I, §102(a)(9), Dec. 22, 1980, 94 Stat. 3266; Pub. L. 103–255, §4, May 19, 1994, 108 Stat. 686.

Matilija Wilderness, Los Padres National Forest, California.—Pub. L. 102–301, §2(2), June 19, 1992, 106 Stat. 242.

Maurille Islands Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(a)(4), Dec. 2, 1980, 94 Stat. 2419.

Mazatzal Wilderness, Tonto National Forest, Arizona.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–406, title I, §101(a)(13), Aug. 28, 1984, 98 Stat. 1486.

McCormick Wilderness, Ottawa National Forest, Michigan.—Pub. L. 100–184, §3(i), Dec. 8, 1987, 101 Stat. 1275.

Meadow Valley Range Wilderness, of Bureau of Land Management, Nevada.–Pub. L. 108–424, title II, §203(a)(2), Nov. 30, 2004, 118 Stat. 2407.

WILDERNESS AREAS—CONTINUED

Mecca Hills Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(37), Oct. 31, 1994, 108 Stat. 4477.

Medicine Lake Wilderness, Medicine Lake National Wildlife Refuge, Montana.—Pub. L. 94–557, §1(*l*), Oct. 19, 1976, 90 Stat. 2634.

Menagerie Wilderness, Willamette National Forest, Oregon.—Pub. L. 98–328, §3(11), June 26, 1984, 98 Stat. 273; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Mesa Verde Wilderness, Mesa Verde National Park, Colorado.—Pub. L. 94–567, §1(h), Oct. 20, 1976, 90 Stat. 2693.

Mesquite Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(38), Oct. 31, 1994, 108 Stat. 4477.

Michigan Islands Wilderness, Michigan Islands National Wildlife Refuge, Michigan.—Pub. L. 91–504, §1(e), Oct. 23, 1970, 84 Stat. 1105.

Middle Prong Wilderness, Pisgah National Forest, North Carolina.—Pub. L. 98–324, §2(6), June 19, 1984, 98 Stat. 263.

Middle Santiam Wilderness, Willamette National Forest, Oregon.—Pub. L. 98–328, §3(12), June 26, 1984, 98 Stat. 273; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Mill Creek Wilderness, Ochoco National Forest, Oregon.—Pub. L. 98–328, §3(17), June 26, 1984, 98 Stat. 274; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Miller Peak Wilderness, Coronado National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(14), Aug. 28, 1984, 98 Stat. 1486.

Mingo Wilderness, Mingo National Wildlife Refuge, Missouri.—Pub. L. 94–557, §1(j), Oct. 19, 1976, 90 Stat. 2634.

Mission Mountains Wilderness, Flathead National Forest, Montana.—Pub. L. 93–632, §2(d), Jan. 3, 1975, 88 Stat. 2155.

Misty Fjords National Monument Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(a)(5), Dec. 2, 1980, 94 Stat. 2419.

Mojave Wilderness, Mojave National Park, California.—Pub. L. 103–433, title VI, §601(a)(3), Oct. 31, 1994, 108 Stat. 4496.

Mokelumne Wilderness, Eldorado, Stanislaus, and Toiyake National Forests, California.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–425, title I, §101(a)(16), Sept. 28, 1984, 98 Stat. 1620.

Mollie Beattie Wilderness (former Arctic Wildlife Refuge Wilderness), Arctic National Wildlife Refuge, Alaska.—Pub. L. 96–487, title VII, §702(3), Dec. 2, 1980, 94 Stat. 2418; Pub. L. 104–167, July 29, 1996, 110 Stat. 1451.

Monarch Wilderness, Sierra and Sequoia National Forests, California.—Pub. L. 98–425, title I, §101(a)(17), Sept. 28, 1984, 98 Stat. 1621.

Monomoy Wilderness, Monomoy National Wildlife Refuge, Massachusetts.—Pub. L. 91–504, §1(g), Oct. 23, 1970, 84 Stat. 1105.

Monument Rock Wilderness, Malheur and Wallowa-Whitman National Forests, Oregon.—Pub. L. 98–328, §3(21), June 26, 1984, 98 Stat. 274; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Moosehorn Wilderness, Moosehorn National Wildlife Refuge, Maine.—Pub. L. 91–504, §1(e), Oct. 23, 1970, 84 Stat. 1105.

Moosehorn Wilderness (Baring Unit), Moosehorn National Wildlife Refuge, Maine.—Pub. L. 93–632, §1(g), Jan. 3, 1975, 88 Stat. 2154.

Mormon Mountains Wilderness, of Bureau of Land Management, Nevada.–Pub. L. 108–424, title II, §203(a)(1), Nov. 30, 2004, 118 Stat. 2407.

WILDERNESS AREAS—CONTINUED

Mount Adams Wilderness, Gifford Pinchot National Forest, Washington.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–339, §3(11), July 3, 1984, 98 Stat. 301.

Mount Baker Wilderness, Mount Baker-Snoqualmie National Forest, Washington.—Pub. L. 98–339, §3(12), July 3, 1984, 98 Stat. 301.

Mount Baldy Wilderness, Apache National Forest, Arizona.—Pub. L. 91–504, §3, Oct. 23, 1970, 84 Stat. 1106.

Mt. Charleston Wilderness, Toiyabe National Forest, Nevada.—Pub. L. 101–195, §2(10), Dec. 5, 1989, 103 Stat. 1785; Pub. L. 107–282, title II, §202(a)(10), Nov. 6, 2002, 116 Stat. 2000.

Mount Evans Wilderness, Arapaho and Pike National Forests, Colorado.—Pub. L. 96–560, title I, §102(a)(10), Dec. 22, 1980, 94 Stat. 3267.

Mount Grafton Wilderness, Southern White Pine County, Nevada.—Pub. L. 109–432, div. C, title III, §323(a)(2), Dec. 20, 2006, 120 Stat. 3031.

Mount Hood Wilderness, Mount Hood National Forest, Oregon.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 95–237, §3(d), Feb. 24, 1978, 92 Stat. 43; Pub. L. 111–11, title I, §1202(a)(5), (c)(2), Mar. 30, 2009, 123 Stat. 1008, 1009.

Mt. Irish Wilderness, of Bureau of Land Management, Nevada.–Pub. L. 108–424, title II, §203(a)(14), Nov. 30, 2004, 118 Stat. 2408.

Mount Jefferson Wilderness, Williamette, Deschutes, and Mount Hood National Forests, Oregon.—Pub. L. 90–548, Oct. 2, 1968, 82 Stat. 936; Pub. L. 98–328, §3(23), June 26, 1984, 98 Stat. 274; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Mount Lassic Wilderness, Six Rivers National Forest, California.—Pub. L. 109–362, §3(6), Oct. 17, 2006, 120 Stat. 2065.

Mount Logan Wilderness, Arizona Strip District of Bureau of Land Management, Arizona.—Pub. L. 98–406, title III, §301(a)(4), Aug. 28, 1984, 98 Stat. 1493.

Mount Massive Wilderness, San Isabel National Forest, Colorado.—Pub. L. 96–560, title I, §102(a)(11), Dec. 22, 1980, 94 Stat. 3267.

Mt. Moriah Wilderness, Humboldt National Forest, Nevada.—Pub. L. 101–195, §2(13), Dec. 5, 1989, 103 Stat. 1785; Pub. L. 109–432, div. C, title III, §323(a)(1), (e), Dec. 20, 2006, 120 Stat. 3031, 3033.

Mount Naomi Wilderness, Wasatch-Cache National Forest, Utah.—Pub. L. 98–428, title I, §102(a)(1), Sept. 28, 1984, 98 Stat. 1657; Pub. L. 105–355, title V, §503, Nov. 6, 1998, 112 Stat. 3261; Pub. L. 108–95, Oct. 3, 2003, 117 Stat. 1165.

Mount Nebo Wilderness, Uinta National Forest, Utah.—Pub. L. 98–428, title I, §102(a)(7), Sept. 28, 1984, 98 Stat. 1658; Pub. L. 107–334, Dec. 16, 2002, 116 Stat. 2876.

Mount Nutt Wilderness, Mohave County, Arizona.—Pub. L. 101–628, title I, §101(a)(3), Nov. 28, 1990, 104 Stat. 4469.

Mount Olympus Wilderness, Wasatch-Cache National Forest, Utah.—Pub. L. 98–428, title I, §102(a)(3), Sept. 28, 1984, 98 Stat. 1658.

Mount Rainier Wilderness, Mount Rainier National Park, Washington.—Pub. L. 100–668, title III, §301, Nov. 16, 1988, 102 Stat. 3965.

Mt. Rose Wilderness, Toiyabe National Forest, Nevada.—Pub. L. 101–195, §2(7), Dec. 5, 1989, 103 Stat. 1784.

Mt. Shasta Wilderness, Shasta-Trinity National Forest, California.—Pub. L. 98–425, title I, §101(a)(18), Sept. 28, 1984, 98 Stat. 1621.

Mount Skokomish Wilderness, Olympic National Forest, Washington.—Pub. L. 98–339, §3(13), July 3, 1984, 98 Stat. 301; Pub. L. 99–635, §1(c)(2), Nov. 7, 1986, 100 Stat. 3528.

Mount Sneffels Wilderness, Uncompahgre National Forest, Colorado.—Pub. L. 96–560, title I, §102(a)(12), Dec. 22, 1980, 94 Stat. 3267.

WILDERNESS AREAS—CONTINUED

Mount Thielsen Wilderness, Umpqua, Willamette, and Winema National Forests, Oregon.—Pub. L. 98–328, §4(f), June 26, 1984, 98 Stat. 277.

Mount Timpanogos Wilderness, Uinta National Forest, Utah.—Pub. L. 98–428, title I, §102(a)(6), Sept. 28, 1984, 98 Stat. 1658.

Mount Tipton Wilderness, Mohave County, Arizona.—Pub. L. 101–628, title I, §101(a)(2), Nov. 28, 1990, 104 Stat. 4469.

Mount Trumbull Wilderness, Arizona Strip District of Bureau of Land Management, Arizona.—Pub. L. 98–406, title III, §301(a)(5), Aug. 28, 1984, 98 Stat. 1493.

Mount Washington Wilderness, Deschutes and Willamette National Forests, Oregon.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–328, §3(24), June 26, 1984, 98 Stat. 275; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Mount Wilson Wilderness, Mohave County, Arizona.—Pub. L. 101–628, title I, §101(a)(1), Nov. 28, 1990, 104 Stat. 4469.

Mt. Wrightson Wilderness, Coronado National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(15), Aug. 28, 1984, 98 Stat. 1486.

Mount Zirkel Wilderness, Routt National Forest, Colorado.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 96–560, title I, §102(a)(13), Dec. 22, 1980, 94 Stat. 3267; Pub. L. 103–77, §2(a)(5), Aug. 13, 1993, 107 Stat. 757.

Mountain Lake Wilderness, Jefferson National Forest, Virginia and West Virginia.—Pub. L. 98–586, §2(6), Oct. 30, 1984, 98 Stat. 3105; Pub. L. 100–326, §1(6), (15), June 7, 1988, 102 Stat. 584; Pub. L. 106–471, §1(2), Nov. 9, 2000, 114 Stat. 2057; Pub. L. 111–11, title I, §1102(a)(1)–(3), (5), Mar. 30, 2009, 123 Stat. 1002, 1003.

Mountain Lakes Wilderness, Winema National Forest, Oregon.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891.

Mud Swamp/New River Wilderness, Apalachicola National Forest, Florida.—Pub. L. 98–430, §1(2), Sept. 28, 1984, 98 Stat. 1665.

Muddy Mountains Wilderness, Lake Mead National Recreation Area, Nevada.—Pub. L. 107–282, title II, §202(a)(11), Nov. 6, 2002, 116 Stat. 2000.

Muggins Mountain Wilderness, Yuma County, Arizona.—Pub. L. 101–628, title I, §101(a)(28), Nov. 28, 1990, 104 Stat. 4471.

Munds Mountain Wilderness, Coconino National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(16), Aug. 28, 1984, 98 Stat. 1486.

Needle's Eye Wilderness, Gila County, Arizona.—Pub. L. 101–628, title I, §101(a)(20), Nov. 28, 1990, 104 Stat. 4471.

Nellis Wash Wilderness, Lake Mead National Recreation Area, Nevada.—Pub. L. 107–282, title II, §202(a)(12), Nov. 6, 2002, 116 Stat. 2000.

Neota Wilderness, Roosevelt National Forest, Colorado.—Pub. L. 96–560, title I, §102(a)(14), Dec. 22, 1980, 94 Stat. 3267.

Never Summer Wilderness, Arapaho National Forest, Colorado.—Pub. L. 96–560, title I, §102(a)(15), Dec. 22, 1980, 94 Stat. 3267; Pub. L. 103–77, §2(a)(19), Aug. 13, 1993, 107 Stat. 758.

New Water Mountains Wilderness, La Paz County, Arizona.—Pub. L. 101–628, title I, §101(a)(38), Nov. 28, 1990, 104 Stat. 4472.

Newberry Mountains Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(39), Oct. 31, 1994, 108 Stat. 4477.

Noatak Wilderness, Noatak National Preserve, Alaska.—Pub. L. 96–487, title VII, §701(7), Dec. 2, 1980, 94 Stat. 2417; Pub. L. 104–333, div. I, title III, §302(c)(3), Nov. 12, 1996, 110 Stat. 4119.

Noisy-Diobsud Wilderness, Mount Baker-Snoqualmie National Forest, Washington.—Pub. L. 98–339, §3(14), July 3, 1984, 98 Stat. 301.

WILDERNESS AREAS—CONTINUED

Nopah Range Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(40), Oct. 31, 1994, 108 Stat. 4477.

Nordhouse Dunes Wilderness, Manistee National Forest, Michigan.—Pub. L. 100–184, §3(a), Dec. 8, 1987, 101 Stat. 1274.

Norse Peak Wilderness, Mount Baker-Snoqualmie and Wenatchee National Forests, Washington.—Pub. L. 98–339, §3(15), July 3, 1984, 98 Stat. 301.

North Absaroka Wilderness, Shoshone National Forest, Wyoming.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891.

North Algodones Dunes Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(41), Oct. 31, 1994, 108 Stat. 4477.

North Black Rock Range Wilderness, Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area, Nevada.—Pub. L. 106–554, §1(a)(4) [div. B, title I, §125 [§8(a)(3)]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–356; Pub. L. 107–63, title I, §135(a), Nov. 5, 2001, 115 Stat. 443.

North Fork John Day Wilderness, Wallowa-Whitman and Umatilla National Forests, Oregon.—Pub. L. 98–328, §3(19), June 26, 1984, 98 Stat. 274; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

North Fork Owyhee Wilderness, Idaho.—Pub. L. 111–11, title I, §1503(a)(1)(D), Mar. 30, 2009, 123 Stat. 1033.

North Fork Umatilla Wilderness, Umatilla National Forest, Oregon.—Pub. L. 98–328, §3(20), June 26, 1984, 98 Stat. 274; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

North Fork Wilderness, Six Rivers National Forest, California.—Pub. L. 98–425, title I, §101(a)(19), Sept. 28, 1984, 98 Stat. 1621.

North Jackson Mountains Wilderness, Nevada.—Pub. L. 106–554, §1(a)(4) [div. B, title I, §125 [§8(a)(10)]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–357; Pub. L. 107–63, title I, §135(a), Nov. 5, 2001, 115 Stat. 443.

North Maricopa Mountains Wilderness, Maricopa County, Arizona.—Pub. L. 101–628, title I, §101(a)(30), Nov. 28, 1990, 104 Stat. 4472.

North McCullough Wilderness, of Bureau of Land Management, Nevada.—Pub. L. 107–282, title II, §202(a)(13), Nov. 6, 2002, 116 Stat. 2000.

North Mesquite Mountains Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(42), Oct. 31, 1994, 108 Stat. 4477.

North Santa Teresa Wilderness, Graham County, Arizona.—Pub. L. 101–628, title I, §101(a)(21), Nov. 28, 1990, 104 Stat. 4471.

Nunivak Wilderness, Yukon Delta National Wildlife Refuge, Alaska.—Pub. L. 96–487, title VII, §702(9), Dec. 2, 1980, 94 Stat. 2418.

Ojito Wilderness, Albuquerque District-Bureau of Land Management, New Mexico.—Pub. L. 109–94, §3(a), Oct. 26, 2005, 119 Stat. 2106.

Okefenokee Wilderness, Okefenokee National Wildlife Refuge, Georgia.—Pub. L. 93–429, Oct. 1, 1974, 88 Stat. 1179.

Old Woman Mountains Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(43), Oct. 31, 1994, 108 Stat. 4478.

Olympic Wilderness, Olympic National Park, Washington.—Pub. L. 100–668, title I, §101, Nov. 16, 1988, 102 Stat. 3961.

Opal Creek Wilderness, Willamette National Forest, Oregon.—Pub. L. 104–208, div. B, title I, §104, Sept. 30, 1996, 110 Stat. 3009–523; Pub. L. 104–333, div. I, title X, §1023(c), Nov. 12, 1996, 110 Stat. 4215; Pub. L. 106–176, title I, §125, Mar. 10, 2000, 114 Stat. 30.

Oregon Badlands Wilderness, Oregon.—Pub. L. 111–11, title I, §1702(a), (c), Mar. 30, 2009, 123 Stat. 1044, 1045.

WILDERNESS AREAS—CONTINUED

Oregon Islands Wilderness, Oregon Islands National Wildlife Refuge, Oregon.—Pub. L. 91–504, §1(b), Oct. 23, 1970, 84 Stat. 1104; Pub. L. 95–450, §12(a), Oct. 11, 1978, 92 Stat. 1098; Pub. L. 104–208, div. B, title VII, §701, Sept. 30, 1996, 110 Stat. 3009–543; Pub. L. 104–333, div. I, title X, §1027, Nov. 12, 1996, 110 Stat. 4230.

Organ Pipe Cactus Wilderness, Organ Pipe Cactus National Monument, Arizona.—Pub. L. 95–625, title IV, §401(7), Nov. 10, 1978, 92 Stat. 3490.

Orocopia Mountains Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(44), Oct. 31, 1994, 108 Stat. 4478; Pub. L. 111–11, title I, §1851(b)(1)(G), Mar. 30, 2009, 123 Stat. 1063.

Otay Mountain Wilderness, California.—Pub. L. 106–145, §3, Dec. 9, 1999, 113 Stat. 1711.

Otter Creek Wilderness, Monongahela National Forest, West Virginia.—Pub. L. 93–622, §3(a)(14), Jan. 3, 1975, 88 Stat. 2098; Pub. L. 111–11, title I, §1001(a)(4), Mar. 30, 2009, 123 Stat. 1000.

Owens Peak Wilderness, California Desert Conservation Area and Bakersfield District, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(45), Oct. 31, 1994, 108 Stat. 4478.

Owens River Headwaters Wilderness, Inyo National Forest, California.—Pub. L. 111–11, title I, §1802(2), Mar. 30, 2009, 123 Stat. 1053.

Owyhee River Wilderness, Idaho.—Pub. L. 111–11, title I, §1503(a)(1)(E), Mar. 30, 2009, 123 Stat. 1033.

Paddy Creek Wilderness, Mark Twain National Forest, Missouri.—Pub. L. 97–407, Jan. 3, 1983, 96 Stat. 2033.

Pahrump Valley Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(46), Oct. 31, 1994, 108 Stat. 4478.

Pahute Peak Wilderness, Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area, Nevada.—Pub. L. 106–554, §1(a)(4) [div. B, title I, §125 [§8(a)(2)]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–356; Pub. L. 107–63, title I, §135(a), Nov. 5, 2001, 115 Stat. 443.

Paiute Wilderness, Arizona Strip District of Bureau of Land Management, Arizona.—Pub. L. 98–406, title III, §301(a)(6), Aug. 28, 1984, 98 Stat. 1493.

Pajarita Wilderness, Coronado National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(17), Aug. 28, 1984, 98 Stat. 1487.

Palen/McCoy Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(47), Oct. 31, 1994, 108 Stat. 4478; Pub. L. 111–11, title I, §1851(b)(1)(H), Mar. 30, 2009, 123 Stat. 1063.

Palo Verde Mountains Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(48), Oct. 31, 1994, 108 Stat. 4478.

Panther Den Wilderness, Shawnee National Forest, Illinois.—Pub. L. 101–633, §3(7), Nov. 28, 1990, 104 Stat. 4578.

Paria Canyon-Vermilion Cliffs Wilderness, Arizona Strip District, Arizona, and Cedar City District, Utah, of Bureau of Land Management.—Pub. L. 98–406, title III, §301(a)(7), Aug. 28, 1984, 98 Stat. 1493.

Parsnip Peak Wilderness, of Bureau of Land Management, Nevada.–Pub. L. 108–424, title II, §203(a)(8), Nov. 30, 2004, 118 Stat. 2407.

Pasayten Wilderness, Okangogan and Mount Baker National Forests, Washington [see section 90e of this title].—Pub. L. 90–544, title VI, §601, Oct. 2, 1968, 82 Stat. 930; Pub. L. 98–339, §3(16), July 3, 1984, 98 Stat. 301.

Passage Key Wilderness, Passage Key National Wildlife Refuge, Florida.—Pub. L. 91–504, §1(d), Oct. 23, 1970, 84 Stat. 1105.

Pecos Wilderness, Carson and Sante Fe National Forests, New Mexico.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 96–550, title I, §102(a)(9), Dec. 19, 1980, 94 Stat. 3222.

WILDERNESS AREAS—CONTINUED

Pelican Island Wilderness, Pelican Island National Wildlife Refuge, Florida.—Pub. L. 91–504, §1(f), Oct. 23, 1970, 84 Stat. 1105.

Peloncillo Mountains Wilderness, Cochise, Greenlee, and Graham Counties, Arizona.—Pub. L. 101–628, title I, §101(a)(37), Nov. 28, 1990, 104 Stat. 4472.

Pemigewasset Wilderness, White Mountain National Forest, New Hampshire.—Pub. L. 98–323, title I, §101(1), June 19, 1984, 98 Stat. 259.

Peru Peak Wilderness, Green Mountain National Forest, Vermont.—Pub. L. 98–322, title I, §102(3), June 19, 1984, 98 Stat. 254; Pub. L. 109–382, title II, §211(5), Dec. 1, 2006, 120 Stat. 2675.

Peters Mountain Wilderness, Jefferson National Forest, Virginia.—Pub. L. 98–586, §2(7), Oct. 30, 1984, 98 Stat. 3105; Pub. L. 100–326, §1(19), as added and amended Pub. L. 111–11, title I, §1102(a)(1), (5), Mar. 30, 2009, 123 Stat. 1002, 1003.

Petersburg Creek-Duncan Salt Chuck Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(a)(6), Dec. 2, 1980, 94 Stat. 2419.

Petrified Forest National Wilderness, Petrified Forest National Park, Arizona.—Pub. L. 91–504, §2(b), Oct. 23, 1970, 84 Stat. 1106.

Philip Burton Wilderness, Point Reyes National Seashore, California.—Pub. L. 94–544, §§1–3, Oct. 18, 1976, 90 Stat. 2515; Pub. L. 94–567, §1(k), Oct. 20, 1976, 90 Stat. 2693; Pub. L. 99–68, §1, July 19, 1985, 99 Stat. 166.

Picacho Peak Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(49), Oct. 31, 1994, 108 Stat. 4478.

Pine Creek Wilderness, Cleveland National Forest, California.—Pub. L. 98–425, title I, §101(a)(20), Sept. 28, 1984, 98 Stat. 1621.

Pine Mountain Wilderness, Prescott and Tonto National Forests, Arizona.—Pub. L. 92–230, Feb. 15, 1972, 86 Stat. 38.

Pine Valley Mountain Wilderness, Dixie National Forest, Utah.—Pub. L. 98–428, title I, §102(a)(11), Sept. 28, 1984, 98 Stat. 1658.

Piney Creek Wilderness, Mark Twain National Forest, Missouri.—Pub. L. 96–560, title II, §201(c), Dec. 22, 1980, 94 Stat. 3273.

Pinnacles Wilderness, Pinnacles National Monument, California.—Pub. L. 94–567, §1(i), Oct. 20, 1976, 90 Stat. 2693; Pub. L. 107–370, §2(c), Dec. 19, 2002, 116 Stat. 3072.

Pinto Mountains Wilderness, Riverside County, California.—Pub. L. 111–11, title I, §1851(b)(1)(I), Mar. 30, 2009, 123 Stat. 1063.

Pinto Valley Wilderness, Lake Mead National Recreation Area, Nevada.—Pub. L. 107–282, title II, §202(a)(14), Nov. 6, 2002, 116 Stat. 2000.

Piper Mountain Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(50), Oct. 31, 1994, 108 Stat. 4478.

Piute Mountains Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(51), Oct. 31, 1994, 108 Stat. 4479.

Platte River Wilderness, Medicine Bow and Routt National Forests, Wyoming and Colorado.—Pub. L. 98–550, title II, §201(a)(8), Oct. 30, 1984, 98 Stat. 2808.

Pleasant/Lemusurier/Inian Islands Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(c)(1), as added Pub. L. 101–626, title II, §202, Nov. 28, 1990, 104 Stat. 4429.

Pleasant View Ridge Wilderness, Angeles National Forest, California.—Pub. L. 111–11, title I, §1802(8), Mar. 30, 2009, 123 Stat. 1054.

Pocosin Wilderness, Croatan National Forest, North Carolina.—Pub. L. 98–324, §2(7), June 19, 1984, 98 Stat. 264.

Pole Creek Wilderness, Idaho.—Pub. L. 111–11, title I, §1503(a)(1)(F), Mar. 30, 2009, 123 Stat. 1033.

WILDERNESS AREAS—CONTINUED

Pond Mountain Wilderness, Cherokee National Forest, Tennessee.—Pub. L. 99–490, §2(1), Oct. 16, 1986, 100 Stat. 1235.

Pond Pine Wilderness, Croatan National Forest, North Carolina.—Pub. L. 98–324, §2(8), June 19, 1984, 98 Stat. 264.

Popo Agie Wilderness, Shoshone National Forests, Wyoming.—Pub. L. 98–550, title II, §201(a)(2), Oct. 30, 1984, 98 Stat. 2808.

Porcupine Lake Wilderness, Chequamegon National Forest, Wisconsin.—Pub. L. 98–321, §2(1), June 19, 1984, 98 Stat. 250.

Poteau Mountain Wilderness, Ouachita National Forest, Arkansas.—Pub. L. 98–508, §3(c), Oct. 19, 1984, 98 Stat. 2350.

Powderhorn Wilderness, Gunnison National Forest and Powderhorn Primitive Area, Colorado.—Pub. L. 103–77, §2(a)(4), Aug. 13, 1993, 107 Stat. 756.

Presidential Range-Dry River Wilderness, White Mountain National Forest, New Hampshire.—Pub. L. 93–622, §3(a)(6), Jan. 3, 1975, 88 Stat. 2097; Pub. L. 98–323, title I, §101(3), June 19, 1984, 98 Stat. 259.

Priest Wilderness Area, George Washington National Forest, Virginia.—Pub. L. 100–326, §1(7), as added Pub. L. 106–471, §1(3), Nov. 9, 2000, 114 Stat. 2057; amended Pub. L. 111–11, title I, §1102(a)(1), (2), (4), Mar. 30, 2009, 123 Stat. 1002.

Ptarmigan Peak Wilderness, Arapaho National Forest, Colorado.—Pub. L. 103–77, §2(a)(18), Aug. 13, 1993, 107 Stat. 758.

Pusch Ridge Wilderness, Coronado National Forest, Arizona.—Pub. L. 95–237, §2(a), Feb. 24, 1978, 92 Stat. 40.

Quinn Canyon Wilderness, Humboldt National Forest, Nevada.—Pub. L. 101–195, §2(8), Dec. 5, 1989, 103 Stat. 1785.

Raccoon Branch Wilderness, Jefferson National Forest, Virginia.—Pub. L. 100–326, §1(11), as added and amended Pub. L. 111–11, title I, §1102(a)(1), (5), Mar. 30, 2009, 123 Stat. 1002, 1003.

Raggeds Wilderness, Gunnison and White River National Forests, Colorado.—Pub. L. 96–560, title I, §102(a)(16), Dec. 22, 1980, 94 Stat. 3267; Pub. L. 103–77, §2(a)(9), Aug. 13, 1993, 107 Stat. 757; Pub. L. 105–76, §1, Nov. 12, 1997, 111 Stat. 1463.

Rainbow Lake Wilderness, Chequamegon National Forest, Wisconsin.—Pub. L. 93–622, §3(a)(15), Jan. 3, 1975, 88 Stat. 2098.

Rainbow Mountain Wilderness, Toiyabe National Forest, Nevada.—Pub. L. 107–282, title II, §202(a)(15), Nov. 6, 2002, 116 Stat. 2001.

Ramseys Draft Wilderness, George Washington National Forest, Virginia.—Pub. L. 98–586, §2(10), Oct. 30, 1984, 98 Stat. 3106.

Rattlesnake Wilderness, Rattlesnake National Recreation Area, Montana.—Pub. L. 96–476, §2, Oct. 19, 1980, 94 Stat. 2271.

Raven Cliffs Wilderness, Chattahoochee National Forest, Georgia.—Pub. L. 99–555, §2(1), Oct. 27, 1986, 100 Stat. 3129.

Rawah Wilderness, Roosevelt National Forest, Colorado.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 96–560, title I, §102(a)(17), Dec. 22, 1980, 94 Stat. 3267.

Rawhide Mountains Wilderness, Mohave and La Paz Counties, Arizona.—Pub. L. 101–628, title I, §101(a)(7), Nov. 28, 1990, 104 Stat. 4469.

Red Butte Wilderness, Washington County, Utah.—Pub. L. 111–11, title I, §1972(a)(1)(L), Mar. 30, 2009, 123 Stat. 1077.

Red Buttes Wilderness, Rogue River and Siskiyou National Forests, California and Oregon.—Pub. L. 98–328, §3(14), June 26, 1984, 98 Stat. 274; Pub. L. 98–425, title I, §101(a)(21), Sept. 28, 1984, 98 Stat. 1621; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

WILDERNESS AREAS—CONTINUED

Red Mountain Wilderness, Washington County, Utah.—Pub. L. 111–11, title I, §1972(a)(1)(M), Mar. 30, 2009, 123 Stat. 1077.

Red Mountain Wilderness, Western White Pine County, Nevada.—Pub. L. 109–432, div. C, title III, §323(a)(7), Dec. 20, 2006, 120 Stat. 3032.

Red Rock Lakes Wilderness, Red Rock Lakes National Wildlife Refuge, Montana.—Pub. L. 94–557, §1(k), Oct. 19, 1976, 90 Stat. 2634.

Red Rock-Secret Mountain Wilderness, Coconino National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(18), Aug. 28, 1984, 98 Stat. 1487.

Redfield Canyon Wilderness, Graham and Cochise Counties, Arizona.—Pub. L. 101–628, title I, §101(a)(24), Nov. 28, 1990, 104 Stat. 4471.

Resting Spring Range Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(52), Oct. 31, 1994, 108 Stat. 4479.

Rice Valley Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(53), Oct. 31, 1994, 108 Stat. 4479.

Rich Hole Wilderness Area, George Washington National Forest, Virginia.—Pub. L. 100–326, §1(2), June 7, 1988, 102 Stat. 584; Pub. L. 111–11, title I, §1102(a)(1)–(3), Mar. 30, 2009, 123 Stat. 1002.

Rich Mountain Wilderness, Chattahoochee National Forest, Georgia.—Pub. L. 99–555, §2(4), Oct. 27, 1986, 100 Stat. 3129.

Richland Creek Wilderness, Ozark-Saint Francis National Forests, Arkansas.—Pub. L. 98–508, §3(g), Oct. 19, 1984, 98 Stat. 2350.

Rincon Mountain Wilderness, Coronado National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(19), Aug. 28, 1984, 98 Stat. 1487.

Riverside Mountains Wilderness, California Desert Conservation Area and Yuma District, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(54), Oct. 31, 1994, 108 Stat. 4479.

Roaring Plains West Wilderness, Monongahela National Forest, West Virginia.—Pub. L. 111–11, title I, §1001(a)(5), Mar. 30, 2009, 123 Stat. 1000.

Roaring River Wilderness, Oregon.—Pub. L. 111–11, title I, §1202(a)(6), (c)(1), Mar. 30, 2009, 123 Stat. 1008, 1009.

Rock Creek Wilderness, Siuslaw National Forest, Oregon.—Pub. L. 98–328, §3(6), June 26, 1984, 98 Stat. 273; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Rock River Canyon Wilderness, Hiawatha National Forest, Michigan.—Pub. L. 100–184, §3(d), Dec. 8, 1987, 101 Stat. 1275.

Rockpile Mountain Wilderness, Mark Twain National Forest, Missouri.—Pub. L. 96–560, title II, §201(b), Dec. 22, 1980, 94 Stat. 3273.

Rocky Mountain National Park Wilderness, Colorado.—Pub. L. 111–11, title I, §§1952(a), (c)(1), 1954(c), Mar. 30, 2009, 123 Stat. 1070, 1071, 1074.

Rodman Mountains Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(55), Oct. 31, 1994, 108 Stat. 4479.

Rogue-Umpqua Divide Wilderness, Umpqua and Rogue River National Forests, Oregon.—Pub. L. 98–328, §3(9), June 26, 1984, 98 Stat. 273; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Rough Mountain Wilderness Area, George Washington National Forest, Virginia.—Pub. L. 100–326, §1(1), June 7, 1988, 102 Stat. 584; Pub. L. 111–11, title I, §1102(a)(1)–(3), Mar. 30, 2009, 123 Stat. 1002.

Round Island Wilderness, Hiawatha National Forest, Michigan.—Pub. L. 100–184, §3(h), Dec. 8, 1987, 101 Stat. 1275.

Ruby Mountains Wilderness, Humboldt National Forest, Nevada.—Pub. L. 101–195, §2(9), Dec. 5, 1989, 103 Stat. 1785.

WILDERNESS AREAS—CONTINUED

Russell Fjord Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(a)(7), Dec. 2, 1980, 94 Stat. 2419.

Russian Wilderness, Klamath National Forest, California.—Pub. L. 98–425, title I, §101(a)(22), Sept. 28, 1984, 98 Stat. 1622.

Sabinoso Wilderness, New Mexico.—Pub. L. 111–11, title I, §1602(a), Mar. 30, 2009, 123 Stat. 1041.

Sacatar Trail Wilderness, California Desert Conservation Area and Bakersfield District, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(56), Oct. 31, 1994, 108 Stat. 4479.

Saddle Mountain Wilderness, Kaibab National Forest, Arizona.—Pub. L. 98–406, title III, §301(a)(8), Aug. 28, 1984, 98 Stat. 1493.

Saddle Peak Hills Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(57), Oct. 31, 1994, 108 Stat. 4479.

Saguaro Wilderness, Saguaro National Monument, Arizona.—Pub. L. 94–567, §1(j), Oct. 20, 1976, 90 Stat. 2693.

Saint Lazaria Wilderness, Saint Lazaria National Wildlife Refuge, Alaska.—Pub. L. 91–504, §1(a), Oct. 23, 1970, 84 Stat. 1104.

St. Marks Wilderness, St. Marks Wildlife Refuge, Florida.—Pub. L. 93–632, §1(c), Jan. 3, 1975, 88 Stat. 2153.

Saint Mary's Wilderness, George Washington National Forest, Virginia.—Pub. L. 98–586, §2(11), Oct. 30, 1984, 98 Stat. 3106.

Salmo-Priest Wilderness, Kaniksu and Colville National Forests, Washington.—Pub. L. 98–339, §3(17), July 3, 1984, 98 Stat. 301.

Salmon-Huckleberry Wilderness, Mount Hood National Forest, Oregon.—Pub. L. 98–328, §3(2), June 26, 1984, 98 Stat. 273; Pub. L. 111–11, title I, §§1202(a)(7), (c)(3), 1301(a)(1), Mar. 30, 2009, 123 Stat. 1009, 1010, 1025.

Salome Wilderness, Tonto National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(20), Aug. 28, 1984, 98 Stat. 1487.

Salt Creek Wilderness, Bitter Lake National Wildlife Refuge, New Mexico.—Pub. L. 91–504, §1(c), Oct. 23, 1970, 84 Stat. 1104.

Salt River Canyon Wilderness, Tonto National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(21), Aug. 28, 1984, 98 Stat. 1487.

Sampson Mountain Wilderness, Cherokee National Forest, Tennessee.—Pub. L. 99–490, §2(4), Oct. 16, 1986, 100 Stat. 1235.

San Gabriel Wilderness, Angeles National Forest, California.—Pub. L. 90–318, May 24, 1968, 82 Stat. 131.

San Gorgonio Wilderness, California Desert Conservation Area, of Bureau of Land Management, and San Bernardino National Forest, California.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–425, title I, §101(a)(23), Sept. 28, 1984, 98 Stat. 1622; Pub. L. 103–433, title I, §102(58), Oct. 31, 1994, 108 Stat. 4479.

San Jacinto Wilderness, San Bernardino National Forest, California.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–425, title I, §101(a)(24), Sept. 28, 1984, 98 Stat. 1622.

San Juan Wilderness, San Juan Islands National Wildlife Refuge, Washington.—Pub. L. 94–557, §1(p), Oct. 19, 1976, 90 Stat. 2634.

San Mateo Canyon Wilderness, Cleveland National Forest, California.—Pub. L. 98–425, title I, §101(a)(26), Sept. 28, 1984, 98 Stat. 1622.

San Pedro Parks Wilderness, Sante Fe National Forest, New Mexico.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891.

San Rafael Wilderness, Los Padres National Forest, California.—Pub. L. 90–271, Mar. 21, 1968, 82 Stat. 51; Pub. L. 98–425, title I, §101(a)(6), (27), Sept. 28, 1984, 98 Stat. 1620, 1623; Pub. L. 102–301, §2(3), June 19, 1992, 106 Stat. 242.

WILDERNESS AREAS—CONTINUED

Sandia Mountain Wilderness, Cibola National Forest, New Mexico.—Pub. L. 95–237, §2(g), Feb. 24, 1978, 92 Stat. 42; Pub. L. 96–248, §1, May 23, 1980, 94 Stat. 355; Pub. L. 98–603, title I, §109, Oct. 30, 1984, 98 Stat. 3159.

Sandwich Range Wilderness, White Mountain National Forest, New Hampshire.—Pub. L. 98–323, title I, §101(2), June 19, 1984, 98 Stat. 259; Pub. L. 109–382, title I, §102(2), Dec. 1, 2006, 120 Stat. 2674.

Sangre de Cristo Wilderness, Rio Grande and San Isabel National Forests and San Luis Resource Area, Colorado.—Pub. L. 103–77, §2(a)(10), Aug. 13, 1993, 107 Stat. 757.

Sanhedrin Wilderness, Mendocino National Forest, California.—Pub. L. 109–362, §3(2), Oct. 17, 2006, 120 Stat. 2065.

Santa Lucia Wilderness, Bakersfield District Conservation Area, of Bureau of Land Management, and Los Padres National Forest, California.—Pub. L. 95–237, §2(c), Feb. 24, 1978, 92 Stat. 41.

Santa Rosa-Paradise Peak Wilderness, Humboldt National Forest, Nevada.—Pub. L. 101–195, §2(14), Dec. 5, 1989, 103 Stat. 1785.

Santa Rosa Wilderness, California Desert Conservation Area, os Bureau of Land Management, and San Bernardino National Forest, California.—Pub. L. 98–425, title I, §101(a)(28), Sept. 28, 1984, 98 Stat. 1623; Pub. L. 103–433, title I, §102(59), Oct. 31, 1994, 108 Stat. 4479; Pub. L. 111–11, title I, §1851(b)(1)(D), Mar. 30, 2009, 123 Stat. 1062.

Santa Teresa Wilderness, Coronado National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(23), Aug. 28, 1984, 98 Stat. 1487; Pub. L. 101–628, title I, §101(k)(1), Nov. 28, 1990, 104 Stat. 4474.

Sarvis Creek Wilderness, Routt National Forest, Colorado.—Pub. L. 103–77, §2(a)(11), Aug. 13, 1993, 107 Stat. 757.

Savage Run Wilderness, Medicine Bow National Forest, Wyoming.—Pub. L. 95–237, §2(j), Feb. 24, 1978, 92 Stat. 42.

Sawtooth Mountains Wilderness, California Desert District, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(60), Oct. 31, 1994, 108 Stat. 4480.

Sawtooth Wilderness, Boise, Challis, and Sawtooth National Forests, Idaho.—Pub. L. 92–400, §§1, 2, Aug. 22, 1972, 86 Stat. 612.

Scapegoat Wilderness, Helena, Lolo, and Lewis and Clark National Forests, Montana.—Pub. L. 92–395, Aug. 20, 1972, 86 Stat. 578.

Selawik Wilderness, Selawik Wildlife Refuge, Alaska.—Pub. L. 96–487, title VII, §702(12), Dec. 2, 1980, 94 Stat. 2418.

Selway-Bitterroot Wilderness, Bitterroot, Clearwater, Nezperce, and Lolo National Forests, Idaho and Montana.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 96–312, §4, July 23, 1980, 94 Stat. 949.

Semidi Wilderness, Alaska Maritime National Wildlife Refuge, Alaska Peninsula Unit, Alaska.—Pub. L. 96–487, title VII, §702(11), Dec. 2, 1980, 94 Stat. 2418.

Seney Wilderness, Seney National Wildlife Refuge, Michigan.—Pub. L. 91–504, §1(e), Oct. 23, 1970, 84 Stat. 1105.

Sequoia-Kings Canyon Wilderness, Sequoia and Kings Canyon National Parks, California.—Pub. L. 98–425, title I, §106(a)(2), Sept. 28, 1984, 98 Stat. 1627; Pub. L. 111–11, title I, §1902(2), Mar. 30, 2009, 123 Stat. 1069.

Sespe Wilderness, Los Padres and Angeles National Forests, California.—Pub. L. 102–301, §2(1), June 19, 1992, 106 Stat. 242.

Shawvers Run Wilderness Area, Jefferson and George Washington National Forests, Virginia.—Pub. L. 100–326, §1(4), (18), June 7, 1988, 102 Stat. 584; Pub. L. 111–11, title I, §1102(a)(1)–(3), (5), Mar. 30, 2009, 123 Stat. 1002, 1003.

Sheep Mountain Wilderness, Angeles and San Bernardino National Forests, California.—Pub. L. 98–425, title I, §101(a)(29), Sept. 28, 1984, 98 Stat. 1623.

WILDERNESS AREAS—CONTINUED

Sheep Ridge Wilderness, Croatan National Forest, North Carolina.—Pub. L. 98–324, §2(9), June 19, 1984, 98 Stat. 264.

Sheephole Valley Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(61), Oct. 31, 1994, 108 Stat. 4480.

Shellback Wilderness, Western White Pine County, Nevada.—Pub. L. 109–432, div. C, title III, §323(a)(10), Dec. 20, 2006, 120 Stat. 3032.

Shenandoah Wilderness, Shenandoah National Park, Virginia.—Pub. L. 94–567, §1(m), Oct. 20, 1976, 90 Stat. 2693.

Shining Rock Wilderness, Pisgah National Forest, North Carolina.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–324, §2(10), June 19, 1984, 98 Stat. 264.

Sierra Ancha Wilderness, Tonto National Forest, Arizona.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891.

Sierra Estrella Wilderness, Maricopa County, Arizona.—Pub. L. 101–628, title I, §101(a)(16), Nov. 28, 1990, 104 Stat. 4470.

Signal Mountain Wilderness, Maricopa County, Arizona.—Pub. L. 101–628, title I, §101(a)(14), Nov. 28, 1990, 104 Stat. 4470.

Silver Peak Wilderness, Los Padres National Forest, California.—Pub. L. 102–301, §2(7), June 19, 1992, 106 Stat. 243; Pub. L. 107–370, §2(b), Dec. 19, 2002, 116 Stat. 3072.

Simeonof Wilderness, Simeonof National Wildlife Refuge, Alaska.—Pub. L. 94–557, §1(a), Oct. 19, 1976, 90 Stat. 2633.

Sipsey Wilderness, Bankhead National Forest, Alabama.—Pub. L. 93–622, §3(a)(1), Jan. 3, 1975, 88 Stat. 2097; Pub. L. 100–547, title II, §201(a)(1), Oct. 28, 1988, 102 Stat. 2737.

Siskiyou Wilderness, Six Rivers, Klamath, and Siskiyou National Forests, California.—Pub. L. 98–425, title I, §101(a)(30), Sept. 28, 1984, 98 Stat. 1623; Pub. L. 109–362, §3(5), Oct. 17, 2006, 120 Stat. 2065.

Sky Lakes Wilderness, Rogue River and Winema National Forests, Oregon.—Pub. L. 98–328, §3(15), June 26, 1984, 98 Stat. 274; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Slaughter Creek Wilderness, Washington County, Utah.—Pub. L. 111–11, title I, §1972(a)(1)(N), Mar. 30, 2009, 123 Stat. 1077.

Snow Mountain Wilderness, Mendocino National Forest, California.—Pub. L. 98–425, title I, §101(a)(31), Sept. 28, 1984, 98 Stat. 1623; Pub. L. 109–362, §3(1), Oct. 17, 2006, 120 Stat. 2064.

Soda Mountain Wilderness, Cascade-Siskiyou National Monument, Oregon.—Pub. L. 111–11, title I, §1405(a), Mar. 30, 2009, 123 Stat. 1030.

Soldier Creek Wilderness, Nebraska National Forest, Nebraska.—Pub. L. 99–504, title I, §101, Oct. 20, 1986, 100 Stat. 1802.

South Baranof Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(a)(8), Dec. 2, 1980, 94 Stat. 2419.

South Egan Range Wilderness, Southern White Pine County, Nevada.—Pub. L. 109–432, div. C, title III, §323(a)(3), Dec. 20, 2006, 120 Stat. 3031.

South Etolin Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(c)(3), as added Pub. L. 101–626, title II, §202, Nov. 28, 1990, 104 Stat. 4429.

South Fork Eel River Wilderness, Mendocino County, California.—Pub. L. 109–362, §3(10), Oct. 17, 2006, 120 Stat. 2066.

South Fork San Jacinto Wilderness, San Bernardino National Forest, California.—Pub. L. 111–11, title I, §1851(b)(1)(C), Mar. 30, 2009, 123 Stat. 1062.

South Jackson Mountains Wilderness, Nevada.—Pub. L. 106–554, §1(a)(4) [div. B, title I, §125 [§8(a)(9)]], Dec. 21, 2000, 114 Stat. 2763, 2763A–229, 2763A–357; Pub. L. 107–63, title I, §135(a), Nov. 5, 2001, 115 Stat. 443.

WILDERNESS AREAS—CONTINUED

South Maricopa Mountains Wilderness, Maricopa County, Arizona.—Pub. L. 101–628, title I, §101(a)(31), Nov. 28, 1990, 104 Stat. 4472.

South McCullough Wilderness, of Bureau of Land Management, Nevada.—Pub. L. 107–282, title II, §202(a)(16), Nov. 6, 2002, 116 Stat. 2001.

South Nopah Range Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(62), Oct. 31, 1994, 108 Stat. 4480.

South Pahroc Range Wilderness, of Bureau of Land Management, Nevada.–Pub. L. 108–424, title II, §203(a)(5), Nov. 30, 2004, 118 Stat. 2407.

South Prince of Wales Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(a)(9), Dec. 2, 1980, 94 Stat. 2419.

South San Juan Wilderness, San Juan National Forest, Colorado.—Pub. L. 96–560, title I, §102(a)(18), Dec. 22, 1980, 94 Stat. 3267; Pub. L. 103–77, §2(a)(12), Aug. 13, 1993, 107 Stat. 757.

South Sierra Wilderness, Sequoia and Inyo National Forests, California.—Pub. L. 98–425, title I, §101(a)(32), Sept. 28, 1984, 98 Stat. 1623.

South Warner Wilderness, Modoc National Forest, California.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–425, title I, §101(a)(33), Sept. 28, 1984, 98 Stat. 1623.

Southern Nantahala Wilderness, Chattahoochee and Nantahala National Forests, North Carolina.—Pub. L. 98–324, §2(11), June 19, 1984, 98 Stat. 264; Pub. L. 98–514, §2(2), Oct. 19, 1984, 98 Stat. 2416.

Spanish Peaks Wilderness, San Isabel National Forest, Colorado.—Pub. L. 103–77, §2(a)(20), as added Pub. L. 106–456, §2(a), Nov. 7, 2000, 114 Stat. 1955.

Spice Run Wilderness, Monongahela National Forest, West Virginia.—Pub. L. 111–11, title I, §1001(a)(6), Mar. 30, 2009, 123 Stat. 1000.

Spirit Mountain Wilderness, Lake Mead National Recreation Area, Nevada.—Pub. L. 107–282, title II, §202(a)(17), Nov. 6, 2002, 116 Stat. 2001.

Spring Basin Wilderness, Oregon.—Pub. L. 111–11, title I, §1752(a), Mar. 30, 2009, 123 Stat. 1048.

Stateline Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(63), Oct. 31, 1994, 108 Stat. 4480.

Steens Mountain Wilderness, Steens Mountain Cooperative Management and Protection Area, Oregon.—Pub. L. 106–399, title II, §201, Oct. 30, 2000, 114 Stat. 1666.

Stephen Mather Wilderness, North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area, Washington.—Pub. L. 100–668, title II, §201, Nov. 16, 1988, 102 Stat. 3963.

Stepladder Mountains Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(64), Oct. 31, 1994, 108 Stat. 4480.

Stikine-LeConte Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(a)(10), Dec. 2, 1980, 94 Stat. 2419.

Stone Mountain Wilderness, Jefferson National Forest, Virginia.—Pub. L. 100–326, §1(12), as added and amended Pub. L. 111–11, title I, §1102(a)(1), (5), Mar. 30, 2009, 123 Stat. 1002, 1003.

Strawberry Crater Wilderness, Coconino National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(29), Aug. 28, 1984, 98 Stat. 1488.

Strawberry Mountain Wilderness, Malheur National Forest, Oregon.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–328, §3(27), June 26, 1984, 98 Stat. 275; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Sturgeon River Gorge Wilderness, Ottawa National Forest, Michigan.—Pub. L. 100–184, §3(c), Dec. 8, 1987, 101 Stat. 1274.

WILDERNESS AREAS—CONTINUED

Superstition Wilderness, Tonto National Forest, Arizona.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–406, title I, §101(a)(24), Aug. 28, 1984, 98 Stat. 1487.

Surprise Canyon Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(65), Oct. 31, 1994, 108 Stat. 4480.

Swanquarter Wilderness, Swanquarter National Wildlife Refuge, North Carolina.—Pub. L. 94–557, §1(*o*), Oct. 19, 1976, 90 Stat. 2634.

Swansea Wilderness, La Paz and Mohave Counties, Arizona.—Pub. L. 101–628, title I, §101(a)(26), Nov. 28, 1990, 104 Stat. 4471.

Sycamore Canyon Wilderness, Coconino, Kaibab, and Prescott National Forests, Arizona.—Pub. L. 92–241, Mar. 6, 1972, 86 Stat. 48; Pub. L. 98–406, title I, §101(a)(25), Aug. 28, 1984, 98 Stat. 1487.

Sylvania Mountains Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(66), Oct. 31, 1994, 108 Stat. 4480.

Sylvania Wilderness, Ottawa National Forest, Michigan.—Pub. L. 100–184, §3(b), Dec. 8, 1987, 101 Stat. 1274.

Table Mountain Wilderness, Toiyabe National Forest, Nevada.—Pub. L. 101–195, §2(11), Dec. 5, 1989, 103 Stat. 1785.

Table Rock Wilderness, Salem District of Bureau of Land Management, Oregon.—Pub. L. 98–328, §3(22), June 26, 1984, 98 Stat. 274; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Table Top Wilderness, Maricopa and Pinal Counties, Arizona.—Pub. L. 101–628, title I, §101(a)(17), Nov. 28, 1990, 104 Stat. 4470.

Tamarac Wilderness, Tamarac National Wildlife Refuge, Minnesota.—Pub. L. 94–557, §1(i), Oct. 19, 1976, 90 Stat. 2634.

Tatoosh Wilderness, Gifford Pinchot National Forest, Washington.—Pub. L. 98–339, §3(18), July 3, 1984, 98 Stat. 301.

Taylor Creek Wilderness, Washington County, Utah.—Pub. L. 111–11, title I, §1972(a)(1)(O), Mar. 30, 2009, 123 Stat. 1077.

Tebenkof Bay Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(a)(11), Dec. 2, 1980, 94 Stat. 2419.

Teton Wilderness, Teton National Forest, Wyoming.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–550, title II, §201(a)(9), Oct. 30, 1984, 98 Stat. 2809.

The Brothers Wilderness, Olympic National Forest, Washington.—Pub. L. 98–339, §3(19), July 3, 1984, 98 Stat. 301; Pub. L. 99–635, §1(c)(3), Nov. 7, 1986, 100 Stat. 3528.

Theodore Roosevelt Wilderness, Theodore Roosevelt National Park, North Dakota.—Pub. L. 95–625, title IV, §401(8), Nov. 10, 1978, 92 Stat. 3490.

Thousand Lakes Wilderness, Lassen National Forest, California.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891.

Three Arch Rocks Wilderness, Three Arch Rocks National Wildlife Refuge, Oregon.—Pub. L. 91–504, §1(b), Oct. 23, 1970, 84 Stat. 1104.

Three Ridges Wilderness, George Washington National Forest, Virginia.—Pub. L. 100–326, §1(8), as added Pub. L. 106–471, §1(3), Nov. 9, 2000, 114 Stat. 2057; Pub. L. 111–11, title I, §1102(a)(1), (2), Mar. 30, 2009, 123 Stat. 1002.

Three Sisters Wilderness, Deschutes and Willamette National Forests, Oregon.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 95–237, §3(e), Feb. 24, 1978, 92 Stat. 43; Pub. L. 98–328, §3(25), June 26, 1984, 98 Stat. 275; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Thunder Ridge Wilderness, Jefferson National Forest, Virginia.—Pub. L. 98–586, §2(8), Oct. 30, 1984, 98 Stat. 3106.

WILDERNESS AREAS—CONTINUED

Togiak Wilderness, Togiak National Wildlife Refuge, Alaska.—Pub. L. 96–487, title VII, §702(10), Dec. 2, 1980, 94 Stat. 2418.

Tracy Arm-Fords Terror Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(a)(12), Dec. 2, 1980, 94 Stat. 2419.

Trapper Creek Wilderness, Gifford Pinchot National Forest, Washington.—Pub. L. 98–339, §3(20), July 3, 1984, 98 Stat. 302.

Tray Mountain Wilderness, Chattahoochee National Forest, Georgia.—Pub. L. 99–555, §2(3), Oct. 27, 1986, 100 Stat. 3129.

Tres Alamos Wilderness, Yavapai County, Arizona.—Pub. L. 101–628, title I, §101(a)(36), Nov. 28, 1990, 104 Stat. 4472.

Trigo Mountain Wilderness, La Paz County, Arizona.—Pub. L. 101–628, title I, §101(a)(27), Nov. 28, 1990, 104 Stat. 4471.

Trilobite Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(67), Oct. 31, 1994, 108 Stat. 4480.

Trinity Alps Wilderness, Ukiah District Conservation Area, of Bureau of Land Management, and Klamath, Shasta-Trinity, and Six Rivers National Forests, California.—Pub. L. 98–425, title I, §101(a)(34), Sept. 28, 1984, 98 Stat. 1623; Pub. L. 109–362, §3(7), Oct. 17, 2006, 120 Stat. 2065.

Tunnel Spring Wilderness, of Bureau of Land Management, Nevada.–Pub. L. 108–424, title II, §203(a)(12), Nov. 30, 2004, 118 Stat. 2408.

Turkey Hill Wilderness, Angelina National Forest, Texas.—Pub. L. 98–574, §2(1), Oct. 30, 1984, 98 Stat. 3051; Pub. L. 99–584, Oct. 29, 1986, 100 Stat. 3322.

Turtle Mountains Wilderness, California Desert Conservation Area, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(68), Oct. 31, 1994, 108 Stat. 4480.

Tuxedni Wilderness, Tuxedni National Wildlife Refuge, Alaska.—Pub. L. 91–504, §1(a), Oct. 23, 1970, 84 Stat. 1104.

Twin Peaks Wilderness, Wasatch-Cache National Forest, Utah.—Pub. L. 98–428, title I, §102(a)(4), Sept. 28, 1984, 98 Stat. 1658.

UL Bend Wilderness, UL Bend National Wildlife Refuge, Montana.—Pub. L. 94–557, §1(m), Oct. 19, 1976, 90 Stat. 2634; Pub. L. 98–140, §3(e), Oct. 31, 1983, 97 Stat. 903.

Unaka Mountain Wilderness, Cherokee National Forest, Tennessee.—Pub. L. 99–490, §2(3), Oct. 16, 1986, 100 Stat. 1235.

Uncompahgre Wilderness (former Big Blue Wilderness), Uncompahgre National Forest, Colorado.—Pub. L. 96–560, title I, §102(a)(1), Dec. 22, 1980, 94 Stat. 3266; Pub. L. 103–77, §§2(a)(1), (2), 3(f), Aug. 13, 1993, 107 Stat. 756, 759.

Unimak Wilderness, Alaska Maritime National Wildlife Refuge, Aleutian Islands Unit, Alaska.—Pub. L. 96–487, title VII, §702(13), Dec. 2, 1980, 94 Stat. 2418.

Upland Island Wilderness, Angelina National Forest, Texas.—Pub. L. 98–574, §2(2), Oct. 30, 1984, 98 Stat. 3051; Pub. L. 99–584, Oct. 29, 1986, 100 Stat. 3322.

Upper Buffalo Wilderness, Ozark-Saint Francis National Forest, Arkansas.—Pub. L. 93–622, §3(a)(3), Jan. 3, 1975, 88 Stat. 2097; Pub. L. 98–508, §3(e), Oct. 19, 1984, 98 Stat. 2350.

Upper Burro Creek Wilderness, Yavapai and Mohave Counties, Arizona.—Pub. L. 101–628, title I, §101(a)(33), Nov. 28, 1990, 104 Stat. 4472.

Upper Kiamichi River Wilderness, Ouachita National Forest, Oklahoma.—Pub. L. 100–499, §3(2), Oct. 18, 1988, 102 Stat. 2492.

Vasquez Peak Wilderness, Arapaho National Forest, Colorado.—Pub. L. 103–77, §2(a)(15), Aug. 13, 1993, 107 Stat. 758.

WILDERNESS AREAS—CONTINUED

Ventana Wilderness, Los Padres National Forest, California.—Pub. L. 91–58, Aug. 18, 1969, 83 Stat. 101; Pub. L. 95–237, §2(d), Feb. 24, 1978, 92 Stat. 41; Pub. L. 98–425, title I, §101(a)(35), Sept. 28, 1984, 98 Stat. 1623; Pub. L. 101–539, §2, Nov. 8, 1990, 104 Stat. 2377; Pub. L. 102–301, §2(6), June 19, 1992, 106 Stat. 243; Pub. L. 107–370, §2(a), Dec. 19, 2002, 116 Stat. 3071.

Wabayuma Peak Wilderness, Mohave County, Arizona.—Pub. L. 101–628, title I, §101(a)(32), Nov. 28, 1990, 104 Stat. 4472.

Waldo Lake Wilderness, Willamette National Forest, Oregon.—Pub. L. 98–328, §3(10), June 26, 1984, 98 Stat. 273; Pub. L. 111–11, title I, §1301(a)(1), Mar. 30, 2009, 123 Stat. 1025.

Wambaw Creek Wilderness, Francis Marion National Forest, South Carolina.—Pub. L. 96–560, title II, §201(h), Dec. 22, 1980, 94 Stat. 3273.

Wambaw Swamp Wilderness, Francis Marion National Forest, South Carolina.—Pub. L. 96–560, title II, §201(e), (g), Dec. 22, 1980, 94 Stat. 3273.

Warm Springs Wilderness, Mohave County, Arizona.—Pub. L. 101–628, title I, §101(a)(4), Nov. 28, 1990, 104 Stat. 4469.

Warren Island Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(a)(13), Dec. 2, 1980, 94 Stat. 2419.

Washakie Wilderness (former South Absaroka Wilderness and Stratified Primitive Area), Shoshone National Forest, Wyoming.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 92–476, Oct. 9, 1972, 86 Stat. 792; Pub. L. 98–550, title II, §201(a)(12), Oct. 30, 1984, 98 Stat. 2809.

Washington Islands Wilderness, Copalis, Flattery Rocks, and Quillayute Needles National Wildlife Refuges, Washington.—Pub. L. 91–504, §1(b), Oct. 23, 1970, 84 Stat. 1104.

Wee Thump Joshua Tree Wilderness, of Bureau of Land Management, Nevada.—Pub. L. 107–282, title II, §202(a)(18), Nov. 6, 2002, 116 Stat. 2001.

Weepah Spring Wilderness, of Bureau of Land Management, Nevada.–Pub. L. 108–424, title II, §203(a)(7), Nov. 30, 2004, 118 Stat. 2407.

Welcome Creek Wilderness, Lolo National Forest, Montana.—Pub. L. 95–237, §2(k), Feb. 24, 1978, 92 Stat. 43.

Wellsville Mountain Wilderness, Wasatch-Cache National Forest, Utah.—Pub. L. 98–428, title I, §102(a)(2), Sept. 28, 1984, 98 Stat. 1658.

Weminuche Wilderness (former San Juan and Upper Rio Grande Primitive Area), Rio Grande and San Juan National Forests.—Pub. L. 93–632, §2(c), Jan. 3, 1975, 88 Stat. 2155; Pub. L. 96–560, title I, §102(a)(19), Dec. 22, 1980, 94 Stat. 3267; Pub. L. 103–77, §2(a)(16), Aug. 13, 1993, 107 Stat. 758.

Wenaha-Tucannon Wilderness, Umatilla National Forest, Oregon and Washington.—Pub. L. 95–237, §3(c), Feb. 24, 1978, 92 Stat. 43.

West Chichagof-Yakobi Wilderness, Tongass National Forest, Alaska.—Pub. L. 96–487, title VII, §703(a)(14), Dec. 2, 1980, 94 Stat. 2419.

West Clear Creek Wilderness, Coconino National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(26), Aug. 28, 1984, 98 Stat. 1487.

West Elk Wilderness, Gunnison National Forest, Colorado.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 96–560, title I, §102(a)(20), Dec. 22, 1980, 94 Stat. 3268.

West Malpais Wilderness, El Malpais National Monument and National Conservation Area, New Mexico.—Pub. L. 100–225, title IV, §401(a), Dec. 31, 1987, 101 Stat. 1542.

West Sister Island Wilderness, West Sister Island National Wildlife Refuge, Ohio.—Pub. L. 93–632, §1(*l*), Jan. 3, 1975, 88 Stat. 2154.

Wet Beaver Wilderness, Coconino National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(27), Aug. 28, 1984, 98 Stat. 1488.

WILDERNESS AREAS—CONTINUED

Wheeler Peak Wilderness, Carson National Forest, New Mexico.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 96–550, title I, §102(a)(10), Dec. 19, 1980, 94 Stat. 3222; Pub. L. 104–333, div. I, title II, §210, Nov. 12, 1996, 110 Stat. 4109.

Whipple Mountains Wilderness, California Desert Conservation Area and Yuma District, of Bureau of Land Management, California.—Pub. L. 103–433, title I, §102(69), Oct. 31, 1994, 108 Stat. 4481.

Whisker Lake Wilderness, Nicolet National Forest, Wisconsin.—Pub. L. 95–494, §1(2), Oct. 21, 1978, 92 Stat. 1648.

White Canyon Wilderness, Pinal County, Arizona.—Pub. L. 101–628, title I, §101(a)(35), Nov. 28, 1990, 104 Stat. 4472.

White Mountain Wilderness, Lincoln National Forest, New Mexico.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 96–550, title I, §102(a)(11), Dec. 19, 1980, 94 Stat. 3222.

White Mountains Wilderness, California.—Pub. L. 111–11, title I, §1802(5), Mar. 30, 2009, 123 Stat. 1054.

White Pine Range Wilderness, Western White Pine County, Nevada.—Pub. L. 109–432, div. C, title III, §323(a)(9), Dec. 20, 2006, 120 Stat. 3032.

White Rock Range Wilderness, of Bureau of Land Management, Nevada.–Pub. L. 108–424, title II, §203(a)(9), Nov. 30, 2004, 118 Stat. 2408.

Wichita Mountains Wilderness, Wichita Mountains National Wildlife Refuge, Oklahoma.—Pub. L. 91–504, §1(d), Oct. 23, 1970, 84 Stat. 1105.

Wild River Wilderness, White Mountain National Forest, New Hampshire.—Pub. L. 109–382, title I, §102(1), Dec. 1, 2006, 120 Stat. 2673.

Wild Rogue Wilderness, Siskiyou National Forest, Oregon.—Pub. L. 95–237, §3(b), Feb. 24, 1978, 92 Stat. 43.

Wild Sky Wilderness, Washington.—Pub. L. 110–229, title I, §101(a), May 8, 2008, 122 Stat. 757.

William O. Douglas Wilderness, Wenatchee and Gifford Pinchot National Forests, Washington.—Pub. L. 98–339, §3(21), July 3, 1984, 98 Stat. 302.

Winegar Hole Wilderness, Bridger-Teton National Forest, Wyoming.—Pub. L. 98–550, title II, §201(a)(4), Oct. 30, 1984, 98 Stat. 2808.

Wisconsin Islands Wilderness, Gravel Island and Green Bay National Wilderness Refuges, Wisconsin.—Pub. L. 91–504, §1(e), Oct. 23, 1970, 84 Stat. 1105.

Withington Wilderness, Cibola National Forest, New Mexico.—Pub. L. 96–550, title I, §102(a)(12), Dec. 19, 1980, 94 Stat. 3222.

Wolf Island Wilderness, Wolf Island National Wildlife Refuge, Georgia.—Pub. L. 93–632, §1(e), Jan. 3, 1975, 88 Stat. 2153.

Wonder Mountain Wilderness, Olympic National Forest, Washington.—Pub. L. 98–339, §3(22), July 3, 1984, 98 Stat. 302.

Woodchute Wilderness, Prescott National Forest, Arizona.—Pub. L. 98–406, title I, §101(a)(28), Aug. 28, 1984, 98 Stat. 1488.

Woolsey Peak Wilderness, Maricopa County, Arizona.—Pub. L. 101–628, title I, §101(a)(15), Nov. 28, 1990, 104 Stat. 4470.

Worthington Mountains Wilderness, of Bureau of Land Management, Nevada.–Pub. L. 108–424, title II, §203(a)(6), Nov. 30, 2004, 118 Stat. 2407.

Wrangell-Saint Elias Wilderness, Wrangell-Saint Elias National Park and Preserve, Alaska.—Pub. L. 96–487, title VII, §701(8), Dec. 2, 1980, 94 Stat. 2417.

Yolla Bolly-Middle Eel Wilderness, Ukiah District Conservation Area, of Bureau of Land Management, and Mendocino, Six Rivers, and Shasta-Trinity National Forests, California.—Pub. L. 88–577, §3, Sept. 3, 1964, 78 Stat. 891; Pub. L. 98–425, title I, §101(a)(36), Sept. 28, 1984, 98 Stat. 1623; Pub. L. 109–362, §3(4), Oct. 17, 2006, 120 Stat. 2065.

Yosemite Wilderness, Yosemite National Park Wilderness, California.—Pub. L. 98–425, title I, §106(a)(1), Sept. 28, 1984, 98 Stat. 1626.

WILDERNESS AREAS—CONTINUED

Yuki Wilderness, Mendocino National Forest, and Lake and Mendocino Counties, California.—Pub. L. 109–362, §3(3), Oct. 17, 2006, 120 Stat. 2065.

Zion Wilderness, Washington and Iron Counties, Utah.—Pub. L. 111–11, title I, §1973, Mar. 30, 2009, 123 Stat. 1080.

§ 1133. Use of wilderness areas

(a) Purposes of national forests, national park system, and national wildlife refuge system; other provisions applicable to national forests, Superior National Forest, and national park system

The purposes of this chapter are hereby declared to be within and supplemental to the purposes for which national forests and units of the national park and national wildlife refuge systems are established and administered and—

(1) Nothing in this chapter shall be deemed to be in interference with the purpose for which national forests are established as set forth in the Act of June 4, 1897 (30 Stat. 11), and the Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215) [16 U.S.C. 528–531].

(2) Nothing in this chapter shall modify the restrictions and provisions of the Shipstead-Nolan Act (Public Law 539, Seventy-first Congress, July 10, 1930; 46 Stat. 1020), the Thye-Blatnik Act (Public Law 733, Eightieth Congress, June 22, 1948; 62 Stat. 568), and the Humphrey-Thye-Blatnik-Andresen Act (Public Law 607, Eighty-Fourth Congress, June 22, 1956; 70 Stat. 326), as applying to the Superior National Forest or the regulations of the Secretary of Agriculture.

(3) Nothing in this chapter shall modify the statutory authority under which units of the national park system are created. Further, the designation of any area of any park, monument, or other unit of the national park system as a wilderness area pursuant to this chapter shall in no manner lower the standards evolved for the use and preservation of such park, monument, or other unit of the national park system in accordance with sections 1, 2, 3, and 4 of this title, the statutory authority under which the area was created, or any other Act of Congress which might pertain to or affect such area, including, but not limited to, the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 432[1] et seq.); section 3(2) of the Federal Power Act (16 U.S.C. 796(2)); and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

(b) Agency responsibility for preservation and administration to preserve wilderness character; public purposes of wilderness areas

Except as otherwise provided in this chapter, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character. Except as otherwise provided in this chapter, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.

[1] So in original. Probably should be ''431''.

(c) Prohibition provisions: commercial enterprise, permanent or temporary roads, mechanical transports, and structures or installations; exceptions: area administration and personal health and safety emergencies

Except as specifically provided for in this chapter, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this chapter and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this chapter (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

(d) Special provisions

The following special provisions are hereby made:

(1) Aircraft or motorboats; fire, insects, and diseases

Within wilderness areas designated by this chapter the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the Secretary of Agriculture deems desirable. In addition, such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.

(2) Mineral activities, surveys for mineral value

Nothing in this chapter shall prevent within national forest wilderness areas any activity, including prospecting, for the purpose of gathering information about mineral or other resources, if such activity is carried on in a manner compatible with the preservation of the wilderness environment. Furthermore, in accordance with such program as the Secretary of the Interior shall develop and conduct in consultation with the Secretary of Agriculture, such areas shall be surveyed on a planned, recurring basis consistent with the concept of wilderness preservation by the United States Geological Survey and the United States Bureau of Mines to determine the mineral values, if any, that may be present; and the results of such surveys shall be made available to the public and submitted to the President and Congress.

(3) Mining and mineral leasing laws; leases, permits, and licenses; withdrawal of minerals from appropriation and disposition

Notwithstanding any other provisions of this chapter, until midnight December 31, 1983, the United States mining laws and all laws pertaining to mineral leasing shall, to the same extent as applicable prior to September 3, 1964, extend to those national forest lands designated by this chapter as ''wilderness areas''; subject, however, to such reasonable regulations governing ingress and egress as may be prescribed by the Secretary of Agriculture consistent with the use of the land for mineral location and development and exploration, drilling, and production, and use of land for transmission lines, waterlines, telephone lines, or facilities necessary in exploring, drilling, producing, mining, and processing operations, including where essential the use of mechanized ground or air equipment and restoration as near as practicable of the surface of the land disturbed in performing prospecting, location, and, in oil and gas leasing, discovery work, exploration, drilling, and production, as soon as they have served their purpose. Mining locations lying within the boundaries of said wilderness areas shall be held and used solely for mining or processing operations and uses reasonably incident thereto; and hereafter, subject to valid existing rights, all patents issued under the mining laws of the United States affecting national forest lands designated by this chapter as wilderness areas shall convey title to the mineral deposits within the claim, together with the right to cut and use so much of the mature timber therefrom as may be needed in the extraction, removal, and beneficiation of the mineral deposits, if needed timber is not otherwise reasonably available, and if the timber is cut under sound principles of forest management as defined by the national forest rules and regulations, but each such patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except as otherwise expressly provided in this chapter: *Provided*, That, unless hereafter specifically authorized, no patent within wilderness areas designated by this chapter shall issue after December 31, 1983, except for the valid claims existing on or before December 31, 1983. Mining claims located after September 3, 1964, within the boundaries of wilderness areas designated by this chapter shall create no rights in excess of those rights which may be patented under the provisions of this subsection. Mineral leases, permits, and licenses covering lands within national forest wilderness areas designated by this chapter shall contain such reasonable stipulations as may be prescribed by the Secretary of Agriculture for the protection of the wilderness character of the land consistent with the use of the land for the purposes for which they are leased, permitted, or licensed. Subject to valid rights then existing, effective January 1, 1984, the minerals in lands designated by this chapter as wilderness areas are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(4) Water resources, reservoirs, and other facilities; grazing

Within wilderness areas in the national forests designated by this chapter, (1) the President may, within a specific area and in accordance with such regulations as he may deem desirable, authorize prospecting for water resources, the establishment and maintenance of reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development and use thereof, upon his determination that such use or uses in the specific area will better

serve the interests of the United States and the people thereof than will its denial; and (2) the grazing of livestock, where established prior to September 3, 1964, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.

(5) Commercial services

Commercial services may be performed within the wilderness areas designated by this chapter to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas.

(6) State water laws exemption

Nothing in this chapter shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(7) State jurisdiction of wildlife and fish in national forests

Nothing in this chapter shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests.

(Pub. L. 88–577, § 4, Sept. 3, 1964, 78 Stat. 893; Pub. L. 95–495, § 4(b), Oct. 21, 1978, 92 Stat. 1650; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000; Pub. L. 102–285, § 10(b), May 18, 1992, 106 Stat. 172.)

REFERENCES IN TEXT

Act of June 4, 1897, referred to in subsec. (a)(1), is act June 4, 1897, ch. 2, 30 Stat. 11, the Sundry Civil Appropriation Act for Fiscal Year 1898. For classification of that part of this Act classified to the Code, see Tables.

The Multiple-Use Sustained-Yield Act of 1960, referred to in subsec. (a)(1), is Pub. L. 86–517, June 12, 1960, 74 Stat. 215, as amended, which is classified generally to sections 528 to 531 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 528 of this title and Tables.

The Shipstead-Nolan Act, referred to in subsec. (a)(2), is act July 10, 1930, ch. 881, 46 Stat. 1020, which is classified to sections 577 to 577b of this title. For complete classification of this Act to the Code, see Short Title note set out under section 577 of this title and Tables.

The Thye-Blatnik Act, referred to in subsec. (a)(2), is act June 22, 1948, ch. 593, 62 Stat. 568, as amended, which is classified to sections 577c, 577d, and 577e to 577h of this title. For complete classification of this Act to the Code, see Short Title note set out under section 577 of this title and Tables.

The Humphrey-Thye-Blatnik-Andresen Act, referred to in subsec. (a)(2), is act June 22, 1956, ch. 425, 70 Stat. 326, as amended, which is classified to sections 577d–1, 577g–1, and 577h of this title. For complete classification of this Act to the Code, see Tables.

Act of June 8, 1906, referred to in subsec. (a)(3), is act June 8, 1906, ch. 3060, 34 Stat. 225, as amended, known as the ''Antiquities Act of 1906'', which is classified to sections 431, 432, and 433 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 431 of this title and Tables.

Act of August 21, 1935, referred to in subsec. (a)(3), is act Aug. 21, 1935, ch. 593, 49 Stat. 666, as amended, known as the ''Historic Sites, Buildings and Antiquities Act'', which is classified to sections 461 to 467 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

AMENDMENTS

1978—Subsec. (d)(5) to (8). Pub. L. 95–495 redesignated pars. (6) to (8) as (5) to (7), respectively. Former par. (5), which related to the management of the Boundary Waters Canoe Area, Superior National Forest, Minnesota, was struck out.

CHANGE OF NAME

''United States Geological Survey'' substituted for ''Geological Survey'' in subsec. (d)(2) pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of Title 43, Public Lands.

''United States Bureau of Mines'' substituted for ''Bureau of Mines'' in subsec. (d)(2) pursuant to section 10(b) of Pub. L. 102–285, set out as a note under section 1 of Title 30, Mineral Lands and Mining. For provisions relating to closure and transfer of functions of the United States Bureau of Mines, see Transfer of Functions note set out under section 1 of Title 30.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with system activities requiring coordination and approval under this chapter and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

LIVESTOCK GRAZING IN NATIONAL FOREST WILDERNESS AREAS

Pub. L. 96–560, title I, § 108, Dec. 22, 1980, 94 Stat. 3271, provided that: ''The Congress hereby declares that, without amending the Wilderness Act of 1964 [this chapter], with respect to livestock grazing in National Forest wilderness areas, the provisions of the Wilderness Act relating to grazing shall be interpreted and administered in accordance with the guidelines contained under the heading 'Grazing in National Forest Wilderness' in the House Committee Report (H. Report 96–617) accompanying this Act [Pub. L. 96–560].''

§ 1134. State and private lands within wilderness areas

(a) Access; exchange of lands; mineral interests restriction

In any case where State-owned or privately owned land is completely surrounded by national forest lands within areas designated by this chapter as wilderness, such State or private owner shall be given such rights as may be necessary to assure adequate access to such State-owned or privately owned land by such State or private owner and their successors in interest, or the State-owned land or privately owned land shall be exchanged for federally owned land in the same State of approximately equal value under authorities available to the Secretary of Agriculture: *Provided*, *however*, That the United

States shall not transfer to a State or private owner any mineral interests unless the State or private owner relinquishes or causes to be relinquished to the United States the mineral interest in the surrounded land.

(b) Customary means for ingress and egress to wilderness areas subject to mining claims or other occupancies

In any case where valid mining claims or other valid occupancies are wholly within a designated national forest wilderness area, the Secretary of Agriculture shall, by reasonable regulations consistent with the preservation of the area as wilderness, permit ingress and egress to such surrounded areas by means which have been or are being customarily enjoyed with respect to other such areas similarly situated.

(c) Acquisition of lands

Subject to the appropriation of funds by Congress, the Secretary of Agriculture is authorized to acquire privately owned land within the perimeter of any area designated by this chapter as wilderness if (1) the owner concurs in such acquisition or (2) the acquisition is specifically authorized by Congress.

(Pub. L. 88–577, § 5, Sept. 3, 1964, 78 Stat. 896.)

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 1135. Gifts, bequests, and contributions

(a) Acceptance by Secretary of Agriculture of land for preservation as wilderness; regulations

The Secretary of Agriculture may accept gifts or bequests of land within wilderness areas designated by this chapter for preservation as wilderness. The Secretary of Agriculture may also accept gifts or bequests of land adjacent to wilderness areas designated by this chapter for preservation as wilderness if he has given sixty days advance notice thereof to the President of the Senate and the Speaker of the House of Representatives. Land accepted by the Secretary of Agriculture under this section shall be come part of the wilderness area involved. Regulations with regard to any such land may be in accordance with such agreements, consistent with the policy of this chapter, as are made at the time of such gift, or such conditions, consistent with such policy, as may be included in, and accepted with, such bequest.

(b) Authorization to accept private contributions and gifts

The Secretary of Agriculture or the Secretary of the Interior is authorized to accept private contributions and gifts to be used to further the purposes of this chapter.

(Pub. L. 88–577, § 6, Sept. 3, 1964, 78 Stat. 896.)

§ 1136. Annual reports to Congress

At the opening of each session of Congress, the Secretaries of Agriculture and Interior shall jointly report to the President for transmission to Congress on the status of the wilderness system, including a list and descriptions of the areas in the system, regulations in effect, and other pertinent information, together with any recommendations they may care to make.

(Pub. L. 88–577, § 7, Sept. 3, 1964, 78 Stat. 896.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of this section relating to transmission to Congress of annual report on status of wilderness system, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and pages 48, 110, and 149 of House Document No. 103–7.

CHAPTER 24—CONSERVATION AND PROTECTION OF NORTH PACIFIC FUR SEALS

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SUBCHAPTER I—FUR SEAL MANAGEMENT

§ 1151. Definitions

(a) ''Commission'' means the North Pacific Fur Seal Commission established pursuant to article V of the Convention.

(b) ''Convention'' means the Interim Convention on the Conservation of North Pacific Fur Seals signed at Washington on February 9, 1957, as amended by the protocol signed in Washington on October 8, 1963; by the exchange of notes among the party governments which became effective on September 3, 1969; by the protocol signed in Washington on May 7, 1976; and by the protocol signed in Washington on October 14, 1980, by the parties.

(c) ''Cure'' or ''curing'' means the performance of those post-harvest activities traditionally performed on the Pribilof Islands, including cooling, washing, removal of blubber, soaking in brine, draining, treating with salt or boric acid, and packing in containers for shipment of fur seal skins.

(d) ''Fur Seal'' means the North Pacific Fur Seal, Callorhinus Ursinus.

(e) ''Import'' means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(f) ''Natives of the Pribilof Islands'' means any Aleuts who are permanent residents of the Pribilof Islands, or any organization or entity representing such natives.

(g) ''North Pacific Ocean'' means the waters of the Pacific Ocean north of the thirtieth parallel of north latitude, including the Bering, Okhotsk, and Japan Seas.

(h) ''Party'' or ''parties'' means the United States of America, Canada, Japan, and Russia (except that as used in subsection (b) of this section, ''party'' and ''parties'' refer to the Union of Soviet Socialist Republics).

(i) ''Person'' means any individual, partnership, corporation, trust, association or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

(j) ''Pribilof Islands'' means the islands of Saint Paul and Saint George, Walrus and Otter Islands, and Sea Lion Rock.

(k) ''Sealing'' means the taking of fur seals.

(*l*) ''Secretary'' means the Secretary of Commerce.

(m) ''Take'' or ''taking'' means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill.

(Pub. L. 89–702, title I, § 101, Nov. 2, 1966, 80 Stat. 1091; Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 835; Pub. L. 102–251, title III, § 303, Mar. 9, 1992, 106 Stat. 65; Pub. L. 103–199, title VI, § 602(1), Dec. 17, 1993, 107 Stat. 2327.)

AMENDMENT OF SECTION

Pub. L. 102–251, title III, §§ 303, 308, Mar. 9, 1992, 106 Stat. 65, 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, this section is amended by redesignating subsections (f) to (m) as (g) to (n), respectively, and by inserting after subsection (e) the following new subsection:

(f) ''Jurisdiction of the United States'' includes jurisdiction over the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.

AMENDMENTS

1993—Subsec. (h). Pub. L. 103–199 substituted ''Russia (except that as used in subsection (b) of this section, 'party' and 'parties' refer to the Union of Soviet Socialist Republics)'' for ''the Union of Soviet Socialist Republics''.

1983—Pub. L. 98–129 amended section generally, substituting provisions defining terms, previously defined in former sections 1159 and 1186 of this title, for provisions enumerating the activities prohibited under this chapter. See section 1152 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102–251, set out as a note under section 773 of this title.

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–562, title I, § 101, Dec. 23, 2000, 114 Stat. 2794, provided that: ''This title [enacting section 1169b of this title, amending sections 1161, 1165, and 1166 of this title, repealing section 1165 of this title, enacting provisions set out as notes under this section and section 1161 of this title, amending provisions set out as a note under section 1165 of this title, and repealing provisions set out as a note under section 1165 of this title] may be referred to as the 'Pribilof Islands Transition Act'.''

Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(e)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–244, provided that: ''This subsection [enacting section 1169b of this title, amending sections 1161, 1165, and 1166 of this title, repealing section 1165 of this title, enacting provisions set out as notes under this section and section 1161 of this title, amending provisions set out as a note under section 1165 of this title, and repealing provisions set out as a note under section 1165 of this title] may be referred to as the 'Pribilof Islands Transition Act'.''

SHORT TITLE OF 1983 AMENDMENT

Section 1 of Pub. L. 98–129 provided: ''That this Act [amending this chapter generally, sections 8332 and 8334 of Title 5, Government Organization and Employees, and section 450i of Title 25, Indians] may be cited as the 'Fur Seal Act Amendments of 1983'.''

SHORT TITLE

Pub. L. 89–702, §1, as added by Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(e)(6)(C)], Dec. 21, 2000, 114 Stat. 2763, 2763A–248, and Pub. L. 106–562, title I, §106(c), Dec. 23, 2000, 114 Stat. 2799, provided that: ''This Act [generally enacting this chapter, for complete classification, see Tables] may be cited as the 'Fur Seal Act of 1966'.''

§ 1152. Prohibitions

It is unlawful, except as provided in this chapter or by regulation of the Secretary, for any person or vessel subject to the jurisdiction of the United States to engage in the taking of fur seals in the North Pacific Ocean or on lands or waters under the jurisdiction of the United States, or to use any port or harbor or other place under the jurisdiction of the United States for any purpose connected in any way with such taking, or for any person to transport, import, offer for sale, or possess at any port or place or on any vessel, subject to the jurisdiction of the United States, fur seals or the parts thereof, including, but not limited to, raw, dressed, or dyed fur seal skins, taken contrary to the provisions of this chapter or the Convention, or for any person subject to the jurisdiction of the United States to refuse to permit, except within the Exclusive Economic Zone of the United States, a duly authorized official of Canada, Japan, or Russia to board and search any vessel which is outfitted for the harvesting of living marine resources and which is subject to the jurisdiction of the United States to determine whether such vessel is engaged in sealing contrary to the provisions of said Convention.

(Pub. L. 89–702, title I, §102, Nov. 2, 1966, 80 Stat. 1091; Pub. L. 98–129, §2, Oct. 14, 1983, 97 Stat. 836; Pub. L. 103–199, title VI, §602(2), Dec. 17, 1993, 107 Stat. 2327.)

AMENDMENTS

1993—Pub. L. 103–199 substituted ''Russia'' for ''the Union of Soviet Socialist Republics''.

1983—Pub. L. 98–129 amended section generally, substituting provisions enumerating the activities prohibited under this chapter, which were previously contained in section 1151 of this title, for provisions authorizing sealing by Aleuts, Eskimos, and Indians. See section 1153 of this title.

§ 1153. Sealing permitted by Aleuts, Eskimos, and Indians

(a) Indians, Aleuts, and Eskimos who dwell on the coasts of the North Pacific Ocean are permitted to take fur seals and dispose of their skins after the skins have been officially marked and certified by a person authorized by the Secretary: *Provided*, That the seals are taken for subsistence uses as defined in section 1379(f)(2) of this title, and only in canoes not transported by or used in connection with other vessels, and propelled entirely by oars, paddles, or sails, and manned by not more than five persons each, in the way hitherto practiced and without the use of firearms. This authority shall not apply to Indians, Aleuts, and Eskimos while they are employed by any person for the purpose of taking fur seals or are under contract to deliver the skins to any person.

(b) Indians, Aleuts, and Eskimos who live on the Pribilof Islands are authorized to take fur seals for subsistence purposes as defined in section 1379(f)(2) of this title, under such conditions as recommended by the Commission and accepted by the Secretary of State pursuant to regulations promulgated by the Secretary.

(Pub. L. 89–702, title I, §103, Nov. 2, 1966, 80 Stat. 1091; Pub. L. 98–129, §2, Oct. 14, 1983, 97 Stat. 836.)

AMENDMENTS

1983—Pub. L. 98–129 amended section generally, substituting provisions authorizing sealing by Aleuts, Eskimos, and Indians, which were previously contained in section 1152 of this title, for provisions authorizing scientific research on fur seal resources. See section 1154 of this title.

§ 1154. Scientific research on fur seal resources; use of fur seals for educational, scientific, or exhibition purposes

The Secretary shall (1) conduct such scientific research and investigations on the fur seal resources of the North Pacific Ocean as he deems necessary to carry out the obligations of the United States under the Convention, and (2) permit, subject to such terms and conditions as he deems desirable, the taking, transportation, importation, exportation, or possession of fur seals or their parts for educational, scientific, or exhibition purposes.

(Pub. L. 89–702, title I, §104, Nov. 2, 1966, 80 Stat. 1091; Pub. L. 98–129, §2, Oct. 14, 1983, 97 Stat. 836.)

AMENDMENTS

1983—Pub. L. 98–129 amended section generally, substituting provisions authorizing scientific research on fur seal resources, which were previously contained in section 1153 of this title, for provisions delineating the authority of the Secretary of Commerce. See section 1155 of this title.

§ 1155. Authority of Secretary of Commerce

(a) Regulations with respect to taking of fur seals on Pribilof Islands and on lands subject to United States jurisdiction

The Secretary shall prescribe such regulations with respect to the taking of fur seals on the Pribilof Islands and on lands subject to the jurisdiction of the United States as he deems necessary and appropriate for the conservation, management, and protection of the fur seal population, and to dispose of any fur seals seized or forfeited pursuant to this chapter, and to carry out the provisions of the Convention, and shall deliver to authorized agents of the parties such

fur seal skins as the parties are entitled to under the Convention.

(b) Agreements with public and private entities

The Secretary is authorized to enter into agreements with any public or private agency or person for the purpose of carrying out the provisions of the Convention and of this subchapter, including but not limited to the taking of fur seals on the Pribilof Islands, and the curing and marketing of the sealskins and other seal parts, and may retain the proceeds therefrom.

(c) Taking of fur seals on Saint Paul and Saint George Islands; preference; separate fund in Treasury

The Secretary shall give preference to the village corporations of Saint Paul and Saint George Islands established pursuant to section 1607 of title 43 for the taking of fur seals on the village corporations' respective islands, and the curing and marketing of the sealskins and other seal parts, and may retain the proceeds therefrom. Any proceeds therefrom will be deposited in a separate fund in the Treasury and will be available to the Secretary, subject to appropriations, for the purpose of this section. All seal harvests will be financed, to the extent possible, from proceeds collected in preceding years or unsold assets retained from harvests conducted in preceding years. In the event that such assets and proceeds are insufficient, as determined by the Secretary, to finance the seal harvest in accordance with the requirements of the Convention, there are authorized to be appropriated to the Secretary for fiscal year 1984, and for fiscal year 1985 and beyond if the Convention is extended by protocol signed by the parties and made effective as to the United States, such sums as may be necessary to carry out the harvest and curing on the Pribilof Islands. Such amounts as are determined by the Secretary to exceed amounts required to carry out this section shall be transferred to the General Fund of the Treasury.

(Pub. L. 89–702, title I, §105, Nov. 2, 1966, 80 Stat. 1092; Pub. L. 98–129, §2, Oct. 14, 1983, 97 Stat. 836.)

AMENDMENTS

1983—Pub. L. 98–129 amended section generally, substituting provisions delineating the authority of the Secretary of Commerce, which were previously contained in sections 1154 and 1185 of this title, for provisions which had set out enforcement steps. See section 1156 of this title.

§ 1156. Enforcement provisions

(a) Search of vessels; certificate of identification; exhibition to master

Any person authorized to enforce the provisions of this chapter who has reasonable cause to believe that any vessel outfitted for the harvesting of living marine resources and subject to the jurisdiction of any of the parties to the Convention is violating the provisions of article III of the Convention may, except within the areas in which another State exercises fisheries jurisdiction, board and search such vessel. Such person shall carry a special certificate of identification issued by the Secretary or Secretary of the department in which the Coast Guard is operating which shall be in English, Japanese, and Russian and which shall be exhibited to the master of the vessel upon request.

(b) Seizure; arrest; notice; delivery of vessel or person to authorized officials; custody

If, after boarding and searching such vessel, such person continues to have reasonable cause to believe that such vessel, or any person onboard, is violating said article, he may seize such vessel or arrest such person, or both. The Secretary of State shall, as soon as practicable, notify the party having jurisdiction over the vessel or person of such seizure or arrest.

The Secretary or the Secretary of the department in which the Coast Guard is operating, upon request of the Secretary of State, shall deliver the seized vessel or arrested person, or both, as promptly as practicable to the authorized officials of said party: *Provided*, That whenever said party cannot immediately accept such delivery, the Secretary or the Secretary of the department in which the Coast Guard is operating may, upon the request of the Secretary of State, keep the vessel or person in custody within the United States.

(c) Testimony of enforcement agents

At the request of said party, the Secretary or the Secretary of the department in which the Coast Guard is operating, shall direct the person authorized to enforce the provisions of this chapter to attend the trial as a witness in any case arising under said article or give testimony by deposition, and shall produce such records and files or copies thereof as may be necessary to establish the offense.

(Pub. L. 89–702, title I, §106, Nov. 2, 1966, 80 Stat. 1092; Pub. L. 98–129, §2, Oct. 14, 1983, 97 Stat. 837.)

AMENDMENTS

1983—Pub. L. 98–129 amended section generally, substituting provisions setting out enforcement steps, which were previously contained in section 1155 of this title, for provisions establishing the North Pacific Fur Seal Commission. See section 1157 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1157. North Pacific Fur Seal Commission; appointment of United States Commissioner, Deputy Commissioner, and Advisors; duties, compensation, and travel expenses

The President shall appoint to the Commission a United States Commissioner who shall serve at the pleasure of the President. The President may appoint one Native from each of the two inhabited Pribilof Islands to serve as Advisors to the Commissioner and as liaisons between the Commissioner and the Natives of the Pribilof Islands. The President may also appoint other interested parties as Advisors to the Commissioner. Such Advisors shall serve at the

pleasure of the President. The President may also appoint a Deputy United States Commissioner who shall serve at the pleasure of the President. The Deputy Commissioner shall be the principal adviser of the Commissioner, and shall perform the duties of the Commissioner in the case of his death, resignation, absence, or illness. The Commissioner, the Deputy Commissioner, and the Advisors shall receive no compensation for their services. The Commissioners may be paid traval[1] expenses and per diem in lieu of subsistence at the rates authorized by section 5703 of title 5 when engaged in the performance of their duties.

(Pub. L. 89–702, title I, § 107, Nov. 2, 1966, 80 Stat. 1093; Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 838.)

CODIFICATION

''Section 5703 of title 5'' substituted in text for ''section 5 of the Administrative Expense Act of 1946'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1983—Pub. L. 98–129 amended section generally, substituting provisions establishing the North Pacific Fur Seal Commission, which were previously contained in section 1156 of this title, for provisions empowering the Secretaries of State and Commerce to accept or reject recommendations made by the Commission. See section 1158 of this title.

ALTERNATE UNITED STATES COMMISSIONERS

Secretary of State authorized to designate Alternate United States Commissioners, see sections 2672a and 2672b of Title 22, Foreign Relations and Intercourse.

§ 1158. Acceptance or rejection by Secretaries of State and Commerce of Commission recommendations

The Secretary of State, with the concurrence of the Secretary, is authorized to accept or reject, on behalf of the United States, recommendations made by the Commission pursuant to article V of the Convention.

(Pub. L. 89–702, title I, § 108, Nov. 2, 1966, 80 Stat. 1093; Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 838.)

AMENDMENTS

1983—Pub. L. 98–129 amended section generally, substituting provisions empowering the Secretaries of State and Commerce to accept or reject recommendations made by the Commission, which were previously contained in section 1157 of this title, for provisions authorizing Federal agency consultation with and technical assistance to the Secretary of Commerce or the Commission. See section 1159 of this title.

§ 1159. Federal agency consultations with and technical assistance to Secretary of Commerce or Commission; reimbursement for assistance

The head of any Federal agency is authorized to consult with and provide technical assistance to the Secretary or the Commission whenever such assistance is needed and reasonably can be furnished in carrying out the provisions of this subchapter. Any Federal agency furnishing assistance hereunder may expend its own funds for such purposes, with or without reimbursement.

(Pub. L. 89–702, title I, § 109, Nov. 2, 1966, 80 Stat. 1093; Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 838.)

AMENDMENTS

1983—Pub. L. 98–129 amended section generally, substituting provisions authorizing Federal agency consultation with and technical assistance to the Secretary or the Commission, which were previously contained in section 1158 of this title, for provisions defining terms. See section 1151 of this title.

SUBCHAPTER II—ADMINISTRATION OF PRIBILOF ISLANDS

§ 1161. Administration of fur seal rookeries and other Federal real and personal property on Pribilof Islands

The Secretary shall administer the fur seal rookeries and other Federal real and personal property on the Pribilof Islands, with the exception of lands purchased by the U.S. Fish and Wildlife Service under section 1417 of the Alaska National Interest Lands Conservation Act (Public Law 96–487) or acquired or purchased by any other authority after October 14, 1983, and, in consultation with the Secretary of the Interior, shall ensure that activities on such property are consistent with the purposes of conserving, managing, and protecting the North Pacific fur seals and other wildlife and for other purposes consistent with that primary purpose.

(Pub. L. 89–702, title II, § 201, Nov. 2, 1966, 80 Stat. 1093; Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 838; Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 144(e)(6)(B)], Dec. 21, 2000, 114 Stat. 2763, 2763A–248; Pub. L. 106–562, title I, § 106(b), Dec. 23, 2000, 114 Stat. 2799.)

REFERENCES IN TEXT

Section 1417 of the Alaska National Interest Lands Conservation Act, referred to in text, is Pub. L. 96–487, title XIV, § 1417, Dec. 2, 1980, 94 Stat. 2500, which is not classified to the Code.

AMENDMENTS

2000—Pub. L. 106–554 and Pub. L. 106–562 amended text identically, substituting ''on such property'' for ''on such Islands''.

1983—Pub. L. 98–129 substituted provisions enumerating the steps to be followed by the Secretary of Commerce in administering the fur seal rookeries and the Federal real and personal property on the Pribilof Islands for provisions which had provided that: ''The Pribilof Islands shall continue to be administered as a special reservation by the Secretary of Commerce for the purposes of conserving, managing, and protecting the North Pacific fur seals and other wildlife, and for other purposes.''

PURPOSE

Pub. L. 106–562, title I, § 102, Dec. 23, 2000, 114 Stat. 2794, provided that: ''The purpose of this title [see Short Title of 2000 Amendments note set out under section 1151 of this title] is to complete the orderly withdrawal of the National Oceanic and Atmospheric Administration from the civil administration of the Pribilof Islands, Alaska.''

Substantially identical provisions were contained in Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 144(e)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–244.

TERMINATION OF RESPONSIBILITIES

Pub. L. 106–562, title I, § 105, Dec. 23, 2000, 114 Stat. 2796, provided that:

[1] So in original. Probably should be ''travel''.

''(a) FUTURE OBLIGATION.—

''(1) IN GENERAL.—The Secretary of Commerce shall not be considered to have any obligation to promote or otherwise provide for the development of any form of an economy not dependent on sealing on the Pribilof Islands, Alaska, including any obligation under section 206 of the Fur Seal Act of 1966 (16 U.S.C. 1166) or section 3(c)(1)(A) of Public Law 104–91 (16 U.S.C. 1165 note).

''(2) SAVINGS.—This subsection shall not affect any cause of action under section 206 of the Fur Seal Act of 1966 (16 U.S.C. 1166) or section 3(c)(1)(A) of Public Law 104–91 (16 U.S.C. 1165 note)—

''(A) that arose before the date of the enactment of this title [Dec. 23, 2000]; and

''(B) for which a judicial action is filed before the expiration of the 5-year period beginning on the date of the enactment of this title.

''(3) RULE OF CONSTRUCTION.—Nothing in this title [see Short Title of 2000 Amendments note set out under section 1151 of this title] shall be construed to imply that—

''(A) any obligation to promote or otherwise provide for the development in the Pribilof Islands of any form of an economy not dependent on sealing was or was not established by section 206 of the Fur Seal Act of 1966 (16 U.S.C. 1166), section 3(c)(1)(A) of Public Law 104–91 (16 U.S.C. 1165 note), or any other provision of law; or

''(B) any cause of action could or could not arise with respect to such an obligation.

''(4) CONFORMING AMENDMENT.—[Amended section 3(c)(1) of Pub. L. 104–91, set out as a note under section 1165 of this title.]

''(b) PROPERTY CONVEYANCE AND CLEANUP.—

''(1) IN GENERAL.—Subject to paragraph (2), there are terminated all obligations of the Secretary of Commerce and the United States to—

''(A) convey property under section 205 of the Fur Seal Act of 1966 (16 U.S.C. 1165); and

''(B) carry out cleanup activities, including assessment, response, remediation, and monitoring, except for postremedial measures such as monitoring and operation and maintenance activities, related to National Oceanic and Atmospheric Administration administration of the Pribilof Islands, Alaska, under section 3 of Public Law 104–91 (16 U.S.C. 1165 note) and the Pribilof Islands Environmental Restoration Agreement between the National Oceanic and Atmospheric Administration and the State of Alaska, signed January 26, 1996.

''(2) APPLICATION.—Paragraph (1) shall apply on and after the date on which the Secretary of Commerce certifies that—

''(A) the State of Alaska has provided written confirmation that no further corrective action is required at the sites and operable units covered by the Pribilof Islands Environmental Restoration Agreement between the National Oceanic and Atmospheric Administration and the State of Alaska, signed January 26, 1996, with the exception of postremedial measures, such as monitoring and operation and maintenance activities;

''(B) the cleanup required under section 3(a) of Public Law 104–91 (16 U.S.C. 1165 note) is complete;

''(C) the properties specified in the document referred to in subsection (a) of section 205 of the Fur Seal Act of 1966 (16 U.S.C. 1165(a)) can be unconditionally offered for conveyance under that section; and

''(D) all amounts appropriated under section 206(c)(1) of the Fur Seal Act of 1966 [16 U.S.C. 1166(c)(1)], as amended by this title, have been obligated.

''(3) FINANCIAL CONTRIBUTIONS FOR CLEANUP COSTS.—(A) On and after the date on which section 3(b)(5) of Public Law 104–91 (16 U.S.C. 1165 note) is repealed pursuant to subsection (c), the Secretary of Commerce may not seek or require financial contribution by or from any local governmental entity of the Pribilof Islands, any official of such an entity, or the owner of land on the Pribilof Islands, for cleanup costs incurred pursuant to section 3(a) of Public Law 104–91 (as in effect before such repeal), except as provided in subparagraph (B).

''(B) Subparagraph (A) shall not limit the authority of the Secretary of Commerce to seek or require financial contribution from any person for costs or fees to clean up any matter that was caused or contributed to by such person on or after March 15, 2000.

''(4) CERTAIN RESERVED RIGHTS NOT CONDITIONS.—For purposes of paragraph (2)(C), the following requirements shall not be considered to be conditions on conveyance of property:

''(A) Any requirement that a potential transferee must allow the National Oceanic and Atmospheric Administration continued access to the property to conduct environmental monitoring following remediation activities.

''(B) Any requirement that a potential transferee must allow the National Oceanic and Atmospheric Administration access to the property to continue the operation, and eventual closure, of treatment facilities.

''(C) Any requirement that a potential transferee must comply with institutional controls to ensure that an environmental cleanup remains protective of human health or the environment that do not unreasonably affect the use of the property.

''(D) Valid existing rights in the property, including rights granted by contract, permit, right-of-way, or easement.

''(E) The terms of the documents described in subsection (d)(2).

''(c) REPEALS.—Effective on the date on which the Secretary of Commerce makes the certification described in subsection (b)(2), the following provisions are repealed:

''(1) Section 205 of the Fur Seal Act of 1966 (16 U.S.C. 1165).

''(2) Section 3 of Public Law 104–91 (16 U.S.C. 1165 note).

''(d) SAVINGS.—

''(1) IN GENERAL.—Nothing in this title shall affect any obligation of the Secretary of Commerce, or of any Federal department or agency, under or with respect to any document described in paragraph (2) or with respect to any lands subject to such a document.

''(2) DOCUMENTS DESCRIBED.—The documents referred to in paragraph (1) are the following:

''(A) The Transfer of Property on the Pribilof Islands: Description, Terms, and Conditions, dated February 10, 1984, between the Secretary of Commerce and various Pribilof Island entities.

''(B) The Settlement Agreement between Tanadgusix Corporation and the City of St. Paul, dated January 11, 1988, and approved by the Secretary of Commerce on February 23, 1988.

''(C) The Memorandum of Understanding between Tanadgusix Corporation, Tanaq Corporation, and the Secretary of Commerce, dated December 22, 1976.

''(e) DEFINITIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the definitions set forth in section 101 of the Fur Seal Act of 1966 (16 U.S.C. 1151) shall apply to this section.

''(2) NATIVES OF THE PRIBILOF ISLANDS.—For purposes of this section, the term 'Natives of the Pribilof Islands' includes the Tanadgusix Corporation, the St. George Tanaq Corporation, and the city governments and tribal councils of St. Paul and St. George, Alaska.''

Substantially similar provisions were contained in Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(e)(5)], Dec. 21, 2000, 114 Stat. 2763, 2763A–246.

§ 1162. Authority of Secretary to operate, maintain, and repair Government-owned property; necessary facilities, services, and equipment for Federal employees and dependents

In carrying out the provisions of this subchapter, the Secretary is authorized—

(1) to operate, maintain, and repair such Government-owned property, both real and personal, and other facilities held by the Secretary on the Pribilof Islands as may be necessary; and

(2) to provide the employees of the Department of Commerce and other Federal agencies and their dependents, at reasonable rates to be determined by the Secretary, with such facilities, services, and equipment as he deems necessary, including, but not limited to, food, fuel, shelter, and transportation.

(Pub. L. 89–702, title II, § 202, Nov. 2, 1966, 80 Stat. 1093; Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 838.)

AMENDMENTS

1983—Pub. L. 98–129 substituted provisions authorizing the Secretary to operate, maintain, and repair such Government-owned property, both real and personal, and other facilities held by the Secretary on the Pribilof Islands as may be necessary, and to provide the employees of the Department of Commerce and other Federal agencies and their dependents, at reasonable rates to be determined by the Secretary, with such facilities, services, and equipment as he deems necessary, including, but not limited to, food, fuel, shelter, and transportation, for provisions authorizing the Secretary to enter into contracts or agreements or leases with, or to issue permits to, public or private agencies or persons, including the natives of the Pribilof Islands, in accordance with such terms and conditions as he deemed desirable for the use of any Government-owned real or personal property located on the islands, for the furnishing of accommodations for tourists and other visitors, for educational, recreational, residential, or commercial purposes, for the operation, maintenance, and repair of Government-owned facilities and utilities, for the transportation and storage of food and other supplies, and for such other purposes as the Secretary deemed desirable.

§ 1163. Responsibility of Alaska to meet educational needs of Pribilof Islands citizens

The State of Alaska will be responsible for meeting the educational needs of the citizens of the Pribilof Islands.

(Pub. L. 89–702, title II, § 203, Nov. 2, 1966, 80 Stat. 1093; Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 838.)

AMENDMENTS

1983—Pub. L. 98–129 substituted provisions directing that the State of Alaska be responsible for meeting the educational needs of the citizens of the Pribilof Islands for provisions which had authorized the Secretary (1) to provide, with or without reimbursement, the natives of the Pribilof Islands with such facilities, services, and equipment as he deemed necessary, including, but not limited to food, fuel, shelter, transportation, and education, (2) to provide the employees of the Department of Commerce and other Federal agencies and their dependents, and tourists and other persons, at reasonable rates to be determined by the Secretary, with such facilities, services, and equipment as he deemed necessary, including, but not limited to, food, fuel, shelter, transportation, and education, (3) to purchase, transport, store, and distribute such supplies and equipment to carry out the provisions of this section as the Secretary deemed necessary, and (4) to purchase, construct, operate, and maintain the facilities necessary to carry out the provisions of this section.

§ 1164. Responsibility of Secretary of Health and Human Services to provide medical and dental care to Pribilof Islands natives

The Secretary of Health and Human Services shall provide medical and dental care to the Natives of the Pribilof Islands with or without reimbursement, as provided by other law. He is authorized to provide such care to Federal employees and their dependents and tourists and other persons in the Pribilof Islands at reasonable rates to be determined by him. He may purchase, lease, construct, operate, and maintain such facilities, supplies, and equipment as he deems necessary to carry out the provisions of this section; and the costs of such items, including medical and dental care, shall be charged to the budget of the Secretary of Health and Human Services. Nothing in this chapter shall be construed as superseding or limiting the authority and responsibility of the Secretary of Health and Human Services under the Act of August 5, 1954, as amended [42 U.S.C. 2001 et seq.], or any other law with respect to medical and dental care of natives or other persons in the Pribilof Islands.

(Pub. L. 89–702, title II, § 204, Nov. 2, 1966, 80 Stat. 1094; Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 839.)

REFERENCES IN TEXT

Act of August 5, 1954, as amended, referred to in text, is act Aug. 5, 1954, ch. 658, 68 Stat. 674, as amended, which is classified generally to subchapter I (§ 2001 et seq.) of chapter 22 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1983—Pub. L. 98–129 substituted provisions formerly set out in section 1165 of this title relating to medical and dental care of the natives of the Pribilof Islands for provisions which had authorized the Secretary to enter into an agreement with the Governor of the State of Alaska pursuant to which the State assumed full responsibility for furnishing education to the natives of the Pribilof Islands and also to enter into agreements with said Governor pursuant to which the State furnished to such natives adequate food, shelter, transportation, and such other facilities, services, and equipment as the Secretary deemed necessary, with the State of Alaska, in assuming such responsibility, to meet the educational needs of the said natives in the same manner as the State met the educational needs of all of its citizens, including the furnishing of necessary facilities therefor.

§ 1165. Disposal of Federal property on Pribilof Islands

(a) Submission to Congress of property transfer document

Any provision of law relating to the transfer and disposal of Federal property to the contrary notwithstanding, the Secretary, after consultation with the Secretary of the department in which the Coast Guard is operating, is authorized to bargain, grant, sell or otherwise convey, on such terms as he deems to be in the best interests of the United States and in furtherance of the purposes of this chapter, any and all right, title, and interest of the United States in

and to the property, both real and personal, held by the Secretary on the Pribilof Islands: *Provided*, That such property is specified in a document entitled ''Transfer of Property on the Pribilof Islands: Descriptions, Terms and Conditions,'' which is submitted to the Congress on or before October 31, 1983.

(b) Contents of property transfer document

The property transfer document described in subsection (a) of this section shall include, but need not be limited to—

(1) a description of each conveyance;

(2) the terms to be imposed on each conveyance;

(3) designation of the recipient of each conveyance;

(4) a statement noting acceptance of each conveyance, including the terms, if any, under which it is accepted; and

(5) an identification of all Federal property to be retained by the Federal Government on the Pribilof Islands to meet its responsibilities as described in this chapter and under the Convention.

(c) Report to Congress on conveyed and retained properties

Not later than 3 months after December 23, 2000, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report that includes—

(1) a description of all property specified in the document referred to in subsection (a) of this section that has been conveyed under that subsection;

(2) a description of all Federal property specified in the document referred to in subsection (a) of this section that is going to be conveyed under that subsection; and

(3) an identification of all Federal property on the Pribilof Islands that will be retained by the Federal Government to meet its responsibilities under this chapter, the Convention, and any other applicable law.

(d) Memorandum of Understanding

A Memorandum of Understanding shall be entered into by the Secretary, a representative of the local governmental authority on each Island, the trustee or trustees, and the appropriate officer of the State of Alaska setting forth the respective responsibilities of the Federal Government, the Trust, and the State regarding—

(1) application of Federal retirement benefits, severance pay, and insurance benefits with respect to Natives of the Pribilof Islands;

(2) funding to be allocated by the State of Alaska for the construction of boat harbors on St. Paul and St. George Islands;

(3) assumption of the State of Alaska of traditional State responsibilities for facilities and services on such islands in accordance with applicable laws and regulations;

(4) preservation of wildlife resources within the Secretary's jurisdiction;

(5) continued activities relating to the implementation of the Convention;

(6) oversight of the operation of the Trust established by section 1166(a)[1] of this title to further progress toward creation of a stable, diversified, and enduring economy not dependent on commercial fur sealing;

(7) the cooperation of government agencies, rendered through existing programs, in assisting with an orderly transition from Federal management and the creation of a private enterprise economy on the Pribilof Islands as described in this chapter; and

(8) such other matters as may be necessary and appropriate for carrying out the purposes of the chapter, including the assumption of responsibilities to ensure an orderly transition from Federal management of the Pribilof Islands.

The Memorandum shall be submitted to Congress on or before October 31, 1983.

(e) Taxation

The grant, sale, transfer or conveyance of any real or personal property pursuant to this section shall not be subject to any form of Federal, State or local taxation. The basis for computing gain or loss on subsequent sale or disposition of such real or personal property for purposes of any Federal, State or local tax imposed on, or measured by revenue shall be the fair market value of such real or personal property at the time of receipt.

(f) Agreements with governmental agencies and third parties

In carrying out the purposes of this chapter, the Secretary is authorized to enter into agreements, including but not limited to land exchange agreements with other Departments and Agencies of both the State and Federal Governments, and with third parties, notwithstanding any provision of law relating to the transfer and disposal of Federal property to the contrary; except that the authority of the Secretary of the Interior regarding exchanges involving lands in the National Wildlife Refuge System on October 14, 1983, is not affected by this section.

(Pub. L. 89–702, title II, §205, Nov. 2, 1966, 80 Stat. 1094; Pub. L. 98–129, §2, Oct. 14, 1983, 97 Stat. 839; Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(e)(4)], Dec. 21, 2000, 114 Stat. 2763, 2763A–245; Pub. L. 106–562, title I, §104, Dec. 23, 2000, 114 Stat. 2796.)

REPEAL OF SECTION

Pub. L. 106–562, title I, §105(c), Dec. 23, 2000, 114 Stat. 2798, provided that, effective on the date on which the Secretary of Commerce makes the certification described in Pub. L. 106–562, §105(b)(2), set out in a Termination of Responsibilities note under section 1161 of this title, this section is repealed.

Substantially identical provisions repealing this section were contained in Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(e)(5)(C)], Dec. 21, 2000, 114 Stat. 2763, 2763A–247.

REFERENCES IN TEXT

December 23, 2000, referred to in subsec. (c), was in the original ''the date of the enactment of the Pribilof

[1] See References in Text note below.

Islands Transition Act'' which was translated as referring to the date of enactment of title I of Pub. L. 106–562. Section 1(a)(4) [div. B, title I, §144(e)] of Pub. L. 106–554, which was approved Dec. 21, 2000, is also known as the ''Pribilof Islands Transition Act''. See Short Title of 2000 Amendments notes under section 1151 of this title.

Section 1166(a) of this title, referred to in subsec. (d)(6), was amended generally by Pub. L. 106–554 and Pub. L. 106–562, and, as so amended, no longer contains provisions relating to establishment of a Trust.

AMENDMENTS

2000—Subsec. (c). Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(e)(4)(A)], and Pub. L. 106–562, §104(1), generally amended subsec. (c) identically, substituting present provisions for provisions which read as follows: ''Within 60 days of the transfer of real or personal property specified in the document described in subsection (a) of this section, the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate shall be given a report prepared by the Secretary stating the fair market value at the time of the transfer of all real and personal property conveyed.''

Subsec. (g). Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(e)(4)(B)], and Pub. L. 106–562, §104(2), struck out subsec. (g) which read as follows: ''The Secretary shall submit to Congress a report, no later than October 1, 1983, providing information on the status of the negotiations for concluding the documents described in subsections (a) and (d) of this section.''

1983—Pub. L. 98–129 amended section generally, substituting provisions relating to the disposal of Federal property on the Pribilof Islands for provisions relating to the medical and dental care of Pribilof Islands natives. See section 1164 of this title.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

PRIBILOF ISLANDS ENVIRONMENTAL CLEANUP

Pub. L. 104–91, §3, Jan. 6, 1996, 110 Stat. 8, as amended by Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(e)(5)(A)(iv), (6)(A), (7)], Dec. 21, 2000, 114 Stat. 2763, 2763A–246, 2763A–248; Pub. L. 106–562, title I, §§105(a)(4), 106(a), 107, Dec. 23, 2000, 114 Stat. 2797, 2799; Pub. L. 108–447, div. B, title II, §212, Dec. 8, 2004, 118 Stat. 2884, provided that:

''(a) IN GENERAL.—The Secretary of Commerce shall, subject to the availability of appropriations provided for the purposes of this section, clean up landfills, wastes, dumps, debris, storage tanks, property, hazardous or unsafe conditions, and contaminants, including petroleum products and their derivatives, left by the National Oceanic and Atmospheric Administration on lands which it and its predecessor agencies abandoned, quitclaimed, or otherwise transferred or are obligated to transfer, to local entities or residents on the Pribilof Islands, Alaska, pursuant to the Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.), as amended, or other applicable law.

''(b) OBLIGATIONS OF SECRETARY.—In carrying out cleanup activities under subsection (a), the Secretary of Commerce shall—

''(1) to the maximum extent practicable, execute agreements with the State of Alaska, and affected local governments, entities, and residents eligible to receive conveyance of lands under the Fur Seal Act of 1966 (16 U.S.C. 1161 et seq.) [16 U.S.C. 1151 et seq.] or other applicable law;

''(2) manage such activities with the minimum possible overhead, delay, and duplication of State and local planning and design work;

''(3) receive approval from the State of Alaska for agreements described in paragraph (1) where such activities are required by State law;

''(4) receive approval from affected local entities or residents before conducting such activities on their property; and

''(5) not seek or require financial contributions by or from local entities or landowners.

''(c) RESOLUTION OF FEDERAL RESPONSIBILITIES.—(1) Within 9 months after the date of enactment of this section [Jan. 6, 1996], and after consultation with the Secretary of the Interior, the State of Alaska, and local entities and residents of the Pribilof Islands, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives, a report proposing necessary actions by the Secretary of Commerce and Congress to resolve all claims with respect to, and permit the final implementation, fulfillment and completion of—

''(A) the land conveyance entitlements of local entities and residents of the Pribilof Islands under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

''(B) the provisions of this section; and

''(C) any other matters which the Secretary deems appropriate.

''(2) The report required under paragraph (1) shall include the estimated costs of all actions, and shall contain the statements of the Secretary of Commerce, the Secretary of the Interior, any statement submitted by the State of Alaska, and any statements of claims or recommendations submitted by local entities and residents of the Pribilof Islands.

''[(d) Redesignated as section 212 of Pub. L. 89–702, and transferred to section 1169b of this title.]

''(e) DEFINITION.—For the purposes of this section, the term 'clean up' means the planning and execution of remediation actions for lands described in subsection (a) and the redevelopment of landfills to meet statutory requirements.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated $10,000,000 for each of fiscal years 2001, 2002, 2003, 2004, 2005, 2006, and 2007 for the purposes of carrying out this section.

''(2) LIMITATION.—None of the funds authorized by this subsection may be expended for the purpose of cleaning up or remediating any landfills, wastes, dumps, debris, storage tanks, property, hazardous or unsafe conditions, or contaminants, including petroleum products and their derivatives, left by the Department of Defense or any of its components on lands on the Pribilof Islands, Alaska.

''(g) LOW-INTEREST LOAN PROGRAM.—

''(1) CAPITALIZATION OF REVOLVING FUND.—Of amounts authorized under subsection (f) for each of fiscal years 2001, 2002, 2003, 2004, and 2005, the Secretary may provide to the State of Alaska up to $2,000,000 per fiscal year to capitalize a revolving fund to be used by the State for loans under this subsection.

''(2) LOW-INTEREST LOANS.—The Secretary shall require that any revolving fund established with amounts provided under this subsection shall be used only to provide low-interest loans to Natives of the Pribilof Islands to assess, respond to, remediate, and monitor contamination from lead paint, asbestos, and petroleum from underground storage tanks.

''(3) NATIVES OF THE PRIBILOF ISLANDS DEFINED.—The definitions set forth in section 101 of the Fur

Seal Act of 1966 (16 U.S.C. 1151) shall apply to this section, except that the term 'Natives of the Pribilof Islands' includes the Tanadgusix and Tanaq Corporations.

''(4) REVERSION OF FUNDS.—Before the Secretary may provide any funds to the State of Alaska under this section, the State of Alaska and the Secretary must agree in writing that, on the last day of fiscal year 2011, and of each fiscal year thereafter until the full amount provided to the State of Alaska by the Secretary under this section has been repaid to the United States, the State of Alaska shall transfer to the Treasury of the United States monies remaining in the revolving fund, including principal and interest paid into the revolving fund as repayment of loans.''

[Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(e)(5)(A)(iv), (6)(A), (7)], and Pub. L. 106–562, §§105(a)(4), 106(a), 107, made substantially identical amendments to section 3 of Pub. L. 104–91, set out above. The text of subsecs. (f) and (g) of section 3 is based on amendments by Pub. L. 106–562.]

[Pub. L. 106–562, title I, §105(c), Dec. 23, 2000, 114 Stat. 2798, provided that, effective on the date on which the Secretary of Commerce makes the certification described in Pub. L. 106–562, §105(b)(2), set out in a Termination of Responsibilities note under section 1161 of this title, section 3 of Pub. L. 104–91, set out above, is repealed. Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(e)(5)(C)], Dec. 21, 2000, 114 Stat. 2763, 2763A–247, enacted a provision substantially identical to Pub. L. 106–562, §105(c).]

§ 1166. Financial assistance

(a) Grant authority

(1) In general

Subject to the availability of appropriations, the Secretary shall provide financial assistance to any city government, village corporation, or tribal council of St. George, Alaska, or St. Paul, Alaska.

(2) Use for matching

Notwithstanding any other provision of law relating to matching funds, funds provided by the Secretary as assistance under this subsection may be used by the entity as non-Federal matching funds under any Federal program that requires such matching funds.

(3) Restriction on use

The Secretary may not use financial assistance authorized by this chapter—

(A) to settle any debt owed to the United States;

(B) for administrative or overhead expenses; or

(C) for contributions sought or required from any person for costs or fees to clean up any matter that was caused or contributed to by such person on or after March 15, 2000.

(4) Funding instruments and procedures

In providing assistance under this subsection the Secretary shall transfer any funds appropriated to carry out this section to the Secretary of the Interior, who shall obligate such funds through instruments and procedures that are equivalent to the instruments and procedures required to be used by the Bureau of Indian Affairs pursuant to title IV of the Indian Self-Determination and Education Assistance Act [25 U.S.C. 458aa et seq.].

(5) Pro rata distribution of assistance

In any fiscal year for which less than all of the funds authorized under subsection (c)(1) of this section are appropriated, such funds shall be distributed under this subsection on a pro rata basis among the entities referred to in subsection (c)(1) of this section in the same proportions in which amounts are authorized by that subsection for grants to those entities.

(b) Solid waste assistance

(1) In general

Subject to the availability of appropriations, the Secretary shall provide assistance to the State of Alaska for designing, locating, constructing, redeveloping, permitting, or certifying solid waste management facilities on the Pribilof Islands to be operated under permits issued to the City of St. George and the City of St. Paul, Alaska, by the State of Alaska under section 46.03.100 of the Alaska Statutes.

(2) Transfer

The Secretary shall transfer any appropriations received under paragraph (1) to the State of Alaska for the benefit of rural and Native villages in Alaska for obligation under section 1263a of title 33, except that subsection (b) of that section shall not apply to those funds.

(3) Limitation

In order to be eligible to receive financial assistance under this subsection, not later than 180 days after December 23, 2000, each of the Cities of St. Paul and St. George shall enter into a written agreement with the State of Alaska under which such City shall identify by its legal boundaries the tract or tracts of land that such City has selected as the site for its solid waste management facility and any supporting infrastructure.

(c) Authorization of appropriations

There are authorized to be appropriated to the Secretary—

(1) for assistance under subsection (a) of this section, for fiscal years 2001, 2002, 2003, 2004, 2005, 2006, and 2007 a total not to exceed—

(A) $9,000,000, for grants to the City of St. Paul;

(B) $6,300,000, for grants to the Tanadgusix Corporation;

(C) $1,500,000, for grants to the St. Paul Tribal Council;

(D) $6,000,000, for grants to the City of St. George;

(E) $4,200,000, for grants to the St. George Tanaq Corporation; and

(F) $1,000,000, for grants to the St. George Tribal Council; and

(2) for assistance under subsection (b) of this section, for fiscal years 2001, 2002, 2003, 2004, and 2005 a total not to exceed—

(A) $6,500,000 for the City of St. Paul; and

(B) $3,500,000 for the City of St. George.

(d) Limitation on use of assistance for lobbying activities

None of the funds authorized by this section may be available for any activity a purpose of which is to influence legislation pending before the Congress, except that this subsection shall not prevent officers or employees of the United States or of its departments, agencies, or commissions from communicating to Members of

Congress, through proper channels, requests for legislation or appropriations that they consider necessary for the efficient conduct of public business.

(e) Immunity from liability

Neither the United States nor any of its agencies, officers, or employees shall have any liability under this chapter or any other law associated with or resulting from the designing, locating, contracting for, redeveloping, permitting, certifying, operating, or maintaining any solid waste management facility on the Pribilof Islands as a consequence of—

(1) having provided assistance to the State of Alaska under subsection (b) of this section; or

(2) providing funds for, or planning, constructing, or operating, any interim solid waste management facilities that may be required by the State of Alaska before permanent solid waste management facilities constructed with assistance provided under subsection (b) of this section are complete and operational.

(f) Report on expenditures

Each entity which receives assistance authorized under subsection (c) of this section shall submit an audited statement listing the expenditure of that assistance to the Committee on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Appropriations and the Committee on Commerce, Science, and Transportation of the Senate, on the last day of fiscal years 2002, 2004, and 2006.

(g) Congressional intent

Amounts authorized under subsection (c) of this section are intended by Congress to be provided in addition to the base funding appropriated to the National Oceanic and Atmospheric Administration in fiscal year 2000.

(Pub. L. 89–702, title II, § 206, Nov. 2, 1966, 80 Stat. 1094; Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 840; Pub. L. 100–711, § 9, Nov. 23, 1988, 102 Stat. 4772; Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1931; Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 144(e)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–244; Pub. L. 106–562, title I, § 103, Dec. 23, 2000, 114 Stat. 2794; Pub. L. 109–59, title IV, § 4403, Aug. 10, 2005, 119 Stat. 1775.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (a)(4), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended. Title IV of the Act is classified generally to part D (§ 458aa et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

AMENDMENTS

2005—Subsec. (c). Pub. L. 109–59, § 4403(1), struck out ''for fiscal years 2001, 2002, 2003, 2004, and 2005'' after ''Secretary'' in introductory provisions.

Subsec. (c)(1). Pub. L. 109–59, § 4403(2), inserted '', for fiscal years 2001, 2002, 2003, 2004, 2005, 2006, and 2007'' after ''subsection (a) of this section'' in introductory provisions.

2000—Pub. L. 106–562 amended section generally, inserting section catchline and subsec. and par. headings and reenacting substantially identical text.

Pub. L. 106–554 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (h) containing provisions establishing the Pribilof Islands Trust for the benefit of natives of the Pribilof Islands and relating to the Trust's administration, funding, distributions, trust instrument, taxation, interest and proceeds, appropriations, and annual report to Congress.

1990—Subsec. (e)(3). Pub. L. 101–512 added par. (3).

1988—Subsec. (e)(1). Pub. L. 100–711 authorized appropriations for fiscal years 1989 and 1990 to fund the Saint Paul Island Trust, and authorized appropriations for fiscal year 1990 to fund the Saint George Trust.

1983—Pub. L. 98–129 amended section generally, substituting provisions for the creation and functioning of a Pribilof Islands Trust for provisions which authorized the Secretary to set apart land on Saint Paul Island for a townsite and to aid in the development of a municipal government therefor.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 1167. Leases, permits, agreements, and contracts with public or private agencies or persons

The Secretary is authorized to enter into agreements or contracts or leases with, or to issue permits to, any public or private agency or person for carrying out the provisions of the Convention or this chapter.

(Pub. L. 89–702, title II, § 207, Nov. 2, 1966, 80 Stat. 1095; Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 842.)

AMENDMENTS

1983—Pub. L. 98–129 amended section generally, substituting provisions authorizing the Secretary to enter into agreements or contracts or leases with, or to issue permits to, any public or private agency or person for carrying out the provisions of the Convention or this chapter for provisions which had set a fine of not more than $500 or imprisonment for not more than six months, or both, for violating regulations of the Secretary relating to the use and management of the Pribilof Islands or the protection or conservation of fur seals, wildlife, or other natural resources.

§ 1168. Civil service retirement benefits

(a) Credit for services performed by natives

Service by natives of the Pribilof Islands engaged in the taking and curing of fur seal skins and other activities in connection with the administration of such islands prior to January 1, 1950, as determined by the Secretary based on records available to him, shall be considered for purposes of credit under subchapter III of chapter 83 of title 5 as civilian service performed by an employee, as defined in said subchapter.

(b) Adjustment of annuities

The annuity of any person or the annuity of the survivor of any person who shall have performed service described in subsection (a) of this section, and who, prior to November 2, 1966, died or shall have been retired on annuity payable from the civil service retirement and disability fund, shall, upon application filed by the annuitant within one year after November 2, 1966, be adjusted, effective as of the first day of the month immediately following November 2, 1966, so that the amount of the annuity shall be the

same as if such subsection had been in effect at the time of such person's retirement or death.

(c) Nonentitlement to lump-sum benefits

In no case shall credit for the service described in subsection (a) of this section entitle a person to the benefits of section 8342(h) of title 5.

(d) Reimbursement from Operations, Research, and Facilities Account of National Oceanic and Atmospheric Administration in Department of Commerce

Notwithstanding any other provisions of this chapter or any other law, benefits under subchapter III of chapter 83 of title 5 made available by reason of the provisions of this section shall be paid from the civil service retirement and disability fund subject to reimbursement to such fund from the Operations, Research, and Facilities Account of the National Oceanic and Atmospheric Administration in the Department of Commerce, for the purpose of compensating said retirement fund for the cost, as determined by the Director of the Office of Personnel Management during each fiscal year, of benefits provided by this section.

(Pub. L. 89–702, title II, § 208, Nov. 2, 1966, 80 Stat. 1096; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3784; Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 842.)

CODIFICATION

''Subchapter III of chapter 83 of title 5'' substituted for ''the Civil Service Retirement Act, as amended'' in subsec. (a) and for ''the Civil Service Retirement Act'' in subsec. (d), and ''section 8342(h) of title 5'' substituted for ''section 11(h) of the Civil Service Retirement Act'' in subsec. (c) on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1983—Subsecs. (a) to (c). Pub. L. 98–129 reenacted subsecs. (a) to (c) without change.

Subsec. (d). Pub. L. 98–129 reenacted subsec. (d) without change other than the substitution of ''subject to reimbursement to such fund from the Operations, Research, and Facilities Account of the National Oceanic and Atmospheric Administration in the Department of Commerce, for the purpose of compensating said retirement fund for the cost, as determined by the Civil Service Commission during each fiscal year, of benefits provided by this section'' for ''subject to reimbursement to such fund from the gross receipts of the Pribilof Islands fund, established in section 1187 of this title, for the purpose of compensating said retirement fund for the cost, as determined by the Civil Service Commission during each fiscal year, of benefits provided by this section. This reimbursement to the civil service retirement fund shall be considered a cost of administering the fur seal program''.

TRANSFER OF FUNCTIONS

''Director of the Office of Personnel Management'' substituted for ''Civil Service Commission'' in subsec. (d) pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 1169. Regulations

The Secretary is authorized to prescribe such regulations as he deems necessary to carry out the provisions of this subchapter.

(Pub. L. 89–702, title II, § 211, as added Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 844.)

§ 1169a. Annuities and survivor annuities; recomputation

(a)(1)[1] An annuity or survivor annuity based on the service of an employee or Member who performed service described in the second paragraph (13)[2] of subsection (b) or subsection (*l*)(1)(C) of section 8332 of title 5, as added by subsections (b) and (e), respectively, of section 209 of this Act [Pub. L. 89–702], shall, upon application to the Office of Personnel Management, be recomputed in accordance with the second paragraph (13) of subsection (b) and subsection (*l*), respectively, of such section 8332, regardless of whether the employee or Member retires before, on, or after October 14, 1983.

(2) Any recomputation of annuity under paragraph (1) of this subsection shall apply with respect to months beginning more than 30 days after the date on which application for such recomputation is received by the Office.

(Pub. L. 89–702, title II, § 212, as added Pub. L. 98–369, div. B, title II, § 2208(b), July 18, 1984, 98 Stat. 1061.)

REFERENCES IN TEXT

The second paragraph (13) of subsection (b) of section 8332 of title 5, referred to in subsec. (a)(1), relates to service performed by a Native of the Pribilof Islands. That par. (13) was added by subsec. (b) of section 209 of Pub. L. 89–702 (as added by section 2 of Pub. L. 98–129) and is set out in the Code as the first par. (13) of subsec. (b) of section 8332 of Title 5, Government Organization and Employees.

CODIFICATION

Another section 212 of Pub. L. 89–702 is classified to section 1169b of this title.

EFFECTIVE DATE

Section 2208(c) of Pub. L. 98–369 provided that: ''The amendments made by this section [enacting this section and amending section 8332 of Title 5, Government Organization and Employees] shall take effect as of October 14, 1983.''

§ 1169b. Use of local entities

Notwithstanding any other law to the contrary, the Secretary of Commerce shall, to the maximum extent practicable, carry out activities under subsection (a)[1] and fulfill other obligations under Federal and State law relating to the Pribilof Islands, through grants or other agreements with local entities and residents of the Pribilof Islands, unless specialized skills are needed for an activity, and the Secretary specifies in writing that such skills are not available through local entities and residents of the Pribilof Islands.

(Pub. L. 89–702, title II, § 212, as added Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 144(e)(6)(A)(ii)],

[1] So in original. No subsec. (b) has been enacted.

[2] See References in Text note below.

[1] See References in Text note below.

Dec. 21, 2000, 114 Stat. 2763, 2763A–248; Pub. L. 106–562, title I, §106(a)(2), Dec. 23, 2000, 114 Stat. 2799.)

REFERENCES IN TEXT

Subsection (a), referred to in text, was a reference to subsection (a) of section 3 of Pub. L. 104–91 when the text of this section was originally enacted as subsec. (d) of section 3 of Pub. L. 104–91, set out in a note under section 1165 of this title, see Codification note below.

CODIFICATION

The text of this section as added by Pub. L. 106–554 and Pub. L. 106–562 is based on the text of Pub. L. 104–91, §3(d), Jan. 6, 1996, 110 Stat. 9, as amended by Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(e)(6)(A)(i)], Dec. 21, 2000, 114 Stat. 2763, 2763A–248; Pub. L. 106–562, title I, §106(a)(1), Dec. 23, 2000, 114 Stat. 2799. Pub. L. 104–91, §3(d), was included in a note set out under section 1165 of this title prior to being redesignated and transferred by Pub. L. 106–554 and Pub. L. 106–562 so as to appear as section 212 of Pub. L. 89–702.

Another section 212 of Pub. L. 89–702 is classified to section 1169a of this title.

SUBCHAPTER III—ENFORCEMENT

§ 1171. Seizure and forfeiture of vessels

(a) Every vessel subject to the jurisdiction of the United States that is employed in any manner in connection with a violation of the provision of this chapter, including its tackle, apparel, furniture, appurtenances, cargo, and stores shall be subject to forfeiture; and all fur seals, or parts thereof, taken or retained in violation of this chapter, or the monetary value thereof, shall be forfeited.

(b) All provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of a vessel, including its tackle, apparel, furniture, appurtenances, cargo, and stores for violation of the customs laws, the disposition of such vessel, including its tackle, apparel, furniture, appurtenances, cargo, and stores or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter.

(Pub. L. 89–702, title III, §301, Nov. 2, 1966, 80 Stat. 1096; Pub. L. 98–129, §2, Oct. 14, 1983, 97 Stat. 844.)

AMENDMENTS

1983—Pub. L. 98–129 amended section generally, substituting provisions, which were contained in section 1181 of this title, relating to seizure and forfeiture of vessels for provisions prohibiting the taking of sea otters on the high seas.

§ 1172. Practice and procedure

(a) Joint responsibility; designation by Secretary of State officers and employees as Federal law enforcement agents; non-Federal employees for civil service purposes

Enforcement of the provisions of this chapter is the joint responsibility of the Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating. In addition, the Secretary may designate officers and employees of the States of the United States to enforce the provisions of this chapter which relate to persons or vessels subject to the jurisdiction of the United States. When so designated, such officers and employees are authorized to function as Federal law enforcement agents for these purposes; but they shall not be held and considered as employees of the United States for the purpose of any laws administered by the Office of Personnel Management.

(b) Issuance of warrants and other process

The judges of the United States district courts and United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process, including warrants or other process issued in admiralty proceedings in Federal district courts, as may be required for enforcement of this chapter and any regulations issued thereunder.

(c) Execution of warrants or other process by enforcement agents

Any person authorized to carry out enforcement activities hereunder shall have the power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this chapter.

(d) Arrests and searches by enforcement agents

Such person so authorized shall have the power—

(1) with or without a warrant or other process, to arrest any person committing in his presence or view a violation of this chapter or the regulations issued thereunder;

(2) with a warrant or other process or without a warrant, if he has reasonable cause to believe that a vessel subject to the jurisdiction of the United States or any person onboard is in violation of any provision of this chapter or the regulations issued thereunder, to search such vessel and to arrest such person.

(e) Seizure of vessels and related articles

Such person so authorized may seize any vessel subject to the jurisdiction of the United States, together with its tackle, apparel, furniture, appurtenances, cargo, and stores, used or employed contrary to the provisions of this chapter or the regulations issued hereunder or which it reasonably appears has been used or employed contrary to the provisions of this chapter or the regulations issued hereunder.

(f) Seizure and disposition of fur seals

Such person so authorized may seize, whenever and wherever lawfully found, all fur seals taken or retained in violation of this chapter or the regulations issued thereunder. Any fur seals so seized or forfeited to the United States pursuant to this chapter shall be disposed of in accordance with the provisions of section 1155 of this title.

(Pub. L. 89–702, title III, §302, Nov. 2, 1966, 80 Stat. 1097; Pub. L. 98–129, §2, Oct. 14, 1983, 97 Stat. 844; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

AMENDMENTS

1983—Pub. L. 98–129 amended section generally, substituting provisions, which were contained in section

1182 of this title, relating to practice and procedure in connection with the enforcement of this chapter for provisions which had authorized the sale by the Secretary of sea otter skins that had been forfeited to or seized by the United States.

CHANGE OF NAME

''United States magistrate judges'' substituted for ''United States magistrates'' in subsec. (b) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1173. Regulations

The Secretary is authorized to prescribe such regulations as he deems necessary and appropriate to carry out the provisions of this subchapter.

(Pub. L. 89–702, title III, § 303, as added Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 845.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1183 of this title, prior to the complete revision of this chapter by Pub. L. 98–129.

§ 1174. Penalties

(a) Any person who knowingly violates any provision of this chapter or of any permit or regulation issued thereunder shall, upon conviction, be fined not more than $20,000 for such violation, or imprisoned for not more than one year, or both.

(b) Any person who violates any provision of this chapter or any regulation or permit issued hereunder may be assessed a civil penalty by the Secretary of not more than $10,000 for each such violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Hearings held during proceedings for the assessment of civil penalties authorized by this subsection shall be conducted in accordance with section 554 of title 5. The Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof. Any civil penalty assessed may be remitted or mitigated by the Secretary for good cause shown. Upon any failure to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty, and such court shall have jurisdiction to hear and decide any such action.

(Pub. L. 89–702, title III, § 304, as added Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 845.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1184 of this title, prior to the complete revision of this chapter by Pub. L. 98–129.

§ 1175. Authorization of appropriations

(a) There are authorized to be appropriated to the operations, research, and facilities account of the National Oceanic and Atmospheric Administration in the Department of Commerce, such sums as may be necessary, up to $2,000,000, for fiscal year 1984 for the purpose of upgrading Federal property to be transferred pursuant to section 1165 of this title, $736,000 for fiscal year 1984 for the purposes of sections 1154 and 1168 of this title and such sums as may be necessary for each fiscal year thereafter for the purposes of sections 1154 and 1168 of this title.

(b) The contract authority of the Secretary under this chapter is effective for any fiscal year only to the extent that appropriations are available for such purposes.

(Pub. L. 89–702, title III, § 305, as added Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 845.)

§§ 1181 to 1187. Omitted

CODIFICATION

Sections were omitted in the general revision of this chapter by Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 835.

Section 1181, Pub. L. 89–702, title IV, § 401, Nov. 2, 1966, 80 Stat. 1097, related to seizure and forfeiture of vessels. See section 1171 of this title.

Section 1182, Pub. L. 89–702, title IV, § 402, Nov. 2, 1966, 80 Stat. 1097; Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; 1978 Reorg. Plan No. 2 of 1978, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3784, set out additional enforcement provisions. See section 1172 of this title.

Section 1183, Pub. L. 89–702, title IV, § 403, Nov. 2, 1966, 80 Stat. 1098; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, authorized the Secretary of Commerce to issue regulations. See section 1173 of this title.

Section 1184, Pub. L. 89–702, title IV, § 404, Nov. 2, 1966, 80 Stat. 1098, set out penalties for violations. See section 1174 of this title.

Section 1185, Pub. L. 89–702, title IV, § 405, Nov. 2, 1966, 80 Stat. 1098; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, related to contracts or agreements for research. See section 1155(b) of this title.

Section 1186, Pub. L. 89–702, title IV, § 406, Nov. 2, 1966, 80 Stat. 1098, defined terms as used in this chapter. See section 1151 of this title.

Section 1187, Pub. L. 89–702, title IV, § 407, Nov. 2, 1966, 80 Stat. 1098, related to creation of a Pribilof Islands fund. See section 1166 of this title.

CHAPTER 25—JELLYFISH OR SEA NETTLES, OTHER SUCH PESTS, AND SEAWEED IN COASTAL WATERS: CONTROL OR ELIMINATION

Sec.
1201. Declaration of purposes; Secretary's cooperation with and assistance to States.
1202. Authority of Secretary; studies, research, and investigations; control measures; execution of program; other actions; costs.
1203. Authorization of appropriations.
1204. Compacts.
1205. General authority of Secretary for conducting studies, research, and investigations unaffected.

§ 1201. Declaration of purposes; Secretary's cooperation with and assistance to States

For the purposes of conserving and protecting the fish and shellfish resources in the coastal waters of the United States and the Commonwealth of Puerto Rico, and promoting and safeguarding water-based recreation for present and future generations in these waters, the Secretary of Commerce is authorized to cooperate with, and provide assistance to, the States in controlling and eliminating jellyfish, commonly referred to as ''sea nettles'', and other such pests and in conducting research for the purposes of controlling floating seaweed in such waters.

(Pub. L. 89–720, § 1, Nov. 2, 1966, 80 Stat. 1149; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

''Secretary of Commerce'' was substituted in text for ''Secretary of the Interior'' in view of: the creation of the National Oceanic and Atmospheric Administration in the Department of Commerce and the Office of Administrator of such Administration; the abolition of the Bureau of Commercial Fisheries in the Interior Department and the Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in the Secretary of the Interior or the Interior Department which were administered through the Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish programs of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1202. Authority of Secretary; studies, research, and investigations; control measures; execution of program; other actions; costs

In carrying out the purposes of this chapter, the Secretary, in cooperation with the States and the Commonwealth of Puerto Rico, is authorized (1) to conduct, directly or by contract, such studies, research, and investigations, as he deems desirable, to determine the abundance and distribution of jellyfish and other such pests and their effects on fish and shellfish and water-based recreation, (2) to conduct studies of control measures of such pests and of floating seaweed, (3) to carry out, based on studies made pursuant to this chapter, a program of controlling or eliminating such pests and such seaweed, and (4) to take such other actions as the Secretary deems desirable: *Provided*, That the costs of such actions shall be borne equally by the Federal Government and by the States and the Commonwealth of Puerto Rico, acting jointly or severally.

(Pub. L. 89–720, § 2, Nov. 2, 1966, 80 Stat. 1149.)

§ 1203. Authorization of appropriations

There is authorized to be appropriated not to exceed $500,000 for the fiscal year ending June 30, 1968, $750,000 for the fiscal year ending June 30, 1969, $1,000,000 for the period beginning July 1, 1969, and ending June 30, 1973, and $400,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, and June 30, 1977.

(Pub. L. 89–720, § 3, Nov. 2, 1966, 80 Stat. 1149; Pub. L. 91–451, Oct. 14, 1970, 84 Stat. 922; Pub. L. 92–604, Oct. 31, 1972, 86 Stat. 1493.)

AMENDMENTS

1972—Pub. L. 92–604 authorized appropriations of $400,000 for fiscal years ending June 30, 1974, 1975, 1976, and 1977.

1970—Pub. L. 91–451 substituted ''for the period beginning July 1, 1969, and ending June 30, 1973'' for ''for the fiscal year ending June 30, 1970''.

§ 1204. Compacts

The Congress consents to any compact or agreement between any two or more States for the purpose of carrying out a program of research, study, investigation, and control of jellyfish and other such pests in the coastal waters of the United States. The right to alter, amend, or repeal this section or the consent granted herein is expressly reserved.

(Pub. L. 89–720, § 4, Nov. 2, 1966, 80 Stat. 1149.)

§ 1205. General authority of Secretary for conducting studies, research, and investigations unaffected

Nothing in this chapter shall be construed to alter, amend, repeal, modify, or diminish the present general authority of the Secretary of Commerce to conduct studies, research, and investigations related to the mission of the Department of Commerce.

(Pub. L. 89–720, § 5, Nov. 2, 1966, 80 Stat. 1149; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior and substitution of Department of Commerce for Department of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 1201 of this title.

CHAPTER 25A—CROWN OF THORNS STARFISH

Sec.
1211. Congressional statement of purpose.
1212. Investigation and control of crown of thorns starfish.
1213. Authorization of appropriations.

§ 1211. Congressional statement of purpose

For the purpose of conserving and protecting coral reef resources of the tropical islands of in-

terest and concern to the United States in the Pacific and safeguarding critical island areas from possible erosion and to safeguard future recreational and esthetic uses of Pacific coral reefs, the Secretary of Commerce and the Secretary of the Smithsonian Institution are authorized to cooperate with and provide assistance to the governments of the State of Hawaii, the territories and possessions of the United States, including Guam and American Samoa, the Trust Territory of the Pacific Islands, and other island possessions of the United States, in the study and control of the seastar ''Crown of Thorns'' (Acanthaster planci).

(Pub. L. 91–427, §1, Sept. 26, 1970, 84 Stat. 884; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

''Secretary of Commerce'' substituted in text for ''Secretary of the Interior'' in view of: creation of National Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in Department of the Interior and Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in Secretary of the Interior or Department of the Interior which were administered through Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 1212. Investigation and control of crown of thorns starfish

In carrying out the purposes of this chapter, the Secretary of Commerce and the Secretary of the Smithsonian Institution are authorized to—

(1) conduct such studies, research, and investigations, as they deem desirable to determine the causes of the population increase of the ''Crown of Thorns'', their effects on corals and coral reefs, and the stability and regeneration of reefs following predation;

(2) to monitor areas where the ''Crown of Thorns'' may be increasing in numbers and to determine future needs for control;

(3) to develop improved methods of control and to carry out programs of control in areas where these are deemed necessary; and

(4) to take such other actions as deemed desirable to gain an understanding of the ecology and control of the seastar ''Crown of Thorns''.

(Pub. L. 91–427, §2, Sept. 26, 1970, 84 Stat. 884; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 1211 of this title.

§ 1213. Authorization of appropriations

For the purpose of carrying out the provisions of this chapter, there is authorized to be appropriated for the period commencing on September 26, 1970, and ending June 30, 1975, not to exceed $4,500,000.

(Pub. L. 91–427, §3, Sept. 26, 1970, 84 Stat. 884.)

CHAPTER 25B—REEFS FOR MARINE LIFE CONSERVATION

Sec.
1220. State applications for obsolete ships for use as offshore reefs.
1220a. Transfer of title; terms and conditions.
1220b. Obsolete ships available; number; equitable administration.
1220c. Denial of applications; finality of decision.
1220c–1. Financial assistance to State to prepare transferred ship.
1220d. ''Obsolete ship'' defined.

§ 1220. State applications for obsolete ships for use as offshore reefs

(a) Conservation of marine life

Any State may apply to the Secretary of Transportation (hereafter referred to in this chapter as the ''Secretary'') for obsolete ships which, but for the operation of this chapter, would be designated by the Secretary for scrapping if the State intends to sink such ships for use as an offshore artificial reef for the conservation of marine life.

(b) Manner and form of applications; minimum requirements

A State shall apply for obsolete ships under this chapter in such manner and form as the Secretary shall prescribe, but such application shall include at least (1) the location at which the State proposes to sink the ships, (2) a certificate from the Administrator, Environmental Protection Agency, that the proposed use of the particular vessel or vessels requested by the State will be compatible with water quality standards and other appropriate environmental protection requirements, and (3) statements and estimates with respect to the conservation goals which are sought to be achieved by use of the ships.

(c) Copies to Federal officers for official comments and views

Before taking any action with respect to an application submitted under this chapter, the Secretary shall provide copies of the application to the Secretary of the Interior, the Secretary of Defense, and any other appropriate Federal officer, and shall consider comments and views of such officers with respect to the application.

(d) United States territory, possession, or Commonwealth; foreign country

Any territory, possession, or Commonwealth of the United States, and any foreign country, may apply to the Secretary for an obsolete vessel to be used for an artificial reef under this section. The application process and reefing of any such obsolete vessel shall be performed in a manner consistent with the process jointly developed by the Secretary of Transportation and the Administrator of the Environmental Protec-

tion Agency under section 3504(b) of Public Law 107–314 (16 U.S.C. 1220 note).

(Pub. L. 92–402, § 3, Aug. 22, 1972, 86 Stat. 618; Pub. L. 98–623, title II, § 207(1), (2), Nov. 8, 1984, 98 Stat. 3397; Pub. L. 111–84, div. C, title XXXV, § 3513(a), Oct. 28, 2009, 123 Stat. 2724.)

AMENDMENTS

2009—Subsec. (d). Pub. L. 111–84 added subsec. (d).

1984—Subsecs. (a), (b). Pub. L. 98–623, § 207, substituted ''Secretary of Transportation'' for ''Secretary of Commerce'' and ''obsolete ships'' for ''Liberty ships'', wherever appearing.

ENVIRONMENTAL BEST MANAGEMENT PRACTICES FOR PREPARING VESSELS FOR USE AS ARTIFICIAL REEFS

Pub. L. 107–314, div. C, title XXXV, § 3504(b), Dec. 2, 2002, 116 Stat. 2754, as amended by Pub. L. 108–136, div. C, title XXXV, § 3516, Nov. 24, 2003, 117 Stat. 1795, provided that:

''(1) Not later than March 31, 2004, the Secretary of Transportation, acting through the Maritime Administration, and the Administrator of the Environmental Protection Agency shall jointly develop guidance recommending environmental best management practices to be used in the preparation of vessels for use as artificial reefs.

''(2) The guidance recommending environmental best management practices under paragraph (1) shall be developed in consultation with the heads of other Federal agencies, and State agencies, having an interest in the use of vessels as artificial reefs.

''(3) The environmental best management practices under paragraph (1) shall—

''(A) include recommended practices for the preparation of vessels for use as artificial reefs to ensure that vessels so prepared will be environmentally sound in their use as artificial reefs;

''(B) promote consistent use of such practices nationwide;

''(C) provide a basis for estimating the costs associated with the preparation of vessels for use as artificial reefs; and

''(D) include mechanisms to enhance the utility of the Artificial Reefing Program of the Maritime Administration as an option for the disposal of obsolete vessels.

''(4) The environmental best management practices developed under paragraph (1) shall serve as national guidance for Federal agencies for the preparation of vessels for use as artificial reefs.

''(5) Not later than March 31, 2004, the Secretary of Transportation, acting through the Maritime Administration, and the Administrator of the Environmental Protection Agency shall jointly establish an application process for governments of States, commonwealths, and United States territories and possession, and foreign governments, for the preparation of vessels for use as artificial reefs, including documentation and certification requirements for that application process.

''(6) The Secretary of Transportation shall submit to Congress a report on the environmental best management practices developed under paragraph (1) through the existing ship disposal reporting requirements in section 3502 of Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 1654A–492) [16 U.S.C. 5405 note]. The report shall describe such practices, and may include such other matters as the Secretary considers appropriate.''

§ 1220a. Transfer of title; terms and conditions

If, after consideration of such comments and views as are received pursuant to section 1220(c) of this title, the Secretary finds that the use of obsolete ships proposed by a State will not violate any Federal law, contribute to degradation of the marine environment, create undue interference with commercial fishing or navigation, and is not frivolous, he may transfer without consideration to the State all right, title, and interest of the United States in and to any obsolete ships which are available for transfer under this chapter if—

(1) the State gives to the Secretary such assurances as he deems necessary that such ships will be utilized and maintained only for the purposes stated in the application and, when sunk, will be charted and marked as a hazard to navigation;

(2) the State agrees to secure any licenses or permits which may be required under the provisions of any other applicable Federal law;

(3) the State agrees to such other terms and conditions as the Secretary shall require in order to protect the marine environment and other interests of the United States; and

(4) the transfer would be at no cost to the Government (except for any financial assistance provided under section 1220(c)(1)[1] of this title) with the State taking delivery of such obsolete ships and titles in an ''as-is—where-is'' condition at such place and time designated as may be determined by the Secretary of Transportation.

(Pub. L. 92–402, § 4, Aug. 22, 1972, 86 Stat. 618; Pub. L. 98–623, title II, § 207(1), (3), Nov. 8, 1984, 98 Stat. 3397; Pub. L. 107–314, div. C, title XXXV, § 3504(a)(2), Dec. 2, 2002, 116 Stat. 2754; Pub. L. 109–163, div. C, title XXXV, § 3505(c), Jan. 6, 2006, 119 Stat. 3552.)

REFERENCES IN TEXT

Section 1220(c)(1) of this title, referred to in par. (4), probably means section 7 of Pub. L. 92–402, which is classified to section 1220c–1 of this title.

AMENDMENTS

2006—Par. (4). Pub. L. 109–163 amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''the transfer would be at no cost to the Government (except for any financial assistance provided under section 1220c–1 of this title) with the State taking delivery of such obsolete ships at fleetside of the National Defense Reserve Fleet in an 'as is—where is' condition.''

2002—Par. (4). Pub. L. 107–314 inserted ''(except for any financial assistance provided under section 1220c–1 of this title)'' after ''at no cost to the Government''.

1984—Pub. L. 98–623 substituted ''obsolete ships'' for ''Liberty ships'' wherever appearing in provisions preceding par. (1) and in par. (4), and substituted ''may transfer'' for ''shall transfer'' in provisions preceding par. (1).

§ 1220b. Obsolete ships available; number; equitable administration

A State may apply for more than one obsolete ship under this chapter. The Secretary shall, however, taking into account the number of obsolete ships which may be or become available for transfer under this chapter, administer this chapter in an equitable manner with respect to the various States.

(Pub. L. 92–402, § 5, Aug. 22, 1972, 86 Stat. 618; Pub. L. 98–623, title II, § 207(1), Nov. 8, 1984, 98 Stat. 3397.)

[1] See References in Text note below.

AMENDMENTS

1984—Pub. L. 98–623 substituted ''obsolete ships'' for ''Liberty ships'' wherever appearing.

§ 1220c. Denial of applications; finality of decision

A decision by the Secretary denying any application for a[1] obsolete ship under this chapter is final.

(Pub. L. 92–402, § 6, Aug. 22, 1972, 86 Stat. 618; Pub. L. 98–623, title II, § 207(1), Nov. 8, 1984, 98 Stat. 3397.)

AMENDMENTS

1984—Pub. L. 98–623 substituted ''obsolete ship'' for ''Liberty ship''.

§ 1220c–1. Financial assistance to State to prepare transferred ship

(a) Assistance authorized

The Secretary, subject to the availability of appropriations, may provide, to any State to which an obsolete ship is transferred under this chapter, financial assistance to prepare the ship for use as an artificial reef, including for—

(1) environmental remediation;

(2) towing; and

(3) sinking.

(b) Amount of assistance

The Secretary shall determine the amount of assistance under this section with respect to an obsolete ship based on—

(1) the total amount available for providing assistance under this section;

(2) the benefit achieved by providing assistance for that ship; and

(3) the cost effectiveness of disposing of the ship by transfer under this chapter and provision of assistance under this section, compared to other disposal options for that ship.

(c) Terms and conditions

The Secretary—

(1) shall require a State seeking assistance under this section to provide cost data and other information determined by the Secretary to be necessary to justify and document the assistance; and

(2) may require a State receiving such assistance to comply with terms and conditions necessary to protect the environment and the interests of the United States.

(d) Limitation

The Secretary may not provide assistance under this section to a foreign country to which an obsolete ship is transferred under this chapter.

(Pub. L. 92–402, § 7, as added Pub. L. 107–314, div. C, title XXXV, § 3504(a)(1)(B), Dec. 2, 2002, 116 Stat. 2754; amended Pub. L. 111–84, div. C, title XXXV, § 3513(b), Oct. 28, 2009, 123 Stat. 2724.)

PRIOR PROVISIONS

A prior section 7 of Pub. L. 92–402 was renumbered section 8 and is classified to section 1220d of this title.

AMENDMENTS

2009—Subsec. (d). Pub. L. 111–84 added subsec. (d).

[1] So in original. Probably should be ''an''.

§ 1220d. "Obsolete ship" defined

For purposes of sections 1220, 1220a, 1220b, and 1220c of this title, the term ''obsolete ship'' means any vessel owned by the Department of Transportation that has been determined to be of insufficient value for commercial or national defense purposes to warrant its maintenance and preservation in the national defense reserve fleet and has been designated as an artificial reef candidate.

(Pub. L. 92–402, § 8, formerly § 7, as added Pub. L. 98–623, title II, § 207(4), Nov. 8, 1984, 98 Stat. 3397; renumbered § 8, Pub. L. 107–314, div. C, title XXXV, § 3504(a)(1)(A), Dec. 2, 2002, 116 Stat. 2754.)

CHAPTER 26—ESTUARINE AREAS

Sec.
1221. Congressional declaration of policy.
1222. General study and inventory of estuaries and their natural resources.
1223. Agreements with States and subdivisions; equitable sharing of costs; development improvements; availability of appropriations; State hunting and fishing laws applicable.
1224. Commercial and industrial development considerations; reports to Congress; recommendations.
1225. State consideration of protection and restoration of estuaries in State comprehensive planning and proposals for financial assistance under certain Federal laws; grants: terms and conditions, prohibition against disposition of lands without approval of the Secretary.
1226. Federal agency authority to carry out Federal project within an estuary unaffected.

§ 1221. Congressional declaration of policy

Congress finds and declares that many estuaries in the United States are rich in a variety of natural, commercial, and other resources, including environmental natural beauty, and are of immediate and potential value to the present and future generations of Americans. It is therefore the purpose of this chapter to provide a means for considering the need to protect, conserve, and restore these estuaries in a manner that adequately and reasonably maintains a balance between the national need for such protection in the interest of conserving the natural resources and natural beauty of the Nation and the need to develop these estuaries to further the growth and development of the Nation. In connection with the exercise of jurisdiction over the estuaries of the Nation and in consequence of the benefits resulting to the public, it is declared to be the policy of Congress to recognize, preserve, and protect the responsibilities of the States in protecting, conserving, and restoring the estuaries in the United States.

(Pub. L. 90–454, § 1, Aug. 3, 1968, 82 Stat. 625.)

§ 1222. General study and inventory of estuaries and their natural resources

(a) Estuaries included; considerations; other applicable studies

The Secretary of the Interior, in consultation and in cooperation with the States, the Secretary of the Army, and other Federal agencies, shall conduct directly or by contract a study

and inventory of the Nation's estuaries, including without limitation coastal marshlands, bays, sounds, seaward areas, lagoons, and land and waters of the Great Lakes. For the purpose of this study, the Secretary shall consider, among other matters, (1) their wildlife and recreational potential, their ecology, their value to the marine, anadromous, and shell fisheries and their esthetic value, (2) their importance to navigation, their value for flood, hurricane, and erosion control, their mineral value, and the value of submerged lands underlying the waters of the estuaries, and (3) the value of such areas for more intensive development for economic use as part of urban developments and for commercial and industrial developments. This study and inventory shall be carried out in conjunction with the comprehensive estuarine pollution study authorized by section 5(g) of the Federal Water Pollution Control Act, as amended [33 U.S.C. 1254(n)], and other applicable studies.

(b) Federal or State land acquisition or administration; other protective methods

The study shall focus attention on whether any land or water area within an estuary and the Great Lakes should be acquired or administered by the Secretary or by a State or local subdivision thereof, or whether such land or water area may be protected adequately through local, State, or Federal laws or other methods without Federal land acquisition or administration.

(c) Report to Congress; recommendations; authorization for acquisition of lands; consultation with States and Federal agencies; accompanying statement of views, probable effects, and major trends

The Secretary of the Interior shall, not later than January 30, 1970, submit to the Congress through the President a report of the study conducted pursuant to this section, together with any legislative recommendations, including recommendations on the feasibility and desirability of establishing a nationwide system of estuarine areas, the terms, conditions, and authorities to govern such system, and the designation and acquisition of any specific estuarine areas of national significance which he believes should be acquired by the United States. No lands within such area may be acquired until authorized by subsequent Act of Congress. Recommendations made by the Secretary for the acquisition of any estuarine area shall be developed in consultation with the States, municipalities, and other interested Federal agencies. Each such recommendation shall be accompanied by (1) expressions of any views which the interested States, municipalities, and other Federal agencies and river basin commissions may submit within sixty days after having been notified of the proposed recommendations, (2) a statement setting forth the probable effect of the recommended action on any comprehensive river basin plan that may have been adopted by Congress or that is serving as a guide for coordinating Federal programs in the basin wherein such area is located, (3) in the absence of such a plan, a statement indicating the probable effect of the recommended action on alternative beneficial users of the resources of the proposed estuarine area, and (4) a discussion of the major economic, social, and ecological trends occurring in such area.

(d) Authorization of appropriations

There is authorized to be appropriated not to exceed $250,000 for fiscal year 1969 and $250,000 for fiscal year 1970 to carry out the provisions of this section. Such sums shall be available until expended.

(Pub. L. 90–454, § 2, Aug. 3, 1968, 82 Stat. 626.)

REFERENCES IN TEXT

Section 5(g) of the Federal Water Pollution Control Act, as amended, referred to in text, was originally classified to section 466c(g) of Title 33, Navigation and Navigable Waters. Section 5(g) of the Act was redesignated as section 5(m) by sec. 105(*l*) of Pub. L. 91–224, Apr. 3, 1970, 84 Stat. 111, and was reclassified to section 1155(m) of Title 33. The Federal Water Pollution Control Act was amended generally by sec. 2 of Pub. L. 92–500, Oct. 18, 1972, 86 Stat. 816, and the provisions relating to comprehensive estuarine pollution study are contained in section 104(n), which is classified to section 1254(n) of Title 33.

§ 1223. Agreements with States and subdivisions; equitable sharing of costs; development improvements; availability of appropriations; State hunting and fishing laws applicable

After the completion of the general study authorized by section 1222 of this title, the Secretary of the Interior, with the approval of the President, may enter into an agreement, containing such terms and conditions as are mutually acceptable, with any State or with a political subdivision or agency thereof (if the agreement with such subdivision or agency is first approved by the Governor of the State involved or by a State agency designated for that purpose) for the permanent management, development, and administration of any area, land, or interests therein within an estuary and adjacent lands which are owned or thereafter acquired by a State or by any political subdivision thereof: *Provided*, That, with the approval of the Governor of the State involved or of a State agency designated for that purpose, the Secretary may also enter into such an agreement for any particular area whenever the segment of the general study applicable to that area is completed subject to the provisions of subsections (a) and (b) of section 1222 of this title. Such agreement shall, among other things, provide that the State or a political subdivision or agency thereof and the Secretary shall share in an equitable manner in the cost of managing, administering, and developing such areas, and such development may include the construction, operation, installation, and maintenance of buildings, devices, structures, recreational facilities, access roads, and other improvements, and such agreement shall be subject to the availability of appropriations. State hunting and fishing laws and regulations shall be applicable to such areas to the extent they are now or hereafter applicable.

(Pub. L. 90–454, § 3, Aug. 3, 1968, 82 Stat. 627.)

§ 1224. Commercial and industrial development considerations; reports to Congress; recommendations

In planning for the use or development of water and land resources, all Federal agencies

shall give consideration to estuaries and their natural resources, and their importance for commercial and industrial developments, and all project plans and reports affecting such estuaries and resources submitted to the Congress shall contain a discussion by the Secretary of the Interior of such estuaries and such resources and the effects of the project on them and his recommendations thereon. The Secretary of the Interior shall make his recommendations within ninety days after receipt of such plans and reports.

(Pub. L. 90–454, § 4, Aug. 3, 1968, 82 Stat. 627.)

§ 1225. State consideration of protection and restoration of estuaries in State comprehensive planning and proposals for financial assistance under certain Federal laws; grants: terms and conditions, prohibition against disposition of lands without approval of the Secretary

The Secretary of the Interior shall encourage States and local subdivisions thereof to consider, in their comprehensive planning and proposals for financial assistance under the Federal Aid in Wildlife Restoration Act (50 Stat. 917), as amended (16 U.S.C. 669 et seq.), the Federal Aid in Fish Restoration Act (64 Stat. 430), as amended (16 U.S.C. 777 et seq.), the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) [16 U.S.C. 460*l*–4 et seq.], the Commercial Fisheries Research and Development Act of 1964[1] (78 Stat. 197) [16 U.S.C. 779 et seq.], and the Anadromous and Great Lakes Fisheries Conservation Act of October 30, 1965 (79 Stat. 1125) [16 U.S.C. 757a et seq.], the needs and opportunities for protecting and restoring estuaries in accordance with the purposes of this Act. In approving grants made pursuant to said laws for the acquisition of all or part of an estuarine area by a State, the Secretary shall establish such terms and conditions as he deems desirable to insure the permanent protection of such areas, including a provision that the lands or interests therein shall not be disposed of by sale, lease, donation, or exchange without the prior approval of the Secretary.

(Pub. L. 90–454, § 5, Aug. 3, 1968, 82 Stat. 627.)

REFERENCES IN TEXT

The Federal Aid in Wildlife Restoration Act, as amended, referred to in text, is act Sept. 2, 1937, ch. 899, 50 Stat. 917, as amended, also known as the Pittman-Robertson Wildlife Restoration Act, which is classified generally to chapter 5B (§ 669 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 669 of this title and Tables.

The Federal Aid in Fish Restoration Act, as amended, referred to in text, is act Aug. 9, 1950, ch. 658, 64 Stat. 430, as amended, also known as the Dingell-Johnson Sport Fish Restoration Act and the Fish Restoration and Management Projects Act, which is classified generally to chapter 10B (§ 777 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 777 of this title and Tables.

The Land and Water Conservation Fund Act of 1965, referred to in text, is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

The Commercial Fisheries Research and Development Act of 1964, referred to in text, is Pub. L. 88–309, May 20, 1964, 78 Stat. 197, as amended, which was classified generally to chapter 10D (§ 779 et seq.) of this title, was repealed by Pub. L. 99–659, title III, § 309, Nov. 14, 1986, 100 Stat. 3736.

The Anadromous and Great Lakes Fisheries Conservation Act of October 30, 1965, referred to in text, probably means the Anadromous Fish Conservation Act, Pub. L. 89–304, Oct. 30, 1965, 79 Stat. 1125, as amended, which is classified generally to sections 757a to 757g of this title. For complete classification of this Act to the Code, see Short Title note set out under section 757a of this title and Tables.

[1] See References in Text note below.

§ 1226. Federal agency authority to carry out Federal project within an estuary unaffected

Nothing in this chapter shall be construed to affect the authority of any Federal agency to carry out any Federal project heretofore or hereafter authorized within an estuary.

(Pub. L. 90–454, § 6, Aug. 3, 1968, 82 Stat. 628.)

CHAPTER 27—NATIONAL TRAILS SYSTEM

Sec.
1241. Congressional statement of policy and declaration of purpose.
1242. National trails system.
1243. National recreation trails; establishment and designation; prerequisites.
1244. National scenic and national historic trails.
1245. Connecting or side trails; establishment, designation, and marking as components of national trails system; location.
1246. Administration and development of national trails system.
1247. State and local area recreation and historic trails.
1248. Easements and rights-of-way.
1249. Authorization of appropriations.
1250. Volunteer trails assistance.
1251. Definitions.

§ 1241. Congressional statement of policy and declaration of purpose

(a) Considerations for determining establishment of trails

In order to provide for the ever-increasing outdoor recreation needs of an expanding population and in order to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation, trails should be established (i) primarily, near the urban areas of the Nation, and (ii) secondarily, within scenic areas and along historic travel routes of the Nation, which are often more remotely located.

(b) Initial components

The purpose of this chapter is to provide the means for attaining these objectives by instituting a national system of recreation, scenic and historic trails, by designating the Appalachian Trail and the Pacific Crest Trail as the initial components of that system, and by prescribing the methods by which, and standards according to which, additional components may be added to the system.

(c) Volunteer citizen involvement

The Congress recognizes the valuable contributions that volunteers and private, nonprofit

trail groups have made to the development and maintenance of the Nation's trails. In recognition of these contributions, it is further the purpose of this chapter to encourage and assist volunteer citizen involvement in the planning, development, maintenance, and management, where appropriate, of trails.

(Pub. L. 90–543, § 2, Oct. 2, 1968, 82 Stat. 919; Pub. L. 95–625, title V, § 551(1)–(3), Nov. 10, 1978, 92 Stat. 3511; Pub. L. 98–11, title II, § 202, Mar. 28, 1983, 97 Stat. 42.)

AMENDMENTS

1983—Subsec. (b). Pub. L. 98–11, § 202(1), substituted ''The'' for ''the'' before ''purpose''.

Subsec. (c). Pub. L. 98–11, § 202(2), added subsec. (c).

1978—Subsec. (a). Pub. L. 95–625, § 551(1), (2), inserted ''the preservation of,'' and ''and historic resources'' after ''promote'' and ''outdoor areas'' and substituted ''within scenic areas and along historic travel routes of the Nation, which are often more remotely located'' for ''within established scenic areas more remotely located''.

Subsec. (b). Pub. L. 95–625, § 551(3), substituted '', scenic and historic'' for ''and scenic''.

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–432, div. C, title III, § 302, Dec. 20, 2006, 120 Stat. 3028, provided that: ''This title [enacting provisions set out as a note under section 1244 of this title and enacting and amending provisions listed in a table of Wilderness Areas set out under section 1132 of this title] may be cited as the 'White Pine County Conservation, Recreation, and Development Act of 2006'.''

Pub. L. 109–418, § 1, Dec. 19, 2006, 120 Stat. 2882, provided that: ''This Act [amending sections 81f and 1244 of this title] may be cited as the 'Captain John Smith Chesapeake National Historic Trail Designation Act'.''

SHORT TITLE OF 2004 AMENDMENTS

Pub. L. 108–424, § 2(a), Nov. 30, 2004, 118 Stat. 2403, provided that: ''This Act [enacting provisions set out as a note under section 1244 of this title and provisions listed in a table of Wilderness Areas set out under section 1132 of this title and amending provisions listed in a table of National Wildlife Conservation Areas set out under section 668dd of this title] may be cited as the 'Lincoln County Conservation, Recreation, and Development Act of 2004'.''

Pub. L. 108–342, § 1, Oct. 18, 2004, 118 Stat. 1370, provided that: ''This Act [amending section 1244 of this title] may be cited as the 'El Camino Real de los Tejas National Historic Trail Act'.''

SHORT TITLE OF 2002 AMENDMENTS

Pub. L. 107–338, § 1, Dec. 16, 2002, 116 Stat. 2886, provided that: ''This Act [amending section 1244 of this title and enacting provisions set out as a note under section 1244 of this title] may be cited as the 'Metacomet-Monadnock-Mattabesett Trail Study Act of 2002'.''

Pub. L. 107–325, § 1, Dec. 4, 2002, 116 Stat. 2790, provided that: ''This Act [amending section 1244 of this title] may be cited as the 'Old Spanish Trail Recognition Act of 2002'.''

Pub. L. 107–214, § 1, Aug. 21, 2002, 116 Stat. 1053, provided that: ''This Act [amending section 1244 of this title] may be cited as the 'Long Walk National Historic Trail Study Act'.''

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–509, § 1, Nov. 13, 2000, 114 Stat. 2361, provided that: ''This Act [amending section 1244 of this title] may be cited as the 'Ala Kahakai National Historic Trail Act'.''

Pub. L. 106–307, § 1, Oct. 13, 2000, 114 Stat. 1074, provided that: ''This Act [amending section 1244 of this title] may be cited as the 'El Camino Real de Tierra Adentro National Historic Trail Act'.''

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–135, § 1, Dec. 7, 1999, 113 Stat. 1685, provided that: ''This Act [amending section 1244 of this title] may be cited as the 'Star-Spangled Banner National Historic Trail Study Act of 1999'.''

SHORT TITLE OF 1993 AMENDMENTS

Pub. L. 103–145, § 1, Nov. 17, 1993, 107 Stat. 1496, provided that: ''This Act [amending section 1244 of this title] may be cited as the 'El Camino Real Para Los Texas Study Act of 1993'.''

Pub. L. 103–144, § 1, Nov. 17, 1993, 107 Stat. 1494, provided that: ''This Act [amending section 1244 of this title] may be cited as the 'El Camino Real de Tierra Adentro Study Act of 1993'.''

SHORT TITLE OF 1990 AMENDMENTS

Pub. L. 101–365, § 1, Aug. 15, 1990, 104 Stat. 429, provided that: ''This Act [amending sections 1244 and 1249 of this title] may be cited as the 'Juan Bautista de Anza National Historic Trail Act'.''

Pub. L. 101–321, § 1, July 3, 1990, 104 Stat. 293, provided that: ''This Act [amending section 1244 of this title] may be cited as the 'Selma to Montgomery National Trail Study Act of 1989'.''

SHORT TITLE OF 1988 AMENDMENTS

Pub. L. 100–559, title II, § 201, Oct. 28, 1988, 102 Stat. 2797, provided that: ''This title [amending section 1244 of this title] may be cited as the 'Coronado National Trail Study Act of 1988'.''

Pub. L. 100–470, § 1, Oct. 4, 1988, 102 Stat. 2281, provided that: ''This Act [amending sections 1244 and 1248 of this title and enacting provisions set out as notes under section 1248 of this title] may be cited as the 'National Trails System Improvements Act of 1988'.''

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–187, § 1, Dec. 11, 1987, 101 Stat. 1287, provided that: ''This Act [amending section 1244 of this title] may be cited as the 'De Soto National Trail Study Act of 1987'.''

SHORT TITLE OF 1983 AMENDMENT

Section 201 of title II of Pub. L. 98–11 provided that: ''This title [enacting sections 1250 and 1251 of this title and amending this section and sections 1242 to 1247 and 1249 of this title] may be cited as the 'National Trails System Act Amendments of 1983'.''

SHORT TITLE

Section 1 of Pub. L. 90–543 provided that: ''This Act [enacting this chapter] may be cited as the 'National Trails System Act'.''

EX. ORD. NO. 13195. TRAILS FOR AMERICA IN THE 21ST CENTURY

Ex. Ord. No. 13195, Jan. 18, 2001, 66 F.R. 7391, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in furtherance of purposes of the National Trails System Act of 1968, as amended (16 U.S.C. 1241–1251), the Transportation Equity Act for the 21st Century (Public Law 105–178) [see Short Title of 1998 Amendments note set out under section 101 of Title 23, Highways], and other pertinent statutes, and to achieve the common goal of better establishing and operating America's national system of trails, it is hereby ordered as follows:

SECTION 1. *Federal Agency Duties.* Federal agencies will, to the extent permitted by law and where practicable—and in cooperation with Tribes, States, local governments, and interested citizen groups—protect, connect, promote, and assist trails of all types throughout the United States. This will be accomplished by:

(a) Providing trail opportunities of all types, with minimum adverse impacts and maximum benefits for natural, cultural, and community resources;

(b) Protecting the trail corridors associated with national scenic trails and the high priority potential sites and segments of national historic trails to the degrees necessary to ensure that the values for which each trail was established remain intact;

(c) Coordinating maps and data for the components of the national trails system and Millennium Trails network to ensure that these trails are connected into a national system and that they benefit from appropriate national programs;

(d) Promoting and registering National Recreation Trails, as authorized in the National Trails System Act, by incorporating where possible the commitments and partners active with Millennium Trails;

(e) Participating in a National Trails Day the first Saturday of June each year, coordinating Federal events with the National Trails Day's sponsoring organization, the American Hiking Society;

(f) Familiarizing Federal agencies that are active in tourism and travel with the components of a national system of trails and the Millennium Trails network and including information about them in Federal promotional and outreach programs;

(g) Fostering volunteer programs and opportunities to engage volunteers in all aspects of trail planning, development, maintenance, management, and education as outlined in 16 U.S.C. 1250;

(h) Encouraging participation of qualified youth conservation or service corps, as outlined in 41 [42] U.S.C. 12572 and 42 U.S.C. 12656, to perform construction and maintenance of trails and trail-related projects, as encouraged in sections 1108(g) and 1112(e) of the Transportation Equity Act for the 21st Century [23 U.S.C. 133 note, 206 note], and also in trail planning protection, operations, and education;

(i) Promoting trails for safe transportation and recreation within communities;

(j) Providing and promoting a wide variety of trail opportunities and experiences for people of all ages and abilities;

(k) Providing historical interpretation of trails and trail sites and enhancing cultural and heritage tourism through special events, artworks, and programs; and

(*l*) Providing training and information services to provide high-quality information and training opportunities to Federal employees, Tribal, State, and local government agencies, and the other trail partners.

SEC. 2. *The Federal Interagency Council on Trails*. The Federal Interagency Council on Trails (Council), first established by agreement between the Secretaries of Agriculture and the Interior in 1969, is hereby recognized as a long-standing interagency working group. Its core members represent the Department of the Interior's Bureau of Land of [sic] Management and National Park Service, the Department of Agriculture's Forest Service, and the Department of Transportation's Federal Highway Administration. Other Federal agencies, such as those representing cultural and heritage interests, are welcome to join this council. Leadership of the Council may rotate among its members as decided among themselves at the start of each fiscal year. The Council's mission is to coordinate information and program decisions, as well as policy recommendations, among all appropriate Federal agencies (in consultation with appropriate nonprofit organizations) to foster the development of America's trails through the following means:

(a) Enhancing federally designated trails of all types (e.g., scenic, historic, recreation, and Millennium) and working to integrate these trails into a fully connected national system;

(b) Coordinating mapping, signs and markers, historical and cultural interpretations, public information, training, and developing plans and recommendations for a national trails registry and database;

(c) Ensuring that trail issues are integrated in Federal agency programs and that technology transfer and education programs are coordinated at the national level; and

(d) Developing a memorandum of understanding among the agencies to encourage long-term interagency coordination and cooperation to further the spirit and intent of the National Trails System Act and related programs.

SEC. 3. *Issue Resolution and Handbook for Federal Administrators of the National Trails System*. Federal agencies shall together develop a process for resolving interagency issues concerning trails. In addition, reflecting the authorities of the National Trails System Act, participating agencies shall coordinate preparation of (and updates for) an operating handbook for Federal administrators of the National Trails System and others involved in creating a national system of trails. The handbook shall reflect each agencies' governing policies and provide guidance to each agencies' field staff and partners about the roles and responsibilities needed to make each trail in the national system fully operational.

SEC. 4. *Observance of Existing Laws*. Nothing in this Executive Order shall be construed to override existing laws, including those that protect the lands, waters, wildlife habitats, wilderness areas, and cultural values of this Nation.

SEC. 5. *Judicial Review*. This order is intended only to improve the internal management of the executive branch. It does not create any right or benefit, substantive or procedural, enforceable in law or equity by any party against the United States, its agencies, its officers or employees, or any other person.

WILLIAM J. CLINTON.

§ 1242. National trails system

(a) Composition: recreation trails; scenic trails; historic trails; connecting or side trails; uniform markers

The national system of trails shall be composed of the following:

(1) National recreation trails, established as provided in section 1243 of this title, which will provide a variety of outdoor recreation uses in or reasonably accessible to urban areas.

(2) National scenic trails, established as provided in section 1244 of this title, which will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass. National scenic trails may be located so as to represent desert, marsh, grassland, mountain, canyon, river, forest, and other areas, as well as landforms which exhibit significant characteristics of the physiographic regions of the Nation.

(3) National historic trails, established as provided in section 1244 of this title, which will be extended trails which follow as closely as possible and practicable the original trails or routes of travel of national historical significance. Designation of such trails or routes shall be continuous, but the established or developed trail, and the acquisition thereof, need not be continuous onsite. National historic trails shall have as their purpose the identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment. Only those selected land and water based components of an historic trail which are on federally owned lands and which meet the national historic trail cri-

teria established in this chapter are included as Federal protection components of a national historic trail. The appropriate Secretary may certify other lands as protected segments of an historic trail upon application from State or local governmental agencies or private interests involved if such segments meet the national historic trail criteria established in this chapter and such criteria supplementary thereto as the appropriate Secretary may prescribe, and are administered by such agencies or interests without expense to the United States.

(4) Connecting or side trails, established as provided in section 1245 of this title, which will provide additional points of public access to national recreation, national scenic or national historic trails or which will provide connections between such trails.

The Secretary of the Interior and the Secretary of Agriculture, in consultation with appropriate governmental agencies and public and private organizations, shall establish a uniform marker for the national trails system.

(b) Extended trails

For purposes of this section, the term ''extended trails'' means trails or trail segments which total at least one hundred miles in length, except that historic trails of less than one hundred miles may be designated as extended trails. While it is desirable that extended trails be continuous, studies of such trails may conclude that it is feasible to propose one or more trail segments which, in the aggregate, constitute at least one hundred miles in length.

(Pub. L. 90–543, § 3, Oct. 2, 1968, 82 Stat. 919; Pub. L. 95–625, title V, § 551(4), (5), Nov. 10, 1978, 92 Stat. 3511, 3512; Pub. L. 98–11, title II, § 203, Mar. 28, 1983, 97 Stat. 42; Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(E), Nov. 12, 1996, 110 Stat. 4196.)

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–333 struck out subsec. (c) which read as follows: ''On October 1, 1982, and at the beginning of each odd numbered fiscal year thereafter, the Secretary of the Interior shall submit to the Speaker of the United States House of Representatives and to the President of the United States Senate, an initial and revised (respectively) National Trails System plan. Such comprehensive plan shall indicate the scope and extent of a completed nationwide system of trails, to include (1) desirable nationally significant scenic and historic components which are considered necessary to complete a comprehensive national system, and (2) other trails which would balance out a complete and comprehensive nationwide system of trails. Such plan, and the periodic revisions thereto, shall be prepared in full consultation with the Secretary of Agriculture, the Governors of the various States, and the trails community.''

1983—Subsec. (a). Pub. L. 98–11, § 203(1), (2), designated existing provisions as subsec. (a), redesignated former subsecs. (a) to (d) as pars. (1) to (4), respectively, and, in provisions preceding par. (1), substituted ''shall be composed of the following:'' for ''shall be composed of—''.

Subsec. (a)(2). Pub. L. 98–11, § 203(3), inserted provision authorizing the location of national scenic trails so as to represent desert, marsh, grassland, mountain, canyon, river, forest, and other areas, as well as landforms which exhibit significant characteristics of the physiographic regions of the Nation.

Subsec. (a)(3). Pub. L. 98–11, § 203(4), (5), substituted ''in this chapter are included as Federal'' for ''in this chapter, are established as initial Federal'' in fourth sentence and struck out ''subsequently'' after ''The appropriate Secretary may'' in fifth sentence.

Subsecs. (b), (c). Pub. L. 98–11, § 203(6), added subsecs. (b) and (c).

1978—Subsecs. (c), (d). Pub. L. 95–625, § 551(4), (5), added subsec. (c), redesignated former subsec. (c) as (d), and substituted '', national scenic or national historic'' for ''or national scenic''.

§ 1243. National recreation trails; establishment and designation; prerequisites

(a) The Secretary of the Interior, or the Secretary of Agriculture where lands administered by him are involved, may establish and designate national recreation trails, with the consent of the Federal agency, State, or political subdivision having jurisdiction over the lands involved, upon finding that—

(i) such trails are reasonably accessible to urban areas, and, or

(ii) such trails meet the criteria established in this chapter and such supplementary criteria as he may prescribe.

(b) As provided in this section, trails within park, forest, and other recreation areas administered by the Secretary of the Interior or the Secretary of Agriculture or in other federally administered areas may be established and designated as ''National Recreation Trails'' by the appropriate Secretary and, when no Federal land acquisition is involved—

(i) trails in or reasonably accessible to urban areas may be designated as ''National Recreation Trails'' by the appropriate Secretary with the consent of the States, their political subdivisions, or other appropriate administering agencies;

(ii) trails within park, forest, and other recreation areas owned or administered by States may be designated as ''National Recreation Trails'' by the appropriate Secretary with the consent of the State; and

(iii) trails on privately owned lands may be designated ''National Recreation Trails'' by the appropriate Secretary with the written consent of the owner of the property involved.

(Pub. L. 90–543, § 4, Oct. 2, 1968, 82 Stat. 919; Pub. L. 98–11, title II, § 204, Mar. 28, 1983, 97 Stat. 43.)

AMENDMENTS

1983—Subsec. (b)(i), (ii). Pub. L. 98–11, § 204(1), substituted ''appropriate Secretary'' for ''Secretary of the Interior''.

Subsec. (b)(iii). Pub. L. 98–11, § 204(2)–(4), added cl. (iii).

§ 1244. National scenic and national historic trails

(a) Establishment and designation; administration

National scenic and national historic trails shall be authorized and designated only by Act of Congress. There are hereby established the following National Scenic and National Historic Trails:

(1) The Appalachian National Scenic Trail, a trail of approximately two thousand miles extending generally along the Appalachian Mountains from Mount Katahdin, Maine, to Springer Mountain, Georgia. Insofar as practicable, the

right-of-way for such trail shall comprise the trail depicted on the maps identified as ''Nationwide System of Trails, Proposed Appalachian Trail, NST–AT–101–May 1967'', which shall be on file and available for public inspection in the office of the Director of the National Park Service. Where practicable, such rights-of-way shall include lands protected for it under agreements in effect as of October 2, 1968, to which Federal agencies and States were parties. The Appalachian Trail shall be administered primarily as a footpath by the Secretary of the Interior, in consultation with the Secretary of Agriculture.

(2) The Pacific Crest National Scenic Trail, a trail of approximately two thousand three hundred fifty miles, extending from the Mexican-California border northward generally along the mountain ranges of the west coast States to the Canadian-Washington border near Lake Ross, following the route as generally depicted on the map, identified as ''Nationwide System of Trails, Proposed Pacific Crest Trail, NST–PC–103–May 1967'' which shall be on file and available for public inspection in the office of the Chief of the Forest Service. The Pacific Crest Trail shall be administered by the Secretary of Agriculture, in consultation with the Secretary of the Interior.

(3) The Oregon National Historic Trail, a route of approximately two thousand miles extending from near Independence, Missouri, to the vicinity of Portland, Oregon, following a route as depicted on maps identified as ''Primary Route of the Oregon Trail 1841–1848'', in the Department of the Interior's Oregon Trail study report dated April 1977, and which shall be on file and available for public inspection in the office of the Director of the National Park Service. The trail shall be administered by the Secretary of the Interior. No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land. The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than ¼ mile on either side of the trail.

(4) The Mormon Pioneer National Historic Trail, a route of approximately one thousand three hundred miles extending from Nauvoo, Illinois, to Salt Lake City, Utah, following the primary historical route of the Mormon Trail as generally depicted on a map, identified as, ''Mormon Trail Vicinity Map, figure 2'' in the Department of the Interior Mormon Trail study report dated March 1977, and which shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior. No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land. The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than ¼ mile on either side of the trail.

(5) The Continental Divide National Scenic Trail, a trail of approximately thirty-one hundred miles, extending from the Montana-Canada border to the New Mexico-Mexico border, following the approximate route depicted on the map, identified as ''Proposed Continental Divide National Scenic Trail'' in the Department of the Interior Continental Divide Trail study report dated March 1977 and which shall be on file and available for public inspection in the office of the Chief, Forest Service, Washington, D.C. The Continental Divide National Scenic Trail shall be administered by the Secretary of Agriculture in consultation with the Secretary of the Interior. Notwithstanding the provisions of section 1246(c) of this title, the use of motorized vehicles on roads which will be designated segments of the Continental Divide National Scenic Trail shall be permitted in accordance with regulations prescribed by the appropriate Secretary. No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land. The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than ¼ mile on either side of the trail.

(6) The Lewis and Clark National Historic Trail, a trail of approximately three thousand seven hundred miles, extending from Wood River, Illinois, to the mouth of the Columbia River in Oregon, following the outbound and inbound routes of the Lewis and Clark Expedition depicted on maps identified as, ''Vicinity Map, Lewis and Clark Trail'' study report dated April 1977. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior. No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land. The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than ¼ mile on either side of the trail.

(7) The Iditarod National Historic Trail, a route of approximately two thousand miles extending from Seward, Alaska, to Nome, Alaska, following the routes as depicted on maps identified as ''Seward-Nome Trail'', in the Department of the Interior's study report entitled ''The Iditarod Trail (Seward-Nome Route) and other Alaskan Gold Rush Trails'' dated September 1977. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior. No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land. The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than ¼ mile on either side of the trail.

(8) The North Country National Scenic Trail, a trail of approximately thirty-two hundred miles, extending from eastern New York State to the

vicinity of Lake Sakakawea in North Dakota, following the approximate route depicted on the map identified as ''Proposed North Country Trail-Vicinity Map'' in the Department of the Interior ''North Country Trail Report'', dated June 1975. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior. No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land.

(9) The Overmountain Victory National Historic Trail, a system totaling approximately two hundred seventy-two miles of trail with routes from the mustering point near Abingdon, Virginia, to Sycamore Shoals (near Elizabethton, Tennessee); from Sycamore Shoals to Quaker Meadows (near Morganton, North Carolina); from the mustering point in Surry County, North Carolina, to Quaker Meadows; and from Quaker Meadows to Kings Mountain, South Carolina, as depicted on the map identified as Map 3—Historic Features—1780 in the draft study report entitled ''Overmountain Victory Trail'' dated December 1979. The map shall be on file and available for public inspection in the Office of the Director, National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.

(10) The Ice Age National Scenic Trail, a trail of approximately one thousand miles, extending from Door County, Wisconsin, to Interstate Park in Saint Croix County, Wisconsin, generally following the route described in ''On the Trail of the Ice Age—A Hiker's and Biker's Guide to Wisconsin's Ice Age National Scientific Reserve and Trail'', by Henry S. Reuss, Member of Congress, dated 1980. The guide and maps shall be on file and available for public inspection in the Office of the Director, National Park Service, Washington, District of Columbia. Overall administration of the trail shall be the responsibility of the Secretary of the Interior pursuant to subsection (d) of this section. The State of Wisconsin, in consultation with the Secretary of the Interior, may, subject to the approval of the Secretary, prepare a plan for the management of the trail which shall be deemed to meet the requirements of subsection (e) of this section. Notwithstanding the provisions of section 1246(c) of this title, snowmobile use may be permitted on segments of the Ice Age National Scenic Trail where deemed appropriate by the Secretary and the managing authority responsible for the segment. No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land.

(11) The Potomac Heritage National Scenic Trail, a corridor of approximately seven hundred and four miles following the route as generally depicted on the map identified as ''National Trails System, Proposed Potomac Heritage Trail'' in ''The Potomac Heritage Trail'', a report prepared by the Department of the Interior and dated December 1974, except that no designation of the trail shall be made in the State of West Virginia. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Washington, District of Columbia. The trail shall initially consist of only those segments of the corridor located within the exterior boundaries of federally administered areas. The trail shall be administered by the Secretary of the Interior. No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land.

(12) The Natchez Trace National Scenic Trail, a trail system of approximately six hundred and ninety-four miles extending from Nashville, Tennessee, to Natchez, Mississippi, as depicted on the map entitled ''Concept Plan, Natchez Trace Trails Study'' in ''The Natchez Trace'', a report prepared by the Department of the Interior and dated August 1979. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.

(13) The Florida National Scenic Trail, a route of approximately thirteen hundred miles extending through the State of Florida as generally depicted in ''The Florida Trail'', a national scenic trail study draft report prepared by the Department of the Interior and dated February 1980. The report shall be on file and available for public inspection in the office of the Chief of the Forest Service, Washington, District of Columbia. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Florida Trail except with the consent of the owner thereof. The Secretary of Agriculture may designate lands outside of federally administered areas as segments of the trail, only upon application from the States or local governmental agencies involved, if such segments meet the criteria established in this chapter and are administered by such agencies without expense to the United States. The trail shall be administered by the Secretary of Agriculture.

(14) The Nez Perce National Historic Trail, a route of approximately eleven hundred and seventy miles extending from the vicinity of Wallowa Lake, Oregon, to Bear Paw Mountain, Montana, as generally depicted in ''Nez Perce (Nee-Me-Poo) Trail Study Report'' prepared by the Department of Agriculture and dated March 1982. The report shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia. The trail shall be administered by the Secretary of Agriculture. So that significant route segments and sites recognized as associated with the Nez Perce Trail may be distinguished by suitable markers, the Secretary of Agriculture is authorized to accept the donation of suitable markers for placement at appropriate locations. Any such markers associated with the Nez Perce Trail which are to be located on lands administered by any other department or agency of the

United States may be placed on such lands only with the concurrence of the head of such department or agency. No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land. The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than ¼ mile on either side of the trail.

(15) The Santa Fe National Historic Trail, a trail of approximately 950 miles from a point near Old Franklin, Missouri, through Kansas, Oklahoma, and Colorado to Santa Fe, New Mexico, as generally depicted on a map entitled ''The Santa Fe Trail'' contained in the Final Report of the Secretary of the Interior pursuant to subsection (b) of this section, dated July 1976. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Santa Fe Trail except with the consent of the owner thereof. Before acquiring any easement or entering into any cooperative agreement with a private landowner with respect to the trail, the Secretary shall notify the landowner of the potential liability, if any, for injury to the public resulting from physical conditions which may be on the landowner's land. The United States shall not be held liable by reason of such notice or failure to provide such notice to the landowner. So that significant route segments and sites recognized as associated with the Santa Fe Trail may be distinguished by suitable markers, the Secretary of the Interior is authorized to accept the donation of suitable markers for placement at appropriate locations.

(16)(A) The Trail of Tears National Historic Trail, a trail consisting of water routes and overland routes traveled by the Cherokee Nation during its removal from ancestral lands in the East to Oklahoma during 1838 and 1839, generally located within the corridor described through portions of Georgia, North Carolina, Alabama, Tennessee, Kentucky, Illinois, Missouri, Arkansas, and Oklahoma in the final report of the Secretary of the Interior prepared pursuant to subsection (b) of this section entitled ''Trail of Tears'' and dated June 1986. Maps depicting the corridor shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Trail of Tears except with the consent of the owner thereof.

(B) In carrying out his responsibilities pursuant to sections 1244(f) and 1246(c) of this title, the Secretary of the Interior shall give careful consideration to the establishment of appropriate interpretive sites for the Trail of Tears in the vicinity of Hopkinsville, Kentucky, Fort Smith, Arkansas, Trail of Tears State Park, Missouri, and Tahlequah, Oklahoma.

(C) In addition to the areas otherwise designated under this paragraph, the following routes and land components by which the Cherokee Nation was removed to Oklahoma are components of the Trail of Tears National Historic Trail, as generally described in the environmentally preferred alternative of the November 2007 Feasibility Study Amendment and Environmental Assessment for Trail of Tears National Historic Trail:

(i) The Benge and Bell routes.

(ii) The land components of the designated water routes in Alabama, Arkansas, Oklahoma, and Tennessee.

(iii) The routes from the collection forts in Alabama, Georgia, North Carolina, and Tennessee to the emigration depots.

(iv) The related campgrounds located along the routes and land components described in clauses (i) through (iii).

(D) The Secretary may accept donations for the Trail from private, nonprofit, or tribal organizations. No lands or interests in lands outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Trail of Tears National Historic Trail except with the consent of the owner thereof.

(17) The Juan Bautista de Anza National Historic Trail, a trail comprising the overland route traveled by Captain Juan Bautista de Anza of Spain during the years 1775 and 1776 from Sonora, Mexico, to the vicinity of San Francisco, California, of approximately 1,200 miles through Arizona and California, as generally described in the report of the Department of the Interior prepared pursuant to subsection (b) of this section entitled ''Juan Bautista de Anza National Trail Study, Feasibility Study and Environmental Assessment'' and dated August 1986. A map generally depicting the trail shall be on file and available for public inspection in the Office of the Director of the National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Juan Bautista de Anza National Historic Trail without the consent of the owner thereof. In implementing this paragraph, the Secretary shall encourage volunteer trail groups to participate in the development and maintenance of the trail.

(18) The California National Historic Trail, a route of approximately five thousand seven hundred miles, including all routes and cutoffs, extending from Independence and Saint Joseph, Missouri, and Council Bluffs, Iowa, to various points in California and Oregon, as generally described in the report of the Department of the Interior prepared pursuant to subsection (b) of this section entitled ''California and Pony Express Trails, Eligibility/Feasibility Study/Environmental Assessment'' and dated September 1987. A map generally depicting the route shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior bound-

aries of any federally administered area may be acquired by the United States for the California National Historic Trail except with the consent of the owner thereof.

(19) The Pony Express National Historic Trail, a route of approximately one thousand nine hundred miles, including the original route and subsequent route changes, extending from Saint Joseph, Missouri, to Sacramento, California, as generally described in the report of the Department of the Interior prepared pursuant to subsection (b) of this section entitled ''California and Pony Express Trails, Eligibility/Feasibility Study/Environmental Assessment'', and dated September 1987. A map generally depicting the route shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the United States for the Pony Express National Historic Trail except with the consent of the owner thereof.

(20) The Selma to Montgomery National Historic Trail, consisting of 54 miles of city streets and United States Highway 80 from Brown Chapel A.M.E. Church in Selma to the State Capitol Building in Montgomery, Alabama, traveled by voting rights advocates during March 1965 to dramatize the need for voting rights legislation, as generally described in the report of the Secretary of the Interior prepared pursuant to subsection (b) of this section entitled ''Selma to Montgomery'' and dated April 1993. Maps depicting the route shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered in accordance with this chapter, including section 1246(h) of this title. The Secretary of the Interior, acting through the National Park Service, which shall be the lead Federal agency, shall cooperate with other Federal, State and local authorities to preserve historic sites along the route, including (but not limited to) the Edmund Pettus Bridge and the Brown Chapel A.M.E. Church.

(21) EL CAMINO REAL DE TIERRA ADENTRO.—

(A) El Camino Real de Tierra Adentro (the Royal Road of the Interior) National Historic Trail, a 404 mile long trail from the Rio Grande near El Paso, Texas to San Juan Pueblo, New Mexico, as generally depicted on the maps entitled ''United States Route: El Camino Real de Tierra Adentro'', contained in the report prepared pursuant to subsection (b) of this section entitled ''National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de Tierra Adentro, Texas-New Mexico'', dated March 1997.

(B) MAP.—A map generally depicting the trail shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.

(C) ADMINISTRATION.—The Trail shall be administered by the Secretary of the Interior.

(D) LAND ACQUISITION.—No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for El Camino Real de Tierra Adentro except with the consent of the owner thereof.

(E) VOLUNTEER GROUPS; CONSULTATION.—The Secretary of the Interior shall—

(i) encourage volunteer trail groups to participate in the development and maintenance of the trail; and

(ii) consult with other affected Federal, State, local governmental, and tribal agencies in the administration of the trail.

(F) COORDINATION OF ACTIVITIES.—The Secretary of the Interior may coordinate with United States and Mexican public and nongovernmental organizations, academic institutions, and, in consultation with the Secretary of State, the government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.

(22) ALA KAHAKAI NATIONAL HISTORIC TRAIL.—

(A) IN GENERAL.—The Ala Kahakai National Historic Trail (the Trail by the Sea), a 175 mile long trail extending from ʻUpolu Point on the north tip of Hawaii Island down the west coast of the Island around Ka Lae to the east boundary of Hawaiʻi Volcanoes National Park at the ancient shoreline temple known as ''Waha‘ula'', as generally depicted on the map entitled ''Ala Kahakai Trail'', contained in the report prepared pursuant to subsection (b) of this section entitled ''Ala Kahakai National Trail Study and Environmental Impact Statement'', dated January 1998.

(B) MAP.—A map generally depicting the trail shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.

(C) ADMINISTRATION.—The trail shall be administered by the Secretary of the Interior.

(D) LAND ACQUISITION.—No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the United States for the trail except with the consent of the owner of the land or interest in land.

(E) PUBLIC PARTICIPATION; CONSULTATION.—The Secretary of the Interior shall—

(i) encourage communities and owners of land along the trail, native Hawaiians, and volunteer trail groups to participate in the planning, development, and maintenance of the trail; and

(ii) consult with affected Federal, State, and local agencies, native Hawaiian groups, and landowners in the administration of the trail.

(23) OLD SPANISH NATIONAL HISTORIC TRAIL.—

(A) IN GENERAL.—The Old Spanish National Historic Trail, an approximately 2,700 mile long trail extending from Santa Fe, New Mexico, to Los Angeles, California, that served as a major trade route between 1829 and 1848, as generally depicted on the maps numbered 1 through 9, as contained in the report entitled ''Old Spanish Trail National Historic Trail Feasibility Study'', dated July 2001, including

the Armijo Route, Northern Route, North Branch, and Mojave Road.

(B) MAP.—A map generally depicting the trail shall be on file and available for public inspection in the appropriate offices of the Department of the Interior.

(C) ADMINISTRATION.—The trail shall be administered by the Secretary of the Interior (referred to in this paragraph as the ''Secretary'').

(D) LAND ACQUISITION.—The United States shall not acquire for the trail any land or interest in land outside the exterior boundary of any federally-managed area without the consent of the owner of the land or interest in land.

(E) CONSULTATION.—The Secretary shall consult with other Federal, State, local, and tribal agencies in the administration of the trail.

(F) ADDITIONAL ROUTES.—The Secretary may designate additional routes to the trail if—

(i) the additional routes were included in the Old Spanish Trail National Historic Trail Feasibility Study, but were not recommended for designation as a national historic trail; and

(ii) the Secretary determines that the additional routes were used for trade and commerce between 1829 and 1848.

(24) EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL.—

(A) IN GENERAL.—El Camino Real de los Tejas (the Royal Road to the Tejas) National Historic Trail, a combination of historic routes (including the Old San Antonio Road) totaling approximately 2,580 miles, extending from the Rio Grande near Eagle Pass and Laredo, Texas, to Natchitoches, Louisiana, as generally depicted on the map entitled ''El Camino Real de los Tejas'' contained in the report entitled ''National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de los Tejas, Texas-Louisiana'', dated July 1998.

(B) MAP.—A map generally depicting the trail shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(C) ADMINISTRATION.—(i) The Secretary of the Interior (referred to in this paragraph as ''the Secretary'') shall administer the trail.

(ii) The Secretary shall administer those portions of the trail on non-Federal land only with the consent of the owner of such land and when such trail portion qualifies for certification as an officially established component of the trail, consistent with section 1242(a)(3) of this title. An owner's approval of a certification agreement shall satisfy the consent requirement. A certification agreement may be terminated at any time.

(iii) The designation of the trail does not authorize any person to enter private property without the consent of the owner.

(D) CONSULTATION.—The Secretary shall consult with appropriate State and local agencies in the planning and development of the trail.

(E) COORDINATION OF ACTIVITIES.—The Secretary may coordinate with United States and Mexican public and nongovernmental organizations, academic institutions, and, in consultation with the Secretary of State, the Government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.

(F) LAND ACQUISITION.—The United States shall not acquire for the trail any land or interest in land outside the exterior boundary of any federally-administered area without the consent of the owner of the land or interest in land.

(25) CAPTAIN JOHN SMITH CHESAPEAKE NATIONAL HISTORIC TRAIL.—

(A) IN GENERAL.—The Captain John Smith Chesapeake National Historic Trail, a series of water routes extending approximately 3,000 miles along the Chesapeake Bay and the tributaries of the Chesapeake Bay in the States of Virginia, Maryland, and Delaware, and in the District of Columbia, that traces the 1607–1609 voyages of Captain John Smith to chart the land and waterways of the Chesapeake Bay, as generally depicted on the map entitled ''Captain John Smith Chesapeake National Historic Trail Map MD, VA, DE, and DC'', numbered P–16/8000 (CAJO), and dated May 2006.

(B) MAP.—The map referred to in subparagraph (A) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(C) ADMINISTRATION.—The trail shall be administered by the Secretary of the Interior—

(i) in coordination with—

(I) the Chesapeake Bay Gateways and Watertrails Network authorized under the Chesapeake Bay Initiative Act of 1998 (16 U.S.C. 461 note; 112 Stat. 2961); and

(II) the Chesapeake Bay Program authorized under section 1267 of title 33; and

(ii) in consultation with—

(I) other Federal, State, tribal, regional, and local agencies; and

(II) the private sector.

(D) LAND ACQUISITION.—The United States shall not acquire for the trail any land or interest in land outside the exterior boundary of any federally-managed area without the consent of the owner of the land or interest in land.

(26) STAR-SPANGLED BANNER NATIONAL HISTORIC TRAIL.—

(A) IN GENERAL.—The Star-Spangled Banner National Historic Trail, a trail consisting of water and overland routes totaling approximately 290 miles, extending from Tangier Island, Virginia, through southern Maryland, the District of Columbia, and northern Virginia, in the Chesapeake Bay, Patuxent River, Potomac River, and north to the Patapsco River, and Baltimore, Maryland, commemorating the Chesapeake Campaign of the War of 1812 (including the British invasion of Washington, District of Columbia, and its associated feints, and the Battle of Baltimore in summer 1814), as generally depicted on the

map titled ''Star-Spangled Banner National Historic Trail'', numbered T02/80,000, and dated June 2007.

(B) MAP.—The map referred to in subparagraph (A) shall be maintained on file and available for public inspection in the appropriate offices of the National Park Service.

(C) ADMINISTRATION.—Subject to subparagraph (E)(ii), the trail shall be administered by the Secretary of the Interior.

(D) LAND ACQUISITION.—No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the United States for the trail except with the consent of the owner of the land or interest in land.

(E) PUBLIC PARTICIPATION.—The Secretary of the Interior shall—

(i) encourage communities, owners of land along the trail, and volunteer trail groups to participate in the planning, development, and maintenance of the trail; and

(ii) consult with other affected landowners and Federal, State, and local agencies in the administration of the trail.

(F) INTERPRETATION AND ASSISTANCE.—Subject to the availability of appropriations, the Secretary of the Interior may provide, to State and local governments and nonprofit organizations, interpretive programs and services and technical assistance for use in—

(i) carrying out preservation and development of the trail; and

(ii) providing education relating to the War of 1812 along the trail.

(27) ARIZONA NATIONAL SCENIC TRAIL.—

(A) IN GENERAL.—The Arizona National Scenic Trail, extending approximately 807 miles across the State of Arizona from the U.S.–Mexico international border to the Arizona–Utah border, as generally depicted on the map entitled ''Arizona National Scenic Trail'' and dated December 5, 2007, to be administered by the Secretary of Agriculture, in consultation with the Secretary of the Interior and appropriate State, tribal, and local governmental agencies.

(B) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in appropriate offices of the Forest Service.

(28) NEW ENGLAND NATIONAL SCENIC TRAIL.—The New England National Scenic Trail, a continuous trail extending approximately 220 miles from the border of New Hampshire in the town of Royalston, Massachusetts to Long Island Sound in the town of Guilford, Connecticut, as generally depicted on the map titled ''New England National Scenic Trail Proposed Route'', numbered T06/80,000, and dated October 2007. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service. The Secretary of the Interior, in consultation with appropriate Federal, State, tribal, regional, and local agencies, and other organizations, shall administer the trail after considering the recommendations of the report titled the ''Metacomet Monadnock Mattabesset Trail System National Scenic Trail Feasibility Study and Environmental Assessment'', prepared by the National Park Service, and dated Spring 2006. The United States shall not acquire for the trail any land or interest in land without the consent of the owner.

(29) WASHINGTON-ROCHAMBEAU REVOLUTIONARY ROUTE NATIONAL HISTORIC TRAIL.—

(A) IN GENERAL.—The Washington-Rochambeau Revolutionary Route National Historic Trail, a corridor of approximately 600 miles following the route taken by the armies of General George Washington and Count Rochambeau between Newport, Rhode Island, and Yorktown, Virginia, in 1781 and 1782, as generally depicted on the map entitled ''WASHINGTON-ROCHAMBEAU REVOLUTIONARY ROUTE NATIONAL HISTORIC TRAIL'', numbered T01/80,001, and dated June 2007.

(B) MAP.—The map referred to in subparagraph (A) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(C) ADMINISTRATION.—The trail shall be administered by the Secretary of the Interior, in consultation with—

(i) other Federal, State, tribal, regional, and local agencies; and

(ii) the private sector.

(D) LAND ACQUISITION.—The United States shall not acquire for the trail any land or interest in land outside the exterior boundary of any federally-managed area without the consent of the owner of the land or interest in land.

(30) PACIFIC NORTHWEST NATIONAL SCENIC TRAIL.—

(A) IN GENERAL.—The Pacific Northwest National Scenic Trail, a trail of approximately 1,200 miles, extending from the Continental Divide in Glacier National Park, Montana, to the Pacific Ocean Coast in Olympic National Park, Washington, following the route depicted on the map entitled ''Pacific Northwest National Scenic Trail: Proposed Trail'', numbered T12/80,000, and dated February 2008 (referred to in this paragraph as the ''map'').

(B) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(C) ADMINISTRATION.—The Pacific Northwest National Scenic Trail shall be administered by the Secretary of Agriculture.

(D) LAND ACQUISITION.—The United States shall not acquire for the Pacific Northwest National Scenic Trail any land or interest in land outside the exterior boundary of any federally-managed area without the consent of the owner of the land or interest in land.

(b) Additional national scenic or national historic trails; feasibility studies; consultations; submission of studies to Congress; scope of studies; qualifications for national historic trail designation

The Secretary of the Interior, through the agency most likely to administer such trail, and the Secretary of Agriculture where lands administered by him are involved, shall make such additional studies as are herein or may hereafter be authorized by the Congress for the purpose of determining the feasibility and desirability of designating other trails as national scenic or na-

tional historic trails. Such studies shall be made in consultation with the heads of other Federal agencies administering lands through which such additional proposed trails would pass and in cooperation with interested interstate, State, and local governmental agencies, public and private organizations, and landowners and land users concerned. The feasibility of designating a trail shall be determined on the basis of an evaluation of whether or not it is physically possible to develop a trail along a route being studied, and whether the development of a trail would be financially feasible. The studies listed in subsection (c) of this section shall be completed and submitted to the Congress, with recommendations as to the suitability of trail designation, not later than three complete fiscal years from the date of enactment of their addition to this subsection, or from November 10, 1978, whichever is later. Such studies, when submitted, shall be printed as a House or Senate document, and shall include, but not be limited to:

(1) the proposed route of such trail (including maps and illustrations);

(2) the areas adjacent to such trails, to be utilized for scenic, historic, natural, cultural, or developmental, purposes;

(3) the characteristics which, in the judgment of the appropriate Secretary, make the proposed trail worthy of designation as a national scenic or national historic trail; and in the case of national historic trails the report shall include the recommendation of the Secretary of the Interior's National Park System Advisory Board as to the national historic significance based on the criteria developed under the Historic Sites Act of 1935 (49 Stat. 666; 16 U.S.C. 461);

(4) the current status of land ownership and current and potential use along the designated route;

(5) the estimated cost of acquisition of lands or interests in lands, if any;

(6) the plans for developing and maintaining the trail and the cost thereof;

(7) the proposed Federal administering agency (which, in the case of a national scenic trail wholly or substantially within a national forest, shall be the Department of Agriculture);

(8) the extent to which a State or its political subdivisions and public and private organizations might reasonably be expected to participate in acquiring the necessary lands and in the administration thereof;

(9) the relative uses of the lands involved, including: the number of anticipated visitor-days for the entire length of, as well as for segments of, such trail; the number of months which such trail, or segments thereof, will be open for recreation purposes; the economic and social benefits which might accrue from alternate land uses; and the estimated man-years of civilian employment and expenditures expected for the purposes of maintenance, supervision, and regulation of such trail;

(10) the anticipated impact of public outdoor recreation use on the preservation of a proposed national historic trail and its related historic and archeological features and settings, including the measures proposed to ensure evaluation and preservation of the values that contribute to their national historic significance; and

(11) to qualify for designation as a national historic trail, a trail must meet all three of the following criteria:

(A) It must be a trail or route established by historic use and must be historically significant as a result of that use. The route need not currently exist as a discernible trail to qualify, but its location must be sufficiently known to permit evaluation of public recreation and historical interest potential. A designated trail should generally accurately follow the historic route, but may deviate somewhat on occasion of necessity to avoid difficult routing through subsequent development, or to provide some route variation offering a more pleasurable recreational experience. Such deviations shall be so noted on site. Trail segments no longer possible to travel by trail due to subsequent development as motorized transportation routes may be designated and marked onsite as segments which link to the historic trail.

(B) It must be of national significance with respect to any of several broad facets of American history, such as trade and commerce, exploration, migration and settlement, or military campaigns. To qualify as nationally significant, historic use of the trail must have had a far-reaching effect on broad patterns of American culture. Trails significant in the history of native Americans may be included.

(C) It must have significant potential for public recreational use or historical interest based on historic interpretation and appreciation. The potential for such use is generally greater along roadless segments developed as historic trails, and at historic sites associated with the trail. The presence of recreation potential not related to historic appreciation is not sufficient justification for designation under this category.

(c) Routes subject to consideration for designation as national scenic trails

The following routes shall be studied in accordance with the objectives outlined in subsection (b) of this section:

(1) Continental Divide Trail, a three-thousand-one-hundred-mile trail extending from near the Mexican border in southwestern New Mexico northward generally along the Continental Divide to the Canadian border in Glacier National Park.

(2) Potomac Heritage Trail, an eight-hundred-and-twenty-five-mile trail extending generally from the mouth of the Potomac River to its sources in Pennsylvania and West Virginia, including the one-hundred-and-seventy-mile Chesapeake and Ohio Canal towpath.

(3) Old Cattle Trails of the Southwest from the vicinity of San Antonio, Texas, approximately eight hundred miles through Oklahoma via Baxter Springs and Chetopa, Kansas, to Fort Scott, Kansas, including the Chisholm Trail, from the vicinity of San Antonio or Cuero, Texas, approximately eight hundred miles north through Oklahoma to Abilene, Kansas.

(4) Lewis and Clark Trail, from Wood River, Illinois, to the Pacific Ocean in Oregon, following

both the outbound and inbound routes of the Lewis and Clark Expedition.

(5) Natchez Trace, from Nashville, Tennessee, approximately six hundred miles to Natchez, Mississippi.

(6) North Country Trail, from the Appalachian Trail in Vermont, approximately three thousand two hundred miles through the States of New York, Pennsylvania, Ohio, Michigan, Wisconsin, and Minnesota, to the Lewis and Clark Trail in North Dakota.

(7) Kittanning Trail from Shirleysburg in Huntingdon County to Kittanning, Armstrong County, Pennsylvania.

(8) Oregon Trail, from Independence, Missouri, approximately two thousand miles to near Fort Vancouver, Washington.

(9) Santa Fe Trail, from Independence, Missouri, approximately eight hundred miles to Santa Fe, New Mexico.

(10) Long Trail, extending two hundred and fifty-five miles from the Massachusetts border northward through Vermont to the Canadian border.

(11) Mormon Trail, extending from Nauvoo, Illinois, to Salt Lake City, Utah, through the States of Iowa, Nebraska, and Wyoming.

(12) Gold Rush Trails in Alaska.

(13) Mormon Battalion Trail, extending two thousand miles from Mount Pisgah, Iowa, through Kansas, Colorado, New Mexico, and Arizona to Los Angeles, California.

(14) El Camino Real from St. Augustine to San Mateo, Florida, approximately 20 miles along the southern boundary of the St. Johns River from Fort Caroline National Memorial to the St. Augustine National Park Monument.

(15) Bartram Trail, extending through the States of Georgia, North Carolina, South Carolina, Alabama, Florida, Louisiana, Mississippi, and Tennessee.

(16) Daniel Boone Trail, extending from the vicinity of Statesville, North Carolina, to Fort Boonesborough State Park, Kentucky.

(17) Desert Trail, extending from the Canadian border through parts of Idaho, Washington, Oregon, Nevada, California, and Arizona, to the Mexican border.

(18) Dominguez-Escalante Trail, extending approximately two thousand miles along the route of the 1776 expedition led by Father Francisco Atanasio Dominguez and Father Silvestre Velez de Escalante, originating in Santa Fe, New Mexico; proceeding northwest along the San Juan, Dolores, Gunnison, and White Rivers in Colorado; thence westerly to Utah Lake; thence southward to Arizona and returning to Santa Fe.

(19) Florida Trail, extending north from Everglades National Park, including the Big Cypress Swamp, the Kissimmee Prairie, the Withlacoochee State Forest, Ocala National Forest, Osceola National Forest, and Black Water River State Forest, said completed trail to be approximately one thousand three hundred miles long, of which over four hundred miles of trail have already been built.

(20) Indian Nations Trail, extending from the Red River in Oklahoma approximately two hundred miles northward through the former Indian nations to the Oklahoma-Kansas boundary line.

(21) Nez Perce Trail extending from the vicinity of Wallowa Lake, Oregon, to Bear Paw Mountain, Montana.

(22) Pacific Northwest Trail, extending approximately one thousand miles from the Continental Divide in Glacier National Park, Montana, to the Pacific Ocean beach of Olympic National Park, Washington, by way of—

(A) Flathead National Forest and Kootenai National Forest in the State of Montana;

(B) Kaniksu National Forest in the State of Idaho; and

(C) Colville National Forest, Okanogan National Forest, Pasayten Wilderness Area, Ross Lake National Recreation Area, North Cascades National Park, Mount Baker, the Skagit River, Deception Pass, Whidbey Island, Olympic National Forest, and Olympic National Park in the State of Washington.

(23) Overmountain Victory Trail, extending from the vicinity of Elizabethton, Tennessee, to Kings Mountain National Military Park, South Carolina.

(24) Juan Bautista de Anza Trail, following the overland route taken by Juan Bautista de Anza in connection with his travels from the United Mexican States to San Francisco, California.

(25) Trail of Tears, including the associated forts and specifically, Fort Mitchell, Alabama, and historic properties, extending from the vicinity of Murphy, North Carolina, through Georgia, Alabama, Tennessee, Kentucky, Illinois, Missouri, and Arkansas, to the vicinity of Tahlequah, Oklahoma.

(26) Illinois Trail, extending from the Lewis and Clark Trail at Wood River, Illinois, to the Chicago Portage National Historic Site, generally following the Illinois River and the Illinois and Michigan Canal.

(27) Jedediah Smith Trail, to include the routes of the explorations led by Jedediah Smith—

(A) during the period 1826–1827, extending from the Idaho-Wyoming border, through the Great Salt Lake, Sevier, Virgin, and Colorado River Valleys, and the Mojave Desert, to the San Gabriel Mission, California; thence through the Tehachapi Mountains, San Joaquin and Stanislaus River Valleys, Ebbetts Pass, Walker River Valley, Bald Mount, Mount Grafton, and Great Salt Lake to Bear Lake, Utah; and

(B) during 1828, extending from the Sacramento and Trinity River Valleys along the Pacific coastline, through the Smith and Willamette River Valleys to the Fort Vancouver National Historic Site, Washington, on the Columbia River.

(28) General Crook Trail, extending from Prescott, Arizona, across the Mogollon Rim to Fort Apache.

(29) Beale Wagon Road, within the Kaibab and Coconino National Forests in Arizona: *Provided*, That such study may be prepared in conjunction with ongoing planning processes for these National Forests to be completed before 1990.

(30) Pony Express Trail, extending from Saint Joseph, Missouri, through Kansas, Nebraska, Colorado, Wyoming, Utah, Nevada, to Sacramento, California, as indicated on a map la-

beled ''Potential Pony Express Trail'', dated October 1983 and the California Trail, extending from the vicinity of Omaha, Nebraska, and Saint Joseph, Missouri, to various points in California, as indicated on a map labeled ''Potential California Trail'' and dated August 1, 1983. Notwithstanding subsection (b) of this section, the study under this paragraph shall be completed and submitted to the Congress no later than the end of two complete fiscal years beginning after August 28, 1984. Such study shall be separated into two portions, one relating to the Pony Express Trail and one relating to the California Trail.

(31) De Soto Trail, the approximate route taken by the expedition of the Spanish explorer Hernado de Soto in 1539, extending through portions of the States of Florida, Georgia, South Carolina, North Carolina, Tennessee, Alabama, Mississippi, to the area of Little Rock, Arkansas, on to Texas and Louisiana, and any other States which may have been crossed by the expedition. The study under this paragraph shall be prepared in accordance with subsection (b) of this section, except that it shall be completed and submitted to the Congress with recommendations as to the trail's suitability for designation not later than one calendar year after December 11, 1987.

(32) Coronado Trail, the approximate route taken by the expedition of the Spanish explorer Francisco Vasquez de Coronado between 1540 and 1542, extending through portions of the States of Arizona, New Mexico, Texas, Oklahoma, and Kansas. The study under this paragraph shall be prepared in accordance with subsection (b) of this section. In conducting the study under this paragraph, the Secretary shall provide for (A) the review of all original Spanish documentation on the Coronado Trail, (B) the continuing search for new primary documentation on the trail, and (C) the examination of all information on the archeological sites along the trail.

(33) The route from Selma to Montgomery, Alabama traveled by people in a march dramatizing the need for voting rights legislation, in March 1965, includes Sylvan South Street, Water Avenue, the Edmund Pettus Bridge, and Highway 80. The study under this paragraph shall be prepared in accordance with subsection (b) of this section, except that it shall be completed and submitted to the Congress with recommendations as to the trail's suitability for designation not later than 1 year after July 3, 1990.

(34) American Discovery Trail, extending from Pt. Reyes, California, across the United States through Nevada, Utah, Colorado, Kansas, Nebraska, Missouri, Iowa, Illinois, Indiana, Ohio, West Virginia, Maryland, and the District of Columbia, to Cape Henlopen State Park, Delaware; to include in the central United States a northern route through Colorado, Nebraska, Iowa, Illinois, and Indiana and a southern route through Colorado, Kansas, Missouri, Illinois, and Indiana.

(35) Ala Kahakai Trail in the State of Hawaii, an ancient Hawaiian trail on the Island of Hawaii extending from the northern tip of the Island of Hawaii approximately 175 miles along the western and southern coasts to the northern boundary of Hawai`i Volcanoes National Park.

(36)(A) El Camino Real de Tierra Adentro, the approximately 1,800 mile route extending from Mexico City, Mexico, across the international border at El Paso, Texas, to Santa Fe, New Mexico.

(B) The study shall—

(i) examine changing routes within the general corridor;

(ii) examine major connecting branch routes; and

(iii) give due consideration to alternative name designations.

(C) The Secretary of the Interior is authorized to work in cooperation with the Government of Mexico (including, but not limited to providing technical assistance) to determine the suitability and feasibility of establishing an international historic route along the El Camino Real de Tierra Adentro.

(37)(A) El Camino Real Para Los Texas, the approximate series of routes from Saltillo, Monclova, and Guerrero, Mexico across Texas through San Antonio and Nacogdoches, to the vicinity of Los Adaes, Louisiana, together with the evolving routes later known as the San Antonio Road.

(B) The study shall—

(i) examine the changing roads within the historic corridor;

(ii) examine the major connecting branch routes;

(iii) determine the individual or combined suitability and feasibility of routes for potential national historic trail designation;

(iv) consider the preservation heritage plan developed by the Texas Department of Transportation entitled ''A Texas Legacy: The Old San Antonio Road and the Caminos Reales'', dated January, 1991; and

(v) make recommendations concerning the suitability and feasibility of establishing an international historical park where the trail crosses the United States-Mexico border at Maverick County, Texas, and Guerrero, Mexico.

(C) The Secretary of the Interior is authorized to work in cooperation with the government of Mexico (including, but not limited to providing technical assistance) to determine the suitability and feasibility of establishing an international historic trail along the El Camino Real Para Los Texas.

(D) The study shall be undertaken in consultation with the Louisiana Department of Transportation and Development and the Texas Department of Transportation.

(E) The study shall consider alternative name designations for the trail.

(F) The study shall be completed no later than two years after the date funds are made available for the study.

(38) The Old Spanish Trail, beginning in Santa Fe, New Mexico, proceeding through Colorado and Utah, and ending in Los Angeles, California, and the Northern Branch of the Old Spanish Trail, beginning near Espanola, New Mexico, proceeding through Colorado, and ending near Crescent Junction, Utah.

(39) The Great Western Scenic Trail, a system of trails to accommodate a variety of travel

users in a corridor of approximately 3,100 miles in length extending from the Arizona-Mexico border to the Idaho-Montana-Canada border, following the approximate route depicted on the map identified as ''Great Western Trail Corridor, 1988'', which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, United States Department of Agriculture. The trail study shall be conducted by the Secretary of Agriculture, in consultation with the Secretary of the Interior, in accordance with subsection (b) of this section and shall include—

(A) the current status of land ownership and current and potential use along the designated route;

(B) the estimated cost of acquisition of lands or interests in lands, if any; and

(C) an examination of the appropriateness of motorized trail use along the trail.

(40) STAR-SPANGLED BANNER NATIONAL HISTORIC TRAIL.—

(A) IN GENERAL.—The Star-Spangled Banner National Historic Trail, tracing the War of 1812 route from the arrival of the British fleet in the Patuxent River in Calvert County and St. Mary's County, Maryland, the landing of the British forces at Benedict, the sinking of the Chesapeake Flotilla at Pig Point, the American defeat at the Battle of Bladensburg, the siege of the Nation's Capital, Washington, District of Columbia (including the burning of the United States Capitol and the White House), the British naval diversions in the upper Chesapeake Bay leading to the Battle of Caulk's Field in Kent County, Maryland, the route of the American troops from Washington through Georgetown, the Maryland Counties of Montgomery, Howard, and Baltimore, and the City of Baltimore, Maryland, to the Battle of North Point, and the ultimate victory of the Americans at Fort McHenry on September 14, 1814.

(B) AFFECTED AREAS.—The trail crosses eight counties within the boundaries of the State of Maryland, the City of Baltimore, Maryland, and Washington, District of Columbia.

(C) COORDINATION WITH OTHER CONGRESSIONALLY MANDATED ACTIVITIES.—The study under this paragraph shall be undertaken in coordination with the study authorized under section 603 of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 1a–5 note; 110 Stat. 4172) and the Chesapeake Bay Gateways and Watertrails Network authorized under the Chesapeake Bay Initiative Act of 1998 (16 U.S.C. 461 note; 112 Stat. 2961). Such coordination shall extend to any research needed to complete the studies and any findings and implementation actions that result from the studies and shall use available resources to the greatest extent possible to avoid unnecessary duplication of effort.

(D) DEADLINE FOR STUDY.—Not later than 2 years after funds are made available for the study under this paragraph, the study shall be completed and transmitted with final recommendations to the Committee on Resources in the House of Representatives and the Committee on Energy and Natural Resources in the Senate.

(41) METACOMET-MONADNOCK-MATTABESETT TRAIL.—The Metacomet-Monadnock-Mattabesett Trail, a system of trails and potential trails extending southward approximately 180 miles through western Massachusetts on the Metacomet-Monadnock Trail, across central Connecticut on the Metacomet Trail and the Mattabesett Trail, and ending at Long Island Sound.

(42) The Long Walk Trail, a series of routes which the Navajo and Mescalero Apache Indian tribes were forced to walk beginning in the fall of 1863 as a result of their removal by the United States Government from their ancestral lands, generally located within a corridor extending through portions of Canyon de Chelley, Arizona, and Albuquerque, Canyon Blanco, Anton Chico, Canyon Piedra Pintado, and Fort Sumner, New Mexico.

(43)(A) The Captain John Smith Chesapeake National Historic Watertrail, a series of routes extending approximately 3,000 miles along the Chesapeake Bay and the tributaries of the Chesapeake Bay in the States of Virginia, Maryland, Pennsylvania, and Delaware and the District of Columbia that traces Captain John Smith's voyages charting the land and waterways of the Chesapeake Bay and the tributaries of the Chesapeake Bay.

(B) The study shall be conducted in consultation with Federal, State, regional, and local agencies and representatives of the private sector, including the entities responsible for administering—

(i) the Chesapeake Bay Gateways and Watertrails Network authorized under the Chesapeake Bay Initiative Act of 1998 (16 U.S.C. 461 note; title V of Public Law 105–312); and

(ii) the Chesapeake Bay Program authorized under section 1267 of title 33.

(C) The study shall include an extensive analysis of the potential impacts the designation of the trail as a national historic watertrail is likely to have on land and water, including docks and piers, along the proposed route or bordering the study route that is privately owned at the time the study is conducted.

(44) CHISHOLM TRAIL.—

(A) IN GENERAL.—The Chisholm Trail (also known as the ''Abilene Trail''), from the vicinity of San Antonio, Texas, segments from the vicinity of Cuero, Texas, to Ft. Worth, Texas, Duncan, Oklahoma, alternate segments used through Oklahoma, to Enid, Oklahoma, Caldwell, Kansas, Wichita, Kansas, Abilene, Kansas, and commonly used segments running to alternative Kansas destinations.

(B) REQUIREMENT.—In conducting the study required under this paragraph, the Secretary of the Interior shall identify the point at which the trail originated south of San Antonio, Texas.

(45) GREAT WESTERN TRAIL.—

(A) IN GENERAL.—The Great Western Trail (also known as the ''Dodge City Trail''), from the vicinity of San Antonio, Texas, north-by-northwest through the vicinities of Kerrville and Menard, Texas, north-by-northeast through the vicinities of Coleman and Albany, Texas, north through the vicinity of Vernon,

Texas, to Doan's Crossing, Texas, northward through or near the vicinities of Altus, Lone Wolf, Canute, Vici, and May, Oklahoma, north through Kansas to Dodge City, and north through Nebraska to Ogallala.

(B) REQUIREMENT.—In conducting the study required under this paragraph, the Secretary of the Interior shall identify the point at which the trail originated south of San Antonio, Texas.

(d) Trail advisory councils; establishment and termination; term and compensation; membership; chairman

The Secretary charged with the administration of each respective trail shall, within one year of the date of the addition of any national scenic or national historic trail to the System, and within sixty days of November 10, 1978, for the Appalachian and Pacific Crest National Scenic Trails, establish an advisory council for each such trail, each of which councils shall expire ten years from the date of its establishment, except that the Advisory Council established for the Iditarod Historic Trail shall expire twenty years from the date of its establishment. If the appropriate Secretary is unable to establish such an advisory council because of the lack of adequate public interest, the Secretary shall so advise the appropriate committees of the Congress. The appropriate Secretary shall consult with such council from time to time with respect to matters relating to the trail, including the selection of rights-of-way, standards for the erection and maintenance of markers along the trail, and the administration of the trail. The members of each advisory council, which shall not exceed thirty-five in number, shall serve for a term of two years and without compensation as such, but the Secretary may pay, upon vouchers signed by the chairman of the council, the expenses reasonably incurred by the council and its members in carrying out their responsibilities under this section. Members of each council shall be appointed by the appropriate Secretary as follows:

(1) the head of each Federal department or independent agency administering lands through which the trail route passes, or his designee;

(2) a member appointed to represent each State through which the trail passes, and such appointments shall be made from recommendations of the Governors of such States;

(3) one or more members appointed to represent private organizations, including corporate and individual landowners and land users, which in the opinion of the Secretary, have an established and recognized interest in the trail, and such appointments shall be made from recommendations of the heads of such organizations: *Provided*, That the Appalachian Trail Conference shall be represented by a sufficient number of persons to represent the various sections of the country through which the Appalachian Trail passes; and

(4) the Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.

(e) Comprehensive national scenic trail plan; consultation; submission to Congressional committees

Within two complete fiscal years of the date of enactment of legislation designating a national scenic trail, except for the Continental Divide National Scenic Trail and the North Country National Scenic Trail, as part of the system, and within two complete fiscal years of November 10, 1978, for the Pacific Crest and Appalachian Trails, the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, the relevant advisory council established pursuant to subsection (d) of this section, and the Appalachian Trail Conference in the case of the Appalachian Trail, submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the acquisition, management, development, and use of the trail, including but not limited to, the following items:

(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved (along with high potential historic sites and high potential route segments in the case of national historic trails), details of anticipated cooperative agreements to be consummated with other entities, and an identified carrying capacity of the trail and a plan for its implementation;

(2) an acquisition or protection plan, by fiscal year, for all lands to be acquired by fee title or lesser interest, along with detailed explanation of anticipated necessary cooperative agreements for any lands not to be acquired; and

(3) general and site-specific development plans including anticipated costs.

(f) Comprehensive national historic trail plan; consultation; submission to Congressional committees

Within two complete fiscal years of the date of enactment of legislation designating a national historic trail or the Continental Divide National Scenic Trail or the North Country National Scenic Trail as part of the system, the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, and the relevant Advisory Council established pursuant to subsection (d) of this section, submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the management, and use of the trail, including but not limited to, the following items:

(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved, details of any anticipated cooperative agreements to be consummated with State and local government agencies or private interests, and for national scenic or national historic trails an identified carrying ca-

pacity of the trail and a plan for its implementation;

(2) the process to be followed by the appropriate Secretary to implement the marking requirements established in section 1246(c) of this title;

(3) a protection plan for any high potential historic sites or high potential route segments; and

(4) general and site-specific development plans, including anticipated costs.

(g) Revision of feasibility and suitability studies of existing national historic trails

(1) Definitions

In this subsection:

(A) Route

The term ''route'' includes a trail segment commonly known as a cutoff.

(B) Shared route

The term ''shared route'' means a route that was a segment of more than 1 historic trail, including a route shared with an existing national historic trail.

(2) Requirements for revision

(A) In general

The Secretary of the Interior shall revise the feasibility and suitability studies for certain national trails for consideration of possible additions to the trails.

(B) Study requirements and objectives

The study requirements and objectives specified in subsection (b) shall apply to a study required by this subsection.

(C) Completion and submission of study

A study listed in this subsection shall be completed and submitted to Congress not later than 3 complete fiscal years from the date funds are made available for the study.

(3) Oregon National Historic Trail

(A) Study required

The Secretary of the Interior shall undertake a study of the routes of the Oregon Trail listed in subparagraph (B) and generally depicted on the map entitled ''Western Emigrant Trails 1830/1870'' and dated 1991/1993, and of such other routes of the Oregon Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of 1 or more of the routes as components of the Oregon National Historic Trail.

(B) Covered routes

The routes to be studied under subparagraph (A) shall include the following:

(i) Whitman Mission route.
(ii) Upper Columbia River.
(iii) Cowlitz River route.
(iv) Meek cutoff.
(v) Free Emigrant Road.
(vi) North Alternate Oregon Trail.
(vii) Goodale's cutoff.
(viii) North Side alternate route.
(ix) Cutoff to Barlow Road.
(x) Naches Pass Trail.

(4) Pony Express National Historic Trail

The Secretary of the Interior shall undertake a study of the approximately 20-mile southern alternative route of the Pony Express Trail from Wathena, Kansas, to Troy, Kansas, and such other routes of the Pony Express Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of 1 or more of the routes as components of the Pony Express National Historic Trail.

(5) California National Historic Trail

(A) Study required

The Secretary of the Interior shall undertake a study of the Missouri Valley, central, and western routes of the California Trail listed in subparagraph (B) and generally depicted on the map entitled ''Western Emigrant Trails 1830/1870'' and dated 1991/1993, and of such other and shared Missouri Valley, central, and western routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of 1 or more of the routes as components of the California National Historic Trail.

(B) Covered routes

The routes to be studied under subparagraph (A) shall include the following:

(i) Missouri Valley routes

(I) Blue Mills-Independence Road.
(II) Westport Landing Road.
(III) Westport-Lawrence Road.
(IV) Fort Leavenworth-Blue River route.
(V) Road to Amazonia.
(VI) Union Ferry Route.
(VII) Old Wyoming-Nebraska City cutoff.
(VIII) Lower Plattsmouth Route.
(IX) Lower Bellevue Route.
(X) Woodbury cutoff.
(XI) Blue Ridge cutoff.
(XII) Westport Road.
(XIII) Gum Springs-Fort Leavenworth route.
(XIV) Atchison/Independence Creek routes.
(XV) Fort Leavenworth-Kansas River route.
(XVI) Nebraska City cutoff routes.
(XVII) Minersville-Nebraska City Road.
(XVIII) Upper Plattsmouth route.
(XIX) Upper Bellevue route.

(ii) Central routes

(I) Cherokee Trail, including splits.
(II) Weber Canyon route of Hastings cutoff.
(III) Bishop Creek cutoff.
(IV) McAuley cutoff.
(V) Diamond Springs cutoff.
(VI) Secret Pass.
(VII) Greenhorn cutoff.
(VIII) Central Overland Trail.

(iii) Western routes

(I) Bidwell-Bartleson route.
(II) Georgetown/Dagget Pass Trail.
(III) Big Trees Road.
(IV) Grizzly Flat cutoff.
(V) Nevada City Road.
(VI) Yreka Trail.
(VII) Henness Pass route.

(VIII) Johnson cutoff.
(IX) Luther Pass Trail.
(X) Volcano Road.
(XI) Sacramento-Coloma Wagon Road.
(XII) Burnett cutoff.
(XIII) Placer County Road to Auburn.

(6) Mormon Pioneer National Historic Trail

(A) Study required

The Secretary of the Interior shall undertake a study of the routes of the Mormon Pioneer Trail listed in subparagraph (B) and generally depicted in the map entitled ''Western Emigrant Trails 1830/1870'' and dated 1991/1993, and of such other routes of the Mormon Pioneer Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of 1 or more of the routes as components of the Mormon Pioneer National Historic Trail.

(B) Covered routes

The routes to be studied under subparagraph (A) shall include the following:

(i) 1846 Subsequent routes A and B (Lucas and Clarke Counties, Iowa).
(ii) 1856–57 Handcart route (Iowa City to Council Bluffs).
(iii) Keokuk route (Iowa).
(iv) 1847 Alternative Elkhorn and Loup River Crossings in Nebraska.
(v) Fort Leavenworth Road; Ox Bow route and alternates in Kansas and Missouri (Oregon and California Trail routes used by Mormon emigrants).
(vi) 1850 Golden Pass Road in Utah.

(7) Shared California and Oregon Trail routes

(A) Study required

The Secretary of the Interior shall undertake a study of the shared routes of the California Trail and Oregon Trail listed in subparagraph (B) and generally depicted on the map entitled ''Western Emigrant Trails 1830/1870'' and dated 1991/1993, and of such other shared routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of 1 or more of the routes as shared components of the California National Historic Trail and the Oregon National Historic Trail.

(B) Covered routes

The routes to be studied under subparagraph (A) shall include the following:

(i) St. Joe Road.
(ii) Council Bluffs Road.
(iii) Sublette cutoff.
(iv) Applegate route.
(v) Old Fort Kearny Road (Oxbow Trail).
(vi) Childs cutoff.
(vii) Raft River to Applegate.

(Pub. L. 90–543, §5, Oct. 2, 1968, 82 Stat. 920; Pub. L. 94–527, Oct. 17, 1976, 90 Stat. 2481; Pub. L. 95–248, §1(1), (2), Mar. 21, 1978, 92 Stat. 159; Pub. L. 95–625, title V, §551 (7)–(15), Nov. 10, 1978, 92 Stat. 3512–3515; Pub. L. 96–87, title IV, §401(m)(1), Oct. 12, 1979, 93 Stat. 666; Pub. L. 96–199, title I, §101(b)(1)–(3), Mar. 5, 1980, 94 Stat. 67, 68; Pub. L. 96–344, §14, Sept. 8, 1980, 94 Stat. 1136; Pub. L. 96–370, §1(a), Oct. 3, 1980, 94 Stat. 1360; Pub. L. 98–11, title II, §205, Mar. 28, 1983, 97 Stat. 43; Pub. L. 98–405, §1, Aug. 28, 1984, 98 Stat. 1483; Pub. L. 99–445, §1, Oct. 6, 1986, 100 Stat. 1122; Pub. L. 100–35, §1(a), May 8, 1987, 101 Stat. 302; Pub. L. 100–187, §3, Dec. 11, 1987, 101 Stat. 1287; Pub. L. 100–192, §1, Dec. 16, 1987, 101 Stat. 1309; Pub. L. 100–470, §4, Oct. 4, 1988, 102 Stat. 2283; Pub. L. 100–559, title II, §203, Oct. 28, 1988, 102 Stat. 2797; Pub. L. 101–321, §3, July 3, 1990, 104 Stat. 293; Pub. L. 101–365, §2(a), Aug. 15, 1990, 104 Stat. 429; Pub. L. 102–328, §1, Aug. 3, 1992, 106 Stat. 845; Pub. L. 102–461, Oct. 23, 1992, 106 Stat. 2273; Pub. L. 103–144, §3, Nov. 17, 1993, 107 Stat. 1494; Pub. L. 103–145, §3, Nov. 17, 1993, 107 Stat. 1497; Pub. L. 103–437, §6(d)(38), Nov. 2, 1994, 108 Stat. 4585; Pub. L. 104–333, div. I, title IV, §§402, 403, title V, §501, Nov. 12, 1996, 110 Stat. 4148, 4153; Pub. L. 106–135, §3, Dec. 7, 1999, 113 Stat. 1686; Pub. L. 106–307, §3, Oct. 13, 2000, 114 Stat. 1075; Pub. L. 106–509, §3, Nov. 13, 2000, 114 Stat. 2361; Pub. L. 106–510, §3(a)(2), Nov. 13, 2000, 114 Stat. 2363; Pub. L. 107–214, §3, Aug. 21, 2002, 116 Stat. 1053; Pub. L. 107–325, §2, Dec. 4, 2002, 116 Stat. 2790; Pub. L. 107–338, §2, Dec. 16, 2002, 116 Stat. 2886; Pub. L. 108–342, §2, Oct. 18, 2004, 118 Stat. 1370; Pub. L. 108–352, §14(1), Oct. 21, 2004, 118 Stat. 1397; Pub. L. 109–54, title I, §133, Aug. 2, 2005, 119 Stat. 526; Pub. L. 109–378, §1, Dec. 1, 2006, 120 Stat. 2664; Pub. L. 109–418, §2, Dec. 19, 2006, 120 Stat. 2882; Pub. L. 110–229, title III, §341, May 8, 2008, 122 Stat. 795; Pub. L. 111–11, title V, §§5201, 5202(a), 5204–5206, 5301(a), 5302, 5303, title VII, §7116(f), Mar. 30, 2009, 123 Stat. 1154, 1158, 1159, 1161, 1164, 1203.)

REFERENCES IN TEXT

The Chesapeake Bay Initiative Act of 1998, referred to in subsecs. (a)(25)(C)(i)(I) and (c)(40)(C), (43)(B)(i), is title V of Pub. L. 105–312, Oct. 30, 1998, 112 Stat. 2961, which is classified as a note under section 461 of this title. For complete classification of this Act to the Code, see Tables.

The Historic Sites Act of 1935 (49 Stat. 666; 16 U.S.C. 461), referred to in subsec. (b)(3), which is also known as the Historic Sites, Buildings, and Antiquities Act, is act Aug. 21, 1935, ch. 593, 49 Stat. 666, as amended, which is classified to sections 461 to 467 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

Section 603 of the Omnibus Parks and Public Lands Management Act of 1996, referred to in subsec. (c)(40)(C), is section 603 of Pub. L. 104–333, which is classified as a note under section 1a–5 of this title.

AMENDMENTS

2009—Subsec. (a)(3) to (7). Pub. L. 111–11, §5301(a)(1)–(5), inserted at end ''No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land. The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than ¼ mile on either side of the trail.''

Subsec. (a)(8), (10). Pub. L. 111–11, §5301(a)(6), (7), inserted at end ''No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land.''

Subsec. (a)(11). Pub. L. 111–11, §5301(a)(8), struck out ''No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Potomac

Heritage Trail. The Secretary of the Interior may designate lands outside of federally administered areas as segments of the trail, only upon application from the States or local governmental agencies involved, if such segments meet the criteria established in this chapter and are administered by such agencies without expense to the United States.'' before ''The trail shall be administered'' and inserted at end ''No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land.''

Subsec. (a)(14). Pub. L. 111–11, § 5301(a)(9), struck out ''No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Nez Perce National Historic Trail. The Secretary of Agriculture may designate lands outside of federally administered areas as segments of the trail upon application from the States or local governmental agencies involved if such segments meet the criteria established in this chapter and are administered by such agencies without expense to the United States.'' before ''So that significant route segments'' and inserted at end ''No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land. The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than ¼ mile on either side of the trail.''

Subsec. (a)(16)(C). Pub. L. 111–11, § 5206(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''Not later than 6 months after December 1, 2006, the Secretary of the Interior shall complete the remaining criteria and submit to Congress a study regarding the feasibility and suitability of designating, as additional components of the Trail of Tears National Historic Trail, the following routes and land components by which the Cherokee Nation was removed to Oklahoma:

''(i) The Benge and Bell routes.

''(ii) The land components of the designated water routes in Alabama, Arkansas, Oklahoma, and Tennessee.

''(iii) The routes from the collection forts in Alabama, Georgia, North Carolina, and Tennessee to the emigration depots.

''(iv) The related campgrounds located along the routes and land components described in clauses (i) through (iii).''

Subsec. (a)(16)(D). Pub. L. 111–11, § 5206(2), struck out first sentence which read as follows: ''No additional funds are authorized to be appropriated to carry out subparagraph (C).'' and inserted at end ''No lands or interests in lands outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Trail of Tears National Historic Trail except with the consent of the owner thereof.''

Subsec. (a)(25)(A). Pub. L. 111–11, § 7116(f), substituted ''The Captain John Smith'' for ''The John Smith''.

Subsec. (a)(27) to (30). Pub. L. 111–11, §§ 5201, 5202(a), 5204, 5205, added pars. (27) to (30).

Subsec. (c)(44), (45). Pub. L. 111–11, § 5303, added pars. (44) and (45).

Subsec. (g). Pub. L. 111–11, § 5302, added subsec. (g).

2008—Subsec. (a)(26). Pub. L. 110–229 added par. (26).

2006—Subsec. (a)(16)(B). Pub. L. 109–378, § 1(1), substituted ''sections'' for ''subsections''.

Subsec. (a)(16)(C), (D). Pub. L. 109–378, § 1(2), added subpars. (C) and (D).

Subsec. (a)(25). Pub. L. 109–418 added par. (25).

2005—Subsec. (c)(43). Pub. L. 109–54 added par. (43).

2004—Subsec. (a)(24). Pub. L. 108–342 added par. (24).

Subsec. (c)(19). Pub. L. 108–352, § 14(1)(A)(i), substituted ''Kissimmee'' for ''Kissimme''.

Subsec. (c)(40)(D). Pub. L. 108–352, § 14(1)(A)(ii), substituted ''later than'' for ''later that''.

Subsec. (c)(41), (42). Pub. L. 108–352, § 14(1)(A)(iii), designated unnumbered pars. relating to the Metacomet-Monadnock-Mattabesett Trail and The Long Walk Trail as pars. (41) and (42), respectively, and par. (42) was editorially transferred to follow par. (41) to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 108–352, § 14(1)(B), struck out ''establishment.'' before ''establishment,''.

2002—Subsec. (a)(21) to (23). Pub. L. 107–325 redesignated par. (21) relating to the Ala Kahakai National Historic Trail as par. (22) and added par. (23).

Subsec. (c). Pub. L. 107–338 added unnumbered par. relating to the Metacomet-Monadnock-Mattabesett Trail.

Pub. L. 107–214 added unnumbered par. relating to the Long Walk Trail.

2000—Subsec. (a)(18) to (20). Pub. L. 106–307, § 3(1), and Pub. L. 106–509, § 3(1), made identical amendments, designating unnumbered pars. relating to California National Historic Trail, Pony Express National Historic Trail, and Selma to Montgomery National Historic Trail as pars. (18) to (20), respectively.

Subsec. (a)(21). Pub. L. 106–509, § 3(2), added par. (21) relating to Ala Kahakai National Historic Trail.

Pub. L. 106–307, § 3(2), added par. (21) relating to El Camino Real de Tierra Adentro.

Subsec. (a)(21)(A). Pub. L. 106–510 substituted ''Hawai`i Volcanoes National Park'' for ''Hawaii Volcanoes National Park'' in subpar. (A) of par. (21) relating to Ala Kahakai National Historic Trail.

Subsec. (c)(35). Pub. L. 106–510 substituted ''Hawai`i Volcanoes National Park'' for ''Hawaii Volcanoes National Park''.

1999—Subsec. (c)(36), (37). Pub. L. 106–135, § 3(1), redesignated par. (36) relating to El Camino Real Para Los Texas as (37) and substituted ''determine'' for ''detemine'' in subpar. (C).

Subsec. (c)(38) to (40). Pub. L. 106–135 designated unnumbered par. relating to the Old Spanish Trail as par. (38) and unnumbered par. relating to the Great Western Scenic Trail as par. (39) and added par. (40).

1996—Subsec. (a). Pub. L. 104–333, § 501, added unnumbered par. relating to Selma to Montgomery National Historic Trail.

Subsec. (c). Pub. L. 104–333, §§ 402, 403, added unnumbered pars. relating to Old Spanish Trail and Great Western Scenic Trail.

1994—Subsecs. (e), (f). Pub. L. 103–437 in introductory provisions substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

1993—Subsec. (c)(36). Pub. L. 103–145 added par. (36) relating to El Camino Real Para Los Texas.

Pub. L. 103–144 added par. (36) relating to El Camino Real de Tierra Adentro.

1992—Subsec. (a). Pub. L. 102–328 added unnumbered pars. relating to California National Historic Trail and Pony Express National Historic Trail.

Subsec. (c)(34), (35). Pub. L. 102–461 added pars. (34) and (35).

1990—Subsec. (a)(17). Pub. L. 101–365 added par. (17).

Subsec. (c)(33). Pub. L. 101–321 added par. (33).

1988—Subsec. (c)(32). Pub. L. 100–559 added par. (32).

Subsec. (d). Pub. L. 100–470 inserted ''establishment, except that the Advisory Council established for the Iditarod Historic Trail shall expire twenty years from the date of its establishment.'' after ''its establishment.'' at end of first sentence.

1987—Subsec. (a)(15). Pub. L. 100–35 added par. (15).

Subsec. (a)(16). Pub. L. 100–192 added par. (16).

Subsec. (c)(31). Pub. L. 100–187 added par. (31).

1986—Subsec. (a)(14). Pub. L. 99–445 added par. (14).

1984—Subsec. (c)(30). Pub. L. 98–405 added par. (30).

1983—Subsec. (a)(11) to (13). Pub. L. 98–11, § 205(a), added pars. (11) to (13).

Subsec. (b). Pub. L. 98–11, § 205(b)(1), inserted sentence in provisions preceding par. (1) requiring that the feasibility of designating a trail be determined on the basis of an evaluation of whether or not it is physically possible to develop a trail along a route being studied, and whether the development of a trail would be financially feasible.

Subsec. (b)(3). Pub. L. 98–11, § 205(b)(2), substituted ''16 U.S.C. 461'' for ''U.S.C. 461''.

Subsec. (b)(11)(B). Pub. L. 98–11, § 205(b)(3), inserted ''exploration,'' after ''commerce,'' in first sentence.

Subsec. (c)(9). Pub. L. 98–11, § 205(c)(1), substituted ''Santa Fe, New Mexico'' for ''Sante Fe, New Mexico''.

Subsec. (c)(24) to (29). Pub. L. 98–11, § 205(c)(2), added pars. (24) to (29).

Subsec. (d). Pub. L. 98–11, § 205(d)(1), in provisions preceding par. (1), inserted requirement that the Secretary advise the appropriate committees in the Congress if the Secretary is unable to establish an advisory council because of the lack of adequate public interest.

Subsec. (d)(1) to (4). Pub. L. 98–11, § 205(d)(2), redesignated pars. (i) to (iv) as (1) to (4), respectively, and in par. (1) as so redesignated substituted ''the head of each Federal department or independent agency administering lands through which the trail route passes, or his designee'' for ''a member appointed to represent each Federal department or independent agency administering lands through which the trail route passes, and each appointee shall be the person designated by the head of such department or agency''.

Subsec. (f)(1). Pub. L. 98–11, § 205(e)(1), (2), substituted ''national historic trails'' for ''national recreational trails''.

Subsec. (f)(3), (4). Pub. L. 98–11, § 205(e)(3), added pars. (3) and (4).

1980—Subsec. (a)(8). Pub. L. 96–199, § 101(b)(1), added par. (8).

Subsec. (a)(9). Pub. L. 96–344 added par. (9).

Subsec. (a)(10). Pub. L. 96–370 added par. (10).

Subsecs. (e), (f). Pub. L. 96–199, § 101(b)(2), (3), inserted reference to the North Country National Scenic Trail.

1979—Subsec. (c)(23). Pub. L. 96–87 substituted ''(23)'' for ''(20)'' as the number designation of the paragraph relating to the Overmountain Victory Trail added in 1978 by section 551(13) of Pub. L. 95–625.

1978—Subsec. (a). Pub. L. 95–625, § 551(7), substituted, in provision preceding par. (1), ''scenic and national historic'' for ''scenic'' and ''the following National Scenic and National Historic Trails'' for ''as the initial National Scenic Trails''.

Subsec. (a)(1). Pub. L. 95–625, § 551(8), substituted ''Appalachian National Scenic Trail'' for ''Appalachian Trail''.

Subsec. (a)(2). Pub. L. 95–625, § 551(8), substituted ''Pacific Crest National Scenic Trail'' for ''Pacific Crest Trail''.

Subsec. (a)(3). Pub. L. 95–625, § 551(9), substituted provisions establishing the Oregon National Historic Trail as a National Scenic and National Historic Trail for provisions requiring the establishment, by the Secretary of the Interior within 60 days after Mar. 21, 1978, of an Advisory Council for the Appalachian National Scenic Trail, which council was to terminate 120 months after Mar. 21, 1978.

Pub. L. 95–248, § 1(1), substituted provisions requiring establishment by the Secretary of the Interior within 60 days of Mar. 21, 1978, of an Advisory Council for the Appalachian National Scenic Trail, which shall terminate within 120 months of Mar. 21, 1978, and provisions relating to functions, membership, etc., of such Council, for provisions requiring establishment by the Secretary of the Interior of an advisory council for the Appalachian National Scenic Trail and by the Secretary of Agriculture of an advisory council for the Pacific Crest National Scenic Trail, and provisions relating to functions, membership, etc., of the councils.

Subsec. (a)(4) to (7). Pub. L. 95–625, § 551(9), added pars. (4) to (7).

Subsec. (b). Pub. L. 95–625, § 551(10), substituted in provision preceding par. (1) ''National scenic or national historic'' for ''national scenic'', inserted ''through the agency most likely to administer such trail,'' after ''Secretary of the Interior,'', struck out third sentence ''When completed, such studies shall be the basis of appropriate proposals for additional national scenic trails which shall be submitted from time to time to the President and to the Congress.''; and substituted ''The studies listed in subsection (c) of this section shall be completed and submitted to the Congress, with recommendations as to the suitability of trail designation, not later than three complete fiscal years from the date of enactment of their addition to this subsection, or from November 10, 1978, whichever is later. Such studies, when submitted, shall be printed as a House or Senate document, and shall include, but not be limited to:'' for ''Such proposals shall be accompanied by a report, which shall be printed as a House or Senate document, showing among other things—''.

Subsec. (b)(3). Pub. L. 95–625, § 551(10), (11), substituted ''scenic or national historic'' for ''scenic'' and required in the case of national historic trails the report to include the recommendation of the Secretary of the Interior's National Park System Advisory Board as to the national historical significance based on the criteria developed under the Historic Sites Act of 1935.

Subsec. (b)(10), (11). Pub. L. 95–625, § 551(12), added pars. (10) and (11).

Subsec. (c)(23). Pub. L. 95–625, § 551(13), added par. (23). See 1979 Amendment note above.

Subsec. (d). Pub. L. 95–625, § 551(14), added subsec. (d) and repealed former subsec. (d) provisions for comprehensive plan for the management, acquisition, development, and use of the Appalachian Trail, submission to Congressional committees, and scope of plan, now covered in subsec. (e) of this section.

Pub. L. 95–248, § 1(2), added subsec. (d).

Subsecs. (e), (f). Pub. L. 95–625, § 551(15), added subsecs. (e) and (f).

1976—Subsec. (c)(15) to (22). Pub. L. 94–527 added pars. (15) to (22).

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

TERMINATION OF ADVISORY COUNCILS

Advisory councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

CONSTRUCTION OF TITLE V OF PUB. L. 111–11

Pub. L. 111–11, title V, § 5401, Mar. 30, 2009, 123 Stat. 1164, provided that:

''(a) EFFECT ON ACCESS FOR RECREATIONAL ACTIVITIES.—Nothing in this title [amending this section and sections 1249, 1274, and 1276 of this title and enacting provisions set out as notes under this section and sections 1271 and 1274 of this title] shall be construed as affecting access for recreational activities otherwise allowed by law or regulation, including hunting, fishing, or trapping.

''(b) EFFECT ON STATE AUTHORITY.—Nothing in this title shall be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations, including the regulation of hunting, fishing, and trapping.''

NEW ENGLAND NATIONAL SCENIC TRAIL

Pub. L. 111–11, title V, § 5202(b)–(d), Mar. 30, 2009, 123 Stat. 1154, 1155, provided that:

''(b) MANAGEMENT.—The Secretary of the Interior (referred to in this section [amending this section] as the 'Secretary') shall consider the actions outlined in the Trail Management Blueprint described in the report titled the 'Metacomet Monadnock Mattabesett Trail

System National Scenic Trail Feasibility Study and Environmental Assessment', prepared by the National Park Service, and dated Spring 2006, as the framework for management and administration of the New England National Scenic Trail. Additional or more detailed plans for administration, management, protection, access, maintenance, or development of the trail may be developed consistent with the Trail Management Blueprint, and as approved by the Secretary.

''(c) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with the Commonwealth of Massachusetts (and its political subdivisions), the State of Connecticut (and its political subdivisions), and other regional, local, and private organizations deemed necessary and desirable to accomplish cooperative trail administrative, management, and protection objectives consistent with the Trail Management Blueprint. An agreement under this subsection may include provisions for limited financial assistance to encourage participation in the planning, acquisition, protection, operation, development, or maintenance of the trail.

''(d) ADDITIONAL TRAIL SEGMENTS.—Pursuant to section 6 of the National Trails System Act (16 U.S.C. 1245), the Secretary is encouraged to work with the State of New Hampshire and appropriate local and private organizations to include that portion of the Metacomet-Monadnock Trail in New Hampshire (which lies between Royalston, Massachusetts and Jaffrey, New Hampshire) as a component of the New England National Scenic Trail. Inclusion of this segment, as well as other potential side or connecting trails, is contingent upon written application to the Secretary by appropriate State and local jurisdictions and a finding by the Secretary that trail management and administration is consistent with the Trail Management Blueprint.''

ICE AGE FLOODS NATIONAL GEOLOGIC TRAIL

Pub. L. 111–11, title V, §5203, Mar. 30, 2009, 123 Stat. 1155, described and designated the Ice Age Floods National Geologic Trail in the States of Montana, Idaho, Washington, and Oregon; provided for its administration by the Secretary of the Interior acting through the Director of the National Park Service; required the Secretary to prepare a cooperative management and interpretive plan; authorized the Secretary to establish a trail management office and interpretative facilities and to enter into cooperative management agreements; provided that designation of the Trail does not create liability for, or affect liability under any law of, any private property owner with respect to any person injured on the private property; and authorized appropriations.

SILVER STATE OFF-HIGHWAY VEHICLE TRAIL

Pub. L. 109–432, div. C, title III, §§303, 355, Dec. 20, 2006, 120 Stat. 3028, 3040, directed the Secretary of the Interior to complete a study of routes for the extension of the Silver State Off-Highway Vehicle Trail into White Pine County, Nevada, not later than 3 years after Dec. 20, 2006, to identify the preferred route for the Trail in consultation with the State of Nevada, White Pine County, and any interested persons, to designate the Trail not later than 90 days after the study is completed, to complete a management plan for the Trail not later than 2 years after the designation, and to annually assess the effects of use of the Trail on the environment and cultural resources and to temporarily close or permanently reroute a portion of the Trail where there is an adverse environmental impact, a threat to public safety, or where necessary to repair damage to the Trail or a resource.

Pub. L. 108–424, title IV, §401, Nov. 30, 2004, 118 Stat. 2416, provided that the Secretary of the Interior would manage the system of trails designated as the Silver State Off-Highway Vehicle Trail in the Lincoln County Conservation, Recreation and Development Act Map for Lincoln County, Nevada, in a manner consistent with motorized and mechanized use of the Trail, the safety of the people who use the Trail and its sensitive habitat and cultural resources, and that the Secretary would, in consultation with the State, County and other interested parties, develop a management plan, not later than 3 years after Nov. 30, 2004, and monitor and evaluate the effects of the use of the Trail to minimize adverse environmental or cultural impact while giving notice of open routes.

EXPEDITED REPORT TO CONGRESS

Pub. L. 107–338, §3, Dec. 16, 2002, 116 Stat. 2886, provided that: ''Notwithstanding the fourth sentence of section 5(b) of the National Trails System Act (16 U.S.C. 1244(b)), the Secretary of the Interior shall submit the study required by the amendment made by section 2 [amending this section] to Congress not later than 2 years after the date of the enactment of this Act [Dec. 16, 2002].''

CALIFORNIA TRAIL INTERPRETIVE CENTER

Pub. L. 106–577, title I, Dec. 28, 2000, 114 Stat. 3068, authorized the Secretary of the Interior, acting through the Director of the Bureau of Land Management, to establish the ''California Trail Interpretive Center'' near Elko, Nevada, and directed the Secretary to initiate a plan for the development of the Center, to acquire land and interests in land for the construction of the Center, to provide for local review of and input concerning the development and operation of the Center by the Advisory Board for the National Historic California Emigrant Trails Interpretive Center of Elko, Nevada, to prepare a budget and funding request periodically that would allow a Federal agency to carry out the maintenance and operation of the Center, to enter into cooperative agreements for snow removal, rescue, firefighting, and law enforcement services, and for development and operation of facilities and services, and to accept donations of funds, property, or services to provide services and facilities, and authorized appropriations.

NATIONAL HISTORIC TRAILS INTERPRETIVE CENTER, WYOMING

Pub. L. 105–290, Oct. 27, 1998, 112 Stat. 2782, authorized appropriations for the National Historic Trails Interpretive Center in Casper, Wyoming, and authorized the Secretary of the Interior to establish the Center, to construct and operate facilities, to accept donations, and to charge an entrance fee.

SACRAMENTO TO SAN FRANCISCO MAIL ROUTE; FEASIBILITY STUDY FOR INCLUSION IN PONY EXPRESS NATIONAL HISTORIC TRAIL

Pub. L. 102–328, §2, Aug. 3, 1992, 106 Stat. 845, as amended by Pub. L. 103–437, §6(d)(39), Nov. 2, 1994, 108 Stat. 4585, provided that: ''The Secretary of the Interior (hereinafter referred to as the Secretary) shall undertake a study of the land and water route used to carry mail from Sacramento to San Francisco, California, to determine the feasibility and suitability of designation of such route as a component of the Pony Express National Historic Trail designated by section 1 of this Act [amending this section]. Upon completion of the study, if the Secretary determines such route is a feasible and suitable addition to the Pony Express National Historic Trail, the Secretary shall designate the route as a component of the Pony Express National Historic Trail. The Secretary shall publish notice of such designation in the Federal Register and shall submit the study along with his findings to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.''

DE SOTO EXPEDITION TRAIL COMMISSION

Pub. L. 101–607, Nov. 16, 1990, 104 Stat. 3105, established for 4 years in the Department of the Interior the De Soto Expedition Trail Commission, the purpose of which is to encourage and direct research, and to coor-

dinate the distribution of interpretive materials to the public, regarding the De Soto expedition, the native societies the expedition encountered, and the effects of that contact, provided for the functions, staff, and powers of the Commission, and authorized research, technical assistance, and appropriations.

AUTHORIZATION FOR DEVELOPMENT OF TRAILS INTERPRETATION CENTER IN IOWA

Pub. L. 101–191, Nov. 29, 1989, 103 Stat. 1697, authorized Secretary of the Interior to provide for development of a trails interpretation center in city of Council Bluffs, Iowa, set forth provisions relating to Congressional findings and purposes, plan and design of the center and implementation thereof, agreement for operation and maintenance of the center, cooperative agreements for technical assistance, and extinguishment of any restrictions, covenants, reversions, limitations, or any other conditions imposed by the Economic Development Administration upon acceptance of donated land by Secretary, and authorized appropriations of not more than $8,400,000 to carry out the Act.

SOUTHWESTERN PENNSYLVANIA INDUSTRIAL HERITAGE ROUTE

Pub. L. 100–698, title II, §§ 201–203, Nov. 19, 1988, 102 Stat. 4622, authorized Secretary of the Interior to designate, and authorized appropriations for, a vehicular tour route to provide for public appreciation, education, understanding, and enjoyment of certain nationally and regionally significant sites in southwestern Pennsylvania.

LEWIS AND CLARK NATIONAL HISTORIC TRAIL INTERPRETIVE CENTER, MONTANA

Pub. L. 100–552, §§ 1–4, Oct. 28, 1988, 102 Stat. 2766, 2768, authorized Secretary of Agriculture to establish Lewis and Clark National Historic Trail Interpretive Center on certain lands in Montana, required the Secretary to administer the Center and to prepare a plan for development and interpretation of the Center, authorized Secretary to accept donations, enter into cooperative agreements for various services such as rescue, firefighting, law enforcement, and development and operation of facilities, authorized Secretary to enter into agreements to provide educational and interpretive materials to the public, and authorized appropriations to carry out the Act and for construction of Center and associated structures and improvements.

NEW JERSEY COASTAL HERITAGE TRAIL ROUTE

Pub. L. 100–515, Oct. 20, 1988, 102 Stat. 2563, as amended by Pub. L. 103–243, May 4, 1994, 108 Stat. 613; Pub. L. 106–18, § 1, Apr. 8, 1999, 113 Stat. 28; Pub. L. 109–338, title VII, § 703(a), Oct. 12, 2006, 120 Stat. 1859; Pub. L. 110–229, title IV, § 475, May 8, 2008, 122 Stat. 827, authorized Secretary of the Interior, acting through Director of National Park Service, with concurrence of agency having jurisdiction over such roads, to designate a vehicular tour route along existing public roads linking certain nationally significant natural and cultural sites associated with coastal area of State of New Jersey, to be known as New Jersey Coastal Heritage Trail Route; provided for location and additional segments of Route; directed Secretary of the Interior to prepare a comprehensive inventory of sites along Route and a general plan; provided for informational material for public appreciation of sites along Route; provided that Route be marked with appropriate markers; authorized appropriations to carry out the Act; authorized appropriation for technical assistance and design and fabrication of interpretive materials, devices and signs; prohibited use of additional appropriation for operation, maintenance, repair or construction except for construction of interpretive exhibits; limited Federal share of projects carried out with additional appropriation to 50 percent; required non-Federal matching funds in form of cash, materials, or in-kind services, except for preparation of strategic plan; and provided for termination of authority under this Act on Sept. 30, 2011.

LAUREL HIGHLANDS NATIONAL RECREATIONAL TRAIL DESIGNATED AS PART OF POTOMAC HERITAGE TRAIL

Pub. L. 99–500, § 101(h) [title I, § 113], Oct. 18, 1986, 100 Stat. 1783–242, 1783–262, and Pub. L. 99–591, § 101(h) [title I, § 113], Oct. 30, 1986, 100 Stat. 3341–242, 3341–262, provided that: ''The Secretary of the Interior is directed to designate the Laurel Highlands National Recreational Trail, as designated by the Secretary of the Interior pursuant to section 4 of the National Trails System Act [16 U.S.C. 1243], as part of the Potomac Heritage Trail, as requested by the State of Pennsylvania in its April 1984 application, subject to the provisions of paragraph (11) of section 5(a) of the National Trails System Act, as amended [16 U.S.C. 1244(a)(11)].''

§ 1245. Connecting or side trails; establishment, designation, and marking as components of national trails system; location

Connecting or side trails within park, forest, and other recreation areas administered by the Secretary of the Interior or Secretary of Agriculture may be established, designated, and marked by the appropriate Secretary as components of a national recreation, national scenic or national historic trail. When no Federal land acquisition is involved, connecting or side trails may be located across lands administered by interstate, State, or local governmental agencies with their consent, or, where the appropriate Secretary deems necessary or desirable, on privately owned lands with the consent of the landowner. Applications for approval and designation of connecting and side trails on non-Federal lands shall be submitted to the appropriate Secretary.

(Pub. L. 90–543, § 6, Oct. 2, 1968, 82 Stat. 922; Pub. L. 95–625, title V, § 551(16), Nov. 10, 1978, 92 Stat. 3515; Pub. L. 98–11, title II, § 206, Mar. 28, 1983, 97 Stat. 45.)

AMENDMENTS

1983—Pub. L. 98–11 substituted ''marked by the appropriate Secretary as components'' for ''marked as components'' and '', or, where the appropriate Secretary deems necessary or desirable, on privately owned lands with the consent of the landowner. Applications for approval and designation of connecting and side trails on non-Federal lands shall be submitted to the appropriate Secretary'' for '': *Provided*, That such trails provide additional points of public access to national recreation, national scenic or national historic trails''.

1978—Pub. L. 95–625 substituted '', national scenic or national historic'' for ''or national scenic,'' and '', national scenic, or national historic'' for ''or scenic''.

§ 1246. Administration and development of national trails system

(a) Consultation of Secretary with other agencies; transfer of management responsibilities; selection of rights-of-way; criteria for selection; notice; impact upon established uses

(1)(A) The Secretary charged with the overall administration of a trail pursuant to section 1244(a) of this title shall, in administering and managing the trail, consult with the heads of all other affected State and Federal agencies. Nothing contained in this chapter shall be deemed to transfer among Federal agencies any management responsibilities established under any other law for federally administered lands which are components of the National Trails System. Any transfer of management responsibilities

may be carried out between the Secretary of the Interior and the Secretary of Agriculture only as provided under subparagraph (B).

(B) The Secretary charged with the overall administration of any trail pursuant to section 1244(a) of this title may transfer management of any specified trail segment of such trail to the other appropriate Secretary pursuant to a joint memorandum of agreement containing such terms and conditions as the Secretaries consider most appropriate to accomplish the purposes of this chapter. During any period in which management responsibilities for any trail segment are transferred under such an agreement, the management of any such segment shall be subject to the laws, rules, and regulations of the Secretary provided with the management authority under the agreement, except to such extent as the agreement may otherwise expressly provide.

(2) Pursuant to section 1244(a) of this title, the appropriate Secretary shall select the rights-of-way for national scenic and national historic trails and shall publish notice of the availability of appropriate maps or descriptions in the Federal Register: *Provided*, That in selecting the rights-of-way full consideration shall be given to minimizing the adverse effects upon the adjacent landowner or user and his operation. Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land. The location and width of such rights-of-way across Federal lands under the jurisdiction of another Federal agency shall be by agreement between the head of that agency and the appropriate Secretary. In selecting rights-of-way for trail purposes, the Secretary shall obtain the advice and assistance of the States, local governments, private organizations, and landowners and land users concerned.

(b) Relocation of segment of national, scenic or historic, trail right-of-way; determination of necessity with official having jurisdiction; necessity for Act of Congress

After publication of notice of the availability of appropriate maps or descriptions in the Federal Register, the Secretary charged with the administration of a national scenic or national historic trail may relocate segments of a national scenic or national historic trail right-of-way, with the concurrence of the head of the Federal agency having jurisdiction over the lands involved, upon a determination that: (i) such a relocation is necessary to preserve the purposes for which the trail was established, or (ii) the relocation is necessary to promote a sound land management program in accordance with established multiple-use principles: *Provided*, That a substantial relocation of the rights-of-way for such trail shall be by Act of Congress.

(c) Facilities on national, scenic or historic, trails; permissible activities; use of motorized vehicles; trail markers; establishment of uniform marker; placement of uniform markers; trail interpretation sites

National scenic or national historic trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted by the Secretary charged with the administration of the trail. Reasonable efforts shall be made to provide sufficient access opportunities to such trails and, to the extent practicable, efforts shall be made to avoid activities incompatible with the purposes for which such trails were established. The use of motorized vehicles by the general public along any national scenic trail shall be prohibited and nothing in this chapter shall be construed as authorizing the use of motorized vehicles within the natural and historical areas of the national park system, the national wildlife refuge system, the national wilderness preservation system where they are presently prohibited or on other Federal lands where trails are designated as being closed to such use by the appropriate Secretary: *Provided*, That the Secretary charged with the administration of such trail shall establish regulations which shall authorize the use of motorized vehicles when, in his judgment, such vehicles are necessary to meet emergencies or to enable adjacent landowners or land users to have reasonable access to their lands or timber rights: *Provided further*, That private lands included in the national recreation, national scenic, or national historic trails by cooperative agreement of a landowner shall not preclude such owner from using motorized vehicles on or across such trails or adjacent lands from time to time in accordance with regulations to be established by the appropriate Secretary. Where a national historic trail follows existing public roads, developed rights-of-way or waterways, and similar features of man's nonhistorically related development, approximating the original location of a historic route, such segments may be marked to facilitate retracement of the historic route, and where a national historic trail parallels an existing public road, such road may be marked to commemorate the historic route. Other uses along the historic trails and the Continental Divide National Scenic Trail, which will not substantially interfere with the nature and purposes of the trail, and which, at the time of designation, are allowed by administrative regulations, including the use of motorized vehicles, shall be permitted by the Secretary charged with the administration of the trail. The Secretary of the Interior and the Secretary of Agriculture, in consultation with appropriate governmental agencies and public and private organizations, shall establish a uniform marker, including thereon an appropriate and distinctive symbol for each national recreation, national scenic, and national historic trail. Where the trails cross lands administered by Federal agencies such markers shall be erected at appropriate points along the trails and maintained by the Federal agency administering the trail in accordance with standards established by the appropriate Secretary and where the trails cross non-Federal lands, in accordance with written cooperative agreements, the appropriate Secretary shall provide such uniform markers to cooperating agencies and shall require such agencies to erect and maintain them in accordance with the standards established. The appro-

priate Secretary may also provide for trail interpretation sites, which shall be located at historic sites along the route of any national scenic or national historic trail, in order to present information to the public about the trail, at the lowest possible cost, with emphasis on the portion of the trail passing through the State in which the site is located. Wherever possible, the sites shall be maintained by a State agency under a cooperative agreement between the appropriate Secretary and the State agency.

(d) Use and acquisition of lands within exterior boundaries of areas included within right-of-way

Within the exterior boundaries of areas under their administration that are included in the right-of-way selected for a national recreation, national scenic, or national historic trail, the heads of Federal agencies may use lands for trail purposes and may acquire lands or interests in lands by written cooperative agreement, donation, purchase with donated or appropriated funds or exchange.

(e) Right-of-way lands outside exterior boundaries of federally administered areas; cooperative agreements or acquisition; failure to agree or acquire; agreement or acquisition by Secretary concerned; right of first refusal for original owner upon disposal

Where the lands included in a national scenic or national historic trail right-of-way are outside of the exterior boundaries of federally administered areas, the Secretary charged with the administration of such trail shall encourage the States or local governments involved (1) to enter into written cooperative agreements with landowners, private organizations, and individuals to provide the necessary trail right-of-way, or (2) to acquire such lands or interests therein to be utilized as segments of the national scenic or national historic trail: *Provided*, That if the State or local governments fail to enter into such written cooperative agreements or to acquire such lands or interests therein after notice of the selection of the right-of-way is published, the appropriate Secretary may (i) enter into such agreements with landowners, States, local governments, private organizations, and individuals for the use of lands for trail purposes, or (ii) acquire private lands or interests therein by donation, purchase with donated or appropriated funds or exchange in accordance with the provisions of subsection (f) of this section: *Provided further*, That the appropriate Secretary may acquire lands or interests therein from local governments or governmental corporations with the consent of such entities. The lands involved in such rights-of-way should be acquired in fee, if other methods of public control are not sufficient to assure their use for the purpose for which they are acquired: *Provided*, That if the Secretary charged with the administration of such trail permanently relocates the right-of-way and disposes of all title or interest in the land, the original owner, or his heirs or assigns, shall be offered, by notice given at the former owner's last known address, the right of first refusal at the fair market price.

(f) Exchange of property within the right-of-way by Secretary of the Interior; property subject to exchange; equalization of value of property; exchange of national forest lands by Secretary of Agriculture; tracts lying outside trail acquisition area

(1) The Secretary of the Interior, in the exercise of his exchange authority, may accept title to any non-Federal property within the right-of-way and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction which is located in the State wherein such property is located and which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require. The Secretary of Agriculture, in the exercise of his exchange authority, may utilize authorities and procedures available to him in connection with exchanges of national forest lands.

(2) In acquiring lands or interests therein for a National Scenic or Historic Trail, the appropriate Secretary may, with consent of a landowner, acquire whole tracts notwithstanding that parts of such tracts may lie outside the area of trail acquisition. In furtherance of the purposes of this chapter, lands so acquired outside the area of trail acquisition may be exchanged for any non-Federal lands or interests therein within the trail right-of-way, or disposed of in accordance with such procedures or regulations as the appropriate Secretary shall prescribe, including: (i) provisions for conveyance of such acquired lands or interests therein at not less than fair market value to the highest bidder, and (ii) provisions for allowing the last owners of record a right to purchase said acquired lands or interests therein upon payment or agreement to pay an amount equal to the highest bid price. For lands designated for exchange or disposal, the appropriate Secretary may convey these lands with any reservations or covenants deemed desirable to further the purposes of this chapter. The proceeds from any disposal shall be credited to the appropriation bearing the costs of land acquisition for the affected trail.

(g) Condemnation proceedings to acquire private lands; limitations; availability of funds for acquisition of lands or interests therein; acquisition of high potential, route segments or historic sites

The appropriate Secretary may utilize condemnation proceedings without the consent of the owner to acquire private lands or interests therein pursuant to this section only in cases where, in his judgment, all reasonable efforts to acquire such lands or interests therein by negotiation have failed, and in such cases he shall acquire only such title as, in his judgment, is reasonably necessary to provide passage across such lands: *Provided*, That condemnation proceedings may not be utilized to acquire fee title or lesser interests to more than an average of one hundred and twenty-five acres per mile. Money appropriated for Federal purposes from

the land and water conservation fund shall, without prejudice to appropriations from other sources, be available to Federal departments for the acquisition of lands or interests in lands for the purposes of this chapter. For national historic trails, direct Federal acquisition for trail purposes shall be limited to those areas indicated by the study report or by the comprehensive plan as high potential route segments or high potential historic sites. Except for designated protected components of the trail, no land or site located along a designated national historic trail or along the Continental Divide National Scenic Trail shall be subject to the provisions of section 303 of title 49 unless such land or site is deemed to be of historical significance under appropriate historical site criteria such as those for the National Register of Historic Places.

(h) Development and maintenance of national, scenic or historic, trails; cooperation with States over portions located outside of federally administered areas; cooperative agreements; participation of volunteers; reservation of right-of-way for trails in conveyances by Secretary of the Interior

(1) The Secretary charged with the administration of a national recreation, national scenic, or national historic trail shall provide for the development and maintenance of such trails within federally administered areas and shall cooperate with and encourage the States to operate, develop, and maintain portions of such trails which are located outside the boundaries of federally administered areas. When deemed to be in the public interest, such Secretary may enter written cooperative agreements with the States or their political subdivisions, landowners, private organizations, or individuals to operate, develop, and maintain any portion of such a trail either within or outside a federally administered area. Such agreements may include provisions for limited financial assistance to encourage participation in the acquisition, protection, operation, development, or maintenance of such trails, provisions providing volunteer in the park or volunteer in the forest status (in accordance with the Volunteers in the Parks Act of 1969 [16 U.S.C. 18g et seq.] and the Volunteers in the Forests Act of 1972 [16 U.S.C. 558a et seq.]) to individuals, private organizations, or landowners participating in such activities, or provisions of both types. The appropriate Secretary shall also initiate consultations with affected States and their political subdivisions to encourage—

(A) the development and implementation by such entities of appropriate measures to protect private landowners from trespass resulting from trail use and from unreasonable personal liability and property damage caused by trail use, and

(B) the development and implementation by such entities of provisions for land practices, compatible with the purposes of this chapter,

for property within or adjacent to trail rights-of-way. After consulting with States and their political subdivisions under the preceding sentence, the Secretary may provide assistance to such entities under appropriate cooperative agreements in the manner provided by this subsection.

(2) Whenever the Secretary of the Interior makes any conveyance of land under any of the public land laws, he may reserve a right-of-way for trails to the extent he deems necessary to carry out the purposes of this chapter.

(i) Regulations; issuance; concurrence and consultation; revision; publication; violations; penalties; utilization of national park or national forest authorities

The appropriate Secretary, with the concurrence of the heads of any other Federal agencies administering lands through which a national recreation, national scenic, or national historic trail passes, and after consultation with the States, local governments, and organizations concerned, may issue regulations, which may be revised from time to time, governing the use, protection, management, development, and administration of trails of the national trails system. In order to maintain good conduct on and along the trails located within federally administered areas and to provide for the proper government and protection of such trails, the Secretary of the Interior and the Secretary of Agriculture shall prescribe and publish such uniform regulations as they deem necessary and any person who violates such regulations shall be guilty of a misdemeanor, and may be punished by a fine of not more than $500, or by imprisonment not exceeding six months, or by both such fine and imprisonment. The Secretary responsible for the administration of any segment of any component of the National Trails System (as determined in a manner consistent with subsection (a)(1) of this section) may also utilize authorities related to units of the national park system or the national forest system, as the case may be, in carrying out his administrative responsibilities for such component.

(j) Types of trail use allowed

Potential trail uses allowed on designated components of the national trails system may include, but are not limited to, the following: bicycling, cross-country skiing, day hiking, equestrian activities, jogging or similar fitness activities, trail biking, overnight and long-distance backpacking, snowmobiling, and surface water and underwater activities. Vehicles which may be permitted on certain trails may include, but need not be limited to, motorcycles, bicycles, four-wheel drive or all-terrain off-road vehicles. In addition, trail access for handicapped individuals may be provided. The provisions of this subsection shall not supersede any other provisions of this chapter or other Federal laws, or any State or local laws.

(k) Donations or other conveyances of qualified real property interests

For the conservation purpose of preserving or enhancing the recreational, scenic, natural, or historical values of components of the national trails system, and environs thereof as determined by the appropriate Secretary, landowners are authorized to donate or otherwise convey qualified real property interests to qualified organizations consistent with section 170(h)(3) of title 26, including, but not limited to, right-of-

way, open space, scenic, or conservation easements, without regard to any limitation on the nature of the estate or interest otherwise transferable within the jurisdiction where the land is located. The conveyance of any such interest in land in accordance with this subsection shall be deemed to further a Federal conservation policy and yield a significant public benefit for purposes of section 6 of Public Law 96–541.

(Pub. L. 90–543, § 7, Oct. 2, 1968, 82 Stat. 922; Pub. L. 95–248, § 1(3), (4), Mar. 21, 1978, 92 Stat. 160; Pub. L. 95–625, title V, § 551(17)–(21), Nov. 10, 1978, 92 Stat. 3515, 3516; Pub. L. 96–87, title IV, § 401(m)(2), (3), Oct. 12, 1979, 93 Stat. 666; Pub. L. 98–11, title II, § 207, Mar. 28, 1983, 97 Stat. 45.)

REFERENCES IN TEXT

The Volunteers in the Parks Act of 1969, referred to in subsec. (h)(1), is Pub. L. 91–357, July 29, 1970, 84 Stat. 472, which is classified generally to subchapter II (§ 18g et seq.) of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 18g of this title and Tables.

The Volunteers in the Forests Act of 1972, referred to in subsec. (h)(1), probably means the Volunteers in the National Forests Act of 1972, Pub. L. 92–300, May 18, 1972, 86 Stat. 147, which is classified generally to section 558a et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 558a of this title and Tables.

Section 6 of Public Law 96–541, referred to in subsec. (k), is section 6 of Pub. L. 96–541, Dec. 17, 1980, 94 Stat. 3206, which amended section 170 of Title 26, Internal Revenue Code, and enacted and amended provisions set out as notes under section 170 of Title 26.

CODIFICATION

In subsec. (g), ''section 303 of title 49'' substituted for ''section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f))'' on authority of Pub. L. 97–449, § 6(b), Jan. 12, 1983, 96 Stat. 2443, the first section of which enacted subtitle I (§ 101 et seq.) of Title 49, Transportation.

AMENDMENTS

1983—Subsec. (a). Pub. L. 98–11, § 207(a), designated existing provisions as par. (2), added par. (1), and in par. (2) substituted ''shall publish notice of the availability of appropriate maps or descriptions in the Federal Register'' for ''shall publish notice thereof in the Federal Register, together with appropriate maps and descriptions''.

Subsec. (b). Pub. L. 98–11, § 207(b), inserted ''of the availability of appropriate maps or descriptions'' after ''After publication of notice'', and struck out ''together with appropriate maps and descriptions,'' after ''Federal Register,''.

Subsec. (c). Pub. L. 98–11, § 207(c), inserted provision that the appropriate Secretary may also provide for trail interpretation sites, which shall be located at historic sites along the route of any national scenic or national historic trail, in order to present information to the public about the trail, at the lowest possible cost, with emphasis on the portion of the trail passing through the State in which the site is located, and that, whenever possible, the sites be maintained by a State agency under a cooperative agreement between the appropriate Secretary and the State agency.

Subsec. (e). Pub. L. 98–11, § 207(d), in first sentence, substituted ''subsection (f) of this section'' for ''subsection (g) of this section'', and inserted a further proviso authorizing the appropriate Secretary to acquire lands or interests therein from local governments or governmental corporations with the consent of such entities.

Subsec. (f). Pub. L. 98–11, § 207(e), designated existing provisions as par. (1) and added par. (2).

Subsec. (g). Pub. L. 98–11, § 207(f), substituted ''Except for designated protected components of the trail, no land or site located'' for ''No land or site located'' in last sentence.

Subsec. (h). Pub. L. 98–11, § 207(g), designated the first of two sentences of existing provisions as par. (1) and the last sentence as par. (2); and in par. (1), as so designated, substituted ''and maintain any portion of such a trail either within'' for ''and maintain any portion of a national scenic or national historic trail either within'' and inserted third, fourth, and fifth sentences making provision for the inclusion in written cooperative agreements provisions for limited financial assistance to encourage participation in acquisition, protection, operation, development, or maintenance of trails and for volunteer in the park or volunteer in the forest status, for the initiation of consultations with affected States and their political subdivisions, and for the giving of assistance after consultation under appropriate cooperative agreements.

Subsec. (i). Pub. L. 98–11, § 207(h), added direction that the Secretary responsible for the administration of any segment of any component of the National Trails System also utilize authorities related to units of the national park system or the national forest system in carrying out his administrative responsibilities for such component.

Subsecs. (j), (k). Pub. L. 98–11, § 207(i), added subsecs. (j) and (k).

1979—Subsecs. (c), (g). Pub. L. 96–87 made technical amendments to section 551(18) and (21) of Pub. L. 95–625 the net result of which expanded the provisions which had been added to subsecs. (c) and (g) of this section in 1978 by section 551(18) and (21) of Pub. L. 95–625. See 1978 Amendments note below.

1978—Subsec. (a). Pub. L. 95–625, § 551(17), substituted ''national scenic and national historic trails'' for ''National Scenic Trails'' in first sentence.

Subsec. (b). Pub. L. 95–625, § 551(17), substituted ''scenic or national historic'' for ''scenic'' in two places.

Subsec. (c). Pub. L. 95–625, § 551(17), (18), as amended Pub. L. 96–87, § 401(m)(2), substituted in first sentence ''scenic or national historic'' for ''scenic'', in second proviso ''recreation, national scenic, or national historic'' for ''recreation or scenic'' and in fifth sentence ''recreation, national scenic, and national historic'' for ''recreation and scenic'', and inserted following fourth sentence provisions relating to trail markers and provisions requiring the Secretary to allow other uses along the historic trails and the Continental Divide National Scenic Trail which will not substantially interfere with the nature and purposes of the trail and which, at the time of designation, were allowed by administrative regulation, including the use of motor vehicles.

Subsec. (d). Pub. L. 95–625, § 551(17), substituted ''recreation, national scenic, or national historic'' for ''recreation or scenic''.

Pub. L. 95–248, § 1(3), struck out proviso relating to acreage limitation of acquisition.

Subsec. (e). Pub. L. 95–625, § 551(17), (19), inserted ''or national historic'' after ''scenic'' in two places and struck out from first proviso ''within two years'' before ''after notice of the selection of the right-of-way''.

Subsec. (g). Pub. L. 95–625, § 551(20), (21), as amended Pub. L. 96–87, § 401(m)(3), struck out second proviso '': *Provided further*, That condemnation is prohibited with respect to all acquisition of lands or interest in lands for the purposes of the Pacific Crest Trail'' after ''connecting trail right-of-way'' and inserted provisions that direct Federal acquisition for trail purposes be limited to high potential route segments or high potential historic sites and that no land or site located along a designated national historic trail or along the Continental Divide Scenic Trail be subject to the provisions of section 1653(f) of title 49 unless that land be deemed to be of historical significance under appropriate historical site criteria such as those for the National Register of Historic Places.

Pub. L. 95–248, § 1(4), substituted ''an average of one hundred and twenty-five acres per mile'' for ''twenty-

five acres in any one mile'', and struck out limitation on exercise of authority with respect to a connecting trail right-of-way.

Subsec. (h). Pub. L. 95–625, § 551(17), substituted ''recreation, national scenic, or national historic'' for ''recreation or scenic'' in first sentence, and inserted ''or national historic'' after ''scenic'' in second sentence.

Subsec. (i). Pub. L. 95–625, § 551(17), substituted ''recreation, national scenic, or national historic'' for ''recreation or scenic''.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with system activities requiring coordination and approval under this chapter and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 1247. State and local area recreation and historic trails

(a) Secretary of the Interior to encourage States, political subdivisions, and private interests; financial assistance for State and local projects

The Secretary of the Interior is directed to encourage States to consider, in their comprehensive statewide outdoor recreation plans and proposals for financial assistance for State and local projects submitted pursuant to the Land and Water Conservation Fund Act [16 U.S.C. 460*l*–4 et seq.], needs and opportunities for establishing park, forest, and other recreation and historic trails on lands owned or administered by States, and recreation and historic trails on lands in or near urban areas. The Secretary is also directed to encourage States to consider, in their comprehensive statewide historic preservation plans and proposals for financial assistance for State, local, and private projects submitted pursuant to the Act of October 15, 1966 (80 Stat. 915), as amended [16 U.S.C. 470 et seq.], needs and opportunities for establishing historic trails. He is further directed, in accordance with the authority contained in the Act of May 28, 1963 (77 Stat. 49) [16 U.S.C. 460*l* et seq.], to encourage States, political subdivisions, and private interests, including nonprofit organizations, to establish such trails.

(b) Secretary of Housing and Urban Development to encourage metropolitan and other urban areas; administrative and financial assistance in connection with recreation and transportation planning; administration of urban open-space program

The Secretary of Housing and Urban Development is directed, in administering the program of comprehensive urban planning and assistance under section 701[1] of the Housing Act of 1954, to encourage the planning of recreation trails in connection with the recreation and transportation planning for metropolitan and other urban areas. He is further directed, in administering the urban open-space program under title VII of the Housing Act of 1961 [42 U.S.C. 1500 et seq.], to encourage such recreation trails.

(c) Secretary of Agriculture to encourage States, local agencies, and private interests

The Secretary of Agriculture is directed, in accordance with authority vested in him, to encourage States and local agencies and private interests to establish such trails.

(d) Interim use of railroad rights-of-way

The Secretary of Transportation, the Chairman of the Surface Transportation Board, and the Secretary of the Interior, in administering the Railroad Revitalization and Regulatory Reform Act of 1976 [45 U.S.C. 801 et seq.], shall encourage State and local agencies and private interests to establish appropriate trails using the provisions of such programs. Consistent with the purposes of that Act, and in furtherance of the national policy to preserve established railroad rights-of-way for future reactivation of rail service, to protect rail transportation corridors, and to encourage energy efficient transportation use, in the case of interim use of any established railroad rights-of-way pursuant to donation, transfer, lease, sale, or otherwise in a manner consistent with this chapter, if such interim use is subject to restoration or reconstruction for railroad purposes, such interim use shall not be treated, for purposes of any law or rule of law, as an abandonment of the use of such rights-of-way for railroad purposes. If a State, political subdivision, or qualified private organization is prepared to assume full responsibility for management of such rights-of-way and for any legal liability arising out of such transfer or use, and for the payment of any and all taxes that may be levied or assessed against such rights-of-way, then the Board shall impose such terms and conditions as a requirement of any transfer or conveyance for interim use in a manner consistent with this chapter, and shall not permit abandonment or discontinuance inconsistent or disruptive of such use.

(e) Designation and marking of trails; approval of Secretary of the Interior

Such trails may be designated and suitably marked as parts of the nationwide system of trails by the States, their political subdivisions, or other appropriate administering agencies with the approval of the Secretary of the Interior.

(Pub. L. 90–543, § 8, Oct. 2, 1968, 82 Stat. 925; Pub. L. 95–625, title V, § 551(22), Nov. 10, 1978, 92 Stat.

[1] See References in Text note below.

3516; Pub. L. 98–11, title II, § 208, Mar. 28, 1983, 97 Stat. 48; Pub. L. 104–88, title III, § 317(1), Dec. 29, 1995, 109 Stat. 949.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act, referred to in subsec. (a), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

Act of October 15, 1966, referred to in subsec. (a), is Pub. L. 89–665, as amended, popularly known as the ''National Historic Preservation Act'' which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of this title. For complete classification of this Act to the Code, see section 470 of this title and Tables.

Act of May 28, 1963, referred to in subsec. (a), is Pub. L. 88–29, May 28, 1963, 77 Stat. 49, as amended, which is classified generally to part A (§ 460*l* et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Tables.

Section 701 of the Housing Act of 1954, referred to in subsec. (b), was classified to section 461 of former Title 40, Public Buildings, Property, and Works, prior to repeal by Pub. L. 97–35, title III, § 313(b), Aug. 13, 1981, 95 Stat. 398.

The Housing Act of 1961, referred to in subsec. (b), is Pub. L. 87–70, June 30, 1961, 75 Stat. 149, as amended. Title VII of the Housing Act of 1961 was classified generally to chapter 8C (§ 1500 et seq.) of Title 42, The Public Health and Welfare, and was omitted from the Code pursuant to section 5316 of Title 42 which terminated authority to make grants or loans under such title VII after Jan. 1, 1975. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables.

The Railroad Revitalization and Regulatory Reform Act of 1976, referred to in subsec. (d), is Pub. L. 94–210, Feb. 5, 1976, 90 Stat. 31, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 45, Railroads, and Tables.

AMENDMENTS

1995—Subsec. (d). Pub. L. 104–88 substituted ''Chairman of the Surface Transportation Board'' for ''Chairman of the Interstate Commerce Commission'' and ''the Board'' for ''the Commission''.

1983—Subsecs. (d), (e). Pub. L. 98–11, § 208(2), added subsec. (d) and redesignated former subsec. (d) as (e).

1978—Subsec. (a). Pub. L. 95–625 inserted ''and historic'' after ''establishing park, forest, and other recreation'' and ''administered by States, and recreation'', and directed the Secretary to encourage States to consider in their plans and proposals the needs and opportunities for establishing historic trails.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of Title 49, Transportation.

§ 1248. Easements and rights-of-way

(a) Authorization; conditions

The Secretary of the Interior or the Secretary of Agriculture as the case may be, may grant easements and rights-of-way upon, over, under, across, or along any component of the national trails system in accordance with the laws applicable to the national park system and the national forest system, respectively: *Provided*, That any conditions contained in such easements and rights-of-way shall be related to the policy and purposes of this chapter.

(b) Cooperation of Federal agencies with Secretary of the Interior and Secretary of Agriculture

The Department of Defense, the Department of Transportation, the Surface Transportation Board, the Federal Communications Commission, the Secretary of Energy, and other Federal agencies having jurisdiction or control over or information concerning the use, abandonment, or disposition of roadways, utility rights-of-way, or other properties which may be suitable for the purpose of improving or expanding the national trails system shall cooperate with the Secretary of the Interior and the Secretary of Agriculture in order to assure, to the extent practicable, that any such properties having values suitable for trail purposes may be made available for such use.

(c) Abandoned railroad grants; retention of rights

Commencing October 4, 1988, any and all right, title, interest, and estate of the United States in all rights-of-way of the type described in section 912 of title 43, shall remain in the United States upon the abandonment or forfeiture of such rights-of-way, or portions thereof, except to the extent that any such right-of-way, or portion thereof, is embraced within a public highway no later than one year after a determination of abandonment or forfeiture, as provided under such section.

(d) Location, incorporation, and management

(1) All rights-of-way, or portions thereof, retained by the United States pursuant to subsection (c) of this section which are located within the boundaries of a conservation system unit or a National Forest shall be added to and incorporated within such unit or National Forest and managed in accordance with applicable provisions of law, including this chapter.

(2) All such retained rights-of-way, or portions thereof, which are located outside the boundaries of a conservation system unit or a National Forest but adjacent to or contiguous with any portion of the public lands shall be managed pursuant to the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701 et seq.] and other applicable law, including this section.

(3) All such retained rights-of-way, or portions thereof, which are located outside the boundaries of a conservation system unit or National Forest which the Secretary of the Interior determines suitable for use as a public recreational trail or other recreational purposes shall be managed by the Secretary for such uses, as well as for such other uses as the Secretary determines to be appropriate pursuant to applicable laws, as long as such uses do not preclude trail use.

(e) Release and quitclaim; conditions; sale; proceeds

(1) The Secretary of the Interior is authorized where appropriate to release and quitclaim to a unit of government or to another entity meeting the requirements of this subsection any and all right, title, and interest in the surface estate of any portion of any right-of-way to the extent any such right, title, and interest was retained by the United States pursuant to subsection (c)

of this section, if such portion is not located within the boundaries of any conservation system unit or National Forest. Such release and quitclaim shall be made only in response to an application therefor by a unit of State or local government or another entity which the Secretary of the Interior determines to be legally and financially qualified to manage the relevant portion for public recreational purposes. Upon receipt of such an application, the Secretary shall publish a notice concerning such application in a newspaper of general circulation in the area where the relevant portion is located. Such release and quitclaim shall be on the following conditions:

(A) If such unit or entity attempts to sell, convey, or otherwise transfer such right, title, or interest or attempts to permit the use of any part of such portion for any purpose incompatible with its use for public recreation, then any and all right, title, and interest released and quitclaimed by the Secretary pursuant to this subsection shall revert to the United States.

(B) Such unit or entity shall assume full responsibility and hold the United States harmless for any legal liability which might arise with respect to the transfer, possession, use, release, or quitclaim of such right-of-way.

(C) Notwithstanding any other provision of law, the United States shall be under no duty to inspect such portion prior to such release and quitclaim, and shall incur no legal liability with respect to any hazard or any unsafe condition existing on such portion at the time of such release and quitclaim.

(2) The Secretary is authorized to sell any portion of a right-of-way retained by the United States pursuant to subsection (c) of this section located outside the boundaries of a conservation system unit or National Forest if any such portion is—

(A) not adjacent to or contiguous with any portion of the public lands; or

(B) determined by the Secretary, pursuant to the disposal criteria established by section 203 of the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1713], to be suitable for sale.

Prior to conducting any such sale, the Secretary shall take appropriate steps to afford a unit of State or local government or any other entity an opportunity to seek to obtain such portion pursuant to paragraph (1) of this subsection.

(3) All proceeds from sales of such retained rights of way shall be deposited into the Treasury of the United States and credited to the Land and Water Conservation Fund as provided in section 460*l*–5 of this title.

(4) The Secretary of the Interior shall annually report to the Congress the total proceeds from sales under paragraph (2) during the preceding fiscal year. Such report shall be included in the President's annual budget submitted to the Congress.

(f) "Conservation system unit" and "public lands" defined

As used in this section—

(1) The term ''conservation system unit'' has the same meaning given such term in the Alaska National Interest Lands Conservation Act (Public Law 96–487; 94 Stat. 2371 et seq.), except that such term shall also include units outside Alaska.

(2) The term ''public lands'' has the same meaning given such term in the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701 et seq.].

(Pub. L. 90–543, § 9, Oct. 2, 1968, 82 Stat. 925; Pub. L. 95–91, title III, § 301(b), Aug. 4, 1977, 91 Stat. 578; Pub. L. 100–470, § 3, Oct. 4, 1988, 102 Stat. 2281; Pub. L. 104–88, title III, § 317(2), Dec. 29, 1995, 109 Stat. 949.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsecs. (d)(2) and (f)(2), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

The Alaska National Interest Lands Conservation Act, referred to in subsec. (f)(1), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

AMENDMENTS

1995—Subsec. (b). Pub. L. 104–88 substituted ''Surface Transportation Board'' for ''Interstate Commerce Commission''.

1988—Subsecs. (c) to (f). Pub. L. 100–470 added subsecs. (c) to (f).

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of Title 49, Transportation.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with system activities requiring coordination and approval under this chapter and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

''Secretary of Energy'' substituted for ''Federal Power Commission'' in subsec. (b) pursuant to Pub. L. 95–91, § 301(b), which is classified to section 7151(b) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions which were transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

ABANDONED RAILROAD GRANTS; CONGRESSIONAL FINDINGS

Section 2 of Pub. L. 100–470 provided that: ''Congress hereby finds that—

''(1) State and local governments have a special role to play under the National Trails System Act [16 U.S.C. 1241 et seq.] in acquiring and developing trails for recreation and conservation purposes.

''(2) Many miles of public land rights-of-way have been granted to the railroads by the United States, and much of this mileage could be suitable for trail use at such time as it may be abandoned.

''(3) The United States should retain any residual interest it may have in such public land rights-of-way and relinquish it, where appropriate, in favor of State and local governments or other nonprofit entities for trail purposes.''

CONDEMNATION

Section 5 of Pub. L. 100–470 provided that:

''(a) Nothing in this Act [amending this section and section 1244 of this title and enacting provisions set out as notes under this section and section 1241 of this title] shall be construed as authorizing the Secretary of the Interior to use condemnation proceedings to retain or acquire all or any portion of a right-of-way described in this Act.

''(b) Nothing in this Act shall be construed to expand or diminish existing condemnation authorities contained in the National Trails System Act, as amended [16 U.S.C. 1241 et seq.].''

§ 1249. Authorization of appropriations

(a) Appalachian and Pacific Crest National Scenic Trails

(1) There are hereby authorized to be appropriated for the acquisition of lands or interests in lands not more than $5,000,000 for the Appalachian National Scenic Trail and not more than $500,000 for the Pacific Crest National Scenic Trail. From the appropriations authorized for fiscal year 1979 and succeeding fiscal years pursuant to the Land and Water Conservation Fund Act (78 Stat. 897), as amended [16 U.S.C. 460*l*–4 et seq.], not more than the following amounts may be expended for the acquisition of lands and interests in lands authorized to be acquired pursuant to the provisions of this chapter: for the Appalachian National Scenic Trail, not to exceed $30,000,000 for fiscal year 1979, $30,000,000 for fiscal year 1980, and $30,000,000 for fiscal year 1981, except that the difference between the foregoing amounts and the actual appropriations in any one fiscal year shall be available for appropriation in subsequent fiscal years.

(2) It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program necessary to insure the protection of the Appalachian Trail within three complete fiscal years following March 21, 1978.

(b) Land deemed to qualify for funding

For the purposes of Public Law 95–42 (91 Stat. 211), the lands and interests therein acquired pursuant to this section shall be deemed to qualify for funding under the provisions of section 1, clause 2, of said Act [16 U.S.C. 460*l*–7].

(c) Authorization of appropriations

(1) In general

Except as otherwise provided in this chapter, there are authorized to be appropriated such sums as are necessary to implement the provisions of this chapter relating to the trails designated by section 1244(a) of this title.

(2) Natchez Trace National Scenic Trail

(A) In general

With respect to the Natchez Trace National Scenic Trail (referred to in this paragraph as the ''trail'') designated by section 1244(a)(12) of this title—

(i) not more than $500,000 shall be appropriated for the acquisition of land or interests in land for the trail; and

(ii) not more than $2,000,000 shall be appropriated for the development of the trail.

(B) Participation by volunteer trail groups

The administering agency for the trail shall encourage volunteer trail groups to participate in the development of the trail.

(Pub. L. 90–543, §10, Oct. 2, 1968, 82 Stat. 926; Pub. L. 95–248, §1(5), Mar. 21, 1978, 92 Stat. 160; Pub. L. 95–625, title V, §551(23), Nov. 10, 1978, 92 Stat. 3517; Pub. L. 96–199, title I, §101(b)(4), Mar. 5, 1980, 94 Stat. 68; Pub. L. 96–370, §1(b), Oct. 3, 1980, 94 Stat. 1360; Pub. L. 98–11, title II, §209, Mar. 28, 1983, 97 Stat. 48; Pub. L. 100–35, §1(b), May 8, 1987, 101 Stat. 302; Pub. L. 100–192, §2, Dec. 16, 1987, 101 Stat. 1309; Pub. L. 101–365, §2(b), Aug. 15, 1990, 104 Stat. 429; Pub. L. 103–437, §6(d)(38), Nov. 2, 1994, 108 Stat. 4585; Pub. L. 104–333, div. I, title VIII, §814(d)(1)(J), Nov. 12, 1996, 110 Stat. 4196; Pub. L. 108–352, §14(2), Oct. 21, 2004, 118 Stat. 1397; Pub. L. 111–11, title V, §5301(b), Mar. 30, 2009, 123 Stat. 1161.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act (78 Stat. 897), as amended, referred to in subsec. (a)(1), probably means the Land and Water Conservation Fund Act of 1965, Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§460*l*–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

Public Law 95–42 (91 Stat. 211), referred to in subsec. (b), is Pub. L. 95–42, June 10, 1977, 91 Stat. 210, which, to the extent classified to the Code, amended sections 460*l*–5, 460*l*–7, and 460*l*–9 of this title. Section 1, clause 2 of said Act amended section 460*l*–7 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2009—Subsec. (c). Pub. L. 111–11 added subsec. (c) and struck out former subsec. (c) which appropriated such sums as necessary to implement the provisions of this chapter relating to the trails designated by section 1244(a) of this title.

2004—Subsec. (c)(1). Pub. L. 108–352 substituted ''the Ice Age'' for ''The Ice Age''.

1996—Subsec. (a)(2). Pub. L. 104–333 struck out at end ''Until the entire acquisition program is completed, he shall transmit in writing at the close of each fiscal year the following information to the Committee on Energy and Natural Resources of the Senate and to the Committee on Natural Resources of the House of Representatives:

''(A) the amount of land acquired during the fiscal year and the amount expended therefor;

''(B) the estimated amount of land remaining to be acquired; and

''(C) the amount of land planned for acquisition in the ensuing fiscal year and the estimated cost thereof.''

1994—Subsec. (a)(2). Pub. L. 103–437 in introductory provisions substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

1990—Subsec. (c)(2). Pub. L. 101–365 amended first sentence generally. Prior to amendment, first sentence read as follows: ''There is hereby authorized to be appropriated for fiscal year 1983 and subsequent fiscal years such sums as may be necessary to implement the provisions of this chapter relating to the trails designated by paragraphs (9), (10), (11), (12), (13), (15), and (16) of section 1244(a) of this title.''

1987—Subsec. (c)(2). Pub. L. 100–192 substituted '', (10), (11), (12), (13), (15), and (16)'' for ''through (13) and (15)''.

Pub. L. 100–35 inserted ''and (15)'' after ''(13)''.

1983—Subsec. (a)(1). Pub. L. 98–11, § 209(1), (2), inserted ''(a)(1)'' before ''There are hereby authorized to be appropriated'' at beginning of undesignated opening paragraph, and substituted ''for the'' for ''(a) The'' before ''Appalachian National Scenic Trail'' at beginning of former subsec. (a).

Subsec. (a)(2). Pub. L. 98–11, § 209(3), (4), inserted ''(2)'' before sentence beginning ''It is the express intent of the Congress'' and substituted ''protection of the Appalachian Trail'' for ''protection of the Trail''.

Subsec. (c). Pub. L. 98–11, § 209(5), designated existing provisions as par. (1), inserted provision that funds may be expended for the acquisition of lands or interests therein for the purpose of providing for one trail interpretation site, as described in section 1246(c) of this title, and added par. (2).

1980—Subsec. (c). Pub. L. 96–370 substituted ''(7), (8), (9), and (10)'' for ''(7), and (8)'' and inserted reference to the Ice Age National Scenic Trail.

Pub. L. 96–199 inserted references to the North Country National Scenic Trail in two places, once by its full name and once by the designation as the trail ''designated by'' section 1244(a)(8) of this title, substituted ''appropriated prior to October 1, 1978'' for ''appropriated prior to October 1, 1979'', and substituted ''no funds may be expended by Federal agencies for the acquisition of lands or interests in lands outside the exterior boundaries of existing Federal area'' for ''no funds may be expended for the acquisition of lands or interests in lands''.

1978—Pub. L. 95–248 inserted provisions relating to determinations respecting appropriations authorized for fiscal year 1979 and succeeding fiscal years.

Subsec. (a). Pub. L. 95–625 struck out par. (1) designation, substituted ''in subsequent fiscal years'' for ''in the subsequent fiscal year'' and struck out par. (2) which provided for transmission of a report to Congressional committees by the Appalachian Trail Conference at the close of each fiscal year, until entire acquisition program was completed, covering conduct of negotiations for acquisition program and whether larger interests in land were being acquired than were necessary for the purposes of this chapter.

Subsec. (c). Pub. L. 95–625 added subsec. (c).

EFFECTIVE DATE OF APPROPRIATION AUTHORIZATIONS UNDER PUB. L. 98–11; CONTRACT AUTHORITY

Section 101 of Pub. L. 98–11 provided that: ''Authorizations of appropriations under this Act [enacting sections 1250 and 1251 of this title, amending this section and sections 1241 to 1247 of this title, and enacting provisions set out as a note under section 1241 of this title] shall be effective only for the fiscal year beginning on October 1, 1983, and subsequent fiscal years. Notwithstanding any other provision of this Act, authority to enter into contracts, and to make payments, under this Act shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.''

APPROPRIATIONS FOR OVERMOUNTAIN VICTORY NATIONAL HISTORIC TRAIL AND ICE AGE NATIONAL SCENIC TRAIL; EFFECTIVE DATE; CONTRACT AUTHORITY

Section 2 of Pub. L. 96–370 provided that: ''Authorizations of moneys to be appropriated under this Act [amending sections 1244 and 1249 of this title] shall be effective on October 1, 1981. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.''

§ 1250. Volunteer trails assistance

(a) Volunteer planning, development, maintenance, and management of trails

(1) In addition to the cooperative agreement and other authorities contained in this chapter, the Secretary of the Interior, the Secretary of Agriculture, and the head of any Federal agency administering Federal lands, are authorized to encourage volunteers and volunteer organizations to plan, develop, maintain, and manage, where appropriate, trails throughout the Nation.

(2) Wherever appropriate in furtherance of the purposes of this chapter, the Secretaries are authorized and encouraged to utilize the Volunteers in the Parks Act of 1969 [16 U.S.C. 18g et seq.], the Volunteers in the Forests Act of 1972 [16 U.S.C. 558a et seq.], and section 460*l*–8 of this title (relating to the development of Statewide Comprehensive Outdoor Recreation Plans).

(b) Scope of volunteer work

Each Secretary or the head of any Federal land managing agency may assist volunteers and volunteer organizations in planning, developing, maintaining, and managing trails. Volunteer work may include, but need not be limited to—

(1) planning, developing, maintaining, or managing (A) trails which are components of the national trails system, or (B) trails which, if so developed and maintained, could qualify for designation as components of the national trails system; or

(2) operating programs to organize and supervise volunteer trail building efforts with respect to the trails referred to in paragraph (1), conducting trail-related research projects, or providing education and training to volunteers on methods of trails planning, construction, and maintenance.

(c) Use of Federal facilities, equipment, tools, and technical assistance

The appropriate Secretary or the head of any Federal land managing agency may utilize and make available Federal facilities, equipment, tools, and technical assistance to volunteers and volunteer organizations, subject to such limitations and restrictions as the appropriate Secretary or the head of any Federal land managing agency deems necessary or desirable.

(Pub. L. 90–543, § 11, as added Pub. L. 98–11, title II, § 210, Mar. 28, 1983, 97 Stat. 49.)

REFERENCES IN TEXT

The Volunteers in the Parks Act of 1969, referred to in subsec. (a)(2), is Pub. L. 91–357, July 29, 1970, 84 Stat. 472, as amended, which is classified generally to subchapter II (§ 18g et seq.) of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 18g of this title and Tables.

The Volunteers in the Forests Act of 1972, referred to in subsec. (a)(2), probably means the Volunteers in the

National Forests Act of 1972, Pub. L. 92–300, May 18, 1972, 86 Stat. 147, as amended, which is classified generally to section 558a et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 558a of this title and Tables.

§ 1251. Definitions

As used in this chapter:

(1) The term ''high potential historic sites'' means those historic sites related to the route, or sites in close proximity thereto, which provide opportunity to interpret the historic significance of the trail during the period of its major use. Criteria for consideration as high potential sites include historic significance, presence of visible historic remnants, scenic quality, and relative freedom from intrusion.

(2) The term ''high potential route segments'' means those segments of a trail which would afford high quality recreation experience in a portion of the route having greater than average scenic values or affording an opportunity to vicariously share the experience of the original users of a historic route.

(3) The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and any other territory or possession of the United States.

(4) The term ''without expense to the United States'' means that no funds may be expended by Federal agencies for the development of trail related facilities or for the acquisition of lands or interests in lands outside the exterior boundaries of Federal areas. For the purposes of the preceding sentence, amounts made available to any State or political subdivision under the Land and Water Conservation Fund Act of 1965 [16 U.S.C. 460*l*–4 et seq.] or any other provision of law shall not be treated as an expense to the United States.

(Pub. L. 90–543, § 12, as added Pub. L. 98–11, title II, § 210, Mar. 28, 1983, 97 Stat. 50.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act of 1965, referred to in par. (4), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

CHAPTER 27A—NATIONAL RECREATIONAL TRAILS FUND

Sec.
1261. Repealed.
1262. National Recreational Trails Advisory Committee.

§ 1261. Repealed. Pub. L. 105–178, title I, § 1112(c), June 9, 1998, 112 Stat. 151

Section, Pub. L. 102–240, title I, § 1302, Dec. 18, 1991, 105 Stat. 2064; Pub. L. 104–59, title III, § 337(a)–(d), Nov. 28, 1995, 109 Stat. 602, 603; Pub. L. 104–88, title IV, § 405(a)(5), Dec. 29, 1995, 109 Stat. 957, related to national recreational trails funding program.

SHORT TITLE

Section 1301 of Pub. L. 102–240 provided that: ''This part [part B (§§ 1301–1303) of title I of Pub. L. 102–240, enacting this chapter] may be cited as the 'Symms National Recreational Trails Act of 1991'.''

§ 1262. National Recreational Trails Advisory Committee

(a) Establishment

There is established the National Recreational Trails Advisory Committee.

(b) Members

There shall be 12 members of the advisory committee, consisting of—

(1) 8 members appointed by the Secretary from nominations submitted by recreational trail user organizations, one each representing the following recreational trail uses:
- (A) hiking,
- (B) cross-country skiing,
- (C) off-highway motorcycling,
- (D) snowmobiling,
- (E) horseback riding,
- (F) all-terrain vehicle riding,
- (G) bicycling, and
- (H) four-wheel driving;

(2) 1 member appointed by the Secretary representing individuals with disabilities;

(3) an appropriate official of government with a background in science or natural resources management, including any official of State or local government, designated by the Secretary;

(4) 1 member appointed by the Secretary from nominations submitted by water trail user organizations; and

(5) 1 member appointed by the Secretary from nominations submitted by hunting and fishing enthusiast organizations.

(c) Chairman

The Chair of the advisory committee shall be the government official referenced in subsection (b)(3) of this section, who shall serve as a nonvoting member.

(d) Support for committee action

Any action, recommendation, or policy of the advisory committee must be supported by at least five of the members appointed under subsection (b)(1) of this section.

(e) Terms

Members of the advisory committee appointed by the Secretary shall be appointed for terms of three years, except that the members filling five of the eleven positions shall be initially appointed for terms of two years, with subsequent appointments to those positions extending for terms of three years.

(f) Duties

The advisory committee shall meet at least twice annually to—

(1) review utilization of allocated moneys by States;

(2) establish and review criteria for trail-side and trail-head facilities that qualify for funding under this chapter; and

(3) make recommendations to the Secretary for changes in Federal policy to advance the purposes of this chapter.

(g) Annual report

The advisory committee shall present to the Secretary an annual report on its activities.

(h) Reimbursement for expenses

Nongovernmental members of the advisory committee shall serve without pay, but, to the extent funds are available pursuant to section 1261(d)(1)(B)[1] of this title, shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(i) Report to Congress

Not later than 4 years after December 18, 1991, the Secretary shall prepare and submit to the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives, a study which summarizes the annual reports of the National Recreational Trails Advisory Committee, describes the allocation and utilization of moneys under this chapter, and contains recommendations for changes in Federal policy to advance the purposes of this chapter.

(j) Termination

The advisory committee established by this section shall terminate on September 30, 2000.

(Pub. L. 102–240, title I, §1303, Dec. 18, 1991, 105 Stat. 2068; Pub. L. 104–59, title III, §§325(h), 337(e), Nov. 28, 1995, 109 Stat. 592, 603; Pub. L. 105–178, title I, §1112(d), June 9, 1998, 112 Stat. 151.)

REFERENCES IN TEXT

Section 1261 of this title, referred to in subsec. (h), was repealed by Pub. L. 105–178, title I, §1112(c), June 9, 1998, 112 Stat. 151.

AMENDMENTS

1998—Subsec. (j). Pub. L. 105–178 added subsec. (j).

1995—Subsec. (b). Pub. L. 104–59, §337(e)(1)(A), substituted ''12'' for ''11'' in introductory provisions.

Subsec. (b)(2) to (5). Pub. L. 104–59, §337(e)(1)(B), (C), added par. (2) and redesignated former pars. (2) to (4) as (3) to (5), respectively.

Subsec. (c). Pub. L. 104–59, §337(e)(2), substituted ''(b)(3)'' for ''(b)(2)''.

Subsec. (i). Pub. L. 104–59, §325(h), substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

CHAPTER 28—WILD AND SCENIC RIVERS

Sec.
1271. Congressional declaration of policy.
1272. Congressional declaration of purpose.
1273. National wild and scenic rivers system.
1274. Component rivers and adjacent lands.
1275. Additions to national wild and scenic rivers system.
1276. Rivers constituting potential additions to national wild and scenic rivers system.
1277. Land acquisition.
1278. Restrictions on water resources projects.
1279. Withdrawal of public lands from entry, sale, or other disposition under public land laws.
1280. Federal mining and mineral leasing laws.
1281. Administration.
1282. Assistance to State and local projects.
1283. Management policies.
1284. Existing State jurisdiction and responsibilities.
1285. Claim and allowance of charitable deduction for contribution or gift of easement.
1285a. Lease of Federal lands.
1285b. Establishment of boundaries for certain component rivers in Alaska; withdrawal of minerals.
1286. Definitions.
1287. Authorization of appropriations.

§ 1271. Congressional declaration of policy

It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes.

(Pub. L. 90–542, §1(b), Oct. 2, 1968, 82 Stat. 906.)

CODIFICATION

Section consists of subsec. (b) of section 1 of Pub. L. 90–542. Subsecs. (a) and (c) of section 1 are classified to section 1272 of this title and as a note under this section, respectively.

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111–11, title V, §5002(a), Mar. 30, 2009, 123 Stat. 1147, provided that: ''This section [amending section 1274 of this title and enacting provisions classified as a note under section 1274 of this title] may be cited as the 'Craig Thomas Snake Headwaters Legacy Act of 2008'.''

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–452, §1, Dec. 22, 2006, 120 Stat. 3363, provided that: ''This Act [amending section 1274 of this title and enacting provisions classified as a note under section 1274 of this title] may be cited as the 'Musconetcong Wild and Scenic Rivers Act'.''

Pub. L. 109–370, §1, Nov. 27, 2006, 120 Stat. 2643, provided that: ''This Act [amending section 1276 of this title] may be cited as the 'Lower Farmington River and Salmon Brook Wild and Scenic River Study Act of 2005'.''

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–44, §1, Aug. 2, 2005, 119 Stat. 443, provided that: ''This Act [amending section 1274 of this title] may be cited as the 'Upper White Salmon Wild and Scenic Rivers Act'.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–365, §1, Dec. 19, 2002, 116 Stat. 3027, provided that: ''This Act [amending section 1274 of this title and enacting provisions classified as a note under section 1274 of this title] may be cited as the 'Caribbean National Forest Wild and Scenic Rivers Act of 2002'.''

SHORT TITLE OF 2001 AMENDMENT

Pub. L. 107–65, §1, Nov. 6, 2001, 115 Stat. 484, provided that: ''This Act [amending section 1276 of this title]

[1] See References in Text note below.

may be cited as the 'Eightmile River Wild and Scenic River Study Act of 2001'.''

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–418, §1, Nov. 1, 2000, 114 Stat. 1817, provided that: ''This Act [amending section 1274 of this title and enacting provisions classified as a note under section 1274 of this title] may be cited as the 'Lower Delaware Wild and Scenic Rivers Act'.''

Pub. L. 106–357, §1, Oct. 24, 2000, 114 Stat. 1393, provided that: ''This Act [amending section 1274 of this title and enacting provisions classified as a note under section 1274 of this title] may be cited as the 'White Clay Creek Wild and Scenic Rivers System Act'.''

Pub. L. 106–318, §1, Oct. 19, 2000, 114 Stat. 1278, provided that: ''This Act [amending section 1276 of this title] may be cited as the 'Taunton River Wild and Scenic River Study Act of 2000'.''

Pub. L. 106–299, §1, Oct. 13, 2000, 114 Stat. 1050, provided that: ''This Act [amending section 1274 of this title and enacting provisions classified as a note under section 1274 of this title] may be cited as the 'Wekiva Wild and Scenic River Act of 2000'.''

Pub. L. 106–192, §1, May 2, 2000, 114 Stat. 233, provided that: ''This Act [amending section 1274 of this title and provisions classified as a note under section 1274 of this title] may be cited as the 'Lamprey Wild and Scenic River Extension Act'.''

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–20, §1, Apr. 9, 1999, 113 Stat. 30, provided that: ''This Act [amending section 1274 of this title and enacting provisions classified as a note under section 1274 of this title] may be cited as the 'Sudbury, Assabet, and Concord Wild and Scenic River Act'.''

SHORT TITLE OF 1994 AMENDMENTS

Pub. L. 103–313, §1, Aug. 26, 1994, 108 Stat. 1699, provided that: ''This Act [amending section 1274 of this title and enacting provisions classified as a note under section 1274 of this title] may be cited as the 'Farmington Wild and Scenic River Act'.''

Pub. L. 103–242, §1, May 4, 1994, 108 Stat. 611, provided that: ''This Act [amending sections 1274 and 1276 of this title and enacting provisions classified as a note under section 1274 of this title] may be cited as the 'Rio Grande Designation Act of 1994'.''

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–170, §1, Dec. 2, 1993, 107 Stat. 1986, provided that: ''This Act [amending section 1274 of this title] may be cited as the 'Red River Designation Act of 1993'.''

SHORT TITLE OF 1992 AMENDMENTS

Pub. L. 102–275, §1, Apr. 22, 1992, 106 Stat. 123, provided that: ''This Act [amending section 1274 of this title and enacting provisions classified as a note under section 1274 of this title] may be cited as the 'Arkansas Wild and Scenic Rivers Act of 1992'.''

Pub. L. 102–249, §1, Mar. 3, 1992, 106 Stat. 45, provided that: ''This Act [amending sections 1274 and 1276 of this title and enacting provisions classified as a note under section 1274 of this title] may be cited as the 'Michigan Scenic Rivers Act of 1991'.''

SHORT TITLE OF 1991 AMENDMENTS

Pub. L. 102–215, §1, Dec. 11, 1991, 105 Stat. 1664, provided that: ''This Act [amending section 1276 of this title] may be cited as the 'White Clay Creek Study Act'.''

Pub. L. 102–214, §1, Dec. 11, 1991, 105 Stat. 1663, provided that: ''This Act [amending section 1276 of this title] may be cited as the 'Lamprey River Study Act of 1991'.''

Pub. L. 102–50, §1, May 24, 1991, 105 Stat. 254, provided that: ''This Act [amending sections 1274 and 1276 of this title and enacting provisions classified as notes under sections 1a–5 and 1274 of this title] may be cited as the 'Niobrara Scenic River Designation Act of 1991'.''

SHORT TITLE OF 1990 AMENDMENTS

Pub. L. 101–628, title VII, §701, Nov. 28, 1990, 104 Stat. 4497, provided that: ''This title [amending section 1276 of this title] may be cited as the 'Sudbury, Assabet, and Concord Wild and Scenic River Study Act'.''

Pub. L. 101–628, title XIII, §1301, Nov. 28, 1990, 104 Stat. 4509, provided that: ''This Act [probably should be ''this title'', amending section 1274 of this title] may be cited as the 'Clarks Fork Wild and Scenic River Designation Act of 1990'.''

Pub. L. 101–357, §1, Aug. 10, 1990, 104 Stat. 418, provided that: ''This Act [amending section 1276 of this title] may be cited as the 'Pemigewasset River Study Act of 1989'.''

Pub. L. 101–356, §1, Aug. 10, 1990, 104 Stat. 417, provided that: ''This Act [amending section 1276 of this title] may be cited as the 'Merrimack River Study Act of 1990'.''

Pub. L. 101–306, §1, June 6, 1990, 104 Stat. 260, provided that: ''This Act [amending section 1274 of this title] may be cited as the 'East Fork of the Jemez River and the Pecos River Wild and Scenic Rivers Addition Act of 1989'.''

SHORT TITLE OF 1988 AMENDMENTS

Pub. L. 100–557, title I, §101, Oct. 28, 1988, 102 Stat. 2782, provided that: ''This title [amending sections 1274 and 1276 of this title and enacting provisions classified as notes under section 1274 of this title] may be referred to as the 'Omnibus Oregon Wild and Scenic Rivers Act of 1988'.''

Pub. L. 100–547, §1, Oct. 28, 1988, 102 Stat. 2736, provided: ''That this Act [amending section 1274 of this title and enacting provisions listed in a table of Wilderness Areas set out under section 1132 of this title] may be cited as the 'Sipsey Wild and Scenic River and Alabama Addition Act of 1988'.''

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–590, title II, §201, Oct. 30, 1986, 100 Stat. 3332, provided that: ''This title [amending section 1276 of this title] may be cited as the 'Farmington Wild and Scenic River Study Act'.''

SHORT TITLE OF 1972 AMENDMENT

Section 1 of Pub. L. 92–560, Oct. 25, 1972, 86 Stat. 1174, provided: ''That this Act [amending section 1274 of this title and enacting provisions classified as a note under section 1274 of this title] may be cited as the 'Lower Saint Croix River Act of 1972'.''

SHORT TITLE

Section 1(a) of Pub. L. 90–542 provided that: ''This Act [enacting this chapter] may be cited as the 'Wild and Scenic Rivers Act'.''

§ 1272. Congressional declaration of purpose

The purpose of this chapter is to implement the policy set out in section 1271 of this title by instituting a national wild and scenic rivers system, by designating the initial components of that system, and by prescribing the methods by which and standards according to which additional components may be added to the system from time to time.

(Pub. L. 90–542, §1(c), Oct. 2, 1968, 82 Stat. 906.)

CODIFICATION

Section consists of subsec. (c) of section 1 of Pub. L. 90–542. Subsecs. (a) and (b) of section 1 are classified to section 1271 and section 1271 note, respectively.

§ 1273. National wild and scenic rivers system

(a) Composition; application; publication in Federal Register; expense; administration of federally owned lands

The national wild and scenic rivers system shall comprise rivers (i) that are authorized for inclusion therein by Act of Congress, or (ii) that are designated as wild, scenic or recreational rivers by or pursuant to an act of the legislature of the State or States through which they flow, that are to be permanently administered as wild, scenic or recreational rivers by an agency or political subdivision of the State or States concerned that are found by the Secretary of the Interior, upon application of the Governor of the State or the Governors of the States concerned, or a person or persons thereunto duly appointed by him or them, to meet the criteria established in this chapter and such criteria supplementary thereto as he may prescribe, and that are approved by him for inclusion in the system, including, upon application of the Governor of the State concerned, the Allagash Wilderness Waterway, Maine; that segment of the Wolf River, Wisconsin, which flows through Langlade County; and that segment of the New River in North Carolina extending from its confluence with Dog Creek downstream approximately 26.5 miles to the Virginia State line. Upon receipt of an application under clause (ii) of this subsection, the Secretary shall notify the Federal Energy Regulatory Commission and publish such application in the Federal Register. Each river designated under clause (ii) shall be administered by the State or political subdivision thereof without expense to the United States other than for administration and management of federally owned lands. For purposes of the preceding sentence, amounts made available to any State or political subdivision under the Land and Water Conservation Act of 1965 [16 U.S.C. 460*l*–4 et seq.] or any other provision of law shall not be treated as an expense to the United States. Nothing in this subsection shall be construed to provide for the transfer to, or administration by, a State or local authority of any federally owned lands which are within the boundaries of any river included within the system under clause (ii).

(b) Classification, designation, and administration of rivers

A wild, scenic or recreational river area eligible to be included in the system is a free-flowing stream and the related adjacent land area that possesses one or more of the values referred to in section 1271 of this title. Every wild, scenic or recreational river in its free-flowing condition, or upon restoration to this condition, shall be considered eligible for inclusion in the national wild and scenic rivers system and, if included, shall be classified, designated, and administered as one of the following:

(1) Wild river areas—Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.

(2) Scenic river areas—Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

(3) Recreational river areas—Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

(Pub. L. 90–542, § 2, Oct. 2, 1968, 82 Stat. 906; Pub. L. 94–407, § 1(1), Sept. 11, 1976, 90 Stat. 1238; Pub. L. 95–625, title VII, § 761, Nov. 10, 1978, 92 Stat. 3533.)

REFERENCES IN TEXT

The Land and Water Conservation Act of 1965, referred to in subsec. (a), probably means the Land and Water Conservation Fund Act of 1965, Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–625 provided for notification of the Federal Energy Regulatory Commission and publication of any application in the Federal Register; made it an expense of the United States for administration and management of federally owned lands; treated amounts available to the States under provisions of law not as an expense of the United States; and made federally owned lands within boundaries of State rivers free of ownership or administration of State or local authority.

1976—Subsec. (a). Pub. L. 94–407 inserted provision for inclusion of specified segment of New River in North Carolina.

§ 1274. Component rivers and adjacent lands

(a) Designation

The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

(1) CLEARWATER, MIDDLE FORK, IDAHO—The Middle Fork from the town of Kooskia upstream to the town of Lowell; the Lochsa River from its junction with the Selway at Lowell forming the Middle Fork, upstream to the Powell Ranger Station; and the Selway River from Lowell upstream to its origin; to be administered by the Secretary of Agriculture.

(2) ELEVENTH POINT, MISSOURI—The segment of the river extending downstream from Thomasville to State Highway 142; to be administered by the Secretary of Agriculture.

(3) FEATHER, CALIFORNIA—The entire Middle Fork downstream from the confluence of its tributary streams one kilometer south of Beckwourth, California; to be administered by the Secretary of Agriculture.

(4) RIO GRANDE, NEW MEXICO—The segment extending from the Colorado State line downstream to the State Highway 96 crossing, and the lower four miles of the Red River; to be administered by the Secretary of the Interior.

(5) ROGUE, OREGON—The segment of the river extending from the mouth of the Applegate River downstream to the Lobster Creek Bridge; to be administered by agencies of the Departments of the Interior or Agriculture as agreed upon by the Secretaries of said Departments or as directed by the President.

(6) SAINT CROIX, MINNESOTA AND WISCONSIN—The segment between the the dam near Taylors Falls, Minnesota, and the dam near Gordon, Wisconsin, and its tributary, the Namekago, from Lake Namekago downstream to its confluence with the Saint Croix; to be administered by the Secretary of the Interior: *Provided*, That except as may be required in connection with items (a) and (b) of this paragraph, no funds available to carry out the provisions of this chapter may be expended for the acquisition or development of lands in connection with, or for administration under this chapter of, that portion of the Saint Croix River between the dam near Taylors Falls, Minnesota, and the upstream end of Big Island in Wisconsin, until sixty days after the date on which the Secretary has transmitted to the President of the Senate and Speaker of the House of Representatives a proposed cooperative agreement between the Northern States Power Company and the United States (a) whereby the company agrees to convey to the United States, without charge, appropriate interests in certain of its lands between the dam near Taylors Falls, Minnesota, and the upstream end of Big Island in Wisconsin, including the company's right, title, and interest to approximately one hundred acres per mile, and (b) providing for the use and development of other lands and interests in land retained by the company between said points adjacent to the river in a manner which shall complement and not be inconsistent with the purposes for which the lands and interests in land donated by the company are administered under this chapter. Said agreement may also include provision for State or local governmental participation as authorized under subsection (e) of section 1281 of this title. A one-thousand-three-hundred-and-eighty-acre portion of the area commonly known as the Velie Estate, located adjacent to the Saint Croix River in Douglas County, Wisconsin, as depicted on the map entitled ''Boundary Map/Velie Estate—Saint Croix National Scenic Riverway'', dated September 1980, and numbered 630–90,001, may be acquired by the Secretary without regard to any acreage limitation set forth in subsection (b) of this section or subsection (a) or (b) of section 1277 of this title.

(7) SALMON, MIDDLE FORK, IDAHO—From its origin to its confluence with the main Salmon River; to be administered by the Secretary of Agriculture.

(8) WOLF, WISCONSIN—From the Langlade-Menominee County line downstream to Keshena Falls; to be administered by the Secretary of the Interior.

(9) LOWER SAINT CROIX, MINNESOTA AND WISCONSIN—The segment between the dam near Taylors Falls and its confluence with the Mississippi River: *Provided*, (i) That the upper twenty-seven miles of this river segment shall be administered by the Secretary of the Interior; and (ii) That the lower twenty-five miles shall be designated by the Secretary upon his approval of an application for such designation made by the Governors of the State of Minnesota and Wisconsin.

(10) CHATTOOGA, NORTH CAROLINA, SOUTH CAROLINA, GEORGIA—The Segment from 0.8 mile below Cashiers Lake in North Carolina to Tugaloo Reservoir, and the West Fork Chattooga River from its junction with Chattooga upstream 7.3 miles, as generally depicted on the boundary map entitled ''Proposed Wild and Scenic Chattooga River and Corridor Boundary'', dated August 1973; to be administered by the Secretary of Agriculture: *Provided*, That the Secretary of Agriculture shall take such action as is provided for under subsection (b) of this section within one year from May 10, 1974: *Provided further*, That for the purposes of this river, there are authorized to be appropriated not more than $5,200,000 for the acquisition of lands and interests in lands and not more than $809,000 for development.

(11) RAPID RIVER, IDAHO—The segment from the headwaters of the main stem to the national forest boundary and the segment of the West Fork from the wilderness boundary downstream to the confluence with the main stem, as a wild river.

(12) SNAKE, IDAHO AND OREGON—The segment from Hells Canyon Dam downstream to Pittsburgh Landing, as a wild river; and the segment from Pittsburgh Landing downstream to an eastward extension of the north boundary of section 1, township 5 north, range 47 east, Willamette meridian, as a scenic river.

(13) FLATHEAD, MONTANA—The North Fork from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence to the South Fork; and the South Fork from its origin to the Hungry Horse Reservoir, as generally depicted on the map entitled ''Proposed Flathead Wild and Scenic River Boundary Location'' dated February 1976; to be administered by agencies of the Departments of the Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President. Action required to be taken under subsection (b) of this section shall be taken within one year from October 12, 1976. For the purposes of this river, there are authorized to be appropriated not more than $6,719,000 for the acquisition of lands and interests in lands. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.

(14) MISSOURI, MONTANA—The segment from Fort Benton one hundred and forty-nine miles downstream to Robinson Bridge, as generally depicted on the boundary map entitled ''Missouri Breaks Freeflowing River Proposal'', dated October 1975, to be administered by the Secretary of the Interior. For the purposes of this river, there are authorized to be appropriated not more than $1,800,000 for the acquisition of lands and interests in lands. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.

(15) OBED, TENNESSEE—The segment from the western edge of the Catoosa Wildlife Management Area to the confluence with the Emory River; Clear Creek from the Morgan County line to the confluence with the Obed River, Daddys Creek from the Morgan County line to the confluence with the Obed River; and the Emory River from the confluence with the Obed River to the Nemo bridge as generally depicted and classified on the stream classification map

dated December 1973. The Secretary of the Interior shall take such action, with the participation of the State of Tennessee as is provided for under subsection (b) of this section within one year following October 12, 1976. The development plan required by such subsection (b) shall include cooperative agreements between the State of Tennessee acting through the Wildlife Resources Agency and the Secretary of the Interior. Lands within the Wild and Scenic River boundaries that are currently part of the Catoosa Wildlife Management Area shall continue to be owned and managed by the Tennessee Wildlife Resources Agency in such a way as to protect the wildlife resources and primitive character of the area, and without further development of roads, campsites, or associated recreational facilities unless deemed necessary by that agency for wildlife management practices. The Obed Wild and Scenic River shall be managed by the Secretary of the Interior. For the purposes of carrying out the provisions of this chapter with respect to this river, there are authorized to be appropriated such sums as may be necessary, but not to exceed $2,000,000 for the acquisition of lands or interests in lands and not to exceed $400,000 for development. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.

(16) PERE MARQUETTE, MICHIGAN—The segment downstream from the junction of the Middle and Little South Branches to its junction with United States Highway 31 as generally depicted on the boundary map entitled ''Proposed Boundary Location, Pere Marquette Wild and Scenic River,''; to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is provided for under subsection (b) of this section with respect to the segment referred to in this paragraph within one year from November 10, 1978. Any development or management plan prepared pursuant to subsection (b) of this section shall include (a) provisions for the dissemination of information to river users and (b) such regulations relating to the recreational and other uses of the river as may be necessary in order to protect the area comprising such river (including lands contiguous or adjacent thereto) from damage or destruction by reason of overuse and to protect its scenic, historic, esthetic and scientific values. Such regulations shall further contain procedures and means which shall be utilized in the enforcement of such development and management plan. For the purposes of carrying out the provisions of this chapter with respect to the river designated by this paragraph, there are authorized to be appropriated not more than $8,125,000 for the acquisition of lands or interests in lands and $402,000 for development. Notwithstanding any other provision of this chapter, the installation and operation of facilities or other activities within or outside the boundaries of the Pere Marquette Wild and Scenic River for the control of the lamprey eel shall be permitted subject to such restrictions and conditions as the Secretary of Agriculture may prescribe for the protection of water quality and other values of the river, including the wild and scenic characteristics of the river.

(17) RIO GRANDE, TEXAS—The segment on the United States side of the river from river mile 842.3 above Mariscal Canyon downstream to river mile 651.1 at the Terrell-Val Verde County line; to be administered by the Secretary of the Interior. The Secretary shall, within two years after November 10, 1978, take such action with respect to the segment referred to in this paragraph as is provided for under subsection (b) of this section. The action required by such subsection (b) shall be undertaken by the Secretary, after consultation with the United States Commissioner, International Boundary and Water Commission, United States and Mexico, and appropriate officials of the State of Texas and its political subdivisions. The development plan required by subsection (b) of this section shall be construed to be a general management plan only for the United States side of the river and such plan shall include, but not be limited to, the establishment of a detailed boundary which shall include an average of not more than 160 acres per mile. Nothing in this chapter shall be construed to be in conflict with—

(A) the commitments or agreements of the United States made by or in pursuance of the treaty between the United States and Mexico regarding the utilization of the Colorado and Tijuana Rivers and of the Rio Grande, signed at Washington, February 1944 (59 Stat. 1219), or

(B) the treaty between the United States and Mexico regarding maintenance of the Rio Grande and Colorado River as the international boundary between the United States and Mexico, signed November 23, 1970.

For purposes of carrying out the provisions of this chapter with respect to the river designated by this paragraph, there are authorized to be appropriated such sums as may be necessary, but not more than $1,650,000 for the acquisition of lands and interests in lands and not more than $1,800,000 for development.

(18) SKAGIT, WASHINGTON—The segment from the pipeline crossing at Sedro-Woolley upstream to and including the mouth of Bacon Creek; the Cascade River from its mouth to the junction of its North and South Forks; the South Fork to the boundary of the Glacier Peak Wilderness Area; the Suiattle River from its mouth to the boundary of the Glacier Peak Wilderness Area at Milk Creek; the Sauk River from its mouth to its junction with Elliott Creek; the North Fork of the Sauk River from its junction with the South Fork of the Sauk to the boundary of the Glacier Peak Wilderness Area; as generally depicted on the boundary map entitled ''Skagit River—River Area Boundary''; all segments to be administered by the Secretary of Agriculture. Riprapping related to natural channels with natural rock along the shorelines of the Skagit segment to preserve and protect agricultural land shall not be considered inconsistent with the values for which such segment is designated. After consultation with affected Federal agencies, State and local government and the interested public, the Secretary shall take such action as is provided for under subsection (b) of this section with respect to the segments referred to in this paragraph within one year from November 10, 1978; as part of such action, the

Secretary of Agriculture shall investigate that portion of the North Fork of the Cascade River from its confluence with the South Fork to the boundary of the North Cascades National Park and if such portion is found to qualify for inclusion, it shall be treated as a component of the Wild and Scenic Rivers System designated under this section upon publication by the Secretary of notification to that effect in the Federal Register. For the purposes of carrying out the provisions of this chapter with respect to the river designated by this paragraph there are authorized to be appropriated not more than $11,734,000 for the acquisition of lands or interest in lands and not more than $332,000 for development.

(19) UPPER DELAWARE RIVER, NEW YORK AND PENNSYLVANIA—The segment of the Upper Delaware River from the confluence of the East and West branches below Hancock, New York, to the existing railroad bridge immediately downstream of Cherry Island in the vicinity of Sparrow Bush, New York, as depicted on the boundary map entitled ''The Upper Delaware Scenic and Recreational River'', dated April 1978; to be administered by the Secretary of the Interior. Subsection (b) of this section shall not apply, and the boundaries and classifications of the river shall be as specified on the map referred to in the preceding sentence, except to the extent that such boundaries or classifications are modified pursuant to section 704(c) of the National Parks and Recreation Act of 1978. Such boundaries and classifications shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. For purposes of carrying out the provisions of this chapter with respect to the river designated by this paragraph there are authorized to be appropriated such sums as may be necessary.

(20) DELAWARE, NEW YORK, PENNSYLVANIA, AND NEW JERSEY—The segment from the point where the river crosses the northern boundary of the Delaware Water Gap National Recreation Area to the point where the river crosses the southern boundary of such recreation area; to be administered by the Secretary of the Interior. For purposes of carrying out this chapter with respect to the river designated by this paragraph, there are authorized to be appropriated such sums as may be necessary. Action required to be taken under subsection (b) of this section with respect to such segment shall be taken within one year from November 10, 1978, except that, with respect to such segment, in lieu of the boundaries provided for in such subsection (b), the boundaries shall be the banks of the river. Any visitors facilities established for purposes of use and enjoyment of the river under the authority of the Act establishing the Delaware Water Gap National Recreation Area [16 U.S.C. 460*o* et seq.] shall be compatible with the purposes of this chapter and shall be located at an appropriate distance from the river.

(21) AMERICAN, CALIFORNIA—The North Fork from a point 0.3 mile above Heath Springs downstream to a point approximately 1,000 feet upstream of the Colfax-Iowa Hill Bridge, including the Gold Run Addition Area, as generally depicted on the map entitled ''Proposed Boundary Maps'' contained in Appendix I of the document dated January 1978 and entitled ''A Proposal: North Fork American Wild and Scenic River'' published by the United States Forest Service, Department of Agriculture; to be designated as a wild river and to be administered by agencies of the Departments of Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President. Action required to be taken under subsection (b) shall be taken within one year after November 10, 1978; in applying such subsection (b) in the case of the Gold Run Addition Area, the acreage limitation specified therein shall not apply and in applying section 1277(g)(3) of this title, January 1, 1977 shall be substituted for January 1, 1967. For purposes of carrying out the provisions of this chapter with respect to the river designated by this paragraph, there are authorized to be appropriated not more than $850,000 for the acquisition of lands and interests in land and not more than $765,000 for development.

(22) MISSOURI RIVER, NEBRASKA, SOUTH DAKOTA—The segment from Gavins Point Dam, South Dakota, fifty-nine miles downstream to Ponca State Park, Nebraska, as generally depicted in the document entitled ''Review Report for Water Resources Development, South Dakota, Nebraska, North Dakota, Montana'', prepared by the Division Engineer, Missouri River Division, Corps of Engineers, dated August 1977 (hereinafter in this paragraph referred to as the ''August 1977 Report''). Such segment shall be administered as a recreational river by the Secretary. The Secretary shall enter into a written cooperative agreement with the Secretary of the Army (acting through the Chief of Engineers) for construction and maintenance of bank stabilization work and appropriate recreational development. After public notice and consultation with the State and local governments, other interested organizations and associations, and the interested public, the Secretary shall take such action as is required pursuant to subsection (b) of this section within one year from November 10, 1978. In administering such river, the Secretary shall, to the extent, and in a manner, consistent with this section—

(A) provide (i) for the construction by the United States of such recreation river features and streambank stabilization structures as the Secretary of the Army (acting through the Chief of Engineers) deems necessary and advisable in connection with the segment designated by this paragraph, and (ii) for the operation and maintenance of all streambank stabilization structures constructed in connection with such segment (including both structures constructed before November 10, 1978, and structures constructed after such date, and including both structures constructed under the authority of this section and structures constructed under the authority of any other Act); and

(B) permit access for such pumping and associated pipelines as may be necessary to assure an adequate supply of water for owners of land adjacent to such segment and for fish, wildlife, and recreational uses outside the river corridor established pursuant to this paragraph.

The streambank structures to be constructed and maintained under subparagraph (A) shall include, but not be limited to, structures at such sites as are specified with respect to such segment on pages 62 and 63 of the August 1977 Report, except that sites for such structures may be relocated to the extent deemed necessary by the Secretary of the Army (acting through the Chief of Engineers) by reason of physical changes in the river or river area. The Secretary of the Army (acting through the Chief of Engineers) shall condition the construction or maintenance of any streambank stabilization structure or of any recreational river feature at any site under subparagraph (A)(i) upon the availability to the United States of such land and interests in land in such ownership as he deems necessary to carry out such construction or maintenance and to protect and enhance the river in accordance with the purposes of this chapter. Administration of the river segment designated by this paragraph shall be in coordination with, and pursuant to the advice of a Recreational River Advisory Group which shall be established by the Secretary. Such Group may include in its membership, representatives of the affected States and political subdivisions thereof, affected Federal agencies, and such organized private groups as the Secretary deems desirable. Notwithstanding the authority to the contrary contained in section 1277(a) of this title, no land or interests in land may be acquired without the consent of the owner: *Provided*, That not to exceed 5 per centum of the acreage within the designated river boundaries may be acquired in less than fee title without the consent of the owner, in such instance of the Secretary's determination that activities are occurring, or threatening to occur thereon which constitute serious damage or threat to the integrity of the river corridor, in accordance with the values for which this river was designated. For purposes of carrying out the provisions of this chapter with respect to the river designated by this paragraph, there are authorized to be appropriated not to exceed $21,000,000, for acquisition of lands and interests in lands and for development.

(23) SAINT JOE, IDAHO—The segment above the confluence of the North Fork of the Saint Joe River to Spruce Tree Campground, as a recreational river; the segment above Spruce Tree Campground to Saint Joe Lake, as a wild river, as generally depicted on the map entitled ''Saint Joe River Corridor Map'' on file with the Chief of the Forest Service and dated September 1978; to be administered by the Secretary of Agriculture. Notwithstanding any other provision of law, the classification of the Saint Joe River under this paragraph and the subsequent development plan for the river prepared by the Secretary of Agriculture shall at no time interfere with or restrict the maintenance, use, or access to existing or future roads within the adjacent lands nor interfere with or restrict present use of or future construction of bridges across that portion of the Saint Joe designated as a ''recreational river'' under this paragraph. Dredge or placer mining shall be prohibited within the banks or beds of the main stem of the Saint Joe and its tributary streams in their entirety above the confluence of the main stem with the North Fork of the river. Nothing in this chapter shall be deemed to prohibit the removal of sand and gravel above the high water mark of the Saint Joe River and its tributaries within the river corridor by or under the authority of any public body or its agents for the purposes of construction or maintenance of roads. The Secretary shall take such action as is required under subsection (b) of this section within one year from November 10, 1978. For the purposes of this river, there are authorized to be appropriated not more than $1,000,000 for the acquisition of lands or interest in lands.

(24) SALMON, IDAHO.—(A) The segment of the main river from the mouth of the North Fork of the Salmon River downstream to Long Tom Bar in the following classes:

(i) the forty-six-mile segment from the mouth of the North Fork of the Salmon River to Corn Creek as a recreational river; and

(ii) the seventy-nine-mile segment from Corn Creek to Long Tom Bar as a wild river; all as generally depicted on a map entitled ''Salmon River'' dated November 1979, which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture.

(B) This segment shall be administered by the Secretary of Agriculture: *Provided*, That after consultation with State and local governments and the interested public, the Secretary shall take such action as is required by subsection (b) of this section within one year from July 23, 1980.

(C) The use of motorboats (including motorized jetboats) within this segment of the Salmon River shall be permitted to continue at a level not less than the level of use which occurred during calendar year 1978,

(D) The established use and occupancy as of June 6, 2003, of lands and maintenance or replacement of facilities and structures for commercial recreation services at Stub Creek located in section 28, T24N, R14E, Boise Principal Meridian, at Arctic Creek located in section 21, T25N, R12E, Boise Principal Meridian and at Smith Gulch located in section 27, T25N, R12E, Boise Principal Meridian shall continue to be authorized, subject to such reasonable regulation as the Secretary deems appropriate, including rules that would provide for termination for non-compliance, and if terminated, reoffering the site through a competitive process.

(E) Subject to existing rights of the State of Idaho, including the right of access, with respect to the beds of navigable streams, tributaries or rivers, dredge and placer mining in any form including any use of machinery for the removal of sand and gravel for mining purposes shall be prohibited within the segment of the Salmon River designated as a component of the Wild and Scenic Rivers System by this paragraph; within the fifty-three-mile segment of the Salmon River from Hammer Creek downstream to the confluence of the Snake River; and within the Middle Fork of the Salmon River; and its tributary streams in their entirety: *Provided*, That nothing in this paragraph shall be deemed to prohibit the removal of sand and gravel, outside the boundaries of the Frank Church—River of

No Return Wilderness or the Gospel-Hump Wilderness, above the high water mark of the Salmon River or the Middle Fork and its tributaries for the purposes of construction or maintenance of public roads; *Provided further*, That this paragraph shall not apply to any written mineral leases approved by the Board of Land Commissioners of the State of Idaho prior to January 1, 1980.

(F) The provisions of section 1278(a) of this title with respect to the licensing of dams, water conduits, reservoirs, powerhouses, transmission lines or other project works, shall apply to the fifty-three-mile segment of the Salmon River from Hammer Creek downstream to the confluence of the Snake River.

(G) For the purposes of the segment of the Salmon River designated as a component of the Wild and Scenic Rivers System by this paragraph, there is hereby authorized to be appropriated from the Land and Water Conservation Fund, after October 1, 1980, not more than $6,200,000 for the acquisition of lands and interests in lands.

(25) ALAGNAK, ALASKA—That segment of the main stem and the major tributary to the Alagnak, the Nonvianuk River, within Katmai National Preserve; to be administered by the Secretary of the Interior.

(26) ALATNA, ALASKA—The main stem within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

(27) ANIAKCHAK, ALASKA—That portion of the river, including its major tributaries, Hidden Creek, Mystery Creek, Albert Johnson Creek, and North Fork Aniakchak River, within the Aniakchak National Monument and National Preserve; to be administered by the Secretary of the Interior.

(28) CHARLEY, ALASKA—The entire river, including its major tributaries, Copper Creek, Bonanza Creek, Hosford Creek, Derwent Creek, Flat-Orthmer Creek, Crescent Creek, and Moraine Creek, within the Yukon-Charley Rivers National Preserve; to be administered by the Secretary of the Interior.

(29) CHILIKADROTNA, ALASKA—That portion of the river within the Lake Clark National Park and Preserve; to be administered by the Secretary of the Interior.

(30) JOHN, ALASKA—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

(31) KOBUK, ALASKA—That portion within the Gates of the Arctic National Park and Preserve; to be administered by the Secretary of the Interior.

(32) MULCHATNA, ALASKA—That portion within the Lake Clark National Park and Preserve; to be administered by the Secretary of the Interior.

(33) NOATAK, ALASKA—The river from its source in the Gates of the Arctic National Park to its confluence with the Kelly River in the Noatak National Preserve; to be administered by the Secretary of the Interior.

(34) NORTH FORK OF THE KOYUKUK, ALASKA—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

(35) SALMON, ALASKA—That portion within the Kobuk Valley National Park; to be administered by the Secretary of the Interior.

(36) TINAYGUK, ALASKA—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

(37) TLIKAKILA, ALASKA—That portion within the Lake Clark National Park; to be administered by the Secretary of the Interior.

(38) ANDREAFSKY, ALASKA—That portion from its source, including all headwaters, and the East Fork, within the boundary of the Yukon Delta National Wildlife Refuge; to be administered by the Secretary of the Interior.

(39) IVISHAK, ALASKA—That portion from its source, including all headwaters and an unnamed tributary from Porcupine Lake within the boundary of the Arctic National Wildlife Range; to be administered by the Secretary of the Interior.

(40) NOWITNA, ALASKA—That portion from the point where the river crosses the west limit of township 18 south, range 22 east, Kateel River meridian, to its confluence with the Yukon River within the boundaries of the Nowitna National Wildlife Refuge; to be administered by the Secretary of the Interior.

(41) SELAWIK, ALASKA—That portion from a fork of the headwaters in township 12 north, range 10 east, Kateel River meridian to the confluence of the Kugarak River; within the Selawik National Wildlife Refuge to be administered by the Secretary of the Interior.

(42) SHEENJEK, ALASKA—The segment within the Arctic National Wildlife Refuge; to be administered by the Secretary of the Interior.

(43) WIND, ALASKA—That portion from its source, including all headwaters and one unnamed tributary in township 13 south, within the boundaries of the Arctic National Wildlife Refuge; to be administered by the Secretary of the Interior.

(44) ALAGNAK, ALASKA—Those segments or portions of the main stem and Nonvianuk tributary lying outside and westward of the Katmia National Park/Preserve and running to the west boundary of township 13 south, range 43 west; to be administered by the Secretary of the Interior.

(45) BEAVER CREEK, ALASKA—The segment of the main stem from the vicinity of the confluence of the Bear and Champion Creeks downstream to its exit from the northeast corner of township 12 north, range 6 east, Fairbanks meridian within the White Mountains National Recreation Area, and the Yukon Flats National Wildlife Refuge, to be administered by the Secretary of the Interior.

(46) BIRCH CREEK, ALASKA—The segment of the main stem from the south side of Steese Highway in township 7 north, range 10 east, Fairbanks meridian, downstream to the south side of the Steese Highway in township 10 north, range 16 east; to be administered by the Secretary of the Interior.

(47) DELTA, ALASKA—The segment from and including all of the Tangle Lakes to a point one-half mile north of Black Rapids; to be administered by the Secretary of the Interior.

(48) FORTYMILE, ALASKA—The main stem within the State of Alaska; O'Brien Creek; South Fork; Napoleon Creek, Franklin Creek, Uhler Creek, Walker Fork downstream from the confluence of Liberty Creek; Wade Creek; Mosquito

Fork downstream from the vicinity of Kechumstuk; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork: Logging Cabin Creek; North Fork; Hutchison Creek; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek; to be administered by the Secretary of the Interior.

(49) GULKANA, ALASKA—The main stem from the outlet of Paxon Lake in township 12 north, range 2 west, Copper River meridian to the confluence with Sourdough Creek; the south branch of the west fork from the outlet of an unnamed lake in sections 10 and 15, township 10 north, range 7 west, Copper River meridian to the confluence with the west fork; the north branch from the outlet of two unnamed lakes, one in sections 24 and 25, the second in sections 9 and 10, township 11 north, range 8 west, Copper River meridian to the confluence with the west fork; the west fork from its confluence with the north and south branches downstream to its confluence with the main stem; the middle fork from the outlet of Dickey Lake in township 13 north, range 5 west, Copper River meridian to the confluence with the main stem; to be classified as a wild river area and to be administered by the Secretary of the Interior.

(50) UNALAKLEET, ALASKA—The segment of the main stem from the headwaters in township 12 south, range 3 west, Kateel River meridian extending downstream approximately 65 miles to the western boundary of township 18 south, range 8 west; to be administered by the Secretary of the Interior.

(51) VERDE, ARIZONA—The segment from the boundary between national forest and private land in sections 26 and 27, township 13 north, range 5 east, Gila Salt River meridian, downstream to the confluence with Red Creek, as generally depicted on a map entitled ''Verde River—Wild and Scenic River'', dated March 1984, which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture; to be administered by the Secretary of Agriculture. This designation shall not prevent water users receiving Central Arizona Project water allocations from diverting that water through an exchange agreement with downstream water users in accordance with Arizona water law. After consultation with State and local governments and the interested public and within two years after August 28, 1984, the Secretary shall take such action as is required under subsection (b) of this section.

(52) AU SABLE, MICHIGAN—The segment of the main stem from the project boundary of the Mio Pond project downstream to the project boundary at Alcona Pond project as generally depicted on a map entitled ''Au Sable River'' which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture; to be administered by the Secretary of Agriculture.

(53) TUOLUMNE, CALIFORNIA—The main river from its sources on Mount Dana and Mount Lyell in Yosemite National Park to Don Pedro Reservoir consisting of approximately 83 miles as generally depicted on the proposed boundary map entitled ''Alternative A'' contained in the Draft Tuolumne Wild and Scenic River Study and Environmental Impact Statement published by the United States Department of the Interior and Department of Agriculture in May 1979; to be administered by the Secretary of the Interior and the Secretary of Agriculture. After consultation with State and local governments and the interested public and within two years from September 28, 1984, the Secretary shall take such action as is required under subsection (b) of this section. Nothing in this chapter shall preclude the licensing, development, operation, or maintenance of water resources facilities on those portions of the North Fork, Middle Fork or South Fork of the Tuolumne or Clavey Rivers that are outside the boundary of the wild and scenic river area as designated in this section. Nothing in this section is intended or shall be construed to affect any rights, obligations, privileges, or benefits granted under any prior authority of law including chapter 4 of the Act of December 19, 1913, commonly referred to as the Raker Act (38 Stat. 242) and including any agreement or administrative ruling entered into or made effective before September 28, 1984. For fiscal years commencing after September 30, 1985, there are authorized to be appropriated such sums as may be necessary to implement the provisions of this subsection.

(54) ILLINOIS, OREGON: The segment from the boundary of the Siskiyou National Forest downstream to its confluence with the Rogue River as generally depicted on a map entitled ''Illinois River Study'' and is also part of a report entitled ''A Proposal: Illinois Wild and Scenic River''; to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is required under subsection (b) of this section within one year from October 19, 1984. For the purposes of this chapter with respect to the river designated by this paragraph, effective October 1, 1984, there are authorized to be appropriated such sums as necessary for the acquisition of lands or interests in lands, and such sums as necessary for development.

(55) OWYHEE, OREGON: The South Fork from the Idaho-Oregon State line downstream to Three Forks; the Owyhee River from Three Forks downstream to China Gulch; and the Owyhee River downstream from Crooked Creek to the Owyhee Reservoir as generally depicted on a map entitled ''Owyhee, Oregon'' dated April 1984; all three segments to be administered as a wild river by the Secretary of the Interior. After consultation with State and local governments and the interested public, the Secretary shall take such appropriate action as is required under subsection (b) of this section within one year from October 19, 1984. For the purposes of this chapter with respect to the river designated by this paragraph, effective October 1, 1984, there are authorized to be appropriated such sums as necessary for the acquisition of lands or interests and such sums as necessary for development.

(56) HORSEPASTURE, NORTH CAROLINA—The segment from Bohaynee Road (N.C. 281) down-

stream approximately 4.25 miles to where the segment ends at Lake Jocassee, to be administered by the Secretary of Agriculture. Notwithstanding any limitation of section 1277 of this title, the Secretary is authorized to utilize the authority of this chapter and those pertaining to the National Forests to acquire by purchase with donated or appropriated funds, donation, exchange or otherwise, such non-Federal lands or interests in lands within, near, or adjacent to the designated segments of the river which the Secretary determines will protect or enhance the scenic and natural values of the river.

(57) CACHE LA POUDRE, COLORADO—The following segments as generally depicted on the proposed boundary map numbered FS–56 and dated March 1986, published by the United States Department of Agriculture, each to be administered by the Secretary of Agriculture; except that those portions of the segments so designated which are within the boundary of Rocky Mountain National Park shall continue to be administered by the Secretary of the Interior:

(A) Beginning at Poudre Lake downstream to the confluence of Joe Wright Creek, as a wild river. This segment to be designated the ''Peter H. Dominick Wild River Area''.

(B) Downstream from the confluence of Joe Wright Creek to a point where the river intersects the easterly north-south line of the west half southwest quarter of section 1, township 8 north, range 71 west of the sixth principal meridian, as a recreational river.

(C) South Fork of the Cache la Poudre River from its source to the Commanche[1] Peak Wilderness Boundary, approximately four miles, as a wild river.

(D) Beginning at the Commanche[1] Peak Wilderness Boundary to a point on the South Fork of the Cache la Poudre River in section 1, township 7 north, range 73 west of the sixth principal meridian, at elevation 8050 mean sea level, as a recreational river.

(E) South Fork of the Cache la Poudre River from its intersection with the easterly section line of section 30, township 8 north, range 72 west of the sixth principal meridian, to confluence of the main stem of the Cache la Poudre River, as a wild river.

With respect to the portions of the river segments designated by this paragraph which are within the boundaries of Rocky Mountain National Park, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portions need not be published in the Federal Register. Such revisions to the general management plan for the park shall assure that no development or use of parklands shall be undertaken that is inconsistent with the designation of such river segments as a wild river. For the purposes of the segments designated by this paragraph, there are authorized to be appropriated $500,000 for development and $2,500,000 for land acquisition.

(58) SALINE BAYOU, LOUISIANA—The segment from Saline Lake upstream to the Kisatchie National Forest, as generally depicted on the Proposed Boundary Map, numbered FS–57, and dated March 1986; to be administered by the Secretary of Agriculture. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated for fiscal years commencing after September 30, 1986, not to exceed $1,000,000 for the acquisition of lands and interests in lands and for development.

(59) BLACK CREEK, MISSISSIPPI—The segment from Fairley Bridge Landing upstream to Moody's Landing as generally depicted on a map entitled ''Black Creek Wild and Scenic River'', numbered FS–58 and dated March 1986, to be administered by the Secretary of Agriculture as a scenic river area under section 1273(b)(2) of this title. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated up to $300,000 for the acquisition of lands and interests in lands and for development.

(60) KLICKITAT, WASHINGTON: The segment from its confluence with Wheeler Creek, Washington, near the town of Pitt, Washington, to its confluence with the Columbia River; to be classified as a recreation river and to be administered by the Secretary of Agriculture. The boundaries of the designated portions of the Klickitat River shall be as generally depicted on a map dated November, 1987, and entitled ''Klickitat National Recreation River, River Management Area: Final Boundary'', which is on file in the office of the Chief, Forest Service, Washington, District of Columbia.

(61) WHITE SALMON, WASHINGTON: The segment from its confluence with Gilmer Creek, Washington, near the town of B Z Corner, Washington, to its confluence with Buck Creek, Washington; to be classified as a scenic river and to be administered by the Secretary of Agriculture.

(62) MERCED, CALIFORNIA.—(A) The main stem from its sources (including Red Peak Fork, Merced Peak Fork, Triple Peak Fork, and Lyell Fork) on the south side of Mount Lyell in Yosemite National Park to a point 300 feet upstream of the confluence with Bear Creek, consisting of approximately 71 miles, and the South Fork of the river from its source near Triple Divide Peak in Yosemite National Park to the confluence with the main stem, consisting of approximately 43 miles, both as generally depicted on the map entitled ''Merced River Wild and Scenic Rivers—Proposed'', dated June 1987, to be administered by the Secretary of Agriculture and the Secretary of the Interior. With respect to the portions of the river designated by this subparagraph which are within the boundaries of Yosemite National Park, and the El Portal Administrative Unit, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portions need not be published in the Federal Register. Such revisions to the general management plan for the park shall assure that no development or use of park lands shall be undertaken that is inconsistent with the designation of such river segments. There are authorized to be appropriated such sums as may be necessary to carry out the

[1] So in original. Probably should be ''Comanche''.

purposes of this subparagraph, except that no more than $235,000 may be appropriated to the Secretary of Agriculture for the acquisition of lands and interests in lands.

(B)(i) The main stem from a point 300 feet upstream of the confluence with Bear Creek downstream to the normal maximum operating pool water surface level of Lake McClure (elevation 867 feet mean sea level) consisting of approximately 8 miles, as generally depicted on the map entitled ''Merced Wild and Scenic River'', dated April, 1990. The Secretary of the Interior shall administer the segment as recreational, from a point 300 feet upstream of the confluence with Bear Creek downstream to a point 300 feet west of the boundary of the Mountain King Mine, and as wild, from a point 300 feet west of the boundary of the Mountain King Mine to the normal maximum operating pool water surface level of Lake McClure. The requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the Sierra Management Framework Plan for the Sierra Planning Area of the Folsom Resource Area, Bakersfield District, Bureau of Land Management. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subparagraph.

(ii) To the extent permitted by, and in a manner consistent with section 1278 of this title, and in accordance with other applicable law, the Secretary of the Interior shall permit the construction and operation of such pumping facilities and associated pipelines as identified in the Bureau of Land Management right-of-way application CACA 26084, filed by the Mariposa County Water Agency on November 7, 1989, and known as the ''Saxon Creek Project'', to assure an adequate supply of water from the Merced River to Mariposa County.

(C) With respect to the segments of the main stem of the Merced River and the South Fork Merced River designated as recreational or scenic pursuant to this paragraph or by the appropriate agency pursuant to subsection (b) of this section, the minerals to[2] Federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto.

(63) KINGS, CALIFORNIA.—The Middle Fork of the Kings River from its headwaters at Lake Helen between Muir Pass and Black Giant Mountain to its confluence with the main stem; the South Fork, Kings River from its headwaters at Lake 11599 to its confluence with the main stem; and the main stem of the Kings River from the confluence of the Middle Fork and the South Fork to the point at elevation 1,595 feet above mean sea level. The segments within the Kings Canyon National Park shall be administered by the Secretary of the Interior. The remaining segments shall be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public and within one year after November 3, 1987, the respective Secretaries shall take such action as is required under subsection (b) of this section. In the case of the segments of the river administered by the Secretary of the Interior, the requirements of subsection (b) of this section shall be fulfilled through appropriate revisions to the general management plan for Kings Canyon National Park, and the boundaries, classification, and development plans for such segments need not be published in the Federal Register. Such revisions to the general management plan for the park shall assure that no development or use of park lands shall be undertaken that is inconsistent with the designation of the river under this paragraph. For the purposes of the segments designated by this paragraph, there are authorized to be appropriated such sums as may be necessary, but not to exceed $250,000, to the Secretary of Agriculture for development and land acquisition.

(64)(A) NORTH FORK KERN RIVER, CALIFORNIA.—The segment of the main stem from the Tulare-Kern County line to its headwaters in Sequoia National Park, as generally depicted on a map entitled ''Kern River Wild and Scenic River—Proposed'' and dated June, 1987; to be administered by the Secretary of Agriculture; except that portion of the river within the boundaries of the Sequoia National Park shall be administered by the Secretary of the Interior. With respect to the portion of the river segment designated by this paragraph which is within the boundaries of Sequoia National Park, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portion need not be published in the Federal Register. Such revision to the general management plan for the park shall assure that no developments or use of park lands shall be undertaken that is inconsistent with the designation of such river segment.

(B) SOUTH FORK KERN RIVER, CALIFORNIA.—The segment from its headwaters in the Inyo National Forest to the southern boundary of the Domelands Wilderness in the Sequoia National Forest, as generally depicted on a map entitled ''Kern River Wild and Scenic River—Proposed'' and dated June 1987; to be administered by the Secretary of Agriculture.

(C) Nothing in this chapter shall affect the continued operation and maintenance of the existing diversion project, owned by Southern California Edison on the North Fork of the Kern River, including reconstruction or replacement of facilities to the same extent as existed on November 24, 1987.

(D) For the purposes of the segments designated by this paragraph, there are authorized to be appropriated such sums as may be necessary, but not to exceed $100,000, to the Secretary of Agriculture for development and land acquisition.

(65) BLUESTONE, WEST VIRGINIA.—The segment in Mercer and Summers Counties, West Virginia, from a point approximately two miles upstream of the Summers and Mercer County line down to the maximum summer pool elevation (one thousand four hundred and ten feet above mean sea level) of Bluestone Lake as depicted on

[2] So in original. Probably should be ''on''.

the boundary map entitled ''Bluestone Wild and Scenic River'', numbered BLUE–80,005, dated May 1996; to be administered by the Secretary of the Interior as a scenic river. In carrying out the requirements of subsection (b) of this section, the Secretary shall consult with State and local governments and the interested public. The Secretary shall not be required to establish detailed boundaries of the river as provided under subsection (b) of this section. Nothing in this chapter shall preclude the improvement of any existing road or right-of-way within the boundaries of the segment designated under this paragraph. Jurisdiction over all lands and improvements on such lands owned by the United States within the boundaries of the segment designated under this paragraph is hereby transferred without reimbursement to the administrative jurisdiction of the Secretary of the Interior, subject to leases in effect on October 26, 1988 (or renewed thereafter) between the United States and the State of West Virginia with respect to the Bluestone State Park and the Bluestone Public Hunting and Fishing Area. Nothing in this chapter shall affect the management by the State of hunting and fishing within the segment designated under this paragraph. Nothing in this chapter shall affect or impair the management by the State of West Virginia of other wildlife activities in the Bluestone Public Hunting and Fishing Area to the extent permitted in the lease agreement as in effect on October 26, 1988, and such management may be continued pursuant to renewal of such lease agreement. If requested to do so by the State of West Virginia, the Secretary may terminate such leases and assume administrative authority over the areas concerned. Nothing in the designation of the segment referred to in this paragraph shall affect or impair the management of the Bluestone project or the authority of any department, agency, or instrumentality of the United States to carry out the project purposes of that project as of October 26, 1988. Nothing in this chapter shall be construed to affect the continuation of studies relating to such project which were commenced before October 26, 1988. In order to provide reasonable public access and vehicle parking for public use and enjoyment of the river designated by this paragraph, consistent with the preservation and enhancement of the natural and scenic values of such river, the Secretary may, with the consent of the owner thereof, negotiate a memorandum of understanding or cooperative agreement, or acquire not more than 10 acres of lands or interests in such lands, or both, as may be necessary to allow public access to the Bluestone River and to provide, outside the boundary of the scenic river, parking and related facilities in the vicinity of the area known as Eads Mill.

(66)(A) SIPSEY FORK OF THE WEST FORK, ALABAMA.—Segments of the Sipsey Fork and several tributaries; to be administered by the Secretary of Agriculture in the classifications indicated, as follows:

(1) Sipsey Fork from the confluence of Sandy Creek upstream to Forest Highway 26, as a scenic river; and

(2) Sipsey Fork from Forest Highway 26 upstream to it[3] origin at the confluence of Thompson Creek and Hubbard Creek, as a wild river; and

(3) Hubbard Creek from its confluence with Thompson Creek upstream to Forest Road 210, as a wild river; and

(4) Thompson Creek from its confluence with Hubbard Creek upstream to its origin in section 4, township 8 south, range 9 west, as a wild river; and

(5) Tedford Creek from its confluence with Thompson Creek upstream to section 17, township 8 south, range 9 west, as a wild river; and

(6) Mattox Creek from it confluence with Thompson Creek upstream to section 36 of township 7 south, range 9 west, as a wild river; and

(7) Borden Creek from its confluence with the Sipsey Fork upstream to Forest Road 208, as a wild river; and

(8) Borden Creek from Forest Road 208 upstream to its confluence with Montgomery Creek, as a scenic river; and

(9) Montgomery Creek from its confluence with Borden Creek upstream to the southwest quarter of the southwest quarter of section 36, township 7 south, range 8 west, as a scenic river; and

(10) Flannigan Creek from its confluence with Borden Creek upstream to Forest Road 208, as a wild river; and

(11) Flannigan Creek from Forest Road 208 upstream to section 4, township 8 south, range 8 west, as a scenic river; and

(12) Braziel Creek from its confluence with Borden Creek upstream to section 12, township 8 south, range 9 west, as a wild river; and

(13) Hogood Creek from its confluence with Braziel Creek upstream to the confluence with an unnamed tributary in section 7, township 8 south, range 8 west, as a wild river.

(B) A map entitled ''Sipsey Fork of the West Fork Wild and Scenic River'', generally depicting the Sipsey Fork and the tributaries, shall be on file and remain available for public inspections in the office of the Chief of the Forest Service, Department of Agriculture.

(67) WILDCAT RIVER, NEW HAMPSHIRE.—(A) A 14.51 mile segment including the following tributaries: Wildcat Brook, Bog Brook, and Great Brook (all as generally depicted on a map entitled ''Wildcat River'', dated October 1987) to be administered as follows: those segments of the Wildcat River and its tributaries located within the boundary of the White Mountain National Forest (hereinafter in this paragraph referred to as ''the forest'') shall be administered by the Secretary of Agriculture (hereinafter in this paragraph referred to as the ''Secretary''); those segments located outside the boundary of the forest shall be administered by the Secretary through a cooperative agreement with the Board of Selectmen of the town of Jackson and the State of New Hampshire pursuant to section 1281(e) of this title. Such agreement shall provide for the long-term protection, preservation, and enhancement of the river segments located

[3] So in original. Probably should be ''its''.

outside the boundary of the forest and shall be consistent with the comprehensive management plan to be prepared by the Secretary pursuant to subsection (d) of this section and with the July 1987 River Conservation Plan prepared by the Wildcat Brook Advisory Committee in conjunction with the National Park Service.

(B)(i) To assist in the implementation of this paragraph, the Secretary shall establish, within 3 months after October 28, 1988, a Wildcat River Advisory Commission (hereinafter in this paragraph referred to as the ''Commission'').

(ii) The Commission shall be composed of 7 members appointed by the Secretary as follows: one member from recommendations submitted by the Governor of the State of New Hampshire; 4 members from recommendations submitted by the Jackson Board of Selectmen, of which at least 2 members shall be riparian property owners, and at least one member shall be on the Board of Selectmen; one member from recommendations submitted by the Jackson Conservation Commission; and one member selected by the Secretary. Members of the Commission shall be appointed for terms of 3 years. A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Any member of the Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. The Commission shall designate one of its members as Chairman.

(iii) The Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the designation of the segments described in this paragraph. Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

(iv) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this paragraph on vouchers signed by the Chairman.

(v) Four members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(vi) The Commission shall cease to exist on the date 10 years after October 28, 1988.

(vii) The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to the Commission.

(C) The authority of the Secretary to acquire lands outside the boundary of the White Mountain National Forest for purposes of this paragraph shall be limited to acquisition by donation or acquisition with the consent of the owner thereof. The Secretary may also acquire scenic easements for purposes of this paragraph as provided in section 1277 of this title.

(D) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this paragraph.

(68) BIG MARSH CREEK, OREGON.—The 15-mile segment from the northeast quarter of section 15, township 26 south, range 6 east, to its confluence with Crescent Creek in the northeast quarter of section 20, township 24 south, range 7 east, as a recreational river; to be administered by the Secretary of Agriculture: *Provided*, That nothing in this chapter shall prohibit the Secretary from undertaking construction activities to enhance and restore wetland resources associated with Big Marsh Creek.

(69) CHETCO, OREGON.—The 44.5-mile segment from its headwaters to the Siskiyou National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

(A) The 25.5-mile segment from its headwaters to Boulder Creek at the Kalmiopsis Wilderness boundary as a wild river;

(B) the 8-mile segment from Boulder Creek to Steel Bridge as a scenic river; and

(C) the 11-mile segment from Steel Bridge to the Siskiyou National Forest boundary, one mile below Wilson Creek, as a recreational river.

(70) CLACKAMAS, OREGON.—The 47-mile segment from Big Springs to Big Cliff; to be administered by the Secretary of Agriculture in the following classes:

(A) The 4-mile segment from Big Springs to the Forest Service Road 4690 bridge as a scenic river;

(B) the 3.5-mile segment from the Forest Service Road 4690 bridge to the junction with Oregon State Highway 224 as a recreational river;

(C) the 10.5-mile segment from Oregon State Highway 224 to the June Creek Bridge as a scenic river;

(D) the 9-mile segment from June Creek Bridge to Tar Creek as a recreational river;

(E) the 5.5-mile segment from Tar Creek to just south of Indian Henry Campground as a scenic river; and

(F) the 14.5-mile segment just south of Indian Henry Campground to Big Cliff as a recreational river.

(71) CRESCENT CREEK, OREGON.—The 10-mile segment from the southwest quarter of section 11, township 24 south, range 6 east, to the west section line of section 13, township 24 south, range 7 east, as a recreational river; to be administered by the Secretary of Agriculture.

(72) CROOKED, OREGON.—The 15-mile segment from the National Grassland boundary to Dry Creek; to be administered by the Secretary of the Interior in the following classes:

(A) The 7-mile segment from the National Grassland boundary to River Mile 8 south of Opal Spring as a recreational river; and

(B) the 8-mile segment from Bowman Dam to Dry Creek as a recreational river.

(73) DESCHUTES, OREGON.—Those portions as follows:

(A) The 40.4-mile segment from Wickiup Dam to northern boundary of Sunriver at the southwest quarter of section 20, township 19 south, range 11 east as a recreational river; to be administered by the Secretary of Agriculture;

(B) the 11-mile segment from the northern boundary of Sunriver at the southwest quarter of section 20, township 19 south, range 11 east,

to Lava Island Camp as a scenic river; to be administered by the Secretary of Agriculture;

(C) the 3-mile segment from Lava Island Camp to the Bend Urban Growth Boundary at the southwest corner of section 13, township 18 south, range 11 east, as a recreational river; to be administered by the Secretary of Agriculture;

(D) the 19-mile segment from Oden Falls to the Upper End of Lake Billy Chinook as a scenic river; to be administered by the Secretary of the Interior;

(E) the 100-mile segment from the Pelton Reregulating Dam to its confluence with the Columbia River as a recreational river; to be administered by the Secretary of the Interior through a cooperative management agreement between the Confederated Tribes of the Warm Springs Reservation, and the State of Oregon as provided in section 1281(e) of this title and section 105 of the Omnibus Oregon Wild and Scenic Rivers Act of 1988.

(74) DONNER UND BLITZEN, OREGON.—Those segments, including its major tributaries, as a wild river; to be administered by the Secretary of the Interior as follows:

(A) The 16.75-mile segment of the Donner und Blitzen from its confluence with the South Fork Blitzen and Little Blitzen.

(B) The 12.5-mile segment of the Little Blitzen from its headwaters to its confluence with the South Fork Blitzen.

(C) The 16.5-mile segment of the South Fork Blitzen from its headwaters to its confluence with the South Fork Blitzen.

(D) The 10-mile segment of Big Indian Creek from its headwaters to its confluence with the South Fork Blitzen.

(E) The 3.7-mile segment of Little Indian Creek from its headwaters to its confluence with Big Indian Creek.

(F) The 13.25-mile segment of Fish Creek from its headwaters to its confluence with the Donner und Blitzen.

(G) The 5.1 mile segment of Mud Creek from its confluence with an unnamed spring in the SW¼SE¼ of section 32, township 33 south, range 33 east, to its confluence with the Donner und Blitzen River.

(H) The 8.1 mile segment of Ankle Creek from its headwaters to its confluence with the Donner und Blitzen River.

(I) The 1.6 mile segment of the South Fork of Ankle Creek from its confluence with an unnamed tributary in the SE¼SE¼ of section 17, township 34 south, range 33 east, to its confluence with Ankle Creek.

(75) EAGLE CREEK, OREGON.—The 27-mile segment from its headwaters below Eagle Lake to the Wallowa-Whitman National Forest boundary at Skull Creek; to be administered by the Secretary of Agriculture in the following classes:

(A) The 4-mile segment from its headwaters below Eagle Lake to the Eagle Cap Wilderness boundary at Hummingbird Mountain as a wild river;

(B) the 15.5-mile segment from the Eagle Cap Wilderness boundary at Hummingbird Mountain to Paddy Creek as a recreational river;

(C) the 6-mile segment from Paddy Creek to Little Eagle Creek as a scenic river; and

(D) the 1.5-mile segment from Little Eagle Creek to the Wallowa-Whitman National Forest boundary as a recreational river.

(76) ELK, OREGON.—The 29-mile segment to be administered by the Secretary of Agriculture in the following classes:

(A) The 17-mile segment from the confluence of the North and South Forks of the Elk to Anvil Creek as a recreational river.

(B)(i) The approximately 0.6-mile segment of the North Fork Elk from its source in sec. 21, T. 33 S., R. 12 W., Willamette Meridian, downstream to 0.01 miles below Forest Service Road 3353, as a scenic river.

(ii) The approximately 5.5-mile segment of the North Fork Elk from 0.01 miles below Forest Service Road 3353 to its confluence with the South Fork Elk, as a wild river.

(C)(i) The approximately 0.9-mile segment of the South Fork Elk from its source in the southeast quarter of sec. 32, T. 33 S., R. 12 W., Willamette Meridian, downstream to 0.01 miles below Forest Service Road 3353, as a scenic river.

(ii) The approximately 4.2-mile segment of the South Fork Elk from 0.01 miles below Forest Service Road 3353 to its confluence with the North Fork Elk, as a wild river.

(77) GRANDE RONDE, OREGON.—The 43.8-mile segment from its confluence with the Wallowa River to the Oregon-Washington State line in the following classes:

(A) The 1.5-mile segment from its confluence with the Wallowa River to the Umatilla National Forest boundary in section 11, township 3 north, range 40 east, as a recreational river; to be administered by the Secretary of Agriculture;

(B) the 17.4-mile segment from the Umatilla National Forest boundary in section 11, township 3 north, range 40 east, to the Wallowa-Whitman National Forest boundary approximately one-half mile east of Grossman Creek as a wild river; to be administered by the Secretary of Agriculture;

(C) the 9-mile segment from the Wallowa-Whitman National Forest boundary approximately one-half mile east of Grossman Creek to Wildcat Creek as a wild river; to be administered by the Secretary of the Interior; and

(D) the 15.9-mile segment from Wildcat Creek to the Oregon-Washington State line as a recreational river; to be administered by the Secretary of the Interior.

(78) IMNAHA, OREGON.—Those segments, including the South Fork Imnaha; to be administered by the Secretary of Agriculture in the following classes:

(A) The 6-mile segment from its confluence with the North and South Forks of the Imnaha River to Indian Crossing as a wild river;

(B) the 58-mile segment from Indian Crossing to Cow Creek as a recreational river;

(C) the 4-mile segment from Cow Creek to its mouth as a scenic river; and

(D) the 9-mile segment of the South Fork Imnaha from its headwaters to its confluence with the Imnaha River as a wild river.

(79) JOHN DAY, OREGON.—The 147.5-mile segment from Service Creek to Tumwater Falls as

a recreational river; to be administered through a cooperative management agreement between the State of Oregon and the Secretary of the Interior as provided in section 1281(e) of this title.

(80) JOSEPH CREEK, OREGON.—The 8.6-mile segment from Joseph Creek Ranch, one mile downstream from Cougar Creek, to the Wallowa-Whitman National Forest boundary as a wild river; to be administered by the Secretary of Agriculture.

(81) LITTLE DESCHUTES, OREGON.—The 12-mile segment from its source in the northwest quarter of section 15, township 26 south, range 6½ east to the north section line of section 12, township 26 south, range 7 east as a recreational river; to be administered by the Secretary of Agriculture.

(82) LOSTINE, OREGON.—The 16-mile segment from its headwaters to the Wallowa-Whitman National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

(A) The 5-mile segment from its headwaters to the Eagle Cap Wilderness boundary as a wild river; and

(B) the 11-mile segment from the Eagle Cap Wilderness boundary to the Wallowa-Whitman National Forest boundary at Silver Creek as a recreational river.

(83) MALHEUR, OREGON.—The 13.7-mile segment from Bosonberg Creek to the Malheur National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

(A) The 7-mile segment from Bosonberg Creek to Malheur Ford as a scenic river; and

(B) the 6.7-mile segment from Malheur Ford to the Malheur National Forest boundary as a wild river.

(84) MCKENZIE, OREGON.—The 12.7-mile segment from Clear Lake to Scott Creek; to be administered by the Secretary of Agriculture in the following classes:

(A) The 1.8-mile segment from Clear Lake to the head of maximum pool at Carmen Reservoir as a recreational river;

(B) the 4.3-mile segment from a point 100 feet downstream from Carmen Dam to the maximum pool at Trail Bridge Reservoir as a recreational river; and

(C) the 6.6-mile segment from the developments at the base of the Trail Bridge Reservoir Dam to Scott Creek as a recreational river.

(85) METOLIUS, OREGON.—The 28.6-mile segment from the south Deschutes National Forest boundary to Lake Billy Chinook in the following classes:

(A) The 11.5-mile segment from the south Deschutes National Forest boundary (approximately 2,055.5 feet from Metolius Springs) to Bridge 99 as a recreational river; to be administered by the Secretary of Agriculture;

(B) the 17.1-mile segment from Bridge 99 to Lake Billy Chinook as a scenic river; by[4] the Secretary of Agriculture, through a cooperative management agreement between the Secretary of the Interior and the Confederated Tribes of the Warm Springs Reservation, as provided in section 1281(e) of this title and section 105 of the Omnibus Oregon Wild and Scenic Rivers Act of 1988: *Provided*, That the river and its adjacent land area will be managed to provide a primitive recreational experience as defined in the ROS User's Guide.

(86) MINAM, OREGON.—The 39-mile segment from its headwaters at the south end of Minam Lake to the Eagle Cap Wilderness boundary, one-half mile downstream from Cougar Creek, as a wild river; to be administered by the Secretary of Agriculture.

(87) NORTH FORK CROOKED, OREGON.—The 32.3-mile segment from its source at Williams Prairie to one mile from its confluence with the Crooked River in the following classes:

(A) The 3-mile segment from its source at Williams Prairie to the Upper End of Big Summit Prairie as a recreational river; to be administered by the Secretary of Agriculture;

(B) the 3.7-mile segment from the Lower End of Big Summit Prairie to the bridge across from the Deep Creek Campground as a recreational river; to be administered by the Secretary of Agriculture;

(C) the 8-mile segment from the bridge across from the Deep Creek Campground to the Ochoco National Forest boundary, one-half mile from Lame Dog Creek as a scenic river; to be administered by the Secretary of Agriculture;

(D) the 1.5-mile segment from the Ochoco National Forest boundary to Upper Falls as a scenic river; to be administered by the Secretary of the Interior;

(E) the 11.1-mile segment from Upper Falls to Committee Creek as a wild river; to be administered by the Secretary of the Interior; and

(F) the 5-mile segment from Committee Creek to one mile from its confluence with the Crooked River as a recreational river; to be administered by the Secretary of the Interior.

(88) NORTH FORK JOHN DAY, OREGON.—The 54.1-mile segment from its headwaters in the North Fork of the John Day Wilderness Area at section 13, township 8 south, range 36 east, to its confluence with Camas Creek in the following classes:

(A) The 3.5-mile segment from its headwaters in the North Fork of the John Day Wilderness at section 13, township 8 south, range 36 east, to the North Fork of the John Day Wilderness boundary as a wild river; to be administered by the Secretary of Agriculture;

(B) the 7.5-mile segment from the North Fork of the John Day Wilderness boundary to Trail Creek as a recreational river; to be administered by the Secretary of Agriculture;

(C) the 24.3-mile segment from Trail Creek to Big Creek as a wild river; to be administered by the Secretary of Agriculture;

(D) the 10.5-mile segment from Big Creek to Texas Bar Creek as a scenic river; to be administered by the Secretary of Agriculture; and

(E) the 8.3-mile segment from Texas Bar Creek to its confluence with Camas Creek as a recreational river; to be administered by the Secretary of Agriculture.

[4] So in original. Probably should be ''to be administered by''.

(89) NORTH FORK MALHEUR, OREGON.—The 25.5-mile segment from its headwaters to the Malheur National Forest boundary as a scenic river; to be administered by the Secretary of Agriculture.

(90) NORTH FORK OF THE MIDDLE FORK OF THE WILLAMETTE, OREGON.—The 42.3-mile segment from Waldo Lake to the Willamette National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

(A) The 8.8-mile segment from Waldo Lake to the south section line of section 36, township 19 south, range 5½ east as a wild river;

(B) the 6.5-mile segment from the south section line of section 36, township 19 south, range 5½ east to Fisher Creek as a scenic river; and

(C) the 27-mile segment from Fisher Creek to the Willamette National Forest boundary as a recreational river.

(91) NORTH FORK OWYHEE, OREGON.—The 8-mile segment from the Oregon-Idaho State line to its confluence with the Owyhee River as a wild river; to be administered by the Secretary of the Interior.

(92) NORTH FORK SMITH, OREGON.—The 13-mile segment from its headwaters to the Oregon-California State line; to be administered by the Secretary of Agriculture in the following classes:

(A) The 6.5-mile segment from its headwaters to Horse Creek as a wild river;

(B) the 4.5-mile segment from Horse Creek to Baldface Creek as a scenic river; and

(C) the 2-mile segment from Baldface Creek to the Oregon-California State line as a wild river.

(93) NORTH FORK SPRAGUE, OREGON.—The 15-mile segment from the head of River Spring in the southwest quarter of section 15, township 35 south, range 16 east, to the northwest quarter of the southwest quarter of section 11, township 35 south, range 15 east, as a scenic river; to be administered by the Secretary of Agriculture.

(94) NORTH POWDER, OREGON.—The 6-mile segment from its headwaters to the Wallowa-Whitman National Forest boundary at River Mile 20 as a scenic river; to be administered by the Secretary of Agriculture.

(95) NORTH UMPQUA, OREGON.—The 33.8-mile segment from the Soda Springs Powerhouse to Rock Creek in the following classes:

(A) The 25.4-mile segment from the Soda Springs Powerhouse to the Umpqua National Forest boundary as a recreational river; to be administered by the Secretary of Agriculture; and

(B) the 8.4-mile segment from the Umpqua National Forest boundary to its confluence with Rock Creek as a recreational river; to be administered by the Secretary of the Interior.

(96) POWDER, OREGON.—The 11.7-mile segment from Thief Valley Dam to the Highway 203 bridge as a scenic river; to be administered by the Secretary of the Interior.

(97) QUARTZVILLE CREEK, OREGON.—The 12-mile segment from the Willamette National Forest boundary to slack water in Green Peter Reservoir as a recreational river; to be administered by the Secretary of the Interior.

(98) ROARING, OREGON.—The 13.7-mile segment from its headwaters to its confluence with the Clackamas River; to be administered by the Secretary of Agriculture in the following classes:

(A) The 13.5-mile segment from its headwaters to one-quarter mile upstream of the mouth as a wild river; and

(B) the 0.2-mile segment from one-quarter mile upstream of the mouth to its confluence with the Clackamas River as a recreational river.

(99) SALMON, OREGON.—The 33.5-mile segment from its headwaters to its confluence with the Sandy River in the following classes:

(A) The 7-mile segment from its headwaters to the south boundary line of section 6, township 4 south, range 9 east as a recreational river; to be administered by the Secretary of Agriculture: *Provided*, That designation and classification shall not preclude the Secretary from exercising discretion to approve the construction, operation, and maintenance of ski lifts, ski runs, and associated facilities for the land comprising the Timberline Lodge Winter Sports Area insofar as such construction does not involve water resources projects;

(B) the 15-mile segment from the south boundary line at section 6, township 4 south, range 9 east to the junction with the South Fork of the Salmon River as a wild river; to be administered by the Secretary of Agriculture;

(C) the 3.5-mile segment from the junction with the south fork of the Salmon River to the Mt. Hood National Forest boundary as a recreational river; to be administered by the Secretary of Agriculture;

(D) the 3.2-mile segment from the Mt. Hood National Forest boundary to Lymp Creek as a recreational river; to be administered by the Secretary of the Interior; and

(E) the 4.8-mile segment from Lymp Creek to its confluence with the Sandy River as a scenic river; to be administered by the Secretary of the Interior.

(100) SANDY, OREGON.—Those portions as follows:

(A) The 4.5-mile segment from its headwaters to the section line between sections 15 and 22, township 2 south, range 8 east as a wild river; to be administered by the Secretary of Agriculture;

(B) the 7.9-mile segment from the section line between sections 15 and 22, township 2 south, range 8 east to the Mt. Hood National Forest boundary at the west section line of section 26, township 2 south, range 7 east as a recreational river; to be administered by the Secretary of Agriculture; and

(C) the 12.5-mile segment from the east boundary of sections 25 and 36, township 1 south, range 4 east in Clackamas County near Dodge Park, downstream to the west line of the east half of the northeast quarter of section 6, township 1 south, range 4 east, in Multnomah County at Dabney State Park, the upper 3.8 miles as a scenic river and the lower 8.7 miles as a recreational river; both to be administered through a cooperative management agreement between the State of Oregon, the Secretary of the Interior and the Counties of Multnomah and Clackamas in accordance with section 1281(e) of this title.

(101) SOUTH FORK JOHN DAY, OREGON.—The 47-mile segment from the Malheur National Forest to Smokey Creek as a recreational river; to be administered by the Secretary of the Interior.

(102) SQUAW CREEK, OREGON.—The 15.4-mile segment from its source to the hydrologic Gaging Station 800 feet upstream from the intake of the McAllister Ditch, including the Soap Fork Squaw Creek, the North Fork, the South Fork, the East and West Forks of Park Creek, and Park Creek Fork; to be administered by the Secretary of Agriculture as follows:

(A) The 6.6-mile segment and its tributaries from the source to the Three Sisters Wilderness boundary as a wild river; and

(B) the 8.8-mile segment from the boundary of the Three Sisters Wilderness Area to the hydrologic Gaging Station 800 feet upstream from the intake of the McAllister Ditch as a scenic river: *Provided*, That nothing in this chapter shall prohibit the construction of facilities necessary for emergency protection for the town of Sisters relative to a rapid discharge of Carver Lake if no other reasonable flood warning or control alternative exists.

(103) SYCAN, OREGON.—The 59-mile segment from the northeast quarter of section 5, township 34 south, range 17 east to Coyote Bucket at the Fremont National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

(A) The 26.4-mile segment from the northeast quarter of section 5, township 34 south, range 17 east to the west section line of section 22, township 32 south, range 14½ east, as a scenic river;

(B) the 8.6-mile segment from the west section line of section 22, township 32 south, range 14 east, to the Fremont National Forest boundary in the southeast quarter of section 10, township 33 south, range 13 east, as a recreational river; and

(C) the 24-mile segment from the Fremont National Forest boundary in the southwest quarter of section 10, township 33 south, range 13 east, to Coyote Bucket at the Fremont National Forest boundary, as a scenic river.

(104) UPPER ROGUE, OREGON.—The 40.3-mile segment from the Crater Lake National Park boundary to the Rogue River National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

(A) The 0.5-mile segment from the Crater Lake National Park boundary to approximately 0.1-mile downstream from the forest road 6530760 (West Lake Road) crossing as a scenic river;

(B) the 6.1-mile segment from approximately 0.1-mile downstream from the forest road 6530760 (West Lake Road) crossing to Minehaha Creek as a wild river; and

(C) the 33.7-mile segment from Minehaha Creek to the Rogue River National Forest boundary as a scenic river.

(105) WENAHA, OREGON.—The 21.55-mile segment from the confluence of the North Fork and the South Fork to its confluence with the Grande Ronde River; to be administered by the Secretary of Agriculture in the following classes:

(A) The 18.7-mile segment from the confluence of the North Fork and South Fork to the Umatilla National Forest as a wild river;

(B) the 2.7-mile segment from the Umatilla National Forest boundary to the easternmost boundary of the Wenaha State Wildlife Area as a scenic area; and

(C) the 0.15-mile segment from the easternmost boundary of the Wenaha State Wildlife Area to the confluence with the Grande Ronde River as a recreational river.

(106) WEST LITTLE OWYHEE, OREGON.—The 51-mile segment from its headwaters to its confluence with Owyhee River as a wild river; to be administered by the Secretary of the Interior.

(107) WHITE, OREGON.—The 46.5-mile segment from its headwaters to its confluence with the Deschutes River in the following classes:

(A) The 2-mile segment from its headwaters to the section line between sections 9 and 16, township 3 south, range 9 east, as a recreational river; to be administered by the Secretary of Agriculture: *Provided*, That designation and classification shall not preclude the Secretary from exercising discretion to approve construction, operation, and from exercising discretion to approve construction, operation, and maintenance of ski lifts, ski runs, and associated facilities for the land comprising the Mt. Hood Winter Sports Area insofar as such construction does not involve water resource projects and is consistent with protecting the values for which the river was designated.

(B) the 13.6-mile segment from the section line between sections 9 and 16, township 3 south, range 9 east, to Deep Creek as a recreational river; to be administered by the Secretary of Agriculture;

(C) the 6.5-mile segment from Deep Creek to the Mt. Hood National Forest boundary as a scenic river; to be administered by the Secretary of Agriculture;

(D) the 17.5-mile segment from the Mt. Hood National Forest boundary to Three Mile Creek as a scenic river; to be administered by the Secretary of the Interior;

(E) the 5.3-mile segment from Three Mile Creek to River Mile 2.2 as a recreational river; to be administered by the Secretary of the Interior; and

(F) the 1.6-mile segment from River Mile 1.6 to its confluence with the Deschutes River as a recreational river; to be administered by the Secretary of the Interior.

(108) RIO CHAMA, NEW MEXICO.—The segment extending from El Vado Ranch launch site (immediately south of El Vado Dam) downstream approximately 24.6 miles to elevation 6,353 feet above mean sea level; to be administered by the Secretary of Agriculture and the Secretary of the Interior. For purposes of compliance with the planning requirements of subsection (d) of this section, the Cooperative Management Plan for the river prepared by the Secretary of Agriculture and the Secretary of the Interior may be revised and amended to the extent necessary to conform to the provisions of this chapter. The segment of the Rio Chama beginning at the El Vado Ranch launch site downstream to the be-

ginning of Forest Service Road 151 shall be administered as a wild river and the segment downstream from the beginning of Forest Service Road 151 to elevation 6,353 feet shall be administered as a scenic river.

(109) EAST FORK OF JEMEZ, NEW MEXICO.—The 11-mile segment from the Santa Fe National Forest boundary to its confluence with the Rio San Antonio; to be administered by the Secretary of Agriculture in the following classifications:

(A) the 2-mile segment from the Santa Fe National Forest boundary to the second crossing of State Highway 4, near Las Conchas Trailhead, as a recreational river; and

(B) the 4-mile segment from the second crossing of State Highway 4, near Las Conchas Trailhead, to the third crossing of State Highway 4, approximately one and one-quarter miles upstream from Jemez Falls, as a wild river; and

(C) the 5-mile segment from the third crossing of State Highway 4, approximately one and one-quarter miles upstream from Jemez Falls, to its confluence with the Rio San Antonio, as a scenic river.

After June 6, 1990, Federal lands within the boundaries of the segments designated under this paragraph or which constitute the bed or bank or are situated within one-quarter mile of the ordinary highwater mark on each side of such segments are withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws of the United States, and no patent may be issued for the surface estate with respect to any mining claim located on such lands. Nothing in this paragraph shall be construed as precluding mining operations on any valid existing claim, subject to applicable regulations under section 1280 of this title.

(110) PECOS RIVER, NEW MEXICO.—The 20.5-mile segment from its headwaters to the townsite of Tererro; to be administered by the Secretary of Agriculture in the following classifications:

(A) the 13.5-mile segment from its headwaters to the Pecos Wilderness boundary, as a wild river; and

(B) the 7-mile segment from the Pecos Wilderness boundary to the townsite of Tererro, as a recreational river.

After June 6, 1990, Federal lands within the boundaries of the segments designated under this paragraph or which constitute the bed or bank or are situated within one-quarter mile of the ordinary highwater mark on each side of such segments are withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws of the United States, and no patent may be issued for the surface estate with respect to any mining claim located on such lands. Nothing in this paragraph shall be construed as precluding mining operations on any valid existing claim, subject to applicable regulations under section 1280 of this title.

(111) SMITH RIVER, CALIFORNIA.—The segment from the confluence of the Middle Fork Smith River and the North Fork Smith River to the Six Rivers National Forest boundary, including the following segments of the mainstem and certain tributaries, to be administered by the Secretary of Agriculture in the following classes:

(A) The segment from the confluence of the Middle Fork Smith River and the South Fork Smith River to the National Forest boundary, as a recreational river.

(B) Rowdy Creek from the California-Oregon State line to the National Forest boundary, as a recreational river.

(112) MIDDLE FORK SMITH RIVER, CALIFORNIA.—The segment from the headwaters to its confluence with the North Fork Smith River, including the following segments of the mainstem and certain tributaries, to be administered by the Secretary of Agriculture in the following classes:

(A) The segment from its headwaters about 3 miles south of Sanger Lake, as depicted on the 1956 USGS 15° Preston Peak topographic map, to the center of section 7, T. 17 N., R. 5 E., as a wild river.

(B) The segment from the center of section 7, T. 17 N., R. 5 E., to the center of section 6, T. 17 N., R. 5 E., as a scenic river.

(C) The segment from the center of section 6, T. 17 N., R. 5 E., to one-half mile upstream from its confluence with Knopki Creek, as a wild river.

(D) The segment from one-half mile upstream of its confluence with Knopki Creek to its confluence with the South Fork Smith River, as a recreational river.

(E) Myrtle Creek from its headwaters in section 9, T. 17 N., R. 1 E., as depicted on the 1952 USGS 15° Crescent City topographic map, to the middle of section 28, T. 17 N., R. 1 E., as a scenic river.

(F) Myrtle Creek from the middle of section 28, T. 17 N., R. 1 E., to its confluence with the Middle Fork Smith River, as a wild river.

(G) Shelly Creek from its headwaters in section 1, T. 18 N., R., 3 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with Patrick Creek, as a recreational river.

(H) Kelly Creek from its headwaters in section 32, T. 17 N., R. 3 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with the Middle Fork Smith River, as a scenic river.

(I) Packsaddle Creek from its headwaters about 0.8 miles southwest of Broken Rib Mountain, as depicted on the 1956 USGS 15° Preston Peak topographic map, to its confluence with the Middle Fork Smith River, as a scenic river.

(J) East Fork Patrick Creek from its headwaters in section 10, T. 18 N., R. 3 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with the West Fork of Patrick Creek, as a recreational river.

(K) West Fork Patrick Creek from its headwaters in section 18, T. 18 N., R. 3 E., as depicted on the 1951[5] 15° Gasquet topographic map to its confluence with the East Fork Patrick Creek, as a recreational river.

(L) Little Jones Creek from its headwaters in section 34, T. 17 N., R. 3 E., as depicted on

[5] So in original. Probably should be ''1951 USGS''.

the 1951 USGS 15° Gasquet topographic map to its confluence with the Middle Fork Smith River, as a recreational river.

(M) Griffin Creek from its headwaters about 0.2 miles southwest of Hazel View Summit, as depicted on the 1956 USGS 15° Preston Peak topographic map, to its confluence with the Middle Fork Smith River, as a recreational river.

(N) Knopki Creek from its headwaters about 0.4 miles west of Sanger Peak, as depicted on the 1956 USGS 15° Preston Peak topographic map, to its confluence with the Middle Fork Smith River, as a recreational river.

(O) Monkey Creek from its headwaters in the northeast quadrant of section 12, T. 18 N., R. 3 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with the Middle Fork Smith River, as a recreational river.

(P) Patrick Creek from the junction of East and West Forks of Patrick Creek to its confluence with Middle Fork Smith River, as a recreational river.

(Q) Hardscrabble Creek from its headwaters in the northeast quarter of section 2, T. 17 N., R. 1 E., as depicted on the 1952 USGS 15° Crescent City topographic map, to its confluence with the Middle Fork Smith River, as a recreational river.

(113) NORTH FORK SMITH RIVER, CALIFORNIA.—The segment from the California-Oregon State line to its confluence with the Middle Fork Smith River, including the following segments of the mainstem and certain tributaries, to be administered by the Secretary of Agriculture in the following classes:

(A) The segment from the California-Oregon State line to its confluence with an unnamed tributary in the northeast quarter of section 5, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15° Gasquet topographic map, as a wild river.

(B) The segment from its confluence with an unnamed tributary in the northeast quarter of section 5, T. 18 N., R. 2 E., to its southern-most intersection with the eastern section line of section 5, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15° Gasquet topographic map, as a scenic river.

(C) The segment from its southern-most intersection with the eastern section line of section 5, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with Stony Creek, as a wild river.

(D) The segment from its confluence with Stony Creek to its confluence with the Middle Fork Smith River, as a recreational river.

(E) Diamond Creek from California-Oregon State line to its confluence with Bear Creek, as a recreational river.

(F) Diamond Creek from its confluence with Bear Creek to its confluence with the North Fork Smith River, as a scenic river.

(G) Bear Creek from its headwaters in section 24, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with Diamond Creek, as a scenic river.

(H) Still Creek from its headwaters in section 11, T. 18 N., R. 1 E., as depicted on the 1952 USGS 15° Crescent City topographic map, to its confluence with the North Fork Smith River, as a scenic river.

(I) North Fork Diamond Creek from the California-Oregon State line to its confluence with Diamond Creek, as a recreational river.

(J) High Plateau Creek from its headwaters in section 26, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with Diamond Creek, as a scenic river.

(K) Stony Creek from its headwaters in section 25, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with the North Fork Smith River, as a scenic river.

(L) Peridotite Creek from its headwaters in section 34, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with the North Fork Smith River, as a wild river.

(114) SISKIYOU FORK SMITH RIVER, CALIFORNIA.—The segment from its headwaters to its confluence with the Middle Fork Smith River, and the following tributaries, to be administered by the Secretary of Agriculture in the following classes:

(A) The segment from its headwaters about 0.7 miles southeast of Broken Rib Mountain, as depicted on the 1956 USGS 15° Preston Peak Topographic[6] map, to its confluence with the South Siskiyou Fork Smith River, as a wild river.

(B) The segment from its confluence with the South Siskiyou Fork Smith River to its confluence with the Middle Fork Smith River, as a recreational river.

(C) South Siskiyou Fork Smith River from its headwaters about 0.6 miles southwest of Buck Lake, as depicted on the 1956 USGS 15° Preston Peak topographic map, to its confluence with the Siskiyou Fork Smith River, as a wild river.

(115) SOUTH FORK SMITH RIVER, CALIFORNIA.—The segment from its headwaters to its confluence with the main stem of the Smith River, and the following tributaries, to be administered by the Secretary of Agriculture in the following classes:

(A) The segment from its headwaters about 0.5 miles southwest of Bear Mountain, as depicted on[7] 1956 USGS 15° Preston Peak topographic map, to Blackhawk Bar, as a wild river.

(B) The segment from Blackhawk Bar to its confluence with the main stem of the Smith River, as a recreational river.

(C) Williams Creek from its headwaters in section 31, T. 14 N., R. 4 E., as depicted on the 1952 USGS 15° Ship Mountain topographic map, to its confluence with Eightmile Creek, as a wild river.

(D) Eightmile Creek from its headwaters in section 29, T. 14 N., R. 4 E., as depicted on the 1955 USGS 15° Dillon Mtn. topographic map, to its confluence with the South Fork Smith River, as a wild river.

(E) Harrington Creek from its source to its confluence with the South Fork Smith River, as a wild river.

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[6] So in original. Probably should not be capitalized.

[7] So in original. Probably should be ''on the''.

(F) Prescott Fork of the Smith River from its headwaters about 0.5 miles southeast of Island Lake, as depicted on the 1955 USGS 15° Dillon Mtn. topographic map, to its confluence with the South Fork Smith River, as a wild river.

(G) Quartz Creek from its headwaters in section 31, T. 16 N., R. 4 E., as depicted on the 1952 15° USGS Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river.

(H) Jones Creek from its headwaters in section 36, T. 16 N., R. 3 E., as depicted on the 1952 USGS 15° Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river.

(I) Hurdygurdy Creek from its headwaters about 0.4 miles southwest of Bear Basin Butte as depicted on the 1956 USGS 15° Preston Peak topographic map, to its confluence with the South Fork Smith River, as a recreational river.

(J) Gordon Creek from its headwaters in section 18, T. 16 N., R. 3 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with the South Fork Smith River, as a recreational river.

(K) Coon Creek from the junction of its two headwaters tributaries in the southeast quadrant of section 31, T. 17 N., R. 3 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with the South Fork Smith River, as a recreational river.

(L) Craigs Creek from its headwaters in section 36, T. 17 N., R. 2 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with the South Fork Smith River, as a recreational river.

(M) Goose Creek from its headwaters in section 13, T. 13 N., R. 2 E., as depicted on the 1952 USGS 15° Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river.

(N) East Fork Goose Creek from its headwaters in section 18, T. 13 N., R. 3 E., as depicted on the 1952 USGS 15° Ship Mountain topographic map, to its confluence with Goose Creek, as a recreational river.

(O) Buck Creek from its headwaters at Cedar Camp Spring, as depicted on the 1952 USGS 15° Ship Mountain topographic map, to the northeast corner of section 8, T. 14 N., R. 3 E., as a scenic river.

(P) Buck Creek from the northeast corner of section 8, T. 14 N., R. 3 E., to its confluence with the South Fork Smith River, as a wild river.

(Q) Muzzleloader Creek from its headwaters in section 2, T. 15 N., R. 3 E., as depicted on the 1952 USGS 15° Ship Mountain topographic map, to its confluence with Jones Creek, as a recreational river.

(R) Canthook Creek from its headwaters in section 2, T. 15 N., R. 2 E., as depicted in[8] the 1952 USGS 15° Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river.

(S) Rock Creek from the national forest boundary in section 6, T. 15 N., R. 2 E., as depicted on the 1952 USGS 15° Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river.

(T) Blackhawk Creek from its headwaters in section 21, T. 15 N., R. 2 E., as depicted on the 1952 USGS 15° Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river.

(116) CLARKS FORK, WYOMING.—(A) The twenty and five-tenths-mile segment from the west boundary of section 3, township 56 north, range 106 west at the Crandall Creek Bridge downstream to the north boundary of section 13, township 56 north, range 104 west at Clarks Fork Canyon; to be administered by the Secretary of Agriculture as a wild river. Notwithstanding subsection (b) of this section, the boundary of the segment shall include all land within four hundred and forty yards from the ordinary high water mark on both sides of the river. No land or interest in land may be acquired with respect to the segment without the consent of the owner thereof. For the purposes of carrying out this paragraph, there is authorized to be appropriated $500,000 for development and $750,000 for the acquisition of land and interests therein.

(B) Designation of a segment of the Clarks Fork by this paragraph as a component of the Wild and Scenic Rivers System shall not be utilized in any Federal proceeding, whether concerning a license, permit, right-of-way, or any other Federal action, as a reason or basis to prohibit the development or operation of any water impoundment, diversion facility, or hydroelectric power and transmission facility located entirely downstream from the segment of the river designated by this paragraph: *Provided*, That water from any development shall not intrude upon such segment. Congress finds that development of water impoundments, diversion facilities, and hydroelectric power and transmission facilities located entirely downstream from the segment of the river is not incompatible with its designation as a component of the Wild and Scenic Rivers System.

(C) The Secretary of Agriculture is directed to apply for the quantification of the water right reserved by the inclusion of a portion of the Clarks Fork in the Wild and Scenic Rivers System in accordance with the procedural requirements of the laws of the State of Wyoming: *Provided*, That, notwithstanding any provision of the laws of the State of Wyoming otherwise applicable to the granting and exercise of water rights, the purposes for which the Clarks Fork is designated, as set forth in this chapter and this paragraph, are declared to be beneficial uses and the priority date of such right shall be November 28, 1990.

(D) The comprehensive management plan developed under subsection (d) of this section for the segment designated by this paragraph shall provide for all such measures as may be necessary in the control of fire, insects, and diseases to fully protect the values for which the segment is designated as a wild river.

(117) NIOBRARA, NEBRASKA.—(A) The 40-mile segment from Borman Bridge southeast of Valentine downstream to its confluence with Chimney Creek and the 30-mile segment from the riv-

[8] So in original. Probably should be ''on''.

er's confluence with Rock Creek downstream to the State Highway 137 bridge, both segments to be classified as scenic and administered by the Secretary of the Interior. That portion of the 40-mile segment designated by this subparagraph located within the Fort Niobrara National Wildlife Refuge shall continue to be managed by the Secretary through the Director of the United States Fish and Wildlife Service.

(B) The 25-mile segment from the western boundary of Knox County to its confluence with the Missouri River, including that segment of the Verdigre Creek from the north municipal boundary of Verdigre, Nebraska, to its confluence with the Niobrara, to be administered by the Secretary of the Interior as a recreational river.

After consultation with State and local governments and the interested public, the Secretary shall take such action as is required under subsection (b) of this section.

(118) MISSOURI RIVER, NEBRASKA AND SOUTH DAKOTA.—The 39-mile segment from the headwaters of Lewis and Clark Lake to the Ft. Randall Dam, to be administered by the Secretary of the Interior as a recreational river.

(119) BEAR CREEK, MICHIGAN.—The 6.5-mile segment from Coates Highway to the Manistee River, to be administered by the Secretary of Agriculture as a scenic river.

(120) BLACK, MICHIGAN.—The 14-mile segment from the Ottawa National Forest boundary to Lake Superior, to be administered by the Secretary of Agriculture as a scenic river.

(121) CARP, MICHIGAN.—The 27.8-mile segment from the west section line of section 30, township 43 north, range 5 west, to Lake Huron, to be administered by the Secretary of Agriculture in the following classes:

(A) The 2.3-mile segment from the west section line of section 30, township 43 north, range 5 west, to Forest Development Road 3458 in section 32, township 43 north, range 5 west, as a scenic river.

(B) The 6.5-mile segment from the Forest Development Road 3458 in section 32, township 43 north, range 5 west, to Michigan State Highway 123, as a scenic river.

(C) The 7.5-mile segment from Michigan State Highway 123 to one quarter of a mile upstream from Forest Development Road 3119, as a wild river.

(D) The 0.5-mile segment from one quarter of a mile upstream of Forest Development Road 3119 to one quarter mile downstream of Forest Development Road 3119, as a scenic river.

(E) The 4.9-mile segment from one quarter of a mile downstream of Forest Development Road 3119 to McDonald Rapids, as a wild river.

(F) The 6.1-mile segment from McDonald Rapids to Lake Huron, as a recreational river.

(122) INDIAN, MICHIGAN.—The 51-mile segment from Hovey Lake to Indian Lake to be administered by the Secretary of Agriculture in the following classes:

(A) The 12-mile segment from Hovey Lake to Fish Lake, as a scenic river.

(B) The 39-mile segment from Fish Lake to Indian Lake, as a recreational river.

(123) MANISTEE, MICHIGAN.—The 26-mile segment from the Michigan DNR boat ramp below Tippy Dam to the Michigan State Highway 55 bridge, to be administered by the Secretary of Agriculture as a recreational river.

(124) ONTONAGON, MICHIGAN.—Segments of certain tributaries, totaling 157.4 miles, to be administered by the Secretary of Agriculture as follows:

(A) The 46-mile segment of the East Branch Ontonagon from its origin at Spring Lake to the Ottawa National Forest boundary in the following classes:

(i) The 20.5-mile segment from its origin at Spring Lake to its confluence with an unnamed stream in section 30, township 48 north, range 37 west, as a recreational river.

(ii) The 25.5-mile segment from its confluence with an unnamed stream in section 30, township 48 north, range 37 west, to the Ottawa National Forest boundary, as a wild river.

(B) The 59.4-mile segment of the Middle Branch Ontonagon, from its origin at Crooked Lake to the northern boundary of the Ottawa National Forest in the following classes:

(i) The 20-mile segment from its origin at Crooked Lake to Burned Dam, as a recreational river.

(ii) The 8-mile segment from Burned Dam to Bond Falls Flowage, as a scenic river.

(iii) The 8-mile segment from Bond Falls to Agate Falls, as a recreational river.

(iv) The 6-mile segment from Agate Falls to Trout Creek, as a scenic river.

(v) The 17.4-mile segment from Trout Creek to the northern boundary of the Ottawa National Forest, as a wild river.

(C) The 37-mile segment of the Cisco Branch Ontonagon from its origin at Cisco Lake Dam to its confluence with Ten-Mile Creek south of Ewen in the following classes:

(i) The 10-mile segment from the origin of Cisco Branch Ontonagon at Cisco Lake Dam to the County Road 527 crossing, as a recreational river.

(ii) The 27-mile segment from the Forest Development Road 527 crossing to the confluence of the Cisco Branch and Ten-Mile Creek, as a scenic river.

(D) The 15-mile segment of the West Branch Ontonagon from its confluence with Cascade Falls to Victoria Reservoir, in the following classes:

(i) The 10.5-mile segment from its confluence with Cascade Falls to its confluence with the South Branch Ontonagon, as a recreational river.

(ii) The 4.5-mile segment from its confluence with the South Branch Ontonagon to Victoria Reservoir, as a recreational river.

Nothwithstanding[9] any limitation contained in this chapter, the Secretary is authorized to acquire lands and interests in lands which, as of August 1, 1990, were owned by Upper Peninsula Energy Corporation, and notwithstanding any such limitation, such lands shall be retained and managed by the Secretary as part of the Ottawa National Forest, and those lands so acquired

[9] So in original. Probably should be ''Notwithstanding''.

which are within the boundaries of any segment designated under this paragraph shall be retained and managed pursuant to this chapter.

(125) PAINT, MICHIGAN.—Segments of the mainstream and certain tributaries, totaling 51 miles, to be administered by the Secretary of Agriculture as follows:

(A) The 6-mile segment of the main stem from the confluence of the North and South Branches Paint to the Ottawa National Forest boundary, as a recreational river.

(B) The 17-mile segment of the North Branch Paint from its origin at Mallard Lake to its confluence with the South Branch Paint, as a recreational river.

(C) The 28-mile segment of the South Branch Paint from its origin at Paint River Springs to its confluence with the North Branch Paint, as a recreational river.

(126) PINE, MICHIGAN.—The 25-mile segment from Lincoln Bridge to the east 1/16th line of section 16, township 21 north, range 13 west, to be administered by the Secretary of Agriculture as a scenic river.

(127) PRESQUE ISLE, MICHIGAN.—Segments of the mainstream and certain tributaries, totaling 57 miles, to be administered by the Secretary of Agriculture as follows:

(A) The 23-mile segment of the mainstream, from the confluence of the East and West Branches of Presque Isle to Minnewawa Falls, to be classified as follows:

(i) The 17-mile segment from the confluence of the East and West Branches Presque Isle to Michigan State Highway 28, as a recreational river.

(ii) The 6-mile segment from Michigan State Highway 28 to Minnewawa Falls, as a scenic river.

(B) The 14-mile segment of the East Branch Presque Isle within the Ottawa National Forest, as a recreational river.

(C) The 7-mile segment of the South Branch Presque Isle within the Ottawa National Forest, as a recreational river.

(D) The 13-mile segment of the West Branch Presque Isle within the Ottawa National Forest, as a scenic river.

(128) STURGEON, HIAWATHA NATIONAL FOREST, MICHIGAN.—The 43.9-mile segment from the north line of section 26, township 43 north, range 19 west, to Lake Michigan, to be administered by the Secretary of Agriculture in the following classes:

(A) The 21.7-mile segment from the north line of section 26, township 43 north, range 19 west, to Forest Highway 13 as a scenic river.

(B) The 22.2-mile segment from Forest Highway 13 to Lake Michigan as a recreational river.

(129) STURGEON, OTTAWA NATIONAL FOREST, MICHIGAN.—The 25-mile segment from its entry into the Ottawa National Forest to the northern boundary of the Ottawa National Forest, to be administered by the Secretary of Agriculture in the following classes:

(A) The 16.5-mile segment from its entry into the Ottawa National Forest to Prickett Lake, as a wild river.

(B) The 8.5-mile segment from the outlet of Prickett Lake Dam to the northern boundary of the Ottawa National Forest, as a scenic river.

(130) EAST BRANCH OF THE TAHQUAMENON, MICHIGAN.—The 13.2-mile segment from its origin in section 8, township 45 north, range 5 west, to the Hiawatha National Forest boundary, to be administered by the Secretary of Agriculture in the following classes:

(A) The 10-mile segment from its origin in section 8, township 45 north, range 5 west, to the center of section 20, township 46 north, range 6 west, as a recreational river.

(B) The 3.2-mile segment from the center of section 20, township 46 north, range 6 west, to the boundary of the Hiawatha National Forest, as a wild river.

(131) WHITEFISH, MICHIGAN.—Segments of the mainstream and certain tributaries, totaling 33.6 miles, to be administered by the Secretary of Agriculture as follows:

(A) The 11.1-mile segment of the mainstream from its confluence with the East and West Branches of the Whitefish to Lake Michigan in the following classes:

(i) The 9-mile segment from its confluence with the East and West Branches of the Whitefish to the center of section 16, township 41 north, range 21 west, as a scenic river.

(ii) The 2.1-mile segment from the center of section 16, township 41 north, range 21 west, to Lake Michigan, as a recreational river.

(B) The 15-mile segment of the East Branch Whitefish from the crossing of County Road 003 in section 6, township 44 north, range 20 west, to its confluence with the West Branch Whitefish, as a scenic river.

(C) The 7.5-mile segment of the West Branch Whitefish from County Road 444 to its confluence with the East Branch Whitefish, as a scenic river.

(132) YELLOW DOG, MICHIGAN.—The 4-mile segment from its origin at the outlet of Bulldog Lake Dam to the boundary of the Ottawa National Forest, to be administered by the Secretary of Agriculture as a wild river.

(133) ALLEGHENY, PENNSYLVANIA.—The segment from Kinzua Dam downstream approximately 7 miles to the United States Route 6 Bridge, and the segment from Buckaloons Recreation Area at Irvine, Pennsylvania, downstream approximately 47 miles to the southern end of Alcorn Island at Oil City, to be administered by the Secretary of Agriculture as a recreational river through a cooperative agreement with the Commonwealth of Pennsylvania and the counties of Warren, Forest, and Venango, as provided under section 1281(e) of this title; and the segment from the sewage treatment plant at Franklin downstream approximately 31 miles to the refinery at Emlenton, Pennsylvania, to be administered by the Secretary of Agriculture as a recreational river through a cooperative agreement with the Commonwealth of Pennsylvania and Venango County, as provided under section 1281(e) of this title.

(134) BIG PINEY CREEK, ARKANSAS.—The 45.2-mile segment from its origin in section 27, township 13 north, range 23 west, to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture as a scenic river.

(135) BUFFALO RIVER, ARKANSAS.—The 15.8-mile segment from its origin in section 22, township 14 north, range 24 west, to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture in the following classes:

(A) The 6.4-mile segment from its origin in section 22, township 14 north, range 24 west, to the western boundary of the Upper Buffalo Wilderness, as a scenic river.

(B) The 9.4-mile segment from the western boundary of the Upper Buffalo Wilderness to the Ozark National Forest boundary, as a wild river.

(136) COSSATOT RIVER, ARKANSAS.—Segments of the main stem and certain tributaries, totaling 20.1 miles, to be administered as follows:

(A) The 4.2-mile segment of the main stem from its confluence with Mine Creek to the Caney Creek Wilderness Boundary on the north section line of section 13, township 4 south, range 30 west, to be administered by the Secretary of Agriculture as a recreational river.

(B) The 6.9-mile segment of the main stem from the Caney Creek Wilderness Boundary on the north section line of section 13, township 4 south, range 30 west, to the south section line of section 20, township 4 south, range 30 west, to be administered by the Secretary of Agriculture as a scenic river.

(C) The 4.4-mile segment of the Brushy Creek tributary from the north line of the south ½ of the southeast ¼ of section 7, township 4 south, range 30 west, to the south section line of section 20, township 4 south, range 30 west, to be administered by the Secretary of Agriculture as a scenic river.

(D) The 4.6-mile segment of the main stem from the State Highway 4 bridge to Duchett's Ford, to be administered by the Secretary of the Army as a scenic river consistent with the operation of Gillham Dam (as authorized by section 203 of the Flood Control Act of 1958 (Public Law 85–500)). For purposes of management of such segment, the Secretary of the Army may enter into a cooperative agreement or memorandum of understanding or other appropriate arrangement with the Secretary of Agriculture or an appropriate official of the State of Arkansas.

(137) HURRICANE CREEK, ARKANSAS.—The 15.5-mile segment from its origin in section 1, township 13 north, range 21 west, to its confluence with Big Piney Creek, to be administered by the Secretary of Agriculture in the following classes:

(A) The 11.8-mile segment from its origin in section 1, township 13 north, range 21 west, to the western boundary of the private land bordering Hurricane Creek Wilderness, as a scenic river.

(B) The 2.4-mile segment from the western boundary of the private land bordering the Hurricane Creek Wilderness to the Hurricane Creek Wilderness boundary, as a wild river.

(C) The 1.3-mile segment from the Hurricane Creek Wilderness boundary to its confluence with Big Piney Creek, as a scenic river.

(138) LITTLE MISSOURI RIVER, ARKANSAS.—Segments totaling 15.7 miles, to be administered by the Secretary of Agriculture in the following classes:

(A) The 11.3-mile segment from its origin in the northwest ¼ of section 32, township 3 south, range 28 west, to the west section line of section 22, township 4 south, range 27 west, as a scenic river.

(B) The 4.4-mile segment from the north line of the southeast ¼ of the southeast ¼ of section 28, township 4 south, range 27 west, to the north line of the northwest ¼ of the southwest ¼ of section 5, township 5 south, range 27 west, as a wild river.

(139) MULBERRY RIVER, ARKANSAS.—The 56.0-mile segment from its origin in section 32, township 13 north, range 23 west, to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture in the following classes:

(A) The 36.6-mile segment from its origin in section 32, township 13 north, range 23 west, to Big Eddy Hollow in section 3, township 11 north, range 27 west, as a recreational river.

(B) The 19.4-mile segment from Big Eddy Hollow in section 3, township 11 north, range 27 west, to the Ozark National Forest boundary, as a scenic river.

(140) NORTH SYLAMORE CREEK, ARKANSAS.—The 14.5-mile segment from the Clifty Canyon Botanical Area boundary to its confluence with the White River, to be administered by the Secretary of Agriculture as a scenic river.

(141) RICHLAND CREEK, ARKANSAS.—The 16.5-mile segment from its origin in section 35, township 13 north, range 20 west, to the northern boundary of section 32, township 14 north, range 18 west, to be administered by the Secretary of Agriculture in the following classes:

(A) The 7.8-mile segment from its origin in section 35, township 13 north, range 20 west, to the western boundary of the Richland Creek Wilderness, as a scenic river.

(B) The 5.3-mile segment from the western boundary of the Richland Creek Wilderness to the eastern boundary of the Richland Creek Wilderness, as a wild river.

(C) The 3.4-mile segment from the eastern boundary of the Richland Creek Wilderness to the northern boundary of section 32, township 14 north, range 18 west, as a scenic river.

(142) SESPE CREEK, CALIFORNIA.—The 4-mile segment of the main stem of the creek from its confluence with Rock Creek and Howard Creek downstream to its confluence with Trout Creek, to be administered by the Secretary of Agriculture as a scenic river; and the 27.5-mile segment of the main stem of the creek extending from its confluence with Trout Creek downstream to where it leaves section 26, township 5 north, range 20 west, to be administered by the Secretary of Agriculture as a wild river.

(143) SISQUOC RIVER, CALIFORNIA.—The 33-mile segment of the main stem of the river extending from its origin downstream to the Los Padres

Forest boundary, to be administered by the Secretary of Agriculture as a wild river.

(144) BIG SUR RIVER, CALIFORNIA.—The main stems of the South Fork and North Fork of the Big Sur River from their headwaters to their confluence and the main stem of the river from the confluence of the South and North Forks downstream to the boundary of the Ventana Wilderness in Los Padres National Forest, for a total distance of approximately 19.5 miles, to be administered by the Secretary of Agriculture as a wild river.

(145) GREAT EGG HARBOR, NEW JERSEY.—39.5 miles of the main stem to be administered by the Secretary of the Interior in the following classifications:

(A) from the mouth of the Patcong Creek to the mouth of Perch Cove Run, approximately 10 miles, as a scenic river;

(B) from Perch Cove Run to the Mill Street Bridge, approximately 5.5 miles, as a recreational river;

(C) from Lake Lenape to the Atlantic City Expressway, approximately 21 miles, as a recreational river; and

(D) from Williamstown-New Freedom Road to the Pennsylvania Railroad right-of-way, approximately 3 miles, as a recreational river, and

89.5 miles of the following tributaries to be administered by the Secretary of the Interior in the following classifications:

(E) Squankum Branch from its confluence with Great Egg Harbor River to Malaga Road, approximately 4.5 miles, as a recreational river;

(F) Big Bridge Branch, from its confluence with Great Egg Harbor River to headwaters, approximately 2.2 miles, as a recreational river;

(G) Penny Pot Stream Branch, from its confluence with Great Egg Harbor River to 14th Street, approximately 4.1 miles, as a recreational river;

(H) Deep Run, from its confluence with Great Egg Harbor River to Pancoast Mill Road, approximately 5.4 miles, as a recreational river;

(I) Mare Run, from its confluence with Great Egg Harbor River to Weymouth Avenue, approximately 3 miles, as a recreational river;

(J) Babcock Creek, from its confluence with Great Egg Harbor River to headwaters, approximately 7.5 miles, as a recreational river;

(K) Gravelly Run, from its confluence with Great Egg Harbor River to Pennsylvania Railroad Right-of-Way,[10] approximately 2.7 miles, as a recreational river;

(L) Miry Run, from its confluence with Great Egg Harbor River to Asbury Road, approximately 1.7 miles, as a recreational river;

(M) South River, from its confluence with Great Egg Harbor River to Main Avenue, approximately 13.5 miles, as a recreational river;

(N) Stephen Creek, from its confluence with Great Egg Harbor River to New Jersey Route 50, approximately 2.3 miles, as a recreational river;

(O) Gibson Creek, from its confluence with Great Egg Harbor River to First Avenue, approximately 5.6 miles, as a recreational river;

(P) English Creek, from its confluence with Great Egg Harbor River to Zion Road, approximately 3.5 miles, as a recreational river;

(Q) Lakes Creek, from its confluence with Great Egg Harbor River to the dam, approximately 2.2 miles, as a recreational river;

(R) Middle River, from its confluence with Great Egg Harbor River to the levee, approximately 5.6 miles, as a scenic river;

(S) Patcong Creek, from its confluence with Great Egg Harbor River to Garden State Parkway, approximately 2.8 miles, as a recreational river;

(T) Tuckahoe River (lower segment) from its confluence with Great Egg Harbor River to the Route 50 bridge,[11] approximately 9 miles, as a scenic river;

(U) Tuckahoe River, from the Route 50 Bridge to Route 49 Bridge, approximately 7.3 miles, as a recreational river; and

(V) Cedar Swamp Creek, from its confluence with Tuckahoe River to headwaters, approximately 6 miles, as a scenic river.

(146) THE MAURICE RIVER, MIDDLE SEGMENT.—From Route 670 Bridge at Mauricetown to 3.6 miles upstream (at drainage ditch just upstream of Fralinger Farm), approximately 3.8 miles to be administered by the Secretary of the Interior as a scenic river.

(147) THE MAURICE RIVER, MIDDLE SEGMENT.—From the drainage ditch just upstream of Fralinger Farm to one-half mile upstream from the United States Geological Survey Station at Burcham Farm, approximately 3.1 miles, to be administered by the Secretary of the Interior as a recreational river.

(148) THE MAURICE RIVER, UPPER SEGMENT.—From one-half mile upstream from the United States Geological Survey Station at Burcham Farm to the south side of the Millville sewage treatment plant, approximately 3.6 miles, to be administered by the Secretary of the Interior as a scenic river.

(149) THE MENANTICO CREEK, LOWER SEGMENT.—From its confluence with the Maurice River to the Route 55 Bridge, approximately 1.4 miles, to be administered by the Secretary of the Interior as a recreational river.

(150) THE MENANTICO CREEK, UPPER SEGMENT.—From the Route 55 Bridge to the base of the impoundment at Menantico Lake, approximately 6.5 miles, to be administered by the Secretary of the Interior as a scenic river.

(151) MANUMUSKIN RIVER, LOWER SEGMENT.—From its confluence with the Maurice River to a point 2.0 miles upstream, to be administered by the Secretary of the Interior as a recreational river.

(152) MANUMUSKIN RIVER, UPPER SEGMENT.—From a point 2.0 miles upstream from its confluence with the Maurice River to its headwaters near Route 557, approximately 12.3 miles, to be administered by the Secretary of the Interior as a scenic river.

(153) MUSKEE CREEK, NEW JERSEY.—From its confluence with the Maurice River to the Penn-

[10] So in original. Probably should not be capitalized.

[11] So in original. Probably should be capitalized.

sylvania Seashore Line Railroad Bridge, approximately 2.7 miles, to be administered by the Secretary of the Interior as a scenic river.

(154)(A) RED RIVER, KENTUCKY.—The 19.4-mile segment of the Red River extending from the Highway 746 Bridge to the School House Branch, to be administered by the Secretary of Agriculture in the following classes:

(i) The 9.1-mile segment known as the ''Upper Gorge'' from the Highway 746 Bridge to Swift Camp Creek, as a wild river. This segment is identified as having the same boundary as the Kentucky Wild River.

(ii) The 10.3-mile segment known as the ''Lower Gorge'' from Swift Camp Creek to the School House Branch, as a recreational river.

(B) There are authorized to be appropriated such sums as are necessary to carry out this paragraph.

(155) RIO GRANDE, NEW MEXICO.—The main stem from the southern boundary of the segment of the Rio Grande designated pursuant to paragraph (4), downstream approximately 12 miles to the west section line of Section 15, Township 23 North, Range 10 East, to be administered by the Secretary of the Interior as a scenic river.

(156) FARMINGTON RIVER, CONNECTICUT.—The 14-mile segment of the West Branch and mainstem extending from immediately below the Goodwin Dam and Hydroelectric Project in Hartland, Connecticut, to the downstream end of the New Hartford-Canton, Connecticut, town line (hereinafter in this paragraph referred to as the ''segment''), as a recreational river, to be administered by the Secretary of the Interior through cooperative agreements between the Secretary of the Interior and the State of Connecticut and its relevant political subdivisions, namely the Towns of Colebrook, Hartland, Barkhamsted, New Hartford, and Canton and the Hartford Metropolitan District Commission, pursuant to section 1281(e) of this title. The segment shall be managed in accordance with the Upper Farmington River Management Plan, dated April 29, 1993, and such amendments thereto as the Secretary of the Interior determines are consistent with this chapter. Such plan shall be deemed to satisfy the requirement for a comprehensive management plan pursuant to subsection (d) of this section.

(157) CLARION RIVER, PENNSYLVANIA.—The 51.7-mile segment of the main stem of the Clarion River from the Allegheny National Forest/State Game Lands Number 44 boundary, located approximately 0.7 miles downstream from the Ridgway Borough limit, to an unnamed tributary in the backwaters of Piney Dam approximately 0.6 miles downstream from Blyson Run, to be administered by the Secretary of Agriculture in the following classifications:

(A) The approximately 8.6-mile segment of the main stem from the Allegheny National Forest/State Game Lands Number 44 boundary, located approximately 0.7 miles downstream from the Ridgway Borough limit, to Portland Mills, as a recreational river.

(B) The approximately 8-mile segment of the main stem from Portland Mills to the Allegheny National Forest boundary, located approximately 0.8 miles downstream from Irwin Run, as a scenic river.

(C) The approximately 26-mile segment of the main stem from the Allegheny National Forest boundary, located approximately 0.8 miles downstream from Irwin Run, to the State Game Lands 283 boundary, located approximately 0.9 miles downstream from the Cooksburg bridge, as a recreational river.

(D) The approximately 9.1-mile segment of the main stem from the State Game Lands 283 boundary, located approximately 0.9 miles downstream from the Cooksburg bridge, to an unnamed tributary at the backwaters of Piney Dam, located approximately 0.6 miles downstream from Blyson Run, as a scenic river.

(158) LAMPREY RIVER, NEW HAMPSHIRE.—The 23.5-mile segment extending from the Bunker Pond Dam in Epping to the confluence with the Piscassic River in the vicinity of the Durham-Newmarket town line (hereinafter in this paragraph referred to as the ''segment'') as a recreational river. The segment shall be administered by the Secretary of the Interior through cooperative agreements between the Secretary and the State of New Hampshire and its relevant political subdivisions, namely the towns of Epping, Durham, Lee, and Newmarket, pursuant to section 1281(e) of this title. The segment shall be managed in accordance with the Lamprey River Management Plan dated January 10, 1995, and such amendments thereto as the Secretary of the Interior determines are consistent with this chapter. Such plan shall be deemed to satisfy the requirements for a comprehensive management plan pursuant to subsection (d) of this section.

(159)(A) ELKHORN CREEK.—The 6.4-mile segment traversing federally administered lands from that point along the Willamette National Forest boundary on the common section line between Sections 12 and 13, Township 9 South, Range 4 East, Willamette Meridian, to that point where the segment leaves Federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South, Range 3 East, Willamette Meridian, in the following classes:

(i) a 5.8-mile wild river area, extending from that point along the Willamette National Forest boundary on the common section line between Sections 12 and 13, Township 9 South, Range 4 East, Willamette Meridian, to its confluence with Buck Creek in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to be administered as agreed on by the Secretaries of Agriculture and the Interior, or as directed by the President; and

(ii) a 0.6-mile scenic river area, extending from the confluence with Buck Creek in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to that point where the segment leaves Federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to be administered by the Secretary of Interior, or as directed by the President.

(B) Notwithstanding subsection (b) of this section, the lateral boundaries of both the wild river area and the scenic river area along Elkhorn Creek shall include an average of not more

than 640 acres per mile measured from the ordinary high water mark on both sides of the river.

(160) SUDBURY, ASSABET, AND CONCORD RIVERS, MASSACHUSETTS.—(A) The 29 miles of river segments in Massachusetts, as follows:

(i) The 14.9-mile segment of the Sudbury River beginning at the Danforth Street Bridge in the town of Framingham, downstream to the Route 2 Bridge in Concord, as a scenic river.

(ii) The 1.7-mile segment of the Sudbury River from the Route 2 Bridge downstream to its confluence with the Assabet River at Egg Rock, as a recreational river.

(iii) The 4.4-mile segment of the Assabet River beginning 1,000 feet downstream from the Damon Mill Dam in the town of Concord, to its confluence with the Sudbury River at Egg Rock in Concord;[12] as a recreational river.

(iv) The 8-mile segment of the Concord River from Egg Rock at the confluence of the Sudbury and Assabet Rivers downstream to the Route 3 Bridge in the town of Billerica, as a recreational river.

(B) The segments referred to in subparagraph (A) shall be administered by the Secretary of the Interior in cooperation with the SUASCO River Stewardship Council provided for in the plan referred to in subparagraph (C) through cooperative agreements under section 1281(e) of this title between the Secretary and the Commonwealth of Massachusetts and its relevant political subdivisions (including the towns of Framingham, Wayland, Sudbury, Lincoln, Concord, Carlisle, Bedford, and Billerica).

(C) The segments referred to in subparagraph (A) shall be managed in accordance with the plan entitled ''Sudbury, Assabet and Concord Wild and Scenic River Study, River Conservation Plan'', dated March 16, 1995. The plan is deemed to satisfy the requirement for a comprehensive management plan under subsection (d) of this section.

(161) WILSON CREEK, NORTH CAROLINA.—(A) The 23.3 mile segment of Wilson Creek in the State of North Carolina from its headwaters to its confluence with Johns River, to be administered by the Secretary of Agriculture in the following classifications:

(i) The 2.9 mile segment from its headwaters below Calloway Peak downstream to the confluence of Little Wilson Creek, as a scenic river.

(ii) The 4.6 segment from Little Wilson Creek downstream to the confluence of Crusher Branch, as a wild river.

(iii) The 15.8 segment from Crusher Branch downstream to the confluence of Johns River, as a recreational river.

(B) The Forest Service or any other agency of the Federal Government may not undertake condemnation proceedings for the purpose of acquiring public right-of-way or access to Wilson Creek against the private property of T. Henry Wilson, Jr., or his heirs or assigns, located in Avery County, North Carolina (within the area 36°, 4 min., 21 sec. North 81°, 47 min., 37° West and 36°, 3 min., 13 sec. North and 81° 45 min. 55 sec. West), in the area of Wilson Creek designated as a wild river.

(162) WEKIVA RIVER, WEKIWA SPRINGS RUN, ROCK SPRINGS RUN, AND BLACK WATER CREEK, FLORIDA.—The 41.6-mile segments referred to in this paragraph, to be administered by the Secretary of the Interior:

(A) WEKIVA RIVER AND WEKIWA SPRINGS RUN.—The 14.9 miles of the Wekiva River, along Wekiwa Springs Run from its confluence with the St. Johns River to Wekiwa Springs, to be administered in the following classifications:

(i) From the confluence with the St. Johns River to the southern boundary of the Lower Wekiva River State Preserve, approximately 4.4 miles, as a wild river.

(ii) From the southern boundary of the Lower Wekiva River State Preserve to the northern boundary of Rock Springs State Reserve at the Wekiva River, approximately 3.4 miles, as a recreational river.

(iii) From the northern boundary of Rock Springs State Reserve at the Wekiva River to the southern boundary of Rock Springs State Reserve at the Wekiva River, approximately 5.9 miles, as a wild river.

(iv) From the southern boundary of Rock Springs State Reserve at the Wekiva River upstream along Wekiwa Springs Run to Wekiwa Springs, approximately 1.2 miles, as a recreational river.

(B) ROCK SPRINGS RUN.—The 8.8 miles from the confluence of Rock Springs Run with the Wekiwa Springs Run forming the Wekiva River to its headwaters at Rock Springs, to be administered in the following classifications:

(i) From the confluence with Wekiwa Springs Run to the western boundary of Rock Springs Run State Reserve at Rock Springs Run, approximately 6.9 miles, as a wild river.

(ii) From the western boundary of Rock Springs Run State Reserve at Rock Springs Run to Rock Springs, approximately 1.9 miles, as a recreational river.

(C) BLACK WATER CREEK.—The 17.9 miles from the confluence of Black Water Creek with the Wekiva River to outflow from Lake Norris, to be administered in the following classifications:

(i) From the confluence with the Wekiva River to approximately .25 mile downstream of the Seminole State Forest road crossing, approximately 4.1 miles, as a wild river.

(ii) From approximately .25 mile downstream of the Seminole State Forest road to approximately .25 mile upstream of the Seminole State Forest road crossing, approximately .5 mile, as a scenic river.

(iii) From approximately .25 mile upstream of the Seminole State Forest road crossing to approximately .25 mile downstream of the old railroad grade crossing (approximately River Mile 9), approximately 4.4 miles, as a wild river.

(iv) From approximately .25 mile downstream of the old railroad grade crossing (approximately River Mile 9), upstream to the boundary of Seminole State Forest (ap-

[12] So in original. The semicolon probably should be a comma.

proximately River Mile 10.6), approximately 1.6 miles, as a scenic river.

(v) From the boundary of Seminole State Forest (approximately River Mile 10.6) to approximately .25 mile downstream of the State Road 44 crossing, approximately .9 mile, as a wild river.

(vi) From approximately .25 mile downstream of State Road 44 to approximately .25 mile upstream of the State Road 44A crossing, approximately .6 mile, as a recreational river.

(vii) From approximately .25 mile upstream of the State Road 44A crossing to approximately .25 mile downstream of the Lake Norris Road crossing, approximately 4.7 miles, as a wild river.

(viii) From approximately .25 mile downstream of the Lake Norris Road crossing to the outflow from Lake Norris, approximately 1.1 miles, as a recreational river.

(163) WHITE CLAY CREEK, DELAWARE AND PENNSYLVANIA.—The 190 miles of river segments of White Clay Creek (including tributaries of White Clay Creek and all second order tributaries of the designated segments) in the States of Delaware and Pennsylvania, as depicted on the recommended designation and classification maps (dated June 2000), to be administered by the Secretary of the Interior, as follows:

(A) 30.8 miles of the east branch, including Trout Run, beginning at the headwaters within West Marlborough township downstream to a point that is 500 feet north of the Borough of Avondale wastewater treatment facility, as a recreational river.

(B) 15.0 miles of the east branch beginning at the southern boundary line of the Borough of Avondale to a point where the East Branch enters New Garden Township at the Franklin Township boundary line, including Walnut Run and Broad Run outside the boundaries of the White Clay Creek Preserve, as a recreational river.

(C) 4.0 miles of the east branch that flow through the boundaries of the White Clay Creek Preserve, Pennsylvania, beginning at the northern boundary line of London Britain township and downstream to the confluence of the middle and east branches, as a scenic river.

(D) 6.8 miles of the middle branch, beginning at the headwaters within Londonderry township downstream to a point that is 500 feet north of the Borough of West Grove wastewater treatment facility, as a recreational river.

(E) 14 miles of the middle branch, beginning at a point that is 500 feet south of the Borough of West Grove wastewater treatment facility downstream to the boundary of the White Clay Creek Preserve in London Britain township, as a recreational river.

(F) 2.1 miles of the middle branch that flow within the boundaries of the White Clay Creek Preserve in London Britain township, as a scenic river.

(G) 17.2 miles of the west branch, beginning at the headwaters within Penn township downstream to the confluence with the middle branch, as a recreational river.

(H) 12.7 miles of the main stem, excluding Lamborn Run, that flow through the boundaries of the White Clay Creek Preserve, Pennsylvania and Delaware, and White Clay Creek State Park, Delaware, beginning at the confluence of the east and middle branches in London Britain township, Pennsylvania, downstream to the northern boundary line of the city of Newark, Delaware, as a scenic river.

(I) 5.4 miles of the main stem (including all second order tributaries outside the boundaries of the White Clay Creek Preserve and White Clay Creek State Park), beginning at the confluence of the east and middle branches in London Britain township, Pennsylvania, downstream to the northern boundary of the city of Newark, Delaware, as a recreational river.

(J) 16.8 miles of the main stem beginning at Paper Mill Road downstream to the Old Route 4 bridge, as a recreational river.

(K) 4.4 miles of the main stem beginning at the southern boundary of the property of the corporation known as United Water Delaware downstream to the confluence of White Clay Creek with the Christina River, as a recreational river.

(L) 1.3 miles of Middle Run outside the boundaries of the Middle Run Natural Area, as a recreational river.

(M) 5.2 miles of Middle Run that flow within the boundaries of the Middle Run Natural Area, as a scenic river.

(N) 15.6 miles of Pike Creek, as a recreational river.

(O) 38.7 miles of Mill Creek, as a recreational river.

(164) WILDHORSE AND KIGER CREEKS, OREGON.—The following segments in the Steens Mountain Cooperative Management and Protection Area in the State of Oregon, to be administered by the Secretary of the Interior as wild rivers:

(A) The 2.6-mile segment of Little Wildhorse Creek from its headwaters to its confluence with Wildhorse Creek.

(B) The 7.0-mile segment of Wildhorse Creek from its headwaters, and including .36 stream miles into section 34, township 34 south, range 33 east.

(C) The approximately 4.25-mile segment of Kiger Creek from its headwaters to the point at which it leaves the Steens Mountain Wilderness Area within the Steens Mountain Cooperative Management and Protection Area.

(165) LOWER DELAWARE RIVER AND ASSOCIATED TRIBUTARIES, NEW JERSEY AND PENNSYLVANIA.—(A) The 65.6 miles of river segments in New Jersey and Pennsylvania, consisting of—

(i) the segment from river mile 193.8 to the northern border of the city of Easton, Pennsylvania (approximately 10.5 miles), as a recreational river;

(ii) the segment from a point just south of the Gilbert Generating Station to a point just north of the Point Pleasant Pumping Station (approximately 14.2 miles), as a recreational river;

(iii) the segment from the point just south of the Point Pleasant Pumping Station to a point 1,000 feet north of the Route 202 bridge

(approximately 6.3 miles), as a recreational river;

(iv) the segment from a point 1,750 feet south of the Route 202 bridge to the southern border of the town of New Hope, Pennsylvania (approximately 1.9 miles), as a recreational river;

(v) the segment from the southern boundary of the town of New Hope, Pennsylvania, to the town of Washington Crossing, Pennsylvania (approximately 6 miles), as a recreational river;

(vi) Tinicum Creek (approximately 14.7 miles), as a scenic river;

(vii) Tohickon Creek from the Lake Nockamixon Dam to the Delaware River (approximately 10.7 miles), as a scenic river; and

(viii) Paunacussing Creek in Solebury Township (approximately 3 miles), as a recreational river.

(B) ADMINISTRATION.—The river segments referred to in subparagraph (A) shall be administered by the Secretary of the Interior. Notwithstanding section 1281(c) of this title, the river segments shall not be administered as part of the National Park System.

(166) RIVERS OF CARIBBEAN NATIONAL FOREST, PUERTO RICO.—

(A) RIO MAMEYES.—The segment of approximately 4.5 miles from its headwaters in the Baño de Oro Research Natural Area to the boundary of the Caribbean National Forest, to be administered by the Secretary of Agriculture as follows:

(i) As a wild river from its headwaters in the Baño de Oro Research Natural Area to the crossing point of Trail No. 24/11 (approximately 500 feet upstream from the confluence with the Rio de La Mina), a total of approximately 2.1 miles.

(ii) As a scenic river from the crossing point of Trail No. 24/11 to the access point of Trail No. 7, a total of approximately 1.4 miles.

(iii) As a recreational river from the access point of Trail No. 7 to the national forest boundary, a total of approximately 1.0 miles.

(B) RIO DE LA MINA.—The segment of approximately 2.1 miles from its headwaters to its confluence with the Rio Mameyes, to be administered by the Secretary of Agriculture as follows:

(i) As a recreational river from its headwaters in the El Yunque Recreation Area downstream to La Mina Falls, a total of approximately 0.9 miles.

(ii) As a scenic river from La Mina falls[13] downstream to its confluence with the Rio Mameyes, a total of approximately 1.2 miles.

(C) RIO ICACOS.—The segment of approximately 2.3 miles from its headwaters to the boundary of the Caribbean National Forest, to be administered by the Secretary of Agriculture as a scenic river.

(167) WHITE SALMON RIVER, WASHINGTON.—The 20 miles of river segments of the main stem of the White Salmon River and Cascade Creek, Washington, to be administered by the Secretary of Agriculture in the following classifications:

(A) The approximately 1.6-mile segment of the main stem of the White Salmon River from the headwaters on Mount Adams in section 17, township 8 north, range 10 east, downstream to the Mount Adams Wilderness boundary as a wild river.

(B) The approximately 5.1-mile segment of Cascade Creek from its headwaters on Mount Adams in section 10, township 8 north, range 10 east, downstream to the Mount Adams Wilderness boundary as a wild river.

(C) The approximately 1.5-mile segment of Cascade Creek from the Mount Adams Wilderness boundary downstream to its confluence with the White Salmon River as a scenic river.

(D) The approximately 11.8-mile segment of the main stem of the White Salmon River from the Mount Adams Wilderness boundary downstream to the Gifford Pinchot National Forest boundary as a scenic river.

(168) BLACK BUTTE RIVER, CALIFORNIA.—The following segments of the Black Butte River in the State of California, to be administered by the Secretary of Agriculture:

(A) The 16 miles of Black Butte River, from the Mendocino County Line to its confluence with Jumpoff Creek, as a wild river.

(B) The 3.5 miles of Black Butte River from its confluence with Jumpoff Creek to its confluence with Middle Eel River, as a scenic river.

(C) The 1.5 miles of Cold Creek from the Mendocino County Line to its confluence with Black Butte River, as a wild river.

(169) MUSCONETCONG RIVER, NEW JERSEY.—

(A) DESIGNATION.—The 24.2 miles of river segments in New Jersey, consisting of—

(i) the approximately 3.5-mile segment from Saxton Falls to the Route 46 bridge, to be administered by the Secretary of the Interior as a scenic river; and

(ii) the approximately 20.7-mile segment from the Kings Highway bridge to the railroad tunnels at Musconetcong Gorge, to be administered by the Secretary of the Interior as a recreational river.

(B) ADMINISTRATION.—Notwithstanding section 1281(c) of this title, the river segments designated under subparagraph (A) shall not be administered as part of the National Park System.

(170) EIGHTMILE RIVER, CONNECTICUT.—Segments of the main stem and specified tributaries of the Eightmile River in the State of Connecticut, totaling approximately 25.3 miles, to be administered by the Secretary of the Interior as follows:

(A) The entire 10.8-mile segment of the main stem, starting at its confluence with Lake Hayward Brook to its confluence with the Connecticut River at the mouth of Hamburg Cove, as a scenic river.

(B) The 8.0-mile segment of the East Branch of the Eightmile River starting at Witch Meadow Road to its confluence with the main stem of the Eightmile River, as a scenic river.

(C) The 3.9-mile segment of Harris Brook starting with the confluence of an unnamed

[13] So in original. Probably should be capitalized.

stream lying 0.74 miles due east of the intersection of Hartford Road (State Route 85) and Round Hill Road to its confluence with the East Branch of the Eightmile River, as a scenic river.

(D) The 1.9-mile segment of Beaver Brook starting at its confluence with Cedar Pond Brook to its confluence with the main stem of the Eightmile River, as a scenic river.

(E) The 0.7-mile segment of Falls Brook from its confluence with Tisdale Brook to its confluence with the main stem of the Eightmile River at Hamburg Cove, as a scenic river.

(171) SOUTH FORK CLACKAMAS RIVER, OREGON.—The 4.2-mile segment of the South Fork Clackamas River from its confluence with the East Fork of the South Fork Clackamas to its confluence with the Clackamas River, to be administered by the Secretary of Agriculture as a wild river.

(172) EAGLE CREEK, OREGON.—The 8.3-mile segment of Eagle Creek from its headwaters to the Mount Hood National Forest boundary, to be administered by the Secretary of Agriculture as a wild river.

(173) MIDDLE FORK HOOD RIVER.—The 3.7-mile segment of the Middle Fork Hood River from the confluence of Clear and Coe Branches to the north section line of section 11, township 1 south, range 9 east, to be administered by the Secretary of Agriculture as a scenic river.

(174) SOUTH FORK ROARING RIVER, OREGON.—The 4.6-mile segment of the South Fork Roaring River from its headwaters to its confluence with Roaring River, to be administered by the Secretary of Agriculture as a wild river.

(175) ZIG ZAG RIVER, OREGON.—The 4.3-mile segment of the Zig Zag River from its headwaters to the Mount Hood Wilderness boundary, to be administered by the Secretary of Agriculture as a wild river.

(176) FIFTEENMILE CREEK, OREGON.—

(A) IN GENERAL.—The 11.1-mile segment of Fifteenmile Creek from its source at Senecal Spring to the southern edge of the northwest quarter of the northwest quarter of section 20, township 2 south, range 12 east, to be administered by the Secretary of Agriculture in the following classes:

(i) The 2.6-mile segment from its source at Senecal Spring to the Badger Creek Wilderness boundary, as a wild river.

(ii) The 0.4-mile segment from the Badger Creek Wilderness boundary to the point 0.4 miles downstream, as a scenic river.

(iii) The 7.9-mile segment from the point 0.4 miles downstream of the Badger Creek Wilderness boundary to the western edge of section 20, township 2 south, range 12 east as a wild river.

(iv) The 0.2-mile segment from the western edge of section 20, township 2 south, range 12 east, to the southern edge of the northwest quarter of the northwest quarter of section 20, township 2 south, range 12 east as a scenic river.

(B) INCLUSIONS.—Notwithstanding subsection (b), the lateral boundaries of both the wild river area and the scenic river area along Fifteenmile Creek shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river.

(177) EAST FORK HOOD RIVER, OREGON.—The 13.5-mile segment of the East Fork Hood River from Oregon State Highway 35 to the Mount Hood National Forest boundary, to be administered by the Secretary of Agriculture as a recreational river.

(178) COLLAWASH RIVER, OREGON.—The 17.8-mile segment of the Collawash River from the headwaters of the East Fork Collawash to the confluence of the mainstream of the Collawash River with the Clackamas River, to be administered by the Secretary of Agriculture in the following classes:

(A) The 11.0-mile segment from the headwaters of the East Fork Collawash River to Buckeye Creek, as a scenic river.

(B) The 6.8-mile segment from Buckeye Creek to the Clackamas River, as a recreational river.

(179) FISH CREEK, OREGON.—The 13.5-mile segment of Fish Creek from its headwaters to the confluence with the Clackamas River, to be administered by the Secretary of Agriculture as a recreational river.

(180) BATTLE CREEK, IDAHO.—The 23.4 miles of Battle Creek from the confluence of the Owyhee River to the upstream boundary of the Owyhee River Wilderness, to be administered by the Secretary of the Interior as a wild river.

(181) BIG JACKS CREEK, IDAHO.—The 35.0 miles of Big Jacks Creek from the downstream border of the Big Jacks Creek Wilderness in sec. 8, T. 8 S., R. 4 E., to the point at which it enters the NW ¼ of sec. 26, T. 10 S., R. 2 E., Boise Meridian, to be administered by the Secretary of the Interior as a wild river.

(182) BRUNEAU RIVER, IDAHO.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the 39.3-mile segment of the Bruneau River from the downstream boundary of the Bruneau-Jarbidge Wilderness to the upstream confluence with the west fork of the Bruneau River, to be administered by the Secretary of the Interior as a wild river.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the 0.6-mile segment of the Bruneau River at the Indian Hot Springs public road access shall be administered by the Secretary of the Interior as a recreational river.

(183) WEST FORK BRUNEAU RIVER, IDAHO.—The approximately 0.35 miles of the West Fork of the Bruneau River from the confluence with the Jarbidge River to the downstream boundary of the Bruneau Canyon Grazing Allotment in the SE/NE of sec. 5, T. 13 S., R. 7 E., Boise Meridian, to be administered by the Secretary of the Interior as a wild river.

(184) COTTONWOOD CREEK, IDAHO.—The 2.6 miles of Cottonwood Creek from the confluence with Big Jacks Creek to the upstream boundary of the Big Jacks Creek Wilderness, to be administered by the Secretary of the Interior as a wild river.

(185) DEEP CREEK, IDAHO.—The 13.1-mile segment of Deep Creek from the confluence with the Owyhee River to the upstream boundary of the Owyhee River Wilderness in sec. 30, T. 12 S.,

R. 2 W., Boise Meridian, to be administered by the Secretary of the Interior as a wild river.

(186) DICKSHOOTER CREEK, IDAHO.—The 9.25 miles of Dickshooter Creek from the confluence with Deep Creek to a point on the stream ¼ mile due west of the east boundary of sec. 16, T. 12 S., R. 2 W., Boise Meridian, to be administered by the Secretary of the Interior as a wild river.

(187) DUNCAN CREEK, IDAHO.—The 0.9-mile segment of Duncan Creek from the confluence with Big Jacks Creek upstream to the east boundary of sec. 18, T. 10 S., R. 4 E., Boise Meridian, to be administered by the Secretary of the Interior as a wild river.

(188) JARBIDGE RIVER, IDAHO.—The 28.8 miles of the Jarbidge River from the confluence with the West Fork Bruneau River to the upstream boundary of the Bruneau-Jarbidge Rivers Wilderness, to be administered by the Secretary of the Interior as a wild river.

(189) LITTLE JACKS CREEK, IDAHO.—The 12.4 miles of Little Jacks Creek from the downstream boundary of the Little Jacks Creek Wilderness, upstream to the mouth of OX Prong Creek, to be administered by the Secretary of the Interior as a wild river.

(190) NORTH FORK OWYHEE RIVER, IDAHO.—The following segments of the North Fork of the Owyhee River, to be administered by the Secretary of the Interior:

(A) The 5.7-mile segment from the Idaho-Oregon State border to the upstream boundary of the private land at the Juniper Mt. Road crossing, as a recreational river.

(B) The 15.1-mile segment from the upstream boundary of the North Fork Owyhee River recreational segment designated in paragraph (A) to the upstream boundary of the North Fork Owyhee River Wilderness, as a wild river.

(191) OWYHEE RIVER, IDAHO.—

(A) IN GENERAL.—Subject to subparagraph (B), the 67.3 miles of the Owyhee River from the Idaho-Oregon State border to the upstream boundary of the Owyhee River Wilderness, to be administered by the Secretary of the Interior as a wild river.

(B) ACCESS.—The Secretary of the Interior shall allow for continued access across the Owyhee River at Crutchers Crossing, subject to such terms and conditions as the Secretary of the Interior determines to be necessary.

(192) RED CANYON, IDAHO.—The 4.6 miles of Red Canyon from the confluence of the Owyhee River to the upstream boundary of the Owyhee River Wilderness, to be administered by the Secretary of the Interior as a wild river.

(193) SHEEP CREEK, IDAHO.—The 25.6 miles of Sheep Creek from the confluence with the Bruneau River to the upstream boundary of the Bruneau-Jarbidge Rivers Wilderness, to be administered by the Secretary of the Interior as a wild river.

(194) SOUTH FORK OWYHEE RIVER, IDAHO.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the 31.4-mile segment of the South Fork of the Owyhee River upstream from the confluence with the Owyhee River to the upstream boundary of the Owyhee River Wilderness at the Idaho–Nevada State border, to be administered by the Secretary of the Interior as a wild river.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the 1.2-mile segment of the South Fork of the Owyhee River from the point at which the river enters the southernmost boundary to the point at which the river exits the northernmost boundary of private land in sec. 25 and 26, T. 14 S., R. 5 W., Boise Meridian, shall be administered by the Secretary of the Interior as a recreational river.

(195) WICKAHONEY CREEK, IDAHO.—The 1.5 miles of Wickahoney Creek from the confluence of Big Jacks Creek to the upstream boundary of the Big Jacks Creek Wilderness, to be administered by the Secretary of the Interior as a wild river.

(196) AMARGOSA RIVER, CALIFORNIA.—The following segments of the Amargosa River in the State of California, to be administered by the Secretary of the Interior:

(A) The approximately 4.1-mile segment of the Amargosa River from the northern boundary of sec. 7, T. 21 N., R. 7 E., to 100 feet upstream of the Tecopa Hot Springs road crossing, as a scenic river.

(B) The approximately 8-mile segment of the Amargosa River from 100 feet downstream of the Tecopa Hot Springs Road crossing to 100 feet upstream of the Old Spanish Trail Highway crossing near Tecopa, as a scenic river.

(C) The approximately 7.9-mile segment of the Amargosa River from the northern boundary of sec. 16, T. 20 N., R. 7 E., to .25 miles upstream of the confluence with Sperry Wash in sec. 10, T. 19 N., R. 7 E., as a wild river.

(D) The approximately 4.9-mile segment of the Amargosa River from .25 miles upstream of the confluence with Sperry Wash in sec. 10, T. 19 N., R. 7 E. to 100 feet upstream of the Dumont Dunes access road crossing in sec. 32, T. 19 N., R. 7 E., as a recreational river.

(E) The approximately 1.4-mile segment of the Amargosa River from 100 feet downstream of the Dumont Dunes access road crossing in sec. 32, T. 19 N., R. 7 E., as a recreational river.

(197) OWENS RIVER HEADWATERS, CALIFORNIA.—The following segments of the Owens River in the State of California, to be administered by the Secretary of Agriculture:

(A) The 2.3-mile segment of Deadman Creek from the 2-forked source east of San Joaquin Peak to the confluence with the unnamed tributary flowing north into Deadman Creek from sec. 12, T. 3 S., R. 26 E., as a wild river.

(B) The 2.3-mile segment of Deadman Creek from the unnamed tributary confluence in sec. 12, T. 3 S., R. 26 E., to the Road 3S22 crossing, as a scenic river.

(C) The 4.1-mile segment of Deadman Creek from the Road 3S22 crossing to .25 miles downstream of the Highway 395 crossing, as a recreational river.

(D) The 3-mile segment of Deadman Creek from .25 miles downstream of the Highway 395 crossing to 100 feet upstream of Big Springs, as a scenic river.

(E) The 1-mile segment of the Upper Owens River from 100 feet upstream of Big Springs to the private property boundary in sec. 19, T. 2 S., R. 28 E., as a recreational river.

(F) The 4-mile segment of Glass Creek from its 2-forked source to 100 feet upstream of the Glass Creek Meadow Trailhead parking area in sec. 29, T. 2 S., R. 27 E., as a wild river.

(G) The 1.3-mile segment of Glass Creek from 100 feet upstream of the trailhead parking area in sec. 29 to the end of Glass Creek Road in sec. 21, T. 2 S., R. 27 E., as a scenic river.

(H) The 1.1-mile segment of Glass Creek from the end of Glass Creek Road in sec. 21, T. 2 S., R. 27 E., to the confluence with Deadman Creek, as a recreational river.

(198) COTTONWOOD CREEK, CALIFORNIA.—The following segments of Cottonwood Creek in the State of California:

(A) The 17.4-mile segment from its headwaters at the spring in sec. 27, T 4 S., R. 34 E., to the Inyo National Forest boundary at the east section line of sec 3, T. 6 S., R. 36 E., as a wild river to be administered by the Secretary of Agriculture.

(B) The 4.1-mile segment from the Inyo National Forest boundary to the northern boundary of sec. 5, T. 4 S., R. 34 E., as a recreational river, to be administered by the Secretary of the Interior.

(199) PIRU CREEK, CALIFORNIA.—The following segments of Piru Creek in the State of California, to be administered by the Secretary of Agriculture:

(A) The 3-mile segment of Piru Creek from 0.5 miles downstream of Pyramid Dam at the first bridge crossing to the boundary of the Sespe Wilderness, as a recreational river.

(B) The 4.25-mile segment from the boundary of the Sespe Wilderness to the boundary between Los Angeles and Ventura Counties, as a wild river.

(200) NORTH FORK SAN JACINTO RIVER, CALIFORNIA.—The following segments of the North Fork San Jacinto River in the State of California, to be administered by the Secretary of Agriculture:

(A) The 2.12-mile segment from the source of the North Fork San Jacinto River at Deer Springs in Mt. San Jacinto State Park to the State Park boundary, as a wild river.

(B) The 1.66-mile segment from the Mt. San Jacinto State Park boundary to the Lawler Park boundary in section 26, township 4 south, range 2 east, San Bernardino meridian, as a scenic river.

(C) The 0.68-mile segment from the Lawler Park boundary to its confluence with Fuller Mill Creek, as a recreational river.

(D) The 2.15-mile segment from its confluence with Fuller Mill Creek to .25 miles upstream of the 5S09 road crossing, as a wild river.

(E) The 0.6-mile segment from .25 miles upstream of the 5S09 road crossing to its confluence with Stone Creek, as a scenic river.

(F) The 2.91-mile segment from the Stone Creek confluence to the northern boundary of section 17, township 5 south, range 2 east, San Bernardino meridian, as a wild river.

(201) FULLER MILL CREEK, CALIFORNIA.—The following segments of Fuller Mill Creek in the State of California, to be administered by the Secretary of Agriculture:

(A) The 1.2-mile segment from the source of Fuller Mill Creek in the San Jacinto Wilderness to the Pinewood property boundary in section 13, township 4 south, range 2 east, San Bernardino meridian, as a scenic river.

(B) The 0.9-mile segment in the Pine Wood property, as a recreational river.

(C) The 1.4-mile segment from the Pinewood property boundary in section 23, township 4 south, range 2 east, San Bernardino meridian, to its confluence with the North Fork San Jacinto River, as a scenic river.

(202) PALM CANYON CREEK, CALIFORNIA.—The 8.1-mile segment of Palm Canyon Creek in the State of California from the southern boundary of section 6, township 7 south, range 5 east, San Bernardino meridian, to the San Bernardino National Forest boundary in section 1, township 6 south, range 4 east, San Bernardino meridian, to be administered by the Secretary of Agriculture as a wild river, and the Secretary shall enter into a cooperative management agreement with the Agua Caliente Band of Cahuilla Indians to protect and enhance river values.

(203) BAUTISTA CREEK, CALIFORNIA.—The 9.8-mile segment of Bautista Creek in the State of California from the San Bernardino National Forest boundary in section 36, township 6 south, range 2 east, San Bernardino meridian, to the San Bernardino National Forest boundary in section 2, township 6 south, range 1 east, San Bernardino meridian, to be administered by the Secretary of Agriculture as a recreational river.

(204) ZION NATIONAL PARK, UTAH.—The approximately 165.5 miles of segments of the Virgin River and tributaries of the Virgin River across Federal land within and adjacent to Zion National Park, as generally depicted on the map entitled ''Wild and Scenic River Segments Zion National Park and Bureau of Land Management'' and dated April 2008, to be administered by the Secretary of the Interior in the following classifications:

(A) TAYLOR CREEK.—The 4.5-mile segment from the junction of the north, middle, and south forks of Taylor Creek, west to the park boundary and adjacent land rim-to-rim, as a scenic river.

(B) NORTH FORK OF TAYLOR CREEK.—The segment from the head of North Fork to the junction with Taylor Creek and adjacent land rim-to-rim, as a wild river.

(C) MIDDLE FORK OF TAYLOR CREEK.—The segment from the head of Middle Fork on Bureau of Land Management land to the junction with Taylor Creek and adjacent land rim-to-rim, as a wild river.

(D) SOUTH FORK OF TAYLOR CREEK.—The segment from the head of South Fork to the junction with Taylor Creek and adjacent land rim-to-rim, as a wild river.

(E) TIMBER CREEK AND TRIBUTARIES.—The 3.1-mile segment from the head of Timber Creek and tributaries of Timber Creek to the junction with LaVerkin Creek and adjacent land rim-to-rim, as a wild river.

(F) LAVERKIN CREEK.—The 16.1-mile segment beginning in T. 38 S., R. 11 W., sec. 21, on Bureau of Land Management land, southwest through Zion National Park, and ending at the south end of T. 40 S., R. 12 W., sec. 7, and adjacent land ½-mile wide, as a wild river.

(G) WILLIS CREEK.—The 1.9-mile segment beginning on Bureau of Land Management land in the SWSW sec. 27, T. 38 S., R. 11 W., to the junction with LaVerkin Creek in Zion National Park and adjacent land rim-to-rim, as a wild river.

(H) BEARTRAP CANYON.—The 2.3-mile segment beginning on Bureau of Management land in the SWNW sec. 3, T. 39 S., R. 11 W., to the junction with LaVerkin Creek and the segment from the headwaters north of Long Point to the junction with LaVerkin Creek and adjacent land rim-to-rim, as a wild river.

(I) HOP VALLEY CREEK.—The 3.3-mile segment beginning at the southern boundary of T. 39 S., R. 11 W., sec. 20, to the junction with LaVerkin Creek and adjacent land ½-mile wide, as a wild river.

(J) CURRENT CREEK.—The 1.4-mile segment from the head of Current Creek to the junction with LaVerkin Creek and adjacent land rim-to-rim, as a wild river.

(K) CANE CREEK.—The 0.6-mile segment from the head of Smith Creek to the junction with LaVerkin Creek and adjacent land ½-mile wide, as a wild river.

(L) SMITH CREEK.—The 1.3-mile segment from the head of Smith Creek to the junction with LaVerkin Creek and adjacent land ½-mile wide, as a wild river.

(M) NORTH CREEK LEFT AND RIGHT FORKS.—The segment of the Left Fork from the junction with Wildcat Canyon to the junction with Right Fork, from the head of Right Fork to the junction with Left Fork, and from the junction of the Left and Right Forks southwest to Zion National Park boundary and adjacent land rim-to-rim, as a wild river.

(N) WILDCAT CANYON (BLUE CREEK).—The segment of Blue Creek from the Zion National Park boundary to the junction with the Right Fork of North Creek and adjacent land rim-to-rim, as a wild river.

(O) LITTLE CREEK.—The segment beginning at the head of Little Creek to the junction with the Left Fork of North Creek and adjacent land ½-mile wide, as a wild river.

(P) RUSSELL GULCH.—The segment from the head of Russell Gulch to the junction with the Left Fork of North Creek and adjacent land rim-to-rim, as a wild river.

(Q) GRAPEVINE WASH.—The 2.6-mile segment from the Lower Kolob Plateau to the junction with the Left Fork of North Creek and adjacent land rim-to-rim, as a scenic river.

(R) PINE SPRING WASH.—The 4.6-mile segment to the junction with the left fork of North Creek and adjacent land ½-mile, as a scenic river.

(S) WOLF SPRINGS WASH.—The 1.4-mile segment from the head of Wolf Springs Wash to the junction with Pine Spring Wash and adjacent land ½-mile wide, as a scenic river.

(T) KOLOB CREEK.—The 5.9-mile segment of Kolob Creek beginning in T. 39 S., R. 10 W., sec. 30, through Bureau of Land Management land and Zion National Park land to the junction with the North Fork of the Virgin River and adjacent land rim-to-rim, as a wild river.

(U) OAK CREEK.—The 1-mile stretch of Oak Creek beginning in T. 39 S., R. 10 W., sec. 19, to the junction with Kolob Creek and adjacent land rim-to-rim, as a wild river.

(V) GOOSE CREEK.—The 4.6-mile segment of Goose Creek from the head of Goose Creek to the junction with the North Fork of the Virgin River and adjacent land rim-to-rim, as a wild river.

(W) DEEP CREEK.—The 5.3-mile segment of Deep Creek beginning on Bureau of Land Management land at the northern boundary of T. 39 S., R. 10 W., sec. 23, south to the junction of the North Fork of the Virgin River and adjacent land rim-to-rim, as a wild river.

(X) NORTH FORK OF THE VIRGIN RIVER.—The 10.8-mile segment of the North Fork of the Virgin River beginning on Bureau of Land Management land at the eastern border of T. 39 S., R. 10 W., sec. 35, to Temple of Sinawava and adjacent land rim-to-rim, as a wild river.

(Y) NORTH FORK OF THE VIRGIN RIVER.—The 8-mile segment of the North Fork of the Virgin River from Temple of Sinawava south to the Zion National Park boundary and adjacent land ½-mile wide, as a recreational river.

(Z) IMLAY CANYON.—The segment from the head of Imlay Creek to the junction with the North Fork of the Virgin River and adjacent land rim-to-rim, as a wild river.

(AA) ORDERVILLE CANYON.—The segment from the eastern boundary of Zion National Park to the junction with the North Fork of the Virgin River and adjacent land rim-to-rim, as a wild river.

(BB) MYSTERY CANYON.—The segment from the head of Mystery Canyon to the junction with the North Fork of the Virgin River and adjacent land rim-to-rim, as a wild river.

(CC) ECHO CANYON.—The segment from the eastern boundary of Zion National Park to the junction with the North Fork of the Virgin River and adjacent land rim-to-rim, as a wild river.

(DD) BEHUNIN CANYON.—The segment from the head of Behunin Canyon to the junction with the North Fork of the Virgin River and adjacent land rim-to-rim, as a wild river.

(EE) HEAPS CANYON.—The segment from the head of Heaps Canyon to the junction with the North Fork of the Virgin River and adjacent land rim-to-rim, as a wild river.

(FF) BIRCH CREEK.—The segment from the head of Birch Creek to the junction with the North Fork of the Virgin River and adjacent land ½-mile wide, as a wild river.

(GG) OAK CREEK.—The segment of Oak Creek from the head of Oak Creek to where the forks join and adjacent land ½-mile wide, as a wild river.

(HH) OAK CREEK.—The 1-mile segment of Oak Creek from the point at which the 2 forks of Oak Creek join to the junction with the North Fork of the Virgin River and adjacent land ½-mile wide, as a recreational river.

(II) CLEAR CREEK.—The 6.4-mile segment of Clear Creek from the eastern boundary of Zion National Park to the junction with Pine Creek and adjacent land rim-to-rim, as a recreational river.

(JJ) PINE CREEK.—The 2-mile segment of Pine Creek from the head of Pine Creek to the junction with Clear Creek and adjacent land rim-to-rim, as a wild river.

(KK) PINE CREEK.—The 3-mile segment of Pine Creek from the junction with Clear Creek to the junction with the North Fork of the Virgin River and adjacent land rim-to-rim, as a recreational river.

(LL) EAST FORK OF THE VIRGIN RIVER.—The 8-mile segment of the East Fork of the Virgin River from the eastern boundary of Zion National Park through Parunuweap Canyon to the western boundary of Zion National Park and adjacent land ½-mile wide, as a wild river.

(MM) SHUNES CREEK.—The 3-mile segment of Shunes Creek from the dry waterfall on land administered by the Bureau of Land Management through Zion National Park to the western boundary of Zion National Park and adjacent land ½-mile wide as a wild river.

(205) FOSSIL CREEK, ARIZONA.—Approximately 16.8 miles of Fossil Creek from the confluence of Sand Rock and Calf Pen Canyons to the confluence with the Verde River, to be administered by the Secretary of Agriculture in the following classes:

(A) The approximately 2.7-mile segment from the confluence of Sand Rock and Calf Pen Canyons to the point where the segment exits the Fossil Spring Wilderness, as a wild river.

(B) The approximately 7.5-mile segment from where the segment exits the Fossil Creek Wilderness to the boundary of the Mazatzal Wilderness, as a recreational river.

(C) The 6.6-mile segment from the boundary of the Mazatzal Wilderness downstream to the confluence with the Verde River, as a wild river.

(206) SNAKE RIVER HEADWATERS, WYOMING.—The following segments of the Snake River System, in the State of Wyoming:

(A) BAILEY CREEK.—The 7-mile segment of Bailey Creek, from the divide with the Little Greys River north to its confluence with the Snake River, as a wild river.

(B) BLACKROCK CREEK.—The 22-mile segment from its source to the Bridger-Teton National Forest boundary, as a scenic river.

(C) BUFFALO FORK OF THE SNAKE RIVER.—The portions of the Buffalo Fork of the Snake River, consisting of—

(i) the 55-mile segment consisting of the North Fork, the Soda Fork, and the South Fork, upstream from Turpin Meadows, as a wild river;

(ii) the 14-mile segment from Turpin Meadows to the upstream boundary of Grand Teton National Park, as a scenic river; and

(iii) the 7.7-mile segment from the upstream boundary of Grand Teton National Park to its confluence with the Snake River, as a scenic river.

(D) CRYSTAL CREEK.—The portions of Crystal Creek, consisting of—

(i) the 14-mile segment from its source to the Gros Ventre Wilderness boundary, as a wild river; and

(ii) the 5-mile segment from the Gros Ventre Wilderness boundary to its confluence with the Gros Ventre River, as a scenic river.

(E) GRANITE CREEK.—The portions of Granite Creek, consisting of—

(i) the 12-mile segment from its source to the end of Granite Creek Road, as a wild river; and

(ii) the 9.5-mile segment from Granite Hot Springs to the point 1 mile upstream from its confluence with the Hoback River, as a scenic river.

(F) GROS VENTRE RIVER.—The portions of the Gros Ventre River, consisting of—

(i) the 16.5-mile segment from its source to Darwin Ranch, as a wild river;

(ii) the 39-mile segment from Darwin Ranch to the upstream boundary of Grand Teton National Park, excluding the section along Lower Slide Lake, as a scenic river; and

(iii) the 3.3-mile segment flowing across the southern boundary of Grand Teton National Park to the Highlands Drive Loop Bridge, as a scenic river.

(G) HOBACK RIVER.—The 10-mile segment from the point 10 miles upstream from its confluence with the Snake River to its confluence with the Snake River, as a recreational river.

(H) LEWIS RIVER.—The portions of the Lewis River, consisting of—

(i) the 5-mile segment from Shoshone Lake to Lewis Lake, as a wild river; and

(ii) the 12-mile segment from the outlet of Lewis Lake to its confluence with the Snake River, as a scenic river.

(I) PACIFIC CREEK.—The portions of Pacific Creek, consisting of—

(i) the 22.5-mile segment from its source to the Teton Wilderness boundary, as a wild river; and

(ii) the 11-mile segment from the Wilderness boundary to its confluence with the Snake River, as a scenic river.

(J) SHOAL CREEK.—The 8-mile segment from its source to the point 8 miles downstream from its source, as a wild river.

(K) SNAKE RIVER.—The portions of the Snake River, consisting of—

(i) the 47-mile segment from its source to Jackson Lake, as a wild river;

(ii) the 24.8-mile segment from 1 mile downstream of Jackson Lake Dam to 1 mile downstream of the Teton Park Road bridge at Moose, Wyoming, as a scenic river; and

(iii) the 19-mile segment from the mouth of the Hoback River to the point 1 mile upstream from the Highway 89 bridge at Alpine Junction, as a recreational river, the boundary of the western edge of the corridor for the portion of the segment extending from the point 3.3 miles downstream of the mouth of the Hoback River to the point 4 miles downstream of the mouth of the Hoback River being the ordinary high water mark.

(L) WILLOW CREEK.—The 16.2-mile segment from the point 16.2 miles upstream from its confluence with the Hoback River to its confluence with the Hoback River, as a wild river.

(M) WOLF CREEK.—The 7-mile segment from its source to its confluence with the Snake River, as a wild river.

(207) TAUNTON RIVER, MASSACHUSETTS.—The main stem of the Taunton River from its head-

waters at the confluence of the Town and Matfield Rivers in the Town of Bridgewater downstream 40 miles to the confluence with the Quequechan River at the Route 195 Bridge in the City of Fall River, to be administered by the Secretary of the Interior in cooperation with the Taunton River Stewardship Council as follows:

(A) The 18-mile segment from the confluence of the Town and Matfield Rivers to Route 24 in the Town of Raynham, as a scenic river.

(B) The 5-mile segment from Route 24 to 0.5 miles below Weir Bridge in the City of Taunton, as a recreational river.

(C) The 8-mile segment from 0.5 miles below Weir Bridge to Muddy Cove in the Town of Dighton, as a scenic river.

(D) The 9-mile segment from Muddy Cove to the confluence with the Quequechan River at the Route 195 Bridge in the City of Fall River, as a recreational river.

(b) Establishment of boundaries; classification

The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsection (a) of this section shall, within one year from the date of designation of such component under subsection (a) of this section (except where a different date if[14] provided in subsection (a) of this section), establish detailed boundaries therefor (which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river); and determine which of the classes outlined in section 1273(b) of this title best fit the river or its various segments.

Notice of the availability of the boundaries and classification, and of subsequent boundary amendments shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.

(c) Public inspection of maps and descriptions

Maps of all boundaries and descriptions of the classifications of designated river segments, and subsequent amendments to such boundaries, shall be available for public inspection in the offices of the administering agency in the District of Columbia and in locations convenient to the designated river.

(d) Comprehensive management plan for protection of river values; review of boundaries, classifications, and plans

(1) For rivers designated on or after January 1, 1986, the Federal agency charged with the administration of each component of the National Wild and Scenic Rivers System shall prepare a comprehensive management plan for such river segment to provide for the protection of the river values. The plan shall address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purposes of this chapter. The plan shall be coordinated with and may be incorporated into resource management planning for affected adjacent Federal lands. The plan shall be prepared, after consultation with State and local governments and the interested public within 3 full fiscal years after the date of designation. Notice of the completion and availability of such plans shall be published in the Federal Register.

(2) For rivers designated before January 1, 1986, all boundaries, classifications, and plans shall be reviewed for conformity within the requirements of this subsection within 10 years through regular agency planning processes.

(Pub. L. 90–542, §3, Oct. 2, 1968, 82 Stat. 907; Pub. L. 92–560, §2, Oct. 25, 1972, 86 Stat. 1174; Pub. L. 93–279, §1(a), May 10, 1974, 88 Stat. 122; Pub. L. 94–199, §3(a), Dec. 31, 1975, 89 Stat. 1117; Pub. L. 94–486, title I, §101, title II, §201, title III, §301, title VI, §601, Oct. 12, 1976, 90 Stat. 2327, 2329, 2330; Pub. L. 95–625, title VII, §§701–704(a), 705–708, 755, 763(a), Nov. 10, 1978, 92 Stat. 3521–3523, 3527–3529, 3533; Pub. L. 96–87, title IV, §401(p)(1), Oct. 12, 1979, 93 Stat. 666; Pub. L. 96–312, §9(a), July 23, 1980, 94 Stat. 952; Pub. L. 96–344, §16, Sept. 8, 1980, 94 Stat. 1137; Pub. L. 96–487, title VI, §§601–603, Dec. 2, 1980, 94 Stat. 2412–2414; Pub. L. 96–580, Dec. 23, 1980, 94 Stat. 3370; Pub. L. 98–231, §1, Mar. 14, 1984, 98 Stat. 60; Pub. L. 98–406, title I, §104, Aug. 28, 1984, 98 Stat. 1491; Pub. L. 98–425, title II, §201, Sept. 28, 1984, 98 Stat. 1632; Pub. L. 98–444, Oct. 4, 1984, 98 Stat. 1714; Pub. L. 98–494, §1, Oct. 19, 1984, 98 Stat. 2274; Pub. L. 99–530, §1, Oct. 27, 1986, 100 Stat. 3021; Pub. L. 99–590, title I, §101, title IV, §401, title V, §501, title VI, §601, Oct. 30, 1986, 100 Stat. 3330, 3334, 3337; Pub. L. 99–663, §13(c), Nov. 17, 1986, 100 Stat. 4294; Pub. L. 100–149, §1, Nov. 2, 1987, 101 Stat. 879; Pub. L. 100–150, §1, Nov. 3, 1987, 101 Stat. 881; Pub. L. 100–174, Nov. 24, 1987, 101 Stat. 924; Pub. L. 100–534, title III, §301, title V, §501, Oct. 26, 1988, 102 Stat. 2706, 2708; Pub. L. 100–547, title I, §101, Oct. 28, 1988, 102 Stat. 2736; Pub. L. 100–554, §1, Oct. 28, 1988, 102 Stat. 2776; Pub. L. 100–557, title I, §102, Oct. 28, 1988, 102 Stat. 2782; Pub. L. 100–633, §1, Nov. 7, 1988, 102 Stat. 3320; Pub. L. 100–668, title V, §501, Nov. 16, 1988, 102 Stat. 3967; Pub. L. 101–40, §2(a), June 20, 1989, 103 Stat. 81; Pub. L. 101–306, §2, June 6, 1990, 104 Stat. 260; Pub. L. 101–612, §10(b), Nov. 16, 1990, 104 Stat. 3215; Pub. L. 101–628, title XIII, §1302, Nov. 28, 1990, 104 Stat. 4509; Pub. L. 102–50, §2, May 24, 1991, 105 Stat. 254; Pub. L. 102–249, §3, Mar. 3, 1992, 106 Stat. 45; Pub. L. 102–271, §1, Apr. 20, 1992, 106 Stat. 108; Pub. L. 102–275, §2, Apr. 22, 1992, 106 Stat. 123; Pub. L. 102–301, §6, June 19, 1992, 106 Stat. 245; Pub. L. 102–432, §1, Oct. 23, 1992, 106 Stat. 2212; Pub. L. 102–536, §1, Oct. 27, 1992, 106 Stat. 3528; Pub. L. 103–162, §2, Dec. 1, 1993, 107 Stat. 1969; Pub. L. 103–170, §3, Dec. 2, 1993, 107 Stat. 1986; Pub. L. 103–242, §2, May 4, 1994, 108 Stat. 611; Pub. L. 103–313, §3, Aug. 26, 1994, 108 Stat. 1700; Pub. L. 103–437, §6(d)(40), Nov. 2, 1994, 108 Stat. 4585; Pub. L. 104–208, div. B, title I, §109, Sept. 30, 1996, 110 Stat. 3009–531; Pub. L. 104–314, Oct. 19, 1996, 110 Stat. 3823; Pub. L. 104–333, div. I, title IV, §§405(a), 406(d), 407(a), title X, §1023(h), Nov. 12, 1996, 110 Stat. 4149, 4151, 4223; Pub. L. 106–20, §2(b), (g), Apr. 9, 1999, 113 Stat. 31, 33; Pub. L. 106–176, title I, §106(a), Mar. 10, 2000, 114 Stat. 25; Pub. L. 106–192, §2(a), May 2, 2000, 114 Stat. 233; Pub. L. 106–261, Aug. 18, 2000, 114 Stat. 735; Pub. L. 106–299, §3, Oct. 13, 2000, 114 Stat. 1051; Pub. L. 106–357, §3, Oct. 24, 2000, 114

[14] So in original. Probably should be ''is''.

Stat. 1393; Pub. L. 106–399, title III, § 301(a), (b), Oct. 30, 2000, 114 Stat. 1667, 1668; Pub. L. 106–418, § 3, Nov. 1, 2000, 114 Stat. 1817; Pub. L. 107–365, § 2(b), Dec. 19, 2002, 116 Stat. 3027; Pub. L. 108–352, § 5, Oct. 21, 2004, 118 Stat. 1395; Pub. L. 108–447, div. E, title III, § 340, Dec. 8, 2004, 118 Stat. 3103; Pub. L. 109–44, § 2, Aug. 2, 2005, 119 Stat. 443; Pub. L. 109–362, § 7(a), Oct. 17, 2006, 120 Stat. 2070; Pub. L. 109–452, § 4, Dec. 22, 2006, 120 Stat. 3364; Pub. L. 110–229, title III, § 344(b), May 8, 2008, 122 Stat. 798; Pub. L. 111–11, title I, §§ 1203(a)(1), 1302, 1504(a), 1805(a), 1852, 1976(a), title V, §§ 5001, 5002(d), 5003(a), Mar. 30, 2009, 123 Stat. 1011, 1026, 1037, 1057, 1067, 1085, 1147, 1149, 1152.)

REFERENCES IN TEXT

Section 704(c) of the National Parks and Recreation Act of 1978, referred to in subsec. (a)(19), is section 704(c), Pub. L. 95–625, Nov. 10, 1978, 92 Stat. 3524, which is set out under this section in a note captioned ''Upper Delaware Segment Special Provisions''.

The Act establishing the Delaware Water Gap National Recreation Area, referred to in subsec. (a)(20), is Pub. L. 89–158, Sept. 1, 1965, 79 Stat. 612, which is classified generally to subchapter LXXIII (§ 460*o* et seq.) of chapter 1 of this title. For complete classification of this Act to the Code, see Tables.

The Raker Act, referred to in subsec. (a)(53), is act Dec. 19, 1913, ch. 4, 38 Stat. 242, which is not classified to the Code.

Section 14(b) of the Federal Advisory Committee Act, referred to in subsec. (a)(67)(B)(vii), is section 14(b) of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

Section 105 of the Omnibus Oregon Wild and Scenic Rivers Act of 1988, referred to in subsec. (a)(73)(E) and (85)(B), is section 105 of Pub. L. 100–557, which is set out as a note below.

Section 203 of the Flood Control Act of 1958, referred to in subsec. (a)(136)(D), is section 203 of Pub. L. 85–500, title II, July 3, 1958, 72 Stat. 305, which is not classified to the Code.

AMENDMENTS

2009—Subsec. (a)(76). Pub. L. 111–11, § 1302, substituted ''29-mile segment'' for ''19-mile segment'' in introductory provisions, substituted period for ''; and'' in subpar. (A), added subpars. (B) and (C), and struck out former subpar. (B) which read as follows: ''the 2-mile segment of the North Fork Elk from the falls to its confluence with the South Fork as a wild river.''

Subsec. (a)(171) to (179). Pub. L. 111–11, § 1203(a)(1), added pars. (171) to (179).

Subsec. (a)(180) to (195). Pub. L. 111–11, § 1504(a), added pars. (180) to (195).

Subsec. (a)(196) to (199). Pub. L. 111–11, § 1805(a), added pars. (196) to (199).

Subsec. (a)(200) to (203). Pub. L. 111–11, § 1852, added pars. (200) to (203).

Subsec. (a)(204). Pub. L. 111–11, § 1976(a), added par. (204).

Subsec. (a)(205). Pub. L. 111–11, § 5001, added par. (205).

Subsec. (a)(206). Pub. L. 111–11, § 5002(d), added par. (206).

Subsec. (a)(207). Pub. L. 111–11, § 5003(a), added par. (207).

2008—Subsec. (a). Pub. L. 110–229 redesignated par. (167) relating to the Musconetcong River, New Jersey, as par. (169), designated the unnumbered par. relating to the White Salmon River, Washington, as par. (167) and the unnumbered par. relating to the Black Butte River, California, as par. (168), and added par. (170).

2006—Subsec. (a). Pub. L. 109–362 added unnumbered par. relating to Black Butte River, California.

Subsec. (a)(167). Pub. L. 109–452 added par. (167).

2005—Subsec. (a). Pub. L. 109–44 added unnumbered par. relating to White Salmon River, Washington.

2004—Subsec. (a)(24)(D) to (G). Pub. L. 108–447 added subpar. (D) and redesignated former subpars. (D) to (F) as (E) to (G), respectively.

Subsec. (a)(161). Pub. L. 108–352, § 5(4), redesignated par. (161) relating to the Lower Delaware River and associated tributaries as par. (165).

Pub. L. 108–352, § 5(2), redesignated par. (161) relating to Wekiva River as par. (162).

Subsec. (a)(162). Pub. L. 108–352, § 5(2), redesignated par. (161) relating to Wekiva River as par. (162). Former par. (162) redesignated par. (163).

Subsec. (a)(163). Pub. L. 108–352, § 5(1), redesignated par. (162) as par. (163).

Subsec. (a)(164). Pub. L. 108–352, § 5(3), designated unnumbered par. relating to Wildhorse and Kiger Creeks, Oregon, as par. (164).

Subsec. (a)(165). Pub. L. 108–352, § 5(4), redesignated par. (161) relating to the Lower Delaware River and associated tributaries as par. (165).

Subsec. (a)(166). Pub. L. 108–352, § 5(5), designated unnumbered par. relating to Rivers of Caribbean National Forest, Puerto Rico, as par. (166).

2002—Subsec. (a). Pub. L. 107–365 added unnumbered par. relating to Rivers of Caribbean National Forest, Puerto Rico.

2000—Subsec. (a). Pub. L. 106–418, § 3(4), which directed repeal of the fourth undesignated par. following par. 156, pertaining to Elkhorn Creek and enacted by Pub. L. 104–333, could not be executed because the undesignated par. referred to was designated par. (159) by Pub. L. 106–20. See 1999 Amendment note below.

Pub. L. 106–418, § 3(3), which directed designation of the third undesignated par. following par. 156, pertaining to the Lamprey River, New Hampshire, and enacted by Pub. L. 104–333, as par. 159, could not be executed because the undesignated par. referred to was redesignated as par. (158) by Pub. L. 106–20. See 1999 Amendment note below.

Pub. L. 106–418, § 3(2), which directed designation of the second undesignated par. following par. 156, pertaining to the Clarion River, Pennsylvania, and enacted by Pub. L. 104–314, as par. 158, could not be executed because the undesignated par. referred to was redesignated as par. (157) by Pub. L. 106–20. See 1999 Amendment note below.

Pub. L. 106–418, § 3(1), which directed designation of the first undesignated par. following par. 156, pertaining to Elkhorn Creek and enacted by Pub. L. 104–208, as par. 157, could not be executed because the undesignated par. referred to was repealed by Pub. L. 106–20. See 1999 Amendment note below.

Pub. L. 106–399, § 301(b), added unnumbered par. relating to Wildhorse and Kiger Creeks, Oregon.

Subsec. (a)(74)(A). Pub. L. 106–399, § 301(a)(2), substituted period for semicolon at end.

Pub. L. 106–399, § 301(a)(1), which directed the substitution of ''The'' for ''the'' at the beginning of each subpar. in par. (74), could not be executed to subpar. (A) because subpar. (A) does not begin with ''the''.

Subsec. (a)(74)(B) to (D). Pub. L. 106–399, § 301(a)(1), (2), substituted ''The'' for ''the'' at beginning and period for semicolon at end.

Subsec. (a)(74)(E). Pub. L. 106–399, § 301(a)(1), (3), substituted ''The'' for ''the'' at beginning and period for ''; and'' at end.

Subsec. (a)(74)(F). Pub. L. 106–399, § 301(a)(1), substituted ''The'' for ''the'' at beginning.

Subsec. (a)(74)(G) to (I). Pub. L. 106–399, § 301(a)(4), added subpars. (G) to (I).

Subsec. (a)(158). Pub. L. 106–192 substituted ''23.5-mile segment extending from the Bunker Pond Dam in Epping'' for ''11.5-mile segment extending from the southern Lee town line'' in first sentence and ''towns of Epping,'' for ''towns of'' in second sentence.

Pub. L. 106–176 substituted ''through cooperative agreements'' for ''through cooperation agreements'' in second sentence.

Subsec. (a)(161). Pub. L. 106–418, § 3(5), added par. (161) relating to Lower Delaware River and associated tributaries.

Pub. L. 106–299 added par. (161) relating to Wekiva River.

Pub. L. 106–261 added par. (161) relating to Wilson Creek.

Subsec. (a)(162). Pub. L. 106–357 added par. (162).

1999—Subsec. (a). Pub. L. 106–20, §2(g)(1), struck out unnumbered par. added by Pub. L. 104–208 relating to Elkhorn Creek, which was identical to par. added by Pub. L. 104–333, §1023(h).

Subsec. (a)(157) to (159). Pub. L. 106–20, §2(g)(2), designated unnumbered pars. relating to Clarion River, Lamprey River, and Elkhorn Creek as pars. (157) to (159), respectively.

Subsec. (a)(160). Pub. L. 106–20, §2(b), added par. (160).

1996—Subsec. (a). Pub. L. 104–333, §§405(a), 1023(h), added unnumbered pars. relating to Lamprey River, New Hampshire and Elkhorn Creek.

Pub. L. 104–314 added unnumbered par. relating to Clarion River, Pennsylvania.

Pub. L. 104–208 added unnumbered par. relating to Elkhorn Creek.

Subsec. (a)(65). Pub. L. 104–333, §406(d), substituted ''BLUE–80,005, dated May 1996'' for ''WSR–BLU/20,000, and dated January 1987'' and inserted at end ''In order to provide reasonable public access and vehicle parking for public use and enjoyment of the river designated by this paragraph, consistent with the preservation and enhancement of the natural and scenic values of such river, the Secretary may, with the consent of the owner thereof, negotiate a memorandum of understanding or cooperative agreement, or acquire not more than 10 acres of lands or interests in such lands, or both, as may be necessary to allow public access to the Bluestone River and to provide, outside the boundary of the scenic river, parking and related facilities in the vicinity of the area known as Eads Mill.''

Subsec. (a)(109) to (156). Pub. L. 104–333, §407(a), redesignated unnumbered pars. relating to various rivers as pars. (109) to (156).

1994—Subsec. (a). Pub. L. 103–313 added unnumbered par. relating to Farmington River, Connecticut.

Pub. L. 103–242 added unnumbered par. relating to Rio Grande, New Mexico.

Subsec. (a)(19). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

1993—Subsec. (a). Pub. L. 103–170 added unnumbered par. relating to Red River, Kentucky.

Pub. L. 103–162 added unnumbered pars. relating to the following rivers in New Jersey: Maurice River, Menantico Creek, Manumuskin River, and Muskee Creek.

1992—Subsec. (a). Pub. L. 102–536 added unnumbered par. relating to Great Egg Harbor, New Jersey.

Pub. L. 102–301 added unnumbered pars. relating to the following rivers in California: Sespe Creek, Sisquoc River, and Big Sur River.

Pub. L. 102–275 added unnumbered pars. relating to the following rivers in Arkansas: Big Piney Creek, Buffalo River, Cossatot River, Hurricane Creek, Little Missouri River, Mulberry River, North Sylamore Creek, and Richland Creek.

Pub. L. 102–271 added unnumbered par. relating to Allegheny River, Pennsylvania.

Pub. L. 102–249 added unnumbered pars. relating to the following rivers in Michigan: Bear Creek, Black, Carp, Indian, Manistee, Ontonagon, Paint, Pine, Presque Isle, Sturgeon (Hiawatha National Forest), Sturgeon (Ottawa National Forest), East Branch of the Tahquamenon, Whitefish, and Yellow Dog.

Subsec. (a)(62). Pub. L. 102–432 designated existing provisions as subpar. (A), substituted ''subparagraph'' for ''paragraph'' in two places, and added subpars. (B) and (C).

1991—Subsec. (a). Pub. L. 102–50 added unnumbered pars. relating to Niobrara River, Nebraska, and Missouri River, Nebraska and South Dakota.

1990—Subsec. (a). Pub. L. 101–628 added unnumbered par. relating to Clarks Fork, Wyoming.

Pub. L. 101–612 added unnumbered pars. relating to the following California rivers: Smith River, Middle Fork Smith River, North Fork Smith River, Siskiyou Fork Smith River, and South Fork Smith River.

Pub. L. 101–306 added unnumbered pars. relating to East Fork of Jemez, New Mexico, and Pecos River, New Mexico.

1989—Subsec. (a)(62). Pub. L. 101–40, §2(a)(1), (2), designated unnumbered par. relating to Merced River, California, as (62) and redesignated former par. (62) as (63).

Subsec. (a)(63). Pub. L. 101–40, §2(a)(2), redesignated former par. (62), relating to Kings River, California, as (63).

Subsec. (a)(64). Pub. L. 101–40, §2(a)(3), designated unnumbered par. relating to Kern River, California, as (64).

Subsec. (a)(65). Pub. L. 101–40, §2(a)(4), (6), designated unnumbered par. relating to Bluestone River, West Virginia, as (65) and redesignated former par. (65) as (67).

Subsec. (a)(66). Pub. L. 101–40, §2(a)(5), designated unnumbered par. relating to Sipsey Fork of the West Fork River, Alabama, as (66).

Subsec. (a)(67). Pub. L. 101–40, §2(a)(6), redesignated former par. (65), relating to Wildcat River, New Hampshire, as (67).

Subsec. (a)(68) to (107). Pub. L. 101–40, §2(a)(7), designated unnumbered pars. relating to rivers in Oregon as (68) to (107).

Subsec. (a)(108). Pub. L. 101–40, §2(a)(8), designated unnumbered par. relating to Rio Chama River, New Mexico, as (108).

1988—Subsec. (a). Pub. L. 100–633 added unnumbered par. relating to Rio Chama, New Mexico.

Pub. L. 100–557 added unnumbered pars. relating to the following rivers in Oregon: Big Marsh Creek, Chetco, Clackamas, Crescent Creek, Crooked, Deschutes, Donner und Blitzen, Eagle Creek, Elk, Grande Ronde, Imnaha, John Day, Joseph Creek, Little Deschutes, Lostine, Malheur, McKenzie, Metolius, Minam, North Fork Crooked, North Fork John Day, North Fork Malheur, North Fork of the Middle Fork of the Willamette, North Fork Owyhee, North Fork Smith, North Fork Sprague, North Powder, North Umpqua, Powder, Quartzville Creek, Roaring, Salmon, Sandy, South Fork John Day, Squaw Creek, Sycan, Upper Rogue, Wenaha, West Little Owyhee, and White.

Pub. L. 100–547 added unnumbered par. relating to Sipsey Fork of the West Fork, Alabama.

Pub. L. 100–534, §301, added unnumbered par. relating to Bluestone, West Virginia.

Subsec. (a)(60). Pub. L. 100–668 inserted sentence describing boundaries of Klickitat River.

Subsec. (a)(65). Pub. L. 100–554 added par. (65) relating to Wildcat River, New Hampshire.

Subsec. (b). Pub. L. 100–534, §501, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsection (a) of this section shall, within one year from the date of designation of such component under subsection (a) of this section (except where a different date is provided in subsection (a) of this section), establish detailed boundaries therefor (which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river); determine which of the classes outlined in section 1273(b) of this title best fit the river or its various segments. Notice of the availability of the boundaries and classification, and of subsequent boundary amendments shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.''

1987—Subsec. (a). Pub. L. 100–174 added unnumbered par. relating to North and South Fork of the Kern River, California.

Pub. L. 100–149 added unnumbered par. relating to Merced, California.

Subsec. (a)(56) to (61). Pub. L. 100–150, §1(b), redesignated former par. (56), relating to Cache la Poudre, as (57), former par. (57), relating to Saline Bayou, as (58), former par. (58), relating to Black Creek, as (59), and designated pars. relating to Klickitat and White Salmon as pars. (60) and (61), respectively.

Subsec. (a)(62). Pub. L. 100–150, §1(a), added par. (62).

1986—Subsec. (a)(51) to (55). Pub. L. 99–530 and Pub. L. 99–590, § 501(a), amended subsec. (a) identically, redesignating the pars. relating to the Au Sable River, the Tuolumne River, the Illinois River, and the Owyhee River as pars. (52) through (55), respectively.

Subsec. (a)(56). Pub. L. 99–590, § 101, added par. (56) appearing second relating to Cache la Poudre, Colorado.

Pub. L. 99–530 added par. (56) appearing first relating to Horsepasture, North Carolina.

Subsec. (a)(57), (58). Pub. L. 99–590, §§ 401, 601, added pars. (57) and (58).

Subsec. (a)(59), (60). Pub. L. 99–663 added two unnumbered pars., relating to Klickitat, Washington, and White Salmon, Washington, which were editorially designated as pars. (59) and (60), respectively.

Subsec. (b). Pub. L. 99–590, § 501(b)(1)(A), substituted ''one year from the date of designation of such component under subsection (a) of this section'' for ''one year from October 2, 1968''.

Pub. L. 99–590, § 501(b)(1)(B), which directed the amendment of subsec. (b) as follows: ''Strike out the second parenthetical statement, '(which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river)' '', could not be executed because the quoted parenthetical statement did not appear in text. Rather, the amendment was executed by substituting the quoted parenthetical for ''(which boundaries shall include an average of not more than three hundred and twenty acres per mile on both sides of the river)'' as the probable intent of Congress in view of the directory wording in H.R. 4350 as introduced, reported, and passed by the House on Apr. 8, 1986, which read: ''Strike out the second parenthetical statement and substitute the parenthetical statement''.

Pub. L. 99–590, § 501(b)(1)(C), struck out ''; and prepare a plan for necessary developments in connection with its administration in accordance with such classification'' after ''its various segments''.

Pub. L. 99–590, § 501(b)(2), substituted ''Notice of the availability of the boundaries and classification, and of subsequent boundary amendments'' for ''Said boundaries, classification, and development plans''.

Subsecs. (c), (d). Pub. L. 99–590, § 501(b)(3), added subsecs. (c) and (d).

1984—Subsec. (a)(16). Pub. L. 98–444, § 1, inserted ''Notwithstanding any other provision of this chapter, the installation and operation of facilities or other activities within or outside the boundaries of the Pere Marquette Wild and Scenic River for the control of the lamprey eel should be permitted subject to such restrictions and conditions as the Secretary of Agriculture may prescribe for the protection of water quality and other values of the river, including the wild and scenic characteristics of the river.''

Subsec. (a)(51). Pub. L. 98–444, § 2, added par. (51) set out second relating to Au Sable, Michigan.

Pub. L. 98–406 added par. (51) appearing first relating to Verde, Arizona.

Subsec. (a)(52). Pub. L. 98–494 added par. (52) appearing second relating to Illinois, Oregon.

Pub. L. 98–425 added par. (52) appearing first relating to Tuolumne, California.

Subsec. (a)(53). Pub. L. 98–494 added par. (53).

1980—Subsec. (a)(6). Pub. L. 96–580 authorized acquisition of part of Velie Estate acreage.

Subsec. (a)(22). Pub. L. 96–344 substituted in provision following subpar. (B) ''which shall be established'' for ''which may be established''.

Subsec. (a)(24). Pub. L. 96–312 added par. (24).

Subsec. (a)(25) to (37). Pub. L. 96–487, § 601, added pars. (25) to (37).

Subsec. (a)(38) to (43). Pub. L. 96–487, § 602, added pars. (38) to (43).

Subsec. (a)(44) to (50). Pub. L. 96–487, § 603, added pars. (44) to (50).

1979—Subsec. (a)(19). Pub. L. 96–87 substituted ''section 704(c) of the National Parks and Recreation Act of 1978'' for ''section 705(c) of the National Parks and Recreation Act of 1978''.

1978—Subsec. (a)(10). Pub. L. 95–625, § 755, increased appropriations authorization for Chattooga River to $5,200,000 from $2,000,000.

Subsec. (a)(16) to (23). Pub. L. 95–625, §§ 701–703, 704(a), 705–708, added pars. (16) to (23).

Subsec. (b). Pub. L. 95–625, § 763(a), inserted ''(except where a different date is provided in subsection (a) of this section)'' after ''one year from October 2, 1968''.

1976—Subsec. (a)(3). Pub. L. 94–486, § 601, inserted ''downstream from the confluence of its tributary streams one kilometer south of Beckwourth, California;'' after ''entire Middle Fork''.

Subsec. (a)(13). Pub. L. 94–486, § 101, added par. (13).

Subsec. (a)(14). Pub. L. 94–486, § 201, added par. (14).

Subsec. (a)(15). Pub. L. 94–486, § 301, added par. (15).

1975—Subsec. (a)(11), (12). Pub. L. 94–199 added pars. (11) and (12).

1974—Subsec. (a)(10). Pub. L. 93–279 added par. (10).

1972—Subsec. (a)(9). Pub. L. 92–560 added par. (9).

CHANGE OF NAME

''Frank Church—River of No Return Wilderness'' substituted in subsec. (a)(24)(D) for ''River of No Return Wilderness'' pursuant to Pub. L. 98–231, § 1, Mar. 14, 1984, 98 Stat. 60, which redesignated the River of No Return Wilderness as the Frank Church—River of No Return Wilderness.

Ex. Ord. No. 13428, Apr. 2, 2007, 72 F.R. 16693, provided that the Caribbean National Forest in the Commonwealth of Puerto Rico, referred to in subsec. (a)(166), is renamed the ''El Yunque National Forest''.

SAVINGS PROVISIONS

Pub. L. 111–11, title I, § 1203(a)(2), Mar. 30, 2009, 123 Stat. 1012, provided that: ''The amendments made by paragraph (1) [amending this section] do not affect valid existing water rights.''

Pub. L. 111–11, title I, § 1303(a), Mar. 30, 2009, 123 Stat. 1026, provided that: ''Nothing in this subtitle [subtitle D (§§ 1301–1303) of title I of Pub. L. 111–11, amending this section and enacting and amending provisions listed in a table of Wilderness Areas set out under section 1132 of this title] shall be construed as diminishing any right of any Indian tribe.''

Pub. L. 111–11, title I, § 1805(b), Mar. 30, 2009, 123 Stat. 1059, provided that: ''The designation of Piru Creek under subsection (a) [amending this section] shall not affect valid rights in existence on the date of enactment of this Act [Mar. 30, 2009].''

Pub. L. 111–11, title I, § 1976(c), Mar. 30, 2009, 123 Stat. 1088, provided that: ''The amendment made by subsection (a) [amending this section] does not affect the agreement among the United States, the State [of Utah], the Washington County Water Conservancy District, and the Kane County Water Conservancy District entitled 'Zion National Park Water Rights Settlement Agreement' and dated December 4, 1996.''

ALASKA; ADMINISTRATION OF WILD AND SCENIC RIVER SEGMENTS

Section 605 of Pub. L. 96–487 provided for administration of Wild and Scenic River segments of following Alaska rivers: Alagnak, Beaver Creek, Delta, Fortymile, Alatna, Aniakchak, Charley, Chilikadrotna, John, Kobuk, Mulchatna, Noatak, North Fork of the Koyukuk, Salmon, Tinayguk, Tlikakila, Andreafsky, Ivishak, Nowitna, Selawik, Sheenjek, Wind, Birch Creek, Gulkana, Unalakleet, Mosquito Fork, Champion Creek, Middle Fork, O'Brien Creek, Napoleon Creek, Franklin Creek, Uhler Creek, Walker Fork, West Fork, Dennison Fork, Logging Cabin Creek, Hutchinson Creek.

ARKANSAS; STATE MANAGEMENT OF SEGMENTS OF COSSATOT RIVER AND BRUSHY CREEK

Section 3 of Pub. L. 102–275 provided that 10.4-mile segment of the Cossatot River and 0.3-mile segment of the Brushy Creek tributary were to be managed by the

State of Arkansas as parts of the Wild and Scenic Rivers System.

COLORADO; ADMINISTRATION OF WILD AND SCENIC RIVER SEGMENTS OF CACHE LA POUDRE RIVER; NONINTERFERENCE WITH EXISTING DECREED WATER RIGHTS

Section 102 of Pub. L. 99–590 provided that inclusion of designated portions of Cache la Poudre River in Wild and Scenic Rivers System did not interfere with exercise of existing decreed water rights to water which had theretofore been stored or diverted by means of present capacity of storage, conveyance, or diversion structures that existed as of Oct. 30, 1986, or operation and maintenance of such structures, nor could inclusion of designated portions of Cache la Poudre River in Wild and Scenic Rivers System be utilized in any Federal proceeding, whether concerning a license, permit, right-of-way, or other Federal action, as a reason or basis to prohibit development or operation of any water impoundments, diversion facilities, and hydroelectric power and transmission facilities below Poudre Park located entirely downstream from and potentially affecting designated portions of Cache la Poudre River, or relocation of highway 14 to any point east of the north-south half section line of section 2, township 8 north, range 71 west of the sixth principal meridian, as necessary to provide access to Poudre Park around such facilities.

CONNECTICUT; MANAGEMENT OF WILD AND SCENIC RIVER SEGMENT OF EIGHTMILE RIVER; COORDINATING COMMITTEE; COOPERATIVE AGREEMENTS; LAND MANAGEMENT; WATERSHED APPROACH

Pub. L. 110–229, title III, §344(c)–(h), May 8, 2008, 122 Stat. 799, 800, provided that the segments of the main stem and certain tributaries of the Eightmile River in Connecticut designated as components of the National Wild and Scenic Rivers System be managed in accordance with the Eightmile River Watershed Management Plan; directed the Secretary of the Interior to coordinate management responsibilities of the Secretary with the Eightmile River Coordinating Committee; authorized the Secretary of the Interior to enter into cooperative agreements with State and local officials; directed that the Eightmile River not be administered as part of the National Park System; deemed certain local zoning ordinances to satisfy the standards and requirements of provisions of the Wild and Scenic Rivers Act; and provided for a watershed approach to resource preservation and enhancement.

CONNECTICUT; MANAGEMENT OF WILD AND SCENIC RIVER SEGMENT OF FARMINGTON RIVER; DEFINITIONS; AUTHORIZATION OF APPROPRIATIONS

Sections 4 to 6 of Pub. L. 103–313 provided that Director of the National Park Service represent Secretary of the Interior on the Farmington River Coordinating Committee; directed Secretary to offer to enter into cooperative agreements with the State, its relevant political subdivisions, and Farmington River Watershed Association to facilitate the long-term protection, conservation, and enhancement of designated river segment; distinguished implementation of this Act from National Park Service administration of river segment and excluded river segment from National Park System; provided for evaluation of proposed water resources project; accepted local zoning ordinances; defined ''Committee'', ''Plan'', and ''Secretary''; and authorized the appropriation of funds necessary to carry out Pub. L. 103–313.

DELAWARE AND PENNSYLVANIA; ADMINISTRATION OF WILD AND SCENIC RIVER SEGMENTS OF WHITE CLAY CREEK

Pub. L. 106–357, §§4–8, Oct. 24, 2000, 114 Stat. 1395, 1396, provided for administration of Wild and Scenic River segments of White Clay Creek, establishment of detailed boundaries, cooperative agreements with White Clay Creek Watershed Management Committee, representation of Secretary of the Interior by Director of the National Park Service in implementation of management plan, and authorization of the Secretary to provide assistance and funding for implementation of management plan; required that existing State and local zoning laws and ordinances be considered satisfactory under section 1277(c) of this title with respect to White Clay Creek river segments; and prohibited Federal acquisition of lands or interests in lands along White Clay Creek river segments and inclusion in National Park System.

FLORIDA; ADMINISTRATION OF WILD AND SCENIC RIVER SEGMENTS OF WEKIVA RIVER

Pub. L. 106–299, §§4–6, Oct. 13, 2000, 114 Stat. 1052–1054, provided for administration of Wild and Scenic River segments of Wekiva River, use of cooperative agreements, biennial review of compliance with comprehensive management plan, reports to Congress on deviations from such plans which could diminish value of river segments, planning assistance to local political jurisdictions, and establishment of the Wekiva River System Advisory Management Committee; and authorized appropriations.

IDAHO; SALMON AND SNAKE RIVERS; CONSTRUCTION PROHIBITED ON RIVER SEGMENTS

Pub. L. 100–677, §1, Nov. 17, 1988, 102 Stat. 4407, prohibited Federal Energy Regulatory Commission from issuing any preliminary permit, license, or exemption from licensing for construction of any dam, diversion or bypass under Federal Power Act (41 Stat. 1063), as amended [see section 791a of this title], on: (1) the Salmon River, Idaho, from Long Tom Bar to the confluence of the Snake River, or (2) the Snake River, Idaho, from the eastward extension of the north boundary of section 1, township 5 north, range 47 east, Willamette Meridian to the pool formed behind Lower Granite Dam, and provided that no dam may be constructed on those segments of the Salmon or Snake Rivers.

IDAHO; WILD AND SCENIC RIVER SEGMENTS BOUNDARIES AND PRIVATE LAND ACQUISITION

Pub. L. 111–11, title I, §1504(b), (c), Mar. 30, 2009, 123 Stat. 1039, established an outer limit for the boundaries of the river segments added to the National Wild and Scenic Rivers System by subtitle F (§1501–1508) of title I of Pub. L. 111–11, notwithstanding subsec. (b) of this section, and prohibited the Secretary of the Interior from acquiring private land within the exterior boundary of a wild and scenic river corridor without consent of the owner.

IDAHO AND OREGON; ADMINISTRATION OF WILD AND SCENIC RIVER SEGMENTS OF SNAKE RIVER AND RAPID RIVER

Section 3(b) of Pub. L. 94–199 provided for administration of Wild and Scenic River segments of Snake River, Idaho and Oregon, and Rapid River, Idaho.

MASSACHUSETTS; MANAGEMENT OF WILD AND SCENIC RIVER SEGMENTS OF TAUNTON RIVER

Pub. L. 111–11, title V, §5003(b), Mar. 30, 2009, 123 Stat. 1152, provided for management of certain wild and scenic river segments of the Taunton River pursuant to the Taunton River Stewardship Plan.

MASSACHUSETTS; ADMINISTRATION OF WILD AND SCENIC RIVER SEGMENTS OF SUDBURY, ASSABET, AND CONCORD RIVERS; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 106–20, §2(c)–(f), Apr. 9, 1999, 113 Stat. 31, 32, provided for Federal role in management of Wild and Scenic River segments of Sudbury, Assabet, and Concord Rivers, directed Secretary of the Interior to consider extent to which proposed water resources projects were consistent with management of river segments, limited rights of United States Government to acquire

interests in land along river segments, and authorized $100,000 to be appropriated for each fiscal year to carry out management plan.

MICHIGAN; ADMINISTRATION OF WILD, SCENIC, AND RECREATIONAL RIVER SEGMENTS DESIGNATED UNDER MICHIGAN SCENIC RIVERS ACT OF 1991

Section 6 of Pub. L. 102–249 provided that Pub. L. 102–249, the Michigan Scenic Rivers Act of 1991, did not enlarge, diminish, or modify responsibilities of the State of Michigan regarding hunting, fishing, and trapping with reference to designated river segments, that facilities and activities for control of sea lamprey were allowed, that traditional public access routes to designated river segments were to be maintained with conditions, and that the Act did not enlarge, diminish, or modify the limitation on land acquisition contained in section 1277(b) of this title.

MINNESOTA AND WISCONSIN; ADMINISTRATION OF WILD AND SCENIC RIVER OF LOWER SAINT CROIX RIVER

Sections 3–6 of Pub. L. 92–560 provided for administration of Wild and Scenic River segments of Lower Saint Croix River along Minnesota-Wisconsin border, acquisition of property, maintenance of navigation rights, and authorization of appropriations.

MISSOURI; ADMINISTRATION OF ELEVEN POINT WILD AND SCENIC CORRIDOR

Pub. L. 102–220, § 3, Dec. 11, 1991, 105 Stat. 1674, authorized Secretary to manage lands, waters, and interests within The Eleven Point Wild and Scenic Corridor pursuant to the provisions of this chapter. See section 3 of Pub. L. 102–220 set out as a note under section 539h of this title.

MONTANA; ADMINISTRATION OF WILD AND SCENIC RIVER SEGMENT OF MISSOURI RIVER

Section 202 and 203 of Pub. L. 94–486, as amended Pub. L. 100–552, § 5, Oct. 28, 1988, 102 Stat. 2768, provided for administration of wild and scenic river segment of the Missouri River known as Missouri Breaks Freeflowing River segment, establishment of detailed boundaries, acquisition of lands and interests in lands, and construction of visitor facilities in or near Fort Benton.

NEBRASKA; NIOBRARA RIVER; DESIGNATION OF 6-MILE SEGMENT AS COMPONENT OF NATIONAL WILD AND SCENIC RIVERS SYSTEM

Section 3(b) of Pub. L. 102–50 provided that: ''If, within 5 years after the date of enactment of this Act [May 24, 1991], funds are not authorized and appropriated for the construction of a water resources project on the 6-mile segment of the Niobrara River from its confluence with Chimney Creek to its confluence with Rock Creek, at the expiration of such 5-year period the 6-mile segment shall be designated as a component of the National Wild and Scenic Rivers System by operation of law, to be administered by the Secretary of the Interior in accordance with sections 4 and 5 of this Act [see below] and the applicable provisions of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287). The Secretary of the Interior shall publish notification to that effect in the Federal Register.''

NEW HAMPSHIRE; LAMPREY RIVER ADVISORY COMMITTEE

Section 405(b) of title IV of div. I of Pub. L. 104–333, as amended by Pub. L. 106–176, title I, § 106(b), Mar. 10, 2000, 114 Stat. 26; Pub. L. 106–192, § 2(b)(1), May 2, 2000, 114 Stat. 233, provided that Secretary of the Interior coordinate his management responsibilities with respect to Lamprey River, New Hampshire, with Lamprey River Advisory Committee, that zoning ordinances adopted by towns of Epping, Durham, Lee, and Newmarket, New Hampshire, be deemed to satisfy section 1277(c) of this title, and that Secretary's land acquisition be limited to acquisition by donation or acquisition with consent of donor and be subject to additional criteria of Lamprey River Management Plan.

NEW JERSEY; ADMINISTRATION OF WILD AND SCENIC RIVER SEGMENTS OF MAURICE AND MANUMUSKIN RIVERS AND MENANTICO AND MUSKEE CREEKS

Section 3 of Pub. L. 103–162 provided for administration of Wild and Scenic River segments of Maurice and Manumuskin Rivers and Menantico and Muskee Creeks, New Jersey, planning assistance to local political subdivisions, segment additions, and appropriations to carry out administrative functions.

NEW JERSEY; ADMINISTRATION OF WILD AND SCENIC RIVER SEGMENTS OF GREAT EGG HARBOR RIVER

Section 2 of Pub. L. 102–536 provided for administration of Wild and Scenic River segments of Great Egg Harbor River, New Jersey, review of local river management plans, biennial review of compliance with local river management plans, reports to Congress on deviations from such plans which could diminish value of river segments, and authorization of appropriations.

NEW JERSEY; ADMINISTRATION OF WILD AND SCENIC RIVER SEGMENTS OF MUSCONETCONG RIVER

Pub. L. 109–452, §§ 3, 5, Dec. 22, 2006, 120 Stat. 3363, 3364, defined terms, provided that Secretary of the Interior manage certain Musconetcong River segments in New Jersey in accordance with management plan in cooperation with appropriate agencies, provided for designation of additional river segment, and authorized appropriations to carry out Pub. L. 109–452.

NEW JERSEY AND PENNSYLVANIA; ADMINISTRATION OF WILD AND SCENIC RIVER SEGMENTS OF LOWER DELAWARE RIVER AND ASSOCIATED TRIBUTARIES

Pub. L. 106–418, §§ 4, 5, Nov. 1, 2000, 114 Stat. 1818, 1821, provided for administration of Wild and Scenic River segments of Lower Delaware River in accordance with the Lower Delaware River Management Plan and in cooperation with Federal, State, regional, and local agencies, provided that the Plan be considered to satisfy subsec. (d) of this section, provided that zoning ordinances of municipalities bordering the segments be considered to satisfy section 1277(c) of this title, and contained provisions relating to consideration of the effect of proposed water resources projects on the segments, requirements for cooperative agreements, provision by the Secretary of the Interior of planning, financial, and technical assistance, designation of certain additional segments as a recreational river or scenic river, and authorization of appropriations.

NEW MEXICO; RIO GRANDE CITIZENS ADVISORY BOARD

Section 4 of Pub. L. 103–242 directed Secretary of the Interior, acting through Director of the Bureau of Land Management, to obtain and consider views of residents of village of Pilar and of owners of property adjoining Rio Grande River segments concerning implementation of Pub. L. 103–242.

NEW YORK AND PENNSYLVANIA; ADMINISTRATION OF WILD AND SCENIC RIVER SEGMENT OF UPPER DELAWARE RIVER

Section 704(b)–(j) of Pub. L. 95–625, as amended Pub. L. 96–87, title IV, § 401(p)(2), Oct. 12, 1979, 93 Stat. 666; Pub. L. 100–412, § 1, Aug. 22, 1988, 102 Stat. 1100, provided for administration of Upper Delaware River along New York-Pennsylvania border between Hancock, New York, and Sparrow Bush, New York, including creation of Upper Delaware Citizens Advisory Council. See also Pub. L. 106–119, Dec. 3, 1999, 113 Stat. 1604.

OREGON; ADMINISTRATION OF INDIAN TREATY LANDS AND AUTHORIZATION OF APPROPRIATIONS FOR WILD AND SCENIC RIVER SEGMENTS

Sections 105 and 106 of Pub. L. 100–557 provided for administration of, and authorization of appropriations

for, segments of the following Oregon rivers: Big Marsh Creek, Chetco, Clackamas, Crescent Creek, Crooked, Deschutes, Donner and Blitzen, Eagle Creek, Elk, Grant Ronde, Imnaha, John Day, Joseph Creek, Little Deschutes, Lostine, Malheur, McKenzie, Metolius, Minam, North Fork Crooked, North Fork John Day, North Fork Malheur, North Fork of the Middle Fork of the Millamette, North Fork Owyhee, North Fork Smith, North Fork Sprague, North Powder, North Umpqua, Powder, Quartzville Creek, Roaring, Salmon, Sandy, South Fork John Day, Squaw Creek, Sycan, Upper Rogue, Wenaha, West Little Owyhee, and White.

PENNSYLVANIA; ALLEGHENY RIVER; DESIGNATION OF SEGMENTS AS WILD AND SCENIC RIVER; ADVISORY COUNCILS; ADMINISTRATION; AUTHORIZATION OF APPROPRIATIONS

Sections 1, 2, 3, and 6 of Pub. L. 102–271 provided that the designated portions of the Allegheny River were so designated in order to preserve and protect for present and future generations outstanding scenic, natural, recreational, scientific, historic, and ecological values and to protect, preserve, and enhance the fisheries resources associated with the designated segments, directed the Secretary of Agriculture to establish advisory councils to advise the Secretary on the establishment of final boundaries and management of river segments, directed the Secretary of Agriculture to take the necessary steps for the administration of the designated river segments, and authorized the appropriation of the funds necessary to carry out Pub. L. 102–271, which amended sections 1274 and 1276 of this title.

PUERTO RICO; RIVERS OF CARIBBEAN NATIONAL FOREST; SPECIAL MANAGEMENT CONSIDERATIONS; PRESERVATION OF COMMONWEALTH AUTHORITY

Pub. L. 107–365, §2(c), (d), Dec. 19, 2002, 116 Stat. 3028, provided that the amendment by section 2(b) of Pub. L. 107–365 to this section and the applicability of this chapter to segments of the rivers of Caribbean National Forest (now El Yunque National Forest) were not to be construed to prevent various scientific research activities within the boundaries of these river segments, but that those activities were subject to such conditions as the Secretary of Agriculture considered desirable, and provided that section 2 of Pub. L. 107–365, amending this section, did not limit the authority of the Commonwealth of Puerto Rico over its waters and natural channels of public domain.

SOUTH DAKOTA AND NEBRASKA; ADMINISTRATION OF WILD AND SCENIC RIVER SEGMENTS OF NIOBRARA AND MISSOURI RIVERS

Pub. L. 102–50, §§4–7, 8, formerly §9, May 24, 1991, 105 Stat. 255–258; §9 renumbered §8, Pub. L. 105–362, title IX, §901(g)(2), Nov. 10, 1998, 112 Stat. 3290, set acreage limits on lands acquired by Secretary of the Interior along the segments of the Niobrara River designated under section 2 of Pub. L. 102–50, provided for establishment of the Niobrara Scenic River Advisory Commission, required establishment of a recreational river advisory group by Secretary to be consulted in the administration of the segment of the Missouri River designated under section 2 of Pub. L. 102–50, directed that the designation of the river segment not place any additional requirements on placement of bridges, authorized use of erosion control techniques to protect water resource values along designated river segment, called for study of feasibility and suitability of possible designation of lands in Knox and Boyd Counties, Nebraska, as a national recreation area, and authorized appropriation of sums necessary to carry out provisions of Pub. L. 102–50.

UTAH; INCORPORATION OF ACQUIRED NON-FEDERAL LAND

Pub. L. 111–11, title I, §1976(b), Mar. 30, 2009, 123 Stat. 1088, provided that: ''If the United States acquires any non-Federal land within or adjacent to Zion National Park that includes a river segment that is contiguous to a river segment of the Virgin River designated as a wild, scenic, or recreational river by paragraph (204) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as added by subsection (a)), the acquired river segment shall be incorporated in, and be administered as part of, the applicable wild, scenic, or recreational river.''

WEST VIRGINIA; WILD AND SCENIC RIVER SEGMENTS OF BLUESTONE AND MEADOW RIVERS; PUBLIC AWARENESS PROGRAM

Section 403 of Pub. L. 100–534 directed Secretary of the Interior to establish a public awareness program to be carried out in Mercer, Nicholas, and Greenbrier Counties, West Virginia, in cooperation with State and local agencies, landowners, and other concerned organizations, to further public understanding of the effects of designation as components of National Wild and Scenic Rivers System of segments of Bluestone and Meadow Rivers which were found eligible in studies completed by National Park Service in August 1983 but which were not designated as units of such system, with Secretary to submit a report to Committee on Interior and Insular Affairs of United States House of Representatives and to Committee on Energy and Natural Resources of United States Senate by Dec. 31, 1992, describing the program.

WYOMING; DEFINITIONS; ADMINISTRATION OF WILD AND SCENIC RIVER SEGMENTS OF SNAKE RIVER HEADWATERS

Pub. L. 111–11, title V, §5002(c), (e), Mar. 30, 2009, 123 Stat. 1148, 1150, provided for administration of Wild and Scenic River segments of Snake River Headwaters; required Secretary concerned to develop a management plan for each such river segment and apply for quantification of water rights reserved by each such river segment; allowed such Secretary to carry out activities at United States Geological Survey stream gauges on the Snake River; prohibited such Secretary's acquisition of property or interest in property within such river segments without owner's consent; and enacted savings provisions.

§ 1275. Additions to national wild and scenic rivers system

(a) Reports by Secretaries of the Interior and Agriculture; recommendations to Congress; contents of reports

The Secretary of the Interior or, where national forest lands are involved, the Secretary of Agriculture or, in appropriate cases, the two Secretaries jointly shall study and submit to the President reports on the suitability or nonsuitability for addition to the national wild and scenic rivers system of rivers which are designated herein or hereafter by the Congress as potential additions to such system. The President shall report to the Congress his recommendations and proposals with respect to the designation of each such river or section thereof under this chapter. Such studies shall be completed and such reports shall be made to the Congress with respect to all rivers named in section 1276(a) (1) through (27) of this title no later than October 2, 1978. In conducting these studies the Secretary of the Interior and the Secretary of Agriculture shall give priority to those rivers (i) with respect to which there is the greatest likelihood of developments which, if undertaken, would render the rivers unsuitable for inclusion in the national wild and scenic rivers system, and (ii) which possess the greatest proportion of private lands within their areas. Every such study and plan shall be coordinated

with any water resources planning involving the same river which is being conducted pursuant to the Water Resources Planning Act [42 U.S.C. 1962 et seq.].

Each report, including maps and illustrations, shall show among other things the area included within the report; the characteristics which do or do not make the area a worthy addition to the system; the current status of land ownership and use in the area; the reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the national wild and scenic rivers system; the Federal agency (which in the case of a river which is wholly or substantially within a national forest, shall be the Department of Agriculture) by which it is proposed the area, should it be added to the system, be administered; the extent to which it is proposed that such administration, including the costs thereof, be shared by State and local agencies; and the estimated cost to the United States of acquiring necessary lands and interests in land and of administering the area, should it be added to the system. Each such report shall be printed as a Senate or House document.

(b) Study of report by affected Federal and State officials; recommendations and comments; transmittal to President and Congress

Before submitting any such report to the President and the Congress, copies of the proposed report shall, unless it was prepared jointly by the Secretary of the Interior and the Secretary of Agriculture, be submitted by the Secretary of the Interior to the Secretary of Agriculture or by the Secretary of Agriculture to the Secretary of the Interior, as the case may be, and to the Secretary of the Army, the Secretary of Energy, the head of any other affected Federal department or agency and, unless the lands proposed to be included in the area are already owned by the United States or have already been authorized for acquisition by Act of Congress, the Governor of the State or States in which they are located or an officer designated by the Governor to receive the same. Any recommendations or comments on the proposal which the said officials furnish the Secretary or Secretaries who prepared the report within ninety days of the date on which the report is submitted to them, together with the Secretary's or Secretaries' comments thereon, shall be included with the transmittal to the President and the Congress.

(c) Publication in Federal Register

Before approving or disapproving for inclusion in the national wild and scenic rivers system any river designated as a wild, scenic or recreational river by or pursuant to an act of a State legislature, the Secretary of the Interior shall submit the proposal to the Secretary of Agriculture, the Secretary of the Army, the Secretary of Energy, and the head of any other affected Federal department or agency and shall evaluate and give due weight to any recommendations or comments which the said officials furnish him within ninety days of the date on which it is submitted to them. If he approves the proposed inclusion, he shall publish notice thereof in the Federal Register.

(d) Areas comprised by boundaries; scope of study report

The boundaries of any river proposed in section 1276(a) of this title for potential addition to the National Wild and Scenic Rivers System shall generally comprise that area measured within one-quarter mile from the ordinary high water mark on each side of the river. In the case of any designated river, prior to publication of boundaries pursuant to section 1274(b) of this title, the boundaries also shall comprise the same area. This subsection shall not be construed to limit the possible scope of the study report to address areas which may lie more than one-quarter mile from the ordinary high water mark on each side of the river.

(Pub. L. 90–542, § 4, Oct. 2, 1968, 82 Stat. 909; Pub. L. 93–279, § 1(b)(1), May 10, 1974, 88 Stat. 122; Pub. L. 93–621, § 1(d), Jan. 3, 1975, 88 Stat. 2096; Pub. L. 94–486, title V, § 501, Oct. 12, 1976, 90 Stat. 2330; Pub. L. 95–91, title III, § 301(b), Aug. 4, 1977, 91 Stat. 578; Pub. L. 99–590, title V, § 502, Oct. 30, 1986, 100 Stat. 3335.)

REFERENCES IN TEXT

The Water Resources Planning Act, referred to in subsec. (a), is Pub. L. 89–80, July 22, 1965, 79 Stat. 244, as amended, which is classified generally to chapter 19B (§ 1962 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1962 of Title 42 and Tables.

AMENDMENTS

1986—Subsec. (d). Pub. L. 99–590 added subsec. (d).

1976—Subsec. (b). Pub. L. 94–486 struck out provision which directed that no river be added to the national wild and scenic river system after October 2, 1968, until the close of the next full session of the State legislature or legislatures, if more than one State was involved, which began following submission of the proposed addition to the President.

1975—Subsec. (a). Pub. L. 93–621, in first paragraph, designated provision relating to the developments, which, if undertaken, would render the rivers unsuitable for inclusion in the system as cl. (i), and added cl. (ii).

1974—Subsec. (a). Pub. L. 93–279, in first paragraph, substituted provisions requiring submission of reports to the President on the suitability or nonsuitability for addition to the national wild and scenic river system of rivers designated by Congress as potential additions to such system, and submission by President of recommendations and proposals to the Congress, for provisions for submission of proposals to the President and the Congress, struck out reference to section 1273(b) of this title and administration by an agency of the United States, inserted provisions that the studies relating to rivers named in section 1276(a) of this title be completed by Oct. 2, 1978, and that the Secretary of the Interior and the Secretary of Agriculture give priority to rivers which may be unsuitable for inclusion in the national wild and scenic river system if developments were undertaken, and in second paragraph, substantially incorporated the existing provisions with minor changes.

TRANSFER OF FUNCTIONS

''Secretary of Energy'' substituted for ''Chairman of the Federal Power Commission'' in subsecs. (b) and (c) pursuant to Pub. L. 95–91, § 301(b), which is classified to section 7151(b) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to

Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

§ 1276. Rivers constituting potential additions to national wild and scenic rivers system

(a) Enumeration of designated rivers

The following rivers are hereby designated for potential addition to the national wild and scenic rivers system:

(1) Allegheny, Pennsylvania: The segment from its mouth to the town of East Brady, Pennsylvania.

(2) Bruneau, Idaho: The entire main stem.

(3) Buffalo, Tennessee: The entire river.

(4) Chattooga, North Carolina, South Carolina, and Georgia: The entire river.

(5) Clarion, Pennsylvania: The segment between Ridgway and its confluence with the Allegheny River.

(6) Delaware, Pennsylvania and New York: The segment from Hancock, New York, to Matamoras, Pennsylvania.

(7) Flathead, Montana: The North Fork from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence with the South Fork; and the South Fork from its origin to Hungry Horse Reservoir.

(8) Gasconade, Missouri: The entire river.

(9) Illinois, Oregon: The entire river.

(10) Little Beaver, Ohio: The segment of the North and Middle Forks of the Little Beaver River in Columbiana County from a point in the vicinity of Negly and Elkton, Ohio, downstream to a point in the vicinity of East Liverpool, Ohio.

(11) Little Miami, Ohio: That segment of the main stem of the river, exclusive of its tributaries, from a point at the Warren-Clermont County line at Loveland, Ohio, upstream to the sources of Little Miami including North Fork.

(12) Maumee, Ohio and Indiana: The main stem from Perrysburg, Ohio, to Fort Wayne, Indiana, exclusive of its tributaries in Ohio and inclusive of its tributaries in Indiana.

(13) Missouri, Montana: The segment between Fort Benton and Ryan Island.

(14) Moyie, Idaho: The segment from the Canadian border to its confluence with the Kootenai River.

(15) Obed, Tennessee: The entire river and its tributaries, Clear Creek and Daddys Creek.

(16) Penobscot, Maine: Its east and west branches.

(17) Pere Marquette, Michigan: The entire river.

(18) Pine Creek, Pennsylvania: The segment from Ansonia to Waterville.

(19) Priest, Idaho: The entire main stem.

(20) Rio Grande, Texas: The portion of the river between the west boundary of Hudspeth County and the east boundary of Terrell County on the United States side of the river: *Provided*, That before undertaking any study of this potential scenic river, the Secretary of the Interior shall determine, through the channels of appropriate executive agencies, that Mexico has no objection to its being included among the studies authorized by this chapter.

(21) Saint Croix, Minnesota and Wisconsin: The segment between the dam near Taylors Falls and its confluence with the Mississippi River.

(22) Saint Joe, Idaho: The entire main stem.

(23) Salmon, Idaho: The segment from the town of North Fork to its confluence with the Snake River.

(24) Skagit, Washington: The segment from the town of Mount Vernon to and including the mouth of Bacon Creek; the Cascade River between its mouth and the junction of its North and South Forks; the South Fork to the boundary of the Glacier Peak Wilderness Area; the Suiattle River from its mouth to the Glacier Peak Wilderness Area boundary at Milk Creek; the Sauk River from its mouth to its junction with Elliott Creek; the North Fork of the Sauk River from its junction with the South Fork of the Sauk to the Glacier Peak Wilderness Area boundary.

(25) Suwannee, Georgia and Florida: The entire river from its source in the Okefenokee Swamp in Georgia to the gulf and the outlying Ichetucknee Springs, Florida.

(26) Upper Iowa, Iowa: The entire river.

(27) Youghiogheny, Maryland and Pennsylvania: The segment from Oakland, Maryland, to the Youghiogheny Reservoir, and from the Youghiogheny Dam downstream to the town of Connellsville, Pennsylvania.

(28) American, California: The North Fork from the Cedars to the Auburn Reservoir.

(29) Au Sable, Michigan: The segment downstream from Foot Dam to Oscoda, and upstream from Loud Reservoir to its source, including its principal tributaries and excluding Mio and Bamfield Reservoirs.

(30) Big Thompson, Colorado: The segment from its source to the boundary of Rocky Mountain National Park.

(31) Cache la Poudre, Colorado: Both forks from their sources to their confluence, thence the Cache la Poudre to the eastern boundary of Roosevelt National Forest.

(32) Cahaba, Alabama: The segment from its junction with United States Highway 31 south of Birmingham downstream to its junction with United States Highway 80 west of Selma.

(33) Clark's Fork, Wyoming: The segment from the Clark's Fork Canyon to the Crandall Creek Bridge.

(34) Colorado, Colorado and Utah: The segment from its confluence with the Dolores River, Utah, upstream to a point 19.5 miles from the Utah-Colorado border in Colorado.

(35) Conejos, Colorado: The three forks from their sources to their confluence, thence the Conejos to its first junction with State Highway 17, excluding Platoro Reservoir.

(36) Elk, Colorado: The segment from its source to Clark.

(37) Encampment, Colorado: The Main Fork and West Fork to their confluence, thence the Encampment to the Colorado-Wyoming border, including the tributaries and headwaters.

(38) Green, Colorado: The entire segment within the State of Colorado.

(39) Gunnison, Colorado: The segment from the upstream (southern) boundary of the Black Canyon of the Gunnison National Monument to its confluence with the North Fork.

(40) Illinois, Oklahoma: The segment from Tenkiller Ferry Reservoir upstream to the Arkansas-Oklahoma border, including the Flint and Barren Fork Creeks.

(41) John Day, Oregon: The main stem from Service Creek Bridge (at river mile 157) downstream to Tumwater Falls (at river mile 10).

(42) Kettle, Minnesota: The entire segment within the State of Minnesota.

(43) Los Pinos, Colorado: The segment from its source, including the tributaries and headwaters within the San Juan Primitive Area, to the northern boundary of the Granite Peak Ranch.

(44) Manistee, Michigan: The entire river from its source to Manistee Lake, including its principal tributaries and excluding Tippy and Hodenpyl Reservoirs.

(45) Nolichuckey, Tennessee and North Carolina: The entire main stem.

(46) Owyhee, South Fork, Oregon: The main stem from the Oregon-Idaho border downstream to the Owyhee Reservoir.

(47) Piedra, Colorado: The Middle Fork and East Fork from their sources to their confluence, thence the Piedra to its junction with Colorado Highway 160.

(48) Shepaug, Connecticut: The entire river.

(49) Sipsey Fork, West Fork, Alabama: The segment, including its tributaries, from the impoundment formed by the Lewis M. Smith Dam upstream to its source in the William B. Bankhead National Forest.

(50) Snake, Wyoming: The segment from the southern boundaries of Teton National Park to the entrance to Palisades Reservoir.

(51) Sweetwater, Wyoming: The segment from Wilson Bar downstream to Spring Creek.

(52) Tuolumne, California: The main river from its source on Mount Dana and Mount Lyell in Yosemite National Park to Don Pedro Reservoir.

(53) Upper Mississippi, Minnesota: The segment from its source at the outlet of Itasca Lake to its junction with the northwestern boundary of the city of Anoka.

(54) Wisconsin, Wisconsin: The segment from Prairie du Sac to its confluence with the Mississippi River at Prairie du Chien.

(55) Yampa, Colorado: The segment within the boundaries of the Dinosaur National Monument.

(56) Dolores, Colorado: The segment of the main stem from Rico upstream to its source, including its headwaters; the West Dolores from its source, including its headwaters, downstream to its confluence with the main stem; and the segment from the west boundary, section 2, township 38 north, range 16 west, NMPM, below the proposed McPhee Dam, downstream to the Colorado-Utah border, excluding the segment from one mile above Highway 90 to the confluence of the San Miguel River.

(57) Snake, Washington, Oregon, and Idaho: The segment from an eastward extension of the north boundary of section 1, township 5 north, range 47 east, Willamette meridian, downstream to the town of Asotin, Washington.

(58) Housatonic, Connecticut: The segment from the Massachusetts-Connecticut boundary downstream to its confluence with the Shepaug River.

(59) Kern, California: The main stem of the North Fork from its source to Isabella Reservoir excluding its tributaries.

(60) Loxahatchee, Florida: The entire river including its tributary, North Fork.

(61) Ogeechee, Georgia: The entire river.

(62) Salt, Arizona: The main stem from a point on the north side of the river intersected by the Fort Apache Indian Reservation boundary (north of Buck Mountain) downstream to Arizona State Highway 288.

(63) Verde, Arizona: The main stem from the Prescott National Forest boundary near Paulden to the vicinity of Table Mountain, approximately 14 miles above Horseshoe Reservoir, except for the segment not included in the national forest between Clarkdale and Camp Verde, North segment.

(64) San Francisco, Arizona: The main stem from confluence with the Gila upstream to the Arizona-New Mexico border, except for the segment between Clifton and the Apache National Forest.

(65) Fish Creek, New York: The entire East Branch.

(66) Black Creek, Mississippi: The segment from Big Creek Landing in Forrest County downstream to Old Alexander Bridge Landing in Stone County.

(67) Allegheny, Pennsylvania: The main stem from Kinzua Dam downstream to East Brady.

(68) Cacapon, West Virginia: The entire river.

(69) Escatawpa, Alabama and Mississippi: The segment upstream from a point approximately one mile downstream from the confluence of the Escatawpa River and Jackson Creek to a point where the Escatawpa River is joined by the Yellowhouse Branch in Washington County, Alabama, near the town of Deer Park, Alabama; and the segment of Brushy Creek upstream from its confluence with the Escatawpa to its confluence with Scarsborough Creek.

(70) Myakka, Florida: The segment south of the southern boundary of the Myakka River State Park.

(71) Soldier Creek, Alabama: The segment beginning at the point where Soldier Creek intersects the south line of section 31, township 7 south, range 6 east, downstream to a point on the south line of section 6, township 8 south, range 6 east, which point is 1,322 feet west of the south line of section 5, township 8 south, range 6 east in the county of Baldwin, State of Alabama.

(72) Red, Kentucky: The segment from Highway numbered 746 (also known as Spradlin Bridge) in Wolf County, Kentucky, downstream to the point where the river descends below seven hundred feet above sea level (in its normal flow) which point is at the Menifee and Powell County line just downstream of the iron bridge where Kentucky Highway numbered 77 passes over the river.

(73) Bluestone, West Virginia: From its headwaters to its confluence with the New.

(74) Gauley, West Virginia: Including the tributaries of the Meadow and the Cranberry, from the headwaters to its confluence with the New.

(75) Greenbrier, West Virginia: From its headwaters to its confluence with the New.

(76) Birch, West Virginia: The main stem from the Cora Brown Bridge in Nicholas County to the confluence of the river with the Elk River in Braxton County.

(77) Colville, Alaska.
(78) Etivluk-Nigu, Alaska.
(79) Utukok, Alaska.
(80) Kanektok, Alaska.
(81) Kisaralik, Alaska.
(82) Melozitna, Alaska.
(83) Sheenjek (lower segment), Alaska.
(84) Situk, Alaska.
(85) Porcupine, Alaska.
(86) Yukon (Ramparts section), Alaska.
(87) Squirrel, Alaska.
(88) Koyuk, Alaska.

(89) Wildcat Brook, New Hampshire: The segment from its headwaters including the principal tributaries to its confluence with the Ellis River. The study authorized in this paragraph shall be completed no later than six years from June 19, 1984, and an interim report shall be prepared and submitted to the Congress no later than three years from June 19, 1984.

(90) Horsepasture, North Carolina: The segment from Bohaynee Road (N.C. 281) downstream to Lake Jocassee.

(91) The North Umpqua, Oregon: The segment from the Soda Springs Powerhouse to the confluence of Rock Creek. The provisions of section 1278(a) of this title shall apply to tributary Steamboat Creek in the same manner as such provisions apply to the rivers referred to in such section 1278(a) of this title. The Secretary of Agriculture shall, in the Umpqua National Forest plan, provide that management practices for Steamboat Creek and its immediate environment conserve, protect, and enhance the anadromous fish habitat and population.

(92) Farmington, West Branch, Connecticut and Massachusetts: The segment from the intersection of the New Hartford-Canton, Connecticut, town line upstream to the base of the West Branch Reservoir in Hartland, Connecticut; and the segment from the confluence with Thorp Brook in Sandisfield, Massachusetts, to Hayden Pond in Otis, Massachusetts.

(93) Great Egg Harbor River, New Jersey: The entire river.

(94) KLICKITAT, WASHINGTON: The segment from the southern boundary of the Yakima Indian Reservation, Washington, as described in the Treaty with the Yakimas of 1855 (12 Stat. 951), and as acknowledged by the Indian Claims Commission in Yakima Tribe of Indians v. U.S., 16 Ind. Cl. Comm. 536 (1966), to its confluence with the Little Klickitat River, Washington: *Provided*, That said study shall be carried on in consultation with the Yakima Indian Nation and shall include a determination of the degree to which the Yakima Indian Nation should participate in the preservation and administration of the river segment should it be proposed for inclusion in the Wild and Scenic Rivers system.

(95) WHITE SALMON, WASHINGTON: The segment from its confluence with Trout Lake Creek, Washington, to its confluence with Gilmer Creek, Washington, near the town of B Z Corner, Washington.

(96) MAURICE, NEW JERSEY.—The segment from Shell Pile to the point three miles north of Laurel Lake.

(97) MANUMUSKIN, NEW JERSEY.—The segment from its confluence with the Maurice River to the crossing of State Route 49.

(98) MENANTICO CREEK, NEW JERSEY.—The segment from its confluence with the Maurice River to its source.

(99) MERCED, CALIFORNIA.—The segment from a point 300 feet upstream of the confluence with Bear Creek downstream to the point of maximum flood control storage of Lake McClure (elevation 867 feet mean sea level).

(100) BLUE, OREGON.—The segment from its headwaters to the Blue River Reservoir; by the Secretary of Agriculture.

(101) CHEWAUCAN, OREGON.—The segment from its headwaters to the Paisley Urban Growth boundary to be studied in cooperation with, and integrated with, the Klamath River Basin Plan; by the Secretary of Agriculture.

(102) NORTH FORK MALHEUR, OREGON.—The segment from the Malheur National Forest boundary to Beulah Reservoir; by the Secretary of the Interior.

(103) SOUTH FORK MCKENZIE, OREGON.—The segments from its headwaters to the upper end of Cougar Reservoir and from the lower end of Cougar Reservoir to its confluence with the McKenzie River; by the Secretary of Agriculture.

(104) STEAMBOAT CREEK, OREGON.—The entire creek; by the Secretary of Agriculture.

(105) WALLOWA, OREGON.—The segment from its confluence with the Minam River to its confluence with the Grande Ronde River; by the Secretary of Agriculture.

(106) MERRIMACK RIVER, NEW HAMPSHIRE.—The segment from its origin at the confluence of the Pemigewasset and Winnipesaukee Rivers in Franklin, New Hampshire, to the backwater impoundment at Hooksett Dam, excluding the Garvins Falls Dam and its impoundment.

(107) PEMIGEWASSET, NEW HAMPSHIRE.—The segments from Profile Lake downstream to the southern boundary of the Franconia Notch State Park and from the northern Thornton town-line downstream to the backwater of the Ayers Island Dam; by the Secretary of the Interior.

(108) ST. MARYS RIVER, FLORIDA AND GEORGIA.—The segment from its headwaters to its confluence with the Bells River.

(109) MILLS RIVER, NORTH CAROLINA.—The North Fork from the bottom of the spillway of the Hendersonville Reservoir downstream to its confluence with the South Fork; the South Fork from its confluence with the Pigeon Branch downstream to its confluence with the North Fork; and the main stem from the confluence of the North and South Forks downstream to a point 750 feet upstream from the centerline of North Carolina Highway 191/280.

(110) SUDBURY, ASSABET, AND CONCORD, MASSACHUSSETS.[1]—The segment of the Sudbury from the Danforth Street Bridge in the town of Framingham, to its confluence with the Assabet, the Assabet from 1,000 feet downstream of the Damon Mill Dam in Concord to its confluence with the Sudbury and the Concord from the confluence of the Sudbury and Assabet downstream to the Route 3 Bridge in the town of Billerica. The study of such river segments shall be completed and the report submitted thereon

[1] So in original. Probably should be ''MASSACHUSETTS.''

not later than at the end of the third fiscal year beginning after November 28, 1990.

(111) NIOBRARA, NEBRASKA.—The 6-mile segment of the river from its confluence with Chimney Creek to its confluence with Rock Creek.

(112) LAMPREY, NEW HAMPSHIRE.—The segment from the southern Lee town line downstream to the confluence with Woodman's Brook at the base of Sullivan Falls in Durham.

(113) WHITE CLAY CREEK, DELAWARE AND PENNSYLVANIA.—The headwaters of the river in Pennsylvania to its confluence with the Christina River in Delaware, including the East, West, and Middle Branches, Middle Run, Pike Creek, Mill Creek, and other main branches and tributaries as determined by the Secretary of the Interior (herein after referred to as the White Clay Creek).

(114) BRULE, MICHIGAN AND WISCONSIN.—The 33-mile segment from Brule Lake in the northeast quarter of section 15, township 41 north, range 13 east, to the National Forest boundary at the southeast quarter of section 31, township 41 north, range 17 east.

(115) CARP, MICHIGAN.—The 7.6-mile segment from its origin at the confluence of the outlets of Frenchman Lake and Carp Lake in section 26, township 44 north, range 6 west, to the west section line of section 30, township 43 north, range 5 west.

(116) LITTLE MANISTEE, MICHIGAN.—The 42-mile segment within the Huron-Manistee National Forest.

(117) WHITE, MICHIGAN.—The 75.4-mile segment within the Huron-Manistee National Forest as follows:

(A) The 30.8-mile segment of the main stem from U.S. 31 to the Huron-Manistee National Forest boundary at the north line of section 2, township 13 north, range 15 west, 1.5 miles southwest of Hesperia.

(B) The 18.9-mile segment of the South Branch White from the Huron-Manistee National Forest boundary east of Hesperia at the west line of section 22, township 14 north, range 14 west, to Echo Drive, section 6, township 13 north, range 12 west.

(C) The 25.7-mile segment of the North Branch White from its confluence with the South Branch White in section 25, township 13 north, range 16 west, to McLaren Lake in section 11, township 14 north, range 15 west.

(118) ONTONAGON, MICHIGAN.—The 32-mile segment of the Ontonagon as follows:

(A) The 12-mile segment of the West Branch from the Michigan State Highway 28 crossing to Cascade Falls.

(B) The 20-mile segment of the South Branch from the confluence of the Cisco Branch and Tenmile Creek to the confluence with the West Branch Ontonagon.

(119) PAINT, MICHIGAN.—The 70-mile segment as follows:

(A) 34 miles of the mainstream beginning at the eastern boundary of the Ottawa National Forest in section 1, township 44 north, range 35 west, to the city of Crystal Falls.

(B) 15 miles of the mainstream of the Net River from its confluence with the east and west branches to its confluence with the mainstream of the Paint River.

(C) 15 miles of the east branch of the Net River from its source in section 8, township 47 north, range 32 west, to its confluence with the mainstream of the Net River in section 24, township 46 north, range 34 west.

(D) 14 miles of the west branch of the Net River from its source in section 35, township 48 north, range 34 west, to its confluence with the mainstream of the Net River in section 24, township 46 north, range 34 west.

(120) PRESQUE ISLE, MICHIGAN.—The 13-mile segment of the mainstream from Minnewawa Falls to Lake Superior.

(121) STURGEON, OTTAWA NATIONAL FOREST, MICHIGAN.—The 36-mile segment of the mainstream from the source at Wagner Lake in section 13, township 49 north, range 31 west, to the eastern boundary of the Ottawa National Forest in section 12, township 48 north, range 35 west.

(122) STURGEON, HIAWATHA NATIONAL FOREST, MICHIGAN.—The 18.1-mile segment from Sixteen Mile Lake to the north line of section 26, township 43 north, range 19 west.

(123) TAHQUAMENON, MICHIGAN.—The 103.5-mile segment as follows—

(A) the 90-mile segment of the mainstream beginning at the source in section 21, township 47 north, range 12 west, to the mouth at Whitefish Bay; and

(B) the 13.5-mile segment of the east branch from the western boundary of the Hiawatha National Forest in section 19, township 46 north, range 6 west, to its confluence with the mainstream.

(124) WHITEFISH, MICHIGAN.—The 26-mile segment of the West Branch Whitefish from its source in section 26, township 46 north, range 23 west, to County Road 444.

(125) CLARION, PENNSYLVANIA.—The segment of the main stem of the river from Ridgway to its confluence with the Allegheny River. The Secretary of Agriculture shall conduct the study of such segment.

(126) MILL CREEK, JEFFERSON AND CLARION COUNTIES, PENNSYLVANIA.—The segment of the main stem of the creek from its headwaters near Gumbert Hill in Jefferson County, downstream to the confluence with the Clarion River.

(127) PIRU CREEK, CALIFORNIA.—The segment of the main stem of the creek from its source downstream to the maximum pool of Pyramid Lake and the segment of the main stem of the creek beginning 300 feet below the dam at Pyramid Lake downstream to the maximum pool at Lake Piru, for a total distance of approximately 49 miles.

(128) LITTLE SUR RIVER, CALIFORNIA.—The segment of the main stem of the river from its headwaters downstream to the Pacific Ocean, a distance of approximately 23 miles. The Secretary of Agriculture shall consult with the Big Sur Multiagency Advisory Council during the study of the river.

(129) MATILIJA CREEK, CALIFORNIA.—The segment from its headwaters to its junction with Murietta Canyon, a distance of approximately 16 miles.

(130) LOPEZ CREEK, CALIFORNIA.—The segments from its headwaters to Lopez Reservoir, a distance of approximately 11 miles.

(131) SESPE CREEK, CALIFORNIA.—The segment from Chorro Grande Canyon downstream to its confluence with Rock Creek and Howard Creek, a distance of about 10.5 miles.

(132) NORTH FORK MERCED, CALIFORNIA.—The segment from its headwaters to its confluence with the Merced River, by the Secretary of Agriculture and the Secretary of the Interior.

(133) DELAWARE RIVER, PENNSYLVANIA AND NEW JERSEY.—(A) The approximately 3.6-mile segment from the Erie Lackawanna Railroad Bridge to the southern tip of Dildine Island.

(B) The approximately 2-mile segment from the southern tip of Mack Island to the northern border of the town of Belvidere, New Jersey.

(C) The approximately 12.5-mile segment from the southern border of the town of Belvidere, New Jersey, to the northern border of the city of Easton, Pennsylvania, excluding river mile 196.0 to 193.8.

(D) The approximately 9.5-mile segment from the southern border of the town of Phillipsburg, New Jersey, to a point just north of the Gilbert Generating Station.

(E) The approximately 14.2-mile segment from a point just south of the Gilbert Generating Station to a point just north of the Point Pleasant Pumping Station.

(F) The approximately 6.5-mile segment from a point just south of the Point Pleasant Pumping Station to the north side of the Route 202 bridge.

(G) The approximately 6-mile segment from the southern boundary of the town of New Hope, Pennsylvania, to the town of Washington Crossing, Pennsylvania.

(H) The Cook's Creek tributary.

(I) The Tinicum Creek tributary.

(J) The Tohickon Creek tributary.

(134) NEW RIVER, WEST VIRGINIA AND VIRGINIA.—The segment defined by public lands commencing at the U.S. Route 460 bridge over the New River in Virginia to the maximum summer pool elevation (one thousand four hundred and ten feet above mean sea level) of Bluestone Lake in West Virginia; by the Secretary of the Interior. Nothing in this chapter shall affect or impair the management of the Bluestone project or the authority of any department, agency or instrumentality of the United States to carry out the project purposes of that project as of October 26, 1992. The study of the river segment identified in this paragraph shall be completed and reported on within one year after October 26, 1992.

(135) RIO GRANDE, NEW MEXICO.—The segment from the west section line of Section 15, Township 23 North, Range 10 East, downstream approximately 8 miles to the southern line of the northwest quarter of Section 34, Township 23 North, Range 9 East.

(136) WEKIVA RIVER, FLORIDA.—(A) The entire river.

(B) The Seminole Creek tributary.

(C) The Rock Springs Run tributary.

(137) TAUNTON RIVER, MASSACHUSETTS.—The segment downstream from the headwaters, from the confluence of the Town River and the Matfield River in Bridgewater to the confluence with the Forge River in Raynham, Massachusetts.

(138) EIGHTMILE RIVER, CONNECTICUT.—The segment from its headwaters downstream to its confluence with the Connecticut River.

(139) LOWER FARMINGTON RIVER AND SALMON BROOK, CONNECTICUT.—The segment of the Farmington River downstream from the segment designated as a recreational river by section 1274(a)(156) of this title to its confluence with the Connecticut River, and the segment of the Salmon Brook including its mainstream and east and west branches.

(140) MISSISQUOI AND TROUT RIVERS, VERMONT.—The approximately 25-mile segment of the upper Missisquoi from its headwaters in Lowell to the Canadian border in North Troy, the approximately 25-mile segment from the Canadian border in East Richford to Enosburg Falls, and the approximately 20-mile segment of the Trout River from its headwaters to its confluence with the Missisquoi River.

(b) Studies and reports

(1) The studies of rivers named in subparagraphs (28) through (55) of subsection (a) of this section shall be completed and reports thereon submitted by not later than October 2, 1979: *Provided*, That with respect to the rivers named in subparagraphs (33), (50), and (51), the Secretaries shall not commence any studies until (i) the State legislature has acted with respect to such rivers or (ii) one year from January 3, 1975, whichever is earlier. Studies of the river[2] named in paragraphs (38), (55), (83), and (87) shall be completed and the reports transmitted to the Congress not later than January 1, 1987.

(2) The study of the river named in subparagraph (56) of subsection (a) of this section shall be completed and the report thereon submitted by not later than January 3, 1976.

(3) The studies of the rivers named in paragraphs (59) through (76) of subsection (a) of this section shall be completed and reports submitted thereon not later than five full fiscal years after November 10, 1978. The study of rivers named in paragraphs (62) through (64) of subsection (a) of this section shall be completed and the report thereon submitted by not later than April 1981. The study of the river named in paragraph (90) of subsection (a) of this section shall be completed not later than three years after October 17, 1984. The study of the river named in paragraph (93) of subsection (a) of this section shall be completed not later than three years after October 30, 1986.

(4) For the purposes of conducting the studies of rivers named in subsection (a) of this section, there are authorized to be appropriated such sums as necessary.

(5) The studies of the rivers in paragraphs (77) through (88) shall be completed and reports transmitted thereon not later than three full fiscal years from December 2, 1980. For the rivers listed in paragraphs (77), (78), and (79) the studies prepared and transmitted to the Congress pursuant to section 6505(c) of title 42 shall satisfy the requirements of this section.

(6) Studies of rivers listed in paragraphs (80) and (81) shall be completed, and reports submitted within and not later than the time when the

[2] So in original. Probably should be ''rivers''.

Bristol Bay Cooperative Region Plan is submitted to Congress in accordance with section 3183[3] of this title.

(7) The study of the West Branch of the Farmington River identified in paragraph (92) of subsection (a) of this section shall be completed and the report submitted thereon not later than the end of the third fiscal year beginning after October 30, 1986. Such report shall include a discussion of management alternatives for the river if it were to be included in the national wild and scenic river system.

(8) The study of the Merrimack River, New Hampshire, shall be completed and the report thereon submitted not later than three years after August 10, 1990.

(9) The study of the Pemigewasset River, New Hampshire, shall be completed and the report thereon submitted not later than three years after August 10, 1990.

(10) The study of the river named in paragraph (106)[4] of subsection (a) of this section shall be completed not later than three years after August 15, 1990. In carrying out the study, the Secretary of the Interior shall consult with the Governors of the States of Florida and Georgia or their representatives, representatives of affected local governments, and owners of land adjacent to the river. Such consultation shall include participation in the assessment of resource values and the development of alternatives for the protection of those resource values, and shall be carried out through public meetings and media notification. The study shall also include a recommendation on the part of the Secretary as to the role the States, local governments and landowners should play in the management of the river if it were designated as a component of the National Wild and Scenic Rivers System.

(11) The study of the Lamprey River, New Hampshire, shall be completed by the Secretary of the Interior and the report thereon submitted not later than 3 years after December 11, 1991.

(12)(A) The study of the White Clay Creek in Delaware and Pennsylvania shall be completed and the report submitted not later than 3 years after December 11, 1991.

(B) In carrying out the study, the Secretary of the Interior shall prepare a map of the White Clay Creek watershed in Delaware and Pennsylvania, and shall develop a recommended management plan for the White Clay Creek. The plan shall provide recommendations as to the protection and management of the White Clay Creek, including the role the State and local governments, and affected landowners, should play in the management of the White Clay Creek if it is designated as a component of the National Wild and Scenic Rivers System.

(C) The Secretary shall prepare the study, including the recommended management plan, in cooperation and consultation with appropriate State and local governments, and affected landowners.

(13) The study of segments of the Brule, Carp, Little Manistee, White, Paint, Presque Isle, Ontonagon, Sturgeon (Hiawatha), Sturgeon (Ottawa), Whitefish, and Tahquamenon Rivers in Michigan under subsection (a) of this section shall be completed by the Secretary of Agriculture and the report submitted thereon not later than at the end of the third fiscal year beginning after March 3, 1992. For purposes of such river studies, the Secretary shall consult with each River Study Committee authorized under section 5 of the Michigan Scenic Rivers Act of 1990,[5] and shall encourage public participation and involvement through hearings, workshops, and such other means as are necessary to be effective.

(14)(A) The study of the Delaware River segments and tributaries designated for potential addition to the National Wild and Scenic Rivers System pursuant to subsection (a)( )[6] of this section shall be completed and the report submitted to Congress not later than one year after October 23, 1992.

(B) The Secretary shall—

(i) prepare the study in cooperation and consultation with appropriate Federal, State, regional, and local agencies, including but not limited to, the Pennsylvania Department of Environmental Resources, the New Jersey Department of Environmental Protection and Energy, the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, and the Delaware and Raritan Canal Commission; and

(ii) consider previous plans for the protection of affected cultural, recreational, and natural resources (including water supply and water quality) and existing State and local regulations, so as to avoid unnecessary duplication.

(C) Pursuant to section 1282(b)(1) of this title, the Secretary shall undertake a river conservation plan for the segment of the Delaware River from the northern city limits of Trenton, New Jersey, to the Southern[7] boundary of Bucks County, Pennsylvania.

(15) The study of the Rio Grande in New Mexico shall be completed and the report submitted not later than 3 years after May 4, 1994.

(16) The study of the Wekiva River and the tributaries designated in paragraph (136) of subsection (a) of this section shall be completed and the report transmitted to Congress not later than two years after October 19, 1996.

(17) TAUNTON RIVER, MASSACHUSETTS.—Not later than 3 years after October 19, 2000, the Secretary of the Interior—

(A) shall complete the study of the Taunton River, Massachusetts; and

(B) shall submit to Congress a report describing the results of the study.

(18) The study of the Eightmile River, Connecticut, named in paragraph (138) of subsection (a) of this section shall be completed by the Secretary of the Interior and the report thereon submitted to Congress not later than 3 years after November 6, 2001.

(19) MISSISQUOI AND TROUT RIVERS, VERMONT.—Not later than 3 years after the date on which

[3] See Codification note below.

[4] So in original. Probably should be ''(108)''.

[5] See References in Text note below.

[6] So in original. Probably should be subsection ''(a)(133)''.

[7] So in original. Probably should not be capitalized.

funds are made available to carry out this paragraph, the Secretary of the Interior shall—

(A) complete the study of the Missisquoi and Trout Rivers, Vermont, described in subsection (a)(140); and

(B) submit a report describing the results of that study to the appropriate committees of Congress.

(c) State participation

The study of any of said rivers shall be pursued in as close cooperation with appropriate agencies of the affected State and its political subdivisions as possible, shall be carried on jointly with such agencies if request for such joint study is made by the State and shall include a determination of the degree to which the State or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the national wild and scenic rivers system.

(d) Continuing consideration by Federal agencies to potential national, wild, scenic and recreational river areas

(1) In all planning for the use and development of water and related land resources, consideration shall be given by all Federal agencies involved to potential national wild, scenic and recreational river areas, and all river basin and project plan reports submitted to the Congress shall consider and discuss any such potentials. The Secretary of the Interior and the Secretary of Agriculture shall make specific studies and investigations to determine which additional wild, scenic and recreational river areas within the United States shall be evaluated in planning reports by all Federal agencies as potential alternative uses of the water and related land resources involved.

(2) The Congress finds that the Secretary of the Interior, in preparing the Nationwide Rivers Inventory as a specific study for possible additions to the National Wild and Scenic Rivers System, identified the Upper Klamath River from below the John Boyle Dam to the Oregon-California State line. The Secretary, acting through the Bureau of Land Management, is authorized under this subsection to complete a study of the eligibility and suitability of such segment for potential addition to the National Wild and Scenic Rivers System. Such study shall be completed, and a report containing the results of the study shall be submitted to Congress by April 1, 1990. Nothing in this paragraph shall affect the authority or responsibilities of any other Federal agency with respect to activities or actions on this segment and its immediate environment.

(Pub. L. 90–542, §5, Oct. 2, 1968, 82 Stat. 910; Pub. L. 93–279, §1(b)(2), May 10, 1974, 88 Stat. 123; Pub. L. 93–621, §1(a), (b), Jan. 3, 1975, 88 Stat. 2094, 2095; Pub. L. 94–199, §5(a), Dec. 31, 1975, 89 Stat. 1118; Pub. L. 94–486, title IV, §401, title VII, §701, Oct. 12, 1976, 90 Stat. 2330; Pub. L. 95–625, title VII, §§721–736, title XI, §1108, Nov. 10, 1978, 92 Stat. 3530–3532, 3547; Pub. L. 96–87, title IV, §404, Oct. 12, 1979, 93 Stat. 667; Pub. L. 96–199, title I, §102, Mar. 5, 1980, 94 Stat. 68; Pub. L. 96–487, title VI, §604, Dec. 2, 1980, 94 Stat. 2415; Pub. L. 98–323, title II, §201, June 19, 1984, 98 Stat. 261; Pub. L. 98–484, §5, Oct. 17, 1984, 98 Stat. 2259; Pub. L. 98–494, §2, Oct. 19, 1984, 98 Stat. 2274; Pub. L. 99–590, title II, §202(b), (c), title III, §301, title V, §503, Oct. 30, 1986, 100 Stat. 3332–3335; Pub. L. 99–663, §13(d), Nov. 17, 1986, 100 Stat. 4294; Pub. L. 100–33, §1, May 7, 1987, 101 Stat. 299; Pub. L. 100–149, §2, Nov. 2, 1987, 101 Stat. 879; Pub. L. 100–557, title I, §§103, 104, Oct. 28, 1988, 102 Stat. 2790; Pub. L. 101–40, §2(b), June 20, 1989, 103 Stat. 82; Pub. L. 101–356, §§2, 3, Aug. 10, 1990, 104 Stat. 417; Pub. L. 101–357, §§2, 3, Aug. 10, 1990, 104 Stat. 418; Pub. L. 101–364, §1, Aug. 15, 1990, 104 Stat. 428; Pub. L. 101–538, §1, Nov. 8, 1990, 104 Stat. 2376; Pub. L. 101–628, title VII, §703, Nov. 28, 1990, 104 Stat. 4497; Pub. L. 102–50, §3(a), May 24, 1991, 105 Stat. 254; Pub. L. 102–214, §§2, 3, Dec. 11, 1991, 105 Stat. 1663; Pub. L. 102–215, §§3, 4, Dec. 11, 1991, 105 Stat. 1664; Pub. L. 102–249, §4, Mar. 3, 1992, 106 Stat. 48; Pub. L. 102–271, §5(a), Apr. 20, 1992, 106 Stat. 110; Pub. L. 102–301, §7(a), June 19, 1992, 106 Stat. 245; Pub. L. 102–432, §2, Oct. 23, 1992, 106 Stat. 2213; Pub. L. 102–460, §1(a), (b), Oct. 23, 1992, 106 Stat. 2270; Pub. L. 102–525, title IV, §401, Oct. 26, 1992, 106 Stat. 3441; Pub. L. 103–242, §3, May 4, 1994, 108 Stat. 611; Pub. L. 104–311, Oct. 19, 1996, 110 Stat. 3818; Pub. L. 104–333, div. I, title IV, §407(b), Nov. 12, 1996, 110 Stat. 4152; Pub. L. 106–318, §§3, 4, Oct. 19, 2000, 114 Stat. 1278; Pub. L. 107–65, §§3, 4, Nov. 6, 2001, 115 Stat. 484; Pub. L. 109–370, §2(a), Nov. 27, 2006, 120 Stat. 2643; Pub. L. 111–11, title V, §5101(a), (b), Mar. 30, 2009, 123 Stat. 1153.)

REFERENCES IN TEXT

Section 5 of the Michigan Scenic Rivers Act of 1990, referred to in subsec. (b)(13), probably means section 5 of Pub. L. 102–249, Mar. 3, 1992, 106 Stat. 50, known as the Michigan Scenic Rivers Act of 1991, which is not classified to the Code.

CODIFICATION

Section 3183 of this title, referred to in subsec. (b)(6), was in the original ''section 1204 of the Alaska National Interest Lands Conservation Act'' and has been editorially translated as section 3183 of this title, which is section 1203 of that Act, as the probable intent of Congress, in view of that Act being enacted without a section 1204 and section 1203 of that Act relating to the Bristol Bay Cooperative Region Plan.

AMENDMENTS

2009—Subsec. (a)(140). Pub. L. 111–11, §5101(a), added par. (140).

Subsec. (b)(19). Pub. L. 111–11, §5101(b), added par. (19).

2006—Subsec. (a)(139). Pub. L. 109–370 added par. (139).

2001—Subsec. (a)(138). Pub. L. 107–65, §3, added par. (138).

Subsec. (b)(18). Pub. L. 107–65, §4, added par. (18).

2000—Subsec. (a)(136). Pub. L. 106–318, §3(1), designated unnumbered par. relating to Wekiva River, Florida, as par. (136).

Subsec. (a)(137). Pub. L. 106–318, §3(2), added par. (137).

Subsec. (b)(8), (10). Pub. L. 106–318, §4(1), redesignated par. (8) relating to study of St. Marys River, Florida and Georgia, as (10).

Subsec. (b)(11) to (14). Pub. L. 106–318, §4(2)–(4), redesignated par. (11) relating to study of White Clay Creek, Delaware and Pennsylvania, as (12), par. (11) relating to study of segments of Brule, Carp, and other rivers in Michigan as (13), and par. (11) relating to study of segments of Delaware River in Pennsylvania and New Jersey as (14).

Subsec. (b)(15). Pub. L. 106–318, §4(5), designated unnumbered par. relating to study of Rio Grande, New Mexico, as par. (15).

Subsec. (b)(16). Pub. L. 106–318, § 4(6), (7), designated unnumbered par. relating to study of Wekiva River, Florida, and its tributaries as par. (16) and substituted ''paragraph (136)'' for ''paragraph ( )''.

Subsec. (b)(17). Pub. L. 106–318, § 4(8), added par. (17).

1996—Subsec. (a). Pub. L. 104–311, § 1, added unnumbered par. relating to Wekiva River, Florida.

Subsec. (a)(106), (108). Pub. L. 104–333, § 407(b)(1), redesignated par. (106), relating to St. Marys River, Florida, as (108).

Subsec. (a)(109) to (111). Pub. L. 104–333, § 407(b)(3), designated unnumbered pars. relating to Mills River, North Carolina, Sudbury, Assabet, and Concord, Massachusetts, and Niobrara, Nebraska, as pars. (109) to (111), respectively.

Subsec. (a)(112), (113). Pub. L. 104–333, § 407(b)(2), (3), designated unnumbered par. relating to Lamprey, New Hampshire as par. (112) and redesignated former par. (112), relating to White Clay Creek, Delaware and Pennsylvania, as (113).

Subsec. (a)(114) to (135). Pub. L. 104–333, § 407(b)(3), designated unnumbered pars. relating to various rivers as pars. (114) to (135).

Subsec. (b). Pub. L. 104–311, § 2, added unnumbered par. relating to study of Wekiva River, Florida, and its tributaries.

1994—Subsec. (a). Pub. L. 103–242, § 3(a), added unnumbered par. relating to Rio Grande, New Mexico.

Subsec. (b). Pub. L. 103–242, § 3(b), added unnumbered par. relating to study of Rio Grande, New Mexico.

1992—Subsec. (a). Pub. L. 102–525 added unnumbered par. relating to New River, West Virginia and Virginia.

Pub. L. 102–460, § 1(a), added unnumbered par. relating to Delaware River, Pennsylvania and New Jersey.

Pub. L. 102–432 added unnumbered par. relating to North Fork Merced, California.

Pub. L. 102–301 added unnumbered pars. relating to the following rivers in California: Piru Creek, Little Sur River, Matilija Creek, Lopez Creek, and Sespe Creek.

Pub. L. 102–271 added unnumbered pars. relating to Clarion River and Mill Creek, Pennsylvania.

Pub. L. 102–249, § 4(a), added unnumbered pars. relating to the Brule River in Michigan and Wisconsin, and the following rivers in Michigan: Carp, Little Manistee, White, Ontonagon, Paint, Presque Isle, Sturgeon (Ottawa National Forest), Sturgeon (Hiawatha National Forest), Tahquamenon, and Whitefish.

Subsec. (b)(11). Pub. L. 102–460, § 1(b), added par. (11) relating to study of segments of Delaware River in Pennsylvania and New Jersey.

Pub. L. 102–249, § 4(b), added par. (11) relating to study of segments of Brule, Carp, and other rivers in Michigan.

1991—Subsec. (a). Pub. L. 102–214, § 2, added unnumbered par. relating to Lamprey River, New Hampshire.

Pub. L. 102–50 added unnumbered par. relating to Niobrara River, Nebraska.

Subsec. (a)(112). Pub. L. 102–215, § 3, added par. (112).

Subsec. (b)(11). Pub. L. 102–215, § 4, added par. (11) relating to study of White Clay Creek, Delaware and Pennsylvania.

Pub. L. 102–214, § 3, added par. (11) relating to study of Lamprey River, New Hampshire.

1990—Subsec. (a). Pub. L. 101–628 added unnumbered par. relating to Sudbury, Assabet, and Concord rivers in Massachusetts.

Pub. L. 101–538 added unnumbered par. relating to Mills River, North Carolina.

Subsec. (a)(106). Pub. L. 101–364, § 1(a), added par. (106) relating to St. Marys River, Florida and Georgia.

Pub. L. 101–356, § 2, added par. (106) relating to Merrimack River, New Hampshire.

Subsec. (a)(107). Pub. L. 101–357, § 2, added par. (107).

Subsec. (b)(8). Pub. L. 101–364, § 1(b), added par. (8) relating to study of St. Marys River, Florida and Georgia.

Pub. L. 101–356, § 3, added par. (8) relating to study of Merrimack River, New Hampshire.

Subsec. (b)(9). Pub. L. 101–357, § 3, added par. (9).

1989—Subsec. (a)(96), (99). Pub. L. 101–40, § 2(b)(1), redesignated par. (96), relating to Merced River, California, as par. (99).

Subsec. (a)(100) to (105). Pub. L. 101–40, § 2(b)(2), designated unnumbered paragraphs relating to rivers in Oregon as pars. (100) to (105).

1988—Subsec. (a). Pub. L. 100–557, § 103, added unnumbered pars. relating to the following rivers in Oregon: Blue, Chewaucan, North Fork Malheur, South Fork McKenzie, Steamboat Creek, and Wallowa.

Subsec. (d). Pub. L. 100–557, § 104, designated existing provisions as par. (1) and added par. (2).

1987—Subsec. (a)(94), (95). Pub. L. 100–149, § 2(b), designated pars. relating to Klickitat and White Salmon as pars. (94) and (95), respectively.

Subsec. (a)(96). Pub. L. 100–149, § 2(a), added par. (96) relating to Merced, California.

Pub. L. 100–33 added par. (96) relating to Maurice, New Jersey.

Subsec. (a)(97), (98). Pub. L. 100–33 added pars. (97) and (98).

1986—Subsec. (a)(90), (91). Pub. L. 99–590, § 503(a), redesignated par. (90), relating to North Umpqua, Oregon, as par. (91).

Subsec. (a)(92), (93). Pub. L. 99–590, §§ 201(b), 301(a), added pars. (92) and (93).

Subsec. (a)(94), (95). Pub. L. 99–663 added at end two unnumbered pars., relating to Klickitat, Washington, and White Salmon, Washington, which were designated as pars. (94) and (95), respectively, by Pub. L. 100–149.

Subsec. (b)(1). Pub. L. 99–590, § 503(b), inserted provisions relating to completion and transmission of reports to Congress not later than Jan. 1, 1987.

Subsec. (b)(3). Pub. L. 99–590, § 301(b), inserted provisions relating to completion date of study of river named in subsec. (a)(93).

Subsec. (b)(4). Pub. L. 99–590, § 503(c), amended par. (4) generally, substituting provisions authorizing appropriations for purposes of conducting studies of rivers named in subsec. (a), for provisions authorizing appropriations for the purpose of conducting studies of rivers named in pars. (28) through (56), (59) through (76), (90), and (93) of subsec. (a).

Pub. L. 99–590, § 301(c), inserted provisions authorizing an appropriation of not to exceed $150,000 for conducting study of river named in subsec. (a)(93).

Subsec. (b)(7). Pub. L. 99–590, § 202(c), added par. (7).

1984—Subsec. (a)(89). Pub. L. 98–323 added par. (89).

Subsec. (a)(90). Pub. L. 98–494 added par. (90) appearing second relating to North Umpqua, Oregon.

Pub. L. 98–484, § 5(a), added par. (90) appearing first relating to Horsepasture, North Carolina.

Subsec. (b)(3). Pub. L. 98–484, § 5(b), required completion of the study of the Horsepasture River, North Carolina, within three years after Oct. 17, 1984.

Subsec. (b)(4). Pub. L. 98–484, § 5(c), authorized appropriations for conducting study of the Horsepasture River, North Carolina.

Subsec. (b)(5), (6). Pub. L. 98–484, § 5(c), redesignated pars. (4) and (5) added by Pub. L. 96–487, § 604(b), as pars. (5) and (6), respectively.

1980—Subsec. (a)(76). Pub. L. 96–199, § 102(a), added par. (76).

Subsec. (a)(77) to (88). Pub. L. 96–487, § 604(a), added pars. (77) to (88).

Subsec. (b)(3), (4). Pub. L. 96–199, § 102(b), substituted ''(76)'' for ''(75)''.

Subsec. (b)(4), (5). Pub. L. 96–487, § 604(b), added second par. (4) and par. (5). See 1984 Amendment note above.

1979—Subsec. (b)(3). Pub. L. 96–87, § 404(a), substituted ''paragraphs (59) through (75)'' for ''paragraphs (59) through (72)''.

Subsec. (b)(4). Pub. L. 96–87, § 404(b), substituted ''subparagraphs (59) through (75)'' for ''subparagraphs (59) through (74)''.

1978—Subsec. (a)(59) to (75). Pub. L. 95–625, §§ 721–734, 1108, added pars. (59) to (75).

Subsec. (b)(3), (4). Pub. L. 95–625, §§ 735, 736, added par. (3), redesignated former par. (3) as (4), and increased appropriations authorization for certain studies to

$4,060,000 from $2,175,000 and authorized necessary appropriations for certain other river studies.

1976—Subsec. (a)(47). Pub. L. 94–486, § 701, struck out ''including the tributaries and headwaters on national forest lands'' after ''Colorado Highway 160''.

Subsec. (a)(58). Pub. L. 94–486, § 401, added par. (58).

1975—Subsec. (a)(28) to (56). Pub. L. 93–621, § 1(a), added pars. (28) to (56).

Subsec. (a)(57). Pub. L. 94–199 added par. (57).

Subsecs. (b) to (d). Pub. L. 93–621, § 1(b), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1974—Subsecs. (b) to (d). Pub. L. 93–279 redesignated subsecs. (c) and (d) as (b) and (c), respectively. Former subsec. (b), relating to the study of rivers named in subsec. (a) of this section for inclusion in the national wild and scenic river system and submission of reports to the President and the Congress, was incorporated in section 1275(a) of this title.

CHANGE OF NAME

The Delaware and Lehigh Navigation Canal National Heritage Corridor was redesignated the Delaware and Lehigh National Heritage Corridor by Pub. L. 105–355, title IV, § 401, Nov. 6, 1998, 112 Stat. 3258.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 6 of Pub. L. 98–484 provided that: ''The provisions of this Act [amending this section] shall take effect on the date of the enactment of this Act [Oct. 17, 1984].''

GENESEE RIVER PROTECTION

Pub. L. 101–175, Nov. 27, 1989, 103 Stat. 1294, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Genesee River Protection Act of 1989'.

''SEC. 2. PROTECTION OF THE GENESEE RIVER.

''In order to protect for present and future generations the outstanding scenic, natural, recreational, scientific, cultural, and ecological values of the Genesee River within Letchworth Gorge State Park in the State of New York, and to assist in the protection and enhancement of the Gorge's archeological sites of sacred significance to the Seneca Nation, historic areas, endangered plant communities, and diverse recreation uses, the protections afforded for rivers listed in section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) for study for potential addition to the National Wild and Scenic Rivers System shall apply to the segment of the Genesee River beginning at the southern boundary of Letchworth Gorge State Park and extending downstream to the Mt. Morris Dam, except that the protection so afforded shall not interfere with the Secretary of the Army's operation and management of Mt. Morris Dam as authorized for purposes of flood control.''

§ 1277. Land acquisition

(a) Grant of authority to acquire; State and Indian lands; use of appropriated funds; acquisition of tracts partially outside component boundaries; disposition of lands

(1) The Secretary of the Interior and the Secretary of Agriculture are each authorized to acquire lands and interests in land within the authorized boundaries of any component of the national wild and scenic rivers system designated in section 1274 of this title, or hereafter designated for inclusion in the system by Act of Congress, which is administered by him, but he shall not acquire fee title to an average of more than 100 acres per mile on both sides of the river. Lands owned by a State may be acquired only by donation or by exchange in accordance with subsection (d) of this section. Lands owned by an Indian tribe or a political subdivision of a State may not be acquired without the consent of the appropriate governing body thereof as long as the Indian tribe or political subdivision is following a plan for management and protection of the lands which the Secretary finds protects the land and assures its use for purposes consistent with this chapter. Money appropriated for Federal purposes from the land and water conservation fund shall, without prejudice to the use of appropriations from other sources, be available to Federal departments and agencies for the acquisition of property for the purposes of this chapter.

(2) When a tract of land lies partially within and partially outside the boundaries of a component of the National Wild and Scenic Rivers System, the appropriate Secretary may, with the consent of the landowners for the portion outside the boundaries, acquire the entire tract. The land or interest therein so acquired outside the boundaries shall not be counted against the average one-hundred-acre-per-mile fee title limitation of subsection (a)(1) of this section. The lands or interests therein outside such boundaries, shall be disposed of, consistent with existing authorities of law, by sale, lease, or exchange.

(b) Curtailment of condemnation power in area 50 per centum or more of which is owned in fee title by Federal or State government

If 50 per centum or more of the entire acreage outside the ordinary high water mark on both sides of the river within a federally administered wild, scenic or recreational river area is owned in fee title by the United States, by the State or States within which it lies, or by political subdivisions of those States, neither Secretary shall acquire fee title to any lands by condemnation under authority of this chapter. Nothing contained in this section, however, shall preclude the use of condemnation when necessary to clear title or to acquire scenic easements or such other easements as are reasonably necessary to give the public access to the river and to permit its members to traverse the length of the area or of selected segments thereof.

(c) Curtailment of condemnation power in urban areas covered by valid and satisfactory zoning ordinances

Neither the Secretary of the Interior nor the Secretary of Agriculture may acquire lands by condemnation, for the purpose of including such lands in any national wild, scenic or recreational river area, if such lands are located within any incorporated city, village, or borough which has in force and applicable to such lands a duly adopted, valid zoning ordinance that conforms with the purposes of this chapter. In order to carry out the provisions of this subsection the appropriate Secretary shall issue guidelines, specifying standards for local zoning ordinances, which are consistent with the purposes of this chapter. The standards specified in such guidelines shall have the object of (A) prohibiting new commercial or industrial uses other than commercial or industrial uses which

are consistent with the purposes of this chapter, and (B) the protection of the bank lands by means of acreage, frontage, and setback requirements on development.

(d) Exchange of property

The appropriate Secretary is authorized to accept title to non-Federal property within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 1274 of this title or hereafter designated for inclusion in the system by Act of Congress and, in exchange therefor, convey to the grantor any federally owned property which is under his jurisdiction within the State in which the component lies and which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal or, if they are not approximately equal, shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(e) Transfer of jurisdiction over federally owned property to appropriate Secretary

The head of any Federal department or agency having administrative jurisdiction over any lands or interests in land within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 1274 of this title or hereafter designated for inclusion in the system by Act of Congress is authorized to transfer to the appropriate secretary jurisdiction over such lands for administration in accordance with the provisions of this chapter. Lands acquired by or transferred to the Secretary of Agriculture for the purposes of this chapter within or adjacent to a national forest shall upon such acquisition or transfer become national forest lands.

(f) Acceptance of donated land, funds, and other property

The appropriate Secretary is authorized to accept donations of lands and interests in land, funds, and other property for use in connection with his administration of the national wild and scenic rivers system.

(g) Retained right of use and occupancy; termination; fair market value; "improved property" defined

(1) Any owner or owners (hereinafter in this subsection referred to as ''owner'') of improved property on the date of its acquisition, may retain for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term not to exceed twenty-five years or, in lieu thereof, for a term ending at the death of the owner, or the death of his spouse, or the death of either or both of them. The owner shall elect the term to be reserved. The appropriate Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(2) A right of use and occupancy retained pursuant to this subsection shall be subject to termination whenever the appropriate Secretary is given reasonable cause to find that such use and occupancy is being exercised in a manner which conflicts with the purposes of this chapter. In the event of such a finding, the Secretary shall tender to the holder of that right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination. Such right of use or occupancy shall terminate by operation of law upon tender of the fair market price.

(3) The term ''improved property'', as used in this chapter, means a detached, one-family dwelling (hereinafter referred to as ''dwelling''), the construction of which was begun before January 1, 1967, (except where a different date is specifically provided by law with respect to any particular river) together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the appropriate Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(Pub. L. 90–542, § 6, Oct. 2, 1968, 82 Stat. 912; Pub. L. 95–625, title VII, § 763(b), Nov. 10, 1978, 92 Stat. 3533; Pub. L. 99–590, title V, § 504, Oct. 30, 1986, 100 Stat. 3336.)

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–590, § 504(b), (c), designated existing provisions as par. (1), inserted provisions relating to acquisition of lands by exchange in accordance with subsec. (d) of this section, and added par. (2).

Subsec. (b). Pub. L. 99–590, § 504(d), inserted requirement that acreage be outside ordinary high water mark on both sides of the river, and inserted ''in fee title'' after ''owned''.

Subsec. (e). Pub. L. 99–590, § 504(a), substituted ''Congress is'' for ''Congress in''.

1978—Subsec. (g)(3). Pub. L. 95–625 inserted ''(except where a different date is specifically provided by law with respect to any particular river)''.

§ 1278. Restrictions on water resources projects

(a) Construction projects licensed by Federal Energy Regulatory Commission

The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), on or directly affecting any river which is designated in section 1274 of this title as a component of the national wild and scenic rivers system or which is hereafter designated for inclusion in that system, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or unreasonably diminish the

scenic, recreational, and fish and wildlife values present in the area on the date of designation of a river as a component of the National Wild and Scenic Rivers System. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior or the Secretary of Agriculture, as the case may be, in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this chapter and would affect the component and the values to be protected by it under this chapter. Any license heretofore or hereafter issued by the Federal Energy Regulatory Commission affecting the New River of North Carolina shall continue to be effective only for that portion of the river which is not included in the National Wild and Scenic Rivers System pursuant to section 1273 of this title and no project or undertaking so licensed shall be permitted to invade, inundate or otherwise adversely affect such river segment.

(b) Construction projects on rivers designated for potential addition to system

The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act, as amended [16 U.S.C. 791a et seq.], on or directly affecting any river which is listed in section 1276(a) of this title, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river might be designated, as determined by the Secretary responsible for its study or approval—

(i) during the ten-year period following October 2, 1968, or for a three complete fiscal year period following any Act of Congress designating any river for potential addition to the national wild and scenic rivers system, whichever is later, unless, prior to the expiration of the relevant period, the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, on the basis of study, determine that such river should not be included in the national wild and scenic rivers system and notify the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, in writing, including a copy of the study upon which the determination was made, at least one hundred and eighty days while Congress is in session prior to publishing notice to that effect in the Federal Register: *Provided*, That if any Act designating any river or rivers for potential addition to the national wild and scenic rivers system provides a period for the study or studies which exceeds such three complete fiscal year period the period provided for in such Act shall be substituted for the three complete fiscal year period in the provisions of this clause (i); and

(ii) during such interim period from the date a report is due and the time a report is actually submitted to the Congress; and

(iii) during such additional period thereafter as, in the case of any river the report for which is submitted to the President and the Congress, is necessary for congressional consideration thereof or, in the case of any river recommended to the Secretary of the Interior for inclusion in the national wild and scenic rivers system under section 1273(a)(ii) of this title, is necessary for the Secretary's consideration thereof, which additional period, however, shall not exceed three years in the first case and one year in the second.

Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a potential wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or diminish the scenic, recreational, and fish and wildlife values present in the potential wild, scenic or recreational river area on the date of designation of a river for study as provided for in section 1276 of this title. No department or agency of the United States shall, during the periods hereinbefore specified, recommend authorization of any water resources project on any such river or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture in writing of its intention so to do at least sixty days in advance of doing so and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this chapter and would affect the component and the values to be protected by it under this chapter.

(c) Activities in progress affecting river of system; notice to Secretary

The Federal Energy Regulatory Commission and all other Federal agencies shall, promptly upon enactment of this chapter, inform the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, of any proceedings, studies, or other activities within their jurisdiction which are now in progress and which affect or may affect any of the rivers specified in section 1276(a) of this title. They shall likewise inform him of any such proceedings, studies, or other activities which are hereafter commenced or resumed before they are commenced or resumed.

(d) Grants under Land and Water Conservation Fund Act of 1965

Nothing in this section with respect to the making of a loan or grant shall apply to grants made under the Land and Water Conservation Fund Act of 1965 [16 U.S.C. 460*l*–4 et seq.].

(Pub. L. 90–542, §7, Oct. 2, 1968, 82 Stat. 913; Pub. L. 93–279, §1(b)(3), (4), May 10, 1974, 88 Stat. 123;

Pub. L. 93–621, §1(c), Jan. 3, 1975, 88 Stat. 2096; Pub. L. 94–407, §1(2), Sept. 11, 1976, 90 Stat. 1238; Pub. L. 95–91, title IV, §402(a)(1)(A), Aug. 4, 1977, 91 Stat. 583; Pub. L. 99–590, title V, §505, Oct. 30, 1986, 100 Stat. 3336; Pub. L. 103–437, §6(a)(7), Nov. 2, 1994, 108 Stat. 4583.)

REFERENCES IN TEXT

The Federal Power Act, referred to in subsecs. (a) and (b), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (d), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§460*l*–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

AMENDMENTS

1994—Subsec. (b)(i). Pub. L. 103–437 substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives'' for ''Committees on Interior and Insular Affairs of the United States Congress''.

1986—Subsec. (a). Pub. L. 99–590, §505(a), substituted provisions relating to values present in the area on the date of designation of a river as a component of the System, for provisions relating to values present in the area on Oct. 2, 1968.

Subsec. (b). Pub. L. 99–590, §505(b), added cl. (ii), redesignated former cl. (ii) as (iii), and substituted provisions relating to values present in the area on the date of designation of a river for study pursuant to section 1276 of this title for provisions relating to values present in the area on the date of approval of this chapter.

1976—Subsec. (a). Pub. L. 94–407 inserted provision relating to licenses issued affecting the New River of North Carolina.

1975—Subsec. (b)(i). Pub. L. 93–621 inserted proviso that if any Act provides a time period for study in excess of the three fiscal year period, that period shall be substituted for the three complete fiscal year period provision of cl. (i).

1974—Subsec. (b)(i). Pub. L. 93–279, §1(b)(3), substituted provisions that construction projects may not be licensed or assisted before Oct. 2, 1978, or for a three year period following inclusion of a river in the list of rivers for potential addition to the national wild and scenic river system, unless, prior to that period, the Secretary of the Interior or the Secretary of Agriculture, as the case may be, determined that such river should not be so included and notified the Committees on Interior and Insular Affairs, before publication in the Federal Register, for provisions that such projects may not be licensed or assisted before Oct. 2, 1973, unless, prior to that period, the Secretary of the Interior or the Secretary of Agriculture, as the case may be, concluded that such river should not be so included and published notice to that effect in the Federal Register.

Subsec. (b)(ii). Pub. L. 93–279, §1(b)(4), substituted ''the report for which is submitted to the President and the Congress, is necessary'' for ''which is recommended to the President and the Congress for inclusion in the national wild and scenic rivers system, is necessary''.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with system activities requiring coordination and approval under this chapter and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

''Federal Energy Regulatory Commission'' substituted for ''Federal Power Commission'' in subsecs. (a), (b), and (c) pursuant to Pub. L. 95–91, §402(a)(1)(A), which is classified to section 7172(a)(1)(A) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for development and improvement of navigation and for development and utilization of power across, along, from, or in navigable waters under part I of Federal Power Act (16 U.S.C. 792 et seq.) transferred to Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42.

§ 1279. Withdrawal of public lands from entry, sale, or other disposition under public land laws

(a) Lands within authorized boundaries of components of system

All public lands within the authorized boundaries of any component of the national wild and scenic rivers system which is designated in section 1274 of this title or which is designated after October 2, 1968, for inclusion in that system are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States. This subsection shall not be construed to limit the authorities granted in section 1277(d) or section 1285a of this title.

(b) Lands constituting bed or bank of river; lands within bank area

All public lands which constitute the bed or bank, or are within one-quarter mile of the bank, of any river which is listed in section 1276(a) of this title are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States for the periods specified in section 1278(b) of this title. Notwithstanding the foregoing provisions of this subsection or any other provision of this chapter, subject only to valid existing rights, including valid Native selection rights under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 1276(a) of this title are hereby withdrawn from entry, sale, State selection or other disposition under the public land laws of the United States for the periods specified in section 1278(b) of this title.

(Pub. L. 90–542, §8, Oct. 2, 1968, 82 Stat. 915; Pub. L. 96–487, title VI, §606(c), Dec. 2, 1980, 94 Stat.

2417; Pub. L. 99–590, title V, § 506, Oct. 30, 1986, 100 Stat. 3336.)

REFERENCES IN TEXT

The public land laws of the United States, referred to in text, are classified generally to Title 43, Public Lands.

The Alaska Native Claims Settlement Act, referred to in subsec. (b), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–590 inserted provisions relating to construction of subsec. (a) with respect to authorities granted in section 1277(d) or 1285a of this title.

1980—Subsec. (b). Pub. L. 96–487 inserted provision withdrawing, subject to valid existing rights, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in section 1276(a)(77) through (88) of this title, from entry, sale, State selection or other disposition under the public land laws for periods specified in section 1278(b) of this title.

§ 1280. Federal mining and mineral leasing laws

(a) Applicability to components of system

Nothing in this chapter shall affect the applicability of the United States mining and mineral leasing laws within components of the national wild and scenic rivers system except that—

(i) all prospecting, mining operations, and other activities on mining claims which, in the case of a component of the system designated in section 1274 of this title, have not heretofore been perfected or which, in the case of a component hereafter designated pursuant to this chapter or any other Act of Congress, are not perfected before its inclusion in the system and all mining operations and other activities under a mineral lease, license, or permit issued or renewed after inclusion of a component in the system shall be subject to such regulations as the Secretary of the Interior or, in the case of national forest lands, the Secretary of Agriculture may prescribe to effectuate the purposes of this chapter;

(ii) subject to valid existing rights, the perfection of, or issuance of a patent to, any mining claim affecting lands within the system shall confer or convey a right or title only to the mineral deposits and such rights only to the use of the surface and the surface resources as are reasonably required to carrying on prospecting or mining operations and are consistent with such regulations as may be prescribed by the Secretary of the Interior or, in the case of national forest lands, by the Secretary of Agriculture; and

(iii) subject to valid existing rights, the minerals in Federal lands which are part of the system and constitute the bed or bank or are situated within one-quarter mile of the bank of any river designated a wild river under this chapter or any subsequent Act are hereby withdrawn from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto.

Regulations issued pursuant to paragraphs (i) and (ii) of this subsection shall, among other things, provide safeguards against pollution of the river involved and unnecessary impairment of the scenery within the component in question.

(b) Withdrawal from appropriation of minerals in Federal river beds or bank areas; prospecting, leases, licenses, and permits

The minerals in any Federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank of any river which is listed in section 1276(a) of this title are hereby withdrawn from all forms of appropriation under the mining laws during the periods specified in section 1278(b) of this title. Nothing contained in this subsection shall be construed to forbid prospecting or the issuance of leases, licenses, and permits under the mineral leasing laws subject to such conditions as the Secretary of the Interior and, in the case of national forest lands, the Secretary of Agriculture find appropriate to safeguard the area in the event it is subsequently included in the system. Notwithstanding the foregoing provisions of this subsection or any other provision of this chapter, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 1276(a) of this title are hereby withdrawn subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto, during the periods specified in section 1278(b) of this title.

(Pub. L. 90–542, § 9, Oct. 2, 1968, 82 Stat. 915; Pub. L. 96–487, title VI, § 606(b), Dec. 2, 1980, 94 Stat. 2416; Pub. L. 99–590, title V, § 507, Oct. 30, 1986, 100 Stat. 3336.)

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–590 substituted ''issuance of leases'' for ''issuance or leases''.

1980—Subsec. (b). Pub. L. 96–487 inserted provision withdrawing, subject to valid existing rights, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel or both sides of the river segments referred to in section 1276(a)(77) through (88) of this title, from all forms of appropriations under the mining laws and operation of the mineral leasing laws during the periods specified in section 1278(b) of this title.

§ 1281. Administration

(a) Public use and enjoyment of components; protection of features; management plans

Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archeologic, and scientific features. Management plans for any such component may establish varying degrees of intensity for its

protection and development, based on the special attributes of the area.

(b) Wilderness areas

Any portion of a component of the national wild and scenic rivers system that is within the national wilderness preservation system, as established by or pursuant to the Wilderness Act [16 U.S.C. 1131 et seq.], shall be subject to the provisions of both the Wilderness Act and this chapter with respect to preservation of such river and its immediate environment, and in case of conflict between the provisions of the Wilderness Act and this chapter the more restrictive provisions shall apply.

(c) Areas administered by National Park Service and Fish and Wildlife Service

Any component of the national wild and scenic rivers system that is administered by the Secretary of the Interior through the National Park Service shall become a part of the national park system, and any such component that is administered by the Secretary through the Fish and Wildlife Service shall become a part of the national wildlife refuge system. The lands involved shall be subject to the provisions of this chapter and the Acts under which the national park system or national wildlife system, as the case may be, is administered, and in case of conflict between the provisions of this chapter and such Acts, the more restrictive provisions shall apply. The Secretary of the Interior, in his administration of any component of the national wild and scenic rivers system, may utilize such general statutory authorities relating to areas of the national park system and such general statutory authorities otherwise available to him for recreation and preservation purposes and for the conservation and management of natural resources as he deems appropriate to carry out the purposes of this chapter.

(d) Statutory authorities relating to national forests

The Secretary of Agriculture, in his administration of any component of the national wild and scenic rivers system area, may utilize the general statutory authorities relating to the national forests in such manner as he deems appropriate to carry out the purposes of this chapter.

(e) Cooperative agreements with State and local governments

The Federal agency charged with the administration of any component of the national wild and scenic rivers system may enter into written cooperative agreements with the Governor of a State, the head of any State agency, or the appropriate official of a political subdivision of a State for State or local governmental participation in the administration of the component. The States and their political subdivisions shall be encouraged to cooperate in the planning and administration of components of the system which include or adjoin State- or county-owned lands.

(Pub. L. 90–542, § 10, Oct. 2, 1968, 82 Stat. 916.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (a), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The Acts under which the national park system and the national wildlife system are administered, referred to in subsec. (c), are classified generally to this title.

CODIFICATION

The first reference to the Wilderness Act in subsec. (b) was in the original a reference to the Act of September 3, 1964 (78 Stat. 890).

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior and Secretary or other official in Department of Agriculture under this chapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1278 of this title.

MANAGEMENT OF SEGMENT OF SALMON RIVER DESIGNATED AS COMPONENT OF WILD AND SCENIC RIVER SYSTEM LOCATED WITHIN FRANK CHURCH—RIVER OF NO RETURN WILDERNESS OR GOSPEL-HUMP WILDERNESS

Pub. L. 96–312, § 9(b), July 23, 1980, 94 Stat. 953, as amended Pub. L. 98–231, § 1, Mar. 14, 1984, 98 Stat. 60, provided: ''That segment of the main Salmon River designated as a component of the Wild and Scenic Rivers System by this Act [see 16 U.S.C. 1274(a)(24)], which lies within the Frank Church—River of No Return Wilderness or the Gospel-Hump Wilderness designated by Public Law 95–237 [Pub. L. 95–237, § 4, Feb. 24, 1978, 92 Stat. 43], shall be managed under the provisions of the Wild and Scenic Rivers Act, as amended [16 U.S.C. 1271 et seq], and the regulations promulgated pursuant thereto, notwithstanding section 10(b) of the Wild and Scenic Rivers Act [16 U.S.C. 1281(b)] or any provisions of the Wilderness Act [16 U.S.C. 1131 et seq.] to the contrary.''

§ 1282. Assistance to State and local projects

(a) Assistance of Secretary of the Interior

The Secretary of the Interior shall encourage and assist the States to consider, in formulating and carrying out their comprehensive statewide outdoor recreation plans and proposals for financing assistance for State and local projects submitted pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) [16 U.S.C. 460*l*–4 et seq.], needs and opportunities for establishing State and local wild, scenic and recreational river areas.

(b) Assistance of Secretaries of the Interior, Agriculture, or other Federal agency heads; use of Federal facilities, equipment, etc.; conditions on permits or other authorizations

(1) The Secretary of the Interior, the Secretary of Agriculture, or the head of any other Federal agency, shall assist, advise, and cooperate with States or their political subdivisions, landowners, private organizations, or individuals to plan, protect, and manage river resources. Such assistance, advice, and cooperation may be through written agreements or otherwise. This authority applies within or outside a federally administered area and applies to rivers which are components of the National Wild and Scenic Rivers System and to other rivers. Any agreement under this subsection may

include provisions for limited financial or other assistance to encourage participation in the acquisition, protection, and management of river resources.

(2) Wherever appropriate in furtherance of this chapter, the Secretary of Agriculture and the Secretary of the Interior are authorized and encouraged to utilize the following:

(A) For activities on federally owned land, the Volunteers in the Parks Act of 1969 [16 U.S.C. 18g et seq.] and the Volunteers in the Forest Act of 1972 (16 U.S.C. 558a–558d).

(B) For activities on all other lands, section 6 of the Land and Water Conservation Fund Act of 1965 [16 U.S.C. 460*l*–8] (relating to the development of statewide comprehensive outdoor recreation plans).

(3) For purposes of this subsection, the appropriate Secretary or the head of any Federal agency may utilize and make available Federal facilities, equipment, tools and technical assistance to volunteers and volunteer organizations, subject to such limitations and restrictions as the appropriate Secretary or the head of any Federal agency deems necessary or desirable.

(4) No permit or other authorization provided for under provision of any other Federal law shall be conditioned on the existence of any agreement provided for in this section.

(Pub. L. 90–542, § 11, Oct. 2, 1968, 82 Stat. 916; Pub. L. 99–590, title V, § 508, Oct. 30, 1986, 100 Stat. 3337.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (a), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

The Volunteers in the Parks Act of 1969, referred to in subsec. (b)(2)(A), is Pub. L. 91–357, July 29, 1970, 84 Stat. 472, which is classified generally to subchapter II (§ 18g et seq.) of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 18g of this title and Tables.

The Volunteers in the Forest Act of 1972, referred to in subsec. (b)(2)(A), probably means the Volunteers in the National Forests Act of 1972, Pub. L. 92–300, May 18, 1972, 86 Stat. 147, which is classified generally to section 558a et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 558a of this title and Tables.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–590 struck out provisions relating to provision of technical assistance and advice to and cooperation with States, etc., in establishment of areas.

Subsec. (b). Pub. L. 99–590 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The Secretaries of Agriculture and of Health and Human Services shall likewise, in accordance with the authority vested in them assist, advise, and cooperate with State and local agencies and private interests with respect to establishing such wild, scenic and recreational river areas.''

§ 1283. Management policies

(a) Action of Secretaries and heads of agencies; cooperative agreements

The Secretary of the Interior, the Secretary of Agriculture, and the head of any other Federal department or agency having jurisdiction over any lands which include, border upon, or are adjacent to, any river included within the National Wild and Scenic Rivers System or under consideration for such inclusion, in accordance with section 1273(a)(ii), 1274(a), or 1276(a) of this title, shall take such action respecting management policies, regulations, contracts, plans, affecting such lands, following November 10, 1978, as may be necessary to protect such rivers in accordance with the purposes of this chapter. Such Secretary or other department or agency head shall, where appropriate, enter into written cooperative agreements with the appropriate State or local official for the planning, administration, and management of Federal lands which are within the boundaries of any rivers for which approval has been granted under section 1273(a)(ii) of this title. Particular attention shall be given to scheduled timber harvesting, road construction, and similar activities which might be contrary to the purposes of this chapter.

(b) Existing rights, privileges, and contracts affecting Federal lands

Nothing in this section shall be construed to abrogate any existing rights, privileges, or contracts affecting Federal lands held by any private party without the consent of said party.

(c) Water pollution

The head of any agency administering a component of the national wild and scenic rivers system shall cooperate with the Administrator, Environmental Protection Agency and with the appropriate State water pollution control agencies for the purpose of eliminating or diminishing the pollution of waters of the river.

(Pub. L. 90–542, § 12, Oct. 2, 1968, 82 Stat. 917; Pub. L. 95–625, title VII, § 762, Nov. 10, 1978, 92 Stat. 3533; Pub. L. 99–590, title V, § 509, Oct. 30, 1986, 100 Stat. 3337.)

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–590 substituted ''Administrator, Environmental Protection Agency'' for ''Secretary of the Interior''.

1978—Subsec. (a). Pub. L. 95–625 substituted provision for action to be taken by Secretaries and heads of agencies for prior provision for review by such officials, made provision applicable to rivers included within the System, included references to rivers covered in sections 1273(a)(ii) and 1274(a) of this title, and required cooperative agreements with appropriate State or local officials for planning, administration, and management of Federal lands within boundaries of rivers approved under section 1273(a)(ii) of this title.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior and Secretary or other official in Department of Agriculture under this chapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1278 of this title.

§ 1284. Existing State jurisdiction and responsibilities

(a) Fish and wildlife

Nothing in this chapter shall affect the jurisdiction or responsibilities of the States with re-

spect to fish and wildlife. Hunting and fishing shall be permitted on lands and waters administered as parts of the system under applicable State and Federal laws and regulations unless, in the case of hunting, those lands or waters are within a national park or monument. The administering Secretary may, however, designate zones where, and establish periods when, no hunting is permitted for reasons of public safety, administration, or public use and enjoyment and shall issue appropriate regulations after consultation with the wildlife agency of the State or States affected.

(b) Compensation for water rights

The jurisdiction of the States and the United States over waters of any stream included in a national wild, scenic or recreational river area shall be determined by established principles of law. Under the provisions of this chapter, any taking by the United States of a water right which is vested under either State or Federal law at the time such river is included in the national wild and scenic rivers system shall entitle the owner thereof to just compensation. Nothing in this chapter shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(c) Reservation of waters for other purposes or in unnecessary quantities prohibited

Designation of any stream or portion thereof as a national wild, scenic or recreational river area shall not be construed as a reservation of the waters of such streams for purposes other than those specified in this chapter, or in quantities greater than necessary to accomplish these purposes.

(d) State jurisdiction over included streams

The jurisdiction of the States over waters of any stream included in a national wild, scenic or recreational river area shall be unaffected by this chapter to the extent that such jurisdiction may be exercised without impairing the purposes of this chapter or its administration.

(e) Interstate compacts

Nothing contained in this chapter shall be construed to alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States which contain any portion of the national wild and scenic rivers system.

(f) Rights of access to streams

Nothing in this chapter shall affect existing rights of any State, including the right of access, with respect to the beds of navigable streams, tributaries, or rivers (or segments thereof) located in a national wild, scenic or recreational river area.

(g) Easements and rights-of-way

The Secretary of the Interior or the Secretary of Agriculture, as the case may be, may grant easements and rights-of-way upon, over, under, across, or through any component of the national wild and scenic rivers system in accordance with the laws applicable to the national park system and the national forest system, respectively: *Provided*, That any conditions precedent to granting such easements and rights-of-way shall be related to the policy and purpose of this chapter.

(Pub. L. 90–542, § 13, Oct. 2, 1968, 82 Stat. 917.)

§ 1285. Claim and allowance of charitable deduction for contribution or gift of easement

The claim and allowance of the value of an easement as a charitable contribution under section 170 of title 26, or as a gift under section 2522 of said title shall constitute an agreement by the donor on behalf of himself, his heirs, and assigns that, if the terms of the instrument creating the easement are violated, the donee or the United States may acquire the servient estate at its fair market value as of the time the easement was donated minus the value of the easement claimed and allowed as a charitable contribution or gift.

(Pub. L. 90–542, § 14, Oct. 2, 1968, 82 Stat. 918.)

§ 1285a. Lease of Federal lands

(a) Authority of Secretary; restrictive covenants

Where appropriate in the discretion of the Secretary, he may lease federally owned land (or any interest therein) which is within the boundaries of any component of the National Wild and Scenic Rivers System and which has been acquired by the Secretary under this chapter. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this chapter.

(b) Offer to prior owner

Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land immediately before its acquisition by the United States.

(Pub. L. 90–542, § 14A, as added Pub. L. 95–625, title VII, § 764, Nov. 10, 1978, 92 Stat. 3534.)

§ 1285b. Establishment of boundaries for certain component rivers in Alaska; withdrawal of minerals

Notwithstanding any other provision to the contrary in sections 1274 and 1280 of this title, with respect to components of the National Wild and Scenic Rivers System in Alaska designated by paragraphs (38) through (50) of section 1274(a) of this title —

(1) the boundary of each such river shall include an average of not more than six hundred and forty acres per mile on both sides of the river. Such boundary shall not include any lands owned by the State or a political subdivision of the State nor shall such boundary extend around any private lands adjoining the river in such manner as to surround or effectively surround such private lands; and

(2) the withdrawal made by paragraph (iii) of section 1280(a) of this title shall apply to the minerals in Federal lands which constitute the bed or bank or are situated within one-half mile of the bank of any river designated a wild river by the Alaska National Interest Lands Conservation Act.

(Pub. L. 90–542, § 15, as added Pub. L. 96–487, title VI, § 606(a), Dec. 2, 1980, 94 Stat. 2416.)

REFERENCES IN TEXT

The Alaska National Interest Lands Conservation Act, referred to in par. (2), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 1286. Definitions

As used in this chapter, the term—

(a) ''River'' means a flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes.

(b) ''Free-flowing'', as applied to any river or section of a river, means existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence, however, of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the national wild and scenic rivers system shall not automatically bar its consideration for such inclusion: *Provided*, That this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the national wild and scenic rivers system.

(c) ''Scenic easement'' means the right to control the use of land (including the air space above such land) within the authorized boundaries of a component of the wild and scenic rivers system, for the purpose of protecting the natural qualities of a designated wild, scenic or recreational river area, but such control shall not affect, without the owner's consent, any regular use exercised prior to the acquisition of the easement. For any designated wild and scenic river, the appropriate Secretary shall treat the acquisition of fee title with the reservation of regular existing uses to the owner as a scenic easement for purposes of this chapter. Such an acquisition shall not constitute fee title ownership for purposes of section 1277(b) of this title.

(Pub. L. 90–542, § 16, formerly § 15, Oct. 2, 1968, 82 Stat. 918; Pub. L. 93–279, § 1(c), May 10, 1974, 88 Stat. 123; renumbered Pub. L. 96–487, title VI, § 606(a), Dec. 2, 1980, 94 Stat. 2416; Pub. L. 99–590, title V, § 510, Oct. 30, 1986, 100 Stat. 3337.)

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–590 inserted provisions relating to function of appropriate Secretary with respect to acquisition of fee title.

1974—Subsec. (c). Pub. L. 93–279 substituted ''within the authorized boundaries of a component of the wild and scenic rivers system, for the purpose of protecting the natural qualities of a designated wild, scenic or recreational river area'' for ''for the purposes of protecting the scenic view from the river''.

§ 1287. Authorization of appropriations

There are hereby authorized to be appropriated, including such sums as have heretofore been appropriated, the following amounts for land acquisition for each of the rivers (described in section 1274(a) of this title):

Clearwater, Middle Fork, Idaho, $2,909,800;
Eleven Point, Missouri, $10,407,000;
Feather Middle Fork, California, $3,935,700;
Rio Grande, New Mexico, $253,000;
Rogue, Oregon, $15,147,000;
St. Croix, Minnesota and Wisconsin, $21,769,000;
Salmon Middle Fork, Idaho, $1,837,000;
Wolf, Wisconsin, $142,150.

(Pub. L. 90–542, § 17, formerly § 16, Oct. 2, 1968, 82 Stat. 918; Pub. L. 93–279, § 1(d), May 10, 1974, 88 Stat. 123; Pub. L. 94–273, § 2(11), Apr. 21, 1976, 90 Stat. 375; Pub. L. 95–625, title VII, §§ 751–754, 763(c), Nov. 10, 1978, 92 Stat. 3532, 3533; renumbered Pub. L. 96–487, title VI, § 606(a), Dec. 2, 1980, 94 Stat. 2416.)

AMENDMENTS

1978—Pub. L. 95–625, §§ 751–754, 763(c), increased appropriations authorization for the following rivers, substituting for:

Eleven Point, $10,407,000 for $4,906,500;
Rogue, $15,147,000 for $12,447,200;
Saint Croix, $21,769,000 for $11,768,550; and
Salmon, $1,837,000 for $1,237,100; and

struck out subsec. (a) designation and subsec. (b) which provided for expiration of authority to make authorized appropriations on Sept. 30, 1979.

1976—Subsec. (b). Pub. L. 94–273 substituted ''September'' for ''June''.

1974—Pub. L. 93–279 added subsecs. (a) and (b). Former unlettered provisions authorizing appropriation of amounts up to $17,000,000 for the acquisition of lands and interests in land were struck out.

CHAPTER 29—WATER BANK PROGRAM FOR WETLANDS PRESERVATION

Sec.
1301. Congressional declaration of policy; authority of Secretary.
1302. Conservation agreements to effectuate water bank program; duration and renewal; adjustment of payment rate for renewal period; ''wetlands'' defined; duration of ownership or control of land as determining eligibility for agreements; protection of and compensation for tenants and sharecroppers; participation by owner or operator in other Federal or State programs.
1303. Terms of agreement; required provisions.
1304. Annual payment; adjustment.
1305. Renewal or extension of agreement; participation of subsequent owner or operator in program.
1306. Termination or modification of agreements.
1307. Utilization of services and facilities.
1308. Advisory Board; appointment; functions; membership; reimbursement for expenses.
1309. Consultation with Secretary of the Interior; conformity of program with wetlands programs administered by Secretary of the Interior; consultation with and utilization of technical services of appropriate local, State, Federal, and private conservation agencies; coordination of programs.
1310. Authorization of appropriations; maximum amount of payments pursuant to agreements.
1311. Rules and regulations.

§ 1301. Congressional declaration of policy; authority of Secretary

The Congress finds that it is in the public interest to preserve, restore, and improve the wetlands of the Nation, and thereby to conserve surface waters, to preserve and improve habitat for migratory waterfowl and other wildlife resources, to reduce runoff, soil and wind erosion, and contribute to flood control, to contribute to improved water quality and reduce stream sedi-

mentation, to contribute to improved subsurface moisture, to reduce acres of new land coming into production and to retire lands now in agricultural production, to enhance the natural beauty of the landscape, and to promote comprehensive and total water management planning. The Secretary of Agriculture (hereinafter in this chapter referred to as the ''Secretary'') is authorized and directed to formulate and carry out a continuous program to prevent the serious loss of wetlands, and to preserve, restore, and improve such lands, which program shall begin on July 1, 1971.

(Pub. L. 91–559, § 2, Dec. 19, 1970, 84 Stat. 1468.)

SHORT TITLE

Section 1 of Pub. L. 91–559 provided: ''That this Act [enacting this chapter] may be cited as the 'Water Bank Act'.''

§ 1302. Conservation agreements to effectuate water bank program; duration and renewal; adjustment of payment rate for renewal period; "wetlands" defined; duration of ownership or control of land as determining eligibility for agreements; protection of and compensation for tenants and sharecroppers; participation by owner or operator in other Federal or State programs

In effectuating the water bank program authorized by this chapter, the Secretary shall have authority to enter into agreements with landowners and operators in important migratory waterfowl nesting and breeding areas for the conservation of water on specified farm, ranch, or other wetlands identified in a conservation plan developed in cooperation with the Soil and Water Conservation District in which the lands are located, under such rules and regulations as the Secretary may prescribe. These agreements shall be entered into for a period of ten years, with provision for renewal for additional periods of ten years each. The Secretary shall, beginning in 1980, reexamine the payment rates at the beginning of the fifth year of any such ten-year initial or renewal period and before the beginning of any renewal period, in the light of the then current land and crop values, and make needed adjustments in rates for any such initial or renewal period as provided in section 1304 of this title. In addition, the Secretary shall, beginning in 1980, reexamine the payment rates in any agreement that has been in effect for five years or more in the light of current land and crop values and make any needed adjustments in rates. As used in this chapter, the term ''wetlands'' means (1) the inland fresh areas described as types 1 through 7 in Circular 39, Wetlands of the United States, published by the United States Department of the Interior (or the inland fresh areas corresponding to such types in any successor wetland classification system developed by the Department of the Interior), (2) artificially developed inland fresh areas that meet the description of the inland fresh areas described in clause (1) of this sentence, and (3) such other wetland types as the Secretary may designate. No agreement shall be entered into under this chapter concerning land with respect to which the ownership or control has changed in the two-year period preceding the first year of the agreement period unless the new ownership was acquired by will or succession as a result of the death of the previous owner, or unless the new ownership was acquired prior to July 1, 1971, under other circumstances which the Secretary determines, and specifies by regulation, will give adequate assurance that such land was not acquired for the purpose of placing it in the program, except that this sentence shall not be construed to prohibit the continuation of an agreement by a new owner or operator after an agreement has once been entered into under this chapter. A person who has operated the land to be covered by an agreement under this chapter for as long as two years preceding the date of the agreement and who controls the land for the agreement period shall not be required to own the land as a condition of eligibility for entering into the agreement. Nothing in this section shall prevent an owner or operator from placing land in the program if the land was acquired by the owner or operator to replace eligible land from which he was displaced because of its acquisition by any Federal, State, or other agency having the right of eminent domain. The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments or compensation under this program. No provision of this chapter shall prevent an owner or operator who is participating in the program under this chapter from participating in other Federal or State programs designed to conserve or protect wetlands.

(Pub. L. 91–559, § 3, Dec. 19, 1970, 84 Stat. 1469; Pub. L. 96–182, §§ 1, 2, Jan. 2, 1980, 93 Stat. 1317.)

AMENDMENTS

1980—Pub. L. 96–182, in provisions relating to the reexamination of payment rates, substituted provisions requiring the Secretary to make such reexamination, beginning in 1980, at the beginning of the fifth year of any ten-year initial or renewal period and before the beginning of any renewal period, and make adjustments in accordance with section 1304 of this title, and in agreements in effect for five years or more, requiring the Secretary to make adjustments in the light of current land and crop values for provisions requiring reexamination and adjustment at the beginning of the ten-year renewal period only, and, in definition of ''wetlands'', designated existing provisions as cl. (1) and, among other changes, substituted types 1–7 for types 1–5, and added cls. (2) and (3).

§ 1303. Terms of agreement; required provisions

In the agreement between the Secretary and an owner or operator, the owner or operator shall agree—

(1) to place in the program for the period of the agreement eligible wetland areas he designates, which areas may include wetlands covered by a Federal or State government easement which permits agricultural use, together with such adjacent areas as determined desirable by the Secretary;

(2) not to drain, burn, fill, or otherwise destroy the wetland character of such areas, nor to use such areas for agricultural purposes, as determined by the Secretary;

(3) to effectuate the wetland conservation and development plan for his land in accord-

ance with the terms of the agreement, unless any requirement thereof is waived or modified by the Secretary pursuant to section 1306 of this title;

(4) to forfeit all rights to further payments or grants under the agreement and refund to the United States all payments or grants received thereunder upon his violation of the agreement at any stage during the time he has control of the land subject to the agreement if the Secretary determines that such violation is of such a nature as to warrant termination of the agreement, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the agreement;

(5) upon transfer of his right and interest in the lands subject to the agreement during the agreement period, to forfeit all rights to further payments or grants under the agreement and refund to the United States all payments or grants received thereunder during the year of the transfer unless the transferee of any such land agrees with the Secretary to assume all obligations of the agreement;

(6) not to adopt any practice specified by the Secretary in the agreement as a practice which would tend to defeat the purposes of the agreement; and

(7) to such additional provisions as the Secretary determines are desirable and includes in the agreement to effectuate the purposes of the program or to facilitate its administration.

(Pub. L. 91–559, §4, Dec. 19, 1970, 84 Stat. 1470.)

§ 1304. Annual payment; adjustment

In return for the agreement of the owner or operator, the Secretary shall (1) make an annual payment to the owner or operator for the period of the agreement at such rate or rates as the Secretary determines to be fair and reasonable in consideration of the obligations undertaken by the owner or operator; and (2) bear such part of the average cost of establishing and maintaining conservation and development practices on the wetlands and adjacent areas for the purposes of this chapter as the Secretary determines to be appropriate. In making his determination, the Secretary shall consider, among other things, the rate of compensation necessary to encourage owners or operators of wetlands to participate in the water bank program. The rate or rates of annual payments as determined hereunder shall be increased, by an amount determined by the Secretary to be appropriate, in relation to the benefit to the general public of the use of the wetland areas, together with designated adjacent areas, if the owner or operator agrees to permit, without other compensation, access to such acreage by the general public, during the agreement period, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations. The rates of annual payment shall be adjusted, to the extent provided for in advance by appropriation Acts, in accordance with section 1302 of this title.

(Pub. L. 91–559, §5, Dec. 19, 1970, 84 Stat. 1470; Pub. L. 96–182, §3, Jan. 2, 1980, 93 Stat. 1317.)

AMENDMENTS

1980—Pub. L. 96–182 inserted provisions that the rates of annual payment shall be adjusted, to the extent provided for in advance by appropriation acts, in accordance with section 1302 of this title.

§ 1305. Renewal or extension of agreement; participation of subsequent owner or operator in program

Any agreement may be renewed or extended at the end of the agreement period for an additional period of ten years by mutual agreement of the Secretary and the owner or operator, subject to any rate redetermination by the Secretary. If during the agreement period the owner or operator sells or otherwise divests himself of the ownership or right of occupancy of such land, the new owner or operator may continue such agreement under the same terms or conditions, or enter into a new agreement in accordance with the provisions of this chapter, including the provisions for renewal and adjustment of payment rates, or he may choose not to participate in such program.

(Pub. L. 91–559, §6, Dec. 19, 1970, 84 Stat. 1471.)

ONE-YEAR EXTENSION OF AGREEMENTS

Pub. L. 103–393, Oct. 22, 1994, 108 Stat. 4105, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Water Bank Extension Act of 1994'.

''SEC. 2. SPECIAL AUTHORITY TO EXTEND WATER BANK ACT AGREEMENTS.

''(a) Subject to subsection (b), any agreement entered into under the Water Bank Act (16 U.S.C. 1301 et seq.) and due to expire on December 31, 1994, may be extended for 1 year under section 6 of the Water Bank Act (16 U.S.C. 1305).

''(b) The authority to extend Water Bank Act agreements under this Act may only be exercised to the extent that the amount available for obligation under the Wetlands Reserve Program (16 U.S.C. 1637 et seq.) [probably means 16 U.S.C. 3837 et seq.], and the amount used for the extension of Water Bank Act agreements under subsection (a), does not exceed $93,200,000 as provided for the Wetlands Reserve Program under the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995 [Pub. L. 103–330, 108 Stat. 2453].''

§ 1306. Termination or modification of agreements

The Secretary may terminate any agreement by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of agreements as he may determine to be desirable to carry out the purposes of the program or facilitate its administration.

(Pub. L. 91–559, §7, Dec. 19, 1970, 84 Stat. 1471.)

§ 1307. Utilization of services and facilities

In carrying out the program, the Secretary may utilize the services of local, county, and State committees established under section 590h of this title. The Secretary is authorized to uti-

lize the facilities and services of the Commodity Credit Corporation in discharging his functions and responsibilities under this program.

(Pub. L. 91–559, § 8, Dec. 19, 1970, 84 Stat. 1471.)

§ 1308. Advisory Board; appointment; functions; membership; reimbursement for expenses

The Secretary may, without regard to the civil service laws, appoint an Advisory Board to advise and consult on matters relating to his functions under this chapter as he deems appropriate. The Board shall consist of persons chosen from members of organizations such as wildlife organizations, land-grant colleges, farm organizations, State game and fish departments, soil and water conservation district associations, water management organizations, and representatives of the general public. Members of such an Advisory Board who are not regular full-time employees of the United States shall be entitled to reimbursement on an actual expense basis for attendance at Advisory Board meetings.

(Pub. L. 91–559, § 9, Dec. 19, 1970, 84 Stat. 1471.)

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1309. Consultation with Secretary of the Interior; conformity of program with wetlands programs administered by Secretary of the Interior; consultation with and utilization of technical services of appropriate local, State, Federal, and private conservation agencies; coordination of programs

The Secretary shall consult with the Secretary of the Interior and take appropriate measures to insure that the program carried out pursuant to this chapter is in harmony with wetlands programs administered by the Secretary of the Interior. He shall also, insofar as practicable, consult with and utilize the technical and related services of appropriate local, State, Federal, and private conservation agencies to assure coordination of the program with programs of such agencies and a solid technical foundation for the program.

(Pub. L. 91–559, § 10, Dec. 19, 1970, 84 Stat. 1471.)

§ 1310. Authorization of appropriations; maximum amount of payments pursuant to agreements

There are hereby authorized to be appropriated without fiscal year limitation, such sums as may be necessary to carry out the program authorized by this chapter. In carrying out the program, in each fiscal year through the fiscal year ending September 30, 1980, the Secretary shall not enter into agreements with owners and operators which would require payments to owners or operators in any calendar year under such agreements in excess of $10,000,000. In carrying out the program, in each fiscal year after the fiscal year ending September 30, 1980, the Secretary shall not enter into agreements with owners and operators which would require payments to owners or operators in any calendar year under such agreements in excess of $30,000,000. Not more than 15 percent of the funds authorized to be appropriated in any fiscal year after the fiscal year ending September 30, 1980, may be used for agreements entered into with owners or operators in any one State.

(Pub. L. 91–559, § 11, Dec. 19, 1970, 84 Stat. 1471; Pub. L. 96–182, § 4, Jan. 2, 1980, 93 Stat. 1317.)

AMENDMENTS

1980—Pub. L. 96–182 limited restrictions on Secretary's authority to enter into agreements in excess of $10,000,000 to each fiscal year through fiscal year ending Sept. 30, 1980, and inserted restrictions relating to agreements in excess of $30,000,000 for each fiscal year after fiscal year ending Sept. 30, 1980, and that not more than 15 percent of the funds authorized to be appropriated in any fiscal year after fiscal year ending Sept. 30, 1980, may be used for agreements entered into with owners or operators in any one State.

§ 1311. Rules and regulations

The Secretary shall prescribe such regulations as he determines necessary and desirable to carry out the provisions of this chapter.

(Pub. L. 91–559, § 12, Dec. 19, 1970, 84 Stat. 1471.)

CHAPTER 30—WILD HORSES AND BURROS: PROTECTION, MANAGEMENT, AND CONTROL

Sec.

1331. Congressional findings and declaration of policy.
1332. Definitions.
1333. Powers and duties of Secretary.
1334. Private maintenance; numerical approximation; strays on private lands: removal; destruction by agents.
1335. Recovery rights.
1336. Cooperative agreements; regulations.
1337. Joint advisory board; appointment; membership; functions; qualifications; reimbursement limitation.
1338. Criminal provisions.
1338a. Transportation of captured animals; procedures and prohibitions applicable.
1339. Limitation of authority.
1340. Joint report to Congress; consultation and coordination of implementation, enforcement, and departmental activities; studies.

§ 1331. Congressional findings and declaration of policy

Congress finds and declares that wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West; that they contribute to the diversity of life forms within the Nation and enrich the lives of the American people; and that these horses and burros are fast disappearing from the American scene. It is the policy of Congress that wild free-roaming horses and burros shall be protected from capture, branding, harassment, or death; and to accomplish this they are to be considered in the area where presently found, as an integral part of the natural system of the public lands.

(Pub. L. 92–195, § 1, Dec. 15, 1971, 85 Stat. 649.)

SHORT TITLE

Pub. L. 92–195, Dec. 15, 1971, 85 Stat. 649, which enacted this chapter, is popularly known as the ''Wild Free-Roaming Horses and Burros Act''.

§ 1332. Definitions

As used in this chapter—

(a) ''Secretary'' means the Secretary of the Interior when used in connection with public lands administered by him through the Bureau of Land Management and the Secretary of Agriculture in connection with public lands administered by him through the Forest Service;

(b) ''wild free-roaming horses and burros'' means all unbranded and unclaimed horses and burros on public lands of the United States;

(c) ''range'' means the amount of land necessary to sustain an existing herd or herds of wild free-roaming horses and burros, which does not exceed their known territorial limits, and which is devoted principally but not necessarily exclusively to their welfare in keeping with the multiple-use management concept for the public lands;

(d) ''herd'' means one or more stallions and his mares; and

(e) ''public lands'' means any lands administered by the Secretary of the Interior through the Bureau of Land Management or by the Secretary of Agriculture through the Forest Service.

(f) ''excess animals'' means wild free-roaming horses or burros (1) which have been removed from an area by the Secretary pursuant to applicable law or, (2) which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area.

(Pub. L. 92–195, § 2, Dec. 15, 1971, 85 Stat. 649; Pub. L. 95–514, § 14(b), Oct. 25, 1978, 92 Stat. 1810.)

AMENDMENTS

1978—Subsec. (f). Pub. L. 95–514 added subsec. (f).

§ 1333. Powers and duties of Secretary

(a) Jurisdiction; management; ranges; ecological balance objectives; scientific recommendations; forage allocation adjustments

All wild free-roaming horses and burros are hereby declared to be under the jurisdiction of the Secretary for the purpose of management and protection in accordance with the provisions of this chapter. The Secretary is authorized and directed to protect and manage wild free-roaming horses and burros as components of the public lands, and he may designate and maintain specific ranges on public lands as sanctuaries for their protection and preservation, where the Secretary after consultation with the wildlife agency of the State wherein any such range is proposed and with the Advisory Board established in section 1337 of this title deems such action desirable. The Secretary shall manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands. He shall consider the recommendations of qualified scientists in the field of biology and ecology, some of whom shall be independent of both Federal and State agencies and may include members of the Advisory Board established in section 1337 of this title. All management activities shall be at the minimal feasible level and shall be carried out in consultation with the wildlife agency of the State wherein such lands are located in order to protect the natural ecological balance of all wildlife species which inhabit such lands, particularly endangered wildlife species. Any adjustments in forage allocations on any such lands shall take into consideration the needs of other wildlife species which inhabit such lands.

(b) Inventory and determinations; consultation; overpopulation; research study: submittal to Congress

(1) The Secretary shall maintain a current inventory of wild free-roaming horses and burros on given areas of the public lands. The purpose of such inventory shall be to: make determinations as to whether and where an overpopulation exists and whether action should be taken to remove excess animals; determine appropriate management levels of wild free-roaming horses and burros on these areas of the public lands; and determine whether appropriate management levels should be achieved by the removal or destruction of excess animals, or other options (such as sterilization, or natural controls on population levels). In making such determinations the Secretary shall consult with the United States Fish and Wildlife Service, wildlife agencies of the State or States wherein wild free-roaming horses and burros are located, such individuals independent of Federal and State government as have been recommended by the National Academy of Sciences, and such other individuals whom he determines have scientific expertise and special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management.

(2) Where the Secretary determines on the basis of (i) the current inventory of lands within his jurisdiction; (ii) information contained in any land use planning completed pursuant to section 1712 of title 43; (iii) information contained in court ordered environmental impact statements as defined in section 1902 of title 43; and (iv) such additional information as becomes available to him from time to time, including that information developed in the research study mandated by this section, or in the absence of the information contained in (i–iv) above on the basis of all information currently available to him, that an overpopulation exists on a given area of the public lands and that action is necessary to remove excess animals, he shall immediately remove excess animals from the range so as to achieve appropriate management levels. Such action shall be taken, in the following order and priority, until all excess animals have been removed so as to restore a thriving natural ecological balance to the range, and protect the range from the deterioration associated with overpopulation:

(A) The Secretary shall order old, sick, or lame animals to be destroyed in the most humane manner possible;

(B) The Secretary shall cause such number of additional excess wild free-roaming horses and burros to be humanely captured and removed for private maintenance and care for which he determines an adoption demand exists by qualified individuals, and for which he determines he can assure humane treatment and care (including proper transportation, feeding, and handling): *Provided*, That, not more than four animals may be adopted per year by any individual unless the Secretary determines in writing that such individual is capable of humanely caring for more than four animals, including the transportation of such animals by the adopting party; and

(C) The Secretary shall cause additional excess wild free-roaming horses and burros for which an adoption demand by qualified individuals does not exist to be destroyed in the most humane and cost efficient manner possible.

(3) For the purpose of furthering knowledge of wild horse and burro population dynamics and their interrelationship with wildlife, forage and water resources, and assisting him in making his determination as to what constitutes excess animals, the Secretary shall contract for a research study of such animals with such individuals independent of Federal and State government as may be recommended by the National Academy of Sciences for having scientific expertise and special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management. The terms and outline of such research study shall be determined by a research design panel to be appointed by the President of the National Academy of Sciences. Such study shall be completed and submitted by the Secretary to the Senate and House of Representatives on or before January 1, 1983.

(c) Title of transferee to limited number of excess animals adopted for requisite period

Where excess animals have been transferred to a qualified individual for adoption and private maintenance pursuant to this chapter and the Secretary determines that such individual has provided humane conditions, treatment and care for such animal or animals for a period of one year, the Secretary is authorized upon application by the transferee to grant title to not more than four animals to the transferee at the end of the one-year period.

(d) Loss of status as wild free-roaming horses and burros; exclusion from coverage

Wild free-roaming horses and burros or their remains shall lose their status as wild free-roaming horses or burros and shall no longer be considered as falling within the purview of this chapter—

(1) upon passage of title pursuant to subsection (c) of this section except for the limitation of subsection (c)(1)[1] of this section; or

(2) if they have been transferred for private maintenance or adoption pursuant to this chapter and die of natural causes before passage of title; or

(3) upon destruction by the Secretary or his designee pursuant to subsection (b) of this section; or

(4) if they die of natural causes on the public lands or on private lands where maintained thereon pursuant to section 1334 of this title and disposal is authorized by the Secretary or his designee; or

(5) upon destruction or death for purposes of or incident to the program authorized in this section.

(e) Sale of excess animals

(1) In general

Any excess animal or the remains of an excess animal shall be sold if—

(A) the excess animal is more than 10 years of age; or

(B) the excess animal has been offered unsuccessfully for adoption at least 3 times.

(2) Method of sale

An excess animal that meets either of the criteria in paragraph (1) shall be made available for sale without limitation, including through auction to the highest bidder, at local sale yards or other convenient livestock selling facilities, until such time as—

(A) all excess animals offered for sale are sold; or

(B) the appropriate management level, as determined by the Secretary, is attained in all areas occupied by wild free-roaming horses and burros.

(3) Disposition of funds

Funds generated from the sale of excess animals under this subsection shall be—

(A) credited as an offsetting collection to the Management of Lands and Resources appropriation for the Bureau of Land Management; and

(B) used for the costs relating to the adoption of wild free-roaming horses and burros, including the costs of marketing such adoption.

(4) Effect of sale

Any excess animal sold under this provision shall no longer be considered to be a wild free-roaming horse or burro for purposes of this chapter.

(Pub. L. 92–195, § 3, Dec. 15, 1971, 85 Stat. 649; Pub. L. 95–514, § 14(a), Oct. 25, 1978, 92 Stat. 1808; Pub. L. 108–447, div. E, title I, § 142(a), Dec. 8, 2004, 118 Stat. 3070.)

REFERENCES IN TEXT

Section 1902 of title 43, referred to in subsec. (b)(2), was in the original ''section 2 of the Public Range Lands Improvement Act of 1978'' (classified to 43 U.S.C. 1901) and was changed to reflect the probable intent of Congress.

AMENDMENTS

2004—Subsec. (d)(5). Pub. L. 108–447, § 142(a)(1), substituted ''this section'' for ''this section; *Provided*, That no wild free-roaming horse or burro or its remains may be sold or transferred for consideration for processing into commercial products''.

Subsec. (e). Pub. L. 108–447, § 142(a)(2), added subsec. (e).

1978—Subsec. (b). Pub. L. 95–514 substituted provisions for: maintaining current inventory of wild free-

[1] So in original. Probably should be subsection ''(c)''.

roaming horses and burros; listing the purpose of the inventory and determinations to be made in consultation with persons of scientific expertise and special knowledge; immediate removal of excess animals from the range on the basis of information from various sources so as to achieve appropriate management levels; order and priority of removal; and research study to be reported to Congress for prior authorization of humane destruction of old, sick, or lame animals and capture and removal of additional excess animals for private maintenance under humane conditions and care, now incorporated in subsec. (b)(2)(A) and (B).

Subsec. (c). Pub. L. 95–514 substituted provision for grant of title to limited number of excess animals adopted for requisite period for prior authorization of humane destruction of wild free-roaming horses and burros as an act of mercy or to prevent overpopulation only when necessary to preserve and maintain the habitat in a suitable condition for continued use.

Subsec. (d). Pub. L. 95–514 substituted provisions relating to circumstances and conditions operating to take wild free-roaming horses and burros or their remains from the purview of this chapter for prior declaration that nothing in the chapter shall preclude the customary disposal of the remains of a deceased wild free-roaming horse or burro, including those in the authorized possession of private parties, and prohibition of sale for any consideration, directly or indirectly, of the remains, or any part thereof, now incorporated in cl. (5).

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1334. Private maintenance; numerical approximation; strays on private lands: removal; destruction by agents

If wild free-roaming horses or burros stray from public lands onto privately owned land, the owners of such land may inform the nearest Federal marshall or agent of the Secretary, who shall arrange to have the animals removed. In no event shall such wild free-roaming horses and burros be destroyed except by the agents of the Secretary. Nothing in this section shall be construed to prohibit a private landowner from maintaining wild free-roaming horses or burros on his private lands, or lands leased from the Government, if he does so in a manner that protects them from harassment, and if the animals were not willfully removed or enticed from the public lands. Any individuals who maintain such wild free-roaming horses or burros on their private lands or lands leased from the Government shall notify the appropriate agent of the Secretary and supply him with a reasonable approximation of the number of animals so maintained.

(Pub. L. 92–195, § 4, Dec. 15, 1971, 85 Stat. 650.)

§ 1335. Recovery rights

A person claiming ownership of a horse or burro on the public lands shall be entitled to recover it only if recovery is permissible under the branding and estray laws of the State in which the animal is found.

(Pub. L. 92–195, § 5, Dec. 15, 1971, 85 Stat. 650.)

§ 1336. Cooperative agreements; regulations

The Secretary is authorized to enter into cooperative agreements with other landowners and with the State and local governmental agencies and may issue such regulations as he deems necessary for the furtherance of the purposes of this chapter.

(Pub. L. 92–195, § 6, Dec. 15, 1971, 85 Stat. 650.)

§ 1337. Joint advisory board; appointment; membership; functions; qualifications; reimbursement limitation

The Secretary of the Interior and the Secretary of Agriculture are authorized and directed to appoint a joint advisory board of not more than nine members to advise them on any matter relating to wild free-roaming horses and burros and their management and protection. They shall select as advisers persons who are not employees of the Federal or State Governments and whom they deem to have special knowledge about protection of horses and burros, management of wildlife, animal husbandry, or natural resources management. Members of the board shall not receive reimbursement except for travel and other expenditures necessary in connection with their services.

(Pub. L. 92–195, § 7, Dec. 15, 1971, 85 Stat. 650.)

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1338. Criminal provisions

(a) Violations; penalties; trial

Any person who—

(1) willfully removes or attempts to remove a wild free-roaming horse or burro from the public lands, without authority from the Secretary, or

(2) converts a wild free-roaming horse or burro to private use, without authority from the Secretary, or

(3) maliciously causes the death or harassment of any wild free-roaming horse or burro, or

(4) except as provided in section 1333(e) of this title, processes or permits to be processed into commercial products the remains of a wild free-roaming horse or burro, or

(5) sells, directly or indirectly, a wild free-roaming horse or burro maintained on private or leased land pursuant to section 1334 of this title, or the remains thereof, or

(6) willfully violates a regulation issued pursuant to this chapter,

shall be subject to a fine of not more than $2,000, or imprisonment for not more than one year, or

both. Any person so charged with such violation by the Secretary may be tried and sentenced by any United States commissioner or magistrate judge designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401 of title 18.

(b) Arrest; appearance for examination or trial; warrants: issuance and execution

Any employee designated by the Secretary of the Interior or the Secretary of Agriculture shall have power, without warrant, to arrest any person committing in the presence of such employee a violation of this chapter or any regulation made pursuant thereto, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction, and shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this chapter or regulations made pursuant thereto. Any judge of a court established under the laws of the United States, or any United States magistrate judge may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants, in all such cases.

(Pub. L. 92–195, § 8, Dec. 15, 1971, 85 Stat. 650; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 108–447, div. E, title I, § 142(b), Dec. 8, 2004, 118 Stat. 3071.)

AMENDMENTS

2004—Subsec. (a)(4). Pub. L. 108–447 inserted ''except as provided in section 1333(e) of this title,'' before ''processes or permits''.

CHANGE OF NAME

''United States magistrate judge'' and ''magistrate judge'' substituted for ''United States magistrate'' and ''magistrate'', respectively, in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 1338a. Transportation of captured animals; procedures and prohibitions applicable

In administering this chapter, the Secretary may use or contract for the use of helicopters or, for the purpose of transporting captured animals, motor vehicles. Such use shall be undertaken only after a public hearing and under the direct supervision of the Secretary or of a duly authorized official or employee of the Department. The provisions of section 47(a) of title 18 shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary. Nothing in this chapter shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this chapter, or the provisions of section 47(a) of title 18, use motor vehicles, fixed-wing aircraft, or helicopters, or to contract for such use, in furtherance of the management of the National Park System, and section 47(a) of title 18 shall be applicable to such use.

(Pub. L. 92–195, § 9, as added Pub. L. 94–579, title IV, § 404, Oct. 21, 1976, 90 Stat. 2775; amended Pub. L. 104–333, div. I, title VIII, § 803(a), Nov. 12, 1996, 110 Stat. 4186.)

REFERENCES IN TEXT

This chapter, referred to in last sentence, was in the original ''this title'', and was translated as reading ''this Act'', meaning the Wild Free-Roaming Horses and Burros Act which enacted this chapter, to reflect the probable intent of Congress, because that Act does not contain titles.

AMENDMENTS

1996—Pub. L. 104–333 inserted at end ''Nothing in this chapter shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this chapter, or the provisions of section 47(a) of title 18, use motor vehicles, fixed-wing aircraft, or helicopters, or to contract for such use, in furtherance of the management of the National Park System, and section 47(a) of title 18 shall be applicable to such use.''

§ 1339. Limitation of authority

Nothing in this chapter shall be construed to authorize the Secretary to relocate wild free-roaming horses or burros to areas of the public lands where they do not presently exist.

(Pub. L. 92–195, § 10, formerly § 9, Dec. 15, 1971, 85 Stat. 651, renumbered Pub. L. 94–579, title IV, § 404, Oct. 21, 1976, 90 Stat. 2775.)

§ 1340. Joint report to Congress; consultation and coordination of implementation, enforcement, and departmental activities; studies

After the expiration of thirty calendar months following December 15, 1971, and every twenty-four calendar months thereafter, the Secretaries of the Interior and Agriculture will submit to Congress a joint report on the administration of this chapter, including a summary of enforcement and/or other actions taken thereunder, costs, and such recommendations for legislative or other actions as he might deem appropriate.

The Secretary of the Interior and the Secretary of Agriculture shall consult with respect to the implementation and enforcement of this chapter and to the maximum feasible extent coordinate the activities of their respective departments and in the implementation and enforcement of this chapter. The Secretaries are authorized and directed to undertake those studies of the habits of wild free-roaming horses and burros that they may deem necessary in order to carry out the provisions of this chapter.

(Pub. L. 92–195, § 11, formerly § 10, Dec. 15, 1971, 85 Stat. 651, renumbered Pub. L. 94–579, title IV, § 404, Oct. 21, 1976, 90 Stat. 2775.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of this section relating to the Secretaries of the Interior and Agriculture submitting a joint report to Congress every twenty-four months on the administration of this chapter, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 147 of House Document No. 103–7.

CHAPTER 31—MARINE MAMMAL PROTECTION

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SUBCHAPTER I—GENERALLY

§ 1361. Congressional findings and declaration of policy

The Congress finds that—

(1) certain species and population stocks of marine mammals are, or may be, in danger of extinction or depletion as a result of man's activities;

(2) such species and population stocks should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part, and, consistent with this major objective, they should not be permitted to diminish below their optimum sustainable population. Further measures should be immediately taken to replenish any species or population stock which has already diminished below that population. In particular, efforts should be made to protect essential habitats, including the rookeries, mating grounds, and areas of similar significance for each species of marine mammal from the adverse effect of man's actions;

(3) there is inadequate knowledge of the ecology and population dynamics of such marine mammals and of the factors which bear upon their ability to reproduce themselves successfully;

(4) negotiations should be undertaken immediately to encourage the development of international arrangements for research on, and conservation of, all marine mammals;

(5) marine mammals and marine mammal products either—

(A) move in interstate commerce, or

(B) affect the balance of marine ecosystems in a manner which is important to other animals and animal products which move in interstate commerce,

and that the protection and conservation of marine mammals and their habitats is therefore necessary to insure the continuing availability of those products which move in interstate commerce; and

(6) marine mammals have proven themselves to be resources of great international significance, esthetic and recreational as well as economic, and it is the sense of the Congress that they should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management and that the primary objective of their management should be to maintain the health and stability of the marine ecosystem. Whenever consistent with this primary objective, it should be the goal to obtain an optimum sustainable population keeping in mind the carrying capacity of the habitat.

(Pub. L. 92–522, §2, Oct. 21, 1972, 86 Stat. 1027; Pub. L. 97–58, §1(b)(1), Oct. 9, 1981, 95 Stat. 979; Pub. L. 103–238, §3, Apr. 30, 1994, 108 Stat. 532.)

AMENDMENTS

1994—Par. (2). Pub. L. 103–238, §3(1), inserted ''essential habitats, including'' after ''made to protect''.

Par. (5). Pub. L. 103–238, §3(2), inserted ''and their habitats'' before ''is therefore necessary'' in concluding provisions.

1981—Par. (6). Pub. L. 97–58 substituted ''carrying capacity'' for ''optimum carrying capacity''.

EFFECTIVE DATE

Section 4 of Pub. L. 92–522 provided that: ''The provisions of this Act [enacting this chapter] shall take effect upon the expiration of the sixty-day period following the date of its enactment [Oct. 21, 1972].''

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 109–479, title IX, §901, Jan. 12, 2007, 120 Stat. 3660, provided that: ''This title [enacting subchapter VI of this chapter and amending section 1377 of this title] may be cited as the 'United States-Russia Polar Bear Conservation and Management Act of 2006'.''

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–555, §1, Dec. 21, 2000, 114 Stat. 2765, provided that: ''This Act [enacting section 1421f–1 of this title, amending sections 1362, 1421g, 1421h, 1433, 1434, 5101 to 5103, 5106, 5107a to 5108, and 5156 of this title, enacting provisions set out as notes under this section and sections 917a, 1433, 5101, and 5107 of this title, and amending provisions set out as a note under section 1855 of this title] may be cited as the 'Striped Bass Conservation, Atlantic Coastal Fisheries Management, and Marine Mammal Rescue Assistance Act of 2000'.''

Pub. L. 106–555, title II, §201, Dec. 21, 2000, 114 Stat. 2767, provided that: ''This title [enacting section 1421f–1 of this title, amending sections 1362, 1421g, 1421h, 1433, and 1434 of this title, enacting provisions set out as notes under sections 917a and 1433 of this title, and amending provisions set out as a note under section 1855 of this title] may be cited as the 'Marine Mammal Rescue Assistance Act of 2000'.''

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–42, §1(a), Aug. 15, 1997, 111 Stat. 1122, provided that: ''This Act [enacting sections 962, 1412, 1413, 1414a to 1416 of this title, amending sections 952, 953, 1362, 1371, 1374, 1378, 1380, 1385, 1411, and 1417 of this title, repealing sections 1412 to 1416 and 1418 of this title, and enacting provisions set out as notes under this section and section 1362 of this title] may be cited as the 'International Dolphin Conservation Program Act'.''

SHORT TITLE OF 1994 AMENDMENT

Section 1 of Pub. L. 103–238 provided that: ''This Act [enacting sections 1386 to 1389 of this title, amending this section and sections 1362, 1371, 1372, 1374, 1375, 1379, 1380, 1382 to 1384, 1407, 1421 to 1421h, and 4107 of this title, repealing sections 1384 and 1407 of this title, and enacting provisions set out as notes under this section and sections 1362, 1374, 1538, and 1539 of this title] may be cited as the 'Marine Mammal Protection Act Amendments of 1994'.''

SHORT TITLE OF 1992 AMENDMENTS

Pub. L. 102–587, title III, §3001, Nov. 4, 1992, 106 Stat. 5059, provided that: ''This title [enacting subchapter V of this chapter, amending sections 1362, 1372, 1379, and 1382 of this title and section 183c of Title 46, Appendix, Shipping, and enacting provisions set out as notes under sections 1421 and 1421a of this title] may be cited as the 'Marine Mammal Health and Stranding Response Act'.''

Pub. L. 102–523, §1, Oct. 26, 1992, 106 Stat. 3425, provided that: ''This Act [enacting subchapter IV of this chapter and amending sections 952, 953, 973r, and 1362 of this title] may be cited as the 'International Dolphin Conservation Act of 1992'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–711, §1, Nov. 23, 1988, 102 Stat. 4755, provided: ''That this Act [enacting sections 1383a and 1383b of this title, amending sections 1166, 1371, 1372, 1374, 1378 to 1380, 1384, 1402, and 1407 of this title and section 1978 of Title 22, Foreign Relations and Intercourse, enacting provisions set out as a note under this section, and amending provisions set out as a note under section 1384 of this title] may be cited as the 'Marine Mammal Protection Act Amendments of 1988'.''

SHORT TITLE

Section 1 of Pub. L. 92–522 provided in part that: ''This Act [enacting this chapter] may be cited as the 'Marine Mammal Protection Act of 1972'.''

REGULATIONS

Section 15(b) of Pub. L. 103–238 provided that: ''Except as provided otherwise in this Act [see Short Title of 1994 Amendment note above], or the amendments to the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) made by this Act, the Secretary of Commerce or the Secretary of the Interior, as appropriate, shall, after notice and opportunity for public comment, promulgate regulations to implement this Act and the amendments made by this Act by January 1, 1995.''

PURPOSES AND FINDINGS

Pub. L. 105–42, §2, Aug. 15, 1997, 111 Stat. 1122, provided that:

''(a) PURPOSES.—The purposes of this Act [see Short Title of 1997 Amendment note above] are—

''(1) to give effect to the Declaration of Panama, signed October 4, 1995, by the Governments of Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, the United States of America, Vanuatu, and Venezuela, including the establishment of the International Dolphin Conservation Program, relating to the protection of dolphins and other species, and the conservation and management of tuna in the eastern tropical Pacific Ocean;

''(2) to recognize that nations fishing for tuna in the eastern tropical Pacific Ocean have achieved significant reductions in dolphin mortality associated with that fishery; and

''(3) to eliminate the ban on imports of tuna from those nations that are in compliance with the International Dolphin Conservation Program.

''(b) FINDINGS.—The Congress finds that—

''(1) the nations that fish for tuna in the eastern tropical Pacific Ocean have achieved significant reductions in dolphin mortality associated with the purse seine fishery from hundreds of thousands annually to fewer than 5,000 annually;

''(2) the provisions of the Marine Mammal Protection Act of 1972 [16 U.S.C. 1361 et seq.] that impose a ban on imports from nations that fish for tuna in the eastern tropical Pacific Ocean have served as an incentive to reduce dolphin mortalities;

''(3) tuna canners and processors of the United States have led the canning and processing industry in promoting a dolphin-safe tuna market; and

''(4) 12 signatory nations to the Declaration of Panama, including the United States, agreed under that Declaration to require that the total annual dolphin mortality in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean not exceed 5,000 animals, with the objective of progressively reducing dolphin mortality to a level approaching zero through the setting of annual limits and with the goal of eliminating dolphin mortality.''

RELATIONSHIP OF MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1994 TO OTHER LAW

Section 2(b) of Pub. L. 103–238 provided that: ''Except as otherwise expressly provided, nothing in this Act [see Short Title of 1994 Amendment note above] is intended to amend, repeal, or otherwise affect any other provision of law.''

INDIAN TREATY RIGHTS; ALASKA NATIVE SUBSISTENCE

Section 14 of Pub. L. 103–238 provided that: ''Nothing in this Act [see Short Title of 1994 Amendment note above], including any amendments to the Marine Mammal Protection Act of 1972 [16 U.S.C. 1361 et seq.] made by this Act—

''(1) alters or is intended to alter any treaty between the United States and one or more Indian tribes; or

''(2) affects or otherwise modifies the provisions of section 101(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(b)), except as specifically provided in the amendment made by section 4(b) of this Act [amending section 1371 of this title].''

STUDY ON EFFECTS OF DOLPHIN FEEDING

Pub. L. 102–567, title III, § 306, Oct. 29, 1992, 106 Stat. 4284, directed Secretary of Commerce to conduct a study in the eastern Gulf of Mexico on the effects of feeding of noncaptive dolphins by human beings, such study to be designed to detect any behavior or diet modification resulting from this feeding and to identify the effects, if any, of these modifications on the health and well-being of the dolphins, directed Secretary to consult with National Academy of Sciences and Marine Mammal Commission in design and conduct of the study, and directed Secretary, within 18 months after Oct. 29, 1992, to submit to Congress a report on results of the study.

STUDY ON MORTALITY OF ATLANTIC DOLPHIN

Pub. L. 100–711, § 7, Nov. 23, 1988, 102 Stat. 4771, directed Secretary of Commerce to conduct a study regarding east coast epidemic during 1987 and 1988 which caused substantial mortality within North Atlantic coastal population of Atlantic bottle-nosed dolphin, such study to examine (1) cause or causes of epidemic, (2) effect of epidemic on coastal and offshore populations of Atlantic bottle-nosed dolphin, (3) extent to which pollution may have contributed to epidemic, (4) whether other species and populations of marine mammals were affected by those factors which contributed to epidemic, and (5) any other matters pertaining to causes and effects of epidemic, with Secretary to submit on or before Jan. 1, 1989, to Committee on Commerce, Science, and Transportation of the Senate and Committee on Merchant Marine and Fisheries of the House of Representatives a plan for conducting the study.

INTERNATIONAL DISCUSSION TO ADVANCE UNDERSTANDING OF CETACEAN LIFE

Pub. L. 95–426, title VI, § 602, Oct. 7, 1978, 92 Stat. 985, provided that: ''It is the sense of the Congress that the President should convey to all countries having an interest in cetacean sea life the serious concern of the Congress regarding the continuing destruction of these marine mammals (highlighted by the recent slaughter of dolphins in the Sea of Japan by Japanese fishermen) and should encourage such countries—

''(1) to join in international discussions with other such countries in order to advance general understanding of cetacean life and thereby facilitate an effective use of the living marine resources of the world which does not jeopardize the natural balance of the aquatic environment;

''(2) to participate in an exchange of information with the National Marine Fisheries Service of the United States Department of Commerce, including cooperation in studies of—

''(A) the impact of cetaceans on ecologically related human foodstuffs, and

''(B) alternative methods of dealing with cetacean problems as they occur;

''(3) to cooperate in establishing an international cetacean commission to advance understanding of cetacean life and to insure the effective conservation and protection of cetaceans on a global scale; and

''(4) to adopt comprehensive marine mammal protection legislation.''

§ 1362. Definitions

For the purposes of this chapter—

(1) The term ''depletion'' or ''depleted'' means any case in which—

(A) the Secretary, after consultation with the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under subchapter III of this chapter, determines that a species or population stock is below its optimum sustainable population;

(B) a State, to which authority for the conservation and management of a species or population stock is transferred under section 1379 of this title, determines that such species or stock is below its optimum sustainable population; or

(C) a species or population stock is listed as an endangered species or a threatened species under the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.].

(2) The terms ''conservation'' and ''management'' mean the collection and application of biological information for the purposes of increasing and maintaining the number of animals within species and populations of marine mammals at their optimum sustainable population. Such terms include the entire scope of activities that constitute a modern scientific resource program, including, but not limited to, research, census, law enforcement, and habitat acquisition and improvement. Also included within these terms, when and where appropriate, is the periodic or total protection of species or populations as well as regulated taking.

(3) The term ''district court of the United States'' includes the District Court of Guam, District Court of the Virgin Islands, District Court of Puerto Rico, District Court of the Canal Zone, and, in the case of American Samoa and the Trust Territory of the Pacific Islands, the District Court of the United States for the District of Hawaii.

(4) The term ''humane'' in the context of the taking of a marine mammal means that method of taking which involves the least possible degree of pain and suffering practicable to the mammal involved.

(5) The term ''intermediary nation'' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 1371(a)(2)(B) of this title.

(6) The term ''marine mammal'' means any mammal which (A) is morphologically adapted to the marine environment (including sea otters and members of the orders Sirenia, Pinnipedia and Cetacea), or (B) primarily inhabits the marine environment (such as the polar bear); and, for the purposes of this chapter, includes any part of any such marine mammal, including its raw, dressed, or dyed fur or skin.

(7) The term ''marine mammal product'' means any item of merchandise which consists, or is composed in whole or in part, of any marine mammal.

(8) The term ''moratorium'' means a complete cessation of the taking of marine mammals and

a complete ban on the importation into the United States of marine mammals and marine mammal products, except as provided in this chapter.

(9) The term ''optimum sustainable population'' means, with respect to any population stock, the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element.

(10) The term ''person'' includes (A) any private person or entity, and (B) any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

(11) The term ''population stock'' or ''stock'' means a group of marine mammals of the same species or smaller taxa in a common spatial arrangement, that interbreed when mature.

(12)(A) Except as provided in subparagraph (B), the term ''Secretary'' means—

(i) the Secretary of the department in which the National Oceanic and Atmospheric Administration is operating, as to all responsibility, authority, funding, and duties under this chapter with respect to members of the order Cetacea and members, other than walruses, of the order Pinnipedia, and

(ii) the Secretary of the Interior as to all responsibility, authority, funding, and duties under this chapter with respect to all other marine mammals covered by this chapter.

(B) in [1] section 1387 of this title and subchapter V of this chapter (other than section 1421f–1 of this title) the term ''Secretary'' means the Secretary of Commerce.

(13) The term ''take'' means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.

(14) The term ''United States'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and Northern Mariana Islands.

(15) The term ''waters under the jurisdiction of the United States'' means—

(A) the territorial sea of the United States;

(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the other boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

(C) the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured, except that this subparagraph shall not apply before the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.

(16) The term ''fishery'' means—

(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

(B) any fishing for such stocks.

(17) The term ''competent regional organization''—

(A) for the tuna fishery in the eastern tropical Pacific Ocean, means the Inter-American Tropical Tuna Commission; and

(B) in any other case, means an organization consisting of those nations participating in a tuna fishery, the purpose of which is the conservation and management of that fishery and the management of issues relating to that fishery.

(18)(A) The term ''harassment'' means any act of pursuit, torment, or annoyance which—

(i) has the potential to injure a marine mammal or marine mammal stock in the wild; or

(ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

(B) In the case of a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note) or a scientific research activity conducted by or on behalf of the Federal Government consistent with section 1374(c)(3) of this title, the term ''harassment'' means—

(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild; or

(ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered.

(C) The term ''Level A harassment'' means harassment described in subparagraph (A)(i) or, in the case of a military readiness activity or scientific research activity described in subparagraph (B), harassment described in subparagraph (B)(i).

(D) The term ''Level B harassment'' means harassment described in subparagraph (A)(ii) or, in the case of a military readiness activity or scientific research activity described in subparagraph (B), harassment described in subparagraph (B)(ii).

[1] So in original. Probably should be capitalized.

(19) The term ''strategic stock'' means a marine mammal stock—

(A) for which the level of direct human-caused mortality exceeds the potential biological removal level;

(B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.] within the foreseeable future; or

(C) which is listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or is designated as depleted under this chapter.

(20) The term ''potential biological removal level'' means the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. The potential biological removal level is the product of the following factors:

(A) The minimum population estimate of the stock.

(B) One-half the maximum theoretical or estimated net productivity rate of the stock at a small population size.

(C) A recovery factor of between 0.1 and 1.0.

(21) The term ''Regional Fishery Management Council'' means a Regional Fishery Management Council established under section 1852 of this title.

(22) The term ''bona fide research'' means scientific research on marine mammals, the results of which—

(A) likely would be accepted for publication in a referred scientific journal;

(B) are likely to contribute to the basic knowledge of marine mammal biology or ecology; or

(C) are likely to identify, evaluate, or resolve conservation problems.

(23) The term ''Alaska Native organization'' means a group designated by law or formally chartered which represents or consists of Indians, Aleuts, or Eskimos residing in Alaska.

(24) The term ''take reduction plan'' means a plan developed under section 1387 of this title.

(25) The term ''take reduction team'' means a team established under section 1387 of this title.

(26) The term ''net productivity rate'' means the annual per capita rate of increase in a stock resulting from additions due to reproduction, less losses due to mortality.

(27) The term ''minimum population estimate'' means an estimate of the number of animals in a stock that—

(A) is based on the best available scientific information on abundance, incorporating the precision and variability associated with such information; and

(B) provides reasonable assurance that the stock size is equal to or greater than the estimate.

(28) The term ''International Dolphin Conservation Program'' means the international program established by the agreement signed in LaJolla, California, in June, 1992, as formalized, modified, and enhanced in accordance with the Declaration of Panama.

(29) The term ''Declaration of Panama'' means the declaration signed in Panama City, Republic of Panama, on October 4, 1995.

(Pub. L. 92–522, §3, Oct. 21, 1972, 86 Stat. 1028; Pub. L. 93–205, §13(e)(1), Dec. 28, 1973, 87 Stat. 903; Pub. L. 94–265, title IV, §404(a), Apr. 13, 1976, 90 Stat. 360; Pub. L. 97–58, §1(a), (b)(2), Oct. 9, 1981, 95 Stat. 979; Pub. L. 102–251, title III, §304, Mar. 9, 1992, 106 Stat. 65; Pub. L. 102–523, §2(c), Oct. 26, 1992, 106 Stat. 3432; Pub. L. 102–582, title IV, §401(a), Nov. 2, 1992, 106 Stat. 4909; Pub. L. 102–587, title III, §3004(b), Nov. 4, 1992, 106 Stat. 5067; Pub. L. 103–238, §§12, 16(a), 24(a)(2), Apr. 30, 1994, 108 Stat. 557, 559, 565; Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41; Pub. L. 104–297, title IV, §405(b)(2), (3), Oct. 11, 1996, 110 Stat. 3621; Pub. L. 105–42, §3, Aug. 15, 1997, 111 Stat. 1123; Pub. L. 106–555, title II, §202(b), Dec. 21, 2000, 114 Stat. 2768; Pub. L. 108–136, div. A, title III, §319(a), Nov. 24, 2003, 117 Stat. 1433.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in pars. (1)(C) and (19)(B), (C), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

AMENDMENTS

2003—Par. (18)(B) to (D). Pub. L. 108–136 added subpars. (B) to (D) and struck out former subpars. (B) and (C) which read as follows:

''(B) The term 'Level A harassment' means harassment described in subparagraph (A)(i).

''(C) The term 'Level B harassment' means harassment described in subparagraph (A)(ii).''

2000—Par. (12)(B). Pub. L. 106–555 inserted ''(other than section 1421f–1 of this title)'' after ''subchapter V of this chapter''.

1997—Pars. (28), (29). Pub. L. 105–42 added pars. (28) and (29).

1996—Par. (15). Pub. L. 104–297, §405(b)(2), repealed Pub. L. 102–251, §304. See 1992 Amendment note below.

Pub. L. 104–297, §404(b)(3), amended par. (15) generally. Prior to amendment, par. (15) read as follows: ''The term 'waters under the jurisdiction of the United States' means—

''(A) the territorial sea of the United States, and

''(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.''

Par. (21). Pub. L. 104–208 made technical amendment to reference in original act which appears in text as reference to section 1852 of this title.

1994—Par. (12)(B). Pub. L. 103–238, §24(a)(2), substituted ''in section 1387 of this title and subchapter V of this chapter'' for ''in subchapter V of this chapter''.

Pars. (15) to (17). Pub. L. 103–238, §16(a), redesignated par. (15) defining ''fishery'', and par. (16), as pars. (16) and (17), respectively, and struck out former par. (17) which defined ''intermediary nation''.

Pars. (18) to (27). Pub. L. 103–238, §12, added pars. (18) to (27).

1992—Pars. (5) to (11). Pub. L. 102–582 added par. (5) and redesignated former pars. (5) to (10) as (6) to (11), respectively.

Par. (12). Pub. L. 102–587 substituted ''(A) Except as provided in subparagraph (B), the term'' for ''The term'', redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, and added subpar. (B). See

Construction of Amendment by Pub. L. 102–587 note below.

Pub. L. 102–582 redesignated par. (11) as (12). Former par. (12) redesignated (13).

Pars. (13), (14). Pub. L. 102–582 redesignated pars. (12) and (13) as (13) and (14), respectively. Former par. (14) redesignated (15).

Par. (15). Pub. L. 102–582 redesignated par. (14), defining waters under the jurisdiction of the United States, as (15).

Pub. L. 102–523 added par. (15) defining fishery.

Pub. L. 102–251, § 304, which directed the general amendment of par. (15) by reenacting the introductory provisions and subpars. (A) and (B) without substantial change and adding subpar. (C) which read ''the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.'', was repealed by Pub. L. 104–297, § 405(b)(2).

Pars. (16), (17). Pub. L. 102–523 added pars. (16) and (17).

1981—Par. (1). Pub. L. 97–58, § 1(b)(2)(A), substituted a single management standard, that is, the maintenance of species at their optimum sustainable population, for the former management standard which had included the decline of a species or population stock that had declined to a significant degree over a period of years, the decline of a species or population stock which, if continued or resumed, would place the species or stock within the provisions of the Endangered Species Act of 1973, and a species or population stock that was below the optimum carrying capacity for the species or stock within its environment.

Par. (2). Pub. L. 97–58, § 1(b)(2)(B), substituted ''their optimum sustainable population'' for ''the optimum carrying capacity of their habitat''.

Par. (8). Pub. L. 97–58, § 1(a), (b)(2)(C), (D), redesignated par. (9) as (8) and substituted ''carrying capacity'' for ''optimum carrying capacity''. Former par. (8), which defined ''optimum carrying capacity'' was struck out.

Pars. (9) to (12). Pub. L. 97–58, § 1(b)(2)(C), redesignated pars. (9) to (13) as (8) to (12), respectively.

Par. (13). Pub. L. 97–58, § 1(b)(2)(C), (E), redesignated par. (14) as (13) and substituted ''the Virgin Islands of the United States, American Samoa, Guam, and Northern Mariana Islands'' for ''the Canal Zone, the possessions of the United States, and the Trust Territory of the Pacific Islands''. Former par. (13) redesignated (12).

Pars. (14), (15). Pub. L. 97–58, § 1(b)(2)(C), redesignated pars. (14) and (15) as (13) and (14), respectively.

1976—Par. (15)(B). Pub. L. 94–265 substituted ''the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured'' for ''the fisheries zone established pursuant to the Act of October 14, 1966''.

1973—Par. (1)(B). Pub. L. 93–205 substituted ''Endangered Species Act of 1973'' for ''Endangered Species Conservation Act of 1969''.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 8 of Pub. L. 105–42 provided that:

''(a) AMENDMENTS TO TAKE EFFECT WHEN IDCP IN FORCE.—Sections 3 through 7 of this Act [enacting sections 962, 1412, 1413, 1414a to 1416 of this title, amending sections 952, 953, 1362, 1371, 1374, 1378, 1380, 1385, 1411, and 1417 of this title, and repealing sections 1412 to 1416 and 1418 of this title] (except for section 304 of the Marine Mammal Protection Act of 1972 as added by section 6 of this Act [section 1414a of this title]) shall become effective upon—

''(1) certification by the Secretary of Commerce that—

''(A) sufficient funding is available to complete the first year of the study required under section 304(a) of the Marine Mammal Protection Act of 1972, as so added; and

''(B) the study has commenced; and

''(2) certification by the Secretary of State to Congress that a binding resolution of the Inter-American Tropical Tuna Commission or other legally binding instrument establishing the International Dolphin Conservation Program has been adopted and is in force.

''(b) SPECIAL EFFECTIVE DATE.—Notwithstanding subsection (a), the Secretary of Commerce may issue regulations under—

''(1) subsection (f)(2) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(f)(2)), as added by section 5(b) of this Act;

''(2) section 303(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1413(a)), as added by section 6(c) of this Act,

at any time after the date of enactment of this Act [Aug. 15, 1997].''

[The Secretary of Commerce made the certification referred to in section 8(a)(1) of Pub. L. 105–42, set out above, on July 27, 1998, and the Secretary of State made the certification referred to in section 8(a)(2) of Pub. L. 105–42 on Mar. 3, 1999.]

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, § 211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 24(e) of Pub. L. 103–238 provided that: ''The amendments made by subsection (a) [amending this section] shall be effective as if enacted as part of section 3004 of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067) [Pub. L. 102–587].''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102–251, set out as a note under section 773 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 404(b) of Pub. L. 94–265 provided that the amendment made by section 404(a) of Pub. L. 94–265 to this section was to take effect Mar. 1, 1977, prior to the general amendment of title IV of Pub. L. 94–265 by Pub. L. 104–297.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as an Effective Date note under section 1531 of this title.

CONSTRUCTION OF AMENDMENT BY PUB. L. 102–587

Section 24(a)(1) of Pub. L. 103–238 provided that: ''The amendments set forth in section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067) [Pub. L. 102–587, amending this section]—

''(A) are deemed to have been made by that section to section 3(12) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(12)); and

''(B) shall not be considered to have been made by that section to section 3(11) of that Act (16 U.S.C. 1362(11)).''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

TERMINATION OF UNITED STATES DISTRICT COURT FOR THE DISTRICT OF THE CANAL ZONE

For termination of the United States District Court for the District of the Canal Zone at end of the ''transition period'', being the 30-month period beginning Oct. 1, 1979, and ending midnight Mar. 31, 1982, see Paragraph 5 of Article XI of the Panama Canal Treaty of 1977 and sections 2101 and 2201 to 2203 of Pub. L. 96–70, title II, Sept. 27, 1979, 93 Stat. 493, formerly classified to sections 3831 and 3841 to 3843, respectively, of Title 22, Foreign Relations and Intercourse.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

TERRITORIAL SEA AND CONTIGUOUS ZONE OF UNITED STATES

For extension of territorial sea and contiguous zone of United States, see Proc. No. 5928 and Proc. No. 7219, respectively, set out as notes under section 1331 of Title 43, Public Lands.

SUBCHAPTER II—CONSERVATION AND PROTECTION OF MARINE MAMMALS

§ 1371. Moratorium on taking and importing marine mammals and marine mammal products

(a) Imposition; exceptions

There shall be a moratorium on the taking and importation of marine mammals and marine mammal products, commencing on the effective date of this chapter, during which time no permit may be issued for the taking of any marine mammal and no marine mammal or marine mammal product may be imported into the United States except in the following cases:

(1) Consistent with the provisions of section 1374 of this title, permits may be issued by the Secretary for taking, and importation for purposes of scientific research, public display, photography for educational or commercial purposes, or enhancing the survival or recovery of a species or stock, or for importation of polar bear parts (other than internal organs) taken in sport hunts in Canada. Such permits, except permits issued under section 1374(c)(5) of this title, may be issued if the taking or importation proposed to be made is first reviewed by the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under subchapter III of this chapter. The Commission and Committee shall recommend any proposed taking or importation, other than importation under section 1374(c)(5) of this title, which is consistent with the purposes and policies of section 1361 of this title. If the Secretary issues such a permit for importation, the Secretary shall issue to the importer concerned a certificate to that effect in such form as the Secretary of the Treasury prescribes, and such importation may be made upon presentation of the certificate to the customs officer concerned.

(2) Marine mammals may be taken incidentally in the course of commercial fishing operations and permits may be issued therefor under section 1374 of this title subject to regulations prescribed by the Secretary in accordance with section 1373 of this title, or in lieu of such permits, authorizations may be granted therefor under section 1387 of this title, subject to regulations prescribed under that section by the Secretary without regard to section 1373 of this title. Such authorizations may be granted under subchapter IV of this chapter with respect to purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean, subject to regulations prescribed under that subchapter by the Secretary without regard to section 1373 of this title. In any event it shall be the immediate goal that the incidental kill or incidental serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate. The Secretary of the Treasury shall ban the importation of commercial fish or products from fish which have been caught with commercial fishing technology which results in the incidental kill or incidental serious injury of ocean mammals in excess of United States standards. For purposes of applying the preceding sentence, the Secretary—

(A) shall insist on reasonable proof from the government of any nation from which fish or fish products will be exported to the United States of the effects on ocean mammals of the commercial fishing technology in use for such fish or fish products exported from such nation to the United States;

(B) in the case of yellowfin tuna harvested with purse seine nets in the eastern tropical Pacific Ocean, and products therefrom, to be exported to the United States, shall require that the government of the exporting nation provide documentary evidence that—

(i)(I) the tuna or products therefrom were not banned from importation under this paragraph before the effective date of section 4 of the International Dolphin Conservation Program Act; or

(II) the tuna or products therefrom were harvested after the effective date of section 4 of the International Dolphin Conservation Program Act by vessels of a nation which participates in the International Dolphin Conservation Program, and such harvesting nation is either a member of the Inter-American Tropical Tuna Commission or has initiated (and within 6 months thereafter completed) all steps required of applicant nations, in accordance with article V, paragraph 3 of the Convention establishing the Inter-American Tropical Tuna Commission, to become a member of that organization;

(ii) such nation is meeting the obligations of the International Dolphin Con-

servation Program and the obligations of membership in the Inter-American Tropical Tuna Commission, including all financial obligations; and

(iii) the total dolphin mortality limits, and per-stock per-year dolphin mortality limits permitted for that nation's vessels under the International Dolphin Conservation Program do not exceed the limits determined for 1997, or for any year thereafter, consistent with the objective of progressively reducing dolphin mortality to a level approaching zero through the setting of annual limits and the goal of eliminating dolphin mortality, and requirements of the International Dolphin Conservation Program;

(C) shall not accept such documentary evidence if—

(i) the government of the harvesting nation does not provide directly or authorize the Inter-American Tropical Tuna Commission to release complete and accurate information to the Secretary in a timely manner—

(I) to allow determination of compliance with the International Dolphin Conservation Program; and

(II) for the purposes of tracking and verifying compliance with the minimum requirements established by the Secretary in regulations promulgated under section 1385(f) of this title; or

(ii) after taking into consideration such information, findings of the Inter-American Tropical Tuna Commission, and any other relevant information, including information that a nation is consistently failing to take enforcement actions on violations which diminish the effectiveness of the International Dolphin Conservation Program, the Secretary, in consultation with the Secretary of State, finds that the harvesting nation is not in compliance with the International Dolphin Conservation Program.

(D) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);

(E) shall, six months after importation of yellowfin tuna or tuna products has been banned under this section, certify such fact to the President, which certification shall be deemed to be a certification for the purposes of section 1978(a) of title 22 for as long as such ban is in effect; and

(F)(i) except as provided in clause (ii), in the case of fish or products containing fish harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the fish or fish product was not harvested with a large-scale driftnet in the South Pacific Ocean after July 1, 1991, or in any other water of the high seas after January 1, 1993, and

(ii) in the case of tuna or a product containing tuna harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the tuna or tuna product was not harvested with a large-scale driftnet anywhere on the high seas after July 1, 1991.

For purposes of subparagraph (F), the term ''driftnet'' has the meaning given such term in section 4003 of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note), except that, until January 1, 1994, the term ''driftnet'' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed five kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3)(A) The Secretary, on the basis of the best scientific evidence available and in consultation with the Marine Mammal Commission, is authorized and directed, from time to time, having due regard to the distribution, abundance, breeding habits, and times and lines of migratory movements of such marine mammals, to determine when, to what extent, if at all, and by what means, it is compatible with this chapter to waive the requirements of this section so as to allow taking, or importing of any marine mammal, or any marine mammal product, and to adopt suitable regulations, issue permits, and make determinations in accordance with sections 1372, 1373, 1374, and 1381 of this title permitting and governing such taking and importing, in accordance with such determinations: *Provided*, *however*, That the Secretary, in making such determinations must be assured that the taking of such marine mammal is in accord with sound principles of resource protection and conservation as provided in the purposes and policies of this chapter: *Provided*, *further*, *however*, That no marine mammal or no marine mammal product may be imported into the United States unless the Secretary certifies that the program for taking marine mammals in the country of origin is consistent with the provisions and policies of this chapter. Products of nations not so certified may not be imported into the United States for any purpose, including processing for exportation.

(B) Except for scientific research purposes, photography for educational or commercial purposes, or enhancing the survival or recovery of a species or stock as provided for in paragraph (1) of this subsection, or as provided for under paragraph (5) of this subsection, during the moratorium no permit may be issued for the taking of any marine mammal which has been designated by the Secretary as depleted, and no importation may be made of any such mammal.

(4)(A) Except as provided in subparagraphs (B) and (C), the provisions of this chapter shall not apply to the use of measures—

(i) by the owner of fishing gear or catch, or an employee or agent of such owner, to deter

a marine mammal from damaging the gear or catch;

(ii) by the owner of other private property, or an agent, bailee, or employee of such owner, to deter a marine mammal from damaging private property;

(iii) by any person, to deter a marine mammal from endangering personal safety; or

(iv) by a government employee, to deter a marine mammal from damaging public property,

so long as such measures do not result in the death or serious injury of a marine mammal.

(B) The Secretary shall, through consultation with appropriate experts, and after notice and opportunity for public comment, publish in the Federal Register a list of guidelines for use in safely deterring marine mammals. In the case of marine mammals listed as endangered species or threatened species under the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.], the Secretary shall recommend specific measures which may be used to nonlethally deter marine mammals. Actions to deter marine mammals consistent with such guidelines or specific measures shall not be a violation of this chapter.

(C) If the Secretary determines, using the best scientific information available, that certain forms of deterrence have a significant adverse effect on marine mammals, the Secretary may prohibit such deterrent methods, after notice and opportunity for public comment, through regulation under this chapter.

(D) The authority to deter marine mammals pursuant to subparagraph (A) applies to all marine mammals, including all stocks designated as depleted under this chapter.

(5)(A)(i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specified geographical region, the Secretary shall allow, during periods of not more than five consecutive years each, the incidental, but not intentional, taking by citizens while engaging in that activity within that region of small numbers of marine mammals of a species or population stock if the Secretary, after notice (in the Federal Register and in newspapers of general circulation, and through appropriate electronic media, in the coastal areas that may be affected by such activity) and opportunity for public comment—

(I) finds that the total of such taking during each five-year (or less) period concerned will have a negligible impact on such species or stock and will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b) of this section or section 1379(f) of this title or, in the case of a cooperative agreement under both this chapter and the Whaling Convention Act of 1949 (16 U.S.C. 916 et seq.), pursuant to section 1382(c) of this title; and

(II) prescribes regulations setting forth—

(aa) permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for subsistence uses; and

(bb) requirements pertaining to the monitoring and reporting of such taking.

(ii) For a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note), a determination of ''least practicable adverse impact on such species or stock'' under clause (i)(II)(aa) shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity. Before making the required determination, the Secretary shall consult with the Department of Defense regarding personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

(iii) Notwithstanding clause (i), for any authorization affecting a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note), the Secretary shall publish the notice required by such clause only in the Federal Register.

(B) The Secretary shall withdraw, or suspend for a time certain (either on an individual or class basis, as appropriate) the permission to take marine mammals under subparagraph (A) pursuant to a specified activity within a specified geographical region if the Secretary finds, after notice and opportunity for public comment (as required under subparagraph (A) unless subparagraph (C)(i) applies), that—

(i) the regulations prescribed under subparagraph (A) regarding methods of taking, monitoring, or reporting are not being substantially complied with by a person engaging in such activity; or

(ii) the taking allowed under subparagraph (A) pursuant to one or more activities within one or more regions is having, or may have, more than a negligible impact on the species or stock concerned.

(C)(i) The requirement for notice and opportunity for public comment in subparagraph (B) shall not apply in the case of a suspension of permission to take if the Secretary determines that an emergency exists which poses a significant risk to the well-being of the species or stock concerned.

(ii) Sections 1373 and 1374 of this title shall not apply to the taking of marine mammals under the authority of this paragraph.

(D)(i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specific geographic region, the Secretary shall authorize, for periods of not more than 1 year, subject to such conditions as the Secretary may specify, the incidental, but not intentional, taking by harassment of small numbers of marine mammals of a species or population stock by such citizens while engaging in that activity within that region if the Secretary finds that such harassment during each period concerned—

(I) will have a negligible impact on such species or stock, and

(II) will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b) of this section, or section 1379(f) of this title or pursuant to a cooperative agreement under section 1388 of this title.

(ii) The authorization for such activity shall prescribe, where applicable—

(I) permissible methods of taking by harassment pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b) of this section or section 1379(f) of this title or pursuant to a cooperative agreement under section 1388 of this title,

(II) the measures that the Secretary determines are necessary to ensure no unmitigable adverse impact on the availability of the species or stock for taking for subsistence uses pursuant to subsection (b) of this section or section 1379(f) of this title or pursuant to a cooperative agreement under section 1388 of this title, and

(III) requirements pertaining to the monitoring and reporting of such taking by harassment, including requirements for the independent peer review of proposed monitoring plans or other research proposals where the proposed activity may affect the availability of a species or stock for taking for subsistence uses pursuant to subsection (b) of this section or section 1379(f) of this title or pursuant to a cooperative agreement under section 1388 of this title.

(iii) The Secretary shall publish a proposed authorization not later than 45 days after receiving an application under this subparagraph and request public comment through notice in the Federal Register, newspapers of general circulation, and appropriate electronic media and to all locally affected communities for a period of 30 days after publication. Not later than 45 days after the close of the public comment period, if the Secretary makes the findings set forth in clause (i), the Secretary shall issue an authorization with appropriate conditions to meet the requirements of clause (ii).

(iv) The Secretary shall modify, suspend, or revoke an authorization if the Secretary finds that the provisions of clauses (i) or (ii) are not being met.

(v) A person conducting an activity for which an authorization has been granted under this subparagraph shall not be subject to the penalties of this chapter for taking by harassment that occurs in compliance with such authorization.

(vi) For a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note), a determination of ''least practicable adverse impact on such species or stock'' under clause (i)(I) shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity. Before making the required determination, the Secretary shall consult with the Department of Defense regarding personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

(vii) Notwithstanding clause (iii), for any authorization affecting a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note), the Secretary shall publish the notice required by such clause only in the Federal Register.

(E)(i) During any period of up to 3 consecutive years, the Secretary shall allow the incidental, but not the intentional, taking by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 1824(b) of this title, while engaging in commercial fishing operations, of marine mammals from a species or stock designated as depleted because of its listing as an endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) if the Secretary, after notice and opportunity for public comment, determines that—

(I) the incidental mortality and serious injury from commercial fisheries will have a negligible impact on such species or stock;

(II) a recovery plan has been developed or is being developed for such species or stock pursuant to the Endangered Species Act of 1973; and

(III) where required under section 1387 of this title, a monitoring program is established under subsection (d) of such section, vessels engaged in such fisheries are registered in accordance with such section, and a take reduction plan has been developed or is being developed for such species or stock.

(ii) Upon a determination by the Secretary that the requirements of clause (i) have been met, the Secretary shall publish in the Federal Register a list of those fisheries for which such determination was made, and, for vessels required to register under section 1387 of this title, shall issue an appropriate permit for each authorization granted under such section to vessels to which this paragraph applies. Vessels engaged in a fishery included in the notice published by the Secretary under this clause which are not required to register under section 1387 of this title shall not be subject to the penalties of this chapter for the incidental taking of marine mammals to which this paragraph applies, so long as the owner or master of such vessel reports any incidental mortality or injury of such marine mammals to the Secretary in accordance with section 1387 of this title.

(iii) If, during the course of the commercial fishing season, the Secretary determines that the level of incidental mortality or serious injury from commercial fisheries for which a determination was made under clause (i) has resulted or is likely to result in an impact that is more than negligible on the endangered or threatened species or stock, the Secretary shall use the emergency authority granted under section 1387 of this title to protect such

species or stock, and may modify any permit granted under this paragraph as necessary.

(iv) The Secretary may suspend for a time certain or revoke a permit granted under this subparagraph only if the Secretary determines that the conditions or limitations set forth in such permit are not being complied with. The Secretary may amend or modify, after notice and opportunity for public comment, the list of fisheries published under clause (ii) whenever the Secretary determines there has been a significant change in the information or conditions used to determine such list.

(v) Sections 1373 and 1374 of this title shall not apply to the taking of marine mammals under the authority of this subparagraph.

(vi) This subparagraph shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99–625; 100 Stat. 3500).

(F) Notwithstanding the provisions of this subsection, any authorization affecting a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note) shall not be subject to the following requirements:

(i) In subparagraph (A), ''within a specified geographical region'' and ''within that region of small numbers''.

(ii) In subparagraph (B), ''within a specified geographical region'' and ''within one or more regions''.

(iii) In subparagraph (D), ''within a specific geographic region'', ''of small numbers'', and ''within that region''.

(6)(A) A marine mammal product may be imported into the United States if the product—

(i) was legally possessed and exported by any citizen of the United States in conjunction with travel outside the United States, provided that the product is imported into the United States by the same person upon the termination of travel;

(ii) was acquired outside of the United States as part of a cultural exchange by an Indian, Aleut, or Eskimo residing in Alaska; or

(iii) is owned by a Native inhabitant of Russia, Canada, or Greenland and is imported for noncommercial purposes in conjunction with travel within the United States or as part of a cultural exchange with an Indian, Aleut, or Eskimo residing in Alaska.

(B) For the purposes of this paragraph, the term—

(i) ''Native inhabitant of Russia, Canada, or Greenland'' means a person residing in Russia, Canada, or Greenland who is related by blood, is a member of the same clan or ethnological grouping, or shares a common heritage with an Indian, Aleut, or Eskimo residing in Alaska; and

(ii) ''cultural exchange'' means the sharing or exchange of ideas, information, gifts, clothing, or handicrafts between an Indian, Aleut, or Eskimo residing in Alaska and a Native inhabitant of Russia, Canada, or Greenland, including rendering of raw marine mammal parts as part of such exchange into clothing or handicrafts through carving, painting, sewing, or decorating.

(b) Exemptions for Alaskan natives

Except as provided in section 1379 of this title, the provisions of this chapter shall not apply with respect to the taking of any marine mammal by any Indian, Aleut, or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking—

(1) is for subsistence purposes; or

(2) is done for purposes of creating and selling authentic native articles of handicrafts and clothing: *Provided*, That only authentic native articles of handicrafts and clothing may be sold in interstate commerce: *And provided further*, That any edible portion of marine mammals may be sold in native villages and towns in Alaska or for native consumption. For the purposes of this subsection, the term ''authentic native articles of handicrafts and clothing'' means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to weaving, carving, stitching, sewing, lacing, beading, drawing and painting; and

(3) in each case, is not accomplished in a wasteful manner.

Notwithstanding the preceding provisions of this subsection, when, under this chapter, the Secretary determines any species or stock of marine mammal subject to taking by Indians, Aleuts, or Eskimos to be depleted, he may prescribe regulations upon the taking of such marine mammals by any Indian, Aleut, or Eskimo described in this subsection. Such regulations may be established with reference to species or stocks, geographical description of the area included, the season for taking, or any other factors related to the reason for establishing such regulations and consistent with the purposes of this chapter. Such regulations shall be prescribed after notice and hearing required by section 1373 of this title and shall be removed as soon as the Secretary determines that the need for their imposition has disappeared. In promulgating any regulation or making any assessment pursuant to a hearing or proceeding under this subsection or section 1386(b)(2) of this title, or in making any determination of depletion under this subsection or finding regarding unmitigable adverse impacts under subsection (a)(5) of this section that affects stocks or persons to which this subsection applies, the Secretary shall be responsible for demonstrating that such regulation, assessment, determination, or finding is supported by substantial evidence on the basis of the record as a whole. The preceding sentence shall only be applicable in an action brought by one or more Alaska Native organizations representing persons to which this subsection applies.

(c) Taking in defense of self or others

It shall not be a violation of this chapter to take a marine mammal if such taking is immi-

nently necessary in self-defense or to save the life of a person in immediate danger, and such taking is reported to the Secretary within 48 hours. The Secretary may seize and dispose of any carcass.

(d) Good Samaritan exemption

It shall not be a violation of this chapter to take a marine mammal if—

(1) such taking is imminently necessary to avoid serious injury, additional injury, or death to a marine mammal entangled in fishing gear or debris;

(2) reasonable care is taken to ensure the safe release of the marine mammal, taking into consideration the equipment, expertise, and conditions at hand;

(3) reasonable care is exercised to prevent any further injury to the marine mammal; and

(4) such taking is reported to the Secretary within 48 hours.

(e) Chapter not to apply to incidental takings by United States citizens employed on foreign vessels outside United States EEZ

The provisions of this chapter shall not apply to a citizen of the United States who incidentally takes any marine mammal during fishing operations outside the United States exclusive economic zone (as defined in section 1802 of this title) when employed on a foreign fishing vessel of a harvesting nation which is in compliance with the International Dolphin Conservation Program.

(f) Exemption of actions necessary for national defense

(1) The Secretary of Defense, after conferring with the Secretary of Commerce, the Secretary of the Interior, or both, as appropriate, may exempt any action or category of actions undertaken by the Department of Defense or its components from compliance with any requirement of this chapter, if the Secretary determines that it is necessary for national defense.

(2) An exemption granted under this subsection—

(A) subject to subparagraph (B), shall be effective for a period specified by the Secretary of Defense; and

(B) shall not be effective for more than 2 years.

(3)(A) The Secretary of Defense may issue additional exemptions under this subsection for the same action or category of actions, after—

(i) conferring with the Secretary of Commerce, the Secretary of the Interior, or both as appropriate; and

(ii) making a new determination that the additional exemption is necessary for national defense.

(B) Each additional exemption under this paragraph shall be effective for a period specified by the Secretary of Defense, of not more than 2 years.

(4) Not later than 30 days after issuing an exemption under paragraph (1) or an additional exemption under paragraph (3), the Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate notice describing the exemption and the reasons therefor. The notice may be provided in classified form if the Secretary of Defense determines that use of the classified form is necessary for reasons of national security.

(Pub. L. 92–522, title I, § 101, Oct. 21, 1972, 86 Stat. 1029; Pub. L. 93–205, § 13(e)(2), Dec. 28, 1973, 87 Stat. 903; Pub. L. 97–58, § 2, Oct. 9, 1981, 95 Stat. 979; Pub. L. 98–364, title I, § 101, July 17, 1984, 98 Stat. 440; Pub. L. 99–659, title IV, § 411(a), Nov. 14, 1986, 100 Stat. 3741; Pub. L. 100–711, §§ 4(a), 5(c), (e)(1), Nov. 23, 1988, 102 Stat. 4765, 4769, 4771; Pub. L. 101–627, title IX, § 901(g), Nov. 28, 1990, 104 Stat. 4467; Pub. L. 102–582, title I, § 103, title IV, § 401(b), Nov. 2, 1992, 106 Stat. 4903, 4909; Pub. L. 103–238, § 4, Apr. 30, 1994, 108 Stat. 532; Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41; Pub. L. 105–18, title II, § 2003, June 12, 1997, 111 Stat. 174; Pub. L. 105–42, § 4(a)–(c), Aug. 15, 1997, 111 Stat. 1123, 1124; Pub. L. 108–136, div. A, title III, § 319(b), (c), Nov. 24, 2003, 117 Stat. 1434.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (a), means the effective date of Pub. L. 92–522. See section 4 of Pub. L. 92–522, set out as an Effective Date note under section 1361 of this title.

For effective date of section 4 of the International Dolphin Conservation Program Act [Pub. L. 105–42], referred to in subsec. (a)(2)(B)(i), see section 8 of Pub. L. 105–42 set out as an Effective Date of 1997 Amendment note under section 1362 of this title.

The Endangered Species Act of 1973, referred to in subsec. (a)(4)(B), (5)(E)(i), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified principally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Whaling Convention Act of 1949, referred to in subsec. (a)(5)(A)(i)(I), is act Aug. 9, 1950, ch. 653, 64 Stat. 421, as amended, which is classified generally to subchapter II (§ 916 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 916 of this title and Tables.

Act of November 7, 1986, referred to in subsec. (a)(5)(E)(vi), is Pub. L. 99–625, Nov. 7, 1986, 100 Stat. 3500, which amended section 718b of this title and provisions listed in a table of National Wildlife Refuges set out under section 668dd of this title and enacted provisions set out as a note under section 1536 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2003—Subsec. (a)(5)(A). Pub. L. 108–136, § 319(c)(1), designated existing provisions as cl. (i), redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, redesignated former subcls. (I) and (II) of former cl. (ii) as items (aa) and (bb) of subcl. (II), respectively, and added cls. (ii) and (iii).

Subsec. (a)(5)(D)(vi), (vii). Pub. L. 108–136, § 319(c)(2), added cls. (vi) and (vii).

Subsec. (a)(5)(F). Pub. L. 108–136, § 319(c)(3), added subpar. (F).

Subsec. (f). Pub. L. 108–136, § 319(b), added subsec. (f).

1997—Subsec. (a)(2). Pub. L. 105–42, § 4(a), (b)(4), in introductory provisions, inserted after first sentence ''Such authorizations may be granted under subchapter IV of this chapter with respect to purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean, subject to regulations prescribed under that subchapter by the Secretary without regard to section 1373 of this title.'' and struck out ''; provided that this goal shall be satisfied in the case of the incidental tak-

ing of marine mammals in the course of purse seine fishing for yellowfin tuna by a continuation of the application of the best marine mammal safety techniques and equipment that are economically and technologically practicable'' after ''serious injury rate'' and, in closing provisions, substituted ''For purposes of subparagraph (F)'' for ''For purposes of subparagraph (E)''.

Subsec. (a)(2)(B). Pub. L. 105–42, §4(b)(1), added subpar. (B) and struck out former subpar. (B) which contained requirement that nations exporting yellowfin tuna harvested with purse seines in eastern tropical Pacific Ocean provide documentary evidence of adoption of regulatory program governing incidental taking of other mammals and comparison of the average rates of incidental taking between harvesting nation and United States.

Subsec. (a)(2)(C) to (F). Pub. L. 105–42, §4(b)(2), (3), added subpar. (C) and redesignated former subpars. (C) to (E) as (D) to (F), respectively.

Subsec. (d). Pub. L. 105–18 added subsec. (d).

Subsec. (e). Pub. L. 105–42, §4(c), added subsec. (e).

1996—Subsec. (a)(5)(E)(i). Pub. L. 104–208 made technical amendment to reference in original act which appears in text as reference to section 1824(b) of this title.

1994—Subsec. (a)(1). Pub. L. 103–238, §4(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Consistent with the provisions of section 1374 of this title, permits may be issued by the Secretary for taking and importation for purposes of scientific research, public display, or enhancing the survival or recovery of a species or stock if—

''(A) the taking proposed in the application for any such permit, or

''(B) the importation proposed to be made,

is first reviewed by the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under subchapter III of this chapter. The Commission and Committee shall recommend any proposed taking or importation which is consistent with the purposes and policies of section 1361 of this title. The Secretary shall, if he grants approval for importation, issue to the importer concerned a certificate to that effect which shall be in such form as the Secretary of the Treasury prescribes and such importation may be made upon presentation of the certificate to the customs officer concerned.''

Subsec. (a)(2). Pub. L. 103–238, §4(a)(2), inserted before period at end of first sentence '', or in lieu of such permits, authorizations may be granted therefor under section 1387 of this title, subject to regulations prescribed under that section by the Secretary without regard to section 1373 of this title''.

Subsec. (a)(3)(B). Pub. L. 103–238, §4(a)(3), inserted '', photography for educational or commercial purposes,'' after ''purposes'' and ''or as provided for under paragraph (5) of this subsection,'' after ''subsection,''.

Subsec. (a)(4). Pub. L. 103–238, §4(a)(4), amended par. (4) generally. Prior to amendment, par. (4) read as follows:

''(4)(A) During any period of five consecutive years, the Secretary shall allow the incidental, but not the intentional, taking, by citizens of the United States while engaging in commercial fishing operations, of small numbers of marine mammals of a species or population stock that is not depleted if the Secretary, after notice and opportunity for public comment—

''(i) finds that the total of such taking during such five-year period will have a negligible impact on such species or stock; and

''(ii) provides guidelines pertaining to the establishment of a cooperative system among the fishermen involved for the monitoring of such taking.

''(B) The Secretary shall withdraw, or suspend for a time certain, the permission to take marine mammals under subparagraph (A) if the Secretary finds, after notice and opportunity for public comment, that—

''(i) the taking allowed under subparagraph (A) is having more than a negligible impact on the species or stock concerned; or

''(ii) the policies, purposes and goals of this chapter would be better served through the application of this title without regard to this subsection.

Sections 1373 and 1374 of this title shall not apply to the taking of marine mammals under the authority of this paragraph.''

Subsec. (a)(5)(D), (E). Pub. L. 103–238, §4(a)(5), added subpars. (D) and (E).

Subsec. (a)(6). Pub. L. 103–238, §4(a)(6), added par. (6).

Subsec. (b). Pub. L. 103–238, §4(b), inserted at end ''In promulgating any regulation or making any assessment pursuant to a hearing or proceeding under this subsection or section 1386(b)(2) of this title, or in making any determination of depletion under this subsection or finding regarding unmitigable adverse impacts under subsection (a)(5) of this section that affects stocks or persons to which this subsection applies, the Secretary shall be responsible for demonstrating that such regulation, assessment, determination, or finding is supported by substantial evidence on the basis of the record as a whole. The preceding sentence shall only be applicable in an action brought by one or more Alaska Native organizations representing persons to which this subsection applies.''

Subsec. (c). Pub. L. 103–238, §4(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''In order to minimize undue economic hardship to persons subject to this chapter, other than those engaged in commercial fishing operations referred to in subsection (a)(2) of this section, the Secretary, upon any such person filing an application with him and upon filing such information as the Secretary may require showing, to his satisfaction, such hardship, may exempt such person or class of persons from provisions of this chapter for no more than one year from October 21, 1972, as he determines to be appropriate.''

1992—Subsec. (a)(2). Pub. L. 102–582, §103(2), inserted before period at end '', except that, until January 1, 1994, the term 'driftnet' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed five kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community''.

Subsec. (a)(2)(C). Pub. L. 102–582, §401(b), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''shall require the government of any intermediary nation from which yellowfin tuna or tuna products will be exported to the United States to certify and provide reasonable proof that it has acted to prohibit the importation of such tuna and tuna products from any nation from which direct export to the United States of such tuna and tuna products is banned under this section within sixty days following the effective date of such ban on importation to the United States;''.

Subsec. (a)(2)(E)(i). Pub. L. 102–582, §103(1), substituted ''January 1, 1993'' for ''July 1, 1992''.

1990—Subsec. (a)(2). Pub. L. 101–627 added subpar. (E) and concluding provisions.

1988—Subsec. (a)(1). Pub. L. 100–711, §5(c), which directed that par. (1) be amended generally to read as follows: ''(1) Consistent with the provisions of section 1374 of this title, permits may be issued by the Secretary for taking and importation for purposes of scientific research, public display, or enhancing the survival or recovery of a species or stock if—'', was executed as the probable intent of Congress by substituting such provisions for provisions of par. (1) before subpar. (A) which read as follows: ''Permits may be issued by the Secretary for taking and importation for purposes of scientific research and for public display if—''.

Subsec. (a)(2). Pub. L. 100–711, §4(a), inserted provisions at end of subpar. (B) relating to finding by Secretary that regulatory program, or average rate of incidental taking by vessels, of harvesting nation is comparable to that of United States, and added subpars. (C) and (D).

Subsec. (a)(3)(B). Pub. L. 100–711, §5(e)(1), inserted ''or enhancing the survival or recovery of a species or stock'' after ''scientific research purposes''.

1986—Subsec. (a)(5)(A). Pub. L. 99–659, §411(a)(1), in provisions preceding cl. (i) struck out ''that is not depleted'' after ''population stock''.

Subsec. (a)(5)(A)(i). Pub. L. 99–659, §411(a)(2), substituted ''will not have an unmitigable adverse impact'' for ''its habitat, and'', and inserted ''or, in the case of a cooperative agreement under both this chapter and the Whaling Convention Act of 1949 (16 U.S.C. 916 et seq.), pursuant to section 1382(c) of this title''.

Subsec. (a)(5)(A)(ii)(I). Pub. L. 99–659, §411(a)(3), inserted '', and on the availability of such species or stock for subsistence uses''.

1984—Subsec. (a)(2). Pub. L. 98–364 amended last sentence generally, restating existing provisions in cl. (A) and adding cl. (B).

1981—Subsec. (a)(2). Pub. L. 97–58, §2(1)(A), provided that the immediate goal of reducing to insignificant levels approaching a zero mortality and serious injury rate the incidental kill or serious injury of marine mammals permitted in the course of commercial fishing operations be satisfied in the case of purse seine fishing for yellowfin tuna by a continuation of the application of the best marine mammal safety techniques and equipment that are economically and technologically practicable.

Subsec. (a)(3)(B). Pub. L. 97–58, §2(1)(B), struck out ''is classified as belonging to an endangered species or threatened species pursuant to the Endangered Species Act of 1973 or'' after ''the taking of any marine mammal which''.

Subsec. (a)(4), (5). Pub. L. 97–58, §2(1)(C), added pars. (4) and (5).

Subsec. (b). Pub. L. 97–58, §2(2), substituted ''Except as provided in section 1379 of this title, the provisions of this chapter shall not apply with respect to the taking of any marine mammal by any Indian, Aleut, or Eskimo who resides in Alaska and'' for ''The provisions of this chapter shall not apply with respect to the taking of any marine mammal by any Indian, Aleut, or Eskimo'' in provisions preceding par. (1) and, in par. (1), substituted ''is for subsistence purposes; or'' for ''is for subsistence purposes by Alaskan natives who reside in Alaska, or''.

1973—Subsec. (a)(3)(B). Pub. L. 93–205 substituted ''or threatened species pursuant to the Endangered Species Act of 1973'' for ''pursuant to the Endangered Species Conservation Act of 1969''.

EFFECTIVE DATE OF 1997 AMENDMENT

For effective date of amendment by Pub. L. 105–42, see section 8 of Pub. L. 105–42, set out as a note under section 1362 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, §211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as an Effective Date note under section 1531 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1372. Prohibitions

(a) Taking

Except as provided in sections 1371, 1373, 1374, 1379, 1381, 1383, 1383a, and 1387 of this title and subchapter V of this chapter, it is unlawful—

(1) for any person subject to the jurisdiction of the United States or any vessel or other conveyance subject to the jurisdiction of the United States to take any marine mammal on the high seas;

(2) except as expressly provided for by an international treaty, convention, or agreement to which the United States is a party and which was entered into before the effective date of this subchapter or by any statute implementing any such treaty, convention, or agreement—

(A) for any person or vessel or other conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States; or

(B) for any person to use any port, harbor, or other place under the jurisdiction of the United States to take or import marine mammals or marine mammal products; and

(3) for any person, with respect to any marine mammal taken in violation of this subchapter, to possess that mammal or any product from that mammal;

(4) for any person to transport, purchase, sell, export, or offer to purchase, sell, or export any marine mammal or marine mammal product—

(A) that is taken in violation of this chapter; or

(B) for any purpose other than public display, scientific research, or enhancing the survival of a species or stock as provided for under subsection 1374(c) of this title; and

(5) for any person to use, in a commercial fishery, any means or methods of fishing in contravention of any regulations or limitations, issued by the Secretary for that fishery to achieve the purposes of this chapter.

(b) Importation of pregnant or nursing mammals; depleted species or stock; inhumane taking

Except pursuant to a permit for scientific research, or for enhancing the survival or recovery of a species or stock, issued under section 1374(c) of this title, it is unlawful to import into the United States any marine mammal if such mammal was—

(1) pregnant at the time of taking;

(2) nursing at the time of taking, or less than eight months old, whichever occurs later;

(3) taken from a species or population stock which the Secretary has, by regulation published in the Federal Register, designated as a depleted species or stock; or

(4) taken in a manner deemed inhumane by the Secretary.

Notwithstanding the provisions of paragraphs (1) and (2), the Secretary may issue a permit for the importation of a marine mammal, if the Secretary determines that such importation is necessary for the protection or welfare of the animal.

(c) Importation of illegally taken mammals

It is unlawful to import into the United States any of the following:

(1) Any marine mammal which was—

(A) taken in violation of this subchapter; or

(B) taken in another country in violation of the law of that country.

(2) Any marine mammal product if—

(A) the importation into the United States of the marine mammal from which such product is made is unlawful under paragraph (1) of this subsection; or

(B) the sale in commerce of such product in the country of origin of the product is illegal;

(3) Any fish, whether fresh, frozen, or otherwise prepared, if such fish was caught in a manner which the Secretary has proscribed for persons subject to the jurisdiction of the United States, whether or not any marine mammals were in fact taken incident to the catching of the fish.

(d) Nonapplicability of prohibitions

Subsections (b) and (c) of this section shall not apply—

(1) in the case of marine mammals or marine mammal products, as the case may be, to which subsection (b)(3) of this section applies, to such items imported into the United States before the date on which the Secretary publishes notice in the Federal Register of his proposed rulemaking with respect to the designation of the species or stock concerned as depleted; or

(2) in the case of marine mammals or marine mammal products to which subsection (c)(1)(B) or (c)(2)(B) of this section applies, to articles imported into the United States before the effective date of the foreign law making the taking or sale, as the case may be, of such marine mammals or marine mammal products unlawful.

(e) Retroactive effect

This chapter shall not apply with respect to any marine mammal taken before the effective date of this chapter, or to any marine mammal product consisting of, or composed in whole or in part of, any marine mammal taken before such date.

(f) Commercial taking of whales

It is unlawful for any person or vessel or other conveyance to take any species of whale incident to commercial whaling in waters subject to the jurisdiction of the United States.

(Pub. L. 92–522, title I, § 102, Oct. 21, 1972, 86 Stat. 1032; Pub. L. 93–205, § 13(e)(3), Dec. 28, 1973, 87 Stat. 903; Pub. L. 95–136, § 4, Oct. 18, 1977, 91 Stat. 1167; Pub. L. 97–58, § 3(a), Oct. 9, 1981, 95 Stat. 981; Pub. L. 100–711, §§ 2(b), 5(b), (e)(2), Nov. 23, 1988, 102 Stat. 4763, 4769, 4771; Pub. L. 102–587, title III, § 3004(a)(1), Nov. 4, 1992, 106 Stat. 5067; Pub. L. 103–238, §§ 5(a), 13(c), 24(c)(9), Apr. 30, 1994, 108 Stat. 536, 558, 566.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in subsec. (a)(2), means the effective date of title I of Pub. L. 92–522. See section 4 of Pub. L. 92–522, set out as an Effective Date note under section 1361 of this title.

The effective date of this chapter referred to in subsec. (e), means the effective date of Pub. L. 92–522. See section 4 of Pub. L. 92–522, set out as an Effective Date note under section 1361 of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–238, § 24(c)(9), which directed technical amendment to reference to subchapter V of this chapter in introductory provisions to reflect renumbering of corresponding title of original act, could not be executed to text because of prior amendment by section 13(c) of Pub. L. 103–238. See below.

Pub. L. 103–238, § 13(c), in introductory provisions inserted reference to section 1387 of this title and made technical amendment to reference to subchapter V of this chapter to reflect renumbering of corresponding title of original act.

Subsec. (a)(2)(B). Pub. L. 103–238, § 5(a)(1), substituted ''to take or import'' for ''for any purpose in any way connected with the taking or importation of''.

Subsec. (a)(4). Pub. L. 103–238, § 5(a)(2), substituted ''export, or offer to purchase, sell, or export'' for ''or offer to purchase or sell'' and ''product—'' for ''product; and'' and added subpars. (A) and (B).

1992—Subsec. (a). Pub. L. 102–587 inserted ''or subchapter V of this chapter'' in introductory provisions.

1988—Subsec. (a). Pub. L. 100–711, § 2(b), substituted ''1383, and 1383a'' for ''and 1383''.

Subsec. (b). Pub. L. 100–711, § 5(e)(2), substituted ''research, or for enhancing the survival or recovery of a species or stock,'' for ''research''.

Pub. L. 100–711, § 5(b), inserted sentence at end authorizing Secretary to issue permit for importation of marine mammal.

1981—Subsec. (a). Pub. L. 97–58, § 3(a)(1), inserted reference to section 1379 of this title in the enumeration of sections preceding par. (1), redesignated par. (4) as (5), and revised as pars. (3) and (4) the provisions of former par. (3) amending those provisions so as to make it illegal for any person to possess a marine mammal, or any product from that mammal, and for any person to transport, purchase, sell, or offer to purchase or sell any marine mammal or marine mammal product.

Subsec. (b)(3). Pub. L. 97–58, § 3(a)(2), struck out ''or which has been listed as an endangered species or threatened species pursuant to the Endangered Species Act of 1973'' after ''designated as a depleted species or stock''.

Subsec. (d)(1). Pub. L. 97–58, § 3(b)(3), struck out ''or endangered'' after ''concerned as depleted''.

1977—Subsec. (f). Pub. L. 95–136 added subsec. (f).

1973—Subsec. (b)(3). Pub. L. 93–205 substituted ''an endangered species or threatened species pursuant to the Endangered Species Act of 1973'' for ''endangered under the Endangered Species Conservation Act of 1969''.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as an Effective Date note under section 1531 of this title.

§ 1373. Regulations on taking of marine mammals

(a) Necessity and appropriateness

The Secretary, on the basis of the best scientific evidence available and in consultation with the Marine Mammal Commission, shall prescribe such regulations with respect to the taking and importing of animals from each species of marine mammal (including regulations on the taking and importing of individuals within population stocks) as he deems necessary and appropriate to insure that such taking will not be to the disadvantage of those species and population stocks and will be consistent with the purposes and policies set forth in section 1361 of this title.

(b) Factors considered in prescribing regulations

In prescribing such regulations, the Secretary shall give full consideration to all factors which may affect the extent to which such animals

may be taken or imported, including but not limited to the effect of such regulations on—

(1) existing and future levels of marine mammal species and population stocks;

(2) existing international treaty and agreement obligations of the United States;

(3) the marine ecosystem and related environmental considerations;

(4) the conservation, development, and utilization of fishery resources; and

(5) the economic and technological feasibility of implementation.

(c) Allowable restrictions

The regulations prescribed under subsection (a) of this section for any species or population stock of marine mammal may include, but are not limited to, restrictions with respect to—

(1) the number of animals which may be taken or imported in any calendar year pursuant to permits issued under section 1374 of this title;

(2) the age, size, or sex (or any combination of the foregoing) of animals which may be taken or imported, whether or not a quota prescribed under paragraph (1) of this subsection applies with respect to such animals;

(3) the season or other period of time within which animals may be taken or imported;

(4) the manner and locations in which animals may be taken or imported; and

(5) fishing techniques which have been found to cause undue fatalities to any species of marine mammal in a fishery.

(d) Procedure

Regulations prescribed to carry out this section with respect to any species or stock of marine mammals must be made on the record after opportunity for an agency hearing on both the Secretary's determination to waive the moratorium pursuant to section 1371(a)(3)(A) of this title and on such regulations, except that, in addition to any other requirements, imposed by law with respect to agency rulemaking, the Secretary shall publish and make available to the public either before or concurrent with the Publication of notice in the Federal Register of his intention to prescribe regulations under this section—

(1) a statement of the estimated existing levels of the species and population stocks of the marine mammal concerned;

(2) a statement of the expected impact of the proposed regulations on the optimum sustainable population of such species or population stock;

(3) a statement describing the evidence before the Secretary upon which he proposes to base such regulations; and

(4) any studies made by or for the Secretary or any recommendations made by or for the Secretary or the Marine Mammal Commission which relate to the establishment of such regulations.

(e) Periodic review

Any regulation prescribed pursuant to this section shall be periodically reviewed, and may be modified from time to time in such manner as the Secretary deems consistent with and necessary to carry out the purposes of this chapter.

(f) Report to Congress

Within six months after the effective date of this chapter and every twelve months thereafter, the Secretary shall report to the public through publication in the Federal Register and to the Congress on the current status of all marine mammal species and population stocks subject to the provisions of this chapter. His report shall describe those actions taken and those measures believed necessary, including where appropriate, the issuance of permits pursuant to this subchapter to assure the well-being of such marine mammals.

(Pub. L. 92–522, title I, § 103, Oct. 21, 1972, 86 Stat. 1033.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (f), means the effective date of Pub. L. 92–522, See section 4 of Pub. L. 92–522, set out as an Effective Date note under section 1361 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (f) of this section relating to the Secretary reporting to Congress on the current status of marine mammal species and population stocks subject to this chapter, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and pages 54 and 107 of House Document No. 103–7.

MARINE MAMMAL POPULATIONS REPORT

Pub. L. 101–627, title XI, § 1101, Nov. 28, 1990, 104 Stat. 4468, directed Secretary of Commerce, in consultation with Secretary of the Interior, to provide to Congress within 12 months after Nov. 28, 1990, a report assessing population sizes and trends of harbor seals, sea otters, California sea lions, and northern sea lions off the coast of the State of Washington; assessing the effectiveness of 16 U.S.C. 1371(a)(3)(A) and 1379(h); and specifying long range management plans for the species of marine mammals listed.

§ 1374. Permits

(a) Issuance

The Secretary may issue permits which authorize the taking or importation of any marine mammal. Permits for the incidental taking of marine mammals in the course of commercial fishing operations may only be issued as specifically provided for in sections[1] 1371(a)(5) or 1416 of this title, or subsection (h) of this section.

(b) Requisite provisions

Any permit issued under this section shall—

(1) be consistent with any applicable regulation established by the Secretary under section 1373 of this title, and

(2) specify—

(A) the number and kind of animals which are authorized to be taken or imported,

(B) the location and manner (which manner must be determined by the Secretary to be humane) in which they may be taken, or from which they may be imported,

(C) the period during which the permit is valid, and

(D) any other terms or conditions which the Secretary deems appropriate.

[1] So in original. Probably should be "section".

In any case in which an application for a permit cites as a reason for the proposed taking the overpopulation of a particular species or population stock, the Secretary shall first consider whether or not it would be more desirable to transplant a number of animals (but not to exceed the number requested for taking in the application) of that species or stock to a location not then inhabited by such species or stock but previously inhabited by such species or stock.

(c) Importation for scientific research, public display, or enhancing survival or recovery of species or stock

(1) Any permit issued by the Secretary which authorizes the taking or importation of a marine mammal for purposes of scientific research, public display, or enhancing the survival or recovery of a species or stock shall specify, in addition to the conditions required by subsection (b) of this section, the methods of capture, supervision, care, and transportation which must be observed pursuant to such taking or importation. Any person authorized to take or import a marine mammal for purposes of scientific research, public display, or enhancing the survival or recovery of a species or stock shall furnish to the Secretary a report on all activities carried out by him pursuant to that authority.

(2)(A) A permit may be issued to take or import a marine mammal for the purpose of public display only to a person which the Secretary determines—

(i) offers a program for education or conservation purposes that is based on professionally recognized standards of the public display community;

(ii) is registered or holds a license issued under 7 U.S.C. 2131 et seq.; and

(iii) maintains facilities for the public display of marine mammals that are open to the public on a regularly scheduled basis and that access to such facilities is not limited or restricted other than by charging of an admission fee.

(B) A permit under this paragraph shall grant to the person to which it is issued the right, without obtaining any additional permit or authorization under this chapter, to—

(i) take, import, purchase, offer to purchase, possess, or transport the marine mammal that is the subject of the permit; and

(ii) sell, export, or otherwise transfer possession of the marine mammal, or offer to sell, export, or otherwise transfer possession of the marine mammal—

(I) for the purpose of public display, to a person that meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A);

(II) for the purpose of scientific research, to a person that meets the requirements of paragraph (3); or

(III) for the purpose of enhancing the survival or recovery of a species or stock, to a person that meets the requirements of paragraph (4).

(C) A person to which a marine mammal is sold or exported or to which possession of a marine mammal is otherwise transferred under the authority of subparagraph (B) shall have the rights and responsibilities described in subparagraph (B) with respect to the marine mammal without obtaining any additional permit or authorization under this chapter. Such responsibilities shall be limited to—

(i) for the purpose of public display, the responsibility to meet the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

(ii) for the purpose of scientific research, the responsibility to meet the requirements of paragraph (3), and

(iii) for the purpose of enhancing the survival or recovery of a species or stock, the responsibility to meet the requirements of paragraph (4).

(D) If the Secretary—

(i) finds in concurrence with the Secretary of Agriculture, that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A)(ii) and is not reasonably likely to meet those requirements in the near future, or

(ii) finds that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A)(i) or (iii) and is not reasonably likely to meet those requirements in the near future,

the Secretary may revoke the permit in accordance with subsection (e) of this section, seize the marine mammal, or cooperate with other persons authorized to hold marine mammals under this chapter for disposition of the marine mammal. The Secretary may recover from the person expenses incurred by the Secretary for that seizure.

(E) No marine mammal held pursuant to a permit issued under subparagraph (A), or by a person exercising rights under subparagraph (C), may be sold, purchased, exported, or transported unless the Secretary is notified of such action no later than 15 days before such action, and such action is for purposes of public display, scientific research, or enhancing the survival or recovery of a species or stock. The Secretary may only require the notification to include the information required for the inventory established under paragraph (10).

(3)(A) The Secretary may issue a permit under this paragraph for scientific research purposes to an applicant which submits with its permit application information indicating that the taking is required to further a bona fide scientific purpose. The Secretary may issue a permit under this paragraph before the end of the public review and comment period required under subsection (d)(2) of this section if delaying issuance of the permit could result in injury to a species, stock, or individual, or in loss of unique research opportunities.

(B) No permit issued for purposes of scientific research shall authorize the lethal taking of a marine mammal unless the applicant demonstrates that a nonlethal method of conducting the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a

species or stock that is depleted, unless the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.

(C) Not later than 120 days after April 30, 1994, the Secretary shall issue a general authorization and implementing regulations allowing bona fide scientific research that may result only in taking by Level B harassment of a marine mammal. Such authorization shall apply to persons which submit, by 60 days before commencement of such research, a letter of intent via certified mail to the Secretary containing the following:

(i) The species or stocks of marine mammals which may be harassed.

(ii) The geographic location of the research.

(iii) The period of time over which the research will be conducted.

(iv) The purpose of the research, including a description of how the definition of bona fide research as established under this chapter would apply.

(v) Methods to be used to conduct the research.

Not later than 30 days after receipt of a letter of intent to conduct scientific research under the general authorization, the Secretary shall issue a letter to the applicant confirming that the general authorization applies, or, if the proposed research is likely to result in the taking (including Level A harassment) of a marine mammal, shall notify the applicant that subparagraph (A) applies.

(4)(A) A permit may be issued for enhancing the survival or recovery of a species or stock only with respect to a species or stock for which the Secretary, after consultation with the Marine Mammal Commission and after notice and opportunity for public comment, has first determined that—

(i) taking or importation is likely to contribute significantly to maintaining or increasing distribution or numbers necessary to ensure the survival or recovery of the species or stock; and

(ii) taking or importation is consistent (I) with any conservation plan adopted by the Secretary under section 1383b(b) of this title or any recovery plan developed under section 1533(f) of this title for the species or stock, or (II) if there is no conservation or recovery plan in place, with the Secretary's evaluation of the actions required to enhance the survival or recovery of the species or stock in light of the factors that would be addressed in a conservation plan or a recovery plan.

(B) A permit issued in accordance with this paragraph may allow the captive maintenance of a marine mammal from a depleted species or stock only if the Secretary—

(i) determines that captive maintenance is likely to contribute to the survival or recovery of the species or stock by maintaining a viable gene pool, increasing productivity, providing biological information, or establishing animal reserves;

(ii) determines that the expected benefit to the affected species or stock outweighs the expected benefit of alternatives which do not require removal of animals from the wild; and

(iii) requires that the marine mammal or its progeny be returned to the natural habitat of the species or stock as soon as feasible, consistent with the objectives of any applicable conservation plan or recovery plan, or of any evaluation by the Secretary under subparagraph (A).

The Secretary may allow the public display of such a marine mammal only if the Secretary determines that such display is incidental to the authorized maintenance and will not interfere with the attainment of the survival or recovery objectives.

(5)(A) The Secretary may issue a permit for the importation of polar bear parts (other than internal organs) taken in sport hunts in Canada to an applicant which submits with its permit application proof that the polar bear was legally harvested in Canada by the applicant. Such a permit shall be issued if the Secretary, in consultation with the Marine Mammal Commission and after notice and opportunity for public comment, finds that—

(i) Canada has a monitored and enforced sport hunting program consistent with the purposes of the Agreement on the Conservation of Polar Bears;

(ii) Canada has a sport hunting program based on scientifically sound quotas ensuring the maintenance of the affected population stock at a sustainable level;

(iii) the export and subsequent import are consistent with the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and other international agreements and conventions; and

(iv) the export and subsequent import are not likely to contribute to illegal trade in bear parts.

(B) The Secretary shall establish and charge a reasonable fee for permits issued under this paragraph. All fees collected under this paragraph shall be available to the Secretary until expended for use in developing and implementing cooperative research and management programs for the conservation of polar bears in Alaska and Russia pursuant to section 1383(d) of this title.

(C)(i) The Secretary shall undertake a scientific review of the impact of permits issued under this paragraph on the polar bear population stocks in Canada within 2 years after April 30, 1994. The Secretary shall provide an opportunity for public comment during the course of such review, and shall include a response to such public comment in the final report on such review.

(ii) The Secretary shall not issue permits under this paragraph after September 30, 1996, if the Secretary determines, based on the scientific review, that the issuance of permits under this paragraph is having a significant adverse impact on the polar bear population stocks in Canada. The Secretary may review such determination annually thereafter, in light of the best scientific information available, and shall complete the review not later than Janu-

ary 31 in any year a review is undertaken. The Secretary may issue permits under this paragraph whenever the Secretary determines, on the basis of such annual review, that the issuance of permits under this paragraph is not having a significant adverse impact on the polar bear population stocks in Canada.

(D) The Secretary of the Interior shall, expeditiously after the expiration of the applicable 30 day period under subsection (d)(2) of this section, issue a permit for the importation of polar bear parts (other than internal organs) from polar bears taken in sport hunts in Canada before February 18, 1997, to each applicant who submits, with the permit application, proof that the polar bear was legally harvested in Canada by the applicant. The Secretary shall issue such permits without regard to the provisions of subparagraphs (A) and (C)(ii) of this paragraph, subsection (d)(3) of this section, and sections 1371 and 1372 of this title. This subparagraph shall not apply to polar bear parts that were imported before June 12, 1997.

(6) A permit may be issued for photography for educational or commercial purposes involving marine mammals in the wild only to an applicant which submits with its permit application information indicating that the taking will be limited to Level B harassment, and the manner in which the products of such activities will be made available to the public.

(7) Upon request by a person for a permit under paragraph (2), (3), or (4) for a marine mammal which is in the possession of any person authorized to possess it under this chapter and which is determined under guidance under section 1421a(a) of this title not to be releasable to the wild, the Secretary shall issue the permit to the person requesting the permit if that person—

(A) meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A), in the case of a request for a permit under paragraph (2);

(B) meets the requirements of paragraph (3), in the case of a request for a permit under that paragraph; or

(C) meets the requirements of paragraph (4), in the case of a request for a permit under that paragraph.

(8)(A) No additional permit or authorization shall be required to possess, sell, purchase, transport, export, or offer to sell or purchase the progeny of marine mammals taken or imported under this subsection, if such possession, sale, purchase, transport, export, or offer to sell or purchase is—

(i) for the purpose of public display, and by or to, respectively, a person which meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A);

(ii) for the purpose of scientific research, and by or to, respectively, a person which meets the requirements of paragraph (3); or

(iii) for the purpose of enhancing the survival or recovery of a species or stock, and by or to, respectively, a person which meets the requirements of paragraph (4).

(B)(i) A person which has a permit under paragraph (2), or a person exercising rights under paragraph (2)(C), which has possession of a marine mammal that gives birth to progeny shall—

(I) notify the Secretary of the birth of such progeny within 30 days after the date of birth; and

(II) notify the Secretary of the sale, purchase, or transport of such progeny no later than 15 days before such action.

(ii) The Secretary may only require notification under clause (i) to include the information required for the inventory established under paragraph (10).

(C) Any progeny of a marine mammal born in captivity before April 30, 1994, and held in captivity for the purpose of public display shall be treated as though born after April 30, 1994.

(9) No marine mammal may be exported for the purpose of public display, scientific research, or enhancing the survival or recovery of a species or stock unless the receiving facility meets standards that are comparable to the requirements that a person must meet to receive a permit under this subsection for that purpose.

(10) The Secretary shall establish and maintain an inventory of all marine mammals possessed pursuant to permits issued under paragraph (2)(A), by persons exercising rights under paragraph (2)(C), and all progeny of such marine mammals. The inventory shall contain, for each marine mammal, only the following information which shall be provided by a person holding a marine mammal under this chapter:

(A) The name of the marine mammal or other identification.

(B) The sex of the marine mammal.

(C) The estimated or actual birth date of the marine mammal.

(D) The date of acquisition or disposition of the marine mammal by the permit holder.

(E) The source from whom the marine mammal was acquired including the location of the take from the wild, if applicable.

(F) If the marine mammal is transferred, the name of the recipient.

(G) A notation if the animal was acquired as the result of a stranding.

(H) The date of death of the marine mammal and the cause of death when determined.

(d) Application procedures; notice; hearing; review

(1) The Secretary shall prescribe such procedures as are necessary to carry out this section, including the form and manner in which application for permits may be made.

(2) The Secretary shall publish notice in the Federal Register of each application made for a permit under this section. Such notice shall invite the submission from interested parties, within thirty days after the date of the notice, of written data or views, with respect to the taking or importation proposed in such application.

(3) The applicant for any permit under this section must demonstrate to the Secretary that the taking or importation of any marine mammal under such permit will be consistent with the purposes of this chapter and the applicable regulations established under section 1373 of this title.

(4) If within thirty days after the date of publication of notice pursuant to paragraph (2) of this subsection with respect to any application for a

permit any interested party or parties request a hearing in connection therewith, the Secretary may, within sixty days following such date of publication, afford to such party or parties an opportunity for such a hearing.

(5) As soon as practicable (but not later than thirty days) after the close of the hearing or, if no hearing is held, after the last day on which data, or views, may be submitted pursuant to paragraph (2) of this subsection, the Secretary shall (A) issue a permit containing such terms and conditions as he deems appropriate, or (B) shall deny issuance of a permit. Notice of the decision of the Secretary to issue or to deny any permit under this paragraph must be published in the Federal Register within ten days after the date of issuance or denial.

(6) Any applicant for a permit, or any party opposed to such permit, may obtain judicial review of the terms and conditions of any permit issued by the Secretary under this section or of his refusal to issue such a permit. Such review, which shall be pursuant to chapter 7 of title 5, may be initiated by filing a petition for review in the United States district court for the district wherein the applicant for a permit resides, or has his principal place of business, or in the United States District Court for the District of Columbia, within sixty days after the date on which such permit is issued or denied.

(e) Modification, suspension, and revocation

(1) The Secretary may modify, suspend, or revoke in whole or in part any permit issued by him under this section—

(A) in order to make any such permit consistent with any change made after the date of issuance of such permit with respect to any applicable regulation prescribed under section 1373 of this title,

(B) in any case in which a violation of the terms and conditions of the permit is found, or

(C) if, in the case of a permit under subsection (c)(5) of this section authorizing importation of polar bear parts, the Secretary, in consultation with the appropriate authority in Canada, determines that the sustainability of Canada's polar bear population stocks are being adversely affected or that sport hunting may be having a detrimental effect on maintaining polar bear population stocks throughout their range.

(2) Whenever the Secretary shall propose any modification, suspension, or revocation of a permit under this subsection, the permittee shall be afforded opportunity, after due notice, for a hearing by the Secretary with respect to such proposed modification, suspension, or revocation. Such proposed action by the Secretary shall not take effect until a decision is issued by him after such hearing. Any action taken by the Secretary after such a hearing is subject to judicial review on the same basis as is any action taken by him with respect to a permit application under paragraph (5) of subsection (d) of this section.

(3) Notice of the modification, suspension, or revocation of any permit by the Secretary shall be published in the Federal Register within ten days from the date of the Secretary's decision.

(f) Possession of permit by issuee or his agent

Any permit issued under this section must be in the possession of the person to whom it is issued (or an agent of such person) during—

(1) the time of the authorized or taking importation;

(2) the period of any transit of such person or agent which is incident to such taking or importation; and

(3) any other time while any marine mammal taken or imported under such permit is in the possession of such person or agent.

A duplicate copy of the issued permit must be physically attached to the container, package, enclosure, or other means of containment, in which the marine mammal is placed for purposes of storage, transit, supervision, or care.

(g) Fees

The Secretary shall establish and charge a reasonable fee for permits issued under this section.

(h) General permits

(1) Consistent with the regulations prescribed pursuant to section 1373 of this title and to the requirements of section 1371 of this title, the Secretary may issue an annual permit to a United States purse seine fishing vessel for the taking of such marine mammals, and shall issue regulations to cover the use of any such annual permits.

(2) Such annual permits for the incidental taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean shall be governed by section 1416 of this title, subject to the regulations issued pursuant to section 1413 of this title.

(Pub. L. 92–522, title I, § 104, Oct. 21, 1972, 86 Stat. 1034; Pub. L. 98–364, title I, § 102, July 17, 1984, 98 Stat. 440; Pub. L. 100–711, §§ 4(d), 5(d), Nov. 23, 1988, 102 Stat. 4767, 4769; Pub. L. 103–238, § 5(b), Apr. 30, 1994, 108 Stat. 537; Pub. L. 105–18, title V, § 5004, June 12, 1997, 111 Stat. 187; Pub. L. 105–42, § 4(d), Aug. 15, 1997, 111 Stat. 1125; Pub. L. 105–277, div. A, § 101(e) [title I], Oct. 21, 1998, 112 Stat. 2681–231, 2681–238; Pub. L. 106–31, title V, § 5004(1), May 21, 1999, 113 Stat. 110; Pub. L. 108–108, title I, § 149, Nov. 10, 2003, 117 Stat. 1281.)

REFERENCES IN TEXT

7 U.S.C. 2131 et seq., referred to in subsec. (c)(2)(A)(ii), is the classification for Pub. L. 89–544, Aug. 24, 1966, 80 Stat. 350, as amended, known as the Animal Welfare Act, which is classified generally to chapter 54 (§ 2131 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2131 of Title 7 and Tables.

AMENDMENTS

2003—Subsec. (c)(5)(D). Pub. L. 108–108, which directed the substitution of ''February 18, 1997'' for ''April 30, 1994'' in ''Section 104 (16 U.S.C. 1374)'' without indicating the act to be amended, was executed by amending this section, which is section 104 of the Marine Mammal Protection Act of 1972, to reflect the probable intent of Congress.

1999—Subsec. (c)(5)(B). Pub. L. 106–31 made technical correction to directory language of Pub. L. 105–277. See 1998 Amendment note below.

1998—Subsec. (c)(5)(B). Pub. L. 105–277, as amended by Pub. L. 106–31, inserted ''until expended'' after ''Secretary'' in second sentence.

1997—Subsec. (c)(5)(A). Pub. L. 105–18, § 5004(1), struck out '', including polar bears taken but not imported prior to April 30, 1994,'' after ''sport hunts in Canada''.

Subsec. (c)(5)(D). Pub. L. 105–18, § 5004(2), added subpar. (D).

Subsec. (h). Pub. L. 105–42 amended subsec. (h) generally. Prior to amendment, subsec. (h) related to general permits, extension of general permit to American Tunaboat Association, and monitoring of incidental taking of marine mammals.

1994—Subsec. (a). Pub. L. 103–238, § 5(b)(1), inserted at end ''Permits for the incidental taking of marine mammals in the course of commercial fishing operations may only be issued as specifically provided for in sections 1371(a)(5) or 1416 of this title, or subsection (h) of this section.''

Subsec. (c)(1). Pub. L. 103–238, § 5(b)(2)(A), struck out ''and after'' after ''must be observed pursuant to''.

Subsec. (c)(2). Pub. L. 103–238, § 5(b)(2)(B), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''A permit may be issued for public display purposes only to an applicant which offers a program for education or conservation purposes that, based on professionally recognized standards of the public display community, is acceptable to the Secretary and which submits with the permit application information indicating that the applicant's facilities are open to the public on a regularly scheduled basis and that access to the facilities is not limited or restricted other than by the charging of an admission fee.''

Subsec. (c)(3). Pub. L. 103–238, § 5(b)(2)(C), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''A permit may be issued for scientific research purposes only to an applicant which submits with its permit application information indicating that the taking is required to further a bona fide scientific purpose and does not involve unnecessary duplication of research. No permit issued for purposes of scientific research shall authorize the killing of a marine mammal unless the applicant demonstrates that a nonlethal method for carrying out the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a species or stock designated as depleted, unless the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.''

Subsec. (c)(5) to (10). Pub. L. 103–238, § 5(b)(2)(D), added pars. (5) to (10).

Subsec. (e)(1)(C). Pub. L. 103–238, § 5(b)(3), added subpar. (C).

1988—Subsec. (c). Pub. L. 100–711, § 5(d), designated existing provisions as par. (1) and substituted ''scientific research, public display, or enhancing the survival or recovery of a species or stock'' for ''display or scientific research'' in two places, and added pars. (2) to (4).

Subsec. (h)(2)(B). Pub. L. 100–711, § 4(d), added cls. (iv) to (ix).

1984—Subsec. (h). Pub. L. 98–364 designated existing provisions as par. (1), and added pars. (2) and (3).

EFFECTIVE DATE OF 1997 AMENDMENT

For effective date of amendment by Pub. L. 105–42, see section 8 of Pub. L. 105–42, set out as a note under section 1362 of this title.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

MODIFICATION OF PERMITS EXISTING PRIOR TO APRIL 30, 1994

Section 5(c) of Pub. L. 103–238 provided that: ''Any permit issued under section 104(c)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(2)) before the date of the enactment of this Act [Apr. 30, 1994] is hereby modified to be consistent with that section as amended by this Act.''

§ 1375. Penalties

(a)(1) Any person who violates any provision of this subchapter or of any permit or regulation issued thereunder, except as provided in section 1387 of this title, may be assessed a civil penalty by the Secretary of not more than $10,000 for each such violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Each unlawful taking or importation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Secretary for good cause shown. Upon any failure to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action.

(2) In any case involving an alleged unlawful importation of a marine mammal or marine mammal product, if such importation is made by an individual for his own personal or family use (which does not include importation as an accommodation to others or for sale or other commercial use), the Secretary may, in lieu of instituting a proceeding under paragraph (1), allow the individual to abandon the mammal or product, under procedures to be prescribed by the Secretary, to the enforcement officer at the port of entry.

(b) Any person who knowingly violates any provision of this subchapter or of any permit or regulation issued thereunder (except as provided in section 1387 of this title) shall, upon conviction, be fined not more than $20,000 for each such violation, or imprisoned for not more than one year, or both.

(Pub. L. 92–522, title I, § 105, Oct. 21, 1972, 86 Stat. 1036; Pub. L. 97–58, § 3(b), Oct. 9, 1981, 95 Stat. 982; Pub. L. 103–238, § 13(a), (b), Apr. 30, 1994, 108 Stat. 558.)

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–238, § 13(a), inserted '', except as provided in section 1387 of this title,'' after ''thereunder''.

Subsec. (b). Pub. L. 103–238, § 13(b), inserted ''(except as provided in section 1387 of this title)'' after ''thereunder''.

1981—Subsec. (a). Pub. L. 97–58 designated existing provisions as par. (1) and added par. (2).

§ 1375a. Use of fines for protection and recovery of manatees, polar bears, sea otters, and walruses

On and after November 29, 1999, all fines collected by the United States Fish and Wildlife Service for violations of the Marine Mammal Protection Act (16 U.S.C. 1362–1407) and implementing regulations shall be available to the Secretary, without further appropriation, to be used for the expenses of the United States Fish and Wildlife Service in administering activities for the protection and recovery of manatees, polar bears, sea otters, and walruses, and shall remain available until expended.

(Pub. L. 106–113, div. B, § 1000(a)(3) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A–139.)

REFERENCES IN TEXT

The Marine Mammal Protection Act, referred to in text, probably means the Marine Mammal Protection Act of 1972, Pub. L. 92–522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 2000, and not as part of the Marine Mammal Protection Act of 1972 which comprises this chapter.

§ 1376. Seizure and forfeiture of cargo

(a) Application of consistent provisions

Any vessel or other conveyance subject to the jurisdiction of the United States that is employed in any manner in the unlawful taking of any marine mammal shall have its entire cargo or the monetary value thereof subject to seizure and forfeiture. All provisions of law relating to the seizure, judicial forfeiture, and condemnation of cargo for violation of the customs laws, the disposition of such cargo, and the proceeds from the sale thereof, and the remission or mitigation of any such forfeiture, shall apply with respect to the cargo of any vessel or other conveyance seized in connection with the unlawful taking of a marine mammal insofar as such provisions of law are applicable and not inconsistent with the provisions of this subchapter.

(b) Penalties

Any vessel subject to the jurisdiction of the United States that is employed in any manner in the unlawful taking of any marine mammal shall be liable for a civil penalty of not more than $25,000. Such penalty shall be assessed by the district court of the United States having jurisdiction over the vessel. Clearance of a vessel against which a penalty has been assessed, from a port of the United States, may be withheld until such penalty is paid, or until a bond or otherwise satisfactory surety is posted. Such penalty shall constitute a maritime lien on such vessel which may be recovered by action in rem in the district court of the United States having jurisdiction over the vessel.

(c) Reward for information leading to conviction

Upon the recommendation of the Secretary, the Secretary of the Treasury is authorized to pay an amount equal to one-half of the fine incurred but not to exceed $2,500 to any person who furnishes information which leads to a conviction for a violation of this subchapter. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this section.

(Pub. L. 92–522, title I, § 106, Oct. 21, 1972, 86 Stat. 1036.)

§ 1377. Enforcement

(a) Utilization of personnel

Except as otherwise provided in this subchapter, the Secretary shall enforce the provisions of this subchapter. The Secretary may utilize, by agreement, the personnel, services, and facilities of any other Federal agency for purposes of enforcing this subchapter.

(b) State officers and employees

The Secretary may also designate officers and employees of any State or of any possession of the United States to enforce the provisions of this subchapter. When so designated, such officers and employees are authorized to function as Federal law enforcement agents for these purposes, but they shall not be held and considered as employees of the United States for the purposes of any laws administered by the Director of the Office of Personnel Management.

(c) Warrants and other process for enforcement

The judges of the district courts of the United States and the United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process, including warrants or other process issued in admiralty proceedings in United States district courts, as may be required for enforcement of this subchapter and any regulations issued thereunder.

(d) Execution of process; arrest; search; seizure

Any person authorized by the Secretary to enforce this subchapter may execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this subchapter. Such a person so authorized may, in addition to any other authority conferred by law—

(1) with or without warrant or other process, arrest any person committing in his presence or view a violation of this subchapter or the regulations issued thereunder;

(2) with a warrant or other process, or without a warrant if he has reasonable cause to believe that a vessel, other conveyance, or container subject to the jurisdiction of the United States or any person on board is in violation of any provision of this subchapter or the regulations issued thereunder, search such vessel or conveyance and arrest such person;

(3) seize the cargo of any vessel or other conveyance subject to the jurisdiction of the United States used or employed contrary to the provisions of this subchapter or the regulations issued hereunder or which reasonably appears to have been so used or employed; and

(4) seize, whenever and wherever found, all marine mammals and marine mammals products taken or retained in violation of this subchapter or the regulations issued thereunder and shall dispose of them, in accordance with regulations prescribed by the Secretary.

(e) Disposition of seized cargo

(1) Whenever any cargo or marine mammal or marine mammal product is seized pursuant to this section, the Secretary shall expedite any proceedings commenced under section 1375(a) or (b) of this title. All marine mammal or marine mammal products or other cargo so seized shall be held by any person authorized by the Secretary pending disposition of such proceedings. The owner or consignee of any such marine mammal or marine mammal product or other cargo so seized shall, as soon as practicable following such seizure, be notified of that fact in accordance with regulations established by the Secretary.

(2) The Secretary may, with respect to any proceeding under section 1375(a) or (b) of this title, in lieu of holding any marine mammal or marine mammal product or other cargo, permit the person concerned to post bond or other surety satisfactory to the Secretary pending the disposition of such proceeding.

(3)(A) Upon the assessment of a penalty pursuant to section 1375(a) of this title, all marine mammals and marine mammal products or other cargo seized in connection therewith may be proceeded against in any court of competent jurisdiction and forfeited to the Secretary for disposition by him in such manner as he deems appropriate.

(B) Upon conviction for violation of section 1375(b) of this title, all marine mammals and marine mammal products seized in connection therewith shall be forfeited to the Secretary for disposition by him in such manner as he deems appropriate. Any other property or item so seized may, at the discretion of the court, be forfeited to the United States or otherwise disposed of.

(4) If with respect to any marine mammal or marine mammal product or other cargo so seized—

(A) a civil penalty is assessed under section 1375(a) of this title and no judicial action is commenced to obtain the forfeiture of such mammal or product within thirty days after such assessment, such marine mammal or marine mammal product or other cargo shall be immediately returned to the owner or the consignee; or

(B) no conviction results from an alleged violation of section 1375(b) of this title, such marine mammal or marine mammal product or other cargo shall immediately be returned to the owner or consignee if the Secretary does not, with[1] thirty days after the final disposition of the case involving such alleged violation, commence proceedings for the assessment of a civil penalty under section 1375(a) of this title.

(Pub. L. 92–522, title I, § 107, Oct. 21, 1972, 86 Stat. 1037; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 109–479, title IX, § 902(c), Jan. 12, 2007, 120 Stat. 3665.)

[1] So in original. Probably should be ''within''.

AMENDMENTS

2007—Subsec. (d)(2). Pub. L. 109–479 substituted ''vessel, other conveyance, or container'' for ''vessel or other conveyance''.

CHANGE OF NAME

''United States magistrate judges'' substituted for ''United States magistrates'' in subsec. (c) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

''Director of the Office of Personnel Management'' substituted for ''Civil Service Commission'' in subsec. (b) pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 1378. International program

(a) Duties of Secretary

The Secretary, through the Secretary of State, shall—

(1) initiate negotiations as soon as possible for the development of bilateral or multilateral agreements with other nations for the protection and conservation of all marine mammals covered by this chapter;

(2) initiate—

(A) negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which are found by the Secretary to be unduly harmful to any species or population stock of marine mammal, for the purpose of entering into bilateral and multilateral treaties with such countries to protect marine mammals, with the Secretary of State to prepare a draft agenda relating to this matter for discussion at appropriate international meetings and forums;

(B) discussions with foreign governments whose vessels harvest yellowfin tuna with purse seines in the eastern tropical Pacific Ocean, for the purpose of concluding, through the Inter-American Tropical Tuna Commission or such other bilateral or multilateral institutions as may be appropriate, international arrangements for the conservation of marine mammals taken incidentally in the course of harvesting such tuna, which should include provisions for (i) cooperative research into alternative methods of locating and catching yellowfin tuna which do not involve the taking of marine mammals, (ii) cooperative research on the status of affected marine mammal population stocks, (iii) reliable monitoring of the number, rate, and species of marine mammals taken by vessels of harvesting nations, (iv)

limitations on incidental take levels based upon the best scientific information available, and (v) the use of the best marine mammal safety techniques and equipment that are economically and technologically practicable to reduce the incidental kill and serious injury of marine mammals to insignificant levels approaching a zero mortality and serious injury rate;

(C) negotiations to revise the Convention for the Establishment of an Inter-American Tropical Tuna Commission (1 U.S.T. 230; TIAS 2044) which will incorporate—

(i) the conservation and management provisions agreed to by the nations which have signed the Declaration of Panama and in the Straddling Fish Stocks and Highly Migratory Fish Stocks Agreement, as opened for signature on December 4, 1995; and

(ii) a revised schedule of annual contributions to the expenses of the Inter-American Tropical Tuna Commission that is equitable to participating nations; and

(D) discussions with those countries participating, or likely to participate, in the International Dolphin Conservation Program, for the purpose of identifying sources of funds needed for research and other measures promoting effective protection of dolphins, other marine species, and the marine ecosystem;

(3) encourage such other agreements to promote the purposes of this chapter with other nations for the protection of specific ocean and land regions which are of special significance to the health and stability of marine mammals;

(4) initiate the amendment of any existing international treaty for the protection and conservation of any species of marine mammal to which the United States is a party in order to make such treaty consistent with the purposes and policies of this chapter;

(5) seek the convening of an international ministerial meeting on marine mammals before July 1, 1973, for the purposes of (A) the negotiation of a binding international convention for the protection and conservation of all marine mammals, and (B) the implementation of paragraph (3) of this section; and

(6) provide to the Congress by not later than one year after October 21, 1972, a full report on the results of his efforts under this section.

(b) Consultations and studies concerning North Pacific fur seals

(1) In addition to the foregoing, the Secretary shall—

(A) in consultation with the Marine Mammal Commission established by section 1401 of this title, undertake a study of the North Pacific fur seals to determine whether herds of such seals subject to the jurisdiction of the United States are presently at their optimum sustainable population and what population trends are evident; and

(B) in consultation with the Secretary of State, promptly undertake a comprehensive study of the provisions of this chapter, as they relate to North Pacific fur seals, and the provisions of the North Pacific Fur Seal Convention signed on February 9, 1957, as extended (hereafter referred to in this subsection as the ''Convention''), to determine what modifications, if any, should be made to the provisions of the Convention, or of this chapter, or both, to make the Convention and this chapter consistent with each other.

The Secretary shall complete the studies required under this paragraph not later than one year after October 21, 1972, and shall immediately provide copies thereof to Congress.

(2) If the Secretary finds—

(A) as a result of the study required under paragraph (1)(A) of this subsection, that the North Pacific fur seal herds are below their optimum sustainable population and are not trending upward toward such level, or have reached their optimum sustainable population but are commencing a downward trend, and believes the herds to be in danger of depletion; or

(B) as a result of the study required under paragraph (1)(B) of this subsection, that modifications of the Convention are desirable to make it and this chapter consistent;

he shall, through the Secretary of State, immediately initiate negotiations to modify the Convention so as to (i) reduce or halt the taking of seals to the extent required to assure that such herds attain and remain at their optimum sustainable population, or (ii) make the Convention and this chapter consistent; or both, as the case may be. If negotiations to so modify the Convention are unsuccessful, the Secretary shall, through the Secretary of State, take such steps as may be necessary to continue the existing Convention beyond its present termination date so as to continue to protect and conserve the North Pacific fur seals and to prevent a return to pelagic sealing.

(c) Description of annual results of discussions; proposals for further action

The Secretary shall include a description of the annual results of discussions initiated and conducted pursuant to subsection (a)(2)(B) of this section, as well as any proposals for further action to achieve the purposes of that subsection, in the report required under section 1373(f) of this title.

(Pub. L. 92–522, title I, § 108, Oct. 21, 1972, 86 Stat. 1038; Pub. L. 100–711, § 4(b), (c), Nov. 23, 1988, 102 Stat. 4766, 4767; Pub. L. 105–42, § 4(e), Aug. 15, 1997, 111 Stat. 1125.)

AMENDMENTS

1997—Subsecs. (a)(2)(C), (D). Pub. L. 105–42 added subpars. (C) and (D).

1988—Subsec. (a)(2). Pub. L. 100–711, § 4(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''initiate negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which are found by the Secretary to be unduly harmful to any species of marine mammal, for the purpose of entering into bilateral and multilateral treaties with such countries to protect marine mammals. The Secretary of State shall prepare a draft agenda relating to this matter for discussion at appropriate international meetings and forums;''.

Subsec. (c). Pub. L. 100–711, § 4(c), added subsec. (c).

EFFECTIVE DATE OF 1997 AMENDMENT

For effective date of amendment by Pub. L. 105–42, see section 8 of Pub. L. 105–42, set out as a note under section 1362 of this title.

§ 1379. Transfer of management authority

(a) State enforcement of State laws or regulations prohibited without transfer to State of management authority by Secretary

No State may enforce, or attempt to enforce, any State law or regulation relating to the taking of any species (which term for purposes of this section includes any population stock) of marine mammal within the State unless the Secretary has transferred authority for the conservation and management of that species (hereinafter referred to in this section as ''management authority'') to the State under subsection (b)(1) of this section.

(b) Findings prerequisite to transfer of authority; State program; implementation

(1) Subject to paragraph (2) and subsection (f) of this section, the Secretary shall transfer management authority for a species of marine mammal to a State if the Secretary finds, after notice and opportunity for public comment, that the State has developed and will implement a program for the conservation and management of the species that—

(A) is consistent with the purposes, policies, and goals of this chapter and with international treaty obligations;

(B) requires that all taking of the species be humane;

(C) does not permit the taking of the species unless and until—

(i) the State has determined, under a process consistent with the standards set forth in subsection (c) of this section—

(I) that the species is at its optimum sustainable population (hereinafter in this section referred to as ''OSP''), and

(II) the maximum number of animals of that species that may be taken without reducing the species below its OSP, and

(ii) the determination required under clause (i) is final and implemented under State law, and, if a cooperative allocation agreement for the species is required under subsection (d)(1) of this section, such an agreement is implemented;

(D) does not permit the taking of a number of animals of the species that exceeds the maximum number determined pursuant to subparagraph (C)(i)(II), and, in the case of taking for subsistence uses (as defined in subsection (f)(2) of this section), does not permit the taking of a number of animals that would be inconsistent with the maintenance of the species at its OSP;

(E) does not permit the taking of the species for scientific research, public display, or enhancing the survival or recovery of a species or stock, except for taking for such purposes that is undertaken by, or on behalf of, the State;

(F) provides procedures for acquiring data, and evaluating such data and other new evidence, relating to the OSP of the species, and the maximum take that would maintain the species at the level, and, if required on the basis of such evaluation, for amending determinations under subparagraph (C)(i);

(G) provides procedures for the resolution of differences between the State and the Secretary that might arise during the development of a cooperative allocation agreement under subsection (d)(1) of this section; and

(H) provides for the submission of an annual report to the Secretary regarding the administration of the program during the reporting period.

(2) During the period between the transfer of management authority for a species to a State under paragraph (1) and the time at which the implementation requirements under paragraph (1)(C)(ii) are complied with—

(A) the State program shall not apply with respect to the taking of the species within the State for any purpose, or under any condition, provided for under section 1371 of this title; and

(B) the Secretary shall continue to regulate, under this subchapter, all takings of the species within the State.

(3) After the determination required under paragraph (1)(C)(i) regarding a species is final and implemented under State law and after a cooperative allocation agreement described in subsection (d)(1) of this section, if required, is implemented for such species—

(A) such determination shall be treated, for purposes of applying this subchapter beyond the territory of the State, as a determination made in accordance with section 1373 of this title and as an applicable waiver under section 1371(a)(3) of this title;

(B) the Secretary shall regulate, without regard to this section other than the allocations specified under such an agreement, the taking of the species—

(i) incidentally in the course of commercial fishing operations (whether provided for under section 1371(a)(2) or (4) of this title), or in the course of other specified activities provided for under section 1371(a)(5) of this title, in the zone described in section 1362(14)(B)[1] of this title, and

(ii) for scientific research, public display, or enhancing the survival or recovery of a species or stock (other than by, or on behalf of, the State), except that any taking authorized under a permit issued pursuant to section 1371(a)(1) of this title after October 9, 1981, allowing the removal of live animals from habitat within the State shall not be effective if the State agency disapproves, on or before the date of issuance of the permit, such taking as being inconsistent with the State program; and

(C) section 1371(b) of this title shall not apply.

[1] See References in Text note below.

(c) Standards with which State process must comply

The State process required under subsection (b)(1)(C) of this section must comply with the following standards:

(1) The State agency with management authority for the species (hereinafter in this section referred to as the ''State agency'') must make an initial determination regarding the factors described in clause (i) of that subsection. The State agency must identify, and make available to the public under reasonable circumstances, the documentation supporting such initial determination. Unless request for a hearing under paragraph (2) regarding the initial determination is timely made, the initial determination shall be treated as final under State law.

(2) The State agency shall provide opportunity, at the request of any interested party, for a hearing with respect to the initial determination made by it under paragraph (1) at which interested parties may—

(A) present oral and written evidence in support of or against such determination; and

(B) cross-examine persons presenting evidence at the hearing.

The State agency must give public notice of the hearing and make available to the public within a reasonable time before commencing the hearing a list of the witnesses for the State and a general description of the documentation and other evidence that will be relied upon by such witnesses.

(3) The State agency, solely on the basis of the record developed at a hearing held pursuant to paragraph (2), must make a decision regarding its initial determination under paragraph (1) and shall include with the record a statement of the findings and conclusions, and the reason or basis therefor, on all material issues.

(4) Opportunity for judicial review of the decision made by the State agency on the record under paragraph (3), under scope of review equivalent to that provided for in section 706(2)(A) through (E) of title 5, must be available under State law. The Secretary may not initiate judicial review of any such decision.

(d) Cooperative allocation agreements

(1) If the range of a species with respect to which a determination under paragraph (1)(C)(i) of subsection (b) of this section is made extends beyond the territorial waters of the State, the State agency and the Secretary (who shall first coordinate with the Marine Mammal Commission and the appropriate Regional Fishery Management Council established under section 1852 of this title) shall enter into a cooperative allocation agreement providing procedures for allocating, on a timely basis, such of the number of animals, as determined under paragraph (1)(C)(i)(II) of subsection (b) of this section, as may be appropriate with priority of allocation being given firstly to taking for subsistence uses in the case of the State of Alaska, and secondly to taking for purposes provided for under section 1371(a) of this title within the zone described in section 1362(14)(B)[2] of this title.

(2) If the State agency requests the Secretary to regulate the taking of a species to which paragraph (1) applies within the zone described in section 1362(14)(B)[2] of this title for subsistence uses or for hunting, or both, in a manner consistent with the regulation by the State agency of such taking within the State, the Secretary shall adopt, and enforce within such zone, such of the State agency's regulatory provisions as the Secretary considers to be consistent with his administration of section 1371(a) of this title within such zone. The Secretary shall adopt such provisions through the issuance of regulations under section 553 of title 5, and with respect to such issuance the Regulatory Flexibility Act [5 U.S.C. 601 et seq.], the Paperwork Reduction Act,[2] Executive Order Numbered 12291, dated February 17, 1981, and the thirty-day notice requirement in subsection (d) of such section 553 shall not apply. For purposes of sections 1375, 1376, and 1377 of this title, such regulations shall be treated as having been issued under this subchapter.

(e) Revocation of transfer of management authority

(1) Subject to paragraph (2), the Secretary shall revoke, after opportunity for a hearing, any transfer of management authority made to a State under subsection (b)(1) of this section if the Secretary finds that the State program for the conservation and management of the species concerned is not being implemented, or is being implemented in a manner inconsistent with the provisions of this section or the provisions of the program. The Secretary shall also establish a procedure for the voluntary return by a State to the Secretary of species management authority that was previously transferred to the State under subsection (b)(1) of this section.

(2)(A) The Secretary may not revoke a transfer of management authority under paragraph (1) unless—

(i) the Secretary provides to the State a written notice of intent to revoke together with a statement, in detail, of those actions, or failures to act, on which such intent is based; and

(ii) during the ninety-day period after the date of the notice of intent to revoke—

(I) the Secretary provides opportunity for consultation between him and the State concerning such State actions or failures to act and the remedial measures that should be taken by the State, and

(II) the State does not take such remedial measures as are necessary, in the judgment of the Secretary, to bring its conservation and management program, or the administration or enforcement of the program, into compliance with the provisions of this section.

(B) When a revocation by the Secretary of a transfer of management authority to a State becomes final, or the State voluntarily returns management authority to the Secretary, the Secretary shall regulate the taking, and provide

[2] See References in Text note below.

for the conservation and management, of the species within the State in accordance with the provisions of this chapter (and in the case of Alaskan Natives, section 1371(b) of this title and subsection (i) of this section shall apply upon such revocation or return of management authority).

(f) Transfer of management authority to State of Alaska

(1) The Secretary may not transfer management authority to the State of Alaska under subsection (b)(1) of this section for any species of marine mammal unless—

(A) the State has adopted and will implement a statute and regulations that insure that the taking of the species for subsistence uses—

(i) is accomplished in a nonwasteful manner,

(ii) will be the priority consumptive use of the species, and

(iii) if required to be restricted, such restriction will be based upon—

(I) the customary and direct dependence upon the species as the mainstay of livelihood,

(II) local residency, and

(III) the availability of alternative resources; and

(B) the State has adopted a statute or regulation that requires that any consumptive use of marine mammal species, other than for subsistence uses, will be authorized during a regulatory year only if the appropriate agency first makes findings, based on an administrative record before it, that—

(i) such use will have no significant adverse impact upon subsistence uses of the species, and

(ii) the regulation of such use, including, but not limited to, licensing of marine mammal hunting guides and the assignment of guiding areas, will, to the maximum extent practicable, provide economic opportunities for the residents of the rural coastal villages of Alaska who engage in subsistence uses of that species.

(2) For purposes of paragraph (1), the term ''subsistence uses'' means the customary and traditional uses by rural Alaska residents of marine mammals for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of marine mammals taken for personal or family consumption; and for barter, or sharing for personal or family consumption. As used in this paragraph—

(A) The term ''family'' means all persons related by blood, marriage, or adoption, or any person living within a household on a permanent basis.

(B) The term ''barter'' means the exchange of marine mammals or their parts, taken for subsistence uses—

(i) for other wildlife or fish or their parts, or

(ii) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

(g) Environmental impact statement not required

Neither the transfer of management authority to a State under subsection (b)(1) of this section, nor the revocation or voluntary return of such authority under subsection (e) of this section, shall be deemed to be an action for which an environmental impact statement is required under section 4332 of title 42.

(h) Taking of marine mammals as part of official duties

(1) Nothing in this subchapter or subchapter V of this chapter shall prevent a Federal, State, or local government official or employee or a person designated under section 1382(c) of this title from taking, in the course of his or her duties as an official, employee, or designee, a marine mammal in a humane manner (including euthanasia) if such taking is for—

(A) the protection or welfare of the mammal,

(B) the protection of the public health and welfare, or

(C) the nonlethal removal of nuisance animals.

(2) Nothing in this subchapter shall prevent the Secretary or a person designated under section 1382(c) of this title from importing a marine mammal into the United States if such importation is necessary to render medical treatment that is not otherwise available.

(3) In any case in which it is feasible to return to its natural habitat a marine mammal taken or imported under circumstances described in this subsection, steps to achieve that result shall be taken.

(i) Regulations covering taking of marine mammals by Alaskan natives

The Secretary may (after providing notice thereof in the Federal Register and in newspapers of general circulation, and through appropriate electronic media, in the affected area and providing opportunity for a hearing thereon in such area) prescribe regulations requiring the marking, tagging, and reporting of animals taken pursuant to section 1371(b) of this title.

(j) Grants to develop or administer State conservation and management programs

The Secretary may make grants to States to assist them—

(1) in developing programs, to be submitted for approval under subsection (b) of this section, for the conservation and management of species of marine mammals; and

(2) in administering such programs if management authority for such species is transferred to the State under such subsection.

Grants made under this subsection may not exceed 50 per centum of the costs of developing a State program before Secretarial approval, or of administering the program thereafter.

(k) Delegation of administration and enforcement to States

The Secretary is authorized and directed to enter into cooperative arrangements with the appropriate officials of any State for the delegation to such State of the administration and en-

forcement of this subchapter: *Provided*, That any such arrangement shall contain such provisions as the Secretary deems appropriate to insure that the purposes and policies of this chapter will be carried out.

(*l*) Authorization of appropriations

(1) There are authorized to be appropriated to the Department of the Interior, for the purposes of carrying out this section, not to exceed $400,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

(2) There are authorized to be appropriated to the Department of Commerce, for the purposes of carrying out this section, not to exceed $225,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

(Pub. L. 92–522, title I, § 109, Oct. 21, 1972, 86 Stat. 1040; Pub. L. 95–316, § 1, July 10, 1978, 92 Stat. 380; Pub. L. 97–58, § 4(a), Oct. 9, 1981, 95 Stat. 982; Pub. L. 100–711, § 5(a), (e)(3), Nov. 23, 1988, 102 Stat. 4769, 4771; Pub. L. 102–587, title III, § 3004(a)(2), Nov. 4, 1992, 106 Stat. 5067; Pub. L. 103–238, § 24(c)(10), Apr. 30, 1994, 108 Stat. 566.)

REFERENCES IN TEXT

Section 1362(14) of this title, referred to in subsecs. (b)(3)(B)(i) and (d), was redesignated section 1362(15) by Pub. L. 102–582, title IV, § 401(a), Nov. 2, 1992, 106 Stat. 4909.

The Regulatory Flexibility Act, referred to in subsec. (d)(2), is Pub. L. 96–354, Sept. 19, 1980, 94 Stat. 1164, which is classified generally to chapter 6 (§ 601 et seq.) of Title 5, Government Organization and Employees. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 5 and Tables.

The Paperwork Reduction Act, referred to in subsec. (d)(2), probably means the Paperwork Reduction Act of 1980, Pub. L. 96–511, Dec. 11, 1980, 94 Stat. 2812, as amended, which was classified principally to chapter 35 (§ 3501 et seq.) of Title 44, Public Printing and Documents, prior to the general amendment of that chapter by the Paperwork Reduction Act of 1995, Pub. L. 104–13, § 2, May 22, 1995, 109 Stat. 163. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 101 of Title 44 and Tables.

Executive Order Numbered 12291, dated February 17, 1981, referred to in subsec. (d)(2), was formerly set out as a note under section 601 of Title 5, Government Organization and Employees, and was revoked by Ex. Ord. No. 12866, § 11, Sept. 30, 1993, 58 F.R. 51735.

AMENDMENTS

1994—Subsec. (h)(1). Pub. L. 103–238 made technical amendment to reference to subchapter V of this chapter to reflect renumbering of corresponding title of original act.

1992—Subsec. (h)(1). Pub. L. 102–587 inserted ''or subchapter V of this chapter'' in introductory provisions.

1988—Subsec. (b)(1)(E). Pub. L. 100–711, § 5(e)(3)(A), substituted ''research, public display, or enhancing the survival or recovery of a species or stock'' for ''research and public display purposes''.

Subsec. (b)(3)(B)(ii). Pub. L. 100–711, § 5(e)(3)(B), substituted ''research, public display, or enhancing the survival or recovery of a species or stock'' for ''research or public display purposes''.

Subsec. (h). Pub. L. 100–711, § 5(a), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ''Nothing in this subchapter shall prevent a Federal, State, or local government official or employee or a person designated under section 1382(c) of this title from taking, in the course of his duties as an official, employee, or designee, a marine mammal in a humane manner (including euthanasia) if such taking is for—

''(1) the protection or welfare of the mammal,

''(2) the protection of the public health and welfare, or

''(3) the nonlethal removal of nuisance animals,

and, in any case in which the return of the mammal to its natural habitat is feasible, includes steps designed to achieve that result.''

1981—Subsec. (a). Pub. L. 97–58, § 4(a)(2), added subsec. (a). Former subsec. (a), relating to State regulation of the taking of marine mammals, was struck out.

Subsec. (b). Pub. L. 97–58, § 4(a)(2), added subsec. (b). Former subsec. (b), relating to the making of grants to States by the Secretary, was struck out. See subsec. (j) of this section.

Subsecs. (c), (d). Pub. L. 97–58, § 4(a)(1), (2), added subsecs. (c) and (d). Former subsecs. (c) and (d) redesignated (k) and (*l*), respectively.

Subsecs. (e) to (j). Pub. L. 97–58, § 4(a)(2), added subsecs. (e) to (j).

Subsecs. (k), (*l*). Pub. L. 97–58, § 4(a)(1), redesignated subsecs. (c) and (d) as (k) and (*l*), respectively.

1978—Subsec. (d). Pub. L. 95–316 added subsec. (d).

ENFORCEMENT BY HAWAII OF LAWS RELATING TO CONSERVATION AND MANAGEMENT OF HUMPBACK WHALES WITH RESPECT TO RECREATIONAL AND COMMERCIAL VESSELS

Pub. L. 108–447, div. B, title II, § 213, Dec. 8, 2004, 118 Stat. 2884, provided that: ''Hereafter, notwithstanding any other Federal law related to the conservation and management of marine mammals, the State of Hawaii may enforce any State law or regulation with respect to the operation in State waters of recreational and commercial vessels, for the purpose of conservation and management of humpback whales, to the extent that such law or regulation is no less restrictive than Federal law.''

COOPERATIVE AGREEMENTS UNDER ENDANGERED SPECIES ACT

Section 4(b) of Pub. L. 97–58 provided that: ''Nothing in the amendments made by subsection (a) [amending this section] shall be construed as affecting in any manner, or to any extent, any cooperative agreement entered into by a State under section 6(c) of the Endangered Species Act of 1973 (16 U.S.C. 1535(c)) before, on, or after the date of the enactment of this Act [Oct. 9, 1981].''

§ 1380. Marine mammal research grants

(a) Authorization; research concerning yellowfin tuna; annual report

The Secretary is authorized to make grants, or to provide financial assistance in such other form as he deems appropriate, to any Federal or State agency, public or private institution, or other person for the purpose of assisting such agency, institution, or person to undertake research in subjects which are relevant to the protection and conservation of marine mammals. In carrying out this subsection, the Secretary shall undertake a program of, and shall provide financial assistance for, research into new methods of locating and catching yellowfin tuna without the incidental taking of marine mammals. The Secretary shall include a description of the annual results of research carried out under this section in the report required under section 1373(f) of this title.

(b) Terms and conditions

Any grant or other financial assistance provided by the Secretary pursuant to this section

shall be subject to such terms and conditions as the Secretary deems necessary to protect the interests of the United States and shall be made after review by the Marine Mammal Commission.

(c) Gulf of Maine ecosystem protection

(1) No later than 1 year after April 30, 1994, the Secretary of Commerce shall convene a regional workshop for the Gulf of Maine to assess human-caused factors affecting the health and stability of that marine ecosystem, of which marine mammals are a part. The workshop shall be conducted in consultation with the Marine Mammal Commission, the adjacent coastal States, individuals with expertise in marine mammal biology and ecology, representatives from environmental organizations, the fishing industry, and other appropriate persons. The goal of the workshop shall be to identify such factors, and to recommend a program of research and management to restore or maintain that marine ecosystem and its key components that—

(A) protects and encourages marine mammals to develop to the greatest extent feasible commensurate with sound policies of resource management;

(B) has as the primary management objective the maintenance of the health and stability of the marine ecosystems;

(C) ensures the fullest possible range of management options for future generations; and

(D) permits nonwasteful, environmentally sound development of renewable and nonrenewable resources.

(2) On or before December 31, 1995, the Secretary of Commerce shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate a report containing the results of the workshop under this subsection, proposed regulatory or research actions, and recommended legislative action.

(d) Bering Sea ecosystem protection

(1) The Secretary of Commerce, in consultation with the Secretary of the Interior, the Marine Mammal Commission, the State of Alaska, and Alaska Native organizations, shall, not later than 180 days after April 30, 1994, undertake a scientific research program to monitor the health and stability of the Bering Sea marine ecosystem and to resolve uncertainties concerning the causes of population declines of marine mammals, sea birds, and other living resources of that marine ecosystem. The program shall address the research recommendations developed by previous workshops on Bering Sea living marine resources, and shall include research on subsistence uses of such resources and ways to provide for the continued opportunity for such uses.

(2) To the maximum extent practicable, the research program undertaken pursuant to paragraph (1) shall be conducted in Alaska. The Secretary of Commerce shall utilize, where appropriate, traditional local knowledge and may contract with a qualified Alaska Native organization to conduct such research.

(3) The Secretary of Commerce, the Secretary of the Interior, and the Commission shall address the status and findings of the research program in their annual reports to Congress required by sections 1373(f) and 1404 of this title.[1]

(Pub. L. 92–522, title I, §110, Oct. 21, 1972, 86 Stat. 1041; Pub. L. 95–136, §1, Oct. 18, 1977, 91 Stat. 1167; Pub. L. 95–316, §2, July 10, 1978, 92 Stat. 380; Pub. L. 97–58, §5, Oct. 9, 1981, 95 Stat. 986; Pub. L. 100–711, §4(e), Nov. 23, 1988, 102 Stat. 4768; Pub. L. 103–238, §20, Apr. 30, 1994, 108 Stat. 560; Pub. L. 105–42, §4(f), Aug. 15, 1997, 111 Stat. 1125.)

REFERENCES IN TEXT

Provisions of section 1373(f) of this title requiring annual reports to Congress, referred to in subsec. (d)(3), terminated, effective May 15, 2000. See Termination of Reporting Requirements note set out under section 1373 of this title.

Section 1404 of this title, referred to in subsec. (d)(3), was omitted from the Code.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–42 struck out ''(1)'' before ''The Secretary is authorized'' and struck out par. (2) which read as follows: ''For purposes of identifying appropriate research into promising new methods of locating and catching yellowfin tuna without the incidental taking of marine mammals, the Secretary shall contract for an independent review of information pertaining to such potential alternative methods to be conducted by the National Academy of Sciences with individuals having scientific, technical, or other expertise that may be relevant to the identification of promising alternative fishing techniques. The Secretary shall request that the independent review be submitted to the Secretary on or before September 8, 1989, and the Secretary shall submit the report of the independent review, together with a proposed plan for research, development, and implementation of alternative fishing techniques, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives on or before December 5, 1989.''

1994—Subsecs. (c), (d). Pub. L. 103–238 added subsecs. (c) and (d) and struck out former subsec. (c) which authorized appropriations to be made available to the Secretary of Commerce and the Secretary of the Interior for purposes of carrying out this section for fiscal year ending June 30, 1973, to fiscal year ending Sept. 30, 1981.

1988—Subsec. (a). Pub. L. 100–711 designated existing provisions as par. (1) and added par. (2).

1981—Subsec. (a). Pub. L. 97–58 directed the Secretary to undertake a program of research into new methods of locating and catching yellowfin tuna without the incidental taking of marine mammals and directed that the Secretary include a description of the annual results of that research in the report required under section 1373(f) of this title.

1978—Subsec. (c)(4) to (6). Pub. L. 95–316 added pars. (4) to (6).

1977—Subsec. (c). Pub. L. 95–136 incorporated existing provisions into text preceding par. (1) and, as so incorporated, struck out provisions authorizing to be appropriated such sums as may be necessary to carry out this section for the fiscal year in which this section takes effect and the next four years thereafter, limiting appropriations for any one year to $2,500,000, and requiring that one-third of such sums be made available to the Secretary of the Interior and two-thirds of such sums be made available to the Secretary of the department in which the National Oceanic and Atmospheric Administration is operating, and added pars. (1) to (3).

EFFECTIVE DATE OF 1997 AMENDMENT

For effective date of amendment by Pub. L. 105–42, see section 8 of Pub. L. 105–42, set out as a note under section 1362 of this title.

[1] See References in Text note below.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. For treatment of references to Committee on Merchant Marine and Fisheries, see section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

§ 1381. Commercial fisheries gear development

(a) Research and development program; report to Congress; authorization of appropriations

The Secretary of the department in which the National Oceanic and Atmospheric Administration is operating (hereafter referred to in this section as the ''Secretary'') is hereby authorized and directed to immediately undertake a program of research and development for the purpose of devising improved fishing methods and gear so as to reduce to the maximum extent practicable the incidental taking of marine mammals in connection with commercial fishing. At the end of the full twenty-four calendar month period following October 21, 1972, the Secretary shall deliver his report in writing to the Congress with respect to the results of such research and development. For the purposes of this section, there is hereby authorized to be appropriated the sum of $1,000,000 for the fiscal year ending June 30, 1973, and the same amount for the next fiscal year. Funds appropriated for this section shall remain available until expended.

(b) Reduction of level of taking of marine mammals incidental to commercial fishing operations

The Secretary, after consultation with the Marine Mammal Commission, is authorized and directed to issue, as soon as practicable, such regulations, covering the twenty-four-month period referred to in section 1371(a)(2) of this title, as he deems necessary or advisable, to reduce to the lowest practicable level the taking of marine mammals incidental to commercial fishing operations. Such regulations shall be adopted pursuant to section 553 of title 5. In issuing such regulations, the Secretary shall take into account the results of any scientific research under subsection (a) of this section and, in each case, shall provide a reasonable time not exceeding four months for the persons affected to implement such regulations.

(c) Reduction of level of taking of marine mammals in tuna fishery

Additionally, the Secretary and Secretary of State are directed to commence negotiations within the Inter-American Tropical Tuna Commission in order to effect essential compliance with the regulatory provisions of this chapter so as to reduce to the maximum extent feasible the incidental taking of marine mammals by vessels involved in the tuna fishery. The Secretary and Secretary of State are further directed to request the Director of Investigations of the Inter-American Tropical Tuna Commission to make recommendations to all member nations of the Commission as soon as is practicable as to the utilization of methods and gear devised under subsection (a) of this section.

(d) Research and observation

Furthermore, after timely notice and during the period of research provided in this section, duly authorized agents of the Secretary are hereby empowered to board and to accompany any commercial fishing vessel documented under the laws of the United States, there being space available, on a regular fishing trip for the purpose of conducting research or observing operations in regard to the development of improved fishing methods and gear as authorized by this section. Such research and observation shall be carried out in such manner as to minimize interference with fishing operations. The Secretary shall provide for the cost of quartering and maintaining such agents. No master, operator, or owner of such a vessel shall impair or in any way interfere with the research or observation being carried out by agents of the Secretary pursuant to this section.

(Pub. L. 92–522, title I, § 111, Oct. 21, 1972, 86 Stat. 1041.)

§ 1382. Regulations and administration

(a) Consultation with Federal agencies

The Secretary, in consultation with any other Federal agency to the extent that such agency may be affected, shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this subchapter.

(b) Cooperation by Federal agencies

Each Federal agency is authorized and directed to cooperate with the Secretary, in such manner as may be mutually agreeable, in carrying out the purposes of this subchapter.

(c) Contracts, leases, and cooperative agreements

The Secretary may enter into such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the purposes of this subchapter or subchapter V of this chapter and on such terms as he deems appropriate with any Federal or State agency, public or private institution, or other person.

(d) Annual review; suspension of program

The Secretary shall review annually the operation of each program in which the United States participates involving the taking of marine mammals on lands. If at any time the Secretary finds that any such program cannot be administered on lands owned by the United States or in which the United States has an interest in a manner consistent with the purposes of policies of this chapter, he shall suspend the operation of that program and shall include in the annual report to the public and the Congress required under section 1373(f) of this title his reasons for such suspension, together with recommendations for such legislation as he deems necessary and appropriate to resolve the problem.

(e) Measures to alleviate impacts on strategic stocks

If the Secretary determines, based on a stock assessment under section 1386 of this title or other significant new information obtained under this chapter, that impacts on rookeries,

mating grounds, or other areas of similar ecological significance to marine mammals may be causing the decline or impeding the recovery of a strategic stock, the Secretary may develop and implement conservation or management measures to alleviate those impacts. Such measures shall be developed and implemented after consultation with the Marine Mammal Commission and the appropriate Federal agencies and after notice and opportunity for public comment.

(Pub. L. 92–522, title I, § 112, Oct. 21, 1972, 86 Stat. 1042; Pub. L. 96–470, title II, § 201(e), Oct. 19, 1980, 94 Stat. 2241; Pub. L. 102–587, title III, § 3004(a)(3), Nov. 4, 1992, 106 Stat. 5067; Pub. L. 103–238, §§ 7(a), 24(c)(11), Apr. 30, 1994, 108 Stat. 542, 566.)

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–238, § 24(c)(11), made technical amendment to reference to subchapter V of this chapter to reflect renumbering of corresponding title of original act.

Subsec. (e). Pub. L. 103–238, § 7(a), added subsec. (e).

1992—Subsec. (c). Pub. L. 102–587 inserted ''or subchapter V of this chapter'' after ''of this subchapter''.

1980—Subsec. (d). Pub. L. 96–470 substituted ''include in the annual report to the public and the Congress required under section 1373(f) of this title'' for ''forthwith submit to Congress''.

§ 1383. Application to other treaties and conventions

(a) Generally; findings; waiver of penalties

The provisions of this subchapter shall be deemed to be in addition to and not in contravention of the provisions of any existing international treaty, convention, or agreement, or any statute implementing the same, which may otherwise apply to the taking of marine mammals. Upon a finding by the Secretary that the provisions of any international treaty, convention, or agreement, or any statute implementing the same has been made applicable to persons subject to the provisions of this subchapter in order to effect essential compliance with the regulatory provisions of this chapter so as to reduce to the lowest practicable level the taking of marine mammals incidental to commercial fishing operations, section 1375 of this title may not apply to such persons.

(b) Review of effectiveness of Agreement on the Conservation of Polar Bears

Not later than 1 year after April 30, 1994, the Secretary of the Interior shall, in consultation with the contracting parties, initiate a review of the effectiveness of the Agreement on the Conservation of Polar Bears, as provided for in Article IX of the Agreement, and establish a process by which future reviews shall be conducted.

(c) Review of implementation of Agreement on the Conservation of Polar Bears; report

The Secretary of the Interior, in consultation with the Secretary of State and the Marine Mammal Commission, shall review the effectiveness of United States implementation of the Agreement on the Conservation of Polar Bears, particularly with respect to the habitat protection mandates contained in Article II. The Secretary shall report the results of this review to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than April 1, 1995.

(d) Consultation regarding conservation of polar bears in Russia and Alaska; report

Not later than 6 months after April 30, 1994, the Secretary of the Interior, acting through the Secretary of State and in consultation with the Marine Mammal Commission and the State of Alaska, shall consult with the appropriate officials of the Russian Federation on the development and implementation of enhanced cooperative research and management programs for the conservation of polar bears in Alaska and Russia. The Secretary shall report the results of this consultation and provide periodic progress reports on the research and management programs to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate.

(Pub. L. 92–522, title I, § 113, Oct. 21, 1972, 86 Stat. 1042; Pub. L. 103–238, § 7(b), Apr. 30, 1994, 108 Stat. 542.)

CODIFICATION

A prior subsec. (b) of section 113 of Pub. L. 92–522 amended section 659 of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–238, § 7(b)(1), directed the amendment of this section by ''designating the existing paragraph'' as subsec. (a), notwithstanding the existing first par. of this section was already designated (a).

Subsecs. (b) to (d). Pub. L. 103–238, § 7(b)(2), added subsecs. (b) to (d). See Codification note above.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 1383a. Interim exemption for commercial fisheries

(a) Effective and termination dates of preemptive provisions; law governing incidental taking of marine mammals in course of commercial yellowfin tuna fishing

(1) During the period beginning on November 23, 1988, and until superseded by regulations prescribed under section 1387 of this title, or until September 1, 1995, whichever is earlier, except as provided in paragraph (2), the provisions of this section, rather than sections 1371, 1373, and 1374 of this title, shall govern the incidental taking of marine mammals in the course of commercial

fishing operations by persons using vessels of the United States and vessels which have valid fishing permits issued by the Secretary in accordance with section 1824(b) of this title. In any event it shall be the immediate goal that the incidental kill or serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate.

(2) The provisions of this section other than subsection (e)(6)(A) of this section shall not govern the incidental taking of marine mammals in the course of commercial yellowfin tuna fishing subject to section 1374(h)(2) of this title.

(b) Proposed and final list of fisheries taking marine mammals; publication in Federal Register; grant of exemption; conditions; suspension of grant of exemption; administration of exemption provisions; fees

(1) The Secretary shall, after consultation with the Marine Mammal Commission—

(A) publish in the Federal Register, for public comment, not later than sixty days after November 23, 1988, a proposed list of those fisheries, along with a statement of the marine mammals and the approximate number of vessels or persons involved in each such fishery, that have—

(i) frequent incidental taking of marine mammals;

(ii) occasional incidental taking of marine mammals; or

(iii) a remote likelihood of or no known incidental taking of marine mammals;

(B) publish in the Federal Register not later than one hundred and twenty days after November 23, 1988, a final list of the fisheries and other information required by paragraph (A), together with a summary of the provisions of this section and information sufficient to advise vessel owners on how to obtain an exemption and otherwise comply with the requirements of this section; and

(C) at least once each year thereafter, and at such other times as the Secretary considers appropriate, reexamine, based on information gathered from the program established under subsections (c), (d), (e), and (f) of this section, and other relevant sources and after notice and opportunity for public comment, the classification of fisheries and other determinations required under subparagraph (A) and publish in the Federal Register any necessary changes.

(2)(A) An exemption shall be granted by the Secretary in accordance with this section for a vessel engaged in a fishery identified under paragraph (1)(A)(i) or (ii), upon receipt by the Secretary of a completed registration form providing the name of the vessel owner, the name and description of the vessel, the fisheries in which it will be engaged, and such other information as the Secretary considers necessary. A decal or other physical evidence that the exemption is current and valid shall be issued by the Secretary at the time an exemption is granted, and so long as the exemption remains current and valid, shall be reissued annually thereafter.

(B) No exemption may be granted under this section to the owner of a vessel unless such vessel—

(i) is a vessel of the United States; or

(ii) has a valid fishing permit issued by the Secretary in accordance with section 1824(b) of this title.

(C) Notwithstanding any other provision of this subchapter, exemptions granted under this section shall authorize the incidental taking of marine mammals, other than California sea otters, from any species or stock, including a population stock designated as depleted, but shall not authorize the intentional lethal taking of any Steller sea lion, any cetacean, or any marine mammals from a population stock designated as depleted.

(3)(A) Beginning two hundred and forty days after November 23, 1988, each owner of a vessel engaged in any fishery identified under paragraph (1)(A)(i) or (ii) shall, in order to engage lawfully in that fishery—

(i) have registered with the Secretary in order to obtain for each such vessel owned an exemption for the purpose of incidentally taking marine mammals in accordance with this section;

(ii) ensure that a decal or such other physical evidence of a current and valid exemption as the Secretary may require is displayed on or is in the possession of the master of each such vessel; and

(iii) report as required by subsection (c) of this section.

(B) Any owner of a vessel receiving an exemption under this section for any fishery identified under paragraph (1)(A)(i) shall, as a condition of that exemption, take on board a natural resource observer if requested to do so by the Secretary.

(C) An owner of a vessel engaged in a fishery identified under paragraph (1)(A)(i) or (ii) who—

(i) fails to obtain from the Secretary an exemption under this section;

(ii) fails to maintain a current and valid exemption; or

(iii) fails to ensure that a decal or other physical evidence of such exemption issued by the Secretary is displayed on or is in possession of the master of the vessel,

and the master of any such vessel engaged in such fishery, shall be deemed to have violated this subchapter, and shall be subject to the penalties of this subchapter except in the case of unknowing violations before January 1, 1990.

(D) If the owner of a vessel has obtained and maintains a current and valid exemption from the Secretary under this section and meets the requirements set forth in this section, the owner of such vessel, and the master and crew members of the vessel, shall not be subject to the penalties set forth in this subchapter for the incidental taking of marine mammals while such vessel is engaged in a fishery to which the exemption applies.

(E) Each owner of a vessel engaged in any fishery not identified in paragraph (1)(A)(i) or (ii), and the master and crew members of such a vessel, shall not be subject to the penalties set forth in this subchapter for the incidental tak-

ing of marine mammals if such owner reports to the Secretary, in such form and manner as the Secretary may require, instances of lethal incidental taking in the course of that fishery.

(4) The Secretary shall suspend or revoke an exemption granted under this section and shall not issue a decal or other physical evidence of the exemption for any vessel until the owner of such vessel complies with the reporting requirements under subsection (c) of this section and such requirements to take on board a natural resource observer under paragraph (3)(B) as are applicable to such vessel.

(5)(A) The Secretary shall develop, in consultation with the appropriate States, Regional Fishery Management Councils, and other interested parties, the means by which the granting and administration of exemptions under this section shall be integrated and coordinated, to the maximum extent practicable, with existing fishery licenses, registrations, and related programs.

(B) The Secretary shall utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the provisions of this section and the means by which they can comply with its requirements.

(C) The Secretary is authorized to charge a fee for the granting of an exemption under this subsection. The level of fees charged under this subparagraph shall not exceed the administrative costs incurred in granting an exemption. Fees collected under this subparagraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in the granting and administration of exemptions under this section.

(c) Compilation of information by vessel owners; contents

The owner of each vessel holding an exemption granted under subsection (b) of this section shall regularly compile information which shall be used in a report to be submitted to the Secretary at the close of the fishing season or annually, as the Secretary may prescribe. Such report shall be submitted in such form as the Secretary may require and shall include the following:

(1) the type of fishery engaged in by the owner's vessel;

(2) the date and approximate time of any incidental taking of a marine mammal, together with the area in which the incidental taking occurred, the fishing gear used at the time of the incidental taking, and the species of fish involved; and

(3) for each incidental taking, the number and species of marine mammals involved, whether the marine mammals were deterred from gear or catch, incidentally injured, incidentally killed, or lethally removed to protect gear, catch, or human life.

If there was no incidental taking of marine mammals during the reporting period, a report stating that fact shall be filed with the Secretary.

(d) Program for enhancement and verification of information received from vessel owners; confidentiality of information

(1) The Secretary shall establish a program to enhance the quality of and verify information received from reports submitted by owners of vessels who have been granted an exemption under subsection (b) of this section. The program shall include, but not be limited to—

(A) education efforts regarding the information that must be submitted;

(B) interviews with fishermen; and

(C) other such information gathering and verification activities that will enable the Secretary to determine reliably the nature, type, and extent of the incidental taking of marine mammals that occurs in a fishery.

Except to the extent authorized by the provisions of subsection (e) of this section, the program shall not include placement of observers aboard exempted vessels.

(2) Information obtained under this subsection shall be subject to the confidentiality provisions of subsection (j) of this section.

(e) Observers on board exempted vessels; confidentiality of information; authorization of appropriations

(1) For each fishery identified under subsection (b)(1)(A)(i) of this section, the Secretary shall, after consultation with the appropriate Regional Fishery Management Councils, other Federal and State agencies, and other interested parties, and subject to paragraph (6), place observers on board exempted vessels so as to monitor not less than 20 percent nor more than 35 percent of the fishing operations by vessels in the fishery to obtain statistically reliable information on the species and number of marine mammals incidentally taken in the fishery. If the Secretary determines that fewer than 20 percent of the fishing operations by vessels in the fishery will be monitored during the course of the fishing season, the Secretary shall implement the alternative observation program described in subsection (f) of this section to the extent necessary to supplement the observer program described in this subsection.

(2) When determining the distribution of observers among fisheries and between vessels in a particular fishery, the Secretary shall be guided by the following standards:

(A) the requirement to obtain the best scientific information available;

(B) the requirement that assignment of observers is fair and equitable among fisheries and among vessels in a fishery;

(C) consistent with paragraph (1), the requirement that no individual person or vessel, or group of persons or vessels, be subject to excessive or overly burdensome observer coverage; and

(D) where practicable, the need to minimize costs and avoid duplication.

(3) If the Secretary finds that, for reasons beyond his or her control, the Secretary cannot assign observers to all the fisheries identified under subsection (b)(1)(A)(i) of this section at the level of observer coverage set forth in paragraph (1), the Secretary shall allocate available

observers among such fisheries, consistent with paragraph (2), according to the following priority:

(A) those fisheries that incidentally take marine mammals from any population stock designated as depleted;

(B) those fisheries that incidentally take marine mammals from population stocks that the Secretary believes are declining;

(C) those fisheries other than those described in subparagraphs (A) and (B) in which the greatest incidental take of marine mammals occur; and

(D) any other fishery identified under subsection (b)(1)(A)(i) of this section.

The Secretary may, with the consent of the vessel owner, station an observer on board a vessel engaged in a fishery not identified under subsection (b)(1)(A)(i) of this section.

(4) Information gathered by observers shall be subject to the provisions of subsection (j) of this section. Consistent with the requirements of paragraph (1), the Secretary shall, if requested by the Appropriate[1] Regional Fishery Management Council, or in the case of a State fishery, the State, require observers to collect additional information, including but not limited to the quantities, species, and physical condition of target and non-target fishery resources and, if requested by the Secretary of the Interior, seabirds.

(5) Notwithstanding the provisions of paragraph (4), the Secretary may decline to require observers to collect information described in such paragraph, if the Secretary finds in writing, following public notice and opportunity for comment, that such information will not contribute to the protection of marine mammals or the understanding of the marine ecosystem, including fishery resources and seabirds.

(6) The Secretary shall not be required to place an observer on a vessel in a fishery if the Secretary finds that—

(A) in a situation where harvesting vessels are delivering fish to a processing vessel and the catch is not taken on board the harvesting vessel, statistically reliable information can be obtained from an observer on board the processing vessel to which the fish are delivered;

(B) the facilities of a vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; or

(C) for reasons beyond the control of the Secretary, an observer is not available.

(7)(A) An observer on a vessel (or the observer's personal representative) under the requirements of this section or section 1374 of this title that is ill, disabled, injured, or killed from service as an observer on that vessel may not bring a civil action under any law of the United States for that illness, disability, injury, or death against the vessel or vessel owner, except that a civil action may be brought against the vessel owner for the owner's willful misconduct.

(B) This paragraph does not apply if the observer is engaged by the owner, master, or individual in charge of a vessel to perform any duties in service to the vessel.

(8) There are authorized to be appropriated to the Department of Commerce for the purposes of carrying out this subsection not to exceed $2,700,000 for fiscal year 1989 and not to exceed $8,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993.

(f) Alternative observation program

(1) The Secretary shall establish an alternative observation program to provide statistically reliable information on the species and number of marine mammals incidentally taken in those fisheries identified pursuant to subsection (b)(1)(A)(i) of this section for which the required level of observer coverage has not been met or for any other fisheries about which such reliable information is not otherwise available. The alternative program shall include, but not be limited to, direct observation of fishing activities from vessels, airplanes, or points on shore.

(2) Individuals engaged in the alternative observation program shall collect scientific information on the fisheries subject to observation, consistent with the requirements of paragraph (1) and subsection (e)(4) and (5) of this section. All information collected shall be subject to the provisions of subsection (j) of this section.

(g) Review of information and evaluation of effects of incidental taking on population stocks of marine mammals; promulgation of emergency regulations to mitigate immediate and significant adverse impacts; action to mitigate non-immediate impacts

(1) The Secretary shall review information regarding the incidental taking of marine mammals and evaluate the effects of such incidental taking on the affected population stocks of marine mammals.

(2) If the Secretary finds, based on the information received from the programs established under subsections (c), (d), (e), and (f) of this section, that the incidental taking of marine mammals in a fishery is having an immediate and significant adverse impact on a marine mammal population stock or, in the case of Steller sea lions and North Pacific fur seals, that more than 1,350 and 50, respectively, will be incidentally killed during a calendar year, the Secretary shall consult with appropriate Regional Fishery Management Councils and State fishery managers and prescribe emergency regulations to prevent to the maximum extent practicable any further taking. Any emergency regulations prescribed under this paragraph—

(A) shall, to the maximum extent practicable, avoid interfering with existing State or regional fishery management plans;

(B) shall be published in the Federal Register together with the reasons therefor;

(C) shall remain in effect for not more than one hundred and eighty days or until the end of the fishing season, whichever is earlier; and

(D) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination if the Secretary determines the reasons for the emergency regulations no longer exist.

In prescribing emergency regulations under this paragraph, the Secretary shall take into ac-

[1] So in original. Probably should not be capitalized.

count the economics of the fishery concerned and the availability of existing technology to prevent or minimize incidental taking of marine mammals.

(3) If the Secretary finds, based on information received from the programs established under subsections (c), (d), (e), and (f) of this section, that incidental taking of marine mammals in a fishery is not having an immediate and significant adverse impact on a marine mammal population stock but that it will likely have a significant adverse impact over a period of time longer than one year, the Secretary shall request the appropriate Regional Fishery Management Council or State to initiate, recommend, or take such action within its authority as it considers necessary to mitigate the adverse impacts, including adjustments to requirements on fishing times or areas or the imposition of restrictions on the use of vessels or gear.

(4) The Secretary shall impose appropriate conditions and restrictions on an exemption granted under subsection (b) of this section if—

(A) a Regional Fishery Management Council or State does not act in a reasonable period of time on a request made by the Secretary under paragraph (3); or

(B) if the Secretary determines after notice and opportunity for public comment that the purposes of this section would be better served by such action.

(h) Information and management system for processing and analyzing reports and information; accessibility to public

The Secretary shall design and implement an information management system capable of processing and analyzing reports received from the programs established under subsections (c), (d), (e), and (f) of this section, and other relevant sources, including Federal and State enforcement authorities, marine mammal stranding networks, and the marine mammal researchers. The information shall be made accessible to the public on a continuing basis, but in any case no later than six months after it is received, subject to the provisions of subsection (j) of this section.

(i) Utilization of services of State and Federal agencies and private entities

When carrying out the Secretary's responsibilities under subsections (b), (d), (e), (f), and (h) of this section, the Secretary shall, to the maximum extent practicable, utilize the services and programs of State agencies, Federal agencies (including programs established by Regional Fishery Management Councils), marine fisheries commissions, universities, and private entities, on a reimbursable basis or otherwise. The Secretary is authorized to enter into contracts and agreements to carry out his or her responsibilities and shall establish appropriate guidelines to ensure that other programs used or contracted for will meet the same standards as a program established by the Secretary. A person contracting with the Secretary to provide observer services under subsection (e) of this section must provide evidence of financial responsibility in an amount and form prescribed by the Secretary to compensate employees (or their survivors) adequately for any illness, disability, injury, or death from service on a vessel.

(j) Confidentiality of information; exceptions

(1) Any information collected under subsection (c), (d), (e), (f), or (h) of this section shall be confidential and shall not be disclosed except—

(A) to Federal employees whose duties require access to such information;

(B) to State employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

(C) when required by court order; or

(D) in the case of scientific information involving fisheries, to employees of Regional Fishery Management Councils who are responsible for fishery management plan development and monitoring.

(2) The Secretary shall prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary shall release or make public any such information in aggregate, summary, or other form which does not directly or indirectly disclose the identity or business of any person.

(k) Regulations

The Secretary, in consultation with any other Federal agency to the extent that such agency may be affected, shall prescribe such regulations as necessary and appropriate to carry out the purposes of this section.

***(l)* Suggested regime governing incidental taking of marine mammals following termination of interim exemptions**

(1) The Chairman of the Marine Mammal Commission shall, after consultation with interested parties and not later than February 1, 1990, transmit to the Secretary and make available to the public recommended guidelines to govern the incidental taking of marine mammals in the course of commercial fishing operations, other than those subject to section 1374(h)(2) of this title, after October 1, 1993. Such guidelines shall be developed by the Commission and its Committee of Scientific Advisers on Marine Mammals and shall—

(A) be designed to provide a scientific rationale and basis for determining how many marine mammals may be incidentally taken under a regime to be adopted to govern such taking after October 1, 1993;

(B) be based on sound principles of wildlife management, and be consistent with and in furtherance of the purposes and policies set forth in this chapter; and

(C) to the maximum extent practicable, include as factors to be considered and utilized in determining permissible levels of such taking—

(i) the status and trends of the affected marine mammal population stocks;

(ii) the abundance and annual net recruitment of such stocks;

(iii) the level of confidence in the knowledge of the affected stocks; and

(iv) the extent to which incidental taking will likely cause or contribute to their decline or prevent their recovery to optimum sustainable population levels.

(2) The Secretary shall advise the Chairman of the Commission in writing if the Secretary de-

termines that any additional information or explanation of the Chairman's recommendations is needed, and the Chairman shall respond in writing to any such request by the Secretary.

(3) On or before February 1, 1991, the Secretary, after consultation with the Marine Mammal Commission, Regional Fishery Management Councils, and other interested governmental and nongovernmental organizations, shall publish in the Federal Register, for public comment, the suggested regime that the Secretary considers should, if authorized by enactment of any additional legislation, govern incidental taking of marine mammals, other than those subject to section 1374(h)(2) of this title, after October 1, 1993. The suggested regime shall include—

(A) the scientific guidelines to be used in determining permissible levels of incidental taking;

(B) a description of the arrangements for consultation and cooperation with other Federal agencies, the appropriate Regional Fishery Management Councils and States, the commercial fishing industry, and conservation organizations; and

(C) a summary of such regulations and legislation as would be necessary to implement the suggested regime.

(4) On or before January 1, 1992, the Secretary, after consultation with the Marine Mammal Commission, and consideration of public comment, shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives recommendations pertaining to the incidental taking of marine mammals, other than those subject to section 1374(h)(2) of this title, after October 1, 1993. The recommendations shall include—

(A) the suggested regime developed under paragraph (3) of this subsection as modified after comment and consultations;

(B) a proposed schedule for implementing the suggested regime; and

(C) such recommendations for additional legislation as the Secretary considers necessary or desirable to implement the suggested regime.

(m) Consultation with Secretary of the Interior

The Secretary shall consult with the Secretary of the Interior prior to taking actions or making determinations under this section that affect or relate to species or population stocks of marine mammals for which the Secretary of the Interior is responsible under this subchapter.

(n) Owner of fixed commercial fishing gear deemed owner of vessel engaged in fishery in which gear deployed

For the purposes of this section, the owner of fixed or other commercial fishing gear that is deployed with or without the use of a vessel shall be deemed to be an owner of a vessel engaged in the fishery in which that gear is deployed.

(*o*) Definitions

As used in this section—

(1) the term ''fishery'' has the same meaning as it does in section 1802(8)[2] of this title.

(2) the term ''Secretary'' means the Secretary of Commerce.

(3) the term ''vessel engaged in a fishery'' means a fishing vessel as defined in section 2101(11a) of title 46 or a fish processing vessel as defined in section 2101(11b) of that title, which is engaged in fishery.

(4) the term ''vessel of the United States'' has the same meaning as it does in section 1802(27)[2] of this title.

(Pub. L. 92–522, title I, § 114, as added Pub. L. 100–711, § 2(a)(2), Nov. 23, 1988, 102 Stat. 4755; amended Pub. L. 103–86, Sept. 30, 1993, 107 Stat. 930; Pub. L. 103–228, Mar. 31, 1994, 108 Stat. 281; Pub. L. 103–238, § 15(a), Apr. 30, 1994, 108 Stat. 559; Pub. L. 104–43, title IV, § 404(a)(1), Nov. 3, 1995, 109 Stat. 390; Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

REFERENCES IN TEXT

Section 1802 of this title, referred to in subsec. (*o*)(1), (4), was subsequently amended, and section 1802(8) and (27) no longer defines the terms ''fishery'' and ''vessel of the United States''. However, such terms are defined elsewhere in that section.

AMENDMENTS

1996—Subsecs. (a)(1), (b)(2)(B)(ii), (*o*)(1), (4). Pub. L. 104–208 made technical amendment to references in original act which appear in text as references to sections 1802(8), (27) and 1824(b) of this title.

1995—Pub. L. 104–43 amended directory language of Pub. L. 103–238. See 1994 Amendment note below.

1994—Subsec. (a)(1). Pub. L. 103–238, as amended by Pub. L. 104–43, substituted ''until superseded by regulations prescribed under section 1387 of this title, or until September 1, 1995, whichever is earlier,'' for ''ending May 1, 1994.''

Pub. L. 103–228 substituted ''May 1, 1994.'' for ''April 1, 1994,''.

1993—Subsec. (a)(1). Pub. L. 103–86 substituted ''April 1, 1994'' for ''October 1, 1993''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, § 211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1995 AMENDMENT

Section 404(a)(2) of Pub. L. 104–43 provided that: ''The amendment made by paragraph (1) [amending this section] shall be effective on and after April 30, 1994.''

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by

[2] See References in Text note below.

House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 1383b. Status review; conservation plans

(a) Determinations by rule; notice and hearing; findings; final rule on status of species or stock involved

(1) In any action by the Secretary to determine if a species or stock should be designated as depleted, or should no longer be designated as depleted, regardless of whether such action is taken on the initiative of the Secretary or in response to a petition for a status review, the Secretary shall only make such a determination by issuance of a rule, after notice and opportunity for public comment and after a call for information in accordance with paragraph (2).

(2) The Secretary shall make any determination described in paragraph (1) solely on the basis of the best scientific information available. Prior to the issuance of a proposed rule concerning any such determination, the Secretary shall publish in the Federal Register a call to assist the Secretary in obtaining scientific information from individuals and organizations concerned with the conservation of marine mammals, from persons in any industry which might be affected by the determination, and from academic institutions. In addition, the Secretary shall utilize, to the extent the Secretary determines to be feasible, informal working groups of interested parties and other methods to gather the necessary information.

(3)(A) If the Secretary receives a petition for a status review as described in paragraph (1), the Secretary shall publish a notice in the Federal Register that such a petition has been received and is available for public review.

(B) Within sixty days after receipt of the petition, the Secretary shall publish a finding in the Federal Register as to whether the petition presents substantial information indicating that the petitioned action may be warranted.

(C) If the Secretary makes a positive finding under subparagraph (B), the Secretary shall include in the Federal Register notice, a finding that—

(i) a review of the status of the species or stock will be commenced promptly; or

(ii) a prompt review of the petition is precluded by other pending status determination petitions and that expeditious progress is being made to process pending status determination petitions under this subchapter.

In no case after making a finding under this subparagraph shall the Secretary delay commencing a review of the status of a species or stock for more than one hundred and twenty days after receipt of the petition.

(D) No later than two hundred and ten days after the receipt of the petition, the Secretary shall publish in the Federal Register a proposed rule as to the status of the species or stock, along with the reasons underlying the proposed status determination. Persons shall have at least sixty days to submit comments on such a proposed rule.

(E) Not later than ninety days after the close of the comment period on a proposed rule issued under subparagraph (D), the Secretary shall issue a final rule on the status of the species or stock involved, along with the reasons for the status determination. If the Secretary finds with respect to such a proposed rule that there is substantial disagreement regarding the sufficiency or accuracy of the available information relevant to a status determination, the Secretary may delay the issuance of a final rule for a period of not more than six months for purposes of soliciting additional information.

(F) Notwithstanding subparagraphs (D) and (E) of this paragraph and section 553 of title 5, the Secretary may issue a final rule as to the status of a species or stock any time sixty or more days after a positive finding under subparagraph (B) if the Secretary determines there is substantial information available to warrant such final status determination and further delay would pose a significant risk to the well-being of any species or stock. Along with the final rule, the Secretary shall publish in the Federal Register detailed reasons for the expedited determination.

(b) Conservation plans; preparation and implementation

(1) The Secretary shall prepare conservation plans—

(A) By[1] December 31, 1989, for North Pacific fur seals;

(B) by December 31, 1990, for Steller sea lions; and

(C) as soon as possible, for any species or stock designated as depleted under this subchapter, except that a conservation plan need not be prepared if the Secretary determines that it will not promote the conservation of the species or stock.

(2) Each plan shall have the purpose of conserving and restoring the species or stock to its optimum sustainable population. The Secretary shall model such plans on recovery plans required under section 1533(f) of this title.

(3) The Secretary shall act expeditiously to implement each conservation plan prepared under paragraph (1). Each year, the Secretary shall specify in the annual report prepared under section 1373(f) of this title what measures have been taken to prepare and implement such plans.

(4) If the Secretary determines that a take reduction plan is necessary to reduce the incidental taking of marine mammals in the course of commercial fishing operations from a strategic stock, or for species or stocks which interact with a commercial fishery for which the Secretary has made a determination under section 1387(f)(1) of this title, any conservation plan prepared under this subsection for such species or stock shall incorporate the take reduction plan required under section 1387 of this title for such species or stock.

(Pub. L. 92–522, title I, §115, as added Pub. L. 100–711, §3(a), Nov. 23, 1988, 102 Stat. 4763; amended Pub. L. 103–238, §8, Apr. 30, 1994, 108 Stat. 543.)

AMENDMENTS

1994—Subsec. (b)(4). Pub. L. 103–238 added par. (4).

[1] So in original. Probably should not be capitalized.

§ 1384. Authorization of appropriations

(a) Department of Commerce

(1) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out its functions and responsibilities under this subchapter (other than sections 1386 and 1387 of this title) and subchapter V of this chapter, $12,138,000 for fiscal year 1994, $12,623,000 for fiscal year 1995, $13,128,000 for fiscal year 1996, $13,653,000 for fiscal year 1997, $14,200,000 for fiscal year 1998, and $14,768,000 for fiscal year 1999.

(2) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out sections 1386 and 1387 of this title, $20,000,000 for each of the fiscal years 1994 through 1999.

(b) Department of the Interior

There are authorized to be appropriated to the Department of the Interior, for purposes of carrying out its functions and responsibilities under this subchapter, $8,000,000 for fiscal year 1994, $8,600,000 for fiscal year 1995, $9,000,000 for fiscal year 1996, $9,400,000 for fiscal year 1997, $9,900,000 for fiscal year 1998, and $10,296,000 for fiscal year 1999.

(Pub. L. 92–522, title I, § 116, formerly § 114, Oct. 21, 1972, 86 Stat. 1043; Pub. L. 95–136, § 2, Oct. 18, 1977, 91 Stat. 1167; Pub. L. 95–316, § 3, July 10, 1978, 92 Stat. 380; renumbered § 116, Pub. L. 100–711, § 2(a)(1), Nov. 23, 1988, 102 Stat. 4755; Pub. L. 103–238, § 9(a), Apr. 30, 1994, 108 Stat. 543.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 97–58, § 7(a), (b), Oct. 9, 1981, 95 Stat. 987; Pub. L. 98–364, title I, § 104(1), (2), July 17, 1984, 98 Stat. 442; Pub. L. 100–711, § 6(1), (2), Nov. 23, 1988, 102 Stat. 4771, prior to repeal by Pub. L. 103–238, § 9(c), Apr. 30, 1994, 108 Stat. 543.

AMENDMENTS

1994—Pub. L. 103–238 amended section generally. Prior to amendment, section read as follows:

''(a) There are authorized to be appropriated not to exceed $2,000,000 for the fiscal year ending June 30, 1973, and the four next following fiscal years, not to exceed $11,500,000 for the fiscal year ending September 30, 1978, not to exceed $8,500,000 for the fiscal year ending September 30, 1979, not to exceed $9,000,000 for the fiscal year ending September 30, 1980, and not to exceed $9,500,000 for the fiscal year ending September 30, 1981, to enable the department in which the National Oceanic and Atmospheric Administration is operating to carry out such functions and responsibilities as it may have been given under this subchapter (other than sections 1379 and 1380 of this title).

''(b) There are authorized to be appropriated not to exceed $700,000 for the fiscal year ending June 30, 1973, not to exceed $525,000 for each of the next four fiscal years thereafter, not to exceed $850,000 for the fiscal year ending September 30, 1978, not to exceed $650,000 for the fiscal year ending September 30, 1979, not to exceed $760,000 for the fiscal year ending September 30, 1980, and not to exceed $876,000 for the fiscal year ending September 30, 1981 to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this subchapter (other than sections 1379 and 1380 of this title).''

1978—Subsec. (a). Pub. L. 95–316, § 3(1), added reference to sections 1379 and 1380 of this title and provisions authorizing appropriations for the fiscal years ending Sept. 30, 1979, Sept. 30, 1980, and Sept. 30, 1981.

Subsec. (b). Pub. L. 95–316, § 3(2), added reference to sections 1379 and 1380 of this title and provisions authorizing appropriations for the fiscal years Sept. 30, 1979, Sept. 30, 1980, and Sept. 30, 1981.

1977—Subsec. (a). Pub. L. 95–136, § 2(1), inserted '', and not to exceed $11,500,000 for the fiscal year ending September 30, 1978,'' after ''fiscal years''.

Subsec. (b). Pub. L. 95–136, § 2(2), inserted '', and not to exceed $850,000 for the fiscal year ending September 30, 1978'' after ''thereafter''.

§ 1385. Dolphin protection

(a) Short title

This section may be cited as the ''Dolphin Protection Consumer Information Act''.

(b) Findings

The Congress finds that—

(1) dolphins and other marine mammals are frequently killed in the course of tuna fishing operations in the eastern tropical Pacific Ocean and high seas driftnet fishing in other parts of the world;

(2) it is the policy of the United States to support a worldwide ban on high seas driftnet fishing, in part because of the harmful effects that such driftnets have on marine mammals, including dolphins; and

(3) consumers would like to know if the tuna they purchase is falsely labeled as to the effect of the harvesting of the tuna on dolphins.

(c) Definitions

For purposes of this section—

(1) the terms ''driftnet'' and ''driftnet fishing'' have the meanings given those terms in section 4003 of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note);

(2) the term ''eastern tropical Pacific Ocean'' means the area of the Pacific Ocean bounded by 40 degrees north latitude, 40 degrees south latitude, 160 degrees west longitude, and the western coastlines of North, Central, and South America;

(3) the term ''label'' means a display of written, printed, or graphic matter on or affixed to the immediate container of any article;

(4) the term ''Secretary'' means the Secretary of Commerce; and

(5) the term ''tuna product'' means a food item which contains tuna and which has been processed for retail sale, except perishable sandwiches, salads, or other products with a shelf life of less than 3 days.

(d) Labeling standard

(1) It is a violation of section 45 of title 15 for any producer, importer, exporter, distributor, or seller of any tuna product that is exported from or offered for sale in the United States to include on the label of that product the term ''dolphin safe'' or any other term or symbol that falsely claims or suggests that the tuna contained in the product were harvested using a method of fishing that is not harmful to dolphins if the product contains tuna harvested—

(A) on the high seas by a vessel engaged in driftnet fishing;

(B) outside the eastern tropical Pacific Ocean by a vessel using purse seine nets—

(i) in a fishery in which the Secretary has determined that a regular and significant as-

sociation occurs between dolphins and tuna (similar to the association between dolphins and tuna in the eastern tropical Pacific Ocean), unless such product is accompanied by a written statement, executed by the captain of the vessel and an observer participating in a national or international program acceptable to the Secretary, certifying that no purse seine net was intentionally deployed on or used to encircle dolphins during the particular voyage on which the tuna were caught and no dolphins were killed or seriously injured in the sets in which the tuna were caught; or

(ii) in any other fishery (other than a fishery described in subparagraph (D)) unless the product is accompanied by a written statement executed by the captain of the vessel certifying that no purse seine net was intentionally deployed on or used to encircle dolphins during the particular voyage on which the tuna was harvested;

(C) in the eastern tropical Pacific Ocean by a vessel using a purse seine net unless the tuna meet the requirements for being considered dolphin safe under paragraph (2); or

(D) by a vessel in a fishery other than one described in subparagraph (A), (B), or (C) that is identified by the Secretary as having a regular and significant mortality or serious injury of dolphins, unless such product is accompanied by a written statement executed by the captain of the vessel and an observer participating in a national or international program acceptable to the Secretary that no dolphins were killed or seriously injured in the sets or other gear deployments in which the tuna were caught, provided that the Secretary determines that such an observer statement is necessary.

(2) For purposes of paragraph (1)(C), a tuna product that contains tuna harvested in the eastern tropical Pacific Ocean by a vessel using purse seine nets is dolphin safe if—

(A) the vessel is of a type and size that the Secretary has determined, consistent with the International Dolphin Conservation Program, is not capable of deploying its purse seine nets on or to encircle dolphins; or

(B)(i) the product is accompanied by a written statement executed by the captain providing the certification required under subsection (h) of this section;

(ii) the product is accompanied by a written statement executed by—

(I) the Secretary or the Secretary's designee;

(II) a representative of the Inter-American Tropical Tuna Commission; or

(III) an authorized representative of a participating nation whose national program meets the requirements of the International Dolphin Conservation Program,

which states that there was an observer approved by the International Dolphin Conservation Program on board the vessel during the entire trip and that such observer provided the certification required under subsection (h) of this section; and

(iii) the statements referred to in clauses (i) and (ii) are endorsed in writing by each exporter, importer, and processor of the product; and

(C) the written statements and endorsements referred to in subparagraph (B) comply with regulations promulgated by the Secretary which provide for the verification of tuna products as dolphin safe.

(3)(A) The Secretary of Commerce shall develop an official mark that may be used to label tuna products as dolphin safe in accordance with this Act.[1]

(B) A tuna product that bears the dolphin safe mark developed under subparagraph (A) shall not bear any other label or mark that refers to dolphins, porpoises, or marine mammals.

(C) It is a violation of section 45 of title 15 to label a tuna product with any label or mark that refers to dolphins, porpoises, or marine mammals other than the mark developed under subparagraph (A) unless—

(i) no dolphins were killed or seriously injured in the sets or other gear deployments in which the tuna were caught;

(ii) the label is supported by a tracking and verification program which is comparable in effectiveness to the program established under subsection (f) of this section; and

(iii) the label complies with all applicable labeling, marketing, and advertising laws and regulations of the Federal Trade Commission, including any guidelines for environmental labeling.

(D) If the Secretary determines that the use of a label referred to in subparagraph (C) is substantially undermining the conservation goals of the International Dolphin Conservation Program, the Secretary shall report that determination to the United States Senate Committee on Commerce, Science, and Transportation and the United States House of Representatives Committees on Resources and on Commerce, along with recommendations to correct such problems.

(E) It is a violation of section 45 of title 15 willingly and knowingly to use a label referred to in subparagraph (C) in a campaign or effort to mislead or deceive consumers about the level of protection afforded dolphins under the International Dolphin Conservation Program.

(e) Enforcement

Any person who knowingly and willfully makes a statement or endorsement described in subsection (d)(2)(B) of this section that is false is liable for a civil penalty of not to exceed $100,000 assessed in an action brought in any appropriate district court of the United States on behalf of the Secretary.

(f) Regulations

The Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to implement this Act,[1] including regulations to establish a domestic tracking and verification program that provides for the effective tracking of tuna labeled under subsection (d) of this section. In the development of these regulations, the Secretary shall establish appropriate procedures for ensuring the confidentiality of propri-

[1] So in original. Probably should be ''this section''.

etary information the submission of which is voluntary or mandatory. The regulations shall address each of the following items:

(1) The use of weight calculation for purposes of tracking tuna caught, landed, processed, and exported.

(2) Additional measures to enhance current observer coverage, including the establishment of criteria for training, and for improving monitoring and reporting capabilities and procedures.

(3) The designation of well location, procedures for sealing holds, procedures for monitoring and certifying both above and below deck, or through equally effective methods, the tracking and verification of tuna labeled under subsection (d) of this section.

(4) The reporting, receipt, and database storage of radio and facsimile transmittals from fishing vessels containing information related to the tracking and verification of tuna, and the definition of set.

(5) The shore-based verification and tracking throughout the fishing, transshipment, and canning process by means of Inter-American Tropical Tuna Commission trip records or otherwise.

(6) The use of periodic audits and spot checks for caught, landed, and processed tuna products labeled in accordance with subsection (d) of this section.

(7) The provision of timely access to data required under this subsection by the Secretary from harvesting nations to undertake the actions required in paragraph (6) of this paragraph.[2]

The Secretary may make such adjustments as may be appropriate to the regulations promulgated under this subsection to implement an international tracking and verification program that meets or exceeds the minimum requirements established by the Secretary under this subsection.

(g) Secretarial findings

(1) Between March 1, 1999, and March 31, 1999, the Secretary shall, on the basis of the research conducted before March 1, 1999, under section 1414a(a) of this title, information obtained under the International Dolphin Conservation Program, and any other relevant information, make an initial finding regarding whether the intentional deployment on or encirclement of dolphins with purse seine nets is having a significant adverse impact on any depleted dolphin stock in the eastern tropical Pacific Ocean. The initial finding shall be published immediately in the Federal Register and shall become effective upon a subsequent date determined by the Secretary.

(2) Between July 1, 2001, and December 31, 2002, the Secretary shall, on the basis of the completed study conducted under section 1414a(a) of this title, information obtained under the International Dolphin Conservation Program, and any other relevant information, make a finding regarding whether the intentional deployment on or encirclement of dolphins with purse seine nets is having a significant adverse impact on any depleted dolphin stock in the eastern tropical Pacific Ocean. The finding shall be published immediately in the Federal Register and shall become effective upon a subsequent date determined by the Secretary.

(h) Certification by captain and observer

(1) Unless otherwise required by paragraph (2), the certification by the captain under subsection (d)(2)(B)(i) of this section and the certification provided by the observer as specified in subsection (d)(2)(B)(ii) of this section shall be that no dolphins were killed or seriously injured during the sets in which the tuna were caught.

(2) The certification by the captain under subsection (d)(2)(B)(i) of this section and the certification provided by the observer as specified under subsection (d)(2)(B)(ii) of this section shall be that no tuna were caught on the trip in which such tuna were harvested using a purse seine net intentionally deployed on or to encircle dolphins, and that no dolphins were killed or seriously injured during the sets in which the tuna were caught, if the tuna were caught on a trip commencing—

(A) before the effective date of the initial finding by the Secretary under subsection (g)(1) of this section;

(B) after the effective date of such initial finding and before the effective date of the finding of the Secretary under subsection (g)(2) of this section, where the initial finding is that the intentional deployment on or encirclement of dolphins is having a significant adverse impact on any depleted dolphin stock; or

(C) after the effective date of the finding under subsection (g)(2) of this section, where such finding is that the intentional deployment on or encirclement of dolphins is having a significant adverse impact on any such depleted stock.

(Pub. L. 101–627, title IX, § 901, Nov. 28, 1990, 104 Stat. 4465; Pub. L. 105–42, § 5, Aug. 15, 1997, 111 Stat. 1125.)

CODIFICATION

Section was not enacted as part of the Marine Mammal Protection Act of 1972 which comprises this chapter.

AMENDMENTS

1997—Subsec. (d). Pub. L. 105–42, § 5(a), amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows:

''(1) It is a violation of section 45 of title 15 for any producer, importer, exporter, distributor, or seller of any tuna product that is exported from or offered for sale in the United States to include on the label of that product the term 'Dolphin Safe' or any other term or symbol that falsely claims or suggests that the tuna contained in the product was harvested using a method of fishing that is not harmful to dolphins if the product contains—

''(A) tuna harvested on the high seas by a vessel engaged in driftnet fishing; or

''(B) tuna harvested in the eastern tropical Pacific Ocean by a vessel using purse seine nets which do not meet the requirements for being considered dolphin safe under paragraph (2).

''(2) For purposes of paragraph (1)(B), a tuna product that contains tuna harvested in the eastern tropical Pacific Ocean by a fishing vessel using purse seine nets is dolphin safe if—

[2] So in original. Probably should be ''this subsection''.

''(A) the vessel is of a type and size that the Secretary has determined is not capable of deploying its purse seine nets on or to encircle dolphin; or

''(B)(i) the product is accompanied by a written statement executed by the captain of the vessel which harvested the tuna certifying that no tuna were caught on the trip in which such tuna were harvested using a purse seine net intentionally deployed on or to encircle dolphin;

''(ii) the product is accompanied by a written statement executed by—

''(I) the Secretary or the Secretary's designee, or

''(II) a representative of the Inter-American Tropical Tuna Commission,

which states that there was an approved observer on board the vessel during the entire trip and that purse seine nets were not intentionally deployed during the trip on or to encircle dolphin; and

''(iii) the statements referred to in clauses (i) and (ii) are endorsed in writing by each exporter, importer, and processor of the product.''

Subsec. (f). Pub. L. 105–42, §5(b), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: ''The Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to implement this section not later than 6 months after November 28, 1990, including regulations establishing procedures and requirements for ensuring that tuna products are labeled in accordance with subsection (d) of this section.''

Subsec. (g). Pub. L. 105–42, §5(c), added subsec. (g) and struck out former subsec. (g), which had amended section 1371 of this title.

Subsecs. (h), (i). Pub. L. 105–42, §5(c), added subsec. (h) and struck out former subsecs. (h) and (i) which read as follows:

''(h) NEGOTIATIONS.—The Secretary of State shall immediately seek, through negotiations and discussions with appropriate foreign governments, to reduce and, as soon as possible, eliminate the practice of harvesting tuna through the use of purse seine nets intentionally deployed to encircle dolphins.

''(i) EFFECTIVE DATE.—Subsections (d) and (e) of this section shall take effect 6 months after November 28, 1990.''

CHANGE OF NAME

Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1997 AMENDMENT

For effective date of amendment by Pub. L. 105–42, see section 8 of Pub. L. 105–42, set out as a note under section 1362 of this title.

§ 1386. Stock assessments

(a) In general

Not later than August 1, 1994, the Secretary shall, in consultation with the appropriate regional scientific review group established under subsection (d) of this section, prepare a draft stock assessment for each marine mammal stock which occurs in waters under the jurisdiction of the United States. Each draft stock assessment, based on the best scientific information available, shall—

(1) describe the geographic range of the affected stock, including any seasonal or temporal variation in such range;

(2) provide for such stock the minimum population estimate, current and maximum net productivity rates, and current population trend, including a description of the information upon which these are based;

(3) estimate the annual human-caused mortality and serious injury of the stock by source and, for a strategic stock, other factors that may be causing a decline or impeding recovery of the stock, including effects on marine mammal habitat and prey;

(4) describe commercial fisheries that interact with the stock, including—

(A) the approximate number of vessels actively participating in each such fishery;

(B) the estimated level of incidental mortality and serious injury of the stock by each such fishery on an annual basis;

(C) seasonal or area differences in such incidental mortality or serious injury; and

(D) the rate, based on the appropriate standard unit of fishing effort, of such incidental mortality and serious injury, and an analysis stating whether such level is insignificant and is approaching a zero mortality and serious injury rate;

(5) categorize the status of the stock as one that either—

(A) has a level of human-caused mortality and serious injury that is not likely to cause the stock to be reduced below its optimum sustainable population; or

(B) is a strategic stock, with a description of the reasons therefor; and

(6) estimate the potential biological removal level for the stock, describing the information used to calculate it, including the recovery factor.

(b) Public comment

(1) The Secretary shall publish in the Federal Register a notice of the availability of a draft stock assessment or any revision thereof and provide an opportunity for public review and comment during a period of 90 days. Such notice shall include a summary of the assessment and a list of the sources of information or published reports upon which the assessment is based.

(2) Subsequent to the notice of availability required under paragraph (1), if requested by a person to which section 1371(b) of this title applies, the Secretary shall conduct a proceeding on the record prior to publishing a final stock assessment or any revision thereof for any stock subject to taking under section 1371(b) of this title.

(3) After consideration of the best scientific information available, the advice of the appropriate regional scientific review group established under subsection (d) of this section, and the comments of the general public, the Secretary shall publish in the Federal Register a notice of availability and a summary of the final stock assessment or any revision thereof, not later than 90 days after—

(A) the close of the public comment period on a draft stock assessment or revision thereof; or

(B) final action on an agency proceeding pursuant to paragraph (2).

(c) Review and revision

(1) The Secretary shall review stock assessments in accordance with this subsection—

(A) at least annually for stocks which are specified as strategic stocks;

(B) at least annually for stocks for which significant new information is available; and

(C) at least once every 3 years for all other stocks.

(2) If the review under paragraph (1) indicates that the status of the stock has changed or can be more accurately determined, the Secretary shall revise the stock assessment in accordance with subsection (b) of this section.

(d) Regional scientific review groups

(1) Not later than 60 days after April 30, 1994, the Secretary of Commerce shall, in consultation with the Secretary of the Interior (with respect to marine mammals under that Secretary's jurisdiction), the Marine Mammal Commission, the Governors of affected adjacent coastal States, regional fishery and wildlife management authorities, Alaska Native organizations and Indian tribes, and environmental and fishery groups, establish three independent regional scientific review groups representing Alaska, the Pacific Coast (including Hawaii), and the Atlantic Coast (including the Gulf of Mexico), consisting of individuals with expertise in marine mammal biology and ecology, population dynamics and modeling, commercial fishing technology and practices, and stocks taken under section 1371(b) of this title. The Secretary of Commerce shall, to the maximum extent practicable, attempt to achieve a balanced representation of viewpoints among the individuals on each regional scientific review group. The regional scientific review groups shall advise the Secretary on—

(A) population estimates and the population status and trends of such stocks;

(B) uncertainties and research needed regarding stock separation, abundance, or trends, and factors affecting the distribution, size, or productivity of the stock;

(C) uncertainties and research needed regarding the species, number, ages, gender, and reproductive status of marine mammals;

(D) research needed to identify modifications in fishing gear and practices likely to reduce the incidental mortality and serious injury of marine mammals in commercial fishing operations;

(E) the actual, expected, or potential impacts of habitat destruction, including marine pollution and natural environmental change, on specific marine mammal species or stocks, and for strategic stocks, appropriate conservation or management measures to alleviate any such impacts; and

(F) any other issue which the Secretary or the groups consider appropriate.

(2) The scientific review groups established under this subsection shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

(3) Members of the scientific review groups shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their obligations.

(4) The Secretary may appoint or reappoint individuals to the regional scientific review groups under paragraph (1) as needed.

(e) Effect on section 1371(b) of this title

This section shall not affect or otherwise modify the provisions of section 1371(b) of this title.

(Pub. L. 92–522, title I, § 117, as added Pub. L. 103–238, § 10, Apr. 30, 1994, 108 Stat. 543.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (d)(2), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 1387. Taking of marine mammals incidental to commercial fishing operations

(a) In general

(1) Effective on April 30, 1994, and except as provided in section 1383a of this title and in paragraphs (2), (3), and (4) of this subsection, the provisions of this section shall govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 1824(b) of this title. In any event it shall be the immediate goal that the incidental mortality or serious injury of marine mammals occurring in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate within 7 years after April 30, 1994.

(2) In the case of the incidental taking of marine mammals from species or stocks designated under this chapter as depleted on the basis of their listing as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), both this section and section 1371(a)(5)(E) of this title shall apply.

(3) Sections[1] 1374(h) of this title and subchapter IV of this chapter, and not this section, shall govern the taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean.

(4) This section shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99–625; 100 Stat. 3500).

(5) Except as provided in section 1371(c) of this title, the intentional lethal take of any marine mammal in the course of commercial fishing operations is prohibited.

(6) Sections 1373 and 1374 of this title shall not apply to the incidental taking of marine mammals under the authority of this section.

(b) Zero mortality rate goal

(1) Commercial fisheries shall reduce incidental mortality and serious injury of marine mammals to insignificant levels approaching a zero mortality and serious injury rate within 7 years after April 30, 1994.

(2) Fisheries which maintain insignificant serious injury and mortality levels approaching a zero rate shall not be required to further reduce their mortality and serious injury rates.

(3) Three years after April 30, 1994, the Secretary shall review the progress of all commer-

[1] So in original. Probably should be "Section".

cial fisheries, by fishery, toward reducing incidental mortality and serious injury to insignificant levels approaching a zero rate. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report setting forth the results of such review within 1 year after commencement of the review. The Secretary shall note any commercial fishery for which additional information is required to accurately assess the level of incidental mortality and serious injury of marine mammals in the fishery.

(4) If the Secretary determines after review under paragraph (3) that the rate of incidental mortality and serious injury of marine mammals in a commercial fishery is not consistent with paragraph (1), then the Secretary shall take appropriate action under subsection (f) of this section.

(c) Registration and authorization

(1) The Secretary shall, within 90 days after April 30, 1994—

(A) publish in the Federal Register for public comment, for a period of not less than 90 days, any necessary changes to the Secretary's list of commercial fisheries published under section 1383a(b)(1) of this title and which is in existence on March 31, 1994 (along with an explanation of such changes and a statement describing the marine mammal stocks interacting with, and the approximate number of vessels or persons actively involved in, each such fishery), with respect to commercial fisheries that have—

(i) frequent incidental mortality and serious injury of marine mammals;

(ii) occasional incidental mortality and serious injury of marine mammals; or

(iii) a remote likelihood of or no known incidental mortality or serious injury of marine mammals;

(B) after the close of the period for such public comment, publish in the Federal Register a revised list of commercial fisheries and an update of information required by subparagraph (A), together with a summary of the provisions of this section and information sufficient to advise vessel owners on how to obtain an authorization and otherwise comply with the requirements of this section; and

(C) at least once each year thereafter, and at such other times as the Secretary considers appropriate, reexamine, based on information gathered under this chapter and other relevant sources and after notice and opportunity for public comment, the classification of commercial fisheries and other determinations required under subparagraph (A) and publish in the Federal Register any necessary changes.

(2)(A) An authorization shall be granted by the Secretary in accordance with this section for a vessel engaged in a commercial fishery listed under paragraph (1)(A)(i) or (ii), upon receipt by the Secretary of a completed registration form providing the name of the vessel owner and operator, the name and description of the vessel, the fisheries in which it will be engaged, the approximate time, duration, and location of such fishery operations, and the general type and nature of use of the fishing gear and techniques used. Such information shall be in a readily usable format that can be efficiently entered into and utilized by an automated or computerized data processing system. A decal or other physical evidence that the authorization is current and valid shall be issued by the Secretary at the time an authorization is granted, and so long as the authorization remains current and valid, shall be reissued annually thereafter.

(B) No authorization may be granted under this section to the owner of a vessel unless such vessel—

(i) is a vessel of the United States; or

(ii) has a valid fishing permit issued by the Secretary in accordance with section 1824(b) of this title.

(C) Except as provided in subsection (a) of this section, an authorization granted under this section shall allow the incidental taking of all species and stocks of marine mammals to which this chapter applies.

(3)(A) An owner of a vessel engaged in any fishery listed under paragraph (1)(A)(i) or (ii) shall, in order to engage in the lawful incidental taking of marine mammals in a commercial fishery—

(i) have registered as required under paragraph (2) with the Secretary in order to obtain for each such vessel owned and used in the fishery an authorization for the purpose of incidentally taking marine mammals in accordance with this section, except that owners of vessels holding valid certificates of exemption under section 1383a of this title are deemed to have registered for purposes of this subsection for the period during which such exemption is valid;

(ii) ensure that a decal or such other physical evidence of a current and valid authorization as the Secretary may require is displayed on or is in the possession of the master of each such vessel;

(iii) report as required by subsection (e) of this section; and

(iv) comply with any applicable take reduction plan and emergency regulations issued under this section.

(B) Any owner of a vessel receiving an authorization under this section for any fishery listed under paragraph (1)(A)(i) or (ii) shall, as a condition of that authorization, take on board an observer if requested to do so by the Secretary.

(C) An owner of a vessel engaged in a fishery listed under paragraph (1)(A)(i) or (ii) who—

(i) fails to obtain from the Secretary an authorization for such vessel under this section;

(ii) fails to maintain a current and valid authorization for such vessel; or

(iii) fails to ensure that a decal or other physical evidence of such authorization issued by the Secretary is displayed on or is in possession of the master of the vessel,

and the master of any such vessel engaged in such fishery, shall be deemed to have violated this subchapter, and for violations of clauses (i) and (ii) shall be subject to the penalties of this subchapter, and for violations of clause (iii)

shall be subject to a fine of not more than $100 for each offense.

(D) If the owner of a vessel has obtained and maintains a current and valid authorization from the Secretary under this section and meets the requirements set forth in this section, including compliance with any regulations to implement a take reduction plan under this section, the owner of such vessel, and the master and crew members of the vessel, shall not be subject to the penalties set forth in this subchapter for the incidental taking of marine mammals while such vessel is engaged in a fishery to which the authorization applies.

(E) Each owner of a vessel engaged in any fishery not listed under paragraph (1)(A)(i) or (ii), and the master and crew members of such a vessel, shall not be subject to the penalties set forth in this subchapter for the incidental taking of marine mammals if such owner reports to the Secretary, in the form and manner required under subsection (e) of this section, instances of incidental mortality or injury of marine mammals in the course of that fishery.

(4)(A) The Secretary shall suspend or revoke an authorization granted under this section and shall not issue a decal or other physical evidence of the authorization for any vessel until the owner of such vessel complies with the reporting requirements under subsection (e) of this section and such requirements to take on board an observer under paragraph (3)(B) as are applicable to such vessel. Previous failure to comply with the requirements of section 1383a of this title shall not bar authorization under this section for an owner who complies with the requirements of this section.

(B) The Secretary may suspend or revoke an authorization granted under this subsection, and may not issue a decal or other physical evidence of the authorization for any vessel which fails to comply with a take reduction plan or emergency regulations issued under this section.

(C) The owner and master of a vessel which fails to comply with a take reduction plan shall be subject to the penalties of sections 1375 and 1377 of this title, and may be subject to section 1376 of this title.

(5)(A) The Secretary shall develop, in consultation with the appropriate States, affected Regional Fishery Management Councils, and other interested persons, the means by which the granting and administration of authorizations under this section shall be integrated and coordinated, to the maximum extent practicable, with existing fishery licenses, registrations, and related programs.

(B) The Secretary shall utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the provisions of this section and the means by which they can comply with its requirements.

(C) The Secretary is authorized to charge a fee for the granting of an authorization under this section. The level of fees charged under this subparagraph shall not exceed the administrative costs incurred in granting an authorization. Fees collected under this subparagraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in the granting and administration of authorizations under this section.

(d) Monitoring of incidental takes

(1) The Secretary shall establish a program to monitor incidental mortality and serious injury of marine mammals during the course of commercial fishing operations. The purposes of the monitoring program shall be to—

(A) obtain statistically reliable estimates of incidental mortality and serious injury;

(B) determine the reliability of reports of incidental mortality and serious injury under subsection (e) of this section; and

(C) identify changes in fishing methods or technology that may increase or decrease incidental mortality and serious injury.

(2) Pursuant to paragraph (1), the Secretary may place observers on board vessels as necessary, subject to the provisions of this section. Observers may, among other tasks—

(A) record incidental mortality and injury, or by catch of other nontarget species;

(B) record numbers of marine mammals sighted; and

(C) perform other scientific investigations.

(3) In determining the distribution of observers among commercial fisheries and vessels within a fishery, the Secretary shall be guided by the following standards:

(A) The requirement to obtain statistically reliable information.

(B) The requirement that assignment of observers is fair and equitable among fisheries and among vessels in a fishery.

(C) The requirement that no individual person or vessel, or group of persons or vessels, be subject to excessive or overly burdensome observer coverage.

(D) To the extent practicable, the need to minimize costs and avoid duplication.

(4) To the extent practicable, the Secretary shall allocate observers among commercial fisheries in accordance with the following priority:

(A) The highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(B) The second highest priority for allocation shall be for commercial fisheries that have incidental mortality and serious injury of marine mammals from strategic stocks.

(C) The third highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks for which the level of incidental mortality and serious injury is uncertain.

(5) The Secretary may establish an alternative observer program to provide statistically reliable information on the species and number of marine mammals incidentally taken in the course of commercial fishing operations. The alternative observer program may include direct observation of fishing activities from vessels, airplanes, or points on shore.

(6) The Secretary is not required to place an observer on a vessel in a fishery if the Secretary finds that—

(A) in a situation in which harvesting vessels are delivering fish to a processing vessel and the catch is not taken on board the harvesting vessel, statistically reliable information can be obtained from an observer on board the processing vessel to which the fish are delivered;

(B) the facilities on a vessel for quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; or

(C) for reasons beyond the control of the Secretary, an observer is not available.

(7) The Secretary may, with the consent of the vessel owner, station an observer on board a vessel engaged in a fishery not listed under subsection (c)(1)(A)(i) or (ii) of this section.

(8) Any proprietary information collected under this subsection shall be confidential and shall not be disclosed except—

(A) to Federal employees whose duties require access to such information;

(B) to State or tribal employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

(C) when required by court order; or

(D) in the case of scientific information involving fisheries, to employees of Regional Fishery Management Councils who are responsible for fishery management plan development and monitoring.

(9) The Secretary shall prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary shall release or make public upon request any such information in aggregate, summary, or other form which does not directly or indirectly disclose the identity or business of any person.

(e) Reporting requirement

The owner or operator of a commercial fishing vessel subject to this chapter shall report all incidental mortality and injury of marine mammals in the course of commercial fishing operations to the Secretary by mail or other means acceptable to the Secretary within 48 hours after the end of each fishing trip on a standard postage-paid form to be developed by the Secretary under this section. Such form shall be capable of being readily entered into and usable by an automated or computerized data processing system and shall require the vessel owner or operator to provide the following:

(1) The vessel name, and Federal, State, or tribal registration numbers of the registered vessel.

(2) The name and address of the vessel owner or operator.

(3) The name and description of the fishery.

(4) The species of each marine mammal incidentally killed or injured, and the date, time, and approximate geographic location of such occurrence.

(f) Take reduction plans

(1) The Secretary shall develop and implement a take reduction plan designed to assist in the recovery or prevent the depletion of each strategic stock which interacts with a commercial fishery listed under subsection (c)(1)(A)(i) or (ii) of this section, and may develop and implement such a plan for any other marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) of this section which the Secretary determines, after notice and opportunity for public comment, has a high level of mortality and serious injury across a number of such marine mammal stocks.

(2) The immediate goal of a take reduction plan for a strategic stock shall be to reduce, within 6 months of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to levels less than the potential biological removal level established for that stock under section 1386 of this title. The long-term goal of the plan shall be to reduce, within 5 years of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate, taking into account the economics of the fishery, the availability of existing technology, and existing State or regional fishery management plans.

(3) If there is insufficient funding available to develop and implement a take reduction plan for all such stocks that interact with commercial fisheries listed under subsection (c)(1)(A)(i) or (ii) of this section, the Secretary shall give highest priority to the development and implementation of take reduction plans for species or stocks whose level of incidental mortality and serious injury exceeds the potential biological removal level, those that have a small population size, and those which are declining most rapidly.

(4) Each take reduction plan shall include—

(A) a review of the information in the final stock assessment published under section 1386(b) of this title and any substantial new information;

(B) an estimate of the total number and, if possible, age and gender, of animals from the stock that are being incidentally lethally taken or seriously injured each year during the course of commercial fishing operations, by fishery;

(C) recommended regulatory or voluntary measures for the reduction of incidental mortality and serious injury;

(D) recommended dates for achieving the specific objectives of the plan.

(5)(A) For any stock in which incidental mortality and serious injury from commercial fisheries exceeds the potential biological removal level established under section 1386 of this title, the plan shall include measures the Secretary expects will reduce, within 6 months of the plan's implementation, such mortality and serious injury to a level below the potential biological removal level.

(B) For any stock in which human-caused mortality and serious injury exceeds the potential biological removal level, other than a stock to which subparagraph (A) applies, the plan shall include measures the Secretary expects will reduce, to the maximum extent practicable within 6 months of the plan's implementation,

the incidental mortality and serious injury by such commercial fisheries from that stock. For purposes of this subparagraph, the term ''maximum extent practicable'' means to the lowest level that is feasible for such fisheries within the 6-month period.

(6)(A) At the earliest possible time (not later than 30 days) after the Secretary issues a final stock assessment under section 1386(b) of this title for a strategic stock, the Secretary shall, and for stocks that interact with a fishery listed under subsection (c)(1)(A)(i) of this section for which the Secretary has made a determination under paragraph (1), the Secretary may—

(i) establish a take reduction team for such stock and appoint the members of such team in accordance with subparagraph (C); and

(ii) publish in the Federal Register a notice of the team's establishment, the names of the team's appointed members, the full geographic range of such stock, and a list of all commercial fisheries that cause incidental mortality and serious injury of marine mammals from such stock.

(B) The Secretary may request a take reduction team to address a stock that extends over one or more regions or fisheries, or multiple stocks within a region or fishery, if the Secretary determines that doing so would facilitate the development and implementation of plans required under this subsection.

(C) Members of take reduction teams shall have expertise regarding the conservation or biology of the marine mammal species which the take reduction plan will address, or the fishing practices which result in the incidental mortality and serious injury of such species. Members shall include representatives of Federal agencies, each coastal State which has fisheries which interact with the species or stock, appropriate Regional Fishery Management Councils, interstate fisheries commissions, academic and scientific organizations, environmental groups, all commercial and recreational fisheries groups and gear types which incidentally take the species or stock, Alaska Native organizations or Indian tribal organizations, and others as the Secretary deems appropriate. Take reduction teams shall, to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests.

(D) Take reduction teams shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.). Meetings of take reduction teams shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

(E) Members of take reduction teams shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their duties as members of the team.

(7) Where the human-caused mortality and serious injury from a strategic stock is estimated to be equal to or greater than the potential biological removal level established under section 1386 of this title for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A)(i) or (ii) of this section, the following procedures shall apply in the development of the take reduction plan for the stock:

(A)(i) Not later than 6 months after the date of establishment of a take reduction team for the stock, the team shall submit a draft take reduction plan for such stock to the Secretary, consistent with the other provisions of this section.

(ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

(B)(i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

(ii) In the event that the take reduction team does not submit a draft plan to the Secretary within 6 months, the Secretary shall, not later than 8 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this section.

(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

(E) The Secretary and the take reduction team shall meet every 6 months, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

(F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

(8) Where the human-caused mortality and serious injury from a strategic stock is estimated to be less than the potential biological removal level established under section 1386 of this title for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A)(i) or (ii) of this section, or for any marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) of this section for which the Secretary has made a determination under paragraph (1), the following procedures shall apply in the development of the take reduction plan for such stock:

(A)(i) Not later than 11 months after the date of establishment of a take reduction

team for the stock, the team shall submit a draft take reduction plan for the stock to the Secretary, consistent with the other provisions of this section.

(ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

(B)(i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

(ii) In the event that the take reduction team does not submit a draft plan to the Secretary within 11 months, the Secretary shall, not later than 13 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this section.

(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

(E) The Secretary and the take reduction team shall meet on an annual basis, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

(F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

(9) In implementing a take reduction plan developed pursuant to this subsection, the Secretary may, where necessary to implement a take reduction plan to protect or restore a marine mammal stock or species covered by such plan, promulgate regulations which include, but are not limited to, measures to—

(A) establish fishery-specific limits on incidental mortality and serious injury of marine mammals in commercial fisheries or restrict commercial fisheries by time or area;

(B) require the use of alternative commercial fishing gear or techniques and new technologies, encourage the development of such gear or technology, or convene expert skippers' panels;

(C) educate commercial fishermen, through workshops and other means, on the importance of reducing the incidental mortality and serious injury of marine mammals in affected commercial fisheries; and

(D) monitor, in accordance with subsection (d) of this section, the effectiveness of measures taken to reduce the level of incidental mortality and serious injury of marine mammals in the course of commercial fishing operations.

(10)(A) Notwithstanding paragraph (6), in the case of any stock to which paragraph (1) applies for which a final stock assessment has not been published under section 1386(b)(3) of this title by April 1, 1995, due to a proceeding under section 1386(b)(2) of this title, or any Federal court review of such proceeding, the Secretary shall establish a take reduction team under paragraph (6) for such stock as if a final stock assessment had been published.

(B) The draft stock assessment published for such stock under section 1386(b)(1) of this title shall be deemed the final stock assessment for purposes of preparing and implementing a take reduction plan for such stock under this section.

(C) Upon publication of a final stock assessment for such stock under section 1386(b)(3) of this title the Secretary shall immediately reconvene the take reduction team for such stock for the purpose of amending the take reduction plan, and any regulations issued to implement such plan, if necessary, to reflect the final stock assessment or court action. Such amendments shall be made in accordance with paragraph (7)(F) or (8)(F), as appropriate.

(D) A draft stock assessment may only be used as the basis for a take reduction plan under this paragraph for a period of not to exceed two years, or until a final stock assessment is published, whichever is earlier. If, at the end of the two-year period, a final stock assessment has not been published, the Secretary shall categorize such stock under section 1386(a)(5)(A) of this title and shall revoke any regulations to implement a take reduction plan for such stock.

(E) Subparagraph (D) shall not apply for any period beyond two years during which a final stock assessment for such stock has not been published due to review of a proceeding on such stock assessment by a Federal court. Immediately upon final action by such court, the Secretary shall proceed under subparagraph (C).

(11) Take reduction plans developed under this section for a species or stock listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall be consistent with any recovery plan developed for such species or stock under section 4 of such Act [16 U.S.C. 1533].

(g) Emergency regulations

(1) If the Secretary finds that the incidental mortality and serious injury of marine mammals from commercial fisheries is having, or is likely to have, an immediate and significant adverse impact on a stock or species, the Secretary shall take actions as follows:

(A) In the case of a stock or species for which a take reduction plan is in effect, the Secretary shall—

(i) prescribe emergency regulations that, consistent with such plan to the maximum extent practicable, reduce incidental mortality and serious injury in that fishery; and

(ii) approve and implement, on an expedited basis, any amendments to such plan that are recommended by the take reduction team to address such adverse impact.

(B) In the case of a stock or species for which a take reduction plan is being developed, the Secretary shall—

(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery; and

(ii) approve and implement, on an expedited basis, such plan, which shall provide methods to address such adverse impact if still necessary.

(C) In the case of a stock or species for which a take reduction plan does not exist and is not being developed, or in the case of a commercial fishery listed under subsection (c)(1)(A)(iii) of this section which the Secretary believes may be contributing to such adverse impact, the Secretary shall—

(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery, to the extent necessary to mitigate such adverse impact;

(ii) immediately review the stock assessment for such stock or species and the classification of such commercial fishery under this section to determine if a take reduction team should be established; and

(iii) may, where necessary to address such adverse impact on a species or stock listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), place observers on vessels in a commercial fishery listed under subsection (c)(1)(A)(iii) of this section, if the Secretary has reason to believe such vessels may be causing the incidental mortality and serious injury to marine mammals from such stock.

(2) Prior to taking action under paragraph (1)(A), (B), or (C), the Secretary shall consult with the Marine Mammal Commission, all appropriate Regional Fishery Management Councils, State fishery managers, and the appropriate take reduction team (if established).

(3) Emergency regulations prescribed under this subsection—

(A) shall be published in the Federal Register, together with an explanation thereof;

(B) shall remain in effect for not more than 180 days or until the end of the applicable commercial fishing season, whichever is earlier; and

(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, if the Secretary determines that the reasons for emergency regulations no longer exist.

(4) If the Secretary finds that incidental mortality and serious injury of marine mammals in a commercial fishery is continuing to have an immediate and significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for an additional period of not more than 90 days or until reasons for the emergency no longer exist, whichever is earlier.

(h) Penalties

Except as provided in subsection (c) of this section, any person who violates this section shall be subject to the provisions of sections 1375 and 1377 of this title, and may be subject to section 1376 of this title as the Secretary shall establish by regulations.

(i) Assistance

The Secretary shall provide assistance to Regional Fishery Management Councils, States, interstate fishery commissions, and Indian tribal organizations in meeting the goal of reducing incidental mortality and serious injury to insignificant levels approaching a zero mortality and serious injury rate.

(j) Contributions

For purposes of carrying out this section, the Secretary may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

(k) Consultation with Secretary of the Interior

The Secretary shall consult with the Secretary of the Interior prior to taking actions or making determinations under this section that affect or relate to species or population stocks of marine mammals for which the Secretary of the Interior is responsible under this subchapter.

***(l)* Definitions**

As used in this section and section 1371(a)(5)(E) of this title, each of the terms ''fishery'' and ''vessel of the United States'' has the same meaning it does in section 1802 of this title.

(Pub. L. 92–522, title I, §118, as added Pub. L. 103–238, §11, Apr. 30, 1994, 108 Stat. 546; amended Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsecs. (a)(2), (d)(4)(A), (f)(11), and (g)(1)(C)(iii), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified principally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

Act of November 7, 1986, referred to in subsec. (a)(4), is Pub. L. 99–625, Nov. 7, 1986, 100 Stat. 3500, which amended section 718b of this title and provisions set out as a table of National Wildlife Refuges under section 668dd of this title and enacted provisions set out as a note under section 1536 of this title. For complete classification of this Act to the Code, see Tables.

The Federal Advisory Committee Act, referred to in subsec. (f)(6)(D), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsecs. (a)(1), (c)(2)(B)(ii), (*l*). Pub. L. 104–208 made technical amendment to references in original act which appear in text as references to sections 1802 and 1824(b) of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, §211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 1388. Marine mammal cooperative agreements in Alaska

(a) In general

The Secretary may enter into cooperative agreements with Alaska Native organizations to conserve marine mammals and provide co-management of subsistence use by Alaska Natives.

(b) Grants

Agreements entered into under this section may include grants to Alaska Native organizations for, among other purposes—

(1) collecting and analyzing data on marine mammal populations;

(2) monitoring the harvest of marine mammals for subsistence use;

(3) participating in marine mammal research conducted by the Federal Government, States, academic institutions, and private organizations; and

(4) developing marine mammal co-management structures with Federal and State agencies.

(c) Effect of jurisdiction

Nothing in this section is intended or shall be construed—

(1) as authorizing any expansion or change in the respective jurisdiction of Federal, State, or tribal governments over fish and wildlife resources; or

(2) as altering in any respect the existing political or legal status of Alaska Natives, or the governmental or jurisdictional status of Alaska Native communities or Alaska Native entities.

(d) Authorization of appropriations

There are authorized to be appropriated for the purposes of carrying out this section—

(1) $1,500,000 to the Secretary of Commerce for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999; and

(2) $1,000,000 to the Secretary of the Interior for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999.

The amounts authorized to be appropriated under this subsection are in addition to the amounts authorized to be appropriated under section 1384 of this title.

(Pub. L. 92–522, title I, § 119, as added Pub. L. 103–238, § 19, Apr. 30, 1994, 108 Stat. 559.)

§ 1389. Pacific Coast Task Force; Gulf of Maine

(a) Pinniped removal authority

Notwithstanding any other provision of this subchapter, the Secretary may permit the intentional lethal taking of pinnipeds in accordance with this section.

(b) Application

(1) A State may apply to the Secretary to authorize the intentional lethal taking of individually identifiable pinnipeds which are having a significant negative impact on the decline or recovery of salmonid fishery stocks which—

(A) have been listed as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(B) the Secretary finds are approaching threatened species or endangered species status (as those terms are defined in that Act); or

(C) migrate through the Ballard Locks at Seattle, Washington.

(2) Any such application shall include a means of identifying the individual pinniped or pinnipeds, and shall include a detailed description of the problem interaction and expected benefits of the taking.

(c) Actions in response to application

(1) Within 15 days of receiving an application, the Secretary shall determine whether the application has produced sufficient evidence to warrant establishing a Pinniped-Fishery Interaction Task Force to address the situation described in the application. If the Secretary determines sufficient evidence has been provided, the Secretary shall establish a Pinniped-Fishery Interaction Task Force and publish a notice in the Federal Register requesting public comment on the application.

(2) A Pinniped-Fishery Interaction Task Force established under paragraph (1) shall consist of designated employees of the Department of Commerce, scientists who are knowledgeable about the pinniped interaction that the application addresses, representatives of affected conservation and fishing community organizations, Indian Treaty tribes, the States, and such other organizations as the Secretary deems appropriate.

(3) Within 60 days after establishment, and after reviewing public comments in response to the Federal Register notice under paragraph (1), the Pinniped-Fishery Interaction Task Force shall—

(A) recommend to the Secretary whether to approve or deny the proposed intentional lethal taking of the pinniped or pinnipeds, including along with the recommendation a description of the specific pinniped individual or individuals, the proposed location, time, and method of such taking, criteria for evaluating the success of the action, and the duration of the intentional lethal taking authority; and

(B) suggest nonlethal alternatives, if available and practicable, including a recommended course of action.

(4) Within 30 days after receipt of recommendations from the Pinniped-Fishery Interaction Task Force, the Secretary shall either

approve or deny the application. If such application is approved, the Secretary shall immediately take steps to implement the intentional lethal taking, which shall be performed by Federal or State agencies, or qualified individuals under contract to such agencies.

(5) After implementation of an approved application, the Pinniped-Fishery Interaction Task Force shall evaluate the effectiveness of the permitted intentional lethal taking or alternative actions implemented. If implementation was ineffective in eliminating the problem interaction, the Task Force shall recommend additional actions. If the implementation was effective, the Task Force shall so advise the Secretary, and the Secretary shall disband the Task Force.

(d) Considerations

In considering whether an application should be approved or denied, the Pinniped-Fishery Interaction Task Force and the Secretary shall consider—

(1) population trends, feeding habits, the location of the pinniped interaction, how and when the interaction occurs, and how many individual pinnipeds are involved;

(2) past efforts to nonlethally deter such pinnipeds, and whether the applicant has demonstrated that no feasible and prudent alternatives exist and that the applicant has taken all reasonable nonlethal steps without success;

(3) the extent to which such pinnipeds are causing undue injury or impact to, or imbalance with, other species in the ecosystem, including fish populations; and

(4) the extent to which such pinnipeds are exhibiting behavior that presents an ongoing threat to public safety.

(e) Limitation

The Secretary shall not approve the intentional lethal taking of any pinniped from a species or stock that is—

(1) listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(2) depleted under this chapter; or

(3) a strategic stock.

(f) California sea lions and Pacific harbor seals; investigation and report

(1) The Secretary shall engage in a scientific investigation to determine whether California sea lions and Pacific harbor seals—

(A) are having a significant negative impact on the recovery of salmonid fishery stocks which have been listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or which the Secretary finds are approaching such endangered species or threatened species status; or

(B) are having broader impacts on the coastal ecosystems of Washington, Oregon, and California.

The Secretary shall conclude this investigation and prepare a report on its results no later than October 1, 1995.

(2) Upon completion of the scientific investigation required under paragraph (1), the Secretary shall enter into discussions with the Pacific States Marine Fisheries Commission, on behalf of the States of Washington, Oregon, and California, for the purpose of addressing any issues or problems identified as a result of the scientific investigation, and to develop recommendations to address such issues or problems. Any recommendations resulting from such discussions shall be submitted, along with the report, to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(3) The Secretary shall make the report and the recommendations submitted under paragraph (2) available to the public for review and comment for a period of 90 days.

(4) There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the provisions of this subsection.

(5) The amounts appropriated under section 4107(c) of this title and allocated to the Pacific States Marine Fisheries Commission may be used by the Commission to participate in discussions with the Secretary under paragraph (2).

(g) Regionwide pinniped-fishery interaction study

(1) The Secretary may conduct a study, of not less than three high predation areas in anadromous fish migration corridors within the Northwest Region of the National Marine Fisheries Service, on the interaction between fish and pinnipeds. In conducting the study, the Secretary shall consult with other State and Federal agencies with expertise in pinniped-fishery interaction. The study shall evaluate—

(A) fish behavior in the presence of predators generally;

(B) holding times and passage rates of anadromous fish stocks in areas where such fish are vulnerable to predation;

(C) whether additional facilities exist, or could be reasonably developed, that could improve escapement for anadromous fish; and

(D) other issues the Secretary considers relevant.

(2) Subject to the availability of appropriations, the Secretary may, not later than 18 months after the commencement of the study under this subsection, transmit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

(3) The study conducted under this subsection may not be used by the Secretary as a reason for delaying or deferring a determination or consideration under subsection (c) or (d) of this section.

(h) Gulf of Maine Task Force

The Secretary shall establish a Pinniped-Fishery Interaction Task Force to advise the Secretary on issues or problems regarding pinnipeds interacting in a dangerous or damaging manner with aquaculture resources in the Gulf of Maine. No later than 2 years from April 30, 1994, the Secretary shall after notice and opportunity for public comment submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Sen-

ate a report containing recommended available alternatives to mitigate such interactions.

(i) Requirements applicable to task forces

(1) Any task force established under this section—

(A) shall to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests; and

(B) shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

(2) Meetings of any task force established under this section shall be open to the public, and prior notice of those meetings shall be given to the public by the task force in a timely fashion.

(j) Gulf of Maine harbor porpoise

(1) Nothing in section 1386 of this title shall prevent the Secretary from publishing a stock assessment for Gulf of Maine harbor porpoise in an expedited fashion.

(2) In developing and implementing a take reduction plan under section 1387 of this title for Gulf of Maine harbor porpoise, the Secretary shall consider all actions already taken to reduce incidental mortality and serious injury of such stock, and may, based on the recommendations of the take reduction team for such stock, modify the time period required for compliance with section 1387(f)(5)(A) of this title, but in no case may such modification extend the date of compliance beyond April 1, 1997.

(Pub. L. 92–522, title I, §120, as added Pub. L. 103–238, §23, Apr. 30, 1994, 108 Stat. 562.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsecs. (b)(1)(A), (B), (e)(1), and (f)(1)(A), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified principally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (i)(B), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

SUBCHAPTER III—MARINE MAMMAL COMMISSION

§ 1401. Establishment

(a) Designation

There is hereby established the Marine Mammal Commission (hereafter referred to in this subchapter as the ''Commission'').

(b) Membership and term of office

(1) Effective September 1, 1982, the Commission shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall make his selection from a list of individuals knowledgeable in the fields of marine ecology and resource management, and who are not in a position to profit from the taking of marine mammals. Such list shall be submitted to him by the Chairman of the Council on Environmental Quality and unanimously agreed to by that Chairman, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation and the Chairman of the National Academy of Sciences. No member of the Commission may, during his period of service on the Commission, hold any other position as an officer or employee of the United States except as a retired officer or retired civilian employee of the United States.

(2) The term of office for each member shall be three years; except that of the members initially appointed to the Commission, the term of one member shall be for one year, the term of one member shall be for two years, and the term of one member shall be for three years. No member is eligible for reappointment; except that any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed (A) shall be appointed for the remainder of such term, and (B) is eligible for reappointment for one full term. A member may serve after the expiration of his term until his successor has taken office.

(c) Chairman

The President shall designate a Chairman of the Commission (hereafter referred to in this subchapter as the ''Chairman'') from among its members.

(d) Compensation; reimbursement for travel expenses

Members of the Commission shall each be compensated at a rate equal to the daily equivalent of the rate for GS–18 of the General Schedule under section 5332 of title 5, for each day such member is engaged in the actual performance of duties vested in the Commission. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(e) Executive Director

The Commission shall have an Executive Director, who shall be appointed (without regard to the provisions of title 5 governing appointments in the competitive service) by the Chairman with the approval of the Commission and shall be paid at a rate not in excess of the rate for GS–18 of the General Schedule under section

5332 of title 5. The Executive Director shall have such duties as the Chairman may assign.

(Pub. L. 92–522, title II, § 201, Oct. 21, 1972, 86 Stat. 1043; Pub. L. 97–389, title II, § 202, Dec. 29, 1982, 96 Stat. 1951; Pub. L. 98–364, title I, § 103(a), July 17, 1984, 98 Stat. 441.)

AMENDMENTS

1984—Subsec. (b)(1). Pub. L. 98–364 substituted ''The President shall make his selection from a list of individuals knowledgeable in the fields of marine ecology and resource management, and who are not in a position to profit from the taking of marine mammals. Such list shall be submitted to him by the Chairman of the Council on Environmental Quality and unanimously agreed to by that Chairman, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation and the Chairman of the National Academy of Sciences'' for ''The President shall make his selection from a list, submitted to him by the Chairman of the Council on Environmental Quality, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the Chairman of the National Academy of Sciences, of individuals knowledgeable in the fields of marine ecology and resource management, and who are not in a position to profit from the taking of marine mammals''.

1982—Subsec. (b)(1). Pub. L. 97–389 inserted requirement that, effective Sept. 1, 1982, the three members of the Commission be appointed by and with the advice and consent of the Senate.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 1402. Duties of Commission

(a) Reports and recommendations

The Commission shall—

(1) undertake a review and study of the activities of the United States pursuant to existing laws and international conventions relating to marine mammals, including, but not limited to, the International Convention for the Regulation of Whaling, the Whaling Convention Act of 1949 [16 U.S.C. 916 et seq.], the Interim Convention on the Conservation of North Pacific Fur Seals, and the Fur Seal Act of 1966 [16 U.S.C. 1151 et seq.];

(2) conduct a continuing review of the condition of the stocks of marine mammals, of methods for their protection and conservation, of humane means of taking marine mammals, of research programs conducted or proposed to be conducted under the authority of this chapter, and of all applications for permits for scientific research, public display, or enhancing the survival or recovery of a species or stock;

(3) undertake or cause to be undertaken such other studies as it deems necessary or desirable in connection with its assigned duties as to the protection and conservation of marine mammals;

(4) recommend to the Secretary and to other Federal officials such steps as it deems necessary or desirable for the protection and conservation of marine mammals;

(5) recommend to the Secretary of State appropriate policies regarding existing international arrangements for the protection and conservation of marine mammals, and suggest appropriate international arrangements for the protection and conservation of marine mammals;

(6) recommend to the Secretary such revisions of the endangered species list and threatened species list published pursuant to section 1533(c)(1) of this title, as may be appropriate with regard to marine mammals; and

(7) recommend to the Secretary, other appropriate Federal officials, and Congress such additional measures as it deems necessary or desirable to further the policies of this chapter, including provisions for the protection of the Indians, Eskimos, and Aleuts whose livelihood may be adversely affected by actions taken pursuant to this chapter.

(b) Consultation with Secretary; reports to Secretary before publication

The Commission shall consult with the Secretary at such intervals as it or he may deem desirable, and shall provide each annual report required under section 1404[1] of this title, before submission to Congress, to the Secretary for comment.

(c) Availability of reports for public inspection

The reports and recommendations which the Commission makes shall be matters of public record and shall be available to the public at all reasonable times. All other activities of the Commission shall be matters of public record and available to the public in accordance with the provisions of section 552 of title 5.

(d) Recommendations; explanation for nonadoption

Any recommendations made by the Commission to the Secretary and other Federal officials shall be responded to by those individuals within one hundred and twenty days after receipt thereof. Any recommendations which are not followed or adopted shall be referred to the Commission together with a detailed explanation of the reasons why those recommendations were not followed or adopted.

(Pub. L. 92–522, title II, § 202, Oct. 21, 1972, 86 Stat. 1044; Pub. L. 93–205, § 13(e)(4), Dec. 28, 1973, 87 Stat. 903; Pub. L. 97–58, § 6(1), Oct. 9, 1981, 95 Stat. 987; Pub. L. 100–711, § 5(e)(4), Nov. 23, 1988, 102 Stat. 4771.)

REFERENCES IN TEXT

The Whaling Convention Act of 1949, referred to in subsec. (a)(1), is act Aug. 9, 1950, ch. 653, 64 Stat. 421, as amended, which is classified generally to subchapter II (§ 916 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 916 of this title and Tables.

The Fur Seal Act of 1966, referred to in subsec. (a)(1), is Pub. L. 89–702, Nov. 2, 1966, 80 Stat. 1091, as amended, which is classified generally to chapter 24 (§ 1151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1151 of this title and Tables.

Section 1404 of this title, referred to in subsec. (b), was omitted from the Code.

[1] See References in Text note below.

AMENDMENTS

1988—Subsec. (a)(2). Pub. L. 100–711 inserted ‘‘, public display, or enhancing the survival or recovery of a species or stock’’ after ‘‘scientific research’’.

1981—Subsec. (b). Pub. L. 97–58 substituted ‘‘provide each annual report required under section 1404 of this title, before submission to Congress, to the Secretary for comment’’ for ‘‘furnish its reports and recommendations to him, before publication, for his comment’’.

1973—Subsec. (a)(6). Pub. L. 93–205 substituted ‘‘such revisions of the endangered species list and threatened species list published pursuant to section 1533(c)(1) of this title’’ for ‘‘of the Interior such revisions of the Endangered Species List, authorized by the Endangered Species Conservation Act of 1969,’’.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as an Effective Date note under section 1531 of this title.

§ 1403. Committee of Scientific Advisors on Marine Mammals

(a) Establishment; membership

The Commission shall establish, within ninety days after its establishment, a Committee of Scientific Advisors on Marine Mammals (hereafter referred to in this subchapter as the ‘‘Committee’’). Such Committee shall consist of nine scientists knowledgeable in marine ecology and marine mammal affairs appointed by the Chairman after consultation with the Chairman of the Council on Environmental Quality, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the Chairman of the National Academy of Sciences.

(b) Compensation; reimbursement for travel expenses

Except for United States Government employees, members of the Committee shall each be compensated at a rate equal to the daily equivalent of the rate for GS–18 of the General Schedule under section 5332 of title 5, for each day such member is engaged in the actual performance of duties vested in the Committee. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(c) Consultation with Commission on studies and recommendations; explanation for nonadoption

The Commission shall consult with the Committee on all studies and recommendations which it may propose to make or has made, on research programs conducted or proposed to be conducted under the authority of this chapter, and on all applications for permits for scientific research. Any recommendations made by the Committee or any of its members which are not adopted by the Commission shall be transmitted by the Commission to the appropriate Federal agency and to the appropriate committees of Congress with a detailed explanation of the Commission's reasons for not accepting such recommendations.

(Pub. L. 92–522, title II, § 203, Oct. 21, 1972, 86 Stat. 1044.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 1404. Omitted

CODIFICATION

Section, Pub. L. 92–522, title II, § 204, Oct. 21, 1972, 86 Stat. 1045, which required the Marine Mammal Commission to transmit to Congress, by January 31 of each year, a report including a description of the Commission's activities and accomplishments during the preceding year and all findings and recommendations made by and to the Commission pursuant to section 1402 of this title together with responses made to those recommendations, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 176 of House Document No. 103–7.

§ 1405. Coordination with other Federal agencies

The Commission shall have access to all studies and data compiled by Federal agencies regarding marine mammals. With the consent of the appropriate Secretary or Agency head, the Commission may also utilize the facilities or services of any Federal agency and shall take every feasible step to avoid duplication of research and to carry out the purposes of this chapter.

(Pub. L. 92–522, title II, § 205, Oct. 21, 1972, 86 Stat. 1045.)

§ 1406. Administration

The Commission, in carrying out its responsibilities under this subchapter, may—

(1) employ and fix the compensation of such personnel;

(2) acquire, furnish, and equip such office space;

(3) enter into such contracts or agreements with, or provide such grants to, other organizations, both public and private;

(4) procure the services of such experts or consultants or an organization thereof as is authorized under section 3109 of title 5 (but at rates for individuals not to exceed $100 per diem); and

(5) incur such necessary expenses and exercise such other powers, as are consistent with and reasonably required to perform its functions under this subchapter; except that no fewer than 11 employees must be employed

under paragraph (1) at any time. Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of General Services.

(Pub. L. 92–522, title II, § 206, Oct. 21, 1972, 86 Stat. 1045; Pub. L. 97–58, § 6(2), Oct. 9, 1981, 95 Stat. 987; Pub. L. 98–364, title I, § 103(b), July 17, 1984, 98 Stat. 442.)

AMENDMENTS

1984—Par. (5). Pub. L. 98–364 inserted ''; except that no fewer than 11 employees must be employed under paragraph (1) at any time'' at end.

1981—Par. (3). Pub. L. 97–58 substituted ''contracts or agreements with, or provide such grants to, other organizations'' for ''contracts or agreements with other organizations''.

§ 1407. Authorization of appropriations

There are authorized to be appropriated to the Marine Mammal Commission, for purposes of carrying out this subchapter, $1,500,000 for fiscal year 1994, $1,550,000 for fiscal year 1995, $1,600,000 for fiscal year 1996, $1,650,000 for fiscal year 1997, $1,700,000 for fiscal year 1998, and $1,750,000 for fiscal year 1999.

(Pub. L. 92–522, title II, § 207, Oct. 21, 1972, 86 Stat. 1046; Pub. L. 95–136, § 3, Oct. 18, 1977, 91 Stat. 1167; Pub. L. 95–316, § 4, July 10, 1978, 92 Stat. 381; Pub. L. 103–238, § 9(b), Apr. 30, 1994, 108 Stat. 543.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 97–58, § 7(c), Oct. 9, 1981, 95 Stat. 987; Pub. L. 98–364, title I, § 104(3), July 17, 1984, 98 Stat. 442; Pub. L. 100–711, § 6(3), Nov. 23, 1988, 102 Stat. 4771, prior to repeal by Pub. L. 103–238, § 9(c).

AMENDMENTS

1994—Pub. L. 103–238 amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated for the fiscal year in which this subchapter is enacted and for the next five fiscal years thereafter such sums as may be necessary to carry out this subchapter, but the sums appropriated for any fiscal year other than the fiscal year ending September 30, 1978, shall not exceed $1,000,000, the sum appropriated for the fiscal year ending September 30, 1978, shall not exceed $2,000,000, the sum appropriated for the fiscal year ending September 30, 1979, shall not exceed $1,000,000, the sum appropriated for the fiscal year ending September 30, 1980, shall not exceed $1,000,000, and the sum appropriated for the fiscal year ending September 30, 1981, shall not exceed $1,000,000.''

1978—Pub. L. 95–316 added provisions authorizing appropriations for the fiscal years ending Sept. 30, 1979, Sept. 30, 1980, and Sept. 30, 1981.

1977—Pub. L. 95–136 substituted ''five fiscal years'' for ''four fiscal years'' and ''the sums appropriated for any fiscal year other than the fiscal year ending September 30, 1978, shall not exceed $1,000,000, and the sum appropriated for the fiscal year ending September 30, 1978, shall not exceed $2,000,000'' for ''the sums appropriated for any such year shall not exceed $1,000,000'' and struck out requirement that not less than two-thirds of the sums appropriated pursuant to this section for any such year be expended on research and studies under authority of section 1402(a)(2) and (3) of this title.

SUBCHAPTER IV—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

§ 1411. Findings and policy

(a) Findings

The Congress finds the following:

(1) The yellowfin tuna fishery of the eastern tropical Pacific Ocean has resulted in the deaths of millions of dolphins.

(2) Significant awareness and increased concern for the health and safety of dolphin populations has encouraged a change in fishing methods worldwide.

(3) United States tuna fishing vessels have led the world in the development of fishing methods to reduce dolphin mortalities in the eastern tropical Pacific Ocean and United States tuna processing companies have voluntarily promoted the marketing of tuna that is dolphin safe.

(4) Nations harvesting yellowfin tuna in the eastern tropical Pacific Ocean have demonstrated their willingness to participate in appropriate multilateral agreements to reduce dolphin mortality progressively to a level approaching zero through the setting of annual limits, with the goal of eliminating dolphin mortality in that fishery. Recognition of the International Dolphin Conservation Program will assure that the existing trend of reduced dolphin mortality continues; that individual stocks of dolphins are adequately protected; and that the goal of eliminating all dolphin mortality continues to be a priority.

(b) Policy

It is the policy of the United States to—

(1) eliminate the marine mammal mortality resulting from the intentional encirclement of dolphins and other marine mammals in tuna purse seine fisheries;

(2) support the International Dolphin Conservation Program and efforts within the Program to reduce, with the goal of eliminating, the mortality referred to in paragraph (1);

(3) ensure that the market of the United States does not act as an incentive to the harvest of tuna caught with driftnets or caught by purse seine vessels in the eastern tropical Pacific Ocean not operating in compliance with the International Dolphin Conservation Program;

(4) secure appropriate multilateral agreements to ensure that United States tuna fishing vessels shall have continued access to productive tuna fishing grounds in the South Pacific Ocean and elsewhere; and

(5) encourage observer coverage on purse seine vessels fishing for tuna outside of the eastern tropical Pacific Ocean in a fishery in which the Secretary has determined that a regular and significant association occurs between marine mammals and tuna, and in which tuna is harvested through the use of purse seine nets deployed on or to encircle marine mammals.

(Pub. L. 92–522, title III, § 301, as added Pub. L. 102–523, § 2(a), Oct. 26, 1992, 106 Stat. 3425; amended Pub. L. 105–42, § 6(b), Aug. 15, 1997, 111 Stat. 1129.)

CODIFICATION

Another section 301 of Pub. L. 92–522 was renumbered section 401 and is classified to section 1421 of this title.

AMENDMENTS

1997—Subsec. (a)(4). Pub. L. 105–42, § 6(b)(1), added par. (4) and struck out former par. (4) which read as follows: ''Nations harvesting yellowfin tuna in the eastern tropical Pacific Ocean have indicated their willingness to participate in appropriate multilateral agreements to reduce, and eventually eliminate, dolphin mortality in that fishery.''

Subsec. (b)(2), (3). Pub. L. 105–42, § 6(b)(2), added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

''(2) secure appropriate multilateral agreements to reduce, and eventually eliminate, the mortality referred to in paragraph (1);

''(3) ensure that the market of the United States does not act as an incentive to the harvest of tuna caught in association with dolphins or with driftnets;''.

EFFECTIVE DATE OF 1997 AMENDMENT

For effective date of amendment by Pub. L. 105–42, see section 8 of Pub. L. 105–42, set out as a note under section 1362 of this title.

§ 1412. International Dolphin Conservation Program

The Secretary of State, in consultation with the Secretary, shall seek to secure a binding international agreement to establish an International Dolphin Conservation Program that requires—

(1) that the total annual dolphin mortality in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean shall not exceed 5,000 animals with a commitment and objective to progressively reduce dolphin mortality to a level approaching zero through the setting of annual limits;

(2) the establishment of a per-stock per-year dolphin mortality limit, to be in effect through calendar year 2000, at a level between 0.2 percent and 0.1 percent of the minimum population estimate, as calculated, revised, or approved by the Secretary;

(3) the establishment of a per-stock per-year dolphin mortality limit, beginning with the calendar year 2001, at a level less than or equal to 0.1 percent of the minimum population estimate as calculated, revised, or approved by the Secretary;

(4) that if a dolphin mortality limit is exceeded under—

(A) paragraph (1), all sets on dolphins shall cease for the applicable fishing year; and

(B) paragraph (2) or (3), all sets on the stocks covered under paragraph (2) or (3) and any mixed schools that contain any of those stocks shall cease for the applicable fishing year;

(5) a scientific review and assessment to be conducted in calendar year 1998 to—

(A) assess progress in meeting the objectives set for calendar year 2000 under paragraph (2); and

(B) as appropriate, consider recommendations for meeting these objectives;

(6) a scientific review and assessment to be conducted in calendar year 2000—

(A) to review the stocks covered under paragraph (3); and

(B) as appropriate to consider recommendations to further the objectives set under that paragraph;

(7) the establishment of a per vessel maximum annual dolphin mortality limit consistent with the established per-year mortality limits, as determined under paragraphs (1) through (3); and

(8) the provision of a system of incentives to vessel captains to continue to reduce dolphin mortality, with the goal of eliminating dolphin mortality.

(Pub. L. 92–522, title III, § 302, as added Pub. L. 105–42, § 6(c), Aug. 15, 1997, 111 Stat. 1130.)

PRIOR PROVISIONS

A prior section 1412, Pub. L. 92–522, title III, § 302, as added Pub. L. 102–523, § 2(a), Oct. 26, 1992, 106 Stat. 3426, related to international agreements to establish global moratorium to prohibit certain tuna harvesting practices prior to repeal by Pub. L. 105–42, § 6(c), Aug. 15, 1997, 111 Stat. 1130.

A prior section 302 of Pub. L. 92–522 was renumbered section 402 and is classified to section 1421a of this title.

EFFECTIVE DATE

For effective date of section, see section 8 of Pub. L. 105–42, set out as an Effective Date of 1997 Amendment note under section 1362 of this title.

§ 1413. Regulatory authority of Secretary

(a) Regulations

(1) The Secretary shall issue regulations, and revise those regulations as may be appropriate, to implement the International Dolphin Conservation Program.

(2)(A) The Secretary shall issue regulations to authorize and govern the taking of marine mammals in the eastern tropical Pacific Ocean, including any species of marine mammal designated as depleted under this chapter but not listed as endangered or threatened under the Endangered Species Act (16 U.S.C. 1531 et seq.), by vessels of the United States participating in the International Dolphin Conservation Program.

(B) Regulations issued under this section shall include provisions—

(i) requiring observers on each vessel;

(ii) requiring use of the backdown procedure or other procedures equally or more effective in avoiding mortality of, or serious injury to, marine mammals in fishing operations;

(iii) prohibiting intentional sets on stocks and schools in accordance with the International Dolphin Conservation Program;

(iv) requiring the use of special equipment, including dolphin safety panels in nets, monitoring devices as identified by the International Dolphin Conservation Program to detect unsafe fishing conditions that may cause high incidental dolphin mortality before nets are deployed by a tuna vessel, operable rafts, speedboats with towing bridles, floodlights in operable condition, and diving masks and snorkels;

(v) ensuring that the backdown procedure during sets of purse seine net on marine mammals is completed and rolling of the net to sack up has begun no later than 30 minutes before sundown;

(vi) banning the use of explosive devices in all purse seine operations;

(vii) establishing per vessel maximum annual dolphin mortality limits, total dolphin mortality limits and per-stock per-year mortality limits in accordance with the International Dolphin Conservation Program;

(viii) preventing the making of intentional sets on dolphins after reaching either the vessel maximum annual dolphin mortality limits, total dolphin mortality limits, or per-stock per-year mortality limits;

(ix) preventing the fishing on dolphins by a vessel without an assigned vessel dolphin mortality limit;

(x) allowing for the authorization and conduct of experimental fishing operations, under such terms and conditions as the Secretary may prescribe, for the purpose of testing proposed improvements in fishing techniques and equipment that may reduce or eliminate dolphin mortality or serious injury do not require the encirclement of dolphins in the course of commercial yellowfin tuna fishing;

(xi) authorizing fishing within the area covered by the International Dolphin Conservation Program by vessels of the United States without the use of special equipment or nets if the vessel takes an observer and does not intentionally deploy nets on, or encircle, dolphins, under such terms and conditions as the Secretary may prescribe; and

(xii) containing such other restrictions and requirements as the Secretary determines are necessary to implement the International Dolphin Conservation Program with respect to vessels of the United States.

(C) ADJUSTMENTS TO REQUIREMENTS.—The Secretary may make such adjustments as may be appropriate to requirements of subparagraph (B) that pertain to fishing gear, vessel equipment, and fishing practices to the extent the adjustments are consistent with the International Dolphin Conservation Program.

(b) Consultation

In developing any regulation under this section, the Secretary shall consult with the Secretary of State, the Marine Mammal Commission, and the United States Commissioners to the Inter-American Tropical Tuna Commission appointed under section 952 of this title.

(c) Emergency regulations

(1) If the Secretary determines, on the basis of the best scientific information available (including research conducted under section 1414a of this title and information obtained under the International Dolphin Conservation Program) that the incidental mortality and serious injury of marine mammals authorized under this subchapter is having, or is likely to have, a significant adverse impact on a marine mammal stock or species, the Secretary shall—

(A) notify the Inter-American Tropical Tuna Commission of his or her determination, along with recommendations to the Commission as to actions necessary to reduce incidental mortality and serious injury and mitigate such adverse impact; and

(B) prescribe emergency regulations to reduce incidental mortality and serious injury and mitigate such adverse impact.

(2) Before taking action under subparagraph (A) or (B) of paragraph (1), the Secretary shall consult with the Secretary of State, the Marine Mammal Commission, and the United States Commissioners to the Inter-American Tropical Tuna Commission.

(3) Emergency regulations prescribed under this subsection—

(A) shall be published in the Federal Register, together with an explanation thereof;

(B) shall remain in effect for the duration of the applicable fishing year; and

(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination if the Secretary determines that the reasons for the emergency action no longer exist.

(4) If the Secretary finds that the incidental mortality and serious injury of marine mammals in the yellowfin tuna fishery in the eastern tropical Pacific Ocean is continuing to have a significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for such additional periods as may be necessary.

(5) Within 120 days after the Secretary notifies the United States Commissioners to the Inter-American Tropical Tuna Commission of the Secretary's determination under paragraph (1)(A), the United States Commissioners shall call for a special meeting of the Commission to address the actions necessary to reduce incidental mortality and serious injury and mitigate the adverse impact which resulted in the determination. The Commissioners shall report the results of the special meeting in writing to the Secretary and to the Secretary of State. In their report, the Commissioners shall—

(A) include a description of the actions taken by the harvesting nations or under the International Dolphin Conservation Program to reduce the incidental mortality and serious injury and measures to mitigate the adverse impact on the marine mammal species or stock;

(B) indicate whether, in their judgment, the actions taken address the problem adequately; and

(C) if they indicate that the actions taken do not address the problem adequately, include recommendations of such additional action to be taken as may be necessary.

(Pub. L. 92–522, title III, § 303, as added Pub. L. 105–42, § 6(c), Aug. 15, 1997, 111 Stat. 1131.)

REFERENCES IN TEXT

The Endangered Species Act, referred to in subsec. (a)(2)(A), probably means the Endangered Species Act of 1973, Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

PRIOR PROVISIONS

A prior section 1413, Pub. L. 92–522, title III, § 303, as added Pub. L. 102–523, § 2(a), Oct. 26, 1992, 106 Stat. 3426, related to research programs prior to repeal by Pub. L. 105–42, § 6(c), Aug. 15, 1997, 111 Stat. 1130.

A prior section 303 of Pub. L. 92–522 was renumbered section 403 and is classified to section 1421b of this title.

EFFECTIVE DATE

For effective date of section, see section 8 of Pub. L. 105–42, set out as an Effective Date of 1997 Amendment note under section 1362 of this title.

§ 1414. Repealed. Pub. L. 105–42, § 6(c), Aug. 15, 1997, 111 Stat. 1130

Section, Pub. L. 92–522, title III, § 304, as added Pub. L. 102–523, § 2(a), Oct. 26, 1992, 106 Stat. 3428, related to reviews, reports, and recommendations by Secretary of Commerce.

A prior section 304 of Pub. L. 92–522 was renumbered section 404 and is classified to section 1421c of this title.

EFFECTIVE DATE OF REPEAL

For effective date of repeal, see section 8 of Pub. L. 105–42, set out as an Effective Date of 1997 Amendment note under section 1362 of this title.

§ 1414a. Research

(a) Required research

(1) In general

The Secretary shall, in consultation with the Marine Mammal Commission and the Inter-American Tropical Tuna Commission, conduct a study of the effect of intentional encirclement (including chase) on dolphins and dolphin stocks incidentally taken in the course of purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean. The study, which shall commence on October 1, 1997, shall consist of abundance surveys as described in paragraph (2) and stress studies as described in paragraph (3), and shall address the question of whether such encirclement is having a significant adverse impact on any depleted dolphin stock in the eastern tropical Pacific Ocean.

(2) Population abundance surveys

The abundance surveys under this subsection shall survey the abundance of such depleted stocks and shall be conducted during each of the calendar years 1998, 1999, and 2000.

(3) Stress studies

The stress studies under this subsection shall include—

(A) a review of relevant stress-related research and a 3-year series of necropsy samples from dolphins obtained by commercial vessels;

(B) a 1-year review of relevant historical demographic and biological data related to dolphins and dolphin stocks referred to in paragraph (1); and

(C) an experiment involving the repeated chasing and capturing of dolphins by means of intentional encirclement.

(4) Report

No later than 90 days after publishing the finding under subsection (g)(2) of section 1385 of this title, the Secretary shall complete and submit a report containing the results of the research described in this subsection to the United States Senate Committee on Commerce, Science, and Transportation and the United States House of Representatives Committees on Resources and on Commerce, and to the Inter-American Tropical Tuna Commission.

(b) Other research

(1) In general

In addition to conducting the research described in subsection (a) of this section, the Secretary shall, in consultation with the Marine Mammal Commission and in cooperation with the nations participating in the International Dolphin Conservation Program and the Inter-American Tropical Tuna Commission, undertake or support appropriate scientific research to further the goals of the International Dolphin Conservation Program.

(2) Specific areas of research

Research carried out under paragraph (1) may include—

(A) projects to devise cost-effective fishing methods and gear so as to reduce, with the goal of eliminating, the incidental mortality and serious injury of marine mammals in connection with commercial purse seine fishing in the eastern tropical Pacific Ocean;

(B) projects to develop cost-effective methods of fishing for mature yellowfin tuna without setting nets on dolphins or other marine mammals;

(C) projects to carry out stock assessments for those marine mammal species and marine mammal stocks taken in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean, including species or stocks not within waters under the jurisdiction of the United States; and

(D) projects to determine the extent to which the incidental take of nontarget species, including juvenile tuna, occurs in the course of purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean, the geographic location of the incidental take, and the impact of that incidental take on tuna stocks and nontarget species.

(c) Authorization of appropriations

(1) There are authorized to be appropriated to the Secretary the following amounts, to be used by the Secretary to carry out the research described in subsection (a) of this section:

(A) $4,000,000 for fiscal year 1998.
(B) $3,000,000 for fiscal year 1999.
(C) $4,000,000 for fiscal year 2000.
(D) $1,000,000 for fiscal year 2001.

(2) In addition to the amount authorized to be appropriated under paragraph (1), there are authorized to be appropriated to the Secretary for carrying out this section $3,000,000 for each of the fiscal years 1998, 1999, 2000, and 2001.

(Pub. L. 92–522, title III, § 304, as added Pub. L. 105–42, § 6(c), Aug. 15, 1997, 111 Stat. 1133.)

PRIOR PROVISIONS

A prior section 304 of Pub. L. 92–522 was classified to section 1414 of this title prior to repeal by Pub. L. 105–42.

CHANGE OF NAME

Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§ 1415. Reports by Secretary

Notwithstanding section 1373(f) of this title, the Secretary shall submit annual reports to the Congress which include—

(1) results of research conducted pursuant to section 1414a of this title;

(2) a description of the status and trends of stocks of tuna;

(3) a description of the efforts to assess, avoid, reduce, and minimize the bycatch of juvenile yellowfin tuna and bycatch of nontarget species;

(4) a description of the activities of the International Dolphin Conservation Program and of the efforts of the United States in support of the Program's goals and objectives, including the protection of dolphin stocks in the eastern tropical Pacific Ocean, and an assessment of the effectiveness of the Program;

(5) actions taken by the Secretary under section 1371(a)(2)(B) of this title and section 1371(d) of this title;

(6) copies of any relevant resolutions and decisions of the Inter-American Tropical Tuna Commission, and any regulations promulgated by the Secretary under this subchapter; and

(7) any other information deemed relevant by the Secretary.

(Pub. L. 92–522, title III, § 305, as added Pub. L. 105–42, § 6(c), Aug. 15, 1997, 111 Stat. 1134.)

PRIOR PROVISIONS

A prior section 1415, Pub. L. 92–522, title III, § 305, as added Pub. L. 102–523, § 2(a), Oct. 26, 1992, 106 Stat. 3428, related to international commitments, prior to repeal by Pub. L. 105–42, § 6(c), Aug. 15, 1997, 111 Stat. 1130.

A prior section 305 of Pub. L. 92–522 was renumbered section 405 and is classified to section 1421d of this title.

EFFECTIVE DATE

For effective date of section, see section 8 of Pub. L. 105–42, set out as an Effective Date of 1997 Amendment note under section 1362 of this title.

§ 1416. Permits

(a) In general

(1) Consistent with the regulations issued pursuant to section 1413 of this title, the Secretary shall issue a permit to a vessel of the United States authorizing participation in the International Dolphin Conservation Program and may require a permit for the person actually in charge of and controlling the fishing operation of the vessel. The Secretary shall prescribe such procedures as are necessary to carry out this subsection, including requiring the submission of—

(A) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof; and

(B) the tonnage, hold capacity, speed, processing equipment, and type and quantity of gear, including an inventory of special equipment required under section 1413 of this title, with respect to each vessel.

(2) The Secretary is authorized to charge a fee for granting an authorization and issuing a permit under this section. The level of fees charged under this paragraph may not exceed the administrative cost incurred in granting an authorization and issuing a permit. Fees collected under this paragraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in granting authorizations and issuing permits under this section.

(3) After the effective date of the International Dolphin Conservation Program Act, no vessel of the United States shall operate in the yellowfin tuna fishery in the eastern tropical Pacific Ocean without a valid permit issued under this section.

(b) Permit sanctions

(1) In any case in which—

(A) a vessel for which a permit has been issued under this section has been used in the commission of an act prohibited under section 1417 of this title;

(B) the owner or operator of any such vessel or any other person who has applied for or been issued a permit under this section has acted in violation of section 1417 of this title; or

(C) any civil penalty or criminal fine imposed on a vessel, owner or operator of a vessel, or other person who has applied for or been issued a permit under this section has not been paid or is overdue,

the Secretary may—

(i) revoke any permit with respect to such vessel, with or without prejudice to the issuance of subsequent permits;

(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

(iii) deny such permit; or

(iv) impose additional conditions or restrictions on any permit issued to, or applied for by, any such vessel or person under this section.

(2) In imposing a sanction under this subsection, the Secretary shall take into account—

(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

(B) with respect to the violator, the degree of culpability, any history of prior offenses, and other such matters as justice requires.

(3) Transfer of ownership of a vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel at the time of transfer.

(4) In the case of any permit that is suspended for the failure to pay a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

(5) No sanctions shall be imposed under this section unless there has been a prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this subchapter or otherwise.

(Pub. L. 92–522, title III, § 306, as added Pub. L. 105–42, § 6(c), Aug. 15, 1997, 111 Stat. 1135.)

REFERENCES IN TEXT

For effective date of the International Dolphin Conservation Program Act [Pub. L. 105–42], referred to in subsec. (a)(3), see section 8 of Pub. L. 105–42, set out as an Effective Date of 1997 Amendment note under section 1362 of this title.

PRIOR PROVISIONS

A prior section 1416, Pub. L. 92–522, title III, § 306, as added Pub. L. 102–523, § 2(a), Oct. 26, 1992, 106 Stat. 3430, related to permits for taking dolphins, prior to repeal by Pub. L. 105–42, § 6(c), Aug. 15, 1997, 111 Stat. 1130.

A prior section 306 of Pub. L. 92–522 was renumbered section 406 and is classified to section 1421e of this title.

EFFECTIVE DATE

For effective date of section, see section 8 of Pub. L. 105–42, set out as an Effective Date of 1997 Amendment note under section 1362 of this title.

§ 1417. Prohibitions

(a) In general

It is unlawful—

(1) for any person to sell, purchase, offer for sale, transport, or ship, in the United States, any tuna or tuna product unless the tuna or tuna product is either dolphin safe or has been harvested in compliance with the International Dolphin Conservation Program by a country that is a member of the Inter-American Tropical Tuna Commission or has initiated and within 6 months thereafter completed all steps required of applicant nations in accordance with Article V, paragraph 3 of the Convention establishing the Inter-American Tropical Tuna Commission, to become a member of that organization;

(2) except as provided for in subsection 1371(d) of this title, for any person or vessel subject to the jurisdiction of the United States intentionally to set a purse seine net on or to encircle any marine mammal in the course of tuna fishing operations in the eastern tropical Pacific Ocean except in accordance with this subchapter and regulations issued pursuant to this subchapter; and

(3) for any person to import any yellowfin tuna or yellowfin tuna product or any other fish or fish product in violation of a ban on importation imposed under section 1371(a)(2) of this title;

(4) for any person to violate any regulation promulgated under this subchapter;

(5) for any person to refuse to permit any duly authorized officer to board a vessel subject to that person's control for purposes of conducting any search or inspection in connection with the enforcement of this subchapter; and

(6) for any person to assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in paragraph (5).

(b) Penalties

(1) Civil penalty

A person that knowingly and willfully violates subsection (a)(1), (2), (3), (4), or (5) of this section shall be subject to a civil penalty under section 1375(a) of this title.

(2) Criminal penalty

A person that knowingly and willfully violates subsection (a)(5) or (a)(6) of this section shall be subject to a criminal penalty under section 1375(b) of this title.

(c) Civil forfeitures

Any vessel (including its fishing gear, appurtenances, stores, and cargo) used, and any fish (or its fair market value) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by this section shall be subject to forfeiture to the United States in the manner provided in section 1860 of this title.

(Pub. L. 92–522, title III, § 307, as added Pub. L. 102–523, § 2(a), Oct. 26, 1992, 106 Stat. 3431; amended Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41; Pub. L. 105–42, § 6(d), Aug. 15, 1997, 111 Stat. 1136.)

CODIFICATION

Another section 307 of Pub. L. 92–522 was renumbered section 407 and is classified to section 1421f of this title.

AMENDMENTS

1997—Subsec. (a)(1) to (3). Pub. L. 105–42, § 6(d)(1), added pars. (1) to (3) and struck out former pars. (1) to (3) which read as follows:

''(1) for any person, after June 1, 1994, to sell, purchase, offer for sale, transport, or ship, in the United States, any tuna or tuna product that is not dolphin safe;

''(2) for any person or vessel that is subject to the jurisdiction of the United States, intentionally to set a purse seine net on or to encircle any marine mammal during any tuna fishing operation after February 28, 1994, except—

''(A) as necessary for scientific research approved by the Inter-American Tropical Tuna Commission;

''(B) in accordance with a recommendation that is approved under section 1412(c)(2) of this title; or

''(C) as authorized by the general permit issued to the American Tunaboat Association on December 1, 1980 (including any additional restrictions applicable under section 1416(a) of this title), notwithstanding any agreement under section 1412 of this title with a country that is not a major purse seine tuna fishing country (as that term is defined in section 1416(c) of this title);

''(3) for any person to import any yellowfin tuna or yellowfin tuna product or any other fish or fish product in violation of a ban on importation imposed under section 1415(b)(1) or (2) of this title;''.

Subsec. (b)(2). Pub. L. 105–42, § 6(d)(2), inserted ''(a)(5) or'' before ''(a)(6)''.

Subsec. (d). Pub. L. 105–42, § 6(d)(3), struck out heading and text of subsec. (d). Text read as follows: ''For purposes of this section, tuna or a tuna product is dolphin safe if—

''(1) it does not contain tuna that was harvested on the high seas by a vessel engaged in driftnet fishing, as that term is defined in section 4003 of the Driftnet Impact, Monitoring, Assessment, and Control Act of 1987;

''(2) in the case of tuna or a tuna product that contains tuna harvested in the eastern tropical Pacific Ocean, it is dolphin safe under subsection (d)(2) of section 1385 of this title;

''(3) in the case of tuna or a tuna product that contains tuna harvested outside the eastern tropical Pacific Ocean by a purse seine vessel, it is accompanied by a written statement executed by the captain of the vessel certifying that no purse seine net was intentionally deployed on or to encircle dolphins during the particular voyage on which the tuna was harvested; and

''(4) in the case of tuna or a product that contains tuna harvested outside the eastern tropical Pacific Ocean by a purse seine vessel in a fishery in which the Secretary has determined that a regular and significant association occurs between marine mammals and tuna, and in which tuna is harvested through the use of purse seine nets deployed on or to encircle marine mammals, it is accompanied by a written statement executed by the captain of the vessel and by an observer, certifying that no purse seine net was intentionally deployed on or to encircle marine mammals during the particular voyage on which the tuna was harvested.''

1996—Subsec. (c). Pub. L. 104–208 made technical amendment to reference in original act which appears in text as reference to section 1860 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

For effective date of amendment by Pub. L. 105–42, see section 8 of Pub. L. 105–42, set out as a note under section 1362 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, §211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

§ 1418. Repealed. Pub. L. 105–42, § 6(e), Aug. 15, 1997, 111 Stat. 1137

Section, Pub. L. 92–522, title III, §308, as added Pub. L. 102–523, §2(a), Oct. 26, 1992, 106 Stat. 3432, related to authorization of appropriations.

Another section 308 of Pub. L. 92–522 was renumbered section 409, and is classified to section 1421g of this title.

EFFECTIVE DATE OF REPEAL

For effective date of repeal, see section 8 of Pub. L. 105–42, set out as an Effective Date of 1997 Amendment note under section 1362 of this title.

SUBCHAPTER V—MARINE MAMMAL HEALTH AND STRANDING RESPONSE

§ 1421. Establishment of Program

(a) Establishment

The Secretary shall, in consultation with the Secretary of the Interior, the Marine Mammal Commission, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, including stranding network participants, establish a program to be known as the ''Marine Mammal Health and Stranding Response Program''.

(b) Purposes

The purposes of the Program shall be to—

(1) facilitate the collection and dissemination of reference data on the health of marine mammals and health trends of marine mammal populations in the wild;

(2) correlate the health of marine mammals and marine mammal populations, in the wild, with available data on physical, chemical, and biological environmental parameters; and

(3) coordinate effective responses to unusual mortality events by establishing a process in the Department of Commerce in accordance with section 1421c of this title.

(Pub. L. 92–522, title IV, §401, formerly title III, §301, as added Pub. L. 102–587, title III, §3003(a), Nov. 4, 1992, 106 Stat. 5060; renumbered title IV, §401, and amended Pub. L. 103–238, §24(b), (c)(1), Apr. 30, 1994, 108 Stat. 565, 566.)

AMENDMENTS

1994—Subsec. (b)(3). Pub. L. 103–238, §24(c)(1), made technical amendment to reference to section 1421c of this title to reflect renumbering of corresponding section of original act.

FINDINGS

Section 3002 of Pub. L. 102–587 provided that: ''The Congress finds the following:

''(1) Current stranding network participants have performed an undeniably valuable and ceaseless job of responding to marine mammal strandings over the last 15 years.

''(2) Insufficient understanding of the connection between marine mammal health and the physical, chemical, and biological parameters of their environment prevents an adequate understanding of the causes of marine mammal unusual mortality events.

''(3) An accurate assessment of marine mammal health, health trends in marine mammal populations in the wild, and causes of marine mammal unusual mortality events cannot be made without adequate reference data on marine mammals and the environment in which they live.

''(4) A systematic assessment of the sources, presence, levels, and effects of potentially harmful contaminants on marine mammals would provide a better understanding of some of the causes of marine mammal unusual mortality events and may serve as an indicator of the general health of our coastal and marine environments.

''(5) Responses to marine mammal unusual mortality events are often uncoordinated, due to the lack of sufficient contingency planning.

''(6) Standardized methods for the reporting of dying, dead, or otherwise incapacitated marine mammals in the wild would greatly assist in the determination of the causes of marine mammal unusual mortality events and enhance general knowledge of marine mammal species.

''(7) A formal system for collection, preparation, and archiving of, and providing access to, marine mammal tissues will enhance efforts to investigate the health of marine mammals and health trends of marine mammal populations, and to develop reference data.

''(8) Information on marine mammals, including results of analyses of marine mammal tissues, should be broadly available to the scientific community, including stranding network participants, through a marine mammal data base.''

§ 1421a. Determination; data collection and dissemination

(a) Determination for release

The Secretary shall, in consultation with the Secretary of the Interior, the Marine Mammal Commission, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, including stranding network participants, develop objective criteria, after an opportunity for public review and comment, to provide guidance for determining at what point a rehabilitated marine mammal is releasable to the wild.

(b) Collection

The Secretary shall, in consultation with the Secretary of the Interior, collect and update, periodically, existing information on—

(1) procedures and practices for—

(A) rescuing and rehabilitating stranded marine mammals, including criteria used by stranding network participants, on a species-by-species basis, for determining at what point a marine mammal undergoing rescue and rehabilitation is returnable to the wild; and

(B) collecting, preserving, labeling, and transporting marine mammal tissues for physical, chemical, and biological analyses;

(2) appropriate scientific literature on marine mammal health, disease, and rehabilitation;

(3) strandings, which the Secretary shall compile and analyze, by region, to monitor species, numbers, conditions, and causes of illnesses and deaths of stranded marine mammals; and

(4) other life history and reference level data, including marine mammal tissue analyses, that would allow comparison of the causes of illness and deaths in stranded marine mammals with physical, chemical, and biological environmental parameters.

(c) Availability

The Secretary shall make information collected under this section available to stranding network participants and other qualified scientists.

(Pub. L. 92–522, title IV, § 402, formerly title III, § 302, as added Pub. L. 102–587, title III, § 3003(a), Nov. 4, 1992, 106 Stat. 5061; renumbered title IV, § 402, Pub. L. 103–238, § 24(b), Apr. 30, 1994, 108 Stat. 565.)

IMPLEMENTATION

Section 3003(b) of Pub. L. 102–587 provided that: ''The Secretary of Commerce shall—

''(1) in accordance with section 302(a) and (b) [now 402(a), (b)] of the Marine Mammal Protection Act of 1972 [16 U.S.C. 1421a(a), (b)], as amended by this Act, and not later than 24 months after the date of enactment of this Act [Nov. 4, 1992]—

''(A) develop and implement objective criteria to determine at what point a marine mammal undergoing rehabilitation is returnable to the wild; and

''(B) collect and make available information on marine mammal health and health trends; and

''(2) in accordance with section 304(b) [now 404(b)] of the Marine Mammal Protection Act of 1972 [16 U.S.C. 1421c(b)], as amended by this Act, issue a detailed contingency plan for responding to any unusual mortality event—

''(A) in proposed form by not later than 18 months after the date of enactment of this Act; and

''(B) in final form by not later than 24 months after the date of enactment of this Act.''

§ 1421b. Stranding response agreements

(a) In general

The Secretary may enter into an agreement under section 1382(c) of this title with any person to take marine mammals under section 1379(h)(1) of this title in response to a stranding.

(b) Required provision

An agreement authorized by subsection (a) of this section shall—

(1) specify each person who is authorized to perform activities under the agreement; and

(2) specify any terms and conditions under which a person so specified may delegate that authority to another person.

(c) Review

The Secretary shall periodically review agreements under section 1382(c) of this title that are entered into pursuant to this subchapter, for performance adequacy and effectiveness.

(Pub. L. 92–522, title IV, § 403, formerly title III, § 303, as added Pub. L. 102–587, title III, § 3003(a), Nov. 4, 1992, 106 Stat. 5061; renumbered title IV, § 403, Pub. L. 103–238, § 24(b), Apr. 30, 1994, 108 Stat. 565.)

§ 1421c. Unusual mortality event response

(a) Response

(1) Working group

(A) The Secretary, acting through the Office, shall establish, in consultation with the Secretary of the Interior, a marine mammal unusual mortality event working group, consisting of individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, marine conservation, and medical science, to provide guidance to the Secretary and the Secretary of the Interior for—

(i) determining whether an unusual mortality event is occurring;

(ii) determining, after an unusual mortality event has begun, if response actions with respect to that event are no longer necessary; and

(iii) developing the contingency plan in accordance with subsection (b) of this section, to assist the Secretary in responding to unusual mortality events.

(B) The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to the marine mammal unusual mortality event working group established under this paragraph.

(2) Response timing

The Secretary, in consultation with the Secretary of the Interior, shall to the extent necessary and practicable—

(A) within 24 hours after receiving notification from a stranding network participant that an unusual mortality event might be occurring, contact as many members as is possible of the unusual mortality event working group for guidance; and

(B) within 48 hours after receiving such notification—

(i) make a determination as to whether an unusual mortality event is occurring;

(ii) inform the stranding network participant of that determination; and

(iii) if the Secretary has determined an unusual mortality event is occurring, designate an Onsite Coordinator for the event, in accordance with subsection (c) of this section.

(b) Contingency plan

(1) In general

The Secretary shall, in consultation with the Secretary of the Interior and the unusual mortality event working group, and after an opportunity for public review and comment, issue a detailed contingency plan for responding to any unusual mortality event.

(2) Contents

The contingency plan required under this subsection shall include—

(A) a list of persons, including stranding network participants, at a regional, State, and local level, who can assist the Secretary in implementing a coordinated and effective response to an unusual mortality event;

(B) the types of marine mammal tissues and analyses necessary to assist in diagnosing causes of unusual mortality events;

(C) training, mobilization, and utilization procedures for available personnel, facilities, and other resources necessary to conduct a rapid and effective response to unusual mortality events; and

(D) such requirements as are necessary to—

(i) minimize death of marine mammals in the wild and provide appropriate care of marine mammals during an unusual mortality event;

(ii) assist in identifying the cause or causes of an unusual mortality event;

(iii) determine the effects of an unusual mortality event on the size estimates of the affected populations of marine mammals; and

(iv) identify any roles played in an unusual mortality event by physical, chemical, and biological factors, including contaminants.

(c) Onsite coordinators

(1) Designation

(A) The Secretary shall, in consultation with the Secretary of the Interior, designate one or more Onsite Coordinators for an unusual mortality event, who shall make immediate recommendations to the stranding network participants on how to proceed with response activities.

(B) An Onsite Coordinator so designated shall be one or more appropriate Regional Directors of the National Marine Fisheries Service or the United States Fish and Wildlife Service, or their designees.

(C) If, because of the wide geographic distribution, multiple species of marine mammals involved, or magnitude of an unusual mortality event, more than one Onsite Coordinator is designated, the Secretary shall, in consultation with the Secretary of the Interior, designate which of the Onsite Coordinators shall have primary responsibility with respect to the event.

(2) Functions

(A) An Onsite Coordinator designated under this subsection shall coordinate and direct the activities of all persons responding to an unusual mortality event in accordance with the contingency plan issued under subsection (b) of this section, except that—

(i) with respect to any matter that is not covered by the contingency plan, an Onsite Coordinator shall use his or her best professional judgment; and

(ii) the contingency plan may be temporarily modified by an Onsite Coordinator, consulting as expeditiously as possible with the Secretary, the Secretary of the Interior, and the unusual mortality event working group.

(B) An Onsite Coordinator may delegate to any qualified person authority to act as an Onsite Coordinator under this subchapter.

(Pub. L. 92–522, title IV, § 404, formerly title III, § 304, as added Pub. L. 102–587, title III, § 3003(a), Nov. 4, 1992, 106 Stat. 5062; renumbered title IV, § 404, Pub. L. 103–238, § 24(b), Apr. 30, 1994, 108 Stat. 565.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (a)(1)(B), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 1421d. Unusual mortality event activity funding

(a) Establishment of Fund

There is established in the Treasury an interest bearing fund to be known as the ''Marine Mammal Unusual Mortality Event Fund'', which shall consist of amounts deposited into the Fund under subsection (c) of this section.

(b) Uses

(1) In general

Amounts in the Fund—

(A) shall be available only for use by the Secretary, in consultation with the Secretary of the Interior—

(i) to compensate persons for special costs incurred in acting in accordance with the contingency plan issued under section 1421c(b) of this title or under the direction of an Onsite Coordinator for an unusual mortality event;

(ii) for reimbursing any stranding network participant for costs incurred in preparing and transporting tissues collected with respect to an unusual mortality event for the Tissue Bank; and

(iii) for care and maintenance of marine mammal seized under section 1374(c)(2)(D) of this title; and

(B) shall remain available until expended.

(2) Pending claims

If sufficient amounts are not available in the Fund to satisfy any authorized pending claim, such claim shall remain pending until such time as sufficient amounts are available. All authorized pending claims shall be satisfied in the order received.

(c) Deposits into Fund

There shall be deposited into the Fund—

(1) amounts appropriated to the Fund;

(2) other amounts appropriated to the Secretary for use with respect to unusual mortality events; and

(3) amounts received by the United States in the form of gifts, devises, and bequests under subsection (d) of this section.

(d) Acceptance of donations

For purposes of carrying out this subchapter and section 1374(c)(2)(D) of this title, the Secretary may accept, solicit, and use the services

of volunteers, and may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

(Pub. L. 92–522, title IV, § 405, formerly title III, § 305, as added Pub. L. 102–587, title III, § 3003(a), Nov. 4, 1992, 106 Stat. 5064; renumbered title IV, § 405, and amended Pub. L. 103–238, §§ 6, 16(b), 24(b), (c)(2), Apr. 30, 1994, 108 Stat. 542, 559, 565, 566.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–238, § 16(b), substituted ''an interest bearing fund'' for ''a fund''.

Subsec. (b)(1)(A)(i). Pub. L. 103–238, § 24(c)(2), made technical amendment to reference to section 1421c(b) of this title to reflect renumbering of corresponding section of original act.

Subsec. (b)(1)(A)(iii). Pub. L. 103–238, § 6(1), added cl. (iii).

Subsec. (d). Pub. L. 103–238, § 6(2), inserted ''and section 1374(c)(2)(D) of this title''.

§ 1421e. Liability

(a) In general

A person who is authorized to respond to a stranding pursuant to an agreement entered into under section 1382(c) of this title is deemed to be an employee of the government for purposes of chapter 171 of title 28, with respect to actions of the person that are—

(1) in accordance with the agreement; and

(2) in the case of an unusual mortality event, in accordance with—

(A) the contingency plan issued under section 1421c(b) of this title;

(B) the instructions of an Onsite Coordinator designated under section 1421c(c) of this title; or

(C) the best professional judgment of an Onsite Coordinator, in the case of any matter that is not covered by the contingency plan.

(b) Limitation

Subsection (a) of this section does not apply to actions of a person described in that subsection that are grossly negligent or that constitute willful misconduct.

(Pub. L. 92–522, title IV, § 406, formerly title III, § 306, as added Pub. L. 102–587, title III, § 3003(a), Nov. 4, 1992, 106 Stat. 5064; renumbered title IV, § 406, and amended Pub. L. 103–238, § 24(b), (c)(3), (4), Apr. 30, 1994, 108 Stat. 565, 566.)

AMENDMENTS

1994—Subsec. (a)(2)(A), (B). Pub. L. 103–238, § 24(c)(3), (4), made technical amendment to references to section 1421c of this title to reflect renumbering of corresponding section of original act.

§ 1421f. National Marine Mammal Tissue Bank and tissue analysis

(a) Tissue Bank

(1) In general

The Secretary shall make provision for the storage, preparation, examination, and archiving of marine mammal tissues. Tissues archived pursuant to this subsection shall be known as the ''National Marine Mammal Tissue Bank''.

(2) Guidance for marine mammal tissue collection, preparation, and archiving

The Secretary shall, in consultation with individuals with knowledge and expertise in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, issue guidance, after an opportunity for public review and comment, for marine mammal tissue collection, preparation, archiving, and quality control procedures, regarding—

(A) appropriate and uniform methods and standards for those activities to provide confidence in marine mammal tissue samples used for research; and

(B) documentation of procedures used for collecting, preparing, and archiving those samples.

(3) Source of tissue

In addition to tissues taken during marine mammal unusual mortality events, the Tissue Bank shall incorporate tissue samples taken from other sources in the wild, including—

(A) samples from marine mammals taken incidental to commercial fishing operations;

(B) samples from marine mammals taken for subsistence purposes;

(C) biopsy samples; and

(D) any other samples properly collected.

(b) Tissue analysis

The Secretary shall, in consultation with the Marine Mammal Commission, the Secretary of the Interior, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, issue guidance, after an opportunity for public review and comment, for analyzing tissue samples (by use of the most effective and advanced diagnostic technologies and tools practicable) as a means to monitor and measure overall health trends in representative species or populations of marine mammals, including—

(1) the levels of, and if possible, the effects of, potentially harmful contaminants; and

(2) the frequency of, and if possible, the causes and effects of abnormal lesions or anomalies.

(c) Data base

(1) In general

The Secretary shall maintain a central data base which provides an effective means for tracking and accessing data on marine mammals, including relevant data on marine mammal tissues collected for and maintained in the Tissue Bank.

(2) Contents

The data base established under this subsection shall include—

(A) reference data on the health of marine mammals and populations of marine mammals; and

(B) data on species of marine mammals that are subject to unusual mortality events.

(d) Access

The Secretary shall, in consultation with the Secretary of the Interior, establish criteria,

after an opportunity for public review and comment, for access to—

(1) marine mammal tissues in the Tissue Bank;

(2) analyses conducted pursuant to subsection (b) of this section; and

(3) marine mammal data in the data base maintained under subsection (c) of this section;

which provide for appropriate uses of the tissues, analyses, and data by qualified scientists, including stranding network participants.

(Pub. L. 92–522, title IV, § 407, formerly title III, § 307, as added Pub. L. 102–587, title III, § 3003(a), Nov. 4, 1992, 106 Stat. 5065; renumbered title IV, § 407, Pub. L. 103–238, § 24(b), Apr. 30, 1994, 108 Stat. 565.)

§ 1421f–1. John H. Prescott Marine Mammal Rescue Assistance Grant Program

(a) In general

(1) Subject to the availability of appropriations, the Secretary shall conduct a grant program to be known as the John H. Prescott Marine Mammal Rescue Assistance Grant Program, to provide grants to eligible stranding network participants for the recovery or treatment of marine mammals, the collection of data from living or dead stranded marine mammals for scientific research regarding marine mammal health, and facility operation costs that are directly related to those purposes.

(2)(A) The Secretary shall ensure that, to the greatest extent practicable, funds provided as grants under this subsection are distributed equitably among the stranding regions designated as of December 21, 2000, and in making such grants shall give preference to those facilities that have established records for rescuing or rehabilitating sick and stranded marine mammals in each of the respective regions, or subregions.

(B) In determining priorities among such regions, the Secretary may consider—

(i) any episodic stranding or any mortality event other than an event described in section 1421h(6) of this title, that occurred in any region in the preceding year;

(ii) data regarding average annual strandings and mortality events per region; and

(iii) the size of the marine mammal populations inhabiting a geographic area within such a region.

(b) Application

To receive a grant under this section, a stranding network participant shall submit an application in such form and manner as the Secretary may prescribe.

(c) Consultation

The Secretary shall consult with the Marine Mammal Commission, a representative from each of the designated stranding regions, and other individuals who represent public and private organizations that are actively involved in rescue, rehabilitation, release, scientific research, marine conservation, and forensic science regarding stranded marine mammals, regarding the development of criteria for the implementation of the grant program and the awarding of grants under the program.

(d) Limitation

The amount of a grant under this section shall not exceed $100,000.

(e) Matching requirement

(1) In general

The non-Federal share of the costs of an activity conducted with a grant under this section shall be 25 percent of such costs.

(2) In-kind contributions

The Secretary may apply to the non-Federal share of an activity conducted with a grant under this section the amount of funds, and the fair market value of property and services, provided by non-Federal sources and used for the activity.

(f) Administrative expenses

Of amounts available each fiscal year to carry out this section, the Secretary may expend not more than 6 percent or $80,000, whichever is greater, to pay the administrative expenses necessary to carry out this section.

(g) Definitions

In this section:

(1) Designated stranding region

The term ''designated stranding region'' means a geographic region designated by the Secretary for purposes of administration of this subchapter.

(2) Secretary

The term ''Secretary'' has the meaning given that term in section 1362(12)(A) of this title.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2001 through 2003, to remain available until expended, of which—

(1) $4,000,000 may be available to the Secretary of Commerce; and

(2) $1,000,000 may be available to the Secretary of the Interior.

(Pub. L. 92–522, title IV, § 408, as added Pub. L. 106–555, title II, § 202(a)(2), Dec. 21, 2000, 114 Stat. 2767.)

PRIOR PROVISIONS

A prior section 408 of Pub. L. 92–522 was renumbered section 409, and is classified to section 1421g of this title.

§ 1421g. Authorization of appropriations

There is authorized to be appropriated—

(1) to the Secretary for carrying out this subchapter (other than sections 1421d and 1421f of this title) $250,000 for each of fiscal years 1993 and 1994;

(2) to the Secretary for carrying out section 1421f of this title, $250,000 for each of fiscal years 1993 and 1994; and

(3) to the Fund, $500,000 for fiscal year 1993.

(Pub. L. 92–522, title IV, § 409, formerly title III, § 308, as added Pub. L. 102–587, title III, § 3003(a),

Nov. 4, 1992, 106 Stat. 5066; renumbered title IV, § 408, and amended Pub. L. 103–238, § 24(b), (c)(5), (6), Apr. 30, 1994, 108 Stat. 565, 566; renumbered § 409, Pub. L. 106–555, title II, § 202(a)(1), Dec. 21, 2000, 114 Stat. 2767.)

AMENDMENTS

1994—Par. (1). Pub. L. 103–238, § 24(c)(5), made technical amendment to references to sections 1421d and 1421f of this title to reflect renumbering of corresponding sections of original act.

Par. (2). Pub. L. 103–238, § 24(c)(6), made technical amendment to reference to section 1421f of this title to reflect renumbering of corresponding section of original act.

§ 1421h. Definitions

In this subchapter, the following definitions apply:

(1) The term ''Fund'' means the Marine Mammal Unusual Mortality Event Fund established by section 1421d(a) of this title.

(2) The term ''Office'' means the Office of Protected Resources, in the National Marine Fisheries Service.

(3) The term ''stranding'' means an event in the wild in which—

(A) a marine mammal is dead and is—

(i) on a beach or shore of the United States; or

(ii) in waters under the jurisdiction of the United States (including any navigable waters); or

(B) a marine mammal is alive and is—

(i) on a beach or shore of the United States and unable to return to the water;

(ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or

(iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance.

(4) The term ''stranding network participant'' means a person who is authorized by an agreement under section 1382(c) of this title to take marine mammals as described in section 1379(h)(1) of this title in response to a stranding.

(5) The term ''Tissue Bank'' means the National Marine Tissue Bank provided for under section 1421f(a) of this title.

(6) The term ''unusual mortality event'' means a stranding that—

(A) is unexpected;

(B) involves a significant die-off of any marine mammal population; and

(C) demands immediate response.

(Pub. L. 92–522, title IV, § 410, formerly title III, § 309, as added Pub. L. 102–587, title III, § 3003(a), Nov. 4, 1992, 106 Stat. 5066; renumbered title IV, § 409, and amended Pub. L. 103–238, § 24(b), (c)(7), (8), Apr. 30, 1994, 108 Stat. 565, 566; renumbered § 410, Pub. L. 106–555, title II, § 202(a)(1), Dec. 21, 2000, 114 Stat. 2767.)

AMENDMENTS

1994—Par. (1). Pub. L. 103–238, § 24(c)(7), made technical amendment to reference to section 1421d(a) of this title to reflect renumbering of corresponding section of original act.

Par. (5). Pub. L. 103–238, § 24(c)(8), made technical amendment to reference to section 1421f(a) of this title to reflect renumbering of corresponding section of original act.

SUBCHAPTER VI—POLAR BEARS

§ 1423. Definitions

In this subchapter:

(1) Agreement

The term ''Agreement'' means the Agreement Between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population, signed at Washington, D.C., on October 16, 2000.

(2) Alaska Nanuuq Commission

The term ''Alaska Nanuuq Commission'' means the Alaska Native entity, in existence on January 12, 2007, that represents all villages in the State of Alaska that engage in the annual subsistence taking of polar bears from the Alaska-Chukotka population and any successor entity.

(3) Import

The term ''import'' means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, without regard to whether the landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(4) Polar bear part or product

The term ''part or product of a polar bear'' means any polar bear part or product, including the gall bile and gall bladder.

(5) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(6) Taking

The term ''taking'' has the meaning given the term in the Agreement.

(7) Commission

The term ''Commission'' means the commission established under article 8 of the Agreement.

(Pub. L. 92–522, title V, § 501, as added Pub. L. 109–479, title IX, § 902(a), Jan. 12, 2007, 120 Stat. 3660.)

§ 1423a. Prohibitions

(a) In general

It is unlawful for any person who is subject to the jurisdiction of the United States or any person in waters or on lands under the jurisdiction of the United States—

(1) to take any polar bear in violation of the Agreement;

(2) to take any polar bear in violation of the Agreement or any annual taking limit or other restriction on the taking of polar bears that is adopted by the Commission pursuant to the Agreement;

(3) to import, export, possess, transport, sell, receive, acquire, or purchase, exchange, barter, or offer to sell, purchase, exchange, or barter any polar bear, or any part or product of a polar bear, that is taken in violation of paragraph (2);

(4) to import, export, sell, purchase, exchange, barter, or offer to sell, purchase, exchange, or barter, any polar bear gall bile or polar bear gall bladder;

(5) to attempt to commit, solicit another person to commit, or cause to be committed, any offense under this subsection; or

(6) to violate any regulation promulgated by the Secretary to implement any of the prohibitions established in this subsection.

(b) Exceptions

For the purpose of forensic testing or any other law enforcement purpose, the Secretary, and Federal law enforcement officials, and any State or local law enforcement official authorized by the Secretary, may import a polar bear or any part or product of a polar bear.

(Pub. L. 92–522, title V, § 502, as added Pub. L. 109–479, title IX, § 902(a), Jan. 12, 2007, 120 Stat. 3661.)

§ 1423b. Administration

(a) In general

The Secretary, acting through the Director of the United States Fish and Wildlife Service, shall do all things necessary and appropriate, including the promulgation of regulations, to implement, enforce, and administer the provisions of the Agreement on behalf of the United States. The Secretary shall consult with the Secretary of State and the Alaska Nanuuq Commission on matters involving the implementation of the Agreement.

(b) Utilization of other government resources and authorities

(1) Other government resources

The Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency, any State agency, or the Alaska Nanuuq Commission for purposes of carrying out this subchapter or the Agreement.

(2) Other powers and authorities

Any person authorized by the Secretary under this subsection to enforce this subchapter or the Agreement shall have the authorities that are enumerated in section 3375(b) of this title.

(c) Ensuring compliance

(1) Subchapter II authorities

The Secretary may use authorities granted under subchapter II for enforcement, imposition of penalties, and the seizure of cargo for violations under this subchapter, provided that any polar bear or any part or product of a polar bear taken, imported, exported, possessed, transported, sold, received, acquired, purchased, exchanged, or bartered, or offered for sale, purchase, exchange, or barter in violation of this subchapter, shall be subject to seizure and forfeiture to the United States without any showing that may be required for assessment of a civil penalty or for criminal prosecution under this chapter.

(2) Additional authorities

Any gun, trap, net, or other equipment used, and any vessel, aircraft, or other means of transportation used, to aid in the violation or attempted violation of this subchapter shall be subject to seizure and forfeiture under section 1376 of this title.

(d) Regulations

(1) In general

The Secretary shall promulgate such regulations as are necessary to carry out this subchapter and the Agreement.

(2) Ordinances and regulations

If necessary to carry out this subchapter and the Agreement, and to improve compliance with any annual taking limit or other restriction on taking adopted by the Commission and implemented by the Secretary in accordance with this subchapter, the Secretary may promulgate regulations that adopt any ordinance or regulation that restricts the taking of polar bears for subsistence purposes if the ordinance or regulation has been promulgated by the Alaska Nanuuq Commission.

(Pub. L. 92–522, title V, § 503, as added Pub. L. 109–479, title IX, § 902(a), Jan. 12, 2007, 120 Stat. 3662.)

§ 1423c. Cooperative management agreement; authority to delegate enforcement authority

(a) In general

The Secretary, acting through the Director of the United States Fish and Wildlife Service, may share authority under this subchapter for the management of the taking of polar bears for subsistence purposes with the Alaska Nanuuq Commission if such commission is eligible under subsection (b).

(b) Delegation

To be eligible for the management authority described in subsection (a), the Alaska Nanuuq Commission shall—

(1) enter into a cooperative agreement with the Secretary under section 1388 of this title for the conservation of polar bears;

(2) meaningfully monitor compliance with this subchapter and the Agreement by Alaska Natives; and

(3) administer its co-management program for polar bears in accordance with—

(A) this subchapter; and

(B) the Agreement.

(Pub. L. 92–522, title V, § 504, as added Pub. L. 109–479, title IX, § 902(a), Jan. 12, 2007, 120 Stat. 3662.)

§ 1423d. Commission appointments; compensation, travel expenses, and claims

(a) Appointment of United States commissioners

(1) Appointment

The United States commissioners on the Commission shall be appointed by the Presi-

dent, in accordance with paragraph 2 of article 8 of the Agreement, after taking into consideration the recommendations of—

(A) the Secretary;

(B) the Secretary of State; and

(C) the Alaska Nanuuq Commission.

(2) Qualifications

With respect to the United States commissioners appointed under this subsection, in accordance with paragraph 2 of article 8 of the Agreement—

(A) 1 United States commissioner shall be an official of the Federal Government;

(B) 1 United States commissioner shall be a representative of the Native people of Alaska, and, in particular, the Native people for whom polar bears are an integral part of their culture; and

(C) both commissioners shall be knowledgeable of, or have expertise in, polar bears.

(3) Service and term

Each United States commissioner shall serve—

(A) at the pleasure of the President; and

(B) for an initial 4-year term and such additional terms as the President shall determine.

(4) Vacancies

(A) In general

Any individual appointed to fill a vacancy occurring before the expiration of any term of office of a United States commissioner shall be appointed for the remainder of that term.

(B) Manner

Any vacancy on the Commission shall be filled in the same manner as the original appointment.

(b) Alternate commissioners

(1) In general

The Secretary, in consultation with the Secretary of State and the Alaska Nanuuq Commission, shall designate an alternate commissioner for each member of the United States section.

(2) Duties

In the absence of a United States commissioner, an alternate commissioner may exercise all functions of the United States commissioner at any meetings of the Commission or of the United States section.

(3) Reappointment

An alternate commissioner—

(A) shall be eligible for reappointment by the President; and

(B) may attend all meetings of the United States section.

(c) Duties

The members of the United States section may carry out the functions and responsibilities described in article 8 of the Agreement in accordance with this subchapter and the Agreement.

(d) Compensation and expenses

(1) Compensation

A member of the United States section shall serve without compensation.

(2) Travel expenses

A member of the United States section shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5 while away from the home or regular place of business of the member in the performance of the duties of the United States-Russia Polar Bear Commission.

(e) Agency designation

The United States section shall, for the purpose of title 28 relating to claims against the United States and tort claims procedure, be considered to be a Federal agency.

(Pub. L. 92–522, title V, § 505, as added Pub. L. 109–479, title IX, § 902(a), Jan. 12, 2007, 120 Stat. 3663.)

§ 1423e. Votes taken by the United States section on matters before the Commission

In accordance with paragraph 3 of article 8 of the Agreement, the United States section, made up of commissioners appointed by the President, shall vote on any issue before the United States-Russia Polar Bear Commission only if there is no disagreement between the United States commissioners regarding the vote.

(Pub. L. 92–522, title V, § 506, as added Pub. L. 109–479, title IX, § 902(a), Jan. 12, 2007, 120 Stat. 3664.)

§ 1423f. Implementation of actions taken by the Commission

(a) In general

The Secretary shall take all necessary actions to implement the decisions and determinations of the Commission under paragraph 7 of article 8 of the Agreement.

(b) Taking limitation

Not later than 60 days after the date on which the Secretary receives notice of the determination of the Commission of an annual taking limit, or of the adoption by the Commission of other restriction on the taking of polar bears for subsistence purposes, the Secretary shall publish a notice in the Federal Register announcing the determination or restriction.

(Pub. L. 92–522, title V, § 507, as added Pub. L. 109–479, title IX, § 902(a), Jan. 12, 2007, 120 Stat. 3664.)

§ 1423g. Application with other subchapters of chapter

(a) In general

The authority of the Secretary under this subchapter is in addition to, and shall not affect—

(1) the authority of the Secretary under other subchapters[1] of this chapter or the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) or the exemption for Alaskan natives under section 1371(b) of this title as applied to other marine mammal populations; or

(2) the authorities provided under subchapter III of this chapter.

[1] See References in Text note below.

(b) Certain provisions inapplicable

The provisions of subchapters II through V of this chapter do not apply with respect to the implementation or administration of this subchapter, except as specified in section 1423b of this title.

(Pub. L. 92–522, title V, § 508, as added Pub. L. 109–479, title IX, § 902(a), Jan. 12, 2007, 120 Stat. 3664.)

REFERENCES IN TEXT

Other subchapters of this chapter, referred to in subsec. (a)(1), was in the original a reference to ''other titles of this Act'' meaning Pub. L. 92–522. Subchapter I of this chapter consists of sections of Pub. L. 92–522 that are not part of a title of that Act.

The Lacey Act Amendments of 1981, referred to in subsec. (a)(1), is Pub. L. 97–79, Nov. 16, 1981, 95 Stat. 1073, which enacted chapter 53 (§ 3371 et seq.) of this title, amended section 1540 of this title and section 42 of Title 18, Crimes and Criminal Procedure, repealed sections 667e and 851 to 856 of this title and sections 43, 44, 3054, and 3112 of Title 18, and enacted provisions set out as notes under sections 1540 and 3371 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3371 of this title and Tables.

§ 1423h. Authorization of appropriations

(a) In general

There are authorized to be appropriated to the Secretary to carry out the functions and responsibilities of the Secretary under this subchapter and the Agreement $1,000,000 for each of fiscal years 2006 through 2010.

(b) Commission

There are authorized to be appropriated to the Secretary to carry out functions and responsibilities of the United States Section[1] $150,000 for each of fiscal years 2006 through 2010.

(c) Alaskan cooperative management program

There are authorized to be appropriated to the Secretary to carry out this subchapter and the Agreement in Alaska $150,000 for each of fiscal years 2006 through 2010.

(Pub. L. 92–522, title V, § 509, as added Pub. L. 109–479, title IX, § 902(a), Jan. 12, 2007, 120 Stat. 3665.)

CHAPTER 32—MARINE SANCTUARIES

Sec.
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1445c. Dr. Nancy Foster Scholarship Program.
1445c–1. Dr. Nancy Foster Scholarship Program.

[1] So in original. Probably should not be capitalized.

§ 1431. Findings, purposes, and policies; establishment of system

(a) Findings

The Congress finds that—

(1) this Nation historically has recognized the importance of protecting special areas of its public domain, but these efforts have been directed almost exclusively to land areas above the high-water mark;

(2) certain areas of the marine environment possess conservation, recreational, ecological, historical, scientific, educational, cultural, archeological, or esthetic qualities which give them special national, and in some cases international, significance;

(3) while the need to control the effects of particular activities has led to enactment of resource-specific legislation, these laws cannot in all cases provide a coordinated and comprehensive approach to the conservation and management of special areas of the marine environment; and

(4) a Federal program which establishes areas of the marine environment which have special conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, or esthetic qualities as national marine sanctuaries managed as the National Marine Sanctuary System will—

(A) improve the conservation, understanding, management, and wise and sustainable use of marine resources;

(B) enhance public awareness, understanding, and appreciation of the marine environment; and

(C) maintain for future generations the habitat, and ecological services, of the natural assemblage of living resources that inhabit these areas.

(b) Purposes and policies

The purposes and policies of this chapter are—

(1) to identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance and to manage these areas as the National Marine Sanctuary System;

(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities;

(3) to maintain the natural biological communities in the national marine sanctuaries, and to protect, and, where appropriate, restore and enhance natural habitats, populations, and ecological processes;

(4) to enhance public awareness, understanding, appreciation, and wise and sustainable use of the marine environment, and the natural, historical, cultural, and archeological resources of the National Marine Sanctuary System;

(5) to support, promote, and coordinate scientific research on, and long-term monitoring of, the resources of these marine areas;

(6) to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;

(7) to develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas;

(8) to create models of, and incentives for, ways to conserve and manage these areas, including the application of innovative management techniques; and

(9) to cooperate with global programs encouraging conservation of marine resources.

(c) Establishment of system

There is established the National Marine Sanctuary System, which shall consist of national marine sanctuaries designated by the Secretary in accordance with this chapter.

(Pub. L. 92–532, title III, §301, Oct. 23, 1972, 86 Stat. 1061; Pub. L. 96–332, §1, Aug. 29, 1980, 94 Stat. 1057; Pub. L. 98–498, title I, §102, Oct. 19, 1984, 98 Stat. 2296; Pub. L. 102–587, title II, §2101, Nov. 4, 1992, 106 Stat. 5039; Pub. L. 104–283, §9(a), Oct. 11, 1996, 110 Stat. 3367; Pub. L. 106–513, §3, Nov. 13, 2000, 114 Stat. 2381.)

AMENDMENTS

2000—Pub. L. 106–513, §3(a), inserted ''; establishment of system'' at end of section catchline.

Subsec. (a)(2). Pub. L. 106–513, §3(b)(1), substituted ''scientific, educational, cultural, archeological, or esthetic'' for ''research, educational, or esthetic''.

Subsec. (a)(3). Pub. L. 106–513, §3(b)(2), inserted ''and'' at end.

Subsec. (a)(4) to (6). Pub. L. 106–513, §3(b)(3), added par. (4) and struck out former pars. (4) to (6) which read as follows:

''(4) a Federal program which identifies special areas of the marine environment will contribute positively to marine resources conservation, research, and management;

''(5) such a Federal program will also serve to enhance public awareness, understanding, appreciation, and wise use of the marine environment; and

''(6) protection of these special areas can contribute to maintaining a natural assemblage of living resources for future generations.''

Subsec. (b)(1). Pub. L. 106–513, §3(c)(1), substituted ''significance and to manage these areas as the National Marine Sanctuary System;'' for ''significance;''.

Subsec. (b)(3). Pub. L. 106–513, §3(c)(2), (4), added par. (3) and struck out former par. (3) which read as follows: ''to support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas, especially long-term monitoring and research of these areas;''.

Subsec. (b)(4). Pub. L. 106–513, §3(c)(2), (4), added par. (4) and struck out former par. (4) which read as follows: ''to enhance public awareness, understanding, appreciation, and wise use of the marine environment;''.

Subsec. (b)(5) to (7). Pub. L. 106–513, §3(c)(3), (4), added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively. Former par. (7) redesignated (8).

Subsec. (b)(8). Pub. L. 106–513, §3(c)(3), (5), redesignated par. (7) as (8) and substituted ''areas, including the application of innovative management techniques; and'' for ''areas;''. Former par. (8) redesignated (9).

Subsec. (b)(9). Pub. L. 106–513, §3(c)(2), (3), (6), redesignated par. (8) as (9), substituted a period for ''; and'', and struck out former par. (9) which read as follows: ''to maintain, restore, and enhance living resources by providing places for species that depend upon these marine areas to survive and propagate.''

Subsec. (c). Pub. L. 106–513, §3(d), added subsec. (c).

1996—Subsec. (b)(2). Pub. L. 104–283 substituted a semicolon for a period at end.

1992—Subsec. (a)(2). Pub. L. 102–587, §2101(a)(1), inserted '', and in some cases international,'' after ''national''.

Subsec. (a)(4). Pub. L. 102–587, §2101(a)(2), inserted '', research,'' after ''conservation'' and struck out ''and'' at end.

Subsec. (a)(6). Pub. L. 102–587, §2101(a)(3), (4), added par. (6).

Subsec. (b). Pub. L. 102–587, §2101(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The purposes and policies of this chapter are—

''(1) to identify areas of the marine environment of special national significance due to their resource or human-use values;

''(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas that will complement existing regulatory authorities;

''(3) to support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas;

''(4) to enhance public awareness, understanding, appreciation, and wise use of the marine environment; and

''(5) to facilitate, to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities.''

1984—Pub. L. 98–498 amended section generally, substituting provisions relating to Congressional declaration of findings, purposes and policies for provisions defining ''Secretary'' and ''State''. See section 1432 of this title.

1980—Pub. L. 96–332 inserted provisions defining ''State''.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–513, §1, Nov. 13, 2000, 114 Stat. 2381, provided that: ''This Act [enacting section 1445c of this title and amending this section and sections 1432 to 1434, 1436, 1437, and 1439 to 1445b of this title] may be cited as the 'National Marine Sanctuaries Amendments Act of 2000'.''

SHORT TITLE OF 1996 AMENDMENT

Section 1 of Pub. L. 104–283 provided that: ''This Act [amending this section and sections 1432, 1434, 1437, 1442, 1443, 1444, 1445a, and 1445b of this title, renumbering provisions set out as a note under section 1442 of this title as section 1445b of this title, enacting provisions set out as notes under this section and sections 1433 and 1445 of this title, and amending provisions set out as a note under section 1433 of this title] may be cited as the 'National Marine Sanctuaries Preservation Act'.''

SHORT TITLE OF 1992 AMENDMENT

Section 1 of Pub. L. 102–587 provided that: ''This Act [see Tables for classification] may be cited as the 'Oceans Act of 1992'.''

Section 2001 of title II of Pub. L. 102–587 provided that: ''This title [enacting section 1445a of this title, amending this section and sections 1432 to 1437, 1440, 1442 to 1444, 1452 to 1456b, and 1458 to 1462 of this title, enacting provisions set out as notes under this section and sections 1433, 1442, and 1445 of this title, and amending provisions set out as a note under section 1433 of this title] may be cited as the 'National Marine Sanctuaries Program Amendments Act of 1992'.''

SHORT TITLE OF 1984 AMENDMENT

Section 101 of title I of Pub. L. 98–498 provided that: ''This title [enacting sections 1435 to 1439 of this title and amending this section and sections 1432 to 1434 of this title] may be cited as the 'Marine Sanctuaries Amendments of 1984'.''

SHORT TITLE

Section 317 of title III, formerly section 316, of Pub. L. 92–532, as added by Pub. L. 102–587, title II, § 2112, Nov. 4, 1992, 106 Stat. 5047; renumbered § 317 of title III, Pub. L. 104–283, §§ 6(a), 9(f), Oct. 11, 1996, 110 Stat. 3364, 3368; amended Pub. L. 106–562, title III, § 307(b), Dec. 23, 2000, 114 Stat. 2807, provided that: ''This title [enacting this chapter] may be cited as the 'National Marine Sanctuaries Act'.''

CONGRESSIONAL FINDINGS, POLICY, AND DECLARATION OF PURPOSE

For statement of Congressional findings, policy, and declaration of purpose of Pub. L. 92–532 which enacted this chapter and chapter 27 of Title 33, Navigation and Navigable Waters, see section 1401 of Title 33.

ENVIRONMENTAL EFFECTS ABROAD OF MAJOR FEDERAL ACTIONS

For provisions relating to environmental effects abroad of major federal actions, see Ex. Ord. No. 12114, Jan. 4, 1979, 44 F.R. 1957, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS

For provisions relating to the responsibility of the head of each Executive agency for compliance with applicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

PREVENTION, CONTROL, AND ABATEMENT OF ENVIRONMENTAL POLLUTION AT FEDERAL FACILITIES

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of Title 42, The Public Health and Welfare, which related to the prevention, control, and abatement of environmental pollution at Federal facilities, was revoked by Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of Title 42.

EX. ORD. NO. 13158. MARINE PROTECTED AREAS

Ex. Ord. No. 13158, May 26, 2000, 65 F.R. 34909, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America and in furtherance of the purposes of the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*), National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-ee) [16 U.S.C. 668dd–668ee], National Park Service Organic Act (16 U.S.C. 1 *et seq.*), National Historic Preservation Act (16 U.S.C. 470 *et seq.*), Wilderness Act (16 U.S.C. 1131 *et seq.*), Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), Coastal Zone Management Act [of 1972] (16 U.S.C. 1451 *et seq.*), Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), Marine Mammal Protection Act [of 1972] (16 U.S.C. 1362 [1361] *et seq.*), Clean Water Act of 1977 (33 U.S.C. 1251 *et seq.*), National Environmental Policy Act [of 1969], as amended (42 U.S.C. 4321 *et seq.*), Outer Continental Shelf Lands Act (42 [43] U.S.C. 1331 *et seq.*), and other pertinent statutes, it is ordered as follows:

SECTION 1. *Purpose.* This Executive Order will help protect the significant natural and cultural resources within the marine environment for the benefit of present and future generations by strengthening and expanding the Nation's system of marine protected areas (MPAs). An expanded and strengthened comprehensive system of marine protected areas throughout the marine environment would enhance the conservation of our Nation's natural and cultural marine heritage and the ecologically and economically sustainable use of the marine environment for future generations. To this end, the purpose of this order is to, consistent with domestic and international law: (a) strengthen the management, protection, and conservation of existing marine protected areas and establish new or expanded MPAs; (b) develop a scientifically based, comprehensive national system of MPAs representing diverse U.S. marine ecosystems, and the Nation's natural and cultural resources; and (c) avoid causing harm to MPAs through federally conducted, approved, or funded activities.

SEC. 2. *Definitions.* For the purposes of this order: (a) ''Marine protected area'' means any area of the marine environment that has been reserved by Federal, State, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein.

(b) ''Marine environment'' means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands thereunder, over which the United States exercises jurisdiction, consistent with international law.

(c) The term ''United States'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 3. *MPA Establishment, Protection, and Management.* Each Federal agency whose authorities provide for the establishment or management of MPAs shall take appropriate actions to enhance or expand protection of existing MPAs and establish or recommend, as appropriate, new MPAs. Agencies implementing this section shall consult with the agencies identified in subsection 4(a) of this order, consistent with existing requirements.

SEC. 4. *National System of MPAs.* (a) To the extent permitted by law and subject to the availability of appropriations, the Department of Commerce and the Department of the Interior, in consultation with the Department of Defense, the Department of State, the United States Agency for International Development, the Department of Transportation, the Environmental Protection Agency, the National Science Foundation, and other pertinent Federal agencies shall develop a national system of MPAs. They shall coordinate and share information, tools, and strategies, and provide guidance to enable and encourage the use of the following in the exercise of each agency's respective authorities to further enhance and expand protection of existing MPAs and to establish or recommend new MPAs, as appropriate:

(1) science-based identification and prioritization of natural and cultural resources for additional protection;

(2) integrated assessments of ecological linkages among MPAs, including ecological reserves in which consumptive uses of resources are prohibited, to provide synergistic benefits;

(3) a biological assessment of the minimum area where consumptive uses would be prohibited that is necessary to preserve representative habitats in different geographic areas of the marine environment;

(4) an assessment of threats and gaps in levels of protection currently afforded to natural and cultural resources, as appropriate;

(5) practical, science-based criteria and protocols for monitoring and evaluating the effectiveness of MPAs;

(6) identification of emerging threats and user conflicts affecting MPAs and appropriate, practical, and equitable management solutions, including effective enforcement strategies, to eliminate or reduce such threats and conflicts;

(7) assessment of the economic effects of the preferred management solutions; and

(8) identification of opportunities to improve linkages with, and technical assistance to, international marine protected area programs.

(b) In carrying out the requirements of section 4 of this order, the Department of Commerce and the De-

partment of the Interior shall consult with those States that contain portions of the marine environment, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, tribes, Regional Fishery Management Councils, and other entities, as appropriate, to promote coordination of Federal, State, territorial, and tribal actions to establish and manage MPAs.

(c) In carrying out the requirements of this section, the Department of Commerce and the Department of the Interior shall seek the expert advice and recommendations of non-Federal scientists, resource managers, and other interested persons and organizations through a Marine Protected Area Federal Advisory Committee. The Committee shall be established by the Department of Commerce.

(d) The Secretary of Commerce and the Secretary of the Interior shall establish and jointly manage a website for information on MPAs and Federal agency reports required by this order. They shall also publish and maintain a list of MPAs that meet the definition of MPA for the purposes of this order.

(e) The Department of Commerce's National Oceanic and Atmospheric Administration shall establish a Marine Protected Area Center to carry out, in cooperation with the Department of the Interior, the requirements of subsection 4(a) of this order, coordinate the website established pursuant to subsection 4(d) of this order, and partner with governmental and nongovernmental entities to conduct necessary research, analysis, and exploration. The goal of the MPA Center shall be, in cooperation with the Department of the Interior, to develop a framework for a national system of MPAs, and to provide Federal, State, territorial, tribal, and local governments with the information, technologies, and strategies to support the system. This national system framework and the work of the MPA Center is intended to support, not interfere with, agencies' independent exercise of their own existing authorities.

(f) To better protect beaches, coasts, and the marine environment from pollution, the Environmental Protection Agency (EPA), relying upon existing Clean Water Act [33 U.S.C. 1251 et seq.] authorities, shall expeditiously propose new science-based regulations, as necessary, to ensure appropriate levels of protection for the marine environment. Such regulations may include the identification of areas that warrant additional pollution protections and the enhancement of marine water quality standards. The EPA shall consult with the Federal agencies identified in subsection 4(a) of this order, States, territories, tribes, and the public in the development of such new regulations.

SEC. 5. *Agency Responsibilities*. Each Federal agency whose actions affect the natural or cultural resources that are protected by an MPA shall identify such actions. To the extent permitted by law and to the maximum extent practicable, each Federal agency, in taking such actions, shall avoid harm to the natural and cultural resources that are protected by an MPA. In implementing this section, each Federal agency shall refer to the MPAs identified under subsection 4(d) of this order.

SEC. 6. *Accountability*. Each Federal agency that is required to take actions under this order shall prepare and make public annually a concise description of actions taken by it in the previous year to implement the order, including a description of written comments by any person or organization stating that the agency has not complied with this order and a response to such comments by the agency.

SEC. 7. *International Law*. Federal agencies taking actions pursuant to this Executive Order must act in accordance with international law and with Presidential Proclamation 5928 of December 27, 1988, on the Territorial Sea of the United States of America [43 U.S.C. 1331 note], Presidential Proclamation 5030 of March 10, 1983, on the Exclusive Economic Zone of the United States of America [16 U.S.C. 1453 note], and Presidential Proclamation 7219 of September 2, 1999, on the Contiguous Zone of the United States [43 U.S.C. 1331 note].

SEC. 8. *General*. (a) Nothing in this order shall be construed as altering existing authorities regarding the establishment of Federal MPAs in areas of the marine environment subject to the jurisdiction and control of States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and Indian tribes.

(b) This order does not diminish, affect, or abrogate Indian treaty rights or United States trust responsibilities to Indian tribes.

(c) This order does not create any right or benefit, substantive or procedural, enforceable in law or equity by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

§ 1432. Definitions

As used in this chapter, the term—

(1) ''draft management plan'' means the plan described in section 1434(a)(1)(C)(v)[1] of this title;

(2) ''Magnuson-Stevens Act'' means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(3) ''marine environment'' means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, including the exclusive economic zone, consistent with international law;

(4) ''Secretary'' means the Secretary of Commerce;

(5) ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States;

(6) ''damages'' includes—

(A) compensation for—

(i)(I) the cost of replacing, restoring, or acquiring the equivalent of a sanctuary resource; and

(II) the value of the lost use of a sanctuary resource pending its restoration or replacement or the acquisition of an equivalent sanctuary resource; or

(ii) the value of a sanctuary resource if the sanctuary resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired;

(B) the cost of damage assessments under section 1443(b)(2) of this title;

(C) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources;

(D) the cost of curation and conservation of archeological, historical, and cultural sanctuary resources; and

(E) the cost of enforcement actions undertaken by the Secretary in response to the destruction or loss of, or injury to, a sanctuary resource;

(7) ''response costs'' means the costs of actions taken or authorized by the Secretary to

[1] See References in Text note below.

minimize destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 1443 of this title;

(8) ''sanctuary resource'' means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, educational, cultural, archeological, scientific, or aesthetic value of the sanctuary; and

(9) ''exclusive economic zone'' means the exclusive economic zone as defined in the Magnuson-Stevens Act; and

(10) ''System'' means the National Marine Sanctuary System established by section 1431 of this title.

(Pub. L. 92–532, title III, § 302, Oct. 23, 1972, 86 Stat. 1061; Pub. L. 96–332, § 2, Aug. 29, 1980, 94 Stat. 1057; Pub. L. 97–375, title II, § 202(a), Dec. 21, 1982, 96 Stat. 1822; Pub. L. 98–498, title I, § 102, Oct. 19, 1984, 98 Stat. 2297; Pub. L. 100–627, title II, § 204(b), Nov. 7, 1988, 102 Stat. 3217; Pub. L. 102–587, title II, § 2102, Nov. 4, 1992, 106 Stat. 5040; Pub. L. 104–283, § 9(b), Oct. 11, 1996, 110 Stat. 3367; Pub. L. 106–513, §§ 4, 19(b)(1), (2), Nov. 13, 2000, 114 Stat. 2382, 2392, 2393.)

REFERENCES IN TEXT

Section 1434(a)(1)(C) of this title, referred to in par. (1), was amended generally by Pub. L. 106–513, § 6(a), Nov. 13, 2000, 114 Stat. 2383, and, as so amended, no longer contains a cl. (v).

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in par. (2), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

2000—Par. (2). Pub. L. 106–513, § 19(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: '' 'Magnuson Act' means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);''.

Par. (6)(D), (E). Pub. L. 106–513, § 4(a), added subpars. (D) and (E).

Par. (7). Pub. L. 106–513, § 4(b), inserted '', including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 1443 of this title'' after ''loss, or injury''.

Par. (8). Pub. L. 106–513, § 4(c), substituted ''educational, cultural, archeological, scientific,'' for ''research, educational,''.

Par. (9). Pub. L. 106–513, § 19(b)(2), substituted ''Magnuson-Stevens Act'' for ''Magnuson Fishery Conservation and Management Act''.

Par. (10). Pub. L. 106–513, § 4(d), added par. (10).

1996—Par. (6)(C). Pub. L. 104–283, § 9(b)(1), which directed substitution of a semicolon for '', and'' at end, was executed by substituting a semicolon for the comma at end to reflect the probable intent of Congress.

Par. (7). Pub. L. 104–283, § 9(b)(2), struck out ''and'' after ''injury;''.

1992—Par. (1). Pub. L. 102–587, § 2102(e)(1), substituted ''1434(a)(1)(C)(v)'' for ''1434(a)(1)(E)''.

Par. (3). Pub. L. 102–587, § 2102(a), inserted ''including the exclusive economic zone,'' after ''jurisdiction,''.

Par. (5). Pub. L. 102–587, § 2102(e)(2), struck out ''and'' at end.

Par. (6)(C). Pub. L. 102–587, § 2102(b), added subpar. (C).

Par. (7). Pub. L. 102–587, § 2102(c), inserted ''or authorized'' after ''taken''.

Par. (9). Pub. L. 102–587, § 2102(d), added par. (9).

1988—Pars. (6) to (8). Pub. L. 100–627 added pars. (6) to (8).

1984—Pub. L. 98–498 amended section generally, substituting provisions which set forth definitions for provisions which related to the designation of sanctuaries. See section 1433 of this title.

1982—Subsec. (d). Pub. L. 97–375 substituted provision that Secretary submit a biennial report on or before March 1 of every other year beginning in 1984 for provision that Secretary submit an annual report on or before November 1 of each year, and substituted reference to previous two fiscal years for reference to previous fiscal year.

1980—Subsec. (b). Pub. L. 96–332, § 2(1), designated existing provisions as par. (1), struck out provision that a designation under this section would become effective sixty days after it was published unless the Governor of any State involved, before the expiration of the sixty-day period, certified to Secretary that the designation, or a specified portion thereof, was unacceptable to his State, in which case the designated sanctuary would not include the area certified as unacceptable until such time as the Governor withdrew his certification of unacceptability, and added par. (2).

Subsec. (f). Pub. L. 96–332, § 2(2), designated existing provisions as par. (2), added pars. (1), (3), and (4), and, in par. (2) as so designated, substituted ''The Secretary, after consultation with other interested Federal and State agencies, shall issue necessary and reasonable regulations to implement the terms of the designation and control the activities described in it, except that all permits, licenses, and other authorizations issued pursuant to any other authority shall be valid unless such regulations otherwise provide'' for ''After a marine sanctuary has been designated under this section, the Secretary, after consultation with other interested Federal agencies, shall issue necessary and reasonable regulations to control any activities permitted within the designated marine sanctuary, and no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purposes of this chapter and can be carried out within the regulations promulgated under this section''.

Subsec. (h). Pub. L. 96–332, § 2(3), added subsec. (h).

REGULATIONS

Section 210 of title II of Pub. L. 100–627 provided that: ''Not later than one year after the date of the enactment of this Act [Nov. 7, 1988], the Secretary of Commerce—

''(1) shall propose regulations implementing the amendments made by this title [enacting sections 1440 to 1445 of this title, amending sections 1432, 1434, and 1437 of this title, and repealing section 1438 of this title]; and

''(2) shall issue final regulations implementing the amendments made by the Marine Sanctuaries Amendments of 1984 [enacting sections 1435 to 1439 of this title and amending sections 1431 to 1434 of this title].''

ADDITIONAL DEFINITIONS

Section 3 of Pub. L. 92–532, which is classified to section 1402 of Title 33, Navigation and Navigable Waters, defines for purposes of this chapter the terms ''Administrator'', ''Ocean waters'', ''Material'', ''United States'', ''Person'', ''Dumping'', ''District Court of the United States'', ''Dredged material'', ''High-level radioactive waste'', and ''Transport'' or ''Transportation''.

§ 1433. Sanctuary designation standards

(a) Standards

The Secretary may designate any discrete area of the marine environment as a national

marine sanctuary and promulgate regulations implementing the designation if the Secretary determines that—

(1) the designation will fulfill the purposes and policies of this chapter;

(2) the area is of special national significance due to—

(A) its conservation, recreational, ecological, historical, scientific, cultural, archaeological, educational, or esthetic qualities;

(B) the communities of living marine resources it harbors; or

(C) its resource or human-use values;

(3) existing State and Federal authorities are inadequate or should be supplemented to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

(4) designation of the area as a national marine sanctuary will facilitate the objectives stated in paragraph (3); and

(5) the area is of a size and nature that will permit comprehensive and coordinated conservation and management.

(b) Factors and consultations required in making determinations and findings

(1) Factors

For purposes of determining if an area of the marine environment meets the standards set forth in subsection (a) of this section, the Secretary shall consider—

(A) the area's natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, maintenance of critical habitat of endangered species, and the biogeographic representation of the site;

(B) the area's historical, cultural, archaeological, or paleontological significance;

(C) the present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, and research and education;

(D) the present and potential activities that may adversely affect the factors identified in subparagraphs (A), (B), and (C);

(E) the existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and policies of this chapter;

(F) the manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities;

(G) the public benefits to be derived from sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

(H) the negative impacts produced by management restrictions on income-generating activities such as living and nonliving resources development;

(I) the socioeconomic effects of sanctuary designation;

(J) the area's scientific value and value for monitoring the resources and natural processes that occur there;

(K) the feasibility, where appropriate, of employing innovative management approaches to protect sanctuary resources or to manage compatible uses; and

(L) the value of the area as an addition to the System.

(2) Consultation

In making determinations and findings, the Secretary shall consult with—

(A) the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Secretaries of State, Defense, Transportation, and the Interior, the Administrator, and the heads of other interested Federal agencies;

(C) the responsible officials or relevant agency heads of the appropriate State and local government entities, including coastal zone management agencies, that will or are likely to be affected by the establishment of the area as a national marine sanctuary;

(D) the appropriate officials of any Regional Fishery Management Council established by section 302 of the Magnuson-Stevens Act (16 U.S.C. 1852) that may be affected by the proposed designation; and

(E) other interested persons.

(Pub. L. 92–532, title III, §303, Oct. 23, 1972, 86 Stat. 1062; Pub. L. 98–498, title I, §102, Oct. 19, 1984, 98 Stat. 2297; Pub. L. 102–587, title II, §2103, Nov. 4, 1992, 106 Stat. 5041; Pub. L. 106–513, §§5, 19(a)(1), (b)(3), Nov. 13, 2000, 114 Stat. 2383, 2392, 2393; Pub. L. 106–555, title II, §205(a), Dec. 21, 2000, 114 Stat. 2769.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–555, in introductory provisions, substituted ''the Secretary determines that—'' for ''the Secretary—'', added pars. (1) to (5), and struck out former pars. (1) and (2) which read as follows:

''(1) determines that—

''(A) the designation will fulfill the purposes and policies of this chapter;

''(B) the area is of special national significance due to—

''(i) its conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities;

''(ii) the communities of living marine resources it harbors; or

''(iii) its resource or human-use values;

''(C) existing State and Federal authorities are inadequate or should be supplemented to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

''(D) designation of the area as a national marine sanctuary will facilitate the objectives in subparagraph (C); and

''(E) the area is of a size and nature that will permit comprehensive and coordinated conservation and management; and

''(2) finds that—

''(A) the area is of special national significance due to its resource or human-use values;

''(B) existing State and Federal authorities are inadequate or should be supplemented to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

''(C) designation of the area as a national marine sanctuary will facilitate the objectives in subparagraph (B); and

''(D) the area is of a size and nature that will permit comprehensive and coordinated conservation and management.''

Subsec. (a)(1). Pub. L. 106–513, § 5(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''determines that the designation will fulfill the purposes and policies of this chapter; and''.

Subsec. (b)(1)(J) to (L). Pub. L. 106–513, § 5(b)(1), added subpars. (J) to (L).

Subsec. (b)(2)(A). Pub. L. 106–513, § 19(a)(1), substituted ''Resources'' for ''Merchant Marine and Fisheries''.

Subsec. (b)(2)(D). Pub. L. 106–513, § 19(b)(3), substituted ''Magnuson-Stevens Act'' for ''Magnuson Act''.

Subsec. (b)(3). Pub. L. 106–513, § 5(b)(2), struck out heading and text of par. (3). Prior to amendment, text read as follows: ''In making determinations and findings, the Secretary shall draft, as part of the environmental impact statement referred to in section 1434(a)(2) of this title, a resource assessment report documenting present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial, governmental, or recreational uses. The Secretary, in consultation with the Secretary of the Interior, shall draft a resource assessment section for the report regarding any commercial, governmental, or recreational resource uses in the area under consideration that are subject to the primary jurisdiction of the Department of the Interior. The Secretary, in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator, shall draft a resource assessment section for the report, including information on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary. Public disclosure by the Secretary of such information shall be consistent with national security regulations.''

1992—Subsec. (a)(2)(B). Pub. L. 102–587, § 2103(a), inserted ''or should be supplemented'' after ''inadequate''.

Subsec. (b)(1)(A). Pub. L. 102–587, § 2103(b)(1), inserted ''maintenance of critical habitat of endangered species,'' after ''assemblages,''.

Subsec. (b)(3). Pub. L. 102–587, § 2103(b)(2), substituted ''1434(a)(2)'' for ''1434(a)(1)'', inserted '', governmental,'' after ''other commercial'' and after ''any commercial'', and inserted at end: ''The Secretary, in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator, shall draft a resource assessment section for the report, including information on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary. Public disclosure by the Secretary of such information shall be consistent with national security regulations.''

1984—Pub. L. 98–498 amended section generally, substituting provisions relating to sanctuary designation standards for provisions relating to penalties. See section 1437(b) of this title.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–555, title II, § 205(c), Dec. 21, 2000, 114 Stat. 2770, provided that: ''This section [amending this section and section 1434 of this title] shall take effect immediately after the National Marine Sanctuaries Amendments Act of 2000 [Pub. L. 106–513] takes effect.''

MARINE SANCTUARIES

Channel Islands National Marine Sanctuary.—45 F.R. 65198, Oct. 2, 1980; 15 C.F.R. part 922, subpart G.

Cordell Bank National Marine Sanctuary.—54 F.R. 22417, May 24, 1989; 15 C.F.R. part 922, subpart K; Pub. L. 100–627, title II, § 205(a)(1), Nov. 7, 1988, 102 Stat. 3217.

Fagatele Bay National Marine Sanctuary.—51 F.R. 15878, Apr. 29, 1986; 15 C.F.R. part 922, subpart J.

Florida Keys National Marine Sanctuary.—15 C.F.R. part 922, subpart P; Pub. L. 101–605, Nov. 16, 1990, 104 Stat. 3089, as amended by Pub. L. 102–587, title II, §§ 2206, 2209, Nov. 4, 1992, 106 Stat. 5053, 5054.

Flower Garden Banks National Marine Sanctuary.—56 F.R. 63634, Dec. 5, 1991; 60 F.R. 10312, Feb. 24, 1995; 15 C.F.R. part 922, subpart L; Pub. L. 100–627, title II, § 205(a)(2), Nov. 7, 1988, 102 Stat. 3217; Pub. L. 102–251, title I, § 101, Mar. 9, 1992, 106 Stat. 60; Pub. L. 104–283, § 8, Oct. 11, 1996, 110 Stat. 3366.

Gerry E. Studds Stellwagen Bank National Marine Sanctuary (former Stellwagen Bank National Marine Sanctuary).—58 F.R. 53865, Oct. 19, 1993; 59 F.R. 53348, Oct. 24, 1994; 15 C.F.R. 922, subpart N; Pub. L. 102–587, title II, § 2202, Nov. 4, 1992, 106 Stat. 5048; Pub. L. 104–283, §§ 9(g), 11, Oct. 11, 1996, 110 Stat. 3368, 3369.

Gray's Reef National Marine Sanctuary.—46 F.R. 7942, Jan. 26, 1981; 15 C.F.R. part 922, subpart I.

Gulf of the Farallones National Marine Sanctuary (former Point Reyes-Farallon Islands National Marine Sanctuary).—46 F.R. 7936, Jan. 26, 1981; 15 C.F.R. part 922, subpart H; 62 F.R. 3788, Jan. 27, 1997.

Hawaiian Islands Humpback Whale National Marine Sanctuary.—15 C.F.R. part 922, subpart Q; Pub. L. 102–587, title II, subtitle C, §§ 2301–2308, Nov. 4, 1992, 106 Stat. 5055–5059; Pub. L. 104–283, § 7, Oct. 11, 1996, 110 Stat. 3365.

MONITOR National Marine Sanctuary.—40 F.R. 5349, Feb. 5, 1975; 40 F.R. 21706, May 19, 1975; 15 C.F.R. part 922, subpart F.

Monterey Bay National Marine Sanctuary.—57 F.R. 43310, Sept. 18, 1992; 15 C.F.R. part 922, subpart M; Pub. L. 100–627, title II, § 205(a)(3), Nov. 7, 1988, 102 Stat. 3217; Pub. L. 102–368, title I, § 102, Sept. 23, 1992, 106 Stat. 1119; Pub. L. 102–587, title II, § 2203, Nov. 4, 1992, 106 Stat. 5048.

Olympic Coast National Marine Sanctuary.—59 F.R. 24586, May 11, 1994; 15 C.F.R. 922, subpart O; Pub. L. 100–627, title II, § 205(a)(4), Nov. 7, 1988, 102 Stat. 3217; Pub. L. 102–587, title II, § 2207, Nov. 4, 1992, 106 Stat. 5053.

Thunder Bay National Marine Sanctuary and Underwater Preserve.—65 F.R. 39042, June 19, 2000; 15 C.F.R. part 922, subpart R.

NORTHWEST STRAITS

Pub. L. 104–283, § 10, Oct. 11, 1996, 110 Stat. 3368, provided that: ''No designation of an area in the Northwest Straits in the State of Washington as a national marine sanctuary under the National Marine Sanctuaries Act [16 U.S.C. 1431 et seq.] shall take effect unless that designation is specifically authorized by a law enacted after the date of enactment of this Act [Oct. 11, 1996].''

§ 1434. Procedures for designation and implementation

(a) Sanctuary proposal

(1) Notice

In proposing to designate a national marine sanctuary, the Secretary shall—

(A) issue, in the Federal Register, a notice of the proposal, proposed regulations that may be necessary and reasonable to imple-

ment the proposal, and a summary of the draft management plan;

(B) provide notice of the proposal in newspapers of general circulation or electronic media in the communities that may be affected by the proposal; and

(C) no later than the day on which the notice required under subparagraph (A) is submitted to the Office of the Federal Register, submit a copy of that notice and the draft sanctuary designation documents prepared pursuant to paragraph (2), including an executive summary, to the Committee on Resources of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Governor of each State in which any part of the proposed sanctuary would be located.

(2) Sanctuary designation documents

The Secretary shall prepare and make available to the public sanctuary designation documents on the proposal that include the following:

(A) A draft environmental impact statement pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) A resource assessment that documents—

(i) present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial, governmental, or recreational uses;

(ii) after consultation with the Secretary of the Interior, any commercial, governmental, or recreational resource uses in the areas that are subject to the primary jurisdiction of the Department of the Interior; and

(iii) information prepared in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary.

Public disclosure by the Secretary of such information shall be consistent with national security regulations.

(C) A draft management plan for the proposed national marine sanctuary that includes the following:

(i) The terms of the proposed designation.

(ii) Proposed mechanisms to coordinate existing regulatory and management authorities within the area.

(iii) The proposed goals and objectives, management responsibilities, resource studies, and appropriate strategies for managing sanctuary resources of the proposed sanctuary, including interpretation and education, innovative management strategies, research, monitoring and assessment, resource protection, restoration, enforcement, and surveillance activities.

(iv) An evaluation of the advantages of cooperative State and Federal management if all or part of the proposed sanctuary is within the territorial limits of any State or is superjacent to the subsoil and seabed within the seaward boundary of a State, as that boundary is established under the Submerged Lands Act (43 U.S.C. 1301 et seq.).

(v) An estimate of the annual cost to the Federal Government of the proposed designation, including costs of personnel, equipment and facilities, enforcement, research, and public education.

(vi) The proposed regulations referred to in paragraph (1)(A).

(D) Maps depicting the boundaries of the proposed sanctuary.

(E) The basis for the determinations made under section 1433(a) of this title with respect to the area.

(F) An assessment of the considerations under section 1433(b)(1) of this title.

(3) Public hearing

No sooner than thirty days after issuing a notice under this subsection, the Secretary shall hold at least one public hearing in the coastal area or areas that will be most affected by the proposed designation of the area as a national marine sanctuary for the purpose of receiving the views of interested parties.

(4) Terms of designation

The terms of designation of a sanctuary shall include the geographic area proposed to be included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the types of activities that will be subject to regulation by the Secretary to protect those characteristics. The terms of designation may be modified only by the same procedures by which the original designation is made.

(5) Fishing regulations

The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this chapter and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall use as guidance the national standards of section 301(a) of the Magnuson-Stevens Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Secretary shall prepare the fishing regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any

amendments to the fishing regulations shall be drafted, approved, and issued in the same manner as the original regulations. The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.

(6) Committee action

After receiving the documents under subsection (a)(1)(C) of this section, the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate may each hold hearings on the proposed designation and on the matters set forth in the documents. If within the forty-five day period of continuous session of Congress beginning on the date of submission of the documents, either Committee issues a report concerning matters addressed in the documents, the Secretary shall consider this report before publishing a notice to designate the national marine sanctuary.

(b) Taking effect of designations

(1) Notice

In designating a national marine sanctuary, the Secretary shall publish in the Federal Register notice of the designation together with final regulations to implement the designation and any other matters required by law, and submit such notice to the Congress. The Secretary shall advise the public of the availability of the final management plan and the final environmental impact statement with respect to such sanctuary. The Secretary shall issue a notice of designation with respect to a proposed national marine sanctuary site not later than 30 months after the date a notice declaring the site to be an active candidate for sanctuary designation is published in the Federal Register under regulations issued under this Act, or shall publish not later than such date in the Federal Register findings regarding why such notice has not been published. No notice of designation may occur until the expiration of the period for Committee action under subsection (a)(6) of this section. The designation (and any of its terms not disapproved under this subsection) and regulations shall take effect and become final after the close of a review period of forty-five days of continuous session of Congress beginning on the day on which such notice is published unless, in the case of a national marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seaward boundary of the State.

(2) Withdrawal of designation

If the Secretary considers that actions taken under paragraph (1) will affect the designation of a national marine sanctuary in a manner that the goals and objectives of the sanctuary or System cannot be fulfilled, the Secretary may withdraw the entire designation. If the Secretary does not withdraw the designation, only those terms of the designation not certified under paragraph (1) shall take effect.

(3) Procedures

In computing the forty-five-day periods of continuous session of Congress pursuant to subsection (a)(6) of this section and paragraph (1) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain are excluded.

(c) Access and valid rights

(1) Nothing in this chapter shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access that is in existence on the date of designation of any national marine sanctuary.

(2) The exercise of a lease, permit, license, or right is subject to regulation by the Secretary consistent with the purposes for which the sanctuary is designated.

(d) Interagency cooperation

(1) Review of agency actions

(A) In general

Federal agency actions internal or external to a national marine sanctuary, including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanctuary resource are subject to consultation with the Secretary.

(B) Agency statements required

Subject to any regulations the Secretary may establish each Federal agency proposing an action described in subparagraph (A) shall provide the Secretary with a written statement describing the action and its potential effects on sanctuary resources at the earliest practicable time, but in no case later than 45 days before the final approval of the action unless such Federal agency and the Secretary agree to a different schedule.

(2) Secretary's recommended alternatives

If the Secretary finds that a Federal agency action is likely to destroy, cause the loss of, or injure a sanctuary resource, the Secretary shall (within 45 days of receipt of complete information on the proposed agency action) recommend reasonable and prudent alternatives, which may include conduct of the action elsewhere, which can be taken by the Federal agency in implementing the agency action that will protect sanctuary resources.

(3) Response to recommendations

The agency head who receives the Secretary's recommended alternatives under paragraph (2) shall promptly consult with the Secretary on the alternatives. If the agency head decides not to follow the alternatives, the agency head shall provide the Secretary with a written statement explaining the reasons for that decision.

(4) Failure to follow alternative

If the head of a Federal agency takes an action other than an alternative recommended by the Secretary and such action results in the destruction of, loss of, or injury to a sanctuary resource, the head of the agency shall promptly prevent and mitigate further damage and restore or replace the sanctuary resource in a manner approved by the Secretary.

(e) Review of management plans

Not more than five years after the date of designation of any national marine sanctuary, and thereafter at intervals not exceeding five years, the Secretary shall evaluate the substantive progress toward implementing the management plan and goals for the sanctuary, especially the effectiveness of site-specific management techniques and strategies, and shall revise the management plan and regulations as necessary to fulfill the purposes and policies of this chapter. This review shall include a prioritization of management objectives.

(f) Limitation on designation of new sanctuaries

(1) Finding required

The Secretary may not publish in the Federal Register any sanctuary designation notice or regulations proposing to designate a new sanctuary, unless the Secretary has published a finding that—

(A) the addition of a new sanctuary will not have a negative impact on the System; and

(B) sufficient resources were available in the fiscal year in which the finding is made to—

(i) effectively implement sanctuary management plans for each sanctuary in the System; and

(ii) complete site characterization studies and inventory known sanctuary resources, including cultural resources, for each sanctuary in the System within 10 years after the date that the finding is made if the resources available for those activities are maintained at the same level for each fiscal year in that 10 year period.

(2) Deadline

If the Secretary does not submit the findings required by paragraph (1) before February 1, 2004, the Secretary shall submit to the Congress before October 1, 2004, a finding with respect to whether the requirements of subparagraphs (A) and (B) of paragraph (1) have been met by all existing sanctuaries.

(3) Limitation on application

Paragraph (1) does not apply to any sanctuary designation documents for—

(A) a Thunder Bay National Marine Sanctuary; or

(B) a Northwestern Hawaiian Islands National Marine Sanctuary.

(Pub. L. 92–532, title III, §304, Oct. 23, 1972, 86 Stat. 1063; Pub. L. 94–62, §4, July 25, 1975, 89 Stat. 303; Pub. L. 94–326, §4, June 30, 1976, 90 Stat. 725; Pub. L. 95–153, §3, Nov. 4, 1977, 91 Stat. 1255; Pub. L. 96–332, §3, Aug. 29, 1980, 94 Stat. 1059; Pub. L. 97–109, Dec. 26, 1981, 95 Stat. 1512; Pub. L. 98–498, title I, §102, Oct. 19, 1984, 98 Stat. 2298; Pub. L. 100–627, title II, §202, Nov. 7, 1988, 102 Stat. 3214; Pub. L. 102–587, title II, §2104, Nov. 4, 1992, 106 Stat. 5041; Pub. L. 104–283, §9(h), Oct. 11, 1996, 110 Stat. 3368; Pub. L. 106–513, §§6(a)–(f), 19(a)(2), (b)(4), Nov. 13, 2000, 114 Stat. 2383–2385, 2392, 2393; Pub. L. 106–555, title II, §205(b), Dec. 21, 2000, 114 Stat. 2769; Pub. L. 106–562, title III, §307(a), Dec. 23, 2000, 114 Stat. 2807.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a)(2)(A), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Submerged Lands Act, referred to in subsec. (a)(2)(C)(iv), is act May 22, 1953, ch. 65, 67 Stat. 29, as amended, which is classified generally to subchapters I and II (§§1301 et seq., 1311 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43, and Tables.

This Act, referred to in subsec. (b)(1), means Pub. L. 92–532, which enacted this chapter, chapter 32A (§1447 et seq.) of this title, and chapters 27 (§1401 et seq.) and 41 (§2801 et seq.) of Title 33, Navigation and Navigable Waters.

AMENDMENTS

2000—Subsec. (a)(1)(C). Pub. L. 106–555, §205(b)(1), struck out ''the Secretary shall'' before ''submit a copy''.

Pub. L. 106–513, §6(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) required the Secretary to submit certain documents to committees of the House and Senate.

Subsec. (a)(2). Pub. L. 106–513, §6(b), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''The Secretary shall—

''(A) prepare a draft environmental impact statement, as provided by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), on the proposal that includes the resource assessment report required under section 1433(b)(3) of this title, maps depicting the boundaries of the proposed designated area, and the existing and potential uses and resources of the area; and

''(B) make copies of the draft environmental impact statement available to the public.''

Subsec. (a)(2)(E). Pub. L. 106–555, §205(b)(2), substituted ''determinations'' for ''findings''.

Subsec. (a)(5). Pub. L. 106–513, §19(b)(4), substituted ''Magnuson-Stevens Act'' for ''Magnuson Act''.

Subsec. (a)(6). Pub. L. 106–513, §19(a)(2), substituted ''Resources'' for ''Merchant Marine and Fisheries''.

Subsec. (b)(2). Pub. L. 106–513, §6(c), inserted ''or System'' after ''of the sanctuary''.

Subsec. (d)(4). Pub. L. 106–513, §6(d), added par. (4).

Subsec. (e). Pub. L. 106–513, §6(e), substituted ''management techniques and strategies,'' for ''management techniques,'' and inserted at end ''This review shall include a prioritization of management objectives.''

Subsec. (f). Pub. L. 106–513, §6(f), added subsec. (f).

Subsec. (f)(2). Pub. L. 106–562 substituted ''subparagraphs (A) and (B) of paragraph (1)'' for ''paragraph (2)''.

1996—Subsec. (b)(3). Pub. L. 104–283 struck out ''(A)'' before ''In computing the forty-five-day'', redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, adjusted margins, and struck out former subpars. (B) and (C) which read as follows:

''(B) When the committee to which a joint resolution has been referred has reported such a resolution, it shall at any time thereafter be in order to move to proceed to the consideration of the resolution. The motion

shall be privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

''(C) This subsection is enacted by Congress as an exercise of the rulemaking power of each House of Congress, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the case of resolutions described in this subsection. This subsection supersedes other rules only to the extent that they are inconsistent therewith, and is enacted with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.''

1992—Subsec. (a)(1)(C). Pub. L. 102–587, § 2104(a)(2), substituted ''documents, including an executive summary, consisting of—'' for ''a prospectus on the proposal which shall contain—''.

Subsec. (a)(5). Pub. L. 102–587, § 2104(a)(3), substituted ''Exclusive Economic Zone'' for ''United States Fishery Conservation Zone'' and inserted at end ''The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.''

Subsec. (a)(6). Pub. L. 102–587, § 2104(a)(1), substituted ''documents'' for ''prospectus'' wherever appearing.

Subsec. (b)(1). Pub. L. 102–587, § 2104(b)(1), substituted at end '', in the case of a national marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seaward boundary of the State.'' for the dash after ''unless'' and subpars. (A) and (B) which read as follows:

''(A) the designation or any of its terms is disapproved by enactment of a joint resolution of disapproval described in paragraph (3); or

''(B) in the case of a natural marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seaward boundary of the State.''

Subsec. (b)(2). Pub. L. 102–587, § 2104(b)(2), substituted ''actions taken under paragraph (1)'' for ''actions taken under paragraph (1)(A) or (B)'' and ''terms of the designation not certified under paragraph (1)'' for ''terms of the designation not disapproved under paragraph (1)(A) or not certified under paragraph (1)(B)''.

Subsec. (b)(3), (4). Pub. L. 102–587, § 2104(b)(3), redesignated par. (4) as (3) and struck out former par. (3) which defined a Congressional resolution of disapproval for purposes of this subsection.

Subsec. (c)(1). Pub. L. 102–587, § 2104(c), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Nothing in this chapter shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access if the lease, permit, license, or right—

''(A) was in existence on October 19, 1984, with respect to any national marine sanctuary designated before that date; or

''(B) is in existence on the date of designation of any national marine sanctuary, with respect to any national marine sanctuary designated after October 19, 1984.''

Subsecs. (d), (e). Pub. L. 102–587, § 2104(d), added subsecs. (d) and (e).

1988—Subsec. (b)(1). Pub. L. 100–627 inserted requirement that notice be published in the Federal Register of proposed marine sanctuary site designation within 30 months after notice of active candidacy of site for sanctuary designation or that within such period findings be published why notice has not been published.

1984—Pub. L. 98–498 amended section generally, substituting provisions relating to procedures for designation and implementation of a marine sanctuary for provisions relating to authorization of appropriations. See section 1438 of this title.

1981—Pub. L. 97–109 inserted provisions authorizing appropriations of not to exceed $2,235,000 for fiscal year 1982, and not to exceed $2,235,000 for fiscal year 1983.

1980—Pub. L. 96–332 inserted provisions authorizing appropriations of not to exceed $2,250,000 for fiscal year 1981.

1977—Pub. L. 95–153 inserted provision authorizing appropriations not to exceed $500,000 for fiscal year 1978.

1976—Pub. L. 94–326 inserted provision authorizing to be appropriated not to exceed $500,000 for fiscal year 1977.

1975—Pub. L. 94–62 substituted provisions authorizing to be appropriated not to exceed $10,000,000 for each of fiscal years 1973, 1974, and 1975, for provisions authorizing to be appropriated for fiscal year in which this Act was enacted and for next two fiscal years thereafter not to exceed $10,000,000 for each such fiscal year, and inserted provisions authorizing to be appropriated not to exceed $6,200,000 for fiscal year 1976, and not to exceed $1,550,000 for the transition period (July 1, through Sept. 30, 1976).

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 2000 AMENDMENTS

Pub. L. 106–562, title III, § 307(c), Dec. 23, 2000, 114 Stat. 2807, provided that: ''Subsection (a) [amending this section] shall take effect January 1, 2001.''

Amendment by Pub. L. 106–555 effective immediately after the National Marine Sanctuaries Amendments Act of 2000, Pub. L. 106–513, takes effect, see section 205(c) of Pub. L. 106–555, set out as a note under section 1433 of this title.

§ 1435. Application of regulations; international negotiations and cooperation

(a) Regulations

This chapter and the regulations issued under section 1434 of this title shall be applied in accordance with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party. No regulation shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States, unless in accordance with—

(1) generally recognized principles of international law;

(2) an agreement between the United States and the foreign state of which the person is a citizen; or

(3) an agreement between the United States and the flag state of a foreign vessel, if the person is a crewmember of the vessel.

(b) Negotiations

The Secretary of State, in consultation with the Secretary, shall take appropriate action to enter into negotiations with other governments to make necessary arrangements for the protection of any national marine sanctuary and to promote the purposes for which the sanctuary is established.

(c) International cooperation

The Secretary, in consultation with the Secretary of State and other appropriate Federal agencies, shall cooperate with other governments and international organizations in furtherance of the purposes and policies of this chapter and consistent with applicable regional and mutilateral[1] arrangements for the protection and management of special marine areas.

(Pub. L. 92–532, title III, §305, as added Pub. L. 98–498, title I, §102, Oct. 19, 1984, 98 Stat. 2302; amended Pub. L. 102–587, title II, §2105, Nov. 4, 1992, 106 Stat. 5043.)

AMENDMENTS

1992—Pub. L. 102–587, §2105(b), substituted ''; international negotiations and cooperation'' for ''and international negotiations'' in section catchline.

Subsec. (a). Pub. L. 102–587, §2105(a)(1), substituted ''This chapter and the regulations'' for ''The regulations'' and inserted ''or be enforced against'' after ''apply to''.

Subsec. (c). Pub. L. 102–587, §2105(a)(2), added subsec. (c).

INTERNATIONAL COOPERATION

For direction that the Secretary of State seek effective international action and cooperation through the development of appropriate international rules and regulations in support of the policy of this chapter and chapter 27 of Title 33, Navigation and Navigable Waters, see section 1419 of Title 33.

§ 1436. Prohibited activities

It is unlawful for any person to—

(1) destroy, cause the loss of, or injure any sanctuary resource managed under law or regulations for that sanctuary;

(2) possess, sell, offer for sale, purchase, import, export, deliver, carry, transport, or ship by any means any sanctuary resource taken in violation of this section;

(3) interfere with the enforcement of this chapter by—

(A) refusing to permit any officer authorized to enforce this chapter to board a vessel, other than a vessel operated by the Department of Defense or United States Coast Guard, subject to such person's control for the purposes of conducting any search or inspection in connection with the enforcement of this chapter;

(B) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any person authorized by the Secretary to implement this chapter or any such authorized officer in the conduct of any search or inspection performed under this chapter; or

(C) knowingly and willfully submitting false information to the Secretary or any officer authorized to enforce this chapter in connection with any search or inspection conducted under this chapter; or

(4) violate any provision of this chapter or any regulation or permit issued pursuant to this chapter.

(Pub. L. 92–532, title III, §306, as added Pub. L. 98–498, title I, §102, Oct. 19, 1984, 98 Stat. 2302; amended Pub. L. 102–587, title II, §2106, Nov. 4, 1992, 106 Stat. 5043; Pub. L. 106–513, §7, Nov. 13, 2000, 114 Stat. 2386.)

AMENDMENTS

2000—Pub. L. 106–513, §7(1), inserted ''for any person'' after ''unlawful'' in introductory provision.

Par. (2). Pub. L. 106–513, §7(2), inserted ''offer for sale, purchase, import, export,'' after ''sell,''.

Par. (3). Pub. L. 106–513, §7(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''interfere with the enforcement of this chapter; or''.

1992—Pub. L. 102–587 amended section generally. Prior to amendment, section read as follows: ''The Secretary shall conduct research and educational programs as are necessary and reasonable to carry out the purposes and policies of this chapter.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1437. Enforcement

(a) In general

The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this chapter.

(b) Powers of authorized officers

Any person who is authorized to enforce this chapter may—

(1) board, search, inspect, and seize any vessel suspected of being used to violate this chapter or any regulation or permit issued under this chapter and any equipment, stores, and cargo of such vessel;

(2) seize wherever found any sanctuary resource taken or retained in violation of this chapter or any regulation or permit issued under this chapter;

(3) seize any evidence of a violation of this chapter or of any regulation or permit issued under this chapter;

(4) execute any warrant or other process issued by any court of competent jurisdiction;

(5) exercise any other lawful authority; and

(6) arrest any person, if there is reasonable cause to believe that such person has committed an act prohibited by section 1436(3) of this title.

(c) Criminal offenses

(1) Offenses

A person is guilty of an offense under this subsection if the person commits any act prohibited by section 1436(3) of this title.

(2) Punishment

Any person that is guilty of an offense under this subsection—

(A) except as provided in subparagraph (B), shall be fined under title 18, imprisoned for not more than 6 months, or both; or

(B) in the case of a person who in the commission of such an offense uses a dangerous weapon, engages in conduct that causes bod-

[1] So in original. Probably should be ''multilateral''.

ily injury to any person authorized to enforce this chapter or any person authorized to implement the provisions of this chapter, or places any such person in fear of imminent bodily injury, shall be fined under title 18, imprisoned for not more than 10 years, or both.

(d) Civil penalties

(1) Civil penalty

Any person subject to the jurisdiction of the United States who violates this chapter or any regulation or permit issued under this chapter shall be liable to the United States for a civil penalty of not more than $100,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

(2) Notice

No penalty shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

(3) In rem jurisdiction

A vessel used in violating this chapter or any regulation or permit issued under this chapter shall be liable in rem for any civil penalty assessed for such violation. Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(4) Review of civil penalty

Any person against whom a civil penalty is assessed under this subsection may obtain review in the United States district court for the appropriate district by filing a complaint in such court not later than 30 days after the date of such order.

(5) Collection of penalties

If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(6) Compromise or other action by Secretary

The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is or may be imposed under this section.

(e) Forfeiture

(1) In general

Any vessel (including the vessel's equipment, stores, and cargo) and other item used, and any sanctuary resource taken or retained, in any manner, in connection with or as a result of any violation of this chapter or of any regulation or permit issued under this chapter shall be subject to forfeiture to the United States pursuant to a civil proceeding under this subsection. The proceeds from forfeiture actions under this subsection shall constitute a separate recovery in addition to any amounts recovered as civil penalties under this section or as civil damages under section 1443 of this title. None of those proceeds shall be subject to set-off.

(2) Application of the customs laws

The Secretary may exercise the authority of any United States official granted by any relevant customs law relating to the seizure, forfeiture, condemnation, disposition, remission, and mitigation of property in enforcing this chapter.

(3) Disposal of sanctuary resources

Any sanctuary resource seized pursuant to this chapter may be disposed of pursuant to an order of the appropriate court, or, if perishable, in a manner prescribed by regulations promulgated by the Secretary. Any proceeds from the sale of such sanctuary resource shall for all purposes represent the sanctuary resource so disposed of in any subsequent legal proceedings.

(4) Presumption

For the purposes of this section there is a rebuttable presumption that all sanctuary resources found on board a vessel that is used or seized in connection with a violation of this chapter or of any regulation or permit issued under this chapter were taken or retained in violation of this chapter or of a regulation or permit issued under this chapter.

(f) Payment of storage, care, and other costs

(1) Expenditures

(A) Notwithstanding any other law, amounts received by the United States as civil penalties, forfeitures of property, and costs imposed under paragraph (2) shall be retained by the Secretary in the manner provided for in section 9607(f)(1) of title 42.

(B) Amounts received under this section for forfeitures and costs imposed under paragraph (2) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any sanctuary resource or other property seized in connection with a violation of this chapter or any regulation or permit issued under this chapter.

(C) Amounts received under this section as civil penalties and any amounts remaining after the operation of subparagraph (B) shall be used, in order of priority, to—

(i) manage and improve the national marine sanctuary with respect to which the violation occurred that resulted in the penalty or forfeiture;

(ii) pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this chapter or any regulation or permit issued under this chapter; and

(iii) manage and improve any other national marine sanctuary.

(2) Liability for costs

Any person assessed a civil penalty for a violation of this chapter or of any regulation or

permit issued under this chapter, and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any sanctuary resource or other property seized in connection with the violation.

(g) Subpoenas

In the case of any hearing under this section which is determined on the record in accordance with the procedures provided for under section 554 of title 5, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, electronic files, and documents, and may administer oaths.

(h) Use of resources of State and other Federal agencies

The Secretary shall, whenever appropriate, use by agreement the personnel, services, and facilities of State and other Federal departments, agencies, and instrumentalities, on a reimbursable or nonreimbursable basis, to carry out the Secretary's responsibilities under this section.

(i) Coast Guard authority not limited

Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14.

(j) Injunctive relief

If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a sanctuary resource, or that there has been actual destruction or loss of, or injury to, a sanctuary resource which may give rise to liability under section 1443 of this title, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the sanctuary resource, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

(k) Area of application and enforceability

The area of application and enforceability of this chapter includes the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, which is subject to the sovereignty of the United States, and the United States exclusive economic zone, consistent with international law.

(*l*) Nationwide service of process

In any action by the United States under this chapter, process may be served in any district where the defendant is found, resides, transacts business, or has appointed an agent for the service of process.

(Pub. L. 92–532, title III, §307, as added Pub. L. 98–498, title I, §102, Oct. 19, 1984, 98 Stat. 2302; amended Pub. L. 100–627, title II, §207, Nov. 7, 1988, 102 Stat. 3219; Pub. L. 102–587, title II, §2107(a)–(c), (e), Nov. 4, 1992, 106 Stat. 5043, 5044; Pub. L. 104–283, §9(c), Oct. 11, 1996, 110 Stat. 3367; Pub. L. 106–513, §8, Nov. 13, 2000, 114 Stat. 2387.)

REFERENCES IN TEXT

Presidential Proclamation 5928 of December 27, 1988, referred to in subsec. (k), is set out as a note under section 1331 of Title 43, Public Lands.

AMENDMENTS

2000—Subsec. (b)(6). Pub. L. 106–513, §8(a), added par. (6).

Subsecs. (c) to (f). Pub. L. 106–513, §8(b), added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 106–513, §8(b), (c), redesignated subsec. (f) as (g) and inserted ''electronic files,'' after ''books,''. Former subsec. (g) redesignated (h).

Subsecs. (h) to (k). Pub. L. 106–513, §8(b), redesignated subsecs. (g) to (j) as (h) to (k), respectively.

Subsec. (*l*). Pub. L. 106–513, §8(c), added subsec. (*l*).

1996—Subsec. (e)(1)(A). Pub. L. 104–283 made technical amendment to reference in original act which appears in text as reference to section 9607(f)(1) of title 42.

1992—Subsec. (c)(1). Pub. L. 102–587, §2107(a)(1), substituted ''$100,000'' for ''$50,000''.

Subsec. (c)(3). Pub. L. 102–587, §2107(a)(2), struck out ''and may be proceeded against in any district court of the United States having jurisdiction'' after ''assessed for such violation'' and inserted at end ''Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.''

Subsec. (d)(1). Pub. L. 102–587, §2107(b), inserted at end ''The proceeds from forfeiture actions under this subsection shall constitute a separate recovery in addition to any amounts recovered as civil penalties under this section or as civil damages under section 1443 of this title. None of those proceeds shall be subject to set-off.''

Subsec. (e)(1). Pub. L. 102–587, §2107(c), added par. (1) and struck out former par. (1) which read as follows: ''IN GENERAL.—Notwithstanding any other law, the Secretary may use amounts received under this section in the form of civil penalties, forfeitures of property, and costs imposed under paragraph (2) to pay—

''(A) the reasonable and necessary costs incurred by the Secretary in providing temporary storage, care, and maintenance of any sanctuary resource or other property seized under this section pending disposition of any civil proceeding relating to any alleged violation with respect to which such property or sanctuary resource was seized; and

''(B) a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this chapter or of any regulation or permit issued under this chapter.''

Subsec. (j). Pub. L. 102–587, §2107(e), added subsec. (j).

1988—Pub. L. 100–627 amended section generally, substituting provisions consisting of subsecs. (a) to (i) relating to enforcement activities in general, powers of authorized officers, civil penalties, forfeiture, payment of storage, care, and other costs, subpoenas, use of resources of State and other Federal agencies, Coast Guard authority, and injunctive relief for former provisions consisting of subsecs. (a) to (c) relating to enforcement activities in general, civil penalties, and jurisdiction.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

STUDY OF JOINT ENFORCEMENT OF MARINE SANCTUARY REGULATIONS

Pub. L. 102–241, § 51, Dec. 19, 1991, 105 Stat. 2227, directed Secretary of Transportation and Secretary of Commerce, not later than one year after Dec. 19, 1991, to submit to Congress a joint report describing methods by which Coast Guard enforcement efforts under the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq., 1447 et seq., 33 U.S.C. 1401 et seq., 2801 et seq.) could be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration.

§ 1438. Repealed. Pub. L. 100–627, title II, § 203(1), Nov. 7, 1988, 102 Stat. 3214

Section, Pub. L. 92–532, title III, § 308, as added Pub. L. 98–498, title I, § 102, Oct. 19, 1984, 98 Stat. 2303, authorized appropriations for fiscal years 1985 to 1988.

§ 1439. Regulations

The Secretary may issue such regulations as may be necessary to carry out this chapter.

(Pub. L. 92–532, title III, § 308, formerly § 309, as added Pub. L. 98–498, title I, § 102, Oct. 19, 1984, 98 Stat. 2303; renumbered § 308, Pub. L. 100–627, title II, § 203(2), Nov. 7, 1988, 102 Stat. 3214; Pub. L. 106–513, § 9, Nov. 13, 2000, 114 Stat. 2387.)

PRIOR PROVISIONS

A prior section 308 of Pub. L. 92–532 was classified to section 1438 of this title, prior to repeal by section 203(1) of Pub. L. 100–627.

AMENDMENTS

2000—Pub. L. 106–513 amended section catchline and text generally. Prior to amendment, text read as follows: ''If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this Act and of the application of such provision to other persons and circumstances shall not be affected thereby.''

§ 1440. Research, monitoring, and education

(a) In general

The Secretary shall conduct, support, or coordinate research, monitoring, evaluation, and education programs consistent with subsections (b) and (c) of this section and the purposes and policies of this chapter.

(b) Research and monitoring

(1) In general

The Secretary may—

(A) support, promote, and coordinate research on, and long-term monitoring of, sanctuary resources and natural processes that occur in national marine sanctuaries, including exploration, mapping, and environmental and socioeconomic assessment;

(B) develop and test methods to enhance degraded habitats or restore damaged, injured, or lost sanctuary resources; and

(C) support, promote, and coordinate research on, and the conservation, curation, and public display of, the cultural, archeological, and historical resources of national marine sanctuaries.

(2) Availability of results

The results of research and monitoring conducted, supported, or permitted by the Secretary under this subsection shall be made available to the public.

(c) Education

(1) In general

The Secretary may support, promote, and coordinate efforts to enhance public awareness, understanding, and appreciation of national marine sanctuaries and the System. Efforts supported, promoted, or coordinated under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries and the System.

(2) Educational activities

Activities under this subsection may include education of the general public, teachers, students, national marine sanctuary users, and ocean and coastal resource managers.

(d) Interpretive facilities

(1) In general

The Secretary may develop interpretive facilities near any national marine sanctuary.

(2) Facility requirement

Any facility developed under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries by providing the public with information about the conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, or esthetic qualities of the national marine sanctuary.

(e) Consultation and coordination

In conducting, supporting, and coordinating research, monitoring, evaluation, and education programs under subsection (a) of this section and developing interpretive facilities under subsection (d) of this section, the Secretary may consult or coordinate with Federal, interstate, or regional agencies, States or local governments.

(Pub. L. 92–532, title III, § 309, as added Pub. L. 100–627, title II, § 203(3), Nov. 7, 1988, 102 Stat. 3214; amended Pub. L. 102–587, title II, § 2108, Nov. 4, 1992, 106 Stat. 5045; Pub. L. 106–513, § 10, Nov. 13, 2000, 114 Stat. 2388.)

PRIOR PROVISIONS

A prior section 309 of Pub. L. 92–532 was renumbered section 308 and is classified to section 1439 of this title.

AMENDMENTS

2000—Pub. L. 106–513 amended section catchline and text generally. Prior to amendment, text read as follows:

''(a) IN GENERAL.—The Secretary shall conduct research, monitoring, evaluation, and education programs as are necessary and reasonable to carry out the purposes and policies of this chapter.

''(b) PROMOTION AND COORDINATION OF SANCTUARY USE.—The Secretary shall take such action as is necessary and reasonable to promote and coordinate the use of national marine sanctuaries for research, monitoring, and education purposes. Such action may include consulting with Federal agencies, States, local governments, regional agencies, interstate agencies, or other persons to promote use of one or more sanctuaries for research, monitoring, and education, including coordination with the National Estuarine Research Reserve System.''

1992—Pub. L. 102–587 amended section generally. Prior to amendment, section read as follows: ''The Secretary shall take such action as is necessary to promote and

coordinate the use of national marine sanctuaries for research purposes, including—

''(1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting marine research, give priority to research involving national marine sanctuaries; and

''(2) consulting with other Federal and State agencies to promote use by such agencies of one or more sanctuaries for marine research.''

§ 1441. Special use permits

(a) Issuance of permits

The Secretary may issue special use permits which authorize the conduct of specific activities in a national marine sanctuary if the Secretary determines such authorization is necessary—

(1) to establish conditions of access to and use of any sanctuary resource; or

(2) to promote public use and understanding of a sanctuary resource.

(b) Public notice required

The Secretary shall provide appropriate public notice before identifying any category of activity subject to a special use permit under subsection (a) of this section.

(c) Permit terms

A permit issued under this section—

(1) shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;

(2) shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by the Secretary;

(3) shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and

(4) shall require the permittee to purchase and maintain comprehensive general liability insurance, or post an equivalent bond, against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims.

(d) Fees

(1) Assessment and collection

The Secretary may assess and collect fees for the conduct of any activity under a permit issued under this section.

(2) Amount

The amount of a fee under this subsection shall be equal to the sum of—

(A) costs incurred, or expected to be incurred, by the Secretary in issuing the permit;

(B) costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and

(C) an amount which represents the fair market value of the use of the sanctuary resource.

(3) Use of fees

Amounts collected by the Secretary in the form of fees under this section may be used by the Secretary—

(A) for issuing and administering permits under this section; and

(B) for expenses of managing national marine sanctuaries.

(4) Waiver or reduction of fees

The Secretary may accept in-kind contributions in lieu of a fee under paragraph (2)(C), or waive or reduce any fee assessed under this subsection for any activity that does not derive profit from the access to or use of sanctuary resources.

(e) Violations

Upon violation of a term or condition of a permit issued under this section, the Secretary may—

(1) suspend or revoke the permit without compensation to the permittee and without liability to the United States;

(2) assess a civil penalty in accordance with section 1437 of this title; or

(3) both.

(f) Reports

Each person issued a permit under this section shall submit an annual report to the Secretary not later than December 31 of each year which describes activities conducted under that permit and revenues derived from such activities during the year.

(g) Fishing

Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities in a national marine sanctuary.

(Pub. L. 92–532, title III, § 310, as added Pub. L. 100–627, title II, § 203(3), Nov. 7, 1988, 102 Stat. 3214; amended Pub. L. 106–513, § 11, Nov. 13, 2000, 114 Stat. 2389.)

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–513, § 11(1), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 106–513, § 11(1), (2), redesignated subsec. (b) as (c) and substituted ''insurance, or post an equivalent bond,'' for ''insurance'' in par. (4). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 106–513, § 11(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(2)(C). Pub. L. 106–513, § 11(3), substituted ''resource.'' for ''resource and a reasonable return to the United States Government.''

Subsec. (d)(3)(B). Pub. L. 106–513, § 11(4), struck out ''designating and'' after ''expenses of''.

Subsec. (d)(4). Pub. L. 106–513, § 11(5), added par. (4).

Subsecs. (e) to (g). Pub. L. 106–513, § 11(1), redesignated subsecs. (d) to (f) as (e) to (g), respectively.

§ 1442. Cooperative agreements, donations, and acquisitions

(a) Agreements and grants

The Secretary may enter into cooperative agreements, contracts, or other agreements with, or make grants to, States, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and policies of this chapter.

(b) Authorization to solicit donations

The Secretary may enter into such agreements with any nonprofit organization authoriz-

ing the organization to solicit private donations to carry out the purposes and policies of this chapter.

(c) Donations

The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this chapter. Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States.

(d) Acquisitions

The Secretary may acquire by purchase, lease, or exchange, any land, facilities, or other property necessary and appropriate to carry out the purposes and policies of this chapter.

(e) Use of resources of other government agencies

The Secretary may, whenever appropriate, enter into an agreement with a State or other Federal agency to use the personnel, services, or facilities of such agency on a reimbursable or nonreimbursable basis, to assist in carrying out the purposes and policies of this chapter.

(f) Authority to obtain grants

Notwithstanding any other provision of law that prohibits a Federal agency from receiving assistance, the Secretary may apply for, accept, and use grants from other Federal agencies, States, local governments, regional agencies, interstate agencies, foundations, or other persons, to carry out the purposes and policies of this chapter.

(Pub. L. 92–532, title III, §311, as added Pub. L. 100–627, title II, §203(3), Nov. 7, 1988, 102 Stat. 3215; amended Pub. L. 102–587, title II, §2109, Nov. 4, 1992, 106 Stat. 5045; Pub. L. 104–283, §9(d), Oct. 11, 1996, 110 Stat. 3367; Pub. L. 106–513, §12, Nov. 13, 2000, 114 Stat. 2389.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–513, §12(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''The Secretary may enter into cooperative agreements, financial agreements, grants, contracts, or other agreements with States, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and policies of this chapter.''

Subsecs. (e), (f). Pub. L. 106–513, §12(b), added subsecs. (e) and (f).

1996—Pub. L. 104–283 made technical amendment to directory language of Pub. L. 102–587. See 1992 Amendment note below.

1992—Pub. L. 102–587, as amended by Pub. L. 104–283, amended section generally. Prior to amendment, section read as follows:

''(a) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with any nonprofit organization—

''(1) to aid and promote interpretive, historical, scientific, and educational activities; and

''(2) for the solicitation of private donations for the support of such activities.

''(b) DONATIONS.—The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this chapter.''

ENHANCING SUPPORT FOR NATIONAL MARINE SANCTUARIES

Section 2204 of title II of Pub. L. 102–587, which was formerly set out as a note under this section, was renumbered section 316 of Pub. L. 92–532, The National Marine Sanctuaries Act, by Pub. L. 104–283, §6(a), Oct. 11, 1996, 110 Stat. 3364, and is classified to section 1445b of this title.

§ 1443. Destruction or loss of, or injury to, sanctuary resources

(a) Liability

(1) Liability to United States

Any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for an amount equal to the sum of—

(A) the amount of response costs and damages resulting from the destruction, loss, or injury; and

(B) interest on that amount calculated in the manner described under section 2705 of title 33.

(2) Liability in rem

Any vessel used to destroy, cause the loss of, or injure any sanctuary resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury. The amount of that liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.

(3) Defenses

A person is not liable under this subsection if that person establishes that—

(A) the destruction or loss of, or injury to, the sanctuary resource was caused solely by an act of God, an act of war, or an act or omission of a third party, and the person acted with due care;

(B) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

(C) the destruction, loss, or injury was negligible.

(4) Limits to liability

Nothing in sections 4281–4289 of the Revised Statutes of the United States or section 30706 of title 46 shall limit the liability of any person under this chapter.

(b) Response actions and damage assessment

(1) Response actions

The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risk of such destruction, loss, or injury.

(2) Damage assessment

The Secretary shall assess damages to sanctuary resources in accordance with section 1432(6) of this title.

(c) Civil actions for response costs and damages

(1) The Attorney General, upon request of the Secretary, may commence a civil action against any person or vessel who may be liable under subsection (a) of this section for response costs and damages. The Secretary, acting as trustee for sanctuary resources for the United States, shall submit a request for such an action to the

Attorney General whenever a person may be liable for such costs or damages.

(2) An action under this subsection may be brought in the United States district court for any district in which—

(A) the defendant is located, resides, or is doing business, in the case of an action against a person;

(B) the vessel is located, in the case of an action against a vessel; or

(C) the destruction of, loss of, or injury to a sanctuary resource occurred.

(d) Use of recovered amounts

Response costs and damages recovered by the Secretary under this section shall be retained by the Secretary in the manner provided for in section 9607(f)(1) of title 42, and used as follows:

(1) Response costs

Amounts recovered by the United States for costs of response actions and damage assessments under this section shall be used, as the Secretary considers appropriate—

(A) to reimburse the Secretary or any other Federal or State agency that conducted those activities; and

(B) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any sanctuary resource.

(2) Other amounts

All other amounts recovered shall be used, in order of priority—

(A) to restore, replace, or acquire the equivalent of the sanctuary resources that were the subject of the action, including for costs of monitoring and the costs of curation and conservation of archeological, historical, and cultural sanctuary resources;

(B) to restore degraded sanctuary resources of the national marine sanctuary that was the subject of the action, giving priority to sanctuary resources and habitats that are comparable to the sanctuary resources that were the subject of the action; and

(C) to restore degraded sanctuary resources of other national marine sanctuaries.

(3) Federal-State coordination

Amounts recovered under this section with respect to sanctuary resources lying within the jurisdiction of a State shall be used under paragraphs (2)(A) and (B) in accordance with the court decree or settlement agreement and an agreement entered into by the Secretary and the Governor of that State.

(e) Statute of limitations

An action for response costs or damages under subsection (c) of this section shall be barred unless the complaint is filed within 3 years after the date on which the Secretary completes a damage assessment and restoration plan for the sanctuary resources to which the action relates.

(Pub. L. 92–532, title III, §312, as added Pub. L. 100–627, title II, §204(a), Nov. 7, 1988, 102 Stat. 3215; amended Pub. L. 102–587, title II, §§2107(d), 2110, Nov. 4, 1992, 106 Stat. 5044, 5045; Pub. L. 104–283, §9(e), Oct. 11, 1996, 110 Stat. 3367; Pub. L. 106–513, §§13, 19(c), Nov. 13, 2000, 114 Stat. 2389, 2393.)

REFERENCES IN TEXT

Sections 4281–4289 of the Revised Statutes of the United States, referred to in subsec. (a)(4), were classified to sections 181 to 188 of the former Appendix to Title 46, Shipping, and section 175 of former Title 46. Sections 4281 to 4287 and 4289 of the Revised Statutes were repealed and restated in chapter 305 of Title 46, Shipping, by Pub. L. 109–304, §§6(c), 19, Oct. 6, 2006, 120 Stat. 1509, 1710. Section 4288 of the Revised Statutes (section 175 of former Title 46) was repealed by act Oct. 9, 1940, ch. 777, §7, 54 Stat. 1028. For disposition of sections of the former Appendix to Title 46, see Disposition Table preceding section 101 of Title 46.

CODIFICATION

In subsec. (a)(4), ''section 30706 of title 46'' substituted for ''section 3 of the Act of February 13, 1893,'' on authority of Pub. L. 109–304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 30706 of Title 46, Shipping.

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106–513, §19(c), amended par. (1) heading.

Subsec. (c). Pub. L. 106–513, §13(a), designated existing provisions as par. (1), struck out ''in the United States district court for the appropriate district'' after ''civil action'', and added par. (2).

Subsec. (d)(1), (2). Pub. L. 106–513, §13(b), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

''(1) RESPONSE COSTS AND DAMAGE ASSESSMENTS.—Twenty percent of amounts recovered under this section, up to a maximum balance of $750,000, shall be used to finance response actions and damage assessments by the Secretary.

''(2) RESTORATION, REPLACEMENT, MANAGEMENT, AND IMPROVEMENT.—Amounts remaining after the operation of paragraph (1) shall be used, in order of priority—

''(A) to restore, replace, or acquire the equivalent of the sanctuary resources which were the subject of the action;

''(B) to manage and improve the national marine sanctuary within which are located the sanctuary resources which were the subject of the action; and

''(C) to manage and improve any other national marine sanctuary.''

Subsec. (e). Pub. L. 106–513, §13(c), added subsec. (e).

1996—Subsec. (b)(1). Pub. L. 104–283 made technical amendment to directory language of Pub. L. 102–587, §2110(d). See 1992 Amendment note below.

1992—Subsec. (a)(1). Pub. L. 102–587, §2110(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''IN GENERAL.—Subject to paragraph (3), any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.''

Subsec. (a)(2). Pub. L. 102–587, §2110(b), inserted at end ''The amount of that liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.''

Subsec. (a)(4). Pub. L. 102–587, §2110(c), added par. (4).

Subsec. (b)(1). Pub. L. 102–587, §2110(d), as amended by Pub. L. 104–283, inserted ''or authorize'' after ''undertake''.

Subsec. (d). Pub. L. 102–587, §2107(d)(1), struck out ''and civil penalties under section 1437 of this title'' after ''Secretary under this section''.

Subsec. (d)(3), (4). Pub. L. 102–587, §§2107(d)(2), 2110(e), redesignated par. (4) as (3), inserted ''the court decree or settlement agreement and'' after ''in accordance with'', and struck out former par. (3) which read as follows: ''Amounts recovered under section 1437 of this title in the form of civil penalties shall be used by the

Secretary in accordance with section 1437(e) of this title and paragraphs (2)(B) and (C) of this subsection.''

EFFECTIVE DATE

Section 204(c) of Pub. L. 100–627 provided that: ''Amounts in the form of damages received by the United States after November 30, 1986, for destruction or loss of, or injury to, a sanctuary resource (as that term is defined in section 302(8) of the Act [16 U.S.C. 1432(8)] (as amended by this Act)) shall be subject to section 312 of the Act [16 U.S.C. 1443] (as amended by this Act).''

§ 1444. Authorization of appropriations

There are authorized to be appropriated to the Secretary—

(1) to carry out this chapter—
- (A) $32,000,000 for fiscal year 2001;
- (B) $34,000,000 for fiscal year 2002;
- (C) $36,000,000 for fiscal year 2003;
- (D) $38,000,000 for fiscal year 2004;
- (E) $40,000,000 for fiscal year 2005; and

(2) for construction projects at national marine sanctuaries, $6,000,000 for each of fiscal years 2001, 2002, 2003, 2004, and 2005.

(Pub. L. 92–532, title III, § 313, as added Pub. L. 100–627, title II, § 208, Nov. 7, 1988, 102 Stat. 3221; amended Pub. L. 101–605, § 10(a), Nov. 16, 1990, 104 Stat. 3095; Pub. L. 102–587, title II, § 2111, Nov. 4, 1992, 106 Stat. 5046; Pub. L. 104–283, § 3, Oct. 11, 1996, 110 Stat. 3363; Pub. L. 106–513, § 14, Nov. 13, 2000, 114 Stat. 2390.)

AMENDMENTS

2000—Pub. L. 106–513 amended section generally, substituting provisions authorizing appropriations to carry out this chapter for fiscal years 2001 to 2005 for provisions authorizing such appropriations for fiscal years 1997 to 1999.

1996—Pub. L. 104–283 amended section generally, substituting provisions authorizing appropriations to carry out this chapter for fiscal years 1997 to 1999 for provisions authorizing such appropriations for fiscal years 1993 to 1996.

1992—Pub. L. 102–587 amended section generally, substituting provisions relating to authorization of appropriations for fiscal years 1993 to 1996 to carry out this chapter for provisions relating to authorization of appropriations for fiscal years 1989 to 1992 to carry out general administration, management of national marine sanctuaries and site review and analysis of national marine sanctuaries of this chapter.

1990—Par. (2)(C). Pub. L. 101–605 substituted ''$4,000,000'' for ''$3,000,000''.

§ 1445. U.S.S. Monitor artifacts and materials

(a) Congressional policy

In recognition of the historical significance of the wreck of the United States ship Monitor to coastal North Carolina and to the area off the coast of North Carolina known as the Graveyard of the Atlantic, the Congress directs that a suitable display of artifacts and materials from the United States ship Monitor be maintained permanently at an appropriate site in coastal North Carolina.

(b) Disclaimer

This section shall not affect the following:

(1) Responsibilities of Secretary

The responsibilities of the Secretary to provide for the protection, conservation, and display of artifacts and materials from the United States ship Monitor.

(2) Authority of Secretary

The authority of the Secretary to designate the Mariner's Museum, located at Newport News, Virginia, as the principal museum for coordination of activities referred to in paragraph (1).

(Pub. L. 92–532, title III, § 314, as added Pub. L. 100–627, title II, § 208, Nov. 7, 1988, 102 Stat. 3222; amended Pub. L. 106–513, § 15, Nov. 13, 2000, 114 Stat. 2391.)

AMENDMENTS

2000—Subsecs. (b), (c). Pub. L. 106–513 redesignated subsec. (c) as (b) and struck out former subsec. (b) which required the Secretary to submit a plan for a suitable display in coastal North Carolina of artifacts and materials of the United States ship Monitor.

MANAGEMENT, RECOVERY, AND PRESERVATION PLAN FOR U.S.S. MONITOR

Pub. L. 104–283, § 4, Oct. 11, 1996, 110 Stat. 3363, provided that: ''The Secretary of Commerce shall, within 12 months after the date of the enactment of this Act [Oct. 11, 1996], prepare and submit to the Committee on Resources [now Committee on Natural Resources] of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a long-range, comprehensive plan for the management, stabilization, preservation, and recovery of artifacts and materials of the U.S.S. MONITOR. In preparing and implementing the plan, the Secretary shall to the extent feasible utilize the resources of other Federal and private entities with expertise and capabilities that are helpful.''

GRAVEYARD OF THE ATLANTIC ARTIFACTS

Pub. L. 102–587, title II, § 2201, Nov. 4, 1992, 106 Stat. 5047, provided that:

''(a) ACQUISITION OF SPACE.—Pursuant to section 314 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1445) and consistent with the Cooperative Agreement entered into in October, 1989, between the National Oceanic and Atmospheric Administration and the Mariner's Museum of Newport News, Virginia, the Secretary of Commerce shall make a grant for the acquisition of space in Hatteras Village, North Carolina, for—

''(1) the display and interpretation of artifacts recovered from the area of the Atlantic Ocean adjacent to North Carolina generally known as the Graveyard of the Atlantic, including artifacts recovered from the Monitor National Marine Sanctuary; and

''(2) administration and operations of the Monitor National Marine Sanctuary.

''(b) AUTHORIZATION.—To carry out the responsibilities of the Secretary of Commerce under this section, there are authorized to be appropriated to the Secretary of Commerce a total of $800,000 for fiscal years 1993 and 1994, to remain available until expended.

''(c) FEDERAL SHARE.—Not more than two-thirds of the cost of space acquired under this section may be paid with amounts provided pursuant to this section.''

§ 1445a. Advisory Councils

(a) Establishment

The Secretary may establish one or more advisory councils (in this section referred to as an ''Advisory Council'') to advise and make recommendations to the Secretary regarding the designation and management of national marine sanctuaries. The Advisory Councils shall be exempt from the Federal Advisory Committee Act.

(b) Membership

Members of the Advisory Councils may be appointed from among—

(1) persons employed by Federal or State agencies with expertise in management of natural resources;

(2) members of relevant Regional Fishery Management Councils established under section 1852 of this title; and

(3) representatives of local user groups, conservation and other public interest organizations, scientific organizations, educational organizations, or others interested in the protection and multiple use management of sanctuary resources.

(c) Limits on membership

For sanctuaries designated after November 4, 1992, the membership of Advisory Councils shall be limited to no more than 15 members.

(d) Staffing and assistance

The Secretary may make available to an Advisory Council any staff, information, administrative services, or assistance the Secretary determines are reasonably required to enable the Advisory Council to carry out its functions.

(e) Public participation and procedural matters

The following guidelines apply with respect to the conduct of business meetings of an Advisory Council:

(1) Each meeting shall be open to the public, and interested persons shall be permitted to present oral or written statements on items on the agenda.

(2) Emergency meetings may be held at the call of the chairman or presiding officer.

(3) Timely notice of each meeting, including the time, place, and agenda of the meeting, shall be published locally and in the Federal Register, except that in the case of a meeting of an Advisory Council established to provide assistance regarding any individual national marine sanctuary the notice is not required to be published in the Federal Register.

(4) Minutes of each meeting shall be kept and contain a summary of the attendees and matters discussed.

(Pub. L. 92–532, title III, §315, as added Pub. L. 102–587, title II, §2112, Nov. 4, 1992, 106 Stat. 5046; amended Pub. L. 104–283, §§5, 9(f), Oct. 11, 1996, 110 Stat. 3363, 3368; Pub. L. 106–513, §§16, 19(b)(5), Nov. 13, 2000, 114 Stat. 2391, 2393.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (a), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–513, §16, substituted ''advise and make recommendations'' for ''provide assistance''.

Subsec. (b)(2). Pub. L. 106–513, §19(b)(5), made technical amendment to reference in original act which appears in text as reference to section 1852 of this title.

1996—Pub. L. 104–283, §9(f), made technical amendment to directory language of Pub. L. 102–587, §2112, which added this section.

Subsec. (e)(3). Pub. L. 104–283, §5, inserted before period at end '', except that in the case of a meeting of an Advisory Council established to provide assistance regarding any individual national marine sanctuary the notice is not required to be published in the Federal Register''.

§ 1445b. Enhancing support for national marine sanctuaries

(a) Authority

The Secretary may establish a program consisting of—

(1) the creation, adoption, and publication in the Federal Register by the Secretary of a symbol for the national marine sanctuary program, or for individual national marine sanctuaries or the System;

(2) the solicitation of persons to be designated as official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;

(3) the designation of persons by the Secretary as official sponsors of the national marine sanctuary program or of individual sanctuaries;

(4) the authorization by the Secretary of the manufacture, reproduction, or other use of any symbol published under paragraph (1), including the sale of items bearing such a symbol, by official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;

(5) the creation, marketing, and selling of products to promote the national marine sanctuary program, and entering into exclusive or nonexclusive agreements authorizing entities to create, market or sell on the Secretary's behalf;

(6) the solicitation and collection by the Secretary of monetary or in-kind contributions from official sponsors for the manufacture, reproduction or use of the symbols published under paragraph (1);

(7) the retention of any monetary or in-kind contributions collected under paragraphs (5) and (6) by the Secretary; and

(8) the expenditure and use of any monetary and in-kind contributions, without appropriation, by the Secretary to designate and manage national marine sanctuaries.

Monetary and in-kind contributions raised through the sale, marketing, or use of symbols and products related to an individual national marine sanctuary shall be used to support that sanctuary.

(b) Contract authority

The Secretary may contract with any person for the creation of symbols or the solicitation of official sponsors under subsection (a) of this section.

(c) Restrictions

The Secretary may restrict the use of the symbols published under subsection (a) of this section, and the designation of official sponsors of the national marine sanctuary program or of individual national marine sanctuaries to ensure compatibility with the goals of the national marine sanctuary program.

(d) Property of United States

Any symbol which is adopted by the Secretary and published in the Federal Register under sub-

section (a) of this section is deemed to be the property of the United States.

(e) Prohibited activities

It is unlawful for any person—

(1) designated as an official sponsor to influence or seek to influence any decision by the Secretary or any other Federal official related to the designation or management of a national marine sanctuary, except to the extent that a person who is not so designated may do so;

(2) to represent himself or herself to be an official sponsor absent a designation by the Secretary;

(3) to manufacture, reproduce, or otherwise use any symbol adopted by the Secretary under subsection (a)(1) of this section, including to sell any item bearing such a symbol, unless authorized by the Secretary under subsection (a)(4) of this section or subsection (f) of this section; or

(4) to violate any regulation promulgated by the Secretary under this section.

(f) Collaborations

The Secretary may authorize the use of a symbol adopted by the Secretary under subsection (a)(1) of this section by any person engaged in a collaborative effort with the Secretary to carry out the purposes and policies of this chapter and to benefit a national marine sanctuary or the System.

(g) Authorization for non-profit partner organization to solicit sponsors

(1) In general

The Secretary may enter into an agreement with a non-profit partner organization authorizing it to assist in the administration of the sponsorship program established under this section. Under an agreement entered into under this paragraph, the Secretary may authorize the non-profit partner organization to solicit persons to be official sponsors of the national marine sanctuary system or of individual national marine sanctuaries, upon such terms as the Secretary deems reasonable and will contribute to the successful administration of the sanctuary system. The Secretary may also authorize the non-profit partner organization to collect the statutory contribution from the sponsor, and, subject to paragraph (2), transfer the contribution to the Secretary.

(2) Reimbursement for administrative costs

Under the agreement entered into under paragraph (1), the Secretary may authorize the non-profit partner organization to retain not more than 5 percent of the amount of monetary contributions it receives from official sponsors under the agreement to offset the administrative costs of the organization in soliciting sponsors.

(3) Partner organization defined

In this subsection, the term ''partner organization'' means an organization that—

(A) draws its membership from individuals, private organizations, corporations, academic institutions, or State and local governments; and

(B) is established to promote the understanding of, education relating to, and the conservation of the resources of a particular sanctuary or 2 or more related sanctuaries.

(Pub. L. 92–532, title III, § 316, formerly Pub. L. 102–587, title II, § 2204, Nov. 4, 1992, 106 Stat. 5049; renumbered § 316 of Pub. L. 92–532 and amended Pub. L. 104–283, § 6, Oct. 11, 1996, 110 Stat. 3364; Pub. L. 106–513, § 17, Nov. 13, 2000, 114 Stat. 2391.)

CODIFICATION

Section was set out as a note under section 1442 of this title prior to renumbering by Pub. L. 104–283.

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106–513, § 17(1), inserted ''or the System'' after ''sanctuaries''.

Subsec. (a)(4). Pub. L. 106–513, § 17(2), substituted ''manufacture, reproduction, or other use of any symbol published under paragraph (1), including the sale of items bearing such a symbol,'' for ''use of any symbol published under paragraph (1)''.

Subsec. (e)(3). Pub. L. 106–513, § 17(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''to manufacture, reproduce, or use any symbol adopted by the Secretary absent designation as an official sponsor and without payment of a monetary or in-kind contribution to the Secretary; and''.

Subsecs. (f), (g). Pub. L. 106–513, § 17(4), added subsecs. (f) and (g).

1996—Subsec. (a). Pub. L. 104–283, § 6(b)(7), inserted at end ''Monetary and in-kind contributions raised through the sale, marketing, or use of symbols and products related to an individual national marine sanctuary shall be used to support that sanctuary.''

Pub. L. 104–283, § 6(b)(2), substituted ''Authority'' for ''Project'' as heading and ''The Secretary may establish a program consisting of'' for ''The project shall consist of'' in introductory provisions.

Pub. L. 104–283, § 6(b)(1), redesignated subsec. (b) as (a) and struck out former subsec. (a) which read as follows: ''Beginning on November 4, 1992, the Secretary shall conduct a 2-year pilot project to enhance funding for designation and management of national marine sanctuaries.''

Subsec. (a)(5). Pub. L. 104–283, § 6(b)(6), added par. (5). Former par. (5) redesignated (6).

Pub. L. 104–283, § 6(b)(3), substituted ''solicitation'' for ''establishment'' and ''monetary or in-kind contributions'' for ''fees''.

Subsec. (a)(6). Pub. L. 104–283, § 6(b)(6), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Pub. L. 104–283, § 6(b)(4), substituted ''monetary or in-kind contributions collected'' for ''fees assessed'' and ''paragraphs (5) and (6)'' for ''paragraph (5)'' and struck out ''in an interest-bearing revolving fund'' after ''by the Secretary''.

Subsec. (a)(7). Pub. L. 104–283, § 6(b)(6), redesignated par. (6) as (7). Former par. (7) redesignated (8).

Pub. L. 104–283, § 6(b)(5), inserted ''and use'' after ''expenditure'', substituted ''monetary and in-kind contributions'' for ''fees'', and struck out ''and any interest in the fund established under paragraph (6)'' before '', without appropriation''.

Subsec. (a)(8). Pub. L. 104–283, § 6(b)(6), redesignated par. (7) as (8).

Subsec. (b). Pub. L. 104–283, § 6(b)(9), substituted ''subsection (a)'' for ''subsection (b)''.

Pub. L. 104–283, § 6(b)(1), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 104–283, § 6(b)(9), substituted ''subsection (a)'' for ''subsection (b)''.

Pub. L. 104–283, § 6(b)(1), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 104–283, § 6(b)(9), substituted ''subsection (a)'' for ''subsection (b)''.

Pub. L. 104–283, § 6(b)(1), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 104–283, §6(b)(8), struck out ''(1)'' before ''It is unlawful'', redesignated subpars. (A) to (D) as pars. (1) to (4), respectively, in par. (3), substituted ''monetary or in-kind contribution'' for ''fee'', and struck out former par. (2) which read as follows: ''Violation of this subsection shall be considered a violation of this chapter.''

Pub. L. 104–283, §6(b)(1), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 104–283, §6(b)(1), redesignated subsec. (f) as (e).

Subsec. (g). Pub. L. 104–283, §6(b)(1), struck out heading and text of subsec. (g). Text read as follows: ''No later than 30 months after November 4, 1992, the Secretary shall submit a report on the pilot project to Congress regarding the success of the program in providing additional funds for management and operation of national marine sanctuaries.''

Subsec. (h). Pub. L. 104–283, §6(b)(1), struck out heading and text of subsec. (h). Text read as follows: ''In this section—

''(1) the term 'national marine sanctuary' or 'national marine sanctuaries' means a national marine sanctuary or sanctuaries designated under this chapter, or by other law in accordance with this chapter;

''(2) the term 'official sponsor' means any person designated by the Secretary who is authorized to manufacture, reproduce, or use any symbol created, adopted, and published in the Federal Register under this section for a fee paid to the Secretary; and

''(3) the term 'Secretary' means the Secretary of Commerce.''

§ 1445c. Dr. Nancy Foster Scholarship Program

(a) Establishment

The Secretary shall establish and administer through the National Ocean Service the Dr. Nancy Foster Scholarship Program. Under the program, the Secretary shall award graduate education scholarships in oceanography, marine biology or maritime archeology, to be known as Dr. Nancy Foster Scholarships.

(b) Purposes

The purposes of the Dr. Nancy Foster Scholarship Program are—

(1) to recognize outstanding scholarship in oceanography, marine biology, or maritime archeology, particularly by women and members of minority groups; and

(2) to encourage independent graduate level research in oceanography, marine biology, or maritime archeology.

(c) Award

Each Dr. Nancy Foster Scholarship—

(1) shall be used to support graduate studies in oceanography, marine biology, or maritime archeology at a graduate level institution of higher education; and

(2) shall be awarded in accordance with guidelines issued by the Secretary.

(d) Distribution of funds

The amount of each Dr. Nancy Foster Scholarship shall be provided directly to a recipient selected by the Secretary upon receipt of certification that the recipient will adhere to a specific and detailed plan of study and research approved by a graduate level institution of higher education.

(e) Funding

Of the amount available each fiscal year to carry out this chapter, the Secretary shall award 1 percent as Dr. Nancy Foster Scholarships.

(f) Scholarship repayment requirement

The Secretary shall require an individual receiving a scholarship under this section to repay the full amount of the scholarship to the Secretary if the Secretary determines that the individual, in obtaining or using the scholarship, engaged in fraudulent conduct or failed to comply with any term or condition of the scholarship.

(g) Maritime archeology defined

In this section the term ''maritime archeology'' includes the curation, preservation, and display of maritime artifacts.

(Pub. L. 92–532, title III, §318, as added Pub. L. 106–513, §18, Nov. 13, 2000, 114 Stat. 2392.)

CODIFICATION

For similar provisions relating to the Dr. Nancy Foster Scholarship Program, see section 1445c–1 of this title.

§ 1445c–1. Dr. Nancy Foster Scholarship Program

(a) Establishment

The Secretary of Commerce shall establish and administer through the National Ocean Service the Dr. Nancy Foster Scholarship Program. Under the program, the Secretary shall award graduate education scholarships in marine biology, oceanography, or maritime archaeology, including the curation, preservation, and display of maritime artifacts, to be known as ''Dr. Nancy Foster Scholarships''.

(b) Purpose

The purpose of the Dr. Nancy Foster Scholarship Program is to recognize outstanding scholarship in marine biology, oceanography, or maritime archaeology, particularly by women and members of minority groups, and encourage independent graduate level research in such fields of study.

(c) Award

Each Dr. Nancy Foster Scholarship award—

(1) shall be used to support a candidate's graduate studies in marine biology, oceanography, or maritime archaeology at a sponsoring institution; and

(2) shall be made available to individual candidates in accordance with guidelines issued by the Secretary.

(d) Distribution of funds

The amount of each Dr. Nancy Foster Scholarship shall be provided directly to each recipient selected by the Secretary upon receipt of certification that the recipient will adhere to a specific and detailed plan of study and research approved by the sponsoring institution.

(e) Funding

The Secretary shall make 1 percent of the amount appropriated each fiscal year to carry out the National Marine Sanctuaries Act [16 U.S.C. 1431 et seq.] available for Dr. Nancy Foster Scholarships.

(f) Scholarship repayment requirement

Repayment of the award shall be made to the Secretary in the case of fraud or noncompliance.

(Pub. L. 106–553, § 1(a)(2) [title II, § 210], Dec. 21, 2000, 114 Stat. 2762, 2762A–79.)

REFERENCES IN TEXT

The National Marine Sanctuaries Act, referred to in subsec. (e), is title III of Pub. L. 92–532, Oct. 23, 1972, 86 Stat. 1061, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1431 of this title and Tables.

CODIFICATION

For similar provisions relating to the Dr. Nancy Foster Scholarship Program, see section 1445c of this title.

Section was enacted as part of the Department of Commerce and Related Agencies Appropriations Act, 2001, and also as part of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, and not as part of the National Marine Sanctuaries Act which comprises this chapter.

CHAPTER 32A—REGIONAL MARINE RESEARCH PROGRAMS

Sec.
1447. Purposes.
1447a. Definitions.
1447b. Regional Marine Research Boards.
1447c. Regional research plans.
1447d. Research grant program.
1447e. Report on research program.
1447f. Authorization of appropriations.

§ 1447. Purposes

The purpose of this chapter is to establish regional research programs, under effective Federal oversight, to—

(1) set priorities for regional marine and coastal research in support of efforts to safeguard the water quality and ecosystem health of each region; and

(2) carry out such research through grants and improved coordination.

(Pub. L. 92–532, title IV, § 401, as added Pub. L. 101–593, title III, § 301, Nov. 16, 1990, 104 Stat. 2963.)

§ 1447a. Definitions

As used in this chapter, the term—

(1) ''Board'' means any Regional Marine Research board[1] established pursuant to section 1447b(a) of this title;

(2) ''Federal agency'' means any department, agency, or other instrumentality of the Federal Government, including any independent agency or establishment of the Federal Government and any government corporation;

(3) ''local government'' means any city, town, borough, county, parish, district, or other public body which is a political subdivision of a State and which is created pursuant to State law;

(4) ''marine and coastal waters'' means estuaries, waters of the estuarine zone, including wetlands, any other waters seaward of the historic height of tidal influence, the territorial seas, the contiguous zone, and the ocean;

(5) ''nonprofit organization'' means any organization, association, or institution described in section 501(c)(3) of title 26 which is exempt from taxation pursuant to section 501(a) of title 26;

(6) ''region'' means 1 of the 9 regions described in section 1447b(a) of this title; and

(7) ''State'' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 92–532, title IV, § 402, as added Pub. L. 101–593, title III, § 301, Nov. 16, 1990, 104 Stat. 2963.)

TERRITORIAL SEA AND CONTIGUOUS ZONE OF UNITED STATES

For extension of territorial sea and contiguous zone of United States, see Proc. No. 5928 and Proc. No. 7219, respectively, set out as notes under section 1331 of Title 43, Public Lands.

§ 1447b. Regional Marine Research Boards

(a) Establishment

A Regional Marine Research board[1] shall be established for each of the following regions:

(1) the Gulf of Maine region, comprised of the marine and coastal waters off the State of Maine, New Hampshire, and Massachusetts (north of Cape Cod);

(2) the greater New York bight region, comprised of the marine and coastal waters off the States of Massachusetts (south of Cape Cod), Rhode Island, Connecticut, New York, and New Jersey, from Cape Cod to Cape May;

(3) the mid-Atlantic region, comprised of the marine and coastal waters off the States of New Jersey, Delaware, Maryland, Virginia, and North Carolina, from Cape May to Cape Fear;

(4) the South Atlantic region, comprised of the marine and coastal waters off the States of North Carolina, South Carolina, Georgia, and Florida, from Cape Fear to the Florida Keys, including the marine and coastal waters off Puerto Rico and the United States Virgin Islands;

(5) the Gulf of Mexico region, comprised of the marine and coastal waters off the States of Florida, Alabama, Mississippi, Louisiana, and Texas, along the Gulf coast from the Florida Keys to the Mexican border;

(6) the California region, comprised of the marine and coastal waters off the State of California, from Point Reyes to the Mexican border;

(7) the North Pacific region, comprised of the marine and coastal waters off the States of California, Oregon, and Washington, from Point Reyes to the Canadian border;

(8) the Alaska region, comprised of the marine and coastal waters off the State of Alaska; and

(9) insular Pacific region, comprised of the marine and coastal waters off the State of Hawaii, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

The Great Lakes Research Office authorized under section 1268(d) of title 33 shall be responsible for research in the Great Lakes region and

[1] So in original. Probably should be capitalized.

[1] So in original. Probably should be capitalized.

shall be considered the Great Lakes counterpart to the research program established pursuant to this chapter.

(b) Membership

(1) Composition

Each Board shall be comprised of 11 members of which—

(A) 3 members shall be appointed by the Administrator of the National Oceanic and Atmospheric Administration, including 1 member who shall be a Sea Grant Program Director from a State within such region, who shall serve as chairman of the board; [1]

(B) 2 members shall be appointed by the Administrator of the Environmental Protection Agency; and

(C) 6 members shall be appointed by Governors of States located within the region.

(2) Qualifications

Each individual appointed as a member of a Board shall possess expertise, pertinent to the region concerned, in scientific research, coastal zone management, fishery management, water quality management, State and local government, or any other area which is directly relevant to the functions of the Board. A majority of the members of each Board shall be trained in a field of marine or aquatic science and shall be currently engaged in research or research administration.

(3) Terms

Each appointed member of a Board shall serve for a term of 4 years.

(4) Vacancies

In the event of a vacancy, a replacement member shall be appointed in the same manner and in accordance with the same requirements as the member being replaced and shall serve the remainder of the term of the replaced member.

(5) Reimbursement of expenses

Each appointed member of a Board may be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the member's usual place of residence, in accordance with section 5703 of title 5, when engaged in the actual performance of Board duties.

(c) Functions

Each Board shall, in accordance with the provisions of this chapter—

(1) develop and submit to the Administrators of the National Oceanic and Atmospheric Administration and the Environmental Protection Agency a marine research plan, including periodic amendments thereto, that meets the requirements of section 1447c of this title;

(2) provide a forum for coordinating research among research institutions and agencies;

(3) provide for review and comment on research plans by affected users and interests, such as the commercial and recreational fishing industries, other marine industries, State and local government entities, and environmental organizations;

(4) ensure that the highest quality of research projects will be conducted to carry out the comprehensive plan; and

(5) prepare, for submission to Congress, a periodic report on the marine environmental research issues and activities within the region in accordance with section 1447e of this title.

(d) Powers

Each Board shall be authorized to—

(1) cooperate with Federal agencies, with States and with local government entities, interstate and regional agencies, other public agencies and authorities, nonprofit institutions, laboratories, and organizations, or other appropriate persons, in the preparation and support of marine research in the region;

(2) enter into contracts, cooperative agreements or grants to State and local governmental entities, other public agencies or institutions, and non-profit institutions and organizations for purposes of carrying out the provisions of this chapter;

(3) collect and make available through publications and other appropriate means, the results of, and other information pertaining to, the research conducted in the region;

(4) call conferences on regional marine research and assessment issues, giving opportunity for interested persons to be heard and present papers at such conferences;

(5) develop and stimulate, in consultation with the Department of State, joint marine research projects with foreign nations;

(6) utilize facilities and personnel of existing Federal agencies, including scientific laboratories and research facilities;

(7) accept, and for all general purposes of this Act, utilize funds from other sources, including but not limited to State and local funds, university funds, and donations; and

(8) acquire secret processes, inventions, patent applications, patents, licenses, and property rights, by purchase, license, lease, or donation.

(e) Administration

(1) Practices and procedures

Each Board shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter. Each Board should use existing research administrative capability to the extent practicable.

(2) Committees and subcommittees

Each Board shall establish such committees and subcommittees as are appropriate in the performance of its functions.

(3) Staff and support

Each Board is authorized to hire such staff as are necessary to carry out the functions of the Board.

(f) Termination

Each Board shall cease to exist on October 1, 1999, unless extended by Congress.

(Pub. L. 92–532, title IV, § 403, as added Pub. L. 101–593, title III, § 301, Nov. 16, 1990, 104 Stat. 2964.)

REFERENCES IN TEXT

This Act, referred to in subsec. (d)(7), means Pub. L. 92–532, which enacted this chapter, chapter 32 (§ 1431 et

seq.) of this title, and chapters 27 (§ 1401 et seq.) and 41 (§ 2801 et seq.) of Title 33, Navigation and Navigable Waters.

§ 1447c. Regional research plans

(a) Development and amendment of regional plans

(1) In general

Each Board shall develop a comprehensive 4-year marine research plan for the region for which the Board is responsible, and shall amend the plan at such times as the Board considers necessary to reflect changing conditions, but no less frequently than once every 4 years.

(2) Review and consideration of national plan

In the development and amendment of its research plan, the Board shall consider findings and recommendations of the national plan developed pursuant to the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.).[1]

(b) Contents of plan

Such marine research plan shall include—

(1) an overview of the environmental quality conditions in the coastal and marine waters of the region and expected trends in these conditions;

(2) a comprehensive inventory and description of all marine research related to water quality and ecosystem health expected to be conducted in the region during the 4-year term of the research plan;

(3) a statement and explanation of the marine research needs and priorities applicable to the marine and coastal waters of the region over the upcoming 10-year period with emphasis on the upcoming 3-to-5 year period;

(4) an assessment of how the plan will incorporate existing marine, coastal, and estuarine research and management in the region, including activities pursuant to section 1330 of title 33 and section 1461 of this title; and

(5) a general description of marine research and monitoring objectives and timetables for achievement through the funding of projects under this chapter during the 4-year period covered by the plan so as to meet the priorities specified in the plan in accordance with paragraph (3).

(c) Plan review and approval

(1) In general

When a Board has developed a marine research plan, including amendments thereto, the Board shall submit the plan to the Administrator of the National Oceanic and Atmospheric Administration and the Administration of the Environmental Protection Agency, who shall jointly determine whether the plan meets the requirements of subsection (b) of this section.

(2) Time for approval or disapproval

The Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency, shall jointly approve or disapprove such research plan within 120 days after receiving the plan.

(3) Action after disapproval

In the case of disapproval of such research plan, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall jointly notify the appropriate Board in writing, stating in detail the revisions necessary to obtain approval of the plan. Such Administrators shall approve or disapprove the revised plan within 90 days after receiving the revised plan from the Board.

(Pub. L. 92–532, title IV, § 404, as added Pub. L. 101–593, title III, § 301, Nov. 16, 1990, 104 Stat. 2966.)

REFERENCES IN TEXT

The National Ocean Pollution Planning Act of 1978, referred to in subsec. (a)(2), is Pub. L. 95–273, May 8, 1978, 92 Stat. 228, as amended, which was classified generally to chapter 31 (§ 1701 et seq.) of Title 33, Navigation and Navigable Waters, and was repealed by Pub. L. 102–567, title II, § 204, Oct. 29, 1992, 106 Stat. 4282.

§ 1447d. Research grant program

(a) Program administration

The Administrator of the National Oceanic and Atmospheric Administration shall administer a grant program to support the administrative functions of each Board.

(b) Research grants

(1) Each Board may annually submit a grant application to the Administrator of the National Oceanic and Atmospheric Administration to fund projects aimed at achieving the research priorities set forth in each research plan, including amendments thereto, developed and approved pursuant to section 1447c of this title.

(2) Projects eligible for funding under this section shall include research, investigations, studies, surveys, or demonstrations with respect to—

(A) baseline assessment of marine environmental quality, including chemical, physical, and biological indicators of environmental quality;

(B) effects or potential effects of contaminants, including nutrients, toxic chemicals and heavy metals, on the environment, including marine and aquatic organisms;

(C) effects of modification of habitats, including coastal wetlands, seagrass beds and reefs, on the environment, including marine organisms;

(D) assessment of impacts of pollutant sources and pollutant discharges into the coastal environment;

(E) transport, dispersion, transformation, and fate and effect of contaminants in the marine environment;

(F) marine and estuarine habitat assessment and restoration;

(G) methods and techniques for modeling environmental quality conditions and trends;

(H) methods and techniques for sampling of water, sediment, marine and aquatic organisms, and demonstration of such methods and techniques;

[1] See References in Text note below.

(I) the effects on human health and the environment of contaminants or combinations of contaminants at various levels, whether natural or anthropogenic, that are found in the marine environment;

(J) environmental assessment of potential effects of major coastal and offshore development projects in the region;

(K) assessment of the effects of climate change on marine resources in the region; and

(L) analysis and interpretation of research data for the benefit of State and local environmental protection and resource management agencies in the region.

(3) Grant applications submitted pursuant to this subsection shall include—

(A) a description of the specific research projects to be conducted;

(B) identification of the organization responsible for each project and the principal investigator directing the project;

(C) a budget statement for each project;

(D) a schedule of milestones and interim products for each research project;

(E) a description of the relationship of the proposed project to the goals, objectives, and priorities of the research plan for the region and to other research projects; and

(F) any other information which may be required by the Administrator.

(c) Review and approval of project proposals

(1) The Administrator of the National Oceanic and Atmospheric Administration shall review the annual grant application and, with the concurrence of the Administrator of the Environmental Protection Agency, approve such grant application with such conditions as are determined to be appropriate based on peer reviews conducted pursuant to paragraph (2).

(2) The Administrator of the National Oceanic and Atmospheric Administration shall develop a system of peer review of grant applications which shall ensure that only the highest quality research is approved for funding and that each project is reviewed by research scientists outside the region concerned.

(d) Reporting

Any recipient of a grant under this section shall report to the appropriate Board, not later than 18 months after award of the grant, on the activities of such recipient conducted pursuant to this subsection. Such report shall include narrative summaries and technical data in such form as the Administrator of the National Oceanic and Atmospheric Administration may require.

(Pub. L. 92–532, title IV, § 405, as added Pub. L. 101–593, title III, § 301, Nov. 16, 1990, 104 Stat. 2967.)

§ 1447e. Report on research program

(a) Preparation and submission of report

Each Board receiving a grant under section 1447d of this title shall, not later than 2 years after the approval of its comprehensive plan under section 1447d of this title and at 2-year intervals thereafter, prepare and submit to the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency a report describing—

(1) the findings and conclusions of research projects conducted in the region;

(2) recommendations for improvements in the design or implementation of programs for the protection of the marine environment; and

(3) available data and information concerning ecosystem health within the region.

(b) Transmittal to Congress

Upon receipt of a report prepared by a Board under subsection (a) of this section, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall transmit a copy of such report to the Committees on Commerce, Science, and Transportation and on Environment and Public Works of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives.

(Pub. L. 92–532, title IV, § 406, as added Pub. L. 101–593, title III, § 301, Nov. 16, 1990, 104 Stat. 2969.)

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Science of House of Representatives in case of provisions relating to marine research by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 1447f. Authorization of appropriations

(a) In general

For purposes of carrying out the provisions of this chapter, there are authorized to be appropriated $18,000,000 for each of the fiscal years 1992 through 1996.

(b) Allocation

(1) Of funds appropriated in any fiscal year, not more than $500,000 shall be reserved for administration of this chapter by the National Oceanic and Atmospheric Administration and the Environmental Protection Agency.

(2) Funds appropriated in a fiscal year which are available after allocation pursuant to paragraph (1), shall be used to support the administrative costs of Boards established pursuant to section 1447b(a) of this title, provided that such funding does not exceed $300,000 for each research Board in each fiscal year.

(3) Seventy-five percent of funds appropriated in a fiscal year available after allocation pursuant to paragraphs (1) and (2), shall be allocated equally among Boards located in regions submitting research project grant applications pursuant to section 1447d(b) of this title.

(4) Twenty-five percent of funds appropriated in a fiscal year available after allocation pursuant to paragraphs (1) and (2), shall be allocated

among Boards located in regions submitting research project grant applications pursuant to section 1447d(b) of this title which, in the judgment of the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Administrator of the Environmental Protection Agency, propose the most needed and highest quality research.

(Pub. L. 92–532, title IV, § 407, as added Pub. L. 101–593, title III, § 301, Nov. 16, 1990, 104 Stat. 2969.)

CHAPTER 33—COASTAL ZONE MANAGEMENT

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§ 1451. Congressional findings

The Congress finds that—

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone.

(b) The coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation.

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.

(d) The habitat areas of the coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.

(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost.

(f) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, exclusive economic zone, and Outer Continental Shelf are placing stress on these areas and are creating the need for resolution of serious conflicts among important and competing uses and values in coastal and ocean waters;[1]

(g) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values.

(h) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate.

(i) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

(j) The national objective of attaining a greater degree of energy self-sufficiency would be advanced by providing Federal financial assistance to meet state and local needs resulting from new or expanded energy activity in or affecting the coastal zone.

(k) Land uses in the coastal zone, and the uses of adjacent lands which drain into the coastal zone, may significantly affect the quality of coastal waters and habitats, and efforts to control coastal water pollution from land use activities must be improved.

(*l*) Because global warming may result in a substantial sea level rise with serious adverse effects in the coastal zone, coastal states must anticipate and plan for such an occurrence.

(m) Because of their proximity to and reliance upon the ocean and its resources, the coastal states have substantial and significant interests in the protection, management, and development of the resources of the exclusive economic zone that can only be served by the active participation of coastal states in all Federal programs affecting such resources and, wherever appropriate, by the development of state ocean resource plans as part of their federally approved coastal zone management programs.

(Pub. L. 89–454, title III, § 302, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1280; amended Pub. L. 94–370, § 2, July 26, 1976, 90 Stat. 1013; Pub. L. 96–464, § 2, Oct. 17, 1980, 94 Stat. 2060; Pub. L. 101–508, title VI, § 6203(a), Nov. 5, 1990, 104 Stat. 1388–300.)

[1] So in original. The semicolon probably should be a period.

AMENDMENTS

1990—Subsec. (d). Pub. L. 101–508, §6203(a)(1), inserted ''habitat areas of the'' before ''coastal zone''.

Subsec. (f). Pub. L. 101–508, §6203(a)(2), inserted ''exclusive economic zone,'' after ''territorial sea,''.

Subsecs. (k) to (m). Pub. L. 101–508, §6203(a)(3), added subsecs. (k) to (m).

1980—Subsecs. (f) to (j). Pub. L. 96–464, §2(1), (2), added subsec. (f) and redesignated former subsecs. (f) to (i) as (g) to (j), respectively.

1976—Subsec. (b). Pub. L. 94–370, §2(1), inserted ''ecological,'' after ''recreational,''.

Subsec. (i). Pub. L. 94–370, §2(3), added subsec. (i).

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111–11, title XII, §12501, Mar. 30, 2009, 123 Stat. 1442, provided that: ''This Act [probably should be ''subtitle'', meaning subtitle E (§§12501, 12502) of title XII of Pub. L. 111–11, enacting section 1456–1 of this title] may be cited as the 'Coastal and Estuarine Land Conservation Program Act'.''

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–456, title I, §101, Dec. 10, 2004, 118 Stat. 3630, provided that: ''This title [enacting and amending provisions set out as notes under this section] may be cited as the 'Harmful Algal Bloom and Hypoxia Amendments Act of 2004'.''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–150, §1, June 3, 1996, 110 Stat. 1380, provided that: ''This Act [enacting section 1465 of this title, amending sections 1454, 1455a, 1456a, 1456b, 1461, and 1464 of this title, and enacting provisions set out as a note under section 1454 of this title] may be cited as the 'Coastal Zone Protection Act of 1996'.''

SHORT TITLE OF 1990 AMENDMENT

Section 6201 of title VI of Pub. L. 101–508 provided that: ''This subtitle [subtitle C (§§6201–6217) of title VI of Pub. L. 101–508, enacting sections 1455b, 1456c, and 1460 of this title, amending this section and sections 1452 to 1456b, 1458, 1461, and 1464 of this title, and enacting provisions set out as notes under this section and section 1455 of this title] may be cited as the 'Coastal Zone Act Reauthorization Amendments of 1990'.''

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–272, title VI, §6041, Apr. 7, 1986, 100 Stat. 124, provided that: ''This subtitle [subtitle D (§§6041–6047) of title VI of Pub. L. 99–272, amending sections 1455, 1455a, 1456a, 1458, 1461, and 1464 of this title, repealing sections 1456c and 1460 of this title, and repealing provisions set out as a note under this section] may be cited as the 'Coastal Zone Management Reauthorization Act of 1985'.''

SHORT TITLE OF 1980 AMENDMENT

Section 1 of Pub. L. 96–464 provided: ''That this Act [enacting sections 1455a and 1463a of this title, amending this section and sections 1452, 1453, 1455, 1456a, 1456b, 1458, 1461, 1462, and 1464 of this title, and enacting provisions set out as notes under sections 1455, 1458, and 1463a of this title] may be cited as the 'Coastal Zone Management Improvement Act of 1980'.''

SHORT TITLE OF 1976 AMENDMENT

Section 1 of Pub. L. 94–370 provided: ''That this Act [enacting section 1511a of Title 15, Commerce and Trade, and sections 1456a to 1456c of this title, amending this section, sections 1453 to 1456 and 1457 to 1464 of this title, and section 5316 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under section 1511a of Title 15 and section 1462 of this title] may be cited as the 'Coastal Zone Management Act Amendments of 1976'.''

SHORT TITLE

Section 301 of title III of Pub. L. 89–454, as added by Pub. L. 92–583, provided that: ''This title [enacting this chapter] may be cited as the 'Coastal Zone Management Act of 1972'.''

HYPOXIA ASSESSMENT

Pub. L. 110–114, title V, §5022, Nov. 8, 2007, 121 Stat. 1203, provided that: ''The Secretary [of the Army] may participate with Federal, State, and local agencies, non-Federal and nonprofit entities, regional researchers, and other interested parties to assess hypoxia in the Gulf of Mexico.''

HARMFUL ALGAL BLOOMS AND HYPOXIA RESEARCH AND CONTROL

Pub. L. 108–456, title I, §102, Dec. 10, 2004, 118 Stat. 3630, provided in part that: ''In developing the assessments, reports, and plans under the amendments made by this title [see Short Title of 2004 Amendment note above], the Task Force [Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia] shall consult with the coastal States, Indian tribes, local governments, appropriate industries (including fisheries, agriculture, and fertilizer), academic institutions, and nongovernmental organizations with expertise in coastal zone science and management.''

Pub. L. 105–383, title VI, Nov. 13, 1998, 112 Stat. 3447, as amended by Pub. L. 108–456, title I, §§102–105, Dec. 10, 2004, 118 Stat. 3630–3633; Pub. L. 110–161, div. B, title V, §528, Dec. 26, 2007, 121 Stat. 1930, provided that:

''SEC. 601. SHORT TITLE.

''This title may be cited as the 'Harmful Algal Bloom and Hypoxia Research and Control Act of 1998'.

''SEC. 602. FINDINGS.

''The Congress finds that—

''(1) the recent outbreak of the harmful microbe Pfiesteria piscicida in the coastal waters of the United States is one example of potentially harmful algal blooms composed of naturally occurring species that reproduce explosively and that are increasing in frequency and intensity in the Nation's coastal waters;

''(2) other recent occurrences of harmful algal blooms include red tides in the Gulf of Mexico and the Southeast; brown tides in New York and Texas; ciguatera fish poisoning in Hawaii, Florida, Puerto Rico, and the United States Virgin Islands; and shellfish poisonings in the Gulf of Maine, the Pacific Northwest, and the Gulf of Alaska;

''(3) in certain cases, harmful algal blooms have resulted in fish kills, the deaths of numerous endangered West Indian manatees, beach and shellfish bed closures, threats to public health and safety, and concern among the public about the safety of seafood;

''(4) according to some scientists, the factors causing or contributing to harmful algal blooms may include excessive nutrients in coastal waters, other forms of pollution, the transfer of harmful species through ship ballast water, and ocean currents;

''(5) harmful algal blooms may have been responsible for an estimated $1,000,000,000 in economic losses during the past decade;

''(6) harmful algal blooms and blooms of non-toxic algal species may lead to other damaging marine conditions such as hypoxia (reduced oxygen concentrations), which are harmful or fatal to fish, shellfish, and benthic organisms;

''(7) according to the National Oceanic and Atmospheric Administration in the Department of Commerce, 53 percent of United States estuaries experience hypoxia for at least part of the year and a 7,000 square mile area in the Gulf of Mexico off Louisiana and Texas suffers from hypoxia;

''(8) according to some scientists, a factor believed to cause hypoxia is excessive nutrient loading into coastal waters;

''(9) there is a need to identify more workable and effective actions to reduce nutrient loadings to coastal waters;

''(10) the National Oceanic and Atmospheric Administration, through its ongoing research, education,

grant, and coastal resource management programs, possesses a full range of capabilities necessary to support a near and long-term comprehensive effort to prevent, reduce, and control harmful algal blooms and hypoxia;

''(11) funding for the research and related programs of the National Oceanic and Atmospheric Administration will aid in improving the Nation's understanding and capabilities for addressing the human and environmental costs associated with harmful algal blooms and hypoxia; and

''(12) other Federal agencies such as the Environmental Protection Agency, the Department of Agriculture, and the National Science Foundation, along with the States, Indian tribes, and local governments, conduct important work related to the prevention, reduction, and control of harmful algal blooms and hypoxia.

''SEC. 603. ASSESSMENTS.

''(a) ESTABLISHMENT OF INTER-AGENCY TASK FORCE.—The President, through the Committee on Environment and Natural Resources of the National Science and Technology Council, shall establish an Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia (hereinafter referred to as the 'Task Force'). The Task Force shall consist of the following representatives from—

''(1) the Department of Commerce (who shall serve as Chairman of the Task Force);

''(2) the Environmental Protection Agency;

''(3) the Department of Agriculture;

''(4) the Department of the Interior;

''(5) the Department of the Navy;

''(6) the Department of Health and Human Services;

''(7) the National Science Foundation;

''(8) the National Aeronautics and Space Administration;

''(9) the Food and Drug Administration;

''(10) the Office of Science and Technology Policy;

''(11) the Council on Environmental Quality; and

''(12) such other Federal agencies as the President considers appropriate.

''(b) ASSESSMENT OF HARMFUL ALGAL BLOOMS.—

''(1) Not later than 12 months after the date of the enactment of this title [Nov. 13, 1998], the Task Force, in cooperation with the coastal States, Indian tribes, and local governments, industry (including agricultural organizations), academic institutions, and non-governmental organizations with expertise in coastal zone management, shall complete and submit to the Congress an assessment which examines the ecological and economic consequences of harmful algal blooms, alternatives for reducing, mitigating, and controlling harmful algal blooms, and the social and economic costs and benefits of such alternatives.

''(2) The assessment shall—

''(A) identify alternatives for preventing unnecessary duplication of effort among Federal agencies and departments with respect to harmful algal blooms; and

''(B) provide for Federal cooperation and coordination with and assistance to the coastal States, Indian tribes, and local governments in the prevention, reduction, management, mitigation, and control of harmful algal blooms and their environmental and public health impacts.

''(c) ASSESSMENT OF HYPOXIA.—

''(1) Not later than 12 months after the date of the enactment of this title [Nov. 13, 1998], the Task Force, in cooperation with the States, Indian tribes, local governments, industry, agricultural, academic institutions, and non-governmental organizations with expertise in watershed and coastal zone management, shall complete and submit to the Congress an assessment which examines the ecological and economic consequences of hypoxia in United States coastal waters, alternatives for reducing, mitigating, and controlling hypoxia, and the social and economic costs and benefits of such alternatives.

''(2) The assessment shall—

''(A) establish needs, priorities, and guidelines for a peer-reviewed, inter-agency research program on the causes, characteristics, and impacts of hypoxia;

''(B) identify alternatives for preventing unnecessary duplication of effort among Federal agencies and departments with respect to hypoxia; and

''(C) provide for Federal cooperation and coordination with and assistance to the States, Indian tribes, and local governments in the prevention, reduction, management, mitigation, and control of hypoxia and its environmental impacts.

''(d) REPORT TO CONGRESS ON HARMFUL ALGAL BLOOM IMPACTS.—

''(1) DEVELOPMENT.—Not later than 12 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 [Dec. 10, 2004], the President, in consultation with the chief executive officers of the States, shall develop and submit to the Congress a report that describes and evaluates the effectiveness of measures described in paragraph (2) that may be utilized to protect environmental and public health from impacts of harmful algal blooms. In developing the report, the President shall consult with the Task Force, the coastal States, Indian tribes, local governments, appropriate industries (including fisheries, agriculture, and fertilizer), academic institutions, and nongovernmental organizations with expertise in coastal zone science and management, and also consider the scientific assessments developed under this Act.

''(2) REQUIREMENTS.—The report shall—

''(A) review techniques for prediction of the onset, course, and impacts of harmful algal blooms including evaluation of their accuracy and utility in protecting environmental and public health and provisions for their development;

''(B) identify innovative research and development methods for the prevention, control, and mitigation of harmful algal blooms and provisions for their development; and

''(C) include incentive-based partnership approaches regarding subparagraphs (A) and (B) where practicable.

''(3) PUBLICATION AND OPPORTUNITY FOR COMMENT.—At least 90 days before submitting the report to the Congress, the President shall cause a summary of the proposed plan to be published in the Federal Register for a public comment period of not less than 60 days.

''(4) FEDERAL ASSISTANCE.—The Secretary of Commerce, in coordination with the Task Force and to the extent of funds available, shall provide for Federal cooperation with and assistance to the coastal States, Indian tribes, and local governments regarding the measures described in paragraph (2), as requested.

''(e) LOCAL AND REGIONAL SCIENTIFIC ASSESSMENTS.—

''(1) IN GENERAL.—The Secretary of Commerce, in coordination with the Task Force and appropriate State, Indian tribe, and local governments, to the extent of funds available, shall provide for local and regional scientific assessments of hypoxia and harmful algal blooms, as requested by States, Indian tribes, and local governments, or for affected areas as identified by the Secretary. If the Secretary receives multiple requests, the Secretary shall ensure, to the extent practicable, that assessments under this subsection cover geographically and ecologically diverse locations with significant ecological and economic impacts from hypoxia or harmful algal blooms. The Secretary shall establish a procedure for reviewing requests for local and regional assessments. The Secretary shall ensure, through consultation with Sea Grant Programs, that the findings of the assessments are communicated to the appropriate State, Indian tribe, and local governments, and to the general public.

''(2) PURPOSE.—Local and regional assessments shall examine—

''(A) the causes and ecological consequences, and the economic cost, of hypoxia or harmful algal blooms in that area;

''(B) potential methods to prevent, control, and mitigate hypoxia or harmful algal blooms in that area and the potential ecological and economic costs and benefits of such methods; and

''(C) other topics the Task Force considers appropriate.

''(f) SCIENTIFIC ASSESSMENT OF FRESHWATER HARMFUL ALGAL BLOOMS.—(1) Not later than 24 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 [Dec. 10, 2004] the Task Force shall complete and submit to Congress a scientific assessment of current knowledge about harmful algal blooms in freshwater, such as the Great Lakes and upper reaches of estuaries, including a research plan for coordinating Federal efforts to better understand freshwater harmful algal blooms.

''(2) The freshwater harmful algal bloom scientific assessment shall—

''(A) examine the causes and ecological consequences, and the economic costs, of harmful algal blooms with significant effects on freshwater, including estimations of the frequency and occurrence of significant events;

''(B) establish priorities and guidelines for a competitive, peer-reviewed, merit-based interagency research program, as part of the Ecology and Oceanography of Harmful Algal Blooms (ECOHAB) project, to better understand the causes, characteristics, and impacts of harmful algal blooms in freshwater locations; and

''(C) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on harmful algal blooms in freshwater locations.

''(g) SCIENTIFIC ASSESSMENTS OF HYPOXIA.—(1) Not less than once every 5 years the Task Force shall complete and submit to the Congress a scientific assessment of hypoxia in United States coastal waters including the Great Lakes. The first such assessment shall be completed not less than 24 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 [Dec. 10, 2004].

''(2) The assessments under this subsection shall—

''(A) examine the causes and ecological consequences, and the economic costs, of hypoxia;

''(B) describe the potential ecological and economic costs and benefits of possible policy and management actions for preventing, controlling, and mitigating hypoxia;

''(C) evaluate progress made by, and the needs of, Federal research programs on the causes, characteristics, and impacts of hypoxia, including recommendations of how to eliminate significant gaps in hypoxia modeling and monitoring data; and

''(D) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on hypoxia.

''(h) SCIENTIFIC ASSESSMENTS OF HARMFUL ALGAL BLOOMS.—(1) Not less than once every 5 years the Task Force shall complete and submit to Congress a scientific assessment of harmful algal blooms in United States coastal waters. The first such assessment shall be completed not later than 24 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 [Dec. 10, 2004] and shall consider only marine harmful algal blooms. All subsequent assessments shall examine both marine and freshwater harmful algal blooms, including those in the Great Lakes and upper reaches of estuaries.

''(2) The assessments under this subsection shall—

''(A) examine the causes and ecological consequences, and economic costs, of harmful algal blooms;

''(B) describe the potential ecological and economic costs and benefits of possible actions for preventing, controlling, and mitigating harmful algal blooms;

''(C) evaluate progress made by, and the needs of, Federal research programs on the causes, characteristics, and impacts of harmful algal blooms; and

''(D) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on harmful algal blooms.

''(i) NATIONAL SCIENTIFIC RESEARCH, DEVELOPMENT, DEMONSTRATION, AND TECHNOLOGY TRANSFER PLAN ON REDUCING IMPACTS FROM HARMFUL ALGAL BLOOMS.—(1) Not later than 12 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 [Dec. 10, 2004], the Task Force shall develop and submit to Congress a plan providing for a comprehensive and coordinated national research program to develop and demonstrate prevention, control, and mitigation methods to reduce the impacts of harmful algal blooms on coastal ecosystems (including the Great Lakes), public health, and the economy.

''(2) The plan shall—

''(A) establish priorities and guidelines for a competitive, peer reviewed, merit based interagency research, development, demonstration, and technology transfer program on methods for the prevention, control, and mitigation of harmful algal blooms;

''(B) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to the actions described in paragraph (1); and

''(C) include to the maximum extent practicable diverse institutions, including Historically Black Colleges and Universities and those serving large proportions of Hispanics, Native Americans, Asian Pacific Americans, and other underrepresented populations.

''(3) The Secretary of Commerce, in conjunction with other appropriate Federal agencies, shall establish a research, development, demonstration, and technology transfer program that meets the priorities and guidelines established under paragraph (2)(A). The Secretary shall ensure, through consultation with Sea Grant Programs, that the results and findings of the program are communicated to State, Indian tribe, and local governments, and to the general public.

''SEC. 604. NORTHERN GULF OF MEXICO HYPOXIA.

''(a) ASSESSMENT REPORT.—Not later than May 30, 1999, the Task Force shall complete and submit to Congress and the President an integrated assessment of hypoxia in the northern Gulf of Mexico that examines: the distribution, dynamics, and causes; ecological and economic consequences; sources and loads of nutrients transported by the Mississippi River to the Gulf of Mexico; effects of reducing nutrient loads; methods for reducing nutrient loads; and the social and economic costs and benefits of such methods.

''(b) SUBMISSION OF A PLAN.—No later than March 30, 2000, the President, in conjunction with the chief executive officers of the States, shall develop and submit to Congress a plan, based on the integrated assessment submitted under subsection (a), for reducing, mitigating, and controlling hypoxia in the northern Gulf of Mexico. In developing such plan, the President shall consult with State, Indian tribe, and local governments, academic, agricultural, industry, and environmental groups and representatives. Such plan shall include incentive-based partnership approaches. The plan shall also include the social and economic costs and benefits of the measures for reducing, mitigating, and controlling hypoxia. At least 90 days before the President submits such plan to the Congress, a summary of the proposed plan shall be published in the Federal Register for a public comment period of not less than 60 days.

''SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Secretary of Commerce for research, education, and monitoring activities related to the prevention, reduction, and control of harmful algal blooms and hypoxia, $15,000,000 for fiscal year 1999, $18,250,000 for fiscal year 2000, $19,000,000 for fiscal year 2001, $23,500,000 for fiscal year 2005, $24,500,000 for fiscal year 2006, $25,000,000 for fiscal year 2007, and $30,000,000 for each of fiscal years 2008 through 2010, to remain available until expended.

The Secretary shall consult with the States on a regular basis regarding the development and implementation of the activities authorized under this section. Of such amounts for each fiscal year—

''(1) $1,500,000 for fiscal year 1999, $1,500,000 for fiscal year 2000, $2,000,000 for fiscal year 2001, and $2,500,000 for each of fiscal years 2005 through 2010 may be used to enable the National Oceanic and Atmospheric Administration to carry out research and assessment activities, including procurement of necessary research equipment, at research laboratories of the National Ocean Service and the National Marine Fisheries Service;

''(2) $4,000,000 for fiscal year 1999, $5,500,000 for fiscal year 2000, $5,500,000 for fiscal year 2001, and $6,500,000, of which $1,000,000 shall be used for the research program described in section 603(f)(2)(B), for each of fiscal years 2005 through 2010 may be used to carry out the Ecology and Oceanography of Harmful Algal Blooms (ECOHAB) project under the Coastal Ocean Program established under section 201(c) of Public Law 102–567 [106 Stat. 4280];

''(3) $1,000,000 for fiscal year 1999, $2,000,000 for fiscal year 2000, $2,000,000 for fiscal year 2001, and $3,000,000 for each of fiscal years 2005 through 2010 may be used by the National Ocean Service of the National Oceanic and Atmospheric Administration to carry out a peer-reviewed research project on management measures that can be taken to prevent, reduce, control, and mitigate harmful algal blooms and to carry out section 603(d);

''(4) $5,500,000 for each of the fiscal years 1999, 2000, 2001, and $6,000,000 for each of fiscal years 2005 through 2010 may be used to carry out Federal and State annual monitoring and analysis activities for harmful algal blooms administered by the National Ocean Service of the National Oceanic and Atmospheric Administration;

''(5) $3,000,000 for fiscal year 1999, $3,750,000 for fiscal year 2000, $4,000,000 for fiscal year 2001, $4,000,000 for fiscal year 2005, $5,000,000 for fiscal year 2006, $5,500,000 for fiscal year 2007, and $6,000,000 for each of fiscal years 2008 through 2010 may be used for activities related to research and monitoring on hypoxia by the National Ocean Service and the Office of Oceanic and Atmospheric Research of the National Oceanic and Atmospheric Administration; and

''(6) $1,500,000 for each of fiscal years 2005 through 2010 to carry out section 603(e).

''SEC. 606. PROTECTION OF STATES' RIGHTS.

''(a) Nothing in this title shall be interpreted to adversely affect existing State regulatory or enforcement power which has been granted to any State through the Clean Water Act [33 U.S.C. 1251 et seq.] or Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.].

''(b) Nothing in this title shall be interpreted to expand the regulatory or enforcement power of the Federal Government which has been delegated to any State through the Clean Water Act or Coastal Zone Management Act of 1972.''

FINDINGS AND PURPOSE OF COASTAL ZONE ACT REAUTHORIZATION AMENDMENTS OF 1990

Section 6202 of Pub. L. 101–508 provided that:

''(a) FINDINGS.—Congress finds and declares the following:

''(1) Our oceans, coastal waters, and estuaries constitute a unique resource. The condition of the water quality in and around the coastal areas is significantly declining. Growing human pressures on the coastal ecosystem will continue to degrade this resource until adequate actions and policies are implemented.

''(2) Almost one-half of our total population now lives in coastal areas. By 2010, the coastal population will have grown from 80,000,000 in 1960 to 127,000,000 people, an increase of approximately 60 percent, and population density in coastal counties will be among the highest in the Nation.

''(3) Marine resources contribute to the Nation's economic stability. Commercial and recreational fishery activities support an industry with an estimated value of $12,000,000,000 a year.

''(4) Wetlands play a vital role in sustaining the coastal economy and environment. Wetlands support and nourish fishery and marine resources. They also protect the Nation's shores from storm and wave damage. Coastal wetlands contribute an estimated $5,000,000,000 to the production of fish and shellfish in the United States coastal waters. Yet, 50 percent of the Nation's coastal wetlands have been destroyed, and more are likely to decline in the near future.

''(5) Nonpoint source pollution is increasingly recognized as a significant factor in coastal water degradation. In urban areas, storm water and combined sewer overflow are linked to major coastal problems, and in rural areas, run-off from agricultural activities may add to coastal pollution.

''(6) Coastal planning and development control measures are essential to protect coastal water quality, which is subject to continued ongoing stresses. Currently, not enough is being done to manage and protect our coastal resources.

''(7) Global warming results from the accumulation of man-made gases, released into the atmosphere from such activities as the burning of fossil fuels, deforestation, and the production of chlorofluorocarbons, which trap solar heat in the atmosphere and raise temperatures worldwide. Global warming could result in significant global sea level rise by 2050 resulting from ocean expansion, the melting of snow and ice, and the gradual melting of the polar ice cap. Sea level rise will result in the loss of natural resources such as beaches, dunes, estuaries, and wetlands, and will contribute to the salinization of drinking water supplies. Sea level rise will also result in damage to properties, infrastructures, and public works. There is a growing need to plan for sea level rise.

''(8) There is a clear link between coastal water quality and land use activities along the shore. State management programs under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) are among the best tools for protecting coastal resources and must play a larger role, particularly in improving coastal zone water quality.

''(9) All coastal States should have coastal zone management programs in place that conform to the Coastal Zone Management Act of 1972, as amended by this Act.

''(b) PURPOSE.—It is the purpose of Congress in this subtitle [see Short Title of 1990 Amendment note above] to enhance the effectiveness of the Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.] by increasing our understanding of the coastal environment and expanding the ability of State coastal zone management programs to address coastal environmental problems.''

ESTABLISHMENT OF POSITIONS AND FIXING OF COMPENSATION BY SECRETARY OF COMMERCE; APPOINTMENTS

Section 15(c) of Pub. L. 94–370 related to establishment and compensation of four new positions without regard to the provisions of chapter 51 of Title 5, Government Organization and Employees, prior to repeal by Pub. L. 99–272, title VI, § 6045(3), Apr. 7, 1986, 100 Stat. 127.

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

EX. ORD. NO. 13554. ESTABLISHING THE GULF COAST ECOSYSTEM RESTORATION TASK FORCE

Ex. Ord. No. 13554, Oct. 5, 2010, 75 F.R. 62313, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Purpose*. The Gulf Coast is a national treasure. Its natural resources are an important economic engine for the entire United States; its waters sustain a diverse and vibrant ecosystem; and the Gulf's culture, natural beauty, and historic significance are unique. Each year, millions of tourists visit the Gulf to vacation, swim, boat, fish, hunt, and bird-watch; and, together, the Gulf's tourism and commercial and recreational fishing industries make a significant contribution to the United States economy. More than 90 percent of the Nation's offshore oil and gas is produced in the Gulf, and it is where nearly one-third of seafood production in the continental United States is harvested.

The United States needs a vibrant Gulf Coast, and the Federal Government is committed to helping Gulf Coast residents conserve and restore resilient and healthy ecosystems in the Gulf of Mexico and surrounding regions that support the diverse economies, communities, and cultures of the region. To effectively address the damage caused by the BP Deepwater Horizon Oil Spill, address the longstanding ecological decline, and begin moving toward a more resilient Gulf Coast ecosystem, ecosystem restoration is needed. Ecosystem restoration will support economic vitality, enhance human health and safety, protect infrastructure, enable communities to better withstand impact from storms and climate change, sustain safe seafood and clean water, provide recreational and cultural opportunities, protect and preserve sites that are of historical and cultural significance, and contribute to the overall resilience of our coastal communities and Nation.

In order to achieve these objectives, it is necessary that Federal efforts be efficiently integrated with those of local stakeholders and that particular focus be given to innovative solutions and complex, large-scale restoration projects. Efforts must be science-based and well-coordinated to minimize duplication and ensure effective delivery of services. This order establishes a Gulf Coast Ecosystem Restoration Task Force to coordinate intergovernmental responsibilities, planning, and exchange of information so as to better implement Gulf Coast ecosystem restoration and to facilitate appropriate accountability and support throughout the restoration process.

SEC. 2. *Establishment of the Gulf Coast Ecosystem Restoration Task Force*. There is established the Gulf Coast Ecosystem Restoration Task Force (Task Force).

(a) The Task Force shall consist of:

(1) A senior official from each of the following executive departments, agencies, and offices, selected by the head of the respective department, agency, or office:

a. the Department of Defense;
b. the Department of Justice;
c. the Department of the Interior;
d. the Department of Agriculture;
e. the Department of Commerce;
f. the Department of Transportation;
g. the Environmental Protection Agency;
h. the Office of Management and Budget;
i. the Council on Environmental Quality;
j. the Office of Science and Technology Policy;
k. the Domestic Policy Council; and
l. other executive departments, agencies, and offices as the President may, from time to time, designate.

(2) Five State representatives, appointed by the President upon recommendation of the Governors of each Gulf State, who shall be elected officers of State governments (or their designated employees with authority to act on their behalf) acting in their official capacities.

(b) The Task Force may include representatives from affected tribes, who shall be elected officers of those tribes (or their designated employees with authority to act on their behalf) acting in their official capacities. The Task Force shall, in collaboration with affected tribes, determine an appropriate structure for tribal participation in matters within the scope of the Task Force's responsibilities.

(c) The President shall designate a Chair of the Task Force from among senior officials of executive departments, agencies, and offices represented on the Task Force. The Chair shall lead the coordination of intergovernmental Gulf Coast ecosystem restoration efforts and oversee the work of the Task Force. The Chair shall regularly convene and preside at meetings of the Task Force, determine its agenda, and direct its work. The Chair's duties shall also include:

(1) facilitating a smooth transition from the response phase of addressing the BP Deepwater Horizon Oil Spill to the restoration phase;

(2) communicating and engaging with States, tribes, local governments, other stakeholders in the Gulf Coast region, and the public on ecosystem restoration, as well as other aspects of Gulf recovery, including economic recovery and public health efforts; and

(3) coordinating the efforts of executive departments, agencies, and offices related to the functions of the Task Force.

(d) Representatives of the Gulf States under subsection (a)(2) of this section shall select from among themselves a Vice-Chair of the Task Force.

SEC. 3. *Functions of the Task Force*. The Task Force shall be an advisory body to:

(a) coordinate intergovernmental efforts to improve efficiency and effectiveness in the implementation of Gulf Coast ecosystem restoration actions;

(b) support the Natural Resource Damage Assessment process by referring potential ecosystem restoration actions to the Natural Resource Damage Assessment Trustee Council for consideration and facilitating coordination among the relevant departments, agencies, and offices, as appropriate, subject to the independent statutory responsibilities of the trustees;

(c) present to the President a Gulf of Mexico Regional Ecosystem Restoration Strategy (Strategy) as provided in section 4 of this order;

(d) engage local stakeholders, communities, the public, and other officials throughout the Gulf Coast region to ensure that they have an opportunity to share their needs and viewpoints to inform the work of the Task Force, including the development of the Strategy;

(e) provide leadership and coordination of research needs in support of ecosystem restoration planning and decisionmaking in the Gulf Coast region, and work with existing Federal and State advisory committees, as appropriate, to facilitate consideration of relevant scientific and technical knowledge;

(f) prepare a biennial update for the President on progress toward the goals of Gulf Coast ecosystem restoration, as outlined in the Strategy;

(g) communicate with affected tribes in a manner consistent with Executive Order 13175 of November 6, 2000, on consultation and coordination with Indian tribal governments; and

(h) coordinate with relevant executive departments, agencies, and offices on ways to encourage health and economic benefits associated with proposed ecosystem restoration actions.

SEC. 4. *Gulf of Mexico Regional Ecosystem Restoration Strategy*. (a) Within 1 year of the date of this order, the Task Force shall prepare a Strategy that proposes a Gulf Coast ecosystem restoration agenda, including goals for ecosystem restoration, development of a set of performance indicators to track progress, and means of coordinating intergovernmental restoration efforts guided by shared priorities. In developing the Strategy, the Task Force shall:

(1) define ecosystem restoration goals and describe milestones for making progress toward attainment of those goals;

(2) consider existing research and ecosystem restoration planning efforts in the region, including initiatives undertaken by the National Ocean Council and the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force (Gulf Hypoxia Task Force), in order to identify planning and restoration needs and ways under existing authorities to address those needs;

(3) identify major policy areas where coordinated intergovernmental action is necessary;

(4) propose new programs or actions to implement elements of the Strategy where existing authorities are not sufficient;

(5) identify monitoring, research, and scientific assessments needed to support decisionmaking for ecosystem restoration efforts and evaluate existing monitoring programs and gaps in current data collection; and

(6) describe the circumstances under which termination of the Task Force would be appropriate.

(b) The executive departments, agencies, and offices enumerated in section 2(a)(1) of this order shall, to the extent permitted by law, consider ways to align their relevant programs and authorities with the Strategy.

SEC. 5. *Administration.* (a) The Task Force shall have a staff, headed by an Executive Director, which shall provide support for the functions of the Task Force.

(b) The Executive Director shall be selected by the Chair and shall supervise, direct, and be accountable for the administration and operation of the Task Force.

(c) The Departments of Commerce (through the National Oceanic and Atmospheric Administration), the Interior (through the Fish and Wildlife Service), and Justice shall identify linkages and opportunities for the Task Force to complement the restoration progress of the Natural Resource Damage Assessment Trustee Council.

(d) At the request of the Chair, executive departments and agencies, including the Departments of Labor, Health and Human Services, Energy, and Homeland Security, the Small Business Administration, and the National Science Foundation, shall serve in an advisory role to the Task Force on issues within their expertise.

(e) The Task Force may establish such technical working groups as necessary to support its function. These working groups may include additional representatives from State and tribal governments, as appropriate, to provide for greater collaboration.

(f) The first meeting of the Task Force shall be held within 90 days of the date of this order.

SEC. 6. *Definitions.* (a) ''Affected tribe'' means any Indian tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe as defined in [section 102(2) of] the Federally Recognized [Indian] Tribe List Act of 1994 (25 U.S.C. 479a(2)), physically located in a Gulf State.

(b) ''Ecosystem restoration'' means all activities, projects, methods, and procedures appropriate to enhance the health and resilience of the Gulf Coast ecosystem, as measured in terms of the physical, biological, or chemical properties of the ecosystem, or the services it provides, and to strengthen its ability to support the diverse economies, communities, and cultures of the region. It includes activity that initiates or accelerates the recovery of an ecosystem with respect to its health, integrity, and sustainability. It also includes protecting and conserving ecosystems so they can continue to reduce impacts from tropical storms and other disasters, support robust economies, and assist in mitigating and adapting to the impacts of climate change.

(c) ''Gulf State'' means any of the States of Texas, Louisiana, Mississippi, Alabama, and Florida.

(d) ''Natural Resource Damage Assessment'' means the process of collecting and analyzing information to evaluate the nature and extent of natural resource injuries resulting from the BP Deepwater Horizon Oil Spill and to determine the restoration actions needed to bring injured natural resources and services back to baseline conditions and make the environment and public whole for interim losses as defined in 15 CFR 990.30.

(e) ''Natural Resource Damage Assessment Trustee Council'' means the designated Federal, State, local, and tribal trustees as provided in 33 U.S.C. 2706, with trusteeship over natural resources injured, lost, or destroyed as a result of the BP Deepwater Horizon Oil Spill.

SEC. 7. *General Provisions.* (a) To the extent permitted by law and subject to the availability of appropriations, the department, agency, or office represented by the Chair shall provide the Task Force with such administrative services, funds, facilities, staff, and other support services as may be necessary for the Task Force to carry out its function.

(b) In addition to staff provided by the department, agency, or office represented by the Chair, other executive departments, agencies, and offices represented on the Task Force are requested to make services, staff, and facilities available to the Task Force for the performance of its function to the maximum extent practicable, to the extent permitted by law and subject to the availability of appropriations.

(c) Members of the Task Force shall serve without any additional compensation for their work on the Task Force.

(d) Nothing in this order shall be construed to impair or otherwise affect: (i) authority granted by law to an executive department, agency, or the head thereof, or the status of that department or agency within the Federal Government; or (ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(e) Nothing in this order shall interfere with the statutory responsibilities and authority of the Natural Resource Damage Assessment Trustee Council or the individual trustees to carry out their statutory responsibilities to assess natural resource damages and implement restoration actions under 33 U.S.C. 2706 and other applicable law.

(f) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(g) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

§ 1452. Congressional declaration of policy

The Congress finds and declares that it is the national policy—

(1) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations;

(2) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for compatible economic development, which programs should at least provide for—

(A) the protection of natural resources, including wetlands, flood plains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone,

(B) the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas and in areas likely to be affected by or vulnerable to sea level rise, land subsidence, and saltwater intrusion, and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands.[1]

(C) the management of coastal development to improve, safeguard, and restore the

[1] So in original. The period probably should be a comma.

quality of coastal waters, and to protect natural resources and existing uses of those waters,

(D) priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new commercial and industrial developments in or adjacent to areas where such development already exists,

(E) public access to the coasts for recreation purposes,

(F) assistance in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural, and esthetic coastal features,

(G) the coordination and simplification of procedures in order to ensure expedited governmental decisionmaking for the management of coastal resources,

(H) continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies,

(I) the giving of timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking,

(J) assistance to support comprehensive planning, conservation, and management for living marine resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between State and Federal coastal zone management agencies and State and wildlife agencies, and

(K) the study and development, in any case in which the Secretary considers it to be appropriate, of plans for addressing the adverse effects upon the coastal zone of land subsidence and of sea level rise; and

(3) to encourage the preparation of special area management plans which provide for increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas, including those areas likely to be affected by land subsidence, sea level rise, or fluctuating water levels of the Great Lakes, and improved predictability in governmental decisionmaking;

(4) to encourage the participation and cooperation of the public, state and local governments, and interstate and other regional agencies, as well as of the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this chapter;

(5) to encourage coordination and cooperation with and among the appropriate Federal, State, and local agencies, and international organizations where appropriate, in collection, analysis, synthesis, and dissemination of coastal management information, research results, and technical assistance, to support State and Federal regulation of land use practices affecting the coastal and ocean resources of the United States; and

(6) to respond to changing circumstances affecting the coastal environment and coastal resource management by encouraging States to consider such issues as ocean uses potentially affecting the coastal zone.

(Pub. L. 89–454, title III, § 303, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1281; amended Pub. L. 96–464, § 3, Oct. 17, 1980, 94 Stat. 2060; Pub. L. 101–508, title VI, § 6203(b), Nov. 5, 1990, 104 Stat. 1388–301; Pub. L. 102–587, title II, § 2205(b)(2), Nov. 4, 1992, 106 Stat. 5050.)

AMENDMENTS

1992—Par. (2). Pub. L. 102–587 made technical amendment to directory language of Pub. L. 101–508, § 6203(b)(1). See 1990 Amendment note below.

1990—Par. (2). Pub. L. 101–508, § 6203(b)(1), as amended by Pub. L. 102–587, substituted ''as well as the needs for compatible'' for ''as well as to needs for''.

Par. (2)(B). Pub. L. 101–508, § 6203(b)(2), substituted ''likely to be affected by or vulnerable to sea level rise, land subsidence,'' for ''of subsidence''.

Par. (2)(C) to (J). Pub. L. 101–508, § 6203(b)(3), redesignated subpars. (C) to (I) as (D) to (J), respectively, and added subpar. (C).

Par. (2)(K). Pub. L. 101–508, § 6203(b)(4), added subpar. (K).

Par. (3). Pub. L. 101–508, § 6203(b)(5), inserted ''including those areas likely to be affected by land subsidence, sea level rise, or fluctuating water levels of the Great Lakes,'' after ''hazardous areas,''.

Pars. (5), (6). Pub. L. 101–508, § 6203(b)(6), added pars. (5) and (6).

1980—Pub. L. 96–464, in amending section generally, expanded declaration of policy to provide for higher level of protection for significant natural coastal resources and inserted provisions for special area management planning to increase predictability for necessary coastal-dependent economic growth, improve hazard mitigation, and improve predictability in government decisionmaking.

§ 1453. Definitions

For purposes of this chapter—

(1) The term ''coastal zone'' means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of State title and ownership under the Submerged Lands Act (43 U.S.C. 1301 et seq.), the Act of March 2, 1917 (48 U.S.C. 749) [48 U.S.C. 731 et seq.], the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as approved by the Act of March 24, 1976 [48 U.S.C. 1801 et seq.], or section 1 of the Act of November 20, 1963 (48 U.S.C. 1705), as applicable. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and to control those geographical areas which are likely to be affected by or vulnerable to sea level rise. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(2) The term ''coastal resource of national significance'' means any coastal wetland, beach, dune, barrier island, reef, estuary, or fish and wildlife habitat, if any such area is determined by a coastal state to be of substantial biological or natural storm protective value.

(3) The term ''coastal waters'' means (A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (B) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

(4) The term ''coastal state'' means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this chapter, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa.

(5) The term ''coastal energy activity'' means any of the following activities if, and to the extent that (A) the conduct, support, or facilitation of such activity requires and involves the siting, construction, expansion, or operation of any equipment or facility; and (B) any technical requirement exists which, in the determination of the Secretary, necessitates that the siting, construction, expansion, or operation of such equipment or facility be carried out in, or in close proximity to, the coastal zone of any coastal state;[1]

(i) Any outer Continental Shelf energy activity.

(ii) Any transportation, conversion, treatment, transfer, or storage of liquefied natural gas.

(iii) Any transportation, transfer, or storage of oil, natural gas, or coal (including, but not limited to, by means of any deepwater port, as defined in section 1502(10)[2] of title 33).

For purposes of this paragraph, the siting, construction, expansion, or operation of any equipment or facility shall be ''in close proximity to'' the coastal zone of any coastal state if such siting, construction, expansion, or operation has, or is likely to have, a significant effect on such coastal zone.

(6) The term ''energy facilities'' means any equipment or facility which is or will be used primarily—

(A) in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource; or

(B) for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described in subparagraph (A).

The term includes, but is not limited to (i) electric generating plants; (ii) petroleum refineries and associated facilities; (iii) gasification plants; (iv) facilities used for the transportation, conversion, treatment, transfer, or storage of liquefied natural gas; (v) uranium enrichment or nuclear fuel processing facilities; (vi) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, and refining complexes; (vii) facilities including deepwater ports, for the transfer of petroleum; (viii) pipelines and transmission facilities; and (ix) terminals which are associated with any of the foregoing.

(6a) The term ''enforceable policy'' means State policies which are legally binding through constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions, by which a State exerts control over private and public land and water uses and natural resources in the coastal zone.

(7) The term ''estuary'' means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(8) The term ''estuarine sanctuary'' means a research area which may include any part or all of an estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, and which constitutes to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

(9) The term ''Fund'' means the Coastal Zone Management Fund established under section 1456a(b) of this title.

(10) The term ''land use'' means activities which are conducted in, or on the shorelands within, the coastal zone, subject to the requirements outlined in section 1456(g) of this title.

(11) The term ''local government'' means any political subdivision of, or any special entity created by, any coastal state which (in whole or part) is located in, or has authority over, such state's coastal zone and which (A) has authority to levy taxes, or to establish and collect user fees, or (B) provides any public facility or public service which is financed in whole or part by taxes or user fees. The term includes, but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority.

(12) The term ''management program'' includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the state in accordance with the provisions of this chapter, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone.

(13) The term ''outer Continental Shelf energy activity'' means any exploration for, or

[1] So in original. The semicolon probably should be a colon.

[2] See References in Text note below.

any development or production of, oil or natural gas from the outer Continental Shelf (as defined in section 1331(a) of title 43) or the siting, construction, expansion, or operation of any new or expanded energy facilities directly required by such exploration, development, or production.

(14) The term ''person'' means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any state; the Federal Government; any state, regional, or local government; or any entity of any such Federal, state, regional, or local government.

(15) The term ''public facilities and public services'' means facilities or services which are financed, in whole or in part, by any state or political subdivision thereof, including, but not limited to, highways and secondary roads, parking, mass transit, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care. Such term may also include any other facility or service so financed which the Secretary finds will support increased population.

(16) The term ''Secretary'' means the Secretary of Commerce.

(17) The term ''special area management plan'' means a comprehensive plan providing for natural resource protection and reasonable coastal-dependent economic growth containing a detailed and comprehensive statement of policies; standards and criteria to guide public and private uses of lands and waters; and mechanisms for timely implementation in specific geographic areas within the coastal zone.

(18) The term ''water use'' means a use, activity, or project conducted in or on waters within the coastal zone.

(Pub. L. 89–454, title III, §304, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1281; amended Pub. L. 94–370, §3, July 26, 1976, 90 Stat. 1013; Pub. L. 96–464, §4, Oct. 17, 1980, 94 Stat. 2061; Pub. L. 101–508, title VI, §6204, Nov. 5, 1990, 104 Stat. 1388–302; Pub. L. 102–587, title II, §2205(b)(3)–(7), Nov. 4, 1992, 106 Stat. 5050, 5051.)

REFERENCES IN TEXT

The Submerged Lands Act, referred to in par. (1), is act May 22, 1953, ch. 65, 67 Stat. 29, as amended, which is classified generally to subchapters I and II (§§1301 et seq., 1311 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43 and Tables.

Act of March 2, 1917, referred to in par. (1), is act Mar. 2, 1917, ch. 145, 39 Stat. 951, as amended, known as the Puerto Rican Federal Relations Act and also as the Jones Act, which is classified principally to chapter 4 (§731 et seq.) of Title 48, Territories and Insular Possessions. Section 8 of the Act is classified to section 749 of Title 48. For complete classification of this Act to the Code, see Short Title note set out under section 731 of Title 48 and Tables.

Act of March 24, 1976, referred to in par. (1), is Pub. L. 94–241, Mar. 24, 1976, 90 Stat. 263, as amended, which is classified generally to subchapter I (§1801 et seq.) of chapter 17 of Title 48. The Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America is set out as a note under section 1801 of Title 48. For complete classification of this Act to the Code, see Tables.

Section 1 of the Act of November 20, 1963, referred to in par. (1), is section 1 of Pub. L. 88–183, Nov. 20, 1963, 77 Stat. 338, which was classified to section 1701 of Title 48, and was repealed by Pub. L. 93–435, §5, Oct. 5, 1974, 88 Stat. 1212. See section 1705 of Title 48.

Section 1502 of title 33, referred to in par. (5)(iii), was subsequently amended, and section 1502(10) no longer defines the term ''deepwater port''. However, such term is defined elsewhere in that section.

AMENDMENTS

1992—Par. (1). Pub. L. 102–587, §2205(b)(3), made technical amendment to directory language of Pub. L. 101–508, §6204(a). See 1990 Amendment note below.

Pub. L. 102–587, §2205(b)(5), struck out ''the outer limit of'' before ''the outer limit of State title'', and substituted ''(48 U.S.C. 1705),'' for ''(48 U.S.C. 1705,''.

Par. (2). Pub. L. 102–587, §2205(b)(6), substituted ''The term'' for ''the term''.

Par. (6a). Pub. L. 102–587, §2205(b)(4), made technical amendment to directory language of Pub. L. 101–508, §6204(b). See 1990 Amendment note below.

Par. (9). Pub. L. 102–587, §2205(b)(7), amended par. (9) generally. Prior to amendment, par. (9) read as follows: ''The term 'Fund' means the Coastal Energy Impact Fund established by section 1456a(h) of this title.''

1990—Par. (1). Pub. L. 101–508, §6204(a)(1), as amended by Pub. L. 102–587, §2205(b)(3), inserted '', and to control those geographical areas which are likely to be affected by or vulnerable to sea level rise'' before period at end of third sentence.

Pub. L. 101–508, §6204(a)(2), as amended by Pub. L. 102–587, §2205(b)(3), substituted ''the outer limit of State title and ownership under the Submerged Lands Act (43 U.S.C. 1301 et seq.), the Act of March 2, 1917 (48 U.S.C. 749), the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as approved by the Act of March 24, 1976 (48 U.S.C. 1681 note), or section 1 of the Act of November 20, 1963 (48 U.S.C. 1705, as applicable.'' for ''the United States territorial sea.'' at end of second sentence.

Par. (6a). Pub. L. 101–508, §6204(b), as amended by Pub. L. 102–587, §2205(b)(4), added par. (6a).

Par. (18). Pub. L. 101–508, §6204(c), substituted ''a use, activity, or project conducted in or on waters within the coastal zone'' for ''activities which are conducted in or on the water; but does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria, or regulations which are incorporated in any program as required by the provisions of section 1456(f) of this title''.

1980—Pars. (2) to (4). Pub. L. 96–464, §4(1)–(3), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), and in par. (4), as so redesignated, substituted ''Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa'' for ''Guam and American Samoa''. Former par. (4) redesignated (5).

Pars. (5) to (16). Pub. L. 96–464, §4(1), redesignated pars. (4) to (15) as (5) to (16). Former par. (16) redesignated (17).

Pars. (17), (18). Pub. L. 96–464, §4(1), (4), (5), added par. (17) and redesignated former par. (17) as (18).

1976—Par. (1). Pub. L. 94–370, §3(1), redesignated par. (a) as (1), substituted ''The term 'coastal' '' for '' 'Coastal' '', and inserted ''islands,'' after ''and includes''.

Par. (2). Pub. L. 94–370, §3(2), redesignated par. (b) as (2), substituted ''The term 'coastal' '' for '' 'Coastal' '', ''(A)'' for ''(1)'', and ''(B)'' for ''(2)''.

Par. (3). Pub. L. 94–370, §3(3), redesignated par. (c) as (3) and substituted ''The term 'coastal' '' for '' 'Coastal'.''

Pars. (4), (5). Pub. L. 94–370, §3(4), added pars. (4) and (5).

Par. (6). Pub. L. 94–370, §3(5), redesignated par. (d) as (6) and substituted ''The term 'estuary' '' for '' 'Estuary'.''

Par. (7). Pub. L. 94–370, §3(6), redesignated par. (e) as (7) and substituted ''The term 'estuarine' '' for '' 'Estua-

rine'' and ''estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, and which constitutes'' for ''estuary, adjoining transitional areas, and adjacent uplands, constituting''.

Par. (8). Pub. L. 94–370, § 3(7), added par. (8).

Par. (9). Pub. L. 94–370, § 3(7), added par. (9), incorporating provisions of par. (i), which was struck out by Pub. L. 94–370, § 3(11).

Par. (10). Pub. L. 94–370, § 3(7), added par. (10).

Par. (11). Pub. L. 94–370, § 3(8), redesignated par. (g) as (11) and substituted ''The term 'management program'' for '' 'Management program'.''

Pars. (12) to (14). Pub. L. 94–370, § 3(9), added pars. (12) to (14).

Par. (15). Pub. L. 94–370, § 3(9), added par. (15), incorporating provisions of par. (f), which was struck out by Pub. L. 94–370, § 3(7).

Par. (16). Pub. L. 94–370, § 3(10), redesignated par. (h) as (16) and substituted ''The term 'water use'' for '' 'Water use'.''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

PROC. NO. 5030. EXCLUSIVE ECONOMIC ZONE

Proc. No. 5030, Mar. 10, 1983, 48 F.R. 10605, provided:

WHEREAS the Government of the United States of America desires to facilitate the wise development and use of the oceans consistent with international law;

WHEREAS international law recognizes that, in a zone beyond its territory and adjacent to its territorial sea, known as the Exclusive Economic Zone, a coastal State may assert certain sovereign rights over natural resources and related jurisdiction; and

WHEREAS the establishment of an Exclusive Economic Zone by the United States will advance the development of ocean resources and promote the protection of the marine environment, while not affecting other lawful uses of the zone, including the freedoms of navigation and overflight, by other States;

NOW, THEREFORE, I, RONALD REAGAN, by the authority vested in me as President by the Constitution and laws of the United States of America, do hereby proclaim the sovereign rights and jurisdiction of the United States of America and confirm also the rights and freedoms of all States within an Exclusive Economic Zone, as described herein.

The Exclusive Economic Zone of the United States is a zone contiguous to the territorial sea, including zones contiguous to the territorial sea of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands (to the extent consistent with the Covenant and the United Nations Trusteeship Agreement), and United States overseas territories and possessions. The Exclusive Economic Zone extends to a distance 200 nautical miles from the baseline from which the breadth of the territorial sea is measured. In cases where the maritime boundary with a neighboring State remains to be determined, the boundary of the Exclusive Economic Zone shall be determined by the United States and other State concerned in accordance with equitable principles.

Within the Exclusive Economic Zone, the United States has, to the extent permitted by international law, (a) sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources, both living and non-living, of the seabed and subsoil and the superjacent waters and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds; and (b) jurisdiction with regard to the establishment and use of artificial islands, and installations and structures having economic purposes, and the protection and preservation of the marine environment.

This Proclamation does not change existing United States policies concerning the continental shelf, marine mammals and fisheries, including highly migratory species of tuna which are not subject to United States jurisdiction and require international agreements for effective management.

The United States will exercise these sovereign rights and jurisdiction in accordance with the rules of international law.

Without prejudice to the sovereign rights and jurisdiction of the United States, the Exclusive Economic Zone remains an area beyond the territory and territorial sea of the United States in which all States enjoy the high seas freedoms of navigation, overflight, the laying of submarine cables and pipelines, and other internationally lawful uses of the sea.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of March, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

RONALD REAGAN.

§ 1454. Submittal of State program for approval

Any coastal state which has completed the development of its management program shall submit such program to the Secretary for review and approval pursuant to section 1455 of this title.

(Pub. L. 89–454, title III, § 305, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1282; amended Pub. L. 93–612, § 1(1), Jan. 2, 1975, 88 Stat. 1974; Pub. L. 94–370, § 4, July 26, 1976, 90 Stat. 1015; Pub. L. 101–508, title VI, § 6205, Nov. 5, 1990, 104 Stat. 1388–302; Pub. L. 102–587, title II, § 2205(b)(1)(A), Nov. 4, 1992, 106 Stat. 5050; Pub. L. 104–150, § 2(a), (b)(1), June 3, 1996, 110 Stat. 1380.)

AMENDMENTS

1996—Pub. L. 104–150, § 2(b)(1), substituted ''Submittal of State program for approval'' for ''Management program development grants'' in section catchline, struck out ''(b)'' before ''Any coastal state'', and struck out subsec. (a) which read as follows: ''In fiscal years 1997, 1998, and 1999, the Secretary may make a grant annually to any coastal state without an approved program if the coastal state demonstrates to the satisfaction of the Secretary that the grant will be used to develop a management program consistent with the requirements set forth in section 1455 of this title. The amount of any such grant shall not exceed $200,000 in any fiscal year, and shall require State matching funds according to a 4-to-1 ratio of Federal-to-State contributions. After an initial grant is made to a coastal state pursuant to this subsection, no subsequent grant shall be made to that coastal state pursuant to this subsection unless the Secretary finds that the coastal state is satisfactorily developing its management program. No coastal state is eligible to receive more than four grants pursuant to this subsection.''

Subsec. (a). Pub. L. 104–150, § 2(a), substituted ''1997, 1998, and 1999'' for ''1991, 1992, and 1993'' and ''four grants'' for ''two grants''.

1992—Pub. L. 102–587 substituted ''coastal state'' for ''coastal State'' in last sentence of subsec. (a) and in subsec. (b).

1990—Pub. L. 101–508 amended section generally, substituting present provisions for provisions which authorized management program development grants, established program requirements, set limits on grants, provided for grants for completion of development and implementation of management programs, provided for allocation of grants, reversion of unobligated grants, and grants to other political subdivisions, required submission of program for review and approval, and set forth an expiration date of grant authority.

1976—Subsec. (a). Pub. L. 94–370 incorporated existing provisions into par. (1), limiting applicability of such provisions to subsec. (c), and added par. (2).

Subsec. (b). Pub. L. 94–370 added pars. (7) to (9) and effective date provisions of such paragraphs after par. (9).

Subsec. (c). Pub. L. 94–370 substituted provision that grant should not exceed 80 per centum of a coastal state's costs for purposes described in subsection (a)(1) of this section for provision that grant should not exceed 66⅔ per centum of the costs of the program in any one year, expanded to four the number of grants a state is eligible to receive pursuant to this subsection, and struck out provision that Federal funds received from other sources shall not be used to match such grants.

Subsec. (d). Pub. L. 94–370 substituted provisions authorizing Secretary to make grants annually to any coastal state for purposes described in subsection (a)(2) and setting forth eligibility prerequisites for initial implementation grants for provisions, which were incorporated into subsec. (h), authorizing Secretary to review and approve the state's submitted management program which on final approval terminates state's eligibility under this section, but commences state's eligibility under section 1455 of this title.

Subsec. (e). Pub. L. 94–370 restructured existing provisions into pars. (1) and (2), and as so restructured, substituted in provisions preceding par. (1) reference to shall be made to, and allocated among, the coastal states for reference to shall be allocated to the states, and in par. (1) inserted proviso relating to the waiver at the option of the Secretary of the 10 per centum maximum requirement.

Subsec. (f). Pub. L. 94–370 substituted ''The amount of any grant'' for ''Grant'' and ''the coastal state'' for ''a state''.

Subsec. (g). Pub. L. 94–370 substituted ''any coastal state'' for ''the state'' and inserted ''received by it'' before ''under this section''.

Subsecs. (h), (i). Pub. L. 94–370 added subsec. (h) which incorporated provisions of former subsec. (d), redesignated former subsec. (h) as (i), and substituted ''September 30, 1979'' for ''June 30, 1977''.

1975—Subsec. (e). Pub. L. 93–612 inserted proviso relating to the waiver by the Secretary of the 1 per centum minimum requirement upon request by the coastal state.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 2(b)(3) of Pub. L. 104–150 provided that: ''This subsection [amending this section and section 1456a of this title] shall take effect on October 1, 1999.''

§ 1455. Administrative grants

(a) Authorization; matching funds

The Secretary may make grants to any coastal state for the purpose of administering that State's management program, if the State matches any such grant according to the following ratios of Federal-to-State contributions for the applicable fiscal year:

(1) For those States for which programs were approved prior to November 5, 1990, 1 to 1 for any fiscal year.

(2) For programs approved after November 5, 1990, 4 to 1 for the first fiscal year, 2.3 to 1 for the second fiscal year, 1.5 to 1 for the third fiscal year, and 1 to 1 for each fiscal year thereafter.

(b) Grants to coastal states; requirements

The Secretary may make a grant to a coastal state under subsection (a) of this section only if the Secretary finds that the management program of the coastal state meets all applicable requirements of this chapter and has been approved in accordance with subsection (d) of this section.

(c) Allocation of grants to coastal states

Grants under this section shall be allocated to coastal states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the program, population of the area, and other relevant factors. The Secretary shall establish, after consulting with the coastal states, maximum and minimum grants for any fiscal year to promote equity between coastal states and effective coastal management.

(d) Mandatory adoption of State management program for coastal zone

Before approving a management program submitted by a coastal state, the Secretary shall find the following:

(1) The State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties and individuals, public and private, which is adequate to carry out the purposes of this chapter and is consistent with the policy declared in section 1452 of this title.

(2) The management program includes each of the following required program elements:

(A) An identification of the boundaries of the coastal zone subject to the management program.

(B) A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

(C) An inventory and designation of areas of particular concern within the coastal zone.

(D) An identification of the means by which the State proposes to exert control over the land uses and water uses referred to in subparagraph (B), including a list of relevant State constitutional provisions, laws, regulations, and judicial decisions.

(E) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

(F) A description of the organizational structure proposed to implement such management program, including the responsibilities and interrelationships of local, areawide, State, regional, and interstate agencies in the management process.

(G) A definition of the term ''beach'' and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

(H) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including a process for anticipating the management of the impacts resulting from such facilities.

(I) A planning process for assessing the effects of, and studying and evaluating ways to control, or lessen the impact of, shoreline erosion, and to restore areas adversely affected by such erosion.

(3) The State has—

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone—

(i) existing on January 1 of the year in which the State's management program is submitted to the Secretary; and

(ii) which have been developed by a local government, an areawide agency, a regional agency, or an interstate agency; and

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (6) and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of those local governments and agencies in carrying out the purposes of this chapter; except that the Secretary shall not find any mechanism to be effective for purposes of this subparagraph unless it requires that—

(i) the management agency, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, shall send a notice of the management program decision to any local government whose zoning authority is affected;

(ii) within the 30-day period commencing on the date of receipt of that notice, the local government may submit to the management agency written comments on the management program decision, and any recommendation for alternatives; and

(iii) the management agency, if any comments are submitted to it within the 30-day period by any local government—

(I) shall consider the comments;

(II) may, in its discretion, hold a public hearing on the comments; and

(III) may not take any action within the 30-day period to implement the management program decision.

(4) The State has held public hearings in the development of the management program.

(5) The management program and any changes thereto have been reviewed and approved by the Governor of the State.

(6) The Governor of the State has designated a single State agency to receive and administer grants for implementing the management program.

(7) The State is organized to implement the management program.

(8) The management program provides for adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities which are of greater than local significance. In the case of energy facilities, the Secretary shall find that the State has given consideration to any applicable national or interstate energy plan or program.

(9) The management program includes procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, historical, or esthetic values.

(10) The State, acting through its chosen agency or agencies (including local governments, areawide agencies, regional agencies, or interstate agencies) has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(A) to administer land use and water use regulations to control development[1] to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(B) to acquire fee simple and less than fee simple interests in land, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(11) The management program provides for any one or a combination of the following general techniques for control of land uses and water uses within the coastal zone:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement.

(B) Direct State land and water use planning and regulation.

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(12) The management program contains a method of assuring that local land use and water use regulations within the coastal zone do not unreasonably restrict or exclude land uses and water uses of regional benefit.

(13) The management program provides for—

(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

(B) specific and enforceable standards to protect such resources.

(14) The management program provides for public participation in permitting processes, consistency determinations, and other similar decisions.

(15) The management program provides a mechanism to ensure that all State agencies will adhere to the program.

(16) The management program contains enforceable policies and mechanisms to implement the applicable requirements of the Coastal Nonpoint Pollution Control Program of the State required by section 1455b of this title.

(e) Amendment or modification of State management program for coastal zone

A coastal state may amend or modify a management program which it has submitted and which has been approved by the Secretary under this section, subject to the following conditions:

(1) The State shall promptly notify the Secretary of any proposed amendment, modifica-

[1] So in original. Probably should be followed by a comma.

tion, or other program change and submit it for the Secretary's approval. The Secretary may suspend all or part of any grant made under this section pending State submission of the proposed amendments, modification, or other program change.

(2) Within 30 days after the date the Secretary receives any proposed amendment, the Secretary shall notify the State whether the Secretary approves or disapproves the amendment, or whether the Secretary finds it is necessary to extend the review of the proposed amendment for a period not to exceed 120 days after the date the Secretary received the proposed amendment. The Secretary may extend this period only as necessary to meet the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). If the Secretary does not notify the coastal state that the Secretary approves or disapproves the amendment within that period, then the amendment shall be conclusively presumed as approved.

(3)(A) Except as provided in subparagraph (B), a coastal state may not implement any amendment, modification, or other change as part of its approved management program unless the amendment, modification, or other change is approved by the Secretary under this subsection.

(B) The Secretary, after determining on a preliminary basis, that an amendment, modification, or other change which has been submitted for approval under this subsection is likely to meet the program approval standards in this section, may permit the State to expend funds awarded under this section to begin implementing the proposed amendment, modification, or change. This preliminary approval shall not extend for more than 6 months and may not be renewed. A proposed amendment, modification, or change which has been given preliminary approval and is not finally approved under this paragraph shall not be considered an enforceable policy for purposes of section 1456 of this title.

(Pub. L. 89–454, title III, §306, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1283; amended Pub. L. 93–612, §1(2), Jan. 2, 1975, 88 Stat. 1974; Pub. L. 94–370, §5, July 26, 1976, 90 Stat. 1017; Pub. L. 96–464, §5(a), Oct. 17, 1980, 94 Stat. 2062; Pub. L. 99–272, title VI, §6043(b)(1), (c), Apr. 7, 1986, 100 Stat. 124, 125; Pub. L. 101–508, title VI, §6206(a), Nov. 5, 1990, 104 Stat. 1388–303; Pub. L. 102–587, title II, §2205(b)(1)(A), (B), (8), Nov. 4, 1992, 106 Stat. 5050, 5051.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (e)(2), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

1992—Subsecs. (a) to (d), (e)(2), (3)(A). Pub. L. 102–587 substituted ''coastal state'' and ''coastal states'' for ''coastal State'' and ''coastal States'', respectively, wherever appearing, and substituted period for semicolon at end of subsec. (b).

1990—Pub. L. 101–508 amended section generally, substituting present provisions for provisions which authorized grants for administering a state management program, provided for a ratio of Federal to State contributions, allocation of grants, program requirements, required authority for management of coastal zone, required findings prior to approval of grants, allocation to other political subdivisions, program modification, segmental development, and inventory and designation of areas of national significance and standards for protection of coastal resources.

1986—Subsec. (a). Pub. L. 99–272, §6043(b)(1), amended introductory text generally, which prior to amendment read as follows: ''The Secretary may make grants to any coastal state for not more than 80 per centum of the costs of administering such state's management program if the Secretary—''.

Subsec. (g). Pub. L. 99–272, §6043(c), inserted '', and subject to the following conditions:'' in provisions preceding par. (1), added pars. (1) to (3), and struck out provision that except with respect to any management program amendment which was made before Oct. 1, 1978, for the purpose of complying with the requirements of section 1454(b)(7), (8) and (9) of this title, no grant was to be made under this section to any coastal state after the date of such amendment or modification, until the Secretary approved such amendment or modification.

1980—Subsec. (a). Pub. L. 96–464, §5(a)(1), in opening text, substituted ''The Secretary may make grants'' for ''The Secretary may make a grant annually'', added par. (3), and provision following par. (3) which defined the costs of administering a management program.

Subsec. (b). Pub. L. 96–464, §5(2), struck out proviso that no annual grant made under this section shall be in excess of $2,000,000 for fiscal year 1975, in excess of $2,500,000 for fiscal year 1976, and in excess of $3,000,000 for fiscal year 1977.

Subsec. (i). Pub. L. 96–464, §5(a)(3), added subsec. (i).

1976—Subsec. (a). Pub. L. 94–370, §5(1), raised the federal share of grants to 80 per centum from 66⅔ per centum of the cost of administering a state's management program, substituted requirement that Secretary approve state's management program in accordance with subsecs. (c), (d), and (e) and find that such programs meet requirements under section 1454(b) of this title for requirement that Secretary approve state's management programs in accordance with subsec. (c), and struck out proviso that Federal funds from other sources shall not be used to pay the state's share of costs.

Subsec. (c)(2)(B). Pub. L. 94–370, §5(2), inserted provisions that mechanism not be found to be effective by Secretary until management agency meets certain requirement such as notice to affected zoning authority, 30-day period for zoning authority to respond with recommendations, and action to be taken by management agency where zoning authority does submit recommendations.

Subsec. (c)(8). Pub. L. 94–370, §5(3), inserted ''planning for, and'' before ''in the siting of'' and reference to energy facilities in, or which significantly affect, such state's coastal zone and inserted proviso that in the case of energy facilities, the Secretary shall find that the state has given consideration to any applicable interstate energy plan or program.

Subsec. (g). Pub. L. 94–370, §5(4), inserted requirement that except for pre-Oct. 1, 1978 amendments of management programs, for purposes of complying with section 1454(b)(7), (8), and (9) of this title, no grant shall be made under this section to any coastal state after the date of an amendment until approved by Secretary.

1975—Subsec. (b). Pub. L. 93–612 substituted provisos establishing maximum amount of annual grant for fiscal years 1975, 1976, and 1977, establishing a minimum of 1 per centum of the total appropriated amount, and providing for waiver of the 1 per centum minimum upon request of the coastal State, for proviso limiting an annual administrative grant to a maximum of 10 per centum and a minimum of 1 per centum of the total appropriated amount.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 5(b) of Pub. L. 96–464 provided that: ''The amendments made by subsection (a)(1) and (2) of this section [amending this section] apply with respect to grants made after September 30, 1980, under section 306 of the Coastal Zone Management Act of 1972 [this section] and, within two hundred and seventy days after such date, the Secretary of Commerce shall issue regulations relating to the administration of subsection (a) of such section 306 (as so amended by such subsection (a)(1).''

ADDITIONAL PROGRAM REQUIREMENTS

Section 6206(b) of title VI of Pub. L. 101–508 provided that: ''Each State which submits a management program for approval under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], as amended by this subtitle (including a State which submitted a program before the date of enactment of this Act [Nov. 5, 1990]), shall demonstrate to the Secretary—

''(1) that the program complies with section 306(d)(14) and (15) of that Act, by not later than 3 years after the date of the enactment of this Act; and

''(2) that the program complies with section 306(d)(16) of that Act, by not later than 30 months after the date of publication of final guidance under section 6217(g) of this Act [16 U.S.C. 1455b(g)].''

§ 1455a. Coastal resource improvement program

(a) Definitions

For purposes of this section—

(1) The term ''eligible coastal state'' means a coastal state that for any fiscal year for which a grant is applied for under this section—

(A) has a management program approved under section 1455 of this title; and

(B) in the judgment of the Secretary, is making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 1452(2)(A) through (K) of this title.

(2) The term ''urban waterfront and port'' means any developed area that is densely populated and is being used for, or has been used for, urban residential recreational, commercial, shipping or industrial purposes.

(b) Resource management improvement grants

The Secretary may make grants to any eligible coastal state to assist that state in meeting one or more of the following objectives:

(1) The preservation or restoration of specific areas of the state that (A) are designated under the management program procedures required by section 1455(d)(9) of this title because of their conservation recreational, ecological, or esthetic values, or (B) contain one or more coastal resources of national significance, or for the purpose of restoring and enhancing shellfish production by the purchase and distribution of clutch material on publicly owned reef tracts.

(2) The redevelopment of deteriorating and underutilized urban waterfronts and ports that are designated in the state's management program pursuant to section 1455(d)(2)(C) of this title as areas of particular concern.

(3) The provision of access to public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under section 1455(d)(2)(G) of this title.

(4) The development of a coordinated process among State agencies to regulate and issue permits for aquaculture facilities in the coastal zone.

(c) Uses, terms and conditions of grants

(1) Each grant made by the Secretary under this section shall be subject to such terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

(2) Grants made under this section may be used for—

(A) the acquisition of fee simple and other interests in land;

(B) low-cost construction projects determined by the Secretary to be consistent with the purposes of this section, including but not limited to, paths, walkways, fences, parks, and the rehabilitation of historic buildings and structures; except that not more than 50 per centum of any grant made under this section may be used for such construction projects;

(C) in the case of grants made for objectives described in subsection (b)(2) of this section—

(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity,

(ii) the establishment of shoreline stabilization measures including the installation or rehabilitation of bulkheads for the purpose of public safety or increasing public access and use, and

(iii) the removal or replacement of pilings where such action will provide increased recreational use of urban waterfront areas,

but activities provided for under this paragraph shall not be treated as construction projects subject to the limitations in paragraph (B);

(D) engineering designs, specifications, and other appropriate reports; and

(E) educational, interpretive, and management costs and such other related costs as the Secretary determines to be consistent with the purposes of this section.

(d) State matching contributions; ratio; maximum amount of grants

(1) The Secretary may make grants to any coastal state for the purpose of carrying out the project or purpose for which such grants are awarded, if the state matches any such grant according to the following ratios of Federal to state contributions for the applicable fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; and 1 to 1 for each fiscal year after fiscal year 1988.

(2) Grants provided under this section may be used to pay a coastal state's share of costs required under any other Federal program that is consistent with the purposes of this section.

(3) The total amount of grants made under this section to any eligible coastal state for any fiscal year may not exceed an amount equal to 10 per centum of the total amount appropriated to carry out this section for such fiscal year.

(e) Allocation of grants to local governments and other agencies

With the approval of the Secretary, an eligible coastal state may allocate to a local govern-

ment, an areawide agency designated under section 3334 of title 42, a regional agency, or an interstate agency, a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that state of the responsibility for ensuring that any funds so allocated are applied in furtherance of the state's approved management program.

(f) Other technical and financial assistance

In addition to providing grants under this section, the Secretary shall assist eligible coastal states and their local governments in identifying and obtaining other sources of available Federal technical and financial assistance regarding the objectives of this section.

(Pub. L. 89–454, title II, § 306A, as added Pub. L. 96–464, § 6, Oct. 17, 1980, 94 Stat. 2062; amended Pub. L. 99–272, title VI, § 6043(b)(2), Apr. 7, 1986, 100 Stat. 124; Pub. L. 101–508, title VI, §§ 6207, 6216(a), Nov. 5, 1990, 104 Stat. 1388–307, 1388–314; Pub. L. 102–587, title II, § 2205(b)(9)–(12), Nov. 4, 1992, 106 Stat. 5051; Pub. L. 104–150, § 7(1), June 3, 1996, 110 Stat. 1381.)

AMENDMENTS

1996—Subsec. (b)(4). Pub. L. 104–150 added par. (4).

1992—Subsec. (a)(1)(B). Pub. L. 102–587, § 2205(b)(10), substituted ''through (K)'' for ''through (I)''.

Subsec. (b)(1). Pub. L. 102–587, § 2205(b)(9), made technical amendment to directory language of Pub. L. 101–508, § 6216(a). See 1990 Amendment note below.

Subsec. (b)(2). Pub. L. 102–587, § 2205(b)(11)(A), substituted ''that are designated in the state's management program pursuant to section 1455(d)(2)(C) of this title as areas of particular concern'' for ''that are designated under section 1454(b)(3) of this title in the state's management program as areas of particular concern''.

Subsec. (b)(3). Pub. L. 102–587, § 2205(b)(11)(B), substituted ''access to'' for ''access of'' and ''1455(d)(2)(G)'' for ''1454(b)(7)''.

Subsec. (c)(2)(C). Pub. L. 102–587, § 2205(b)(12), in closing provisions, substituted ''shall not be'' for ''shall not by''.

1990—Subsec. (b)(1). Pub. L. 101–508, § 6216(a), as amended by Pub. L. 102–587, § 2205(b)(9), substituted ''1455(d)(9)'' for ''1455(c)(9)''.

Pub. L. 101–508, § 6207, inserted before period at end '', or for the purpose of restoring and enhancing shellfish production by the purchase and distribution of clutch material on publicly owned reef tracts''.

1986—Subsec. (d)(1). Pub. L. 99–272 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''No grant made under this section may exceed an amount equal to 80 per centum of the cost of carrying out the purpose or project for which it was awarded.''

§ 1455b. Protecting coastal waters

(a) In general

(1) Program development

Not later than 30 months after the date of the publication of final guidance under subsection (g) of this section, each State for which a management program has been approved pursuant to section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455] shall prepare and submit to the Secretary and the Administrator a Coastal Nonpoint Pollution Control Program for approval pursuant to this section. The purpose of the program shall be to develop and implement management measures for nonpoint source pollution to restore and protect coastal waters, working in close conjunction with other State and local authorities.

(2) Program coordination

A State program under this section shall be coordinated closely with State and local water quality plans and programs developed pursuant to sections 1288, 1313, 1329, and 1330 of title 33 and with State plans developed pursuant to the Coastal Zone Management Act of 1972, as amended by this Act [16 U.S.C. 1451 et seq.]. The program shall serve as an update and expansion of the State nonpoint source management program developed under section 1329 of title 33, as the program under that section relates to land and water uses affecting coastal waters.

(b) Program contents

Each State program under this section shall provide for the implementation, at a minimum, of management measures in conformity with the guidance published under subsection (g) of this section, to protect coastal waters generally, and shall also contain the following:

(1) Identifying land uses

The identification of, and a continuing process for identifying, land uses which, individually or cumulatively, may cause or contribute significantly to a degradation of—

(A) those coastal waters where there is a failure to attain or maintain applicable water quality standards or protect designated uses, as determined by the State pursuant to its water quality planning processes; or

(B) those coastal waters that are threatened by reasonably foreseeable increases in pollution loadings from new or expanding sources.

(2) Identifying critical coastal areas

The identification of, and a continuing process for identifying, critical coastal areas adjacent to coastal waters referred to in paragraph (1)(A) and (B), within which any new land uses or substantial expansion of existing land uses shall be subject to management measures in addition to those provided for in subsection (g) of this section.

(3) Management measures

The implementation and continuing revision from time to time of additional management measures applicable to the land uses and areas identified pursuant to paragraphs (1) and (2) that are necessary to achieve and maintain applicable water quality standards under section 1313 of title 33 and protect designated uses.

(4) Technical assistance

The provision of technical and other assistance to local governments and the public for implementing the measures referred to in paragraph (3), which may include assistance in developing ordinances and regulations, technical guidance, and modeling to predict and assess the effectiveness of such measures, training, financial incentives, demonstration

projects, and other innovations to protect coastal water quality and designated uses.

(5) Public participation

Opportunities for public participation in all aspects of the program, including the use of public notices and opportunities for comment, nomination procedures, public hearings, technical and financial assistance, public education, and other means.

(6) Administrative coordination

The establishment of mechanisms to improve coordination among State agencies and between State and local officials responsible for land use programs and permitting, water quality permitting and enforcement, habitat protection, and public health and safety, through the use of joint project review, memoranda of agreement, or other mechanisms.

(7) State coastal zone boundary modification

A proposal to modify the boundaries of the State coastal zone as the coastal management agency of the State determines is necessary to implement the recommendations made pursuant to subsection (e) of this section. If the coastal management agency does not have the authority to modify such boundaries, the program shall include recommendations for such modifications to the appropriate State authority.

(c) Program submission, approval, and implementation

(1) Review and approval

Within 6 months after the date of submission by a State of a program pursuant to this section, the Secretary and the Administrator shall jointly review the program. The program shall be approved if—

(A) the Secretary determines that the portions of the program under the authority of the Secretary meet the requirements of this section and the Administrator concurs with that determination; and

(B) the Administrator determines that the portions of the program under the authority of the Administrator meet the requirements of this section and the Secretary concurs with that determination.

(2) Implementation of approved program

If the program of a State is approved in accordance with paragraph (1), the State shall implement the program, including the management measures included in the program pursuant to subsection (b) of this section, through—

(A) changes to the State plan for control of nonpoint source pollution approved under section 1329 of title 33; and

(B) changes to the State coastal zone management program developed under section 306 of the Coastal Zone Management Act of 1972, as amended by this Act [16 U.S.C. 1455].

(3) Withholding coastal management assistance

If the Secretary finds that a coastal State has failed to submit an approvable program as required by this section, the Secretary shall withhold for each fiscal year until such a program is submitted a portion of grants otherwise available to the State for the fiscal year under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], as follows:

(A) 10 percent for fiscal year 1996.

(B) 15 percent for fiscal year 1997.

(C) 20 percent for fiscal year 1998.

(D) 30 percent for fiscal year 1999 and each fiscal year thereafter.

The Secretary shall make amounts withheld under this paragraph available to coastal States having programs approved under this section.

(4) Withholding water pollution control assistance

If the Administrator finds that a coastal State has failed to submit an approvable program as required by this section, the Administrator shall withhold from grants available to the State under section 1329 of title 33, for each fiscal year until such a program is submitted, an amount equal to a percentage of the grants awarded to the State for the preceding fiscal year under that section, as follows:

(A) For fiscal year 1996, 10 percent of the amount awarded for fiscal year 1995.

(B) For fiscal year 1997, 15 percent of the amount awarded for fiscal year 1996.

(C) For fiscal year 1998, 20 percent of the amount awarded for fiscal year 1997.

(D) For fiscal year 1999 and each fiscal year thereafter, 30 percent of the amount awarded for fiscal year 1998 or other preceding fiscal year.

The Administrator shall make amounts withheld under this paragraph available to States having programs approved pursuant to this subsection.

(d) Technical assistance

The Secretary and the Administrator shall provide technical assistance to coastal States and local governments in developing and implementing programs under this section. Such assistance shall include—

(1) methods for assessing water quality impacts associated with coastal land uses;

(2) methods for assessing the cumulative water quality effects of coastal development;

(3) maintaining and from time to time revising an inventory of model ordinances, and providing other assistance to coastal States and local governments in identifying, developing, and implementing pollution control measures; and

(4) methods to predict and assess the effects of coastal land use management measures on coastal water quality and designated uses.

(e) Inland coastal zone boundaries

(1) Review

The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall, within 18 months after November 5, 1990, review the inland coastal zone boundary of each coastal State program which has been approved or is proposed for approval under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], and evaluate whether the State's coastal zone boundary ex-

tends inland to the extent necessary to control the land and water uses that have a significant impact on coastal waters of the State.

(2) Recommendation

If the Secretary, in consultation with the Administrator, finds that modifications to the inland boundaries of a State's coastal zone are necessary for that State to more effectively manage land and water uses to protect coastal waters, the Secretary, in consultation with the Administrator, shall recommend appropriate modifications in writing to the affected State.

(f) Financial assistance

(1) In general

Upon request of a State having a program approved under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], the Secretary, in consultation with the Administrator, may provide grants to the State for use for developing a State program under this section.

(2) Amount

The total amount of grants to a State under this subsection shall not exceed 50 percent of the total cost to the State of developing a program under this section.

(3) State share

The State share of the cost of an activity carried out with a grant under this subsection shall be paid from amounts from non-Federal sources.

(4) Allocation

Amounts available for grants under this subsection shall be allocated among States in accordance with regulations issued pursuant to section 306(c) of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455(c)], except that the Secretary may use not more than 25 percent of amounts available for such grants to assist States which the Secretary, in consultation with the Administrator, determines are making exemplary progress in preparing a State program under this section or have extreme needs with respect to coastal water quality.

(g) Guidance for coastal nonpoint source pollution control

(1) In general

The Administrator, in consultation with the Secretary and the Director of the United States Fish and Wildlife Service and other Federal agencies, shall publish (and periodically revise thereafter) guidance for specifying management measures for sources of nonpoint pollution in coastal waters.

(2) Content

Guidance under this subsection shall include, at a minimum—

(A) a description of a range of methods, measures, or practices, including structural and nonstructural controls and operation and maintenance procedures, that constitute each measure;

(B) a description of the categories and subcategories of activities and locations for which each measure may be suitable;

(C) an identification of the individual pollutants or categories or classes of pollutants that may be controlled by the measures and the water quality effects of the measures;

(D) quantitative estimates of the pollution reduction effects and costs of the measures;

(E) a description of the factors which should be taken into account in adapting the measures to specific sites or locations; and

(F) any necessary monitoring techniques to accompany the measures to assess over time the success of the measures in reducing pollution loads and improving water quality.

(3) Publication

The Administrator, in consultation with the Secretary, shall publish—

(A) proposed guidance pursuant to this subsection not later than 6 months after November 5, 1990; and

(B) final guidance pursuant to this subsection not later than 18 months after November 5, 1990.

(4) Notice and comment

The Administrator shall provide to coastal States and other interested persons an opportunity to provide written comments on proposed guidance under this subsection.

(5) Management measures

For purposes of this subsection, the term ''management measures'' means economically achievable measures for the control of the addition of pollutants from existing and new categories and classes of nonpoint sources of pollution, which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint pollution control practices, technologies, processes, siting criteria, operating methods, or other alternatives.

(h) Authorization of appropriations

(1) Administrator

There is authorized to be appropriated to the Administrator for use for carrying out this section not more than $1,000,000 for each of fiscal years 1992, 1993, and 1994.

(2) Secretary

(A) Of amounts appropriated to the Secretary for a fiscal year under section 318(a)(4)[1] of the Coastal Zone Management Act of 1972, as amended by this Act, not more than $1,000,000 shall be available for use by the Secretary for carrying out this section for that fiscal year, other than for providing in the form of grants under subsection (f) of this section.

(B) There is authorized to be appropriated to the Secretary for use for providing in the form of grants under subsection (f) of this section not more than—

(i) $6,000,000 for fiscal year 1992;

(ii) $12,000,000 for fiscal year 1993;

(iii) $12,000,000 for fiscal year 1994; and

(iv) $12,000,000 for fiscal year 1995.

(i) Definitions

In this section—

[1] See References in Text note below.

(1) the term ''Administrator'' means the Administrator of the Environmental Protection Agency;

(2) the term ''coastal State'' has the meaning given the term ''coastal state'' under section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453);

(3) each of the terms ''coastal waters'' and ''coastal zone'' has the meaning that term has in the Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.];

(4) the term ''coastal management agency'' means a State agency designated pursuant to section 306(d)(6) of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455(d)(6)];

(5) the term ''land use'' includes a use of waters adjacent to coastal waters; and

(6) the term ''Secretary'' means the Secretary of Commerce.

(Pub. L. 101–508, title VI, § 6217, Nov. 5, 1990, 104 Stat. 1388–314; Pub. L. 102–587, title II, § 2205(b)(24), Nov. 4, 1992, 106 Stat. 5052.)

REFERENCES IN TEXT

The Coastal Zone Management Act of 1972, referred to in subsecs. (a)(2) and (i)(3), is title III of Pub. L. 89–454 as added by Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to this chapter (§ 1451 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1451 of this title and Tables.

This Act, referred to in subsecs. (a)(2) and (c)(2)(B), is Pub. L. 101–508, Nov. 5, 1990, 104 Stat. 1388, known as the Omnibus Budget Reconciliation Act of 1990. For complete classification of this Act to the Code, see Tables.

Section 318(a) of the Coastal Zone Management Act of 1972, referred to in subsec. (h)(2)(A), which is classified to section 1464(a) of this title, was amended by Pub. L. 104–150, § 4(1), June 3, 1996, 110 Stat. 1381, and, as so amended, does not contain a par. (4).

CODIFICATION

Section was enacted as part of the Coastal Zone Act Reauthorization Amendments of 1990 and also as part of the Omnibus Budget Reconciliation Act of 1990, and not as part of the Coastal Zone Management Act of 1972 which comprises this chapter.

AMENDMENTS

1992—Subsec. (i)(3). Pub. L. 102–587 struck out comma after '''coastal waters''' and inserted ''Zone'' before ''Management''.

§ 1456. Coordination and cooperation

(a) Federal agencies

In carrying out his functions and responsibilities under this chapter, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

(b) Adequate consideration of views of Federal agencies

The Secretary shall not approve the management program submitted by a state pursuant to section 1455 of this title unless the views of Federal agencies principally affected by such program have been adequately considered.

(c) Consistency of Federal activities with State management programs; Presidential exemption; certification

(1)(A) Each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs. A Federal agency activity shall be subject to this paragraph unless it is subject to paragraph (2) or (3).

(B) After any final judgment, decree, or order of any Federal court that is appealable under section 1291 or 1292 of title 28, or under any other applicable provision of Federal law, that a specific Federal agency activity is not in compliance with subparagraph (A), and certification by the Secretary that mediation under subsection (h) of this section is not likely to result in such compliance, the President may, upon written request from the Secretary, exempt from compliance those elements of the Federal agency activity that are found by the Federal court to be inconsistent with an approved State program, if the President determines that the activity is in the paramount interest of the United States. No such exemption shall be granted on the basis of a lack of appropriations unless the President has specifically requested such appropriations as part of the budgetary process, and the Congress has failed to make available the requested appropriations.

(C) Each Federal agency carrying out an activity subject to paragraph (1) shall provide a consistency determination to the relevant State agency designated under section 1455(d)(6) of this title at the earliest practicable time, but in no case later than 90 days before final approval of the Federal activity unless both the Federal agency and the State agency agree to a different schedule.

(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with the enforceable policies of approved state management programs.

(3)(A) After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity, in or outside of the coastal zone, affecting any land or water use or natural resource of the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the enforceable policies of the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No li-

cense or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this chapter or is otherwise necessary in the interest of national security.

(B) After the management program of any coastal state has been approved by the Secretary under section 1455 of this title, any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any land or water use or natural resource of the coastal zone of such state, attach to such plan a certification that each activity which is described in detail in such plan complies with the enforceable policies of such state's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such state or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and until—

(i) such state or its designated agency, in accordance with the procedures required to be established by such state pursuant to subparagraph (A), concurs with such person's certification and notifies the Secretary and the Secretary of the Interior of such concurrence;

(ii) concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except if such state fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such state shall provide the Secretary, the appropriate federal agency, and such person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if such statement is not so provided, concurrence by such state with such certification shall be conclusively presumed; or

(iii) the Secretary finds, pursuant to subparagraph (A), that each activity which is described in detail in such plan is consistent with the objectives of this chapter or is otherwise necessary in the interest of national security.

If a state concurs or is conclusively presumed to concur, or if the Secretary makes such a finding, the provisions of subparagraph (A) are not applicable with respect to such person, such state, and any Federal license or permit which is required to conduct any activity affecting land uses or water uses in the coastal zone of such state which is described in detail in the plan to which such concurrence or finding applies. If such state objects to such certification and if the Secretary fails to make a finding under clause (iii) with respect to such certification, or if such person fails substantially to comply with such plan as submitted, such person shall submit an amendment to such plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under subparagraph (A) is 3 months.

(d) Application of local governments for Federal assistance; relationship of activities with approved management programs

State and local governments submitting applications for Federal assistance under other Federal programs, in or outside of the coastal zone, affecting any land or water use of natural resource of the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of section 6506 of title 31. Federal agencies shall not approve proposed projects that are inconsistent with the enforceable policies of a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this chapter or necessary in the interest of national security.

(e) Construction with other laws

Nothing in this chapter shall be construed—

(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

(f) Construction with existing requirements of water and air pollution programs

Notwithstanding any other provision of this chapter, nothing in this chapter shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.], or the Clean Air Act, as amended [42 U.S.C. 7401 et seq.], or (2) established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this chap-

ter and shall be the water pollution control and air pollution control requirements applicable to such program.

(g) Concurrence with programs which affect inland areas

When any state's coastal zone management program, submitted for approval or proposed for modification pursuant to section 1455 of this title, includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such program, shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program, with respect to that portion of the coastal zone management program affecting such inland areas.

(h) Mediation of disagreements

In case of serious disagreement between any Federal agency and a coastal state—

(1) in the development or the initial implementation of a management program under section 1454 of this title; or

(2) in the administration of a management program approved under section 1455 of this title;

the Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement. The process of such mediation shall, with respect to any disagreement described in paragraph (2), include public hearings which shall be conducted in the local area concerned.

(i) Application fee for appeals

(1) With respect to appeals under subsections (c)(3) and (d) of this section which are submitted after November 5, 1990, the Secretary shall collect an application fee of not less than $200 for minor appeals and not less than $500 for major appeals, unless the Secretary, upon consideration of an applicant's request for a fee waiver, determines that the applicant is unable to pay the fee.

(2)(A) The Secretary shall collect such other fees as are necessary to recover the full costs of administering and processing such appeals under subsection (c) of this section.

(B) If the Secretary waives the application fee under paragraph (1) for an applicant, the Secretary shall waive all other fees under this subsection for the applicant.

(3) Fees collected under this subsection shall be deposited into the Coastal Zone Management Fund established under section 1456a of this title.

(Pub. L. 89–454, title III, § 307, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1285; amended Pub. L. 94–370, § 6, July 26, 1976, 90 Stat. 1018; Pub. L. 95–372, title V, § 504, Sept. 18, 1978, 92 Stat. 693; Pub. L. 101–508, title VI, § 6208, Nov. 5, 1990, 104 Stat. 1388–307; Pub. L. 102–587, title II, § 2205(b)(13), (14), Nov. 4, 1992, 106 Stat. 5051.)

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in subsec. (c)(3)(B), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (f), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Clean Air Act, referred to in subsec. (f), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

CODIFICATION

In subsec. (d), ''section 6506 of title 31'' substituted for ''title IV of the Intergovernmental Coordination [Cooperation] Act of 1968 [42 U.S.C. 4231 et seq.]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1992—Subsec. (c)(3)(B). Pub. L. 102–587, § 2205(b)(13), made technical amendment to directory language of Pub. L. 101–508, § 6208(b)(3)(B). See 1990 Amendment note below.

Subsec. (i). Pub. L. 102–587, § 2205(b)(14), designated existing provisions as par. (1), added pars. (2) and (3), and struck out at end of par. (1) ''The Secretary shall collect such other fees as are necessary to recover the full costs of administering and processing such appeals under subsection (c) of this section.''

1990—Subsec. (c)(1). Pub. L. 101–508, § 6208(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.''

Subsec. (c)(2). Pub. L. 101–508, § 6208(b)(1), which directed the insertion of ''the enforceable policies of'' before ''approved State management programs'', was executed by making the insertion before ''approved state management programs'' to reflect the probable intent of Congress.

Subsec. (c)(3)(A). Pub. L. 101–508, § 6208(b)(2), in first sentence inserted '', in or outside of the coastal zone,'' after ''to conduct an activity'', substituted ''any land or water use or natural resource of'' for ''land or water uses in'', and inserted ''the enforceable policies of'' after ''the proposed activity complies with''.

Subsec. (c)(3)(B). Pub. L. 101–508, § 6208(b)(3)(A), substituted ''land or water use or natural resource of'' for ''land use or water use in'' in first sentence.

Pub. L. 101–508, § 6208(b)(3)(B), as amended by Pub. L. 102–587, § 2205(b)(13), inserted ''the enforceable policies of'' after ''such plan complies with'' in first sentence.

Subsec. (d). Pub. L. 101–508, § 6208(b)(4), substituted '', in or outside of the coastal zone, affecting any land or water use of natural resource of'' for ''affecting'' and inserted ''the enforceable policies of'' after ''that are inconsistent with''.

Subsec. (i). Pub. L. 101–508, § 6208(c), added subsec. (i).

1978—Subsec. (c)(3)(B)(ii). Pub. L. 95–372 inserted '', except if such state fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such state shall provide the Secretary, the appropriate federal agency, and such person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if such statement is not so provided, concurrence by such state with such certification shall be conclusively presumed'' after ''as provided for in subparagraph (A)''.

1976—Subsec. (b). Pub. L. 94–370, § 6(2), struck out provisions requiring that in case of serious disagreement between Federal agency and state in development of program, Secretary shall seek to mediate the differences in cooperation with the Executive Office of the President and incorporated such provision into subsec. (h).

Subsec. (c)(3). Pub. L. 94–370, § 6(3), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (h). Pub. L. 94–370, § 6(4), added subsec. (h) which incorporates former provision of subsec. (b) relating to mediation by Secretary of disagreements between Federal agencies and state.

§ 1456–1. Authorization of the Coastal and Estuarine Land Conservation Program

(a) In general

The Secretary may conduct a Coastal and Estuarine Land Conservation Program, in cooperation with appropriate State, regional, and other units of government, for the purposes of protecting important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural, undeveloped, or recreational state to other uses or could be managed or restored to effectively conserve, enhance, or restore ecological function. The program shall be administered by the National Ocean Service of the National Oceanic and Atmospheric Administration through the Office of Ocean and Coastal Resource Management.

(b) Property acquisition grants

The Secretary shall make grants under the program to coastal states with approved coastal zone management plans or National Estuarine Research Reserve units for the purpose of acquiring property or interests in property described in subsection (a) that will further the goals of—

(1) a Coastal Zone Management Plan or Program approved under this chapter;

(2) a National Estuarine Research Reserve management plan;

(3) a regional or State watershed protection or management plan involving coastal states with approved coastal zone management programs; or

(4) a State coastal land acquisition plan that is consistent with an approved coastal zone management program.

(c) Grant process

The Secretary shall allocate funds to coastal states or National Estuarine Research Reserves under this section through a competitive grant process in accordance with guidelines that meet the following requirements:

(1) The Secretary shall consult with the coastal state's coastal zone management program, any National Estuarine Research Reserve in that State, and the lead agency designated by the Governor for coordinating the implementation of this section (if different from the coastal zone management program).

(2) Each participating coastal state, after consultation with local governmental entities and other interested stakeholders, shall identify priority conservation needs within the State, the values to be protected by inclusion of lands in the program, and the threats to those values that should be avoided.

(3) Each participating coastal state shall to the extent practicable ensure that the acquisition of property or easements shall complement working waterfront needs.

(4) The applicant shall identify the values to be protected by inclusion of the lands in the program, management activities that are planned and the manner in which they may affect the values identified, and any other information from the landowner relevant to administration and management of the land.

(5) Awards shall be based on demonstrated need for protection and ability to successfully leverage funds among participating entities, including Federal programs, regional organizations, State and other governmental units, landowners, corporations, or private organizations.

(6) The governor, or the lead agency designated by the governor for coordinating the implementation of this section, where appropriate in consultation with the appropriate local government, shall determine that the application is consistent with the State's or territory's approved coastal zone plan, program, and policies prior to submittal to the Secretary.

(7)(A) Priority shall be given to lands described in subsection (a) that can be effectively managed and protected and that have significant ecological value.

(B) Of the projects that meet the standard in subparagraph (A), priority shall be given to lands that—

(i) are under an imminent threat of conversion to a use that will degrade or otherwise diminish their natural, undeveloped, or recreational state; and

(ii) serve to mitigate the adverse impacts caused by coastal population growth in the coastal environment.

(8) In developing guidelines under this section, the Secretary shall consult with coastal states, other Federal agencies, and other interested stakeholders with expertise in land acquisition and conservation procedures.

(9) Eligible coastal states or National Estuarine Research Reserves may allocate grants to local governments or agencies eligible for assistance under section 1455a(e) of this title.

(10) The Secretary shall develop performance measures that the Secretary shall use to evaluate and report on the program's effectiveness in accomplishing its purposes, and shall submit such evaluations to Congress triennially.

(d) Limitations and private property protections

(1) A grant awarded under this section may be used to purchase land or an interest in land, including an easement, only from a willing seller. Any such purchase shall not be the result of a forced taking under this section. Nothing in this section requires a private property owner to participate in the program under this section.

(2) Any interest in land, including any easement, acquired with a grant under this section shall not be considered to create any new liability, or have any effect on liability under any

other law, of any private property owner with respect to any person injured on the private property.

(3) Nothing in this section requires a private property owner to provide access (including Federal, State, or local government access) to or use of private property unless such property or an interest in such property (including a conservation easement) has been purchased with funds made available under this section.

(e) Recognition of authority to control land use

Nothing in this chapter modifies the authority of Federal, State, or local governments to regulate land use.

(f) Matching requirements

(1) In general

The Secretary may not make a grant under the program unless the Federal funds are matched by non-Federal funds in accordance with this subsection.

(2) Cost share requirement

(A) In general

Grant funds under the program shall require a 100 percent match from other non-Federal sources.

(B) Waiver of requirement

The Secretary may grant a waiver of subparagraph (A) for underserved communities, communities that have an inability to draw on other sources of funding because of the small population or low income of the community, or for other reasons the Secretary deems appropriate and consistent with the purposes of the program.

(3) Other Federal funds

Where financial assistance awarded under this section represents only a portion of the total cost of a project, funding from other Federal sources may be applied to the cost of the project. Each portion shall be subject to match requirements under the applicable provision of law.

(4) Source of matching cost share

For purposes of paragraph (2)(A), the non-Federal cost share for a project may be determined by taking into account the following:

(A) The value of land or a conservation easement may be used by a project applicant as non-Federal match, if the Secretary determines that—

(i) the land meets the criteria set forth in section 2(b)[1] and is acquired in the period beginning 3 years before the date of the submission of the grant application and ending 3 years after the date of the award of the grant;

(ii) the value of the land or easement is held by a non-governmental organization included in the grant application in perpetuity for conservation purposes of the program; and

(iii) the land or easement is connected either physically or through a conservation planning process to the land or easement that would be acquired.

(B) The appraised value of the land or conservation easement at the time of the grant closing will be considered and applied as the non-Federal cost share.

(C) Costs associated with land acquisition, land management planning, remediation, restoration, and enhancement may be used as non-Federal match if the activities are identified in the plan and expenses are incurred within the period of the grant award, or, for lands described in[2] (A), within the same time limits described therein. These costs may include either cash or in-kind contributions.

(g) Reservation of funds for National Estuarine Research Reserve sites

No less than 15 percent of funds made available under this section shall be available for acquisitions benefitting National Estuarine Research Reserves.

(h) Limit on administrative costs

No more than 5 percent of the funds made available to the Secretary under this section shall be used by the Secretary for planning or administration of the program. The Secretary shall provide a report to Congress with an account of all expenditures under this section for fiscal year 2009 and triennially thereafter.

(i) Title and management of acquired property

If any property is acquired in whole or in part with funds made available through a grant under this section, the grant recipient shall provide—

(1) such assurances as the Secretary may require that—

(A) the title to the property will be held by the grant recipient or another appropriate public agency designated by the recipient in perpetuity;

(B) the property will be managed in a manner that is consistent with the purposes for which the land entered into the program and shall not convert such property to other uses; and

(C) if the property or interest in land is sold, exchanged, or divested, funds equal to the current value will be returned to the Secretary in accordance with applicable Federal law for redistribution in the grant process; and

(2) certification that the property (including any interest in land) will be acquired from a willing seller.

(j) Requirement for property used for non-Federal match

If the grant recipient elects to use any land or interest in land held by a non-governmental organization as a non-Federal match under subsection (g), the grant recipient must to the Secretary's satisfaction demonstrate in the grant application that such land or interest will satisfy the same requirements as the lands or interests in lands acquired under the program.

(k) Definitions

In this section:

[1] So in original. Probably should be ''subsection (b)''.

[2] So in original. Probably should be followed by ''subparagraph''.

(1) Conservation easement

The term ''conservation easement'' includes an easement or restriction, recorded deed, or a reserve interest deed where the grantee acquires all rights, title, and interest in a property, that do not conflict with the goals of this section except those rights, title, and interests that may run with the land that are expressly reserved by a grantor and are agreed to at the time of purchase.

(2) Interest in property

The term ''interest in property'' includes a conservation easement.

(*l*) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out this section $60,000,000 for each of fiscal years 2009 through 2013.

(Pub. L. 89–454, title III, §307A, as added Pub. L. 111–11, title XII, §12502, Mar. 30, 2009, 123 Stat. 1442.)

§ 1456a. Coastal Zone Management Fund

(a)(1) The obligations of any coastal state or unit of general purpose local government to repay loans made pursuant to this section as in effect before November 5, 1990, and any repayment schedule established pursuant to this chapter as in effect before November 5, 1990, are not altered by any provision of this chapter. Such loans shall be repaid under authority of this subsection and the Secretary may issue regulations governing such repayment. If the Secretary finds that any coastal state or unit of local government is unable to meet its obligations pursuant to this subsection because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such State or unit to meet such obligations in accordance with the appropriate repayment schedule, the Secretary shall, after review of the information submitted by such State or unit, take any of the following actions:

(A) Modify the terms and conditions of such loan.

(B) Refinance the loan.

(C) Recommend to the Congress that legislation be enacted to forgive the loan.

(2) Loan repayments made pursuant to this subsection shall be retained by the Secretary as offsetting collections, and shall be deposited into the Coastal Zone Management Fund established under subsection (b) of this section.

(b)(1) The Secretary shall establish and maintain a fund, to be known as the ''Coastal Zone Management Fund'', which shall consist of amounts retained and deposited into the Fund under subsection (a) of this section and fees deposited into the Fund under section 1456(i)(3) of this title.

(2) Subject to amounts provided in appropriation Acts, amounts in the Fund shall be available to the Secretary for use for the following:

(A) Expenses incident to the administration of this chapter, in an amount not to exceed for each of fiscal years 1997, 1998, and 1999 the higher of—

(i) $4,000,000; or

(ii) 8 percent of the total amount appropriated under this chapter for the fiscal year.

(B) After use under subparagraph (A)—

(i) projects to address management issues which are regional in scope, including interstate projects;

(ii) demonstration projects which have high potential for improving coastal zone management, especially at the local level;

(iii) emergency grants to State coastal zone management agencies to address unforeseen or disaster-related circumstances;

(iv) appropriate awards recognizing excellence in coastal zone management as provided in section 1460 of this title; and

(v) to provide financial support to coastal states for use for investigating and applying the public trust doctrine to implement State management programs approved under section 1455 of this title.

(Pub. L. 89–454, title III, §308, as added Pub. L. 94–370, §7, July 26, 1976, 90 Stat. 1019; amended Pub. L. 95–372, title V, §§501, 503(a)–(d), Sept. 18, 1978, 92 Stat. 690, 692, 693; Pub. L. 96–464, §7, Oct. 17, 1980, 94 Stat. 2064; Pub. L. 99–272, title VI, §6047, Apr. 7, 1986, 100 Stat. 128; Pub. L. 101–508, title VI, §6209, Nov. 5, 1990, 104 Stat. 1388–308; Pub. L. 102–587, title II, §2205(b)(1)(A), (B), (15)–(18), Nov. 4, 1992, 106 Stat. 5050, 5052; Pub. L. 104–150, §§2(b)(2), 5, June 3, 1996, 110 Stat. 1380, 1381.)

CODIFICATION

Subsec. (b)(3) of this section, which required the Secretary to transmit to Congress an annual report on the Fund, including the balance of the Fund and an itemization of all deposits into and disbursements from the Fund, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 143 of House Document No. 103–7.

AMENDMENTS

1996—Subsec. (b)(2)(A). Pub. L. 104–150, §5(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''Expenses incident to the administration of this chapter, in an amount not to exceed—

''(i) $5,000,000 for fiscal year 1991;

''(ii) $5,225,000 for fiscal year 1992;

''(iii) $5,460,125 for fiscal year 1993;

''(iv) $5,705,830 for fiscal year 1994; and

''(v) $5,962,593 for fiscal year 1995.''

Subsec. (b)(2)(B)(iv) to (vi). Pub. L. 104–150, §2(b)(2), inserted ''and'' at end of cl. (iv), redesignated cl. (vi) as (v), and struck out former cl. (v) which read as follows: ''program development grants as authorized by section 1454 of this title, in an amount not to exceed $200,000 for each of fiscal years 1997, 1998, and 1999; and''.

Subsec. (b)(2)(B)(v). Pub. L. 104–150, §5(b), amended cl. (v) generally. Prior to amendment, cl. (v) read as follows: ''program development grants as authorized by section 1454 of this title; and''.

1992—Pub. L. 102–587, §2205(b)(15), made technical amendment to Pub. L. 101–508. See 1990 Amendment note below.

Subsec. (a)(1). Pub. L. 102–587, §2205(b)(16), in first sentence, made technical amendment to reference to this chapter to reflect change in corresponding provision of original act.

Pub. L. 102–587, §2205(b)(1)(A), substituted ''coastal state'' for ''coastal State'' in two places.

Subsec. (b)(1). Pub. L. 102–587, §2205(b)(17), (18), struck out ''(hereinafter in this section referred to as the

'Fund')'' after ''Management Fund'' '' and inserted ''and fees deposited into the Fund under section 1456(i)(3) of this title'' after ''subsection (a) of this section''.

Subsec. (b)(2)(B)(vi). Pub. L. 102–587, § 2205(b)(1)(B), substituted ''coastal states'' for ''coastal States''.

1990—Pub. L. 101–508, as amended by Pub. L. 102–587, § 2205(b)(15), amended section generally, substituting present provisions for provisions authorizing a coastal energy impact program, providing for administration of program, audit, financial assistance, rules and regulations and guarantees, establishing eligibility requirements for assistance, creating a Coastal Energy Impact Fund, prohibiting interference in any land or water use decision of any coastal state, requiring reports to Congress, and providing for definitions for the section.

1986—Subsec. (h). Pub. L. 99–272 substituted ''subsections (c)'' for ''subsections (c)(1)'' wherever appearing.

1980—Subsec. (c)(3). Pub. L. 96–464, § 7(1), added par. (3).

Subsec. (d)(4). Pub. L. 96–464, § 7(2), struck out par. (4) which provided that the Secretary shall make grants to any coastal state to enable such state to prevent, reduce, or ameliorate any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource, if such loss results from coastal energy activity, if the Secretary finds that such state has not received amounts under subsec. (b) of this section which are sufficient to prevent, reduce, or ameliorate such loss.

1978—Subsec. (a)(1)(A). Pub. L. 95–372, § 501(b)(1), substituted ''subsection (b)(5) of this section'' for ''subsection (b)(4) of this section''.

Subsec. (a)(1)(B). Pub. L. 95–372, § 503(b)(1), substituted ''subsection (c)(1) of this section'' for ''subsection (c) of this section''.

Subsec. (a)(1)(C) to (G). Pub. L. 95–372, § 503(b)(2), added subpar. (C) and redesignated former subpars. (C) to (F) as (D) to (G).

Subsec. (b)(2). Pub. L. 95–372, § 501(a), substituted in provisions preceding subpar. (A) ''Subject to paragraph (3), the amounts payable'' for ''The amounts granted'' and ''subparagraphs (A), (B), and (C)'' for ''subparagraphs (A), (B), (C), and (D)'', in subpar. (A) ''one-half'' for ''one-third'', and in subpars. (B) and (C) ''one-quarter'' for ''one-sixth'' and struck out subpar. (D), which related to a ratio involving the number of individuals who obtain new employment as a result of new or expanded outer Continental Shelf energy activities.

Subsec. (b)(3). Pub. L. 95–372, § 501(b)(2), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 95–372, § 501(b)(1), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 95–372, § 501(b)(1), (c), redesignated par. (4) as (5) and, in par. (5) as so redesignated, struck out in subpar. (B)(i) provisions relating to the unavailability of adequate financing under any other subsection and inserted provisions following subpar. (B)(ii) authorizing the Secretary to describe the geographic areas in which the public facilities and public services referred to in subpar. (B)(i) shall be presumed to be required as a result of outer Continental Shelf energy activities for purposes of disbursing the proceeds of grants under this subsection. Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 95–372, § 501(b)(1), redesignated par. (5) as (6) and, in par. (6) as so redesignated, in provisions preceding subpar. (A) and in subpar. (B) substituted ''paragraph (5)'' for ''paragraph (4)''.

Subsec. (c). Pub. L. 95–372, § 503(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (h). Pub. L. 95–372, § 503(c), substituted ''subsections (c)(1)'' for ''subsections (c)'' wherever appearing.

Subsec. (k). Pub. L. 95–372, §§ 501(b)(1), 503(d), substituted in par. (1) ''subsection (b)(5)(B) and (c)(1)'' for ''subsection (b)(4)(B) and (c)'' and in par. (2) ''subsection (b)(5)(B)'' for ''(b)(4)(B)''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 2(b)(2) of Pub. L. 104–150 effective Oct. 1, 1999, see section 2(b)(3) of Pub. L. 104–150, set out as a note under section 1454 of this title.

EXTENSION OF AUTHORITY TO MAKE LOANS UNDER SUBSECTION (d)(1)

Pub. L. 99–626, § 6, Nov. 7, 1986, 100 Stat. 3506, provided that: ''The authority of the Secretary of Commerce to make loans under paragraph (1) of subsection (d) of section 308 of the Coastal Zone Management Act of 1972 (Public Law 92–583, 16 U.S.C. 1451, et seq.) as amended [16 U.S.C. 1456a(d)(1)], shall extend to September 30, 1987, for loans made to eligible States or units pursuant to and in accord with agreements entered into between the Secretary and any State prior to September 30, 1986, that provided for a total sum of loans to be made to that State or its units, but such loan authority shall be limited to $7,000,000.''

§ 1456b. Coastal zone enhancement grants

(a) "Coastal zone enhancement objective" defined

For purposes of this section, the term ''coastal zone enhancement objective'' means any of the following objectives:

(1) Protection, restoration, or enhancement of the existing coastal wetlands base, or creation of new coastal wetlands.

(2) Preventing or significantly reducing threats to life and destruction of property by eliminating development and redevelopment in high-hazard areas, managing development in other hazard areas, and anticipating and managing the effects of potential sea level rise and Great Lakes level rise.

(3) Attaining increased opportunities for public access, taking into account current and future public access needs, to coastal areas of recreational, historical, aesthetic, ecological, or cultural value.

(4) Reducing marine debris entering the Nation's coastal and ocean environment by managing uses and activities that contribute to the entry of such debris.

(5) Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect on various individual uses or activities on coastal resources, such as coastal wetlands and fishery resources.

(6) Preparing and implementing special area management plans for important coastal areas.

(7) Planning for the use of ocean resources.

(8) Adoption of procedures and enforceable policies to help facilitate the siting of energy facilities and Government facilities and energy-related activities and Government activities which may be of greater than local significance.

(9) Adoption of procedures and policies to evaluate and facilitate the siting of public and private aquaculture facilities in the coastal zone, which will enable States to formulate, administer, and implement strategic plans for marine aquaculture.

(b) Limits on grants

(1) Subject to the limitations and goals established in this section, the Secretary may make

grants to coastal states to provide funding for development and submission for Federal approval of program changes that support attainment of one or more coastal zone enhancement objectives.

(2)(A) In addition to any amounts provided under section 1455 of this title, and subject to the availability of appropriations, the Secretary may make grants under this subsection to States for implementing program changes approved by the Secretary in accordance with section 1455(e) of this title.

(B) Grants under this paragraph to implement a program change may not be made in any fiscal year after the second fiscal year that begins after the approval of that change by the Secretary.

(c) Evaluation of State proposals by Secretary

The Secretary shall evaluate and rank State proposals for funding under this section, and make funding awards based on those proposals, taking into account the criteria established by the Secretary under subsection (d) of this section. The Secretary shall ensure that funding decisions under this section take into consideration the fiscal and technical needs of proposing States and the overall merit of each proposal in terms of benefits to the public.

(d) Promulgation of regulations by Secretary

Within 12 months following November 5, 1990, and consistent with the notice and participation requirements established in section 1463 of this title, the Secretary shall promulgate regulations concerning coastal zone enhancement grants that establish—

(1) specific and detailed criteria that must be addressed by a coastal state (including the State's priority needs for improvement as identified by the Secretary after careful consultation with the State) as part of the State's development and implementation of coastal zone enhancement objectives;

(2) administrative or procedural rules or requirements as necessary to facilitate the development and implementation of such objectives by coastal states; and

(3) other funding award criteria as are necessary or appropriate to ensure that evaluations of proposals, and decisions to award funding, under this section are based on objective standards applied fairly and equitably to those proposals.

(e) No State contribution required

A State shall not be required to contribute any portion of the cost of any proposal for which funding is awarded under this section.

(f) Funding

Beginning in fiscal year 1991, not less than 10 percent and not more than 20 percent of the amounts appropriated to implement sections 1455 and 1455a of this title shall be retained by the Secretary for use in implementing this section, up to a maximum of $10,000,000 annually.

(g) Eligibility; suspension of State for noncompliance

If the Secretary finds that the State is not undertaking the actions committed to under the terms of the grant, the Secretary shall suspend the State's eligibility for further funding under this section for at least one year.

(Pub. L. 89–454, title III, §309, as added Pub. L. 94–370, §8, July 26, 1976, 90 Stat. 1028; amended Pub. L. 96–464, §8, Oct. 17, 1980, 94 Stat. 2064; Pub. L. 101–508, title VI, §6210, Nov. 5, 1990, 104 Stat. 1388–309; Pub. L. 102–587, title II, §2205(b)(1)(B), Nov. 4, 1992, 106 Stat. 5050; Pub. L. 104–150, §§3, 7(2), June 3, 1996, 110 Stat. 1380, 1382.)

CODIFICATION

November 5, 1990, referred to in subsec. (d), was in the original ''the date of enactment of this section'', and was translated as meaning the date of enactment of section 6210 of Pub. L. 101–508, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

1996—Subsec. (a)(9). Pub. L. 104–150, §7(2), added par. (9).

Subsec. (b). Pub. L. 104–150, §3, designated existing provisions as par. (1) and added par. (2).

1992—Subsec. (b). Pub. L. 102–587 substituted ''coastal states'' for ''coastal States''.

1990—Pub. L. 101–508 amended section generally, substituting present provisions for provisions providing for interstate grants and agreements for developing and administering coordinated coastal zone planning and programs, setting priorities for unified coastal zone policies in contiguous areas of coastal states, providing for a Federal-State consultation procedure, authorizing temporary planning and coordinated activity, and establishing eligibility of States to receive Federal assistance.

1980—Pub. L. 96–464 amended section generally and, among many changes, made a number of technical amendments, and inserted provision making it clear that only states which meet the basic eligibility requirements in this chapter can receive funding under this section.

§ 1456c. Technical assistance

(a) The Secretary shall conduct a program of technical assistance and management-oriented research necessary to support the development and implementation of State coastal management program amendments under section 1456b of this title, and appropriate to the furtherance of international cooperative efforts and technical assistance in coastal zone management. Each department, agency, and instrumentality of the executive branch of the Federal Government may assist the Secretary, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and the performance of any research, study, and technical assistance which does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts or other arrangements with any qualified person for the purposes of carrying out this subsection.

(b)(1) The Secretary shall provide for the coordination of technical assistance, studies, and research activities under this section with any other such activities that are conducted by or subject to the authority of the Secretary.

(2) The Secretary shall make the results of research and studies conducted pursuant to this

section available to coastal states in the form of technical assistance publications, workshops, or other means appropriate.

(3) The Secretary shall consult with coastal states on a regular basis regarding the development and implementation of the program established by this section.

(Pub. L. 89–454, title III, § 310, as added Pub. L. 101–508, title VI, § 6211, Nov. 5, 1990, 104 Stat. 1388–311.)

PRIOR PROVISIONS

A prior section 1456c, Pub. L. 89–454, title III, § 310, as added Pub. L. 94–370, § 9, July 26, 1976, 90 Stat. 1029, related to research and technical assistance for coastal zone management, prior to repeal by Pub. L. 99–272, title VI, § 6045(1), Apr. 7, 1986, 100 Stat. 127.

§ 1456d. Coastal and Estuarine Land Conservation Program

The Secretary shall establish a Coastal and Estuarine Land Conservation Program, for the purpose of protecting important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural or recreational state to other uses: *Provided further*, That by September 30, 2002, the Secretary shall issue guidelines for this program delineating the criteria for grant awards: *Provided further*, That the Secretary shall distribute these funds in consultation with the States' Coastal Zone Managers' or Governors' designated representatives based on demonstrated need and ability to successfully leverage funds, and shall give priority to lands which can be effectively managed and protected and which have significant ecological value: *Provided further*, That grants funded under this program shall require a 100 percent match from other sources.

(Pub. L. 107–77, title II, Nov. 28, 2001, 115 Stat. 776.)

CODIFICATION

Section was enacted as part of the Department of Commerce and Related Agencies Appropriations Act, 2002, and also as part of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002, and not as part of the Coastal Zone Management Act of 1972 which comprises this chapter.

SIMILAR PROVISIONS

Pub. L. 108–7, div. B, title II, Feb. 20, 2003, 117 Stat. 75, provided in part: ''That the Secretary shall establish a Coastal and Estuarine Land Conservation Program, for the purpose of protecting important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural or recreational state to other uses''.

§ 1457. Public hearings

All public hearings required under this chapter must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

(Pub. L. 89–454, title III, § 311, formerly § 308, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1287; renumbered § 311, Pub. L. 94–370, § 7, July 26, 1976, 90 Stat. 1019.)

§ 1458. Review of performance

(a) Evaluation of adherence with terms of grants

The Secretary shall conduct a continuing review of the performance of coastal states with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which the state has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in section 1452(2)(A) through (K) of this title, and adhered to the terms of any grant, loan, or cooperative agreement funded under this chapter.

(b) Public participation; notice of meetings; reports

In evaluating a coastal state's performance, the Secretary shall conduct the evaluation in an open and public manner, and provide full opportunity for public participation, including holding public meetings in the State being evaluated and providing opportunities for the submission of written and oral comments by the public. The Secretary shall provide the public with at least 45 days' notice of such public meetings by placing a notice in the Federal Register, by publication of timely notices in newspapers of general circulation within the State being evaluated, and by communications with persons and organizations known to be interested in the evaluation. Each evaluation shall be prepared in report form and shall include written responses to the written comments received during the evaluation process. The final report of the evaluation shall be completed within 120 days after the last public meeting held in the State being evaluated. Copies of the evaluation shall be immediately provided to all persons and organizations participating in the evaluation process.

(c) Suspension of financial assistance for noncompliance; notification of Governor; length of suspension

(1) The Secretary may suspend payment of any portion of financial assistance extended to any coastal state under this chapter, and may withdraw any unexpended portion of such assistance, if the Secretary determines that the coastal state is failing to adhere to (A) the management program or a State plan developed to manage a national estuarine reserve established under section 1461 of this title, or a portion of the program or plan approved by the Secretary, or (B) the terms of any grant or cooperative agreement funded under this chapter.

(2) Financial assistance may not be suspended under paragraph (1) unless the Secretary provides the Governor of the coastal state with—

(A) written specifications and a schedule for the actions that should be taken by the State in order that such suspension of financial assistance may be withdrawn; and

(B) written specifications stating how those funds from the suspended financial assistance

shall be expended by the coastal state to take the actions referred to in subparagraph (A).

(3) The suspension of financial assistance may not last for less than 6 months or more than 36 months after the date of suspension.

(d) Withdrawal of approval of program

The Secretary shall withdraw approval of the management program of any coastal state and shall withdraw financial assistance available to that State under this chapter as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state has failed to take the actions referred to in subsection (c)(2)(A) of this section.

(e) Notice and hearing

Management program approval and financial assistance may not be withdrawn under subsection (d) of this section, unless the Secretary gives the coastal state notice of the proposed withdrawal and an opportunity for a public hearing on the proposed action. Upon the withdrawal of management program approval under this subsection (d) of this section, the Secretary shall provide the coastal state with written specifications of the actions that should be taken, or not engaged in, by the state in order that such withdrawal may be canceled by the Secretary.

(Pub. L. 89–454, title III, § 312, formerly § 309, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1287, renumbered § 312 and amended Pub. L. 94–370, §§ 7, 10, July 26, 1976, 90 Stat. 1019, 1029; Pub. L. 96–464, § 9(a), Oct. 17, 1980, 94 Stat. 2065; Pub. L. 99–272, title VI, § 6043(a), Apr. 7, 1986, 100 Stat. 124; Pub. L. 101–508, title VI, §§ 6212, 6216(b), Nov. 5, 1990, 104 Stat. 1388–311, 1388–314; Pub. L. 102–587, title II, § 2205(b)(1)(A), (C), Nov. 4, 1992, 106 Stat. 5050.)

AMENDMENTS

1992—Subsecs. (b), (c)(1). Pub. L. 102–587 substituted ''coastal state's'' for ''coastal State's'' in subsec. (b) and ''coastal state'' for ''coastal State'' after ''any'' in subsec. (c)(1).

1990—Subsec. (a). Pub. L. 101–508, § 6216(b), substituted ''through (K)'' for ''through (I)''.

Subsec. (b). Pub. L. 101–508, § 6212(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''For the purpose of making the evaluation of a coastal state's performance, the Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form and the Secretary shall make copies thereof available to the public.''

Subsec. (c). Pub. L. 101–508, § 6212(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The Secretary shall reduce any financial assistance extended to any coastal state under section 1455 of this title (but not below 70 per centum of the amount that would otherwise be available to the coastal state under such section for any year), and withdraw any unexpended portion of such reduction, if the Secretary determines that the coastal state—

''(1) is failing to make significant improvement in achieving the coastal management objectives specified in section 1452(2)(A) through (I) of this title; or

''(2) is failing to make satisfactory progress in providing in its management program for the matters referred to in section 1455(i)(A) and (B) of this title.''

Subsec. (d). Pub. L. 101–508, § 6212(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''The Secretary shall withdraw approval of the management program of any coastal state, and shall withdraw any financial assistance available to that state under this chapter as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state is failing to adhere to, is not justified in deviating from (1) the management program approved by the Secretary, or (2) the terms of any grant or cooperative agreement funded under section 1455 of this title, and refuses to remedy the deviation.''

Subsec. (f). Pub. L. 101–508, § 6212(d), struck out subsec. (f) which read as follows: ''The Secretary shall carry out research on, and offer technical assistance of the coastal states with respect to, those activities, projects, and other relevant matters evaluated under this section that the Secretary considers to offer promise toward improving coastal zone management.''

1986—Subsec. (c). Pub. L. 99–272 designated existing provisions relating to failure to achieve objectives specified in section 1452(2)(A) through (I) as par. (1), and added par. (2).

1980—Subsec. (a). Pub. L. 96–464 substituted provisions relating to continuing review of coastal states performance with respect to coastal management for provisions relating to continuing review of management programs of coastal states, the performance of such states with respect to coastal zone management, and coastal energy impact program.

Subsec. (b). Pub. L. 96–464 substituted provisions relating to public meeting and comments for provisions relating to termination of financial assistance.

Subsecs. (c) to (f). Pub. L. 96–464 added subsecs. (c) to (f).

1976—Subsec. (a). Pub. L. 94–370, § 10, designated existing provisions as par. (1), substituted ''such states with respect to coastal zone management; and'' for ''each state.'', and added par. (2).

REGULATIONS

Section 9(b) of Pub. L. 96–464 provided that: ''Within two hundred and seventy days after the date of the enactment of this Act [Oct. 17, 1980], the Secretary of Commerce shall issue such regulations as may be necessary or appropriate to administer section 312 of the Coastal Zone Management Act of 1972 (as amended by subsection (a) of this section) [this section].''

§ 1459. Records and audit

(a) Maintenance of records by recipients of grants or financial assistance

Each recipient of a grant under this chapter or of financial assistance under section 1456a of this title, as in effect before November 5, 1990, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant and of the proceeds of such assistance, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) Access by Secretary and Comptroller General to records, books, etc., of recipients of grants or financial assistance for audit and examination

The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall—

(1) after any grant is made under this chapter or any financial assistance is provided under section 1456a of this title, as in effect before November 5, 1990; and

(2) until the expiration of 3 years after—

(A) completion of the project, program, or other undertaking for which such grant was made or used, or

(B) repayment of the loan or guaranteed indebtedness for which such financial assistance was provided,

have access for purposes of audit and examination to any record, book, document, and paper which belongs to or is used or controlled by, any recipient of the grant funds or any person who entered into any transaction relating to such financial assistance and which is pertinent for purposes of determining if the grant funds or the proceeds of such financial assistance are being, or were, used in accordance with the provisions of this chapter.

(Pub. L. 89–454, title III, § 313, formerly § 310, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1287; renumbered § 313 and amended Pub. L. 94–370, §§ 7, 11, July 26, 1976, 90 Stat. 1019, 1030; Pub. L. 102–587, title II, § 2205(b)(19), Nov. 4, 1992, 106 Stat. 5052.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–587, § 2205(b)(19)(A), substituted ''section 1456a of this title, as in effect before November 5, 1990,'' for ''section 1456a of this title''.

Subsec. (b)(1). Pub. L. 102–587, § 2205(b)(19)(B), substituted ''section 1456a of this title, as in effect before November 5, 1990; and'' for ''section 1456a(d) of this title; and''.

1976—Subsec. (a). Pub. L. 94–370, § 11(2), inserted ''or of financial assistance under section 1456a of this title'' after ''grant under this chapter'' and ''and of the proceeds of such assistance'' after ''received under the grant''.

Subsec. (b). Pub. L. 94–370, § 11(3), inserted provisions limiting duration of authority to 3 years after completion of project or repayment of loan and enlarged scope of access to include persons who entered into transactions relating to the grant of funds.

§ 1460. Walter B. Jones excellence in coastal zone management awards

(a) Establishment

The Secretary shall, using sums in the Coastal Zone Management Fund established under section 1456a of this title and other amounts available to carry out this chapter (other than amounts appropriated to carry out sections 1454, 1455, 1455a, 1456b, 1456c, and 1461 of this title), implement a program to promote excellence in coastal zone management by identifying and acknowledging outstanding accomplishments in the field.

(b) Annual selection of recipients

The Secretary shall elect annually—

(1) one individual, other than an employee or officer of the Federal Government, whose contribution to the field of coastal zone management has been the most significant;

(2) 5 local governments which have made the most progress in developing and implementing the coastal zone management principles embodied in this chapter; and

(3) up to 10 graduate students whose academic study promises to contribute materially to development of new or improved approaches to coastal zone management.

(c) Solicitation of nominations for local government recipients

In making selections under subsection (b)(2) of this section the Secretary shall solicit nominations from the coastal states, and shall consult with experts in local government planning and land use.

(d) Solicitation of nominations for graduate student recipients

In making selections under subsection (b)(3) of this section the Secretary shall solicit nominations from coastal states and the National Sea Grant College Program.

(e) Funding; types of awards

Using sums in the Coastal Zone Management Fund established under section 1456a of this title and other amounts available to carry out this chapter (other than amounts appropriated to carry out sections 1454, 1455, 1455a, 1456b, 1456c, and 1461 of this title), the Secretary shall establish and execute appropriate awards, to be known as the ''Walter B. Jones Awards'', including—

(1) cash awards in an amount not to exceed $5,000 each;

(2) research grants; and

(3) public ceremonies to acknowledge such awards.

(Pub. L. 89–454, title III, § 314, formerly § 313, as added Pub. L. 101–508, title VI, § 6213, Nov. 5, 1990, 104 Stat. 1388–312; renumbered § 314 and amended Pub. L. 102–587, title II, § 2205(b)(20), Nov. 4, 1992, 106 Stat. 5052.)

PRIOR PROVISIONS

A prior section 1460, Pub. L. 89–454, title III, § 314, formerly § 311, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1287; renumbered § 314, Pub. L. 94–370, § 7, July 26, 1976, 90 Stat. 1019, related to establishment, etc., of Coastal Zone Management Advisory Committee, prior to repeal by Pub. L. 99–272, title VI, § 6045(2), Apr. 7, 1986, 100 Stat. 127.

AMENDMENTS

1992—Subsecs. (a), (e). Pub. L. 102–587, § 2205(b)(20)(B), (C), after ''under section 1456a of this title'' inserted ''and other amounts available to carry out this chapter (other than amounts appropriated to carry out sections 1454, 1455, 1455a, 1456b, 1456c, and 1461 of this title)''.

§ 1461. National Estuarine Research Reserve System

(a) Establishment of System

There is established the National Estuarine Research Reserve System (hereinafter referred to in this section as the ''System'') that consists of—

(1) each estuarine sanctuary designated under this section as in effect before April 7, 1986; and

(2) each estuarine area designated as a national estuarine reserve under subsection (b) of this section.

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine reserve.

(b) Designation of national estuarine reserves

After April 7, 1986, the Secretary may designate an estuarine area as a national estuarine reserve if—

(1) the Governor of the coastal state in which the area is located nominates the area for that designation; and

(2) the Secretary finds that—

(A) the area is a representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographical and typological balance of the System;

(B) the law of the coastal state provides long-term protection for reserve resources to ensure a stable environment for research;

(C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation; and

(D) the coastal state in which the area is located has complied with the requirements of any regulations issued by the Secretary to implement this section.

(c) Estuarine research guidelines

The Secretary shall develop guidelines for the conduct of research within the System that shall include—

(1) a mechanism for identifying, and establishing priorities among, the coastal management issues that should be addressed through coordinated research within the System;

(2) the establishment of common research principles and objectives to guide the development of research programs within the System;

(3) the identification of uniform research methodologies which will ensure comparability of data, the broadest application of research results, and the maximum use of the System for research purposes;

(4) the establishment of performance standards upon which the effectiveness of the research efforts and the value of reserves within the System in addressing the coastal management issues identified in paragraph (1) may be measured; and

(5) the consideration of additional sources of funds for estuarine research than the funds authorized under this chapter, and strategies for encouraging the use of such funds within the System, with particular emphasis on mechanisms established under subsection (d) of this section.

In developing the guidelines under this section, the Secretary shall consult with prominent members of the estuarine research community.

(d) Promotion and coordination of estuarine research

The Secretary shall take such action as is necessary to promote and coordinate the use of the System for research purposes including—

(1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting estuarine research, give priority consideration to research that uses the System; and

(2) consulting with other Federal and State agencies to promote use of one or more reserves within the System by such agencies when conducting estuarine research.

(e) Financial assistance

(1) The Secretary may, in accordance with such rules and regulations as the Secretary shall promulgate, make grants—

(A) to a coastal state—

(i) for purposes of acquiring such lands and waters, and any property interests therein, as are necessary to ensure the appropriate long-term management of an area as a national estuarine reserve,

(ii) for purposes of operating or managing a national estuarine reserve and constructing appropriate reserve facilities, or

(iii) for purposes of conducting educational or interpretive activities; and

(B) to any coastal state or public or private person for purposes of supporting research and monitoring within a national estuarine reserve that are consistent with the research guidelines developed under subsection (c) of this section.

(2) Financial assistance provided under paragraph (1) shall be subject to such terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States, including requiring coastal states to execute suitable title documents setting forth the property interest or interests of the United States in any lands and waters acquired in whole or part with such financial assistance.

(3)(A) The amount of the financial assistance provided under paragraph (1)(A)(i) with respect to the acquisition of lands and waters, or interests therein, for any one national estuarine reserve may not exceed an amount equal to 50 percent of the costs of the lands, waters, and interests therein or $5,000,000, whichever amount is less.

(B) The amount of the financial assistance provided under paragraph (1)(A)(ii) and (iii) and paragraph (1)(B) may not exceed 70 percent of the costs incurred to achieve the purposes described in those paragraphs with respect to a reserve; except that the amount of the financial assistance provided under paragraph (1)(A)(iii) may be up to 100 percent of any costs for activities that benefit the entire System.

(C) Notwithstanding subparagraphs (A) and (B), financial assistance under this subsection provided from amounts recovered as a result of damage to natural resources located in the coastal zone may be used to pay 100 percent of the costs of activities carried out with the assistance.

(f) Evaluation of System performance

(1) The Secretary shall periodically evaluate the operation and management of each national estuarine reserve, including education and interpretive activities, and the research being conducted within the reserve.

(2) If evaluation under paragraph (1) reveals that the operation and management of the reserve is deficient, or that the research being conducted within the reserve is not consistent with the research guidelines developed under subsection (c) of this section, the Secretary may suspend the eligibility of that reserve for financial assistance under subsection (e) of this section until the deficiency or inconsistency is remedied.

(3) The Secretary may withdraw the designation of an estuarine area as a national estuarine reserve if evaluation under paragraph (1) reveals that—

(A) the basis for any one or more of the findings made under subsection (b)(2) of this section regarding that area no longer exists; or

(B) a substantial portion of the research conducted within the area, over a period of years, has not been consistent with the research guidelines developed under subsection (c) of this section.

(g) Report

The Secretary shall include in the report required under section 1462 of this title information regarding—

(1) new designations of national estuarine reserves;

(2) any expansion of existing national estuarine reserves;

(3) the status of the research program being conducted within the System; and

(4) a summary of the evaluations made under subsection (f) of this section.

(Pub. L. 89–454, title III, § 315, formerly § 312, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1288; renumbered § 315 and amended Pub. L. 94–370, §§ 7, 12, July 26, 1976, 90 Stat. 1019, 1030; Pub. L. 96–464, § 11, Oct. 17, 1980, 94 Stat. 2067; Pub. L. 99–272, title VI, § 6044, Apr. 7, 1986, 100 Stat. 125; Pub. L. 101–508, title VI, § 6214, Nov. 5, 1990, 104 Stat. 1388–313; Pub. L. 102–587, title II, § 2205(b)(1)(A), (B), (21), (22), Nov. 4, 1992, 106 Stat. 5050, 5052; Pub. L. 104–150, § 6, June 3, 1996, 110 Stat. 1381.)

AMENDMENTS

1996—Subsec. (e)(3)(C). Pub. L. 104–150 added subpar. (C).

1992—Subsec. (a). Pub. L. 102–587, § 2205(b)(21), substituted ''Research Reserve'' for ''Reserve Research''.

Subsec. (b). Pub. L. 102–587, § 2205(b)(1)(A), substituted ''coastal state'' for ''coastal State'' in pars. (1) and (2)(B) and (D).

Subsec. (c)(4). Pub. L. 102–587, § 2205(b)(22), substituted ''paragraph (1)'' for ''subsection (1)''.

Subsec. (e). Pub. L. 102–587, § 2205(b)(1)(A), (B), substituted ''coastal state'' for ''coastal State'' in par. (1)(A) and (B) and ''coastal states'' for ''coastal States'' in par. (2).

1990—Pub. L. 101–508, § 6214(a), substituted ''Research Reserve'' for ''Reserve Research'' in section catchline.

Subsec. (e)(3)(A). Pub. L. 101–508, § 6214(b), (d), substituted ''percent'' for ''per centum'' and ''$5,000,000'' for ''$4,000,000'', and struck out ''of subsection (e) of this section'' after ''paragraph (1)(A)(i)''.

Subsec. (e)(3)(B). Pub. L. 101–508, § 6214(c), (d), substituted ''70 percent'' for ''50 per centum'', struck out ''of subsection (e) of this section'' after ''paragraph (1)(B)'' and inserted before period at end ''; except that the amount of the financial assistance provided under paragraph (1)(A)(iii) may be up to 100 percent of any costs for activities that benefit the entire System''.

1986—Pub. L. 99–272 amended section generally. Prior to amendment, section read as follows: ''The Secretary may, in accordance with this section and in accordance with such rules and regulations as the Secretary shall promulgate, make grants to any coastal state for the purpose of—

''(1) acquiring, developing, or operating estuarine sanctuaries, to serve as natural field laboratories in which to study and gather data on the natural and human processes occurring within the estuaries of the coastal zone; and

''(2) acquiring lands to provide for the preservation of islands, or portions thereof.

The amount of any such grant shall not exceed 50 per centum of the cost of the project involved; except that, in the case of acquisition of any estuarine sanctuary, the Federal share of the cost thereof shall not exceed $3,000,000. No grant for acquisition of land may be made under this section without the approval of the Governor of the State in which is located the land proposed to be acquired.''

1980—Pub. L. 96–464, in par. (2), substituted ''the preservation of islands, or portions thereof'' for ''access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value, and for the preservation of islands''; and in provision following par. (2), raised the spending limitation of $2,000,000 to $3,000,000 and inserted provision that no grant for acquisition of land may be made under this section without the approval of the Governor of the state in which the land proposed to be acquired is located.

1976—Pub. L. 94–370, § 12, restructured existing provisions into pars. (1) and (2), inserted purpose of acquiring lands to provide for access to beaches and other coastal areas and for the preservation of islands, and struck out proviso that no Federal funds received pursuant to sections 1454 or 1455 of this title be used for purposes of this section.

§ 1462. Coastal zone management reports

(a) Biennial reports

The Secretary shall consult with the Congress on a regular basis concerning the administration of this chapter and shall prepare and submit to the President for transmittal to the Congress a report summarizing the administration of this chapter during each period of two consecutive fiscal years. Each report, which shall be transmitted to the Congress not later than April 1 of the year following the close of the biennial period to which it pertains, shall include, but not be restricted to (1) an identification of the state programs approved pursuant to this chapter during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this chapter and a description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved, and a statement of the reasons for such actions; (5) a summary of evaluation findings prepared in accordance with subsection (a) of section 1458 of this title, and a description of any sanctions imposed under subsections (c) and (d) of section 1458 of this title; (6) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 1456 of this title, are not consistent with an applicable approved state management program; (7) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (8) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (9) a summary of outstanding problems arising in the administration of this chapter in order of priority; (10) a description of the economic, environmental, and social consequences of energy activity affecting the coastal zone and an evaluation of the effectiveness of financial assistance under section 1456a of this title in dealing with such consequences; (11) a description and evaluation of applicable interstate and regional planning and coordination mechanisms developed by the

coastal states; (12) a summary and evaluation of the research, studies, and training conducted in support of coastal zone management; and (13) such other information as may be appropriate.

(b) Recommendations for legislation

The report required by subsection (a) of this section shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this chapter and enhance its effective operation.

(c) Review of other Federal programs; report to Congress

(1) The Secretary shall conduct a systematic review of Federal programs, other than this chapter, that affect coastal resources for purposes of identifying conflicts between the objectives and administration of such programs and the purposes and policies of this chapter. Not later than 1 year after October 17, 1980, the Secretary shall notify each Federal agency having appropriate jurisdiction of any conflict between its program and the purposes and policies of this chapter identified as a result of such review.

(2) The Secretary shall promptly submit a report to the Congress consisting of the information required under paragraph (1) of this subsection. Such report shall include recommendations for changes necessary to resolve existing conflicts among Federal laws and programs that affect the uses of coastal resources.

(Pub. L. 89–454, title III, §316, formerly §313, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1288; renumbered §316 and amended Pub. L. 94–370, §§7, 13, July 26, 1976, 90 Stat. 1019, 1030; Pub. L. 96–464, §10, Oct. 17, 1980, 94 Stat. 2066; Pub. L. 102–587, title II, §2205(b)(23), Nov. 4, 1992, 106 Stat. 5052.)

AMENDMENTS

1992—Subsec. (a)(5). Pub. L. 102–587 substituted ''subsections (c) and (d) of section 1458 of this title'' for ''subsections (c) and (d) of this section''.

1980—Subsec. (a). Pub. L. 96–464, §10(2), in provision preceding opening sentence, substituted provisions that the Secretary consult with Congress concerning the administration of this chapter and prepare and submit a biennial report to the President for transmittal to Congress for provisions that the Secretary prepare and submit to the President for transmittal to Congress an annual report for the preceding year not later than November 1 of each year, in cl. (4), substituted ''reviewed and disapproved and a'' for ''reviewed and disapproved or with respect to which grants have been terminated under this chapter, and a'', added cl. (5), and redesignated cls. (5) to (12) as (6) to (13) respectively.

Subsec. (c). Pub. L. 96–464, §10(3), added subsec. (c).

1976—Subsec. (a). Pub. L. 94–370, §13, added cls. (9) to (11) and redesignated former cl. (9) as (12).

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (a) of this section relating to transmittal to Congress of a biennial report summarizing the administration of this chapter, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 53 of House Document No. 103–7.

SHELLFISH SANITATION

Section 16 of Pub. L. 94–370 provided that:

''(a) The Secretary of Commerce shall—

''(1) undertake a comprehensive review of all aspects of the molluscan shellfish industry, including, but not limited to, the harvesting, processing, and transportation of such shellfish; and

''(2) evaluate the impact of Federal law concerning water quality on the molluscan shellfish industry.

The Secretary of Commerce shall, not later than April 30, 1977, submit a report to the Congress of the findings, comments, and recommendations (if any) which result from such review and evaluation.

''(b) The Secretary of Health, Education, and Welfare [now Health and Human Services] shall not promulgate final regulations concerning the national shellfish safety program before June 30, 1977. At least 60 days prior to the promulgation of any such regulations, the Secretary of Health, Education, and Welfare, in consultation with the Secretary of Commerce, shall publish an analysis (1) of the economic impact of such regulations on the domestic shellfish industry, and (2) the cost of such national shellfish safety program relative to the benefits that it is expected to achieve.''

ASSIGNMENT OF REPORTING FUNCTION

Memorandum of President of the United States, Aug. 5, 2005, 70 F.R. 46397, provided:

Memorandum for the Secretary of Commerce

By virtue of the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby assign to you the functions of the President under section 316 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451, *et seq.*).

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§ 1463. Rules and regulations

The Secretary shall develop and promulgate, pursuant to section 553 of title 5, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this chapter.

(Pub. L. 89–454, title III, §317, formerly §314, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1288; renumbered §317, Pub. L. 94–370, §7, July 26, 1976, 90 Stat. 1019.)

§ 1463a. Omitted

CODIFICATION

Section, Pub. L. 96–464, §12(a)–(g), Oct. 17, 1980, 94 Stat. 2067; Pub. L. 98–620, title IV, §402(20), Nov. 8, 1984, 98 Stat. 3358, which required the Secretary of Commerce to submit to Congress any final rule promulgated pursuant to this chapter and provided procedures for Congressional disapproval of such rules was omitted pursuant to section 12(h) of Pub. L. 96–464, which provided that this section would cease to have any force or effect after Sept. 30, 1985.

§ 1463b. National Coastal Resources Research and Development Institute

(a) Establishment by Secretary; administration

The Secretary of Commerce shall provide for the establishment of a National Coastal Resources Research and Development Institute (hereinafter in this section referred to as the ''Institute'') to be administered by the Oregon State Marine Science Center.

(b) Purposes of Institute

The Institute shall conduct research and carry out educational and demonstration projects de-

signed to promote the efficient and responsible development of ocean and coastal resources, including arctic resources. Such projects shall be based on biological, geological, genetic, economic and other scientific research applicable to the purposes of this section and shall include studies on the economic diversification and environmental protection of the Nation's coastal areas.

(c) Determination of Institute policies

(1) The policies of the Institute shall be determined by a Board of Governors composed of—

(A) two representatives appointed by the Governor of Oregon;

(B) one representative appointed by the Governor of Alaska;

(C) one representative appointed by the Governor of Washington;

(D) one representative appointed by the Governor of California; and

(E) one representative appointed by the Governor of Hawaii.

(2) Such policies shall include the selection, on a nationally competitive basis, of the research, projects, and studies to be supported by the Institute in accordance with the purposes of this section.

(d) Establishment of Advisory Council; functions and composition

(1) The Board of Governors shall establish an Advisory Council composed of specialists in ocean and coastal resources from the academic community.

(2) To the maximum extent practicable, the Advisory Council shall be composed of such specialists from every coastal region of the Nation.

(3) The Advisory Council shall provide such advice to the Board of Governors as such Board shall request, including recommendations regarding the support of research, projects, and studies in accordance with the purposes of this section.

(e) Administration of Institute

The Institute shall be administered by a Director who shall be appointed by the Chancellor of the Oregon Board of Higher Education in consultation with the Board of Governors.

(f) Evaluation of Institute by Secretary

The Secretary of Commerce shall conduct an ongoing evaluation of the activities of the Institute to ensure that funds received by the Institute under this section are used in a manner consistent with the provisions of this section.

(g) Report to Secretary

The Institute shall report to the Secretary of Commerce on its activities within 2 years after July 17, 1984.

(h) Access to Institute books, records, and documents

The Comptroller General of the United States, and any of his duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers and records of the Institute that are pertinent to the funds received under this section.

(i) Status of Institute employees

Employees of the Institute shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

(j) Authorization of appropriations

For the purposes of this section, there are authorized to be appropriated in each fiscal year $5,000,000, commencing with fiscal year 1985.

(Pub. L. 98–364, title II, § 201, July 17, 1984, 98 Stat. 443.)

REFERENCES IN TEXT

This section, referred to in subsecs. (a) to (d), (f), (h) and (j), was in the original ''this title'', meaning title II of Pub. L. 98–364, which enacted this section.

CODIFICATION

Section was not enacted as part of the Coastal Zone Management Act of 1972 which comprises this chapter.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1464. Authorization of appropriations

(a) Sums appropriated to Secretary

There are authorized to be appropriated to the Secretary, to remain available until expended—

(1) for grants under sections 1455, 1455a, and 1456b of this title—

(A) $47,600,000 for fiscal year 1997;

(B) $49,000,000 for fiscal year 1998; and

(C) $50,500,000 for fiscal year 1999; and

(2) for grants under section 1461 of this title—

(A) $4,400,000 for fiscal year 1997;

(B) $4,500,000 for fiscal year 1998; and

(C) $4,600,000 for fiscal year 1999.

(b) Limitations

Federal funds received from other sources shall not be used to pay a coastal state's share of costs under section 1455 or 1456b of this title.

(c) Reversion to Secretary of unobligated State funds; availability of funds

The amount of any grant, or portion of a grant, made to a State under any section of this chapter which is not obligated by such State during the fiscal year, or during the second fiscal year after the fiscal year, for which it was first authorized to be obligated by such State shall revert to the Secretary. The Secretary shall add such reverted amount to those funds available for grants under the section for such reverted amount was originally made available.

(Pub. L. 89–454, title III, § 318, formerly § 315, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1289; amended Pub. L. 93–612, § 1(3), Jan. 2, 1975, 88 Stat. 1974; renumbered § 318 and amended Pub. L. 94–370, §§ 7, 14, July 26, 1976, 90 Stat. 1019, 1031; Pub. L. 95–372, title V, §§ 502, 503(e), (f), Sept. 18, 1978, 92 Stat. 692, 693; Pub. L. 96–464, § 13, Oct. 17,

1980, 94 Stat. 2070; Pub. L. 99–272, title VI, § 6046, Apr. 7, 1986, 100 Stat. 127; Pub. L. 99–626, § 7, Nov. 7, 1986, 100 Stat. 3506; Pub. L. 101–508, title VI, § 6215, Nov. 5, 1990, 104 Stat. 1388–313; Pub. L. 104–150, § 4, June 3, 1996, 110 Stat. 1381.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original ''this Act'' which was translated as reading ''this title'', meaning title III of Pub. L. 89–454 which is classified generally to this chapter, to reflect the probable intent of Congress.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–150, § 4(1), amended subsec. (a) generally, substituting provisions of pars. (1) and (2) setting forth appropriations for grants under sections 1455, 1455a, 1456b, and 1461 for fiscal years 1997, 1998, and 1999 for provisions of pars. (1) to (4) setting forth appropriations for grants under sections 1454, 1455, 1455a, 1456b, and 1461 and activities under section 1456c for fiscal years during the period beginning Oct. 1, 1990, and ending Sept. 30, 1995.

Subsecs. (b) to (d). Pub. L. 104–150, § 4(2), (3), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which read as follows: ''There are authorized to be appropriated until October 1, 1986, to the Fund, such sums, not to exceed $800,000,000, for the purposes of carrying out the provisions of section 1456a of this title, other than subsection (b), of which not to exceed $150,000,000 shall be for purposes of subsections (c)(1), (c)(2) and (c)(3) of such section.''

1990—Subsec. (a)(1) to (4). Pub. L. 101–508 substituted pars. (1) to (4) for former pars. (1) to (5) which read as follows:

''(1) such sums, not to exceed $35,000,000 for the fiscal year ending September 30, 1986, not to exceed $36,600,000 for the fiscal year ending September 30, 1987, $37,900,000 for the fiscal year ending September 30, 1988, $38,800,000 for the fiscal year ending September 30, 1989, and $40,600,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under sections 1455 and 1455a of this title, to remain available until expended;

''(2) such sums, not to exceed $75,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 1456a(b) of this title;

''(3) such sums, not to exceed $1,000,000 for the fiscal year ending September 30, 1986, and not to exceed $1,500,000 for each of the fiscal years occurring during the period beginning October 1, 1986, and ending September 30, 1990, as may be necessary for grants under section 1456b of this title, to remain available until expended;

''(4) such sums, not to exceed $2,500,000 for the fiscal year ending September 30, 1986, not to exceed $3,800,000 for the fiscal year ending September 30, 1987, $4,500,000 for the fiscal year ending September 30, 1988, $5,000,000 for the fiscal year ending September 30, 1989, and $5,500,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under section 1461 of this title, to remain available until expended; and

''(5) such sums, not to exceed $3,300,000 for the fiscal year ending September 30, 1986, not to exceed $3,300,000 for the fiscal year ending September 30, 1987, $3,300,000 for the fiscal year ending September 30, 1988, $4,000,000 for the fiscal year ending September 30, 1989, and $4,000,000 for the fiscal year ending September 30, 1990, as may be necessary for administrative expenses incident to the administration of this chapter.''

1986—Subsec. (a)(1). Pub. L. 99–272, § 6046(1), substituted authorization of appropriations for each of fiscal years 1986 through 1990 necessary for grants under sections 1455 and 1455a of this title, for authorization of appropriations of $48,000,000 for each of fiscal years 1981 through 1985 necessary for grants under section 1455 of this title.

Subsec. (a)(2). Pub. L. 99–272, § 6046(2), redesignated par. (3) as (2), and struck out former par. (2) which authorized appropriations of $20,000,000 for each of fiscal years 1981 through 1985 necessary for grants under section 1455a of this title.

Subsec. (a)(3). Pub. L. 99–272, § 6046(2), (3), redesignated par. (4) as (3) and substituted authorization of appropriations for each of fiscal years 1986 through 1990 necessary for grants under section 1456b of this title, for authorization of appropriations of $3,000,000 for each of fiscal years 1981 through 1985 necessary for grants under section 1456b of this title. Former par. (3) redesignated (2).

Subsec. (a)(4). Pub. L. 99–272, § 6046(2), (3), redesignated par. (5) as (4) and substituted authorization of appropriations for each of fiscal years 1986 through 1990 necessary for grants under section 1461 of this title, for authorization of appropriations of $9,000,000 for each of fiscal years 1981 through 1985 necessary for grants under section 1461 of this title. Former par. (4) redesignated (3).

Subsec. (a)(5), (6). Pub. L. 99–272, § 6046(2), (3), redesignated par. (6) as (5) and substituted authorization of appropriations for each of fiscal years 1986 through 1990 necessary for administrative expenses incident to administration of this chapter, for authorization of appropriations of $6,000,000 for each of fiscal years 1981 through 1985 necessary for such administrative expenses. Former par. (5) redesignated (4).

Subsec. (d). Pub. L. 99–626 added subsec. (d).

1980—Subsec. (a)(1). Pub. L. 96–464, § 13(1), redesignated par. (2) as (1) and substituted authorization of appropriation of $48,000,000 for each of the fiscal years 1981 through 1985, for authorization of appropriation of $50,000,000 for fiscal years 1977 through 1980. Former par. (1), which authorized appropriation of $20,000,000 for fiscal years 1977 through 1979 for grants under section 1454 of this title, was struck out.

Subsec. (a)(2). Pub. L. 96–464, § 13(1), added par. (2). Former par. (2) redesignated (1).

Subsec. (a)(3). Pub. L. 96–464, § 13(1), substituted authorization of appropriation of $75,000,000 for each of the fiscal years 1981 through 1988, for authorization of appropriation of $50,000,000 for each of the fiscal year years 1977 and 1978, and $130,000,000 for each of the fiscal years 1979 through 1988.

Subsec. (a)(4). Pub. L. 96–464, § 13(1), redesignated par. (5) as (4) and substituted authorization of appropriation of $3,000,000 for each of the fiscal years 1981 through 1985, for authorization of appropriation of $5,000,000 for each of the fiscal years 1977 through 1980. Former par. (4), which authorized appropriation of $5,000,000 for each of the fiscal years 1979 through 1983 for grants under section 1456a(c)(2) of this title, was struck out.

Subsec. (a)(5). Pub. L. 96–464, § 13(1), combined in par. (5), authorization of appropriation of $31,000,000 for grants under section 1461 of this title for fiscal years 1977 through 1980 formerly contained in pars. (7) and (8), and authorized appropriation of $9,000,000 for grants under section 1461 of this title for fiscal years 1981 through 1985. Former par. (5) redesignated (4).

Subsec. (a)(6). Pub. L. 96–464, § 13(1), redesignated par. (9) as (6) and substituted authorization of appropriation of $6,000,000 for fiscal years 1981 through 1985, for authorization of appropriation of $5,000,000 for fiscal years 1977 through 1980. Former par. (6), which contained authorization of appropriation of $10,000,000 for fiscal years 1977 through 1980 for financial assistance under section 1456c of this title with equal division between subsecs. (a) and (b), was struck out.

Subsec. (a)(7) to (9). Pub. L. 96–464, § 13(1), combined provisions of pars. (7) and (8) into par. (5) and redesignated par. (9) as (6).

Subsec. (b). Pub. L. 96–464, § 13(2), substituted ''subsection (b) of this section, of which not to exceed $150,000,000 shall be for purposes of subsections (c)(1), (c)(2) and (c)(3) of such section'' for ''subsections (b) and (c)(2), of which not to exceed $50,000,000 shall be for purposes of subsections (c)(1) and (d)(4) of such section''.

Subsec. (c). Pub. L. 96–464, § 13(3), substituted ''section 1455 or 1456b of this title'' for ''section 1454, 1455, 1456b or 1456c of this title''.

1978—Subsec. (a)(3). Pub. L. 95–372, § 502, substituted ''for each of the fiscal years ending September 30, 1977, and September 30, 1978, and not to exceed $130,000,000 per fiscal year for each of the fiscal years occurring during the period beginning on October 1, 1978, and ending September 30, 1988,'' for ''for each of the 8 fiscal years occurring during the period beginning October 1, 1976, and ending September 30, 1984,''.

Subsec. (a)(4) to (9). Pub. L. 95–372, § 503(e), added par. (4) and redesignated former pars. (4) to (8) as (5) to (9), respectively.

Subsec. (b). Pub. L. 95–372, § 503(f), substituted ''subsections (b) and (c)(2)'' for ''subsection (b)'' and ''subsections (c)(1)'' for ''subsections (c)''.

1976—Subsec. (a)(1). Pub. L. 94–370, § 14, substituted provisions authorizing appropriations of sums not to exceed $20,000,000 for each of the fiscal years ending Sept. 30, 1977, Sept. 30, 1978, and Sept. 30, 1979 for provisions authorizing appropriations of the sum of $9,000,000 for the fiscal year ending June 30, 1973, and for each of the fiscal years 1974 through 1977.

Subsec. (a)(2). Pub. L. 94–370, § 14, substituted provisions authorizing appropriations of sums not to exceed $50,000,000 for each of the fiscal years ending Sept. 30, 1977, Sept. 30, 1978, Sept. 30, 1979, and Sept. 30, 1980 for provisions authorizing appropriations of sums not to exceed $30,000,000 for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1977.

Subsec. (a)(3). Pub. L. 94–370, § 14, substituted provisions authorizing appropriations of sums not to exceed $50,000,000 for each of the 8 fiscal years occurring during the period beginning Oct. 1, 1976, and ending Sept. 30, 1984, as may be necessary for grants under section 1456a(b) of this title for provisions authorizing appropriations of sums not to exceed $6,000,000 for the fiscal year ending June 30, 1974, as may be necessary for grants under section 1461 of this title, to remain available until expended.

Subsec. (a)(4) to (8). Pub. L. 94–370, § 14, added pars. (4) to (8).

Subsec. (b). Pub. L. 94–370, § 14, substituted provisions authorizing appropriations until Oct. 1, 1986 to the Fund of sums not to exceed $800,000,000 for the purpose of carrying out provisions of section 1456a of this title, other than subsec. (b) of such section, of which sums not to exceed $50,000,000 shall be for purposes of subsecs. (c) and (d)(4) of such section for provisions authorizing appropriations of sums not to exceed $3,000,000, for fiscal year 1973 and for each of the four succeeding fiscal years, as may be necessary for administrative expenses for administration of this chapter.

Subsec. (c). Pub. L. 94–370, § 14, added subsec. (c).

1975—Subsec. (a)(1). Pub. L. 93–612, § 1(3)(A), increased from $9,000,000 to $12,000,000 the sums authorized to be appropriated for the 3 fiscal years following the fiscal year 1974.

Subsec. (a)(3). Pub. L. 93–612, § 1(3)(B), inserted ''and for each of the three succeeding fiscal years,'' after ''fiscal year ending June 30, 1974,''.

§ 1465. Appeals to the Secretary

(a) Notice

Not later than 30 days after the date of the filing of an appeal to the Secretary of a consistency determination under section 1456 of this title, the Secretary shall publish an initial notice in the Federal Register.

(b) Closure of record

(1) In general

Not later than the end of the 160-day period beginning on the date of publication of an initial notice under subsection (a) of this section, except as provided in paragraph (3), the Secretary shall immediately close the decision record and receive no more filings on the appeal.

(2) Notice

After closing the administrative record, the Secretary shall immediately publish a notice in the Federal Register that the administrative record has been closed.

(3) Exception

(A) In general

Subject to subparagraph (B), during the 160-day period described in paragraph (1), the Secretary may stay the closing of the decision record—

(i) for a specific period mutually agreed to in writing by the appellant and the State agency; or

(ii) as the Secretary determines necessary to receive, on an expedited basis—

(I) any supplemental information specifically requested by the Secretary to complete a consistency review under this chapter; or

(II) any clarifying information submitted by a party to the proceeding related to information in the consolidated record compiled by the lead Federal permitting agency.

(B) Applicability

The Secretary may only stay the 160-day period described in paragraph (1) for a period not to exceed 60 days.

(c) Deadline for decision

(1) In general

Not later than 60 days after the date of publication of a Federal Register notice stating when the decision record for an appeal has been closed, the Secretary shall issue a decision or publish a notice in the Federal Register explaining why a decision cannot be issued at that time.

(2) Subsequent decision

Not later than 15 days after the date of publication of a Federal Register notice explaining why a decision cannot be issued within the 60-day period, the Secretary shall issue a decision.

(Pub. L. 89–454, title III, § 319, as added Pub. L. 104–150, § 8, June 3, 1996, 110 Stat. 1382; amended Pub. L. 109–58, title III, § 381, Aug. 8, 2005, 119 Stat. 737.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(3)(A)(ii)(I), was in the original ''this Act'' which was translated as reading ''this title'', meaning title III of Pub. L. 89–454 which is classified generally to this chapter, to reflect the probable intent of Congress.

AMENDMENTS

2005—Pub. L. 109–58 amended section catchline and text generally, substituting provisions relating to notice, closure of record, and deadline for decision for provisions relating to notice, deadline for decision, and application of section.

§ 1466. Appeals relating to offshore mineral development

For any Federal administrative agency proceeding that is an appeal or review under sec-

tion 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465) related to any Federal authorization for the permitting, approval, or other authorization of an energy project, the lead Federal permitting agency for the project shall, with the cooperation of Federal and State administrative agencies, maintain a consolidated record of all decisions made or actions taken by the lead agency or by another Federal or State administrative agency or officer. Such record shall be the initial record for appeals or reviews under that Act, provided that the record may be supplemented as expressly provided pursuant to section 319 of that Act.

(Pub. L. 109–58, title III, §382, Aug. 8, 2005, 119 Stat. 738.)

REFERENCES IN TEXT

The Coastal Zone Management Act of 1972, referred to in text, is title III of Pub. L. 89–454, as added by Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to this chapter (§1451 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1451 of this title and Tables.

CODIFICATION

Section was enacted as part of the Energy Policy Act of 2005, and not as part of the Coastal Zone Management Act of 1972 which comprises this chapter.

CHAPTER 34—RURAL ENVIRONMENTAL CONSERVATION PROGRAM

§§ 1501 to 1508. Repealed. Pub. L. 104–127, title III, § 336(d)(1), Apr. 4, 1996, 110 Stat. 1006

Section 1501, Pub. L. 91–524, title X, §1001, as added Pub. L. 93–86, §1(28), Aug. 10, 1973, 87 Stat. 241; amended Pub. L. 93–125, §1(g)(i), Oct. 18, 1973, 87 Stat. 450; Pub. L. 99–198, title XIII, §1318(b)(2), Dec. 23, 1985, 99 Stat. 1531, related to establishment and purpose of program, contracting and purchasing authority of Secretary, and maintenance of continuing and stable supply of agricultural commodities and forest products.

Section 1502, Pub. L. 91–524, title X, §1002, as added Pub. L. 93–86, §1(28), Aug. 10, 1973, 87 Stat. 242, required eligible landowners and operators to furnish plan of farming operations or land use to Secretary.

Section 1503, Pub. L. 91–524, title X, §1003, as added Pub. L. 93–86, §1(28), Aug. 10, 1973, 87 Stat. 242; amended Pub. L. 93–125, §1(g)(i), Oct. 18, 1973, 87 Stat. 450, related to approved conservation plans as basis for contracts, duties under contracts, and termination or modification of contracts.

Section 1504, Pub. L. 91–524, title X, §1004, as added Pub. L. 93–86, §1(28), Aug. 10, 1973, 87 Stat. 243, authorized furnishing of conservation materials to eligible owners and operators.

Section 1505, Pub. L. 91–524, title X, §1005, as added Pub. L. 93–86, §1(28), Aug. 10, 1973, 87 Stat. 243; amended Pub. L. 95–113, title XV, §1509, Sept. 29, 1977, 91 Stat. 1022, authorized establishment of multiyear set-aside contracts.

Section 1506, Pub. L. 91–524, title X, §1006, as added Pub. L. 93–86, §1(28), Aug. 10, 1973, 87 Stat. 244, authorized issuance of rules and regulations as well as limitations on total retired acreage.

Section 1507, Pub. L. 91–524, title X, §1007, as added Pub. L. 93–86, §1(28), Aug. 10, 1973, 87 Stat. 244; amended Pub. L. 93–125, §1(g)(ii), Oct. 18, 1973, 87 Stat. 450, directed appointment of advisory boards to assist in development of programs under this chapter.

Section 1508, Pub. L. 91–524, title X, §1008, as added Pub. L. 93–86, §1(28), Aug. 10, 1973, 87 Stat. 244, directed coordination with and utilization of Federal, State, and local services and facilities to carry out programs and plans.

§ 1509. Repealed. Pub. L. 95–313, § 16(a)(7), formerly § 13(a)(7), July 1, 1978, 92 Stat. 374; renumbered § 16(a)(7), Pub. L. 101–624, title XII, § 1215(1), Nov. 28, 1990, 104 Stat. 3525

Section, Pub. L. 91–524, title X, §1009, as added Pub. L. 93–86, §1(28), Aug. 10, 1973, 87 Stat. 245, set forth provisions relating to establishment, funding requirements, etc., for the forestry incentives program.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1978, see section 17 of Pub. L. 95–313, set out as an Effective Date note under section 2101 of this title.

§ 1510. Repealed. Pub. L. 104–127, title III, § 336(d)(1), Apr. 4, 1996, 110 Stat. 1006

Section, Pub. L. 91–524, title X, §1010, as added Pub. L. 93–86, §1(28), Aug. 10, 1973, 87 Stat. 245; amended Pub. L. 95–313, §16(a)(7), formerly §13(a)(7), July 1, 1978, 92 Stat. 374, renumbered §16(a)(7), Pub. L. 101–624, title XII, §1215(1), Nov. 28, 1990, 104 Stat. 3525, related to authorization of appropriations as well as construction and continuation of programs, contracts, and authorities.

CHAPTER 35—ENDANGERED SPECIES

Sec.

1531. Congressional findings and declaration of purposes and policy.
1532. Definitions.
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1541. Endangered plants.
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1543. Construction with Marine Mammal Protection Act of 1972.
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§ 1531. Congressional findings and declaration of purposes and policy

(a) Findings

The Congress finds and declares that—

(1) various species of fish, wildlife, and plants in the United States have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation;

(2) other species of fish, wildlife, and plants have been so depleted in numbers that they are in danger of or threatened with extinction;

(3) these species of fish, wildlife, and plants are of esthetic, ecological, educational, historical, recreational, and scientific value to the Nation and its people;

(4) the United States has pledged itself as a sovereign state in the international community to conserve to the extent practicable the various species of fish or wildlife and plants facing extinction, pursuant to—

(A) migratory bird treaties with Canada and Mexico;

(B) the Migratory and Endangered Bird Treaty with Japan;

(C) the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere;

(D) the International Convention for the Northwest Atlantic Fisheries;

(E) the International Convention for the High Seas Fisheries of the North Pacific Ocean;

(F) the Convention on International Trade in Endangered Species of Wild Fauna and Flora; and

(G) other international agreements; and

(5) encouraging the States and other interested parties, through Federal financial assistance and a system of incentives, to develop and maintain conservation programs which meet national and international standards is a key to meeting the Nation's international commitments and to better safeguarding, for the benefit of all citizens, the Nation's heritage in fish, wildlife, and plants.

(b) Purposes

The purposes of this chapter are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of this section.

(c) Policy

(1) It is further declared to be the policy of Congress that all Federal departments and agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this chapter.

(2) It is further declared to be the policy of Congress that Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species.

(Pub. L. 93–205, § 2, Dec. 28, 1973, 87 Stat. 884; Pub. L. 96–159, § 1, Dec. 28, 1979, 93 Stat. 1225; Pub. L. 97–304, § 9(a), Oct. 13, 1982, 96 Stat. 1426; Pub. L. 100–478, title I, § 1013(a), Oct. 7, 1988, 102 Stat. 2315.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c)(1), was in the original ''this Act'', meaning Pub. L. 93–205, Dec. 28, 1973, 81 Stat. 884, as amended, known as the ''Endangered Species Act of 1973'', which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

1988—Subsec. (a)(4)(G). Pub. L. 100–478 substituted ''; and'' for period at end.

1982—Subsec. (c). Pub. L. 97–304 designated existing provisions as par. (1) and added par. (2).

1979—Subsec. (a)(5). Pub. L. 96–159 substituted ''wildlife, and plants'' for ''wildlife''.

EFFECTIVE DATE

Section 16 of Pub. L. 93–205 provided that: ''This Act [enacting this chapter, amending sections 460k–1, 460*l*–9, 668dd, 715i, 715s, 1362, 1371, 1372, and 1402 of this title and section 136 of Title 7, Agriculture, repealing sections 668aa to 668cc–6 of this title, and enacting provisions set out as notes under this section] shall take effect on the date of its enactment [Dec. 28, 1973].''

SHORT TITLE OF 1982 AMENDMENT

Section 1 of Pub. L. 97–304 provided: ''That this Act [amending this section and sections 1532, 1533, 1535, 1536, 1537a, 1538, 1539, 1540, and 1542 of this title and enacting provisions set out as notes under sections 1533, 1537a, and 1539 of this title] may be cited as the 'Endangered Species Act Amendments of 1982'.''

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–632, § 1, Nov. 10, 1978, 92 Stat. 3751, provided: ''That this Act [amending sections 1532 to 1536, 1538 to 1540, and 1542 of this title] may be cited as the 'Endangered Species Act Amendments of 1978'.''

SHORT TITLE

Section 1 of Pub. L. 93–205 provided: ''That this Act [enacting this chapter, amending sections 460k–1, 460*l*–9, 668dd, 715i, 715s, 1362, 1371, 1372, and 1402 of this title and section 136 of Title 7, Agriculture, repealing sections 668aa to 668cc–6 of this title, and enacting provisions set out as notes under this section] may be cited as the 'Endangered Species Act of 1973'.''

RELATIONSHIP TO ENDANGERED SPECIES ACT OF 1973

Pub. L. 102–251, title III, § 305, Mar. 9, 1992, 106 Stat. 66, as amended by Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that: ''The special areas defined in section 3(24) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(24)) shall be considered places that are subject to the jurisdiction of the United States for the purposes of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).''

MINIMIZATION OF CONFLICTS WITH RECREATIONAL FISHERIES

For provision that all Federal agencies minimize conflicts between recreational fisheries and administration of this chapter, see Ex. Ord. No. 12962, § 4, June 7, 1995, 60 F.R. 30770, set out as a note under section 1801 of this title.

§ 1532. Definitions

For the purposes of this chapter—

(1) The term ''alternative courses of action'' means all alternatives and thus is not limited to original project objectives and agency jurisdiction.

(2) The term ''commercial activity'' means all activities of industry and trade, including, but not limited to, the buying or selling of commodities and activities conducted for the purpose of facilitating such buying and selling: *Provided*, *however*, That it does not include exhibition of commodities by museums or similar cultural or historical organizations.

(3) The terms ''conserve'', ''conserving'', and ''conservation'' mean to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

(4) The term ''Convention'' means the Convention on International Trade in Endangered

Species of Wild Fauna and Flora, signed on March 3, 1973, and the appendices thereto.

(5)(A) The term ''critical habitat'' for a threatened or endangered species means—

(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 1533 of this title, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and

(ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 1533 of this title, upon a determination by the Secretary that such areas are essential for the conservation of the species.

(B) Critical habitat may be established for those species now listed as threatened or endangered species for which no critical habitat has heretofore been established as set forth in subparagraph (A) of this paragraph.

(C) Except in those circumstances determined by the Secretary, critical habitat shall not include the entire geographical area which can be occupied by the threatened or endangered species.

(6) The term ''endangered species'' means any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of this chapter would present an overwhelming and overriding risk to man.

(7) The term ''Federal agency'' means any department, agency, or instrumentality of the United States.

(8) The term ''fish or wildlife'' means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

(9) The term ''foreign commerce'' includes, among other things, any transaction—

(A) between persons within one foreign country;

(B) between persons in two or more foreign countries;

(C) between a person within the United States and a person in a foreign country; or

(D) between persons within the United States, where the fish and wildlife in question are moving in any country or countries outside the United States.

(10) The term ''import'' means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(11) Repealed. Pub. L. 97–304, §4(b), Oct. 13, 1982, 96 Stat. 1420.

(12) The term ''permit or license applicant'' means, when used with respect to an action of a Federal agency for which exemption is sought under section 1536 of this title, any person whose application to such agency for a permit or license has been denied primarily because of the application of section 1536(a) of this title to such agency action.

(13) The term ''person'' means an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government; any State, municipality, or political subdivision of a State; or any other entity subject to the jurisdiction of the United States.

(14) The term ''plant'' means any member of the plant kingdom, including seeds, roots and other parts thereof.

(15) The term ''Secretary'' means, except as otherwise herein provided, the Secretary of the Interior or the Secretary of Commerce as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970; except that with respect to the enforcement of the provisions of this chapter and the Convention which pertain to the importation or exportation of terrestrial plants, the term also means the Secretary of Agriculture.

(16) The term ''species'' includes any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.

(17) The term ''State'' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

(18) The term ''State agency'' means any State agency, department, board, commission, or other governmental entity which is responsible for the management and conservation of fish, plant, or wildlife resources within a State.

(19) The term ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

(20) The term ''threatened species'' means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

(21) The term ''United States'', when used in a geographical context, includes all States.

(Pub. L. 93–205, §3, Dec. 28, 1973, 87 Stat. 885; Pub. L. 94–359, §5, July 12, 1976, 90 Stat. 913; Pub. L. 95–632, §2, Nov. 10, 1978, 92 Stat. 3751; Pub. L. 96–159, §2, Dec. 28, 1979, 93 Stat. 1225; Pub. L. 97–304, §4(b), Oct. 13, 1982, 96 Stat. 1420; Pub. L. 100–478, title I, §1001, Oct. 7, 1988, 102 Stat. 2306.)

REFERENCES IN TEXT

Reorganization Plan Numbered 4 of 1970, referred to in par. (15), is Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1988—Par. (13). Pub. L. 100–478, § 1001(a), amended par. (13) generally. Prior to amendment, par. (13) read as follows: ''The term 'person' means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.''

Par. (15). Pub. L. 100–478, § 1001(b), inserted ''also'' before ''means the Secretary of Agriculture''.

1982—Par. (11). Pub. L. 97–304 struck out par. (11) which defined ''irresolvable conflict'' as, with respect to any action authorized, funded, or carried out by a Federal agency, a set of circumstances under which, after consultation as required in section 1536(a) of this title, completion of such action would violate section 1536(a)(2) of this title.

1979—Par. (11). Pub. L. 96–159 substituted ''action would violate section 1536(a)(2) of this title'' for ''action would (A) jeopardize the continued existence of an endangered or threatened species, or (B) result in the adverse modification or destruction of a critical habitat''.

1978—Pars. (1) to (4). Pub. L. 95–632, § 2(1), (7), added par. (1) and redesignated former pars. (1) to (3) as (2) to (4), respectively. Former par. (4) redesignated (6).

Par. (5). Pub. L. 95–632, § 2(2), (7), added par. (5). Former par. (5) redesignated (8).

Par. (6). Pub. L. 95–632, § 2(7), redesignated former par. (4) as (6). Former par. (6) redesignated (9).

Par. (7). Pub. L. 95–632, § 2(3), (7), added par. (7). Former par. (7) redesignated (10).

Pars. (8) to (10). Pub. L. 95–632, § 2(7), redesignated former pars. (5) to (7) as (8) to (10), respectively. Former pars. (8) to (10) redesignated (13) to (15), respectively.

Pars. (11), (12). Pub. L. 95–632, § 2(4), (7), added pars. (11) and (12). Former pars. (11) and (12) redesignated (16) and (17), respectively.

Pars. (13) to (15). Pub. L. 95–632, § 2(7), redesignated former pars. (8) to (10) as (13) to (15), respectively. Former pars. (13) to (15) redesignated as (18) to (20), respectively.

Par. (16). Pub. L. 95–632, § 2(5), (7), redesignated former par. (11) as (16) and substituted ''and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature'' for ''and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature''. Former par. (16) redesignated (21).

Par. (17). Pub. L. 95–632, § 2(7), redesignated former par. (12) as (17).

Par. (18). Pub. L. 95–632, § 2(6), (7), redesignated former par. (13) as (18) and substituted ''fish, plant, or wildlife'' for ''fish or wildlife''.

Pars. (19) to (21). Pub. L. 95–632, § 2(7), redesignated pars. (14) to (16) as (19) to (21), respectively.

1976—Par. (1). Pub. L. 94–359 inserted '': *Provided, however*, That it does not include exhibition of commodities by museums or similar cultural or historical organizations.'' after ''facilitating such buying and selling''.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 1533. Determination of endangered species and threatened species

(a) Generally

(1) The Secretary shall by regulation promulgated in accordance with subsection (b) of this section determine whether any species is an endangered species or a threatened species because of any of the following factors:

(A) the present or threatened destruction, modification, or curtailment of its habitat or range;

(B) overutilization for commercial, recreational, scientific, or educational purposes;

(C) disease or predation;

(D) the inadequacy of existing regulatory mechanisms; or

(E) other natural or manmade factors affecting its continued existence.

(2) With respect to any species over which program responsibilities have been vested in the Secretary of Commerce pursuant to Reorganization Plan Numbered 4 of 1970—

(A) in any case in which the Secretary of Commerce determines that such species should—

(i) be listed as an endangered species or a threatened species, or

(ii) be changed in status from a threatened species to an endangered species,

he shall so inform the Secretary of the Interior; who shall list such species in accordance with this section;

(B) in any case in which the Secretary of Commerce determines that such species should—

(i) be removed from any list published pursuant to subsection (c) of this section, or

(ii) be changed in status from an endangered species to a threatened species,

he shall recommend such action to the Secretary of the Interior, and the Secretary of the Interior, if he concurs in the recommendation, shall implement such action; and

(C) the Secretary of the Interior may not list or remove from any list any such species, and may not change the status of any such species which are listed, without a prior favorable determination made pursuant to this section by the Secretary of Commerce.

(3)(A) The Secretary, by regulation promulgated in accordance with subsection (b) of this section and to the maximum extent prudent and determinable—

(i) shall, concurrently with making a determination under paragraph (1) that a species is an endangered species or a threatened species, designate any habitat of such species which is then considered to be critical habitat; and

(ii) may, from time-to-time thereafter as appropriate, revise such designation.

(B)(i) The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 670a of this title, if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.

(ii) Nothing in this paragraph affects the requirement to consult under section 1536(a)(2) of this title with respect to an agency action (as that term is defined in that section).

(iii) Nothing in this paragraph affects the obligation of the Department of Defense to comply with section 1538 of this title, including the pro-

hibition preventing extinction and taking of endangered species and threatened species.

(b) Basis for determinations

(1)(A) The Secretary shall make determinations required by subsection (a)(1) of this section solely on the basis of the best scientific and commercial data available to him after conducting a review of the status of the species and after taking into account those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species, whether by predator control, protection of habitat and food supply, or other conservation practices, within any area under its jurisdiction; or on the high seas.

(B) In carrying out this section, the Secretary shall give consideration to species which have been—

(i) designated as requiring protection from unrestricted commerce by any foreign nation, or pursuant to any international agreement; or

(ii) identified as in danger of extinction, or likely to become so within the foreseeable future, by any State agency or by any agency of a foreign nation that is responsible for the conservation of fish or wildlife or plants.

(2) The Secretary shall designate critical habitat, and make revisions thereto, under subsection (a)(3) of this section on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species concerned.

(3)(A) To the maximum extent practicable, within 90 days after receiving the petition of an interested person under section 553(e) of title 5, to add a species to, or to remove a species from, either of the lists published under subsection (c) of this section, the Secretary shall make a finding as to whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. If such a petition is found to present such information, the Secretary shall promptly commence a review of the status of the species concerned. The Secretary shall promptly publish each finding made under this subparagraph in the Federal Register.

(B) Within 12 months after receiving a petition that is found under subparagraph (A) to present substantial information indicating that the petitioned action may be warranted, the Secretary shall make one of the following findings:

(i) The petitioned action is not warranted, in which case the Secretary shall promptly publish such finding in the Federal Register.

(ii) The petitioned action is warranted, in which case the Secretary shall promptly publish in the Federal Register a general notice and the complete text of a proposed regulation to implement such action in accordance with paragraph (5).

(iii) The petitioned action is warranted, but that—

(I) the immediate proposal and timely promulgation of a final regulation implementing the petitioned action in accordance with paragraphs (5) and (6) is precluded by pending proposals to determine whether any species is an endangered species or a threatened species, and

(II) expeditious progress is being made to add qualified species to either of the lists published under subsection (c) of this section and to remove from such lists species for which the protections of this chapter are no longer necessary,

in which case the Secretary shall promptly publish such finding in the Federal Register, together with a description and evaluation of the reasons and data on which the finding is based.

(C)(i) A petition with respect to which a finding is made under subparagraph (B)(iii) shall be treated as a petition that is resubmitted to the Secretary under subparagraph (A) on the date of such finding and that presents substantial scientific or commercial information that the petitioned action may be warranted.

(ii) Any negative finding described in subparagraph (A) and any finding described in subparagraph (B)(i) or (iii) shall be subject to judicial review.

(iii) The Secretary shall implement a system to monitor effectively the status of all species with respect to which a finding is made under subparagraph (B)(iii) and shall make prompt use of the authority under paragraph 7[1] to prevent a significant risk to the well being of any such species.

(D)(i) To the maximum extent practicable, within 90 days after receiving the petition of an interested person under section 553(e) of title 5, to revise a critical habitat designation, the Secretary shall make a finding as to whether the petition presents substantial scientific information indicating that the revision may be warranted. The Secretary shall promptly publish such finding in the Federal Register.

(ii) Within 12 months after receiving a petition that is found under clause (i) to present substantial information indicating that the requested revision may be warranted, the Secretary shall determine how he intends to proceed with the requested revision, and shall promptly publish notice of such intention in the Federal Register.

(4) Except as provided in paragraphs (5) and (6) of this subsection, the provisions of section 553 of title 5 (relating to rulemaking procedures), shall apply to any regulation promulgated to carry out the purposes of this chapter.

(5) With respect to any regulation proposed by the Secretary to implement a determination, designation, or revision referred to in subsection (a)(1) or (3) of this section, the Secretary shall—

(A) not less than 90 days before the effective date of the regulation—

(i) publish a general notice and the complete text of the proposed regulation in the Federal Register, and

[1] So in original. Probably should be paragraph ''(7)''.

(ii) give actual notice of the proposed regulation (including the complete text of the regulation) to the State agency in each State in which the species is believed to occur, and to each county, or equivalent jurisdiction in which the species is believed to occur, and invite the comment of such agency, and each such jurisdiction, thereon;

(B) insofar as practical, and in cooperation with the Secretary of State, give notice of the proposed regulation to each foreign nation in which the species is believed to occur or whose citizens harvest the species on the high seas, and invite the comment of such nation thereon;

(C) give notice of the proposed regulation to such professional scientific organizations as he deems appropriate;

(D) publish a summary of the proposed regulation in a newspaper of general circulation in each area of the United States in which the species is believed to occur; and

(E) promptly hold one public hearing on the proposed regulation if any person files a request for such a hearing within 45 days after the date of publication of general notice.

(6)(A) Within the one-year period beginning on the date on which general notice is published in accordance with paragraph (5)(A)(i) regarding a proposed regulation, the Secretary shall publish in the Federal Register—

(i) if a determination as to whether a species is an endangered species or a threatened species, or a revision of critical habitat, is involved, either—

(I) a final regulation to implement such determination,

(II) a final regulation to implement such revision or a finding that such revision should not be made,

(III) notice that such one-year period is being extended under subparagraph (B)(i), or

(IV) notice that the proposed regulation is being withdrawn under subparagraph (B)(ii), together with the finding on which such withdrawal is based; or

(ii) subject to subparagraph (C), if a designation of critical habitat is involved, either—

(I) a final regulation to implement such designation, or

(II) notice that such one-year period is being extended under such subparagraph.

(B)(i) If the Secretary finds with respect to a proposed regulation referred to in subparagraph (A)(i) that there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination or revision concerned, the Secretary may extend the one-year period specified in subparagraph (A) for not more than six months for purposes of soliciting additional data.

(ii) If a proposed regulation referred to in subparagraph (A)(i) is not promulgated as a final regulation within such one-year period (or longer period if extension under clause (i) applies) because the Secretary finds that there is not sufficient evidence to justify the action proposed by the regulation, the Secretary shall immediately withdraw the regulation. The finding on which a withdrawal is based shall be subject to judicial review. The Secretary may not propose a regulation that has previously been withdrawn under this clause unless he determines that sufficient new information is available to warrant such proposal.

(iii) If the one-year period specified in subparagraph (A) is extended under clause (i) with respect to a proposed regulation, then before the close of such extended period the Secretary shall publish in the Federal Register either a final regulation to implement the determination or revision concerned, a finding that the revision should not be made, or a notice of withdrawal of the regulation under clause (ii), together with the finding on which the withdrawal is based.

(C) A final regulation designating critical habitat of an endangered species or a threatened species shall be published concurrently with the final regulation implementing the determination that such species is endangered or threatened, unless the Secretary deems that—

(i) it is essential to the conservation of such species that the regulation implementing such determination be promptly published; or

(ii) critical habitat of such species is not then determinable, in which case the Secretary, with respect to the proposed regulation to designate such habitat, may extend the one-year period specified in subparagraph (A) by not more than one additional year, but not later than the close of such additional year the Secretary must publish a final regulation, based on such data as may be available at that time, designating, to the maximum extent prudent, such habitat.

(7) Neither paragraph (4), (5), or (6) of this subsection nor section 553 of title 5 shall apply to any regulation issued by the Secretary in regard to any emergency posing a significant risk to the well-being of any species of fish or wildlife or plants, but only if—

(A) at the time of publication of the regulation in the Federal Register the Secretary publishes therein detailed reasons why such regulation is necessary; and

(B) in the case such regulation applies to resident species of fish or wildlife, or plants, the Secretary gives actual notice of such regulation to the State agency in each State in which such species is believed to occur.

Such regulation shall, at the discretion of the Secretary, take effect immediately upon the publication of the regulation in the Federal Register. Any regulation promulgated under the authority of this paragraph shall cease to have force and effect at the close of the 240-day period following the date of publication unless, during such 240-day period, the rulemaking procedures which would apply to such regulation without regard to this paragraph are complied with. If at any time after issuing an emergency regulation the Secretary determines, on the basis of the best appropriate data available to him, that substantial evidence does not exist to warrant such regulation, he shall withdraw it.

(8) The publication in the Federal Register of any proposed or final regulation which is necessary or appropriate to carry out the purposes of this chapter shall include a summary by the

Secretary of the data on which such regulation is based and shall show the relationship of such data to such regulation; and if such regulation designates or revises critical habitat, such summary shall, to the maximum extent practicable, also include a brief description and evaluation of those activities (whether public or private) which, in the opinion of the Secretary, if undertaken may adversely modify such habitat, or may be affected by such designation.

(c) Lists

(1) The Secretary of the Interior shall publish in the Federal Register a list of all species determined by him or the Secretary of Commerce to be endangered species and a list of all species determined by him or the Secretary of Commerce to be threatened species. Each list shall refer to the species contained therein by scientific and common name or names, if any, specify with respect to each such species over what portion of its range it is endangered or threatened, and specify any critical habitat within such range. The Secretary shall from time to time revise each list published under the authority of this subsection to reflect recent determinations, designations, and revisions made in accordance with subsections (a) and (b) of this section.

(2) The Secretary shall—

(A) conduct, at least once every five years, a review of all species included in a list which is published pursuant to paragraph (1) and which is in effect at the time of such review; and

(B) determine on the basis of such review whether any such species should—

(i) be removed from such list;

(ii) be changed in status from an endangered species to a threatened species; or

(iii) be changed in status from a threatened species to an endangered species.

Each determination under subparagraph (B) shall be made in accordance with the provisions of subsections (a) and (b) of this section.

(d) Protective regulations

Whenever any species is listed as a threatened species pursuant to subsection (c) of this section, the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of such species. The Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 1538(a)(1) of this title, in the case of fish or wildlife, or section 1538(a)(2) of this title, in the case of plants, with respect to endangered species; except that with respect to the taking of resident species of fish or wildlife, such regulations shall apply in any State which has entered into a cooperative agreement pursuant to section 1535(c) of this title only to the extent that such regulations have also been adopted by such State.

(e) Similarity of appearance cases

The Secretary may, by regulation of commerce or taking, and to the extent he deems advisable, treat any species as an endangered species or threatened species even though it is not listed pursuant to this section if he finds that—

(A) such species so closely resembles in appearance, at the point in question, a species which has been listed pursuant to such section that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species;

(B) the effect of this substantial difficulty is an additional threat to an endangered or threatened species; and

(C) such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of this chapter.

(f) Recovery plans

(1) The Secretary shall develop and implement plans (hereinafter in this subsection referred to as ''recovery plans'') for the conservation and survival of endangered species and threatened species listed pursuant to this section, unless he finds that such a plan will not promote the conservation of the species. The Secretary, in developing and implementing recovery plans, shall, to the maximum extent practicable—

(A) give priority to those endangered species or threatened species, without regard to taxonomic classification, that are most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity;

(B) incorporate in each plan—

(i) a description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species;

(ii) objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of this section, that the species be removed from the list; and

(iii) estimates of the time required and the cost to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal.

(2) The Secretary, in developing and implementing recovery plans, may procure the services of appropriate public and private agencies and institutions, and other qualified persons. Recovery teams appointed pursuant to this subsection shall not be subject to the Federal Advisory Committee Act.

(3) The Secretary shall report every two years to the Committee on Environment and Public Works of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives on the status of efforts to develop and implement recovery plans for all species listed pursuant to this section and on the status of all species for which such plans have been developed.

(4) The Secretary shall, prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan.

(5) Each Federal agency shall, prior to implementation of a new or revised recovery plan, consider all information presented during the public comment period under paragraph (4).

(g) Monitoring

(1) The Secretary shall implement a system in cooperation with the States to monitor effec-

tively for not less than five years the status of all species which have recovered to the point at which the measures provided pursuant to this chapter are no longer necessary and which, in accordance with the provisions of this section, have been removed from either of the lists published under subsection (c) of this section.

(2) The Secretary shall make prompt use of the authority under paragraph 7[2] of subsection (b) of this section to prevent a significant risk to the well being of any such recovered species.

(h) Agency guidelines; publication in Federal Register; scope; proposals and amendments: notice and opportunity for comments

The Secretary shall establish, and publish in the Federal Register, agency guidelines to insure that the purposes of this section are achieved efficiently and effectively. Such guidelines shall include, but are not limited to—

(1) procedures for recording the receipt and the disposition of petitions submitted under subsection (b)(3) of this section;

(2) criteria for making the findings required under such subsection with respect to petitions;

(3) a ranking system to assist in the identification of species that should receive priority review under subsection (a)(1) of this section; and

(4) a system for developing and implementing, on a priority basis, recovery plans under subsection (f) of this section.

The Secretary shall provide to the public notice of, and opportunity to submit written comments on, any guideline (including any amendment thereto) proposed to be established under this subsection.

(i) Submission to State agency of justification for regulations inconsistent with State agency's comments or petition

If, in the case of any regulation proposed by the Secretary under the authority of this section, a State agency to which notice thereof was given in accordance with subsection (b)(5)(A)(ii) of this section files comments disagreeing with all or part of the proposed regulation, and the Secretary issues a final regulation which is in conflict with such comments, or if the Secretary fails to adopt a regulation pursuant to an action petitioned by a State agency under subsection (b)(3) of this section, the Secretary shall submit to the State agency a written justification for his failure to adopt regulations consistent with the agency's comments or petition.

(Pub. L. 93–205, § 4, Dec. 28, 1973, 87 Stat. 886; Pub. L. 94–359, § 1, July 12, 1976, 90 Stat. 911; Pub. L. 95–632, §§ 11, 13, Nov. 10, 1978, 92 Stat. 3764, 3766; Pub. L. 96–159, § 3, Dec. 28, 1979, 93 Stat. 1225; Pub. L. 97–304, § 2(a), Oct. 13, 1982, 96 Stat. 1411; Pub. L. 100–478, title I, §§ 1002–1004, Oct. 7, 1988, 102 Stat. 2306, 2307; Pub. L. 108–136, div. A, title III, § 318, Nov. 24, 2003, 117 Stat. 1433.)

REFERENCES IN TEXT

Reorganization Plan Numbered 4 of 1970, referred to in subsec. (a)(2), is Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Federal Advisory Committee Act, referred to in subsec. (f)(2), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5.

AMENDMENTS

2003—Subsec. (a)(3). Pub. L. 108–136, § 318(a), designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, and added subpar. (B).

Subsec. (b)(2). Pub. L. 108–136, § 318(b), inserted ''the impact on national security,'' after ''the economic impact,''.

1988—Subsec. (b)(3)(C)(iii). Pub. L. 100–478, § 1002(a), added subcl. (iii).

Subsec. (e). Pub. L. 100–478, § 1002(b), substituted ''regulation of commerce or taking,'' for ''regulation,'' in introductory provisions.

Subsec. (f). Pub. L. 100–478, § 1003, amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''The Secretary shall develop and implement plans (hereinafter in this subsection referred to as 'recovery plans') for the conservation and survival of endangered species and threatened species listed pursuant to this section, unless he finds that such a plan will not promote the conservation of the species. The Secretary, in developing and implementing recovery plans (1) shall, to the maximum extent practicable, give priority to those endangered species or threatened species most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other developmental projects or other forms of economic activity, and (2) may procure the services of appropriate public and private agencies and institutions, and other qualified persons. Recovery teams appointed pursuant to this subsection shall not be subject to the Federal Advisory Committee Act.''

Subsecs. (g) to (i). Pub. L. 100–478, § 1004, added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

1982—Subsec. (a)(1). Pub. L. 97–304, § 2(a)(1)(B), (D), inserted ''promulgated in accordance with subsection (b) of this section'' after ''shall by regulation'' in introductory provisions preceding subpar. (A), and struck out provision following subpar. (E), which directed the Secretary, at the time regulations were proposed, to specify any habitat of a species considered to be a critical habitat but that such specification of critical habitats not apply to species listed prior to Nov. 10, 1978.

Subsec. (a)(1)(A). Pub. L. 97–304, § 2(a)(1)(A), redesignated subpar. (1) as (A).

Subsec. (a)(1)(B). Pub. L. 97–304, § 2(a)(1)(A), (C), redesignated subpar. (2) as (B) and substituted ''recreational,'' for ''sporting,''.

Subsec. (a)(1)(C) to (E). Pub. L. 97–304, § 2(a)(1)(A), redesignated subpars. (3), (4), and (5) as (C), (D), and (E), respectively.

Subsec. (a)(3). Pub. L. 97–304, § 2(a)(1)(E), added par. (3).

Subsec. (b). Pub. L. 97–304, § 2(a)(2), completely revised subsec. (b) by, among other changes, requiring the Secretary to base determinations regarding the listing or delisting of species ''solely'' on the basis of the best scientific and commercial data available, streamlining the listing process by reducing the time periods for rulemaking, consolidating public meetings and hearing requirements, and establishing virtually identical procedures for the listing and delisting of species and for the designation of critical habitat, and altering the evidentiary standard which petitioners must satisfy to warrant a status review of the species proposed for listing or delisting.

Subsec. (c)(1). Pub. L. 97–304, § 2(a)(3)(A), struck out '', and from time to time he may by regulation revise,'' after ''Federal Register'' and inserted provision directing the Secretary to revise from time to time each list published under the authority of this subsection to reflect recent determinations, designations, and revisions

[2] So in original. Probably should be paragraph ''(7)''.

made in accordance with subsections (a) and (b) of this section.

Subsec. (c)(2). Pub. L. 97–304, §2(a)(3)(B), (C), redesignated par. (4) as (2). Former par. (2), directing the Secretary, within 90 days of the receipt of the petition of an interested person under section 553(e) of title 5, to conduct and publish in the Federal Register a review of the status of any listed or unlisted species proposed to be removed from or added to either of the lists published pursuant to paragraph (1) of this subsection, but only if he made and published a finding that such person had presented substantial evidence which in his judgment warranted such a review, was struck out.

Subsec. (c)(3). Pub. L. 97–304, §2(a)(3)(B), struck out par. (3) which had provided that any list in effect on Dec. 27, 1973, of species of fish or wildlife determined by the Secretary of the Interior, pursuant to the Endangered Species Conservation Act of 1969, to be threatened with extinction be republished to conform to the classification for endangered species or threatened species, as the case might be, provided for in this chapter, but until such republication, any such species so listed was to be deemed an endangered species within the meaning of this chapter, and that the republication of any species pursuant to this paragraph did not require public hearing or comment under section 553 of title 5.

Subsec. (c)(4). Pub. L. 97–304, §2(a)(3)(C), redesignated par. (4) as (2).

Subsec. (d). Pub. L. 97–304, §2(a)(4)(A), substituted ''section 1535(c) of this title'' for ''section 1535(a) of this title''.

Subsec. (f). Pub. L. 97–304, §2(a)(4)(B), (C), (D), redesignated subsec. (g) as (f) and substituted ''recovery plans (1) shall, to the maximum extent practicable, give priority to those endangered species or threatened species most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other developmental projects or other forms of economic activity, and (2)'' for ''recovery plans,''. Former subsec. (f), relating to the promulgation of regulations, was struck out.

Subsec. (g). Pub. L. 97–304, §2(a)(4)(C), (E), redesignated subsec. (h) as (g), substituted reference to subsection (b)(3) of this section for reference to subsection (c)(2) of this section in par. (1), substituted ''under subsection (a)(1) of this section'' for ''for listing'' in par. (3), and substituted ''subsection (f) of this section'' for ''subsection (g) of this section'' in par. (4). Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 97–304, §2(a)(4)(C), (F), added subsec. (h) and redesignated former subsec. (h) as (g).

1979—Subsec. (b)(1). Pub. L. 96–159, §3(1), required the Secretary's determinations to be preceded with a review of the status of the species.

Subsec. (f)(2)(B)(i). Pub. L. 96–159, §3(2), required publication of summary of text rather than of the complete text of proposed regulation specifying any critical habitat and inclusion of a map of the proposed critical habitat.

Subsec. (f)(2)(B)(iv)(II). Pub. L. 96–159, §3(3), substituted ''if requested within 15 days after the date on which the public meeting is conducted,'' for ''if requested,''.

Subsec. (f)(2)(C). Pub. L. 96–159, §3(4), (5), inserted in introductory text '', subsection (b)(4) of this section,''; and in cl. (ii), included reference to significant risk to wellbeing of any species of plants, inserted in item (II) reference to regulation applicable to resident species of plants, extended the statutory period to a ''240-day period'' from a ''120-day period'', and provided for withdrawal of an emergency regulation without substantial evidence to warrant it, respectively.

Subsec. (h). Pub. L. 96–159, §3(6), added subsec. (h).

1978—Subsec. (a)(1). Pub. L. 95–632, §11(1), inserted provision requiring the Secretary, at the time a regulation is proposed, to specify by regulation any habitat of the species involved which is considered a critical habitat providing the species was listed subsequent to Nov. 10, 1978.

Subsec. (b)(4). Pub. L. 95–632, §11(7), added par. (4).

Subsec. (c)(1). Pub. L. 95–632, §11(2), struck out ''and shall'' after ''if any'' and inserted '', and specify any critical habitat within such range'' after ''endangered or threatened''.

Subsec. (c)(2). Pub. L. 95–632, §11(6), substituted ''within 90 days of the receipt of'' for ''upon'' and ''conduct and publish in the Federal Register a review of the status of'' for ''conduct a review of'' and inserted a provision requiring that the review and findings be made and published prior to initiation of any procedures under subsec. (b)(1) of this section.

Subsec. (c)(4). Pub. L. 95–632, §11(3), added par. (4).

Subsec. (f)(2)(A). Pub. L. 95–632, §11(4)(A), substituted ''Except as provided in subparagraph (B), in'' for ''In''.

Subsec. (f)(2)(B), (C). Pub. L. 95–632, §11(4)(B), (C), added subpar. (B), redesignated former subpar. (B) as (C), and as so redesignated, substituted ''Neither subparagraph (A) or (B)'' for ''Neither subparagraph (A)''.

Subsec. (f)(3). Pub. L. 95–632, §13, substituted ''a summary by the Secretary of the data on which such regulation is based and shall show the relationship of such data to such regulations'' for ''a statement by the Secretary of the facts on which such regulation is based and the relationship of such facts to such regulation''.

Subsec. (f)(4), (5). Pub. L. 95–632, §11(4)(D), added pars. (4) and (5).

Subsec. (g). Pub. L. 95–632, §11(5), added subsec. (g).

1976—Subsec. (f)(2)(B)(ii). Pub. L. 94–359 substituted ''subsection (b)(1)(A)'' for ''subsection (b)(A), (B), and (C)''.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 2(b) of Pub. L. 97–304 provided that:

''(1) Any petition filed under section 4(c)(2) of the Endangered Species Act of 1973 [subsec. (c)(2) of this section] (as in effect on the day before the date of the enactment of this Act [Oct. 13, 1982]) and any regulation proposed under section 4(f) of such Act of 1973 [subsec. (f) of this section] (as in effect on such day) that is pending on such date of enactment [Oct. 13, 1982] shall be treated as having been filed or proposed on such date of enactment under section 4(b) of such Act of 1973 [subsec. (b) of this section] (as amended by subsection (a)); and the procedural requirements specified in such section 4(b) [subsec. (b) of this section] (as so amended) regarding such petition or proposed regulation shall be deemed to be complied with to the extent that like requirements under such section 4 [this section] (as in effect before the date of the enactment of this Act) were complied with before such date of enactment.

''(2) Any regulation proposed after, or pending on, the date of the enactment of this Act [Oct. 13, 1982] to designate critical habitat for a species that was determined before such date of enactment to be endangered or threatened shall be subject to the procedures set forth in section 4 of such Act of 1973 [this section] (as amended by subsection (a)) for regulations proposing revisions to critical habitat instead of those for regulations proposing the designation of critical habitat.

''(3) Any list of endangered species or threatened species (as in effect under section 4(c) of such Act of 1973 [subsec. (c) of this section] on the day before the date of the enactment of this Act [Oct. 13, 1982]) shall remain in effect unless and until determinations regarding species and designations and revisions of critical habitats that require changes to such list are made in accordance with subsection (b)(5) of such Act of 1973 [subsec. (b)(5) of this section] (as added by subsection (a)).

''(4) Section 4(a)(3)(A) of such Act of 1973 [subsec. (a)(3)(A) of this section] (as added by subsection (a)) shall not apply with respect to any species which was listed as an endangered species or a threatened species before November 10, 1978.''

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction

transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 1534. Land acquisition

(a) Implementation of conservation program; authorization of Secretary and Secretary of Agriculture

The Secretary, and the Secretary of Agriculture with respect to the National Forest System, shall establish and implement a program to conserve fish, wildlife, and plants, including those which are listed as endangered species or threatened species pursuant to section 1533 of this title. To carry out such a program, the appropriate Secretary—

(1) shall utilize the land acquisition and other authority under the Fish and Wildlife Act of 1956, as amended [16 U.S.C. 742a et seq.], the Fish and Wildlife Coordination Act, as amended [16 U.S.C. 661 et seq.], and the Migratory Bird Conservation Act [16 U.S.C. 715 et seq.], as appropriate; and

(2) is authorized to acquire by purchase, donation, or otherwise, lands, waters, or interest therein, and such authority shall be in addition to any other land acquisition authority vested in him.

(b) Availability of funds for acquisition of lands, waters, etc.

Funds made available pursuant to the Land and Water Conservation Fund Act of 1965, as amended [16 U.S.C. 460*l*–4 et seq.], may be used for the purpose of acquiring lands, waters, or interests therein under subsection (a) of this section.

(Pub. L. 93–205, § 5, Dec. 28, 1973, 87 Stat. 889; Pub. L. 95–632, § 12, Nov. 10, 1978, 92 Stat. 3766.)

REFERENCES IN TEXT

The Fish and Wildlife Act of 1956, as amended, referred to in subsec. (a)(1), is act Aug. 8, 1956, ch. 1036, 70 Stat. 119, as amended, which is classified generally to sections 742a to 742d and 742e to 742j–2 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 742a of this title and Tables.

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

The Migratory Bird Conservation Act, referred to in subsec. (a)(1), is act Feb. 18, 1929, ch. 257, 45 Stat. 1222, as amended, which is classified generally to subchapter III (§ 715 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 715 of this title and Tables.

The Land and Water Conservation Fund Act of 1965, as amended, referred to in subsec. (b), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–632, among other changes in text preceding par. (1), inserted reference to the Secretary of Agriculture with respect to the National Forest System and substituted the establishment and implementation of a plan to conserve plants for the establishment and implementation of a plan to conserve plants which were concluded in Appendices to the Convention.

§ 1535. Cooperation with States

(a) Generally

In carrying out the program authorized by this chapter, the Secretary shall cooperate to the maximum extent practicable with the States. Such cooperation shall include consultation with the States concerned before acquiring any land or water, or interest therein, for the purpose of conserving any endangered species or threatened species.

(b) Management agreements

The Secretary may enter into agreements with any State for the administration and management of any area established for the conservation of endangered species or threatened species. Any revenues derived from the administration of such areas under these agreements shall be subject to the provisions of section 715s of this title.

(c) Cooperative agreements

(1) In furtherance of the purposes of this chapter, the Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species. Within one hundred and twenty days after the Secretary receives a certified copy of such a proposed State program, he shall make a determination whether such program is in accordance with this chapter. Unless he determines, pursuant to this paragraph, that the State program is not in accordance with this chapter, he shall enter into a cooperative agreement with the State for the purpose of assisting in implementation of the State program. In order for a State program to be deemed an adequate and active program for the conservation of endangered species and threatened species, the Secretary must find, and annually thereafter reconfirm such finding, that under the State program—

(A) authority resides in the State agency to conserve resident species of fish or wildlife determined by the State agency or the Secretary to be endangered or threatened;

(B) the State agency has established acceptable conservation programs, consistent with the purposes and policies of this chapter, for all resident species of fish or wildlife in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

(C) the State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of fish and wildlife;

(D) the State agency is authorized to establish programs, including the acquisition of land or aquatic habitat or interests therein, for the conservation of resident endangered or threatened species of fish or wildlife; and

(E) provision is made for public participation in designating resident species of fish or wildlife as endangered or threatened; or

that under the State program—

(i) the requirements set forth in subparagraphs (C), (D), and (E) of this paragraph are complied with, and

(ii) plans are included under which immediate attention will be given to those resident species of fish and wildlife which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs; except that a cooperative agreement entered into with a State whose program is deemed adequate and active pursuant to clause (i) and this clause shall not affect the applicability of prohibitions set forth in or authorized pursuant to section 1533(d) of this title or section 1538(a)(1) of this title with respect to the taking of any resident endangered or threatened species.

(2) In furtherance of the purposes of this chapter the Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species of plants. Within one hundred and twenty days after the Secretary receives a certified copy of such a proposed State program, he shall make a determination whether such program is in accordance with this chapter. Unless he determines, pursuant to this paragraph, that the State program is not in accordance with this chapter, he shall enter into a cooperative agreement with the State for the purpose of assisting in implementation of the State program. In order for a State program to be deemed an adequate and active program for the conservation of endangered species of plants and threatened species of plants, the Secretary must find, and annually thereafter reconfirm such finding, that under the State program—

(A) authority resides in the State agency to conserve resident species of plants determined by the State agency or the Secretary to be endangered or threatened;

(B) the State agency has established acceptable conservation programs, consistent with the purposes and policies of this chapter, for all resident species of plants in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

(C) the State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of plants; and

(D) provision is made for public participation in designating resident species of plants as endangered or threatened; or

that under the State program—

(i) the requirements set forth in subparagraphs (C) and (D) of this paragraph are complied with, and

(ii) plans are included under which immediate attention will be given to those resident species of plants which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs; except that a cooperative agreement entered into with a State whose program is deemed adequate and active pursuant to clause (i) and this clause shall not affect the applicability of prohibitions set forth in or authorized pursuant to section 1533(d) or section 1538(a)(1) of this title with respect to the taking of any resident endangered or threatened species.

(d) Allocation of funds

(1) The Secretary is authorized to provide financial assistance to any State, through its respective State agency, which has entered into a cooperative agreement pursuant to subsection (c) of this section to assist in development of programs for the conservation of endangered and threatened species or to assist in monitoring the status of candidate species pursuant to subparagraph (C) of section 1533(b)(3) of this title and recovered species pursuant to section 1533(g) of this title. The Secretary shall allocate each annual appropriation made in accordance with the provisions of subsection (i) of this section to such States based on consideration of—

(A) the international commitments of the United States to protect endangered species or threatened species;

(B) the readiness of a State to proceed with a conservation program consistent with the objectives and purposes of this chapter;

(C) the number of endangered species and threatened species within a State;

(D) the potential for restoring endangered species and threatened species within a State;

(E) the relative urgency to initiate a program to restore and protect an endangered species or threatened species in terms of survival of the species;

(F) the importance of monitoring the status of candidate species within a State to prevent a significant risk to the well being of any such species; and

(G) the importance of monitoring the status of recovered species within a State to assure that such species do not return to the point at which the measures provided pursuant to this chapter are again necessary.

So much of the annual appropriation made in accordance with provisions of subsection (i) of this section allocated for obligation to any State for any fiscal year as remains unobligated at the close thereof is authorized to be made available to that State until the close of the succeeding fiscal year. Any amount allocated to any State which is unobligated at the end of the period during which it is available for expendi-

ture is authorized to be made available for expenditure by the Secretary in conducting programs under this section.

(2) Such cooperative agreements shall provide for (A) the actions to be taken by the Secretary and the States; (B) the benefits that are expected to be derived in connection with the conservation of endangered or threatened species; (C) the estimated cost of these actions; and (D) the share of such costs to be borne by the Federal Government and by the States; except that—

(i) the Federal share of such program costs shall not exceed 75 percent of the estimated program cost stated in the agreement; and

(ii) the Federal share may be increased to 90 percent whenever two or more States having a common interest in one or more endangered or threatened species, the conservation of which may be enhanced by cooperation of such States, enter jointly into an agreement with the Secretary.

The Secretary may, in his discretion, and under such rules and regulations as he may prescribe, advance funds to the State for financing the United States pro rata share agreed upon in the cooperative agreement. For the purposes of this section, the non-Federal share may, in the discretion of the Secretary, be in the form of money or real property, the value of which will be determined by the Secretary, whose decision shall be final.

(e) Review of State programs

Any action taken by the Secretary under this section shall be subject to his periodic review at no greater than annual intervals.

(f) Conflicts between Federal and State laws

Any State law or regulation which applies with respect to the importation or exportation of, or interstate or foreign commerce in, endangered species or threatened species is void to the extent that it may effectively (1) permit what is prohibited by this chapter or by any regulation which implements this chapter, or (2) prohibit what is authorized pursuant to an exemption or permit provided for in this chapter or in any regulation which implements this chapter. This chapter shall not otherwise be construed to void any State law or regulation which is intended to conserve migratory, resident, or introduced fish or wildlife, or to permit or prohibit sale of such fish or wildlife. Any State law or regulation respecting the taking of an endangered species or threatened species may be more restrictive than the exemptions or permits provided for in this chapter or in any regulation which implements this chapter but not less restrictive than the prohibitions so defined.

(g) Transition

(1) For purposes of this subsection, the term ''establishment period'' means, with respect to any State, the period beginning on December 28, 1973, and ending on whichever of the following dates first occurs: (A) the date of the close of the 120-day period following the adjournment of the first regular session of the legislature of such State which commences after December 28, 1973, or (B) the date of the close of the 15-month period following December 28, 1973.

(2) The prohibitions set forth in or authorized pursuant to sections 1533(d) and 1538(a)(1)(B) of this title shall not apply with respect to the taking of any resident endangered species or threatened species (other than species listed in Appendix I to the Convention or otherwise specifically covered by any other treaty or Federal law) within any State—

(A) which is then a party to a cooperative agreement with the Secretary pursuant to subsection (c) of this section (except to the extent that the taking of any such species is contrary to the law of such State); or

(B) except for any time within the establishment period when—

(i) the Secretary applies such prohibition to such species at the request of the State, or

(ii) the Secretary applies such prohibition after he finds, and publishes his finding, that an emergency exists posing a significant risk to the well-being of such species and that the prohibition must be applied to protect such species. The Secretary's finding and publication may be made without regard to the public hearing or comment provisions of section 553 of title 5 or any other provision of this chapter; but such prohibition shall expire 90 days after the date of its imposition unless the Secretary further extends such prohibition by publishing notice and a statement of justification of such extension.

(h) Regulations

The Secretary is authorized to promulgate such regulations as may be appropriate to carry out the provisions of this section relating to financial assistance to States.

(i) Appropriations

(1) To carry out the provisions of this section for fiscal years after September 30, 1988, there shall be deposited into a special fund known as the cooperative endangered species conservation fund, to be administered by the Secretary, an amount equal to 5 percent of the combined amounts covered each fiscal year into the Federal aid to wildlife restoration fund under section 669b of this title, and paid, transferred, or otherwise credited each fiscal year to the Sport Fishing Restoration Account established under 1016 of the Act of July 18, 1984.

(2) Amounts deposited into the special fund are authorized to be appropriated annually and allocated in accordance with subsection (d) of this section.

(Pub. L. 93–205, § 6, Dec. 28, 1973, 87 Stat. 889; Pub. L. 95–212, Dec. 19, 1977, 91 Stat. 1493; Pub. L. 95–632, § 10, Nov. 10, 1978, 92 Stat. 3762; Pub. L. 96–246, May 23, 1980, 94 Stat. 348; Pub. L. 97–304, §§ 3, 8(b), Oct. 13, 1982, 96 Stat. 1416, 1426; Pub. L. 100–478, title I, § 1005, Oct. 7, 1988, 102 Stat. 2307.)

REFERENCES IN TEXT

The Sport Fishing Restoration Account established under section 1016 of the Act of July 18, 1984, referred to in subsec. (i)(1), probably means the Sport Fish Restoration Account established by section 9504(a)(2)(A) of Title 26, Internal Revenue Code, which section was enacted by section 1016(a) of Pub. L. 98–369, div. A, title X, July 18, 1984, 98 Stat. 1019.

AMENDMENTS

1988—Subsec. (d)(1). Pub. L. 100–478, §1005(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The Secretary is authorized to provide financial assistance to any State, through its respective State agency, which has entered into a cooperative agreement pursuant to subsection (c) of this section to assist in development of programs for the conservation of endangered and threatened species. The Secretary shall make an allocation of appropriated funds to such States based on consideration of—

''(A) the international commitments of the United States to protect endangered species or threatened species;

''(B) the readiness of a State to proceed with a conservation program consistent with the objectives and purposes of this chapter;

''(C) the number of endangered species and threatened species within a State;

''(D) the potential for restoring endangered species and threatened species within a State; and

''(E) the relative urgency to initiate a program to restore and protect an endangered species or threatened species in terms of survival of the species.

So much of any appropriated funds allocated for obligation to any State for any fiscal year as remains unobligated at the close thereof is authorized to be made available to that State until the close of the succeeding fiscal year. Any amount allocated to any State which is unobligated at the end of the period during which it is available for expenditure is authorized to be made available for expenditure by the Secretary in conducting programs under this section.''

Subsec. (i). Pub. L. 100–478, §1005(b), added subsec. (i).

1982—Subsec. (d)(2)(i). Pub. L. 97–304, §3(1), substituted ''75 percent'' for ''66⅔ per centum''.

Subsec. (d)(2)(ii). Pub. L. 97–304, §3(2), substituted ''90 percent'' for ''75 per centum''.

Subsec. (i). Pub. L. 97–304, §8(b), struck out subsec. (i) which authorized appropriations to carry out this section of $10,000,000 through the period ending Sept. 30, 1977, $12,000,000 for the period Oct. 1, 1977, through Sept. 30, 1980, and $12,000,000 for the period Oct. 1, 1980, through Sept. 30, 1982. See section 1542(b) of this title.

1980—Subsec. (i). Pub. L. 96–246 in par. (2) substituted ''$12,000,000'' for ''$16,000,000'' and ''1980'' for ''1981'', and added par. (3).

1978—Subsec. (c). Pub. L. 95–632 designated existing provision as par. (1), and in par. (1) as so designated, redesignated pars. (1) to (5) as subpars. (A) to (E), respectively, and subpars. (A) and (B) of subpar. (E), as so redesignated, as cls. (i) and (ii), respectively, substituted ''paragraph'' for ''subsection'' in provision preceding subpar. (A), as so redesignated, ''endangered or threatened species of fish or wildlife'' for ''endangered species or threatened species'' in subpar. (D), as so redesignated, ''subparagraphs (C), (D), and (E) of this paragraph'' for ''paragraphs (3), (4), and (5) of this subsection'' in cl. (i) of subpar. (E), as so redesignated, ''clause (i) and this clause'' for ''subparagraph (A) and this subparagraph'' in cl. (ii) of subpar. (E), as so redesignated, and added par. (2).

1977—Subsec. (c). Pub. L. 95–212, §1(1), inserted provisions that States in which the State fish and wildlife agencies do not possess the broad authority to conserve all resident species of fish and wildlife which the Secretary determines to be threatened or endangered may nevertheless qualify for cooperative agreement funds if they satisfy all other requirements and have plans to devote immediate attention to those species most urgently in need of conservation programs.

Subsec. (i). Pub. L. 95–212, §1(2), substituted provisions authorizing appropriations of $10,000,000 to cover the period ending Sept. 30, 1977, and $16,000,000 to cover the period beginning Oct. 1, 1977, and ending Sept. 30, 1981, for provisions authorizing appropriations of not to exceed $10,000,000 through the fiscal year ending June 30, 1977.

COOPERATIVE AGREEMENTS WITH STATES UNAFFECTED BY 1981 AMENDMENT OF MARINE MAMMAL PROTECTION ACT

Nothing in the amendment of section 1379 of this title by section 4(a) of Pub. L. 97–58 to be construed as affecting in any manner any cooperative agreement entered into by a State under subsec. (c) of this section before, on, or after Oct. 9, 1981, see section 4(b) of Pub. L. 97–58, set out as a note under section 1379 of this title.

§ 1536. Interagency cooperation

(a) Federal agency actions and consultations

(1) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this chapter by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 1533 of this title.

(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an ''agency action'') is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

(3) Subject to such guidelines as the Secretary may establish, a Federal agency shall consult with the Secretary on any prospective agency action at the request of, and in cooperation with, the prospective permit or license applicant if the applicant has reason to believe that an endangered species or a threatened species may be present in the area affected by his project and that implementation of such action will likely affect such species.

(4) Each Federal agency shall confer with the Secretary on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under section 1533 of this title or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. This paragraph does not require a limitation on the commitment of resources as described in subsection (d) of this section.

(b) Opinion of Secretary

(1)(A) Consultation under subsection (a)(2) of this section with respect to any agency action shall be concluded within the 90-day period beginning on the date on which initiated or, subject to subparagraph (B), within such other period of time as is mutually agreeable to the Secretary and the Federal agency.

(B) In the case of an agency action involving a permit or license applicant, the Secretary and the Federal agency may not mutually agree to conclude consultation within a period exceeding 90 days unless the Secretary, before the close of the 90th day referred to in subparagraph (A)—

(i) if the consultation period proposed to be agreed to will end before the 150th day after the date on which consultation was initiated, submits to the applicant a written statement setting forth—

(I) the reasons why a longer period is required,

(II) the information that is required to complete the consultation, and

(III) the estimated date on which consultation will be completed; or

(ii) if the consultation period proposed to be agreed to will end 150 or more days after the date on which consultation was initiated, obtains the consent of the applicant to such period.

The Secretary and the Federal agency may mutually agree to extend a consultation period established under the preceding sentence if the Secretary, before the close of such period, obtains the consent of the applicant to the extension.

(2) Consultation under subsection (a)(3) of this section shall be concluded within such period as is agreeable to the Secretary, the Federal agency, and the applicant concerned.

(3)(A) Promptly after conclusion of consultation under paragraph (2) or (3) of subsection (a) of this section, the Secretary shall provide to the Federal agency and the applicant, if any, a written statement setting forth the Secretary's opinion, and a summary of the information on which the opinion is based, detailing how the agency action affects the species or its critical habitat. If jeopardy or adverse modification is found, the Secretary shall suggest those reasonable and prudent alternatives which he believes would not violate subsection (a)(2) of this section and can be taken by the Federal agency or applicant in implementing the agency action.

(B) Consultation under subsection (a)(3) of this section, and an opinion issued by the Secretary incident to such consultation, regarding an agency action shall be treated respectively as a consultation under subsection (a)(2) of this section, and as an opinion issued after consultation under such subsection, regarding that action if the Secretary reviews the action before it is commenced by the Federal agency and finds, and notifies such agency, that no significant changes have been made with respect to the action and that no significant change has occurred regarding the information used during the initial consultation.

(4) If after consultation under subsection (a)(2) of this section, the Secretary concludes that—

(A) the agency action will not violate such subsection, or offers reasonable and prudent alternatives which the Secretary believes would not violate such subsection;

(B) the taking of an endangered species or a threatened species incidental to the agency action will not violate such subsection; and

(C) if an endangered species or threatened species of a marine mammal is involved, the taking is authorized pursuant to section 1371(a)(5) of this title;

the Secretary shall provide the Federal agency and the applicant concerned, if any, with a written statement that—

(i) specifies the impact of such incidental taking on the species,

(ii) specifies those reasonable and prudent measures that the Secretary considers necessary or appropriate to minimize such impact,

(iii) in the case of marine mammals, specifies those measures that are necessary to comply with section 1371(a)(5) of this title with regard to such taking, and

(iv) sets forth the terms and conditions (including, but not limited to, reporting requirements) that must be complied with by the Federal agency or applicant (if any), or both, to implement the measures specified under clauses (ii) and (iii).

(c) Biological assessment

(1) To facilitate compliance with the requirements of subsection (a)(2) of this section, each Federal agency shall, with respect to any agency action of such agency for which no contract for construction has been entered into and for which no construction has begun on November 10, 1978, request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action. If the Secretary advises, based on the best scientific and commercial data available, that such species may be present, such agency shall conduct a biological assessment for the purpose of identifying any endangered species or threatened species which is likely to be affected by such action. Such assessment shall be completed within 180 days after the date on which initiated (or within such other period as is mutually agreed to by the Secretary and such agency, except that if a permit or license applicant is involved, the 180-day period may not be extended unless such agency provides the applicant, before the close of such period, with a written statement setting forth the estimated length of the proposed extension and the reasons therefor) and, before any contract for construction is entered into and before construction is begun with respect to such action. Such assessment may be undertaken as part of a Federal agency's compliance with the requirements of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(2) Any person who may wish to apply for an exemption under subsection (g) of this section for that action may conduct a biological assessment to identify any endangered species or threatened species which is likely to be affected by such action. Any such biological assessment must, however, be conducted in cooperation with the Secretary and under the supervision of the appropriate Federal agency.

(d) Limitation on commitment of resources

After initiation of consultation required under subsection (a)(2) of this section, the Federal agency and the permit or license applicant shall not make any irreversible or irretrievable commitment of resources with respect to the agency

action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would not violate subsection (a)(2) of this section.

(e) Endangered Species Committee

(1) There is established a committee to be known as the Endangered Species Committee (hereinafter in this section referred to as the ''Committee'').

(2) The Committee shall review any application submitted to it pursuant to this section and determine in accordance with subsection (h) of this section whether or not to grant an exemption from the requirements of subsection (a)(2) of this section for the action set forth in such application.

(3) The Committee shall be composed of seven members as follows:

(A) The Secretary of Agriculture.

(B) The Secretary of the Army.

(C) The Chairman of the Council of Economic Advisors.

(D) The Administrator of the Environmental Protection Agency.

(E) The Secretary of the Interior.

(F) The Administrator of the National Oceanic and Atmospheric Administration.

(G) The President, after consideration of any recommendations received pursuant to subsection (g)(2)(B) of this section shall appoint one individual from each affected State, as determined by the Secretary, to be a member of the Committee for the consideration of the application for exemption for an agency action with respect to which such recommendations are made, not later than 30 days after an application is submitted pursuant to this section.

(4)(A) Members of the Committee shall receive no additional pay on account of their service on the Committee.

(B) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(5)(A) Five members of the Committee or their representatives shall constitute a quorum for the transaction of any function of the Committee, except that, in no case shall any representative be considered in determining the existence of a quorum for the transaction of any function of the Committee if that function involves a vote by the Committee on any matter before the Committee.

(B) The Secretary of the Interior shall be the Chairman of the Committee.

(C) The Committee shall meet at the call of the Chairman or five of its members.

(D) All meetings and records of the Committee shall be open to the public.

(6) Upon request of the Committee, the head of any Federal agency is authorized to detail, on a nonreimbursable basis, any of the personnel of such agency to the Committee to assist it in carrying out its duties under this section.

(7)(A) The Committee may for the purpose of carrying out its duties under this section hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Committee deems advisable.

(B) When so authorized by the Committee, any member or agent of the Committee may take any action which the Committee is authorized to take by this paragraph.

(C) Subject to the Privacy Act [5 U.S.C. 552a], the Committee may secure directly from any Federal agency information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Committee, the head of such Federal agency shall furnish such information to the Committee.

(D) The Committee may use the United States mails in the same manner and upon the same conditions as a Federal agency.

(E) The Administrator of General Services shall provide to the Committee on a reimbursable basis such administrative support services as the Committee may request.

(8) In carrying out its duties under this section, the Committee may promulgate and amend such rules, regulations, and procedures, and issue and amend such orders as it deems necessary.

(9) For the purpose of obtaining information necessary for the consideration of an application for an exemption under this section the Committee may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents.

(10) In no case shall any representative, including a representative of a member designated pursuant to paragraph (3)(G) of this subsection, be eligible to cast a vote on behalf of any member.

(f) Promulgation of regulations; form and contents of exemption application

Not later than 90 days after November 10, 1978, the Secretary shall promulgate regulations which set forth the form and manner in which applications for exemption shall be submitted to the Secretary and the information to be contained in such applications. Such regulations shall require that information submitted in an application by the head of any Federal agency with respect to any agency action include, but not be limited to—

(1) a description of the consultation process carried out pursuant to subsection (a)(2) of this section between the head of the Federal agency and the Secretary; and

(2) a statement describing why such action cannot be altered or modified to conform with the requirements of subsection (a)(2) of this section.

(g) Application for exemption; report to Committee

(1) A Federal agency, the Governor of the State in which an agency action will occur, if any, or a permit or license applicant may apply to the Secretary for an exemption for an agency action of such agency if, after consultation under subsection (a)(2) of this section, the Secretary's opinion under subsection (b) of this section indicates that the agency action would violate subsection (a)(2) of this section. An application for an exemption shall be considered initially by the Secretary in the manner provided

for in this subsection, and shall be considered by the Committee for a final determination under subsection (h) of this section after a report is made pursuant to paragraph (5). The applicant for an exemption shall be referred to as the ''exemption applicant'' in this section.

(2)(A) An exemption applicant shall submit a written application to the Secretary, in a form prescribed under subsection (f) of this section, not later than 90 days after the completion of the consultation process; except that, in the case of any agency action involving a permit or license applicant, such application shall be submitted not later than 90 days after the date on which the Federal agency concerned takes final agency action with respect to the issuance of the permit or license. For purposes of the preceding sentence, the term ''final agency action'' means (i) a disposition by an agency with respect to the issuance of a permit or license that is subject to administrative review, whether or not such disposition is subject to judicial review; or (ii) if administrative review is sought with respect to such disposition, the decision resulting after such review. Such application shall set forth the reasons why the exemption applicant considers that the agency action meets the requirements for an exemption under this subsection.

(B) Upon receipt of an application for exemption for an agency action under paragraph (1), the Secretary shall promptly (i) notify the Governor of each affected State, if any, as determined by the Secretary, and request the Governors so notified to recommend individuals to be appointed to the Endangered Species Committee for consideration of such application; and (ii) publish notice of receipt of the application in the Federal Register, including a summary of the information contained in the application and a description of the agency action with respect to which the application for exemption has been filed.

(3) The Secretary shall within 20 days after the receipt of an application for exemption, or within such other period of time as is mutually agreeable to the exemption applicant and the Secretary—

(A) determine that the Federal agency concerned and the exemption applicant have—

(i) carried out the consultation responsibilities described in subsection (a) of this section in good faith and made a reasonable and responsible effort to develop and fairly consider modifications or reasonable and prudent alternatives to the proposed agency action which would not violate subsection (a)(2) of this section;

(ii) conducted any biological assessment required by subsection (c) of this section; and

(iii) to the extent determinable within the time provided herein, refrained from making any irreversible or irretrievable commitment of resources prohibited by subsection (d) of this section; or

(B) deny the application for exemption because the Federal agency concerned or the exemption applicant have not met the requirements set forth in subparagraph (A)(i), (ii), and (iii).

The denial of an application under subparagraph (B) shall be considered final agency action for purposes of chapter 7 of title 5.

(4) If the Secretary determines that the Federal agency concerned and the exemption applicant have met the requirements set forth in paragraph (3)(A)(i), (ii), and (iii) he shall, in consultation with the Members of the Committee, hold a hearing on the application for exemption in accordance with sections 554, 555, and 556 (other than subsection (b)(1) and (2) thereof) of title 5 and prepare the report to be submitted pursuant to paragraph (5).

(5) Within 140 days after making the determinations under paragraph (3) or within such other period of time as is mutually agreeable to the exemption applicant and the Secretary, the Secretary shall submit to the Committee a report discussing—

(A) the availability of reasonable and prudent alternatives to the agency action, and the nature and extent of the benefits of the agency action and of alternative courses of action consistent with conserving the species or the critical habitat;

(B) a summary of the evidence concerning whether or not the agency action is in the public interest and is of national or regional significance;

(C) appropriate reasonable mitigation and enhancement measures which should be considered by the Committee; and

(D) whether the Federal agency concerned and the exemption applicant refrained from making any irreversible or irretrievable commitment of resources prohibited by subsection (d) of this section.

(6) To the extent practicable within the time required for action under subsection (g) of this section, and except to the extent inconsistent with the requirements of this section, the consideration of any application for an exemption under this section and the conduct of any hearing under this subsection shall be in accordance with sections 554, 555, and 556 (other than subsection (b)(3) of section 556) of title 5.

(7) Upon request of the Secretary, the head of any Federal agency is authorized to detail, on a nonreimbursable basis, any of the personnel of such agency to the Secretary to assist him in carrying out his duties under this section.

(8) All meetings and records resulting from activities pursuant to this subsection shall be open to the public.

(h) Grant of exemption

(1) The Committee shall make a final determination whether or not to grant an exemption within 30 days after receiving the report of the Secretary pursuant to subsection (g)(5) of this section. The Committee shall grant an exemption from the requirements of subsection (a)(2) of this section for an agency action if, by a vote of not less than five of its members voting in person—

(A) it determines on the record, based on the report of the Secretary, the record of the hearing held under subsection (g)(4) of this section and on such other testimony or evidence as it may receive, that—

(i) there are no reasonable and prudent alternatives to the agency action;

(ii) the benefits of such action clearly outweigh the benefits of alternative courses of action consistent with conserving the species or its critical habitat, and such action is in the public interest;

(iii) the action is of regional or national significance; and

(iv) neither the Federal agency concerned nor the exemption applicant made any irreversible or irretrievable commitment of resources prohibited by subsection (d) of this section; and

(B) it establishes such reasonable mitigation and enhancement measures, including, but not limited to, live propagation, transplantation, and habitat acquisition and improvement, as are necessary and appropriate to minimize the adverse effects of the agency action upon the endangered species, threatened species, or critical habitat concerned.

Any final determination by the Committee under this subsection shall be considered final agency action for purposes of chapter 7 of title 5.

(2)(A) Except as provided in subparagraph (B), an exemption for an agency action granted under paragraph (1) shall constitute a permanent exemption with respect to all endangered or threatened species for the purposes of completing such agency action—

(i) regardless whether the species was identified in the biological assessment; and

(ii) only if a biological assessment has been conducted under subsection (c) of this section with respect to such agency action.

(B) An exemption shall be permanent under subparagraph (A) unless—

(i) the Secretary finds, based on the best scientific and commercial data available, that such exemption would result in the extinction of a species that was not the subject of consultation under subsection (a)(2) of this section or was not identified in any biological assessment conducted under subsection (c) of this section, and

(ii) the Committee determines within 60 days after the date of the Secretary's finding that the exemption should not be permanent.

If the Secretary makes a finding described in clause (i), the Committee shall meet with respect to the matter within 30 days after the date of the finding.

(i) Review by Secretary of State; violation of international treaty or other international obligation of United States

Notwithstanding any other provision of this chapter, the Committee shall be prohibited from considering for exemption any application made to it, if the Secretary of State, after a review of the proposed agency action and its potential implications, and after hearing, certifies, in writing, to the Committee within 60 days of any application made under this section that the granting of any such exemption and the carrying out of such action would be in violation of an international treaty obligation or other international obligation of the United States. The Secretary of State shall, at the time of such certification, publish a copy thereof in the Federal Register.

(j) Exemption for national security reasons

Notwithstanding any other provision of this chapter, the Committee shall grant an exemption for any agency action if the Secretary of Defense finds that such exemption is necessary for reasons of national security.

(k) Exemption decision not considered major Federal action; environmental impact statement

An exemption decision by the Committee under this section shall not be a major Federal action for purposes of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.]: *Provided*, That an environmental impact statement which discusses the impacts upon endangered species or threatened species or their critical habitats shall have been previously prepared with respect to any agency action exempted by such order.

(*l*) Committee order granting exemption; cost of mitigation and enhancement measures; report by applicant to Council on Environmental Quality

(1) If the Committee determines under subsection (h) of this section that an exemption should be granted with respect to any agency action, the Committee shall issue an order granting the exemption and specifying the mitigation and enhancement measures established pursuant to subsection (h) of this section which shall be carried out and paid for by the exemption applicant in implementing the agency action. All necessary mitigation and enhancement measures shall be authorized prior to the implementing of the agency action and funded concurrently with all other project features.

(2) The applicant receiving such exemption shall include the costs of such mitigation and enhancement measures within the overall costs of continuing the proposed action. Notwithstanding the preceding sentence the costs of such measures shall not be treated as project costs for the purpose of computing benefit-cost or other ratios for the proposed action. Any applicant may request the Secretary to carry out such mitigation and enhancement measures. The costs incurred by the Secretary in carrying out any such measures shall be paid by the applicant receiving the exemption. No later than one year after the granting of an exemption, the exemption applicant shall submit to the Council on Environmental Quality a report describing its compliance with the mitigation and enhancement measures prescribed by this section. Such a report shall be submitted annually until all such mitigation and enhancement measures have been completed. Notice of the public availability of such reports shall be published in the Federal Register by the Council on Environmental Quality.

(m) Notice requirement for citizen suits not applicable

The 60-day notice requirement of section 1540(g) of this title shall not apply with respect to review of any final determination of the Committee under subsection (h) of this section granting an exemption from the requirements of subsection (a)(2) of this section.

(n) Judicial review

Any person, as defined by section 1532(13) of this title, may obtain judicial review, under chapter 7 of title 5, of any decision of the Endangered Species Committee under subsection (h) of this section in the United States Court of Appeals for (1) any circuit wherein the agency action concerned will be, or is being, carried out, or (2) in any case in which the agency action will be, or is being, carried out outside of any circuit, the District of Columbia, by filing in such court within 90 days after the date of issuance of the decision, a written petition for review. A copy of such petition shall be transmitted by the clerk of the court to the Committee and the Committee shall file in the court the record in the proceeding, as provided in section 2112 of title 28. Attorneys designated by the Endangered Species Committee may appear for, and represent the Committee in any action for review under this subsection.

(*o*) Exemption as providing exception on taking of endangered species

Notwithstanding sections 1533(d) and 1538(a)(1)(B) and (C) of this title, sections 1371 and 1372 of this title, or any regulation promulgated to implement any such section—

(1) any action for which an exemption is granted under subsection (h) of this section shall not be considered to be a taking of any endangered species or threatened species with respect to any activity which is necessary to carry out such action; and

(2) any taking that is in compliance with the terms and conditions specified in a written statement provided under subsection (b)(4)(iv) of this section shall not be considered to be a prohibited taking of the species concerned.

(p) Exemptions in Presidentially declared disaster areas

In any area which has been declared by the President to be a major disaster area under the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.], the President is authorized to make the determinations required by subsections (g) and (h) of this section for any project for the repair or replacement of a public facility substantially as it existed prior to the disaster under section 405 or 406 of the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5171 or 5172], and which the President determines (1) is necessary to prevent the recurrence of such a natural disaster and to reduce the potential loss of human life, and (2) to involve an emergency situation which does not allow the ordinary procedures of this section to be followed. Notwithstanding any other provision of this section, the Committee shall accept the determinations of the President under this subsection.

(Pub. L. 93–205, § 7, Dec. 28, 1973, 87 Stat. 892; Pub. L. 95–632, § 3, Nov. 10, 1978, 92 Stat. 3752; Pub. L. 96–159, § 4, Dec. 28, 1979, 93 Stat. 1226; Pub. L. 97–304, §§ 4(a), 8(b), Oct. 13, 1982, 96 Stat. 1417, 1426; Pub. L. 99–659, title IV, § 411(b), (c), Nov. 14, 1986, 100 Stat. 3741, 3742; Pub. L. 100–707, title I, § 109(g), Nov. 23, 1988, 102 Stat. 4709.)

REFERENCES IN TEXT

The Privacy Act, referred to in subsec. (e)(7)(C), is probably a reference to section 552a of Title 5, Government Organization and Employees. See Short Title note set out under section 552a of Title 5.

The National Environmental Policy Act of 1969, referred to in subsec. (k), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Disaster Relief and Emergency Assistance Act, referred to in subsec. (p), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, known as the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

1988—Subsec. (p). Pub. L. 100–707 substituted ''the Disaster Relief and Emergency Assistance Act'' for ''the Disaster Relief Act of 1974'' and ''section 405 or 406 of the Disaster Relief and Emergency Assistance Act'' for ''section 401 or 402 of the Disaster Relief Act of 1974''.

1986—Subsec. (b)(4)(C). Pub. L. 99–659, § 411(b)(1)–(3), added subpar. (C).

Subsec. (b)(4)(iii), (iv). Pub. L. 99–659, § 411(b)(4)–(6), added cl. (iii), redesignated former cl. (iii) as (iv), and in cl. (iv), as so redesignated, inserted reference to cl. (iii).

Subsec. (*o*). Pub. L. 99–659, § 411(c)(1), in introductory provisions, inserted '', sections 1371 and 1372 of this title,'', and substituted ''any'' for ''either'' after ''implement''.

Subsec. (*o*)(2). Pub. L. 99–659, § 411(c)(2), substituted ''subsection (b)(4)(iv)'' for ''subsection (b)(4)(iii)'' and inserted ''prohibited'' before ''taking of the species''.

1982—Subsec. (a)(3), (4). Pub. L. 97–304, § 4(a)(1), added par. (3) and redesignated former par. (3) as (4).

Subsec. (b). Pub. L. 97–304, § 4(a)(2), incorporated existing provisions into pars. (1)(A) and (3)(A) and added pars. (1)(B), (2), (3)(B), and (4).

Subsec. (c)(1). Pub. L. 97–304, § 4(a)(3), inserted '', except that if a permit or license applicant is involved, the 180-day period may not be extended unless such agency provides the applicant, before the close of such period, with a written statement setting forth the estimated length of the proposed extension and the reasons therefor'' after ''agency'' in parenthetical provision.

Subsec. (e)(10). Pub. L. 97–304, § 4(a)(4), struck out provision that, except in the case of a member designated pursuant to paragraph (3)(G) of this subsection, no member could designate any person to serve as his or her representative unless that person was, at the time of such designation, holding a Federal office the appointment to which was subject to the advice and consent of the United States Senate.

Subsec. (g)(1). Pub. L. 97–304, § 4(a)(5)(B), substituted ''An application for an exemption shall be considered initially by the Secretary in the manner provided for in this subsection, and shall be considered by the Committee for a final determination under subsection (h) of this section after a report is made pursuant to paragraph (5)'' for ''An application for an exemption shall be considered initially by a review board in the manner provided in this subsection, and shall be considered by the Endangered Species Committee for a final determination under subsection (h) of this section after a report is made by the review board''.

Subsec. (g)(2)(A). Pub. L. 97–304, § 4(a)(5)(C)(i), substituted ''An exemption applicant shall submit a written application to the Secretary, in a form prescribed under subsection (f) of this section, not later than 90 days after the completion of the consultation process; except that, in the case of any agency action involving a permit or license applicant, such application shall be submitted not later than 90 days after the date on which the Federal agency concerned takes final agency action with respect to the issuance of the permit or li-

cense'' for ''An exemption applicant shall submit a written application to the Secretary, in a form prescribed under subsection (f) of this section, not later than 90 days after the completion of the consultation process; or, in the case of any agency action involving a permit or license applicant, not later than 90 days after the date on which the Federal agency concerned takes final agency action, for purposes of chapter 7 of title 5, with respect to the issuance of the permit or license'' and inserted provision that, ''For purposes of the preceding sentence, the term 'final agency action' means (i) a disposition by an agency with respect to the issuance of a permit or license that is subject to administrative review, whether or not such disposition is subject to judicial review; or (ii) if administrative review is sought with respect to such disposition, the decision resulting after such review.''

Subsec. (g)(2)(B). Pub. L. 97–304, §4(a)(5)(C)(ii), inserted ''(i)'' after ''the Secretary shall promptly'', struck out ''to the review board to be established under paragraph (3) and'' after ''individuals to be appointed'' in cl. (i) as so designated, and added cl. (ii).

Subsec. (g)(3). Pub. L. 97–304, §4(a)(5)(D), (E), redesignated par. (5) as (3) and substituted provisions directing the Secretary, within 20 days after the receipt of an application for exemption, or within such other period of time as is mutually agreeable to the exemption applicant and the Secretary, to (A) determine that the Federal agency concerned and the exemption applicant have (i) carried out the consultation responsibilities described in subsection (a) of this section in good faith and made a reasonable and responsible effort to develop and fairly consider modifications or reasonable and prudent alternatives to the proposed agency action which would not violate subsection (a)(2) of this section, (ii) conducted any biological assessment required by subsection (c) of this section, and (iii) to the extent determinable within the time provided herein, refrained from making any irreversible or irretrievable commitment of resources prohibited by subsection (d) of this section, or (B) deny the application for exemption because the Federal agency concerned or the exemption applicant have not met the requirements set forth in subparagraph (A)(i), (ii), and (iii), and providing that the denial of an application under subparagraph (B) shall be considered final agency action for purposes of chapter 7 of title 5, for provisions placing upon the review board appointed under former par. (3) the duty to make a full review of the consultation carried out under subsection (a)(2) of this section, and within 60 days after its appointment or within such longer time as was mutually agreed upon between the exemption applicant and the Secretary, to make a determination, by a majority vote, (A) whether an irresolvable conflict existed and (B) whether the Federal agency concerned and such exemption applicant had (i) carried out its consultation responsibilities as described in subsection (a) of this section in good faith and made a reasonable and responsible effort to develop and fairly consider modifications or reasonable and prudent alternatives to the proposed agency action which would not violate subsection (a)(2) of this section, (ii) conducted any biological assessment required of it by subsection (c) of this section, and (iii) refrained from making any irreversible or irretrievable commitment of resources prohibited by subsection (d) of this section, and providing that any determination by the review board that an irresolvable conflict did not exist or that the Federal agency concerned or the exemption applicant had not met its respective requirements under subclause (i), (ii), or (iii) was to be considered final agency action for purposes of chapter 7 of title 5. Former par. (3), providing for the establishment and functions of a review board to consider applications for exemptions and to submit reports to the Endangered Species Committee, was struck out.

Subsec. (g)(4). Pub. L. 97–304, §4(a)(5)(D), (F), redesignated par. (6) as (4) and substituted ''If the Secretary determines that the Federal agency concerned and the exemption applicant have met the requirements set forth in paragraph (3)(A)(i), (ii), and (iii) he shall, in consultation with the Members of the Committee, hold a hearing on the application for exemption in accordance with sections 554, 555, and 556 (other than subsection (b)(1) and (2) thereof) of title 5 and prepare the report to be submitted pursuant to paragraph (5)'' for ''If the review board determines that an irresolvable conflict exists and makes positive determinations under subclauses (i), (ii), and (iii) of paragraph (5), it shall proceed to prepare the report to be submitted under paragraph (7)''. Former par. (4), directing the Secretary to submit the application to the review board immediately after its appointment under paragraph (3), and to submit to the review board, in writing, his views and recommendations with respect to the application within 60 days after receiving a copy of any application under paragraph (2), was struck out.

Subsec. (g)(5). Pub. L. 97–304, §4(a)(5)(G), redesignated par. (7) as (5) and substituted ''Within 140 days after making the determinations under paragraph (3) or within such other period of time as is mutually agreeable to the exemption applicant and the Secretary, the Secretary shall submit'' for ''Within 180 days after making the determinations under paragraph (6), the review board shall submit'' in the provisions preceding subpar. (A), and added subpar. (D). Former par. (5) redesignated (3) and amended.

Subsec. (g)(6). Pub. L. 97–304, §4(a)(5)(H), redesignated par. (8) as (6). Former par. (6) redesignated (4) and amended.

Subsec. (g)(7). Pub. L. 97–304, §4(a)(5)(I), redesignated par. (10) as (7) and substituted ''Upon request of the Secretary, the head of any Federal agency is authorized to detail, on a nonreimbursable basis, any of the personnel of such agency to the Secretary to assist him in carrying out his duties under this section'' for ''Upon request of a review board, the head of any Federal agency is authorized to detail, on a nonreimbursable basis, any of the personnel of such agency to the review board to assist it in carry out its duties under this section''. Former par. (7) redesignated (5) and amended.

Subsec. (g)(8). Pub. L. 97–304, §4(a)(5)(J), redesignated par. (12) as (8) and substituted ''records resulting from activities pursuant to this subsection'' for ''records of review boards''. Former par. (8) redesignated (6).

Subsec. (g)(9). Pub. L. 97–304, §4(a)(5)(D), struck out par. (9) which had provided that the review board, in carrying out its duties, could (A) sit and act at such times and places, take such testimony, and receive such evidence, as the review board deemed advisable, (B) subject to the Privacy Act of 1974 [5 U.S.C. 552a], request of any Federal agency or applicant information necessary to enable it to carry out such duties, and upon such request the head of such Federal agency would furnish such information to the review board, and (C) use the United States mails in the same manner and upon the same conditions as a Federal agency.

Subsec. (g)(10). Pub. L. 97–304, §4(a)(5)(I), redesignated par. (10) as (7).

Subsec. (g)(11). Pub. L. 97–304, §4(a)(5)(D), struck out par. (11) which had provided that the Administrator of the General Services Administration provide to a review board, on a reimbursable basis, such administrative support services as the review board requested.

Subsec. (g)(12). Pub. L. 97–304, §4(a)(5)(J), redesignated par. (12) as (8).

Subsec. (h)(1). Pub. L. 97–304, §4(a)(6), substituted ''within 30 days after receiving the report of the Secretary pursuant to subsection (g)(5) of this section'' for ''within 90 days of receiving the report of the review board under subsection (g)(7) of this section'' in provisions preceding subpar. (A), substituted ''report of the Secretary, the record of the hearing held under subsection (g)(4) of this section and on such other testimony'' for ''report of the review board and on such other testimony'' in subpar. (A) preceding cl. (i), and added cl. (iv).

Subsec. (*o*). Pub. L. 97–304, §4(a)(7), substituted ''Notwithstanding sections 1533(d) and 1538(a)(1)(B) and (C) of this title or any regulation promulgated to implement

either such section (1) any action for which an exemption is granted under subsection (h) of this section shall not be considered to be a taking of any endangered species or threatened species with respect to any activity which is necessary to carry out such action; and (2) any taking that is in compliance with the terms and conditions specified in a written statement provided under subsection (b)(4)(iii) of this section shall not be considered to be a taking of the species concerned'' for ''Notwithstanding sections 1533(d) and 1538(a) of this title or any regulations promulgated pursuant to such sections, any action for which an exemption is granted under subsection (h) of this section shall not be considered a taking of any endangered or threatened species with respect to any activity which is necessary to carry out such action''.

Subsec. (q). Pub. L. 97–304, § 8(b), struck out subsec. (q) which authorized appropriations of $600,000 for each of fiscal years 1979, 1980, 1981, and 1982 in carrying out functions under subsecs. (e), (f), (g), and (h) of this section. See section 1542(c) of this title.

1979—Subsec. (a). Pub. L. 96–159, § 4(1), designated existing provisions as par. (1); struck out third sentence requirement that each Federal agency, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (referred to as ''agency action'') did not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which was determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless the agency was granted an exemption for such action by the Committee pursuant to subsec. (h) of this section; and added pars. (2) and (3), incorporating former third sentence provisions.

Subsec. (b). Pub. L. 96–159, § 4(2), (3), substituted ''he believes would not violate subsection (a)(2) of this section and'' for ''he believes would avoid jeopardizing the continued existence of any endangered or threatened species or adversely modifying the critical habitat of such species, and which'' before ''can be taken'' and introductory ''subsection (a)(2) of this section'' for ''subsection (a) of this section''.

Subsec. (c). Pub. L. 96–159, § 4(3), (4), substituted ''subsection (a)(2)'' for ''subsec. (a)'' of this section, designated existing provisions as so amended par. (1), and added par. (2).

Subsec. (d). Pub. L. 96–159, § 4(3), (5), substituted introductory words ''subsection (a)(2)'' for ''subsection (a)'' of this section and ''alternative measures which would not violate subsection (a)(2) of this section'' for ''alternative measures which would avoid jeopardizing the continued existence of any endangered or threatened species or adversely modifying or destroying the critical habitat of any such species''.

Subsecs. (e)(2), (f). Pub. L. 96–159, § 4(3), substituted ''subsection (a)(2)'' for ''subsection (a)''.

Subsec. (g)(1). Pub. L. 96–159, § 4(3), (6), substituted in first sentence ''subsection (a)(2)'' for ''subsection (a)'' of this section and ''agency action would violate subsection (a)(2) of this section'' for ''agency action may jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify the critical habitat of such species''.

Subsec. (g)(2)(A). Pub. L. 96–159, § 4(7), required exemption applicant, to submit a written application, in the case of any agency action involving a permit or license applicant, not later than 90 days after the date on which the Federal agency concerned takes final agency action, for purposes of chapter 7 of Title 5, with respect to the issuance of the permit or license.

Subsec. (g)(3). Pub. L. 96–159, § 4(8), added subpar. (B), and redesignated former subpar. (B) as (C).

Subsec. (g)(5). Pub. L. 96–159, § 4(3), (9), substituted in introductory text and cl. (i) ''subsection (a)(2)'' for ''subsection (a)'' of this section; redesignated as cls. (A) and (B) former cls. (i) and (ii); inserted in cl. (B) ''the Federal agency concerned and'' before ''such exemption applicant''; redesignated as subcls. (i) to (iii) former subcls. (A) to (C); substituted in subcl. (i) ''agency action which would not violate subsection (a)(2) of this section'' for ''agency action which will avoid jeopardizing the continued existence of an endangered or threatened species or result in the adverse modification or destruction of a critical habitat''; and substituted in last sentence ''the Federal agency concerned or the exemption applicant has not met its respective requirements under subclause (i), (ii), or (iii)'' for ''the exemption applicant has not met the requirements of subparagraph (A), (B), or (C)'' preceding ''shall be considered final agency action''.

Subsec. (g)(6). Pub. L. 96–159, § 4(10), substituted ''subclauses (i), (ii), and (iii)'' for ''subparagraphs (A), (B), and (C)'' of paragraph (5).

Subsec. (h)(1). Pub. L. 96–159, § 4(3), substituted ''subsection (a)(2)'' for ''subsection (a)'' of this section.

Subsec. (h)(2). Pub. L. 96–159, § 4(11), in subpar. (A), substituted ''paragraph (1)'' for ''subsection (h) of this section'', inserted cl. (i), incorporated existing provisions in text designated cl. (ii), inserting thereto ''with respect to such agency action''; in subpar. (B), incorporated existing provision in cl. (i), inserted findings provision respecting the extinction of a species that was not: the subject of consultation or identified in any biological assessment under subsec. (a)(2) or (c) of this section, added cl. (ii), deleted prior requirement for a Committee determination within 30 days of the Secretary's finding that an exemption would result in extinction of the species whether to grant an exemption for the agency notwithstanding such finding, and superseded the same with requirement that the Committee meet with respect to the matter within 30 days after the date of such a finding.

Subsec. (m). Pub. L. 96–159, § 4(3), substituted ''subsection (a)(2)'' for ''subsection (a)'' of this section.

Subsec. (q). Pub. L. 96–159, § 4(12), authorized appropriations of $600,000 for fiscal years 1980 through 1982, and deleted appropriations authorization of $300,000 for period beginning Oct. 1, 1979, and ending Mar. 3, 1980, and requirement that the Chairman of the Committee report to the Congress before end of fiscal year 1979 with respect to adequacy of the budget authority.

1978—Subsec. (a). Pub. L. 95–632 designated existing provision as subsec. (a), inserted reference to agency action, substituted ''adverse modification'' for ''modification'', and provided for the grant of an exemption for agency action by the Endangered Species Committee pursuant to subsec. (h) of this section.

Subsecs. (b) to (q). Pub. L. 95–632 added subsecs. (b) to (q).

DEFERRAL OF AGENCY ACTION

Pub. L. 105–18, title II, § 3003, June 12, 1997, 111 Stat. 176, provided that:

''(a) CONSULTATION AND CONFERENCING.—As provided by regulations issued under the Endangered Species Act (16 U.S.C. 1531 et seq.) for emergency situations, formal consultation or conferencing under section 7(a)(2) or section 7(a)(4) of the Act [16 U.S.C. 1536(a)(2), (4)] for any action authorized, funded or carried out by any Federal agency to repair a Federal or non-Federal flood control project, facility or structure may be deferred by the Federal agency authorizing, funding or carrying out the action, if the agency determines that the repair is needed to respond to an emergency causing an imminent threat to human lives and property in 1996 or 1997. Formal consultation or conferencing shall be deferred until the imminent threat to human lives and property has been abated. For purposes of this section, the term repair shall include preventive and remedial measures to restore the project, facility or structure to remove an imminent threat to human lives and property.

''(b) REASONABLE AND PRUDENT MEASURES.—Any reasonable and prudent measures specified under section 7 of the Endangered Species Act (16 U.S.C. 1536) to minimize the impact of an action taken under this section shall be related both in nature and extent to the effect of the action taken to repair the flood control project, facility or structure.''

TRANSLOCATION OF CALIFORNIA SEA OTTERS

Pub. L. 99–625, §1, Nov. 7, 1986, 100 Stat. 3500, provided that:

''(a) DEFINITIONS.—For purposes of this section—

''(1) The term 'Act' means the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

''(2) The term 'agency action' has the meaning given that term in section 7(a)(2) of the Act [16 U.S.C. 1536(a)(2)].

''(3) The term 'experimental population' means the population of sea otters provided for under a plan developed under subsection (b).

''(4) The phrase 'parent population' means the population of sea otters existing in California on the date on which proposed regulations setting forth a proposed plan under subsection (b) are issued.

''(5) The phrase 'prospective action' refers to any prospective agency action that—

''(A) may affect either the experimental population or the parent population; and

''(B) has evolved to the point where meaningful consultation under section 7(a)(2) or (3) of the Act [16 U.S.C. 1536(a)(2), (3)] can take place.

''(6) The term 'Secretary' means the Secretary of the Interior.

''(7) The term 'Service' means the United States Fish and Wildlife Service.

''(b) PLAN SPECIFICATIONS.—The Secretary may develop and implement, in accordance with this section, a plan for the relocation and management of a population of California sea otters from the existing range of the parent population to another location. The plan, which must be developed by regulation and administered by the Service in cooperation with the appropriate State agency, shall include the following:

''(1) The number, age, and sex of sea otters proposed to be relocated.

''(2) The manner in which the sea otters will be captured, translocated, released, monitored, and protected.

''(3) The specification of a zone (hereinafter referred to as the 'translocation zone') to which the experimental population will be relocated. The zone must have appropriate characteristics for furthering the conservation of the species.

''(4) The specification of a zone (hereinafter referred to as the 'management zone') that—

''(A) surrounds the translocation zone; and

''(B) does not include the existing range of the parent population or adjacent range where expansion is necessary for the recovery of the species.

The purpose of the management zone is to (i) facilitate the management of sea otters and the containment of the experimental population within the translocation zone, and (ii) to prevent, to the maximum extent feasible, conflict with other fishery resources within the management zone by the experimental population. Any sea otter found within the management zone shall be treated as a member of the experimental population. The Service shall use all feasible non-lethal means and measures to capture any sea otter found within the management zone and return it to either the translocation zone or to the range of the parent population.

''(5) Measures, including an adequate funding mechanism, to isolate and contain the experimental population.

''(6) A description of the relationship of the implementation of the plan to the status of the species under the Act and to determinations of the Secretary under section 7 of the Act [16 U.S.C. 1536].

''(c) STATUS OF MEMBERS OF THE EXPERIMENTAL POPULATION.—(1) Any member of the experimental population shall be treated while within the translocation zone as a threatened species for purposes of the Act, except that—

''(A) section 7 of the Act [16 U.S.C. 1536] shall only apply to agency actions that—

''(i) are undertaken within the translocation zone,

''(ii) are not defense-related agency actions, and

''(iii) are initiated after the date of the enactment of this section [Nov. 7, 1986]; and

''(B) with respect to defense-related actions within the translocation zone, members of the experimental population shall be treated as members of a species that is proposed to be listed under section 4 of the Act [16 U.S.C. 1533].

For purposes of this paragraph, the term 'defense-related agency action' means an agency action proposed to be carried out directly by a military department.

''(2) For purposes of section 7 of the Act [16 U.S.C. 1536], any member of the experimental population shall be treated while within the management zone as a member of a species that is proposed to be listed under section 4 of the Act [16 U.S.C. 1533]. Section 9 of the Act [16 U.S.C. 1538] applies to members of the experimental population; except that any incidental taking of such a member during the course of an otherwise lawful activity within the management zone, may not be treated as a violation of the Act or the Marine Mammal Protection Act of 1972 [16 U.S.C. 1361 et seq.].

''(d) IMPLEMENTATION OF PLAN.—The Secretary shall implement the plan developed under subsection (b)—

''(1) after the Secretary provides an opinion under section 7(b) of the Act [16 U.S.C. 1536(b)] regarding each prospective action for which consultation was initiated by a Federal agency or requested by a prospective permit or license applicant before April 1, 1986; or

''(2) if no consultation under section 7(a)(2) or (3) regarding any prospective action is initiated or requested by April 1, 1986, at any time after that date.

''(e) CONSULTATION AND EFFECT OF OPINION.—A Federal agency shall promptly consult with the Secretary, under section 7(a)(3) of the Act [16 U.S.C. 1536(a)(3)], at the request of, and in cooperation with, any permit or license applicant regarding any prospective action. The time limitations applicable to consultations under section 7(a)(2) of the Act apply to consultations under the preceding sentence. In applying section 7(b)(3)(B) with respect to an opinion on a prospective action that is provided after consultation under section 7(a)(3), that opinion shall be treated as the opinion issued after consultation under section 7(a)(2) unless the Secretary finds, after notice and opportunity for comment in accordance with section 553 of title 5, United States Code, that a significant change has been made with respect to the action or that a significant change has occurred regarding the information used during the initial consultation. The interested party may petition the Secretary to make a finding under the preceding sentence. The Secretary may implement any reasonable and prudent alternatives specified in any opinion referred to in this subsection through appropriate agreements with any such Federal agency, prospective permit or license applicant, or other interested party.

''(f) CONSTRUCTION.—For purposes of implementing the plan, no act by the Service, an authorized State agency, or an authorized agent of the Service or such an agency with respect to a sea otter that is necessary to effect the relocation or management of any sea otter under the plan may be treated as a violation of any provision of the Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).''

§ 1537. International cooperation

(a) Financial assistance

As a demonstration of the commitment of the United States to the worldwide protection of endangered species and threatened species, the President may, subject to the provisions of section 1306 of title 31, use foreign currencies accruing to the United States Government under the Food for Peace Act [7 U.S.C. 1691 et seq.] or any other law to provide to any foreign country (with its consent) assistance in the development and management of programs in that country

which the Secretary determines to be necessary or useful for the conservation of any endangered species or threatened species listed by the Secretary pursuant to section 1533 of this title. The President shall provide assistance (which includes, but is not limited to, the acquisition, by lease or otherwise, of lands, waters, or interests therein) to foreign countries under this section under such terms and conditions as he deems appropriate. Whenever foreign currencies are available for the provision of assistance under this section, such currencies shall be used in preference to funds appropriated under the authority of section 1542 of this title.

(b) Encouragement of foreign programs

In order to carry out further the provisions of this chapter, the Secretary, through the Secretary of State, shall encourage—

(1) foreign countries to provide for the conservation of fish or wildlife and plants including endangered species and threatened species listed pursuant to section 1533 of this title;

(2) the entering into of bilateral or multilateral agreements with foreign countries to provide for such conservation; and

(3) foreign persons who directly or indirectly take fish or wildlife or plants in foreign countries or on the high seas for importation into the United States for commercial or other purposes to develop and carry out with such assistance as he may provide, conservation practices designed to enhance such fish or wildlife or plants and their habitat.

(c) Personnel

After consultation with the Secretary of State, the Secretary may—

(1) assign or otherwise make available any officer or employee of his department for the purpose of cooperating with foreign countries and international organizations in developing personnel resources and programs which promote the conservation of fish or wildlife or plants; and

(2) conduct or provide financial assistance for the educational training of foreign personnel, in this country or abroad, in fish, wildlife, or plant management, research and law enforcement and to render professional assistance abroad in such matters.

(d) Investigations

After consultation with the Secretary of State and the Secretary of the Treasury, as appropriate, the Secretary may conduct or cause to be conducted such law enforcement investigations and research abroad as he deems necessary to carry out the purposes of this chapter.

(Pub. L. 93–205, § 8, Dec. 28, 1973, 87 Stat. 892; Pub. L. 96–159, § 5, Dec. 28, 1979, 93 Stat. 1228; Pub. L. 110–246, title III, § 3001(b)(1)(A), (2)(N), June 18, 2008, 122 Stat. 1820.)

REFERENCES IN TEXT

The Food for Peace Act, referred to in subsec. (a), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified generally to chapter 41 (§ 1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

CODIFICATION

In subsec. (a), ''section 1306 of title 31'' substituted for ''section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724)'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246 substituted ''Food for Peace Act'' for ''Agricultural Trade Development and Assistance Act of 1954''.

1979—Subsec. (b)(1). Pub. L. 96–159, § 5(1), encouraged conservation of plants.

Subsec. (b)(3). Pub. L. 96–159, § 5(2), encouraged conservation practices for enhancement of plants taken for importation into the United States.

Subsec. (c)(1). Pub. L. 96–159, § 5(3), made personnel available for plant conservation.

Subsec. (e). Pub. L. 96–159, § 5(4), struck out subsec. (e) relating to Convention implementation.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

CONSERVATION OF SEA TURTLES; IMPORTATION OF SHRIMP

Pub. L. 101–162, title VI, § 609, Nov. 21, 1989, 103 Stat. 1037, provided that:

''(a) The Secretary of State, in consultation with the Secretary of Commerce, shall, with respect to those species of sea turtles the conservation of which is the subject of regulations promulgated by the Secretary of Commerce on June 29, 1987—

''(1) initiate negotiations as soon as possible for the development of bilateral or multilateral agreements with other nations for the protection and conservation of such species of sea turtles;

''(2) initiate negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which, as determined by the Secretary of Commerce, may affect adversely such species of sea turtles, for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species of sea turtles;

''(3) encourage such other agreements to promote the purposes of this section with other nations for the protection of specific ocean and land regions which are of special significance to the health and stability of such species of sea turtles;

''(4) initiate the amendment of any existing international treaty for the protection and conservation of such species of sea turtles to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section; and

''(5) provide to the Congress by not later than one year after the date of enactment of this section [Nov. 21, 1989]—

''(A) a list of each nation which conducts commercial shrimp fishing operations within the geographic range of distribution of such sea turtles;

''(B) a list of each nation which conducts commercial shrimp fishing operations which may affect adversely such species of sea turtles; and

''(C) a full report on—

''(i) the results of his efforts under this section; and

''(ii) the status of measures taken by each nation listed pursuant to paragraph (A) or (B) to protect and conserve such sea turtles.

''(b)(1) IN GENERAL.—The importation of shrimp or products from shrimp which have been harvested with commercial fishing technology which may affect adversely such species of sea turtles shall be prohibited not later than May 1, 1991, except as provided in paragraph (2).

''(2) CERTIFICATION PROCEDURE.—The ban on importation of shrimp or products from shrimp pursuant to

paragraph (1) shall not apply if the President shall determine and certify to the Congress not later than May 1, 1991, and annually thereafter that—

''(A) the government of the harvesting nation has provided documentary evidence of the adoption of a regulatory program governing the incidental taking of such sea turtles in the course of such harvesting that is comparable to that of the United States; and

''(B) the average rate of that incidental taking by the vessels of the harvesting nation is comparable to the average rate of incidental taking of sea turtles by United States vessels in the course of such harvesting; or

''(C) the particular fishing environment of the harvesting nation does not pose a threat of the incidental taking of such sea turtles in the course of such harvesting.''

EXECUTIVE ORDER NO. 11911

Ex. Ord. No. 11911, Apr. 13, 1976, 41 F.R. 15683, which provided that for purposes of the Convention on International Trade in Endangered Species of Wild Fauna and Flora the Secretary of the Interior be designated as the Management Authority and established the Endangered Species Scientific Authority as the Scientific Authority, with the Secretary of the Interior designated to act on behalf of the United States in all regards as required by the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, was revoked by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617.

DELEGATION OF AUTHORITY REGARDING CERTIFICATION OF COUNTRIES EXPORTING SHRIMP TO UNITED STATES

Memorandum of the President of the United States, Dec. 19, 1990, 56 F.R. 357, provided:

Memorandum for the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 609 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101–162) [set out above], and section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State the functions vested in me by section 609(b) of that Act. The authority delegated by this memorandum may be further redelegated within the Department of State.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

GEORGE BUSH.

§ 1537a. Convention implementation

(a) Management Authority and Scientific Authority

The Secretary of the Interior (hereinafter in this section referred to as the ''Secretary'') is designated as the Management Authority and the Scientific Authority for purposes of the Convention and the respective functions of each such Authority shall be carried out through the United States Fish and Wildlife Service.

(b) Management Authority functions

The Secretary shall do all things necessary and appropriate to carry out the functions of the Management Authority under the Convention.

(c) Scientific Authority functions; determinations

(1) The Secretary shall do all things necessary and appropriate to carry out the functions of the Scientific Authority under the Convention.

(2) The Secretary shall base the determinations and advice given by him under Article IV of the Convention with respect to wildlife upon the best available biological information derived from professionally accepted wildlife management practices; but is not required to make, or require any State to make, estimates of population size in making such determinations or giving such advice.

(d) Reservations by the United States under Convention

If the United States votes against including any species in Appendix I or II of the Convention and does not enter a reservation pursuant to paragraph (3) of Article XV of the Convention with respect to that species, the Secretary of State, before the 90th day after the last day on which such a reservation could be entered, shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives, and to the Committee on the Environment and Public Works of the Senate, a written report setting forth the reasons why such a reservation was not entered.

(e) Wildlife preservation in Western Hemisphere

(1) The Secretary of the Interior (hereinafter in this subsection referred to as the ''Secretary''), in cooperation with the Secretary of State, shall act on behalf of, and represent, the United States in all regards as required by the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (56 Stat. 1354, T.S. 982, hereinafter in this subsection referred to as the ''Western Convention''). In the discharge of these responsibilities, the Secretary and the Secretary of State shall consult with the Secretary of Agriculture, the Secretary of Commerce, and the heads of other agencies with respect to matters relating to or affecting their areas of responsibility.

(2) The Secretary and the Secretary of State shall, in cooperation with the contracting parties to the Western Convention and, to the extent feasible and appropriate, with the participation of State agencies, take such steps as are necessary to implement the Western Convention. Such steps shall include, but not be limited to—

(A) cooperation with contracting parties and international organizations for the purpose of developing personnel resources and programs that will facilitate implementation of the Western Convention;

(B) identification of those species of birds that migrate between the United States and other contracting parties, and the habitats upon which those species depend, and the implementation of cooperative measures to ensure that such species will not become endangered or threatened; and

(C) identification of measures that are necessary and appropriate to implement those provisions of the Western Convention which address the protection of wild plants.

(3) No later than September 30, 1985, the Secretary and the Secretary of State shall submit a report to Congress describing those steps taken in accordance with the requirements of this subsection and identifying the principal remaining actions yet necessary for comprehensive and effective implementation of the Western Convention.

(4) The provisions of this subsection shall not be construed as affecting the authority, jurisdic-

tion, or responsibility of the several States to manage, control, or regulate resident fish or wildlife under State law or regulations.

(Pub. L. 93–205, § 8A, as added Pub. L. 96–159, § 6(a)(1), Dec. 28, 1979, 93 Stat. 1228; amended Pub. L. 97–304, § 5[(a)], Oct. 13, 1983, 96 Stat. 1421.)

AMENDMENTS

1982—Subsec. (c). Pub. L. 97–304, § 5[(a)](1), designated existing provisions as par. (1) and added par. (2).

Subsec. (d). Pub. L. 97–304, § 5[(a)](2), substituted provisions relating to reservations by the United States under the Convention for provisions which had established an International Convention Advisory Commission and had provided for its membership, staffing, and operation.

Subsec. (e). Pub. L. 97–304, § 5[(a)](3), substituted provisions implementing the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere for provisions which had provided that the President shall designate those agencies of the Federal Government that shall act on behalf of, and represent, the United States in all regards as required by the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 5(b) of Pub. L. 97–304 provided that: ''The amendment made by paragraph (1) of subsection (a) [amending this section] shall take effect January 1, 1981.''

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

ENDANGERED SPECIES SCIENTIFIC AUTHORITY; INTERIM PERFORMANCE OF FUNCTIONS OF COMMISSION

Section 6(b) of Pub. L. 96–159 provided that until such time as the Chairman, Members, and Executive Secretary of the International Convention Advisory Commission are appointed, but not later than 90 days after Dec. 28, 1979, the functions of the Commission be carried out by the Endangered Species Scientific Authority as established by Ex. Ord. No. 11911, formerly set out as a note under section 1537 of this title, with staff and administrative support being provided by the Secretary of the Interior as set forth in that Executive Order.

§ 1538. Prohibited acts

(a) Generally

(1) Except as provided in sections 1535(g)(2) and 1539 of this title, with respect to any endangered species of fish or wildlife listed pursuant to section 1533 of this title it is unlawful for any person subject to the jurisdiction of the United States to—

(A) import any such species into, or export any such species from the United States;

(B) take any such species within the United States or the territorial sea of the United States;

(C) take any such species upon the high seas;

(D) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of subparagraphs (B) and (C);

(E) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

(F) sell or offer for sale in interstate or foreign commerce any such species; or

(G) violate any regulation pertaining to such species or to any threatened species of fish or wildlife listed pursuant to section 1533 of this title and promulgated by the Secretary pursuant to authority provided by this chapter.

(2) Except as provided in sections 1535(g)(2) and 1539 of this title, with respect to any endangered species of plants listed pursuant to section 1533 of this title, it is unlawful for any person subject to the jurisdiction of the United States to—

(A) import any such species into, or export any such species from, the United States;

(B) remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any such area; or remove, cut, dig up, or damage or destroy any such species on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law;

(C) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

(D) sell or offer for sale in interstate or foreign commerce any such species; or

(E) violate any regulation pertaining to such species or to any threatened species of plants listed pursuant to section 1533 of this title and promulgated by the Secretary pursuant to authority provided by this chapter.

(b) Species held in captivity or controlled environment

(1) The provisions of subsections (a)(1)(A) and (a)(1)(G) of this section shall not apply to any fish or wildlife which was held in captivity or in a controlled environment on (A) December 28, 1973, or (B) the date of the publication in the Federal Register of a final regulation adding such fish or wildlife species to any list published pursuant to subsection (c) of section 1533 of this title: *Provided*, That such holding and any subsequent holding or use of the fish or wildlife was not in the course of a commercial activity. With respect to any act prohibited by subsections (a)(1)(A) and (a)(1)(G) of this section which occurs after a period of 180 days from (i) December 28, 1973, or (ii) the date of publication in the Federal Register of a final regulation adding such fish or wildlife species to any list published pursuant to subsection (c) of section 1533 of this title, there shall be a rebuttable presumption that the fish or wildlife involved in such act is not entitled to the exemption contained in this subsection.

(2)(A) The provisions of subsection (a)(1) of this section shall not apply to—

(i) any raptor legally held in captivity or in a controlled environment on November 10, 1978; or

(ii) any progeny of any raptor described in clause (i);

until such time as any such raptor or progeny is intentionally returned to a wild state.

(B) Any person holding any raptor or progeny described in subparagraph (A) must be able to demonstrate that the raptor or progeny does, in fact, qualify under the provisions of this paragraph, and shall maintain and submit to the Secretary, on request, such inventories, documentation, and records as the Secretary may by regulation require as being reasonably appropriate to carry out the purposes of this paragraph. Such requirements shall not unnecessarily duplicate the requirements of other rules and regulations promulgated by the Secretary.

(c) Violation of Convention

(1) It is unlawful for any person subject to the jurisdiction of the United States to engage in any trade in any specimens contrary to the provisions of the Convention, or to possess any specimens traded contrary to the provisions of the Convention, including the definitions of terms in article I thereof.

(2) Any importation into the United States of fish or wildlife shall, if—

(A) such fish or wildlife is not an endangered species listed pursuant to section 1533 of this title but is listed in Appendix II to the Convention,

(B) the taking and exportation of such fish or wildlife is not contrary to the provisions of the Convention and all other applicable requirements of the Convention have been satisfied,

(C) the applicable requirements of subsections (d), (e), and (f) of this section have been satisfied, and

(D) such importation is not made in the course of a commercial activity,

be presumed to be an importation not in violation of any provision of this chapter or any regulation issued pursuant to this chapter.

(d) Imports and exports

(1) In general

It is unlawful for any person, without first having obtained permission from the Secretary, to engage in business—

(A) as an importer or exporter of fish or wildlife (other than shellfish and fishery products which (i) are not listed pursuant to section 1533 of this title as endangered species or threatened species, and (ii) are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants; or

(B) as an importer or exporter of any amount of raw or worked African elephant ivory.

(2) Requirements

Any person required to obtain permission under paragraph (1) of this subsection shall—

(A) keep such records as will fully and correctly disclose each importation or exportation of fish, wildlife, plants, or African elephant ivory made by him and the subsequent disposition made by him with respect to such fish, wildlife, plants, or ivory;

(B) at all reasonable times upon notice by a duly authorized representative of the Secretary, afford such representative access to his place of business, an opportunity to examine his inventory of imported fish, wildlife, plants, or African elephant ivory and the records required to be kept under subparagraph (A) of this paragraph, and to copy such records; and

(C) file such reports as the Secretary may require.

(3) Regulations

The Secretary shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this subsection.

(4) Restriction on consideration of value or amount of African elephant ivory imported or exported

In granting permission under this subsection for importation or exportation of African elephant ivory, the Secretary shall not vary the requirements for obtaining such permission on the basis of the value or amount of ivory imported or exported under such permission.

(e) Reports

It is unlawful for any person importing or exporting fish or wildlife (other than shellfish and fishery products which (1) are not listed pursuant to section 1533 of this title as endangered or threatened species, and (2) are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants to fail to file any declaration or report as the Secretary deems necessary to facilitate enforcement of this chapter or to meet the obligations of the Convention.

(f) Designation of ports

(1) It is unlawful for any person subject to the jurisdiction of the United States to import into or export from the United States any fish or wildlife (other than shellfish and fishery products which (A) are not listed pursuant to section 1533 of this title as endangered species or threatened species, and (B) are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants, except at a port or ports designated by the Secretary of the Interior. For the purpose of facilitating enforcement of this chapter and reducing the costs thereof, the Secretary of the Interior, with approval of the Secretary of the Treasury and after notice and opportunity for public hearing, may, by regulation, designate ports and change such designations. The Secretary of the Interior, under such terms and conditions as he may prescribe, may permit the importation or exportation at nondesignated ports in the interest of the health or safety of the fish or wildlife or plants, or for other reasons, if, in his discretion, he deems it appro-

priate and consistent with the purpose of this subsection.

(2) Any port designated by the Secretary of the Interior under the authority of section 668cc–4(d)[1] of this title, shall, if such designation is in effect on December 27, 1973, be deemed to be a port designated by the Secretary under paragraph (1) of this subsection until such time as the Secretary otherwise provides.

(g) Violations

It is unlawful for any person subject to the jurisdiction of the United States to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in this section.

(Pub. L. 93–205, § 9, Dec. 28, 1973, 87 Stat. 893; Pub. L. 95–632, § 4, Nov. 10, 1978, 92 Stat. 3760; Pub. L. 97–304, § 9(b), Oct. 13, 1982, 96 Stat. 1426; Pub. L. 100–478, title I, § 1006, title II, § 2301, Oct. 7, 1988, 102 Stat. 2308, 2321; Pub. L. 100–653, title IX, § 905, Nov. 14, 1988, 102 Stat. 3835.)

REFERENCES IN TEXT

Section 668cc–4 of this title, referred to in subsec. (f)(2), was repealed by Pub. L. 93–205, § 14, Dec. 28, 1973, 87 Stat. 903.

AMENDMENTS

1988—Subsec. (a)(2)(B). Pub. L. 100–478, § 1006, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''remove and reduce to possession any such species from areas under Federal jurisdiction;''.

Subsec. (d). Pub. L. 100–478, § 2301, amended subsec. (d) generally, revising and restating as pars. (1) to (4) provisions of former pars. (1) to (3).

Subsec. (d)(1)(A). Pub. L. 100–653 inserted ''or plants'' after ''purposes)''.

1982—Subsec. (a)(2)(B) to (E). Pub. L. 97–304, § 9(b)(1), added subpar. (B) and redesignated former subpars. (B), (C), and (D) as (C), (D), and (E), respectively.

Subsec. (b)(1). Pub. L. 97–304, § 9(b)(2), substituted ''The provisions of subsections (a)(1)(A) and (a)(1)(G) of this section shall not apply to any fish or wildlife which was held in captivity or in a controlled environment on (A) December 28, 1973, or (B) the date of the publication in the Federal Register of a final regulation adding such fish or wildlife species to any list published pursuant to subsection (c) of section 1533 of this title: *Provided*, That such holding and any subsequent holding or use of the fish or wildlife was not in the course of a commercial activity. With respect to any act prohibited by subsections (a)(1)(A) and (a)(1)(G) of this section which occurs after a period of 180 days from (i) December 28, 1973, or (ii) the date of publication in the Federal Register of a final regulation adding such fish or wildlife species to any list published pursuant to subsection (c) of section 1533 of this title, there shall be a rebuttable presumption that the fish or wildlife involved in such act is not entitled to the exemption contained in this subsection'' for ''The provisions of this section shall not apply to any fish or wildlife held in captivity or in a controlled environment on December 28, 1973, if the purposes of such holding are not contrary to the purposes of this chapter; except that this subsection shall not apply in the case of any fish or wildlife held in the course of a commercial activity. With respect to any act prohibited by this section which occurs after a period of 180 days from December 28, 1973, there shall be a rebuttable presumption that the fish or wildlife involved in such act was not held in captivity or in a controlled environment on December 28, 1973''.

Subsec. (b)(2)(A). Pub. L. 97–304, § 9(b)(3), substituted ''The provisions of subsection (a)(1) of this section shall not apply to'' for ''This section shall not apply to'' in provisions preceding cl. (i).

1978—Subsec. (b). Pub. L. 95–632 designated existing provision as par. (1) and added par. (2).

HUMAN ACTIVITIES WITHIN PROXIMITY OF WHALES

Pub. L. 103–238, § 17, Apr. 30, 1994, 108 Stat. 559, provided that:

''(a) LAWFUL APPROACHES.—In waters of the United States surrounding the State of Hawaii, it is lawful for a person subject to the jurisdiction of the United States to approach, by any means other than an aircraft, no closer than 100 yards to a humpback whale, regardless of whether the approach is made in waters designated under section 222.31 of title 50, Code of Federal Regulations, as cow/calf waters.

''(b) TERMINATION OF LEGAL EFFECT OF CERTAIN REGULATIONS.—Subsection (b) of section 222.31 of title 50, Code of Federal Regulations, shall cease to be in force and effect.''

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§ 1539. Exceptions

(a) Permits

(1) The Secretary may permit, under such terms and conditions as he shall prescribe—

(A) any act otherwise prohibited by section 1538 of this title for scientific purposes or to enhance the propagation or survival of the affected species, including, but not limited to, acts necessary for the establishment and maintenance of experimental populations pursuant to subsection (j) of this section; or

(B) any taking otherwise prohibited by section 1538(a)(1)(B) of this title if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

(2)(A) No permit may be issued by the Secretary authorizing any taking referred to in paragraph (1)(B) unless the applicant therefor submits to the Secretary a conservation plan that specifies—

(i) the impact which will likely result from such taking;

(ii) what steps the applicant will take to minimize and mitigate such impacts, and the funding that will be available to implement such steps;

(iii) what alternative actions to such taking the applicant considered and the reasons why such alternatives are not being utilized; and

(iv) such other measures that the Secretary may require as being necessary or appropriate for purposes of the plan.

(B) If the Secretary finds, after opportunity for public comment, with respect to a permit application and the related conservation plan that—

(i) the taking will be incidental;

(ii) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking;

(iii) the applicant will ensure that adequate funding for the plan will be provided;

(iv) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and

(v) the measures, if any, required under subparagraph (A)(iv) will be met;

[1] See References in Text note below.

and he has received such other assurances as he may require that the plan will be implemented, the Secretary shall issue the permit. The permit shall contain such terms and conditions as the Secretary deems necessary or appropriate to carry out the purposes of this paragraph, including, but not limited to, such reporting requirements as the Secretary deems necessary for determining whether such terms and conditions are being complied with.

(C) The Secretary shall revoke a permit issued under this paragraph if he finds that the permittee is not complying with the terms and conditions of the permit.

(b) Hardship exemptions

(1) If any person enters into a contract with respect to a species of fish or wildlife or plant before the date of the publication in the Federal Register of notice of consideration of that species as an endangered species and the subsequent listing of that species as an endangered species pursuant to section 1533 of this title will cause undue economic hardship to such person under the contract, the Secretary, in order to minimize such hardship, may exempt such person from the application of section 1538(a) of this title to the extent the Secretary deems appropriate if such person applies to him for such exemption and includes with such application such information as the Secretary may require to prove such hardship; except that (A) no such exemption shall be for a duration of more than one year from the date of publication in the Federal Register of notice of consideration of the species concerned, or shall apply to a quantity of fish or wildlife or plants in excess of that specified by the Secretary; (B) the one-year period for those species of fish or wildlife listed by the Secretary as endangered prior to December 28, 1973, shall expire in accordance with the terms of section 668cc–3[1] of this title; and (C) no such exemption may be granted for the importation or exportation of a specimen listed in Appendix I of the Convention which is to be used in a commercial activity.

(2) As used in this subsection, the term ''undue economic hardship'' shall include, but not be limited to:

(A) substantial economic loss resulting from inability caused by this chapter to perform contracts with respect to species of fish and wildlife entered into prior to the date of publication in the Federal Register of a notice of consideration of such species as an endangered species;

(B) substantial economic loss to persons who, for the year prior to the notice of consideration of such species as an endangered species, derived a substantial portion of their income from the lawful taking of any listed species, which taking would be made unlawful under this chapter; or

(C) curtailment of subsistence taking made unlawful under this chapter by persons (i) not reasonably able to secure other sources of subsistence; and (ii) dependent to a substantial extent upon hunting and fishing for subsistence; and (iii) who must engage in such curtailed taking for subsistence purposes.

(3) The Secretary may make further requirements for a showing of undue economic hardship as he deems fit. Exceptions granted under this section may be limited by the Secretary in his discretion as to time, area, or other factor of applicability.

(c) Notice and review

The Secretary shall publish notice in the Federal Register of each application for an exemption or permit which is made under this section. Each notice shall invite the submission from interested parties, within thirty days after the date of the notice, of written data, views, or arguments with respect to the application; except that such thirty-day period may be waived by the Secretary in an emergency situation where the health or life of an endangered animal is threatened and no reasonable alternative is available to the applicant, but notice of any such waiver shall be published by the Secretary in the Federal Register within ten days following the issuance of the exemption or permit. Information received by the Secretary as a part of any application shall be available to the public as a matter of public record at every stage of the proceeding.

(d) Permit and exemption policy

The Secretary may grant exceptions under subsections (a)(1)(A) and (b) of this section only if he finds and publishes his finding in the Federal Register that (1) such exceptions were applied for in good faith, (2) if granted and exercised will not operate to the disadvantage of such endangered species, and (3) will be consistent with the purposes and policy set forth in section 1531 of this title.

(e) Alaska natives

(1) Except as provided in paragraph (4) of this subsection the provisions of this chapter shall not apply with respect to the taking of any endangered species or threatened species, or the importation of any such species taken pursuant to this section, by—

(A) any Indian, Aleut, or Eskimo who is an Alaskan Native who resides in Alaska; or

(B) any non-native permanent resident of an Alaskan native village;

if such taking is primarily for subsistence purposes. Non-edible byproducts of species taken pursuant to this section may be sold in interstate commerce when made into authentic native articles of handicrafts and clothing; except that the provisions of this subsection shall not apply to any non-native resident of an Alaskan native village found by the Secretary to be not primarily dependent upon the taking of fish and wildlife for consumption or for the creation and sale of authentic native articles of handicrafts and clothing.

(2) Any taking under this subsection may not be accomplished in a wasteful manner.

(3) As used in this subsection—

(i) The term ''subsistence'' includes selling any edible portion of fish or wildlife in native villages and towns in Alaska for native consumption within native villages or towns; and

(ii) The term ''authentic native articles of handicrafts and clothing'' means items composed wholly or in some significant respect of

[1] See References in Text note below.

natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacing, beading, drawing, and painting.

(4) Notwithstanding the provisions of paragraph (1) of this subsection, whenever the Secretary determines that any species of fish or wildlife which is subject to taking under the provisions of this subsection is an endangered species or threatened species, and that such taking materially and negatively affects the threatened or endangered species, he may prescribe regulations upon the taking of such species by any such Indian, Aleut, Eskimo, or non-Native Alaskan resident of an Alaskan native village. Such regulations may be established with reference to species, geographical description of the area included, the season for taking, or any other factors related to the reason for establishing such regulations and consistent with the policy of this chapter. Such regulations shall be prescribed after a notice and hearings in the affected judicial districts of Alaska and as otherwise required by section 1373 of this title, and shall be removed as soon as the Secretary determines that the need for their impositions has disappeared.

(f) Pre-Act endangered species parts exemption; application and certification; regulation; validity of sales contract; separability; renewal of exemption; expiration of renewal certification

(1) As used in this subsection—

(A) The term ''pre-Act endangered species part'' means—

(i) any sperm whale oil, including derivatives thereof, which was lawfully held within the United States on December 28, 1973, in the course of a commercial activity; or

(ii) any finished scrimshaw product, if such product or the raw material for such product was lawfully held within the United States on December 28, 1973, in the course of a commercial activity.

(B) The term ''scrimshaw product'' means any art form which involves the substantial etching or engraving of designs upon, or the substantial carving of figures, patterns, or designs from, any bone or tooth of any marine mammal of the order Cetacea. For purposes of this subsection, polishing or the adding of minor superficial markings does not constitute substantial etching, engraving, or carving.

(2) The Secretary, pursuant to the provisions of this subsection, may exempt, if such exemption is not in violation of the Convention, any pre-Act endangered species part from one or more of the following prohibitions:

(A) The prohibition on exportation from the United States set forth in section 1538(a)(1)(A) of this title.

(B) Any prohibition set forth in section 1538(a)(1)(E) or (F) of this title.

(3) Any person seeking an exemption described in paragraph (2) of this subsection shall make application therefor to the Secretary in such form and manner as he shall prescribe, but no such application may be considered by the Secretary unless the application—

(A) is received by the Secretary before the close of the one-year period beginning on the date on which regulations promulgated by the Secretary to carry out this subsection first take effect;

(B) contains a complete and detailed inventory of all pre-Act endangered species parts for which the applicant seeks exemption;

(C) is accompanied by such documentation as the Secretary may require to prove that any endangered species part or product claimed by the applicant to be a pre-Act endangered species part is in fact such a part; and

(D) contains such other information as the Secretary deems necessary and appropriate to carry out the purposes of this subsection.

(4) If the Secretary approves any application for exemption made under this subsection, he shall issue to the applicant a certificate of exemption which shall specify—

(A) any prohibition in section 1538(a) of this title which is exempted;

(B) the pre-Act endangered species parts to which the exemption applies;

(C) the period of time during which the exemption is in effect, but no exemption made under this subsection shall have force and effect after the close of the three-year period beginning on the date of issuance of the certificate unless such exemption is renewed under paragraph (8); and

(D) any term or condition prescribed pursuant to paragraph (5)(A) or (B), or both, which the Secretary deems necessary or appropriate.

(5) The Secretary shall prescribe such regulations as he deems necessary and appropriate to carry out the purposes of this subsection. Such regulations may set forth—

(A) terms and conditions which may be imposed on applicants for exemptions under this subsection (including, but not limited to, requirements that applicants register inventories, keep complete sales records, permit duly authorized agents of the Secretary to inspect such inventories and records, and periodically file appropriate reports with the Secretary); and

(B) terms and conditions which may be imposed on any subsequent purchaser of any pre-Act endangered species part covered by an exemption granted under this subsection;

to insure that any such part so exempted is adequately accounted for and not disposed of contrary to the provisions of this chapter. No regulation prescribed by the Secretary to carry out the purposes of this subsection shall be subject to section 1533(f)(2)(A)(i) of this title.

(6)(A) Any contract for the sale of pre-Act endangered species parts which is entered into by the Administrator of General Services prior to the effective date of this subsection and pursuant to the notice published in the Federal Register on January 9, 1973, shall not be rendered invalid by virtue of the fact that fulfillment of such contract may be prohibited under section 1538(a)(1)(F) of this title.

(B) In the event that this paragraph is held invalid, the validity of the remainder of this chapter, including the remainder of this subsection, shall not be affected.

(7) Nothing in this subsection shall be construed to—

(A) exonerate any person from any act committed in violation of paragraphs (1)(A), (1)(E), or (1)(F) of section 1538(a) of this title prior to July 12, 1976; or

(B) immunize any person from prosecution for any such act.

(8)(A)(i)[2] Any valid certificate of exemption which was renewed after October 13, 1982, and was in effect on March 31, 1988, shall be deemed to be renewed for a six-month period beginning on October 7, 1988. Any person holding such a certificate may apply to the Secretary for one additional renewal of such certificate for a period not to exceed 5 years beginning on October 7, 1988.

(B) If the Secretary approves any application for renewal of an exemption under this paragraph, he shall issue to the applicant a certificate of renewal of such exemption which shall provide that all terms, conditions, prohibitions, and other regulations made applicable by the previous certificate shall remain in effect during the period of the renewal.

(C) No exemption or renewal of such exemption made under this subsection shall have force and effect after the expiration date of the certificate of renewal of such exemption issued under this paragraph.

(D) No person may, after January 31, 1984, sell or offer for sale in interstate or foreign commerce, any pre-Act finished scrimshaw product unless such person holds a valid certificate of exemption issued by the Secretary under this subsection, and unless such product or the raw material for such product was held by such person on October 13, 1982.

(g) Burden of proof

In connection with any action alleging a violation of section 1538 of this title, any person claiming the benefit of any exemption or permit under this chapter shall have the burden of proving that the exemption or permit is applicable, has been granted, and was valid and in force at the time of the alleged violation.

(h) Certain antique articles; importation; port designation; application for return of articles

(1) Sections 1533(d) and 1538(a) and (c) of this title do not apply to any article which—

(A) is not less than 100 years of age;

(B) is composed in whole or in part of any endangered species or threatened species listed under section 1533 of this title;

(C) has not been repaired or modified with any part of any such species on or after December 28, 1973; and

(D) is entered at a port designated under paragraph (3).

(2) Any person who wishes to import an article under the exception provided by this subsection shall submit to the customs officer concerned at the time of entry of the article such documentation as the Secretary of the Treasury, after consultation with the Secretary of the Interior, shall by regulation require as being necessary to establish that the article meets the requirements set forth in paragraph (1)(A), (B), and (C).

(3) The Secretary of the Treasury, after consultation with the Secretary of the Interior, shall designate one port within each customs region at which articles described in paragraph (1)(A), (B), and (C) must be entered into the customs territory of the United States.

(4) Any person who imported, after December 27, 1973, and on or before November 10, 1978, any article described in paragraph (1) which—

(A) was not repaired or modified after the date of importation with any part of any endangered species or threatened species listed under section 1533 of this title;

(B) was forfeited to the United States before November 10, 1978, or is subject to forfeiture to the United States on such date of enactment, pursuant to the assessment of a civil penalty under section 1540 of this title; and

(C) is in the custody of the United States on November 10, 1978;

may, before the close of the one-year period beginning on November 10, 1978, make application to the Secretary for return of the article. Application shall be made in such form and manner, and contain such documentation, as the Secretary prescribes. If on the basis of any such application which is timely filed, the Secretary is satisfied that the requirements of this paragraph are met with respect to the article concerned, the Secretary shall return the article to the applicant and the importation of such article shall, on and after the date of return, be deemed to be a lawful importation under this chapter.

(i) Noncommercial transshipments

Any importation into the United States of fish or wildlife shall, if—

(1) such fish or wildlife was lawfully taken and exported from the country of origin and country of reexport, if any;

(2) such fish or wildlife is in transit or transshipment through any place subject to the jurisdiction of the United States en route to a country where such fish or wildlife may be lawfully imported and received;

(3) the exporter or owner of such fish or wildlife gave explicit instructions not to ship such fish or wildlife through any place subject to the jurisdiction of the United States, or did all that could have reasonably been done to prevent transshipment, and the circumstances leading to the transshipment were beyond the exporter's or owner's control;

(4) the applicable requirements of the Convention have been satisfied; and

(5) such importation is not made in the course of a commercial activity,

be an importation not in violation of any provision of this chapter or any regulation issued pursuant to this chapter while such fish or wildlife remains in the control of the United States Customs Service.

(j) Experimental populations

(1) For purposes of this subsection, the term ''experimental population'' means any popu-

[2] So in original. No cl. (ii) has been enacted.

lation (including any offspring arising solely therefrom) authorized by the Secretary for release under paragraph (2), but only when, and at such times as, the population is wholly separate geographically from nonexperimental populations of the same species.

(2)(A) The Secretary may authorize the release (and the related transportation) of any population (including eggs, propagules, or individuals) of an endangered species or a threatened species outside the current range of such species if the Secretary determines that such release will further the conservation of such species.

(B) Before authorizing the release of any population under subparagraph (A), the Secretary shall by regulation identify the population and determine, on the basis of the best available information, whether or not such population is essential to the continued existence of an endangered species or a threatened species.

(C) For the purposes of this chapter, each member of an experimental population shall be treated as a threatened species; except that—

(i) solely for purposes of section 1536 of this title (other than subsection (a)(1) thereof), an experimental population determined under subparagraph (B) to be not essential to the continued existence of a species shall be treated, except when it occurs in an area within the National Wildlife Refuge System or the National Park System, as a species proposed to be listed under section 1533 of this title; and

(ii) critical habitat shall not be designated under this chapter for any experimental population determined under subparagraph (B) to be not essential to the continued existence of a species.

(3) The Secretary, with respect to populations of endangered species or threatened species that the Secretary authorized, before October 13, 1982, for release in geographical areas separate from the other populations of such species, shall determine by regulation which of such populations are an experimental population for the purposes of this subsection and whether or not each is essential to the continued existence of an endangered species or a threatened species.

(Pub. L. 93–205, §10, Dec. 28, 1973, 87 Stat. 896; Pub. L. 94–359, §§2, 3, July 12, 1976, 90 Stat. 911, 912; Pub. L. 95–632, §5, Nov. 10, 1978, 92 Stat. 3760; Pub. L. 96–159, §7, Dec. 28, 1979, 93 Stat. 1230; Pub. L. 97–304, §6(1)–(4)(A), (5), (6), Oct. 13, 1982, 96 Stat. 1422–1424; Pub. L. 100–478, title I, §§1011, 1013(b), (c), Oct. 7, 1988, 102 Stat. 2314, 2315.)

REFERENCES IN TEXT

Section 668cc–3 of this title, referred to in subsec. (b), was repealed by Pub. L. 93–205, §14, Dec. 28, 1973, 87 Stat. 903.

Subsec. (f) of section 1533 of this title, referred to in subsec. (f)(5), which related to promulgation of regulations by the Secretary was struck out, and subsec. (g) of section 1533 of this title, was redesignated as subsec. (f), by Pub. L. 97–304, §2(a)(4)(B), (C), Oct. 13, 1982, 96 Stat. 1415. For provisions relating to promulgation of regulations, see subsecs. (b) and (h) of section 1533 of this title.

Effective date of this subsection, referred to in subsec. (f)(6)(A), probably means the date of enactment of subsec. (f) by section 2 of Pub. L. 94–359, July 12, 1976.

October 7, 1988, referred to in subsec. (f)(8)(A), was in the original ''the date of enactment of the Endangered Species Act Amendments of 1988'' and ''the date of such enactment'' which were translated as meaning the date of enactment of title I of Pub. L. 100–478 which is entitled ''Endangered Species Act Amendments of 1988'' and which was approved Oct. 7, 1988.

AMENDMENTS

1988—Subsec. (c). Pub. L. 100–478, §1013(b), substituted ''notice, of'' for ''notice,'' in second sentence.

Subsec. (e)(3)(ii). Pub. L. 100–478, §1013(c), substituted ''lacing,'' for ''lacking,''.

Subsec. (f)(8)(A). Pub. L. 100–478, §1011(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''Any person to whom a certificate of exemption has been issued under paragraph (4) of this subsection may apply to the Secretary for a renewal of such exemption for a period not to exceed three years beginning on the expiration date of such certificate. Such application shall be made in the same manner as the application for exemption was made under paragraph (3), but without regard to subparagraph (A) of such paragraph.''

Subsec. (f)(8)(B). Pub. L. 100–478, §1011(b), substituted ''previous'' for ''original''.

Subsec. (f)(8)(D). Pub. L. 100–478, §1011(c), added subpar. (D).

Subsec. (f)(9). Pub. L. 100–478, §1011(d), struck out par. (9) which provided for comprehensive review by Secretary of effectiveness of regulations prescribed pursuant to subsec. (f)(5) of this section.

1982—Subsec. (a). Pub. L. 97–304, §6(1), designated as par. (1) and the beginning phrase of subpar. (A) thereof the existing provisions consisting of language authorizing the Secretary to permit, under such terms and conditions as he may prescribe, any act otherwise prohibited by section 1538 of this title for scientific purposes or to enhance the propagation or survival of the affected species, and inserted remainder of par. (1)(A) and pars. (1)(B) and (2).

Subsec. (d). Pub. L. 97–304, §6(2), substituted ''subsections (a)(1)(A) and (b) of this section'' for ''subsections (a) and (b) of this section''.

Subsec. (f)(1)(B). Pub. L. 97–304, §6(3)(A), substituted ''involves the substantial etching or engraving of designs upon, or the substantial carving of figures'' for ''involves the etching or engraving of designs upon, or the carving of figures'' and inserted provision that, for purposes of this subsection, polishing or the adding of minor superficial markings does not constitute substantial etching, engraving, or carving.

Subsec. (f)(9). Pub. L. 97–304, §6(3)(B), added par. (9).

Subsec. (h)(1). Pub. L. 97–304, §6(4)(A), struck out ''(other than scrimshaw)'' after ''do not apply to any article'' in provisions preceding subpar. (A) and in subpar. (A) substituted ''is not less than 100 years of age'' for ''was made before 1830''.

Subsec. (i). Pub. L. 97–304, §6(5), substituted provisions covering noncommercial transshipments of fish or wildlife for provisions that had related to exemptions from the provisions of this title of the Tellico Dam and Reservoir Project and the Grayrocks Dam and Reservoir Project and to the operation of the Missouri Basin Power Project.

Subsec. (j). Pub. L. 97–304, §6(6), added subsec. (j).

1979—Subsec. (f)(4)(C). Pub. L. 96–159, §7(1), inserted ''unless such exemption is renewed under paragraph (8)'' after ''issuance of the certificate''.

Subsec. (f)(8). Pub. L. 96–159, §7(2), added par. (8).

1978—Subsecs. (h), (i). Pub. L. 95–632 added subsecs. (h) and (i).

1976—Subsec. (c). Pub. L. 94–359, §3, substituted ''section'' for ''subsection'' and inserted ''; except that such thirty-day period may be waived by the Secretary in an emergency situation where the health or life of an endangered animal is threatened and no reasonable alternative is available to the applicant, but notice of any such waiver shall be published by the Secretary in the Federal Register within ten days following the issuance of the exemption or permit.'' after ''every stage of the proceeding''.

Subsecs. (f), (g). Pub. L. 94–359, § 2, added subsecs. (f) and (g).

EFFECTIVE DATE OF 1982 AMENDMENT

Section 6(4)(B) of Pub. L. 97–304 provided that: ''The amendment made by subparagraph (A) [amending this section] shall take effect January 1, 1981.''

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

SCRIMSHAW EXEMPTIONS

Pub. L. 103–238, § 18, Apr. 30, 1994, 108 Stat. 559, provided that: ''Notwithstanding any other provision of law, any valid certificate of exemption renewed by the Secretary (or deemed to be renewed) under section 10(f)(8) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)) for any person holding such a certificate with respect to the possession of pre-Act finished scrimshaw products or raw material for such products shall remain valid for a period not to exceed 5 years beginning on the date of enactment of this Act [Apr. 30, 1994].''

§ 1540. Penalties and enforcement

(a) Civil penalties

(1) Any person who knowingly violates, and any person engaged in business as an importer or exporter of fish, wildlife, or plants who violates, any provision of this chapter, or any provision of any permit or certificate issued hereunder, or of any regulation issued in order to implement subsection (a)(1)(A), (B), (C), (D), (E), or (F), (a)(2)(A), (B), (C), or (D), (c), (d) (other than regulation relating to recordkeeping or filing of reports), (f) or (g) of section 1538 of this title, may be assessed a civil penalty by the Secretary of not more than $25,000 for each violation. Any person who knowingly violates, and any person engaged in business as an importer or exporter of fish, wildlife, or plants who violates, any provision of any other regulation issued under this chapter may be assessed a civil penalty by the Secretary of not more than $12,000 for each such violation. Any person who otherwise violates any provision of this chapter, or any regulation, permit, or certificate issued hereunder, may be assessed a civil penalty by the Secretary of not more than $500 for each such violation. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Secretary. Upon any failure to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. The court shall hear such action on the record made before the Secretary and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) Hearings held during proceedings for the assessment of civil penalties authorized by paragraph (1) of this subsection shall be conducted in accordance with section 554 of title 5. The Secretary may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) Notwithstanding any other provision of this chapter, no civil penalty shall be imposed if it can be shown by a preponderance of the evidence that the defendant committed an act based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any endangered or threatened species.

(b) Criminal violations

(1) Any person who knowingly violates any provision of this chapter, of any permit or certificate issued hereunder, or of any regulation issued in order to implement subsection (a)(1)(A), (B), (C), (D), (E), or (F), (a)(2)(A), (B), (C), or (D), (c), (d) (other than a regulation relating to recordkeeping, or filing of reports), (f), or (g) of section 1538 of this title shall, upon conviction, be fined not more than $50,000 or imprisoned for not more than one year, or both. Any person who knowingly violates any provision of any other regulation issued under this chapter shall, upon conviction, be fined not more than $25,000 or imprisoned for not more than six months, or both.

(2) The head of any Federal agency which has issued a lease, license, permit, or other agreement authorizing a person to import or export fish, wildlife, or plants, or to operate a quarantine station for imported wildlife, or authorizing the use of Federal lands, including grazing of domestic livestock, to any person who is convicted of a criminal violation of this chapter or any regulation, permit, or certificate issued hereunder may immediately modify, suspend, or revoke each lease, license, permit, or other agreement. The Secretary shall also suspend for a period of up to one year, or cancel, any Federal hunting or fishing permits or stamps issued to any person who is convicted of a criminal violation of any provision of this chapter or any regulation, permit, or certificate issued hereunder. The United States shall not be liable for the payments of any compensation, reimbursement, or damages in connection with the modi-

fication, suspension, or revocation of any leases, licenses, permits, stamps, or other agreements pursuant to this section.

(3) Notwithstanding any other provision of this chapter, it shall be a defense to prosecution under this subsection if the defendant committed the offense based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual, from bodily harm from any endangered or threatened species.

(c) District court jurisdiction

The several district courts of the United States, including the courts enumerated in section 460 of title 28, shall have jurisdiction over any actions arising under this chapter. For the purpose of this chapter, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii.

(d) Rewards and certain incidental expenses

The Secretary or the Secretary of the Treasury shall pay, from sums received as penalties, fines, or forfeitures of property for any violation of this chapter or any regulation issued hereunder (1) a reward to any person who furnishes information which leads to an arrest, a criminal conviction, civil penalty assessment, or forfeiture of property for any violation of this chapter or any regulation issued hereunder, and (2) the reasonable and necessary costs incurred by any person in providing temporary care for any fish, wildlife, or plant pending the disposition of any civil or criminal proceeding alleging a violation of this chapter with respect to that fish, wildlife, or plant. The amount of the reward, if any, is to be designated by the Secretary or the Secretary of the Treasury, as appropriate. Any officer or employee of the United States or any State or local government who furnishes information or renders service in the performance of his official duties is ineligible for payment under this subsection. Whenever the balance of sums received under this section and section 3375(d) of this title, as penalties or fines, or from forfeitures of property, exceed $500,000, the Secretary of the Treasury shall deposit an amount equal to such excess balance in the cooperative endangered species conservation fund established under section 1535(i) of this title.

(e) Enforcement

(1) The provisions of this chapter and any regulations or permits issued pursuant thereto shall be enforced by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, or all such Secretaries. Each such Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency for purposes of enforcing this chapter.

(2) The judges of the district courts of the United States and the United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this chapter and any regulation issued thereunder.

(3) Any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, to enforce this chapter may detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation or exportation. Such person may make arrests without a warrant for any violation of this chapter if he has reasonable grounds to believe that the person to be arrested is committing the violation in his presence or view, and may execute and serve any arrest warrant, search warrant, or other warrant or civil or criminal process issued by any officer or court of competent jurisdiction for enforcement of this chapter. Such person so authorized may search and seize, with or without a warrant, as authorized by law. Any fish, wildlife, property, or item so seized shall be held by any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such fish, wildlife, property, or item pursuant to paragraph (4) of this subsection; except that the Secretary may, in lieu of holding such fish, wildlife, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary, but upon forfeiture of any such property to the United States, or the abandonment or waiver of any claim to any such property, it shall be disposed of (other than by sale to the general public) by the Secretary in such a manner, consistent with the purposes of this chapter, as the Secretary shall by regulation prescribe.

(4)(A) All fish or wildlife or plants taken, possessed, sold, purchased, offered for sale or purchase, transported, delivered, received, carried, shipped, exported, or imported contrary to the provisions of this chapter, any regulation made pursuant thereto, or any permit or certificate issued hereunder shall be subject to forfeiture to the United States.

(B) All guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used to aid the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivering, receiving, carrying, shipping, exporting, or importing of any fish or wildlife or plants in violation of this chapter, any regulation made pursuant thereto, or any permit or certificate issued thereunder shall be subject to forfeiture to the United States upon conviction of a criminal violation pursuant to subsection (b)(1) of this section.

(5) All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury

Department shall, for the purposes of this chapter, be exercised or performed by the Secretary or by such persons as he may designate.

(6) The Attorney General of the United States may seek to enjoin any person who is alleged to be in violation of any provision of this chapter or regulation issued under authority thereof.

(f) Regulations

The Secretary, the Secretary of the Treasury, and the Secretary of the Department in which the Coast Guard is operating, are authorized to promulgate such regulations as may be appropriate to enforce this chapter, and charge reasonable fees for expenses to the Government connected with permits or certificates authorized by this chapter including processing applications and reasonable inspections, and with the transfer, board, handling, or storage of fish or wildlife or plants and evidentiary items seized and forfeited under this chapter. All such fees collected pursuant to this subsection shall be deposited in the Treasury to the credit of the appropriation which is current and chargeable for the cost of furnishing the services. Appropriated funds may be expended pending reimbursement from parties in interest.

(g) Citizen suits

(1) Except as provided in paragraph (2) of this subsection any person may commence a civil suit on his own behalf—

(A) to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any provision of this chapter or regulation issued under the authority thereof; or

(B) to compel the Secretary to apply, pursuant to section 1535(g)(2)(B)(ii) of this title, the prohibitions set forth in or authorized pursuant to section 1533(d) or 1538(a)(1)(B) of this title with respect to the taking of any resident endangered species or threatened species within any State; or

(C) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under section 1533 of this title which is not discretionary with the Secretary.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any such provision or regulation, or to order the Secretary to perform such act or duty, as the case may be. In any civil suit commenced under subparagraph (B) the district court shall compel the Secretary to apply the prohibition sought if the court finds that the allegation that an emergency exists is supported by substantial evidence.

(2)(A) No action may be commenced under subparagraph (1)(A) of this section—

(i) prior to sixty days after written notice of the violation has been given to the Secretary, and to any alleged violator of any such provision or regulation;

(ii) if the Secretary has commenced action to impose a penalty pursuant to subsection (a) of this section; or

(iii) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or a State to redress a violation of any such provision or regulation.

(B) No action may be commenced under subparagraph (1)(B) of this section—

(i) prior to sixty days after written notice has been given to the Secretary setting forth the reasons why an emergency is thought to exist with respect to an endangered species or a threatened species in the State concerned; or

(ii) if the Secretary has commenced and is diligently prosecuting action under section 1535(g)(2)(B)(ii) of this title to determine whether any such emergency exists.

(C) No action may be commenced under subparagraph (1)(C) of this section prior to sixty days after written notice has been given to the Secretary; except that such action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any species of fish or wildlife or plants.

(3)(A) Any suit under this subsection may be brought in the judicial district in which the violation occurs.

(B) In any such suit under this subsection in which the United States is not a party, the Attorney General, at the request of the Secretary, may intervene on behalf of the United States as a matter of right.

(4) The court, in issuing any final order in any suit brought pursuant to paragraph (1) of this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(5) The injunctive relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Secretary or a State agency).

(h) Coordination with other laws

The Secretary of Agriculture and the Secretary shall provide for appropriate coordination of the administration of this chapter with the administration of the animal quarantine laws (as defined in section 136a(f) of title 21) and section 306[1] of the Tariff Act of 1930 (19 U.S.C. 1306). Nothing in this chapter or any amendment made by this chapter shall be construed as superseding or limiting in any manner the functions of the Secretary of Agriculture under any other law relating to prohibited or restricted importations or possession of animals and other articles and no proceeding or determination under this chapter shall preclude any proceeding or be considered determinative of any issue of fact or law in any proceeding under any Act administered by the Secretary of Agriculture. Nothing in this chapter shall be construed as superseding or limiting in any manner the functions and responsibilities of the Secretary of the Treasury under the Tariff Act of 1930 [19 U.S.C. 1202 et seq.], including, without limitation, sec-

[1] See References in Text note below.

tion 527 of that Act (19 U.S.C. 1527), relating to the importation of wildlife taken, killed, possessed, or exported to the United States in violation of the laws or regulations of a foreign country.

(Pub. L. 93–205, §11, Dec. 28, 1973, 87 Stat. 897; Pub. L. 94–359, §4, July 12, 1976, 90 Stat. 913; Pub. L. 95–632, §§6–8, Nov. 10, 1978, 92 Stat. 3761, 3762; Pub. L. 97–79, §9(e), Nov. 16, 1981, 95 Stat. 1079; Pub. L. 97–304, §§7, 9(c), Oct. 13, 1982, 96 Stat. 1425, 1427; Pub. L. 98–327, §4, June 25, 1984, 98 Stat. 271; Pub. L. 100–478, title I, §1007, Oct. 7, 1988, 102 Stat. 2309; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 107–171, title X, §10418(b)(3), May 13, 2002, 116 Stat. 508.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (3), (b)–(f), (g)(1)(A), and (h), was in the original ''this Act'', meaning Pub. L. 93–205, Dec. 28, 1973, 81 Stat. 884, known as the ''Endangered Species Act of 1973'', which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The amendments made by this chapter, referred to in subsec. (h), refer to the amendments made by Pub. L. 93–205, which amended sections 460k–1, 460*l*–9, 668dd, 715i, 715s, 1362, 1371, 1372, and 1402 of this title and section 136 of Title 7, Agriculture, and repealed sections 668aa to 668cc–6 of this title.

The Tariff Act of 1930, referred to in subsec. (h), is act June 17, 1930, ch. 497, 46 Stat. 590, which is classified generally to chapter 4 (§1202 et seq.) of Title 19, Customs Duties. Section 306 of the Act was repealed by Pub. L. 107–171, title X, §10418(a)(5), May 13, 2002, 116 Stat. 507. For complete classification of this Act to the Code, see section 1654 of Title 19 and Tables.

AMENDMENTS

2002—Subsec. (h). Pub. L. 107–171 substituted ''animal quarantine laws (as defined in section 136a(f) of title 21)'' for ''animal quarantine laws (21 U.S.C. 101–105, 111–135b, and 612–614)''.

1988—Subsec. (a)(1). Pub. L. 100–478, §1007(a), substituted ''$25,000'' for ''$10,000'' and ''$12,000'' for ''$5,000''.

Subsec. (b)(1). Pub. L. 100–478, §1007(b), substituted ''$50,000'' for ''$20,000'' and ''$25,000'' for ''$10,000''.

Subsec. (d). Pub. L. 100–478, §1007(c), inserted at end ''Whenever the balance of sums received under this section and section 3375(d) of this title, as penalties or fines, or from forfeitures of property, exceed $500,000, the Secretary of the Treasury shall deposit an amount equal to such excess balance in the cooperative endangered species conservation fund established under section 1535(i) of this title.''

1984—Subsec. (d). Pub. L. 98–327, in first sentence, substituted a comma for ''a reward'' after ''shall pay'', inserted ''(1) a reward'' before ''to any person'', and added cl. (2).

1982—Subsecs. (a)(1), (b)(1). Pub. L. 97–304, §9(c), substituted ''(a)(2)(A), (B), (C), or (D)'' for ''(a)(2)(A), (B), or (C)''.

Subsec. (e)(6). Pub. L. 97–304, §7(1), added par. (6).

Subsec. (g)(1)(B). Pub. L. 97–304, §7(2)(A)(i), substituted ''any State; or'' for ''any State.''.

Subsec. (g)(1)(C). Pub. L. 97–304, §7(2)(A)(ii), added subpar. (C).

Subsec. (g)(1). Pub. L. 97–304, §7(2)(A)(iii), inserted ''or to order the Secretary to perform such act or duty,'' after ''any such provision or regulation,'' in provisions following subpar. (C).

Subsec. (g)(2)(C). Pub. L. 97–304, §7(2)(B), added subpar. (C).

1981—Subsec. (d). Pub. L. 97–79 substituted ''The Secretary or the Secretary of the Treasury shall pay a reward from sums received as penalties, fines, or forfeitures of property for any violation of this chapter or any regulation issued hereunder to any person who furnishes information which leads to an arrest, a criminal conviction, civil penalty assessment, or forfeiture of property for any violation of this chapter or any regulation issued hereunder'' for ''Upon the recommendation of the Secretary, the Secretary of the Treasury is authorized to pay an amount equal to one-half of the civil penalty or fine paid, but not to exceed $2,500, to any person who furnishes information which leads to a finding of civil violation or a conviction of a criminal violation of any provision of this chapter or any regulation or permit issued thereunder'' and inserted provision that the amount of the reward, if any, be designated by the Secretary or the Secretary of the Treasury, as appropriate.

1978—Subsec. (a)(1). Pub. L. 95–632, §6(1), (2), substituted ''and any person engaged in business as an importer or exporter of fish, wildlife, or plants who violates'' for ''or who knowingly commits an act in the course of a commercial activity which violates'' in two places and ''$500'' for ''$1,000''.

Subsec. (a)(3). Pub. L. 95–632, §7, added par. (3).

Subsec. (b)(1). Pub. L. 95–632, §6(3), substituted ''knowingly'' for ''willfully commits an act which'' in two places.

Subsec. (b)(2). Pub. L. 95–632, §6(4), inserted ''a person to import or export fish, wildlife, or plants, or to operate a quarantine station for imported wildlife, or authorizing'' after ''authorizing''.

Subsec. (b)(3). Pub. L. 95–632, §8, added par. (3).

1976—Subsec. (e)(3). Pub. L. 94–359 inserted ''make arrests without a warrant for any violation of this chapter if he has reasonable grounds to believe that the person to be arrested is committing the violation in his presence or view, and may'' after ''Such person may'' and '', but upon forfeiture of any such property to the United States, or the abandonment or waiver of any claim to any such property, it shall be disposed of (other than by sale to the general public) by the Secretary in such a manner, consistent with the purposes of this chapter, as the Secretary shall by regulation prescribe,'' after ''other surety satisfactory to the Secretary''.

CHANGE OF NAME

''United States magistrate judges'' substituted for ''United States magistrates'' in subsec. (e)(2) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 9(f) of Pub. L. 97–79 provided that: ''The amendment specified in subsection 9(e) of this Act [amending this section] shall take effect beginning in fiscal year 1983.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under this section to the Secretary of Homeland Security, and for treatment of related references, see sections 231, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1541. Endangered plants

The Secretary of the Smithsonian Institution, in conjunction with other affected agencies, is

authorized and directed to review (1) species of plants which are now or may become endangered or threatened and (2) methods of adequately conserving such species, and to report to Congress, within one year after December 28, 1973, the results of such review including recommendations for new legislation or the amendment of existing legislation.

(Pub. L. 93–205, § 12, Dec. 28, 1973, 87 Stat. 901.)

§ 1542. Authorization of appropriations

(a) In general

Except as provided in subsections (b), (c), and (d) of this section, there are authorized to be appropriated—

(1) not to exceed $35,000,000 for fiscal year 1988, $36,500,000 for fiscal year 1989, $38,000,000 for fiscal year 1990, $39,500,000 for fiscal year 1991, and $41,500,000 for fiscal year 1992 to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this chapter;

(2) not to exceed $5,750,000 for fiscal year 1988, $6,250,000 for each of fiscal years 1989 and 1990, and $6,750,000 for each of fiscal years 1991 and 1992 to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this chapter; and

(3) not to exceed $2,200,000 for fiscal year 1988, $2,400,000 for each of fiscal years 1989 and 1990, and $2,600,000 for each of fiscal years 1991 and 1992, to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this chapter and the Convention which pertain to the importation or exportation of plants.

(b) Exemptions

There are authorized to be appropriated to the Secretary to assist him and the Endangered Species Committee in carrying out their functions under sections[1] 1536(e), (g), and (h) of this title not to exceed $600,000 for each of fiscal years 1988, 1989, 1990, 1991, and 1992.

(c) Convention implementation

There are authorized to be appropriated to the Department of the Interior for purposes of carrying out section 1537a(e) of this title not to exceed $400,000 for each of fiscal years 1988, 1989, and 1990, and $500,000 for each of fiscal years 1991 and 1992, and such sums shall remain available until expended.

(Pub. L. 93–205, § 15, Dec. 28, 1973, 87 Stat. 903; Pub. L. 94–325, June 30, 1976, 90 Stat. 724; Pub. L. 95–632, § 9, Nov. 10, 1978, 92 Stat. 3762; Pub. L. 96–159, § 8, Dec. 28, 1979, 93 Stat. 1230; Pub. L. 97–304, § 8[(a)], Oct. 13, 1982, 96 Stat. 1425; Pub. L. 100–478, title I, § 1009, Oct. 7, 1988, 102 Stat. 2312.)

AMENDMENTS

1988—Pub. L. 100–478 amended section generally, substituting provisions authorizing appropriations for fiscal years 1988 through 1992 for provisions authorizing appropriations for fiscal years 1983 through 1985.

1982—Subsec. (a). Pub. L. 97–304 designated existing provisions as subsec. (a), and substituted provisions authorizing, except as provided in subsecs. (b), (c), and (d), appropriations of $27,000,000 for each of fiscal years 1983, 1984, and 1985 for the Department of the Interior, $3,500,000 for each of fiscal years 1983, 1984, and 1985 for the Department of Commerce, and $1,850,000 for each of fiscal years 1983, 1984, and 1985 for the Department of Agriculture, for provisions that, except as authorized in sections 1535 and 1536 of this title, had authorized appropriations of (1) not to exceed $23,000,000 for each of fiscal years 1979 and 1980, not to exceed $25,000,000 for fiscal year 1981, and not to exceed $27,000,000 for fiscal year 1982 to the Department of the Interior, (2) not to exceed $2,500,000 for each of fiscal years 1979 and 1980, not to exceed $3,000,000 for fiscal year 1981, and not to exceed $3,500,000 for fiscal year 1982 to the Department of Commerce, and (3) not to exceed $1,500,000 for fiscal year 1980, not to exceed $1,750,000 for fiscal year 1981, and not to exceed $1,850,000 for fiscal year 1982 to the Department of Agriculture.

Subsecs. (b) to (d). Pub. L. 97–304 added subsecs. (b) to (d).

1979—Par. (1). Pub. L. 96–159 struck out appropriations authorization of $25,000,000 for fiscal years ending Sept. 30, 1977, and 1978, substituted appropriations authorization of $23,000,000; $23,000,000; $25,000,000; and $27,000,000 for fiscal years 1979 through 1982 for prior authorization of $23,000,000 for fiscal year ending Sept. 30, 1979, and $12,500,000 for period beginning Oct. 1, 1979, and ending Mar. 31, 1980, and restored intent of appropriations to enable the Interior Department to carry out its functions and responsibilities.

Par. (2). Pub. L. 96–159 deleted appropriations authorization of $5,000,000 for fiscal years ending Sept. 30, 1977, and 1978, and substituted appropriations authorization of $2,500,000; $2,500,000; $3,000,000; and $3,500,000 for fiscal years 1979 through 1982 for prior authorization of $2,500,000 for fiscal year ending Sept. 30, 1979, and $12,500,000 for period beginning Oct. 1, 1979, and ending Mar. 31, 1980.

1978—Pub. L. 95–632, in provision preceding par. (1), substituted ''sections 1535 and 1536 of this title'' for ''section 1535 of this title''.

Par. (1). Pub. L. 95–632 substituted provision authorizing appropriations of not to exceed $25,000,000 for the fiscal year ending Sept. 30, 1977 and the fiscal year ending Sept. 30, 1978, of not to exceed $23,000,000 for the fiscal year ending Sept. 30, 1979, and of not to exceed $12,500,000 for the period beginning Oct. 1, 1979 and ending Mar. 31, 1980 for provision authorizing appropriations of not to exceed $10,000,000 for the fiscal year ending June 30, 1976, of not to exceed $1,800,000 for the fiscal transitional period ending Sept. 30, 1976, and of not to exceed a total of $25,000,000 for the fiscal year ending Sept. 30, 1977 and the fiscal year ending Sept. 30, 1978, to enable the Department of the Interior to carry out its functions under this chapter.

Par. (2). Pub. L. 95–632 substituted provision authorizing appropriations of not to exceed $5,000,000 for the fiscal year ending Sept. 30, 1977 and the fiscal year ending Sept. 30, 1978, of not to exceed $2,500,000 for the fiscal year ending Sept. 30, 1979, and of not to exceed $12,500,000 for the period beginning Oct. 1, 1979 and ending Mar. 31, 1980 for provision authorizing appropriations of not to exceed $2,000,000 for the fiscal year ending June 30, 1976, of not to exceed $500,000 for the fiscal transitional period ending Sept. 30, 1976 and of not to exceed a total of $5,000,000 for the fiscal year Sept. 30, 1977 and the fiscal year ending Sept. 30, 1978.

1976—Par. (1). Pub. L. 94–325, § 1(1), redesignated par. (A) as (1), inserted provisions authorizing appropriations for the fiscal year transitional period ending Sept. 30, 1976, fiscal year ending Sept. 30, 1977, and fiscal year ending Sept. 30, 1978, and struck out provisions authorizing appropriations of not to exceed $4,000,000 for fiscal year 1974, and not to exceed $8,000,000 for fiscal year 1975.

Par. (2). Pub. L. 94–325, § 1(2), redesignated par. (B) as (2), inserted provisions authorizing appropriation for the fiscal year transitional period ending Sept. 30, 1976, fiscal year ending Sept. 30, 1977, and fiscal year ending Sept. 30, 1978, and struck out provisions authorizing ap-

[1] So in original. Probably should be ''section''.

propriations of not to exceed $2,000,000 for fiscal year 1974, and not to exceed $1,500,000 for fiscal year 1975.

§ 1543. Construction with Marine Mammal Protection Act of 1972

Except as otherwise provided in this chapter, no provision of this chapter shall take precedence over any more restrictive conflicting provision of the Marine Mammal Protection Act of 1972 [16 U.S.C. 1361 et seq.].

(Pub. L. 93–205, § 17, Dec. 28, 1973, 87 Stat. 903.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 93–205, Dec. 28, 1973, 81 Stat. 884, as amended, known as the ''Endangered Species Act of 1973'', which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Marine Mammal Protection Act of 1972, referred to in text, is Pub. L. 92–522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to chapter 31 (§ 1361 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

§ 1544. Annual cost analysis by Fish and Wildlife Service

Notwithstanding section 3003 of Public Law 104–66 (31 U.S.C. 1113 note; 109 Stat. 734), on or before January 15, 1990, and each January 15 thereafter, the Secretary of the Interior, acting through the Fish and Wildlife Service, shall submit to the Congress an annual report covering the preceding fiscal year which shall contain—

(1) an accounting on a species by species basis of all reasonably identifiable Federal expenditures made primarily for the conservation of endangered or threatened species pursuant to this chapter; and

(2) an accounting on a species by species basis of all reasonably identifiable expenditures made primarily for the conservation of endangered or threatened species pursuant to this chapter by States receiving grants under section 1535 of this title.

(Pub. L. 93–205, § 18, as added Pub. L. 100–478, title I, § 1012, Oct. 7, 1988, 102 Stat. 2314; amended Pub. L. 106–201, § 1(a), May 18, 2000, 114 Stat. 307.)

AMENDMENTS

2000—Pub. L. 106–201, in introductory provisions, substituted ''Notwithstanding section 3003 of Public Law 104–66 (31 U.S.C. 1113 note; 109 Stat. 734), on'' for ''On''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–201, § 1(b), May 18, 2000, 114 Stat. 307, provided that: ''The amendment made by this section [amending this section] takes effect on the earlier of—

''(1) the date of enactment of this Act [May 18, 2000]; or

''(2) December 19, 1999.''

CHAPTER 36—FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING

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SUBCHAPTER I—PLANNING

§ 1600. Congressional findings

The Congress finds that—

(1) the management of the Nation's renewable resources is highly complex and the uses, demand for, and supply of the various resources are subject to change over time;

(2) the public interest is served by the Forest Service, Department of Agriculture, in cooperation with other agencies, assessing the Nation's renewable resources, and developing and preparing a national renewable resource program, which is periodically reviewed and updated;

(3) to serve the national interest, the renewable resource program must be based on a comprehensive assessment of present and anticipated uses, demand for, and supply of renewable resources from the Nation's public and private forests and rangelands, through analysis of environmental and economic impacts, coordination of multiple use and sustained yield opportunities as provided in the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528–531), and public participation in the development of the program;

(4) the new knowledge derived from coordinated public and private research programs will promote a sound technical and ecological base for effective management, use, and protection of the Nation's renewable resources;

(5) inasmuch as the majority of the Nation's forests and rangeland is under private, State, and local governmental management and the Nation's major capacity to produce goods and services is based on these nonfederally managed renewable resources, the Federal Government should be a catalyst to encourage and assist these owners in the efficient long-term use and improvement of these lands and their renewable resources consistent with the principles of sustained yield and multiple use;

(6) the Forest Service, by virtue of its statutory authority for management of the National Forest System, research and cooperative programs, and its role as an agency in the Department of Agriculture, has both a responsibility and an opportunity to be a leader in assuring that the Nation maintains a natural resource conservation posture that will meet the requirements of our people in perpetuity; and

(7) recycled timber product materials are as much a part of our renewable forest resources as are the trees from which they originally came, and in order to extend our timber and timber fiber resources and reduce pressures for timber production from Federal lands, the Forest Service should expand its research in the use of recycled and waste timber product materials, develop techniques for the substitution of these secondary materials for primary materials, and promote and encourage the use of recycled timber product materials.

(Pub. L. 93–378, §2, as added Pub. L. 94–588, §2, Oct. 22, 1976, 90 Stat. 2949.)

REFERENCES IN TEXT

The Multiple-Use Sustained-Yield Act of 1960, referred to in par. (3), is Pub. L. 86–517, June 12, 1960, 74 Stat. 215, as amended, which is classified generally to sections 528 to 531 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 528 of this title and Tables.

SHORT TITLE OF 1988 AMENDMENTS

Pub. L. 100–521, §1, Oct. 24, 1988, 102 Stat. 2601, provided that: ''This Act [amending section 1642 of this title and enacting provisions set out as a note under section 1642 of this title] may be cited as the 'Forest Ecosystems and Atmospheric Pollution Research Act of 1988'.''

Pub. L. 100–231, §1, Jan. 5, 1988, 101 Stat. 1565, provided that: ''This Act [amending sections 1674 and 1675 of this title and provisions set out as a note under section 1671 of this title] may be cited as the 'Renewable Resources Extension Act Amendments of 1987'.''

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–554, §1, Dec. 19, 1980, 94 Stat. 3257, provided: ''That this Act [enacting subchapter IV of this chapter and enacting provision set out as a note under section 1681 of this title] may be cited as the 'Wood Residue Utilization Act of 1980'.''

SHORT TITLE OF 1978 AMENDMENTS

Pub. L. 95–307, §1, June 30, 1978, 92 Stat. 353, provided: ''That this Act [enacting subchapter II of this chapter, repealing sections 581 to 581i of this title, and enacting provisions set out as a note under section 1641 of this title] may be cited as the 'Forest and Rangeland Renewable Resources Research Act of 1978'.''

Pub. L. 95–306, §1, June 30, 1978, 92 Stat. 349, provided: ''That this Act [enacting subchapter III of this chapter and provision set out as a note under section 1671 of this title] may be cited as the 'Renewable Resources Extension Act of 1978'.''

SHORT TITLE OF 1976 AMENDMENT

Section 1 of Pub. L. 94–588 provided: ''That this Act [enacting this section and sections 472a, 521b, and 1611 to 1614 of this title, amending sections 500, 515, 516, 518, 576b, 581h, and 1601 to 1610 of this title, repealing sections 476, 513 and 514 of this title, and enacting provisions set out as notes under this section and sections 476, 513, 528, and 594–2 of this title] may be cited as the 'National Forest Management Act of 1976'.''

SHORT TITLE

Section 1 of Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, provided: ''That this Act [enacting this subchapter and amending section 581h of this title] may be cited as the 'Forest and Rangeland Renewable Resources Planning Act of 1974'.''

SEPARABILITY

Section 21 of Pub. L. 94–588 provided that: ''If any provision of this Act [see Short Title of 1976 Amendment note set out above] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.''

§ 1601. Renewable Resource Assessment

(a) Preparation by Secretary of Agriculture; time of preparation, updating and contents

In recognition of the vital importance of America's renewable resources of the forest, range, and other associated lands to the Nation's social and economic well-being, and of the necessity for a long term perspective in planning and undertaking related national renewable resource programs administered by the Forest Service, the Secretary of Agriculture shall prepare a Renewable Resource Assessment (hereinafter called the ''Assessment''). The Assessment shall be prepared not later than December 31, 1975, and shall be updated during 1979 and each tenth year thereafter, and shall include but not be limited to—

(1) an analysis of present and anticipated uses, demand for, and supply of the renewable resources, with consideration of the international resource situation, and an emphasis of pertinent supply and demand and price relationship trends;

(2) an inventory, based on information developed by the Forest Service and other Federal agencies, of present and potential renewable resources, and an evaluation of opportunities for improving their yield of tangible and intangible goods and services, together with estimates of investment costs and direct and indirect returns to the Federal Government;

(3) a description of Forest Service programs and responsibilities in research, cooperative programs and management of the National Forest System, their interrelationships, and the relationship of these programs and responsibilities to public and private activities;

(4) a discussion of important policy considerations, laws, regulations, and other factors expected to influence and affect significantly the use, ownership, and management of forest, range, and other associated lands; and[1]

(5) an analysis of the potential effects of global climate change on the condition of renewable resources on the forests and rangelands of the United States; and

(6) an analysis of the rural and urban forestry opportunities to mitigate the buildup of atmospheric carbon dioxide and reduce the risk of global climate change,[2]

(b) Omitted

(c) Contents of Assessments

The Secretary shall report in the 1979 and subsequent Assessments on:

(1) the additional fiber potential in the National Forest System including, but not restricted to, forest mortality, growth, salvage potential, potential increased forest products sales, economic constraints, alternate markets, contract considerations, and other multiple use considerations;

(2) the potential for increased utilization of forest and wood product wastes in the National Forest System and on other lands, and of urban wood wastes and wood product recycling, including recommendations to the Congress for actions which would lead to increased utilization of material now being wasted both in the forests and in manufactured products; and

(3) the milling and other wood fiber product fabrication facilities and their location in the United States, noting the public and private forested areas that supply such facilities, assessing the degree of utilization into product form of harvested trees by such facilities, and setting forth the technology appropriate to the facilities to improve utilization either individually or in aggregate units of harvested trees and to reduce wasted wood fibers. The Secretary shall set forth a program to encourage the adoption by these facilities of these technologies for improving wood fiber utilization.

(d)[3] Public involvement; consultation with governmental departments and agencies

In developing the reports required under subsection (c) of this section, the Secretary shall provide opportunity for public involvement and shall consult with other interested governmental departments and agencies.

(d)[3] Congressional policy of multiple use sustained yield management; examination and certification of lands; estimate of appropriations necessary for reforestation and other treatment; budget requirements; authorization of appropriations

(1) It is the policy of the Congress that all forested lands in the National Forest System shall be maintained in appropriate forest cover with species of trees, degree of stocking, rate of growth, and conditions of stand designed to secure the maximum benefits of multiple use sustained yield management in accordance with land management plans. Accordingly, the Secretary is directed to identify and report to the Congress annually at the time of submission of the President's budget together with the annual report provided for under section 1606(c) of this title, beginning with submission of the President's budget for fiscal year 1978, the amount and location by forests and States and by productivity class, where practicable, of all lands in the National Forest System where objectives of land management plans indicate the need to reforest areas that have been cut-over or otherwise denuded or deforested, and all lands with stands of trees that are not growing at their best potential rate of growth. All national forest lands treated from year to year shall be examined after the first and third growing seasons and certified by the Secretary in the report provided for under this subsection as to stocking rate, growth rate in relation to potential and other pertinent measures. Any lands not certified as satisfactory shall be returned to the backlog and scheduled for prompt treatment. The level and types of treatment shall be those which secure the most effective mix of multiple use benefits.

(2) Notwithstanding the provisions of section 1607 of this title, the Secretary shall annually for eight years following October 22, 1976, transmit to the Congress in the manner provided in this subsection an estimate of the sums necessary to be appropriated, in addition to the funds available from other sources, to replant and otherwise treat an acreage equal to the acreage to be cut over that year, plus a sufficient portion of the backlog of lands found to be in need of treatment to eliminate the backlog within the eight-year period. After such eight-year period, the Secretary shall transmit annually to the Congress an estimate of the sums necessary to replant and otherwise treat all lands being cut over and maintain planned timber production on all other forested lands in the National Forest System so as to prevent the development of a backlog of needed work larger than the needed work at the beginning of the fiscal year. The Secretary's estimate of sums necessary, in addition to the sums available

[1] So in original. The word ''and'' probably should not appear.

[2] So in original. The comma probably should be a period.

[3] So in original. Two subsecs. (d) have been enacted.

under other authorities, for accomplishment of the reforestation and other treatment of National Forest System lands under this section shall be provided annually for inclusion in the President's budget and shall also be transmitted to the Speaker of the House and the President of the Senate together with the annual report provided for under section 1606(c) of this title at the time of submission of the President's budget to the Congress beginning with the budget for fiscal year 1978. The sums estimated as necessary for reforestation and other treatment shall include moneys needed to secure seed, grow seedlings, prepare sites, plant trees, thin, remove deleterious growth and underbrush, build fence to exclude livestock and adverse wildlife from regeneration areas and otherwise establish and improve growing forests to secure planned production of trees and other multiple use values.

(3) Effective for the fiscal year beginning October 1, 1977, and each fiscal year thereafter, there is hereby authorized to be appropriated for the purpose of reforesting and treating lands in the National Forest System $200,000,000 annually to meet requirements of this subsection (d). All sums appropriated for the purposes of this subsection shall be available until expended.

(e) Report on herbicides and pesticides

The Secretary shall submit an annual report to the Congress on the amounts, types, and uses of herbicides and pesticides used in the National Forest System, including the beneficial or adverse effects of such uses.

(Pub. L. 93–378, § 3, formerly § 2, Aug. 17, 1974, 88 Stat. 476; renumbered § 3 and amended Pub. L. 94–588, §§ 2–4, Oct. 22, 1976, 90 Stat. 2949, 2950; Pub. L. 101–624, title XXIV, § 2408(a), Nov. 28, 1990, 104 Stat. 4061.)

CODIFICATION

Subsec. (b) of this section amended section 581h of this title.

AMENDMENTS

1990—Subsec. (a)(5), (6). Pub. L. 101–624 added pars. (5) and (6).

1976—Subsecs. (c) to (e). Pub. L. 94–588, §§ 3, 4, added subsecs. (c) to (e).

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsecs. (d)(1) and (e) of this section relating to submitting annual reports to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and pages 45 and 47 of House Document No. 103–7.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this subchapter and system activities requiring coordination and approval under general authorities of this subchapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

PRESIDENTIAL COMMISSION ON STATE AND PRIVATE FORESTS

Pub. L. 101–624, title XII, § 1245, Nov. 28, 1990, 104 Stat. 3548, as amended by Pub. L. 102–237, title X, § 1018(b), Dec. 13, 1991, 105 Stat. 1905, established the Commission on State and Private Forests, which was to assess the status of the State and private forest lands of the United States and report its findings and recommendations to the President by Dec. 1, 1992, and which terminated 90 days after submitting its report.

§ 1602. Renewable Resource Program; preparation by Secretary of Agriculture and transmittal to President; purpose and development of program; time of preparation, updating and contents

In order to provide for periodic review of programs for management and administration of the National Forest System, for research, for cooperative State and private Forest Service programs, and for conduct of other Forest Service activities in relation to the findings of the Assessment, the Secretary of Agriculture, utilizing information available to the Forest Service and other agencies within the Department of Agriculture, including data prepared pursuant to section 1010a of title 7, shall prepare and transmit to the President a recommended Renewable Resource Program (hereinafter called the ''Program''). The Program transmitted to the President may include alternatives, and shall provide in appropriate detail for protection, management, and development of the National Forest System, including forest development roads and trails; for cooperative Forest Service programs; and for research. The Program shall be developed in accordance with principles set forth in the Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215; 16 U.S.C. 528–531), and the National Environmental Policy Act of 1969 (83 Stat. 852) [42 U.S.C. 4321 et seq.]. The Program shall be prepared not later than December 31, 1975, to cover the four-year period beginning October 1, 1976, and at least each of the four fiscal decades next following such period, and shall be updated no later than during the first half of the fiscal year ending September 30, 1980, and the first half of each fifth fiscal year thereafter to cover at least each of the four fiscal decades beginning next after such updating. The Program shall include, but not be limited to—

(1) an inventory of specific needs and opportunities for both public and private program investments. The inventory shall differentiate between activities which are of a capital nature and those which are of an operational nature;

(2) specific identification of Program outputs, results anticipated, and benefits associated with investments in such a manner that the anticipated costs can be directly compared with the total related benefits and direct and indirect returns to the Federal Government;

(3) a discussion of priorities for accomplishment of inventoried Program opportunities, with specified costs, outputs, results, and benefits;

(4) a detailed study of personnel requirements as needed to implement and monitor existing and ongoing programs; and

(5) Program recommendations which—

(A) evaluate objectives for the major Forest Service programs in order that multiple-use and sustained-yield relationships among and within the renewable resources can be determined;

(B) explain the opportunities for owners of forests and rangeland to participate in programs to improve and enhance the condition of the land and the renewable resource products therefrom;

(C) recognize the fundamental need to protect and, where appropriate, improve the quality of soil, water, and air resources;

(D) state national goals that recognize the interrelationships between and interdependence within the renewable resources;

(E) evaluate the impact of the export and import of raw logs upon domestic timber supplies and prices; and

(F) account for the effects of global climate change on forest and rangeland conditions, including potential effects on the geographic ranges of species, and on forest and rangeland products.

(Pub. L. 93–378, § 4, formerly § 3, Aug. 17, 1974, 88 Stat. 477, renumbered § 4 and amended Pub. L. 94–588, §§ 2, 5, Oct. 22, 1976, 90 Stat. 2949, 2951; Pub. L. 101–624, title XXIV, § 2408(b), Nov. 28, 1990, 104 Stat. 4061.)

REFERENCES IN TEXT

The Multiple-Use Sustained-Yield Act of 1960, referred to in text, is Pub. L. 86–517, June 12, 1960, 74 Stat. 215, as amended, which is classified generally to sections 528 to 531 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 528 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in text, is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

1990—Par. (5)(F). Pub. L. 101–624 added subpar. (F).

1976—Par. (4). Pub. L. 94–588 substituted ''implement and monitor'' for ''satisfy''.

Par. (5). Pub. L. 94–588 added par. (5).

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1601 of this title.

§ 1603. National Forest System resource inventories; development, maintenance, and updating by Secretary of Agriculture as part of Assessment

As a part of the Assessment, the Secretary of Agriculture shall develop and maintain on a continuing basis a comprehensive and appropriately detailed inventory of all National Forest System lands and renewable resources. This inventory shall be kept current so as to reflect changes in conditions and identify new and emerging resources and values.

(Pub. L. 93–378, § 5, formerly § 4, Aug. 17, 1974, 88 Stat. 477, renumbered § 5, Pub. L. 94–588, § 2, Oct. 22, 1976, 90 Stat. 2949.)

§ 1604. National Forest System land and resource management plans

(a) Development, maintenance, and revision by Secretary of Agriculture as part of program; coordination

As a part of the Program provided for by section 1602 of this title, the Secretary of Agriculture shall develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System, coordinated with the land and resource management planning processes of State and local governments and other Federal agencies.

(b) Criteria

In the development and maintenance of land management plans for use on units of the National Forest System, the Secretary shall use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences.

(c) Incorporation of standards and guidelines by Secretary; time of completion; progress reports; existing management plans

The Secretary shall begin to incorporate the standards and guidelines required by this section in plans for units of the National Forest System as soon as practicable after October 22, 1976, and shall attempt to complete such incorporation for all such units by no later than September 30, 1985. The Secretary shall report to the Congress on the progress of such incorporation in the annual report required by section 1606(c) of this title. Until such time as a unit of the National Forest System is managed under plans developed in accordance with this subchapter, the management of such unit may continue under existing land and resource management plans.

(d) Public participation in management plans; availability of plans; public meetings

The Secretary shall provide for public participation in the development, review, and revision of land management plans including, but not limited to, making the plans or revisions available to the public at convenient locations in the vicinity of the affected unit for a period of at least three months before final adoption, during which period the Secretary shall publicize and hold public meetings or comparable processes at locations that foster public participation in the review of such plans or revisions.

(e) Required assurances

In developing, maintaining, and revising plans for units of the National Forest System pursuant to this section, the Secretary shall assure that such plans—

(1) provide for multiple use and sustained yield of the products and services obtained

therefrom in accordance with the Multiple-Use Sustained-Yield Act of 1960 [16 U.S.C. 528–531], and, in particular, include coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness; and

(2) determine forest management systems, harvesting levels, and procedures in the light of all of the uses set forth in subsection (c)(1) of this section, the definition of the terms ''multiple use'' and ''sustained yield'' as provided in the Multiple-Use Sustained-Yield Act of 1960, and the availability of lands and their suitability for resource management.

(f) Required provisions

Plans developed in accordance with this section shall—

(1) form one integrated plan for each unit of the National Forest System, incorporating in one document or one set of documents, available to the public at convenient locations, all of the features required by this section;

(2) be embodied in appropriate written material, including maps and other descriptive documents, reflecting proposed and possible actions, including the planned timber sale program and the proportion of probable methods of timber harvest within the unit necessary to fulfill the plan;

(3) be prepared by an interdisciplinary team. Each team shall prepare its plan based on inventories of the applicable resources of the forest;

(4) be amended in any manner whatsoever after final adoption after public notice, and, if such amendment would result in a significant change in such plan, in accordance with the provisions of subsections (e) and (f) of this section and public involvement comparable to that required by subsection (d) of this section; and

(5) be revised (A) from time to time when the Secretary finds conditions in a unit have significantly changed, but at least every fifteen years, and (B) in accordance with the provisions of subsections (e) and (f) of this section and public involvement comparable to that required by subsection (d) of this section.

(g) Promulgation of regulations for development and revision of plans; environmental considerations; resource management guidelines; guidelines for land management plans

As soon as practicable, but not later than two years after October 22, 1976, the Secretary shall in accordance with the procedures set forth in section 553 of title 5, promulgate regulations, under the principles of the Multiple-Use Sustained-Yield Act of 1960 [16 U.S.C. 528–531] that set out the process for the development and revision of the land management plans, and the guidelines and standards prescribed by this subsection. The regulations shall include, but not be limited to—

(1) specifying procedures to insure that land management plans are prepared in accordance with the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], including, but not limited to, direction on when and for what plans an environmental impact statement required under section 102(2)(C) of that Act [42 U.S.C. 4332(2)(C)] shall be prepared;

(2) specifying guidelines which—

(A) require the identification of the suitability of lands for resource management;

(B) provide for obtaining inventory data on the various renewable resources, and soil and water, including pertinent maps, graphic material, and explanatory aids; and

(C) provide for methods to identify special conditions or situations involving hazards to the various resources and their relationship to alternative activities;

(3) specifying guidelines for land management plans developed to achieve the goals of the Program which—

(A) insure consideration of the economic and environmental aspects of various systems of renewable resource management, including the related systems of silviculture and protection of forest resources, to provide for outdoor recreation (including wilderness), range, timber, watershed, wildlife, and fish;

(B) provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives, and within the multiple-use objectives of a land management plan adopted pursuant to this section, provide, where appropriate, to the degree practicable, for steps to be taken to preserve the diversity of tree species similar to that existing in the region controlled by the plan;

(C) insure research on and (based on continuous monitoring and assessment in the field) evaluation of the effects of each management system to the end that it will not produce substantial and permanent impairment of the productivity of the land;

(D) permit increases in harvest levels based on intensified management practices, such as reforestation, thinning, and tree improvement if (i) such practices justify increasing the harvests in accordance with the Multiple-Use Sustained-Yield Act of 1960, and (ii) such harvest levels are decreased at the end of each planning period if such practices cannot be successfully implemented or funds are not received to permit such practices to continue substantially as planned;

(E) insure that timber will be harvested from National Forest System lands only where—

(i) soil, slope, or other watershed conditions will not be irreversibly damaged;

(ii) there is assurance that such lands can be adequately restocked within five years after harvest;

(iii) protection is provided for streams, streambanks, shorelines, lakes, wetlands, and other bodies of water from detrimental changes in water temperatures, blockages of water courses, and deposits of sediment, where harvests are likely to seriously and adversely affect water conditions or fish habitat; and

(iv) the harvesting system to be used is not selected primarily because it will give the greatest dollar return or the greatest unit output of timber; and

(F) insure that clearcutting, seed tree cutting, shelterwood cutting, and other cuts de-

signed to regenerate an evenaged stand of timber will be used as a cutting method on National Forest System lands only where—

(i) for clearcutting, it is determined to be the optimum method, and for other such cuts it is determined to be appropriate, to meet the objectives and requirements of the relevant land management plan;

(ii) the interdisciplinary review as determined by the Secretary has been completed and the potential environmental, biological, esthetic, engineering, and economic impacts on each advertised sale area have been assessed, as well as the consistency of the sale with the multiple use of the general area;

(iii) cut blocks, patches, or strips are shaped and blended to the extent practicable with the natural terrain;

(iv) there are established according to geographic areas, forest types, or other suitable classifications the maximum size limits for areas to be cut in one harvest operation, including provision to exceed the established limits after appropriate public notice and review by the responsible Forest Service officer one level above the Forest Service officer who normally would approve the harvest proposal: *Provided*, That such limits shall not apply to the size of areas harvested as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm; and

(v) such cuts are carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and esthetic resources, and the regeneration of the timber resource.

(h) Scientific committee to aid in promulgation of regulations; termination; revision committees; clerical and technical assistance; compensation of committee members

(1) In carrying out the purposes of subsection (g) of this section, the Secretary of Agriculture shall appoint a committee of scientists who are not officers or employees of the Forest Service. The committee shall provide scientific and technical advice and counsel on proposed guidelines and procedures to assure that an effective interdisciplinary approach is proposed and adopted. The committee shall terminate upon promulgation of the regulations, but the Secretary may, from time to time, appoint similar committees when considering revisions of the regulations. The views of the committees shall be included in the public information supplied when the regulations are proposed for adoption.

(2) Clerical and technical assistance, as may be necessary to discharge the duties of the committee, shall be provided from the personnel of the Department of Agriculture.

(3) While attending meetings of the committee, the members shall be entitled to receive compensation at a rate of $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, for persons in the Government service employed intermittently.

(i) Consistency of resource plans, permits, contracts, and other instruments with land management plans; revision

Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans. Those resource plans and permits, contracts, and other such instruments currently in existence shall be revised as soon as practicable to be made consistent with such plans. When land management plans are revised, resource plans and permits, contracts, and other instruments, when necessary, shall be revised as soon as practicable. Any revision in present or future permits, contracts, and other instruments made pursuant to this section shall be subject to valid existing rights.

(j) Effective date of land management plans and revisions

Land management plans and revisions shall become effective thirty days after completion of public participation and publication of notification by the Secretary as required under subsection (d) of this section.

(k) Development of land management plans

In developing land management plans pursuant to this subchapter, the Secretary shall identify lands within the management area which are not suited for timber production, considering physical, economic, and other pertinent factors to the extent feasible, as determined by the Secretary, and shall assure that, except for salvage sales or sales necessitated to protect other multiple-use values, no timber harvesting shall occur on such lands for a period of 10 years. Lands once identified as unsuitable for timber production shall continue to be treated for reforestation purposes, particularly with regard to the protection of other multiple-use values. The Secretary shall review his decision to classify these lands as not suited for timber production at least every 10 years and shall return these lands to timber production whenever he determines that conditions have changed so that they have become suitable for timber production.

***(l)* Program evaluation; process for estimating long-term costs and benefits; summary of data included in annual report**

The Secretary shall—

(1) formulate and implement, as soon as practicable, a process for estimating long-terms[1] costs and benefits to support the program evaluation requirements of this subchapter. This process shall include requirements to provide information on a representative sample basis of estimated expenditures associated with the reforestation, timber stand improvement, and sale of timber from the National Forest System, and shall provide a comparison of these expenditures to the return to the Government resulting from the sale of timber; and

(2) include a summary of data and findings resulting from these estimates as a part of the annual report required pursuant to section 1606(c) of this title, including an identification

[1] So in original. Probably should be ''long-term''.

on a representative sample basis of those advertised timber sales made below the estimated expenditures for such timber as determined by the above cost process; and[2]

(m) Establishment of standards to ensure culmination of mean annual increment of growth; silvicultural practices; salvage harvesting; exceptions

The Secretary shall establish—

(1) standards to insure that, prior to harvest, stands of trees throughout the National Forest System shall generally have reached the culmination of mean annual increment of growth (calculated on the basis of cubic measurement or other methods of calculation at the discretion of the Secretary): *Provided*, That these standards shall not preclude the use of sound silvicultural practices, such as thinning or other stand improvement measures: *Provided further*, That these standards shall not preclude the Secretary from salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow or other catastrophe, or which are in imminent danger from insect or disease attack; and

(2) exceptions to these standards for the harvest of particular species of trees in management units after consideration has been given to the multiple uses of the forest including, but not limited to, recreation, wildlife habitat, and range and after completion of public participation processes utilizing the procedures of subsection (d) of this section.

(Pub. L. 93–378, §6, formerly, §5, Aug. 17, 1974, 88 Stat. 477, renumbered §6 and amended Pub. L. 94–588, §§2, 6, 12(a), Oct. 22, 1976, 90 Stat. 2949, 2952, 2958.)

REFERENCES IN TEXT

The Multiple-Use Sustained-Yield Act of 1960, referred to in subsecs. (e) and (g), is Pub. L. 86–517, June 12, 1960, 74 Stat. 215, as amended, which is classified generally to sections 528 to 531 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 528 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (g)(1), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–588, §12(a), substituted ''section 4'' for ''section 3'' in the original, which, because of the translation as ''section 1602 of this title'' required no change in text.

Subsecs. (c) to (m). Pub. L. 94–588, §6, added subsecs. (c) to (m).

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1601 of this title.

[2] So in original. The ''; and'' probably should be a period.

REVISION OF FOREST PLANS

Pub. L. 111–88, div. A, title IV, §410, Oct. 30, 2009, 123 Stat. 2957, provided that: ''The Secretary of Agriculture shall not be considered to be in violation of subparagraph 6(f)(5)(A) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)(A)) solely because more than 15 years have passed without revision of the plan for a unit of the National Forest System. Nothing in this section exempts the Secretary from any other requirement of the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1600 et seq.) or any other law: *Provided*, That if the Secretary is not acting expeditiously and in good faith, within the funding available, to revise a plan for a unit of the National Forest System, this section shall be void with respect to such plan and a court of proper jurisdiction may order completion of the plan on an accelerated basis.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 111–8, div. E, title IV, §410, Mar. 11, 2009, 123 Stat. 746.

Pub. L. 110–161, div. F, title IV, §410, Dec. 26, 2007, 121 Stat. 2146.

Pub. L. 109–54, title IV, §415, Aug. 2, 2005, 119 Stat. 551.

Pub. L. 108–447, div. E, title III, §320, Dec. 8, 2004, 118 Stat. 3097.

Pub. L. 108–108, title III, §320, Nov. 10, 2003, 117 Stat. 1306.

Pub. L. 108–7, div. F, title III, §320, Feb. 20, 2003, 117 Stat 274.

Pub. L. 107–63, title III, §327, Nov. 5, 2001, 115 Stat. 470.

EXPEDITIOUS COMPLETION OF MANAGEMENT PLANS OF FOREST SERVICE AND BUREAU OF LAND MANAGEMENT; CONTINUATION OF EXISTING PLANS; JUDICIAL REVIEW

Pub. L. 101–121, title III, §312, Oct. 23, 1989, 103 Stat. 743, provided that: ''The Forest Service and Bureau of Land Management are to continue to complete as expeditiously as possible development of their respective Forest Land and Resource Management Plans to meet all applicable statutory requirements. Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600) [16 U.S.C. 1604(c)], the Forest Service, and the Bureau of Land Management under separate authority, may continue the management of lands within their jurisdiction under existing land and resource management plans pending the completion of new plans. Nothing shall limit judicial review of particular activities on these lands: *Provided, however*, That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated, or in the case of the Bureau of Land Management, solely on the basis that the plan does not incorporate information available subsequent to the completion of the existing plan: *Provided further*, That any and all particular activities to be carried out under existing plans may nevertheless be challenged.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 100–446, title III, §314, Sept. 27, 1988, 102 Stat. 1825.

Pub. L. 100–202, §101(g) [title III, §314], Dec. 22, 1987, 101 Stat. 1329–213, 1329–254.

Pub. L. 99–500, §101(h) [title II], Oct. 18, 1986, 100 Stat. 1783–242, 1783–268, and Pub. L. 99–591, §101(h) [title II], Oct. 30, 1986, 100 Stat. 3341–242, 3341–268.

§ 1605. Protection, use and management of renewable resources on non-Federal lands; utilization of Assessment, surveys and Program by Secretary of Agriculture to assist States, etc.

The Secretary of Agriculture may utilize the Assessment, resource surveys, and Program prepared pursuant to this subchapter to assist States and other organizations in proposing the

planning for the protection, use, and management of renewable resources on non-Federal land.

(Pub. L. 93–378, § 7, formerly § 6, Aug. 17, 1974, 88 Stat. 478, renumbered § 7, Pub. L. 94–588, § 2, Oct. 22, 1976, 90 Stat. 2949.)

§ 1606. Budget requests by President for Forest Service activities

(a) Transmittal to Speaker of House and President of Senate of Assessment, Program and Statement of Policy used in framing requests; time for transmittal; implementation by President of programs established under Statement of Policy unless Statement subsequently disapproved by Congress; time for disapproval

On the date Congress first convenes in 1976 and thereafter following each updating of the Assessment and the Program, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate, when Congress convenes, the Assessment as set forth in section 1601 of this title and the Program as set forth in section 1602 of this title, together with a detailed Statement of Policy intended to be used in framing budget requests by that Administration for Forest Service activities for the five- or ten-year program period beginning during the term of such Congress for such further action deemed appropriate by the Congress. Following the transmission of such Assessment, Program, and Statement of Policy, the President shall, subject to other actions of the Congress, carry out programs already established by law in accordance with such Statement of Policy or any subsequent amendment or modification thereof approved by the Congress, unless, before the end of the first period of ninety calendar days of continuous session of Congress after the date on which the President of the Senate and the Speaker of the House are recipients of the transmission of such Assessment, Program, and Statement of Policy, either House adopts a resolution reported by the appropriate committee of jurisdiction disapproving the Statement of Policy. For the purpose of this subsection, the continuity of a session shall be deemed to be broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the ninety-day period. Notwithstanding any other provision of this subchapter, Congress may revise or modify the Statement of Policy transmitted by the President, and the revised or modified Statement of Policy shall be used in framing budget requests.

(b) Contents of requests to show extent of compliance of projected programs and policies with policies approved by Congress; requests not conforming to approved policies; expenditure of appropriations

Commencing with the fiscal budget for the year ending September 30, 1977, requests presented by the President to the Congress governing Forest Service activities shall express in qualitative and quantitative terms the extent to which the programs and policies projected under the budget meet the policies approved by the Congress in accordance with subsection (a) of this section. In any case in which such budget so presented recommends a course which fails to meet the policies so established, the President shall specifically set forth the reason or reasons for requesting the Congress to approve the lesser programs or policies presented. Amounts appropriated to carry out the policies approved in accordance with subsection (a) of this section shall be expended in accordance with the Congressional Budget and Impoundment Control Act of 1974.

(c) Annual evaluation report to Congress of Program components; time of submission; status of major research programs; application of findings; status, etc., of cooperative forestry assistance programs and activities

For the purpose of providing information that will aid Congress in its oversight responsibilities and improve the accountability of agency expenditures and activities, the Secretary of Agriculture shall prepare an annual report which evaluates the component elements of the Program required to be prepared by section 1602 of this title which shall be furnished to the Congress at the time of submission of the annual fiscal budget commencing with the third fiscal year after August 17, 1974. With regard to the research component of the program, the report shall include, but not be limited to, a description of the status of major research programs, significant findings, and how these findings will be applied in National Forest System management and in cooperative State and private Forest Service programs. With regard to the cooperative forestry assistance part of the Program, the report shall include, but not be limited to, a description of the status, accomplishments, needs, and work backlogs for the programs and activities conducted under the Cooperative Forestry Assistance Act of 1978 [16 U.S.C. 2101 et seq.].

(d) Required contents of annual evaluation report

These annual evaluation reports shall set forth progress in implementing the Program required to be prepared by section 1602 of this title, together with accomplishments of the Program as they relate to the objectives of the Assessment. Objectives should be set forth in qualitative and quantitative terms and accomplishments should be reported accordingly. The report shall contain appropriate measurements of pertinent costs and benefits. The evaluation shall assess the balance between economic factors and environmental quality factors. Program benefits shall include, but not be limited to, environmental quality factors such as esthetics, public access, wildlife habitat, recreational and wilderness use, and economic factors such as the excess of cost savings over the value of foregone benefits and the rate of return on renewable resources.

(e) Additional required contents of annual evaluation report

The reports shall indicate plans for implementing corrective action and recommendations for new legislation where warranted.

(f) Form of annual evaluation report

The reports shall be structured for Congress in concise summary form with necessary detailed data in appendices.

(Pub. L. 93–378, § 8, formerly § 7, Aug. 17, 1974, 88 Stat. 478, renumbered § 8 and amended Pub. L. 94–588, §§ 2, 7, 12(b), Oct. 22, 1976, 90 Stat. 2949, 2956, 2958; Pub. L. 95–313, § 15, formerly § 12, July 1, 1978, 92 Stat. 374, renumbered § 15, Pub. L. 101–624, title XII, § 1215(1), Nov. 28, 1990, 104 Stat. 3525.)

REFERENCES IN TEXT

The Congressional Budget and Impoundment Control Act of 1974, referred to in subsec. (b), is Pub. L. 93–344, July 12, 1974, 88 Stat. 297. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

The Cooperative Forestry Assistance Act of 1978, referred to in subsec. (c), is Pub. L. 95–313, July 1, 1978, 92 Stat. 365, which is classified principally to chapter 41 (§ 2101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

AMENDMENTS

1978—Subsec. (c). Pub. L. 95–313 inserted provisions relating to inclusion in report of findings involving cooperative State and private Forest Service programs, and provisions relating to scope of report descriptions involving programs and activities under the Cooperative Forestry Assistance Act of 1978.

1976—Subsec. (a). Pub. L. 94–588, §§ 7(a), 12(b)(1), substituted ''section 3'' and ''section 4'' for ''section 2'' and ''section 3'', respectively, in the original, which, because of their translation as ''section 1601 of this title'' and ''section 1602 of this title'' required no change in text, and substituted ''ninety calendar days of continuous session'' for ''sixty days of continuous session'' and ''ninety-day period'' for ''sixty-day period''.

Subsec. (c). Pub. L. 94–588, §§ 7(b), 12(b)(2), substituted ''section 4'' for ''section 3'' in the original which, because of its translation as ''section 1602 of this title'' required no change in text and inserted provision requiring that the report include a description of the status of major research programs, significant findings, and how such findings will be applied in National Forest System management.

Subsec. (d). Pub. L. 94–588, § 12(b)(3), substituted ''section 4'' for ''section 3'' in the original which, because of the translation as ''section 1602 of this title'', required no change in text.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–313 effective Oct. 1, 1978, see section 17 of Pub. L. 95–313, set out as an Effective Date note under section 2101 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsecs. (a) and (c) of this section relating to transmitting an updated Assessment, Program, and Statement of Policy to the Speaker of the House of Representatives and the President of the Senate and furnishing an annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and pages 45 and 48 of House Document No. 103–7.

STATEMENT OF POLICY

Pub. L. 96–514, title III, § 310, Dec. 12, 1980, 94 Stat. 2984, provided that: ''The Statement of Policy transmitted by the President to the Speaker of the House of Representatives and the President of the Senate on June 19, 1980, as required under section 8 of the Forest and Rangeland Renewable Resources Planning Act of 1974 [this section], is revised and modified to read as follows:

''STATEMENT OF POLICY

''BASIC PRINCIPLES

''It is the policy of the United States—

''(1) forests and rangeland, in all ownerships, should be managed to maximize their net social and economic contributions to the Nation's well being, in an environmentally sound manner.

''(2) the Nation's forested land, except such public land that is determined by law or policy to be maintained in its existing or natural state, should be managed at levels that realize its capabilities to satisfy the Nation's need for food, fiber, energy, water, soil stability, wildlife and fish, recreation, and esthetic values.

''(3) the productivity of suitable forested land, in all ownerships, should be maintained and enhanced to minimize the inflationary impacts of wood product prices on the domestic economy and permit a net export of forest products by the year 2030.

''(4) in order to achieve this goal, it is recognized that in the major timber growing regions most of the commercial timber lands will have to be brought to and maintained, where possible, at 90 percent of their potential level of growth, consistent with the provisions of the National Forest Management Act of 1976 [see Short Title of 1976 Amendment note set out under section 1600 of this title] on Federal lands, so that all resources are utilized in the combination that will best meet the needs of the American people.

''(5) forest and rangeland protection programs should be improved to more adequately protect forest and rangeland resources from fire, erosion, insects, disease, and the introduction or spread of noxious weeds, insects, and animals.

''(6) the Federal agencies carrying out the policies contained in this Statement will cooperate and coordinate their efforts to accomplish the goals contained in this Statement and will consult, coordinate, and cooperate with the planning efforts of the States.

''(7) in carrying out the Assessment and the Program under the Forest and Rangeland Renewable Resources Planning Act of 1974 [this subchapter] and the Appraisal and the Program under the Soil and Water Resources Conservation Act of 1977 [section 2001 et seq. of this title], the Secretary of Agriculture shall assure that resources and economic information and evaluation data will be continually improved so that the best possible information is always available for use by Federal agencies and the public.

''RANGE LAND DATA BASE AND ITS IMPROVEMENT

''The data on and understanding of the cover and condition of range lands is less refined than the data on and understanding of commercial forest land. Range lands have significant value in the production of water and protection of watersheds; the production of fish and wildlife food and habitat; recreation; and the production of livestock forage. An adequate data base on the cover and condition of range lands should be developed by the year 1990. Currently, cattle production from these lands is annually estimated at 213 million animal unit months of livestock forage. These lands should be maintained and enhanced, including their water and other resource values, so that they can annually provide 310 million animal units months of forage by the year 2030, along with other benefits.

''GENERAL ACCEPTANCE OF HIGH BOUND PROGRAM

''Congress generally accepts the 'high-bound' program described on pages 7 through 18 of the 1980 Report to Congress on the Nation's Renewable Resources prepared by the Secretary of Agriculture. However, Congress finds that the 'high-bound' program may not be sufficient to accomplish the goals contained in this statement, particularly in the area of range and water-

shed resources, State and private forest cooperation and timber management.

''STATE AND PRIVATE LANDS

''States and owners of private forest and rangelands will be encouraged, consistent with their individual objectives, to manage their land in support of this Statement of Policy. The State and private forestry and range programs of the Forest Service will be essential to the furtherance of this Statement of Policy.

''FUNDING THE GOALS

''In order to accomplish the policy goals contained in this statement by the year 2030, the Federal Government should adequately fund programs of research (including cooperative research), extension, cooperative forestry assistance and protection, and improved management of the forest and rangelands. The Secretary of Agriculture shall continue his efforts to evaluate the cost-effectiveness of the renewable resource programs.''

STATEMENT OF PURPOSES OF AMENDMENT BY COOPERATIVE FORESTRY ASSISTANCE ACT OF 1978

Section 15, formerly section 12 of Pub. L. 95–313, renumbered § 15, Pub. L. 101–624, title XII, § 1215(1), Nov. 28, 1990, 104 Stat. 3525, provided in part that the amendment of subsec. (c) of this section by Pub. L. 95–313 is to insure that Congress has adequate information to implement its oversight responsibilities and to provide accountability for expenditures and activities under the Cooperative Forestry Assistance Act of 1978. See Short Title note set out under section 2101 of this title for classification of the Cooperative Forestry Assistance Act of 1978 in the Code.

§ 1606a. Reforestation Trust Fund

(a) Establishment; source of funds

There is established in the Treasury of the United States a trust fund, to be known as the Reforestation Trust Fund (hereinafter in this section referred to as the ''Trust Fund''), consisting of such amounts as are transferred to the Trust Fund under subsection (b)(1) of this section and any interest earned on investment of amounts in the Trust Fund under subsection (c)(2) of this section.

(b) Transfer of certain tariff receipts to Trust Fund; fiscal year limitation; quarterly transfers; adjustment of estimates

(1) Subject to the limitation in paragraph (2), the Secretary of the Treasury shall transfer to the Trust Fund an amount equal to the sum of the tariffs received in the Treasury after January 1, 1989, under headings 4401 through 4412 and subheadings 4418.50.00, 4418.90.20, 4420.10.00, 4420.90.80, 4421.90.10 through 4421.90.20, and 4421.90.70 of chapter 44, subheadings 6808.00.00 and 6809.11.00 of chapter 68 and subheading 9614.10.00 of chapter 96 of the Harmonized Tariff Schedule of the United States.

(2) The Secretary shall not transfer more than $30,000,000 to the Trust Fund for any fiscal year.

(3) The amounts required to be transferred to the Trust Fund under paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustment shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) Report to Congress; printing as House and Senate document; investments; sale and redemption of obligations; credits for Trust Fund

(1) It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Secretary of Agriculture) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and Senate document of the session of the Congress to which the report is made.

(2)(A) It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31 are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(B) Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(C) The interest on, and the proceeds from the sale or redemption of, any obligations held in Trust Fund shall be credited to and form a part of the Trust Fund.

(d) Obligations from Trust Fund

The Secretary of Agriculture is on and after December 19, 1985, authorized to obligate such sums as are available in the Trust Fund (including any amounts not obligated in previous fiscal years) for—

(1) reforestation and timber stand improvement as specified in section 1601(d) of this title and other forest stand improvement activities to enhance forest health and reduce hazardous fuel loads of forest stands in the National Forest System; and

(2) properly allocable administrative costs of the Federal Government for the activities specified above.

(Pub. L. 96–451, title III, §303, Oct. 14, 1980, 94 Stat. 1991; Pub. L. 97–424, title IV, §422, Jan. 6, 1983, 96 Stat. 2164; Pub. L. 99–190, §101(d) [title II, §201], Dec. 19, 1985, 99 Stat. 1224, 1245; Pub. L. 100–418, title I, §1214(r), Aug. 23, 1988, 102 Stat. 1160; Pub. L. 105–83, title III, §322, Nov. 14, 1997, 111 Stat. 1596.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (b)(1), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

CODIFICATION

Section was not enacted as part of the Forest and Rangeland Renewable Resources Planning Act of 1974 which comprises this subchapter.

In subsec. (c)(2)(A), ''chapter 31 of title 31'' substituted for ''the Second Liberty Bond Act, as amended'' on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1997—Subsec. (d)(1). Pub. L. 105–83 inserted before semicolon ''and other forest stand improvement activities to enhance forest health and reduce hazardous fuel loads of forest stands in the National Forest System''.

1988—Subsec. (b)(1). Pub. L. 100–418 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Subject to the limitation in paragraph (2), the Secretary of the Treasury shall transfer to the Trust Fund an amount equal to the sum of the tariffs received in the Treasury after September 30, 1979, under subparts A and B of part 1 of schedule 2 of the Tariff Schedules of the United States (19 U.S.C. 1202) and under part 3 of such schedule.''

1985—Subsec. (d). Pub. L. 99–190 amended subsec. (d) generally, substituting provisions authorizing the Secretary to obligate available sums in the Trust Fund, for provisions requiring the Secretary to expend all available amounts in each of fiscal years 1983, 1984, and 1985.

Subsec. (e). Pub. L. 99–190 struck out subsec. (e) which related to sense of Congress with respect to disposition of unexpended funds.

1983—Subsec. (b)(1). Pub. L. 97–424, §422(b), struck out ''and before October 1, 1985,'' after ''September 30, 1979''.

Subsec. (d). Pub. L. 97–424, §422(a), substituted provisions relating to fiscal years 1983 through 1985 for provision that directed that for each of the first 5 fiscal years beginning after Sept. 30, 1980, there was authorized after that date to be appropriated to the Secretary of Agriculture, out of any amounts in the Trust Fund, an amount equal to the sum of the amount by which the sum estimated by the Secretary of Agriculture for the fiscal year under section 1601(d)(2) of this title to be necessary for reforestation and other treatment of acreage, as set forth in the report transmitted by the Secretary to the Congress under that section for the fiscal year, exceeded the sum of the amounts appropriated for the fiscal year under the authorization contained in section 1601(d)(3) of this title and under any other provision of law to carry out the same purpose; and such sums as were determined by the Secretary of Agriculture to be properly allocable to administrative costs of the Federal Government incurred for the fiscal year in connection with the reforestation program carried out under this chapter.

Subsec. (e). Pub. L. 97–424, §422(a), substituted provision that it is the intent of Congress that the Secretary expend all of the funds available in the Trust Fund in each fiscal year and that any such funds which are not expended in a given fiscal year remain available for expenditure without fiscal year limitation; except that any funds not expended prior to Oct. 1, 1985, shall, no later than Apr. 30, 1986, be distributed to the States for use in State forestry programs pursuant to the formula set forth in section 500 of this title for provision that the Secretary of the Treasury pay into the general fund of the Treasury any amounts, including interest earned on such amounts, remaining in the Trust Fund after Sept. 30, 1985, which were not expended and remained in the Trust Fund.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100–418, set out as an Effective Date note under section 3001 of Title 19, Customs Duties.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c)(1) of this section relating to reporting to Congress each year, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 143 of House Document No. 103–7.

§1607. National Forest System renewable resources; development and administration by Secretary of Agriculture in accordance with multiple use and sustained yield concepts for products and services; target year for operational posture of resources; budget requests

The Secretary of Agriculture shall take such action as will assure that the development and administration of the renewable resources of the National Forest System are in full accord with the concepts for multiple use and sustained yield of products and services as set forth in the Multiple-Use Sustained-Yield Act of 1960 [16 U.S.C. 528–531]. To further these concepts, the Congress hereby sets the year 2000 as the target year when the renewable resources of the National Forest System shall be in an operating posture whereby all backlogs of needed treatment for their restoration shall be reduced to a current basis and the major portion of planned intensive multiple-use sustained-yield management procedures shall be installed and operating on an environmentally-sound basis. The annual budget shall contain requests for funds for an orderly program to eliminate such backlogs: *Provided*, That when the Secretary finds that (1) the backlog of areas that will benefit by such treatment has been eliminated, (2) the cost of treating the remainder of such area exceeds the economic and environmental benefits to be secured from their treatment, or (3) the total supplies of the renewable resources of the United States are adequate to meet the future needs of the American people, the budget request for these elements of restoration may be adjusted accordingly.

(Pub. L. 93–378, §9, formerly §8, Aug. 17, 1974, 88 Stat. 479, renumbered §9, Pub. L. 94–588, §2, Oct. 22, 1976, 90 Stat. 2949.)

REFERENCES IN TEXT

The Multiple-Use Sustained-Yield Act of 1960, referred to in text, is Pub. L. 86–517, June 12, 1960, 74 Stat. 215, as amended, which is classified generally to sections 528 to 531 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 528 of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1601 of this title.

§ 1608. National Forest Transportation System

(a) Congressional declaration of policy; time for development; method of financing; financing of forest development roads

The Congress declares that the installation of a proper system of transportation to service the National Forest System, as is provided for in sections 532 to 538 of this title, shall be carried forward in time to meet anticipated needs on an economical and environmentally sound basis, and the method chosen for financing the construction and maintenance of the transportation system should be such as to enhance local, regional, and national benefits: *Provided*, That limitations on the level of obligations for construction of forest roads by timber purchasers shall be established in annual appropriation Acts.

(b) Construction of temporary roadways in connection with timber contracts, and other permits or leases

Unless the necessity for a permanent road is set forth in the forest development road system plan, any road constructed on land of the National Forest System in connection with a timber contract or other permit or lease shall be designed with the goal of reestablishing vegetative cover on the roadway and areas where the vegetative cover has been disturbed by the construction of the road, within ten years after the termination of the contract, permit, or lease either through artificial or natural means. Such action shall be taken unless it is later determined that the road is needed for use as a part of the National Forest Transportation System.

(c) Standards of roadway construction

Roads constructed on National Forest System lands shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources.

(Pub. L. 93–378, § 10, formerly § 9, Aug. 17, 1974, 88 Stat. 479, renumbered § 10 and amended Pub. L. 94–588, §§ 2, 8, Oct. 22, 1976, 90 Stat. 2949, 2956; Pub. L. 97–100, title II, § 201, Dec. 23, 1981, 95 Stat. 1405.)

AMENDMENTS

1981—Subsec. (a). Pub. L. 97–100 substituted ''*Provided*, That limitations on the level of obligations for construction of forest roads by timber purchasers shall be established in annual appropriation Acts'' for '', except that the financing of forest development roads as authorized by clause (2) of section 535 of this title, shall be deemed 'budget authority' and 'budget outlays' as those terms are defined in section 1302(a) of title 31, and shall be effective for any fiscal year only in the manner required for new spending authority as specified by section 1351(a) of title 31''.

1976—Pub. L. 94–588, § 8, designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1601 of this title.

COUNTY PAYMENT MITIGATION; TRANSPORTATION SYSTEM MORATORIUM

Pub. L. 105–174, title III, § 3006, May 1, 1998, 112 Stat. 85, provided that:

''(a)(1) This section provides compensation for loss of revenues that would have been provided to counties if no road moratorium, as described in subsection (a)(2), were implemented or no substitute sales offered as described in subsection (b)(1). This section does not endorse or prohibit the road building moratorium nor does it affect the applicability of existing law to any moratorium.

''(2) The Chief of the Forest Service, Department of Agriculture, in his sole discretion, may offer any timber sales that were scheduled October 1, 1997, or thereafter, to be offered in fiscal year 1998 or fiscal year 1999 even if such sales would have been delayed or halted as a result of any moratorium (resulting from the Federal Register proposal of January 28, 1998, pages 4351–4354) on construction of roads in roadless areas within the National Forest System adopted as policy or by regulation that would otherwise be applicable to such sales.

''(3) Any sales offered pursuant to subsection (a)(2) shall—

''(A) comply with all applicable laws and regulations and be consistent with applicable land and resource management plans, except any regulations or plan amendments which establish or implement the moratorium referred to in subsection (a)(2); and

''(B) be subject to administrative appeals pursuant to part 215 of title 36 of the Code of Federal Regulations and to judicial review.

''(b)(1) For any previously scheduled sales that are not offered pursuant to subsection (a)(2), the Chief may, to the extent practicable, offer substitute sales within the same State in fiscal year 1998 or fiscal year 1999. Such substitute sales shall be subject to the requirements of subsection (a)(3).

''(2)(A) The Chief shall pay as soon as practicable after fiscal year 1998 and fiscal year 1999 to any State in which sales previously scheduled to be offered that are referred to in, but not offered pursuant to, subsection (a)(2) would have occurred, 25 percent of any anticipated receipts from such sales that—

''(i) were scheduled from fiscal year 1998 or fiscal year 1999 sales in the absence of any moratorium referred to in subsection (a)(2); and

''(ii) are not offset by revenues received in such fiscal years from substitute projects authorized pursuant to subsection (b)(1).

''(B) After reporting the amount of funds required to make any payments required by subsection (b)(2)(A), and the source from which such funds are to be derived, to the Committees on Appropriations of the House of Representatives and the Senate, the Chief shall make any payments required by subsection (b)(2)(A) from any funds available to the Forest Service in fiscal year 1998 or fiscal year 1999, subject to approval of the Committees on Appropriations of the House of Representatives and the Senate, that are not specifically earmarked for another purpose by the applicable appropriation Act or a committee or conference report thereon.

''(C) Any State which receives payments required by subsection (b)(2)(A) shall expend such funds only in the manner, and for the purposes, prescribed in section 500 of title 16, United States Code.

''(c)(1) During the term of the moratorium referred to in subsection (a)(2), the Chief shall prepare and submit to the Committees on Appropriations of the House of

Representatives and the Senate a report on each of the following—

''(A) a study of whether standards and guidelines in existing land and resource management plans compel or encourage entry into roadless areas within the National Forest System for the purpose of constructing roads or undertaking any other ground-disturbing activities;

''(B) an inventory of all roads within the National Forest System and the uses which they serve, in a format that will inform and facilitate the development of a long-term Forest Service transportation policy; and

''(C) a comprehensive and detailed analysis of the economic and social effects of the moratorium referred to in subsection (a)(2) on county, State, and regional levels.''

§ 1609. National Forest System

(a) Congressional declaration of constituent elements and purposes; lands etc., included within; return of lands to public domain

Congress declares that the National Forest System consists of units of federally owned forest, range, and related lands throughout the United States and its territories, united into a nationally significant system dedicated to the long-term benefit for present and future generations, and that it is the purpose of this section to include all such areas into one integral system. The ''National Forest System'' shall include all national forest lands reserved or withdrawn from the public domain of the United States, all national forest lands acquired through purchase, exchange, donation, or other means, the national grasslands and land utilization projects administered under title III of the Bankhead-Jones Farm Tenant Act [7 U.S.C. 1010 et seq.], and other lands, waters, or interests therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the system. Notwithstanding the provisions of section 473 of this title, no land now or hereafter reserved or withdrawn from the public domain as national forests pursuant to section 471[1] of this title, or any act supplementary to and amendatory thereof, shall be returned to the public domain except by an act of Congress.

(b) Location of Forest Service offices

The on-the-ground field offices, field supervisory offices, and regional offices of the Forest Service shall be so situated as to provide the optimum level of convenient, useful services to the public, giving priority to the maintenance and location of facilities in rural areas and towns near the national forest and Forest Service program locations in accordance with the standards in section 2204b–1(b) of title 7.

(Pub. L. 93–378, § 11, formerly § 10, Aug. 17, 1974, 88 Stat. 480, renumbered § 11 and amended Pub. L. 94–588, §§ 2, 9, Oct. 22, 1976, 90 Stat. 2949, 2957.)

REFERENCES IN TEXT

The Bankhead-Jones Farm Tenant Act, referred to in subsec. (a), is act July 22, 1937, ch. 517, 50 Stat. 522, as amended. Title III of the Bankhead Jones Farm Tenant Act is classified generally to subchapter III (§ 1010 et seq.) of chapter 33 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1000 of Title 7 and Tables.

[1] See References in Text note below.

Section 471 of this title, referred to in subsec. (a), was repealed by Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–588, § 9, prohibited the return to the public domain of land reserved or withdrawn from the public domain as national forests pursuant to section 471 of this title except by an act of Congress.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1601 of this title.

LAND CONVEYANCES INVOLVING JOLIET ARMY AMMUNITION PLANT, ILLINOIS

Pub. L. 104–106, div. B, title XXIX, Feb. 10, 1996, 110 Stat. 594, as amended by Pub. L. 106–65, div. B, title XXVIII, § 2842, Oct. 5, 1999, 113 Stat. 863, provided that title XXIX could be cited as the ''Illinois Land Conservation Act of 1995'' and provided for conversion of Joliet Army Ammunition Plant to Midewin National Tallgrass Prairie, Illinois, to be managed by the Secretary of Agriculture as part of National Forest System, and for conveyance of certain real property at the Arsenal for a national cemetery, a Will County, Illinois, landfill, and industrial parks to replace all or a part of lost economic activity, with provisions prohibiting construction of title XXIX to restrict or lessen degree of cleanup required to be carried out under environmental laws, and provisions authorizing retention of real property used for environmental cleanup by Secretary of the Army until transfer occurs.

§ 1610. Implementation of provisions by Secretary of Agriculture; utilization of information and data of other organizations; avoidance of duplication of planning, etc.; "renewable resources" defined

In carrying out this subchapter, the Secretary of Agriculture shall utilize information and data available from other Federal, State, and private organizations and shall avoid duplication and overlap of resource assessment and program planning efforts of other Federal agencies. The term ''renewable resources'' shall be construed to involve those matters within the scope of responsibilities and authorities of the Forest Service on August 17, 1974 and on the date of enactment of any legislation amendatory or supplementary thereto.

(Pub. L. 93–378, § 12, formerly § 11, Aug. 17, 1974, 88 Stat. 480, renumbered § 12 and amended Pub. L. 94–588, §§ 2, 10, Oct. 22, 1976, 90 Stat. 2949, 2957.)

AMENDMENTS

1976—Pub. L. 94–588, § 10, inserted ''and on the date of enactment of any legislation amendatory or supplementary thereto''.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1601 of this title.

§ 1611. Timber

(a) Limitations on removal; variations in allowable sale quantity; public participation

The Secretary of Agriculture shall limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis: *Provided*, That, in order to meet overall multiple-use objectives, the Secretary may establish an allowable sale quantity for any decade which departs from the projected long-term average sale quantity that would otherwise be established: *Provided further*, That any such planned departure must be consistent with the multiple-use management objectives of the land management plan. Plans for variations in the allowable sale quantity must be made with public participation as required by section 1604(d) of this title. In addition, within any decade, the Secretary may sell a quantity in excess of the annual allowable sale quantity established pursuant to this section in the case of any national forest so long as the average sale quantities of timber from such national forest over the decade covered by the plan do not exceed such quantity limitation. In those cases where a forest has less than two hundred thousand acres of commercial forest land, the Secretary may use two or more forests for purposes of determining the sustained yield.

(b) Salvage harvesting

Nothing in subsection (a) of this section shall prohibit the Secretary from salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack. The Secretary may either substitute such timber for timber that would otherwise be sold under the plan or, if not feasible, sell such timber over and above the plan volume.

(Pub. L. 93–378, § 13, as added Pub. L. 94–588, § 11, Oct. 22, 1976, 90 Stat. 2957.)

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1601 of this title.

TIMBER SALES PIPELINE RESTORATION FUND

Pub. L. 104–134, title I, § 101(c) [title III, § 327], Apr. 26, 1996, 110 Stat. 1321–156, 1321–206; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, provided that:

''(a) The Secretary of Agriculture and the Secretary of the Interior shall each establish a Timber Sales Pipeline Restoration Fund (hereinafter 'Agriculture Fund' and 'Interior Fund' or 'Funds'). Any revenues received from sales released under section 2001(k) of the fiscal year 1995 Supplemental Appropriations for Disaster Assistance and Rescissions Act [probably means section 2001(k) of Pub. L. 104–19, set out below], minus the funds necessary to make payments to States or local governments under other law concerning the distribution of revenues derived from the affected lands, which are in excess of $37,500,000 (hereinafter 'excess revenues') shall be deposited into the Funds. The distribution of excess revenues between the Agriculture Fund and Interior Fund shall be calculated by multiplying the total of excess revenues times a fraction with a denominator of the total revenues received from all sales released under such section 2001(k) and numerators of the total revenues received from such sales on lands within the National Forest System and the total revenues received from such sales on lands administered by the Bureau of Land Management, respectively: *Provided*, That revenues or portions thereof from sales released under such section 2001(k), minus the amounts necessary for State and local government payments and other necessary deposits, may be deposited into the Funds immediately upon receipt thereof and subsequently redistributed between the Funds or paid into the United States Treasury as miscellaneous receipts as may be required when the calculation of excess revenues is made.

''(b)(1) From the funds deposited into the Agriculture Fund and into the Interior Fund pursuant to subsection (a)—

''(A) seventy-five percent shall be available, without fiscal year limitation or further appropriation, for preparation of timber sales, other than salvage sales as defined in section 2001(a)(3) of the fiscal year 1995 Supplemental Appropriations for Disaster Assistance and Rescissions Act [probably means section 2001(a)(3) of Pub. L. 104–19, set out below], which—

''(i) are situated on lands within the National Forest System and lands administered by the Bureau of Land Management, respectively; and

''(ii) are in addition to timber sales for which funds are otherwise available in this Act or other appropriations Acts; and

''(B) twenty-five percent shall be available, without fiscal year limitation or further appropriation, to expend on the backlog of recreation projects on lands within the National Forest System and lands administered by the Bureau of Land Management, respectively.

''(2) Expenditures under this subsection for preparation of timber sales may include expenditures for Forest Service activities within the forest land management budget line item and associated timber roads, and Bureau of Land Management activities within the Oregon and California grant lands account and the forestry management area account, as determined by the Secretary concerned.

''(c) Revenues received from any timber sale prepared under subsection (b) or under this subsection, minus the amounts necessary for State and local government payments and other necessary deposits, shall be deposited into the Fund from which funds were expended on such sale. Such deposited revenues shall be available for preparation of additional timber sales and completion of additional recreation projects in accordance with the requirements set forth in subsection (b).

''(d) The Secretary concerned shall terminate all payments into the Agriculture Fund or the Interior Fund, and pay any unobligated funds in the affected Fund into the United States Treasury as miscellaneous receipts, whenever the Secretary concerned makes a finding, published in the Federal Register, that sales sufficient to achieve the total allowable sales quantity of the National Forest System for the Forest Service or the allowable sales level for the Oregon and California grant lands for the Bureau of Land Management, respectively, have been prepared.

''(e) Any timber sales prepared and recreation projects completed under this section shall comply with all applicable environmental and natural resource laws and regulations.

''(f) The Secretary concerned shall report annually to the Committees on Appropriations of the United States Senate and the House of Representatives on expenditures made from the Fund for timber sales and recreation projects, revenues received into the Fund from timber sales, and timber sale preparation and recreation project work undertaken during the previous

year and projected for the next year under the Fund. Such information shall be provided for each Forest Service region and Bureau of Land Management State office.

''(g) The authority of this section shall terminate upon the termination of both Funds in accordance with the provisions of subsection (d).''

EMERGENCY SALVAGE TIMBER SALE PROGRAM

Pub. L. 104–19, title II, § 2001, July 27, 1995, 109 Stat. 240, as amended by Pub. L. 104–134, title I, § 101(c) [title III, § 316], Apr. 26, 1996, 110 Stat. 1321–156, 1321–202; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, provided for salvage timber sales from certain Federal lands by the Secretary of Agriculture and the Secretary of the Interior from July 27, 1995 to Dec. 31, 1996.

§ 1612. Public participation

(a) Adequate notice and opportunity to comment

In exercising his authorities under this subchapter and other laws applicable to the Forest Service, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs.

(b) Advisory boards

In providing for public participation in the planning for and management of the National Forest System, the Secretary, pursuant to the Federal Advisory Committee Act (86 Stat. 770) and other applicable law, shall establish and consult such advisory boards as he deems necessary to secure full information and advice on the execution of his responsibilities. The membership of such boards shall be representative of a cross section of groups interested in the planning for and management of the National Forest System and the various types of use and enjoyment of the lands thereof.

(Pub. L. 93–378, § 14, as added Pub. L. 94–588, § 11, Oct. 22, 1976, 90 Stat. 2958.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1601 of this title.

FOREST SERVICE DECISIONMAKING AND APPEALS REFORM

Pub. L. 102–381, title III, § 322, Oct. 5, 1992, 106 Stat. 1419, provided that:

''(a) IN GENERAL.—In accordance with this section, the Secretary of Agriculture, acting through the Chief of the Forest Service, shall establish a notice and comment process for proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans developed under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601 [1600] et seq.) and shall modify the procedure for appeals of decisions concerning such projects.

''(b) NOTICE AND COMMENT.—

''(1) NOTICE.—Prior to proposing an action referred to in subsection (a), the Secretary shall give notice of the proposed action, and the availability of the action for public comment by—

''(A) promptly mailing notice about the proposed action to any person who has requested it in writing, and to persons who are known to have participated in the decisionmaking process; and,

''(B)(i) in the case of an action taken by the Chief of the Forest Service, publishing notice of action in the Federal Register; or

''(ii) in the case of any other action referred to in subsection (a), publishing notice of the action in a newspaper of general circulation that has previously been identified in the Federal Register as the newspaper in which notice under this paragraph may be published.

''(2) COMMENT.—The Secretary shall accept comments on the proposed action within 30 days after publication of the notice in accordance with paragraph (1).

''(c) RIGHT TO APPEAL.—Not later than 45 days after the date of issuance of a decision of the Forest Service concerning actions referred to in subsection (a), a person who was involved in the public comment process under subsection (b) through submission of written or oral comments or by otherwise notifying the Forest Service of their interest in the proposed action may file an appeal.

''(d) DISPOSITION OF AN APPEAL.—

''(1) INFORMAL DISPOSITION.—

''(A) IN GENERAL.—Subject to subparagraph (B), a designated employee of the Forest Service shall offer to meet with each individual who files an appeal in accordance with subsection (c) and attempt to dispose of the appeal.

''(B) TIME AND LOCATION OF THE MEETING.—Each meeting in accordance with subparagraph (A) shall take place—

''(i) not later than 15 days after the closing date for filing an appeal; and

''(ii) at a location designated by the Chief of the Forest Service that is in the vicinity of the lands affected by the decision.

''(2) FORMAL REVIEW.—If the appeal is not disposed of in accordance with paragraph (1), an appeals review officer designated by the Chief of the Forest Service shall review the appeal and recommend in writing, to the official responsible for deciding the appeal, the appropriate disposition of the appeal. The official responsible for deciding the appeal shall then decide the appeal. The appeals review officer shall be a line officer at least at the level of the agency official who made the initial decision on the project or activity that is under appeal, who has not participated in the initial decision and will not be responsible for implementation of the initial decision after the appeal is decided.

''(3) TIME FOR DISPOSITION.—Disposition of appeals under this subsection shall be completed not later than 30 days after the closing date for filing of an appeal, provided that the Forest Service may extend the closing date by an additional 15 days.

''(4) If the Secretary fails to decide the appeal within the 45-day period, the decision on which the appeal is based shall be deemed to be a final agency action for the purpose of chapter 7 of title 5, United States Code.

''(e) STAY.—Unless the Chief of the Forest Service determines that an emergency situation exists with respect to a decision of the Forest Service, implementation of the decision shall be stayed during the period beginning on the date of the decision—

''(1) for 45 days, if an appeal is not filed, or

''(2) for an additional 15 days after the date of the disposition of an appeal under this section, if the

agency action is deemed final under subsection (d)(4).''

§ 1613. Promulgation of regulations

The Secretary of Agriculture shall prescribe such regulations as he determines necessary and desirable to carry out the provisions of this subchapter.

(Pub. L. 93–378, § 15, as added Pub. L. 94–588, § 11, Oct. 22, 1976, 90 Stat. 2958.)

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1601 of this title.

§ 1614. Severability

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this subchapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 93–378, § 16, as added Pub. L. 94–588, § 11, Oct. 22, 1976, 90 Stat. 2958.)

SUBCHAPTER II—RESEARCH

§ 1641. Findings and purpose

(a) Findings

Congress finds the following:

(1) Forests and rangeland, and the resources of forests and rangeland, are of strategic economic and ecological importance to the United States, and the Federal Government has an important and substantial role in ensuring the continued health, productivity, and sustainability of the forests and rangeland of the United States.

(2) Over 75 percent of the productive commercial forest land in the United States is privately owned, with some 60 percent owned by small nonindustrial private owners. These 10,000,000 nonindustrial private owners are critical to providing both commodity and noncommodity values to the citizens of the United States.

(3) The National Forest System manages only 17 percent of the commercial timberland of the United States, with over half of the standing softwoods inventory located on that land. Dramatic changes in Federal agency policy during the early 1990's have significantly curtailed the management of this vast timber resource, causing abrupt shifts in the supply of timber from public to private ownership. As a result of these shifts in supply, some 60 percent of total wood production in the United States is now coming from private forest land in the southern United States.

(4) At the same time that pressures are building for the removal of even more land from commercial production, the Federal Government is significantly reducing its commitment to productivity-related research regarding forests and rangeland, which is critically needed by the private sector for the sustained management of remaining available timber and forage resources for the benefit of all species.

(5) Uncertainty over the availability of the United States timber supply, increasing regulatory burdens, and the lack of Federal Government support for research is causing domestic wood and paper producers to move outside the United States to find reliable sources of wood supplies, which in turn results in a worsening of the United States trade balance, the loss of employment and infrastructure investments, and an increased risk of infestations of exotic pests and diseases from imported wood products.

(6) Wood and paper producers in the United States are being challenged not only by shifts in Federal Government policy, but also by international competition from tropical countries where growth rates of trees far exceed those in the United States. Wood production per acre will need to quadruple from 1996 levels for the United States forestry sector to remain internationally competitive on an ever decreasing forest land base.

(7) Better and more frequent forest inventorying and analysis is necessary to identify productivity-related forestry research needs and to provide forest managers with the current data necessary to make timely and effective management decisions.

(b) Relationship to other law

This subchapter shall be deemed to complement the policies and direction set forth in the Forest and Rangeland Renewable Resources Planning Act of 1974 [16 U.S.C. 1600 et seq.].

(c) Purpose

It is the purpose of this subchapter to authorize the Secretary to expand research activities to encompass international forestry and natural resource issues on a global scale.

(Pub. L. 95–307, § 2, June 30, 1978, 92 Stat. 353; Pub. L. 101–513, title VI, § 611(a)(1), formerly § 607(a)(1), Nov. 5, 1990, 104 Stat. 2072, renumbered § 611(a)(1), Pub. L. 102–574, § 2(a)(1), Oct. 29, 1992, 106 Stat. 4593; Pub. L. 105–185, title II, § 253(a), June 23, 1998, 112 Stat. 558.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 95–307, June 2, 1978, 92 Stat. 353, as amended, known as the Forest and Rangeland Renewable Resources Research Act of 1978, which enacted this subchapter, repealed sections 581 to 581i of this title, and enacted provisions set out as a note under section 1641 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (b), is Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§ 1600 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

AMENDMENTS

1998—Pub. L. 105–185 inserted section catchline, added subsec. (a), and struck out former subsec. (a) which read as follows:

''(1) Congress finds that scientific discoveries and technological advances must be made and applied to support the protection, management, and utilization of the Nation's renewable resources. It is the purpose of this subchapter to authorize the Secretary of Agriculture (hereinafter in this subchapter referred to as the 'Secretary') to implement a comprehensive program of forest and rangeland renewable resources research and dissemination of the findings of such research.

''(2) Congress further finds that the forest and rangeland renewable resources of the world are threatened by deforestation due to conversion to agriculture of lands better suited to other uses, over-grazing, overharvesting, and other causes that pose a direct adverse threat to people, the global environment, and the world economy.''

1990—Subsecs. (a), (c). Pub. L. 101–513 designated existing provisions of subsec. (a) as par. (1), added par. (2), and added subsec. (c).

EFFECTIVE DATE

Section 9 of Pub. L. 95–307 which provided that Pub. L. 95–307 (enacting this subchapter, repealing sections 581 to 581i of this title, and enacting provisions set out as a note under section 1600 of this title) is effective Oct. 1, 1978, was amended generally by Pub. L. 101–624 and is classified to section 1648 of this title.

SHORT TITLE

For short title of Pub. L. 95–307, June 30, 1978, 92 Stat. 353, as the Forest and Rangeland Renewable Resources Research Act of 1978, see Short Title of 1978 Amendment note set out under section 1600 of this title.

§ 1642. Investigations, experiments, tests, and other activities

(a) Authorization; scope and purposes of activities

The Secretary is authorized to conduct, support, and cooperate in investigations, experiments, tests, and other activities the Secretary deems necessary to obtain, analyze, develop, demonstrate, and disseminate scientific information about protecting, managing, and utilizing forest and rangeland renewable resources in rural, suburban, and urban areas. The activities conducted, supported, or cooperated in by the Secretary under this subchapter shall include, but not be limited to, the five major areas of renewable resource research identified in paragraphs (1) through (5) of this subsection.

(1) Renewable resource management research shall include, as appropriate, research activities related to managing, reproducing, planting, and growing vegetation on forests and rangelands for timber, forage, water, fish and wildlife, esthetics, recreation, wilderness, energy production, activities related to energy conservation, and other purposes, including activities for encouraging improved reforestation of forest lands from which timber has been harvested; determining the role of forest and rangeland management in the productive use of forests and rangelands, in diversified agriculture, and in mining, transportation, and other industries; and developing alternatives for the management of forests and rangelands that will make possible the most effective use of their multiple products and services.

(2) Renewable resource environmental research shall include, as appropriate, research activities related to understanding and managing surface and subsurface water flow, preventing and controlling erosion, and restoring damaged or disturbed soils on forest and rangeland watersheds; maintaining and improving wildlife and fish habitats; managing vegetation to reduce air and water pollution, provide amenities, and for other purposes; and understanding, predicting, and modifying weather, climatic, and other environmental conditions that affect the protection and management of forests and rangelands.

(3) Renewable resource protection research shall include, as appropriate, research activities related to protecting vegetation and other forest and rangeland resources, including threatened and endangered flora and fauna, as well as wood and wood products in storage or use, from fires, insects, diseases, noxious plants, animals, air pollutants, and other agents through biological, chemical, and mechanical control methods and systems; and protecting people, natural resources, and property from fires in rural areas.

(4) Renewable resource utilization research shall include, as appropriate, research activities related to harvesting, transporting, processing, marketing, distributing, and utilizing wood and other materials derived from forest and rangeland renewable resources; recycling and fully utilizing wood fiber; producing and conserving energy; and testing forest products, including necessary fieldwork associated therewith.

(5) Renewable resource assessment research shall include, as appropriate, research activities related to developing and applying scientific knowledge and technology in support of the survey and analysis of forest and rangeland renewable resources described in subsection (b) of this section.

(b) Development of periodic Renewable Resource Assessment through survey and analysis of conditions; implementation; authorization of appropriations

(1) To ensure the availability of adequate data and scientific information for development of the periodic Renewable Resource Assessment provided for in section 1601 of this title, the Secretary of Agriculture shall make and keep current a comprehensive survey and analysis of the present and prospective conditions of and requirements for renewable resources of the forests and rangelands of the United States and of the supplies of such renewable resources, including a determination of the present and potential productivity of the land, and of such other facts as may be necessary and useful in the determination of ways and means needed to balance the demand for and supply of these renewable resources, benefits, and uses in meeting the needs of the people of the United States. The Secretary shall conduct the survey and analysis under such plans as the Secretary may determine to be fair and equitable, and cooperate with appropriate officials of each State and, either through them or directly, with private or other entities.

(2) In implementing this subsection, the Secretary is authorized to develop and implement improved methods of survey and analysis of forest inventory information, for which purposes

there are hereby authorized to be appropriated annually $10,000,000.

(c) Program of research and study relative to health and productivity of domestic forest ecosystems; advisory committee; reports

(1) The Secretary, acting through the United States Forest Service, shall establish not later than 180 days after October 24, 1988, a 10-year program (hereinafter in this subsection referred to as the ''Program'') to—

(A) increase the frequency of forest inventories in matters that relate to atmospheric pollution and conduct such surveys as are necessary to monitor long-term trends in the health and productivity of domestic forest ecosystems;

(B) determine the scope of the decline in the health and productivity of domestic forest ecosystems;

(C) accelerate and expand existing research efforts (including basic forest ecosystem research) to evaluate the effects of atmospheric pollutants on forest ecosystems and their role in the decline in domestic forest health and productivity;

(D) study the relationship between atmospheric pollution and other climatological, chemical, physical, and biological factors that may affect the health and productivity of domestic forest ecosystems;

(E) develop recommendations for solving or mitigating problems related to the effects of atmospheric pollution on the health and productivity of domestic forest ecosystems;

(F) foster cooperation among Federal, State, and private researchers and encourage the exchange of scientific information on the effects of atmospheric pollutants on forest ecosystems among the United States, Canada, European nations, and other nations;

(G) support the long-term funding of research programs and related efforts to determine the causes of declines in the health and productivity of domestic forest ecosystems and the effects of atmospheric pollutants on the health and productivity of domestic forest ecosystems; and

(H) enlarge the Eastern Hardwood Cooperative by devoting additional resources to field analysis of the response of hardwood species to atmospheric pollution, and other factors that may affect the health and productivity of these ecosystems.

(2) The Secretary shall establish a committee to advise the Secretary in developing and carrying out the Program, which shall be composed of scientists with training and experience in various disciplines, including atmospheric, ecological, and biological sciences. Such scientists shall be selected from among individuals who are actively performing research for Federal or State agencies or for private industries, institutions, or organizations.

(3) The Secretary shall coordinate the Program with existing research efforts of Federal and State agencies and private industries, institutions, or organizations.

(4) The Secretary shall submit to the President and to Congress the following reports:

(A) Not less than 30 days before establishing the Program, the Secretary shall submit an initial program report—

(i) discussing existing information about declining health and productivity of forest ecosystems on public and private lands in North America and Europe;

(ii) outlining the findings and status of all current research and monitoring efforts in North America and Europe on the causes and effects of atmospheric pollution on the health and productivity of forest ecosystems;

(iii) describing the Program; and

(iv) estimating the cost of implementing the Program for each fiscal year of its duration.

(B) Not later than January 15, 1990, and January 15 of each year thereafter, during which the Program is in operation following the year in which the initial program report is submitted, the Secretary shall submit an annual report—

(i) updating information about declining health and productivity of forest ecosystems on public and private lands in North America and Europe;

(ii) updating the findings and status of all current research and monitoring efforts in North America and Europe on the causes and effects of atmospheric pollution on the health and productivity of forest ecosystems, including efforts conducted under the Program;

(iii) recommending additional research and monitoring efforts to be undertaken under the Program to determine the effects of atmospheric pollution on the health and productivity of domestic forest ecosystems; and

(iv) recommending methods for solving or mitigating problems stemming from the effects of atmospheric pollution on the health and productivity of domestic forest ecosystems.

(C) Not later than 10 years after the date on which the initial program report is submitted, the Secretary shall submit a final report—

(i) reviewing existing information about declining health and productivity of forest ecosystems on public and private lands in North America and Europe;

(ii) reviewing the nature and findings of all research and monitoring efforts conducted under the Program and any other relevant research and monitoring efforts related to the effects of atmospheric pollution on forest ecosystem; and

(iii) making final recommendations for solving or mitigating problems stemming from the effects of atmospheric pollution on the health and productivity of domestic forest ecosystems.

(d) High priority forestry and rangeland research and education

(1) In general

The Secretary may conduct, support, and cooperate in forestry and rangeland research and education that is of the highest priority to the United States and to users of public and private forest land and rangeland in the United States.

(2) Priorities

The research and education priorities include the following:

(A) The biology of forest organisms and rangeland organisms.

(B) Functional characteristics and cost-effective management of forest and rangeland ecosystems.

(C) Interactions between humans and forests and rangeland.

(D) Wood and forage as a raw material.

(E) International trade, competition, and cooperation.

(3) Northeastern States research cooperative

At the request of the Governor of the State of Maine, New Hampshire, New York, or Vermont, the Secretary may cooperate with the northeastern States of New Hampshire, New York, Maine, and Vermont, land-grant colleges and universities of those States, natural resources and forestry schools of those States, other Federal agencies, and other interested persons in those States to coordinate and improve ecological and economic research relating to agricultural research, extension, and education, including—

(A) research on ecosystem health, forest management, product development, economics, and related fields;

(B) research to assist those States and landowners in those States to achieve sustainable forest management;

(C) technology transfer to the wood products industry of technologies that promote efficient processing, pollution prevention, and energy conservation;

(D) dissemination of existing and new information to landowners, public and private resource managers, State forest citizen advisory committees, and the general public through professional associations, publications, and other information clearinghouse activities; and

(E) analysis of strategies for the protection of areas of outstanding ecological significance or high biological diversity, and strategies for the provision of important recreational opportunities and traditional uses, including strategies for areas identified through State land conservation planning processes.

(e) Forest inventory and analysis

(1) Program required

In compliance with other applicable provisions of law, the Secretary shall establish a program to inventory and analyze, in a timely manner, public and private forests and their resources in the United States.

(2) Annual State inventory

(A) In general

Not later than the end of each full fiscal year beginning after June 23, 1998, the Secretary shall prepare for each State, in cooperation with the State forester for the State, an inventory of forests and their resources in the State.

(B) Sample plots

For purposes of preparing the inventory for a State, the Secretary shall measure annually 20 percent of all sample plots that are included in the inventory program for that State.

(C) Compilation of inventory

On completion of the inventory for a year, the Secretary shall make available to the public a compilation of all data collected for that year from measurements of sample plots as well as any analysis made of the samples.

(3) 5-year reports

Not more often than every 5 full fiscal years after June 23, 1998, the Secretary shall prepare, publish, and make available to the public a report, prepared in cooperation with State foresters, that—

(A) contains a description of each State inventory of forests and their resources, incorporating all sample plot measurements conducted during the 5 years covered by the report;

(B) displays and analyzes on a nationwide basis the results of the annual reports required by paragraph (2); and

(C) contains an analysis of forest health conditions and trends over the previous 2 decades, with an emphasis on such conditions and trends during the period subsequent to the immediately preceding report under this paragraph.

(4) National standards and definitions

To ensure uniform and consistent data collection for all forest land that is publicly or privately owned and for each State, the Secretary shall develop, in consultation with State foresters and Federal land management agencies not under the jurisdiction of the Secretary, and publish national standards and definitions to be applied in inventorying and analyzing forests and their resources under this subsection. The standards shall include a core set of variables to be measured on all sample plots under paragraph (2) and a standard set of tables to be included in the reports under paragraph (3).

(5) Protection for private property rights

The Secretary shall obtain authorization from property owners prior to collecting data from sample plots located on private property pursuant to paragraphs (2) and (3).

(6) Strategic plan

Not later than 180 days after June 23, 1998, the Secretary shall prepare and submit to Congress a strategic plan to implement and carry out this subsection, including the annual updates required by paragraph (2) and the reports required by paragraph (3), that shall describe in detail—

(A) the financial resources required to implement and carry out this subsection, including the identification of any resources required in excess of the amounts provided for forest inventorying and analysis in recent appropriations Acts;

(B) the personnel necessary to implement and carry out this subsection, including any personnel in addition to personnel currently performing inventorying and analysis functions;

(C) the organization and procedures necessary to implement and carry out this subsection, including proposed coordination with Federal land management agencies and State foresters;

(D) the schedules for annual sample plot measurements in each State inventory required by paragraph (2) within the first 5-year interval after June 23, 1998;

(E) the core set of variables to be measured in each sample plot under paragraph (2) and the standard set of tables to be used in each State and national report under paragraph (3); and

(F) the process for employing, in coordination with the Secretary of Energy and the Administrator of the National Aeronautics and Space Administration, remote sensing, global positioning systems, and other advanced technologies to carry out this subsection, and the subsequent use of the technologies.

(Pub. L. 95–307, § 3, June 30, 1978, 92 Stat. 353; Pub. L. 96–294, title II, § 254, June 30, 1980, 94 Stat. 707; Pub. L. 100–521, § 3, Oct. 24, 1988, 102 Stat. 2601; Pub. L. 101–624, title XII, § 1241(a), Nov. 28, 1990, 104 Stat. 3544; Pub. L. 105–185, title II, § 253(b), (c), June 23, 1998, 112 Stat. 559; Pub. L. 105–277, div. A, § 101(a) [title VII, § 753(a)], Oct. 21, 1998, 112 Stat. 2681, 2681–32.)

REFERENCES IN TEXT

The Federal revenue codes, referred to in subsec. (d)(2), are classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–185, § 253(b), added subsec. (d) and struck out former subsec. (d) which read as follows: ''The Secretary is authorized to conduct, support, and cooperate in studies and other activities the Secretary deems necessary to—

''(1) evaluate renewable resource management problems associated with urban-forest interface;

''(2) assess effects of changes in Federal revenue codes on private forest management and investment; and

''(3) develop improved delivery systems for information and technical assistance provided to private landowners.''

Subsec. (d)(3). Pub. L. 105–277 substituted ''At the request of the Governor of the State of Maine, New Hampshire, New York, or Vermont, the Secretary'' for ''The Secretary''.

Subsec. (e). Pub. L. 105–185, § 253(c), added subsec. (e).

1990—Subsec. (a)(1). Pub. L. 101–624, § 1241(a)(1), inserted '', including activities for encouraging improved reforestation of forest lands from which timber has been harvested'' after ''purposes''.

Subsec. (b). Pub. L. 101–624, § 1241(a)(2), designated existing provisions as par. (1) and added par. (2).

Subsec. (d). Pub. L. 101–624, § 1241(a)(3), added subsec. (d).

1988—Subsec. (c). Pub. L. 100–521 added subsec. (c).

1980—Subsec. (a)(1). Pub. L. 96–294, § 254(1), inserted applicability to energy production and energy conservation activities.

Subsec. (a)(4). Pub. L. 96–294, § 254(2), inserted applicability to producing and conserving energy.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective June 23, 1998, see section 101(a) [title VII, § 753(f)] of Pub. L. 105–277, set out as a note under section 343 of Title 7, Agriculture.

SOUTHERN FOREST REGENERATION PROGRAM

Section 1242 of Pub. L. 101–624 provided that:

''(a) ESTABLISHMENT.—The Secretary of Agriculture shall make a grant to a State for the establishment, within such State, of a center, to be known as the 'Southern Forest Regeneration Center' (hereafter referred to in this section as the 'Center'), to study forest regeneration problems and forest productivity in the southern region of the United States.

''(b) DUTIES OF CENTER.—The Center shall study forest regeneration problems and forest productivity in the southern region of the United States, including—

''(1) nursery management concerns that will lead to improved seedling quality;

''(2) forest management practices that account for environmental stresses; and

''(3) the development of low-cost forest regeneration methods that provide options for wood products, species diversity, wildlife habitat, and production of clean air and water.

''(c) ESTABLISHMENT OF OTHER PROGRAMS.—The Secretary of Agriculture may establish other programs in other regions of the United States, or a comprehensive National program, to carry out the purposes of this section as the Secretary determines appropriate.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.''

SEMIARID AGROFORESTRY RESEARCH CENTER

Section 1243 of Pub. L. 101–624 provided that:

''(a) SEMIARID AGROFORESTRY RESEARCH, DEVELOPMENT, AND DEMONSTRATION CENTER.—The Secretary of Agriculture shall establish at the Forestry Sciences Laboratory of the United States Forest Service, in Lincoln, Nebraska, a Semiarid Agroforestry Research, Development, and Demonstration Center (hereafter referred to in this section as the 'Center') and appoint a Director to manage and coordinate the program established at the Center under subsection (b).

''(b) PROGRAM.—The Secretary shall establish a program at the Center and seek the participation of Federal or State governmental entities, land-grant colleges or universities, State agricultural experiment stations, State and private foresters, the National Arbor Day Foundation, and other nonprofit foundations in such program to conduct or assist research, investigations, studies, and surveys to—

''(1) develop sustainable agroforestry systems on semiarid lands that minimize topsoil loss and water contamination and stabilize or enhance crop productivity;

''(2) adapt, demonstrate, document, and model the effectiveness of agroforestry systems under different farming systems and soil or climate conditions;

''(3) develop dual use agroforestry systems compatible with paragraphs (1) and (2) which would provide high-value forestry products for commercial sale from semiarid land;

''(4) develop and improve the drought and pest resistance characteristics of trees for conservation forestry and agroforestry applications in semiarid regions, including the introduction and breeding of trees suited for the Great Plains region of the United States;

''(5) develop technology transfer programs that increase farmer and public acceptance of sustainable agroforestry systems;

''(6) develop improved windbreak and shelterbelt technologies for drought preparedness, soil and water conservation, environmental quality, and biological diversity on semiarid lands;

''(7) develop technical and economic concepts for sustainable agroforestry on semiarid lands, including the conduct of economic analyses of the costs and benefits of agroforestry systems and the development of models to predict the economic benefits under soil or climate conditions;

''(8) provide international leadership in the development and exchange of agroforestry practices on semiarid lands worldwide;

''(9) support research on the effects of agroforestry systems on semiarid lands in mitigating nonpoint source water pollution;

''(10) support research on the design, establishment, and maintenance of tree and shrub plantings to regulate the deposition of snow along roadways; and

''(11) conduct sociological, demographic, and economic studies as needed to develop strategies for increasing the use of forestry conservation and agroforestry practices.

''(c) INFORMATION COLLECTION AND DISSEMINATION.—The Secretary shall establish at the Center a program, to be known as the National Clearinghouse on Agroforestry Conservation and Promotion to—

''(1) collect, analyze, and disseminate information on agroforestry conservation technologies and practices; and

''(2) promote the use of such information by landowners and those organizations associated with forestry and tree promotion.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 annually to carry out this section.''

FOREST ECOSYSTEMS AND ATMOSPHERIC POLLUTION RESEARCH; CONGRESSIONAL FINDINGS

Section 2 of Pub. L. 100–521 provided that: ''Congress finds that—

''(1) the health and productivity of forests in certain regions of the United States are declining;

''(2) there is a special concern about the decline of certain hardwood species, particularly sugar maples and oaks, in the eastern United States and the effects of atmospheric pollutants on the health and productivity of these forests;

''(3) declines in the productivity of certain commercially important Southern pine species have been measured;

''(4) existing research indicates that atmospheric pollution, including ozone, acidic deposition, and heavy metals, may contribute to this decline;

''(5) there is an urgent need to expand and better coordinate existing Federal, State, and private research, including research by private industry, to determine the cause of changes in the health and productivity of domestic forest ecosystems and to monitor and evaluate the effects of atmospheric pollutants on such ecosystems; and

''(6) such research and monitoring should not impede efforts to control atmospheric pollutants.''

§ 1643. Implementation of provisions

(a) Establishment and maintenance of research facilities; acquisition, expenditures, etc., for property

In implementing this subchapter, the Secretary is authorized to establish and maintain a system of experiment stations, research laboratories, experimental areas, and other forest and rangeland research facilities. The Secretary is authorized, with donated or appropriated funds, to acquire by lease, donation, purchase, exchange, or otherwise, land or interests in land within the United States needed to implement this subchapter, to make necessary expenditures to examine, appraise, and survey such property, and to do all things incident to perfecting title thereto in the United States.

(b) Acceptance, holding, and administration of gifts, donations, and bequests; use and investment of gifts, proceeds, etc.; funding requirements

In implementing this subchapter, the Secretary is authorized to accept, hold, and administer gifts, donations, and bequests of money, real property, or personal property from any source not otherwise prohibited by law and to use such gifts, donations, and bequests to (1) establish or operate any forest and rangeland research facility within the United States, or (2) perform any forest and rangeland renewable resource research activity authorized by this subchapter. Such gifts, donations, and bequests, or the proceeds thereof, and money appropriated for these purposes shall be deposited in the Treasury in a special fund. At the request of the Secretary, the Secretary of the Treasury may invest or reinvest any money in the fund that in the opinion of the Secretary is not needed for current operations. Such investments shall be in public debt securities with maturities suitable for the needs of the fund and bearing interest at prevailing market rates. There are hereby authorized to be expended from such fund such amounts as may be specified in annual appropriation Acts, which shall remain available until expended.

(c) Cooperation with international, Federal, State, and other governmental agencies, public and private agencies, etc.; funding requirements for contributions from cooperators

In implementing this subchapter, the Secretary may cooperate with international, Federal, State, and other governmental agencies, with public or private agencies, institutions, universities, and organizations, and with businesses and individuals in the United States and in other countries. The Secretary may receive money and other contributions from cooperators under such conditions as the Secretary may prescribe. Any money contributions received under this subsection shall be credited to the applicable appropriation or fund to be used for the same purposes and shall remain available until expended as the Secretary may direct for use in conducting research activities authorized by this subchapter and in making refunds to contributors.

(Pub. L. 95–307, § 4(a)–(c), June 30, 1978, 92 Stat. 354, 355; Pub. L. 101–513, title VI, § 611(a)(2), formerly § 607(a)(2), Nov. 5, 1990, 104 Stat. 2072, renumbered § 611(a)(2), Pub. L. 102–574, § 2(a)(1), Oct. 29, 1992, 106 Stat. 4593.)

AMENDMENTS

1990—Subsec. (c). Pub. L. 101–513, which directed amendment of ''the first section of'' this subsection by inserting ''international,'' before ''Federal'', was executed by making the insertion in the first sentence of this subsection to reflect the probable intent of Congress.

§ 1644. Forestry and rangeland competitive research grants

(a) Competitive grant authority

In addition to any grants made under other laws, the Secretary is authorized to make competitive grants that will further research activities authorized by this subchapter to Federal, State, and other governmental agencies, public or private agencies, institutions, universities, and organizations, and businesses and individuals in the United States. In making these grants, the Secretary shall emphasize basic and

applied research activities that are important to achieving the purposes of this subchapter, and shall obtain, through review by qualified scientists and other methods, participation in research activities by scientists throughout the United States who have expertise in matters related to forest and rangeland renewable resources. Grants under this section shall be made at the discretion of the Secretary under whatever conditions the Secretary may prescribe, after publicly soliciting research proposals, allowing sufficient time for submission of the proposals, and considering qualitative, quantitative, financial, administrative, and other factors that the Secretary deems important in judging, comparing, and accepting the proposals. The Secretary may reject any or all proposals received under this section if the Secretary determines that it is in the public interest to do so.

(b) Emphasis on certain high priority forestry research

The Secretary may use up to 5 percent of the amounts made available for research under section 1642 of this title to make competitive grants regarding forestry research in the high priority research areas identified under section 1642(d) of this title.

(c) Emphasis on certain high priority rangeland research

The Secretary may use up to 5 percent of the amounts made available for research under section 1642 of this title to make competitive grants regarding rangeland research in the high priority research areas identified under section 1642(d) of this title.

(d) Priorities

In making grants under subsections (b) and (c) of this section, the Secretary shall give priority to research proposals under which—

(1) the proposed research will be collaborative research organized through a center of scientific excellence;

(2) the applicant agrees to provide matching funds (in the form of direct funding or in-kind support) in an amount equal to not less than 50 percent of the grant amount; and

(3) the proposed research will be conducted as part of an existing private and public partnership or cooperative research effort and involves several interested research partners.

(Pub. L. 95–307, § 5, June 30, 1978, 92 Stat. 355; Pub. L. 105–185, title II, § 253(d), June 23, 1998, 112 Stat. 561.)

AMENDMENTS

1998—Pub. L. 105–185 substituted section catchline for former section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsecs. (b) to (d).

§ 1645. General provisions

(a) Availability of funds to cooperators and grantees

The Secretary may make funds available to cooperators and grantees under this subchapter without regard to the provisions of section 3324(a) and (b) of title 31, which prohibits advances of public money.

(b) Coordination of cooperative aid and grants with other aid and grant authorities

To avoid duplication, the Secretary shall coordinate cooperative aid and grants under this subchapter with cooperative aid and grants the Secretary makes under any other authority.

(c) Dissemination of knowledge and technology developed from research activities; cooperation with specified entities

The Secretary shall use the authorities and means available to the Secretary to disseminate the knowledge and technology developed from research activities conducted under or supported by this subchapter. In meeting this responsibility, the Secretary shall cooperate, as the Secretary deems appropriate, with the entities identified in subsection (d)(3) of this section and with others.

(d) Additional implementative authorities

In implementing this subchapter, the Secretary, as the Secretary deems appropriate and practical, shall—

(1) use, and encourage cooperators and grantees to use, the best available scientific skills from a variety of disciplines within and outside the fields of agriculture and forestry;

(2) seek, and encourage cooperators and grantees to seek, a proper mixture of short-term and long-term research and a proper mixture of basic and applied research;

(3) avoid unnecessary duplication and coordinate activities under this section among agencies of the Department of Agriculture and with other affected Federal departments and agencies, State agricultural experiment stations, State extension services, State foresters or equivalent State officials, forestry schools, and private research organizations; and

(4) encourage the development, employment, retention, and exchange of qualified scientists and other specialists through postgraduate, postdoctoral, and other training, national and international exchange of scientists, and other incentives and programs to improve the quality of forest and rangeland renewable resources research.

(e) Construction of statutory provisions

This subchapter shall be construed as supplementing all other laws relating to the Department of Agriculture and shall not be construed as limiting or repealing any existing law or authority of the Secretary except as specifically cited in this subchapter.

(f) Definitions

For the purposes of this subchapter, the terms ''United States'' and ''State'' shall include each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the territories and possessions of the United States.

(Pub. L. 95–307, § 6, June 30, 1978, 92 Stat. 355.)

CODIFICATION

In subsec. (a), ''section 3324(a) and (b) of title 31'' substituted for ''section 3648 of the Revised Statutes (31 U.S.C. 529)'' on authority of Pub. L. 97–258, § 4(b), Sept.

13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 1646. Authorization of appropriations

There are authorized to be appropriated annually such sums as may be needed to implement this subchapter. Funds appropriated under this subchapter shall remain available until expended.

(Pub. L. 95–307, § 7, June 30, 1978, 92 Stat. 356.)

§ 1647. Other Federal programs

(a) Repeal of statutory authorities relating to investigation, experiments, and tests in reforestation and forest products

The Act of May 22, 1928, known as the McSweeney-McNary Act (45 Stat. 699–702, as amended; 16 U.S.C. 581, 581a, 581b–581i), is hereby repealed.

(b) Force and effect of cooperative and other agreements under repealed statutory authorities relating to investigation, etc., in reforestation and forest products

Contracts and cooperative and other agreements under the McSweeney-McNary Act shall remain in effect until revoked or amended by their own terms or under other provisions of law.

(c) Issuance of rules and regulations for implementation of provisions and coordination with agricultural research, extension, and teaching provisions

The Secretary is authorized to issue such rules and regulations as the Secretary deems necessary to implement the provisions of this subchapter and to coordinate this subchapter with title XIV of the Food and Agriculture Act of 1977 [7 U.S.C. 3101 et seq.].

(d) Availability of funds appropriated under repealed statutory authorities relating to investigation, etc., in reforestation and forest products

Funds appropriated under the authority of the McSweeney-McNary Act shall be available for expenditure for the programs authorized under this subchapter.

(Pub. L. 95–307, § 8, June 30, 1978, 92 Stat. 356.)

REFERENCES IN TEXT

The Food and Agriculture Act of 1977, referred to in subsec. (c), is Pub. L. 95–113, Sept. 29, 1977, 91 Stat. 913, as amended. Title XIV of the Food and Agriculture Act of 1977, known as the ''National Agricultural Research, Extension, and Teaching Policy Act of 1977'', is classified principally to chapter 64 (§ 3101 et seq.) of Title 7, Agriculture. For complete classification of this title to the Code, see Short Title note set out under section 3101 of Title 7 and Tables.

§ 1648. Recycling research

(a) Findings

Congress finds that—

(1) the United States is amassing vast amounts of solid wastes, which is presenting an increasing problem for municipalities in locating suitable disposal sites;

(2) a large proportion of these wastes consists of paper and other wood wastes;

(3) less than one-third of these paper and wood wastes are recycled;

(4) additional recycling would result in reduced solid waste landfill disposal and would contribute to a reduced rate of removal of standing timber from forest lands; and

(5) additional research is needed to develop technological advances to address barriers to increased recycling of paper and wood wastes and utilization of products consisting of recycled materials.

(b) Recycling research program

The Secretary is authorized to conduct, support, and cooperate in an expanded wood fiber recycling research program, including the acquisition of necessary equipment. The Secretary shall seek to ensure that the program includes the cooperation and support of private industry and that program goals include the application of such research to industry and consumer needs.

(c) Authorization of appropriations

In addition to any other funds made available to implement section 1642 of this title, for the 5-year period beginning on October 1, 1990, there are authorized to be appropriated annually $10,000,000 to implement this section.

(Pub. L. 95–307, § 9, as added Pub. L. 101–624, title XII, § 1241(b), Nov. 28, 1990, 104 Stat. 3544.)

PRIOR PROVISIONS

A prior section 9 of Pub. L. 95–307, June 30, 1978, 92 Stat. 357, provided the effective date for Pub. L. 95–307 and was set out as a note under section 1641 of this title, prior to general amendment by Pub. L. 101–624.

§ 1649. Forestry Student Grant Program

(a) Establishment

The Secretary shall establish a program, to be known as the ''Forestry Student Grant Program'' (hereafter referred to in this section as the ''Program''), to provide assistance to expand the professional education of forestry, natural resources, and environmental scientists.

(b) Student grants

Under the Program the Secretary shall provide assistance for the establishment of a competitive grant fellowship program to assist graduate, and undergraduate minority and female, students attending institutions having programs in forestry and natural resources.

(c) Eligibility

The Secretary shall ensure that students concentrating in the following studies shall be eligible for assistance under subsection (b) of this section:

(1) Forestry.

(2) Biology and forest organisms.

(3) Ecosystem function and management.

(4) Human-forest interaction.

(5) International trade, competition, and cooperation.

(6) Wood as a raw material.
(7) Economics and policy.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 95–307, § 10, as added Pub. L. 101–624, title XII, § 1252, Nov. 28, 1990, 104 Stat. 3553.)

§ 1649a. Hispanic-serving institution agricultural land national resources leadership program

(a) Definition of Hispanic-serving institution

In this section, the term ''Hispanic-serving institution'' has the meaning given that term in section 1101a(a)(5) of title 20.

(b) Grant authority

The Secretary of Agriculture may make grants, on a competitive basis, to Hispanic-serving institutions for the purpose of establishing an undergraduate scholarship program to assist in the recruitment, retention, and training of Hispanics and other under-represented groups in forestry and related fields.

(c) Use of grant funds

Grants made under this section shall be used to recruit, retain, train, and develop professionals to work in forestry and related fields with Federal agencies, such as the Forest Service, State agencies, and private-sector entities.

(d) Authorization of appropriations

There are authorized to be appropriated to the Secretary for each of fiscal years 2008 through 2012 such sums as may be necessary to carry out this section.

(Pub. L. 110–234, title VIII, § 8402, May 22, 2008, 122 Stat. 1302; Pub. L. 110–246, § 4(a), title VIII, § 8402, June 18, 2008, 122 Stat. 1664, 2064.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Food, Conservation, and Energy Act of 2008, and not as part of the Forest and Rangeland Renewable Resources Research Act of 1978 which comprises this subchapter.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

§ 1650. Hardwood technology transfer and applied research

(a) Authority of Secretary

The Secretary of Agriculture (hereinafter the ''Secretary'') is hereby and hereafter authorized to conduct technology transfer and development, training, dissemination of information and applied research in the management, processing and utilization of the hardwood forest resource. This authority is in addition to any other authorities which may be available to the Secretary including, but not limited to, the Cooperative Forestry Assistance Act of 1978, as amended (16 U.S.C. 2101 et seq.), and the Forest and Rangeland Renewable Resources Act of 1978, as amended (16 U.S.C. 1600–1614).[1]

(b) Grants, contracts, and cooperative agreements; gifts and donations

In carrying out this authority, the Secretary may enter into grants, contracts, and cooperative agreements with public and private agencies, organizations, corporations, institutions and individuals. The Secretary may accept gifts and donations pursuant to section 2269 of title 7 including gifts and donations from a donor that conducts business with any agency of the Department of Agriculture or is regulated by the Secretary of Agriculture.

(c) Use of assets of Wood Education and Resource Center; establishment of Institute of Hardwood Technology Transfer and Applied Research

The Secretary is hereby and hereafter authorized to operate and utilize the assets of the Wood Education and Resource Center (previously named the Robert C. Byrd Hardwood Technology Center in West Virginia) as part of a newly formed ''Institute of Hardwood Technology Transfer and Applied Research'' (hereinafter the ''Institute''). The Institute, in addition to the Wood Education and Resource Center, will consist of a Director, technology transfer specialists from State and Private Forestry, the Forestry Sciences Laboratory in Princeton, West Virginia, and any other organizational unit of the Department of Agriculture as the Secretary deems appropriate. The overall management of the Institute will be the responsibility of the Forest Service, State and Private Forestry.

(d) Generation of revenue; deposit into Hardwood Technology Transfer and Applied Research Fund

The Secretary is hereby and hereafter authorized to generate revenue using the authorities provided herein. Any revenue received as part of the operation of the Institute shall be deposited into a special fund in the Treasury of the United States, known as the ''Hardwood Technology Transfer and Applied Research Fund'', which shall be available to the Secretary until expended, without further appropriation, in furtherance of the purposes of this section, including upkeep, management, and operation of the Institute and the payment of salaries and expenses.

(e) Authorization of appropriations

There are hereby and hereafter authorized to be appropriated such sums as necessary to carry out the provisions of this section.

(Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 332], Nov. 29, 1999, 113 Stat. 1535, 1501A–197.)

REFERENCES IN TEXT

The Cooperative Forestry Assistance Act of 1978, referred to in subsec. (a), is Pub. L. 95–313, July 1, 1978, 92 Stat. 365, as amended, which is classified principally to chapter 41 (§ 2101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

[1] So in original.

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 2000, and not as part of the Forest and Rangeland Renewable Resources Research Act of 1978 which comprises this subchapter.

HARDWOOD TECHNOLOGY TRANSFER AND APPLIED RESEARCH

Pub. L. 105–277, div. A, §101(e) [title III, §343], Oct. 21, 1998, 112 Stat. 2681–231, 2681–297, provided that:

''(a) The Secretary of Agriculture (hereinafter the 'Secretary') is hereby authorized to conduct technology transfer and development, training, dissemination of information and applied research in the management, processing and utilization of the hardwood forest resource. This authority is in addition to any other authorities which may be available to the Secretary including, but not limited to, the Cooperative Forestry Assistance Act of 1978, as amended (16 U.S.C. 2101 et. seq.), and the Forest and Rangeland Renewable Resources Act of 1978, as amended (16 U.S.C. 1600–1614).

''(b) In carrying out this authority, the Secretary may enter into grants, contracts, and cooperative agreements with public and private agencies, organizations, corporations, institutions and individuals. The Secretary may accept gifts and donations pursuant to the Act of October 10, 1978 (7 U.S.C. 2269) including gifts and donations from a donor that conducts business with any agency of the Department of Agriculture or is regulated by the Secretary of Agriculture.

''(c) The Secretary is authorized, on such terms and conditions as the Secretary may prescribe, to assume all rights, title, and interest, including all outstanding assets, of the Robert C. Byrd Hardwood Technology Center, Inc. (hereinafter the 'Center'), a non-profit corporation existing under the laws of the State of West Virginia: *Provided*, That the Board of Directors of the Center requests such an action and dissolves the corporation consistent with the Articles of Incorporation and the laws of the State of West Virginia.

''(d) The Secretary is authorized to operate and utilize the assets of the Center as part of a newly formed 'Institute of Hardwood Technology Transfer and Applied Research' (hereinafter the 'Institute'). The Institute, in addition to the Center, will consist of a Director, technology transfer specialists from State and Private Forestry, the Forestry Sciences Laboratory in Princeton, West Virginia, and any other organizational unit of the Department of Agriculture as the Secretary deems appropriate. The overall management of the Institute will be the responsibility of the USDA Forest Service, State and Private Forestry.

''(e) The Secretary is authorized to generate revenue using the authorities provided herein. Any revenue received as part of the operation of the Institute shall be deposited into a special fund in the Treasury of the United States, known as the 'Hardwood Technology Transfer and Applied Research Fund', which shall be available to the Secretary until expended, without further appropriation, in furtherance of the purposes of this section, including upkeep, management, and operation of the Institute and the payment of salaries and expenses.

''(f) There are hereby authorized to be appropriated such sums as necessary to carry out the provisions of this section.''

SUBCHAPTER III—EXTENSION PROGRAMS

TERMINATION OF SUBCHAPTER

For termination of subchapter by section 8 of Pub. L. 95–306, see Effective and Termination Dates note set out under section 1671 of this title.

§ 1671. Congressional statement of findings

Congress finds that—

(1) the extension program of the Department of Agriculture and the extension activities of each State provide useful and productive educational programs for private forest and range landowners and processors and consumptive and nonconsumptive users of forest and rangeland renewable resources, and these educational programs complement research and assistance programs conducted by the Department of Agriculture;

(2) to meet national goals, it is essential that all forest and rangeland renewable resources (hereinafter in this subchapter referred to as ''renewable resources''), including fish and wildlife, forage, outdoor recreation opportunities, timber, and water, be fully considered in designing educational programs for landowners, processors, and users;

(3) more efficient utilization and marketing of renewable resources extend available supplies of such resources, provide products to consumers at prices less than they would otherwise be, and promote reasonable returns on the investments of landowners, processors, and users;

(4) trees and forests in urban areas improve the esthetic quality, reduce noise, filter impurities from the air and add oxygen to it, save energy by moderating temperature extremes, control wind and water erosion, and provide habitat for wildlife; and

(5) trees and shrubs used as shelterbelts protect farm lands from wind and water erosion, promote moisture accumulation in the soil, and provide habitat for wildlife.

(Pub. L. 95–306, §2, June 30, 1978, 92 Stat. 349.)

EFFECTIVE AND TERMINATION DATES

Pub. L. 95–306, §8, June 30, 1978, 92 Stat. 352, as amended by Pub. L. 100–231, §2(2), Jan. 5, 1988, 101 Stat. 1565; Pub. L. 107–171, title VIII, §8101(b)(2), May 13, 2002, 116 Stat. 475; Pub. L. 110–234, title VII, §7413(b), May 22, 2008, 110 Stat. 1256; Pub. L. 110–246, §4(a), title VII, §7413(b), June 18, 2008, 122 Stat. 1664, 2017, provided that: ''The provisions of this Act [enacting this subchapter and provision set out as a note under section 1600 of this title] shall be effective for the period beginning October 1, 1978, and ending September 30, 2012.''

SHORT TITLE

For short title of Renewable Resources Extension Act of 1978, see Short Title of 1978 Amendment note set out under section 1600 of this title.

§ 1672. General program authorization

(a) Types of programs; preconditions and cooperation with State program directors, etc.

The Secretary of Agriculture (hereinafter in this subchapter referred to as the ''Secretary''), under conditions the Secretary may prescribe and in cooperation with the State directors of cooperative extension service programs and eligible colleges and universities, shall—

(1) provide educational programs that enable individuals to recognize, analyze, and resolve problems dealing with renewable resources, including forest- and range-based outdoor recreation opportunities, trees and forests in urban areas, and trees and shrubs in shelterbelts;

(2) use educational programs to disseminate the results of research on renewable resources;

(3) conduct educational programs that transfer the best available technology to those involved in the management and protection of forests and rangelands and the processing and use of their associated renewable resources;

(4) develop and implement educational programs that give special attention to the educational needs of small, private nonindustrial forest landowners;

(5) develop and implement educational programs in range and fish and wildlife management;

(6) assist in providing continuing education programs for professionally trained individuals in fish and wildlife, forest, range, and watershed management and related fields;

(7) help forest and range landowners in securing technical and financial assistance to bring appropriate expertise to bear on their problems;

(8) help identify areas of needed research regarding renewable resources;

(9) in cooperation with State foresters or equivalent State officials, promote public understanding of the energy conservation, economic, social, environmental, and psychological values of trees and open space in urban and community area environments and expand knowledge of the ecological relationships and benefits of trees and related resources in urban and community environments; and

(10) conduct a comprehensive natural resource and environmental education program for landowners and managers, public officials, and the public, with particular emphasis on youth.

(b) "Eligible colleges and universities" defined

As used in this subchapter, the term ''eligible colleges and universities'' means colleges and universities eligible to be supported and maintained, in whole or in part, with funds made available under the provisions of the Act of July 2, 1862 (12 Stat. 503–505, as amended; 7 U.S.C. 301–305, 307, 308), and the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326, 328), including Tuskegee Institute, and colleges and universities eligible for assistance under the Act of October 10, 1962 (76 Stat. 806–807, as amended; 16 U.S.C. 582a, 582a–1—582a–7).

(c) Use of appropriate educational methods required; scope of methods

In implementing this section, all appropriate educational methods may be used, including, but not limited to, meetings, short courses, workshops, tours, demonstrations, publications, news releases, and radio and television programs.

(Pub. L. 95–306, § 3, June 30, 1978, 92 Stat. 349; Pub. L. 101–624, title XII, §§ 1219(b)(1), 1251(b), Nov. 28, 1990, 104 Stat. 3538, 3552; Pub. L. 102–237, title X, § 1018(d), Dec. 13, 1991, 105 Stat. 1905.)

REFERENCES IN TEXT

Act of July 2, 1862 (12 Stat. 503–505, as amended; 7 U.S.C. 301–305, 307, 308), referred to in subsec. (b), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the Morrill Act and also as the First Morrill Act, which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 301 of Title 7 and Tables.

Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326, 328), referred to in subsec. (b), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 321 of Title 7 and Tables.

Act of October 10, 1962 (76 Stat. 806–807, as amended), referred to in subsec. (b), is Pub. L. 87–788, Oct. 10, 1962, 76 Stat. 806, popularly known as the ''McIntire-Stennis Act of 1962'' and also as the ''McIntire-Stennis Cooperative Forestry Act'', which is classified generally to subchapter III (§ 582a et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 582a of this title and Tables.

AMENDMENTS

1991—Subsec. (a)(8) to (10). Pub. L. 102–237 struck out ''and'' at end of par. (8), substituted ''; and'' for period at end of par. (9), and redesignated par. (9), relating to education program, as (10).

1990—Subsec. (a)(9). Pub. L. 101–624, § 1251(b), added par. (9) relating to education programs for landowners, managers, public officials, and the public.

Pub. L. 101–624, § 1219(b)(1), added par. (9) relating to promotion of public understanding of energy conservation, economic, social, environmental, and psychological values of trees and open space in urban and community environments.

§ 1673. State programs

(a) Development by State program director, etc., of comprehensive and coordinated program by mutual agreement; consultations; review procedure

The State director of cooperative extension programs (hereinafter in this subchapter referred to as the ''State director'') and the administrative heads of extension for eligible colleges and universities in each State shall jointly develop, by mutual agreement, a single comprehensive and coordinated renewable resources extension program in which the role of each eligible college and university is well-defined. In meeting this responsibility, the State director and the administrative heads of extension for eligible colleges and universities shall consult and seek agreement with the administrative technical representatives and the forestry representatives provided for by the Secretary in implementation of the Act of October 10, 1962 (76 Stat. 806–807, as amended; 16 U.S.C. 582a, 582a–1—582a–7), in the State. Each State's renewable resources extension program shall be submitted to the Secretary annually. The National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 3123 of title 7 shall review and make recommendations to the Secretary pertaining to programs conducted under this subchapter.

(b) Encouragement by State director, etc., of cooperation between county and State extension staffs and appropriate Federal and State agencies and organizations

The State director and the administrative heads of extension for eligible colleges and universities in each State shall encourage close cooperation between extension staffs at the coun-

ty and State levels, and State and Federal research organizations dealing with renewable resources, State and Federal agencies that manage forests and rangelands and their associated renewable resources, State and Federal agencies that have responsibilities associated with the processing or use of renewable resources, and other agencies or organizations the State director and administrative heads of extension deem appropriate.

(c) Administration and coordination of program by State director; exception

Each State renewable resources extension program shall be administered and coordinated by the State director, except that, in States having colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326, 328), including Tuskegee Institute, the State renewable resources extension program shall be administered by the State director and the administrative head or heads of extension for the college or colleges eligible to receive such funds.

(d) Appointment and use of advisory committees by State director, etc.; composition of advisory committees

In meeting the provisions of this section, each State director and administrative heads of extension for eligible colleges and universities shall appoint and use one or more advisory committees comprised of forest and range landowners, professionally trained individuals in fish and wildlife, forest, range, and watershed management, and related fields, as appropriate, and other suitable persons.

(e) "State" defined

For the purposes of this subchapter, the term ''State'' means any one of the fifty States, the Commonwealth of Puerto Rico, Guam, the District of Columbia, and the Virgin Islands of the United States.

(Pub. L. 95–306, §4, June 30, 1978, 92 Stat. 350; Pub. L. 104–127, title VIII, §802(b)(3), Apr. 4, 1996, 110 Stat. 1159.)

REFERENCES IN TEXT

Act of October 10, 1962 (76 Stat. 806–807, as amended), referred to in subsec. (a), is Pub. L. 87–788, Oct. 10, 1962, 76 Stat. 806, popularly known as the ''McIntire-Stennis Act of 1962'' and also as the ''McIntire-Stennis Cooperative Forestry Act'', which is classified generally to subchapter III (§582a et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 582a of this title and Tables.

Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326, 328), referred to in subsec. (c), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§321 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 321 of Title 7 and Tables.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127 substituted ''National Agricultural Research, Extension, Education, and Economics Advisory Board'' for ''National Agricultural Research and Extension Users Advisory Board''.

§ 1674. Renewable Resources Extension Program plan

(a) Preparation and submission to Congress; purposes; contents

The Secretary shall prepare a five-year plan for implementing this subchapter, which is to be called the ''Renewable Resources Extension Program'' and shall submit such plan to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than the last day of the first half of the fiscal year ending September 30, 1980, and the last day of the first half of each fifth fiscal year thereafter. The Renewable Resources Extension Program shall provide national emphasis and direction as well as guidance to State directors and administrative heads of extension for eligible colleges and universities in the development of their respective State renewable resources extension programs, which are to be appropriate in terms of the conditions, needs, and opportunities in each State. The Renewable Resources Extension Program shall contain, but not be limited to, brief outlines of general extension programs for fish and wildlife management (for both game and nongame species), range management, timber management (including brief outlines of general extension programs for timber utilization, timber harvesting, timber marketing, wood utilization, and wood products marketing), and watershed management (giving special attention to water quality protection), as well as brief outlines of general extension programs for recognition and enhancement of forest- and range-based outdoor recreation opportunities, for urban and community forestry activities, and for planting and management of trees and shrubs in shelterbelts, and give special attention to water quality protection and natural resource and environmental education for landowners and managers, public officials, and the public.

(b) Considerations governing preparation

In preparing the Renewable Resources Extension Program, the Secretary shall take into account the respective capabilities of private forests and rangelands for yielding renewable resources and the relative needs for such resources identified in the periodic Renewable Resource Assessment provided for in section 1601 of this title and the periodic appraisal of land and water resources provided for in section 2004 of this title.

(c) Omitted

(d) Review of activities and evaluation of progress

To assist Congress and the public in evaluating the Renewable Resources Extension Program, the program shall include a review of activities undertaken in response to the preceding five-year plan and an evaluation of the progress made toward accomplishing the goals and objectives set forth in such preceding plan. Such review and evaluation shall be displayed in the program, for the Nation as a whole, and for each State.

(Pub. L. 95–306, §5, June 30, 1978, 92 Stat. 351; Pub. L. 100–231, §3, Jan. 5, 1988, 101 Stat. 1565;

Pub. L. 101–624, title XII, §§1219(b)(2), 1251(c), Nov. 28, 1990, 104 Stat. 3539, 3553.)

CODIFICATION

Subsec. (c) of this section, which required the Secretary to prepare an annual report on the Renewable Resources Extension Program, to be furnished to Congress at the time of submission of each annual fiscal budget, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 45 of House Document No. 103–7.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–624, §1251(c), inserted before period at end ‘‘, and give special attention to water quality protection and natural resource and environmental education for landowners and managers, public officials, and the public’’.

Pub. L. 101–624, §1219(b)(2), substituted ‘‘for urban and community forestry activities’’ for ‘‘for planting and management of trees and forests in urban areas’’.

1988—Subsec. (a). Pub. L. 100–231, §3(1), substituted ‘‘the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate’’ for ‘‘Congress’’.

Subsec. (d). Pub. L. 100–231, §3(2), added subsec. (d).

§ 1674a. Expanded programs

(a) In general

The Secretary, acting through the National Institute of Food and Agriculture and the State cooperative extension services, and in consultation with State foresters or equivalent State officials, school boards, and universities, shall expand forestry and natural resources education programs conducted under this subchapter for private forest owners and managers, public officials, youth, and the general public, and shall include guidelines for the transfer of technology.

(b) Activities

(1) In general

In expanding the programs conducted under this subchapter, the Secretary shall ensure that activities are undertaken to promote policies and practices that enhance the health, vitality, productivity, economic value, and environmental attributes of the forest lands of the United States.

(2) Types

The activities referred to in paragraph (1) shall include—

(A) demonstrating and teaching landowners and forest managers the concepts of multiple-use and sustainable natural resource management;

(B) conducting comprehensive environmental education programs that assist citizens to participate in environmentally positive activities such as tree planting, recycling, erosion prevention, and waste management; and

(C) educational programs and materials that will improve the capacity of schools, local governments and resource agencies to deliver forestry and natural resources information to young people, environmentally concerned citizens, and action groups.

(Pub. L. 95–306, §5A, as added Pub. L. 101–624, title XII, §1251(a), Nov. 28, 1990, 104 Stat. 3552; amended Pub. L. 110–234, title VII, §7511(c)(34), May 22, 2008, 122 Stat. 1270; Pub. L. 110–246, §4(a), title VII, §7511(c)(34), June 18, 2008, 122 Stat. 1664, 2032.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, §7511(c)(34), which directed amendment of section 5(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1674a(a)) by substituting ‘‘National Institute of Food and Agriculture’’ for ‘‘Extension Service’’, was executed by making the substitution in subsec. (a) of this section, which is section 5A of the Act, to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 7511(c)(34) of Pub. L. 110–246 effective Oct. 1, 2009, see section 7511(c) of Pub. L. 110–246, set out as a note under section 1522 of Title 7, Agriculture.

§ 1674b. Sustainable Forestry Outreach Initiative

The Secretary shall establish a program, to be known as the ‘‘Sustainable Forestry Outreach Initiative’’, to educate landowners concerning the following:

(1) The value and benefits of practicing sustainable forestry.

(2) The importance of professional forestry advice in achieving sustainable forestry objectives.

(3) The variety of public and private sector resources available to assist the landowners in planning for and practicing sustainable forestry.

(Pub. L. 95–306, §5B, as added Pub. L. 107–171, title VIII, §8101(a), May 13, 2002, 116 Stat. 474.)

§ 1675. Authorization of appropriations; criteria for eligibility of States for funds

There is authorized to be appropriated to carry out this subchapter $30,000,000 for each of fiscal years 2002 through 2012. Generally, States shall be eligible for funds appropriated under this subchapter according to the respective capabilities of their private forests and rangelands for yielding renewable resources and relative needs for such resources identified in the periodic Renewable Resource Assessment provided for in section 1601 of this title and the periodic appraisal of land and water resources provided for in section 2004 of this title.

(Pub. L. 95–306, §6, June 30, 1978, 92 Stat. 352; Pub. L. 100–231, §2(1), Jan. 5, 1988, 101 Stat. 1565; Pub. L. 105–185, title III, §301(h), June 23, 1998, 112 Stat. 563; Pub. L. 107–171, title VIII, §8101(b)(1), May 13, 2002, 116 Stat. 474; Pub. L. 110–234, title VII, §7413(a), May 22, 2008, 122 Stat. 1256; Pub. L. 110–246, §4(a), title VII, §7413(a), June 18, 2008, 122 Stat. 1664, 2017.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, § 7413(a), substituted ''2012'' for ''2007'' in first sentence.

2002—Pub. L. 107–171 substituted ''There is authorized to be appropriated to carry out this subchapter $30,000,000 for each of fiscal years 2002 through 2007.'' for ''There are authorized to be appropriated to implement this subchapter $15,000,000 for each of fiscal years 1987 through 2002.''

1998—Pub. L. 105–185 substituted ''each of fiscal years 1987 through 2002.'' for ''the fiscal year ending September 30, 1988, and $15,000,000 for each of the next twelve fiscal years.''

1988—Pub. L. 100–231 amended first sentence generally, substituting ''1988'' for ''1979'' and ''twelve'' for ''nine''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 1676. Issuance of rules and regulations for implementation of provisions and coordination with agricultural, research, extension, and teaching provisions

The Secretary is authorized to issue such rules and regulations as the Secretary deems necessary to implement the provisions of this subchapter and to coordinate this subchapter with title XIV of the Food and Agriculture Act of 1977 [7 U.S.C. 3101 et seq.].

(Pub. L. 95–306, § 7, June 30, 1978, 92 Stat. 352.)

REFERENCES IN TEXT

The Food and Agriculture Act of 1977, referred to in text, is Pub. L. 95–113, Sept. 29, 1977, 91 Stat. 913, as amended. Title XIV of the Food and Agriculture Act of 1977, known as the ''National Agricultural Research, Extension, and Teaching Policy Act of 1977'', is classified principally to chapter 64 (§ 3101 et seq.) of Title 7, Agriculture. For complete classification of this title to the Code, see Short Title note set out under section 3101 of Title 7 and Tables.

SUBCHAPTER IV—WOOD RESIDUE UTILIZATION

§ 1681. Congressional statement of purpose

The purpose of this subchapter is to develop, demonstrate, and make available information on feasible methods that have potential for commercial application to increase and improve utilization, in residential, commercial, and industrial or powerplant applications, of wood residues resulting from timber harvesting and forest protection and management activities occurring on public and private forest lands, and from the manufacture of forest products, including woodpulp.

(Pub. L. 96–554, § 2, Dec. 19, 1980, 94 Stat. 3257.)

EFFECTIVE DATE

Section 9 of Pub. L. 96–554 provided that: ''This Act [enacting this subchapter and enacting a provision set out as a note under section 1600 of this title] shall become effective October 1, 1981''.

SHORT TITLE

For short title of Pub. L. 96–554, Dec. 19, 1980, 94 Stat. 3257, as the Wood Residue Utilization Act of 1980, see Short Title of 1980 Amendment note set out under section 1600 of this title.

§ 1682. Pilot projects and demonstrations

(a) Establishment, implementation

The Secretary may establish pilot projects and demonstrations to carry out the purposes of this subchapter. The pilot projects and demonstrations established under this section (1) may be operated by the Secretary; or (2) may be carried out through contracts or agreements with owners of private forest lands or other persons, or in conjunction with projects, contracts, or agreements entered into under any other authority which the Secretary may possess: *Provided*, That nothing contained in this subchapter shall abrogate or modify provisions of existing contracts or agreements, including contracts or agreements for the sale of national forest timber, except to the extent such changes are mutually agreed to by the parties to such contracts or agreements.

(b) Scope; residue removal credits

Pilot projects and demonstrations carried out under this section may include, but are not limited to (1) establishment and operation of utilization demonstration areas; (2) establishment and operation of fuel wood concentration and distribution centers; and (3) construction of access roads needed to facilitate wood residue utilization: *Provided*, That residue removal credits may be utilized by the Secretary only as provided in section 1683 of this title.

(Pub. L. 96–554, § 3, Dec. 19, 1980, 94 Stat. 3257.)

§ 1683. Pilot projects; requirements; residue removal credits as compensation; implementation guidelines

The Secretary may carry out pilot wood residue utilization projects under which purchasers of National Forest System timber under contracts awarded prior to October 1, 1986, may, except as otherwise provided in this section, be required to remove wood residues not purchased by them to points of prospective use in return for compensation in the form of ''residue removal credits.'' Such projects may be carried out where the Secretary identifies situations in which pilot wood residue utilization projects on the National Forest system can provide important information on various methods and approaches to increasing the utilization, in residential, commercial, and industrial or powerplant applications, of wood residues and where such information cannot reasonably be obtained unless the pilot projects are done in conjunction with normal National Forest timber sale activities. The residue removal credits shall be applied against the amount payable for the timber purchased and shall represent the anticipated cost of removal of wood residues. The following guidelines shall apply to projects carried out under this section:

(1) Except in cases where wood residue removal is determined to be necessary for fire

prevention, site preparation for regeneration, wildlife habitat improvement, or other land management purposes, the Secretary may not provide for removal of wood residues in instances where the anticipated cost of removal would exceed the anticipated value.

(2) The residue removal credits authorized by this section shall not exceed the amount payable by the purchaser for timber after the application of all other designated charges and credits.

(3) The Secretary may sell the wood residues removed to points of prospective use for not less than their appraised value.

(4) Pilot projects, demonstrations, and other programs established pursuant to this subchapter shall be carried out in a manner which does not result in an adverse effect on the furnishing of timber, free of charge, under any other provision of law.

(5) Wood residues shall be collected from a site so as to avoid soil depletion or erosion giving full consideration to the protection of wildlife habitat.

(6) For the purposes of section 500 of this title, (A) any residue removal credit applied under this section shall be considered as ''money received'' or ''moneys received'', respectively, and (B) the ''money received'' or ''moneys received'', respectively, from the sales of wood residues removed to points of prospective use shall be the proceeds of the sales less the sum of any residue removal credit applied with respect to such residues plus any costs incurred by the Forest Service in processing and storing such residues.

(Pub. L. 96–554, § 4, Dec. 19, 1980, 94 Stat. 3257.)

§ 1684. Annual reports

The Secretary shall make annual reports to the Congress on the programs authorized by this subchapter. These reports shall be submitted with the reports required under section 1606(c) of this title.

(Pub. L. 96–554, § 5, Dec. 19, 1980, 94 Stat. 3258.)

§ 1685. Regulations

The Secretary shall issue such regulations as the Secretary deems necessary to implement the provisions of this subchapter.

(Pub. L. 96–554, § 6, Dec. 19, 1980, 94 Stat. 3258.)

§ 1686. Definitions

For purposes of this subchapter, the term:

(1) ''Anticipated cost of removal'' means the projected cost of removal of wood residues from timber sales areas to points of prospective use, as determined by the Secretary at the time of advertisement of the timber sales contract in accordance with appropriate appraisal and sale procedures.

(2) ''Anticipated value'' means the projected value of wood residues as fuel or other merchantable wood products, as determined by the Secretary at the time of advertisement of the timber sales contract in accordance with appropriate appraisal and sale procedures.

(3) ''Points of prospective use'' means the locations where the wood residues are sold or otherwise put to use, as determined by the Secretary in accordance with appropriate appraisal and sale procedures.

(4) ''Person'' means an individual, partnership, joint-stock company, corporation, association, trust, estate, or any other legal entity, or any agency of Federal or State government or of a political subdivision of a State.

(5) ''Secretary'' means the Secretary of Agriculture.

(6) ''Wood residues'' includes, but is not limited to, logging slash, down timber material, woody plants, and standing live or dead trees which do not meet utilization standards because of size, species, merchantable volume, or economic selection criteria and which, in the case of live trees, are surplus to growing stock needs.

(Pub. L. 96–554, § 7, Dec. 19, 1980, 94 Stat. 3258.)

§ 1687. Authorization of appropriations

There is hereby authorized to be appropriated not to exceed $25,000,000 for each of the fiscal years 1982, 1983, 1984, 1985, and 1986 to carry out the pilot projects and demonstrations authorized by section 1682 of this title, the residue removal credits authorized by section 1683 of this title, and the other provisions of this subchapter: *Provided*, That not to exceed $2,500,000 of such amount may be appropriated for administrative expenses to carry out this subchapter for the period beginning October 1, 1981, and ending September 30, 1986. Such sums shall be in addition to those provided under other provisions of law and shall remain available until expended.

(Pub. L. 96–554, § 8, Dec. 19, 1980, 94 Stat. 3259.)

CHAPTER 37—YOUTH CONSERVATION CORPS AND PUBLIC LANDS CORPS

SUBCHAPTER I—YOUTH CONSERVATION CORPS

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SUBCHAPTER I—YOUTH CONSERVATION CORPS

§ 1701. Congressional declaration of policy and purpose

The Congress finds that the Youth Conservation Corps has demonstrated a high degree of success as a pilot program wherein American

youth, representing all segments of society, have benefited by gainful employment in the healthful outdoor atmosphere of the national park system, the national forest system, other public land and water areas of the United States and by their employment have developed, enhanced, and maintained the natural resources of the United States, and whereas in so doing the youth have gained an understanding and appreciation of the Nation's environment and heritage equal to one full academic year of study, it is accordingly the purpose of this subchapter to expand and make permanent the Youth Conservation Corps and thereby further the development and maintenance of the natural resources by America's youth, and in so doing to prepare them for the ultimate responsibility of maintaining and managing these resources for the American people.

(Pub. L. 91–378, title I, §101, formerly §1, Aug. 13, 1970, 84 Stat. 794; Pub. L. 92–597, Oct. 27, 1972, 86 Stat. 1319; Pub. L. 93–408, Sept. 3, 1974, 88 Stat. 1066; renumbered title I, §101, and amended Pub. L. 103–82, title I, §105(1)–(3), Sept. 21, 1993, 107 Stat. 848.)

AMENDMENTS

1993—Pub. L. 103–82, §105(2), substituted ''subchapter'' for ''chapter''.

1974—Pub. L. 93–408 substantially reenacted existing provisions and added finding that the Youth Conservation Corps program be expanded and made permanent in view of the success of the pilot program.

1972—Pub. L. 92–597 substituted ''areas of the United States'' for ''areas administered by the Secretary of the Interior and the Secretary of Agriculture''.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 123 of title I of Pub. L. 103–82 provided that: ''This title [see Tables for classification], and the amendments made by this title, shall take effect on October 1, 1993.''

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–154, §1, Dec. 30, 2005, 119 Stat. 2890, provided that: ''This Act [enacting section 1730 of this title and amending sections 1722 to 1726 and 1729 of this title] may be cited as the 'Public Lands Corps Healthy Forests Restoration Act of 2005'.''

SHORT TITLE

Title I of Pub. L. 91–378, Aug. 13, 1970, 84 Stat. 794, which enacted this subchapter, is popularly known as the ''Youth Conservation Corps Act of 1970''.

Section 201 of title II of Pub. L. 91–378, as added by Pub. L. 103–82, title I, §105(6), Sept. 21, 1993, 107 Stat. 848, provided that: ''This title [enacting subchapter II of this chapter] may be cited as the 'Public Lands Corps Act of 1993'.''

§ 1702. Establishment

(a) Age of participants

To carry out the purposes of this subchapter, there is established in the Department of the Interior and the Department of Agriculture a Youth Conservation Corps (hereinafter in this subchapter referred to as the ''Corps''). The Corps shall consist of young men and women who are permanent residents of the United States, its territories, possessions, trust territories, or Commonwealth of Puerto Rico who have attained age fifteen but have not attained age nineteen, and whom the Secretary of the Interior or the Secretary of Agriculture may employ without regard to the civil service or classification laws, rules, or regulations, for the purpose of developing, preserving, or maintaining the lands and waters of the United States.

(b) Equal employment opportunity and employment; term

The Corps shall be open to youth from all parts of the country of both sexes and youth of all social, economic, and racial classifications with all Corps members receiving compensation consistent with work accomplished, and with no person being employed as a member of the Corps for a term in excess of ninety days during any single year.

(Pub. L. 91–378, title I, §102, formerly §2, Aug. 13, 1970, 84 Stat. 795; Pub. L. 92–597, Oct. 27, 1972, 86 Stat. 1319; Pub. L. 93–408, Sept. 3, 1974, 88 Stat. 1066; renumbered title I, §102, and amended Pub. L. 103–82, title I, §105(1)–(4), Sept. 21, 1993, 107 Stat. 848.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–82, §105(2), (4), substituted ''subchapter'' for ''chapter'' and inserted ''in this subchapter'' after ''(hereinafter''.

1974—Subsec. (a). Pub. L. 93–408 extended eligibility to permanent residents of Puerto Rico, removed the restriction that employment be in the summer months only, and substituted ''waters of the United States'' for ''waters of the United States under his jurisdiction''.

Subsec. (b). Pub. L. 93–408 substituted ''from all parts of the country of both sexes and youth of all social, economic, and racial classifications with all Corps members receiving compensation consistent with work accomplished, and with'' for ''of both sexes and youth of all social, economic, and racial classifications, with''.

1972—Subsec. (a). Pub. L. 92–597 substituted ''established in the Department of the Interior and the Department of Agriculture a Youth Conservation'' and ''under his jurisdiction'' for ''hereby established in the Department of the Interior and the Department of Agriculture a three-year pilot program designated as the Youth Conservation'' and ''under the jurisdiction of the appropriate Secretary'' respectively, and extended eligibility to permanent residents of trust territories.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of this title.

§ 1703. Duties and functions of Secretary of the Interior and Secretary of Agriculture

(a) Programs and projects; conditions of employment; regulations; use of facilities by educational institutions

In carrying out this subchapter, the Secretary of the Interior and the Secretary of Agriculture shall—

(1) determine the areas under their administrative jurisdictions which are appropriate for carrying out the programs using employees of the Corps;

(2) determine with other Federal agencies the areas under the administrative jurisdiction of these agencies which are appropriate for carrying out programs using members of the Corps, and determine and select appropriate work and education programs and projects for participation by members of the Corps;

(3) determine the rates of pay, hours, and other conditions of employment in the Corps, except that all members of the Corps shall not be deemed to be Federal employees other than for the purpose of chapter 171 of title 28, and chapter 81 of title 5.

(4) provide for such transportation, lodging, subsistence, and other services and equipment as they may deem necessary or appropriate for the needs of members of the Corps in their duties:

(5) promulgate regulation to insure the safety, health, and welfare of the Corps members; and

(6) provide to the extent possible, that permanent or semipermanent facilities used as Corps camps be made available to local schools, school districts, State junior colleges and universities, and other education institutions for use as environmental/ecological education camps during periods of nonuse by the Corps program.

Costs for operations maintenance, and staffing of Corps camp facilities during periods of use by non-Corps programs as well as any liability for personal injury or property damage stemming from such use shall be the responsibility of the entity or organization using the facility and shall not be a responsibility of the Secretaries or the Corps.

(b) Use of unoccupied Federal facilities and equipment

Existing but unoccupied Federal facilities and surplus or unused equipment (or both), of all types including military facilities and equipment, shall be utilized for the purposes of the Corps, where appropriate and with the approval of the Federal agency involved. To minimize transportation costs, Corps members shall be employed on conservation projects as near to their places of residence as is feasible.

(c) Contracts for the operation of projects

The Secretary of the Interior and the Secretary of Agriculture may contract with any public agency or organization or any private nonprofit agency or organization which has been in existence for at least five years for the operation of any Youth Conservation Corps project.

(Pub. L. 91–378, title I, § 103, formerly § 3, Aug. 13, 1970, 84 Stat. 795; Pub. L. 92–597, Oct. 27, 1972, 86 Stat. 1319; Pub. L. 93–408, Sept. 3, 1974, 88 Stat. 1067; renumbered title I, § 103, and amended Pub. L. 103–82, title I, § 105(1)–(3), Sept. 21, 1993, 107 Stat. 848.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–82, § 105(2), substituted ''subchapter'' for ''chapter'' in introductory provisions.

1974—Pub. L. 93–408 reenacted existing provisions with minor changes.

1972—Pub. L. 92–597 substantially reenacted existing provisions and inserted provisions requiring the Secretary of the Interior and the Secretary of Agriculture to determine and select appropriate work and education programs and projects for participation by members of the Corps and to provide that permanent or semipermanent facilities used as Corps camps be made available to local schools, school districts, and such other institutions for use as environmental education camps during periods of nonuse by the Corps program, that the costs of operation, maintenance, and staffing of Corps camp facilities during periods of use by non-Corps programs and liabilities arising from such use shall be the responsibility of the organization using the facility and, struck out provisions requiring preparation and submission to the President of a report not later than Aug. 13, 1971, for transmittal to the Congress for review and appropriate action, and that the provisions of Title II of the Revenue and Expenditure Control Act of 1968 shall not apply to appointments made to the Corps, to temporary supervisory personnel, or to temporary program support staff.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of this title.

§ 1704. Grants to States

(a) Projects for preservation of non-Federal public lands and waters; "States" defined

The Secretary of the Interior and the Secretary of Agriculture shall jointly establish a program under which grants shall be made to States to assist them in meeting the cost of projects for the employment of young men and women to develop, preserve, and maintain non-Federal public lands and waters within the States. For purposes of this section, the term ''States'' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

(b) Application requirements for grants; approval by Secretaries

(1) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary of the Interior and the Secretary of Agriculture. Such application shall be in such form, and submitted in such manner, as the Secretaries shall jointly by regulation prescribe, and shall contain—

(A) assurances satisfactory to the Secretaries that individuals employed under the project for which the application is submitted shall (i) have attained the age of fifteen but not attained the age of nineteen, (ii) be permanent residents of the United States or its territories, possessions, or the Trust Territory of the Pacific Islands, (iii) be employed without regard to the personnel laws, rules, and regulations applicable to full-time employees of the applicant, (iv) be employed for a period of not more than ninety days in any calendar year, and (v) be employed without regard to their sex or social, economic, or racial classification; and

(B) such other information as the Secretaries may jointly by regulation prescribe.

(2) The Secretaries may approve applications which they determine (A) to meet the requirements of paragraph (1), and (B) are for projects which will further the development, preservation, or maintenance of non-Federal public lands or waters within the jurisdiction of the applicant.

(c) Limitation on the amount of grant

(1) The amount of any grant under this section shall be determined jointly by the Secretaries, except that no grant for any project may exceed

80 per centum of the cost (as determined by the Secretaries) of such project.

(2) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretaries find necessary.

(d) Appropriation percentage

Thirty per centum of the sums appropriated under section 1706 of this title for any fiscal year shall be made available for grants under this section for such fiscal year.

(Pub. L. 91–378, title I, § 104, formerly § 4, Aug. 13, 1970, 84 Stat. 796; Pub. L. 92–597, Oct. 27, 1972, 86 Stat. 1320; Pub. L. 93–408, Sept. 3, 1974, 88 Stat. 1067; renumbered title I, § 104, and amended Pub. L. 103–82, title I, § 105(1), (3), (5), Sept. 21, 1993, 107 Stat. 848.)

AMENDMENTS

1993—Subsec. (d). Pub. L. 103–82, § 105(5), made technical amendment to reference to section 1706 of this title to reflect renumbering of corresponding section of original act.

1974—Subsec. (a). Pub. L. 93–408 substituted ''jointly establish a program'' for ''jointly establish a pilot grant program''.

1972—Pub. L. 92–579 substituted provisions relating to pilot grant program for State projects for provisions relating to Secretarial reports.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 1705. Repealed. Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(N), Nov. 12, 1996, 110 Stat. 4196

Section, Pub. L. 91–378, title I, § 105, formerly § 5, Aug. 13, 1970, 84 Stat. 796; Pub. L. 92–597, Oct. 27, 1972, 86 Stat. 1321; Pub. L. 93–408, Sept. 3, 1974, 88 Stat. 1068; renumbered title I, § 105, and amended Pub. L. 103–82, title I, § 105(1)–(3), Sept. 21, 1993, 107 Stat. 848, directed Secretaries of the Interior and Agriculture to annually prepare joint report detailing activities carried out under this subchapter to President and Congress.

§ 1706. Authorization of appropriations

There are authorized to be appropriated amounts not to exceed $60,000,000 for each fiscal year, which amounts shall be made available to the Secretary of the Interior and the Secretary of Agriculture to carry out the purposes of this subchapter. Notwithstanding any other provision of law, funds appropriated for any fiscal year to carry out this subchapter shall remain available for obligation and expenditure until the end of the fiscal year following the fiscal year for which appropriated.

(Pub. L. 91–378, title I, § 106, formerly § 6, as added Pub. L. 92–597, Oct. 27, 1972, 86 Stat. 1321; amended Pub. L. 93–408, Sept. 3, 1974, 88 Stat. 1068; renumbered title I, § 106, and amended Pub. L. 103–82, title I, § 105(1)–(3), Sept. 21, 1993, 107 Stat. 848.)

AMENDMENTS

1993—Pub. L. 103–82, § 105(2), substituted ''subchapter'' for ''chapter'' in two places.

1974—Pub. L. 93–408 substituted authorization of appropriation of amount not exceeding $60,000,000 for each fiscal year for authorization of appropriation of amounts not exceeding $30,000,000 for fiscal year ending June 30, 1973 and $60,000,000 for fiscal year ending June 30, 1974.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of this title.

SUBCHAPTER II—PUBLIC LANDS CORPS

§ 1721. Congressional findings and purpose

(a) Findings

The Congress finds the following:

(1) Conserving or developing natural and cultural resources and enhancing and maintaining environmentally important lands and waters through the use of the Nation's young men and women in a Public Lands Corps can benefit those men and women by providing them with education and work opportunities, furthering their understanding and appreciation of the natural and cultural resources, and providing a means to pay for higher education or to repay indebtedness they have incurred to obtain higher education while at the same time benefiting the Nation's economy and its environment.

(2) Many facilities and natural resources located on eligible service lands are in disrepair or degraded and in need of labor intensive rehabilitation, restoration, and enhancement work which cannot be carried out by Federal agencies at existing personnel levels.

(3) Youth conservation corps have established a good record of restoring and maintaining these kinds of facilities and resources in a cost effective and efficient manner, especially when they have worked in partnership arrangements with government land management agencies.

(b) Purpose

It is the purpose of this subchapter to—

(1) perform, in a cost-effective manner, appropriate conservation projects on eligible service lands where such projects will not be performed by existing employees;

(2) assist governments and Indian tribes in performing research and public education tasks associated with natural and cultural resources on eligible service lands;

(3) expose young men and women to public service while furthering their understanding and appreciation of the Nation's natural and cultural resources;

(4) expand educational opportunities by rewarding individuals who participate in national service with an increased ability to pursue higher education or job training; and

(5) stimulate interest among the Nation's young men and women in conservation careers by exposing them to conservation professionals in land managing agencies.

(Pub. L. 91–378, title II, § 202, as added Pub. L. 103–82, title I, § 105(6), Sept. 21, 1993, 107 Stat. 848.)

EFFECTIVE DATE

Subchapter effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of this title.

SHORT TITLE

For short title of title II of Pub. L. 91–378, as added by Pub. L. 103–82, title I, § 105(6), Sept. 21, 1993, 107 Stat. 848, as the ''Public Lands Corps Act of 1993'', see Short Title note set out under section 1701 of this title.

§ 1722. Definitions

For purposes of this subchapter:

(1) Appropriate conservation project

The term ''appropriate conservation project'' means any project for the conservation, restoration, construction or rehabilitation of natural, cultural, historic, archaeological, recreational, or scenic resources.

(2) Corps and Public Lands Corps

The terms ''Corps'' and ''Public Lands Corps'' mean the Public Lands Corps established under section 1723 of this title.

(3) Eligible service lands

The term ''eligible service lands'' means public lands, Indian lands, and Hawaiian home lands.

(4) Hawaiian home lands

The term ''Hawaiian home lands'' means all lands given the status of Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 110), or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3; 73 Stat. 5).

(5) Indian

The term ''Indian'' means a person who—

(A) is a member of an Indian tribe; or

(B) is a ''Native'', as defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(6) Indian lands

The term ''Indian lands'' means—

(A) any Indian reservation;

(B) any public domain Indian allotments;

(C) any former Indian reservation in the State of Oklahoma;

(D) any land held by incorporated Native groups, regional corporations, and village corporations under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]; and

(E) any land held by dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State.

(7) Indian tribe

The term ''Indian tribe'' means an Indian tribe, band, nation, or other organized group or community, including any Native village, Regional Corporation, or Village Corporation, as defined in subsection (c), (g), or (j), respectively, of section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c), (g), or (j)), that is recognized as eligible for the special programs and services provided by the United States under Federal law to Indians because of their status as Indians.

(8) Priority project

The term ''priority project'' means an appropriate conservation project conducted on eligible service lands to further 1 or more of the purposes of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.), as follows:

(A) To reduce wildfire risk to a community, municipal water supply, or other at-risk Federal land.

(B) To protect a watershed or address a threat to forest and rangeland health, including catastrophic wildfire.

(C) To address the impact of insect or disease infestations or other damaging agents on forest and rangeland health.

(D) To protect, restore, or enhance forest ecosystem components to—

(i) promote the recovery of threatened or endangered species;

(ii) improve biological diversity; or

(iii) enhance productivity and carbon sequestration.

(9) Public lands

The term ''public lands'' means any lands or waters (or interest therein) owned or administered by the United States, except that such term does not include any Indian lands.

(10) Qualified youth or conservation corps

The term ''qualified youth or conservation corps'' means any program established by a State or local government, by the governing body of any Indian tribe, or by a nonprofit organization that—

(A) is capable of offering meaningful, full-time, productive work for individuals between the ages of 16 and 25, inclusive, in a natural or cultural resource setting;

(B) gives participants a mix of work experience, basic and life skills, education, training, and support services; and

(C) provides participants with the opportunity to develop citizenship values and skills through service to their community and the United States.

(11) Resource assistant

The term ''resource assistant'' means a resource assistant selected under section 1725 of this title.

(12) Secretary

The term ''Secretary'' means—

(A) with respect to National Forest System land, the Secretary of Agriculture; and

(B) with respect to Indian lands, Hawaiian home lands, or land administered by the Department of the Interior, the Secretary of the Interior.

(13) State

The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the

Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 91–378, title II, § 203, as added Pub. L. 103–82, title I, § 105(6), Sept. 21, 1993, 107 Stat. 849; amended Pub. L. 109–154, § 2(a), Dec. 30, 2005, 119 Stat. 2890.)

REFERENCES IN TEXT

The Hawaiian Homes Commission Act, 1920, referred to in par. (4), is act July 9, 1921, ch. 42, 42 Stat. 108, as amended. Section 204 of that Act was classified to section 698 of Title 48, Territories and Insular Possessions, and was omitted from the Code.

Section 4 of Public Law 86–3, referred to in par. (4), is set out as a note preceding section 491 of Title 48.

The Alaska Native Claims Settlement Act, referred to in par. (6)(D), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Healthy Forests Restoration Act of 2003, referred to in par. (8), is Pub. L. 108–148, Dec. 3, 2003, 117 Stat. 1887, which is classified principally to chapter 84 (§ 6501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6501 of this title and Tables.

AMENDMENTS

2005—Pars. (8) to (13). Pub. L. 109–154 added pars. (8) and (12) and redesignated former pars. (8) to (11) as pars. (9) to (11) and (13), respectively.

§ 1723. Public Lands Corps program

(a) Establishment of Public Lands Corps

There is hereby established in the Department of the Interior and the Department of Agriculture a Public Lands Corps.

(b) Participants

The Corps shall consist of individuals between the ages of 16 and 25, inclusive, who are enrolled as participants in the Corps by the Secretary. To be eligible for enrollment in the Corps, an individual shall satisfy the criteria specified in section 12591(b) of title 42. The Secretary may enroll such individuals in the Corps without regard to the civil service and classification laws, rules, or regulations of the United States. The Secretary may establish a preference for the enrollment in the Corps of individuals who are economically, physically, or educationally disadvantaged.

(c) Qualified youth or conservation corps

(1) In general

The Secretary is authorized to enter into contracts and cooperative agreements with any qualified youth or conservation corps to perform appropriate conservation projects referred to in subsection (d) of this section.

(2) Preference

(A) In general

For purposes of entering into contracts and cooperative agreements under paragraph (1), the Secretary may give preference to qualified youth or conservation corps located in a specific area that have a substantial portion of members who are economically, physically, or educationally disadvantaged to carry out projects within the area.

(B) Priority projects

In carrying out priority projects in a specific area, the Secretary shall, to the maximum extent practicable, give preference to qualified youth or conservation corps located in that specific area that have a substantial portion of members who are economically, physically, or educationally disadvantaged.

(d) Projects to be carried out

(1) In general

The Secretary may utilize the Corps or any qualified youth or conservation corps to carry out appropriate conservation projects which the Secretary is authorized to carry out under other authority of law on public lands.

(2) Projects on Indian lands

Appropriate conservation projects may also be carried out under this subchapter on Indian lands with the approval of the Indian tribe involved and on Hawaiian home lands with the approval of the Department of Hawaiian Home Lands of the State of Hawaii.

(3) Disaster prevention or relief projects

The Secretary may authorize appropriate conservation projects and other appropriate projects to be carried out on Federal, State, local, or private land as part of a Federal disaster prevention or relief effort.

(e) Preference for certain projects

In selecting appropriate conservation projects to be carried out under this subchapter, the Secretary shall give preference to those projects which—

(1) will provide long-term benefits to the public;

(2) will instill in the enrollee involved a work ethic and a sense of public service;

(3) will be labor intensive;

(4) can be planned and initiated promptly; and

(5) will provide academic, experiential, or environmental education opportunities.

(f) Consistency

Each appropriate conservation project carried out under this subchapter on eligible service lands shall be consistent with the provisions of law and policies relating to the management and administration of such lands, with all other applicable provisions of law, and with all management, operational, and other plans and documents which govern the administration of the area.

(Pub. L. 91–378, title II, § 204, as added Pub. L. 103–82, title I, § 105(6), Sept. 21, 1993, 107 Stat. 850; amended Pub. L. 109–154, § 2(b), (c), (g)(1), Dec. 30, 2005, 119 Stat. 2891, 2893.)

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–154, § 2(g)(1)(A), substituted ''Corps by the Secretary'' for ''Corps by the Secretary of the Interior or the Secretary of Agriculture'' and ''Secretary may'' for ''Secretaries may'' in two places.

Subsec. (c). Pub. L. 109–154, § 2(b), designated existing provisions as par. (1), inserted heading, substituted ''The Secretary is'' for ''The Secretary of the Interior

and the Secretary of Agriculture are'', and added par. (2).

Subsec. (d). Pub. L. 109–154, § 2(c), designated first sentence as par. (1), inserted heading, and substituted ''The Secretary may'' for ''The Secretary of the Interior and the Secretary of Agriculture may each'' and ''the Secretary'' for ''such Secretary'', designated second sentence as par. (2) and inserted heading, added par. (3), and struck out former third sentence which read ''The Secretaries may also authorize appropriate conservation projects and other appropriate projects to be carried out on Federal, State, local, or private lands as part of disaster prevention or relief efforts in response to an emergency or major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).''

Subsec. (e). Pub. L. 109–154, § 2(g)(1)(B), substituted ''Secretary'' for ''Secretary of the Interior and the Secretary of Agriculture'' in introductory provisions.

§ 1724. Conservation centers and program support

(a) Establishment and use

(1) In general

The Secretary may establish and use conservation centers owned and operated by the Secretary for—

(A) use by the Public Lands Corps; and

(B) the conduct of appropriate conservation projects under this subchapter.

(2) Assistance for conservation centers

The Secretary may provide to a conservation center established under paragraph (1) any services, facilities, equipment, and supplies that the Secretary determines to be necessary for the conservation center.

(3) Standards for conservation centers

The Secretary shall—

(A) establish basic standards of health, nutrition, sanitation, and safety for all conservation centers established under paragraph (1); and

(B) ensure that the standards established under subparagraph (A) are enforced.

(4) Management

As the Secretary determines to be appropriate, the Secretary may enter into a contract or other appropriate arrangement with a State or local government agency or private organization to provide for the management of a conservation center.

(b) Logistical support

The Secretary may make arrangements with the Secretary of Defense to have logistical support provided by the Armed Forces to the Corps and any conservation center established under this section, where feasible. Logistical support may include the provision of temporary tent shelters where needed, transportation, and residential supervision.

(c) Use of military installations

The Secretary may make arrangements with the Secretary of Defense to identify military installations and other facilities of the Department of Defense and, in consultation with the adjutant generals of the State National Guards, National Guard facilities that may be used, in whole or in part, by the Corps for training or housing Corps participants.

(d) Assistance

The Secretary may provide any services, facilities, equipment, supplies, technical assistance, oversight, monitoring, or evaluations that are appropriate to carry out this subchapter.

(Pub. L. 91–378, title II, § 205, as added Pub. L. 103–82, title I, § 105(6), Sept. 21, 1993, 107 Stat. 851; amended Pub. L. 109–154, § 2(d), (g)(2), Dec. 30, 2005, 119 Stat. 2891, 2893.)

AMENDMENTS

2005—Pub. L. 109–154, § 2(d)(1), inserted ''and program support'' after ''Conservation centers'' in section catchline.

Subsec. (a). Pub. L. 109–154, § 2(d)(2), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: ''The Secretary of the Interior and the Secretary of Agriculture are each authorized to provide such quarters, board, medical care, transportation, and other services, facilities, supplies, and equipment as such Secretary deems necessary in connection with the Public Lands Corps and appropriate conservation projects carried out under this subchapter and to establish and use conservation centers owned and operated by such Secretary for purposes of the Corps and such projects. The Secretaries shall establish basic standards of health, nutrition, sanitation, and safety for all conservation centers established under this section and shall assure that such standards are enforced. Where necessary or appropriate, the Secretaries may enter into contracts and other appropriate arrangements with State and local government agencies and private organizations for the management of such conservation centers.''

Subsec. (b). Pub. L. 109–154, § 2(g)(2)(A), substituted ''Secretary may'' for ''Secretary of the Interior and the Secretary of Agriculture may''.

Subsec. (c). Pub. L. 109–154, § 2(g)(2)(B), substituted ''Secretary may'' for ''Secretary of the Interior and the Secretary of Agriculture may''.

Subsec. (d). Pub. L. 109–154, § 2(d)(3), added subsec. (d).

§ 1725. Resource assistants

(a) Authorization

The Secretary is authorized to provide individual placements of resource assistants with any Federal land managing agency under the jurisdiction of the Secretary to carry out research or resource protection activities on behalf of the agency. To be eligible for selection as a resource assistant, an individual must be at least 17 years of age. The Secretary may select resource assistants without regard to the civil service and classification laws, rules, or regulations of the United States. The Secretary shall give a preference to the selection of individuals who are enrolled in an institution of higher education or are recent graduates from an institution of higher education, with particular attention given to ensure full representation of women and participants from historically black, Hispanic, and Native American schools.

(b) Use of existing nonprofit organizations

Whenever one or more existing nonprofit organizations can provide, in the judgment of the the[1] Secretary, appropriate recruitment and placement services to fulfill the requirements of this section, the Secretary may implement this section through such existing organizations. Participating nonprofit organizations shall con-

[1] So in original.

tribute to the expenses of providing and supporting the resource assistants, through private sources of funding, at a level equal to 25 percent of the total costs of each participant in the Resource Assistant program who has been recruited and placed through that organization. Any such participating nonprofit conservation service organization shall be required, by the respective land managing agency, to submit an annual report evaluating the scope, size, and quality of the program, including the value of work contributed by the Resource Assistants, to the mission of the agency.

(Pub. L. 91–378, title II, § 206, as added Pub. L. 103–82, title I, § 105(6), Sept. 21, 1993, 107 Stat. 852; amended Pub. L. 109–154, § 2(g)(3), Dec. 30, 2005, 119 Stat. 2893.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–154, § 2(g)(3)(A), substituted ''Secretary is'' for ''Secretary of the Interior and the Secretary of Agriculture are each'', ''the Secretary to carry out'' for ''such Secretary to carry out'', ''Secretary may'' for ''Secretaries may'', and ''Secretary shall'' for ''Secretaries shall''.

Subsec. (b). Pub. L. 109–154, § 2(g)(3)(B), substituted ''the Secretary, appropriate'' for ''Secretary of the Interior or the Secretary of Agriculture, appropriate''.

§ 1726. Living allowances and terms of service

(a) Living allowances

The Secretary shall provide each participant in the Public Lands Corps and each resource assistant with a living allowance in an amount established by the Secretary.

(b) Terms of service

Each participant in the Corps and each resource assistant shall agree to participate in the Corps or serve as a resource assistant, as the case may be, for such term of service as may be established by the Secretary enrolling or selecting the individual.

(c) Hiring

The Secretary may—

(1) grant to a member of the Public Lands Corps credit for time served with the Public Lands Corps, which may be used toward future Federal hiring; and

(2) provide to a former member of the Public Lands Corps noncompetitive hiring status for a period of not more than 120 days after the date on which the member's service with the Public Lands Corps is complete.

(Pub. L. 91–378, title II, § 207, as added Pub. L. 103–82, title I, § 105(6), Sept. 21, 1993, 107 Stat. 852; amended Pub. L. 109–154, § 2(e), Dec. 30, 2005, 119 Stat. 2892.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–154, § 2(e)(1), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: ''The Secretary of the Interior and the Secretary of Agriculture shall provide each participant in the Public Lands Corps and each resource assistant with a living allowance in an amount not to exceed the maximum living allowance authorized by section 140(a)(3) of the National and Community Service Act of 1990 for participants in a national service program assisted under subtitle C of title I of such Act.''

Subsec. (c). Pub. L. 109–154, § 2(e)(2), added subsec. (c).

§ 1727. National service educational awards

(a) Educational benefits and awards

If a participant in the Public Lands Corps or a resource assistant also serves in an approved national service position designated under subtitle C of title I of the National and Community Service Act of 1990 [42 U.S.C. 12571 et seq.], the participant or resource assistant shall be eligible for a national service educational award in the manner prescribed in subtitle D of such title [42 U.S.C. 12601 et seq.] upon successfully complying with the requirements for the award. The period during which the national service educational award may be used, the purposes for which the award may be used, and the amount of the award shall be determined as provided under such subtitle.

(b) Forbearance in collection of Stafford loans

For purposes of section 1078 of title 20, in the case of borrowers who are either participants in the Corps or resource assistants, upon written request, a lender shall grant a borrower forbearance on such terms as are otherwise consistent with the regulations of the Secretary of Education, during periods in which the borrower is serving as such a participant or a resource assistant.

(Pub. L. 91–378, title II, § 208, as added Pub. L. 103–82, title I, § 105(6), Sept. 21, 1993, 107 Stat. 853.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsec. (a), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended. Subtitles C and D of title I of the Act are classified generally to divisions C (§ 12571 et seq.) and D (§ 12601 et seq.), respectively, of subchapter I of chapter 129 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

§ 1728. Nondisplacement

The nondisplacement requirements of section 12637 of title 42 shall be applicable to all activities carried out by the Public Lands Corps, to all activities carried out under this subchapter by a qualified youth or conservation corps, and to the selection and service of resource assistants.

(Pub. L. 91–378, title II, § 209, as added Pub. L. 103–82, title I, § 105(6), Sept. 21, 1993, 107 Stat. 853.)

§ 1729. Funding

(a) Cost sharing

(1) Projects by qualified youth or conservation corps

The Secretary is authorized to pay not more than 75 percent of the costs of any appropriate conservation project carried out pursuant to this subchapter on public lands by a qualified youth or conservation corps. The remaining 25 percent of the costs of such a project may be provided from nonfederal sources in the form of funds, services, facilities, materials, equipment, or any combination of the foregoing. No cost sharing shall be required in the case of

any appropriate conservation project carried out on Indian lands or Hawaiian home lands under this subchapter.

(2) Public Lands Corps projects

The Secretary is authorized to accept donations of funds, services, facilities, materials, or equipment for the purposes of operating the Public Lands Corps and carrying out appropriate conservation projects by the Corps. However, nothing in this subchapter shall be construed to require any cost sharing for any project carried out directly by the Corps.

(b) Funds available under National and Community Service Act

In order to carry out the Public Lands Corps or to support resource assistants and qualified youth or conservation corps under this subchapter, the Secretary shall be eligible to apply for and receive assistance under section 121(b) of the National and Community Service Act of 1990 [42 U.S.C. 12571(b)].

(c) Other funds

Amounts appropriated pursuant to the authorization of appropriations under section 1730 of this title are in addition to amounts allocated to the Public Lands Corps through other Federal programs or projects.

(Pub. L. 91–378, title II, § 210, as added Pub. L. 103–82, title I, § 105(6), Sept. 21, 1993, 107 Stat. 853; amended Pub. L. 109–154, § 2(f)(1), (g)(4), Dec. 30, 2005, 119 Stat. 2892, 2893.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–154, § 2(g)(4)(A), substituted ''Secretary is'' for ''Secretary of the Interior and the Secretary of Agriculture are each'' in pars. (1) and (2).

Subsec. (b). Pub. L. 109–154, § 2(g)(4)(B), substituted ''Secretary'' for ''Secretary of the Interior and the Secretary of Agriculture''.

Subsec. (c). Pub. L. 109–154, § 2(f)(1), added subsec. (c).

§ 1730. Authorization of appropriations

(a) In general

There is authorized to be appropriated to carry out this subchapter $12,000,000 for each fiscal year, of which $8,000,000 is authorized to carry out priority projects and $4,000,000 of which is authorized to carry out other appropriate conservation projects.

(b) Disaster relief or prevention projects

Notwithstanding subsection (a) of this section, any amounts made available under that subsection shall be available for disaster prevention or relief projects.

(c) Availability of funds

Notwithstanding any other provision of law, amounts appropriated for any fiscal year to carry out this subchapter shall remain available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts are appropriated.

(Pub. L. 91–378, title II, § 211, as added Pub. L. 109–154, § 2(f)(2), Dec. 30, 2005, 119 Stat. 2892.)

CHAPTER 38—FISHERY CONSERVATION AND MANAGEMENT

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SUBCHAPTER I—GENERALLY

§ 1801. Findings, purposes and policy

(a) Findings

The Congress finds and declares the following:

(1) The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources. These fishery resources contribute to the food supply, economy, and health of the Nation and provide recreational opportunities.

(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.

(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of United States fishermen.

(4) International fishery agreements have not been effective in preventing or terminating the overfishing of these valuable fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.

(5) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.

(6) A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, to facilitate long-term protection of essential fish habitats, and to realize the full potential of the Nation's fishery resources.

(7) A national program for the development of fisheries which are underutilized or not utilized by the United States fishing industry, including bottom fish off Alaska, is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.

(8) The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States.

(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.

(10) Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth.

(11) A number of the Fishery Management Councils have demonstrated significant progress in integrating ecosystem considerations in fisheries management using the existing authorities provided under this chapter.

(12) International cooperation is necessary to address illegal, unreported, and unregulated fishing and other fishing practices which may harm the sustainability of living marine resources and disadvantage the United States fishing industry.

(b) Purposes

It is therefore declared to be the purposes of the Congress in this chapter—

(1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by exercising (A) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish, within the exclusive economic zone established by Presidential Proclamation 5030, dated March 10, 1983, and (B) exclusive fishery management authority beyond the exclusive economic zone over such anadromous species and Continental Shelf fishery resources;

(2) to support and encourage the implementation and enforcement of international fishery agreements for the conservation and management of highly migratory species, and to encourage the negotiation and implementation of additional such agreements as necessary;

(3) to promote domestic commercial and recreational fishing under sound conservation and management principles, including the promotion of catch and release programs in recreational fishing;

(4) to provide for the preparation and implementation, in accordance with national stand-

ards, of fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery;

(5) to establish Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States;

(6) to encourage the development by the United States fishing industry of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish off Alaska, and to that end, to ensure that optimum yield determinations promote such development in a non-wasteful manner; and

(7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.

(c) Policy

It is further declared to be the policy of the Congress in this chapter—

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the conservation and management of fishery resources, as provided for in this chapter;

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, except as necessary for the conservation and management of fishery resources, as provided for in this chapter;

(3) to assure that the national fishery conservation and management program utilizes, and is based upon, the best scientific information available; involves, and is responsive to the needs of, interested and affected States and citizens; considers efficiency; draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; considers the effects of fishing on immature fish and encourages development of practical measures that minimize bycatch and avoid unnecessary waste of fish; and is workable and effective;

(4) to permit foreign fishing consistent with the provisions of this chapter;

(5) to support and encourage active United States efforts to obtain internationally acceptable agreements which provide for effective conservation and management of fishery resources, and to secure agreements to regulate fishing by vessels or persons beyond the exclusive economic zones of any nation;

(6) to foster and maintain the diversity of fisheries in the United States; and

(7) to ensure that the fishery resources adjacent to a Pacific Insular Area, including resident or migratory stocks within the exclusive economic zone adjacent to such areas, be explored, developed, conserved, and managed for the benefit of the people of such area and of the United States.

(Pub. L. 94–265, § 2, Apr. 13, 1976, 90 Stat. 331; Pub. L. 95–354, § 2, Aug. 28, 1978, 92 Stat. 519; Pub. L. 96–561, title II, § 233, Dec. 22, 1980, 94 Stat. 3299; Pub. L. 99–659, title I, § 101(c)(1), Nov. 14, 1986, 100 Stat. 3707; Pub. L. 101–627, title I, § 101, Nov. 28, 1990, 104 Stat. 4437; Pub. L. 102–251, title III, § 301(a), Mar. 9, 1992, 106 Stat. 62; Pub. L. 104–297, title I, § 101, Oct. 11, 1996, 110 Stat. 3560; Pub. L. 109–479, § 3(a), title IV, § 402, Jan. 12, 2007, 120 Stat. 3577, 3626.)

AMENDMENT OF SUBSECTION (b)(1)

Pub. L. 102–251, title III, §§ 301(a), 308, Mar. 9, 1992, 106 Stat. 62, 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, subsection (b)(1) is amended by inserting '', and fishery resources in the special areas'' before the semicolon at the end.

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(11), (b), and (c), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

Presidential Proclamation 5030, referred to in subsec. (b)(1), is set out under section 1453 of this title.

AMENDMENTS

2007—Subsec. (a)(11). Pub. L. 109–479, § 3(a), added par. (11).

Subsec. (a)(12). Pub. L. 109–479, § 402, added par. (12).

1996—Subsec. (a)(2). Pub. L. 104–297, § 101(1), added par. (2) and struck out former par. (2) which read as follows: ''As a consequence of increased fishing pressure and because of the inadequacy of fishery conservation and management practices and controls (A) certain stocks of such fish have been overfished to the point where their survival is threatened, and (B) other such stocks have been so substantially reduced in number that they could become similarly threatened.''

Subsec. (a)(6). Pub. L. 104–297, § 101(2), inserted ''to facilitate long-term protection of essential fish habitats,'' after ''to insure conservation,''.

Subsec. (a)(9), (10). Pub. L. 104–297, § 101(3), added pars. (9) and (10).

Subsec. (b)(3). Pub. L. 104–297, § 101(4), substituted ''principles, including the promotion of catch and release programs in recreational fishing'' for ''principles''.

Subsec. (b)(5). Pub. L. 104–297, § 101(5), struck out ''and'' after semicolon at end.

Subsec. (b)(6). Pub. L. 104–297, § 101(6), substituted ''development in a non-wasteful manner; and'' for ''development.''

Subsec. (b)(7). Pub. L. 104–297, § 101(7), added par. (7).

Subsec. (c)(3). Pub. L. 104–297, § 101(8), substituted ''considers efficiency'' for ''promotes efficiency'' and inserted ''minimize bycatch and'' after ''practical measures that''.

Subsec. (c)(7). Pub. L. 104–297, § 101(9)–(11), added par. (7).

1990—Subsec. (a)(8). Pub. L. 101–627, § 101(a), added par. (8).

Subsec. (b)(1)(A). Pub. L. 101–627, §101(b)(1), struck out ''except highly migratory species'' after ''fish''.

Subsec. (b)(5). Pub. L. 101–627, §101(b)(2), substituted ''exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of'' for ''prepare, monitor, and revise''.

Subsec. (c)(3). Pub. L. 101–627, §101(c)(1), inserted ''considers the effects of fishing on immature fish and encourages development of practical measures that avoid unnecessary waste of fish;'' after ''and enforcement;''.

Subsec. (c)(5). Pub. L. 101–627, §101(c)(3), substituted '', and to secure agreements to regulate fishing by vessels or persons beyond the exclusive economic zones of any nation; and'' for period at end.

Subsec. (c)(6). Pub. L. 101–627, §101(c)(4), added par. (6).

1986—Subsec. (b)(1). Pub. L. 99–659, §101(c)(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by establishing (A) a fishery conservation zone within which the United States will assume exclusive fishery management authority over all fish, except highly migratory species, and (B) exclusive fishery management authority beyond such zone over such anadromous species and Continental Shelf fishery resources;''.

Subsec. (c)(5). Pub. L. 99–659, §101(c)(1)(B), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''to support and encourage continued active United States efforts to obtain an internationally acceptable treaty, at the Third United Nations Conference on the Law of the Sea, which provides for effective conservation and management of fishery resources.''

1980—Subsec. (b)(6). Pub. L. 96–561 inserted '', and to that end, to ensure that optimum yield determinations promote such development'' after ''fish off Alaska''.

1978—Subsec. (a)(7). Pub. L. 95–354, §2(a), substituted ''the United States fishing industry'' for ''United States fishermen''.

Subsec. (b)(6). Pub. L. 95–354, §2(b), inserted requirement for development by the United States fishing industry.

REFERENCES TO MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT CONSIDERED TO INCLUDE SECTION 401(a) OF PUB. L. 108–219

References to the Magnuson-Stevens Fishery Conservation and Management Act or any provision of that Act considered to be references to that Act as it would be in effect if section 401(a) of Pub. L. 108–219 were a provision of that Act, see section 401(c)(1) of Pub. L. 108–219, set out in an Implementation of Pacific Albacore Tuna Treaty note under section 1821 of this title.

REFERENCES TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT REDESIGNATED AS REFERENCES TO MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT

Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that: ''Effective 15 days after the enactment of the Sustainable Fisheries Act [Pub. L. 104–297, enacted Oct. 11, 1996], all references to the Magnuson Fishery Conservation and Management Act [see Short Title note below] shall be redesignated as references to the Magnuson-Stevens Fishery Conservation and Management Act.''

REFERENCES TO FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976 REDESIGNATED AS REFERENCES TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

Section 238(b) of title II of Pub. L. 96–561 provided that: ''Effective 15 days after the date of enactment of this title [Dec. 22, 1980], all references to the Fishery Conservation and Management Act of 1976 [see Short title note below] shall be redesignated as references to the Magnuson Fishery Conservation and Management Act.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102–251, set out as a note under section 773 of this title.

SHORT TITLE OF 2011 AMENDMENT

Pub. L. 111–348, title I, §101, Jan. 4, 2011, 124 Stat. 3668, provided that: ''This title [amending sections 1826i to 1826k, 1857, and 4107 of this title and enacting provisions set out as notes under sections 1826k and 1857 of this title] may be cited as the 'Shark Conservation Act of 2010'.''

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 109–479, §1(a), Jan. 12, 2007, 120 Stat. 3575, provided that: ''This Act [enacting chapters 88 and 89 of this title, chapter 45 of Title 33, Navigation and Navigable Waters, subchapters VI of chapter 31 and of chapter 38 of this title, sections 1826h to 1826k, 1829, 1853a, 1864 to 1869, and 1884 of this title, amending this section, sections 757d, 773f, 773g, 971a, 971h, 971i, 1377, 1802, 1803, 1812, 1821, 1824, 1826a, 1826b, 1851 to 1853, 1854, 1855, 1857, 1861, 1861a, 1862, 1881, 1881a, 1881c, 1882, 1883, 3645, 4107, 5156, 5610, and 5727 of this title, and section 53706 of Title 46, Shipping, enacting provisions set out as notes under sections 460ss, 1361, 1853 to 1855, 1861a, 1864, 6901, and 7001 of this title and section 3201 of Title 33, and amending provisions set out as notes under sections 1822, 1851, 1855, and 1856 of this title] may be cited as the 'Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006'.''

SHORT TITLE OF 1996 AMENDMENT

Section 1(a) of Pub. L. 104–297 provided that: ''This Act [enacting sections 1803, 1861a, 1881 to 1881d, 1883, 5107a, and 5107b of this title and sections 1279f and 1279g of Title 46, Appendix, Shipping, amending this section, sections 757d, 1362, 1802, 1812, 1821 to 1824, 1826, 1851 to 1858, 1860, 1861, 1862, 1863, 1882, 1883, 4107, 5102, 5103, and 5108 of this title, section 713c–3 of Title 15, Commerce and Trade, and section 1274 of Title 46, Appendix, enacting provisions set out as notes under sections 1802, 1853 to 1856, 1861a, and 1881c of this title and section 1245 of Title 46, Appendix, amending provisions set out as a note under section 971c of this title, and repealing provisions set out as a note under section 1851 of this title] may be cited as the 'Sustainable Fisheries Act'.''

SHORT TITLE OF 1995 AMENDMENT

Pub. L. 104–43, title VI, §601, Nov. 3, 1995, 109 Stat. 391, provided that: ''This title [enacting sections 1826d to 1826g of this title and provisions set out as a note under section 1826d of this title] may be cited as the 'High Seas Driftnet Fishing Moratorium Protection Act'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–582, §1, Nov. 2, 1992, 106 Stat. 4900, provided that: ''This Act [enacting sections 1826a to 1826c of this title and section 1707a of Title 46, Appendix, Shipping, amending sections 1362, 1371, 1852, and 1862 of this title, section 1978 of Title 22, Foreign Relations and Intercourse, and section 2110 of Title 46, repealing section 1111c of Title 46, Appendix, and enacting provisions set out as notes under sections 1823, 1826a, and 1861 of this title and section 2110 of Title 46] may be cited as the 'High Seas Driftnet Fisheries Enforcement Act'.''

SHORT TITLE OF 1990 AMENDMENT

Section 1(a) of Pub. L. 101–627 provided that: ''The Act [enacting sections 971b–1, 1385, and 1862 of this title, amending this section, sections 757d, 758e–5, 971a, 971b, 971d, 971h, 1371, 1802, 1811, 1812, 1821, 1822, 1824 to 1826, 1852 to 1861, 1882, 4005, 4006, 4008, 4103, and 4107 of this title, section 713c–3 of Title 15, Commerce and Trade, and section 1977 of Title 22, Foreign Relations and Intercourse, and enacting provisions set out as notes under sections 971a, 1373, 1802, 1812, 1822, 1825, 1854, 4004, and 4005 of this title] may be cited as the 'Fishery Conservation Amendments of 1990'.''

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–220, § 1, Dec. 29, 1987, 101 Stat. 1458, provided that: ''This Act [enacting section 1912 of Title 33, Navigation and Navigable Waters, amending sections 1121 to 1131, 1901 to 1903, 1905, and 1907 to 1909 of Title 33, and enacting provisions set out as notes under this section, sections 1822 and 1823 of this title, sections 883a, 1121, 1125, 1901, 1902, and 2267 of Title 33, and section 6981 of Title 42, The Public Health and Welfare] may be cited as the 'United States-Japan Fishery Agreement Approval Act of 1987'.''

SHORT TITLE OF 1980 AMENDMENT

Section 201 of title II of Pub. L. 96–561 provided that: ''This title [enacting section 1511b of Title 15, Commerce and Trade, amending sections 917, 1801, 1821, 1824, 1852, and 1855 of this title, section 713c–3 of Title 15, sections 1972 and 1980 of Title 22, Foreign Relations and Intercourse, section 1321 of Title 33, Navigation and Navigable Waters, section 1843 of Title 43, Public Lands, and sections 1271, 1273, 1274, and 1275 of Title 46, Appendix, Shipping, and enacting provisions set out as notes under this section, sections 742c, 1821, and 1824 of this title, and section 1980 of Title 22] may be cited as the 'American Fisheries Promotion Act'.''

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–6, § 1, Feb. 21, 1977, 91 Stat. 14, provided: ''That this joint resolution [enacting section 1826 of this title, repealing sections 981 to 991 of this title, and enacting provisions set out as notes under sections 981 and 1823 of this title] may be cited as the 'Fishery Conservation Zone Transition Act'.''

SHORT TITLE

Section 1 of Pub. L. 94–265, as amended by Pub. L. 96–561, title II, § 238(a), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(a)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided: ''That this Act [enacting this chapter, amending section 971 of this title and sections 1972 and 1973 of Title 22, Foreign Relations and Intercourse, enacting provisions set out as notes under this section and sections 971, 1362, 1857 of this title, and sections 1972 and 1973 of Title 22, and repealing chapters 21 and 21A of this title] may be cited as the 'Magnuson-Stevens Fishery Conservation and Management Act'.''

[Section 101(a) [title II, § 211(a)] of div. A of Pub. L. 104–208 provided that the amendment made by that section to section 1 of Pub. L. 94–265, set out above, is effective 15 days after Oct. 11, 1996.]

[Section 238(a) of Pub. L. 96–561 provided that the amendment made by that section to section 1 of Pub. L. 94–265, set out above, is effective 15 days after Dec. 22, 1980.]

EX. ORD. NO. 12962. RECREATIONAL FISHERIES

Ex. Ord. No. 12962, June 7, 1995, 60 F.R. 30769, as amended by Ex. Ord. No. 13474, Sept. 26, 2008, 73 F.R. 57229, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in furtherance of the purposes of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–d, and e–j), the Fish and Wildlife Coordination Act (16 U.S.C. 661–666c), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), the National Marine Sanctuaries Act of 1972 (16 U.S.C. 1431 *et seq.*), the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–ee), the National Park Service Organic Act (16 U.S.C. 1 *et seq.*), the National Historic Preservation Act (16 U.S.C. 470 *et seq.*), [the] Wilderness Act (16 U.S.C. 1131 *et seq.*), the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), the Coastal Zone Management Act [of 1972] (16 U.S.C. 1451 *et seq.*), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*), and other pertinent statutes, and in order to conserve, restore, and enhance aquatic systems to provide for increased recreational fishing opportunities nationwide, it is ordered as follows:

SECTION 1. *Federal Agency Duties.* Federal agencies shall, to the extent permitted by law and where practicable, and in cooperation with States and Tribes, improve the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities by: (a) developing and encouraging partnerships between governments and the private sector to advance aquatic resource conservation and enhance recreational fishing opportunities;

(b) identifying recreational fishing opportunities that are limited by water quality and habitat degradation and promoting restoration to support viable, healthy, and, where feasible, self-sustaining recreational fisheries;

(c) fostering sound aquatic conservation and restoration endeavors to benefit recreational fisheries;

(d) ensuring that recreational fishing shall be managed as a sustainable activity in national wildlife refuges, national parks, national monuments, national marine sanctuaries, marine protected areas, or any other relevant conservation or management areas or activities under any Federal authority, consistent with applicable law;

(e) providing access to and promoting awareness of opportunities for public participation and enjoyment of U.S. recreational fishery resources;

(f) supporting outreach programs designed to stimulate angler participation in the conservation and restoration of aquatic systems;

(g) implementing laws under their purview in a manner that will conserve, restore, and enhance aquatic systems that support recreational fisheries;

(h) establishing cost-share programs, under existing authorities, that match or exceed Federal funds with nonfederal contributions;

(i) evaluating the effects of Federally funded, permitted, or authorized actions on aquatic systems and recreational fisheries and document those effects relative to the purpose of this order; and

(j) assisting private landowners to conserve and enhance aquatic resources on their lands.

SEC. 2. *National Recreational Fisheries Coordination Council.* A National Recreational Fisheries Coordination Council (''Coordination Council'') is hereby established. The Coordination Council shall consist of seven members, one member designated by each of the following Secretaries—Interior, Commerce, Agriculture, Energy, Transportation, and Defense—and one by the Administrator of the Environmental Protection Agency. The Coordination Council shall: (a) ensure that the social and economic values of healthy aquatic systems that support recreational fisheries are considered by Federal agencies in the course of their actions;

(b) reduce duplicative and cost-inefficient programs among Federal agencies involved in conserving or managing recreational fisheries;

(c) share the latest resource information and management technologies to assist in the conservation and management of recreational fisheries;

(d) assess the implementation of the Conservation Plan required under section 3 of this order; and

(e) develop a biennial report of accomplishments of the Conservation Plan.

The representatives designated by the Secretaries of Commerce and the Interior shall cochair the Coordination Council.

SEC. 3. *Recreational Fishery Resources Conservation Plan*. (a) Within 12 months of the date of this order, the Coordination Council, in cooperation with Federal agencies, States, and Tribes, and after consulting with the Federally chartered Sport Fishing and Boating Partnership Council, shall develop a comprehensive Recreational Fishery Resources Conservation Plan (''Conservation Plan'').

(b) The Conservation Plan will set forth a 5-year agenda for Federal agencies identified by the Coordination Council. In so doing, the Conservation Plan will establish, to the extent permitted by law and where practicable; (1) measurable objectives to conserve and restore aquatic systems that support viable and healthy recreational fishery resources, (2) actions to be taken by the identified Federal agencies, (3) a method of ensuring the accountability of such Federal agencies, and (4) a comprehensive mechanism to evaluate achievements. The Conservation Plan will, to the extent practicable, be integrated with existing plans and programs, reduce duplication, and will include recommended actions for cooperation with States, Tribes, conservation groups, and the recreational fisheries community.

SEC. 4. *Joint Policy for Administering the Endangered Species Act of 1973*. All Federal agencies will aggressively work to identify and minimize conflicts between recreational fisheries and their respective responsibilities under the Endangered Species Act of 1973 (''ESA'') (16 U.S.C. 1531 *et seq.*). Within 6 months of the date of this order, the Fish and Wildlife Service and the National Marine Fisheries Service will promote compatibility and reduce conflicts between the administration of the ESA and recreational fisheries by developing a joint agency policy that will; (1) ensure consistency in the administration of the ESA between and within the two agencies, (2) promote collaboration with other Federal, State, and Tribal fisheries managers, and (3) improve and increase efforts to inform nonfederal entities of the requirements of the ESA.

SEC. 5. *Sport Fishing and Boating Partnership Council*. To assist in the implementation of this order, the Secretary of the Interior shall expand the role of the Sport Fishing and Boating Partnership Council to: (a) monitor specific Federal activities affecting aquatic systems and the recreational fisheries they support;

(b) review and evaluate the relation of Federal policies and activities to the status and conditions of recreational fishery resources; and

(c) prepare an annual report of its activities, findings, and recommendations for submission to the Coordination Council.

SEC. 6. *Judicial Review*. This order is intended only to improve the internal management of the executive branch and it is not intended to create any right, benefit or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any other person.

§ 1802. Definitions

As used in this chapter, unless the context otherwise requires—

(1) The term ''anadromous species'' means species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.

(2) The term ''bycatch'' means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released alive under a recreational catch and release fishery management program.

(3) The term ''charter fishing'' means fishing from a vessel carrying a passenger for hire (as defined in section 2101(21a) of title 46) who is engaged in recreational fishing.

(4) The term ''commercial fishing'' means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade.

(5) The term ''conservation and management'' refers to all of the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild, restore, or maintain, and which are useful in rebuilding, restoring, or maintaining, any fishery resource and the marine environment; and (B) which are designed to assure that—

(i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources and the marine environment are avoided; and

(iii) there will be a multiplicity of options available with respect to future uses of these resources.

(6) The term ''Continental Shelf'' means the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, of the United States, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas.

(7) The term ''Continental Shelf fishery resources'' means the following:

CNIDARIA

Bamboo Coral—Acanella spp.;
Black Coral—Antipathes spp.;
Gold Coral—Callogorgia spp.;
Precious Red Coral—Corallium spp.;
Bamboo Coral—Keratoisis spp.; and
Gold Coral—Parazoanthus spp.

CRUSTACEA

Tanner Crab—Chionoecetes tanneri;
Tanner Crab—Chionoecetes opilio;
Tanner Crab—Chionoecetes angulatus;
Tanner Crab—Chionoecetes bairdi;
King Crab—Paralithodes camtschatica;
King Crab—Paralithodes platypus;
King Crab—Paralithodes brevipes;
Lobster—Homarus americanus;
Dungeness Crab—Cancer magister;
California King Crab—Paralithodes californiensis;
California King Crab—Paralithodes rathbuni;
Golden King Crab—Lithodes aequispinus;
Northern Stone Crab—Lithodes maja;
Stone Crab—Menippe mercenaria; and
Deep-sea Red Crab—Chaceon quinquedens.

MOLLUSKS

Red Abalone—Haliotis rufescens;
Pink Abalone—Haliotis corrugata;
Japanese Abalone—Haliotis kamtschatkana;
Queen Conch—Strombus gigas;
Surf Clam—Spisula solidissima; and
Ocean Quahog—Arctica islandica.

SPONGES

Glove Sponge—Spongia cheiris;

Sheepswool Sponge—Hippiospongia lachne;
Grass Sponge—Spongia graminea; and
Yellow Sponge—Spongia barbera.

If the Secretary determines, after consultation with the Secretary of State, that living organisms of any other sedentary species are, at the harvestable stage, either—

(A) immobile on or under the seabed, or

(B) unable to move except in constant physical contact with the seabed or subsoil,

of the Continental Shelf which appertains to the United States, and publishes notice of such determination in the Federal Register, such sedentary species shall be considered to be added to the foregoing list and included in such term for purposes of this chapter.

(8) The term ''Council'' means any Regional Fishery Management Council established under section 1852 of this title.

(9) The term ''economic discards'' means fish which are the target of a fishery, but which are not retained because they are of an undesirable size, sex, or quality, or for other economic reasons.

(10) The term ''essential fish habitat'' means those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity.

(11) The term ''exclusive economic zone'' means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this chapter, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

(12) The term ''fish'' means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(13) The term ''fishery'' means—

(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

(B) any fishing for such stocks.

(14) The term ''regional fishery association'' means an association formed for the mutual benefit of members—

(A) to meet social and economic needs in a region or subregion; and

(B) comprised of persons engaging in the harvest or processing of fishery resources in that specific region or subregion or who otherwise own or operate businesses substantially dependent upon a fishery.

(15) The term ''fishery resource'' means any fishery, any stock of fish, any species of fish, and any habitat of fish.

(16) The term ''fishing'' means—

(A) the catching, taking, or harvesting of fish;

(B) the attempted catching, taking, or harvesting of fish;

(C) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

Such term does not include any scientific research activity which is conducted by a scientific research vessel.

(17) The term ''fishing community'' means a community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such community.

(18) The term ''fishing vessel'' means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—

(A) fishing; or

(B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

(19) The term ''foreign fishing'' means fishing by a vessel other than a vessel of the United States.

(20) The term ''high seas'' means all waters beyond the territorial sea of the United States and beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States.

(21) The term ''highly migratory species'' means tuna species, marlin (Tetrapturus spp. and Makaira spp.), oceanic sharks, sailfishes (Istiophorus spp.), and swordfish (Xiphias gladius).

(22) The term ''import''—

(A) means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States; but

(B) does not include any activity described in subparagraph (A) with respect to fish caught in the exclusive economic zone or by a vessel of the United States.

(23) The term ''individual fishing quota'' means a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. Such term does not include community development quotas as described in section 1855(i) of this title.

(24) The term ''international fishery agreement'' means any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the United States is a party.

(25) The term ''large-scale driftnet fishing'' means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(26) The term ''limited access privilege''—

(A) means a Federal permit, issued as part of a limited access system under section 1853a of this title to harvest a quantity of fish expressed by a unit or units representing a portion of the total allowable catch of the fishery that may be received or held for exclusive use by a person; and

(B) includes an individual fishing quota; but

(C) does not include community development quotas as described in section 1855(i) of this title.

(27) The term ''limited access system'' means a system that limits participation in a fishery to those satisfying certain eligibility criteria or requirements contained in a fishery management plan or associated regulation.

(28) The term ''Marine Fisheries Commission'' means the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, or the Pacific States Marine Fisheries Commission.

(29) The term ''migratory range'' means the maximum area at a given time of the year within which fish of an anadromous species or stock thereof can be expected to be found, as determined on the basis of scale pattern analysis, tagging studies, or other reliable scientific information, except that the term does not include any part of such area which is in the waters of a foreign nation.

(30) The term ''national standards'' means the national standards for fishery conservation and management set forth in section 1851 of this title.

(31) The term ''observer'' means any person required or authorized to be carried on a vessel for conservation and management purposes by regulations or permits under this chapter.

(32) The term ''observer information'' means any information collected, observed, retrieved, or created by an observer or electronic monitoring system pursuant to authorization by the Secretary, or collected as part of a cooperative research initiative, including fish harvest or processing observations, fish sampling or weighing data, vessel logbook data, vessel or processor-specific information (including any safety, location, or operating condition observations), and video, audio, photographic, or written documents.

(33) The term ''optimum'', with respect to the yield from a fishery, means the amount of fish which—

(A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;

(B) is prescribed on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant social, economic, or ecological factor; and

(C) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.

(34) The terms ''overfishing'' and ''overfished'' mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.

(35) The term ''Pacific Insular Area'' means American Samoa, Guam, the Northern Mariana Islands, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Wake Island, or Palmyra Atoll, as applicable, and includes all islands and reefs appurtenant to such island, reef, or atoll.

(36) The term ''person'' means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(37) The term ''recreational fishing'' means fishing for sport or pleasure.

(38) The term ''regulatory discards'' means fish harvested in a fishery which fishermen are required by regulation to discard whenever caught, or are required by regulation to retain but not sell.

(39) The term ''Secretary'' means the Secretary of Commerce or his designee.

(40) The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.

(41)[1] The term ''special areas'' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990. In particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.

(42) The term ''stock of fish'' means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

(43) The term ''treaty'' means any international fishery agreement which is a treaty within the meaning of section 2 of article II of the Constitution.

(44) The term ''tuna species'' means the following:

Albacore Tuna—Thunnus alalunga;
Bigeye Tuna—Thunnus obesus;
Bluefin Tuna—Thunnus thynnus;
Skipjack Tuna—Katsuwonus pelamis; and
Yellowfin Tuna—Thunnus albacares.

(45) The term ''United States'', when used in a geographical context, means all the States thereof.

(46) The term ''United States fish processors'' means facilities located within the United States for, and vessels of the United

[1] See Codification note below.

States used or equipped for, the processing of fish for commercial use or consumption.

(47) The term ''United States harvested fish'' means fish caught, taken, or harvested by vessels of the United States within any fishery regulated under this chapter.

(48) The term ''vessel of the United States'' means—

(A) any vessel documented under chapter 121 of title 46;

(B) any vessel numbered in accordance with chapter 123 of title 46 and measuring less than 5 net tons;

(C) any vessel numbered in accordance with chapter 123 of title 46 and used exclusively for pleasure; or

(D) any vessel not equipped with propulsion machinery of any kind and used exclusively for pleasure.

(49) The term ''vessel subject to the jurisdiction of the United States'' has the same meaning such term has in section 70502(c) of title 46.

(50) The term ''waters of a foreign nation'' means any part of the territorial sea or exclusive economic zone (or the equivalent) of a foreign nation, to the extent such territorial sea or exclusive economic zone is recognized by the United States.

(Pub. L. 94–265, § 3, Apr. 13, 1976, 90 Stat. 333; Pub. L. 95–354, § 3, Aug. 28, 1978, 92 Stat. 519; Pub. L. 97–453, § 15(a), Jan. 12, 1983, 96 Stat. 2492; Pub. L. 99–659, title I, §§ 101(a), 112, Nov. 14, 1986, 100 Stat. 3706, 3715; Pub. L. 100–239, § 2, Jan. 11, 1988, 101 Stat. 1778; Pub. L. 101–627, title I, § 102(a), title X, § 1001(c), Nov. 28, 1990, 104 Stat. 4438, 4468; Pub. L. 102–251, title III, § 301(b), Mar. 9, 1992, 106 Stat. 62; Pub. L. 104–297, title I, § 102, Oct. 11, 1996, 110 Stat. 3561; Pub. L. 109–479, § 3(b), (c), Jan. 12, 2007, 120 Stat. 3577, 3578.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Proclamation Numbered 5030, referred to in par. (11), is set out under section 1453 of this title.

CODIFICATION

In par. (49), ''section 70502(c) of title 46'' substituted for ''section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c))'' on authority of Pub. L. 109–304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 70502 of Title 46, Shipping.

Pub. L. 102–251, § 301(b), which directed amendment of this section by adding a new par. (24) defining ''special areas'' and redesignating former pars. (24) to (32) as (25) to (33), respectively, was to be effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, but will not be executed, to reflect the probable intent of Congress, because the amendments would be inconsistent with the amendments by Pub. L. 104–297 which added par. (36) (now par. (41)) which is substantially identical to the par. (24) added by Pub. L. 102–251, made successive redesignations of pars. (2) to (44), and added and amended various other pars. See 1996 Amendment notes below and section 308 of Pub. L. 102–251, set out as an Effective Date of 1992 Amendment note under section 773 of this title.

AMENDMENTS

2007—Pub. L. 109–479 added pars. (13A) defining ''regional fishery association'', (20A) defining ''import'', (23A) defining ''limited access privilege'', (23B) defining ''limited access system'', and (27A) defining ''observer information'' and redesignated pars. (1) to (45) as (1) to (50), respectively.

1996—Pars. (2) to (6). Pub. L. 104–297, § 102(1), added pars. (2) to (4) and redesignated former pars. (2) and (3) as (5) and (6), respectively. Former pars. (4) to (6) redesignated (7) to (9), respectively.

Par. (7). Pub. L. 104–297, § 102(2)(B), substituted ''Deep-sea Red Crab—Chaceon quinquedens'' for ''Deep-sea Red Crab—Geryon quinquedens'' in list under heading ''Crustacea''.

Pub. L. 104–297, § 102(2)(A), which directed substitution of ''Cnidaria'' for ''Coelenterata'' in heading of list of corals, was executed by making the substitution for ''Colenterata'' in that heading to reflect the probable intent of Congress.

Pub. L. 104–297, § 102(1), redesignated par. (4) as (7). Former par. (7) redesignated (10).

Par. (8). Pub. L. 104–297, § 102(1), redesignated par. (5) as (8). Former par. (8) redesignated (11).

Par. (9). Pub. L. 104–297, § 102(3), added par. (9). Former par. (9) redesignated (11).

Pub. L. 104–297, § 102(1), redesignated par. (6) as (9). Former par. (9) redesignated (12).

Par. (10). Pub. L. 104–297, § 102(3), added par. (10). Former par. (10) redesignated (12).

Pub. L. 104–297, § 102(1), redesignated par. (7) as (10). Former par. (10) redesignated (13).

Pars. (11) to (15). Pub. L. 104–297, § 102(3), redesignated pars. (9) to (13) as (11) to (15), respectively. Former pars. (14) and (15) redesignated (16) and (17), respectively.

Pub. L. 104–297, § 102(1), redesignated pars. (8) to (12) as (11) to (15), respectively. Former pars. (13) to (15) redesignated (16) to (18), respectively.

Par. (16). Pub. L. 104–297, § 102(4), added par. (16). Former par. (16) redesignated (17).

Pub. L. 104–297, § 102(3), redesignated par. (14) as (16). Former par. (16) redesignated (18).

Pub. L. 104–297, § 102(1), redesignated par. (13) as (16). Former par. (16) redesignated (19).

Pars. (17) to (20). Pub. L. 104–297, § 102(4), redesignated pars. (16) to (19) as (17) to (20), respectively. Former par. (20) redesignated (21).

Pub. L. 104–297, § 102(3), redesignated pars. (15) to (18) as (17) to (20), respectively. Former pars. (19) and (20) redesignated (21) and (22), respectively.

Pub. L. 104–297, § 102(1), redesignated pars. (14) to (17) as (17) to (20), respectively. Former pars. (18) to (20) redesignated (21) to (23), respectively.

Par. (21). Pub. L. 104–297, § 102(5), added par. (21). Former par. (21) redesignated (22).

Pub. L. 104–297, § 102(4), redesignated par. (20) as (21). Former par. (21) redesignated (22).

Pub. L. 104–297, § 102(3), redesignated par. (19) as (21). Former par. (21) redesignated (23).

Pub. L. 104–297, § 102(1), redesignated par. (18) as (21). Former par. (21) redesignated (24).

Par. (22). Pub. L. 104–297, § 102(5), redesignated par. (21) as (22). Former par. (22) redesignated (23).

Pub. L. 104–297, § 102(4), redesignated par. (21) as (22). Former par. (22) redesignated (23).

Pub. L. 104–297, § 102(3), redesignated par. (20) as (22). Former par. (22) redesignated (24).

Pub. L. 104–297, § 102(1), redesignated par. (19) as (22). Former par. (22) redesignated (25).

Par. (23). Pub. L. 104–297, § 102(6), substituted ''of two and one-half kilometers'' for ''of one and one-half miles''.

Pub. L. 104–297, § 102(5), redesignated par. (22) as (23). Former par. (23) redesignated (24).

Pub. L. 104–297, § 102(4), redesignated par. (22) as (23). Former par. (23) redesignated (24).

Pub. L. 104–297, § 102(3), redesignated par. (21) as (23). Former par. (23) redesignated (25).

Pub. L. 104–297, § 102(1), redesignated par. (20) as (23). Former par. (23) redesignated (26).

Pars. (24) to (27). Pub. L. 104–297, §102(5), redesignated pars. (23) to (26) as (24) to (27), respectively. Former par. (27) redesignated (28).

Pub. L. 104–297, §102(4), redesignated pars. (23) to (26) as (24) to (27), respectively. Former par. (27) redesignated (28).

Pub. L. 104–297, §102(3), redesignated pars. (22) to (25) as (24) to (27), respectively. Former pars. (26) and (27) redesignated (28) and (29), respectively.

Pub. L. 104–297, §102(1), redesignated pars. (21) to (24) as (24) to (27), respectively. Former pars. (25) to (27) redesignated (28) to (30), respectively.

Par. (28). Pub. L. 104–297, §102(7), added par. (28) and struck out former par. (28) which read as follows: ''The term 'optimum', with respect to the yield from a fishery, means the amount of fish—

''(A) which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and

''(B) which is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, or ecological factor.''

Pub. L. 104–297, §102(5), redesignated par. (27) as (28). Former par. (28) redesignated (29).

Pub. L. 104–297, §102(4), redesignated par. (27) as (28). Former par. (28) redesignated (29).

Pub. L. 104–297, §102(3), redesignated par. (26) as (28). Former par. (28) redesignated (30).

Pub. L. 104–297, §102(1), redesignated par. (25) as (28). Former par. (28) redesignated (31).

Pars. (29), (30). Pub. L. 104–297, §102(8), added pars. (29) and (30). Former pars. (29) and (30) redesignated (31) and (32), respectively.

Pub. L. 104–297, §102(5), redesignated pars. (28) and (29) as (29) and (30), respectively. Former par. (30) redesignated (31).

Pub. L. 104–297, §102(4), redesignated pars. (28) and (29) as (29) and (30), respectively. Former par. (30) redesignated (31).

Pub. L. 104–297, §102(3), redesignated pars. (27) and (28) as (29) and (30), respectively. Former pars. (29) and (30) redesignated (31) and (32), respectively.

Pub. L. 104–297, §102(1), redesignated pars. (26) and (27) as (29) and (30), respectively. Former pars. (29) and (30) redesignated (32) and (33), respectively.

Par. (31). Pub. L. 104–297, §102(8), redesignated par. (29) as (31). Former par. (31) redesignated (33).

Pub. L. 104–297, §102(5), redesignated par. (30) as (31). Former par. (31) redesignated (32).

Pub. L. 104–297, §102(4), redesignated par. (30) as (31). Former par. (31) redesignated (32).

Pub. L. 104–297, §102(3), redesignated par. (29) as (31). Former par. (31) redesignated (33).

Pub. L. 104–297, §102(1), redesignated par. (28) as (31). Former par. (31) redesignated (34).

Pars. (32), (33). Pub. L. 104–297, §102(9), added pars. (32) and (33). Former pars. (32) and (33) redesignated (34) and (35), respectively.

Pub. L. 104–297, §102(8), redesignated pars. (30) and (31) as (32) and (33), respectively. Former pars. (32) and (33) redesignated (34) and (35), respectively.

Pub. L. 104–297, §102(5), redesignated pars. (31) and (32) as (32) and (33), respectively. Former par. (33) redesignated (34).

Pub. L. 104–297, §102(4), redesignated pars. (31) and (32) as (32) and (33), respectively. Former par. (33) redesignated (34).

Pub. L. 104–297, §102(3), redesignated pars. (30) and (31) as (32) and (33), respectively. Former pars. (32) and (33) redesignated (34) and (35), respectively.

Pub. L. 104–297, §102(1), redesignated pars. (29) and (30) as (32) and (33), respectively. Former par. (32) redesignated (35).

Pars. (34), (35). Pub. L. 104–297, §102(9), redesignated pars. (32) and (33) as (34) and (35), respectively. Former pars. (34) and (35) redesignated (36) and (37), respectively.

Pub. L. 104–297, §102(8), redesignated pars. (32) and (33) as (34) and (35), respectively. Former pars. (34) and (35) redesignated (36) and (37), respectively.

Pub. L. 104–297, §102(5), redesignated pars. (33) and (34) as (34) and (35), respectively. Former par. (35) redesignated (36).

Pub. L. 104–297, §102(4), redesignated pars. (33) and (34) as (34) and (35), respectively. Former par. (35) redesignated (36).

Pub. L. 104–297, §102(3), redesignated pars. (32) and (33) as (34) and (35), respectively. Former pars. (34) and (35) redesignated (36) and (37), respectively.

Pub. L. 104–297, §102(1), redesignated pars. (31) and (32) as (34) and (35), respectively.

Par. (36). Pub. L. 104–297, §102(10), added par. (36). Former par. (36) redesignated (37).

Pub. L. 104–297, §102(9), redesignated par. (34) as (36). Former par. (36) redesignated (38).

Pub. L. 104–297, §102(8), redesignated par. (34) as (36). Former par. (36) redesignated (38).

Pub. L. 104–297, §102(5), redesignated par. (35) as (36). Former par. (36) redesignated (37).

Pub. L. 104–297, §102(4), redesignated par. (35) as (36). Former par. (36) redesignated (37).

Pub. L. 104–297, §102(3), redesignated par. (34) as (36).

Par. (37). Pub. L. 104–297, §102(10), redesignated par. (36) as (37). Former par. (37) redesignated (38).

Pub. L. 104–297, §102(9), redesignated par. (35) as (37). Former par. (37) redesignated (39).

Pub. L. 104–297, §102(8), redesignated par. (35) as (37). Former par. (37) redesignated (39).

Pub. L. 104–297, §102(5), redesignated par. (36) as (37). Former par. (37) redesignated (38).

Pub. L. 104–297, §102(4), redesignated par. (36) as (37). Former par. (37) redesignated (38).

Pub. L. 104–297, §102(3), redesignated par. (35) as (37).

Par. (38). Pub. L. 104–297, §102(10), redesignated par. (37) as (38). Former par. (38) redesignated (39).

Pub. L. 104–297, §102(9), redesignated par. (36) as (38). Former par. (38) redesignated (40).

Pub. L. 104–297, §102(8), redesignated par. (36) as (38). Former par. (38) redesignated (40).

Pub. L. 104–297, §102(5), redesignated par. (37) as (38). Former par. (38) redesignated (39).

Pub. L. 104–297, §102(4), redesignated par. (37) as (38).

Par. (39). Pub. L. 104–297, §102(10), redesignated par. (38) as (39). Former par. (39) redesignated (40).

Pub. L. 104–297, §102(9), redesignated par. (37) as (39). Former par. (39) redesignated (41).

Pub. L. 104–297, §102(8), redesignated par. (37) as (39). Former par. (39) redesignated (41).

Pub. L. 104–297, §102(5), redesignated par. (38) as (39).

Pars. (40), (41). Pub. L. 104–297, §102(10), redesignated pars. (39) and (40) as (40) and (41), respectively. Former par. (41) redesignated (42).

Pub. L. 104–297, §102(9), redesignated pars. (38) and (39) as (40) and (41), respectively. Former pars. (40) and (41) redesignated (42) and (43), respectively.

Pub. L. 104–297, §102(8), redesignated pars. (38) and (39) as (40) and (41), respectively.

Par. (42). Pub. L. 104–297, §102(11), which directed the substitution of ''regulated under this chapter'' for ''for which a fishery management plan prepared under subchapter IV of this chapter or a preliminary fishery management plan prepared under section 1821(g) of this title has been implemented'', was executed by making substitution for language which referred to ''section 1821(h)'', notwithstanding directory language directing substitution for language which referred to ''section 1821(g)'' to reflect the probable intent of Congress.

Pub. L. 104–297, §102(10), redesignated par. (41) as (42). Former par. (42) redesignated (43).

Pub. L. 104–297, §102(9), redesignated par. (40) as (42).

Par. (43). Pub. L. 104–297, §102(10), redesignated par. (42) as (43). Former par. (43) redesignated (44).

Pub. L. 104–297, §102(9), redesignated par. (41) as (43).

Par. (44). Pub. L. 104–297, §102(12), added par. (44). Former par. (44) redesignated (45).

Pub. L. 104–297, §102(10), redesignated par. (43) as (44).

Par. (45). Pub. L. 104–297, §102(12), redesignated par. (44) as (45).

1990—Par. (7). Pub. L. 101–627, §102(a)(2), substituted ''and birds'' for '', birds, and highly migratory species''.

Par. (14). Pub. L. 101–627, §102(a)(3), amended par. (14) generally. Prior to amendment, par. (14) read as follows: ''The term 'highly migratory species' means species of tuna which, in the course of their life cycle, spawn and migrate over great distances in waters of the ocean.''

Par. (16). Pub. L. 101–627, §102(a)(4), added par. (16). Former par. (16) redesignated (17).

Par. (17). Pub. L. 101–627, §102(a)(1), redesignated par. (16) as (17). Former par. (17) redesignated (19).

Par. (18). Pub. L. 101–627, §102(a)(5), added par. (18). Former par. (18) redesignated (21).

Par. (19). Pub. L. 101–627, §102(a)(1), redesignated par. (17) as (19). Former par. (19) redesignated (22).

Par. (20). Pub. L. 101–627, §102(a)(6), added par. (20). Former par. (20) redesignated (23).

Pars. (21) to (26). Pub. L. 101–627, §102(a)(1), redesignated pars. (18) to (23) as (21) to (26), respectively. Former pars. (24) to (26) redesignated (28) to (30), respectively.

Par. (27). Pub. L. 101–627, §102(a)(7), added par. (27). Former par. (27) redesignated (31).

Pars. (28) to (31). Pub. L. 101–627, §102(a)(1), redesignated pars. (24) to (27) as (28) to (31), respectively.

Par. (32). Pub. L. 101–627, §102(a)(8), added par. (32).

1988—Par. (27). Pub. L. 100–239 amended par. (27) generally. Prior to amendment, par. (27) read as follows: ''The term 'vessel of the United States' means—

''(A) any vessel documented under the laws of the United States;

''(B) any vessel numbered in accordance with the Federal Boat Safety Act of 1971 and measuring less than 5 net tons; or

''(C) any vessel numbered under the Federal Boat Safety Act of 1971 and used exclusively for pleasure.''

1986—Par. (4). Pub. L. 99–659, §112, in provisions under heading ''Mollusks'' substituted ''Arctica islandica'' for ''Artica islandica'' and under heading ''Sponges'' substituted ''Spongia cheiris'' for ''Hippiospongia canaliculata''.

Pars. (6) to (8). Pub. L. 99–659, §101(a), added par. (6), redesignated former pars. (6) and (7) as (7) and (8), respectively, and struck out former par. (8) which defined ''fishery conservation zone'' as the fishery conservation zone established by section 1811 of this title.

1983—Par. (27). Pub. L. 97–453 designated existing provisions as subpar. (A), struck out ''or registered under the laws of any State'' after ''United States'', and added subpars. (B) and (C).

1978—Pars. (25) to (27). Pub. L. 95–354 added pars. (25) and (26) and redesignated former par. (25) as (27).

CHANGE OF NAME

''Pacific States Marine Fisheries Commission'' substituted for ''Pacific Marine Fisheries Commission'' in par. (24) pursuant to section 1001(c) of Pub. L. 101–627, set out below.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 405(a) of Pub. L. 104–297 provided that: ''Notwithstanding section 308 of the Act entitled 'An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary', approved March 9, 1992 (Public Law 102–251; 106 Stat. 66) [set out as a note under section 773 of this title] hereinafter referred to as the 'FGB Act', section 301(b) of that Act [amending this section, see Codification note above] (adding a definition of the term 'special areas') shall take effect on the date of enactment of this Act [Oct. 11, 1996].''

REDESIGNATION OF PACIFIC MARINE FISHERIES COMMISSION AS PACIFIC STATES MARINE FISHERIES COMMISSION

Section 1001 of Pub. L. 101–627 provided that:

''(a) IN GENERAL.—The Congress consents to and approves of the amendments described in subsection (b) to the interstate compact which constituted the Pacific Marine Fisheries Commission, approved by the Act of July 24, 1947 (61 Stat. 419; hereinafter in this section referred to as the 'compact').

''(b) AMENDMENT DESCRIBED.—The amendments referred to in subsection (a) are the amendments approved and ratified before the effective date of this section [Nov. 28, 1990] by the contracting States to the compact, which—

''(1) amend Article III of the compact to redesignate the Pacific Marine Fisheries Commission as the 'Pacific States Marine Fisheries Commission'; and

''(2) make such other amendments to the compact as are necessary solely to conform the text of the compact to the amendment described in paragraph (1).

''(c) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Pacific Marine Fisheries Commission constituted by the compact is deemed to be a reference to the 'Pacific States Marine Fisheries Commission'.''

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§ 1803. Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out the provisions of this chapter—

(1) $337,844,000 for fiscal year 2007;
(2) $347,684,000 for fiscal year 2008;
(3) $357,524,000 for fiscal year 2009;
(4) $367,364,000 for fiscal year 2010;
(5) $377,204,000 for fiscal year 2011;
(6) $387,044,000 for fiscal year 2012; and
(7) $396,875,000 for fiscal year 2013.

(Pub. L. 94–265, §4, as added Pub. L. 104–297, title I, §103, Oct. 11, 1996, 110 Stat. 3563; amended Pub. L. 109–479, §7, Jan. 12, 2007, 120 Stat. 3579.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

2007—Pub. L. 109–479 reenacted section catchline without change and amended text generally, substituting provisions authorizing appropriations for fiscal years 2007 to 2013 for provisions authorizing appropriations for fiscal years 1996 to 1999.

SUBCHAPTER II—UNITED STATES RIGHTS AND AUTHORITY REGARDING FISH AND FISHERY RESOURCES

§ 1811. United States sovereign rights to fish and fishery management authority

(a) In the exclusive economic zone

Except as provided in section 1812 of this title, the United States claims, and will exercise in the manner provided for in this chapter, sovereign rights and exclusive fishery management authority over all fish, and all Continental Shelf fishery resources, within the exclusive economic zone.

(b) Beyond the exclusive economic zone

The United States claims, and will exercise in the manner provided for in this chapter, exclusive fishery management authority over the following:

(1) All anadromous species throughout the migratory range of each such species beyond the exclusive economic zone; except that that management authority does not extend to any such species during the time they are found within any waters of a foreign nation.

(2) All Continental Shelf fishery resources beyond the exclusive economic zone.

(Pub. L. 94–265, title I, § 101, Apr. 13, 1976, 90 Stat. 336; Pub. L. 99–659, title I, § 101(b), Nov. 14, 1986, 100 Stat. 3706; Pub. L. 101–627, title I, § 102(b), Nov. 28, 1990, 104 Stat. 4438; Pub. L. 102–251, title III, § 301(c), Mar. 9, 1992, 106 Stat. 62.)

AMENDMENT OF SECTION

Pub. L. 102–251, title III, §§ 301(c), 308, Mar. 9, 1992, 106 Stat. 62, 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, subsection (a) is amended by inserting ''and special areas'' before the period at the end and subsection (b) is amended by inserting after paragraph (2) the following new paragraph:

(3) All fishery resources in the special areas.

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

1990—Subsec. (b)(1). Pub. L. 101–627 substituted ''any waters of a foreign nation'' for ''any foreign nation's territorial sea or exclusive economic zone (or the equivalent), to the extent that that sea or zone is recognized by the United States''.

1986—Pub. L. 99–659 amended section generally. Prior to amendment, section read as follows: ''There is established a zone contiguous to the territorial sea of the United States to be known as the fishery conservation zone. The inner boundary of the fishery conservation zone is a line coterminous with the seaward boundary of each of the coastal States, and the outer boundary of such zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102–251, set out as a note under section 773 of this title.

§ 1812. Highly migratory species

(a) In general

The United States shall cooperate directly or through appropriate international organizations with those nations involved in fisheries for highly migratory species with a view to ensuring conservation and shall promote the achievement of optimum yield of such species throughout their range, both within and beyond the exclusive economic zone.

(b) Traditional participation

In managing any fisheries under an international fisheries agreement to which the United States is a party, the appropriate Council or Secretary shall take into account the traditional participation in the fishery, relative to other nations, by fishermen of the United States on fishing vessels of the United States.

(c) Promotion of stock management

If a relevant international fisheries organization does not have a process for developing a formal plan to rebuild a depleted stock, an overfished stock, or a stock that is approaching a condition of being overfished, the provisions of this chapter in this regard shall be communicated to and promoted by the United States in the international or regional fisheries organization.

(Pub. L. 94–265, title I, § 102, Apr. 13, 1976, 90 Stat. 336; Pub. L. 99–659, title I, § 101(b), Nov. 14, 1986, 100 Stat. 3707; Pub. L. 101–627, title I, § 103(a), Nov. 28, 1990, 104 Stat. 4439; Pub. L. 104–297, title I, § 104, Oct. 11, 1996, 110 Stat. 3563; Pub. L. 109–479, § 4, Jan. 12, 2007, 120 Stat. 3578.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

2007—Pub. L. 109–479 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

1996—Pub. L. 104–297 substituted ''shall promote the achievement of optimum yield'' for ''promoting the objective of optimum utilization''.

1990—Pub. L. 101–627 amended section generally. Prior to amendment, section read as follows: ''The sovereign rights and exclusive fishery management authority asserted by the United States under section 1811 of this title over fish do not include, and may not be construed to extend to, highly migratory species of fish.''

1986—Pub. L. 99–659 amended section generally. Prior to amendment, section read as follows: ''The United States shall exercise exclusive fishery management authority, in the manner provided for in this chapter, over the following:

''(1) All fish within the fishery conservation zone.

''(2) All anadromous species throughout the migratory range of each such species beyond the fishery conservation zone; except that such management authority shall not extend to such species during the time they are found within any foreign nation's territorial sea or fishery conservation zone (or the equivalent), to the extent that such sea or zone is recognized by the United States.

''(3) All Continental Shelf fishery resources beyond the fishery conservation zone.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 103(c) of Pub. L. 101–627 provided that: ''The amendments made by this section [amending this section] shall take effect on January 1, 1992.''

§ 1813. Omitted

CODIFICATION

Section, Pub. L. 94–265, title I, § 103, Apr. 13, 1976, 90 Stat. 336, which related to exclusion of highly migratory species of fish from exclusive fishery management authority, was omitted in the general revision of this subchapter by section 101(b) of Pub. L. 99–659. See section 1812 of this title.

SUBCHAPTER III—FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS

§ 1821. Foreign fishing

(a) In general

After February 28, 1977, no foreign fishing is authorized within the exclusive economic zone, or for anadromous species or Continental Shelf fishery resources beyond the exclusive economic zone, unless such foreign fishing—

(1) is authorized under subsections (b) or (c) of this section or section 1824(e) of this title, or under a permit issued under section 1824(d) of this title;

(2) is not prohibited under subsection (f) of this section; and

(3) is conducted under, and in accordance with, a valid and applicable permit issued pursuant to section 1824 of this title.

(b) Existing international fishery agreements

Foreign fishing described in subsection (a) of this section may be conducted pursuant to an international fishery agreement (subject to the provisions of section 1822(b) or (c) of this title), if such agreement—

(1) was in effect on April 13, 1976; and

(2) has not expired, been renegotiated, or otherwise ceased to be of force and effect with respect to the United States.

(c) Governing international fishery agreements

Foreign fishing described in subsection (a) of this section may be conducted pursuant to an international fishery agreement (other than a treaty) which meets the requirements of this subsection if such agreement becomes effective after application of section 1823 of this title. Any such international fishery agreement shall hereafter in this chapter be referred to as a ''governing international fishery agreement''. Each governing international fishery agreement shall acknowledge the exclusive fishery management authority of the United States, as set forth in this chapter. It is the sense of the Congress that each such agreement shall include a binding commitment, on the part of such foreign nation and its fishing vessels, to comply with the following terms and conditions:

(1) The foreign nation, and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by all regulations promulgated by the Secretary pursuant to this chapter, including any regulations promulgated to implement any applicable fishery management plan or any preliminary fishery management plan.

(2) The foreign nation, and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by the requirement that—

(A) any officer authorized to enforce the provisions of this chapter (as provided for in section 1861 of this title) be permitted—

(i) to board, and search or inspect, any such vessel at any time,

(ii) to make arrests and seizures provided for in section 1861(b) of this title whenever such officer has reasonable cause to believe, as a result of such a search or inspection, that any such vessel or any person has committed an act prohibited by section 1857 of this title, and

(iii) to examine and make notations on the permit issued pursuant to section 1824 of this title for such vessel;

(B) the permit issued for any such vessel pursuant to section 1824 of this title be prominently displayed in the wheelhouse of such vessel;

(C) transponders, or such other appropriate position-fixing and identification equipment as the Secretary of the department in which the Coast Guard is operating determines to be appropriate, be installed and maintained in working order on each such vessel;

(D) United States observers required under subsection (h) of this section be permitted to be stationed aboard any such vessel and that all of the costs incurred incident to such stationing, including the costs of data editing and entry and observer monitoring, be paid for, in accordance with such subsection, by the owner or operator of the vessel;

(E) any fees required under section 1824(b)(10) of this title be paid in advance;

(F) agents be appointed and maintained within the United States who are authorized to receive and respond to any legal process issued in the United States with respect to such owner or operator; and

(G) responsibility be assumed, in accordance with any requirements prescribed by the Secretary, for the reimbursement of United States citizens for any loss of, or damage to, their fishing vessels, fishing gear, or catch which is caused by any fishing vessel of that nation;

and will abide by any other monitoring, compliance, or enforcement requirement related to fishery conservation and management which is included in such agreement.

(3) The foreign nation and the owners or operators of all of the fishing vessels of such nation shall not, in any year, harvest an amount of fish which exceeds such nation's allocation of the total allowable level of foreign fishing, as determined under subsection (e) of this section.

(4) The foreign nation will—

(A) apply, pursuant to section 1824 of this title, for any required permits;

(B) deliver promptly to the owner or operator of the appropriate fishing vessel any permit which is issued under that section for such vessel;

(C) abide by, and take appropriate steps under its own laws to assure that all such owners and operators comply with, section 1824(a) of this title and the applicable conditions and restrictions established under section 1824(b)(7) of this title; and

(D) take, or refrain from taking, as appropriate, actions of the kind referred to in sub-

section (e)(1) of this section in order to receive favorable allocations under such subsection.

(d) Total allowable level of foreign fishing

The total allowable level of foreign fishing, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, is that portion of the optimum yield of such fishery which cannot, or will not, be harvested by vessels of the United States, as determined in accordance with this chapter. Allocations of the total allowable level of foreign fishing are discretionary, except that the total allowable level shall be zero for fisheries determined by the Secretary to have adequate or excess domestic harvest capacity.

(e) Allocation of allowable level

(1)(A) The Secretary of State, in cooperation with the Secretary, may make allocations to foreign nations from the total allowable level of foreign fishing which is permitted with respect to each fishery subject to the exclusive fishery management authority of the United States.

(B) From the determinations made under subparagraph (A), the Secretary of State shall compute the aggregate of all of the fishery allocations made to each foreign nation.

(C) The Secretary of State shall initially release to each foreign nation for harvesting up to 50 percent of the allocations aggregate computed for such nation under subparagraph (B), and such release of allocation shall be apportioned by the Secretary of State, in cooperation with the Secretary, among the individual fishery allocations determined for that nation under subparagraph (A). The basis on which each apportionment is made under this subparagraph shall be stated in writing by the Secretary of State.

(D) After the initial release of fishery allocations under subparagraph (C) to a foreign nation, any subsequent release of an allocation for any fishery to such nation shall only be made—

(i) after the lapse of such period of time as may be sufficient for purposes of making the determination required under clause (ii); and

(ii) if the Secretary of State and the Secretary, after taking into account the size of the allocation for such fishery and the length and timing of the fishing season, determine in writing that such nation is complying with the purposes and intent of this paragraph with respect to such fishery.

If the foreign nation is not determined under clause (ii) to be in such compliance, the Secretary of State shall reduce, in a manner and quantity he considers to be appropriate (I) the remainder of such allocation, or (II) if all of such allocation has been released, the next allocation of such fishery, if any, made to such nation.

(E) The determinations required to be made under subparagraphs (A) and (D)(ii), and the apportionments required to be made under subparagraph (C), with respect to a foreign nation shall be based on—

(i) whether, and to what extent, such nation imposes tariff barriers or nontariff barriers on the importation, or otherwise restricts the market access, of both United States fish and fishery products, particularly fish and fishery products for which the foreign nation has requested an allocation;

(ii) whether, and to what extent, such nation is cooperating with the United States in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors, and the advancement of fisheries trade through the purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation;

(iii) whether, and to what extent, such nation and the fishing fleets of such nation have cooperated with the United States in the enforcement of United States fishing regulations;

(iv) whether, and to what extent, such nation requires the fish harvested from the exclusive economic zone for its domestic consumption;

(v) whether, and to what extent, such nation otherwise contributes to, or fosters the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing industry;

(vi) whether, and to what extent, the fishing vessels of such nation have traditionally engaged in fishing in such fishery;

(vii) whether, and to what extent, such nation is cooperating with the United States in, and making substantial contributions to, fishery research and the identification of fishery resources; and

(viii) such other matters as the Secretary of State, in cooperation with the Secretary, deems appropriate.

(2)(A) For the purposes of this paragraph—

(i) The term ''certification'' means a certification made by the Secretary that nationals of a foreign country, directly or indirectly, are conducting fishing operations or engaging in trade or taking which diminishes the effectiveness of the International Convention for the Regulation of Whaling. A certification under this section shall also be deemed a certification for the purposes of section 1978(a) of title 22.

(ii) The term ''remedial period'' means the 365-day period beginning on the date on which a certification is issued with respect to a foreign country.

(B) If the Secretary issues a certification with respect to any foreign country, then each allocation under paragraph (1) that—

(i) is in effect for that foreign country on the date of issuance; or

(ii) is not in effect on such date but would, without regard to this paragraph, be made to the foreign country within the remedial period;

shall be reduced by the Secretary of State, in consultation with the Secretary, by not less than 50 percent.

(C) The following apply for purposes of administering subparagraph (B) with respect to any foreign country:

(i) If on the date of certification, the foreign country has harvested a portion, but not all, of the quantity of fish specified under any allocation, the reduction under subparagraph (B) for that allocation shall be applied with respect to the quantity not harvested as of such date.

(ii) If the Secretary notified the Secretary of State that it is not likely that the certification of the foreign country will be terminated under section 1978(d) of title 22 before the close of the period for which an allocation is applicable or before the close of the remedial period (whichever close first occurs) the Secretary of State, in consultation with the Secretary, shall reallocate any portion of any reduction made under subparagraph (B) among one or more foreign countries for which no certification is in effect.

(iii) If the certification is terminated under such section 1978(d) of title 22 during the remedial period, the Secretary of State shall return to the foreign country that portion of any allocation reduced under subparagraph (B) that was not reallocated under clause (ii); unless the harvesting of the fish covered by the allocation is otherwise prohibited under this chapter.

(iv) The Secretary may refund or credit, by reason of reduction of any allocation under this paragraph, any fee paid under section 1824 of this title.

(D) If the certification of a foreign country is not terminated under section 1978(d) of title 22 before the close of the last day of the remedial period, the Secretary of State—

(i) with respect to any allocation made to that country and in effect (as reduced under subparagraph (B)) on such last day, shall rescind, effective on and after the day after such last day, any unharvested portion of such allocation; and

(ii) may not thereafter make any allocation to that country under paragraph (1) until the certification is terminated.

(f) Reciprocity

Foreign fishing shall not be authorized for the fishing vessels of any foreign nation unless such nation satisfies the Secretary and the Secretary of State that such nation extends substantially the same fishing privileges to fishing vessels of the United States, if any, as the United States extends to foreign fishing vessels.

(g) Preliminary fishery management plans

The Secretary, when notified by the Secretary of State that any foreign nation has submitted an application under section 1824(b) of this title shall prepare a preliminary fishery management plan for any fishery covered by such application if the Secretary determines that no fishery management plan for that fishery will be prepared and implemented, pursuant to subchapter IV of this chapter, before March 1, 1977. To the extent practicable, each such plan—

(1) shall contain a preliminary description of the fishery and a preliminary determination as to—

(A) the optimum yield from such fishery;

(B) when appropriate, the capacity and extent to which United States fish processors will process that portion of such optimum yield that will be harvested by vessels of the United States; and

(C) the total allowable level of foreign fishing with respect to such fishery;

(2) shall require each foreign fishing vessel engaged or wishing to engage in such fishery to obtain a permit from the Secretary;

(3) shall require the submission of pertinent data to the Secretary, with respect to such fishery, as described in section 1853(a)(5) of this title; and

(4) may, to the extent necessary to prevent irreversible effects from overfishing, with respect to such fishery, contain conservation and management measures applicable to foreign fishing which—

(A) are determined to be necessary and appropriate for the conservation and management of such fishery,

(B) are consistent with the national standards, the other provisions of this chapter, and other applicable law, and

(C) are described in section 1853(b)(2), (3), (4), (5), and (7) of this title.

Each preliminary fishery management plan shall be in effect with respect to foreign fishing for which permits have been issued until a fishery management plan is prepared and implemented, pursuant to subchapter IV of this chapter, with respect to such fishery. The Secretary may, in accordance with section 553 of title 5, also prepare and promulgate interim regulations with respect to any such preliminary plan. Such regulations shall be in effect until regulations implementing the applicable fishery management plan are promulgated pursuant to section 1855 of this title.

(h) Full observer coverage program

(1)(A) Except as provided in paragraph (2), the Secretary shall establish a program under which a United States observer will be stationed aboard each foreign fishing vessel while that vessel is engaged in fishing within the exclusive economic zone.

(B) The Secretary shall by regulation prescribe minimum health and safety standards that shall be maintained aboard each foreign fishing vessel with regard to the facilities provided for the quartering of, and the carrying out of observer functions by, United States observers.

(2) The requirement in paragraph (1) that a United States observer be placed aboard each foreign fishing vessel may be waived by the Secretary if he finds that—

(A) in a situation where a fleet of harvesting vessels transfers its catch taken within the exclusive economic zone to another vessel, aboard which is a United States observer, the stationing of United States observers on only a portion of the harvesting vessel fleet will provide a representative sampling of the by-catch of the fleet that is sufficient for purposes of determining whether the requirements of the applicable management plans for the by-catch species are being complied with;

(B) in a situation where the foreign fishing vessel is operating under a Pacific Insular Area fishing agreement, the Governor of the applicable Pacific Insular Area, in consultation with the Western Pacific Council, has established an observer coverage program or other monitoring program that the Secretary, in consultation with the Western Pacific Management Council, determines is adequate to monitor harvest, bycatch, and compliance with the laws of the United States by vessels fishing under the agreement;

(C) the time during which a foreign fishing vessel will engage in fishing within the exclusive economic zone will be of such short duration that the placing of a United States observer aboard the vessel would be impractical; or

(D) for reasons beyond the control of the Secretary, an observer is not available.

(3) Observers, while stationed aboard foreign fishing vessels, shall carry out such scientific, compliance monitoring, and other functions as the Secretary deems necessary or appropriate to carry out the purposes of this chapter; and shall cooperate in carrying out such other scientific programs relating to the conservation and management of living resources as the Secretary deems appropriate.

(4) In addition to any fee imposed under section 1824(b)(10) of this title and section 1980(e) of title 22 with respect to foreign fishing for any year after 1980, the Secretary shall impose, with respect to each foreign fishing vessel for which a permit is issued under such section 1824 of this title, a surcharge in an amount sufficient to cover all the costs of providing a United States observer aboard that vessel. The failure to pay any surcharge imposed under this paragraph shall be treated by the Secretary as a failure to pay the permit fee for such vessel under section 1824(b)(10) of this title. All surcharges collected by the Secretary under this paragraph shall be deposited in the Foreign Fishing Observer Fund established by paragraph (5).

(5) There is established in the Treasury of the United States the Foreign Fishing Observer Fund. The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out this subsection. The Fund shall consist of the surcharges deposited into it as required under paragraph (4). All payments made by the Secretary to carry out this subsection shall be paid from the Fund, only to the extent and in the amounts provided for in advance in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of this subsection shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(6) If at any time the requirement set forth in paragraph (1) cannot be met because of insufficient appropriations, the Secretary shall, in implementing a supplementary observer program:

(A) certify as observers, for the purposes of this subsection, individuals who are citizens or nationals of the United States and who have the requisite education or experience to carry out the functions referred to in paragraph (3);

(B) establish standards of conduct for certified observers equivalent to those applicable to Federal personnel;

(C) establish a reasonable schedule of fees that certified observers or their agents shall be paid by the owners and operators of foreign fishing vessels for observer services; and

(D) monitor the performance of observers to ensure that it meets the purposes of this chapter.

(i) Recreational fishing

Notwithstanding any other provision of this subchapter, foreign fishing vessels which are not operated for profit may engage in recreational fishing within the exclusive economic zone and the waters within the boundaries of a State subject to obtaining such permits, paying such reasonable fees, and complying with such conditions and restrictions as the Secretary and the Governor of the State (or his designee) shall impose as being necessary or appropriate to insure that the fishing activity of such foreign vessels within such zone or waters, respectively, is consistent with all applicable Federal and State laws and any applicable fishery management plan implemented under section 1854 of this title. The Secretary shall consult with the Secretary of State and the Secretary of the Department in which the Coast Guard is operating in formulating the conditions and restrictions to be applied by the Secretary under the authority of this subsection.

(Pub. L. 94–265, title II, §201, Apr. 13, 1976, 90 Stat. 337; Pub. L. 95–354, §4(1)–(4), Aug. 28, 1978, 92 Stat. 519, 520; Pub. L. 96–61, §3(a), Aug. 15, 1979, 93 Stat. 407; Pub. L. 96–118, §5, Nov. 16, 1979, 93 Stat. 860; Pub. L 96–561, title II, §§230, 231(a), 236, Dec. 22, 1980, 94 Stat. 3296, 3297, 3299; Pub. L. 97–453, §2(a), Jan. 12, 1983, 96 Stat. 2481; Pub. L. 98–623, title IV, §404(1), (2), Nov. 8, 1984, 98 Stat. 3408; Pub. L. 99–386, title II, §206(a), Aug. 22, 1986, 100 Stat. 823; Pub. L. 99–659, title I, §§101(c)(2), 103(a), Nov. 14, 1986, 100 Stat. 3707, 3708; Pub. L. 101–627, title I, §104, Nov. 28, 1990, 104 Stat. 4439; Pub. L. 102–251, title III, §301(d), Mar. 9, 1992, 106 Stat. 63; Pub. L. 103–236, title I, §139(24), Apr. 30, 1994, 108 Stat. 399; Pub. L. 104–297, title I, §105(a), Oct. 11, 1996, 110 Stat. 3563; Pub. L. 109–479, §5, title IV, §404(a), Jan. 12, 2007, 120 Stat. 3578, 3632.)

AMENDMENT OF SECTION

Pub. L. 102–251, title III, §§301(d), 308, Mar. 9, 1992, 106 Stat. 63, 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, this section is amended:

(1) in subsection (a), (A) by inserting ''within the special areas,'' immediately before ''or for anadromous species'' and (B) by striking ''beyond the exclusive economic zone'' and inserting in lieu thereof ''beyond such zone or areas'';

(2) in subsection (e)(1)(E)(IV)[iv], by inserting ''or special areas'' immediately after ''exclusive economic zone'';

(3) in subsection (i), (A) by inserting ''or special areas'' immediately before the period at the

end of paragraph (1)(A), (B) by inserting ''or special areas'' immediately after ''exclusive economic zone'' in paragraph (2)(A), and (C) by inserting ''or special areas'' immediately after ''exclusive economic zone'' in paragraph (2)(B); and

(4) in subsection (j), (A) by inserting '', special areas,'' immediately after ''exclusive economic zone'', and (B) by inserting '', areas,'' immediately after ''such zone''.

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c), (d), (e)(2)(C)(iii), (g), and (h)(3), (6)(D), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

2007—Subsec. (d). Pub. L. 109–479, § 5, substituted ''is'' for ''shall be'' and ''cannot, or will not,'' for ''will not'' and inserted at end ''Allocations of the total allowable level of foreign fishing are discretionary, except that the total allowable level shall be zero for fisheries determined by the Secretary to have adequate or excess domestic harvest capacity.''

Subsec. (h)(2)(B). Pub. L. 109–479, § 404(a), substituted ''or other monitoring program that the Secretary, in consultation with the Western Pacific Management Council, determines is adequate to monitor harvest, bycatch, and compliance with the laws of the United States by vessels fishing under the agreement;'' for ''that is at least equal in effectiveness to the program established by the Secretary;''.

1996—Subsec. (a)(1), (2). Pub. L. 104–297, § 105(a)(1), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

''(1) is authorized under subsection (b) or (c) of this section;

''(2) is not prohibited by subsection (g) of this section; and''.

Subsec. (c)(2)(D). Pub. L. 104–297, § 105(a)(2), substituted ''subsection (h)'' for ''subsection (i)''.

Subsec. (f). Pub. L. 104–297, § 105(a)(3), (4), repealed subsec. (f) and redesignated subsec. (g) as (f). See 1994 Amendment note below.

Subsec. (g). Pub. L. 104–297, § 105(a)(4), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 104–297, § 105(a)(4), redesignated subsec. (i) as (h). Former subsec. (h) redesignated (g).

Subsec. (h)(2)(B) to (D). Pub. L. 104–297, § 105(a)(5), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

Subsec. (i). Pub. L. 104–297, § 105(a)(4), (6), redesignated subsec. (j) as (i) and substituted ''section 1854'' for ''section 1855''. Former subsec. (i) redesignated (h).

Subsec. (j). Pub. L. 104–297, § 105(a)(4), redesignated subsec. (j) as (i).

1994—Subsec. (f). Pub. L. 103–236 directed the repeal of section 201(f) of the Fishery Conservation and Management Act, 1976, which was executed by repealing subsec. (f) of this section which was section 201(f) of the Magnuson Fishery Conservation and Management Act. Prior to repeal, subsec. (f) read as follows: ''The Secretary and the Secretary of State shall prepare and submit a report to the Congress and the President, not later than July 1 of each year, setting forth—

''(1) a list of species of all allocations made to foreign nations pursuant to subsection (e) of this section and all permits issued pursuant to section 1824(b)(6)(B) of this title; and

''(2) all tariff and nontariff trade barriers imposed by such nations on the importation of such species from the United States.''

1990—Subsec. (d). Pub. L. 101–627 amended subsec. (d) generally, limiting the total allowable level of foreign fishing, with respect to any fishery subject to the exclusive management authority of the United States, to only that part of the potential fishery yield which is not harvested by United States fishermen and deleting the alternative method of determining the total allowable level of foreign fishing based on the annual fishing level for each harvesting season after the 1980 harvesting season.

1986—Subsecs. (a), (e)(1)(E)(iv). Pub. L. 99–659, § 101(c)(2), substituted ''exclusive economic zone'' for ''fishery conservation zone'' in two places.

Subsec. (f). Pub. L. 99–386 substituted ''The Secretary and the Secretary of State shall'' for ''The Secretary of the Treasury, in cooperation with the Secretary and the Secretary of State, shall''.

Subsec. (i)(1). Pub. L. 99–659, §§ 101(c)(2), 103(a)(1), (2), designated existing provisions as subpar. (A), substituted ''exclusive economic zone'' for ''fishery conservation zone'', and added subpar. (B).

Subsec. (i)(2)(A). Pub. L. 99–659, § 101(c)(2), substituted ''exclusive economic zone'' for ''fishery conservation zone''.

Subsec. (i)(2)(B). Pub. L. 99–659, § 103(a)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''with respect to any foreign fishing vessel while it is engaged in fishing within the fishery conservation zone—

''(i) the time during which the vessel engages in such fishing will be of such short duration that the placing of a United States observer aboard the vessel would be impractical, or

''(ii) the facilities of the vessel for the quartering of a United States observer, or for the carrying out of observer functions, are so inadequate or unsafe that the health or safety of an observer would be jeopardized; or''

Subsec. (j). Pub. L. 99–659, § 101(c)(2), substituted ''exclusive economic zone'' for ''fishery conservation zone''.

1984—Subsec. (d)(4). Pub. L. 98–623, § 404(1), substituted ''may allocate'' for ''shall allocate'' in provisions preceding subpar. (A).

Subsec. (e)(1)(A). Pub. L. 98–623, § 404(2)(A), substituted ''may make allocations to foreign nations from'' for ''shall determine the allocation among foreign nations of''.

Subsec. (e)(1)(E)(i). Pub. L. 98–623, § 404(2)(B), substituted ''both United States fish and fishery products'' for ''United States fish or fishery products'' and inserted '', particularly fish and fishery products for which the foreign nation has requested an allocation''.

Subsec. (e)(1)(E)(ii). Pub. L. 98–623, § 404(2)(C), amended provisions generally, thereby substituting ''in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors, and the advancement of fisheries trade through the purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation'' for ''in the advancement of existing and new opportunities for fisheries trade, particularly through the purchase of fish or fishery products from United States processors or from United States fishermen''.

1983—Subsec. (c)(2)(D). Pub. L. 97–453, § 2(a)(1), amended par. (D) generally, substituting ''United States observers required under subsection (i) of this section be permitted to be stationed aboard any such vessel and that all of the costs incurred incident to such stationing, including the costs of data editing and entry and observer monitoring, be paid for, in accordance with such subsection, by the owner or operator of the vessel'' for ''duly authorized United States observers be permitted on board any such vessel and that the United States be reimbursed for the cost of such observers''.

Subsec. (c)(4)(D). Pub. L. 97–453, § 2(a)(2), added subpar. (D).

Subsec. (d)(4). Pub. L. 97–453, § 2(a)(3), substituted ''may be allocated'' for ''shall be allocated'' after ''then such portion or part''.

Subsec. (e)(1). Pub. L. 97–453, § 2(a)(4), designated first sentence of existing provisions as subpar. (A), added subpars. (B), (C), and (D), and redesignated former subpars. (A) through (H) as cls. (i) through (viii) of subpar. (E), respectively.

Subsec. (i)(3). Pub. L. 97–453, § 2(a)(5)(A)(i), substituted provision that observers, while stationed aboard foreign fishing vessels, shall carry out such scientific, compliance monitoring, and other functions as the Secretary deems necessary or appropriate to carry out the purposes of this chapter and shall cooperate in carrying out such other scientific programs relating to the conservation and management of living resources as the Secretary deems appropriate, for provision that United States observers, while aboard foreign fishing vessels, were to carry out such scientific and other functions as the Secretary deemed necessary or appropriate to carry out the purposes of this chapter.

Subsec. (i)(6). Pub. L. 97–453, § 2(a)(5)(A)(ii), added par. (6).

Subsec. (j). Pub. L. 97–453, § 2(a)(6), added subsec. (j).

1980—Subsec. (d). Pub. L. 96–561, § 230, designated existing provision as par. (2), substituted provision prescribing the total allowable level of foreign fishing with respect to any United States fishery for each harvesting season after the 1980 harvesting season as the level representing that portion of the optimum yield of such fishery that will not be harvested by vessels of the United States as determined in accordance with provisions of this chapter, other than those relating to the determination of annual fishing levels, or the annual fishing levels determined pursuant to par. (3) of this section for the harvesting season for provision prescribing the total allowable level of foreign fishing with respect to any fishery subject to the exclusive fishery management authority of the United States as that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States, as determined in accordance with provisions of this chapter, and added pars. (1), (3), and (4).

Subsec. (e). Pub. L. 96–561, § 231(a), substituted ''All such determinations shall be made by the Secretary of State and the Secretary on the basis of'' for ''In making any such determination, the Secretary of State and the Secretary shall consider'', added subpars. (A), (B), (D), and (E), redesignated former subpars. (A), (B), and (D) as (F), (G), and (H), respectively, and in subpar. (C) substituted determination where such nations and the fishing fleets of such nations have cooperated with the United States in enforcement of United States fishing regulations for determination where such nations have cooperated with the United States in enforcement and with respect to conservation and management of fishery resources.

Subsec. (i). Pub. L. 96–561, § 236, added subsec. (i).

1979—Subsec. (e). Pub. L. 96–61 designated existing provisions as par. (1), redesignated pars. (1) through (4) as subpars. (A) to (D), and added par. (2).

Subsec. (e)(2)(D)(i). Pub. L. 96–118 substituted ''unharvested'' for ''harvested''.

1978—Subsec. (a)(2). Pub. L. 95–354, § 4(1), substituted ''(g)'' for ''(f)''.

Subsec. (c)(3). Pub. L. 95–354, § 4(2), substituted ''harvest an amount of fish which exceeds'' for ''exceed''.

Subsecs. (f) to (h). Pub. L. 95–354, § 4(3), (4), added subsec. (f), redesignated former subsecs. (f) and (g) as (g) and (h), and in subsec. (h)(1), as so redesignated, set out existing provisions as cls. (A) and (C) and added cl. (B).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102–251, set out as a note under section 773 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 2(b) of Pub. L. 97–453 provided that: ''The amendments made by subsection (a)(1) and (5)(A)(ii) [amending this section] shall take effect January 1, 1984.''

EFFECTIVE DATE OF 1980 AMENDMENT

Sections 231(b), 238(b) of Pub. L. 96–561, as amended by Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to the 1981 harvesting season and harvesting seasons thereafter (as defined in section 201(d)(1) of the Magnuson-Stevens Fishery Conservation and Management Act, as amended by section 301) [subsec. (d)(1) of this section].''

Sections 237, 238(b) of Pub. L. 96–561, as amended by Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that: ''The amendment made by section 236 [amending this section] shall take effect October 1, 1981, and shall apply with respect to permits issued under section 204 of the Magnuson-Stevens Fishery Conservation and Management Act [section 1824 of this title] after December 31, 1981.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

IMPLEMENTATION OF PACIFIC ALBACORE TUNA TREATY

Pub. L. 108–219, title IV, § 401, Apr. 13, 2004, 118 Stat. 616, provided that:

''(a) IN GENERAL.—Notwithstanding anything to the contrary in section 201, 204, or 307(2) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1821, 1824, and 1857(2)), foreign fishing may be conducted pursuant to the Treaty between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, signed at Washington May 26, 1981, including its Annexes and any amendments thereto.

''(b) REGULATIONS.—The Secretary of Commerce, with the concurrence of the Secretary of State, may—

''(1) promulgate regulations necessary to discharge the obligations of the United States under the Treaty and its Annexes; and

''(2) provide for the application of any such regulation to any person or vessel subject to the jurisdiction of the United States, wherever that person or vessel may be located.

''(c) ENFORCEMENT.—

''(1) IN GENERAL.—The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) shall be enforced as if subsection (a) were a provision of that Act. Any reference in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) to 'this Act' or to any provision of that Act, shall be considered to be a reference to that Act as it would be in effect if subsection (a) were a provision of that Act.

''(2) REGULATIONS.—The regulations promulgated under subsection (b), shall be enforced as if—

''(A) subsection (a) were a provision of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and

''(B) the regulations were promulgated under that Act.''

FOREIGN FISHING FOR ATLANTIC HERRING AND MACKEREL

Pub. L. 104–43, title VIII, § 802, Nov. 3, 1995, 109 Stat. 396, as amended by Pub. L. 104–208, div. A, title I,

§ 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that: ''Notwithstanding any other provision of law—

''(1) no allocation may be made to any foreign nation or vessel under section 201 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) [16 U.S.C. 1821] in any fishery for which there is not a fishery management plan implemented in accordance with that Act [16 U.S.C. 1801 et seq.]; and

''(2) the Secretary of Commerce may not approve the portion of any permit application submitted under section 204(b) of the Act [16 U.S.C. 1824(b)] which proposes fishing by a foreign vessel for Atlantic mackerel or Atlantic herring unless—

''(A) the appropriate regional fishery management council recommends under section 204(b)(5) of that Act that the Secretary approve such fishing, and

''(B) the Secretary of Commerce includes in the permit any conditions or restrictions recommended by the appropriate regional fishery management council with respect to such fishing.''

USE OF VESSEL IDENTIFICATION EQUIPMENT

Pub. L. 100–629, § 6, Nov. 7, 1988, 102 Stat. 3287, as amended by Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that:

''(a) The Secretary of State, the Secretary of Commerce, and the Secretary of the department in which the Coast Guard is operating, as appropriate, shall exercise their authority under section 201(c)(2)(C) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1821) to require the use of transponders or other such appropriate position-fixing and identification equipment on any vessel other than a vessel of the United States engaged in fishing in the United States Exclusive Economic Zone.

''(b) The Secretary of Commerce, after consultation with the Secretary of Defense, the Secretary of State, and the Secretary of the department in which the Coast Guard is operating shall report to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate within 180 days after the date of enactment of this Act [Nov. 7, 1988] on the results of their compliance with subsection (a).''

§ 1822. International fishery agreements

(a) Negotiations

The Secretary of State—

(1) shall renegotiate treaties as provided for in subsection (b) of this section;

(2) shall negotiate governing international fishery agreements described in section 1821(c) of this title;

(3) may negotiate boundary agreements as provided for in subsection (d) of this section;

(4) shall, upon the request of and in cooperation with the Secretary, initiate and conduct negotiations for the purpose of entering into international fishery agreements—

(A) which allow fishing vessels of the United States equitable access to fish over which foreign nations assert exclusive fishery management authority, and

(B) which provide for the conservation and management of anadromous species and highly migratory species; and

(5) may enter into such other negotiations, not prohibited by subsection (c) of this section, as may be necessary and appropriate to further the purposes, policy, and provisions of this chapter.

(b) Treaty renegotiation

The Secretary of State, in cooperation with the Secretary, shall initiate, promptly after April 13, 1976, the renegotiation of any treaty which pertains to fishing within the exclusive economic zone (or within the area that will constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area, and which is in any manner inconsistent with the purposes, policy, or provisions of this chapter, in order to conform such treaty to such purposes, policy, and provisions. It is the sense of Congress that the United States shall withdraw from any such treaty, in accordance with its provisions, if such treaty is not so renegotiated within a reasonable period of time after April 13, 1976.

(c) International fishery agreements

No international fishery agreement (other than a treaty) which pertains to foreign fishing within the exclusive economic zone (or within the area that will constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area—

(1) which is in effect on June 1, 1976, may thereafter be renewed, extended, or amended; or

(2) may be entered into after May 31, 1976;

by the United States unless it is in accordance with the provisions of section 1821(c) of this title or section 1824(e) of this title.

(d) Boundary negotiations

The Secretary of State, in cooperation with the Secretary, may initiate and conduct negotiations with any adjacent or opposite foreign nation to establish the boundaries of the exclusive economic zone of the United States in relation to any such nation.

(e) Highly migratory species agreements

(1) Evaluation

The Secretary of State, in cooperation with the Secretary, shall evaluate the effectiveness of each existing international fishery agreement which pertains to fishing for highly migratory species. Such evaluation shall consider whether the agreement provides for—

(A) the collection and analysis of necessary information for effectively managing the fishery, including but not limited to information about the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the catch and bycatch levels in the fishery, and the present and probable future condition of any stock of fish involved;

(B) the establishment of measures applicable to the fishery which are necessary and appropriate for the conservation and management of the fishery resource involved;

(C) equitable arrangements which provide fishing vessels of the United States with (i) access to the highly migratory species that are the subject of the agreement and (ii) a portion of the allowable catch that reflects the traditional participation by such vessels in the fishery;

(D) effective enforcement of conservation and management measures and access ar-

rangements throughout the area of jurisdiction; and

(E) sufficient and dependable funding to implement the provisions of the agreement, based on reasonable assessments of the benefits derived by participating nations.

(2) Access negotiations

The Secretary of State, in cooperation with the Secretary, shall initiate negotiations with respect to obtaining access for vessels of the United States fishing for tuna species within the exclusive economic zones of other nations on reasonable terms and conditions.

(3) Reports

The Secretary of State shall report to the Congress—

(A) within 12 months after November 28, 1990, on the results of the evaluation required under paragraph (1), together with recommendations for addressing any inadequacies identified; and

(B) within six months after November 28, 1990, on the results of the access negotiations required under paragraph (2).

(4) Negotiation

The Secretary of State, in consultation with the Secretary, shall undertake such negotiations with respect to international fishery agreements on highly migratory species as are necessary to correct inadequacies identified as a result of the evaluation conducted under paragraph (1).

(5) South Pacific tuna treaty

It is the sense of the Congress that the United States Government shall, at the earliest opportunity, begin negotiations for the purpose of extending the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed at Port Moresby, Papua New Guinea, April 2, 1987, and it[1] Annexes, Schedules, and implementing agreements for an additional term of 10 years on terms and conditions at least as favorable to vessels of the United States and the United States Government.

(f) Nonrecognition

It is the sense of the Congress that the United States Government shall not recognize the claim of any foreign nation to an exclusive economic zone (or the equivalent) beyond such nation's territorial sea, to the extent that such sea is recognized by the United States, if such nation—

(1) fails to consider and take into account traditional fishing activity of fishing vessels of the United States;

(2) fails to recognize and accept that highly migratory species are to be managed by applicable international fishery agreements, whether or not such nation is a party to any such agreement; or

(3) imposes on fishing vessels of the United States any conditions or restrictions which are unrelated to fishery conservation and management.

[1] So in original.

(g) Fishery agreement with Russia

(1) The Secretary of State, in consultation with the Secretary, is authorized to negotiate and conclude a fishery agreement with Russia of a duration of no more than 3 years, pursuant to which—

(A) Russia will give United States fishing vessels the opportunity to conduct traditional fisheries within waters claimed by the United States prior to the conclusion of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, west of the maritime boundary, including the western special area described in Article 3(2) of the Agreement;

(B) the United States will give fishing vessels of Russia the opportunity to conduct traditional fisheries within waters claimed by the Union of Soviet Socialist Republics prior to the conclusion of the Agreement referred to in subparagraph (A), east of the maritime boundary, including the eastern special areas described in Article 3(1) of the Agreement;

(C) catch data shall be made available to the government of the country exercising fisheries jurisdiction over the waters in which the catch occurred; and

(D) each country shall have the right to place observers on board vessels of the other country and to board and inspect such vessels.

(2) Vessels operating under a fishery agreement negotiated and concluded pursuant to paragraph (1) shall be subject to regulations and permit requirements of the country in whose waters the fisheries are conducted only to the extent such regulations and permit requirements are specified in that agreement.

(3) The Secretary of Commerce may promulgate such regulations, in accordance with section 553 of title 5, as may be necessary to carry out the provisions of any fishery agreement negotiated and concluded pursuant to paragraph (1).

(h) Bycatch reduction agreements

(1) The Secretary of State, in cooperation with the Secretary, shall seek to secure an international agreement to establish standards and measures for bycatch reduction that are comparable to the standards and measures applicable to United States fishermen for such purposes in any fishery regulated pursuant to this chapter for which the Secretary, in consultation with the Secretary of State, determines that such an international agreement is necessary and appropriate.

(2) An international agreement negotiated under this subsection shall be—

(A) consistent with the policies and purposes of this chapter; and

(B) subject to approval by Congress under section 1823 of this title.

(3) Not later than January 1, 1997, and annually thereafter, the Secretary, in consultation with the Secretary of State, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing actions taken under this subsection.

(Pub. L. 94–265, title II, § 202, Apr. 13, 1976, 90 Stat. 339; Pub. L. 99–659, title I, § 101(c)(2), Nov. 14, 1986, 100 Stat. 3707; Pub. L. 101–627, title I, §§ 105(a), 120(a), Nov. 28, 1990, 104 Stat. 4439, 4459; Pub. L. 102–251, title III, § 301(e), Mar. 9, 1992, 106 Stat. 63; Pub. L. 104–297, title I, § 105(b), Oct. 11, 1996, 110 Stat. 3564.)

AMENDMENT OF SECTION

Pub. L. 102–251, title III, §§ 301(e)(1), (2), 308, Mar. 9, 1992, 106 Stat. 63, 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, this section is amended:

(1) in subsection (b), (A) by inserting ''or special areas'' immediately after ''February 28, 1977)'' and (B) by striking ''such zone or area'' and inserting in lieu thereof ''such zone or areas''; and

(2) in subsection (c), (A) by inserting ''or special areas'' immediately after ''February 28, 1977)'' and (B) by striking ''such zone or area'' and inserting in lieu thereof ''such zone or areas''.

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(5), (b), and (h)(1), (2)(A), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–297, § 105(b)(1), inserted before period at end ''or section 1824(e) of this title''.

Subsec. (h). Pub. L. 104–297, § 105(b)(2), added subsec. (h).

1992—Subsec. (g). Pub. L. 102–251, § 301(e)(3), added subsec. (g).

1990—Subsec. (e). Pub. L. 101–627, § 105(a), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 101–627, § 120(a), substituted ''an exclusive economic'' for ''a exclusive economic''.

Pub. L. 101–627, § 105(a), redesignated former subsec. (e) as (f).

1986—Subsecs. (b) to (e). Pub. L. 99–659 substituted ''exclusive economic zone'' for ''fishery conservation zone'' wherever appearing.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 301(e)(3) of Pub. L. 102–251 effective Mar. 9, 1992, and amendment by section 301(e)(1), (2), of Pub. L. 102–251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102–251, set out as a note under section 773 of this title.

SHARK FINNING PROHIBITION

Pub. L. 106–557, Dec. 21, 2000, 114 Stat. 2772, as amended by Pub. L. 109–479, title III, § 302(c), Jan. 12, 2007, 120 Stat. 3623, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Shark Finning Prohibition Act'.

''SEC. 2. PURPOSE.

''The purpose of this Act is to eliminate shark-finning by addressing the problem comprehensively at both the national and international levels.

''SEC. 3. PROHIBITION ON REMOVING SHARK FIN AND DISCARDING SHARK CARCASS AT SEA

''[Amended section 1857 of this title.]

''SEC. 4. REGULATIONS.

''No later than 180 days after the date of the enactment of this Act [Dec. 21, 2000], the Secretary of Commerce shall promulgate regulations implementing the provisions of section 3076(1)(P) [307(1)(P)] of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857(1)(P)), as added by section 3 of this Act.

''SEC. 5. INTERNATIONAL NEGOTIATIONS.

''The Secretary of Commerce, acting through the Secretary of State, shall—

''(1) initiate discussions as soon as possible for the purpose of developing bilateral or multilateral agreements with other nations for the prohibition on shark-finning;

''(2) initiate discussions as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in shark-finning, for the purposes of—

''(A) collecting information on the nature and extent of shark-finning by such persons and the landing or transshipment of shark fins through foreign ports; and

''(B) entering into bilateral and multilateral treaties with such countries to protect such species;

''(3) seek agreements calling for an international ban on shark-finning and other fishing practices adversely affecting these species through the United Nations, the Food and Agriculture Organization's Committee on Fisheries, and appropriate regional fishery management bodies;

''(4) initiate the amendment of any existing international treaty for the protection and conservation of species of sharks to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section;

''(5) urge other governments involved in fishing for or importation of shark or shark products to fulfill their obligations to collect biological data, such as stock abundance and by-catch levels, as well as trade data, on shark species as called for in the 1995 Resolution on Cooperation with FAO with Regard to study on the Status of Sharks and By-Catch of Shark Species; and

''(6) urge other governments to prepare and submit their respective National Plan of Action for the Conservation and Management of Sharks to the 2001 session of the FAO Committee on Fisheries, as set forth in the International Plan of Action for the Conservation and Management of Sharks.

''SEC. 6. REPORT TO CONGRESS.

''The Secretary of Commerce, in consultation with the Secretary of State, shall provide to Congress, by not later than 1 year after the date of the enactment of this Act [Dec. 21, 2000], and every year thereafter, a report which—

''(1) includes a list that identifies nations whose vessels conduct shark-finning and details the extent of the international trade in shark fins, including estimates of value and information on harvesting of shark fins, and landings or transshipment of shark fins through foreign ports;

''(2) describes the efforts taken to carry out this Act, and evaluates the progress of those efforts;

''(3) sets forth a plan of action to adopt international measures for the conservation of sharks; and

''(4) includes recommendations for measures to ensure that United States actions are consistent with national, international, and regional obligations relating to shark populations, including those listed under the Convention on International Trade in Endangered Species of Wild Flora and Fauna.

''SEC. 7. RESEARCH.

''The Secretary of Commerce, subject to the availability of appropriations authorized by section 10, shall establish a research program for Pacific and Atlantic sharks to engage in the following data collection and research:

''(1) The collection of data to support stock assessments of shark populations subject to incidental or directed harvesting by commercial vessels, giving priority to species according to vulnerability of the species to fishing gear and fishing mortality, and its population status.

''(2) Research to identify fishing gear and practices that prevent or minimize incidental catch of sharks in commercial and recreational fishing.

''(3) Research on fishing methods that will ensure maximum likelihood of survival of captured sharks after release.

''(4) Research on methods for releasing sharks from fishing gear that minimize risk of injury to fishing vessel operators and crews.

''(5) Research on methods to maximize the utilization of, and funding to develop the market for, sharks not taken in violation of a fishing management plan approved under section 303 or section 307(1)(P) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853, 1857(1)(P)).

''(6) Research on the nature and extent of the harvest of sharks and shark fins by foreign fleets and the international trade in shark fins and other shark products.

''SEC. 8. WESTERN PACIFIC LONGLINE FISHERIES COOPERATIVE RESEARCH PROGRAM.

''The National Marine Fisheries Service, in consultation with the Western Pacific Fisheries Management Council, shall initiate a cooperative research program with the commercial longlining industry to carry out activities consistent with this Act, including research described in section 7 of this Act. The service [Service] may initiate such shark cooperative research programs upon the request of any other fishery management council.

''SEC. 9. SHARK-FINNING DEFINED.

''In this Act, the term 'shark-finning' means the taking of a shark, removing the fin or fins (whether or not including the tail) of a shark, and returning the remainder of the shark to the sea.

''SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Secretary of Commerce for fiscal years 2007 through 2011 such sums as are necessary to carry out this Act.''

CERTIFICATE OF LEGAL ORIGIN FOR ANADROMOUS FISH PRODUCTS

Section 801 of Pub. L. 101–627 provided that:

''(a) NEGOTIATIONS.—Within 60 days after the date of enactment of this Act [Nov. 28, 1990], the Secretary of State shall commence negotiations with nations which import or export anadromous fish or anadromous fish products for the purpose of securing general agreement among such nations to implement effective measures to prohibit international trade in anadromous fish or anadromous fish products unless such fish or fish products are accompanied by a valid certificate of legal origin attesting that the fish or fish product was lawfully harvested—

''(1) within the jurisdiction of a nation having naturally occurring or artificially established anadromous fish populations of the same species as the imported or exported product; or

''(2) on the high seas according to an international agreement among nations with jurisdiction over more than 1 percent of the stocks of anadromous fish being so harvested.

''(b) ISSUANCE OF CERTIFICATES.—For the purposes of subsection (a), a valid certificate of legal origin may be issued only by a nation which—

''(1) is the nation having jurisdiction over the vessel or other means by which the fish or fish product was harvested; and

''(2) maintains regular harvests of anadromous fish in a manner consistent with the criteria for lawful harvests set out in subsection (a).

''(c) BILATERAL OR MULTILATERAL AGREEMENTS.—Efforts undertaken by the Secretary of State pursuant to subsection (a) may, at the discretion of the Secretary, be directed toward achieving either bilateral or multilateral agreements, including trade agreements, whichever the Secretary determines to be most likely to result in the earliest possible date or dates of agreement by those nations which individually have in excess of $1,000,000, or the equivalent, in import or export trade in anadromous fish and anadromous fish products.

''(d) REGULATIONS.—The Secretary of Commerce shall, within 180 days after the date of enactment of this Act [Nov. 28, 1990], promulgate regulations providing for—

''(1) the issuance of certificates of legal origin pursuant to agreements under subsection (a) for anadromous fish and anadromous fish products legally harvested by vessels of the United States;

''(2) the delegation of the authority to issue certificates of legal origin to States, territories, or possessions of the United States which the Secretary of Commerce determines to have implemented a program which is sufficient to accomplish the purposes of subsection (a); and

''(3) an orderly transition to such regulations, sufficient to ensure that United States commerce in anadromous fish and anadromous fish products is not unduly disrupted.

''(e) REPORT REQUIRED.—The Secretary of Commerce, after consultation with the Secretary of the Treasury, shall, within 180 days after the date of enactment of this Act [Nov. 28, 1990], submit to the Congress a report—

''(1) making recommendations as to the need for the adoption of United States import and export restrictions on anadromous fish and anadromous fish products consistent with subsection (a); and

''(2) identifying, evaluating, and making recommendations regarding any specific statutory or regulatory changes that may be necessary for the adoption of such restrictions.

''(f) CERTIFICATION.—If, at any time following the promulgation of the regulations required by subsection (d), the Secretary of Commerce finds that any nation is engaging in trade in unlawfully taken anadromous fish or anadromous fish products, the Secretary shall certify that fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a)(1) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)(1)).''

DRIFTNET IMPACT MONITORING, ASSESSMENT, AND CONTROL

Pub. L. 100–220, title IV, Dec. 29, 1987, 101 Stat. 1477, as amended by Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that:

''SEC. 4001. SHORT TITLE.

''This title may be cited as the 'Driftnet Impact Monitoring, Assessment, and Control Act of 1987'.

''SEC. 4002. FINDINGS.

''The Congress finds that—

''(1) the use of long plastic driftnets is a fishing technique that may result in the entanglement and

death of enormous numbers of target and nontarget marine resources in the waters of the North Pacific Ocean, including the Bering Sea;

''(2) there is a pressing need for detailed and reliable information on the number of marine resources that become entangled and die in actively fished driftnets and in driftnets that are lost, abandoned, or discarded; and

''(3) increased efforts are necessary to monitor, assess, and reduce the adverse impacts of driftnets.

''SEC. 4003. DEFINITIONS.

''As used in this title—

''(1) DRIFTNET.—The term 'driftnet' means a gillnet composed of a panel of plastic webbing one and one-half miles or more in length.

''(2) DRIFTNET FISHING.—The term 'driftnet fishing' means a fish-harvesting method in which a driftnet is placed in water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

''(3) EXCLUSIVE ECONOMIC ZONE OF THE UNITED STATES.—The term 'exclusive economic zone of the United States' means the zone defined in section 3(6) [now 3(11)] of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(b) [1802(11)]).

''(4) MARINE RESOURCES.—The term 'marine resources' includes fish, shellfish, marine mammals, seabirds, and other forms of marine life or waterfowl.

''(5) MARINE RESOURCES OF THE UNITED STATES.—The term 'marine resources of the United States' means—

''(A) marine resources found in, or which breed within, areas subject to the jurisdiction of the United States, including the exclusive economic zone of the United States; and

''(B) species of fish, wherever found, that spawn in the fresh or estuarine waters of the United States.

''(6) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

''SEC. 4004. MONITORING AGREEMENTS.

''(a) NEGOTIATIONS.—The Secretary, through the Secretary of State and in consultation with the Secretary of the Interior, shall immediately initiate, negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fishing that results in the taking of marine resources of the United States in waters of the North Pacific Ocean outside of the exclusive economic zone and territorial sea of any nation, for the purpose of entering into agreements for statistically reliable cooperative monitoring and assessment of the numbers of marine resources of the United States killed and retrieved, discarded, or lost by the foreign government's driftnet fishing vessels. Such agreements shall provide for—

''(1) the use of a sufficient number of vessels from which scientists of the United States and the foreign governments may observe and gather statistically reliable information; and

''(2) appropriate methods for sharing equally the costs associated with such activities.

''(b) REPORT.—The Secretary, in consultation with the Secretary of State, shall provide to the Congress not later than 1 year after the date of enactment of this Act [Dec. 29, 1987] a full report on the results of negotiations under this section.

''SEC. 4005. IMPACT REPORT.

''(a) IN GENERAL.—The Secretary shall provide to the Congress within 1 year after the date of the enactment of this Act [Dec. 29, 1987], and at such other times thereafter as the Secretary considers appropriate, a report identifying the nature, extent, and effects of driftnet fishing in waters of the North Pacific Ocean on marine resources of the United States. The report shall include the best available information on—

''(1) the number and flag state of vessels involved;

''(2) the areas fished;

''(3) the length, width, and mesh size of driftnets used;

''(4) the number of marine resources of the United States killed by such fishing;

''(5) the effect of seabird mortality, as determined by the Secretary of the Interior, on seabird populations; and

''(6) any other information the Secretary considers appropriate.

''(b) INFORMATION FROM FOREIGN GOVERNMENTS.—The Secretary, through the Secretary of State, shall—

''(1) request relevant foreign governments to provide the information described in subsection (a), and

''(2) include in a report under this section the information so provided and an evaluation of the adequacy and reliability of such information.

''SEC. 4006. ENFORCEMENT AGREEMENTS.

''(a) NEGOTIATIONS.—The Secretary shall immediately initiate, through the Secretary of State and in consultation with the Secretary of the Department in which the Coast Guard is operating negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fishing that results in the taking of marine resources of the United States in waters of the North Pacific Ocean outside of the exclusive economic zone and territorial sea of any nation, for the purpose of entering into agreements for effective enforcement of laws, regulations, and agreements applicable to the location, season, and other aspects of the operations of the foreign government's driftnet fishing vessels. Such agreements shall include measures for—

''(1) the effective monitoring and detection of violations;

''(2) the collection and presentation of such evidence of violations as may be necessary for the successful prosecution of such violations by the responsible authorities;

''(3) reporting to the United States of penalties imposed by the foreign governments for violations; and

''(4) appropriate methods for sharing equally the costs associated with such activities.

''(b) CERTIFICATION FOR PURPOSES OF FISHERMEN'S PROTECTIVE ACT OF 1967.—If the Secretary, in consultation with the Secretary of State, determines that a foreign government has failed, within 18 months after the date of the enactment of this Act [Dec. 29, 1987], to enter into and implement an agreement under subsection (a) or section 4004(a) that is adequate, the Secretary shall certify such fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

''SEC. 4007. EVALUATIONS AND RECOMMENDATIONS.

''(a) MARKING, REGISTRY, AND IDENTIFICATION SYSTEM.—The Secretary shall evaluate, in consultation with officials of other Federal agencies and such other persons as may be appropriate, the feasibility of and develop recommendations for the establishment of a driftnet marking, registry, and identification system to provide a reliable method for the determination of the origin by vessel, of lost, discarded, or abandoned driftnets and fragments of driftnets. In conducting such evaluation, the Secretary shall consider the adequacy of existing driftnet identification systems of foreign nations and the extent to which these systems achieve the objectives of this title.

''(b) ALTERNATIVE DRIFTNET MATERIALS.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of, and develop appropriate recommendations for, the use of alternative materials in driftnets for the purpose of increasing the rate of decomposition of driftnets that are discarded or lost at sea.

''(c) DRIFTNET BOUNTY SYSTEM.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of and develop appropriate recommendations for the implementation of a driftnet bounty system to pay persons who retrieve from the exclusive economic zone and deposit with the

Secretary lost, abandoned, and discarded driftnet and other plastic fishing material.

''(d) DRIFTNET FISHING VESSEL TRACKING SYSTEM.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of, and develop appropriate recommendations for, the establishment of a cooperative driftnet fishing vessel tracking system to facilitate efforts to monitor the location of driftnet fishing vessels.

''(e) REPORT.—The Secretary shall transmit to the Congress not later than 18 months after the date of the enactment of this Act [Dec. 29, 1987] a report setting forth—

''(1) the evaluations and recommendations developed under subsections (a), (b), (c), and (d);

''(2) the most effective and appropriate means of implementing such recommendations;

''(3) any need for further research and development efforts and the estimated cost and time required for completion of such efforts; and

''(4) any need for legislation to provide authority to carry out such recommendations.

''SEC. 4008. CONSTRUCTION WITH OTHER LAWS.

''This title [this note] shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983 [16 U.S.C. 1453 note], and reflected in existing law on the date of the enactment of this Act [Dec. 29, 1987].

''SEC. 4009. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Department of Commerce and the Department of State, such sums as may be necessary to carry out the purposes of this title.''

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

§ 1823. Congressional oversight of international fishery agreements

(a) In general

No governing international fishery agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement shall become effective with respect to the United States before the close of the first 120 days (excluding any days in a period for which the Congress is adjourned sine die) after the date on which the President transmits to the House of Representatives and to the Senate a document setting forth the text of such governing international fishery agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement. A copy of the document shall be delivered to each House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives, if the House is not in session, and to the Secretary of the Senate, if the Senate is not in session.

(b) Referral to committees

Any document described in subsection (a) of this section shall be immediately referred in the House of Representatives to the Committee on Merchant Marine and Fisheries, and in the Senate to the Committees on Commerce, Science, and Transportation and on Foreign Relations.

(c) Congressional procedures

(1) Rules of the House of Representatives and Senate

The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of fishery agreement resolutions described in paragraph (2), and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, and in the same manner and to the same extent as in the case of any other rule of that House.

(2) "Fishery agreement resolution" defined

For purposes of this subsection, the term ''fishery agreement resolution'' refers to a joint resolution of either House of Congress—

(A) the effect of which is to prohibit the entering into force and effect of any governing international fishery agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement the text of which is transmitted to the Congress pursuant to subsection (a) of this section; and

(B) which is reported from the Committee on Merchant Marine and Fisheries of the House of Representatives or the Committee on Commerce, Science, and Transportation or the Committee on Foreign Relations of the Senate, not later than 45 days after the date on which the document described in subsection (a) of this section relating to that agreement is transmitted to the Congress.

(3) Placement on calendar

Any fishery agreement resolution upon being reported shall immediately be placed on the appropriate calendar.

(4) Floor consideration in the House

(A) A motion in the House of Representatives to proceed to the consideration of any fishery agreement resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on any fishery agreement resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit any fishery agreement resolution or to move to reconsider the vote by which any fishery agreement resolution is agreed to or disagreed to.

(C) Motions to postpone, made in the House of Representatives with respect to the consideration of any fishery agreement resolution, and motions to proceed to the consideration of

other business, shall be decided without debate.

(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any fishery agreement resolution shall be decided without debate.

(E) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any fishery agreement resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(5) Floor consideration in the Senate

(A) A motion in the Senate to proceed to the consideration of any fishery agreement resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on any fishery agreement resolution and on all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with any fishery agreement resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover of the motion or appeal and the manager of the resolution, except that if the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. The majority leader and the minority leader, or either of them, may allot additional time to any Senator during the consideration of any debatable motion or appeal, from time under their control with respect to the applicable fishery agreement resolution.

(D) A motion in the Senate to further limit debate is not debatable. A motion to recommit any fishery agreement resolution is not in order.

(Pub. L. 94–265, title II, § 203, Apr. 13, 1976, 90 Stat. 340; Pub. L. 103–437, § 6(x), Nov. 2, 1994, 108 Stat. 4587; Pub. L. 104–297, title I, § 105(c), Oct. 11, 1996, 110 Stat. 3564.)

AMENDMENTS

1996—Pub. L. 104–297, § 105(c)(1), substituted ''international'' for ''governing international'' in section catchline.

Subsec. (a). Pub. L. 104–297, § 105(c)(2), (3), inserted '', bycatch reduction agreement, or Pacific Insular Area fishery agreement'' after ''international fishery agreement'' in two places and substituted ''120 days (excluding any days in a period for which the Congress is adjourned sine die)'' for ''60 calendar days of continuous session of the Congress''.

Subsec. (c). Pub. L. 104–297, § 105(c)(4), (5), redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c). Text read as follows: ''For purposes of subsection (a) of this section—

''(1) continuity of session is broken only by an adjournment of Congress sine die; and

''(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.''

Subsec. (c)(2)(A). Pub. L. 104–297, § 105(c)(6), substituted ''agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement'' for ''agreement''.

Subsec. (d). Pub. L. 104–297, § 105(c)(5), redesignated subsec. (d) as (c).

1994—Subsec. (b). Pub. L. 103–437, § 6(x)(1), substituted ''Commerce, Science, and Transportation and on'' for ''Commerce and''.

Subsec. (d)(2)(B). Pub. L. 103–437, § 6(x)(2), substituted ''Commerce, Science, and Transportation'' for ''Commerce''.

SHORT TITLE OF 1995 AMENDMENT

Pub. L. 104–43, title V, § 501, Nov. 3, 1995, 109 Stat. 391, provided that: ''This title [amending provisions set out below] may be cited as the 'Sea of Okhotsk Fisheries Enforcement Act of 1995'.''

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH POLAND

Pub. L. 105–384, title I, § 101, Nov. 13, 1998, 112 Stat. 3451, provided that: ''Notwithstanding section 203 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States of America and the Government of the Republic of Poland, as contained in the message to Congress from the President of the United States dated February 5, 1998, is approved as a governing international fishery agreement for the purposes of such Act [16 U.S.C. 1801 et seq.] and shall enter into force and effect with respect to the United States on the date of the enactment of this Act [Nov. 13, 1998].''

GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH REPUBLIC OF ESTONIA

Pub. L. 102–587, title I, § 1001, Nov. 4, 1992, 106 Stat. 5039, provided that the governing international fishery agreement between the Government of the United States of America and the Government of the Republic of Estonia, was approved by Congress as a governing international fishery agreement for purposes of this chapter and was to enter into force and effect with respect to the United States on Nov. 4, 1992.

FISHERIES ENFORCEMENT IN CENTRAL BERING SEA AND CENTRAL SEA OF OKHOTSK

Pub. L. 102–582, title III, Nov. 2, 1992, 106 Stat. 4906, as amended by Pub. L. 104–43, title V, § 502, Nov. 3, 1995, 109 Stat. 391; Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, which provided that this title was to be cited as the ''Central Bering Sea Fisheries Enforcement Act of 1992'', prohibited vessels and nationals of United States from conducting fishing operations in Central Bering Sea and Central Sea of Okhotsk, except where such fishing op-

erations were conducted in accordance with international fishery agreement to which United States and Russian Federation were parties, further provided for civil penalties and permit sanctions for violations of these provisions as well as authority to deny port privileges for fishing in Central Bering Sea, further authorized Secretary of Commerce to issue regulations restricting fishing in United States exclusive economic zone, and further provided for definition of terms and that this title would cease to have force and effect after the date that is seven years after Nov. 2, 1992, except that any proceeding with respect to violations occurring prior to such date was to be conducted as if these provisions were still in effect.

NORTH PACIFIC AND BERING SEA FISHERIES ADVISORY BODY

Pub. L. 100–629, §5, Nov. 7, 1988, 102 Stat. 3287, provided that:

''(a) IN GENERAL.—The Secretary of State shall establish an advisory body on the fisheries of the North Pacific and the Bering Sea, which shall advise the United States representative to the International Consultative Committee created in accordance with Article XIV of the governing international fishery agreement entered into between the United States and the Union of Soviet Socialist Republics, as contained in the message to Congress from the President of the United States dated June 22, 1988.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The advisory body established pursuant to this section shall consist of 12 members, as follows:

''(A) The Director of the Department of Fisheries of the State of Washington.

''(B) The Commission of the Department of Fish and Game of the State of Alaska.

''(C) Five members appointed by the Secretary of State from among persons nominated by the Governor of Alaska on the basis of their knowledge and experience in commercial harvesting, processing, or marketing of fishery resources.

''(D) Five members appointed by the Secretary of State from among persons nominated by the Governor of Washington on the basis of their knowledge and experience in commercial harvesting, processing, or marketing of fishery resources.

''(2) NOMINATIONS.—The Governor of Alaska and the Governor of Washington shall each nominate 10 persons for purposes of paragraph (1).

''(c) PAY.—Members of the advisory body established pursuant to this section shall receive no pay by reason of their service as members of the advisory body.

''(d) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) shall not apply to an advisory body established pursuant to this section.''

GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH RUSSIAN FEDERATION

Pub. L. 103–206, title VII, §701, Dec. 20, 1993, 107 Stat. 2446, as amended by Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that: ''The Agreement between the Government of the United States of America and the Government of the Russian Federation on Mutual Fisheries Relations which was entered into on May 31, 1988, and which expired by its terms on October 28, 1993, may be brought into force again for the United States through an exchange of notes between the United States of America and the Russian Federation and may remain in force and effect on the part of the United States until May 1, 1994, and may be amended or extended by a subsequent agreement to which section 203 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1823) applies.''

Pub. L. 100–629, §1, Nov. 7, 1988, 102 Stat. 3286, provided that the governing international fishery agreement entered into between the Government of the United States and the Government of the Union of Soviet Socialist Republics was approved by Congress and was to enter into force and effect with respect to the United States on Nov. 7, 1988.

GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH GERMAN DEMOCRATIC REPUBLIC

Pub. L. 100–350, §1, June 27, 1988, 102 Stat. 660, provided that extension of governing international fishery agreement between the Government of the United States of America and the Government of the German Democratic Republic was approved by Congress as a governing international fishery agreement for purposes of this chapter, and was to enter into force and effect with respect to the United States on June 27, 1988.

GOVERNING INTERNATIONAL FISHERY AGREEMENTS WITH ICELAND AND THE EUROPEAN ECONOMIC COMMUNITY

Pub. L. 98–623, title I, Nov. 8, 1984, 98 Stat. 3394, as amended by Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that: ''Notwithstanding section 203 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1823) [this section]—

''(1) the governing international fishery agreement between the Government of the United States and the European Economic Community Concerning Fisheries Off the Coasts of the United States, as contained in the Message to Congress from the President of the United States dated August 27, 1984, is hereby approved by Congress as a governing international fishery agreement for purposes of that Act [this chapter], and may enter into force with respect to the United States in accordance with the terms of Article XIX of the agreement after the date of the enactment of this title [Nov. 8, 1984], upon signature of the agreement by both parties; and

''(2) the governing international fishery agreement between the Government of the United States and the Government of the Republic of Iceland Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated September 29, 1984, is hereby approved by Congress as a governing international fishery agreement for purposes of that Act [this chapter], and may enter into force with respect to the United States in accordance with the terms of Article XVI of the agreement after the date of the enactment of this title [Nov. 8, 1984].''

GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH FAROE ISLANDS AND DENMARK

Pub. L. 98–498, title IV, §440, Oct. 19, 1984, 98 Stat. 2310, as amended by Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that: ''Notwithstanding section 203 of the Magnuson-Stevens Fishery Conservation and Management Act of 1976 [this section], the Governing International Fishery Agreement between the Government of the United States of America of the One Part and the Home Government of the Faroe Islands and the Government of Denmark of the Other Part Concerning Faroese Fishing in Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated July 13, 1984—

''(1) is approved by Congress as a governing international fishery agreement for purposes of that Act [this chapter]; and

''(2) may enter into force with respect to the United States in accordance with the terms of Article XVI of the Agreement following the enactment of this title [Oct. 19, 1984].''

GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH JAPAN

Pub. L. 101–224, §7, Dec. 12, 1989, 103 Stat. 1907, provided that the governing international fishery agreement entered into between the Government of the

United States and the Government of Japan was approved by Congress and was to enter into force and effect with respect to the United States on Dec. 12, 1989.

Pub. L. 100–220, title I, § 1001, Dec. 29, 1987, 101 Stat. 1459, provided that the governing international fishery agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries Off the Coasts of the United States was approved by Congress as a governing international fishery agreement for the purposes of this chapter, and was to enter into force and effect with respect to the United States on Dec. 29, 1987.

Pub. L. 97–389, title IV, § 401, Dec. 29, 1982, 96 Stat. 1954, provided that the governing international fishery agreement entered into between the Government of the United States and the Government of Japan pursuant to this chapter, signed at Washington on Sept. 10, 1982, was approved, and was effective on Jan. 1, 1983.

GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH SPAIN

Pub. L. 97–389, title IV, § 402, Dec. 29, 1982, 96 Stat. 1954, provided for approval of the governing international fishery agreement entered into between the Government of the United States and the Government of Spain pursuant to this chapter.

GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH PORTUGAL

Pub. L. 96–561, title I, § 145, title II, § 238(b), Dec. 22, 1980, 94 Stat. 3287, 3300, provided that the governing international fishery agreement between the Government of the United States of America and the Government of Portugal Concerning Fisheries Off the Coasts of the United States was approved by Congress as a governing international fishery agreement for the purposes of this chapter, and was to enter into force and effect with respect to the United States on Dec. 22, 1980.

EXTENSION OF INTERNATIONAL FISHERY AGREEMENTS

Pub. L. 100–66, § 1, July 10, 1987, 101 Stat. 384, provided that the governing international fishery agreement entered into between the Government of the United States and the Government of the Republic of Korea on July 26, 1982, was to remain in force and effect with respect to the United States until the closing date of the sixty-day period referred to in subsec. (a) of this section that applied with respect to any new governing international fishery agreement between the United States and the Republic of Korea that was transmitted to the Congress under subsec. (a) of this section after May 1, 1987, or Nov. 1, 1987, whichever was earlier.

Pub. L. 98–364, title I, § 106, July 17, 1984, 98 Stat. 442, provided that upon certification by Secretary of State to President of the Senate and Speaker of the House of Representatives that a new governing international fishery agreement in conformity with this chapter had been negotiated by the United States and the European Economic Community, the existing governing international fishery agreement referred to in section 2(a)(7) of Pub. L. 95–6, formerly set out below, could be extended or reinstated and could be in force and effect with respect to the United States, for the period of time ending on the earlier of (1) the effective date of the new governing international fishery agreement, or (2) Sept. 30, 1984.

Pub. L. 97–212, § 10(b), June 30, 1982, 96 Stat. 148, provided that the governing international fishery agreements referred to in section 2(a)(9) and (10) of Pub. L. 95–6, formerly set out below, were to be extended, and were to be in force and effect with respect to the United States, for the period of time ending on the deadline for completion of congressional review, pursuant to subsec. (a) of this section, of any new governing international fishery agreement signed, on or before July 31, 1982, by the United States and the respective foreign government that was a party to the agreement in question, or July 31, 1982, if the United States and the respective foreign government that was a party to the agreement in question failed to sign a new governing international fishery agreement on or before that date.

CONGRESSIONAL APPROVAL OF CERTAIN GOVERNING INTERNATIONAL FISHERY AGREEMENTS

Pub. L. 95–6, § 2, Feb. 21, 1977, 91 Stat. 15, as amended by Pub. L. 95–8, § 1, Mar. 3, 1977, 91 Stat. 18; Pub. L. 95–219, § 1, Dec. 28, 1977, 91 Stat. 1613; Pub. L. 96–561, title II, § 238(b), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 97–212, § 10(a), June 30, 1982, 96 Stat. 148; Pub. L. 98–44, title I, § 105, July 12, 1983, 97 Stat. 217; Pub. L. 98–364, title I, § 105, July 17, 1984, 98 Stat. 442, provided for the approval by Congress, as a governing international fishery agreement for purposes of this chapter, of the governing international fishery agreement between—

(1) the Government of the United States and the Government of the People's Republic of Bulgaria Concerning Fisheries Off the Coasts of the United States;

(2) the Government of the United States and the Government of the Socialist Republic of Romania Concerning Fisheries Off the Coasts of the United States;

(3) the Government of the United States and the Government of the Republic of China Concerning Fisheries Off the Coasts of the United States;

(4) the Government of the United States and the Government of the German Democratic Republic Concerning Fisheries Off the Coasts of the United States;

(5) the Government of the United States and the Government of the Union of Soviet Socialist Republics Concerning Fisheries Off the Coasts of the United States;

(6) the Government of the United States and the Government of the Polish People's Republic Concerning Fisheries Off the Coasts of the United States;

(7) the Government of the United States and the European Economic Community Concerning Fisheries Off the Coasts of the United States;

(8) the Government of the United States and the Government of Japan Concerning Fisheries Off the Coasts of the United States (for 1977);

(9) the Government of the United States and the Government of the Republic of Korea Concerning Fisheries Off the Coasts of the United States;

(10) the Government of the United States and the Government of Spain Concerning Fisheries Off the Coasts of the United States;

(11) the Government of the United States and the Government of Mexico Concerning Fisheries Off the Coasts of the United States;

(12) the Government of the United States and the Government of the Union of Soviet Socialist Republics referred to in par. (5), as extended until July 1, 1983, pursuant to Diplomatic Notes;

(13) the American Institute in Taiwan and the Coordination Council for North American Affairs;

(14) the Government of the United States and the Government of the Polish People's Republic referred to in par. (6), as extended until July 1, 1983, pursuant to Diplomatic Notes;

(15) the Government of the United States and the Government of the Union of Soviet Socialist Republics referred to in par. (5), as extended until Dec. 31, 1985, pursuant to Diplomatic Notes;

(16) the Government of the United States and the Government of the Polish People's Republic referred to in par. (6), as extended until Dec. 31, 1985, pursuant to Diplomatic Notes; and

(17) the Government of the United States and the Government of the German Democratic Republic referred to in par. (4);

and provided further that the agreements referred to in pars. (1) to (6) were to enter into force and effect with respect to the United States on Feb. 21, 1977, that the agreements referred to in pars. (7) to (11) were to enter into force and effect with respect to the United States on Feb. 27, 1977, that the agreements referred to in pars. (12) to (14) were to enter into force and effect with re-

spect to the United States on July 1, 1982, that the agreements referred to in pars. (15) and (16) were to enter into force and effect with respect to the United States on July 1, 1984, and that the agreement referred to in par. (17) was to enter into force and effect with respect to the United States on July 1, 1983.

RECIPROCAL FISHERIES AGREEMENT BETWEEN UNITED STATES AND CANADA

Pub. L. 95–6, §5, as added Pub. L. 95–73, July 27, 1977, 91 Stat. 283; amended Pub. L. 95–314, July 1, 1978, 92 Stat. 376; Pub. L. 96–561, title II, §238(b), Dec. 22, 1980, 94 Stat. 3300, provided for congressional approval of the Reciprocal Fisheries Agreement for 1978 between the Government of the United States and the Government of Canada, and that the Agreement was to be in force and effect with respect to the United States from Jan. 1, 1978, until such later date in 1978 as was to be determined pursuant to the terms of the Agreement.

§ 1824. Permits for foreign fishing

(a) In general

After February 28, 1977, no foreign fishing vessel shall engage in fishing within the exclusive economic zone, or for anadromous species or Continental Shelf fishery resources beyond such zone, unless such vessel has on board a valid permit issued under this section for such vessel.

(b) Applications and permits under governing international fishery agreements

(1) Eligibility; duration

Each foreign nation with which the United States has entered into a governing international fishery agreement shall submit an application to the Secretary of State each year for a permit for each of its fishing vessels that wishes to engage in fishing described in subsection (a) of this section. No permit issued under this section may be valid for longer than a year; and section 558(c) of title 5 does not apply to the renewal of any such permit.

(2) Forms

The Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall prescribe the forms for permit applications submitted under this subsection and for permits issued pursuant to any such application.

(3) Contents

Any application made under this subsection shall specify—

(A) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof;

(B) the tonnage, hold capacity, speed, processing equipment, type and quantity of fishing gear, and such other pertinent information with respect to characteristics of each such vessel as the Secretary may require;

(C) each fishery in which each such vessel wishes to fish;

(D) the estimated amount of tonnage of fish which will be caught, taken, or harvested in each such fishery by each such vessel during the time the permit is in force;

(E) the amount or tonnage of United States harvested fish, if any, which each such vessel proposes to receive at sea from vessels of the United States;

(F) the ocean area in which, and the season or period during which, such fishing will be conducted; and

(G) all applicable vessel safety standards imposed by the foreign country, and shall include written certification that the vessel is in compliance with those standards;

and shall include any other pertinent information and material which the Secretary may require.

(4) Transmittal for action

Upon receipt of any application which complies with the requirements of paragraph (3), the Secretary of State shall publish a notice of receipt of the application in the Federal Register. Any such notice shall summarize the contents of the applications from each nation included therein with respect to the matters described in paragraph (3). The Secretary of State shall promptly transmit—

(A) such application, together with his comments and recommendations thereon, to the Secretary;

(B) a copy of the application to the Secretary of the department in which the Coast Guard is operating; and

(C) a copy or a summary of the application to the appropriate Council.

(5) Action by Council

After receiving a copy or summary of an application under paragraph (4)(C), the Council may prepare and submit to the Secretary such written comments on the application as it deems appropriate. Such comments shall be submitted within 45 days after the date on which the application is received by the Council and may include recommendations with respect to approval of the application and, if approval is recommended, with respect to appropriate conditions and restrictions thereon. Any interested person may submit comments to such Council with respect to any such application. The Council shall consider any such comments in formulating its submission to the Secretary.

(6) Approval

(A) After receipt of any application transmitted under paragraph (4)(A), the Secretary shall consult with the Secretary of State and, with respect to enforcement, with the Secretary of the department in which the Coast Guard is operating. The Secretary, after taking into consideration the views and recommendations of such Secretaries, and any comments submitted by any Council under paragraph (5), may approve, subject to subparagraph (B), the application, if he determines that the fishing described in the application will meet the requirements of this chapter, or he may disapprove all or any portion of the application.

(B)(i) In the case of any application which specifies that one or more foreign fishing vessels propose to receive at sea United States harvested fish from vessels of the United States, the Secretary may approve the application unless the Secretary determines, on the

basis of the views, recommendations, and comments referred to in subparagraph (A) and other pertinent information, that United States fish processors have adequate capacity, and will utilize such capacity, to process all United States harvested fish from the fishery concerned.

(ii) The amount or tonnage of United States harvested fish which may be received at sea during any year by foreign fishing vessels under permits approved under this paragraph may not exceed that portion of the optimum yield of the fishery concerned which will not be utilized by United States fish processors.

(iii) In deciding whether to approve any application under this subparagraph, the Secretary may take into account, with respect to the foreign nation concerned, such other matters as the Secretary deems appropriate.

(7) Establishment of conditions and restrictions

The Secretary shall establish conditions and restrictions which shall be included in each permit issued pursuant to any application approved under paragraph (6) or subsection (d) of this section and which must be complied with by the owner or operator of the fishing vessel for which the permit is issued. Such conditions and restrictions shall include the following:

(A) All of the requirements of any applicable fishery management plan, or preliminary fishery management plan, and any applicable Federal or State fishing regulations.

(B) The requirement that no permit may be used by any vessel other than the fishing vessel for which it is issued.

(C) The requirements described in section 1821(c)(1), (2), and (3) of this title.

(D) If the permit is issued other than pursuant to an application approved under paragraph (6)(B) or subsection (d) of this section, the restriction that the foreign fishing vessel may not receive at sea United States harvested fish from vessels of the United States.

(E) If the permit is issued pursuant to an application approved under paragraph (6)(B), the maximum amount or tonnage of United States harvested fish which may be received at sea from vessels of the United States.

(F) Any other condition and restriction related to fishery conservation and management which the Secretary prescribes as necessary and appropriate.

(8) Notice of approval

The Secretary shall promptly transmit a copy of each application approved under paragraph (6) and the conditions and restrictions established under paragraph (7) to—

(A) the Secretary of State for transmittal to the foreign nation involved;

(B) the Secretary of the department in which the Coast Guard is operating; and

(C) any Council which has authority over any fishery specified in such application.

(9) Disapproval of applications

If the Secretary does not approve any application submitted by a foreign nation under this subsection, he shall promptly inform the Secretary of State of the disapproval and his reasons therefore. The Secretary of State shall notify such foreign nation of the disapproval and the reasons therefor. Such foreign nation, after taking into consideration the reasons for disapproval, may submit a revised application under this subsection.

(10) Fees

(A) Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit has been issued pursuant to this section. The Secretary, in consultation with the Secretary of State, shall establish a schedule of reasonable fees that shall apply nondiscriminatorily to each foreign nation.

(B) Amounts collected by the Secretary under this paragraph shall be deposited in the general fund of the Treasury.

(11) Issuance of permits

If a foreign nation notifies the Secretary of State of its acceptance of the conditions and restrictions established by the Secretary under paragraph (7), the Secretary of State shall promptly transmit such notification to the Secretary. Upon payment of the applicable fees established pursuant to paragraph (10), the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all conditions and restrictions established under paragraph (7) which apply to the fishing vessel for which the permit is issued.

(c) Registration permits

The Secretary of State, in cooperation with the Secretary, shall issue annually a registration permit for each fishing vessel of a foreign nation which is a party to an international fishery agreement under which foreign fishing is authorized by section 1821(b) of this title and which wishes to engage in fishing described in subsection (a) of this section. Each such permit shall set forth the terms and conditions contained in the agreement that apply with respect to such fishing, and shall include the additional requirement that the owner or operator of the fishing vessel for which the permit is issued shall prominently display such permit in the wheelhouse of such vessel and show it, upon request, to any officer authorized to enforce the provisions of this chapter (as provided for in section 1861 of this title). The Secretary of State, after consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form and manner in which applications for registration permits may be made, and the forms of such permits. The Secretary of State may establish, require the payment of, and collect fees for registration permits; except that the level of such fees shall not exceed the administrative costs incurred by him in issuing such permits.

(d) Transshipment permits

(1) Authority to issue permits

The Secretary may issue a transshipment permit under this subsection which authorizes

a vessel other than a vessel of the United States to engage in fishing consisting solely of transporting fish or fish products at sea from a point within the exclusive economic zone or, with the concurrence of a State, within the boundaries of that State, to a point outside the United States to any person who—

(A) submits an application which is approved by the Secretary under paragraph (3); and

(B) pays a fee imposed under paragraph (7).

(2) Transmittal

Upon receipt of an application for a permit under this subsection, the Secretary shall promptly transmit copies of the application to the Secretary of State, Secretary of the department in which the Coast Guard is operating, any appropriate Council, and any affected State.

(3) Approval of application

The Secretary may approve, in consultation with the appropriate Council or Marine Fisheries Commission, an application for a permit under this section if the Secretary determines that—

(A) the transportation of fish or fish products to be conducted under the permit, as described in the application, will be in the interest of the United States and will meet the applicable requirements of this chapter;

(B) the applicant will comply with the requirements described in section 1821(c)(2) of this title with respect to activities authorized by any permit issued pursuant to the application;

(C) the applicant has established any bonds or financial assurances that may be required by the Secretary; and

(D) no owner or operator of a vessel of the United States which has adequate capacity to perform the transportation for which the application is submitted has indicated to the Secretary an interest in performing the transportation at fair and reasonable rates.

(4) Whole or partial approval

The Secretary may approve all or any portion of an application under paragraph (3).

(5) Failure to approve application

If the Secretary does not approve any portion of an application submitted under paragraph (1), the Secretary shall promptly inform the applicant and specify the reasons therefor.

(6) Conditions and restrictions

The Secretary shall establish and include in each permit under this subsection conditions and restrictions, including those conditions and restrictions set forth in subsection (b)(7) of this section, which shall be complied with by the owner and operator of the vessel for which the permit is issued.

(7) Fees

The Secretary shall collect a fee for each permit issued under this subsection, in an amount adequate to recover the costs incurred by the United States in issuing the permit, except that the Secretary shall waive the fee for the permit if the foreign nation under which the vessel is registered does not collect a fee from a vessel of the United States engaged in similar activities in the waters of such foreign nation.

(e) Pacific Insular Areas

(1) Negotiation of Pacific Insular Area fishery agreements

The Secretary of State, with the concurrence of the Secretary and in consultation with any appropriate Council, may negotiate and enter into a Pacific Insular Area fishery agreement to authorize foreign fishing within the exclusive economic zone adjacent to a Pacific Insular Area—

(A) in the case of American Samoa, Guam, or the Northern Mariana Islands, at the request and with the concurrence of, and in consultation with, the Governor of the Pacific Insular Area to which such agreement applies; and

(B) in the case of a Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands, at the request of the Western Pacific Council.

(2) Agreement terms and conditions

A Pacific Insular Area fishery agreement—

(A) shall not be considered to supersede any governing international fishery agreement currently in effect under this chapter, but shall provide an alternative basis for the conduct of foreign fishing within the exclusive economic zone adjacent to Pacific Insular Areas;

(B) shall be negotiated and implemented consistent only with the governing international fishery agreement provisions of this subchapter specifically made applicable in this subsection;

(C) may not be negotiated with a nation that is in violation of a governing international fishery agreement in effect under this chapter;

(D) shall not be entered into if it is determined by the Governor of the applicable Pacific Insular Area with respect to agreements initiated under paragraph (1)(A), or the Western Pacific Council with respect to agreements initiated under paragraph (1)(B), that such an agreement will adversely affect the fishing activities of the indigenous people of such Pacific Insular Area;

(E) shall be valid for a period not to exceed three years and shall only become effective according to the procedures in section 1823 of this title; and

(F) shall require the foreign nation and its fishing vessels to comply with the requirements of paragraphs (1), (2), (3) and (4)(A) of section 1821(c) of this title, section 1821(d) of this title, and section 1821(h) of this title.

(3) Permits for foreign fishing

(A) Application for permits for foreign fishing authorized under a Pacific Insular Areas fishing agreement shall be made, considered and approved or disapproved in accordance with paragraphs (3), (4), (5), (6), (7)(A) and (B), (8), and (9) of subsection (b) of this section, and shall include any conditions and restrictions established by the Secretary in consulta-

tion with the Secretary of State, the Secretary of the department in which the Coast Guard is operating, the Governor of the applicable Pacific Insular Area, and the appropriate Council.

(B) If a foreign nation notifies the Secretary of State of its acceptance of the requirements of this paragraph, paragraph (2)(F), and paragraph (5), including any conditions and restrictions established under subparagraph (A), the Secretary of State shall promptly transmit such notification to the Secretary. Upon receipt of any payment required under a Pacific Insular Area fishing agreement, the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all of the requirements, conditions, and restrictions established under this subsection which apply to the fishing vessel for which the permit is issued.

(4) Marine conservation plans

(A) Prior to entering into a Pacific Insular Area fishery agreement, the Western Pacific Council and the appropriate Governor shall develop a 3-year marine conservation plan detailing uses for funds to be collected by the Secretary pursuant to such agreement. Such plan shall be consistent with any applicable fishery management plan, identify conservation and management objectives (including criteria for determining when such objectives have been met), and prioritize planned marine conservation projects. Conservation and management objectives shall include, but not be limited to—

(i) Pacific Insular Area observer programs, or other monitoring programs, that the Secretary determines are adequate to monitor the harvest, bycatch, and compliance with the laws of the United States by foreign fishing vessels that fish under Pacific Insular Area fishing agreements;

(ii) conduct of marine and fisheries research, including development of systems for information collection, analysis, evaluation, and reporting;

(iii) conservation, education, and enforcement activities related to marine and coastal management, such as living marine resource assessments, habitat monitoring and coastal studies;

(iv) grants to the University of Hawaii for technical assistance projects by the Pacific Island Network, such as education and training in the development and implementation of sustainable marine resources development projects, scientific research, and conservation strategies; and

(v) western Pacific community-based demonstration projects under section 112(b) of the Sustainable Fisheries Act and other coastal improvement projects to foster and promote the management, conservation, and economic enhancement of the Pacific Insular Areas.

(B) In the case of American Samoa, Guam, and the Northern Mariana Islands, the appropriate Governor, with the concurrence of the Western Pacific Council, shall develop the marine conservation plan described in subparagraph (A) and submit such plan to the Secretary for approval. In the case of other Pacific Insular Areas, the Western Pacific Council shall develop and submit the marine conservation plan described in subparagraph (A) to the Secretary for approval.

(C) If a Governor or the Western Pacific Council intends to request that the Secretary of State renew a Pacific Insular Area fishery agreement, a subsequent 3-year plan shall be submitted to the Secretary for approval by the end of the second year of the existing 3-year plan.

(5) Reciprocal conditions

Except as expressly provided otherwise in this subsection, a Pacific Insular Area fishing agreement may include terms similar to the terms applicable to United States fishing vessels for access to similar fisheries in waters subject to the fisheries jurisdiction of another nation.

(6) Use of payments by American Samoa, Guam, Northern Mariana Islands

Any payments received by the Secretary under a Pacific Insular Area fishery agreement for American Samoa, Guam, or the Northern Mariana Islands shall be deposited into the United States Treasury and then covered over to the Treasury of the Pacific Insular Area for which those funds were collected. Amounts deposited in the Treasury of a Pacific Insular Area shall be available, without appropriation or fiscal year limitation, to the Governor of the Pacific Insular Area—

(A) to carry out the purposes of this subsection;

(B) to compensate (i) the Western Pacific Council for mutually agreed upon administrative costs incurred relating to any Pacific Insular Area fishery agreement for such Pacific Insular Area, and (ii) the Secretary of State for mutually agreed upon travel expenses for no more than 2 Federal representatives incurred as a direct result of complying with paragraph (1)(A); and

(C) to implement a marine conservation plan developed and approved under paragraph (4).

(7) Western Pacific Sustainable Fisheries Fund

There is established in the United States Treasury a Western Pacific Sustainable Fisheries Fund into which any payments received by the Secretary under a Pacific Insular Area fishery agreement and any funds or contributions received in support of conservation and management objectives under a marine conservation plan for any Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands shall be deposited. The Western Pacific Sustainable Fisheries Fund shall be made available, without appropriation or fiscal year limitation, to the Secretary, who shall provide such funds only to—

(A) the Western Pacific Council for the purpose of carrying out the provisions of this subsection, including implementation of a marine conservation plan approved under paragraph (4);

(B) the Secretary of State for mutually agreed upon travel expenses for no more than 2 Federal representatives incurred as a direct result of complying with paragraph (1)(B); and

(C) the Western Pacific Council to meet conservation and management objectives in the State of Hawaii if monies remain in the Western Pacific Sustainable Fisheries Fund after the funding requirements of subparagraphs (A) and (B) have been satisfied.

Amounts deposited in such fund shall not diminish funding received by the Western Pacific Council for the purpose of carrying out other responsibilities under this chapter.

(8) Use of fines and penalties

In the case of violations occurring within the exclusive economic zone off American Samoa, Guam, or the Northern Mariana Islands, amounts received by the Secretary which are attributable to fines or penalties imposed under this chapter, including such sums collected from the forfeiture and disposition or sale of property seized subject to its authority, after payment of direct costs of the enforcement action to all entities involved in such action, shall be deposited into the Treasury of the Pacific Insular Area adjacent to the exclusive economic zone in which the violation occurred, to be used for fisheries enforcement and for implementation of a marine conservation plan under paragraph (4). In the case of violations by foreign vessels occurring within the exclusive economic zones off Midway Atoll, Johnston Atoll, Kingman Reef, Palmyra Atoll, Jarvis, Howland, Baker, and Wake Islands, amounts received by the Secretary attributable to fines and penalties imposed under this chapter, shall be deposited into the Western Pacific Sustainable Fisheries Fund established under paragraph (7) of this subsection.

(Pub. L. 94–265, title II, §204, Apr. 13, 1976, 90 Stat. 342; Pub. L. 95–354, §4(5)–(8), Aug. 28, 1978, 92 Stat. 520, 521; Pub. L. 96–470, title I, §111(b), title II, §208, Oct. 19, 1980, 94 Stat. 2239, 2245; Pub. L. 96–561, title II, §232, Dec. 22, 1980, 94 Stat. 3298; Pub. L. 97–453, §3, Jan. 12, 1983, 96 Stat. 2483; Pub. L. 99–272, title VI, §6021, Apr. 7, 1986, 100 Stat. 123; Pub. L. 99–659, title I, §§101(c)(2), 102, 103(b), Nov. 14, 1986, 100 Stat. 3707, 3709; Pub. L. 101–627, title I, §§106, 120(b), Nov. 28, 1990, 104 Stat. 4440, 4459; Pub. L. 102–251, title III, §301(f), Mar. 9, 1992, 106 Stat. 64; Pub. L. 104–297, title I, §105(d), Oct. 11, 1996, 110 Stat. 3564; Pub. L. 109–479, §6, title IV, §404(b), Jan. 12, 2007, 120 Stat. 3579, 3632.)

AMENDMENT OF SUBSECTION (a)

Pub. L. 102–251, title III, §§301(f), 308, Mar. 9, 1992, 106 Stat. 64, 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, subsection (a) is amended by inserting ''within the special areas,'' before ''or for anadromous species'' and ''or areas'' after ''such zone''.

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(6)(A), (c), (d)(3)(A), and (e)(2)(A), (C), (7), (8), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Section 112(b) of the Sustainable Fisheries Act, referred to in subsec. (e)(4)(A)(v), is section 112(b) of Pub. L. 104–297, which amended section 1856 of this title. The reference probably should have been to section 111(b) of Pub. L. 104–297 which relates to western Pacific demonstration projects and is set out as a note under section 1855 of this title.

AMENDMENTS

2007—Subsec. (e)(4)(A)(i). Pub. L. 109–479, §404(b), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: ''establishment of Pacific Insular Area observer programs, approved by the Secretary in consultation with the Western Pacific Council, that provide observer coverage for foreign fishing under Pacific Insular Area fishery agreements that is at least equal in effectiveness to the program established by the Secretary under section 1821(h) of this title;''.

Subsec. (e)(7). Pub. L. 109–479, §6(1), inserted ''and any funds or contributions received in support of conservation and management objectives under a marine conservation plan'' after ''agreement'' in introductory provisions.

Subsec. (e)(8). Pub. L. 109–479, §6(2), inserted at end ''In the case of violations by foreign vessels occurring within the exclusive economic zones off Midway Atoll, Johnston Atoll, Kingman Reef, Palmyra Atoll, Jarvis, Howland, Baker, and Wake Islands, amounts received by the Secretary attributable to fines and penalties imposed under this chapter, shall be deposited into the Western Pacific Sustainable Fisheries Fund established under paragraph (7) of this subsection.''

1996—Subsec. (b)(7). Pub. L. 104–297, §105(d)(1), inserted ''or subsection (d) of this section'' after ''under paragraph (6)'' in introductory provisions.

Subsec. (b)(7)(A). Pub. L. 104–297, §105(d)(2), substituted ''any applicable Federal or State fishing regulations'' for ''the regulations promulgated to implement any such plan''.

Subsec. (b)(7)(D). Pub. L. 104–297, §105(d)(3), inserted ''or subsection (d) of this section'' after ''under paragraph (6)(B)''.

Subsecs. (d), (e). Pub. L. 104–297, §105(d)(4), added subsecs. (d) and (e).

1990—Subsec. (b)(4)(C). Pub. L. 101–627, §120(b), substituted ''Council'' for ''council''.

Subsec. (b)(10). Pub. L. 101–627, §106(a), amended par. (10) generally. Prior to amendment, par. (10) consisted of subpars. (A) to (F) relating to schedule of fees to be paid for permits for foreign fishing vessels, ratios for determining minimum fees, review and notice to Congress of performance by nations receiving allocations, factors included and excluded in cost of carrying out this chapter, use of amounts collected in fees, and deposit into general fund of United States Treasury of a determined amount.

Subsec. (b)(12). Pub. L. 101–627, §106(b), struck out par. (12) which related to sanctions for violation of section 1857 of this title or for failure to pay civil penalty under section 1858 of this title or criminal fine under section 1859 of this title. See section 1858(g) of this title.

1986—Subsec. (a). Pub. L. 99–659, §101(c)(2), substituted ''exclusive economic zone'' for ''fishery conservation zone''.

Subsec. (b)(1). Pub. L. 99–659, §102(1), inserted provision that no permit issued under this section may be

valid for longer than a year, with section 558(c) of title 5 inapplicable to the renewal of any such permit.

Subsec. (b)(3)(G). Pub. L. 99–659, § 103(b), added subpar. (G).

Subsec. (b)(4)(C). Pub. L. 99–659, § 102(2), struck out '', upon its request'' before period at end.

Subsec. (b)(6)(A). Pub. L. 99–659, § 102(3), inserted '', or he may disapprove all or any portion of the application''.

Subsec. (b)(10). Pub. L. 99–272 amended par. (10) generally. Prior to amendment, par. (10) read as follows: ''Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish a schedule of such fees which shall apply nondiscriminatorily to each foreign nation. The fees imposed under this paragraph shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this chapter (including, but not limited to, fishery conservation and management, fisheries research, administration, and enforcement, but excluding costs for observers covered by surcharges under section 1821(i)(4) of this title) during each fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during such preceding year. The amount collected by the Secretary under this paragraph shall be transferred to the fisheries loan fund established under section 742c of this title for so long as such fund exists and used of the purpose of making loans therefrom, but only to the extent and in amounts provided for in advance in appropriation Acts.''

Subsec. (b)(10)(B), (C). Pub. L. 99–659, § 101(c)(2), substituted ''exclusive economic zone'' for ''fishery conservation zone''.

Subsec. (b)(12). Pub. L. 99–659, § 102(4), amended par. (12) generally. Prior to amendment, par. (12) read as follows: ''If any foreign fishing vessel for which a permit has been issued pursuant to this subsection has been used in the commission of any act prohibited by section 1857 of this title the Secretary may, or if any civil penalty imposed under section 1858 of this title or any criminal fine imposed under section 1859 of this title has not been paid and is overdue the Secretary shall—

''(A) revoke such permit, with or without prejudice to the right of the foreign nation involved to obtain a permit for such vessel in any subsequent year;

''(B) suspend such permit for the period of time deemed appropriate; or

''(C) impose additional conditions and restrictions on the approved application of the foreign nation involved and on any permit issued under such application.

Any permit which is suspended under this paragraph for nonpayment of a civil penalty shall be reinstated by the Secretary upon the payment of such civil penalty together with interest thereon at the prevailing rate.''

1983—Subsec. (b)(3)(B). Pub. L. 97–453, § 3(1), inserted ''hold'' before ''capacity''.

Subsec. (b)(4). Pub. L. 97–453, § 3(2), struck out ''and shall be set forth under the name of each Council to which it will be transmitted for comment'' after ''in paragraph (3)''.

Subsec. (b)(4)(B). Pub. L. 97–453, § 3(3), struck out ''to each appropriate Council and'' after ''application''.

Subsec. (b)(4)(C). Pub. L. 97–453, § 3(3), substituted ''a copy or a summary of the application to the appropriate council, upon its request'' for ''a monthly summary of foreign fishing applications including a report on approved applications as described in paragraphs (6) and (7) to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committees on Commerce and Foreign Relations of the Senate''.

Subsec. (b)(5). Pub. L. 97–453, § 3(4), substituted ''After receiving a copy or summary of an application under paragraph (4)(C), the Council may'' for ''After receipt of an application transmitted under paragraph (4)(B), each appropriate Council shall''.

1980—Subsec. (b)(4)(C). Pub. L. 96–470, § 208, substituted ''a monthly summary of foreign fishing applications including a report on approval applications as described in paragraph (6) and (7)'' for ''a copy of such material''.

Subsec. (b)(8)(D). Pub. L. 96–470, § 111(b), struck out subpar. (D) which required the Secretary to promptly transmit a copy of each application to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committees on Commerce and Foreign Relations of the Senate.

Subsec. (b)(10). Pub. L. 96–561, § 232(b), substituted provision directing that fees imposed under this paragraph be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this chapter, including, but not limited to, fishery conservation and management, fisheries research, administration, and enforcement, but excluding costs for observers covered by surcharges under section 1821(i)(4) of this title, during each fiscal year, the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during such preceding year and that the fees collected for permits issued after 1981 be transferred to the fisheries loan fund for provision directing that fees be formulated so as to ensure that receipts resulting from payments for fees issued for 1981 are not less than an amount equal to 7 percent of the ex vessel value of the total harvest by foreign fishing vessels in the fishery conservation zone during 1979 and that the fees collected for permits issued for 1981 be transferred to the fisheries loan fund.

Pub. L. 96–561, § 232(a), substituted provision directing that fees be formulated so as to ensure that receipts resulting from payments for fees issued for 1981 are not less than an amount equal to 7 percent of the ex vessel value of the total harvest by foreign fishing vessels in the fishery conservation zone during 1979 and that the fees collected for permits issued for 1981 be transferred to the fisheries loan fund for provision permitting the Secretary, in determining the level of fees, to take into account the cost of carrying out the provisions of this chapter with respect to foreign fishing, including, but not limited to, the cost of fishery conservation and management, fisheries research, administration, and enforcement.

1978—Subsec. (b)(3)(D) to (F). Pub. L. 95–354, § 4(5), in subpar. (D) substituted provisions relating to estimation of amount of tonnage which will be caught, taken, or harvested, for provisions relating to the amount of fish or tonnage of catch contemplated for each vessel, added subpar. (E), and redesignated former subpar. (E) as (F).

Subsec. (b)(4). Pub. L. 95–354, § 4(6), substituted provisions relating to publication of the notice of receipt of the application in the Federal Register, for provisions relating to publication of the application in the Federal Register.

Subsec. (b)(6). Pub. L. 95–354, § 4(7), redesignated existing provisions as subpar. (A) inserted reference to subpar. (B), and added subpar. (B).

Subsec. (b)(7)(D) to (F). Pub. L. 95–354, § 4(8), added subpars. (D) and (E) and redesignated former subpar. (D) as (F).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations

effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102–251, set out as a note under section 773 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 232(a) of Pub. L. 96–561 provided that the amendment made by that section is effective with respect to permits issued under subsec. (b) of this section for 1981.

Section 232(b) of Pub. L. 96–561 provided that the amendment made by that section is effective with respect to permits issued under subsec. (b) of this section after 1981.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1825. Import prohibitions

(a) Determinations by Secretary of State

If the Secretary of State determines that—

(1) he has been unable, within a reasonable period of time, to conclude with any foreign nation an international fishery agreement allowing fishing vessels of the United States equitable access to fisheries over which that nation asserts exclusive fishery management authority, including fisheries for tuna species, as recognized by the United States, in accordance with fishing activities of such vessels, if any, and under terms not more restrictive than those established under sections 1821(c) and (d) and 1824(b)(7) and (10) of this title, because such nation has (A) refused to commence negotiations, or (B) failed to negotiate in good faith;

(2) any foreign nation is not allowing fishing vessels of the United States to engage in fishing for tuna species in accordance with an applicable international fishery agreement, whether or not such nation is a party thereto;

(3) any foreign nation is not complying with its obligations under any existing international fishery agreement concerning fishing by fishing vessels of the United States in any fishery over which that nation asserts exclusive fishery management authority; or

(4) any fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, is seized by any foreign nation—

(A) in violation of an applicable international fishery agreement;

(B) without authorization under an agreement between the United States and such nation; or

(C) as a consequence of a claim of jurisdiction which is not recognized by the United States;

he shall certify such determination to the Secretary of the Treasury.

(b) Prohibitions

Upon receipt of any certification from the Secretary of State under subsection (a) of this section, the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the United States—

(1) of all fish and fish products from the fishery involved, if any; and

(2) upon recommendation of the Secretary of State, such other fish or fish products, from any fishery of the foreign nation concerned, which the Secretary of State finds to be appropriate to carry out the purposes of this section.

(c) Removal of prohibition

If the Secretary of State finds that the reasons for the imposition of any import prohibition under this section no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove such import prohibition.

(d) Definitions

As used in this section—

(1) The term ''fish'' includes any highly migratory species.

(2) The term ''fish products'' means any article which is produced from or composed of (in whole or in part) any fish.

(Pub. L. 94–265, title II, §205, Apr. 13, 1976, 90 Stat. 345; Pub. L. 101–627, title I, §105(b)(1), Nov. 28, 1990, 104 Stat. 4440.)

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101–627, §105(b)(1)(A), inserted ''including fisheries for tuna species,'' after ''authority,'' and struck out ''traditional'' after ''in accordance with''.

Subsec. (a)(2). Pub. L. 101–627, §105(b)(1)(B), substituted ''tuna'' for ''highly migratory''.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 105(b)(2) of Pub. L. 101–627 provided that: ''The amendments made by this subsection [amending this section] shall take effect on January 1, 1992.''

§ 1826. Large-scale driftnet fishing

(a) Short title

This section incorporates and expands upon provisions of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 and may be cited as the ''Driftnet Act Amendments of 1990''.

(b) Findings

The Congress finds that—

(1) the continued widespread use of large-scale driftnets beyond the exclusive economic zone of any nation is a destructive fishing practice that poses a threat to living marine resources of the world's oceans, including but not limited to the North and South Pacific Ocean and the Bering Sea;

(2) the use of large-scale driftnets is expanding into new regions of the world's oceans, including the Atlantic Ocean and Caribbean Sea;

(3) there is a pressing need for detailed and reliable information on the number of seabirds, sea turtles, nontarget fish, and marine mammals that become entangled and die in actively fished large-scale driftnets and in large-scale driftnets that are lost, abandoned, or discarded;

(4) increased efforts, including reliable observer data and enforcement mechanisms, are

needed to monitor, assess, control, and reduce the adverse impact of large-scale driftnet fishing on living marine resources;

(5) the nations of the world have agreed in the United Nations, through General Assembly Resolution Numbered 44–225, approved December 22, 1989, by the General Assembly, that a moratorium should be imposed by June 30, 1992, on the use of large-scale driftnets beyond the exclusive economic zone of any nation;

(6) the nations of the South Pacific have agreed to a moratorium on the use of large-scale driftnets in the South Pacific through the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, which was agreed to in Wellington, New Zealand, on November 29, 1989; and

(7) increasing population pressures and new knowledge of the importance of living marine resources to the health of the global ecosystem demand that greater responsibility be exercised by persons fishing or developing new fisheries beyond the exclusive economic zone of any nation.

(c) Policy

It is declared to be the policy of the Congress in this section that the United States should—

(1) implement the moratorium called for by the United Nations General Assembly in Resolution Numbered 44–225;

(2) support the Tarawa Declaration and the Wellington Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific; and

(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

(d) International agreements

The Secretary, through the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall seek to secure international agreements to implement immediately the findings, policy, and provisions of this section, and in particular an international ban on large-scale driftnet fishing. The Secretary, through the Secretary of State, shall include, in any agreement which addresses the taking of living marine resources of the United States, provisions to ensure that—

(1) each large-scale driftnet fishing vessel of a foreign nation that is party to the agreement, including vessels that may operate independently to develop new fishing areas, which operate beyond the exclusive economic zone of any nation, is included in such agreement;

(2) each large-scale driftnet fishing vessel of a foreign nation that is party to the agreement, which operates beyond the exclusive economic zone of any nation, is equipped with satellite transmitters which provide real-time position information accessible to the United States;

(3) statistically reliable monitoring by the United States is carried out, through the use of on-board observers or through dedicated platforms provided by foreign nations that are parties to the agreement, of all target and nontarget fish species, marine mammals, sea turtles, and sea birds entangled or killed by large-scale driftnets used by fishing vessels of foreign nations that are parties to the agreement;

(4) officials of the United States have the right to board and inspect for violations of the agreement any large-scale driftnet fishing vessels operating under the flag of a foreign nation that is party to the agreement at any time while such vessel is operating in designated areas beyond the exclusive economic zone of any nation;

(5) all catch landed or transshipped at sea by large-scale driftnet fishing vessels of a foreign nation that is a party to the agreement, and which are operated beyond the exclusive economic zone of any nation, is reliably monitored and documented;

(6) time and area restrictions are imposed on the use of large-scale driftnets in order to prevent interception of anadromous species;

(7) all large-scale driftnets used are constructed, insofar as feasible, with biodegradable materials which break into segments that do not represent a threat to living marine resources;

(8) all large-scale driftnets are marked at appropriate intervals in a manner that conclusively identifies the vessel and flag nation responsible for each such driftnet;

(9) the taking of nontarget fish species, marine mammals, sea turtles, seabirds, and endangered species or other species protected by international agreements to which the United States is a party is minimized and does not pose a threat to existing fisheries or the long-term health of living marine resources; and

(10) definitive steps are agreed upon to ensure that parties to the agreement comply with the spirit of other international agreements and resolutions concerning the use of large-scale driftnets beyond the exclusive economic zone of any nation.

(e) Report

Not later than January 1, 1991, and every year thereafter until the purposes of this section are met, the Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report—

(1) describing the steps taken to carry out the provisions of this section, particularly subsection (c) of this section;

(2) evaluating the progress of those efforts, the impacts on living marine resources, including available observer data, and specifying plans for further action;

(3) containing a list and description of any new fisheries developed by nations that conduct, or authorize their nationals to conduct, large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

(4) containing a list of the nations that conduct, or authorize their nationals to conduct, large-scale driftnet fishing beyond the exclusive economic zone of any nation in a manner that diminishes the effectiveness of or is in-

consistent with any international agreement governing large-scale driftnet fishing to which the United States is a party or otherwise subscribes.

(f) Certification

If at any time the Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, identifies any nation that warrants inclusion in the list described under subsection (e)(4) of this section, the Secretary shall certify that fact to the President. Such certification shall be deemed to be a certification for the purposes of section 1978(a) of title 22.

(g) Effect on sovereign rights

This section shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983, and reflected in this chapter or other existing law.

(h) "Living marine resources" defined

As used in this section, the term ''living marine resources'' includes fish, marine mammals, sea turtles, and seabirds and other waterfowl.

(Pub. L. 94–265, title II, §206, as added Pub. L. 95–6, §3(1), Feb. 21, 1977, 91 Stat. 15; amended Pub. L. 99–659, title I, §101(c)(2), Nov. 14, 1986, 100 Stat. 3707; Pub. L. 101–627, title I, §107(a), Nov. 28, 1990, 104 Stat. 4441; Pub. L. 104–297, title I, §105(f), Oct. 11, 1996, 110 Stat. 3569.)

REFERENCES IN TEXT

The Driftnet Impact Monitoring, Assessment, and Control Act of 1987, referred to in subsec. (a), is title IV of Pub. L. 100–220, which is set out as a note under section 1822 of this title.

Presidential Proclamation Numbered 5030, referred to in subsec. (g), is set out under section 1453 of this title.

This chapter, referred to in subsec. (g), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–297, §105(f)(1), redesignated pars. (5) and (6) as (3) and (4), respectively, and struck out former pars. (3) and (4) which read as follows:

''(3) identifying and evaluating the effectiveness of unilateral measures and multilateral measures, including sanctions, that are available to encourage nations to agree to and comply with this section, and recommendations for legislation to authorize any additional measures that are needed if those are considered ineffective;

''(4) identifying, evaluating, and making any recommendations considered necessary to improve the effectiveness of the law, policy, and procedures governing enforcement of the exclusive management authority of the United States over anadromous species against fishing vessels engaged in fishing beyond the exclusive economic zone of any nation;''.

Subsec. (f). Pub. L. 104–297, §105(f)(2), substituted ''subsection (e)(4) of this section'' for ''subsection (e)(6) of this section''.

1990—Pub. L. 101–627 amended section generally, substituting provisions relating to large-scale driftnet fishing for provisions relating to transitional provisions.

1986—Subsec. (b). Pub. L. 99–659 substituted ''exclusive economic zone'' for ''fishery conservation zone''.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§1826a. Denial of port privileges and sanctions for high seas large-scale driftnet fishing

(a) Denial of port privileges

(1) Publication of list

Not later than 30 days after November 2, 1992, and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

(2) Denial of port privileges

The Secretary of the Treasury shall, in accordance with recognized principles of international law—

(A) withhold or revoke the clearance required by section 60105 of title 46 for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1); and

(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States.

(3) Notification of nation

Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) Sanctions

(1) Identifications

(A) Initial identifications

Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing or illegal, unreported, or unregulated fishing beyond the exclusive economic zone of any nation; and

(ii) notify the President and that nation of the identification under clause (i).

(B) Additional identifications

At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing or illegal, unreported, or unregulated fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

(ii) notify the President and that nation of the identification under clause (i).

(2) Consultations

Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing or illegal, unreported, or unregulated fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) Prohibition on imports of fish and fish products and sport fishing equipment

(A) Prohibition

The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A); or

(ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within ninety days, shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of title 26) from that nation.

(B) Implementation of prohibition

With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is forty-five days after the date on which the Secretary has received the direction from the President.

(C) Public notice of prohibition

Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) Additional economic sanctions

(A) Determination of effectiveness of sanctions

Not later than six months after the date the Secretary of Commerce identifies a nation under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing or illegal, unreported, or unregulated fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation; or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) Certification

The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) Effect of certification

Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 1978(a) of title 22.

(Pub. L. 102–582, title I, § 101, Nov. 2, 1992, 106 Stat. 4901; Pub. L. 109–479, title IV, § 403(b)(1), Jan. 12, 2007, 120 Stat. 3632.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(3)(B), is Pub. L. 102–582, Nov. 2, 1992, 106 Stat. 4900, known as the High Seas Driftnet Fisheries Enforcement Act, which enacted sections 1826a to 1826c of this title and section 1707a of the former Appendix to Title 46, Shipping, amended sections 1362, 1371, 1852, and 1862 of this title, section 1978 of Title 22, Foreign Relations and Intercourse, and section 2110 of Title 46, repealed section 1111c of the former Appendix to Title 46, and enacted provisions set out as notes under this section and sections 1801, 1823, and 1861 of this title and section 2110 of Title 46. For complete classification of this Act to the Code, see Short Title of 1992 Amendments note set out under section 1801 of this title and Tables.

CODIFICATION

In subsec. (a)(2)(A), ''section 60105 of title 46'' substituted for ''section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)'' on authority of Pub. L. 109–304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 60105 of Title 46, Shipping.

Section was enacted as part of the High Seas Driftnet Fisheries Enforcement Act, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

AMENDMENTS

2007—Subsec. (b)(1)(A)(i), (B), (2), (4)(A)(i). Pub. L. 109–479 inserted ''or illegal, unreported, or unregulated fishing'' after ''driftnet fishing''.

HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT; CONGRESSIONAL STATEMENT OF FINDINGS AND POLICY

Pub. L. 102–582, § 2, Nov. 2, 1992, 106 Stat. 4900, as amended by Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that:

''(a) FINDINGS.—Congress makes the following findings:

''(1) Large-scale driftnet fishing on the high seas is highly destructive to the living marine resources and

ocean ecosystems of the world's oceans, including anadromous fish and other living marine resources of the United States.

''(2) The cumulative effects of large-scale driftnet fishing pose a significant threat to the marine ecosystem, and slow-reproducing species like marine mammals, sharks, and seabirds may require many years to recover.

''(3) Members of the international community have reviewed the best available scientific data on the impacts of large-scale pelagic driftnet fishing, and have failed to conclude that this practice has no significant adverse impacts which threaten the conservation and sustainable management of living marine resources.

''(4) The United Nations, via General Assembly Resolutions numbered 44–225, 45–197, and most recently 46–215 (adopted on December 20, 1991), has called for a worldwide moratorium on all high seas driftnet fishing by December 31, 1992, in all the world's oceans, including enclosed seas and semi-enclosed seas.

''(5) The United Nations has commended the unilateral, regional, and international efforts undertaken by members of the international community and international organizations to implement and support the objectives of the General Assembly resolutions.

''(6) Operative paragraph (4) of United Nations General Assembly Resolution numbered 46–215 specifically 'encourages all members of the international community to take measures individually and collectively to prevent large-scale pelagic driftnet fishing operations on the high seas of the world's oceans and seas'.

''(7) The United States, in section 307(1)(M) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857(1)(M)), has specifically prohibited the practice of large-scale driftnet fishing by United States nationals and vessels both within the exclusive economic zone of the United States and beyond the exclusive economic zone of any nation.

''(8) The Senate, through Senate Resolution 396 of the One Hundredth Congress (approved on March 18, 1988), has called for a moratorium on fishing in the Central Bering Sea and the United States has taken concrete steps to implement such moratorium through international negotiations.

''(9) Despite the continued evidence of a decline in the fishery resources of the Bering Sea and the multiyear cooperative negotiations undertaken by the United States, the Russian Federation, Japan, and other concerned fishing nations, some nations refuse to agree to measures to reduce or eliminate unregulated fishing practices in the waters of the Bering Sea beyond the exclusive economic zones of the United States and the Russian Federation.

''(10) In order to ensure that the global moratorium on large-scale driftnet fishing called for in United Nations General Assembly Resolution numbered 46–215 takes effect by December 31, 1992, and that unregulated fishing practices in the waters of the Central Bering Sea are reduced or eliminated, the United States should take the actions described in this Act [see Short Title of 1992 Amendments note set out under section 1801 of this title] and encourage other nations to take similar action.

''(b) POLICY.—It is the stated policy of the United States to—

''(1) implement United Nations General Assembly Resolution numbered 46–215, approved unanimously on December 20, 1991, which calls for an immediate cessation to further expansion of large-scale driftnet fishing, a 50 percent reduction in existing large-scale driftnet fishing effort by June 30, 1992, and a global moratorium on the use of large-scale driftnets beyond the exclusive economic zone of any nation by December 31, 1992;

''(2) bring about a moratorium on fishing in the Central Bering Sea, or an international conservation and management agreement to which the United States and the Russian Federation are parties that regulates fishing in the Central Bering Sea; and

''(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.''

§ 1826b. Duration of denial of port privileges and sanctions

Any denial of port privileges or sanction under section 1826a of this title with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that such nation has terminated large-scale driftnet fishing or illegal, unreported, or unregulated fishing by its nationals and vessels beyond the exclusive economic zone of any nation.

(Pub. L. 102–582, title I, § 102, Nov. 2, 1992, 106 Stat. 4903; Pub. L. 109–479, title IV, § 403(b)(2), Jan. 12, 2007, 120 Stat. 3632.)

CODIFICATION

Section was enacted as part of the High Seas Driftnet Fisheries Enforcement Act, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

AMENDMENTS

2007—Pub. L. 109–479 inserted ''or illegal, unreported, or unregulated fishing'' after ''driftnet fishing''.

§ 1826c. Definitions

In sections 1826a to 1826c of this title, the following definitions apply:

(1) Fish and fish products

The term ''fish and fish products'' means any aquatic species (including marine mammals and plants) and all products thereof exported from a nation, whether or not taken by fishing vessels of that nation or packed, processed, or otherwise prepared for export in that nation or within the jurisdiction thereof.

(2) Large-scale driftnet fishing

(A) In general

Except as provided in subparagraph (B), the term ''large-scale driftnet fishing'' means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) Exception

Until January 1, 1994, the term ''large-scale driftnet fishing'' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed five kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) Large-scale driftnet fishing vessel

The term ''large-scale driftnet fishing vessel'' means any vessel which is—

(A) used for, equipped to be used for, or of a type which is normally used for large-scale driftnet fishing; or

(B) used for aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

(Pub. L. 102–582, title I, § 104, Nov. 2, 1992, 106 Stat. 4903.)

REFERENCES IN TEXT

Sections 1826a to 1826c of this title, referred to in text, was in the original ''this title'', meaning title I of Pub. L. 102–582, Nov. 2, 1992, 106 Stat. 4901, which enacted sections 1826a to 1826c of this title and amended section 1371 of this title. For complete classification of title I to the Code, see Tables.

CODIFICATION

Section was enacted as part of the High Seas Driftnet Fisheries Enforcement Act, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

§ 1826d. Prohibition

The United States, or any agency or official acting on behalf of the United States, may not enter into any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that would prevent full implementation of the global moratorium on large-scale driftnet fishing on the high seas, as such moratorium is expressed in Resolution 46/215 of the United Nations General Assembly.

(Pub. L. 104–43, title VI, § 603, Nov. 3, 1995, 109 Stat. 392.)

CODIFICATION

Section was enacted as part of the High Seas Driftnet Fishing Moratorium Protection Act, and also as part of the Fisheries Act of 1995, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

CONGRESSIONAL FINDINGS

Section 602 of Pub. L. 104–43 provided that: ''The Congress finds that—

''(1) Congress has enacted and the President has signed into law numerous Acts to control or prohibit large-scale driftnet fishing both within the jurisdiction of the United States and beyond the exclusive economic zone of any nation, including the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (title IV, Public Law 100–220) [16 U.S.C. 1822 note], the Driftnet Act Amendments of 1990 (Public Law 101–627) [16 U.S.C. 1826], and the High Seas Driftnet Fisheries Enforcement Act (title I, Public Law 102–582) [see Short Title of 1992 Amendment note set out under section 1801 of this title];

''(2) the United States is a party to the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, also known as the Wellington Convention;

''(3) the General Assembly of the United Nations has adopted three resolutions and three decisions which established and reaffirm a global moratorium on large-scale driftnet fishing on the high seas, beginning with Resolution 44/225 in 1989 and most recently in Decision 48/445 in 1993;

''(4) the General Assembly of the United Nations adopted these resolutions and decisions at the request of the United States and other concerned nations;

''(5) the best scientific information demonstrates the wastefulness and potentially destructive impacts of large-scale driftnet fishing on living marine resources and seabirds; and

''(6) Resolution 46/215 of the United Nations General Assembly calls on all nations, both individually and collectively, to prevent large-scale driftnet fishing on the high seas.''

§ 1826e. Negotiations

The Secretary of State, on behalf of the United States, shall seek to enhance the implementation and effectiveness of the United Nations General Assembly resolutions and decisions regarding the moratorium on large-scale driftnet fishing on the high seas through appropriate international agreements and organizations.

(Pub. L. 104–43, title VI, § 604, Nov. 3, 1995, 109 Stat. 392.)

CODIFICATION

Section was enacted as part of the High Seas Driftnet Fishing Moratorium Protection Act, and also as part of the Fisheries Act of 1995, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

§ 1826f. Certification

The Secretary of State shall determine in writing prior to the signing or provisional application by the United States of any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that the prohibition contained in section 1826d of this title will not be violated if such agreement is signed or provisionally applied.

(Pub. L. 104–43, title VI, § 605, Nov. 3, 1995, 109 Stat. 392.)

CODIFICATION

Section was enacted as part of the High Seas Driftnet Fishing Moratorium Protection Act, and also as part of the Fisheries Act of 1995, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

§ 1826g. Enforcement

The President shall utilize appropriate assets of the Department of Defense, the United States Coast Guard, and other Federal agencies to detect, monitor, and prevent violations of the United Nations moratorium on large-scale driftnet fishing on the high seas for all fisheries under the jurisdiction of the United States and, in the case of fisheries not under the jurisdiction of the United States, to the fullest extent permitted under international law.

(Pub. L. 104–43, title VI, § 606, Nov. 3, 1995, 109 Stat. 392.)

CODIFICATION

Section was enacted as part of the High Seas Driftnet Fishing Moratorium Protection Act, and also as part of the Fisheries Act of 1995, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections

468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1826h. Biennial report on international compliance

The Secretary, in consultation with the Secretary of State, shall provide to Congress, by not later than 2 years after January 12, 2007, and every 2 years thereafter, a report that includes—

(1) the state of knowledge on the status of international living marine resources shared by the United States or subject to treaties or agreements to which the United States is a party, including a list of all such fish stocks classified as overfished, overexploited, depleted, endangered, or threatened with extinction by any international or other authority charged with management or conservation of living marine resources;

(2) a list of nations whose vessels have been identified under section 1826j(a) or 1826k(a) of this title, including the specific offending activities and any subsequent actions taken pursuant to section 1826j or 1826k of this title;

(3) a description of efforts taken by nations on those lists to comply take appropriate corrective action consistent with sections 1826j and 1826k of this title, and an evaluation of the progress of those efforts, including steps taken by the United States to implement those sections and to improve international compliance;

(4) progress at the international level, consistent with section 1826i of this title, to strengthen the efforts of international fishery management organizations to end illegal, unreported, or unregulated fishing; and

(5) steps taken by the Secretary at the international level to adopt international measures comparable to those of the United States to reduce impacts of fishing and other practices on protected living marine resources, if no international agreement to achieve such goal exists, or if the relevant international fishery or conservation organization has failed to implement effective measures to end or reduce the adverse impacts of fishing practices on such species.

(Pub. L. 104–43, title VI, § 607, as added Pub. L. 109–479, title IV, § 403(a), Jan. 12, 2007, 120 Stat. 3626.)

CODIFICATION

Section was enacted as part of the High Seas Driftnet Fishing Moratorium Protection Act, and also as part of the Fisheries Act of 1995, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

§ 1826i. Action to strengthen international fishery management organizations

The Secretary, in consultation with the Secretary of State, and in cooperation with relevant fishery management councils and any relevant advisory committees, shall take actions to improve the effectiveness of international fishery management organizations in conserving and managing fish stocks under their jurisdiction. These actions shall include—

(1) urging international fishery management organizations to which the United States is a member—

(A) to incorporate multilateral market-related measures against member or nonmember governments whose vessels engage in illegal, unreported, or unregulated fishing;

(B) to seek adoption of lists that identify fishing vessels and vessel owners engaged in illegal, unreported, or unregulated fishing that can be shared among all members and other international fishery management organizations;

(C) to seek international adoption of a centralized vessel monitoring system in order to monitor and document capacity in fleets of all nations involved in fishing in areas under an international fishery management organization's jurisdiction;

(D) to increase use of observers and technologies needed to monitor compliance with conservation and management measures established by the organization, including vessel monitoring systems and automatic identification systems;

(E) to seek adoption of stronger port state controls in all nations, particularly those nations in whose ports vessels engaged in illegal, unreported, or unregulated fishing land or transship fish; and

(F) to adopt shark conservation measures, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea;

(2) urging international fishery management organizations to which the United States is a member, as well as all members of those organizations, to adopt and expand the use of market-related measures to combat illegal, unreported, or unregulated fishing, including—

(A) import prohibitions, landing restrictions, or other market-based measures needed to enforce compliance with international fishery management organization measures, such as quotas and catch limits;

(B) import restrictions or other market-based measures to prevent the trade or importation of fish caught by vessels identified multilaterally as engaging in illegal, unreported, or unregulated fishing; and

(C) catch documentation and certification schemes to improve tracking and identification of catch of vessels engaged in illegal, unreported, or unregulated fishing, including advance transmission of catch documents to ports of entry;

(3) seeking to enter into international agreements that require measures for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that are comparable to those of the United States, taking into account different conditions; and

(4) urging other nations at bilateral, regional, and international levels, including the Convention on International Trade in Endangered Species of Fauna and Flora and the

World Trade Organization to take all steps necessary, consistent with international law, to adopt measures and policies that will prevent fish or other living marine resources harvested by vessels engaged in illegal, unreported, or unregulated fishing from being traded or imported into their nation or territories.

(Pub. L. 104–43, title VI, § 608, as added Pub. L. 109–479, title IV, § 403(a), Jan. 12, 2007, 120 Stat. 3627; amended Pub. L. 111–348, title I, § 102(a), Jan. 4, 2011, 124 Stat. 3668.)

CODIFICATION

Section was enacted as part of the High Seas Driftnet Fishing Moratorium Protection Act, and also as part of the Fisheries Act of 1995, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

AMENDMENTS

2011—Par. (1)(F). Pub. L. 111–348, § 102(a)(1), added subpar. (F).

Par. (2)(C). Pub. L. 111–348, § 102(a)(2), struck out ''and'' at end.

Par. (3). Pub. L. 111–348, § 102(a)(4), added par. (3). Former par. (3) redesignated (4).

Par. (4). Pub. L. 111–348, § 102(a)(3), redesignated par. (3) as (4).

§ 1826j. Illegal, unreported, or unregulated fishing

(a) Identification

The Secretary shall identify, and list in the report under section 1826h of this title, a nation if fishing vessels of that nation are engaged, or have been engaged at any point during the preceding 2 years, in illegal, unreported, or unregulated fishing—

(1) the relevant international fishery management organization has failed to implement effective measures to end the illegal, unreported, or unregulated fishing activity by vessels of that nation or the nation is not a party to, or does not maintain cooperating status with, such organization; or

(2) where no international fishery management organization exists with a mandate to regulate the fishing activity in question.

(b) Notification

An identification under subsection (a) or section 1826k(a) of this title is deemed to be an identification under section 1826a(b)(1)(A) of this title, and the Secretary shall notify the President and that nation of such identification.

(c) Consultation

No later than 60 days after submitting a report to Congress under section 1826h of this title, the Secretary, acting through the Secretary of State, shall—

(1) notify nations listed in the report of the requirements of this section;

(2) initiate consultations for the purpose of encouraging such nations to take the appropriate corrective action with respect to the offending activities of their fishing vessels identified in the report; and

(3) notify any relevant international fishery management organization of the actions taken by the United States under this section.

(d) IUU certification procedure

(1) Certification

The Secretary shall establish a procedure, consistent with the provisions of subchapter II of chapter 5 of title 5, for determining if a nation identified under subsection (a) and listed in the report under section 1826h of this title has taken appropriate corrective action with respect to the offending activities of its fishing vessels identified in the report under section 1826h of this title. The certification procedure shall provide for notice and an opportunity for comment by any such nation. The Secretary shall determine, on the basis of the procedure, and certify to the Congress no later than 90 days after the date on which the Secretary promulgates a final rule containing the procedure, and biennially thereafter in the report under section 1826h of this title—

(A) whether the government of each nation identified under subsection (a) has provided documentary evidence that it has taken corrective action with respect to the offending activities of its fishing vessels identified in the report; or

(B) whether the relevant international fishery management organization has implemented measures that are effective in ending the illegal, unreported, or unregulated fishing activity by vessels of that nation.

(2) Alternative procedure

The Secretary may establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation not certified under paragraph (1) if the Secretary determines that—

(A) the vessel has not engaged in illegal, unreported, or unregulated fishing under an international fishery management agreement to which the United States is a party; or

(B) the vessel is not identified by an international fishery management organization as participating in illegal, unreported, or unregulated fishing activities.

(3) Effect of certification

(A) In general

The provisions of section 1826a(a) and section 1826a(b)(3) and (4) of this title—

(i) shall apply to any nation identified under subsection (a) that has not been certified by the Secretary under this subsection, or for which the Secretary has issued a negative certification under this subsection; but

(ii) shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

(B) Exceptions

Subparagraph (A)(i) does not apply—

(i) to the extent that such provisions would apply to sport fishing equipment or to fish or fish products not managed under the applicable international fishery agreement; or

(ii) if there is no applicable international fishery agreement, to the extent that such

provisions would apply to fish or fish products caught by vessels not engaged in illegal, unreported, or unregulated fishing.

(e) Illegal, unreported, or unregulated fishing defined

(1) In general

In sections 1826d to 1826k of this title the term ''illegal, unreported, or unregulated fishing'' has the meaning established under paragraph (2).

(2) Secretary to define term within legislative guidelines

Within 3 months after January 12, 2007, the Secretary shall publish a definition of the term ''illegal, unreported, or unregulated fishing'' for purposes of sections 1826d to 1826k of this title.

(3) Guidelines

The Secretary shall include in the definition, at a minimum—

(A) fishing activities that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, including catch limits or quotas, capacity restrictions, bycatch reduction requirements, and shark conservation measures;

(B) overfishing of fish stocks shared by the United States, for which there are no applicable international conservation or management measures or in areas with no applicable international fishery management organization or agreement, that has adverse impacts on such stocks; and

(C) fishing activity that has an adverse impact on seamounts, hydrothermal vents, and cold water corals located beyond national jurisdiction, for which there are no applicable conservation or management measures or in areas with no applicable international fishery management organization or agreement.

(f) Authorization of appropriations

There are authorized to be appropriated to the Secretary for fiscal years 2007 through 2013 such sums as are necessary to carry out this section.

(Pub. L. 104–43, title VI, § 609, as added Pub. L. 109–479, title IV, § 403(a), Jan. 12, 2007, 120 Stat. 3628; amended Pub. L. 111–348, title I, § 102(b), Jan. 4, 2011, 124 Stat. 3669.)

REFERENCES IN TEXT

Section 1826a(a) and section 1826a(b)(3) and (4) of this title, referred to in subsec. (d)(3)(A), was in the original ''section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4))'' and was translated as meaning section 101(a) and section 101(b)(3) and (4) of the High Seas Driftnet Fisheries Enforcement Act, to reflect the probable intent of Congress.

Sections 1826d to 1826k of this title, referred to in subsec. (e)(1), (2), was in the original ''this Act'' and was translated as reading ''this title'' meaning title VI of Pub. L. 104–43, Nov. 3, 1995, 109 Stat. 391, known as the High Seas Driftnet Fishing Moratorium Protection Act. For complete classification of title VI to the Code, see Short Title of 1995 Amendment note set out under section 1801 of this title and Tables.

CODIFICATION

Section was enacted as part of the High Seas Driftnet Fishing Moratorium Protection Act, and also as part of the Fisheries Act of 1995, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

AMENDMENTS

2011—Subsec. (e)(3)(A). Pub. L. 111–348 substituted ''bycatch reduction requirements, and shark conservation measures;'' for ''and bycatch reduction requirements;''.

§ 1826k. Equivalent conservation measures

(a) Identification

The Secretary shall identify, and list in the report under section 1826h of this title—

(1) a nation if—

(A) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year in fishing activities or practices;[1]

(i) in waters beyond any national jurisdiction that result in bycatch of a protected living marine resource; or

(ii) beyond the exclusive economic zone of the United States that result in bycatch of a protected living marine resource shared by the United States;

(B) the relevant international organization for the conservation and protection of such resources or the relevant international or regional fishery organization has failed to implement effective measures to end or reduce such bycatch, or the nation is not a party to, or does not maintain cooperating status with, such organization; and

(C) the nation has not adopted a regulatory program governing such fishing practices designed to end or reduce such bycatch that is comparable to that of the United States, taking into account different conditions; and

(2) a nation if—

(A) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year, in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks; and

(B) the nation has not adopted a regulatory program to provide for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that is comparable to that of the United States, taking into account different conditions.

(b) Consultation and negotiation

The Secretary, acting through the Secretary of State, shall—

(1) notify, as soon as possible, other nations whose vessels engage in fishing activities or practices described in subsection (a), about the provisions of sections 1826d to 1826k of this title;

(2) initiate discussions as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, fishing activities or practices described in subsection (a), for the purpose of en-

[1] So in original. The semicolon probably should be a dash.

tering into bilateral and multilateral treaties with such countries to protect such species;

(3) seek agreements calling for international restrictions on fishing activities or practices described in subsection (a) through the United Nations, the Food and Agriculture Organization's Committee on Fisheries, and appropriate international fishery management bodies; and

(4) initiate the amendment of any existing international treaty for the protection and conservation of such species to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section.

(c) Conservation certification procedure

(1) Determination

The Secretary shall establish a procedure consistent with the provisions of subchapter II of chapter 5 of title 5 for determining whether the government of a harvesting nation identified under subsection (a) and listed in the report under section 1826h of this title—

(A) has provided documentary evidence of the adoption of a regulatory program governing the conservation of the protected living marine resource that is comparable to that of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

(B) has established a management plan containing requirements that will assist in gathering species-specific data to support international stock assessments and conservation enforcement efforts for protected living marine resources.

(2) Procedural requirement

The procedure established by the Secretary under paragraph (1) shall include notice and opportunity for comment by any such nation.

(3) Certification

The Secretary shall certify to the Congress by January 31, 2007, and biennially thereafter whether each such nation has provided the documentary evidence described in paragraph (1)(A) and established a management plan described in paragraph (1)(B).

(4) Alternative procedure

The Secretary shall establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation not certified under paragraph (3) if the Secretary determines that such imports were harvested by practices that do not result in bycatch of a protected marine species, or were harvested by practices that—

(A) are comparable to those of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

(B) include the gathering of species specific data that can be used to support international and regional stock assessments and conservation efforts for protected living marine resources.

(5) Effect of certification

The provisions of section 1826a(a) and section 1826a(b)(3) and (4) of this title (except to the extent that such provisions apply to sport fishing equipment or fish or fish products not caught by the vessels engaged in illegal, unreported, or unregulated fishing) shall apply to any nation identified under subsection (a) that has not been certified by the Secretary under this subsection, or for which the Secretary has issued a negative certification under this subsection, but shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

(d) International cooperation and assistance

To the greatest extent possible consistent with existing authority and the availability of funds, the Secretary shall—

(1) provide appropriate assistance to nations identified by the Secretary under subsection (a) and international organizations of which those nations are members to assist those nations in qualifying for certification under subsection (c);

(2) undertake, where appropriate, cooperative research activities on species statistics and improved harvesting techniques, with those nations or organizations;

(3) encourage and facilitate the transfer of appropriate technology to those nations or organizations to assist those nations in qualifying for certification under subsection (c); and

(4) provide assistance to those nations or organizations in designing and implementing appropriate fish harvesting plans.

(e) Protected living marine resource defined

In this section the term ''protected living marine resource''—

(1) means non-target fish, sea turtles, or marine mammals that are protected under United States law or international agreement, including the Marine Mammal Protection Act [16 U.S.C. 1361 et seq.], the Endangered Species Act [16 U.S.C. 1531 et seq.], the Shark Finning Prohibition Act, and the Convention on International Trade in Endangered Species of Wild Flora and Fauna; but

(2) does not include species, except sharks, managed under the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1801 et seq.], the Atlantic Tunas Convention Act [16 U.S.C. 971 et seq.], or any international fishery management agreement.

(f) Authorization of appropriations

There are authorized to be appropriated to the Secretary for fiscal years 2007 through 2013 such sums as are necessary to carry out this section.

(Pub. L. 104–43, title VI, § 610, as added Pub. L. 109–479, title IV, § 403(a), Jan. 12, 2007, 120 Stat. 3630; amended Pub. L. 111–348, title I, § 102(c)(1), Jan. 4, 2011, 124 Stat. 3669.)

REFERENCES IN TEXT

Sections 1826d to 1826k of this title, referred to in subsec. (b)(1), was in the original ''this section and this

Act'' and was translated as reading ''this section and this title'' meaning title VI of Pub. L. 104–43, Nov. 3, 1995, 109 Stat. 391, known as the High Seas Driftnet Fishing Moratorium Protection Act. For complete classification of title VI to the Code, see Short Title of 1995 Amendment note set out under section 1801 of this title and Tables.

Section 1826a(a) and section 1826a(b)(3) and (4) of this title, referred to in subsec. (c)(5), was in the original ''section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4))'' and was translated as meaning section 101(a) and section 101(b)(3) and (4) of the High Seas Driftnet Fisheries Enforcement Act, to reflect the probable intent of Congress.

The Marine Mammal Protection Act, referred to in subsec. (e)(1), probably means the Marine Mammal Protection Act of 1972, Pub. L. 92–522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to chapter 31 (§ 1361 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

The Endangered Species Act, referred to in subsec. (e)(1), probably means the Endangered Species Act of 1973, Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified principally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Shark Finning Prohibition Act, referred to in subsec. (e)(1), is Pub. L. 106–557, Dec. 21, 2000, 114 Stat. 2772, which is set out as a note under section 1822 of this title. For complete classification of this Act to the Code, see Tables.

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (e)(2), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Atlantic Tunas Convention Act, referred to in subsec. (e)(2), probably means the Atlantic Tunas Convention Act of 1975, Pub. L. 94–70, Aug. 5, 1975, 89 Stat. 385, as amended, which is classified generally to chapter 16A (§ 971 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 971 of this title and Tables.

CODIFICATION

Section was enacted as part of the High Seas Driftnet Fishing Moratorium Protection Act, and also as part of the Fisheries Act of 1995, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

AMENDMENTS

2011—Subsec. (a). Pub. L. 111–348, § 102(c)(1)(A), struck out '', a nation if'' after ''section 1826h of this title'' in introductory provisions.

Pub. L. 111–348, § 102(c)(1)(B)–(G), redesignated pars. (1) to (3) as subpars. (A) to (C), respectively, realigned margins, inserted ''(1) a nation if—'' before subpar. (A), as so redesignated, redesignated former subpars. (A) and (B) of par. (1) as cls. (i) and (ii) of subpar. (A), respectively, realigned margins, and added par. (2).

INITIAL IDENTIFICATIONS

Pub. L. 111–348, title I, § 102(c)(2), Jan. 4, 2011, 124 Stat. 3669, provided that: ''The Secretary of Commerce shall begin making identifications under paragraph (2) of section 610(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(a)), as added by paragraph (1)(G), not later than 1 year after the date of the enactment of this Act [Jan. 4, 2011].''

§ 1827. Observer program regarding certain foreign fishing

(a) Definitions

As used in this section—

(1) The term ''Act of 1976'' means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) The term ''billfish'' means any species of marlin, spearfish, sailfish or swordfish.

(3) The term ''Secretary'' means the Secretary of Commerce.

(b) Observer program

The Secretary shall establish a program under which a United States observer will be stationed aboard each foreign fishing vessel while that vessel—

(1) is in waters that are within—

(A) the fishery conservation zone established under section 101 of the Act of 1976 [16 U.S.C. 1811],[1] and

(B) the Convention area as defined in Article I of the International Convention for the Conservation of Atlantic Tunas; and

(2) is taking or attempting to take any species of fish if such taking or attempting to take may result in the incidental taking of billfish.

The Secretary may acquire observers for such program through contract with qualified private persons.

(c) Functions of observers

United States observers, while aboard foreign fishing vessels as required under subsection (b) of this section, shall carry out such scientific and other functions as the Secretary deems necessary or appropriate to carry out this section.

(d) Fees

There is imposed for each year after 1980 on the owner or operator of each foreign fishing vessel that, in the judgment of the Secretary, will engage in fishing in waters described in subsection (b)(1) of this section during that year which may result in the incidental taking of billfish a fee in an amount sufficient to cover all of the costs of providing an observer aboard that vessel under the program established under subsection (a) of this section. The fees imposed under this subsection for any year shall be paid to the Secretary before that year begins. All fees collected by the Secretary under this subsection shall be deposited in the Fund established by subsection (e) of this section.

(e) Fund

There is established in the Treasury of the United States the Foreign Fishing Observer Fund. The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out this section. The Fund shall consist of the fees deposited into it as required under subsection (d) of this section. All payments made by the Secretary to carry out this section shall be paid from the Fund, only to the extent and in the amounts provided for in advance in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(f) Prohibited acts

(1) It is unlawful for any person who is the owner or operator of a foreign fishing vessel to which this section applies—

[1] See References in Text note below.

(A) to violate any regulation issued under subsection (g) of this section;

(B) to refuse to pay the fee imposed under subsection (d) of this section after being requested to do so by the Secretary; or

(C) to refuse to permit an individual who is authorized to act as an observer under this section with respect to that vessel to board the vessel for purposes of carrying out observer functions.

(2) Section 308 of the Act of 1976 [16 U.S.C. 1858] (relating to civil penalties) applies to any act that is unlawful under paragraph (1), and for purposes of such application the commission of any such act shall be treated as an act the commission of which is unlawful under section 307 of the Act of 1976 [16 U.S.C. 1857].

(g) Regulations

The Secretary shall issue such regulations as are necessary or appropriate to carry out this section.

(Pub. L. 96–339, § 2, Sept. 4, 1980, 94 Stat. 1069; Pub. L. 96–561, title II, § 238(b), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (a)(1), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Section 101 of the Act of 1976 [16 U.S.C. 1811], referred to in subsec. (b)(1)(A), which established the fishery conservation zone, was amended generally by Pub. L. 99–659, title I, § 101(b), Nov. 14, 1986, 100 Stat. 3706, and now relates to United States sovereign rights to fish and fishery management authority within the exclusive economic zone.

CODIFICATION

Section was not enacted as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–208 substituted ''Magnuson-Stevens Fishery'' for ''Magnuson Fishery''.

1980—Subsec. (a)(1). Pub. L. 96–561 substituted ''Magnuson Fishery Conservation and Management Act'' for ''Fishery Conservation and Management Act of 1976''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, § 211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 238(b) of Pub. L. 96–561 provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

§ 1828. Foreign fishing incursions

(a) In general

Not later than 180 days after July 11, 2006, the Secretary of the department in which the Coast Guard is operating shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on steps that the Coast Guard will take to significantly improve the Coast Guard's detection and interdiction of illegal incursions into the United States exclusive economic zone by foreign fishing vessels.

(b) Specific issues to be addressed

The report shall—

(1) focus on areas in the exclusive economic zone where the Coast Guard has failed to detect or interdict such incursions in the 4-fiscal-year period beginning with fiscal year 2000, including such areas in the Western/Central Pacific and the Bering Sea; and

(2) include an evaluation of the potential use of unmanned aircraft and offshore platforms for detecting or interdicting such incursions.

(c) Biennial updates

The Secretary shall provide biannual reports updating the Coast Guard's progress in detecting or interdicting such incursions to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(Pub. L. 109–241, title VIII, § 804, July 11, 2006, 120 Stat. 563.)

CODIFICATION

Section was enacted as part of the Coast Guard and Maritime Transportation Act of 2006, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

COMBINATION OF FISHERIES ENFORCEMENT PLANS AND FOREIGN FISHING INCURSION REPORTS

Pub. L. 111–207, § 4(b), July 27, 2010, 124 Stat. 2251, provided that: ''The Secretary of the department in which the Coast Guard is operating shall combine the reports required under section 224 of the Coast Guard and Maritime Transportation Act of 2004 (16 U.S.C. 1861b) and section 804 of the Coast Guard and Maritime Transportation Act of 2006 (16 U.S.C. 1828) into a single annual report for fiscal years beginning after fiscal year 2010.''

§ 1829. International monitoring and compliance

(a) In general

The Secretary may undertake activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and to implement the requirements of this subchapter.

(b) Specific authorities

In carrying out subsection (a), the Secretary may—

(1) share information on harvesting and processing capacity and illegal, unreported and unregulated fishing on the high seas, in areas covered by international fishery management agreements, and by vessels of other nations within the United States exclusive economic zone, with relevant law enforcement organizations of foreign nations and relevant international organizations;

(2) further develop real time information sharing capabilities, particularly on harvesting and processing capacity and illegal, unreported and unregulated fishing;

(3) participate in global and regional efforts to build an international network for monitor-

ing, control, and surveillance of high seas fishing and fishing under regional or global agreements;

(4) support efforts to create an international registry or database of fishing vessels, including by building on or enhancing registries developed by international fishery management organizations;

(5) enhance enforcement capabilities through the application of commercial or governmental remote sensing technology to locate or identify vessels engaged in illegal, unreported, or unregulated fishing on the high seas, including encroachments into the exclusive economic zone by fishing vessels of other nations;

(6) provide technical or other assistance to developing countries to improve their monitoring, control, and surveillance capabilities; and

(7) support coordinated international efforts to ensure that all large-scale fishing vessels operating on the high seas are required by their flag State to be fitted with vessel monitoring systems no later than December 31, 2008, or earlier if so decided by the relevant flag State or any relevant international fishery management organization.

(Pub. L. 94–265, title II, §207, as added Pub. L. 109–479, title IV, §401, Jan. 12, 2007, 120 Stat. 3625.)

SUBCHAPTER IV—NATIONAL FISHERY MANAGEMENT PROGRAM

§ 1851. National standards for fishery conservation and management

(a) In general

Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this subchapter shall be consistent with the following national standards for fishery conservation and management:

(1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

(2) Conservation and management measures shall be based upon the best scientific information available.

(3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

(4) Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(5) Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

(6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

(8) Conservation and management measures shall, consistent with the conservation requirements of this chapter (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of paragraph (2), in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

(9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

(10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

(b) Guidelines

The Secretary shall establish advisory guidelines (which shall not have the force and effect of law), based on the national standards, to assist in the development of fishery management plans.

(Pub. L. 94–265, title III, §301, Apr. 13, 1976, 90 Stat. 346; Pub. L. 97–453, §4, Jan. 12, 1983, 96 Stat. 2484; Pub. L. 98–623, title IV, §404(3), Nov. 8, 1984, 98 Stat. 3408; Pub. L. 104–297, title I, §106, Oct. 11, 1996, 110 Stat. 3570; Pub. L. 109–479, title I, §101(a), Jan. 12, 2007, 120 Stat. 3579.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(8), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

2007—Subsec. (a)(8). Pub. L. 109–479 inserted ''by utilizing economic and social data that meet the requirements of paragraph (2),'' after ''fishing communities''.

1996—Subsec. (a)(5). Pub. L. 104–297, §106(a), substituted ''consider efficiency'' for ''promote efficiency''.

Subsec. (a)(8) to (10). Pub. L. 104–297, §106(b), added pars. (8) to (10).

1984—Subsec. (a)(1). Pub. L. 98–623 inserted ''for the United States fishing industry''.

1983—Subsec. (b). Pub. L. 97–453 substituted ''advisory guidelines (which shall not have the force and effect of law)'' for ''guidelines''.

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–146, §1, Dec. 16, 1997, 111 Stat. 2672, provided that: ''This Act [repealing section 757g of this title, amending provisions set out as notes under this section and listed in a table of National Wildlife Conservation Areas set out under section 668dd of this title, and repealing provisions set out as notes under this section] may be cited as the 'Atlantic Striped Bass Conservation Act Amendments of 1997'.''

LONGLINE CATCHER PROCESSOR SUBSECTOR SINGLE FISHERY COOPERATIVE

Pub. L. 111–335, Dec. 22, 2010, 124 Stat. 3583, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Longline Catcher Processor Subsector Single Fishery Cooperative Act'.

''SEC. 2. AUTHORITY TO APPROVE AND IMPLEMENT A SINGLE FISHERY COOPERATIVE FOR THE LONGLINE CATCHER PROCESSOR SUBSECTOR IN THE BSAI.

''(a) IN GENERAL.—Upon the request of eligible members of the longline catcher processor subsector holding at least 80 percent of the licenses issued for that subsector, the Secretary is authorized to approve a single fishery cooperative for the longline catcher processor subsector in the BSAI.

''(b) LIMITATION.—A single fishery cooperative approved under this section shall include a limitation prohibiting any eligible member from harvesting a total of more than 20 percent of the Pacific cod available to be harvested in the longline catcher processor subsector, the violation of which is subject to the penalties, sanctions, and forfeitures under section 308 of the Magnuson-Stevens Act (16 U.S.C. 1858), except that such limitation shall not apply to harvest amounts from quota assigned explicitly to a CDQ group as part of a CDQ allocation to an entity established by section 305(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)).

''(c) CONTRACT SUBMISSION AND REVIEW.—The longline catcher processor subsector shall submit to the Secretary—

''(1) not later than November 1 of each year, a contract to implement a single fishery cooperative approved under this section for the following calendar year; and

''(2) not later than 60 days prior to the commencement of fishing under the single fishery cooperative, any interim modifications to the contract submitted under paragraph (1).

''(d) DEPARTMENT OF JUSTICE REVIEW.—Not later than November 1 before the first year of fishing under a single fishery cooperative approved under this section, the longline catcher processor sector shall submit to the Secretary a copy of a letter from a party to the contract under subsection (c)(1) requesting a business review letter from the Attorney General and any response to such request.

''(e) IMPLEMENTATION.—The Secretary shall implement a single fishery cooperative approved under this section not later than 2 years after receiving a request under subsection (a).

''(f) STATUS QUO FISHERY.—If the longline catcher processor subsector does not submit a contract to the Secretary under subsection (c) then the longline catcher processor subsector in the BSAI shall operate as a limited access fishery for the following year subject to the license limitation program in effect for the longline catcher processor subsector on the date of enactment of this Act [Dec. 22, 2010] or any subsequent modifications to the license limitation program recommended by the Council and approved by the Secretary.

''SEC. 3. HARVEST AND PROHIBITED SPECIES ALLOCATIONS TO A SINGLE FISHERY COOPERATIVE FOR THE LONGLINE CATCHER PROCESSOR SUBSECTOR IN THE BSAI.

''A single fishery cooperative approved under section 2 may, on an annual basis, collectively—

''(1) harvest the total amount of BSAI Pacific cod total allowable catch, less any amount allocated to the longline catcher processor subsector non-cooperative limited access fishery;

''(2) utilize the total amount of BSAI Pacific cod prohibited species catch allocation, less any amount allocated to a longline catcher processor subsector non-cooperative limited access fishery; and

''(3) harvest any reallocation of Pacific cod to the longline catcher processor subsector during a fishing year by the Secretary.

''SEC. 4. LONGLINE CATCHER PROCESSOR SUBSECTOR NON-COOPERATIVE LIMITED ACCESS FISHERY.

''(a) IN GENERAL.—An eligible member that elects not to participate in a single fishery cooperative approved under section 2 shall operate in a non-cooperative limited access fishery subject to the license limitation program in effect for the longline catcher processor subsector on the date of enactment of this Act [Dec. 22, 2010] or any subsequent modifications to the license limitation program recommended by the Council and approved by the Secretary.

''(b) HARVEST AND PROHIBITED SPECIES ALLOCATIONS.—Eligible members operating in a non-cooperative limited access fishery under this section may collectively—

''(1) harvest the percentage of BSAI Pacific cod total allowable catch equal to the combined average percentage of the BSAI Pacific cod harvest allocated to the longline catcher processor sector and retained by the vessel or vessels designated on the eligible members license limitation program license or licenses for 2006, 2007, and 2008, according to the catch accounting system data used to establish total catch; and

''(2) utilize the percentage of BSAI Pacific cod prohibited species catch allocation equal to the percentage calculated under paragraph (1).

''SEC. 5. AUTHORITY OF THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL.

''(a) IN GENERAL.—Nothing in this Act shall supersede the authority of the Council to recommend for approval by the Secretary such conservation and management measures, in accordance with the Magnuson-Stevens Act (16 U.S.C. 1801 et seq.) as it considers necessary to ensure that this Act does not diminish the effectiveness of fishery management in the BSAI or the Gulf of Alaska Pacific cod fishery.

''(b) LIMITATIONS.—

''(1) Notwithstanding the authority provided to the Council under this section, the Council is prohibited from altering or otherwise modifying—

''(A) the methodology established under section 3 for allocating the BSAI Pacific cod total allowable catch and BSAI Pacific cod prohibited species catch allocation to a single fishery cooperative approved under this Act; or

''(B) the methodology established under section 4 of this Act for allocating the BSAI Pacific cod total allowable catch and BSAI Pacific cod prohibited species catch allocation to the non-cooperative limited access fishery.

''(2) No sooner than 7 years after approval of a single fisheries cooperative under section 2 of this Act, the Council may modify the harvest limitation established under section 2(b) if such modification does not negatively impact any eligible member of the longline catcher processor subsector.

''(c) PROTECTIONS FOR THE GULF OF ALASKA PACIFIC COD FISHERY.—The Council may recommend for approval by the Secretary such harvest limitations of Pacific cod by the longline catcher processor subsector in the Western Gulf of Alaska and the Central Gulf of Alaska as may be necessary to protect coastal communities and other Gulf of Alaska participants from potential competitive advantages provided to the longline catcher processor subsector by this Act.

''SEC. 6. RELATIONSHIP TO THE MAGNUSON-STEVENS ACT.

''(a) IN GENERAL.—Consistent with section 301(a) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)), a single fishery cooperative approved under section 2 of this Act is intended to enhance conservation and sustainable fishery management, reduce and minimize bycatch, promote social and economic benefits, and improve the vessel safety of the longline catcher processor subsector in the BSAI.

''(b) TRANSITION RULE.—A single fishery cooperative approved under section 2 of this Act is deemed to meet

the requirements of section 303A(i) of the Magnuson-Stevens Act (16 U.S.C. 1853a(i)) as if it had been approved by the Secretary within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 [Pub. L. 109–479, approved Jan. 12, 2007], unless the Secretary makes a determination, within 30 days after the date of enactment of this Act [Dec. 22, 2010], that application of section 303A(i) of the Magnuson-Stevens Act to the cooperative approved under section 2 of this Act would be inconsistent with the purposes for which section 303A was added to the Magnuson-Stevens Act.

''(c) COST RECOVERY.—Consistent with section 304(d)(2) of the Magnuson-Stevens Act (16 U.S.C. 1854(d)(2)), the Secretary is authorized to recover reasonable costs to administer a single fishery cooperative approved under section 2 of this Act.

''SEC. 7. COMMUNITY DEVELOPMENT QUOTA PROGRAM.

''Nothing in this Act shall affect the western Alaska community development program established by section 305(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)), including the allocation of fishery resources in the directed Pacific cod fishery.

''SEC. 8. DEFINITIONS.

''In this Act:

''(1) BSAI.—The term 'BSAI' has the meaning given that term in section 219(a)(2) of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2886).

''(2) BSAI PACIFIC COD TOTAL ALLOWABLE CATCH.—The term 'BSAI Pacific cod total allowable catch' means the Pacific cod total allowable catch for the directed longline catcher processor subsector in the BSAI as established on an annual basis by the Council and approved by the Secretary.

''(3) BSAI PACIFIC COD PROHIBITED SPECIES CATCH ALLOCATION.—The term 'BSAI Pacific cod prohibited species catch allocation' means the prohibited species catch allocation for the directed longline catcher processor subsector in the BSAI as established on an annual basis by the Council and approved by the Secretary.

''(4) COUNCIL.—The term 'Council' means the North Pacific Fishery Management Council established under section 302(a)(1)(G) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)(1)(G)).

''(5) ELIGIBLE MEMBER.—The term 'eligible member' means a holder of a license limitation program license, or licenses, eligible to participate in the longline catcher processor subsector.

''(6) GULF OF ALASKA.—The term 'Gulf of Alaska' means that portion of the Exclusive Economic Zone contained in Statistical Areas 610, 620, and 630.

''(7) LONGLINE CATCHER PROCESSOR SUBSECTOR.—The term 'longline catcher processor subsector' has the meaning given that term in section 219(a)(6) of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2886 [2887]).

''(8) MAGNUSON-STEVENS ACT.—The term 'Magnuson-Stevens Act' means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

''(9) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.''

GULF OF ALASKA ROCKFISH DEMONSTRATION PROGRAM

Pub. L. 108–199, div. B, title VIII, § 802, Jan. 23, 2004, 118 Stat. 110, as amended by Pub. L. 109–479, title II, § 218, Jan. 12, 2007, 120 Stat. 3621, provided that: ''The Secretary of Commerce, in consultation with the North Pacific Fishery Management Council, shall establish a pilot program that recognizes the historic participation of fishing vessels (1996 to 2002, best 5 of 7 years) and historic participation of fish processors (1996 to 2000, best 4 of 5 years) for pacific ocean perch, northern rockfish, and pelagic shelf rockfish harvested in Central Gulf of Alaska. Such a pilot program shall: (1) provide for a set-aside of up to 5 percent for the total allowable catch of such fisheries for catcher vessels not eligible to participate in the pilot program, which shall be delivered to shore-based fish processors not eligible to participate in the pilot program; and (2) establish catch limits for non-rockfish species and non-target rockfish species currently harvested with pacific ocean perch, northern rockfish, and pelagic shelf rockfish, which shall be based on historical harvesting of such bycatch species. The pilot program will sunset when a Gulf of Alaska Groundfish comprehensive rationalization plan is authorized by the Council and implemented by the Secretary, or 5 years from date of implementation, whichever is earlier.''

IMPLEMENTATION OF STELLER SEA LION PROTECTIVE MEASURES

Pub. L. 106–554, § 1(a)(4) [div. A, § 209], Dec. 21, 2000, 114 Stat. 2763, 2763A–176, provided that:

''(a) FINDINGS.—The Congress finds that—

''(1) the western population of Steller sea lions has substantially declined over the last 25 years.

''(2) scientists should closely research and analyze all possible factors relating to such decline, including the possible interactions between commercial fishing and Steller sea lions and the localized depletion hypothesis;

''(3) the authority to manage commercial fisheries in Federal waters lies with the regional councils and the Secretary of Commerce (hereafter in this section 'Secretary') pursuant to the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1801 et seq.] (hereafter in this section 'Magnuson-Stevens Act'); and

''(4) the Secretary of Commerce shall comply with the Magnuson-Stevens Act when using fishery management plans and regulations to implement the decisions made pursuant to findings under the Endangered Species Act [of 1973, 16 U.S.C. 1531 et seq.], and shall utilize the processes and procedures of the regional fishery management councils as required by the Magnuson-Stevens Act.

''(b) INDEPENDENT SCIENTIFIC REVIEW.—The North Pacific Fishery Management Council (hereafter in this section 'North Pacific Council[']) shall utilize the expertise of the National Academy of Sciences to conduct an independent scientific review of the November 30, 2000 Biological Opinion for the Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries (hereafter in this section 'Biological Opinion'), its underlying hypothesis, and the Reasonable and Prudent Alternatives (hereafter in this section 'Alternatives') contained therein. The Secretary shall cooperate with the independent scientific review, and the National Academy of Sciences is requested to give its highest priority to this review.

''(c) PREPARATION OF FISHERY MANAGEMENT PLANS AND REGULATIONS TO IMPLEMENT PROTECTIVE MEASURES IN THE NOVEMBER 30, 2000 BIOLOGICAL OPINION.—

''(1) The Secretary of Commerce shall submit to the North Pacific Council proposed conservation and management measures to implement the Alternatives contained in the November 30, 2000 Biological Opinion for the Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries. The North Pacific Council shall prepare and transmit to the Secretary a fishery management plan amendment or amendments to implement such Alternatives that are consistent with the Magnuson-Stevens Act (including requirements in such Act relating to best available science, bycatch reduction, impacting on fishing communities, the safety of life at sea, and public comment and hearings.)

''(2) The Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries shall be managed in a manner consistent with the Alternatives contained in the Biological Opinion, except as otherwise provided in this section. The Alternatives shall become fully effective no later than January 1, 2002, as revised if

necessary and appropriate based on the independent scientific review referred to in subsection (b) and other new information, and shall be phased in in 2001 as described in paragraph (3).

''(3) The 2001 Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries shall be managed in accordance with the fishery management plan and Federal regulations in effect for such fisheries prior to July 15, 2000, including—

''(A) conservative total allowable catch levels;

''(B) no entry zones within three miles of rookeries;

''(C) restricted harvest levels near rookeries and haul-outs;

''(D) federally-trained observers;

''(E) spatial and temporal harvest restrictions;

''(F) federally-mandated bycatch reduction programs; and

''(G) additional conservation benefits provided through cooperative fishing arrangements,

and said regulations are hereby restored to full force and effect.

''(4) The Secretary shall amend these regulations by January 20, 2001, after consultation with the North Pacific Council and in a manner consistent with all law, including the Magnuson-Stevens Act, and consistent with the Alternatives to the maximum extent practicable, subject to the other provisions of this subsection.

''(5) The harvest reduction requirement (''Global Control Rule'') shall take effect immediately in any 2001 groundfish fishery in which it applies, but shall not cause a reduction in the total allowable catch of any fishery of more than 10 percent.

''(6) In enforcing regulations for the 2001 fisheries, the Secretary, upon recommendation of the North Pacific Council, may open critical habitat where needed, adjust seasonal catch levels, and take other measures as needed to ensure that harvest levels are sufficient to provide income from these fisheries for small boats and Alaskan on-shore processors that is no less than in 1999.

''(7) The regulations that are promulgated pursuant to paragraph (4) shall not be modified in any way other than upon recommendation of the North Pacific Council, before March 15, 2001.

''(d) SEA LION PROTECTION MEASURES.—$20,000,000 is hereby appropriated to the Secretary of Commerce to remain available until expended to develop and implement a coordinated, comprehensive research and recovery program for the Steller sea lion, which shall be designed to study—

''(1) available prey species;

''(2) predator/prey relationships;

''(3) predation by other marine mammals;

''(4) interactions between fisheries and Steller sea lions, including the localized depletion theory;

''(5) regime shift, climate change, and other impacts associated with changing environmental conditions in the North Pacific and Bering Sea;

''(6) disease;

''(7) juvenile and pup survival rates;

''(8) population counts;

''(9) nutritional stress;

''(10) foreign commercial harvest of sea lions outside the exclusive economic zone;

''(11) the residual impacts of former government-authorized Steller sea lion eradication bounty programs; and

''(12) the residual impacts of intentional lethal takes of Steller sea lions.

Within available funds the Secretary shall implement on a pilot basis innovative non-lethal measures to protect Steller sea lions from marine mammal predators including killer whales.

''(e) ECONOMIC DISASTER RELIEF.—$30,000,000 is hereby appropriated to the Secretary of Commerce to make available as a direct payment to the Southwest Alaska Municipal Conference to distribute to fishing communities, businesses, community development quota groups, individuals, and other entities to mitigate the economic losses caused by Steller sea lion protection measures heretofore incurred; provided that the President of such organization shall provide a written report to the Secretary and the House and Senate Appropriations Committee within 6 months of receipt of these funds.''

LIMITATION ON FISHING PERMITS

Pub. L. 105–277, div. A, § 101(b) [title VI, § 617], Oct. 21, 1998, 112 Stat. 2681–50, 2681–115, as amended by Pub. L. 106–31, title III, § 3025, May 21, 1999, 113 Stat. 100, provided that:

''(a) None of the funds made available in this Act or any other Act hereafter enacted may be used to issue or renew a fishing permit or authorization for any fishing vessel of the United States greater than 165 feet in registered length, of more than 750 gross registered tons, or that has an engine or engines capable of producing a total of more than 3,000 shaft horsepower as specified in the permit application required under part 648.4(a)(5) of title 50, Code of Federal Regulations, part 648.12 of title 50, Code of Federal Regulations, and the authorization required under part 648.80(d)(2) of title 50, Code of Federal Regulations, to engage in fishing for Atlantic mackerel or herring (or both) under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), unless the regional fishery management council of jurisdiction recommends after October 21, 1998, and the Secretary of Commerce approves, conservation and management measures in accordance with such Act to allow such vessel to engage in fishing for Atlantic mackerel or herring (or both).

''(b) Any fishing permit or authorization issued or renewed prior to the date of the enactment of this Act [Oct. 21, 1998] for a fishing vessel to which the prohibition in subsection (a) applies that would allow such vessel to engage in fishing for Atlantic mackerel or herring (or both) during fiscal year 1999 shall be null and void, and none of the funds made available in this Act [see Tables for classification] may be used to issue a fishing permit or authorization that would allow a vessel whose permit or authorization was made null and void pursuant to this subsection to engage in the catching, taking, or harvesting of fish in any other fishery within the exclusive economic zone of the United States.''

BERING SEA POLLOCK FISHERY

Pub. L. 108–199, div. B, title VIII, § 803, Jan. 23, 2004, 118 Stat. 110, provided that:

''(a) ALEUTIAN ISLANDS POLLOCK ALLOCATION.—Effective January 1, 2004 and thereafter, the directed pollock fishery in the Aleutian Islands Subarea [AI] of the BSAI (as defined in 50 CFR 679.2) shall be allocated to the Aleut Corporation (incorporated pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)). Except with the permission of the Aleut Corporation or its authorized agent, the fishing or processing of any part of such allocation shall be prohibited by section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857), subject to the penalties and sanctions under section 308 of such Act (16 U.S.C. 1858), and subject to the forfeiture of any fish harvested or processed.

''(b) ELIGIBLE VESSELS.—Only vessels that are 60 feet or less in length overall and have a valid fishery endorsement, or vessels that are eligible to harvest pollock under section 208 of title II of division C of Public Law 105–277 [set out below], shall be eligible to form partnerships with the Aleut Corporation (or its authorized agents) to harvest the allocation under subsection (a). During the years 2004 through 2008, up to 25 percent of such allocation may be harvested by vessels 60 feet or less in length overall. During the years 2009 through 2013, up to 50 percent of such allocation may be harvested by vessels 60 feet or less in length overall. After the year 2012, 50 percent of such allocation shall be harvested by vessels 60 feet or less in length overall, and

50 percent shall be harvested by vessels eligible under such section of Public Law 105–277.

''(c) GROUNDFISH OPTIMUM YIELD LIMITATION.—The optimum yield for groundfish in the Bering Sea and Aleutian Islands Management Area shall not exceed 2 million metric tons. For the purposes of implementing subsections (a) and (b) without adversely affecting current fishery participants, the allocation under subsection (a) may be in addition to such optimum yield during the years 2004 through 2008 upon recommendation by the North Pacific Council and approval by the Secretary of Commerce (if consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)).

''(d) MANAGEMENT AND ALLOCATION.—For the purposes of this section, the North Pacific Fishery Management Council shall recommend and the Secretary shall approve an allocation under subsection (a) to the Aleut Corporation for the purposes of economic development in Adak, Alaska pursuant to the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).''

Pub. L. 105–277, div. C, title II, subtitle II, Oct. 21, 1998, 112 Stat. 2681–621, as amended by Pub. L. 106–31, title III, §3027(a)(2)–(7), May 21, 1999, 113 Stat. 101; Pub. L. 107–20, title II, §2202(e)(1), July 24, 2001, 115 Stat. 170; Pub. L. 107–77, title II, §211, Nov. 28, 2001, 115 Stat. 779; Pub. L. 107–206, title I, §1103, Aug. 2, 2002, 116 Stat. 884; Pub. L. 111–281, title VI, §602(b)(1), (3), Oct. 15, 2010, 124 Stat. 2960, 2961, provided that:

''SEC. 205. DEFINITIONS.

''As used in this subtitle—

''(1) the term 'Bering Sea and Aleutian Islands Management Area' has the same meaning as the meaning given for such term in part 679.2 of title 50, Code of Federal Regulations, as in effect on October 1, 1998;

''(2) the term 'catcher/processor' means a vessel that is used for harvesting fish and processing that fish;

''(3) the term 'catcher vessel' means a vessel that is used for harvesting fish and that does not process pollock onboard;

''(4) the term 'directed pollock fishery' means the fishery for the directed fishing allowances allocated under paragraphs (1), (2), and (3) of section 206(b);

''(5) the term 'harvest' means to commercially engage in the catching, taking, or harvesting of fish or any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish;

''(6) the term 'inshore component' means the following categories that process groundfish harvested in the Bering Sea and Aleutian Islands Management Area:

''(A) shoreside processors, including those eligible under section 208(f); and

''(B) vessels less than 125 feet in length overall that process less than 126 metric tons per week in round-weight equivalents of an aggregate amount of pollock and Pacific cod;

''(7) the term 'Magnuson-Stevens Act' means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

''(8) the term 'mothership' means a vessel that receives and processes fish from other vessels in the exclusive economic zone of the United States and is not used for, or equipped to be used for, harvesting fish;

''(9) the term 'North Pacific Council' means the North Pacific Fishery Management Council established under section 302(a)(1)(G) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)(1)(G));

''(10) the term 'offshore component' means all vessels not included in the definition of 'inshore component' that process groundfish harvested in the Bering Sea and Aleutian Islands Management Area;

''(11) the term 'Secretary' means the Secretary of Commerce; and

''(12) the term 'shoreside processor' means any person or vessel that receives unprocessed fish, except catcher/processors, motherships, buying stations, restaurants, or persons receiving fish for personal consumption or bait.

''SEC. 206. ALLOCATIONS.

''(a) POLLOCK COMMUNITY DEVELOPMENT QUOTA.—Effective January 1, 1999, 10 percent of the total allowable catch of pollock in the Bering Sea and Aleutian Islands Management Area shall be allocated as a directed fishing allowance to the western Alaska community development quota program established under section 305(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)).

''(b) INSHORE/OFFSHORE.—Effective January 1, 1999, the remainder of the pollock total allowable catch in the Bering Sea and Aleutian Islands Management Area, after the subtraction of the allocation under subsection (a) and the subtraction of allowances for the incidental catch of pollock by vessels harvesting other groundfish species (including under the western Alaska community development quota program) shall be allocated as directed fishing allowances as follows—

''(1) 50 percent to catcher vessels harvesting pollock for processing by the inshore component;

''(2) 40 percent to catcher/processors and catcher vessels harvesting pollock for processing by catcher/processors in the offshore component; and

''(3) 10 percent to catcher vessels harvesting pollock for processing by motherships in the offshore component.

''SEC. 207. BUYOUT.

''(a) FEDERAL LOAN.—Under the authority of sections 1111 and 1112 [renumbered 1113, 1114] of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g) [now 46 U.S.C. 53735 and 53702(b)] and notwithstanding the requirements of section 312 of the Magnuson-Stevens Act (16 U.S.C. 1861a), the Secretary shall, subject to the availability of appropriations for the cost of the direct loan, provide up to $75,000,000 through a direct loan obligation for the payments required under subsection (d).

''(b) INSHORE FEE SYSTEM.—Notwithstanding the requirements of section 304(d) or 312 of the Magnuson-Stevens Act (16 U.S.C. 1854(d) and 1861a), the Secretary shall establish a fee for the repayment of such loan obligation which—

''(1) shall be six-tenths (0.6) of one cent for each pound round-weight of all pollock harvested from the directed fishing allowance under section 206(b)(1); and

''(2) shall begin with such pollock harvested on or after January 1, 2000, and continue without interruption until such loan obligation is fully repaid; and

''(3) shall be collected in accordance with section 312(d)(2)(C) of the Magnuson-Stevens Act (16 U.S.C. 1861a(d)(2)(C)) and in accordance with such other conditions as the Secretary establishes.

''(c) FEDERAL APPROPRIATION.—Under the authority of section 312(c)(1)(B) of the Magnuson-Stevens Act (16 U.S.C. 1861a(c)(1)(B)), there are authorized to be appropriated $20,000,000 for the payments required under subsection (d).

''(d) PAYMENTS.—Subject to the availability of appropriations for the cost of the direct loan under subsection (a) and funds under subsection (c), the Secretary shall pay by not later than December 31, 1998—

''(1) up to $90,000,000 to the owner or owners of the catcher/processors listed in paragraphs (1) through (9) of section 209, in such manner as the owner or owners, with the concurrence of the Secretary, agree, except that—

''(A) the portion of such payment with respect to the catcher/processor listed in paragraph (1) of section 209 shall be made only after the owner submits a written certification acceptable to the Secretary that neither the owner nor a purchaser from the owner intends to use such catcher/processor outside of the exclusive economic zone of the United States to harvest any stock of fish (as such term is defined in section 3 of the Magnuson-Stevens Act (16 U.S.C. 1802)) that occurs within the exclusive economic zone of the United States; and

''(B) the portion of such payment with respect to the catcher/processors listed in paragraphs (2) through (9) of section 209 shall be made only after the owner or owners of such catcher/processors submit a written certification acceptable to the Secretary that such catcher/processors will be scrapped by December 31, 2000 and will not, before that date, be used to harvest or process any fish; and

''(2)(A) if a contract has been filed under section 210(a) by the catcher/processors listed in section 208(e), $5,000,000 to the owner or owners of the catcher/processors listed in paragraphs (10) through (14) of such section in such manner as the owner or owners, with the concurrence of the Secretary, agree; or

''(B) if such a contract has not been filed by such date, $5,000,000 to the owners of the catcher vessels eligible under section 208(b) and the catcher/processors eligible under paragraphs (1) through (20) of section 208(e), divided based on the amount of the harvest of pollock in the directed pollock fishery by each such vessel in 1997 in such manner as the Secretary deems appropriate,

except that any such payments shall be reduced by any obligation to the federal government that has not been satisfied by such owner or owners of any such vessels.

''(e) PENALTY.—If the catcher/processor under paragraph (1) of section 209 is used outside of the exclusive economic zone of the United States to harvest any stock of fish that occurs within the exclusive economic zone of the United States while the owner who received the payment under subsection (d)(1)(A) has an ownership interest in such vessel, or if the catcher/processors listed in paragraphs (2) through (9) of section 209 are determined by the Secretary not to have been scrapped by December 31, 2000 or to have been used in a manner inconsistent with subsection (d)(1)(B), the Secretary may suspend any or all of the federal permits which allow any vessels owned in whole or in part by the owner or owners who received payments under subsection (d)(1) to harvest or process fish within the exclusive economic zone of the United States until such time as the obligations of such owner or owners under subsection (d)(1) have been fulfilled to the satisfaction of the Secretary.

''(f) PROGRAM DEFINED; MATURITY.—For the purposes of section 1111 [renumbered 1113] of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f) [now 46 U.S.C. 53735], the fishing capacity reduction program in this subtitle shall be within the meaning of the term 'program' as defined and used in such section. Notwithstanding section 1111(b)(4) [renumbered 1113(b)(4)] of such Act (46 U.S.C. App. 1279f(b)(4)) [now 46 U.S.C. 53735(c)(4)], the debt obligation under subsection (a) of this section may have a maturity not to exceed 30 years.

''(g) FISHERY CAPACITY REDUCTION REGULATIONS.—The Secretary of Commerce shall by not later than October 15, 1998 publish proposed regulations to implement subsections (b), (c), (d), and (e) of section 312 of the Magnuson-Stevens Act (16 U.S.C. 1861a) and sections 1111 and 1112 [renumbered 1113, 1114] of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g) [now 46 U.S.C. 53735 and 53702(b)].

''SEC. 208. ELIGIBLE VESSELS AND PROCESSORS.

''(a) CATCHER VESSELS ONSHORE.—Effective January 1, 2000, only catcher vessels which are—

''(1) determined by the Secretary—

''(A) to have delivered at least 250 metric tons of pollock; or

''(B) to be less than 60 feet in length overall and to have delivered at least 40 metric tons of pollock,

for processing by the inshore component in the directed pollock fishery in any one of the years 1996 or 1997, or between January 1, 1998 and September 1, 1998;

''(2) eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary; and

''(3) not listed in subsection (b),

shall be eligible to harvest the directed fishing allowance under section 206(b)(1) pursuant to a federal fishing permit.

''(b) CATCHER VESSELS TO CATCHER/PROCESSORS.—Effective January 1, 1999, only the following catcher vessels shall be eligible to harvest the directed fishing allowance under section 206(b)(2) pursuant to a federal fishing permit:

''(1) AMERICAN CHALLENGER (United States official number 633219);

''(2) FORUM STAR (United States official number 925863);

''(3) MUIR MILACH (United States official number 611524);

''(4) NEAHKAHNIE (United States official number 599534);

''(5) OCEAN HARVESTER (United States official number 549892);

''(6) SEA STORM (United States official number 628959);

''(7) TRACY ANNE (United States official number 904859); and

''(8) any catcher vessel—

''(A) determined by the Secretary to have delivered at least 250 metric tons and at least 75 percent of the pollock it harvested in the directed pollock fishery in 1997 to catcher/processors for processing by the offshore component; and

''(B) eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary.

''(c) CATCHER VESSELS TO MOTHERSHIPS.—Effective January 1, 2000, only the following catcher vessels shall be eligible to harvest the directed fishing allowance under section 206(b)(3) pursuant to a federal fishing permit:

''(1) ALEUTIAN CHALLENGER (United States official number 603820);

''(2) ALYESKA (United States official number 560237);

''(3) AMBER DAWN (United States official number 529425);

''(4) AMERICAN BEAUTY (United States official number 613847);

''(5) CALIFORNIA HORIZON (United States official number 590758);

''(6) MAR-GUN (United States official number 525608);

''(7) MARGARET LYN (United States official number 615563);

''(8) MARK I (United States official number 509552);

''(9) MISTY DAWN (United States official number 926647);

''(10) NORDIC FURY (United States official number 542651);

''(11) OCEAN LEADER (United States official number 561518);

''(12) OCEANIC (United States official number 602279);

''(13) PACIFIC ALLIANCE (United States official number 612084);

''(14) PACIFIC CHALLENGER (United States official number 518937);

''(15) PACIFIC FURY (United States official number 561934);

''(16) PAPADO II (United States official number 536161);

''(17) TRAVELER (United States official number 929356);

''(18) VESTERAALEN (United States official number 611642);

''(19) WESTERN DAWN (United States official number 524423); and

''(20) any vessel—

''(A) determined by the Secretary to have delivered at least 250 metric tons of pollock for processing by motherships in the offshore component of the directed pollock fishery in any one of the years 1996 or 1997, or between January 1, 1998 and September 1, 1998;

''(B) eligible to harvest pollock in the directed pollock fishery under the license limitation pro-

gram recommended by the North Pacific Council and approved by the Secretary; and

''(C) not listed in subsection (b).

''(d) MOTHERSHIPS.—Effective January 1, 2000, only the following motherships shall be eligible to process the directed fishing allowance under section 206(b)(3) pursuant to a federal fishing permit:

''(1) EXCELLENCE (United States official number 967502);

''(2) GOLDEN ALASKA (United States official number 651041); and

''(3) OCEAN PHOENIX (United States official number 296779).

''(e) CATCHER/PROCESSORS.—Effective January 1, 1999, only the following catcher/processors shall be eligible to harvest the directed fishing allowance under section 206(b)(2) pursuant to a federal fishing permit:

''(1) AMERICAN DYNASTY (United States official number 951307);

''(2) KATIE ANN (United States official number 518441);

''(3) AMERICAN TRIUMPH (United States official number 646737);

''(4) NORTHERN EAGLE (United States official number 506694);

''(5) NORTHERN HAWK (United States official number 643771);

''(6) NORTHERN JAEGER (United States official number 521069);

''(7) OCEAN ROVER (United States official number 552100);

''(8) ALASKA OCEAN (United States official number 637856);

''(9) ENDURANCE (United States official number 592206);

''(10) AMERICAN ENTERPRISE (United States official number 594803);

''(11) ISLAND ENTERPRISE (United States official number 610290);

''(12) KODIAK ENTERPRISE (United States official number 579450);

''(13) SEATTLE ENTERPRISE (United States official number 904767);

''(14) US ENTERPRISE (United States official number 921112);

''(15) ARCTIC STORM (United States official number 903511);

''(16) ARCTIC FJORD (United States official number 940866);

''(17) NORTHERN GLACIER (United States official number 663457);

''(18) PACIFIC GLACIER (United States official number 933627);

''(19) HIGHLAND LIGHT (United States official number 577044);

''(20) STARBOUND (United States official number 944658); and

''(21) any catcher/processor not listed in this subsection and determined by the Secretary to have harvested more than 2,000 metric tons of the pollock in the 1997 directed pollock fishery and determined to be eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary, except that catcher/processors eligible under this paragraph shall be prohibited from harvesting in the aggregate a total of more than one-half (0.5) of a percent of the pollock apportioned for the directed pollock fishery under section 206(b)(2).

Notwithstanding section 213(a), failure to satisfy the requirements of section 4(a) of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Public Law 100–239; 46 U.S.C. 12108 note) [now 46 U.S.C. 12113 note] shall not make a catcher/processor listed under this subsection ineligible for a fishery endorsement.

''(f) SHORESIDE PROCESSORS.—(1) Effective January 1, 2000 and except as provided in paragraph (2), the catcher vessels eligible under subsection (a) may deliver pollock harvested from the directed fishing allowance under section 206(b)(1) only to—

''(A) shoreside processors (including vessels in a single geographic location in Alaska State waters) determined by the Secretary to have processed more than 2,000 metric tons round-weight of pollock in the inshore component of the directed pollock fishery during each of 1996 and 1997; and

''(B) shoreside processors determined by the Secretary to have processed pollock in the inshore component of the directed pollock fishery in 1996 or 1997, but to have processed less than 2,000 metric tons round-weight of such pollock in each year, except that effective January 1, 2000, each such shoreside processor may not process more than 2,000 metric tons round-weight from such directed fishing allowance in any year.

''(2) Upon recommendation by the North Pacific Council, the Secretary may approve measures to allow catcher vessels eligible under subsection (a) to deliver pollock harvested from the directed fishing allowance under section 206(b)(1) to shoreside processors not eligible under paragraph (1) if the total allowable catch for pollock in the Bering Sea and Aleutian Islands Management Area increases by more than 10 percent above the total allowable catch in such fishery in 1997, or in the event of the actual total loss or constructive total loss of a shoreside processor eligible under paragraph (1)(A).

''(g) VESSEL REBUILDING AND REPLACEMENT.—

''(1) IN GENERAL.—

''(A) REBUILD OR REPLACE.—Notwithstanding any limitation to the contrary on replacing, rebuilding, or lengthening vessels or transferring permits or licenses to a replacement vessel contained in sections 679.2 and 679.4 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2010 [Oct. 15, 2010] and except as provided in paragraph (4), the owner of a vessel eligible under subsection (a), (b), (c), (d), or (e), in order to improve vessel safety and operational efficiencies (including fuel efficiency), may rebuild or replace that vessel (including fuel efficiency) with a vessel documented with a fishery endorsement under section 12113 of title 46, United States Code.

''(B) SAME REQUIREMENTS.—The rebuilt or replacement vessel shall be eligible in the same manner and subject to the same restrictions and limitations under such subsection as the vessel being rebuilt or replaced.

''(C) TRANSFER OF PERMITS AND LICENSES.—Each fishing permit and license held by the owner of a vessel or vessels to be rebuilt or replaced under subparagraph (A) shall be transferred to the rebuilt or replacement vessel or its owner, as necessary to permit such rebuilt or replacement vessel to operate in the same manner as the vessel prior to the rebuilding or the vessel it replaced, respectively.

''(2) RECOMMENDATIONS OF NORTH PACIFIC FISHERY MANAGEMENT COUNCIL.—The North Pacific Fishery Management Council may recommend for approval by the Secretary such conservation and management measures, including size limits and measures to control fishing capacity, in accordance with the Magnuson-Stevens Act [16 U.S.C. 1801 et seq.] as it considers necessary to ensure that this subsection does not diminish the effectiveness of fishery management plans of the Bering Sea and Aleutian Islands Management Area or the Gulf of Alaska.

''(3) SPECIAL RULE FOR REPLACEMENT OF CERTAIN VESSELS.—

''(A) IN GENERAL.—Notwithstanding the requirements of subsections (b)(2), (c)(1), and (c)(2) of section 12113 of title 46, United States Code, a vessel that is eligible under subsection (a), (b), (c), or (e) and that qualifies to be documented with a fishery endorsement pursuant to section 213(g) may be replaced with a replacement vessel under paragraph (1) if the vessel that is replaced is validly documented with a fishery endorsement pursuant to section 213(g) before the replacement vessel is documented with a fishery endorsement under section 12113 of title 46, United States Code.

''(B) APPLICABILITY.—A replacement vessel under subparagraph (A) and its owner and mortgagee are subject to the same limitations under section 213(g) that are applicable to the vessel that has been replaced and its owner and mortgagee.

''(4) SPECIAL RULES FOR CERTAIN CATCHER VESSELS.—

''(A) IN GENERAL.—A replacement for a covered vessel described in subparagraph (B) is prohibited from harvesting fish in any fishery (except for the Pacific whiting fishery) managed under the authority of any Regional Fishery Management Council (other than the North Pacific Fishery Management Council) established under section 302(a) of the Magnuson-Stevens Act [16 U.S.C. 1852(a)].

''(B) COVERED VESSELS.—A covered vessel referred to in subparagraph (A) is—

''(i) a vessel eligible under subsection (a), (b), or (c) that is replaced under paragraph (1); or

''(ii) a vessel eligible under subsection (a), (b), or (c) that is rebuilt to increase its registered length, gross tonnage, or shaft horsepower.

''(5) LIMITATION ON FISHERY ENDORSEMENTS.—Any vessel that is replaced under this subsection shall thereafter not be eligible for a fishery endorsement under section 12113 of title 46, United States Code, unless that vessel is also a replacement vessel described in paragraph (1).

''(6) GULF OF ALASKA LIMITATION.—Notwithstanding paragraph (1), the Secretary shall prohibit from participation in the groundfish fisheries of the Gulf of Alaska any vessel that is rebuilt or replaced under this subsection and that exceeds the maximum length overall specified on the license that authorizes fishing for groundfish pursuant to the license limitation program under part 679 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2010 [Oct. 15, 2010].

''(7) AUTHORITY OF PACIFIC COUNCIL.—Nothing in this section shall be construed to diminish or otherwise affect the authority of the Pacific Council to recommend to the Secretary conservation and management measures to protect fisheries under its jurisdiction (including the Pacific whiting fishery) and participants in such fisheries from adverse impacts caused by this Act.

''(h) ELIGIBILITY DURING IMPLEMENTATION.—In the event the Secretary is unable to make a final determination about the eligibility of a vessel under subsection (b)(8) or subsection (e)(21) before January 1, 1999, or a vessel or shoreside processor under subsection (a), subsection (c)(21), or subsection (f) before January 1, 2000, such vessel or shoreside processor, upon the filing of an application for eligibility, shall be eligible to participate in the directed pollock fishery pending final determination by the Secretary with respect to such vessel or shoreside processor.

''(i) ELIGIBILITY NOT A RIGHT.—Eligibility under this section shall not be construed—

''(1) to confer any right of compensation, monetary or otherwise, to the owner of any catcher vessel, catcher/processor, mothership, or shoreside processor if such eligibility is revoked or limited in any way, including through the revocation or limitation of a fishery endorsement or any federal permit or license;

''(2) to create any right, title, or interest in or to any fish in any fishery; or

''(3) to waive any provision of law otherwise applicable to such catcher vessel, catcher/processor, mothership, or shoreside processor.

''SEC. 209. LIST OF INELIGIBLE VESSELS.

''Effective December 31, 1998, the following vessels shall be permanently ineligible for fishery endorsements, and any claims (including relating to catch history) associated with such vessels that could qualify any owners of such vessels for any present or future limited access system permit in any fishery within the exclusive economic zone of the United States (including a vessel moratorium permit or license limitation program permit in fisheries under the authority of the North Pacific Council) are hereby extinguished:

''(1) AMERICAN EMPRESS (United States official number 942347);

''(2) PACIFIC SCOUT (United States official number 934772);

''(3) PACIFIC EXPLORER (United States official number 942592);

''(4) PACIFIC NAVIGATOR (United States official number 592204);

''(5) VICTORIA ANN (United States official number 592207);

''(6) ELIZABETH ANN (United States official number 534721);

''(7) CHRISTINA ANN (United States official number 653045);

''(8) REBECCA ANN (United States official number 592205); and

''(9) BROWNS POINT (United States official number 587440).

''SEC. 210. FISHERY COOPERATIVE LIMITATIONS.

''(a) PUBLIC NOTICE.—(1) Any contract implementing a fishery cooperative under section 1 of the Act of June 25, 1934 (15 U.S.C. 521) in the directed pollock fishery and any material modifications to any such contract shall be filed not less than 30 days prior to the start of fishing under the contract with the North Pacific Council and with the Secretary, together with a copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the Department of Justice and any response to such request. Notwithstanding section 402 of the Magnuson-Stevens Act (16 U.S.C. 1881a) or any other provision of law, but taking into account the interest of parties to any such contract in protecting the confidentiality of proprietary information, the North Pacific Council and Secretary shall—

''(A) make available to the public such information about the contract, contract modifications, or fishery cooperative the North Pacific Council and Secretary deem appropriate, which at a minimum shall include a list of the parties to the contract, a list of the vessels involved, and the amount of pollock and other fish to be harvested by each party to such contract; and

''(B) make available to the public in such manner as the North Pacific Council and Secretary deem appropriate information about the harvest by vessels under a fishery cooperative of all species (including bycatch) in the directed pollock fishery on a vessel-by-vessel basis.

''(b) CATCHER VESSELS ONSHORE.—

''(1) CATCHER VESSEL COOPERATIVES.—Effective January 1, 2000, upon the filing of a contract implementing a fishery cooperative under subsection (a) which—

''(A) is signed by the owners of 80 percent or more of the qualified catcher vessels that delivered pollock for processing by a shoreside processor in the directed pollock fishery in the year prior to the year in which the fishery cooperative will be in effect; and

''(B) specifies, except as provided in paragraph (6), that such catcher vessels will deliver pollock in the directed pollock fishery only to such shoreside processor during the year in which the fishery cooperative will be in effect and that such shoreside processor has agreed to process such pollock,

the Secretary shall allow only such catcher vessels (and catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) to harvest the aggregate percentage of the directed fishing allowance under section 206(b)(1) in the year in which the fishery cooperative will be in effect that is equivalent to the aggregate total amount of pollock harvested by such catcher vessels (and by such catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) in the directed pollock fishery for processing by the inshore component during 1995, 1996, and 1997 relative to the aggregate total

amount of pollock harvested in the directed pollock fishery for processing by the inshore component during such years and shall prevent such catcher vessels (and catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) from harvesting in aggregate in excess of such percentage of such directed fishing allowance.

''(2) VOLUNTARY PARTICIPATION.—Any contract implementing a fishery cooperative under paragraph (1) must allow the owners of other qualified catcher vessels to enter into such contract after it is filed and before the calender year in which fishing will begin under the same terms and conditions as the owners of the qualified catcher vessels who entered into such contract upon filing.

''(3) QUALIFIED CATCHER VESSEL.—For the purposes of this subsection, a catcher vessel shall be considered a 'qualified catcher vessel' if, during the year prior to the year in which the fishery cooperative will be in effect, it delivered more pollock to the shoreside processor to which it will deliver pollock under the fishery cooperative in paragraph (1) than to any other shoreside processor.

''(4) CONSIDERATION OF CERTAIN VESSELS.—Any contract implementing a fishery cooperative under paragraph (1) which has been entered into by the owner of a qualified catcher vessel eligible under section 208(a) that harvested pollock for processing by catcher/processors or motherships in the directed pollock fishery during 1995, 1996, and 1997 shall, to the extent practicable, provide fair and equitable terms and conditions for the owner of such qualified catcher vessel.

''(5) OPEN ACCESS.—A catcher vessel eligible under section 208(a) the catch history of which has not been attributed to a fishery cooperative under paragraph (1) may be used to deliver pollock harvested by such vessel from the directed fishing allowance under section 206(b)(1) (other than pollock reserved under paragraph (1) for a fishery cooperative) to any of the shoreside processors eligible under section 208(f). A catcher vessel eligible under section 208(a) the catch history of which has been attributed to a fishery cooperative under paragraph (1) during any calendar year may not harvest any pollock apportioned under section 206(b)(1) in such calendar year other than the pollock reserved under paragraph (1) for such fishery cooperative.

''(6) TRANSFER OF COOPERATIVE HARVEST.—A contract implementing a fishery cooperative under paragraph (1) may, notwithstanding the other provisions of this subsection, provide for up to 10 percent of the pollock harvested under such cooperative to be processed by a shoreside processor eligible under section 208(f) other than the shoreside processor to which pollock will be delivered under paragraph (1).

''(7) FISHERY COOPERATIVE EXIT PROVISIONS.—

''(A) FISHING ALLOWANCE DETERMINATION.—For purposes of determining the aggregate percentage of directed fishing allowances under paragraph (1), when a catcher vessel is removed from the directed pollock fishery, the fishery allowance for pollock for the vessel being removed—

''(i) shall be based on the catch history determination for the vessel made pursuant to section 679.62 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2010 [Oct. 15, 2010]; and

''(ii) shall be assigned, for all purposes under this title, in the manner specified by the owner of the vessel being removed to any other catcher vessel or among other catcher vessels participating in the fishery cooperative if such vessel or vessels remain in the fishery cooperative for at least one year after the date on which the vessel being removed leaves the directed pollock fishery.

''(B) ELIGIBILITY FOR FISHERY ENDORSEMENT.—Except as provided in subparagraph (C), a vessel that is removed pursuant to this paragraph shall be permanently ineligible for a fishery endorsement, and any claim (including relating to catch history) associated with such vessel that could qualify any owner of such vessel for any permit to participate in any fishery within the exclusive economic zone of the United States shall be extinguished, unless such removed vessel is thereafter designated to replace a vessel to be removed pursuant to this paragraph.

''(C) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this paragraph shall be construed—

''(i) to make the vessels AJ (United States official number 905625), DONA MARTITA (United States official number 651751), NORDIC EXPLORER (United States official number 678234), and PROVIDIAN (United States official number 1062183) ineligible for a fishery endorsement or any permit necessary to participate in any fishery under the authority of the New England Fishery Management Council or the Mid-Atlantic Fishery Management Council established, respectively, under subparagraphs (A) and (B) of section 302(a)(1) of the Magnuson-Stevens Act [16 U.S.C. 1852(a)(1)]; or

''(ii) to allow the vessels referred to in clause (i) to participate in any fishery under the authority of the Councils referred to in clause (i) in any manner that is not consistent with the fishery management plan for the fishery developed by the Councils under section 303 of the Magnuson-Stevens Act [16 U.S.C. 1853].

''(c) CATCHER VESSELS TO CATCHER/PROCESSORS.—Effective January 1, 1999, not less than 8.5 percent of the directed fishing allowance under section 206(b)(2) shall be available for harvest only by the catcher vessels eligible under section 208(b). The owners of such catcher vessels may participate in a fishery cooperative with the owners of the catcher/processors eligible under paragraphs (1) through (20) of the section 208(e). The owners of such catcher vessels may participate in a fishery cooperative that will be in effect during 1999 only if the contract implementing such cooperative establishes penalties to prevent such vessels from exceeding in 1999 the traditional levels harvested by such vessels in all other fisheries in the exclusive economic zone of the United States.

''(d) CATCHER VESSELS TO MOTHERSHIPS.—

''(1) PROCESSING.—Effective January 1, 2000, the authority in section 1 of the Act of June 25, 1934 (48 Stat. 1213 and 1214; 15 U.S.C. 521 et seq.) shall extend to processing by motherships eligible under section 208(d) solely for the purposes of forming or participating in a fishery cooperative in the directed pollock fishery upon the filing of a contract to implement a fishery cooperative under subsection (a) which has been entered into by the owners of 80 percent or more of the catcher vessels eligible under section 208(c) for the duration of such contract, provided that such owners agree to the terms of the fishery cooperative involving processing by the motherships.

''(2) VOLUNTARY PARTICIPATION.—Any contract implementing a fishery cooperative described in paragraph (1) must allow the owners of any other catcher vessels eligible under section 208(c) to enter such contract after it is filed and before the calendar year in which fishing will begin under the same terms and conditions as the owners of the catcher vessels who entered into such contract upon filing.

''(e) EXCESSIVE SHARES.—

''(1) HARVESTING.—No particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery.

''(2) PROCESSING.—Under the authority of section 301(a)(4) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(4)), the North Pacific Council is directed to recommend for approval by the Secretary conservation and management measures to prevent any particular individual or entity from processing an excessive share of the pollock available to be harvested in

the directed pollock fishery. In the event the North Pacific Council recommends and the Secretary approves an excessive processing share that is lower than 17.5 percent, any individual or entity that previously processed a percentage greater than such share shall be allowed to continue to process such percentage, except that their percentage may not exceed 17.5 percent (excluding pollock processed by catcher/processors that was harvested in the directed pollock fishery by catcher vessels eligible under 208(b)) and shall be reduced if their percentage decreases, until their percentage is below such share. In recommending the excessive processing share, the North Pacific Council shall consider the need of catcher vessels in the directed pollock fishery to have competitive buyers for the pollock harvested by such vessels.

''(3) REVIEW BY MARITIME ADMINISTRATION.—At the request of the North Pacific Council or the Secretary, any individual or entity believed by such Council or the Secretary to have exceeded the percentage in either paragraph (1) or (2) shall submit such information to the Administrator of the Maritime Administration as the Administrator deems appropriate to allow the Administrator to determine whether such individual or entity has exceeded either such percentage. The Administrator shall make a finding as soon as practicable upon such request and shall submit such finding to the North Pacific Council and the Secretary. For the purposes of this subsection, any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity.

''(f) LANDING TAX JURISDICTION.—Any contract filed under subsection (a) shall include a contract clause under which the parties to the contract agree to make payments to the State of Alaska for any pollock harvested in the directed pollock fishery which is not landed in the State of Alaska, in amounts which would otherwise accrue had the pollock been landed in the State of Alaska subject to any landing taxes established under Alaska law. Failure to include such a contract clause or for such amounts to be paid shall result in a revocation of the authority to form fishery cooperatives under section 1 of the Act of June 25, 1934 (15 U.S.C. 521 et seq.).

''(g) PENALTIES.—The violation of any of the requirements of this subtitle or any regulation or permit issued pursuant to this subtitle shall be considered the commission of an act prohibited by section 307 of the Magnuson-Stevens Act (16 U.S.C. 1857), and sections 308, 309, 310, and 311 of such Act (16 U.S.C. 1858, 1859, 1860, and 1861) shall apply to any such violation in the same manner as to the commission of an act prohibited by section 307 of such Act (16 U.S.C. 1857). In addition to the civil penalties and permit sanctions applicable to prohibited acts under section 308 of such Act (16 U.S.C. 1858), any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have violated a requirement of this section shall be subject to the forfeiture to the Secretary of Commerce of any fish harvested or processed during the commission of such act.

''SEC. 211. PROTECTIONS FOR OTHER FISHERIES; CONSERVATION MEASURES.

''(a) GENERAL.—The North Pacific Council shall recommend for approval by the Secretary such conservation and management measures as it determines necessary to protect other fisheries under its jurisdiction and the participants in those fisheries, including processors, from adverse impacts caused by this Act [probably should be ''this title'', see Tables for classification] or fishery cooperatives in the directed pollock fishery.

''(b) CATCHER/PROCESSOR RESTRICTIONS.—

''(1) GENERAL.—The restrictions in this subsection shall take effect on January 1, 1999 and shall remain in effect thereafter except that they may be superceded (with the exception of paragraph (4)) by conservation and management measures recommended after the date of the enactment of this Act [Oct. 21, 1998] by the North Pacific Council and approved by the Secretary in accordance with the Magnuson-Stevens Act.

''(2) BERING SEA FISHING.—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from, in the aggregate—

''(A) exceeding the percentage of the harvest available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total harvest by such catcher/processors and the catcher/processors listed in section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997;

''(B) exceeding the percentage of the prohibited species available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total of the prohibited species harvested by such catcher/processors and the catcher/processors listed in section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount of prohibited species available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997; and

''(C) fishing for Atka mackerel in the eastern area of the Bering Sea and Aleutian Islands and from exceeding the following percentages of the directed harvest available in the Bering Sea and Aleutian Islands Atka mackerel fishery—

''(i) 11.5 percent in the central area; and

''(ii) 20 percent in the western area.

''(3) BERING SEA PROCESSING.—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from—

''(A) processing any of the directed fishing allowances under paragraphs (1) or (3) of section 206(b); and

''(B) processing any species of crab harvested in the Bering Sea and Aleutian Islands Management Area.

''(4) GULF OF ALASKA.—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from—

''(A) harvesting any fish in the Gulf of Alaska;

''(B) processing any groundfish harvested from the portion of the exclusive economic zone off Alaska known as area 630 under the fishery management plan for Gulf of Alaska groundfish; or

''(C) processing any pollock in the Gulf of Alaska (other than as bycatch in non-pollock groundfish fisheries) or processing, in the aggregate, a total of more than 10 percent of the cod harvested from areas 610, 620, and 640 of the Gulf of Alaska under the fishery management plan for Gulf of Alaska groundfish.

''(5) FISHERIES OTHER THAN NORTH PACIFIC.—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) and motherships eligible under section 208(d) are hereby prohibited from harvesting fish in any fishery under the authority of any regional fishery management council established under section 302(a) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)) other than the North Pacific Council, except for the Pacific whiting fishery, and from processing fish in any fishery under the authority of any such regional fishery management council other than the North Pacific Council, except in the Pacific whiting fishery, unless the catcher/processor or mothership is authorized to harvest or process fish under a fishery management plan recommended by the regional fishery management council of jurisdiction and approved by the Secretary.

''(6) OBSERVERS AND SCALES.—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) shall—

''(A) have two observers onboard at all times while groundfish is being harvested, processed, or received from another vessel in any fishery under the authority of the North Pacific Council; and

''(B) weigh its catch on a scale onboard approved by the National Marine Fisheries Service while harvesting groundfish in fisheries under the authority of the North Pacific Council.

This paragraph shall take effect on January 1, 1999 for catcher/processors eligible under paragraphs (1) through (20) of section 208(e) that will harvest pollock allocated under section 206(a) in 1999, and shall take effect on January 1, 2000 for all other catcher/processors eligible under such paragraphs of section 208(e).

''(c) CATCHER VESSEL AND SHORESIDE PROCESSOR RESTRICTIONS.—

''(1) REQUIRED COUNCIL RECOMMENDATIONS.—By not later than July 1, 1999, the North Pacific Council shall recommend for approval by the Secretary conservation and management measures to—

''(A) prevent the catcher vessels eligible under subsections (a), (b), and (c) of section 208 from exceeding in the aggregate the traditional harvest levels of such vessels in other fisheries under the authority of the North Pacific Council as a result of fishery cooperatives in the directed pollock fishery; and

''(B) protect processors not eligible to participate in the directed pollock fishery from adverse effects as a result of this Act or fishery cooperatives in the directed pollock fishery.

If the North Pacific Council does not recommend such conservation and management measures by such date, or if the Secretary determines that such conservation and management measures recommended by the North Pacific Council are not adequate to fulfill the purposes of this paragraph, the Secretary may by regulation restrict or change the authority in section 210(b) to the extent the Secretary deems appropriate, including by preventing fishery cooperatives from being formed pursuant to such section and by providing greater flexibility with respect to the shoreside processor or shoreside processors to which catcher vessels in a fishery cooperative under section 210(b) may deliver pollock.

''(2) BERING SEA CRAB AND GROUNDFISH.—

''(A) Effective January 1, 2000, the owners of the motherships eligible under section 208(d) and the shoreside processors eligible under section 208(f) that receive pollock from the directed pollock fishery under a fishery cooperative are hereby prohibited from processing, in the aggregate for each calendar year, more than the percentage of the total catch of each species of crab in directed fisheries under the jurisdiction of the North Pacific Council than facilities operated by such owners processed of each such species in the aggregate, on average, in 1995, 1996, 1997. For the purposes of this subparagraph, the term 'facilities' means any processing plant, catcher/processor, mothership, floating processor, or any other operation that processes fish. Any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity for the purposes of this subparagraph.

''(B) Under the authority of section 301(a)(4) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(4)), the North Pacific Council is directed to recommend for approval by the Secretary conservation and management measures to prevent any particular individual or entity from harvesting or processing an excessive share of crab or of groundfish in fisheries in the Bering Sea and Aleutian Islands Management Area.

''(C) The catcher vessels eligible under section 208(b) are hereby prohibited from participating in a directed fishery for any species of crab in the Bering Sea and Aleutian Islands Management Area unless the catcher vessel harvested crab in the directed fishery for that species of crab in such Area during 1997 and is eligible to harvest such crab in such directed fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary. The North Pacific Council is directed to recommend measures for approval by the Secretary to eliminate latent licenses under such program, and nothing in this subparagraph shall preclude the Council from recommending measures more restrictive than under this paragraph.

''(3) FISHERIES OTHER THAN NORTH PACIFIC.—

''(A) By not later than July 1, 2000, the Pacific Fishery Management Council established under section 302(a)(1)(F) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)(1)(F)) shall recommend for approval by the Secretary conservation and management measures to protect fisheries under its jurisdiction and the participants in those fisheries from adverse impacts caused by this Act [probably should be ''this title'', see Tables for classification] or by any fishery cooperatives in the directed pollock fishery.

''(B) If the Pacific Council does not recommend such conservation and management measures by such date, or if the Secretary determines that such conservation and management measures recommended by the Pacific Council are not adequate to fulfill the purposes of this paragraph, the Secretary may by regulation implement adequate measures including, but not limited to, restrictions on vessels which harvest pollock under a fishery cooperative which will prevent such vessels from harvesting Pacific groundfish, and restrictions on the number of processors eligible to process Pacific groundfish.

''(d) BYCATCH INFORMATION.—Notwithstanding section 402 of the Magnuson-Stevens Act (16 U.S.C. 1881a), the North Pacific Council may recommend and the Secretary may approve, under such terms and conditions as the North Pacific Council and Secretary deem appropriate, the public disclosure of any information from the groundfish fisheries under the authority of such Council that would be beneficial in the implementation of section 301(a)(9) or section 303(a)(11) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(9) and 1853(a)(11)).

''(e) COMMUNITY DEVELOPMENT LOAN PROGRAM.—Under the authority of title XI of the Merchant Marine Act, 1936 ([former] 46 U.S.C. App. 1271 et seq.) [see chapter 537 of Title 46, Shipping], and subject to the availability of appropriations, the Secretary is authorized to provide direct loan obligations to communities eligible to participate in the western Alaska community development quota program established under 304(i) [305(i)] of the Magnuson-Stevens Act (16 U.S.C. 1855(i)) for the purposes of purchasing all or part of an ownership interest in vessels and shoreside processors eligible under subsections (a), (b), (c), (d), (e), or (f) of section 208. Notwithstanding the eligibility criteria in section 208(a) and section 208(c), the LISA MARIE (United States official number 1038717) shall be eligible under such sections in the same manner as other vessels eligible under such sections.

''SEC. 212. RESTRICTION ON FEDERAL LOANS.

''[Amended section 302(b) of Pub. L. 104–297, formerly set out as a note under section 1274 of Title 46, Appendix, Shipping, and now partially set out as a note under section 53706 of Title 46, Shipping.]

''SEC. 213. DURATION.

''(a) GENERAL.—Except as otherwise provided in this title [see Tables for classification], the provisions of this title shall take effect upon the date of the enactment of this Act [Oct. 21, 1998]. There are authorized to be appropriated $6,700,000 per year to carry out the provisions of this Act [probably should be ''this title'', see Tables for classification] through fiscal year 2004.

''(b) EXISTING AUTHORITY.—Except for the measures required by this subtitle [this note], nothing in this subtitle shall be construed to limit the authority of the

North Pacific Council or the Secretary under the Magnuson-Stevens Act.

''(c) CHANGES TO FISHERY COOPERATIVE LIMITATIONS AND POLLOCK CDQ ALLOCATION.—The North Pacific Council may recommend and the Secretary may approve conservation and management measures in accordance with the Magnuson-Stevens Act—

''(1) that supersede the provisions of this subtitle, except for sections 206 and 208, for conservation purposes or to mitigate adverse effects in fisheries or on owners of fewer than three vessels in the directed pollock fishery caused by this title or fishery cooperatives in the directed pollock fishery, provided such measures take into account all factors affecting the fisheries and are imposed fairly and equitably to the extent practicable among and within the sectors in the directed pollock fishery;

''(2) that supersede the allocation in section 206(a) for any of the years 2002, 2003, and 2004, upon the finding by such Council that the western Alaska community development quota program for pollock has been adversely affected by the amendments in this subtitle; or

''(3) that supersede the criteria required in paragraph (1) of section 210(b) to be used by the Secretary to set the percentage allowed to be harvested by catcher vessels pursuant to a fishery cooperative under such paragraph.

''(d) REPORT TO CONGRESS.—Not later than October 1, 2000, the North Pacific Council shall submit a report to the Secretary and to Congress on the implementation and effects of this Act [title], including the effects on fishery conservation and management, on bycatch levels, on fishing communities, on business and employment practices of participants in any fishery cooperatives, on the western Alaska community development quota program, on any fisheries outside of the authority of the North Pacific Council, and such other matters as the North Pacific Council deems appropriate.

''(e) REPORT ON FILLET PRODUCTION.—Not later than June 1, 2000, the General Accounting Office [now Government Accountability Office] shall submit a report to the North Pacific Council, the Secretary, and the Congress on whether this Act has negatively affected the market for fillets and fillet blocks, including through the reduction in the supply of such fillets and fillet blocks. If the report determines that such market has been negatively affected, the North Pacific Council shall recommend measures for the Secretary's approval to mitigate any negative effects.

''(f) SEVERABILITY.—If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

''(g) INTERNATIONAL AGREEMENTS.—In the event that any provision of section 12102(c) [now 12113(b)(2) to (d)] or section 31322(a) of title 46, United States Code, as amended by this Act, is determined to be inconsistent with an existing international agreement relating to foreign investment to which the United States is a party with respect to the owner or mortgagee on [sic] of a vessel with a fishery endorsement, such provision shall not apply to that owner or mortgagee with respect to their ownership or mortgage interest in such vessel on that date to the extent of any such inconsistency. The provisions of section 12102(c) [now 12113(b)(2) to (d)] and section 31322(a) of title 46, United States Code, as amended by this Act, shall apply to all subsequent owners and mortgagees of such vessel, and shall apply, notwithstanding the preceding sentence, to the owner on [sic] of such vessel if any ownership interest in that owner is transferred to or otherwise acquired by a foreign individual or entity after or if the percentage of foreign ownership in the vessel is increased after the effective date of this subsection [July 24, 2001].''

[Pub. L. 107–20, title II, § 2202(e)(2), July 24, 2001, 115 Stat. 170, provided that: ''Section 213(g) of the American Fisheries Act (Public Law 105–277, division C, title II) [set out above] shall take effect on the date of enactment of this Act [July 24, 2001].'']

RESTRICTION ON FUNDING CERTAIN NEW FISHERY MANAGEMENT PLANS, AMENDMENTS OR REGULATIONS

Pub. L. 104–208, div. A, title I, § 101(a) [title II, §§ 208, 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–40, 3009–41, provided that: ''None of the funds appropriated under this Act or any other Act henceforth may be used to develop new fishery management plans, amendments, or regulations which create new individual fishing quota programs (whether such quotas are transferable or not) or to implement any such plans, amendments or regulations approved by a Regional Fishery Management Council or the Secretary after January 4, 1995, until offsetting fees to pay for the cost of administering such plans, amendments, or regulations are expressly authorized under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.). This restriction shall also apply to any program relating to the Gulf of Mexico commercial red snapper fishery that authorizes the consolidation of licenses, permits or endorsements that result in different trip limits for vessels in the same class. This restriction shall not apply in any way to the North Pacific halibut and sablefish, South Atlantic wreckfish, or the Mid-Atlantic surfclam and ocean (including mahogany) quohog individual fishing quota programs. The term 'individual fishing quota' does not include a community development quota.''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 104–134, title I, § 101[(a)] [title II, § 210], Apr. 26, 1996, 110 Stat. 1321, 1321–31; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; repealed by Pub. L. 104–297, title I, § 108(f)(6), Oct. 11, 1996, 110 Stat. 3579.

ALBEMARLE SOUND-ROANOKE RIVER BASIN: STRIPED BASS STUDY

Pub. L. 100–589, § 5, Nov. 3, 1988, 102 Stat. 2984, related to requirement of biological study of striped bass fishery resources and habitats of Albemarle Sound-Roanoke River basin area and development of short-term and long-term recommendations for restoring and conserving these resources and habitats, prior to repeal by Pub. L. 105–146, § 3(b), Dec. 16, 1997, 111 Stat. 2677.

EXCLUSIVE ECONOMIC ZONE: ATLANTIC STRIPED BASS PROTECTION

Pub. L. 100–589, § 6(a)–(f), Nov. 3, 1988, 102 Stat. 2986, as amended by Pub. L. 102–130, § 4, Oct. 17, 1991, 105 Stat. 627; Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, directed Secretary of Commerce to regulate fishing for Atlantic striped bass in exclusive economic zone determined to be consistent with national standards set forth in this section, prior to repeal by Pub. L. 105–146, § 3(c), Dec. 16, 1997, 111 Stat. 2677.

ATLANTIC STRIPED BASS CONSERVATION

Pub. L. 98–613, §§ 1–9, Oct. 31, 1984, 98 Stat. 3187–3190, as amended, formerly set out as a note under this section, was transferred to chapter 71A (§ 5151 et seq.) of this title.

§ 1852. Regional Fishery Management Councils

(a) Establishment

(1) There shall be established, within 120 days after April 13, 1976, eight Regional Fishery Management Councils, as follows:

(A) New England Council

The New England Fishery Management Council shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island,

and Connecticut and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except as provided in paragraph (3)). The New England Council shall have 18 voting members, including 12 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each such State).

(B) Mid-Atlantic Council

The Mid-Atlantic Fishery Management Council shall consist of the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, and North Carolina and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except North Carolina, and as provided in paragraph (3)). The Mid-Atlantic Council shall have 21 voting members, including 13 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each such State).

(C) South Atlantic Council

The South Atlantic Fishery Management Council shall consist of the States of North Carolina, South Carolina, Georgia, and Florida and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except as provided in paragraph (3)). The South Atlantic Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each such State).

(D) Caribbean Council

The Caribbean Fishery Management Council shall consist of the Virgin Islands and the Commonwealth of Puerto Rico and shall have authority over the fisheries in the Caribbean Sea and Atlantic Ocean seaward of such States and of commonwealths, territories, and possessions of the United States in the Caribbean Sea (except as provided in paragraph (3)). The Caribbean Council shall have 7 voting members, including 4 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each such State).

(E) Gulf Council

The Gulf of Mexico Fishery Management Council shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida and shall have authority over the fisheries in the Gulf of Mexico seaward of such States (except as provided in paragraph (3)). The Gulf Council shall have 17 voting members, including 11 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each such State).

(F) Pacific Council

The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 14 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each such State), and including one appointed from an Indian tribe with Federally[1] recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5) of this section.

(G) North Pacific Council

The North Pacific Fishery Management Council shall consist of the States of Alaska, Washington, and Oregon and shall have authority over the fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska. The North Pacific Council shall have 11 voting members, including 7 appointed by the Secretary in accordance with subsection (b)(2) of this section (5 of whom shall be appointed from the State of Alaska and 2 of whom shall be appointed from the State of Washington).

(H) Western Pacific Council

The Western Pacific Fishery Management Council shall consist of the States of Hawaii, American Samoa, Guam, and the Northern Mariana Islands and shall have authority over the fisheries in the Pacific Ocean seaward of such States and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area. The Western Pacific Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each of the following States: Hawaii, American Samoa, Guam, and the Northern Mariana Islands).

(2) Each Council shall reflect the expertise and interest of the several constituent States in the ocean area over which such Council is granted authority.

(3) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

(b) Voting members

(1) The voting members of each Council shall be:

(A) The principal State official with marine fishery management responsibility and expertise in each constituent State, who is designated as such by the Governor of the State, so long as the official continues to hold such position, or the designee of such official.

(B) The regional director of the National Marine Fisheries Service for the geographic area concerned, or his designee, except that if two such directors are within such geographical area, the Secretary shall designate which of such directors shall be the voting member.

(C) The members required to be appointed by the Secretary in accordance with paragraphs (2) and (5).

(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who, by reason of their occupational or

[1] So in original. Probably should not be capitalized.

other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the geographical area concerned. Within nine months after November 28, 1990, the Secretary shall, by regulation, prescribe criteria for determining whether an individual satisfies the requirements of this subparagraph.

(B) The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of the active participants (or their representatives) in the commercial and recreational fisheries under the jurisdiction of the Council. On January 31, 1991, and each year thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the actions taken by the Secretary to ensure that such fair and balanced apportionment is achieved. The report shall—

(i) list the fisheries under the jurisdiction of each Council, outlining for each fishery the type and quantity of fish harvested, fishing and processing methods employed, the number of participants, the duration and range of the fishery, and other distinguishing characteristics;

(ii) assess the membership of each Council in terms of the apportionment of the active participants in each such fishery; and

(iii) state the Secretary's plans and schedule for actions to achieve a fair and balanced apportionment on the Council for the active participants in any such fishery.

(C) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has determined that each such individual is qualified under the requirements of subparagraph (A) and unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the State regarding those individuals. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy and shall be accompanied by a statement by the Governor explaining how each such individual meets the requirements of subparagraph (A). The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of such requirements. If the Secretary determines that any individual is not qualified, the Secretary shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k)[2] of this section.

(D)(i) The Governor of a State submitting a list of names of individuals for appointment by the Secretary of Commerce to the Gulf of Mexico Fisheries Management Council under subparagraph (C) shall include—

(I) at least 1 nominee each from the commercial, recreational, and charter fishing sectors; and

(II) at least 1 other individual who is knowledgeable regarding the conservation and management of fisheries resources in the jurisdiction of the Council.

(ii) Notwithstanding the requirements of subparagraph (C), if the Secretary determines that the list of names submitted by the Governor does not meet the requirements of clause (i) the Secretary shall—

(I) publish a notice in the Federal Register asking the residents of that State to submit the names and pertinent biographical data of individuals who would meet the requirement not met for appointment to the Council; and

(II) add the name of any qualified individual submitted by the public who meets the unmet requirement to the list of names submitted by the Governor.

(iii) For purposes of clause (i) an individual who owns or operates a fish farm outside of the United States shall not be considered to be a representative of the commercial or recreational fishing sector.

(iv) The requirements of this subparagraph shall expire at the end of fiscal year 2012.

(E) Whenever the Secretary makes an appointment to a Council, the Secretary shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.

(3) Each voting member appointed to a Council by the Secretary in accordance with paragraphs (2) and (5) shall serve for a term of 3 years; except that the Secretary may designate a shorter term if necessary to provide for balanced expiration to terms of office. No member appointed after January 1, 1986, may serve more than three consecutive terms. Any term in which an individual was appointed to replace a member who left office during the term shall not be counted in determining the number of consecutive terms served by that Council member.

(4) Successors to the voting members of any Council shall be appointed in the same manner as the original voting members. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

(5)(A) The Secretary shall appoint to the Pacific Council one representative of an Indian tribe with Federally[3] recognized fishing rights from California, Oregon, Washington, or Idaho from a list of not less than 3 individuals submitted by the tribal governments. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regu-

[2] So in original. Probably should be subsection ''(j)''.

[3] So in original. Probably should not be capitalized.

lation the procedure for submitting a list under this subparagraph.

(B) Representation shall be rotated among the tribes taking into consideration—

(i) the qualifications of the individuals on the list referred to in subparagraph (A),

(ii) the various rights of the Indian tribes involved and judicial cases that set forth how those rights are to be exercised, and

(iii) the geographic area in which the tribe of the representative is located.

(C) A vacancy occurring prior to the expiration of any term shall be filled in the same manner as set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen.

(D) The tribal representative appointed under subparagraph (A) may designate as an alternate, during the period of the representative's term, an individual knowledgeable concerning tribal rights, tribal law, and the fishery resources of the geographical area concerned.

(6) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with paragraphs[4] (2) or (5) if—

(A) the Council concerned first recommends removal by not less than two-thirds of the members who are voting members and submits such removal recommendation to the Secretary in writing together with a statement of the basis for the recommendation; or

(B) the member is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, to have committed an act prohibited by section 1857(1)(O) of this title.

(c) Nonvoting members

(1) The nonvoting members of each Council shall be:

(A) The regional or area director of the United States Fish and Wildlife Service for the geographical area concerned, or his designee.

(B) The Commander of the Coast Guard district for the geographical area concerned, or his designee; except that, if two Coast Guard districts are within such geographical area, the commander designated for such purpose by the commandant of the Coast Guard.

(C) The executive director of the Marine Fisheries Commission for the geographical area concerned, if any, or his designee.

(D) One representative of the Department of State designated for such purpose by the Secretary of State, or his designee.

(2) The Pacific Council shall have one additional nonvoting member who shall be appointed by, and serve at the pleasure of, the Governor of Alaska.

(d) Compensation and expenses

The voting members of each Council who are required to be appointed by the Secretary and who are not employed by the Federal Government or any State or local government, shall receive compensation at the daily rate for GS–15, step 7 of the General Schedule, when engaged in the actual performance of duties for such Council. The voting members of each Council, any nonvoting member described in subsection (c)(1)(C) of this section, and the nonvoting member appointed pursuant to subsection (c)(2) of this section shall be reimbursed for actual expenses incurred in the performance of such duties, and other nonvoting members and Council staff members may be reimbursed for actual expenses.

(e) Transaction of business

(1) A majority of the voting members of any Council shall constitute a quorum, but one or more such members designated by the Council may hold hearings. All decisions of any Council shall be by majority vote of the voting members present and voting.

(2) The voting members of each Council shall select a Chairman for such Council from among the voting members.

(3) Each Council shall meet at appropriate times and places in any of the constituent States of the Council at the call of the Chairman or upon the request of a majority of its voting members.

(4) If any voting member of a Council disagrees with respect to any matter which is transmitted to the Secretary by such Council, such member may submit a statement to the Secretary setting forth the reasons for such disagreement. The regional director of the National Marine Fisheries Service serving on the Council, or the regional director's designee, shall submit such a statement, which shall be made available to the public upon request, if the regional director disagrees with any such matter.

(5) At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.

(f) Staff and administration

(1) Each Council may appoint, and assign duties to, an executive director and such other full- and part-time administrative employees as the Secretary determines are necessary to the performance of its functions.

(2) Upon the request of any Council, and after consultation with the Secretary, the head of any Federal agency is authorized to detail to such Council, on a reimbursable basis, any of the personnel of such agency, to assist such Council in the performance of its functions under this chapter.

(3) The Secretary shall provide to each Council such administrative and technical support services as are necessary for the effective functioning of such Council.

(4) The Administrator of General Services shall furnish each Council with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(5) The Secretary and the Secretary of State shall furnish each Council with relevant information concerning foreign fishing and international fishery agreements.

[4] So in original. Probably should be ''paragraph''.

(6) Each Council shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, in accordance with such uniform standards as are prescribed by the Secretary. The procedures of a Council, and of its scientific and statistical committee and advisory panels established under subsection (g) of this section, must be consistent with the procedural guidelines set forth in subsection (i)(2) of this section. Each Council shall publish and make available to the public a statement of its organization, practices, and procedures.

(7) The Secretary shall pay—

(A) the compensation and expenses provided for in subsection (d) of this section;

(B) appropriate compensation to employees appointed under paragraph (1);

(C) the amounts required for reimbursement of other Federal agencies under paragraphs (2) and (4);

(D) the actual expenses of the members of the committees and panels established under subsection (g) of this section; and

(E) such other costs as the Secretary determines are necessary to the performance of the functions of the Councils.

(g) Committees and advisory panels

(1)(A) Each Council shall establish, maintain, and appoint the members of a scientific and statistical committee to assist it in the development, collection, evaluation, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.

(B) Each scientific and statistical committee shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices.

(C) Members appointed by the Councils to the scientific and statistical committees shall be Federal employees, State employees, academicians, or independent experts and shall have strong scientific or technical credentials and experience.

(D) Each member of a scientific and statistical committee shall be treated as an affected individual for purposes of paragraphs (2), (3)(B), (4), and (5)(A) of subsection (j). The Secretary shall keep disclosures made pursuant to this subparagraph on file.

(E) The Secretary and each Council may establish a peer review process for that Council for scientific information used to advise the Council about the conservation and management of the fishery. The review process, which may include existing committees or panels, is deemed to satisfy the requirements of the guidelines issued pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal year 2001 (Public Law 106–554—Appendix C; 114 Stat. 2763A–153).

(F) In addition to the provisions of subsection (f)(7), the Secretary shall, subject to the availability of appropriations, pay a stipend to members of the scientific and statistical committees or advisory panels who are not employed by the Federal Government or a State marine fisheries agency.

(G) A science and statistical committee shall hold its meetings in conjunction with the meeting of the Council, to the extent practicable.

(2) Each Council shall establish such advisory panels as are necessary or appropriate to assist it in carrying out its functions under this chapter.

(3)(A) Each Council shall establish and maintain a fishing industry advisory committee which shall provide information and recommendations on, and assist in the development of, fishery management plans and amendments to such plans.

(B) Appointments to a committee established under subparagraph (A) shall be made by each Council in such a manner as to provide fair representation to commercial fishing interests in the geographical area of authority of the Council.

(4) The Secretary shall establish advisory panels to assist in the collection and evaluation of information relevant to the development of any fishery management plan or plan amendment for a fishery to which subsection (a)(3) of this section applies. Each advisory panel shall participate in all aspects of the development of the plan or amendment; be balanced in its representation of commercial, recreational, and other interests; and consist of not less than 7 individuals who are knowledgeable about the fishery for which the plan or amendment is developed, selected from among—

(A) members of advisory committees and species working groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

(B) other interested persons.

(5) Decisions and recommendations made by committees and panels established under this subsection shall be considered to be advisory in nature.

(h) Functions

Each Council shall, in accordance with the provisions of this chapter—

(1) for each fishery under its authority that requires conservation and management, prepare and submit to the Secretary (A) a fishery management plan, and (B) amendments to each such plan that are necessary from time to time (and promptly whenever changes in conservation and management measures in another fishery substantially affect the fishery for which such plan was developed);

(2) prepare comments on any application for foreign fishing transmitted to it under section 1824(b)(4)(C) of this title or section 1824(d) of this title, and any fishery management plan or amendment transmitted to it under section 1854(c)(4) of this title;

(3) conduct public hearings, at appropriate times and in appropriate locations in the geographical area concerned, so as to allow all interested persons an opportunity to be heard in the development of fishery management plans

and amendments to such plans, and with respect to the administration and implementation of the provisions of this chapter (and for purposes of this paragraph, the term ''geographical area concerned'' may include an area under the authority of another Council if the fish in the fishery concerned migrate into, or occur in, that area or if the matters being heard affect fishermen of that area; but not unless such other Council is first consulted regarding the conduct of such hearings within its area);

(4) submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary;

(5) review on a continuing basis, and revise as appropriate, the assessments and specifications made pursuant to section 1853(a)(3) and (4) of this title with respect to the optimum yield from, the capacity and extent to which United States fish processors will process United States harvested fish from, and the total allowable level of foreign fishing in, each fishery (except as provided in section[5] subsection (a)(3) of this section) within its geographical area of authority;

(6) develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations of its scientific and statistical committee or the peer review process established under subsection (g);

(7) develop, in conjunction with the scientific and statistical committee, multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of research that are necessary for management purposes, that shall—

(A) establish priorities for 5-year periods;

(B) be updated as necessary; and

(C) be submitted to the Secretary and the regional science centers of the National Marine Fisheries Service for their consideration in developing research priorities and budgets for the region of the Council; and

(8) conduct any other activities which are required by, or provided for in, this chapter or which are necessary and appropriate to the foregoing functions.

(i) Procedural matters

(1) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Councils, the Council coordination committee established under subsection (*l*), or to the scientific and statistical committees or other committees or advisory panels established under subsection (g).

(2) The following guidelines apply with respect to the conduct of business at meetings of a Council, of the Council coordination committee established under subsection (*l*), and of the scientific and statistical committees or other committees or advisory panels established under subsection (g):

(A) Unless closed in accordance with paragraph (3), each regular meeting and each emergency meeting shall be open to the public.

(B) Emergency meetings shall be held at the call of the chairman or equivalent presiding officer.

(C) Timely public notice of each regular meeting and each emergency meeting, including the time, place, and agenda of the meeting, shall be provided by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient. Timely notice of each regular meeting shall also be published in the Federal Register. The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under section 1855(c) of this title, in which case public notice shall be given immediately.

(D) Interested persons shall be permitted to present oral or written statements regarding the matters on the agenda at meetings. All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.

(E) Detailed minutes of each meeting of the Council, except for any closed session, shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed. The Chairman shall certify the accuracy of the minutes of each such meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction.

(F) Subject to the procedures established under paragraph (4), and the guidelines prescribed by the Secretary under section 1881a(b) of this title, relating to confidentiality, the administrative record, including minutes required under subparagraph (E), of each meeting, and records or other documents which were made available to or prepared for or by the Council, committee, or panel incident to the meeting, shall be available for public inspection and copying at a single location in the offices of the Council or the Secretary, as appropriate.

(3)(A) Each Council, the Council Coordination Committee established under subsection (*l*), scientific, and statistical committee, other committees, and advisory panel—

(i) shall close any meeting, or portion thereof, that concerns matters or information that bears a national security classification; and

(ii) may close any meeting, or portion thereof, that concerns matters or information that pertains to national security, employment matters, or briefings on litigation in which the Council is interested.

Subparagraphs (D) and (F) of paragraph (2) shall not apply to any meeting or portion thereof that is so closed.

(B) If any meeting or portion is closed, the Council concerned shall provide notice by any

[5] So in original. The word ''section'' probably should not appear.

means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient, including in that notification the time and place of the meeting. This subpararaph[6] does not require notification regarding any brief closure of a portion of a meeting in order to discuss employment or other internal administrative matters.

(4) Each Council shall establish appropriate procedures applicable to it and to its committee and advisory panels for ensuring the confidentiality of the statistics that may be submitted to it by Federal or State authorities, and may be voluntarily submitted to it by private persons; including, but not limited to, procedures for the restriction of Council employee access and the prevention of conflicts of interest; except that such procedures, in the case of statistics submitted to the Council by a State or by the Secretary under section 1881a(b) of this title, must be consistent with the laws and regulations of that State, or with the procedures of the Secretary, as the case may be, concerning the confidentiality of the statistics.

(5) Each Council shall specify those procedures that are necessary or appropriate to ensure that the committees and advisory panels established under subsection (g) of this section are involved, on a continuing basis, in the development and amendment of fishery management plans.

(6) At any time when a Council determines it appropriate to consider new information from a State or Federal agency or from a Council advisory body, the Council shall give comparable consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on conservation and management measures.

(j) Disclosure of financial interest and recusal

(1) For the purposes of this subsection—

(A) the term ''affected individual'' means an individual who—

(i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2) of this section; or

(ii) is a voting member of a Council appointed—

(I) under subsection (b)(2) of this section; or

(II) under subsection (b)(5) of this section who is not subject to disclosure and recusal requirements under the laws of an Indian tribal government; and

(B) the term ''designated official'' means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, in consultation with the Council, to attend Council meetings and make determinations under paragraph (7)(B).

(2) Each affected individual must disclose any financial interest held by—

(A) that individual;

(B) the spouse, minor child, or partner of that individual; and

(C) any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee;

in any harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction, or with respect to an individual or organization with a financial interest in such activity.

(3) The disclosure required under paragraph (2) shall be made—

(A) in the case of an affected individual referred to in paragraph (1)(A)(i), before appointment by the Secretary; and

(B) in the case of an affected individual referred to in paragraph (1)(A)(ii), within 45 days of taking office.

(4) An affected individual referred to in paragraph (1)(A)(ii) must update his or her disclosure form at any time any such financial interest is acquired, or substantially changed, by any person referred to in paragraph (2)(A), (B), or (C).

(5) The financial interest disclosures required by this subsection shall—

(A) be made on such forms, in accordance with such procedures, and at such times, as the Secretary shall by regulation prescribe;

(B) be kept on file by the Council and made available on the Internet and for public inspection at the Council offices during reasonable hours; and

(C) be kept on file by the Secretary for use in reviewing determinations under paragraph (7)(B) and made available for public inspection at reasonable hours.

(6) The participation by an affected individual referred to in paragraph (1)(A)(ii) in an action by a Council during any time in which that individual is not in compliance with the regulations prescribed under paragraph (5) may not be treated as cause for the invalidation of that action.

(7)(A) After the effective date of regulations promulgated under subparagraph (F) of this paragraph, an affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

(B) At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

(C) Any Council member may submit a written request to the Secretary to review any deter-

[6] So in original. Probably should be ''subparagraph''.

mination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

(D) Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.

(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

(F) The Secretary, in consultation with the Councils and by not later than one year from October 11, 1996, shall promulgate regulations which prohibit an affected individual from voting in accordance with subparagraph (A), and which allow for the making of determinations under subparagraphs (B) and (C).

(8) Section 208 of title 18 does not apply to an affected individual referred to in paragraph (1)(A)(ii) during any time in which that individual is in compliance with the regulations prescribed under paragraph (5).

(9) On January 1, 2008, and annually thereafter, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on action taken by the Secretary and the Councils to implement the disclosure of financial interest and recusal requirements of this subsection, including identification of any conflict of interest problems with respect to the Councils and scientific and statistical committees and recommendations for addressing any such problems.

(k) Council training program

(1) Training course

Within 6 months after January 12, 2007, the Secretary, in consultation with the Councils and the National Sea Grant College Program, shall develop a training course for newly appointed Council members. The course may cover a variety of topics relevant to matters before the Councils, including—

(A) fishery science and basic stock assessment methods;

(B) fishery management techniques, data needs, and Council procedures;

(C) social science and fishery economics;

(D) tribal treaty rights and native customs, access, and other rights related to Western Pacific indigenous communities;

(E) legal requirements of this chapter, including conflict of interest and disclosure provisions of this section and related policies;

(F) other relevant legal and regulatory requirements, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.);

(G) public process for development of fishery management plans;

(H) other topics suggested by the Council; and

(I) recreational and commercial fishing information, including fish harvesting techniques, gear types, fishing vessel types, and economics for the fisheries within each Council's jurisdiction.

(2) Member training

The training course shall be available to both new and existing Council members, staff from the regional offices and regional science centers of the National Marine Fisheries Service, and may be made available to committee or advisory panel members as resources allow.

(3) Required training

Council members appointed after January 12, 2007, shall complete a training course that meets the requirements of this section not later than 1 year after the date on which they were appointed. Any Council member who has completed a training course within 24 months before January 12, 2007, shall be considered to have met the training requirement of this paragraph.

(*l*) Council coordination committee

The Councils may establish a Council coordination committee consisting of the chairs, vice chairs, and executive directors of each of the 8 Councils described in subsection (a)(1), or other Council members or staff, in order to discuss issues of relevance to all Councils, including issues related to the implementation of this chapter.

(Pub. L. 94–265, title III, §302, Apr. 13, 1976, 90 Stat. 347; Pub. L. 95–354, §5(1), Aug. 28, 1978, 92 Stat. 521; Pub. L. 96–561, title II, §234, Dec. 22, 1980, 94 Stat. 3299; Pub. L. 97–453, §5, Jan. 12, 1983, 96 Stat. 2484; Pub. L. 99–659, title I, §104(a)(1), (b)–(e)(1), Nov. 14, 1986, 100 Stat. 3709, 3710; Pub. L. 101–627, title I, §§108(a)–(j), 120(c), Nov. 28, 1990, 104 Stat. 4444–4446, 4459; Pub. L. 102–582, title IV, §403, Nov. 2, 1992, 106 Stat. 4909; Pub. L. 104–297, title I, §107, Oct. 11, 1996, 110 Stat. 3570; Pub. L. 106–113, div. B, §1000(a)(1) [title II, §210], Nov. 29, 1999, 113 Stat. 1535, 1501A–33; Pub. L. 109–479, title I, §§102, 103, Jan. 12, 2007, 120 Stat. 3579.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (f)(2), (6), (g)(2), (h), (k)(1)(E), and (*l*), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Section 515 of the Treasury and General Government Appropriations Act for Fiscal year 2001, referred to in subsec. (g)(1)(E), is section 1(a)(3) [title V, §515] of Pub. L. 106–554, which is set out as a note under section 3516 of Title 44, Public Printing and Documents.

The Federal Advisory Committee Act, referred to in subsec. (i)(1), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The National Environmental Policy Act, referred to in subsec. (k)(1)(F), probably means the National Environmental Policy Act of 1969, Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2007—Subsec. (a)(1)(D). Pub. L. 109–479, §102, inserted ''and of commonwealths, territories, and possessions of the United States in the Caribbean Sea'' after ''seaward of such States''.

Subsec. (b)(2)(D), (E). Pub. L. 109–479, §103(j), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (b)(5)(D). Pub. L. 109–479, §103(a), added subpar. (D).

Subsec. (g). Pub. L. 109–479, §103(b)(1), substituted ''Committees and advisory panels'' for ''Committees and panels'' in heading.

Subsec. (g)(1). Pub. L. 109–479, §103(b)(1), added par. (1) and struck out former par. (1) which read as follows: ''Each Council shall establish and maintain, and appoint the members of, a scientific and statistical committee to assist it in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.''

Subsec. (g)(2). Pub. L. 109–479, §103(b)(2), (3), struck out ''other'' before ''advisory panels'' and realigned margins.

Subsec. (g)(3) to (5). Pub. L. 109–479, §103(b)(3), realigned margins.

Subsec. (h)(5). Pub. L. 109–479, §103(c)(1), which directed substitution of ''authority;'' for ''authority, and'', was executed by making the substitution for ''authority; and'' to reflect the probable intent of Congress.

Subsec. (h)(6). Pub. L. 109–479, §103(c)(3), added par. (6). Former par. (6) redesignated (7).

Subsec. (h)(7). Pub. L. 109–479, §103(d)(1), (3), added par. (7). Former par. (7) redesignated (8).

Pub. L. 109–479, §103(c)(2), redesignated par. (6) as (7).

Subsec. (h)(8). Pub. L. 109–479, §103(d)(2), redesignated par. (7) as (8).

Subsec. (i)(1). Pub. L. 109–479, §103(h)(1), substituted ''to the Councils, the Council coordination committee established under subsection (*l*), or to the scientific and statistical committees or other committees or advisory panels established under subsection (g).'' for ''to the Councils or to the scientific and statistical committees or advisory panels established under subsection (g) of this section.''

Subsec. (i)(2). Pub. L. 109–479, §103(h)(2), in introductory provisions, substituted ''of a Council, of the Council coordination committee established under subsection (*l*), and of the scientific and statistical committees or other committees or advisory panels established under subsection (g):'' for ''of a Council, and of the scientific and statistical committee and advisory panels established under subsection (g) of this section:''.

Subsec. (i)(2)(C). Pub. L. 109–479, §103(e), substituted ''provided by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient.'' for ''published in local newspapers in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery) and such notice may be given by such other means as will result in wide publicity.''

Subsec. (i)(3)(A). Pub. L. 109–479, §103(h)(3), (4), in introductory provisions, inserted ''the Council Coordination Committee established under subsection (*l*),'' after ''Council,'' and ''other committees,'' after ''committee,''.

Subsec. (i)(3)(B). Pub. L. 109–479, §103(f), which directed substitution of ''provide notice by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient,'' for ''notify local newspapers in the major fishing ports within its region (and in other major, affected fishing ports,'', was executed by making the substitution for text which ended with ''ports),'' to reflect the probable intent of Congress.

Subsec. (j)(2). Pub. L. 109–479, §103(i)(1), (2), in concluding provisions, inserted ''lobbying, advocacy,'' after ''processing,'' and substituted ''jurisdiction, or with respect to an individual or organization with a financial interest in such activity.'' for ''jurisdiction.''

Subsec. (j)(5)(B). Pub. L. 109–479, §103(i)(3), added subpar. (B) and struck out former subpar. (B) which read as follows: ''be kept on file, and made available for public inspection at reasonable hours, at the Council offices; and''.

Subsec. (j)(9). Pub. L. 109–479, §103(i)(4), added par. (9).

Subsecs. (k), (*l*). Pub. L. 109–479, §103(g), added subsecs. (k) and (*l*).

1999—Subsec. (a)(1)(A). Pub. L. 106–113 substituted ''18'' for ''17'' and ''12'' for ''11''.

1996—Subsec. (a). Pub. L. 104–297, §107(a)(1), (2), (6), inserted ''(1)'' before ''There shall be established'', redesignated former pars. (1) to (8) as subpars. (A) to (H), respectively, adjusted margin of last sentence, and inserted ''(2)'' before ''Each Council''.

Subsec. (a)(1)(A). Pub. L. 104–297, §107(a)(3), substituted ''paragraph (3)'' for ''section 1854(f)(3) of this title''.

Subsec. (a)(1)(B). Pub. L. 104–297, §107(a)(3), (4), substituted ''Virginia, and North Carolina'' for ''and Virginia'', inserted ''North Carolina, and'' after ''except'', and substituted ''paragraph (3)'' for ''section 1854(f)(3) of this title'', ''21 voting'' for ''19 voting'', and ''13 appointed'' for ''12 appointed''.

Subsec. (a)(1)(C) to (E). Pub. L. 104–297, §107(a)(3), substituted ''paragraph (3)'' for ''section 1854(f)(3) of this title''.

Subsec. (a)(1)(F). Pub. L. 104–297, §107(a)(5), amended heading and text of subpar. (F) generally. Prior to amendment, text read as follows: ''The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each such State).''

Subsec. (a)(3). Pub. L. 104–297, §107(a)(7), added par. (3).

Subsec. (b)(1)(C). Pub. L. 104–297, §107(b)(1), substituted ''paragraphs (2) and (5)'' for ''subsection (b)(2) of this section''.

Subsec. (b)(3). Pub. L. 104–297, §107(b)(1), (2), substituted ''paragraphs (2) and (5)'' for ''subsection (b)(2) of this section'' and ''Any term in which an individual was appointed to replace a member who left office during the term shall not be counted in determining the number of consecutive terms served by that Council member.'' for ''Any term completed prior to December 31, 1987, shall not be counted in determining the number of consecutive terms served by any Council member.''

Subsec. (b)(5), (6). Pub. L. 104–297, §107(b)(3), added pars. (5) and (6) and struck out former par. (5) which read as follows: ''The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with subsection (b)(2) of this section if the Council concerned first recommends removal by not less than two-thirds of the members who are voting members. A removal recommendation of a Council must be in writing and accompanied by a statement of the reasons upon which the recommendation is based.''

Subsec. (d). Pub. L. 104–297, §107(c), substituted ''each Council who are required to be appointed by the Secretary and'' for ''each Council,'' and ''shall receive compensation at the daily rate for GS–15, step 7'' for ''shall, until January 1, 1992, receive compensation at the daily rate for GS–18 of the General Schedule, and after December 31, 1991, at the daily rate for GS–16''.

Subsec. (e)(5). Pub. L. 104–297, §107(d), added par. (5).

Subsec. (g)(4), (5). Pub. L. 104–297, §107(e), added par. (4) and redesignated former par. (4) as (5).

Subsec. (h)(1). Pub. L. 104–297, §107(f)(1), added par. (1) and struck out former par. (1) which read as follows: ''prepare and submit to the Secretary a fishery management plan with respect to each fishery (except as provided in section 1854(f)(3) of this title) within its geographical area of authority that requires conserva-

tion and management and, from time to time, such amendments to each such plan as are necessary;''.

Subsec. (h)(2). Pub. L. 104–297, §107(f)(2), substituted ''section 1824(b)(4)(C) of this title or section 1824(d) of this title'' for ''section 1824(b)(4)(C) of this title'' and ''section 1854(c)(4)'' for ''section 1854(c)(2)''.

Subsec. (h)(5). Pub. L. 104–297, §107(f)(3), substituted ''subsection (a)(3) of this section'' for ''1854(f)(3) of this title''.

Subsec. (i). Pub. L. 104–297, §107(g), redesignated subsec. (j) as (i) and struck out heading and text of former subsec. (i). Text read as follows:

''(1) Each Council—

''(A) may comment on and make recommendations concerning any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may affect the habitat of a fishery resource under its jurisdiction; and

''(B) shall comment on and make recommendations concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction.

''(2) Within 45 days after receiving a comment or recommendation under paragraph (1) from a Council, a Federal agency shall provide a detailed response, in writing, to the Council regarding the matter. In the case of a comment or recommendation under paragraph (1)(B), the response shall include a description of measures being considered by the agency for mitigating or offsetting the impact of the activity on such habitat.''

Subsec. (i)(1). Pub. L. 104–297, §107(h)(1), substituted ''established under subsection (g) of this section'' for ''of the Councils''.

Subsec. (i)(2). Pub. L. 104–297, §107(h)(2), substituted ''established under subsection (g) of this section'' for ''of a Council'' in introductory provisions.

Subsec. (i)(2)(C). Pub. L. 104–297, §107(h)(3), (4), struck out ''Council's'' after ''fishing ports of the'' and inserted at end ''The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under section 1855(c) of this title, in which case public notice shall be given immediately.''

Subsec. (i)(2)(D). Pub. L. 104–297, §107(h)(5), inserted at end ''All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.''

Subsec. (i)(2)(E). Pub. L. 104–297, §107(h)(6), added subpar. (E) and struck out former subpar. (E) which read as follows: ''Minutes of each meeting shall be kept and shall contain a record of the persons present, an accurate description of matters discussed and conclusions reached, and copies of all statements filed.''

Subsec. (i)(2)(F). Pub. L. 104–297, §107(h)(7)–(9), struck out ''by the Council'' after ''procedures established'', substituted ''section 1881a(b)'' for ''section 1853(d)'', and inserted ''or the Secretary, as appropriate'' after ''of the Council''.

Subsec. (i)(4). Pub. L. 104–297, §107(h)(10), substituted ''section 1881a(b)'' for ''section 1853(d)''.

Subsec. (j). Pub. L. 104–297, §107(g), (i)(1), redesignated subsec. (k) as (j) and inserted ''and recusal'' at the end of subsection heading. Former subsec. (j) redesignated (i).

Subsec. (j)(1). Pub. L. 104–297, §107(i)(2), added par. (1) and struck out former par. (1) which read as follows: ''For purposes of this subsection, the term 'affected individual' means an individual who—

''(A) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2) of this section;

''(B) is a voting member of a Council appointed under subsection (b)(2) of this section; or

''(C) is the executive director of a Council.''

Subsec. (j)(3)(A). Pub. L. 104–297, §107(i)(3), substituted ''(1)(A)(i)'' for ''(1)(A)''.

Subsec. (j)(3)(B), (4). Pub. L. 104–297, §107(i)(4), (5), substituted ''(1)(A)(ii)'' for ''(1)(B) or (C)''.

Subsec. (j)(5)(C). Pub. L. 104–297, §107(i)(6), added subpar. (C).

Subsec. (j)(6). Pub. L. 104–297, §107(i)(7), substituted ''(1)(A)(ii)'' for ''(1)(B) or (C)''.

Subsec. (j)(7). Pub. L. 104–297, §107(i)(8), added par. (7). Former par. (7) redesignated (8).

Subsec. (j)(8). Pub. L. 104–297, §107(i)(9), substituted ''(1)(A)(ii)'' for ''(1)(B) or (C)''.

Pub. L. 104–297, §107(i)(8), redesignated par. (7) as (8).

Subsec. (k). Pub. L. 104–297, §107(g), redesignated subsec. (k) as (j).

1992—Subsec. (b)(3). Pub. L. 102–582 substituted ''December 31, 1987'' for ''January 1, 1986''.

1990—Subsec. (a). Pub. L. 101–627, §108(a), inserted ''(except as provided in section 1854(f)(3) of this title)'' before period at end of first sentence in pars. (1) to (5).

Subsec. (b)(2). Pub. L. 101–627, §108(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

''(A) The members of each Council required to be appointed by the Secretary must be individuals who are knowledgeable and experienced with regard to the conservation and management, or the recreational or commercial harvest, of the fishery resources of the geographical area concerned. The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair apportionment, on a rotating or other basis, of the active participants (or their representatives) involved in the fisheries under Council jurisdiction.

''(B) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the state regarding those individuals. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy. The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of the required knowledge and experience required by subparagraph (A). If the Secretary determines that any individual is not qualified, he shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k) of this section.

''(C) Whenever the Secretary makes an appointment to a Council, he shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.''

Subsec. (b)(3). Pub. L. 101–627, §108(c), inserted at end ''No member appointed after January 1, 1986, may serve more than three consecutive terms. Any term completed prior to January 1, 1986, shall not be counted in determining the number of consecutive terms served by any Council member.''

Subsec. (d). Pub. L. 101–627, §108(d), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''The voting members of each Council, who are not employed by the Federal Government or any State or local government, shall receive compensation at the daily rate for GS–18 of the General Schedule when engaged in the actual performance of duties for such Council. The voting members of each Council, any nonvoting member described in subsection (c)(1)(C) of this section, and the nonvoting member appointed pursuant to subsection (c)(2) of this section shall be reimbursed for actual expenses incurred in the performance of such

duties, and other nonvoting members may be reimbursed for actual expenses.''

Subsec. (e)(3). Pub. L. 101–627, §108(e)(1), substituted ''at appropriate times and places in any of the constituent States of the Council'' for ''in the geographical area concerned''.

Subsec. (e)(4). Pub. L. 101–627, §108(e)(2), inserted at end ''The regional director of the National Marine Fisheries Service serving on the Council, or the regional director's designee, shall submit such a statement, which shall be made available to the public upon request, if the regional director disagrees with any such matter.''

Subsec. (g)(3), (4). Pub. L. 101–627, §108(f), added pars. (3) and (4).

Subsec. (h). Pub. L. 101–627, §108(g), inserted ''(except as provided in section 1854(f)(3) of this title)'' before ''within its geographical'' in pars. (1) and (5).

Subsec. (i). Pub. L. 101–627, §108(h), amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows: ''Each Council may comment on, or make recommendations concerning, any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may affect the habitat of a fishery resource under its jurisdiction. Within 45 days after receiving such a comment or recommendation from a Council, a Federal agency must provide a detailed response, in writing, to the Council regarding the matter.''

Subsec. (j)(3)(A). Pub. L. 101–627, §108(i)(1), substituted period for semicolon in cl. (ii), and in concluding provisions struck out ''and if any meeting or portion is closed, the Council, committee, or panel concerned shall publish notice of the closure in local newspapers in the major fishing ports within its region (and in other major, affected fishing ports), including the time and place of the meeting.'' before ''Subparagraphs (D) and (F)'' and inserted ''of paragraph (2)'' after ''Subparagraphs (D) and (F)''.

Subsec. (j)(3)(B). Pub. L. 101–627, §108(i)(2), added subpar. (B).

Subsec. (j)(4). Pub. L. 101–627, §120(c), substituted ''Council employee'' for ''council employee''.

Subsec. (j)(6). Pub. L. 101–627, §108(j), added par. (6).

1986—Subsec. (b)(2)(A). Pub. L. 99–659, §104(a)(1)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''The members of each Council required to be appointed by the Secretary must be individuals who are knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest of the fishery resources of the geographical area concerned.''

Subsec. (b)(2)(B). Pub. L. 99–659, §104(a)(1)(B), inserted provision that a Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the state regarding those individuals, substituted ''knowledge and experience'' for ''knowledge or experience'', and inserted provision that an individual is not eligible for appointment by the Secretary until that individual complies with applicable financial disclosure requirements under subsec. (k) of this section.

Subsec. (b)(3). Pub. L. 99–659, §104(a)(1)(C), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''Each voting member appointed to a Council by the Secretary in accordance with subsection (b)(2) of this section shall serve for a term of 3 years; except that, with respect to the members initially so appointed, the Secretary shall designate up to one-third thereof to serve for a term of 1 year, up to one-third thereof to serve for a term of 2 years, and the remaining such members to serve for a term of 3 years.''

Subsec. (i). Pub. L. 99–659, §104(b), added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 99–659, §104(b)(1), redesignated former subsec. (i) as (j).

Subsec. (j)(4). Pub. L. 99–659, §104(c), substituted ''; except that such procedures, in the case of statistics submitted to the Council by a State or by the Secretary under section 1853(d) of this title, must be consistent with the laws and regulations of that State, or with the procedures of the Secretary, as the case may be, concerning the confidentiality of the statistics'' for ''; except that such procedures must, in the case of statistics submitted to the Council by a State, be consistent with the laws and regulations of that State concerning the confidentiality of such statistics''.

Subsec. (j)(5). Pub. L. 99–659, §104(d), added par. (5).

Subsec. (k). Pub. L. 99–659, §104(e)(1), added subsec. (k).

1983—Subsec. (a)(1) to (7). Pub. L. 97–453, §5(1)(A), substituted ''in accordance with subsection (b)(2)'' for ''pursuant to subsection (b)(1)(C)'' wherever appearing.

Subsec. (a)(8). Pub. L. 97–453, §5(1)(B), substituted provision that the Western Pacific Fishery Management Council shall consist of the States of Hawaii, American Samoa, Guam, and the Northern Mariana Islands and shall have authority over the fisheries in the Pacific Ocean seaward of such States and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area, for provision that the Western Pacific Fishery Management Council would consist of the State of Hawaii, American Samoa, and Guam and have authority over the fisheries in the Pacific Ocean seaward of such States, and provision that the Western Pacific Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) of this section at least one of whom shall be appointed from each of Hawaii, American Samoa, Guam, and the Northern Mariana Islands, for provision that the Western Pacific Council would have 11 voting members, including 7 appointed by the Secretary pursuant to former subsection (b)(1)(C) of this section (at least one of whom would be appointed from each such State).

Subsec. (b)(1)(C). Pub. L. 97–453, §5(2)(A), substituted reference to subsec. (b)(2) of this section for characterization of the members to be appointed as members of a list of qualified individuals submitted by the Governor of each applicable constituent State, that with respect to initial appointments, such Governors submit such lists to the Secretary as soon as practicable, not later than 45 days after April 13, 1976, that ''list of qualified individuals'' included the names (including pertinent biographical data) of not less than three such individuals for each applicable vacancy, and that ''qualified individual'' meant an individual knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest, of the fishery resources of the geographical area concerned.

Subsec. (b)(2) to (5). Pub. L. 97–453, §5(2)(B)–(E), added pars. (2) and (5), redesignated existing pars. (2) and (3) as (3) and (4), respectively, and in par. (3), as redesignated, substituted ''by the Secretary in accordance with subsection (b)(2) of this section'' for ''pursuant to paragraph (1)(C)'' after ''appointed to a Council''.

Subsec. (f)(6). Pub. L. 97–453, §5(3), inserted requirement that the procedures of a Council and associated committees and panels be consistent with the procedural guidelines set forth in subsec. (i)(2).

Subsec. (h)(1). Pub. L. 97–453, §5(4)(A), inserted ''that requires conservation and management'' after ''authority''.

Subsec. (h)(2). Pub. L. 97–453, §5(4)(B), substituted ''section 1824(b)(4)(C)'' for ''section 1824(b)(4)(B)''.

Subsec. (h)(3). Pub. L. 97–453, §5(4)(C), inserted parenthetical definition of ''geographical area concerned''.

Subsec. (h)(4). Pub. L. 97–453, §5(4)(D), struck out subpar. (A) which provided for a report, before Feb. 1 of each year, on the Council's activities during the immediately preceding calendar year, and struck out the subparagraph designators before subpars. (B) and (C).

Subsec. (i). Pub. L. 97–453, §5(5), added subsec. (i).

1980—Subsec. (d). Pub. L. 96–561 inserted provision that other nonvoting members may be reimbursed for actual expenses.

1978—Subsec. (h)(5). Pub. L. 95–354 inserted provisions relating to capacity and extent to which United States fish processors will process harvested fish.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 104(a)(2) of Pub. L. 99–659 provided that: ''The amendments made by paragraph (1) [amending this section] shall apply with respect to voting members of regional fishery management councils who are appointed, and to individuals who are nominated for appointment as voting members, on or after the date of the enactment of this Act [Nov. 14, 1986].''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

DISCLOSURE OF FINANCIAL INTEREST BY INCUMBENT VOTING MEMBERS AND EXECUTIVE DIRECTORS

Section 104(e)(2) of Pub. L. 99–659 provided that for purposes of applying subsec. (k) of this section to voting members and executive directors of regional fishery management councils who were serving in those capacities on date on which regulations prescribed to carry out subsec. (k) first took effect, each such member or director must file a disclosure form under subsec. (k) within 45 days after that date.

DIRECTIONS REGARDING FISHERY MANAGEMENT COUNCIL MEMBERSHIP

Section 113 of Pub. L. 99–659 provided that: ''Notwithstanding section 302 of the Act (16 U.S.C. 1852) and effective on and after the date of the enactment of this Act [Nov. 14, 1986], the Secretary shall take action to ensure, to the extent practicable, that those persons dependent for their livelihood upon the fisheries within the respective jurisdictions of the Regional Fishery Management Councils are fairly represented as voting members of the Councils.''

§ 1853. Contents of fishery management plans

(a) Required provisions

Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery, to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b) of this section, or both; and

(C) consistent with the national standards, the other provisions of this chapter, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interests in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify—

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational,[1] charter fishing, and fish processing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, economic information necessary to meet the requirements of this chapter, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors,[2]

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the

[1] So in original. Probably should be followed by ''and''.

[2] So in original. The comma probably should be a semicolon.

adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 1855(b)(1)(A) of this title, minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 1854(a) of this title (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—

(A) participants in the fisheries and fishing communities affected by the plan or amendment;

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and

(C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery, including its economic impact, and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors;

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector, any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery and;[3]

(15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.

(b) Discretionary provisions

Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone or for anadromous species or Continental Shelf fishery resources beyond such zone;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

(2)(A) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(B) designate such zones in areas where deep sea corals are identified under section 1884 of this title, to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and

(C) with respect to any closure of an area under this chapter that prohibits all fishing, ensure that such closure—

(i) is based on the best scientific information available;

(ii) includes criteria to assess the conservation benefit of the closed area;

(iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and

(iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and

[3] So in original. Probably should be ''fishery; and''.

impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—

(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 1824 of this title;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this chapter;

(5) incorporate (consistent with the national standards, the other provisions of this chapter, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

(A) present participation in the fishery;

(B) historical fishing practices in, and dependence on, the fishery;

(C) the economics of the fishery;

(D) the capability of fishing vessels used in the fishery to engage in other fisheries;

(E) the cultural and social framework relevant to the fishery and any affected fishing communities;

(F) the fair and equitable distribution of access privileges in the fishery; and

(G) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this chapter, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research;

(12) include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations; and

(14)[4] prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

(c) Proposed regulations

Proposed regulations which the Council deems necessary or appropriate for the purposes of—

(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 1854 of this title; and

(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 1854 of this title.

(Pub. L. 94–265, title III, § 303, Apr. 13, 1976, 90 Stat. 351; Pub. L. 95–354, § 5(2), (3), Aug. 28, 1978, 92 Stat. 521; Pub. L. 97–453, § 6, Jan. 12, 1983, 96 Stat. 2486; Pub. L. 99–659, title I, §§ 101(c)(2), 105(a)(1), (b), Nov. 14, 1986, 100 Stat. 3707, 3711; Pub. L. 101–627, title I, § 109, Nov. 28, 1990, 104 Stat. 4447; Pub. L. 102–251, title III, § 301(g), Mar. 9, 1992, 106 Stat. 64; Pub. L. 104–297, title I, § 108(a), (c)–(e), Oct. 11, 1996, 110 Stat. 3574–3576; Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 144(a)(1), (2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–238; Pub. L. 109–479, title I, §§ 101(b), 104(a), 105, 106(a)(1), Jan. 12, 2007, 120 Stat. 3579, 3584–3586.)

AMENDMENT OF SUBSECTION (b)(1)(A)

Pub. L. 102–251, title III, §§ 301(g), 308, Mar. 9, 1992, 106 Stat. 64, 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, subsection (b)(1)(A) is amended by inserting ''or special areas,'' after ''exclusive economic zone'' and ''or areas'' after ''such zone''.

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1)(C), (5) and (b)(2)(C), (4), (5), (10), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as

[4] So in original. No par. (13) has been enacted.

amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

2007—Subsec. (a)(5). Pub. L. 109–479, § 104(a)(1), (2), substituted ''charter fishing, and fish processing'' for ''and charter fishing'' and inserted ''economic information necessary to meet the requirements of this chapter,'' after ''number of hauls,''.

Subsec. (a)(9). Pub. L. 109–479, § 101(b), in introductory provisions, substituted ''analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—'' for ''describe the likely effects, if any, of the conservation and management measures on—''.

Subsec. (a)(9)(C). Pub. L. 109–479, § 104(a)(3)–(5), added subpar. (C).

Subsec. (a)(13). Pub. L. 109–479, § 104(a)(6), (7), substituted ''in the fishery, including its economic impact,'' for ''in the fishery'' and struck out ''and'' after semicolon at end.

Subsec. (a)(14). Pub. L. 109–479, § 104(a)(8), (9), substituted ''allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector,'' for ''allocate'' and ''fishery and;'' for ''fishery.''

Subsec. (a)(15). Pub. L. 109–479, § 104(a)(10), added par. (15).

Subsec. (b)(2). Pub. L. 109–479, § 105(1), (2), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (b)(5). Pub. L. 109–479, § 105(3), substituted ''fishery and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;'' for ''fishery;''.

Subsec. (b)(6). Pub. L. 109–479, § 105(4), added par. (6) and struck out former par. (6) which read as follows: ''establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

''(A) present participation in the fishery,

''(B) historical fishing practices in, and dependence on, the fishery,

''(C) the economics of the fishery,

''(D) the capability of fishing vessels used in the fishery to engage in other fisheries,

''(E) the cultural and social framework relevant to the fishery and any affected fishing communities, and

''(F) any other relevant considerations;''.

Subsec. (b)(7). Pub. L. 109–479, § 105(5), struck out ''(other than economic data)'' after ''submit data''.

Subsec. (b)(12), (14). Pub. L. 109–479, § 105(6), (7), added par. (12) and redesignated former par. (12) as (14).

Subsec. (d). Pub. L. 109–479, § 106(a)(1), struck out subsec. (d) which related to individual fishing quotas.

2000—Subsec. (d)(1)(A), (5). Pub. L. 106–554 substituted ''October 1, 2002,'' for ''October 1, 2000,''.

1996—Subsec. (a)(1)(A). Pub. L. 104–297, § 108(a)(1), inserted ''and rebuild overfished stocks'' after ''overfishing''.

Subsec. (a)(5). Pub. L. 104–297, § 108(a)(2), inserted ''commercial, recreational, and charter fishing in'' after ''with respect to''.

Subsec. (a)(7). Pub. L. 104–297, § 108(a)(3), added par. (7) and struck out former par. (7) which read as follows: ''include readily available information regarding the significance of habitat to the fishery and assessment as to the effects which changes to that habitat may have upon the fishery;''.

Subsec. (a)(9)(A). Pub. L. 104–297, § 108(a)(5), inserted ''and fishing communities'' after ''fisheries''.

Subsec. (a)(10) to (14). Pub. L. 104–297, § 108(a)(4), (6), (7), added pars. (10) to (14).

Subsec. (b)(3). Pub. L. 104–297, § 108(c)(1), added par. (3) and struck out former par. (3) which read as follows: ''establish specified limitations on the catch of fish (based on area, species, size, number, weight, sex, incidental catch, total biomass, or other factors), which are necessary and appropriate for the conservation and management of the fishery;''.

Subsec. (b)(6). Pub. L. 104–297, § 108(c)(2), substituted ''limited access system for'' for ''system for limiting access to'' in introductory provisions.

Subsec. (b)(6)(E). Pub. L. 104–297, § 108(c)(3), inserted ''and any affected fishing communities'' after ''fishery''.

Subsec. (b)(8). Pub. L. 104–297, § 108(c)(4), substituted ''require that one or more'' for ''require that''.

Subsec. (b)(10) to (12). Pub. L. 104–297, § 108(c)(5)–(7), added pars. (10) and (11) and redesignated former par. (10) as (12).

Subsec. (c). Pub. L. 104–297, § 108(d), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: ''The proposed regulations which the Council deems necessary or appropriate for purposes of carrying out a plan or amendment to a plan shall be submitted to the Secretary simultaneously with the plan or amendment for action by the Secretary under sections 1854 and 1855 of this title.''

Subsecs. (d) to (f). Pub. L. 104–297, § 108(e), added subsec. (d) and struck out former subsecs. (d) relating to confidentiality of statistics, (e) relating to data collection programs, and (f) relating to restriction on use of certain data.

1990—Subsec. (a)(1)(A). Pub. L. 101–627, § 109(a)(1), inserted before semicolon at end '', to prevent overfishing, and to protect, restore, and promote the long-term health and stability of the fishery''.

Subsec. (a)(1)(C). Pub. L. 101–627, § 109(a)(2), inserted ''regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits),'' after ''this chapter,''.

Subsec. (a)(6). Pub. L. 101–627, § 109(a)(3), amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''consider, and may provide for, temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safety of the vessels; and''.

Subsec. (a)(8), (9). Pub. L. 101–627, § 109(a)(4), (5), added pars. (8) and (9).

Subsec. (b)(1). Pub. L. 101–627, § 109(b)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''require a permit to be obtained from, and fees to be paid to, the Secretary with respect to any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone, or for anadromous species or Continental Shelf fishery resources beyond such zone;''.

Subsec. (b)(7) to (10). Pub. L. 101–627, § 109(b)(2), added pars. (7) and (8) and redesignated former pars. (7) and (8) as (9) and (10), respectively.

Subsec. (d). Pub. L. 101–627, § 109(c), in introductory provisions substituted ''subsections (a) and (b)'' for ''subsection (a)(5)'', added par. (2), redesignated former par. (2) as (3), and inserted at end ''Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any statistic submitted in compliance with a requirement under subsection (a) or (b) of this section.''

Subsec. (f). Pub. L. 101–627, § 109(d), added subsec. (f).

1986—Subsec. (a)(6), (7). Pub. L. 99–659, § 105(a)(1), added pars. (6) and (7).

Subsec. (b)(1). Pub. L. 99–659, § 101(c)(2), substituted ''exclusive economic zone'' for ''fishery conservation zone''.

Subsec. (d). Pub. L. 99–659, § 105(b), amended first sentence generally. Prior to amendment, first sentence read as follows: ''Any statistics submitted to the Secretary by any person in compliance with any requirement under subsection (a)(5) of this section shall be

confidential and shall not be disclosed except when required under court order.''

1983—Subsec. (b)(7), (8). Pub. L. 97–453, §6(1), added par. (7) and redesignated former par. (7) as (8).

Subsec. (c). Pub. L. 97–453, §6(2), substituted provision that the proposed regulation which the Council deems necessary or appropriate for purposes of carrying out a plan or amendment to a plan shall be submitted to the Secretary simultaneously with the plan or amendment for action by the Secretary under sections 1854 and 1855 of this title, for provision that any Council could prepare any proposed regulations which it deemed necessary and appropriate to carry out any fishery management plan, or any amendment to any fishery management plan, which was prepared by it, and that such proposed regulations would be submitted to the Secretary, together with such plan or amendment, for action by the Secretary pursuant to sections 1854 and 1855 of this title.

Subsec. (e). Pub. L. 97–453, §6(3), added subsec. (e).

1978—Subsec. (a)(4)(C). Pub. L. 95–354, §5(2), added subpar. (C).

Subsec. (a)(5). Pub. L. 95–354, §5(3), inserted provisions relating to estimated processing capacity of, and the actual processing utilized by, United States fish processors.

EFFECTIVE DATE OF 2007 AMENDMENT; APPLICABILITY

Pub. L. 109–479, title I, §104(b), Jan. 12, 2007, 120 Stat. 3584, provided that: ''The amendment made by subsection (a)(10) [amending this section]—

''(1) shall, unless otherwise provided for under an international agreement in which the United States participates, take effect—

''(A) in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing; and

''(B) in fishing year 2011 for all other fisheries; and

''(2) shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species; and

''(3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1) or 1854(e), respectively).''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102–251, set out as a note under section 773 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 105(a)(2) of Pub. L. 99–659 provided that: ''The amendments made by paragraph (1) [amending this section] apply to each fishery management plan that—

''(A) is submitted to the Secretary of Commerce for review under section 304(a) of the Act [16 U.S.C. 1854(a)], or that is prepared by the Secretary, after January 1, 1987; or

''(B) is in effect on that date, but compliance with those amendments is not required except in conjunction with the amendment to the plan next occurring after that date.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXCEPTIONS TO SUBSECTION (d)(1) AND SECTION 1883 PLAN RESTRICTIONS

Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–238, provided that: ''Notwithstanding sections 303(d)(1)(A) and 303(d)(1)(B) of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1853(d)(1)(A), (B)], as amended by this section, the Pacific Fishery Management Council may recommend and the Secretary of Commerce may approve and implement any fishery management plan, plan amendment, or regulation, for fixed gear sablefish subject to the jurisdiction of such Council, that—

''(1) allows the use of more than one groundfish fishing permit by each fishing vessel; and/or

''(2) sets cumulative trip limit periods, up to 12 months in any calendar year, that allow fishing vessels a reasonable opportunity to harvest the full amount of the associated trip limits.

Notwithstanding subsection (a) [amending this section and section 1883 of this title], the Gulf of Mexico Fishery Management Council may develop a biological, economic, and social profile of any fishery under its jurisdiction that may be considered for management under a quota management system, including the benefits and consequences of the quota management systems considered. The North Pacific Fishery Management Council shall examine the fisheries under its jurisdiction, particularly the Gulf of Alaska groundfish and Bering Sea crab fisheries, to determine whether rationalization is needed. In particular, the North Pacific Council shall analyze individual fishing quotas, processor quotas, cooperatives, and quotas held by communities. The analysis should include an economic analysis of the impact of all options on communities and processors as well as the fishing fleets. The North Pacific Council shall present its analysis to the appropriations and authorizing committees of the Senate and House of Representatives in a timely manner.''

IMPLEMENTATION OF AMENDMENTS TO PLANS REQUIRED BY SECTION 108(a) OF PUB. L. 104–297

Section 108(b) of Pub. L. 104–297 provided that: ''Not later than 24 months after the date of enactment of this Act [Oct. 11, 1996], each Regional Fishery Management Council shall submit to the Secretary of Commerce amendments to each fishery management plan under its authority to comply with the amendments made in subsection (a) of this section [amending this section].''

INDIVIDUAL FISHING QUOTA REPORT

Pub. L. 104–297, title I, §108(f)(1)–(5), Oct. 11, 1996, 110 Stat. 3577–3579, as amended by Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that:

''(1) Not later than October 1, 1998, the National Academy of Sciences, in consultation with the Secretary of Commerce and the Regional Fishery Management Councils, shall submit to the Congress a comprehensive final report on individual fishing quotas, which shall include recommendations to implement a national policy with respect to individual fishing quotas. The report shall address all aspects of such quotas, including an analysis of—

''(A) the effects of limiting or prohibiting the transferability of such quotas;

''(B) mechanisms to prevent foreign control of the harvest of United States fisheries under individual fishing quota programs, including mechanisms to prohibit persons who are not eligible to be deemed a citizen of the United States for the purpose of operating a vessel in the coastwise trade under section 2(a) and section 2(c) of the Shipping Act, 1916 ([former] 46 U.S.C. [App.] 802(a) and (c)) [see 46 U.S.C. 50501(a), (d)] from holding individual fishing quotas;

''(C) the impact of limiting the duration of individual fishing quota programs;

''(D) the impact of authorizing Federal permits to process a quantity of fish that correspond to individual fishing quotas, and of the value created for recipients of any such permits, including a comparison of such value to the value of the corresponding individual fishing quotas;

''(E) mechanisms to provide for diversity and to minimize adverse social and economic impacts on fishing communities, other fisheries affected by the displacement of vessels, and any impacts associated with the shifting of capital value from fishing vessels to individual fishing quotas, as well as the use of capital construction funds to purchase individual fishing quotas;

''(F) mechanisms to provide for effective monitoring and enforcement, including the inspection of fish harvested and incentives to reduce bycatch, and in particular economic discards;

''(G) threshold criteria for determining whether a fishery may be considered for individual fishing quota management, including criteria related to the geographical range, population dynamics and condition of a fish stock, the socioeconomic characteristics of a fishery (including participants' involvement in multiple fisheries in the region), and participation by commercial, charter, and recreational fishing sectors in the fishery;

''(H) mechanisms to ensure that vessel owners, vessel masters, crew members, and United States fish processors are treated fairly and equitably in initial allocations, to require persons holding individual fishing quotas to be on board the vessel using such quotas, and to facilitate new entry under individual fishing quota programs;

''(I) potential social and economic costs and benefits to the nation, individual fishing quota recipients, and any recipients of Federal permits described in subparagraph (D) under individual fishing quota programs, including from capital gains revenue, the allocation of such quotas or permits through Federal auctions, annual fees and transfer fees at various levels, or other measures;

''(J) the value created for recipients of individual fishing quotas, including a comparison of such value to the value of the fish harvested under such quotas and to the value of permits created by other types of limited access systems, and the effects of creating such value on fishery management and conservation; and

''(K) such other matters as the National Academy of Sciences deems appropriate.

''(2) The report shall include a detailed analysis of individual fishing quota programs already implemented in the United States, including the impacts: of any limits on transferability, on past and present participants, on fishing communities, on the rate and total amount of bycatch (including economic and regulatory discards) in the fishery, on the safety of life and vessels in the fishery, on any excess harvesting or processing capacity in the fishery, on any gear conflicts in the fishery, on product quality from the fishery, on the effectiveness of enforcement in the fishery, on the size and composition of fishing vessel fleets, on the economic value created by individual fishing quotas for initial recipients and non-recipients, on conservation of the fishery resource, on fishermen who rely on participation in several fisheries, on the success in meeting any fishery management plan goals, and the fairness and effectiveness of the methods used for allocating quotas and controlling transferability. The report shall also include any information about individual fishing quota programs in other countries that may be useful.

''(3) The report shall identify and analyze alternative conservation and management measures, including other limited access systems such as individual transferable effort systems, that could accomplish the same objectives as individual fishing quota programs, as well as characteristics that are unique to individual fishing quota programs.

''(4) The Secretary of Commerce shall, in consultation with the National Academy of Sciences, the Councils, the fishing industry, affected States, conservation organizations and other interested persons, establish two individual fishing quota review groups to assist in the preparation of the report, which shall represent: (A) Alaska, Hawaii, and the other Pacific coastal States; and (B) Atlantic coastal States and the Gulf of Mexico coastal States. The Secretary shall, to the extent practicable, achieve a balanced representation of viewpoints among the individuals on each review group. The review groups shall be deemed to be advisory panels under section 302(g) of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1852(g)], as amended by this Act.

''(5) The Secretary of Commerce, in consultation with the National Academy of Sciences and the Councils, shall conduct public hearings in each Council region to obtain comments on individual fishing quotas for use by the National Academy of Sciences in preparing the report required by this subsection. The National Academy of Sciences shall submit a draft report to the Secretary of Commerce by January 1, 1998. The Secretary of Commerce shall publish in the Federal Register a notice and opportunity for public comment on the draft of the report, or any revision thereof. A detailed summary of comments received and views presented at the hearings, including any dissenting views, shall be included by the National Academy of Sciences in the final report.''

EXISTING QUOTA PLANS

Section 108(i) of Pub. L. 104–297 provided that: ''Nothing in this Act [see Short Title of 1996 Amendment note under section 1801 of this title] or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995.''

§ 1853a. Limited access privilege programs

(a) In general

After January 12, 2007, a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.

(b) No creation of right, title, or interest

Limited access privilege, quota share, or other limited access system authorization established, implemented, or managed under this chapter—

(1) shall be considered a permit for the purposes of sections 1857, 1858, and 1859 of this title;

(2) may be revoked, limited, or modified at any time in accordance with this chapter, including revocation if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

(3) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked, limited, or modified;

(4) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested by the holder; and

(5) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.

(c) Requirements for limited access privileges

(1) In general

Any limited access privilege program to harvest fish submitted by a Council or approved by the Secretary under this section shall—

(A) if established in a fishery that is overfished or subject to a rebuilding plan, assist in its rebuilding;

(B) if established in a fishery that is determined by the Secretary or the Council to have over-capacity, contribute to reducing capacity;

(C) promote—

(i) fishing safety;

(ii) fishery conservation and management; and

(iii) social and economic benefits;

(D) prohibit any person other than a United States citizen, a corporation, partnership, or other entity established under the laws of the United States or any State, or a permanent resident alien, that meets the eligibility and participation requirements established in the program from acquiring a privilege to harvest fish, including any person that acquires a limited access privilege solely for the purpose of perfecting or realizing on a security interest in such privilege;

(E) require that all fish harvested under a limited access privilege program be processed on vessels of the United States or on United States soil (including any territory of the United States);

(F) specify the goals of the program;

(G) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program and this chapter, and any necessary modification of the program to meet those goals, with a formal and detailed review 5 years after the implementation of the program and thereafter to coincide with scheduled Council review of the relevant fishery management plan (but no less frequently than once every 7 years);

(H) include an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems;

(I) include an appeals process for administrative review of the Secretary's decisions regarding initial allocation of limited access privileges;

(J) provide for the establishment by the Secretary, in consultation with appropriate Federal agencies, for an information collection and review process to provide any additional information needed to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges under the program; and

(K) provide for the revocation by the Secretary of limited access privileges held by any person found to have violated the antitrust laws of the United States.

(2) Waiver

The Secretary may waive the requirement of paragraph (1)(E) if the Secretary determines that—

(A) the fishery has historically processed the fish outside of the United States; and

(B) the United States has a seafood safety equivalency agreement with the country where processing will occur.

(3) Fishing communities

(A) In general

(i) Eligibility

To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—

(I) be located within the management area of the relevant Council;

(II) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;

(III) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area; and

(IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(ii) Failure to comply with plan

The Secretary shall deny or revoke limited access privileges granted under this section for any person who fails to comply with the requirements of the community sustainability plan. Any limited access privileges denied or revoked under this section may be reallocated to other eligible members of the fishing community.

(B) Participation criteria

In developing participation criteria for eligible communities under this paragraph, a Council shall consider—

(i) traditional fishing or processing practices in, and dependence on, the fishery;

(ii) the cultural and social framework relevant to the fishery;

(iii) economic barriers to access to fishery;

(iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;

(v) the expected effectiveness, operational transparency, and equitability of the community sustainability plan; and

(vi) the potential for improving economic conditions in remote coastal com-

munities lacking resources to participate in harvesting or processing activities in the fishery.

(4) Regional fishery associations

(A) In general

To be eligible to participate in a limited access privilege program to harvest fish, a regional fishery association shall—

(i) be located within the management area of the relevant Council;

(ii) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;

(iii) be a voluntary association, among willing parties with established by-laws and operating procedures;

(iv) consist of participants in the fishery who hold quota share that are designated for use in the specific region or subregion covered by the regional fishery association, including commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities;

(v) not be eligible to receive an initial allocation of a limited access privilege but may acquire such privileges after the initial allocation, and may hold the annual fishing privileges of any limited access privileges it holds or the annual fishing privileges that is[1] members contribute; and

(vi) develop and submit a regional fishery association plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(B) Failure to comply with plan

The Secretary shall deny or revoke limited access privileges granted under this section to any person participating in a regional fishery association who fails to comply with the requirements of the regional fishery association plan.

(C) Participation criteria

In developing participation criteria for eligible regional fishery associations under this paragraph, a Council shall consider—

(i) traditional fishing or processing practices in, and dependence on, the fishery;

(ii) the cultural and social framework relevant to the fishery;

(iii) economic barriers to access to fishery;

(iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;

(v) the administrative and fiduciary soundness of the association; and

(vi) the expected effectiveness, operational transparency, and equitability of the fishery association plan.

(5) Allocation

In developing a limited access privilege program to harvest fish a Council or the Secretary shall—

(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—

(i) current and historical harvests;

(ii) employment in the harvesting and processing sectors;

(iii) investments in, and dependence upon, the fishery; and

(iv) the current and historical participation of fishing communities;

(B) consider the basic cultural and social framework of the fishery, especially through—

(i) the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing or delivery requirements; and

(ii) procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors of the fishery;

(C) include measures to assist, when necessary and appropriate, entry-level and small vessel owner-operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges, which may include set-asides or allocations of harvesting privileges, or economic assistance in the purchase of limited access privileges;

(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

(i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquire, or use; and

(ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges; and

(E) authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, including in a specific sector of such fishery, as specified by the Council.

(6) Program initiation

(A) Limitation

Except as provided in subparagraph (D), a Council may initiate a fishery management plan or amendment to establish a limited access privilege program to harvest fish on its own initiative or if the Secretary has certified an appropriate petition.

(B) Petition

A group of fishermen constituting more than 50 percent of the permit holders, or holding more than 50 percent of the allocation, in the fishery for which a limited ac-

[1] So in original. Probably should be ''its''.

cess privilege program to harvest fish is sought, may submit a petition to the Secretary requesting that the relevant Council or Councils with authority over the fishery be authorized to initiate the development of the program. Any such petition shall clearly state the fishery to which the limited access privilege program would apply. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the limited access program shall be eligible to sign a petition for such a program and shall serve as the basis for determining the percentage described in the first sentence of this subparagraph.

(C) Certification by Secretary

Upon the receipt of any such petition, the Secretary shall review all of the signatures on the petition and, if the Secretary determines that the signatures on the petition represent more than 50 percent of the permit holders, or holders of more than 50 percent of the allocation in the fishery, as described by subparagraph (B), the Secretary shall certify the petition to the appropriate Council or Councils.

(D) New England and Gulf referendum

(i) Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than ⅔ of those voting in a referendum among eligible permit holders, or other persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after January 12, 2007, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

(iii) The provisions of section 1883(c) of this title shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

(iv) Chapter 35 of title 44 (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

(v) The Secretary shall promulgate criteria for determining whether additional fishery participants are eligible to vote in the New England referendum described in clause (i) in order to ensure that crew members who derive a significant percentage of their total income from the fishery under the proposed program are eligible to vote in the referendum.

(vi) In this subparagraph, the term ''individual fishing quota'' does not include a sector allocation.

(7) Transferability

In establishing a limited access privilege program, a Council shall—

(A) establish a policy and criteria for the transferability of limited access privileges (through sale or lease), that is consistent with the policies adopted by the Council for the fishery under paragraph (5); and

(B) establish, in coordination with the Secretary, a process for monitoring of transfers (including sales and leases) of limited access privileges.

(8) Preparation and implementation of secretarial plans

This subsection also applies to a plan prepared and implemented by the Secretary under section 1854(c) or 1854(g) of this title.

(9) Antitrust savings clause

Nothing in this chapter shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term ''antitrust laws'' has the meaning given such term in subsection (a) of section 12 of title 15, except that such term includes section 45 of title 15 to the extent that such section 45 applies to unfair methods of competition.

(d) Auction and other programs

In establishing a limited access privilege program, a Council shall consider, and may provide, if appropriate, an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a limited access privilege program if—

(1) the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of this section; and

(2) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 1855(h)(5)(B) of this title and available subject to annual appropriations.

(e) Cost recovery

In establishing a limited access privilege program, a Council shall—

(1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and

(2) provide, under section 1854(d)(2) of this title, for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

(f) Characteristics

A limited access privilege established after January 12, 2007, is a permit issued for a period of not more than 10 years that—

(1) will be renewed before the end of that period, unless it has been revoked, limited, or modified as provided in this subsection;

(2) will be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, to have failed to comply with any term of the plan identified in the plan as cause for revocation, limitation, or modification of a permit, which may include conservation requirements established under the plan;

(3) may be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, to have committed an act prohibited by section 1857 of this title; and

(4) may be acquired, or reacquired, by participants in the program under a mechanism established by the Council if it has been revoked, limited, or modified under paragraph (2) or (3).

(g) Limited access privilege assisted purchase program

(1) In general

A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 1854(d)(2) of this title to be used, pursuant to section 53706(a)(7) of title 46, to issue obligations that aid in financing—

(A) the purchase of limited access privileges in that fishery by fishermen who fish from small vessels; and

(B) the first-time purchase of limited access privileges in that fishery by entry level fishermen.

(2) Eligibility criteria

A Council making a submission under paragraph (1) shall recommend criteria, consistent with the provisions of this chapter, that a fisherman must meet to qualify for guarantees under subparagraphs (A) and (B) of paragraph (1) and the portion of funds to be allocated for guarantees under each subparagraph.

(h) Effect on certain existing shares and programs

Nothing in this chapter, or the amendments made by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, shall be construed to require a reallocation or a reevaluation of individual quota shares, processor quota shares, cooperative programs, or other quota programs, including sector allocation in effect before January 12, 2007.

(i) Transition rules

The requirements of this section shall not apply to any quota program, including any individual quota program, cooperative program, or sector allocation for which a Council has taken final action or which has been submitted by a Council to the Secretary, or approved by the Secretary, within 6 months after January 12, 2007, except that—

(1) the requirements of section 1853(d) of this title in effect on the day before January 12, 2007, shall apply to any such program;

(2) the program shall be subject to review under subsection (c)(1)(G) of this section not later than 5 years after the program implementation; and

(3) nothing in this subsection precludes a Council from incorporating criteria contained in this section into any such plans.

(Pub. L. 94–265, title III, § 303A, as added Pub. L. 109–479, title I, § 106(a)(2), Jan. 12, 2007, 120 Stat. 3586; amended Pub. L. 110–161, div. B, title V, § 529, Dec. 26, 2007, 121 Stat. 1930.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b), (c)(1)(G), (9), (g)(2), and (h), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, referred to in subsec. (h), is Pub. L. 109–479, Jan. 12, 2007, 120 Stat. 3575. Section 302(f) of the Act (120 Stat. 3624) is not classified to the Code. For complete classification of this Act to the Code, see Short Title of 2007 Amendment note set out under section 1801 of this title and Tables.

AMENDMENTS

2007—Subsec. (c)(4)(A)(iii). Pub. L. 110–161, § 529(1), substituted ''association, among willing parties'' for ''association''.

Subsec. (i). Pub. L. 110–161, § 529(2)–(4), struck out designation and heading of par. (1), redesignated subpars. (A) to (C) of former par. (1) as pars. (1) to (3), respectively, realigned margins, and struck out heading and text of former par. (2). Text of former par. (2) read as follows: ''The requirements of this section, other than subparagraphs (A) and (B) of subsection (c)(1) and subparagraphs (A), (B), and (C) of paragraph (1) of this subsection, shall not apply to any proposal authorized under section 302(f) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 that is submitted within the timeframe prescribed by that section.''

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–161, div. B, title V, § 529, Dec. 26, 2007, 121 Stat. 1930, provided that the amendment made by section 529 is effective Jan. 13, 2007.

APPLICATION WITH AMERICAN FISHERIES ACT

Pub. L. 109–479, title I, § 106(e), Jan. 12, 2007, 120 Stat. 3594, provided that: ''Nothing in section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) [16 U.S.C. 1853a], as added by subsection (a), shall be construed to modify or supersede any provision of the American Fisheries Act [title II of div. C of Pub. L. 105–277, see Tables for classification] ([former] 46 U.S.C. 12102 note [see 46 U.S.C. 12113(e), (f), (h), (i)]; 16 U.S.C. 1851 note; et alia).''

§ 1854. Action by Secretary

(a) Review of plans

(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this chapter, and any other applicable law; and

(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(2) In undertaking the review required under paragraph (1), the Secretary shall—

(A) take into account the information, views, and comments received from interested persons;

(B) consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 1853(a)(6) of this title.

(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

(A) the applicable law with which the plan or amendment is inconsistent;

(B) the nature of such inconsistencies; and

(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

(4) If the Secretary disapproves or partially approves a plan or amendment, the Council may submit a revised plan or amendment to the Secretary for review under this subsection.

(5) For purposes of this subsection and subsection (b) of this section, the term ''immediately'' means on or before the 5th day after the day on which a Council transmits to the Secretary a fishery management plan, plan amendment, or proposed regulation that the Council characterizes as final.

(b) Review of regulations

(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 1853(c) of this title, the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, this chapter and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and—

(A) if that determination is affirmative, the Secretary shall publish such regulations in the Federal Register, with such technical changes as may be necessary for clarity and an explanation of those changes, for a public comment period of 15 to 60 days; or

(B) if that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, plan amendment, this chapter, and other applicable law.

(2) Upon receiving a notification under paragraph (1)(B), the Council may revise the proposed regulations and submit them to the Secretary for reevaluation under paragraph (1).

(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (1)(A). The Secretary shall consult with the Council before making any revisions to the proposed regulations, and must publish in the Federal Register an explanation of any differences between the proposed and final regulations.

(c) Preparation and review of Secretarial plans

(1) The Secretary may prepare a fishery management plan, with respect to any fishery, or any amendment to any such plan, in accordance with the national standards, the other provisions of this chapter, and any other applicable law, if—

(A) the appropriate Council fails to develop and submit to the Secretary, after a reasonable period of time, a fishery management plan for such fishery, or any necessary amendment to such a plan, if such fishery requires conservation and management;

(B) the Secretary disapproves or partially disapproves any such plan or amendment, or disapproves a revised plan or amendment, and the Council involved fails to submit a revised or further revised plan or amendment; or

(C) the Secretary is given authority to prepare such plan or amendment under this section.

(2) In preparing any plan or amendment under this subsection, the Secretary shall—

(A) conduct public hearings, at appropriate times and locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan and any regulations implementing the plan; and

(B) consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

(3) Notwithstanding paragraph (1) for a fishery under the authority of a Council, the Secretary may not include in any fishery management plan, or any amendment to any such plan, prepared by him, a provision establishing a limited access system, including any limited access privilege program, unless such system is first approved by a majority of the voting members, present and voting, of each appropriate Council.

(4) Whenever the Secretary prepares a fishery management plan or plan amendment under this section, the Secretary shall immediately—

(A) for a plan or amendment for a fishery under the authority of a Council, submit such plan or amendment to the appropriate Council for consideration and comment; and

(B) publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(5) Whenever a plan or amendment is submitted under paragraph (4)(A), the appropriate Council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 60-day period referred to in paragraph (4)(B). After the close of such 60-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, information, or comments submitted under paragraph (4)(B), may adopt such plan or amendment.

(6) The Secretary may propose regulations in the Federal Register to implement any plan or amendment prepared by the Secretary. In the case of a plan or amendment to which paragraph (4)(A) applies, such regulations shall be submitted to the Council with such plan or amendment. The comment period on proposed regulations shall be 60 days, except that the Secretary may shorten the comment period on minor revisions to existing regulations.

(7) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (6). The Secretary must publish in the Federal Register an explanation of any substantive differences between the proposed and final rules. All final regulations must be consistent with the fishery management plan, with the national standards and other provisions of this chapter, and with any other applicable law.

(d) Establishment of fees

(1) The Secretary shall by regulation establish the level of any fees which are authorized to be charged pursuant to section 1853(b)(1) of this title. The Secretary may enter into a cooperative agreement with the States concerned under which the States administer the permit system and the agreement may provide that all or part of the fees collected under the system shall accrue to the States. The level of fees charged under this subsection shall not exceed the administrative costs incurred in issuing the permits.

(2)(A) Notwithstanding paragraph (1), the Secretary is authorized and shall collect a fee to recover the actual costs directly related to the management, data collection, and enforcement of any—

(i) limited access privilege program; and

(ii) community development quota program that allocates a percentage of the total allowable catch of a fishery to such program.

(B) Such fee shall not exceed 3 percent of the ex-vessel value of fish harvested under any such program, and shall be collected at either the time of the landing, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested.

(C)(i) Fees collected under this paragraph shall be in addition to any other fees charged under this chapter and shall be deposited in the Limited Access System Administration Fund established under section 1855(h)(5)(B) of this title.

(ii) Upon application by a State, the Secretary shall transfer to such State up to 33 percent of any fee collected pursuant to subparagraph (A) under a community development quota program and deposited in the Limited Access System Administration Fund in order to reimburse such State for actual costs directly incurred in the management and enforcement of such program.

(e) Rebuilding overfished fisheries

(1) The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographical area of authority and identify those fisheries that are overfished or are approaching a condition of being overfished. For those fisheries managed under a fishery management plan or international agreement, the status shall be determined using the criteria for overfishing specified in such plan or agreement. A fishery shall be classified as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the fishery will become overfished within two years.

(2) If the Secretary determines at any time that a fishery is overfished, the Secretary shall immediately notify the appropriate Council and request that action be taken to end overfishing in the fishery and to implement conservation and management measures to rebuild affected stocks of fish. The Secretary shall publish each notice under this paragraph in the Federal Register.

(3) Within 2 years after an identification under paragraph (1) or notification under paragraphs (2) or (7), the appropriate Council (or the Secretary, for fisheries under section 1852(a)(3) of this title) shall prepare and implement a fishery management plan, plan amendment, or proposed regulations for the fishery to which the identification or notice applies—

(A) to end overfishing immediately in the fishery and to rebuild affected stocks of fish; or

(B) to prevent overfishing from occurring in the fishery whenever such fishery is identified as approaching an overfished condition.

(4) For a fishery that is overfished, any fishery management plan, amendment, or proposed regulations prepared pursuant to paragraph (3) or paragraph (5) for such fishery shall—

(A) specify a time period for rebuilding the fishery that shall—

(i) be as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem; and

(ii) not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;

(B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery; and

(C) for fisheries managed under an international agreement, reflect traditional participation in the fishery, relative to other nations, by fishermen of the United States.

(5) If, within the 2-year period beginning on the date of identification or notification that a fishery is overfished, the Council does not submit to the Secretary a fishery management plan, plan amendment, or proposed regulations required by paragraph (3)(A), the Secretary shall prepare a fishery management plan or plan amendment and any accompanying regulations to stop overfishing and rebuild affected stocks of fish within 9 months under subsection (c) of this section.

(6) During the development of a fishery management plan, a plan amendment, or proposed regulations required by this subsection, the Council may request the Secretary to implement interim measures to reduce overfishing under section 1855(c) of this title until such measures can be replaced by such plan, amendment, or regulations. Such measures, if otherwise in compliance with the provisions of this chapter, may be implemented even though they are not sufficient by themselves to stop overfishing of a fishery.

(7) The Secretary shall review any fishery management plan, plan amendment, or regulations required by this subsection at routine intervals that may not exceed two years. If the Secretary finds as a result of the review that such plan, amendment, or regulations have not resulted in adequate progress toward ending overfishing and rebuilding affected fish stocks, the Secretary shall—

(A) in the case of a fishery to which section 1852(a)(3) of this title applies, immediately make revisions necessary to achieve adequate progress; or

(B) for all other fisheries, immediately notify the appropriate Council. Such notification shall recommend further conservation and management measures which the Council should consider under paragraph (3) to achieve adequate progress.

(f) Fisheries under authority of more than one Council

(1) Except as provided in paragraph (3),[1] if any fishery extends beyond the geographical area of authority of any one Council, the Secretary may—

(A) designate which Council shall prepare the fishery management plan for such fishery and any amendment to such plan; or

(B) may require that the plan and amendment be prepared jointly by the Councils concerned.

No jointly prepared plan or amendment may be submitted to the Secretary unless it is approved by a majority of the voting members, present and voting, of each Council concerned.

(2) The Secretary shall establish the boundaries between the geographical areas of authority of adjacent Councils.

[1] See References in Text note below.

(g) Atlantic highly migratory species

(1) Preparation and implementation of plan or plan amendment

The Secretary shall prepare a fishery management plan or plan amendment under subsection (c) of this section with respect to any highly migratory species fishery to which section 1852(a)(3) of this title applies. In preparing and implementing any such plan or amendment, the Secretary shall—

(A) consult with and consider the comments and views of affected Councils, commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species, and the advisory panel established under section 1852(g) of this title;

(B) establish an advisory panel under section 1852(g) of this title for each fishery management plan to be prepared under this paragraph;

(C) evaluate the likely effects, if any, of conservation and management measures on participants in the affected fisheries and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors;

(D) with respect to a highly migratory species for which the United States is authorized to harvest an allocation, quota, or at a fishing mortality level under a relevant international fishery agreement, provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation, quota, or at such fishing mortality level;

(E) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan;

(F) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), comparable international fishery management measures with respect to fishing for highly migratory species; and

(G) ensure that conservation and management measures under this subsection—

(i) promote international conservation of the affected fishery;

(ii) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

(iii) are fair and equitable in allocating fishing privileges among United States fishermen and do not have economic allocation as the sole purpose; and

(iv) promote, to the extent practicable, implementation of scientific research programs that include the tagging and release of Atlantic highly migratory species.

(2) Certain fish excluded from "bycatch" definition

Notwithstanding section 1802(2) of this title, fish harvested in a commercial fishery man-

aged by the Secretary under this subsection or the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d), or highly migratory species harvested in a commercial fishery managed by a Council under this chapter or the Western and Central Pacific Fisheries Convention Implementation Act [16 U.S.C. 6901 et seq.], that are not regulatory discards and that are tagged and released alive under a scientific tagging and release program established by the Secretary shall not be considered bycatch for purposes of this chapter.

(h) Repeal or revocation of a fishery management plan

The Secretary may repeal or revoke a fishery management plan for a fishery under the authority of a Council only if the Council approves the repeal or revocation by a three-quarters majority of the voting members of the Council.

(i)[2] Environmental review process

(1) Procedures

The Secretary shall, in consultation with the Councils and the Council on Environmental Quality, revise and update agency procedures for compliance with the National Environmental Policy Act (42 U.S.C. 4231 et seq.). The procedures shall—

(A) conform to the time lines for review and approval of fishery management plans and plan amendments under this section; and

(B) integrate applicable environmental analytical procedures, including the time frames for public input, with the procedure for the preparation and dissemination of fishery management plans, plan amendments, and other actions taken or approved pursuant to this chapter in order to provide for timely, clear and concise analysis that is useful to decision makers and the public, reduce extraneous paperwork, and effectively involve the public.

(2) Usage

The updated agency procedures promulgated in accordance with this section used by the Councils or the Secretary shall be the sole environmental impact assessment procedure for fishery management plans, amendments, regulations, or other actions taken or approved pursuant to this chapter.

(3) Schedule for promulgation of final procedures

The Secretary shall—

(A) propose revised procedures within 6 months after January 12, 2007;

(B) provide 90 days for public review and comments; and

(C) promulgate final procedures no later than 12 months after January 12, 2007.

(4) Public participation

The Secretary is authorized and directed, in cooperation with the Council on Environmental Quality and the Councils, to involve the affected public in the development of revised procedures, including workshops or other appropriate means of public involvement.

(i)[2] International overfishing

The provisions of this subsection shall apply in lieu of subsection (e) to a fishery that the Secretary determines is overfished or approaching a condition of being overfished due to excessive international fishing pressure, and for which there are no management measures to end overfishing under an international agreement to which the United States is a party. For such fisheries—

(1) the Secretary, in cooperation with the Secretary of State,[3] immediately take appropriate action at the international level to end the overfishing; and

(2) within 1 year after the Secretary's determination, the appropriate Council, or Secretary, for fisheries under section 1852(a)(3) of this title shall—

(A) develop recommendations for domestic regulations to address the relative impact of fishing vessels of the United States on the stock and, if developed by a Council, the Council shall submit such recommendations to the Secretary; and

(B) develop and submit recommendations to the Secretary of State, and to the Congress, for international actions that will end overfishing in the fishery and rebuild the affected stocks, taking into account the relative impact of vessels of other nations and vessels of the United States on the relevant stock.

(Pub. L. 94–265, title III, § 304, Apr. 13, 1976, 90 Stat. 352; Pub. L. 97–453, § 7(a), Jan. 12, 1983, 96 Stat. 2487; Pub. L. 99–659, title I, § 106, Nov. 14, 1986, 100 Stat. 3712; Pub. L. 101–627, title I, §§ 110(a), (b)(1), (c), 111(a)(2), 120(d), Nov. 28, 1990, 104 Stat. 4449–4452, 4459; Pub. L. 102–567, title III, § 303, Oct. 29, 1992, 106 Stat. 4283; Pub. L. 103–206, title VII, § 702, Dec. 20, 1993, 107 Stat. 2446; Pub. L. 104–297, title I, § 109(a)–(c), (e)–(g), (i), Oct. 11, 1996, 110 Stat. 3581–3585, 3587; Pub. L. 109–479, § 3(d)(2), title I, §§ 104(c), 106(b), (d), 107, title IV, § 406, Jan. 12, 2007, 120 Stat. 3578, 3584, 3593, 3594, 3633.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Paragraph (3), referred to in subsec. (f)(1), was repealed by Pub. L. 104–297, title I, § 109(f), Oct. 11, 1996, 110 Stat. 3585.

The Atlantic Tunas Convention Act of 1975, referred to in subsec. (g)(2), is Pub. L. 94–70, Aug. 5, 1975, 89 Stat. 385, as amended, which is classified generally to chapter 16A (§ 971 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 971 of this title and Tables.

The Western and Central Pacific Fisheries Convention Implementation Act, referred to in subsec. (g)(2), is title V of Pub. L. 109–479, Jan. 12, 2007, 120 Stat. 3635, which is classified generally to chapter 88 (§ 6901 et seq.) of this title. For complete classification of this Act to

[2] So in original. Two subsecs. (i) have been enacted.

[3] So in original. Probably should be followed by ''shall''.

the Code, see Short Title note set out under section 6901 of this title and Tables.

The National Environmental Policy Act, referred to in subsec. (i)(1), probably means the National Environmental Policy Act of 1969, Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2007—Subsec. (c)(3). Pub. L. 109–479, § 3(d)(2)(A), substituted ''limited access privilege'' for ''individual fishing quota''.

Subsec. (d)(2)(A). Pub. L. 109–479, § 106(b), substituted ''management, data collection, and enforcement'' for ''management and enforcement'' in introductory provisions.

Subsec. (d)(2)(A)(i). Pub. L. 109–479, § 3(d)(2)(B), substituted ''limited access privilege'' for ''individual fishing quota''.

Subsec. (d)(2)(C)(i). Pub. L. 109–479, § 106(d), substituted ''section 1855(h)(5)(B) of this title.'' for ''section 1855(h)(5)(B) of this title, except that the portion of any such fees reserved under section 1853(d)(4)(A) of this title shall be deposited in the Treasury and available, subject to annual appropriations, to cover the costs of new direct loan obligations and new loan guarantee commitments as required by section 661c(b)(1) of title 2.''

Subsec. (e)(3). Pub. L. 109–479, § 104(c)(1), (2), substituted ''2 years after'' for ''one year of'' and inserted ''and implement'' after ''prepare'' in introductory provisions.

Subsec. (e)(3)(A). Pub. L. 109–479, § 104(c)(3), inserted ''immediately'' after ''overfishing''.

Subsec. (e)(4)(A). Pub. L. 109–479, § 104(c)(4), struck out ''ending overfishing and'' before ''rebuilding'' in introductory provisions.

Subsec. (e)(5). Pub. L. 109–479, § 104(c)(5), substituted ''2-year'' for ''one-year''.

Subsec. (g)(2). Pub. L. 109–479, § 406(b), substituted ''(16 U.S.C. 971d), or highly migratory species harvested in a commercial fishery managed by a Council under this Act or the Western and Central Pacific Fisheries Convention Implementation Act,'' for ''(16 U.S.C. 971d)''.

Subsec. (i). Pub. L. 109–479, § 406(a), added subsec. (i) relating to international overfishing.

Pub. L. 109–479, § 107, added subsec. (i) relating to environmental review process.

1996—Subsecs. (a), (b). Pub. L. 104–297, § 109(a), added subsecs. (a) and (b) and struck out former subsecs. (a) which related to actions by Secretary after receipt of a fishery management plan or amendment to a plan and (b) which related to implementation of approved plans and amendments and submission and review of revised plans and amendments.

Subsec. (c). Pub. L. 104–297, § 109(b)(1), amended heading to read ''Preparation and review of Secretarial plans''.

Subsec. (c)(1). Pub. L. 104–297, § 109(b)(2)–(4), struck out ''or'' at end of subpar. (A), substituted ''or amendment; or'' for ''or amendment, as the case may be.'' in subpar. (B), added subpar. (C), and struck out concluding provisions which read as follows: ''In preparing any such plan or amendment, the Secretary shall consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea. The Secretary shall also prepare such proposed regulations as he deems necessary or appropriate to carry out each plan or amendment prepared by him under this paragraph.''

Subsec. (c)(2). Pub. L. 104–297, § 109(b)(5), added par. (2) and struck out former par. (2) which related to procedures for making fishery management plans and amendments available for review and comment.

Subsec. (c)(3). Pub. L. 104–297, § 109(b)(6), (7), inserted ''for a fishery under the authority of a Council'' after ''paragraph (1)'' and substituted ''system, including any individual fishing quota program'' for ''system described in section 1853(b)(6) of this title''.

Subsec. (c)(4) to (7). Pub. L. 104–297, § 109(b)(8), added pars. (4) to (7).

Subsec. (d). Pub. L. 104–297, § 109(c), designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 104–297, § 109(e), amended heading and text of subsec. (e) generally. Prior to amendment, subsec. (e) required Secretary to initiate and maintain a comprehensive program of fishery research.

Subsec. (f)(3). Pub. L. 104–297, § 109(f), struck out par. (3) which related to authority of Secretary over any highly migratory species fishery that is within the area of authority of more than one of certain Councils and to the preparation and amendment of fishery management plans with respect to such fishery.

Subsec. (g). Pub. L. 104–297, § 109(g), added subsec. (g) and struck out former subsec. (g) which required the Secretary to establish a 3-year program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the authority of the Gulf of Mexico Fishery Management Council and the South Atlantic Fishery Management Council.

Subsec. (h). Pub. L. 104–297, § 109(i), added subsec. (h).

1993—Subsec. (g)(6)(B). Pub. L. 103–206 substituted ''April 1, 1994'' for ''January 1, 1994''.

1992—Subsec. (e)(1). Pub. L. 102–567 added par. (1). Former par. (1) redesignated (2).

Subsec. (e)(2). Pub. L. 102–567 redesignated par. (1) as (2) and substituted ''(3)'' for ''(2)'' in subpar. (A). Former par. (2) redesignated (3).

Subsec. (e)(3). Pub. L. 102–567 redesignated par. (2) as (3) and substituted ''(2)'' for ''(1)'' in introductory provisions. Former par. (3) redesignated (4).

Subsec. (e)(4). Pub. L. 102–567 redesignated par. (3) as (4) and substituted ''(2)'' for ''(1)''.

1990—Subsec. (b)(1), (3)(D). Pub. L. 101–627, § 111(a)(2)(A), (B), substituted ''section 1855(a)'' for ''section 1855(c)''.

Subsec. (c)(2)(B). Pub. L. 101–627, § 120(d), substituted ''appropriate Council'' for ''appropriate council''.

Pub. L. 101–627, § 111(a)(2)(C), substituted ''section 1855(a)'' for ''section 1855(c)''.

Subsec. (e). Pub. L. 101–627, § 110(a), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this chapter. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics of the fisheries, including, but not limited to, biological research concerning the interdependence of fisheries or stocks of fish, the impact of pollution on fish, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish. The Secretary shall annually review and update the comprehensive program and make the results of the review and update available to the Councils.''

Subsec. (f). Pub. L. 101–627, § 110(b)(1), in heading substituted ''Fisheries under authority of more than one Council'' for ''Miscellaneous duties'', in par. (1) substituted ''Except as provided in paragraph (3), if'' for ''If'', and added par. (3).

Subsec. (g). Pub. L. 101–627, § 110(c), added subsec. (g).

1986—Subsec. (a)(1). Pub. L. 99–659, § 106(1)(A), struck out ''(the date of receipt of which is hereafter in this section referred to as the 'receipt date')'' after ''by a Council'' in introductory provisions.

Subsec. (a)(1)(A), (B). Pub. L. 99–659, § 106(1)(B), (C), added subpar. (A) and redesignated former subpars. (A) and (B) as (B) and (C), respectively.

Subsec. (a)(1)(C). Pub. L. 99–659, § 106(1)(B), (D), redesignated former subpar. (B) as (C) and substituted ''60-day'' for ''75-day''. Former subpar. (C) redesignated (D).

Subsec. (a)(1)(D). Pub. L. 99–659, § 106(1)(B), (E), redesignated former subpar. (C) as (D) and substituted ''15th day'' for ''30th day''.

Subsec. (a)(2). Pub. L. 99–659, §106(1)(F), substituted ''paragraph (1)(B)'' for ''paragraph (1)(A)'' in introductory provisions and inserted ''and to fishery access adjustments referred to in section 1853(a)(6) of this title'' in subpar. (C).

Subsec. (a)(3). Pub. L. 99–659, §106(1)(G), added par. (3).

Subsec. (b)(1)(A). Pub. L. 99–659, §106(2)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the Secretary does not notify the Council in writing of his disapproval, or partial disapproval, under paragraph (2), of the plan or amendment before the close of the 95th day after the receipt date; or''.

Subsec. (b)(1)(B). Pub. L. 99–659, §106(2)(B), substituted ''60th day'' for ''75th day''.

Subsec. (b)(2). Pub. L. 99–659, §106(2)(C), substituted ''paragraph (1)(B)'' for ''paragraph (1)(A)'' in introductory provisions.

Subsec. (b)(3)(A). Pub. L. 99–659, §106(2)(D)(i), inserted ''disapproves a proposed plan or amendment under subsection (a)(1)(A)(ii) of this section, or''.

Subsec. (b)(3)(B)(i), (C)(i). Pub. L. 99–659, §106(2)(D)(ii), substituted ''subsection (a)(1)(B)'' for ''subsection (a)(1)(A)''.

Subsec. (c)(2)(A)(ii). Pub. L. 99–659, §106(3)(A), substituted ''60-day'' for ''75-day''.

Subsec. (c)(2)(A)(iii). Pub. L. 99–659, §106(3)(B), substituted ''15th day'' for ''30th day''.

Subsec. (c)(2)(B). Pub. L. 99–659, §106(3)(C), substituted ''60-day'' for ''75-day'' in two places.

Subsec. (e). Pub. L. 99–659, §106(4), inserted '', in cooperation with the Councils,'', ''and on the economics of the fisheries'', and ''The Secretary shall annually review and update the comprehensive program and make the results of the review and update available to the Councils.''

1983—Subsec. (a). Pub. L. 97–453, §7(a)(1), amended subsec. (a) generally, which had provided that within 60 days after the Secretary received any fishery management plan, or any amendment to any such plan, which was prepared by any Council, the Secretary was to review such plan or amendment pursuant to subsection (b) of this section, notify such Council in writing of his approval, disapproval, or partial disapproval of such plan or amendment, and that in the case of disapproval or partial disapproval, the Secretary was to include in such notification a statement and explanation of the Secretary's objections and the reasons therefor, suggestions for improvement, a request to such Council to change such plan or amendment to satisfy the objections, and a request to resubmit the plan or amendment, as so modified, to the Secretary within 45 days after the date on which the Council received such notification.

Subsec. (b). Pub. L. 97–453, §7(a)(1), amended subsec. (b) generally, which had provided that the Secretary was to review any fishery management plan, and any amendment to any such plan, prepared by any Council and submitted to him to determine whether it was consistent with the national standards, the other provisions of this chapter, and any other applicable law, and that in carrying out such review, the Secretary was to consult with the Secretary of State with respect to foreign fishing, and the Secretary of the department in which the Coast Guard was operating with respect to enforcement at sea.

Subsec. (c)(1). Pub. L. 97–453, §7(a)(2)(A), in subpar. (B) substituted ''or disapproves a revised plan or amendment, and the Council involved fails to submit a revised or further revised plan or amendment, as the case may be'' for ''and the Council involved fails to change such plan or amendment in accordance with the notification made under subsection (a)(2) of this section'', and added to the provisions following subpar. (B) a requirement that the Secretary also prepare such proposed regulations as he deems necessary or appropriate to carry out each plan or amendment prepared by him under this paragraph.

Subsec. (c)(2). Pub. L. 97–453, §7(a)(2)(B), amended par. (2) generally, which had provided that whenever, pursuant to paragraph (1), the Secretary prepared a fishery management plan or amendment, the Secretary was to promptly transmit such plan or amendment to the appropriate Council for consideration and comment, that within 45 days after the date of receipt of such plan or amendment, the appropriate Council could recommend, to the Secretary, changes in such plan or amendment, consistent with the national standards, the other provisions of this chapter, and any other applicable law, and that after the expiration of such 45-day period, the Secretary could implement such plan or amendment pursuant to section 1855 of this title.

Subsec. (d). Pub. L. 97–453, §7(a)(3), inserted provisions relating to agreements with the States for the administration of the permit system and the permissible accrual to the States of fees collected under the system.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 109–479, title I, §104(d), Jan. 12, 2007, 120 Stat. 3585, provided that: ''The amendments made by subsection (c) [amending this section] shall take effect 30 months after the date of enactment of this Act [Jan. 12, 2007].''

EFFECTIVE DATE OF 1983 AMENDMENT

Section 7(b) of Pub. L. 97–453 provided that: ''The amendments made by subsection (a) [amending this section] shall only apply with respect to fishery management plans and amendments thereto that are initially submitted to the Secretary of Commerce on or after the date of the enactment of this Act [Jan. 12, 1983] for action under section 304 [this section].''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. For treatment of references to Committee on Merchant Marine and Fisheries, see section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

INTERNATIONAL FISHERIES AGREEMENT

Pub. L. 111–348, title II, Jan. 4, 2011, 124 Stat. 3671, provided that:

''SEC. 201. SHORT TITLE.

''This title may be cited as the 'International Fisheries Agreement Clarification Act'.

''SEC. 202. INTERNATIONAL FISHERY AGREEMENT.

''Consistent with the intent of provisions of the Magnuson-Stevens Fishery and Conservation and Management Act [Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq.] relating to international agreements, the Secretary of Commerce and the New England Fishery Management Council may, for the purpose of rebuilding those portions of fish stocks covered by the United States-Canada Transboundary Resource Sharing Understanding on the date of enactment of this Act [Jan. 4, 2011]—

''(1) take into account the Understanding and decisions made under that Understanding in the application of section 304(e)(4)(A)(i) of the Act (16 U.S.C. 1854(e)(4)(A)(i));

''(2) consider decisions made under that Understanding as 'management measures under an inter-

national agreement' that 'dictate otherwise' for purposes of section 304(e)(4)(A)(ii) of the Act (16 U.S.C. 1854(e)(4)(A)(ii)[)]; and

''(3) establish catch levels for those portions of fish stocks within their respective geographic areas covered by the Understanding on the date of enactment of this Act that exceed the catch levels otherwise required under the Northeast Multispecies Fishery Management Plan if—

''(A) overfishing is ended immediately;

''(B) the fishing mortality level ensures rebuilding within a time period for rebuilding specified taking into account the Understanding pursuant to paragraphs (1) and (2) of this subsection; and

''(C) such catch levels are consistent with that Understanding.

''SEC. 203. APPLICATION WITH OTHER LAWS.

''Nothing in this title shall be construed to amend the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 [1801] et seq.) or to limit or otherwise alter the authority of the Secretary of Commerce under that Act concerning other species.

''SEC. 204. EFFECTIVE DATE.

''(a) IN GENERAL.—Except as provided in subsection (b), section 202 shall apply with respect to fishing years beginning after April 30, 2010.

''(b) SPECIAL RULE.—Section 202(3)(B) shall only apply with respect to fishing years beginning after April 30, 2012.''

DELAY OF COLLECTION OF FEES IN QUAHOG AND WRECKFISH FISHERIES

Section 109(d) of Pub. L. 104–297, as amended by Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that: ''Notwithstanding any other provision of law, the Secretary shall not begin the collection of fees under section 304(d)(2) of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1854(d)(2)], as amended by this Act, in the surf clam and ocean (including mahogany) quahog fishery or in the wreckfish fishery until after January 1, 2000.''

COMPREHENSIVE MANAGEMENT SYSTEM FOR ATLANTIC PELAGIC LONGLINE FISHERY

Section 109(h) of Pub. L. 104–297, as amended by Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that:

''(1) The Secretary of Commerce shall—

''(A) establish an advisory panel under section 302(g)(4) of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1852(g)(4)], as amended by this Act, for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species;

''(B) conduct surveys and workshops with affected fishery participants to provide information and identify options for future management programs;

''(C) to the extent practicable and necessary for the evaluation of options for a comprehensive management system, recover vessel production records; and

''(D) complete by January 1, 1998, a comprehensive study on the feasibility of implementing a comprehensive management system for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species, including, but not limited to, individual fishing quota programs and other limited access systems.

''(2) Based on the study under paragraph (1)(D) and consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), in cooperation with affected participants in the fishery, the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas, and the advisory panel established under paragraph (1)(A), the Secretary of Commerce may, after October 1, 1998, implement a comprehensive management system pursuant to section 304 of such Act (16 U.S.C. 1854) for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species. Such a system may not implement an individual fishing quota program until after October 1, 2000.''

INAPPLICABILITY OF SUBSECTION (h) TO AMERICAN LOBSTER FISHERY MANAGEMENT PLAN

Section 109(j) of Pub. L. 104–297, as amended by Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that: ''Section 304(h) of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1854(h)], as amended by this Act, shall not apply to the American Lobster Fishery Management Plan.''

INTERIM MANAGEMENT OF HIGHLY MIGRATORY SPECIES FISHERIES

Section 108(k) of Pub. L. 101–627, as amended by Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that: ''Notwithstanding the amendments made by subsections (a) and (g) [amending section 1852 of this title], any fishery management plan or amendment which—

''(1) addresses a highly migratory species fishery to which section 304(f)(3) of the Magnuson-Stevens Fishery Conservation and Management Act [former 16 U.S.C. 1854(f)(3)] (as amended by this Act) applies,

''(2) was prepared by one or more Regional Fishery Management Councils, and

''(3) was in force and effect on January 1, 1990,

shall remain in force and effect until superseded by a fishery management plan prepared by the Secretary, and regulations implementing that plan.''

§ 1855. Other requirements and authority

(a) Gear evaluation and notification of entry

(1) Not later than 18 months after October 11, 1996, the Secretary shall publish in the Federal Register, after notice and an opportunity for public comment, a list of all fisheries—

(A) under the authority of each Council and all fishing gear used in such fisheries, based on information submitted by the Councils under section 1853(a) of this title; and

(B) to which section 1852(a)(3) of this title applies and all fishing gear used in such fisheries.

(2) The Secretary shall include with such list guidelines for determining when fishing gear or a fishery is sufficiently different from those listed as to require notification under paragraph (3).

(3) Effective 180 days after the publication of such list, no person or vessel may employ fishing gear or engage in a fishery not included on such list without giving 90 days advance written notice to the appropriate Council, or the Secretary with respect to a fishery to which section 1852(a)(3) of this title applies. A signed return receipt shall serve as adequate evidence of such notice and as the date upon which the 90-day period begins.

(4) A Council may submit to the Secretary any proposed changes to such list or such guidelines the Council deems appropriate. The Secretary shall publish a revised list, after notice and an opportunity for public comment, upon receiving any such proposed changes from a Council.

(5) A Council may request the Secretary to promulgate emergency regulations under subsection (c) of this section to prohibit any persons or vessels from using an unlisted fishing gear or engaging in an unlisted fishery if the ap-

propriate Council, or the Secretary for fisheries to which section 1852(a)(3) of this title applies, determines that such unlisted gear or unlisted fishery would compromise the effectiveness of conservation and management efforts under this chapter.

(6) Nothing in this subsection shall be construed to permit a person or vessel to engage in fishing or employ fishing gear when such fishing or gear is prohibited or restricted by regulation under a fishery management plan or plan amendment, or under other applicable law.

(b) Fish habitat

(1)(A) The Secretary shall, within 6 months of October 11, 1996, establish by regulation guidelines to assist the Councils in the description and identification of essential fish habitat in fishery management plans (including adverse impacts on such habitat) and in the consideration of actions to ensure the conservation and enhancement of such habitat. The Secretary shall set forth a schedule for the amendment of fishery management plans to include the identification of essential fish habitat and for the review and updating of such identifications based on new scientific evidence or other relevant information.

(B) The Secretary, in consultation with participants in the fishery, shall provide each Council with recommendations and information regarding each fishery under that Council's authority to assist it in the identification of essential fish habitat, the adverse impacts on that habitat, and the actions that should be considered to ensure the conservation and enhancement of that habitat.

(C) The Secretary shall review programs administered by the Department of Commerce and ensure that any relevant programs further the conservation and enhancement of essential fish habitat.

(D) The Secretary shall coordinate with and provide information to other Federal agencies to further the conservation and enhancement of essential fish habitat.

(2) Each Federal agency shall consult with the Secretary with respect to any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any essential fish habitat identified under this chapter.

(3) Each Council—

(A) may comment on and make recommendations to the Secretary and any Federal or State agency concerning any activity authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any Federal or State agency that, in the view of the Council, may affect the habitat, including essential fish habitat, of a fishery resource under its authority; and

(B) shall comment on and make recommendations to the Secretary and any Federal or State agency concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat, including essential fish habitat, of an anadromous fishery resource under its authority.

(4)(A) If the Secretary receives information from a Council or Federal or State agency or determines from other sources that an action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any State or Federal agency would adversely affect any essential fish habitat identified under this chapter, the Secretary shall recommend to such agency measures that can be taken by such agency to conserve such habitat.

(B) Within 30 days after receiving a recommendation under subparagraph (A), a Federal agency shall provide a detailed response in writing to any Council commenting under paragraph (3) and the Secretary regarding the matter. The response shall include a description of measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with the recommendations of the Secretary, the Federal agency shall explain its reasons for not following the recommendations.

(c) Emergency actions and interim measures

(1) If the Secretary finds that an emergency exists or that interim measures are needed to reduce overfishing for any fishery, he may promulgate emergency regulations or interim measures necessary to address the emergency or overfishing, without regard to whether a fishery management plan exists for such fishery.

(2) If a Council finds that an emergency exists or that interim measures are needed to reduce overfishing for any fishery within its jurisdiction, whether or not a fishery management plan exists for such fishery—

(A) the Secretary shall promulgate emergency regulations or interim measures under paragraph (1) to address the emergency or overfishing if the Council, by unanimous vote of the members who are voting members, requests the taking of such action; and

(B) the Secretary may promulgate emergency regulations or interim measures under paragraph (1) to address the emergency or overfishing if the Council, by less than a unanimous vote, requests the taking of such action.

(3) Any emergency regulation or interim measure which changes any existing fishery management plan or amendment shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation or interim measure promulgated under this subsection—

(A) shall be published in the Federal Register together with the reasons therefor;

(B) shall, except as provided in subparagraph (C), remain in effect for not more than 180 days after the date of publication, and may be extended by publication in the Federal Register for one additional period of not more than 186 days, provided the public has had an opportunity to comment on the emergency regulation or interim measure, and, in the case of a Council recommendation for emergency regulations or interim measures, the Council is actively preparing a fishery management plan, plan amendment, or proposed regulations to address the emergency or overfishing on a permanent basis;

(C) that responds to a public health emergency or an oil spill may remain in effect until the circumstances that created the emergency

no longer exist, *Provided*, That the public has an opportunity to comment after the regulation is published, and, in the case of a public health emergency, the Secretary of Health and Human Services concurs with the Secretary's action; and

(D) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, except for emergency regulations or interim measures promulgated under paragraph (2) in which case such early termination may be made only upon the agreement of the Secretary and the Council concerned.

(d) Responsibility of Secretary

The Secretary shall have general responsibility to carry out any fishery management plan or amendment approved or prepared by him, in accordance with the provisions of this chapter. The Secretary may promulgate such regulations, in accordance with section 553 of title 5, as may be necessary to discharge such responsibility or to carry out any other provision of this chapter.

(e) Effect of certain laws on certain time requirements

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.),[1] the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and Executive Order Numbered 12866, dated September 30, 1993, shall be complied with within the time limitations specified in subsections (a), (b), and (c) of section 1854 of this title as they apply to the functions of the Secretary under such provisions.

(f) Judicial review

(1) Regulations promulgated by the Secretary under this chapter and actions described in paragraph (2) shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, if a petition for such review is filed within 30 days after the date on which the regulations are promulgated or the action is published in the Federal Register, as applicable; except that—

(A) section 705 of such title is not applicable, and

(B) the appropriate court shall only set aside any such regulation or action on a ground specified in section 706(2)(A), (B), (C), or (D) of such title.

(2) The actions referred to in paragraph (1) are actions that are taken by the Secretary under regulations which implement a fishery management plan, including but not limited to actions that establish the date of closure of a fishery to commercial or recreational fishing.

(3)(A) Notwithstanding any other provision of law, the Secretary shall file a response to any petition filed in accordance with paragraph (1), not later than 45 days after the date the Secretary is served with that petition, except that the appropriate court may extend the period for filing such a response upon a showing by the Secretary of good cause for that extension.

(B) A response of the Secretary under this paragraph shall include a copy of the administrative record for the regulations that are the subject of the petition.

(4) Upon a motion by the person who files a petition under this subsection, the appropriate court shall assign the matter for hearing at the earliest possible date and shall expedite the matter in every possible way.

(g) Negotiated conservation and management measures

(1)(A) In accordance with regulations promulgated by the Secretary pursuant to this paragraph, a Council may establish a fishery negotiation panel to assist in the development of specific conservation and management measures for a fishery under its authority. The Secretary may establish a fishery negotiation panel to assist in the development of specific conservation and management measures required for a fishery under section 1854(e)(5) of this title, for a fishery for which the Secretary has authority under section 1854(g) of this title, or for any other fishery with the approval of the appropriate Council.

(B) No later than 180 days after October 11, 1996, the Secretary shall promulgate regulations establishing procedures, developed in cooperation with the Administrative Conference of the United States, for the establishment and operation of fishery negotiation panels. Such procedures shall be comparable to the procedures for negotiated rulemaking established by subchapter III of chapter 5 of title 5.

(2) If a negotiation panel submits a report, such report shall specify all the areas where consensus was reached by the panel, including, if appropriate, proposed conservation and management measures, as well as any other information submitted by members of the negotiation panel. Upon receipt, the Secretary shall publish such report in the Federal Register for public comment.

(3) Nothing in this subsection shall be construed to require either a Council or the Secretary, whichever is appropriate, to use all or any portion of a report from a negotiation panel established under this subsection in the development of specific conservation and management measures for the fishery for which the panel was established.

(h) Central registry system for limited access system permits

(1) Within 6 months after October 11, 1996, the Secretary shall establish an exclusive central registry system (which may be administered on a regional basis) for limited access system permits established under section 1853(b)(6) of this title or other Federal law, including limited access privileges, which shall provide for the registration of title to, and interests in, such permits, as well as for procedures for changes in the registration of title to such permits upon the occurrence of involuntary transfers, judicial or nonjudicial foreclosure of interests, enforcement of judgments thereon, and related matters deemed appropriate by the Secretary. Such registry system shall—

(A) provide a mechanism for filing notice of a nonjudicial foreclosure or enforcement of a judgment by which the holder of a senior security interest acquires or conveys ownership of a permit, and in the event of a nonjudicial

[1] See References in Text note below.

foreclosure, by which the interests of the holders of junior security interests are released when the permit is transferred;

(B) provide for public access to the information filed under such system, notwithstanding section 1881a(b) of this title; and

(C) provide such notice and other requirements of applicable law that the Secretary deems necessary for an effective registry system.

(2) The Secretary shall promulgate such regulations as may be necessary to carry out this subsection, after consulting with the Councils and providing an opportunity for public comment. The Secretary is authorized to contract with non-Federal entities to administer the central registry system.

(3) To be effective and perfected against any person except the transferor, its heirs and devisees, and persons having actual notice thereof, all security interests, and all sales and other transfers of permits described in paragraph (1), shall be registered in compliance with the regulations promulgated under paragraph (2). Such registration shall constitute the exclusive means of perfection of title to, and security interests in, such permits, except for Federal tax liens thereon, which shall be perfected exclusively in accordance with the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.). The Secretary shall notify both the buyer and seller of a permit if a lien has been filed by the Secretary of the Treasury against the permit before collecting any transfer fee under paragraph (5) of this subsection.

(4) The priority of security interests shall be determined in order of filing, the first filed having the highest priority. A validly-filed security interest shall remain valid and perfected notwithstanding a change in residence or place of business of the owner of record. For the purposes of this subsection, ''security interest'' shall include security interests, assignments, liens and other encumbrances of whatever kind.

(5)(A) Notwithstanding section 1854(d)(1) of this title, the Secretary shall collect a reasonable fee of not more than one-half of one percent of the value of a limited access system permit upon registration of the title to such permit with the central registry system and upon the transfer of such registered title. Any such fee collected shall be deposited in the Limited Access System Administration Fund established under subparagraph (B).

(B) There is established in the Treasury a Limited Access System Administration Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purposes of—

(i) administering the central registry system; and

(ii) administering and implementing this chapter in the fishery in which the fees were collected. Sums in the Fund that are not currently needed for these purposes shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(i) Alaska and western Pacific community development programs

(1) Western Alaska community development quota program

(A) In general

There is established the western Alaska community development quota program in order—

(i) to provide eligible western Alaska villages with the opportunity to participate and invest in fisheries in the Bering Sea and Aleutian Islands Management Area;

(ii) to support economic development in western Alaska;

(iii) to alleviate poverty and provide economic and social benefits for residents of western Alaska; and

(iv) to achieve sustainable and diversified local economies in western Alaska.

(B) Program allocation

(i) In general

Except as provided in clause (ii), the annual percentage of the total allowable catch, guideline harvest level, or other annual catch limit allocated to the program in each directed fishery of the Bering Sea and Aleutian Islands shall be the percentage approved by the Secretary, or established by Federal law, as of March 1, 2006, for the program. The percentage for each fishery shall be either a directed fishing allowance or include both directed fishing and nontarget needs based on existing practice with respect to the program as of March 1, 2006, for each fishery.

(ii) Exceptions

Notwithstanding clause (i)—

(I) the allocation under the program for each directed fishery of the Bering Sea and Aleutian Islands (other than a fishery for halibut, sablefish, pollock, and crab) shall be a total allocation (directed and nontarget combined) of 10.7 percent effective January 1, 2008; and

(II) the allocation under the program in any directed fishery of the Bering Sea and Aleutian Islands (other than a fishery for halibut, sablefish, pollock, and crab) established after July 11, 2006, shall be a total allocation (directed and nontarget combined) of 10.7 percent.

The total allocation (directed and nontarget combined) for a fishery to which subclause (I) or (II) applies may not be exceeded.

(iii) Processing and other rights

Allocations to the program include all processing rights and any other rights and privileges associated with such allocations as of March 1, 2006.

(iv) Regulation of harvest

The harvest of allocations under the program for fisheries with individual quotas or fishing cooperatives shall be regulated by the Secretary in a manner no more restrictive than for other participants in the applicable sector, including with respect to the harvest of nontarget species.

(C) Allocations to entities

Each entity eligible to participate in the program shall be authorized under the program to harvest annually the same percentage of each species allocated to the program under subparagraph (B) that it was authorized by the Secretary to harvest of such species annually as of March 1, 2006, except to the extent that its allocation is adjusted under subparagraph (H). Such allocation shall include all processing rights and any other rights and privileges associated with such allocations as of March 1, 2006. Voluntary transfers by and among eligible entities shall be allowed, whether before or after harvesting. Notwithstanding the first sentence of this subparagraph, seven-tenths of one percent of the total allowable catch, guideline harvest level, or other annual catch limit, within the amount allocated to the program by subclause (I) or subclause (II) of subparagraph (B)(ii), shall be allocated among the eligible entities by the panel established in subparagraph (G), or allocated by the Secretary based on the nontarget needs of eligible entities in the absence of a panel decision.

(D) Eligible villages

The following villages shall be eligible to participate in the program through the following entities:

(i) The villages of Akutan, Atka, False Pass, Nelson Lagoon, Nikolski, and Saint George through the Aleutian Pribilof Island Community Development Association.

(ii) The villages of Aleknagik, Clark's Point, Dillingham, Egegik, Ekuk, Ekwok, King Salmon/Savonoski, Levelock, Manokotak, Naknek, Pilot Point, Port Heiden, Portage Creek, South Naknek, Togiak, Twin Hills, and Ugashik through the Bristol Bay Economic Development Corporation.

(iii) The village of Saint Paul through the Central Bering Sea Fishermen's Association.

(iv) The villages of Chefornak, Chevak, Eek, Goodnews Bay, Hooper Bay, Kipnuk, Kongiganak, Kwigillingok, Mekoryuk, Napakiak, Napaskiak, Newtok, Nightmute, Oscarville, Platinum, Quinhagak, Scammon Bay, Toksook Bay, Tuntutuliak, and Tununak through the Coastal Villages Region Fund.

(v) The villages of Brevig Mission, Diomede, Elim, Gambell, Golovin, Koyuk, Nome, Saint Michael, Savoonga, Shaktoolik, Stebbins, Teller, Unalakleet, Wales, and White Mountain through the Norton Sound Economic Development Corporation.

(vi) The villages of Alakanuk, Emmonak, Grayling, Kotlik, Mountain Village, and Nunam Iqua through the Yukon Delta Fisheries Development Association.

(E) Eligibility requirements for participating entities

To be eligible to participate in the program, an entity referred to in subparagraph (D) shall meet the following requirements:

(i) Board of directors

The entity shall be governed by a board of directors. At least 75 percent of the members of the board shall be resident fishermen from the entity's member villages. The board shall include at least one director selected by each such member village.

(ii) Panel representative

The entity shall elect a representative to serve on the panel established by subparagraph (G).

(iii) Other investments

The entity may make up to 20 percent of its annual investments in any combination of the following:

(I) For projects that are not fishery-related and that are located in its region.

(II) On a pooled or joint investment basis with one or more other entities participating in the program for projects that are not fishery-related and that are located in one or more of their regions.

(III) For matching Federal or State grants for projects or programs in its member villages without regard to any limitation on the Federal or State share, or restriction on the source of any non-Federal or non-State matching funds, of any grant program under any other provision of law.

(iv) Fishery-related investments

The entity shall make the remainder percent of its annual investments in fisheries-related projects or for other purposes consistent with the practices of the entity prior to March 1, 2006.

(v) Annual statement of compliance

Each year the entity, following approval by its board of directors and signed by its chief executive officer, shall submit a written statement to the Secretary and the State of Alaska that summarizes the purposes for which it made investments under clauses (iii) and (iv) during the preceding year.

(vi) Other panel requirements

The entity shall comply with any other requirements established by the panel under subparagraph (G).

(F) Entity status, limitations, and regulation

The entity—

(i) shall be subject to any excessive share ownership, harvesting, or processing limitations in the fisheries of the Bering Sea and Aleutian Islands Management Area only to the extent of the entity's proportional ownership, excluding any program allocations, and notwithstanding any other provision of law;

(ii) shall comply with State of Alaska law requiring annual reports to the enti-

ty's member villages summarizing financial operations for the previous calendar year, including general and administrative costs and compensation levels of the top 5 highest paid personnel;

(iii) shall comply with State of Alaska laws to prevent fraud that are administered by the Alaska Division of Banking and Securities, except that the entity and the State shall keep confidential from public disclosure any information if the disclosure would be harmful to the entity or its investments; and

(iv) is exempt from compliance with any State law requiring approval of financial transactions, community development plans, or amendments thereto, except as required by subparagraph (H).

(G) Administrative panel

(i) Establishment

There is established a community development quota program panel.

(ii) Membership

The panel shall consist of 6 members. Each entity participating in the program shall select one member of the panel.

(iii) Functions

The panel shall—

(I) administer those aspects of the program not otherwise addressed in this paragraph, either through private contractual arrangement or through recommendations to the North Pacific Council, the Secretary, or the State of Alaska, as the case may be; and

(II) coordinate and facilitate activities of the entities under the program.

(iv) Unanimity required

The panel may act only by unanimous vote of all 6 members of the panel and may not act if there is a vacancy in the membership of the panel.

(H) Decennial review and adjustment of entity allocations

(i) In general

During calendar year 2012 and every 10 years thereafter, the State of Alaska shall evaluate the performance of each entity participating in the program based on the criteria described in clause (ii).

(ii) Criteria

The panel shall establish a system to be applied under this subparagraph that allows each entity participating in the program to assign relative values to the following criteria to reflect the particular needs of its villages:

(I) Changes during the preceding 10-year period in population, poverty level, and economic development in the entity's member villages.

(II) The overall financial performance of the entity, including fishery and nonfishery investments by the entity.

(III) Employment, scholarships, and training supported by the entity.

(IV) Achieving of the goals of the entity's community development plan.

(iii) Adjustment of allocations

After the evaluation required by clause (i), the State of Alaska shall make a determination, on the record and after an opportunity for a hearing, with respect to the performance of each entity participating in the program for the criteria described in clause (ii). If the State determines that the entity has maintained or improved its overall performance with respect to the criteria, the allocation to such entity under the program shall be extended by the State for the next 10-year period. If the State determines that the entity has not maintained or improved its overall performance with respect to the criteria—

(I) at least 90 percent of the entity's allocation for each species under subparagraph (C) shall be extended by the State for the next 10-year period; and

(II) the State may determine, or the Secretary may determine (if State law prevents the State from making the determination), and implement an appropriate reduction of up to 10 percent of the entity's allocation for each species under subparagraph (C) for all or part of such 10-year period.

(iv) Reallocation of reduced amount

If the State or the Secretary reduces an entity's allocation under clause (iii), the reduction shall be reallocated among other entities participating in the program whose allocations are not reduced during the same period in proportion to each such entity's allocation of the applicable species under subparagraph (C).

(I) Secretarial approval not required

Notwithstanding any other provision of law or regulation thereunder, the approval by the Secretary of a community development plan, or an amendment thereof, under the program is not required.

(J) Community development plan defined

In this paragraph, the term ''community development plan'' means a plan, prepared by an entity referred to in subparagraph (D), for the program that describes how the entity intends—

(i) to harvest its share of fishery resources allocated to the program, or

(ii) to use its share of fishery resources allocated to the program, and any revenue derived from such use, to assist its member villages with projects to advance economic development,

but does not include a plan that allocates fishery resources to the program.

(2)(A) The Western Pacific Council and the Secretary may establish a western Pacific community development program for any fishery under the authority of such Council in order to provide access to such fishery for western Pacific communities that participate in the program.

(B) To be eligible to participate in the western Pacific community development program, a community shall—

(i) be located within the Western Pacific Regional Fishery Management Area;

(ii) meet criteria developed by the Western Pacific Council, approved by the Secretary and published in the Federal Register;

(iii) consist of community residents who are descended from the aboriginal people indigenous to the area who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the Western Pacific region;

(iv) not have previously developed harvesting or processing capability sufficient to support substantial participation in fisheries in the Western Pacific Regional Fishery Management Area; and

(v) develop and submit a Community Development Plan to the Western Pacific Council and the Secretary.

(C) In developing the criteria for eligible communities under subparagraph (B)(ii), the Western Pacific Council shall base such criteria on traditional fishing practices in or dependence on the fishery, the cultural and social framework relevant to the fishery, and economic barriers to access to the fishery.

(D) For the purposes of this subsection ''Western Pacific Regional Fishery Management Area'' means the area under the jurisdiction of the Western Pacific Council, or an island within such area.

(E) Notwithstanding any other provision of this chapter, the Western Pacific Council shall take into account traditional indigenous fishing practices in preparing any fishery management plan.

(3) The Secretary shall deduct from any fees collected from a community development quota program under section 1854(d)(2) of this title the costs incurred by participants in the program for observer and reporting requirements which are in addition to observer and reporting requirements of other participants in the fishery in which the allocation to such program has been made.

(4) After October 11, 1996, the North Pacific Council and Western Pacific Council may not submit to the Secretary a community development quota program that is not in compliance with this subsection.

(j) Western Pacific and Northern Pacific regional marine education and training

(1) In general

The Secretary shall establish a pilot program for regionally-based marine education and training programs in the Western Pacific and the Northern Pacific to foster understanding, practical use of knowledge (including native Hawaiian, Alaskan Native, and other Pacific Islander-based knowledge), and technical expertise relevant to stewardship of living marine resources. The Secretary shall, in cooperation with the Western Pacific and the North Pacific Regional Fishery Management Councils, regional educational institutions, and local Western Pacific and Northern Pacific community training entities, establish programs or projects that will improve communication, education, and training on marine resource issues throughout the region and increase scientific education for marine-related professions among coastal community residents, including indigenous Pacific islanders, Native Hawaiians, Alaskan Natives, and other underrepresented groups in the region.

(2) Program components

The program shall—

(A) include marine science and technology education and training programs focused on preparing community residents for employment in marine related professions, including marine resource conservation and management, marine science, marine technology, and maritime operations;

(B) include fisheries and seafood-related training programs, including programs for fishery observers, seafood safety and seafood marketing, focused on increasing the involvement of coastal community residents in fishing, fishery management, and seafood-related operations;

(C) include outreach programs and materials to educate and inform consumers about the quality and sustainability of wild fish or fish products farmed through responsible aquaculture, particularly in Hawaii, Alaska, the Western Pacific, the Northern Pacific, and the Central Pacific;

(D) include programs to identify, with the fishing industry, methods and technologies that will improve the data collection, quality, and reporting and increase the sustainability of fishing practices, and to transfer such methods and technologies among fisheries sectors and to other nations in the Western, Northern, and Central Pacific;

(E) develop means by which local and traditional knowledge (including Pacific islander, Native Hawaiian, and Alaskan Native knowledge) can enhance science-based management of fishery resources of the region; and

(F) develop partnerships with other Western Pacific Island and Alaskan agencies, academic institutions, and other entities to meet the purposes of this section.

(k) Multispecies groundfish

(1) In general

Within 60 days after January 12, 2007, the Secretary of Commerce shall determine whether fishing in State waters—

(A) without a New England multispecies groundfish fishery permit on regulated species within the multispecies complex is not consistent with the applicable Federal fishery management plan; or

(B) without a Federal bottomfish and seamount groundfish permit in the Hawaiian archipelago on regulated species within the complex is not consistent with the applicable Federal fishery management plan or State data are not sufficient to make such a determination.

(2) Cure

If the Secretary makes a determination that such actions are not consistent with the plan,

the Secretary shall, in consultation with the Council, and after notifying the affected State, develop and implement measures to cure the inconsistency pursuant to section 1856(b) of this title.

(Pub. L. 94–265, title III, § 305, Apr. 13, 1976, 90 Stat. 354; Pub. L. 96–561, title II, § 235, Dec. 22, 1980, 94 Stat. 3299; Pub. L. 97–453, § 8, Jan. 12, 1983, 96 Stat. 2490; Pub. L. 101–627, title I, §§ 110(b)(2), 111(a)(1), (b), Nov. 28, 1990, 104 Stat. 4451, 4452; Pub. L. 104–297, title I, §§ 110(a)–(d), 111(a), Oct. 11, 1996, 110 Stat. 3587–3590, 3592; Pub. L. 109–241, title IV, § 416(a), July 11, 2006, 120 Stat. 540; Pub. L. 109–479, § 3(d)(3), title I, §§ 108–110, 116(b)(1), Jan. 12, 2007, 120 Stat. 3578, 3594–3596, 3606.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Paperwork Reduction Act of 1980, referred to in subsec. (e), is Pub. L. 96–511, Dec. 11, 1980, 94 Stat. 2812, as amended, which was classified principally to chapter 35 (§ 3501 et seq.) of Title 44, Public Printing and Documents, prior to the general amendment of that chapter by Pub. L. 104–13, § 2, May 22, 1995, 109 Stat. 163. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 101 of Title 44 and Tables.

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.), referred to in subsec. (e), is Pub. L. 96–354, Sept. 19, 1980, 94 Stat. 1164, which is classified generally to chapter 6 (§ 601 et seq.) of Title 5, Government Organization and Employees. For complete classification of the Act to the Code, see Short Title note set out under section 601 of Title 5 and Tables.

Executive Order Numbered 12866, referred to in subsec. (e), is set out as a note under section 601 of Title 5, Government Organization and Employees.

The Internal Revenue Code of 1986, referred to in subsec. (h)(3), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

2007—Subsec. (c)(3)(B). Pub. L. 109–479, § 108(a), which directed substitution of ''186 days,'' for ''180 days,'' the second time appearing, was executed by making the substitution the only place that phrase appeared, to reflect the probable intent of Congress.

Subsec. (c)(3)(D). Pub. L. 109–479, § 108(b), inserted ''or interim measures'' after ''emergency regulations''.

Subsec. (h)(1). Pub. L. 109–479, § 3(d)(3), substituted ''limited access privileges,'' for ''individual fishing quotas,'' in introductory provisions.

Subsec. (i)(1)(B)(ii). Pub. L. 109–479, § 116(b)(1)(C), which directed insertion of ''The total allocation (directed and nontarget combined) for a fishery to which subclause (I) or (II) applies may not be exceeded.'' after cl. (ii), was executed by making the insertion as concluding provisions of cl. (ii), to reflect the probable intent of Congress.

Subsec. (i)(1)(B)(ii)(I). Pub. L. 109–479, § 116(b)(1)(A), substituted ''total allocation (directed and nontarget combined) of 10.7 percent effective January 1, 2008; and'' for ''directed fishing allocation of 10 percent upon the establishment of a quota program, fishing cooperative, sector allocation, or other rationalization program in any sector of the fishery; and''.

Subsec. (i)(1)(B)(ii)(II). Pub. L. 109–479, § 116(b)(1)(B), substituted ''total allocation (directed and nontarget combined) of 10.7 percent.'' for ''directed fishing allocation of 10 percent.''

Subsec. (i)(1)(C). Pub. L. 109–479, § 116(b)(1)(D), inserted at end ''Voluntary transfers by and among eligible entities shall be allowed, whether before or after harvesting. Notwithstanding the first sentence of this subparagraph, seven-tenths of one percent of the total allowable catch, guideline harvest level, or other annual catch limit, within the amount allocated to the program by subclause (I) or subclause (II) of subparagraph (B)(ii), shall be allocated among the eligible entities by the panel established in subparagraph (G), or allocated by the Secretary based on the nontarget needs of eligible entities in the absence of a panel decision.''

Subsec. (j). Pub. L. 109–479, § 109, added subsec. (j).

Subsec. (k). Pub. L. 109–479, § 110, added subsec. (k).

2006—Subsec. (i)(1). Pub. L. 109–241 added par. (1) and struck out former par. (1) which related to the western Alaska community development quota program.

1996—Pub. L. 104–297, § 110(a)(1), (3), substituted ''Other requirements and authority'' for ''Implementation of fishery management plans'' as section catchline.

Subsec. (a). Pub. L. 104–297, § 110(a)(1), (3), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: ''The Secretary shall promulgate each regulation that is necessary to carry out a plan or amendment—

''(1) within 110 days after the plan or amendment was received by him for action under section 1854(a) of this title, if such plan or amendment takes effect under section 1854(b)(1) of this title;

''(2) within 75 days after a revised plan or amendment was received by him under section 1854(b) of this title, if such plan or amendment takes effect under paragraph (3)(D) of such section; or

''(3) within such time as he deems appropriate in the case of a plan or amendment prepared by him under section 1854(c) or (f)(3) of this title.''

Subsec. (b). Pub. L. 104–297, § 110(a)(3), added subsec. (b). Former subsec. (b) redesignated (f).

Subsec. (c). Pub. L. 104–297, § 110(b)(1), inserted ''and interim measures'' after ''actions'' in heading.

Subsec. (c)(1). Pub. L. 104–297, § 110(b)(2)(C), which directed insertion of ''or overfishing'' after ''emergency'', was executed by making the insertion after ''the emergency'' to reflect the probable intent of Congress.

Pub. L. 104–297, § 110(b)(2)(A), (B), substituted ''or that interim measures are needed to reduce overfishing for'' for ''involving'' and inserted ''or interim measures'' after ''emergency regulations''.

Subsec. (c)(2). Pub. L. 104–297, § 110(b)(2)(C), which directed insertion of ''or overfishing'' after ''emergency'', was executed by making the insertion after ''the emergency'' in subpars. (A) and (B) to reflect the probable intent of Congress.

Pub. L. 104–297, § 110(b)(2)(A), (B), substituted ''or that interim measures are needed to reduce overfishing for'' for ''involving'' in introductory provisions and inserted ''or interim measures'' after ''emergency regulations'' in subpars. (A) and (B).

Subsec. (c)(3). Pub. L. 104–297, § 110(b)(3)(A), inserted ''or interim measure'' after ''emergency regulation'' in two places in introductory provisions.

Subsec. (c)(3)(B). Pub. L. 104–297, § 110(b)(3)(B), (D), added subpar. (B) and struck out former subpar. (B) which read as follows: ''shall remain in effect for not more than 90 days after the date of such publication, except that any such regulation may, by agreement of the Secretary and the Council, be promulgated for one additional period of not more than 90 days; and''.

Subsec. (c)(3)(C). Pub. L. 104–297, § 110(b)(3)(D), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (c)(3)(D). Pub. L. 104–297, § 110(b)(3)(C), redesignated subpar. (C) as (D).

Subsec. (e). Pub. L. 104–297, § 110(c), substituted ''12866, dated September 30, 1993,'' for ''12291, dated February 17, 1981,'' and ''subsections (a), (b), and (c) of section 1854 of this title'' for ''subsection (c) of this section or section 1854(a) and (b) of this title''.

Subsec. (f). Pub. L. 104–297, § 110(a)(2), redesignated subsec. (b) as (f).

Subsecs. (g), (h). Pub. L. 104–297, § 110(d), added subsecs. (g) and (h).

Subsec. (i). Pub. L. 104–297, §111(a), added subsec. (i).

1990—Subsec. (a). Pub. L. 101–627, §§110(b)(2), 111(a)(1)(A), redesignated subsec. (c) as (a) and substituted ''section 1854(c) or (f)(3)'' for ''section 1854(c)''.

Subsec. (b). Pub. L. 101–627, §111(a)(1)(A), (b), redesignated subsec. (d) as (b) and amended it generally. Prior to amendment, subsec. (b) read as follows: ''Regulations promulgated by the Secretary under this chapter shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, if a petition for such review is filed within 30 days after the date on which the regulations are promulgated; except that (1) section 705 of such title is not applicable, and (2) the appropriate court shall only set aside any such regulation on a ground specified in section 706(2)(A), (B), (C), or (D) of such title.''

Subsecs. (c) to (e), (g), (h). Pub. L. 101–627, §111(a)(1), redesignated subsecs. (e), (g), and (h) as (c), (d), and (e), respectively.

1983—Subsec. (a). Pub. L. 97–453, §8(1), struck out subsec. (a) which had provided that, as soon as practicable after the Secretary approved pursuant to section 1854(a) and (b) of this title any fishery management plan or amendment or prepared pursuant to section 1854(c) of this title any fishery management plan or amendment, the Secretary was to publish a notice of availability of such plan or amendment and any regulations which he proposed to promulgate to implement such plan or amendment in the Federal Register, and that interested persons were to be afforded a period of not less than 45 days after such publication within which to submit in writing data, views, or comments on the plan or amendment, and on the proposed regulations.

Subsec. (b). Pub. L. 97–453, §8(1), struck out subsec. (b) which had provided that the Secretary might schedule a hearing, in accordance with section 553 of title 5, on any fishery management plan, any amendment to any such plan, any regulations to implement any such plan or amendment and that if any such hearing was scheduled, the Secretary could postpone the effective date of the regulations proposed to implement such plan or amendment, or take such other action as he deemed appropriate to preserve the rights or status of any person, pending its outcome.

Subsec. (c). Pub. L. 97–453, §8(2), substituted provision that the Secretary shall promulgate each regulation that is necessary to carry out a plan or amendment within 110 days after the plan or amendment was received by him for action under section 1854(a) of this title if such plan or amendment takes effect under section 1854(b)(1) of this title, within 75 days after a revised plan or amendment was received by him under section 1854(b) of this title if such plan or amendment takes effect under paragraph (3)(D) of such section, or within such time as he deems appropriate in the case of a plan or amendment prepared by him under section 1854(c) of this title, for provision that the Secretary promulgate regulations to implement any fishery management plan or any amendment to any such plan after consideration of all relevant matters presented to him during the 45-day period referred to in former subsection (a) of this section and produced in any hearing held under former subsection (b) of this section if he found the plan or amendment consistent with the national standards, the other provisions of this chapter, and any other applicable law, and that to the extent practicable, such regulation be put into effect in a manner not disruptive of the regular fishing season for any fishery.

Subsec. (e). Pub. L. 97–453, §8(3), substituted provision that if the Secretary finds that an emergency exists involving any fishery, he may promulgate emergency regulations necessary to address the emergency, without regard to whether a fishery management plan exists for such fishery, that if a Council finds that an emergency exists involving any fishery within its jurisdiction, whether or not a fishery management plan exists for such fishery, the Secretary shall promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by unanimous vote of the members who are voting members, requests the taking of such action, and the Secretary may promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by less than a unanimous vote, requests the taking of such action, for provision that if the Secretary found that an emergency involving any fishery resources existed, he could promulgate emergency regulations, without regard to former subsections (a) and (c) of this section, to implement any fishery management plan, if required, or promulgate emergency regulations to amend any regulation implementing any existing fishery management plan, to the extent required by such emergency, lengthened from 45 days to 90 days the maximum period that emergency regulations may remain in effect after publication in the Federal Register and the maximum additional period for which such regulations may be promulgated, and inserted a provision that emergency regulations promulgated under par. (2) may only be terminated early upon the agreement of the Secretary and the Council concerned.

Subsec. (f). Pub. L. 97–453, §8(4), struck out subsec. (f) which had directed the Secretary to report to the Congress and the President, not later than March 1 of each year, on all activities of the Councils and the Secretary with respect to fishery management plans, regulations to implement such plans, and all other activities relating to the conservation and management of fishery resources undertaken under this chapter during the preceding calendar year.

Subsec. (h). Pub. L. 97–453, §8(5), added subsec. (h).

1980—Subsec. (a). Pub. L. 96–561 inserted ''a notice of availability of'' after ''Federal Register (A)''.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 109–479, title I, §116(b)(2), Jan. 12, 2007, 120 Stat. 3606, provided that: ''The allocation percentage in subclause (I) of section 305(i)(1)(B)(ii) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)(1)(B)(ii)), as amended by paragraph (1) of this subsection, shall be in effect in 2007 with respect to any sector of a fishery to which such subclause applies and in which a fishing cooperative is established in 2007, and such sector's 2007 allocation shall be reduced by a pro rata amount to accomplish such increased allocation to the program. For purposes of section 305(i)(1) of that Act [16 U.S.C. 1855(i)(1)] and of this subsection [amending this section], the term 'fishing cooperative' means a fishing cooperative whether or not authorized by a fishery management council or Federal agency, if a majority of the participants in the sector are participants in the fishing cooperative.''

TERMINATION OF ADMINISTRATIVE CONFERENCE OF UNITED STATES

For termination of Administrative Conference of United States, see provision of title IV of Pub. L. 104–52, set out as a note preceding section 591 of Title 5, Government Organization and Employees.

NO INTERRUPTION OF EXISTING ALLOCATIONS

Pub. L. 109–241, title IV, §416(b), July 11, 2006, 120 Stat. 545, provided that: ''The amendment made by subsection (a) [amending this section] shall not be construed or implemented in a way that causes any interruption in the allocations of fishery resources to the western Alaska community development quota program or in the opportunity of an entity participating in that program to harvest its share of such allocations.''

ELIGIBILITY TO PARTICIPATE IN WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM

Pub. L. 109–59, title X, §10206, Aug. 10, 2005, 119 Stat. 1934, provided that: ''A community shall be eligible to participate in the western Alaska community development quota program established under section 305(i) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)) if the community—

''(1) is listed in table 7 to part 679 of title 50, Code of Federal Regulations, as in effect on March 8, 2004; or

''(2) was determined to be eligible to participate in such program by the National Marine Fisheries Service on April 19, 1999.''

COMMUNITY DEVELOPMENT QUOTA REPORT

Section 108(h) of Pub. L. 104–297 provided that: ''Not later than October 1, 1998, the National Academy of Sciences, in consultation with the Secretary, the North Pacific and Western Pacific Councils, communities and organizations participating in the program, participants in affected fisheries, and the affected States, shall submit to the Secretary of Commerce and Congress a comprehensive report on the performance and effectiveness of the community development quota programs under the authority of the North Pacific and Western Pacific Councils. The report shall—

''(1) evaluate the extent to which such programs have met the objective of providing communities with the means to develop ongoing commercial fishing activities;

''(2) evaluate the manner and extent to which such programs have resulted in the communities and residents—

''(A) receiving employment opportunities in commercial fishing and processing; and

''(B) obtaining the capital necessary to invest in commercial fishing, fish processing, and commercial fishing support projects (including infrastructure to support commercial fishing);

''(3) evaluate the social and economic conditions in the participating communities and the extent to which alternative private sector employment opportunities exist;

''(4) evaluate the economic impacts on participants in the affected fisheries, taking into account the condition of the fishery resource, the market, and other relevant factors;

''(5) recommend a proposed schedule for accomplishing the developmental purposes of community development quotas; and

''(6) address such other matters as the National Academy of Sciences deems appropriate.''

REGISTRY TRANSITION FOR LIMITED ACCESS SYSTEM PERMITS

Section 110(e) of Pub. L. 104–297, as amended by Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that: ''Security interests on permits described under section 305(h)(1) of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1855(h)(1)], as amended by this Act, that are effective and perfected by otherwise applicable law on the date of the final regulations implementing section 305(h) shall remain effective and perfected if, within 120 days after such date, the secured party submits evidence satisfactory to the Secretary of Commerce and in compliance with such regulations of the perfection of such security.''

WESTERN PACIFIC DEMONSTRATION PROJECTS

Pub. L. 104–297, title I, §111(b), Oct. 11, 1996, 110 Stat. 3594, as amended by Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41; Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(g)], Dec. 21, 2000, 114 Stat. 2763, 2763A–250; Pub. L. 106–555, title II, §206, Dec. 21, 2000, 114 Stat. 2770; Pub. L. 109–479, title II, §207, Jan. 12, 2007, 120 Stat. 3615, provided that:

''(1) The Secretary of Commerce is authorized to make direct grants to eligible western Pacific communities, as recommended by the Western Pacific Fishery Management Council, for the purpose of establishing fishery demonstration projects to foster and promote traditional indigenous fishing practices. There are authorized to be appropriated to carry out this section [amending this section and enacting this note] $500,000 for each fiscal year.

''(2) Demonstration projects funded pursuant to this subsection shall foster and promote the involvement of western Pacific communities in western Pacific fisheries and may—

''(A) identify and apply traditional indigenous fishing practices;

''(B) develop or enhance western Pacific community-based fishing opportunities; and

''(C) involve research, community education, or the acquisition of materials and equipment necessary to carry out any such demonstration project.

''(3)(A) The Western Pacific Fishery Management Council, in consultation with the Secretary of Commerce, shall establish an advisory panel under section 302(g) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(g)) to evaluate, determine the relative merits of, and annually rank applications for such grants. The panel shall consist of not more than 8 individuals who are knowledgeable or experienced in traditional indigenous fishery practices of western Pacific communities and who are not members or employees of the Western Pacific Fishery Management Council.

''(B) If the Secretary of Commerce or the Secretary of the Interior awards a grant for a demonstration project not in accordance with the rank given to such project by the advisory panel, the Secretary shall provide a detailed written explanation of the reasons therefor.

''(4) The Western Pacific Fishery Management Council shall, with the assistance of such advisory panel, submit an annual report to the Congress assessing the status and progress of demonstration projects carried out under this subsection.

''(5) Appropriate Federal agencies may provide technical assistance to western Pacific community-based entities to assist in carrying out demonstration projects under this subsection.

''(6) In this subsection the term 'Western Pacific community' means a community eligible to participate under section 305(i)(2)(B)(i) through (iv) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)(2)(B)(i) through (iv)).''

§ 1856. State jurisdiction

(a) In general

(1) Except as provided in subsection (b) of this section, nothing in this chapter shall be construed as extending or diminishing the jurisdiction or authority of any State within its boundaries.

(2) For the purposes of this chapter, except as provided in subsection (b) of this section, the jurisdiction and authority of a State shall extend—

(A) to any pocket of waters that is adjacent to the State and totally enclosed by lines delimiting the territorial sea of the United States pursuant to the Geneva Convention on the Territorial Sea and Contiguous Zone or any successor convention to which the United States is a party;

(B) with respect to the body of water commonly known as Nantucket Sound, to the pocket of water west of the seventieth meridian west of Greenwich; and

(C) to the waters of southeastern Alaska (for the purpose of regulating fishing for other than any species of crab) that are—

(i) north of the line representing the international boundary at Dixon Entrance and the westward extension of that line; east of 138 degrees west longitude; and not more than three nautical miles seaward from the coast, from the lines extending from head-

land to headland across all bays, inlets, straits, passes, sounds, and entrances, and from any island or group of islands, including the islands of the Alexander Archipelago (except Forrester Island); or

(ii) between the islands referred to in clause (i) (except Forrester Island) and the mainland.

(3) A State may regulate a fishing vessel outside the boundaries of the State in the following circumstances:

(A) The fishing vessel is registered under the law of that State, and (i) there is no fishery management plan or other applicable Federal fishing regulations for the fishery in which the vessel is operating; or (ii) the State's laws and regulations are consistent with the fishery management plan and applicable Federal fishing regulations for the fishery in which the vessel is operating.

(B) The fishery management plan for the fishery in which the fishing vessel is operating delegates management of the fishery to a State and the State's laws and regulations are consistent with such fishery management plan. If at any time the Secretary determines that a State law or regulation applicable to a fishing vessel under this circumstance is not consistent with the fishery management plan, the Secretary shall promptly notify the State and the appropriate Council of such determination and provide an opportunity for the State to correct any inconsistencies identified in the notification. If, after notice and opportunity for corrective action, the State does not correct the inconsistencies identified by the Secretary, the authority granted to the State under this subparagraph shall not apply until the Secretary and the appropriate Council find that the State has corrected the inconsistencies. For a fishery for which there was a fishery management plan in place on August 1, 1996 that did not delegate management of the fishery to a State as of that date, the authority provided by this subparagraph applies only if the Council approves the delegation of management of the fishery to the State by a three-quarters majority vote of the voting members of the Council.

(C) The fishing vessel is not registered under the law of the State of Alaska and is operating in a fishery in the exclusive economic zone off Alaska for which there was no fishery management plan in place on August 1, 1996, and the Secretary and the North Pacific Council find that there is a legitimate interest of the State of Alaska in the conservation and management of such fishery. The authority provided under this subparagraph shall terminate when a fishery management plan under this chapter is approved and implemented for such fishery.

(b) Exception

(1) If the Secretary finds, after notice and an opportunity for a hearing in accordance with section 554 of title 5, that—

(A) the fishing in a fishery, which is covered by a fishery management plan implemented under this chapter, is engaged in predominately within the exclusive economic zone and beyond such zone; and

(B) any State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of such fishery management plan;

the Secretary shall promptly notify such State and the appropriate Council of such finding and of his intention to regulate the applicable fishery within the boundaries of such State (other than its internal waters), pursuant to such fishery management plan and the regulations promulgated to implement such plan.

(2) If the Secretary, pursuant to this subsection, assumes responsibility for the regulation of any fishery, the State involved may at any time thereafter apply to the Secretary for reinstatement of its authority over such fishery. If the Secretary finds that the reasons for which he assumed such regulation no longer prevail, he shall promptly terminate such regulation.

(3) If the State involved requests that a hearing be held pursuant to paragraph (1), the Secretary shall conduct such hearing prior to taking any action under paragraph (1).

(c) Exception regarding foreign fish processing in internal waters

(1) A foreign fishing vessel may engage in fish processing within the internal waters of a State if, and only if—

(A) the vessel is qualified for purposes of this paragraph pursuant to paragraph (4)(C) or has received a permit under section 1824(d) of this title;

(B) the owner or operator of the vessel applies to the Governor of the State for, and (subject to paragraph (2)) is granted, permission for the vessel to engage in such processing and the application specifies the species to be processed; and

(C) the owner or operator of the vessel submits reports on the tonnage of fish received from vessels of the United States and the locations from which such fish were harvested, in accordance with such procedures as the Secretary by regulation shall prescribe.

(2) The Governor of a State may not grant permission for a foreign fishing vessel to engage in fish processing under paragraph (1)—

(A) for a fishery which occurs in the waters of more than one State or in the exclusive economic zone, except after—

(i) consulting with the appropriate Council and Marine Fisheries Commission, and

(ii) considering any comments received from the Governor of any other State where the fishery occurs; and

(B) if the Governor determines that fish processors within the State have adequate capacity, and will utilize such capacity, to process all of the United States harvested fish from the fishery concerned that are landed in the State.

(3) Nothing in this subsection may be construed as relieving a foreign fishing vessel from the duty to comply with all applicable Federal and State laws while operating within the internal waters of a State incident to permission obtained under paragraph (1)(B).

(4) For purposes of this subsection—

(A) The term ''fish processing'' includes, in addition to processing, the performance of any

other activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, or transportation.

(B) The phrase ''internal waters of a State'' means all waters within the boundaries of a State except those seaward of the baseline from which the territorial sea is measured.

(C) A foreign fishing vessel shall be treated as qualified for purposes of paragraph (1) if the foreign nation under which it is flagged will be a party to (i) a governing international fishery agreement or (ii) a treaty described in section 1821(b) of this title during the time the vessel will engage in the fish processing for which permission is sought under paragraph (1)(B).

(Pub. L. 94–265, title III, § 306, Apr. 13, 1976, 90 Stat. 355; Pub. L. 97–191, § 1, June 1, 1982, 96 Stat. 107; Pub. L. 97–453, § 9, Jan. 12, 1983, 96 Stat. 2491; Pub. L. 98–623, title IV, § 404(4), Nov. 8, 1984, 98 Stat. 3408; Pub. L. 99–659, title I, § 101(c)(2), Nov. 14, 1986, 100 Stat. 3707; Pub. L. 101–627, title I, § 112, Nov. 28, 1990, 104 Stat. 4453; Pub. L. 104–297, title I, § 112(a)–(c), Oct. 11, 1996, 110 Stat. 3595, 3596.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (2), (3)(C) and (b)(1)(A), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

1996—Subsec. (a)(3). Pub. L. 104–297, § 112(a), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''Except as otherwise provided by paragraph (2), a State may not directly or indirectly regulate any fishing vessel outside its boundaries, unless the vessel is registered under the law of that State.''

Subsec. (b)(3). Pub. L. 104–297, § 112(b), added par. (3).

Subsec. (c)(1)(A). Pub. L. 104–297, § 112(c)(1), substituted ''(4)(C) or has received a permit under section 1824(d) of this title;'' for ''(4)(C); and''.

Subsec. (c)(1)(C). Pub. L. 104–297, § 112(c)(2), (3), added subpar. (C).

1990—Subsec. (c)(1)(B). Pub. L. 101–627, § 112(1), inserted before period at end ''and the application specifies the species to be processed''.

Subsec. (c)(2). Pub. L. 101–627, § 112(2), added par. (2) and struck out former par. (2) which read as follows: ''The Governor of a State may not grant permission for a foreign fishing vessel to engage in fish processing under paragraph (1)(B) if he determines that fish processors within the State have adequate capacity, and will utilize such capacity, to process all of the United States harvested fish from the fishery concerned that are landed in the State.''

1986—Subsec. (b)(1)(A). Pub. L. 99–659 substituted ''exclusive economic zone'' for ''fishery conservation zone''.

1984—Subsec. (a). Pub. L. 98–623 designated existing provisions as pars. (1) to (3), in par. (2), as so designated, redesignated cls. (1) and (2) as subpars. (A) and (B), respectively, and added subpar. (C), and in par. (3), as so designated, inserted exception relating to par. (2).

1983—Subsec. (a). Pub. L. 97–453 inserted provision delineating the jurisdiction and authority of a State over waters adjacent to the State and over Nantucket Sound.

1982—Subsec. (c). Pub. L. 97–191 added subsec. (c).

EFFECTIVE DATE OF 1982 AMENDMENT

Section 3 of Pub. L. 97–191 provided that: ''This Act [amending this section and section 1857 of this title] shall take effect on June 1, 1982.''

AUTHORITY OF STATES OF WASHINGTON, OREGON, AND CALIFORNIA TO MANAGE DUNGENESS CRAB FISHERY

Pub. L. 105–384, title II, § 203, Nov. 13, 1998, 112 Stat. 3453, as amended by Pub. L. 107–77, title VI, § 624, Nov. 28, 2001, 115 Stat. 803; Pub. L. 109–479, title III, § 302(e), Jan. 12, 2007, 120 Stat. 3624, provided that:

''(a) IN GENERAL.—Subject to the provisions of this section and notwithstanding section 306(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1856(a)), each of the States of Washington, Oregon, and California may adopt and enforce State laws and regulations governing fishing and processing in the exclusive economic zone adjacent to that State in any Dungeness crab (Cancer magister) fishery for which there is no fishery management plan in effect under that Act [16 U.S.C. 1801 et seq.].

''(b) REQUIREMENTS FOR STATE MANAGEMENT.—Any law or regulation adopted by a State under this section for a Dungeness crab fishery—

''(1) except as provided in paragraph (2), shall apply equally to vessels engaged in the fishery in the exclusive economic zone and vessels engaged in the fishery in the waters of the State, and without regard to the State that issued the permit under which a vessel is operating;

''(2) shall not apply to any fishing by a vessel in exercise of tribal treaty rights except as provided in United States v. Washington, D.C. No. CV–70–09213, United States District Court for the Western District of Washington; and

''(3) shall include any provisions necessary to implement tribal treaty rights pursuant to the decision in United States v. Washington, D.C. No. CV–70–09213.

''(c) LIMITATION ON ENFORCEMENT OF STATE LIMITED ACCESS SYSTEMS.—Any law of the State of Washington, Oregon, or California that establishes or implements a limited access system for a Dungeness crab fishery may not be enforced against a vessel that is otherwise legally fishing in the exclusive economic zone adjacent to that State and that is not registered under the laws of that State, except a law regulating landings.

''(d) STATE PERMIT OR TREATY RIGHT REQUIRED.—No vessel may harvest or process Dungeness crab in the exclusive economic zone adjacent to the State of Washington, Oregon, or California, except as authorized by a permit issued by any of those States or pursuant to any tribal treaty rights to Dungeness crab pursuant to the decision in United States v. Washington, D.C. No. CV–70–09213.

''(e) STATE AUTHORITY OTHERWISE PRESERVED.—Except as expressly provided in this section, nothing in this section reduces the authority of any State under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) to regulate fishing, fish processing, or landing of fish.

''(f) TERMINATION OF AUTHORITY.—The authority of the States of Washington, Oregon, and California under this section with respect to a Dungeness crab fishery shall expire on the effective date of a fishery management plan for the fishery under the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1801 et seq.].

''(g) REPEAL.—[Repealed section 112(d) of Pub. L. 104–297, see below.]

''(h) DEFINITIONS.—The definitions set forth in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802) shall apply to this section.

''(i) SUNSET.—This section shall have no force or effect on and after September 30, 2016.

''(j) Not later than December 31, 2001, and every 2 years thereafter, the Pacific State Marine Fisheries Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives a report on the status and management of the Dungeness Crab fishery located off the coasts of the States of Washington, Oregon, and California, including—

''(1) stock status and trends throughout its range;

''(2) a description of applicable research and scientific review processes used to determine stock status and trends; and

''(3) measures implemented or planned that are designed to prevent or end overfishing in the fishery.''

Pub. L. 104–297, title I, §112(d), Oct. 11, 1996, 110 Stat. 3596, as amended by Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, which provided interim authority to the States of Washington, Oregon, and California to enforce State laws and regulations governing fish harvesting and processing against any vessel operating in the exclusive economic zone off each respective State in a fishery for Dungeness crab (Cancer magister) for which there is no fishery management plan implemented under this chapter, was repealed by Pub. L. 105–384, title II, §203(g), Nov. 13, 1998, 112 Stat. 3454.

FOREIGN FISH PROCESSING IN NORTON SOUND

Pub. L. 99–509, title V, §5004, Oct. 21, 1986, 100 Stat. 1912, provided that for purposes of processing pink salmon within the internal waters of the State of Alaska, the geographic area bounded on the north by a parallel of latitude of 64 degrees, 23 minutes, on the south by a parallel of latitude of 63 degrees, 51 minutes, on the east by the baseline from which the territorial sea was measured, and on the west by the outer limit of the territorial sea, was to be considered to be internal waters of the State of Alaska for the purposes of subsec. (c)(4)(B) of this section until Sept. 30, 1993.

TERRITORIAL SEA AND CONTIGUOUS ZONE OF UNITED STATES

For extension of territorial sea and contiguous zone of United States, see Proc. No. 5928 and Proc. No. 7219, respectively, set out as notes under section 1331 of Title 43, Public Lands.

§ 1857. Prohibited acts

It is unlawful—

(1) for any person—

(A) to violate any provision of this chapter or any regulation or permit issued pursuant to this chapter;

(B) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued pursuant to this chapter;

(C) to violate any provision of, or regulation under, an applicable governing international fishery agreement entered into pursuant to section 1821(c) of this title;

(D) to refuse to permit any officer authorized to enforce the provisions of this chapter (as provided for in section 1861 of this title) to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this chapter or any regulation, permit, or agreement referred to in subparagraph (A) or (C);

(E) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in subparagraph (D);

(F) to resist a lawful arrest for any act prohibited by this section;

(G) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this chapter or any regulation, permit, or agreement referred to in subparagraph (A) or (C);

(H) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section;

(I) to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United States fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this chapter;

(J) to ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live lobster of the species Homarus americanus, that—

(i) is smaller than the minimum possession size in effect at the time under the American Lobster Fishery Management Plan, as implemented by regulations published in part 649 of title 50, Code of Federal Regulations, or any successor to that plan implemented under this subchapter, or in the absence of any such plan, is smaller than the minimum possession size in effect at the time under a coastal fishery management plan for American lobster adopted by the Atlantic States Marine Fisheries Commission under the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.);

(ii) is bearing eggs attached to its abdominal appendages; or

(iii) bears evidence of the forcible removal of extruded eggs from its abdominal appendages;

(K) to to[1] steal or attempt to steal or to negligently and without authorization remove, damage, or tamper with—

(i) fishing gear owned by another person, which is located in the exclusive economic zone, or

(ii) fish contained in such fishing gear;

(L) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this chapter, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this chapter;

(M) to engage in large-scale driftnet fishing that is subject to the jurisdiction of the United States, including use of a fishing vessel of the United States to engage in such fishing beyond the exclusive economic zone of any nation;

(N) to strip pollock of its roe and discard the flesh of the pollock;

(O) to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required under section 1852(j) of this title, or to knowingly vote on a Council decision in violation of section 1852(j)(7)(A) of this title;

[1] So in original.

(P)(i) to remove any of the fins of a shark (including the tail) at sea;

(ii) to have custody, control, or possession of any such fin aboard a fishing vessel unless it is naturally attached to the corresponding carcass;

(iii) to transfer any such fin from one vessel to another vessel at sea, or to receive any such fin in such transfer, without the fin naturally attached to the corresponding carcass; or

(iv) to land any such fin that is not naturally attached to the corresponding carcass, or to land any shark carcass without such fins naturally attached;

(Q) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish taken, possessed, transported, or sold in violation of any foreign law or regulation; or

(R) to use any fishing vessel to engage in fishing in Federal or State waters, or on the high seas or in the waters of another country, after the Secretary has made a payment to the owner of that fishing vessel under section 1861a(b)(2) of this title.

For purposes of subparagraph (P), there shall be a rebuttable presumption that if any shark fin (including the tail) is found aboard a vessel, other than a fishing vessel, without being naturally attached to the corresponding carcass, such fin was transferred in violation of subparagraph (P)(iii) or that if, after landing, the total weight of shark fins (including the tail) landed from any vessel exceeds five percent of the total weight of shark carcasses landed, such fins were taken, held, or landed in violation of subparagraph (P). In such subparagraph, the term ''naturally attached'', with respect to a shark fin, means attached to the corresponding shark carcass through some portion of uncut skin.

(2) for any vessel other than a vessel of the United States, and for the owner or operator of any vessel other than a vessel of the United States, to engage—

(A) in fishing within the boundaries of any State, except—

(i) recreational fishing permitted under section 1821(i) of this title;

(ii) fish processing permitted under section 1856(c) of this title; or

(iii) transshipment at sea of fish or fish products within the boundaries of any State in accordance with a permit approved under section 1824(d) of this title;

(B) in fishing, except recreational fishing permitted under section 1821(i) of this title, within the exclusive economic zone, or for any anadromous species or Continental Shelf fishery resources beyond such zone, unless such fishing is authorized by, and conducted in accordance with, a valid and applicable permit issued pursuant to section 1824(b), (c), or (d) of this title; or

(C) except as permitted under section 1856(c) of this title, in fish processing (as defined in paragraph (4)(A) of such section) within the internal waters of a State (as defined in paragraph (4)(B) of such section);

(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer at sea directly or indirectly, or attempt to so transfer at sea, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the exclusive economic zone or within the boundaries of any State except to the extent that the foreign fishing vessel has been permitted under section 1824(d) of this title or section 1856(c) of this title to receive such fish;

(4) for any fishing vessel other than a vessel of the United States to operate, and for the owner or operator of a fishing vessel other than a vessel of the United States to operate such vessel, in the exclusive economic zone or within the boundaries of any State, if—

(A) all fishing gear on the vessel is not stored below deck or in an area where it is not normally used, and not readily available, for fishing; or

(B) all fishing gear on the vessel which is not so stored is not secured and covered so as to render it unusable for fishing;

unless such vessel is authorized to engage in fishing in the area in which the vessel is operating; and

(5) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to engage in fishing in the waters of a foreign nation in a manner that violates an international fishery agreement between that nation and the United States that has been subject to Congressional oversight in the manner described in section 1823 of this title, or any regulations issued to implement such an agreement; except that the binding provisions of such agreement and implementing regulations shall have been published in the Federal Register prior to such violation.

(Pub. L. 94–265, title III, § 307, Apr. 13, 1976, 90 Stat. 355; Pub. L. 95–354, § 5(4), Aug. 28, 1978, 92 Stat. 521; Pub. L. 97–191, § 2, June 1, 1982, 96 Stat. 107; Pub. L. 97–453, § 15(b), Jan. 12, 1983, 96 Stat. 2492; Pub. L. 99–659, title I, §§ 101(c)(2), 107(a), Nov. 14, 1986, 100 Stat. 3707, 3713; Pub. L. 100–629, § 4, Nov. 7, 1988, 102 Stat. 3286; Pub. L. 101–224, § 8, Dec. 12, 1989, 103 Stat. 1907; Pub. L. 101–627, title I, § 113, Nov. 28, 1990, 104 Stat. 4453; Pub. L. 102–251, title III, § 301(h), Mar. 9, 1992, 106 Stat. 64; Pub. L. 104–297, title I, § 113, title IV, § 405(b)(1), Oct. 11, 1996, 110 Stat. 3597, 3621; Pub. L. 106–557, § 3, Dec. 21, 2000, 114 Stat. 2772; Pub. L. 109–479, title I, § 118, Jan. 12, 2007, 120 Stat. 3607; Pub. L. 111–348, title I, § 103(a), Jan. 4, 2011, 124 Stat. 3670.)

AMENDMENT OF SECTION

Pub. L. 102–251, title III, §§ 301(h), 308, Mar. 9, 1992, 106 Stat. 64, 66, as amended by Pub. L. 104–297, title IV, § 405(b)(1), Oct. 11, 1996, 110 Stat. 3621, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, this section is amended:

(1) in paragraph (1)(K), by inserting ''or special areas'' immediately after ''exclusive economic zone'';

(2) in paragraph (2)(B), by inserting ''or areas'' immediately after ''such zone'';

(3) in paragraph (3), by inserting ''or special areas'' immediately after ''exclusive economic zone''; and

(4) in paragraph (4), by inserting ''or special areas'' immediately after ''exclusive economic zone''.

REFERENCES IN TEXT

This chapter, referred to in par. (1), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Atlantic Coastal Fisheries Cooperative Management Act, referred to in par. (1)(J)(i), is title VIII of Pub. L. 103–206, Dec. 20, 1993, 107 Stat. 2447, as amended, which is classified principally to chapter 71 (§5101 et seq.) of this title. For complete classification of title VIII to the Code, see Short Title note set out under section 5101 of this title and Tables.

AMENDMENTS

2011—Par. (1). Pub. L. 111–348, §103(a)(2), substituted ''For purposes of subparagraph (P), there shall be a rebuttable presumption that if any shark fin (including the tail) is found aboard a vessel, other than a fishing vessel, without being naturally attached to the corresponding carcass, such fin was transferred in violation of subparagraph (P)(iii) or that if, after landing, the total weight of shark fins (including the tail) landed from any vessel exceeds five percent of the total weight of shark carcasses landed, such fins were taken, held, or landed in violation of subparagraph (P). In such subparagraph, the term 'naturally attached', with respect to a shark fin, means attached to the corresponding shark carcass through some portion of uncut skin.'' for ''For purposes of subparagraph (P) there is a rebuttable presumption that any shark fins landed from a fishing vessel or found on board a fishing vessel were taken, held, or landed in violation of subparagraph (P) if the total weight of shark fins landed or found on board exceeds 5 percent of the total weight of shark carcasses landed or found on board.'' in concluding provisions.

Par. (1)(P). Pub. L. 111–348, §103(a)(1), amended subpar. (P) generally. Prior to amendment, subpar. (P) read as follows:

''(i) to remove any of the fins of a shark (including the tail) and discard the carcass of the shark at sea;

''(ii) to have custody, control, or possession of any such fin aboard a fishing vessel without the corresponding carcass; or

''(iii) to land any such fin without the corresponding carcass;''.

2007—Par. (1)(Q), (R). Pub. L. 109–479 added subpars. (Q) and (R).

2000—Par. (1). Pub. L. 106–557 added subpar. (P) and concluding provisions.

1996—Par. (1)(J)(i). Pub. L. 104–297, §113(a), substituted ''plan implemented'' for ''plan, implemented'' and inserted before semicolon at end '', or in the absence of any such plan, is smaller than the minimum possession size in effect at the time under a coastal fishery management plan for American lobster adopted by the Atlantic States Marine Fisheries Commission under the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.)''.

Par. (1)(K). Pub. L. 104–297, §113(b)(2), substituted ''gear;'' for ''gear,'' at end of cl. (ii) and struck out concluding provisions which read as follows: ''or to attempt to do so;''.

Pub. L. 104–297, §113(b)(1), which directed substitution of ''to steal or attempt to steal or to negligently and without authorization'' for ''knowingly steal or without authorization, to'', was executed by making the substitution for ''knowingly steal, or without authorization, to'' to reflect the probable intent of Congress.

Par. (1)(L). Pub. L. 104–297, §113(c), amended subpar. (L) generally. Prior to amendment, subpar. (L) read as follows: ''to forcibly assault, resist, oppose, impede, intimidate, or interfere with any observer on a vessel under this chapter;''.

Par. (1)(O). Pub. L. 104–297, §113(d), added subpar. (O).

Par. (2)(A). Pub. L. 104–297, §113(e), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''in fishing within the boundaries of any State, except recreational fishing permitted under section 1821(j) of this title;''.

Par. (2)(B). Pub. L. 104–297, §113(f), substituted ''1821(i)'' for ''1821(j)'' and ''1824(b), (c), or (d)'' for ''1824(b) or (c)''.

Par. (3). Pub. L. 104–297, §113(g), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer directly or indirectly, or attempt to so transfer, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the exclusive economic zone, unless the foreign fishing vessel has been issued a permit under section 1824 of this title which authorizes the receipt by such vessel of United States harvested fish of the species concerned;''.

Par. (4). Pub. L. 104–297, §113(h), inserted ''or within the boundaries of any State'' after ''zone'' in introductory provisions.

1990—Par. (1)(K) to (N). Pub. L. 101–627, §113(a), added subpars. (K) to (N).

Par. (5). Pub. L. 101–627, §113(b), added par. (5).

1989—Par. (1)(J). Pub. L. 101–224 added subpar. (J).

1988—Par. (4). Pub. L. 100–629 added par. (4).

1986—Par. (1)(I). Pub. L. 99–659, §107(a), added subpar. (I).

Pars. (2)(B), (3). Pub. L. 99–659, §101(c)(2), substituted ''exclusive economic zone'' for ''fishery conservation zone''.

1983—Par. (2)(A). Pub. L. 97–453, §15(b)(A), substituted ''in fishing within the boundaries of any State, except recreational fishing permitted under section 1821(j) of this title'' for ''in fishing within the boundaries of any State''.

Par. (2)(B). Pub. L. 97–453, §15(b)(B), inserted '', except recreational fishing permitted under section 1821(j) of this title,'' after ''in fishing''.

1982—Par. (2). Pub. L. 97–191, §2(1), struck out ''in fishing'' in provisions preceding subpar. (A).

Par. (2)(A). Pub. L. 97–191, §2(2), inserted ''in fishing'' at beginning and struck out ''or'' at end.

Par. (2)(B). Pub. L. 97–191, §2(3), inserted ''in fishing'' at beginning and substituted ''or'' for ''and'' at end.

Par. (2)(C). Pub. L. 97–191, §2(4), added subpar. (C).

1978—Par. (3). Pub. L. 95–354 added par. (3).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102–251, set out as a note under section 773 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–191 effective June 1, 1982, see section 3 of Pub. L. 97–191, set out as a note under section 1856 of this title.

EFFECTIVE DATE

Section 312 of Pub. L. 94–265, provided that this section and sections 1858 to 1861 of this title were to take

effect Mar. 1, 1977, prior to the general amendment of section 312 by Pub. L. 104–297, title I, § 116(a), Oct. 11, 1996, 110 Stat. 3600. See section 1861a of this title.

SAVINGS CLAUSE

Pub. L. 111–348, title I, § 103(b), Jan. 4, 2011, 124 Stat. 3670, provided that:

''(1) IN GENERAL.—The amendments made by subsection (a) [amending this section] do not apply to an individual engaged in commercial fishing for smooth dogfish (*Mustelus canis*) in that area of the waters of the United States located shoreward of a line drawn in such a manner that each point on it is 50 nautical miles from the baseline of a State from which the territorial sea is measured, if the individual holds a valid State commercial fishing license, unless the total weight of smooth dogfish fins landed or found on board a vessel to which this subsection applies exceeds 12 percent of the total weight of smooth dogfish carcasses landed or found on board.

''(2) DEFINITIONS.—In this subsection:

''(A) COMMERCIAL FISHING.—The term 'commercial fishing' has the meaning given that term in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

''(B) STATE.—The term 'State' has the meaning given that term in section 803 of Public Law 103–206 (16 U.S.C. 5102).''

§ 1858. Civil penalties and permit sanctions

(a) Assessment of penalty

Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, to have committed an act prohibited by section 1857 of this title shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require. In assessing such penalty the Secretary may also consider any information provided by the violator relating to the ability of the violator to pay, *Provided*, That the information is served on the Secretary at least 30 days prior to an administrative hearing.

(b) Review of civil penalty

Any person against whom a civil penalty is assessed under subsection (a) of this section or against whom a permit sanction is imposed under subsection (g) of this section (other than a permit suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such order. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5.

(c) Action upon failure to pay assessment

If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) In rem jurisdiction

A fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 1857 of this title shall be liable in rem for any civil penalty assessed for such violation under this section and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(e) Compromise or other action by Secretary

The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(f) Subpenas

For the purposes of conducting any hearing under this section, the Secretary may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(g) Permit sanctions

(1) In any case in which (A) a vessel has been used in the commission of an act prohibited under section 1857 of this title, (B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under this chapter has acted in violation of section 1857 of this title, (C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary has not been paid and is overdue, or (D) any payment required for observer services provided to or con-

tracted by an owner or operator who has been issued a permit or applied for a permit under any marine resource law administered by the Secretary has not been paid and is overdue, the Secretary may—

(i) revoke any permit issued with respect to such vessel or person, with or without prejudice to the issuance of subsequent permits;

(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

(iii) deny such permit; or

(iv) impose additional conditions and restrictions on any permit issued to or applied for by such vessel or person under this chapter and, with respect to foreign fishing vessels, on the approved application of the foreign nation involved and on any permit issued under that application.

(2) In imposing a sanction under this subsection, the Secretary shall take into account—

(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(3) Transfer of ownership of a vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel at the time of the transfer.

(4) In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

(5) No sanctions shall be imposed under this subsection unless there has been a prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.

(Pub. L. 94–265, title III, §308, Apr. 13, 1976, 90 Stat. 356; Pub. L. 97–453, §10, Jan. 12, 1983, 96 Stat. 2491; Pub. L. 99–659, title I, §108, Nov. 14, 1986, 100 Stat. 3713; Pub. L. 101–627, title I, §114(a), Nov. 28, 1990, 104 Stat. 4454; Pub. L. 104–297, title I, §114(a)–(c), Oct. 11, 1996, 110 Stat. 3598, 3599.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (g)(1), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–297, §114(a), struck out ''ability to pay,'' after ''history of prior offenses,'' and inserted at end ''In assessing such penalty the Secretary may also consider any information provided by the violator relating to the ability of the violator to pay, Provided, That the information is served on the Secretary at least 30 days prior to an administrative hearing.''

Subsec. (b). Pub. L. 104–297, §114(b), amended first sentence generally. Prior to amendment, first sentence read as follows: ''Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the United States district court for the appropriate district by filing a complaint in such court within 30 days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary, the Attorney General and the appropriate United States Attorney.''

Subsec. (g)(1). Pub. L. 104–297, §114(c), substituted ''(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary has not been paid and is overdue, or (D) any payment required for observer services provided to or contracted by an owner or operator who has been issued a permit or applied for a permit under any marine resource law administered by the Secretary has not been paid and is overdue,'' for ''or (C) any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any fishery resource law statute enforced by the Secretary has not been paid and is overdue,''.

1990—Pub. L. 101–627, §114(a)(1), inserted ''and permit sanctions'' after ''penalties'' in section catchline.

Subsec. (a). Pub. L. 101–627, §114(a)(2), substituted ''$100,000'' for ''$25,000''.

Subsec. (g). Pub. L. 101–627, §114(a)(3), added subsec. (g).

1986—Subsec. (b). Pub. L. 99–659, §108(1), amended first sentence generally. Prior to amendment, the sentence read as follows: ''Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary''.

Subsecs. (d) to (f). Pub. L. 99–659, §108(2), (3), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1983—Subsec. (e). Pub. L. 97–453 added subsec. (e).

EFFECTIVE DATE

Section effective Mar. 1, 1977, see section 312 of Pub. L. 94–265, formerly set out as a note under section 1857 of this title.

§ 1859. Criminal offenses

(a) Offenses

A person is guilty of an offense if he commits any act prohibited by—

(1) section 1857(1)(D), (E), (F), (H), (I), or (L) of this title; or

(2) section 1857(2) of this title.

(b) Punishment

Any offense described in subsection (a)(1) of this section is punishable by a fine of not more than $100,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any observer described in section 1857(1)(L) of this title or any officer authorized to enforce the provisions of this chapter (as provided for in section 1861 of this title), or places any such observer or officer in fear of imminent bodily injury, the offense is punish-

able by a fine of not more than $200,000, or imprisonment for not more than 10 years, or both. Any offense described in subsection (a)(2) of this section is punishable by a fine of not more than $200,000.

(c) Jurisdiction

There is Federal jurisdiction over any offense described in this section.

(Pub. L. 94–265, title III, § 309, Apr. 13, 1976, 90 Stat. 357; Pub. L. 97–453, § 11(a), Jan. 12, 1983, 96 Stat. 2491; Pub. L. 99–659, title I, § 107(b), Nov. 14, 1986, 100 Stat. 3713; Pub. L. 100–66, § 2, July 10, 1987, 101 Stat. 384; Pub. L. 101–627, title I, § 115, Nov. 28, 1990, 104 Stat. 4455.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101–627, § 115(a), amended par. (1) generally, substituting ''(I), or (L)'' for ''or (I)''.

Subsec. (b). Pub. L. 101–627, § 115(b), substituted ''$100,000'' for ''$50,000'', substituted ''$200,000'' for ''$100,000'' in two places, and inserted ''any observer described in section 1857(1)(L) of this title or'' after ''injury to'' and ''observer or'' before ''officer in fear''.

1987—Subsec. (a)(1). Pub. L. 100–66 substituted ''(I)'' for ''(J)''.

1986—Subsec. (a)(1). Pub. L. 99–659 substituted ''(H), or (J)'' for ''or (H)''.

1983—Subsec. (b). Pub. L. 97–453 struck out '', or imprisonment for not more than 1 year, or both'' after ''subsection (a)(2) of this section is punishable by a fine of not more than $100,000''.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 11(b) of Pub. L. 97–453 provided that: ''The amendment made by subsection (a) [amending this section] applies with respect to offenses committed under section 309 [this section] on or after the date of the enactment of this Act [Jan. 12, 1983].''

EFFECTIVE DATE

Section effective Mar. 1, 1977, see section 312 of Pub. L. 94–265, formerly set out as a note under section 1857 of this title.

§ 1860. Civil forfeitures

(a) In general

Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 1857 of this title (other than any act for which the issuance of a citation under section 1861(c) of this title is sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish (or the fair market value thereof) shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) Jurisdiction of district courts

Any district court of the United States which has jurisdiction under section 1861(d) of this title shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) of this section and any action provided for under subsection (d) of this section.

(c) Judgment

If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this chapter or for which security has not previously been obtained under subsection (d) of this section. The provisions of the customs laws relating to—

(1) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(2) the disposition of such property or the proceeds from the sale thereof; and

(3) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, unless such provisions are inconsistent with the purposes, policy, and provisions of this chapter. The duties and powers imposed upon the Commissioner of Customs or other persons under such provisions shall, with respect to this chapter, be performed by officers or other persons designated for such purpose by the Secretary.

(d) Procedure

(1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 1861(d) shall—

(A) stay the execution of such process; or

(B) discharge any fish seized pursuant to such process;

upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person (i) delivering such property to the appropriate court upon order thereof, without any impairment of its value, or (ii) paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court. Nothing in this paragraph may be construed to require the Secretary, except in the Secretary's discretion or pursuant to the order of a court under section 1861(d) of this title, to release on bond any seized fish or other property or the proceeds from the sale thereof.

(2) Any fish seized pursuant to this chapter may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) Rebuttable presumptions

(1) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 1857 of this title were taken or retained in violation of this chapter.

(2) For purposes of this chapter, it shall be a rebuttable presumption that any fish of a species which spawns in fresh or estuarine waters and migrates to ocean waters that is found on board a vessel is of United States origin if the vessel is within the migratory range of the species during that part of the year to which the migratory range applies.

(3) For purposes of this chapter, it shall be a rebuttable presumption that any vessel that is shoreward of the outer boundary of the exclusive economic zone of the United States or beyond the exclusive economic zone of any nation, and that has gear on board that is capable of use for large-scale driftnet fishing, is engaged in such fishing.

(Pub. L. 94–265, title III, §310, Apr. 13, 1976, 90 Stat. 357; Pub. L. 97–453, §12, Jan. 12, 1983, 96 Stat. 2491; Pub. L. 99–659, title I, §109(a), Nov. 14, 1986, 100 Stat. 3714; Pub. L. 101–627, title I, §116, Nov. 28, 1990, 104 Stat. 4456; Pub. L. 104–297, title I, §114(d), Oct. 11, 1996, 110 Stat. 3599.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c), (d)(2), and (e), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

1996—Subsec. (e)(3). Pub. L. 104–297 added par. (3).

1990—Subsec. (e). Pub. L. 101–627 designated existing provisions as par. (1) and added par. (2).

1986—Subsec. (c). Pub. L. 99–659, §109(a)(1), amended second sentence generally. Prior to amendment, second sentence of subsec. (c) read as follows: ''The provisions of the customs laws relating to—

''(1) the disposition of forfeited property,

''(2) the proceeds from the sale of forfeited property,

''(3) the remission or mitigation of forfeitures, and

''(4) the compromise of claims,

shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes, policy, and provisions of this chapter.''

Subsec. (d)(1). Pub. L. 99–659, §109(a)(2), inserted provision that nothing in this paragraph may be construed to require the Secretary, except in the Secretary's discretion or pursuant to the order of a court under section 1861(d) of this title, to release on bond any seized fish or other property or the proceeds from the sale thereof.

1983—Subsec. (a). Pub. L. 97–453 inserted ''(or the fair market value thereof)'' after ''fish'' wherever appearing.

EFFECTIVE DATE

Section effective Mar. 1, 1977, see section 312 of Pub. L. 94–265, formerly set out as a note under section 1857 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1861. Enforcement

(a) Responsibility

The provisions of this chapter shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties.

(b) Powers of authorized officers

(1) Any officer who is authorized (by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with such Secretaries under subsection (a) of this section) to enforce the provisions of this chapter may—

(A) with or without a warrant or other process—

(i) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 1857 of this title;

(ii) board, and search or inspect, any fishing vessel which is subject to the provisions of this chapter;

(iii) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this chapter;

(iv) seize any fish (wherever found) taken or retained in violation of any provision of this chapter;

(v) seize any other evidence related to any violation of any provision of this chapter; and

(vi) access, directly or indirectly, for enforcement purposes any data or information required to be provided under this subchapter or regulations under this subchapter, including data from vessel monitoring systems, satellite-based maritime distress and safety systems, or any similar system, subject to the confidentiality provisions of section 1881a of this title;

(B) execute any warrant or other process issued by any court of competent jurisdiction; and

(C) exercise any other lawful authority.

(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony. The

arrest authority described in the preceding sentence may be conferred upon an officer or employee of a State agency, subject to such conditions and restrictions as are set forth by agreement between the State agency, the Secretary, and, with respect to enforcement operations within the exclusive economic zone, the Secretary of the department in which the Coast Guard is operating.

(c) Issuance of citations

If any officer authorized to enforce the provisions of this chapter (as provided for in this section) finds that a fishing vessel is operating or has been operated in violation of any provision of this chapter, such officer may, in accordance with regulations issued jointly by the Secretary and the Secretary of the department in which the Coast Guard is operating, issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (b) of this section. If a permit has been issued pursuant to this chapter for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(d) Jurisdiction of courts

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this chapter. In the case of Guam or any possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii, and except that in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for the District of the Northern Mariana Islands. Any such court may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

(e) Payment of storage, care, and other costs

(1) Notwithstanding any other provision of law, the Secretary or the Secretary of the Treasury may pay from sums received as fines, penalties, and forfeitures of property for violations of any provisions of this chapter or of any other marine resource law enforced by the Secretary, including the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.)—

(A) the reasonable and necessary costs incurred in providing temporary storage, care, and maintenance of seized fish or other property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this chapter or any other marine resource law enforced by the Secretary with respect to that fish or other property;

(B) a reward of not less than 20 percent of the penalty collected or $20,000, whichever is the lesser amount, to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this chapter or any other marine resource law enforced by the Secretary;

(C) any expenses directly related to investigations and civil or criminal enforcement proceedings, including any necessary expenses for equipment, training, travel, witnesses, and contracting services directly related to such investigations or proceedings;

(D) any valid liens or mortgages against any property that has been forfeited;

(E) claims of parties in interest to property disposed of under section 1612(b) of title 19, as made applicable by section 1860(c) of this title or by any other marine resource law enforced by the Secretary, to seizures made by the Secretary, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and

(F) reimbursement to any Federal or State agency, including the Coast Guard, for services performed, or personnel, equipment, or facilities utilized, under any agreement with the Secretary entered into pursuant to subsection (a) of this section, or any similar agreement authorized by law.

(2) Any person found in an administrative or judicial proceeding to have violated this chapter or any other marine resource law enforced by the Secretary shall be liable for the cost incurred in the sale, storage, care, and maintenance of any fish or other property lawfully seized in connection with the violation.

(f) Enforcement of Northeast Multispecies Fishery Management Plan

(1) Enforcement agreements

Beginning not later than October 1, 1993, the Secretary shall, if requested by the Governor of a State represented on the New England Fishery Management Council, enter into an agreement under subsection (a) of this section, with each of the States represented on such Council, that authorizes the marine law enforcement agency of such State to perform duties of the Secretary relating to enforcement of the Northeast Multispecies Fishery Management Plan.

(2) Reimbursement

An agreement with a State under this subsection shall provide, subject to the availability of appropriations, for reimbursement of the State for expenses incurred in detection and prosecution of violations of any fishery management plan approved by the Secretary.

(3) Coast Guard enforcement working group

(A) Establishment

The Commander of the First Coast Guard District shall establish an informal fisheries enforcement working group to improve the overall compliance with and effectiveness of the regulations issued under the Northeast Multispecies Fishery Management Plan.

(B) Membership

The working group shall consist of members selected by the Commander, and shall include—

(i) individuals who are representatives of various fishing ports located in the States represented on the New England Fishery Management Council;

(ii) captains of fishing vessels that operate in waters under the jurisdiction of that Council; and

(iii) other individuals the Commander considers appropriate.

(C) Non-Federal status of working group members

An individual shall not receive any compensation for, and shall not be considered to be a Federal employee based on, membership in the working group.

(D) Meetings

The working group shall meet, at the call of the Commander, at least 4 times each year. The meetings shall be held at various major fishing ports in States represented on the New England Fishery Management Council, as specified by the Commander.

(4) Use of fines and penalties

Amounts available to the Secretary under this chapter which are attributable to fines and penalties imposed for violations of the Northeast Multispecies Fishery Management Plan shall be used by the Secretary pursuant to this section to enforce that Plan.

(g) Enforcement in Pacific Insular Areas

The Secretary, in consultation with the Governors of the Pacific Insular Areas and the Western Pacific Council, shall to the extent practicable support cooperative enforcement agreements between Federal and Pacific Insular Area authorities.

(h) Joint enforcement agreements

(1) In general

The Governor of an eligible State may apply to the Secretary for execution of a joint enforcement agreement with the Secretary that will authorize the deputization and funding of State law enforcement officers with marine law enforcement responsibilities to perform duties of the Secretary relating to law enforcement provisions under this subchapter or any other marine resource law enforced by the Secretary. Upon receiving an application meeting the requirements of this subsection, the Secretary may enter into a joint enforcement agreement with the requesting State.

(2) Eligible State

A State is eligible to participate in the cooperative enforcement agreements under this section if it is in, or bordering on, the Atlantic Ocean (including the Caribbean Sea), the Pacific Ocean, the Arctic Ocean, the Gulf of Mexico, Long Island Sound, or 1 or more of the Great Lakes.

(3) Requirements

Joint enforcement agreements executed under paragraph (1)—

(A) shall be consistent with the purposes and intent of this section to the extent applicable to the regulated activities;

(B) may include specifications for joint management responsibilities as provided by section 1525 of title 15; and

(C) shall provide for confidentiality of data and information submitted to the State under section 1881a of this title.

(4) Allocation of funds

The Secretary shall include in each joint enforcement agreement an allocation of funds to assist in management of the agreement. The allocation shall be fairly distributed among all eligible States participating in cooperative enforcement agreements under this subsection, based upon consideration of Federal marine enforcement needs, the specific marine conservation enforcement needs of each participating eligible State, and the capacity of the State to undertake the marine enforcement mission and assist with enforcement needs. The agreement may provide for amounts to be withheld by the Secretary for the cost of any technical or other assistance provided to the State by the Secretary under the agreement.

(i) Improved data sharing

(1) In general

Notwithstanding any other provision of this chapter, as soon as practicable but no later than 21 months after January 12, 2007, the Secretary shall implement data-sharing measures to make any data required to be provided by this chapter from satellite-based maritime distress and safety systems, vessel monitoring systems, or similar systems—

(A) directly accessible by State enforcement officers authorized under subsection (a) of this section; and

(B) available to a State management agency involved in, or affected by, management of a fishery if the State has entered into an agreement with the Secretary under section 1881a(b)(1)(B) of this title.

(2) Agreement required

The Secretary shall promptly enter into an agreement with a State under section 1881a(b)(1)(B) of this title if—

(A) the Attorney General or highest ranking legal officer of the State provides a written opinion or certification that State law allows the State to maintain the confidentiality of information required by Federal law to be kept confidential; or

(B) the Secretary is provided other reasonable assurance that the State can and will protect the identity or business of any person to which such information relates.

(j) Definitions

For purposes of this section—

(1) The term ''provisions of this chapter'' includes (A) any regulation or permit issued pursuant to this chapter, and (B) any provision of, or regulation issued pursuant to, any international fishery agreement under which foreign fishing is authorized by section 1821(b) or (c) of this title, or section 1824(d) of this title, with respect to fishing subject to the exclusive fishery management authority of the United States.

(2) The term ''violation of any provision of this chapter'' includes (A) the commission of any act prohibited by section 1857 of this title, and (B) the violation of any regulation, permit, or agreement referred to in paragraph (1).

(Pub. L. 94–265, title III, § 311, Apr. 13, 1976, 90 Stat. 358; Pub. L. 96–470, title II, § 209(e), Oct. 19, 1980, 94 Stat. 2245; Pub. L. 97–453, §§ 13, 15(c), Jan. 12, 1983, 96 Stat. 2491, 2493; Pub. L. 99–659, title I, §§ 101(c)(2), 109(b), Nov. 14, 1986, 100 Stat. 3707, 3714; Pub. L. 101–627, title I, § 117, Nov. 28, 1990, 104 Stat. 4456; Pub. L. 102–251, title III, § 301(i), Mar. 9, 1992, 106 Stat. 64; Pub. L. 102–567, title IX, § 901, Oct. 29, 1992, 106 Stat. 4316; Pub. L. 104–297, title I, § 115, Oct. 11, 1996, 110 Stat. 3599; Pub. L. 109–479, title I, § 111(a), Jan. 12, 2007, 120 Stat. 3596.)

AMENDMENT OF SUBSECTION (b)(2)

Pub. L. 102–251, title III, §§ 301(i), 308, Mar. 9, 1992, 106 Stat. 64, 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, subsection (b)(2) is amended by inserting ''and special areas,'' after ''exclusive economic zone''.

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Lacey Act Amendments of 1981, referred to in subsec. (e), is Pub. L. 97–79, Nov. 16, 1981, 95 Stat. 1073, which is classified principally to chapter 53 (§ 3371 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3371 of this title and Tables.

AMENDMENTS

2007—Subsec. (b)(1)(A)(vi). Pub. L. 109–479, § 111(a)(1)–(3), added cl. (vi).

Subsecs. (h) to (j). Pub. L. 109–479, § 111(a)(4), (5), added subsecs. (h) and (i) and redesignated former subsec. (h) as (j).

1996—Subsec. (d). Pub. L. 104–297, § 115(a)(2), inserted '', and except that in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for the District of the Northern Mariana Islands'' after ''District of Hawaii''.

Pub. L. 104–297, § 115(a)(1), which directed substitution of ''Guam or any'' for ''Guam, any Commonwealth, territory, or'', was executed by making the substitution for ''Guam, and any Commonwealth, territory, or'', to reflect the probable intent of Congress.

Subsec. (e)(1). Pub. L. 104–297, § 115(b)(1), substituted ''marine resource law'' for ''fishery resource law'' in introductory provisions and in subpars. (A) and (B).

Subsec. (e)(1)(B). Pub. L. 104–297, § 115(b)(2), inserted ''of not less than 20 percent of the penalty collected or $20,000, whichever is the lesser amount,'' after ''reward''.

Subsec. (e)(1)(E). Pub. L. 104–297, § 115(b)(3), added subpar. (E) and struck out former subpar. (E) which read as follows: ''claims of parties in interest to property disposed of under section 1612(b) of title 19 or under other provisions of the customs laws, as made applicable by section 1860(c) of this title to seizures made by the Secretary under this chapter, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and''.

Subsec. (e)(2). Pub. L. 104–297, § 115(c), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Any person assessed a civil penalty for, or convicted of, any violation of this chapter shall be liable for the cost incurred in storage, care, and maintenance of any fish or other property seized in connection with the violation.''

Subsec. (g). Pub. L. 104–297, § 115(d), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 104–297, § 115(d), redesignated subsec. (g) as (h).

Subsec. (h)(1). Pub. L. 104–297, § 115(e), which directed amendment of subsec. (i)(1) by substituting ''1821(b) or (c) of this title, or section 1824(d) of this title,'' for ''1821(b), (c) of this title,'', was executed by making the substitution for ''1821(b) or (c) of this title'' in subsec. (h)(1) to reflect the probable intent of Congress because this section does not contain a subsec. (i).

1992—Subsecs. (f), (g). Pub. L. 102–567 added subsec. (f) and redesignated former subsec. (f) as (g).

1990—Subsec. (e). Pub. L. 101–627 amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''Notwithstanding any other provision of law, after September 30, 1986, the Secretary or the Secretary of the Treasury may pay from sums received as fines, penalties, or forfeitures of property for violations of any provision of this chapter—

''(1) the reasonable and necessary costs incurred in providing temporary storage, care, and maintenance of seized fish or other property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this chapter with respect to that fish or other property; and

''(2) a reward to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this chapter.

Any person assessed a civil penalty for, or convicted of, any violation of any provision of this chapter shall be liable for the cost incurred in storage, care, and maintenance of any fish or other property seized in connection with the violation concerned.''

1986—Subsec. (b)(2). Pub. L. 99–659, § 101(c)(2), substituted ''exclusive economic zone'' for ''fishery conservation zone''.

Subsecs. (e), (f). Pub. L. 99–659, § 109(b), added subsec. (e) and redesignated former subsec. (e) as (f).

1983—Subsec. (a). Pub. L. 97–453, § 15(c), struck out provision that the Secretaries were to report annually on June 30, to each committee of the Congress listed in section 1823(b) of this title and to the Councils, on the degree and extent of known and estimated compliance with the provisions of this chapter during the preceding calendar year.

Subsec. (b)(1). Pub. L. 97–453, § 13(1), designated existing provisions as par. (1).

Subsec. (b)(1)(A). Pub. L. 97–453, § 13(2), (3), redesignated former par. (1) as subpar. (A) and, in subpar. (A) as redesignated, redesignated former subpars. (A) to (E) as cls. (i) to (v), respectively.

Subsec. (b)(1)(B), (C). Pub. L. 97–453, § 13(2), redesignated former pars. (2) and (3) as subpars. (B) and (C), respectively.

Subsec. (b)(2). Pub. L. 97–453, § 13(4), added par. (2).

1980—Subsec. (a). Pub. L. 96–470 substituted ''annually on June 30'' for ''semiannually'' and inserted ''during the preceding calendar year'' after ''with the provisions of this chapter''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102–251, set out as a note under section 773 of this title.

EFFECTIVE DATE

Section effective Mar. 1, 1977, see section 312 of Pub. L. 94–265, formerly set out as a note under section 1857 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ACTION AGAINST VESSELS AND VESSEL OWNERS ENGAGED IN ILLEGAL, UNREPORTED, OR UNREGULATED FISHING

Pub. L. 110–161, div. B, title I, §113, Dec. 26, 2007, 121 Stat. 1896, provided that:

''(a) The Secretary of Commerce may—

''(1) develop, maintain, and make public a list of vessels and vessel owners engaged in illegal, unreported, or unregulated fishing, including vessels or vessel owners identified by an international fishery management organization, whether or not the United States is a party to the agreement establishing such organization; and

''(2) take appropriate action against listed vessels and vessel owners, including action against fish, fish parts, or fish products from such vessels, in accordance with applicable United States law and consistent with applicable international law, including principles, rights, and obligations established in applicable international fishery management and trade agreements.

''(b) Action taken by the Secretary under subsection (a)(2) that include measures to restrict use of or access to ports or port services shall apply to all ports of the United States and its territories.

''(c) The Secretary may promulgate regulations to implement this section.''

INTEGRATION OF VESSEL MONITORING SYSTEM DATA

Pub. L. 109–241, title VIII, §803, July 11, 2006, 120 Stat. 563, provided that: ''The Secretary of the department in which the Coast Guard is operating shall integrate vessel monitoring system data into its maritime operations databases for the purpose of improving monitoring and enforcement of Federal fisheries laws and work with the Under Secretary of Commerce for Oceans and Atmosphere to ensure effective use of such data for monitoring and enforcement.''

AGREEMENT TO MAKE MORE EFFECTIVE ENFORCEMENT OF DOMESTIC LAWS AND INTERNATIONAL AGREEMENTS

Pub. L. 102–582, title II, §202, Nov. 2, 1992, 106 Stat. 4905, provided that not later than six months after Nov. 2, 1992, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense were to enter into an agreement under subsec. (a) of this section to make more effective the enforcement of domestic laws and international agreements that conserve and manage living marine resources of the United States.

§ 1861a. Transition to sustainable fisheries

(a) Fisheries disaster relief

(1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishing community, the Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of—

(A) natural causes;

(B) man-made causes beyond the control of fishery managers to mitigate through conservation and management measures, including regulatory restrictions (including those imposed as a result of judicial action) imposed to protect human health or the marine environment; or

(C) undetermined causes.

(2) Upon the determination under paragraph (1) that there is a commercial fishery failure, the Secretary is authorized to make sums available to be used by the affected State, fishing community, or by the Secretary in cooperation with the affected State or fishing community for assessing the economic and social effects of the commercial fishery failure, or any activity that the Secretary determines is appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishing community affected by such failure. Before making funds available for an activity authorized under this section, the Secretary shall make a determination that such activity will not expand the size or scope of the commercial fishery failure in that fishery or into other fisheries or other geographic regions.

(3) The Federal share of the cost of any activity carried out under the authority of this subsection shall not exceed 75 percent of the cost of that activity.

(4) There are authorized to be appropriated to the Secretary such sums as are necessary for each of the fiscal years 2007 through 2013.

(b) Fishing capacity reduction program

(1) The Secretary, at the request of the appropriate Council for fisheries under the authority of such Council, the Governor of a State for fisheries under State authority, or a majority of permit holders in the fishery, may conduct a voluntary fishing capacity reduction program (referred to in this section as the ''program'') in a fishery if the Secretary determines that the program—

(A) is necessary to prevent or end overfishing, rebuild stocks of fish, or achieve measurable and significant improvements in the conservation and management of the fishery;

(B) is consistent with the Federal or State fishery management plan or program in effect for such fishery, as appropriate, and that the fishery management plan—

(i) will prevent the replacement of fishing capacity removed by the program through a moratorium on new entrants, practicable restrictions on vessel upgrades, and other effort control measures, taking into account the full potential fishing capacity of the fleet; and

(ii) establishes a specified or target total allowable catch or other measures that trigger closure of the fishery or adjustments to reduce catch; and

(C) is cost-effective and, in the instance of a program involving an industry fee system, prospectively capable of repaying any debt obligation incurred under section 53735 of title 46.

(2) The objective of the program shall be to obtain the maximum sustained reduction in fishing capacity at the least cost and in a minimum period of time. To achieve that objective, the Secretary is authorized to pay—

(A) the owner of a fishing vessel, if the permit authorizing the participation of the vessel

in the fishery is surrendered for permanent revocation and the vessel owner and permit holder relinquish any claim associated with the vessel or permit that could qualify such owner or holder for any present or future limited access system permit in the fishery for which the program is established or in any other fishery and such vessel is (i) scrapped, or (ii) through the Secretary of the department in which the Coast Guard is operating, subjected to title restrictions (including loss of the vessel's fisheries endorsement) that permanently prohibit and effectively prevent its use in fishing in federal[1] or state[1] waters, or fishing on the high seas or in the waters of a foreign nation; or

(B) the holder of a permit authorizing participation in the fishery, if such permit is surrendered for permanent revocation, and such holder relinquishes any claim associated with the permit and vessel used to harvest fishery resources under the permit that could qualify such holder for any present or future limited access system permit in the fishery for which the program was established.

(3) Participation in the program shall be voluntary, but the Secretary shall ensure compliance by all who do participate.

(4) The harvester proponents of each program and the Secretary shall consult, as appropriate and practicable, with Councils, Federal agencies, State and regional authorities, affected fishing communities, participants in the fishery, conservation organizations, and other interested parties throughout the development and implementation of any program under this section.

(5) PAYMENT CONDITION.—The Secretary may not make a payment under paragraph (2) with respect to a vessel that will not be scrapped unless the Secretary certifies that the vessel will not be used for fishing in the waters of a foreign nation or fishing on the high seas.

(6) REPORT.—

(A) IN GENERAL.—Subject to the availability of funds, the Secretary shall, within 12 months after January 12, 2007, submit to the Congress a report—

(i) identifying and describing the 20 fisheries in United States waters with the most severe examples of excess harvesting capacity in the fisheries, based on value of each fishery and the amount of excess harvesting capacity as determined by the Secretary;

(ii) recommending measures for reducing such excess harvesting capacity, including the retirement of any latent fishing permits that could contribute to further excess harvesting capacity in those fisheries; and

(iii) potential sources of funding for such measures.

(B) BASIS FOR RECOMMENDATIONS.—The Secretary shall base the recommendations made with respect to a fishery on—

(i) the most cost effective means of achieving voluntary reduction in capacity for the fishery using the potential for industry financing; and

(ii) including measures to prevent the capacity that is being removed from the fishery from moving to other fisheries in the United States, in the waters of a foreign nation, or on the high seas.

(c) Program funding

(1) The program may be funded by any combination of amounts—

(A) available under clause (iv) of section 713c–3(b)(1)(A) of title 15;

(B) appropriated for the purposes of this section;

(C) provided by an industry fee system established under subsection (d) of this section and in accordance with section 53735 of title 46; or

(D) provided from any State or other public sources or private or non-profit organizations.

(2) All funds for the program, including any fees established under subsection (d) of this section, shall be paid into the fishing capacity reduction fund established under section 53735 of title 46.

(d) Industry fee system

(1)(A) If an industry fee system is necessary to fund the program, the Secretary may conduct a referendum on such system. Prior to the referendum, the Secretary shall—

(i) identify, to the extent practicable, and notify all permit or vessel owners who would be affected by the program; and

(ii) make available to such owners information about the industry fee system describing the schedule, procedures, and eligibility requirements for the referendum, the proposed program, and the amount and duration and any other terms and conditions of the proposed fee system.

(B) The industry fee system shall be considered approved if the referendum votes which are cast in favor of the proposed system constitute at least a majority of the permit holders in the fishery, or 50 percent of the permitted allocation of the fishery, who participated in the fishery.

(2) Notwithstanding section 1854(d) of this title and consistent with an approved industry fee system, the Secretary is authorized to establish such a system to fund the program and repay debt obligations incurred pursuant to section 53735 of title 46. The fees for a program established under this section shall—

(A) be determined by the Secretary and adjusted from time to time as the Secretary considers necessary to ensure the availability of sufficient funds to repay such debt obligations;

(B) not exceed 5 percent of the ex-vessel value of all fish harvested from the fishery for which the program is established;

(C) be deducted by the first ex-vessel fish purchaser from the proceeds otherwise payable to the seller and accounted for and forwarded by such fish purchasers to the Secretary in such manner as the Secretary may establish, unless the Secretary determines that such fees should be collected from the seller; and

(D) be in effect only until such time as the debt obligation has been fully paid.

(e) Implementation plan

(1) Framework regulations

The Secretary shall propose and adopt framework regulations applicable to the im-

[1] So in original. Probably should be capitalized.

plementation of all programs under this section.

(2) Program regulations

The Secretary shall implement each program under this section by promulgating regulations that, together with the framework regulations, establish each program and control its implementation.

(3) Harvester proponents' implementation plan

The Secretary may not propose implementation regulations for a program to be paid for by an industry fee system until the harvester proponents of the program provide to the Secretary a proposed implementation plan that, among other matters—

(A) proposes the types and numbers of vessels or permits that are eligible to participate in the program and the manner in which the program shall proceed, taking into account—

(i) the requirements of this section;

(ii) the requirements of the framework regulations;

(iii) the characteristics of the fishery and affected fishing communities;

(iv) the requirements of the applicable fishery management plan and any amendment that such plan may require to support the proposed program;

(v) the general needs and desires of harvesters in the fishery;

(vi) the need to minimize program costs; and

(vii) other matters, including the manner in which such proponents propose to fund the program to ensure its cost effectiveness, as well as any relevant factors demonstrating the potential for, or necessary to obtain, the support and general cooperation of a substantial number of affected harvesters in the fishery (or portion of the fishery) for which the program is intended; and

(B) proposes procedures for program participation (such as submission of owner bids under an auction system or fair market-value assessment), including any terms and conditions for participation, that the harvester proponents deem to be reasonably necessary to meet the program's proposed objectives.

(4) Participation contracts

The Secretary shall contract with each person participating in a program, and each such contract shall, in addition to including such other matters as the Secretary deems necessary and appropriate to effectively implement each program (including penalties for contract non-performance) be consistent with the framework and implementing regulations and all other applicable law.

(5) Reduction auctions

Each program not involving fair market assessment shall involve a reduction auction that scores the reduction price of each bid offer by the data relevant to each bidder under an appropriate fisheries productivity factor. If the Secretary accepts bids, the Secretary shall accept responsive bids in the rank order of their bid scores, starting with the bid whose reduction price is the lowest percentage of the productivity factor, and successively accepting each additional responsive bid in rank order until either there are no more responsive bids or acceptance of the next bid would cause the total value of bids accepted to exceed the amount of funds available for the program.

(6) Bid invitations

Each program shall proceed by the Secretary issuing invitations to bid setting out the terms and conditions for participation consistent with the framework and implementing regulations. Each bid that the Secretary receives in response to the invitation to bid shall constitute an irrevocable offer from the bidder.

(Pub. L. 94–265, title III, §312, as added Pub. L. 104–297, title I, §116(a), Oct. 11, 1996, 110 Stat. 3600; amended Pub. L. 109–479, title I, §112(a), Jan. 12, 2007, 120 Stat. 3598.)

CODIFICATION

In subsecs. (b)(1)(C), (c)(1)(C), (2), and (d)(2), ''section 53735 of title 46'' substituted for ''section 1111 of title XI of the Merchant Marine Act, 1936'' on authority of Pub. L. 109–304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 53735 of Title 46, Shipping.

PRIOR PROVISIONS

A prior section 312 of Pub. L. 94–265, title III, Apr. 13, 1976, 90 Stat. 359, was set out as an Effective Date note under section 1857 of this title, prior to being amended generally by Pub. L. 104–297.

AMENDMENTS

2007—Subsec. (a)(1)(B). Pub. L. 109–479, §112(a)(1), substituted ''measures, including regulatory restrictions (including those imposed as a result of judicial action) imposed to protect human health or the marine environment;'' for ''measures;''.

Subsec. (a)(4). Pub. L. 109–479, §112(a)(2), substituted ''2007 through 2013.'' for ''1996, 1997, 1998, and 1999.''

Subsec. (b)(1). Pub. L. 109–479, §112(a)(3), in introductory provisions, substituted ''the Governor of a State for fisheries under State authority, or a majority of permit holders in the fishery, may conduct a voluntary fishing'' for ''or the Governor of a State for fisheries under State authority, may conduct a fishing''.

Subsec. (b)(1)(B)(i). Pub. L. 109–479, §112(a)(4), inserted ''practicable'' after ''entrants,''.

Subsec. (b)(1)(C). Pub. L. 109–479, §112(a)(5), substituted ''cost-effective and, in the instance of a program involving an industry fee system, prospectively'' for ''cost-effective and''.

Subsec. (b)(2)(A). Pub. L. 109–479, §112(a)(6), added subpar. (A) and struck out former subpar. (A) which read as follows: ''the owner of a fishing vessel, if such vessel is (i) scrapped, or (ii) through the Secretary of the department in which the Coast Guard is operating, subjected to title restrictions that permanently prohibit and effectively prevent its use in fishing, and if the permit authorizing the participation of the vessel in the fishery is surrendered for permanent revocation and the owner relinquishes any claim associated with the vessel and permit that could qualify such owner for any present or future limited access system permit in the fishery for which the program is established; or''.

Subsec. (b)(4). Pub. L. 109–479, §112(a)(7), substituted ''The harvester proponents of each program and the Secretary shall consult, as appropriate and practicable, with Councils,'' for ''The Secretary shall consult, as appropriate, with Councils,''.

Subsec. (b)(5), (6). Pub. L. 109–479, § 112(a)(8), added pars. (5) and (6).

Subsec. (d)(1)(A). Pub. L. 109–479, § 112(a)(9), (10), in introductory provisions, substituted ''Secretary'' for ''Secretary, at the request of the appropriate Council,'' before ''may conduct'' and ''Secretary'' for ''Secretary, in consultation with the Council,'' before ''shall—''.

Subsec. (d)(1)(B). Pub. L. 109–479, § 112(a)(11), substituted ''at least a majority of the permit holders in the fishery, or 50 percent of the permitted allocation of the fishery, who participated in the fishery.'' for ''a two-thirds majority of the participants voting.''

Subsec. (d)(2)(C). Pub. L. 109–479, § 112(a)(12), substituted ''establish, unless the Secretary determines that such fees should be collected from the seller;'' for ''establish;''.

Subsec. (e). Pub. L. 109–479, § 112(a)(13), added subsec. (e) and struck out former subsec. (e) which related to implementation plan.

EFFECTIVE DATE

Pub. L. 109–479, title I, § 112(b), Jan. 12, 2007, 120 Stat. 3601, provided that: ''Sections 116, 203, 204, 205, and 206 of the Sustainable Fisheries Act [Pub. L. 104–297, see Tables for classification] are deemed to have added sections 312, 402, 403, 404, and 405 [16 U.S.C. 1861a, 1881a to 1881d], respectively to the Act [Pub. L. 94–265] as of the date of enactment of the Sustainable Fisheries Act [Oct. 11, 1996].''

STUDY OF FEDERAL INVESTMENT IN FISHERIES

Pub. L. 104–297, title I, § 116(b), Oct. 11, 1996, 110 Stat. 3603, as amended by Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that: ''The Secretary of Commerce shall establish a task force comprised of interested parties to study and report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives within 2 years of the date of enactment of this Act [Oct. 11, 1996] on the role of the Federal Government in—

''(1) subsidizing the expansion and contraction of fishing capacity in fishing fleets managed under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and

''(2) otherwise influencing the aggregate capital investments in fisheries.''

§ 1861b. Fisheries enforcement plans and reporting

(a) Fisheries enforcement plans

In preparing the Coast Guard's annual fisheries enforcement plan, the Commandant of the Coast Guard shall consult with the Under Secretary of Commerce for Oceans and Atmosphere and with State and local enforcement authorities.

(b) Fishery patrols

Prior to undertaking fisheries patrols, the Commandant of the Coast Guard shall notify the Under Secretary of Commerce for Oceans and Atmosphere and appropriate State and local enforcement authorities of the projected dates for such patrols.

(c) Annual summary

The Commandant of the Coast Guard shall prepare and make available to the Under Secretary of Commerce for Oceans and Atmosphere, State and local enforcement entities, and other relevant stakeholders, an annual summary report of fisheries enforcement activities for the preceding year, including a summary of the number of patrols, law enforcement actions taken, and resource hours expended.

(Pub. L. 108–293, title II, § 224, Aug. 9, 2004, 118 Stat. 1040.)

CODIFICATION

Section was enacted as part of the Coast Guard and Maritime Transportation Act of 2004, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

§ 1862. North Pacific fisheries conservation

(a) In general

The North Pacific Council may prepare, in consultation with the Secretary, a fisheries research plan for any fishery under the Council's jurisdiction except a salmon fishery which—

(1) requires that observers be stationed on fishing vessels engaged in the catching, taking, or harvesting of fish and on United States fish processors fishing for or processing species under the jurisdiction of the Council, including the Northern Pacific halibut fishery, for the purpose of collecting data necessary for the conservation, management, and scientific understanding of any fisheries under the Council's jurisdiction; and

(2) establishes a system, or system,[1] of fees, which may vary by fishery, management area, or observer coverage level, to pay for the cost of implementing the plan.

(b) Standards

(1) Any plan or plan amendment prepared under this section shall be reasonably calculated to—

(A) gather reliable data, by stationing observers on all or a statistically reliable sample of the fishing vessels and United States fish processors included in the plan, necessary for the conservation, management, and scientific understanding of the fisheries covered by the plan;

(B) be fair and equitable to all vessels and processors;

(C) be consistent with applicable provisions of law; and

(D) take into consideration the operating requirements of the fisheries and the safety of observers and fishermen.

(2) Any system of fees established under this section shall—

(A) provide that the total amount of fees collected under this section not exceed the combined cost of (i) stationing observers, or electronic monitoring systems, on board fishing vessels and United States fish processors, (ii) the actual cost of inputting collected data, and (iii) assessments necessary for a risk-sharing pool implemented under subsection (e) of this section, less any amount received for such purpose from another source or from an existing surplus in the North Pacific Fishery Observer Fund established in subsection (d) of this section;

(B) be fair and equitable to all participants in the fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

(C) provide that fees collected not be used to pay any costs of administrative overhead or

[1] So in original.

other costs not directly incurred in carrying out the plan;

(D) not be used to offset amounts authorized under other provisions of law;

(E) be expressed as a fixed amount reflecting actual observer costs as described in subparagraph (A) or a percentage, not to exceed 2 percent, of the unprocessed ex-vessel value of fish and shellfish harvested under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

(F) be assessed against some or all fishing vessels and United States fish processors, including those not required to carry an observer or an electronic monitoring system under the plan, participating in fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

(G) provide that fees collected will be deposited in the North Pacific Fishery Observer Fund established under subsection (d) of this section;

(H) provide that fees collected will only be used for implementing the plan established under this section;

(I) provide that fees collected will be credited against any fee for stationing observers or electronic monitoring systems on board fishing vessels and United States fish processors and the actual cost of inputting collected data to which a fishing vessel or fish processor is subject under section 1854(d) of this title; and

(J) meet the requirements of section 9701(b) of title 31.

(c) Action by Secretary

(1) Within 60 days after receiving a plan or plan amendment from the North Pacific Council under this section, the Secretary shall review such plan or plan amendment and either (A) remand such plan or plan amendment to the Council with comments if it does not meet the requirements of this section, or (B) publish in the Federal Register proposed regulations for implementing such plan or plan amendment.

(2) During the 60-day public comment period, the Secretary shall conduct a public hearing in each State represented on the Council for the purpose of receiving public comments on the proposed regulations.

(3) Within 45 days of the close of the public comment period, the Secretary, in consultation with the Council, shall analyze the public comment received and publish final regulations for implementing such plan.

(4) If the Secretary remands a plan or plan amendment to the Council for failure to meet the requirements of this section, the Council may resubmit such plan or plan amendment at any time after taking action the Council believes will address the defects identified by the Secretary. Any plan or plan amendment resubmitted to the Secretary will be treated as an original plan submitted to the Secretary under paragraph (1) of this subsection.

(d) Fishery Observer Fund

There is established in the Treasury a North Pacific Fishery Observer Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purpose of carrying out the provisions of this section, subject to the restrictions in subsection (b)(2) of this section. The Fund shall consist of all monies deposited into it in accordance with this section. Sums in the Fund that are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(e) Special provisions regarding observers

(1) The Secretary shall review—

(A) the feasibility of establishing a risk sharing pool through a reasonable fee, subject to the limitations of subsection (b)(2)(E) of this section, to provide coverage for vessels and owners against liability from civil suits by observers, and

(B) the availability of comprehensive commercial insurance for vessel and owner liability against civil suits by observers.

(2) If the Secretary determines that a risk sharing pool is feasible, the Secretary shall establish such a pool, subject to the provisions of subsection (b)(2) of this section, unless the Secretary determines that—

(A) comprehensive commercial insurance is available for all fishing vessels and United States fish processors required to have observers under the provisions of this section, and

(B) such comprehensive commercial insurance will provide a greater measure of coverage at a lower cost to each participant.

(f) Bycatch reduction

In implementing section 1853(a)(11) of this title and this section, the North Pacific Council shall submit conservation and management measures to lower, on an annual basis for a period of not less than four years, the total amount of economic discards occurring in the fisheries under its jurisdiction.

(g) Bycatch reduction incentives

(1) Notwithstanding section 1854(d) of this title, the North Pacific Council may submit, and the Secretary may approve, consistent with the provisions of this chapter, a system of fines in a fishery to provide incentives to reduce bycatch and bycatch rates; except that such fines shall not exceed $25,000 per vessel per season. Any fines collected shall be deposited in the North Pacific Fishery Observer Fund, and may be made available by the Secretary to offset costs related to the reduction of bycatch in the fishery from which such fines were derived, including conservation and management measures and research, and to the State of Alaska to offset costs incurred by the State in the fishery from which such penalties were derived or in fisheries in which the State is directly involved in management or enforcement and which are directly affected by the fishery from which such penalties were derived.

(2)(A) Notwithstanding section 1853(d) of this title, and in addition to the authority provided in section 1853(b)(10) of this title, the North Pacific Council may submit, and the Secretary may approve, conservation and management measures which provide allocations of regulatory discards to individual fishing vessels as an incentive to reduce per vessel bycatch and bycatch rates in a fishery, *Provided*, That—

(i) such allocations may not be transferred for monetary consideration and are made only on an annual basis; and

(ii) any such conservation and management measures will meet the requirements of subsection (h) of this section and will result in an actual reduction in regulatory discards in the fishery.

(B) The North Pacific Council may submit restrictions in addition to the restriction imposed by clause (i) of subparagraph (A) on the transferability of any such allocations, and the Secretary may approve such recommendation.

(h) Catch measurement

(1) By June 1, 1997 the North Pacific Council shall submit, and the Secretary may approve, consistent with the other provisions of this chapter, conservation and management measures to ensure total catch measurement in each fishery under the jurisdiction of such Council. Such measures shall ensure the accurate enumeration, at a minimum, of target species, economic discards, and regulatory discards.

(2) To the extent the measures submitted under paragraph (1) do not require United States fish processors and fish processing vessels (as defined in chapter 21 of title 46) to weigh fish, the North Pacific Council and the Secretary shall submit a plan to the Congress by January 1, 1998, to allow for weighing, including recommendations to assist such processors and processing vessels in acquiring necessary equipment, unless the Council determines that such weighing is not necessary to meet the requirements of this subsection.

(i) Full retention and utilization

(1) The North Pacific Council shall submit to the Secretary by October 1, 1998 a report on the advisability of requiring the full retention by fishing vessels and full utilization by United States fish processors of economic discards in fisheries under its jurisdiction if such economic discards, or the mortality of such economic discards, cannot be avoided. The report shall address the projected impacts of such requirements on participants in the fishery and describe any full retention and full utilization requirements that have been implemented.

(2) The report shall address the advisability of measures to minimize processing waste, including standards setting minimum percentages which must be processed for human consumption. For the purpose of the report, ''processing waste'' means that portion of any fish which is processed and which could be used for human consumption or other commercial use, but which is not so used.

(j) Bering Sea and Aleutian Islands crab rationalization

(1) By not later than January 1, 2005, the Secretary shall approve and hereafter[2] implement by regulation the Voluntary Three-Pie Cooperative Program for crab fisheries of the Bering Sea and Aleutian Islands approved by the North Pacific Fishery Management Council between June 2002 and April 2003, and all trailing amendments including those reported to Congress on May 6, 2003. This section shall not preclude the Secretary from approving by January 1, 2005, and implementing any subsequent program amendments approved by the Council.

(2) Notwithstanding any other provision of this chapter, in carrying out paragraph (1) the Secretary shall approve all parts of the Program referred to in such paragraph. Further, no part of such Program may be implemented if, as approved by the North Pacific Fishery Management Council, individual fishing quotas, processing quotas, community development quota allocation, voluntary cooperatives, binding arbitration, regional landing and processing requirements, community protections, economic data collection, or the loan program for crab fishing vessel captains and crew members, is invalidated subject to a judicial determination not subject to judicial appeal. If the Secretary determines that a processor has leveraged its Individual Processor Quota shares to acquire a harvesters open-delivery ''B shares'', the processor's Individual Processor Quota shares shall be forfeited.

(3) Subsequent to implementation pursuant to paragraph (1), the Council may submit and the Secretary may implement changes to or repeal of conservation and management measures, including measures authorized in this section, for crab fisheries of the Bering Sea and Aleutian Islands in accordance with applicable law, including this chapter as amended by this subsection, to achieve on a continuing basis the purposes identified by the Council.

(4) The loan program referred to in paragraph (2) shall be carried out pursuant to the authority of sections 53735 and 53702(b) of title 46.

(5) For purposes of implementing this section $1,000,000 shall be made available each year until fully implemented from funds otherwise made available to the National Marine Fisheries Service for Alaska fisheries activities.

(6) Nothing in this chapter shall constitute a waiver, either express or implied, of the antitrust laws of the United States. The Secretary, in consultation with the Department of Justice and the Federal Trade Commission, shall develop and implement a mandatory information collection and review process to provide any and all information necessary for the Department of Justice and the Federal Trade Commission to determine whether any illegal acts of anti-competition, anti-trust, or price collusion have occurred among persons receiving individual processing quotas under the Program. The Secretary may revoke any individual processing quota held by any person found to have violated a provision of the antitrust laws of the United States.

(7) An individual processing quota issued under the Program shall be considered a permit for the purposes of sections 1857, 1858, and 1859 of this title, and may be revoked or limited at any time in accordance with this chapter. Issuance of an individual processing quota under the program shall not confer any right of compensation to the holder of such individual processing quota if it is revoked or limited and shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is purchased from an individual fishing quota holder.

[2] See References in Text note below.

(8) The restriction on the collection of economic data in section 1853 of this title shall not apply with respect to any fish processor who is eligible for, or who has received, individual processing quota under the Program. The restriction on the disclosure of information in section 1881a(b)(1) of this title shall not apply when the information is used to determine eligibility for or compliance with an individual processing quota program.

(9) The provisions of sections 1858, 1860, and 1861 of this title shall apply to the processing facilities and fish products of any person holding individual processing quota, and the provisions of subparagraphs (D), (E), and (L) of section 1857(*l*)[3] of this title shall apply to any facility owned or controlled by a person holding individual processing quota.

(Pub. L. 94–265, title III, §313, as added Pub. L. 101–627, title I, §118(a), Nov. 28, 1990, 104 Stat. 4457; amended Pub. L. 102–582, title IV, §404, Nov. 2, 1992, 106 Stat. 4909; Pub. L. 104–297, title I, §117(a), Oct. 11, 1996, 110 Stat. 3603; Pub. L. 108–199, div. B, title VIII, §801, Jan. 23, 2004, 118 Stat. 108; Pub. L. 109–479, title II, §214, Jan. 12, 2007, 120 Stat. 3619.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (g)(1), (h)(1), and (j)(2), (3), (6), (7), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Hereafter, referred to in subsec. (j)(1), probably means on and after the date of enactment of Pub. L. 108–199, which enacted subsec. (j) of this section and was approved Jan. 23, 2004.

CODIFICATION

In subsec. (j)(4), ''sections 53735 and 53702(b) of title 46'' substituted for ''sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f, 1279g)'' on authority of Pub. L. 109–304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted sections 53702 and 53735 of Title 46, Shipping.

AMENDMENTS

2007—Subsec. (a). Pub. L. 109–479, §214(1), substituted ''any fishery under the Council's jurisdiction except a salmon fishery'' for ''all fisheries under the Council's jurisdiction except salmon fisheries'' in introductory provisions.

Subsec. (a)(2). Pub. L. 109–479, §214(2), added par. (2) and struck out former par. (2) which read as follows: ''establishes a system of fees to pay for the costs of implementing the plan.''

Subsec. (b)(2)(A). Pub. L. 109–479, §214(3), substituted ''observers, or electronic monitoring systems,'' for ''observers''.

Subsec. (b)(2)(E). Pub. L. 109–479, §214(4), inserted ''a fixed amount reflecting actual observer costs as described in subparagraph (A) or'' after ''expressed as''.

Subsec. (b)(2)(F). Pub. L. 109–479, §214(5), (6), inserted ''some or'' after ''against'' and ''or an electronic monitoring system'' after ''observer''.

Subsec. (b)(2)(I), (J). Pub. L. 109–479, §214(7), (8), added subpar. (I) and redesignated former subpar. (I) as (J).

2004—Subsec. (j). Pub. L. 108–199 added subsec. (j).

1996—Pub. L. 104–297, §117(a)(1), substituted ''conservation'' for ''research plan'' in section catchline.

Subsec. (a). Pub. L. 104–297, §117(a)(2), substituted ''North Pacific Council'' for ''North Pacific Fishery Management Council'' in introductory provisions.

Subsecs. (f) to (i). Pub. L. 104–297, §117(a)(3), added subsecs. (f) to (i).

1992—Subsec. (b)(2)(E). Pub. L. 102–582 substituted ''2 percent, of the unprocessed ex-vessel'' for ''one percentum, of the''.

§ 1863. Northwest Atlantic Ocean Fisheries Reinvestment Program

(a) Program

(1) Not later than October 1, 1993, the Secretary shall establish a Northwest Atlantic Ocean Fisheries Reinvestment Program for the purposes of—

(A) promoting development of commercial fisheries and markets for underutilized species of the northwest Atlantic Ocean;

(B) developing alternative fishing opportunities for participants in the New England groundfish fishery;

(C) providing technical support and assistance to United States fishermen and fish processors to improve the value-added processing of underutilized species and to make participation in fisheries for underutilized species of the northwest Atlantic Ocean economically viable;

(D) creating new economic opportunities through the improved processing and expanded use of fish waste; and

(E) helping to restore overfished New England groundfish stocks through aquaculture or hatchery programs.

(2) CONSULTATION.—In establishing and implementing the Northwest Fisheries Reinvestment Program, the Secretary shall consult with representatives of the commercial fishing industry, the seafood processing industry, and the academic community (including the National Sea Grant Program).

(3) ACTIVITIES UNDER PROGRAM.—Subject to the availability of appropriations, the Secretary shall award contracts, grants and other financial assistance to United States citizens to carry out the purposes of subsection[1] (1), under the terms and conditions provided in section 713c–3(c) of title 15, except that, in making awards under this section for projects involving participation in fisheries for underutilized species, the Secretary shall give the highest priority to a person who owns or operates a fishing vessel permitted under this chapter to participate in the New England groundfish fishery who agrees to surrender that permit to the Secretary during the duration of the contract, grant or other assistance.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 1993 through 1999 to carry out the purposes of this section. For fiscal year 1993 no more than $1,000,000, and for fiscal year 1994 no more than $2,000,000, of such funds may be provided from monies made available under section 713c–3(b) of title 15.

(b) Assistance of other agencies

The Secretary shall actively seek the assistance of other Federal agencies in the develop-

[3] So in original. Probably should be section ''1857(1)''.

[1] So in original. Probably should be ''paragraph''.

ment of fisheries for underutilized species of the northwest Atlantic Ocean, including, to the extent permitted by other applicable laws, assistance from the Secretary of Agriculture in including such underutilized species as agricultural commodities in the programs of the Foreign Agricultural Service for which amounts are authorized under the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359).

(c) Management plans for underutilized species

The New England Fishery Management Council, in consultation with other appropriate Councils, shall develop fishery management plans as soon as possible for any underutilized species of the northwest Atlantic Ocean that is not covered under such a plan, in order to prevent overfishing of that species.

(d) "Underutilized species" defined

For purposes of this section, the term ''underutilized species of the northwest Atlantic Ocean'' means any fish species of the northwest Atlantic Ocean that is identified, by the Director of the Northeast Fisheries Center of the National Marine Fisheries Service, as an underutilized species.

(Pub. L. 94–265, title III, § 314, as added Pub. L. 102–567, title IX, § 902(a), Oct. 29, 1992, 106 Stat. 4317; amended Pub. L. 104–297, title I, § 117(b), Oct. 11, 1996, 110 Stat. 3604.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(3), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Food, Agriculture, Conservation, and Trade Act of 1990, referred to in subsec. (b), is Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3359, as amended. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 1421 of Title 7, Agriculture, and Tables.

AMENDMENTS

1996—Subsec. (a)(4). Pub. L. 104–297 substituted ''1999'' for ''1997''.

§ 1864. Regional coastal disaster assistance, transition, and recovery program

(a) In general

When there is a catastrophic regional fishery disaster the Secretary may, upon the request of, and in consultation with, the Governors of affected States, establish a regional economic transition program to provide immediate disaster relief assistance to the fishermen, charter fishing operators, United States fish processors, and owners of related fishery infrastructure affected by the disaster.

(b) Program components

(1) In general

Subject to the availability of appropriations, the program shall provide funds or other economic assistance to affected entities, or to governmental entities for disbursement to affected entities, for—

(A) meeting immediate regional shoreside fishery infrastructure needs, including processing facilities, cold storage facilities, ice houses, docks, including temporary docks and storage facilities, and other related shoreside fishery support facilities and infrastructure while ensuring that those projects will not result in an increase or replacement of fishing capacity;

(B) financial assistance and job training assistance for fishermen who wish to remain in a fishery in the region that may be temporarily closed as a result of environmental or other effects associated with the disaster;

(C) funding, pursuant to the requirements of section 1861a(b) of this title, to fishermen who are willing to scrap a fishing vessel and permanently surrender permits for fisheries named on that vessel; and

(D) any other activities authorized under section 1861a of this title or section 4107(d) of this title.

(2) Job training

Any fisherman who decides to scrap a fishing vessel under the program shall be eligible for job training assistance.

(3) State participation obligation

The participation by a State in the program shall be conditioned upon a commitment by the appropriate State entity to ensure that the relevant State fishery meets the requirements of section 1861a(b) of this title to ensure excess capacity does not re-enter the fishery.

(4) No matching required

The Secretary may waive the matching requirements of section 1861a of this title, section 4107 of this title, and any other provision of law under which the Federal share of the cost of any activity is limited to less than 100 percent if the Secretary determines that—

(A) no reasonable means are available through which applicants can meet the matching requirement; and

(B) the probable benefit of 100 percent Federal financing outweighs the public interest in imposition of the matching requirement.

(5) Net revenue limit inapplicable

Section 4107(d)(3) of this title shall not apply to assistance under this section.

(c) Regional impact evaluation

Within 2 months after a catastrophic regional fishery disaster the Secretary shall provide the Governor of each State participating in the program a comprehensive economic and socio-economic evaluation of the affected region's fisheries to assist the Governor in assessing the current and future economic viability of affected fisheries, including the economic impact of foreign fish imports and the direct, indirect, or environmental impact of the disaster on the fishery and coastal communities.

(d) Catastrophic regional fishery disaster defined

In this section the term ''catastrophic regional fishery disaster'' means a natural disaster, including a hurricane or tsunami, or a regulatory closure (including regulatory closures re-

sulting from judicial action) to protect human health or the marine environment, that—

(1) results in economic losses to coastal or fishing communities;

(2) affects more than 1 State or a major fishery managed by a Council or interstate fishery commission; and

(3) is determined by the Secretary to be a commercial fishery failure under section 1861a(a) of this title or a fishery resource disaster or section 4107(d) of this title.

(Pub. L. 94–265, title III, §315, as added Pub. L. 109–479, title I, §113(a), Jan. 12, 2007, 120 Stat. 3601.)

FISHERIES HURRICANE ASSISTANCE PROGRAM

Pub. L. 109–479, title I, §115, Jan. 12, 2007, 120 Stat. 3604, provided that:

''(a) IN GENERAL.—The Secretary of Commerce shall establish an assistance program for the Gulf of Mexico commercial and recreational fishing industry.

''(b) ALLOCATION OF FUNDS.—Under the program, the Secretary shall allocate funds appropriated to carry out the program among the States of Alabama, Louisiana, Florida, Mississippi, and Texas in proportion to the percentage of the fishery (including crawfish) catch landed by each State before August 29, 2005, except that the amount allocated to Florida shall be based exclusively on the proportion of such catch landed by the Florida Gulf Coast fishery.

''(c) USE OF FUNDS.—Of the amounts made available to each State under the program—

''(1) 2 percent shall be retained by the State to be used for the distribution of additional payments to fishermen with a demonstrated record of compliance with turtle excluder and bycatch reduction device regulations; and

''(2) the remainder of the amounts shall be used for—

''(A) personal assistance, with priority given to food, energy needs, housing assistance, transportation fuel, and other urgent needs;

''(B) assistance for small businesses, including fishermen, fish processors, and related businesses serving the fishing industry;

''(C) domestic product marketing and seafood promotion;

''(D) State seafood testing programs;

''(E) the development of limited entry programs for the fishery;

''(F) funding or other incentives to ensure widespread and proper use of turtle excluder devices and bycatch reduction devices in the fishery; and

''(G) voluntary capacity reduction programs for shrimp fisheries under limited access programs.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $17,500,000 for each of fiscal years 2007 through 2012 to carry out this section.''

§ 1865. Bycatch reduction engineering program

(a) Bycatch reduction engineering program

Not later than 1 year after January 12, 2007, the Secretary, in cooperation with the Councils and other affected interests, and based upon the best scientific information available, shall establish a bycatch reduction program, including grants, to develop technological devices and other conservation engineering changes designed to minimize bycatch, seabird interactions, bycatch mortality, and post-release mortality in Federally managed fisheries. The program shall—

(1) be regionally based;

(2) be coordinated with projects conducted under the cooperative research and management program established under this chapter;

(3) provide information and outreach to fishery participants that will encourage adoption and use of technologies developed under the program; and

(4) provide for routine consultation with the Councils in order to maximize opportunities to incorporate results of the program in Council actions and provide incentives for adoption of methods developed under the program in fishery management plans developed by the Councils.

(b) Incentives

Any fishery management plan prepared by a Council or by the Secretary may establish a system of incentives to reduce total bycatch and seabird interactions, amounts, bycatch rates, and post-release mortality in fisheries under the Council's or Secretary's jurisdiction, including—

(1) measures to incorporate bycatch into quotas, including the establishment of collective or individual bycatch quotas;

(2) measures to promote the use of gear with verifiable and monitored low bycatch and seabird interactions, rates; and

(3) measures that, based on the best scientific information available, will reduce bycatch and seabird interactions, bycatch mortality, post-release mortality, or regulatory discards in the fishery.

(c) Coordination on seabird interactions

The Secretary, in coordination with the Secretary of[1] Interior, is authorized to undertake projects in cooperation with industry to improve information and technology to reduce seabird bycatch, including—

(1) outreach to industry on new technologies and methods;

(2) projects to mitigate for seabird mortality; and

(3) actions at appropriate international fishery organizations to reduce seabird interactions in fisheries.

(d) Report

The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources that—

(1) describes funding provided to implement this section;

(2) describes developments in gear technology achieved under this section; and

(3) describes improvements and reduction in bycatch and seabird interactions associated with implementing this section, as well as proposals to address remaining bycatch or seabird interaction problems.

(Pub. L. 94–265, title III, §316, as added Pub. L. 109–479, title I, §116(a), Jan. 12, 2007, 120 Stat. 3605.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short

[1] So in original. Probably should be ''of the''.

Title note set out under section 1801 of this title and Tables.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 1866. Shark feeding

Except to the extent determined by the Secretary, or under State law, as presenting no public health hazard or safety risk, or when conducted as part of a research program funded in whole or in part by appropriated funds, it is unlawful to introduce, or attempt to introduce, food or any other substance into the water to attract sharks for any purpose other than to harvest sharks within the Exclusive Economic Zone seaward of the State of Hawaii and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean Area.

(Pub. L. 94–265, title III, § 317, as added Pub. L. 109–479, title I, § 119, Jan. 12, 2007, 120 Stat. 3607.)

§ 1867. Cooperative research and management program

(a) In general

The Secretary of Commerce, in consultation with the Councils, shall establish a cooperative research and management program to address needs identified under this chapter and under any other marine resource laws enforced by the Secretary. The program shall be implemented on a regional basis and shall be developed and conducted through partnerships among Federal, State, and Tribal managers and scientists (including interstate fishery commissions), fishing industry participants (including use of commercial charter or recreational vessels for gathering data), and educational institutions.

(b) Eligible projects

The Secretary shall make funds available under the program for the support of projects to address critical needs identified by the Councils in consultation with the Secretary. The program shall promote and encourage efforts to utilize sources of data maintained by other Federal agencies, State agencies, or academia for use in such projects.

(c) Funding

In making funds available the Secretary shall award funding on a competitive basis and based on regional fishery management needs, select programs that form part of a coherent program of research focused on solving priority issues identified by the Councils, and shall give priority to the following projects:

(1) Projects to collect data to improve, supplement, or enhance stock assessments, including the use of fishing vessels or acoustic or other marine technology.

(2) Projects to assess the amount and type of bycatch or post-release mortality occurring in a fishery.

(3) Conservation engineering projects designed to reduce bycatch, including avoidance of post-release mortality, reduction of bycatch in high seas fisheries, and transfer of such fishing technologies to other nations.

(4) Projects for the identification of habitat areas of particular concern and for habitat conservation.

(5) Projects designed to collect and compile economic and social data.

(d) Experimental permitting process

Not later than 180 days after January 12, 2007, the Secretary, in consultation with the Councils, shall promulgate regulations that create an expedited, uniform, and regionally-based process to promote issuance, where practicable, of experimental fishing permits.

(e) Guidelines

The Secretary, in consultation with the Councils, shall establish guidelines to ensure that participation in a research project funded under this section does not result in loss of a participant's catch history or unexpended days-at-sea as part of a limited entry system.

(f) Exempted projects

The procedures of this section shall not apply to research funded by quota set-asides in a fishery.

(Pub. L. 94–265, title III, § 318, as added Pub. L. 109–479, title II, § 204, Jan. 12, 2007, 120 Stat. 3614.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

§ 1868. Herring study

(a) In general

The Secretary may conduct a cooperative research program to study the issues of abundance, distribution and the role of herring as forage fish for other commercially important fish stocks in the Northwest Atlantic, and the potential for local scale depletion from herring harvesting and how it relates to other fisheries in the Northwest Atlantic. In planning, designing, and implementing this program, the Secretary shall engage multiple fisheries sectors and stakeholder groups concerned with herring management.

(b) Report

The Secretary shall present the final results of this study to Congress within 3 months following the completion of the study, and an interim report at the end of fiscal year 2008.

(c) Authorization of appropriations

There are authorized to be appropriated $2,000,000 for fiscal year 2007 through fiscal year 2009 to conduct this study.

(Pub. L. 94–265, title III, § 319, as added Pub. L. 109–479, title II, § 205, Jan. 12, 2007, 120 Stat. 3615.)

§ 1869. Restoration study

(a) In general

The Secretary may conduct a study to update scientific information and protocols needed to

improve restoration techniques for a variety of coast habitat types and synthesize the results in a format easily understandable by restoration practitioners and local communities.

(b) Authorization of appropriations

There are authorized to be appropriated $500,000 for fiscal year 2007 to conduct this study.

(Pub. L. 94–265, title III, § 320, as added Pub. L. 109–479, title II, § 206, Jan. 12, 2007, 120 Stat. 3615.)

SUBCHAPTER V—FISHERY MONITORING AND RESEARCH

§ 1881. Registration and information management

(a) Standardized fishing vessel registration and information management system

The Secretary shall, in cooperation with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, develop recommendations for implementation of a standardized fishing vessel registration and information management system on a regional basis. The recommendations shall be developed after consultation with interested governmental and nongovernmental parties and shall—

(1) be designed to standardize the requirements of vessel registration and information collection systems required by this chapter, the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.), and any other marine resource law implemented by the Secretary, and, with the permission of a State, any marine resource law implemented by such State;

(2) integrate information collection programs under existing fishery management plans into a non-duplicative information collection and management system;

(3) avoid duplication of existing State, tribal, or Federal systems and shall utilize, to the maximum extent practicable, information collected from existing systems;

(4) provide for implementation of the system through cooperative agreements with appropriate State, regional, or tribal entities and Marine Fisheries Commissions;

(5) provide for funding (subject to appropriations) to assist appropriate State, regional, or tribal entities and Marine Fisheries Commissions in implementation;

(6) establish standardized units of measurement, nomenclature, and formats for the collection and submission of information;

(7) minimize the paperwork required for vessels registered under the system;

(8) include all species of fish within the geographic areas of authority of the Councils and all fishing vessels including charter fishing vessels, but excluding recreational fishing vessels;

(9) require United States fish processors, and fish dealers and other first ex-vessel purchasers of fish that are subject to the proposed system, to submit information (other than economic information) which may be necessary to meet the goals of the proposed system; and

(10) include procedures necessary to ensure—

(A) the confidentiality of information collected under this section in accordance with section 1881a(b) of this title; and

(B) the timely release or availability to the public of information collected under this section consistent with section 1881a(b) of this title.

(b) Fishing vessel registration

The proposed registration system should, at a minimum, obtain the following information for each fishing vessel—

(1) the name and official number or other identification, together with the name and address of the owner or operator or both;

(2) gross tonnage, vessel capacity, type and quantity of fishing gear, mode of operation (catcher, catcher processor, or other), and such other pertinent information with respect to vessel characteristics as the Secretary may require; and

(3) identification (by species, gear type, geographic area of operations, and season) of the fisheries in which the fishing vessel participates.

(c) Fishery information

The proposed information management system should, at a minimum, provide basic fisheries performance information for each fishery, including—

(1) the number of vessels participating in the fishery including charter fishing vessels;

(2) the time period in which the fishery occurs;

(3) the approximate geographic location or official reporting area where the fishery occurs;

(4) a description of fishing gear used in the fishery, including the amount and type of such gear and the appropriate unit of fishing effort; and

(5) other information required under subsection[1] 1853(a)(5) of this title or requested by the Council under section 1881a of this title.

(d) Use of registration

Any registration recommended under this section shall not be considered a permit for the purposes of this chapter, and the Secretary may not propose to revoke, suspend, deny, or impose any other conditions or restrictions on any such registration or the use of such registration under this chapter.

(e) Public comment

Within one year after October 11, 1996, the Secretary shall publish in the Federal Register for a 60-day public comment period a proposal that would provide for implementation of a standardized fishing vessel registration and information collection system that meets the requirements of subsections (a) through (c) of this section. The proposal shall include—

(1) a description of the arrangements of the Secretary for consultation and cooperation with the department in which the Coast Guard is operating, the States, the Councils, Marine Fisheries Commissions, the fishing industry and other interested parties; and

[1] So in original. Probably should be ''section''.

(2) any proposed regulations or legislation necessary to implement the proposal.

(f) Congressional transmittal

Within 60 days after the end of the comment period and after consideration of comments received under subsection (e) of this section, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a recommended proposal for implementation of a national fishing vessel registration system that includes—

(1) any modifications made after comment and consultation;

(2) a proposed implementation schedule, including a schedule for the proposed cooperative agreements required under subsection (a)(4) of this section; and

(3) recommendations for any such additional legislation as the Secretary considers necessary or desirable to implement the proposed system.

(g) Recreational fisheries

(1) Federal program

The Secretary shall establish and implement a regionally based registry program for recreational fishermen in each of the 8 fishery management regions. The program, which shall not require a fee before January 1, 2011, shall provide for—

(A) the registration (including identification and contact information) of individuals who engage in recreational fishing—

(i) in the Exclusive Economic Zone;

(ii) for anadromous species; or

(iii) for Continental Shelf fishery resources beyond the Exclusive Economic Zone; and

(B) if appropriate, the registration (including the ownership, operator, and identification of the vessel) of vessels used in such fishing.

(2) State programs

The Secretary shall exempt from registration under the program recreational fishermen and charter fishing vessels licensed, permitted, or registered under the laws of a State if the Secretary determines that information from the State program is suitable for the Secretary's use or is used to assist in completing marine recreational fisheries statistical surveys, or evaluating the effects of proposed conservation and management measures for marine recreational fisheries.

(3) Data collection

(A) Improvement of the marine recreational fishery statistics survey

Within 24 months after January 12, 2007, the Secretary, in consultation with representatives of the recreational fishing industry and experts in statistics, technology, and other appropriate fields, shall establish a program to improve the quality and accuracy of information generated by the Marine Recreational Fishery Statistics Survey, with a goal of achieving acceptable accuracy and utility for each individual fishery.

(B) NRC report recommendations

The program shall take into consideration and, to the extent feasible, implement the recommendations of the National Research Council in its report Review of Recreational Fisheries Survey Methods (2006), including—

(i) redesigning the Survey to improve the effectiveness and appropriateness of sampling and estimation procedures, its applicability to various kinds of management decisions, and its usefulness for social and economic analyses; and

(ii) providing for ongoing technical evaluation and modification as needed to meet emerging management needs.

(C) Methodology

Unless the Secretary determines that alternate methods will achieve this goal more efficiently and effectively, the program shall, to the extent possible, include—

(i) an adequate number of intercepts to accurately estimate recreational catch and effort;

(ii) use of surveys that target anglers registered or licensed at the State or Federal level to collect participation and effort data;

(iii) collection and analysis of vessel trip report data from charter fishing vessels;

(iv) development of a weather corrective factor that can be applied to recreational catch and effort estimates; and

(v) an independent committee composed of recreational fishermen, academics, persons with expertise in stock assessments and survey design, and appropriate personnel from the National Marine Fisheries Service to review the collection estimates, geographic, and other variables related to dockside intercepts and to identify deficiencies in recreational data collection, and possible correction measures.

(D) Deadline

The Secretary shall complete the program under this paragraph and implement the improved Marine Recreational Fishery Statistics Survey not later than January 1, 2009.

(4) Report

Within 24 months after establishment of the program, the Secretary shall submit a report to Congress that describes the progress made toward achieving the goals and objectives of the program.

(Pub. L. 94–265, title IV, § 401, as added Pub. L. 104–297, title II, § 202, Oct. 11, 1996, 110 Stat. 3605; amended Pub. L. 109–479, title II, § 201, Jan. 12, 2007, 120 Stat. 3611.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (d), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Marine Mammal Protection Act, referred to in subsec. (a)(1), probably means the Marine Mammal Pro-

tection Act of 1972, Pub. L. 92–522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to chapter 31 (§ 1361 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

PRIOR PROVISIONS

A prior section 1881, Pub. L. 94–265, title IV, § 401, Apr. 13, 1976, 90 Stat. 359, related to authority to amend regulations to conform to Law of the Sea Treaty, prior to repeal by Pub. L. 99–659, title I, § 110, Nov. 14, 1986, 100 Stat. 3715.

AMENDMENTS

2007—Subsec. (g). Pub. L. 109–479 added subsec. (g) and struck out former subsec. (g) which required a report to Congress.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1881a. Information collection

(a) Collection programs

(1) Council requests

If a Council determines that additional information would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this paragraph regarding a Council request shall be made within a reasonable period of time after receipt of that request.

(2) Secretarial initiation

If the Secretary determines that additional information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information collection or observer program requiring submission of such additional information for the fishery.

(b) Confidentiality of information

(1) Any information submitted to the Secretary, a State fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this chapter shall be confidential and shall not be disclosed except—

(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;

(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person;

(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

(D) when required by court order;

(E) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);

(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this chapter;

(G) when such information is required to be submitted to the Secretary for any determination under a limited access program; or

(H) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 468(a)(2) of title 6.

(2) Any observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (H) of paragraph (1), or—

(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;

(B) when such information is necessary in proceedings to adjudicate observer certifications; or

(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

(ii) to validate the accuracy of the observer information collected.

(3) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or

regulation under this chapter, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this chapter or the use, release, or publication of bycatch information pursuant to paragraph (2)(A).

(c) Restriction on use of certain information

(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this chapter, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such chapter or Acts or regulations thereunder.

(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

(d) Contracting authority

Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

(1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or

(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

(e) Resource assessments

(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

(2) The Secretary, in consultation with the appropriate Council and the fishing industry—

(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

(C) may permit fish harvested during such survey to count toward a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.

(Pub. L. 94–265, title IV, § 402, as added Pub. L. 104–297, title II, § 203, Oct. 11, 1996, 110 Stat. 3607; amended Pub. L. 109–479, § 3(d)(1)(A), title II, §§ 202, 203(a), Jan. 12, 2007, 120 Stat. 3578, 3612, 3613.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(1), (3) and (c)(1), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Marine Mammal Protection Act of 1972, referred to in subsec. (c)(1), is Pub. L. 92–522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to chapter 31 (§ 1361 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

The Endangered Species Act, referred to in subsec. (c)(1), probably means the Endangered Species Act of 1973, Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

PRIOR PROVISIONS

A prior section 402 of Pub. L. 94–265 repealed former sections 1081 to 1086 and 1091 to 1094 of this title, prior to being amended generally by Pub. L. 104–297.

AMENDMENTS

2007—Subsec. (a). Pub. L. 109–479, § 202, substituted ''Collection programs'' for ''Council requests'' in heading, designated existing provisions as par. (1), inserted heading, realigned margins, in first sentence, struck out ''(other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations)'' after ''additional information'' and ''types of information'', in last sentence, substituted ''paragraph'' for ''subsection'', and added par. (2).

Subsec. (b). Pub. L. 109–479, § 203(a)(1), (2), added pars. (1) and (2), redesignated former par. (2) as (3) and realigned margins, and struck out former par. (1) which related to confidentiality of information submitted to the Secretary and exceptions.

Subsec. (b)(1)(D). Pub. L. 109–479, § 3(d)(1)(A), substituted ''a limited access privilege'' for ''an individual fishing quota''.

Subsec. (b)(3). Pub. L. 109–479, § 203(a)(3), substituted ''(2)(A).'' for ''(1)(E).''

§ 1881b. Observers

(a) Guidelines for carrying observers

Within one year after October 11, 1996, the Secretary shall promulgate regulations, after no-

tice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

(b) Training

The Secretary, in cooperation with the appropriate States and the National Sea Grant College Program, shall—

(1) establish programs to ensure that each observer receives adequate training in collecting and analyzing the information necessary for the conservation and management purposes of the fishery to which such observer is assigned;

(2) require that an observer demonstrate competence in fisheries science and statistical analysis at a level sufficient to enable such person to fulfill the responsibilities of the position;

(3) ensure that an observer has received adequate training in basic vessel safety; and

(4) make use of university and any appropriate private nonprofit organization training facilities and resources, where possible, in carrying out this subsection.

(c) Observer status

An observer on a vessel and under contract to carry out responsibilities under this chapter or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) shall be deemed to be a Federal employee for the purpose of compensation under the Federal Employee Compensation Act (5 U.S.C. 8101 et seq.).

(Pub. L. 94–265, title IV, §403, as added Pub. L. 104–297, title II, §204, Oct. 11, 1996, 110 Stat. 3609.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Marine Mammal Protection Act of 1972, referred to in subsec. (c), is Pub. L. 92–522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to chapter 31 (§1361 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

The Federal Employee Compensation Act, referred to in subsec. (c), is act Sept. 7, 1916, ch. 458, 39 Stat. 742, as amended, which was repealed and the provisions thereof were reenacted as subchapter I (§8101 et seq.) of chapter 81 of Title 5, Government Organization and Employees, by Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 378.

PRIOR PROVISIONS

A prior section 403 of Pub. L. 94–265 amended sections 1972 and 1973 of Title 22, Foreign Relations and Intercourse, and enacted provisions formerly set out as notes under sections 1972 and 1973 of Title 22, prior to being amended generally by Pub. L. 104–297.

§ 1881c. Fisheries research

(a) In general

The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this chapter. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics and social characteristics of the fisheries.

(b) Strategic plan

Within one year after October 11, 1996, and at least every 3 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the 5 years immediately following such publication. The plan shall—

(1) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in subsection (c) of this section;

(2) indicate goals and timetables for the program described in paragraph (1);

(3) provide a role for commercial fishermen in such research, including involvement in field testing;

(4) provide for collection and dissemination, in a timely manner, of complete and accurate information concerning fishing activities, catch, effort, stock assessments, and other research conducted under this section; and

(5) be developed in cooperation with the Councils and affected States, and provide for coordination with the Councils, affected States, and other research entities.

(c) Areas of research

Areas of research are as follows:

(1) Research to support fishery conservation and management, including but not limited to, biological research concerning the abundance and life history parameters of stocks of fish, the interdependence of fisheries or stocks of fish, the identification of essential fish habitat, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other factors affecting the abundance and availability of fish.

(2) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and any adverse effects on essential fish habitat and promote efficient harvest of target species.

(3) Research on the fisheries, including the social, cultural, and economic relationships among fishing vessel owners, crew, United States fish processors, associated shoreside labor, seafood markets and fishing communities.

(4) Information management research, including the development of a fishery information base and an information management system that will permit the full use of information in the support of effective fishery conservation and management.

(d) Public notice

In developing the plan required under subsection (a) of this section, the Secretary shall

consult with relevant Federal, State, and international agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.

(Pub. L. 94–265, title IV, § 404, as added Pub. L. 104–297, title II, § 205, Oct. 11, 1996, 110 Stat. 3609; amended Pub. L. 109–479, title II, § 203(b), Jan. 12, 2007, 120 Stat. 3614.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

PRIOR PROVISIONS

A prior section 404 of Pub. L. 94–265, amended section 1362 of this title and enacted provisions formerly set out as a note under section 1362 of this title, prior to being amended generally by Pub. L. 104–297.

AMENDMENTS

2007—Subsec. (c)(4). Pub. L. 109–479 struck out ''under section 1881 of this title'' after ''system''.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

STUDY OF CONTRIBUTION OF BYCATCH TO CHARITABLE ORGANIZATIONS

Section 208 of Pub. L. 104–297, as amended by Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that:

''(a) STUDY.—The Secretary of Commerce shall conduct a study of the contribution of bycatch to charitable organizations by commercial fishermen. The study shall include determinations of—

''(1) the amount of bycatch that is contributed each year to charitable organizations by commercial fishermen;

''(2) the economic benefits to commercial fishermen from those contributions; and

''(3) the impact on fisheries of the availability of those benefits.

''(b) REPORT.—Not later than 1 year after the date of enactment of this Act [Oct. 11, 1996], the Secretary of Commerce shall submit to the Congress a report containing determinations made in the study under subsection (a).

''(c) BYCATCH DEFINED.—In this section the term 'bycatch' has the meaning given that term in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1802], as amended by section 102 of this Act.''

§ 1881d. Incidental harvest research

(a) Collection of information

Within nine months after October 11, 1996, the Secretary shall, after consultation with the Gulf Council and South Atlantic Council, conclude the collection of information in the program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the authority of such Councils. Within the same time period, the Secretary shall make available to the public aggregated summaries of information collected prior to June 30, 1994 under such program.

(b) Identification of stock

The program concluded pursuant to subsection (a) of this section shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

(c) Collection and assessment of specific stock information

For stocks of fish identified pursuant to subsection (b) of this section, with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

(1) a program to collect and evaluate information on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

(2) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

(3) a program of information collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

(d) Bycatch reduction program

Not later than 12 months after October 11, 1996, the Secretary shall, in cooperation with affected interests, and based upon the best scientific information available, complete a program to—

(1) develop technological devices and other changes in fishing operations necessary and appropriate to minimize the incidental mortality of bycatch in the course of shrimp trawl activity to the extent practicable, taking into account the level of bycatch mortality in the fishery on November 28, 1990;

(2) evaluate the ecological impacts and the benefits and costs of such devices and changes in fishing operations; and

(3) assess whether it is practicable to utilize bycatch which is not avoidable.

(e) Report to Congress

The Secretary shall, within one year of completing the programs required by this section, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.

(f) Implementation criteria

To the extent practicable, any conservation and management measure implemented under

this chapter to reduce the incidental mortality of bycatch in the course of shrimp trawl fishing shall be consistent with—

(1) measures applicable to fishing throughout the range in United States waters of the bycatch species concerned; and

(2) the need to avoid any serious adverse environmental impacts on such bycatch species or the ecology of the affected area.

(Pub. L. 94–265, title IV, § 405, as added Pub. L. 104–297, title II, § 206, Oct. 11, 1996, 110 Stat. 3611.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (f), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

PRIOR PROVISIONS

A prior section 405 of Pub. L. 94–265, amended section 971 of this title and enacted provisions formerly set out as a note under section 971 of this title, prior to being amended generally by Pub. L. 104–297.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 1882. Fisheries systems research

(a) Establishment of panel

Not later than 180 days after October 11, 1996, the Secretary shall establish an advisory panel under this chapter to develop recommendations to expand the application of ecosystem principles in fishery conservation and management activities.

(b) Panel membership

The advisory panel shall consist of not more than 20 individuals and include—

(1) individuals with expertise in the structures, functions, and physical and biological characteristics of ecosystems; and

(2) representatives from the Councils, States, fishing industry, conservation organizations, or others with expertise in the management of marine resources.

(c) Recommendations

Prior to selecting advisory panel members, the Secretary shall, with respect to panel members described in subsection (b)(1) of this section, solicit recommendations from the National Academy of Sciences.

(d) Report

Within 2 years after October 11, 1996, the Secretary shall submit to the Congress a completed report of the panel established under this section, which shall include—

(1) an analysis of the extent to which ecosystem principles are being applied in fishery conservation and management activities, including research activities;

(2) proposed actions by the Secretary and by the Congress that should be undertaken to expand the application of ecosystem principles in fishery conservation and management; and

(3) such other information as may be appropriate.

(e) Procedural matter

The advisory panel established under this section shall be deemed an advisory panel under section 1852(g) of this title.

(f) Regional ecosystem research

(1) Study

Within 180 days after January 12, 2007, the Secretary, in consultation with the Councils, shall undertake and complete a study on the state of the science for advancing the concepts and integration of ecosystem considerations in regional fishery management. The study should build upon the recommendations of the advisory panel and include—

(A) recommendations for scientific data, information and technology requirements for understanding ecosystem processes, and methods for integrating such information from a variety of federal,[1] state,[1] and regional sources;

(B) recommendations for processes for incorporating broad stake holder participation;

(C) recommendations for processes to account for effects of environmental variation on fish stocks and fisheries; and

(D) a description of existing and developing council efforts to implement ecosystem approaches, including lessons learned by the councils.

(2) Agency technical advice and assistance, regional pilot programs

The Secretary is authorized to provide necessary technical advice and assistance, including grants, to the Councils for the development and design of regional pilot programs that build upon the recommendations of the advisory panel and, when completed, the study.

(Pub. L. 94–265, title IV, § 406, Apr. 13, 1976, 90 Stat. 361; Pub. L. 95–354, § 1, Aug. 28, 1978, 92 Stat. 519; Pub. L. 96–61, § 1, Aug. 15, 1979, 93 Stat. 407; Pub. L. 97–453, § 14(a), Jan. 12, 1983, 96 Stat. 2492; Pub. L. 99–659, title I, § 111(a), Nov. 14, 1986, 100 Stat. 3715; Pub. L. 101–627, title I, § 119, Nov. 28, 1990, 104 Stat. 4459; Pub. L. 104–297, title II, § 207(a), Oct. 11, 1996, 110 Stat. 3612; Pub. L. 109–479, title II, § 210, Jan. 12, 2007, 120 Stat. 3617.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

CODIFICATION

October 11, 1996, referred to in subsec. (d), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 104–297, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

2007—Subsec. (f). Pub. L. 109–479 added subsec. (f).

[1] So in original. Probably should be capitalized.

1996—Pub. L. 104–297 amended section catchline and text generally. Prior to amendment, section authorized appropriations to carry out this chapter for fiscal year ending June 30, 1976 to fiscal year ending September 30, 1993.

1990—Pars. (16) to (19). Pub. L. 101–627 added pars. (16) to (19).

1986—Pars. (12) to (15). Pub. L. 99–659 added pars. (12) to (15).

1983—Pars. (9) to (11). Pub. L. 97–453 added pars. (9) to (11).

1979—Pars. (6) to (8). Pub. L. 96–61 added pars. (6) to (8).

1978—Par. (5). Pub. L. 95–354 added par. (5).

§ 1883. Gulf of Mexico red snapper research

(a) Independent peer review

(1) Within 30 days of October 11, 1996, the Secretary shall initiate an independent peer review to evaluate—

(A) the accuracy and adequacy of fishery statistics used by the Secretary for the red snapper fishery in the Gulf of Mexico to account for all commercial, recreational, and charter fishing harvests and fishing effort on the stock;

(B) the appropriateness of the scientific methods, information, and models used by the Secretary to assess the status and trends of the Gulf of Mexico red snapper stock and as the basis for the fishery management plan for the Gulf of Mexico red snapper fishery;

(C) the appropriateness and adequacy of the management measures in the fishery management plan for red snapper in the Gulf of Mexico for conserving and managing the red snapper fishery under this chapter; and

(D) the costs and benefits of all reasonable alternatives to a limited access privilege program for the red snapper fishery in the Gulf of Mexico.

(2) The Secretary shall ensure that commercial, recreational, and charter fishermen in the red snapper fishery in the Gulf of Mexico are provided an opportunity to—

(A) participate in the peer review under this subsection; and

(B) provide information to the Secretary concerning the review of fishery statistics under this subsection without being subject to penalty under this chapter or other applicable law for any past violation of a requirement to report such information to the Secretary.

(3) The Secretary shall submit a detailed written report on the findings of the peer review conducted under this subsection to the Gulf Council no later than one year after October 11, 1996.

(b) Prohibition

In addition to the restrictions under section 1853(d)(1)(A) of this title, the Gulf Council may not, prior to October 1, 2002, undertake or continue the preparation of any fishery management plan, plan amendment or regulation under this chapter for the Gulf of Mexico commercial red snapper fishery that creates an individual fishing quota program or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class.

(c) Referendum

(1) On or after October 1, 2002, the Gulf Council may prepare and submit a fishery management plan, plan amendment, or regulation for the Gulf of Mexico commercial red snapper fishery that creates a limited access privilege program or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class, only if the preparation of such plan, amendment, or regulation is approved in a referendum conducted under paragraph (2) and only if the submission to the Secretary of such plan, amendment, or regulation is approved in a subsequent referendum conducted under paragraph (2).

(2) The Secretary, at the request of the Gulf Council, shall conduct referendums under this subsection. Only a person who held an annual vessel permit with a red snapper endorsement for such permit on September 1, 1996 (or any person to whom such permit with such endorsement was transferred after such date) and vessel captains who harvested red snapper in a commercial fishery using such endorsement in each red snapper fishing season occurring between January 1, 1993, and such date may vote in a referendum under this subsection. The referendum shall be decided by a majority of the votes cast. The Secretary shall develop a formula to weigh votes based on the proportional harvest under each such permit and endorsement and by each such captain in the fishery between January 1, 1993, and September 1, 1996. Prior to each referendum, the Secretary, in consultation with the Council, shall—

(A) identify and notify all such persons holding permits with red snapper endorsements and all such vessel captains; and

(B) make available to all such persons and vessel captains information about the schedule, procedures, and eligibility requirements for the referendum and the proposed individual fishing quota program.

(d) Catch limits

Any fishery management plan, plan amendment, or regulation submitted by the Gulf Council for the red snapper fishery after October 11, 1996, shall contain conservation and management measures that—

(1) establish separate quotas for recreational fishing (which, for the purposes of this subsection shall include charter fishing) and commercial fishing that, when reached, result in a prohibition on the retention of fish caught during recreational fishing and commercial fishing, respectively, for the remainder of the fishing year; and

(2) ensure that such quotas reflect allocations among such sectors and do not reflect any harvests in excess of such allocations.

(Pub. L. 94–265, title IV, § 407, as added Pub. L. 104–297, title II, § 207(b), Oct. 11, 1996, 110 Stat. 3612; amended Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 144(a)(3), (4)], Dec. 21, 2000, 114 Stat. 2763, 2763A–238; Pub. L. 109–479, § 3(d)(1)(B), Jan. 12, 2007, 120 Stat. 3578.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1)(C), (2)(B) and (b), was in the original ''this Act'', meaning Pub. L.

94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

2007—Subsecs. (a)(1)(D), (c)(1). Pub. L. 109–479 substituted ''a limited access privilege'' for ''an individual fishing quota''.

2000—Subsecs. (b), (c)(1). Pub. L. 106–554 substituted ''October 1, 2002,'' for ''October 1, 2000,''.

§ 1884. Deep sea coral research and technology program

(a) In general

The Secretary, in consultation with appropriate regional fishery management councils and in coordination with other federal[1] agencies and educational institutions, shall, subject to the availability of appropriations, establish a program—

(1) to identify existing research on, and known locations of, deep sea corals and submit such information to the appropriate Councils;

(2) to locate and map locations of deep sea corals and submit such information to the Councils;

(3) to monitor activity in locations where deep sea corals are known or likely to occur, based on best scientific information available, including through underwater or remote sensing technologies and submit such information to the appropriate Councils;

(4) to conduct research, including cooperative research with fishing industry participants, on deep sea corals and related species, and on survey methods;

(5) to develop technologies or methods designed to assist fishing industry participants in reducing interactions between fishing gear and deep sea corals; and

(6) to prioritize program activities in areas where deep sea corals are known to occur, and in areas where scientific modeling or other methods predict deep sea corals are likely to be present.

(b) Reporting

Beginning 1 year after January 12, 2007, the Secretary, in consultation with the Councils, shall submit biennial reports to Congress and the public on steps taken by the Secretary to identify, monitor, and protect deep sea coral areas, including summaries of the results of mapping, research, and data collection performed under the program.

(Pub. L. 94–265, title IV, § 408, as added Pub. L. 109–479, title II, § 211, Jan. 12, 2007, 120 Stat. 3618.)

SUBCHAPTER VI—MISCELLANEOUS

CODIFICATION

This subchapter was enacted as part of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

[1] So in original. Probably should be capitalized.

§ 1891. Investment in United States seafood processing facilities

The Secretary of Commerce shall work with the Small Business Administration and other Federal agencies to develop financial and other mechanisms to encourage United States investment in seafood processing facilities in the United States for fisheries that lack capacity needed to process fish harvested by United States vessels in compliance with the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(Pub. L. 109–479, title I, § 106(c), Jan. 12, 2007, 120 Stat. 3593.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in text, is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

CODIFICATION

Section was enacted as part of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

§ 1891a. Community-based restoration program for fishery and coastal habitats

(a) In general

The Secretary of Commerce shall establish a community-based fishery and coastal habitat restoration program to implement and support the restoration of fishery and coastal habitats.

(b) Authorized activities

In carrying out the program, the Secretary may—

(1) provide funding and technical expertise to fishery and coastal communities to assist them in restoring fishery and coastal habitat;

(2) advance the science and monitoring of coastal habitat restoration;

(3) transfer restoration technologies to the private sector, the public, and other governmental agencies;

(4) develop public-private partnerships to accomplish sound coastal restoration projects;

(5) promote significant community support and volunteer participation in fishery and coastal habitat restoration;

(6) promote stewardship of fishery and coastal habitats; and

(7) leverage resources through national, regional, and local public-private partnerships.

(Pub. L. 109–479, title I, § 117, Jan. 12, 2007, 120 Stat. 3606.)

CODIFICATION

Section was enacted as part of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

§ 1891b. Fisheries Conservation and Management Fund

(a) In general

The Secretary shall establish and maintain a fund, to be known as the ''Fisheries Conserva-

tion and Management Fund'', which shall consist of amounts retained and deposited into the Fund under subsection (c).

(b) Purposes

Subject to the allocation of funds described in subsection (d), amounts in the Fund shall be available to the Secretary of Commerce, without appropriation or fiscal year limitation, to disburse as described in subsection (e) for—

(1) efforts to improve fishery harvest data collection including—

(A) expanding the use of electronic catch reporting programs and technology; and

(B) improvement of monitoring and observer coverage through the expanded use of electronic monitoring devices and satellite tracking systems such as VMS on small vessels;

(2) cooperative fishery research and analysis, in collaboration with fishery participants, academic institutions, community residents, and other interested parties;

(3) development of methods or new technologies to improve the quality, health safety, and value of fish landed;

(4) conducting analysis of fish and seafood for health benefits and risks, including levels of contaminants and, where feasible, the source of such contaminants;

(5) marketing of sustainable United States fishery products, including consumer education regarding the health or other benefits of wild fishery products harvested by vessels of the United States;

(6) improving data collection under the Marine Recreational Fishery Statistics Survey in accordance with section 401(g)(3) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881(g)(3)); and

(7) providing financial assistance to fishermen to offset the costs of modifying fishing practices and gear to meet the requirements of this Act, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and other Federal laws in pari materia.

(c) Deposits to the Fund

(1) Quota set-asides

Any amount generated through quota set-asides established by a Council under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and designated by the Council for inclusion in the Fishery Conservation and Management Fund, may be deposited in the Fund.

(2) Other funds

In addition to amounts received pursuant to paragraph (1) of this subsection, the Fishery Conservation and Management Fund may also receive funds from—

(A) appropriations for the purposes of this section; and

(B) States or other public sources or private or non-profit organizations for purposes of this section.

(d) Regional allocation

The Secretary shall, every 2 years, apportion monies from the Fund among the eight Council regions according to recommendations of the Councils, based on regional priorities identified through the Council process, except that no region shall receive less than 5 percent of the Fund in each allocation period.

(e) Limitation on the use of the Fund

No amount made available from the Fund may be used to defray the costs of carrying out requirements of this Act or the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) other than those uses identified in this section.

(Pub. L. 109–479, title II, § 208, Jan. 12, 2007, 120 Stat. 3616.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (b)(7) and (e), is Pub. L. 109–479, Jan. 12, 2007, 120 Stat. 3575, known as the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006. For complete classification of this Act to the Code, see Short Title of 2007 Amendment note set out under section 1801 of this title and Tables.

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsecs. (b)(7), (c)(1), and (e), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

CODIFICATION

Section was enacted as part of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

§ 1891c. United States catch history

In establishing catch allocations under international fisheries agreements, the Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating, and the Secretary of State, shall ensure that all catch history associated with a vessel of the United States remains with the United States and is not transferred or credited to any other nation or vessel of such nation, including when a vessel of the United States is sold or transferred to a citizen of another nation or to an entity controlled by citizens of another nation.

(Pub. L. 109–479, title IV, § 407, Jan. 12, 2007, 120 Stat. 3634.)

CODIFICATION

Section was enacted as part of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

§ 1891d. Secretarial representative for international fisheries

(a) In general

The Secretary, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall designate a Senate-confirmed, senior official within the National Oceanic and Atmospheric Administration to perform the duties of the Secretary with respect to international agreements involving fisheries and other living

marine resources, including policy development and representation as a U.S. Commissioner, under any such international agreements.

(b) Advice

The designated official shall, in consultation with the Deputy Assistant Secretary for International Affairs and the Administrator of the National Marine Fisheries Service, advise the Secretary, Undersecretary of Commerce for Oceans and Atmosphere, and other senior officials of the Department of Commerce and the National Oceanic and Atmospheric Administration on development of policy on international fisheries conservation and management matters.

(c) Consultation

The designated official shall consult with the Senate Committee on Commerce, Science, and Transportation and the House Committee on Resources on matters pertaining to any regional or international negotiation concerning living marine resources, including shellfish.

(d) Delegation

The designated official may delegate and authorize successive re-delegation of such functions, powers, and duties to such officers and employees of the National Oceanic and Atmospheric Administration as deemed necessary to discharge the responsibility of the Office.

(e) Effective date

This section shall take effect on January 1, 2009.

(Pub. L. 109–479, title IV, § 408, Jan. 12, 2007, 120 Stat. 3634.)

CODIFICATION

Section was enacted as part of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

CHAPTER 39—MINING ACTIVITY WITHIN NATIONAL PARK SYSTEM AREAS

Sec.
1901. Congressional findings and declaration of policy.
1902. Preservation and management of areas by Secretary of the Interior; promulgation of regulations.
1903 to 1906. Omitted.
1907. Recordation of mining claims; publication of notice.
1908. Damage to natural and historical landmarks; procedures for determination and enforcement of abatement of damaging activities.
1909. Severability.
1910. Civil actions for just compensation by mining claim holders.
1911. Acquisition of land by Secretary.
1912. Financial disclosure by officer or employee of Secretary.

§ 1901. Congressional findings and declaration of policy

The Congress finds and declares that—

(a) the level of technology of mineral exploration and development has changed radically in recent years and continued application of the mining laws of the United States to those areas of the National Park System to which it applies, conflicts with the purposes for which they were established; and

(b) all mining operations in areas of the National Park System should be conducted so as to prevent or minimize damage to the environment and other resource values, and, in certain areas of the National Park System, surface disturbance from mineral development should be temporarily halted while Congress determines whether or not to acquire any valid mineral rights which may exist in such areas.

(Pub. L. 94–429, § 1, Sept. 28, 1976, 90 Stat. 1342.)

SHORT TITLE

Pub. L. 94–429, which enacted this chapter, amended sections 123 and 450y–2 of this title, and repealed sections 350, 350a, 447, and 450z of this title, is popularly known as the ''Mining in the Parks Act''.

§ 1902. Preservation and management of areas by Secretary of the Interior; promulgation of regulations

In order to preserve for the benefit of present and future generations the pristine beauty of areas of the National Park System, and to further the purposes of sections 1, 2, 3, and 4 of this title, and the individual organic Acts for the various areas of the National Park System, all activities resulting from the exercise of valid existing mineral rights on patented or unpatented mining claims within any area of the National Park System shall be subject to such regulations prescribed by the Secretary of the Interior as he deems necessary or desirable for the preservation and management of those areas.

(Pub. L. 94–429, § 2, Sept. 28, 1976, 90 Stat. 1342.)

§§ 1903 to 1906. Omitted

CODIFICATION

Section 1903, Pub. L. 94–429, § 4, Sept. 28, 1976, 90 Stat. 1343, provided for a 4-year cessation of certain mining operations within the boundaries of Death Valley National Monument, Mount McKinley National Park, and Organ Pipe Cactus National Monument, subject to exceptions.

Section 1904, Pub. L. 94–429, § 5, Sept. 28, 1976, 90 Stat. 1343, provided for inapplicability of requirements for annual expenditures on mining claims to mining operations during the 4-year period under section 1903.

Section 1905, Pub. L. 94–429, § 6, Sept. 28, 1976, 90 Stat. 1343, provided that within 2 years the Secretary of the Interior determine the validity of unpatented mining claims within Glacier Bay National Monument, Death Valley and Organ Pipe Cactus National Monuments and Mount McKinley National Park, submit to Congress recommendations for acquisition of valid claims, and study and submit to Congress recommendations for modifications of existing boundaries of the Death Valley Monument and the Glacier Bay National Monument.

Section 1906, Pub. L. 94–429, § 7, Sept. 28, 1976, 90 Stat. 1343, provided that within 4 years the Secretary determine the validity of unpatented mining claims within Crater Lake National Park, Coronado National Memorial, and Glacier Bay National Monument, and submit

to Congress recommendations for acquisition of valid claims.

§ 1907. Recordation of mining claims; publication of notice

All mining claims under the Mining Law of 1872, as amended and supplemented (30 U.S.C. chapters 2, 12A, and 16 and sections 161 and 162) which lie within the boundaries of units of the National Park System shall be recorded with the Secretary of the Interior within one year after September 28, 1976. Any mining claim not so recorded shall be conclusively presumed to be abandoned and shall be void. Such recordation will not render valid any claim which was not valid on September 28, 1976, or which becomes invalid thereafter. Within thirty days following September 28, 1976, the Secretary shall publish notice of the requirement for such recordation in the Federal Register. He shall also publish similar notices in newspapers of general circulation in the areas adjacent to those units of the National Park System listed in section 3 of this Act.

(Pub. L. 94–429, § 8, Sept. 28, 1976, 90 Stat. 1343.)

REFERENCES IN TEXT

Section 3 of this Act, referred to in text, is section 3 of Pub. L. 94–429, which amended sections 123 and 450y–2 of this title; repealed sections 350, 350a, 447, and 450z of this title; and repealed act June 22, 1936 (49 Stat. 1817) which was not classified to the Code. The units of the National Park System listed in such section 3 are: Crater Lake National Park, Mount McKinley National Park, Death Valley National Monument, Glacier Bay National Monument, Coronado National Memorial, and Organ Pipe Cactus National Monument.

§ 1908. Damage to natural and historical landmarks; procedures for determination and enforcement of abatement of damaging activities

(a) Whenever the Secretary of the Interior finds on his own motion or upon being notified in writing by an appropriate scientific, historical, or archeological authority, that a district, site, building, structure, or object which has been found to be nationally significant in illustrating natural history or the history of the United States and which has been designated as a natural or historical landmark may be irreparably lost or destroyed in whole or in part by any surface mining activity, including exploration for or removal or production of minerals or materials, he shall notify the person conducting such activity and submit a report thereon, including the basis for his finding that such activity may cause irreparable loss or destruction of a national landmark, to the Advisory Council on Historic Preservation, with a request for advice of the Council as to alternative measures that may be taken by the United States to mitigate or abate such activity.

(b) Omitted

(Pub. L. 94–429, § 9, Sept. 28, 1976, 90 Stat. 1343.)

CODIFICATION

Subsec. (b) provided that within 2 years the Advisory Council on Historic Preservation report to Congress on effect of surface mining activities on natural and historical landmarks, including recommendations for protective legislation.

§ 1909. Severability

If any provision of this chapter is declared to be invalid, such declaration shall not affect the validity of any other provision herein.

(Pub. L. 94–429, § 10, Sept. 28, 1976, 90 Stat. 1344.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 94–429, which, in addition to enacting this chapter, amended sections 123 and 450y–2 of this title, and repealed sections 350, 350a, 447, and 450z of this title.

§ 1910. Civil actions for just compensation by mining claim holders

The holder of any patented or unpatented mining claim subject to this chapter who believes he has suffered a loss by operation of this chapter, or by orders or regulations issued pursuant thereto, may bring an action in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution.

(Pub. L. 94–429, § 11, Sept. 28, 1976, 90 Stat. 1344; Pub. L. 98–620, title IV, § 402(21), Nov. 8, 1984, 98 Stat. 3358.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 94–429, which, in addition to enacting this chapter, amended sections 123 and 450y–2 of this title, and repealed sections 350, 350a, 447, and 450z of this title.

AMENDMENTS

1984—Pub. L. 98–620 struck out provision which required the court to expedite its consideration of any claim brought pursuant to this section.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

§ 1911. Acquisition of land by Secretary

Nothing in this chapter shall be construed to limit the authority of the Secretary to acquire lands and interests in lands within the boundaries of any unit of the National Park System. The Secretary is to give prompt and careful consideration to any offer made by the owner of any valid right or other property within the areas named in section 1905 of this title to sell such right or other property, if such owner notifies the Secretary that the continued ownership of such right or property is causing, or would result in, undue hardship.

(Pub. L. 94–429, § 12, Sept. 28, 1976, 90 Stat. 1344.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 94–429, which, in addition to enacting this chapter, amended sections 123 and 450y–2 of this title, and repealed sections 350, 350a, 447, and 450z of this title.

Section 1905 of this title, referred to in text, was omitted from the Code.

§ 1912. Financial disclosure by officer or employee of Secretary

(a) Filing and availability of written statements; contents

Each officer or employee of the Secretary of the Interior who—

(1) performs any function or duty under this Act, or any Acts amended by this Act concerning the regulation of mining within the National Park System; and

(2) has any known financial interest (A) in any person subject to such Acts, or (B) in any person who holds a mining claim within the boundaries of units of the National Park System;

shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) Enforcement procedures

The Secretary shall—

(1) act within ninety days after September 28, 1976—

(A) to define the term ''known financial interest'' for purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) Exemptions

In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within such agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Violation; penalty

Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

(Pub. L. 94–429, § 13, Sept. 28, 1976, 90 Stat. 1344.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1), is Pub. L. 94–429, which enacted this chapter, amended sections 123 and 450y–2 of this title, and repealed sections 350, 350a, 447, and 450z of this title. For complete classification of this Act to the Code, see Tables.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (b)(2) of this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 110 of House Document No. 103–7.

CHAPTER 40—SOIL AND WATER RESOURCES CONSERVATION

Sec.
2001. Congressional findings.
2002. Definitions.
2003. Congressional policy and declaration of purpose.
2004. Continuing appraisal of soil, water, and related resources.
2005. Soil and water conservation program.
2005a, 2005b. Repealed.
2006. Reports to Congress.
2007. Authorization of appropriations.
2008. Utilization of available information and data.
2009. Termination of program.

§ 2001. Congressional findings

The Congress finds that:

(1) There is a growing demand on the soil, water, and related resources of the Nation to meet present and future needs.

(2) The Congress, in its concern for sustained use of the resource base of the United States, has ensured that the Department of Agriculture possesses information, technical expertise, and a delivery system for providing assistance to land users with respect to conservation and use of soils; plants; woodlands; watershed protection and flood prevention; the conservation, development, utilization, and disposal of water; animal husbandry; fish and wildlife management; recreation; community development; and related resource uses.

(3) Appraisal and inventory of resources, assessment and inventory of conservation needs, evaluation of the effects of conservation practices, and analyses of alternative approaches to existing conservation programs are basic to effective soil, water, and related natural resource conservation.

(4) Since individual and governmental decisions concerning soil and water resources often transcend administrative boundaries and affect other programs and decisions, a coordinated appraisal and program framework are essential.

(Pub. L. 95–192, § 2, Nov. 18, 1977, 91 Stat. 1407; Pub. L. 103–354, title II, § 246(f)(2)(A), Oct. 13, 1994, 108 Stat. 3225; Pub. L. 110–234, title II, § 2804(a), May 22, 2008, 122 Stat. 1086; Pub. L. 110–246, § 4(a), title II, § 2804(a), June 18, 2008, 122 Stat. 1664, 1814.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Par. (2). Pub. L. 110–246, § 2804(a)(1), substituted ''base of the'' for ''base, of the''.

Pars. (3), (4). Pub. L. 110–246, § 2804(a)(2), added par. (3), redesignated former par. (3) as (4), and struck out ''Resource appraisal is basic to effective soil and water conservation.'' before ''Since individual''.

1994—Par. (2). Pub. L. 103–354 struck out ''created the Soil Conservation Service'' after ''resource base,'' and substituted '', has ensured that the Department of Agriculture'' for ''Department of Agriculture which'' after ''United States''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the

date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

SHORT TITLE

Section 1 of Pub. L. 95–192 provided: ''That this Act [enacting this chapter] may be cited as the 'Soil and Water Resources Conservation Act of 1977'.''

§ 2002. Definitions

As used in this chapter:

(1) The term ''Secretary'' means the Secretary of Agriculture.

(2) The term ''soil, water, and related resources'' means those resources which come within the scope of the programs administered and participated in by the Secretary of Agriculture.

(3) The term ''soil and water conservation program'' means a set of guidelines for attaining the purposes of this chapter.

(Pub. L. 95–192, § 3, Nov. 18, 1977, 91 Stat. 1407; Pub. L. 103–354, title II, § 246(f)(2)(B), Oct. 13, 1994, 108 Stat. 3225.)

AMENDMENTS

1994—Par. (2). Pub. L. 103–354 struck out ''through the Soil Conservation Service'' after ''Agriculture''.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 2003. Congressional policy and declaration of purpose

(a) Responsiveness to long-term needs

In order to further the conservation of soil, water, and related resources, it is declared to be the policy of the United States and purpose of this chapter that the conduct of programs administered by the Secretary of Agriculture for the conservation of such resources shall be responsive to the long-term needs of the Nation, as determined under the provisions of this chapter.

(b) Full utilization of cooperative arrangements with State agencies

Recognizing that the arrangements under which the Federal Government cooperates with State soil and water conservation agencies and other appropriate State natural resource agencies such as those concerned with forestry and fish and wildlife and, through conservation districts, with other local units of government and land users, have effectively aided in the protection and improvement of the Nation's basic resources, including the restoration and maintenance of resources damaged by improper use, it is declared to be the policy of the United States that these arrangements and similar cooperative arrangements should be utilized to the fullest extent practicable to achieve the purpose of this chapter consistent with the roles and responsibilities of the non-Federal agencies, landowners and land users.

(c) Attainment of policies and purposes

The Secretary shall promote the attainment of the policies and purposes expressed in this chapter by—

(1) appraising on a continuing basis the soil, water, and related resources of the Nation;

(2) developing and updating periodically a program for furthering the conservation, protection, and enhancement of the soil, water, and related resources of the Nation consistent with the roles and program responsibilities of other Federal agencies and State and local governments; and

(3) providing to Congress and the public, through reports, the information developed pursuant to paragraphs (1) and (2) of this subsection, and by providing Congress with an annual evaluation report as provided in section 2006 of this title.

(Pub. L. 95–192, § 4, Nov. 18, 1977, 91 Stat. 1407.)

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this chapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 2002 of this title.

§ 2004. Continuing appraisal of soil, water, and related resources

(a) Data

In recognition of the importance of and need for obtaining and maintaining information on the current status of soil, water, and related resources, the Secretary is authorized and directed to carry out a continuing appraisal of the soil, water, and related resources of the Nation. The appraisal shall include, but not be limited to—

(1) data on the quality and quantity of soil, water, and related resources, including fish and wildlife habitats;

(2) data on the capability and limitations of those resources for meeting current and projected demands on the resource base;

(3) data on the changes that have occurred in the status and condition of those resources resulting from various past uses, including the impact of farming technologies, techniques, and practices;

(4) data on current Federal and State laws, policies, programs, rights, regulations, ownerships, and their trends and other consider-

ations relating to the use, development, and conservation of soil, water, and related resources;

(5) data on the costs and benefits of alternative soil and water conservation practices;

(6) data on alternative irrigation techniques regarding their costs, benefits, and impact on soil and water conservation, crop production, and environmental factors; and

(7) data on conservation plans, conservation practices planned or implemented, environmental outcomes, economic costs, and related matters under conservation programs administered by the Secretary.

(b) Collection of data

The appraisal shall utilize data collected under this chapter and pertinent data and information collected by the Department of Agriculture and other Federal, State, and local agencies and organizations. The Secretary shall establish an integrated system capable of using combinations of resource data to determine the quality and capabilities for alternative uses of the resource base and to identify areas of local, State, and National concerns and related roles pertaining to soil and water conservation, resource use and development, and environmental improvement.

(c) Public participation

The appraisal shall be made in cooperation with conservation districts, State soil and water conservation agencies, and other appropriate citizen groups, and local and State agencies under such procedures as the Secretary may prescribe to insure public participation.

(d) Evaluation of appraisal

In conducting the appraisal described in subsection (a), the Secretary shall concurrently solicit and evaluate recommendations for improving the appraisal, including the content, scope, process, participation in, and other elements of the appraisal, as determined by the Secretary.

(e) Completion dates

The Secretary shall conduct comprehensive appraisals under this section, to be completed by December 31, 2010, and December 31, 2015. The Secretary may make such additional interim appraisals as the Secretary considers appropriate.

(Pub. L. 95–192, § 5, Nov. 18, 1977, 91 Stat. 1408; Pub. L. 99–198, title XII, § 1252(a), Dec. 23, 1985, 99 Stat. 1516; Pub. L. 110–234, title II, § 2804(b), May 22, 2008, 122 Stat. 1086; Pub. L. 110–246, § 4(a), title II, § 2804(b), June 18, 2008, 122 Stat. 1664, 1814.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a)(7). Pub. L. 110–246, § 2804(b)(1), added par. (7).

Subsecs. (d), (e). Pub. L. 110–246, § 2804(b)(2)–(4), added subsec. (d), redesignated former subsec. (d) as (e), and substituted ''The Secretary shall conduct comprehensive appraisals under this section, to be completed by December 31, 2010, and December 31, 2015.'' for ''The Secretary shall conduct four comprehensive appraisals under this section, to be completed by December 31, 1979, December 31, 1986, December 31, 1995, and December 31, 2005, respectively.''

1985—Subsec. (d). Pub. L. 99–198 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''The appraisal shall be completed by December 31, 1979, and at each five-year interval thereafter during the period this chapter is in effect.''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this chapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 2002 of this title.

§ 2005. Soil and water conservation program

(a) Program development

The Secretary is hereby authorized and directed to develop in cooperation with and participation by the public through conservation districts, State and national organizations and agencies, and other appropriate means, a national soil and water conservation program (hereinafter called the ''program'') to be used as a guide in carrying out the activities of the Secretary which assist landowners and land users, at their request, in furthering soil and water conservation on the private and non-Federal lands of the Nation. The program shall set forth direction for future soil and water conservation efforts of the United States Department of Agriculture based on the current soil, water, and related resource appraisal developed in accordance with section 2004 of this title, taking into consideration both the long- and short-term needs of the Nation, the landowners, and the land users, and the roles and responsibilities of Federal, State, and local governments in such conservation efforts. The program shall also include but not be limited to—

(1) analysis of the Nation's soil, water, and related resource problems;

(2) analysis of existing Federal, State, and local government authorities and adjustments needed;

(3) an evaluation of the effectiveness of the soil and water conservation ongoing programs and the overall progress being achieved by Federal, State, and local programs and the landowners and land users in meeting the soil and water conservation objectives of this chapter;

(4) identification and evaluation of alternative methods for the conservation, protection, environmental improvement, and enhancement of soil and water resources, in the context of alternative time frames, and a recommendation of the preferred alternatives and the extent to which they are being implemented;

(5) investigation and analysis of the practicability, desirability, and feasibility of col-

lecting organic waste materials, including manure, crop and food wastes, industrial organic waste, municipal sewage sludge, logging and wood-manufacturing residues, and any other organic refuse, composting, or similarly treating such materials, transporting and placing such materials onto the land to improve soil tilth and fertility. The analysis shall include the projected cost of such collection, transportation, and placement in accordance with sound locally approved soil and water conservation practices;

(6) analysis of the Federal and non-Federal inputs required to implement the program;

(7) analysis of costs and benefits of alternative soil and water conservation practices; and

(8) investigation and analysis of alternative irrigation techniques regarding their costs, benefits, and impact on soil and water conservation, crop production, and environmental factors.

(b) Evaluation of existing conservation programs

In evaluating existing conservation programs, the Secretary shall emphasize demonstration, innovation, and monitoring of specific program components in order to encourage further development and adoption of practices and performance-based standards.

(c) Improvement to program

In developing a national soil and water conservation program under subsection (a), the Secretary shall solicit and evaluate recommendations for improving the program, including the content, scope, process, participation in, and other elements of the program, as determined by the Secretary.

(d) Completion dates

The initial program shall be completed not later than December 31, 2011, and December 31, 2016, respectively.[1]

(Pub. L. 95–192, § 6, Nov. 18, 1977, 91 Stat. 1409; Pub. L. 99–198, title XII, § 1252(b), Dec. 23, 1985, 99 Stat. 1516; Pub. L. 103–354, title II, § 246(f)(2)(C), Oct. 13, 1994, 108 Stat. 3225; Pub. L. 110–234, title II, § 2804(c), May 22, 2008, 122 Stat. 1087; Pub. L. 110–246, § 4(a), title II, § 2804(c), June 18, 2008, 122 Stat. 1664, 1815.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsecs. (b) to (d). Pub. L. 110–246, § 2804(c), added subsecs. (b) and (c), redesignated former subsec. (b) as (d), and substituted ''December 31, 2011, and December 31, 2016'' for ''December 31, 1979, and program updates shall be completed by December 31, 1987, December 31, 1997, and December 31, 2007''.

1994—Subsec. (a). Pub. L. 103–354 in first sentence of introductory provisions substituted ''Secretary'' for ''Soil Conservation Service'' before ''which assist''.

1985—Subsec. (b). Pub. L. 99–198 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The program plan shall be completed not later than December 31, 1979, and be updated at each five-year interval thereafter during the period this chapter is in effect.''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this chapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 2002 of this title.

§ 2005a. Repealed. Pub. L. 104–127, title III, § 336(e), Apr. 4, 1996, 110 Stat. 1007

Section, Pub. L. 99–198, title XII, § 1251, Dec. 23, 1985, 99 Stat. 1516, related to technical assistance for water resources.

§ 2005b. Repealed. Pub. L. 107–171, title II, § 2502(b), May 13, 2002, 116 Stat. 267

Section, Pub. L. 104–127, title III, § 386, Apr. 4, 1996, 110 Stat. 1017, related to conservation of private grazing land. See section 3839bb of this title.

§ 2006. Reports to Congress

(a) Appraisal

Not later than the date on which Congress convenes in 2011 and 2016, the President shall transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate the appraisal developed under section 2004 of this title and completed before the end of the previous year.

(b) Program and statement of policy

Not later than the date on which Congress convenes in 2012 and 2017, the President shall transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—

(1) the initial program or updated program developed under section 2005 of this title and completed before the end of the previous year;

(2) a detailed statement of policy regarding soil and water conservation activities of the Department of Agriculture; and

(3) a special evaluation of the status, conditions, and trends of soil quality on cropland in the United States that addresses the challenges and opportunities for reducing soil erosion to tolerance levels.

(c) Improvements to appraisal and program

Not later than the date on which Congress convenes in 2012, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the plans of the Department of Agriculture for improving the resource appraisal and national conservation program required under this chapter, based on the recommenda-

[1] So in original. See 2008 Amendment note below.

tions received under sections 2004(d) and 2005(c) of this title.

(Pub. L. 95–192, § 7, Nov. 18, 1977, 91 Stat. 1410; Pub. L. 99–198, title XII, § 1252(c), Dec. 23, 1985, 99 Stat. 1516; Pub. L. 110–234, title II, § 2804(d), May 22, 2008, 122 Stat. 1087; Pub. L. 110–246, § 4(a), title II, § 2804(d), June 18, 2008, 122 Stat. 1664, 1815.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, § 2804(d), amended section generally. Prior to amendment, section related to transmission of appraisal developed under section 2004 of this title at the time Congress convened in 1980, 1987, 1996, and 2006, transmission of program developed under section 2005 of this title and statement of policy at the time Congress convened in 1980, 1988, 1998, and 2008, and annual report on program effectiveness.

1985—Subsec. (a). Pub. L. 99–198, § 1252(c)(1), added subsec. (a) and struck out former subsec. (a) which read as follows: ''On the first day Congress convenes in 1980 and at each five-year interval thereafter during the period this chapter is in effect the President shall transmit to the Speaker of the House of Representatives and the President of the Senate, the appraisal and the program as required by sections 2004 and 2005 of this title, together with a detailed statement of policy regarding soil and water conservation activities of the United States Department of Agriculture.''

Subsecs. (b), (c). Pub. L. 99–198, § 1252(c)(2), (3), struck out subsec. (b) which provided for an annual report of program and policy achievement, and redesignated subsec. (c) as (b).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 2007. Authorization of appropriations

There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this chapter.

(Pub. L. 95–192, § 8, Nov. 18, 1977, 91 Stat. 1411.)

§ 2008. Utilization of available information and data

In the implementation of this chapter, the Secretary shall utilize information and data available from other Federal, State, and local governments, and private organizations and he shall coordinate his actions with the resource appraisal and planning efforts of other Federal agencies and avoid unnecessary duplication and overlap of planning and program efforts.

(Pub. L. 95–192, § 9, Nov. 18, 1977, 91 Stat. 1411.)

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this chapter to Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 2002 of this title.

§ 2009. Termination of program

The provisions of this chapter shall terminate on December 31, 2018.

(Pub. L. 95–192, § 10, Nov. 18, 1977, 91 Stat. 1411; Pub. L. 99–198, title XII, § 1252(d), Dec. 23, 1985, 99 Stat. 1517; Pub. L. 110–234, title II, § 2804(e), May 22, 2008, 122 Stat. 1088; Pub. L. 110–246, § 4(a), title II, § 2804(e), June 18, 2008, 122 Stat. 1664, 1816.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, § 2804(e), substituted ''2018'' for ''2008''.

1985—Pub. L. 99–198 substituted ''2008'' for ''1985''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

CHAPTER 41—COOPERATIVE FORESTRY ASSISTANCE

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§ 2101. Findings, purpose, and policy

(a) Findings

Congress finds that—

(1) most of the productive forest land of the United States is in private, State, and local governmental ownership, and the capacity of the United States to produce renewable forest resources is significantly dependent on such non-Federal forest lands;

(2) adequate supplies of timber and other forest resources are essential to the United

States, and adequate supplies are dependent on efficient methods for establishing, managing, and harvesting trees and processing, marketing, and using wood and wood products;

(3) nearly one-half of the wood supply of the United States comes from nonindustrial private timberlands and such percentage could rise with expanded assistance programs;

(4) managed forest lands provide habitats for fish and wildlife, as well as aesthetics, outdoor recreation opportunities, and other forest resources;

(5) the soil, water, and air quality of the United States can be maintained and improved through good stewardship of privately held forest resources;

(6) insects and diseases affecting trees occur and sometimes create emergency conditions on all land, whether Federal or non-Federal, and efforts to prevent and control such insects and diseases often require coordinated action by both Federal and non-Federal land managers;

(7) fires in rural areas threaten human lives, property, forests and other resources, and Federal-State cooperation in forest fire protection has proven effective and valuable;

(8) trees and forests are of great environmental and economic value to urban areas;

(9) managed forests contribute to improving the quality, quantity, and timing of water yields that are of broad benefit to society;

(10) over half the forest lands of the United States are in need of some type of conservation treatment;

(11) forest landowners are being faced with increased pressure to convert their forest land to development and other purposes;

(12) increased population pressures and user demands are being placed on private, as well as public, landholders to provide a wide variety of products and services, including fish and wildlife habitat, aesthetic quality, and recreational opportunities;

(13) stewardship of privately held forest resources requires a long-term commitment that can be fostered through local, State, and Federal governmental actions;

(14) the Department of Agriculture, through the coordinated efforts of its agencies with forestry responsibilities, cooperating with other Federal agencies, State foresters, and State political subdivisions, has the expertise and experience to assist private landowners in achieving individual goals and public benefits regarding forestry;

(15) the products and services resulting from nonindustrial private forest land stewardship provide income and employment that contribute to the economic health and diversity of rural communities;[1]

(16) sustainable agroforestry systems and tree planting in semiarid lands can improve environmental quality and maintain farm yields and income; and[1]

(18)[2] the same forest resource supply, protection, and management issues that exist in the United States are also present on an international scale, and the forest and rangeland renewable resources of the world are threatened by deforestation due to conversion to agriculture of lands better suited to other purposes, over-grazing, over-harvesting, and other causes which pose a direct adverse threat to people, the global environment, and the world economy.[1]

(b) Purpose

It is the purpose of this chapter to authorize the Secretary of Agriculture (hereafter in this chapter referred to as the ''Secretary''), with respect to non-Federal forest lands in the United States, and forest lands in foreign countries, of the United States, to assist in—

(1) the establishment of a coordinated and cooperative Federal, State, and local forest stewardship program for management of the non-Federal forest lands;

(2) the encouragement of the production of timber;

(3) the prevention and control of insects and diseases affecting trees and forests;

(4) the prevention and control of rural fires;

(5) the efficient utilization of wood and wood residues, including the recycling of wood fiber;

(6) the improvement and maintenance of fish and wildlife habitat;

(7) the planning and conduct of urban forestry programs;

(8) broadening existing forest management, fire protection, and insect and disease protection programs on non-Federal forest lands to meet the multiple use objectives of landowners in an environmentally sensitive manner;

(9) providing opportunities to private landowners to protect ecologically valuable and threatened non-Federal forest lands; and

(10) strengthening educational, technical, and financial assistance programs that provide assistance to owners of non-Federal forest lands in the United States, and forest lands in foreign countries,.[3]

(c) Priorities

In allocating funds appropriated or otherwise made available under this chapter, the Secretary shall focus on the following national private forest conservation priorities, notwithstanding other priorities specified elsewhere in this chapter:

(1) Conserving and managing working forest landscapes for multiple values and uses.

(2) Protecting forests from threats, including catastrophic wildfires, hurricanes, tornados, windstorms, snow or ice storms, flooding, drought, invasive species, insect or disease outbreak, or development, and restoring appropriate forest types in response to such threats.

(3) Enhancing public benefits from private forests, including air and water quality, soil conservation, biological diversity, carbon storage, forest products, forestry-related jobs, production of renewable energy, wildlife, wildlife corridors and wildlife habitat, and recreation.

(d) Reporting requirement

Not later than September 30, 2011, the Secretary shall submit to Congress a report describ-

[1] See 1990 Amendment note below.

[2] So in original. Probably should be ''(17)''.

[3] So in original.

ing how funds were used under this chapter, and through other programs administered by the Secretary, to address the national priorities specified in subsection (c) and the outcomes achieved in meeting the national priorities.

(e) Policy

It is the policy of Congress that it is in the national interest for the Secretary to work through and in cooperation with State foresters, or equivalent State officials, nongovernmental organizations, and the private sector in implementing Federal programs affecting non-Federal forest lands.

(f) Construction

This chapter shall be construed to complement the policies and direction under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.).

(Pub. L. 95–313, § 2, July 1, 1978, 92 Stat. 365; Pub. L. 101–513, title VI, § 611(b)(1), (2), formerly § 607(b)(1), (2), Nov. 5, 1990, 104 Stat. 2072, renumbered § 611(b)(1), (2), Pub. L. 102–574, § 2(a)(1), Oct. 29, 1992, 106 Stat. 4593; Pub. L. 101–624, title XII, § 1212, Nov. 28, 1990, 104 Stat. 3521; Pub. L. 110–234, title VIII, § 8001, May 22, 2008, 122 Stat. 1279; Pub. L. 110–246, § 4(a), title VIII, § 8001, June 18, 2008, 122 Stat. 1664, 2041.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) to (d) and (f), was in the original ''this Act'', meaning Pub. L. 95–313, July 1, 1978, 92 Stat. 365, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (f), is Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, which is classified generally to subchapter I (§ 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Pub. L. 101–513 and Pub. L. 101–624 were approved by the President after Congress adjourned and in reverse order of passage by Congress. Accordingly, the amendments made by Pub. L. 101–624 were executed to text prior to the amendments made by Pub. L. 101–513 to reflect the probable intent of Congress.

AMENDMENTS

2008—Subsecs. (c) to (f). Pub. L. 110–246, § 8001, added subsecs. (c) and (d) and redesignated former subsecs. (c) and (d) as (e) and (f), respectively.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions which set forth Congressional findings and declarations, and statements of purpose and national interest, and which related to application with forest and rangeland renewable resources provisions. See Codification note above.

Pub. L. 101–513, § 607(b)(1), directed the amendment of subsec. (a) by striking out ''and'' at end of par. (16), substituting ''; and'' for period at end of par. (17), and adding par. (18) at end. The amendment of pars. (16) and (17) was executed to pars. (15) and (16) to reflect the probable intent of Congress. See Codification note above.

Pub. L. 101–513, § 607(b)(2), which directed the amendment of subsec. (b) by inserting ''in the United States, and forest lands in foreign countries,'' after ''non-Federal forest lands,'' the first place it appears and in paragraph (10), was executed by making the insertion after ''non-Federal forest lands'' to reflect the probable intent of Congress. See Codification note above.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE

Section 17, formerly section 14, of Pub. L. 95–313, as renumbered § 17 by Pub. L. 101–624, title XII, § 1215(1), Nov. 28, 1990, 104 Stat. 3525, provided that: ''The provisions of this Act [see Short Title note below] shall become effective October 1, 1978.''

SHORT TITLE OF 1990 AMENDMENT

Section 1201 of title XII of Pub. L. 101–624 provided that: ''This title [enacting sections 582a–8, 1648, 1649, 1674a, 2103a to 2103c, 2106a, 2113, and 2114 of this title, amending this section and sections 1642, 1672, 1674, 2102 to 2106, and 2108 to 2110 of this title, and enacting provisions set out as notes under this section and sections 582a, 1601, 1642, and 2112 of this title] may be cited as the 'Forest Stewardship Act of 1990'.''

SHORT TITLE

Section 1 of Pub. L. 95–313 provided: ''That this Act [enacting this chapter, amending sections 1510 and 1606 of this title, repealing sections 565, 566, 567, 568c to 568e, 594–1 to 594–5, 594a, and 1509 of this title, and sections 2651 to 2654 of Title 7, Agriculture, enacting provisions set out as notes under this section and section 1606 of this title, and repealing provisions set out as notes under sections 568c and 594–1 of this title] may be cited as the 'Cooperative Forestry Assistance Act of 1978'.''

AMERICA THE BEAUTIFUL ACT OF 1990

Subtitle C (§§ 1261–1266) of title XII of Pub. L. 101–624, as amended by Pub. L. 102–237, title X, § 1018(e), Dec. 13, 1991, 105 Stat. 1905, provided that:

''SEC. 1261. SHORT TITLE.

''This subtitle may be cited as the 'America the Beautiful Act of 1990'.

''SEC. 1262. FINDINGS.

''Congress finds that—

''(1) trees and forests provide beauty and diversity to both rural and urban landscapes;

''(2) trees and forests protect the United States's soil, water, and wetland resources by filtering runoff and preventing erosion;

''(3) trees and forests provide food and cover for many species of wildlife;

''(4) trees and forests provide shade, block winds, and add moisture to the air, thereby mitigating the urban 'heat island' effect and significantly reducing energy use;

''(5) trees and forests make important contributions to the environmental, social, and economic well-being of both rural and urban areas across the United States; and

''(6) stewardship of trees and forests could be significantly enhanced by encouraging, promoting, and supporting partnerships and community service projects involving individuals, youth groups, organizations, businesses and governments at all levels.

''SEC. 1263. PURPOSES.

''The purposes of this subtitle are to—

''(1) authorize the President to designate a private nonprofit foundation as eligible for a one-time grant from the Secretary of Agriculture, to be used for promoting public awareness and a spirit of volunteerism, soliciting private sector contributions, and over-

seeing the use of these contributions to encourage tree planting projects in communities and urban areas;

''(2) promote the principles of basic forest stewardship through the nationwide planting, improvement, and maintenance of trees in order to increase reforestation, enhance the environmental and aesthetic qualities of the United States's rural and urban areas, and reduce global carbon dioxide levels;

''(3) authorize the Secretary of Agriculture to provide increased financial and technical assistance to State forestry agencies and others, and enter into cost-sharing agreements with individuals, for the purpose of encouraging owners of nonindustrial private lands to plant and maintain trees and improve forests in rural areas; and

''(4) authorize the Secretary of Agriculture to provide increased financial and technical assistance to State forestry agencies and others for the purpose of encouraging units of local government, civic groups, and individuals to plant and maintain trees and improve forests in communities and urban areas.

''SEC. 1264. TREE PLANTING FOUNDATION.

''(a) PURPOSE.—The purpose of this section is to authorize the President to designate a private nonprofit Foundation as eligible to receive a grant from the Department of Agriculture to be used—

''(1) to provide grants, including matching grants, to qualifying nonprofit organizations (including youth groups), municipalities, counties, towns and townships for the implementation of programs to promote public awareness and a spirit of volunteerism in support of tree planting, maintenance, management, protection, and cultivation projects in rural areas, communities and urban areas throughout the United States;

''(2) to solicit public and private sector contributions through the mobilization of individuals, businesses, governments, and community organizations with the goal of increasing the number of trees planted, maintained, managed, and protected in rural areas, communities and urban environments;

''(3) to accept and administer public and private gifts and make grants, including matching grants, to encourage local participation, for the planting, maintenance, management, protection, and cultivation of trees; and

''(4) to ensure that our descendants will be able to share their ancestors' pride when referring to their land as 'America the Beautiful'.

''(b) AUTHORITY.—The President is authorized to designate a private nonprofit organization (hereafter in this section referred to as the 'Foundation') as eligible to receive funds pursuant to subsections (d) and (e) upon determining that such organization can, consistent with its charter, carry out the purposes stated in subsection (a), and that the officers of such organization have the experience and expertise necessary to direct the activities of the organization. Nothing in this section shall be construed to make officers, employees, or members of the board of directors of the Foundation officers or employees of the United States. The Foundation shall be a private and nonprofit organization and not an agency or establishment of the United States.

''(c) IMPLEMENTATION.—The Foundation shall carry out this section in accordance with the purposes stated in subsection (a).

''(d) FUNDING.—For fiscal year 1991, the Secretary is authorized to make a grant of not to exceed $25,000,000 to the Foundation.

''(e) USE OF FUNDS.—Funds made available pursuant to subsection (d) shall be granted to the Foundation by the Secretary to enable the Foundation to carry out the purposes specified in subsection (a).

''(f) INTEREST.—Notwithstanding any other provision of law, the Foundation may hold funds made available pursuant to subsection (e) in interest-bearing accounts prior to the disbursement of the funds for purposes specified in subsection (a) and may retain to carry out such purposes any interest earned on the deposits.

''(g) LIMITATIONS ON USES OF FUNDS.—

''(1) IN GENERAL.—The Foundation may use funds provided by this section only for making grants to qualified organizations, municipalities, counties, towns and townships for the implementation of projects and activities that are consistent with the purposes specified in subsection (a).

''(2) QUALIFIED ORGANIZATIONS.—For the purposes of this section, qualified organizations shall consist of those organizations that meet the requirements of section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and have demonstrated a capability to implement the project or activity for which the Foundation funds will be used.

''(h) COMPENSATION FROM OUTSIDE SOURCES.—An officer or employee of the Foundation may not receive any salary or other compensation for services rendered to the Foundation from any source other than the Foundation.

''(i) STOCK AND DIVIDENDS.—The Foundation shall not issue any shares of stock or declare or pay any dividends.

''(j) LOBBYING.—The Foundation shall not engage in lobbying or propaganda for the purpose of influencing legislation and shall not participate or intervene in any political campaign on behalf of any candidate for public office.

''(k) SALARY; TRAVEL AND EXPENSES; CONFLICTS OF INTEREST.—

''(1) PERSONAL BENEFIT FROM FUNDS.—No part of the funds of the Foundation shall inure to the benefit of any board member, officer, or employee of the Foundation, except as salary or reasonable compensation for services or expenses.

''(2) TRAVEL AND EXPENSE REIMBURSEMENT.—Compensation for board members shall be limited to reimbursement for reasonable costs of travel and expenses.

''(3) CONFLICTS OF INTEREST.—No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation affecting—

''(A) the financial interests of the director, officer, or employee; or

''(B) the interests of any corporation, partnership, entity, or organization in which such director, officer, or employee—

''(i) is an officer, director, or trustee; or

''(ii) has any direct or indirect financial interest.

''(*l*) RECORDS; AUDITS.—The Foundation shall ensure that—

''(1) each recipient of assistance provided through the Foundation under this section maintains, for at least 5 years after the receipt of the assistance, separate accounts with respect to the assistance and such records as may be reasonably necessary to disclose fully—

''(A) the amount and the disposition by the recipient of the proceeds of the assistance;

''(B) the total cost of the project or undertaking in connection with which the assistance is given or used;

''(C) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

''(D) such other records as will facilitate an effective audit; and

''(2) the Foundation and any duly authorized representative of the Foundation shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Foundation under this section.

''(m) AUDITS.—

''(1) INDEPENDENT AUDITS.—For the fiscal year in which the Foundation receives the grant awarded

under subsection (e), and for the succeeding 5 fiscal years, the accounts of the Foundation shall be audited annually in accordance with generally accepted auditing standards by an independent certified public accountant or an independent licensed public accountant certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by subsection (n).

''(2) AGENCY AUDITS.—For the fiscal year in which the Foundation receives the grant awarded under subsection (d), and for the succeeding 5 fiscal years, the financial transactions undertaken pursuant to this section by the Foundation may be audited by any agency designated by the President.

''(n) ANNUAL REPORTS.—

''(1) IN GENERAL.—Not later than 3 months after the conclusion of each fiscal year, the Foundation shall publish an annual report that includes a comprehensive and detailed report of the operations, activities, financial condition, and accomplishments of the Foundation under this subtitle during the fiscal year.

''(2) TERMINATION.—The obligation of the Foundation to publish annual reports pursuant to this subsection shall terminate after publication of the report incorporating the findings of the final audit in accordance with procedures required by subsection (*l*).

''(*o*) PROHIBITION ON COMMERCIAL HARVEST.—Trees planted pursuant to a program receiving funds under this section may not be commercially harvested and sold for Christmas trees.

''(p) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $25,000,000 to be granted by the Secretary of Agriculture to the Foundation. All funds appropriated under this section may remain available until expended.

''SEC. 1265. RURAL TREE PLANTING AND FOREST MANAGEMENT PROGRAM.

''The Secretary of Agriculture is authorized to establish a rural tree planting and forest management program as a special component of the forest stewardship program and the stewardship incentive program established under sections 5 and 6 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2102) [16 U.S.C. 2103a, 2103b] (as amended by subtitle A). Such program shall terminate on December 31, 2001.

''SEC. 1266. COMMUNITY TREE PLANTING AND IMPROVEMENT PROGRAM.

''The Secretary of Agriculture is authorized to establish a community tree planting and improvement program as a special component of the urban and community forestry assistance program established under section 9 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105) (as amended by section 1219). Such program shall terminate on December 31, 2001.''

TREE PLANTING INITIATIVE

Pub. L. 99–198, title XII, §1256, as added by Pub. L. 101–624, title XIV, §1441(a), Nov. 28, 1990, 104 Stat. 3601, set forth policy relating to maintenance, afforestation, and reforestation of forest lands and provisions relating to implementation of policy and agreements with State forestry agencies, prior to repeal by Pub. L. 104–127, title III, §336(e), Apr. 4, 1996, 110 Stat. 1007.

TRANSFER OF FOREST TREE NURSERY FACILITIES TO STATES

Pub. L. 87–492, June 25, 1962, 76 Stat. 107, provided: ''That the Congress recognizes that for many years the United States and certain States have cooperated in the production of tree planting stock for use in the reforestation of the public and private lands of the Nation; that the program of production of tree planting stock which was initiated and pursued under the Soil Bank Act (7 U.S.C. 1801 et seq.) [repealed] was carried on under written agreements which provided for (a) cooperation between the Forest Service, on behalf of the United States, and the States which participated in the program, (b) payments to said States for costs and expenses incurred in the development of nursery facilities, (c) the holding of such funds by the States in trust for the purpose of carrying out the provisions of said agreements, and (d) restoration to the trust fund of an amount equal to the residual value of any supplies, materials, equipment, or improvements acquired or constructed with trust funds and transferred to State forestry work other than the soil bank program; that such program under said Soil Bank Act has been discontinued, but the need for the trees continues to be great; that the States and Federal Government are cooperating in the procurement, production, and distribution of forest-tree seeds and plants under section 4 of the Clarke-McNary Act of June 7, 1924 (16 U.S.C. 567), and in the reforestation of lands under title IV of the Agricultural Act of 1956 (16 U.S.C. 568e and 568g); and that said participating States need the said supplies, materials, equipment, or improvements for use in connection with their respective forestry programs, and it is in the public interest to permit these States to use said property without the requirement that payment be made for the residual value thereof.

''SEC. 2. For the purpose of assisting those States which participated in the program carried on under the Soil Bank Act [section 1801 et seq. of Title 7, Agriculture] [repealed] in continuing the production of needed tree planting stock and in other forestry programs, the Secretary of Agriculture is authorized to permit any supplies, materials, equipment, or improvements acquired or constructed with trust funds under the agreements referred to in section 1 to be used in such State forestry work as may further the objectives of related Federal programs, as he may approve, without the requirement that any payment be made by the State into the trust funds.''

§ 2101a. State-wide assessment and strategies for forest resources

(a) Assessment and strategies for forest resources

For a State to be eligible to receive funds under the authorities of this chapter, the State forester of that State or equivalent State official shall develop and submit to the Secretary, not later than two years after the date of enactment of the Food, Conservation, and Energy Act of 2008, the following:

(1) A State-wide assessment of forest resource conditions, including—

(A) the conditions and trends of forest resources in that State;

(B) the threats to forest lands and resources in that State consistent with the national priorities specified in section 2101(c) of this title;

(C) any areas or regions of that State that are a priority; and

(D) any multi-State areas that are a regional priority.

(2) A long-term State-wide forest resource strategy, including—

(A) strategies for addressing threats to forest resources in the State outlined in the assessment required by paragraph (1); and

(B) a description of the resources necessary for the State forester or equivalent State official from all sources to address the State-wide strategy.

(b) Updating

At such times as the Secretary determines to be necessary, the State forester or equivalent

State official shall update and resubmit to the Secretary the State-wide assessment and State-wide strategy required by subsection (a).

(c) Coordination

In developing or updating the State-wide assessment and State-wide strategy required by subsection (a), the State Forester or equivalent State official shall coordinate with—

(1) the State Forest Stewardship Coordinating Committee established for the State under section 2113(b) of this title;

(2) the State wildlife agency, with respect to strategies contained in the State wildlife action plans;

(3) the State Technical Committee;

(4) applicable Federal land management agencies; and

(5) for purposes of the Forest Legacy Program under section 2103c of this title, the State lead agency designated by the Governor.

(d) Incorporation of other plans

In developing or updating the State-wide assessment and State-wide strategy required by subsection (a), the State forester or equivalent State official shall incorporate any forest management plan of the State, including community wildfire protection plans and State wildlife action plans.

(e) Sufficiency

Once approved by the Secretary, a State-wide assessment and State-wide strategy developed under subsection (a) shall be deemed to be sufficient to satisfy all relevant State planning and assessment requirements under this chapter.

(f) Funding

(1) Authorization of appropriations

There are authorized to be appropriated to carry out this section up to $10,000,000 for each of fiscal years 2008 through 2012.

(2) Additional funding sources

In addition to the funds appropriated for a fiscal year pursuant to the authorization of appropriations in paragraph (1) to carry out this section, the Secretary may use any other funds made available for planning under this chapter to carry out this section, except that the total amount of combined funding used to carry out this section may not exceed $10,000,000 in any fiscal year.

(g) Annual report on use of funds

The State forester or equivalent State official shall submit to the Secretary an annual report detailing how funds made available to the State under this chapter are being used.

(Pub. L. 95–313, § 2A, as added Pub. L. 110–234, title VIII, § 8002, May 22, 2008, 122 Stat. 1280, and Pub. L. 110–246, § 4(a), title VIII, § 8002, June 18, 2008, 122 Stat. 1664, 2041.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (e), (f)(2), and (g), was in the original ''this Act'', meaning Pub. L. 95–313, July 1, 1978, 92 Stat. 365, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

The date of enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsec. (a), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

§ 2102. Rural forestry assistance

(a) Assistance to forest landowners and others

The Secretary may provide financial, technical, educational, and related assistance to State foresters or equivalent State officials, and State extension directors, to enable such officials to provide technical information, advice, and related assistance to private forest land owners and managers, vendors, forest resource operators, forest resource professionals, public agencies, and individuals to enable such persons to carry out activities that are consistent with the purposes of this chapter, including—

(1) protecting, maintaining, enhancing, restoring, and preserving forest lands and the multiple values and uses that depend on such lands;

(2) identifying, protecting, maintaining, enhancing, and preserving wildlife and fish species, including threatened and endangered species, and their habitats;

(3) implementing forest management technologies;

(4) selecting, producing, and marketing alternative forest crops, products and services from forest lands;

(5) protecting forest land from damage caused by fire, insects, disease, and damaging weather;

(6) managing the rural-land and urban-land interface to balance the use of forest resources in and adjacent to urban and community areas;

(7) identifying and managing recreational forest land resources;

(8) identifying and protecting the aesthetic character of forest lands;

(9) protecting forest land from conversion to alternative uses; and

(10) the management of resources of forest lands, including—

(A) the harvesting, processing, and marketing of timber and other forest resources and the marketing and utilization of wood and wood products;

(B) the conversion of wood to energy for domestic, industrial, municipal, and other uses;

(C) the planning, management, and treatment of forest land, including site preparation, reforestation, thinning, prescribed burning, and other silvicultural activities designed to increase the quantity and improve the quality of timber and other forest resources;

(D) ensuring that forest regeneration or reforestation occurs if needed to sustain long-term resource productivity;

(E) protecting and improving forest soil fertility and the quality, quantity, and timing of water yields; and

(F) encouraging the investment of a portion of the proceeds from the sale of timber or other forest resources in stewardship activities that preserve, protect, maintain, and enhance their forest land.

(b) State forestry assistance

The Secretary is authorized to provide financial, technical, and related assistance to State foresters, or equivalent State officials, to—

(1) develop genetically improved tree seeds;

(2) develop and contract for the development of field arboretums, greenhouses, and tree nurseries, in cooperation with a State, to facilitate production and distribution of tree seeds and seedlings in States where the Secretary determines that there is an inadequate capacity to carry out present and future reforestation needs;

(3) procure, produce, and distribute tree seeds and trees for the purpose of establishing forests, windbreaks, shelterbelts, woodlots, and other plantings;

(4) plant tree seeds and seedlings on non-Federal forest lands that are suitable for the production of timber, recreation, and for other benefits associated with the growing of trees;

(5) plan, organize, and implement measures on non-Federal forest lands, including thinning, prescribed burning, and other silvicultural activities designed to increase the quantity and improve the quality of trees and other vegetation, fish and wildlife habitat, and water yielded therefrom; and

(6) protect or improve soil fertility on non-Federal forest lands and the quality, quantity, and timing of water yields therefrom.

(c) Implementation

In implementing this section, the Secretary shall cooperate with other Federal, State, and local natural resource management agencies, universities and the private sector.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 95–313, § 3, July 1, 1978, 92 Stat. 366; Pub. L. 101–624, title XII, § 1213, Nov. 28, 1990, 104 Stat. 3523.)

AMENDMENTS

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions which set forth Congressional findings relating to rural forestry assistance, related to financial, technical, and related assistance to State foresters or equivalent State officials, and authorized appropriations.

§ 2103. Forest land enhancement program

(a) Establishment

(1) In general

The Secretary of Agriculture shall establish a forest land enhancement program—

(A) to provide financial assistance to State foresters; and

(B) to encourage the long-term sustainability of nonindustrial private forest lands in the United States by assisting the owners of nonindustrial private forest lands, through State foresters, in more actively managing the nonindustrial private forest lands and related resources of those owners through the use of State, Federal, and private sector resource management expertise, financial assistance, and educational programs.

(2) Coordination and consultation

The Secretary, acting through State foresters, shall implement the program—

(A) in coordination with the State Forest Stewardship Coordinating Committees; and

(B) in consultation with other Federal, State, and local natural resource management agencies, institutions of higher education, and a broad range of private sector interests.

(b) Program objectives

In implementing the program, the Secretary shall target resources to achieve the following objectives:

(1) Investing in practices to establish, restore, protect, manage, maintain, and enhance the health and productivity of the nonindustrial private forest lands in the United States for timber, habitat for flora and fauna, soil, water, and air quality, wetlands, and riparian buffers.

(2) Ensuring that afforestation, reforestation, improvement of poorly stocked stands, timber stand improvement, practices necessary to improve seedling growth and survival, and growth enhancement practices occur where needed to enhance and sustain the long-term productivity of timber and nontimber forest resources to help meet future public demand for all forest resources and provide environmental benefits.

(3) Reducing the risks and helping restore, recover, and mitigate the damage to forests caused by fire, insects, invasive species, disease, and damaging weather.

(4) Increasing and enhancing carbon sequestration opportunities.

(5) Enhancing implementation of agroforestry practices.

(6) Maintaining and enhancing the forest landbase and leverage State and local financial and technical assistance to owners that promote the same conservation and environmental values.

(7) Preserving the aesthetic quality of nonindustrial private forest lands and providing opportunities for outdoor recreation.

(c) State priority plan

(1) Development

The State Forester and State Forest Stewardship Coordinating Committee of a State shall jointly develop and submit to the Secretary a State priority plan that is intended to promote forest management objectives in that State.

(2) Report

Not later than September 30, 2006, each State that implemented a State priority plan shall submit to the Secretary a report describ-

ing the status of all activities and practices funded under the program as of that date.

(d) Owner eligibility for assistance

(1) Eligibility criteria

To be eligible for cost-share assistance under the program, an owner of nonindustrial private forest lands shall agree—

(A) to develop and implement, in cooperation with a State forester, another State official, or a professional resources manager, a management plan that—

(i) except as provided in paragraph (2) or (3), provides for the treatment of not more than 1,000 acres of nonindustrial private forest lands;

(ii) is approved by the State forester; and

(iii) addresses site specific activities and practices; and

(B) to implement approved activities and practices in a manner consistent with the management plan for a period of not less than 10 years, unless the State forester approves a modification to the plan.

(2) Public benefit exception

The Secretary may increase the acreage limitation specified in paragraph (1)(A)(i) to not more than 5,000 acres for an owner of nonindustrial private forest lands if the Secretary, in consultation with the State forester, determines that significant public benefits will accrue as a result of the provision of cost-share assistance under the program for the treatment of the additional acreage.

(3) Plan development exception

An owner may receive cost-share assistance under the program for the purpose of developing a management plan under subsection (e) of this section that provides for the treatment of acreage in excess of the acreage limitations specified in paragraphs (1)(A)(i) and (2), except that the owner's eligibility for cost-share assistance to implement approved activities and practices under the management plan remains subject to the acreage limitation specified in paragraph (1)(A)(i) or, if the Secretary makes the determination described in paragraph (2), the acreage limitation specified in that paragraph.

(e) Management plan

(1) Submission and content

An owner of nonindustrial private forest lands that seeks to participate in the program shall submit to the State forester of the State in which the lands are located a management plan that—

(A) identifies and describes projects and activities to be carried out by the owner to protect or enhance soil, water, air, range and aesthetic quality, recreation, timber, water, wetland, or fish and wildlife resources on the lands in a manner that is compatible with the objectives of the owner;

(B) addresses any criteria established by the State and the applicable Committee; and

(C) meets the other requirements of this section.

(2) Lands covered

At a minimum, the management plan shall apply to those portions of the nonindustrial private forest lands of the owner on which any project or activity funded under the program will be carried out. In a case in which a project or activity may affect acreage outside the portion of the land on which the project or activity is carried out, the management plan shall apply to all lands of the owner that are in forest cover and may be affected by the project or activity.

(f) Approved activities

(1) State list

The Secretary shall develop for each State a list of approved forest activities and practices eligible for cost-share assistance that meets the purposes of the program. The Secretary shall develop the list for a State in consultation with the State forester and the Committee for that State.

(2) Types of activities

Approved activities and practices under paragraph (1) may consist of activities and practices for the following purposes:

(A) The establishment, management, maintenance, and restoration of forests for shelterbelts, windbreaks, aesthetic quality, and other conservation purposes.

(B) The sustainable growth and management of forests for timber production.

(C) The restoration, use, and enhancement of forest wetland and riparian areas.

(D) The protection of water quality and watersheds through—

(i) the planting of trees in riparian areas; and

(ii) the enhanced management and maintenance of native vegetation on land vital to water quality.

(E) The management, maintenance, restoration, or development of habitat for plants, fish, and wildlife.

(F) The control, detection, monitoring, and prevention of the spread of invasive species and pests on nonindustrial private forest lands.

(G) The restoration of nonindustrial private forest land affected by invasive species and pests.

(H) The conduct of other management activities, such as the reduction of hazardous fuels, that reduce the risks to forests posed by, and that restore, recover, and mitigate the damage to forests caused by, fire or any other catastrophic event, as determined by the Secretary.

(I) The development of management plans;

(J) The conduct of energy conservation and carbon sequestration activities.

(K) The conduct of other activities approved by the Secretary, in consultation with the State forester and the appropriate Committees.

(g) Reimbursement of eligible activities

(1) In general

In the case of an eligible owner that has an approved management plan, the Secretary shall share the cost of implementing the approved activities and practices that the Secretary determines are appropriate.

(2) Rate

The Secretary shall determine the appropriate reimbursement rate for cost-share payments under paragraph (1) and the schedule for making those payments.

(3) Maximum cost share

The Secretary shall not make cost-share payments under this subsection to an owner in an amount in excess of 75 percent, or a lower percentage as determined by the State forester, of the total cost to the owner to implement the approved activities and practices under the management plan.

(4) Aggregate payment limit

The Secretary shall determine the maximum aggregate amount of cost-share payments that an owner may receive under the program.

(5) Consultation

The Secretary shall make determinations under this subsection in consultation with the State forester.

(h) Recapture

(1) In general

The Secretary shall establish and implement a mechanism to recapture payments made to an owner in the event that the owner fails to implement an approved activity or practice specified in the management plan for which the owner received cost-share payments.

(2) Additional remedy

The remedy provided in paragraph (1) is in addition to any other remedy available to the Secretary.

(i) Distribution of cost-share funds

The Secretary, acting through the State foresters, shall distribute funds available for cost sharing under the program only after giving appropriate consideration to the following factors:

(1) The public benefits that would result from the distribution.

(2) The total acreage of nonindustrial private forest lands in each State.

(3) The potential productivity of those lands, as determined by the Secretary.

(4) The number of owners eligible for cost sharing in each State.

(5) The opportunities to enhance nontimber resources on those lands, including—

(A) the protection of riparian buffers and forest wetland;

(B) the preservation of fish and wildlife habitat;

(C) the enhancement of soil, air, and water quality; and

(D) the preservation of aesthetic quality and opportunities for outdoor recreation.

(6) The anticipated demand for timber and nontimber resources in each State.

(7) The need to improve forest health to minimize the damaging effects of catastrophic fire, insects, disease, or weather.

(8) The need and demand for agroforestry practices in each State.

(9) The need to maintain and enhance the forest landbase.

(10) The need for afforestation, reforestation, and timber stand improvement.

(j) Availability of funds

The Secretary shall use $100,000,000 of funds of the Commodity Credit Corporation to carry out the Program during the period beginning on May 13, 2002, and ending on September 30, 2007.

(k) Definitions

In this section:

(1) Nonindustrial private forest lands

The term ''nonindustrial private forest lands'' means rural lands, as determined by the Secretary, that—

(A) have existing tree cover or are suitable for growing trees; and

(B) are owned by any nonindustrial private individual, group, association, corporation, Indian tribe, or other private legal entity so long as the individual, group, association, corporation, tribe, or entity has definitive decision-making authority over the lands.

(2) Committee

The terms ''State Forest Stewardship Coordinating Committee'' and ''Committee'' means[1] a State Forest Stewardship Coordinating Committee established under section 2113(b) of this title.

(3) Indian tribe

The term ''Indian tribe'' has the meaning given the term in section 450b of title 25.

(4) Owner

The term ''owner'' means an owner of nonindustrial private forest land.

(5) Program

The term ''program'' means the forest land enhancement program established by this section.

(6) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(7) State forester

The term ''State forester'' means the director or other head of a State Forestry Agency or equivalent State official.

(Pub. L. 95–313, § 4, as added Pub. L. 107–171, title VIII, § 8002(b), May 13, 2002, 116 Stat. 468.)

PRIOR PROVISIONS

A prior section 2103, Pub. L. 95–313, § 4, July 1, 1978, 92 Stat. 367; Pub. L. 101–624, title XII, §§ 1214, 1224(1), Nov. 28, 1990, 104 Stat. 3525, 3542; Pub. L. 104–127, title III, §§ 336(a)(2)(B), 373, Apr. 4, 1996, 110 Stat. 1005, 1015, related to forestry incentives program, prior to repeal by Pub. L. 107–171, title VIII, § 8001(a), May 13, 2002, 116 Stat. 468.

USE OF REMAINING FUNDS

Pub. L. 107–171, title VIII, § 8001(b), May 13, 2002, 116 Stat. 468, provided that: ''Notwithstanding the amendment made by subsection (a) [repealing former sections 2103 and 2103b of this title], the Secretary of Agriculture may use funds appropriated for fiscal year 2002 for the forestry incentives program or the stewardship incentive program, but not expended before the date of enactment of this Act [May 13, 2002], to carry out sections 4 and 6 of the Cooperative Forestry Assistance Act of 1978 [former sections 2103 and 2103b of this title],

[1] So in original. Probably should be ''mean''.

as in effect on the date before the date of enactment of this Act.''

PURPOSES OF FOREST LAND ENHANCEMENT PROGRAM

Pub. L. 107–171, title VIII, § 8002(a), May 13, 2002, 116 Stat. 468, provided that: ''The purposes of this section [enacting this section and amending section 6962 of Title 7, Agriculture] are—

''(1) to strengthen the commitment of the Secretary of Agriculture to sustainable forest management to enhance the productivity of timber, fish and wildlife habitat, soil and water quality, wetland, recreational resources, and aesthetic values of forest land; and

''(2) to establish a coordinated and cooperative Federal, State, and local sustainable forestry program for the establishment, management, maintenance, enhancement, and restoration of forests on nonindustrial private forest land.''

§ 2103a. Forest Stewardship Program

(a) Establishment

The Secretary, in consultation with State foresters or equivalent State officials, shall establish a Forest Stewardship Program (hereafter referred to in this section as the ''Program'') to encourage the long-term stewardship of nonindustrial private forest lands by assisting owners of such lands to more actively manage their forest and related resources by utilizing existing State, Federal, and private sector resource management expertise and assistance programs.

(b) Goal

The goal of the Program shall be to enter at least 25,000,000 acres of nonindustrial private forest lands in the Program by December 31, 1995.

(c) "Nonindustrial private forest lands" defined

For the purposes of this section, the term ''nonindustrial private forest lands'' means rural, as determined by the Secretary, lands with existing tree cover, or suitable for growing trees, and owned by any private individual, group, association, corporation, Indian tribe, or other private legal entity.

(d) Implementation

In carrying out the Program the Secretary, in consultation with State foresters or equivalent State officials, shall provide financial, technical, educational, and related assistance to State foresters or equivalent State officials, including assistance to help such State foresters or equivalent officials to provide financial assistance to other State and local natural resource entities, both public and private, and land-grant universities for the delivery of information and professional assistance to owners of nonindustrial private forest lands. Such information and assistance shall be directed to help such owners understand and evaluate alternative actions they might take, including—

(1) managing and enhancing the productivity of timber, fish and wildlife habitat, water quality, wetlands, recreational resources, and the aesthetic value of forest lands;

(2) investing in practices to protect, maintain, and enhance the resources identified in paragraph (1);

(3) ensuring that afforestation, reforestation, improvement of poorly stocked stands, timber stand improvement, practices necessary to improve seedling growth and survival, and growth enhancement practices occur where needed to enhance and sustain the long-term productivity of timber and nontimber forest resources to help meet future public demand for all forest resources and provide the environmental benefits that result; and

(4) protecting their forests from damage caused by fire, insects, disease, and damaging weather.

(e) Eligibility

All nonindustrial private forest lands that are not in management under Federal, State, or private sector financial and technical assistance programs existing on November 28, 1990, are eligible for assistance under the Program. Nonindustrial private forest lands that are managed under such existing programs are eligible for assistance under the Program if forest management activities are expanded and enhanced and the landowner agrees to meet the requirements of this chapter.

(f) Duties of owners

To enter forest land into the Program, landowners shall—

(1) prepare and submit to the State forester or equivalent State official a forest stewardship plan that meets the requirements of this section and that—

(A) is prepared by a professional resource manager;

(B) identifies and describes actions to be taken by the landowner to protect soil, water, range, aesthetic quality, recreation, timber, water, and fish and wildlife resources on such land in a manner that is compatible with the objectives of the landowner; and

(C) is approved by the State forester, or equivalent State official; and

(2) agree that all activities conducted on such land shall be consistent with the stewardship plan.

(g) Stewardship recognition

The Secretary, in consultation with State foresters or equivalent State officials, is encouraged to develop an appropriate recognition program for landowners who practice stewardship management on their lands, with an appropriate, special recognition symbol and title.

(h) Authorization of appropriations

There are hereby authorized to be appropriated $25,000,000 for each of the fiscal years 1991 through 1995, and such sums as may be necessary thereafter, to carry out this section.

(Pub. L. 95–313, § 5, as added Pub. L. 101–624, title XII, § 1215(2), Nov. 28, 1990, 104 Stat. 3525; amended Pub. L. 102–237, title X, § 1018(a)(1), Dec. 13, 1991, 105 Stat. 1905.)

PRIOR PROVISIONS

A prior section 5 of Pub. L. 95–313 was renumbered section 8 and is classified to section 2104 of this title.

AMENDMENTS

1991—Subsec. (d). Pub. L. 102–237 substituted ''State foresters'' for ''State Foresters'' wherever appearing in introductory provisions.

§ 2103b. Watershed forestry assistance program

(a) Definition of nonindustrial private forest land

In this section, the term ''nonindustrial private forest land'' means rural land, as determined by the Secretary, that—

(1) has existing tree cover or that is suitable for growing trees; and

(2) is owned by any nonindustrial private individual, group, association, corporation, or other private legal entity, that has definitive decisionmaking authority over the land.

(b) General authority and purpose

The Secretary, acting through the Chief of the Forest Service and (where appropriate) through the National Institute of Food and Agriculture, may provide technical, financial, and related assistance to State foresters, equivalent State officials, or cooperative extension officials at land grant colleges and universities and 1890 institutions for the purpose of expanding State forest stewardship capacities and activities through State forestry best-management practices and other means at the State level to address watershed issues on non-Federal forested land and potentially forested land.

(c) Technical assistance to protect water quality

(1) In general

The Secretary, in cooperation with State foresters or equivalent State officials, shall engage interested members of the public, including nonprofit organizations and local watershed councils, to develop a program of technical assistance to protect water quality described in paragraph (2).

(2) Purpose of program

The program under this subsection shall be designed—

(A) to build and strengthen watershed partnerships that focus on forested landscapes at the State, regional, and local levels;

(B) to provide State forestry best-management practices and water quality technical assistance directly to owners of nonindustrial private forest land;

(C) to provide technical guidance to land managers and policymakers for water quality protection through forest management;

(D) to complement State and local efforts to protect water quality and provide enhanced opportunities for consultation and cooperation among Federal and State agencies charged with responsibility for water and watershed management; and

(E) to provide enhanced forest resource data and support for improved implementation and monitoring of State forestry best-management practices.

(3) Implementation

In the case of a participating State, the program of technical assistance shall be implemented by State foresters or equivalent State officials.

(d) Watershed forestry cost-share program

(1) In general

The Secretary shall establish a watershed forestry cost-share program—

(A) which shall be—

(i) administered by the Forest Service; and

(ii) implemented by State foresters or equivalent State officials in participating States; and

(B) under which funds or other support provided to participating States shall be made available for State forestry best-management practices programs and watershed forestry projects.

(2) Watershed forestry projects

The State forester, an equivalent State official of a participating State, or a Cooperative Extension official at a land grant college or university or 1890 institution, in coordination with the State Forest Stewardship Coordinating Committee established under section 2113(b) of this title (or an equivalent committee) for that State, shall make awards to communities, nonprofit groups, and owners of nonindustrial private forest land under the program for watershed forestry projects described in paragraph (3).

(3) Project elements and objectives

A watershed forestry project shall accomplish critical forest stewardship, watershed protection, and restoration needs within a State by demonstrating the value of trees and forests to watershed health and condition through—

(A) the use of trees as solutions to water quality problems in urban and rural areas;

(B) community-based planning, involvement, and action through State, local, and nonprofit partnerships;

(C) application of and dissemination of monitoring information on forestry best-management practices relating to watershed forestry;

(D) watershed-scale forest management activities and conservation planning; and

(E)(i) the restoration of wetland (as defined by the States) and stream-side forests; and

(ii) the establishment of riparian vegetative buffers.

(4) Cost-sharing

(A) Federal share

(i) Funds under this subsection

Funds provided under this subsection for a watershed forestry project may not exceed 75 percent of the cost of the project.

(ii) Other Federal funds

The percentage of the cost of a project described in clause (i) that is not covered by funds made available under this subsection may be paid using other Federal funding sources, except that the total Federal share of the costs of the project may not exceed 90 percent.

(B) Form

The non-Federal share of the costs of a project may be provided in the form of cash, services, or other in-kind contributions.

(5) Prioritization

The State Forest Stewardship Coordinating Committee for a State, or equivalent State

committee, shall prioritize watersheds in that State to target watershed forestry projects funded under this subsection.

(6) Watershed forester

Financial and technical assistance shall be made available to the State Forester or equivalent State official to create a State watershed or best-management practice forester position to—

(A) lead statewide programs; and

(B) coordinate watershed-level projects.

(e) Distribution

(1) In general

Of the funds made available for a fiscal year under subsection (g) of this section, the Secretary shall use—

(A) at least 75 percent of the funds to carry out the cost-share program under subsection (d) of this section; and

(B) the remainder of the funds to deliver technical assistance, education, and planning, at the local level, through the State Forester or equivalent State official.

(2) Special considerations

Distribution of funds by the Secretary among States under paragraph (1) shall be made only after giving appropriate consideration to—

(A) the acres of agricultural land, nonindustrial private forest land, and highly erodible land in each State;

(B) the miles of riparian buffer needed;

(C) the miles of impaired stream segments and other impaired water bodies where forestry practices can be used to restore or protect water resources;

(D) the number of owners of nonindustrial private forest land in each State; and

(E) water quality cost savings that can be achieved through forest watershed management.

(f) Willing owners

(1) In general

Participation of an owner of nonindustrial private forest land in the watershed forestry assistance program under this section is voluntary.

(2) Written consent

The watershed forestry assistance program shall not be carried out on nonindustrial private forest land without the written consent of the owner of, or entity having definitive decisionmaking over, the nonindustrial private forest land.

(g) Authorization of appropriations

There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2004 through 2008.

(Pub. L. 95–313, § 6, as added Pub. L. 108–148, title III, § 302, Dec. 3, 2003, 117 Stat. 1903; amended Pub. L. 110–234, title VII, § 7511(c)(35), May 22, 2008, 122 Stat. 1270; Pub. L. 110–246, § 4(a), title VII, § 7511(c)(35), June 18, 2008, 122 Stat. 1664, 2032.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 2103b, Pub. L. 95–313, § 6, as added Pub. L. 101–624, title XII, § 1216, Nov. 28, 1990, 104 Stat. 3526, established the Stewardship Incentive Program, prior to repeal by Pub. L. 107–171, title VIII, § 8001(a), May 13, 2002, 116 Stat. 468.

A prior section 6 of Pub. L. 95–313 was renumbered section 9 and is classified to section 2105 of this title.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–246, § 7511(c)(35), substituted ''the National Institute of Food and Agriculture, may provide technical, financial, and related assistance to State foresters, equivalent State officials, or cooperative extension officials'' for ''the Cooperative State Research, Education, and Extension Service, may provide technical, financial, and related assistance to State foresters, equivalent State officials, or Cooperative Extension officials''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 7511(c)(35) of Pub. L. 110–246 effective Oct. 1, 2009, see section 7511(c) of Pub. L. 110–246, set out as a note under section 1522 of Title 7, Agriculture.

§ 2103c. Forest Legacy Program

(a) Establishment and purpose

The Secretary shall establish a program, to be known as the Forest Legacy Program, in cooperation with appropriate State, regional, and other units of government for the purposes of ascertaining and protecting environmentally important forest areas that are threatened by conversion to nonforest uses and, through the use of conservation easements and other mechanisms, for promoting forest land protection and other conservation opportunities. Such purposes shall also include the protection of important scenic, cultural, fish, wildlife, and recreational resources, riparian areas, and other ecological values.

(b) State and regional forest legacy programs

The Secretary shall exercise the authority under subsection (a) of this section in conjunction with State or regional programs that the Secretary deems consistent with this section.

(c) Interests in land

In addition to the authorities granted under section 515 of this title and section 428a(a) of title 7, the Secretary may acquire from willing landowners lands and interests therein, including conservation easements and rights of public access, for Forest Legacy Program purposes. The Secretary shall not acquire conservation easements with title held in common ownership with any other entity.

(d) Implementation

(1) In general

Lands and interests therein acquired under subsection (c) of this section may be held in perpetuity for program and easement adminis-

tration purposes as the Secretary may provide. In administering lands and interests therein under the program, the Secretary shall identify the environmental values to be protected by entry of the lands into the program, management activities which are planned and the manner in which they may affect the values identified, and obtain from the landowner other information determined appropriate for administration and management purposes.

(2) Initial programs

Not later than November 28, 1991, the Secretary shall establish a regional program in furtherance of the Northern Forest Lands Study in the States of New York, New Hampshire, Vermont, and Maine under Public Law 100–446. The Secretary shall establish additional programs in each of the Northeast, Midwest, South, and Western regions of the United States, and the Pacific Northwest (including the State of Washington), on the preparation of an assessment of the need for such programs.

(e) Eligibility

Not later than November 28, 1991, and in consultation with State Forest Stewardship Coordinating Committees established under section 2113(b) of this title and similar regional organizations, the Secretary shall establish eligibility criteria for the designation of forest areas from which lands may be entered into the Forest Legacy Program and subsequently select such appropriate areas. To be eligible, such areas shall have significant environmental values or shall be threatened by present or future conversion to nonforest uses. Of land proposed to be included in the Forest Legacy Program, the Secretary shall give priority to lands which can be effectively protected and managed, and which have important scenic or recreational values; riparian areas; fish and wildlife values, including threatened and endangered species; or other ecological values.

(f) Application

For areas included in the Forest Legacy Program, an owner of lands or interests in lands who wishes to participate may prepare and submit an application at such time in such form and containing such information as the Secretary may prescribe. The Secretary shall give reasonable advance notice for the submission of all applications to the State forester, equivalent State official, or other appropriate State or regional natural resource management agency. If applications exceed the ability of the Secretary to fund them, priority shall be given to those forest areas having the greatest need for protection pursuant to the criteria described in subsection (e) of this section.

(g) State consent

Where a State has not approved the acquisition of land under section 515 of this title, the Secretary shall not acquire lands or interests therein under authority granted by this section outside an area of that State designated as a part of a program established under subsection (b) of this section.

(h) Forest management activities

(1) In general

Conservation easements or deed reservations acquired or reserved pursuant to this section may allow forest management activities, including timber management, on areas entered in the Forest Legacy Program insofar as the Secretary deems such activities consistent with the purposes of this section.

(2) Assignment of responsibilities

For Forest Legacy Program areas, the Secretary may delegate or assign management and enforcement responsibilities over federally owned lands and interests in lands only to another governmental entity.

(i) Duties of owners

Under the terms of a conservation easement or other property interest acquired under subsection (b)[1] of this section, the landowner shall be required to manage property in a manner that is consistent with the purposes for which the land was entered in the Forest Legacy Program and shall not convert such property to other uses. Hunting, fishing, hiking, and similar recreational uses shall not be considered inconsistent with the purposes of this program.

(j) Compensation and cost sharing

(1) Compensation

The Secretary shall pay the fair market value of any property interest acquired under this section. Payments under this section shall be in accordance with Federal appraisal and acquisition standards and procedures.

(2) Cost sharing

In accordance with terms and conditions that the Secretary shall prescribe, costs for the acquisition of lands or interests therein or project costs shall be shared among participating entities including regional organizations, State and other governmental units, landowners, corporations, or private organizations. Such costs may include, but are not limited to, those associated with planning, administration, property acquisition, and property management. To the extent practicable, the Federal share of total program costs shall not exceed 75 percent, including any in-kind contribution.

(k) Easements

(1) Reserved interest deeds

As used in this section, the term ''conservation easement'' includes an easement utilizing a reserved interest deed where the grantee acquires all rights, title, and interests in a property, except those rights, title, and interests that may run with the land that are expressly reserved by a grantor.

(2) Prohibitions on limitations

Notwithstanding any provision of State law, no conservation easement held by the United States or its successors or assigns under this section shall be limited in duration or scope or be defeasible by—

(A) the conservation easement being in gross or appurtenant;

[1] So in original. Probably should be subsection ''(c)''.

(B) the management of the conservation easement having been delegated or assigned to a non-Federal entity;

(C) any requirement under State law for re-recordation or renewal of the easement; or

(D) any future disestablishment of a Forest Legacy Program area or other Federal project for which the conservation easement was originally acquired.

(3) Construction

Notwithstanding any provision of State law, conservation easements shall be construed to effect the Federal purposes for which they were acquired and, in interpreting their terms, there shall be no presumption favoring the conservation easement holder or fee owner.

(*l*) Optional State grants

(1) In general

The Secretary shall, at the request of a participating State, provide a grant to the State to carry out the Forest Legacy Program in the State.

(2) Administration

If a State elects to receive a grant under this subsection—

(A) the Secretary shall use a portion of the funds made available under subsection (m) of this section, as determined by the Secretary, to provide a grant to the State; and

(B) the State shall use the grant to carry out the Forest Legacy Program in the State, including the acquisition by the State of lands and interests in lands.

(3) Transfer of Forest Legacy Program land—

(A) In general

Subject to any terms and conditions that the Secretary may require (including the requirements described in subparagraph (B)), the Secretary may, at the request of the State of Vermont, convey to the State, by quitclaim deed, without consideration, any land or interest in land acquired in the State under the Forest Legacy Program.

(B) Requirements

In conveying land or an interest in land under subparagraph (A), the Secretary may require that—

(i) the deed conveying the land or interest in land include requirements for the management of the land in a manner that—

(I) conserves the land or interest in land; and

(II) is consistent with any other Forest Legacy Program purposes for which the land or interest in land was acquired;

(ii) if the land or interest in land is subsequently sold, exchanged, or otherwise disposed of by the State of Vermont, the State shall—

(I) reimburse the Secretary in an amount that is based on the current market value of the land or interest in land in proportion to the amount of consideration paid by the United States for the land or interest in land; or

(II) convey to the Secretary land or an interest in land that is equal in value to the land or interest in land conveyed.

(C) Disposition of funds

Amounts received by the Secretary under subparagraph (B)(ii) shall be credited to the Wildland Fire Management account, to remain available until expended.

(m) Appropriation

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 95–313, § 7, as added Pub. L. 101–624, title XII, § 1217, Nov. 28, 1990, 104 Stat. 3528; amended Pub. L. 102–237, title X, § 1018(a)(2), Dec. 13, 1991, 105 Stat. 1905; Pub. L. 104–127, title III, § 374, Apr. 4, 1996, 110 Stat. 1015; Pub. L. 108–108, title III, § 336, Nov. 10, 2003, 117 Stat. 1313.)

REFERENCES IN TEXT

Public Law 100–446, referred to in subsec. (d)(2), is Pub. L. 100–446, Sept. 27, 1988, 102 Stat. 1774. Provisions of the Act relating to functions of the Secretary of Agriculture in connection with forest lands are not classified to the Code. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 7 of Pub. L. 95–313 was renumbered section 10 and is classified to section 2106 of this title.

AMENDMENTS

2003—Subsec. (*l*)(3). Pub. L. 108–108 added par. (3).

1996—Subsecs. (*l*), (m). Pub. L. 104–127 added subsec. (*l*) and redesignated former subsec. (*l*) as (m).

1991—Subsec. (d)(2). Pub. L. 102–237, § 1018(a)(2)(A), substituted ''November 28, 1991'' for ''1 year after November 28, 1990''.

Subsec. (e). Pub. L. 102–237, § 1018(a)(2)(B), substituted ''Not later than November 28, 1991, and in consultation with State Forest Stewardship Coordinating Committees established under section 2113(b)'' for ''Within 1 year from November 28, 1990, and in consultation with State Forest Stewardship Advisory Committees established under section 15(b)''.

Subsec. (f). Pub. L. 102–237, § 1018(a)(2)(C), substituted ''subsection (e)'' for ''subsection (d)''.

§ 2103d. Community forest and open space conservation program

(a) Definitions

In this section:

(1) Eligible entity

The term ''eligible entity'' means a local governmental entity, Indian tribe, or nonprofit organization that owns or acquires a parcel under the program.

(2) Indian tribe

The term ''Indian tribe'' has the meaning given the term in section 450b of title 25.

(3) Local governmental entity

The term ''local governmental entity'' includes any municipal government, county government, or other local government body with jurisdiction over local land use decisions.

(4) Nonprofit organization

The term ''nonprofit organization'' means any organization that—

(A) is described in section 170(h)(3) of title 26; and

(B) operates in accordance with 1 or more of the purposes specified in section 170(h)(4)(A) of title 26.

(5) Program

The term ''Program'' means the community forest and open space conservation program established under subsection (b).

(6) Secretary

The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(b) Establishment

The Secretary shall establish a program, to be known as the ''community forest and open space conservation program''.

(c) Grant program

(1) In general

The Secretary may award grants to eligible entities to acquire private forest land,[1] to be owned in fee simple, that—

(A) are threatened by conversion to nonforest uses; and

(B) provide public benefits to communities, including—

(i) economic benefits through sustainable forest management;

(ii) environmental benefits, including clean water and wildlife habitat;

(iii) benefits from forest-based educational programs, including vocational education programs in forestry;

(iv) benefits from serving as models of effective forest stewardship for private landowners; and

(v) recreational benefits, including hunting and fishing.

(2) Federal cost share

An eligible entity may receive a grant under the Program in an amount equal to not more than 50 percent of the cost of acquiring 1 or more parcels, as determined by the Secretary.

(3) Non-Federal share

As a condition of receipt of the grant, an eligible entity that receives a grant under the Program shall provide, in cash, donation, or in kind, a non-Federal matching share in an amount that is at least equal to the amount of the grant received.

(4) Appraisal of parcels

To determine the non-Federal share of the cost of a parcel of privately-owned forest land under paragraph (2), an eligible entity shall require appraisals of the land that comply with the Uniform Appraisal Standards for Federal Land Acquisitions developed by the Interagency Land Acquisition Conference.

(5) Application

An eligible entity that seeks to receive a grant under the Program shall submit to the State forester or equivalent official (or in the case of an Indian tribe, an equivalent official of the Indian tribe) an application that includes—

(A) a description of the land to be acquired;

(B) a forest plan that provides—

(i) a description of community benefits to be achieved from the acquisition of the private forest land; and

(ii) an explanation of the manner in which any private forest land to be acquired using funds from the grant will be managed; and

(C) such other relevant information as the Secretary may require.

(6) Effect on trust land

(A) Ineligibility

The Secretary shall not provide a grant under the Program for any project on land held in trust by the United States (including Indian reservations and allotment land).

(B) Acquired land

No land acquired using a grant provided under the Program shall be converted to land held in trust by the United States on behalf of any Indian tribe.

(7) Applications to Secretary

The State forester or equivalent official (or in the case of an Indian tribe, an equivalent official of the Indian tribe) shall submit to the Secretary a list that includes a description of each project submitted by an eligible entity at such times and in such form as the Secretary shall prescribe.

(d) Duties of eligible entity

An eligible entity shall provide public access to, and manage, forest land acquired with a grant under this section in a manner that is consistent with the purposes for which the land was acquired under the Program.

(e) Prohibited uses

(1) In general

Subject to paragraphs (2) and (3), an eligible entity that acquires a parcel under the Program shall not sell the parcel or convert the parcel to nonforest use.

(2) Reimbursement of funds

An eligible entity that sells or converts to nonforest use a parcel acquired under the Program shall pay to the Federal Government an amount equal to the greater of the current sale price, or current appraised value, of the parcel.

(3) Loss of eligibility

An eligible entity that sells or converts a parcel acquired under the Program shall not be eligible for additional grants under the Program.

(f) State administration and technical assistance

The Secretary may allocate not more than 10 percent of all funds made available to carry out the Program for each fiscal year to State foresters or equivalent officials (including equivalent officials of Indian tribes) for Program administration and technical assistance.

(g) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

[1] So in original. Probably should be ''lands,''.

(Pub. L. 95–313, § 7A, as added Pub. L. 110–234, title VIII, § 8003(b), May 22, 2008, 122 Stat. 1281, and Pub. L. 110–246, § 4(a), title VIII, § 8003(b), June 18, 2008, 122 Stat. 1664, 2043.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

FINDINGS

Pub. L. 110–234, title VIII, § 8003(a), May 22, 2008, 122 Stat. 1281, and Pub. L. 110–246, § 4(a), title VIII, § 8003(a), June 18, 2008, 122 Stat. 1664, 2043, provided that: ''Congress finds that—

''(1) the Forest Service projects that, by calendar year 2030, approximately 44,000,000 acres of privately-owned forest land will be developed throughout the United States;

''(2) public access to parcels of privately-owned forest land for outdoor recreational activities, including hunting, fishing, and trapping, has declined and, as a result, participation in those activities has also declined in cases in which public access is not secured;

''(3) rising rates of obesity and other public health problems relating to the inactivity of the citizens of the United States have been shown to be ameliorated by improving public access to safe and attractive areas for outdoor recreation;

''(4) in rapidly-growing communities of all sizes throughout the United States, remaining parcels of forest land play an essential role in protecting public water supplies;

''(5) forest parcels owned by local governmental entities and nonprofit organizations are providing important demonstration sites for private landowners to learn forest management techniques;

''(6) throughout the United States, communities of diverse types and sizes are deriving significant financial and community benefits from managing forest land owned by local governmental entities for timber and other forest products; and

''(7) there is an urgent need for local governmental entities to be able to leverage financial resources in order to purchase important parcels of privately-owned forest land as the parcels are offered for sale.''

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

§ 2104. Forest health protection

(a) In general

The Secretary may protect trees and forests and wood products, stored wood, and wood in use directly on the National Forest System and, in cooperation with others, on other lands in the United States, from natural and man-made causes, to—

(1) enhance the growth and maintenance of trees and forests;

(2) promote the stability of forest-related industries and employment associated therewith through the protection of forest resources;

(3) aid in forest fire prevention and control;

(4) conserve forest cover on watersheds, shelterbelts, and windbreaks;

(5) protect outdoor recreation opportunities and other forest resources; and

(6) extend timber supplies by protecting wood products, stored wood, and wood in use.

(b) Activities

Subject to subsections (c), (d), and (e) of this section and to such other conditions the Secretary may prescribe, the Secretary may, directly on the National Forest System, in cooperation with other Federal departments on other Federal lands, and in cooperation with State foresters, or equivalent State officials, subdivisions of States, agencies, institutions, organizations, or individuals on non-Federal lands—

(1) conduct surveys to detect and appraise insect infestations and disease conditions and man-made stresses affecting trees and establish a monitoring system throughout the forests of the United States to determine detrimental changes or improvements that occur over time, and report annually concerning such surveys and monitoring;

(2) determine the biological, chemical, and mechanical measures necessary to prevent, retard, control, or suppress incipient, potential, threatening, or emergency insect infestations and disease conditions affecting trees;

(3) plan, organize, direct, and perform measures the Secretary determines necessary to prevent, retard, control, or suppress incipient, potential, threatening, or emergency insect infestations and disease epidemics affecting trees;

(4) provide technical information, advice, and related assistance on the various techniques available to maintain a healthy forest and in managing and coordinating the use of pesticides and other toxic substances applied to trees and other vegetation, and to wood products, stored wood, and wood in use;

(5) develop applied technology and conduct pilot tests of research results prior to the full-scale application of such technology in affected forests;

(6) promote the implementation of appropriate silvicultural or management techniques that may improve or protect the health of the forests of the United States; and

(7) take any other actions the Secretary determines necessary to accomplish the objectives and purposes of this section.

(c) Consent of entity

Operations under this section to prevent, retard, control, or suppress insects or diseases affecting forests and trees on land not controlled or administered by the Secretary shall not be conducted without the consent, cooperation, and participation of the entity having ownership of or jurisdiction over the affected land.

(d) Contribution by entity

No money appropriated to implement this section shall be expended to prevent, retard, control, or suppress insects or diseases affecting trees on non-Federal land until the entity having ownership of or jurisdiction over the affected land contributes, or agrees to contribute, to the work to be done in the amount and in the manner determined appropriate by the Secretary.

(e) Allotments to other agencies

The Secretary may, in the Secretary's discretion, and out of any money appropriated to implement this section, make allocations to Federal agencies having jurisdiction over lands held or owned by the United States in the amounts the Secretary determines necessary to prevent, retard, control, or suppress insect infestations and disease epidemics affecting trees on those lands.

(f) Limitation on use of appropriations

(1) Removing dead trees

No amounts appropriated shall be used to—

(A) pay the cost of felling and removing dead or dying trees unless the Secretary determines that such actions are necessary to prevent the spread of a major insect infestation or disease epidemic severely affecting trees; or

(B) compensate for the value of any property injured, damaged, or destroyed by any cause.

(2) Insects and diseases affecting trees

The Secretary may procure materials and equipment necessary to prevent, retard, control, or suppress insects and diseases affecting trees without regard to section 6101 of title 41, under whatever procedures the Secretary may prescribe, if the Secretary determines that such action is necessary and in the public interest.

(g) Partnerships

The Secretary, by contract or cooperative agreement, may provide financial assistance through the Forest Service to State foresters or equivalent State officials, and private forestry and other organizations, to monitor forest health and protect the forest lands of the United States. The Secretary shall require contribution by the non-Federal entity in the amount and in the manner determined appropriate. Such non-Federal share may be in the form of cash, services, or equipment, as determined appropriate by the Secretary.

(h) Authorization of appropriations

There are authorized to be appropriated annually such sums as may be necessary to carry out subsections (a) through (g) of this section.

(i) Integrated pest management

(1) In general

Subject to the provisions of subsections (c) and (e) of this section, the Secretary shall, in cooperation with State foresters or equivalent State officials, subdivisions of States, or other entities on non-Federal lands (hereafter in this subsection referred to as the ''cooperator'')—

(A) provide cost-share assistance to such cooperators who have established an acceptable integrated pest management strategy, as determined by the Secretary, that will prevent, retard, control, or suppress gypsy moth, southern pine beetle, spruce budworm infestations, or other major insect infestations in an amount no less than 50 percent nor greater than 75 percent of the cost of implementing such strategy; and

(B) upon request, assist the cooperator in the development of such integrated pest management strategy.

(2) Authorization of appropriations

There are hereby authorized to be appropriated annually $10,000,000 to implement this subsection.

(Pub. L. 95–313, § 8, formerly § 5, July 1, 1978, 92 Stat. 368; renumbered § 8 and amended Pub. L. 101–624, title XII, §§ 1215(1), 1218, Nov. 28, 1990, 104 Stat. 3525, 3531.)

CODIFICATION

In subsec. (f)(2), ''section 6101 of title 41'' substituted for ''section 3709 of the Revised Statutes (41 U.S.C. 5)'' on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

A prior section 8 of Pub. L. 95–313 was renumbered section 11 and is classified to section 2107 of this title.

AMENDMENTS

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions relating to insect and disease control on Federal and non-Federal forest lands, additional protective functions and responsibilities concerning such lands, consent, cooperation, and participation of, and contribution by, entity having jurisdiction over such lands, allocations to Federal agencies having jurisdiction over such lands, availability and limitations on use of appropriated amounts, and authorization of appropriations.

STEWARDSHIP END RESULT CONTRACTING PROJECTS

Pub. L. 107–63, title III, § 332, Nov. 5, 2001, 115 Stat. 471, provided in part that: ''The authority to enter into stewardship and end result contracts provided to the Forest Service in accordance with section 347 of title III of section 101(e) of division A of Public Law 105–277 [set out as a note below] is hereby expanded to authorize the Forest Service to enter into an additional 28 contracts subject to the same terms and conditions as provided in that section: *Provided*, That of the additional contracts authorized by this section at least 9 shall be allocated to Region 1 and at least 3 to Region 6.''

Similar provisions were contained in Pub. L. 106–291, title III, § 338, Oct. 11, 2000, 114 Stat. 998, as amended by Pub. L. 107–20, title II, § 2604, July 24, 2001, 115 Stat. 178.

Pub. L. 105–277, div. A, § 101(e) [title III, § 347], Oct. 21, 1998, 112 Stat. 2681–231, 2681–298, as amended by Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 341], Nov. 29, 1999, 113 Stat. 1535, 1501A–201; Pub. L. 107–63, title III, § 332, Nov. 5, 2001, 115 Stat. 471; Pub. L. 108–7, div. F, title III, § 323, Feb. 20, 2003, 117 Stat. 275, provided that:

''(a) IN GENERAL.—Until September 30, 2013, the Forest Service and the Bureau of Land Management, via agreement or contract as appropriate, may enter into stewardship contracting projects with private persons or other public or private entities to perform services to achieve land management goals for the national forests and the public lands that meet local and rural community needs.

''(b) LAND MANAGEMENT GOALS.—The land management goals of a project under subsection (a) may include, among other things—

''(1) road and trail maintenance or obliteration to restore or maintain water quality;

''(2) soil productivity, habitat for wildlife and fisheries, or other resource values;

''(3) setting of prescribed fires to improve the composition, structure, condition, and health of stands or to improve wildlife habitat;

''(4) removing vegetation or other activities to promote healthy forest stands, reduce fire hazards, or achieve other land management objectives;

''(5) watershed restoration and maintenance;

''(6) restoration and maintenance of wildlife and fish habitat; and

''(7) control of noxious and exotic weeds and reestablishing native plant species.

''(c) AGREEMENTS OR CONTRACTS.—

''(1) PROCUREMENT PROCEDURE.—A source for performance of an agreement or contract under subsection (a) shall be selected on a best-value basis, including consideration of source under other public and private agreements or contracts.

''(2) TERM.—A multiyear contract may be entered into under subsection (a) in accordance with section 304B of the Federal Property and Administrative Services Act of 1949 ([former] 41 U.S.C. 254c) [now 41 U.S.C. 3903], except that the period of the contract may exceed 5 years but may not exceed 10 years.

''(3) OFFSETS.—

''(A) IN GENERAL.—In connection with agreement or contracts under subsection (a), the Forest Service and the Bureau of Land Management may apply the value of timber or other forest products removed as an offset against the cost of services received.

''(B) METHODS OF APPRAISAL.—The value of timber or other forest products used as offsets under subparagraph (A)—

''(i) shall be determined using appropriate methods of appraisal commensurate with the quantity of products to be removed;

''(ii) may be determined using a unit of measure appropriate to the agreement or contracts; and

''(iii) may include valuing products on a per-acre basis.

''(4) RELATION TO OTHER LAWS.—The Forest Service may enter into agreement or contracts under subsection (a), notwithstanding subsections (d) and (g) of section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a).

''(5) CONTRACTING OFFICER.—Notwithstanding any other provision of law, the Secretary of Agriculture or the Secretary of the Interior may determine the appropriate contracting officer to enter into and administer an agreement or contract under subsection (a).

''(d) RECEIPTS.—

''(1) IN GENERAL.—The Forest Service and the Bureau of Land Management may collect monies from an agreement or contract under subsection (a) so long as such collection is a secondary objective of negotiating contracts that will best achieve the purposes of this section.

''(2) USE.—Monies from an agreement or contract under subsection (a) may be retained by the Forest Service and the Bureau of Land Management and shall be available for expenditure without further appropriation at the project site from which the monies are collected or at another project site.

''(3) RELATION TO OTHER LAWS.—The value of services received by the Forest Service or the Bureau of Land Management under a stewardship contract project conducted under this section, and any payments made or resources provided by the contractor or the Forest Service or the Bureau of Land Management under such a project, shall not be considered to be monies received from the National Forest System or the public lands under any provision of law. The Act of June 9, 1930 (16 U.S.C. 576 et seq.; commonly known as the Knutson-Vandenberg Act), shall not apply to stewardship contracts entered into under this section.

''(e) COSTS OF REMOVAL.—The Forest Service may collect deposits from contractors covering the costs of removal of timber or other forest products pursuant to the Act of August 11, 1916 (39 Stat. 462, chapter 313; 16 U.S.C. 490); and the next to the last paragraph under the heading 'Forest Service.' under the heading 'Department of Agriculture' in the Act of June 30, 1914 (38 Stat. 430, chapter 131; 16 U.S.C. 498); notwithstanding the fact that the timber purchasers did not harvest the timber.

''(f) PERFORMANCE AND PAYMENT GUARANTEES.—

''(1) IN GENERAL.—The Forest Service and the Bureau of Land Management may require performance and payment bonds, in accordance with sections 103–2 and 103–2 of part 28 of the Federal Acquisition Regulation (48 C.F.R. 28.103–2, 28.103–3), in an amount that the contracting officer considers sufficient to protect the Government's investment in receipts generated by the contractor from the estimated value of the forest products to be removed under contract under subsection (a).

''(2) EXCESS OFFSET VALUE.—If the offset value of the forest products exceeds the value of the resource improvement treatments, the Forest Service and the Bureau of Land Management may—

''(A) collect any residual receipts pursuant to the Act of June 9, 1930 (46 Stat. 527, chapter 416; 16 U.S.C. 576b); and

''(B) apply the excess to other authorized stewardship projects.

''(g) MONITORING, EVALUATION AND REPORTING.—The Forest Service and the Bureau of Land Management shall establish a multiparty monitoring and evaluation process that accesses the stewardship contracting projects conducted under this section. Besides the Forest Service and the Bureau of Land Management, participants in this process may include any cooperating governmental agencies, including tribal governments, and any interested groups or individuals. The Forest Service and the Bureau of Land Management shall report annually to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate on—

''(1) the status of development, execution, and administration of agreements or contracts under subsection (a);

''(2) the specific accomplishments that have resulted; and

''(3) the role of local communities in development of agreements or contract plans.''

HERGER-FEINSTEIN QUINCY LIBRARY GROUP FOREST RECOVERY

Pub. L. 105–277, div. A, § 101(e) [title IV], Oct. 21, 1998, 112 Stat. 2681–231, 2681–305, as amended by Pub. L. 107–171, title VI, § 6201(d)(5), May 13, 2002, 116 Stat. 419; Pub. L. 110–161, div. F, title IV, § 434, Dec. 26, 2007, 121 Stat. 2153; Pub. L. 111–8, div. E, title IV, § 428, Mar. 11, 2009, 123 Stat. 749, provided that:

''SEC. 401. PILOT PROJECT FOR PLUMAS, LASSEN, AND TAHOE NATIONAL FORESTS TO IMPLEMENT QUINCY LIBRARY GROUP PROPOSAL. (a) DEFINITION.—For purposes of this section, the term 'Quincy Library Group-Community Stability Proposal' means the agreement by a coalition of representatives of fisheries, timber, environmental, county government, citizen groups, and local communities that formed in northern California to develop a resource management program that promotes ecologic and economic health for certain Federal lands and communities in the Sierra Nevada area. Such proposal includes the map entitled 'QUINCY LIBRARY GROUP Community Stability Proposal', dated October 12, 1993, and prepared by VESTRA Resources of Redding, California.

''(b) PILOT PROJECT REQUIRED.—

''(1) PILOT PROJECT AND PURPOSE.—The Secretary of Agriculture (in this section referred to as the 'Secretary'), acting through the Forest Service and after completion of an environmental impact statement (a record of decision for which shall be adopted within 300 days), shall conduct a pilot project on the Federal lands described in paragraph (2) to implement and demonstrate the effectiveness of the resource management activities described in subsection (d) and the other requirements of this section, as recommended in the Quincy Library Group-Community Stability Proposal.

''(2) PILOT PROJECT AREA.—The Secretary shall conduct the pilot project on the Federal lands within Plumas National Forest, Lassen National Forest, and

the Sierraville Ranger District of Tahoe National Forest in the State of California designated as 'Available for Group Selection' on the map entitled 'QUINCY LIBRARY GROUP Community Stability Proposal', dated October 12, 1993 (in this section referred to as the 'pilot project area'). Such map shall be on file and available for inspection in the appropriate offices of the Forest Service.

''(c) EXCLUSION OF CERTAIN LANDS, RIPARIAN PROTECTION AND COMPLIANCE.—

''(1) EXCLUSION.—All spotted owl habitat areas and protected activity centers located within the pilot project area designated under subsection (b)(2) will be deferred from resource management activities required under subsection (d) and timber harvesting during the term of the pilot project.

''(2) RIPARIAN PROTECTION.—

''(A) IN GENERAL.—The Scientific Analysis Team guidelines for riparian system protection described in subparagraph (B) shall apply to all resource management activities conducted under subsection (d) and all timber harvesting activities that occur in the pilot project area during the term of the pilot project.

''(B) GUIDELINES DESCRIBED.—The guidelines referred to in subparagraph (A) are those in the document entitled 'Viability Assessments and Management Considerations for Species Associated with Late-Successional and Old-Growth Forests of the Pacific Northwest', a Forest Service research document dated March 1993 and co-authored by the Scientific Analysis Team, including Dr. Jack Ward Thomas.

''(C) LIMITATION.—Nothing in this section shall be construed to require the application of the Scientific Analysis Team guidelines to any livestock grazing in the pilot project area during the term of the pilot project, unless the livestock grazing is being conducted in the specific location at which the Scientific Analysis Team guidelines are being applied to an activity under subsection (d).

''(3) COMPLIANCE.—All resource management activities required by subsection (d) shall be implemented to the extent consistent with applicable Federal law and the standards and guidelines for the conservation of the California spotted owl as set forth in the California Spotted Owl Sierran Provence Interim Guidelines or the subsequently issued guidelines, whichever are in effect.

''(4) ROADLESS AREA PROTECTION.—The Regional Forester for Region 5 shall direct that any resource management activity required by subsection (d)(1) and (2), all road building, all timber harvesting activities, and any riparian management under subsection (d)(4) that utilizes road construction or timber harvesting shall not be conducted on Federal lands within the Plumas National Forest, Lassen National Forest, and the Sierraville Ranger District of the Tahoe National Forest that are designated as either 'Off Base' or 'Deferred' on the map referred to in subsection (a). Such direction shall be effective during the term of the pilot project.

''(d) RESOURCE MANAGEMENT ACTIVITIES.—During the term of the pilot project, the Secretary shall implement and carry out the following resource management activities on an acreage basis on the Federal lands included within the pilot project area designated under subsection (b)(2):

''(1) FUELBREAK CONSTRUCTION.—Construction of a strategic system of defensible fuel profile zones, including shaded fuelbreaks, utilizing thinning, individual tree selection, and other methods of vegetation management consistent with the Quincy Library Group-Community Stability Proposal, on not less than 40,000, but not more than 60,000, acres per year.

''(2) GROUP SELECTION AND INDIVIDUAL TREE SELECTION.—Utilization of group selection and individual tree selection uneven-aged forest management prescriptions described in the Quincy Library Group-Community Stability Proposal to achieve a desired future condition of all-age, multistory, fire resilient forests as follows:

''(A) GROUP SELECTION.—Group selection on an average acreage of .57 percent of the pilot project area land each year of the pilot project.

''(B) INDIVIDUAL TREE SELECTION.—Individual tree selection may also be utilized within the pilot project area.

''(3) TOTAL ACREAGE.—The total acreage on which resource management activities are implemented under this subsection shall not exceed 70,000 acres each year.

''(4) RIPARIAN MANAGEMENT.—A program of riparian management, including wide protection zones and riparian restoration projects, consistent with riparian protection guidelines in subsection (c)(2)(B).

''(e) COST-EFFECTIVENESS.—In conducting the pilot project, Secretary shall use the most cost-effective means available, as determined by the Secretary, to implement resource management activities described in subsection (d).

''(f) FUNDING.—

''(1) SOURCE OF FUNDS.—In conducting the pilot project, the Secretary shall use, subject to the relevant reprogramming guidelines of the House and Senate Committees on Appropriations—

''(A) those funds specifically provided to the Forest Service by the Secretary to implement resource management activities according to the Quincy Library Group-Community Stability Proposal; and

''(B) year-end excess funds that are allocated for the administration and management of Plumas National Forest, Lassen National Forest, and the Sierraville Ranger District of Tahoe National Forest.

''(2) PROHIBITION ON USE OF CERTAIN FUNDS.—The Secretary may not conduct the pilot project using funds appropriated for any other unit of the National Forest System.

''(3) FLEXIBILITY.—Subject to normal reprogramming guidelines, during the term of the pilot project, the forest supervisors of Plumas National Forest, Lassen National Forest, and Tahoe National Forest may allocate and use all accounts that contain year-end excess funds and all available excess funds for the administration and management of Plumas National Forest, Lassen National Forest, and the Sierraville Ranger District of Tahoe National Forest to perform the resource management activities described in subsection (d).

''(4) RESTRICTION.—The Secretary or the forest supervisors, as the case may be, shall not utilize authority provided under paragraphs (1)(B) and (3) if, in their judgment, doing so will limit other nontimber related multiple use activities for which such funds were available.

''(5) OVERHEAD.—The Secretary shall seek to ensure that of amounts available to carry out this section—

''(A) not more than 12 percent is used or allocated for general administration or other overhead; and

''(B) at least 88 percent is used to implement and carry out activities required by this section.

''(6) AUTHORIZED SUPPLEMENTAL FUNDS.—There are authorized to be appropriated to implement and carry out the pilot project such sums as are necessary.

''(7) BASELINE FUNDS.—Amounts available for resource management activities authorized under subsection (d) shall at a minimum include existing baseline funding levels.

''(g) TERM OF PILOT PROJECT.—The Secretary shall conduct the pilot project until September 30, 2012.

''(h) CONSULTATION.—(1) The statement required by subsection (b)(1) shall be prepared in consultation with interested members of the public, including the Quincy Library Group.

''(2) CONTRACTING.—The Forest Service, subject to the availability of appropriations, may carry out any (or all) of the requirements of this section using private contracts.

''[(i)] By June 1, 2008, the Forest Service shall initiate a collaborative process with the Plaintiffs in Sierra Ne-

vada Forest Prot. Campaign v. Rey, Case No. CIV–S–05–0205 MCE/GGH (E.D. Cal.), appeal docketed sub nom. Sierra Forest Legacy v. Rey, No. 07–16892 (9th Cir. Oct. 23, 2007) and the Quincy Library Group to determine whether modifications to the Pilot Project are appropriate for the remainder of the Pilot Project.

''(j) STATUS REPORTS.—

''(1) IN GENERAL.—Not later than February 28 of each year during the term of the pilot project, the Secretary shall submit to Congress a report on the status of the pilot project. The report shall include at least the following:

''(A) A complete accounting of the use of funds made available under subsection (f)(1)(A) until such funds are fully expended.

''(B) A complete accounting of the use of funds and accounts made available under subsection (f)(1) for the previous fiscal year, including a schedule of the amounts drawn from each account used to perform resource management activities described in subsection (d).

''(C) A description of total acres treated for each of the resource management activities required under subsection (d), forest health improvements, fire risk reductions, water yield increases, and other natural resources-related benefits achieved by the implementation of the resource management activities described in subsection (d).

''(D) A description of the economic benefits to local communities achieved by the implementation of the pilot project.

''(E) A comparison of the revenues generated by, and costs incurred in, the implementation of the resource management activities described in subsection (d) on the Federal lands included in the pilot project area with the revenues and costs during each of the fiscal years 1992 through 1997 for timber management of such lands before their inclusion in the pilot project.

''(F) A proposed schedule for the resource management activities to be undertaken in the pilot project area during the 1-year period beginning on the date of submittal of the report.

''(G) A description of any adverse environmental impacts from the pilot project.

''(2) LIMITATION ON EXPENDITURES.—The amount of Federal funds expended on each annual report under this subsection shall not exceed $125,000.

''(k) FINAL REPORT.—

''(1) IN GENERAL.—The Secretary shall establish an independent scientific panel to review and report on whether, and to what extent, implementation of the pilot project under this section achieved the goals stated in the Quincy Library Group-Community Stability Proposal, including improved ecological health and community stability. The membership of the panel shall reflect expertise in diverse disciplines in order to adequately address all of those goals.

''(2) PREPARATION.—The panel shall initiate such review no sooner than 18 months after the first day of the term of the pilot project under subsection (g). The panel shall prepare the report in consultation with interested members of the public, including the Quincy Library Group. The report shall include, but not be limited to, the following:

''(A) A description of any adverse environmental impacts resulting from implementation of the pilot project.

''(B) An assessment of watershed monitoring data on lands treated pursuant to this section. Such assessment shall address the following issues on a priority basis: timing of water releases; water quality changes; and water yield changes over the short- and long-term in the pilot project area.

''(3) SUBMISSION TO THE CONGRESS.—The panel shall submit the final report to the Congress as soon as practicable, but in no case later than 18 months after completion of the pilot project.

''(4) LIMITATION ON EXPENDITURES.—The amount of Federal funds expended for the report under this subsection, other than for watershed monitoring, shall not exceed $350,000. The amount of Federal funds expended for watershed monitoring under this subsection shall not exceed $175,000 for each fiscal year in which the report is prepared.

''(*l*) RELATIONSHIP TO OTHER LAWS.—Nothing in this section exempts the pilot project from any Federal environmental law.

''(m) Section 106 of Public Law 108–148 [16 U.S.C. 6516] shall apply to all projects authorized by this Act [probably should be this section]. Sections 104 and 105 of Public Law 108–148 [16 U.S.C. 6514, 6515] may be applied to projects authorized by this Act.

''SEC. 402. SHORT TITLE. Section 401 of this title may be cited as the 'Herger-Feinstein Quincy Library Group Forest Recovery Act'.''

[Pub. L. 108–7, div. F, title III, § 338, Feb. 20, 2003, 117 Stat. 278, provided that: ''Congress reaffirms its original intent that the Herger-Feinstein Quincy Library Group Forest Recovery Act of 1998 [Pub. L. 105–277, div. A, § 101(e) [title IV, § 401], set out above] be implemented, and hereby extends the expiration of the Quincy Library Group Act by 5 years.'']

§ 2104a. Pest and Disease Revolving Loan Fund

(a) Definitions

In this section:

(1) Authorized equipment

(A) In general

The term ''authorized equipment'' means any equipment necessary for the management of forest land.

(B) Inclusions

The term ''authorized equipment'' includes—

(i) cherry pickers;

(ii) equipment necessary for—

(I) the construction of staging and marshalling areas;

(II) the planting of trees; and

(III) the surveying of forest land;

(iii) vehicles capable of transporting harvested trees;

(iv) wood chippers; and

(v) any other appropriate equipment, as determined by the Secretary.

(2) Fund

The term ''Fund'' means the Pest and Disease Revolving Loan Fund established by subsection (b).

(3) Secretary

The term ''Secretary'' means the Secretary of Agriculture, acting through the Deputy Chief of the State and Private Forestry organization.

(b) Establishment of Fund

There is established in the Treasury of the United States a revolving fund, to be known as the ''Pest and Disease Revolving Loan Fund'', consisting of such amounts as are appropriated to the Fund under subsection (f).

(c) Expenditures from Fund

(1) In general

Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to provide loans under subsection (e).

(2) Administrative expenses

An amount not exceeding 10 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this section.

(d) Transfers of amounts

(1) In general

The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) Adjustments

Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(e) Uses of Fund

(1) Loans

(A) In general

The Secretary shall use amounts in the Fund to provide loans to eligible units of local government to finance purchases of authorized equipment to monitor, remove, dispose of, and replace infested trees that are located—

(i) on land under the jurisdiction of the eligible units of local government; and

(ii) within the borders of quarantine areas infested by plant pests.

(B) Maximum amount

The maximum amount of a loan that may be provided by the Secretary to an eligible unit of local government under this subsection shall be the lesser of—

(i) the amount that the eligible unit of local government has appropriated to finance purchases of authorized equipment in accordance with subparagraph (A); or

(ii) $5,000,000.

(C) Interest rate

The interest rate on any loan made by the Secretary under this paragraph shall be a rate equal to 2 percent.

(D) Report

Not later than 180 days after the date on which an eligible unit of local government receives a loan provided by the Secretary under subparagraph (A), the eligible unit of local government shall submit to the Secretary a report that describes each purchase made by the eligible unit of local government using assistance provided through the loan.

(2) Loan repayment schedule

(A) In general

To be eligible to receive a loan from the Secretary under paragraph (1), in accordance with each requirement described in subparagraph (B), an eligible unit of local government shall enter into an agreement with the Secretary to establish a loan repayment schedule relating to the repayment of the loan.

(B) Requirements relating to loan repayment schedule

A loan repayment schedule established under subparagraph (A) shall require the eligible unit of local government—

(i) to repay to the Secretary of the Treasury, not later than 1 year after the date on which the eligible unit of local government receives a loan under paragraph (1), and semiannually thereafter, an amount equal to the quotient obtained by dividing—

(I) the principal amount of the loan (including interest); by

(II) the total quantity of payments that the eligible unit of local government is required to make during the repayment period of the loan; and

(ii) not later than 20 years after the date on which the eligible unit of local government receives a loan under paragraph (1), to complete repayment to the Secretary of the Treasury of the loan made under this section (including interest).

(f) Authorization of appropriations

There are authorized to be appropriated to the Fund such sums as are necessary to carry out this section.

(Pub. L. 110–234, title X, § 10205, May 22, 2008, 122 Stat. 1344; Pub. L. 110–246, § 4(a), title X, § 10205, June 18, 2008, 122 Stat. 1664, 2106.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Food, Conservation, and Energy Act of 2008, and not as part of the Cooperative Forestry Assistance Act of 1978 which comprises this chapter.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

§ 2105. Urban and community forestry assistance

(a) Findings

The Congress finds that—

(1) the health of forests in urban areas and communities, including cities, their suburbs, and towns, in the United States is on the decline;

(2) forest lands, shade trees, and open spaces in urban areas and communities improve the quality of life for residents;

(3) forest lands and associated natural resources enhance the economic value of residential and commercial property in urban and community settings;

(4) urban trees are 15 times more effective than forest trees at reducing the buildup of carbon dioxide and aid in promoting energy conservation through mitigation of the heat island effect in urban areas;

(5) tree plantings and ground covers such as low growing dense perennial turfgrass sod in urban areas and communities can aid in reduc-

ing carbon dioxide emissions, mitigating the heat island effect, and reducing energy consumption, thus contributing to efforts to reduce global warming trends;

(6) efforts to encourage tree plantings and protect existing open spaces in urban areas and communities can contribute to the social well-being and promote a sense of community in these areas; and

(7) strengthened research, education, technical assistance, and public information and participation in tree planting and maintenance programs for trees and complementary ground covers for urban and community forests are needed to provide for the protection and expansion of tree cover and open space in urban areas and communities.

(b) Purposes

The purposes of this section are to—

(1) improve understanding of the benefits of preserving existing tree cover in urban areas and communities;

(2) encourage owners of private residences and commercial properties to maintain trees and expand forest cover on their properties;

(3) provide education programs and technical assistance to State and local organizations (including community associations and schools) in maintaining forested lands and individual trees in urban and community settings and identifying appropriate tree species and sites for expanding forest cover;

(4) provide assistance through competitive matching grants awarded to local units of government, approved organizations that meet the requirements of section 501(c)(3) of title 26, or other local community tree volunteer groups, for urban and community forestry projects;

(5) implement a tree planting program to complement urban and community tree maintenance and open space programs and to reduce carbon dioxide emissions, conserve energy, and improve air quality in addition to providing other environmental benefits;

(6) promote the establishment of demonstration projects in selected urban and community settings to illustrate the benefits of maintaining and creating forest cover and trees;

(7) enhance the technical skills and understanding of sound tree maintenance and arboricultural practices including practices involving the cultivation of trees, shrubs and complementary ground covers, of individuals involved in the planning, development, and maintenance of urban and community forests and trees; and

(8) expand existing research and educational efforts intended to improve understanding of—

(A) tree growth and maintenance, tree physiology and morphology, species adaptations, and forest ecology,

(B) the value of integrating trees and ground covers,

(C) the economic, environmental, social, and psychological benefits of trees and forest cover in urban and community environments, and

(D) the role of urban trees in conserving energy and mitigating the urban heat island.

(c) General authority

The Secretary is authorized to provide financial, technical, and related assistance to State foresters or equivalent State officials for the purpose of encouraging States to provide information and technical assistance to units of local government and others that will encourage cooperative efforts to plan urban forestry programs and to plant, protect, and maintain, and utilize wood from, trees in open spaces, greenbelts, roadside screens, parks, woodlands, curb areas, and residential developments in urban areas. In providing such assistance, the Secretary is authorized to cooperate with interested members of the public, including nonprofit private organizations. The Secretary is also authorized to cooperate directly with units of local government and others in implementing this section whenever the Secretary and the affected State forester or equivalent State official agree that direct cooperation would better achieve the purposes of this section.

(d) Program of education and technical assistance

The Secretary, in cooperation with State foresters and State extension directors or equivalent State officials and interested members of the public, including nonprofit private organizations, shall implement a program of education and technical assistance for urban and community forest resources. The program shall be designed to—

(1) assist urban areas and communities in conducting inventories of their forest resources, including inventories of the species, number, location, and health of trees in urban areas and communities, identifying opportunities for the establishment of plantings for the purposes of conserving energy, and determining the status of related resources (including fish and wildlife habitat, water resources, and trails);

(2) assist State and local organizations (including community associations and schools) in organizing and conducting urban and community forestry projects and programs;

(3) improve education and technical support in—

(A) selecting tree species appropriate for planting in urban and community environments and for promotion of energy conservation;

(B) providing for proper tree planting, maintenance, and protection in urban areas and communities;

(C) protecting individual trees and preserving existing open spaces with or without tree cover; and

(D) identifying opportunities for expanding tree cover in urban areas and communities;

(4) assist in the development of State and local management plans for trees and associated resources in urban areas and communities; and

(5) increase public understanding of the energy conservation, economic, social, environmental, and psychological values of trees and open space in urban and community environments and expand knowledge of the ecological relationships and benefits of trees and related resources in these environments.

(e) Procurement of plant materials

The Secretary, in cooperation with State foresters or equivalent State officials, shall assist in identifying sources of plant materials and may procure or otherwise obtain such plant materials from public or private sources and may make such plant materials available to urban areas and communities for the purpose of reforesting open spaces, replacing dead and dying urban trees, promoting energy conservation, and providing other environmental benefits through expanding tree cover in urban areas and communities.

(f) Challenge cost-share program

(1) In general

The Secretary shall establish an urban and community forestry challenge cost-share program. Funds or other support shall be provided under such program to eligible communities and organizations, on a competitive basis, for urban and community forestry projects. The Secretary shall annually make awards under the program in accordance with criteria developed in consultation with, and after consideration of recommendations received from, the National Urban and Community Forestry Advisory Council established under subsection (g) of this section. Each State forester or equivalent State official may make recommendations to the Secretary for awards under the program for project proposals in their State which meet such criteria. Awards shall be consistent with the cost-share requirements of this section.

(2) Cost-sharing

The Federal share of support for a project provided under this subsection may not exceed 50 percent of the support for that project and shall be provided on a matching basis. The non-Federal share of such support may be in the form of cash, services, or in-kind contributions.

(g) Forestry Advisory Council

(1) Establishment and purpose

The Secretary shall establish a National Urban and Community Forestry Advisory Council (hereafter in this section referred to as the ''Council'') for the purpose of—

(A) developing a national urban and community forestry action plan;

(B) evaluating the implementation of that plan; and

(C) developing criteria for, and submitting recommendations with respect to, the urban and community forestry challenge cost-share program under subsection (f) of this section.

(2) Composition and operation

(A) Composition

The Council shall be composed of 15 members appointed by the Secretary, as follows:

(i) 2 members representing national nonprofit forestry and conservation citizen organizations,

(ii) 3 members, 1 each representing State, county, and city and town governments,

(iii) 1 member representing the forest products, nursery, or related industries,

(iv) 1 member representing urban forestry, landscape, or design consultants,

(v) 2 members representing academic institutions with an expertise in urban and community forestry activities,

(vi) 1 member representing State forestry agencies or equivalent State agencies,

(vii) 1 member representing a professional renewable natural resource or arboricultural society,

(viii) 1 member from the National Institute of Food and Agriculture,

(ix) 1 member from the Forest Service, and

(x) 2 members who are not officers or employees of any governmental body, 1 of whom is a resident of a community with a population of less than 50,000 as of the most recent census and both of whom have expertise and have been active in urban and community forestry.

(B) Vacancy

A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(C) Chairperson

The Secretary shall select 1 member, from members appointed to the Council, who is not an officer or employee of the United States nor any State, county, city, or town government, who shall serve as the chairperson of the Council.

(D) Terms

(i) In general

Except as provided in clauses (ii) and (iii) of this paragraph, members shall be appointed for terms of 3 years, and no member may serve more than 2 consecutive terms on the Council.

(ii) Staggered terms

Of the members first appointed—

(I) 5, including the chairperson and 2 governmental employees, shall be appointed for a term of 3 years,

(II) 5, including 2 governmental employees, shall be appointed for a term of 2 years, and

(III) 5, including 2 governmental employees, shall be appointed for a term of 1 year, as designated by the Secretary at the time of appointment.

(iii) Continuation

Any member appointed to fill a vacancy occurring before the expiration of the term of the member's predecessor shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until the member's successor has taken office.

(E) Compensation

(i) In general

Except as provided in clause (ii), members of the Council shall serve without

pay, but may be reimbursed for reasonable costs incurred while in the actual performance of duties vested in the Council.

(ii) Federal officers and employees

Members of the Council who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Council.

(iii) Financial and administrative support

The Secretary shall provide financial and administrative support for the Council.

(3) Urban and Community Forestry Action Plan

Within 1 year after November 28, 1990, and every 10 years thereafter, the Council shall prepare a National Urban and Community Forestry Action Plan. The plan shall include (but not be limited to) the following:

(A) An assessment of the current status of urban forest resources in the United States.

(B) A review of urban and community forestry programs and activities in the United States, including education and technical assistance activities conducted by the Department of Agriculture, and other Federal agencies, the State forestry organizations, private industry, private nonprofit organizations, community and civic organizations and interested others.

(C) Recommendations for improving the status of the Nation's urban and community forest resources, including education and technical assistance and modifications required in existing programs and policies of relevant Federal agencies.

(D) A review of urban and community forestry research, including—

(i) a review of all ongoing research associated with urban and community forests, arboricultural practices, and the economic, social, and psychological benefits of trees and forest cover in urban and community environments being conducted by the Forest Service, other Federal agencies, and associated land grant colleges and universities;

(ii) recommendations for new and expanded research efforts directed toward urban and community forestry concerns; and

(iii) a summary of research priorities and an estimate of the funds needed to implement such research, on an annual basis, for the next 10 years.

(E) Proposed criteria for evaluating proposed projects under the urban and community forestry challenge cost share program under subsection (f) of this section, with special emphasis given to projects that would demonstrate the benefits of improved forest management (including the maintenance and establishment of forest cover and trees) in urban areas and communities.

(F) An estimate of the resources needed to implement the National Urban and Community Forestry Action Plan for the succeeding 10 fiscal years.

(4) Amendment of plan

The plan may be amended by a majority of the Council members. Such amendments shall be incorporated into the Council's annual review of the plan submitted to the Secretary pursuant to paragraph (5) of this subsection.

(5) Review of plan

The Council shall submit the plan to the Secretary and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate upon its completion. Beginning no later than one year after the plan is submitted and annually thereafter, the Council shall submit a review of the plan to the Secretary no later than December 31. The review shall consist of—

(A) the Council's assessment of prior year accomplishments in research, education, technical assistance, and related activities in urban and community forestry;

(B) the Council's recommendations for research, education, technical assistance, and related activities in the succeeding year; and

(C) the Council's recommendations for the urban and community forestry challenge cost share projects to be funded during the succeeding year.

The review submitted to the Secretary shall be incorporated into the annual report required under section 1601(d) of this title.

(6) Detail of personnel

Upon request of the Council, the Secretary is authorized to detail, on a reimbursable basis, any of the personnel of the Department of Agriculture to the Council to assist the Council in carrying out its duties under this chapter.

(h) Definitions

For the purposes of this section—

(1) the term ''Council'' means the National Urban and Community Forestry Advisory Council established under subsection (g) of this section;

(2) the term ''plan'' means the National Urban and Community Forestry Action Plan developed under subsection (g)(3) of this section; and

(3) the term ''urban and community area'' includes cities, their suburbs, and towns.

(i) Authorization of appropriations

There are hereby authorized to be appropriated $30,000,000 for each of the fiscal years 1991 through 1995, and such sums as may be necessary for each fiscal year thereafter, for the implementation of this section.

(Pub. L. 95–313, § 9, formerly § 6, July 1, 1978, 92 Stat. 369; renumbered § 9 and amended Pub. L. 101–624, title XII, §§ 1215(1), 1219(a), Nov. 28, 1990, 104 Stat. 3525, 3533; Pub. L. 102–237, title X, § 1018(a)(3), Dec. 13, 1991, 105 Stat. 1905; Pub. L. 110–234, title VII, § 7511(c)(36), May 22, 2008, 122 Stat. 1271; Pub. L. 110–246, § 4(a), title VII, § 7511(c)(36), June 18, 2008, 122 Stat. 1664, 2032.)

CODIFICATION

November 28, 1990, referred to in subsec. (g)(3), was in the original ''the date of enactment of this subsection'',

which was translated as meaning the date of enactment of Pub. L. 101–624, which amended this section generally, to reflect the probable intent of Congress.

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (g)(2)(A)(viii). Pub. L. 110–246, § 7511(c)(36), substituted ''National Institute of Food and Agriculture'' for ''Extension Service''.

1991—Subsec. (g)(1)(C), (3)(E). Pub. L. 102–237, § 1018(a)(3)(A), (B), substituted ''subsection (f)'' for ''subsection (e)''.

Subsec. (h)(1). Pub. L. 102–237, § 1018(a)(3)(C), substituted ''subsection (g)'' for ''subsection (f)''.

Subsec. (h)(2). Pub. L. 102–237, § 1018(a)(3)(D), substituted ''subsection (g)(3)'' for ''subsection (f)(3)''.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions relating to Congressional findings concerning urban forestry assistance, financial, technical, and related assistance to State foresters or equivalent State officials to encourage planning of urban forestry programs, and authorization of appropriations.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 7511(c)(36) of Pub. L. 110–246 effective Oct. 1, 2009, see section 7511(c) of Pub. L. 110–246, set out as a note under section 1522 of Title 7, Agriculture.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2106. Rural fire prevention and control

(a) Congressional findings

Congress finds that—

(1) significant accomplishments have been made by the Secretary and cooperating States in the prevention and control of fires on forest lands and on nonforested watersheds for more than fifty years;

(2) progress is being made by the Secretary and cooperating States and rural communities in the protection of human lives, agricultural crops and livestock, property and other improvements, and natural resources from fires in rural areas;

(3) notwithstanding the accomplishments and progress that have been made, fire prevention and control on rural lands and in rural communities are of continuing high priority to protect human lives, agricultural crops and livestock, property and other improvements, and natural resources;

(4) the effective cooperative relationships between the Secretary and the States regarding fire prevention and control on rural lands and in rural communities should be retained and improved;

(5) efforts in fire prevention and control in rural areas should be coordinated among Federal, State, and local agencies; and

(6) in addition to providing assistance to State and local rural fire prevention and control programs, the Secretary should provide prompt and adequate assistance whenever a rural fire emergency overwhelms, or threatens to overwhelm, the firefighting capability of the affected State or rural area.

(b) Implementation of provisions

Notwithstanding the Federal Fire Prevention and Control Act of 1974 [15 U.S.C. 2201 et seq.] the Secretary is authorized, under whatever conditions the Secretary may prescribe, to—

(1) cooperate with State foresters or equivalent State officials in developing systems and methods for the prevention, control, suppression, and prescribed use of fires on rural lands and in rural communities that will protect human lives, agricultural crops and livestock, property and other improvements, and natural resources;

(2) provide financial, technical, and related assistance to State foresters or equivalent State officials, and through them to other agencies and individuals, for the prevention, control, suppression, and prescribed use of fires on non-Federal forest lands and other non-Federal lands;

(3) provide financial, technical, and related assistance to State foresters or equivalent State officials in cooperative efforts to organize, train, and equip local firefighting forces, including those of Indian tribes or other native groups, to prevent, control, and suppress fires threatening human lives, crops, livestock, farmsteads or other improvements, pastures, orchards, wildlife, rangeland, woodland, and other resources in rural areas. As used herein, the term ''rural areas'' shall have the meaning set out in the first clause of section 1926(a)(7)[1] of title 7; and

(4) provide financial, technical, and related assistance to State foresters or equivalent State officials, and through them to other agencies and individuals, including rural volunteer fire departments, to conduct preparedness and mobilization activities, including training, equipping, and otherwise enabling State and local firefighting agencies to respond to requests for fire suppression assistance.

(c) Encouragement of use of excess personal property by State and local fire forces receiving assistance; cooperation and assistance of Administrator of General Services

The Secretary, with the cooperation and assistance of the Administrator of General Services, shall encourage the use of excess personal property (within the meaning of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41) by State and local fire forces receiving assistance under this section.

[1] See References in Text note below.

(d) Coordination of assistance with assistance of Secretary of Commerce under Federal fire prevention and control provisions

To promote maximum effectiveness and economy, the Secretary shall seek to coordinate the assistance the Secretary provides under this section with the assistance provided by the Secretary of Commerce under the Federal Fire Prevention and Control Act of 1974 [15 U.S.C. 2201 et seq.].

(e) Authorization of appropriations for implementation of provisions

(1) There are hereby authorized to be appropriated annually such sums as may be needed to implement paragraphs (1), (2), and (3) of subsection (b) of this section.

(2)(A) There are hereby authorized to be appropriated annually $70,000,000 to carry out subsection (b)(4) of this section. Of the total amount appropriated to carry out subsection (b)(4) of this section—

(i) one-half shall be available only for State foresters or equivalent State officials, and through them to other agencies and individuals, of which not less than $100,000 shall be made available to each State; and

(ii) one-half shall be available only for rural volunteer fire departments.

(B) The Federal share of the cost of any activity carried out with funds made available pursuant to this paragraph may not exceed 50 percent of the cost of that activity. The non-Federal share for such activity may be in the form of cash, services, or in kind contributions.

(f) Special rural fire disaster fund; establishment, appropriations, etc.

There shall be established in the Treasury a special rural fire disaster fund that shall be immediately available to and used by the Secretary to supplement any other money available to carry out this section with respect to rural fire emergencies, as determined by the Secretary. The Secretary shall determine that State and local resources are fully used or will be fully used before expending money in the disaster fund to assist a State in which one or more rural fire emergencies exist. There are hereby authorized to be appropriated such sums as may be needed to establish and replenish the disaster fund established by this subsection.

(g) Definitions

As used in this section—

(1) the term ''rural volunteer fire department'' means any organized, not for profit, fire protection organization that provides service primarily to a community or city with a population of 10,000 or less or to a rural area, as defined by the Secretary, whose firefighting personnel is 80 percent or more volunteer, and that is recognized as a fire department by the laws of the State; and

(2) the term ''mobilization'' means any activity in which one firefighting organization assists another that has requested assistance.

(Pub. L. 95–313, § 10, formerly § 7, July 1, 1978, 92 Stat. 370; renumbered § 10 and amended Pub. L. 101–624, title XII, §§ 1215(1), 1220, Nov. 28, 1990, 104 Stat. 3525, 3539; Pub. L. 102–237, title X, § 1018(a)(4), Dec. 13, 1991, 105 Stat. 1905.)

REFERENCES IN TEXT

The Federal Fire Prevention and Control Act of 1974, referred to in subsecs. (b) and (d), is Pub. L. 93–498, Oct. 29, 1974, 88 Stat. 1535, as amended, which is classified principally to chapter 49 (§ 2201 et seq.) of Title 15, Commerce and Trade. For complete classification of the Act to the Code, see Short Title note set out under section 2201 of Title 15 and Tables.

Section 1926(a)(7) of title 7, referred to in subsec. (b)(3), was repealed by Pub. L. 107–171, title VI, § 6020(b)(1), May 13, 2002, 116 Stat. 363.

CODIFICATION

In subsec. (c), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

A prior section 10 of Pub. L. 95–313 was renumbered section 13 and is classified to section 2109 of this title.

AMENDMENTS

1991—Subsec. (g)(2). Pub. L. 102–237 substituted ''fire-fighting organization'' for ''fire fighting organization''.

1990—Subsec. (b)(4). Pub. L. 101–624, § 1220(a), added par. (4).

Subsec. (e). Pub. L. 101–624, § 1220(b), designated existing provisions as par. (1), inserted reference to paragraphs (1), (2), and (3) of subsec. (b), and added par. (2).

Subsec. (g). Pub. L. 101–624, § 1220(c), added subsec. (g).

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions vested in Secretary of Commerce pursuant to provisions of Federal Fire Prevention Control Act of 1974, 15 U.S.C. 2201 et seq., transferred to Director of Federal Emergency Management Agency pursuant to Reorg. Plan No. 3 of 1978, § 201, June 19, 1978, 43 F.R. 41944, 92 Stat. 3788, set out in the Appendix to Title 5, Government Organization and Employees, effective Apr. 1, 1979, as provided by Ex. Ord. No. 12127, §§ 1–101, 1–103(a), Mar. 31, 1979, 44 F.R. 19637.

§ 2106a. Emergency reforestation assistance

(a) In general

The Secretary of Agriculture is authorized to provide assistance under this section to eligible landowners who suffer destruction of 35 percent or more of a commercial tree stand due to damaging weather, related condition, or wildfire.

(b) Form of assistance

The assistance, if any, provided by the Secretary under this section shall consist of either—

(1) reimbursement of up to 65 percent of the cost of reestablishing such tree stand damaged by the damaging weather, related condition, or wildfire in excess of 35 percent mortality; or

(2) at the discretion of the Secretary, provision of sufficient tree seedlings to reestablish such tree stand.

(c) Conditions

(1) Limitation on assistance

No person may receive an amount in excess of $25,000 in any fiscal year, or an equivalent value in tree seedlings, under this section.

(2) Ineligibility

A person who has qualifying gross revenues in excess of $2,000,000 annually, as determined by the Secretary, shall not be eligible to receive any disaster payment or other benefits under this section.

(3) Implementation

In implementing this section, the Secretary shall issue regulations—

(A) defining the term ''person'' for the purposes of this section that shall conform, to the extent practicable, to the regulations defining the term ''person'' issued under section 1308 of title 7 (before the amendment made by section 1703(a)[1] of the Food, Conservation, and Energy Act of 2008);

(B) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this subsection; and

(C) ensuring that no person receives duplicative payments or assistance under this section, the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.), and the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 [16 U.S.C. 3839aa et seq.], or other Federal program.

(d) Definitions

As used in this section—

(1) the term ''damaging weather'' includes drought, hail, excessive moisture, freeze, tornado, hurricane, excessive wind, or any combination thereof;

(2) the term ''eligible landowner'' means a person who—

(A) produces annual crops from trees for commercial purposes and owns 500 acres or less of such trees;

(B) owns 1,000 acres or less of private forest land; or

(C) owns more than 1,000 acres but less than 5,000 acres of private forest land if the Secretary, in the Secretary's discretion, determines the person eligible;

(3) the term ''qualifying gross revenues'' means—

(A) if a majority of the person's annual income is received from farming, ranching, and forestry operations, the gross revenue from the person's farming, ranching, and forestry operations; and

(B) if less than a majority of the person's annual income is received from farming, ranching, and forestry operations, the person's gross revenue from all sources;

(4) the term ''related condition'' includes insect infestations, disease, or other deterioration of a tree stand that is accelerated or exacerbated by damaging weather;

(5) the term ''reestablish'' includes site preparation, reforestation of a damaged stand, and timber stand improvement practices, including thinning, prescribed burning, and other practices approved by the Secretary for reforestation;

(6) the term ''Secretary'' means the Secretary of Agriculture; and

(7) the term ''wildfire'' means any forest or range fire.

(e) Retroactive assistance

The Secretary shall use funds provided under this section to reimburse landowners for approved reforestation practices that were implemented before November 28, 1990. The Secretary shall not make reimbursements for reforestation practices that were implemented prior to September 1, 1989.

(Pub. L. 101–624, title XII, §1271, Nov. 28, 1990, 104 Stat. 3557; Pub. L. 102–237, title X, §1018(f), Dec. 13, 1991, 105 Stat. 1906; Pub. L. 104–127, title III, §336(a)(2)(E), Apr. 4, 1996, 110 Stat. 1005; Pub. L. 110–234, title I, §1603(g)(5), May 22, 2008, 122 Stat. 1011; Pub. L. 110–246, §4(a), title I, §1603(g)(5), June 18, 2008, 122 Stat. 1664, 1740.)

REFERENCES IN TEXT

Section 1703(a) of the Food, Conservation, and Energy Act of 2008, referred to in subsec. (c)(3)(A), probably means section 1603 of Pub. L. 110–246, because Pub. L. 110–246 does not contain a section 1703 and subsec. (b)(3) of section 1603 of Pub. L. 110–246 amended section 1308 of Title 7, Agriculture, by striking out provisions relating to issuance of regulations defining ''person''.

The Cooperative Forestry Assistance Act of 1978, referred to in subsec. (c)(3)(C), is Pub. L. 95–313, July 1, 1978, 92 Stat. 365, as amended, which is classified principally to this chapter (§2101 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

The Food Security Act of 1985, referred to in subsec. (c)(3)(C), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. Chapter 4 of subtitle D of title XII of the Act is classified generally to part IV (§3839aa et seq.) of subchapter IV of chapter 58 of this title. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of Title 7, Agriculture, and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Federal Stewardship Act of 1990 and also as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Cooperative Forestry Assistance Act of 1978 which comprises this chapter.

AMENDMENTS

2008—Subsec. (c)(3)(A). Pub. L. 110–246, §1603(g)(5), inserted ''(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)'' after ''section 1308 of title 7''.

[1] See References in Text note below.

1996—Subsec. (c)(3)(C). Pub. L. 104–127 substituted ''environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985'' for ''Agricultural Conservation Program established under section 590p(b) of this title''.

1991—Subsec. (c)(3)(C). Pub. L. 102–237 inserted ''(16 U.S.C. 2101 et seq.)'' after ''1978'' and made technical amendment to reference to section 590p(b) of this title to correct corresponding provision of original Act.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 2106b. Use of money collected from States for fire suppression assistance

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall on and after October 21, 1998, be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 note, 2101–2110, 1606, and 2111.

(Pub. L. 105–277, div. A, § 101(e) [title II], Oct. 21, 1998, 112 Stat. 2681–231, 2681–273.)

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1999, and also as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, and not as part of the Cooperative Forestry Assistance Act of 1978 which comprises this chapter.

SIMILAR PROVISIONS

Provisions similar to this section were contained in the following prior appropriation acts:

Pub. L. 105–83, title II, Nov. 14, 1997, 111 Stat. 1577.

Pub. L. 104–208, div. A, title I, § 101(d) [title II], Sept. 30, 1996, 110 Stat. 3009–181, 3009–208.

Pub. L. 104–134, title I, § 101(c) [title II], Apr. 26, 1996, 110 Stat. 1321–156, 1321–185; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103–332, title II, Sept. 30, 1994, 108 Stat. 2524.

Pub. L. 103–138, title II, Nov. 11, 1993, 107 Stat. 1403.

Pub. L. 102–381, title II, Oct. 5, 1992, 106 Stat. 1402.

Pub. L. 102–154, title II, Nov. 13, 1991, 105 Stat. 1018.

Pub. L. 101–512, title II, Nov. 5, 1990, 104 Stat. 1943.

Pub. L. 101–121, title II, Oct. 23, 1989, 103 Stat. 727.

Pub. L. 100–446, title II, Sept. 27, 1988, 102 Stat. 1810.

§ 2106c. Enhanced community fire protection

(a) Cooperative management related to wildfire threats

The Secretary may cooperate with State foresters and equivalent State officials in the management of lands in the United States for the following purposes:

(1) Aid in wildfire prevention and control.

(2) Protect communities from wildfire threats.

(3) Enhance the growth and maintenance of trees and forests that promote overall forest health.

(4) Ensure the continued production of all forest resources, including timber, outdoor recreation opportunities, wildlife habitat, and clean water, through conservation of forest cover on watersheds, shelterbelts, and windbreaks.

(b) Community and Private Land Fire Assistance Program

(1) Establishment; purpose

The Secretary shall establish a Community and Private Land Fire Assistance program (in this subsection referred to as the ''Program'')—

(A) to focus the Federal role in promoting optimal firefighting efficiency at the Federal, State, and local levels;

(B) to augment Federal projects that establish landscape level protection from wildfires;

(C) to expand outreach and education programs to homeowners and communities about fire prevention; and

(D) to establish space around homes and property of private landowners that is defensible against wildfires.

(2) Administration and implementation

The Program shall be administered by the Forest Service and implemented through State foresters or equivalent State officials.

(3) Components

In coordination with existing authorities under this chapter, the Secretary, in consultation with the State forester or equivalent State official, may undertake on non-Federal lands—

(A) fuel hazard mitigation and prevention;

(B) invasive species management;

(C) multiresource wildfire planning;

(D) community protection planning;

(E) community and landowner education enterprises, including the program known as FIREWISE;

(F) market development and expansion;

(G) improved wood utilization; and

(H) special restoration projects.

(4) Consent required

Program activities undertaken by the Secretary on non-Federal lands shall be undertaken only with the consent of the owner of the lands.

(5) Considerations

The Secretary shall use persons in the local community wherever possible to carry out projects under the Program.

(c) Consultation

In carrying out this section, the Secretary shall consult with the Administrator of the United States Fire Administration, the Director of the National Institute of Standards and Technology, and the heads of other Federal agencies, as necessary.

(d) Authorization of appropriations

There are hereby authorized to be appropriated to the Secretary to carry out this section—

(1) $35,000,000 for each of fiscal years 2002 through 2007; and

(2) such sums as are necessary for fiscal years thereafter.

(Pub. L. 95–313, § 10A, as added Pub. L. 107–171, title VIII, § 8003(b), May 13, 2002, 116 Stat. 473.)

FINDINGS FOR ENHANCED COMMUNITY FIRE PROTECTION

Pub. L. 107–171, title VIII, § 8003(a), May 13, 2002, 116 Stat. 473, provided that: ''Congress finds the following:

''(1) The severity and intensity of wildland fires has increased dramatically over the past few decades as a result of past fire and land management policies.

''(2) The record 2000 fire season is a prime example of what can be expected if action is not taken.

''(3) Wildland fires threaten not only the forested resources of the United States, but also the thousands of communities intermingled with the wildlands in the wildland-urban interface.

''(4) The National Fire Plan, if implemented to achieve appropriate priorities, is the proper, coordinated, and most effective means to address the issue of wildfires.

''(5) While adequate authorities exist to tackle the wildfire issues at the landscape level on Federal lands, there is limited authority to take action on most private lands, and the largest threat to life and property exists on private lands.

''(6) There is a significant Federal interest in enhancing community protection from wildfire.''

§ 2107. Financial, technical, and related assistance to States

(a) Development of State organizations for protection and management of non-Federal forest lands; scope of assistance; request by officials

To aid in achieving maximum effectiveness in the programs and activities conducted under this chapter, the Secretary is authorized to provide financial, technical, and related assistance to State foresters or equivalent State officials for the development of stronger and more efficient State organizations that will enable them to fulfill better their responsibilities for the protection and management of non-Federal forest lands. Assistance under this subsection may include, but will not be limited to, assistance in matters related to organization management, program planning and management, budget and fiscal accounting services, personnel training and management, information services, and recordkeeping. Assistance under this subsection may be extended only upon request by State foresters or equivalent State officials.

(b) Assembly, analysis, display, and reporting of State forest resources data, resources planning, etc.; scope of assistance; other statutory provisions unaffected

To ensure that data regarding forest lands are available for and effectively presented in State and Federal natural resources planning, the Secretary is authorized to provide financial, technical, and related assistance to State foresters or equivalent State officials in the assembly, analysis, display, and reporting of State forest resources data, in the training of State forest resources planners, and in participating in natural resources planning at the State and Federal levels. The Secretary shall restrict assistance under this subsection to the implementation of the forestry aspects of State and Federal natural resources planning conducted under other laws. This subsection shall not be construed, in any way whatsoever, as extending, limiting, amending, repealing, or otherwise affecting any other law or authority.

(c) Technology implementation program; scope of program; availability of funds; use of forest resources planning committees

To ensure that new technology is introduced, new information is integrated into existing technology, and forest resources research findings are promptly made available to State forestry personnel, private forest landowners and managers, vendors, forest operators, wood processors, public agencies, and individuals, the Secretary is authorized to carry out a program of technology implementation.

(1) In implementing this subsection, the Secretary is authorized to work through State foresters or equivalent State officials, and, if the State forester or equivalent State official is unable to deliver these services, the Secretary is authorized to act through appropriate United States Department of Agriculture agencies, subdivisions of States, agencies, institutions, organizations, or individuals to—

(A) strengthen technical assistance and service programs of cooperators participating in programs under this chapter by applying research results and conducting pilot projects and field tests of management and utilization practices, equipment, and technologies, related to programs and activities authorized under this chapter;

(B) study the effects of tax laws, methods, and practices on forest management;

(C) develop and maintain technical information systems in support of programs and activities authorized under this chapter;

(D) test, evaluate, and seek registration of chemicals for use in implementing the programs and activities authorized under this chapter;

(E) conduct other activities, including training of State forestry personnel whom the Secretary deems necessary to ensure that the programs and activities authorized under this chapter are responsive to special problems, unique situations, and changing conditions.

(2) The Secretary may make funds available to cooperators under this chapter without regard to the provisions of section 3324(a) and (b) of title 31, which prohibits advances of public money.

(3) The Secretary shall use forest resources planning committees at National and State levels in implementing this subsection.

(d) Authorization of appropriations

There are hereby authorized to be appropriated annually such sums as may be needed to implement this section.

(Pub. L. 95–313, § 11, formerly § 8, July 1, 1978, 92 Stat. 371; renumbered § 11, Pub. L. 101–624, title XII, § 1215(1), Nov. 28, 1990, 104 Stat. 3525.)

CODIFICATION

In subsec. (c)(2), ''section 3324(a) and (b) of title 31'' substituted for ''section 3648 of the Revised Statutes (31 U.S.C. 529)'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 11 of Pub. L. 95–313 was renumbered section 14 and is classified to section 2110 of this title.

§ 2108. Consolidation of payments

(a) Request by State; excluded funds

To provide flexibility in funding activities authorized under this chapter, the Secretary may, upon the request of any State, consolidate the annual financial assistance payments to that State under this chapter, in lieu of functional cost sharing mechanisms, formulas, or agreements. However, consolidated payments shall not include money appropriated under section 2103 of this title or money from any special Treasury fund established under this chapter.

(b) State forest resources programs as basis

Consolidation of payments made under this section shall be based upon State forest resources programs developed by State foresters or equivalent State officials, and reviewed by the Secretary.

(c) Amount of payments

Consolidated payments to any State during any fiscal year shall not exceed the total amount of non-Federal funds expended within the State during that year to implement its State forest resources program. However, the Secretary may make payments that exceed the non-Federal amount expended for selected activities under the program, if the total Federal expenditure during any fiscal year does not exceed the total non-Federal expenditure during that year under the State forest resources program.

(d) Certification requirement by State forester or equivalent State official for Federal payment

The Secretary may make consolidated payments on the certificate of the State forester or equivalent State official that the conditions for Federal payment have been met.

(e) Administration of consolidated payments program not to adversely affect, etc., other programs

The Secretary shall administer this section to ensure that the use of consolidated payments does not adversely affect or eliminate any program authorized under this chapter.

(f) Total annual amount of financial assistance to participating State; financial assistance for special projects not to be included in determining base amount

Subject to applicable appropriation Acts, the total annual amount of financial assistance to any participating State after July 1, 1978, shall not be less than the base amount of financial assistance provided to that State under all the provisions of law specified in section 2111 of this title during the fiscal year in which this chapter is enacted. However, financial assistance for special projects of two years or less duration shall not be included in determining the base amount for any participating State.

(Pub. L. 95–313, § 12, formerly § 9, July 1, 1978, 92 Stat. 372; renumbered § 12 and amended Pub. L. 101–624, title XII, §§ 1215(1), 1224(2), Nov. 28, 1990, 104 Stat. 3525, 3542.)

PRIOR PROVISIONS

A prior section 12 of Pub. L. 95–313, which amended section 1606 of this title and enacted provisions set out as a note under that section, was renumbered section 15.

AMENDMENTS

1990—Subsec. (f). Pub. L. 101–624, § 1224(2), made technical amendment to reference to section 2111 of this title to reflect renumbering of corresponding section of original act.

§ 2109. General provisions

(a) Cooperative and coordinating requirements for implementation of programs, etc.

In implementing this chapter, the Secretary shall, to the maximum extent practicable—

(1) work through, cooperate with, and assist State foresters or equivalent State officials;

(2) encourage cooperation and coordination between State foresters or equivalent State officials and other State agencies that manage renewable natural resources;

(3) use and encourage cooperators under this chapter to use, private agencies, consultants, organizations, firms, and individuals to furnish necessary materials and services; and

(4) promote effectiveness and economy by coordinating the direct actions and assistance authorized under this chapter with related programs the Secretary administers, and with cooperative programs of other agencies.

(b) Availability of appropriations

Money appropriated under this chapter shall remain available until expended.

(c) Consultation requirements for implementation of programs, etc.

Requirements for the development of State forest resources programs and State participation in management assistance, planning assistance, and technology implementation, the apportionment of funds among States participating under this chapter, the administrative expenses in connection with activities and programs under this chapter, and the amounts to be expended by the Secretary to assist non-State cooperators under this chapter, shall be determined by the Secretary in consultation with a committee of not less than five State foresters or equivalent State officials selected by a majority of the State foresters or equivalent State officials from States participating in programs under this chapter. However, the Secretary need not consult with such committee regarding funds to be expended under emergency conditions that the Secretary may determine.

(d) Definitions

For the purposes of this chapter—

(1) The terms ''United States'' and ''State'' shall include each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, and the territories and possessions of the United States;

(2) The term ''forest resources'' shall include esthetics, fish and wildlife, forage, outdoor recreation opportunities, timber, and water; and

(3) The term ''urban forestry'' means the planning, establishment, protection, and man-

agement of trees and associated plants, individually, in small groups, or under forest conditions within cities, their suburbs, and towns.

(e) Rules and regulations

The Secretary may prescribe rules and regulations, as the Secretary deems appropriate, to implement the provisions of this chapter.

(f) Granting, etc., authorities

The Secretary is authorized to make grants, agreements, contracts, and other arrangements the Secretary deems necessary to implement this chapter.

(g) Construction of statutory provisions

This chapter shall be construed as supplementing all other laws relating to the Department of Agriculture and shall not be construed as limiting or repealing any existing law or authority of the Secretary, except as specifically cited in section 2111 of this title.

(h) Additional assistance

In addition to the authority provided elsewhere in this chapter, the Secretary may provide assistance to other countries with respect to the activities described in paragraphs (1) through (10) of section 2102(b) of this title, paragraphs (1) through (5) of section 2104(b)[1] of this title, and paragraphs (1) through (3) of section 2105(b) of this title. For the purposes of providing assistance to other countries under this subsection, the term ''non-Federal forest land'' shall mean any forest land and related renewable natural resources in such countries. In providing the assistance authorized under this subsection, the Secretary shall coordinate with other Federal officials, departments, agencies, or international organizations, as the President may direct. The references to ''State foresters or equivalent State officials'' in this chapter shall not apply to the assistance provided by the Secretary to other countries under this subsection.

(Pub. L. 95–313, § 13, formerly § 10, July 1, 1978, 92 Stat. 373; Pub. L. 101–513, title VI, § 611(b)(3), formerly § 607(b)(3), Nov. 5, 1990, 104 Stat. 2072, renumbered § 611(b)(3), Pub. L. 102–574, § 2(a)(1), Oct. 29, 1992, 106 Stat. 4593; renumbered § 13 and amended Pub. L. 101–624, title XII, §§ 1215(1), 1224(3), Nov. 28, 1990, 104 Stat. 3525, 3542; Pub. L. 110–234, title VIII, § 8004, May 22, 2008, 122 Stat. 1284; Pub. L. 110–246, § 4(a), title VIII, § 8004, June 18, 2008, 122 Stat. 1664, 2045.)

REFERENCES IN TEXT

Section 2104(b) of this title, referred to in subsec. (h), was in the original a reference to section 7(b), meaning section 7(b) of Pub. L. 95–313, which has been translated as reading section 8(b) of Pub. L. 95–313 as the probable intent of Congress. Section 7(b) of Pub. L. 95–313, which is classified to section 2103c of this title, does not contain pars. (1) to (5).

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

[1] See References in Text note below.

PRIOR PROVISIONS

A prior section 13 of Pub. L. 95–313 was renumbered section 16 and is classified to section 2111 of this title.

AMENDMENTS

2008—Subsec. (d)(1). Pub. L. 110–246, § 8004, substituted ''the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau,'' for ''the Trust Territory of the Pacific Islands,''.

1990—Subsec. (g). Pub. L. 101–624, § 1224(3), made technical amendment to reference to section 2111 of this title to reflect renumbering of corresponding section of original act.

Subsec. (h). Pub. L. 101–513, which directed amendment of section 12 of Pub. L. 95–313 by adding a new subsec. (h), was executed to this section to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 2109a. Competitive allocation of funds to State foresters or equivalent State officials

(a) Competition

Beginning not later than 3 years after the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall competitively allocate a portion, to be determined by the Secretary, of the funds available under this chapter to State foresters or equivalent State officials.

(b) Determination

In determining the competitive allocation of funds under subsection (a), the Secretary shall consult with the Forest Resource Coordinating Committee established by section 2113(a) of this title.

(c) Priority

The Secretary shall give priority for funding to States for which the long-term State-wide forest resource strategies submitted under section 2101a(a)(2) of this title will best promote the national priorities specified in section 2101(c) of this title.

(Pub. L. 95–313, § 13A, as added Pub. L. 110–234, title VIII, § 8007, May 22, 2008, 122 Stat. 1285, and Pub. L. 110–246, § 4(a), title VIII, § 8007, June 18, 2008, 122 Stat. 1664, 2047.)

REFERENCES IN TEXT

The date of the enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsec. (a), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning Pub. L. 95–313, July 1, 1978, 92 Stat. 365, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the

date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

§ 2109b. Competitive allocation of funds for cooperative forest innovation partnership projects

(a) Cooperative forest innovation partnership projects

The Secretary may competitively allocate not more than 5 percent of the funds made available under this chapter to support innovative national, regional, or local education, outreach, or technology transfer projects that the Secretary determines would substantially increase the ability of the Department of Agriculture to address the national priorities specified in section 2101(c) of this title.

(b) Eligibility

Notwithstanding the eligibility limitations contained in this chapter, any State or local government, Indian tribe, land-grant college or university, or private entity shall be eligible to compete for funds to be competitively allocated under subsection (a).

(c) Cost-share requirement

In carrying out subsection (a), the Secretary shall not cover more than 50 percent of the total cost of a project under such subsection. In calculating the total cost of a project and contributions made with regard to the project, the Secretary shall include in-kind contributions.

(Pub. L. 95–313, § 13B, as added Pub. L. 110–234, title VIII, § 8008, May 22, 2008, 122 Stat. 1286, and Pub. L. 110–246, § 4(a), title VIII, § 8008, June 18, 2008, 122 Stat. 1664, 2047.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original ''this Act'', meaning Pub. L. 95–313, July 1, 1978, 92 Stat. 365, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

§ 2110. Statement of limitation

This chapter shall not authorize the Federal Government to regulate the use of private land or to deprive owners of land of their rights to property or to income from the sale of property, unless such property rights are voluntarily conveyed or limited by contract or other agreement. This chapter does not diminish in any way the rights and responsibilities of the States and political subdivisions of States.

(Pub. L. 95–313, § 14, formerly § 11, July 1, 1978, 92 Stat. 374; renumbered § 14 and amended Pub. L. 101–624, title XII, §§ 1215(1), 1221, Nov. 28, 1990, 104 Stat. 3525, 3540.)

PRIOR PROVISIONS

A prior section 14 of Pub. L. 95–313 was renumbered section 17 and is set out as a note under section 2101 of this title.

AMENDMENTS

1990—Pub. L. 101–624, § 1221, amended section generally. Prior to amendment, section read as follows: ''This chapter does not authorize the Federal Government to regulate the use of private land or to deprive owners of land of their rights to property or to income from the sale of property, and this chapter does not diminish in any way the rights and responsibilities of the States and political subdivisions of States.''

§ 2111. Other Federal programs

(a) Repeal of statutory authorities

The following laws, and portions of laws, are hereby repealed:

(1) sections 1, 2, 3, and 4 of the Act of June 7, 1924, known as the Clarke-McNary Act (43 Stat. 653–654, as amended; 16 U.S.C. 564, 565, 566, 567);

(2) the Act of April 26, 1940, known as the White Pine Blister Rust Protection Act (54 Stat. 168; 16 U.S.C. 594a);

(3) the Forest Pest Control Act;

(4) the Cooperative Forest Management Act;

(5) section 401 of the Agricultural Act of 1956 [16 U.S.C. 568e];

(6) title IV of the Rural Development Act of 1972 [7 U.S.C. 2651 et seq.]; and

(7) section 1009 and the proviso to section 1010[1] of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 [16 U.S.C. 1509, 1510].

(b) Force and effect of contracts and cooperative and other agreements under cooperative forestry programs executed under authority of repealed statutes

Contracts and cooperative and other agreements under cooperative forestry programs executed under authority of the Acts, or portions thereof, repealed under subsection (a) of this section shall remain in effect until revoked or amended by their own terms or under other provisions of law.

(c) Availability of funds appropriated under authority of repealed statutes for cooperative forestry assistance programs

Funds appropriated under the authority of the Acts, or portions thereof, repealed under subsection (a) of this section shall be available for expenditure for the programs authorized under this chapter.

(Pub. L. 95–313, § 16, formerly § 13, July 1, 1978, 92 Stat. 374; renumbered § 16, Pub. L. 101–624, title XII, § 1215(1), Nov. 28, 1990, 104 Stat. 3525.)

REFERENCES IN TEXT

Act of April 26, 1940, known as the White Pine Blister Rust Protection Act (54 Stat. 168; 16 U.S.C. 594a), referred to in subsec. (a)(2), is act Apr. 26, 1940, ch. 159, 54 Stat. 168, which enacted section 594a of this title.

The Forest Pest Control Act, referred to in subsec. (a)(3), is act June 25, 1947, ch. 141, 61 Stat. 177, as amended, which enacted sections 594–1 to 594–5 of this title and enacted provisions set out as notes under sec-

[1] See References in Text note below.

tion 594–1 of this title. For complete classification of this Act to the Code, see Tables.

The Cooperative Forest Management Act, referred to in subsec. (a)(4), is act Aug. 25, 1950, ch. 781, 64 Stat. 473, as amended, which enacted sections 568c and 568d of this title, repealed section 568b of this title, and enacted a provision set out as a note under section 568c of this title. For complete classification of this Act to the Code, see Tables.

The Rural Development Act of 1972, referred to in subsec. (a)(6), is Pub. L. 92–419, Aug. 30, 1972, 86 Stat. 657, as amended. Title IV of the Rural Development Act of 1972 was classified generally to subchapter I (§ 2651 et seq.) of chapter 59 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1921 of Title 7 and Tables.

Section 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973, referred to in subsec. (a)(7), was classified to section 1510 of this title prior to repeal by Pub. L. 104–127, title III, § 336(d)(1), Apr. 4, 1996, 110 Stat. 1006.

§ 2112. Cooperative national forest products marketing program

(a) Findings and purposes

(1) Findings

Congress finds that—

(A) the health and vitality of the domestic forest products industry is important to the well-being of the economy of the United States;

(B) the domestic forest products industry has a significant potential for expansion in both domestic and foreign markets;

(C) many small-sized to medium-sized forest products firms lack the tools that would enable them to meet the increasing challenge of foreign competition in domestic and foreign markets; and

(D) a new cooperative forest products marketing program will improve the competitiveness of the United States forest products industry.

(2) Purposes

The purposes of this section are to—

(A) provide direct technical assistance to the United States forest products industry to improve marketing activities;

(B) provide cost-share grants to States to support State and regional forest products marketing programs; and

(C) target assistance to small-sized and medium-sized producers of solid wood and processed wood products, including pulp.

(b) Program authority

(1) In general

The Secretary shall establish a cooperative national forest products marketing program under this chapter that provides—

(A) technical assistance to States, landowners, and small-sized to medium-sized forest products firms on ways to improve domestic and foreign markets for forest products; and

(B) grants of financial assistance with matching requirements to the States to assist in State and regional forest products marketing efforts targeted to aid small-sized to medium-sized forest products firms and private, nonindustrial forest landowners.

(2) Interstate cooperative agreements

Grant agreements shall encourage the establishment of interstate cooperative agreements by the States for the purpose of promoting the development of domestic and foreign markets for forest products.

(c) Limitations

(1) Cooperation with other Federal agencies

In carrying out this section, the Secretary shall cooperate with Federal departments and agencies to avoid the duplication of efforts and to increase program efficiency.

(2) Domestic program

The program authorized under this section shall be carried out within the United States and not be extended to Department of Agriculture activities in foreign countries.

(d) Authorization for appropriations

There are authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1991, to carry out this section.

(e) Program report

The Secretary shall report to Congress annually on the activities taken under the marketing program established under this section. A final report including recommendations for program changes and the need and desirability of the reauthorization of this authority, and required levels of funding, shall be submitted to Congress not later than September 30, 1990.

(Pub. L. 95–313, § 18, formerly § 15, as added Pub. L. 100–418, title IV, § 4403, Aug. 23, 1988, 102 Stat. 1400; renumbered § 18, Pub. L. 101–624, title XII, § 1215(1), Nov. 28, 1990, 104 Stat. 3525.)

INTERNATIONAL FOREST PRODUCTS TRADE INSTITUTE

Section 1247 of Pub. L. 101–624, as amended by Pub. L. 102–237, title X, § 1018(c), Dec. 13, 1991, 105 Stat. 1905, provided that:

''(a) ESTABLISHMENT.—The Secretary of Agriculture may establish an International Forest Products Trade Institute (hereafter in this section referred to as the 'Institute').

''(b) MISSION.—The mission of the Institute will be to increase the competitive position of the forest industries of the northeastern United States as major producers of international forest products in order to increase domestic employment and stimulate rural development, and to provide a knowledgeable, objective analysis of global forest resource problems.

''(c) FUNCTIONS.—The Institute shall—

''(1) emphasize the application of existing knowledge to the manufacturing and international marketing of forest products as well as conduct new research related to the competitiveness of the northeastern forest products industry;

''(2) study and evaluate domestic and international forest, forest sector, agroforestry, development, economic, and trade policies;

''(3) design, analyze and test technologically appropriate manufacturing, processing and marketing systems which are supportive of and consistent with forest policy and management strategies formulated by the Institute and which enhance opportunities for markets in forest products; and

''(4) formulate and test management strategies for—

''(A) United States forests, and

''(B) manufacturing facilities that promote ecologically sustainable use, and long-term management, of international forests.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.''

§ 2113. Federal, State, and local coordination and cooperation

(a) Forest Resource Coordinating Committee

(1) Establishment

The Secretary shall establish a committee, to be known as the ''Forest Resource Coordinating Committee'' (in this section referred to as the ''Coordinating Committee''), to coordinate nonindustrial private forestry activities within the Department of Agriculture and with the private sector.

(2) Composition

The Coordinating Committee shall be composed of the following:

(A) The Chief of the Forest Service.

(B) The Chief of the Natural Resources Conservation Service.

(C) The Director of the Farm Service Agency.

(D) The Director of the National Institute of Food and Agriculture.

(E) Non-Federal representatives appointed by the Secretary to 3 year terms, although initial appointees shall have staggered terms, including the following persons:

(i) At least three State foresters or equivalent State officials from geographically diverse regions of the United States.

(ii) A representative of a State fish and wildlife agency.

(iii) An owner of nonindustrial private forest land.

(iv) A forest industry representative.

(v) A conservation organization representative.

(vi) A land-grant university or college representative.

(vii) A private forestry consultant.

(viii) A representative from a State Technical Committee established under section 3861 of this title.

(F) Such other persons as determined by the Secretary to be appropriate.

(3) Chairperson

The Chief of the Forest Service shall serve as chairperson of the Coordinating Committee.

(4) Duties

The Coordinating Committee shall—

(A) provide direction and coordination of actions within the Department of Agriculture, and coordination with State agencies and the private sector, to effectively address the national priorities specified in section 2101(c) of this title, with specific focus[1] owners of nonindustrial private forest land;

(B) clarify individual agency responsibilities of each agency represented on the Coordinating Committee concerning the national priorities specified in section 2101(c) of this title, with specific focus on nonindustrial private forest land;

(C) provide advice on the allocation of funds, including the competitive funds setaside by sections 2109a and 2109b of this title; and

(D) assist the Secretary in developing and reviewing the report required by section 2101(d) of this title.

(5) Meeting

The Coordinating Committee shall meet annually to discuss progress in addressing the national priorities specified in section 2101(c) of this title and issues regarding nonindustrial private forest land.

(6) Compensation

(A) Federal members

Members of the Coordinating Committee who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Coordinating Committee.

(B) Non-Federal members

Non-federal[2] members of the Coordinating Committee shall serve without pay, but may be reimbursed for reasonable costs incurred while performing their duties on behalf of the Coordinating Committee.

(b) State Coordinating Committees

(1) Establishment

(A) In general

The Secretary, in consultation with the State forester or equivalent State official of each State, shall establish a State Forest Stewardship Coordinating Committee (hereafter referred to in this section as the ''State Coordinating Committee'') for each such State.

(B) Composition

The State Coordinating Committee shall be chaired and administered by the State forester, or equivalent State official, or the designee thereof, and shall be composed, to the extent practicable, of—

(i) representatives from the Forest Service, Soil Conservation Service, Agricultural Stabilization and Conservation Service, and National Institute of Food and Agriculture;

(ii) representatives, to be appointed by the State forester or equivalent State official, representative of—

(I) local government;

(II) consulting foresters;

(III) environmental organizations;

(IV) forest products industry;

(V) forest land owners;

(VI) land-trust organizations, if applicable in the State;

(VII) conservation organizations;

(VIII) the State fish and wildlife agency; and

(IX) the State Technical Committee.

(iii) any other individuals determined appropriate by the Secretary.

[1] So in original. The word ''on'' probably should appear after ''focus''.

[2] So in original. Probably should be ''Non-Federal''.

(C) Terms

The members of the State Coordinating Committee appointed under subparagraph (B)(ii) shall serve 3-year terms, with the initial members serving staggered terms as determined by the State forester or equivalent State official, and may be reappointed for consecutive terms.

(D) Existing committees

Existing State forestry committees may be used to complement, formulate, or replace the State Coordinating Committees to avoid duplication of efforts if such existing committees are made up of membership that is similar to that described in subparagraph (B)(ii), and if such existing committees include landowners and the general public in their memberships.

(2) Duties

A State Coordinating Committee shall—

(A) consult with other Department of Agriculture and State committees that address State and private forestry issues;

(B) make recommendations to the Secretary concerning the assignment of priorities and the coordination of responsibilities for the implementation of this chapter by the various Federal and State forest management agencies that take into consideration the mandates of each such agency;

(C) make recommendations to the State forester or equivalent State official concerning the development of the State-wide assessment and strategy regarding forest resource conditions under section 2101a of this title; and

(D) make recommendations to the Secretary concerning those forest lands that should be given priority for inclusion in the Forest Legacy Program established pursuant to section 2103c of this title.

(3) Termination

The State Coordinating Committees shall not terminate.

(4) Rule of construction

Nothing in this section shall be construed to compel action by any State official.

(Pub. L. 95–313, §19, as added Pub. L. 101–624, title XII, §1222, Nov. 28, 1990, 104 Stat. 3540; amended Pub. L. 110–234, title VII, §7511(c)(37), title VIII, §§8005, 8006, May 22, 2008, 122 Stat. 1271, 1284, 1285; Pub. L. 110–246, §4(a), title VII, §7511(c)(37), title VIII, §§8005, 8006, June 18, 2008, 122 Stat. 1664, 2032, 2045–2047.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, §8005, added subsec. (a) and struck out former subsec (a) which related to: in par. (1) establishment of a Forest Resource Coordinating Committee; in par. (2) composition of the Committee; in par. (3) designation of a chairperson; and in par. (4) duties of the Committee.

Subsec. (b)(1)(B)(i). Pub. L. 110–246, §7511(c)(37), substituted ''National Institute of Food and Agriculture'' for ''Extension Service''.

Subsec. (b)(1)(B)(ii)(IX). Pub. L. 110–246, §8006(1), added subcl. (IX).

Subsec. (b)(2)(C). Pub. L. 110–246, §8006(2), substituted ''the State-wide assessment and strategy regarding forest resource conditions under section 2101a of this title'' for ''a Forest Stewardship Plan under paragraph (3)''.

Subsec. (b)(3) to (6). Pub. L. 110–246, §8006(3), (4), redesignated pars. (5) and (6) as (3) and (4), respectively, and struck out former pars. (3) and (4) which related to development of a Forest Stewardship Plan and authorized the use of other plans if they fully conformed to section objectives.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 7511(c)(37) of Pub. L. 110–246 effective Oct. 1, 2009, see section 7511(c) of Pub. L. 110–246, set out as a note under section 1522 of Title 7, Agriculture.

§ 2114. Administration

(a) In general

The Secretary shall administer this chapter in accordance with regulations that the Secretary shall develop.

(b) Guidelines

The regulations promulgated under this chapter shall include guidelines for the administration of this chapter at the Federal and State levels and shall identify the measures and activities that are eligible for cost sharing under this chapter.

(c) Existing mechanisms

Existing mechanisms shall be used to the extent possible to make payments and deliver services to the landowner under this chapter.

(d) Land grant universities

The Secretary, in consultation with State foresters or equivalent State officials, may provide assistance directly to other State and local natural resource management agencies and land grant universities in implementing this chapter in cases in which the State foresters or equivalent State officials are not able to make fund transfers to other State and local agencies.

(Pub. L. 95–313, §20, as added Pub. L. 101–624, title XII, §1223, Nov. 28, 1990, 104 Stat. 3542.)

CHAPTER 42—EMERGENCY CONSERVATION PROGRAM

Sec.

2201. Payments to agricultural producers for carrying out wind erosion control or rehabilitation measures; criteria.
2202. Payments to agricultural producers for carrying out water conservation or water enhancing measures; criteria.
2203. Undertaking of runoff retardation and soil-erosion preventive measures; cooperation with landowners and land users; criteria.
2204. Authorization of appropriations; availability of funds; implementation of provisions; limitations on expenditures.
2205. Regulations for implementation of provisions.
2206. Emergency forest restoration program.

§ 2201. Payments to agricultural producers for carrying out wind erosion control or rehabilitation measures; criteria

The Secretary of Agriculture is authorized to make payments to agricultural producers who carry out emergency measures to control wind erosion on farmlands or to rehabilitate farmlands damaged by wind erosion, floods, hurricanes, or other natural disasters when, as a result of the foregoing, new conservation problems have been created that (1) if not treated, will impair or endanger the land, (2) materially affect the productive capacity of the land, (3) represent damage that is unusual in character and, except for wind erosion, is not the type that would recur frequently in the same area, and (4) will be so costly to rehabilitate that Federal assistance is or will be required to return the land to productive agricultural use.

(Pub. L. 95–334, title IV, § 401, Aug. 4, 1978, 92 Stat. 433.)

EFFECTIVE DATE

Section 406 of title IV of Pub. L. 95–334 provided that: ''The provisions of this title [enacting this chapter] shall become effective October 1, 1978.''

§ 2202. Payments to agricultural producers for carrying out water conservation or water enhancing measures; criteria

The Secretary of Agriculture is authorized to make payments to agricultural producers who carry out emergency water conservation or water enhancing measures (including measures carried out to assist confined livestock) during periods of severe drought as determined by the Secretary.

(Pub. L. 95–334, title IV, § 402, Aug. 4, 1978, 92 Stat. 434; Pub. L. 101–82, title V, § 502, Aug. 14, 1989, 103 Stat. 586.)

AMENDMENTS

1989—Pub. L. 101–82, § 502(1), inserted ''(including measures carried out to assist confined livestock)''.

Pub. L. 101–82, § 502(2), temporarily substituted ''any fiscal year in which there is a period of severe drought'' for ''periods of severe drought''. See Effective and Termination Dates of 1989 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Section 502(2) of Pub. L. 101–82 provided in part that amendment by section 502(2) of Pub. L. 101–82 is effective only for fiscal year 1989.

§ 2203. Undertaking of runoff retardation and soil-erosion preventive measures; cooperation with landowners and land users; criteria

The Secretary of Agriculture is authorized to undertake emergency measures, including the purchase of floodplain easements, for runoff retardation and soil-erosion prevention, in cooperation with landowners and land users, as the Secretary deems necessary to safeguard lives and property from floods, drought, and the products of erosion on any watershed whenever fire, flood, or any other natural occurrence is causing or has caused a sudden impairment of that watershed.

(Pub. L. 95–334, title IV, § 403, Aug. 4, 1978, 92 Stat. 434; Pub. L. 104–127, title III, § 382, Apr. 4, 1996, 110 Stat. 1016.)

AMENDMENTS

1996—Pub. L. 104–127 inserted '', including the purchase of floodplain easements,'' after ''emergency measures''.

DISASTER ASSISTANCE FOR WATERSHED PROTECTION ACTIVITIES

Pub. L. 100–387, title IV, § 402, as added Pub. L. 101–82, title V, § 503, Aug. 14, 1989, 103 Stat. 586, provided that:

''(a) IN GENERAL.—The Secretary of Agriculture may provide disaster relief assistance in accordance with this section to repair damage caused by storms occurring in 1988 or 1989 to watersheds located in any county in any State, to the extent that funds authorized by this section remain available.

''(b) FORM OF ASSISTANCE.—The assistance authorized by this section—

''(1) includes both financial and technical assistance; and

''(2) shall be provided in a manner consistent with similar assistance authorized under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203).

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1990.''

§ 2204. Authorization of appropriations; availability of funds; implementation of provisions; limitations on expenditures

There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this chapter. Such funds shall remain available until expended. In implementing the provisions of this chapter, the Secretary of Agriculture may use the facilities, services, and authorities of the Commodity Credit Corporation. The Corporation shall not make any expenditures to carry out the provisions of this chapter unless funds specifically appropriated for such purpose have been transferred to it.

(Pub. L. 95–334, title IV, § 404, Aug. 4, 1978, 92 Stat. 434.)

§ 2205. Regulations for implementation of provisions

The Secretary of Agriculture is authorized to prescribe such regulations as the Secretary determines necessary to carry out the provisions of this chapter.

(Pub. L. 95–334, title IV, § 405, Aug. 4, 1978, 92 Stat. 434.)

§ 2206. Emergency forest restoration program

(a) Definitions

In this section:

(1) Emergency measures

The term ''emergency measures'' means those measures that—

(A) are necessary to address damage caused by a natural disaster to natural resources on nonindustrial private forest land, and the damage, if not treated—

(i) would impair or endanger the natural resources on the land; and

(ii) would materially affect future use of the land; and

(B) would restore forest health and forest-related resources on the land.

(2) Natural disaster

The term ''natural disaster'' includes wildfires, hurricanes or excessive winds,

drought, ice storms or blizzards, floods, or other resource-impacting events, as determined by the Secretary.

(3) Nonindustrial private forest land

The term ''nonindustrial private forest land'' means rural land, as determined by the Secretary, that—

(A) has existing tree cover (or had tree cover immediately before the natural disaster and is suitable for growing trees); and

(B) is owned by any nonindustrial private individual, group, association, corporation, or other private legal entity, that has definitive decision-making authority over the land.

(4) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(b) Availability of assistance

The Secretary may make payments to an owner of nonindustrial private forest land who carries out emergency measures to restore the land after the land is damaged by a natural disaster.

(c) Eligibility

To be eligible to receive a payment under subsection (b), an owner must demonstrate to the satisfaction of the Secretary that the nonindustrial private forest land on which the emergency measures are carried out had tree cover immediately before the natural disaster.

(d) Cost share requirement

Payments made under subsection (b) shall not exceed 75 percent of the total cost of the emergency measures carried out by an owner of nonindustrial private forest land.

(e) Authorization of appropriations

There are authorized to be appropriated to the Secretary such funds as may be necessary to carry out this section. Amounts so appropriated shall remain available until expended.

(Pub. L. 95–334, title IV, § 407, as added Pub. L. 110–234, title VIII, § 8203(a), May 22, 2008, 122 Stat. 1290, and Pub. L. 110–246, § 4(a), title VIII, § 8203(a), June 18, 2008, 122 Stat. 1664, 2051.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

REGULATIONS

Pub. L. 110–234, title VIII, § 8203(b), May 22, 2008, 122 Stat. 1291, and Pub. L. 110–246, § 4(a), title VIII, § 8203(b), June 18, 2008, 122 Stat. 1664, 2052, provided that: ''Not later than one year after the date of the enactment of this Act [June 18, 2008], the Secretary of Agriculture shall issue regulations to carry out section 407 of the Agricultural Credit Act of 1978 [16 U.S.C. 2206], as added by subsection (a).''

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

CHAPTER 43—PUBLIC TRANSPORTATION PROGRAMS FOR NATIONAL PARK SYSTEM AREAS

Sec.
2301. Congressional statement of findings and purpose.
2302. Transportation service and facility programs.
2303. Transportation projects.
2304. Procedures applicable to formulation and implementation of transportation plans and projects developed pursuant to plans.
2305. Report to Congress; contents.
2306. Authorization of appropriations; availability of amounts.

§ 2301. Congressional statement of findings and purpose

(a) The Congress hereby finds that—

(1) the purpose of the National Park System is to preserve outstanding natural, scenic, historic, and recreation areas for the enjoyment, education, inspiration, and use of all people;

(2) units of the National Park System have recently been established near major metropolitan areas in order to preserve remaining open space and to provide recreational opportunities for urban residents (many of whom do not have access to personal motor vehicles); and

(3) circumstances which necessarily require people desiring to visit units of the National Park System to rely on personal motor vehicles may diminish the natural and recreational value of such units by causing traffic congestion and environmental damage, and by requiring the provision of roads, parking, and other facilities in ever-increasing numbers and density.

(b) The purpose of this chapter is to make the National Park System more accessible in a manner consistent with the preservation of parks and the conservation of energy by encouraging the use of transportation modes other than personal motor vehicles for access to and within units of the National Park System with minimum disruption to nearby communities through authorization of a pilot transportation program.

(Pub. L. 95–344, title III, § 301, Aug. 15, 1978, 92 Stat. 477.)

§ 2302. Transportation service and facility programs

(a) Formulation and implementation of plans and projects developed pursuant to plans

The Secretary of the Interior (hereinafter referred to as ''Secretary'') is authorized to formulate transportation plans and implement transportation projects where feasible pursuant to those plans for units of the national park system.

(b) Contracts, acquisitions, etc., for improvement of access to park system units

To carry out the purposes of subsection (a) of this section, the Secretary is authorized to—

(1) contract with public or private agencies or carriers to provide transportation services,

capital equipment, or facilities to improve access to units of the national park system;

(2) operate such services directly in the absence of suitable and adequate agencies or carriers;

(3) acquire by purchase, lease, or agreement, capital equipment for such services; and

(4) where necessary to carry out the purposes of this chapter, acquire by lease, purchase, donation, exchange, or transfer, lands, waters, and interests therein which are situated outside the boundary of a unit of the national park system, which property shall be administered as part of the unit: *Provided*, That any land or interests in land owned by a State or any of its political subdivisions may be acquired only by donation: *Provided further*, That any land acquisition shall be subject to such statutory limitations, if any, on methods of acquisition and appropriations thereof as may be specifically applicable to such area.

(c) Repealed. Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(A), Nov. 12, 1996, 110 Stat. 4195

(d) Appropriation of fees collected and covered into Planning, Development, and Operation of Recreational Facilities appropriation account

All fees directly collected by the National Park Service in the operation of the facilities and services authorized by this chapter shall be covered into the Planning, Development, and Operation of Recreation Facilities appropriation account to be subject to appropriation.

(e) Establishment of information programs

The Secretary shall establish information programs to inform the public of available park access opportunities and to promote the use of transportation modes other than personal motor vehicles for access to and travel within the units of the national park system.

(f) Undertaking of concession facilities or services

Transportation facilities and services provided pursuant to this chapter shall not be considered as concession facilities or services within the meaning of the Act of October 9, 1965 (79 Stat. 969)[1] and may be undertaken by the Secretary directly or by contract without regard to any requirement of local, State, or Federal law respecting determinations of public convenience and necessity or other similar matters: *Provided*, That the Secretary or his contractor shall consult with the appropriate State or local public service commission or other such body having authority to issue certificates of convenience and necessity, and any such contractor shall be subject to applicable requirements of such body unless the Secretary determines that such requirements would not be consistent with the purposes and provisions of this chapter.

(g) Construction of grant of authority respecting operation of motor vehicles excepted from statutory coverage

No grant of authority in this chapter shall be deemed to expand the exemption of section 10526(a)(9)[1] of title 49.

[1] See References in Text note below.

(Pub. L. 95–344, title III, § 302, Aug. 15, 1978, 92 Stat. 478; Pub. L. 103–437, § 6(d)(18), Nov. 2, 1994, 108 Stat. 4584; Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(A), Nov. 12, 1996, 110 Stat. 4195.)

REFERENCES IN TEXT

Act of October 9, 1965, referred to in subsec. (f), is Pub. L. 89–249, Oct. 9, 1965, 79 Stat. 969, known as the National Park System Concessions Policy Act, which was classified generally to subchapter IV (§ 20 et seq.) of chapter 1 of this title prior to repeal by Pub. L. 105–391, title IV, § 415(a), Nov. 13, 1998, 112 Stat. 3515.

Section 10526(a)(9) of title 49, referred to in subsec. (g), was omitted in the general amendment of subtitle IV of Title 49, Transportation, by Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 804. Previously, ''section 10526(a)(9) of title 49'' was substituted for ''section 203(b)(4) of the Interstate Commerce Act (49 U.S.C. 303(b)(4))'' on authority of Pub. L. 95–473, § 3(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–333 struck out subsec. (c) which read as follows: ''Acquisitions pursuant to subsection (b)(3) and (4) of this section shall not commence prior to sixty days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) from the time the Secretary has submitted a detailed proposal for such acquisitions to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.''

1994—Subsec. (c). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 2303. Transportation projects

(a) Assistance of heads of other Federal departments and agencies in formulation and implementation

To carry out the purposes of this chapter, the Secretary of Transportation, the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, and the Secretary of Commerce, and the heads of such other Federal departments or agencies as the Secretary deems necessary are directed to assist the Secretary in the formulation and implementation of transportation projects.

(b) Report to Congressional committees concerning planning, etc.

Within one hundred and eighty days from August 15, 1978, the Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, a compilation of Federal statutes and programs providing authority for the planning, funding, or operation of transportation projects which might be utilized by the Secretary to carry out the purpose of this chapter. The Secretary shall revise the compilation thereafter as he deems necessary.

(Pub. L. 95–344, title III, § 303, Aug. 15, 1978, 92 Stat. 479; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 103–437, § 6(d)(18), Nov. 2, 1994, 108 Stat. 4584.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in subsec. (a) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§ 2304. Procedures applicable to formulation and implementation of transportation plans and projects developed pursuant to plans

(a) Public notice and meeting

The Secretary shall, during the formulation of any transportation plan authorized pursuant to section 2302 of this title—

(1) give public notice of intention to formulate such a plan by publication in the Federal Register and in a newspaper or periodical having general circulation in the vicinity of the affected unit of the national park system;[1]

(2) following such notice hold a public meeting at a location or locations convenient to the affected unit of the National Park System.

(b) Notice and opportunity to comment given to State and local governments; report to Congressional committees

Prior to the implementation of any project developed pursuant to the transportation plan formulated pursuant to subsection (a) of this section, the Secretary shall—

(1) establish procedures, including but not limited to public meetings, to give State and local governments and the public adequate notice and an opportunity to comment on the proposed transportation project; and

(2) submit, when the proposed project would involve an expenditure in excess of $100,000 in any fiscal year, a detailed report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives. The Secretary may proceed with the implementation of such plan only after sixty days (not counting days on which the Senate or House of Representatives has adjourned for more than three consecutive days) have elapsed following submission of the plan.

(Pub. L. 95–344, title III, § 304, Aug. 15, 1978, 92 Stat. 479; Pub. L. 103–437, § 6(d)(18), Nov. 2, 1994, 108 Stat. 4584.)

AMENDMENTS

1994—Subsec. (b)(2). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 2305. Report to Congress; contents

The Secretary shall submit a report to the Congress within three years of August 15, 1978. The report shall include, but not be limited to, his findings and recommendations regarding—

(a) preservation of natural resource values within units of the National Park System through access alternatives;

(b) effects of transportation projects on communities in close proximity to the units of the National Park System; and

(c) future transportation projects formulated pursuant to this chapter.

(Pub. L. 95–344, title III, § 305, Aug. 15, 1978, 92 Stat. 479.)

§ 2306. Authorization of appropriations; availability of amounts

In carrying out the purposes of this chapter, there is hereby authorized to be appropriated $1,000,000 for fiscal year 1979; $2,000,000 for fiscal year 1980; and $3,000,000 for fiscal year 1981, which shall remain available until expended. In a fiscal year when the amounts actually appropriated are less than the amounts listed above, the authorized but unappropriated amount shall continue to be available for appropriation in succeeding fiscal years.

(Pub. L. 95–344, title III, § 306, Aug. 15, 1978, 92 Stat. 480.)

CHAPTER 44—ANTARCTIC CONSERVATION

Sec.
2401. Congressional findings and declaration of purpose.
2402. Definitions.
2403. Prohibited acts.
2403a. Environmental impact assessment.
2404. Permits.
2405. Regulations.
2406. Notification of travel to Antarctica.
2407. Civil penalties.
2408. Criminal offenses.
2409. Enforcement.
2410. Jurisdiction of district courts.
2411. Federal agency cooperation.
2412. Relationship to existing treaties.
2413. Saving provisions.

§ 2401. Congressional findings and declaration of purpose

(a) Findings

The Congress finds that—

(1) for well over a quarter of a century, scientific investigation has been the principal activity of the Federal Government and United States nationals in Antarctica;

(2) more recently, interest of American tourists in Antarctica has increased;

(3) as the lead civilian agency in Antarctica, the National Science Foundation has long had responsibility for ensuring that United States scientific activities and tourism, and their supporting logistics operations, are conducted with an eye to preserving the unique values of the Antarctic region;

(4) the Antarctic Treaty and the Protocol establish a firm foundation for the conservation of Antarctic resources, for the continuation of international cooperation and the freedom of scientific investigation in Antarctica; and

(5) the Antarctic Treaty and the Protocol establish international mechanisms and create legal obligations necessary for the maintenance of Antarctica as a natural reserve devoted to peace and science.

(b) Purpose

The purpose of this chapter is to provide for the conservation and protection of the fauna and flora of Antarctica, and of the ecosystem upon which such fauna and flora depend, consistent with the Antarctic Treaty and the Protocol.

[1] So in original. Probably should be followed by ''and''.

(Pub. L. 95–541, § 2, Oct. 28, 1978, 92 Stat. 2048; Pub. L. 104–227, title I, § 101, Oct. 2, 1996, 110 Stat. 3034.)

AMENDMENTS

1996—Subsec. (a)(1) to (3). Pub. L. 104–227, § 101(a)(1), added pars. (1) to (3). Former pars. (1) and (2) redesignated (4) and (5), respectively.

Subsec. (a)(4). Pub. L. 104–227, § 101(a)(1), (2), redesignated par. (1) as (4) and substituted ''the Protocol establish a firm foundation for the conservation of Antarctic resources,'' for ''the Agreed Measures for the Conservation of Antarctic Fauna and Flora, adopted at the Third Antarctic Treaty Consultative Meeting, have established a firm foundation''.

Subsec. (a)(5). Pub. L. 104–227, § 101(a)(1), (3), redesignated par. (2) as (5) and substituted ''the Antarctic Treaty and the Protocol establish international mechanisms and create legal obligations necessary for the maintenance of Antarctica as a natural reserve devoted to peace and science.'' for ''the study of Antarctic fauna and flora, their adaptation to their rigorous environment, and their interrelationships with that environment has special scientific importance for all mankind.''

Subsec. (b). Pub. L. 104–227, § 101(b), substituted ''Treaty and the Protocol'' for ''Treaty, the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and Recommendation VII–3 of the Eighth Antarctic Treaty Consultative Meeting''.

SHORT TITLE OF 1996 AMENDMENT

Section 1 of Pub. L. 104–227 provided that: ''This Act [enacting sections 2403a and 2413 of this title, amending this section, sections 2402 to 2405, and 2463 of this title, and sections 1901 to 1903, 1905, 1907, and 1908 of Title 33, Navigation and Navigable Waters, and repealing sections 2464 and 2466 of this title] may be cited as the 'Antarctic Science, Tourism, and Conservation Act of 1996'.''

SHORT TITLE

Section 1 of Pub. L. 95–541 provided: ''That this Act [enacting this chapter, amending section 1971 of Title 22, Foreign Relations and Intercourse, and enacting a provision set out as a note under section 1971 of Title 22] may be cited as the 'Antarctic Conservation Act of 1978'.''

§ 2402. Definitions

For purposes of this chapter—

(1) the term ''Administrator'' means the Administrator of the Environmental Protection Agency;

(2) the term ''Antarctica'' means the area south of 60 degrees south latitude;

(3) the term ''Antarctic Specially Protected Area'' means an area identified as such pursuant to Annex V to the Protocol;

(4) the term ''Director'' means the Director of the National Science Foundation;

(5) the term ''harmful interference'' means—

(A) flying or landing helicopters or other aircraft in a manner that disturbs concentrations of birds or seals;

(B) using vehicles or vessels, including hovercraft and small boats, in a manner that disturbs concentrations of birds or seals;

(C) using explosives or firearms in a manner that disturbs concentrations of birds or seals;

(D) willfully disturbing breeding or molting birds or concentrations of birds or seals by persons on foot;

(E) significantly damaging concentrations of native terrestrial plants by landing aircraft, driving vehicles, or walking on them, or by other means; and

(F) any activity that results in the significant adverse modification of habitats of any species or population of native mammal, native bird, native plant, or native invertebrate;

(6) the term ''historic site or monument'' means any site or monument listed as an historic site or monument pursuant to Annex V to the Protocol;

(7) the term ''impact'' means impact on the Antarctic environment and dependent and associated ecosystems;

(8) the term ''import'' means to land on, bring into, or introduce into, or attempt to land on, bring into or introduce into, any place subject to the jurisdiction of the United States, including the 12-mile territorial sea of the United States, whether or not such act constitutes an importation within the meaning of the customs laws of the United States;

(9) the term ''native bird'' means any member, at any stage of its life cycle (including eggs), of any species of the class Aves which is indigenous to Antarctica or occurs there seasonally through natural migrations, and includes any part of such member;

(10) the term ''native invertebrate'' means any terrestrial or freshwater invertebrate, at any stage of its life cycle, which is indigenous to Antarctica, and includes any part of such invertebrate;

(11) the term ''native mammal'' means any member, at any stage of its life cycle, of any species of the class Mammalia, which is indigenous to Antarctica or occurs there seasonally through natural migrations, and includes any part of such member;

(12) the term ''native plant'' means any terrestrial or freshwater vegetation, including bryophytes, lichens, fungi, and algae, at any stage of its life cycle (including seeds and other propagules), which is indigenous to Antarctica, and includes any part of such vegetation;

(13) the term ''non-native species'' means any species of animal or plant which is not indigenous to Antarctica and does not occur there seasonally through natural migrations;

(14) the term ''person'' has the meaning given that term in section 1 of title 1 and includes any person subject to the jurisdiction of the United States and any department, agency, or other instrumentality of the Federal Government or of any State or local government;

(15) the term ''prohibited product'' means any substance banned from introduction onto land or ice shelves or into water in Antarctica pursuant to Annex III to the Protocol;

(16) the term ''prohibited waste'' means any substance which must be removed from Antarctica pursuant to Annex III to the Protocol, but does not include materials used for balloon envelopes required for scientific research and weather forecasting;

(17) the term ''Protocol'' means the Protocol on Environmental Protection to the Antarctic Treaty, signed October 4, 1991, in Madrid, and all annexes thereto, including any future

amendments thereto to which the United States is a party;

(18) the term ''Secretary'' means the Secretary of Commerce;

(19) the term ''Specially Protected Species'' means any native species designated as a Specially Protected Species pursuant to Annex II to the Protocol;

(20) the term ''take'' means to kill, injure, capture, handle, or molest a native mammal or bird, or to remove or damage such quantities of native plants that their local distribution or abundance would be significantly affected;

(21) the term ''Treaty'' means the Antarctic Treaty signed in Washington, DC, on December 1, 1959;

(22) the term ''United States'' means the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

(23) the term ''vessel subject to the jurisdiction of the United States'' includes any ''vessel of the United States'' and any ''vessel subject to the jurisdiction of the United States'' as those terms are defined in section 2432 of this title.

(Pub. L. 95–541, § 3, Oct. 28, 1978, 92 Stat. 2048; Pub. L. 104–227, title I, § 102, Oct. 2, 1996, 110 Stat. 3035.)

AMENDMENTS

1996—Pub. L. 104–227 reenacted section catchline without change and amended text generally. Prior to amendment, text defined ''Agreed Measures'', ''Antarctica'', ''collect'', ''Director'', ''foreign person'', ''native bird'', ''native mammal'', ''native plant'', ''pollutant'', ''site of special scientific interest'', ''specially protected area'', ''specially protected species'', ''take'', ''Treaty'', ''United States'', and ''United States citizen''.

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§ 2403. Prohibited acts

(a) In general

It is unlawful for any person—

(1) to introduce any prohibited product onto land or ice shelves or into water in Antarctica;

(2) to dispose of any waste onto ice-free land areas or into fresh water systems in Antarctica;

(3) to dispose of any prohibited waste in Antarctica;

(4) to engage in open burning of waste;

(5) to transport passengers to, from, or within Antarctica by any seagoing vessel not required to comply with the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), unless the person has an agreement with the vessel owner or operator under which the owner or operator is required to comply with Annex IV to the Protocol;

(6) who organizes, sponsors, operates, or promotes a nongovernmental expedition to Antarctica, and who does business in the United States, to fail to notify all members of the expedition of the environmental protection obligations of this chapter, and of actions which members must take, or not take, in order to comply with those obligations;

(7) to damage, remove, or destroy a historic site or monument;

(8) to refuse permission to any authorized officer or employee of the United States to board a vessel, vehicle, or aircraft of the United States, or subject to the jurisdiction of the United States, for the purpose of conducting any search or inspection in connection with the enforcement of this chapter or any regulation promulgated or permit issued under this chapter;

(9) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer or employee of the United States in the conduct of any search or inspection described in paragraph (8);

(10) to resist a lawful arrest or detention for any act prohibited by this section;

(11) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detention of another person, knowing that such other person has committed any act prohibited by this section;

(12) to violate any regulation issued under this chapter, or any term or condition of any permit issued to that person under this chapter; or

(13) to attempt to commit or cause to be committed any act prohibited by this section.

(b) Acts prohibited unless authorized by permit

It is unlawful for any person, unless authorized by a permit issued under this chapter—

(1) to dispose of any waste in Antarctica (except as otherwise authorized by the Act to Prevent Pollution from Ships [33 U.S.C. 1901 et seq.]) including—

(A) disposing of any waste from land into the sea in Antarctica; and

(B) incinerating any waste on land or ice shelves in Antarctica, or on board vessels at points of embarcation or debarcation, other than through the use at remote field sites of incinerator toilets for human waste;

(2) to introduce into Antarctica any member of a nonnative species;

(3) to enter or engage in activities within any Antarctic Specially Protected Area;

(4) to engage in any taking or harmful interference in Antarctica; or

(5) to receive, acquire, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any native bird, native mammal, or native plant which the person knows, or in the exercise of due care should have known, was taken in violation of this chapter.

(c) Exception for emergencies

No act described in subsection (a)(1), (2), (3), (4), (5), (7), (12), or (13) of this section or in subsection (b) of this section shall be unlawful if the person committing the act reasonably believed that the act was committed under emergency circumstances involving the safety of

human life or of ships, aircraft, or equipment or facilities of high value, or the protection of the environment.

(Pub. L. 95–541, § 4, Oct. 28, 1978, 92 Stat. 2049; Pub. L. 104–227, title I, § 103, Oct. 2, 1996, 110 Stat. 3036.)

REFERENCES IN TEXT

The Act to Prevent Pollution from Ships, referred to in subsecs. (a)(5) and (b)(1), is Pub. L. 96–478, Oct. 21, 1980, 94 Stat. 2297, as amended, which is classified principally to chapter 33 (§ 1901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of Title 33 and Tables.

AMENDMENTS

1996—Pub. L. 104–227 reenacted section catchline without change and amended text generally. Prior to amendment, text consisted of subsec. (a) ''In General'', which set forth unlawful acts in pars. (1) to (4) and provided that such acts would not be unlawful if committed under emergency circumstances to prevent the loss of human life, and subsec. (b) ''Exception'', which provided that subsec. (a) would not apply with respect to any native mammal, native bird, or native plant held in captivity or to any offspring of such mammal, bird, or plant.

§ 2403a. Environmental impact assessment

(a) Federal activities

(1)(A) The obligations of the United States under Article 8 of and Annex I to the Protocol shall be implemented by applying the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to proposals for Federal agency activities in Antarctica, as specified in this section.

(B) The obligations contained in section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall apply to all proposals for Federal agency activities occurring in Antarctica and affecting the quality of the human environment in Antarctica or dependent or associated ecosystems, only as specified in this section. For purposes of the application of such section 102(2)(C) under this subsection, the term ''significantly affecting the quality of the human environment'' shall have the same meaning as the term ''more than a minor or transitory impact''.

(2)(A) Unless an agency which proposes to conduct a Federal activity in Antarctica determines that the activity will have less than a minor or transitory impact, or unless a comprehensive environmental evaluation is being prepared in accordance with subparagraph (C), the agency shall prepare an initial environmental evaluation in accordance with Article 2 of Annex I to the Protocol.

(B) If the agency determines, through the preparation of the initial environmental evaluation, that the proposed Federal activity is likely to have no more than a minor or transitory impact, the activity may proceed if appropriate procedures are put in place to assess and verify the impact of the activity.

(C) If the agency determines, through the preparation of the initial environmental evaluation or otherwise, that a proposed Federal activity is likely to have more than a minor or transitory impact, the agency shall prepare and circulate a comprehensive environmental evaluation in accordance with Article 3 of Annex I to the Protocol, and shall make such comprehensive environmental evaluation publicly available for comment.

(3) Any agency decision under this section on whether a proposed Federal activity, to which paragraph (2)(C) applies, should proceed, and, if so, whether in its original or in a modified form, shall be based on the comprehensive environmental evaluation as well as other considerations which the agency, in the exercise of its discretion, considers relevant.

(4) For the purposes of this section, the term ''Federal activity'' includes all activities conducted under a Federal agency research program in Antarctica, whether or not conducted by a Federal agency.

(b) Federal activities carried out jointly with foreign governments

(1) For the purposes of this subsection, the term ''Antarctic joint activity'' means any Federal activity in Antarctica which is proposed to be conducted, or which is conducted, jointly or in cooperation with one or more foreign governments. Such term shall be defined in regulations promulgated by such agencies as the President may designate.

(2) Where the Secretary of State, in cooperation with the lead United States agency planning an Antarctic joint activity, determines that—

(A) the major part of the joint activity is being contributed by a government or governments other than the United States;

(B) one such government is coordinating the implementation of environmental impact assessment procedures for that activity; and

(C) such government has signed, ratified, or acceded to the Protocol,

the requirements of subsection (a) of this section shall not apply with respect to that activity.

(3) In all cases of Antarctic joint activity other than those described in paragraph (2), the requirements of subsection (a) of this section shall apply with respect to that activity, except as provided in paragraph (4).

(4) Determinations described in paragraph (2), and agency actions and decisions in connection with assessments of impacts of Antarctic joint activities, shall not be subject to judicial review.

(c) Nongovernmental activities

(1) The Administrator shall, within 2 years after October 2, 1996, promulgate regulations to provide for—

(A) the environmental impact assessment of nongovernmental activities, including tourism, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Treaty; and

(B) coordination of the review of information regarding environmental impact assessment received from other Parties under the Protocol.

(2) Such regulations shall be consistent with Annex I to the Protocol.

(d) Decision to proceed

(1) No decision shall be taken to proceed with an activity for which a comprehensive environ-

mental evaluation is prepared under this section unless there has been an opportunity for consideration of the draft comprehensive environmental evaluation at an Antarctic Treaty Consultative Meeting, except that no decision to proceed with a proposed activity shall be delayed through the operation of this paragraph for more than 15 months from the date of circulation of the draft comprehensive environmental evaluation pursuant to Article 3(3) of Annex I to the Protocol.

(2) The Secretary of State shall circulate the final comprehensive environmental evaluation, in accordance with Article 3(6) of Annex I to the Protocol, at least 60 days before the commencement of the activity in Antarctica.

(e) Cases of emergency

The requirements of this section, and of regulations promulgated under this section, shall not apply in cases of emergency relating to the safety of human life or of ships, aircraft, or equipment and facilities of high value, or the protection of the environment, which require an activity to be undertaken without fulfilling those requirements.

(f) Exclusive mechanism

Notwithstanding any other provision of law, the requirements of this section shall constitute the sole and exclusive statutory obligations of the Federal agencies with regard to assessing the environmental impacts of proposed Federal activities occurring in Antarctica.

(g) Decisions on permit applications

The provisions of this section requiring environmental impact assessments (including initial environmental evaluations and comprehensive environmental evaluations) shall not apply to Federal actions with respect to issuing permits under section 2404 of this title.

(h) Publication of notices

Whenever the Secretary of State makes a determination under paragraph (2) of subsection (b) of this section, or receives a draft comprehensive environmental evaluation in accordance with Annex I, Article 3(3) to the Protocol, the Secretary of State shall cause timely notice thereof to be published in the Federal Register.

(Pub. L. 95–541, § 4A, as added Pub. L. 104–227, title I, § 104, Oct. 2, 1996, 110 Stat. 3038.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a)(1)(A), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 2404. Permits

(a) In general

The Director may issue permits which authorize acts otherwise prohibited by section 2403(b) of this title.

(b) Applications for permits

(1) Applications for permits under this section shall be made in such manner and form, and shall contain such information, as the Director shall by regulation prescribe.

(2) The Director shall publish notice in the Federal Register of each application which is made for a permit under this section. The notice shall invite the submission by interested parties, within 30 days after the date of publication of the notice, of written data, comments, or views with respect to the application. Information received by the Director as a part of any application shall be available to the public as a matter of public record.

(c) Action by appropriate Secretaries on certain permit applications

(1) If the Director receives an application for a permit under this section requesting authority to undertake any action with respect to—

(A) any native mammal which is a marine mammal within the meaning of section 1362(5)[1] of this title;

(B) any native mammal, native bird, or native plant which is an endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or

(C) any native bird which is protected under the Migratory Bird Treaty Act (16 U.S.C. 701 et seq.);

the Director shall submit a copy of the application to the Secretary of Commerce or to the Secretary of the Interior, as appropriate (hereinafter in this subsection referred to respectively as the ''appropriate Secretary'').

(2) After receiving a copy of any application from the Director under paragraph (1) the appropriate Secretary shall promptly determine, and notify the Director, whether or not any action proposed in the application also requires a permit or other authorization under any law administered by the appropriate Secretary.

(3) If the appropriate Secretary notifies the Director that any action proposed in the application requires a permit or other authorization under any law administered by the appropriate Secretary, the Director may not issue a permit under this section with respect to such action unless such other required permit or authorization is issued by the appropriate Secretary and a copy thereof is submitted to the Director. The issuance of any permit or other authorization by the appropriate Secretary for the carrying out of any action with respect to any native mammal, native bird, or native plant shall not be deemed to entitle the applicant concerned to the issuance by the Director of a permit under this section.

(d) Issuance of permits

As soon as practicable after receiving any application for a permit under this section, or, in the case of any application to which subsection (c) of this section applies, as soon as practicable after the applicable requirements of such subsection are complied with, the Director shall issue, or deny the issuance of, the permit. Within 10 days after the date of the issuance or denial of a permit under this subsection, the Director shall publish notice of the issuance or denial in the Federal Register.

[1] See References in Text note below.

(e)[2] Terms and conditions of permits

(1) Each permit issued under this section shall—

(A) if applicable, specify—

(i) the number and species of native mammals, native birds, native plants, or native invertebrates to which the permit applies, and

(ii) the manner in which the taking or harmful interference shall be conducted (which manner shall be determined by the Director to be humane) and the area in which it will be conducted;

(B) the period during which the permit is valid; and

(C) such other terms and conditions as the Director deems necessary and appropriate to ensure that any act authorized under the permit is carried out in a manner consistent with the purpose of this chapter, the criteria set forth in paragraph (2), if applicable, and the regulations prescribed under this chapter.

(2) The terms and conditions imposed by the Director in any permit issued under this section that authorizes any of the following acts shall be consistent with the following criteria:

(A) Permits authorizing the taking or harmful interference within Antarctica of any native mammal or native bird (other than a Specially Protected Species of any such mammal or bird)—

(i) may be issued only for the purpose of providing—

(I) specimens for scientific study or scientific information, or

(II) specimens for museums, zoological gardens, or other educational or cultural institutions or uses, or

(III) for unavoidable consequences of scientific activities or the construction and operation of scientific support facilities; and

(ii) shall ensure, as far as possible, that—

(I) no more native mammals and native birds are taken in any year than can normally be replaced by net natural reproduction in the following breeding season, and

(II) the variety of species and the balance of the natural ecological systems within Antarctica are maintained.

(B) Permits authorizing the taking of Specially Protected Species may be issued only if—

(i) there is a compelling scientific purpose for such taking; and

(ii) the actions allowed under any such permit will not jeopardize any existing natural ecological system, or the survival, of such species.

(C) A permit authorizing the entry into an Antarctic Specially Protected Area shall be issued only—

(i) if the entry is consistent with an approved management plan, or

(ii) if a management plan relating to the area has not been approved but—

(I) there is a compelling purpose for such entry which cannot be served elsewhere, and

(II) the actions allowed under the permit will not jeopardize the natural ecological system existing in such area.

(e)[3] Judicial review

Any applicant for a permit may obtain judicial review of the terms and conditions of any permit issued by the Director under this section or of the refusal of the Director to issue such a permit. Such review, which shall be pursuant to chapter 7 of title 5, may be initiated by filing a petition for review in the United States district court for the district wherein the applicant for a permit resides, or has his principal place of business, or in the United States District Court for the District of Columbia, within 60 days after the date on which such permit is issued or denied.

(f) Modification, suspension, and revocation

(1) The Director may modify, suspend, or revoke, in whole or part, any permit issued under this section—

(A) in order to make the permit consistent with any change made after the date of issuance of the permit, to any regulation prescribed under section 2405 of this title;

(B) if there is any change in conditions which makes the permit inconsistent with the purpose of this chapter; or

(C) in any case in which there has been any violation of any term or condition of the permit, any regulation prescribed under this chapter, or any provision of this chapter.

(2) Whenever the Director proposes any modification, suspension, or revocation of a permit under this subsection, the permittee shall be afforded opportunity, after due notice, for a hearing by the Director with respect to such proposed modification, suspension, or revocation. If a hearing is requested, the action proposed by the Director shall not take effect before a decision is issued by him after the hearing, unless the proposed action is taken by the Director to meet an emergency situation. Any action taken by the Director after such a hearing is subject to judicial review on the same basis as is provided for with respect to permit applications under subsection (e) of this section.

(3) Notice of the modification, suspension, or revocation of any permit by the Director shall be published in the Federal Register within 10 days from the date of the Director's decision.

(g) Permit fees

The Director may establish and charge fees for processing applications for permits under this section. The amount of such fees shall be commensurate with the administrative costs incurred by the Director in undertaking such processing.

(Pub. L. 95–541, § 5, Oct. 28, 1978, 92 Stat. 2050; Pub. L. 104–227, title I, § 105, Oct. 2, 1996, 110 Stat. 3040.)

[2] So in original. Two subsecs. (e) have been enacted.

[3] So in original. Two subsecs. (e) have been enacted.

REFERENCES IN TEXT

Section 1362(5) of this title, referred to in subsec. (c)(1)(A), was redesignated section 1362(6) by Pub. L. 102–582, title IV, §401(a), Nov. 2, 1992, 106 Stat. 4909.

The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), referred to in subsec. (c)(1)(B), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Migratory Bird Treaty Act (16 U.S.C. 701 et seq.), referred to in subsec. (c)(1)(C), is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–227, §105(1), substituted ''section 2403(b)'' for ''section 2403(a)''.

Subsec. (c)(1)(B). Pub. L. 104–227, §105(2), substituted ''Species'' for ''Special''.

Subsec. (e)(1)(A). Pub. L. 104–227, §105(3)(A), (B), in subsec. (e) relating to terms and conditions of permits substituted ''native plants, or native invertebrates to which the permit applies, and'' for ''or native plants to which the permit applies,'' in cl. (i), added cl. (ii), and struck out former cls. (ii) and (iii) which read as follows:

''(ii) if any such mammal or bird is authorized to be taken, transported, carried, or shipped, the manner (which manner must be determined by the Director to be humane) in which such action must be accomplished and the area in which such taking must occur, and

''(iii) if any such plant is authorized to be collected, the location and manner in which it must be collected;''.

Subsec. (e)(2)(A). Pub. L. 104–227, §105(3)(C)–(G), in subsec. (e) relating to terms and conditions of permits substituted ''or harmful interference within Antarctica'' for ''within Antarctica (other than within any specially protected area)'' and ''Specially Protected Species'' for ''specially protected species'' in introductory provisions, substituted '', or'' for ''; and'' in cl. (i)(II), added subcl. (III) in cl. (i), and substituted ''within Antarctica are'' for ''with Antarctica and'' in cl. (ii)(II).

Subsec. (e)(2)(B). Pub. L. 104–227, §105(3)(D), in subsec. (e) relating to terms and conditions of permits substituted ''Specially Protected Species'' for ''specially protected species'' in introductory provisions.

Subsec. (e)(2)(C), (D). Pub. L. 104–227, §105(3)(H), in subsec. (e) relating to terms and conditions of permits added subpar. (C) and struck out former subpars. (C) and (D) which read as follows:

''(C) Permits authorizing the entry into any specially protected area—

''(i) may be issued only if—

''(I) there is a compelling scientific purpose for such entry which cannot be served elsewhere, and

''(II) the actions allowed under any such permit will not jeopardize the natural ecological system existing in such area; and

''(ii) shall not allow the operation of any surface vehicle within such area.

''(D) Permits authorizing the entry into any site of special scientific interest shall be consistent with the management plan prescribed under section 2405(b)(3) of this title for such site.''

§ 2405. Regulations

(a) Regulations to be issued by Director

(1) The Director shall issue such regulations as are necessary and appropriate to implement Annex II and Annex V to the Protocol and the provisions of this chapter which implement those annexes, including section 2403(b)(2), (3), (4), and (5) of this title. The Director shall designate as native species—

(A) each species of the class Aves;

(B) each species of the class Mammalia; and

(C) each species of plant,

which is indigenous to Antarctica or which occurs there seasonally through natural migrations.

(2) The Director, with the concurrence of the Administrator, shall issue such regulations as are necessary and appropriate to implement Annex III to the Protocol and the provisions of this chapter which implement that Annex, including section 2403(a)(1), (2), (3), and (4) of this title, and section 2403(b)(1) of this title.

(3) The Director shall issue such regulations as are necessary and appropriate to implement Article 15 of the Protocol with respect to land areas and ice shelves in Antarctica.

(4) The Director shall issue such additional regulations as are necessary and appropriate to implement the Protocol and this chapter, except as provided in subsection (b) of this section.

(b) Regulations to be issued by Secretary of Department in which Coast Guard is operating

The Secretary of the Department in which the Coast Guard is operating shall issue such regulations as are necessary and appropriate, in addition to regulations issued under the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), to implement Annex IV to the Protocol and the provisions of this chapter which implement that Annex, and, with the concurrence of the Director, such regulations as are necessary and appropriate to implement Article 15 of the Protocol with respect to vessels.

(c) Time period for regulations

The regulations to be issued under subsection (a)(1) and (2) of this section shall be issued within 2 years after October 2, 1996. The regulations to be issued under subsection (a)(3) of this section shall be issued within 3 years after October 2, 1996.

(Pub. L. 95–541, §6, Oct. 28, 1978, 92 Stat. 2053; Pub. L. 104–227, title I, §106, Oct. 2, 1996, 110 Stat. 3041.)

REFERENCES IN TEXT

The Act to Prevent Pollution from Ships, referred to in subsec. (b), is Pub. L. 96–478, Oct. 21, 1980, 94 Stat. 2297, as amended, which is classified principally to chapter 33 (§1901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of Title 33 and Tables.

AMENDMENTS

1996—Pub. L. 104–227 reenacted section catchline without change and amended text generally. Prior to amendment, text consisted of subsec. (a) ''In General'' which related to requirement that Director prescribe regulations to implement this chapter and subsec. (b) ''Specific Regulations'' which related to required content of regulations.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security,

and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 2406. Notification of travel to Antarctica

The Secretary of State shall prescribe such regulations as may be necessary and appropriate to implement, with respect to United States citizens, paragraph 5 of Article VII of the Treaty pertaining to the filing of advance notifications of expeditions to, and within, Antarctica. For purposes of this section, the term ''United States citizen'' shall include any foreign person who organizes within the United States any expedition which will proceed to Antarctica from the United States.

(Pub. L. 95–541, § 7, Oct. 28, 1978, 92 Stat. 2054.)

§ 2407. Civil penalties

(a) Assessment of penalties

Any person who is found by the Director, after notice and opportunity for a hearing in accordance with subsection (b) of this section, to have committed any act prohibited by section 2403(a) of this title or to have violated any regulation prescribed under section 2406 of this title shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $5,000 for each violation unless the prohibited act was knowingly committed, in which case the amount of the civil penalty shall not exceed $10,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of any civil penalty shall be assessed by the Director by written notice. Any civil penalty assessed under this subsection may be remitted or mitigated by the Director.

(b) Hearings

Hearings for the assessment of civil penalties under subsection (a) shall be conducted in accordance with section 554 of title 5. For the purposes of conducting any such hearing, the Director may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Director or to appear and produce documents before the Director, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) Review

Upon the failure of any person against whom a civil penalty is assessed under subsection (a) of this section to pay such penalty, the Director may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. The court shall hear such action on the record made before the Director and shall sustain the decision of the Director if it is supported by substantial evidence on the record considered as a whole.

(d) Penalties under other laws

The assessment of a civil penalty under subsection (a) of this section for any act shall not be deemed to preclude the assessment of a civil penalty for such act under any other law, including, but not limited to, the Marine Mammal Protection Act of 1972 [16 U.S.C. 1361 et seq.], the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.], and the Migratory Bird Treaty Act [16 U.S.C. 703 et seq.].

(Pub. L. 95–541, § 8, Oct. 28, 1978, 92 Stat. 2054.)

REFERENCES IN TEXT

The Marine Mammal Protection Act of 1972, referred to in subsec. (d), is Pub. L. 92–522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to chapter 31 (§ 1361 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

The Endangered Species Act of 1973, referred to in subsec. (d), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Migratory Bird Treaty Act, referred to in subsec. (d), is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§ 703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

§ 2408. Criminal offenses

(a) Offenses

A person is guilty of an offense if he willfully commits any act prohibited by section 2403(a) of this title.

(b) Punishment

Any offense described in subsection (a) of this section is punishable by a fine of $10,000, or imprisonment for not more than one year, or both.

(c) Offenses under other laws

A conviction under subsection (a) of this section for any act shall not be deemed to preclude a conviction for such act under any other law, including, but not limited to, the Marine Mammal Protection Act of 1972 [16 U.S.C. 1361 et seq.], the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.], and the Migratory Bird Treaty Act [16 U.S.C. 703 et seq.].

(Pub. L. 95–541, § 9, Oct. 28, 1978, 92 Stat. 2054.)

REFERENCES IN TEXT

The Marine Mammal Protection Act of 1972, referred to in subsec. (c), is Pub. L. 92–522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to chapter 31 (§ 1361 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

The Endangered Species Act of 1973, referred to in subsec. (c), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884,

as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Migratory Bird Treaty Act, referred to in subsec. (c), is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§ 703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

§ 2409. Enforcement

(a) Responsibility

The provisions of this chapter and of any regulation prescribed, or permit issued, under this chapter shall be enforced by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of[1] Interior, and the Secretary of the department in which the Coast Guard is operating. The Director and such Secretaries may utilize by agreement, on a reimbursable basis or otherwise, the personnel, services, and facilities of any other Federal agency or any State agency in the performance of such duties.

(b) Powers of authorized officers

Any officer who is authorized (by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with the Director or any such Secretary under subsection (a) of this section) to enforce the provisions of this chapter and of any regulation or permit issued under this chapter may—

(1) secure, execute, and serve any order, warrant, subpena, or other process, which is issued under the authority of the United States;

(2) search without warrant any person, place, or conveyance where there is reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 2403(a) of this title;

(3) seize without warrant any evidentiary item where there is reasonable grounds to believe that a person has committed or is attempting to commit any such act;

(4) offer and pay rewards for services or information which may lead to the apprehension of violators of such provisions;

(5) make inquiries, and administer to, or take from, any person an oath, affirmation, or affidavit, concerning any matter which is related to the enforcement of such provisions;

(6) detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation into, or exportation from, the United States; and

(7) make an arrest with or without a warrant with respect to any act prohibited by section 2403(a) of this title if such officer has reasonable grounds to believe that the person to be arrested is committing such act in his presence or view, or has committed such act.

(c) Seizure

Any property or item seized pursuant to subsection (b) of this section shall be held by any person authorized by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, or the Secretary of the department in which the Coast Guard is operating pending the disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such property or item; except that such authorized person may, in lieu of holding such property or item, permit the owner or consignee thereof to post a bond or other satisfactory surety.

(d) Forfeiture

(1) Any animal or plant with respect to which an act prohibited by section 2403(a) of this title is committed shall be subject to forfeiture to the United States.

(2) All guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used in the commission of any act prohibited by section 2403(a) of this title shall be subject to forfeiture to the United States.

(3) Upon the forfeiture to the United States of any property or item described in paragraph (1) or (2), or upon the abandonment or waiver of any claim to any such property or item, it shall be disposed of by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, or the Secretary of the department in which the Coast Guard is operating, as the case may be, in such a manner, consistent with the purposes of the chapter, as may be prescribed by regulation; except that no native mammal, native bird, or native plant may be disposed of by sale to the public.

(e) Application of customs laws

All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provision of this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Customs Service may, for the purposes of this chapter, also be exercised or performed by the Director, the Secretary of Commerce, the Secretary of the Interior, or the Secretary of the department in which the Coast Guard is operating, or by such persons as each may designate.

(f) Regulations

The Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, and the Secretary of the department in which the Coast Guard is operating may prescribe such regulations as may be appropriate to enforce the provisions of this chapter and of any regulation prescribed or permit issued under this chapter, and charge reasonable fees for the expenses of the United States incurred in carrying out inspections and in transferring, boarding, handling, or storing native mammals, native birds, native plants, animals and plants not indigenous to Antarctica, and other evidentiary items seized or forfeited under this chapter.

[1] So in original. Probably should be ''of the''.

(Pub. L. 95–541, § 10, Oct. 28, 1978, 92 Stat. 2055.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 2410. Jurisdiction of district courts

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this chapter or of any regulation prescribed, or permit issued, under this chapter.

(Pub. L. 95–541, § 11, Oct. 28, 1978, 92 Stat. 2056.)

§ 2411. Federal agency cooperation

Each Federal department or agency whose activities affect Antarctica shall utilize, to the maximum extent practicable, its authorities in furtherance of the purposes of this chapter, and shall cooperate with the Director in carrying out the purposes of this chapter.

(Pub. L. 95–541, § 12, Oct. 28, 1978, 92 Stat. 2056.)

§ 2412. Relationship to existing treaties

Nothing in this chapter shall be construed as contravening or superseding the provisions of any international treaty, convention, or agreement, if such treaty, convention, or agreement is in force with respect to the United States on October 28, 1978, or of any statute which implements any such treaty, convention, or agreement.

(Pub. L. 95–541, § 13, Oct. 28, 1978, 92 Stat. 2056.)

§ 2413. Saving provisions

(a) Regulations

All regulations promulgated under this chapter prior to October 2, 1996, shall remain in effect until superseding regulations are promulgated under section 2405 of this title.

(b) Permits

All permits issued under this chapter shall remain in effect until they expire in accordance with the terms of those permits.

(Pub. L. 95–541, § 14, as added Pub. L. 104–227, title I, § 107, Oct. 2, 1996, 110 Stat. 3042.)

PRIOR PROVISIONS

A prior section 14 of Pub. L. 95–541, Oct. 28, 1978, 92 Stat. 2057, amended section 1971 of Title 22, Foreign Relations and Intercourse, and enacted a provision set out as a note under section 1971 of Title 22 prior to being amended generally by Pub. L. 104–227.

CHAPTER 44A—ANTARCTIC MARINE LIVING RESOURCES CONVENTION

Sec.
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§ 2431. Findings and purpose

(a) Findings

The Congress finds that—

(1) the Convention on the Conservation of Antarctic Marine Living Resources establishes international mechanisms and creates legal obligations necessary for the protection and conservation of Antarctic marine living resources;

(2) the Convention incorporates an innovative ecosystem approach to the management of Antarctic marine living resources, including standards designed to ensure the health of the individual populations and species and to maintain the health of the Antarctic marine ecosystem as a whole;

(3) the Convention serves important United States environmental and resource management interests;

(4) the Convention represents an important contribution to United States long term legal and political objectives of maintenance of Antarctica as an area of peaceful international cooperation;

(5) United States basic and directed research programs concerning the marine living resources of the Antarctic are essential to achieve the United States goal of effective implementation of the objectives of the Convention; and

(6) the United States has important security, economic, and environmental interests in developing and maintaining a fleet of icebreaking vessels capable of operating effectively in the heavy ice regions of Antarctica.

(b) Purpose

The purpose of this chapter is to provide the legislative authority necessary to implement, with respect to the United States, the Convention on the Conservation of Antarctic Marine Living Resources.

(Pub. L. 98–623, title III, § 302, Nov. 8, 1984, 98 Stat. 3398.)

SHORT TITLE

Section 301 of title III of Pub. L. 98–623 provided that: ''This title [enacting this chapter] may be cited as the 'Antarctic Marine Living Resources Convention Act of 1984'.''

§ 2432. Definitions

For purposes of this chapter—

(1) Antarctic Convergence

The term ''Antarctic Convergence'' means a line joining the following points along the parallels of latitude and meridians of longitude: 50 degrees south, 0 degrees; 50 degrees south, 30 degrees east; 45 degrees south, 30 degrees east; 45 degrees south, 80 degrees east; 55 degrees south, 80 degrees east; 55 degrees south, 150 degrees east; 60 degrees south, 150 degrees east; 60 degrees south;[1] 50 degrees west; 50 degrees south, 50 degrees west; and 50 degrees south, 0 degrees.

(2) Antarctic marine living resources

The term ''Antarctic marine living resources'' means the population of finfish, molluscs, crustaceans and all other species of living organisms, including birds, found south of the Antarctic Convergence.

(3) Commission

The term ''Commission'' means the Commission for the Conservation of Antarctic Marine Living Resources established pursuant to article VII of the Convention.

(4) Convention

The term ''Convention'' means the Convention on the Conservation of Antarctic Marine Living Resources, done at Canberra, Australia, May 7, 1980, and entered into force with respect to the United States on April 7, 1982.

(5) Harvesting or other associated activities

The terms ''harvesting'' and ''harvesting or other associated activities'' mean—

(A) the harassing, molesting, harming, pursuing, hunting, shooting, wounding, killing, trapping, or capturing of Antarctic marine living resources;

(B) attempting to engage in any activity set forth in subparagraph (A);

(C) any other activity which can reasonably be expected to result in any activity described in subparagraph (A); and

(D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

(6) Harvest

The term ''harvest'' means to engage in harvesting or other associated activities.

(7) Import

The term ''import'' means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing constitutes an importation within the meaning of the customs laws of the United States.

(8) Person

The term ''person'' means an individual, partnership, corporation, trust, association, and any other entity subject to the jurisdiction of the United States.

(9) Scientific Committee

The term ''Scientific Committee'' means the Scientific Committee for the Conservation of Antarctic Marine Living Resources established pursuant to article XIV of the Convention.

(10) Vessel of the United States

The term ''vessel of the United States'' means—

(A) a vessel documented under chapter 121 of title 46 or a vessel numbered as provided in chapter 123 of that title;

(B) a vessel owned in whole or in part by—

(i) the United States or a territory, commonwealth, or possession of the United States;

(ii) a State or political subdivision thereof;

(iii) a citizen or national of the United States; or

(iv) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States;

unless the vessel has been granted the nationality of a foreign nation in accordance with Article 5 of the 1958 Convention on the High Seas; and

(C) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation in accordance with Article 5 of the 1958 Convention on the High Seas.

(11) Vessel subject to the jurisdiction of the United States

The term ''vessel subject to the jurisdiction of the United States'' includes a vessel without nationality or a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of Article 6 of the 1958 Convention on the High Seas.

(Pub. L. 98–623, title III, § 303, Nov. 8, 1984, 98 Stat. 3398.)

REFERENCES IN TEXT

The customs laws of the United States, referred to in par. (7), are classified generally to Title 19, Customs Duties.

§ 2433. Representatives

(a) Representative to the Commission

The Secretary of State, with the concurrence of the Secretary of Commerce and the Director of the National Science Foundation, shall appoint an officer or employee of the United States as the United States representative to the Commission.

(b) Representative to the Scientific Committee

The Secretary of Commerce and the Director of the National Science Foundation, with the concurrence of the Secretary of State, shall designate the United States representative to the Scientific Committee.

(c) Compensation

The United States representatives to the Commission and the Scientific Committee shall re-

[1] So in original. Probably should be a comma.

ceive no additional compensation by reason of their services as such representatives.

(Pub. L. 98–623, title III, § 304, Nov. 8, 1984, 98 Stat. 3400.)

§ 2434. Conservation measures; system of observation and inspection

(a) Conservation measures

(1) The Secretary of State, with the concurrence of the Secretary of Commerce and the Director of the National Science Foundation, is authorized—

(A) to decide on behalf of the United States whether the United States is unable to accept or can no longer accept a conservation measure adopted by the Commission pursuant to article IX of the Convention, and

(B) to notify the Commission of any such decision in accordance with article IX of the Convention.

(2) The Secretary of State shall—

(A) publish in the Federal Register, if practicable, timely notice of each proposed decision under paragraph (1) and invite written public comment regarding it; and

(B) publish in the Federal Register notice of each notification made to the Commission under paragraph (1).

(b) System of observation and inspection

The Secretary of State, with the concurrence of the Secretary of Commerce, the Director of the National Science Foundation and the Secretary of the department in which the Coast Guard is operating, is authorized to agree on behalf of the United States to the establishment of a system of observation and inspection, and to interim arrangements pending establishment of such a system, pursuant to article XXIV of the Convention.

(c) Communications from the Commission

The Secretary of State is further authorized to receive, on behalf of the United States Government, reports, requests, and other communications from the Commission and to take appropriate action on them, either directly or by reference to the appropriate authority.

(Pub. L. 98–623, title III, § 305, Nov. 8, 1984, 98 Stat. 3400.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 2435. Unlawful activities

It is unlawful for any person—

(1) to engage in harvesting or other associated activities in violation of the provisions of the Convention or in violation of a conservation measure in force with respect to the United States pursuant to article IX of the Convention;

(2) to violate any regulation promulgated under this chapter;

(3) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control or possession of, any Antarctic marine living resource (or part or product thereof) which he knows, or reasonably should have known, was harvested in violation of a conservation measure in force with respect to the United States pursuant to article IX of the Convention or in violation of any regulation promulgated under this chapter, without regard to the citizenship of the person that harvested, or vessel that was used in the harvesting of, the Antarctic marine living resource (or part or product thereof);

(4) to refuse to permit any authorized officer or employee of the United States to board a vessel of the United States or a vessel subject to the jurisdiction of the United States for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this chapter, or any regulations promulgated under this chapter;

(5) to assault, resist, oppose, impede, intimidate, or interfere with any authorized officer or employee of the United States in the conduct of any search or inspection described in paragraph (4);

(6) to resist a lawful arrest or detention for any act prohibited by this section; or

(7) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detention of another person, knowing that such other person has committed any act prohibited by this section.

(Pub. L. 98–623, title III, § 306, Nov. 8, 1984, 98 Stat. 3401.)

§ 2436. Regulations

The Secretary of Commerce, after consultation with the Secretary of State, the Secretary of the department in which the Coast Guard is operating, and the heads of other appropriate departments or agencies of the United States, shall promulgate such regulations as are necessary and appropriate to implement the provisions of this chapter.

(Pub. L. 98–623, title III, § 307, Nov. 8, 1984, 98 Stat. 3401.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 2437. Civil penalties

(a) Assessment of penalties

(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with subsection (b) of this section, to have committed any act prohibited by section 2435 of this title shall be liable to the United States for a civil penalty. The amount of

the civil penalty shall not exceed $5,000 for each violation unless the prohibited act was knowingly committed, in which case the amount of the civil penalty shall not exceed $10,000 for each violation. Each day of a continuing violation shall constitute a separate violation for purposes of this subsection. The amount of any civil penalty shall be assessed by the Secretary of Commerce by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed, and, with respect to the person committing the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require, to the extent that such information is reasonably available to the Secretary.

(2) The Secretary of Commerce may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section, until such time as the matter is referred to the Attorney General under subsection (c) of this section.

(b) Hearings

Hearings for the assessment of civil penalties under subsection (a) of this section shall be conducted in accordance with section 554 of title 5. For the purposes of conducting any such hearing, the Secretary of Commerce may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Attorney General of the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) Review of civil penalty

Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary of Commerce, the Attorney General, and the appropriate United States Attorney. The Secretary of Commerce shall promptly refer the matter to the Attorney General of the United States, who shall file in such court a certified copy of the record upon which the violation was found or such penalty imposed, as provided in section 2112 of title 28. The court shall set aside the findings and order of the Secretary if the findings and order are found to be unsupported by substantial evidence, as provided in section 706(2)(E) of title 5.

(d) Recovery of civil penalties

The Attorney General of the United States may seek to recover in any appropriate district court of the United States (1) any civil penalty imposed under this section that has become a final and unappealable order and has been referred to the Attorney General by the Secretary of Commerce or (2) any final judgment rendered under this section in favor of the United States by an appropriate Court.

(e) Penalties under other laws

The assessment of a civil penalty under subsection (a) of this section for any act shall not be deemed to preclude the assessment of a civil penalty for such act under any other law.

(Pub. L. 98–623, title III, §308, Nov. 8, 1984, 98 Stat. 3401.)

§ 2438. Criminal offenses

(a) Offenses

A person is guilty of an offense if that person commits any act prohibited by paragraph (4), (5), (6), or (7) of section 2435 of this title.

(b) Punishment

Any offense described in subsection (a) of this section is punishable by a fine of $50,000, or imprisonment for not more than ten years, or both.

(c) Offenses under other laws

A conviction under subsection (a) of this section for any act shall not be deemed to preclude a conviction for such act under any other law.

(Pub. L. 98–623, title III, §309, Nov. 8, 1984, 98 Stat. 3403.)

§ 2439. Enforcement

(a) Responsibility

The provisions of this chapter shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may utilize by agreement, on a reimbursable basis or otherwise, the personnel, services, and facilities of any other department or agency of the United States in the performance of such duties.

(b) Powers of authorized officers and employees

Any officer or employee of the United States who is authorized (by the Secretary of Commerce, the Secretary of the department in which the Coast Guard is operating, or the head of any department or agency of the United States which has entered into an agreement with either Secretary under subsection (a) of this section) to enforce the provisions of this chapter and of any regulation promulgated under this chapter may, in enforcing such provisions—

(1) secure, execute, and serve any order, warrant, subpoena, or other process, which is issued under the authority of the United States;

(2) search without warrant any person, place, vehicle or aircraft subject to the jurisdiction of the United States where there are reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 2435 of this title;

(3) with or without a warrant board and search or inspect any vessel of the United

States or vessel subject to the jurisdiction of the United States;

(4) seize without warrant—

(A) any evidentiary item where there are reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 2435 of this title,

(B) any Antarctic marine living resources (or part of[1] product thereof) with respect to which such an act is committed,

(C) any vessel of the United States (including its gear, furniture, appurtenances, stores, and cargo), any vessel subject to the jurisdiction of the United States (including its gear, furniture, appurtenances, stores, and cargo), and any vehicle, aircraft, or other means of transportation subject to the jurisdiction of the United States used in connection with such an act, and

(D) any guns, traps, nets, or equipment used in connection with such an act;

(5) offer and pay rewards for services or information which may lead to the apprehension of persons violating such provisions;

(6) make inquiries, and administer to, or take from, any person an oath, affirmation, or affidavit, concerning any matter which is related to the enforcement of such provisions;

(7) in coordination with the Secretary of the Treasury, detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation into, or exportation from, the United States;

(8) make an arrest with or without a warrant with respect to any act prohibited by paragraph (4), (5), (6), or (7) of section 2435 of this title if such officer or employee has reasonable grounds to believe that the person to be arrested is committing such act in his or her presence or view or has committed such act;

(9) exercise enforcement powers conferred on such officer or employee under a system of observation and inspection, or interim arrangements pending the establishment of such a system, which the Secretary of State has agreed to on behalf of the United States pursuant to section 2434(b) of this title; and

(10) exercise any other authority which such officer or employee is permitted by law to exercise.

(c) Seizure

Subject to the succeeding provisions of this subsection, any property or item seized pursuant to subsection (b) of this section shall be held by any officer or employee of the United States, who is authorized by the Secretary of Commerce or the Secretary of the department in which the Coast Guard is operating, pending the disposition of civil or criminal proceedings concerning the violation relating to the property or item, or the institution of an action in rem for the forfeiture of such property or item. Such authorized officer or employee may, upon the order of a court of competent jurisdiction, either release such seized property or item to the wild or destroy such property or item, when the cost of maintenance of the property or item pending the disposition of the case is greater than the legitimate market value of the property or item. Such authorized officer or employee and all officers or employees acting by or under his or her direction shall be indemnified from any penalties or actions for damages for so releasing or destroying such property or item. Such authorized officer or employee may, in lieu of holding such property or item, permit the owner or consignee thereof to post a bond or other satisfactory surety.

(d) Forfeiture

(1) Any Antarctic marine living resource (or part or product thereof) with respect to which an act prohibited by section 2435 of this title is committed, any vessel of the United States (including its gear, furniture, appurtenances, stoves, and cargo), vessel subject to the jurisdiction of the United States (including its gear, furniture, appurtenances, stoves, and cargo), or vessel, vehicle, or aircraft or other means of transportation subject to the jurisdiction of the United States, which is used in connection with an act prohibited by section 2435 of this title, and all guns, traps, nets, and other equipment used in connection with such act, shall be subject to forfeiture to the United States.

(2) Upon the forfeiture to the United States of any property or item described in paragraph (1), or upon the abandonment or waiver of any claim to any such property or item, it shall be disposed of by the Secretary of Commerce, or the Secretary of the department in which the Coast Guard is operating, as the case may be, in such a manner, consistent with the purposes of this chapter, as may be prescribed by regulation.

(e) Application of customs laws

All provisions of law relating to the seizure, forfeiture, and condemnation of property (including vessels) for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, and the compromise of claims, under the provisions of this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Customs Service may, for the purposes of this chapter, also be exercised or performed by the Secretary of Commerce or the Secretary of the department in which the Coast Guard is operating, or by such officers or employees of the United States as each Secretary may designate.

(Pub. L. 98–623, title III, § 310, Nov. 8, 1984, 98 Stat. 3403.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

[1] So in original. Probably should be ''or''.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 2440. Jurisdiction of courts

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this chapter or of any regulation promulgated under this chapter.

(Pub. L. 98–623, title III, § 311, Nov. 8, 1984, 98 Stat. 3405.)

§ 2441. Federal agency cooperation

(a) Responsibilities

(1) For the purpose of carrying out the policies and objectives of the Convention or to implement any decision of the Commission—

(A) the Director of the National Science Foundation, in consultation with the Secretary of State and the heads of other appropriate departments and agencies of the United States, shall continue to support basic research investigations of the Antarctic marine ecosystem as a part of the United States Antarctic Program;

(B) the Secretary of Commerce, in consultation with the Director of the National Science Foundation, the Secretary of State and the heads of other appropriate Federal agencies, shall design and conduct the program of directed scientific research as set forth in paragraph 2 supplemental to and coordinated with the United States Antarctic Program; and

(C) the Secretary of Commerce and the Director of the National Science Foundation, in consultation with the Secretary of State, may furnish facilities and personnel to the Commission in order to assist the Commission in carrying out its functions.

(2)(A) The Secretary of Commerce, in consultation with the Secretary of State, the Director of the National Science Foundation, and other appropriate Federal officials, shall prepare a plan, which shall be updated annually, for conducting the directed research program required under paragraph (1)(B) for each period of three consecutive fiscal years occurring during the period beginning on October 1, 1985, and ending on September 30, 1991. The plan shall—

(i) describe priority directed research needs for the implementation of the Convention;

(ii) identify which of those needs are to be fulfilled by the United States; and

(iii) specify the design of the research referred to in paragraph (1)(B) and the funds, personnel, and facilities required for the research, including, in particular, the need for the cost of enhanced ship capacity.

(B) In preparing the plan referred to in subparagraph (A), the Secretary of Commerce shall take into account, in addition to any other matters the Secretary considers appropriate, the possibilities of securing productive results, the minimization of duplication, and the methods for monitoring and evaluating a project.

(C) The Secretary of Commerce shall submit to the Congress each year the plan required under subparagraph (A). That part of the plan covering fiscal years 1986 through 1988 shall be submitted not later than October 1, 1985. That part of the plan covering each 3-fiscal-year period thereafter shall be submitted not later than the February 1 occurring before the beginning of the first fiscal year covered by that part of the plan.

(b) Consultation with other agencies

In carrying out their functions under this section, the Secretary of State, the Secretary of Commerce, and the Director of the National Science Foundation shall consult, as appropriate, with the Marine Mammal Commission and with other departments and agencies of the United States.

(c) Icebreaking

The Department of Homeland Security shall facilitate planning for the design, procurement, maintenance, deployment, and operation of icebreakers needed to provide a platform for Antarctic research. All funds necessary to support icebreaking operations, except for recurring incremental costs associated with specific projects, shall be allocated to the United States Coast Guard.

(Pub. L. 98–623, title III, § 312, Nov. 8, 1984, 98 Stat. 3405; Pub. L. 109–241, title IX, § 902(h)(2), July 11, 2006, 120 Stat. 567.)

AMENDMENTS

2006—Subsec. (c). Pub. L. 109–241 substituted ''of Homeland Security'' for ''of Transportation''.

§ 2442. Relationship to existing treaties and statutes

(a) In general

Nothing in this chapter[1] shall be construed as contravening or superseding (1) the provisions of any international treaty, convention, or agreement, if such treaty, convention or agreement is in force with respect to the United States on Nov. 8, 1984, or (2) the provisions of any statute which implements any such treaty, convention, or agreement. Nothing in this chapter shall be construed as contravening or superseding the provisions of any statute enacted before Nov. 8, 1984, which may otherwise apply to Antarctic marine living resources.

(b) Application of more restrictive provisions

Nothing in this section shall be construed to prevent the application of provisions of the Convention, conservation measures adopted by the Commission pursuant to article IX of the Convention, or regulations promulgated under this chapter, which are more restrictive than the provisions of, measures adopted under, or regulations promulgated under, the treaties or statutes described in subsection (a) of this section.

(Pub. L. 98–623, title III, § 313, Nov. 8, 1984, 98 Stat. 3406.)

[1] See Codification note below.

CODIFICATION

This chapter, the first time it appears in subsec. (a), was in the original ''this Act'' and was translated as reading ''this title'', as the probable intent of Congress.

§ 2443. Authorization of appropriations

There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for carrying out the provisions of this chapter, including, but not limited to—

(1) necessary travel expenses of the United States representatives referred to in section 2433 of this title, alternate United States representatives, and authorized advisers and experts, in accordance with sections 5701 through 5708, 5731, and 5733 of title 5 and the regulations issued under those sections;

(2) the United States contribution to the budget of the Commission as provided in article XIX of the Convention; and

(3) the directed research program and the furnishing of facilities and personnel to the Commission referred to in section 2441 of this title.

(Pub. L. 98–623, title III, § 314, Nov. 8, 1984, 98 Stat. 3406.)

§ 2444. Severability

If any provision of this chapter or the application of this chapter to any person or circumstance is held invalid, neither the remainder of this chapter nor the application of that provision to other persons or circumstances shall be affected thereby.

(Pub. L. 98–623, title III, § 315, Nov. 8, 1984, 98 Stat. 3407.)

CHAPTER 44B—ANTARCTIC MINERAL RESOURCES PROTECTION

Sec.
2461. Findings and purpose.
2462. Definitions.
2463. Prohibition of Antarctic mineral resource activities.
2464. Repealed.
2465. Enforcement.
2466. Repealed.

§ 2461. Findings and purpose

(a) Findings

Congress finds that—

(1) the Antarctic continent with its associated and dependent ecosystems is a distinctive environment providing a habitat for many unique species and offering a natural laboratory from which to monitor critical aspects of stratospheric ozone depletion and global climate change;

(2) Antarctica is protected by a series of international agreements, including the Antarctic Treaty and associated recommendations, the Convention on the Conservation of Antarctic Seals, and the Convention on the Conservation of Antarctic Marine Living Resources, which are intended to conserve the renewable natural resources of Antarctica and to recognize the importance of Antarctica for the conduct of scientific research;

(3) recurring and recent developments in Antarctica, including increased siting of scientific stations, poor waste disposal practices, oil spills, increased tourism, and the over-exploitation of marine living resources, have raised serious questions about the adequacy and implementation of existing agreements and domestic law to protect the Antarctic environment and its living marine resources;

(4) the parties to the Antarctic Treaty have negotiated a Convention on the Regulation of Antarctic Mineral Resources Activities which the United States has signed but not yet ratified;

(5) the Convention on the Regulation of Antarctic Mineral Resources Activities does not guarantee the preservation of the fragile environment of Antarctica and could actually stimulate movement toward Antarctic mineral resource activity;

(6) the exploitation of mineral resources in Antarctica could lead to additional degradation of the Antarctic environment, including increased risk of oil spills;

(7) the Antarctic Treaty Consultative Parties have agreed to a voluntary ban on Antarctic mineral resource activities which needs to be made legally binding;

(8) the level of scientific study, including necessary support facilities, has increased to the point that some scientific programs may be degrading the Antarctic environment; and

(9) the planned special consultative meeting of parties to the Antarctic Treaty and the imminence of the thirtieth anniversary of the Antarctic Treaty provide opportunities for the United States to exercise leadership toward protection and sound management of Antarctica.

(b) Purpose

The purpose of this chapter is to—

(1) strengthen substantially overall environmental protection of Antarctica;

(2) prohibit prospecting, exploration, and development of Antarctic mineral resources by United States citizens and other persons subject to the jurisdiction of the United States;

(3) urge other nations to join the United States in immediately negotiating one or more new agreements to provide an indefinite ban on all Antarctic mineral resource activities and comprehensive protection for Antarctica and its associated and dependent ecosystems; and

(4) urge all nations to consider a permanent ban on Antarctic mineral resource activities.

(Pub. L. 101–594, § 2, Nov. 16, 1990, 104 Stat. 2975.)

SHORT TITLE

Section 1 of Pub. L. 101–594 provided that: ''This Act [enacting this chapter] may be cited as the 'Antarctic Protection Act of 1990'.''

§ 2462. Definitions

For the purposes of this chapter:

(1) The term ''Antarctica'' means the area south of the Antarctic Convergence as defined in section 2432(1) of this title.

(2) The term ''Antarctic mineral resource activity'' means prospecting, exploration, or de-

velopment in Antarctica of mineral resources, but does not include scientific research within the meaning of article III of the Antarctic Treaty, done at Washington on December 1, 1959.

(3) The term ''development'' means any activity, including logistic support, which takes place following exploration, the purpose of which is the exploitation of specific mineral resource deposits, including processing, storage, and transport activities.

(4) The term ''exploration'' means any activity, including logistic support, the purpose of which is the identification or evaluation of specific mineral resource deposits. The term includes exploratory drilling, dredging, and other surface or subsurface excavations required to determine the nature and size of mineral resource deposits and the feasibility of their development.

(5) The term ''mineral resources'' means all nonliving natural nonrenewable resources, including fossil fuels, minerals, whether metallic or nonmetallic, but does not include ice, water, or snow.

(6) The term ''person'' means any individual, corporation, partnership, trust, association, or any other entity existing or organized under the laws of the United States, or any officer, employee, agent, department, or other instrumentality of the Federal Government or of any State or political subdivision thereof.

(7) The term ''prospecting'' means any activity, including logistic support, the purpose of which is the identification of mineral resource potential for possible exploration and development.

(8) The term ''Under Secretary'' means the Under Secretary of Commerce for Oceans and Atmosphere.

(Pub. L. 101–594, §3, Nov. 16, 1990, 104 Stat. 2976.)

§ 2463. Prohibition of Antarctic mineral resource activities

It is unlawful for any person to engage in, finance, or otherwise knowingly provide assistance to any Antarctic mineral resource activity.

(Pub. L. 101–594, §4, Nov. 16, 1990, 104 Stat. 2977; Pub. L. 104–227, title II, §202(a), Oct. 2, 1996, 110 Stat. 3044.)

AMENDMENTS

1996—Pub. L. 104–227 substituted ''It'' for ''Pending a new agreement among the Antarctic Treaty Consultative Parties in force for the United States, to which the Senate has given advice and consent or which is authorized by further legislation by the Congress, which provides an indefinite ban on Antarctic mineral resource activities, it''.

§ 2464. Repealed. Pub. L. 104–227, title II, § 202(b), Oct. 2, 1996, 110 Stat. 3044

Section, Pub. L. 101–594, §5, Nov. 16, 1990, 104 Stat. 2977, declared the sense of Congress that Secretary of State should negotiate international agreements relating to protection of Antarctic environment and that any such international agreement be consistent with purpose and provisions of this chapter.

§ 2465. Enforcement

(a) In general

A violation of this chapter or any regulation promulgated under this chapter is deemed to be a violation of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2431–2444) and shall be enforced under that Act by the Under Secretary or another Federal official to whom the Under Secretary has delegated this responsibility.

(b) Penalty

If the Under Secretary determines that a person has violated section 2463 of this title—

(1) that person shall be ineligible to locate a mining claim under the mining laws of the United States; and

(2) the Secretary of the Interior shall refuse to issue a patent under the mining laws of the United States, or a lease under the laws of the United States related to mineral or geothermal leasing, to any such person who attempts to perfect such patent or lease application after the Under Secretary has made such determination.

(Pub. L. 101–594, §5, formerly §6, Nov. 16, 1990, 104 Stat. 2977; renumbered §5, Pub. L. 104–227, title II, §202(c), Oct. 2, 1996, 110 Stat. 3044.)

REFERENCES IN TEXT

The Antarctic Marine Living Resources Convention Act, referred to in subsec. (a), probably means the Antarctic Marine Living Resources Convention Act of 1984, title III of Pub. L. 98–623, Nov. 8, 1984, 98 Stat. 3398, which is classified generally to chapter 44A (§2431 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2431 of this title and Tables.

PRIOR PROVISIONS

A prior section 5 of Pub. L. 101–594 was classified to section 2464 of this title prior to repeal by Pub. L. 104–227.

§ 2466. Repealed. Pub. L. 104–227, title II, § 202(b), Oct. 2, 1996, 110 Stat. 3044

Section, Pub. L. 101–594, §7, Nov. 16, 1990, 104 Stat. 2978, authorized appropriations for fiscal years 1991 and 1992 to carry out this chapter.

CHAPTER 45—URBAN PARK AND RECREATION RECOVERY PROGRAM

Sec.

2501. Congressional findings.
2502. Congressional statement of purpose; complementary program authorization; terms and conditions.
2503. Definitions.
2504. Federal assistance grants.
2505. Rehabilitation and innovation grants.
2506. Local commitments to system recovery and maintenance.
2507. State action incentive; Federal implementation grants, increase.
2508. Matching requirements; non-Federal share of project costs.
2509. Conversion of recreation property.
2510. Coordination of program.
2511. Recordkeeping; audit and examination; access to books and records.
2512. Authorization of appropriations.
2513. Limitation of use of funds.
2514. Sunset and reporting provisions; reports to Congress.

§ 2501. Congressional findings

The Congress finds that—

(a) the quality of life in urban areas is closely related to the availability of fully functional park and recreation systems including land, facilities, and service programs;

(b) residents of cities need close-to-home recreational opportunities that are adequate to specialized urban demands, with parks and facilities properly located, developed, and well maintained;

(c) the greatest recreational deficiencies with respect to land, facilities, and programs are found in many large cities, especially at the neighborhood level;

(d) inadequate financing of urban recreation programs due to fiscal difficulties in many large cities has led to the deterioration of facilities, nonavailability of recreation services, and an inability to adapt recreational programs to changing circumstances; and

(e) there is no existing Federal assistance program which fully addresses the needs for physical rehabilitation and revitalization of these park and recreation systems.

(Pub. L. 95–625, title X, § 1002, Nov. 10, 1978, 92 Stat. 3538.)

SHORT TITLE

Section 1001 of title X of Pub. L. 95–625 provided that: ''This title [enacting this chapter] may be cited as the 'Urban Park and Recreation Recovery Act of 1978'.''

§ 2502. Congressional statement of purpose; complementary program authorization; terms and conditions

The purpose of this chapter is to authorize the Secretary to establish an urban park and recreation recovery program which would provide Federal grants to economically hard-pressed communities specifically for the rehabilitation of critically needed recreation areas, facilities, and development of improved recreation programs. This program is intended to complement existing Federal programs such as the Land and Water Conservation Fund and Community Development Grant Programs by encouraging and stimulating local governments to revitalize their park and recreation systems and to make long-term commitments to continuing maintenance of these systems. Such assistance shall be subject to such terms and conditions as the Secretary considers appropriate and in the public interest to carry out the purposes of this chapter. It is further the purpose of this chapter to improve recreation facilities and expand recreation services in urban areas with a high incidence of crime and to help deter crime through the expansion of recreation opportunities for at-risk youth. It is the further purpose of this section[1] to increase the security of urban parks and to promote collaboration between local agencies involved in parks and recreation, law enforcement, youth social services, and juvenile justice system.

(Pub. L. 95–625, title X, § 1003, Nov. 10, 1978, 92 Stat. 3539; Pub. L. 103–322, title III, §§ 31501, 31505(b), Sept. 13, 1994, 108 Stat. 1888, 1890.)

[1] So in original. Probably should be ''chapter''.

AMENDMENTS

1994—Pub. L. 103–322 struck out ''for a period of five years'' after ''development of improved recreation programs'' and ''short-term'' before ''program is intended to complement'' and inserted at end ''It is further the purpose of this chapter to improve recreation facilities and expand recreation services in urban areas with a high incidence of crime and to help deter crime through the expansion of recreation opportunities for at-risk youth. It is the further purpose of this section to increase the security of urban parks and to promote collaboration between local agencies involved in parks and recreation, law enforcement, youth social services, and juvenile justice system.''

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 2503. Definitions

When used in this chapter the term—

(a) ''recreational areas and facilities'' means indoor or outdoor parks, buildings, sites, or other facilities which are dedicated to recreation purposes and administered by public or private nonprofit agencies to serve the recreation needs of community residents. Emphasis shall be on public facilities readily accessible to residential neighborhoods, including multiple-use community centers which have recreation as one of their primary purposes, but excluding major sports arenas, exhibition areas, and conference halls used primarily for commercial sports, spectator, or display activities;

(b) ''rehabilitation grants'' means matching capital grants to local governments for the purpose of rebuilding, remodeling, expanding, or developing existing outdoor or indoor recreation areas and facilities, including improvements in park landscapes, buildings, and support facilities, but excluding routine maintenance and upkeep activities;

(c) ''innovation grants'' means matching grants to local governments to cover costs of personnel, facilities, equipment, supplies, or services designed to demonstrate innovative and cost-effective ways to augment park and recreation opportunities at the neighborhood level and to address common problems related to facility operations and improved delivery of recreation service, and which shall exclude routine operation and maintenance activities;

(d) ''at-risk youth recreation grants'' means—

(1) rehabilitation grants,

(2) innovation grants, or

(3) matching grants for continuing program support for programs of demonstrated value or success in providing constructive alternatives to youth at risk for engaging in criminal behavior, including grants for operating, or coordinating recreation programs and services;

in neighborhoods and communities with a high prevalence of crime, particularly violent crime or crime committed by youthful offenders; in addition to the purposes specified in subsection (b) of this section, rehabilitation grants referred to in paragraph (1) of this subsection may be used for the provision of lighting, emergency phones or other capital im-

provements which will improve the security of urban parks;

(e) ''recovery action program grants'' means matching grants to local governments for development of local park and recreation recovery action programs to meet the requirements of this chapter. Such grants will be for resource and needs assessment, coordination, citizen involvement and planning, and program development activities to encourage public definition of goals, and develop priorities and strategies for overall recreation system recovery;

(f) ''maintenance'' means all commonly accepted practices necessary to keep recreation areas and facilities operating in a state of good repair and to protect them from deterioration resulting from normal wear and tear;

(g) ''general purpose local government'' means any city, county, town, township, parish, village, or other general purpose political subdivision of a State, including the District of Columbia, and insular areas;

(h) ''special purpose local government'' means any local or regional special district, public-purpose corporation or other limited political subdivision of a State, including but not limited to park authorities; park, conservation, water or sanitary districts; and school districts;

(i) ''private, nonprofit agency'' means a community-based, non-profit organization, corporation, or association organized for purposes of providing recreational, conservation, and educational services directly to urban residents on either a neighborhood or community-wide basis through voluntary donations, voluntary labor, or public or private grants;

(j) ''State'' means any State of the United States or any instrumentality of a State approved by the Governor; the Commonwealth of Puerto Rico, and insular areas; and

(k) ''insular areas'' means Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

(Pub. L. 95–625, title X, § 1004, Nov. 10, 1978, 92 Stat. 3539; Pub. L. 103–322, title III, § 31502, Sept. 13, 1994, 108 Stat. 1888.)

AMENDMENTS

1994—Subsecs. (d) to (k). Pub. L. 103–322 added subsec. (d) and redesignated former subsecs. (d) to (j) as (e) to (k), respectively.

''SECRETARY'' DEFINED

Section 2 of Pub. L. 95–625 provided that: ''As used in this Act [see Short Title of 1978 Amendment note set out under section 1 of this title], except as otherwise specifically provided, the term 'Secretary' means the Secretary of the Interior.''

§ 2504. Federal assistance grants

(a) General purpose local governments eligible for assistance; basis; publication in Federal Register: list of eligibles, criteria of eligibility

Eligibility of general purpose local governments for assistance under this chapter shall be based upon need as determined by the Secretary. Within one hundred and twenty days after November 10, 1978, the Secretary shall publish in the Federal Register, a list of the local governments eligible to participate in this program, to be accompanied by a discussion of criteria used in determining eligibility. Such criteria shall be based upon factors which the Secretary determines are related to deteriorated recreational facilities or systems, and physical and economic distress.

(b) Other general purpose local governments eligible for assistance; limitation of funds

Notwithstanding the list of eligible local governments established in accordance with subsection (a) of this section, the Secretary is also authorized to establish eligibility, at his discretion and in accord with the findings and purpose of this chapter, to other general purpose local governments in standard metropolitan statistical areas as defined by the census: *Provided*, That grants to these discretionary applicants do not exceed in the aggregate 15 per centum of funds appropriated under this chapter for rehabilitation, innovation, and recovery action program grants.

(c) Priority criteria for project selection and approval

The Secretary shall also establish priority criteria for project selection and approval which consider such factors as—

(1) population;

(2) condition of existing recreation areas and facilities;

(3) demonstrated deficiencies in access to neighborhood recreation opportunities, particularly for minority, and low- and moderate-income residents;

(4) public participation in determining rehabilitation or development needs;

(5) the extent to which a project supports or complements target activities undertaken as part of a local government's overall community development and urban revitalization program;

(6) the extent to which a proposed project would provide employment opportunities for minorities, youth, and low- and moderate-income residents in the project neighborhood and/or would provide for participation of neighborhood, nonprofit or tenant organizations in the proposed rehabilitation activity or in subsequent maintenance, staffing, or supervision of recreation areas and facilities;

(7) the amount of State and private support for a project as evidenced by commitments of non-Federal resources to project construction or operation; and

(8) in the case of at-risk youth recreation grants, the Secretary shall give a priority to each of the following criteria:

(A) Programs which are targeted to youth who are at the greatest risk of becoming involved in violence and crime.

(B) Programs which teach important values and life skills, including teamwork, respect, leadership, and self-esteem.

(C) Programs which offer tutoring, remedial education, mentoring, and counseling in addition to recreation opportunities.

(D) Programs which offer services during late night or other nonschool hours.

(E) Programs which demonstrate collaboration between local park and recreation, ju-

venile justice, law enforcement, and youth social service agencies and nongovernmental entities, including the private sector and community and nonprofit organizations.

(F) Programs which leverage public or private recreation investments in the form of services, materials, or cash.

(G) Programs which show the greatest potential of being continued with non-Federal funds or which can serve as models for other communities.

(Pub. L. 95–625, title X, § 1005, Nov. 10, 1978, 92 Stat. 3540; Pub. L. 103–322, title III, § 31503, Sept. 13, 1994, 108 Stat. 1889.)

AMENDMENTS

1994—Subsec. (c)(8). Pub. L. 103–322, which directed the addition of par. (8) to this section without specifying the subsec. to which par. (8) was to be added, was executed by adding par. (8) to subsec. (c) to reflect the probable intent of Congress.

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 2505. Rehabilitation and innovation grants

(a) Authorization; transfer; payments; modification

The Secretary is authorized to provide 70 per centum matching rehabilitation and innovative grants directly to eligible general purpose local governments upon his approval of applications therefor by the chief executives of such governments.

(1) At the discretion of such applicants, and if consistent with an approved application, rehabilitation and innovation grants may be transferred in whole or in part to independent special purpose local governments, private nonprofit agencies or county or regional park authorities: *Provided*, That assisted recreation areas and facilities owned or managed by them offer recreation opportunities to the general population within the jurisdictional boundaries of an eligible applicant.

(2) Payments may be made only for those rehabilitation or innovative projects which have been approved by the Secretary. Such payments may be made from time to time in keeping with the rate of progress toward the satisfactory completion of a project, except that the Secretary may, when appropriate, make advance payments on approved rehabilitation and innovative projects in an amount not to exceed 20 per centum of the total project cost.

(3) The Secretary may authorize modification of an approved project only when a grantee has adequately demonstrated that such modification is necessary because of circumstances not foreseeable at the time a project was proposed.

(b) Special considerations

Innovation grants should be closely tied to goals, priorities, and implementation strategies expressed in local park and recreation recovery action programs, with particular regard to the special considerations listed in section 2506(b)(2) of this title.

(Pub. L. 95–625, title X, § 1006, Nov. 10, 1978, 92 Stat. 3541.)

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 2506. Local commitments to system recovery and maintenance

(a) Recovery action programs; preliminary action programs; five-year recovery action programs; continuing planning process

As a requirement for project approval, local governments applying for assistance under this chapter shall submit to the Secretary evidence of their commitments to ongoing planning, rehabilitation, service, operation, and maintenance programs for their park and recreation systems. These commitments will be expressed in local park and recreation recovery action programs which maximize coordination of all community resources, including other federally supported urban development and recreation programs. During an initial interim period to be established by regulations under this chapter, this requirement may be satisfied by local government submissions of preliminary action programs which briefly define objectives, priorities, and implementation strategies for overall system recovery and maintenance and commit the applicant to a scheduled program development process. Following this interim period, all local applicants shall submit to the Secretary, as a condition of eligibility, a five-year action program for park and recreation recovery that satisfactorily demonstrate:[1]

(1) systematic identification of recovery objectives, priorities, and implementation strategies;

(2) adequate planning for rehabilitation of specific recreation areas and facilities, including projections of the cost of proposed projects;

(3) capacity and commitment to assure that facilities provided or improved under this chapter shall thereafter continue to be adequately maintained, protected, staffed, and supervised;

(4) intention to maintain total local public outlays for park and recreation purposes at levels at least equal to those in the year preceding that in which grant assistance is sought beginning in fiscal year 1980 except in any case where a reduction in park and recreation outlays is proportionate to a reduction in overall spending by the applicant; and

(5) the relationship of the park and recreation recovery program to overall community development and urban revitalization efforts.

Where appropriate, the Secretary may encourage local governments to meet action program requirements through a continuing planning process which includes periodic improvements and updates in action program submissions to eliminate identified gaps in program information and policy development.

(b) Recovery action program special considerations

Action programs shall address, but are not limited to the following considerations:

[1] So in original. Probably should be ''demonstrates:''.

(1) Rehabilitation of existing recreational sites and facilities, including general system-wide renovation; special rehabilitation requirements for recreational sites and facilities in areas of high population concentration and economic distress; and restoration of outstanding or unique structures, landscaping, or similar features in parks of historical or architectural significance.

(2) Local commitments to innovative and cost-effective programs and projects at the neighborhood level to augment recovery of park and recreation systems, including but not limited to recycling of abandoned schools and other public buildings for recreational purposes; multiple use of operating educational and other public buildings; purchase of recreation services on a contractual basis; use of mobile facilities and recreational, cultural, and educational programs or other innovative approaches to improving access for neighborhood residents; integration of recovery program with federally assisted projects to maximize recreational opportunities through conversion of abandoned railroad and highway rights-of-way, waterfront, and other redevelopment efforts and such other federally assisted projects as may be appropriate; conversion of recreation use of street space, derelict land, and other public lands not now designated for neighborhood recreational use; and use of various forms of compensated and uncompensated land regulation, tax inducements, or other means to encourage the private sector to provide neighborhood park and recreation facilities and programs.

The Secretary shall establish and publish in the Federal Register requirements for preparation, submission, and updating of local park and recreation recovery action programs. In order to be eligible to receive ''at-risk youth recreation grants'' a local government shall amend its 5-year action program to incorporate the goal of reducing crime and juvenile delinquency and to provide a description of the implementation strategies to achieve this goal. The plan shall also address how the local government is coordinating its recreation programs with crime prevention efforts of law enforcement, juvenile corrections, and youth social service agencies.

(c) Recovery action program grants

The Secretary is authorized to provide up to 50 per centum matching grants to eligible local applicants for program development and planning specifically to meet the objectives of this chapter.

(Pub. L. 95–625, title X, §1007, Nov. 10, 1978, 92 Stat. 3541; Pub. L. 103–322, title III, §31504, Sept. 13, 1994, 108 Stat. 1889.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–322 inserted at end of concluding provisions ''In order to be eligible to receive 'at-risk youth recreation grants' a local government shall amend its 5-year action program to incorporate the goal of reducing crime and juvenile delinquency and to provide a description of the implementation strategies to achieve this goal. The plan shall also address how the local government is coordinating its recreation programs with crime prevention efforts of law enforcement, juvenile corrections, and youth social service agencies.''

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 2507. State action incentive; Federal implementation grants, increase

The Secretary is authorized to increase Federal implementation grants authorized in section 2505 of this title by providing an additional match equal to the total match provided by a State of up to 15 per centum of total project costs. In no event may the Federal matching amount exceed 85 per centum of total project cost. The Secretary shall further encourage the States to assist him in assuring that local recovery plans and programs are adequately implemented by cooperating with the Department of the Interior in monitoring local park and recreation recovery plans and programs and in assuring consistency of such plans and programs, where appropriate, with State recreation policies as set forth in statewide comprehensive outdoor recreation plans.

(Pub. L. 95–625, title X, §1008, Nov. 10, 1978, 92 Stat. 3542.)

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 2508. Matching requirements; non-Federal share of project costs

The non-Federal share of project costs assisted under this chapter may be derived from general or special purpose State or local revenues.[1] State categorical grants, special appropriations by State legislatures, donations of land, buildings, or building materials and/or in-kind construction, technical, and planning services. No moneys from the Land and Water Conservation Fund (77 Stat. 49), as amended [16 U.S.C. 460*l*–5], or from any other Federal grant program other than general revenue sharing and the community development block grant programs shall be used to match Federal grants under this program. Reasonable local costs of action program development to meet the requirements of section 2506(a) of this title may be used as part of the local match only when local applicants have not received program development grants under the authority of section 2506(c) of this title. The Secretary shall encourage States and private interests to contribute, to the maximum extent possible, to the non-Federal share of project costs.

(Pub. L. 95–625, title X, §1009, Nov. 10, 1978, 92 Stat. 3543.)

REFERENCES IN TEXT

The Land and Water Conservation Fund (77 Stat. 49), as amended, referred to in text, probably means the Land and Water Conservation Fund established by Pub. L. 88–578, title I, §2, Sept. 3, 1964, 78 Stat. 897, which enacted section 460*l*–5 of this title.

[1] So in original. The period probably should be a comma.

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 2509. Conversion of recreation property

No property improved or developed with assistance under this chapter shall, without the approval of the Secretary, be converted to other than public recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the current local park and recreation recovery action program and only upon such conditions as he deems necessary to assure the provision of adequate recreation properties and opportunities of reasonably equivalent location and usefulness.

(Pub. L. 95–625, title X, § 1010, Nov. 10, 1978, 92 Stat. 3543.)

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 2510. Coordination of program

The Secretary shall (a) coordinate the urban park and recreation recovery program with the total urban recovery effort and cooperate to the fullest extent possible with other Federal departments and agencies and with State agencies which administer programs and policies affecting urban areas, including but not limited to, programs in housing, urban development, natural resources management, employment, transportation, community services, and voluntary action; (b) encourage maximum coordination of the program between appropriate State agencies and local applicants; and (c) require that local applicants include provisions for participation of community and neighborhood residents and for public-private coordination in recovery planning and project selection.

(Pub. L. 95–625, title X, § 1011, Nov. 10, 1978, 92 Stat. 3543.)

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 2511. Recordkeeping; audit and examination; access to books and records

Each recipient of assistance under this chapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of project undertakings in connection with which assistance under this chapter is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The Secretary, and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this chapter.

(Pub. L. 95–625, title X, § 1012, Nov. 10, 1978, 92 Stat. 3543.)

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 2512. Authorization of appropriations

(a) In general

There are hereby authorized to be appropriated for the purposes of this chapter, not to exceed $150,000,000 for each of the fiscal years 1979 through 1982, and $125,000,000 in fiscal year 1983, such sums to remain available until expended. Not more than 3 per centum of the funds authorized in any fiscal year may be used for grants for the development of local park and recreation recovery action programs pursuant to sections 2506(a) and 2506(c) of this title, and not more than 10 per centum may be used for innovation grants pursuant to section 2505 of this title. Grants made under this chapter for projects in any one State shall not exceed in the aggregate 15 per centum of the aggregate amount of funds authorized to be appropriated in any fiscal year. For the authorizations made in this section, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

Notwithstanding any other provision of this Act, or any other law, or regulation, there is further authorized to be appropriated $250,000 for each of the fiscal years 1979 through 1983, such sums to remain available until expended, to each of the insular areas. Such sums will not be subject to the matching provisions of this section,[1] and may only be subject to such conditions, reports, plans, and agreements, if any, as determined by the Secretary.

(b) Program support

Not more than 25 percent of the amounts made available under this chapter to any local government may be used for program support.

(Pub. L. 95–625, title X, § 1013, Nov. 10, 1978, 92 Stat. 3544; Pub. L. 98–454, title VI, § 601(a), Oct. 5, 1984, 98 Stat. 1736; Pub. L. 103–322, title III, § 31505(a), Sept. 13, 1994, 108 Stat. 1889.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means Pub. L. 95–625, Nov. 10, 1978, 92 Stat. 3467, as amended, known as the National Parks and Recreation Act of 1978. For complete classification of the Act to the Code, see Short Title of 1978 Amendment note set out under section 1 of this title and Tables.

CODIFICATION

In subsec. (a), ''section 2505 of this title'' was in the original ''section 6 of this title'' and was editorially translated as section 2505 of this title to reflect the probable intent of Congress in view of the subject matter of section 2505 which relates to innovative grants.

AMENDMENTS

1994—Pub. L. 103–322 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1984—Pub. L. 98–454 substituted ''section'' for ''subsection'' after ''For the authorizations made in this''.

[1] So in original. Probably should be ''this chapter,''.

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 2513. Limitation of use of funds

No funds available under this chapter shall be used for the acquisition of land or interests in land.

(Pub. L. 95–625, title X, § 1014, Nov. 10, 1978, 92 Stat. 3544.)

§ 2514. Sunset and reporting provisions; reports to Congress

(a) Within ninety days of the expiration of this authority, the Secretary shall report to the Congress on the overall impact of the urban park and recreation recovery program.

(b) Repealed. Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(M), Nov. 12, 1996, 110 Stat. 4196.

(Pub. L. 95–625, title X, § 1015, Nov. 10, 1978, 92 Stat. 3544; Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(M), Nov. 12, 1996, 110 Stat. 4196.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–333 struck out subsec. (b) which read as follows: ''On December 31, 1979, and on the same date in each year that the recovery program is funded, the Secretary shall report to the Congress on the annual achievements of the innovation grant program, with emphasis on the nationwide implications of successful innovation projects.''

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

CHAPTER 46—PUBLIC UTILITY REGULATORY POLICIES

Sec.

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§ 2601. Findings

The Congress finds that the protection of the public health, safety, and welfare, the preservation of national security, and the proper exercise of congressional authority under the Constitution to regulate interstate commerce require—

(1) a program providing for increased conservation of electric energy, increased efficiency in the use of facilities and resources by electric utilities, and equitable retail rates for electric consumers,

(2) a program to improve the wholesale distribution of electric energy, the reliability of electric service, the procedures concerning consideration of wholesale rate applications before the Federal Energy Regulatory Commission, the participation of the public in matters before the Commission, and to provide other measures with respect to the regulation of the wholesale sale of electric energy,

(3) a program to provide for the expeditious development of hydroelectric potential at existing small dams to provide needed hydroelectric power,

(4) a program for the conservation of natural gas while insuring that rates to natural gas consumers are equitable,

(5) a program to encourage the development of crude oil transportation systems, and

(6) the establishment of certain other authorities as provided in title VI of this Act.

(Pub. L. 95–617, § 2, Nov. 9, 1978, 92 Stat. 3119.)

REFERENCES IN TEXT

This Act, referred to in par. (6), is Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117, as amended, known as the Public Utility Regulatory Policies Act of 1978. Title VI of this Act enacted sections 824a–4 and 2645 of this title, section 918c of Title 7, Agriculture, and sections 717x to 717z of Title 15, Commerce and Trade, amended section 717f of Title 15 and sections 1311, 1312, and 1314 to 1316 of Title 30, Mineral Lands and Mining, and enacted provisions set out as a note under section 2621 of this title. For complete classification of this Act to the Code, see Short Title note below and Tables.

CODIFICATION

This section was not enacted as part of title I of Pub. L. 95–617 which comprises this chapter.

SHORT TITLE

Section 1 of Pub. L. 95–617 provided that: ''This Act [enacting this chapter, and sections 823a, 824a–1 to 824a–4, 824i to 824k, 825q–1, and 2701 to 2708 of this title, section 918c of Title 7, Agriculture, sections 717x to 717z and 3201 to 3211 of Title 15, Commerce and Trade, section 6808 of Title 42, The Public Health and Welfare, and sections 2001 to 2012 of Title 43, Public Lands, amending sections 796, 824, 824a, 824d, and 825d of this title, section 717f of Title 15, sections 1311, 1312, and 1314 to 1316 of Title 30, Mineral Lands and Mining, and sections 6801 to 6807 of Title 42, and enacting provisions set out as notes under sections 824, 824a, 824d, 825d, and 2621 of this title] may be cited as the 'Public Utility Regulatory Policies Act of 1978'.''

§ 2602. Definitions

As used in this Act, except as otherwise specifically provided—

(1) The term ''antitrust laws'' includes the Sherman Antitrust Act (15 U.S.C. 1 and following), the Clayton Act (15 U.S.C. 12 and follow-

ing), the Federal Trade Commission Act (15 U.S.C. 14[41] and following), the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A).

(2) The term ''class'' means, with respect to electric consumers, any group of such consumers who have similar characteristics of electric energy use.

(3) The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) The term ''electric utility'' means any person, State agency, or Federal agency, which sells electric energy.

(5) The term ''electric consumer'' means any person, State agency, or Federal agency, to which electric energy is sold other than for purposes of resale.

(6) The term ''evidentiary hearing'' means—

(A) in the case of a State agency, a proceeding which (i) is open to the public, (ii) includes notice to participants and an opportunity for such participants to present direct and rebuttal evidence and to cross-examine witnesses, (iii) includes a written decision, based upon evidence appearing in a written record of the proceeding, and (iv) is subject to judicial review;

(B) in the case of a Federal agency, a proceeding conducted as provided in sections 554, 556, and 557 of title 5; and

(C) in the case of a proceeding conducted by any entity other than a State or Federal agency, a proceeding which conforms, to the extent appropriate, with the requirements of subparagraph (A).

(7) The term ''Federal agency'' means an executive agency (as defined in section 105 of title 5).

(8) The term ''load management technique'' means any technique (other than a time-of-day or seasonal rate) to reduce the maximum kilowatt demand on the electric utility, including ripple or radio control mechanisms, and other types of interruptible electric service, energy storage devices, and load-limiting devices.

(9) The term ''nonregulated electric utility'' means any electric utility other than a State regulated electric utility.

(10) The term ''rate'' means (A) any price, rate, charge, or classification made, demanded, observed, or received with respect to sale of electric energy by an electric utility to an electric consumer, (B) any rule, regulation, or practice respecting any such rate, charge, or classification, and (C) any contract pertaining to the sale of electric energy to an electric consumer.

(11) The term ''ratemaking authority'' means authority to fix, modify, approve, or disapprove rates.

(12) The term ''rate schedule'' means the designation of the rates which an electric utility charges for electric energy.

(13) The term ''sale'' when used with respect to electric energy includes any exchange of electric energy.

(14) The term ''Secretary'' means the Secretary of Energy.

(15) The term ''State'' means a State, the District of Columbia, and Puerto Rico.

(16) The term ''State agency'' means a State, political subdivision thereof, and any agency or instrumentality of either.

(17) The term ''State regulatory authority'' means any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility (other than such State agency), and in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

(18) The term ''State regulated electric utility'' means any electric utility with respect to which a State regulatory authority has ratemaking authority.

(19) The term ''integrated resource planning'' means, in the case of an electric utility, a planning and selection process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchases, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

(20) The term ''system cost'' means all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, distribution, transportation, utilization, waste management, and environmental compliance.

(21) The term ''demand side management'' includes load management techniques.

(Pub. L. 95–617, § 3, Nov. 9, 1978, 92 Stat. 3119; Pub. L. 102–486, title I, § 111(d), Oct. 24, 1992, 106 Stat. 2796.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117, as amended, known as the Public Utility Regulatory Policies Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

The Sherman Antitrust Act (15 U.S.C. 1 and following), referred to in par. (1), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, which enacted sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Clayton Act (15 U.S.C. 12 and following), referred to in par. (1), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, Commerce and Trade, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act (15 U.S.C. 14 and following), referred to in par. (1), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of

this Act to the Code, see section 58 of Title 15 and Tables.

The Wilson Tariff Act (15 U.S.C. 8 and 9), referred to in par. (1), is sections 73 to 77 of act Aug. 27, 1894, ch. 349, 28 Stat. 570. Sections 73 to 76 enacted sections 8 to 11 of Title 15, Commerce and Trade. Section 77 of said Act was not classified to the Code. For complete classification of this Act to the Code, see Short Title note under section 8 of Title 15 and Tables.

Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A), referred to in par. (1), is act June 19, 1936, ch. 592, 49 Stat. 1526, popularly known as the Robinson-Patman Antidiscrimination Act and also as the Robinson-Patman Price Discrimination Act, which enacted sections 13a, 13b, and 21a of Title 15, Commerce and Trade, and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

CODIFICATION

This section was not enacted as part of title I of Pub. L. 95–617 which comprises this chapter.

AMENDMENTS

1992—Pars. (19) to (21). Pub. L. 102–486 added pars. (19) to (21).

§ 2603. Relationship to antitrust laws

Nothing in this Act or in any amendment made by this Act affects—

(1) the applicability of the antitrust laws to any electric utility or gas utility (as defined in section 3202 of title 15), or

(2) any authority of the Secretary or of the Commission under any other provision of law (including the Federal Power Act [16 U.S.C. 791a et seq.] and the Natural Gas Act [15 U.S.C. 717 et seq.]) respecting unfair methods of competition or anticompetitive acts or practices.

(Pub. L. 95–617, § 4, Nov. 9, 1978, 92 Stat. 3120.)

REFERENCES IN TEXT

This Act, referred to in text, is act Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117, as amended, known as the Public Utility Regulatory Policies Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

The Federal Power Act, referred to in par. (2), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

The Natural Gas Act, referred to in par. (2), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§ 717 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables.

CODIFICATION

This section was not enacted as part of title I of Pub. L. 95–617 which comprises this chapter.

SUBCHAPTER I—RETAIL REGULATORY POLICIES FOR ELECTRIC UTILITIES

§ 2611. Purposes

The purposes of this chapter are to encourage—

(1) conservation of energy supplied by electric utilities;

(2) the optimization of the efficiency of use of facilities and resources by electric utilities; and

(3) equitable rates to electric consumers.

(Pub. L. 95–617, title I, § 101, Nov. 9, 1978, 92 Stat. 3120.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title I (§ 101 et seq.) of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted subchapters I to IV of this chapter and section 6808 of Title 42, The Public Health and Welfare, and amended sections 6802 to 6807 of Title 42. For complete classification of title I to the Code, see Tables.

§ 2612. Coverage

(a) Volume of total retail sales

This chapter applies to each electric utility in any calendar year, and to each proceeding relating to each electric utility in such year, if the total sales of electric energy by such utility for purposes other than resale exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

(b) Exclusion of wholesale sales

The requirements of this chapter do not apply to the operations of an electric utility, or to proceedings respecting such operations, to the extent that such operations or proceedings relate to sales of electric energy for purposes of resale.

(c) List of covered utilities

Before the beginning of each calendar year, the Secretary shall publish a list identifying each electric utility to which this chapter applies during such calendar year. Promptly after publication of such list each State regulatory authority shall notify the Secretary of each electric utility on the list for which such State regulatory authority has ratemaking authority.

(Pub. L. 95–617, title I, § 102, Nov. 9, 1978, 92 Stat. 3121.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title I (§ 101 et seq.) of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted subchapters I to IV of this chapter and section 6808 of Title 42, The Public Health and Welfare, and amended sections 6802 to 6807 of Title 42. For complete classification of title I to the Code, see Tables.

§ 2613. Federal contracts

Notwithstanding the limitation contained in section 2612(b) of this title, no contract between a Federal agency and any electric utility for the sale of electric energy by such Federal agency for resale which is entered into or renewed after November 9, 1978, may contain any provision which will have the effect of preventing the implementation of any requirement of subchapter II or III. Any provision in any such contract which has such effect shall be null and void.

(Pub. L. 95–617, title I, § 103, Nov. 9, 1978, 92 Stat. 3121.)

SUBCHAPTER II—STANDARDS FOR ELECTRIC UTILITIES

§ 2621. Consideration and determination respecting certain ratemaking standards

(a) Consideration and determination

Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall consider each standard established by subsection (d) of this section and make a determination concerning whether or not it is appropriate to implement such standard to carry out the purposes of this chapter. For purposes of such consideration and determination in accordance with subsections (b) and (c) of this section, and for purposes of any review of such consideration and determination in any court in accordance with section 2633 of this title, the purposes of this chapter supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to implement any such standard, pursuant to its authority under otherwise applicable State law.

(b) Procedural requirements for consideration and determination

(1) The consideration referred to in subsection (a) of this section shall be made after public notice and hearing. The determination referred to in subsection (a) of this section shall be—

(A) in writing,

(B) based upon findings included in such determination and upon the evidence presented at the hearing, and

(C) available to the public.

(2) Except as otherwise provided in paragraph (1), in the second sentence of section 2622(a) of this title, and in sections 2631 and 2632 of this title, the procedures for the consideration and determination referred to in subsection (a) of this section shall be those established by the State regulatory authority or the nonregulated electric utility.

(c) Implementation

(1) The State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility may, to the extent consistent with otherwise applicable State law—

(A) implement any such standard determined under subsection (a) of this section to be appropriate to carry out the purposes of this chapter, or

(B) decline to implement any such standard.

(2) If a State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility declines to implement any standard established by subsection (d) of this section which is determined under subsection (a) of this section to be appropriate to carry out the purposes of this chapter, such authority or nonregulated electric utility shall state in writing the reasons therefor. Such statement of reasons shall be available to the public.

(3) If a State regulatory authority implements a standard established by subsection (d)(7) or (8) of this section, such authority shall—

(A) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation or servicing of energy conservation, energy efficiency or other demand side management measures, and

(B) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.

(d) Establishment

The following Federal standards are hereby established:

(1) Cost of service

Rates charged by any electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reflect the costs of providing electric service to such class, as determined under section 2625(a) of this title.

(2) Declining block rates

The energy component of a rate, or the amount attributable to the energy component in a rate, charged by any electric utility for providing electric service during any period to any class of electric consumers may not decrease as kilowatt-hour consumption by such class increases during such period except to the extent that such utility demonstrates that the costs to such utility of providing electric service to such class, which costs are attributable to such energy component, decrease as such consumption increases during such period.

(3) Time-of-day rates

The rates charged by any electric utility for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the costs of providing electric service to such class of electric consumers at different times of the day unless such rates are not cost-effective with respect to such class, as determined under section 2625(b) of this title.

(4) Seasonal rates

The rates charged by an electric utility for providing electric service to each class of electric consumers shall be on a seasonal basis which reflects the costs of providing service to such class of consumers at different seasons of the year to the extent that such costs vary seasonally for such utility.

(5) Interruptible rates

Each electric utility shall offer each industrial and commercial electric consumer an interruptible rate which reflects the cost of providing interruptible service to the class of which such consumer is a member.

(6) Load management techniques

Each electric utility shall offer to its electric consumers such load management techniques as the State regulatory authority (or the nonregulated electric utility) has determined will—

(A) be practicable and cost-effective, as determined under section 2625(c) of this title,

(B) be reliable, and

(C) provide useful energy or capacity management advantages to the electric utility.

(7) Integrated resource planning

Each electric utility shall employ integrated resource planning. All plans or filings before a State regulatory authority to meet the requirements of this paragraph must be updated on a regular basis, must provide the opportunity for public participation and comment, and contain a requirement that the plan be implemented.

(8) Investments in conservation and demand management

The rates allowed to be charged by a State regulated electric utility shall be such that the utility's investment in and expenditures for energy conservation, energy efficiency resources, and other demand side management measures are at least as profitable, giving appropriate consideration to income lost from reduced sales due to investments in and expenditures for conservation and efficiency, as its investments in and expenditures for the construction of new generation, transmission, and distribution equipment. Such energy conservation, energy efficiency resources and other demand side management measures shall be appropriately monitored and evaluated.

(9) Energy efficiency investments in power generation and supply

The rates charged by any electric utility shall be such that the utility is encouraged to make investments in, and expenditures for, all cost-effective improvements in the energy efficiency of power generation, transmission and distribution. In considering regulatory changes to achieve the objectives of this paragraph, State regulatory authorities and nonregulated electric utilities shall consider the disincentives caused by existing ratemaking policies, and practices, and consider incentives that would encourage better maintenance, and investment in more efficient power generation, transmission and distribution equipment.

(10) Consideration of the effects of wholesale power purchases on utility cost of capital; effects of leveraged capital structures on the reliability of wholesale power sellers; and assurance of adequate fuel supplies

(A) To the extent that a State regulatory authority requires or allows electric utilities for which it has ratemaking authority to consider the purchase of long-term wholesale power supplies as a means of meeting electric demand, such authority shall perform a general evaluation of:

(i) the potential for increases or decreases in the costs of capital for such utilities, and any resulting increases or decreases in the retail rates paid by electric consumers, that may result from purchases of long-term wholesale power supplies in lieu of the construction of new generation facilities by such utilities;

(ii) whether the use by exempt wholesale generators (as defined in section 79z–5a[1] of title 15) of capital structures which employ proportionally greater amounts of debt than the capital structures of such utilities threatens reliability or provides an unfair advantage for exempt wholesale generators over such utilities;

(iii) whether to implement procedures for the advance approval or disapproval of the purchase of a particular long-term wholesale power supply; and

(iv) whether to require as a condition for the approval of the purchase of power that there be reasonable assurances of fuel supply adequacy.

(B) For purposes of implementing the provisions of this paragraph, any reference contained in this section to November 9, 1978, shall be deemed to be a reference to October 24, 1992.

(C) Notwithstanding any other provision of Federal law, nothing in this paragraph shall prevent a State regulatory authority from taking such action, including action with respect to the allowable capital structure of exempt wholesale generators, as such State regulatory authority may determine to be in the public interest as a result of performing evaluations under the standards of subparagraph (A).

(D) Notwithstanding section 2634 of this title and paragraphs (1) and (2) of section 2622(a) of this title, each State regulatory authority shall consider and make a determination concerning the standards of subparagraph (A) in accordance with the requirements of subsections (a) and (b) of this section, without regard to any proceedings commenced prior to October 24, 1992.

(E) Notwithstanding subsections (b) and (c) of section 2622 of this title, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standards set out in subparagraph (A) not later than one year after October 24, 1992.

(11) Net metering

Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term ''net metering service'' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

(12) Fuel sources

Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

[1] See References in Text note below.

(13) Fossil fuel generation efficiency

Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.

(14) Time-based metering and communications

(A) Not later than 18 months after August 8, 2005, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption;

(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly; and

(iv) credits for consumers with large loads who enter into pre-established peak load reduction agreements that reduce a utility's planned capacity obligations.

(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

(D) For purposes of implementing this paragraph, any reference contained in this section to November 9, 1978, shall be deemed to be a reference to August 8, 2005.

(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based metering and communications device and service as a retail electric consumer of the electric utility.

(F) Notwithstanding subsections (b) and (c) of section 2622 of this title, each State regulatory authority shall, not later than 18 months after August 8, 2005, conduct an investigation in accordance with section 2625(i) of this title and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).

(15) Interconnection

Each electric utility shall make available, upon request, interconnection service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term ''interconnection service'' means service to an electric consumer under which an onsite generating facility on the consumer's premises shall be connected to the local distribution facilities. Interconnection services shall be offered based upon the standards developed by the Institute of Electrical and Electronics Engineers: IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems, as they may be amended from time to time. In addition, agreements and procedures shall be established whereby the services are offered shall promote current best practices of interconnection for distributed generation, including but not limited to practices stipulated in model codes adopted by associations of state regulatory agencies. All such agreements and procedures shall be just and reasonable, and not unduly discriminatory or preferential.

(16) Integrated resource planning

Each electric utility shall—

(A) integrate energy efficiency resources into utility, State, and regional plans; and

(B) adopt policies establishing cost-effective energy efficiency as a priority resource.

(17) Rate design modifications to promote energy efficiency investments

(A) In general

The rates allowed to be charged by any electric utility shall—

(i) align utility incentives with the delivery of cost-effective energy efficiency; and

(ii) promote energy efficiency investments.

(B) Policy options

In complying with subparagraph (A), each State regulatory authority and each nonregulated utility shall consider—

(i) removing the throughput incentive and other regulatory and management disincentives to energy efficiency;

(ii) providing utility incentives for the successful management of energy efficiency programs;

(iii) including the impact on adoption of energy efficiency as 1 of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives;

(iv) adopting rate designs that encourage energy efficiency for each customer class;

(v) allowing timely recovery of energy efficiency-related costs; and

(vi) offering home energy audits, offering demand response programs, publicizing the

financial and environmental benefits associated with making home energy efficiency improvements, and educating homeowners about all existing Federal and State incentives, including the availability of low-cost loans, that make energy efficiency improvements more affordable.

(18) Consideration of smart grid investments

(A) In general

Each State shall consider requiring that, prior to undertaking investments in nonadvanced grid technologies, an electric utility of the State demonstrate to the State that the electric utility considered an investment in a qualified smart grid system based on appropriate factors, including—

(i) total costs;

(ii) cost-effectiveness;

(iii) improved reliability;

(iv) security;

(v) system performance; and

(vi) societal benefit.

(B) Rate recovery

Each State shall consider authorizing each electric utility of the State to recover from ratepayers any capital, operating expenditure, or other costs of the electric utility relating to the deployment of a qualified smart grid system, including a reasonable rate of return on the capital expenditures of the electric utility for the deployment of the qualified smart grid system.

(C) Obsolete equipment

Each State shall consider authorizing any electric utility or other party of the State to deploy a qualified smart grid system to recover in a timely manner the remaining book-value costs of any equipment rendered obsolete by the deployment of the qualified smart grid system, based on the remaining depreciable life of the obsolete equipment.

(19) Smart grid information

(A) Standard

All electricity purchasers shall be provided direct access, in written or electronic machine-readable form as appropriate, to information from their electricity provider as provided in subparagraph (B).

(B) Information

Information provided under this section, to the extent practicable, shall include:

(i) Prices

Purchasers and other interested persons shall be provided with information on—

(I) time-based electricity prices in the wholesale electricity market; and

(II) time-based electricity retail prices or rates that are available to the purchasers.

(ii) Usage

Purchasers shall be provided with the number of electricity units, expressed in kwh, purchased by them.

(iii) Intervals and projections

Updates of information on prices and usage shall be offered on not less than a daily basis, shall include hourly price and use information, where available, and shall include a day-ahead projection of such price information to the extent available.

(iv) Sources

Purchasers and other interested persons shall be provided annually with written information on the sources of the power provided by the utility, to the extent it can be determined, by type of generation, including greenhouse gas emissions associated with each type of generation, for intervals during which such information is available on a cost-effective basis.

(C) Access

Purchasers shall be able to access their own information at any time through the Internet and on other means of communication elected by that utility for Smart Grid applications. Other interested persons shall be able to access information not specific to any purchaser through the Internet. Information specific to any purchaser shall be provided solely to that purchaser.

(Pub. L. 95–617, title I, §111, Nov. 9, 1978, 92 Stat. 3121; Pub. L. 102–486, title I, §111(a), (b), title VII, §712, Oct. 24, 1992, 106 Stat. 2795, 2910; Pub. L. 109–58, title XII, §§1251(a), 1252(a), 1254(a), Aug. 8, 2005, 119 Stat. 962, 963, 970; Pub. L. 110–140, title V, §532(a), title XIII, §1307(a), Dec. 19, 2007, 121 Stat. 1665, 1791; Pub. L. 111–5, div. A, title IV, §408(a), Feb. 17, 2009, 123 Stat. 146.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original ''this title'', meaning title I (§101 et seq.) of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted subchapters I to IV of this chapter and section 6808 of Title 42, The Public Health and Welfare, and amended sections 6802 to 6807 of Title 42. For complete classification of title I to the Code, see Tables.

Section 79z–5a of title 15, referred to in subsec. (d)(10)(A)(ii), was repealed by Pub. L. 109–58, title XII, §1263, Aug. 8, 2005, 119 Stat. 974.

AMENDMENTS

2009—Subsec. (d)(16) to (19). Pub. L. 111–5 redesignated par. (16) relating to consideration of smart grid investments as (18) and par. (17) relating to smart grid information as (19).

2007—Subsec. (d)(16), (17). Pub. L. 110–140, §1307(a), added pars. (16) and (17) relating to consideration of smart grid investments and smart grid information, respectively.

Pub. L. 110–140, §532(a), added pars. (16) and (17) relating to integrated resource planning and rate design modifications to promote energy efficiency investments, respectively.

2005—Subsec. (d)(11) to (13). Pub. L. 109–58, §1251(a), added pars. (11) to (13).

Subsec. (d)(14). Pub. L. 109–58, §1252(a), added par. (14).

Subsec. (d)(15). Pub. L. 109–58, §1254(a), added par. (15).

1992—Subsec. (c)(3). Pub. L. 102–486, §111(b), added par. (3).

Subsec. (d)(7) to (9). Pub. L. 102–486, §111(a), added pars. (7) to (9).

Subsec. (d)(10). Pub. L. 102–486, §712, added par. (10).

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

STATE AUTHORITIES; CONSTRUCTION

Nothing in amendment by section 712 of Pub. L. 102–486 to be construed as affecting or intending to affect, or in any way to interfere with, authority of any State or local government relating to environmental protection or siting of facilities, see section 731 of Pub. L. 102–486, set out as a note under section 796 of this title.

REPORT TO PRESIDENT AND CONGRESS ON ENCOURAGEMENT OF INTEGRATED RESOURCE PLANNING AND INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY BY ELECTRIC UTILITIES

Section 111(e) of Pub. L. 102–486 provided that: ''Not later than 2 years after the date of the enactment of this Act [Oct. 24, 1992], the Secretary shall transmit a report to the President and to the Congress containing—

''(1) a survey of all State laws, regulations, practices, and policies under which State regulatory authorities implement the provisions of paragraphs (7), (8), and (9) of section 111(d) of the Public Utility Regulatory Policies Act of 1978 [16 U.S.C. 2621(d)(7)–(9)];

''(2) an evaluation by the Secretary of whether and to what extent, integrated resource planning is likely to result in—

''(A) higher or lower electricity costs to an electric utility's ultimate consumers or to classes or groups of such consumers;

''(B) enhanced or reduced reliability of electric service; and

''(C) increased or decreased dependence on particular energy resources; and

''(3) a survey of practices and policies under which electric cooperatives prepare integrated resource plans, submit such plans to the Rural Electrification Administration and the extent to which such integrated resource planning is reflected in rates charged to customers.

The report shall include an analysis prepared in conjunction with the Federal Trade Commission, of the competitive impact of implementation of energy conservation, energy efficiency, and other demand side management programs by utilities on small businesses engaged in the design, sale, supply, installation, or servicing of similar energy conservation, energy efficiency, or other demand side management measures and whether any unfair, deceptive, or predatory acts exist, or are likely to exist, from implementation of such programs.''

[For provisions relating to further requirements as to subject matter contained in report under section 111(e) of Pub. L. 102–486, set out above, see section 115(e) of Pub. L. 102–486, set out as a note under section 3203 of Title 15, Commerce and Trade.]

STUDY CONCERNING ELECTRIC RATES OF STATE UTILITY AGENCIES

Section 601 of Pub. L. 95–617 directed the Secretary to conduct a study concerning the effects of provisions of Federal law on rates established by State utility agencies and to submit a report to Congress on the results of such study not later than 1 year after Nov. 9, 1978.

§ 2622. Obligations to consider and determine

(a) Request for consideration and determination

Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility may undertake the consideration and make the determination referred to in section 2621 of this title with respect to any standard established by section 2621(d) of this title in any proceeding respecting the rates of the electric utility. Any participant or intervenor (including an intervenor referred to in section 2631 of this title) in such a proceeding may request, and shall obtain, such consideration and determination in such proceeding. In undertaking such consideration and making such determination in any such proceeding with respect to the application to any electric utility of any standard established by section 2621(d) of this title, a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or nonregulated electric utility may take into account in such proceeding—

(1) any appropriate prior determination with respect to such standard—

(A) which is made in a proceeding which takes place after November 9, 1978, or

(B) which was made before such date (or is made in a proceeding pending on such date) and complies, as provided in section 2634 of this title, with the requirements of this chapter; and

(2) the evidence upon which such prior determination was based (if such evidence is referenced in such proceeding).

(b) Time limitations

(1) Not later than 2 years after November 9, 1978 (or after October 24, 1992, in the case of standards under paragraphs (7), (8), and (9) of section 2621(d) of this title), each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 2621 of this title, or set a hearing date for such consideration, with respect to each standard established by section 2621(d) of this title.

(2) Not later than three years after November 9, 1978 (or after October 24, 1992, in the case of standards under paragraphs (7), (8), and (9) of section 2621(d) of this title), each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 2621 of this title with respect to each standard established by section 2621(d) of this title.

(3)(A) Not later than 2 years after August 8, 2005, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 2621 of this title, or set a hearing date for such consideration, with respect to each standard established by paragraphs (11) through (13) of section 2621(d) of this title.

(B) Not later than 3 years after August 8, 2005, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 2621 of this title with respect to each standard established by paragraphs (11) through (13) of section 2621(d) of this title.

(4)(A) Not later than 1 year after August 8, 2005, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consider-

ation referred to in section 2621 of this title, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 2621(d) of this title.

(B) Not later than 2 years after August 8, 2005, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 2621 of this title with respect to the standard established by paragraph (14) of section 2621(d) of this title.

(5)(A) Not later than 1 year after August 8, 2005, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall commence the consideration referred to in section 2621 of this title, or set a hearing date for consideration, with respect to the standard established by paragraph (15) of section 2621(d) of this title.

(B) Not later than two years after August 8, 2005, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 2621 of this title with respect to each standard established by paragraph (15) of section 2621(d) of this title.

(6)(A) Not later than 1 year after December 19, 2007, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall commence the consideration referred to in section 2621 of this title, or set a hearing date for consideration, with respect to the standards established by paragraphs (16) through (19) of section 2621(d) of this title.

(B) Not later than 2 years after December 19, 2007, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 2621 of this title with respect to each standard established by paragraphs (16) through (19) of section 2621(d) of this title.

(c) Failure to comply

Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall undertake the consideration, and make the determination, referred to in section 2621 of this title with respect to each standard established by section 2621(d) of this title in the first rate proceeding commenced after the date three years after November 9, 1978, respecting the rates of such utility if such State regulatory authority or nonregulated electric utility has not, before such date, complied with subsection (b)(2) of this section with respect to such standard. In the case of each standard established by paragraphs (11) through (13) of section 2621(d) of this title, the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to August 8, 2005. In the case of the standard established by paragraph (14) of section 2621(d) of this title, the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to August 8, 2005. In the case of the standard established by paragraph (15),[1] the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to August 8, 2005. In the case of the standards established by paragraphs (16) through (19) of section 2621(d) of this title, the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to December 19, 2007.

(d) Prior State actions relating to standard under certain paragraphs of section 2621(d)

Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) and paragraphs (16) through (19) of section 2621(d) of this title in the case of any electric utility in a State if, before August 8, 2005—

(1) the State has implemented for such utility the standard concerned (or a comparable standard);

(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.

(e) Prior State actions relating to standard under section 2621(d)(14)

Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 2621(d) of this title in the case of any electric utility in a State if, before August 8, 2005—

(1) the State has implemented for such utility the standard concerned (or a comparable standard);

(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years; or

(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.

(f) Prior State actions relating to standard under section 2621(d)(15)

Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (15) of section 2621(d) of this title in the case of any electric utility in a State if, before August 8, 2005—

(1) the State has implemented for such utility the standard concerned (or a comparable standard);

(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.

[1] So in original. Probably should be ''paragraph (15) of section 2621(d) of this title,''.

(Pub. L. 95–617, title I, § 112, Nov. 9, 1978, 92 Stat. 3122; Pub. L. 102–486, title I, § 111(c), Oct. 24, 1992, 106 Stat. 2795; Pub. L. 109–58, title XII, §§ 1251(b)(1)–(3)(A), 1252(g)–(i)(1), 1254(b)(1)–(3)(A), Aug. 8, 2005, 119 Stat. 963, 966, 967, 971; Pub. L. 110–140, title XIII, § 1307(b), Dec. 19, 2007, 121 Stat. 1793; Pub. L. 111–5, div. A, title IV, § 408(b), Feb. 17, 2009, 123 Stat. 146.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1)(B), was in the original ''this title'', meaning title I (§ 101 et seq.) of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted subchapters I to IV of this chapter and section 6808 of Title 42, The Public Health and Welfare, and amended sections 6802 to 6807 of Title 42. For complete classification of title I to the Code, see Tables.

CODIFICATION

''October 24, 1992'', referred to in subsec. (b)(1), (2), was in the original ''the enactment of the Comprehensive National Energy Policy Act'', and was translated as meaning the enactment of the Energy Policy Act of 1992, Pub. L. 102–486, to reflect the probable intent of Congress. The Comprehensive National Energy Policy Act was the original short title of H.R. 776, which was enacted into law on Oct. 24, 1992, as Pub. L. 102–486.

AMENDMENTS

2009—Subsecs. (b)(6), (d). Pub. L. 111–5 substituted ''(16) through (19)'' for ''(17) through (18)'' wherever appearing.

2007—Subsec. (b)(6). Pub. L. 110–140, § 1307(b)(1), added par. (6).

Subsec. (c). Pub. L. 110–140, § 1307(b)(2), inserted at end ''In the case of the standards established by paragraphs (16) through (19) of section 2621(d) of this title, the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to December 19, 2007.''

Subsec. (d). Pub. L. 110–140, § 1307(b)(3), inserted ''and paragraphs (17) through (18)'' before ''of section 2621(d)'' in introductory provisions.

2005—Subsec. (b)(3). Pub. L. 109–58, § 1251(b)(1), added par. (3).

Subsec. (b)(4). Pub. L. 109–58, § 1252(g), added par. (4).

Subsec. (b)(5). Pub. L. 109–58, § 1254(b)(1), added par. (5).

Subsec. (c). Pub. L. 109–58, § 1254(b)(2), which directed amendment of subsec. (d) by inserting at end ''In the case of the standard established by paragraph (15), the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to August 8, 2005.'', was executed by making the insertion in subsec. (c) at end to reflect the probable intent of Congress.

Pub. L. 109–58, § 1252(h), inserted at end ''In the case of the standard established by paragraph (14) of section 2621(d) of this title, the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to August 8, 2005.''

Pub. L. 109–58, § 1251(b)(2), inserted at end ''In the case of each standard established by paragraphs (11) through (13) of section 2621(d) of this title, the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to August 8, 2005.''

Subsec. (d). Pub. L. 109–58, § 1251(b)(3)(A), added subsec. (d).

Subsec. (e). Pub. L. 109–58, § 1252(i)(1), added subsec. (e).

Subsec. (f). Pub. L. 109–58, § 1254(b)(3)(A), added subsec. (f).

1992—Subsec. (b)(1), (2). Pub. L. 102–486 inserted ''(or after October 24, 1992, in the case of standards under paragraphs (7), (8), and (9) of section 2621(d) of this title)''.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§ 2623. Adoption of certain standards

(a) Adoption of standards

Not later than two years after November 9, 1978, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall provide public notice and conduct a hearing respecting the standards established by subsection (b) of this section and, on the basis of such hearing, shall—

(1) adopt the standards established by subsection (b) of this section (other than paragraph (4) thereof) if, and to the extent, such authority or nonregulated electric utility determines that such adoption is appropriate to carry out the purposes of this chapter, is otherwise appropriate, and is consistent with otherwise applicable State law, and

(2) adopt the standard established by subsection (b)(4) of this section if, and to the extent, such authority or nonregulated electric utility determines that such adoption is appropriate and consistent with otherwise applicable State law.

For purposes of any determination under paragraphs (1) or (2) and any review of such determination in any court in accordance with section 2633 of this title, the purposes of this chapter supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to adopt any such standard, pursuant to its authority under otherwise applicable State law.

(b) Establishment

The following Federal standards are hereby established:

(1) Master metering

To the extent determined appropriate under section 2625(d) of this title, master metering of electric service in the case of new buildings shall be prohibited or restricted to the extent necessary to carry out the purposes of this chapter.

(2) Automatic adjustment clauses

No electric utility may increase any rate pursuant to an automatic adjustment clause unless such clause meets the requirements of section 2625(e) of this title.

(3) Information to consumers

Each electric utility shall transmit to each of its electric consumers information regarding rate schedules in accordance with the requirements of section 2625(f) of this title.

(4) Procedures for termination of electric service

No electric utility may terminate electric service to any electric consumer except pursuant to procedures described in section 2625(g) of this title.

(5) Advertising

No electric utility may recover from any person other than the shareholders (or other

owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in section 2625(h) of this title.

(c) Procedural requirements

Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility, within the two-year period specified in subsection (a) of this section, shall (1) adopt, pursuant to subsection (a) of this section, each of the standards established by subsection (b) of this section, or, (2) with respect to any such standard which is not adopted, such authority or nonregulated electric utility shall state in writing that it has determined not to adopt such standard, together with the reasons for such determination. Such statement of reasons shall be available to the public.

(Pub. L. 95–617, title I, §113, Nov. 9, 1978, 92 Stat. 3123.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original ''this title'', meaning title I (§101 et seq.) of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted subchapters I to IV of this chapter and section 6808 of Title 42, The Public Health and Welfare, and amended sections 6802 to 6807 of Title 42. For complete classification of title I to the Code, see Tables.

§ 2624. Lifeline rates

(a) Lower rates

No provision of this chapter prohibits a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or a nonregulated electric utility from fixing, approving, or allowing to go into effect a rate for essential needs (as defined by the State regulatory authority or by the nonregulated electric utility, as the case may be) of residential electric consumers which is lower than a rate under the standard referred to in section 2621(d)(1) of this title.

(b) Determination

If any State regulated electric utility or nonregulated electric utility does not have a lower rate as described in subsection (a) of this section in effect two years after November 9, 1978, the State regulatory authority having ratemaking authority with respect to such State regulated electric utility or the nonregulated electric utility, as the case may be, shall determine, after an evidentiary hearing, whether such a rate should be implemented by such utility.

(c) Prior proceedings

Section 2634 of this title shall not apply to the requirements of this section.

(Pub. L. 95–617, title I, §114, Nov. 9, 1978, 92 Stat. 3124.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this title'', meaning title I (§101 et seq.) of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted subchapters I to IV of this chapter and section 6808 of Title 42, The Public Health and Welfare, and amended sections 6802 to 6807 of Title 42. For complete classification of title I to the Code, see Tables.

§ 2625. Special rules for standards

(a) Cost of service

In undertaking the consideration and making the determination under section 2621 of this title with respect to the standard concerning cost of service established by section 2621(d)(1) of this title, the costs of providing electric service to each class of electric consumers shall, to the maximum extent practicable, be determined on the basis of methods prescribed by the State regulatory authority (in the case of a State regulated electric utility) or by the electric utility (in the case of a nonregulated electric utility). Such methods shall to the maximum extent practicable—

(1) permit identification of differences in cost-incurrence, for each such class of electric consumers, attributable to daily and seasonal time of use of service and

(2) permit identification of differences in cost-incurrence attributable to differences in customer demand, and energy components of cost. In prescribing such methods, such State regulatory authority or nonregulated electric utility shall take into account the extent to which total costs to an electric utility are likely to change if—

(A) additional capacity is added to meet peak demand relative to base demand; and

(B) additional kilowatt-hours of electric energy are delivered to electric consumers.

(b) Time-of-day rates

In undertaking the consideration and making the determination required under section 2621 of this title with respect to the standard for time-of-day rates established by section 2621(d)(3) of this title and the standard for time-based metering and communications established by section 2621(d)(14) of this title, a time-of-day rate charged by an electric utility for providing electric service to each class of electric consumers shall be determined to be cost-effective with respect to each such class if the long-run benefits of such rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering and communications costs and other costs associated with the use of such rates.

(c) Load management techniques

In undertaking the consideration and making the determination required under section 2621 of this title with respect to the standard for load management techniques established by section 2621(d)(6) of this title, a load management technique shall be determined, by the State regulatory authority or nonregulated electric utility, to be cost-effective if—

(1) such technique is likely to reduce maximum kilowatt demand on the electric utility, and

(2) the long-run cost-savings to the utility of such reduction are likely to exceed the long-run costs to the utility associated with implementation of such technique.

(d) Master metering

Separate metering shall be determined appropriate for any new building for purposes of section 2623(b)(1) of this title if—

(1) there is more than one unit in such building,

(2) the occupant of each such unit has control over a portion of the electric energy used in such unit, and

(3) with respect to such portion of electric energy used in such unit, the long-run benefits to the electric consumers in such building exceed the costs of purchasing and installing separate meters in such building.

(e) Automatic adjustment clauses

(1) An automatic adjustment clause of an electric utility meets the requirements of this subsection if—

(A) such clause is determined, not less often than every four years, by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by the electric utility (in the case of a nonregulated electric utility), after an evidentiary hearing, to provide incentives for efficient use of resources (including incentives for economical purchase and use of fuel and electric energy) by such electric utility, and

(B) such clause is reviewed not less often than every two years, in the manner described in paragraph (2), by the State regulatory authority having ratemaking authority with respect to such utility (or by the electric utility in the case of a nonregulated electric utility), to insure the maximum economies in those operations and purchases which affect the rates to which such clause applies.

(2) In making a review under subparagraph (B) of paragraph (1) with respect to an electric utility, the reviewing authority shall examine and, if appropriate, cause to be audited the practices of such electric utility relating to costs subject to an automatic adjustment clause, and shall require such reports as may be necessary to carry out such review (including a disclosure of any ownership or corporate relationship between such electric utility and the seller to such utility of fuel, electric energy, or other items).

(3) As used in this subsection and section 2623(b) of this title, the term ''automatic adjustment clause'' means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing, in rates reflecting increases or decreases (or both) in costs incurred by an electric utility. Such term does not include an interim rate which takes effect subject to a later determination of the appropriate amount of the rate.

(f) Information to consumers

(1) For purposes of the standard for information to consumers established by section 2623(b)(3) of this title, each electric utility shall transmit to each of its electric consumers a clear and concise explanation of the existing rate schedule and any rate schedule applied for (or proposed by a nonregulated electric utility) applicable to such consumer. Such statement shall be transmitted to each such consumer—

(A) not later than sixty days after the date of commencement of service to such consumer or ninety days after the standard established by section 2623(b)(3) of this title is adopted with respect to such electric utility, whichever last occurs, and

(B) not later than thirty days (sixty days in the case of an electric utility which uses a bimonthly billing system) after such utility's application for any change in a rate schedule applicable to such consumer (or proposal of such a change in the case of a nonregulated utility).

(2) For purposes of the standard for information to consumers established by section 2623(b)(3) of this title, each electric utility shall transmit to each of its electric consumers not less frequently than once each year—

(A) a clear and concise summary of the existing rate schedules applicable to each of the major classes of its electric consumers for which there is a separate rate, and

(B) an identification of any classes whose rates are not summarized.

Such summary may be transmitted together with such consumer's billing or in such other manner as the State regulatory authority or nonregulated electric utility deems appropriate.

(3) For purposes of the standard for information to consumers established by section 2623(b)(3) of this title, each electric utility, on request of an electric consumer of such utility, shall transmit to such consumer a clear and concise statement of the actual consumption (or degree-day adjusted consumption) of electric energy by such consumer for each billing period during the prior year (unless such consumption data is not reasonably ascertainable by the utility).

(g) Procedures for termination of electric service

The procedures for termination of service referred to in section 2623(b)(4) of this title are procedures prescribed by the State regulatory authority (with respect to electric utilities for which it has ratemaking authority) or by the nonregulated electric utility which provide that—

(1) no electric service to an electric consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination, and

(2) during any period when termination of service to an electric consumer would be especially dangerous to health, as determined by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or nonregulated electric utility, and such consumer establishes that—

(A) he is unable to pay for such service in accordance with the requirements of the utility's billing, or

(B) he is able to pay for such service but only in installments,

such service may not be terminated.

Such procedures shall take into account the need to include reasonable provisions for elderly and handicapped consumers.

(h) Advertising

(1) For purposes of this section and section 2623(b)(5) of this title—

(A) The term ''advertising'' means the commercial use, by an electric utility, of any

media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's electric consumers.

(B) The term ''political advertising'' means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

(C) The term ''promotional advertising'' means any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric utility or the selection or installation of any appliance or equipment designed to use such utility's service.

(2) For purposes of this subsection and section 2623(b)(5) of this title, the terms ''political advertising'' and ''promotional advertising'' do not include—

(A) advertising which informs electric consumers how they can conserve energy or can reduce peak demand for electric energy,

(B) advertising required by law or regulation, including advertising required under part 1 of title II of the National Energy Conservation Policy Act [42 U.S.C. 8211 et seq.],

(C) advertising regarding service interruptions, safety measures, or emergency conditions,

(D) advertising concerning employment opportunities with such utility,

(E) advertising which promotes the use of energy efficient appliances, equipment or services, or

(F) any explanation or justification of existing or proposed rate schedules, or notifications of hearings thereon.

(i) Time-based metering and communications

In making a determination with respect to the standard established by section 2621(d)(14) of this title, the investigation requirement of section 2621(d)(14)(F) of this title shall be as follows: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.

(Pub. L. 95–617, title I, §115, Nov. 9, 1978, 92 Stat. 3125; Pub. L. 109–58, title XII, §1252(b), Aug. 8, 2005, 119 Stat. 965.)

REFERENCES IN TEXT

The National Energy Conservation Policy Act, referred to in subsec. (h)(2)(B), is Pub. L. 95–619, Nov. 9, 1978, 92 Stat. 3206, as amended. Part 1 of title II of the National Energy Conservation Policy Act was classified generally to part A (§8211 et seq.) of subchapter II of chapter 91 of Title 42, The Public Health and Welfare, and was omitted from the Code pursuant to section 8229 of Title 42 which terminated authority under that part June 30, 1989. For complete classification of this Act to the Code, see Short Title note set out under section 8201 of Title 42 and Tables.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–58, §1252(b)(1), (2), inserted ''and the standard for time-based metering and communications established by section 2621(d)(14) of this title'' after ''section 2621(d)(3) of this title'' and substituted ''metering and communications costs'' for ''metering costs''.

Subsec. (i). Pub. L. 109–58, §1252(b)(3), added subsec. (i).

§ 2626. Reports respecting standards

(a) State authorities and nonregulated utilities

Not later than one year after November 9, 1978, and annually thereafter for ten years, each State regulatory authority (with respect to each State regulated electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall report to the Secretary, in such manner as the Secretary shall prescribe, respecting its consideration of the standards established by sections 2621(d) and 2623(b) of this title. Such report shall include a summary of the determinations made and actions taken with respect to each such standard on a utility-by-utility basis.

(b) Secretary

Not later than eighteen months after November 9, 1978, and annually thereafter for ten years, the Secretary shall submit a report to the President and the Congress containing—

(1) a summary of the reports submitted under subsection (a) of this section,

(2) his analysis of such reports, and

(3) his actions under this chapter, and his recommendations for such further Federal actions, including any legislation, regarding retail electric utility rates (and other practices) as may be necessary to carry out the purposes of this chapter.

(Pub. L. 95–617, title I, §116, Nov. 9, 1978, 92 Stat. 3128.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(3), was in the original ''this title'', meaning title I (§101 et seq.) of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted subchapters I to IV of this chapter and section 6808 of Title 42, The Public Health and Welfare, and amended sections 6802 to 6807 of Title 42. For complete classification of title I to the Code, see Tables.

§ 2627. Relationship to State law

(a) Revenue and rate of return

Nothing in this chapter shall authorize or require the recovery by an electric utility of revenues, or of a rate of return, in excess of, or less than, the amount of revenues or the rate of return determined to be lawful under any other provision of law.

(b) State authority

Nothing in this chapter prohibits any State regulatory authority or nonregulated electric utility from adopting, pursuant to State law, any standard or rule affecting electric utilities which is different from any standard established by this subchapter.

(c) Federal agencies

With respect to any electric utility which is a Federal agency, and with respect to the Tennessee Valley Authority when it is treated as a State regulatory authority as provided in section 2602(17) of this title, any reference in sec-

tion 2621 or 2623 of this title to State law shall be treated as a reference to Federal law.

(Pub. L. 95–617, title I, § 117, Nov. 9, 1978, 92 Stat. 3128.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original ''this title'', meaning title I (§ 101 et seq.) of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted subchapters I to IV of this chapter and section 6808 of Title 42, The Public Health and Welfare, and amended sections 6802 to 6807 of Title 42. For complete classification of title I to the Code, see Tables.

SUBCHAPTER III—INTERVENTION AND JUDICIAL REVIEW

§ 2631. Intervention in proceedings

(a) Authority to intervene and participate

In order to initiate and participate in the consideration of one or more of the standards established by subchapter II or other concepts which contribute to the achievement of the purposes of this chapter, the Secretary, any affected electric utility, or any electric consumer of an affected electric utility may intervene and participate as a matter of right in any ratemaking proceeding or other appropriate regulatory proceeding relating to rates or rate design which is conducted by a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by a nonregulated electric utility.

(b) Access to information

Any intervenor or participant in a proceeding described in subsection (a) of this section shall have access to information available to other parties to the proceeding if such information is relevant to the issues to which his intervention or participation in such proceeding relates. Such information may be obtained through reasonable rules relating to discovery of information prescribed by the State regulatory authority (in the case of proceedings concerning electric utilities for which it has ratemaking authority) or by the nonregulated electric utility (in the case of a proceeding conducted by a nonregulated electric utility).

(c) Effective date; procedures

Any intervention or participation under this section, in any proceeding commenced before November 9, 1978, but not completed before such date, shall be permitted under this section only to the extent such intervention or participation is timely under otherwise applicable law.

(Pub. L. 95–617, title I, § 121, Nov. 9, 1978, 92 Stat. 3128.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this title'', meaning title I (§ 101 et seq.) of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted subchapters I to IV of this chapter and section 6808 of Title 42, The Public Health and Welfare, and amended sections 6802 to 6807 of Title 42. For complete classification of title I to the Code, see Tables.

§ 2632. Consumer representation

(a) Compensation for costs of participation or intervention

(1) If no alternative means for assuring representation of electric consumers is adopted in accordance with subsection (b) of this section and if an electric consumer of an electric utility substantially contributed to the approval, in whole or in part, of a position advocated by such consumer in a proceeding concerning such utility, and relating to any standard set forth in subchapter II, such utility shall be liable to compensate such consumer (pursuant to paragraph (2)) for reasonable attorneys' fees, expert witness fees, and other reasonable costs incurred in preparation and advocacy of such position in such proceeding (including fees and costs of obtaining judicial review of any determination made in such proceeding with respect to such position).

(2) A consumer entitled to fees and costs under paragraph (1) may collect such fees and costs from an electric utility by bringing a civil action in any State court of competent jurisdiction, unless the State regulatory authority (in the case of a proceeding concerning a State regulated electric utility) or nonregulated electric utility (in the case of a proceeding concerning such nonregulated electric utility) has adopted a reasonable procedure pursuant to which such authority or nonregulated electric utility—

(A) determines the amount of such fees and costs, and

(B) includes an award of such fees and costs in its order in the proceeding.

(3) The procedure adopted by such State regulatory authority or nonregulated utility under paragraph (2) may include a preliminary proceeding to require that—

(A) as a condition of receiving compensation under such procedure such consumer demonstrate that, but for the ability to receive such award, participation or intervention in such proceeding may be a significant financial hardship for such consumer, and

(B) persons with the same or similar interests have a common legal representative in the proceeding as a condition to receiving compensation.

(b) Alternative means

Compensation shall not be required under subsection (a) of this section if the State, the State regulatory authority (in the case of a proceeding concerning a State regulated electric utility), or the nonregulated electric utility (in the case of a proceeding concerning such nonregulated electric utility) has provided an alternative means for providing adequate compensation to persons—

(1) who have, or represent, an interest—

(A) which would not otherwise be adequately represented in the proceeding, and

(B) representation of which is necessary for a fair determination in the proceeding, and

(2) who are, or represent an interest which is, unable to effectively participate or intervene in the proceeding because such persons cannot afford to pay reasonable attorneys' fees, expert witness fees, and other reasonable costs of preparing for, and participating or intervening in, such proceeding (including fees and costs of obtaining judicial review of such proceeding).

(c) Transcripts

The State regulatory authority or nonregulated electric utility, as the case may be, shall make transcripts of the proceeding available, at cost of reproduction, to parties or intervenors in any ratemaking proceeding, or other regulatory proceeding relating to rates or rate design, before a State regulatory authority or nonregulated electric utility.

(d) Federal agencies

Any claim under this section against any Federal agency shall be subject to the availability of appropriated funds.

(e) Rights under other authority

Nothing in this section affects or restricts any rights of any participant or intervenor in any proceeding under any other applicable law or rule of law.

(Pub. L. 95–617, title I, §122, Nov. 9, 1978, 92 Stat. 3129.)

§ 2633. Judicial review and enforcement

(a) Limitation of Federal jurisdiction

Notwithstanding any other provision of law, no court of the United States shall have jurisdiction over any action arising under any provision of subchapter I or II or of this subchapter except for—

(1) an action over which a court of the United States has jurisdiction under subsection (b) or (c)(2) of this section; and

(2) review of any action in the Supreme Court of the United States in accordance with sections 1257 and 1258 of title 28.

(b) Enforcement of intervention right

(1) The Secretary may bring an action in any appropriate court of the United States to enforce his right to intervene and participate under section 2631(a) of this title, and such court shall have jurisdiction to grant appropriate relief.

(2) If any electric utility or electric consumer having a right to intervene under section 2631(a) of this title is denied such right by any State court, such electric utility or electric consumer may bring an action in the appropriate United States district court to require the State regulatory authority or nonregulated electric utility to permit such intervention and participation, and such court shall have jurisdiction to grant appropriate relief.

(3) Nothing in this subsection prohibits any person bringing any action under this subsection in a court of the United States from seeking review and enforcement at any time in any State court of any rights he may have with respect to any motion to intervene or participate in any proceeding.

(c) Review and enforcement

(1) Any person (including the Secretary) may obtain review of any determination made under subchapter I or II or under this subchapter with respect to any electric utility (other than a utility which is a Federal agency) in the appropriate State court if such person (or the Secretary) intervened or otherwise participated in the original proceeding or if State law otherwise permits such review. Any person (including the Secretary) may bring an action to enforce the requirements of this chapter in the appropriate State court, except that no such action may be brought in a State court with respect to a utility which is a Federal agency. Such review or action in a State court shall be pursuant to any applicable State procedures.

(2) Any person (including the Secretary) may obtain review in the appropriate court of the United States of any determination made under subchapter I or II or this subchapter by a Federal agency if such person (or the Secretary) intervened or otherwise participated in the original proceeding or if otherwise applicable law permits such review. Such court shall have jurisdiction to grant appropriate relief. Any person (including the Secretary) may bring an action to enforce the requirements of subchapter I or II or this subchapter with respect to any Federal agency in the appropriate court of the United States and such court shall have jurisdiction to grant appropriate relief.

(3) In addition to his authority to obtain review under paragraph (1) or (2), the Secretary may also participate as an amicus curiae in any review by any court of an action arising under the provisions of subchapter I or II or this subchapter.

(d) Other authority of Secretary

Nothing in this section prohibits the Secretary from—

(1) intervening and participating in any proceeding, or

(2) intervening and participating in any review by any court of any action

under section 6804 of title 42.

(Pub. L. 95–617, title I, §123, Nov. 9, 1978, 92 Stat. 3130.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1), was in the original ''this title'', meaning title I (§101 et seq.) of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted subchapters I to IV of this chapter and section 6808 of Title 42, The Public Health and Welfare, and amended sections 6802 to 6807 of Title 42. For complete classification of title I to the Code, see Tables.

§ 2634. Prior and pending proceedings

For purposes of subchapters I and II, and this subchapter, proceedings commenced by State regulatory authorities (with respect to electric utilities for which it has ratemaking authority) and nonregulated electric utilities before November 9, 1978, and actions taken before such date in such proceedings shall be treated as complying with the requirements of subchapters I and II, and this subchapter if such proceedings and actions substantially conform to such requirements. For purposes of subchapters I and II, and this subchapter, any such proceeding or action commenced before November 9, 1978, but not completed before such date, shall comply with the requirements of subchapters I and II, and this subchapter, to the maximum extent practicable, with respect to so much of such proceeding or action as takes place after such date, except as otherwise provided in section 2631(c) of this title. In the case of each standard estab-

lished by paragraphs (11) through (13) of section 2621(d) of this title, the reference contained in this subsection[1] to November 9, 1978, shall be deemed to be a reference to August 8, 2005. In the case of the standard established by paragraph (14) of section 2621(d) of this title, the reference contained in this subsection[1] to November 9, 1978, shall be deemed to be a reference to August 8, 2005. In the case of each standard established by paragraph (15) of section 2621(d) of this title, the reference contained in this subsection[1] to November 9, 1978, shall be deemed to be a reference to August 8, 2005.

(Pub. L. 95–617, title I, § 124, Nov. 9, 1978, 92 Stat. 3131; Pub. L. 109–58, title XII, §§ 1251(b)(3)(B), 1252(i)(2), 1254(b)(3)(B), Aug. 8, 2005, 119 Stat. 963, 967, 971.)

AMENDMENTS

2005—Pub. L. 109–58, § 1254(b)(3)(B), inserted at end ''In the case of each standard established by paragraph (15) of section 2621(d) of this title, the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to August 8, 2005.''

Pub. L. 109–58, § 1252(i)(2), inserted at end ''In the case of the standard established by paragraph (14) of section 2621(d) of this title, the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to August 8, 2005.''

Pub. L. 109–58, § 1251(b)(3)(B), inserted at end ''In the case of each standard established by paragraphs (11) through (13) of section 2621(d) of this title, the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to August 8, 2005.''

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

§ 2641. Voluntary guidelines

The Secretary may prescribe voluntary guidelines respecting the standards established by sections 2621(d) and 2623(b) of this title. Such guidelines may not expand the scope or legal effect of such standards or establish additional standards respecting electric utility rates.

(Pub. L. 95–617, title I, § 131, Nov. 9, 1978, 92 Stat. 3131.)

§ 2642. Responsibilities of Secretary

(a) Authority

The Secretary may periodically notify the State regulatory authorities, and electric utilities identified pursuant to section 2612(c) of this title, of—

(1) load management techniques and the results of studies and experiments concerning load management techniques;

(2) developments and innovations in electric utility ratemaking throughout the United States, including the results of studies and experiments in rate structure and rate reform;

(3) methods for determining cost of service;

(4) any other data or information which the Secretary determines would assist such authorities and utilities in carrying out the provisions of this chapter; and

(5) technologies, techniques, and rate-making methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.

(b) Technical assistance

The Secretary may provide such technical assistance as he determines appropriate to assist the State regulatory authorities in carrying out their responsibilities under subchapter II and as is requested by any State regulatory authority relating to the standards established by subchapter II.

(c) Appropriations

There are authorized to be appropriated to carry out the purposes of subsection (b) of this section not to exceed $1,000,000 for each of the fiscal years 1979 and 1980.

(d) Demand response

The Secretary shall be responsible for—

(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

(3) not later than 180 days after August 8, 2005, providing Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2007.

(Pub. L. 95–617, title I, § 132, Nov. 9, 1978, 92 Stat. 3131; Pub. L. 109–58, title XII, § 1252(c), (d), Aug. 8, 2005, 119 Stat. 965.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(4), was in the original ''this title'', meaning title I (§ 101 et seq.) of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted subchapters I to IV of this chapter and section 6808 of Title 42, The Public Health and Welfare, and amended sections 6802 to 6807 of Title 42. For complete classification of title I to the Code, see Tables.

AMENDMENTS

2005—Subsec. (a)(5). Pub. L. 109–58, § 1252(c), added par. (5).

Subsec. (d). Pub. L. 109–58, § 1252(d), added subsec. (d).

DEMAND RESPONSE ASSISTANCE

Pub. L. 109–58, title XII, § 1252(e), (f), Aug. 8, 2005, 119 Stat. 965, 966, provided that:

''(e) DEMAND RESPONSE AND REGIONAL COORDINATION.—

''(1) IN GENERAL.—It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

''(2) TECHNICAL ASSISTANCE.—The Secretary [of Energy] shall provide technical assistance to States and regional organizations formed by two or more States to assist them in—

''(A) identifying the areas with the greatest demand response potential;

''(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response;

''(C) developing plans and programs to use demand response to respond to peak demand or emergency needs; and

[1] So in original. Probably should be ''section''.

''(D) identifying specific measures consumers can take to participate in these demand response programs.

''(3) REPORT.—Not later than 1 year after the date of enactment of the Energy Policy Act of 2005 [Aug. 8, 2005], the [Federal Energy Regulatory] Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews—

''(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

''(B) existing demand response programs and time-based rate programs;

''(C) the annual resource contribution of demand resources;

''(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes;

''(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party; and

''(F) regulatory barriers to improve customer participation in demand response, peak reduction and critical period pricing programs.

''(f) FEDERAL ENCOURAGEMENT OF DEMAND RESPONSE DEVICES.—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated, and unnecessary barriers to demand response participation in energy, capacity and ancillary service markets shall be eliminated. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.''

§ 2643. Gathering information on costs of service

(a) Information required to be gathered

Each electric utility shall periodically gather information under such rules (promulgated by the Commission) as the Commission determines necessary to allow determination of the costs associated with providing electric service. For purposes of this section, and for purposes of any consideration and determination respecting the standard established by section 2621(d)(2) of this title, such costs shall be separated, to the maximum extent practicable, into the following components: customer cost component, demand cost component, and energy cost component. Rules under this subsection shall include requirements for the gathering of the following information with respect to each electric utility—

(1) the costs of serving each electric consumer class, including costs of serving different consumption patterns within such class, based on voltage level, time of use, and other appropriate factors;

(2) daily kilowatt demand load curves for all electric consumer classes combined representative of daily and seasonal differences in demand, and daily kilowatt demand load curves for each electric consumer class for which there is a separate rate, representative of daily and seasonal differences in demand;

(3) annual capital, operating, and maintenance costs—

(A) for transmission and distribution services, and

(B) for each type of generating unit; and

(4) costs of purchased power, including representative daily and seasonal differences in the amount of such costs.

Such rules shall provide that information required to be gathered under this section shall be presented in such categories and such detail as may be necessary to carry out the purposes of this section.

(b) Commission rules

The Commission shall, within 180 days after November 9, 1978, by rule, prescribe the methods, procedure, and format to be used by electric utilities in gathering the information described in this section. Such rules may provide for the exemption by the Commission of an electric utility or class of electric utilities from gathering all or part of such information, in cases where such utility or utilities show and the Commission finds, after public notice and opportunity for the presentation of written data, views, and arguments, that gathering such information is not likely to carry out the purposes of this section. The Commission shall periodically review such findings and may revise such rules.

(c) Filing and publication

Not later than two years after November 9, 1978, and periodically, but not less frequently than every two years thereafter, each electric utility shall file with—

(1) the Commission, and

(2) any State regulatory authority which has ratemaking authority for such utility,

the information gathered pursuant to this section and make such information available to the public in such form and manner as the Commission shall prescribe. In addition, at the time of application for, or proposal of, any rate increase, each electric utility shall make such information available to the public in such form and manner as the Commission shall prescribe. The two-year period after November 9, 1978, specified in this subsection may be extended by the Commission for a reasonable additional period in the case of any electric utility for good cause shown.

(d) Enforcement

For purposes of enforcement, any violation of a requirement of this section shall be treated as a violation of a provision of the Energy Supply and Environmental Coordination Act of 1974 [15 U.S.C. 791 et seq.] enforceable under section 12 of such Act [15 U.S.C. 797] (notwithstanding any expiration date in such Act) except that in applying the provisions of such section 12 any reference to the Federal Energy Administrator shall be treated as a reference to the Commission.

(Pub. L. 95–617, title I, § 133, Nov. 9, 1978, 92 Stat. 3132.)

REFERENCES IN TEXT

The Energy Supply and Environmental Coordination Act of 1974, referred to in subsec. (d), is Pub. L. 93–319,

June 22, 1974, 88 Stat. 246, as amended, which is classified principally to chapter 16C (§ 791 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 791 of Title 15 and Tables.

§ 2644. Relationship to other authority

Nothing in this chapter shall be construed to limit or affect any authority of the Secretary or the Commission under any other provision of law.

(Pub. L. 95–617, title I, § 134, Nov. 9, 1978, 92 Stat. 3133.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title I (§ 101 et seq.) of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted subchapters I to IV of this chapter and section 6808 of Title 42, The Public Health and Welfare, and amended sections 6802 to 6807 of Title 42. For complete classification of title I to the Code, see Tables.

§ 2645. Utility regulatory institute

(a) Matching grants

The Secretary may make grants under this section to an institute established by the National Association of Regulatory Utility Commissioners to enable such institute to—

(1) conduct research on electric and gas utility regulatory policy issues,

(2) develop data processing and retrieval methods for electric and gas utility ratemaking, and

(3) perform other functions directly related to assisting State regulatory authorities in carrying out their functions under State law and this Act.

(b) Federal share

Grants under this section shall not be used to provide more than the following percentages of the cost to the institute of carrying out the activities specified in subsection (a) of this section:

(1) 80 percent for the fiscal year 1979; and

(2) 60 percent for the fiscal year 1980.

The remaining amounts expended by the institute may not be provided from Federal sources.

(c) Restrictions

Grants under this section may not be made subject to terms and conditions other than those the Secretary deems necessary for purposes of administering this section and for purposes of assuring that—

(1) all information gathered by the institute is available to the Secretary, the Commission, and the public, and

(2) no portion of any such grant is used to support or oppose any legislative proposal except by means of testimony by representatives of the institute provided by invitation to a committee of Congress or of a State legislature.

(d) Authorization of appropriations

There is authorized to be appropriated not more than $2,000,000 for each of the fiscal years 1979 and 1980 for purposes of making grants under this section. No amounts may be appropriated for any fiscal year after the fiscal year 1980 to carry out the purposes of this section without a specific authorization of Congress.

(Pub. L. 95–617, title VI, § 603, Nov. 9, 1978, 92 Stat. 3165.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(3), is Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117, as amended, known as the Public Utility Regulatory Policies Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

CODIFICATION

This section was not enacted as part of title I of Pub. L. 95–617 which comprises this chapter.

CHAPTER 47—SMALL HYDROELECTRIC POWER PROJECTS

Sec.
2701. Establishment of program.
2702. Loans for feasibility studies.
2703. Loans for project costs.
2704. Loan rates and repayment.
2705. Simplified and expeditious licensing procedures.
2706. New impoundments.
2707. Authorizations.
2708. Definitions.

§ 2701. Establishment of program

The Secretary shall establish a program in accordance with this chapter to encourage municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and other persons to undertake the development of small hydroelectric power projects in connection with existing dams which are not being used to generate electric power.

(Pub. L. 95–617, title IV, § 401, Nov. 9, 1978, 92 Stat. 3154.)

REFERENCES IN TEXT

The Secretary, referred to in text, means the Secretary of Energy, see section 2602(14) of this title.

PROMULGATION OF IMPLEMENTING RULES AND REGULATIONS

Pub. L. 96–294, title IV, § 408(d), June 30, 1980, 94 Stat. 718, provided that: ''The Secretary shall take such action as may be necessary to assure the establishment, as soon as possible after the date of the enactment of this Act [June 30, 1980] (and in any event within six months after such date in the case of the amendments made by subsections (a) and (c) of this section and in the case of the loan program under section 403 of the Public Utility Regulatory Policies Act of 1978) [amending section 2708 of the title, and section 2703 of this title respectively], of such rules and regulations as may be necessary to fully implement his responsibilities under title IV of the Public Utility Regulatory Policies Act of 1978 [this subchapter] and the amendments thereto made by this section [amending sections 2705 and 2708 of this title]''.

§ 2702. Loans for feasibility studies

(a) Loan authority

The Secretary, after consultation with the Commission, is authorized to make a loan to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person to assist such person in defraying up to 90 percent of the costs of—

(1) studies to determine the feasibility of undertaking a small hydroelectric power project at an existing dam or dams and

(2) preparing any application for a necessary license or other Federal, State, and local approval respecting such a project at an existing dam or dams and of participating in any administrative proceeding regarding any such application.

(b) Cancellation

The Secretary may cancel the unpaid balance and any accrued interest on any loan granted pursuant to this section if he determines on the basis of the study that the small hydroelectric power project would not be technically or economically feasible.

(Pub. L. 95–617, title IV, § 402, Nov. 9, 1978, 92 Stat. 3154.)

REFERENCES IN TEXT

The Secretary, referred to in text, and the Commission, referred to in subsec. (a), mean the Secretary of Energy and the Federal Energy Regulatory Commission, respectively, see section 2602(3), (14) of this title.

§ 2703. Loans for project costs

(a) Authority

The Secretary is authorized to make loans to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person of up to 75 percent of the project costs of a small hydroelectric power project. No such loan may be made unless the Secretary finds that—

(1) the project will be constructed in connection with an existing dam or dams,

(2) all licenses and other required Federal, State, and local approvals necessary for construction of the project have been issued,

(3) the project will have no significant adverse environmental effects, including significant adverse effects on fish and wildlife, on recreational use of water, and on stream flow, and

(4) the project will not have a significant adverse effect on any other use of the water used by such project.

The Secretary may make a commitment to make a loan under this subsection to an applicant who has not met the requirements of paragraph (2), pending compliance by such applicant with such requirements. Such commitment shall be for period[1] of not to exceed 3 years unless the Secretary, in consultation with the Commission, extends such period for good cause shown. Notwithstanding any such commitment, no such loan shall be made before such person has complied with such requirements.

(b) Preference

The Secretary shall give preference to applicants under this section who do not have available alternative financing which the Secretary deems appropriate to carry out the project and whose projects will provide useful information as to the technical and economic feasibility of—

(1) the generation of electric energy by such projects, and

(2) the use of energy produced by such projects.

(c) Information

Every applicant for a license for a small hydroelectric power project receiving loans pursuant to this section shall furnish the Secretary with such information as the Secretary may require regarding equipment and services proposed to be used in the design, construction, and operation of such project. The Secretary shall have the right to forbid the use in such project of any equipment or services he finds inappropriate for such project by reason of cost, performance, or failure to carry out the purposes of this section. The Secretary shall make information which he obtains under this subsection available to the public, other than information described as entitled to confidentiality under section 796(d) of title 15.

(d) Joint participation

In making loans for small hydroelectric power projects under this section, the Secretary shall encourage joint participation, to the extent permitted by law, by applicants eligible to receive loans under this section with respect to the same project.

(Pub. L. 95–617, title IV, § 403, Nov. 9, 1978, 92 Stat. 3155.)

REFERENCES IN TEXT

The Secretary, referred to in text, and the Commission, referred to in subsec. (a), mean the Secretary of Energy and the Federal Energy Regulatory Commission, respectively, see section 2602(3), (14) of this title.

§ 2704. Loan rates and repayment

(a) Interest

Each loan made pursuant to this chapter shall bear interest at the discount or interest rate used at the time the loan is made for water resources planning projects under section 1962d–17 of title 42. Each such loan shall be for such term, as the Secretary deems appropriate, but not in excess of—

(1) 10 years (in the case of a loan under section 2702 of this title) or

(2) 30 years (in the case of a loan under section 2703 of this title).

(b) Repayments

Amounts repaid on loans made pursuant to this chapter shall be deposited into the United States Treasury as miscellaneous receipts.

(Pub. L. 95–617, title IV, § 404, Nov. 9, 1978, 92 Stat. 3155.)

REFERENCES IN TEXT

In subsec. (a), ''section 1962d–17 of title 42'' was in the original ''section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962–17(a))''.

The Secretary, referred to in subsec. (a), means the Secretary of Energy, see section 2602(14) of this title.

§ 2705. Simplified and expeditious licensing procedures

(a) Establishment of program

The Commission shall establish, in such manner as the Commission deems appropriate, consistent with the applicable provisions of law, a

[1] So in original. Probably should be ''for a period''.

program to use simple and expeditious licensing procedures under the Federal Power Act [16 U.S.C. 791a et seq.] for small hydroelectric power projects in connection with existing dams.

(b) Prerequisites

Before issuing any license under the Federal Power Act [16 U.S.C. 791a et seq.] for the construction or operation of any small hydroelectric power project the Commission—

(1) shall assess the safety of existing structures in any proposed project (including possible consequences associated with failure of such structures), and

(2) shall provide an opportunity for consultation with the Council on Environmental Quality and the Environmental Protection Agency with respect to the environmental effects of such project.

Nothing in this subsection exempts any such project from any requirement applicable to any such project under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], the Fish and Wildlife Coordination Act [16 U.S.C. 661 et seq.], the Endangered Species Act [16 U.S.C. 1531 et seq.], or any other provision of Federal law.

(c) Fish and wildlife facilities

The Commission shall encourage applicants for licenses for small hydroelectric power projects to make use of public funds and other assistance for the design and construction of fish and wildlife facilities which may be required in connection with any development of such project.

(d) Exemptions from licensing requirements in certain cases

The Commission may in its discretion (by rule or order) grant an exemption in whole or in part from the requirements (including the licensing requirements) of part I of the Federal Power Act [16 U.S.C. 791a et seq.] to small hydroelectric power projects having a proposed installed capacity of 5,000 kilowatts or less, on a case-by-case basis or on the basis of classes or categories of projects, subject to the same limitations (to ensure protection for fish and wildlife as well as other environmental concerns) as those which are set forth in subsections (c) and (d) of section 30 of the Federal Power Act [16 U.S.C. 823a (c) and (d)] with respect to determinations made and exemptions granted under subsection (a) of such section 30 [16 U.S.C. 823a(a)]; and subsections (c) and (d) of such section 30 shall apply with respect to actions taken and exemptions granted under this subsection. Except as specifically provided in this subsection, the granting of an exemption to a project under this subsection shall in no case have the effect of waiving or limiting the application (to such project) of the second sentence of subsection (b) of this section.

(Pub. L. 95–617, title IV, § 405, Nov. 9, 1978, 92 Stat. 3156; Pub. L. 96–294, title IV, § 408(b), June 30, 1980, 94 Stat. 718.)

REFERENCES IN TEXT

The Commission, referred to in text, means the Federal Energy Regulatory Commission, see section 2602(3) of this title.

The Federal Power Act, referred to in subsecs. (a), (b), and (d), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of this title. Part I of the Federal Power Act is classified generally to subchapter I (§ 791a et seq.) of chapter 12 of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (b), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

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

The Endangered Species Act, referred to in subsec. (b), probably means the Endangered Species Act of 1973, Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

AMENDMENTS

1980—Subsec. (d). Pub. L. 96–294 added subsec. (d).

§ 2706. New impoundments

Nothing in this chapter authorizes (1) the loan of funds for construction of any new dam or other impoundment, or (2) the simple and expeditious licensing of any such new dam or other impoundment.

(Pub. L. 95–617, title IV, § 406, Nov. 9, 1978, 92 Stat. 3156.)

§ 2707. Authorizations

There are hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980, not to exceed $10,000,000 for loans to be made pursuant to section 2702 of this title, such funds to remain available until expended. There are hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, not to exceed $100,000,000 for loans to be made pursuant to section 2703 of this title, such funds to remain available until expended.

(Pub. L. 95–617, title IV, § 407, Nov. 9, 1978, 92 Stat. 3156.)

§ 2708. Definitions

(a) For purposes of this chapter, the term—

(1) ''small hydroelectric power project'' means any hydroelectric power project which is located at the site of any existing dam, which uses the water power potential of such dam, and which has not more than 30,000 kilowatts of installed capacity;

(2) ''electric cooperative'' means any cooperative association eligible to receive loans under section 904 of title 7;

(3) ''industrial development agency'' means any agency which is permitted to issue obligations the interest on which is excludable from gross income under section 103 of title 26;

(4) ''project costs'' means the cost of acquisiiton[1] or construction of all facilities and services and the cost of acquisition of all land and interests in land used in the design and construction and operation of a small hydroelectric power project;

(5) ''nonprofit organization'' means any organization described in section 501(c)(3) or 501(c)(4) of title 26 and exempt from tax under section 501(a) of title 26 (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) of title 26 to such organization);

(6) ''existing dam'' means any dam, the construction of which was completed or on[2] before July 22, 2005, and which does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction) in connection with the installation of any small hydroelectric power project;

(7) ''municipality'' has the meaning provided in section 796 of this title; and

(8) ''person'' has the meaning provided in section 796 of this title.

(b) The requirement in subsection (a)(1) of this section that a project be located at the site of an existing dam in order to qualify as a small hydroelectric power project, and the other provisions of this chapter which require that a project be at or in connection with an existing dam (or utilize the potential of such dam) in order to be assisted under or included within such provisions, shall not be construed to exclude—

(1) from the definition contained in such subsection (a)(1), or

(2) from any other provision of this chapter,

any project which utilizes or proposes to utilize natural water features for the generation of electricity, without the need for any dam or impoundment, in a manner which (as determined by the Commission) will achieve the purposes of this chapter and will do so without any adverse effect upon such natural water features.

(Pub. L. 95–617, title IV, § 408, Nov. 9, 1978, 92 Stat. 3156; Pub. L. 96–294, title IV, § 408(a), (c), June 30, 1980, 94 Stat. 718; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 109–58, title II, § 246, Aug. 8, 2005, 119 Stat. 679.)

REFERENCES IN TEXT

The Commission, referred to in subsec. (b), means the Federal Energy Regulatory Commission, see section 2602(3) of this title.

AMENDMENTS

2005—Subsec. (a)(6). Pub. L. 109–58 substituted ''July 22, 2005'' for ''April 20, 1977''.

1986—Subsec. (a)(3), (5). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1980—Subsec. (a). Pub. L. 96–294, § 408(a), (c)(1), designated existing provisions as subsec. (a) and, as so designated, in par. (1) substituted ''30,000'' for ''15,000''.

Subsec. (b). Pub. L. 96–294, § 408(c)(2), added subsec. (b).

[1] So in original. Probably should be ''acquisition''.

[2] So in original. Probably should be ''on or''.

CHAPTER 48—NATIONAL AQUACULTURE POLICY, PLANNING, AND DEVELOPMENT

Sec.
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§ 2801. Congressional findings, purpose, and policy

(a) Findings

Congress finds the following:

(1) The harvest of certain species of fish and shellfish exceeds levels of optimum sustainable yield, thereby making it more difficult to meet the increasing demand for aquatic food.

(2) To satisfy the domestic market for aquatic food, the United States imports more than 50 per centum of its fish and shellfish, but this dependence on imports adversely affects the national balance of payments and contributes to the uncertainty of supplies.

(3) Although aquaculture currently contributes approximately 13 percent of world seafood production, less than 6 percent of current United States seafood production results from aquaculture. Domestic aquacultural production, therefore, has the potential for significant growth.

(4) Aquacultural production of aquatic plants can provide sources of food, industrial materials, pharmaceuticals, and energy, and can assist in the control and abatement of pollution.

(5) The rehabilitation and enhancement of fish and shellfish resources are desirable applications of aquacultural technology.

(6) The principal responsibility for the development of aquaculture in the United States must rest with the private sector.

(7) Despite its potential, the development of aquaculture in the United States has been inhibited by many scientific, economic, legal, and production factors, such as inadequate credit, diffused legal jurisdiction, the lack of management information, the lack of supportive Government policies, and the lack of reliable supplies of seed stock.

(8) Many areas of the United States are suitable for aquaculture, but are subject to land-use or water-use management policies that do not adequately consider the potential for aquaculture and may inhibit the development of aquaculture.

(b) Purpose

It is the purpose of this chapter to promote aquaculture in the United States by—

(1) declaring a national aquaculture policy;

(2) establishing and implementing a national aquaculture development plan;

(3) establishing the Department of Agriculture as the lead Federal agency with respect to the coordination and dissemination of

national aquaculture information by designating the Secretary of Agriculture as the permanent chairman of the coordinating group and by establishing a National Aquaculture Information Center within the Department of Agriculture; and

(4) encouraging aquaculture activities and programs in both the public and private sectors of the economy;

that will result in increased aquacultural production, the coordination of domestic aquaculture efforts, the conservation and enhancement of aquatic resources, the creation of new industries and job opportunities, and other national benefits.

(c) Policy

Congress declares that aquaculture has the potential for reducing the United States trade deficit in fisheries products, for augmenting existing commercial and recreational fisheries and for producing other renewable resources, thereby assisting the United States in meeting its future food needs and contributing to the solution of world resource problems. It is, therefore, in the national interest, and it is the national policy, to encourage the development of aquaculture in the United States.

(Pub. L. 96–362, § 2, Sept. 26, 1980, 94 Stat. 1198; Pub. L. 99–198, title XVII, § 1732, Dec. 23, 1985, 99 Stat. 1641.)

AMENDMENTS

1985—Subsec. (a)(3). Pub. L. 99–198, § 1732(1), substituted ''13 percent'' for ''10 per centum'' and ''6 percent'' for ''3 per centum''.

Subsec. (a)(7). Pub. L. 99–198, § 1732(2), inserted ''scientific,'' before ''economic,'' and ''the lack of supportive Government policies,'' after ''management information,''.

Subsec. (b)(3), (4). Pub. L. 99–198, § 1732(3), added par. (3) and redesignated former par. (3) as (4).

Subsec. (c). Pub. L. 99–198, § 1732(4), inserted ''or reducing the United States trade deficit in fisheries products,''.

SHORT TITLE OF 1985 AMENDMENT

Section 1731 of Pub. L. 99–198 provided that: ''This subtitle [subtitle C [D] (§§ 1731–1737) of title XVII of Pub. L. 99–198, amending this section and sections 2802 to 2805 and 2809 of this title] may be cited as the 'National Aquaculture Improvement Act of 1985'.''

SHORT TITLE

Section 1 of Pub. L. 96–362 provided: ''That this Act [enacting this chapter] may be cited as the 'National Aquaculture Act of 1980'.''

§ 2802. Definitions

As used in this chapter, unless the context otherwise requires—

(1) The term ''aquaculture'' means the propagation and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching (except private ocean ranching of Pacific salmon for profit in those States where such ranching is prohibited by law).

(2) The term ''aquaculture facility'' means any land, structure, or other appurtenance that is used for aquaculture and is located in any State. Such term includes, but is not limited to, any laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment used in aquaculture.

(3) The term ''aquatic species'' means any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant.

(4) The term ''coordinating group'' means the interagency aquaculture coordinating group established by section 2805 of this title.

(5) The term ''person'' means any individual who is a citizen or national of the United States or of any State, any Indian tribe, any institution of higher education, and any corporation, partnership, association or other entity (including, but not limited to, any community development corporation, producer cooperative, or fishermen's cooperative) organized or existing under the laws of any State.

(6) The term ''Plan'' means the National Aquaculture Development Plan required to be established under section 2803 of this title.

(7) The term ''Secretaries'' means the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior.

(8) The term ''Secretary'' means the Secretary of Agriculture.

(9) The term ''State'' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

(Pub. L. 96–362, § 3, Sept. 26, 1980, 94 Stat. 1199; Pub. L. 99–198, title XVII, § 1733, Dec. 23, 1985, 99 Stat. 1641.)

AMENDMENTS

1985—Pars. (8), (9). Pub. L. 99–198 added par. (8) and redesignated former par. (8) as (9).

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 2803. National Aquaculture Development Plan

(a) In general

(1) Within eighteen months after September 26, 1980, the Secretaries shall establish the National Aquaculture Development Plan.

(2) In developing the Plan, and revisions thereto under subsection (d) of this section, beginning not later than six months after September 26, 1980, the Secretary shall consult with the Secretary of Commerce and the Secretary of the Interior, other appropriate Federal officers, States, regional fishery management councils established under section 1852 of this title, and representatives of the aquaculture industry. In addition, the Secretary shall give interested persons and organizations an opportunity to comment during the development of the Plan.

(b) Contents of Plan

The Plan shall—

(1) identify aquatic species that the Secretaries determine to have significant poten-

tial for culturing on a commercial or other basis;

(2) recommend actions to be taken by the public and private sectors (which may include, but are not limited to, research and development, technical assistance, demonstration, extension education, and training activities) that are necessary to achieve such potential;

(3) address, after taking into account the status of aquaculture regarding the aquatic species concerned—

(A) aquaculture facility design and operation,

(B) water quality management,

(C) use of waste products (including thermal effluents),

(D) nutrition and the development of economical feeds, including natural food sources,

(E) life history, genetics, physiology, pathology, and disease control (including research regarding organisms that may not be harmful to fish and shellfish, but are injurious to humans),

(F) processing and market development,

(G) production management and quality control, and

(H) the development of adequate supplies of seed stock;

(4) include, where appropriate, research programs on the effect of aquaculture on estuarine and other water areas and on the management of such areas for aquaculture;

(5) include, where appropriate, programs to analyze, and formulate proposed resolutions of, the legal or regulatory constraints that may affect aquaculture; and

(6) include such other research and development, technical assistance, demonstration, extension education, and training programs as the Secretary deems necessary or appropriate to carry out this chapter.

In formulating the Plan, the Secretary shall, to the extent practicable, take into account any significant action that (i) has been, or is proposed to be, undertaken by any other Federal department or agency, any State agency, or any person, and (ii) may affect the implementation of the Plan.

(c) Actions and implementation

The Plan shall specify—

(1) with respect to those actions that the Secretary determines should be undertaken, the period of time within which each such action should be completed, in order to implement the Plan; and

(2) with respect to each such action which of the Secretaries, acting individually, jointly, or collectively, has the responsibility for implementing the action.

The specifications of Secretarial responsibilities under paragraph (2) for implementing actions shall be determined on the basis of—

(A) the responsibilities conferred on the respective Secretaries by law or by any executive action having the effect of law (including, but not limited to, Reorganization Plan Numbered 4 of 1970);

(B) the experience, expertise, and other appropriate resources that the department of each such Secretary may have with respect to the action required under the activity concerned; and

(C) the concurrence of the Secretaries.

(d) Revision of Plan

The Secretaries shall undertake periodic reviews of the operation and effectiveness of the Plan. If as a result of any such review, or the aquaculture assessment required under subsection (e) of this section, the Secretaries determine that—

(1) any aquatic species not currently identified in the Plan has significant potential for aquaculture;

(2) any action specified in the Plan is not being accomplished on a successful and timely basis; or

(3) any action specified in the Plan should be terminated because its objectives have been achieved or its projected benefits do not warrant further support;

the Secretaries shall appropriately amend the Plan.

(e) Continuing aquaculture assessment

The Secretaries, through the coordinating group, shall undertake a continuing assessment of aquaculture in the United States for the purpose of maintaining, on a continuing basis—

(1) a complete profile of the aquacultural industry with respect to the incidence, size, and status of commercial aquacultural enterprises;

(2) the identification of the private and public institutions and organizations involved in aquacultural research, extension, credit, and market development;

(3) the identification of the various aquatic species being cultured and a description of the status of commercial development of each of those species;

(4) to the extent practicable, the identification of aquacultural production regions, species, and markets that have significant potential for development;

(5) a catalog describing all Federal programs and activities that directly or indirectly encourage, support, or assist aquaculture; and

(6) the identification of the economic, physical, legal, institutional, and social constraints that inhibit the development of aquaculture in the United States.

(Pub. L. 96–362, §4, Sept. 26, 1980, 94 Stat. 1199; Pub. L. 96–561, title II, §238(b), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 99–198, title XVII, §1734, Dec. 23, 1985, 99 Stat. 1641; Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

REFERENCES IN TEXT

Reorganization Plan Numbered 4 of 1970, referred to in subsec. (c)(A), is Reorg. Plan No. 4 of 1970, 35 F.R. 15627, 84 Stat. 2090, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–208 made technical amendment to reference in original act which appears in text as reference to section 1852 of this title.

1985—Subsec. (a)(2). Pub. L. 99–198, §1734(1)(A), (B), substituted ''Secretary'' for ''Secretaries'' wherever appearing and inserted provisions requiring consultations

with the Secretary of Commerce and the Secretary of the Interior.

Subsec. (a)(3). Pub. L. 99–198, §1734(1)(C), struck out par. (3) which provided for the establishment of an advisory committee to assist in the initial development of the Plan.

Subsec. (b). Pub. L. 99–198, §1734(2), inserted ''to'' after ''determine'' in par. (1), substituted ''Secretary deems'' for ''Secretaries deem'' in par. (6), and substituted ''Secretary'' for ''Secretaries'' in provisions following par. (6).

Subsec. (c)(1). Pub. L. 99–198, §1734(3)(A), substituted ''Secretary determines'' for ''Secretaries determine''.

Subsec. (c)(2)(C). Pub. L. 99–198, §1734(3)(B)–(D), added subpar. (C).

1980—Subsec. (a)(2). Pub. L. 96–561 made technical amendment to reference in original act which appears in text as reference to section 1852 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, §211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 238(b) of Pub. L. 96–561 provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

§ 2804. Functions and powers of Secretaries

(a) Mandatory functions

In implementing the Plan, the Secretaries shall—

(1) provide advisory, educational, and technical assistance (including training) with respect to aquaculture to interested persons, and in providing such assistance, shall, to the maximum extent practicable, avoid duplication of similar assistance provided by other Federal departments and agencies and by State agencies;

(2) consult and cooperate with interested persons, Federal departments and agencies, State agencies, and regional fishery management councils established under section 1852 of this title;

(3) encourage the implementation of aquacultural technology in the rehabilitation and enhancement of publicly owned fish and shellfish stocks (including rehabilitation and enhancement by private nonprofit enterprises), and in the development of private commercial aquacultural enterprises; and

(4) prescribe such regulations as may be necessary to carry out the Plan.

(b) Discretionary functions

In implementing the Plan, the Secretaries may—

(1) for the purposes of assessing the biological, technical, and economic feasibility of any aquacultural system—

(A) conduct tests of the system, and, if necessary to demonstrate its feasibility, construct, operate, and maintain developmental aquaculture facilities for testing laboratory results, and

(B) conduct such other tests or analyses as may be necessary;

(2) develop methods to enhance seed stocks of aquatic species; and

(3) conduct such other tests or analyses or take such other actions as the Secretaries deem necessary or appropriate.

(c) Information services

(1) In addition to performing such other mandatory functions under this chapter—

(A) the Secretaries shall collect and analyze scientific, technical, legal, and economic information relating to aquaculture, including acreages, water use, production, marketing, culture techniques, and other relevant matters;

(B) the Secretary shall—

(i) establish, within the Department of Agriculture, a National Aquaculture Information Center that shall serve as a repository for the information generated under subparagraph (A) and other provisions of this chapter and shall, on a request basis, make that information available to the public,

(ii) arrange with foreign nations for the exchange of information relating to aquaculture and support a translation service, and

(iii) conduct a study of the extent to which the United States aquaculture industry has access to relevant Federal programs which assist the agricultural sector and report to Congress on the findings of such study by December 31, 1986;

(C) the Secretary of Commerce shall conduct a study, and report to Congress thereon by December 31, 1987, to determine whether existing capture fisheries could be adversely affected by competition from products produced by commercial aquacultural enterprises and include in such study an assessment of any adverse effect, by species and by geographical region, on such fisheries and recommend measures to ameliorate any such effect; and

(D) the Secretary of the Interior, in consultation with the Secretary of Commerce, shall undertake a study, and report to Congress thereon by December 31, 1987, to identify exotic species introduced into the United States waters as a result of aquaculture activities, and to determine the potential benefits and impacts of the introduction of exotic species.

(2) Any production information submitted to the Secretaries under paragraph (1)(A) shall be confidential and may only be disclosed if required under court order. The Secretaries shall preserve such confidentiality. The Secretaries may release or make public any information in any aggregate or summary form that does not directly or indirectly disclose the identity, business transactions, or trade secrets of any person who submits such information.

(d) Biennial report

The Secretary, through the coordinating group and in consultation with the Secretary of Commerce and the Secretary of the Interior,,[1] shall prepare on a biennial basis, and submit to Congress, a report on the status of aquaculture in the United States. Such report shall contain a description and evaluation of the actions undertaken with respect to the Plan during the reporting period, an explanation of any revisions made to the Plan during the reporting period,

[1] So in original.

and such other comments and recommendations as the Secretary deems appropriate. The report required by this subsection shall be submitted to the Congress not later than February 1, 1988.

(Pub. L. 96–362, § 5, Sept. 26, 1980, 94 Stat. 1201; Pub. L. 96–561, title II, § 238(b), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 99–198, title XVII, § 1735, Dec. 23, 1985, 99 Stat. 1642; Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–208 made technical amendment to reference in original act which appears in text as reference to section 1852 of this title.

1985—Subsec. (c)(1). Pub. L. 99–198, § 1735(1), amended par. (1) generally. Prior to amendment, par. (1) provided that in addition to performing such other required functions under this chapter, the Secretaries shall (A) establish and maintain an information service for the collection, analysis, and dissemination of scientific, technical, legal, and economic information relating to aquaculture; (B) conduct appropriate surveys, in coordination with other Federal departments and agencies, of public and private aquacultural activities being conducted in the United States for the purpose of acquiring information on acreages, water use, production, culture techniques, and other relevant matters; (C) arrange with foreign nations for the exchange of information relating to aquaculture and support a translation service; (D) conduct a continuing study to determine whether existing capture fisheries could be adversely affected by competition from products produced by commercial aquacultural enterprises and include in such study (i) an assessment of any adverse effect, by species and by geographical region, on such fisheries, and (ii) recommended measures to ameliorate any such effect; and (E) report to Congress on the findings of the study conducted under subparagraph (D) in the biennial status report required under subsection (d) of this section.

Subsec. (c)(2). Pub. L. 99–198, § 1735(1), amended par. (2) generally, substituting ''The Secretaries shall preserve such confidentiality'' for ''The Secretaries shall prescribe such procedures as may be necessary to preserve such confidentiality''.

Subsec. (d). Pub. L. 99–198, § 1735(2), substituted ''Secretary'' for ''Secretaries'' wherever appearing; inserted ''and in consultation with the Secretary of Commerce and the Secretary of the Interior,'' after ''the coordinating group'' in first sentence; struck out ''under section 2803(d) of this title'' after ''revisions made to the Plan'', and substituted ''Such'' for ''Each such'', substituted ''deems appropriate'' for ''deem appropriate'' in second sentence; and substituted ''The report required by this subsection shall be submitted to the Congress not later than February 1, 1988'' for ''The first report required under this subsection shall be submitted to Congress by September 30, 1981''.

1980—Subsec. (a)(2). Pub. L. 96–561 made technical amendment to reference in original act which appears in text as reference to section 1852 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, § 211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 238(b) of Pub. L. 96–561 provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

COLLECTION OF FEES FOR TRIPLOID GRASS CARP CERTIFICATION INSPECTIONS

Pub. L. 104–40, § 1, Nov. 1, 1995, 109 Stat. 350, provided:

''(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Fish and Wildlife Service (referred to in this section as the 'Director'), may charge reasonable fees for expenses to the Federal Government for triploid grass carp certification inspections requested by a person who owns or operates an aquaculture facility.

''(b) AVAILABILITY.—All fees collected under subsection (a) shall be available to the Director until expended, without further appropriations.

''(c) USE.—The Director shall use all fees collected under subsection (a) to carry out the activities referred to in subsection (a).''

§ 2805. Coordination of national activities regarding aquaculture

(a) Establishment

There is established within the Office of Science and Technology Policy an interagency aquaculture coordinating group that shall, subject to subsection (f) of this section, operate as a Joint Subcommittee on Aquaculture of the Federal Coordinating Council on Science, Engineering, and Technology (hereinafter in this section referred to as the ''Federal Council'') established by Executive Order 12039, dated February 24, 1978. The coordinating group shall be composed of the following members or their designees:

(1) The Secretary of Agriculture, who shall be the permanent chairman of the coordinating group.

(2) The Secretary of Commerce.

(3) The Secretary of the Interior.

(4) The Secretary of Energy.

(5) The Secretary of Health and Human Services.

(6) The Administrator of the Environmental Protection Agency.

(7) The Chief of Engineers.

(8) The Administrator of the Small Business Administration.

(9) The Administrator of the Agency for International Development.

(10) The Chairman of the Tennessee Valley Authority.

(11) The Director of the National Science Foundation.

(12) The Governor of the Farm Credit Administration.

(13) The heads of such other Federal agencies as are deemed appropriate by the Director of the Office of Science and Technology Policy (hereinafter in this section referred to as the ''Director''), after consultation with the coordinating group.

(b) Purpose and functions

The purpose of the coordinating group is to increase the overall effectiveness and productivity of Federal aquaculture research, transfer, and assistance programs. In fulfilling this purpose the coordinating group shall—

(1) review the national needs for aquaculture research, transfer, and assistance;

(2) assess the effectiveness and adequacy of Federal efforts to meet those national needs;

(3) undertake planning, coordination, and communication among Federal agencies engaged in the science, engineering, and technology of aquaculture;

(4) collect, compile, and disseminate information on aquaculture;

(5) encourage joint programs among Federal agencies in areas of mutual interest; and

(6) recommend to the Federal Council specific actions on issues, problems, plans, and programs in aquaculture.

(c) Reports

The coordinating group shall regularly report to the Chairman of the Federal Council on the coordinating group's activities and on recommendations concerning Federal policies and programs related to aquaculture.

(d) Federal consistency

Each Federal department and agency that has functions or responsibilities with respect to aquaculture or has jurisdiction over any activity that affects, or that may affect, the achievement of the purpose and policy of this chapter, shall, in consultation with the coordinating group and to the maximum extent practicable, perform such function, responsibility, or activity in a manner that is consistent with the purpose and policy of this chapter.

(e) Functions if Federal Council terminated

If at any time after September 26, 1980, the functions of the Federal Council are by executive action terminated or transferred to an agency other than the Office of Science and Technology Policy, the coordinating group shall carry out its purpose under the direction of the Director. In that event, the recommendations of the coordinating group referred to in subsection (b)(6) of this section and the reports required under subsection (c) of this section shall be made to the Director.

(Pub. L. 96–362, § 6, Sept. 26, 1980, 94 Stat. 1203; Pub. L. 99–198, title XVII, § 1736, Dec. 23, 1985, 99 Stat. 1643.)

REFERENCES IN TEXT

Executive Order 12039, dated February 24, 1978, referred to in subsec. (a), is Ex. Ord. No. 12039, Feb. 24, 1978, 43 F.R. 8095, which is set out as a note under section 6601 of Title 42, The Public Health and Welfare.

AMENDMENTS

1985—Subsec. (a)(1). Pub. L. 99–198, § 1736(1), inserted '', who shall be the permanent chairman of the coordinating group''.

Subsecs. (c) to (f). Pub. L. 99–198, § 1736(2)–(4), struck out subsec. (c) which provided that each of the Secretaries or their designees, on such rotating basis as determined by the Director, shall serve as the chairman of the coordinating group, with the term of office of the chairman set at two years, redesignated subsecs. (d) to (f) as (c) to (e), respectively, and in subsec. (e), as redesignated, substituted ''subsection (c) of this section'' for ''subsection (d) of this section''.

§ 2806. Contracts and grants

(a) In general

The Secretaries may each carry out any action that such Secretary is responsible for implementing under the Plan through grants to, or contracts with, any person, any other Federal department or agency, any State agency, or any regional commission.

(b) Terms and conditions

Any contract entered into, or any grant made, under subsection (a) of this section shall contain such terms and conditions as the Secretary concerned shall by regulation prescribe as being necessary or appropriate to protect the interests of the United States. No contract may be entered into, and no grant may be made under subsection (a) of this section, for any purpose that is in violation of any applicable State or local law.

(c) Limitation

The amount of any grant made under subsection (a) of this section may not exceed an amount equal to one-half the estimated cost of the project for which the grant is made.

(d) Audit

Each recipient of a grant or contract under this section shall make available to the Secretary concerned and to the Comptroller General of the United States, for purposes of audit and examination, any book, document, paper, or record that is pertinent to the funds received under such grant or contract.

(Pub. L. 96–362, § 7, Sept. 26, 1980, 94 Stat. 1204.)

§ 2807. Capital requirements for aquaculture

(a) Capital requirements study

The Secretaries, through the coordinating group, shall conduct within twelve months after September 26, 1980, a study of the capital requirements of the United States aquaculture industry. The study shall—

(1) document and analyze any capital constraints that affect the development of aquaculture in the United States; and

(2) evaluate the role that appropriate Federal financial assistance does or could play in filling gaps in the normal credit market with respect to aquaculture.

The study will identify the capital needs of the United States aquaculture industry, with emphasis on the needs that are not being filled either in normal credit channels or through government programs for direct loans, loan guarantees, disaster loans, and insurance. Upon its completion, the Secretaries shall submit the results of the study to Congress.

(b) Capital requirements plan

Based on the results of the Capital Requirements Study conducted under subsection (a) of this section, and within six months of the completion of the study, the Secretaries shall formulate a plan for acting on the study's findings. The plan shall include: (1) those Federal actions, if any, found to be necessary to meet financial needs unmet through normal credit channels and existing Federal programs; and (2) recommendations, if any, for legislative actions. Upon completion, the plan shall be submitted to Congress.

(Pub. L. 96–362, § 8, Sept. 26, 1980, 94 Stat. 1204.)

§ 2808. Regulatory constraints on aquaculture

(a) Regulatory constraints study

The Secretaries, through the coordinating group, shall conduct, within twelve months after September 26, 1980, a study of the State and Federal regulatory restrictions to aquaculture development in the United States. The study shall—

(1) include a literature review and a descriptive list identifying the parameters of the issue;

(2) identify and list relevant current and pending Federal regulations restricting the development of commercial aquaculture operations;

(3) identify and list relevant current State regulations restricting the development of commercial aquaculture operations in five States selected randomly in five separate geographic regions of the United States;

(4) conduct case studies of ten commercial aquaculture operations in the United States representing a wide range of marine and fresh water species to determine the practical effects of regulatory restrictions on aquaculture; and

(5) develop a flow-chart time line using the information obtained by means of paragraphs (1) through (4) to identify those regulations and restrictions that could have the most detrimental effect in establishing commercial aquaculture operations in the United States.

Upon completion of the study, the Secretaries shall submit its results to Congress.

(b) Regulatory constraints plan

Based on the results of the Regulatory Constraints Study conducted under subsection (a) of this section, and within six months of the study's completion, the Secretaries shall formulate a plan for acting on the study's findings. The plan will contain specific steps the Federal Government can take to remove unnecessarily burdensome regulatory barriers to the initiation and operation of commercial aquaculture ventures. Upon its completion, the Secretaries shall submit the plan to Congress.

(Pub. L. 96–362, §9, Sept. 26, 1980, 94 Stat. 1205.)

§ 2809. Authorizations for appropriations

For purposes of carrying out the provisions of this chapter, there are authorized to be appropriated—

(1) to the Department of Agriculture, $1,000,000 for each of fiscal years 1991 through 2012;

(2) to the Department of Commerce, $1,000,000 for each of fiscal years 1991 through 2012; and

(3) to the Department of[1] Interior, $1,000,000 for each of fiscal years 1991 through 2012.

Funds authorized by this section shall be in addition to, and not in lieu of, funds authorized by any other Act.

(Pub. L. 96–362, §10, Sept. 26, 1980, 94 Stat. 1205; Pub. L. 98–623, title IV, §402, Nov. 8, 1984, 98 Stat. 3407; Pub. L. 99–198, title XVII, §1737, Dec. 23, 1985, 99 Stat. 1643; Pub. L. 101–624, title XVI, §1614(d), Nov. 28, 1990, 104 Stat. 3728; Pub. L. 105–185, title III, §301(i), June 23, 1998, 112 Stat. 563; Pub. L. 107–171, title VII, §7139, May 13, 2002, 116 Stat. 436; Pub. L. 110–234, title VII, §7414, May 22, 2008, 122 Stat. 1256; Pub. L. 110–246, §4(a), title VII, §7414, June 18, 2008, 122 Stat. 1664, 2017.)

[1] So in original. Probably should be ''of the''.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pars. (1) to (3). Pub. L. 110–246, §7414, substituted ''2012'' for ''2007''.

2002—Pars. (1) to (3). Pub. L. 107–171 substituted ''2007'' for ''2002''.

1998—Pars. (1) to (3). Pub. L. 105–185 substituted ''fiscal years 1991 through 2002'' for ''the fiscal years 1991, 1992, and 1993''.

1990—Pars. (1) to (3). Pub. L. 101–624 amended pars. (1) to (3) generally. Prior to amendment, pars. (1) to (3) read as follows:

''(1) to the Department of Agriculture, $2,000,000 for each of fiscal years 1984 and 1985, and $1,000,000 for each of fiscal years 1986, 1987, and 1988;

''(2) to the Department of Commerce, $2,000,000 for each of fiscal years 1984 and 1985, and $1,000,000 for each of fiscal years 1986, 1987, and 1988; and

''(3) to the Department of the Interior, $1,000,000 for each of fiscal years 1984 and 1985, and $1,000,000 for each of fiscal years 1986, 1987, and 1988.''

1985—Pars. (1) to (3). Pub. L. 99–198 inserted provisions authorizing appropriations of $1,000,000 for each of fiscal years 1986, 1987, and 1988.

1984—Pars. (1), (2). Pub. L. 98–623 substituted provisions authorizing appropriations of $2,000,000 for each of fiscal years 1984 and 1985 for provisions which had authorized appropriations of $7,000,000 for fiscal year 1981, $10,000,000 for fiscal year 1982, and $12,000,000 for fiscal year 1983.

Par. (3). Pub. L. 98–623 substituted provisions authorizing appropriations of $1,000,000 for each of fiscal years 1984 and 1985 for provisions which had authorized appropriations of $3,000,000 for fiscal year 1981, $4,000,000 for fiscal year 1982, and $5,000,000 for fiscal year 1983.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 2810. Disclaimer

Nothing in this chapter shall be construed to amend, repeal, or otherwise modify the authority of any Federal officer, department, or agency to perform any function, responsibility, or activity authorized under any other provision of law.

(Pub. L. 96–362, §11, Sept. 26, 1980, 94 Stat. 1206.)

CHAPTER 49—FISH AND WILDLIFE CONSERVATION

Sec.

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§ 2901. Congressional findings and declaration of purpose

(a) Findings

The Congress finds and declares the following:

(1) Fish and wildlife are of ecological, educational, esthetic, cultural, recreational, economic, and scientific value to the Nation.

(2) The improved conservation and management of fish and wildlife, particularly nongame fish and wildlife, will assist in restoring and maintaining fish and wildlife and in assuring a productive and more esthetically pleasing environment for all citizens.

(3) Many citizens, particularly those residing in urban areas, have insufficient opportunity to participate in recreational and other programs designed to foster human interaction with fish and wildlife and thereby are unable to have a greater appreciation and awareness of the environment.

(4) Historically, fish and wildlife conservation programs have been focused on the more recreationally and commercially important species within any particular ecosystem. As a consequence such programs have been largely financed by hunting and fishing license revenues or excise taxes on certain hunting and fishing equipment. These traditional financing mechanisms are neither adequate nor fully appropriate to meet the conservation needs of nongame fish and wildlife.

(5) Each State should be encouraged to develop, revise, and implement, in consultation with appropriate Federal, State, and local and regional agencies, a plan for the conservation of fish and wildlife, particularly those species which are indigenous to the State.

(b) Purpose

It is the purpose of this chapter—

(1) to provide financial and technical assistance to the States for the development, revision, and implementation of conservation plans and programs for nongame fish and wildlife; and

(2) to encourage all Federal departments and agencies to utilize their statutory and administrative authority, to the maximum extent practicable and consistent with each agency's statutory responsibilities, to conserve and to promote conservation of nongame fish and wildlife and their habitats, in furtherance of the provisions of this chapter.

(Pub. L. 96–366, § 2, Sept. 29, 1980, 94 Stat. 1322.)

SHORT TITLE

Section 1 of Pub. L. 96–366 provided: ''That this Act [enacting this chapter] may be cited as the 'Fish and Wildlife Conservation Act of 1980'.''

§ 2902. Definitions

As used in this chapter—

(1) The term ''approved conservation plan'' means the conservation plan of a State approved by the Secretary pursuant to section 2904(a) of this title.

(2) The term ''conservation plan'' means a plan developed by a State for the conservation of fish and wildlife which meets the requirements set forth in section 2903 of this title.

(3) The terms ''conserve'', ''conserving'', and ''conservation'' mean to use, and the use of, such methods and procedures which are necessary to ensure, to the maximum extent practicable, the well being and enhancement of fish and wildlife and their habitats for the ecological, educational, esthetic, cultural, recreational, and scientific enrichment of the public. Such methods and procedures may include, but are not limited to, any activity associated with scientific resources management, such as research, census, law enforcement, habitat acquisition, maintenance, development, information, education, population manipulation, propagation, technical assistance to private landowners, live trapping, and transplantation.

(4) The term ''designated State agency'' means the commission, department, division, or other agency of a State which has primary legal authority for the conservation of fish and wildlife. If any State has placed such authority in more than one agency, such term means each such agency acting with respect to its assigned responsibilities but such agencies, for purposes of this chapter, shall submit a single conservation plan.

(5) The term ''fish and wildlife'' means wild vertebrate animals that are in an unconfined state, including, but not limited to, nongame fish and wildlife.

(6) The term ''nongame fish and wildlife'' means wild vertebrate animals that are in an unconfined state and that—

(A) are not ordinarily taken for sport, fur, or food, except that if under applicable State law, any of such animals may be taken for sport, fur, or food in some, but not all, areas of the State, any of such animals within any area of the State in which such taking is not permitted may be deemed to be nongame fish and wildlife;

(B) are not listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531–1543); and

(C) are not marine mammals within the meaning of section 1362(5)[1] of this title.

Such term does not include any domesticated species that has reverted to a feral existence.

(7) The term ''Secretary'' means the Secretary of the Interior.

(8) The term ''State'' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 96–366, § 3, Sept. 29, 1980, 94 Stat. 1323.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in par. (6)(B), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884,

[1] See References in Text note below.

which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

Section 1362(5) of this title, referred to in par. (6)(C), was redesignated section 1362(6), by Pub. L. 102–582, title IV, § 401(a), Nov. 2, 1992, 106 Stat. 4909.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 2903. Conservation plans

The conservation plan for any State must—

(1) provide for the vesting in the designated State agency of the overall responsibility for the development and revision of the conservation plan;

(2) provide for an inventory of the nongame fish and wildlife, and such other fish and wildlife as the designated State agency deems appropriate, that are within the State and are valued for ecological, educational, esthetic, cultural, recreational, economic, or scientific benefits by the public;

(3) with respect to those species identified under paragraph (2) (hereinafter in this section referred to as ''plan species''), provide for—

(A) the determination of the size, range, and distribution of their populations, and

(B) the identification of the extent, condition, and location of their significant habitats;

(4) identify the significant problems which may adversely affect the plan species and their significant habitats;

(5) determine those actions which should be taken to conserve the plan species and their significant habitats;

(6) establish priorities for implementing the conservation actions determined under paragraph (5);

(7) provide for the monitoring, on a regular basis, of the plan species and the effectiveness of the conservation actions determined under paragraph (5);

(8) provide for plan review and revision, if appropriate, at intervals of not more than 3 years;

(9) ensure that the public be given opportunity to make its views known and considered during the development, revision, and implementation of the plan; and

(10) provide that the designated State agency consult, as appropriate, with Federal agencies, and other State agencies during the development, revision, and implementation of the plan, in order to minimize duplication of efforts and to ensure that the best information is available to all such agencies.

(Pub. L. 96–366, § 4, Sept. 29, 1980, 94 Stat. 1323.)

§ 2904. Approval of conservation plans and certain nongame fish and wildlife conservation actions

(a) Approval by Secretary of plans

(1) Any State may apply to the Secretary for approval of a conservation plan.

(2) Applications for the approval of conservation plans shall be made and reviewed by the Secretary in such manner as the Secretary shall by regulation prescribe.

(3) As soon as practicable, but not later than 180 days, after the date on which a State submits (or resubmits in the case of prior disapproval) an application for the approval of a conservation plan the Secretary shall—

(A) approve the conservation plan, and designate it as an approved conservation plan, if he determines that the plan—

(i) meets the requirements set forth in section 2903 of this title, and

(ii) is substantial in character and design; or

(B) disapprove the conservation plan if he determines that—

(i) the plan does not meet the requirements set forth in section 2903 of this title, or

(ii) to implement any part of the plan on the basis of the specifications, determinations, identifications, or priorities therein would threaten the natural stability and continued viability of any of the plan species concerned.

If the Secretary disapproves a plan, he shall give the State concerned a written statement of the reasons for disapproval and provide the State opportunity for consultation with respect to deficiencies in the plan and the modifications required for approval.

(b) Effect of approval of plans

If the Secretary approves the conservation plan of any State under subsection (a) of this section—

(1) that portion of such plan that pertains to wildlife conservation shall be deemed to be an approved plan for purposes of section 6(a)(1) of the Act of September 2, 1937 (16 U.S.C. 669e(a)(1)), commonly referred to as the Pittman-Robertson Wildlife Restoration Act [16 U.S.C. 669 et seq.]; and

(2) that portion of such plan that pertains to fish conservation shall be deemed to be an approved plan for the purposes of section 6(a)(1) of the Act of August 9, 1950 [16 U.S.C. 777e(a)(1)] commonly referred to as the Dingell-Johnson Sport Fish Restoration Act [16 U.S.C. 777 et seq.].

(c) Conservation actions

If the Secretary approves the conservation plan of any State under subsection (a) of this section, those conservation actions set forth in the plan which pertain to nongame fish and wildlife shall be deemed to be eligible as nongame fish and wildlife projects for which reimbursement is available under section 2905 of this title.

(d) Nongame conservation actions in the absence of an approved plan

In the absence of an approved conservation plan, and on a showing of need by the State, the Secretary may deem certain conservation actions to be nongame fish and wildlife projects for which reimbursement is available under section 2905(a)(3) of this title if they—

(1) are consistent with such of the requirements set forth in section 2903 of this title as may be appropriate, including, but not limited to, the requirements in paragraphs (3), (4), (5), and (7) of such section; and

(2) are substantial in character and design.

(Pub. L. 96–366, § 5, Sept. 29, 1980, 94 Stat. 1324.)

REFERENCES IN TEXT

The Pittman-Robertson Wildlife Restoration Act, referred to in subsec. (b)(1), is act Sept. 2, 1937, ch. 899, 50 Stat. 917, also known as the Federal Aid in Wildlife Restoration Act, which is classified generally to chapter 5B (§ 669 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 669 of this title and Tables.

The Dingell-Johnson Sport Fish Restoration Act, referred to in subsec. (b)(2), is act Aug. 9, 1950, ch. 658, 64 Stat. 430, also known as the Federal Aid in Fish Restoration Act and the Fish Restoration and Management Projects Act, which is classified generally to chapter 10B (§ 777 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 777 of this title and Tables.

§ 2905. Reimbursement of State costs for developing, revising, and implementing conservation plans and implementing certain nongame fish and wildlife conservation actions

(a) In general

Any State may apply to the Secretary for reimbursement under this section for costs incurred by the State for the following:

(1) The development of a conservation plan.

(2) The revision of an approved conservation plan.

(3) The implementation of nongame fish and wildlife conservation actions approved under section 2904(c) and (d) of this title.

(4) The implementation of conservation actions specified in an approved conservation plan.

(5) The coordination, consolidation, or implementation of the conservation plan or conservation actions approved under this chapter with other related plans or actions developed pursuant to the Act of September 2, 1937 (16 U.S.C. 669e(a)(1)), commonly referred to as the Pittman-Robertson Wildlife Restoration Act [16 U.S.C. 669 et seq.] and the Act of August 9, 1950 (16 U.S.C. 777c(a)(1)), commonly referred to as the Dingell-Johnson Sport Fish Restoration Act [16 U.S.C. 777 et seq.].

(b) Applications

Application for reimbursement under this section shall be made in such manner as the Secretary shall by regulation prescribe and shall contain such information as is necessary to enable the Secretary to determine whether the State meets the eligibility requirements set forth in subsection (c) of this section.

(c) Eligibility

No State is eligible for reimbursement under this section unless the Secretary finds that the costs, for which reimbursement is sought, have been incurred by the State as follows:

(1) If reimbursement is sought under subsection (a)(1) of this section, such costs have been incurred in developing a conservation plan that meets the requirements set forth in section 2903 of this title.

(2) If reimbursement is sought under subsection (a)(2) of this section, such costs have been incurred in revising the plan in a manner consistent with such requirements.

(3) If reimbursement is sought under subsection (a)(3) of this section, such costs have been incurred in implementing the conservation actions as approved by the Secretary.

(4) If reimbursement is sought under subsection (a)(4) of this section, such costs have been incurred in implementing conservation actions specified in, and in a manner consistent with, the approved conservation plan.

(5) If reimbursement is sought under subsection (a)(5) of this section, such costs have been incurred in consolidating, coordinating or implementing conservation plans and actions approved under this chapter with approved plans and actions under the Act of August 9, 1950 (16 U.S.C. 777c(a)(1)), commonly referred to as the Dingell-Johnson Sport Fish Restoration Act [16 U.S.C. 777 et seq.] and the Act of September 2, 1937 (16 U.S.C. 669e(a)(1)), commonly referred to as the Pittman-Robertson Wildlife Restoration Act [16 U.S.C. 669 et seq.] in a manner consistent with sections 2901 and 2903 of this title.

(d) Reimbursement

Subject to the limitations in subsection (c) and the terms and conditions imposed under section 2906 of this title, and to the availability of funds appropriated under section 2910 of this title, the Secretary shall reimburse each State which the Secretary finds to be eligible therefor under subsection (c) of this section.

(e) Limitations

(1) The total amount of the reimbursement paid to any State under this section with respect to any fiscal year may not exceed the allocation available to the State under section 2907 of this title for such year.

(2) No reimbursement may be paid under this section to any State for any cost incurred by the State during any fiscal year—

(A) after September 30, 1991, in developing a conservation plan;

(B) after September 30, 1986, for costs incurred in implementing certain nongame fish and wildlife actions approved under section 2904(d) of this title;

(C) in which less than 80 percent of the costs to be reimbursed are for the principal benefit of nongame fish and wildlife or the users of nongame fish and wildlife;

(D) in implementing an approved conservation plan, unless the cost was incurred in implementing actions approved under section 2904(c) or (d) of this title;

(E) in implementing an approved conservation plan covering only nongame fish and wildlife, or any nongame fish and wildlife conservation action approved under section 2904(c) or (d) of this title, to the extent that more than 10 percent of such costs are paid for with moneys collected during such year by the State—

(i) from the sale of hunting, fishing, and trapping licenses, and

(ii) as penalties (including forfeitures) for violations of the hunting, fishing, and trapping laws of the State; or

(F) in implementing an approved conservation plan or any nongame fish and wildlife conservation action approved under section 2904(c) or (d) of this title, to the extent that—

(i) more than 10 percent of such costs are applied for purposes of conservation law enforcement under any such plan or action, and

(ii) more than 10 percent of such costs in any such year are accounted for by personal service or other inkind contributions.

(3) The amount of the reimbursement paid to any State under this section with respect to any fiscal year—

(A) may not exceed 75 percent for the development of a conservation plan except that during fiscal years 1982, 1983, and 1984 such amount shall not exceed 90 percent;

(B) for the implementation of nongame fish and wildlife conservation actions approved under section 2904(c) or (d) of this title, may not exceed 75 percent of the cost of implementing the action during such fiscal year, except that if such action is undertaken by two or more States such amount shall not exceed 90 percent;

(C) during and after the fiscal year in which the conservation plan of the State is approved under section 2904(a) of this title, may not exceed 75 percent of the cost of implementing and revising the conservation plan during such fiscal year, or if two or more States cooperate in implementing or revising such plan, such cost shall not exceed 90 percent, and

(D) after September 30, 1991, may not exceed—

(i) 50 percent of the cost of implementing and revising the plan during the fiscal year, if the approved conservation plan of the State covers only nongame fish and wildlife, or

(ii) 75 percent of the cost of implementing and revising the plan during such fiscal year, if the approved conservation plan of the State coordinates and consolidates planning for fish and wildlife.

(4)(A) In computing the costs incurred by any State during any fiscal year in developing or revising conservation plans, in implementing approved conservation plans, or in implementing nongame fish and wildlife conservation actions approved under section 2904(c) or (d) of this title, for which reimbursement may be available under this section, the Secretary shall—

(i) take into account, in addition to each outlay, the value of inkind contributions and real and personal property received and applied during such year by the State for such purposes; and

(ii) not include any other Federal moneys received by such State and applied by it, directly or indirectly, for such purposes.

(B) For purposes of subparagraph (A), inkind contributions may be in the form of, but are not limited to, personal services rendered by volunteers in carrying out surveys, censuses, and other scientific studies regarding fish and wildlife. The Secretary shall by regulation establish (i) the training, experience, and other qualifications which such volunteers must have in order for their services to be considered as inkind contributions; and (ii) the standards under which the Secretary will determine the value of inkind contributions and real and personal property for purposes of subparagraph (A).

(C) Any valuation determination made by the Secretary for purposes of this paragraph shall be final and conclusive.

(Pub. L. 96–366, §6, Sept. 29, 1980, 94 Stat. 1325.)

REFERENCES IN TEXT

The Pittman-Robertson Wildlife Restoration Act, referred to in subsecs. (a)(5) and (c)(5), is act Sept. 2, 1937, ch. 899, 50 Stat. 917, also known as the Federal Aid in Wildlife Restoration Act, which is classified generally to chapter 5B (§669 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 669 of this title and Tables.

The Dingell-Johnson Sport Fish Restoration Act, referred to in subsecs. (a)(5) and (c)(5), is act Aug. 9, 1950, ch. 658, 64 Stat. 430, also known as the Federal Aid in Fish Restoration Act and the Fish Restoration and Management Projects Act, which is classified generally to chapter 10B (§777 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 777 of this title and Tables.

16 U.S.C 777c(a)(1), referred to in subsecs. (a)(5) and (c)(5), probably is a reference to section 6(a)(1) of act Aug. 9, 1950, ch. 658, 64 Stat. 432, which is classified to section 777e(a)(1) of this title.

§ 2906. Terms and conditions of reimbursement

Reimbursements made to the States under section 2905 of this title shall be subject to such terms and conditions as the Secretary shall by regulation prescribe as being necessary or appropriate to protect the interests of the United States. Such terms and conditions shall include, but not be limited to, the following:

(1) Each State and each designated State agency shall keep such records as the Secretary shall require as being necessary or appropriate for fully disclosing the amount and purposes of costs incurred by the State for which reimbursement under section 2905 of this title is, or may be, sought. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purposes of audit and examination, to such records.

(2) Upon a finding by the Secretary, after notice and opportunity for an agency hearing on the record, that any State has received reimbursement under section 2905 of this title for which it is not eligible, or has violated any term or condition imposed under this section, the State shall thereafter be ineligible to receive reimbursement under such section until restitution satisfactory to the Secretary is made, such violation ceases, or adverse effects resulting from such violation are remedied.

(Pub. L. 96–366, §7, Sept. 29, 1980, 94 Stat. 1327.)

§ 2907. Allocation of funds for administration and reimbursement of States

(a) In general

The total amount appropriated pursuant to section 2910 of this title for any fiscal year shall be available for administration and for allocation among the States as provided in this section.

(b) Allocation formula

Of the total amount appropriated for any fiscal year pursuant to section 2910 of this title—

(1) the Secretary shall deduct so much, but not to exceed 8 percent thereof, as may be necessary for administering during such fiscal year the provisions of this chapter relating to the purposes for which so appropriated;

(2) less the deduction under paragraph (1), the Secretary shall allocate—

(A) for the District of Columbia and the Commonwealth of Puerto Rico each a sum equal to not more than one-half of 1 percent of such amount; and

(B) for Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands each a sum equal to not more than one-sixth of 1 percent of such amount; and

(3) less the deduction under paragraph (1) and the sums allocated under paragraph (2), the Secretary shall allocate for each of the States (other than those provided for in paragraph (2)) a sum—

(A) one-third of which is based on the ratio to which the area of such State bears to the total area of all such States, and

(B) two-thirds of which is based on the ratio to which the population of such State bears to the total population of all such States,

except all sums allocated under this paragraph shall be adjusted equitably so that no State shall be allocated a sum which is less than one-half of 1 percent of the amount available for allocation under this paragraph for any fiscal year or more than 5 percent of such amount.

(c) Treatment of amounts allocated but not used for any fiscal year

(1) That portion of any amount deducted by the Secretary under subsection (b)(1) of this section for administrative purposes for any fiscal year and not expended during such fiscal year shall remain available for administrative purposes until the close of the next succeeding fiscal year and if not obligated or expended by the close of such succeeding fiscal year shall be available for disbursement by the Secretary without regard to subsection (b) of this section, to the States to carry out the purposes of this chapter.

(2) That portion of any amount allocated to any State under subsection (b)(2) or (3) of this section for any fiscal year and not disbursed to the State for such fiscal years under section 2905 of this title shall remain available for disbursement to the State under such section for the next succeeding fiscal year and if not disbursed for such succeeding fiscal year shall be available for disbursement by the Secretary, without regard to subsection (b) of this section, to the States to carry out the purposes of this chapter.

(Pub. L. 96–366, § 8, Sept. 29, 1980, 94 Stat. 1328.)

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 2908. Other Federal assistance and actions

The Secretary and the chief executive officer of any other appropriate Federal department or agency may loan to any State such personnel and equipment of the department or agency, share such scientific or other appropriate information, and provide such other assistance as the Secretary or officer determines appropriate for purposes of assisting any State to develop or revise conservation plans.

(Pub. L. 96–366, § 9, Sept. 29, 1980, 94 Stat. 1329.)

§ 2909. Disclaimers

Nothing in this chapter shall be construed as affecting—

(1) the authority, jurisdiction, or responsibility of the States to manage, control, or regulate fish and resident wildlife under State law;

(2) any requirement under State law that lands, waters, and interests therein may only be acquired for conservation purposes if the owner thereof is a willing seller; and

(3) the authority of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468–1469, 7 U.S.C. 426–426b).

(Pub. L. 96–366, § 10, Sept. 29, 1980, 94 Stat. 1329.)

REFERENCES IN TEXT

Act of March 2, 1931, referred to in par. (3), is act Mar. 2, 1931, ch. 370, 46 Stat. 1468, which is classified to sections 426 to 426b of Title 7, Agriculture. For complete classification of this Act to the Code, see Tables.

§ 2910. Authorization of appropriations

There are authorized to be appropriated for purposes of making reimbursements under section 2905 of this title to States for the development and implementation of conservation plans and for administration of this chapter under section 2907 of this title not to exceed $5,000,000 for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997.

(Pub. L. 96–366, § 11, Sept. 29, 1980, 94 Stat. 1329; Pub. L. 99–375, Aug. 7, 1986, 100 Stat. 803; Pub. L. 100–653, title VIII, § 801, Nov. 14, 1988, 102 Stat. 3833; Pub. L. 101–593, title I, § 106, Nov. 16, 1990, 104 Stat. 2955; Pub. L. 102–440, title III, § 301, Oct. 23, 1992, 106 Stat. 2234.)

AMENDMENTS

1992—Pub. L. 102–440 substituted ''fiscal years 1992, 1993, 1994, 1995, 1996, and 1997'' for ''fiscal years 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, and 1992''.

1990—Pub. L. 101–593 substituted ''1990, 1991, and 1992'' for ''and 1990''.

1988—Pub. L. 100–653 substituted ''1988, 1989, and 1990'' for ''and 1988''.

1986—Pub. L. 99–375 substituted ''1985, 1986, 1987, and 1988'' for ''and 1985''.

§ 2911. Study on most equitable and effective mechanism for funding State conservation plans; report to Congressional committees

The Director of the United States Fish and Wildlife Service, in consultation with affected parties, shall conduct a comprehensive study to determine the most equitable and effective mechanism for funding State conservation plans and actions under this chapter, including, but

not limited to, funding by means of an excise tax on appropriate items. On or before December 31, 1984, the Director shall report to the Committee on Environment and Public Works of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives the results of such study, together with his recommendations with respect thereto.

(Pub. L. 96–366, §12, Sept. 29, 1980, 94 Stat. 1330; Pub. L. 97–396, §6, Dec. 31, 1982, 96 Stat. 2006.)

AMENDMENTS

1982—Pub. L. 97–396 struck out '', out of funds available for the administration of this chapter'' after ''shall conduct'', and substituted ''December 31, 1984'' for ''the expiration of the 30-month period following the date of enactment of this Act [Sept. 29, 1980]'' after ''On or before''.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 2912. Federal conservation of migratory nongame birds

(a) Conservation activities

The Secretary shall undertake the following research and conservation activities, in coordination with other Federal, State, international and private organizations, to assist in fulfilling his responsibilities to conserve migratory nongame birds under existing authorities provided by the Migratory Bird Treaty Act and Migratory Bird Conservation Act (16 U.S.C. 701–715) and section 8A(e) of the Endangered Species Act [16 U.S.C. 1537a(e)] implementing the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere:

(1) monitor and assess population trends and status of species, subspecies, and populations of all migratory nongame birds;

(2) identify the effects of environmental changes and human activities on species, subspecies, and populations of all migratory nongame birds;

(3) identify species, subspecies, and populations of all migratory nongame birds that, without additional conservation actions, are likely to become candidates for listing under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543);

(4) identify conservation actions to assure that species, subspecies, and populations of migratory nongame birds identified under paragraph (3) do not reach the point at which the measures provided pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543) become necessary; and

(5) identify lands and waters in the United States and other nations in the Western Hemisphere whose protection, management, or acquisition will foster the conservation of species, subspecies, and populations of migratory nongame birds, including those identified in paragraph (3).

(b) Reports

Within one year after November 14, 1988, and at five-year intervals thereafter, the Secretary shall prepare a report that presents the results of the activities taken pursuant to subsection (a) of this section and that describes any efforts to carry out those conservation actions identified pursuant to paragraph (4) of subsection (a) of this section. Such reports shall be submitted to the Committee on Environment and Public Works of the United States Senate and to the Committee on Merchant Marine and Fisheries of the United States House of Representatives.

(Pub. L. 96–366, §13, as added Pub. L. 100–653, title VIII, §802, Nov. 14, 1988, 102 Stat. 3833; amended Pub. L. 101–233, §16(b), Dec. 13, 1989, 103 Stat. 1977.)

REFERENCES IN TEXT

The Migratory Bird Treaty Act, referred to in subsec. (a), is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

The Migratory Bird Conservation Act, referred to in subsec. (a), is act Feb. 18, 1929, ch. 257, 45 Stat. 1222, as amended, which is classified generally to subchapter III (§715 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 715 of this title and Tables.

The Endangered Species Act of 1973, referred to in subsec. (a)(3), (4), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

CODIFICATION

November 14, 1988, referred to in subsec. (b), was in the original ''the date of enactment of this Act'' which was translated as meaning the date of enactment of Pub. L. 100–653, which enacted this section, to reflect the probable intent of Congress.

AMENDMENTS

1989—Subsec. (a)(5). Pub. L. 101–233 added par. (5).

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

CHAPTER 50—CHESAPEAKE BAY RESEARCH COORDINATION

§§ 3001 to 3007. Omitted

CODIFICATION

Sections 3001 to 3007 were omitted pursuant to section 3007 which provided that this chapter terminated Sept. 30, 1984.

Section 3001, Pub. L. 96–460, §2, Oct. 15, 1980, 94 Stat. 2044, stated the Congressional findings and purposes for this chapter.

Section 3002, Pub. L. 96–460, §3, Oct. 15, 1980, 94 Stat. 2045, defined terms for the purposes of this chapter.

Section 3003, Pub. L. 96–460, §4, Oct. 15, 1980, 94 Stat. 2045, required the Secretary of Commerce to establish in the Department of Commerce an office for Chesapeake Bay Research Coordination.

Section 3004, Pub. L. 96–460, §5, Oct. 15, 1980, 94 Stat. 2046, established the Chesapeake Bay Research Board.

Section 3005, Pub. L. 96–460, §6, Oct. 15, 1980, 94 Stat. 2047, authorized appropriations to carry out the purposes of this chapter.

Section 3006, Pub. L. 96–460, §7, Oct. 15, 1980, 94 Stat. 2047, established the relationship between this chapter and existing Federal, State, and local authority.

Section 3007, Pub. L. 96–460, §8, Oct. 15, 1980, 94 Stat. 2048, provided that this chapter and the authority conferred by it would terminate Sept. 30, 1984.

SHORT TITLE

Section 1 of Pub. L. 96–460 provided that this chapter may be cited as the ''Chesapeake Bay Research Coordination Act of 1980''.

CHAPTER 51—ALASKA NATIONAL INTEREST LANDS CONSERVATION

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SUBCHAPTER I—GENERAL PROVISIONS

§ 3101. Congressional statement of purpose

(a) Establishment of units

In order to preserve for the benefit, use, education, and inspiration of present and future generations certain lands and waters in the State of Alaska that contain nationally signifi-

cant natural, scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values, the units described in the following titles are hereby established.

(b) Preservation and protection of scenic, geological, etc., values

It is the intent of Congress in this Act to preserve unrivaled scenic and geological values associated with natural landscapes; to provide for the maintenance of sound populations of, and habitat for, wildlife species of inestimable value to the citizens of Alaska and the Nation, including those species dependent on vast relatively undeveloped areas; to preserve in their natural state extensive unaltered arctic tundra, boreal forest, and coastal rainforest ecosystems; to protect the resources related to subsistence needs; to protect and preserve historic and archeological sites, rivers, and lands, and to preserve wilderness resource values and related recreational opportunities including but not limited to hiking, canoeing, fishing, and sport hunting, within large arctic and subarctic wildlands and on freeflowing rivers; and to maintain opportunities for scientific research and undisturbed ecosystems.

(c) Subsistence way of life for rural residents

It is further the intent and purpose of this Act consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each conservation system unit is established, designated, or expanded by or pursuant to this Act, to provide the opportunity for rural residents engaged in a subsistence way of life to continue to do so.

(d) Need for future legislation obviated

This Act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people; accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a proper balance between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition, and thus Congress believes that the need for future legislation designating new conservation system units, new national conservation areas, or new national recreation areas, has been obviated thereby.

(Pub. L. 96–487, title I, §101, Dec. 2, 1980, 94 Stat. 2374.)

REFERENCES IN TEXT

The following titles, referred to in subsec. (a), mean titles II to XV of Pub. L. 96–487, Dec. 2, 1980, §§201–1503, 94 Stat. 2377–2551. For complete classification of these titles to the Code, see Tables.

This Act, referred to in subsecs. (b) to (d), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Section 1 of Pub. L. 96–487 provided that: ''This Act [enacting this chapter, sections 410hh to 410hh–5, 460mm to 460mm–4, 539 to 539e, and 1285b of this title, and sections 1631 to 1641 and 1784 of Title 43, Public Lands, amending sections 410bb, 1274, 1276, 1279, and 1280 of this title and sections 1602, 1606, 1607, 1611, 1613, 1614, 1620, and 1621 of Title 43, enacting provisions set out as notes under this section and sections 431, 668dd, 1132, 1274, and 3145 of this title and sections 1605, 1613, and 1618 of Title 43, and amending provisions set out as notes under sections 1611 and 1613 of Title 43 and preceding section 21 of Title 48, Territories and Insular Possessions] may be cited as the 'Alaska National Interest Lands Conservation Act'.''

§ 3102. Definitions

As used in this Act (except that in titles IX and XIV the following terms shall have the same meaning as they have in the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], and the Alaska Statehood Act)—

(1) The term ''land'' means lands, waters, and interests therein.

(2) The term ''Federal land'' means lands the title to which is in the United States after December 2, 1980.

(3) The term ''public lands'' means land situated in Alaska which, after December 2, 1980, are Federal lands, except—

(A) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(B) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(C) lands referred to in section 19(b) of the Alaska Native Claims Settlement Act [43 U.S.C. 1618(b)].

(4) The term ''conservation system unit'' means any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers Systems, National Trails System, National Wilderness Preservation System, or a National Forest Monument including existing units, units established, designated, or expanded by or under the provisions of this Act, additions to such units, and any such unit established, designated, or expanded hereafter.

(5) The term ''Alaska Native Claims Settlement Act'' means ''An Act to provide for the settlement of certain land claims of Alaska Natives, and for other purposes'', approved December 18, 1971 (85 Stat. 688), as amended [43 U.S.C. 1601 et seq.].

(6) The term ''Native Corporation'' means any Regional Corporation, any Village Corporation, any Urban Corporation, and any Native Group.

(7) The term ''Regional Corporation'' has the same meaning as such term has under section 3(g) of the Alaska Native Claims Settlement Act [43 U.S.C. 1602(g)].

(8) The term ''Village Corporation'' has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act [43 U.S.C. 1602(j)].

(9) The term ''Urban Corporation'' means those Native entities which have incorporated pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act [43 U.S.C. 1613(h)(3)].

(10) The term ''Native Group'' has the same meaning as such term has under sections 3(d) and 14(h)(2) of the Alaska Native Claims Settlement Act [43 U.S.C. 1602(d) and 1613(h)(2)].

(11) The term ''Native land'' means land owned by a Native Corporation or any Native Group and includes land which, as of December 2, 1980, had been selected under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] by a Native Corporation or Native Group and had not been conveyed by the Secretary (except to the extent such selection is determined to be invalid or has been relinquished) and land referred to in section 19(b) of the Alaska Native Claims Settlement Act [43 U.S.C. 1618(b)].

(12) The term ''Secretary'' means the Secretary of the Interior, except that when such term is used with respect to any unit of the National Forest System, such term means the Secretary of Agriculture.

(13) The terms ''wilderness'' and ''National Wilderness Preservation System'' have the same meaning as when used in the Wilderness Act (78 Stat. 890) [16 U.S.C. 1131 et seq.].

(14) The term ''Alaska Statehood Act'' means the Act entitled ''An Act to provide for the admission of the State of Alaska into the Union'', approved July 7, 1958 (72 Stat. 339), as amended.

(15) The term ''State'' means the state of Alaska.

(16) The term ''Alaska Native'' or ''Native'' has the same meaning as the term ''Native'' has in section 3(b) of the Alaska Native Claims Settlement Act [43 U.S.C. 1602(b)].

(17) The term ''fish and wildlife'' means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or part thereof.

(18) The term ''take'' or ''taking'' as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net capture, collect, kill, harm, or attempt to engage in any such conduct.

(Pub. L. 96–487, title I, § 102, Dec. 2, 1980, 94 Stat. 2375; Pub. L. 105–83, title III, § 316(b)(2), (d), Nov. 14, 1997, 111 Stat. 1592, 1595.)

REFERENCES IN TEXT

This Act, referred to in provision preceding par. (1) and in par. (4), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. Title IX of this Act enacted sections 1631 to 1638 of Title 43, Public Lands, amended sections 1614 and 1620 of Title 43, and amended provisions set out as notes under section 1611 of Title 43 and preceding section 21 of Title 48, Territories and Insular Possessions. Title XIV of this Act enacted sections 1639 to 1641 of Title 43, amended sections 1602, 1606, 1607, 1611, 1613, 1620, and 1621 of Title 43, enacted provisions set out as notes under sections 1605, 1613, and 1618 of Title 43, and amended provisions set out as notes under sections 1611 and 1613 of Title 43. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Alaska Native Claims Settlement Act, referred to in provision preceding par. (1) and in pars. (3)(B), (C)(5), and (11), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Alaska Statehood Act, referred to in provision preceding par. (1) and in pars. (3)(A) and (14), is Pub. L. 85–508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

The Wilderness Act, referred to in par. (13), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

AMENDMENTS

1997—Par. (2). Pub. L. 105–83, § 316(b)(2), which directed the amendment of par. (2) generally, to read as follows: ''The term 'Federal land' means lands the title to which is in the United States after December 2, 1980. 'Federal land' does not include lands the title to which is in the State, an Alaska Native corporation, or other private ownership.'', was repealed by Pub. L. 105–83, § 316(d). See Effective and Termination Dates of 1997 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1997 AMENDMENT

Section 316(d) of Pub. L. 105–83 provided that: ''Unless and until laws are adopted in the State of Alaska which provide for the definition, preference, and participation specified in sections 803, 804, and 805 [sections 3113 to 3115 of this title] of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3111 et seq.), the amendments made by subsection (b) of this section [amending this section and sections 3111, 3113 to 3115, 3117, 3124, and 3125 of this title] shall be effective only for the purposes of determining whether the State's laws provide for such definition, preference, and participation. The Secretary shall certify before December 1, 1998 if such laws have been adopted in the State of Alaska. Subsection (b) shall be repealed on such date if such laws have not been adopted.'' [The State of Alaska did not adopt laws specified above by Dec. 1, 1998.]

SAVINGS CLAUSE

Section 316(c) of Pub. L. 105–83 provided that: ''No provision of this section [amending this section and sections 3111, 3113 to 3115, 3117, 3124, and 3125 of this title and enacting provisions set out as notes under this section], amendment made by this section, or exercise of authority pursuant to this section may be construed to validate, invalidate, or in any way affect—

''(1) any assertion that an Alaska Native organization (including a federally recognized tribe, traditional Alaska Native council, or Alaska Native council organized pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq.), as amended) has or does not have governmental authority over lands (including management of, or regulation of the taking of, fish and wildlife) or persons within the boundaries of the State of Alaska;

''(2) any assertion that Indian country, as defined in section 1151 of title 18, United States Code, exists or does not exist within the boundaries of the State of Alaska;

''(3) any assertion that the Alaska National Interest Lands Conservation Act, as amended (16 U.S.C. 3101 et seq.) is or is not Indian law; or

''(4) the authority of the Secretary of the Interior under section 1314(c) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3202(c)).''

MORATORIUM ON FEDERAL MANAGEMENT OF SUBSISTENCE USES IN ALASKA

Pub. L. 105–277, div. A, §101(e) [title III, §339], Oct. 21, 1998, 112 Stat. 2681–231, 2681–295, provided that:

[''(a) Repealed. Pub. L. 105–277, div. A, §101(e) [title III, §339(b)(2)], Oct. 21, 1998, 112 Stat. 2681–231, 2681–295]

''(b) SUBSECTION (a) REPEALED.—

''(1) The Secretary of the Interior shall certify before October 1, 1999, if a bill or resolution has been passed by the Alaska State Legislature to amend the Constitution of the State of Alaska that, if approved by the electorate, would enable the implementation of state laws of general applicability consistent with, and which provide for the definition, preference, and participation specified in sections 803, 804, and 805 of the Alaska National Interest Lands Conservation Act [16 U.S.C. 3113, 3114, 3115].

''(2) Subsection (a) shall be repealed on October 1, 1999, unless prior to that date the Secretary of the Interior makes such a certification described in paragraph (1). [A certification was not made prior to Oct. 1, 1999.]

''(c) TECHNICAL AMENDMENTS TO THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—[Amended section 3115 of this title.]

''(d) EFFECT ON TIDAL AND SUBMERGED LAND.—Nothing in this section invalidates, validates, or in any other way affects any claim of the State of Alaska to title to any tidal or submerged land in Alaska.''

Section 316(a) of Pub. L. 105–83 provided that: ''None of the funds made available to the Department of the Interior or the Department of Agriculture by this or any other Act hereafter enacted may be used prior to December 1, 1998 to issue or implement final regulations, rules, or policies pursuant to title VIII of the Alaska National Interest Lands Conservation Act [16 U.S.C. 3111 et seq.] to assert jurisdiction, management, or control over the navigable waters transferred to the State of Alaska pursuant to the Submerged Lands Act of 1953 [43 U.S.C. 1301 et seq.] or the Alaska Statehood Act of 1959 [Pub. L. 85–508, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions].''

§ 3103. Maps

(a) Filing and availability for inspection; discrepancies; coastal areas

The boundary maps described in this Act shall be on file and available for public inspection in the office of the Secretary or the Secretary of Agriculture with regard to the National Forest System. In the event of discrepancies between the acreages specified in this Act and those depicted on such maps, the maps shall be controlling, but the boundaries of areas added to the National Park, Wildlife Refuge and National Forest Systems shall, in coastal areas not extend seaward beyond the mean high tide line to include lands owned by the State of Alaska unless the State shall have concurred in such boundary extension and such extension is accomplished under the notice and reporting requirements of this Act.

(b) Changes in land management status; publication in Federal Register; filing; clerical errors; boundary features and adjustments

As soon as practicable after December 2, 1980, a map and legal description of each change in land management status effected by this Act, including the National Wilderness Preservation System, shall be published in the Federal Register and filed with the Speaker of the House of Representatives and the President of the Senate, and each such description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Secretary. Whenever possible boundaries shall follow hydrographic divides or embrace other topographic or natural features. Following reasonable notice in writing to the Congress of his intention to do so the Secretary and the Secretary of Agriculture may make minor adjustments in the boundaries of the areas added to or established by this Act as units of National Park, Wildlife Refuge, Wild and Scenic Rivers, National Wilderness Preservation, and National Forest Systems and as national conservation areas and national recreation areas. For the purposes of this subsection, a minor boundary adjustment shall not increase or decrease the amount of land within any such area by more than 23,000 acres.

(c) Lands included within unit; acquisition of land by Secretary

Only those lands within the boundaries of any conservation system unit which are public lands (as such term is defined in this Act) shall be deemed to be included as a portion of such unit. No lands which, before, on, or after December 2, 1980, are conveyed to the State, to any Native Corporation, or to any private party shall be subject to the regulations applicable solely to public lands within such units. If the State, a Native Corporation, or other owner desires to convey any such lands, the Secretary may acquire such lands in accordance with applicable law (including this Act), and any such lands shall become part of the unit, and be administered accordingly.

(Pub. L. 96–487, title I, §103, Dec. 2, 1980, 94 Stat. 2376.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

SUBCHAPTER II—SUBSISTENCE MANAGEMENT AND USE

§ 3111. Congressional declaration of findings

The Congress finds and declares that—

(1) the continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives, on the public lands and by Alaska Natives on Native lands is essential to Native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional, and social existence;

(2) the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses;

(3) continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources, and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management;

(4) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and its constitutional authority under the property clause and the commerce clause to protect and provide the opportunity for continued subsistence uses on the public lands by Native and non-Native rural residents; and

(5) the national interest in the proper regulation, protection, and conservation of fish and wildlife on the public lands in Alaska and the continuation of the opportunity for a subsistence way of life by residents of rural Alaska require that an administrative structure be established for the purpose of enabling rural residents who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska.

(Pub. L. 96–487, title VIII, § 801, Dec. 2, 1980, 94 Stat. 2422; Pub. L. 105–83, title III, § 316(b)(3), (d), Nov. 14, 1997, 111 Stat. 1592, 1595.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (4), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1997—Pub. L. 105–83, § 316(b)(3), which directed the designation of existing provisions as subsec. (a) and the addition of subsec. (b) relating to further congressional findings as to subsistence use of public lands by rural residents of Alaska, was repealed by Pub. L. 105–83, § 316(d). See Effective and Termination Dates of 1997 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1997 AMENDMENT

Until laws are adopted in Alaska which provide for definition, preference, and participation specified in sections 3113 to 3115 of this title, amendment by Pub. L. 105–83 was effective only for purpose of determining whether State's laws provide for such definition, preference, and participation, and such amendment was repealed on Dec. 1, 1998, because such laws had not been adopted, see section 316(d) of Pub. L. 105–83 set out as a note under section 3102 of this title.

§ 3112. Congressional statement of policy

It is hereby declared to be the policy of Congress that—

(1) consistent with sound management principles, and the conservation of healthy populations of fish and wildlife, the utilization of the public lands in Alaska is to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands; consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for each unit established, designated, or expanded by or pursuant to titles II through VII of this Act, the purpose of this subchapter is to provide the opportunity for rural residents engaged in a subsistence way of life to do so;

(2) nonwasteful subsistence uses of fish and wildlife and other renewable resources shall be the priority consumptive uses of all such resources on the public lands of Alaska when it is necessary to restrict taking in order to assure the continued viability of a fish or wildlife population or the continuation of subsistence uses of such population, the taking of such population for nonwasteful subsistence uses shall be given preference on the public lands over other consumptive uses; and

(3) except as otherwise provided by this Act or other Federal laws, Federal land managing agencies, in managing subsistence activities on the public lands and in protecting the continued viability of all wild renewable resources in Alaska, shall cooperate with adjacent landowners and land managers, including Native Corporations, appropriate State and Federal agencies, and other nations.

(Pub. L. 96–487, title VIII, § 802, Dec. 2, 1980, 94 Stat. 2422.)

REFERENCES IN TEXT

This Act, referred to in pars. (1) and (3), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. Titles II through VII of this Act enacted sections 410hh to 410hh–5, 460mm to 460mm–3, 539 to 539e, and 1285b of this title, amended sections 1274, 1276, 1279, and 1280 of this title, and enacted provisions set out as notes under sections 431, 668dd, 1132, 1274, and 3145 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3113. Definitions

As used in this Act, the term ''subsistence uses'' means the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade. For the purposes of this section, the term—

(1) ''family'' means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) ''barter'' means the exchange of fish or wildlife or their parts, taken for subsistence uses—

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

(Pub. L. 96–487, title VIII, § 803, Dec. 2, 1980, 94 Stat. 2423; Pub. L. 105–83, title III, § 316(b)(4), (d), Nov. 14, 1997, 111 Stat. 1593, 1595.)

REFERENCES IN TEXT

This Act, referred to in provision preceding par. (1), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

AMENDMENTS

1997—Pars. (3) to (5). Pub. L. 105–83, § 316(b)(4), which directed the addition of pars. (3) to (5) was repealed by Pub. L. 105–83, § 316(d). Pars. (3) to (5) read as follows:

''(3) 'customary and traditional uses' means the noncommercial, long-term, and consistent taking of, use of, or reliance upon fish and wildlife in a specific area and the patterns and practices of taking or use of that fish and wildlife that have been established over a reasonable period of time, taking into consideration the availability of the fish and wildlife;

''(4) 'customary trade' means, except for money sales of furs and furbearers, the limited noncommercial exchange for money of fish and wildlife or their parts in minimal quantities; and

''(5) 'rural Alaska resident' means a resident of a rural community or area. A 'rural community or area' means a community or area substantially dependent on fish and wildlife for nutritional and other subsistence uses.'' See Effective and Termination Dates of 1997 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1997 AMENDMENT

Until laws are adopted in Alaska which provide for definition, preference, and participation specified in sections 3113 to 3115 of this title, amendment by Pub. L. 105–83 was effective only for purpose of determining whether State's laws provide for such definition, preference, and participation, and such amendment was repealed on Dec. 1, 1998, because such laws had not been adopted, see section 316(d) of Pub. L. 105–83 set out as a note under section 3102 of this title.

§ 3114. Preference for subsistence uses

Except as otherwise provided in this Act and other Federal laws, the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes. Whenever it is necessary to restrict the taking of populations of fish and wildlife on such lands for subsistence uses in order to protect the continued viability of such populations, or to continue such uses, such priority shall be implemented through appropriate limitations based on the application of the following criteria:

(1) customary and direct dependence upon the populations as the mainstay of livelihood;

(2) local residency; and

(3) the availability of alternative resources.

(Pub. L. 96–487, title VIII, § 804, Dec. 2, 1980, 94 Stat. 2423; Pub. L. 105–83, title III, § 316(b)(5), (d), Nov. 14, 1997, 111 Stat. 1593, 1595.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

AMENDMENTS

1997—Pub. L. 105–83, § 316(b)(5), which directed the designation of existing provisions as subsec. (a) and the addition of subsec. (b) reading as follows: ''The priority granted by this section is for a reasonable opportunity to take fish and wildlife. For the purposes of this subsection, the term 'reasonable opportunity' means an opportunity, consistent with customary and traditional uses (as defined in section 3113(3) of this title), to participate in a subsistence hunt or fishery with a reasonable expectation of success, and does not mean a guarantee that fish and wildlife will be taken.'' was repealed by Pub. L. 105–83, § 316(d). See Effective and Termination Dates of 1997 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1997 AMENDMENT

Until laws are adopted in Alaska which provide for definition, preference, and participation specified in sections 3113 to 3115 of this title, amendment by Pub. L. 105–83 was effective only for purpose of determining whether State's laws provide for such definition, preference, and participation, and such amendment was repealed on Dec. 1, 1998, because such laws had not been adopted, see section 316(d) of Pub. L. 105–83 set out as a note under section 3102 of this title.

§ 3115. Local and regional participation

(a) Establishment of subsistence resources regions, local advisory committees, and regional advisory councils; membership, duties, and authority of regional advisory councils

Except as otherwise provided in subsection (d) of this section, the Secretary in consultation with the State shall establish—

(1) at least six Alaska subsistence resource regions which, taken together, include all public lands. The number and boundaries of the regions shall be sufficient to assure that regional differences in subsistence uses are adequately accommodated;

(2) such local advisory committees within each region as he finds necessary at such time as he may determine, after notice and hearing, that the existing State fish and game advisory committees do not adequately perform the functions of the local committee system set forth in paragraph (3)(D)(iv) of this subsection; and

(3) a regional advisory council in each subsistence resource region.

Each regional advisory council shall be composed of residents of the region and shall have the following authority:

(A) the review and evaluation of proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife within the region;

(B) the provision of a forum for the expression of opinions and recommendations by persons interested in any matter related to subsistence uses of fish and wildlife within the region;

(C) the encouragement of local and regional participation pursuant to the provisions of this subchapter in the decisionmaking process affecting the taking of fish and wildlife on the public lands within the region for subsistence uses;

(D) the preparation of an annual report to the Secretary which shall contain—

(i) an identification of current and anticipated subsistence uses of fish and wildlife populations within the region;

(ii) an evaluation of current and anticipated subsistence needs for fish and wildlife populations within the region;

(iii) a recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs; and

(iv) recommendations concerning policies, standards, guidelines, and regulations to implement the strategy. The State fish and game advisory committees or such local advisory committees as the Secretary may establish pursuant to paragraph (2) of this subsection may provide advice to, and assist, the regional advisory councils in carrying out the functions set forth in this paragraph.

(b) Assignment of staff and distribution of data

The Secretary shall assign adequate qualified staff to the regional advisory councils and make timely distribution of all available relevant technical and scientific support data to the regional advisory councils and the State fish and game advisory committees or such local advisory committees as the Secretary may establish pursuant to paragraph (2) of subsection (a) of this section.

(c) Consideration of reports and recommendations of regional advisory councils

The Secretary, in performing his monitoring responsibility pursuant to section 3116 of this title and in the exercise of his closure and other administrative authority over the public lands, shall consider the report and recommendations of the regional advisory councils concerning the taking of fish and wildlife on the public lands within their respective regions for subsistence uses. The Secretary may choose not to follow any recommendation which he determines is not supported by substantial evidence, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs. If a recommendation is not adopted by the Secretary, he shall set forth the factual basis and the reasons for his decision.

(d) Supersedure by enactment and implementation of State laws governing State responsibility; consideration of recommendations by State rulemaking authority

The Secretary shall not implement subsections (a), (b), and (c) of this section if the State enacts and implements laws of general applicability which are consistent with, and which provide for the definition, preference, and participation specified in, sections 3113, 3114, and 3115 of this title, such laws, unless and until repealed, shall supersede such sections insofar as such sections govern State responsibility pursuant to this subchapter for the taking of fish and wildlife on the public lands for subsistence uses. Laws establishing a system of local advisory committees and regional advisory councils consistent with this section shall provide that the State rulemaking authority shall consider the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses. The regional councils may present recommendations, and the evidence upon which such recommendations are based, to the State rulemaking authority during the course of the administrative proceedings of such authority. The State rulemaking authority may choose not to follow any recommendation which it determines is not supported by substantial evidence presented during the course of its administrative proceedings, violates recognized principles of fish and wildlife conservation or would be detrimental to the satisfaction of rural subsistence needs. If a recommendation is not adopted by the State rulemaking authority, such authority shall set forth the factual basis and the reasons for its decision.

(e) Reimbursement to State; limitation; report to Congress

(1) The Secretary shall reimburse the State, from funds appropriated to the Department of the Interior for such purposes, for reasonable costs relating to the establishment and operation of the regional advisory councils established by the State in accordance with subsection (d) of this section and the operation of the State fish and game advisory committees so long as such committees are not superseded by the Secretary pursuant to paragraph (2) of subsection (a) of this section. Such reimbursement may not exceed 50 per centum of such costs in any fiscal year. Such costs shall be verified in a statement which the Secretary determines to be adequate and accurate. Sums paid under this subsection shall be in addition to any grants, payments, or other sums to which the State is entitled from appropriations to the Department of the Interior.

(2) Total payments to the State under this subsection shall not exceed the sum of $5,000,000 in any one fiscal year. The Secretary shall advise the Congress at least once in every five years as to whether or not the maximum payments specified in this subsection are adequate to ensure the effectiveness of the program established by the State to provide the preference for subsistence uses of fish and wildlife set forth in section 3114 of this title.

(Pub. L. 96–487, title VIII, § 805, Dec. 2, 1980, 94 Stat. 2424; Pub. L. 105–83, title III, § 316(b)(6), (d), Nov. 14, 1997, 111 Stat. 1593, 1595; Pub. L. 105–277, div. A, § 101(e) [title III, § 339(c)], Oct. 21, 1998, 112 Stat. 2681–231, 2681–296.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, § 101(e) [title III, § 339(c)(1)], struck out ''one year after December 2, 1980,'' before ''the Secretary'' in introductory provisions.

Subsec. (d). Pub. L. 105–277, § 101(e) [title III, § 339(c)(2)], struck out ''within one year from December 2, 1980,'' before ''the State enacts'' in first sentence.

1997—Subsec. (a). Pub. L. 105–83, § 316(b)(6)(A), which directed the amendment of subsec. (a) by striking out ''one year after December 2, 1980,'' before ''the Secretary'' in introductory provisions, was repealed by Pub. L. 105–83, § 316(d). See Effective and Termination Dates of 1997 Amendment note below.

Subsec. (d). Pub. L. 105–83, § 316(b)(6)(B), which directed the amendment of subsec. (d) generally to provide for supersedure by enactment and implementation of State laws governing State responsibility, consider-

ation of recommendations by State rulemaking authority, and for the creation of regional advisory councils, was repealed by Pub. L. 105–83, § 316(d). See Effective and Termination Dates of 1997 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1997 AMENDMENT

Until laws are adopted in Alaska which provide for definition, preference, and participation specified in sections 3113 to 3115 of this title, amendment by Pub. L. 105–83 was effective only for purpose of determining whether State's laws provide for such definition, preference, and participation, and such amendment was repealed on Dec. 1, 1998, because such laws had not been adopted, see section 316(d) of Pub. L. 105–83 set out as a note under section 3102 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3116. Federal monitoring; reports to State and Congressional committees

The Secretary shall monitor the provisions by the State of the subsistence preference set forth in section 3114 of this title and shall advise the State and the Committees on Natural Resources and on Merchant Marine and Fisheries of the House of Representatives and the Committees on Energy and Natural Resources and Environment and Public Works of the Senate annually and at such other times as he deems necessary of his views on the effectiveness of the implementation of this subchapter including the State's provision of such preference, any exercise of his closure or other administrative authority to protect subsistence resources or uses, the views of the State, and any recommendations he may have.

(Pub. L. 96–487, title VIII, § 806, Dec. 2, 1980, 94 Stat. 2425; Pub. L. 103–437, § 6(y), Nov. 2, 1994, 108 Stat. 4587.)

AMENDMENTS

1994—Pub. L. 103–437 substituted ''the Committees on Natural Resources'' for ''Committee on Interior and Insular Affairs''.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 3117. Judicial enforcement

(a) Exhaustion of administrative remedies; civil action; parties; preliminary injunctive relief; other relief; costs and attorney's fees

Local residents and other persons and organizations aggrieved by a failure of the State or the Federal Government to provide for the priority for subsistence uses set forth in section 3114 of this title (or with respect to the State as set forth in a State law of general applicability if the State has fulfilled the requirements of section 3115(d) of this title) may, upon exhaustion of any State or Federal (as appropriate) administrative remedies which may be available, file a civil action in the United States District Court for the District of Alaska to require such actions to be taken as are necessary to provide for the priority. In a civil action filed against the State, the Secretary may be joined as a party to such action. The court may grant preliminary injunctive relief in any civil action if the granting of such relief is appropriate under the facts upon which the action is based. No order granting preliminary relief shall be issued until after an opportunity for hearing. In a civil action filed against the State, the court shall provide relief, other than preliminary relief, by directing the State to submit regulations which satisfy the requirements of section 3114 of this title; when approved by the court, such regulations shall be incorporated as part of the final judicial order, and such order shall be valid only for such period of time as normally provided by State law for the regulations at issue. Local residents and other persons and organizations who are prevailing parties in an action filed pursuant to this section shall be awarded their costs and attorney's fees.

(b) Repealed. Pub. L. 98–620, title IV, § 402(22)(A), Nov. 8, 1984, 98 Stat. 3358

(c) Section as sole Federal judicial remedy

This section is the sole Federal judicial remedy created by this subchapter for local residents and other residents who, and organizations which, are aggrieved by a failure of the State to provide for the priority of subsistence uses set forth in section 3114 of this title.

(Pub. L. 96–487, title VII, § 807, Dec. 2, 1980, 94 Stat. 2426; Pub. L. 98–620, title IV, § 402(22)(A), Nov. 8, 1984, 98 Stat. 3358; Pub. L. 105–83, title III, § 316(b)(7), (d), Nov. 14, 1997, 111 Stat. 1594, 1595.)

AMENDMENTS

1997—Subsec. (b). Pub. L. 105–83, § 316(b)(7), which directed amendment of section by adding subsec. (b) reading as follows: ''State agency actions may be declared invalid by the court only if they are arbitrary, capricious, or an abuse of discretion, or otherwise not in accordance with law. When reviewing any action within the specialized knowledge of a State agency, the court shall give the decision of the State agency the same deference it would give the same decision of a comparable Federal agency.'', was repealed by Pub. L. 105–83, § 316(d). See Effective and Termination Dates of 1997 Amendments note below.

1984—Subsec. (b). Pub. L. 98–620 struck out subsec. (b) which had provided that a civil action filed pursuant to

this section was to be assigned for hearing at the earliest possible date, was to take precedence over other matters pending on the docket of the United States district court at that time, and was to be expedited in every way by such court and any appellate court.

EFFECTIVE AND TERMINATION DATES OF 1997 AMENDMENT

Until laws are adopted in Alaska which provide for definition, preference, and participation specified in sections 3113 to 3115 of this title, amendment by Pub. L. 105–83 was effective only for purpose of determining whether State's laws provide for such definition, preference, and participation, and such amendment was repealed on Dec. 1, 1998, because such laws had not been adopted, see section 316(d) of Pub. L. 105–83 set out as a note under section 3102 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

§ 3118. Park and park monument subsistence resource commissions

(a) Appointment of members; development of subsistence hunting program; annual review of program

Within one year from December 2, 1980, the Secretary and the Governor shall each appoint three members to a subsistence resources commission for each national park or park monument within which subsistence uses are permitted by this Act. The regional advisory council established pursuant to section 3115 of this title which has jurisdiction within the area in which the park or park monument is located shall appoint three members to the commission each of whom is a member of either the regional advisory council or a local advisory committee within the region and also engages in subsistence uses within the park or park monument. Within eighteen months from December 2, 1980, each commission shall devise and recommend to the Secretary and the Governor a program for subsistence hunting within the park or park monument. Such program shall be prepared using technical information and other pertinent data assembled or produced by necessary field studies or investigations conducted jointly or separately by the technical and administrative personnel of the State and the Department of the Interior, information submitted by, and after consultation with the appropriate local advisory committees and regional advisory councils, and any testimony received in a public hearing or hearings held by the commission prior to preparation of the plan at a convenient location or locations in the vicinity of the park or park monument. Each year thereafter, the commission, after consultation with the appropriate local committees and regional councils, considering all relevant data and holding one or more additional hearings in the vicinity of the park or park monument, shall make recommendations to the Secretary and the Governor for any changes in the program or its implementation which the commission deems necessary.

(b) Implementation of subsistence hunting program

The Secretary shall promptly implement the program and recommendations submitted to him by each commission unless he finds in writing that such program or recommendations violates recognized principles of wildlife conservation, threatens the conservation of healthy populations of wildlife in the park or park monument, is contrary to the purposes for which the park or park monument is established, or would be detrimental to the satisfaction of subsistence needs of local residents. Upon notification by the Governor, the Secretary shall take no action on a submission of a commission for sixty days during which period he shall consider any proposed changes in the program or recommendations submitted by the commission which the Governor provides him.

(c) Subsistence uses prior to implementation of subsistence hunting program

Pending the implementation of a program under subsection (a) of this section, the Secretary shall permit subsistence uses by local residents in accordance with the provisions of this subchapter and other applicable Federal and State law.

(Pub. L. 96–487, title VIII, § 808, Dec. 2, 1980, 94 Stat. 2426.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3119. Cooperative agreements

The Secretary may enter into cooperative agreements or otherwise cooperate with other Federal agencies, the State, Native Corporations, other appropriate persons and organizations, and, acting through the Secretary of State, other nations to effectuate the purposes and policies of this subchapter.

(Pub. L. 96–487, title VIII, § 809, Dec. 2, 1980, 94 Stat. 2427.)

§ 3120. Subsistence and land use decisions

(a) Factors considered; requirements

In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the effect of such use, occupancy, or disposition on subsistence uses and needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. No such withdrawal, reservation, lease, permit, or other use, occupancy or disposition of such lands which would significantly restrict subsistence uses shall be effected until the head of such Federal agency—

(1) gives notice to the appropriate State agency and the appropriate local committees and regional councils established pursuant to section 3115 of this title;

(2) gives notice of, and holds, a hearing in the vicinity of the area involved; and

(3) determines that (A) such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands, (B) the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition, and (C) reasonable steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions.

(b) Environmental impact statement

If the Secretary is required to prepare an environmental impact statement pursuant to section 4332(2)(C) of title 42, he shall provide the notice and hearing and include the findings required by subsection (a) of this section as part of such environmental impact statement.

(c) State or Native Corporation land selections and conveyances

Nothing herein shall be construed to prohibit or impair the ability of the State or any Native Corporation to make land selections and receive land conveyances pursuant to the Alaska Statehood Act or the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.].

(d) Management or disposal of lands

After compliance with the procedural requirements of this section and other applicable law, the head of the appropriate Federal agency may manage or dispose of public lands under his primary jurisdiction for any of those uses or purposes authorized by this Act or other law.

(Pub. L. 96–487, title VIII, §810, Dec. 2, 1980, 94 Stat. 2427.)

REFERENCES IN TEXT

The Alaska Statehood Act, referred to in subsec. (c), is Pub. L. 85–508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

The Alaska Native Claims Settlement Act, referred to in subsec. (c), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set our under section 1601 of Title 43 and Tables.

This Act, referred to in subsec. (d), is Pub. L 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3121. Rural residents engaged in subsistence uses

(a) Access to subsistence resources

The Secretary shall ensure that rural residents engaged in subsistence uses shall have reasonable access to subsistence resources on the public lands.

(b) Use of snowmobiles, motorboats, or other means of surface transportation

Notwithstanding any other provision of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to reasonable regulation.

(Pub. L. 96–487, title VIII, §811, Dec. 2, 1980, 94 Stat. 2428.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is Pub. L 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3122. Research

The Secretary, in cooperation with the State and other appropriate Federal agencies, shall undertake research on fish and wildlife and subsistence uses on the public lands; seek data from, consult with and make use of, the special knowledge of local residents engaged in subsistence uses; and make the results of such research available to the State, the local and regional councils established by the Secretary or State pursuant to section 3115 of this title, and other appropriate persons and organizations.

(Pub. L. 96–487, title VIII, §812, Dec. 2, 1980, 94 Stat. 2428.)

§ 3123. Periodic reports

Within four years after December 2, 1980, and within every three-year period thereafter, the Secretary, in consultation with the Secretary of Agriculture, shall prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives on the implementation of this subchapter. The report shall include—

(1) an evaluation of the results of the monitoring undertaken by the Secretary as required by section 3116 of this title;

(2) the status of fish and wildlife populations on public lands that are subject to subsistence uses;

(3) a description of the nature and extent of subsistence uses and other uses of fish and wildlife on the public lands;

(4) the role of subsistence uses in the economy and culture of rural Alaska;

(5) comments on the Secretary's report by the State, the local advisory councils and regional advisory councils established by the Secretary or the State pursuant to section 3115 of this title, and other appropriate persons and organizations;

(6) a description of those actions taken, or which may need to be taken in the future, to permit the opportunity for continuation of activities relating to subsistence uses on the public lands; and

(7) such other recommendations the Secretary deems appropriate.

A notice of the report shall be published in the Federal Register and the report shall be made available to the public.

(Pub. L. 96–487, title VIII, §813, Dec. 2, 1980, 94 Stat. 2428.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to submitting, within every

three-year period, a report on the implementation of this subchapter to the President of the Senate and the Speaker of the House of Representatives, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 112 of House Document No. 103–7.

§ 3124. Regulations

The Secretary shall prescribe such regulations as are necessary and appropriate to carry out his responsibilities under this subchapter.

(Pub. L. 96–487, title VIII, § 814, Dec. 2, 1980, 94 Stat. 2429; Pub. L. 105–83, title III, § 316(b)(8), (d), Nov. 14, 1997, 111 Stat. 1594, 1595.)

AMENDMENTS

1997—Pub. L. 105–83, § 316(b)(8), which directed amendment of section by inserting ", and the State at any time the State has complied with section 3115(d) of this title" after "The Secretary" and inserting at end "During any time that the State has complied with section 3115(d) of this title, the Secretary shall not make or enforce regulations implementing section 3115(a), (b), or (c) of this title.", was repealed by Pub. L. 105–83, § 316(d). See Effective and Termination Dates of 1997 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1997 AMENDMENT

Until laws are adopted in Alaska which provide for definition, preference, and participation specified in sections 3113 to 3115 of this title, amendment by Pub. L. 105–83 was effective only for purpose of determining whether State's laws provide for such definition, preference, and participation, and such amendment was repealed on Dec. 1, 1998, because such laws had not been adopted, see section 316(d) of Pub. L. 105–83 set out as a note under section 3102 of this title.

§ 3125. Limitations and savings clauses

Nothing in this subchapter shall be construed as—

(1) granting any property right in any fish or wildlife or other resource of the public lands or as permitting the level of subsistence uses of fish and wildlife within a conservation system unit to be inconsistent with the conservation of healthy populations, and within a national park or monument to be inconsistent with the conservation of natural and healthy populations, of fish and wildlife. No privilege which may be granted by the State to any individual with respect to subsistence uses may be assigned to any other individual;

(2) permitting any subsistence use of fish and wildlife on any portion of the public lands (whether or not within any conservation system unit) which was permanently closed to such uses on January 1, 1978, or enlarging or diminishing the Secretary's authority to manipulate habitat on any portion of the public lands;

(3) authorizing a restriction on the taking of fish and wildlife for nonsubsistence uses on the public lands (other than national parks and park monuments) unless necessary for the conservation of healthy populations of fish and wildlife, for the reasons set forth in section 3126 of this title, to continue subsistence uses of such populations, or pursuant to other applicable law; or

(4) modifying or repealing the provisions of any Federal law governing the conservation or protection of fish and wildlife, including the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927; 16 U.S.C. 668dd–jj), the National Park Service Organic Act (39 Stat. 535, 16 U.S.C. 1, 2, 3, 4), the Fur Seal Act of 1966 (80 Stat. 1091; 16 U.S.C. 1187) [16 U.S.C. 1151 et seq.], the Endangered Species Act of 1973 (87 Stat. 884; 16 U.S.C. 1531–1543), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. 1361–1407), the Act entitled "An Act for the Protection of the Bald Eagle", approved June 8, 1940 (54 Stat. 250; 16 U.S.C. 742a–754) [16 U.S.C. 668 et seq.], the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703–711), the Federal Aid in Wildlife Restoration Act (50 Stat. 917; 16 U.S.C. 669–669i), the Magnuson-Stevens Fishery Conservation and Management Act (90 Stat. 331; 16 U.S.C. 1801–1882), the Federal Aid in Fish Restoration Act (64 Stat. 430; 16 U.S.C. 777–777k), or any amendments to any one or more of such Acts.

(Pub. L. 96–487, title VIII, § 815, Dec. 2, 1980, 94 Stat. 2429; Pub. L. 96–561, title II, § 238(b), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41; Pub. L. 105–83, title III, § 316(b)(9), (d), Nov. 14, 1997, 111 Stat. 1594, 1595.)

REFERENCES IN TEXT

The National Wildlife Refuge System Administration Act of 1966, referred to in par. (4), consists of sections 4 and 5 of Pub. L. 89–669, Oct. 15, 1966, 80 Stat. 927, as amended, and is classified to sections 668dd and 668ee of this title. For further details, see Short Title note set out under section 668dd of this title.

The National Park Service Organic Act, referred to in par. (4), is act Aug. 25, 1916, ch. 408, 39 Stat. 535, as amended, which is classified generally to sections 1, 2, 3, and 4 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1 of this title and Tables.

The Fur Seal Act of 1966, referred to in par. (4), is Pub. L. 89–702, Nov. 2 1966, 80 Stat. 1091, as amended, which is classified principally to chapter 24 (§ 1151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1151 of this title and Tables.

The Endangered Species Act of 1973, referred to in par. (4), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Marine Mammal Protection Act of 1972, referred to in par. (4), is Pub. L. 92–522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to chapter 31 (§ 1361 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

The Act entitled "An Act for the Protection of the Bald Eagle", approved June 8, 1940, referred to in par. (4), is act June 8, 1940, ch. 278, 54 Stat. 250, as amended, which is classified generally to subchapter II (§ 668 et seq.) of chapter 5A of this title. For complete classification of this Act to the Code, see Tables.

The Migratory Bird Treaty Act, referred to in par. (4), is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§ 703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

The Federal Aid in Wildlife Restoration Act, referred to in par. (4), is act Sept. 2, 1937, ch. 899, 50 Stat. 917, as amended, also known as the Pittman-Robertson Wildlife Restoration Act, which is classified generally to chapter 5B (§ 669 et seq.) of this title. For complete

classification of this Act to the Code, see Short Title note set out under section 669 of this title and Tables.

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in par. (4), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Federal Aid in Fish Restoration Act, referred to in par. (4), is act Aug. 9, 1950, ch. 658, 64 Stat. 430, as amended, also known as the Dingell-Johnson Sport Fish Restoration Act and the Fish Restoration and Management Projects Act, which is classified generally to chapter 10B (§ 777 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 777 of this title and Tables.

AMENDMENTS

1997—Par. (5). Pub. L. 105–83, § 316(b)(9), which directed amendment of section by adding par. (5) reading as follows: ''prohibiting the Secretary or the State from entering into co-management agreements with Alaska Native organizations or other local or regional entities when such organization or entity is managing fish and wildlife on public lands in Alaska for subsistence uses.'', was repealed by Pub. L. 105–83, § 316(d). See Effective and Termination Dates of 1997 Amendment note below.

1996—Par. (4). Pub. L. 104–208 substituted ''Magnuson-Stevens Fishery'' for ''Magnuson Fishery''.

1980—Par. (4). Pub. L. 96–561 substituted ''Magnuson Fishery Conservation and Management Act'' for ''Fishery Conservation and Management Act of 1976''.

EFFECTIVE AND TERMINATION DATES OF 1997 AMENDMENT

Until laws are adopted in Alaska which provide for definition, preference, and participation specified in sections 3113 to 3115 of this title, amendment by Pub. L. 105–83 was effective only for purpose of determining whether State's laws provide for such definition, preference, and participation, and such amendment was repealed on Dec. 1, 1998, because such laws had not been adopted, see section 316(d) of Pub. L. 105–83 set out as a note under section 3102 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, § 211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 238(b) of Pub. L. 96–561 provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

§ 3126. Closure to subsistence uses

(a) National parks and park monuments in Alaska; authorization of subsistence uses and sport fishing

All national parks and park monuments in Alaska shall be closed to the taking of wildlife except for subsistence uses to the extent specifically permitted by this Act. Subsistence uses and sport fishing shall be authorized in such areas by the Secretary and carried out in accordance with the requirements of this subchapter and other applicable laws of the United States and the State of Alaska.

(b) Closure for public safety, administration, or the continued viability of fish and wildlife population

Except as specifically provided otherwise by this section, nothing in this subchapter is intended to enlarge or diminish the authority of the Secretary to designate areas where, and establish periods when, no taking of fish and wildlife shall be permitted on the public lands for reasons of public safety, administration, or to assure the continued viability of a particular fish or wildlife population. Notwithstanding any other provision of this Act or other law, the Secretary, after consultation with the State and adequate notice and public hearing, may temporarily close any public lands (including those within any conservation system unit), or any portion thereof, to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. If the Secretary determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular fish or wildlife population, the Secretary may immediately close the public lands, or any portion thereof, to the subsistence uses of such population and shall publish the reasons justifying the closure in the Federal Register. Such emergency closure shall be effective when made, shall not extend for a period exceeding sixty days, and may not subsequently be extended unless the Secretary affirmatively establishes, after notice and public hearing, that such closure should be extended.

(Pub. L. 96–487, title VIII, § 816, Dec. 2, 1980, 94 Stat. 2430.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

SUBCHAPTER III—FEDERAL NORTH SLOPE LANDS STUDIES, OIL AND GAS LEASING PROGRAM AND MINERAL ASSESSMENTS

§ 3141. Overall study program

(a) Area designated

The Secretary shall initiate and carry out a study of all Federal lands (other than submerged lands on the Outer Continental Shelf) in Alaska north of 68 degrees north latitude and east of the western boundary of the National Petroleum Reserve—Alaska, other than lands included in the National Petroleum Reserve—Alaska and in conservation system units established by this Act.

(b) Purposes

The study shall utilize a systematic interdisciplinary approach to—

(1) assess the potential oil and gas resources of these lands and make recommendations concerning future use and management of those resources including an evaluation of alternative transportation routes needed for oil and gas development;

(2) review the wilderness characteristics, and make recommendations for wilderness designation, of these lands; and

(3) study, and make recommendations for protection of, the wildlife resources of these lands.

(c) Findings

After completion of the study, the Secretary shall make findings on—

(1) the potential oil and gas resources of these lands;

(2) the impact of oil and gas development on the wildlife resources on these lands, particularly the Arctic and Porcupine caribou herds and the polar bear;

(3) the national need for development of the oil and gas resources of all or any portion of these lands;

(4) the national interest in preservation of the wilderness characteristics of these lands; and

(5) the national interest in protection of the wildlife resources of these lands.

(d) Consultations; opportunity for public review and comment

In the course of the study, the Secretary shall consult with the Secretary of Energy and other Federal agencies, the State of Alaska, Native Village and Regional Corporations, the North Slope Borough, the Alaska Land Use Council and the Government of Canada. The Secretary shall provide an opportunity for public review and comment on a draft study and proposed findings prior to their final approval.

(e) Report to President and Congress; annual report to Congress

The Secretary shall submit the study and his findings to the President and the Congress no later than eight years after December 2, 1980. The Secretary shall submit annual reports to Congress on the progress in carrying out this subchapter.

(f) Selection and conveyance of land by State and Natives unaffected

Nothing in this subchapter shall be construed as impeding, delaying, or otherwise affecting the selection and conveyance of land to the State pursuant to the Alaska Statehood Act, or any other Federal law referred to in section 3102(3)(A) of this title, and to the Natives pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] and this Act.

(Pub. L. 96–487, title X, § 1001, Dec. 2, 1980, 94 Stat. 2448.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (f), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Alaska Native Claims Settlement Act, referred to in subsec. (f), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Alaska Statehood Act, referred to in subsec. (f), is Pub. L. 85–508, July 7, 1958, 72 Stat. 339, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

§ 3142. Arctic National Wildlife Refuge coastal plain resource assessment

(a) Purpose

The purpose of this section is to provide for a comprehensive and continuing inventory and assessment of the fish and wildlife resources of the coastal plain of the Arctic National Wildlife Refuge; an analysis of the impacts of oil and gas exploration, development, and production, and to authorize exploratory activity within the coastal plain in a manner that avoids significant adverse effects on the fish and wildlife and other resources.

(b) Definitions

As used in this section—

(1) The term ''coastal plain'' means that area identified as such in the map entitled ''Arctic National Wildlife Refuge'', dated August 1980.

(2) The term ''exploratory activity'' means surface geological exploration or seismic exploration, or both, for oil and gas within the coastal plain.

(c) Baseline study

The Secretary, in consultation with the Governor of the State, Native Village and Regional Corporations, and the North Slope Borough within the study area and interested persons, shall conduct a continuing study of the fish and wildlife (with special emphasis on caribou, wolves, wolverines, grizzly bears, migratory waterfowl, musk oxen, and polar bears) of the coastal plain and their habitat. In conducting the study, the Secretary shall—

(A) assess the size, range, and distribution of the populations of the fish and wildlife;

(B) determine the extent, location and carrying capacity of the habitats of the fish and wildlife;

(C) assess the impacts of human activities and natural processes on the fish and wildlife and their habitats;

(D) analyze the potential impacts of oil and gas exploration, development, and production on such wildlife and habitats; and

(E) analyze the potential effects of such activities on the culture and lifestyle (including subsistence) of affected Native and other people.

Within eighteen months after December 2, 1980, the Secretary shall publish the results of the study as of that date and shall thereafter publish such revisions thereto as are appropriate as new information is obtained.

(d) Guidelines

(1) Within two years after December 2, 1980, the Secretary shall by regulation establish initial guidelines governing the carrying out of exploratory activities. The guidelines shall be based upon the results of the study required under subsection (c) of this section and such other information as may be available to the Secretary. The guidelines shall include such prohibitions, restrictions, and conditions on the carrying out of exploratory activities as the Secretary deems necessary or appropriate to ensure that exploratory activities do not significantly adversely affect the fish and wildlife,

their habitats, or the environment, including, but not limited to—

(A) a prohibition on the carrying out of exploratory activity during caribou calving and immediate post-calving seasons or during any other period in which human activity may have adverse effects;

(B) temporary or permanent closing of appropriate areas to such activity;

(C) specification of the support facilities, equipment and related manpower that is appropriate in connection with exploratory activity; and

(D) requirements that exploratory activities be coordinated in such a manner as to avoid unnecessary duplication.

(2) The initial guidelines prescribed by the Secretary to implement this subsection shall be accompanied by an environmental impact statement on exploratory activities. The initial guidelines shall thereafter be revised to reflect changes made in the baseline study and other appropriate information made available to the Secretary.

(e) Exploration plans

(1) After the initial guidelines are prescribed under subsection (d) of this section, any person including the United States Geological Survey may submit one or more plans for exploratory activity (hereinafter in this section referred to as ''exploration plans'') to the Secretary for approval. An exploration plan must set forth such information as the Secretary may require in order to determine whether the plan is consistent with the guidelines, including, but not limited to—

(A) a description and schedule of the exploratory activity proposed to be undertaken;

(B) a description of the equipment, facilities, and related manpower that would be used in carrying out the activity;

(C) the area in which the activity would be undertaken; and

(D) a statement of the anticipated effects that the activity may have on fish and wildlife, their habitats and the environment.

(2) Upon receiving any exploration plan for approval, the Secretary shall promptly publish notice of the application and the text of the plan in the Federal Register and newspapers of general circulation in the State. The Secretary shall determine, within one hundred and twenty days after any plan is submitted for approval, if the plan is consistent with the guidelines established under subsection (d) of this section. If the Secretary determines that the plan is so consistent, he shall approve the plan: except that no plan shall be approved during the two-year period following December 2, 1980. Before making the determination, the Secretary shall hold at least one public hearing in the State for purposes of receiving the comments and views of the public on the plan. The Secretary shall not approve of any plan submitted by the United States Geological Survey unless he determines that (1) no other person has submitted a plan for the area involved which meets established guidelines and (2) the information which would be obtained is needed to make an adequate report under subsection (h) of this section. The Secretary, as a condition of approval of any plan under this section—

(A) may require that such modifications be made to the plan as he considers necessary and appropriate to make it consistent with the guidelines;

(B) shall require that all data and information (including processed, analyzed and interpreted information) obtained as a result of carrying out the plan shall be submitted to the Secretary; and

(C) shall make such data and information available to the public except that any processed, analyzed and interpreted data or information shall be held confidential by the Secretary for a period of not less than two years following any lease sale including the area from which the information was obtained and: *Provided*, That the Secretary shall prohibit by regulation any person who obtains access to such data and information from the Secretary or from any person other than a permittee from participation in any lease sale which includes the areas from which the information was obtained and from any commercial use of the information. The Secretary shall require that any permittee shall make available such data to any person at fair cost.

(f) Modification to exploration plans

If at any time while exploratory activity is being carried out under an exploration plan approved under subsection (e) of this section, the Secretary, on the basis of information available to him, determines that continuation of further activities under the plan or permit will significantly adversely affect fish or wildlife, their habitat, or the environment, the Secretary may suspend the carrying out of activities under the plan or permit for such time, make such modifications to the plan or to the terms and conditions of the permit (or both suspend and so modify) as he determines necessary and appropriate.

(g) Civil penalties

(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, to have violated any provision of a plan approved under subsection (e) of this section or any term or condition of a permit issued under subsection (f) of this section, or to have committed any act prohibited under subsection (d) of this section shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $10,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed, and, with respect to the violator, the history of any prior offenses, his demonstrated good faith in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate district court of the

United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title 5.

(3) If any person fails to pay an assessment of a civil penalty against him under paragraph (1) after it has become final, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection unless the matter is pending in court for judicial review or recovery of assessment.

(h) Report to Congress

Not earlier than five years after December 2, 1980, and not later than five years and nine months after such date, the Secretary shall prepare and submit to Congress a report containing—

(1) the identification by means other than drilling of exploratory wells of those areas within the coastal plain that have oil and gas production potential and estimate of the volume of the oil and gas concerned;

(2) the description of the fish and wildlife, their habitats, and other resources that are within the areas identified under paragraph (1);

(3) an evaluation of the adverse effects that the carrying out of further exploration for, and the development and production of, oil and gas within such areas will have on the resources referred to in paragraph (2);

(4) a description of how such oil and gas, if produced within such area, may be transported to processing facilities;

(5) an evaluation of how such oil and gas relates to the national need for additional domestic sources of oil and gas; and

(6) the recommendations of the Secretary with respect to whether further exploration for, and the development and production of, oil and gas within the coastal plain should be permitted and, if so, what additional legal authority is necessary to ensure that the adverse effects of such activities on fish and wildlife, their habitats, and other resources are avoided or minimized.

(i) Effect of other laws

Until otherwise provided for in law enacted after December 2, 1980, all public lands within the coastal plain are withdrawn from all forms of entry or appropriation under the mining laws, and from operation of the mineral leasing laws, of the United States.

(Pub. L. 96–487, title X § 1002, Dec. 2, 1980, 94 Stat. 2449; Pub. L. 97–394, title I, § 110, Dec. 30, 1982, 96 Stat. 1982.)

AMENDMENTS

1982—Subsec. (e)(2)(C). Pub. L. 97–394 inserted proviso that the Secretary prohibit by regulation any person who obtains access to such data and information from the Secretary or from any person other than a permittee from participation in any lease sale which includes the areas from which the information was obtained and from any commercial use of the information, and that Secretary require that any permittee make available such data to any person at fair cost.

§ 3143. Production of oil and gas from Arctic National Wildlife Refuge prohibited

Production of oil and gas from the Arctic National Wildlife Refuge is prohibited and no leasing or other development leading to production of oil and gas from the range shall be undertaken until authorized by an Act of Congress.

(Pub. L. 96–487, title X, § 1003, Dec. 2, 1980, 94 Stat. 2452.)

§ 3144. Wilderness portion of study

(a) Suitability of lands for preservation as wilderness; report to President

As part of the study, the Secretary shall review the suitability or nonsuitability for preservation as wilderness of the Federal lands described in section 3141 of this title and report his findings to the President.

(b) Presidential recommendations to Congress

The President shall advise the Senate and the House of Representatives of his recommendations with respect to the designation of the area or any part thereof as wilderness together with a map thereof and a definition of its boundaries.

(c) Preservation of wilderness character and potential

Subject to valid existing rights and the provisions of section 3142 of this title, the wilderness study area designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System. Already established uses may be permitted to continue, subject to such restrictions as the Secretary deems desirable, in the manner and degree in which the same were being conducted on December 2, 1980.

(Pub. L. 96–487, title X, § 1004, Dec. 2, 1980, 94 Stat. 2452.)

§ 3145. Wildlife resources portion of study and impact of potential oil spills in Arctic Ocean

(a) Wildlife resources

The Secretary shall work closely with the State of Alaska and Native Village and Regional Corporations in evaluating the impact of oil and gas exploration, development, production, and transportation and other human activities on the wildlife resources of these lands, including impacts on the Arctic and Porcupine caribou herds, polar bear, muskox, grizzly bear, wolf, wolverine, seabirds, shore birds, and migratory

waterfowl. In addition the Secretary shall consult with the appropriate agencies of the Government of Canada in evaluating such impacts particularly with respect to the Porcupine caribou herd.

(b) Oil spills

(1) The Congress finds that—

(A) Canada has discovered commercial quantities of oil and gas in the Amalagak region of the Northwest Territory;

(B) Canada is exploring alternatives for transporting the oil from the Amalagak field to markets in Asia and the Far East;

(C) one of the options the Canadian Government is exploring involves transshipment of oil from the Amalagak field across the Beaufort Sea to tankers which would transport the oil overseas;

(D) the tankers would traverse the American Exclusive Economic Zone through the Beaufort Sea into the Chuckchi Sea and then through the Bering Straits;

(E) the Beaufort and Chuckchi Seas are vital to Alaska's Native people, providing them with subsistence in the form of walrus, seals, fish, and whales;

(F) the Secretary of the Interior has conducted Outer Continental Shelf lease sales in the Beaufort and Chuckchi Seas and oil and gas exploration is ongoing;

(G) an oil spill in the Arctic Ocean, if not properly contained and cleaned up, could have significant impacts on the indigenous people of Alaska's North Slope and on the Arctic environment; and

(H) there are no international contingency plans involving our two governments concerning containment and cleanup of an oil spill in the Arctic Ocean.

(2)(A) The Secretary of the Interior, in consultation with the Governor of Alaska, shall conduct a study of the issues of recovery of damages, contingency plans, and coordinated actions in the event of an oil spill in the Arctic Ocean.

(B) The Secretary shall, no later than January 31, 1991, transmit a report to the Congress on the findings and conclusions reached as the result of the study carried out under this subsection.

(c) Treaty negotiations

The Congress calls upon the Secretary of State, in consultation with the Secretary of the Interior, the Secretary of Transportation, and the Governor of Alaska, to begin negotiations with the Foreign Minister of Canada regarding a treaty dealing with the complex issues of recovery of damages, contingency plans, and coordinated actions in the event of an oil spill in the Arctic Ocean.

(d) Report to Congress

The Secretary of State shall report to the Congress on the Secretary's efforts pursuant to this section no later than June 1, 1991.

(Pub. L. 96–487, title X, §1005, Dec. 2, 1980, 94 Stat. 2453; Pub. L. 101–380, title VIII, §8302, Aug. 18, 1990, 104 Stat. 572.)

AMENDMENTS

1990—Pub. L. 101–380 inserted ''and impact of potential oil spills in Arctic Ocean'' in section catchline, designated existing text as subsec. (a), and added subsecs. (b) to (d).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101–380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

STUDY ON BARREN-GROUND CARIBOU

Section 306 of Pub. L. 96–487 provided:

''(a) The Congress finds that the barren-ground caribou are a migratory species deserving of careful study and special protection, and that the Western Arctic and the Porcupine herds of such caribou are of national and international significance.

''(b) The Secretary of the Interior shall conduct, and the Governor of Alaska is urged to cooperate with the Secretary in conducting, an ecological study of the barren-ground caribou herds north of the Yukon River and the herds that have been known to migrate between the United States and Canada, including, but not limited to, a determination of the seasonal migration patterns, reproduction and mortality rates, composition and age structure, behavioral characteristics, habitats (including but not limited to calving, feeding, summering and wintering areas, and key migration routes) that are critical to their natural stability and productivity and the effects on the herds of development by man, predation, and disease. In conducting this study the Secretary shall review the experience of other Arctic circumpolar countries with caribou and is authorized to enter into such contracts as he deems necessary to carry out portions or all of this study.''

§ 3146. Transportation alternatives portion of study

In studying oil and gas alternative transportation systems, the Secretary shall consult with the Secretary of Transportation and shall consider—

(1) the extent to which environmentally and economically feasible alternative routes could be established;

(2) the prospective oil and gas production potential of this area of Alaska for each alternative transportation route; and

(3) the environmental and economic costs and other values associated with such alternative routes.

(Pub. L. 96–487, title X, §1006, Dec. 2, 1980, 94 Stat. 2453.)

§ 3147. Arctic research study

(a) Mission, facilities, and administration of Naval Arctic Research Laboratory

The Secretary, the Secretary of Defense, and the Secretary of Energy shall initiate and carry out a study of the mission, facilities and administration of the Naval Arctic Research Laboratory (NARL), at Point Barrow, Alaska. The study shall review the historical responsibilities carried out at NARL and their contribution to applied and basic Arctic research. The study shall specifically address and the Secretary shall make recommendations on the need for redirecting the United States Arctic research policy and the role of the NARL facilities in developing and implementing that policy.

(b) Assessment of future uses of NARL

The Secretaries shall assess the future use of NARL in—

(1) developing relevant scientific information on the Arctic environment and utilizing applied research to (A) deal with the unique problems the Arctic presents in providing public services; (B) minimize the impact of resource development on the environment and the culture of the Native people; and (C) promote international cooperation among the Nations which share responsibility for the Arctic environment;

(2) assessing the impact of oil and gas exploration, development, and transportation on the Arctic environment, including impact on fish, marine and land mammals, and migratory waterfowl;

(3) developing advanced design technologies, operational practices, and transportation systems to improve the environmental safety and efficiency of oil and gas exploration and production in the Arctic, including offshore activities;

(4) enlarging the body of knowledge on Arctic ice conditions and developing practical and efficient means of dealing with potential oil spills and other hazards associated with resource development in Alaska's Arctic; and

(5) developing a comprehensive Arctic policy for the Federal Government that will accommodate the need for development and use of Arctic resources with appropriate recognition and consideration given to the unique nature of the Arctic environment and the needs of its Native residents.

(c) Recommendations

After completion of the study, the Secretaries shall make recommendations on—

(1) changes in the mission and management of NARL necessary to accomplish the research and policy goals addressed in the study;

(2) the appropriate Federal agency or agencies that should have primary responsibility for management of NARL;

(3) changes in the organizational structure of NARL that would allow greater involvement by State and private organizations in the use, management and/or funding of NARL; and

(4) the appropriate level of Federal funding for scientific and technological research on the Arctic environment and its uses.

(d) Consultations; opportunity for public review and comment

In the course of the study, the Secretaries shall consult with representatives of the Department of Navy, the National Oceanic and Atmospheric Administration, the National Science Foundation, the Smithsonian Institution, the State of Alaska, local governments, representatives of public and private institutions conducting Arctic research, and Native Village and Regional Corporations in the areas now affected by the activities of NARL. The Secretaries shall provide an opportunity for public review and comment on the draft report and proposed recommendations prior to final approval, and shall include any recommendations of the local community in the final study.

(e) Submission of study to Congress

The Secretaries shall submit the study and their recommendations to the Congress no later than one year after December 2, 1980.

(f) Continuation of level of funding for NARL

Pending submission of the study to the Congress, the President is directed to continue the operation of NARL at the level of funding provided for in fiscal year 1979.

(Pub. L. 96–487, title X, § 1007, Dec. 2, 1980, 94 Stat. 2453.)

§ 3148. Oil and gas leasing program for non-North Slope Federal lands

(a) Establishment; restrictions

The Secretary shall establish, pursuant to the Mineral Leasing Act of 1920, as amended [30 U.S.C. 181 et seq.], an oil and gas leasing program on the Federal lands of Alaska not subject to the study required by section 3141 of this title, other than lands included in the National Petroleum Reserve—Alaska. Such program shall not be undertaken by the Secretary on those lands where applicable law prohibits such leasing or on those units of the National Wildlife Refuge System where the Secretary determines, after having considered the national interest in producing oil and gas from such lands, that the exploration for and development of oil or gas would be incompatible with the purpose for which such unit was established.

(b) Study of oil and gas potential and impact of development and production; permits; consultations; State studies

(1)(A) In such areas as the Secretary deems favorable for the discovery of oil or gas, he shall conduct a study, or studies, or collect and analyze information obtained by permittees authorized to conduct studies under this section, of the oil and gas potential of such lands and those environmental characteristics and wildlife resources which would be affected by the exploration for and development of such oil and gas.

(B) The Secretary is authorized to issue permits for study, including geological, geophysical, and other assessment activities, if such activities can be conducted in a manner which is consistent with the purposes for which each affected area is managed under applicable law.

(2) The Secretary shall consult with the Secretary of Energy regarding the national interest involved in exploring for and developing oil and gas from such lands and shall seek the views of the Governor of the State of Alaska, Alaskan local governments, Native Regional and Village Corporations, the Alaska Land Use Council, representatives of the oil and gas industry, conservation groups, and other interested groups and individuals in determining which land should be studied and/or leased for the exploration and development of oil and gas.

(3) The Secretary shall encourage the State to undertake similar studies on lands associated, either through geological or other land values or because of possible transportation needs, with Federal lands. The Secretary shall integrate these studies, to the maximum extent practicable, with studies on Federal lands so that needs for cooperation between the Federal Government and the State of Alaska in managing energy and other natural resources, including fish and wildlife, can be established early in the program.

(c) Repealed. Pub. L. 100–203, title V, § 5105(1), Dec. 22, 1987, 101 Stat. 1330–259

(d) Issuance of leases; competitive bidding

Pursuant to the Mineral Leasing Act of 1920, as amended [30 U.S.C. 181 et seq.], the Secretary is authorized to issue leases, on the Federal lands described in this section, under such terms and conditions as he may, by regulation, prescribe.

(e) Repealed. Pub. L. 100–203, title V, § 5105(1), Dec. 22, 1987, 101 Stat. 1330–259

(f) Exploration plan

Prior to any exploration activities on a lease issued pursuant to this section, the Secretary shall require the lessee to describe exploration activities in an exploration plan. He shall approve such plan if such activities can be conducted in conformity with such requirements as may be made by the Secretary for the protection and use of the land for the purpose for which it is managed under applicable law.

(g) Development and production plan

Subsequent to a discovery of oil or gas in paying quantities, and prior to developing and producing such oil and gas, the Secretary shall require the lessee to describe development and production activities in a development and production plan. He shall approve such plan if such activities may be conducted in conformity with such requirements as may be made by the Secretary for the protection and use of the land for the purpose for which it is managed under applicable law.

(h) Revised development and production plan

The Secretary shall monitor the performance of the lessee and, if he determines that due to significant changes in circumstances regarding that operation, including environmental or economic changes, new requirements are needed, he may require a revised development and production plan.

(i) Suspension and cancellation of lease

If the Secretary determines that immediate and irreparable damage will result from continuation in force of a lease, that the threat will not disappear and that the advantages of cancellation outweigh the advantages of continuation in force of a lease, he shall suspend operations for up to five years. If such a threat persists beyond such five-year suspension period, he shall cancel a lease and provide compensation to the lease under such terms as the Secretary establishes, by regulation, to be appropriate.

(Pub. L. 96–487, title X, § 1008, Dec. 2, 1980, 94 Stat. 2454; Pub. L. 100–203, title V, § 5105, Dec. 22, 1987, 101 Stat. 1330–259.)

REFERENCES IN TEXT

The Mineral Leasing Act of 1920, as amended, referred to in subsecs. (a) and (d), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

CODIFICATION

Subsec. (b)(4) of this section, which required the Secretary to report yearly to Congress on efforts pursuant to Pub. L. 96–487 regarding the leasing of, and exploration and development activities on, certain lands, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 111 of House Document No. 103–7.

AMENDMENTS

1987—Subsec. (c). Pub. L. 100–203, § 5105(1), struck out subsec. (c) which read as follows: ''At such time as the studies requested in subsection (b)(4) of this section are completed by the Secretary, or at such time as the Secretary determines that sufficient interest has been indicated in exploring an area for oil or gas, and leasing should be commenced, he shall identify those areas which he determines to be favorable for the discovery of oil or gas (hereinafter referred to as 'favorable petroleum geological provinces'). In making such determination, the Secretary shall utilize all information obtained in studies conducted under subsection (b) of this section as well as any other information he may develop or require by regulation to be transmitted.''

Subsec. (d). Pub. L. 100–203, § 5105(2), struck out at end ''Areas which are determined by the Secretary to be within favorable petroleum geological provinces shall be leased only by competitive bidding.''

Subsec. (e). Pub. L. 100–203, § 5105(1), struck out subsec. (e) which read as follows: ''At such time as paying quantities of oil or gas are discovered under a noncompetitive lease issued pursuant to the Mineral Leasing Act of 1920, the Secretary shall suspend all further noncompetitive leasing in the area and shall determine the favorable petroleum geological province in proximity to such discovery. All further leasing in such area shall be in accordance with the requirements of subsection (d) of this section.''

§ 3149. Oil and gas lease applications

(a) Lands within National Wildlife Refuge System but not part of National Wilderness Preservation System

Notwithstanding any other provision of law or regulation, whenever the Secretary receives an application for an oil and gas lease pursuant to the Mineral Leasing Act of 1920 [30 U.S.C. 181 et seq.] for lands in Alaska within a unit of the National Wildlife Refuge System which are not also part of the national Wilderness Preservation System he shall, in addition to any other requirements of applicable law, follow the procedures set forth in this section.

(b) Statement of reasons for decision to issue or not to issue lease

Any decision to issue or not to issue a lease shall be accompanied by a statement setting forth the reasons for the decision, including the reasons why oil and gas leasing would be compatible or incompatible with the purposes of the refuge.

(c) Environmental impact statement

If the Secretary determines that the requirements of section 4332(2)(C) of title 42 do not apply to his decision, the Secretary shall render his decision within six months after receipt of a lease application. If such requirements are applicable to the Secretary's decision, he shall render his decision within three months after publication of the final environmental impact statement.

(Pub. L. 96–487, title X, § 1009, Dec. 2, 1980, 94 Stat. 2456.)

REFERENCES IN TEXT

The Mineral Leasing Act of 1920, referred to in subsec. (a), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

§ 3150. Alaska mineral resource assessment program

(a) Mineral assessments

The Secretary shall, to the full extent of his authority, assess the oil, gas, and other mineral potential on all public lands in the State of Alaska in order to expand the data base with respect to the mineral potential of such lands. The mineral assessment program may include, but shall not be limited to, techniques such as side-looking radar imagery and, on public lands other than such lands within the national park system, core and test drilling for geologic information, notwithstanding any restriction on such drilling under the Wilderness Act [16 U.S.C. 1131 et seq.]. For purposes of this Act, core and test drilling means the extraction by drilling of subsurface geologic samples in order to assess the metalliferous or other mineral values of geologic terrain, but shall not be construed as including exploratory drilling of oil and gas test wells. To the maximum extent practicable, the Secretary shall consult and exchange information with the State of Alaska regarding the responsibilities of the Secretary under this section and similar programs undertaken by the State. In order to carry out mineral assessments authorized under this or any other law, including but not limited to the National Uranium Resource Evaluation program, the Secretary shall allow for access by air for assessment activities permitted in this subsection to all public lands involved in such study. He shall consult with the Secretary of Energy and heads of other Federal agencies carrying out such programs, to determine such reasonable requirements as may be necessary to protect the resources of such area, including fish and wildlife. Such requirements may provide that access will not occur during nesting, calving, spawning or such other times as fish and wildlife in the specific area may be especially vulnerable to such activities. The Secretary is authorized to enter into contracts with public or private entities to carry out all or any portion of the mineral assessment program. This section shall not apply to the lands described in section 3141 of this title.

(b) Regulations

Activities carried out in conservation system units under subsection (a) of this section shall be subject to regulations promulgated by the Secretary. Such regulations shall ensure that such activities are carried out in an environmentally sound manner—

(1) which does not result in lasting environmental impacts which appreciably alter the natural character of the units or biological or ecological systems in the units; and

(2) which is compatible with the purposes for which such units are established.

(Pub. L. 96–487, title X, § 1010, Dec. 2, 1980, 94 Stat. 2456.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (a), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

This Act, referred to in subsec. (a), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3151. Omitted

CODIFICATION

Section, Pub. L. 96–487, title X, § 1011, Dec. 2, 1980, 94 Stat. 2457; Pub. L. 102–285, § 10(b), May 18, 1992, 106 Stat. 172, which required the President to annually transmit to Congress all pertinent public information relating to minerals in Alaska gathered by the United States Geological Surveys, United States Bureau of Mines, and any other Federal agency, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 32 of House Document No. 103–7.

SUBCHAPTER IV—TRANSPORTATION AND UTILITY SYSTEMS IN AND ACROSS, AND ACCESS INTO, CONSERVATION SYSTEM UNITS

§ 3161. Congressional declaration of findings

Congress finds that—

(a) Alaska's transportation and utility network is largely undeveloped and the future needs for transportation and utility systems in Alaska would best be identified and provided for through an orderly, continuous decisionmaking process involving the State and Federal Governments and the public;

(b) the existing authorities to approve or disapprove applications for transportation and utility systems through public lands in Alaska are diverse, dissimilar, and, in some cases, absent; and

(c) to minimize the adverse impacts of siting transportation and utility systems within units established or expanded by this Act and to insure the effectiveness of the decisionmaking process, a single comprehensive statutory authority for the approval or disapproval of applications for such systems must be provided in this Act.

(Pub. L. 96–487, title XI, § 1101, Dec. 2, 1980, 94 Stat. 2457.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is Pub. L 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3162. Definitions

For purposes of this subchapter—

(1) The term ''applicable law'' means any law of general applicability (other than this subchapter) under which any Federal department or agency has jurisdiction to grant any authoriza-

tion (including but not limited to, any right-of-way, permit, license, lease, or certificate) without which a transportation or utility system cannot, in whole or in part, be established or operated.

(2) The term ''applicant'' means any public or private person, including, but not limited to, any Federal department or agency.

(3) The term ''Federal agency'' means any Federal department or agency that has any function or duty under applicable law.

(4)(A) The term ''transportation or utility system'' means any type of system described in subparagraph (B) if any portion of the route of the system will be within any conservation system unit, national recreation area, or national conservation area in the State (and the system is not one that the department or agency having jurisdiction over the unit or area is establishing incident to its management of the unit or area).

(B) The types of systems to which subparagraph (A) applies are as follows:

(i) Canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other systems for the transportation of water.

(ii) Pipelines and other systems for the transportation of liquids other than water, including oil, natural gas, synthetic liquid and gaseous fuels, and any refined product produced therefrom.

(iii) Pipelines, slurry and emulsion systems and conveyor belts for the transportation of solid materials.

(iv) Systems for the transmission and distribution of electric energy.

(v) Systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication.

(vi) Improved rights-of-way for snow machines, air cushion vehicles, and other all-terrain vehicles.

(vii) Roads, highways, railroads, tunnels, tramways, airports, landing strips, docks, and other systems of general transportation.

Any system described in this subparagraph includes such related structures and facilities (both temporary and permanent) along the route of the system as may be minimally necessary for the construction, operation, and maintenance of the system. Such related structures and facilities shall be described in the application required by section 3164 of this title, and shall be approved or disapproved in accordance with the procedures set forth in this subchapter.

(Pub. L. 96–487, title XI, §1102, Dec. 2, 1980, 94 Stat. 2458.)

§ 3163. Effect on other laws

Except as specifically provided for in this subchapter, applicable law shall apply with respect to the authorization and administration of transportation or utility systems.

(Pub. L. 96–487, title XI, §1103, Dec. 2, 1980, 94 Stat. 2459.)

§ 3164. Procedural requirements

(a) In general

Notwithstanding any provision of applicable law, no action by any Federal agency under applicable law with respect to the approval or disapproval of the authorization, in whole or in part, of any transportation or utility system shall have any force or effect unless the provisions of this section are complied with.

(b) Consolidated applications

(1) Within one hundred and eighty days after December 2, 1980, the Secretary, the Secretary of Agriculture, and the Secretary of Transportation, in consultation with the heads of other appropriate Federal agencies, shall jointly prescribe and publish a consolidated application form to be used for applying for the approval of each type of transportation or utility system. Each such application form shall be designed to elicit such information as may be necessary to meet the requirements of this subchapter and the applicable law with respect to the type of system concerned.

(2) For purposes of this section, the heads of all appropriate Federal agencies, including the Secretary of Transportation, shall share decisionmaking responsibility in the case of any transportation or utility system described in section 3162(4)(B)(ii), (iii), or (vii) of this title; but with respect to any such system for which he does not have programmatic responsibility, the Secretary of Transportation shall provide to the other Federal agencies concerned such planning and other assistance as may be appropriate.

(c) Filing

Each applicant for the approval of any transportation or utility system shall file on the same day an application with each appropriate Federal agency. The applicant shall utilize the consolidated form prescribed under subsection (b) of this section for the type of transportation or utility system concerned.

(d) Agency notice

(1) Within sixty days after the receipt of an application filed pursuant to subsection (c) of this section, the head of each Federal agency with whom the application was filed shall inform the applicant in writing that, on its face—

(A) the application appears to contain the information required by this subchapter and applicable law insofar as that agency is concerned; or

(B) the application does not contain such information.

(2) Any notice provided under paragraph (1)(B) shall specify what additional information the applicant must provide. If the applicant provides additional information, the head of the Federal agency must inform the applicant in writing, within thirty days after receipt of such information, whether the information is sufficient.

(e) Environmental impact statement

The draft of any environmental impact statement required under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] in connection with any application filed under this section shall be completed, within nine months from the date of filing, by the head of the Federal agency assigned lead responsibility for the statement. Any such statement shall be jointly prepared by all Federal agencies with which the application was filed under subsection

(c) of this section. The final environmental impact statement shall be completed within one year from the date of such filing. Such nine-month and one-year periods may be extended for good cause by the Federal agency head assigned lead responsibility for the preparation of such statement if he determines that additional time is necessary for such preparation, notifies the applicant in writing of such determination, and publishes notice of such determination, together with the reasons therefor, in the Federal Register. The provisions of section 1734 of title 43 shall apply to each environmental impact statement under this subsection in the same manner as such provisions apply to applications relating to the public lands referred to in section 1734 of title 43. The Federal agency assigned lead responsibility shall, in conjunction with such other Federal agencies before which the application is pending, hold public hearings in the District of Columbia and an appropriate location in the State on each draft joint environmental impact statement and the views expressed therein shall be considered by all Federal agencies concerned before publication of the final joint environmental impact statement.

(f) Other views

During both the nine-month period, and the succeeding three-month period plus any extension thereof provided for in subsection (e) of this section, the heads of the Federal agencies concerned shall solicit and consider the views of other Federal departments and agencies, the Alaska Land Use Council, the State, affected units of local government in the State, and affected corporations formed pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], and, after public notice, shall receive and consider statements and recommendations regarding the application submitted by interested individuals and organizations.

(g) Agency decision

(1) Within four months after the final environmental impact statement is published in accordance with subsection (e) of this section with respect to any transportation or utility system, each Federal agency shall make a decision to approve or disapprove, in accordance with applicable law, each authorization that applies with respect to the system and that is within the jurisdiction of that agency.

(2) The head of each Federal agency, in making a decision referred to in paragraph (1), shall consider, and make detailed findings supported by substantial evidence, with respect to—

(A) the need for, and economic feasibility of, the transportation or utility system;

(B) alternative routes and modes of access, including a determination with respect to whether there is any economically feasible and prudent alternative to the routing of the system through or within a conservation system unit, national recreation area, or national conservation area and, if not, whether there are alternative routes or modes which would result in fewer or less severe adverse impacts upon the conservation system unit;

(C) the feasibility and impacts of including different transportation or utility systems in the same area;

(D) short- and long-term social, economic, and environmental impacts of national, State, or local significance, including impacts on fish and wildlife and their habitat, and on rural, traditional lifestyles;

(E) the impacts, if any, on the national security interests of the United States, that may result from approval or denial of the application for a transportation or utility system;

(F) any impacts that would affect the purposes for which the Federal unit or area concerned was established;

(G) measures which should be instituted to avoid or minimize negative impacts; and

(H) the short- and long-term public values which may be adversely affected by approval of the transportation or utility system versus the short- and long-term public benefits which may accrue from such approval.

(Pub. L. 96–487, title XI, § 1104, Dec. 2, 1980, 94 Stat. 2459.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (e), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Alaska Native Claims Settlement Act, referred to in subsec. (f), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

§ 3165. Standards for granting certain authorizations

In any case in which there is no applicable law with respect to a transportation or utility system, the head of the Federal agency concerned shall, within four months after the date of filing of any final Environmental Impact Statement, make recommendations, for purposes of section 3166(b) of this title, to grant such authorizations as may be necessary to establish such system, in whole or in part, within the conservation system unit concerned if he determines that—

(1) such system would be compatible with the purposes for which the unit was established; and

(2) there is no economically feasible and prudent alternative route for the system.

(Pub. L. 96–487, title XI, § 1105, Dec. 2, 1980, 94 Stat. 2461.)

§ 3166. Agency, Presidential, and Congressional actions

(a) Agency action in cases other than those involving section 3165 or wilderness areas

(1) In the case of any application for the approval of any transportation or utility system to which section 3165 of this title does not apply or that does not occupy, use, or traverse any area within the National Wilderness Preservation System, if, in compliance with section 3164 of this title—

(A) each Federal agency concerned decides to approve each authorization within its jurisdiction with respect to that system, then the

system shall be deemed to be approved and each such agency shall promptly issue, in accordance with applicable law, such rights-of-way, permits, licenses, leases, certificates, or other authorizations as are necessary with respect to the establishment of the system; or

(B) one or more Federal agencies decide to disapprove any authorization within its jurisdiction with respect, to that system, then the system shall be deemed to be disapproved and the applicant for the system may appeal the disapproval to the President.

(2) If an applicant appeals under paragraph (1)(B), the President, within four months after receiving the appeal, shall decide whether to approve or deny the application. The President shall approve the application if he finds, after consideration of the factors set forth in section 3164(g)(2) of this title, that such approval would be in the public interest and that (1) such system would be compatible with the purposes for which the unit was established; and (2) there is no economically feasible and prudent alternative route for the system. In making a decision, the President shall consider any environmental impact statement prepared pursuant to section 3164(e) of this title, comments of the public and Federal agencies received during the preparation of such statement, and the findings and recommendations, if any, of each Federal agency that rendered a decision with respect to the application. The President's decision to approve or deny the application shall be published in the Federal Register, together with a statement of the reasons for his determination.

(3) If the President approves an application under paragraph (2), each Federal agency concerned shall promptly issue, in accordance with applicable law, such rights-of-way, permits, licenses, leases, certificates, or other authorizations as are necessary with respect to the establishment of the system

(4) If the President denies an application under paragraph (2), the applicant shall be deemed to have exhausted his administrative remedies and may file suit in any appropriate Federal court to challenge such decision.

(b) Agency action in cases involving section 3165 or wilderness areas

(1) In the case of any application for the approval of a transportation or utility system to which section 3165 of this title applies or that proposes to occupy, use, or traverse any area within the National Wilderness Preservation System, each Federal agency concerned shall promptly submit to the President notification whether the agency tentatively approved or disapproved each authorization within its jurisdiction that applies with respect to the system. Such notification shall be accompanied by a statement of the reasons and findings supporting the agency position.

(2) Within four months after receiving all notification referred to in paragraph (1) and after considering such notifications, any environmental impact statement prepared pursuant to section 3164(e) of this title, and the comments of the public and Federal agencies received during the preparation of such statement, the President shall decide whether or not the application for the system concerned should be approved. If the President denies an application the applicant shall be deemed to have exhausted his administrative remedies, and may file suit in any appropriate Federal court to challenge such decision. If the President approves the application, he shall submit to Congress his recommendation for approval of the transportation or utility system covered, whereupon the Congress shall consider the application as provided in subsection (c) of this section. The President shall include with his recommendation to Congress—

(A) the application which is the subject of his recommendation;

(B) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(C) the joint environmental impact statement;[1]

(D) a statement of the conditions and stipulations which would govern the use of the system if approved by the Congress.

(c) Congressional approval

(1) No application for any transportation or utility system with respect to which the President makes a recommendation for approval under subsection (b) of this section shall be approved unless the Senate and House of Representatives approve a resolution described in paragraph (4) within the first period of one hundred and twenty calendar days of continuous session of the Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such recommendation.

(2) For purposes of this subsection—

(A) continuity of session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

(3) This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of each House of the Congress respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by paragraph (6) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(4) For the purposes of this subsection, the term ''resolution'' means a joint resolution, the resolving clause of which is as follows: ''That the House of Representatives and Senate approve the application for under title XI of the Alaska National Interest Lands Conservation Act submitted by the President to the Congress on , 19 .''; the first blank

[1] So in original. Probably should be followed by ''and''.

space therein to be filled in with the appropriate transportation or utility system and the second blank therein to be filled with the date on which the President submits the application to the House of Representatives and the Senate.

(5) Except as otherwise provided in this subsection, the provisions of section 719f(d) of title 15 shall apply to the consideration of the resolution.

(6) After an application for a transportation or utility system has been approved under subsection (a) of this section, the appropriate Federal agencies shall issue appropriate authorizations in accordance with applicable law. In any case in which an application for a transportation or utility system has been approved pursuant to subsection (b) of this section, the appropriate Federal agencies shall issue appropriate authorizations in accordance with title V of the Federal Lands Policy Management Act [43 U.S.C. 1761 et seq.] or other applicable law. After issuance pursuant to this subsection, the appropriate land managing agency shall administer the right-of-way in accordance with relevant management authorities of the land managing agency and title V of the Federal Lands Policy Management Act.

(Pub. L. 96–487, title XI, § 1106, Dec. 2, 1980, 94 Stat. 2461.)

REFERENCES IN TEXT

The Alaska National Interest Lands Conservation Act, referred to in subsec. (c)(4), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371. Title XI of the Alaska National Interest Lands Conservation Act is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Federal Land Policy and Management Act, referred to in subsec. (c)(6), probably means the Federal Land Policy and Management Act of 1976, Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743. Title V of the Federal Land Policy and Management Act of 1976 is classified generally to subchapter V (§ 1761 et seq.) of chapter 35 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

§ 3167. Rights-of-way terms and conditions

(a) Terms and conditions

The Secretary, or the Secretary of Agriculture where national forest wilderness is involved, shall include in any right-of-way issued pursuant to an application under this subchapter, terms and conditions which shall include, but not be limited to—

(1) requirements to insure that, to the maximum extent feasible, the right-of-way is used in a manner compatible with the purposes for which the affected conservation system unit, national recreation area, or national conservation area was established or is managed;

(2) requirements for restoration, revegetation, and curtailment of erosion of the surface of the land;

(3) requirements to insure that activities in connection with the right-of-way will not violate applicable air and water quality standards and related facility siting standards established pursuant to law;

(4) requirements, including the minimum necessary width, designed to control or prevent—

(A) damage to the environment (including damage to fish and wildlife habitat),

(B) damage to public or private property, and

(C) hazards to public health and safety;

(5) requirements to protect the interests of individuals living in the general area of the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes; and

(6) requirements to employ measures to avoid or minimize adverse environmental, social or economic impacts.

(b) Wild and Scenic Rivers System

Any transportation or utility system approved pursuant to this subchapter which occupies, uses, or traverses any area within the boundaries of a unit of the National Wild and Scenic Rivers System shall be subject to such conditions as may be necessary to assure that the stream flow of, and transportation on, such river are not interfered with or impeded, and that the transportation or utility system is located and constructed in an environmentally sound manner.

(c) Pipeline rights-of-way

In the case of a pipeline described in section 185(a) of title 30, a right-of-way issued pursuant to this subchapter shall be issued in the same manner as a right-of-way is granted under section 185 of title 30, and the provisions of subsections (c) through (j), (*l*) through (q), and (u) through (y) of section 185 of title 30 shall apply to rights-of-way issued pursuant to this subchapter.

(Pub. L. 96–487, title XI, § 1107, Dec. 2, 1980, 94 Stat. 2463.)

§ 3168. Injunctive relief

No court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursuant to this subchapter except in conjunction with a final judgment entered in a case involving an action pursuant to this subchapter.

(Pub. L. 96–487, title XI, § 1108, Dec. 2, 1980, 94 Stat. 2464; Pub. L. 98–620, title IV, § 402(22)(B), Nov. 8, 1984, 98 Stat. 3358.)

AMENDMENTS

1984—Pub. L. 98–620 redesignated subsec. (c) as entire section, and struck out subsecs. (a) and (b), which had related, respectively, to Congressional intent concerning, and time periods for, expedited judicial review.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

§ 3169. Valid existing right of access

Nothing in this subchapter shall be construed to adversely affect any valid existing right of access.

(Pub. L. 96–487, title XI, § 1109, Dec. 2, 1980, 94 Stat. 2464.)

§ 3170. Special access and access to inholdings

(a) Use of snowmachines, motorboats, airplanes, nonmotorized surface transportation, etc. for traditional activities and for travel

Notwithstanding any other provision of this Act or other law, the Secretary shall permit, on conservation system units, national recreation areas, and national conservation areas, and those public lands designated as wilderness study, the use of snowmachines (during periods of adequate snow cover, or frozen river conditions in the case of wild and scenic rivers), motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities (where such activities are permitted by this Act or other law) and for travel to and from villages and homesites. Such use shall be subject to reasonable regulations by the Secretary to protect the natural and other values of the conservation system units, national recreation areas, and national conservation areas, and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area, the Secretary finds that such use would be detrimental to the resource values of the unit or area. Nothing in this section shall be construed as prohibiting the use of other methods of transportation for such travel and activities on conservation system lands where such use is permitted by this Act or other law.

(b) Right of access to State or private owner or occupier

Notwithstanding any other provisions of this Act or other law, in any case in which State owned or privately owned land, including subsurface rights of such owners underlying public lands, or a valid mining claim or other valid occupancy is within or is effectively surrounded by one or more conservation system units, national recreation areas, national conservation areas, or those public lands designated as wilderness study, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of such lands.

(Pub. L. 96–487, title XI, §1110, Dec. 2, 1980, 94 Stat. 2464.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3171. Temporary access

(a) In general

Notwithstanding any other provision of this Act or other law the Secretary shall authorize and permit temporary access by the State or a private landowner to or across any conservation system unit, national recreation area, national conservation area, the National Petroleum Reserve—Alaska or those public lands designated as wilderness study or managed to maintain the wilderness character or potential thereof, in order to permit the State or private landowner access to its land for purposes of survey, geophysical, exploratory, or other temporary uses thereof whenever he determines such access will not result in permanent harm to the resources of such unit, area, Reserve or lands.

(b) Stipulations and conditions

In providing temporary access pursuant to subsection (a) of this section, the Secretary may include such stipulations and conditions he deems necessary to insure that the private use of public lands is accomplished in a manner that is not inconsistent with the purposes for which the public lands are reserved and which insures that no permanent harm will result to the resources of the unit, area, Reserve or lands.

(Pub. L. 96–487, title XI, §1111, Dec. 2, 1980, 94 Stat. 2465.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3172. North Slope Haul Road

(a) In general

So long as that section of the North Slope Haul Road referred to in subsection (c) of this section is closed to public use, but not including regulated local traffic north of the Yukon River, regulated industrial traffic and regulated high occupancy buses, such regulation to occur under State law, except that the Secretary, after consultation with the Secretary of Transportation, and the Governor of Alaska shall agree on the number of vehicles and seasonality of use, such section shall be free from any and all restrictions contained in title 23, as amended or supplemented, or in any regulations thereunder. Prior to executing an agreement pursuant to this subsection, the Secretary and the Governor of Alaska shall consult with the head of any unit of local government which encompasses lands located adjacent to the route of the North Slope Haul Road. The State of Alaska shall have the authority to limit access, impose restrictions and impose tolls, notwithstanding any provision of Federal law.

(b) Release

The removal of restrictions shall not be conditioned upon repayment by the State of Alaska to the Treasurer of the United States of any Federal-aid highway funds paid on account of the section of highway described in subsection (c) of this section, and the obligation of the State of Alaska to repay these amounts is hereby released so long as the road remains closed as set forth in subsection (a) of this section.

(c) Application of section

The provisions of this section shall apply to that section of the North Slope Haul Road, which extends from the southern terminus of the Yukon River Bridge to the northern terminus of the Road at Prudhoe Bay.

(Pub. L. 96–487, title XI, § 1112, Dec. 2, 1980, 94 Stat. 2465.)

§ 3173. Stikine River region; Presidential study and report to Congress

Congress finds that there is a need to study the effect of this Act upon the ability of the Government of Canada to obtain access in the Stikine River region of southeast Alaska. Accordingly, within five years from December 2, 1980, the President shall consult with the Government of Canada and shall submit a report to the Congress containing his findings and recommendations concerning the need, if any, to provide for such access. Such report shall include, among other things, an analysis of the need for access and the social, environmental and economic impacts which may result from various forms of access including, but not limited to, a road along the Stikine and Iskut Rivers, or other alternative routes, should such access be permitted.

(Pub. L. 96–487, title XI, § 1113, Dec. 2, 1980, 94 Stat. 2466.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2466, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

SUBCHAPTER V—FEDERAL-STATE COOPERATION

§ 3181. Alaska Land Use Council

(a) Establishment

There is hereby established the Alaska Land Use Council (hereinafter in this subchapter referred to as the ''Council'').

(b) Cochairmen

The Council shall have Cochairmen. The Federal Cochairman shall be appointed by the President of the United States with the advice and consent of the Senate. The State Cochairman shall be the Governor of Alaska.

(c) Members

In addition to the Cochairmen, the Council shall consist of the following members:

(1) the head of the Alaska offices of each of the following Federal agencies: National Park Service, United States Fish and Wildlife Service, United States Forest Service, Bureau of Land Management, Heritage Conservation and Recreation Service, National Oceanic and Atmospheric Administration, and Department of Transportation;

(2) the Commissioners of the Alaska Departments of Natural Resources, Fish and Game, Environmental Conservation, and Transportation; and

(3) two representatives selected by the Alaska Native Regional Corporations (in consultation with their respective Village Corporations) which represent the twelve geographic regions described in section 1606(a) of title 43.

Any vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(d) State decision not to participate

If the State elects not to participate on the Council or elects to end its participation prior to termination of the Council, the Council shall be composed of the Federal Cochairman, the agencies referred to in subsection (c)(1) of this section and the representatives of the Alaska Native Regional Corporations referred to in subsection (c)(3) of this section. The Council, so composed, shall carry out the administrative functions required by this subchapter and shall make recommendations to Federal officials with respect to the matters referred to in subsections (i) and (j) of this section. In addition, the Council may make recommendations from time to time to State officials and private landowners concerning such matters.

(e) Compensation and expenses

(1) The Federal Cochairman shall be compensated at a rate to be determined by the President but not in excess of that provided for level IV of the Executive Schedule contained in title 5 [5 U.S.C. 5315].

(2) The other members of the Council who are Federal employees shall receive no additional compensation for service on the Council.

(3) While away from their homes or regular places of business in the performance of services for the Council, members of the Council who are Federal employees, or members of the Council referred to in subsection (c)(3) of this section, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5.[1]

(4) The State Cochairman and other State members of the Council have been compensated in accordance with applicable State law.

(f) Administrative authority

(1) The Cochairmen, acting jointly, shall have the authority to create and abolish employments and positions, including temporary and intermittent employments; to fix and provide for the qualification, appointment, removal, compensation, pension, and retirement rights of Council employees; and to procure needed office space, supplies, and equipment.

(2) The office of the Council shall be located in the State of Alaska.

(3) Except as provided in subsection (d) of this section, within any one fiscal year, the Federal Government shall pay only 50 per centum of the costs and other expenses other than salaries, benefits, et cetera of members, incurred by the Council in carrying out its duties under this Act.

(4) The Council is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement. Each department and agency of the Federal Government is authorized and directed to cooperate fully in making its services, equipment, personnel, and facilities available to the Council. Personnel detailed to the Council in accordance with the provisions of this subsection shall be under the direction of

[1] See References in Text note below.

the Cochairman during any period such staff is so detailed.

(5) The Council is authorized to accept donations, gifts, and other contributions and to utilize such donations, gifts, and contributions in carrying out its functions under this Act.

(6) The Council shall keep and maintain complete accounts and records of its activities and transactions, and such accounts and records shall be available for public inspection.

(g) Meetings; authorities; reports

The Council shall meet at the call of the Cochairmen, but not less than four times each year. In addition, the Council may, for the purpose of carrying out the provisions of this section, hold such hearings, take such testimony, receive such evidence and print or otherwise reproduce and distribute reports concerning so much of its proceedings as the Council deems advisable. No later than February 1 of each calendar year following the calendar year in which the Council is established, the Cochairmen shall submit to the President, the Congress, the Governor of Alaska, and the Alaska Legislature, in writing, a report on the activities of the Council during the previous year, together with their recommendations, if any, for legislative or other action in furtherance of the purposes of this section.

(h) Rules

The Council shall adopt such internal rules of procedure as it deems necessary. All Council meetings shall be open to the public, and at least fifteen days prior to the date when any meeting of the Council is to take place the Cochairman shall publish public notice of such meeting in the Federal Register and in newspapers of general circulation in various areas throughout Alaska.

(i) Functions of the Council

(1) The Council shall conduct studies and advise the Secretary, the Secretary of Agriculture, other Federal agencies, the State, local governments, and Native Corporations with respect to ongoing, planned, and proposed land and resources uses in Alaska, including transportation planning, land use designation, fish and wildlife management, tourism, agricultural development, coastal zone management, preservation of cultural and historical resources, and such other matters as may be submitted for advice by the members.

(2) It shall be the function of the Council—

(A) to make recommendations to appropriate officials of the United States and the State of Alaska with respect to—

(i) proposed regulations promulgated by the United States to carry out its responsibilities under this Act;

(ii) management plans and studies required by this Act including, but not limited to, plans and studies for conservation system units, wild and scenic rivers, and wilderness areas;

(iii) proposed regulations promulgated by the State of Alaska to carry out its responsibilities under this Act and other State and Federal laws;

(B) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to ways to improve coordination and consultation between said governments in wildlife management, transportation planning, wilderness review, and other governmental activities which appear to require regional or statewide coordination;

(C) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to ways to insure that economic development is orderly and planned and is compatible with State and national economic, social, and environmental objectives;

(D) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to those changes in laws, policies, and programs relating to publicly owned lands and resources which the Council deems necessary;

(E) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to the inventory, planning, classification, management, and use of Federal and State lands, respectively, and to provide such assistance to Native Corporations upon their request;

(F) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to needed modifications in existing withdrawals of Federal and State lands; and

(G) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to the programs and budgets of Federal and State agencies responsible for the administration of Federal and State lands; and

(H) to make recommendations to appropriate officials of the governments of the United States, the State of Alaska, and Native Corporations for land exchanges between or among them.

(j) Cooperative planning

(1) The Council shall recommend cooperative planning zones, consisting of areas of the State in which the management of lands or resources by one member materially affects the management of lands or resources of another member or members including, but not limited to, such areas as the Northwest Arctic, the North Slope, and Bristol Bay. Federal members of the Council are authorized and encouraged to enter into cooperative agreements with Federal agencies, with State and local agencies, and with Native Corporations providing for mutual consultation, review, and coordination of resource management plans and programs within such zones.

(2) With respect to lands, waters, and interests therein which are subject to a cooperative agreement in accordance with this subsection, the Secretary, in addition to any requirement of applicable law, may provide technical and other assistance to the landowner with respect to fire control, trespass control, law enforcement, resource use, and planning. Such assistance may be provided without reimbursement if the Secretary determines that to do so would further the purposes of the cooperative agreement and would be in the public interest.

(3) Cooperative agreements established pursuant to this section shall include a plan for public participation consistent with the guidelines established by the Council pursuant to subsection (m) of this section.

(k) Nonacceptance of Council recommendations

If any Federal or State agency does not accept a recommendation made by the Council pursuant to subsection (i) or (j) of this section, such agency, within thirty days of receipt of the recommendation, shall inform the Council, in writing, of its reason for such action.

***(l)* Termination**

Unless extended by the Congress, the Council shall terminate ten years after December 2, 1980. No later than one year prior to its termination date, the Cochairmen shall submit in writing to the Congress a report on the accomplishments of the Council together with their recommendations as to whether the Council should be extended or any other recommendations for legislation or other action which they determine should be taken following termination of the Council to continue carrying out the purposes for which the Council was established.

(m) Public participation

The Council shall establish and implement a public participation program to assist the Council to carry out its responsibilities and functions under this section. Such program shall include, but is not limited to—

(1) A committee of land-use advisors appointed by the Cochairmen made up of representatives of commercial and industrial land users in Alaska, recreational land users, wilderness users, environmental groups, Native Corporations, and other public and private organizations. To the maximum extent practicable, the membership of the committee shall provide a balanced mixture of national, State, and local perspective and expertise on land and resource use issues; and

(2) A system for (A) the identification of persons and communities, in rural and urban Alaska, who or which may be directly or significantly affected by studies conducted, or advice and recommendations given by the Council pursuant to this section, and (B) guidelines for, and implementation of, a system for effective public participation by such persons or communities in the development of such studies, advice and recommendations by the Council.

(Pub. L. 96–487, title XII, §1201, Dec. 2, 1980, 94 Stat. 2466.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (e)(3), was amended generally by Pub. L. 94–22, §4, May 19, 1975, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

This Act, referred to in subsecs. (f)(3), (5) and (i)(2)(A)(i), (ii), and (iii), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (g) of this section relating to submitting report to Congress no later than February 1 of each calendar year, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 154 of House Document No. 103–7.

§ 3182. Federal Coordination Committee

There is hereby established a Federal Coordination Committee composed of the Secretaries (or their designees) of Agriculture, Energy, the Interior, and Transportation; the Administrators of the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration; and the Federal and State Cochairmen of the Council. Such Committee shall meet at least once every four months in order to coordinate those programs and functions of their respective agencies which could affect the administration of lands and resources in Alaska. The Federal Cochairman shall be the Chairman of the Committee. He shall be responsible for formulating an agenda for each meeting, after consultation with the other agency heads referred to herein, for providing any necessary staff support, and for preparing a brief summary of the disposition of matters discussed at each meeting. Such summary shall be published in the Federal Register.

(Pub. L. 96–487, title XII, §1202, Dec. 2, 1980, 94 Stat. 2470.)

§ 3183. Bristol Bay Cooperative Region

(a) Definitions

For purposes of this section—

(1) The term ''Governor'' means the Governor of the State of Alaska.

(2) The term ''region'' means the land (other than any land within the National Park System) within the Bristol Bay Cooperative Region as generally depicted on the map entitled ''Bristol Bay-Alaska Peninsula'', dated October 1979.

(b) Purpose

The purpose of this section is to provide for the preparation and implementation of a comprehensive and systematic cooperative management plan (hereinafter in this section referred to as the ''plan''), agreed to by the United States and the State—

(1) to conserve the fish and wildlife and other significant natural and cultural resources within the region;

(2) to provide for the rational and orderly development of economic resources within the region in an environmentally sound manner;

(3) to provide for such exchanges of land among the Federal Government, the State, and other public or private owners as will facilitate the carrying out of paragraphs (1) and (2);

(4) to identify any further lands within the region which are appropriate for selections by the State under section 6 of the Alaska Statehood Act and this Act; and

(5) to identify any further lands within the region which may be appropriate for congressional designation as national conservation system units.

(c) Federal-State cooperation in preparation of plans

(1) If within three months after December 2, 1980, the Governor notifies the Secretary that the State wishes to participate in the preparation of the plan, and that the Governor will, to the extent of his authority, manage State lands within the region to conserve fish and wildlife during such preparation, the Secretary and the Governor shall undertake to prepare the plan which shall contain such provisions as are necessary and appropriate to achieve the purposes set forth in subsection (b) of this section, including but not limited to—

(A) the identification of the significant resources of the region;

(B) the identification of present and potential uses of land within the region;

(C) the identification of areas within the region according to their significant resources and the present or potential uses within each such area;

(D) the identification of land (other than any land within the National Park System) which should be exchanged in order to facilitate the conserving of fish and wildlife and the management and development of other resources within the region; and

(E) the specification of the uses which may be permitted in each area identified under paragraph (C) and the manner in which these uses shall be regulated by the Secretary or the State, as appropriate, if such plan is approved.

(2) The plan shall also—

(A) specify those elements of the plan, and its implementation, which the Secretary or the Governor:

(i) may modify without prior approval of both parties to the plan; and

(ii) may not modify without such prior approval; and

(B) include a description of the procedures which will be used to make modifications to which paragraph (A)(i) applies.

(d) Action by Secretary if State does not participate in plan

If—

(1) the Secretary does not receive notification under subsection (c) of this section that the State will participate in the preparation of the plan; or

(2) after the State agrees to so participate, the Governor submits to the Secretary written notification that the State is terminating its participation;

the Secretary shall prepare a plan containing the provisions referred to in subsection (c)(1) of this section (and containing a specification of those elements in the plan which the Secretary may modify without prior approval of Congress), and submit copies of such plan to the Congress, as provided in subsection (e)(2) of this section, within three years after December 2, 1980.

(e) Taking effect of plan

(1) If within three years after December 2, 1980, a plan has been prepared under subsection (c) of this section which is agreed to by the Secretary and the Governor, the plan shall take effect with respect to the United States and the State.

(2) If the plan prepared pursuant to this section is agreed to by the Secretary and the Governor includes any recommendations regarding (i) the exchange of State lands, (ii) the management of Federal lands within any conservation system unit, or (iii) any other actions which require the approval of either the Congress or the Alaska State Legislature, then the Secretary and the Governor shall submit to the Congress and the State Legislature as appropriate, their proposals for legislation necessary to carry out the recommendations contained in the plan.

(f) Transitional provisions

On December 2, 1980, and for a period of three years thereafter, all Federal land within the region (except that land conveyed by title IX of this Act to the State of Alaska and Federal lands located within the boundaries of conservation system units) shall be withdrawn from all forms of appropriation under the public land laws, including selections by the State, and from location and entry under the mining laws and from leasing under the Mineral Leasing Act [30 U.S.C. 181 et seq.], and shall be managed by the Bureau of Land Management under its existing statutory authority and consistent with provisions of this section.

(Pub. L. 96–487, title XII, §1203, Dec. 2, 1980, 94 Stat. 2470.)

REFERENCES IN TEXT

Section 6 of the Alaska Statehood Act, referred to in subsec. (b)(4), is section 6 of Pub. L. 85–508, July 7, 1958, 72 Stat. 399, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

This Act, referred to in subsecs. (b)(4) and (f), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, known as the Alaska National Interest Lands Conservation Act. Title IX of this Act enacted sections 1631 to 1638 of Title 43, Public Lands, amended sections 1614 and 1620 of Title 43, and amended provisions set out as notes under section 1611 of Title 43 and preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Mineral Leasing Act, referred to in subsec. (f), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, which is classified generally to chapter 3A (§181 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

§ 3191. Management plans

(a) Development; transmittal to Congressional committees

Within five years from December 2, 1980, the Secretary shall develop and transmit to the appropriate Committees of the Congress a conservation and management plan for each of the units of the National Park System established or to which additions are made by this Act.

(b) National Park service plan requirements

Each plan for a unit established, redesignated, or expanded by subchapter LIX–F of chapter 1 of this title shall identify management practices which will carry out the policies of this Act and will accomplish the purposes for which the concerned National Park System unit was estab-

lished or expanded and shall include at least the following:

(1) Maps indicating areas of particular importance as to wilderness, natural, historical, wildlife, cultural, archeological, paleontological, geological, recreational, and similar resources and also indicating the areas into which such unit will be divided for administrative purposes.

(2) A description of the programs and methods that will be employed to manage fish and wildlife resources and habitats, cultural, geological, recreational, and wilderness resources, and how each conservation system unit will contribute to overall resources management goals of that region. Such programs should include research, protection, restoration, development, and interpretation as appropriate.

(3) A description of any areas of potential or proposed development, indicating types of visitor services and facilities to be provided, the estimated costs of such services and facilities, and whether or not such services and facilities could and should be provided outside the boundaries of such unit.

(4) A plan for access to, and circulation within, such unit, indicating the type and location of transportation routes and facilities, if any.

(5) A description of the programs and methods which the Secretary plans to use for the purposes of (A) encouraging the recognition and protection of the culture and history of the individuals residing, on December 2, 1980, in such unit and areas in the vicinity of such unit, and (B) providing and encouraging employment of such individuals.

(6) A plan for acquiring land with respect to such unit, including proposed modifications in the boundaries of such unit.

(7) A description (A) of privately owned areas, if any, which are within such unit, (B) of activities carried out in, or proposed for, such areas, (C) of the present and potential effects of such activities on such unit, (D) of the purposes for which such areas are used, and (E) of methods (such as cooperative agreements and issuance or enforcement of regulations) of controlling the use of such activities to carry out the policies of this Act and the purposes for which such unit is established or expanded.

(8) A plan indicating the relationship between the management of such unit and activities being carried out in, or proposed for, surrounding areas and also indicating cooperative agreements which could and should be entered into for the purpose of improving such management.

(c) Consideration of factors

In developing, preparing, and revising a plan under this section the Secretary shall take into consideration at least the following factors:

(1) The specific purposes for which the concerned conservation system unit was established or expanded.

(2) Protection and preservation of the ecological, environmental, wildlife, cultural, historical, archeological, geological, recreational, wilderness, and scenic character of the concerned unit and of areas in the vicinity of such unit.

(3) Providing opportunities for Alaska Natives residing in the concerned unit and areas adjacent to such unit to continue performing in such unit activities which they have traditionally or historically performed in such unit.

(4) Activities being carried out in areas adjacent to, or surrounded by, the concerned unit.

(d) Hearing and participation

In developing, preparing, and revising a plan under this section the Secretary shall hold at least one public hearing in the vicinity of the concerned conservation unit, hold at least one public hearing in a metropolitan area of Alaska, and, to the extent practicable, permit the following persons to participate in the development, preparation, and revision of such plan:

(1) The Alaska Land Use Council and officials of Federal agencies whose activities will be significantly affected by implementation of such plan.

(2) Officials of the State and of political subdivisions of the State whose activities will be significantly affected by implementation of such plan.

(3) Officials of Native Corporations which will be significantly affected by implementation of such plan.

(4) Concerned local, State, and National organizations and interested individuals.

(Pub. L. 96–487, title XIII, § 1301, Dec. 2, 1980, 94 Stat. 2472.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

Subchapter LIX–F of chapter 1 of this title, referred to in subsec. (b), commences with section 410hh of this title.

§ 3192. Land acquisition authority

(a) General authority

Except as provided in subsections (b) and (c) of this section, the Secretary is authorized, consistent with other applicable law in order to carry out the purposes of this Act, to acquire by purchase, donation, exchange, or otherwise any lands within the boundaries of any conservation system unit other than National Forest Wilderness.

(b) Restrictions

Lands located within the boundaries of a conservation system unit which are owned by—

(A) the State or a political subdivision of the State;

(B) a Native Corporation or Native Group which has Natives as a majority of its stockholders;

(C) the actual occupant of a tract, title to the surface estate of which was on, before, or after December 2, 1980, conveyed to such occupant pursuant to section 1613(c)(1) and (h)(5) of title 43, unless the Secretary determines that the tract is no longer occupied for the purpose described in section 1613(c)(1) or (h)(5) of title 43 for which the tract was conveyed and that

activities on the tract are or will be detrimental to the purposes of the unit in which the tract is located; or

(D) a spouse or lineal descendant of the actual occupant of a tract described in subparagraph (C), unless the Secretary determines that activities on the tract are or will be detrimental to the purposes of the unit in which the tract is located—

may not be acquired by the Secretary without the consent of the owner.

(c) Exchanges

Lands located within the boundaries of a conservation system unit (other than National Forest Wilderness) which are owned by persons or entities other than those described in subsection (b) of this section shall not be acquired by the Secretary without the consent of the owner unless prior to final judgment on the value of the acquired land, the owner, after being offered appropriate land of similar characteristics and like value (if such land is available from public lands located outside the boundaries of any conservation system unit), chooses not to accept the exchange. In identifying public lands for exchange pursuant to this subsection, the Secretary shall consult with the Alaska Land Use Council.

(d) Improved property

No improved property shall be acquired under subsection (a) of this section without the consent of the owner unless the Secretary first determines that such acquisition is necessary to the fulfillment of the purposes of this Act or to the fulfillment of the purposes for which the concerned conservation system unit was established or expanded.

(e) Retained rights

The owner of an improved property on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or recreational purposes, as the case may be, for a definite term of not more than twenty-five years, or in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the owner's interest in the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that such right is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(f) "Improved property" defined

For the purposes of this section, the term ''improved property'' means—

(1) a detached single family dwelling, the construction of which was begun before January 1, 1980 (hereinafter referred to as the ''dwelling''), together with the land on which the dwelling is situated to the extent that such land—

(A) is in the same ownership as the dwelling or is Federal land on which entry was legal and proper, and

(B) is designated by the Secretary to be necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, or

(2) property developed for noncommercial recreational uses, together with any structures accessory thereto which were so used on or before January 1, 1980, to the extent that entry onto such property was legal and proper.

In determining when and to what extent a property is to be considered an ''improved property'', the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1980, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed before such date.

(g) Consideration of hardship

The Secretary shall give prompt and careful consideration to any offer made by the owner of any property within a conservation system unit to sell such property, if such owner notifies the Secretary that the continued ownership is causing, or would result in, undue hardship.

(h) Exchange authority

(1) Notwithstanding any other provision of law, in acquiring lands for the purposes of this Act, the Secretary is authorized to exchange lands (including lands within conservation system units and within the National Forest System) or interests therein (including Native selection rights) with the corporations organized by the Native Groups, Village Corporations, Regional Corporations, and the Urban Corporations, and other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any Federal agency. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

(2) Nothing in this Act or any other provision of law shall be construed as authorizing the Secretary to convey, by exchange or otherwise, lands or interest in lands within the coastal plain of the Arctic National Wildlife Refuge (other than land validly selected prior to July 28, 1987), without prior approval by Act of Congress.

(i) Donation or exchange

(1) The Secretary is authorized to acquire by donation or exchange, lands (A) which are contiguous to any conservation system unit established or expanded by this Act, and (B) which

are owned or validly selected by the State of Alaska.

(2) Any such lands so acquired shall become a part of such conservation system unit.

(Pub. L. 96–487, title XIII, § 1302, Dec. 2, 1980, 94 Stat. 2474; Pub. L. 100–395, title II, § 201, Aug. 16, 1988, 102 Stat. 981.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a), (d), (e), (h), and (i)(1), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

Section 6(i) of the Alaska Statehood Act, referred to in subsec. (h)(1), is section 6(i) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

AMENDMENTS

1988—Subsec. (h). Pub. L. 100–395 designated existing provisions as par. (1) and added par. (2).

§ 3192a. Restrictions on use of appropriated funds

Notwithstanding any other provision of law, none of the funds provided in this Act or any other Act hereafter enacted may be used by the Secretary of the Interior, except with respect to land exchange costs and costs associated with the preparation of land acquisitions, in the acquisition of State, private, or other non-federal lands (or any interest therein) in the State of Alaska, unless, in the acquisition of any State, private, or other non-federal lands (or interest therein) in the State of Alaska, the Secretary seeks to exchange unreserved public lands before purchasing all or any portion of such lands (or interest therein) in the State of Alaska.

(Pub. L. 105–277, div. A, § 101(e) [title I, § 127], Oct. 21, 1998, 112 Stat. 2681–231, 2681–261.)

CODIFICATION

Section was enacted as part of Department of the Interior and Related Agencies Appropriations Act, 1999, and also as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, and not as part of Alaska National Interest Lands Conservation Act which comprises this chapter.

§ 3193. Use of cabins and other sites of occupancy on conservation system units

(a) Improved property on National Park System lands

(1) On public lands within the boundaries of any unit of the National Park System created or enlarged by this Act, cabins or other structures existing prior to December 18, 1973, may be occupied and used by the claimant to these structures pursuant to a renewable, nontransferable permit. Such use and occupancy shall be for terms of five years each: *Provided*, That the claimant of the structure by application:

(A) Reasonably demonstrates by affidavit, bill of sale or other documentation, proof of possessory interest or right of occupancy in the cabin or structure;

(B) Submits a sketch or photograph of the cabin or structure and a map showing its geographic location;

(C) Agrees to vacate the cabin and to remove all personal property from the cabin or structure upon expiration of the permit; and

(D) Acknowledges in the permit that the applicant has no interest in the real property on which the cabin or structure is located.

(2) On public lands within the boundaries of any unit of the National Park System created or enlarged by this Act, cabins or other structures, the occupancy or use of which commenced between December 18, 1973, and December 1, 1978, may be used and occupied by the claimant of such structure pursuant to a nontransferable, nonrenewable permit. Such use and occupancy shall be for a maximum term of one year: *Provided*, *however*, That the claimant, by application:

(A) Reasonably demonstrates by affidavit, bill of sale, or other documentation proof of possessory interest or right of occupancy in the cabin or structure;

(B) Submits a sketch or photograph of the cabin or structure and a map showing its geographic location;

(C) Agrees to vacate the cabin or structure and to remove all personal property from it upon expiration of the permit; and

(D) Acknowledges in the permit that the applicant has no legal interest in the real property on which the cabin or structure is located.

The Secretary may, on a case by case basis, subject to reasonable regulations, extend such permit term beyond one year for such reasons as the Secretary deems equitable and just.

(3) Cabins or other structures not under permit as specified herein shall be used only for official government business: *Provided however*, That during emergencies involving the safety of human life or where designated for public use by the Secretary, these cabins may be used by the general public.

(4) The Secretary may issue a permit under such conditions as he may prescribe for the temporary use, occupancy, construction and maintenance of new cabins or other structures if he determines that the use is necessary to reasonably accommodate subsistence uses or is otherwise authorized by law.

(b) Improved property on other units or areas established or expanded by this Act

The following conditions shall apply regarding the construction, use and occupancy of cabins and related structures on Federal lands within conservation system units or areas not provided for in subsection (a) of this section:

(1) The construction of new cabins is prohibited except as may be authorized pursuant to a nontransferable, five-year special use permit issued by the Secretary. Such special use permit shall only be issued upon a determination that the proposed use, construction, and maintenance of a cabin is compatible with the purposes for which the unit or area was established and that the use of the cabin is either directly related to the administration of the unit or area or is necessary to provide for a continuation of an ongoing activity or use otherwise allowed within the unit or area

where the permit applicant has no reasonable alternative site for constructing a cabin. No special use permit shall be issued to authorize the construction of a cabin for private recreational use.

(2) Traditional and customary uses of existing cabins and related structures on Federal lands within a unit or area may be allowed to continue in accordance with a nontransferable, renewable five-year special use permit issued by the Secretary. Such special use permit shall be issued only upon a determination that the traditional and customary uses are compatible with the purposes for which the unit or area was established. No special use permits shall be issued to authorize the use of an existing cabin constructed for private recreational use.

(3) No special use permit shall be issued under paragraphs (1) or (2) of this subsection unless the permit applicant:

(A) In the case of existing cabins or structures, reasonably demonstrates by affidavit, bill of sale or other documentation, proof of possessory interests or right of occupancy in the cabin or structure;

(B) Submits a sketch or photograph of the existing or proposed cabin or structure and a map showing its geographic location;

(C) Agrees to vacate the cabin or structure and remove, within a reasonable time period established by the Secretary, all personal property from it upon nonrenewal or revocation of the permit; and

(D) Acknowledges in the permit application that the applicant has no interest in the real property on which the cabin or structure is located or will be constructed.

(4) The United States shall retain ownership of all new cabins and related structures on Federal lands within a unit or area specified in this subsection, and no proprietary rights or privileges shall be conveyed through the issuance of the special use permit authorized by paragraphs (1) or (2) of this subsection. Cabins or other structures not under permit shall be used only for official Government business: *Provided, however*, That during emergencies involving the safety of human life or where designated for public use by the unit or area manager, such cabins may be used by the general public.

(c) Permits to be renewed for life of claimant and immediate family

(1) Whenever issuance of a nontransferable renewable five-year special use permit is authorized by subsections (a) or (b) of this section, said permit shall be renewed every five years until the death of the last immediate family member of the claimant residing in the cabin or structure, or unless the Secretary has revoked the special use permit in accordance with the criteria established in this section.

(2) Notwithstanding any other provision of this section, the Secretary, after notice and hearing, may revoke a permit provided for in this section if he determines, on the basis of substantial evidence in the administrative record as a whole, that the use under the permit is causing or may cause significant detriment to the principal purposes for which the unit was established.

(d) Existing cabin leases or permits

Nothing in this Act shall preclude the renewal or continuation of valid leases or permits in effect on December 2, 1980, for cabins, homesites, or similar structures on Federal lands. Unless the Secretary, or in the case of national forest lands, the Secretary of Agriculture, issues specific findings following notice and an opportunity for the lease-holder or permittee to respond, that renewal or continuation of such valid permit or lease constitutes a direct threat to or a significant impairment to the purposes for which a conservation system unit was established (in the case of a structure located within a conservation system unit) or the public domain or national forest (in case of a structure located outside conservation system units), he shall renew such valid leases or permits upon their expiration in accordance with the provisions of the original lease or permit, subject to such reasonable regulations as he may prescribe. Subject to the provisions of the original lease or permit, nothing in this Act or subsection shall necessarily preclude the appropriate Secretary from transferring such a lease or permit to another person at the election or death of the original permittee or leasee.

(Pub. L. 96–487, title XIII, §1303, Dec. 2, 1980, 94 Stat. 2476.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(1), (2), (b), and (d), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3194. Archeological and paleontological sites

Notwithstanding any acreage or boundary limitations contained in this Act with respect to the Cape Krusenstern National Monument, the Bering Land Bridge National Preserve, the Yukon-Charley Rivers National Preserve, and the Kobuk Valley National Park, the Secretary may designate Federal lands or he may acquire by purchase with the consent of the owner, donation, or exchange any significant archeological or paleontological site in Alaska located outside of the boundaries of such areas and containing resources which are closely associated with any such area. If any such site is so designated or acquired, it shall be included in and managed as part of such area. Not more than seven thousand five hundred acres of land may be designated or acquired under this section for inclusion in any single area. Before designation or acquisition of any property in excess of one hundred acres under the provisions of this section, the Secretary shall—

(1) submit notice of such proposed designation or acquisition to the appropriate committees of the Congress; and

(2) publish notice of such proposed designation or acquisition in the Federal Register.

(Pub. L. 96–487, title XIII, §1304, Dec. 2, 1980, 94 Stat. 2478.)

REFERENCES IN TEXT

This Act, referred to in provision preceding par. (1), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3195. Cooperative information and education centers

The Secretary is authorized in consultation with other Federal agencies, to investigate and plan for an information and education center for visitors to Alaska on not to exceed one thousand acres of Federal land at a site adjacent to the Alaska Highway, and to investigate and plan for similar centers in Anchorage and Fairbanks, Alaska. For the purposes of this investigation, the Secretary shall seek participation in the program planning and/or operation of such centers from appropriate agencies of the State of Alaska, and he is authorized to accept contributions of funds, personnel, and planning and program assistance from such State agencies, other Federal agencies, and Native representatives. The Secretary of Agriculture is authorized to investigate and plan for, in a similar manner, an information and education center for visitors to Alaska in either Juneau, Ketchikan, or Sitka, Alaska. No information center shall be developed pursuant to investigations and plans conducted under authority of this section unless and until such development is specifically authorized by Congress.

(Pub. L. 96–487, title XIII, § 1305, Dec. 2, 1980, 94 Stat. 2478.)

AUTHORIZATION OF APPROPRIATIONS; PURPOSES OF CENTER; OPERATION OF CENTER; DEVELOPMENT PLANS

Pub. L. 99–664, § 11, Nov. 17, 1986, 100 Stat. 4308, provided that:

''(a) AUTHORIZATION.—There is hereby authorized to be appropriated $250,000 to be used by the Secretary of Agriculture to conduct surveys, develop designs, and carry out other preliminary work related to the establishment of an Information and Education Center provided for in section 1305 of Public Law 96–487 [16 U.S.C. 3195].

''(b) PURPOSES.—The purposes of the Center authorized by subsection (a) shall be—

''(1) to collect and disseminate to visitors to and residents of Alaska information about the natural, recreational, cultural, historical, archeological, multiple use, and other resources and values of Alaska, with special emphasis on the Tongass National Forest and Southeast Alaska and its people;

''(2) to publicly display temporary and permanent exhibits illustrating and interpreting these resources and values;

''(3) to foster educational programs relating to the heritage resources of Alaska including those pertaining to Alaska Native peoples with particular emphasis on the Haida, Tshimshian, and Tglingit peoples of Southeast Alaska.

''(c) DESIGN.—Design of the center in subsection (a) shall be developed in consultation with other appropriate Federal agencies, the Alaska Division of Tourism and other appropriate agencies of the State of Alaska, the local government of the city in which such center is to be located, and southeast Alaska Native organizations.

''(d) CONSULTATION.—In establishing, operating, and maintaining the center (and any affiliated branches), the Secretary of Agriculture shall consult with, in addition to those listed in subsection (c), Alaska colleges and universities, the National Historic Association of Alaska, the Alaska Federation of Natives, and appropriate individuals and other organizations concerned with the diverse heritage resources of Alaska.

''(e) COOPERATIVE AGREEMENTS.—The Secretary of Agriculture is authorized to enter into cooperative agreements with those individuals and organizations listed in subsections (c) and (d) to facilitate carrying out the purposes of the Center.

''(f) DEVELOPMENT PLAN.—Within one year after the date of enactment of this Act [Nov. 17, 1986], and after consultation with the individuals and organizations listed in subsections (c) and (d), the Secretary of Agriculture shall submit to Congress a development plan for the Center along with an estimate of the cost.''

§ 3196. Administrative sites and visitor facilities

(a) Establishment

In conformity with the conservation and management plans prepared for each unit and the purposes of assuring the preservation, protection, and proper management of any conservation system unit, the Secretary may establish sites and visitor facilities—

(1) within the unit, if compatible with the purposes for which the unit is established, expanded, or designated by this Act, and the other provisions of this Act, or

(2) outside the boundaries of, and in the vicinity of, the unit.

To the extent practicable and desirable, the Secretary shall attempt to locate such sites and facilities on Native lands in the vicinity of the unit.

(b) Authorities of Secretary

For the purpose of establishing administrative sites and visitor facilities under subsection (a) of this section—

(1) the Secretary and the head of the Federal agency having primary authority over the administration of any Federal land which the Secretary determines is suitable for use in carrying out such purpose may enter into agreements permitting the Secretary to use such land for such purposes;

(2) notwithstanding any other provision of law, the Secretary, under such terms and conditions as he determines are reasonable, may lease or acquire by purchase, donation, exchange, or any other method (except condemnation) real property (other than Federal land), office space, housing, and other necessary facilities which the Secretary determines to be suitable for carrying out such purposes; and

(3) the Secretary may construct, operate, and maintain such permanent and temporary buildings and facilities as he deems appropriate on land which is within, or in the vicinity of, any conservation system unit and with respect to which the Secretary has acquired authority under this subsection to use the property for the purpose of establishing an administrative site or visitor facility under subsection (a) of this section, except that the Secretary may not begin construction of buildings and facilities on land not owned by the United States until the owner of such land has entered into an agreement with the Secretary, the terms of which assure the continued use of such buildings and facilities in furtherance of the purposes of this Act.

(Pub. L. 96–487, title XIII, § 1306, Dec. 2, 1980, 94 Stat. 2479.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(1) and (b)(3), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3197. Revenue-producing visitor services

(a) Continuation of existing visitor services

Notwithstanding any other provision of law, the Secretary, under such terms and conditions as he determines are reasonable, shall permit any persons who, on or before January 1, 1979, were engaged in adequately providing any type of visitor service within any area established as or added to a conservation system unit to continue providing such type of service and similar types of visitor services within such area if such service or services are consistent with the purposes for which such unit is established or expanded.

(b) Preference

Notwithstanding provisions of law other than those contained in subsection (a), of this section, in selecting persons to provide (and in contracting for the provision of) any type of visitor service for any conservation system unit, except sport fishing and hunting guiding activities, the Secretary—

(1) shall give preference to the Native Corporations which the Secretary determines are most directly affected by the establishment or expansion of such unit by or under the provisions of this Act;

(2) shall give preference to persons whom he determines, by rule, are local residents; and

(3) shall, consistent with the provisions of this section, offer to Cook Inlet Region, Incorporated, in cooperation with Village Corporations within the Cook Inlet Region when appropriate, the right of first refusal to provide new revenue producing visitor services within the Kenai National Moose Range or that portion of the Lake Clark National Park and Preserve within the boundaries of the Cook Inlet Region that right to remain open for a period of ninety days as agreed to in paragraph VIII of the document referred to in section 12 of the Act of January 2, 1976 (Public Law 94–204).

(c) "Visitor service" defined

As used in this section, the term ''visitor service'' means any service made available for a fee or charge to persons who visit a conservation system unit, including such services as providing food, accommodations, transportation, tours, and guides excepting the guiding of sport hunting and fishing. Nothing in this Act shall limit or affect the authority of the Federal Government or the State of Alaska to license and regulate transportation services.

(Pub. L. 96–487, title XIII, § 1307, Dec. 2, 1980, 94 Stat. 2479; Pub. L. 105–333, § 10, Oct. 31, 1998, 112 Stat. 3134.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (b)(1) and (c), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

Section 12 of the Act of January 2, 1976 (Public Law 94–204), referred to in subsec. (b)(3), is section 12 of Pub. L. 94–204, Jan. 2, 1976, 89 Stat. 1150, which is set out as a note under section 1611 of Title 43, Public Lands.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–333 substituted ''Native Corporations'' for ''Native Corporation'' and ''are most directly affected'' for ''is most directly affected''.

§ 3198. Local hire

(a) Program

After consultation with the Office of Personnel Management, the Secretary shall establish a program under which any individual who, by reason of having lived or worked in or near public lands, has special knowledge or expertise concerning the natural or cultural resources of public lands and the management thereof (as determined by the Secretary) shall be considered for selection for any position within public lands without regard to—

(1) any provision of the civil service laws or regulations thereunder which require minimum periods of formal training or experience,

(2) any such provision which provides an employment preference to any other class of applicant is such selection, and

(3) any numerical limitation on personnel otherwise applicable.

Individuals appointed under this subsection shall not be taken into account in applying any personnel limitation described in paragraph (3).

(b) Preference eligibles within local hire

Notwithstanding the provisions of subsection (a) of this section, any individual who is eligible to be selected for a position under the provisions of subsection (a) of this section and is a preference eligible as defined in section 2108(3) of title 5 shall be given an employment preference, consistent with the preference in the competitive service as defined in section 2102 of such title for which such person is eligible under subchapter I of chapter 33 of such title, in selection to such position.

(c) Payment of expenses after death of an employee

(1) Definition of immediate family member

In this subsection, the term ''immediate family member'' means a person related to a deceased employee that was a member of the household of the deceased employee at the time of death.

(2) Payments

If an employee appointed under the program established by subsection (a) of this section dies in the performance of any assigned duties on or after October 1, 2002, the Secretary may—

(A) pay or reimburse reasonable expenses, regardless of when those expenses are incurred, for the preparation and transportation of the remains of the deceased employee to a location in the State of Alaska which is selected by the surviving head of household of the deceased employee;

(B) pay or reimburse reasonable expenses, regardless of when those expenses are incurred, for transporting immediate family members and the baggage and household goods of the deceased employee and immediate family members to a community in the State of Alaska which is selected by the surviving head of household of the deceased employee.

(d) Reports

The Secretary shall from time to time prepare and submit to the Congress reports indicating the actions taken in carrying out the provisions of subsection (a) of this section together with any recommendations for legislation in furtherance of the purposes of this section.

(e) Competitive status

(1) In general

Nothing in subsection (a) provides that any person hired pursuant to the program established under that subsection is not eligible for competitive status in the same manner as any other employee hired as part of the competitive service.

(2) Redesignation of certain positions

(A) Persons serving in original positions

Not later than 60 days after March 30, 2009, with respect to any person hired into a permanent position pursuant to the program established under subsection (a) who is serving in that position as of March 30, 2009, the Secretary shall redesignate that position and the person serving in that position as having been part of the competitive service as of the date that the person was hired into that position.

(B) Persons no longer serving in original positions

With respect to any person who was hired pursuant to the program established under subsection (a) that is no longer serving in that position as of March 30, 2009—

(i) the person may provide to the Secretary a request for redesignation of the service as part of the competitive service that includes evidence of the employment; and

(ii) not later than 90 days of the submission of a request under clause (i), the Secretary shall redesignate the service of the person as being part of the competitive service.

(Pub. L. 96–487, title XIII, § 1308, Dec. 2, 1980, 94 Stat. 2480; Pub. L. 100–689, title IV, § 401, Nov. 18, 1988, 102 Stat. 4177; Pub. L. 102–415, § 16, Oct. 14, 1992, 106 Stat. 2124; Pub. L. 108–199, div. H, § 147, Jan. 23, 2004, 118 Stat. 445; Pub. L. 111–11, title VI, § 6101, Mar. 30, 2009, 123 Stat. 1170.)

AMENDMENTS

2009—Subsec. (e). Pub. L. 111–11 added subsec. (e).

2004—Subsecs. (c), (d). Pub. L. 108–199 added subsec. (c) and redesignated former subsec. (c) as (d).

1992—Subsec. (a). Pub. L. 102–415 substituted ''public lands'' for ''a conservation system unit'' and substituted ''public lands'' for ''such unit'' in two places.

1988—Subsecs. (b), (c). Pub. L. 100–689 added subsec. (b) and redesignated former subsec. (b) as (c).

PILOT PROGRAM

Pub. L. 106–488, § 2, Nov. 9, 2000, 114 Stat. 2205, provided that:

''(a) In furtherance of the goals of sections 1307 and 1308 of the Alaska National Interest Lands Conservation Act [16 U.S.C. 3197, 3198] and the provisions of the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.], the Secretary [of the Interior] shall—

''(1) implement pilot programs to employ residents of local communities at the following units of the National Park System located in northwest Alaska—

''(A) Bering Land Bridge National Preserve,

''(B) Cape Krusenstern National Monument,

''(C) Kobuk Valley National Park, and

''(D) Noatak National Preserve; and

''(2) report on the results of the programs within one year to the Committee on Energy and Natural Resources of the United States [Senate] and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives.

''(b) In implementing the programs, the Secretary shall consult with the Native Corporations, nonprofit organizations, and Tribal entities in the immediate vicinity of such units and shall also, to the extent practicable, involve such groups in the development of interpretive materials and the pilot programs relating to such units.''

LOCAL HIRE REPORT

Pub. L. 105–333, § 11, Oct. 31, 1998, 112 Stat. 3135, provided that:

''(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [Oct. 31, 1998], the Secretary of the Interior shall transmit to Congress a report.

''(b) LOCAL HIRE.—The report required by subsection (a) shall—

''(1) indicate the actions taken in carrying out subsection (b) of section 1308 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3198);

''(2) address the recruitment processes that may restrict employees hired under subsection (a) of such section from successfully obtaining positions in the competitive service; and

''(3) describe the actions of the Secretary of the Interior in contracting with Alaska Native Corporations to provide services with respect to public lands in Alaska.

''(c) COOPERATION.—The Secretary of Agriculture shall cooperate with the Secretary of the Interior in carrying out this section with respect to the Forest Service.''

§ 3199. Navigation aids and other facilities

(a) Existing facilities

Within conservation system units established or expanded by this Act, reasonable access to, and operation and maintenance of, existing air and water navigation aids, communications sites and related facilities and existing facilities for weather, climate, and fisheries research and monitoring shall be permitted in accordance with the laws and regulations applicable to units of such systems, as appropriate. Reasonable access to and operation and maintenance of facilities for national defense purposes and related air and water navigation aids within or adjacent to such areas shall continue in accordance with the laws and regulations governing such facilities notwithstanding any other provision of this Act. Nothing in the Wilderness Act [16 U.S.C. 1131 et seq.] shall be deemed to prohibit such access, operation and maintenance within wilderness areas designated by this Act.

(b) New facilities

The establishment, operation, and maintenance within any conservation system unit of new air and water navigation aids and related facilities, facilities for national defense purposes, and related air and water navigation aids, and facilities for weather, climate, and fisheries research and monitoring shall be permitted but only (1) after consultation with the Secretary or the Secretary of Agriculture, as appropriate, by the head of the Federal department or agency undertaking such establishment, operation, or maintenance, and (2) in accordance with such terms and conditions as may be mutually agreed in order to minimize the adverse effects of such activities within such unit.

(Pub. L. 96–487, title XIII, §1310, Dec. 2, 1980, 94 Stat. 2481.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Wilderness Act, referred to in subsec. (a), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

§ 3200. Denali Scenic Highway study

(a) Withdrawal

Subject to valid existing rights, all public lands within an area, the centerline of which is the centerline of the Parks Highway from the entrance to Denali National Park to the Talkeetna junction which is one hundred and thirty-six miles south of Cantwell, the Denali Highway between Cantwell and Paxson, the Richardson Highway and Edgerton Highway between Paxson and Chitina, and the existing road between Chitina and McCarthy (as those highways and road are depicted on the official maps of the department of transportation of the State of Alaska) and the boundaries of which are parallel to the centerline and one mile distant therefrom on either side, are hereby withdrawn from all forms of entry or appropriation under the mining laws and from operation of the mineral leasing laws of the United States. Nothing in this section shall be construed to preclude minor road realignment, minor road improvement, or the extraction of gravel for such purposes from lands withdrawn or affected by the study mandated herein.

(b) Study

During the three-year period beginning on December 2, 1980, the Secretary shall study the desirability of establishing a Denali Scenic Highway to consist of all or part of the lands described in subsection (a) of this section. In conducting the studies, the Secretary, through a study team which includes representatives of the Secretary of Transportation, the National Park Service, the Bureau of Land Management, the State, and of each Regional Corporation within whose area of operation the lands described in subsection (a) of this section are located, shall consider the scenic and recreational values of the lands withdrawn under this section, the importance of providing protection to those values, the desirability of providing a symbolic and actual physical connection between the national parks in south central Alaska, and the desirability of enhancing the experience of persons traveling between those parks by motor vehicles. Members of the study team who are not Federal employees shall receive from the Secretary per diem (in lieu of expenses) and travel allowances at the rates provided for employees of the Bureau of Indian Affairs in Alaska in grade GS–15.

(c) Cooperation notice: hearings

In conducting the studies required by this section, the Secretary shall cooperate with the State and shall consult with each Village Corporation within whose area of operation lands described in this section are located and to the maximum extent practicable with the owner of any lands adjoining the lands described in subsection (a) of this section concerning the desirability of establishing a Denali Scenic Highway. The Secretary, through the National Park Service, shall also give such public notice of the study as he deems appropriate, including at least publication in a newspaper or newspapers having general circulation in the area or areas of the lands described in subsection (a) of this section, and shall hold a public hearing or hearings at one or more locations convenient to the areas affected.

(d) Report

Within three years after December 2, 1980, the Secretary shall report to the President the results of the studies carried out pursuant to this section together with his recommendation as to whether the scenic highway studied should be established and, if his recommendation is to establish the scenic highway, the lands described in subsection (a) of this section which should be included therein. Such report shall include the views and recommendations of all members of the study team. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations and those of the Governor of Alaska with respect to creation of the scenic highways,[1] together with maps thereof, a definition of boundaries thereof, an estimate of costs, recommendations on administration, and proposed legislation to create such a scenic highway, if creation of one is recommended.

(e) Period of withdrawal

The lands withdrawn under subsection (a) of this section shall remain withdrawn until such time as the Congress acts on the President's recommendation, but not to exceed two years after the recommendation is transmitted to the Congress.

(Pub. L. 96–487, title XIII, §1311, Dec. 2, 1980, 94 Stat. 2481.)

[1] So in original. Probably should be ''highway,''.

REFERENCES IN TEXT

The mining laws and the mineral leasing laws of the United States, referred to in subsec. (a), are classified generally to Title 30, Mineral Lands and Mining.

GS–15, referred to in subsec. (b), is contained in the General Schedule, which is set out under section 5332 of Title 5, Government Organization and Employees.

§ 3201. Administration of national preserves

A National Preserve in Alaska shall be administered and managed as a unit of the National Park System in the same manner as a national park except as otherwise provided in this Act and except that the taking of fish and wildlife for sport purposes and subsistence uses, and trapping shall be allowed in a national preserve under applicable State and Federal law and regulation. Consistent with the provisions of section 3126 of this title, within national preserves the Secretary may designate zones where and periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral and faunal protection, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting, fishing, or trapping shall be put into effect only after consultation with the appropriate State agency having responsibility over hunting, fishing, and trapping activities.

(Pub. L. 96–487, title XIII, § 1313, Dec. 2, 1980, 94 Stat. 2483.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3202. Taking of fish and wildlife

(a) Responsibility and authority of State of Alaska

Nothing in this Act is intended to enlarge or diminish the responsibility and authority of the State of Alaska for management of fish and wildlife on the public lands except as may be provided in subchapter II of this chapter, or to amend the Alaska constitution.

(b) Responsibility and authority of Secretary

Except as specifically provided otherwise by this Act, nothing in this Act is intended to enlarge or diminish the responsibility and authority of the Secretary over the management of the public lands.

(c) Areas controlled; areas closed, exceptions

The taking of fish and wildlife in all conservation system units, and in national conservation areas, national recreation areas, and national forests, shall be carried out in accordance with the provisions of this Act and other applicable State and Federal law. Those areas designated as national parks or national park system monuments in the State shall be closed to the taking of fish and wildlife, except that—

(1) notwithstanding any other provision of this Act, the Secretary shall administer those units of the National Park System, and those additions to existing units, established by this Act and which permit subsistence uses, to provide an opportunity for the continuance of such uses by local rural residents; and

(2) fishing shall be permitted by the Secretary in accordance with the provisions of this Act and other applicable State and Federal law.

(Pub. L. 96–487, title XIII, § 1314, Dec. 2, 1980, 94 Stat. 2484.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3203. Wilderness management

(a) Application only to Alaska

The provisions of this section are enacted in recognition of the unique conditions in Alaska. Nothing in this section shall be construed to expand, diminish, or modify the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.] or the application or interpretation of such provisions with respect to lands outside of Alaska.

(b) Aquaculture

In accordance with the goal of restoring and maintaining fish production in the State of Alaska to optimum sustained yield levels and in a manner which adequately assures protection, preservation, enhancement, and rehabilitation of the wilderness resource, the Secretary of Agriculture may permit fishery research, management, enhancement, and rehabilitation activities within national forest wilderness and national forest wilderness study areas designated by this Act. Subject to reasonable regulations, permanent improvements and facilities such as fishways, fish weirs, fish ladders, fish hatcheries, spawning channels, stream clearance, egg planting, and other accepted means of maintaining, enhancing, and rehabilitating fish stocks may be permitted by the Secretary to achieve this objective. Any fish hatchery, fishpass or other aquaculture facility authorized for any such area shall be constructed, managed, and operated in a manner that minimizes adverse impacts on the wilderness character of the area. Developments for any such activities shall involve those facilities essential to these operations and shall be constructed in such rustic manner as to blend into the natural character of the area. Reasonable access solely for the purposes of this subsection, including temporary use of motorized equipment, shall be permitted in furtherance of research, management, rehabilitation and enhancement activities subject to reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.

(c) Existing cabins

Previously existing public use cabins within wilderness designated by this Act, may be permitted to continue and may be maintained or replaced subject to such restrictions as the Sec-

retary deems necessary to preserve the wilderness character of the area.

(d) New cabins

Within wilderness areas designated by this Act, the Secretary or the Secretary of Agriculture as appropriate, is authorized to construct and maintain a limited number of new public use cabins and shelters if such cabins and shelters are necessary for the protection of the public health and safety. All such cabins or shelters shall be constructed of materials which blend and are compatible with the immediate and surrounding wilderness landscape. The Secretary or the Secretary of Agriculture, as appropriate, shall notify the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources of his intention to remove an existing or construct a new public use cabin or shelter.

(e) Timber contracts

The Secretary of Agriculture is hereby directed to modify any existing national forest timber sale contracts applying to lands designated by this Act as wilderness by substituting, to the extent practicable, timber on the other national forest lands approximately equal in volume, species, grade, and accessibility for timber or relevant lands within such units.

(f) Beach log salvage

Within National Forest wilderness and national forest monuments desginated[1] by this Act, the Secretary of Agriculture may permit or otherwise regulate the recovery and salvage of logs from coastlines.

(Pub. L. 96–487, title XIII, § 1315, Dec. 2, 1980, 94 Stat. 2484; Pub. L. 103–437, § 6(d)(31), Nov. 2, 1994, 108 Stat. 4584.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (a), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

This Act, referred to in subsecs. (b) to (f), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

§ 3204. Allowed uses

(a) Establishment and use of new facilities

On all public lands where the taking of fish and wildlife is permitted in accordance with the provisions of this Act or other applicable State and Federal law the Secretary shall permit, subject to reasonable regulation to insure compatibility, the continuance of existing uses, and the future establishment, and use, of temporary campsites, tent platforms, shelters, and other temporary facilities and equipment directly and necessarily related to such activities. Such facilities and equipment shall be constructed, used, and maintained in a manner consistent with the protection of the area in which they are located. All new facilities shall be constructed of materials which blend with, and are compatible with, the immediately surrounding landscape. Upon termination of such activities and uses (but not upon regular or seasonal cessation), such structures or facilities shall, upon written request, be removed from the area by the permittee.

(b) Denial of proposed use or establishment

Notwithstanding the foregoing provisions, the Secretary may determine, after adequate notice, that the establishment and use of such new facilities or equipment would constitute a significant expansion of existing facilities or uses which would be detrimental to the purposes for which the affected conservation system unit was established, including the wilderness character of any wilderness area within such unit, and may thereupon deny such proposed use or establishment.

(Pub. L. 96–487, title XIII, § 1316, Dec. 2, 1980, 94 Stat. 2485.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3205. General wilderness review

(a) Suitability of lands for preservation; report to President

Within five years from December 2, 1980, the Secretary shall, in accordance with the provisions of section 1132(d) of this title relating to public notice, public hearings, and review by State and other agencies, review, as to their suitability or nonsuitability for preservation as wilderness, all lands within units of the National Park System and units of the National Wildlife Refuge System in Alaska not designated as wilderness by this Act and report his findings to the President.

(b) Presidential recommendations to Congress

The Secretary shall conduct his review, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of sections[1] 1132(c) and (d) of this title. The President shall advise the Congress of his recommendations with respect to such areas within seven years from December 2, 1980.

(c) Administration of units unaffected pending Congressional action

Nothing in this section shall be construed as affecting the administration of any unit of the National Park System or unit of National Wildlife Refuge System in accordance with this Act or other applicable provisions of law unless and

[1] So in original. Probably should be ''designated''.

[1] So in original. Probably should be ''section''.

until Congress provides otherwise by taking action on any Presidential recommendation made pursuant to subsection (b) of this section.

(Pub. L. 96–487, title XIII, § 1317, Dec. 2, 1980, 94 Stat. 2485.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (c), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3206. Statewide cultural assistance program

In furtherance of the national policy set forth in section 461 of this title, and in furtherance of the need to protect and interpret for the public benefit cultural and archeological resources and objects of national significance relating to prehistoric and historic human use and occupation of lands and waters in Alaska, the Secretary may, upon the application of a Native Corporation or Native Group, provide advice, assistance, and technical expertise to the applicant in the preservation, display, and interpretation of cultural resources, without regard as to whether title to such resources is in the United States. Such assistance may include making available personnel to assist in the planning, design, and operation of buildings, facilities, and interpretive displays for the public and personnel to train individuals in the identification, recovery, preservation, demonstration, and management of cultural resources.

(Pub. L. 96–487, title XIII, § 1318, Dec. 2, 1980, 94 Stat. 2486.)

§ 3207. Effect on existing rights; water resources

Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or—

(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on lands within the State of Alaska;

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control, or

(3) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources or to exercise licensing or regulatory functions in relation thereto.

(Pub. L. 96–487, title XIII, § 1319, Dec. 2, 1980, 94 Stat. 2486.)

REFERENCES IN TEXT

This Act, referred to in provision preceding par. (1) and par. (3), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3208. Authorization of appropriations; contract authority

(a)[1] There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for fiscal years beginning after the fiscal year 1980. No authority to enter into contracts or to make payments or to expend previously appropriated funds under this Act shall be effective except to the extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 96–487, title XIII, § 1321, Dec. 2, 1980, 94 Stat. 2487.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3209. Effect on prior withdrawals

(a) Rescission of prior reservations and withdrawals; management by Secretary and Secretary of Agriculture of lands outside boundaries established by this Act

The withdrawals and reservations of the public lands made by Public Land Orders No. 5653 of November 16, 1978, 5654 of November 17, 1978, Public Land Orders numbered 5696 through 5711 inclusive of February 12, 1980, Federal Register Documents No. 34051, of December 5, 1978 and No. 79–17803 of June 8, 1979 and Proclamations No. 4611 through 4627, inclusive, of December 1, 1978, were promulgated to protect these lands from selection, appropriation, or disposition prior to December 2, 1980. As to all lands not within the boundaries established by this Act of any conservation system unit, national conservation area, national recreation area, or national forest addition, the aforesaid withdrawals and reservations are hereby rescinded on the effective date of this Act, and such lands shall be managed by the Secretary pursuant to the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701 et seq.], or in the case of lands within a national forest, by the Secretary of Agriculture pursuant to the laws applicable to the national forests, unless otherwise specified by this Act. As to the Federal lands which are within the aforesaid boundaries, the aforesaid withdrawals and reservations are, on the effective date of this Act, hereby rescinded and superseded by the withdrawals and reservations made by this Act. Notwithstanding any provision to the contrary contained in any other law, the Federal lands within the aforesaid boundaries established by this Act shall not be deemed available for selection, appropriation, or disposition except as expressly provided by this Act.

(b) Effective date

This section shall become effective upon the relinquishment by the State of Alaska of selections made on November 14, 1978, pursuant to the Alaska Statehood Act which are located within the boundaries of conservation system units, national conservation areas, national

[1] So in original. No subsec. (b) has been enacted.

recreation areas, and forest additions, established, designated, or expanded by this Act.

(Pub. L. 96–487, title XIII, § 1322, Dec. 2, 1980, 94 Stat. 2487.)

REFERENCES IN TEXT

Proclamations No. 4611 through 4627, inclusive, of December 1, 1978, referred to in subsec. (a), are Procs. No. 4611 through 4627, Dec. 1, 1978, 93 Stat. 1446–1473, which are set out as notes under section 431 of this title.

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The effective date of this Act, referred in to subsec. (a), probably means the date of enactment of Pub. L. 96–487, which was approved Dec. 2, 1980.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (a), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

The Alaska Statehood Act, referred to in subsec. (b), is Pub. L. 85–508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

§ 3210. Access by owner to nonfederally owned land

(a) Reasonable use and enjoyment of land within boundaries of National Forest System

Notwithstanding any other provision of law, and subject to such terms and conditions as the Secretary of Agriculture may prescribe, the Secretary shall provide such access to nonfederally owned land within the boundaries of the National Forest System as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: *Provided*, That such owner comply with rules and regulations applicable to ingress and egress to or from the National Forest System.

(b) Reasonable use and enjoyment of land surrounded by public lands managed by Secretary

Notwithstanding any other provision of law, and subject to such terms and conditions as the Secretary of the Interior may prescribe, the Secretary shall provide such access to nonfederally owned land surrounded by public lands managed by the Secretary under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701–82) as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: *Provided*, That such owner comply with rules and regulations applicable to access across public lands.

(Pub. L. 96–487, title XIII, § 1323, Dec. 2, 1980, 94 Stat. 2488.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (b), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

§ 3211. Yukon Flats National Wildlife Refuge agricultural use

Nothing in this Act or other existing law shall be construed as necessarily prohibiting or mandating the development of agricultural potential within the Yukon Flats National Wildlife Refuge pursuant to existing law. The permissibility of such development shall be determined by the Secretary on a case-by-case basis under existing law. Any such development permitted within the Yukon Flats National Wildlife Refuge shall be designed and conducted in such a manner as to minimize to the maximum extent possible any adverse effects of the natural values of the unit.

(Pub. L. 96–487, title XIII, § 1324, Dec. 2, 1980, 94 Stat. 2488.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3212. Terror Lake Hydroelectric Project in Kodiak National Wildlife Refuge

Nothing in this Act or the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) shall be construed as necessarily prohibiting or mandating the construction of the Terror Lake Hydroelectric Project within the Kodiak National Wildlife Refuge. The permissibility of such development shall be determined by the Secretary on a case-by-case basis under existing law.

(Pub. L. 96–487, title XIII, § 1325, Dec. 2, 1980, 94 Stat. 2488.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The National Wildlife Refuge System Administration Act of 1966, referred to in text, consists of sections 4 and 5 of Pub. L. 89–699, Oct. 15, 1966, 80 Stat. 927, as amended, and is classified to sections 668dd and 668ee of this title. For further details, see Short Title note set out under section 668dd of this title.

§ 3213. Future executive branch actions

(a) No future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.

(b) No further studies of Federal lands in the State of Alaska for the single purpose of consid-

ering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress.

(Pub. L. 96–487, title XIII, § 1326, Dec. 2, 1980, 94 Stat. 2488.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3214. Alaska gas pipeline

Nothing in this Act shall be construed as imposing any additional requirements in connection with the construction and operation of the transportation system designated by the President and approved by the Congress pursuant to the Alaska Natural Gas Transportation Act of 1976 (Public Law 94–586; 90 Stat. 2903) [15 U.S.C. 719 et seq.], or as imposing any limitations upon the authority of the Secretary concerning such system.

(Pub. L. 96–487, title XIII, § 1327, Dec. 2, 1980, 94 Stat. 2489.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Alaska Natural Gas Transportation Act of 1976 (Public Law 94–586; 90 Stat. 2903), referred to in text, is Pub. L. 94–586, Oct. 22, 1976, 90 Stat. 2903, as amended, which is classified generally to chapter 15C (§ 719 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 719 of Title 15 and Tables.

§ 3215. Public land entries in Alaska

(a) Application approval; adjudication; protests; voluntary relinquishment of application

(1) Subject to valid existing rights, all applications made pursuant to the Acts of June 1, 1938 (52 Stat. 609),[1] May 3, 1927 (44 Stat. 1364),[1] May 14, 1898 (30 Stat. 413),[1] and March 3, 1891 (26 Stat. 1097), which were filed with the Department of the Interior within the time provided by applicable law, and which describe land in Alaska that was available for entry under the aforementioned statutes when such entry occurred, are hereby approved on the one hundred and eightieth day following the effective date of this Act, except where provided otherwise by paragraph (3) or (4) of this subsection, or where the land description of the entry must be adjusted pursuant to subsection (b) of this section, in which cases approval pursuant to the terms of this subsection shall be effective at the time the adjustment becomes final.

(2) Where an application describes land within the boundaries of a unit of the National Park System or a unit of the National Wildlife Refuge System, or a unit of the National Wilderness Preservation System in the Tongass or Chugach National Forests established before the effective date of this Act or by this Act, and the described land was not withdrawn pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act [43 U.S.C. 1610(a)(1)], or where an application describes land which has been patented or deeded to the State of Alaska or which on or before the date of entry was validly selected by, tentatively approved, patented, deeded or confirmed to the State of Alaska pursuant to applicable law and was not withdrawn pursuant to section 11(a)(1)(A) of the Alaska Native Claims Settlement Act [43 U.S.C. 1610(a)(1)(A)] from those lands made available for selection by section 11(a)(2) of the Act [43 U.S.C. 1610(a)(2)] by any Native Village certified as eligible pursuant to section 11(b) of such Act [43 U.S.C. 1610(b)], paragraph (1) of this subsection and subsection (c) of this section shall not apply and the application shall be adjudicated pursuant to the requirements of the Acts referred to in paragraph (1) of this subsection, the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], and other applicable law.

(3) Paragraph (1) of this subsection and subsection (c) of this section shall not apply and the application shall be adjudicated pursuant to the requirements of the Acts referred to in paragraph (1) of this subsection, if on or before the one hundred and eightieth day following the effective date of the[2] Act—

(A) a Native Corporation files a protest with the Secretary of the Interior (the Secretary) stating that the applicant is not entitled to the land described in the application, and said land is withdrawn for selection by the corporation pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]; or

(B) the State of Alaska files a protest with the Secretary stating that the land described in the application is necessary for access to lands owned by the United States, the State of Alaska, or a political subdivision of the State of Alaska, to resources located thereon, or to a public body of water regularly employed for transportation purposes, and the protest states with specificity the facts upon which the conclusions concerning access are based and that no reasonable alternatives for access exist; or

(C) a person or entity files a protest with the Secretary stating that the applicant is not entitled to the land described in the application and that said land is the situs of improvements claimed by the person or entity; or

(D) the State of Alaska files a protest with the Secretary respecting an entry which was made prior to a valid selection tentative approval, patent, deed, or confirmation to the State of Alaska pursuant to applicable law; or

(E) regarding public land entries within units of the National Wildlife Refuge System established or expanded in this Act, any such entry not properly made under applicable law, or not the subject of an application filed within the time required by applicable law, or not properly maintained thereafter under applica-

[1] See References in Text note below.

[2] So in original. Probably should be ''this''.

ble law shall be adjudicated pursuant to the Act under which the entry was made.

(4) Paragraph (1) of this subsection and subsection (c) of this section shall not apply to any application which was knowingly and voluntarily relinquished by the applicant.

(b) Amendment of land description in application

An applicant may amend the land description contained in his or her application if said description designates land other than that which the applicant intended to claim at the time of application and if the description as amended describes the land originally intended to be claimed. If the application is amended, this section shall operate to approve the application or to require its adjudication, as the case may be, with reference to the amended land description only: *Provided*, That the Secretary shall notify the State of Alaska and all interested parties, as shown by the records of the Department of the Interior of the intended correction of the entry's location, and any such party shall have until the one hundred and eightieth day following the effective date of this Act or sixty days following mailing of the notice, whichever is later, to file with the Department of the Interior a protest as provided in subsection (a)(3) of this section, which protest, if timely, shall be deemed filed within one hundred and eighty days of the effective date of this Act notwithstanding the actual date of filing: *Provided further*, That the Secretary may require that all applications designating land in a specific area be amended, if at all, prior to a date certain which date shall be calculated to allow for orderly adoption of a plan or survey for the specified area, and the Secretary shall mail notification of the final date for amendment to each affected applicant, and shall provide such other notice as the Secretary deems appropriate, at least sixty days prior to said date: *Provided further*, That no application may be amended for location following adoption of a final plan of survey which includes the location of the entry as described in the application or its location as desired by amendment.

(c) Powersites and power-projects

Where the land described in application (or such an application as adjusted or amended pursuant to subsection (b) or (c) of this section), was on that date withdrawn, reserved, or classified for powersite or power-project purposes, notwithstanding such withdrawal, reservation, or classification the described land shall be deemed vacant, unappropriated, and unreserved within the meaning of the Acts referred to in subsection (a)(1) of this section, and, as such, shall be subject to adjudication or approval pursuant to the terms of this section: *Provided, however*, That if the described land is included as part of a project licensed under part I of the Federal Power Act of June 10, 1920 (41 Stat. 24), as amended [16 U.S.C. 791a et seq.], or is presently utilized for purposes of generating or transmitting electrical power or for any other project authorized by Act of Congress, the foregoing provision shall not apply and the application shall be adjudicated pursuant to the appropriate Act: *Provided further*, That where the applicant commenced occupancy of the land after its withdrawal or classification for powersite purposes, the entry shall be made subject to the right of reentry provided the United States by section 24 of the Federal Power Act, as amended [16 U.S.C. 818]: *Provided further*, That any right of reentry reserved in a patent pursuant to this section shall expire twenty years after the effective date of this Act if at that time the land involved is not subject to a license or an application for a license under part I of the Federal Power Act, as amended, or actually utilized or being developed for a purpose authorized by that Act, as amended [16 U.S.C. 791a et seq.] or other Act of Congress.

(d) Validity of existing rights; rights acquired by actual use and national forest lands unaffected

Prior to issuing a patent for an entry subject to this section, the Secretary shall identify and adjudicate any record entry or application for title to land described in the application, other than the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], the Alaska Statehood Act, or the Act of May 17, 1906, as amended, which entry or application claims land also described in the application, and shall determine whether such entry or application represents a valid existing right to which the application is subject. Nothing in this section shall be construed to affect rights, if any, acquired by actual use of the described land prior to its withdrawal or classification, as affecting National Forest lands.

(Pub. L. 96–487, title XIII, §1328, Dec. 2, 1980, 94 Stat. 2489.)

REFERENCES IN TEXT

Act of June 1, 1938 (52 Stat. 609), referred to in subsec. (a)(1), is act June 1, 1938, ch. 317, 52 Stat. 609, which was classified to sections 682a to 682e of Title 43, Public Lands, was repealed by Pub. L. 94–579, title VII, §702, Oct. 21, 1976, 90 Stat. 2787, 2789.

Act of May 3, 1927 (44 Stat. 1364), referred to in subsec. (a)(1), probably means act Mar. 3, 1927, ch. 323, 44 Stat. 1364, which was classified to section 687a of Title 43, and was repealed by Pub. L. 94–579, title VII, §703(b), Oct. 21, 1976, 90 Stat. 2789, 2791.

Act of May 14, 1898, referred to in subsec. (a)(1), is act May 14, 1898, ch. 299, 30 Stat. 409, which is classified to sections 607a and 615a of this title, sections 270, 270–4, 687a, 687a–2, 687a–3, 687a–4, 687a–5, and 942–1 to 942–9 of Title 43, and section 392 of Title 48, Territories and Insular Possessions. Section 270 of Title 43 was repealed by Pub. L. 94–579, title VII, §703(a), Oct. 21, 1976, 90 Stat. 2789. Section 270–4 of Title 43 was repealed by Pub. L. 94–579, title VII, §702, Oct. 21, 1976, 90 Stat. 2787. Sections 687a and 687a–2 to 687a–5 of Title 43 were repealed by Pub. L. 94–579, title VII, §§703(a), 704(a), Oct. 21, 1976, 90 Stat. 2789, 2792. Section 392 of Title 48 was eliminated from the Code as obsolete. For complete classification of this Act to the Code, see Tables.

Act of March 3, 1891, referred to in subsec. (a)(1), is act Mar. 3, 1891, ch. 561, 26 Stat. 1095, which is classified to sections 161, 162, 165, 173, 174, 185, 202, 212, 321, 323, 325, 327 to 329, 663, 671, 687a–6, 718, 728, 732, 893, 946 to 949, 989, 1165, 1166, 1181, and 1197 of this title, sections 471, 607, 611, 611a, and 613 of Title 16, Conservation, section 495 of Title 25, Indians, and sections 30, 36, 44, 45, 48; and 52 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Tables.

The effective date of this Act, referred to in subsecs. (a) to (c), probably means the date of enactment of Pub. L. 96–487, which was approved Dec. 2, 1980.

This Act, referred to in subsec. (a)(2) and (3)(E), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Alaska Native Claims Settlement Act, referred to in subsecs. (a)(2), (3)(A) and (d), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Federal Power Act and that Act, referred to in subsec. (c), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§791a et seq.) of this title. Part I of the Federal Power Act of June 10, 1920 as amended, is classified generally to subchapter I (§791a et seq.) of chapter 12 of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

The Alaska Statehood Act, referred to in subsec. (d), is Pub. L. 85–508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

Act of May 17, 1906, as amended, referred to in subsec. (d), is act May 17, 1906, ch. 2469, 34 Stat. 197, as amended, which was classified to sections 270–1 to 270–3 of Title 43, Public Lands, prior to its repeal by Pub. L. 92–203, §18(a), Dec. 18, 1971, 85 Stat. 710. See section 1617 of Title 43.

SUBCHAPTER VII—NATIONAL NEED MINERAL ACTIVITY RECOMMENDATION PROCESS

§ 3231. Areas subject to national need recommendation process

The process contained in this subchapter shall apply to all public lands within Alaska except for lands within units of the National Park System and the Arctic National Wildlife Refuge.

(Pub. L. 96–487, title XV, §1501, Dec. 2, 1980, 94 Stat. 2549.)

§ 3232. Recommendations of President to Congress

(a) Recommendation

At any time after December 2, 1980, the President may transmit a recommendation to the Congress that mineral exploration, development, or extraction not permitted under this Act or other applicable law shall be permitted in a specified area of the lands referred to in section 3231 of this title. Notice of such transmittal shall be published in the Federal Register. No recommendation of the President under this section may be transmitted to the Congress before ninety days after publication in the Federal Register of notice of his intention to submit such recommendation.

(b) Findings

A recommendation may be transmitted to the Congress under subsection (a) of this section if the President finds that, based on the information available to him—

(1) there is an urgent national need for the mineral activity; and

(2) such national need outweighs the other public values of the public lands involved and the potential adverse environmental impacts which are likely to result from the activity.

(c) Report

Together with his recommendation, the President shall submit to the Congress—

(1) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(2) a statement of the conditions and stipulations which would govern the activity if approved by the Congress; and

(3) in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], a statement which complies with the requirements of section 102(2)(C) of such Act [42 U.S.C. 4332(2)(C)]. In the case of any recommendation for which an environmental impact statement is not required under section 102(2)(C) of the National environmental Policy Act of 1969 [42 U.S.C. 4332(2)(C)], the President may, if he deems it desirable, include such a statement in his transmittal to the Congress.

(d) Approval

Any recommendation under this section shall take effect only upon enactment of a joint resolution approving such recommendation within the first period of one hundred and twenty calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such recommendation. Any recommendation of the President submitted to Congress under subsection (a) of this section shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(e) One-hundred-and-twenty-day computation

For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

(Pub. L. 96–487, title XV, §1502, Dec. 2, 1980, 94 Stat. 2549.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (c)(3), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 3233. Expedited Congressional review

(a) Rulemaking

This subsection is enacted by Congress—

(1) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each

House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by subsection (b) of this section and it supersedes other rules only to the extent that it is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(b) Resolution

For purposes of this section, the term ''resolution'' means a joint resolution, the resolving clause of which is as follows: ''That the House of Representatives and Senate approve the recommendation of the President for in submitted to the Congress on 19 .'', the first blank space therein to be filled in with appropriate activity, the second blank space therein to be filled in with the name or description of the area of land affected by the activity, and the third blank space therein to be filled with the date on which the President submits his recommendation to the House of Representatives and the Senate. Such resolution may also include material relating to the application and effect of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] to the recommendation.

(c) Referral

A resolution once introduced with respect to such Presidential recommendation shall be referred to one or more committees (and all resolutions with respect to the same Presidential recommendation shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(d) Other procedures

Except as otherwise provided in this section the provisions of section 719f(d) of title 15 shall apply to the consideration of the resolution.

(Pub. L. 96–487, title XV, §1503, Dec. 2, 1980, 94 Stat. 2550.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

CHAPTER 52—SALMON AND STEELHEAD CONSERVATION AND ENHANCEMENT

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SUBCHAPTER I—GENERAL PROVISIONS

§ 3301. Congressional findings and declaration of purpose

(a) The Congress finds and declares the following:

(1) The stocks of salmon and steelhead which originate in the rivers of the conservation areas constitute valuable and renewable natural resources. Many groups of commercial, recreational, and treaty fishermen have historically depended upon these stocks of fish for their livelihoods and avocations. These fishery resources contribute to the food supply and economic health of the Pacific Northwest and the Nation as a whole, provide valuable recreational experiences for thousands of citizens from various parts of the United States and represent a central element of the cultures and economies of Indian tribes and the citizens of the Pacific Northwest.

(2) Over a period of several decades, competing uses of salmon and steelhead habitat and historical problems relating to conservation measures, the regulation of harvest and enhancement have depressed several of these stocks of salmon and steelhead.

(3) Improved management and enhancement planning and coordination among salmon and steelhead managers will help prevent a further decline of salmon and steelhead stocks and will assist in increasing the supply of these stocks.

(4) Due in principal part to the Federal court decisions in the United States against Washington and Sohappy against Smith, the fishing capacity of nontreaty fishermen in the conservation areas established by this chapter exceeds that required to harvest the available salmon resources. This excess capacity causes severe economic problems for these fishermen.

(5) The supply of salmon and steelhead can be increased through carefully planned en-

hancement measures designed to improve the survival of stocks and to augment the production of artificially propagated stocks. By careful choice of species, areas, and stocking procedures, enhancement programs can be used to—

(A) improve the distribution of fish among different groups of treaty and nontreaty fishermen; and

(B) add stability to the treaty and nontreaty fisheries by reducing variations in fish availability.

(b) In order to assist the harvesters of the salmon and steelhead resources within the Columbia River conservation area and the Washington conservation area established by this chapter to overcome temporary dislocations arising from the decisions in the cases of United States against Washington and Sohappy against Smith and from other causes, this chapter authorizes the establishment of a cooperative program involving the United States, the States of Washington and Oregon, the treaty tribes acting through the appropriate tribal coordinating bodies, and other parties, to—

(1) encourage stability in and promote the economic well being of the treaty and nontreaty commercial fishing and charter fishing industries and improve the distribution of fishing power between treaty and nontreaty fisheries through—

(A) the purchase of nontreaty commercial and charter fishing vessels, gear, and licenses; and

(B) coordinated research, enhancement, and management of salmon and steelhead resources and habitat; and

(2) improve the quality of, and maintain the opportunities for, salmon and steelhead recreational fishing.

(Pub. L. 96–561, title I, § 102, Dec. 22, 1980, 94 Stat. 3275.)

SHORT TITLE

Section 101 of title I of Pub. L. 96–561 provided that: ''This title [enacting this chapter and provisions set out as a note under section 1823 of this title] may be cited as the 'Salmon and Steelhead Conservation and Enhancement Act of 1980'.''

RESEARCH AND DEVELOPMENT PROGRAM TO IMPROVE SALMON SURVIVAL

Pub. L. 104–303, title V, § 511, Oct. 12, 1996, 110 Stat. 3761, as amended by Pub. L. 106–53, title V, § 582, Aug. 17, 1999, 113 Stat. 375; Pub. L. 110–114, title V, § 5025, Nov. 8, 2007, 121 Stat. 1203, provided that:

''(a) SALMON SURVIVAL ACTIVITIES.—

''(1) IN GENERAL.—In conjunction with the Secretary of Commerce and the Secretary of the Interior, the Secretary shall accelerate ongoing research and development activities, and may carry out or participate in additional research and development activities, for the purpose of developing innovative methods and technologies for improving the survival of salmon, especially salmon in the Columbia/Snake River Basin.

''(2) ACCELERATED ACTIVITIES.—Accelerated research and development activities referred to in paragraph (1) may include research and development related to—

''(A) impacts from water resources projects and other impacts on salmon life cycles;

''(B) juvenile and adult salmon passage;

''(C) light and sound guidance systems;

''(D) surface-oriented collector systems;

''(E) transportation mechanisms; and

''(F) dissolved gas monitoring and abatement.

''(3) ADDITIONAL ACTIVITIES.—Additional research and development activities referred to in paragraph (1) may include research and development related to—

''(A) studies of juvenile salmon survival in spawning and rearing areas;

''(B) estuary and near-ocean juvenile and adult salmon survival;

''(C) impacts on salmon life cycles from sources other than water resources projects;

''(D) cryopreservation of fish gametes and formation of a germ plasma repository for threatened and endangered populations of native fish; and

''(E) other innovative technologies and actions intended to improve fish survival, including the survival of resident fish.

''(4) COORDINATION.—The Secretary shall coordinate any activities carried out under this subsection with appropriate Federal, State, and local agencies, affected Indian tribes, and the Northwest Power Planning Council.

''(5) REPORT.—Not later than 3 years after the date of enactment of the Water Resources Development Act of 1999 [Aug. 17, 1999], the Secretary shall submit to Congress a report on the research and development activities carried out under this subsection, including any recommendations of the Secretary concerning the research and development activities.

''(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $25,000,000 to carry out research and development activities under paragraph (3).

''(b) ADVANCED TURBINE DEVELOPMENT.—

''(1) IN GENERAL.—In conjunction with the Secretary of Energy, the Secretary shall accelerate efforts toward developing and installing in Corps of Engineers-operated dams innovative, efficient, and environmentally safe hydropower turbines, including design of fish-friendly turbines, for use on the Columbia/Snake River hydrosystem.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $35,000,000 to carry out this subsection.

''(c) MANAGEMENT OF PREDATION ON COLUMBIA/SNAKE RIVER SYSTEM NATIVE FISHES.—

''(1) NESTING AVIAN PREDATORS.—In conjunction with the Secretary of Commerce and the Secretary of the Interior, and consistent with a management plan to be developed by the United States Fish and Wildlife Service, the Secretary shall carry out methods to reduce nesting populations of avian predators on dredge spoil islands in the Columbia River under the jurisdiction of the Secretary.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 to carry out research and development activities under this subsection.

''(d) IMPLEMENTATION.—Nothing in this section affects the authority of the Secretary to implement the results of the research and development carried out under this section or any other law.''

§ 3302. Definitions

As used in this chapter—

(1) The term ''appropriate tribal coordinating body'' means the Columbia River tribal coordinating body or the Washington tribal coordinating body, as the context requires.

(2) The term ''charter vessel'' means any vessel licensed by the State to carry passengers for hire for the purpose of recreational salmon fishing.

(3) The term ''charter fishing'' means fishing undertaken aboard charter vessels.

(4) The term ''Columbia River conservation area'' means—

(A) all habitat within the Columbia River drainage basin; and

(B) those areas in—

(i) the fishery conservation zone over which the Pacific Fishery Management Council has jurisdiction, and

(ii) the territorial seas of Oregon and Washington,

in which one or more stocks that originate in the habitat describe[1] in subparagraph (A) migrate.

(5) The term ''Columbia River tribal coordinating body'' means the organization duly authorized by those treaty tribes of the Columbia River drainage basin to coordinate activities for them for purposes of this chapter.

(6) The term ''commercial fishing'' means fishing for the purpose of sale or barter.

(7) The term ''commercial fishing vessel'' or ''fishing vessel'' means any vessel, boat, ship, or other craft which is licensed for, and used for, equipped to be used for, or of a type which is normally used for, commercial salmon fishing.

(8) The term ''enhancement'' means projects undertaken to increase the production of naturally spawning or artificially propagated stocks of salmon or steelhead, or to protect, conserve, or improve the habitat of such stocks.

(9) The term ''habitat'' means those portions of the land or water, including the constituent elements thereof, (A) which salmon or steelhead occupy at any time during their life cycle, or (B) which affect the salmon or steelhead resources.

(10) The term ''recreational fishing'' means fishing for personal use and enjoyment using conventional angling gear, and not for sale or barter.

(11) The term ''salmon'' means any anadromous species of the family Salmonidae and Genus Oncorhynchus, commonly known as Pacific salmon.

(12) The term ''salmon or steelhead resource'' means any stock of salmon or steelhead.

(13) The term ''steelhead'' means the anadromous rainbow trout species Salmo gairdneri, commonly known as steelhead.

(14) The term ''stock'' means a species, subspecies, race, geographical grouping, run, or other category of salmon or steelhead.

(15) The term ''treaty'' means any treaty between the United States and any treaty tribe that relates to the reserved right of such tribe to harvest salmon and steelhead within the Washington or Columbia River conservation areas.

(16) The term ''treaty tribe'' means any Indian tribe recognized by the United States Government, with usual and accustomed fishing grounds in the Washington or Columbia River conservation areas, whose fishing right under a treaty has been recognized by a Federal court.

(17) The term ''Washington conservation area'' means all salmon and steelhead habitat within the State of Washington except for the Columbia River drainage basin, and in the fishery conservation zone adjacent to the State of Washington which is subject to the jurisdiction of the United States.

(18) The term ''Washington tribal coordinating body'' means the organization duly authorized by the treaty tribes of the Washington conservation area to coordinate their activities for them for the purposes of this chapter.

(Pub. L. 96–561, title I § 103, Dec. 22, 1980, 94 Stat. 3276.)

REFERENCES IN TEXT

The Pacific Fishery Management Council, referred to in par. (4)(B)(i), was established by section 1852 of this title. Pub. L. 99–659 amended section 1811 of this title by substituting provisions relating to exclusive economic zones, for fishery conservation zones.

SUBCHAPTER II—COORDINATED MANAGEMENT OF SALMON AND STEELHEAD

§ 3311. Salmon and Steelhead Advisory Commission

(a) Establishment

Within 90 days after December 22, 1980, the Secretary of Commerce (hereinafter in this subchapter referred to as the ''Secretary'') shall establish the Salmon and Steelhead Advisory Commission (hereinafter referred to in this chapter as the ''Commission''), which shall consist of one voting member from each of the following:

(1) The State of Washington.

(2) The State of Oregon.

(3) The Washington tribal coordinating body.

(4) The Columbia River tribal coordinating body.

(5) The Pacific Fishery Management Council.

(6) The National Marine Fisheries Service.

(b) Membership

(1) The voting representatives shall be appointed by the Secretary from a list of qualified individuals submitted by the Governor of each applicable State, by each appropriate tribal coordinating body, and by the Pacific Fishery Management Council. The representative for the National Marine Fisheries Service shall be the Northwest regional director of the Service or his designee.

(2) The Commission shall have 6 nonvoting members, 5 of which shall be qualified individuals appointed by the Secretary. The sixth nonvoting member shall be the regional director of the United States Fish and Wildlife Service or his designee.

(3) For the purposes of this subsection, the term ''qualified individual'' means an individual who is knowledgeable with regard to the management, conservation, or harvesting of the salmon and steelhead resources of the conservation areas.

(c) Report by Commission

Within 15 months after the date of the establishment of the Commission, it shall prepare,

[1] So in original. Probably should be ''described''.

and submit to the Secretary and Congress, a comprehensive report containing conclusions, comments, and recommendations for the development of a management structure (including effective procedures, mechanisms, and institutional arrangements) for the effective coordination of research, enhancement, management, and enforcement policies for the salmon and steelhead resources of the Columbia River and Washington conservation areas, and for the resolution of disputes between management entities that are concerned with stocks of common interest. The principal objectives of, and the standards for, the management structure shall include, but not be limited to—

(1) the development of common principles to govern and coordinate effectively management and enhancement activities;

(2) the prevention of overfishing;

(3) the use of the best scientific information available;

(4) the consideration of, and allowance for, variations among, and contingencies in, fisheries and catches;

(5) the promotion of harvest strategies and regulations which will encourage continued and increased investment by the salmon and steelhead producing jurisdictions;

(6) the optimization of the use of resources for enforcement;

(7) the consideration of harvest activities as they relate to existing and future international commitments;

(8) the minimization of costs and the avoidance of unnecessary duplication; and

(9) the harvest of fish by treaty tribes, in accordance with treaty rights, unless agreed otherwise by the affected treaty tribes.

(d) Unanimous vote required

No report or revision thereto may be submitted by the Commission to the Secretary for approval under this section unless the report or revision is approved by all of the voting members of the Commission.

(e) Secretarial action on report

Within 4 months after the date of the submission of the comprehensive report, or any revision thereto, under subsection (c) of this section, the Secretary, in consultation with the Secretary of the Interior, shall review the report and, if he finds that the management structure recommended in the report would, if implemented, meet the objectives and standards specified in this section and be consistent with this chapter, approve the report. If the Secretary, in consultation with the Secretary of the Interior, finds that such structure is not in conformity with the standards and objectives set forth in this section, the provisions of this chapter, or other applicable law, he shall return the report to the Commission together with a written statement of the reasons for not approving the report. If the Commission submits a revised report to the Secretary within 2 months after the date of return, the Secretary shall approve the report if he finds that the objections on which the prior disapproval was based are overcome.

(f) Per diem and travel allowances

The members of the Commission (other than those who are full-time employees of the Federal or a State government), while away from their homes or regular places of business for purposes of carrying out their duties as members, shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons intermittently employed in Government service.

(g) Administrative support

The Secretary shall provide such clerical and technical support as may be necessary to enable the Commission to carry out its functions.

(h) Termination of Commission

Unless otherwise agreed to by the voting members of the Commission and approved by the Secretary, the Commission shall terminate upon the Secretary's approval of the Commission's report pursuant to subsection (e) of this section.

(Pub. L. 96–561, title I, § 110, Dec. 22, 1980, 94 Stat. 3277.)

§ 3312. Eligibility for financial assistance under approved enhancement plans

Upon approval by the Secretary of the Commission's report under section 3311 of this title, a State represented by a voting member on the Commission and any treaty tribe represented by a tribal coordinating body shall be eligible for financial assistance under subchapter III of this chapter if the State or treaty tribe enters into an agreement with the Secretary under which that State or treaty tribe obligates itself—

(1) to implement and enforce the provisions of the report and revisions thereto, through laws, regulations, ordinances, or other appropriate means, within such geographical areas and with respect to such persons as may be subject to its jurisdiction and to the extent of its enforcement power; and

(2) to engage in such coordination and consultation as may be necessary or appropriate to ensure, to the maximum extent practicable, that the report and revisions thereto are fully and effectively implemented.

(Pub. L. 96–561, title I, § 111, Dec. 22, 1980, 94 Stat. 3279.)

§ 3313. Grants for reports and plans for coordinated research, enforcement, etc.

The Secretary, in consultation with the Secretary of the Interior, is authorized to establish a program to provide grants to prepare reports and plans provided for in this subchapter and subchapter III of this chapter in order to promote coordinated research, enforcement, enhancement, and management of the salmon and steelhead resources within the Washington and Columbia River conservation areas consistent with the purposes of this chapter. Such grants shall be available for use by the State of Washington, the State of Oregon, appropriate tribal coordinating bodies, or any joint governmental entity established for undertaking research, or providing advice on or mechanisms for coordinating management or enforcement, or preparing the reports and plans described in this subchapter and subchapter III of this chapter.

(Pub. L. 96–561, title I, § 112, Dec. 22, 1980, 94 Stat. 3279.)

§ 3314. Discontinuance of funding

If the Secretary finds that as of the close of the 18th month after secretarial approval of the Commission report under section 3311(e) of this title, the number of parties which have adopted and implemented the Commission's management program in accordance with the provisions of this chapter and the report is insufficient to ensure that the management structure is effective and consistent with the standards and objectives in section 3311(c) of this title, he shall discontinue any further funding under this subchapter or subchapter III of this chapter.

(Pub. L. 96–561, title I, § 113, Dec. 22, 1980, 94 Stat. 3279.)

§ 3315. Authorization of appropriations

There are authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this subchapter in fiscal years commencing after September 30, 1981, an aggregate amount of $3,000,000. Funds appropriated pursuant to this section remain available to the Secretary until expended.

(Pub. L. 96–561, title I, § 114, Dec. 22, 1980, 94 Stat. 3280.)

SUBCHAPTER III—RESOURCE ENHANCEMENT

§ 3321. Grants for projects under approved enhancement plans

(a) Authority

The Secretary of the Interior (hereinafter referred to in this subchapter as the ''Secretary''), in consultation with the Secretary of Commerce, is authorized to establish a program to provide grants for projects for the enhancement of the salmon and steelhead resources of the Washington conservation area and the Columbia River conservation area.

(b) Plans

Any such project in the Washington conservation area must be in accordance with a comprehensive enhancement plan developed and agreed to by the State of Washington and the Washington tribal coordinating body within 18 months after December 22, 1980. Any enhancement project in the Columbia River conservation area must be in accordance with a comprehensive enhancement plan developed and agreed to by the State of Washington, the State of Oregon, and the Columbia River tribal coordinating body within 18 months after December 22, 1980. Such plans must be approved by the Secretary, in consultation with the Secretary of Commerce, as provided in this subchapter. The States shall solicit and consider the comments and views of interested commercial and recreational fishermen, and other interested parties, in developing the comprehensive enhancement plan.

(c) Scope

Each comprehensive enhancement plan, and any revisions, or modifications of such plan, shall describe all enhancement projects in the conservation area, and associated stocking policies (when relevant), including any related research necessary to such enhancement anticipated by the States and the treaty tribes (acting through the appropriate tribal coordinating body) for a period of at least 5 years.

(d) Standards

Each comprehensive enhancement plan shall include such standards, restrictions, or conditions as are necessary, to assure that any project included in the plans contributes to the balanced and integrated development of the salmon and steelhead resources of the area. Such standards shall include, but not be limited to, provisions designed to—

(1) assure that all commercial and recreational fishermen and the treaty tribes shall have a reasonable opportunity to participate in the benefits, considered as a whole, of the salmon and steelhead resources development;

(2) minimize, to the extent practicable, significant adverse interaction between naturally spawning and artifically[1] propagated stocks;

(3) ensure that all projects included within the plan are designed to complement the contribution of sound State, Federal, and tribal enhancement activities;

(4) ensure that all projects included within the plan are economically and biologically sound and supported by adequate scientific research;

(5) assure that all projects included within the plan achieve significant benefits relative to the overall cost of each such project;

(6) consider the effect of enhancement activities as they relate to existing and future international commitments; and

(7) notwithstanding any of the above measures, provide for the harvest of fish by treaty tribes in accordance with treaty rights, unless agreed otherwise by the affected treaty tribes.

(e) Approval

(1) The Secretary, in consultation with the Secretary of Commerce, shall review each comprehensive enhancement plan and approve such plan within 120 days of the date of its receipt, if found to be consistent with this chapter and other applicable law. If the Secretary, in consultation with the Secretary of Commerce, finds that a plan is not in conformity with the provisions of this chapter or other applicable law, he shall return such plan to the State of Washington or the State of Oregon, or both, as appropriate, and the appropriate tribal coordinating body with recommendations.

(2) Upon receiving such a plan, the Secretary, in consultation with the Secretary of Commerce, shall—

(A) publish a notice in the Federal Register of the availability of the plan;

(B) provide a copy of the plan to the Pacific Fishery Management Council and, upon request, to any other interested person or group, and solicit and consider the comments and views of such persons or groups with respect to the plan;

(C) undertake a biological and technical review of the plan, in consultation with individuals who are knowledgeable with regard to the management, conservation, enhancement, and

[1] So in original. Probably should be ''artificially''.

harvest of the salmon and steelhead resources of the area;

(D) provide a copy of the plan to and consult with the Secretary of State and the Secretary of Commerce, with respect to the effect of such plan on any international fisheries; and

(E) determine whether the State of Washington or the State of Oregon, as appropriate, and the treaty tribes, acting through their chosen agency or agencies, have the authority to carry out the plan in accordance with this chapter, and in accordance with standards included within the plan.

(3) The Secretary, in consultation with the Secretary of Commerce, shall not approve a comprehensive enhancement plan unless the State of Washington or the State of Oregon, or both, as appropriate, and the treaty tribes, acting through the appropriate tribal coordinating body, agree not to undertake any salmon or steelhead enhancement project, using funds provided pursuant to this subchapter or otherwise, that would be inconsistent with the plan.

(4) The Secretary may not approve a comprehensive plan unless the Secretary of Commerce concurs that such plan satisfactorily complies with standards (1), (6), and (7) of subsection (d) of this section.

(f) Review, modification, or revisions

Each comprehensive enhancement plan shall be reviewed periodically. The Secretary, the Secretary of Commerce, the State of Washington, the State of Oregon, or the appropriate tribal coordinating body may request a review, modification, or revision of a plan at any time. Any revision or modification of a plan, developed and agreed to by the State of Washington or the State of Oregon, as appropriate, and the appropriate tribal coordinating body, shall be approved by the Secretary, in consultation with the Secretary of Commerce, within 45 days of receipt of the proposed revision or modification, if such revision or modification is in conformity with this chapter and other applicable law. The Secretary, in consultation with the Secretary of Commerce, may withdraw approval of a plan if he finds that (1) the plan or its implementation is not consistent with this chapter, and (2) no modification or revision has been agreed to by the State of Washington or the State of Oregon, as appropriate, and the appropriate tribal coordinating body to correct any such inconsistencies.

(Pub. L. 96–561, title I, § 120, Dec. 22, 1980, 94 Stat. 3280.)

§ 3322. Enhancement project proposals

After the approval of a comprehensive enhancement plan, the State of Washington, the State of Oregon, or a treaty tribe acting through the appropriate tribal coordinating body may submit project proposals to the Secretary in such manner and form as the Secretary shall prescribe. Such application shall include, but not be limited to—

(1) plans, specifications, and cost estimates of the proposed enhancement project, including estimates of both the capital construction costs of the project and the operation and maintenance costs after commencement of the project;

(2) the enhancement goals that are sought to be achieved by the proposed project, including, but not limited to—

(A) a description of the affected stock;

(B) an analysis of the expected impacts on the salmon and steelhead resource; and

(C) a projection of the expected impacts on each type of commercial, recreational and treaty Indian fishing;

(3) evidence that the State of Washington, the State of Oregon, or the treaty tribe, acting through its chosen agency or agencies, has obtained or is likely to obtain any necessary titles to, interests in, rights-of-way over, or licenses covering the use of the relevant land;

(4) an analysis of, and supporting data for, the economic and biological integrity and viability of the project;

(5) such other information as the Secretary, in consultation with the Secretary of Commerce, determines is necessary to assure that the proposed project is consistent with the approved enhancement plan and the provisions of this chapter; and

(6) after approval of the Commission's report pursuant to section 3311 of this title, documentation that the appropriate State or treaty tribe submitting or undertaking the project proposal has adopted and begun all necessary implementation of the Commission's management program.

(Pub. L. 96–561, title I, § 121, Dec. 22, 1980, 94 Stat. 3282.)

§ 3323. Approval and funding of projects

(a) In general

The Secretary, in consultation with the Secretary of Commerce, may approve any project that is consistent with an approved enhancement plan and the provisions of this chapter, and shall promptly notify the States, the treaty tribes and, upon request, any other interested party of the approval of a project and the amount of funding made available under this chapter for such project.

(b) Limitations on Federal share

The total Federal share of all enhancement projects funded annually by this section shall not exceed 50 percent of the total amount expended for such projects, except that this limitation shall not apply to projects proposed by treaty tribes acting through the appropriate tribal coordinating body. A State share may include both real and personal property. Title to, or other interest in, such property shall remain within the State. The State of Washington shall be treated on December 22, 1980, as having expended $32,000,000 (reduced by the amount treated as expended by the State under section 3336 of this title) on enhancement projects set forth in the plan which are eligible for assistance under this chapter. The Federal share shall be paid in such amounts and at such times as the Secretary deems appropriate, consistent with this chapter and the goals of the comprehensive plan.

(Pub. L. 96–561, title I, § 122, Dec. 22, 1980, 94 Stat. 3282.)

§ 3324. Monitoring and evaluation of enhancement projects

The Secretary, in cooperation with the Secretary of Commerce, shall establish, in consultation with the State of Washington, the State of Oregon, and the appropriate tribal coordinating body, a system to monitor and evaluate on a continuing basis all enhancement projects for which funds have been distributed under this subchapter, and may discontinue or suspend distribution of all or part of the funds if any project is not being carried out in a manner consistent with the comprehensive enhancement plan concerned and this chapter. Each recipient of a grant under this subchapter shall make available to the Secretary and to the Comptroller General of the United States for purposes of audit and examination, any book, document, paper, and record that is pertinent to the funds received under the grant.

(Pub. L. 96–561, title I, § 123, Dec. 22, 1980, 94 Stat. 3283.)

§ 3325. Authorization of appropriations

(a) Salmon enhancement

For purposes of carrying out the provisions of this subchapter for salmon enhancement (including, but not limited to, the operation and maintenance of enhancement facilities) there are authorized to be appropriated not to exceed $45,000,000 for the ten-year period beginning on October 1, 1982, for the Washington conservation area, and not to exceed $25,000,000 for the ten-year period beginning on such date for the Columbia River conservation area.

(b) Steelhead enhancement

In addition to the amounts authorized under subsection (a) of this section, there are authorized to be appropriated to carry out steelhead enhancement projects under this subchapter (including, but not limited to, operation and maintenance of enhancement facilities) not to exceed $7,000,000 for the ten-year period beginning on October 1, 1982, for the Washington conservation area; and not to exceed $7,000,000 for the ten-year period beginning on such date for the Columbia River conservation area.

(c) Limitation

No moneys appropriated pursuant to subsection (a) or (b) of this section may be used for the operation and maintenance of enhancement programs and related facilities as they existed on or before the date of the approval by the Secretary under section 3321 of this title of the enhancement plan for the conservation area concerned.

(Pub. L. 96–561, title I, § 124, Dec. 22, 1980, 94 Stat. 3283.)

SUBCHAPTER IV—COMMERCIAL FISHING FLEET ADJUSTMENT

§ 3331. Fleet adjustment program

(a) In general

The Secretary of Commerce (hereinafter referred to in this subchapter as the ''Secretary''), upon approval of a program submitted pursuant to section 3333 of this title, is authorized to distribute Federal funds to the State of Washington (hereinafter in this subchapter referred to as the ''State''), subject to the standards, conditions, and restrictions set forth in this subchapter, for the purchase of commercial fishing and charter vessels (including the associated fishing gear) and licenses by the State in accordance with the provisions of this subchapter. The Federal share payable under this subchapter shall not exceed 75 percent of the total cost of the program.

(b) Legal title

Title to any vessel or other personal property purchased under a State program approved by the Secretary in accordance with the provisions of this subchapter shall vest upon purchase in the State. If the State sells such vessels or other property, title may pass in accordance with such sale.

(Pub. L. 96–561, title I, § 130, Dec. 22, 1980, 94 Stat. 3283.)

§ 3332. State program for reduction of overall fishing capacity

The State shall submit to the Secretary a program within three months of December 22, 1980, designed to—

(1) provide incentives for early retirement of licenses, or early sale of vessels;

(2) set aside specific allocations of funds for each gear type to achieve the specific fleet reductions provided for in the program;

(3) obtain an effective and expeditious reduction in the overall fishing capacity of and the number of vessels and licenses in the non-Indian commercial and charter salmon fishing fleets in the Washington conservation area; and

(4) provide State funding for 25 per centum of the total cost of the program.

(Pub. L. 96–561, title I, § 131, Dec. 22, 1980, 94 Stat. 3284.)

§ 3333. Program approval

(a) Submission for approval

The State shall submit its program and submit revisions, modifications, or amendments to the Secretary in accordance with standards established pursuant to section 3332 of this title and in such manner and form as the Secretary shall prescribe.

(b) Requirements for approval

Prior to approving such program or any revision, modification, or amendment, and authorizing Federal funds to be distributed in accordance with this subchapter, the Secretary must find that—

(1) the State, acting through its chosen agency or agencies, has authority to carry out a commercial and charter vessel fleet reduction program in accordance with the provisions of this subchapter;

(2) the State program provides that a fishing or charter vessel may not be purchased by the State from other than the person who owned the vessel on December 22, 1980;

(3) the State program prevents the expenditure of a disproportionate amount of funds

available for vessel acquisition on vessels owned by any one person;

(4) the State program prohibits the purchase of any fishing or charter vessel unless all State commercial and charter salmon fishing licenses attached to the vessel are also sold to the State;

(5) the State program provides that no person may purchase from the State any vessel which that person or a member of that person's immediate family had previously sold to the State;

(6) the State program provides that no person may purchase any vessel sold to the State pursuant to the program and use such vessel for commercial or charter salmon fishing in the Washington conservation area, unless State law provides that the use of such vessel could not result in any additional fishing effort in the non-Indian fishing fleet;

(7) the State program provides for purchase of vessels at their fair market value;

(8) the State program provides for the reduction of salmon fishing licenses, through purchase of such licenses at their fair market value, and the use of bonuses and schedules, to—

(A) secure an early retirement from the salmon fishery;

(B) recognize productiveness if the commercial harvesters using a gear type wish[1] that gear type's specific allocation of funds to recognize productiveness; and

(C) recognize passenger-carrying capacity for charter fishing licenses;

(9) the State program provides, with respect to marginally productive commercial salmon fishermen, for the purchase of their salmon fishing licenses, but not their fishing vessels;

(10) the State maintains a moratorium, or similar program, to preclude the issuance of new commercial or charter salmon fishing licenses; and

(11) the State has established a revolving fund for the operation of the fleet reduction program that includes an individual account for each category of fishing license (based on type of fishing gear used) and that any moneys received by the State or its agents from the resale of any fishing vessel or gear purchased under the program (A) shall be placed in such revolving fund, (B) shall, for at least 2 years from the date of the program's inception, be placed in the appropriate individual account, and (C) shall be used exclusively to purchase commercial fishing and charter vessels and licenses in accordance with the provisions of this subchapter.

(c) Secretarial action

The Secretary shall approve such program within ninety days of the date of receipt of the program if found to be consistent with this chapter and other applicable law. If the Secretary finds that such program is not in conformity with the provisions of this chapter or other applicable law, he shall return such program to the State with recommendations. Any revision, modification, or amendment to the program shall be approved within thirty days of receipt unless found to be inconsistent with this chapter or other applicable law.

(Pub. L. 96–561, title I, § 132, Dec. 22, 1980, 94 Stat. 3284.)

[1] So in original. Probably should be ''with''.

§ 3334. Review of State program by Secretary

(a) In general

The Secretary shall conduct a continuing review of the State program to determine whether the program remains consistent with this chapter or other applicable law. Such review shall include a biennial audit of the records of the State program.

(b) Action upon finding of noncompliance

If the Secretary finds that the program or the administration thereof is no longer in compliance with this subchapter, he shall reduce or discontinue distribution of funds under this subchapter, or take other appropriate action.

(c) Disposition of certain moneys

If the Secretary finds that any money provided to the State or obtained by the State from the resale of any fishing or charter vessel purchased under the program is not being used in accordance with the provisions of this subchapter, the Secretary shall recover from the fund, and place in the United States Treasury, such moneys.

(Pub. L. 96–561, title I, § 133, Dec. 22, 1980, 94 Stat. 3285.)

§ 3335. Authorization of appropriations

There are authorized to be appropriated to the Secretary, for the purposes of carrying out the provisions of this subchapter, $37,500,000 for the 5-year period beginning October 1, 1981.

(Pub. L. 96–561, title I, § 134, Dec. 22, 1980, 94 Stat. 3285.)

§ 3336. Special provision

On the date the Secretary approves the program under section 3333 of this title, the State shall be treated as having expended such portion of $32,000,000 as the State deems appropriate for purposes of implementing the program.

(Pub. L. 96–561, title I, § 135, Dec. 22, 1980, 94 Stat. 3285.)

SUBCHAPTER V—MISCELLANEOUS

§ 3341. Regulations

The Secretary of Commerce and the Secretary of the Interior may each promulgate such regulations, in accordance with section 553 of title 5, as may be necessary to carry out his functions under this chapter.

(Pub. L. 96–561, title I, § 140, Dec. 22, 1980, 94 Stat. 3286.)

§ 3342. Annual status reports on programs; monitoring

(a) Reports

The State of Washington, the State of Oregon, and the appropriate tribal coordinating bodies

shall submit to the appropriate Secretary an annual report on the status of the programs authorized by this chapter or any other relevant report requested by such Secretary.

(b) Monitoring

After the 18-month period after approval of the report of the Salmon and Steelhead Advisory Commission under subchapter II of this chapter, the Secretary of Commerce shall establish a system to monitor and evaluate on a continuing basis whether the management program set forth in the report is being effectively implemented. If at any time after the monitoring system is established, the Secretary finds that—

(1) the number of parties referred to in section 3314 of this title has been reduced to the extent that such program cannot be implemented effectively; or

(2) the general implementation of the program is ineffective;

the Secretary shall immediately discontinue any further funding under subchapter III of this chapter.

(Pub. L. 96–561, title I, §141, Dec. 22, 1980, 94 Stat. 3286.)

§ 3343. Construction with fishery conservation and management provisions

(a) Consistency

Nothing in this chapter shall be construed as affecting the provisions of title III of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1851 et seq.] as it applies with respect to fishery management plans and their application to any fishery, except that the Pacific Fishery Management Council shall ensure that existing and future fishery management plans are consistent with any recommended program approved under section 3311 of this title and any enhancement plan under subchapter III of this chapter.

(b) Fleet mobility

The Secretary of Commerce in coordination with the Pacific Fishery Management Council in its salmon management plan shall ensure that the fishing effort reduction that results from the fleet adjustment program of subchapter IV of this chapter and the license moratorium of the State of Washington is not replaced by new fishing effort from outside such State.

(Pub. L. 96–561, title I, §142, title II, §238(b), Dec. 22, 1980, 94 Stat. 3286, 3300; Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (a), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended. Title III of the Act is classified generally to subchapter IV (§1851 et seq.) of chapter 38 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–208 substituted ''Magnuson-Stevens Fishery'' for ''Magnuson Fishery''.

1980—Subsec. (a). Pub. L. 96–561, §238(b), substituted ''Magnuson Fishery Conservation and Management Act'' for ''Fishery Conservation and Management Act of 1976''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, §211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 238(b) of Pub. L. 96–561 provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

§ 3344. Construction with other laws

Nothing in this chapter shall be construed—

(1) to diminish Federal, State, or tribal jurisdiction, responsibility, or rights in the field of resource enhancement and management, or control of water resources, submerged lands, or navigable waters; nor to limit the authority of Congress to authorize and fund projects; or

(2) as superseding, modifying, or repealing any existing applicable law, except as provided for in this section.

(Pub. L. 96–561, title I, §143, Dec. 22, 1980, 94 Stat. 3286.)

§ 3345. Authorization of additional appropriations

In addition to other authorizations of appropriations contained in this chapter, there are authorized to be appropriated to the Secretary of Commerce beginning October 1, 1981, an amount not to exceed $5,000,000 for the purpose of developing fisheries port facilities in the State of Oregon. The Secretary shall obligate such funds for projects proposed by units of State or local government, Indian tribes, or private nonprofit entities, and approved by the State of Oregon in consultation with the National Marine Fisheries Service and the Economic Development Administration. To the extent practicable, the Secretary shall assure that projects under this section are integrated with planning and assistance under the Public Works and Economic Development Act [42 U.S.C. 3121 et seq.] Funds available under this section shall not be used for any navigational improvement or other modification of the navigable waters of the United States. Funds appropriated pursuant to this section shall remain available until expended.

(Pub. L. 96–561, title I, §144, Dec. 22, 1980, 94 Stat. 3286.)

REFERENCES IN TEXT

The Public Works and Economic Development Act, referred to in text, probably means the Public Works and Economic Development Act of 1965, Pub. L. 89–136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified generally to chapter 38 (§3121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

CHAPTER 53—CONTROL OF ILLEGALLY TAKEN FISH AND WILDLIFE

Sec.
3371. Definitions.
3372. Prohibited acts.
3373. Penalties and sanctions.

Sec.
3374. Forfeiture.
3375. Enforcement.
3376. Administration.
3377. Exceptions.
3378. Miscellaneous provisions.

§ 3371. Definitions

For the purposes of this chapter:

(a) The term ''fish or wildlife'' means any wild animal, whether alive or dead, including without limitation any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, arthropod, coelenterate, or other invertebrate, whether or not bred, hatched, or born in captivity, and includes any part, product, egg, or offspring thereof.

(b) The term ''import'' means to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(c) The term ''Indian tribal law'' means any regulation of, or other rule of conduct enforceable by, any Indian tribe, band, or group but only to the extent that the regulation or rule applies within Indian country as defined in section 1151 of title 18.

(d) The terms ''law,'' ''treaty,'' ''regulation,'' and ''Indian tribal law'' mean laws, treaties, regulations or Indian tribal laws which regulate the taking, possession, importation, exportation, transportation, or sale of fish or wildlife or plants.

(e) The term ''person'' includes any individual, partnership, association, corporation, trust, or any officer, employee, agent, department, or instrumentality of the Federal Government or of any State or political subdivision thereof, or any other entity subject to the jurisdiction of the United States.

(f) PLANT.—

(1) IN GENERAL.—The terms ''plant'' and ''plants'' mean any wild member of the plant kingdom, including roots, seeds, parts, or products thereof, and including trees from either natural or planted forest stands.

(2) EXCLUSIONS.—The terms ''plant'' and ''plants'' exclude—

(A) common cultivars, except trees, and common food crops (including roots, seeds, parts, or products thereof);

(B) a scientific specimen of plant genetic material (including roots, seeds, germplasm, parts, or products thereof) that is to be used only for laboratory or field research; and

(C) any plant that is to remain planted or to be planted or replanted.

(3) EXCEPTIONS TO APPLICATION OF EXCLUSIONS.—The exclusions made by subparagraphs (B) and (C) of paragraph (2) do not apply if the plant is listed—

(A) in an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);

(B) as an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or

(C) pursuant to any State law that provides for the conservation of species that are indigenous to the State and are threatened with extinction.

(g) PROHIBITED WILDLIFE SPECIES.—The term ''prohibited wildlife species'' means any live species of lion, tiger, leopard, cheetah, jaguar, or cougar or any hybrid of such species.

(h) The term ''Secretary'' means, except as otherwise provided in this chapter, the Secretary of the Interior or the Secretary of Commerce, as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090); except that with respect to the provisions of this chapter which pertain to the importation or exportation of plants, the term also means the Secretary of Agriculture.

(i) The term ''State'' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Northern Mariana Islands, American Samoa, and any other territory, commonwealth, or possession of the United States.

(j) TAKEN AND TAKING.—

(1) TAKEN.—The term ''taken'' means captured, killed, or collected and, with respect to a plant, also means harvested, cut, logged, or removed.

(2) TAKING.—The term ''taking'' means the act by which fish, wildlife, or plants are taken.

(k) The term ''transport'' means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.

(Pub. L. 97–79, § 2, Nov. 16, 1981, 95 Stat. 1073; Pub. L. 108–191, § 2, Dec. 19, 2003, 117 Stat. 2871; Pub. L. 110–234, title VIII, § 8204(a), May 22, 2008, 122 Stat. 1291; Pub. L. 110–246, § 4(a), title VIII, § 8204(a), June 18, 2008, 122 Stat. 1664, 2052.)

REFERENCES IN TEXT

This chapter, referred to in the provision preceding par. (a), and in par. (h), was in the original ''this Act'' and ''the Act'', meaning Pub. L. 97–79, Nov. 16, 1981, 95 Stat. 1073, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Endangered Species Act of 1973, referred to in subsec. (f)(3)(B), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

Reorganization Plan No. 4 of 1970 (84 Stat. 2090), referred to in par. (h), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (f). Pub. L. 110–246, § 8204(a)(1), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''The terms 'plant' and 'plants' mean any wild member of the plant kingdom, including roots, seeds, and other parts thereof (but excluding common food crops and cultivars) which is indigenous to any State and which is either (A) listed on an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, or (B) listed pursuant to any State law that provides for the conservation of species threatened with extinction.''

Subsec. (h). Pub. L. 110–246, § 8204(a)(2), substituted ''plants, the term also means'' for ''plants the term means''.

Subsec. (j). Pub. L. 110–246, § 8204(a)(3), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: ''The term 'taken' means captured, killed, or collected.''

2003—Subsecs. (g) to (k). Pub. L. 108–191 added subsec. (g) and redesignated former subsecs. (g) to (j) as (h) to (k), respectively.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–191, § 1, Dec. 19, 2003, 117 Stat. 2871, provided that: ''This Act [amending this section and section 3372 of this title and enacting provisions set out as a note under section 3372 of this title] may be cited as the 'Captive Wildlife Safety Act'.''

SHORT TITLE

Section 1 of Pub. L. 97–79 provided: ''That this Act [enacting this chapter, amending section 1540 of this title and section 42 of Title 18, Crimes and Criminal Procedure, repealing sections 667e and 851 to 856 of this title and sections 43, 44, 3054, and 3112 of Title 18, and enacting provisions set out as a note under section 1540 of this title] may be cited as the 'Lacey Act Amendments of 1981'.''

§ 3372. Prohibited acts

(a) Offenses other than marking offenses

It is unlawful for any person—

(1) to import, export, transport, sell, receive, acquire, or purchase any fish or wildlife or plant taken, possessed, transported, or sold in violation of any law, treaty, or regulation of the United States or in violation of any Indian tribal law;

(2) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce—

(A) any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law;

(B) any plant—

(i) taken, possessed, transported, or sold in violation of any law or regulation of any State, or any foreign law, that protects plants or that regulates—

(I) the theft of plants;

(II) the taking of plants from a park, forest reserve, or other officially protected area;

(III) the taking of plants from an officially designated area; or

(IV) the taking of plants without, or contrary to, required authorization;

(ii) taken, possessed, transported, or sold without the payment of appropriate royalties, taxes, or stumpage fees required for the plant by any law or regulation of any State or any foreign law; or

(iii) taken, possessed, transported, or sold in violation of any limitation under any law or regulation of any State, or under any foreign law, governing the export or transshipment of plants; or

(C) any prohibited wildlife species (subject to subsection (e) of this section);

(3) within the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18)—

(A) to possess any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law or Indian tribal law, or

(B) to possess any plant—

(i) taken, possessed, transported, or sold in violation of any law or regulation of any State, or any foreign law, that protects plants or that regulates—

(I) the theft of plants;

(II) the taking of plants from a park, forest reserve, or other officially protected area;

(III) the taking of plants from an officially designated area; or

(IV) the taking of plants without, or contrary to, required authorization;

(ii) taken, possessed, transported, or sold without the payment of appropriate royalties, taxes, or stumpage fees required for the plant by any law or regulation of any State or any foreign law; or

(iii) taken, possessed, transported, or sold in violation of any limitation under any law or regulation of any State, or under any foreign law, governing the export or transshipment of plants; or

(4) to attempt to commit any act described in paragraphs (1) through (3).

(b) Marking offenses

It is unlawful for any person to import, export, or transport in interstate commerce any container or package containing any fish or wildlife unless the container or package has previously been plainly marked, labeled, or tagged in accordance with the regulations issued pursuant to paragraph (2) of section 3376(a) of this title.

(c) Sale and purchase of guiding and outfitting services and invalid licenses and permits

(1) Sale

It is deemed to be a sale of fish or wildlife in violation of this chapter for a person for money or other consideration to offer or provide—

(A) guiding, outfitting, or other services; or

(B) a hunting or fishing license or permit;

for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife.

(2) Purchase

It is deemed to be a purchase of fish or wildlife in violation of this chapter for a person to obtain for money or other consideration—

(A) guiding, outfitting, or other services; or

(B) a hunting or fishing license or permit;

for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife.

(d) False labeling offenses

It is unlawful for any person to make or submit any false record, account, or label for, or

any false identification of, any fish, wildlife, or plant which has been, or is intended to be—

(1) imported, exported, transported, sold, purchased, or received from any foreign country; or

(2) transported in interstate or foreign commerce.

(e) Nonapplicability of prohibited wildlife species offense

(1) In general

Subsection (a)(2)(C) of this section does not apply to importation, exportation, transportation, sale, receipt, acquisition, or purchase of an animal of a prohibited wildlife species, by a person that, under regulations prescribed under paragraph (3), is described in paragraph (2) with respect to that species.

(2) Persons described

A person is described in this paragraph, if the person—

(A) is licensed or registered, and inspected, by the Animal and Plant Health Inspection Service or any other Federal agency with respect to that species;

(B) is a State college, university, or agency, State-licensed wildlife rehabilitator, or State-licensed veterinarian;

(C) is an accredited wildlife sanctuary that cares for prohibited wildlife species and—

(i) is a corporation that is exempt from taxation under section 501(a) of title 26 and described in sections 501(c)(3) and 170(b)(1)(A)(vi) of such title;

(ii) does not commercially trade in animals listed in section 3371(g) of this title, including offspring, parts, and byproducts of such animals;

(iii) does not propagate animals listed in section 3371(g) of this title; and

(iv) does not allow direct contact between the public and animals; or

(D) has custody of the animal solely for the purpose of expeditiously transporting the animal to a person described in this paragraph with respect to the species.

(3) Regulations

Not later than 180 days after December 19, 2003, the Secretary, in cooperation with the Director of the Animal and Plant Health Inspection Service, shall promulgate regulations describing the persons described in paragraph (2).

(4) State authority

Nothing in this subsection preempts or supersedes the authority of a State to regulate wildlife species within that State.

(5) Authorization of appropriations

There is authorized to be appropriated to carry out subsection (a)(2)(C) of this section $3,000,000 for each of fiscal years 2004 through 2008.

(f) Plant declarations

(1) Import declaration

Effective 180 days from the date of enactment of this subsection, and except as provided in paragraph (3), it shall be unlawful for any person to import any plant unless the person files upon importation a declaration that contains—

(A) the scientific name of any plant (including the genus and species of the plant) contained in the importation;

(B) a description of—

(i) the value of the importation; and

(ii) the quantity, including the unit of measure, of the plant; and

(C) the name of the country from which the plant was taken.

(2) Declaration relating to plant products

Until the date on which the Secretary promulgates a regulation under paragraph (6), a declaration relating to a plant product shall—

(A) in the case in which the species of plant used to produce the plant product that is the subject of the importation varies, and the species used to produce the plant product is unknown, contain the name of each species of plant that may have been used to produce the plant product;

(B) in the case in which the species of plant used to produce the plant product that is the subject of the importation is commonly taken from more than one country, and the country from which the plant was taken and used to produce the plant product is unknown, contain the name of each country from which the plant may have been taken; and

(C) in the case in which a paper or paperboard plant product includes recycled plant product, contain the average percent recycled content without regard for the species or country of origin of the recycled plant product, in addition to the information for the non-recycled plant content otherwise required by this subsection.

(3) Exclusions

Paragraphs (1) and (2) shall not apply to plants used exclusively as packaging material to support, protect, or carry another item, unless the packaging material itself is the item being imported.

(4) Review

Not later than two years after the date of enactment of this subsection, the Secretary shall review the implementation of each requirement imposed by paragraphs (1) and (2) and the effect of the exclusion provided by paragraph (3). In conducting the review, the Secretary shall provide public notice and an opportunity for comment.

(5) Report

Not later than 180 days after the date on which the Secretary completes the review under paragraph (4), the Secretary shall submit to the appropriate committees of Congress a report containing—

(A) an evaluation of—

(i) the effectiveness of each type of information required under paragraphs (1) and (2) in assisting enforcement of this section; and

(ii) the potential to harmonize each requirement imposed by paragraphs (1) and

(2) with other applicable import regulations in existence as of the date of the report;

(B) recommendations for such legislation as the Secretary determines to be appropriate to assist in the identification of plants that are imported into the United States in violation of this section; and

(C) an analysis of the effect of subsection (a) and this subsection on—

(i) the cost of legal plant imports; and

(ii) the extent and methodology of illegal logging practices and trafficking.

(6) Promulgation of regulations

Not later than 180 days after the date on which the Secretary completes the review under paragraph (4), the Secretary may promulgate regulations—

(A) to limit the applicability of any requirement imposed by paragraph (2) to specific plant products;

(B) to make any other necessary modification to any requirement imposed by paragraph (2), as determined by the Secretary based on the review; and

(C) to limit the scope of the exclusion provided by paragraph (3), if the limitations in scope are warranted as a result of the review.

(Pub. L. 97–79, §3, Nov. 16, 1981, 95 Stat. 1074; Pub. L. 100–653, title I, §101, Nov. 14, 1988, 102 Stat. 3825; Pub. L. 108–191, §3(a), Dec. 19, 2003, 117 Stat. 2871; Pub. L. 110–234, title VIII, §8204(b), May 22, 2008, 122 Stat. 1292; Pub. L. 110–246, §4(a), title VIII, §8204(b), June 18, 2008, 122 Stat. 1664, 2053.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original ''this Act'', meaning Pub. L. 97–79, Nov. 16, 1981, 95 Stat. 1073, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3371 of this title and Tables.

The date of enactment of this subsection, referred to in subsec. (f)(1), (4), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a)(2)(B). Pub. L. 110–246, §8204(b)(1)(A), added subpar. (B) and struck out former subpar. (B) which read as follows: ''any plant taken, possessed, transported, or sold in violation of any law or regulation of any State; or''.

Subsec. (a)(3)(B). Pub. L. 110–246, §8204(b)(1)(B), added subpar. (B) and struck out former subpar. (B) which read as follows: ''to possess any plant taken, possessed, transported, or sold in violation of any law or regulation of any State; or''.

Subsec. (f). Pub. L. 110–246, §8204(b)(2), added subsec. (f).

2003—Subsec. (a)(2)(C). Pub. L. 108–191, §3(a)(1)(A), added subpar. (C).

Subsec. (a)(3)(B). Pub. L. 108–191, §3(a)(1)(B), inserted ''or'' after semicolon at end.

Subsec. (a)(4). Pub. L. 108–191, §3(a)(1)(C), substituted ''paragraphs (1) through (3)'' for ''paragraphs (1) through (4)''.

Subsec. (e). Pub. L. 108–191, §3(a)(2), added subsec. (e).

1988—Subsec. (a)(1). Pub. L. 100–653, §101(1), substituted ''taken, possessed, transported, or sold'' for ''taken or possessed''.

Subsec. (a)(4), (5). Pub. L. 100–653, §101(2), redesignated par. (5) as (4) and struck out former par. (4), which made it unlawful for any person having imported, exported, transported, sold, purchased, or received any fish or wildlife or plant imported from any foreign country or transported in interstate or foreign commerce, to make or submit any false record, account, label, or identification thereof.

Subsecs. (c), (d). Pub. L. 100–653, §101(3), added subsecs. (c) and (d).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–191, §3(b), Dec. 19, 2003, 117 Stat. 2872, provided that: ''Section 3(a)(2)(C) of the Lacey Act Amendments of 1981 [16 U.S.C. 3372(a)(2)(C)] (as added by subsection (a)(1)(A)(iii)) shall apply beginning on the effective date of regulations promulgated under section 3(e)(3) of that Act [16 U.S.C. 3372(e)(3)] (as added by subsection (a)(2)) [Sept. 17, 2007, see 72 F.R. 45938].''

§ 3373. Penalties and sanctions

(a) Civil penalties

(1) Any person who engages in conduct prohibited by any provision of this chapter (other than subsections (b), (d), and (f) of section 3372 of this title) and in the exercise of due care should know that the fish or wildlife or plants were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty, or regulation, and any person who knowingly violates subsection (d) or (f) of section 3372 of this title, may be assessed a civil penalty by the Secretary of not more than $10,000 for each such violation: *Provided*, That when the violation involves fish or wildlife or plants with a market value of less than $350, and involves only the transportation, acquisition, or receipt of fish or wildlife or plants taken or possessed in violation of any law, treaty, or regulation of the United States, any Indian tribal law, any foreign law, or any law or regulation of any State, the penalty assessed shall not exceed the maximum provided for violation of said law, treaty, or regulation, or $10,000, whichever is less.

(2) Any person who violates subsection (b) or (f) of section 3372 of this title, except as provided in paragraph (1), may be assessed a civil penalty by the Secretary of not more than $250.

(3) For purposes of paragraphs (1) and (2), any reference to a provision of this chapter or to a section of this chapter shall be treated as including any regulation issued to carry out any such provision or section.

(4) No civil penalty may be assessed under this subsection unless the person accused of the violation is given notice and opportunity for a hearing with respect to the violation. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which a person

may have taken or been in possession of the said fish or wildlife or plants.

(5) Any civil penalty assessed under this subsection may be remitted or mitigated by the Secretary.

(6) In determining the amount of any penalty assessed pursuant to paragraphs (1) and (2), the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed, and with respect to the violator, the degree of culpability, ability to pay, and such other matters as justice may require.

(b) Hearings

Hearings held during proceedings for the assessment of civil penalties shall be conducted in accordance with section 554 of title 5. The administrative law judge may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) Review of civil penalty

Any person against whom a civil penalty is assessed under this section may obtain review thereof in the appropriate District Court of the United States by filing a complaint in such court within 30 days after the date of such order and by simultaneously serving a copy of the complaint by certified mail on the Secretary, the Attorney General, and the appropriate United States attorney. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28. If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary may request the Attorney General of the United States to institute a civil action in an appropriate district court of the United States to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. In hearing such action, the court shall have authority to review the violation and the assessment of the civil penalty de novo.

(d) Criminal penalties

(1) Any person who—

(A) knowingly imports or exports any fish or wildlife or plants in violation of any provision of this chapter (other than subsections (b), (d), and (f) of section 3372 of this title), or

(B) violates any provision of this chapter (other than subsections (b), (d), and (f) of section 3372 of this title) by knowingly engaging in conduct that involves the sale or purchase of, the offer of sale or purchase of, or the intent to sell or purchase, fish or wildlife or plants with a market value in excess of $350,

knowing that the fish or wildlife or plants were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty or regulation, shall be fined not more than $20,000, or imprisoned for not more than five years, or both. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said fish or wildlife or plants.

(2) Any person who knowingly engages in conduct prohibited by any provision of this chapter (other than subsections (b), (d), and (f) of section 3372 of this title) and in the exercise of due care should know that the fish or wildlife or plants were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty or regulation shall be fined not more than $10,000, or imprisoned for not more than one year, or both. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said fish or wildlife or plants.

(3) Any person who knowingly violates subsection (d) or (f) of section 3372 of this title—

(A) shall be fined under title 18 or imprisoned for not more than 5 years, or both, if the offense involves—

(i) the importation or exportation of fish or wildlife or plants; or

(ii) the sale or purchase, offer of sale or purchase, or commission of an act with intent to sell or purchase fish or wildlife or plants with a market value greater than $350; and

(B) shall be fined under title 18 or imprisoned for not more than 1 year, or both, if the offense does not involve conduct described in subparagraph (A).

(e) Permit sanctions

The Secretary may also suspend, modify, or cancel any Federal hunting or fishing license, permit, or stamp, or any license or permit authorizing a person to import or export fish or wildlife or plants (other than a permit or license issued pursuant to the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1801 et seq.]), or to operate a quarantine station or rescue center for imported wildlife or plants, issued to any person who is convicted of a criminal violation of any provision of this chapter or any regulation issued hereunder. The Secretary shall not be liable for the payments of any compensation, reimbursement, or damages in connection with the modification, suspension, or revocation of any licenses, permits, stamps, or other agreements pursuant to this section.

(Pub. L. 97–79, §4, Nov. 16, 1981, 95 Stat. 1074; Pub. L. 100–653, title I, §§102, 103, Nov. 14, 1988, 102 Stat. 3825, 3826; Pub. L. 110–234, title VII, §8204(c), (f), May 22, 2008, 122 Stat. 1294; Pub. L. 110–246, §4(a), title VIII, §8204(c), (f), June 18, 2008, 122 Stat. 1664, 2055, 2056.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (3), (d)(1), (2), and (e), was in the original ''this Act'', meaning Pub. L. 97–79, Nov. 16, 1981, 95 Stat. 1073, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3371 of this title and Tables.

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (e), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

CODIFICATION

''Magnuson-Stevens Fishery Conservation and Management Act'' substituted for ''Fishery Conservation and Management Act of 1976'' in subsec. (e), on authority of Pub. L. 96–561, title II, §238(b), Dec. 22, 1980, 94 Stat. 3300, which provided that all references to the Fishery Conservation and Management Act of 1976 be redesignated as references to the Magnuson Fishery Conservation and Management Act and Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, which provided that all references to the Magnuson Fishery Conservation and Management Act be redesignated as references to the Magnuson-Stevens Fishery Conservation and Management Act.

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–246, §8204(f), made technical corrections to directory language of Pub. L. 100–653, §102(c). See 1988 Amendment note below.

Pub. L. 110–246, §8204(c)(1), (2), substituted ''subsections (b), (d), and (f) of section 3372'' for ''subsections (b) and (d) of section 3372'' and ''subsection (d) or (f) of section 3372'' for ''section 3372(d)''.

Subsec. (a)(2). Pub. L. 110–246, §8204(c)(3), substituted ''subsection (b) or (f) of section 3372 of this title, except as provided in paragraph (1),'' for ''subsection 3372(b)''.

Subsec. (d)(1), (2). Pub. L. 110–246, §8204(f), made technical corrections to directory language of Pub. L. 100–653, §102(c). See 1988 Amendment note below.

Pub. L. 110–246, §8204(c)(1), substituted ''subsections (b), (d), and (f) of section 3372'' for ''subsections (b) and (d) of section 3372'' in pars. (1)(A), (B), and (2).

Subsec. (d)(3). Pub. L. 110–246, §8204(c)(2), substituted ''subsection (d) or (f) of section 3372'' for ''section 3372(d)'' in introductory provisions.

1988—Subsec. (a)(1). Pub. L. 100–653, §102(c), as amended by Pub. L. 110–246, §8204(f), substituted ''(other than subsections (b) and (d) of section 3372 of this title)'' for ''(other than subsection 3372(b) of this title)''.

Pub. L. 100–653, §102(a), inserted ''and any person who knowingly violates section 3372(d) of this title,'' after ''any underlying law, treaty, or regulation,''.

Subsec. (c). Pub. L. 100–653, §103, amended first sentence generally. Prior to amendment, first sentence read as follows: ''Any person against whom a civil penalty is assessed under this section may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary.''

Subsec. (d)(1), (2). Pub. L. 100–653, §102(c), as amended by Pub. L. 110–246, §8204(f), substituted ''(other than subsections (b) and (d) of section 3372 of this title)'' for ''(other than subsection 3372(b) of this title)'' in pars. (1)(A), (B), and (2).

Subsec. (d)(3). Pub. L. 100–653, §102(b), added par. (3).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110–234, title VIII, §8204(f), May 22, 2008, 122 Stat. 1294, and Pub. L. 110–246, §4(a), title VIII, §8204(f), June 18, 2008, 122 Stat. 1664, 2056, provided that the amendment made by section 8204(f) is effective Nov. 14, 1988, and as if included in the enactment of section 102(c) of Pub. L. 100–653.

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

TRANSFER OF FUNCTIONS

For transfer of functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under this chapter to the Secretary of Homeland Security, and for treatment of related references, see sections 231, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 3374. Forfeiture

(a) In general

(1) All fish or wildlife or plants imported, exported, transported, sold, received, acquired, or purchased contrary to the provisions of section 3372 of this title (other than section 3372(b) of this title), or any regulation issued pursuant thereto, shall be subject to forfeiture to the United States notwithstanding any culpability requirements for civil penalty assessment or criminal prosecution included in section 3373 of this title.

(2) All vessels, vehicles, aircraft, and other equipment used to aid in the importing, exporting, transporting, selling, receiving, acquiring, or purchasing of fish or wildlife or plants in a criminal violation of this chapter for which a felony conviction is obtained shall be subject to forfeiture to the United States if (A) the owner of such vessel, vehicle, aircraft, or equipment was at the time of the alleged illegal act a consenting party or privy thereto or in the exercise of due care should have known that such vessel, vehicle, aircraft, or equipment would be used in a criminal violation of this chapter, and (B) the violation involved the sale or purchase of, the offer of sale or purchase of, or the intent to sell or purchase, fish or wildlife or plants.

(b) Application of customs laws

All provisions of law relating to the seizure, forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter, except that all powers, rights, and du-

ties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department may, for the purposes of this chapter, also be exercised or performed by the Secretary or by such persons as he may designate: *Provided*, That any warrant for search or seizure shall be issued in accordance with rule 41 of the Federal Rules of Criminal Procedure.

(c) Storage cost

Any person convicted of an offense, or assessed a civil penalty, under section 3373 of this title shall be liable for the costs incurred in the storage, care, and maintenance of any fish or wildlife or plant seized in connection with the violation concerned.

(d) Civil forfeitures

Civil forfeitures under this section shall be governed by the provisions of chapter 46 of title 18.

(Pub. L. 97–79, § 5, Nov. 16, 1981, 95 Stat. 1076; Pub. L. 110–234, title VIII, § 8204(d), May 22, 2008, 122 Stat. 1294; Pub. L. 110–246, § 4(a), title VIII, § 8204(d), June 18, 2008, 122 Stat. 1664, 2056.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2) and (b), was in the original ''this Act'', meaning Pub. L. 97–79, Nov. 16, 1981, 95 Stat. 1073, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3371 of this title and Tables.

Rule 41 of the Federal Rules of Criminal Procedure, referred to in subsec. (b), is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (d). Pub. L. 110–246, § 8204(d), added subsec. (d).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

TRANSFER OF FUNCTIONS

For transfer of functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under this chapter to the Secretary of Homeland Security, and for treatment of related references, see sections 231, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 3375. Enforcement

(a) In general

The provisions of this chapter and any regulations issued pursuant thereto shall be enforced by the Secretary, the Secretary of Transportation, or the Secretary of the Treasury. Such Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency or Indian tribe for purposes of enforcing this chapter.

(b) Powers

Any person authorized under subsection (a) of this section to enforce this chapter may carry firearms; may, when enforcing this chapter, make an arrest without a warrant, in accordance with any guidelines which may be issued by the Attorney General, for any offense under the laws of the United States committed in the person's presence, or for the commission of any felony under the laws of the United States, if the person has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; may search and seize, with or without a warrant, in accordance with any guidelines which may be issued by the Attorney General;[1] *Provided*, That an arrest for a felony violation of this chapter that is not committed in the presence or view of any such person and that involves only the transportation, acquisition, receipt, purchase, or sale of fish or wildlife or plants taken or possessed in violation of any law or regulation of any State shall require a warrant; may make an arrest without a warrant for a misdemeanor violation of this chapter if he has reasonable grounds to believe that the person to be arrested is committing a violation in his presence or view; and may execute and serve any subpena, arrest warrant, search warrant issued in accordance with rule 41 of the Federal Rules of Criminal Procedure, or other warrant of civil or criminal process issued by any officer or court of competent jurisdiction for enforcement of this chapter. Any person so authorized, in coordination with the Secretary of the Treasury, may detain for inspection and inspect any vessel, vehicle, aircraft, or other conveyance or any package, crate, or other container, including its contents, upon the arrival of such conveyance or container in the United States or the customs waters of the United States from any point outside the United States or such customs waters, or, if such conveyance or container is being used for exportation purposes, prior to departure from the United States or the customs waters of the United States. Such person may also inspect and demand the production of any documents and permits required by the country of natal origin, birth, or reexport of the fish or wildlife. Any fish, wildlife, plant, property, or item seized shall be held by any person authorized by the Secretary pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such fish, wildlife, plants, property, or item pursuant to section 3374 of this title; except that the Secretary may, in lieu of holding such fish, wildlife, plant, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary.

(c) Jurisdiction of district courts

The several district courts of the United States, including the courts enumerated in section 460 of title 28, shall have jurisdiction over any actions arising under this chapter. The venue provisions of title 18 and title 28 shall apply to any actions arising under this chapter. The judges of the district courts of the United States and the United States magistrate judges

[1] So in original. The semicolon probably should be a colon.

may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this chapter and any regulations issued thereunder.

(d) Rewards and certain incidental expenses

Beginning in fiscal year 1983, the Secretary or the Secretary of the Treasury shall pay, from sums received as penalties, fines, or forfeitures of property for any violation of this chapter or any regulation issued hereunder (1) a reward to any person who furnishes information which leads to an arrest, a criminal conviction, civil penalty assessment, or forfeiture of property for any violation of this chapter or any regulation issued hereunder, and (2) the reasonable and necessary costs incurred by any person in providing temporary care for any fish, wildlife, or plant pending the disposition of any civil or criminal proceeding alleging a violation of this chapter with respect to that fish, wildlife, or plant. The amount of the reward, if any, is to be designated by the Secretary or the Secretary of the Treasury, as appropriate. Any officer or employee of the United States or any State or local government who furnishes information or renders service in the performance of his official duties is ineligible for payment under this subsection.

(Pub. L. 97–79, §6, Nov. 16, 1981, 95 Stat. 1077; Pub. L. 98–327, §4, June 25, 1984, 98 Stat. 271; Pub. L. 100–653, title I, §104, Nov. 14, 1988, 102 Stat. 3826; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 97–79, Nov. 16, 1981, 95 Stat. 1073, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3371 of this title and Tables.

Rule 41 of the Federal Rules of Criminal Procedure, referred to in subsec. (b), is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–653 substituted ''may, when enforcing this chapter, make an arrest without a warrant, in accordance with any guidelines which may be issued by the Attorney General, for any offense under the laws of the United States committed in the person's presence, or for the commission of any felony under the laws of the United States, if the person has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; may search and seize, with or without a warrant, in accordance with any guidelines which may be issued by the Attorney General;'' for ''may make an arrest without a warrant for any felony violation of this chapter if he has reasonable grounds to believe that the person to be arrested has committed or is committing such violation:''.

1984—Subsec. (d). Pub. L. 98–327, in first sentence, substituted a comma for ''a reward'' after ''shall pay'', inserted ''(1) a reward'' before ''to any person'', and added cl. (2).

CHANGE OF NAME

''United States magistrate judges'' substituted for ''United States magistrates'' in subsec. (c) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

For transfer of functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under this chapter to the Secretary of Homeland Security, and for treatment of related references, see sections 231, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 3376. Administration

(a) Regulations

(1) The Secretary, after consultation with the Secretary of the Treasury, is authorized to issue such regulations, except as provided in paragraph (2), as may be necessary to carry out the provisions of sections 3372(f), 3373, and 3374 of this title.

(2) The Secretaries of the Interior and Commerce shall jointly promulgate specific regulations to implement the provisions of section 3372(b) of this title for the marking and labeling of containers or packages containing fish or wildlife. These regulations shall be in accordance with existing commercial practices.

(b) Contract authority

Beginning in fiscal year 1983, to the extent and in the amounts provided in advance in appropriations Acts, the Secretary may enter into such contracts, leases, cooperative agreements, or other transactions with any Federal or State agency, Indian tribe, public or private institution, or other person, as may be necessary to carry out the purposes of this chapter.

(c) Clarification of exclusions from definition of plant

The Secretary of Agriculture and the Secretary of the Interior, after consultation with the appropriate agencies, shall jointly promulgate regulations to define the terms used in section 3371(f)(2)(A) of this title for the purposes of enforcement under this chapter.

(Pub. L. 97–79, §7, Nov. 16, 1981, 95 Stat. 1078; Pub. L. 110–234, title VIII, §8204(e), May 22, 2008, 122 Stat. 1294; Pub. L. 110–246, §4(a), title VIII, §8204(e), June 18, 2008, 122 Stat. 1664, 2056.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), was in the original ''this Act'', meaning Pub. L. 97–79, Nov. 16, 1981, 95 Stat. 1073, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3371 of this title and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–246, §8204(e)(1), substituted ''sections 3372(f), 3373, and 3374'' for ''section 3373 and section 3374''.

Subsec. (c). Pub. L. 110–246, §8204(e)(2), added subsec. (c).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the

date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

TRANSFER OF FUNCTIONS

For transfer of functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under this chapter to the Secretary of Homeland Security, and for treatment of related references, see sections 231, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 3377. Exceptions

(a) Activities regulated by plan under Magnuson-Stevens Fishery Conservation and Management Act

The provisions of paragraph (1) of section 3372(a) of this title shall not apply to any activity regulated by a fishery management plan in effect under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(b) Activities regulated by Tuna Convention Acts; harvesting of highly migratory species taken on high seas

The provisions of paragraphs (1), (2)(A), and (3)(A) of section 3372(a) of this title shall not apply to—

(1) any activity regulated by the Tuna Conventions Act of 1950 (16 U.S.C. 951–961) or the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971–971(h)[1]); or

(2) any activity involving the harvesting of highly migratory species (as defined in paragraph (14) of section 3[2] of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1802(14)]) taken on the high seas (as defined in paragraph (13) of such section 3) if such species are taken in violation of the laws of a foreign nation and the United States does not recognize the jurisdiction of the foreign nation over such species.

(c) Interstate shipment or transshipment through Indian country of fish, wildlife, or plants for legal purposes

The provisions of paragraph (2) of section 3372(a) of this title shall not apply to the interstate shipment or transshipment through Indian country as defined in section 1151 of title 18 or a State of any fish or wildlife or plant legally taken if the shipment is en route to a State in which the fish or wildlife or plant may be legally possessed.

(Pub. L. 97–79, § 8, Nov. 16, 1981, 95 Stat. 1078.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (a), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Tuna Conventions Act of 1950, referred to in subsec. (b)(1), is act Sept. 7, 1950, ch. 907, 64 Stat. 777, as amended, which is classified generally to chapter 16 (§ 951 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 951 of this title and Tables.

The Atlantic Tunas Convention Act of 1975, referred to in subsec. (b)(1), is Pub. L. 94–70, Aug. 5, 1975, 89 Stat. 385, as amended, which is classified generally to chapter 16A (§ 971 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 971 of this title and Tables.

Section 3 of the Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (b)(2), was subsequently amended, and pars. (13) and (14) of section 3 no longer define the terms ''high seas'' and ''highly migratory species''. However, such terms are defined elsewhere in that section.

CODIFICATION

''Magnuson-Stevens Fishery Conservation and Management Act'' substituted for ''Fishery Conservation and Management Act of 1976'' in subsecs. (a) and (b)(2), on authority of Pub. L. 96–561, title II, § 238(b), Dec. 22, 1980, 94 Stat. 3300, which provided that all references to the Fishery Conservation and Management Act of 1976 be redesignated as references to the Magnuson Fishery Conservation and Management Act and Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, which provided that all references to the Magnuson Fishery Conservation and Management Act be redesignated as references to the Magnuson-Stevens Fishery Conservation and Management Act.

§ 3378. Miscellaneous provisions

(a) Effect on powers of States

Nothing in this chapter shall be construed to prevent the several States or Indian tribes from making or enforcing laws or regulations not inconsistent with the provisions of this chapter.

(b) Repeals

The following provisions of law are repealed:

(1) The Act of May 20, 1926 (commonly known as the Black Bass Act; 16 U.S.C. 851–856).

(2) Section 667e of this title and sections 43 and 44 of title 18 (commonly known as provisions of the Lacey Act).

(3) Sections 3054 and 3112 of title 18.

(c) Disclaimers

Nothing in this chapter shall be construed as—

(1) repealing, superseding, or modifying any provision of Federal law other than those specified in subsection (b) of this section;

(2) repealing, superseding, or modifying any right, privilege, or immunity granted, reserved, or established pursuant to treaty, statute, or executive order pertaining to any Indian tribe, band, or community; or

(3) enlarging or diminishing the authority of any State or Indian tribe to regulate the activities of persons within Indian reservations.

(d) Travel and transportation expenses

The Secretary of the Interior is authorized to pay from agency appropriations the travel expense of newly appointed special agents of the United States Fish and Wildlife Service and the transportation expense of household goods and personal effects from place of residence at time of selection to first duty station to the extent authorized by section 5724 of title 5 for all such special agents appointed after January 1, 1977.

(e) Interior appropriations budget proposal

The Secretary shall identify the funds utilized to enforce this chapter and any regulations

[1] So in original. Probably was meant to be ''971–971h''.

[2] See References in Text note below.

thereto as a specific appropriations item in the Department of the Interior appropriations budget proposal to the Congress.

(Pub. L. 97–79, § 9(a)–(c), (g), (h), Nov. 16, 1981, 95 Stat. 1079, 1080.)

REFERENCES IN TEXT

The Black Bass Act, referred to in subsec. (b)(1), is act May 20, 1926, ch. 346, 44 Stat. 576, as amended, which was classified generally to chapter 13 (§ 851 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Subsecs. (d) and (e) of this section were in the original subsecs. (g) and (h), respectively, of section 9 of Pub. L. 97–79 and were redesignated for purposes of codification.

CHAPTER 54—RESOURCE CONSERVATION

SUBCHAPTER I—SOIL AND WATER CONSERVATION

Sec.
3401. Repealed.

SUBCHAPTER II—SPECIAL AREAS CONSERVATION PROGRAM

3411 to 3420. Repealed.

SUBCHAPTER III—MATCHING GRANTS FOR CONSERVATION ACTIVITIES

3431 to 3436. Repealed.

SUBCHAPTER IV—RESERVOIR SEDIMENTATION REDUCTION PROGRAM

3441 to 3445. Repealed.

SUBCHAPTER V—RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM

3451. Definitions.
3452. Resource conservation and development program.
3453. Selection of designated areas.
3454. Powers of the Secretary.
3455. Eligibility; terms and conditions.
3456. Resource Conservation and Development Policy Advisory Board.
3457. Repealed.
3458. Limitation on assistance.
3459. Supplemental authority of the Secretary.
3460. Authorization of appropriations.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

3471. Payments for land removed from production for conservation purposes; authorization of appropriations.
3472. Conservation tillage; Congressional findings, etc.
3473. Regulations.

SUBCHAPTER I—SOIL AND WATER CONSERVATION

§ 3401. Repealed. Pub. L. 104–127, title III, § 336(f)(1), Apr. 4, 1996, 110 Stat. 1007

Section, Pub. L. 97–98, title XV, § 1501, Dec. 22, 1981, 95 Stat. 1328, reaffirmed congressional policy regarding soil and water conservation.

SUBCHAPTER II—SPECIAL AREAS CONSERVATION PROGRAM

§§ 3411 to 3414. Repealed. Pub. L. 104–127, title III, § 336(f)(1), Apr. 4, 1996, 110 Stat. 1007

Section 3411, Pub. L. 97–98, title XV, § 1502, Dec. 22, 1981, 95 Stat. 1328, set forth findings relating to special areas conservation.

Section 3412, Pub. L. 97–98, title XV, § 1503, Dec. 22, 1981, 95 Stat. 1329, related to program formulation and implementation.

Section 3413, Pub. L. 97–98, title XV, § 1504, Dec. 22, 1981, 95 Stat. 1331, related to designation of geographic area as special area.

Section 3414, Pub. L. 97–98, title XV, § 1505, Dec. 22, 1981, 95 Stat. 1331, set forth limitations on contracts under program.

§ 3415. Repealed. Pub. L. 104–66, title I, § 1011(p), Dec. 21, 1995, 109 Stat. 710

Section, Pub. L. 97–98, title XV, § 1506, Dec. 22, 1981, 95 Stat. 1332, directed Secretary to submit copies of special area reports to Congress.

§§ 3416 to 3418. Repealed. Pub. L. 104–127, title III, § 336(f)(1), Apr. 4, 1996, 110 Stat. 1007

Section 3416, Pub. L. 97–98, title XV, § 1506, formerly § 1507, Dec. 22, 1981, 95 Stat. 1332; renumbered § 1506, Pub. L. 104–66, title I, § 1011(p), Dec. 21, 1995, 109 Stat. 710, related to utilization of services and facilities in carrying out provisions of this subchapter.

Section 3417, Pub. L. 97–98, title XV, § 1507, formerly § 1508, Dec. 22, 1981, 95 Stat. 1332; renumbered § 1507, Pub. L. 104–66, title I, § 1011(p), Dec. 21, 1995, 109 Stat. 710, authorized expenditure of funds for improvement of technology.

Section 3418, Pub. L. 97–98, title XV, § 1508, formerly § 1509, Dec. 22, 1981, 95 Stat. 1332; renumbered § 1508, Pub. L. 104–66, title I, § 1011(p), Dec. 21, 1995, 109 Stat. 710, authorized appropriations to carry out subchapter programs.

§ 3419. Repealed. Pub. L. 104–66, title I, § 1011(q), Dec. 21, 1995, 109 Stat. 710

Section, Pub. L. 97–98, title XV, § 1510, Dec. 22, 1981, 95 Stat. 1332, directed Secretary to submit reports to Congress concerning operation of special areas conservation program.

§ 3420. Repealed. Pub. L. 104–127, title III, § 336(f)(1), Apr. 4, 1996, 110 Stat. 1007

Section, Pub. L. 97–98, title XV, § 1509, formerly § 1511, Dec. 22, 1981, 95 Stat. 1332; renumbered § 1509, Pub. L. 104–66, title I, § 1011(p), Dec. 21, 1995, 109 Stat. 710, provided for protection of program participants.

SUBCHAPTER III—MATCHING GRANTS FOR CONSERVATION ACTIVITIES

§§ 3431 to 3436. Repealed. Pub. L. 104–127, title III, § 336(f)(1), Apr. 4, 1996, 110 Stat. 1007

Section 3431, Pub. L. 97–98, title XV, § 1514, Dec. 22, 1981, 95 Stat. 1333, authorized formulation and implementation of grants program.

Section 3432, Pub. L. 97–98, title XV, § 1515, Dec. 22, 1981, 95 Stat. 1334, related to program and plan review and implementation.

Section 3433, Pub. L. 97–98, title XV, § 1516, Dec. 22, 1981, 95 Stat. 1334, related to long-range programs and annual work plans.

Section 3434, Pub. L. 97–98, title XV, § 1517, Dec. 22, 1981, 95 Stat. 1334, authorized technical assistance to landowners and operators.

Section 3435, Pub. L. 97–98, title XV, § 1518, Dec. 22, 1981, 95 Stat. 1335, related to recordkeeping, audit and examination, and access to books and records.

Section 3436, Pub. L. 97–98, title XV, § 1519, Dec. 22, 1981, 95 Stat. 1335, authorized appropriations to carry out provisions of subchapter III.

SUBCHAPTER IV—RESERVOIR SEDIMENTATION REDUCTION PROGRAM

§§ 3441 to 3445. Repealed. Pub. L. 104–127, title III, § 336(f)(1), Apr. 4, 1996, 110 Stat. 1007

Section 3441, Pub. L. 97–98, title XV, § 1521, Dec. 22, 1981, 95 Stat. 1336, authorized formulation and implementation of reservoir sedimentation reduction program.

Section 3442, Pub. L. 97–98, title XV, § 1522, Dec. 22, 1981, 95 Stat. 1336, related to preparation and contents of plan.

Section 3443, Pub. L. 97–98, title XV, § 1523, Dec. 22, 1981, 95 Stat. 1336, related to approval of plans by Congress.

Section 3444, Pub. L. 97–98, title XV, § 1524, Dec. 22, 1981, 95 Stat. 1336, authorized appropriations for carrying out provisions of subchapter IV.

Section 3445, Pub. L. 97–98, title XV, § 1525, Dec. 22, 1981, 95 Stat. 1337, required report to Congress by Jan. 1, 1987, evaluating program.

SUBCHAPTER V—RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM

CODIFICATION

Subtitle H of title XV of the Agriculture and Food Act of 1981, comprising this subchapter, was originally enacted by Pub. L. 97–98, title XV, Dec. 22, 1981, 95 Stat. 1337, and amended by Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3359; Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 888. Subtitle H is shown herein, however, as having been added by Pub. L. 107–171, title II, § 2504, May 13, 2002, 116 Stat. 269, without reference to the intervening amendments because of the extensive revision of the subtitle's provisions by Pub. L. 107–171.

§ 3451. Definitions

In this subchapter:

(1) Area plan

The term ''area plan'' means a resource conservation and use plan developed through a locally led planning process by a council for a designated area of 1 or more States, or of land under the jurisdiction of an Indian tribe, that includes 1 or more of the following elements:

(A) A land conservation element, the purpose of which is to control erosion and sedimentation.

(B) A water management element that provides 1 or more clear environmental or conservation benefits, the purpose of which is to provide for—

(i) the conservation, use, and quality of water, including irrigation and rural water supplies;

(ii) the mitigation of floods and high water tables;

(iii) the repair and improvement of reservoirs;

(iv) the improvement of agricultural water management; and

(v) the improvement of water quality.

(C) A community development element, the purpose of which is to improve—

(i) the development of resources-based industries;

(ii) the protection of rural industries from natural resource hazards;

(iii) the development of adequate rural water and waste disposal systems;

(iv) the improvement of recreation facilities;

(v) the improvement in the quality of rural housing;

(vi) the provision of adequate health and education facilities;

(vii) the satisfaction of essential transportation and communication needs; and

(viii) the promotion of food security, economic development, and education.

(D) A land management element, the purpose of which is—

(i) energy conservation, including the production of energy crops;

(ii) the protection of agricultural land, as appropriate, from conversion to other uses;

(iii) farmland protection; and

(iv) the protection of fish and wildlife habitats.

(2) Board

The term ''Board'' means the Resource Conservation and Development Policy Advisory Board established under section 3456(a) of this title.

(3) Council

The term ''council'' means a nonprofit entity (including an affiliate of the entity) operating in a State that is—

(A) established by volunteers or representatives of States, local units of government, Indian tribes, or local nonprofit organizations to carry out an area plan in a designated area; and

(B) designated by the chief executive officer or legislature of the State to receive technical assistance and financial assistance under this subchapter.

(4) Designated area

The term ''designated area'' means a geographic area designated by the Secretary to receive technical assistance and financial assistance under this subchapter.

(5) Financial assistance

The term ''financial assistance'' means a grant or loan provided by the Secretary (or the Secretary and other Federal agencies) to, or a cooperative agreement entered into by the Secretary (or the Secretary and other Federal agencies) with, a council, or association of councils, to carry out an area plan in a designated area, including assistance provided for planning, analysis, feasibility studies, training, education, and other activities necessary to carry out the area plan.

(6) Indian tribe

The term ''Indian tribe'' has the meaning given the term in section 450b of title 25.

(7) Local unit of government

The term ''local unit of government'' means—

(A) any county, city, town, township, parish, village, or other general-purpose subdivision of a State; and

(B) any local or regional special district or other limited political subdivision of a State, including any soil conservation district, school district, park authority, and water or sanitary district.

(8) Locally led planning process

The term ''planning process'' means actions taken by a locally led council to develop and carry out an effective area plan in a designated area, including development of the area plan, goals, purposes, policies, implementation activities, evaluations and reviews, and the opportunity for public participation in the actions.

(9) Nonprofit organization

The term ''nonprofit organization'' means any organization that is—

(A) described in section 501(c) of title 26; and

(B) exempt from taxation under section 501(a) of title 26.

(10) Project

The term ''project'' means a project that is carried out by a council to achieve any of the elements of an area plan.

(11) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(12) State

The term ''State'' means—

(A) any State;

(B) the District of Columbia; or

(C) any territory or possession of the United States.

(13) Technical assistance

The term ''technical assistance'' means any service provided by the Secretary or agent of the Secretary, including—

(A) inventorying, evaluating, planning, designing, supervising, laying out, and inspecting projects;

(B) providing maps, reports, and other documents associated with the services provided;

(C) providing assistance for the implementation of area plans and projects; and

(D) providing services that involve the resources of Department of Agriculture programs in a local community, as defined in the locally led planning process.

(Pub. L. 97–98, title XV, §1528, as added Pub. L. 107–171, title II, §2504, May 13, 2002, 116 Stat. 269; Pub. L. 110–234, title II, §2805(a), (b), May 22, 2008, 122 Stat. 1088; Pub. L. 110–246, §4(a), title II, §2805(a), (b), June 18, 2008, 122 Stat. 1664, 1816.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3451, Pub. L. 97–98, title XV, §1528, Dec. 22, 1981, 95 Stat. 1337, related to statement of purpose, prior to the general amendment of this subchapter by Pub. L. 107–171.

AMENDMENTS

2008—Par. (1). Pub. L. 110–246, §2805(a)(1), substituted ''locally led planning process'' for ''planning process'' in introductory provisions.

Pars. (8), (9). Pub. L. 110–246, §2805(a)(2), (3), redesignated pars. (9) and (8) as (8) and (9), respectively, and, in par. (8), substituted ''Locally led planning process'' for ''Planning process'' in heading and ''locally led council'' for ''council'' in text.

Par. (13)(C), (D). Pub. L. 110–246, §2805(b), added subpars. (C) and (D) and struck out former subpars. (C) and (D) which read as follows:

''(C) providing assistance for the long-term implementation of area plans; and

''(D) providing services of an agency of the Department of Agriculture to assist councils in developing and carrying out area plans.''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3452. Resource conservation and development program

The Secretary shall establish a resource conservation and development program under which the Secretary shall provide technical assistance and financial assistance to councils to develop and carry out area plans and projects in designated areas—

(1) to conserve and improve the use of land, develop natural resources, and improve and enhance the social, economic, and environmental conditions in primarily rural areas of the United States; and

(2) to encourage and improve the capability of State,[1] units of government, Indian tribes, nonprofit organizations, and councils to carry out the purposes described in paragraph (1).

(Pub. L. 97–98, title XV, §1529, as added Pub. L. 107–171, title II, §2504, May 13, 2002, 116 Stat. 272.)

PRIOR PROVISIONS

A prior section 3452, Pub. L. 97–98, title XV, §1529, Dec. 22, 1981, 95 Stat. 1337, related to definitions, prior to the general amendment of this subchapter by Pub. L. 107–171.

§ 3453. Selection of designated areas

The Secretary shall select designated areas for assistance under this subchapter on the basis of the elements of area plans.

(Pub. L. 97–98, title XV, §1530, as added Pub. L. 107–171, title II, §2504, May 13, 2002, 116 Stat. 272.)

PRIOR PROVISIONS

A prior section 3453, Pub. L. 97–98, title XV, §1530, Dec. 22, 1981, 95 Stat. 1339, related to the establishment and scope of resource conservation and development program, prior to the general amendment of this subchapter by Pub. L. 107–171.

§ 3454. Powers of the Secretary

(a) In general

In carrying out this subchapter, the Secretary may—

(1) provide technical assistance to any council to assist in developing and implementing an area plan for a designated area;

(2) cooperate with other departments and agencies of the Federal Government, States, local units of government, local Indian tribes,

[1] So in original.

and local nonprofit organizations in conducting surveys and inventories, disseminating information, and developing area plans;

(3) assist in carrying out an area plan approved by the Secretary for any designated area by providing technical assistance and financial assistance to any council; and

(4) enter into agreements with councils in accordance with section 3455 of this title.

(b) Coordinator

(1) In general

To improve the provision of technical assistance to councils under this subchapter, the Secretary shall designate for each council an individual to be the coordinator for the council.

(2) Responsibility

A coordinator for a council shall be directly responsible for the provision of technical assistance to the council.

(Pub. L. 97–98, title XV, § 1531, as added Pub. L. 107–171, title II, § 2504, May 13, 2002, 116 Stat. 272; amended Pub. L. 110–234, title II, § 2805(c), May 22, 2008, 122 Stat. 1088; Pub. L. 110–246, § 4(a), title II, § 2805(c), June 18, 2008, 122 Stat. 1664, 1816.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3454, Pub. L. 97–98, title XV, § 1531, Dec. 22, 1981, 95 Stat. 1339, related to selection of designated areas for assistance, prior to the general amendment of this subchapter by Pub. L. 107–171.

AMENDMENTS

2008—Pub. L. 110–246, § 2805(c), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3455. Eligibility; terms and conditions

(a) Eligibility

Technical assistance and financial assistance may be provided by the Secretary under this subchapter to any council to assist in carrying out a project specified in an area plan approved by the Secretary only if—

(1) the council agrees in writing—

(A) to carry out the project; and

(B) to finance or arrange for financing of any portion of the cost of carrying out the project for which financial assistance is not provided by the Secretary under this subchapter;

(2) the project is included in an area plan and is approved by the council;

(3) the Secretary determines that assistance is necessary to carry out the area plan;

(4) the project provided for in the area plan is consistent with any comprehensive plan for the area;

(5) the cost of the land or an interest in the land acquired or to be acquired under the plan by any State, local unit of government, Indian tribe, or local nonprofit organization is borne by the State, local unit of government, Indian tribe, or local nonprofit organization, respectively; and

(6) the State, local unit of government, Indian tribe, or local nonprofit organization participating in the area plan agrees to maintain and operate the project.

(b) Loans

(1) In general

Subject to paragraphs (2) and (3), a loan made under this subchapter shall be made on such terms and conditions as the Secretary may prescribe.

(2) Term

A loan for a project made under this subchapter shall have a term of not more than 30 years after the date of completion of the project.

(3) Interest rate

A loan made under this subchapter shall bear interest at the average rate of interest paid by the United States on obligations of a comparable term, as determined by the Secretary of the Treasury.

(c) Approval by Secretary

Technical assistance and financial assistance under this subchapter may not be made available to a council to carry out an area plan unless the area plan has been submitted to and approved by the Secretary.

(d) Withdrawal

The Secretary may withdraw technical assistance and financial assistance with respect to any area plan if the Secretary determines that the assistance is no longer necessary or that sufficient progress has not been made toward developing or implementing the elements of the area plan.

(Pub. L. 97–98, title XV, § 1532, as added Pub. L. 107–171, title II, § 2504, May 13, 2002, 116 Stat. 272.)

PRIOR PROVISIONS

A prior section 3455, Pub. L. 97–98, title XV, § 1532, Dec. 22, 1981, 95 Stat. 1339, related to authority of the Secretary to carry out provisions of this subchapter, prior to the general amendment of this subchapter by Pub. L. 107–171.

§ 3456. Resource Conservation and Development Policy Advisory Board

(a) Establishment

The Secretary shall establish within the Department of Agriculture a Resource Conservation and Development Policy Advisory Board.

(b) Composition

(1) In general

The Board shall be composed of at least 7 employees of the Department of Agriculture selected by the Secretary.

(2) Chairperson

A member of the Board shall be designated by the Secretary to serve as chairperson of the Board.

(c) Duties

The Board shall advise the Secretary regarding the administration of this subchapter, including the formulation of policies for carrying out this subchapter.

(Pub. L. 97–98, title XV, § 1533, as added Pub. L. 107–171, title II, § 2504, May 13, 2002, 116 Stat. 273.)

PRIOR PROVISIONS

A prior section 3456, Pub. L. 97–98, title XV, § 1533, Dec. 22, 1981, 95 Stat. 1339, related to technical and financial assistance to carry out specified works of improvement, prior to the general amendment of this subchapter by Pub. L. 107–171.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3457. Repealed. Pub. L. 110–234, title II, § 2805(d), May 22, 2008, 122 Stat. 1089, and Pub. L. 110–246, § 4(a), title II, § 2805(d), June 18, 2008, 122 Stat. 1664, 1817

Section, Pub. L. 97–98, title XV, § 1534, as added Pub. L. 107–171, title II, § 2504, May 13, 2002, 116 Stat. 273, related to evaluation of program established under this subchapter and submission of report not later than June 30, 2005.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 repealed this section. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3457, Pub. L. 97–98, title XV, § 1534, Dec. 22, 1981, 95 Stat. 1340, related to the Resource Conservation and Development Policy Board, prior to the general amendment of this subchapter by Pub. L. 107–171.

EFFECTIVE DATE OF REPEAL

Repeal of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3458. Limitation on assistance

In carrying out this subchapter, the Secretary shall provide technical assistance and financial assistance with respect to not more than 450 active designated areas.

(Pub. L. 97–98, title XV, § 1535, as added Pub. L. 107–171, title II, § 2504, May 13, 2002, 116 Stat. 274.)

PRIOR PROVISIONS

A prior section 3458, Pub. L. 97–98, title XV, § 1535, Dec. 22, 1981, 95 Stat. 1340, related to program evaluation, prior to the general amendment of this subchapter by Pub. L. 107–171.

§ 3459. Supplemental authority of the Secretary

The authority of the Secretary under this subchapter to assist councils in the development and implementation of area plans shall be supplemental to, and not in lieu of, any authority of the Secretary under any other provision of law.

(Pub. L. 97–98, title XV, § 1536, as added Pub. L. 107–171, title II, § 2504, May 13, 2002, 116 Stat. 274.)

PRIOR PROVISIONS

A prior section 3459, Pub. L. 97–98, title XV, § 1536, Dec. 22, 1981, 95 Stat. 1340; Pub. L. 101–624, title XIV, § 1452(a), Nov. 28, 1990, 104 Stat. 3611, related to limitation on assistance, prior to the general amendment of this subchapter by Pub. L. 107–171.

§ 3460. Authorization of appropriations

(a) In general

There are authorized to be[1] such sums as are necessary to carry out this subchapter.

(b) Loans

The Secretary shall not use more than $15,000,000 of any funds made available for a fiscal year to make loans under this subchapter.

(c) Availability

Funds appropriated to carry out this subchapter shall remain available until expended.

(Pub. L. 97–98, title XV, § 1537, as added Pub. L. 107–171, title II, § 2504, May 13, 2002, 116 Stat. 274.)

PRIOR PROVISIONS

Prior sections 3460 and 3461 were omitted in the general amendment of this subchapter by Pub. L. 107–171.

Section 3460, Pub. L. 97–98, title XV, § 1537, Dec. 22, 1981, 95 Stat. 1340, related to supplemental authority of Secretary.

Section 3461, Pub. L. 97–98, title XV, § 1538, Dec. 22, 1981, 95 Stat. 1341; Pub. L. 101–624, title XIV, § 1452(b), Nov. 28, 1990, 104 Stat. 3611; Pub. L. 104–127, title III, § 383, Apr. 4, 1996, 110 Stat. 1016, authorized appropriations for each of the fiscal years 1996 through 2002.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

§ 3471. Payments for land removed from production for conservation purposes; authorization of appropriations

(a) The Secretary of Agriculture may enter into contracts to provide financial assistance in the form of payments to owners and operators of cropland located in counties where the soil normally freezes to a depth of at least four inches annually who remove such land from agricultural production for a period not to exceed one year for the purpose of installing enduring conservation measures which involve excavation of the soil. The payments under such contracts shall be in such amounts as determined by the Secretary to be necessary to effectuate the purposes of this subchapter but shall not exceed an amount equal to the number of acres of cropland removed from agricultural production for such purpose multiplied by 50 per centum of the typical annual rent, as determined by the Secretary, paid for similar land in the county. Financial assistance may not be provided under this section with respect to any conservation measure without the approval of the soil and water con-

[1] So in original. Probably should be followed by ''appropriated''.

servation district board for the district in which the land is located, and may not, in the aggregate, be provided in any year with respect to more than one-half of 1 per centum of the cropland in any county.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, such sums to remain available until expended.

(Pub. L. 97–98, title XV, § 1552, Dec. 22, 1981, 95 Stat. 1344.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original ''this subtitle'', meaning subtitle J (§§ 1550–1554) of title XV of Pub. L. 97–98, Dec. 22, 1981, 95 Stat. 1344, which enacted this subchapter and section 2273 of Title 7, Agriculture, and amended section 1236 of Title 30, Mineral Lands and Mining. For complete classification of subtitle J to the Code, see Tables.

§ 3472. Conservation tillage; Congressional findings, etc.

(a) Congress finds that—

(1) domestic and international demand for agricultural products from the United States is great and is expected to significantly increase over the next twenty years;

(2) the ability of the United States to provide agricultural products to meet that demand is seriously impaired by the annual loss of five billion tons of soil due to wind and water erosion;

(3) the battle against soil erosion is being lost despite the annual expenditure of millions of dollars by the Federal Government on research, technical assistance, and conservation incentives to control soil erosion;

(4) conservation tillage practices are estimated to reduce soil erosion by 50 to 90 per centum over conventional farming practices; and

(5) conservation tillage may result in better yields, greater land use flexibility, decreased fuel use, decreased labor and equipment costs, increased retention of soil moisture, and more productive land than conventional farming practices and may be adaptable to a broad range of soil types and slopes throughout the country.

(b) It is the sense of Congress that the Secretary of Agriculture should, and is hereby urged and requested to—

(1) direct the attention of our Nation's farmers to the costs and benefits of conservation tillage as a means of controlling soil erosion and improving profitability; and

(2) conduct a program of research designed to resolve any unanswered questions regarding the advantages and disadvantages of conservation tillage over other soil conservation practices.

(Pub. L. 97–98, title XV, § 1553, Dec. 22, 1981, 95 Stat. 1345.)

§ 3473. Regulations

The Secretary of Agriculture shall prescribe such regulations as may be necessary to carry out the provisions of this chapter.

(Pub. L. 97–98, title XV, § 1554, Dec. 22, 1981, 95 Stat. 1345.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title XV of Pub. L. 97–98, Dec. 22, 1981, 95 Stat. 1328, which enacted this chapter and sections 2272 and 2273 and chapter 73 (§ 4201 et seq.) of Title 7, Agriculture, amended sections 1002 to 1005 of this title, section 1010 of Title 7, section 714b of Title 15, Commerce and Trade, and section 1236 of Title 30, Mineral Lands and Mining, and enacted a provision set out as a note under section 2272 of Title 7.

CHAPTER 55—COASTAL BARRIER RESOURCES

Sec.
3501. Congressional statement of findings and purpose.
3502. Definitions.
3503. Establishment of John H. Chafee Coastal Barrier Resources System.
3504. Limitations on Federal expenditures affecting the System.
3505. Exceptions to limitations on expenditures.
3506. Certification of compliance.
3507. Priority of laws.
3508. Separability.
3509. Repealed.
3510. Authorization of appropriations.

§ 3501. Congressional statement of findings and purpose

(a) The Congress finds that—

(1) coastal barriers along the Atlantic and Gulf coasts and along the shore areas of the Great Lakes of the United States and the adjacent wetlands, marshes, estuaries, inlets and nearshore waters provide—

(A) habitats for migratory birds and other wildlife; and

(B) habitats which are essential spawning, nursery, nesting, and feeding areas for commercially and recreationally important species of finfish and shellfish, as well as other aquatic organisms such as sea turtles;

(2) coastal barriers contain resources of extraordinary scenic, scientific, recreational, natural, historic, archeological, cultural, and economic importance; which are being irretrievably damaged and lost due to development on, among, and adjacent to, such barriers;

(3) coastal barriers serve as natural storm protective buffers and are generally unsuitable for development because they are vulnerable to hurricane and other storm damage and because natural shoreline recession and the movement of unstable sediments undermine manmade structures;

(4) certain actions and programs of the Federal Government have subsidized and permitted development on coastal barriers and the result has been the loss of barrier resources, threats to human life, health, and property, and the expenditure of millions of tax dollars each year; and

(5) a program of coordinated action by Federal, State, and local governments is critical to the more appropriate use and conservation of coastal barriers.

(b) The Congress declares that it is the purpose of this chapter to minimize the loss of human life, wasteful expenditure of Federal revenues, and the damage to fish, wildlife, and

other natural resources associated with the coastal barriers along the Atlantic and Gulf coasts and along the shore areas of the Great Lakes by restricting future Federal expenditures and financial assistance which have the effect of encouraging development of coastal barriers, by establishing the John H. Chafee Coastal Barrier Resources System, and by considering the means and measures by which the long-term conservation of these fish, wildlife, and other natural resources may be achieved.

(Pub. L. 97–348, §2, Oct. 18, 1982, 96 Stat. 1653; Pub. L. 100–707, title II, §204(c)(1), Nov. 23, 1988, 102 Stat. 4714; Pub. L. 106–167, §3(c)(1), Dec. 9, 1999, 113 Stat. 1804.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 97–348, Oct. 18, 1982, 96 Stat. 1653, as amended, known as the Coastal Barrier Resources Act, which is classified generally to this chapter (§3501 et seq.). For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–167 substituted ''the John H. Chafee Coastal Barrier Resources System'' for ''a Coastal Barrier Resources System''.

1988—Subsecs. (a)(1), (b). Pub. L. 100–707 inserted ''and along the shore areas of the Great Lakes'' after ''Atlantic and Gulf coasts''.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–514, §1, Nov. 13, 2000, 114 Stat. 2394, provided that: ''This Act [amending sections 3502, 3503, and 3510 of this title, repealing section 3509 of this title, enacting provisions set out as notes under this section and section 3503 of this title, and amending and repealing provisions set out as notes under section 3503 of this title] may be cited as the 'Coastal Barrier Resources Reauthorization Act of 2000'.''

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–167, §1, Dec. 9, 1999, 113 Stat. 1803, provided that: ''This Act [amending this section and sections 3502, 3503, and 3509 of this title, section 1441a–3 of Title 12, Banks and Banking, and section 4028 of Title 42, The Public Health and Welfare, and enacting and amending provisions set out as notes under section 3503 of this title] may be cited as the 'John H. Chafee Coastal Barrier Resources System Act'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–591, §1, Nov. 16, 1990, 104 Stat. 2931, provided that: ''This Act [enacting section 1441a–3 of Title 12, Banks and Banking, amending sections 3502 to 3506 and 3510 of this title and section 4028 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under section 3503 of this title, and repealing provisions set out as a note under section 3505 of this title] may be cited as the 'Coastal Barrier Improvement Act of 1990'.''

SHORT TITLE OF 1988 AMENDMENT

Section 204(a) of Pub. L. 100–707 provided that: ''This section [amending this section and sections 3502 and 3503 of this title and enacting provisions set out as a note under section 3505 of this title] may be cited as the 'Great Lakes Coastal Barrier Act of 1988'.''

SHORT TITLE

Section 1 of Pub. L. 97–348 provided that: ''This Act [enacting this chapter, amending section 4028 of Title 42, The Public Health and Welfare, and repealing provisions set out as a note under section 4028 of Title 42] may be cited as the 'Coastal Barrier Resources Act'.''

ECONOMIC ASSESSMENT OF JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM

Pub. L. 106–514, §7, Nov. 13, 2000, 114 Stat. 2397, provided that:

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Nov. 13, 2000], the Secretary of the Interior shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives an economic assessment of the John H. Chafee Coastal Barrier Resources System.

''(b) REQUIRED ELEMENTS.—The assessment shall consider the impact on Federal expenditures of the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.), including impacts resulting from the avoidance of Federal expenditures for—

''(1) disaster relief under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

''(2) the national flood insurance program established under chapter 1 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.); and

''(3) development assistance for roads, potable water supplies, and wastewater infrastructure.''

§ 3502. Definitions

For purposes of this chapter—

(1) The term ''undeveloped coastal barrier'' means—

(A) a depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) that—

(i) is subject to wave, tidal, and wind energies, and

(ii) protects landward aquatic habitats from direct wave attack; and

(B) all associated aquatic habitats, including the adjacent wetlands, marshes, estuaries, inlets, and nearshore waters;

but only if such feature and associated habitats contain few manmade structures and these structures, and man's activities on such feature and within such habitats, do not significantly impede geomorphic and ecological processes.

(2) The term ''Committees'' means the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(3) The term ''financial assistance'' means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance other than—

(A) deposit or account insurance for customers of banks, savings and loan associations, credit unions, or similar institutions;

(B) the purchase of mortgages or loans by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation;

(C) assistance for environmental studies, planning, and assessments that are required incident to the issuance of permits or other authorizations under Federal law; and

(D) assistance pursuant to programs entirely unrelated to development, such as any Federal or federally assisted public assistance program or any Federal old-age survivors or disability insurance program.

Such term includes flood insurance described in section 4028 of title 42.

(4) The term ''Great Lakes'' means Lake Ontario, Lake Erie, Lake Huron, Lake St. Clair, Lake Michigan, and Lake Superior, to the extent that those lakes are subject to the jurisdiction of the United States.

(5) The term ''Secretary'' means the Secretary of the Interior.

(6) The term ''System'' means the John H. Chafee Coastal Barrier Resources System established by section 3503(a) of this title.

(7) The term ''System unit'' means any undeveloped coastal barrier, or combination of closely-related undeveloped coastal barriers, included within the John H. Chafee Coastal Barrier Resources System established by section 3503 of this title.

(Pub. L. 97–348, § 3, Oct. 18, 1982, 96 Stat. 1653; Pub. L. 99–272, title XIV, § 14001(b)(5), Apr. 7, 1986, 100 Stat. 329; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–707, title II, § 204(c)(2), Nov. 23, 1988, 102 Stat. 4714; Pub. L. 101–591, § 2(a), (b)(1), (c), Nov. 16, 1990, 104 Stat. 2931; Pub. L. 106–167, § 3(c)(2), Dec. 9, 1999, 113 Stat. 1804; Pub. L. 106–514, § 4(a)(1), (2), Nov. 13, 2000, 114 Stat. 2396.)

AMENDMENTS

2000—Par. (2). Pub. L. 106–514, § 4(a)(1), substituted ''means the Committee on Resources'' for ''refers to the Committee on Merchant Marine and Fisheries''.

Par. (3). Pub. L. 106–514, § 4(a)(2), substituted ''Such'' for ''Effective October 1, 1983, such'' in concluding provisions.

1999—Pars. (6), (7). Pub. L. 106–167 substituted ''John H. Chafee Coastal Barrier Resources System'' for ''Coastal Barrier Resources System''.

1990—Par. (1). Pub. L. 101–591, § 2(c), in concluding provisions, struck out cl. (i) designation, inserted a period after ''processes'', and struck out at end '', and (ii) are not included within the boundaries of an area established under Federal, State, or local law, or held by a qualified organization as defined in section 170(h)(3) of title 26, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes.''

Par. (1)(A). Pub. L. 101–591, § 2(a), redesignated cls. (ii) and (iii) as (i) and (ii), respectively, and struck out former cl. (i) which read as follows: ''consists of unconsolidated sedimentary materials,''.

Par. (6). Pub. L. 101–591, § 2(b)(1), amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''The term 'system maps' means—

''(A) the maps that are entitled 'Coastal Barrier Resources System', numbered A01 through T12 (but excluding maps T02 and T03) and dated September 30, 1982, and the maps numbered T02A and T03A and dated December 8, 1982; and

''(B) the maps prepared under section 3503(b) of this title and any modification to those maps under that section.''

1988—Pars. (4) to (7). Pub. L. 100–707 added pars. (4) and (6) and redesignated former pars. (4) and (5) as (5) and (7), respectively.

1986—Par. (1). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Par. (3). Pub. L. 99–272 struck out subpar. (A) relating to general revenue-sharing grants made under section 6702 of title 31, and redesignated subpars. (B) to (E) as (A) to (D), respectively.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–272, effective Oct. 18, 1986, see section 14001(e) of Pub. L. 99–272.

§ 3503. Establishment of John H. Chafee Coastal Barrier Resources System

(a) Establishment

There is established the John H. Chafee Coastal Barrier Resources System, which shall consist of those undeveloped coastal barriers and other areas located on the coasts of the United States that are identified and generally depicted on the maps on file with the Secretary entitled ''Coastal Barrier Resources System'', dated October 24, 1990, as those maps may be modified, revised, or corrected under—

(1) subsection (f)(3) of this section;

(2) section 4 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note; Public Law 101–591); or

(3) any other provision of law enacted on or after November 16, 1990, that specifically authorizes the modification, revision, or correction.

(b) System maps

The Secretary shall keep the maps referred to in subsection (a) of this section on file and available for public inspection in the Office of the Director of the United States Fish and Wildlife Service, and in such other offices of that service as the Director considers appropriate.

(c) Boundary review and modification

At least once every 5 years, the Secretary shall review the maps referred to in subsection (a) of this section and shall make, in consultation with the appropriate State, local, and Federal officials, such minor and technical modifications to the boundaries of System units as are necessary solely to reflect changes that have occurred in the size or location of any System unit as a result of natural forces.

(d) Additions to System

The Secretary may add a parcel of real property to the System, if—

(1) the owner of the parcel requests, in writing, that the Secretary add the parcel to the System; and

(2) the parcel is an undeveloped coastal barrier.

(e) Addition of excess Federal property

(1) Consultation and determination

Prior to transfer or disposal of excess property under chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 that may be an undeveloped coastal barrier, the Administrator of General Services shall consult with and obtain from the Secretary a determination as to whether and what portion of the property constitutes an undeveloped coastal barrier. Not later than 180 days after the initiation of such consultation, the Secretary shall make and publish notice of such determination. Immediately upon issuance of a positive determination, the Secretary shall—

(A) prepare a map depicting the undeveloped coastal barrier portion of such property; and

(B) publish in the Federal Register notice of the addition of such property to the System.

(2) Effective date of inclusion

An area to be added to the System under this subsection shall be part of the System effective on the date on which the Secretary publishes notice in the Federal Register under paragraph (1)(B) with respect to that area.

(f) Maps

The Secretary shall—

(1) keep a map showing the location of each boundary modification made under subsection (c) of this section and of each parcel of real property added to the System under subsection (d) or (e) of this section on file and available for public inspection in the Office of the Director of the United States Fish and Wildlife Service and in such other offices of the Service as the Director considers appropriate;

(2) provide a copy of the map to—

(A) the State and unit of local government in which the property is located;

(B) the Committees; and

(C) the Federal Emergency Management Agency; and

(3) revise the maps referred to in subsection (a) of this section to reflect each boundary modification under subsection (c) of this section and each addition of real property to the System under subsection (d) or (e) of this section, after publishing in the Federal Register a notice of any such proposed revision.

(g) Guidelines for certain recommendations and determinations

(1) In general

In making any recommendation to the Congress regarding the addition of any area to the System or in determining whether, at the time of the inclusion of a System unit within the System, a coastal barrier is undeveloped, the Secretary shall consider whether within the area—

(A) the density of development is less than 1 structure per 5 acres of land above mean high tide; and

(B) there is existing infrastructure consisting of—

(i) a road, with a reinforced road bed, to each lot or building site in the area;

(ii) a wastewater disposal system sufficient to serve each lot or building site in the area;

(iii) electric service for each lot or building site in the area; and

(iv) a fresh water supply for each lot or building site in the area.

(2) Structure defined

In paragraph (1), the term ''structure'' means a walled and roofed building, other than a gas or liquid storage tank, that—

(A) is principally above ground and affixed to a permanent site, including a manufactured home on a permanent foundation; and

(B) covers an area of at least 200 square feet.

(3) Savings clause

Nothing in this subsection supersedes the official maps referred to in subsection (a) of this section.

(Pub. L. 97–348, §4, Oct. 18, 1982, 96 Stat. 1654; Pub. L. 97–396, §8, Dec. 31, 1982, 96 Stat. 2007; Pub. L. 100–707, title II, §204(b), Nov. 23, 1988, 102 Stat. 4713; Pub. L. 101–591, §3, Nov. 16, 1990, 104 Stat. 2931; Pub. L. 106–167, §3(c)(3), Dec. 9, 1999, 113 Stat. 1804; Pub. L. 106–514, §§2–3(b)(1), (c), (d), Nov. 13, 2000, 114 Stat. 2394, 2395.)

CODIFICATION

The text of section 4(d) of Pub. L. 101–591, which was transferred and redesignated so as to appear as subsec. (e) of this section and amended by Pub. L. 106–514, was based on Pub. L. 101–591, §4(d), Nov. 16, 1990, 104 Stat. 2933, formerly included in a note set out under this section.

In subsec. (e)(1), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–514, §3(d), substituted ''which shall consist of those undeveloped coastal barriers and other areas located on the coasts of the United States that are identified and generally depicted on the maps on file with the Secretary entitled 'Coastal Barrier Resources System', dated October 24, 1990, as those maps may be modified, revised, or corrected under—'' and pars. (1) to (3) for ''which shall consist of those undeveloped coastal barriers and other areas located on the coasts of the United States that are identified and generally depicted on the maps on file with the Secretary entitled 'Coastal Barrier Resources System', dated October 24, 1990, as such maps may be revised by the Secretary under section 4 of the Coastal Barrier Improvement Act of 1990.''

Subsec. (d). Pub. L. 106–514, §3(a), added subsec. (d).

Subsec. (e). Pub. L. 106–514, §3(b)(1), transferred and redesignated the text of section 4(d) of Pub. L. 101–591 so as to appear as subsec. (e) of this section, in par. (1), substituted ''180'' for ''one hundred and eighty'' in introductory provisions and struck out ''shall'' before ''publish'' in subpar. (B), in par. (2), substituted ''paragraph (1)(B)'' for ''subsection (d)(1)(B)'', and struck out par. (3), which required revision of maps as soon as practicable after a unit was added to the System. See Codification note above.

Subsec. (f). Pub. L. 106–514, §3(c), added subsec. (f).

Subsec. (g). Pub. L. 106–514, §2, added subsec. (g).

1999—Pub. L. 106–167, §3(c)(3)(A), substituted ''John H. Chafee Coastal Barrier Resources System'' for ''Coastal Barrier Resources System'' in section catchline.

Subsec. (a). Pub. L. 106–167, §3(c)(3)(B), substituted ''the John H. Chafee Coastal Barrier Resources System'' for ''the Coastal Barrier Resources System''.

1990—Pub. L. 101–591 amended section generally, substituting provisions relating to establishment of Coastal Barrier Resources System consisting of undeveloped coastal barriers and other areas on United States coasts identified on maps entitled ''Coastal Barrier Resources System'' dated Oct. 24, 1990, as maintained and revised by the Secretary, for provisions which related to Coastal Barrier Resources System consisting of undeveloped coastal barriers on the Atlantic and Gulf Coasts of the United States and included within the

System on Apr. 19, 1983, and undeveloped coastal barriers along Great Lakes shore areas to be recommended by the Secretary and so designated by Congress, with maps to be revised by the Secretary and maintained by Office of Director of United States Fish and Wildlife Service.

1988—Pub. L. 100–707 amended section generally to provide that the Coastal Barrier Resources System include those undeveloped coastal barriers located on the Atlantic and Gulf Coasts of the United States and included within the System on Apr. 19, 1983, and the Great Lakes barriers, to make all System maps available to public inspection, and to revise and update provisions for making boundary modifications.

1982—Subsec. (a)(1). Pub. L. 97–396 inserted ''(but excluding maps T02 and T03)'' after ''A01 through T12'', and ''and the maps designated T02A and T03A, dated December 8, 1982'' after ''and dated September 30, 1982''.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

COASTAL BARRIER RESOURCES REAUTHORIZATION

Pub. L. 109–226, May 25, 2006, 120 Stat. 381, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Coastal Barrier Resources Reauthorization Act of 2005'.

''SEC. 2. DEFINITIONS.

''In this Act:

''(1) OTHERWISE PROTECTED AREA.—The term 'otherwise protected area' has the meaning given the term in section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note; Public Law 101–591).

''(2) PILOT PROJECT.—The term 'pilot project' means the digital mapping pilot project authorized under section 6 of the Coastal Barrier Resources Reauthorization Act of 2000 (16 U.S.C. 3503 note; Public Law 106–514).

''(3) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(4) SYSTEM UNIT.—The term 'System unit' has the meaning given the term in section 3 of the Coastal Barrier Resources Act (16 U.S.C. 3502).

''SEC. 3. DIGITAL MAPPING PILOT PROJECT FINALIZATION.

''(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [May 25, 2006], the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives a report regarding the digital maps of the System units and otherwise protected areas created under the pilot project.

''(b) CONSULTATION.—The Secretary shall prepare the report required under subsection (a)—

''(1) in consultation with the Governors of the States in which any System units and otherwise protected areas are located; and

''(2) after—

''(A) providing an opportunity for the submission of public comments; and

''(B) considering any public comments submitted under subparagraph (A).

''(c) CONTENTS.—The report required under subsection (a) shall contain—

''(1) the final recommended digital maps created under the pilot project;

''(2) recommendations for the adoption of the digital maps by Congress;

''(3) a summary of the comments received from the Governors of the States, other government officials, and the public regarding the digital maps;

''(4) a summary and update of the protocols and findings of the report required under section 6(d) of the Coastal Barrier Resources Reauthorization Act of 2000 (16 U.S.C. 3503 note; Public Law 106–514); and

''(5) an analysis of any benefits that the public would receive by using digital mapping technology for all System units and otherwise protected areas.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $500,000 for each of fiscal years 2006 through 2007.

''SEC. 4. DIGITAL MAPPING PROJECT FOR THE REMAINING JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM UNITS AND OTHERWISE PROTECTED AREAS.

''(a) IN GENERAL.—The Secretary shall carry out a project to create digital versions of all of the John H. Chafee Coastal Barrier Resources System maps referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)), including maps of otherwise protected areas, that were not included in the pilot project.

''(b) DATA.—

''(1) USE OF EXISTING DATA.—To the maximum extent practicable, in carrying out the project under this section, the Secretary shall use any digital spatial data in the possession of Federal, State, and local agencies, including digital orthophotos, color infrared photography, wetlands data, and property parcel data.

''(2) PROVISION OF DATA BY OTHER AGENCIES.—The head of a Federal agency that possesses any data referred to in paragraph (1) shall, on request of the Secretary, promptly provide the data to the Secretary at no cost.

''(3) PROVISION OF DATA BY NON-FEDERAL AGENCIES.—State and local agencies and any other non-Federal entities that possess data referred to in paragraph (1) are encouraged, on request of the Secretary, to promptly provide the data to the Secretary at no cost.

''(4) ADDITIONAL DATA.—If the Secretary determines that any data necessary to carry out the project under this section does not exist, the Director of the United States Fish and Wildlife Service shall enter into an agreement with the Director of the United States Geological Survey under which the United States Geological Survey, in cooperation with the heads of other Federal agencies, as appropriate, shall obtain and provide to the Director of the United States Fish and Wildlife Service the data required to carry out this section.

''(5) DATA STANDARDS.—All data used or created to carry out this section shall comply with—

''(A) the National Spatial Data Infrastructure established by Executive Order No. 12906 (59 Fed. Reg. 17671) [43 U.S.C. 1457 note]; and

''(B) any other standards established by the Federal Geographic Data Committee established by the Office of Management and Budget circular numbered A–16.

''(c) REPORT.—

''(1) IN GENERAL.—Not later than 5 years after the submission of the report under section 3(a), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives a report regarding the digital maps created under this section.

''(2) CONSULTATION.—The Secretary shall prepare the report required under paragraph (1)—

''(A) in consultation with the Governors of the States in which the System units and otherwise protected areas are located; and

''(B) after—

''(i) providing an opportunity for the submission of public comments; and

''(ii) considering any public comments submitted under clause (i).

''(3) CONTENTS.—The report required under paragraph (1) shall contain—

''(A) a description of the extent to which the boundary lines on the digital maps differ from the boundary lines on the original maps;

''(B) a summary of the comments received from Governors, other government officials, and the public regarding the digital maps created under this section;

''(C) recommendations for the adoption of the digital maps created under this section by Congress;

''(D) recommendations for expansion of the John H. Chafee Coastal Barrier Resources System and otherwise protected areas, as in existence on the date of enactment of this Act [May 25, 2006];

''(E) a summary and update on the implementation and use of the digital maps created under the pilot project; and

''(F) a description of the feasibility of, and the amount of funding necessary for—

''(i) making all of the System unit and otherwise protected area maps available to the public in digital format; and

''(ii) facilitating the integration of digital System unit and otherwise protected area boundaries into Federal, State, and local planning tools.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $1,000,000 for each of fiscal years 2006 through 2010.

''SEC. 5. AUTHORIZATION OF APPROPRIATIONS.''

[Amended section 3510 of this title.]

DIGITAL MAPPING PILOT PROJECT

Pub. L. 106–514, §6, Nov. 13, 2000, 114 Stat. 2396, provided that:

''(a) IN GENERAL.—

''(1) PROJECT.—The Secretary of the Interior (referred to in this section as the 'Secretary'), in consultation with the Director of the Federal Emergency Management Agency, shall carry out a pilot project to determine the feasibility and cost of creating digital versions of the John H. Chafee Coastal Barrier Resources System maps referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)) (as amended by section 3(d)).

''(2) NUMBER OF UNITS.—The pilot project shall consist of the creation of digital maps for no more than 75 units and no fewer than 50 units of the John H. Chafee Coastal Barrier Resources System (referred to in this section as the 'System'), ⅓ of which shall be otherwise protected areas (as defined in section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note; Public Law 101–591)).

''(b) DATA.—

''(1) USE OF EXISTING DATA.—To the maximum extent practicable, in carrying out the pilot project under this section, the Secretary shall use digital spatial data in the possession of State, local, and Federal agencies including digital orthophotos, and shoreline, elevation, and bathymetric data.

''(2) PROVISION OF DATA BY OTHER AGENCIES.—The head of a Federal agency that possesses data referred to in paragraph (1) shall, upon request of the Secretary, promptly provide the data to the Secretary at no cost.

''(3) ADDITIONAL DATA.—If the Secretary determines that data necessary to carry out the pilot project under this section do not exist, the Secretary shall enter into an agreement with the Director of the United States Geological Survey under which the Director shall obtain, in cooperation with other Federal agencies, as appropriate, and provide to the Secretary the data required to carry out this section.

''(4) DATA STANDARDS.—All data used or created to carry out this section shall comply with—

''(A) the National Spatial Data Infrastructure established by Executive Order 12906 (59 Fed. Reg. 17671 (April 13, 1994)) [43 U.S.C. 1457 note]; and

''(B) any other standards established by the Federal Geographic Data Committee established by Office of Management and Budget Circular A–16.

''(c) DIGITAL MAPS NOT CONTROLLING.—Any determination as to whether a location is inside or outside the System shall be made without regard to the digital maps created under this section.

''(d) REPORT.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [Nov. 13, 2000], the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives a report that describes the results of the pilot project and the feasibility, data needs, and costs of completing digital maps for the entire System.

''(2) CONTENTS.—The report shall include a description of—

''(A) the cooperative agreements that would be necessary to complete digital mapping of the entire System;

''(B) the extent to which the data necessary to complete digital mapping of the entire System are available;

''(C) the need for additional data to complete digital mapping of the entire System;

''(D) the extent to which the boundary lines on the digital maps differ from the boundary lines on the original maps; and

''(E) the amount of funding necessary to complete digital mapping of the entire System.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $500,000 for each of fiscal years 2002 through 2004.''

FINDINGS

Pub. L. 106–167, §2, Dec. 9, 1999, 113 Stat. 1803, provided that: ''Congress finds that—

''(1) during the past 2 decades, Senator John H. Chafee was a leading voice for the protection of the environment and the conservation of the natural resources of the United States;

''(2) Senator Chafee served on the Environment and Public Works Committee of the Senate for 22 years, influencing every major piece of environmental legislation enacted during that time;

''(3) Senator Chafee led the fight for clean air, clean water, safe drinking water, and cleanup of toxic wastes, and for strengthening of the National Wildlife Refuge System and protections for endangered species and their habitats;

''(4) millions of people of the United States breathe cleaner air, drink cleaner water, and enjoy more plentiful outdoor recreation opportunities because of the work of Senator Chafee;

''(5) in 1982, Senator Chafee authored and succeeded in enacting into law the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.) to minimize loss of human life, wasteful expenditure of Federal revenues, and damage to fish, wildlife, and other natural resources associated with the coastal barriers along the Atlantic and Gulf Coasts; and

''(6) to reflect the invaluable national contributions made by Senator Chafee during his service in the Senate, the Coastal Barrier Resources System should be named in his honor.''

REDESIGNATION OF COASTAL BARRIER RESOURCES SYSTEM

Pub. L. 106–167, §3(a), (b), Dec. 9, 1999, 113 Stat. 1804, provided that:

''(a) IN GENERAL.—The Coastal Barrier Resources System established by section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)) is redesignated as the 'John H. Chafee Coastal Barrier Resources System'.

''(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Coastal Barrier Resources System shall be deemed to be a reference to the John H. Chafee Coastal Barrier Resources System.''

REVISION OF MAPS FOR UNITS OF SYSTEM

The following acts directed the Secretary of the Interior to make technical revisions and corrections to maps relating to particular units of the John H. Chafee Coastal Barrier Resources System:

Pub. L. 110–419, §1, Oct. 15, 2008, 122 Stat. 4773.
Pub. L. 109–355, §1, Oct. 16, 2006, 120 Stat. 2018.
Pub. L. 109–354, §1, Oct. 16, 2006, 120 Stat. 2017.
Pub. L. 108–380, §1, Oct. 30, 2004, 118 Stat. 2210.
Pub. L. 108–339, §1, Oct. 18, 2004, 118 Stat. 1361.
Pub. L. 108–138, §1, Dec. 1, 2003, 117 Stat. 1869.
Pub. L. 108–7, div. F, title I, §155, Feb. 20, 2003, 117 Stat. 246.
Pub. L. 106–360, §1, Oct. 27, 2000, 114 Stat. 1399.
Pub. L. 106–332, Oct. 19, 2000, 114 Stat. 1306.
Pub. L. 106–128, §1, Dec. 6, 1999, 113 Stat. 1652.
Pub. L. 106–116, §1, Nov. 29, 1999, 113 Stat. 1544.
Pub. L. 105–277, div. A, §101(e) [title I, title I, §134, title III, §335], Oct. 21, 1998, 112 Stat. 2681–231, 2681–238, 2681–264, 2681–295.
Pub. L. 104–333, div. I, title II, §220, Nov. 12, 1996, 110 Stat. 4115.
Pub. L. 104–265, title II, §201, Oct. 9, 1996, 110 Stat. 3289.
Pub. L. 104–148, §2, May 24, 1996, 110 Stat. 1378.
Pub. L. 103–461, §1(a), (b), Nov. 2, 1994, 108 Stat. 4804.
Pub. L. 102–440, title III, §303, Oct. 23, 1992, 106 Stat. 2234.

CORRECTION OF ERRORS IN MAPS; MODIFICATION OF BOUNDARIES; ADDITIONS TO SYSTEM

Pub. L. 101–591, §4, Nov. 16, 1990, 104 Stat. 2932, as amended by Pub. L. 106–514, §3(b)(1)(A), (2), Nov. 13, 2000, 114 Stat. 2395, provided that:

''(a) TECHNICAL REVISION OF MAPS AND PROVISION TO STATE AND LOCAL GOVERNMENT.—Not later than 180 days after the date of the enactment of this Act [Nov. 16, 1990], the Secretary shall—

''(1) make such technical revisions to the maps referred to in section 4(a) of the Coastal Barrier Resources Act [16 U.S.C. 3503(a)] (as amended by section 3 of this Act) as may be necessary to correct existing clerical and typographical errors in the maps; and

''(2) provide copies of the maps, as so revised, to—

''(A) each State and each local government in which is located a unit of the System;

''(B) the coastal zone management agency of each State—

''(i) in which is located a unit of the System; and

''(ii) which has a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455); and

''(C) appropriate Federal agencies.

''(b) RECOMMENDATIONS OF STATE AND LOCAL GOVERNMENTS FOR BOUNDARY MODIFICATIONS.—(1) Not later than 1 year after the date of the enactment of this Act [Nov. 16, 1990]—

''(A) a local government in which is located a unit of the System and which is in a State which has a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455); and

''(B) the coastal zone management agency of a State in which is located a unit of the System and which has such a program approved;

may each submit to the Secretary recommendations for minor and technical modifications to the boundaries of existing units of the System located in that local government or State, respectively.

''(2) If, in the case of any minor and technical modification to the boundaries of System units made under the authority of section 4(e) of the Coastal Barrier Resources Act (16 U.S.C. 3503(e)), an appropriate chief executive officer of a State, county or equivalent jurisdiction, or State coastal zone management agency to which notice was given in accordance with this subsection files comments disagreeing with all or part of the modification and the Secretary makes a modification which is in conflict with such comments, or if the Secretary fails to adopt a modification pursuant to a proposal submitted by an appropriate State coastal zone management agency under paragraph (1) of this subsection, the Secretary shall submit to the chief executive officer a written justification for the failure to make modifications consistent with such comments or proposals.

''(c) ELECTIONS TO ADD TO SYSTEM.—

''(1) PROVISION OF MAPS BY SECRETARY.—Not later than 180 days after the date of the enactment of this Act [Nov. 16, 1990], the Secretary shall provide—

''(A) to each local government in which is located an undeveloped coastal barrier not included within the System; and

''(B) to the Governor of each State in which such an area is located;

maps depicting those undeveloped coastal barriers not included within the System located in that local government or State, respectively.

''(2) ELECTIONS.—Not later than 18 months after the date of the enactment of this Act, a local government and the Governor of any State referred to in paragraph (1), and any qualified organization—

''(A) may each elect to add to the System, as a new unit or as an addition to an existing unit, any area of qualified coastal barrier (or any portion thereof) which is owned or held by the local government, State, or qualified organization, respectively;

''(B) shall notify the Secretary of that election; and

''(C) shall submit to the Secretary a map depicting the area, if—

''(i) the area (or portion) is not depicted on a map provided by the Secretary under paragraph (1); or

''(ii) the local government, State, or qualified organization was not provided maps under paragraph (1).

''(3) EFFECTIVE DATE OF ELECTION.—An area elected by a local government, Governor of a State, or qualified organization to be added to the System under this subsection shall be part of the System effective on the date on which the Secretary publishes notice in the Federal Register under subsection (e)(1)(C) with respect to that election.

''[(d) Redesignated section 3503(e) of this title.]

''(e) MODIFICATION OF BOUNDARIES, REVISION OF MAPS, AND PUBLICATION OF NOTICE.—

''(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act [Nov. 16, 1990], the Secretary—

''(A) based on recommendations submitted by local governments and State coastal zone management agencies under subsection (b), may make such minor and technical modifications to the boundaries of existing units of the System as are consistent with the purposes of the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.) and are necessary to clarify the boundaries of those units;

''(B) shall revise the maps referred to in section 4(a) of the Act [16 U.S.C. 3503(a)] (as amended by section 3 of this Act)—

''(i) to reflect those modifications; and

''(ii) to reflect each election of a local government, Governor of a State, or qualified organization to add an area to the System pursuant to subsection (c); and

''(C) shall publish in the Federal Register notice of each such modification or election.

''(2) EFFECTIVE DATE OF MODIFICATIONS.—A modification of the boundaries of a unit of the System under paragraph (1)(A) shall take effect on the date on which the Secretary published notice in the Federal Register under paragraph (1)(C) with respect to that modification.''

PACIFIC COASTAL BARRIER PROTECTION STUDY AND MAPS

Section 6 of Pub. L. 101–591 directed Secretary of the Interior, not later than 6 months after Nov. 16, 1990, to prepare and submit to Congress a study examining the need for protecting undeveloped coastal barriers along the Pacific coast of the United States south of 49 degrees north latitude through inclusion in the System; as soon as practicable after Nov. 16, 1990, to prepare maps identifying the boundaries of those undeveloped coastal barriers (as that term is defined in 16 U.S.C. 3502(1)) of the United States bordering the Pacific Ocean south of 49 degrees north latitude; and, not later than 12 months after Nov. 16, 1990, to submit to Congress maps identifying the boundaries of those undeveloped coastal barriers of the United States bordering the Pacific Ocean south of 49 degrees north latitude which the Secretary and the appropriate Governor consider to be appropriate for inclusion in the System.

REPORT REGARDING COASTAL BARRIER MANAGEMENT

Pub. L. 101–591, §8, Nov. 16, 1990, 104 Stat. 2937, which established the Coastal Barriers Task Force, provided for its membership, required the Task Force to submit a report to Congress regarding the Coastal Barrier Resources System not later than the expiration of the 2-year period beginning on Nov. 16, 1990, and required the Task Force to terminate 90 days after submission of the report, was repealed by Pub. L. 106–514, §4(b), Nov. 13, 2000, 114 Stat. 2396.

DEFINITIONS

Section 12 of Pub. L. 101–591, as amended by Pub. L. 106–167, §3(c)(6), Dec. 9, 1999, 113 Stat. 1804, provided that: ''For purposes of this Act [see Short Title of 1990 Amendment note set out under section 3501 of this title]—

''(1) the term 'undeveloped coastal barrier' means—

''(A) a depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) that—

''(i) is subject to wave, tidal, and wind energies, and

''(ii) protects landward aquatic habitats from direct wave attack; and

''(B) all associated aquatic habitats including the adjacent wetlands, marshes, estuaries, inlets, and nearshore waters;

but only if such features and associated habitats contain few manmade structures and these structures, and man's activities on such features and within such habitats, do not significantly impede geomorphic and ecological processes.

''(2) the term 'otherwise protected area' means an undeveloped coastal barrier within the boundaries of an area established under Federal, State, or local law, or held by a qualified organization, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes;

''(3) the term 'qualified organization' means such an organization under section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3));

''(4) the term 'Secretary' means the Secretary of the Interior; and

''(5) the term 'System' means the John H. Chafee Coastal Barrier Resources System established by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.), as amended by this Act.''

§ 3504. Limitations on Federal expenditures affecting the System

(a) Construction or purchase of structure, facility, road, airport, etc.; projects to prevent erosion; exceptions

Except as provided in section 3505 of this title, no new expenditures or new financial assistance may be made available under authority of any Federal law for any purpose within the System, including, but not limited to—

(1) the construction or purchase of any structure, appurtenance, facility, or related infrastructure;

(2) the construction or purchase of any road, airport, boat landing facility, or other facility on, or bridge or causeway to, any System unit; and

(3) the carrying out of any project to prevent the erosion of, or to otherwise stabilize, any inlet, shoreline, or inshore area, except that such assistance and expenditures may be made available on units designated pursuant to section 3503 of this title on maps numbered S01 through S08 and LA07 for purposes other than encouraging development and, in all units, in cases where an emergency threatens life, land, and property immediately adjacent to that unit.

(b) New expenditures or new financial assistance

An expenditure or financial assistance made available under authority of Federal law shall, for purposes of this chapter, be a new expenditure or new financial assistance if—

(1) in any case with respect to which specific appropriations are required, no money for construction or purchase purposes was appropriated before the date on which the relevant System unit or portion of the System unit was included within the System under this chapter or the Coastal Barrier Improvement Act of 1990; or

(2) no legally binding commitment for the expenditure or financial assistance was made before such date.

(Pub. L. 97–348, §5, Oct. 18, 1982, 96 Stat. 1656; Pub. L. 101–591, §§2(b)(2), 5(c), Nov. 16, 1990, 104 Stat. 2931, 2936.)

REFERENCES IN TEXT

The Coastal Barrier Improvement Act of 1990, referred to in subsec. (b)(1), is Pub. L. 101–591, Nov. 16, 1990, 104 Stat. 2931, which enacted section 1441a–3 of Title 12, Banks and Banking, amended sections 3502 to 3506 and 3510 of this title and section 4028 of Title 42, The Public Health and Welfare, enacted provisions set out as notes under section 3503 of this title, and repealed provisions set out as a note under section 3505 of this title. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 3501 of this title and Tables.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–591, §2(b)(2)(A), in introductory provisions substituted ''the System'' for ''the Coastal Barrier Resources System''.

Subsec. (a)(3). Pub. L. 101–591, §5(c), substituted ''through S08 and LA07'' for ''through S08''.

Subsec. (b)(1). Pub. L. 101–591, §2(b)(2)(B), substituted ''on which the relevant System unit or portion of the System unit was included within the System under this chapter or the Coastal Barrier Improvement Act of 1990'' for ''of the enactment of this Act''.

Subsec. (b)(2). Pub. L. 101–591, §2(b)(2)(C), struck out ''of enactment'' after ''before such date''.

§ 3505. Exceptions to limitations on expenditures

(a) In general

Notwithstanding section 3504 of this title, the appropriate Federal officer, after consultation with the Secretary, may make Federal expenditures and may make financial assistance available within the System for the following:

(1) Any use or facility necessary for the exploration, extraction, or transportation of energy resources which can be carried out only on, in, or adjacent to a coastal water area because the use or facility requires access to the coastal water body.

(2) The maintenance or construction of improvements of existing Federal navigation channels (including the Intracoastal Waterway) and related structures (such as jetties), including the disposal of dredge materials related to such maintenance or construction.

(3) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system.

(4) Military activities essential to national security.

(5) The construction, operation, maintenance, and rehabilitation of Coast Guard facilities and access thereto.

(6) Any of the following actions or projects, if a particular expenditure or the making available of particular assistance for the action or project is consistent with the purposes of this chapter:

(A) Projects for the study, management, protection, and enhancement of fish and wildlife resources and habitats, including acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.

(B) Establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

(C) Projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 through 11) and the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(D) Scientific research, including aeronautical, atmospheric, space, geologic, marine, fish and wildlife, and other research, development, and applications.

(E) Assistance for emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 5170a, 5170b, and 5192 of title 42 and section 1362[1] of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) and are limited to actions that are necessary to alleviate the emergency.

(F) Maintenance, replacement, reconstruction, or repair, but not the expansion (except with respect to United States route 1 in the Florida Keys), of publicly owned or publicly operated roads, structures, and facilities.

(G) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore a natural stabilization system.

(b) Existing Federal navigation channels

For purposes of subsection (a)(2) of this section, a Federal navigation channel or a related structure is an existing channel or structure, respectively, if it was authorized before the date on which the relevant System unit or portion of the System unit was included within the System.

(c) Expansion of highways in Michigan

The limitations on the use of Federal expenditures or financial assistance within the System under subsection (a)(3) of this section shall not apply to a highway—

(1) located in a unit of the System in Michigan; and

(2) in existence on November 16, 1990.

(d) Services and facilities outside System

(1) In general

Except as provided in paragraphs (2) and (3) of this subsection, limitations on the use of Federal expenditures or financial assistance within the System under section 3504 of this title shall not apply to expenditures or assistance provided for services or facilities and related infrastructure located outside the boundaries of unit T–11 of the System (as depicted on the maps referred to in section 3503(a) of this title) which relate to an activity within that unit.

(2) Prohibition of flood insurance coverage

No new flood insurance coverage may be provided under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) for any new construction or substantial improvements relating to services or facilities and related infrastructure located outside the boundaries of unit T–11 of the System that facilitate an activity within that unit that is not consistent with the purposes of this chapter.

(3) Prohibition of HUD assistance

(A) In general

No financial assistance for acquisition, construction, or improvement purposes may be provided under any program administered by the Secretary of Housing and Urban Development for any services or facilities and related infrastructure located outside the boundaries of unit T–11 of the System that facilitate an activity within that unit that is not consistent with the purposes of this chapter.

(B) "Financial assistance" defined

For purposes of this paragraph, the term ''financial assistance'' includes any contract, loan, grant, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan, mortgage, or pool of mortgages.

(Pub. L. 97–348, §6, Oct. 18, 1982, 96 Stat. 1656; Pub. L. 100–707, title I, §109(h), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 101–591, §5(a), Nov. 16, 1990, 104 Stat. 2934.)

[1] See References in Text note below.

REFERENCES IN TEXT

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (a)(6)(C), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of this title and Tables.

The Coastal Zone Management Act of 1972, referred to in subsec. (a)(6)(C), is title III of Pub. L. 89–454, as added by Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to chapter 33 (§ 1451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of this title and Tables.

Section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103), referred to in subsec. (a)(6)(E), was repealed by Pub. L. 103–325, title V, § 551(a), Sept. 23, 1994, 108 Stat. 2269.

The National Flood Insurance Act of 1968, referred to in subsec. (d)(2), is title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, as amended, which is classified principally to chapter 50 (§ 4001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of Title 42 and Tables.

AMENDMENTS

1990—Pub. L. 101–591 amended section generally, substituting substantially similar provisions in subsec. (a), substituting ''a Federal navigation channel or a related structure is an existing channel or structure, respectively, if it was authorized before the date on which the relevant System unit or portion of the System unit was included within the System'' for ''a channel improvement or a related structure shall be treated as an existing improvement or an existing related structure only if all, or a portion, of the moneys for such improvement or structure was appropriated before October 18, 1982'' in subsec. (b), and adding subsecs. (c) and (d).

1988—Subsec. (a)(6)(E). Pub. L. 100–707 substituted reference to sections 5170a, 5170b, and 5192 of title 42 for reference to sections 5145 and 5146 of title 42.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXPANSION OF HIGHWAYS IN MICHIGAN

Section 204(d) of Pub. L. 100–707 exempted existing highways in Michigan from limitations on the use of Federal expenditures or financial assistance within the Coastal Barrier Resources System under 16 U.S.C. 3505(a)(3) if the Congress added new units to the Coastal Barrier Resources System under 16 U.S.C. 3503, and those units included portions of United States or State highways in the State of Michigan, prior to repeal by Pub. L. 101–591, § 5(b), Nov. 16, 1990, 104 Stat. 2936. See section 3505(c) of this title.

§ 3506. Certification of compliance

(a) Regulations

Not later than 12 months after November 16, 1990, the head of each Federal agency affected by this chapter shall promulgate regulations to assure compliance with the provisions of this chapter.

(b) Certification

The head of each Federal agency affected by this chapter shall report and certify that each such agency is in compliance with the provisions of this chapter. Such reports and certifications shall be submitted annually to the Committees and the Secretary.

(Pub. L. 97–348, § 7, Oct. 18, 1982, 96 Stat. 1657; Pub. L. 101–591, § 14, Nov. 16, 1990, 104 Stat. 2941.)

AMENDMENTS

1990—Pub. L. 101–591 amended section generally. Prior to amendment, section read as follows: ''The Director of the Office of Management and Budget shall, on behalf of each Federal agency concerned, make written certification that each such agency has complied with the provisions of this chapter during each fiscal year beginning after September 30, 1982. Such certification shall be submitted on an annual basis to the House of Representatives and the Senate pursuant to the schedule required under the Congressional Budget and Impoundment Control Act of 1974.''

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to annually submitting reports and certifications to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 42 of House Document No. 103–7.

§ 3507. Priority of laws

Nothing contained in this chapter shall be construed as indicating an intent on the part of the Congress to change the existing relationship of other Federal laws to the law of a State, or a political subdivision of a State, or to relieve any person of any obligation imposed by any law of any State, or political subdivision of a State. No provision of this chapter shall be construed to invalidate any provision of State or local law unless there is a direct conflict between such provision and the law of the State, or political subdivision of the State, so that the two cannot be reconciled or consistently stand together. This chapter shall in no way be interpreted to interfere with a State's right to protect, rehabilitate, preserve, and restore lands within its established boundary.

(Pub. L. 97–348, § 8, Oct. 18, 1982, 96 Stat. 1658.)

§ 3508. Separability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Pub. L. 97–348, § 9, Oct. 18, 1982, 96 Stat. 1658.)

§ 3509. Repealed. Pub. L. 106–514, § 4(a)(3), Nov. 13, 2000, 114 Stat. 2396

Section, Pub. L. 97–348, § 10, Oct. 18, 1982, 96 Stat. 1658; Pub. L. 106–167, § 3(c)(4), Dec. 9, 1999, 113 Stat. 1804, required report to Congress before the close of the 3-year period beginning on Oct. 18, 1982.

§ 3510. Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this chapter $2,000,000 for each of fiscal years 2006 through 2010.

(Pub. L. 97–348, § 10, formerly § 12, Oct. 18, 1982, 96 Stat. 1659; Pub. L. 101–591, § 13(a), Nov. 16, 1990,

104 Stat. 2941; Pub. L. 103–461, § 1(c), Nov. 2, 1994, 108 Stat. 4804; renumbered § 10 and amended Pub. L. 106–514, § 5, Nov. 13, 2000, 114 Stat. 2396; Pub. L. 109–226, § 5, May 25, 2006, 120 Stat. 384.)

PRIOR PROVISIONS

A prior section 10 of Pub. L. 97–348 was classified to section 3509 of this title prior to repeal by Pub. L. 106–514.

AMENDMENTS

2006—Pub. L. 109–226 substituted ''2006 through 2010'' for ''2001, 2002, 2003, 2004, and 2005''.

2000—Pub. L. 106–514 amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated to the Secretary for carrying out this chapter $2,000,000 for each of fiscal years 1995 to 1998.''

1994—Pub. L. 103–461 amended section generally. Prior to amendment, section read as follows: ''There is authorized to be appropriated to the Secretary for carrying out this chapter not more than $1,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993.''

1990—Pub. L. 101–591 amended section generally. Prior to amendment, section read as follows: ''There is authorized to be appropriated to the Department of the Interior $1,000,000 for the period beginning October 1, 1982, and ending September 30, 1985, for purposes of carrying out sections 3503 and 3509 of this title.''

CHAPTER 56—NORTH ATLANTIC SALMON FISHING

Sec.

3601. Definitions.
3602. United States representation on Council and Commissions.
3603. Receipt of Organization communications by Secretary of State.
3604. Regulations and reports.
3605. Cooperation with other agencies and institutions.
3606. Violations and penalties.
3607. Enforcement.
3608. Authorization of appropriations.

§ 3601. Definitions

As used in this chapter, the term—

(1) ''Act of 1976'' means the Act entitled ''An Act to provide for the conservation and management of the fisheries, and for other purposes'', approved April 13, 1976 (16 U.S.C. 1801 et seq.);

(2) ''Commission'' means any of the Commissions of the Organization that are established by the Convention;

(3) ''Commissioner'' means a United States Commissioner appointed under section 3602 of this title;

(4) ''Convention'' means the Convention for the Conservation of Salmon in the North Atlantic Ocean, signed at Reykjavik, Iceland, on March 2, 1982;

(5) ''Council'' means the Council established by the Convention;

(6) ''fishing'' has the same meaning as such term has in section 3(10)[1] of the Act of 1976 (16 U.S.C. 1802(10));

(7) ''Organization'' means the North Atlantic Salmon Conservation Organization established under the Convention;

(8) ''person'' has the same meaning as such term has in section 3(19)[1] of the Act of 1976 (16 U.S.C. 1802(19)); and

(9) ''salmon'' means all species of salmon which migrate in or into the waters of the Atlantic Ocean north of 36 degrees north latitude.

(Pub. L. 97–389, title III, § 302, Dec. 29, 1982, 96 Stat. 1951.)

REFERENCES IN TEXT

An Act to provide for the conservation and management of the fisheries, and for other purposes, approved April 13, 1976 (16 U.S.C. 1801 et seq.), referred to in par. (1), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Section 3 of the Act of 1976 (16 U.S.C. 1802), referred to in pars. (6) and (8), was subsequently amended, and section 3(10) and (19) no longer defines the terms ''fishing'' and ''person''. However, such terms are defined elsewhere in that section.

CODIFICATION

Section 3602 of this title, referred to in par. (3), was in the original ''section 403 of this title'', meaning section 403 of title III of Pub. L. 97–389, and has been translated as section 3602 of this title, section 303 of title III of Pub. L. 97–389, as the probable intent of Congress, because title III of Pub. L. 97–389 does not contain a section 403 and section 3602 of this title relates to appointment of a United States Commissioner.

SHORT TITLE

Section 301 of title III of Pub. L. 97–389 provided: ''This title [enacting this chapter] may be cited as the 'Atlantic Salmon Convention Act of 1982'.''

Section 1 of Pub. L. 97–389 provided: ''That this Act [enacting this chapter, amending sections 779b, 1034, and 1401 of this title and sections 688 and 883 of Title 46, Appendix, Shipping, and enacting provisions set out as notes under section 1823 of this title and section 688 of Title 46, Appendix] may be cited as the 'Fisheries Amendments of 1982'.''

§ 3602. United States representation on Council and Commissions

(a) Appointment and qualifications of Commissioners

The United States shall be represented on the Council and Commissions by three United States Commissioners to be appointed by the President to serve at his pleasure. Of such Commissioners, one shall be an official of the United States Government, and two shall be individuals (not officials of the United States Government) who are knowledgeable or experienced concerning the conservation and management of salmon of United States origin.

(b) Alternate Commissioners

The Secretary of State, in consultation with the Secretary of Commerce and the Secretary of the Interior, may designate alternate United States Commissioners. In the absence of a Commissioner appointed under subsection (a) of this section, an alternate Commissioner may exercise at any meeting of the Organization, the Council, or any Commission all functions of such Commissioner.

(c) Limited Federal employee status

Individuals who serve as Commissioners and alternate Commissioners shall not receive any

[1] See References in Text note below.

compensation for such service. Such individuals shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28.

(d) Consultation with other parties

In carrying out their functions under the Convention, the Commissioners may consult with the appropriate Regional Fishery Management Councils established by section 302 of the Act of 1976 (16 U.S.C. 1852), and may consult with such other interested parties as they consider appropriate. The Federal Advisory Committee Act (5 U.S.C. App. et seq.) shall not apply to consultations described in this subsection.

(Pub. L. 97–389, title III, § 303, Dec. 29, 1982, 96 Stat. 1952; Pub. L. 98–44, title I, § 102(1), July 12, 1983, 97 Stat. 216.)

REFERENCES IN TEXT

The Federal Advisory Committee Act (5 U.S.C. App. et seq.), referred to in subsec. (d), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1983—Subsec. (c). Pub. L. 98–44 substituted ''shall not be considered'' for ''shall be considered''.

§ 3603. Receipt of Organization communications by Secretary of State

(a) Concurrence with Secretaries of Commerce and the Interior on regulatory measures; action on other matters

The Secretary of State may—

(1) receive, on behalf of the United States, reports, requests, recommendations, proposals, and other communications of the Organization and its subsidiary organs;

(2) with the concurrence of the Secretary of Commerce and the Secretary of the Interior, approve, object to, or withdraw objections to regulatory measures proposed in accordance with the Convention; and

(3) act upon, or refer to other appropriate authority, any communication referred to in paragraph (1) of this subsection other than a proposed regulatory measure.

(b) Submission to President on failure of concurrence on regulatory matters

If the concurrence required under subsection (a)(2) of this section has not been obtained by the Secretary of State—

(1) regarding the approval of, or the objection to, a proposed regulatory measure within forty-five days after the measure was received on behalf of the United States; or

(2) regarding the withdrawal of an objection of the United States to a proposed regulatory measure within forty-five days after such withdrawal is proposed by the Secretary of State;

the Secretary of State shall submit the matter in disagreement, together with a statement of the opposing positions, to the President for timely disposition.

(Pub. L. 97–389, title III, § 304, Dec. 29, 1982, 96 Stat. 1952.)

§ 3604. Regulations and reports

(a) Promulgation of regulations; implementation; applicability

The Secretary of Commerce, in cooperation with the Secretary of the Interior and the Secretary of the department in which the Coast Guard is operating, shall promulgate such regulations pursuant to section 553 of title 5 as may be necessary to carry out the purposes and objectives of the Convention and this chapter, and to implement regulatory measures that are binding on the United States under the Convention. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located.

(b) Preparation and submission of reports by certain Secretaries

The Secretary of Commerce, in cooperation with the Secretary of the Interior, shall prepare all statements, reports, and notifications, required by articles 14 and 15 of the Convention and submit such documents to the Secretary of State for transmission to the Organization.

(Pub. L. 97–389, title III, § 305, Dec. 29, 1982, 96 Stat. 1953.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 3605. Cooperation with other agencies and institutions

(a) Federal and State agencies; private institutions

In carrying out the provisions of the Convention, the Secretary of Commerce, in consultation with the Secretary of the Interior, may arrange for the cooperation of agencies of the United States and the States, and of private institutions and organizations.

(b) Use of Federal facilities; reimbursement

Appropriate agencies of the United States may cooperate in the conduct of scientific and other programs, and may furnish facilities and personnel, for the purposes of assisting the Organization in carrying out its duties under the Convention. Such agencies may accept reimbursement from the Organization for providing such services, facilities, and personnel.

(Pub. L. 97–389, title III, § 306, Dec. 29, 1982, 96 Stat. 1953.)

§ 3606. Violations and penalties

(a) Directed fishing for salmon; Convention, rules and regulations

It is unlawful for any person, or any vessel, subject to the jurisdiction of the United States—

(1) to conduct directed fishing for salmon in waters seaward of twelve miles from the base-

lines from which the breadths of territorial seas are measured, in waters of the Atlantic Ocean north of 36 degrees north latitude; or

(2) to violate any provision of the Convention or this chapter, or of any regulation promulgated under this chapter.

(b) Civil and criminal penalties

Any person who commits any act that is unlawful under subsection (a) of this section shall—

(1) be liable to the United States for a civil penalty under section 308 of the Act of 1976 (16 U.S.C. 1858) to the same extent as if such act were an act prohibited under section 307 of the Act of 1976 (16 U.S.C. 1857); and

(2) be guilty of an offense under section 309 of the Act of 1976 (16 U.S.C. 1859) to the same extent as if such act were an act prohibited by section 307(1)(D), (E), (F), or (H) of the Act of 1976 (16 U.S.C. 1857(1)(D), (E), (F), or (H)).

(c) Civil forfeiture of vessel

Any vessel used, and any fish (or the fair market value thereof) taken or retained in any manner, in connection with or as the result of the commission of an act which is unlawful under subsection (a) of this section shall be subject to civil forfeiture under section 310 of the Act of 1976 (16 U.S.C. 1860) to the same extent as if such vessel was used in, or such fish was taken or retained in connection with or as the result of, the commission of an act prohibited by section 307 of the Act of 1976 (16 U.S.C. 1857).

(Pub. L. 97–389, title III, § 307, Dec. 29, 1982, 96 Stat. 1953; Pub. L. 98–44, title I, § 102(2), July 12, 1983, 97 Stat. 216.)

AMENDMENTS

1983—Subsec. (c). Pub. L. 98–44 inserted provision that any fish, or the fair market value thereof, taken or retained in connection with or as the result of the commission of an act unlawful under subsection (a) of this section shall be subject to civil forfeitures under section 1860 of this title to the same extent as if such fish was taken or retained in connection with or as the result of the commission of an act prohibited by section 1857 of this title.

§ 3607. Enforcement

The Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating shall enforce the provisions of this chapter and any regulation issued under this chapter. For purposes of such enforcement, such provisions and regulations shall be considered to be provisions of the Act of 1976 [16 U.S.C. 1801 et seq.] to which section 311(a), (b), (c), and (d) of the Act of 1976 (16 U.S.C. 1861(a), (b), (c), and (d), respectively) apply.

(Pub. L. 97–389, title III, § 308, Dec. 29, 1982, 96 Stat. 1953.)

REFERENCES IN TEXT

For Act of 1976, referred to in text, see section 3601(1) of this title and References in Text note set out under section 3601 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 3608. Authorization of appropriations

There are authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this chapter including—

(1) necessary travel expenses of the Commissioners and alternate Commissioners in accordance with the Federal Travel Regulation and sections 5701, 5702, 5704 through 5708, and 5731 of title 5; and

(2) the United States contribution to the Organization as provided in Article 16 of the Convention, not to exceed $50,000 for fiscal year 1983, and not to exceed, for each succeeding fiscal year, the amount assessed by the Organization for the United States for such year.

(Pub. L. 97–389, title III, § 309, Dec. 29, 1982, 96 Stat. 1954.)

CHAPTER 56A—PACIFIC SALMON FISHING

Sec.
3631. Definitions.
3632. United States Section.
3633. Authority and responsibility.
3634. Interagency cooperation.
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3636. Rulemaking.
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3641. Authorization of appropriations.
3642. Disposition of property of International Pacific Salmon Fisheries Commission.
3643. Savings provision.
3644. Restriction on spending authority.
3645. Northern and Southern Funds; treaty implementation; additional authorization of appropriations.

§ 3631. Definitions

As used in this chapter, unless the context otherwise requires, the term—

(a) ''Commission'' means the Pacific Salmon Commission established by the Treaty;

(b) ''enhancement'' means manmade improvements to natural habitats, or the application of artificial fish culture technology, that will lead to the increase of salmon stocks;

(c) ''Magnuson Act'' means the Act entitled ''the Magnuson-Stevens Fishery Conservation and Management Act,'' as approved April 13, 1976, and as later amended (16 U.S.C. section 1801 et seq.);

(d) ''Panel'' means any of the Panels established by the Treaty;

(e) ''person'' means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State);

(f) ''salmon'' means any anadromous species of the family Salmonidae and genus Oncorhynchus, commonly known as Pacific salmon, including but not limited to:

Popular names	Scientific name
Chinook or King Salmon	Oncorhynchus tshawytscha
Coho or Silver Salmon	Oncorhynchus kisutch
Pink or Humpback Salmon	Oncorhynchus gorbuscha
Chum or Dog Salmon	Oncorhynchus keta
Sockeye or Red Salmon	Oncorhynchus nerka

and shall also include Steelhead (Salmo gairdneri);

(g) ''Secretary'' means the Secretary of Commerce;

(h) ''Treaty'' means the Treaty between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, signed at Ottawa, January 28, 1985;

(i) ''treaty Indian tribe'' means any of the federally recognized Indian tribes of the Columbia River basin, Washington coast or Puget Sound areas having reserved fishing rights to salmon stocks subject to the Treaty under treaties with the United States Government; and

(j) ''United States Section'' means the four United States Commissioners appointed by the President pursuant to this chapter.

(Pub. L. 99–5, § 2, Mar. 15, 1985, 99 Stat. 7; Pub. L. 102–251, title III, § 306(a), Mar. 9, 1992, 106 Stat. 66; Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

AMENDMENT OF SECTION

Pub. L. 102–251, title III, §§ 306(a), 308, Mar. 9, 1992, 106 Stat. 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, this section is amended by redesignating subsections (h) to (j) as (i) to (k), respectively, and by inserting after subsection (g) the following new subsection:

(h) ''Special areas'' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (c), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–208 substituted ''Magnuson-Stevens Fishery'' for ''Magnuson Fishery''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, § 211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102–251, set out as a note under section 773 of this title.

SHORT TITLE

Section 1 of Pub. L. 99–5 provided: ''That this Act [enacting this chapter and repealing sections 776 to 776f of this title and provisions set out as notes under section 776 of this title] may be cited as the 'Pacific Salmon Treaty Act of 1985'.''

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§ 3632. United States Section

(a) Commissioners

The United States shall be represented on the Commission by four United States Commissioners who are knowledgeable or experienced concerning Pacific salmon, to be appointed by and serve at the pleasure of the President. Of these, one shall be an official of the United States Government who shall be a nonvoting member of the United States Section; one shall be a resident of the State of Alaska and shall be appointed from a list of at least six qualified individuals nominated by the Governor of that State; one shall be a resident of the States[1] of Oregon,[2] or Washington and shall be appointed from a list of at least six qualified individuals nominated by the Governors of those States; and one shall be appointed from a list of at least six qualified individuals nominated by the treaty Indian tribes of the States of Idaho, Oregon or Washington. Two of the initial appointments shall be for two-year terms; all other appointments shall be for four-year terms. Each Commissioner is eligible for reappointment. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term. Unless otherwise agreed, the chairmanship of the United States Section shall rotate annually among all four members with the order of rotation determined by lot at the first meeting.

(b) Alternate Commissioners

The Secretary of State, in consultation with the Secretary and the Secretary of the Interior, shall designate an Alternate Commissioner for each Commissioner from the respective lists re-

[1] So in original. Probably should be ''State''.

[2] So in original. The comma probably should not appear.

ferred to in subsection (a) of this section, and may designate an Alternate Commissioner for the Federal Commissioner. In the absence of a Commissioner, the Alternate Commissioner may exercise all functions of such Commissioner at any meeting of the Commission or of the United States Section. Alternate Commissioners are eligible for reappointment and may attend all meetings of the United States Section.

(c) Southern Panel

The United States shall be represented on the southern Panel by six Panel members, of whom—

(1) one shall be an official of the United States Government, with salmon fishery management responsibility and expertise;

(2) one shall be an official of the State of Oregon, with salmon fishery management responsibility and expertise;

(3) one shall be an official of the State of Washington, with salmon fishery management responsibility and expertise;

(4) two shall be appointed from a list submitted by the treaty Indian tribes of individuals with salmon fishery management responsibility and expertise; and

(5) one shall be appointed from the commercial or recreational sector who is knowledgeable and experienced in the salmon fisheries for which the southern Panel is responsible.

(d) Northern Panel

The United States shall be represented on the northern Panel by six Panel members, of whom—

(1) one shall be an official of the United States Government, with salmon fishery management responsibility and expertise;

(2) one shall be an official of the State of Alaska, with salmon fishery management responsibility and expertise; and

(3) four shall be individuals knowledgeable and experienced in the salmon fisheries for which the northern Panel is responsible.

(e) Fraser River Panel

The United States shall be represented on the Fraser River Panel by four Panel members, of whom—

(1) one shall be an official of the United States Government, with salmon fishery management responsibility and expertise;

(2) one shall be an official of the State of Washington, with salmon fishery management responsibility and expertise;

(3) one shall be appointed from a list submitted by the treaty Indian tribes of individuals with salmon fishery management responsibility and expertise for the fisheries for which the Fraser River Panel is responsible; and

(4) one shall be appointed from the commercial sector of the salmon fishing industry concerned with fisheries for which the Fraser River Panel is responsible.

(f) Transboundary Panel

The United States shall be represented on the Transboundary Panel by seven panel members, of whom—

(1) one shall be an official of the United States Government, with salmon fishery management responsibility and expertise;

(2) one shall be an official of the State of Alaska, with salmon fishery management responsibility and expertise; and

(3) five shall be individuals knowledgeable and experienced in the salmon fisheries for which the Transboundary Panel is responsible.

(g) Panel appointments

Panel members described in subsections (c)(2), (c)(3), (d)(2), and (e)(2) of this section shall be appointed by the Governor of the applicable State. Panel members described in subsections (c)(4) and (e)(3) of this section shall be appointed by the Secretary of the Interior from lists of nominations provided by the appropriate treaty Indian tribes. All other Panel members shall be appointed by the Secretary: *Provided*, That at least one member of the northern Panel shall be a voting member of the North Pacific Fishery Management Council, at least one member of the southern Panel shall be a voting member of the Pacific Fishery Management Council; and the Panel members described in subsections (c)(5), (d)(3), and (e)(4) of this section shall be appointed from lists of nominations provided by the Governors of the applicable States. For the northern, southern, and Fraser River panels, the appointing authorities listed above may also designate an alternate Panel member, meeting the same qualifications and having the same term of office, to service in the absence of a Panel member appointed under this subsection. Panel members and alternate Panel members, other than the southern Panel member described in subsection (c)(5) of this section, shall serve four-year terms; except that the Secretary of State shall designate one-half of the initial appointments to each Panel as serving two-year terms. The southern Panel member described in subsection (c)(5) of this section and the corresponding alternate shall each be appointed for one-year terms; the first such member shall be appointed from the commercial sector and an alternate shall be appointed from the recreational sector, with the alternate succeeding to the member position in the subsequent year; thereafter the member and alternate positions shall rotate between the commercial and recreational sectors on an annual basis. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term. Panel members and alternates shall be eligible for reappointment and may attend all meetings of the relevant United States Panel Section.

(h) Voting requirements

(1) Except as provided in paragraph (2), the United States Section shall operate with the objective of attaining consensus decisions in the development and exercise of its single vote within the Commission. A decision of the United States Section shall be taken when there is no dissenting vote.

(2) A decision of the United States Section with respect to any salmon fishery regime covered by chapter 1 or 2 (except paragraph 4 of chapter 2) of Annex IV to the Pacific Salmon Treaty of 1985 shall be taken upon the affirmative vote of the United States Commissioner appointed from the list submitted by the Governor of Alaska pursuant to subsection (a) of this sec-

tion. A decision of the United States Section with respect to any salmon fishery regime covered by chapter 4, 5 (except paragraph 2(b) of chapter 5), or 6 of the Pacific Salmon Treaty of 1985 shall be taken upon the affirmative vote of both the United States Commissioner appointed from the list submitted by the Governors of Washington and Oregon pursuant to subsection (a) of this section and the United States Commissioner appointed from the list submitted by the treaty Indian tribes of the State of Idaho, Oregon, or Washington pursuant to subsection (a) of this section. Before a decision of the United States Section is made under this paragraph, the voting Commissioner or Commissioners shall consult with the Commissioner who is an official of the United States Government under subsection (a) of this section[3]

(3) All decisions and recommendations of the United States Section of the northern, southern, and transboundary Panels shall require the concurring vote of a majority of the United States Panel members present and voting, except that decisions and recommendations of the southern Panel shall require the concurring vote of the members designated in subsections (c)(2) and (c)(3) of this section and one of those members designated in subsection (c)(4) of this section.

(4) All decisions and recommendations of the United States Section of the Fraser River Panel shall require the concurring vote of all United States Panel members present and voting, except that orders referred to in article VI(6) of the Treaty may be agreed to on the basis of a majority, provided that the Panel members representing the State and Tribal fishery management authorities concur.

(5) All decisions and recommendations of any joint Panel shall require the concurring votes of each Panel under the voting rules specified in paragraphs (2) and (3).

(6) To assist in the resolution of disputes affecting decisions of the United States Section or of the United States Panel sections, a three-person Conciliation Board may be established. The members of the Conciliation Board shall be selected by the United States Section as follows: each non-Federal Commissioner shall submit a list of no fewer than three qualified nominees; one person shall be selected from each list by consensus decision of the Federal Commissioner and the other two non-Federal Commissioners. The Conciliation Board shall operate under such bylaws as may be established by the United States Section.

(7) In any matter where the Fraser River Panel is unable to act because the United States Fraser River Panel members have been unable to reach a decision in accordance with paragraph (3) of this subsection, and upon a determination by the Chairman of the United States Section that an action of the Panel is required, the United States Section shall act for the United States Panel members in the Fraser River Panel.

(8) In any matter where the Secretary of State determines that the United States is in jeopardy of not fulfilling its international obligations under the Treaty, the Secretary of State shall so certify to the United States Section. Such certification shall include the reasons for such determination and shall specify the date by which a decision by the United States Section is desired. If the United States Section has not reached a decision by the date specified, the Secretary of State, after consultation with the Secretary and the Secretary of the Interior, shall report on the matter to the President.

(i) Consultation

In carrying out their functions under the Treaty, the Commissioners and Panel members may consult with such other interested parties as they consider appropriate. The Federal Advisory Committee Act [5 U.S.C. App.] shall not apply.

(Pub. L. 99–5, §3, Mar. 15, 1985, 99 Stat. 8; Pub. L. 99–5, §16(c), formerly Pub. L. 106–113, div. B, §1000(a)(1) [title VI, §623(c)], Nov. 29, 1999, 113 Stat. 1535, 1501A–59, renumbered Pub. L. 109–479, title III, §302(d)(1), Jan. 12, 2007, 120 Stat. 3623; Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(c)(5)], Dec. 21, 2000, 114 Stat. 2763, 2763A–239.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (i), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2000—Subsec. (f). Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(c)(5)(A)], added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(c)(5)(B), (C)], redesignated subsec. (f) as (g) and substituted ''For the northern, southern, and Fraser River panels, the appointing authorities'' for ''The appointing authorities''. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(c)(5)(B)], redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(3). Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(c)(5)(D)], substituted ''northern, southern, and transboundary'' for ''northern and southern''.

Subsec. (i). Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(c)(5)(B)], redesignated subsec. (h) as (i).

1999—Subsec. (g)(1). Pub. L. 99–5, §16(c)(1), formerly Pub. L. 106–113, §1000(a)(1) [title II, §623(c)(1)], as renumbered by Pub. L. 109–479, §302(d)(1), substituted ''Except as provided in paragraph (2), the'' for ''The''.

Subsec. (g)(2) to (8). Pub. L. 99–5, §16(c)(2), (3), formerly Pub. L. 106–113, §1000(a)(1) [title II, §623(c)(2), (3)], as renumbered by Pub. L. 109–479, §302(d)(1), added par. (2) and redesignated former pars. (2) to (7) as (3) to (8), respectively.

§3633. Authority and responsibility

(a) Secretary of State

The Secretary of State is authorized to—

(1) receive and transmit, on behalf of the United States, reports, requests, recommendations, proposals, and other communications of and to the Commission and Panels;

(2) in consultation with the Secretary and the Secretary of the Interior, approve, disapprove, object to, or withdraw objections to fishery regimes, including enhancement programs and Fraser River Panel regulations proposed in accordance with the Treaty, on the condition that the United States shall be obligated to carry out such regimes or regulations

[3] So in original. Probably should be followed by a period.

only to the extent that funds are made available for such purposes in appropriation Acts; and

(3) act upon, or refer to other appropriate authority, any communication referred to in paragraph (1) of this subsection other than a proposed fishery regime or Fraser River Panel regulation.

(b) States and treaty Indian tribes

Recommendations of the Commission on fishery regimes or Fraser River Panel regulations approved by the Secretary of State pursuant to subsection (a)(2) of this section shall be forwarded immediately to the States of Alaska, Oregon, Washington, and Idaho and to the treaty Indian tribes, as appropriate. In the exercise of their general fishery management authority, the States and treaty Indian tribes may adopt corresponding laws, regulations, or orders within their respective jurisdictions.

(c) Secretary of Commerce

In cooperation with the appropriate Regional Fishery Management Councils, States and treaty Indian tribes, the Secretary shall prepare, as appropriate, all statements, reports, and information required by the Treaty and submit such documents to the Secretary of State, who shall transmit them to the Commission.

(Pub. L. 99–5, § 4, Mar. 15, 1985, 99 Stat. 10.)

§ 3634. Interagency cooperation

(a) States, United States agencies, treaty Indian tribes, private institutions and organizations

In carrying out the provisions of the Treaty and this chapter, the Secretary, in consultation with the Secretary of the Interior, may arrange for cooperation with agencies of the United States, the States, treaty Indian tribes, private institutions and organizations, and may execute such memoranda as may be necessary to reflect such agreements.

(b) United States agencies; facilities and personnel

Agencies of the United States may cooperate in the conduct of scientific and other programs, and may furnish facilities and personnel, for the purposes of assisting the Commission and Panels in carrying out their responsibilities under the Treaty. Such agencies may accept reimbursement from the Commission for providing such services, facilities, and personnel.

(Pub. L. 99–5, § 5, Mar. 15, 1985, 99 Stat. 11.)

§ 3635. Preemption

If any State or treaty Indian tribe has taken any action, or omitted to take any action, the results of which place the United States in jeopardy of not fulfilling its international obligations under the Treaty, or any fishery regime or Fraser River Panel regulation adopted thereunder, the Secretary shall inform the State or tribe of the manner in which the action or inaction places the United States in jeopardy of not fulfilling its international obligations under the Treaty, of any remedial action which would relieve this concern, and of the intention to promulgate Federal regulations if such remedial actions are not undertaken within fifteen days unless an earlier action is required to avoid violation of United States Treaty obligations. Should United States action be required to meet Treaty obligations to Canada in respect to treaty Indian fisheries conducted in terminal areas subject to the continuing jurisdiction of a United States district court, such action shall be taken within the framework of such court jurisdiction. Otherwise, regulations may be promulgated by the Secretary pursuant to section 3636(a) of this title which shall supersede any State or treaty Indian tribal law, regulation or order determined by the Secretary to place the United States in jeopardy of not fulfilling its international obligations under the Treaty. Timely notice of all such determinations shall be disseminated by electronic media and shall be published in local newspapers in the major fishing ports affected and in the Federal Register. In order to enable the United States to fulfill its obligations under article IV(7) of the Treaty, the States of Alaska, Idaho, Oregon and Washington and the treaty Indian tribes shall advise the Secretary of all pertinent laws or regulations pertaining to the harvest of Pacific salmon, together with such amendments thereto as may be adopted from time to time.

(Pub. L. 99–5, § 6, Mar. 15, 1985, 99 Stat. 11.)

§ 3636. Rulemaking

(a) Promulgation of regulations by Secretary of Commerce

The Secretary, in consultation with the Secretary of the Interior, the Secretary of the Department in which the Coast Guard is operating and the appropriate Regional Fishery Management Council, shall promulgate such regulations as may be necessary to carry out the United States international obligations under the Treaty and this chapter, pursuant to section 3635 of this title, as well as conforming amendatory regulations applicable to the United States Exclusive Economic Zone. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located. Such regulations as are necessary and appropriate to carry out obligations of the United States under the Treaty involve a foreign affairs function, and as such shall not be subject to sections 553 through 557 of title 5, or the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

(b) Additions to fishery regimes and Fraser River Panel regulations

The Secretary, in cooperation with the Regional Fishery Management Councils, States, and treaty Indian tribes, may promulgate regulations applicable to nationals or vessels of the United States, or both, which are in addition to, and not in conflict with, fishery regimes and Fraser River Panel regulations adopted under the Treaty. Such regulations shall not discriminate between residents of different States.

(c) Judicial review

Regulations promulgated by the Secretary under this chapter shall be subject to judicial review by the district courts of the United States to the extent authorized by, and in ac-

cordance with, chapter 7 of title 5; except that section 705 of such title is not applicable, and the appropriate court shall only set aside any such regulation on a ground specified in section 706(2)(A), (B), (C), or (D) of such title. A civil action filed pursuant to this section shall be assigned for hearing at the earliest possible date, shall take precedence over other matters pending on the docket of the United States district court at that time, and shall be expedited in every way by such court and any appellate court.

(Pub. L. 99–5, §7, Mar. 15, 1985, 99 Stat. 12; Pub. L. 102–251, title III, §306(b), Mar. 9, 1992, 106 Stat. 66.)

AMENDMENT OF SUBSECTION (a)

Pub. L. 102–251, title III, §§306(b), 308, Mar. 9, 1992, 106 Stat. 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, subsection (a) is amended by inserting ''and special areas'' after ''Exclusive Economic Zone''.

REFERENCES IN TEXT

The National Environmental Policy Act, referred to in subsec. (a), probably means the National Environmental Policy Act of 1969, Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102–251, set out as a note under section 773 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 3637. Prohibited acts and penalties

(a) Unlawful acts

It is unlawful for any person or vessel subject to the jurisdiction of the United States—

(1) to violate any provision of this chapter, or of any regulation adopted hereunder, or of any Fraser River Panel regulation approved by the United States under the Treaty;

(2) to refuse to permit any officer authorized to enforce the provisions of this chapter to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this chapter;

(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in subparagraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this chapter; or

(6) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section.

(b) Civil penalty

Any person who commits any act that is unlawful under subsection (a) of this section shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson Act (16 U.S.C. 1858).

(c) Criminal penalty

Any person who commits an act that is unlawful under paragraph (2), (3), (4), or (6) of subsection (a) of this section shall be guilty of an offense punishable as provided by section 309(b) of the Magnuson Act (16 U.S.C. 1859(b)).

(d) Forfeiture

(1) Any vessel (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act which is prohibited under subsection (a) of this section, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act which is prohibited by subsection (a) of this section, shall be subject to forfeiture as provided by section 310 of the Magnuson Act (16 U.S.C. 1860).

(2) Any fish seized pursuant to this chapter may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulation of the Secretary.

(e) Enforcement authority

The Secretary and the Secretary of the Department in which the Coast Guard is operating shall enforce the provisions of this chapter and shall have the authority provided by subsections 311(a), (b)(1), and (c) of the Magnuson Act (16 U.S.C. 1861(a), (b)(1), and (c)).

(f) Jurisdiction

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this section and may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

(Pub. L. 99–5, §8, Mar. 15, 1985, 99 Stat. 12.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 3638. General standard

All actions taken under sections 3632(g),[1] 3633, 3635, and 3636 of this title shall—

(a) take into account the best scientific information available;

(b) result in measures necessary and appropriate for the conservation, management, utilization and development of the Pacific salmon resource, with due consideration of social and economic concerns; and

(c) be consistent with United States obligations under the Treaty, domestic Indian treaties and other applicable law.

(Pub. L. 99–5, § 9, Mar. 15, 1985, 99 Stat. 13.)

REFERENCES IN TEXT

Section 3632(g) of this title, referred to in text, was redesignated section 3632(h) of this title by Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 144(c)(5)(B)], Dec. 21, 2000, 114 Stat. 2763, 2763A–239.

§ 3639. Advisory committee

(a) Appointment; membership

The United States Section shall appoint an advisory committee of not less than twelve but not more than twenty members who are knowledgeable and experienced with respect to fisheries subject to the Treaty. One-half the membership of the committee shall be residents of the State of Alaska and one member shall be a resident of the State of Idaho. Each member shall serve a term of two years and shall be eligible for reappointment.

(b) Functions

Members of the advisory committee may attend all public meetings of the Commission and Panels and all nonexecutive sessions of the United States Section and United States Panel sections. At nonexecutive meetings of the United States Section and United States Panel sections, members of the advisory committee shall be given the opportunity to examine and to be heard on any nonadministrative matter under consideration.

(c) Compensation

The members of the advisory committee shall receive no compensation for their services as such members.

(d) Meetings

The Chairman of the United States Section shall call a meeting of the advisory committee at least one time each year.

(Pub. L. 99–5, § 10, Mar. 15, 1985, 99 Stat. 13.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3640. Administrative matters

(a) Compensation of Commissioners and Alternate Commissioners

Commissioners and Alternate Commissioners who are not State or Federal employees shall receive compensation at the daily rate of GS–18 of the General Schedule when engaged in the actual performance of duties for the United States Section or for the Commission.

(b) Compensation of Panel Members and Alternate Panel Members

Panel Members and Alternate Panel Members who are not State or Federal employees shall receive compensation at the daily rate of GS–16 of the General Schedule when engaged in the actual performance of duties for the United States Section or for the Commission.

(c) Travel; other expenses

Travel and other necessary expenses shall be paid for all United States Commissioners, Alternate Commissioners, Panel Members, Alternate Panel Members, members of the Joint Technical Committee, and members of the Advisory Committee when engaged in the actual performance of duties for the United States Section or for the Commission.

(d) Individuals not considered Federal employees

Except for officials of the United States Government, such individuals shall not be considered to be Federal employees while engaged in the actual performance of duties for the United States Section or for the Commission, except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 71[1] of title 28.

(Pub. L. 99–5, § 11, Mar. 15, 1985, 99 Stat. 14.)

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 3641. Authorization of appropriations

There are authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Treaty and this chapter including—

(a) necessary travel expenses of the Commissioners, Panel members, alternate Commissioners, alternate Panel members, United States members of joint technical committees

[1] See References in Text note below.

[1] So in original. Probably should be chapter ''171''.

established under article IV of the Treaty, and advisory committee members in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5;

(b) the United States share of the joint expenses of the Commission: *Provided*, That the United States Commissioners and Panel members and alternates shall not, with respect to commitments concerning the United States share of the joint expenses of the Organization, be subject to section 262b of title 22 insofar as it limits the authority of United States representatives to international organizations with respect to such commitments;

(c) amounts for research, enhancement, and other activities necessary to carry out the purposes of the Treaty and this chapter; and

(d) such amounts as may be due to settle accounts upon termination of the International Pacific Salmon Fisheries Commission.

(Pub. L. 99–5, §12, Mar. 15, 1985, 99 Stat. 14.)

§ 3642. Disposition of property of International Pacific Salmon Fisheries Commission

The Secretary of State shall dispose of any United States property held by the International Pacific Salmon Fisheries Commission on the date of its termination in a manner which would further the purposes of this chapter.

(Pub. L. 99–5, §13 (part), Mar. 15, 1985, 99 Stat. 15.)

CODIFICATION

Section consists of a part of section 13 of Pub. L. 99–5. The remainder of section 13 of Pub. L. 99–5 provided for the repeal, effective Dec. 31, 1985, of the Sockeye Salmon or Pink Salmon Fishing Act of 1947, act July 29, 1947, ch. 345, 61 Stat. 511, as amended, which was classified to chapter 10A (§776 et seq.) of this title.

§ 3643. Savings provision

This chapter shall not be interpreted or applied so as to affect or modify rights established in existing Indian treaties and other existing Federal laws, including the Order entered in Confederated Tribes and Bands of the Yakima Indian Nation v. Baldrige, Civil No. 80–342 (WD WASH.). This section shall not be interpreted or applied so as to affect or modify any rights or obligations of the United States pursuant to the Treaty.

(Pub. L. 99–5, §14, Mar. 15, 1985, 99 Stat. 15.)

§ 3644. Restriction on spending authority

New spending authority or authority to enter into contracts provided in this chapter shall be effective only to such extent, or in such amounts, as are provided in advance in appropriation Acts.

(Pub. L. 99–5, §15, Mar. 15, 1985, 99 Stat. 15.)

§ 3645. Northern and Southern Funds; treaty implementation; additional authorization of appropriations

(a) Northern Fund and Southern Fund

(1) As provided in the June 30, 1999, Agreement of the United States and Canada on the Treaty Between the Government of the United States and the Government of Canada Concerning Pacific Salmon, 1985 (hereafter referred to as the ''1999 Pacific Salmon Treaty Agreement'') there are hereby established a Northern Boundary and Transboundary Rivers Restoration and Enhancement Fund (hereafter referred to as the ''Northern Fund'') and a Southern Boundary Restoration and Enhancement Fund (hereafter referred to as the ''Southern Fund'') to be held by the Pacific Salmon Commission. The Northern Fund and Southern Fund shall be invested in interest bearing accounts, bonds, securities, or other investments in order to achieve the highest annual yield consistent with protecting the principal of each Fund. Income from investments made pursuant to this paragraph shall be available until expended, without appropriation or fiscal year limitation, for programs and activities relating to salmon restoration and enhancement, salmon research, the conservation of salmon habitat, and implementation of the Pacific Salmon Treaty and related agreements. Amounts provided by grants under this subsection may be held in interest bearing accounts prior to the disbursement of such funds for program purposes, and any interest earned may be retained for program purposes without further appropriation. The Northern Fund and Southern Fund are subject to the laws governing Federal appropriations and funds and to unrestricted circulars of the Office of Management and Budget. Recipients of amounts from either Fund shall keep separate accounts and such records as are reasonably necessary to disclose the use of the funds as well as to facilitate effective audits.

(2) FUND MANAGEMENT.—

(A) As provided in the 1999 Pacific Salmon Treaty Agreement, amounts made available from the Northern Fund pursuant to paragraph (1) shall be administered by a Northern Fund Committee, which shall be comprised of three representatives of the Government of Canada, and three representatives of the United States. The three United States representatives shall be the United States Commissioner and Alternate Commissioner appointed (or designated) from a list submitted by the Governor of Alaska for appointment to the Pacific Salmon Commission and the Regional Administrator of the National Marine Fisheries Service for the Alaska Region. Only programs and activities consistent with the purposes in paragraph (1) which affect the geographic area from Cape Caution, Canada to Cape Suckling, Alaska may be approved for funding by the Northern Fund Committee.

(B) As provided in the 1999 Pacific Salmon Treaty Agreement, amounts made available from the Southern Fund pursuant to paragraph (1) shall be administered by a Southern Fund Committee, which shall be comprised of three representatives of Canada and three representatives of the United States. The United States representatives shall be appointed by the Secretary of Commerce: one shall be selected from a list of three qualified individuals submitted by the Governors of the States of Washington and Oregon; one shall be selected from a list of three qualified individuals submitted by the treaty Indian tribes (as defined

by the Secretary of Commerce); and one shall be the Regional Administrator of the National Marine Fisheries Service for the Northwest Region. Only programs and activities consistent with the purposes in paragraph (1) which affect the geographic area south of Cape Caution, Canada may be approved for funding by the Southern Fund Committee.

(b) Pacific Salmon Treaty implementation

(1) None of the funds authorized by this section for implementation of the 1999 Pacific Salmon Treaty Agreement shall be made available until each of the following conditions to the 1999 Pacific Salmon Treaty Agreement has been fulfilled—

(A) stipulations are revised and court orders requested as set forth in the letter of understanding of the United States negotiators dated June 22, 1999. If such orders are not requested by December 31, 1999, this condition shall be considered unfulfilled; and

(B) a determination is made that—

(i) the entry by the United States into the 1999 Pacific Salmon Treaty Agreement;

(ii) the conduct of the Alaskan fisheries pursuant to the 1999 Pacific Salmon Treaty Agreement, without further clarification or modification of the management regimes contained therein; and

(iii) the decision by the North Pacific Fisheries Management Council to continue to defer its management authority over salmon to the State of Alaska are not likely to cause jeopardy to, or adversely modify designated critical habitat of, any salmonid species listed under Public Law 93–205, as amended [16 U.S.C. 1531 et seq.], in any fishery subject to the Pacific Salmon Treaty.

(2) If the requests for orders in subparagraph (1)(A) are withdrawn after December 31, 1999, or if such orders are not entered by March 1, 2000, amounts in the Northern Fund and the Southern Fund shall be transferred to the general fund of the United States Treasury.

(3) During the term of the 1999 Pacific Salmon Treaty Agreement, the Secretary of Commerce shall determine whether Southern United States fisheries are likely to cause jeopardy to, or adversely modify designated critical habitat of, any salmonid species listed under Public Law 93–205, as amended, before the Secretary of Commerce may initiate or reinitiate consultation on Alaska fisheries under such Act.

(4) During the term of the 1999 Pacific Salmon Treaty Agreement, the Secretary of Commerce may not initiate or reinitiate consultation on Alaska fisheries under section 7 of Public Law 93–205, as amended [16 U.S.C. 1536], until—

(A) the Pacific Salmon Commission has had a reasonable opportunity to implement the provisions of the 1999 Pacific Salmon Treaty Agreement, including the harvest responses pursuant to paragraph 9, chapter 3 of Annex IV to the Pacific Salmon Treaty; and

(B) he determines, in consultation with the United States Section of the Pacific Salmon Commission, that implementation actions under the 1999 Agreement will not return escapements as expeditiously as possible to maximum sustainable yield or other biologically-based escapement objectives agreed to by the Pacific Salmon Commission.

(5) The Secretary of Commerce shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives of his intent to initiate or reinitiate consultation on Alaska fisheries.

(6)(A) For purposes of this section, ''Alaska fisheries'' means all directed Pacific salmon fisheries off the coast of Alaska that are subject to the Pacific Salmon Treaty.

(B) For purposes of this section, ''Southern United States fisheries'' means all directed Pacific salmon fisheries in Washington, Oregon, and the Snake River basin of Idaho that are subject to the Pacific Salmon Treaty.

(c) Omitted

(d) Authorization of appropriations

(1) Pacific Salmon Treaty

(A) For capitalizing the Northern Fund there is authorized to be appropriated in fiscal years 2000, 2001, 2002, and 2003 a total of $75,000,000.

(B) For capitalizing the Southern Fund there is authorized to be appropriated in fiscal years 2000, 2001, 2002, and 2003 a total of $65,000,000.

(C) To provide economic adjustment assistance to fishermen pursuant to the 1999 Pacific Salmon Treaty Agreement, there is authorized to be appropriated in fiscal years 2000, 2001, and 2002 a total of $30,000,000.

(2) Pacific coastal salmon recovery

(A) For salmon habitat restoration, salmon stock enhancement, sustainable salmon fisheries, and salmon research, including the construction of salmon research and related facilities, there is authorized to be appropriated for each of fiscal years 2000, 2001, 2002, and[1] 2003, 2005, 2006, 2007, 2008, and 2009, $90,000,000 to the States of Alaska, Washington, Oregon, Idaho, Nevada, and California. Amounts appropriated pursuant to this subparagraph shall be made available as direct payments. The State of Alaska may allocate a portion of any funds it receives under this subsection to eligible activities outside Alaska.

(B) For salmon habitat restoration, salmon stock enhancement, salmon research, and supplementation activities, there is authorized to be appropriated in each of fiscal years 2000, 2001, 2002, and 2003, $10,000,000 to be divided between the Pacific Coastal tribes (as defined by the Secretary of Commerce) and the Columbia River tribes (as defined by the Secretary of Commerce).

(Pub. L. 99–5, § 16, formerly Pub. L. 106–113, div. B, § 1000(a)(1) [title VI, § 623], Nov. 29, 1999, 113 Stat. 1535, 1501A–56; Pub. L. 106–553, § 1(a)(2) [title VI, § 628], Dec. 21, 2000, 114 Stat. 2762, 2762A–108; Pub. L. 108–447, div. B, title II, Dec. 8, 2004, 118 Stat. 2881; renumbered Pub. L. 99–5, § 16, and amended Pub. L. 109–479, title III, § 302(d), Jan. 12, 2007, 120 Stat. 3623; Pub. L. 111–8, div. B, title I, § 110, Mar. 11, 2009, 123 Stat. 569.)

[1] So in original. The word ''and'' probably should not appear.

REFERENCES IN TEXT

Public Law 93–205, referred to in subsec. (b)(1)(B)(iii), (3), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, known as the Endangered Species Act of 1973, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

CODIFICATION

Section is comprised of section 16 of Pub. L. 99–5. Section 16(c) of Pub. L. 99–5 amended section 3632 of this title.

Pub. L. 109–479, § 302(d)(1), which directed that the text of section 623 of title VI of H.R. 3421 (113 Stat. 1501A–56), as introduced on November 17, 1999, enacted into law by section 1000(a)(1) of Pub. L. 106–113 and amended by Pub. L. 106–533, 114 Stat. 2762A–108, be transferred to and renumbered as section 16 of the Pacific Salmon Treaty Act, was executed by transferring Pub. L. 106–113, div. B, § 1000(a)(1) [title VI, § 623], as amended by Pub. L. 106–553, § 1(a)(2) [title VI, § 628], to and renumbering it as section 16 of Pub. L. 99–5, which is the Pacific Salmon Treaty Act of 1985, to reflect the probable intent of Congress. See source credit above.

AMENDMENTS

2009—Subsec. (d)(2)(A). Pub. L. 111–8, which directed amendment of ''Section (d)(2)(A) of title 16 U.S.C. 3645'' by inserting ''Nevada,'' after ''Idaho,'', was executed by making the amendment to section 16 of Pub. L. 99–5, which is classified to this section, to reflect the probable intent of Congress.

2007—Pub. L. 109–479, § 302(d)(1)(B)(ii), inserted section catchline.

Subsec. (d)(2)(A). Pub. L. 109–479, § 302(d)(2), inserted ''sustainable salmon fisheries,'' after ''enhancement,'', ''2005, 2006, 2007, 2008, and 2009,'' after ''2003,'', and ''Idaho,'' after ''Oregon,''.

2004—Pub. L. 108–447, which directed the amendment of section 628(2)(A) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, Pub. L. 106–553, by substituting ''2005'' for ''2000, 2001, 2002, and 2003'' and inserting ''Idaho,'' after ''Oregon,'', was not executed, because this section was enacted by Pub. L. 106–113, and section 628 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, was an amendatory provision. See 2007 Amendment note above and 2000 Amendment note below.

2000—Subsec. (a)(1). Pub. L. 106–553, § 1(a)(2) [title VI, § 628(a)], which directed the amendment of par. (1) by striking out ''The Northern Fund and Southern Fund shall each receive $10,000,000 of the amounts authorized by this section.'', was executed by striking out ''The Northern Fund and Southern Fund shall each receive $10,000,000, of the amounts authorized by this section.'' after the second sentence, to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 106–553, § 1(a)(2) [title VI, § 628(b)], added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows:

''(1) For capitalizing the Northern Fund and the Southern Fund, there is authorized to be appropriated in fiscal year 2000, $20,000,000.

''(2) For salmon habitat restoration, salmon stock enhancement, salmon research, and implementation of the 1999 Pacific Salmon Treaty Agreement and related agreements, there is authorized to be appropriated in fiscal year 2000, $50,000,000 to the States of California, Oregon, Washington, and Alaska. The State of Alaska may allocate a portion of any funds it receives under this subsection to eligible activities outside Alaska.

''(3) For salmon habitat restoration, salmon stock enhancement, salmon research, and implementation of the 1999 Pacific Salmon Treaty Agreement and related agreements, there is authorized to be appropriated $6,000,000 in fiscal year 2000 to the Pacific Coastal tribes (as defined by the Secretary of Commerce) and $2,000,000 in fiscal year 2000 to the Columbia River tribes (as defined by the Secretary of Commerce).

Funds appropriated to the States under the authority of this section shall be subject to a 25 percent non-Federal match requirement. In addition, not more than 3 percent of such funds shall be available for administrative expenses, with the exception of funds used in the Washington State for the Forest and Fish Agreement.''

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

CHAPTER 57—NATIONAL FISH AND WILDLIFE FOUNDATION

Sec.
3701. Establishment and purposes of Foundation.
3702. Board of Directors of Foundation.
3703. Rights and obligations of Foundation.
3704. Administrative services and support.
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3706. Audits, report requirements, and petition of Attorney General for equitable relief.
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§ 3701. Establishment and purposes of Foundation

(a) Establishment

There is established the National Fish and Wildlife Foundation (hereinafter in this chapter referred to as the ''Foundation''). The Foundation is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) Purposes

The purposes of the Foundation are—

(1) to encourage, accept, and administer private gifts of property for the benefit of, or in connection with, the activities and services of the United States Fish and Wildlife Service and the National Oceanic and Atmospheric Administration, to further the conservation and management of fish, wildlife, plants, and other natural resources;

(2) to undertake and conduct such other activities as will further the conservation and management of the fish, wildlife, and plant resources of the United States, and its territories and possessions, for present and future generations of Americans; and

(3) to participate with, and otherwise assist, foreign governments, entities, and individuals in undertaking and conducting activities that will further the conservation and management of the fish, wildlife, and plant resources of other countries.

(Pub. L. 98–244, § 2, Mar. 26, 1984, 98 Stat. 107; Pub. L. 100–240, § 1(a), Jan. 11, 1988, 101 Stat. 1785; Pub. L. 103–232, title I, § 102, Apr. 11, 1994, 108 Stat. 336; Pub. L. 106–408, title II, § 202, Nov. 1, 2000, 114 Stat. 1777.)

AMENDMENTS

2000—Subsec. (b)(1). Pub. L. 106–408 added par. (1) and struck out former par. (1) which read as follows: ''to en-

courage, accept, and administer private gifts of property for the benefit of, or in connection with, the activities and services of the United States Fish and Wildlife Service and the National Oceanic and Atmospheric Administration;''.

1994—Subsec. (b)(1). Pub. L. 103–232 inserted before semicolon at end ''and the National Oceanic and Atmospheric Administration''.

1988—Subsec. (b)(3). Pub. L. 100–240 added par. (3).

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–281, § 1, July 21, 2008, 122 Stat. 2617, provided that: ''This Act [amending section 3702 of this title] may be cited as the 'National Fish and Wildlife Foundation Establishment Act Amendment of 2008'.''

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–363, title II, § 201, Oct. 17, 2006, 120 Stat. 2075, provided that: ''This title [amending sections 3703 and 3709 of this title] may be cited as the 'National Fish and Wildlife Foundation Reauthorization Act of 2006'.''

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–408, title II, § 201, Nov. 1, 2000, 114 Stat. 1777, provided that: ''This title [enacting section 3710 of this title, amending this section and sections 3702, 3703, 3705, 3706, and 3709 of this title, and repealing provisions set out as a note under section 3703 of this title] may be cited as the 'National Fish and Wildlife Foundation Establishment Act Amendments of 2000'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–277, div. A, § 101(b) [title IX, § 901], Oct. 21, 1998, 112 Stat. 2681–50, 2681–119, provided that: ''This title [amending section 3703 of this title and enacting provisions set out as a note under section 3703 of this title] may be cited as the 'National Whale Conservation Fund Act of 1998'.''

SHORT TITLE OF 1994 AMENDMENT

Section 101 of title I of Pub. L. 103–232 provided that: ''This title [amending this section and sections 3702 and 3709 of this title and enacting provisions listed in a table of National Environmental Centers set out under section 668dd of this title and provisions set out as notes under section 3702 of this title] may be cited as the 'National Fish and Wildlife Foundation Improvement Act of 1994'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–593, title I, § 110(a), Nov. 16, 1990, 104 Stat. 2959, provided that: ''This section [amending sections 3702 and 3709 of this title] may be cited as the 'National Fish and Wildlife Foundation Establishment Act Amendments of 1990'.''

SHORT TITLE

Section 1 of Pub. L. 98–244 provided that: ''This Act [enacting this chapter] may be cited as the 'National Fish and Wildlife Foundation Establishment Act'.''

§ 3702. Board of Directors of Foundation

(a) Establishment and membership

(1) In general

The Foundation shall have a governing Board of Directors (referred to in this chapter as the ''Board''), which shall consist of 30 Directors appointed in accordance with subsection (b), each of whom shall be a United States citizen.

(2) Representation of diverse points of view

To the maximum extent practicable, the membership of the Board shall represent diverse points of view relating to conservation and management of fish, wildlife, plants, and other natural resources.

(3) Not Federal employees

Appointment as a Director of the Foundation shall not constitute employment by, or the holding of an office of, the United States for the purpose of any Federal law.

(b) Appointment and terms

(1) Agency heads

The Director of the United States Fish and Wildlife Service and the Under Secretary of Commerce for Oceans and Atmosphere shall be Directors of the Foundation.

(2) Appointments by the Secretary of the Interior

(A) In general

Subject to subparagraph (B), after consulting with the Secretary of Commerce and considering the recommendations submitted by the Board, the Secretary of the Interior shall appoint 23 Directors who meet the criteria established by subsection (a) of this section, of whom—

(i) at least six shall be educated or experienced in fish, wildlife, or other natural resource conservation;

(ii) at least four shall be educated or experienced in the principles of fish, wildlife, or other natural resource management; and

(iii) at least four shall be educated or experienced in ocean and coastal resource conservation.

(B) Transition provision

(i) Continuation of terms

The 15 Directors serving on the Board as of November 1, 2000, shall continue to serve until the expiration of their terms.

(ii) New Directors

Subject to paragraph (3), the Secretary of the Interior shall appoint eight new Directors.

(3) Terms

(A) In general

Subject to subparagraph (B), each Director (other than a Director described in paragraph (1)) shall be appointed for a term of 6 years.

(B) Initial appointments to new member positions

Of the Directors appointed by the Secretary of the Interior under paragraph (2)(B)(ii), the Secretary shall appoint, in fiscal year 2001, three Directors for a term of 6 years.

(C) Subsequent appointments to new member positions

Of the Directors appointed by the Secretary of the Interior under paragraph (2)(B)(ii), the Secretary shall appoint, in fiscal year 2002—

(i) two Directors for a term of 2 years; and

(ii) three Directors for a term of 4 years.

(4) Vacancies

(A) In general

The Secretary of the Interior shall fill a vacancy on the Board.

(B) Term of appointments to fill unexpired terms

An individual appointed to fill a vacancy that occurs before the expiration of the term of a Director shall be appointed for the remainder of the term.

(5) Reappointment

An individual (other than an individual described in paragraph (1)) shall not serve more than 2 consecutive terms as a Director, excluding any term of less than 6 years.

(6) Request for removal

The executive committee of the Board may submit to the Secretary of the Interior a letter describing the nonperformance of a Director and requesting the removal of the Director from the Board.

(7) Consultation before removal

Before removing any Director from the Board, the Secretary of the Interior shall consult with the Secretary of Commerce.

(c) Chairman

The Chairman shall be elected by the Board from its members for a two-year term.

(d) Quorum

A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(e) Meetings

The Board shall meet at the call of the Chairman at least once a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board and that vacancy filled in accordance with subsection (b) of this section.

(f) Reimbursement of expenses

Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(g) General powers

(1) The Board may complete the organization of the Foundation by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this chapter; and

(C) undertaking of other such acts as may be necessary to carry out the provisions of this chapter.

(2) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(A) Officers and employees may not be appointed until the Foundation has sufficient funds to pay them for their service. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(B) The first officer or employee appointed by the Board shall be the Secretary of the Board who (i) shall serve, at the direction of the Board, as its chief operating officer, and (ii) shall be knowledgeable and experienced in matters relating to fish and wildlife conservation.

(Pub. L. 98–244, §3, Mar. 26, 1984, 98 Stat. 107; Pub. L. 101–593, title I, §110(b), Nov. 16, 1990, 104 Stat. 2959; Pub. L. 103–232, title I, §103(a)(1), (b), Apr. 11, 1994, 108 Stat. 336; Pub. L. 106–408, title II, §203(a), (b), Nov. 1, 2000, 114 Stat. 1777, 1778; Pub. L. 110–281, §2, July 21, 2008, 122 Stat. 2617.)

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–281 added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: ''The Foundation shall have a governing Board of Directors (referred to in this chapter as the 'Board'), which shall consist of 25 Directors appointed in accordance with subsection (b) of this section, each of whom shall be a United States citizen.''

2000—Subsec. (a). Pub. L. 106–408, §203(a), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: ''The Foundation shall have a governing Board of Directors (hereinafter referred to in this chapter as the 'Board'), which shall consist of 15 Directors, each of whom shall be a United States citizen and—

''(1) six of whom must be knowledgeable or experienced in fish and wildlife conservation; and

''(2) 4 of whom must be educated and experienced in the principles of fish and wildlife management.

The membership of the Board, to the extent practicable, shall represent diverse points of view relating to fish and wildlife conservation. The Director of the United States Fish and Wildlife Service shall be an ex officio nonvoting member of the Board. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.''

Subsec. (b). Pub. L. 106–408, §203(b), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: ''By December 31, 1984, the Secretary of the Interior (hereinafter referred to in this chapter as the 'Secretary') shall appoint the Directors of the Board. The Directors shall be appointed for terms of six years; except that the Secretary, in making the initial appointments to the Board, shall appoint three Directors to a term of two years, three Directors to a term of four years, and three Directors to a term of six years. A vacancy on the Board shall be filled within sixty days of said vacancy in the manner in which the original appointment was made. No individual may serve more than two consecutive terms as a Director. The Secretary of the Interior shall consult with the Under Secretary of Commerce for Oceans and Atmosphere before appointing any Director of the Board.''

1994—Subsec. (a). Pub. L. 103–232, §103(b), substituted ''15 Directors'' for ''nine Directors'' in introductory provisions and ''4'' for ''three'' in par. (2).

Subsec. (b). Pub. L. 103–232, §103(a)(1), inserted at end ''The Secretary of the Interior shall consult with the Under Secretary of Commerce for Oceans and Atmosphere before appointing any Director of the Board.''

1990—Subsec. (g)(2)(A). Pub. L. 101–593 struck out '', except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule'' after ''General Schedule pay rates''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 103(a)(2) of Pub. L. 103–232 provided that: ''The amendment made by paragraph (1) [amending this

section] shall apply to appointments of Directors of the Board of Directors of the National Fish and Wildlife Foundation made after the date of the enactment of this Act [Apr. 11, 1994].''

INITIAL TERMS OF SIX NEW DIRECTORS

Section 103(c) of Pub. L. 103–232 provided that: ''Of the Directors on the Board of Directors of the National Fish and Wildlife Foundation first appointed pursuant to the amendment made by subsection (b)(1) [amending this section], notwithstanding the second sentence of section 3(b) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(b))—

''(1) 2 shall be appointed to a term of 2 years;

''(2) 2 shall be appointed to a term of 4 years; and

''(3) 2 shall be appointed to a term of 6 years;

as specified by the Secretary of the Interior at the time of appointment.''

COMPLETION OF APPOINTMENTS

Section 103(d) of Pub. L. 103–232 provided that: ''The Secretary of the Interior shall appoint the additional members of the Board of Directors of the National Fish and Wildlife Foundation authorized by the amendment made by subsection (a) [(b)] [amending this section], by not later than 60 days after the date of the enactment of this Act [Apr. 11, 1994].''

AUTHORITY OF BOARD NOT AFFECTED

Section 103(e) of Pub. L. 103–232 provided that: ''The authority of the Board of Directors of the National Fish and Wildlife Foundation to take any action otherwise authorized by law shall not be affected by reason of the Secretary of the Interior not having completed the appointment of Directors of the Board of Directors of the National Fish and Wildlife Foundation pursuant to the amendment made by subsection (b)(1) [amending this section].''

§ 3703. Rights and obligations of Foundation

(a) In general

The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States and abroad;

(3) shall have its principal offices in the District of Columbia or in a county in the State of Maryland or Virginia that borders on the District of Columbia; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The serving of notice to, or service of process upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) Seal

The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) Powers

To carry out its purposes under section 3701 of this title, the Foundation shall have, in addition to the powers otherwise given it under this chapter, the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) to accept, receive, solicit, hold, administer and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein, subject to subsection (e) of this section;

(3) to invest any funds provided to the Foundation by the Federal Government in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States;

(4) to deposit any funds provided to the Foundation by the Federal Government into accounts that are insured by an agency or instrumentality of the United States;

(5) to make use of any interest or investment income that accrues as a consequence of actions taken under paragraph (3) or (4) to carry out the purposes of the Foundation;

(6) to use Federal funds to make payments under cooperative agreements entered into with willing private landowners to provide substantial long-term benefits for the restoration or enhancement of fish, wildlife, plants, and other natural resources on private land;

(7) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom;

(8) to borrow money and issue bonds, debentures, or other debt instruments;

(9) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the Directors of the Foundation shall not be personally liable, except for gross negligence;

(10) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its function; and

(11) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

For purposes of this chapter, an interest in real property shall be treated as including, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational, or recreational resources. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

(d) Certain lands, waters, and interests not subject to condemnation

No lands or waters, or interests therein, that are owned by the Foundation and are determined by the Director of the United States Fish and Wildlife Service or the Migratory Bird Conservation Commission, as the case may be, to be valuable for purposes of fish and wildlife conservation or management shall be subject to condemnation by any State or political subdivision, or any agent or instrumentality thereof.

(e) Acquisition, management, and disposal of real property

(1) The Foundation may only use Federal funds for the acquisition of interests in real property if—

(A) the interest is a long-term property interest, and

(B) the Foundation notifies the Federal agency that administers the program under which the funds were provided of the proposed acquisition, and the agency does not object in writing to the proposed acquisition within 60 calendar days after the date of the notification.

(2) The Foundation shall convey to the United States Fish and Wildlife Service for inclusion within the National Wildlife Refuge System any real property acquired by the Foundation in whole or in part with Federal funds if the Director, within one year after the date on which the property was acquired by the Foundation, requests the conveyance in writing.

(3)(A) Subject to subparagraph (B), the Foundation may—

(i) convey to another person any real property acquired in whole or in part with Federal funds and not conveyed under paragraph (2); and

(ii) grant or otherwise provide Federal funds to another person for purposes of assisting that person to acquire real property in whole or in part with such funds.

(B) The Foundation may only make a conveyance or provide Federal funds under subparagraph (A) if—

(i) the conveyance or provision is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation and management of fish and wildlife and in a manner that will provide for appropriate public access and use; and

(ii) the Foundation notifies the Federal agency that administers the Federal program under which the funds were provided of the proposed conveyance or provision of Federal funds, and the agency does not object in writing to the proposed conveyance or provision of Federal funds within 60 calendar days after the date of the notification.

(4) All real property acquired by the Foundation in whole or in part with Federal funds and held by it shall be administered for the conservation and management of fish and wildlife and in a manner that will provide for appropriate public access and use.

(5) RECONVEYANCE OF REAL PROPERTY.—The Foundation shall convey at not less than fair market value any real property acquired by the Foundation in whole or in part with Federal funds if the Foundation notifies the Federal agency that administers the Federal program under which the funds were provided, and the agency does not disagree within 60 calendar days after the date of the notification, that—

(A) the property is no longer valuable for the purpose of conservation or management of fish, wildlife, plants, and other natural resources; and

(B) the purposes of the Foundation would be better served by use of the proceeds of the conveyance for other authorized activities of the Foundation.

(f) Establishment of national whale conservation endowment fund

(1) In carrying out the purposes under section 3701(b) of this title, the Foundation may establish a national whale conservation endowment fund, to be used by the Foundation to support research, management activities, or educational programs that contribute to the protection, conservation, or recovery of whale populations in waters of the United States.

(2)(A) In a manner consistent with subsection (c)(1) of this section, the Foundation may—

(i) accept, receive, solicit, hold, administer, and use any gift, devise, or bequest made to the Foundation for the express purpose of supporting whale conservation; and

(ii) deposit in the endowment fund under paragraph (1) any funds made available to the Foundation under this subparagraph, including any income or interest earned from a gift, devise, or bequest received by the Foundation under this subparagraph.

(B) To raise funds to be deposited in the endowment fund under paragraph (1), the Foundation may enter into appropriate arrangements to provide for the design, copyright, production, marketing, or licensing, of logos, seals, decals, stamps, or any other item that the Foundation determines to be appropriate.

(C)(i) The Secretary of Commerce may transfer to the Foundation for deposit in the endowment fund under paragraph (1) any amount (or portion thereof) received by the Secretary under section 1375(a)(1) of this title as a civil penalty assessed by the Secretary under that section.

(ii) The Directors of the Board shall ensure that any amounts transferred to the Foundation under clause (i) for the endowment fund under paragraph (1) are deposited in that fund in accordance with this subparagraph.

(3) It is the intent of Congress that in making expenditures from the endowment fund under paragraph (1) to carry out activities specified in that paragraph, the Foundation should give priority to funding projects that address the conservation of populations of whales that the Foundation determines—

(A) are the most endangered (including the northern right whale (Eubaleana glacialis)); or

(B) most warrant, and are most likely to benefit from, research management, or educational activities that may be funded with amounts made available from the fund.

(g) Consultation

In carrying out any action on the part of the Foundation under subsection (f) of this section, the Directors of the Board shall consult with the Administrator of the National Oceanic and Atmospheric Administration and the Marine Mammal Commission.

(h) Expenditures for printing services or capital equipment

The Foundation shall not make any expenditure of Federal funds in connection with any one transaction for printing services or capital equipment that is greater than $10,000 unless the expenditure is approved by the Federal agency that administers the Federal program under which the funds were provided.

(i) Notice to Members of Congress

The Foundation shall not make a grant of Federal funds in an amount greater than $10,000 unless, by not later than 30 days before the

grant is made, the Foundation provides notice of the grant to the Member of Congress for the congressional district in which the project to be funded with the grant will be carried out.

(Pub. L. 98–244, § 4, Mar. 26, 1984, 98 Stat. 108; Pub. L. 100–240, §§ 1(b), 2(a), (b)(1), Jan. 11, 1988, 101 Stat. 1785, 1786; Pub. L. 105–277, div. A, § 101(b) [title IX, § 903], Oct. 21, 1998, 112 Stat. 2681–50, 2681–120; Pub. L. 106–408, title II, §§ 203(c)(1), 204(a)–(c), (e)–(g), 206, Nov. 1, 2000, 114 Stat. 1779, 1780; Pub. L. 109–363, title II, § 203, Oct. 17, 2006, 120 Stat. 2075.)

AMENDMENTS

2006—Subsec. (i). Pub. L. 109–363 substituted ''grant of Federal funds in an amount greater than $10,000'' for ''grant of funds''.

2000—Subsec. (a)(3). Pub. L. 106–408, § 204(a), inserted ''or in a county in the State of Maryland or Virginia that borders on the District of Columbia'' after ''the District of Columbia''.

Subsec. (c)(3), (4). Pub. L. 106–408, § 204(b)(2), added pars. (3) and (4). Former pars. (3) and (4) redesignated (7) and (8), respectively.

Subsec. (c)(5). Pub. L. 106–408, § 204(b)(2), added par. (5). Former par. (5) redesignated (9).

Pub. L. 106–408, § 203(c)(1), substituted ''Directors of the Foundation'' for ''Directors of the Board''.

Subsec. (c)(6) to (11). Pub. L. 106–408, § 204(b), added par. (6) and redesignated former pars. (3) to (7) as (7) to (11), respectively.

Subsec. (e)(1)(B). Pub. L. 106–408, § 204(c), added subpar. (B) and struck out former subpar. (B) which read as follows: ''the Director of the United States Fish and Wildlife Service (hereafter in this subsection referred to as the 'Director') consents to the acquisition in writing.''

Subsec. (e)(3)(B)(ii). Pub. L. 106–408, § 204(e), added cl. (ii) and struck out former cl. (ii) which read as follows: ''the Director finds that conveyance or provision of Federal funds meets the requirements of clause (i) and consents to it in writing.''

Subsec. (e)(5). Pub. L. 106–408, § 204(f), added par. (5) and struck out former par. (5) which read as follows: ''The Foundation shall convey at not less than fair-market value any real property acquired by it in whole or in part with Federal funds if the Foundation and the Director determine, in writing, that—

''(A) the land is no longer valuable for the purposes of fish and wildlife conservation or management, and

''(B) the purposes of the Foundation would be better served by the use of the Federal funds for other authorized activities of the Foundation.''

Subsec. (h). Pub. L. 106–408, § 204(g), added subsec. (h).

Subsec. (i). Pub. L. 106–408, § 206, added subsec. (i).

1998—Subsecs. (f), (g). Pub. L. 105–277 added subsecs. (f) and (g).

1988—Subsec. (a)(2). Pub. L. 100–240, § 1(b), inserted ''and abroad'' after ''United States''.

Subsec. (c)(2). Pub. L. 100–240, § 2(b), inserted '', subject to subsection (e) of this section'' after ''therein''.

Subsec. (e). Pub. L. 100–240, § 2(a), added subsec. (e).

CONGRESSIONAL FINDINGS—NATIONAL WHALE CONSERVATION

Pub. L. 105–277, div. A, § 101(b) [title IX, § 902], Oct. 21, 1998, 112 Stat. 2681–50, 2681–119, provided that: ''Congress finds that—

''(1) the populations of whales that occur in waters of the United States are resources of substantial ecological, scientific, socioeconomic, and esthetic value;

''(2) whale populations—

''(A) form a significant component of marine ecosystems;

''(B) are the subject of intense research;

''(C) provide for a multimillion dollar whale watching tourist industry that provides the public an opportunity to enjoy and learn about great whales and the ecosystems of which the whales are a part; and

''(D) are of importance to Native Americans for cultural and subsistence purposes;

''(3) whale populations are in various stages of recovery, and some whale populations, such as the northern right whale (Eubaleana glacialis) remain perilously close to extinction;

''(4) the interactions that occur between ship traffic, commercial fishing, whale watching vessels, and other recreational vessels and whale populations may affect whale populations adversely;

''(5) the exploration and development of oil, gas, and hard mineral resources, marine debris, chemical pollutants, noise, and other anthropogenic sources of change in the habitat of whales may affect whale populations adversely;

''(6) the conservation of whale populations is subject to difficult challenges related to—

''(A) the migration of whale populations across international boundaries;

''(B) the size of individual whales, as that size precludes certain conservation research procedures that may be used for other animal species, such as captive research and breeding;

''(C) the low reproductive rates of whales that require long-term conservation programs to ensure recovery of whale populations; and

''(D) the occurrence of whale populations in offshore waters where undertaking research, monitoring, and conservation measures is difficult and costly;

''(7)(A) the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, has research and regulatory responsibility for the conservation of whales under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.); and

''(B) the heads of other Federal agencies and the Marine Mammal Commission established under section 201 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1401) have related research and management activities under the Marine Mammal Protection Act of 1972 or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

''(8) the funding available for the activities described in paragraph (8) [(7)] is insufficient to support all necessary whale conservation and recovery activities; and

''(9) there is a need to facilitate the use of funds from non-Federal sources to carry out the conservation of whales.''

DRAW DOWN OF FEDERAL FUNDS; EXEMPTION FROM AUDIT REQUIREMENTS

Pub. L. 102–440, title III, § 304, Oct. 23, 1992, 106 Stat. 2235, which provided that the National Fish and Wildlife Foundation could continue to draw down Federal funds when matching requirements had been met, that interest earned on funds already drawn down was to be used to fund all activities as approved by the Board of Directors, and that Foundation subgrantees would be exempt from the audit reporting and compliance requirements of OMB Circular A–133, for all grants of $100,000 or less, was repealed by Pub. L. 106–408, title II, § 204(d), Nov. 1, 2000, 114 Stat. 1779.

§ 3704. Administrative services and support

(a) Provision of services

The Secretary may provide personnel, facilities, and other administrative services to the Foundation, including reimbursement of expenses under section 3702 of this title, not to exceed then current Federal Government per diem rates, for a period of up to five years from March 26, 1984.

(b) Reimbursement

The Foundation may reimburse the Secretary for any administrative service provided under subsection (a) of this section. The Secretary shall deposit any reimbursement received under this subsection into the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.

Notwithstanding any other provision of this section, the Secretary of the Interior is authorized to continue to provide facilities, and necessary support services for such facilities, to the National Fish and Wildlife Foundation after March 26, 1989, on a space available, reimbursable cost basis.

(Pub. L. 98–244, § 5, Mar. 26, 1984, 98 Stat. 109; Pub. L. 100–240, § 3, Jan. 11, 1988, 101 Stat. 1786; Pub. L. 100–653, title IX, § 903, Nov. 14, 1988, 102 Stat. 3834.)

AMENDMENTS

1988—Pub. L. 100–653 inserted provision at end authorizing Secretary of the Interior to continue to provide facilities and necessary support services to National Fish and Wildlife Foundation after Mar. 26, 1989, on space available, reimbursable cost basis.

Pub. L. 100–240 designated existing provisions as subsec. (a), inserted heading, and struck out '', and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services'' after ''March 26, 1984'', and added subsec. (b).

§ 3705. Volunteer status

The Secretary of the Interior or the Secretary of Commerce may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Department of the Interior or the Department of Commerce, as volunteers in the performance of the functions authorized herein, in the manner provided for under section 742f(c) of this title.

(Pub. L. 98–244, § 6, Mar. 26, 1984, 98 Stat. 109; Pub. L. 106–408, title II, § 203(c)(2), Nov. 1, 2000, 114 Stat. 1779.)

AMENDMENTS

2000—Pub. L. 106–408 substituted ''Secretary of the Interior or the Secretary of Commerce'' for ''Secretary'' and inserted ''or the Department of Commerce'' after ''Department of the Interior''.

§ 3706. Audits, report requirements, and petition of Attorney General for equitable relief

(a) Audits

For purposes of section 10101 of title 36, the Foundation shall be treated as a Corporation in part B of subtitle II of title 36.

(b) Report

The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments; and a description of all acquisition and disposal of real property that is subject to section 3703(e) of this title. The report shall include a detailed statement of the recipient, amount, and purpose of each grant made by the Foundation in the fiscal year.

(c) Relief with respect to certain Foundation acts or failure to act

If the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its purposes set forth in section 3701(b) of this title; or

(2) refuses, fails, or neglects to discharge its obligations under this chapter, or threatens to do so;

the Attorney General of the United States may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

(Pub. L. 98–244, § 7, Mar. 26, 1984, 98 Stat. 110; Pub. L. 100–240, § 2(b)(2), Jan. 11, 1988, 101 Stat. 1786; Pub. L. 106–408, title II, § 205, Nov. 1, 2000, 114 Stat. 1780.)

CODIFICATION

In subsec. (a), ''section 10101 of title 36'' substituted for ''the Act entitled 'An Act for audit of accounts of private corporations established under Federal law', approved August 30, 1964 (Public Law 88–504, 36 U.S.C. 1101–1103)'' and ''a corporation in part B of subtitle II of title 36'' substituted for ''a private corporation established under Federal law'' on authority of Pub. L. 105–225, § 5(b), Aug. 12, 1998, 112 Stat. 1499, the first section of which enacted Title 36, Patriotic and National Observances, Ceremonies, and Organizations.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–408 substituted ''the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate'' for ''Congress'' and inserted at end ''The report shall include a detailed statement of the recipient, amount, and purpose of each grant made by the Foundation in the fiscal year.''

1988—Subsec. (b). Pub. L. 100–240 inserted ''; and a description of all acquisition and disposal of real property that is subject to section 3703(e) of this title'' before period at end.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under subsec. (b) of this section is listed on page 203), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 3707. United States release from liability

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

(Pub. L. 98–244, § 8, Mar. 26, 1984, 98 Stat. 110.)

§ 3708. Reservation of right to amend or repeal chapter

The Congress expressly reserves the right to repeal or amend this chapter at any time.

(Pub. L. 98–244, § 9, Mar. 26, 1984, 98 Stat. 110.)

§ 3709. Authorization of appropriations

(a) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this chapter for each of fiscal years 2006 through 2010—

(A) $25,000,000 to the Department of the Interior; and

(B) $5,000,000 to the Department of Commerce.

(2) Requirement of advance payment

The amount made available for a fiscal year under paragraph (1) shall be provided to the Foundation in an advance payment of the entire amount on October 1, or as soon as practicable thereafter, of the fiscal year.

(3) Use of appropriated funds

Subject to paragraph (4), amounts made available under paragraph (1) shall be provided to the Foundation for use for matching, on a 1-to-1 basis, contributions (whether in currency, services, or property) made to the Foundation, or to a recipient of a grant provided by the Foundation, by private persons and State and local government agencies.

(4) Prohibition on use for administrative expenses

No Federal funds made available under paragraph (1) shall be used by the Foundation for administrative expenses of the Foundation, including for salaries, travel and transportation expenses, and other overhead expenses.

(b) Additional authorization

(1) In general

In addition to the amounts authorized to be appropriated under subsection (a) of this section, the Foundation may accept Federal funds from a Federal agency under any other Federal law for use by the Foundation to further the conservation and management of fish, wildlife, plants, and other natural resources in accordance with the requirements of this chapter.

(2) Use of funds accepted from Federal agencies

Federal funds provided to the Foundation under paragraph (1) shall be used by the Foundation for matching, in whole or in part, contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local government agencies.

(c) Prohibition on use of grant amounts for litigation and lobbying expenses

Amounts provided as a grant by the Foundation shall not be used for—

(1) any expense related to litigation; or

(2) any activity the purpose of which is to influence legislation pending before Congress.

(Pub. L. 98–244, § 10, Mar. 26, 1984, 98 Stat. 110; Pub. L. 100–240, § 4, Jan. 11, 1988, 101 Stat. 1786; Pub. L. 101–593, title I, § 110(c), Nov. 16, 1990, 104 Stat. 2960; Pub. L. 103–232, title I, § 104, Apr. 11, 1994, 108 Stat. 337; Pub. L. 106–408, title II, § 207, Nov. 1, 2000, 114 Stat. 1781; Pub. L. 107–141, § 6, Feb. 12, 2002, 116 Stat. 14; Pub. L. 109–363, title II, §§ 202, 204, Oct. 17, 2006, 120 Stat. 2075.)

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109–363, § 202, substituted ''fiscal years 2006 through 2010'' for ''fiscal years 2001 through 2005''.

Subsec. (a)(3). Pub. L. 109–363, § 204, inserted '', or to a recipient of a grant provided by the Foundation,'' after ''made to the Foundation''.

2002—Subsec. (a)(1). Pub. L. 107–141, § 6(1), substituted ''2005'' for ''2003''.

Subsec. (a)(1)(A). Pub. L. 107–141, § 6(2), substituted ''$25,000,000'' for ''$20,000,000''.

2000—Pub. L. 106–408 added text of section and struck out former text which read as follows:

''(a) AUTHORIZATION.—There are authorized to be appropriated to the Department of the Interior $25,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

''(b) USE OF AMOUNTS APPROPRIATED.—(1) Subject to paragraph (2), amounts appropriated under this section shall be made available to the Foundation for use for matching, in whole or in part, contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local government agencies.

''(2) No Federal funds authorized under this section shall be used by the Foundation for administrative expenses of the Foundation, including for salaries, travel and transportation expenses, and other overhead expenses.

''(c) ADDITIONAL AUTHORIZATION.—The amounts authorized to be appropriated under this section are in addition to any amounts provided or available to the Foundation under any other Federal law.''

1994—Subsec. (a). Pub. L. 103–232, § 104(a)(1), substituted ''$25,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998'' for ''not to exceed $15,000,000 for fiscal year 1991, not to exceed $20,000,000 for fiscal year 1992, and not to exceed $25,000,000 for fiscal year 1993''.

Subsec. (b). Pub. L. 103–232, § 104(b), substituted ''paragraph (2)'' for ''paragraphs (2) and (3)''.

Subsec. (c). Pub. L. 103–232, § 104(a)(2), added subsec. (c).

1990—Pub. L. 101–593 amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated to the Department of the Interior for each of fiscal years 1988 through 1993, inclusive, not to exceed $5,000,000 to be made available to the Foundation—

''(1) to match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local government agencies; and

''(2) to provide administrative services under section 3704 of this title.''

1988—Pub. L. 100–240 amended section generally. Prior to amendment, section read as follows: ''For the ten-year period beginning on October 1, 1984, there are authorized to be appropriated to the Department of the Interior not to exceed $1,000,000 to be made available to the Foundation—

''(1) to match, on a one-for-one basis, private contributions made to the Foundation; and

''(2) to provide administrative services under section 3704 of this title.''

§ 3710. Limitation on authority

Nothing in this chapter authorizes the Foundation to perform any function the authority for which is provided to the National Park Foundation by Public Law 90–209 (16 U.S.C. 19e et seq.).

(Pub. L. 98–244, § 11, as added Pub. L. 106–408, title II, § 208, Nov. 1, 2000, 114 Stat. 1781.)

REFERENCES IN TEXT

Public Law 90–209, referred to in text, is Pub. L. 90–209, Dec. 18, 1967, 81 Stat. 656, as amended, popularly known as the National Park Foundation Act, which is classified generally to subchapter III (§ 19e et seq.) of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 19e of this title and Tables.

CHAPTER 57A—PARTNERSHIPS FOR WILDLIFE

Sec.
3741. Findings.
3742. Purposes.
3743. Definitions.
3744. Wildlife partnership program.

§ 3741. Findings

The Congress finds the following:

(1) Three-fourths of all American children and adults participate in wildlife-related recreational activities other than hunting, fishing and trapping.

(2) In 1985, Americans spent over $14 billion on non-consumptive wildlife-related recreation.

(3) The United States and Canada are inhabited by approximately two thousand six hundred vertebrate species of native fish and wildlife, which have provided food, clothing, and other essentials to a rapidly expanding human population.

(4) Over 80 percent of vertebrate fish and wildlife species in North America are not harvested for human use.

(5) The continued well-being of this once-abundant fish and wildlife resource, and even the very existence of many species, is in peril.

(6) In 1967, the United States Fish and Wildlife Service reported that forty-five common migratory bird species, which are not hunted, had exhibited significant declines in abundance, and that thirteen of these species have experienced widespread, systematic declines of 46.9 percent during a twenty-year study period.

(7) There have been nationwide declines in frogs and other amphibians.

(8) Over two hundred and seventy-five of vertebrate fish and wildlife species in the United States are now officially classified as threatened or endangered by the Federal Government.

(9) During the past decade, fish and wildlife species, including invertebrates, were added to the rapidly growing list of threatened and endangered species in North America at the average rate of over one per month.

(10) Currently, eighty-two species of invertebrates in the United States are listed as threatened or endangered under the Endangered Species Act [16 U.S.C. 1531 et seq.], and another nine hundred and fifty-one United States invertebrate species are candidates for listing under that Act.

(11) Proper management of fish and wildlife, before species become threatened or endangered with extinction, is the key to reversing the increasingly desperate status of fish and wildlife.

(12) Proper fish and wildlife conservation includes not only management of fish and wildlife species taken for recreation and protection of endangered and threatened species, but also management of the vast majority of species which fall into neither category.

(13) Partnerships in fish and wildlife conservation, such as the Federal Aid in Wildlife Restoration Program, the Federal Aid in Sport Fish Restoration Program, and the North American Wetlands Conservation Act [16 U.S.C. 4401 et seq.] have benefitted greatly the conservation of fish and wildlife and their habitats.

(14) A program that encourages partnerships among Federal and State governments and private entities to carry out wildlife conservation and appreciation projects would benefit all species of fish and wildlife through such activities as management, research, and interagency coordination.

(15) Many States, which are experiencing declining revenues, are finding it increasingly difficult to carry out projects to conserve the entire array of diverse fish and wildlife species and to provide opportunities for the public to associate with, enjoy, and appreciate fish and wildlife through nonconsumptive activities.

(Pub. L. 102–587, title VII, § 7102, Nov. 4, 1992, 106 Stat. 5094.)

REFERENCES IN TEXT

The Endangered Species Act referred to in par. (10), probably means the Endangered Species Act of 1973, Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The North American Wetlands Conservation Act, referred to in par. (13), is Pub. L. 101–233, Dec. 13, 1989, 103 Stat. 1968, as amended, which is classified principally to chapter 64 (§ 4401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4401 of this title and Tables.

SHORT TITLE

Section 7101 of title VII of Pub. L. 102–587 provided that: ''This Title [enacting this chapter] may be cited as the 'Partnerships for Wildlife Act'.''

§ 3742. Purposes

The purposes of this chapter are to establish a partnership among the United States Fish and Wildlife Service, designated State agencies, and private organizations and individuals—

(1) to carry out wildlife conservation and appreciation projects to conserve the entire array of diverse fish and wildlife species in the United States and to provide opportunities for the public to use and enjoy these fish and wildlife species through nonconsumptive activities;

(2) to enable designated State agencies to respond more fully and utilize their statutory and administrative authorities by carrying out wildlife conservation and appreciation projects; and

(3) to encourage private donations, under the leadership of the States and of the National Fish and Wildlife Foundation, to carry out wildlife conservation and appreciation projects.

(Pub. L. 102–587, title VII, § 7103, Nov. 4, 1992, 106 Stat. 5095; Pub. L. 103–375, § 6(1), Oct. 19, 1994, 108 Stat. 3495.)

AMENDMENTS

1994—Par. (3). Pub. L. 103–375 inserted ''the States and of'' after ''under the leadership of''.

§ 3743. Definitions

As used in this chapter—

(1) The terms ''conserve'' and ''conservation'' mean to use, and the use of, such methods and procedures which are necessary to ensure, to the maximum extent practicable, the well being and enhancement of fish and wildlife and their habitats for the educational, aesthetic, cultural, recreational, scientific, and ecological enrichment of the public. Such methods and procedures may include, but are not limited to, any activity associated with scientific resources management, such as research, census, law enforcement, habitat acquisition, maintenance, development, information, education, population manipulation, propagation, technical assistance to private landowners, live trapping, and transplantation.

(2) The term ''designated State agency'' means the government agency, department, or division of any State that is empowered under the laws of the State to exercise the functions ordinarily exercised by a State fish and wildlife agency.

(3) The term ''fish and wildlife'' means wild members of the animal kingdom that are in an unconfined state.

(4) The term ''Fund'' means the Wildlife Conservation and Appreciation Fund established under section 3744(g) of this title.

(5) The term ''National Fish and Wildlife Foundation'' means the charitable and nonprofit corporation established under section 3701 of this title.

(6) The term ''nonconsumptive activities'' means fish and wildlife associated activities other than harvesting of fish and wildlife and includes, but is not limited to, photographing, observing, learning about, or associating with, fish and wildlife.

(7) The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(8) The term ''State'' means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the United States Virgin Islands, or American Samoa.

(9) The term ''wildlife conservation and appreciation project'' means a project which is directed toward nonconsumptive activities or toward the conservation of those species of fish and wildlife that—

(A) are not ordinarily taken for recreation, fur, or food; except that if under applicable State law, any fish and wildlife may be taken for recreation, fur, or food in some but not all, areas of the State, a wildlife conservation and appreciation project may be directed toward the conservation of any of such fish and wildlife within any area of the State in which such taking is not permitted;

(B) are not listed as endangered species or threatened species under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543); and

(C) are not marine mammals within the meaning of section 1362(6) of this title.

(Pub. L. 102–587, title VII, § 7104, Nov. 4, 1992, 106 Stat. 5096; Pub. L. 103–375, § 6(2), (3), Oct. 19, 1994, 108 Stat. 3495.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in par. (9)(B), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

AMENDMENTS

1994—Par. (2). Pub. L. 103–375, § 6(2)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The term 'designated State agency' means the State fish and wildlife agency, which shall be construed to mean any department, or any division of any department of another name, of a State that is empowered under its laws to exercise the functions ordinarily exercised by a State fish and wildlife agency.''

Par. (4). Pub. L. 103–375, § 6(2)(B), made technical amendment to reference to section 3744(g) of this title to correct reference to corresponding provision of original act.

Par. (8). Pub. L. 103–375, § 6(3)(B), added par. (8). Former par. (8) redesignated (9).

Pub. L. 103–375, § 6(2)(C), (D), substituted semicolon for period at end of subpar. (A) and ''section 1362(6)'' for ''section 1362(5)'' in subpar. (C).

Par. (9). Pub. L. 103–375, § 6(3)(A), redesignated par. (8) as (9).

§ 3744. Wildlife partnership program

(a) In general

The Secretary shall provide the amounts available in the Fund to designated State agencies on a matching basis to assist in carrying out wildlife conservation and appreciation projects that are eligible under subsection (b) of this section.

(b) Eligible projects

The following wildlife conservation and appreciation projects shall be eligible for matching funds from the Fund:

(1) inventory of fish and wildlife species;

(2) determination and monitoring of the size, range and distribution of populations of fish and wildlife species;

(3) identification of the extent, condition, and location of the significant habitats of fish and wildlife species;

(4) identification of the significant problems that may adversely affect fish and wildlife species and their significant habitats;

(5) actions to conserve fish and wildlife species and their habitats; and

(6) actions of which the principal purpose is to provide opportunities for the public to use and enjoy fish and wildlife through nonconsumptive activities.

(c) Project standards

The Secretary shall not provide funding to carry out an eligible wildlife conservation and

appreciation project unless the Secretary determines that such a project—

(1) is planned adequately to accomplish the stated objective or objectives;

(2) utilizes accepted fish and wildlife management principles, sound design and appropriate procedures;

(3) will yield benefits pertinent to the identified need at a level commensurate with project costs;

(4) provides for the tracking of costs and accomplishments related to the project;

(5) provides for monitoring, evaluating, and reporting of the accomplishment of project objectives; and

(6) complies with all applicable Federal environmental laws and regulations.

(d) Limitations on Federal payment

The amount of appropriated Federal funds provided from the Fund by the Secretary to any designated State Agency with respect to any fiscal year to carry out an eligible wildlife conservation and appreciation project under this section—

(1) may not exceed $250,000;

(2) may not exceed one third of the total project cost for that fiscal year;

(3) may not exceed 40 percent of the total project cost for that fiscal year if designated State agencies from two or more States cooperate in implementing such a project; and

(4) may not be used to defray the administrative cost of State programs.

(e) Non-Federal share of projects

(1) State share

Of the total cost each fiscal year of each project carried out with amounts provided by the Secretary under subsection (a) of this section, at least ⅓ shall be paid with amounts from State, non-Federal sources, except that if designated State agencies from 2 or more States cooperate in implementing such a project at least 30 percent shall be paid with amounts from such State, non-Federal sources. Payments required by this paragraph may not be in the form of an in-kind contribution.

(2) Private share

Of the total cost each fiscal year of each project carried out with amounts provided by the Secretary under subsection (a) of this section, at least ⅓ shall be paid with amounts from voluntary contributions by private entities or persons, except that if designated State agencies from 2 or more States cooperate in implementing such a project, at least 30 percent shall be paid from such sources. Subject to the approval of the Secretary, such contributions for a project may be in the form of, but are not required to be limited to, private cash donations, and the contribution of materials, equipment, or services necessary for the project.

(f) Eligibility of designated State agencies

No designated State agency shall be eligible to receive matching funds from the Wildlife Conservation and Appreciation Fund if revenue derived from activities regulated by such an agency is diverted for any purpose other than the management and conservation of fish and wildlife. Such revenue shall include, but not be limited to, all income from the sale of hunting, fishing and trapping licenses; all income from nongame checkoff systems; all income from the sale of waterfowl, habitat conservation, and other stamps that are requisite for engaging in certain activities regulated by the designated State agency; all income from the sale of any commodities and products by the designated State agency from lands and waters administered by the State for fish and wildlife purposes; and all funds apportioned to the designated State agency under the Federal Aid in Wildlife and Sport Fish Restoration Programs.

(g) Establishment of Fund

(1) The Secretary shall establish the Fund, which shall consist of amounts deposited into the Fund by the Secretary under paragraph (2) of this subsection.

(2) The Secretary shall deposit into the Fund amounts appropriated to the Secretary for deposit to the Fund, of which not more than 4 percent shall be available to the Secretary to defray the costs of administering this chapter and evaluating wildlife conservation and appreciation projects.

(h) Authorization of appropriations

There are authorized to be appropriated to the Fund and to the Secretary not to exceed $6,250,000 for each of fiscal years 1999 through 2003.

(Pub. L. 102–587, title VII, §7105, Nov. 4, 1992, 106 Stat. 5097; Pub. L. 103–375, §6(4)–(7), Oct. 19, 1994, 108 Stat. 3495, 3496; Pub. L. 105–312, title III, §303, Oct. 30, 1998, 112 Stat. 2958.)

AMENDMENTS

1998—Subsec. (h). Pub. L. 105–312 substituted ''not to exceed $6,250,000 for each of fiscal years 1999 through 2003.'' for ''for each of fiscal years 1992 through 1998 not to exceed $6,250,000.''

1994—Subsec. (d)(5). Pub. L. 103–375, §6(4), struck out par. (5) which read as follows: ''may not exceed the State share of the cost of implementing such a project.''

Subsec. (e). Pub. L. 103–375, §6(5), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: ''The share of the cost of carrying out eligible projects under this section shall be from a non-Federal source and shall not be in the form of an in-kind contribution.''

Subsec. (g)(2). Pub. L. 103–375, §6(6)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary shall deposit into the Fund—

''(A) amounts appropriated to the Secretary for deposit to the Fund, of which not more than 4 percent shall be available to the Secretary and the National Fish and Wildlife Foundation to defray the costs of administering this chapter and evaluating wildlife conservation and appreciation projects; and

''(B) amounts received as donations from the National Fish and Wildlife Foundation or other private entities or persons for deposit to the Fund.''

Subsec. (g)(3), (4). Pub. L. 103–375, §6(6)(B), struck out pars. (3) and (4) which read as follows:

''(3) The Secretary may accept and use donations from the National Fish and Wildlife Foundation and other private entities or persons for purposes of assisting States under this section.

''(4) Of the total amount provided from the Fund to assist a State in carrying out a wildlife conservation

and appreciation project under subsection (a) of this section, at least 50 percent shall have been donated to the Fund by the National Fish and Wildlife Foundation.''

Subsec. (h). Pub. L. 103–375, § 6(7), substituted ''1998'' for ''1995'' and struck out before period at end ''to match the amount of contributions made to the Fund by the National Fish and Wildlife Foundation''.

CHAPTER 57B—PARTNERS FOR FISH AND WILDLIFE

Sec.
3771. Findings and purpose.
3772. Definitions.
3773. Partners for Fish and Wildlife Program.
3774. Authorization of appropriations.

§ 3771. Findings and purpose

(a) Findings

Congress finds that—

(1) approximately 60 percent of fish and wildlife in the United States are on private land;

(2) it is imperative to facilitate private landowner-centered and results-oriented efforts that promote efficient and innovative ways to protect and enhance natural resources;

(3) there is no readily available source of technical biological information that the public can access to assist with the application of state-of-the-art techniques to restore, enhance, and manage fish and wildlife habitats;

(4) a voluntary cost-effective program that leverages public and private funds to assist private landowners in the conduct of state-of-the-art fish and wildlife habitat restoration, enhancement, and management projects is needed;

(5) durable partnerships working collaboratively with willing private landowners to implement on-the-ground projects has lead to the reduction of endangered species listings;

(6) Executive Order No. 13352 (69 Fed. Reg. 52989) directs the Departments of the Interior, Agriculture, Commerce, and Defense and the Environmental Protection Agency to pursue new cooperative conservation programs involving the collaboration of Federal, State, local, and tribal governments, private for-profit and non-profit institutions, non-governmental entities, and individuals;

(7) since 1987, the Partners for Fish and Wildlife Program has exemplified cooperative conservation as an innovative, voluntary partnership program that helps private landowners restore wetland and other important fish and wildlife habitat; and

(8) through 33,103 agreements with private landowners, the Partners for Fish and Wildlife Program has accomplished the restoration of 677,000 acres of wetland, 1,253,700 acres of prairie and native grasslands, and 5,560 miles of riparian and in-stream habitat since 1987, demonstrating much of that success since only 2001.

(b) Purpose

The purpose of this chapter is to provide for the restoration, enhancement, and management of fish and wildlife habitats on private land through the Partners for Fish and Wildlife Program, a program that works with private landowners to conduct cost-effective habitat projects for the benefit of fish and wildlife resources in the United States.

(Pub. L. 109–294, § 2, Oct. 3, 2006, 120 Stat. 1351.)

REFERENCES IN TEXT

Executive Order No. 13352, referred to in subsec. (a)(6), is Ex. Ord. No. 13352, Aug. 26, 2004, 69 F.R. 52989, which is set out as a note under section 4332 of Title 42, The Public Health and Welfare.

SHORT TITLE

Pub. L. 109–294, § 1, Oct. 3, 2006, 120 Stat. 1351, provided that: ''This Act [enacting this chapter] may be cited as the 'Partners for Fish and Wildlife Act'.''

§ 3772. Definitions

In this chapter:

(1) Federal trust species

The term ''Federal trust species'' means migratory birds, threatened species, endangered species, interjurisdictional fish, marine mammals, and other species of concern.

(2) Habitat enhancement

(A) In general

The term ''habitat enhancement'' means the manipulation of the physical, chemical, or biological characteristics of a habitat to change a specific function or seral stage of the habitat.

(B) Inclusions

The term ''habitat enhancement'' includes—

(i) an activity conducted to increase or decrease a specific function for the purpose of benefitting species, including—

(I) increasing the hydroperiod and water depth of a stream or wetland beyond what would naturally occur;

(II) improving waterfowl habitat conditions;

(III) establishing water level management capabilities for native plant communities;

(IV) creating mud flat conditions important for shorebirds; and

(V) cross fencing or establishing a rotational grazing system on native range to improve grassland nesting bird habitat conditions; and

(ii) an activity conducted to shift a native plant community successional stage, including—

(I) burning an established native grass community to reduce or eliminate invading brush or exotic species;

(II) brush shearing to set back early successional plant communities; and

(III) forest management that promotes a particular seral stage.

(C) Exclusions

The term ''habitat enhancement'' does not include regularly scheduled and routine maintenance and management activities, such as annual mowing or spraying of unwanted vegetation.

(3) Habitat establishment

The term ''habitat establishment'' means the manipulation of physical, chemical, or bio-

logical characteristics of a project site to create and maintain habitat that did not previously exist on the project site, including construction of—

(A) shallow water impoundments on nonhydric soils; and

(B) side channel spawning and rearing habitat.

(4) Habitat improvement

The term ''habitat improvement'' means restoring, enhancing, or establishing physiographic, hydrological, or disturbance conditions necessary to establish or maintain native plant and animal communities, including periodic manipulations to maintain intended habitat conditions on completed project sites.

(5) Habitat restoration

(A) In general

The term ''habitat restoration'' means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning the majority of natural functions to the lost or degraded native habitat.

(B) Inclusions

The term ''habitat restoration'' includes—

(i) an activity conducted to return a project site, to the maximum extent practicable, to the ecological condition that existed prior to the loss or degradation, including—

(I) removing tile drains or plugging drainage ditches in former or degraded wetland;

(II) returning meanders and sustainable profiles to straightened streams;

(III) burning grass communities heavily invaded by exotic species to reestablish native grass and plant communities; and

(IV) planting plant communities that are native to the project site;

(ii) if restoration of a project site to its original ecological condition is not practicable, an activity that repairs 1 or more of the original habitat functions and that involve the use of native vegetation, including—

(I) the installation of a water control structure in a swale on land isolated from overbank flooding by a major levee to simulate natural hydrological processes; and

(II) the placement of streambank or instream habitat diversity structures in streams that cannot be restored to original conditions or profile; and

(iii) removal of a disturbing or degrading element to enable the native habitat to reestablish or become fully functional.

(6) Private land

(A) In general

The term ''private land'' means any land that is not owned by the Federal Government or a State.

(B) Inclusions

The term ''private land'' includes tribal land and Hawaiian homeland.

(7) Project

The term ''project'' means a project carried out under the Partners for Fish and Wildlife Program established by section 3773 of this title.

(8) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 109–294, § 3, Oct. 3, 2006, 120 Stat. 1352.)

§ 3773. Partners for Fish and Wildlife Program

The Secretary shall carry out the Partners for Fish and Wildlife Program within the United States Fish and Wildlife Service to provide—

(1) technical and financial assistance to private landowners for the conduct of voluntary projects to benefit Federal trust species by promoting habitat improvement, habitat restoration, habitat enhancement, and habitat establishment; and

(2) technical assistance to other public and private entities regarding fish and wildlife habitat restoration on private land.

(Pub. L. 109–294, § 4, Oct. 3, 2006, 120 Stat. 1354.)

§ 3774. Authorization of appropriations

There is authorized to be appropriated to carry out this chapter not more than $75,000,000 for each of fiscal years 2006 through 2011.

(Pub. L. 109–294, § 5, Oct. 3, 2006, 120 Stat. 1354.)

CHAPTER 58—ERODIBLE LAND AND WETLAND CONSERVATION AND RESERVE PROGRAM

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SUBCHAPTER I—DEFINITIONS

§ 3801. Definitions

(a) For purposes of subchapters I through V of this chapter:

(1) The term ''agricultural commodity'' means—

(A) any agricultural commodity planted and produced in a State by annual tilling of the soil, including tilling by one-trip planters; or

(B) sugarcane planted and produced in a State.

(2) BEGINNING FARMER OR RANCHER.—The term ''beginning farmer or rancher'' has the meaning given the term in section 1991(a)(8) of title 7.

(3) CONSERVATION PLAN.—The term ''conservation plan'' means the document that—

(A) applies to highly erodible cropland;

(B) describes the conservation system applicable to the highly erodible cropland and describes the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedule; and

(C) is approved by the local soil conservation district, in consultation with the local committees established under section 590h(b)(5) of this title and the Secretary, or by the Secretary.

(4) CONSERVATION SYSTEM.—The term ''conservation system'' means a combination of 1 or more conservation measures or management practices that—

(A) are based on local resource conditions, available conservation technology, and the standards and guidelines contained in the Natural Resources Conservation Service field office technical guides; and

(B) are designed to achieve, in a cost effective and technically practicable manner, a substantial reduction in soil erosion or a substantial improvement in soil conditions on a field or group of fields containing highly erodible cropland when compared to the level of erosion or soil conditions that existed before the application of the conservation measures and management practices.

(5) The term ''conservation district'' means any district or unit of State or local government formed under State or territorial law for the express purpose of developing and carrying out a local soil and water conservation pro-

gram. Such district or unit of government may be referred to as a ''conservation district'', ''soil conservation district'', ''soil and water conservation district'', ''resource conservation district'', ''natural resource district'', ''land conservation committee'', or a similar name.

(6) The term ''cost sharing payment'' means a payment made by the Secretary to an owner or operator of a farm or ranch containing highly erodible cropland under the provisions of section 3834(b) of this title.

(7)(A) The term ''converted wetland'' means wetland that has been drained, dredged, filled, leveled, or otherwise manipulated (including any activity that results in impairing or reducing the flow, circulation, or reach of water) for the purpose or to have the effect of making the production of an agricultural commodity possible if—

(i) such production would not have been possible but for such action; and

(ii) before such action—

(I) such land was wetland; and

(II) such land was neither highly erodible land nor highly erodible cropland.

(B) Wetland shall not be considered converted wetland if production of an agricultural commodity on such land during a crop year—

(i) is possible as a result of a natural condition, such as drought; and

(ii) is not assisted by an action of the producer that destroys natural wetland characteristics.

(8) FARM.—The term ''farm'' means a farm that—

(A) is under the general control of one operator;

(B) has one or more owners;

(C) consists of one or more tracts of land, whether or not contiguous;

(D) is located within a county or region, as determined by the Secretary; and

(E) may contain lands that are incidental to the production of perennial crops, including conserving uses, forestry, and livestock, as determined by the Secretary.

(9) FIELD.—The term ''field'' means a part of a farm that is separated from the balance of the farm by permanent boundaries such as fences, roads, permanent waterways, or other similar features. At the option of the owner or operator of the farm, croplines may also be used to delineate a field if farming practices make it probable that the croplines are not subject to change. Any highly erodible land on which an agricultural commodity is produced after December 23, 1985, and that is not exempt under section 3812 of this title, shall be considered as part of the field in which the land was included on December 23, 1985, unless the owner and Secretary agree to modification of the boundaries of the field to carry out this chapter.

(10) The term ''highly erodible cropland'' means highly erodible land that is in cropland use, as determined by the Secretary.

(11)(A) The term ''highly erodible land'' means land—

(i) that is classified by the Soil Conservation Service as class IV, VI, VII, or VIII land under the land capability classification system in effect on December 23, 1985; or

(ii) that has, or that if used to produce an agricultural commodity, would have an excessive average annual rate of erosion in relation to the soil loss tolerance level, as established by the Secretary, and as determined by the Secretary through application of factors from the universal soil loss equation and the wind erosion equation, including factors for climate, soil erodibility, and field slope.

(B) For purposes of this paragraph, the land capability class or rate of erosion for a field shall be that determined by the Secretary to be the predominant class or rate of erosion under regulations issued by the Secretary.

(C) EQUATIONS.—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall publish in the Federal Register the universal soil loss equation and wind erosion equation used by the Department of Agriculture as of that date. The Secretary may not change the equations after that date except following notice and comment in a manner consistent with section 553 of title 5.

(12) The term ''hydric soil'' means soil that, in its undrained condition, is saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation.

(13) The term ''hydrophytic vegetation'' means a plant growing in—

(A) water; or

(B) a substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content.

(14) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 450b(e) of title 25.

(15) The term ''in-kind commodities'' means commodities that are normally produced on land that is the subject of an agreement entered into under subchapter IV of this chapter.

(16) INTEGRATED PEST MANAGEMENT.—The term ''integrated pest management'' means a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks.

(17) LIVESTOCK.—The term ''livestock'' means all animals raised on farms, as determined by the Secretary.

(18) NONINDUSTRIAL PRIVATE FOREST LAND.—The term ''nonindustrial private forest land'' means rural land, as determined by the Secretary, that—

(A) has existing tree cover or is suitable for growing trees; and

(B) is owned by any nonindustrial private individual, group, association, corporation, Indian tribe, or other private legal entity that has definitive decisionmaking authority over the land.

(19) PERSON AND LEGAL ENTITY.—For purposes of applying payment limitations under subchapter IV, the terms ''person'' and ''legal entity'' have the meanings given those terms in section 1308(a) of title 7.

(20) The term ''rental payment'' means a payment made by the Secretary to an owner or operator of a farm or ranch containing highly erodible cropland to compensate the owner or operator for retiring such land from crop production and placing such land in the conservation reserve in accordance with subchapter IV of this chapter.

(21) The term ''Secretary'' means the Secretary of Agriculture.

(22) The term ''shelterbelt'' means a vegetative barrier with a linear configuration composed of trees, shrubs, and other approved perennial vegetation.

(23) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term ''socially disadvantaged farmer or rancher'' has the meaning given the term in section 2279(e)(2) of title 7.

(24) The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(25) TECHNICAL ASSISTANCE.—The term ''technical assistance'' means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses. The term includes the following:

(A) Technical services provided directly to farmers, ranchers, and other eligible entities, such as conservation planning, technical consultation, and assistance with design and implementation of conservation practices.

(B) Technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.

(26) The term ''vegetative cover'' means—

(A) perennial grasses, legumes, forbs, or shrubs with an expected life span of 5 or more years; or

(B) trees.

(27) The term ''wetland'', except when such term is part of the term ''converted wetland'', means land that—

(A) has a predominance of hydric soils;

(B) is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

(C) under normal circumstances does support a prevalence of such vegetation.

For purposes of this Act, and any other Act, this term shall not include lands in Alaska identified as having high potential for agricultural development which have a predominance of permafrost soils.

(b) The Secretary shall develop—

(1) criteria for the identification of hydric soils and hydrophytic vegetation; and

(2) lists of such soils and such vegetation.

(Pub. L. 99–198, title XII, § 1201, Dec. 23, 1985, 99 Stat. 1504; Pub. L. 99–349, title I, July 2, 1986, 100 Stat. 714; Pub. L. 101–624, title XIV, § 1421(a), Nov. 28, 1990, 104 Stat. 3572; Pub. L. 104–127, title III, § 301(a)–(c), Apr. 4, 1996, 110 Stat. 980, 981; Pub. L. 110–234, title II, § 2001, May 22, 2008, 122 Stat. 1025; Pub. L. 110–246, § 4(a), title II, § 2001, June 18, 2008, 122 Stat. 1664, 1753.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(9), was in the original ''this title'', meaning title XII of Pub. L. 99–198, which enacted this chapter and former section 2005a of this title and amended sections 590g, 2004, 2005, 2006, and 2009 of this title, sections 4207 and 4209 of Title 7, Agriculture, and provisions set out as a note under section 1981 of Title 7.

The date of enactment of this subparagraph, referred to in subsec. (a)(11)(C), is the date of enactment of Pub. L. 104–127, which was approved Apr. 4, 1996.

This Act, referred to in subsec. (a)(27), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, known as the Food Security Act of 1985. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of Title 7, Agriculture, and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a)(2) to (27). Pub. L. 110–246, § 2001, added pars. (2), (8), (14), (16) to (19), (23), and (25) and redesignated former pars. (2) to (18) as (3) to (7), (9) to (13), (15), (20) to (22), (24), (26), and (27), respectively.

1996—Subsec. (a)(2) to (6). Pub. L. 104–127, § 301(a), added pars. (2) and (3) and redesignated former pars. (2) to (4) as (4) to (6), respectively. Former pars. (5) and (6) redesignated (7) and (8), respectively.

Subsec. (a)(7). Pub. L. 104–127, § 301(b), added par. (7) and struck out former par. (7) which read as follows: ''The term 'field' means such term as is defined in section 718.2(b)(9) of title 7 of the Code of Federal Regulations (as of January 1, 1985), except that any highly erodible land on which an agricultural commodity is produced after December 23, 1985, and that is not exempt under section 3812 of this title shall be considered as part of the field in which such land was included on December 23, 1985, unless the Secretary permits modification of the boundaries of the field to carry out subchapters I through V of this chapter.''

Pub. L. 104–127, § 301(a)(1), redesignated par. (5) as (7). Former par. (7) redesignated (9).

Subsec. (a)(8). Pub. L. 104–127, § 301(a)(1), redesignated par. (6) as (8). Former par. (8) redesignated (10).

Subsec. (a)(9). Pub. L. 104–127, § 301(a)(1), redesignated par. (7) as (9). Former par. (9) redesignated (11).

Subsec. (a)(9)(C). Pub. L. 104–127, § 301(c), added subpar. (C).

Subsec. (a)(10) to (18). Pub. L. 104–127, § 301(a)(1), redesignated pars. (8) to (16) as (10) to (18), respectively.

1990—Subsec. (a)(16). Pub. L. 101–624 substituted introductory provisions and subpars. (A) to (C) for ''The term 'wetland', except when such term is part of the term 'converted wetland', means land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.''

1986—Subsec. (a)(16). Pub. L. 99–349 inserted provision that for purposes of this Act, and any other Act, the term ''wetland'' shall not include lands in Alaska identified as having high potential for agricultural development which have a predominance of permafrost soils.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the

date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–234, title III, §3001, June 15, 2006, 120 Stat. 474, provided that: ''This title [amending section 3831 of this title] may be cited as the 'Emergency Agricultural Disaster Assistance Act of 2006'.''

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–7, div. N, title II, §201, Feb. 20, 2003, 117 Stat. 538, provided that: ''This title [amending sections 3832 and 3841 of this title] may be cited as the 'Agricultural Assistance Act of 2003'.''

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–387, §1(a) [title XI, §1101], Oct. 28, 2000, 114 Stat. 1549, 1549A–75, provided that: ''This title [amending sections 3831 and 3832 of this title and enacting provisions set out as notes under section 3831 of this title] may be cited as the 'Conservation of Farmable Wetland Act of 2000'.''

SHORT TITLE OF 1990 AMENDMENT

Section 1401 of title XIV of Pub. L. 101–624 provided that: ''This title [enacting sections 1003a, 1010, 3824, 3830, 3835a, 3837 to 3837f, 3838 to 3838f, 3839 to 3839d, 3846, 3847, 3861, and 3862 of this title and sections 136i–1, 2814, 3130, 5401 to 5403, 5501 to 5506 and 5822 of Title 7, Agriculture, amending this section, sections 590p, 1002, 1003, 3459, 3461, 3811, 3812, 3821 to 3823, 3831, 3832, 3834, 3835, 3836, 3843, and 3845 of this title, and sections 136a, 136a–1, 136d, 136w–3, 450i, and 4202 of Title 7, and enacting provisions set out as notes under this section and sections 2101 and 3831 of this title and sections 136a and 4201 of Title 7] may be cited as the 'Conservation Program Improvements Act'.''

SHORT TITLE

Title XII of Pub. L. 99–198, which is classified principally to this chapter, is popularly known as the ''Sodbuster Law''.

REGULATIONS

Pub. L. 110–234, title II, §2904, May 22, 2008, 122 Stat. 1091, and Pub. L. 110–246, §4(a), title II, §2904, June 18, 2008, 122 Stat. 1664, 1819, provided that:

''(a) ISSUANCE.—Except as otherwise provided in this title [see Tables for classification] or an amendment made by this title, not later than 90 days after the date of enactment of this Act [June 18, 2008], the Secretary of Agriculture, in consultation with the Commodity Credit Corporation, shall promulgate such regulations as are necessary to implement this title.

''(b) APPLICABLE AUTHORITY.—The promulgation of regulations under subsection (a) and administration of this title—

''(1) shall be carried out without regard to—

''(A) chapter 35 of title 44, United States Code (commonly known as the Paperwork Reduction Act); and

''(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking; and

''(2) may—

''(A) be promulgated with an opportunity for notice and comment; or

''(B) if determined to be appropriate by the Secretary of Agriculture or the Commodity Credit Corporation, as an interim rule effective on publication with an opportunity for notice and comment.

''(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808(2) of title 5, United States Code.''

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

Pub. L. 107–171, title II, §2702, May 13, 2002, 116 Stat. 279, provided that:

''(a) IN GENERAL.—Except as otherwise provided in this title [see Tables for classification] or an amendment made by this title, not later than 90 days after the date of enactment of this Act [May 13, 2002], the Secretary of Agriculture, in consultation with the Commodity Credit Corporation, shall promulgate such regulations as are necessary to implement this title.

''(b) APPLICABLE AUTHORITY.—The promulgation of regulations under subsection (a) and administration of this title—

''(1) shall—

''(A) be carried out without regard to chapter 35 of title 44, United States Code (commonly known as the Paperwork Reduction Act); and

''(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking; and

''(2) may—

''(A) be promulgated with an opportunity for notice and comment; or

''(B) if determined to be appropriate by the Secretary of Agriculture or the Commodity Credit Corporation, as an interim rule effective on publication with an opportunity for notice and comment.

''(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808(2) of title 5, United States Code.''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

CONTINUATION OF PROGRAMS IN FISCAL YEAR 2008

Pub. L. 110–234, title II, §2903(a), May 22, 2008, 122 Stat. 1091, and Pub. L. 110–246, §4(a), title II, §2903(a), June 18, 2008, 122 Stat. 1664, 1819, provided that: ''Except as otherwise provided by an amendment made by this title [see Tables for classification], the Secretary of Agriculture shall continue to carry out any program or activity covered by title XII of the Food Security Act (16 U.S.C. 3801 et seq.) until September 30, 2008, using the provisions of law applicable to the program or activity as they existed on the day before the date of the enactment of this Act [June 18, 2008] and using funds made available under such title for fiscal year 2008 for the program or activity.''

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

REFORM AND ASSESSMENT OF CONSERVATION PROGRAMS

Pub. L. 107–171, title II, §2005, May 13, 2002, 116 Stat. 237, provided that:

''(a) IN GENERAL.—The Secretary of Agriculture shall develop a plan to coordinate land retirement and agricultural working land conservation programs that are administered by the Secretary to achieve the goals of—

''(1) eliminating redundancy;

''(2) streamlining program delivery; and

''(3) improving services provided to agricultural producers (including the reevaluation of the provision of technical assistance).

''(b) REPORT.—Not later than December 31, 2005, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that describes—

''(1) the plan developed under subsection (a); and

''(2) the means by which the Secretary intends to achieve the goals described in subsection (a).''

CONSERVATION CORRIDOR DEMONSTRATION PROGRAM

Pub. L. 110–114, title V, § 5059, Nov. 8, 2007, 121 Stat. 1215, provided that:

''(a) ASSISTANCE.—The Secretary [of the Army] may provide technical assistance to the Secretary of Agriculture for use in carrying out the Conservation Corridor Demonstration Program established under subtitle G of title II of the Farm Security and Rural Investment Act of 2002 (16 U.S.C. 3801 note; 116 Stat. 275).

''(b) COORDINATION AND INTEGRATION.—In carrying out water resources projects in the States on the Delmarva Peninsula, the Secretary [of the Army] shall coordinate and integrate those projects, to the maximum extent practicable, with any activities carried out to implement a conservation corridor plan approved by the Secretary of Agriculture under section 2602 of the Farm Security and Rural Investment Act of 2002 (16 U.S.C. 3801 note; 116 Stat. 275).''

Pub. L. 107–171, title II, subtitle G, May 13, 2002, 116 Stat. 275, provided that:

''SEC. 2601. DEFINITIONS.

''In this subtitle:

''(1) DELMARVA PENINSULA.—The term 'Delmarva Peninsula' means land in the States of Delaware, Maryland, and Virginia located on the east side of the Chesapeake Bay.

''(2) DEMONSTRATION PROGRAM.—The term 'demonstration program' means the Conservation Corridor Demonstration Program established under this subtitle.

''(3) CONSERVATION CORRIDOR PLAN; PLAN.—The terms 'conservation corridor plan' and 'plan' mean a conservation corridor plan required to be submitted and approved as a condition for participation in the demonstration program.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''SEC. 2602. CONSERVATION CORRIDOR DEMONSTRATION PROGRAM.

''(a) ESTABLISHMENT.—The Secretary shall carry out a demonstration program, to be known as the 'Conservation Corridor Demonstration Program', under which any of the States of Delaware, Maryland, and Virginia, a local government of any 1 of those States with jurisdiction over land on the Delmarva Peninsula, or a combination of those States, may submit a conservation corridor plan to integrate agriculture and forestry conservation programs of the Department of Agriculture with State and local efforts to address farm conservation needs.

''(b) SUBMISSION OF CONSERVATION CORRIDOR PLAN.—

''(1) SUBMISSION AND PROPOSAL.—To be eligible to participate in the demonstration program, a State, local government, or combination of States referred to in subsection (a) shall—

''(A) submit to the Secretary a conservation corridor plan that—

''(i) proposes specific criteria and commitment of resources in the geographic region designated in the plan; and

''(ii) describes how the linkage of Federal, State, and local resources will improve—

''(I) the economic viability of agriculture; and

''(II) the environmental integrity of the watersheds in the Delmarva Peninsula; and

''(B) demonstrate to the Secretary that, in developing the plan, the State, local government, or combination of States has solicited and taken into account the views of local residents.

''(2) DRAFT MEMORANDUM OF AGREEMENT.—If the conservation corridor plan is submitted by more than 1 State, the plan shall provide a draft memorandum of agreement among entities in each submitting State.

''(c) REVIEW OF PLAN.—Not later than 90 days after the date of receipt of a conservation corridor plan, the Secretary—

''(1) shall review the plan; and

''(2) may approve the plan for implementation under this subtitle if the Secretary determines that the plan meets the requirements specified in subsection (d).

''(d) CRITERIA FOR APPROVAL.—The Secretary may approve a conservation corridor plan only if, as determined by the Secretary, the plan provides for each of the following:

''(1) VOLUNTARY ACTIONS.—Actions taken under the plan—

''(A) are voluntary;

''(B) require the consent of willing landowners; and

''(C) provide a mechanism by which the landowner may withdraw such consent without adverse consequences other than the loss of any payments to the landowner conditioned on continued enrollment of the land.

''(2) LAND OF HIGH CONSERVATION VALUE.—Criteria specified in the plan ensure that land enrolled in each conservation program incorporated through the plan are of exceptionally high conservation value, as determined by the Secretary.

''(3) NO EFFECT ON UNENROLLED LAND.—The enrollment of land in a conservation program incorporated through the plan will neither—

''(A) adversely affect any adjacent land not so enrolled; nor

''(B) create any buffer zone on such unenrolled land.

''(4) GREATER BENEFITS.—The conservation programs incorporated through the plan provide benefits greater than the benefits that would likely be achieved through individual application of the conservation programs.

''(5) SUFFICIENT STAFFING.—Staffing, considering both Federal and non-Federal resources, is sufficient to ensure success of the plan.

''SEC. 2603. IMPLEMENTATION OF CONSERVATION CORRIDOR PLAN.

''(a) MEMORANDUM OF AGREEMENT.—On approval of a conservation corridor plan, the Secretary may enter into a memorandum of agreement with the State, local government, or combination of States that submitted the plan to—

''(1) guarantee specific program resources for implementation of the plan;

''(2) establish various compensation rates to the extent that the parties to the agreement consider justified; and

''(3) provide streamlined and integrated paperwork requirements.

''(b) CONTINUED COMPLIANCE WITH PLAN APPROVAL CRITERIA.—The Secretary shall terminate the memorandum of agreement entered into under subsection (a) with respect to an approved conservation corridor plan and cease the provision of resources for implementation of the plan if the Secretary determines that, in the implementation of the plan—

''(1) the State, local government, or combination of States that submitted the plan has deviated from—

''(A) the plan;

''(B) the criteria specified in section 2602(d) on which approval of the plan was conditioned; or

''(C) the cost-sharing requirements of section 2604(a) or any other condition of the plan; or

''(2) the economic viability of agriculture in the geographic region designated in the plan is being hindered.

''(c) PROGRESS REPORT.—At the end of the 3-year period that begins on the date on which funds are first provided with respect to a conservation corridor plan under the demonstration program, the State, local government, or combination of States that submitted the plan shall submit to the Secretary—

''(1) a report on the effectiveness of the activities carried out under the plan; and

''(2) an evaluation of the economic viability of agriculture in the geographic region designated in the plan.

''(d) DURATION.—The demonstration program shall be carried out for not less than 3 nor more than 5 years beginning on the date on which funds are first provided under the demonstration program.

''SEC. 2604. FUNDING REQUIREMENTS.

''(a) COST SHARING.—

''(1) REQUIRED NON-FEDERAL SHARE.—Subject to paragraph (2), as a condition on the approval of a conservation corridor plan, the Secretary shall require the State and local participants to contribute financial resources sufficient to cover at least 50 percent of the total cost of the activities carried out under the plan.

''(2) EXCEPTION.—The Secretary may reduce the cost-sharing requirement in the case of a specific project or activity under the demonstration program on good cause and on demonstration that the project or activity is likely to achieve extraordinary natural resource benefits.

''(b) RESERVATION OF FUNDS.—The Secretary may consider directing funds on a priority basis to the demonstration program and to projects in areas identified by the plan.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle for each of fiscal years 2002 through 2007.''

CRANBERRY ACREAGE RESERVE PROGRAM

Pub. L. 107–171, title X, § 10608, May 13, 2002, 116 Stat. 515, provided that:

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE AREA.—The term 'eligible area' means a wetland or buffer strip adjacent to a wetland that, as determined by the Secretary—

''(A)(i) is used, and has a history of being used, for the cultivation of cranberries; or

''(ii) is an integral component of a cranberry-growing operation;

''(B) is located in an environmentally sensitive area.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(b) PROGRAM.—The Secretary shall establish a program to purchase permanent easements in eligible areas from willing sellers.

''(c) PURCHASE PRICE.—The Secretary shall ensure, to the maximum extent practicable, that each easement purchased under this section is for an amount that appropriately reflects the range of values for agricultural and nonagricultural land in the region in which the eligible area subject to the easement is located (including whether that land is located in 1 or more environmentally sensitive areas, as determined by the Secretary).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000.''

SUBCHAPTER II—HIGHLY ERODIBLE LAND CONSERVATION

§ 3811. Program ineligibility

(a) In general

Except as provided in section 3812 of this title, and notwithstanding any other provision of law, any person who in any crop year produces an agricultural commodity on a field on which highly erodible land is predominate, or designates land on which highly erodible land is predominate to be set aside, diverted, devoted to conservation uses, or otherwise not cultivated under a program administered by the Secretary to reduce production of an agricultural commodity, as determined by the Secretary shall be ineligible for—

(1) as to any commodity produced during that crop year by such person—

(A) contract payments under a production flexibility contract, marketing assistance loans, and any type of price support or payment made available under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.], the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;

(B) a farm storage facility loan made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h));

(C) a disaster payment; or

(D) a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Consolidated Farm Service Agency, if the Secretary determines that the proceeds of such loan will be used for a purpose that will contribute to excessive erosion of highly erodible land;

(2) a payment made under section 4 or 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b or 714c) during such crop year for the storage of an agricultural commodity acquired by the Commodity Credit Corporation; or

(3) during the crop year—

(A) a payment made pursuant to a contract entered into under the environmental quality incentives program under part IV of subchapter IV of this chapter;

(B) a payment under any other provision of subchapter IV of this chapter;

(C) a payment under section 2201 or 2202 of this title; or

(D) a payment, loan, or other assistance under section 1003 or 1006a of this title.

(b) Highly erodible land

The Secretary shall have, and shall not delegate to any private person or entity, authority to determine whether a person has complied with this subchapter.

(Pub. L. 99–198, title XII, § 1211, Dec. 23, 1985, 99 Stat. 1506; Pub. L. 101–624, title XIV, § 1411, Nov. 28, 1990, 104 Stat. 3569; Pub. L. 102–237, title II, § 204(1), Dec. 13, 1991, 105 Stat. 1854; Pub. L. 104–127, title III, § 311, Apr. 4, 1996, 110 Stat. 982; Pub. L. 107–171, title II, § 2002(a), May 13, 2002, 116 Stat. 233.)

REFERENCES IN TEXT

The Agricultural Market Transition Act, referred to in subsec. (a)(1)(A), is title I of Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 896, which is classified principally to chapter 100 (§ 7201 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 7201 of Title 7 and Tables.

The Commodity Credit Corporation Charter Act, referred to in subsec. (a)(1)(A), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§ 714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

The Consolidated Farm and Rural Development Act, referred to in subsec. (a)(1)(D), is title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§ 1921 et seq.) of Title 7, Agriculture. For complete classification of this

Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

AMENDMENTS

2002—Pub. L. 107–171 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1996—Pub. L. 104–127, § 311(1), struck out ''following December 23, 1985,'' before ''any person who'' in introductory provisions.

Par. (1)(A). Pub. L. 104–127, § 311(2)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: ''any type of price support or payment made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;''.

Par. (1)(C). Pub. L. 104–127, § 311(2)(B), (E), redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: ''crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);''.

Par. (1)(D). Pub. L. 104–127, § 311(2)(E), redesignated subpar. (E) as (D). Former subpar. (D) redesignated (C).

Pub. L. 104–127, § 311(2)(C), struck out before semicolon ''made under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), under section 132 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note), or under any similar provision enacted subsequent to August 14, 1989''.

Par. (1)(E). Pub. L. 104–127, § 311(2)(D), (E), substituted ''Consolidated Farm Service Agency'' for ''Farmers Home Administration'' and redesignated subpar. (E) as (D).

Par. (3). Pub. L. 104–127, § 311(3), added par. (3) and struck out former par. (3) which read as follows: ''during such crop year—

''(A) a payment made under section 590h, section 590*l* or section 590p(b) of this title;

''(B) a payment made under section 2201 or section 2202 of this title;

''(C) a payment under any contract entered into pursuant to section 3831 of this title;

''(D) a payment under part II of subchapter IV of this chapter;

''(E) a payment under part III of subchapter IV of this chapter; or

''(F) a payment, loan or other assistance under section 1003 or section 1006a of this title.''

1991—Par. (1)(D). Pub. L. 102–237, § 204(1)(A), substituted ''(7 U.S.C. 1421 note)'' for ''(16 U.S.C. 1421 note)''.

Par. (3)(D), (E). Pub. L. 102–237, § 204(1)(B), (C), made technical amendments to references to part II of subchapter IV of this chapter and part III of subchapter IV of this chapter, in subpars. (D) and (E), respectively, to clarify references in corresponding provisions of original Act.

1990—Pub. L. 101–624, § 1411(1), inserted '', or designates land on which highly erodible land is predominate to be set aside, diverted, devoted to conservation uses, or otherwise not cultivated under a program administered by the Secretary to reduce production of an agricultural commodity, as determined by the Secretary'' after ''is predominate'' in first sentence.

Par. (1)(D). Pub. L. 101–624, § 1411(2), inserted reference to section 132 of the Disaster Assistance Act of 1989 and similar provisions enacted after Aug. 14, 1989.

Par. (3). Pub. L. 101–624, § 1411(3)–(5), added par. (3).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 311 of Pub. L. 104–127 provided that the amendment made by that section is effective 90 days after Apr. 4, 1996.

WIND EROSION ESTIMATION PILOT PROJECT

Section 317 of Pub. L. 104–127 provided that:

''(a) IN GENERAL.—The Secretary of Agriculture shall conduct a pilot project to review, and modify as appropriate, the use of wind erosion factors under the highly erodible conservation requirements of subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.).

''(b) SELECTION OF COUNTIES AND PRODUCERS.—The pilot project shall be conducted for producers in those counties that—

''(1) have approximately 100 percent of their cropland determined to be highly erodible under title XII of the Act [16 U.S.C. 3801 et seq.];

''(2) have a reasonable likelihood that the use of wind erosion factors under title XII of the Act have resulted in an inequitable application of the highly erodible land requirements of title XII of the Act; and

''(3) if the use of the land classification system under section 1201(a)(9)(A) of the Act [16 U.S.C. 3801(a)(9)(A)] (as redesignated by section 301(a)(1)) may result in a more accurate delineation of the cropland.

''(c) ERRORS IN DELINEATION.—If the Secretary determines that a significant error has occurred in delineating cropland under the pilot project, the Secretary shall, at the request of the owners or operators of the cropland, conduct a new delineation of the cropland using the most accurate available delineation process, as determined by the Secretary.''

§ 3812. Exemptions

(a) Persons eligible for program benefits in connection with production or reduced production of crops on certain lands; eligibility based upon compliance with conservation plan by January 1, 1995; minimization of documentation

(1) During the period beginning on December 23, 1985, and ending on the later of January 1, 1990, or the date that is 2 years after the date land on which a crop of an agricultural commodity is produced was mapped by the Soil Conservation Service for purposes of classifying such land under the land capability classification system in effect on December 23, 1985, except as provided in paragraph (2), no person shall become ineligible under section 3811 of this title for program loans, payments, and benefits as the result of the production of a crop of an agricultural commodity on any land that was—

(A) cultivated to produce any of the 1981 through 1985 crops of an agricultural commodity; or

(B) set aside, diverted or otherwise not cultivated under a program administered by the Secretary for any such crops to reduce production of an agricultural commodity.

(2) If, as of January 1, 1990, or 2 years after the Soil Conservation Service has completed a soil survey for the farm, whichever is later, a person is actively applying a conservation plan, such person shall have until January 1, 1995, to comply with the plan without being subject to program ineligibility. In carrying out this subsection, the Secretary, Soil Conservation Service, and local soil conservation districts shall minimize the quantity of documentation a person must submit to comply with this paragraph.

(3) Any person who owns or operates highly erodible land that was the subject of a contract entered into under subpart B of part I of subchapter IV of this chapter shall only be required to apply a conservation plan established under this subchapter. The person shall not be required to meet a higher conservation standard than the standard applied to other highly erodible cropland located within the same area. If the person's conservation plan requires structures to be constructed, the person shall have

until 2 years after the expiration of such contract to comply with the conservation plan, or a longer period of time if the Secretary determines compliance is otherwise technically or economically not feasible, or such longer period is otherwise appropriate, before such person will be subject to program ineligibility with respect to such land under section 3811 of this title.

(4) On the expiration of a contract entered into under subpart B of part I of subchapter IV of this chapter, the provisions of this subchapter shall apply to the acreage that was the subject of such contract.

(b) Persons eligible for program benefits in connection with production of certain planted crops or production of crops on highly erodible land

No person shall become ineligible under section 3811 of this title for program loans, payments, and benefits as the result of the production of a crop of an agricultural commodity—

(1) planted before December 23, 1985; or

(2) planted during any crop year beginning before December 23, 1985.

(c) Ineligibility for loans and payments under section 3811

No person shall become ineligible under section 3811 of this title for program loans, payments, and benefits as the result of the production of a crop of an agricultural commodity or the designation of land to be set aside, diverted, devoted to conservation uses, or otherwise not cultivated under a program administered by the Secretary to reduce production of an agricultural commodity (hereafter in this subsection referred to as ''set aside'')—

(1) on highly erodible land in an area—

(A) within a conservation district, under a conservation system that has been approved by a conservation district after the district has determined that the conservation system is in conformity with technical standards set forth in the Soil Conservation Service technical guide for such district; or

(B) not within a conservation district, under a conservation system determined by the Secretary to be adequate for the protection of highly erodible land that has been set aside or for the production of such agricultural commodity on any highly erodible land subject to this chapter; or

(2) on highly erodible land that is planted or set aside in reliance on a determination by the Soil Conservation Service that such land was not highly erodible land, except that this paragraph shall not apply to any agricultural commodity that was planted or set aside on any land after the Soil Conservation Service determines that such land is highly erodible land; or

(3) on highly erodible land planted to alfalfa during each of the 1981 through 1985 crop years as part of a rotation practice approved by the Secretary, if the person has submitted a conservation plan, in which case, such person shall have until June 1, 1988, to comply with the plan without being subject to program ineligibility under section 3811 of this title.

(d) Program ineligibility inapplicable to pre-December 23, 1985, section 3811 loans

Section 3811 of this title shall not apply to a loan described in section 3811 of this title made before December 23, 1985.

(e) Limitations on ineligibility for tenants

If a tenant is determined to be ineligible for payments and other benefits under section 3811 of this title, the Secretary may limit such ineligibility only to the farm which is the basis for such ineligibility determination if—

(1) the tenant has established to the satisfaction of the Secretary that—

(A) the tenant has made a good faith effort to meet the requirements of this section, including enlisting the assistance of the Secretary to obtain a reasonable conservation plan for such farm; and

(B) the landlord on the farm refuses to comply with such plan on such farm; and

(2) the Secretary determines that such lack of compliance is not a part of a scheme or device to avoid such compliance.

The Secretary shall provide an annual report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the ineligibility determinations limited during the previous 12-month period under this subsection.

(f) Graduated penalties

(1) Ineligibility

No person shall become ineligible under section 3811 of this title for program loans, payments, and benefits as a result of the failure of the person to actively apply a conservation plan, if the Secretary determines that the person has acted in good faith and without an intent to violate this subchapter.

(2) Eligible reviewers

A determination of the Secretary, or a designee of the Secretary, under paragraph (1) shall be reviewed by the applicable—

(A) State Executive Director, with the technical concurrence of the State Conservationist; or

(B) district director, with the technical concurrence of the area conservationist.

(3) Period for implementation

A person who meets the requirements of paragraph (1) shall be allowed a reasonable period of time, as determined by the Secretary, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to be actively applying the conservation plan of the person.

(4) Penalties

(A) Application

This paragraph applies if the Secretary determines that—

(i) a person has failed to comply with section 3811 of this title with respect to highly erodible cropland, and has acted in good faith and without an intent to violate section 3811 of this title; or

(ii) the violation—

(I) is technical and minor in nature; and

(II) has a minimal effect on the erosion control purposes of the conservation plan applicable to the land on which the violation has occurred.

(B) Reduction

If this paragraph applies under subparagraph (A), the Secretary shall, in lieu of applying the ineligibility provisions of section 3811 of this title, reduce program benefits described in section 3811 of this title that the producer would otherwise be eligible to receive in a crop year by an amount commensurate with the seriousness of the violation, as determined by the Secretary.

(5) Subsequent crop years

Any person whose benefits are reduced for any crop year under this subsection shall continue to be eligible for all of the benefits described in section 3811 of this title for any subsequent crop year if, prior to the beginning of the subsequent crop year, the Secretary determines that the person is actively applying a conservation plan according to the schedule specified in the plan.

(g) Preparation or revision of conservation plan

The Secretary, in providing assistance to an individual in the preparation or revision of a conservation plan under this section, shall provide such individual with information—

(1) concerning cost effective and applicable erosion control measures that may be available to such individual to meet the requirements of this section; and

(2) concerning crop flexibility, base adjustment, and conservation assistance options that may be available to such individual to meet the requirements of this section, including the provisions of titles X, XII, and XIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (or the amendments made by such titles).

(h) Noncommercial production of agricultural commodities

Section 3811 of this title shall not apply to the noncommercial production of agricultural commodities on a farm if such production is limited to two acres or less and if the Secretary determines that such production is not intended to circumvent the conservation requirements otherwise applicable to lands under this subchapter.

(Pub. L. 99–198, title XII, § 1212, Dec. 23, 1985, 99 Stat. 1506; Pub. L. 100–28, §§ 2, 3, Apr. 24, 1987, 101 Stat. 291; Pub. L. 101–624, title XIV, § 1412, Nov. 28, 1990, 104 Stat. 3569; Pub. L. 102–237, title II, § 204(2), Dec. 13, 1991, 105 Stat. 1854; Pub. L. 104–127, title III, §§ 301(d), 312–314, Apr. 4, 1996, 110 Stat. 981–983; Pub. L. 110–234, title II, § 2002, May 22, 2008, 122 Stat. 1027; Pub. L. 110–246, § 4(a), title II, § 2002, June 18, 2008, 122 Stat. 1664, 1755.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1)(B), was in the original ''this title'', meaning title XII of Pub. L. 99–198, which enacted this chapter and former section 2005a of this title and amended sections 590g, 2004, 2005, 2006, and 2009 of this title, sections 4207 and 4209 of Title 7, Agriculture, and provisions set out as a note under section 1981 of Title 7.

The Food, Agriculture, Conservation, and Trade Act of 1990, referred to in subsec. (g)(2), is Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3359, as amended. Title X of the Act enacted section 1446h of Title 7 and amended section 1425a of Title 7. Title XII of the Act, known as the Forest Stewardship Act of 1990, is classified principally to amended chapter 41 (§ 2101 et seq.) of this title. Title XIII of the Act enacted sections 138 to 138i and 499b–1 of Title 7, amended sections 499c, 608c, and 608e–1 of Title 7, and enacted provisions set out as notes under sections 499a and 1622 of Title 7. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 1421 of Title 7 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (f). Pub. L. 110–246, § 2002, added subsec. (f) and struck out former subsec. (f) which related to graduated sanctions.

1996—Subsec. (a)(2). Pub. L. 104–127, § 301(d)(1), in first sentence, struck out ''that documents the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedule and that is based on the local Soil Conservation Service technical guide and approved by the local soil conservation district, in consultation with the local committees established under section 590h(b) of this title and the Secretary, or by the Secretary'' after ''applying a conservation plan''.

Subsec. (a)(3). Pub. L. 104–127, § 312, substituted ''shall only be required to apply a conservation plan established under this subchapter. The person shall not be required to meet a higher conservation standard than the standard applied to other highly erodible cropland located within the same area. If the person's conservation plan requires structures to be constructed, the person shall'' for ''shall, if the conservation plan established under this subchapter for such land requires structures to be constructed,''.

Subsec. (c)(3). Pub. L. 104–127, § 301(d)(2), substituted '', in which case,'' for ''based on the local Soil Conservation Service technical guide and approved by the local soil conservation district, in consultation with the local committees established under section 590h(b) of this title and the Secretary,''.

Subsec. (e)(1)(A). Pub. L. 104–127, § 301(d)(3), substituted ''conservation plan'' for ''conservation compliance plan''.

Subsec. (f)(1). Pub. L. 104–127, § 313(a), substituted ''No person'' for ''Except to the extent provided in paragraph (2), no person'' and substituted ''the person has acted in good faith and without an intent to violate this subchapter. A person who meets the requirements of this paragraph shall be allowed a reasonable period of time, as determined by the Secretary, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to be actively applying the person's conservation plan.'' for ''such person has—

''(A) not violated the provisions of section 3811 of this title within the previous 5 years on a farm; and

''(B) acted in good faith and without the intent to violate the provisions of this subchapter.''

Pub. L. 104–127, § 301(d)(4)(A), struck out ''that documents the decisions of such person with respect to location, land use, tillage systems, and conservation treatment measures and schedules prepared under subsection (a) of this section'' after ''apply a conservation plan''.

Subsec. (f)(2). Pub. L. 104–127, § 313(b), substituted ''with respect to highly erodible cropland that was not

in production prior to December 23, 1985, and has acted in good faith and without an intent to violate the provisions'' for ''meets the requirements of paragraph (1)''.

Subsec. (f)(3). Pub. L. 104–127, § 301(d)(4)(B), struck out ''prepared under subsection (a) of this section'' after ''a conservation plan''.

Subsec. (f)(4). Pub. L. 104–127, § 313(c), struck out concluding sentence which read as follows: ''A determination or the granting of a variance by the Secretary under this paragraph shall not be counted as a violation for the purposes of paragraph (1)(A).''

Pub. L. 104–127, § 301(d)(4)(C), in introductory provisions, struck out ''that documents the decisions of such person with respect to location, land use, tillage systems, and conservation treatment measures and schedules prepared under subsection (a) of this section'' after ''apply a conservation plan''.

Subsec. (f)(4)(C). Pub. L. 104–127, § 314(1), substituted ''problem, including weather, pest, and disease problems'' for ''problem''.

Subsec. (f)(5). Pub. L. 104–127, § 314(2), added par. (5).

1991—Subsec. (f)(4)(A). Pub. L. 102–237, § 204(2)(A), substituted ''such violation'' for ''such violations'' after ''which''.

Subsec. (g)(2). Pub. L. 102–235, § 204(2)(B), struck out comma after ''XIII''.

1990—Subsec. (a)(3), (4). Pub. L. 101–624, § 1412(a), added pars. (3) and (4).

Subsec. (b)(1), (2). Pub. L. 101–624, § 1412(b)(1), (2), inserted ''or'' in par. (1) and substituted a period for a semicolon in par. (2).

Subsec. (b)(3) to (5). Pub. L. 101–624, § 1412(b)(4), redesignated pars. (3) to (5) as pars. (1) to (3), respectively, of subsec. (c).

Subsec. (c). Pub. L. 101–624, § 1412(b)(3), (4), added subsec. (c) introductory provisions, and redesignated former subsec. (c) as (d).

Subsec. (c)(1). Pub. L. 101–624, § 1412(b)(4), (5), redesignated par. (3) of subsec. (b) as par. (1) of subsec. (c) and in subpar. (B) inserted ''for the protection of highly erodible land that has been set aside or'' after ''adequate''.

Subsec. (c)(2). Pub. L. 101–624, § 1412(b)(4), (6), redesignated par. (4) of subsec. (b) as par. (2) of subsec. (c) and inserted ''or set aside'' in two places.

Subsec. (c)(3). Pub. L. 101–624, § 1412(b)(4), redesignated par. (5) of subsec. (b) as par. (3) of subsec. (c).

Subsec. (d). Pub. L. 101–624, § 1412(b)(3), redesignated subsec. (c) as (d).

Subsecs. (e) to (h). Pub. L. 101–624, § 1412(c)–(f), added subsecs. (e) to (h).

1987—Subsec. (a)(2). Pub. L. 100–28, § 3, inserted ''that documents the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedule and that is'' after ''conservation plan'', and inserted at end ''In carrying out this subsection, the Secretary, Soil Conservation Service, and local soil conservation districts shall minimize the quantity of documentation a person must submit to comply with this paragraph.''

Subsec. (b)(5). Pub. L. 100–28, § 2(b), added par. (5).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3812a. Development and implementation of conservation plans and conservation systems

(a) Technical requirements

In connection with the standards and guidelines contained in Natural Resources Conservation Service field office technical guides applicable to the development and use of conservation measures and management practices as part of a conservation system, the Secretary shall ensure that the standards and guidelines permit a person to use a conservation system that—

(1) is technically and economically feasible;

(2) is based on local resource conditions and available conservation technology;

(3) is cost-effective; and

(4) does not cause undue economic hardship on the person applying the conservation system under the person's conservation plan.

(b) Measurement of erosion reduction

For the purpose of determining whether there is a substantial reduction in soil erosion on a field containing highly erodible cropland, the measurement of erosion reduction achieved by the application of a conservation system under a person's conservation plan shall be based on the estimated annual level of erosion at the time of the measurement compared to the estimated annual level of erosion that existed before the implementation of the conservation measures and management practices provided for in the conservation system.

(c) Residue measurement

(1) Responsibilities of the Secretary

For the purpose of measuring the level of residue on a field, the Secretary shall—

(A) take into account any residue incorporated into the top 2 inches of soil, as well as the growing crop, in the measurement;

(B) provide technical guidelines for acceptable residue measurement methods;

(C) provide a certification system for third parties to perform residue measurements; and

(D) provide for the acceptance and use of information and data voluntarily provided by the producer regarding the field.

(2) Acceptance of producer measurements

Annual residue measurements supplied by a producer (including measurements performed by a certified third party) shall be used by the Secretary if the Secretary determines that the measurements indicate that the residue level for the field meets the level required under the conservation plan.

(d) Certification of compliance

(1) In general

For the purpose of determining the eligibility of a person for program benefits specified in section 3811 of this title at the time application is made for the benefits, the Secretary shall permit the person to certify that the person is complying with the person's conservation plan.

(2) Status reviews

If a person makes a certification under paragraph (1), the Secretary shall not be required to carry out a review of the status of compliance of the person with the conservation plan under which the conservation system is being applied.

(3) Revisions and modifications

The Secretary shall permit a person who makes a certification under paragraph (1) with respect to a conservation plan to revise the conservation plan in any manner, if the same

level of conservation treatment provided for by the conservation system under the person's conservation plan is maintained. The Secretary may not revise the person's conservation plan without the concurrence of the person.

(e) Technical assistance

The Secretary shall, using available resources and consistent with the Secretary's other conservation responsibilities and objectives, provide technical assistance to a person throughout the development, revision, and application of the conservation plan and any conservation system of the person. At the request of the person, the Secretary may provide technical assistance regarding conservation measures and management practices for other lands of the person that do not contain highly erodible cropland.

(f) Encouragement of on-farm research

To encourage on-farm conservation research, the Secretary may allow a person to include in the person's conservation plan or a conservation system under the plan, on a field trial basis, practices that are not currently approved but that the Secretary considers have a reasonable likelihood of success.

(Pub. L. 99–198, title XII, § 1213, as added Pub. L. 104–127, title III, § 315(a)(2), Apr. 4, 1996, 110 Stat. 984.)

PRIOR PROVISIONS

A prior section 1213 of Pub. L. 99–198 was renumbered section 1214 and is classified to section 3813 of this title.

§ 3813. Soil surveys

The Secretary shall, as soon as is practicable after December 23, 1985, complete soil surveys on those private lands that do not have a soil survey suitable for use in determining the land capability class for purposes of this subchapter. In carrying out this section, the Secretary shall, insofar as possible, concentrate on those localities where significant amounts of highly erodible land are being converted to the production of agricultural commodities.

(Pub. L. 99–198, title XII, § 1214, formerly § 1213, Dec. 23, 1985, 99 Stat. 1507; renumbered § 1214, Pub. L. 104–127, title III, § 315(a)(1), Apr. 4, 1996, 110 Stat. 983.)

§ 3814. Notice and investigation of possible compliance deficiencies

(a) In general

An employee of the Department of Agriculture who observes a possible compliance deficiency or other potential violation of a conservation plan or this subchapter while providing on-site technical assistance shall provide to the responsible persons, not later than 45 days after observing the possible violation, information regarding actions needed to comply with the plan and this subchapter. The employee shall provide the information in lieu of reporting the observation as a compliance violation.

(b) Corrective action

The responsible persons shall attempt to correct the deficiencies as soon as practicable after receiving the information.

(c) Review

If the corrective action is not fully implemented not later than 1 year after the responsible persons receive the information, the Secretary may conduct a review of the status of compliance of the persons with the conservation plan and this subchapter.

(Pub. L. 99–198, title XII, § 1215, as added Pub. L. 104–127, title III, § 316, Apr. 4, 1996, 110 Stat. 985.)

SUBCHAPTER III—WETLAND CONSERVATION

§ 3821. Program ineligibility

(a) Production on converted wetland

Except as provided in this subchapter and notwithstanding any other provision of law, any person who in any crop year produces an agricultural commodity on converted wetland, as determined by the Secretary, shall be—

(1) in violation of this section; and

(2) ineligible for loans or payments in an amount determined by the Secretary to be proportionate to the severity of the violation.

(b) Ineligibility for certain loans and payments

If a person is determined to have committed a violation under subsection (a) of this section during a crop year, the Secretary shall determine which of, and the amount of, the following loans and payments for which the person shall be ineligible:

(1) Contract payments under a production flexibility contract, marketing assistance loans, and any type of price support or payment made available under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.], the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act.

(2) A loan made or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Consolidated Farm Service Agency, if the Secretary determines that the proceeds of the loan will be used for a purpose that will contribute to conversion of a wetland (other than as provided in this subchapter) to produce an agricultural commodity.

(3) During the crop year:

(A) A payment made pursuant to a contract entered into under the environmental quality incentives program under part IV of subchapter IV of this chapter.

(B) A payment under any other provision of subchapter IV of this chapter.

(C) A payment under section 2201 or 2202 of this title.

(D) A payment, loan, or other assistance under section 1003 or 1006a of this title.

(c) Wetland conversion

Except as provided in section 3822 of this title and notwithstanding any other provision of law, any person who in any crop year beginning after November 28, 1990, converts a wetland by draining, dredging, filling, leveling, or any other means for the purpose, or to have the effect, of making the production of an agricultural commodity possible on such converted wetland shall

be ineligible for those payments, loans, or programs specified in subsection (b) of this section for that crop year and all subsequent crop years.

(d) Prior loans

This section shall not apply to a loan described in subsection (b) of this section made before December 23, 1985.

(e) Wetland

The Secretary shall have, and shall not delegate to any private person or entity, authority to determine whether a person has complied with this subchapter.

(Pub. L. 99–198, title XII, §1221, Dec. 23, 1985, 99 Stat. 1507; Pub. L. 101–624, title XIV, §1421(b), Nov. 28, 1990, 104 Stat. 3572; Pub. L. 102–237, title II, §204(3), Dec. 13, 1991, 105 Stat. 1855; Pub. L. 102–552, title III, §308(a), Oct. 28, 1992, 106 Stat. 4116; Pub. L. 104–127, title III, §321, Apr. 4, 1996, 110 Stat. 986; Pub. L. 107–171, title II, §2002(b), May 13, 2002, 116 Stat. 233.)

REFERENCES IN TEXT

The Agricultural Market Transition Act, referred to in subsec. (b)(1), is title I of Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 896, which is classified principally to chapter 100 (§7201 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 7201 of Title 7 and Tables.

The Commodity Credit Corporation Charter Act, referred to in subsec. (b)(1), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

The Consolidated Farm and Rural Development Act, referred to in subsec. (b)(2), is title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§1921 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

AMENDMENTS

2002—Subsec. (e). Pub. L. 107–171 added subsec. (e).

1996—Pub. L. 104–127, §321(a)(2), reenacted section catchline without change.

Subsec. (a). Pub. L. 104–127, §321(a)(2), added subsec. (a) and struck out former subsec. (a) which related to ineligibility of persons producing an agricultural commodity on converted wetland to receive certain Federal payments, loans, insurance benefits, and other benefits.

Subsec. (b). Pub. L. 104–127, §321(a)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 104–127, §321(b)(1), inserted heading and substituted ''beginning after November 28, 1990,'' for ''subsequent to November 28, 1990,'' and ''subsection (b)'' for ''subsections (a)(1) through (3)''.

Pub. L. 104–127, §321(a)(1), redesignated subsec. (b) as (c).

Subsec. (d). Pub. L. 104–127, §321(b)(2), added subsec. (d).

1992—Subsec. (a)(1)(D). Pub. L. 102–552 made technical correction to directory language of Pub. L. 102–237. See 1991 Amendment note below.

1991—Subsec. (a)(1)(D). Pub. L. 102–237, as amended by Pub. L. 102–552, substituted ''(7 U.S.C. 1421 note)'' for ''(16 U.S.C. 1421 note)''.

1990—Subsec. (a). Pub. L. 101–624, §1421(b)(1), designated existing provisions as subsec. (a).

Subsec. (a)(1)(D). Pub. L. 101–624, §1421(b)(2), inserted reference to section 132 of the Disaster Assistance Act of 1989 and similar provisions enacted after Aug. 14, 1989.

Subsec. (a)(3). Pub. L. 101–624, §1421(b)(3)–(5), added par. (3).

Subsec. (b). Pub. L. 101–624, §1421(b)(6), added subsec. (b).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 326 of Pub. L. 104–127 provided that: ''This subtitle [subtitle C (§§321–326) of title III of Pub. L. 104–127, enacting section 3823 of this title, amending this section and section 3822 of this title, and repealing former section 3823 of this title] and the amendments made by this subtitle shall become effective 90 days after the date of enactment of this Act [Apr. 4, 1996].''

§ 3822. Delineation of wetlands; exemptions

(a) Delineation by Secretary

(1) In general

Subject to subsection (b) of this section and paragraph (6), the Secretary shall delineate, determine, and certify all wetlands located on subject land on a farm.

(2) Wetland delineation maps

The Secretary shall delineate wetlands on wetland delineation maps. On the request of a person, the Secretary shall make a reasonable effort to make an on-site wetland determination prior to delineation.

(3) Certification

On providing notice to affected persons, the Secretary shall—

(A) certify whether a map is sufficient for the purpose of making a determination of ineligibility for program benefits under section 3821 of this title; and

(B) provide an opportunity to appeal the certification prior to the certification becoming final.

(4) Duration of certification

A final certification made under paragraph (3) shall remain valid and in effect as long as the area is devoted to an agricultural use or until such time as the person affected by the certification requests review of the certification by the Secretary.

(5) Review of mapping on appeal

In the case of an appeal of the Secretary's certification, the Secretary shall review and certify the accuracy of the mapping of all land subject to the appeal to ensure that the subject land has been accurately delineated. Prior to rendering a decision on the appeal, the Secretary shall conduct an on-site inspection of the subject land on a farm.

(6) Reliance on prior certified delineation

No person shall be adversely affected because of having taken an action based on a previous certified wetland delineation by the Secretary. The delineation shall not be subject to a subsequent wetland certification or delineation by the Secretary, unless requested by the person under paragraph (4).

(b) Exemptions

No person shall become ineligible under section 3821 of this title for program loans or payments under the following circumstances:

(1) As the result of the production of an agricultural commodity on the following lands:

(A) A converted wetland if the conversion of the wetland was commenced before December 23, 1985.

(B) Land that is a nontidal drainage or irrigation ditch excavated in upland.

(C) A wet area created by a water delivery system, irrigation, irrigation system, or application of water for irrigation.

(D) A wetland on which the owner or operator of a farm or ranch uses normal cropping or ranching practices to produce an agricultural commodity in a manner that is consistent for the area where the production is possible as a result of a natural condition, such as drought, and is without action by the producer that destroys a natural wetland characteristic.

(E) Land that is an artificial lake or pond created by excavating or diking land (that is not a wetland) to collect and retain water and that is used primarily for livestock watering, fish production, irrigation, wildlife, fire control, flood control, cranberry growing, or rice production, or as a settling pond.

(F) A wetland that is temporarily or incidentally created as a result of adjacent development activity.

(G) A converted wetland if the original conversion of the wetland was commenced before December 23, 1985, and the Secretary determines the wetland characteristics returned after that date as a result of—

(i) the lack of maintenance of drainage, dikes, levees, or similar structures;

(ii) a lack of management of the lands containing the wetland; or

(iii) circumstances beyond the control of the person.

(H) A converted wetland, if—

(i) the converted wetland was determined by the Natural Resources Conservation Service to have been manipulated for the production of an agricultural commodity or forage prior to December 23, 1985, and was returned to wetland conditions through a voluntary restoration, enhancement, or creation action subsequent to that determination;

(ii) technical determinations regarding the prior site conditions and the restoration, enhancement, or creation action have been adequately documented by the Natural Resources Conservation Service;

(iii) the proposed conversion action is approved by the Natural Resources Conservation Service prior to implementation; and

(iv) the extent of the proposed conversion is limited so that the conditions will be at least equivalent to the wetland functions and values that existed prior to implementation of the voluntary wetland restoration, enhancement, or creation action.

(2) For the conversion of the following:

(A) An artificial lake or pond created by excavating or diking land that is not a wetland to collect and retain water and that is used primarily for livestock watering, fish production, irrigation, wildlife, fire control, flood control, cranberry growing, rice production, or as a settling pond.

(B) A wetland that is temporarily or incidentally created as a result of adjacent development activity.

(C) A wetland on which the owner or operator of a farm or ranch uses normal cropping or ranching practices to produce an agricultural commodity in a manner that is consistent for the area where the production is possible as a result of a natural condition, such as drought, and is without action by the producer that destroys a natural wetland characteristic.

(D) A wetland previously identified as a converted wetland (if the original conversion of the wetland was commenced before December 23, 1985), but that the Secretary determines returned to wetland status after that date as a result of—

(i) the lack of maintenance of drainage, dikes, levees, or similar structures;

(ii) a lack of management of the lands containing the wetland; or

(iii) circumstances beyond the control of the person.

(E) A wetland, if—

(i) the wetland was determined by the Natural Resources Conservation Service to have been manipulated for the production of an agricultural commodity or forage prior to December 23, 1985, and was returned to wetland conditions through a voluntary restoration, enhancement, or creation action subsequent to that determination;

(ii) technical determinations regarding the prior site conditions and the restoration, enhancement, or creation action have been adequately documented by the Natural Resources Conservation Service;

(iii) the proposed conversion action is approved by the Natural Resources Conservation Service prior to implementation; and

(iv) the extent of the proposed conversion is limited so that the conditions will be at least equivalent to the wetland functions and values that existed prior to implementation of the voluntary wetland restoration, enhancement, or creation action.

(c) On-site inspection requirement

No program loans, payments, or benefits shall be withheld from a person under this subchapter unless the Secretary has conducted an on-site visit of the subject land.

(d) Identification of minimal effect exemptions

For purposes of applying the minimal effect exemption under subsection (f)(1) of this section, the Secretary shall identify by regulation categorical minimal effect exemptions on a regional basis to assist persons in avoiding a violation of the ineligibility provisions of section 3821 of this title. The Secretary shall ensure that employees of the Department of Agriculture who administer this subchapter receive appropriate training to properly apply the minimal effect exemptions determined by the Secretary.

(e) Nonwetlands

The Secretary shall exempt from the ineligibility provisions of section 3821 of this title any action by a person upon lands in any case in

which the Secretary determines that any one of the following does not apply with respect to such lands:

(1) Such lands have a predominance of hydric soils.

(2) Such lands are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.

(3) Such lands, under normal circumstances, support a prevalence of such vegetation.

(f) Minimal effect; mitigation

The Secretary shall exempt a person from the ineligibility provisions of section 3821 of this title for any action associated with the production of an agricultural commodity on a converted wetland, or the conversion of a wetland, if 1 or more of the following conditions apply, as determined by the Secretary:

(1) The action, individually and in connection with all other similar actions authorized by the Secretary in the area, will have a minimal effect on the functional hydrological and biological value of the wetlands in the area, including the value to waterfowl and wildlife.

(2) The wetland and the wetland values, acreage, and functions are mitigated by the person through the restoration of a converted wetland, the enhancement of an existing wetland, or the creation of a new wetland, and the restoration, enhancement, or creation is—

(A) in accordance with a wetland conservation plan;

(B) in advance of, or concurrent with, the action;

(C) not at the expense of the Federal Government;

(D) in the case of enhancement or restoration of wetlands, on not greater than a 1-for-1 acreage basis unless more acreage is needed to provide equivalent functions and values that will be lost as a result of the wetland conversion to be mitigated;

(E) in the case of creation of wetlands, on greater than a 1-for-1 acreage basis if more acreage is needed to provide equivalent functions and values that will be lost as a result of the wetland conversion that is mitigated;

(F) on lands in the same general area of the local watershed as the converted wetland; and

(G) with respect to the restored, enhanced, or created wetland, made subject to an easement that—

(i) is recorded on public land records;

(ii) remains in force for as long as the converted wetland for which the restoration, enhancement, or creation to be mitigated remains in agricultural use or is not returned to its original wetland classification with equivalent functions and values; and

(iii) prohibits making alterations to the restored, enhanced, or created wetland that lower the wetland's functions and values.

(3) The wetland was converted after December 23, 1985, but before November 28, 1990, and the wetland values, acreage, and functions are mitigated by the producer through the requirements of subparagraphs (A), (B), (C), (D), (F), and (G) of paragraph (2).

(4) The action was authorized by a permit issued under section 1344 of title 33 and the wetland values, acreage, and functions of the converted wetland were adequately mitigated for the purposes of this subchapter.

(g) Mitigation appeals

A person shall be afforded the right to appeal, under section 3843[1] of this title, the imposition of a mitigation agreement requiring greater than one-to-one acreage mitigation to which the person is subject.

(h) Good faith exemption

(1) Exemption described

The Secretary may waive a person's ineligibility under section 3821 of this title for program loans, payments, and benefits as the result of the conversion of a wetland subsequent to November 28, 1990, or the production of an agricultural commodity on a converted wetland, if the Secretary determines that the person has acted in good faith and without intent to violate this subchapter.

(2) Eligible reviewers

A determination of the Secretary, or a designee of the Secretary, under paragraph (1) shall be reviewed by the applicable—

(A) State Executive Director, with the technical concurrence of the State Conservationist; or

(B) district director, with the technical concurrence of the area conservationist.

(3) Period for compliance

The Secretary shall provide a person who the Secretary determines has acted in good faith and without intent to violate this subchapter with a reasonable period, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to be actively restoring the subject wetland.

(i) Restoration

Any person who is determined to be ineligible for program benefits under section 3821 of this title for any crop year shall not be ineligible for such program benefits under such section for any subsequent crop year if, prior to the beginning of such subsequent crop year, the person has fully restored the characteristics of the converted wetland to its prior wetland state or has otherwise mitigated for the loss of wetland values, as determined by the Secretary, through the restoration, enhancement, or creation of wetland values in the same general area of the local watershed as the converted wetland.

(j) Determinations; restoration and mitigation plans; monitoring activities

Technical determinations, the development of restoration and mitigation plans, and monitoring activities under this section shall be made by the National[2] Resources Conservation Service.

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[1] See References in Text note below.

[2] So in original. Probably should be ''Natural''.

(k) Mitigation banking program

Using authorities available to the Secretary, the Secretary may operate a pilot program for mitigation banking of wetlands to assist persons to increase the efficiency of agricultural operations while protecting wetland functions and values. Subsection (f)(2)(C) of this section shall not apply to this subsection.

(Pub. L. 99–198, title XII, § 1222, Dec. 23, 1985, 99 Stat. 1508; Pub. L. 101–624, title XIV, § 1422, Nov. 28, 1990, 104 Stat. 3573; Pub. L. 104–127, title III, § 322, Apr. 4, 1996, 110 Stat. 987; Pub. L. 110–234, title II, § 2003, May 22, 2008, 122 Stat. 1028; Pub. L. 110–246, § 4(a), title II, § 2003, June 18, 2008, 122 Stat. 1664, 1756.)

REFERENCES IN TEXT

Section 3843 of this title, referred to in subsec. (g), was omitted and a new section 3843 was added in the general amendment of subchapter V of this chapter by Pub. L. 104–127, title III, § 341, Apr. 4, 1996, 110 Stat. 1008. The new section 3843 does not relate to appeal procedures.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (h)(2), (3). Pub. L. 110–246, § 2003, added par. (2), redesignated former par. (2) as (3), and inserted ''be'' before ''actively''.

1996—Subsec. (a). Pub. L. 104–127, § 322(a), added subsec. (a) and struck out heading and text of former subsec. (a). Text consisted of pars. (1) to (4) relating to delineation of wetlands.

Subsec. (b). Pub. L. 104–127, § 322(b), added subsec. (b) and struck out heading and text of former subsec. (b). Text consisted of pars. (1)(A) to (D) and (2)(A) and (B) relating to exemptions.

Subsec. (d). Pub. L. 104–127, § 322(c), added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: ''Section 3821 of this title shall not apply to a loan described in section 3821 of this title made before December 23, 1985.''

Subsec. (f). Pub. L. 104–127, § 322(d), added subsec. (f) and struck out heading and text of former subsec. (f). Text consisted of pars. (1) to (3) relating to minimal effect and mitigation exemptions.

Subsec. (g). Pub. L. 104–127, § 322(e), which directed substitution of ''person'' for ''producer'', was executed by making the substitution in two places.

Subsec. (h). Pub. L. 104–127, § 322(f), added subsec. (h) and struck out heading and text of former subsec. (h). Text consisted of pars. (1) to (3) relating to good faith exemptions to ineligibility under section 3821 of this title and graduated sanctions.

Subsec. (i). Pub. L. 104–127, § 322(g), inserted before period at end ''or has otherwise mitigated for the loss of wetland values, as determined by the Secretary, through the restoration, enhancement, or creation of wetland values in the same general area of the local watershed as the converted wetland''.

Subsec. (j). Pub. L. 104–127, § 322(h), added subsec. (j) and struck out heading and text of former subsec. (j). Text provided that technical determinations and the development of restoration and mitigation plans be made through agreement of local representative of Soil Conservation Service and representative of the Fish and Wildlife Service and required reporting of determinations and monitoring.

Subsec. (k). Pub. L. 104–127, § 322(i), added subsec. (k).

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions relating to eligibility for program benefits in connection with production of crops on certain wetlands, making program ineligibility inapplicable to pre-Dec. 23, 1985, section 3821 loans, and providing for personal exemptions from program ineligibility for actions associated with production of commodities having minimal wetland effect.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–127 effective 90 days after Apr. 4, 1996, see section 326 of Pub. L. 104–127, set out as a note under section 3821 of this title.

§ 3823. Affiliated persons

If a person is affected by a reduction in benefits under section 3821 of this title and the affected person is affiliated with other persons for the purpose of receiving the benefits, the benefits of each affiliated person shall be reduced under section 3821 of this title in proportion to the interest held by the affiliated person.

(Pub. L. 99–198, title XII, § 1223, as added Pub. L. 104–127, title III, § 324, Apr. 4, 1996, 110 Stat. 992.)

PRIOR PROVISIONS

A prior section 3823, Pub. L. 99–198, title XII, § 1223, Dec. 23, 1985, 99 Stat. 1508; Pub. L. 101–624, title XIV, § 1423, Nov. 28, 1990, 104 Stat. 3576; Pub. L. 102–237, title II, § 204(4), Dec. 13, 1991, 105 Stat. 1855, related to consultation with Secretary of the Interior, prior to repeal by Pub. L. 104–127, title III, §§ 323, 326, Apr. 4, 1996, 110 Stat. 992, effective 90 days after Apr. 4, 1996.

EFFECTIVE DATE

Section effective 90 days after Apr. 4, 1996, see section 326 of Pub. L. 104–127, set out as an Effective Date of 1996 Amendment note under section 3821 of this title.

§ 3824. Fairness of compliance

If the actions of an unrelated person or public entity, outside the control of, and without the prior approval of, the landowner or tenant result in a change in the characteristics of cropland that would cause the land to be determined to be a wetland, the affected land shall not be considered to be wetland for purposes of this subchapter.

(Pub. L. 99–198, title XII, § 1224, as added Pub. L. 101–624, title XIV, § 1424, Nov. 28, 1990, 104 Stat. 3576.)

SUBCHAPTER IV—AGRICULTURAL RESOURCES CONSERVATION PROGRAM

PART I—COMPREHENSIVE CONSERVATION ENHANCEMENT PROGRAM

SUBPART A—GENERAL PROVISIONS

§ 3830. Comprehensive conservation enhancement program

(a) Establishment

(1) In general

During the 1996 through 2002 calendar years, the Secretary shall establish a comprehensive conservation enhancement program (referred

to in this section as ''CCEP'') to be implemented through contracts and the acquisition of easements to assist owners and operators of farms and ranches to conserve and enhance soil, water, and related natural resources, including grazing land, wetland, and wildlife habitat.

(2) Means

The Secretary shall carry out the CCEP by—

(A) providing for the long-term protection of environmentally sensitive land; and

(B) providing technical and financial assistance to farmers and ranchers to—

(i) improve the management and operation of the farms and ranches; and

(ii) reconcile productivity and profitability with protection and enhancement of the environment.

(3) Programs

The CCEP shall consist of—

(A) the conservation reserve program established under subpart B;

(B) the wetlands reserve program established under subpart C; and

(C) the environmental quality incentives program established under part IV of this subchapter.

(b) Administration

(1) In general

In carrying out the CCEP, the Secretary shall enter into contracts with owners and operators and acquire interests in land through easements from owners, as provided in this part and part IV of this subchapter.

(2) Prior enrollments

Acreage enrolled in the conservation reserve or wetlands reserve program prior to April 4, 1996, shall be considered to be placed into the CCEP.

(Pub. L. 99–198, title XII, §1230, as added Pub. L. 101–624, title XIV, §1431(2), Nov. 28, 1990, 104 Stat. 3576; amended Pub. L. 103–66, title I, §1402(a), Aug. 10, 1993, 107 Stat. 332; Pub. L. 104–127, title III, §331, Apr. 4, 1996, 110 Stat. 992; Pub. L. 107–171, title II, §2006(b), May 13, 2002, 116 Stat. 237.)

AMENDMENTS

2002—Pub. L. 107–171, §2006(b)(1), substituted ''Comprehensive conservation enhancement program'' for ''Environmental conservation acreage reserve program'' in section catchline.

Subsec. (a)(1). Pub. L. 107–171, §2006(b)(2), (4), substituted ''a comprehensive conservation enhancement program'' for ''an environmental conservation acreage reserve program'' and ''CCEP'' for ''ECARP''.

Subsecs. (a)(2), (3), (b). Pub. L. 107–171, §2006(b)(4), substituted ''CCEP'' for ''ECARP'' wherever appearing.

Subsec. (c). Pub. L. 107–171, §2006(b)(3), struck out heading and text of subsec. (c). Text read as follows:

''(1) DESIGNATION.—The Secretary may designate watersheds, multistate areas, or regions of special environmental sensitivity as conservation priority areas that are eligible for enhanced assistance under this part and part IV of this subchapter.

''(2) ASSISTANCE.—The Secretary may designate areas as conservation priority areas to assist, to the maximum extent practicable, agricultural producers within the conservation priority areas to comply with nonpoint source pollution requirements under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and other Federal and State environmental laws and to meet other conservation needs.

''(3) PRODUCERS.—The Secretary may provide technical assistance, cost-share payments, and incentive payments to producers in a conservation priority area under this part and part IV of this subchapter based on—

''(A) the significance of the soil, water, wildlife habitat, and related natural resource problems in a watershed, multistate area, or region; and

''(B) the structural practices or land management practices that best address the problems, and that maximize environmental benefits for each dollar expended, as determined by the Secretary.''

1996—Pub. L. 104–127 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) requiring Secretary to establish and implement an Environmental Conservation Acreage Reserve Program during 1991 through 1995 calendar years.

1993—Subsec. (b). Pub. L. 103–66 struck out before period at end ''to place in the Environmental Conservation Acreage Reserve Program during the 1986 through 1995 calendar years a total of not less than 40,000,000 nor more than 45,000,000 acres''.

CONSERVATION ASSISTANCE

Pub. L. 106–224, title II, §211, June 20, 2000, 114 Stat. 406, as amended by Pub. L. 107–171, title II, §2503(b)(1)(B), May 13, 2002, 116 Stat. 269, provided that:

''(a) ESTABLISHMENT.—The Secretary shall use $40,000,000 of funds of the Commodity Credit Corporation to provide financial assistance to farmers and ranchers to—

''(1) address threats to soil, water, and related natural resources, including grazing land, wetland, and wildlife habitat;

''(2) comply with Federal and State environmental laws; and

''(3) make beneficial, cost-effective changes to cropping systems, grazing management, manure, nutrient, pest, or irrigation management, land uses, or other measures needed to conserve and improve soil, water, and related natural resources.

''(b) TYPE OF ASSISTANCE.—Assistance under this section may be made in the form of cost share payments or incentive payments, as determined by the Secretary.

''(c) AREAS.—The Secretary shall provide assistance under this section to areas that are not designated under section 1230(c) of the Food Security Act of 1985 ([former] 16 U.S.C. 3830(c)).''

FARMLAND PROTECTION PROGRAM

Pub. L. 104–127, title III, §388, Apr. 4, 1996, 110 Stat. 1020, directed Secretary of Agriculture to establish and carry out a farmland protection program, prior to repeal by Pub. L. 107–171, title II, §2503(b)(1)(A), May 13, 2002, 116 Stat. 269.

[Pub. L. 107–171, title II, §2503(b)(2), May 13, 2002, 116 Stat. 269, provided that: ''The amendment made by paragraph (1)(A) [repealing section 388 of Pub. L. 104–127, formerly set out above] shall have no effect on any contract entered into under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 [Pub. L. 104–127] (16 U.S.C. 3830 note) that is in effect as of the date of enactment of this Act [May 13, 2002].'']

§ 3830a. Repealed. Pub. L. 107–171, title I, § 1613(j)(3), title II, § 2006(c), May 13, 2002, 116 Stat. 221, 237

Section, Pub. L. 99–198, title XII, §1230A, as added Pub. L. 106–387, §1(a) [title VII, §755], Oct. 28, 2000, 114 Stat. 1549, 1549A–42, related to good faith reliance.

SUBPART B—CONSERVATION RESERVE

CODIFICATION

Subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985, comprising this subpart,

was originally designated in Pub. L. 99–198, title XII, Dec. 23, 1985, 99 Stat. 1509, by Pub. L. 101–624, title XIV, §§1431(1), 1432(1), Nov. 28, 1990, 104 Stat. 3576, 3577, and amended by Pub. L. 99–500, Oct. 18, 1986, 100 Stat. 1783, and Pub. L. 99–591, Oct. 30, 1986, 100 Stat. 3341; Pub. L. 99–641, Nov. 10, 1986, 100 Stat. 3556; Pub. L. 100–233, Jan. 6, 1988, 101 Stat. 1568; Pub. L. 100–387, Aug. 11, 1988, 102 Stat. 924; Pub. L. 101–512, Nov. 5, 1990, 104 Stat. 1915; Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3359; Pub. L. 102–237, Dec. 13, 1991, 105 Stat. 1818; Pub. L. 102–324, July 22, 1992, 106 Stat. 447; Pub. L. 102–552, Oct. 28, 1992, 106 Stat. 4102; Pub. L. 103–66, Aug. 10, 1993, 107 Stat. 312; Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 888; Pub. L. 106–78, Oct. 22, 1999, 113 Stat. 1135; Pub. L. 106–387, Oct. 28, 2000, 114 Stat. 1549; Pub. L. 107–76, Nov. 28, 2001, 115 Stat. 704. Subchapter B is shown herein, however, as having been added by Pub. L. 107–171, title II, §2101(a), May 13, 2002, 116 Stat. 238, without reference to the intervening amendments because of the extensive revision of the subchapter's provisions by Pub. L. 107–171.

§ 3831. Conservation reserve

(a) In general

Through the 2012 fiscal year, the Secretary shall formulate and carry out a conservation reserve program under which land is enrolled through the use of contracts to assist owners and operators of land specified in subsection (b) of this section to conserve and improve the soil, water, and wildlife resources of such land and to address issues raised by State, regional, and national conservation initiatives.

(b) Eligible land

The Secretary may include in the program established under this subpart—

(1) highly erodible cropland that—

(A)(i) if permitted to remain untreated could substantially reduce the agricultural production capability for future generations; or

(ii) cannot be farmed in accordance with a plan that complies with the requirements of subchapter II of this chapter; and

(B) the Secretary determines had a cropping history or was considered to be planted for 4 of the 6 years preceding the date of enactment of the Food, Conservation, and Energy Act of 2008 (except for land enrolled in the conservation reserve program as of that date);

(2) marginal pasture land converted to wetland or established as wildlife habitat prior to November 28, 1990;

(3) marginal pasture land to be devoted to appropriate vegetation, including trees, in or near riparian areas, or devoted to similar water quality purposes (including marginal pastureland converted to wetland or established as wildlife habitat);

(4) cropland that is otherwise ineligible if the Secretary determines that—

(A) if permitted to remain in agricultural production, the land would—

(i) contribute to the degradation of soil, water, or air quality; or

(ii) pose an on-site or off-site environmental threat to soil, water, or air quality;

(B) the land is a—

(i) newly-created, permanent grass sod waterway; or

(ii) a contour grass sod strip established and maintained as part of an approved conservation plan;

(C) the land will be devoted to newly established living snow fences, permanent wildlife habitat, windbreaks, shelterbelts, or filterstrips devoted to trees or shrubs;

(D) the land poses an off-farm environmental threat, or a threat of continued degradation of productivity due to soil salinity, if permitted to remain in production; or

(E) enrollment of the land would facilitate a net savings in groundwater or surface water resources of the agricultural operation of the producer; or

(5) the portion of land in a field not enrolled in the conservation reserve in a case in which more than 50 percent of the land in the field is enrolled as a buffer, if—

(A) the land is enrolled as part of the buffer; and

(B) the remainder of the field is—

(i) infeasible to farm; and

(ii) enrolled at regular rental rates.

(c) Planting status of certain land

For purposes of determining the eligibility of land to be placed in the conservation reserve established under this subpart, land shall be considered to be planted to an agricultural commodity during a crop year if—

(1) during the crop year, the land was devoted to a conserving use; or

(2)(A) during the crop year or during any of the 2 years preceding the crop year, the land was enrolled in the water bank program; and

(B) the contract of the owner or operator of the cropland expired or will expire in calendar year 2000, 2001, or 2002.

(d) Maximum enrollment

The Secretary may maintain up to 39,200,000 acres in the conservation reserve at any 1 time during the 2002 through 2009 fiscal years (including contracts extended by the Secretary pursuant to section 1437(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 3831 note; Public Law 101–624)). During fiscal years 2010, 2011, and 2012, the Secretary may maintain up to 32,000,000 acres in the conservation reserve at any 1 time.

(e) Duration of contract

(1) In general

For the purpose of carrying out this subpart, the Secretary shall enter into contracts of not less than 10, nor more than 15, years.

(2) Certain land

(A) In general

In the case of land devoted to hardwood trees, shelterbelts, windbreaks, or wildlife corridors under a contract entered into under this subpart after October 1, 1990, and land devoted to such uses under contracts modified under section 3835a of this title, the owner or operator of the land may, within the limitations prescribed under this section, specify the duration of the contract.

(B) Hardwood trees

In the case of land that is devoted to hardwood trees under a contract entered into

under this subpart prior to October 1, 1990, the Secretary may extend the contract for a term of not to exceed 5 years, as agreed to by the owner or operator of such land and the Secretary.

(3) 1-year extension

In the case of a contract described in paragraph (1) the term of which expires during calendar year 2002, an owner or operator of land enrolled under the contract may extend the contract for 1 additional year.

(f) Conservation priority areas

(1) Designation

On application by the appropriate State agency, the Secretary shall designate watershed areas of the Chesapeake Bay Region, the Great Lakes Region, the Long Island Sound Region, and other areas of special environmental sensitivity as conservation priority areas.

(2) Eligible watersheds

Watersheds eligible for designation under this subsection shall include areas with actual and significant adverse water quality or habitat impacts related to agricultural production activities.

(3) Expiration

Conservation priority area designation under this subsection shall expire after 5 years, subject to redesignation, except that the Secretary may withdraw a watershed's designation—

(A) on application by the appropriate State agency; or

(B) in the case of an area covered by this subsection, if the Secretary finds that the area no longer contains actual and significant adverse water quality or habitat impacts related to agricultural production activities.

(4) Duty of Secretary

In carrying out this subsection, the Secretary shall attempt to maximize water quality and habitat benefits in the watersheds described in paragraph (1) by promoting a significant level of enrollment of land within the watersheds in the program under this subpart by whatever means the Secretary determines are appropriate and consistent with the purposes of this subpart.

(g) Multi-year grasses and legumes

(1) In general

For purposes of this subpart, alfalfa and other multi-year grasses and legumes in a rotation practice, approved by the Secretary, shall be considered agricultural commodities.

(2) Cropping history

Alfalfa, when grown as part of a rotation practice, as determined by the Secretary, is an agricultural commodity subject to the cropping history criteria under subsection (b)(1)(B) for the purpose of determining whether highly erodible cropland has been planted or considered planted for 4 of the 6 years referred to in such subsection.

(h) Eligibility for consideration

On the expiration of a contract entered into under this subpart, the land subject to the contract shall be eligible to be considered for reenrollment in the conservation reserve.

(i) Balance of natural resource purposes

In determining the acceptability of contract offers under this subpart, the Secretary shall ensure, to the maximum extent practicable, an equitable balance among the conservation purposes of soil erosion, water quality, and wildlife habitat.

(Pub. L. 99–198, title XII, §1231, as added Pub. L. 107–171, title II, §2101(a), May 13, 2002, 116 Stat. 238; amended Pub. L. 109–148, div. B, title I, §107(a), Dec. 30, 2005, 119 Stat. 2750; Pub. L. 109–234, title III, §3022, June 15, 2006, 120 Stat. 478; Pub. L. 110–28, title IV, §4101, May 25, 2007, 121 Stat. 152; Pub. L. 110–234, title II, §§2101–2105, 2106(a)(2), (b)(1), May 22, 2008, 122 Stat. 1028, 1029, 1031, 1032; Pub. L. 110–246, §4(a), title II, §§2101–2105, 2106(a)(2), (b)(1), June 18, 2008, 122 Stat. 1664, 1756, 1757, 1759, 1760.)

REFERENCES IN TEXT

The date of enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsec. (b)(1)(B), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3831, Pub. L. 99–198, title XII, §1231, Dec. 23, 1985, 99 Stat. 1509; Pub. L. 99–500, §101(a) [title VI, §643], Oct. 18, 1986, 100 Stat. 1783, 1783–36, and Pub. L. 99–591, §101(a) [title VI, §643], Oct. 30, 1986, 100 Stat. 3341, 3341–36; Pub. L. 99–641, title II, §205, Nov. 10, 1986, 100 Stat. 3563; Pub. L. 101–624, title XIV, §§1432(2), 1447(a), Nov. 28, 1990, 104 Stat. 3577, 3605; Pub. L. 102–324, §1(a), July 22, 1992, 106 Stat. 447; Pub. L. 103–66, title I, §1402(b), Aug. 10, 1993, 107 Stat. 332; Pub. L. 104–127, title III, §332(a)(1), (b), Apr. 4, 1996, 110 Stat. 994; Pub. L. 106–387, §1(a) [title XI, §1102(a)], Oct. 28, 2000, 114 Stat. 1549, 1549A–75; Pub. L. 107–76, title VII, §758(a), Nov. 28, 2001, 115 Stat. 741, related to a conservation reserve program to be formulated and carried out by the Secretary through the 2002 calendar year, prior to the general amendment of this subpart by Pub. L. 107–171.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, §2101, substituted ''2012 fiscal year'' for ''2007 calendar year'' and inserted ''and to address issues raised by State, regional, and national conservation initiatives'' before period at end.

Subsec. (b)(1)(B). Pub. L. 110–246, §2102(1), substituted ''the date of enactment of the Food, Conservation, and Energy Act of 2008'' for ''May 13, 2002'' and substituted semicolon for period at end.

Subsec. (b)(4)(C) to (E). Pub. L. 110–246, §2102(2), in subpar. (C) struck out ''or'' at end, in subpar. (D) substituted ''or'' for ''and'' at end, and in subpar. (E) inserted ''or'' at end.

Subsec. (d). Pub. L. 110–246, §2103, substituted ''2009 fiscal years'' for ''2007 calendar years'' and ''(16 U.S.C.'' for ''(16 U.S.C.'' and inserted at end ''During fiscal years 2010, 2011, and 2012, the Secretary may maintain up to 32,000,000 acres in the conservation reserve at any 1 time.''

Subsec. (f)(1). Pub. L. 110–246, §2104, substituted ''the Chesapeake Bay Region'' for ''the Chesapeake Bay Region (Pennsylvania, Maryland, and Virginia)''.

Subsec. (g). Pub. L. 110–246, §2105, amended subsec. (g) generally. Prior to amendment, text read as follows:

''For purposes of this subpart, alfalfa and other multiyear grasses and legumes in a rotation practice, approved by the Secretary, shall be considered agricultural commodities.''

Subsecs. (h) to (j). Pub. L. 110–246, § 2106(a)(2), redesignated subsecs. (i) and (j) as (h) and (i), respectively, and struck out former subsec. (h) which related to pilot program for enrollment of wetland and buffer acreage in conservation reserve during 2002 through 2007 calendar years.

Subsec. (k). Pub. L. 110–246, § 2106(b)(1), renumbered subsec. (k) as section 3831a of this title.

2007—Subsec. (k)(2). Pub. L. 110–28 substituted ''The'' for ''During calendar year 2006, the''.

2006—Subsec. (k)(3)(G). Pub. L. 109–234 substituted ''$504,100,000'' for ''$404,100,000''.

2005—Subsec. (k). Pub. L. 109–148 added subsec. (k).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

REGULATIONS

Pub. L. 106–387, § 1(a) [title XI, § 1105], Oct. 28, 2000, 114 Stat. 1549, 1549A–78, required the Secretary of Agriculture, as soon as practicable after Oct. 28, 2000, to promulgate regulations to implement the amendments by section 1(a) [title XI] of Pub. L. 106–387, amending former sections 3831 and 3832 of this title.

STUDY ON ECONOMIC EFFECTS

Pub. L. 107–171, title II, § 2101(b), May 13, 2002, 116 Stat. 252, provided that:

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [May 13, 2002], the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the economic and social effects on rural communities resulting from the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

''(2) COMPONENTS.—The study under paragraph (1) shall include analyses of—

''(A) the impact that enrollments in the conservation reserve program have on rural businesses, civic organizations, and community services (such as schools, public safety, and infrastructure), particularly in communities with a large percentage of whole farm enrollments;

''(B) the effect that those enrollments have on rural population and beginning farmers (including a description of any connection between the rate of enrollment and the incidence of absentee ownership);

''(C)(i) the manner in which differential per acre payment rates potentially impact the types of land (by productivity) enrolled;

''(ii) changes to the per acre payment rates that may affect that impact; and

''(iii) the manner in which differential per acre payment rates could facilitate retention of productive agricultural land in agriculture; and

''(D) the effect of enrollment on opportunities for recreational activities (including hunting and fishing).''

STUDY OF IMPACT OF PILOT PROGRAM

Pub. L. 106–387, § 1(a) [title XI, § 1104], Oct. 28, 2000, 114 Stat. 1549, 1549A–78, required the Secretary of Agriculture to conduct a study of the impact of the pilot program established under former section 3831(h) of this title, as added by section 1(a) [title XI, § 1102(a)] of Pub. L. 106–387, and to report on the results of the study to committees of Congress not later than Mar. 1, 2003.

STUDY OF LAND USE FOR EXPIRING CONTRACTS AND EXTENSION OF AUTHORITY

Pub. L. 101–624, title XIV, § 1437, Nov. 28, 1990, 104 Stat. 3584, required the Secretary of Agriculture to conduct a study of cropland subject to expiring conservation reserve contracts entered into prior to Nov. 28, 1990, and to report on the study to committees of Congress not later than Dec. 31, 1993, and authorized the Secretary, during calendar years 1996 to 2000, to extend up to 10 years contracts entered into under this subpart prior to Nov. 28, 1990, or to purchase long-term or permanent easements as provided for in part III of this subchapter, at the option of the owner or operator on land that the Secretary has determined under the study should remain in conserving uses.

EXISTING CONSERVATION PROGRAMS

Pub. L. 99–263, Mar. 24, 1986, 100 Stat. 59, provided: ''That the conservation reserve program shall not replace or reduce any existing conservation program.''

§ 3831a. Emergency forestry conservation reserve program

(a) Definitions

In this section:

(1) Merchantable timber

The term ''merchantable timber'' means timber on private nonindustrial forest land on which the average tree has a trunk diameter of at least 6 inches measured at a point no less than 4.5 feet above the ground.

(2) Private nonindustrial forest land

The term ''private nonindustrial forest land'' includes State school trust land.

(b) Program

The Secretary shall carry out an emergency pilot program in States that the Secretary determines have suffered damage to merchantable timber in counties affected by hurricanes during the 2005 calendar year.

(c) Eligible acreage

(1) In general

Subject to paragraph (2) and the availability of funds under paragraph (7), an owner or operator may enroll private nonindustrial forest land in the conservation reserve under this section.

(2) Determination of damages

Eligibility for enrollment shall be limited to owners and operators of private nonindustrial forest land that have experienced a loss of 35 percent or more of merchantable timber in a county affected by hurricanes during the 2005 calendar year.

(3) Exemptions

Acreage enrolled in the conservation reserve under this section shall not count toward—

(A) county acreage limitations described in section 3843(b)[1] of this title; or

(B) the maximum enrollment described in section 3831(d) of this title.

(4) Duties of owners and operators

As a condition of entering into a contract under this section, during the term of the contract, the owner or operator of private nonindustrial forest land shall agree—

[1] See References in Text note below.

(A) to restore the land, through site preparation and planting of similar species as existing prior to hurricane damages or to the maximum extent practicable with other native species, as determined by the Secretary; and

(B) to establish temporary vegetative cover the purpose of which is to prevent soil erosion on the eligible acreage, as determined by the Secretary.

(5) Duties of the Secretary

(A) In general

In return for a contract entered into by an owner or operator of private nonindustrial forest land under this section, the Secretary shall provide, at the option of the landowner—

(i) notwithstanding the limitation in section 3834(f)(1) of this title, a lump sum payment; or

(ii) annual rental payments.

(B) Calculation of lump sum payment

The lump sum payment described in subparagraph (A)(i) shall be calculated using a net present value formula, as determined by the Secretary, based on the total amount a producer would receive over the duration of the contract.

(C) Calculation of annual rental payments

The annual rental payment described in subparagraph (A)(ii) shall be equal to the average rental rate for conservation reserve contracts in the county in which the land is located.

(D) Rolling signup

The Secretary shall offer a rolling signup for contracts under this section.

(E) Duration of contracts

A contract entered into under this section shall have a term of 10 years.

(6) Balance of natural resources

In determining the acceptability of contract offers under this section, the Secretary shall consider an equitable balance among the purposes of soil erosion prevention, water quality improvement, wildlife habitat restoration, and mitigation of economic loss.

(7) Funding

The Secretary shall use $504,100,000, to remain available until expended, of funds of the Commodity Credit Corporation to carry out this section.

(8) Determinations by Secretary

A determination made by the Secretary under this section shall be final and conclusive.

(9) Regulations

(A) In general

Not later than 90 days after December 30, 2005, the Secretary shall promulgate such regulations as are necessary to implement this section.

(B) Procedure

The promulgation of regulations and administration of this section shall be made without regard to—

(i) the notice and comment provisions of section 553 of title 5;

(ii) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(iii) chapter 35 of title 44 (commonly known as the ''Paperwork Reduction Act'').

(C) Congressional review of agency rulemaking

In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5.

(Pub. L. 99–198, title XII, §1231A, as added and amended Pub. L. 110–234, title II, §2106(b), May 22, 2008, 122 Stat. 1032, and Pub. L. 110–246, §4(a), title II, §2106(b), June 18, 2008, 122 Stat. 1664, 1760.)

REFERENCES IN TEXT

Section 3843 of this title, referred to in subsec. (c)(3)(A), was amended generally by Pub. L. 110–246, title II, §2707(b), June 18, 2008, 122 Stat. 1805, and, as so amended, no longer contains provisions relating to county acreage limitations.

CODIFICATION

December 30, 2005, referred to in subsec. (c)(9)(A), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 109–148, which enacted subsec. (k) of section 3831 of this title (now this section), to reflect the probable intent of Congress.

Pub. L. 110–234 and Pub. L. 110–246 both renumbered section 1231(k) of Pub. L. 99–198 as section 1231A of Pub. L. 99–198 and made identical amendments to such section. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

Section 3831(k) of this title, which was transferred and redesignated as this section and amended by Pub. L. 110–246, §2106(b), was based on Pub. L. 99–198, title XII, §1231(k), as added Pub. L. 109–148, div. B, title I, §107(a), Dec. 30, 2005, 119 Stat. 2750; amended Pub. L. 109–234, title III, §3022, June 15, 2006, 120 Stat. 478; Pub. L. 110–28, title IV, §4101, May 25, 2007, 121 Stat. 152.

AMENDMENTS

2008—Pub. L. 110–246, §2106(b), transferred section 3831(k) of this title to this section, substituted ''this section'' for ''this subsection'' wherever appearing, redesignated pars. (1) to (3) as subsecs. (a) to (c), respectively, in subsec. (a) redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, in subsec. (c) redesignated subpars. (A) to (I) as pars. (1) to (9), respectively, in par. (1) substituted ''paragraph (2)'' for ''subparagraph (B)'' and ''paragraph (7)'' for ''subparagraph (G)'', in pars. (3) and (4) redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, in par. (3)(B) substituted ''section 3831(d) of this title'' for ''subsection (d) of this section'', in par. (5) redesignated cls. (i) to (v) as subpars. (A) to (E), respectively, in subpar. (A) redesignated subcls. (I) and (II) as cls. (i) and (ii), respectively, in subpar. (B) substituted ''subparagraph (A)(i)'' for ''clause (i)(I)'', in subpar. (C) substituted ''subparagraph (A)(ii)'' for ''clause (i)(II)'', in par. (9) redesignated cls. (i) to (iii) as subpars. (A) to (C), respectively, and in subpar. (B) redesignated subcls. (I) to (III) as cls. (i) to (iii), respectively. See Codification note above.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of

Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3831b. Pilot program for enrollment of wetland and buffer acreage in conservation reserve

(a) Program required

(1) In general

During the 2008 through 2012 fiscal years, the Secretary shall carry out a program in each State under which the Secretary shall enroll eligible acreage described in subsection (b).

(2) Participation among States

The Secretary shall ensure, to the maximum extent practicable, that owners and operators in each State have an equitable opportunity to participate in the program established under this section.

(b) Eligible acreage

(1) Wetland and related land

Subject to subsections (c) and (d), an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, land—

(A) that is wetland (including a converted wetland described in section 3822(b)(1)(A) of this title) that had a cropping history during at least 3 of the immediately preceding 10 crop years;

(B) on which a constructed wetland is to be developed that will receive flow from a row crop agriculture drainage system and is designed to provide nitrogen removal in addition to other wetland functions;

(C) that was devoted to commercial pond-raised aquaculture in any year during the period of calendar years 2002 through 2007; or

(D) that, after January 1, 1990, and before December 31, 2002, was—

(i) cropped during at least 3 of 10 crop years; and

(ii) subject to the natural overflow of a prairie wetland.

(2) Buffer acreage

Subject to subsections (c) and (d), an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, buffer acreage that—

(A) with respect to land described in subparagraph (A), (B), or (C) of paragraph (1)—

(i) is contiguous to such land[1]

(ii) is used to protect such land; and

(iii) is of such width as the Secretary determines is necessary to protect such land, taking into consideration and accommodating the farming practices (including the straightening of boundaries to accommodate machinery) used with respect to the cropland that surrounds such land; and

(B) with respect to land described in subparagraph (D) of paragraph (1), enhances a wildlife benefit to the extent practicable in terms of upland to wetland ratios, as determined by the Secretary.

[1] So in original. Probably should be followed by a semicolon.

(c) Program limitations

(1) Acreage limitation

The Secretary may enroll in the conservation reserve, pursuant to the program established under this section, not more than—

(A) 100,000 acres in any State; and

(B) a total of 1,000,000 acres.

(2) Relationship to maximum enrollment

Subject to paragraph (3), any acreage enrolled in the conservation reserve under this section shall be considered acres maintained in the conservation reserve.

(3) Relationship to other enrolled acreage

Acreage enrolled in the conservation reserve under this section shall not affect for any fiscal year the quantity of—

(A) acreage enrolled to establish conservation buffers as part of the program announced on March 24, 1998 (63 Fed. Reg. 14109); or

(B) acreage enrolled into the conservation reserve enhancement program announced on May 27, 1998 (63 Fed. Reg. 28965).

(4) Review; potential increase in enrollment acreage

The Secretary shall conduct a review of the program established under this section with respect to each State that has enrolled land in the conservation reserve pursuant to the program. As a result of the review, the Secretary may increase the number of acres that may be enrolled in a State under the program to not more than 200,000 acres, notwithstanding paragraph (1)(A).

(d) Owner or operator enrollment limitations

(1) Wetland and related land

(A) Wetlands and constructed wetlands

The maximum size of any land described in subparagraph (A) or (B) of subsection (b)(1) that an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, shall be 40 contiguous acres.

(B) Flooded farmland

The maximum size of any land described in subparagraph (D) of subsection (b)(1) that an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, shall be 20 contiguous acres.

(C) Coverage

All acres described in subparagraph (A) or (B), including acres that are ineligible for payment, shall be covered by the conservation contract.

(2) Buffer acreage

The maximum size of any buffer acreage described in subsection (b)(2) that an owner or operator may enroll in the conservation reserve under this section shall be determined by the Secretary in consultation with the State Technical Committee.

(3) Tracts

Except for land described in subsection (b)(1)(C) and buffer acreage related to such

land, the maximum size of any eligible acreage described in subsection (b)(1) in a tract of an owner or operator enrolled in the conservation reserve under this section shall be 40 acres.

(e) Duties of owners and operators

During the term of a contract entered into under the program established under this section, an owner or operator shall agree—

(1) to restore the hydrology of the wetland within the eligible acreage to the maximum extent practicable, as determined by the Secretary;

(2) to establish vegetative cover (which may include emerging vegetation in water and bottomland hardwoods, cypress, and other appropriate tree species) on the eligible acreage, as determined by the Secretary;

(3) to a general prohibition of commercial use of the enrolled land; and

(4) to carry out other duties described in section 3832 of this title.

(f) Duties of the Secretary

(1) In general

Except as provided in paragraphs (2) and (3), in return for a contract entered into under this section, the Secretary shall—

(A) make payments to the owner or operator based on rental rates for cropland; and

(B) provide assistance to the owner or operator in accordance with sections 3833 and 3834 of this title.

(2) Contract offers and payments

The Secretary shall use the method of determination described in section 3834(c)(2)(B) of this title to determine the acceptability of contract offers and the amount of rental payments under this section.

(3) Incentives

The amounts payable to owners and operators in the form of rental payments under contracts entered into under this section shall reflect incentives that are provided to owners and operators to enroll filterstrips in the conservation reserve under section 3834 of this title.

(Pub. L. 99–198, title XII, §1231B, as added Pub. L. 110–234, title II, §2106(a)(1), May 22, 2008, 122 Stat. 1029, and Pub. L. 110–246, §4(a), title II, §2106(a)(1), June 18, 2008, 122 Stat. 1664, 1757.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 3831(h) of this title prior to repeal by Pub. L. 110–246.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

§ 3832. Duties of owners and operators

(a) In general

Under the terms of a contract entered into under this subpart, during the term of the contract, an owner or operator of a farm or ranch shall agree—

(1) to implement a plan approved by the local conservation district (or in an area not located within a conservation district, a plan approved by the Secretary) for converting eligible land normally devoted to the production of an agricultural commodity on the farm or ranch to a less intensive use (as defined by the Secretary), such as pasture, permanent grass, legumes, forbs, shrubs, or trees, substantially in accordance with a schedule outlined in the plan;

(2) to place highly erodible cropland subject to the contract in the conservation reserve established under this subpart;

(3) not to use the land for agricultural purposes, except as permitted by the Secretary;

(4) to establish approved vegetative cover (which may include emerging vegetation in water), water cover for the enhancement of wildlife, or, where practicable, maintain existing cover on the land, except that—

(A) the water cover shall not include ponds for the purpose of watering livestock, irrigating crops, or raising fish for commercial purposes; and

(B) the Secretary shall not terminate the contract for failure to establish approved vegetative or water cover on the land if—

(i) the failure to plant the cover was due to excessive rainfall or flooding;

(ii) the land subject to the contract that could practicably be planted to the cover is planted to the cover; and

(iii) the land on which the owner or operator was unable to plant the cover is planted to the cover after the wet conditions that prevented the planting subsides;

(5) to undertake management on the land as needed throughout the term of the contract to implement the conservation plan;

(6) on a violation of a term or condition of the contract at any time the owner or operator has control of the land—

(A) to forfeit all rights to receive rental payments and cost sharing payments under the contract and to refund to the Secretary any rental payments and cost sharing payments received by the owner or operator under the contract, together with interest on the payments as determined by the Secretary, if the Secretary, after considering the recommendations of the soil conservation district and the Natural Resources Conservation Service, determines that the violation is of such nature as to warrant termination of the contract; or

(B) to refund to the Secretary, or accept adjustments to, the rental payments and cost sharing payments provided to the owner or operator, as the Secretary considers appropriate, if the Secretary determines that the violation does not warrant termination of the contract;

(7) on the transfer of the right and interest of the owner or operator in land subject to the contract—

(A) to forfeit all rights to rental payments and cost sharing payments under the contract; and

(B) to refund to the United States all rental payments and cost sharing payments received by the owner or operator, or accept such payment adjustments or make such refunds as the Secretary considers appropriate and consistent with the objectives of this subpart;

unless the transferee of the land agrees with the Secretary to assume all obligations of the contract, except that no refund of rental payments and cost sharing payments shall be required if the land is purchased by or for the United States Fish and Wildlife Service, or the transferee and the Secretary agree to modifications to the contract, in a case in which the modifications are consistent with the objectives of the program, as determined by the Secretary;

(8) not to conduct any harvesting or grazing, nor otherwise make commercial use of the forage, on land that is subject to the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except that the Secretary may permit, consistent with the conservation of soil, water quality, and wildlife habitat (including habitat during nesting seasons for birds in the area)—

(A) managed harvesting (including the managed harvesting of biomass), except that in permitting managed harvesting, the Secretary, in coordination with the State technical committee—

(i) shall develop appropriate vegetation management requirements; and

(ii) shall identify periods during which managed harvesting may be conducted;

(B) harvesting and grazing or other commercial use of the forage on the land that is subject to the contract in response to a drought or other emergency;

(C) routine grazing or prescribed grazing for the control of invasive species, except that in permitting such routine grazing or prescribed grazing, the Secretary, in coordination with the State technical committee—

(i) shall develop appropriate vegetation management requirements and stocking rates for the land that are suitable for continued routine grazing; and

(ii) shall establish the frequency during which routine grazing may be conducted, taking into consideration regional differences such as—

(I) climate, soil type, and natural resources;

(II) the number of years that should be required between routine grazing activities; and

(III) how often during a year in which routine grazing is permitted that routine grazing should be allowed to occur; and

(D) the installation of wind turbines, except that in permitting the installation of wind turbines, the Secretary shall determine the number and location of wind turbines that may be installed, taking into account—

(i) the location, size, and other physical characteristics of the land;

(ii) the extent to which the land contains wildlife and wildlife habitat; and

(iii) the purposes of the conservation reserve program under this subpart;

(9) not to conduct any planting of trees on land that is subject to the contract unless the contract specifies that the harvesting and commercial sale of trees such as Christmas trees are prohibited, nor otherwise make commercial use of trees on land that is subject to the contract unless it is expressly permitted in the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except that no contract shall prohibit activities consistent with customary forestry practice, such as pruning, thinning, or stand improvement of trees, on land converted to forestry use;

(10) not to adopt any practice specified by the Secretary in the contract as a practice that would tend to defeat the purposes of this subpart; and

(11) to comply with such additional provisions as the Secretary determines are desirable and are included in the contract to carry out this subpart or to facilitate the practical administration of this subpart.

(b) Conservation plans

The plan referred to in subsection (a)(1) of this section—

(1) shall set forth—

(A) the conservation measures and practices to be carried out by the owner or operator during the term of the contract; and

(B) the commercial use, if any, to be permitted on the land during the term; and

(2) may provide for the permanent retirement of any existing cropland base and allotment history for the land.

(c) Foreclosure

(1) In general

Notwithstanding any other provision of law, an owner or operator who is a party to a contract entered into under this subpart may not be required to make repayments to the Secretary of amounts received under the contract if the land that is subject to the contract has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate in order to provide fair and equitable treatment.

(2) Resumption of control

(A) In general

This subsection shall not void the responsibilities of an owner or operator under the contract if the owner or operator resumes control over the land that is subject to the contract within the period specified in the contract.

(B) Contract

On the resumption of the control over the land by the owner or operator, the provisions of the contract in effect on the date of the foreclosure shall apply.

(d) Rental payment reduction for certain authorized uses of enrolled land

In the case of an authorized activity under subsection (a)(8) on land that is subject to a con-

tract under this subpart, the Secretary shall reduce the rental payment otherwise payable under the contract by an amount commensurate with the economic value of the authorized activity.

(Pub. L. 99–198, title XII, § 1232, as added Pub. L. 107–171, title II, § 2101(a), May 13, 2002, 116 Stat. 242; amended Pub. L. 108–7, div. N, title II, § 212, Feb. 20, 2003, 117 Stat. 545; Pub. L. 110–234, title II, §§ 2107, 2108, May 22, 2008, 122 Stat. 1032, 1033; Pub. L. 110–246, § 4(a), title II, §§ 2107, 2108, June 18, 2008, 122 Stat. 1664, 1760, 1761.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3832, Pub. L. 99–198, title XII, § 1232, Dec. 23, 1985, 99 Stat. 1509; Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1919; Pub. L. 101–624, title XIV, §§ 1433, 1447(a), Nov. 28, 1990, 104 Stat. 3579, 3605; Pub. L. 102–237, title II, § 204(5), Dec. 13, 1991, 105 Stat. 1855; Pub. L. 102–552, title V, § 516(a), Oct. 28, 1992, 106 Stat. 4136; Pub. L. 104–127, title III, § 332(a)(2), Apr. 4, 1996, 110 Stat. 994; Pub. L. 106–78, title VII, §§ 763, 769, Oct. 22, 1999, 113 Stat. 1173, 1174; Pub. L. 106–387, § 1(a) [title VIII, § 817, title XI, § 1103], Oct. 28, 2000, 114 Stat. 1549, 1549A–58, 1549A–77; Pub. L. 107–76, title VII, §§ 758(b), 759(b)(2), Nov. 28, 2001, 115 Stat. 741, related to duties of owners and operators, prior to the general amendment of this subpart by Pub. L. 107–171.

AMENDMENTS

2008—Subsec. (a)(5) to (7). Pub. L. 110–246, § 2107, added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively. Former par. (7) redesignated (8).

Subsec. (a)(8). Pub. L. 110–246, § 2108(a), added par. (8) and struck out former par. (8) which related to prohibition against harvesting, grazing, or other commercial use of the forage, with exception authorizing Secretary to permit managed harvesting and grazing if appropriate requirements were developed and timeframes identified or in a drought or other emergency, and exception for the installation of wind turbines.

Pub. L. 110–246, § 2107(1), redesignated par. (7) as (8). Former par. (8) redesignated (9).

Subsec. (a)(9) to (11). Pub. L. 110–246, § 2107(1), redesignated pars. (8) to (10) as (9) to (11), respectively.

Subsec. (d). Pub. L. 110–246, § 2108(b), added subsec. (d).

2003—Subsec. (a)(7)(A)(iii). Pub. L. 108–7 inserted before semicolon ‘‘, except that this clause shall not apply to the 2002 calendar year, and the Secretary shall repay the owner or operator (in a manner determined by the Secretary) for any reduction in rental payments made to the owner or operator as the result of the application of this clause to the 2002 calendar year’’.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3833. Duties of the Secretary

In return for a contract entered into by an owner or operator under section 3832 of this title, the Secretary shall—

(1) share the cost of carrying out the conservation measures and practices set forth in the contract for which the Secretary determines that cost sharing is appropriate and in the public interest; and

(2) for a period of years not in excess of the term of the contract, pay an annual rental payment in an amount necessary to compensate for—

(A) the conversion of highly erodible cropland normally devoted to the production of an agricultural commodity on a farm or ranch to a less intensive use; and

(B) the retirement of any cropland base and allotment history that the owner or operator agrees to retire permanently.

(Pub. L. 99–198, title XII, § 1233, as added Pub. L. 107–171, title II, § 2101(a), May 13, 2002, 116 Stat. 245.)

PRIOR PROVISIONS

A prior section 3833, Pub. L. 99–198, title XII, § 1233, Dec. 23, 1985, 99 Stat. 1511, related to duties of Secretary, prior to the general amendment of this subpart by Pub. L. 107–171.

§ 3834. Payments

(a) Timing

The Secretary shall provide payment for obligations incurred by the Secretary under a contract entered into under this subpart—

(1) with respect to any cost-sharing payment obligation incurred by the Secretary, as soon as practicable after the obligation is incurred; and

(2) with respect to any annual rental payment obligation incurred by the Secretary—

(A) as soon as practicable after October 1 of each calendar year; or

(B) at the option of the Secretary, at any time prior to such date during the year that the obligation is incurred.

(b) Federal percentage of cost sharing payments

(1) In general

In making cost sharing payments to an owner or operator under a contract entered into under this subpart, the Secretary shall pay 50 percent of the cost of establishing water quality and conservation measures and practices required under each contract for which the Secretary determines that cost sharing is appropriate and in the public interest.

(2) Limitation

The Secretary shall not make any payment to an owner or operator under this subpart to the extent that the total amount of cost sharing payments provided to the owner or operator from all sources would exceed 100 percent of the total cost of establishing measures and practices described in paragraph (1).

(3) Trees, windbreaks, shelterbelts, and wildlife corridors

(A) Applicability

This paragraph applies to—

(i) land devoted to the production of hardwood trees, windbreaks, shelterbelts, or wildlife corridors under a contract entered into under this subpart after November 28, 1990;

(ii) land converted to such production under section 3835a of this title; and

(iii) land on which an owner or operator agrees to conduct thinning authorized by

section 3832(a)(9) of this title, if the thinning is necessary to improve the condition of resources on the land.

(B) Payments

(i) Percentage

In making cost share payments to an owner or operator of land described in subparagraph (A), the Secretary shall pay 50 percent of the reasonable and necessary costs incurred by the owner or operator for maintaining trees or shrubs, including the cost of replanting (if the trees or shrubs were lost due to conditions beyond the control of the owner or operator) or thinning.

(ii) Duration

The Secretary shall make payments as described in clause (i) for a period of not less than 2 years, but not more than 4 years, beginning on the date of—

(I) the planting of the trees or shrubs; or

(II) the thinning of existing stands to improve the condition of resources on the land.

(4) Hardwood tree planting

The Secretary may permit owners or operators that contract to devote at least 10 acres of land to the production of hardwood trees under this subpart to extend the planting of the trees over a 3-year period if at least ⅓ of the trees are planted in each of the first 2 years.

(5) Other Federal cost share assistance

An owner or operator shall not be eligible to receive or retain cost share assistance under this subsection if the owner or operator receives any other Federal cost share assistance with respect to the land under any other provision of law.

(c) Annual rental payments

(1) In general

In determining the amount of annual rental payments to be paid to owners and operators for converting highly erodible cropland normally devoted to the production of an agricultural commodity to less intensive use, the Secretary may consider, among other things, the amount necessary to encourage owners or operators of highly erodible cropland to participate in the program established by this subpart.

(2) Method of determination

The amounts payable to owners or operators in the form of rental payments under contracts entered into under this subpart may be determined through—

(A) the submission of bids for such contracts by owners and operators in such manner as the Secretary may prescribe; or

(B) such other means as the Secretary determines are appropriate.

(3) Acceptance of contract offers

(A) Evaluation of offers

In determining the acceptability of contract offers, the Secretary may take into consideration the extent to which enrollment of the land that is the subject of the contract offer would improve soil resources, water quality, or wildlife habitat or provide other environmental benefits.

(B) Establishment of different criteria in various States and regions

The Secretary may establish different criteria for determining the acceptability of contract offers in various States and regions of the United States based on the extent to which water quality or wildlife habitat may be improved or erosion may be abated.

(C) Local preference

In determining the acceptability of contract offers for new enrollments, the Secretary shall accept, to the maximum extent practicable, an offer from an owner or operator that is a resident of the county in which the land is located or of a contiguous county if, as determined by the Secretary, the land would provide at least equivalent conservation benefits to land under competing offers.

(4) Hardwood tree acreage

In the case of acreage enrolled in the conservation reserve established under this subpart that is to be devoted to hardwood trees, the Secretary may consider bids for contracts under this subsection on a continuous basis.

(5) Rental rates

(A) Annual estimates

The Secretary (acting through the National Agricultural Statistics Service) shall conduct an annual survey of per acre estimates of county average market dryland and irrigated cash rental rates for cropland and pastureland in all counties or equivalent subdivisions within each State that have 20,000 acres or more of cropland and pastureland.

(B) Public availability of estimates

The estimates derived from the annual survey conducted under subparagraph (A) shall be maintained on a website of the Department of Agriculture for use by the general public.

(d) Cash or in-kind payments

(1) In general

Except as otherwise provided in this section, payments under this subpart—

(A) shall be made in cash or in commodities in such amount and on such time schedule as is agreed on and specified in the contract; and

(B) may be made in advance of determination of performance.

(2) Method of providing in-kind payments

If the payment to an owner or operator is made with in-kind commodities, the payment shall be made by the Commodity Credit Corporation—

(A) by delivery of the commodity involved to the owner or operator at a warehouse or other similar facility located in the county in which the highly erodible cropland is located or at such other location as is agreed

to by the Secretary and the owner or operator;

(B) by the transfer of negotiable warehouse receipts; or

(C) by such other method, including the sale of the commodity in commercial markets, as is determined by the Secretary to be appropriate to enable the owner or operator to receive efficient and expeditious possession of the commodity.

(3) Cash payments

(A) Commodity Credit Corporation stocks

If stocks of a commodity acquired by the Commodity Credit Corporation are not readily available to make full payment in kind to the owner or operator, the Secretary may substitute full or partial payment in cash for payment in kind.

(B) Special conservation reserve enhancement program

Payments to an owner or operator under a special conservation reserve enhancement program described in subsection (f)(4) of this section shall be in the form of cash only.

(e) Payments on death, disability, or succession

If an owner or operator that is entitled to a payment under a contract entered into under this subpart dies, becomes incompetent, is otherwise unable to receive the payment, or is succeeded by another person that renders or completes the required performance, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all of the circumstances.

(f) Payment limitation for rental payments

(1) In general

The total amount of rental payments, including rental payments made in the form of in-kind commodities, received by a person or legal entity, directly or indirectly, under this subpart for any fiscal year may not exceed $50,000.

(2) Repealed. Pub. L. 110–234, title II, § 2110(c)(2), May 22, 2008, 122 Stat. 1035, and Pub. L. 110–246, § 4(a), title II, § 2110(c)(2), June 18, 2008, 122 Stat. 1664, 1763

(3) Other payments

Rental payments received by an owner or operator shall be in addition to, and not affect, the total amount of payments that the owner or operator is otherwise eligible to receive under the Farm Security and Rural Investment Act of 2002.

(4) Special conservation reserve enhancement program

(A) In general

The provisions of this subsection that limit payments to any person or legal entity, and section 1305(d) of the Agricultural Reconciliation Act of 1987 (7 U.S.C. 1308 note; Public Law 100–203), shall not be applicable to payments received by a State, political subdivision, or agency thereof in connection with agreements entered into under a special conservation reserve enhancement program carried out by that entity that has been approved by the Secretary.

(B) Agreements

The Secretary may enter into such agreements for payments to States (including political subdivisions and agencies of States) that the Secretary determines will advance the purposes of this subpart.

(g) Other State or local assistance

In addition to any payment under this subpart, an owner or operator may receive cost share assistance, rental payments, or tax benefits from a State or subdivision thereof for enrolling land in the conservation reserve program.

(Pub. L. 99–198, title XII, § 1234, as added Pub. L. 107–171, title II, § 2101(a), May 13, 2002, 116 Stat. 245; amended Pub. L. 110–234, title II, §§ 2109, 2110(a), (b)(1), (c), May 22, 2008, 122 Stat. 1034, 1035; Pub. L. 110–246, § 4(a), title II, §§ 2109, 2110(a), (b)(1), (c), June 18, 2008, 122 Stat. 1664, 1762, 1763.)

REFERENCES IN TEXT

The Farm Security and Rural Investment Act of 2002, referred to in subsec. (f)(3), is Pub. L. 107–171, May 13, 2002, 116 Stat. 134. For complete classification of this Act to the Code, see Short Title note set out under section 7901 of Title 7, Agriculture, and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3834, Pub. L. 99–198, title XII, § 1234, Dec. 23, 1985, 99 Stat. 1511; Pub. L. 100–387, title III, § 322, Aug. 11, 1988, 102 Stat. 950; Pub. L. 101–624, title XIV, §§ 1434, 1447(a), Nov. 28, 1990, 104 Stat. 3581, 3605, related to payments for obligations, prior to the general amendment of this subpart by Pub. L. 107–171.

AMENDMENTS

2008—Subsec. (b)(3). Pub. L. 110–246, § 2109, added par. (3) and struck out former par. (3) which related to the making of payments to an owner or operator of land devoted to the production of hardwood trees, windbreaks, shelterbelts, or wildlife corridors.

Subsec. (c)(3). Pub. L. 110–246, § 2110(a), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: ''In determining the acceptability of contract offers, the Secretary may—

''(A) take into consideration the extent to which enrollment of the land that is the subject of the contract offer would improve soil resources, water quality, wildlife habitat, or provide other environmental benefits; and

''(B) establish different criteria in various States and regions of the United States based on the extent to which water quality or wildlife habitat may be improved or erosion may be abated.''

Subsec. (c)(5). Pub. L. 110–246, § 2110(b)(1), added par. (5).

Subsec. (f)(1). Pub. L. 110–246, § 2110(c)(1), substituted ''received by a person or legal entity, directly or indirectly,'' for ''made to a person''.

Subsec. (f)(2). Pub. L. 110–246, § 2110(c)(2), struck out par. (2) which related to promulgation of regulations

defining the term ''person'' as used in subsec. (f) and providing terms and conditions determined necessary to ensure a fair and reasonable application of the subsec. (f) limitation.

Subsec. (f)(4)(A). Pub. L. 110–246, § 2110(c)(3), substituted ''any person or legal entity'' for ''any person''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

FIRST SURVEY PURSUANT TO SUBSECTION (c)(5)

Pub. L. 110–234, title II, § 2110(b)(2), May 22, 2008, 122 Stat. 1035, and Pub. L. 110–246, § 4(a), title II, § 2110(b)(2), June 18, 2008, 122 Stat. 1664, 1763, provided that: ''The first survey required by paragraph (5) of section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)), as added by subsection (a), shall be conducted not later than 1 year after the date of enactment of this Act [June 18, 2008].''

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

CONSERVATION RESEARCH APPLICATION

For provisions directing that enumerated provisions of the Food Security Act of 1985 shall apply to the conservation reserve program under this subchapter with respect to rental payments to persons under contracts entered into after Dec. 22, 1987, with certain exceptions, see section 1305(d) of Pub. L. 100–203, set out as a note under section 1308 of Title 7, Agriculture.

§ 3835. Contracts

(a) Ownership or operation requirements

(1) In general

Except as provided in paragraph (2), no contract shall be entered into under this subpart concerning land with respect to which the ownership has changed in the 1-year period preceding the first year of the contract period unless—

(A) the new ownership was acquired by will or succession as a result of the death of the previous owner;

(B) the new ownership was acquired before January 1, 1985;

(C) the Secretary determines that the land was acquired under circumstances that give adequate assurance that the land was not acquired for the purpose of placing the land in the program established by this subpart; or

(D) the ownership change occurred due to foreclosure on the land and the owner of the land immediately before the foreclosure exercises a right of redemption from the mortgage holder in accordance with State law.

(2) Exceptions

Paragraph (1) shall not—

(A) prohibit the continuation of an agreement by a new owner after an agreement has been entered into under this subpart; or

(B) require a person to own the land as a condition of eligibility for entering into the contract if the person—

(i) has operated the land to be covered by a contract under this section for at least 1 year preceding the date of the contract or since January 1, 1985, whichever is later; and

(ii) controls the land for the contract period.

(b) Sales or transfers

If, during the term of a contract entered into under this subpart, an owner or operator of land subject to the contract sells or otherwise transfers the ownership or right of occupancy of the land, the new owner or operator of the land may—

(1) continue the contract under the same terms or conditions;

(2) enter into a new contract in accordance with this subpart; or

(3) elect not to participate in the program established by this subpart.

(c) Modifications

(1) In general

The Secretary may modify a contract entered into with an owner or operator under this subpart if—

(A) the owner or operator agrees to the modification; and

(B) the Secretary determines that the modification is desirable—

(i) to carry out this subpart;

(ii) to facilitate the practical administration of this subpart;

(iii) to facilitate a transition of land subject to the contract from a retired or retiring owner or operator to a beginning farmer or rancher or socially disadvantaged farmer or rancher for the purpose of returning some or all of the land into production using sustainable grazing or crop production methods; or

(iv) to achieve such other goals as the Secretary determines are appropriate, consistent with this subpart.

(2) Production of agricultural commodities

The Secretary may modify or waive a term or condition of a contract entered into under this subpart in order to permit all or part of the land subject to such contract to be devoted to the production of an agricultural commodity during a crop year, subject to such conditions as the Secretary determines are appropriate.

(d) Termination

(1) In general

The Secretary may terminate a contract entered into with an owner or operator under this subpart if—

(A) the owner or operator agrees to the termination; and

(B) the Secretary determines that the termination would be in the public interest.

(2) Notice to congressional committees

At least 90 days before taking any action to terminate under paragraph (1) all conservation reserve contracts entered into under this subpart, the Secretary shall provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate written notice of the action.

(e) Early termination by owner or operator

(1) Early termination

(A) In general

The Secretary shall allow a participant that entered into a contract under this subpart before January 1, 1995, to terminate the contract at any time if the contract has been in effect for at least 5 years.

(B) Liability for contract violation

The termination shall not relieve the participant of liability for a contract violation occurring before the date of the termination.

(C) Notice to Secretary

The participant shall provide the Secretary with reasonable notice of the desire of the participant to terminate the contract.

(2) Certain land excepted

The following land shall not be subject to an early termination of contract under this subsection:

(A) Filterstrips, waterways, strips adjacent to riparian areas, windbreaks, and shelterbelts.

(B) Land with an erodibility index of more than 15.

(C) Other land of high environmental value (including wetland), as determined by the Secretary.

(3) Effective date

The contract termination shall become effective 60 days after the date on which the owner or operator submits the notice required under paragraph (1)(C).

(4) Prorated rental payment

If a contract entered into under this subpart is terminated under this subsection before the end of the fiscal year for which a rental payment is due, the Secretary shall provide a prorated rental payment covering the portion of the fiscal year during which the contract was in effect.

(5) Renewed enrollment

The termination of a contract entered into under this subpart shall not affect the ability of the owner or operator that requested the termination to submit a subsequent bid to enroll the land that was subject to the contract into the conservation reserve.

(6) Conservation requirements

If land that was subject to a contract is returned to production of an agricultural commodity, the conservation requirements under subchapters II and III of this chapter shall apply to the use of the land to the extent that the requirements are similar to those requirements imposed on other similar land in the area, except that the requirements may not be more onerous than the requirements imposed on other land.

(f) Transition option for certain farmers or ranchers

(1) Duties of the Secretary

In the case of a contract modification approved in order to facilitate the transfer, as described in subsection (c)(1)(B)(iii), of land to a beginning farmer or rancher or socially disadvantaged farmer or rancher (in this subsection referred to as a ''covered farmer or rancher''), the Secretary shall—

(A) beginning on the date that is 1 year before the date of termination of the contract—

(i) allow the covered farmer or rancher, in conjunction with the retired or retiring owner or operator, to make conservation and land improvements; and

(ii) allow the covered farmer or rancher to begin the certification process under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.);

(B) beginning on the date of termination of the contract, require the retired or retiring owner or operator to sell or lease (under a long-term lease or a lease with an option to purchase) to the covered farmer or rancher the land subject to the contract for production purposes;

(C) require the covered farmer or rancher to develop and implement a conservation plan;

(D) provide to the covered farmer or rancher an opportunity to enroll in the conservation stewardship program or the environmental quality incentives program by not later than the date on which the farmer or rancher takes possession of the land through ownership or lease; and

(E) continue to make annual payments to the retired or retiring owner or operator for not more than an additional 2 years after the date of termination of the contract, if the retired or retiring owner or operator is not a family member (as defined in section 1308–1(b)(3)(B)[1] of title 7) of the covered farmer or rancher.

(2) Reenrollment

The Secretary shall provide a covered farmer or rancher with the option to reenroll any applicable partial field conservation practice that—

(A) is eligible for enrollment under the continuous signup requirement of section 3831(h)(4)(B)[1] of this title; and

(B) is part of an approved conservation plan.

(Pub. L. 99–198, title XII, §1235, as added Pub. L. 107–171, title II, §2101(a), May 13, 2002, 116 Stat. 249; amended Pub. L. 110–234, title II, §2111, May 22, 2008, 122 Stat. 1035; Pub. L. 110–246, §4(a), title II, §2111, June 18, 2008, 122 Stat. 1664, 1763.)

REFERENCES IN TEXT

The Organic Foods Production Act of 1990, referred to in subsec. (f)(1)(A)(ii), is title XXI of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3935, which is classified generally to chapter 94 (§6501 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 6501 of Title 7 and Tables.

Section 1308–1 of title 7, referred to in subsec. (f)(1)(E), was amended by Pub. L. 110–246, title I, §1603(d), June 18, 2008, 122 Stat. 1736, and, as so amend-

[1] See References in Text note below.

ed, no longer contains a subsec. (b)(3)(B) or provisions defining ''family member''.

Section 3831 of this title, referred to in subsec. (f)(2)(A), was amended by Pub. L. 110–246, title II, § 2106(a)(2), June 18, 2008, 122 Stat. 1759, and, as so amended, no longer contains a subsec. (h)(4)(B) or provisions relating to a continuous signup requirement.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3835, Pub. L. 99–198, title XII, § 1235, Dec. 23, 1985, 99 Stat. 1513; Pub. L. 100–233, title VIII, § 801, Jan. 6, 1988, 101 Stat. 1710; Pub. L. 101–624, title XIV, § 1447(a), Nov. 28, 1990, 104 Stat. 3605; Pub. L. 104–127, title III, § 332(c), Apr. 4, 1996, 110 Stat. 994, related to contracts, prior to the general amendment of this subpart by Pub. L. 107–171.

AMENDMENTS

2008—Subsec. (c)(1)(B)(iii), (iv). Pub. L. 110–246, § 2111(a), added cl. (iii) and redesignated former cl. (iii) as (iv).

Subsec. (f). Pub. L. 110–246, § 2111(b), added subsec. (f).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

CONSERVATION RESERVE

Pub. L. 100–45, § 10, May 27, 1987, 101 Stat. 323, provided that: ''Section 1235(a) of the Food Security Act of 1985 [16 U.S.C. 3835(a)] should be reviewed by the Secretary of Agriculture to ensure that the provisions thereof relating to exceptions to the three-year ownership requirement with respect to eligibility for the conservation reserve are being implemented in a manner to encourage inclusion of producer-owned land in the conservation reserve. However, any such exception to the three-year requirement should be made only if the Secretary determines that the land involved (1) was not acquired for the purpose of placing the land in the conservation reserve or (2) otherwise meets the criteria for exceptions made under section 1235(a).''

§ 3835a. Conversion of land subject to contract to other conserving uses

(a) Conversion to trees

(1) In general

The Secretary shall permit an owner or operator that has entered into a contract under this subpart that is in effect on November 28, 1990, to convert areas of highly erodible cropland that are subject to the contract, and that are devoted to vegetative cover, from that use to hardwood trees, windbreaks, shelterbelts, or wildlife corridors.

(2) Terms

(A) Extension of contract

With respect to a contract that is modified under this section that provides for the planting of hardwood trees, windbreaks, shelterbelts, or wildlife corridors, if the original term of the contract was less than 15 years, the owner or operator may extend the contract to a term of not to exceed 15 years.

(B) Cost share assistance

The Secretary shall pay 50 percent of the cost of establishing conservation measures and practices authorized under this subsection for which the Secretary determines the cost sharing is appropriate and in the public interest.

(b) Conversion to wetland

The Secretary shall permit an owner or operator that has entered into a contract under this subpart that is in effect on November 28, 1990, to restore areas of highly erodible cropland that are devoted to vegetative cover under the contract to wetland if—

(1) the areas are prior converted wetland;

(2) the owner or operator of the areas enters into an agreement to provide the Secretary with a long-term or permanent easement under subpart C covering the areas;

(3) there is a high probability that the prior converted area can be successfully restored to wetland status; and

(4) the restoration of the areas otherwise meets the requirements of subpart C.

(c) Limitation

The Secretary shall not incur, through a conversion under this section, any additional expense on the acres, including the expense involved in the original establishment of the vegetative cover, that would result in cost share for costs under this section in excess of the costs that would have been subject to cost share for the new practice had that practice been the original practice.

(d) Condition of contract

An owner or operator shall as a condition of entering into a contract under subsection (a) of this section participate in the Forest Stewardship Program established under section 2103a of this title.

(Pub. L. 99–198, title XII, § 1235A, as added Pub. L. 107–171, title II, § 2101(a), May 13, 2002, 116 Stat. 251.)

PRIOR PROVISIONS

Prior sections 3835a and 3836 were omitted in the general amendment of this subpart by Pub. L. 107–171.

Section 3835a, Pub. L. 99–198, title XII, § 1235A, as added Pub. L. 101–624, title XIV, § 1435, Nov. 28, 1990, 104 Stat. 3582; amended Pub. L. 102–324, § 1(b), July 22, 1992, 106 Stat. 447, related to conversion of land subject to contract to other conserving uses.

Section 3836, Pub. L. 99–198, title XII, § 1236, Dec. 23, 1985, 99 Stat. 1514; Pub. L. 101–624, title XIV, §§ 1436, 1447(a), Nov. 28, 1990, 104 Stat. 3583, 3605; Pub. L. 107–76, title VII, § 759(b)(1), Nov. 28, 2001, 115 Stat. 741, related to cropland base and allotment history.

A prior section 3836a, Pub. L. 104–127, title III, § 387, Apr. 4, 1996, 110 Stat. 1020, related to Wildlife Habitat Incentive Program, prior to repeal by Pub. L. 107–171, title II, § 2502(b), May 13, 2002, 116 Stat. 267. See section 3839bb–1 of this title.

SUBPART C—WETLANDS RESERVE PROGRAM

§ 3837. Wetlands reserve program

(a) Establishment and purposes

(1) Establishment

The Secretary shall establish a wetlands reserve program to assist owners of eligible lands in restoring and protecting wetlands.

(2) Purposes

The purposes of the wetlands reserve program are to restore, protect, or enhance wetlands on private or tribal lands that are eligible under subsections (c) and (d).

(b) Enrollment conditions

(1) Maximum enrollment

The total number of acres enrolled in the wetlands reserve program shall not exceed 3,041,200 acres.

(2) Methods of enrollment

Subject to paragraph (3), the Secretary shall enroll acreage into the wetlands reserve program through the use of permanent easements, 30-year easements, restoration cost share agreements, or any combination of those options.

(3) Acreage owned by Indian tribes

In the case of acreage owned by an Indian tribe, the Secretary shall enroll acreage into the wetlands reserve program through the use of—

(A) a 30-year contract (the value of which shall be equivalent to the value of a 30-year easement);

(B) restoration cost-share agreements; or

(C) any combination of the options described in subparagraphs (A) and (B).

(c) Eligibility

For purposes of enrolling land in the wetland reserve established under this subpart during the 1991 through 2012 fiscal years, private or tribal land shall be eligible to be placed into such reserve if the Secretary, in consultation with the Secretary of the Interior at the local level, determines that—

(1) such land maximizes wildlife benefits and wetland values and functions;

(2) such land is—

(A) farmed wetland or converted wetland, together with the adjacent land that is functionally dependent on the wetlands, except that converted wetland with respect to which the conversion was not commenced prior to December 23, 1985, shall not be eligible to be enrolled in the program under this section; or

(B) cropland or grassland that was used for agricultural production prior to flooding from the natural overflow of a closed basin lake or pothole, as determined by the Secretary, together (where practicable) with the adjacent land that is functionally dependent on the cropland or grassland; and

(3) the likelihood of the successful restoration of such land and the resultant wetland values merit inclusion of such land in the program taking into consideration the cost of such restoration.

(d) Other eligible land

The Secretary may include in the wetland reserve established under this subpart, together with land that is eligible under subsection (c) of this section, land that maximizes wildlife benefits and that is—

(1) farmed wetland and adjoining lands, enrolled in the conservation reserve, with the highest wetland functions and values, and that are likely to return to production after they leave the conservation reserve;

(2) other wetland of an owner that would not otherwise be eligible if the Secretary determines that the inclusion of such wetland in such easement would significantly add to the functional value of the easement; or

(3) riparian areas that link wetlands that are protected by easements or some other device or circumstance that achieves the same purpose as an easement.

(e) Ineligible land

The Secretary may not acquire easements on—

(1) land that contains timber stands established under the conservation reserve under subpart B; or

(2) pasture land established to trees under the conservation reserve under subpart B.

(f) Termination of existing contract

The Secretary may terminate or modify an existing contract entered into under section 3831(a) of this title if eligible land that is subject to such contract is transferred into the program established by this subpart.

(Pub. L. 99–198, title XII, §1237, as added Pub. L. 101–624, title XIV, §1438, Nov. 28, 1990, 104 Stat. 3584; amended Pub. L. 102–237, title II, §204(6), Dec. 13, 1991, 105 Stat. 1855; Pub. L. 103–66, title I, §1402(c), Aug. 10, 1993, 107 Stat. 333; Pub. L. 104–127, title III, §333(a)–(c), Apr. 4, 1996, 110 Stat. 995; Pub. L. 105–277, div. A, §101(a) [title VII, §752], Oct. 21, 1998, 112 Stat. 2681, 2681–32; Pub. L. 107–171, title II, §§2201, 2202, May 13, 2002, 116 Stat. 252; Pub. L. 110–234, title II, §§2201–2203(a), May 22, 2008, 122 Stat. 1036, 1037; Pub. L. 110–246, §4(a), title II, §§2201–2203(a), June 18, 2008, 122 Stat. 1664, 1764, 1765.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, §2201, amended subsec. (a) generally. Prior to amendment, text read as follows: ''The Secretary shall establish a wetlands reserve program to assist owners of eligible lands in restoring and protecting wetlands.''

Subsec. (b)(1). Pub. L. 110–246, §2202(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: ''The total number of acres enrolled in the wetlands reserve program shall not exceed 2,275,000 acres, of which, to the maximum extent practicable, the Secretary shall enroll 250,000 acres in each calendar year.''

Subsec. (b)(2). Pub. L. 110–246, §2202(2), substituted ''Subject to paragraph (3), the Secretary'' for ''The Secretary''.

Subsec. (b)(3). Pub. L. 110–246, §2202(3), added par. (3).

Subsec. (c). Pub. L. 110–246, §2203(a)(1), in introductory provisions, substituted ''1991 through 2012 fiscal years'' for ''1991 through 2007 calendar years'' and ''private or tribal land shall be eligible'' for ''land shall be eligible''.

Subsec. (c)(2). Pub. L. 110–246, §2203(a)(2), added par. (2) and struck out former par. (2) which read as follows: ''such land is farmed wetland or converted wetland, together with adjacent lands that are functionally de-

pendent on such wetlands, except that converted wetlands where the conversion was not commenced prior to December 23, 1985, shall not be eligible to be enrolled in the program under this section; and''.

2002—Subsec. (b). Pub. L. 107–171, § 2202(1), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows:

''(1) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the wetlands reserve program shall not exceed 975,000 acres.

''(2) METHODS OF ENROLLMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), effective beginning October 1, 1996, to the maximum extent practicable, the Secretary shall enroll into the wetlands reserve program—

''(i) ⅓ of the acres through the use of permanent easements;

''(ii) ⅓ of the acres through the use of 30-year easements; and

''(iii) ⅓ of the acres through the use of restoration cost-share agreements.

''(B) TEMPORARY EASEMENTS.—Effective beginning October 1, 1996, the Secretary shall not enroll acres in the wetlands reserve program through the use of new permanent easements until the Secretary has enrolled at least 75,000 acres in the program through the use of temporary easements.

''(C) For purposes of subparagraph (A), to the maximum extent practicable should be interpreted to mean that acceptance of wetlands reserve program bids may be in proportion to landowner interest expressed in program options.''

Subsec. (c). Pub. L. 107–171, § 2201, substituted ''2007'' for ''2002'' in introductory provisions.

Subsec. (g). Pub. L. 107–171, § 2202(2), struck out heading and text of subsec. (g). Text read as follows: ''The Secretary shall enroll lands in the wetland reserve through the purchase of easements as provided for in section 3837a of this title.''

1998—Subsec. (b)(2)(C). Pub. L. 105–277 added subpar. (C).

1996—Subsec. (b). Pub. L. 104–127, § 333(a), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: ''The Secretary shall enroll into the wetlands reserve program—

''(1) a total of not less than 330,000 acres by the end of the 1995 calendar year; and

''(2) a total of not less than 975,000 acres during the 1991 through 2000 calendar years.''

Subsec. (c). Pub. L. 104–127, § 333(b), substituted ''2002'' for ''2000'' in introductory provisions, added par. (1), and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Subsec. (d). Pub. L. 104–127, § 333(c), in introductory provisions, inserted '', land that maximizes wildlife benefits and that is'' after ''subsection (c) of this section'' and, in par. (2), substituted ''or'' for ''and'' at end.

1993—Subsec. (b). Pub. L. 103–66, § 1402(c)(1), added subsec. (b) and struck out former subsec. (b) ''NUMBER OF ACRES'' which read as follows: ''To the extent practicable, the Secretary shall attempt to enroll into the wetlands reserve program, 1,000,000 acres of land during the 1991 through 1995 calendar years; except that the Secretary may not enroll more than 200,000 acres in 1991, 400,000 acres in the 1991 to 1992 period, 600,000 acres in the 1991 to 1993 period, 800,000 acres in the 1991 to 1994 period, and 1,000,000 acres in the 1991 to 1995 period.''

Subsec. (c). Pub. L. 103–66, § 1402(c)(2), substituted ''2000'' for ''1995''.

1991—Subsec. (d). Pub. L. 102–237 substituted ''subsection (c)'' for ''subsection (d)'' in introductory provisions.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECT OF 1996 AMENDMENTS ON EXISTING AGREEMENTS

Section 333(f) of Pub. L. 104–127 provided that: ''The amendments made by this section [amending this section and sections 3837a and 3837c of this title] shall not affect the validity or terms of any agreements entered into by the Secretary of Agriculture under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.) before the date of enactment of this Act [Apr. 4, 1996] or any payments required to be made in connection with the agreements.''

§ 3837a. Easements and agreements

(a) In general

To be eligible to place land into the wetland reserve under this subpart, the owner of such land shall enter into an agreement with the Secretary—

(1) to grant an easement on such land to the Secretary;

(2) to implement a wetland easement conservation plan as provided for in this section;

(3) to create and record an appropriate deed restriction in accordance with applicable State law to reflect the easement agreed to under this subpart with respect to such lands; and

(4) to provide a written statement of consent to such easement signed by those holding a security interest in the land.

(b) Terms of easement

An owner granting an easement under subsection (a) of this section shall be required to provide for the restoration and protection of the functional values of wetland pursuant to a wetland easement conservation plan that—

(1) permits—

(A) repairs, improvements, and inspections on such land that are necessary to maintain existing public drainage systems if such land is subsequently restored to the condition required by the terms of the easement; and

(B) landowners to control public access on the easement areas while identifying access routes to be used for wetland restoration activities and management and easement monitoring;

(2) prohibits—

(A) the alteration of wildlife habitat and other natural features of such land, unless specifically permitted by the plan;

(B) the spraying of such land with chemicals or the mowing of such land, except where such spraying or mowing is permitted by the plan or is necessary—

(i) to comply with Federal or State noxious weed control laws;

(ii) to comply with a Federal or State emergency pest treatment program; or

(iii) to meet habitat needs of specific wildlife species; and

(C) any activities to be carried out on such participating landowner's or successor's land that is immediately adjacent to, and functionally related to, the land that is subject to the easement if such activities will alter, degrade, or otherwise diminish the functional value of the eligible land; and

(D) the adoption of any other practice that would tend to defeat the purposes of this subpart, as determined by the Secretary;

(3) provides for the efficient and effective restoration of the functional values of wetlands; and

(4) includes such additional provisions as the Secretary determines are desirable to carry out this subpart or to facilitate the practical administration thereof.

(c) Restoration plans

The development of a restoration plan, including any compatible use, under this section shall be made through the local Natural Resources Conservation Service representative, in consultation with the State technical committee.

(d) Compatible uses

Wetland reserve program lands may be used for compatible economic uses, including such activities as hunting and fishing, managed timber harvest, or periodic haying or grazing, if such use is specifically permitted by the plan and consistent with the long-term protection and enhancement of the wetlands resources for which the easement was established.

(e) Type and length of easement

A conservation easement granted under this section—

(1) shall be in a recordable form; and

(2) shall be for 30 years, permanent, or the maximum duration allowed under applicable State laws.

(f) Compensation

(1) Determination

Effective on the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall pay as compensation for a conservation easement acquired under this subpart the lowest of—

(A) the fair market value of the land, as determined by the Secretary, using the Uniform Standards of Professional Appraisal Practices or an area-wide market analysis or survey;

(B) the amount corresponding to a geographical cap, as determined by the Secretary in regulations; or

(C) the offer made by the landowner.

(2) Form of payment

Compensation for an easement shall be provided by the Secretary in the form of a cash payment, in an amount determined under paragraph (1) and specified in the easement agreement.

(3) Payment schedule for easements

(A) Easements valued at $500,000 or less

For easements valued at $500,000 or less, the Secretary may provide easement payments in not more than 30 annual payments.

(B) Easements in excess of $500,000

For easements valued at more than $500,000, the Secretary may provide easement payments in at least 5, but not more than 30 annual payments, except that, if the Secretary determines it would further the purposes of the program, the Secretary may make a lump sum payment for such an easement.

(4) Restoration agreement payment limitation

Payments made to a person or legal entity, directly or indirectly, pursuant to a restoration cost-share agreement under this subpart may not exceed, in the aggregate, $50,000 per year.

(5) Enrollment procedure

Lands may be enrolled under this subpart through the submission of bids under a procedure established by the Secretary.

(g) Violation

On the violation of the terms or conditions of the easement or related agreement entered into under subsection (a) of this section, the easement shall remain in force and the Secretary may require the owner to refund all or part of any payments received by the owner under this subpart, together with interest thereon as determined appropriate by the Secretary.

(h) Wetlands reserve enhancement program

(1) Program authorized

The Secretary may enter into 1 or more agreements with a State (including a political subdivision or agency of a State), nongovernmental organization, or Indian tribe to carry out a special wetlands reserve enhancement program that the Secretary determines would advance the purposes of this subpart.

(2) Reserved rights pilot program

(A) Reservation of grazing rights

As part of the wetlands reserve enhancement program, the Secretary shall carry out a pilot program for land in which a landowner may reserve grazing rights in the warranty easement deed restriction if the Secretary determines that the reservation and use of the grazing rights—

(i) is compatible with the land subject to the easement;

(ii) is consistent with the long-term wetland protection and enhancement goals for which the easement was established; and

(iii) complies with a conservation plan.

(B) Duration

The pilot program established under this paragraph shall terminate on September 30, 2012.

(Pub. L. 99–198, title XII, §1237A, as added Pub. L. 101–624, title XIV, §1438, Nov. 28, 1990, 104 Stat. 3585; amended Pub. L. 104–127, title III, §333(d), Apr. 4, 1996, 110 Stat. 996; Pub. L. 107–171, title II, §2203, May 13, 2002, 116 Stat. 252; Pub. L. 110–234, title II, §§2204–2206, May 22, 2008, 122 Stat. 1038, 1039; Pub. L. 110–246, §4(a), title II, §§2204–2206, June 18, 2008, 122 Stat. 1664, 1766, 1767.)

REFERENCES IN TEXT

The date of the enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsec. (f)(1), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (b)(2)(B). Pub. L. 110–246, §2204, struck out ''or'' at end of cl. (i), substituted ''; or'' for ''; and'' at end of cl. (ii), and added cl. (iii).

Subsec. (f). Pub. L. 110–246, § 2205, amended subsec. (f) generally. Prior to amendment, text read as follows: ''Compensation for easements acquired by the Secretary under this subpart shall be made in cash in such amount as is agreed to and specified in the easement agreement, but not to exceed the fair market value of the land less the fair market value of such land encumbered by the easement. Lands may be enrolled through the submission of bids under a procedure established by the Secretary. Compensation may be provided in not less than 5, nor more than 30, annual payments of equal or unequal size, as agreed to by the owner and the Secretary.''

Subsec. (h). Pub. L. 110–246, § 2206, added subsec. (h).

2002—Subsec. (h). Pub. L. 107–171 struck out heading and text of subsec. (h). Text read as follows: ''The Secretary may enroll land into the wetlands reserve program through an agreement that requires the landowner to restore wetlands on the land, if the agreement does not provide the Secretary with an easement.''

1996—Pub. L. 104–127, § 333(d)(1), inserted ''and agreements'' after ''Easements'' in section catchline.

Subsec. (c). Pub. L. 104–127, § 333(d)(2), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows:

''(1) PLANS.—The development of restoration plans under this section shall be made through the agreement of the local representative of the Soil Conservation Service and a representative of the Fish and Wildlife Service. If agreement cannot be reached at the local level under the preceding sentence within a reasonable period of time, such plans shall be referred to the State Conservationist, who in developing such plans under this paragraph, shall consult with the Fish and Wildlife Service.

''(2) REPORT.—The State Conservationist and a representative of the Fish and Wildlife Service shall report to their respective national offices concerning all plans developed under paragraph (1) at the State level as a result of an agreement not being reached at the local level.''

Subsec. (f). Pub. L. 104–127, § 333(d)(3), substituted ''Compensation may be provided in not less than 5, nor more than 30, annual payments of equal or unequal size, as agreed to by the owner and the Secretary.'' for ''Compensation may be provided in not less than 5 nor more than 20 annual payments of either equal or unequal size, except in the case of a permanent easement, a single lump-sum payment may be provided, as agreed on by the owner and the Secretary.''

Subsec. (h). Pub. L. 104–127, § 333(d)(4), added subsec. (h).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECT OF 1996 AMENDMENTS ON EXISTING AGREEMENTS

Amendments made by section 333 of Pub. L. 104–127 not to affect validity or terms of agreements entered into by Secretary of Agriculture under this subpart before Apr. 4, 1996, or payments required to be made in connection with such agreements, see section 333(f) of Pub. L. 104–127, set out as a note under section 3837 of this title.

§ 3837b. Duties of owners

Under the terms of an agreement entered into under this subpart, an owner and operator of the land that is subject to an easement under this subpart shall agree to comply with the terms of the easement and related agreements and shall agree to the permanent retirement of any existing cropland base and allotment history for such land under any program administered by the Secretary.

(Pub. L. 99–198, title XII, § 1237B, as added Pub. L. 101–624, title XIV, § 1438, Nov. 28, 1990, 104 Stat. 3587.)

§ 3837c. Duties of Secretary

(a) In general

In return for the granting of an easement by an owner under this subpart, the Secretary shall—

(1) share the cost of carrying out the establishment of conservation measures and practices, and the protection of the wetland functions and values, including necessary maintenance activities, as set forth in the plan to the extent that the Secretary determines that cost sharing is appropriate and in the public interest; and

(2) provide necessary technical assistance to assist owners in complying with the terms and conditions of the easement and the plan.

(b) Cost-share and technical assistance

(1) Easements

Effective beginning October 1, 1996, in making cost-share payments under subsection (a)(1) of this section, the Secretary shall—

(A) in the case of a permanent easement, pay the owner an amount that is not less than 75 percent, but not more than 100 percent, of the eligible costs; and

(B) in the case of a 30-year easement, pay the owner an amount that is not less than 50 percent, but not more than 75 percent, of the eligible costs.

(2) Restoration cost-share agreements

In making cost-share payments in connection with a restoration cost-share agreement entered into under section 3837a(h)[1] of this title, the Secretary shall pay the owner an amount that is not less than 50 percent, but not more than 75 percent, of the eligible costs.

(3) Technical assistance

The Secretary shall provide owners with technical assistance to assist owners in complying with the terms of easements and restoration cost-share agreements.

(c) Ranking of offers

(1) Conservation benefits and funding considerations

When evaluating offers from landowners, the Secretary may consider—

(A) the conservation benefits of obtaining an easement or other interest in the land;

(B) the cost-effectiveness of each easement or other interest in eligible land, so as to maximize the environmental benefits per dollar expended; and

(C) whether the landowner or another person is offering to contribute financially to the cost of the easement or other interest in the land to leverage Federal funds.

(2) Additional considerations

In determining the acceptability of easement offers, the Secretary may take into consideration—

[1] See References in Text note below.

(A) the extent to which the purposes of the easement program would be achieved on the land;

(B) the productivity of the land; and

(C) the on-farm and off-farm environmental threats if the land is used for the production of agricultural commodities.

(d) Easement priority

In carrying out this subpart, to the extent practicable, taking into consideration costs and future agricultural and food needs, the Secretary shall give priority to obtaining permanent conservation easements before shorter term conservation easements and, in consultation with the Secretary of the Interior, shall place priority on acquiring easements based on the value of the easement for protecting and enhancing habitat for migratory birds and other wildlife.

(Pub. L. 99–198, title XII, §1237C, as added Pub. L. 101–624, title XIV, §1438, Nov. 28, 1990, 104 Stat. 3587; amended Pub. L. 104–127, title III, §333(e), Apr. 4, 1996, 110 Stat. 996; Pub. L. 110–234, title II, §2207, May 22, 2008, 122 Stat. 1039; Pub. L. 110–246, §4(a), title II, §2207, June 18, 2008, 122 Stat. 1664, 1767.)

REFERENCES IN TEXT

Section 3837a(h) of this title, referred to in subsec. (b)(2), was repealed by Pub. L. 107–171, title II, §2203, May 13, 2002, 116 Stat. 252.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–246, §2207(1), inserted ''including necessary maintenance activities,'' after ''values,''.

Subsec. (c). Pub. L. 110–246, §2207(2), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: ''In determining the acceptability of easement offers, the Secretary may take into consideration—

''(1) the extent to which the purposes of the easement program would be achieved on the land;

''(2) the productivity of the land; and

''(3) the on-farm and off-farm environmental threats if the land is used for the production of agricultural commodities.''

1996—Subsec. (b). Pub. L. 104–127 added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: ''In making cost share payments under subsection (a)(1) of this section, the Secretary shall pay the owner an amount that is not less than 50 percent but not more than 75 percent of eligible costs with respect to an easement which is not permanent, and not less than 75 percent but not more than 100 percent of eligible costs with respect to a permanent easement.''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECT OF 1996 AMENDMENTS ON EXISTING AGREEMENTS

Amendments made by section 333 of Pub. L. 104–127 not to affect validity or terms of agreements entered into by Secretary of Agriculture under this subpart before Apr. 4, 1996, or payments required to be made in connection with such agreements, see section 333(f) of Pub. L. 104–127, set out as a note under section 3837 of this title.

§ 3837d. Payments

(a) Time of payment

The Secretary shall provide payment for obligations incurred by the Secretary under this subpart—

(1) with respect to any cost sharing obligation as soon as possible after the obligation is incurred; and

(2) with respect to any annual easement payment obligation incurred by the Secretary as soon as possible after October 1 of each calendar year.

(b) Payments to others

If an owner who is entitled to a payment under this subpart dies, becomes incompetent, is otherwise unable to receive such payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make such payment, in accordance with regulations prescribed by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all of the circumstances.

(c) Payment limitation

(1) In general

The total amount of payments that a person or legal entity may receive, directly or indirectly, under this subpart for any year may not exceed $50,000, except such limitation shall not apply with respect to payments for perpetual or 30-year easements or under 30-year contracts.

(2) Regulations

The Secretary shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation contained in this subsection.

(3) Other payments

Easement payments received by an owner shall be in addition to, and not affect, the total amount of payments that such owner is otherwise eligible to receive under this Act, the Food, Agriculture, Conservation, and Trade Act of 1990, or the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(d) Exemption from automatic sequester

Notwithstanding any other provision of law, no order issued under section 902 of title 2 shall affect any payment under this subpart.

(Pub. L. 99–198, title XII, §1237D, as added Pub. L. 101–624, title XIV, §1438, Nov. 28, 1990, 104 Stat. 3588; amended Pub. L. 105–277, div. A, §101(a) [title VII, §751], Oct. 21, 1998, 112 Stat. 2681, 2681–32; Pub. L. 110–234, title II, §§2208, 2209, May 22, 2008, 122 Stat. 1040; Pub. L. 110–246, §4(a), title II, §§2208, 2209, June 18, 2008, 122 Stat. 1664, 1768.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c)(3), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended, known as

the Food Security Act of 1985. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of Title 7, Agriculture, and Tables.

The Food, Agriculture, Conservation, and Trade Act of 1990, referred to in subsec. (c)(3), is Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3359, as amended. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 1421 of Title 7 and Tables.

The Agricultural Act of 1949, referred to in subsec. (c)(3), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of Title 7 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (c)(1). Pub. L. 110–246, § 2208, substituted ''The total amount of payments that a person or legal entity may receive, directly or indirectly,'' for ''The total amount of easement payments made to a person'' and inserted ''or under 30-year contracts'' before period at end.

Subsec. (c)(4). Pub. L. 110–246, § 2209, struck out par. (4). Text read as follows: ''The provisions of this subsection that limit payments to any person, and section 1305(d) of the Agricultural Reconciliation Act of 1987 (7 U.S.C. 1308 note), shall not be applicable to payments received by a State, political subdivision, or agency thereof in connection with agreements entered into under a special wetland and environmental easement enhancement program carried out by that entity that has been approved by the Secretary. The Secretary may enter into such agreements for payments to States, political subdivisions, or agencies thereof that the Secretary determines will advance the purposes of this subpart.''

1998—Subsec. (c)(1). Pub. L. 105–277 inserted ''or 30-year'' after ''perpetual''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3837e. Changes in ownership; agreement modification; termination

(a) Limitations

No easement shall be created under this subpart on land that has changed ownership during the preceding 7-year period unless—

(1) the new ownership was acquired by will or succession as a result of the death of the previous owner;

(2)(A) the ownership change occurred because of foreclosure on the land; and

(B) immediately before the foreclosure, the owner of the land exercises a right of redemption from the mortgage holder in accordance with State law; or

(3) the Secretary determines that the land was acquired under circumstances that give adequate assurances that such land was not acquired for the purposes of placing it in the program established by this subpart.

(b) Modification; termination

(1) Modification

The Secretary may modify an easement acquired from, or a related agreement with, an owner under this subpart if—

(A) the current owner agrees to such modification; and

(B) the Secretary determines that such modification is desirable—

(i) to carry out this subpart;

(ii) to facilitate the practical administration of this subpart; or

(iii) to achieve such other goals as the Secretary determines are appropriate and consistent with this subpart.

(2) Termination

(A) In general

The Secretary may terminate an easement created with an owner under this subpart if—

(i) the current owner agrees to such termination; and

(ii) the Secretary determines that such termination would be in the public interest.

(B) Notice

At least 90 days before taking any action to terminate under paragraph (A) all easements entered into under this subpart, the Secretary shall provide written notice of such action to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(Pub. L. 99–198, title XII, § 1237E, as added Pub. L. 101–624, title XIV, § 1438, Nov. 28, 1990, 104 Stat. 3589; amended Pub. L. 107–171, title II, § 2204, May 13, 2002, 116 Stat. 253; Pub. L. 110–234, title II, § 2203(b), May 22, 2008, 122 Stat. 1037; Pub. L. 110–246, § 4(a), title II, § 2203(b), June 18, 2008, 122 Stat. 1664, 1765.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, § 2203(b), substituted ''during the preceding 7-year period'' for ''in the preceding 12 months'' in introductory provisions.

2002—Subsec. (a)(2). Pub. L. 107–171 added par. (2) and struck out former par. (2) which read as follows: ''the new ownership was acquired before January 1, 1990; or''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3837f. Administration and funding

(a) Delegation of easement administration

The Secretary may delegate any of the easement management, monitoring, and enforcement responsibilities of the Secretary to Federal or State agencies that have the appropriate

authority, expertise, and resources necessary to carry out such delegated responsibilities.

(b) Regulations

Not later than 180 days after November 28, 1990, the Secretary shall issue such regulations as are necessary to carry out this subpart.

(c) Prairie Pothole Region survey and reallocation

(1) Survey

The Secretary shall conduct a survey during fiscal year 2008 and each subsequent fiscal year for the purpose of determining interest and allocations for the Prairie Pothole Region to enroll eligible land described in section 3837(c)(2)(B) of this title.

(2) Annual adjustment

The Secretary shall make an adjustment to the allocation for an interested State for a fiscal year, based on the results of the survey conducted under paragraph (1) for the State during the previous fiscal year.

(Pub. L. 99–198, title XII, §1237F, as added Pub. L. 101–624, title XIV, §1438, Nov. 28, 1990, 104 Stat. 3589; Pub. L. 110–234, title II, §2203(c), May 22, 2008, 122 Stat. 1037; Pub. L. 110–246, §4(a), title II, §2203(c), June 18, 2008, 122 Stat. 1664, 1765.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–246, §2203(c), added subsec. (c).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

PART II—CONSERVATION SECURITY AND FARMLAND PROTECTION

SUBPART A—CONSERVATION SECURITY PROGRAM

§ 3838. Definitions

In this subpart:

(1) Base payment

The term ''base payment'' means an amount that is—

(A) determined in accordance with the rate described in section 3838c(b)(1)(A) of this title; and

(B) paid to a producer under a conservation security contract in accordance with clause (i) of subparagraph (C), (D), or (E) of section 3838c(b)(1) of this title, as appropriate.

(2) Beginning farmer or rancher

The term ''beginning farmer or rancher'' has the meaning given the term under section 1991(a) of title 7.

(3) Conservation practice

The term ''conservation practice'' means a conservation farming practice described in section 3838a(d)(4) of this title that—

(A) requires planning, implementation, management, and maintenance; and

(B) promotes 1 or more of the purposes described in section 3838a(a) of this title.

(4) Conservation security contract

The term ''conservation security contract'' means a contract described in section 3838a(e) of this title.

(5) Conservation security plan

The term ''conservation security plan'' means a plan described in section 3838a(c) of this title.

(6) Conservation security program

The term ''conservation security program'' means the program established under section 3838a(a) of this title.

(7) Enhanced payment

The term ''enhanced payment'' means the amount paid to a producer under a conservation security contract that is equal to the amount described in section 3838c(b)(1)(C)(iii) of this title.

(8) Nondegradation standard

The term ''nondegradation standard'' means the level of measures required to adequately protect, and prevent degradation of, 1 or more natural resources, as determined by the Secretary in accordance with the quality criteria described in handbooks of the Natural Resources Conservation Service.

(9) Producer

(A) In general

The term ''producer'' means an owner, operator, landlord, tenant, or sharecropper that—

(i) shares in the risk of producing any crop or livestock; and

(ii) is entitled to share in the crop or livestock available for marketing from a farm (or would have shared had the crop or livestock been produced).

(B) Hybrid seed growers

In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract.

(10) Resource-conserving crop rotation

The term ''resource-conserving crop rotation'' means a crop rotation that—

(A) includes at least 1 resource-conserving crop (as defined by the Secretary);

(B) reduces erosion;

(C) improves soil fertility and tilth;

(D) interrupts pest cycles; and

(E) in applicable areas, reduces depletion of soil moisture (or otherwise reduces the need for irrigation).

(11) Resource management system

The term ''resource management system'' means a system of conservation practices and management relating to land or water use that is designed to prevent resource degradation and permit sustained use of land, water, and other natural resources, as defined in accordance with the technical guide of the Natural Resources Conservation Service.

(12) Secretary

The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Natural Resources Conservation Service.

(13) Tier I conservation security contract

The term ''Tier I conservation security contract'' means a contract described in section 3838a(d)(5)(A) of this title.

(14) Tier II conservation security contract

The term ''Tier II conservation security contract'' means a contract described in section 3838a(d)(5)(B) of this title.

(15) Tier III conservation security contract

The term ''Tier III conservation security contract'' means a contract described in section 3838a(d)(5)(C) of this title.

(Pub. L. 99–198, title XII, § 1238, as added Pub. L. 107–171, title II, § 2001(a), May 13, 2002, 116 Stat. 223.)

PRIOR PROVISIONS

A prior section 3838, Pub. L. 99–198, title XII, § 1238, as added Pub. L. 101–624, title XIV, § 1439, Nov. 28, 1990, 104 Stat. 3590, related to policy of Congress on water quality protection, prior to repeal by Pub. L. 104–127, title III, § 336(h), Apr. 4, 1996, 110 Stat. 1007.

REGULATIONS

Pub. L. 107–171, title II, § 2001(b), May 13, 2002, 116 Stat. 233, provided that: ''Not later than 270 days after the date of enactment of this Act [May 13, 2002], the Secretary of Agriculture shall promulgate regulations implementing the amendment made by subsection (a) [enacting this subpart].''

§ 3838a. Conservation security program

(a) In general

The Secretary shall establish and, for each of fiscal years 2003 through 2011, carry out a conservation security program to assist producers of agricultural operations in promoting, as is applicable with respect to land to be enrolled in the program, conservation and improvement of the quality of soil, water, air, energy, plant and animal life, and any other conservation purposes, as determined by the Secretary.

(b) Eligibility

(1) Eligible producers

To be eligible to participate in the conservation security program (other than to receive technical assistance under section 3838c(g) of this title for the development of conservation security contracts), a producer shall—

(A) develop and submit to the Secretary, and obtain the approval of the Secretary of, a conservation security plan that meets the requirements of subsection (c)(1) of this section; and

(B) enter into a conservation security contract with the Secretary to carry out the conservation security plan.

(2) Eligible land

Except as provided in paragraph (3), private agricultural land (including cropland, grassland, prairie land, improved pasture land, and rangeland), land under the jurisdiction of an Indian tribe (as defined by the Secretary), and forested land that is an incidental part of an agricultural operation shall be eligible for enrollment in the conservation security program.

(3) Exclusions

(A) Conservation reserve program

Land enrolled in the conservation reserve program under subpart B of part I of this subchapter shall not be eligible for enrollment in the conservation security program.

(B) Wetlands reserve program

Land enrolled in the wetlands reserve program established under subpart C of part I of this subchapter shall not be eligible for enrollment in the conservation security program.

(C) Grassland reserve program

Land enrolled in the grassland reserve program established under subpart D of this part shall not be eligible for enrollment in the conservation security program.

(D) Conversion to cropland

Land that is used for crop production after May 13, 2002, that had not been planted, considered to be planted, or devoted to crop production for at least 4 of the 6 years preceding May 13, 2002 (except for land enrolled in the conservation reserve program under subpart B of part I of this subchapter) or that has been maintained using long-term crop rotation practices, as determined by the Secretary, shall not be the basis for any payment under the conservation security program.

(4) Economic uses

The Secretary shall permit a producer to implement, with respect to all eligible land covered by a conservation security plan, economic uses that—

(A) maintain the agricultural nature of the land; and

(B) are consistent with the natural resource and conservation objectives of the conservation security program.

(c) Conservation security plans

(1) In general

A conservation security plan shall—

(A) identify the designated land and resources to be conserved under the conservation security plan;

(B) describe the tier of conservation security contract, and the particular conservation practices to be implemented, maintained, or improved, in accordance with subsection (d) of this section on the land covered by the conservation security contract for the specified term; and

(C) contain a schedule for the implementation, maintenance, or improvement of the conservation practices described in the conservation security plan during the term of the conservation security contract.

(2) Resource planning

The Secretary may assist producers that enter into conservation security contracts in developing a comprehensive, long-term strat-

egy for improving and maintaining all natural resources of the agricultural operation of the producer.

(d) Conservation contracts and practices

(1) In general

(A) Establishment of tiers

The Secretary shall establish, and offer to eligible producers, 3 tiers of conservation contracts under which a payment under this subpart may be received.

(B) Eligible conservation practices

(i) In general

The Secretary shall make eligible for payment under a conservation security contract land management, vegetative, and structural practices.

(ii) Determination

In determining the eligibility of a practice described in clause (i), the Secretary shall require, to the maximum extent practicable, that the lowest cost alternatives be used to fulfill the purposes of the conservation security plan, as determined by the Secretary.

(2) On-farm research and demonstration or pilot testing

With respect to land enrolled in the conservation security program, the Secretary may approve a conservation security plan that includes—

(A) on-farm conservation research and demonstration activities; and

(B) pilot testing of new technologies or innovative conservation practices.

(3) Use of handbook and guides; State and local conservation concerns

(A) Use of handbook and guides

In determining eligible conservation practices and the criteria for implementing or maintaining the conservation practices under the conservation security program, the Secretary shall use the National Handbook of Conservation Practices of the Natural Resources Conservation Service.

(B) State and local conservation priorities

The conservation priorities of a State or locality in which an agricultural operation is situated shall be determined by the State Conservationist, in consultation with—

(i) the State technical committee established under subchapter VI of this chapter; and

(ii) local agricultural producers and conservation working groups.

(4) Conservation practices

Conservation practices that may be implemented by a producer under a conservation security contract (as appropriate for the agricultural operation of a producer) include—

(A) nutrient management;

(B) integrated pest management;

(C) water conservation (including through irrigation) and water quality management;

(D) grazing, pasture, and rangeland management;

(E) soil conservation, quality, and residue management;

(F) invasive species management;

(G) fish and wildlife habitat conservation, restoration, and management;

(H) air quality management;

(I) energy conservation measures;

(J) biological resource conservation and regeneration;

(K) contour farming;

(L) strip cropping;

(M) cover cropping;

(N) controlled rotational grazing;

(O) resource-conserving crop rotation;

(P) conversion of portions of cropland from a soil-depleting use to a soil-conserving use, including production of cover crops;

(Q) partial field conservation practices;

(R) native grassland and prairie protection and restoration; and

(S) any other conservation practices that the Secretary determines to be appropriate and comparable to other conservation practices described in this paragraph.

(5) Tiers

Subject to paragraph (6), to carry out this subsection, the Secretary shall establish the following 3 tiers of conservation contracts:

(A) Tier I conservation security contracts

A conservation security plan for land enrolled under a Tier I conservation security contract shall—

(i) be for a period of 5 years; and

(ii) include conservation practices appropriate for the agricultural operation, that, at a minimum (as determined by the Secretary)—

(I) address at least 1 significant resource of concern for the enrolled portion of the agricultural operation at a level that meets the appropriate nondegradation standard; and

(II) cover active management of conservation practices that are implemented or maintained under the conservation security contract.

(B) Tier II conservation security contracts

A conservation security plan for land enrolled under a Tier II conservation security contract shall—

(i) be for a period of not less than 5 nor more than 10 years, as determined by the producer;

(ii) include conservation practices appropriate for the agricultural operation, that, at a minimum—

(I) address at least 1 significant resource of concern for the entire agricultural operation, as determined by the Secretary, at a level that meets the appropriate nondegradation standard; and

(II) cover active management of conservation practices that are implemented or maintained under the conservation security contract.

(C) Tier III conservation security contracts

A conservation security plan for land enrolled under a Tier III conservation security contract shall—

(i) be for a period of not less than 5 nor more than 10 years, as determined by the producer; and

(ii) include conservation practices appropriate for the agricultural operation that, at a minimum—

(I) apply a resource management system that meets the appropriate nondegradation standard for all resources of concern of the entire agricultural operation, as determined by the Secretary; and

(II) cover active management of conservation practices that are implemented or maintained under the conservation security contract.

(6) Minimum requirements

The minimum requirements for each tier of conservation contracts implemented under paragraph (5) shall be determined and approved by the Secretary.

(e) Conservation security contracts

(1) In general

On approval of a conservation security plan of a producer, the Secretary shall enter into a conservation security contract with the producer to enroll the land covered by the conservation security plan in the conservation security program.

(2) Modification

(A) Optional modifications

A producer may apply to the Secretary for a modification of the conservation security contract of the producer that is consistent with the purposes of the conservation security program.

(B) Other modifications

(i) In general

The Secretary may, in writing, require a producer to modify a conservation security contract before the expiration of the conservation security contract if the Secretary determines that a change made to the type, size, management, or other aspect of the agricultural operation of the producer would, without the modification of the contract, significantly interfere with achieving the purposes of the conservation security program.

(ii) Participation in other programs

If appropriate payment reductions and other adjustments (as determined by the Secretary) are made to the conservation security contract of a producer, the producer may—

(I) simultaneously participate in—

(aa) the conservation security program;

(bb) the conservation reserve program under subpart B of part I of this subchapter; and

(cc) the wetlands reserve program under subpart C of part I of this subchapter; and

(II) may remove land enrolled in the conservation security program for enrollment in a program described in item (bb) or (cc) of subclause (I).

(3) Termination

(A) Optional termination

A producer may terminate a conservation security contract and retain payments received under the conservation security contract, if—

(i) the producer is in full compliance with the terms and conditions (including any maintenance requirements) of the conservation security contract as of the date of the termination; and

(ii) the Secretary determines that termination of the contract would not defeat the purposes of the conservation security plan of the producer.

(B) Other termination

A producer that is required to modify a conservation security contract under paragraph (2)(B)(i) may, in lieu of modifying the contract—

(i) terminate the conservation security contract; and

(ii) retain payments received under the conservation security contract, if the producer has fully complied with the terms and conditions of the conservation security contract before termination of the contract, as determined by the Secretary.

(4) Renewal

(A) In general

Except as provided in subparagraph (B), at the option of a producer, the conservation security contract of the producer may be renewed for an additional period of not less than 5 nor more than 10 years.

(B) Tier I renewals

In the case of a Tier I conservation security contract of a producer, the producer may renew the contract only if the producer agrees—

(i) to apply additional conservation practices that meet the nondegradation standard on land already enrolled in the conservation security program; or

(ii) to adopt new conservation practices with respect to another portion of the agricultural operation that address resource concerns and meet the nondegradation standard under the terms of the Tier I conservation security contract.

(f) Noncompliance due to circumstances beyond the control of producers

The Secretary shall include in the conservation security contract a provision, and may permit modification of a conservation security contract under subsection (e)(1) of this section, to ensure that a producer shall not be considered in violation of a conservation security contract for failure to comply with the conservation security contract due to circumstances beyond the control of the producer, including a disaster or related condition, as determined by the Secretary.

(g) Prohibition on conservation security program contracts; effect on existing contracts

(1) Prohibition

A conservation security contract may not be entered into or renewed under this subpart after September 30, 2008.

(2) Exception

This subpart, and the terms and conditions of the conservation security program, shall continue to apply to—

(A) conservation security contracts entered into on or before September 30, 2008; and

(B) any conservation security contract entered into after that date, but for which the application for the contract was received during the 2008 sign-up period.

(3) Effect on payments

The Secretary shall make payments under this subpart with respect to conservation security contracts described in paragraph (2) during the remaining term of the contracts.

(4) Regulations

A contract described in paragraph (2) may not be administered under the regulations issued to carry out the conservation stewardship program.

(Pub. L. 99–198, title XII, §1238A, as added Pub. L. 107–171, title II, §2001(a), May 13, 2002, 116 Stat. 225; amended Pub. L. 109–171, title I, §1202(a), Feb. 8, 2006, 120 Stat. 5; Pub. L. 110–234, title II, §2301(b), (c), May 22, 2008, 122 Stat. 1047, 1048; Pub. L. 110–246, §4(a), title II, §2301(b), (c), June 18, 2008, 122 Stat. 1664, 1775, 1776.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3838a, Pub. L. 99–198, title XII, §1238A, as added Pub. L. 101–624, title XIV, §1439, Nov. 28, 1990, 104 Stat. 3590, defined terms for purposes of this part, prior to repeal by Pub. L. 104–127, title III, §336(h), Apr. 4, 1996, 110 Stat. 1007.

AMENDMENTS

2008—Subsec. (b)(3)(C). Pub. L. 110–246, §2301(c), substituted ''subpart D'' for ''subpart C''.

Subsec. (g). Pub. L. 110–246, §2301(b), added subsec. (g).

2006—Subsec. (a). Pub. L. 109–171 substituted ''2011'' for ''2007''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3838b. Duties of producers

Under a conservation security contract, a producer shall agree, during the term of the conservation security contract—

(1) to implement the applicable conservation security plan approved by the Secretary;

(2) to maintain, and make available to the Secretary at such times as the Secretary may request, appropriate records showing the effective and timely implementation of the conservation security plan;

(3) not to engage in any activity that would interfere with the purposes of the conservation security program; and

(4) on the violation of a term or condition of the conservation security contract—

(A) if the Secretary determines that the violation warrants termination of the conservation security contract—

(i) to forfeit all rights to receive payments under the conservation security contract; and

(ii) to refund to the Secretary all or a portion of the payments received by the producer under the conservation security contract, including any advance payments and interest on the payments, as determined by the Secretary; or

(B) if the Secretary determines that the violation does not warrant termination of the conservation security contract, to refund to the Secretary, or accept adjustments to, the payments provided to the producer, as the Secretary determines to be appropriate.

(Pub. L. 99–198, title XII, §1238B, as added Pub. L. 107–171, title II, §2001(a), May 13, 2002, 116 Stat. 230.)

PRIOR PROVISIONS

A prior section 3838b, Pub. L. 99–198, title XII, §1238B, as added Pub. L. 101–624, title XIV, §1439, Nov. 28, 1990, 104 Stat. 3590, directed Secretary to formulate and carry out agricultural water quality protection program, prior to repeal by Pub. L. 104–127, title III, §336(h), Apr. 4, 1996, 110 Stat. 1007.

§ 3838c. Duties of the Secretary

(a) Timing of payments

The Secretary shall make payments under a conservation security contract as soon as practicable after October 1 of each fiscal year.

(b) Annual payments

(1) Criteria for determining amount of payments

(A) Base payment

A base payment under this paragraph shall be (as determined by the Secretary)—

(i) the average national per-acre rental rate for a specific land use during the 2001 crop year; or

(ii) another appropriate rate for the 2001 crop year that ensures regional equity.

(B) Payments

A payment for a conservation practice under this paragraph shall be determined in accordance with subparagraphs (C) through (E).

(C) Tier I conservation security contracts

The payment for a Tier I conservation security contract shall consist of the total of the following amounts:

(i) An amount equal to 5 percent of the applicable base payment for land covered by the contract.

(ii) An amount that does not exceed 75 percent (or, in the case of a beginning farmer or rancher, 90 percent) of the average county costs of practices for the 2001 crop year that are included in the conservation security contract, as determined by the Secretary, including the costs of—

(I) the adoption of new management, vegetative, and land-based structural practices;

(II) the maintenance of existing land management and vegetative practices; and

(III) the maintenance of existing land-based structural practices that are approved by the Secretary but not already covered by a Federal or State maintenance requirement.

(iii) An enhanced payment that is determined by the Secretary in a manner that ensures equity across regions of the United States, if the producer—

(I) implements or maintains multiple conservation practices that exceed minimum requirements for the applicable tier of participation (including practices that involve a change in land use, such as resource-conserving crop rotation, managed rotational grazing, or conservation buffer practices);

(II) addresses local conservation priorities in addition to resources of concern for the agricultural operation;

(III) participates in an on-farm conservation research, demonstration, or pilot project;

(IV) participates in a watershed or regional resource conservation plan that involves at least 75 percent of producers in a targeted area; or

(V) carries out assessment and evaluation activities relating to practices included in a conservation security plan.

(D) Tier II conservation security contracts

The payment for a Tier II conservation security contract shall consist of the total of the following amounts:

(i) An amount equal to 10 percent of the applicable base payment for land covered by the conservation security contract.

(ii) An amount that does not exceed 75 percent (or, in the case of a beginning farmer or rancher, 90 percent) of the average county cost of adopting or maintaining practices for the 2001 crop year that are included in the conservation security contract, as described in subparagraph (C)(ii).

(iii) An enhanced payment that is determined in accordance with subparagraph (C)(iii).

(E) Tier III conservation security contracts

The payment for a Tier III conservation security contract shall consist of the total of the following amounts:

(i) An amount equal to 15 percent of the base payment for land covered by the conservation security contract.

(ii) An amount that does not exceed 75 percent (or, in the case of a beginning farmer or rancher, 90 percent) of the average county cost of adopting or maintaining practices for the 2001 crop year that are included in the conservation security contract, as described in subparagraph (C)(ii).

(iii) An enhanced payment that is determined in accordance with subparagraph (C)(iii).

(2) Limitation on payments

(A) In general

Subject to paragraphs (1) and (3), the Secretary shall make an annual payment, directly or indirectly, to an individual or entity covered by a conservation security contract in an amount not to exceed—

(i) in the case of a Tier I conservation security contract, $20,000;

(ii) in the case of a Tier II conservation security contract, $35,000; or

(iii) in the case of a Tier III conservation security contract, $45,000.

(B) Limitation on base payments

In applying the payment limitation under each of clauses (i), (ii), and (iii) of subparagraph (A), an individual or entity may not receive, directly or indirectly, payments described in clause (i) of paragraph (1)(C), (1)(D), or (1)(E), as appropriate, in an amount that exceeds—

(i) in the case of Tier I contracts, 25 percent of the applicable payment limitation; or

(ii) in the case of Tier II contracts and Tier III contracts, 30 percent of the applicable payment limitation.

(C) Other USDA payments

A producer shall not receive payments under the conservation security program and any other conservation program administered by the Secretary for the same practices on the same land.

(D) Commensurate share

To be eligible to receive a payment under this subpart, an individual or entity shall make contributions (including contributions of land, labor, management, equipment, or capital) to the operation of the farm that are at least commensurate with the share of the proceeds of the operation of the individual or entity.

(3) Equipment or facilities

A payment to a producer under this subpart shall not be provided for—

(A) construction or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations; or

(B) the purchase or maintenance of equipment or a non-land based structure that is not integral to a land-based practice, as determined by the Secretary.

(c) Minimum practice requirement

In determining a payment under subsection (b) of this section for a producer that receives a payment under another program administered by the Secretary that is contingent on comply-

ing with requirements under subchapter II or III of this chapter (relating to the use of highly erodible land or wetland), a payment under this subpart on land subject to those requirements shall be for practices only to the extent that the practices exceed minimum requirements for the producer under those subchapters, as determined by the Secretary.

(d) Regulations

The Secretary shall promulgate regulations that—

(1) provide for adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing payments, on a fair and equitable basis; and

(2) prescribe such other rules as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under subsection (b) of this section.

(e) Transfer or change of interest in land subject to conservation security contract

(1) In general

Except as provided in paragraph (2), the transfer, or change in the interest, of a producer in land subject to a conservation security contract shall result in the termination of the conservation security contract.

(2) Transfer of duties and rights

Paragraph (1) shall not apply if, not later than 60 days after the date of the transfer or change in the interest in land, the transferee of the land provides written notice to the Secretary that all duties and rights under the conservation security contract have been transferred to, and assumed by, the transferee.

(f) Enrollment procedure

In entering into conservation security contracts with producers under this subpart, the Secretary shall not use competitive bidding or any similar procedure.

(g) Technical assistance

For each of fiscal years 2003 through 2007, the Secretary shall provide technical assistance to producers for the development and implementation of conservation security contracts, in an amount not to exceed 15 percent of amounts expended for the fiscal year.

(Pub. L. 99–198, title XII, §1238C, as added Pub. L. 107–171, title II, §2001(a), May 13, 2002, 116 Stat. 230.)

PRIOR PROVISIONS

A prior section 3838c, Pub. L. 99–198, title XII, §1238C, as added Pub. L. 101–624, title XIV, §1439, Nov. 28, 1990, 104 Stat. 3594, related to lands eligible for enrollment in water quality protection program, prior to repeal by Pub. L. 104–127, title III, §336(h), Apr. 4, 1996, 110 Stat. 1007.

SUBPART B—CONSERVATION STEWARDSHIP PROGRAM

PRIOR PROVISIONS

A prior subpart B, consisting of sections 3838h to 3838j, was redesignated subpart C of this part by Pub. L. 110–234, title II, §2301(a)(1), May 22, 2008, 122 Stat. 1040, and Pub. L. 110–246, §4(a), title II, §2301(a)(1), June 18, 2008, 122 Stat. 1664, 1768.

§ 3838d. Definitions

In this subpart:

(1) Conservation activities

(A) In general

The term ''conservation activities'' means conservation systems, practices, or management measures that are designed to address a resource concern.

(B) Inclusions

The term ''conservation activities'' includes—

(i) structural measures, vegetative measures, and land management measures, including agriculture drainage management systems, as determined by the Secretary; and

(ii) planning needed to address a resource concern.

(2) Conservation measurement tools

The term ''conservation measurement tools'' means procedures to estimate the level of environmental benefit to be achieved by a producer in implementing conservation activities, including indices or other measures developed by the Secretary.

(3) Conservation stewardship plan

The term ''conservation stewardship plan'' means a plan that—

(A) identifies and inventories resource concerns;

(B) establishes benchmark data and conservation objectives;

(C) describes conservation activities to be implemented, managed, or improved; and

(D) includes a schedule and evaluation plan for the planning, installation, and management of the new and existing conservation activities.

(4) Priority resource concern

The term ''priority resource concern'' means a resource concern that is identified at the State level, in consultation with the State Technical Committee, as a priority for a particular watershed or area of the State.

(5) Program

The term ''program'' means the conservation stewardship program established by this subpart.

(6) Resource concern

The term ''resource concern'' means a specific natural resource impairment or problem, as determined by the Secretary, that—

(A) represents a significant concern in a State or region; and

(B) is likely to be addressed successfully through the implementation of conservation activities by producers on land eligible for enrollment in the program.

(7) Stewardship threshold

The term ''stewardship threshold'' means the level of natural resource conservation and environmental management required, as determined by the Secretary using conservation measurement tools, to improve and conserve the quality and condition of a resource concern.

(Pub. L. 99–198, title XII, § 1238D, as added Pub. L. 110–234, title II, § 2301(a)(2), May 22, 2008, 122 Stat. 1040, and Pub. L. 110–246, § 4(a), title II, § 2301(a)(2), June 18, 2008, 122 Stat. 1664, 1768.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3838d, Pub. L. 99–198, title XII, § 1238D, as added Pub. L. 101–624, title XIV, § 1439, Nov. 28, 1990, 104 Stat. 3595, related to technical assistance for water quality protection, prior to repeal by Pub. L. 104–127, title III, § 336(h), Apr. 4, 1996, 110 Stat. 1007.

EFFECTIVE DATE

Enactment of this subpart and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

§ 3838e. Conservation stewardship program

(a) Establishment and purpose

During each of fiscal years 2009 through 2012, the Secretary shall carry out a conservation stewardship program to encourage producers to address resource concerns in a comprehensive manner—

(1) by undertaking additional conservation activities; and

(2) by improving, maintaining and managing existing conservation activities.

(b) Eligible land

(1) In general

Except as provided in subsection (c), the following land is eligible for enrollment in the program:

(A) Private agricultural land (including cropland, grassland, prairie land, improved pastureland, rangeland, and land used for agro-forestry).

(B) Agricultural land under the jurisdiction of an Indian tribe.

(C) Forested land that is an incidental part of an agricultural operation.

(D) Other private agricultural land (including cropped woodland, marshes, and agricultural land used for the production of livestock) on which resource concerns related to agricultural production could be addressed by enrolling the land in the program, as determined by the Secretary.

(2) Special rule for nonindustrial private forest land

Nonindustrial private forest land is eligible for enrollment in the program, except that not more than 10 percent of the annual acres enrolled nationally in any fiscal year may be nonindustrial private forest land.

(3) Agricultural operation

Eligible land shall include all acres of an agricultural operation of a producer, whether or not contiguous, that are under the effective control of the producer at the time the producer enters into a stewardship contract, and is operated by the producer with equipment, labor, management, and production or cultivation practices that are substantially separate from other agricultural operations, as determined by the Secretary.

(c) Exclusions

(1) Land enrolled in other conservation programs

Subject to paragraph (2), the following land is not be[1] eligible for enrollment in the program:

(A) Land enrolled in the conservation reserve program.

(B) Land enrolled in the wetlands reserve program.

(C) Land enrolled in the grassland reserve program.

(2) Conversion to cropland

Land used for crop production after the date of enactment of the Food, Conservation, and Energy Act of 2008 that had not been planted, considered to be planted, or devoted to crop production for at least 4 of the 6 years preceding that date shall not be the basis for any payment under the program, unless the land does not meet the requirement because—

(A) the land had previously been enrolled in the conservation reserve program;

(B) the land has been maintained using long-term crop rotation practices, as determined by the Secretary; or

(C) the land is incidental land needed for efficient operation of the farm or ranch, as determined by the Secretary.

(Pub. L. 99–198, title XII, § 1238E, as added Pub. L. 110–234, title II, § 2301(a)(2), May 22, 2008, 122 Stat. 1041, and Pub. L. 110–246, § 4(a), title II, § 2301(a)(2), June 18, 2008, 122 Stat. 1664, 1769.)

REFERENCES IN TEXT

The date of enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsec. (c)(2), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3838e, Pub. L. 99–198, title XII, § 1238E, as added Pub. L. 101–624, title XIV, § 1439, Nov. 28, 1990, 104 Stat. 3596, related to demonstration and pilot programs, prior to repeal by Pub. L. 104–127, title III, § 336(h), Apr. 4, 1996, 110 Stat. 1007.

§ 3838f. Stewardship contracts

(a) Submission of contract offers

To be eligible to participate in the conservation stewardship program, a producer shall submit to the Secretary for approval a contract offer that—

(1) demonstrates to the satisfaction of the Secretary that the producer, at the time of the contract offer, is meeting the stewardship threshold for at least one resource concern; and

[1] So in original. The word ''be'' probably should not appear.

(2) would, at a minimum, meet or exceed the stewardship threshold for at least 1 priority resource concern by the end of the stewardship contract by—

(A) installing and adopting additional conservation activities; and

(B) improving, maintaining, and managing conservation activities in place at the operation of the producer at the time the contract offer is accepted by the Secretary.

(b) Evaluation of contract offers

(1) Ranking of applications

In evaluating contract offers made by producers to enter into contracts under the program, the Secretary shall rank applications based on—

(A) the level of conservation treatment on all applicable priority resource concerns at the time of application, based to the maximum extent practicable on conservation measurement tools;

(B) the degree to which the proposed conservation treatment on applicable priority resource concerns effectively increases conservation performance, based to the maximum extent possible on conservation measurement tools;

(C) the number of applicable priority resource concerns proposed to be treated to meet or exceed the stewardship threshold by the end of the contract;

(D) the extent to which other resource concerns, in addition to priority resource concerns, will be addressed to meet or exceed the stewardship threshold by the end of the contract period; and

(E) the extent to which the actual and anticipated environmental benefits from the contract are provided at the least cost relative to other similarly beneficial contract offers.

(2) Prohibition

The Secretary may not assign a higher priority to any application because the applicant is willing to accept a lower payment than the applicant would otherwise be eligible to receive.

(3) Additional criteria

The Secretary may develop and use such additional criteria for evaluating applications to enroll in the program that the Secretary determines are necessary to ensure that national, State, and local conservation priorities are effectively addressed.

(c) Entering into contracts

After a determination that a producer is eligible for the program under subsection (a), and a determination that the contract offer ranks sufficiently high under the evaluation criteria under subsection (b), the Secretary shall enter into a conservation stewardship contract with the producer to enroll the land to be covered by the contract.

(d) Contract provisions

(1) Term

A conservation stewardship contract shall be for a term of 5 years.

(2) Provisions

The conservation stewardship contract of a producer shall—

(A) state the amount of the payment the Secretary agrees to make to the producer for each year of the conservation stewardship contract under section 3838g(e) of this title;

(B) require the producer—

(i) to implement during the term of the conservation stewardship contract the conservation stewardship plan approved by the Secretary;

(ii) to maintain, and make available to the Secretary at such times as the Secretary may request, appropriate records showing the effective and timely implementation of the conservation stewardship contract; and

(iii) not to engage in any activity during the term of the conservation stewardship contract on the eligible land covered by the contract that would interfere with the purposes of the conservation stewardship contract;

(C) permit all economic uses of the land that—

(i) maintain the agricultural nature of the land; and

(ii) are consistent with the conservation purposes of the conservation stewardship contract;

(D) include a provision to ensure that a producer shall not be considered in violation of the contract for failure to comply with the contract due to circumstances beyond the control of the producer, including a disaster or related condition, as determined by the Secretary; and

(E) include such other provisions as the Secretary determines necessary to ensure the purposes of the program are achieved.

(e) Contract renewal

At the end of an initial conservation stewardship contract of a producer, the Secretary may allow the producer to renew the contract for one additional five-year period if the producer—

(1) demonstrates compliance with the terms of the existing contract; and

(2) agrees to adopt new conservation activities, as determined by the Secretary.

(f) Modification

The Secretary may allow a producer to modify a stewardship contract if the Secretary determines that the modification is consistent with achieving the purposes of the program.

(g) Contract termination

(1) Voluntary termination

A producer may terminate a conservation stewardship contract if the Secretary determines that termination would not defeat the purposes of the program.

(2) Involuntary termination

The Secretary may terminate a contract under this subpart if the Secretary determines that the producer violated the contract.

(3) Repayment

If a contract is terminated, the Secretary may, consistent with the purposes of the program—

(A) allow the producer to retain payments already received under the contract; or

(B) require repayment, in whole or in part, of payments already received and assess liquidated damages.

(4) Change of interest in land subject to a contract

(A) In general

Except as provided in paragraph (B), a change in the interest of a producer in land covered by a contract under this part shall result in the termination of the contract with regard to that land.

(B) Transfer of duties and rights

Subparagraph (A) shall not apply if—

(i) within a reasonable period of time (as determined by the Secretary) after the date of the change in the interest in land covered by a contract under the program, the transferee of the land provides written notice to the Secretary that all duties and rights under the contract have been transferred to, and assumed by, the transferee; and

(ii) the transferee meets the eligibility requirements of the program.

(h) Coordination with organic certification

The Secretary shall establish a transparent means by which producers may initiate organic certification under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et. seq.) while participating in a contract under this subpart.

(i) On-farm research and demonstration or pilot testing

The Secretary may approve a contract offer under this subpart that includes—

(1) on-farm conservation research and demonstration activities; and

(2) pilot testing of new technologies or innovative conservation practices.

(Pub. L. 99–198, title XII, § 1238F, as added Pub. L. 110–234, title II, § 2301(a)(2), May 22, 2008, 122 Stat. 1042, and Pub. L. 110–246, § 4(a), title II, § 2301(a)(2), June 18, 2008, 122 Stat. 1664, 1770.)

REFERENCES IN TEXT

The Organic Foods Production Act of 1990, referred to in subsec. (h), is title XXI of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3935, which is classified generally to chapter 94 (§ 6501 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 6501 of Title 7 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3838f, Pub. L. 99–198, title XII, § 1238F, as added Pub. L. 101–624, title XIV, § 1439, Nov. 28, 1990, 104 Stat. 3596, related to report to Congress, prior to repeal by Pub. L. 104–127, title III, § 336(h), Apr. 4, 1996, 110 Stat. 1007.

§ 3838g. Duties of the Secretary

(a) In general

To achieve the conservation goals of a contract under the conservation stewardship program, the Secretary shall—

(1) make the program available to eligible producers on a continuous enrollment basis with 1 or more ranking periods, one of which shall occur in the first quarter of each fiscal year;

(2) identify not less than 3 nor more than 5 priority resource concerns in a particular watershed or other appropriate region or area within a State; and

(3) develop reliable conservation measurement tools for purposes of carrying out the program.

(b) Allocation to States

The Secretary shall allocate acres to States for enrollment, based—

(1) primarily on each State's proportion of eligible acres under section 3838e(b)(1) of this title to the total number of eligible acres in all States; and

(2) also on consideration of—

(A) the extent and magnitude of the conservation needs associated with agricultural production in each State;

(B) the degree to which implementation of the program in the State is, or will be, effective in helping producers address those needs; and

(C) other considerations to achieve equitable geographic distribution of funds, as determined by the Secretary.

(c) Specialty crop and organic producers

The Secretary shall ensure that outreach and technical assistance are available, and program specifications are appropriate to enable specialty crop and organic producers to participate in the program.

(d) Acreage enrollment limitation

During the period beginning on October 1, 2008, and ending on September 30, 2017, the Secretary shall, to the maximum extent practicable—

(1) enroll in the program an additional 12,769,000 acres for each fiscal year; and

(2) manage the program to achieve a national average rate of $18 per acre, which shall include the costs of all financial assistance, technical assistance, and any other expenses associated with enrollment or participation in the program.

(e) Conservation stewardship payments

(1) Availability of payments

The Secretary shall provide a payment under the program to compensate the producer for—

(A) installing and adopting additional conservation activities; and

(B) improving, maintaining, and managing conservation activities in place at the operation of the producer at the time the contract offer is accepted by the Secretary.

(2) Payment amount

The amount of the conservation stewardship payment shall be determined by the Secretary

and based, to the maximum extent practicable, on the following factors:

(A) Costs incurred by the producer associated with planning, design, materials, installation, labor, management, maintenance, or training.

(B) Income forgone by the producer.

(C) Expected environmental benefits as determined by conservation measurement tools.

(3) Exclusions

A payment to a producer under this subsection shall not be provided for—

(A) the design, construction, or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations; or

(B) conservation activities for which there is no cost incurred or income forgone to the producer.

(4) Timing of payments

(A) In general

The Secretary shall make payments as soon as practicable after October 1 of each fiscal year for activities carried out in the previous fiscal year.

(B) Additional activities

The Secretary shall make payments to compensate producers for installation of additional practices at the time at which the practices are installed and adopted.

(f) Supplemental payments for resource-conserving crop rotations

(1) Availability of payments

The Secretary shall provide additional payments to producers that, in participating in the program, agree to adopt resource-conserving crop rotations to achieve beneficial crop rotations as appropriate for the land of the producers.

(2) Beneficial crop rotations

The Secretary shall determine whether a resource-conserving crop rotation is a beneficial crop rotation eligible for additional payments under paragraph (1), based on whether the resource-conserving crop rotation is designed to provide natural resource conservation and production benefits.

(3) Eligibility

To be eligible to receive a payment described in paragraph (1), a producer shall agree to adopt and maintain beneficial resource-conserving crop rotations for the term of the contract.

(4) Resource-conserving crop rotation

In this subsection, the term ''resource-conserving crop rotation'' means a crop rotation that—

(A) includes at least 1 resource conserving crop (as defined by the Secretary);

(B) reduces erosion;

(C) improves soil fertility and tilth;

(D) interrupts pest cycles; and

(E) in applicable areas, reduces depletion of soil moisture or otherwise reduces the need for irrigation.

(g) Payment limitations

A person or legal entity may not receive, directly or indirectly, payments under this subpart that, in the aggregate, exceed $200,000 for all contracts entered into during any 5-year period, excluding funding arrangements with federally recognized Indian tribes or Alaska Native corporations, regardless of the number of contracts entered into under the program by the person or entity.

(h) Regulations

The Secretary shall promulgate regulations that—

(1) prescribe such other rules as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under subsection (g); and

(2) otherwise enable the Secretary to carry out the program.

(i) Data

The Secretary shall maintain detailed and segmented data on contracts and payments under the program to allow for quantification of the amount of payments made for—

(1) the installation and adoption of additional conservation activities and improvements to conservation activities in place on the operation of a producer at the time the conservation stewardship offer is accepted by the Secretary;

(2) participation in research, demonstration, and pilot projects; and

(3) the development and periodic assessment and evaluation of conservation plans developed under this subpart.

(Pub. L. 99–198, title XII, §1238G, as added Pub. L. 110–234, title II, §2301(a)(2), May 22, 2008, 122 Stat. 1045, and Pub. L. 110–246, §4(a), title II, §2301(a)(2), June 18, 2008, 122 Stat. 1664, 1773.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

SUBPART C—FARMLAND PROTECTION PROGRAM

CODIFICATION

Pub. L. 110–234, title II, §2301(a)(1), May 22, 2008, 122 Stat. 1040, and Pub. L. 110–246, §4(a), title II, §2301(a)(1), June 18, 2008, 122 Stat. 1664, 1768, both redesignated subpart B of this part as subpart C. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234.

Section 2503(a) of Pub. L. 107–171, which directed that subchapter B (this subpart) be added at the end of chapter 2 of the Food Security Act of 1985, was executed by adding subchapter B after subchapter A of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (subpart A of this part) to reflect the probable intent of Congress and a prior amendment by section 2401 of Pub. L. 107–171, which had added subchapter C (subpart C of this part) at the end of chapter 2 of subtitle D of title XII of the Food Security Act of 1985.

PRIOR PROVISIONS

A prior subpart C, consisting of sections 3838n to 3838q, was redesignated subpart D of this part by Pub. L. 110–234, title II, §2301(a)(1), May 22, 2008, 122 Stat. 1040, and Pub. L. 110–246, §4(a), title II, §2301(a)(1), June 18, 2008, 122 Stat. 1664, 1768.

§ 3838h. Definitions

In this subpart:

(1) Eligible entity

The term ''eligible entity'' means—

(A) any agency of any State or local government or an Indian tribe (including a farmland protection board or land resource council established under State law); or

(B) any organization that—

(i) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of title 26;

(ii) is an organization described in section 501(c)(3) of that title that is exempt from taxation under section 501(a) of that title; and

(iii) is—

(I) described in paragraph (1) or (2) of section 509(a) of that title; or

(II) described in section 509(a)(3), and is controlled by an organization described in section 509(a)(2), of that title.

(2) Eligible land

(A) In general

The term ''eligible land'' means land on a farm or ranch that is subject to a pending offer for purchase from an eligible entity and—

(i) has prime, unique, or other productive soil;

(ii) contains historical or archaeological resources; or

(iii) the protection of which will further a State or local policy consistent with the purposes of the program.

(B) Inclusions

The term ''eligible land'' includes, on a farm or ranch—

(i) cropland;

(ii) rangeland;

(iii) grassland;

(iv) pasture land;

(v) forest land that—

(I) contributes to the economic viability of an agricultural operation; or

(II) serves as a buffer to protect an agricultural operation from development; and

(vi) land that is incidental to land described in clauses (i) through (v), if such land is necessary for the efficient administration of a conservation easement, as determined by the Secretary.

(3) Indian tribe

The term ''Indian tribe'' has the meaning given the term in section 450b of title 25.

(4) Program

The term ''program'' means the farmland protection program established under section 3838i(a) of this title.

(Pub. L. 99–198, title XII, § 1238H, as added Pub. L. 107–171, title II, § 2503(a), May 13, 2002, 116 Stat. 267; amended Pub. L. 110–234, title II, § 2401(a), May 22, 2008, 122 Stat. 1048; Pub. L. 110–246, § 4(a), title II, § 2401(a), June 18, 2008, 122 Stat. 1664, 1776.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Par. (1). Pub. L. 110–246, § 2401(a)(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: ''The term 'eligible entity' means—

''(A) any agency of any State or local government or an Indian tribe (including a farmland protection board or land resource council established under State law); or

''(B) any organization that—

''(i) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of title 26;

''(ii) is an organization described in section 501(c)(3) of that title that is exempt from taxation under section 501(a) of that title;

''(iii) is described in section 509(a)(2) of that title; or

''(iv) is described in section 509(a)(3), and is controlled by an organization described in section 509(a)(2), of that title.''

Par. (2)(A). Pub. L. 110–246, § 2401(a)(2)(A)(i), substituted ''that is subject to a pending offer for purchase from an eligible entity and—'' for ''that—'' in introductory provisions.

Par. (2)(A)(i) to (iii). Pub. L. 110–246, § 2401(a)(2)(A)(ii), added cls. (i) to (iii) and struck out former cls. (i) and (ii) which read as follows:

''(i)(I) has prime, unique, or other productive soil; or

''(II) contains historical or archaeological resources; and

''(ii) is subject to a pending offer for purchase from an eligible entity.''

Par. (2)(B)(iv) to (vi). Pub. L. 110–246, § 2401(a)(2)(B), added cls. (v) and (vi) and struck out former cl. (v) which read as follows: ''forest land that is an incidental part of an agricultural operation, as determined by the Secretary.''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3838i. Farmland protection program

(a) Establishment

The Secretary shall establish and carry out a farmland protection program under which the Secretary shall facilitate and provide funding for the purchase of conservation easements or other interests in eligible land.

(b) Purpose

The purpose of the program is to protect the agricultural use and related conservation values of eligible land by limiting nonagricultural uses of that land.

(c) Cost-share assistance

(1) Provision of assistance

The Secretary shall provide cost-share assistance to eligible entities for purchasing a conservation easement or other interest in eligible land.

(2) Federal share

The share of the cost provided by the Secretary for purchasing a conservation easement

or other interest in eligible land shall not exceed 50 percent of the appraised fair market value of the conservation easement or other interest in eligible land.

(3) Non-Federal share

(A) Share provided by eligible entity

The eligible entity shall provide a share of the cost of purchasing a conservation easement or other interest in eligible land in an amount that is not less than 25 percent of the acquisition purchase price.

(B) Landowner contribution

As part of the non-Federal share of the cost of purchasing a conservation easement or other interest in eligible land, an eligible entity may include a charitable donation or qualified conservation contribution (as defined by section 170(h) of title 26) from the private landowner from which the conservation easement or other interest in land will be purchased.

(d) Determination of fair market value

Effective on the date of enactment of the Food, Conservation, and Energy Act of 2008, the fair market value of the conservation easement or other interest in eligible land shall be determined on the basis of an appraisal using an industry approved method, selected by the eligible entity and approved by the Secretary.

(e) Bidding down prohibited

If the Secretary determines that 2 or more applications for cost-share assistance are comparable in achieving the purpose of the program, the Secretary shall not assign a higher priority to any 1 of those applications solely on the basis of lesser cost to the program.

(f) Condition on assistance

(1) Conservation plan

Any highly erodible cropland for which a conservation easement or other interest is purchased using cost-share assistance provided under the program shall be subject to a conservation plan that requires, at the option of the Secretary, the conversion of the cropland to less intensive uses.

(2) Contingent right of enforcement

The Secretary shall require the inclusion of a contingent right of enforcement for the Secretary in the terms of a conservation easement or other interest in eligible land that is purchased using cost-share assistance provided under the program.

(g) Agreements with eligible entities

(1) In general

The Secretary shall enter into agreements with eligible entities to stipulate the terms and conditions under which the eligible entity is permitted to use cost-share assistance provided under subsection (c).

(2) Length of agreements

An agreement under this subsection shall be for a term that is—

(A) in the case of an eligible entity certified under the process described in subsection (h), a minimum of five years; and

(B) for all other eligible entities, at least three, but not more than five years.

(3) Substitution of qualified projects

An agreement shall allow, upon mutual agreement of the parties, substitution of qualified projects that are identified at the time of the proposed substitution.

(4) Minimum requirements

An eligible entity shall be authorized to use its own terms and conditions, as approved by the Secretary, for conservation easements and other purchases of interests in land, so long as such terms and conditions—

(A) are consistent with the purposes of the program;

(B) permit effective enforcement of the conservation purposes of such easements or other interests; and

(C) include a limit on the impervious surfaces to be allowed that is consistent with the agricultural activities to be conducted.

(5) Effect of violation

If a violation occurs of a term or condition of an agreement entered into under this subsection—

(A) the agreement shall remain in force; and

(B) the Secretary may require the eligible entity to refund all or part of any payments received by the entity under the program, with interest on the payments as determined appropriate by the Secretary.

(h) Certification of eligible entities

(1) Certification process

The Secretary shall establish a process under which the Secretary may—

(A) directly certify eligible entities that meet established criteria;

(B) enter into long-term agreements with certified entities, as authorized by subsection (g)(2)(A); and

(C) accept proposals for cost-share assistance to certified entities for the purchase of conservation easements or other interests in eligible land throughout the duration of such agreements.

(2) Certification criteria

In order to be certified, an eligible entity shall demonstrate to the Secretary that the entity will maintain, at a minimum, for the duration of the agreement—

(A) a plan for administering easements that is consistent with the purpose of this subpart;

(B) the capacity and resources to monitor and enforce conservation easements or other interests in land; and

(C) policies and procedures to ensure—

(i) the long-term integrity of conservation easements or other interests in eligible land;

(ii) timely completion of acquisitions of easements or other interests in eligible land; and

(iii) timely and complete evaluation and reporting to the Secretary on the use of funds provided by the Secretary under the program.

(3) Review and revision

(A) Review

The Secretary shall conduct a review of eligible entities certified under paragraph (1) every three years to ensure that such entities are meeting the criteria established under paragraph (2).

(B) Revocation

If the Secretary finds that the certified entity no longer meets the criteria established under paragraph (2), the Secretary may—

(i) allow the certified entity a specified period of time, at a minimum 180 days, in which to take such actions as may be necessary to meet the criteria; and

(ii) revoke the certification of the entity, if after the specified period of time, the certified entity does not meet the criteria established in paragraph (2).

(Pub. L. 99–198, title XII, § 1238I, as added Pub. L. 107–171, title II, § 2503(a), May 13, 2002, 116 Stat. 268; amended Pub. L. 110–234, title II, § 2401(b), May 22, 2008, 122 Stat. 1049; Pub. L. 110–246, § 4(a), title II, § 2401(b), June 18, 2008, 122 Stat. 1664, 1777.)

REFERENCES IN TEXT

The date of enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsec. (d), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, § 2401(b), amended section generally. Prior to amendment, section related to establishment of farmland protection program, conservation plan requirement, and cost sharing.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3838j. Farm viability program

(a) In general

The Secretary may provide to eligible entities identified by the Secretary grants for use in carrying out farm viability programs developed by the eligible entities and approved by the Secretary.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out this section such sums as are necessary for each of fiscal years 2002 through 2012.

(Pub. L. 99–198, title XII, § 1238J, as added Pub. L. 107–171, title II, § 2503(a), May 13, 2002, 116 Stat. 269; amended Pub. L. 110–234, title II, § 2402, May 22, 2008, 122 Stat. 1051; Pub. L. 110–246, § 4(a), title II, § 2402, June 18, 2008, 122 Stat. 1664, 1779.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–246, § 2402, substituted ''2012'' for ''2007''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

SUBPART D—GRASSLAND RESERVE PROGRAM

CODIFICATION

Pub. L. 110–234, title II, §§ 2301(a)(1), 2403, May 22, 2008, 122 Stat. 1040, 1051, and Pub. L. 110–246, § 4(a), title II, §§ 2301(a)(1), 2403, June 18, 2008, 122 Stat. 1664, 1768, 1779, both redesignated subpart C of this part as subpart D. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234.

Section 2401 of Pub. L. 107–171, which directed that subchapter C (this subpart) be added at the end of chapter 2 of the Food Security Act of 1985, was executed by adding subchapter C at the end of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (this part) to reflect the probable intent of Congress.

§ 3838n. Grassland reserve program

(a) Establishment and purpose

The Secretary shall establish a grassland reserve program (referred to in this subpart as the ''program'') for the purpose of assisting owners and operators in protecting grazing uses and related conservation values by restoring and conserving eligible land through rental contracts, easements, and restoration agreements.

(b) Enrollment of acreage

(1) Acreage enrolled

The Secretary shall enroll an additional 1,220,000 acres of eligible land in the program during fiscal years 2009 through 2012.

(2) Methods of enrollment

The Secretary shall enroll eligible land in the program through the use of;[1]

(A) a 10-year, 15-year, or 20-year rental contract;

(B) a permanent easement; or

(C) in a State that imposes a maximum duration for easements, an easement for the maximum duration allowed under the law of that State.

(3) Limitation

Of the total amount of funds expended under the program to acquire rental contracts and easements described in paragraph (2), the Secretary shall use, to the extent practicable—

(A) 40 percent for rental contacts; and

(B) 60 percent for easements.

(4) Enrollment of conservation reserve land

(A) Priority

Upon expiration of a contract under subpart B of part I of this subchapter, the Secretary shall give priority for enrollment in the program to land previously enrolled in the conservation reserve program if—

[1] So in original. The semicolon probably should be a dash.

(i) the land is eligible land, as defined in subsection (c); and

(ii) the Secretary determines that the land is of high ecological value and under significant threat of conversion to uses other than grazing.

(B) Maximum enrollment

The number of acres of land enrolled under the priority described in subparagraph (A) in a calendar year shall not exceed 10 percent of the total number of acres enrolled in the program in that calendar year.

(c) Eligible land defined

For purposes of the program, the term ''eligible land'' means private or tribal land that—

(1) is grassland, land that contains forbs, or shrubland (including improved rangeland and pastureland) for which grazing is the predominant use;

(2) is located in an area that has been historically dominated by grassland, forbs, or shrubland, and the land—

(A) could provide habitat for animal or plant populations of significant ecological value if the land—

(i) is retained in its current use; or

(ii) is restored to a natural condition;

(B) contains historical or archaeological resources; or

(C) would address issues raised by State, regional, and national conservation priorities; or

(3) is incidental to land described in paragraph (1) or (2), if the incidental land is determined by the Secretary to be necessary for the efficient administration of a rental contract or easement under the program.

(Pub. L. 99–198, title XII, §1238N, as added Pub. L. 107–171, title II, §2401, May 13, 2002, 116 Stat. 258; Pub. L. 110–234, title II, §2403, May 22, 2008, 122 Stat. 1051; Pub. L. 110–246, §4(a), title II, §2403, June 18, 2008, 122 Stat. 1664, 1779.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, §2403, amended section generally. Prior to amendment, section related to establishment of a grassland reserve program, enrollment of a maximum of 2,000,000 acres of restored or improved grassland, rangeland, and pastureland, methods of enrollment, limitation on use of easements and rental agreements, and determination by Secretary of eligibility of land.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§3838*o*. Duties of owners and operators

(a) Rental contracts

To be eligible to enroll eligible land in the program under a rental contract, the owner or operator of the land shall agree—

(1) to comply with the terms of the contract and, when applicable, a restoration agreement;

(2) to suspend any existing cropland base and allotment history for the land under another program administered by the Secretary; and

(3) to implement a grazing management plan, as approved by the Secretary, which may be modified upon mutual agreement of the parties.

(b) Easements

To be eligible to enroll eligible land in the program through an easement, the owner of the land shall agree—

(1) to grant an easement to the Secretary or to an eligible entity described in section 3838q of this title;

(2) to create and record an appropriate deed restriction in accordance with applicable State law to reflect the easement;

(3) to provide a written statement of consent to the easement signed by persons holding a security interest or any vested interest in the land;

(4) to provide proof of unencumbered title to the underlying fee interest in the land that is the subject of the easement;

(5) to comply with the terms of the easement and, when applicable, a restoration agreement;

(6) to implement a grazing management plan, as approved by the Secretary, which may be modified upon mutual agreement of the parties; and

(7) to eliminate any existing cropland base and allotment history for the land under another program administered by the Secretary.

(c) Restoration agreements

(1) When applicable

To be eligible for cost-share assistance to restore eligible land subject to a rental contract or an easement under the program, the owner or operator of the land shall agree to comply with the terms of a restoration agreement.

(2) Terms and conditions

The Secretary shall prescribe the terms and conditions of a restoration agreement by which eligible land that is subject to a rental contract or easement under the program shall be restored.

(3) Duties

The restoration agreement shall describe the respective duties of the owner or operator and the Secretary, including the Federal share of restoration payments and technical assistance.

(d) Terms and conditions applicable to rental contracts and easements

(1) Permissible activities

The terms and conditions of a rental contract or easement under the program shall permit—

(A) common grazing practices, including maintenance and necessary cultural practices, on the land in a manner that is consistent with maintaining the viability of grassland, forb, and shrub species appropriate to that locality;

(B) haying, mowing, or harvesting for seed production, subject to appropriate restric-

tions during the nesting season for birds in the local area that are in significant decline or are conserved in accordance with Federal or State law, as determined by the State Conservationist;

(C) fire presuppression, rehabilitation, and construction of fire breaks; and

(D) grazing related activities, such as fencing and livestock watering.

(2) Prohibitions

The terms and conditions of a rental contract or easement under the program shall prohibit—

(A) the production of crops (other than hay), fruit trees, vineyards, or any other agricultural commodity that is inconsistent with maintaining grazing land; and

(B) except as permitted under a restoration plan, the conduct of any other activity that would be inconsistent with maintaining grazing land enrolled in the program.

(3) Additional terms and conditions

A rental contract or easement under the program shall include such additional provisions as the Secretary determines are appropriate to carry out or facilitate the purposes and administration of the program.

(e) Violations

On a violation of the terms or conditions of a rental contract, easement, or restoration agreement entered into under this section—

(1) the contract or easement shall remain in force; and

(2) the Secretary may require the owner or operator to refund all or part of any payments received under the program, with interest on the payments as determined appropriate by the Secretary.

(Pub. L. 99–198, title XII, § 1238O, as added Pub. L. 107–171, title II, § 2401, May 13, 2002, 116 Stat. 259; amended Pub. L. 110–234, title II, § 2403, May 22, 2008, 122 Stat. 1052; Pub. L. 110–246, § 4(a), title II, § 2403, June 18, 2008, 122 Stat. 1664, 1780.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, § 2403, amended section generally. Prior to amendment, section related to requirements relating to easements and agreements.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3838p. Duties of Secretary

(a) Evaluation and ranking of applications

(1) Criteria

The Secretary shall establish criteria to evaluate and rank applications for rental contracts and easements under the program.

(2) Considerations

In establishing the criteria, the Secretary shall emphasize support for—

(A) grazing operations;

(B) plant and animal biodiversity; and

(C) grassland, land that contains forbs, and shrubland under the greatest threat of conversion to uses other than grazing.

(b) Payments

(1) In general

In return for the execution of a rental contract or the granting of an easement by an owner or operator under the program, the Secretary shall—

(A) make rental contract or easement payments to the owner or operator in accordance with paragraphs (2) and (3); and

(B) make payments to the owner or operator under a restoration agreement for the Federal share of the cost of restoration in accordance with paragraph (4).

(2) Rental contract payments

(A) Percentage of grazing value of land

In return for the execution of a rental contract by an owner or operator under the program, the Secretary shall make annual payments during the term of the contract in an amount, subject to subparagraph (B), that is not more than 75 percent of the grazing value of the land covered by the contract.

(B) Payment limitation

Payments made under 1 or more rental contracts to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, $50,000 per year.

(3) Easement payments

(A) In general

Subject to subparagraph (B), in return for the granting of an easement by an owner under the program, the Secretary shall make easement payments in an amount not to exceed the fair market value of the land less the grazing value of the land encumbered by the easement.

(B) Method for determination of compensation

In making a determination under subparagraph (A), the Secretary shall pay as compensation for a[1] easement acquired under the program the lowest of—

(i) the fair market value of the land encumbered by the easement, as determined by the Secretary, using—

(I) the Uniform Standards of Professional Appraisal Practices; or

(II) an area-wide market analysis or survey;

(ii) the amount corresponding to a geographical cap, as determined by the Secretary in regulations; or

(iii) the offer made by the landowner.

(C) Schedule

Easement payments may be provided in up to 10 annual payments of equal or unequal amount, as agreed to by the Secretary and the owner.

[1] So in original. Probably should be ''an''.

(4) Restoration agreement payments

(A) Federal share of restoration

The Secretary shall make payments to an owner or operator under a restoration agreement of not more than 50 percent of the costs of carrying out measures and practices necessary to restore functions and values of that land.

(B) Payment limitation

Payments made under 1 or more restoration agreements to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, $50,000 per year.

(5) Payments to others

If an owner or operator who is entitled to a payment under the program dies, becomes incompetent, is otherwise unable to receive the payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all the circumstances.

(Pub. L. 99–198, title XII, §1238P, as added Pub. L. 107–171, title II, §2401, May 13, 2002, 116 Stat. 261; amended Pub. L. 110–234, title II, §2403, May 22, 2008, 122 Stat. 1054; Pub. L. 110–246, §4(a), title II, §2403, June 18, 2008, 122 Stat. 1664, 1782.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, §2403, amended section generally. Prior to amendment, section related to: in subsec. (a), duty of Secretary to make payments to an owner; in subsec. (b), amount of payments; in subsec. (c), Federal share of restoration; and in subsec. (d), payments to others.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3838q. Delegation of duty

(a) Authority to delegate

The Secretary may delegate a duty under the program—

(1) by transferring title of ownership to an easement to an eligible entity to hold and enforce; or

(2) by entering into a cooperative agreement with an eligible entity for the eligible entity to own, write, and enforce an easement.

(b) Eligible entity defined

In this section, the term ''eligible entity'' means—

(1) an agency of State or local government or an Indian tribe; or

(2) an organization that—

(A) is organized for, and at all times since the formation of the organization has been operated principally for, one or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of title 26;

(B) is an organization described in section 501(c)(3) of that title that is exempt from taxation under section 501(a) of that title; and

(C) is described in—

(i) paragraph (1) or (2) of section 509(a) of that title; or

(ii) in section 509(a)(3) of that title, and is controlled by an organization described in section 509(a)(2) of that title.

(c) Transfer of title of ownership

(1) Transfer

The Secretary may transfer title of ownership to an easement to an eligible entity to hold and enforce, in lieu of the Secretary, subject to the right of the Secretary to conduct periodic inspections and enforce the easement, if—

(A) the Secretary determines that the transfer will promote protection of grassland, land that contains forbs, or shrubland;

(B) the owner authorizes the eligible entity to hold or enforce the easement; and

(C) the eligible entity agrees to assume the costs incurred in administering and enforcing the easement, including the costs of restoration or rehabilitation of the land as specified by the owner and the eligible entity.

(2) Application

An eligible entity that seeks to hold and enforce an easement shall apply to the Secretary for approval.

(3) Approval by Secretary

The Secretary may approve an application described in paragraph (2) if the eligible entity—

(A) has the relevant experience necessary, as appropriate for the application, to administer an easement on grassland, land that contains forbs, or shrubland;

(B) has a charter that describes a commitment to conserving ranchland, agricultural land, or grassland for grazing and conservation purposes; and

(C) has the resources necessary to effectuate the purposes of the charter.

(d) Cooperative agreements

(1) Authorized; terms and conditions

The Secretary shall establish the terms and conditions of a cooperative agreement under which an eligible entity shall use funds provided by the Secretary to own, write, and enforce an easement, in lieu of the Secretary.

(2) Minimum requirements

At a minimum, the cooperative agreement shall—

(A) specify the qualification of the eligible entity to carry out the entity's responsibilities under the program, including acquisition, monitoring, enforcement, and implementation of management policies and procedures that ensure the long-term integrity of the easement protections;

(B) require the eligible entity to assume the costs incurred in administering and enforcing the easement, including the costs of restoration or rehabilitation of the land as specified by the owner and the eligible entity;

(C) specify the right of the Secretary to conduct periodic inspections to verify the eligible entity's enforcement of the easement;

(D) subject to subparagraph (E), identify a specific project or a range of projects to be funded under the agreement;

(E) allow, upon mutual agreement of the parties, substitution of qualified projects that are identified at the time of substitution;

(F) specify the manner in which the eligible entity will evaluate and report the use of funds to the Secretary;

(G) allow the eligible entity flexibility to develop and use terms and conditions for easements, if the Secretary finds the terms and conditions consistent with the purposes of the program and adequate to enable effective enforcement of the easements;

(H) if applicable, allow an eligible entity to include a charitable donation or qualified conservation contribution (as defined by section 170(h) of title 26) from the landowner from which the easement will be purchased as part of the entity's share of the cost to purchase an easement; and

(I) provide for a schedule of payments to an eligible entity, as agreed to by the Secretary and the eligible entity.

(3) Cost sharing

(A) In general

As part of a cooperative agreement with an eligible entity under this subsection, the Secretary may provide a share of the purchase price of an easement under the program.

(B) Minimum share by eligible entity

The eligible entity shall be required to provide a share of the purchase price at least equivalent to that provided by the Secretary.

(C) Priority

The Secretary may accord a higher priority to proposals from eligible entities that leverage a greater share of the purchase price of the easement.

(4) Violation

If an eligible entity violates the terms or conditions of a cooperative agreement entered into under this subsection—

(A) the cooperative agreement shall remain in force; and

(B) the Secretary may require the eligible entity to refund all or part of any payments received by the eligible entity under the program, with interest on the payments as determined appropriate by the Secretary.

(e) Protection of Federal investment

When delegating a duty under this section, the Secretary shall ensure that the terms of an easement include a contingent right of enforcement for the Department.

(Pub. L. 99–198, title XII, § 1238Q, as added Pub. L. 107–171, title II, § 2401, May 13, 2002, 116 Stat. 262; amended Pub. L. 108–447, div. A, title VII, § 797, Dec. 8, 2004, 118 Stat. 2852; Pub. L. 110–234, title II, § 2403, May 22, 2008, 122 Stat. 1055; Pub. L. 110–246, § 4(a), title II, § 2403, June 18, 2008, 122 Stat. 1664, 1783.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, § 2403, amended section generally. Prior to amendment, section related to delegation to private organizations.

2004—Subsec. (a). Pub. L. 108–447, § 797(1), substituted ''transfer title of ownership to an easement under this subpart to'' for ''permit'' in introductory provisions.

Subsec. (d). Pub. L. 108–447, § 797(2), added subsec. (d) and struck out heading and text of former subsec. (d). Text consisted of pars. (1) and (2) relating to reassignment of easements to new private organizations or the Secretary.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

PART III—ENVIRONMENTAL EASEMENT PROGRAM

§ 3839. Environmental easement program

(a) Establishment

The Secretary shall, during the 1991 through 1995 calendar years, formulate and carry out an environmental easement program (hereafter in this part referred to as the ''easement program'') in accordance with this part, through the acquisition of permanent easements or easements for the maximum term permitted under applicable State law from willing owners of eligible farms or ranches in order to ensure the continued long-term protection of environmentally sensitive lands or reduction in the degradation of water quality on such farms or ranches through the continued conservation and improvement of soil and water resources.

(b) Eligibility; termination

(1) In general

The Secretary may acquire easements under this section on land placed in the conservation reserve under this subchapter (other than such land that is likely to continue to remain out of production and that does not pose an off-farm environmental threat), land under the Water Bank Act [16 U.S.C. 1301 et seq.], or other cropland that—

(A) contains riparian corridors;

(B) is an area of critical habitat for wildlife, especially threatened or endangered species; or

(C) contains other environmentally sensitive areas, as determined by the Secretary, that would prevent a producer from complying with other Federal, State, or local environmental goals if commodities were to be produced on such land.

(2) Ineligible land

The Secretary may not acquire easements on—

(A) land that contains timber stands established under the conservation reserve under this subchapter; or

(B) pasture land established to trees under the conservation reserve under this subchapter.

(3) Termination of existing contract

The Secretary may terminate or modify any existing contract entered into under section 3831(a) of this title if eligible land that is subject to such contract is transferred into the program established by this part.

(Pub. L. 99–198, title XII, § 1239, as added Pub. L. 101–624, title XIV, § 1440, Nov. 28, 1990, 104 Stat. 3597; amended Pub. L. 102–237, title II, § 204(7), Dec. 13, 1991, 105 Stat. 1855.)

REFERENCES IN TEXT

The Water Bank Act, referred to in subsec. (b)(1), is Pub. L. 91–559, Dec. 19, 1970, 84 Stat. 1468, as amended, which is classified generally to chapter 29 (§ 1301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

AMENDMENTS

1991—Subsec. (b)(1)(A). Pub. L. 102–237 substituted a semicolon for comma after ''corridors''.

§ 3839a. Duties of owners; components of plan

(a) Duties of owners

(1) Plan

In conjunction with the creation of an easement on any lands under this part, the owner of the farm or ranch wherein such lands are located must agree to implement a natural resource conservation management plan under subsection (b) of this section approved by the Secretary in consultation with the Secretary of the Interior.

(2) Agreement

In return for the creation of an easement on any lands under this part, the owner of the farm or ranch wherein such lands are located must agree to the following:

(A) To the creation and recordation of an appropriate deed restriction in accordance with applicable State law to reflect the easement agreed to under this part with respect to such lands.

(B) To provide a written statement of consent to such easement signed by those holding a security interest in the land.

(C) To comply with such additional provisions as the Secretary determines are desirable and are included in the easement to carry out this part or to facilitate the practical administration thereof.

(D) To specify the location of any timber harvesting on land subject to the easement. Harvesting and commercial sales of Christmas trees and nuts shall be prohibited on such land, except that no such easement or related agreement shall prohibit activities consistent with customary forestry practices, such as pruning, thinning, or tree stand improvement on lands converted to forestry uses.

(E) To limit the production of any agricultural commodity on such lands only to production for the benefit of wildlife.

(F) Not to conduct any harvesting or grazing, nor otherwise make commercial use of the forage, on land that is subject to the easement unless specifically provided for in the easement or related agreement.

(G) Not to adopt any other practice that would tend to defeat the purposes of this part, as determined by the Secretary.

(3) Violation

On the violation of the terms or conditions of the easement or related agreement entered into under this section, the easement shall remain in force and the Secretary may require the owner to refund all or part of any payments received by the owner under this part, together with interest thereon as determined appropriate by the Secretary.

(b) Components of plan

The natural resource conservation management plan referred to in subsection (a)(1) of this section (hereafter referred to as the ''plan'')—

(1) shall set forth—

(A) the conservation measures and practices to be carried out by the owner of the land subject to the easement; and

(B) the commercial use, if any, to be permitted on such land during the term of the easement; and

(2) shall provide for the permanent retirement of any existing cropland base and allotment history for such land under any program administered by the Secretary.

(Pub. L. 99–198, title XII, § 1239A, as added Pub. L. 101–624, title XIV, § 1440, Nov. 28, 1990, 104 Stat. 3597.)

§ 3839b. Duties of Secretary

In return for the granting of an easement by an owner under this part, the Secretary shall—

(1) share the cost of carrying out the establishment of conservation measures and practices set forth in the plan for which the Secretary determines that cost sharing is appropriate and in the public interest;

(2) pay for a period not to exceed 10 years annual easement payments in the aggregate not to exceed the lesser of—

(A) $250,000; or

(B) the difference in the value of the land with and without an easement;

(3) provide necessary technical assistance to assist owners in complying with the terms and conditions of the easement and the plan; and

(4) permit the land to be used for wildlife activities, including hunting and fishing, if such use is permitted by the owner.

(Pub. L. 99–198, title XII, § 1239B, as added Pub. L. 101–624, title XIV, § 1440, Nov. 28, 1990, 104 Stat. 3598.)

§ 3839c. Payments

(a) Time of payment

The Secretary shall provide payment for obligations incurred by the Secretary under this part—

(1) with respect to any cost sharing obligation as soon as possible after the obligation is incurred; and

(2) with respect to any annual easement payment obligation incurred by the Secretary as soon as possible after October 1 of each calendar year.

(b) Cost sharing payments

In making cost sharing payments to owners under this part, the Secretary may pay up to 100 percent of the cost of establishing conservation measures and practices pursuant to this part.

(c) Easement payments; acceptability of offers

(1) Determination of amount

The Secretary shall determine the amount payable to owners in the form of easement payments under this part, and in making such determination may consider, among other things, the amount necessary to encourage owners to participate in the easement program.

(2) Acceptability of offers

In determining the acceptability of easement offers, the Secretary may take into consideration—

(A) the extent to which the purposes of the easement program would be achieved on the land;

(B) the productivity of the land; and

(C) the on-farm and off-farm environmental threats if the land is used for the production of agricultural commodities.

(d) Form of payment

Except as otherwise provided in this section, payments under this part—

(1) shall be made in cash in such amount and at such time as is agreed on and specified in the easement or related agreement; and

(2) may be made in advance of a determination of performance.

(e) Payments to others

If an owner who is entitled to a payment under this part dies, becomes incompetent, is otherwise unable to receive such payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make such payment, in accordance with regulations prescribed by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all of the circumstances.

(f) Payment limitation

(1) In general

The total amount of easement payments made to a person under this part for any year may not exceed $50,000.

(2) Regulations

The Secretary shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation contained in this subsection.

(3) Other payments

Easement payments received by an owner shall be in addition to, and not affect, the total amount of payments that such owner is otherwise eligible to receive under this Act, the Food, Agriculture, Conservation, and Trade Act of 1990, or the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(4) State environmental enhancement

The provisions of this subsection that limit payments to any person, and section 1305(d) of the Agricultural Reconciliation Act of 1987 (7 U.S.C. 1308 note), shall not be applicable to payments received by a State, political subdivision, or agency thereof in connection with agreements entered into under an environmental easement enhancement program carried out by that entity that has been approved by the Secretary. The Secretary may enter into such agreements for payments to States, political subdivisions, or agencies thereof that the Secretary determines will advance the purposes of this part.

(g) Exemption from automatic sequester

Notwithstanding any other provision of law, no order issued under section 902 of title 2 shall affect any payment under this part.

(Pub. L. 99–198, title XII, § 1239C, as added Pub. L. 101–624, title XIV, § 1440, Nov. 28, 1990, 104 Stat. 3599.)

REFERENCES IN TEXT

This Act, referred to in subsec. (f)(3), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended, known as the Food Security Act of 1985. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of Title 7, Agriculture, and Tables.

The Food, Agriculture, Conservation, and Trade Act of 1990, referred to in subsec. (f)(3), is Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3359, as amended. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 1421 of Title 7 and Tables.

The Agricultural Act of 1949, referred to in subsec. (f)(3), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of Title 7 and Tables.

Section 1305(d) of the Agricultural Reconciliation Act of 1987, referred to in subsec. (f)(4), is section 1305(d) of Pub. L. 100–203, which is set out as a note under section 1308 of Title 7.

§ 3839d. Changes in ownership; modification of easement

(a) Limitations

No easement shall be created under this part on land that has changed ownership in the preceding 12 months unless—

(1) the new ownership was acquired by will or succession as a result of the death of the previous owner;

(2) the new ownership was acquired before January 1, 1990; or

(3) the Secretary determines that the land was acquired under circumstances that give

adequate assurances that such land was not acquired for the purposes of placing it in the program established by this part.

(b) Modification; termination

(1) Modification

The Secretary may modify an easement acquired from, or a related agreement with, an owner under this part if—

(A) the current owner of the land agrees to such modification; and

(B) the Secretary determines that such modification is desirable—

(i) to carry out this part;

(ii) to facilitate the practical administration of this part; or

(iii) to achieve such other goals as the Secretary determines are appropriate and consistent with this part.

(2) Termination

(A) In general

The Secretary may terminate an easement created with an owner under this part if—

(i) the current owner of the land agrees to such termination; and

(ii) the Secretary determines that such termination would be in the public interest.

(B) Notice

At least 90 days before taking any action to terminate under subparagraph (A) all easements entered into under this part, the Secretary shall provide written notice of such action to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(Pub. L. 99–198, title XII, §1239D, as added Pub. L. 101–624, title XIV, §1440, Nov. 28, 1990, 104 Stat. 3600.)

PART IV—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

CODIFICATION

Chapter 4 of subtitle D of title XII of the Food Security Act of 1985, comprising this part, was originally added to Pub. L. 99–198 by Pub. L. 104–127, title III, §334, Apr. 4, 1996, 110 Stat. 996. Chapter 4 is shown herein, however, as having been added by Pub. L. 107–171, title II, §2301, May 13, 2002, 116 Stat. 253, because of the extensive revision of the chapter's provisions by Pub. L. 107–171. Such revision did not contain a chapter heading, which was subsequently added by Pub. L. 110–234, title II, §2501(b), May 22, 2008, 122 Stat. 1058, and Pub. L. 110–246, §4(a), title II, §2501(b), June 18, 2008, 122 Stat. 1664, 1786. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234.

§ 3839aa. Purposes

The purposes of the environmental quality incentives program established by this part are to promote agricultural production, forest management, and environmental quality as compatible goals, and to optimize environmental benefits, by—

(1) assisting producers in complying with local, State, and national regulatory requirements concerning—

(A) soil, water, and air quality;

(B) wildlife habitat; and

(C) surface and ground water conservation;

(2) avoiding, to the maximum extent practicable, the need for resource and regulatory programs by assisting producers in protecting soil, water, air, and related natural resources and meeting environmental quality criteria established by Federal, State, tribal, and local agencies;

(3) providing flexible assistance to producers to install and maintain conservation practices that sustain food and fiber production while—

(A) enhancing soil, water, and related natural resources, including grazing land, forestland, wetland, and wildlife; and

(B) conserving energy;

(4) assisting producers to make beneficial, cost effective changes to production systems (including conservation practices related to organic production), grazing management, fuels management, forest management, nutrient management associated with livestock, pest or irrigation management, or other practices on agricultural and forested land; and

(5) consolidating and streamlining conservation planning and regulatory compliance processes to reduce administrative burdens on producers and the cost of achieving environmental goals.

(Pub. L. 99–198, title XII, §1240, as added Pub. L. 107–171, title II, §2301, May 13, 2002, 116 Stat. 253; amended Pub. L. 110–234, title II, §2501(a), May 22, 2008, 122 Stat. 1057; Pub. L. 110–246, §4(a), title II, §2501(a), June 18, 2008, 122 Stat. 1664, 1785.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3839aa, Pub. L. 99–198, title XII, §1240, as added Pub. L. 104–127, title III, §334, Apr. 4, 1996, 110 Stat. 996, related to purposes, prior to the general amendment of this part by Pub. L. 107–171.

AMENDMENTS

2008—Pub. L. 110–246, §2501(a)(1), inserted ‘‘, forest management,’’ after ‘‘agricultural production’’ in introductory provisions.

Pars. (3), (4). Pub. L. 110–246, §2501(a)(2), added pars. (3) and (4) and struck out former pars. (3) and (4) which read as follows:

‘‘(3) providing flexible assistance to producers to install and maintain conservation practices that enhance soil, water, related natural resources (including grazing land and wetland), and wildlife while sustaining production of food and fiber;

‘‘(4) assisting producers to make beneficial, cost effective changes to cropping systems, grazing management, nutrient management associated with livestock, pest or irrigation management, or other practices on agricultural land; and’’.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3839aa–1. Definitions

In this part:

(1) Eligible land

(A) In general

The term ''eligible land'' means land on which agricultural commodities, livestock, or forest-related products are produced.

(B) Inclusions

The term ''eligible land'' includes the following:

(i) Cropland.

(ii) Grassland.

(iii) Rangeland.

(iv) Pasture land.

(v) Nonindustrial private forest land.

(vi) Other agricultural land (including cropped woodland, marshes, and agricultural land used for the production of livestock) on which resource concerns related to agricultural production could be addressed through a contract under the program, as determined by the Secretary.

(2) National organic program

The term ''national organic program'' means the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et. seq.).

(3) Organic system plan

The term ''organic system plan'' means an organic plan approved under the national organic program.

(4) Payment

The term ''payment'' means financial assistance provided to a producer for performing practices under this part, including compensation for—

(A) incurred costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training; and

(B) income forgone by the producer.

(5) Practice

The term ''practice'' means 1 or more improvements and conservation activities that are consistent with the purposes of the program under this part, as determined by the Secretary, including—

(A) improvements to eligible land of the producer, including—

(i) structural practices;

(ii) land management practices;

(iii) vegetative practices;

(iv) forest management; and

(v) other practices that the Secretary determines would further the purposes of the program; and

(B) conservation activities involving the development of plans appropriate for the eligible land of the producer, including—

(i) comprehensive nutrient management planning; and

(ii) other plans that the Secretary determines would further the purposes of the program under this part.

(6) Program

The term ''program'' means the environmental quality incentives program established by this part.

(Pub. L. 99–198, title XII, § 1240A, as added Pub. L. 107–171, title II, § 2301, May 13, 2002, 116 Stat. 253; amended Pub. L. 110–234, title II, § 2502, May 22, 2008, 122 Stat. 1058; Pub. L. 110–246, § 4(a), title II, § 2502, June 18, 2008, 122 Stat. 1664, 1786.)

REFERENCES IN TEXT

The Organic Foods Production Act of 1990, referred to in par. (2), is title XXI of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3935, which is classified generally to chapter 94 (§ 6501 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 6501 of Title 7 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3839aa–1, Pub. L. 99–198, title XII, § 1240A, as added Pub. L. 104–127, title III, § 334, Apr. 4, 1996, 110 Stat. 997, related to definitions of terms, prior to the general amendment of this part by Pub. L. 107–171.

AMENDMENTS

2008—Pub. L. 110–246, § 2502, amended section generally. Prior to amendment, section defined ''beginning farmer or rancher'', ''eligible land'', ''land management practice'', ''livestock'', ''practice'', and ''structural practice''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3839aa–2. Establishment and administration

(a) Establishment

During each of the 2002 through 2012 fiscal years, the Secretary shall provide payments to producers that enter into contracts with the Secretary under the program.

(b) Practices and term

(1) Practices

A contract under the program may apply to the performance of one or more practices.

(2) Term

A contract under the program shall have a term that—

(A) at a minimum, is equal to the period beginning on the date on which the contract is entered into and ending on the date that is one year after the date on which all practices under the contract have been implemented; but

(B) not to exceed 10 years.

(c) Bidding down

If the Secretary determines that the environmental values of two or more applications for payments are comparable, the Secretary shall not assign a higher priority to the application only because it would present the least cost to the program.

(d) Payments

(1) Availability of payments

Payments are provided to a producer to implement one or more practices under the program.

(2) Limitation on payment amounts

A payment to a producer for performing a practice may not exceed, as determined by the Secretary—

(A) 75 percent of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training;

(B) 100 percent of income foregone by the producer; or

(C) in the case of a practice consisting of elements covered under subparagraphs (A) and (B)—

(i) 75 percent of the costs incurred for those elements covered under subparagraph (A); and

(ii) 100 percent of income foregone for those elements covered under subparagraph (B).

(3) Special rule involving payments for foregone income

In determining the amount and rate of payments under paragraph (2)(B), the Secretary may accord great significance to a practice that, as determined by the Secretary, promotes—

(A) residue management;

(B) nutrient management;

(C) air quality management;

(D) invasive species management;

(E) pollinator habitat;

(F) animal carcass management technology; or

(G) pest management.

(4) Increased payments for certain producers

(A) In general

Notwithstanding paragraph (2), in the case of a producer that is a limited resource, socially disadvantaged farmer or rancher or a beginning farmer or rancher, the Secretary shall increase the amount that would otherwise be provided to a producer under this subsection—

(i) to not more than 90 percent of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training; and

(ii) to not less than 25 percent above the otherwise applicable rate.

(B) Advance payments

Not more than 30 percent of the amount determined under subparagraph (A) may be provided in advance for the purpose of purchasing materials or contracting.

(5) Financial assistance from other sources

Except as provided in paragraph (6), any payments received by a producer from a State or private organization or person for the implementation of one or more practices on eligible land of the producer shall be in addition to the payments provided to the producer under this subsection.

(6) Other payments

A producer shall not be eligible for payments for practices on eligible land under the program if the producer receives payments or other benefits for the same practice on the same land under another program under this subchapter.

(e) Modification or termination of contracts

(1) Voluntary modification or termination

The Secretary may modify or terminate a contract entered into with a producer under the program if—

(A) the producer agrees to the modification or termination; and

(B) the Secretary determines that the modification or termination is in the public interest.

(2) Involuntary termination

The Secretary may terminate a contract under the program if the Secretary determines that the producer violated the contract.

(f) Allocation of funding

For each of fiscal years 2002 through 2012, 60 percent of the funds made available for payments under the program shall be targeted at practices relating to livestock production.

(g) Funding for federally recognized Native American Indian Tribes and Alaska Native Corporations

The Secretary may enter into alternative funding arrangements with federally recognized Native American Indian Tribes and Alaska Native Corporations (including their affiliated membership organizations) if the Secretary determines that the goals and objectives of the program will be met by such arrangements, and that statutory limitations regarding contracts with individual producers will not be exceeded by any Tribal or Native Corporation member.

(h) Water conservation or irrigation efficiency practice

(1) Availability of payments

The Secretary may provide payments under this subsection to a producer for a water conservation or irrigation practice.

(2) Priority

In providing payments to a producer for a water conservation or irrigation practice, the Secretary shall give priority to applications in which—

(A) consistent with the law of the State in which the eligible land of the producer is located, there is a reduction in water use in the operation of the producer; or

(B) the producer agrees not to use any associated water savings to bring new land, other than incidental land needed for efficient operations, under irrigated production, unless the producer is participating in a watershed-wide project that will effectively conserve water, as determined by the Secretary.

(i) Payments for conservation practices related to organic production

(1) Payments authorized

The Secretary shall provide payments under this subsection for conservation practices, on some or all of the operations of a producer, related—

(A) to organic production; and

(B) to the transition to organic production.

(2) Eligibility requirements

As a condition for receiving payments under this subsection, a producer shall agree—

(A) to develop and carry out an organic system plan; or

(B) to develop and implement conservation practices for certified organic production that are consistent with an organic system plan and the purposes of this part.

(3) Payment limitations

Payments under this subsection to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, $20,000 per year or $80,000 during any 6-year period. In applying these limitations, the Secretary shall not take into account payments received for technical assistance.

(4) Exclusion of certain organic certification costs

Payments may not be made under this subsection to cover the costs associated with organic certification that are eligible for cost-share payments under section 6523 of title 7.

(5) Termination of contracts

The Secretary may cancel or otherwise nullify a contract to provide payments under this subsection if the Secretary determines that the producer—

(A) is not pursuing organic certification; or

(B) is not in compliance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq).

(Pub. L. 99–198, title XII, § 1240B, as added Pub. L. 107–171, title II, § 2301, May 13, 2002, 116 Stat. 254; amended Pub. L. 108–447, div. A, title VII, § 794(a), Dec. 8, 2004, 118 Stat. 2852; Pub. L. 109–171, title I, § 1203(a), Feb. 8, 2006, 120 Stat. 6; Pub. L. 110–234, title II, § 2503, May 22, 2008, 122 Stat. 1059; Pub. L. 110–246, § 4(a), title II, § 2503, June 18, 2008, 122 Stat. 1664, 1787.)

REFERENCES IN TEXT

The Organic Foods Production Act of 1990, referred to in subsec. (i)(5)(B), is title XXI of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3935, which is classified generally to chapter 94 (§ 6501 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 6501 of Title 7 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3839aa–2, Pub. L. 99–198, title XII, § 1240B, as added Pub. L. 104–127, title III, § 334, Apr. 4, 1996, 110 Stat. 998, related to establishment and administration of environmental quality incentives program, prior to the general amendment of this part by Pub. L. 107–171.

AMENDMENTS

2008—Pub. L. 110–246, § 2503, amended section generally. Prior to amendment, section consisted of subsecs. (a) to (h) relating to provision of cost-share payments and incentive payments, application and term of a contract, bidding down, payment amounts, incentive payments, modification or termination of contracts, allocation of funding for fiscal years 2002 through 2007, and funding for federally recognized Native American Indian Tribes and Alaska Native Corporations.

2006—Subsec. (a)(1). Pub. L. 109–171 substituted ''2010'' for ''2007''.

2004—Subsec. (h). Pub. L. 108–447 added subsec. (h).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3839aa–3. Evaluation of applications

(a) Evaluation criteria

The Secretary shall develop criteria for evaluating applications that will ensure that national, State, and local conservation priorities are effectively addressed.

(b) Prioritization of applications

In evaluating applications under this part, the Secretary shall prioritize applications—

(1) based on their overall level of cost-effectiveness to ensure that the conservation practices and approaches proposed are the most efficient means of achieving the anticipated environmental benefits of the project;

(2) based on how effectively and comprehensively the project addresses the designated resource concern or resource concerns;

(3) that best fulfill the purpose of the environmental quality incentives program specified in section 3839aa(1) of this title; and

(4) that improve conservation practices or systems in place on the operation at the time the contract offer is accepted or that will complete a conservation system.

(c) Grouping of applications

To the greatest extent practicable, the Secretary shall group applications of similar crop or livestock operations for evaluation purposes or otherwise evaluate applications relative to other applications for similar farming operations.

(Pub. L. 99–198, title XII, § 1240C, as added Pub. L. 107–171, title II, § 2301, May 13, 2002, 116 Stat. 256; amended Pub. L. 110–234, title II, § 2504, May 22, 2008, 122 Stat. 1062; Pub. L. 110–246, § 4(a), title II, § 2504, June 18, 2008, 122 Stat. 1664, 1790.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3839aa–3, Pub. L. 99–198, title XII, § 1240C, as added Pub. L. 104–127, title III, § 334, Apr. 4, 1996, 110 Stat. 1000, related to evaluation of offers and payments, prior to the general amendment of this part by Pub. L. 107–171.

AMENDMENTS

2008—Pub. L. 110–246, § 2504, amended section generally. Prior to amendment, text read as follows: ''In

evaluating applications for cost-share payments and incentive payments, the Secretary shall accord a higher priority to assistance and payments that—

''(1) encourage the use by producers of cost-effective conservation practices; and

''(2) address national conservation priorities.''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3839aa–4. Duties of producers

To receive payments under the program, a producer shall agree—

(1) to implement an environmental quality incentives program plan (including a comprehensive nutrient management plan, if applicable) that describes conservation and environmental purposes to be achieved through 1 or more practices that are approved by the Secretary;

(2) not to conduct any practices on the farm, ranch, or forest land that would tend to defeat the purposes of the program;

(3) on the violation of a term or condition of the contract at anytime the producer has control of the land—

(A) if the Secretary determines that the violation warrants termination of the contract—

(i) to forfeit all rights to receive payments under the contract; and

(ii) to refund to the Secretary all or a portion of the payments received by the owner or operator under the contract, including any interest on the payments, as determined by the Secretary; or

(B) if the Secretary determines that the violation does not warrant termination of the contract, to refund to the Secretary, or accept adjustments to, the payments provided to the owner or operator, as the Secretary determines to be appropriate;

(4) on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees with the Secretary to assume all obligations of the contract, to refund all payments received under the program, as determined by the Secretary;

(5) to supply information as required by the Secretary to determine compliance with the program plan and requirements of the program; and

(6) to comply with such additional provisions as the Secretary determines are necessary to carry out the program plan.

(Pub. L. 99–198, title XII, §1240D, as added Pub. L. 107–171, title II, §2301, May 13, 2002, 116 Stat. 256; amended Pub. L. 110–234, title II, §2505, May 22, 2008, 122 Stat. 1062; Pub. L. 110–246, §4(a), title II, §2505, June 18, 2008, 122 Stat. 1664, 1790.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3839aa–4, Pub. L. 99–198, title XII, §1240D, as added Pub. L. 104–127, title III, §334, Apr. 4, 1996, 110 Stat. 1000, related to duties of producers, prior to the general amendment of this part by Pub. L. 107–171.

AMENDMENTS

2008—Pub. L. 110–246, §2505(1), struck out ''technical assistance, cost-share payments, or incentive'' before ''payments'' in introductory provisions.

Par. (2). Pub. L. 110–246, §2505(2), substituted ''farm, ranch, or forest land'' for ''farm or ranch''.

Par. (4). Pub. L. 110–246, §2505(3), struck out ''cost-share payments and incentive'' before ''payments''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3839aa–5. Environmental quality incentives program plan

(a) Plan of operations

To be eligible to receive payments under the program, a producer shall submit to the Secretary for approval a plan of operations that—

(1) specifies practices covered under the program;

(2) includes such terms and conditions as the Secretary considers necessary to carry out the program, including a description of the purposes to be met by the implementation of the plan;

(3) in the case of a confined livestock feeding operation, provides for development and implementation of a comprehensive nutrient management plan, if applicable; and

(4) in the case of forest land, is consistent with the provisions of a forest management plan that is approved by the Secretary, which may include—

(A) a forest stewardship plan described in section 2103a of this title;

(B) another practice plan approved by the State forester; or

(C) another plan determined appropriate by the Secretary.

(b) Avoidance of duplication

The Secretary shall—

(1) consider a plan developed in order to acquire a permit under a water or air quality regulatory program as the equivalent of a plan of operations under subsection (a), if the plan contains elements equivalent to those elements required by a plan of operations; and

(2) to the maximum extent practicable, eliminate duplication of planning activities under the program under this part and comparable conservation programs.

(Pub. L. 99–198, title XII, §1240E, as added Pub. L. 107–171, title II, §2301, May 13, 2002, 116 Stat. 256; amended Pub. L. 110–234, title II, §2506, May 22, 2008, 122 Stat. 1063; Pub. L. 110–246, §4(a), title II, §2506, June 18, 2008, 122 Stat. 1664, 1791.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub.

L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3839aa–5, Pub. L. 99–198, title XII, § 1240E, as added Pub. L. 104–127, title III, § 334, Apr. 4, 1996, 110 Stat. 1001, related to environmental quality incentives program plan, prior to the general amendment of this part by Pub. L. 107–171.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, § 2506(a)(1), (2), substituted ''Plan of operations'' for ''In general'' in heading and struck out ''cost-share payments or incentive'' before ''payments'' in introductory provisions.

Subsec. (a)(4). Pub. L. 110–246, § 2506(a)(3)–(5), added par. (4).

Subsec. (b). Pub. L. 110–246, § 2506(b), amended subsec. (b) generally. Prior to amendment, text read as follows: ''The Secretary shall, to the maximum extent practicable, eliminate duplication of planning activities under the program under this part and comparable conservation programs.''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3839aa–6. Duties of the Secretary

To the extent appropriate, the Secretary shall assist a producer in achieving the conservation and environmental goals of a program plan by—

(1) providing payments for developing and implementing 1 or more practices, as appropriate; and

(2) providing the producer with information and training to aid in implementation of the plan.

(Pub. L. 99–198, title XII, § 1240F, as added Pub. L. 107–171, title II, § 2301, May 13, 2002, 116 Stat. 257; amended Pub. L. 110–234, title II, § 2507, May 22, 2008, 122 Stat. 1063; Pub. L. 110–246, § 4(a), title II, § 2507, June 18, 2008, 122 Stat. 1664, 1791.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3839aa–6, Pub. L. 99–198, title XII, § 1240F, as added Pub. L. 104–127, title III, § 334, Apr. 4, 1996, 110 Stat. 1001, related to duties of Secretary, prior to the general amendment of this part by Pub. L. 107–171.

AMENDMENTS

2008—Par. (1). Pub. L. 110–246, § 2507, struck out ''cost-share payments or incentive'' before ''payments''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3839aa–7. Limitation on payments

(a) Limitation

Subject to subsection (b), a person or legal entity may not receive, directly or indirectly, cost-share or incentive payments under this part that, in the aggregate, exceed $300,000 for all contracts entered into under this part by the person or entity during any six-year period,[1] (excluding funding arrangements with federally recognized Native American Indian Tribes or Alaska Native Corporations under section 3839aa–2(h)[2] of this title) regardless of the number of contracts entered into under this part by the person or entity.

(b) Waiver authority

In the case of contracts under this part for projects of special environmental significance (including projects involving methane digesters), as determined by the Secretary, the Secretary may—

(1) waive the limitation otherwise applicable under subsection (a); and

(2) raise the limitation to not more than $450,000 during any six-year period.

(Pub. L. 99–198, title XII, § 1240G, as added Pub. L. 107–171, title II, § 2301, May 13, 2002, 116 Stat. 257; amended Pub. L. 108–447, div. A, title VII, § 794(b), Dec. 8, 2004, 118 Stat. 2852; Pub. L. 109–171, title I, § 1203(b), Feb. 8, 2006, 120 Stat. 6; Pub. L. 110–234, title II, § 2508, May 22, 2008, 122 Stat. 1063; Pub. L. 110–246, § 4(a), title II, § 2508, June 18, 2008, 122 Stat. 1664, 1791.)

REFERENCES IN TEXT

Section 3839aa–2 of this title, referred to in subsec. (a), was amended generally by Pub. L. 110–246, title II, § 2503, June 18, 2008, 122 Stat. 1787, and, as so amended, provisions relating to funding arrangements with federally recognized Native American Indian Tribes or Alaska Native Corporations, which formerly appeared in subsec. (h), are contained in subsec. (g).

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3839aa–7, Pub. L. 99–198, title XII, § 1240G, as added Pub. L. 104–127, title III, § 334, Apr. 4, 1996, 110 Stat. 1001, related to limitation on payments, prior to the general amendment of this part by Pub. L. 107–171.

AMENDMENTS

2008—Pub. L. 110–246, § 2508, designated existing provisions as subsec. (a), inserted heading, substituted ''Subject to subsection (b), a person or legal entity'' for ''An individual or entity'' and ''$300,000'' for ''$450,000'', substituted ''the person'' for ''the individual'' in two places, and added subsec. (b).

2006—Pub. L. 109–171 substituted ''any six-year period'' for ''the period of fiscal years 2002 through 2007''.

2004—Pub. L. 108–447 inserted ''(excluding funding arrangements with federally recognized Native American Indian Tribes or Alaska Native Corporations under section 3839aa–2(h) of this title)'' after ''2007,''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

[1] So in original. The comma probably should follow ''title)''.

[2] See References in Text note below.

§ 3839aa–8. Conservation innovation grants and payments

(a) Competitive grants for innovative conservation approaches

(1) Grants

Out of the funds made available to carry out this part, the Secretary may pay the cost of competitive grants that are intended to stimulate innovative approaches to leveraging the Federal investment in environmental enhancement and protection, in conjunction with agricultural production or forest resource management, through the program.

(2) Use

The Secretary may provide grants under this subsection to governmental and non-governmental organizations and persons, on a competitive basis, to carry out projects that—

(A) involve producers who are eligible for payments or technical assistance under the program;

(B) leverage Federal funds made available to carry out the program under this part with matching funds provided by State and local governments and private organizations to promote environmental enhancement and protection in conjunction with agricultural production;

(C) ensure efficient and effective transfer of innovative technologies and approaches demonstrated through projects that receive funding under this section, such as market systems for pollution reduction and practices for the storage of carbon in soil; and

(D) provide environmental and resource conservation benefits through increased participation by producers of specialty crops.

(b) Air quality concerns from agricultural operations

(1) Implementation assistance

The Secretary shall provide payments under this subsection to producers to implement practices to address air quality concerns from agricultural operations and to meet Federal, State, and local regulatory requirements. The funds shall be made available on the basis of air quality concerns in a State and shall be used to provide payments to producers that are cost effective and reflect innovative technologies.

(2) Funding

Of the funds made available to carry out this part, the Secretary shall carry out this subsection using $37,500,000 for each of fiscal years 2009 through 2012.

(Pub. L. 99–198, title XII, §1240H, as added Pub. L. 107–171, title II, §2301, May 13, 2002, 116 Stat. 257; amended Pub. L. 110–234, title II, §2509, May 22, 2008, 122 Stat. 1064; Pub. L. 110–246, §4(a), title II, §2509, June 18, 2008, 122 Stat. 1664, 1792.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3839aa–8, Pub. L. 99–198, title XII, §1240H, as added Pub. L. 104–127, title III, §334, Apr. 4, 1996, 110 Stat. 1002, related to temporary administration of environmental quality incentives program, prior to the general amendment of this part by Pub. L. 107–171.

AMENDMENTS

2008—Pub. L. 110–246, §2509, amended section generally. Prior to amendment, section related to conservation innovation grants.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3839aa–9. Agricultural water enhancement program

(a) Definitions

In this section:

(1) Agricultural water enhancement activity

The term ''agricultural water enhancement activity'' includes the following activities carried out with respect to agricultural land:

(A) Water quality or water conservation plan development, including resource condition assessment and modeling.

(B) Water conservation restoration or enhancement projects, including conversion to the production of less water-intensive agricultural commodities or dryland farming.

(C) Water quality or quantity restoration or enhancement projects.

(D) Irrigation system improvement and irrigation efficiency enhancement.

(E) Activities designed to mitigate the effects of drought.

(F) Related activities that the Secretary determines will help achieve water quality or water conservation benefits on agricultural land.

(2) Partner

The term ''partner'' means an entity that enters into a partnership agreement with the Secretary to carry out agricultural water enhancement activities on a regional basis, including—

(A) an agricultural or silvicultural producer association or other group of such producers;

(B) a State or unit of local government; or

(C) a federally recognized Indian tribe.

(3) Partnership agreement

The term ''partnership agreement'' means an agreement between the Secretary and a partner.

(4) Program

The term ''program'' means the agricultural water enhancement program established under subsection (b).

(b) Establishment of program

Beginning in fiscal year 2009, the Secretary shall carry out, in accordance with this section and using such procedures as the Secretary determines to be appropriate, an agricultural water enhancement program as part of the environmental quality incentives program to pro-

mote ground and surface water conservation and improve water quality on agricultural lands—

(1) by entering into contracts with, and making payments to, producers to carry out agricultural water enhancement activities; or

(2) by entering into partnership agreements with partners, in accordance with subsection (c), on a regional level to benefit working agricultural land.

(c) Partnership agreements

(1) Agreements authorized

The Secretary may enter into partnership agreements to meet the objectives of the program described in subsection (b).

(2) Applications

An application to the Secretary to enter into a partnership agreement under paragraph (1) shall include the following:

(A) A description of the geographical area to be covered by the partnership agreement.

(B) A description of the agricultural water quality or water conservation issues to be addressed by the partnership agreement.

(C) A description of the agricultural water enhancement objectives to be achieved through the partnership.

(D) A description of the partners collaborating to achieve the project objectives and the roles, responsibilities, and capabilities of each partner.

(E) A description of the program resources, including payments the Secretary is requested to make.

(F) Such other such elements as the Secretary considers necessary to adequately evaluate and competitively select applications for partnership agreements.

(3) Duties of partners

A partner under a partnership agreement shall—

(A) identify producers participating in the project and act on their behalf in applying for the program;

(B) leverage funds provided by the Secretary with additional funds to help achieve project objectives;

(C) conduct monitoring and evaluation of project effects; and

(D) at the conclusion of the project, report to the Secretary on project results.

(d) Agricultural water enhancement activities by producers

The Secretary shall select agricultural water enhancement activities proposed by producers according to applicable requirements under the environmental quality incentives program.

(e) Agricultural water enhancement activities by partners

(1) Competitive process

The Secretary shall conduct a competitive process to select partners. In carrying out the process, the Secretary shall make public the criteria used in evaluating applications.

(2) Authority to give priority to certain proposals

The Secretary may give a higher priority to proposals from partners that—

(A) include high percentages of agricultural land and producers in a region or other appropriate area;

(B) result in high levels of applied agricultural water quality and water conservation activities;

(C) significantly enhance agricultural activity;

(D) allow for monitoring and evaluation; and

(E) assist producers in meeting a regulatory requirement that reduces the economic scope of the producer's operation.

(3) Priority to proposals from States with water quantity concerns

The Secretary shall give a higher priority to proposals from partners that—

(A) include the conversion of agricultural land from irrigated farming to dryland farming;

(B) leverage Federal funds provided under the program with funds provided by partners; and

(C) assist producers in States with water quantity concerns, as determined by the Secretary.

(4) Administration

In carrying out this subsection, the Secretary shall—

(A) accept qualified applications—

(i) directly from partners applying on behalf of producers; or

(ii) from producers applying through a partner as part of a regional agricultural water enhancement project; and

(B) ensure that resources made available for regional agricultural water enhancement activities are delivered in accordance with applicable program rules.

(f) Areas experiencing exceptional drought

Notwithstanding the purposes described in section 3839aa of this title, the Secretary shall consider as an eligible agricultural water enhancement activity the use of a water impoundment to capture surface water runoff on agricultural land if the agricultural water enhancement activity—

(1) is located in an area that is experiencing or has experienced exceptional drought conditions during the previous two calendar years; and

(2) will capture surface water runoff through the construction, improvement, or maintenance of irrigation ponds or small, on-farm reservoirs.

(g) Waiver authority

To assist in the implementation of agricultural water enhancement activities under the program, the Secretary shall waive the applicability of the limitation in section 1308–3a(b)(2)(B) of title 7 for participating producers if the Secretary determines that the waiver is necessary to fulfill the objectives of the program.

(h) Payments under program

(1) In general

The Secretary shall provide appropriate payments to producers participating in agricul-

tural water enhancement activities in an amount determined by the secretary[1] to be necessary to achieve the purposes of the program described in subsection (b).

(2) Payments to producers in States with water quantity concerns

The Secretary shall provide payments for a period of five years to producers participating in agricultural water enhancement activities under proposals described in subsection (e)(3) in an amount sufficient to encourage producers to convert from irrigated farming to dryland farming.

(i) Consistency with State law

Any agricultural water enhancement activity conducted under the program shall be conducted in a manner consistent with State water law.

(j) Funding

(1) Availability of funds

In addition to funds made available to carry out this part under section 3841(a) of this title, the Secretary shall carry out the program using, of the funds of the Commodity Credit Corporation—

(A) $73,000,000 for each of fiscal years 2009 and 2010;

(B) $74,000,000 for fiscal year 2011; and

(C) $60,000,000 for fiscal year 2012 and each fiscal year thereafter.

(2) Limitation on administrative expenses

None of the funds made available for regional agricultural water conservation activities under the program may be used to pay for the administrative expenses of partners.

(Pub. L. 99–198, title XII, § 1240I, as added Pub. L. 107–171, title II, § 2301, May 13, 2002, 116 Stat. 257; amended Pub. L. 110–234, title II, § 2510, May 22, 2008, 122 Stat. 1064; Pub. L. 110–246, § 4(a), title II, § 2510, June 18, 2008, 122 Stat. 1664, 1792.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, § 2510, amended section generally. Prior to amendment, section related to ground and surface water conservation.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

TRANSITION PROVISIONS

Pub. L. 110–234, title II, § 2903(b), May 22, 2008, 122 Stat. 1091, and Pub. L. 110–246, § 4(a), title II, § 2903(b), June 18, 2008, 122 Stat. 1664, 1819, provided that: ''During the period beginning on the date of the enactment of this Act [June 18, 2008] and ending on September 30, 2008, the Secretary of Agriculture shall continue to carry out the ground and surface water conservation program under section 1240I of the Food Security Act of 1985 (16 U.S.C. 3839aa–9), as in effect before the amendment made by section 2510, using the terms, conditions, and funds available to the Secretary to carry out such program on the day before the date of the enactment of this Act.''

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

PART V—OTHER CONSERVATION PROGRAMS

§ 3839bb. Conservation of private grazing land

(a) Purpose

It is the purpose of this section to authorize the Secretary to provide a coordinated technical, educational, and related assistance program to conserve and enhance private grazing land resources and provide related benefits to all citizens of the United States by—

(1) establishing a coordinated and cooperative Federal, State, and local grazing conservation program for management of private grazing land;

(2) strengthening technical, educational, and related assistance programs that provide assistance to owners and managers of private grazing land;

(3) conserving and improving wildlife habitat on private grazing land;

(4) conserving and improving fish habitat and aquatic systems through grazing land conservation treatment;

(5) protecting and improving water quality;

(6) improving the dependability and consistency of water supplies;

(7) identifying and managing weed, noxious weed, and brush encroachment problems on private grazing land; and

(8) integrating conservation planning and management decisions by owners and managers of private grazing land, on a voluntary basis.

(b) Definitions

In this section:

(1) Department

The term ''Department'' means the Department of Agriculture.

(2) Private grazing land

The term ''private grazing land'' means private, State-owned, tribally-owned, and any other non-federally owned rangeland, pastureland, grazed forest land, and hay land.

(3) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(c) Private grazing land conservation assistance

(1) Assistance to grazing landowners and others

Subject to the availability of appropriations for this section, the Secretary shall establish a voluntary program to provide technical, educational, and related assistance to owners and managers of private grazing land and public agencies, through local conservation districts, to enable the landowners, managers, and public agencies to voluntarily carry out activities that are consistent with this section, including—

[1] So in original. Probably should be ''Secretary''.

(A) maintaining and improving private grazing land and the multiple values and uses that depend on private grazing land;

(B) implementing grazing land management technologies;

(C) managing resources on private grazing land, including—

(i) planning, managing, and treating private grazing land resources;

(ii) ensuring the long-term sustainability of private grazing land resources;

(iii) harvesting, processing, and marketing private grazing land resources; and

(iv) identifying and managing weed, noxious weed, and brush encroachment problems;

(D) protecting and improving the quality and quantity of water yields from private grazing land;

(E) maintaining and improving wildlife and fish habitat on private grazing land;

(F) enhancing recreational opportunities on private grazing land;

(G) maintaining and improving the aesthetic character of private grazing land;

(H) identifying the opportunities and encouraging the diversification of private grazing land enterprises; and

(I) encouraging the use of sustainable grazing systems, such as year-round, rotational, or managed grazing.

(2) Program elements

(A) Funding

If funding is provided to carry out this section, it shall be provided through a specific line-item in the annual appropriations for the Natural Resources Conservation Service.

(B) Technical assistance and education

Personnel of the Department trained in pasture and range management shall be made available under the program to deliver and coordinate technical assistance and education to owners and managers of private grazing land, at the request of the owners and managers.

(d) Grazing technical assistance self-help

(1) Findings

Congress finds that—

(A) there is a severe lack of technical assistance for farmers and ranchers that graze livestock;

(B) Federal budgetary constraints preclude any significant expansion, and may force a reduction of, current levels of technical support; and

(C) farmers and ranchers have a history of cooperatively working together to address common needs in the promotion of their products and in the drainage of wet areas through drainage districts.

(2) Establishment of grazing demonstration

In accordance with paragraph (3), the Secretary may establish 2 grazing management demonstration districts at the recommendation of the grazing land conservation initiative steering committee.

(3) Procedure

(A) Proposal

Within a reasonable time after the submission of a request of an organization of farmers or ranchers engaged in grazing, the Secretary shall propose that a grazing management district be established.

(B) Funding

The terms and conditions of the funding and operation of the grazing management district shall be proposed by the producers.

(C) Approval

The Secretary shall approve the proposal if the Secretary determines that the proposal—

(i) is reasonable;

(ii) will promote sound grazing practices; and

(iii) contains provisions similar to the provisions contained in the beef promotion and research order issued under section 2903 of title 7 in effect on April 4, 1996.

(D) Area included

The area proposed to be included in a grazing management district shall be determined by the Secretary on the basis of an application by farmers or ranchers.

(E) Authorization

The Secretary may use authority under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to operate, on a demonstration basis, a grazing management district.

(F) Activities

The activities of a grazing management district shall be scientifically sound activities, as determined by the Secretary in consultation with a technical advisory committee composed of ranchers, farmers, and technical experts.

(e) Authorization of appropriations

There is authorized to be appropriated to carry out this section $60,000,000 for each of fiscal years 2002 through 2012.

(Pub. L. 99–198, title XII, § 1240M, as added Pub. L. 104–127, title III, § 335, Apr. 4, 1996, 110 Stat. 1002; amended Pub. L. 107–171, title II, § 2502(a), May 13, 2002, 116 Stat. 264; Pub. L. 110–234, title II, § 2601, May 22, 2008, 122 Stat. 1068; Pub. L. 110–246, § 4(a), title II, § 2601, June 18, 2008, 122 Stat. 1664, 1796.)

REFERENCES IN TEXT

The Agricultural Adjustment Act, referred to in subsec. (d)(3)(E), is title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§ 601 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 7 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (e). Pub. L. 110–246, § 2601, substituted ''2012'' for ''2007''.

2002—Pub. L. 107–171 amended section catchline and text generally. Prior to amendment, section required the Secretary to establish conservation farm option pilot programs for producers of wheat, feed grains, cotton, and rice.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3839bb–1. Wildlife habitat incentive program

(a) In general

The Secretary, in consultation with the State technical committees established under section 3861 of this title, shall establish within the Natural Resources Conservation Service a program to be known as the wildlife habitat incentive program (referred to in this section as the ''program'') for the development of wildlife habitat on private agricultural land, nonindustrial private forest land, and tribal lands.

(b) Cost-share payments

(1) In general

Under the program, the Secretary shall make cost-share payments to owners of lands referred to in subsection (a) to develop—

(A) upland wildlife habitat;

(B) wetland wildlife habitat;

(C) habitat for threatened and endangered species;

(D) fish habitat; and

(E) other types of wildlife habitat approved by the Secretary, including habitat developed on pivot corners and irregular areas.

(2) Increased cost share for long-term agreements

(A) In general

In a case in which the Secretary enters into an agreement or contract to protect and restore plant and animal habitat that has a term of at least 15 years, the Secretary may provide cost-share payments in addition to amounts provided under paragraph (1).

(B) Funding limitation

The Secretary may use, for a fiscal year, not more than 25 percent of funds made available under section 3841(a)(7) of this title for the fiscal year to carry out contracts and agreements described in subparagraph (A).

(c) Regional equity

In carrying out this section, the Secretary shall, to the maximum extent practicable, ensure that regional issues of concern relating to wildlife habitat are addressed in an appropriate manner.

(d) Priority for certain conservation initiatives

In carrying out this section, the Secretary may give priority to projects that would address issues raised by State, regional, and national conservation initiatives.

(e) Payment limitation

Payments made to a person or legal entity, directly or indirectly, under the program may not exceed, in the aggregate, $50,000 per year.

(Pub. L. 99–198, title XII, § 1240N, as added Pub. L. 107–171, title II, § 2502(a), May 13, 2002, 116 Stat. 266; amended Pub. L. 110–234, title II, § 2602, May 22, 2008, 122 Stat. 1068; Pub. L. 110–246, § 4(a), title II, § 2602, June 18, 2008, 122 Stat. 1664, 1796.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, § 2602(a)(1), inserted ''for the development of wildlife habitat on private agricultural land, nonindustrial private forest land, and tribal lands'' before period at end.

Subsec. (b)(1). Pub. L. 110–246, § 2602(a)(2), substituted ''owners of lands referred to in subsection (a)'' for ''landowners'' in introductory provisions.

Subsec. (b)(1)(E). Pub. L. 110–246, § 2602(b), inserted '', including habitat developed on pivot corners and irregular areas'' before period at end.

Subsec. (b)(2)(B). Pub. L. 110–246, § 2602(c), substituted ''25 percent'' for ''15 percent''.

Subsecs. (d), (e). Pub. L. 110–246, § 2602(d), added subsecs. (d) and (e).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3839bb–2. Grassroots source water protection program

(a) In general

The Secretary shall establish a national grassroots water protection program to more effectively use onsite technical assistance capabilities of each State rural water association that, as of May 13, 2002, operates a wellhead or groundwater protection program in the State.

(b) Authorization of appropriations

There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2008 through 2012.

(Pub. L. 99–198, title XII, § 1240O, as added Pub. L. 107–171, title II, § 2502(a), May 13, 2002, 116 Stat. 267; amended Pub. L. 110–234, title II, § 2603, May 22, 2008, 122 Stat. 1068; Pub. L. 110–246, § 4(a), title II, § 2603, June 18, 2008, 122 Stat. 1664, 1796.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–246, § 2603, substituted ''$20,000,000 for each of fiscal years 2008 through 2012'' for ''$5,000,000 for each of fiscal years 2002 through 2007''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the

date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3839bb–3. Great Lakes basin program for soil erosion and sediment control

(a) Program authorized

The Secretary may carry out the Great Lakes basin program for soil erosion and sediment control (referred to in this section as the ''program''), including providing assistance to implement the recommendations of the Great Lakes Regional Collaboration Strategy to Restore and Protect the Great Lakes.

(b) Consultation and cooperation

The Secretary shall carry out the program in consultation with the Great Lakes Commission created by Article IV of the Great Lakes Basin Compact (82 Stat. 415) and in cooperation with the Administrator of the Environmental Protection Agency and the Secretary of the Army.

(c) Assistance

In carrying out the program, the Secretary may—

(1) provide project demonstration grants, provide technical assistance, and carry out information and educational programs to improve water quality in the Great Lakes basin by reducing soil erosion and improving sediment control; and

(2) establish a priority for projects and activities that—

(A) directly reduce soil erosion or improve sediment control;

(B) reduce soil loss in degraded rural watersheds; or

(C) improve water quality for downstream watersheds.

(d) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out the program $5,000,000 for each of fiscal years 2008 through 2012.

(Pub. L. 99–198, title XII, § 1240P, as added Pub. L. 107–171, title II, § 2502(a), May 13, 2002, 116 Stat. 267; amended Pub. L. 110–234, title II, § 2604, May 22, 2008, 122 Stat. 1068; Pub. L. 110–246, § 4(a), title II, § 2604, June 18, 2008, 122 Stat. 1664, 1796.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, § 2604, amended section generally. Prior to amendment, section related to: in subsec. (a), authorization to carry out the Great Lakes basin program for soil erosion and sediment control in consultation with the Great Lakes Commission and in cooperation with the Administrator of the Environmental Protection Agency and the Secretary of the Army; in subsec. (b), provision of assistance and prioritization of projects; and, in subsec. (c), appropriations for fiscal years 2002 through 2007.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3839bb–4. Chesapeake Bay watershed

(a) Chesapeake Bay watershed defined

In this section, the term ''Chesapeake Bay watershed'' means all tributaries, backwaters, and side channels, including their watersheds, draining into the Chesapeake Bay.

(b) Establishment and purpose

The Secretary shall assist producers in implementing conservation activities on agricultural lands in the Chesapeake Bay watershed for the purposes of—

(1) improving water quality and quantity in the Chesapeake Bay watershed; and

(2) restoring, enhancing, and preserving soil, air, and related resources in the Chesapeake Bay watershed.

(c) Conservation activities

The Secretary shall deliver the funds made available to carry out this section through applicable programs under this subchapter to assist producers in enhancing land and water resources—

(1) by controlling erosion and reducing sediment and nutrient levels in ground and surface water; and

(2) by planning, designing, implementing, and evaluating habitat conservation, restoration, and enhancement measures where there is significant ecological value if the lands are—

(A) retained in their current use; or

(B) restored to their natural condition.

(d) Agreements

(1) In general

The Secretary shall—

(A) enter into agreements with producers to carry out the purposes of this section; and

(B) use the funds made available to carry out this section to cover the costs of the program involved with each agreement.

(2) Special considerations

In entering into agreements under this subsection, the Secretary shall give special consideration to, and begin evaluating, applications with producers in the following river basins:

(A) The Susquehanna River.

(B) The Shenandoah River.

(C) The Potomac River (including North and South Potomac).

(D) The Patuxent River.

(e) Duties of the Secretary

In carrying out the purposes in this section, the Secretary shall—

(1) where available, use existing plans, models, and assessments to assist producers in implementing conservation activities; and

(2) proceed expeditiously with the implementation of any agreement with a producer that is consistent with State strategies for the restoration of the Chesapeake Bay watershed.

(f) Consultation

The Secretary, in consultation with appropriate Federal agencies, shall ensure conserva-

tion activities carried out under this section complement Federal and State programs, including programs that address water quality, in the Chesapeake Bay watershed.

(g) Sense of Congress regarding Chesapeake Bay Executive Council

It is the sense of Congress that the Secretary should be a member of the Chesapeake Bay Executive Council, and is authorized to do so under section 590a(3) of this title.

(h) Funding

(1) Availability

Of the funds of the Commodity Credit Corporation, the Secretary shall use, to the maximum extent practicable—

(A) $23,000,000 for fiscal year 2009;

(B) $43,000,000 for fiscal year 2010;

(C) $72,000,000 for fiscal year 2011; and

(D) $50,000,000 for fiscal year 2012.

(2) Duration of availability

Funds made available under paragraph (1) shall remain available until expended.

(Pub. L. 99–198, title XII, §1240Q, as added Pub. L. 110–234, title II, §2605, May 22, 2008, 122 Stat. 1069, and Pub. L. 110–246, §4(a), title II, §2605, June 18, 2008, 122 Stat. 1664, 1797.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

§ 3839bb–5. Voluntary public access and habitat incentive program

(a) Establishment

The Secretary shall establish a voluntary public access program under which States and tribal governments may apply for grants to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting or fishing under programs administered by the States and tribal governments.

(b) Applications

In submitting applications for a grant under the program, a State or tribal government shall describe—

(1) the benefits that the State or tribal government intends to achieve by encouraging public access to private farm and ranch land for—

(A) hunting and fishing; and

(B) to the maximum extent practicable, other recreational purposes; and

(2) the methods that will be used to achieve those benefits.

(c) Priority

In approving applications and awarding grants under the program, the Secretary shall give priority to States and tribal governments that propose—

(1) to maximize participation by offering a program the terms of which are likely to meet with widespread acceptance among landowners;

(2) to ensure that land enrolled under the State or tribal government program has appropriate wildlife habitat;

(3) to strengthen wildlife habitat improvement efforts on land enrolled in a special conservation reserve enhancement program described in section 3834(f)(4) of this title by providing incentives to increase public hunting and other recreational access on that land;

(4) to use additional Federal, State, tribal government, or private resources in carrying out the program; and

(5) to make available to the public the location of land enrolled.

(d) Relationship to other laws

(1) No preemption

Nothing in this section preempts a State or tribal government law, including any State or tribal government liability law.

(2) Effect of inconsistent opening dates for migratory bird hunting

The Secretary shall reduce by 25 percent the amount of a grant otherwise determined for a State under the program if the opening dates for migratory bird hunting in the State are not consistent for residents and non-residents.

(e) Regulations

The Secretary shall promulgate such regulations as are necessary to carry out this section.

(f) Funding

Of the funds of the Commodity Credit Corporation, the Secretary shall use, to the maximum extent practicable, $50,000,000 for the period of fiscal years 2009 through 2012.

(Pub. L. 99–198, title XII, §1240R, as added Pub. L. 110–234, title II, §2606, May 22, 2008, 122 Stat. 1070, and Pub. L. 110–246, §4(a), title II, §2606, June 18, 2008, 122 Stat. 1664, 1798.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

SUBCHAPTER V—FUNDING AND ADMINISTRATION

CODIFICATION

Subtitle E of title XII of the Food Security Act, comprising this subchapter, was originally enacted by Pub. L. 99–198, title XII, Dec. 23, 1985, 99 Stat. 1514, and amended by Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3359; Pub. L. 102–237, Dec. 13, 1991, 105 Stat. 1818; Pub. L. 102–552, Oct. 28, 1992, 106 Stat. 4102; and Pub. L. 104–66, Dec. 21, 1995, 109 Stat. 707. Subtitle E was shown herein, however, as having been added by Pub. L. 104–127, title III, §341, Apr. 4, 1996, 110 Stat. 1007, without reference

to the intervening amendments because of the extensive revision of the subtitle's provisions by Pub. L. 104–127. Subsequently, subtitle E was amended by Pub. L. 107–171 to add new sections 3841, 3842, and 3844 and to repeal former sections 3841 and 3842.

§ 3841. Commodity Credit Corporation

(a) In general

For each of fiscal years 2002 through 2012, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out the following programs under subchapter IV (including the provision of technical assistance):

(1) The conservation reserve program under subpart B of part I, including to the maximum extent practicable—

(A) $100,000,000 for the period of fiscal years 2009 through 2012 to provide cost share payments under paragraph (3) of section 3834(b) of this title in connection with thinning activities conducted on land described in subparagraph (A)(iii) of such paragraph; and

(B) $25,000,000 for the period of fiscal years 2009 through 2012 to carry out section 3835(f) of this title to facilitate the transfer of land subject to contracts from retired or retiring owners and operators to beginning farmers or ranchers and socially disadvantaged farmers or ranchers.

(2) The wetlands reserve program under subpart C of part I.

(3)(A) CONSERVATION SECURITY PROGRAM.—The conservation security program under subpart A of part II, using such sums as are necessary to administer contracts entered into before September 30, 2008.

(B) CONSERVATION STEWARDSHIP PROGRAM.—The conservation stewardship program under subpart B of part II.

(4) The farmland protection program under subpart C of part II, using, to the maximum extent practicable—

(A) $97,000,000 in fiscal year 2008;
(B) $121,000,000 in fiscal year 2009;
(C) $150,000,000 in fiscal year 2010;
(D) $175,000,000 in fiscal year 2011; and
(E) $200,000,000 in fiscal year 2012.

(5) The grassland reserve program under subpart D of part II.

(6) The environmental quality incentives program under part IV, using, to the maximum extent practicable—

(A) $1,200,000,000 in fiscal year 2008;
(B) $1,337,000,000 in fiscal year 2009;
(C) $1,450,000,000 in fiscal year 2010;
(D) $1,588,000,000 in fiscal year 2011; and
(E) $1,750,000,000 in fiscal year 2012.

(7) The wildlife habitat incentives program under section 3839bb–1 of this title, using, to the maximum extent practicable—

(A) $15,000,000 in fiscal year 2002;
(B) $30,000,000 in fiscal year 2003;
(C) $60,000,000 in fiscal year 2004; and
(D) $85,000,000 in each of fiscal years 2005 through 2012.

(b) Technical assistance

Effective for fiscal year 2005 and each subsequent fiscal year, Commodity Credit Corporation funds made available for each of the programs specified in paragraphs (1) through (7) of subsection (a) of this section—

(1) shall be available for the provision of technical assistance for the programs for which funds are made available; and

(2) shall not be available for the provision of technical assistance for conservation programs specified in subsection (a) of this section other than the program for which the funds were made available.

(c) Relationship to other law

The use of Commodity Credit Corporation funds under subsection (b) of this section to provide technical assistance shall not be considered an allotment or fund transfer from the Commodity Credit Corporation for purposes of the limit on expenditures for technical assistance imposed by section 714i of title 15.

(d) Regional equity

(1) Priority funding to promote equity

Before April 1 of each fiscal year, the Secretary shall give priority for funding under the conservation programs under subchapter IV (excluding the conservation reserve program under subpart B of part I, the wetlands reserve program under subpart C of part I, and the conservation security program under subpart A of part II) to approved applications in any State that has not received, for the fiscal year, an aggregate amount of at least $15,000,000 for those conservation programs.

(2) Specific funding allocations

In determining the specific funding allocations for States under paragraph (1), the Secretary shall consider the respective demand in each State for each program covered by such paragraph.

(e) Acceptance and use of contributions

(1) Authority to establish contribution accounts

Subject to paragraph (2), the Secretary may establish a sub-account for each conservation program administered by the Secretary under subchapter IV to accept contributions of non-Federal funds to support the purposes of the program.

(2) Deposit and use of contributions

Contributions of non-Federal funds received for a conservation program administered by the Secretary under subchapter IV shall be deposited into the sub-account established under this subsection for the program and shall be available to the Secretary, without further appropriation and until expended, to carry out the program.

(f) Allocations review and update

(1) Review

Not later than January 1, 2012, the Secretary shall conduct a review of conservation programs and authorities under this chapter that utilize allocation formulas to determine the sufficiency of the formulas in accounting for State-level economic factors, level of agricultural infrastructure, or related factors that affect conservation program costs.

(2) Update

The Secretary shall improve conservation program allocation formulas as necessary to ensure that the formulas adequately reflect the costs of carrying out the conservation programs.

(g) Assistance to certain farmers or ranchers for conservation access

(1) Assistance

Of the funds made available for each of fiscal years 2009 through 2012 to carry out the environmental quality incentives program and the acres made available for each of such fiscal years to carry out the conservation stewardship program, the Secretary shall use, to the maximum extent practicable—

(A) 5 percent to assist beginning farmers or ranchers; and

(B) 5 percent to assist socially disadvantaged farmers or ranchers.

(2) Repooling of funds

In any fiscal year, amounts not obligated under paragraph (1) by a date determined by the Secretary shall be available for payments and technical assistance to all persons eligible for payments or technical assistance in that fiscal year under the environmental quality incentives program.

(3) Repooling of acres

In any fiscal year, acres not obligated under paragraph (1) by a date determined by the Secretary shall be available for use in that fiscal year under the conservation stewardship program.

(h) Report on program enrollments and assistance

Beginning in calendar year 2009, and each year thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a semiannual report containing statistics by State related to enrollments in conservation programs under this subchapter, as follows:

(1) Payments made under the wetlands reserve program for easements valued at $250,000 or greater.

(2) Payments made under the farmland protection program for easements in which the Federal share is $250,000 or greater.

(3) Payments made under the grassland reserve program valued at $250,000 or greater.

(4) Payments made under the environmental quality incentives program for land determined to have special environmental significance pursuant to section 3839aa–7(b) of this title.

(5) Payments made under the agricultural water enhancement program subject to the waiver of adjusted gross income limitations pursuant to section 3839aa–9(g) of this title.

(6) Waivers granted by the Secretary under section 1308–3a(b)(2) of title 7 in order to protect environmentally sensitive land of special significance.

(Pub. L. 99–198, title XII, §1241, as added Pub. L. 107–171, title II, §2701, May 13, 2002, 116 Stat. 278; amended Pub. L. 108–7, div. N, title II, §§213, 216(c), Feb. 20, 2003, 117 Stat. 545, 546; Pub. L. 108–11, title II, §2106(a), Apr. 16, 2003, 117 Stat. 590; Pub. L. 108–199, div. H, §101, Jan. 23, 2004, 118 Stat. 434; Pub. L. 108–324, div. B, §101(e), Oct. 13, 2004, 118 Stat. 1235; Pub. L. 108–498, §1(a), Dec. 23, 2004, 118 Stat. 4020; Pub. L. 109–171, title I, §§1202(b), 1203(c), Feb. 8, 2006, 120 Stat. 5, 6; Pub. L. 110–234, title II, §§2701–2705, May 22, 2008, 122 Stat. 1071–1074; Pub. L. 110–246, §4(a), title II, §§2701–2705, June 18, 2008, 122 Stat. 1664, 1799–1802.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (f)(1), was in the original ''this title'', meaning title XII of Pub. L. 99–198, which enacted this chapter and former section 2005a of this title and amended sections 590g, 2004, 2005, 2006, and 2009 of this title, sections 4207 and 4209 of Title 7, Agriculture, and provisions set out as a note under section 1981 of Title 7.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Section 2701 of Pub. L. 107–171, which directed that subtitle E of the Food Security Act of 1985 be amended by striking section 1241 and adding a new section 1241 (this section), was executed by striking section 1241 of subtitle E of title XII of the Food Security Act of 1985 and adding the new section 1241 in lieu thereof, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 3841, Pub. L. 99–198, title XII, §1241, as added Pub. L. 104–127, title III, §341, Apr. 4, 1996, 110 Stat. 1007, related to funding for the Commodity Credit Corporation, prior to repeal by Pub. L. 107–171, title II, §2701, May 13, 2002, 116 Stat. 278. See Codification note above.

Another prior section 3841, Pub. L. 99–198, title XII, §1241, Dec. 23, 1985, 99 Stat. 1514, related to use of Commodity Credit Corporation, prior to the general amendment of this subchapter by Pub. L. 104–127.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, §2701(a), substituted ''2012'' for ''2007'' in introductory provisions.

Subsec. (a)(1). Pub. L. 110–246, §2701(b), inserted '', including to the maximum extent practicable—'' after ''part I'' and added subpars. (A) and (B).

Subsec. (a)(3). Pub. L. 110–246, §2701(c), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The conservation security program under subpart A of part II, using not more than—

''(A) $1,954,000,000 for the period of fiscal years 2006 through 2010; and

''(B) $5,650,000,000 for the period of fiscal years 2006 through 2015.''

Subsec. (a)(4). Pub. L. 110–246, §2701(d), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''The farmland protection program under subpart B of part II, using, to the maximum extent practicable—

''(A) $50,000,000 in fiscal year 2002;

''(B) $100,000,000 in fiscal year 2003;

''(C) $125,000,000 in each of fiscal years 2004 and 2005;

''(D) $100,000,000 in fiscal year 2006; and

''(E) $97,000,000 in fiscal year 2007.''

Subsec. (a)(5). Pub. L. 110–246, §2701(e), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''The grassland reserve program under subpart C of part II, using, to the maximum extent practicable $254,000,000 for the period of fiscal years 2003 through 2007.''

Subsec. (a)(6). Pub. L. 110–246, § 2701(f), amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''The environmental quality incentives program under part IV, using, to the maximum extent practicable—

''(A) $400,000,000 in fiscal year 2002;

''(B) $700,000,000 in fiscal year 2003;

''(C) $1,000,000,000 in fiscal year 2004;

''(D) $1,200,000,000 in each of fiscal years 2005 and 2006;

''(E) $1,270,000,000 in each of fiscal years 2007 through 2009; and

''(F) $1,300,000,000 in fiscal year 2010.''

Subsec. (a)(7)(D). Pub. L. 110–246, § 2701(g), substituted ''2012'' for ''2007''.

Subsec. (d). Pub. L. 110–246, § 2703(a), designated existing provisions as par. (1), inserted heading, substituted ''$15,000,000'' for ''$12,000,000'', and added par. (2).

Subsec. (e). Pub. L. 110–246, § 2702, added subsec. (e).

Subsec. (f). Pub. L. 110–246, § 2703(b), added subsec. (f).

Subsec. (g). Pub. L. 110–246, § 2704, added subsec. (g).

Subsec. (h). Pub. L. 110–246, § 2705, added subsec. (h).

2006—Subsec. (a)(3). Pub. L. 109–171, § 1202(b), substituted a dash for ''$6,037,000,000 for the period of fiscal years 2005 through 2014.'' and added subpars. (A) and (B).

Subsec. (a)(6)(E), (F). Pub. L. 109–171, § 1203(c), added subpars. (E) and (F) and struck out former subpar. (E) which read as follows: ''$1,300,000,000 in fiscal year 2007.''

2004—Subsec. (a)(3). Pub. L. 108–324 inserted '', using not more than $6,037,000,000 for the period of fiscal years 2005 through 2014'' before period at end.

Pub. L. 108–199 struck out '', using not more than $3,773,000,000 for the period of fiscal years 2003 through 2013'' before period at end.

Subsec. (b). Pub. L. 108–498 added subsec. (b) and struck out heading and text of former subsec. (b), which related to availability of certain Commodity Credit Corporation funds under subsec. (a) for the provision of technical assistance for conservation and conservation security programs.

2003—Subsec. (a)(3). Pub. L. 108–7, § 216(c), inserted '', using not more than $3,773,000,000 for the period of fiscal years 2003 through 2013'' before period at end.

Subsec. (b). Pub. L. 108–11 added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows:

''(1) FEBRUARY 20, 2003, THROUGH SEPTEMBER 30, 2003.—During the period beginning on February 20, 2003, and ending on September 30, 2003, Commodity Credit Corporation funds made available under paragraphs (4) through (7) of subsection (a) of this section shall be available for the provision of technical assistance (subject to section 3842 of this title) for the conservation programs specified in subsection (a) of this section.

''(2) SUBSEQUENT FISCAL YEARS.—Effective beginning on October 1, 2003, Commodity Credit Corporation funds made available under paragraphs (3) through (7) of subsection (a) of this section shall be available for the provision of technical assistance (subject to section 3842 of this title) for the conservation programs specified in subsection (a) of this section.''

Pub. L. 108–7, § 213(1), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: ''Nothing in this section affects the limit on expenditures for technical assistance imposed by section 714i of title 15.''

Subsecs. (c), (d). Pub. L. 108–7, § 213(2), added subsec. (c) and redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–498, § 1(b), Dec. 23, 2004, 118 Stat. 4020, provided that: ''The amendment made by subsection (a) [amending this section] takes effect on October 1, 2004.''

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–11, title II, § 2106(b), Apr. 16, 2003, 117 Stat. 590, provided that: ''The amendment made by subsection (a) [amending this section] takes effect on February 20, 2003.''

§ 3842. Delivery of technical assistance

(a) Definition of eligible participant

In this section, the term ''eligible participant'' means a producer, landowner, or entity that is participating in, or seeking to participate in, programs for which the producer, landowner, or entity is otherwise eligible to participate in under this chapter or the agricultural management assistance program under section 1524 of title 7.

(b) Purpose of technical assistance

The purpose of technical assistance authorized by this section is to provide eligible participants with consistent, science-based, site-specific practices designed to achieve conservation objectives on land active in agricultural, forestry, or related uses.

(c) Provision of technical assistance

The Secretary shall provide technical assistance under this chapter to an eligible participant—

(1) directly;

(2) through an agreement with a third-party provider; or

(3) at the option of the eligible participant, through a payment, as determined by the Secretary, to the eligible participant for an approved third-party provider, if available.

(d) Non-Federal assistance

The Secretary may request the services of, and enter into cooperative agreements or contracts with, other agencies within the Department or non-Federal entities to assist the Secretary in providing technical assistance necessary to assist in implementing conservation programs under this chapter.

(e) Certification of third-party providers

(1) Purpose

The purpose of the third-party provider program is to increase the availability and range of technical expertise available to eligible participants to plan and implement conservation measures.

(2) Regulations

Not later than 180 days after the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall promulgate such regulations as are necessary to carry out this section.

(3) Expertise

In promulgating such regulations, the Secretary, to the maximum extent practicable, shall—

(A) ensure that persons with expertise in the technical aspects of conservation planning, watershed planning, and environmental engineering, including commercial entities, nonprofit entities, State or local governments or agencies, and other Federal agencies, are eligible to become approved providers of the technical assistance;

(B) provide national criteria for the certification of third party[1] providers; and

(C) approve any unique certification standards established at the State level.

(f) Administration

(1) Funding

Effective for fiscal year 2008 and each subsequent fiscal year, funds of the Commodity Credit Corporation made available to carry out technical assistance for each of the programs specified in section 3841 of this title shall be available for the provision of technical assistance from third-party providers under this section.

(2) Term of agreement

An agreement with a third-party provider under this section shall have a term that—

(A) at a minimum, is equal to the period beginning on the date on which the agreement is entered into and ending on the date that is 1 year after the date on which all activities performed pursuant to the agreement have been completed;

(B) does not exceed 3 years; and

(C) can be renewed, as determined by the Secretary.

(3) Review of certification requirements

Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall—

(A) review certification requirements for third-party providers; and

(B) make any adjustments considered necessary by the Secretary to improve participation.

(4) Eligible activities

(A) Inclusion of activities

The Secretary may include as activities eligible for payments to a third party[1] provider—

(i) technical services provided directly to eligible participants, such as conservation planning, education and outreach, and assistance with design and implementation of conservation practices; and

(ii) related technical assistance services that accelerate conservation program delivery.

(B) Exclusions

The Secretary shall not designate as an activity eligible for payments to a third party[1] provider any service that is provided by a business, or equivalent, in connection with conducting business and that is customarily provided at no cost.

(5) Payment amounts

The Secretary shall establish fair and reasonable amounts of payments for technical services provided by third-party providers.

(g) Availability of technical services

(1) In general

In carrying out the programs under this chapter and the agricultural management assistance program under section 1524 of title 7, the Secretary shall make technical services available to all eligible participants who are installing an eligible practice.

(2) Technical service contracts

In any case in which financial assistance is not provided under a program referred to in paragraph (1), the Secretary may enter into a technical service contract with the eligible participant for the purposes of assisting in the planning, design, or installation of an eligible practice.

(h) Review of conservation practice standards

(1) Review required

The Secretary shall—

(A) review conservation practice standards, including engineering design specifications, in effect on the date of the enactment of the Food, Conservation, and Energy Act of 2008;

(B) ensure, to the maximum extent practicable, the completeness and relevance of the standards to local agricultural, forestry, and natural resource needs, including specialty crops, native and managed pollinators, bioenergy crop production, forestry, and such other needs as are determined by the Secretary; and

(C) ensure that the standards provide for the optimal balance between meeting site-specific conservation needs and minimizing risks of design failure and associated costs of construction and installation.

(2) Consultation

In conducting the review under paragraph (1), the Secretary shall consult with eligible participants, crop consultants, cooperative extension and land grant universities, nongovernmental organizations, and other qualified entities.

(3) Expedited revision of standards

If the Secretary determines under paragraph (1) that revisions to the conservation practice standards, including engineering design specifications, are necessary, the Secretary shall establish an administrative process for expediting the revisions.

(i) Addressing concerns of speciality crop, organic, and precision agriculture producers

(1) In general

The Secretary shall—

(A) to the maximum extent practicable, fully incorporate specialty crop production, organic crop production, and precision agriculture into the conservation practice standards; and

(B) provide for the appropriate range of conservation practices and resource mitigation measures available to producers involved with organic or specialty crop production or precision agriculture.

(2) Availability of adequate technical assistance

(A) In general

The Secretary shall ensure that adequate technical assistance is available for the im-

[1] So in original. Probably should be ''third-party''.

plementation of conservation practices by producers involved with organic, specialty crop production, or precision agriculture through Federal conservation programs.

(B) Requirements

In carrying out subparagraph (A), the Secretary shall develop—

(i) programs that meet specific needs of producers involved with organic, specialty crop production or precision agriculture through cooperative agreements with other agencies and nongovernmental organizations; and

(ii) program specifications that allow for innovative approaches to engage local resources in providing technical assistance for planning and implementation of conservation practices.

(Pub. L. 99–198, title XII, § 1242, as added Pub. L. 107–171, title II, § 2701, May 13, 2002, 116 Stat. 279; amended Pub. L. 110–234, title II, § 2706, May 22, 2008, 122 Stat. 1074; Pub. L. 110–246, § 4(a), title II, § 2706, June 18, 2008, 122 Stat. 1664, 1802.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (c), (d), and (g)(1), was in the original ''this title'', meaning title XII of Pub. L. 99–198, which enacted this chapter and former section 2005a of this title and amended sections 590*g*, 2004, 2005, 2006, and 2009 of this title, sections 4207 and 4209 of Title 7, Agriculture, and provisions set out as a note under section 1981 of Title 7.

The date of the enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsecs. (e)(2), (f)(3), and (h)(1)(A), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Section 2701 of Pub. L. 107–171, which directed that subtitle E of the Food Security Act of 1985 be amended by striking section 1242 and adding a new section 1242 (this section), was executed by striking section 1242 of subtitle E of title XII of the Food Security Act of 1985 and adding the new section 1242 in lieu thereof, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 3842, Pub. L. 99–198, title XII, § 1242, as added Pub. L. 104–127, title III, § 341, Apr. 4, 1996, 110 Stat. 1008, related to use of other agencies, prior to repeal by Pub. L. 107–171, title II, § 2701, May 13, 2002, 116 Stat. 278. See Codification note above.

Another prior section 3842, Pub. L. 99–198, title XII, § 1242, Dec. 23, 1985, 99 Stat. 1515, related to use of other agencies, prior to the general amendment of this subchapter by Pub. L. 104–127.

AMENDMENTS

2008—Pub. L. 110–246, § 2706, amended section generally. Prior to amendment, section related to: in subsec. (a), provision of technical assistance to an eligible producer directly or through an approved third party; and, in subsec. (b), establishment of a system to certify third-party providers, transition provisions for persons that had provided assistance before May 13, 2002, and cooperative agreements or contracts with non-Federal entities.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3843. Cooperative conservation partnership initiative

(a) Establishment of Initiative

The Secretary shall establish a cooperative conservation partnership initiative (in this section referred to as the ''Initiative'') to work with eligible partners to provide assistance to producers enrolled in a program described in subsection (c)(1) that will enhance conservation outcomes on agricultural and nonindustrial private forest land.

(b) Purposes

The purposes of a partnership entered into under the Initiative shall be—

(1) to address conservation priorities involving agriculture and nonindustrial private forest land on a local, State, multi-State, or regional level;

(2) to encourage producers to cooperate in meeting applicable Federal, State, and local regulatory requirements related to production involving agriculture and nonindustrial private forest land;

(3) to encourage producers to cooperate in the installation and maintenance of conservation practices that affect multiple agricultural or nonindustrial private forest operations; or

(4) to promote the development and demonstration of innovative conservation practices and delivery methods, including those for specialty crop and organic production and precision agriculture producers.

(c) Initiative programs

(1) Covered programs

Except as provided in paragraph (2), the Initiative applies to all conservation programs under subchapter IV.

(2) Excluded programs

The Initiative shall not include the following programs:

(A) Conservation reserve program.

(B) Wetlands reserve program.

(C) Farmland protection program[1]

(D) Grassland reserve program.

(d) Eligible partners

The Secretary may enter into a partnership under the Initiative with one or more of the following:

(1) States and local governments.

(2) Indian tribes.

(3) Producer associations.

(4) Farmer cooperatives.

(5) Institutions of higher education.

(6) Nongovernmental organizations with a history of working cooperatively with producers to effectively address conservation priorities related to agricultural production and nonindustrial private forest land.

(e) Implementation agreements

The Secretary shall carry out the Initiative—

[1] So in original. Probably should be followed by a period.

(1) by selecting, through a competitive process, eligible partners from among applications submitted under subsection (f); and

(2) by entering into multi-year agreements with eligible partners so selected for a period not to exceed 5 years.

(f) Applications

(1) Required information

An application to enter into a partnership agreement under the Initiative shall include the following:

(A) A description of the area covered by the agreement, conservation priorities in the area, conservation objectives to be achieved, and the expected level of participation by agricultural producers and nonindustrial private forest landowners.

(B) A description of the partner, or partners, collaborating to achieve the objectives of the agreement, and the roles, responsibilities, and capabilities of the partner.

(C) A description of the resources that are requested from the Secretary, and the non-Federal resources that will be leveraged by the Federal contribution.

(D) A description of the plan for monitoring, evaluating, and reporting on progress made towards achieving the objectives of the agreement.

(E) Such other information that may be required by the Secretary.

(2) Priorities

The Secretary shall give priority to applications for agreements that—

(A) have a high percentage of producers involved and working agricultural or nonindustrial private forest land included in the area covered by the agreement;

(B) significantly leverage non-Federal financial and technical resources and coordinate with other local, State, or Federal efforts;

(C) deliver high percentages of applied conservation to address water quality, water conservation, or State, regional, or national conservation initiatives;

(D) provide innovation in conservation methods and delivery, including outcome-based performance measures and methods; or

(E) meet other factors, as determined by the Secretary.

(g) Relationship to covered programs

(1) Compliance with program rules

Except as provided in paragraph (2), the Secretary shall ensure that resources made available under the Initiative are delivered in accordance with the applicable rules of programs specified in subsection (c)(1) through normal program mechanisms relating to program functions, including rules governing appeals, payment limitations, and conservation compliance.

(2) Adjustment

The Secretary may adjust the elements of any program specified in subsection (c)(1)—

(A) to better reflect unique local circumstances and purposes if the Secretary determines such adjustments are necessary to achieve the purposes of the Initiative; and

(B) to provide preferential enrollment to producers who are eligible for the applicable program and to participate in the Initiative.

(h) Technical and financial assistance

The Secretary shall provide appropriate technical and financial assistance to producers participating in the Initiative in an amount determined to be necessary to achieve the purposes of the Initiative.

(i) Funding

(1) Reservation

Of the funds and acres made available for each of fiscal years 2009 through 2012 to implement the programs described in subsection (c)(1), the Secretary shall reserve 6 percent of the funds and acres to ensure an adequate source of funds and acres for the Initiative.

(2) Allocation requirements

Of the funds and acres reserved for the Initiative for a fiscal year, the Secretary shall allocate—

(A) 90 percent of the funds and acres to projects based on the direction of State conservationists, with the advice of State technical committees; and

(B) 10 percent of the funds and acres to projects based on a national competitive process established by the Secretary.

(3) Unused funding

Any funds and acres reserved for a fiscal year under paragraph (1) that are not obligated by April 1 of that fiscal year may be used to carry out other activities under the program that is the source of the funds or acres during the remainder of that fiscal year.

(4) Administrative costs of partners

Overhead or administrative costs of partners may not be covered by funds provided through the Initiative.

(Pub. L. 99–198, title XII, §1243, as added Pub. L. 104–127, title III, §341, Apr. 4, 1996, 110 Stat. 1008; amended Pub. L. 107–171, title II, §§2003, 2006(d), May 13, 2002, 116 Stat. 233, 237; Pub. L. 110–234, title II, §2707, May 22, 2008, 122 Stat. 1077; Pub. L. 110–246, §4(a), title II, §2707, June 18, 2008, 122 Stat. 1664, 1805.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3843, Pub. L. 99–198, title XII, §1243, Dec. 23, 1985, 99 Stat. 1515; Pub. L. 101–624, title XIV, §1442, Nov. 28, 1990, 104 Stat. 3602, which related to administration of this chapter, was omitted in the general amendment of this subchapter by Pub. L. 104–127.

AMENDMENTS

2008—Pub. L. 110–246, §2707(b), amended section generally. Prior to amendment, section related to administration of comprehensive conservation enhancement program.

Pub. L. 110–246, §2707(a), redesignated and transferred subsecs. (a), (c), and (d) of this section to subsecs. (c) to (e), respectively, of section 3844 of this title.

2002—Pub. L. 107–171, § 2006(d), substituted ''Administration of CCEP'' for ''Administration'' in section catchline.

Subsec. (f). Pub. L. 107–171, § 2003, added subsec. (f).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3844. Administrative requirements for conservation programs

(a) Incentives for certain farmers and ranchers and Indian tribes

(1) Incentives authorized

In carrying out any conservation program administered by the Secretary, the Secretary may provide to a person or entity specified in paragraph (2) incentives to participate in the conservation program—

(A) to foster new farming and ranching opportunities; and

(B) to enhance long-term environmental goals.

(2) Covered persons

Incentives authorized by paragraph (1) may be provided to the following:

(A) Beginning farmers or ranchers.

(B) Socially disadvantaged farmers or ranchers.

(C) Limited resource farmers or ranchers.

(D) Indian tribes.

(b) Privacy of personal information relating to natural resources conservation programs

(1) Information received for technical and financial assistance

(A) In general

In accordance with section 552(b)(3) of title 5, except as provided in subparagraph (C) and paragraph (2), information described in subparagraph (B)—

(i) shall not be considered to be public information; and

(ii) shall not be released to any person or Federal, State, local agency or Indian tribe (as defined by the Secretary) outside the Department of Agriculture.

(B) Information

The information referred to in subparagraph (A) is information—

(i) provided to the Secretary or a contractor of the Secretary (including information provided under subchapter IV) for the purpose of providing technical or financial assistance to an owner, operator, or producer with respect to any natural resources conservation program administered by the Natural Resources Conservation Service or the Farm Service Agency; and

(ii) that is proprietary (within the meaning of section 552(b)(4) of title 5) to the agricultural operation or land that is a part of an agricultural operation of the owner, operator, or producer.

(C) Exception

Nothing in this section affects the availability of payment information (including payment amounts and the names and addresses of recipients of payments) under section 552 of title 5.

(2) Exceptions

(A) Release and disclosure for enforcement

The Secretary may release or disclose to the Attorney General information covered by paragraph (1) to the extent necessary to enforce the natural resources conservation programs referred to in paragraph (1)(B)(i).

(B) Disclosure to cooperating persons and agencies

(i) In general

The Secretary may release or disclose information covered by paragraph (1) to a person or Federal, State, local, or tribal agency working in cooperation with the Secretary in providing technical and financial assistance described in paragraph (1)(B)(i) or collecting information from data gathering sites.

(ii) Use of information

The person or Federal, State, local, or tribal agency that receives information described in clause (i) may release the information only for the purpose of assisting the Secretary—

(I) in providing the requested technical or financial assistance; or

(II) in collecting information from data gathering sites.

(C) Statistical and aggregate information

Information covered by paragraph (1) may be disclosed to the public if the information has been transformed into a statistical or aggregate form without naming any—

(i) individual owner, operator, or producer; or

(ii) specific data gathering site.

(D) Consent of owner, operator, or producer

(i) In general

An owner, operator, or producer may consent to the disclosure of information described in paragraph (1).

(ii) Condition of other programs

The participation of the owner, operator, or producer in, and the receipt of any benefit by the owner, operator, or producer under, this chapter or any other program administered by the Secretary may not be conditioned on the owner, operator, or producer providing consent under this paragraph.

(3) Violations; penalties

Section 2276(c) of title 7 shall apply with respect to the release of information collected in any manner or for any purpose prohibited by this subsection.

(4) Data collection, disclosure, and review

Nothing in this subsection—

(A) affects any procedure for data collection or disclosure through the National Resources Inventory; or

(B) limits the authority of Congress or the Government Accountability Office to review

information collected or disclosed under this subsection.

(c) Plans

The Secretary shall, to the extent practicable, avoid duplication in—

(1) the conservation plans required for—

(A) highly erodible land conservation under subchapter II;

(B) the conservation reserve program established under subpart B of part I of subchapter IV; and

(C) the wetlands reserve program established under subpart C of part I of subchapter IV; and

(2) the environmental quality incentives program established under part IV of subchapter IV.

(d) Tenant protection

Except for a person who is a tenant on land that is subject to a conservation reserve contract that has been extended by the Secretary, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under the programs established under subchapters II through IV.

(e) Provision of technical assistance by other sources

In the preparation and application of a conservation compliance plan under subchapter II or similar plan required as a condition for assistance from the Department of Agriculture, the Secretary shall permit persons to secure technical assistance from approved sources, as determined by the Secretary, other than the Natural Resources Conservation Service. If the Secretary rejects a technical determination made by such a source, the basis of the Secretary's determination must be supported by documented evidence.

(f) Acreage limitations

(1) Limitations

(A) Enrollments

The Secretary shall not enroll more than 25 percent of the cropland in any county in the programs administered under subparts B and C of part I of subchapter IV.

(B) Easements

Not more than 10 percent of the cropland in a country[1] may be subject to an easement acquired under subpart C of part I of subchapter IV.

(2) Exceptions

The Secretary may exceed the limitation in paragraph (1)(A), if the Secretary determines that—

(A) the action would not adversely affect the local economy of a county; and

(B) operators in the county are having difficulties complying with conservation plans implemented under section 3812 of this title.

(3) Waiver to exclude certain acreage

The Secretary may grant a waiver to exclude acreage enrolled under subsection (c)(2)(B) or (f)(4) of section 3834 of this title from the limitations in paragraph (1)(A) with the concurrence of the county government of the county involved.

(4) Shelterbelts and windbreaks

The limitations established under paragraph (1) shall not apply to cropland that is subject to an easement under subpart C of part I of subchapter IV[2] that is used for the establishment of shelterbelts and windbreaks.

(g) Compliance and performance

For each conservation program under subchapter IV, the Secretary shall develop procedures—

(1) to monitor compliance with program requirements;

(2) to measure program performance;

(3) to demonstrate whether the long-term conservation benefits of the program are being achieved;

(4) to track participation by crop and livestock types; and

(5) to coordinate activities described in this subsection with the national conservation program authorized under section 2004 of this title.

(h) Encouragement of pollinator habitat development and protection

In carrying out any conservation program administered by the Secretary, the Secretary may, as appropriate, encourage—

(1) the development of habitat for native and managed pollinators; and

(2) the use of conservation practices that benefit native and managed pollinators.

(i) Streamlined application process

(1) In general

In carrying out each conservation program under this chapter, the Secretary shall ensure that the application process used by producers and landowners is streamlined to minimize complexity and eliminate redundancy.

(2) Review and streamlining

(A) Review

The Secretary shall carry out a review of the application forms and processes for each conservation program covered by this subsection.

(B) Streamlining

On completion of the review the Secretary shall revise application forms and processes, as necessary, to ensure that—

(i) all required application information is essential for the efficient, effective, and accountable implementation of conservation programs;

(ii) conservation program applicants are not required to provide information that is readily available to the Secretary through existing information systems of the Department of Agriculture;

(iii) information provided by the applicant is managed and delivered efficiently for use in all stages of the application process, or for multiple applications; and

[1] So in original. Probably should be ''county''.

[2] See References in Text note below.

(iv) information technology is used effectively to minimize data and information input requirements.

(3) Implementation and notification

Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall submit to Congress a written notification of completion of the requirements of this subsection.

(Pub. L. 99–198, title XII, § 1244, as added Pub. L. 107–171, title II, § 2004(a), May 13, 2002, 116 Stat. 235; amended Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110–234, title II, §§ 2707(a), 2708, May 22, 2008, 122 Stat. 1077, 1079; Pub. L. 110–246, § 4(a), title II, §§ 2707(a), 2708, June 18, 2008, 122 Stat. 1664, 1805, 1807.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(2)(D)(ii) and (i)(1), was in the original ''this title'', meaning title XII of Pub. L. 99–198, which enacted this chapter and former section 2005a of this title and amended sections 590g, 2004, 2005, 2006, and 2009 of this title, sections 4207 and 4209 of Title 7, Agriculture, and provisions set out as a note under section 1981 of Title 7.

Subpart C of part I of subchapter IV, referred to in subsec. (f)(4), was in the original ''subchapter C of chapter 1'', and was translated as meaning ''subchapter C of chapter 1 of subtitle D'' to reflect the probable intent of Congress.

The date of enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsec. (i)(3), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

The text of section 3843(a), (c), and (d) of this title, which was transferred to this section and redesignated as subsecs. (c), (d), and (e), respectively, by Pub. L. 110–246, § 2707(a), was based on Pub. L. 99–198, title XII, § 1243(a), (c), (d), as added Pub. L. 104–127, title III, § 341, Apr. 4, 1996, 110 Stat. 1008, 1009.

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3844, Pub. L. 99–198, title XII, § 1244, Dec. 23, 1985, 99 Stat. 1515, related to issuance of regulations to carry out subchapters I to V of this chapter, prior to the general amendment of this subchapter by Pub. L. 104–127.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, § 2708(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: ''In carrying out any conservation program administered by the Secretary, the Secretary may provide to beginning farmers and ranchers and Indian tribes (as those terms are defined in section 3838 of this title) and limited resource agricultural producers incentives to participate in the conservation program to—

''(1) foster new farming and ranching opportunities; and

''(2) enhance environmental stewardship over the long term.''

Subsecs. (c) to (e). Pub. L. 110–246, § 2707(a), transferred subsecs. (a), (c), and (d) of section 3843 of this title and redesignated them as subsecs. (c) to (e), respectively, of this section. See Codification note above.

Subsecs. (f) to (i). Pub. L. 110–246, § 2708(2), added subsecs. (f) to (i).

2004—Subsec. (b)(4)(B). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3845. Environmental services markets

(a) Technical guidelines required

The Secretary shall establish technical guidelines that outline science-based methods to measure the environmental services benefits from conservation and land management activities in order to facilitate the participation of farmers, ranchers, and forest landowners in emerging environmental services markets. The Secretary shall give priority to the establishment of guidelines related to farmer, rancher, and forest landowner participation in carbon markets.

(b) Establishment

The Secretary shall establish guidelines under subsection (a) for use in developing the following:

(1) A procedure to measure environmental services benefits.

(2) A protocol to report environmental services benefits.

(3) A registry to collect, record and maintain the benefits measured.

(c) Verification requirements

(1) Verification of reports

The Secretary shall establish guidelines for a process to verify that a farmer, rancher, or forest landowner who reports an environmental services benefit pursuant to the protocol required by paragraph (2) of subsection (b) for inclusion in the registry required by paragraph (3) of such subsection has implemented the conservation or land management activity covered by the report.

(2) Role of third parties

In establishing the verification guidelines required by paragraph (1), the Secretary shall consider the role of third-parties in conducting independent verification of benefits produced for environmental services markets and other functions, as determined by the Secretary.

(d) Use of existing information

In carrying out subsection (b), the Secretary shall build on activities or information in existence on the date of the enactment of the Food, Conservation, and Energy Act of 2008 regarding environmental services markets.

(e) Consultation

In carrying out this section, the Secretary shall consult with the following:

(1) Federal and State government agencies.

(2) Nongovernmental interests including—

(A) farm, ranch, and forestry producers;

(B) financial institutions involved in environmental services trading;

(C) institutions of higher education with relevant expertise or experience;

(D) nongovernmental organizations with relevant expertise or experience; and

(E) private sector representatives with relevant expertise or experience.

(3) Other interested persons, as determined by the Secretary.

(Pub. L. 99–198, title XII, § 1245, as added Pub. L. 110–234, title II, § 2709, May 22, 2008, 122 Stat. 1081, and Pub. L. 110–246, § 4(a), title II, § 2709, June 18, 2008, 122 Stat. 1664, 1809.)

REFERENCES IN TEXT

The date of the enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsec (d), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3845, Pub. L. 99–198, title XII, § 1245, Dec. 23, 1985, 99 Stat. 1516; Pub. L. 101–624, title XIV, § 1443, Nov. 28, 1990, 104 Stat. 3602; Pub. L. 102–552, title V, § 516(b)(1), Oct. 28, 1992, 106 Stat. 4137, related to authorization of appropriations, prior to the general amendment of this subchapter by Pub. L. 104–127.

A prior section 3846, Pub. L. 99–198, title XII, § 1246, as added Pub. L. 101–624, title XIV, § 1444, Nov. 28, 1990, 104 Stat. 3602, directed Secretary to report to Congress on erodible land and wetland conservation program, prior to repeal by Pub. L. 104–66, title I, § 1011(a), Dec. 21, 1995, 109 Stat. 709.

A prior section 3847, Pub. L. 99–198, title XII, § 1247, as added Pub. L. 101–624, title XIV, § 1445, Nov. 28, 1990, 104 Stat. 3603; amended Pub. L. 102–237, title II, § 204(8), Dec. 13, 1991, 105 Stat. 1855, which related to assistance for control of spread of weeds and pests, was omitted in the general amendment of this subchapter by Pub. L. 104–127.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

SUBCHAPTER V–A—OTHER CONSERVATION PROGRAMS

§ 3851. Agriculture conservation experienced services program

(a) Establishment and purpose

The Secretary shall establish a conservation experienced services program (in this section referred to as the ''ACES Program'') for the purpose of utilizing the talents of individuals who are age 55 or older, but who are not employees of the Department of Agriculture or a State agriculture department, to provide technical services in support of the conservation-related programs and authorities carried out by the Secretary. Such technical services may include conservation planning assistance, technical consultation, and assistance with design and implementation of conservation practices.

(b) Program agreements

(1) Relation to older American community service employment program

Notwithstanding any other provision of law relating to Federal grants, cooperative agreements, or contracts, to carry out the ACES program during a fiscal year, the Secretary may enter into agreements with nonprofit private agencies and organizations eligible to receive grants for that fiscal year under the Community Service Senior Opportunities Act (42 U.S.C. 3056 et seq.) to secure participants for the ACES program who will provide technical services under the ACES program.

(2) Required determination

Before entering into an agreement under paragraph (1), the Secretary shall ensure that the agreement would not—

(A) result in the displacement of individuals employed by the Department, including partial displacement through reduction of non-overtime hours, wages, or employment benefits;

(B) result in the use of an individual under the ACES program for a job or function in a case in which a Federal employee is in a layoff status from the same or a substantially-equivalent job or function with the Department; or

(C) affect existing contracts for services.

(c) Funding source

(1) In general

Except as provided in paragraph (2), the Secretary may carry out the ACES program using funds made available to carry out each program under this chapter.

(2) Exclusions

Funds made available to carry out the following programs may not be used to carry out the ACES program:

(A) The conservation reserve program.

(B) The wetlands reserve program.

(C) The grassland reserve program.

(D) The conservation stewardship program.

(d) Liability

An individual providing technical services under the ACES program is deemed to be an employee of the United States Government for purposes of chapter 171 of title 28 if the individual—

(1) is providing technical services pursuant to an agreement entered into under subsection (b); and

(2) is acting within the scope of the agreement.

(Pub. L. 99–198, title XII, § 1252, as added Pub. L. 110–234, title II, § 2710, May 22, 2008, 122 Stat. 1082, and Pub. L. 110–246, § 4(a), title II, § 2710, June 18, 2008, 122 Stat. 1664, 1810.)

REFERENCES IN TEXT

The Community Service Senior Opportunities Act, referred to in subsec. (b)(1), is title V of Pub. L. 89–73, as added Pub. L. 109–365, title V, § 501, Oct. 17, 2006, 120 Stat. 2563, which is classified generally to subchapter IX (§ 3056 et seq.) of chapter 35 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

This chapter, referred to in subsec. (c)(1), was in the original ''this title'', meaning title XII of Pub. L. 99–198, which enacted this chapter and former section 2005a of this title and amended sections 590g, 2004, 2005, 2006, and 2009 of this title, sections 4207 and 4209 of Title 7, Agriculture, and provisions set out as a note under section 1981 of Title 7.

CODIFICATION

Pub. L. 110–234, § 2710, and Pub. L. 110–246, § 2710, which directed the amendment of subtitle F of title XII of the Food Security Act of 1985 by inserting this section after section 1251, was executed by inserting this section between subtitles E and G of title XII of that Act to reflect the probable intent of Congress, because subtitle F and section 1251 (16 U.S.C. 2005a) of title XII of the Food Security Act of 1985 were repealed by Pub. L. 104–127, title III, § 336(e), Apr. 4, 1996, 110 Stat. 1007.

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 1252 of Pub. L. 99–198, title XII, Dec. 23, 1985, 99 Stat. 1516, amended sections 2004, 2005, 2006, and 2009 of this title, prior to repeal by Pub. L. 104–127, title III, § 336(e), Apr. 4, 1996, 110 Stat. 1007.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

SUBCHAPTER VI—STATE TECHNICAL COMMITTEES

§ 3861. Establishment of State technical committees

(a) Establishment

The Secretary shall establish a technical committee in each State to assist the Secretary in the considerations relating to implementation and technical aspects of the conservation programs under this chapter.

(b) Standards

Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall develop—

(1) standard operating procedures to standardize the operations of State technical committees; and

(2) standards to be used by State technical committees in the development of technical guidelines under section 3862(b)[1] of this title for the implementation of the conservation provisions of this chapter.

(c) Composition

Each State technical committee shall be composed of agricultural producers and other professionals that represent a variety of disciplines in the soil, water, wetland, and wildlife sciences. The technical committee for a State shall include representatives from among the following:

(1) The Natural Resources Conservation Service.

(2) The Farm Service Agency.

(3) The Forest Service.

(4) The National Institute of Food and Agriculture.

(5) The State fish and wildlife agency.

(6) The State forester or equivalent State official.

(7) The State water resources agency.

(8) The State department of agriculture.

(9) The State association of soil and water conservation districts.

(10) Agricultural producers representing the variety of crops and livestock or poultry raised within the State.

(11) Owners of nonindustrial private forest land.

(12) Nonprofit organizations within the meaning of section 501(c)(3) of title 26 with demonstrable conservation expertise and experience working with agriculture producers in the State.

(13) Agribusiness.

(Pub. L. 99–198, title XII, § 1261, as added Pub. L. 101–624, title XIV, § 1446, Nov. 28, 1990, 104 Stat. 3604; amended Pub. L. 104–127, title III, § 342(a), Apr. 4, 1996, 110 Stat. 1009; Pub. L. 110–234, title II, § 2711, title VII, § 7511(c)(38), May 22, 2008, 122 Stat. 1083, 1271; Pub. L. 110–246, § 4(a), title II, § 2711, title VII, § 7511(c)(38), June 18, 2008, 122 Stat. 1664, 1811, 2032.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(2), was in the original ''this title'', meaning title XII of Pub. L. 99–198, which enacted this chapter and former section 2005a of this title and amended sections 590g, 2004, 2005, 2006, and 2009 of this title, sections 4207 and 4209 of Title 7, Agriculture, and provisions set out as a note under section 1981 of Title 7.

The date of enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsec. (b), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

Section 3862 of this title, referred to in subsec. (b)(2), was amended generally by Pub. L. 110–246, title II, § 2711, June 18, 2008, 122 Stat. 1812, and, as so amended, no longer contains provisions relating to development of technical guidelines.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, § 2711, which directed the general amendment of section 1261 of the ''Farm Security Act of 1985'', was executed by making the amendment to this section, which is section 1261 of the Food Security Act of 1985, to reflect the probable intent of Congress. Prior to amendment, section related to the establishment in each State of a technical committee to assist the Secretary in the technical considerations relating to implementation of conservation provisions under this chapter, composition of each such committee, and development of standards to be used in the development of guidelines under former section 3862(b) of this title.

Subsec. (c)(4). Pub. L. 110–246, § 7511(c)(38), which directed amendment of par. (4) by substituting ''National Institute of Food and Agriculture'' for ''Extension Service'', could not be executed because ''Extension Service'' did not appear subsequent to amendment by Pub. L. 110–246, § 2711. See above.

1996—Subsec. (c)(9) to (12). Pub. L. 104–127 added pars. (9) to (12).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 7511(c)(38) of Pub. L. 110–246 effective Oct. 1, 2009, see section 7511(c) of Pub. L.

[1] See References in Text note below.

110–246, set out as a note under section 1522 of Title 7, Agriculture.

§ 3862. Responsibilities

(a) In general

Each State technical committee established under section 3861 of this title shall meet regularly to provide information, analysis, and recommendations to appropriate officials of the Department of Agriculture who are charged with implementing the conservation provisions of this chapter.

(b) Public notice and attendance

Each State technical committee shall provide public notice of, and permit public attendance at, meetings considering issues of concern related to carrying out this chapter.

(c) Role

(1) In general

The role of State technical committees is advisory in nature, and such committees shall have no implementation or enforcement authority. However, the Secretary shall give strong consideration to the recommendations of such committees in administering the programs under this chapter.

(2) Advisory role in establishing program priorities and criteria

Each State technical committee shall advise the Secretary in establishing priorities and criteria for the programs in this chapter, including the review of whether local working groups are addressing those priorities.

(d) FACA requirements

(1) Exemption

Each State technical committee shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

(2) Local working groups

For purposes of the Federal Advisory Committee Act (5 U.S.C. App.), any local working group established under this subchapter shall be considered to be a subcommittee of the applicable State technical committee.

(Pub. L. 99–198, title XII, § 1262, as added Pub. L. 101–624, title XIV, § 1446, Nov. 28, 1990, 104 Stat. 3604; amended Pub. L. 103–354, title II, § 246(f)(3), Oct. 13, 1994, 108 Stat. 3225; Pub. L. 104–127, title III, § 342(b), Apr. 4, 1996, 110 Stat. 1009; Pub. L. 110–234, title II, § 2711, May 22, 2008, 122 Stat. 1084; Pub. L. 110–246, § 4(a), title II, § 2711, June 18, 2008, 122 Stat. 1664, 1812.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (c), was in the original ''this title'', meaning title XII of Pub. L. 99–198, which enacted this chapter and former section 2005a of this title and amended sections 590g, 2004, 2005, 2006, and 2009 of this title, sections 4207 and 4209 of Title 7, Agriculture, and provisions set out as a note under section 1981 of Title 7.

The Federal Advisory Committee Act, referred to in subsec. (d), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, § 2711, which directed the general amendment of section 1262 of the ''Farm Security Act of 1985'', was executed by making the amendment to this section, which is section 1262 of the Food Security Act of 1985, to reflect the probable intent of Congress. Prior to amendment, section consisted of subsecs. (a) to (d) which related to general responsibilities of committees established under section 3861 of this title, wetland and wildlife habitat protection guidelines, provision of assistance and recommendations with respect to enumerated technical aspects, authority of committees, and FACA requirements.

1996—Subsec. (a). Pub. L. 104–127, § 342(b)(1), inserted at end ''Each State technical committee shall provide public notice of, and permit public attendance at meetings considering, issues of concern related to carrying out this chapter.''

Subsec. (b)(1). Pub. L. 104–127, § 342(b)(2), inserted at end ''Each State technical committee shall establish criteria and guidelines for evaluating petitions by agricultural producers regarding new conservation practices and systems not already described in field office technical guides.''

Subsec. (c)(7) to (9). Pub. L. 104–127, § 342(b)(3), struck out ''and'' at end of par. (7), added par. (8), and redesignated former par. (8) as (9).

1994—Subsec. (e). Pub. L. 103–354 added subsec. (e).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

PUBLIC NOTICE AND COMMENT FOR REVISIONS TO CERTAIN STATE TECHNICAL GUIDES

Section 343 of Pub. L. 104–127 provided that: ''After the date of enactment of this Act [Apr. 4, 1996], the Secretary of Agriculture shall provide for public notice and comment under section 553 of title 5, United States Code, with regard to any future revisions to those provisions of the Natural Resources Conservation Service State technical guides that are used to carry out subtitles A, B, and C of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq. [3811 et seq., 3821 et seq.]).''

CHAPTER 59—WETLANDS RESOURCES

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
3901. Findings and statement of purpose.
3902. Definitions.

SUBCHAPTER II—REVENUES FOR REFUGE OPERATIONS AND THE MIGRATORY BIRD CONSERVATION FUND

3911. Repealed.
3912. Transfers to Migratory Bird Conservation Fund.

SUBCHAPTER III—STATE AND FEDERAL WETLANDS ACQUISITION

3921. National wetlands priority conservation plan.
3922. Federal acquisition.
3923. Restriction on use of eminent domain in acquisitions.

SUBCHAPTER IV—WETLANDS INVENTORY AND TREND ANALYSIS

3931. National wetlands inventory project.
3932. Reports to Congress.

SUBCHAPTER I—GENERAL PROVISIONS

§ 3901. Findings and statement of purpose

(a) Findings

The Congress finds that—

(1) wetlands play an integral role in maintaining the quality of life through material contributions to our national economy, food supply, water supply and quality, flood control, and fish, wildlife, and plant resources, and thus to the health, safety, recreation, and economic well-being of all our citizens of the Nation;

(2) wetlands provide habitat essential for the breeding, spawning, nesting, migration, wintering and ultimate survival of a major portion of the migratory and resident fish and wildlife of the Nation; including migratory birds, endangered species, commercially and recreationally important finfish, shellfish and other aquatic organisms, and contain many unique species and communities of wild plants;

(3) the migratory bird treaty obligations of the Nation with Canada, Mexico, Japan, the Union of Soviet Socialist Republics, and with various countries in the Western Hemisphere require Federal protection of wetlands that are used by migratory birds for breeding, wintering or migration and needed to achieve and to maintain optimum population levels, distributions, and patterns of migration;

(4) wetlands, and the fish, wildlife, and plants dependent on wetlands, provide significant recreational and commercial benefits, including—

(A) contributions to a commercial marine harvest valued at over $10,000,000,000 annually;

(B) support for a major portion of the Nation's multimillion dollar annual fur and hide harvest; and

(C) fishing, hunting, birdwatching, nature observation and other wetland-related recreational activities that generate billions of dollars annually;

(5) wetlands enhance the water quality and water supply of the Nation by serving as groundwater recharge areas, nutrient traps, and chemical sinks;

(6) wetlands provide a natural means of flood and erosion control by retaining water during periods of high runoff, thereby protecting against loss of life and property;

(7) wetlands constitute only a small percentage of the land area of the United States, are estimated to have been reduced by half in the contiguous States since the founding of our Nation, and continue to disappear by hundreds of thousands of acres each year;

(8) certain activities of the Federal Government have inappropriately altered or assisted in the alteration of wetlands, thereby unnecessarily stimulating and accelerating the loss of these valuable resources and the environmental and economic benefits that they provide; and

(9) the existing Federal, State, and private cooperation in wetlands conservation should be strengthened in order to minimize further losses of these valuable areas and to assure their management in the public interest for this and future generations.

(b) Purpose

It is the purpose of this chapter to promote, in concert with other Federal and State statutes and programs, the conservation of the wetlands of the Nation in order to maintain the public benefits they provide and to help fulfill international obligations contained in various migratory bird treaties and conventions with Canada, Mexico, Japan, the Union of Soviet Socialist Republics, and with various countries in the Western Hemisphere by—

(1) intensifying cooperative efforts among private interests and local, State, and Federal governments for the management and conservation of wetlands; and

(2) intensifying efforts to protect the wetlands of the Nation through acquisition in fee, easements or other interests and methods by local, State, and Federal governments and the private sector.

(Pub. L. 99–645, §2, Nov. 10, 1986, 100 Stat. 3582.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 99–645, Nov. 10, 1986, 100 Stat. 3582, known as the Emergency Wetlands Resources Act of 1986. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE

Section 1 of Pub. L. 99–645 provided that: ''This Act [enacting this chapter, amending sections 460*l*–8, 460*l*–9, 707, 715k–3, 715k–5, and 718b of this title, and enacting a provision set out in the table under section 668dd of this title] may be cited as the 'Emergency Wetlands Resources Act of 1986'.''

§ 3902. Definitions

For the purpose of this chapter:

(1) The term ''Committees'' means the Committee on Merchant Marine and Fisheries and the Committee on Natural Resources of the House of Representatives and the Committee on Environment and Public Works and the Committee on Energy and Natural Resources of the Senate.

(2) The term ''designated unit'' means a unit of the National Wildlife Refuge System designated by the Secretary under section 3911(a)(2)[1] of this title.

(3) The term ''hydric soil'' means soil that, in its undrained condition, is saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation.

(4) The term ''hydrophytic vegetation'' means a plant growing in—

(A) water; or

(B) a substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content.

(5) The term ''wetland'' means land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.

(Pub. L. 99–645, §3, Nov. 10, 1986, 100 Stat. 3583; Pub. L. 103–437, §6(d)(41), Nov. 2, 1994, 108 Stat. 4585.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 3911 of this title, referred to in par. (2), was repealed by Pub. L. 108–447, div. J, title VIII, § 813(c), Dec. 8, 2004, 118 Stat. 3390.

AMENDMENTS

1994—Par. (1). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

SUBCHAPTER II—REVENUES FOR REFUGE OPERATIONS AND THE MIGRATORY BIRD CONSERVATION FUND

§ 3911. Repealed. Pub. L. 108–447, div. J, title VIII, § 813(c), Dec. 8, 2004, 118 Stat. 3390

Section, Pub. L. 99–645, title II, § 201, Nov. 10, 1986, 100 Stat. 3584, related to the sale of admission permits at certain units of the National Wildlife Refuge System.

§ 3912. Transfers to Migratory Bird Conservation Fund

Notwithstanding any other provision of law, an amount equal to the amount of all import duties collected on arms and ammunition, as specified in chapter 93 of the Harmonized Tariff Schedule of the United States, shall, beginning with the next fiscal year quarter after November 10, 1986, be paid quarterly into the migratory bird conservation fund[1] established under section 718d of this title.

(Pub. L. 99–645, title II, § 203, Nov. 10, 1986, 100 Stat. 3586; Pub. L. 100–418, title I, § 1214(f), Aug. 23, 1988, 102 Stat. 1156.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in text, is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

AMENDMENTS

1988—Pub. L. 100–418 substituted ''chapter 93 of the Harmonized Tariff Schedule of the United States'' for ''subpart A of part 5 of schedule 7 of the Tariff Schedules of the United States''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100–418, set out as an Effective Date note under section 3001 of Title 19, Customs Duties.

[1] So in original. Probably should be capitalized.

SUBCHAPTER III—STATE AND FEDERAL WETLANDS ACQUISITION

§ 3921. National wetlands priority conservation plan

(a) In general

The Secretary shall establish, and periodically review and revise, a national wetlands priority conservation plan which shall specify, on a region-by-region basis or other basis considered appropriate by the Secretary, the types of wetlands and interests in wetlands which should be given priority with respect to Federal and State acquisition.

(b) Consultation

The Secretary shall establish the plan required by subsection (a) of this section after consultation with—

(1) the Administrator of the Environmental Protection Agency;

(2) the Secretary of Commerce;

(3) the Secretary of Agriculture; and

(4) (the chief executive officer of) each State.

(c) Factors to be considered

The Secretary, in establishing the plan required by subsection (a) of this section, shall consider—

(1) the estimated proportion remaining of the respective types of wetlands which existed at the time of European settlement;

(2) the estimated current rate of loss and the threat of future losses of the respective types of wetlands; and

(3) the contributions of the respective types of wetlands to—

(A) wildlife, including endangered and threatened species, migratory birds, and resident species;

(B) commercial and sport fisheries;

(C) surface and ground water quality and quantity, and flood control;

(D) outdoor recreation; and

(E) other areas or concerns the Secretary considers appropriate.

(Pub. L. 99–645, title III, § 301, Nov. 10, 1986, 100 Stat. 3586.)

§ 3922. Federal acquisition

The Secretary is authorized to purchase wetlands or interests in wetlands, which are not acquired under the authority of the Migratory Bird Conservation Act of 1929 (16 U.S.C. 715–715s), consistent with the wetlands priority conservation plan established under section 3921 of this title.

(Pub. L. 99–645, title III, § 304, Nov. 10, 1986, 100 Stat. 3588.)

REFERENCES IN TEXT

The Migratory Bird Conservation Act of 1929, referred to in text, is act Feb. 18, 1929, ch. 257, 45 Stat. 1222, as amended, which is classified generally to subchapter III (§ 715 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 715 of this title and Tables.

§ 3923. Restriction on use of eminent domain in acquisitions

The powers of condemnation or eminent domain shall not be used in the acquisition of wet-

lands under any provision of this chapter where such wetlands have been constructed for the purpose of farming or ranching, or result from conservation activities associated with farming or ranching.

(Pub. L. 99–645, title III, § 305, Nov. 10, 1986, 100 Stat. 3588.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 99–645, Nov. 10, 1986, 100 Stat. 3582, known as the Emergency Wetlands Resources Act of 1986. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

SUBCHAPTER IV—WETLANDS INVENTORY AND TREND ANALYSIS

§ 3931. National wetlands inventory project

(a) In general

The Secretary, acting through the Director of the United States Fish and Wildlife Service, shall continue the National Wetlands Inventory Project and shall—

(1) produce, by September 30, 1988, National Wetlands Inventory maps for the areas that have been identified by the Service as top priorities for mapping, including—

(A) the entire coastal zone of the United States;

(B) floodplains of major rivers; and

(C) the Prairie Pothole region;

(2) produce, by September 30, 1998, National Wetlands Inventory maps for those portions of the contiguous United States for which final maps have not been produced earlier;

(3) produce, by September 30, 2000, National Wetlands Inventory maps for Alaska and other noncontiguous portions of the United States;

(4) produce, by September 30, 1990, and at ten-year intervals thereafter, reports to update and improve the information contained in the report dated September 1982 and entitled ''Status and Trends of Wetlands and Deepwater Habitat in the Coterminous United States, 1950's to 1970's'';

(5) produce, by April 30, 1990, a report that provides—

(A) an assessment of the estimated total number of acres of wetland habitat as of the 1780's in the areas that now comprise each State; and

(B) an assessment of the estimated total number of acres of wetlands in each State as of the 1980's, and the percentage of loss of wetlands in each State between the 1780's and the 1980's;

(6) produce, by September 30, 2004, a digital wetlands data base for the United States based on the final wetlands maps produced under this section; and

(7) archive and make available for dissemination wetlands data and maps digitized under this section as such data and maps become available.

(b) Notice

The Secretary shall notify the appropriate State and local units of government at such time as he proposes to begin map preparation under subsection (a) of this section in an area. Such notice shall include, but is not limited to, the identification of the area to be mapped, the proposed schedule for completion, and the identification of a source for further information.

(Pub. L. 99–645, title IV, § 401, Nov. 10, 1986, 100 Stat. 3588; Pub. L. 101–233, § 18, Dec. 13, 1989, 103 Stat. 1978; Pub. L. 102–440, title III, § 305, Oct. 23, 1992, 106 Stat. 2235.)

AMENDMENTS

1992—Subsec. (a)(3). Pub. L. 102–440, § 305(1), substituted ''by September 30, 2000'' for ''as soon as practicable''.

Subsec. (a)(4). Pub. L. 102–440, § 305(2), which directed amendment of par. (4) by substituting a semicolon for ''. And'', was executed by making the substitution for ''. and'', to reflect the probable intent of Congress.

Subsec. (a)(6), (7). Pub. L. 102–440, § 305(3), (4), added pars. (6) and (7).

1989—Subsec. (a)(5). Pub. L. 101–233 added par. (5).

§ 3932. Reports to Congress

(a) In general

The Secretary, in consultation and cooperation with the Secretary of Agriculture, shall prepare and submit to the committees—

(1) by March 30, 1987, a report regarding the status, condition, and trends of wetlands in the lower Mississippi alluvial plain and the prairie pothole regions of the United States; and

(2) by September 30, 1987, a report regarding trends of wetlands in all other areas of the United States.

(b) Contents of reports

The reports required under subsection (a) of this section shall contain—

(1) an analysis of the factors responsible for wetlands destruction, degradation, protection and enhancement;

(2) a compilation and analysis of Federal statutory and regulatory mechanisms, including expenditures, financial assistance, and tax provisions which—

(A) induce wetlands destruction or degradation; or

(B) protect or enhance wetlands;

(3) a compilation and analysis of Federal expenditures resulting from wetlands destruction, degradation, protection or enhancement;

(4) an analysis of public and private patterns of ownership of wetlands;

(5) an analysis of the environmental and economic impact of eliminating or restricting future Federal expenditures and financial assistance, whether direct or indirect, which have the effect of encouraging the destruction, degradation, protection or enhancement of wetlands, including—

(A) public works expenditures;

(B) assistance programs such as price support programs, commodity loans and purchase programs and disaster assistance programs;

(C) soil conservation programs; and

(D) certain income tax provisions;

(6) an analysis of the environmental and economic impact of failure to restrict future Fed-

eral expenditures, financial assistance, and tax provisions which have the effect of encouraging the destruction, degradation, protection or enhancement of wetlands, including—

(A) assistance for normal silviculture activity (such as plowing, seeding, planting, cultivating, minor drainage, or harvesting for the production of fiber or forest products);

(B) Federal expenditures required incident to studies, evaluations, design, construction, operation, maintenance, or rehabilitation of Federal water resource development activities, including channel improvements;

(C) the commodity loans and purchases program and cotton, feed grain, wheat, and rice production stabilization programs administered by the Department of Agriculture; and

(D) Federal expenditures for the construction of publicly owned or publicly operated highways, roads, structures, or facilities that are essential links in a larger network or system; and

(7) recommendations for the conservation of wetlands resources based on an evaluation and comparison of all management alternatives, and combinations of management alternatives, such as State and local actions, Federal actions, and initiatives by private organizations and individuals.

(Pub. L. 99–645, title IV, § 402, Nov. 10, 1986, 100 Stat. 3589.)

CHAPTER 59A—WETLANDS

Sec.
3951. Definitions.
3952. Priority Louisiana coastal wetlands restoration projects.
3953. Louisiana coastal wetlands conservation planning.
3954. National coastal wetlands conservation grants.
3955. Distribution of appropriations.
3956. General provisions.

§ 3951. Definitions

As used in this chapter, the term—

(1) ''Secretary'' means the Secretary of the Army;

(2) ''Administrator'' means the Administrator of the Environmental Protection Agency;

(3) ''development activities'' means any activity, including the discharge of dredged or fill material, which results directly in a more than de minimus[1] change in the hydrologic regime, bottom contour, or the type, distribution or diversity of hydrophytic vegetation, or which impairs the flow, reach, or circulation of surface water within wetlands or other waters;

(4) ''State'' means the State of Louisiana;

(5) ''coastal State'' means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes; for the purposes of this chapter, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa;

(6) ''coastal wetlands restoration project'' means any technically feasible activity to create, restore, protect, or enhance coastal wetlands through sediment and freshwater diversion, water management, or other measures that the Task Force finds will significantly contribute to the long-term restoration or protection of the physical, chemical and biological integrity of coastal wetlands in the State of Louisiana, and includes any such activity authorized under this chapter or under any other provision of law, including, but not limited to, new projects, completion or expansion of existing or on-going projects, individual phases, portions, or components of projects and operation, maintanence[2] and rehabilitation of completed projects; the primary purpose of a ''coastal wetlands restoration project'' shall not be to provide navigation, irrigation or flood control benefits;

(7) ''coastal wetlands conservation project'' means—

(A) the obtaining of a real property interest in coastal lands or waters, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon; and

(B) the restoration, management, or enhancement of coastal wetlands ecosystems if such restoration, management, or enhancement is conducted on coastal lands and waters that are administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon;

(8) ''Governor'' means the Governor of Louisiana;

(9) ''Task Force'' means the Louisiana Coastal Wetlands Conservation and Restoration Task Force which shall consist of the Secretary, who shall serve as chairman, the Administrator, the Governor, the Secretary of the Interior, the Secretary of Agriculture and the Secretary of Commerce; and

(10) ''Director'' means the Director of the United States Fish and Wildlife Service.

(Pub. L. 101–646, title III, § 302, Nov. 29, 1990, 104 Stat. 4778.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title III of Pub. L. 101–646, Nov. 29, 1990, 104 Stat. 4778, which is classified principally to this chapter. For complete classification of title III to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Section 301 of title III of Pub. L. 101–646 provided that: ''This title [enacting this chapter and amending section 777c of this title] may be cited as the 'Coastal Wetlands Planning, Protection and Restoration Act'.''

[1] So in original. Probably should be ''de minimis''.

[2] So in original. Probably should be ''maintenance''.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 3952. Priority Louisiana coastal wetlands restoration projects

(a) Priority project list

(1) Preparation of list

Within forty-five days after November 29, 1990, the Secretary shall convene the Task Force to initiate a process to identify and prepare a list of coastal wetlands restoration projects in Louisiana to provide for the long-term conservation of such wetlands and dependent fish and wildlife populations in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration.

(2) Task Force procedures

The Secretary shall convene meetings of the Task Force as appropriate to ensure that the list is produced and transmitted annually to the Congress as required by this subsection. If necessary to ensure transmittal of the list on a timely basis, the Task Force shall produce the list by a majority vote of those Task Force members who are present and voting; except that no coastal wetlands restoration project shall be placed on the list without the concurrence of the lead Task Force member that the project is cost effective and sound from an engineering perspective. Those projects which potentially impact navigation or flood control on the lower Mississippi River System shall be constructed consistent with section 3953 of this title.

(3) Transmittal of list

No later than one year after November 29, 1990, the Secretary shall transmit to the Congress the list of priority coastal wetlands restoration projects required by paragraph (1) of this subsection. Thereafter, the list shall be updated annually by the Task Force members and transmitted by the Secretary to the Congress as part of the President's annual budget submission. Annual transmittals of the list to the Congress shall include a status report on each project and a statement from the Secretary of the Treasury indicating the amounts available for expenditure to carry out this chapter.

(4) List of contents

(A) AREA IDENTIFICATION; PROJECT DESCRIPTION.—The list of priority coastal wetlands restoration projects shall include, but not be limited to—

(i) identification, by map or other means, of the coastal area to be covered by the coastal wetlands restoration project; and

(ii) a detailed description of each proposed coastal wetlands restoration project including a justification for including such project on the list, the proposed activities to be carried out pursuant to each coastal wetlands restoration project, the benefits to be realized by such project, the identification of the lead Task Force member to undertake each proposed coastal wetlands restoration project and the responsibilities of each other participating Task Force member, an estimated timetable for the completion of each coastal wetlands restoration project, and the estimated cost of each project.

(B) PRE-PLAN.—Prior to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that can be substantially completed during a five-year period commencing on the date the project is placed on the list.

(C) Subsequent to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that have been identified in such plan.

(5) Funding

The Secretary shall, with the funds made available in accordance with section 3955 of this title, allocate funds among the members of the Task Force based on the need for such funds and such other factors as the Task Force deems appropriate to carry out the purposes of this subsection.

(b) Federal and State project planning

(1) Plan preparation

The Task Force shall prepare a plan to identify coastal wetlands restoration projects, in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing the long-term conservation of coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration. Such restoration plan shall be completed within three years from November 29, 1990.

(2) Purpose of the plan

The purpose of the restoration plan is to develop a comprehensive approach to restore and prevent the loss of, coastal wetlands in Louisiana. Such plan shall coordinate and integrate coastal wetlands restoration projects in a manner that will ensure the long-term conservation of the coastal wetlands of Louisiana.

(3) Integration of existing plans

In developing the restoration plan, the Task Force shall seek to integrate the ''Louisiana Comprehensive Coastal Wetlands Feasibility Study'' conducted by the Secretary of the Army and the ''Coastal Wetlands Conservation and Restoration Plan'' prepared by the State of Louisiana's Wetlands Conservation and Restoration Task Force.

(4) Elements of the plan

The restoration plan developed pursuant to this subsection shall include—

(A) identification of the entire area in the State that contains coastal wetlands;

(B) identification, by map or other means, of coastal areas in Louisiana in need of coastal wetlands restoration projects;

(C) identification of high priority coastal wetlands restoration projects in Louisiana needed to address the areas identified in subparagraph (B) and that would provide for the long-term conservation of restored wetlands and dependent fish and wildlife populations;

(D) a listing of such coastal wetlands restoration projects, in order of priority, to be submitted annually, incorporating any project identified previously in lists produced and submitted under subsection (a) of this section;

(E) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list;

(F) the proposed activities to be carried out pursuant to each coastal wetlands restoration project;

(G) the benefits to be realized by each such project;

(H) an estimated timetable for completion of each coastal wetlands restoration project;

(I) an estimate of the cost of each coastal wetlands restoration project;

(J) identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project listed in the plan;

(K) consultation with the public and provision for public review during development of the plan; and

(L) evaluation of the effectiveness of each coastal wetlands restoration project in achieving long-term solutions to arresting coastal wetlands loss in Louisiana.

(5) Plan modification

The Task Force may modify the restoration plan from time to time as necessary to carry out the purposes of this section.

(6) Plan submission

Upon completion of the restoration plan, the Secretary shall submit the plan to the Congress. The restoration plan shall become effective ninety days after the date of its submission to the Congress.

(7) Plan evaluation

Not less than three years after the completion and submission of the restoration plan required by this subsection and at least every three years thereafter, the Task Force shall provide a report to the Congress containing a scientific evaluation of the effectiveness of the coastal wetlands restoration projects carried out under the plan in creating, restoring, protecting and enhancing coastal wetlands in Louisiana.

(c) Coastal wetlands restoration project benefits

Where such a determination is required under applicable law, the net ecological, aesthetic, and cultural benefits, together with the economic benefits, shall be deemed to exceed the costs of any coastal wetlands restoration project within the State which the Task Force finds to contribute significantly to wetlands restoration.

(d) Consistency

(1) In implementing, maintaining, modifying, or rehabilitating navigation, flood control or irrigation projects, other than emergency actions, under other authorities, the Secretary, in consultation with the Director and the Administrator, shall ensure that such actions are consistent with the purposes of the restoration plan submitted pursuant to this section.

(2) At the request of the Governor of the State of Louisiana, the Secretary of Commerce shall approve the plan as an amendment to the State's coastal zone management program approved under section 1455 of this title.

(e) Funding of wetlands restoration projects

The Secretary shall, with the funds made available in accordance with this chapter, allocate such funds among the members of the Task Force to carry out coastal wetlands restoration projects in accordance with the priorities set forth in the list transmitted in accordance with this section. The Secretary shall not fund a coastal wetlands restoration project unless that project is subject to such terms and conditions as necessary to ensure that wetlands restored, enhanced or managed through that project will be administered for the long-term conservation of such lands and waters and dependent fish and wildlife populations.

(f) Cost-sharing

(1) Federal share

Amounts made available in accordance with section 3955 of this title to carry out coastal wetlands restoration projects under this chapter shall provide 75 percent of the cost of such projects.

(2) Federal share upon conservation plan approval

Notwithstanding the previous paragraph, if the State develops a Coastal Wetlands Conservation Plan pursuant to this chapter, and such conservation plan is approved pursuant to section 3953 of this title, amounts made available in accordance with section 3955 of this title for any coastal wetlands restoration project under this section shall be 85 percent of the cost of the project. In the event that the Secretary, the Director, and the Administrator jointly determine that the State is not taking reasonable steps to implement and administer a conservation plan developed and approved pursuant to this chapter, amounts made available in accordance with section 3955 of this title for any coastal wetlands restoration project shall revert to 75 percent of the cost of the project: *Provided*, *however*, that[1] such reversion to the lower cost share level shall not occur until the Governor has been provided notice of, and opportunity for hearing on, any such determination by the Secretary, the Director, and Administrator, and the State has been given ninety days from

[1] So in original. Probably should be capitalized.

such notice or hearing to take corrective action.

(3) Form of State share

The share of the cost required of the State shall be from a non-Federal source. Such State share shall consist of a cash contribution of not less than 5 percent of the cost of the project. The balance of such State share may take the form of lands, easements, or right-of-way, or any other form of in-kind contribution determined to be appropriate by the lead Task Force member.

(4) Existing cost-sharing agreements

Paragraphs (1), (2), (3), and (5) of this subsection shall not affect the existing cost-sharing agreements for the following projects: Caernarvon Freshwater Diversion, Davis Pond Freshwater Diversion, and Bonnet Carre Freshwater Diversion.

(5) Federal share in calendar years 1996 and 1997

Notwithstanding paragraphs (1) and (2), upon approval of the conservation plan under section 3953 of this title and a determination by the Secretary that a reduction in the non-Federal share is warranted, amounts made available in accordance with section 3955 of this title to carry out coastal wetlands restoration projects under this section in calendar years 1996 and 1997 shall provide 90 percent of the cost of such projects.

(Pub. L. 101–646, title III, § 303, Nov. 29, 1990, 104 Stat. 4779; Pub. L. 104–303, title V, § 532, Oct. 12, 1996, 110 Stat. 3774.)

AMENDMENTS

1996—Subsec. (f)(4). Pub. L. 104–303, § 532(1), substituted ''(3), and (5)'' for ''and (3)''.

Subsec. (f)(5). Pub. L. 104–303, § 532(2), added par. (5).

§ 3953. Louisiana coastal wetlands conservation planning

(a) Development of conservation plan

(1) Agreement

The Secretary, the Director, and the Administrator are directed to enter into an agreement with the Governor, as set forth in paragraph (2) of this subsection, upon notification of the Governor's willingness to enter into such agreement.

(2) Terms of agreement

(A) Upon receiving notification pursuant to paragraph (1) of this subsection, the Secretary, the Director, and the Administrator shall promptly enter into an agreement (hereafter in this section referred to as the ''agreement'') with the State under the terms set forth in subparagraph (B) of this paragraph.

(B) The agreement shall—

(i) set forth a process by which the State agrees to develop, in accordance with this section, a coastal wetlands conservation plan (hereafter in this section referred to as the ''conservation plan'');

(ii) designate a single agency of the State to develop the conservation plan;

(iii) assure an opportunity for participation in the development of the conservation plan, during the planning period, by the public and by Federal and State agencies;

(iv) obligate the State, not later than three years after the date of signing the agreement, unless extended by the parties thereto, to submit the conservation plan to the Secretary, the Director, and the Administrator for their approval; and

(v) upon approval of the conservation plan, obligate the State to implement the conservation plan.

(3) Grants and assistance

Upon the date of signing the agreement—

(A) the Administrator shall, in consultation with the Director, with the funds made available in accordance with section 3955 of this title, make grants during the development of the conservation plan to assist the designated State agency in developing such plan. Such grants shall not exceed 75 percent of the cost of developing the plan; and

(B) the Secretary, the Director, and the Administrator shall provide technical assistance to the State to assist it in the development of the plan.

(b) Conservation plan goal

If a conservation plan is developed pursuant to this section, it shall have a goal of achieving no net loss of wetlands in the coastal areas of Louisiana as a result of development activities initiated subsequent to approval of the plan, exclusive of any wetlands gains achieved through implementation of section 3952 of this title.

(c) Elements of conservation plan

The conservation plan authorized by this section shall include—

(1) identification of the entire coastal area in the State that contains coastal wetlands;

(2) designation of a single State agency with the responsibility for implementing and enforcing the plan;

(3) identification of measures that the State shall take in addition to existing Federal authority to achieve a goal of no net loss of wetlands as a result of development activities, exclusive of any wetlands gains achieved through implementation of section 3952 of this title;

(4) a system that the State shall implement to account for gains and losses of coastal wetlands within coastal areas for purposes of evaluating the degree to which the goal of no net loss of wetlands as a result of development activities in such wetlands or other waters has been attained;

(5) satisfactory assurances that the State will have adequate personnel, funding, and authority to implement the plan;

(6) a program to be carried out by the State for the purpose of educating the public concerning the necessity to conserve wetlands;

(7) a program to encourage the use of technology by persons engaged in development activities that will result in negligible impact on wetlands; and

(8) a program for the review, evaluation, and identification of regulatory and nonregulatory options that will be adopted by the State to encourage and assist private owners of wet-

lands to continue to maintain those lands as wetlands.

(d) Approval of conservation plan

(1) In general

If the Governor submits a conservation plan to the Secretary, the Director, and the Administrator for their approval, the Secretary, the Director, and the Administrator shall, within one hundred and eighty days following receipt of such plan, approve or disapprove it.

(2) Approval criteria

The Secretary, the Director, and the Administrator shall approve a conservation plan submitted by the Governor, if they determine that—

(A) the State has adequate authority to fully implement all provisions of such a plan;

(B) such a plan is adequate to attain the goal of no net loss of coastal wetlands as a result of development activities and complies with the other requirements of this section; and

(C) the plan was developed in accordance with terms of the agreement set forth in subsection (a) of this section.

(e) Modification of conservation plan

(1) Noncompliance

If the Secretary, the Director, and the Administrator determine that a conservation plan submitted by the Governor does not comply with the requirements of subsection (d) of this section, they shall submit to the Governor a statement explaining why the plan is not in compliance and how the plan should be changed to be in compliance.

(2) Reconsideration

If the Governor submits a modified conservation plan to the Secretary, the Director, and the Administrator for their reconsideration, the Secretary, the Director, and Administrator shall have ninety days to determine whether the modifications are sufficient to bring the plan into compliance with requirements of subsection (d) of this section.

(3) Approval of modified plan

If the Secretary, the Director, and the Administrator fail to approve or disapprove the conservation plan, as modified, within the ninety-day period following the date on which it was submitted to them by the Governor, such plan, as modified, shall be deemed to be approved effective upon the expiration of such ninety-day period.

(f) Amendments to conservation plan

If the Governor amends the conservation plan approved under this section, any such amended plan shall be considered a new plan and shall be subject to the requirements of this section; except that minor changes to such plan shall not be subject to the requirements of this section.

(g) Implementation of conservation plan

A conservation plan approved under this section shall be implemented as provided therein.

(h) Federal oversight

(1) Initial report to Congress

Within one hundred and eighty days after entering into the agreement required under subsection (a) of this section, the Secretary, the Director, and the Administrator shall report to the Congress as to the status of a conservation plan approved under this section and the progress of the State in carrying out such a plan, including and[1] accounting, as required under subsection (c) of this section, of the gains and losses of coastal wetlands as a result of development activities.

(2) Report to Congress

Twenty-four months after the initial one hundred and eighty day period set forth in paragraph (1), and at the end of each twenty-four-month period thereafter, the Secretary, the Director, and the Administrator shall, report to the Congress on the status of the conservation plan and provide an evaluation of the effectiveness of the plan in meeting the goal of this section.

(Pub. L. 101–646, title III, § 304, Nov. 29, 1990, 104 Stat. 4783.)

§ 3954. National coastal wetlands conservation grants

(a) Matching grants

The Director shall, with the funds made available in accordance with section 3955 of this title, make matching grants to any coastal State to carry out coastal wetlands conservation projects from funds made available for that purpose.

(b) Priority

Subject to the cost-sharing requirements of this section, the Director may grant or otherwise provide any matching moneys to any coastal State which submits a proposal substantial in character and design to carry out a coastal wetlands conservation project. In awarding such matching grants, the Director shall give priority to coastal wetlands conservation projects that are—

(1) consistent with the National Wetlands Priority Conservation Plan developed under section 3921 of this title; and

(2) in coastal States that have established dedicated funding for programs to acquire coastal wetlands, natural areas and open spaces. In addition, priority consideration shall be given to coastal wetlands conservation projects in maritime forests on coastal barrier islands.

(c) Conditions

The Director may only grant or otherwise provide matching moneys to a coastal State for purposes of carrying out a coastal wetlands conservation project if the grant or provision is subject to terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such moneys will be administered for the long-term conservation of such lands and waters and the fish and wildlife dependent thereon.

(d) Cost-sharing

(1) Federal share

Grants to coastal States of matching moneys by the Director for any fiscal year to carry

[1] So in original. Probably should be ''an''.

out coastal wetlands conservation projects shall be used for the payment of not to exceed 50 percent of the total costs of such projects: except that such matching moneys may be used for payment of not to exceed 75 percent of the costs of such projects if a coastal State has established and is using one of the following for the purpose of acquiring coastal wetlands, other natural areas or open spaces:

(A) a trust fund from which the principal is not spent; or

(B) a fund derived from a dedicated recurring source of monies including, but not limited to, real estate transfer fees or taxes, cigarette taxes, tax check-offs, or motor vehicle license plate fees.

(2) Form of State share

The matching moneys required of a coastal State to carry out a coastal wetlands conservation project shall be derived from a non-Federal source.

(3) In-kind contributions

In addition to cash outlays and payments, in-kind contributions of property or personnel services by non-Federal interests for activities under this section may be used for the non-Federal share of the cost of those activities.

(e) Partial payments

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

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

(f) Wetlands assessment

The Director shall, with the funds made available in accordance with section 3955 of this title, direct the U.S. Fish and Wildlife Service's National Wetland Inventory to update and digitize wetlands maps in the State of Texas and to conduct an assessment of the status, condition, and trends of wetlands in that State.

(Pub. L. 101–646, title III, § 305, Nov. 29, 1990, 104 Stat. 4785; Pub. L. 102–212, title III, § 302(a), Dec. 11, 1991, 105 Stat. 1660.)

AMENDMENTS

1991—Subsec. (d)(1). Pub. L. 102–212 substituted ''has established and is using one of the following for the purpose of acquiring coastal wetlands, other natural areas or open spaces:

''(A) a trust fund from which the principal is not spent; or

''(B) a fund derived from a dedicated recurring source of monies including, but not limited to, real estate transfer fees or taxes, cigarette taxes, tax check-offs, or motor vehicle license plate fees''

for ''has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural area or open spaces''.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 302(b) of Pub. L. 102–212 provided that: ''This section [amending this section] shall apply to grants awarded in fiscal year 1992 and each fiscal year thereafter.''

§ 3955. Distribution of appropriations

(a) Priority project and conservation planning expenditures

Of the total amount appropriated during a given fiscal year to carry out this chapter, 70 percent shall be available, and shall remain available until expended, for the purposes of making expenditures—

(1) not to exceed the aggregate amount of $5,000,000 annually to assist the Task Force in the preparation of the list required under this chapter and the plan required under this chapter, including preparation of—

(A) preliminary assessments;

(B) general or site-specific inventories;

(C) reconnaissance, engineering or other studies;

(D) preliminary design work; and

(E) such other studies as may be necessary to identify and evaluate the feasibility of coastal wetland restoration projects;

(2) to carry out coastal wetlands restoration projects in accordance with the priorities set forth on the list prepared under this chapter;

(3) to carry out wetlands restoration projects in accordance with the priorities set forth in the restoration plan prepared under this chapter;

(4) to make grants not to exceed $2,500,000 annually or $10,000,000 in total, to assist the agency designated by the State in development of the Coastal Wetlands Conservation Plan pursuant to this chapter.

(b) Coastal wetlands conservation grants

Of the total amount appropriated during a given fiscal year to carry out this chapter, 15 percent shall be available, and shall remain available to the Director, for purposes of making grants—

(1) to any coastal State, except States eligible to receive funding under subsection (a) of this section, to carry out coastal wetlands conservation projects in accordance with section 3954 of this title; and

(2) in the amount of $2,500,000 in total for an assessment of the status, condition, and trends of wetlands in the State of Texas.

(c) North American wetlands conservation

Of the total amount appropriated during a given fiscal year to carry out this chapter, 15 percent shall be available to, and shall remain available until expended by, the Secretary of the Interior for allocation to carry out wetlands conservation projects in coastal wetlands ecosystems in any coastal State under section 4407 of this title.

(Pub. L. 101–646, title III, § 306, Nov. 29, 1990, 104 Stat. 4786; Pub. L. 103–375, § 5, Oct. 19, 1994, 108 Stat. 3495; Pub. L. 108–447, div. C, title I, § 114(a), Dec. 8, 2004, 118 Stat. 2944.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–447, § 114(a)(1), struck out '', not to exceed $70,000,000,'' before ''shall be available'' in introductory provisions.

Subsec. (b). Pub. L. 108–447, § 114(a)(2), struck out '', not to exceed $15,000,000'' before ''shall be available'' in introductory provisions.

Subsec. (c). Pub. L. 108–447, § 114(a)(3), struck out '', not to exceed $15,000,000,'' before ''shall be available''.

1994—Subsec. (c). Pub. L. 103–375 inserted ''in coastal wetlands ecosystems'' after ''wetlands conservation projects''.

§ 3956. General provisions

(a) Additional authority for Corps of Engineers

The Secretary is authorized to carry out projects for the protection, restoration, or enhancement of aquatic and associated ecosystems, including projects for the protection, restoration, or creation of wetlands and coastal ecosystems. In carrying out such projects, the Secretary shall give such projects equal consideration with projects relating to irrigation, navigation, or flood control.

(b) Study

The Secretary is hereby authorized and directed to study the feasibility of modifying the operation of existing navigation and flood control projects to allow for an increase in the share of the Mississippi River flows and sediment sent down the Atchafalaya River for purposes of land building and wetlands nourishment.

(Pub. L. 101–646, title III, § 307, Nov. 29, 1990, 104 Stat. 4787.)

CHAPTER 60—FISH AND SEAFOOD PROMOTION

Sec.

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§ 4001. Congressional findings

The Congress finds that—

(1) the commercial fishing industry of the United States significantly contributes to the national economy, and could make a greater contribution if fish resources within the United States Exclusive Economic Zone were more fully utilized;

(2) the commercial fisheries of the United States provide significant employment in coastal areas and in processing and distribution centers;

(3) fish contribute an important nutritional component to the American diet;

(4) increased consumption of seafood in the United States could significantly lower the risk of many cardiovascular diseases;

(5) Federally supported development programs for commercial fisheries are unable to meet present and future marketing needs;

(6) many fish species are underutilized by the United States fishing industry because of underdeveloped markets; and

(7) the United States fishing industry has the potential to expand greatly its contribution to interstate and foreign commerce, favorably affecting the balance of trade.

(Pub. L. 99–659, title II, § 202, Nov. 14, 1986, 100 Stat. 3715.)

SHORT TITLE

Section 201 of title II of Pub. L. 99–659 provided that: ''This title [enacting this chapter and amending section 713c–3 of Title 15, Commerce and Trade] may be cited as the 'Fish and Seafood Promotion Act of 1986'.''

REPORT TO CONGRESS ON FISH AND SEAFOOD PROMOTION

Section 219 of title II of Pub. L. 99–659 provided that: ''The Secretary shall, not later than March 1, 1989, submit to the Congress a report on the effectiveness of the implementation of this title [enacting this chapter and amending section 713c–3 of Title 15, Commerce and Trade] in achieving the purposes of this title.''

§ 4002. Congressional statement of purpose

The purpose of this chapter is to—

(1) strengthen the competitive position of the United States commercial fishing industry in the domestic and international marketplace;

(2) encourage the development and utilization of all species of fish available for harvest by the United States fishing industry;

(3) encourage the utilization of domestically-produced fish through enhancement of markets, promotion, and public relations;

(4) help the United States fishing industry develop methods to improve quality and efficiency in the marketplace;

(5) educate and inform consumers on the use of fish;

(6) develop better coordination of fisheries marketing and promotion activities with commercial fisheries research and development programs; and

(7) educate and inform the public about the nutritional value of fish in the diet.

(Pub. L. 99–659, title II, § 203, Nov. 14, 1986, 100 Stat. 3716.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title II of Pub. L. 99–659, Nov. 14, 1986, 100 Stat. 3715, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 4001 of this title and Tables.

§ 4003. Definitions

As used in this chapter, the term—

(1) ''consumer education'' means actions undertaken to inform consumers on matters related to the consumption of fish and fish products;

(2) ''council'' means a seafood promotional council established under section 4009 of this title;

(3) ''fish'' means finfish, mollusks, crustaceans, and all other forms of aquatic animal life used for human consumption; the term does not include marine mammals and seabirds;

(4) ''Fund'' means the Fisheries Promotional Fund established in section 4008 of this title;

(5) ''harvester'' means any individual who is in the business of catching or growing fish for purposes of sale;

(6) ''importer'' means any person in the business of importing fish or fish products into the United States from another country for commercial purposes or who acts as an agent, broker, or consignee for any person or nation that produces, processes or markets fish or fish products outside of the United States for sale or other commercial purpose in the United States;

(7) ''marketer'' means any person who is in the business of selling fish or fish products in the wholesale, retail, or restaurant trade, but whose primary business function is not the processing or packaging of fish or fish products in preparation for sale;

(8) ''marketing and promotion'' means an activity aimed at encouraging the consumption of fish or fish products or expanding or maintaining commercial markets for fish or fish products;

(9) ''member'' means any person serving on the National Council or on any council;

(10) ''National Council'' means the National Fish and Seafood Promotional Council established in section 4004 of this title;

(11) ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or any private entity organized or existing under the laws of the United States or any State, commonwealth, territory or possession of the United States;

(12) ''processor'' means any person who is in the business of preparing or packaging fish or fish products (including fish of the processor's own harvesting) for sale;

(13) ''receiver'' means any person who owns fish processing vessels and any person in the business of acquiring fish directly from harvesters;

(14) ''research'' means any type of research designed to advance the image, desirability, usage, marketability, production or quality of fish and fish products;

(15) ''sector'' means—

(A) the sector consisting of harvesters;

(B) the sector consisting of importers;

(C) the sector consisting of marketers;

(D) the sector consisting of processors;

(E) the sector consisting of receivers; or

(F) the consumer sector consisting of persons professionally engaged in the dissemination of information pertaining to the nutritional benefits and preparation of fish and fish products;

(16) ''Secretary'' means the Secretary of Commerce, or the Secretary's designee; and

(17) ''United States'' means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and any other territory, possession, or commonwealth of the United States.

(Pub. L. 99–659, title II, § 204, Nov. 14, 1986, 100 Stat. 3716.)

§ 4004. Establishment of National Council

(a) Establishment

There is established the National Fish and Seafood Promotional Council.

(b) Composition

(1) The National Council shall be composed of the Secretary, who shall be a nonvoting member, and fifteen voting members appointed by the Secretary.

(2) Nominations for appointees shall be submitted in a manner prescribed by the Secretary.

(c) Regional representation

The National Council shall be comprised of regional representation from the Northeast, Southeast, Pacific, and Alaska regions. The Northeast region shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Maryland and Virginia. The Southeast region shall consist of the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana and Texas, the Commonwealth of Puerto Rico, and the territory of the Virgin Islands. The Pacific region shall consist of the States of Idaho, Washington, Oregon, California, and Hawaii, the territories of Guam and American Samoa, and the Commonwealth of the Northern Mariana Islands. The Alaska region shall consist of the State of Alaska.

(d) Voting members

(1) The voting members of the National Council shall be—

(A) three members who reside in or do substantial fishing industry business in the Northeast region;

(B) three members who reside in or do substantial fishing industry business in the Southeast region;

(C) three members who reside in or do substantial fishing industry business in the Pacific region;

(D) three members who reside in or do substantial fishing industry business in the Alaska region;

(E) two members-at-large with demonstrated expertise in fresh-water and inland commercial fisheries, at least one of whom is not a resident of the States of the Alaska, Pacific, Southeast, and Northeast regions; and

(F) one member-at-large who is either a person professionally engaged in the dissemination of information pertaining to the nutritional benefits and preparation of fish and fish products or a person who is a member of an organized labor union and has expertise in the United States fisheries.

(2) Of the members appointed pursuant to each of paragraphs (1)(A) through (D) of this subsection, one shall be a harvester, one shall be a processor or a receiver, and one shall be a marketer.

(e) Term of office

Members of the National Council shall be appointed for a term of 4 years. A vacancy in the

National Council shall not affect its ability to function. The Secretary shall appoint a new member within sixty days to fill a vacancy in an unexpired term. Any member may remain on the National Council beyond that member's term until a successor is appointed.

(f) Chairman

The National Council shall annually elect a Chairman by a majority of those voting, if a quorum is present. Ten members of the National Council shall constitute a quorum, but a lesser number may hold hearings.

(g) First meeting

The National Council shall first meet within one hundred and eighty days after November 14, 1986.

(h) Compensation of members

Members of the National Council shall serve without compensation, but shall be reimbursed in accordance with section 5703 of title 5 for reasonable travel costs and expenses incurred in performing their duties as members of the National Council.

(Pub. L. 99–659, title II, § 205, Nov. 14, 1986, 100 Stat. 3717; Pub. L. 100–350, § 3, June 27, 1988, 102 Stat. 660.)

AMENDMENTS

1988—Subsec. (d)(1)(E). Pub. L. 100–350 which directed the substitution of '', at least one of whom is not a resident of the States of the Alaska, Pacific, Southeast, and Northeast regions'' for ''and who are not residents of the States of the Alaska, Pacific, Southeast, or Northeast regions'' was executed by substituting that phrase for ''and who are not residents of the states of the Alaska, Pacific, Southeast, or Northeast regions''.

CONTINUITY OF NATIONAL COUNCIL MEMBERSHIP

Pub. L. 101–627, title VII, § 704(a), (b), Nov. 28, 1990, 104 Stat. 4464, provided that:

''(a) UNINTERRUPTED SERVICE.—Individuals serving on September 30, 1990, as members of the National Fish and Seafood Promotional Council shall be deemed to continue as members in uninterrupted service since the date of their initial appointment.

''(b) FILLING OF VACANCIES.—Notwithstanding section 206(e) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(e)), any vacancy on the National Fish and Seafood Promotion Act [Promotional Council] not filled as of September 30, 1990, shall be filled within 60 days after the date of enactment of this Act [Nov. 28, 1990].''

§ 4005. Functions and duties of National Council

(a) Functions and duties

The National Council shall—

(1) prepare and submit to the Secretary, for the Secretary's review and approval, an annual marketing and promotion plan which contains descriptions of consumer education, research, and other marketing and promotion activities of the National Council for the following year, including plans to coordinate the activities of councils established under section 4009 of this title;

(2) prepare and submit to the Secretary, for the Secretary's review and approval, an annual budget of the anticipated expenses and disbursements of the National Council, including probable costs of consumer education, research, and other marketing and promotion plans or projects, and referenda under section 4009 of this title;

(3) maintain accounting records of the receipt and disbursement of all funds entrusted to the National Council, subject to the Secretary's right to review or inspect such records;

(4) maintain such books and records as the Secretary determines appropriate; and

(5) prepare and submit to the Secretary from time to time such reports or proposals as the Secretary or the National Council determines appropriate for furthering the purposes and policies of this chapter.

(b) Annual plan

Each annual marketing and promotion plan shall be directed to—

(1) increasing the general demand for fish and fish products;

(2) encouraging, expanding, or improving the marketing and promotion and utilization of fish and fish products; and

(3) improving the dissemination of data collected by consumer education, research, and other marketing promotion activities.

(c) Prohibition on certain references

Consumer education and other marketing and promotion activities of the National Council shall contain no reference to a private brand or trade name and shall avoid use of deceptive acts or practices in behalf of fish or fish products or with respect to the quality, value, or use of any competing product or group of products. In addition, the National Council may not promote the consumption or purchase of a single or group of similar fish species (such as members of the same genera); except that the Council may use illustrations of a single or group of similar fish species in the course of promoting the generic consumption of fish and fish products.

(d) Executive director

The National Council may employ and determine the salary of an executive director, but such salary shall not exceed Senior Executive Service Level 6. The executive director shall have demonstrated expertise in the marketing and promotion of food products and may, without regard to the provisions of title 5, with the approval of the National Council, select and employ additional staff as necessary.

(e) Funding of referendum

The National Council may enter into agreements with applicants proposing to establish a council under section 4009 of this title for the purposes of funding a referendum establishing the council. The National Council may enter into agreements with the councils established under section 4009 of this title for the purpose of funding a referendum to establish quality standards, or a referendum to terminate any such council.

(f) Agreements

The National Council may enter into agreements to develop and carry out activities authorized under this chapter.

(g) Termination of National Council

The National Council shall cease to exist on December 31, 1991.

(Pub. L. 99–659, title II, § 206, Nov. 14, 1986, 100 Stat. 3718; Pub. L. 101–627, title VII, § 701, Nov. 28, 1990, 104 Stat. 4463.)

REFERENCES IN TEXT

Senior Executive Service, referred to in subsec. (d), see section 5382 of Title 5, Government Organization and Employees.

AMENDMENTS

1990—Subsec. (g). Pub. L. 101–627 substituted ''December 31, 1991'' for ''October 1, 1990''.

CONTINUITY OF COUNCIL FUNCTIONS, CONTRACTS, AND PERSONNEL

Section 705 of Pub. L. 101–627 provided that: ''All current functions, contracts in force, and existing personnel of the National Fish and Seafood Promotional Council as of September 30, 1990, are reauthorized and extended, and shall continue as if uninterrupted, notwithstanding section 206(g) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(g)) as in effect on September 30, 1990.''

§ 4006. Duties of Secretary with regard to National Council

(a) Duties of Secretary

The Secretary shall—

(1) within sixty days after its submission by the National Council, review the annual marketing and promotion plan and budget and, if the Secretary determines that such plan and budget are in accordance with the purposes and policies of this chapter, approve such plan and budget;

(2) administer the Fund and, in accordance with subsection (b) of this section, withdraw from the Fund such sums as are necessary to carry out the National Council's approved marketing and promotion plan and budget;

(3) promulgate regulations necessary to carry out the purposes and policies of this chapter;

(4) provide such administrative assistance as the National Council may require for purposes of its initial organization and operation; and

(5) make all initial appointments to the National Council within ninety days after November 14, 1986.

(b) Withdrawal of funds

The Secretary shall make withdrawals of sums from the Fund under this section at the request of the National Council, unless the Secretary determines that the purposes for which such sums are requested are not reasonably likely to further the purposes and policies of this chapter.

(Pub. L. 99–659, title II, § 207, Nov. 14, 1986, 100 Stat. 3719; Pub. L. 101–627, title VII, § 704(c), Nov. 28, 1990, 104 Stat. 4464.)

AMENDMENTS

1990—Subsec. (a)(5). Pub. L. 101–627 inserted ''initial'' before ''appointments''.

§ 4007. Voluntary payments

Any person may make voluntary payments to assist the National Council to carry out its annual marketing and promotion plan and annual budget. The Secretary shall deposit such payments into the Fund.

(Pub. L. 99–659, title II, § 208, Nov. 14, 1986, 100 Stat. 3720.)

§ 4008. Establishment of Fisheries Promotional Fund

(a) Establishment of Fund

There is established in the Treasury of the United States a Fisheries Promotional Fund. The Fund shall be available, to the extent provided for in appropriation Acts, for the purpose of making payments to carry out the annual marketing and promotion plan and annual budget of the National Council under this chapter.

(b) Deposits

There shall be deposited in the Fund—

(1) the moneys transferred to the Fund under section 713c–3(b)(2) of title 15;

(2) payments made voluntarily pursuant to section 4007 of this title; and

(3) receipts from investments made under subsection (c) of this section.

(c) Deposits and investments

Sums in the Fund that are not currently needed for the purposes of the Fund shall be kept on deposit in appropriate interest-bearing accounts that shall be established by the Secretary of the Treasury, or invested in obligations of, or guaranteed by, the United States. Any revenue accruing from such deposits and investments shall be deposited in the Fund.

(d) Authorization

There are authorized to be appropriated from the Fund, for the purposes of carrying out the annual marketing and promotion plan and annual budget of the National Council under this chapter, such sums as are deposited in the Fund under subsection (b) of this section in each fiscal year beginning in fiscal year 1987 through fiscal year 1991.

(Pub. L. 99–659, title II, § 209, Nov. 14, 1986, 100 Stat. 3720; Pub. L. 101–627, title VII, § 702, Nov. 28, 1990, 104 Stat. 4463.)

CODIFICATION

Section is comprised of section 209 of Pub. L. 99–659. Subsec. (e) of section 209 of Pub. L. 99–659 amended section 713c–3 of Title 15, Commerce and Trade.

AMENDMENTS

1990—Subsec. (d). Pub. L. 101–627 substituted ''1991'' for ''1990''.

§ 4009. Establishment of seafood marketing councils

(a) Application

An application for a charter for a seafood marketing council for one or more species of fish and fish products of that species may be filed by persons who meet the requirements specified in accordance with subsection (b)(6) of this section.

(b) Form of application

An application for a charter for a council shall be made by filing with the Secretary the text of a proposed charter in such form as shall be prescribed by regulation by the Secretary. The text of a proposed charter must contain such information as the Secretary considers necessary or appropriate for carrying out the provisions of this chapter, including—

(1) the name of the council and a provision proclaiming its establishment;

(2) a declaration of the purposes and objectives of the council;

(3) a description of the species of fish and fish products for which the council will implement marketing and promotion plans under section 4010 of this title;

(4) the identification of each sector and the number and terms of representatives of each sector that will be represented as voting members of the council;

(5) the identification of those sectors (including the sector consisting of harvesters, the sector consisting of receivers, and, if subject to assessment, the sector consisting of importers) subject to a referendum to establish a council under subsection (e) of this section;

(6) a specification for each sector described under paragraph (5) of this subsection of the minimum requirements, as measured by income, volume, or other relevant factors, that a person engaging in business in the sector must meet in order to participate in a referendum;

(7)(A) a description of the procedures for determining assessment rates under section 4012 of this title;

(B) the proposed rate or rates that will be imposed by the council on receivers and, if subject to assessment, importers during its first year of operation;

(C) the maximum amount an assessment rate for any period may be raised above the rate applicable for the immediately preceding period; and

(D) the maximum rate or rates that can be imposed by a council on receivers or importers during the operation of the council;

(8) a provision setting forth the definition of a quorum for making decisions on council business and the procedures for selecting a chairman of the council;

(9) a provision setting forth the voting procedures by which votes may be cast by proxy; and

(10) such other provisions relating to administration of the council as the Secretary considers necessary.

The text of a proposed charter shall be accompanied by a document identifying, to the extent practicable by address of place of business, the persons (hereinafter referred to as ''sector participants'') that are considered by the applicants to meet the requirements specified in paragraph (6) of this subsection. The text of a proposed charter shall include provisions setting forth procedures for providing refunds to those sector participants subject to assessment under section 4012 of this title, and may also include provisions which establish a maximum limit on the amount that any one sector participant may be required to pay under an assessment for any period.

(c) Contents of charter

The Secretary may not approve a proposed charter filed under subsection (a) of this section unless such charter provides that—

(1) the council will have voting members representing the harvesting, receiving and, if subject to assessment, importing sectors; and

(2) the members of the council shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the council.

(d) Review of charter

(1) Within 180 days of the receipt of an application to establish a council, the Secretary shall—

(A) identify, to the extent practicable, those sector participants that meet the requirements for eligibility to participate in the referendum under subsection (e) of this section;

(B) determine, to the extent practicable, if the charter is accompanied by a petition comprised of the signatures or corporate certifications, as the case may be, of no less than three sector participants in each sector identified in accordance with subsection (b)(5) of this section who collectively accounted for, in the twelve-month period immediately preceding the month in which the application was filed, not less than 10 percent of the value of the fish or fish products described in accordance with subsection (b)(3) of this section that were handled by each such sector during that period; and

(C) determine if the proposed charter is consistent with the provisions of this chapter and any other applicable law.

(2) If any negative determination is made under paragraph (1) of this subsection regarding a proposed charter, the Secretary shall advise in writing the sector participants who made the application of the reasons for such determination. A corrected application may be submitted thereafter to the Secretary for approval.

(e) Conduct of referendum

(1) Upon making affirmative determinations under subsection (d)(1) of this section regarding a proposed charter, the Secretary, within 90 days after the date of the last of such determinations, shall conduct a referendum on the adoption of the proposed charter among all sector participants identified in accordance with subsection (d)(1)(A) of this section. The Secretary shall by order establish the council and approve the proposed charter, if the referendum votes which are cast in favor of the proposed charter constitute a majority of the sector participants voting in each sector and the majority collectively accounts for, in the twelve-month period immediately preceding the month in which the proposed charter was filed under subsection (a) of this section, at least sixty-six percent of the value of the fish and fish products described in accordance with subsection (b)(3) of this section that were handled by that sector during such period.

(2) Not less than thirty days prior to holding a referendum under this subsection, the Secretary shall—

(A) publish (by such means as will result in wide publicity in regions affected by the proposed charter) the text of the proposed charter and a list of those sector participants eligible to vote in the referendum; and

(B) provide for public comment, including the opportunity for a public meeting.

(3)(A) The Secretary shall pay all costs of a referendum which establishes a council under

this subsection. Within two years after a council is established the council shall reimburse the Secretary for any expenses incurred for the conduct of the referendum from assessments collected by the council. Prior to the holding of a referendum under this subsection, the Secretary shall require the applicants to post a bond or other security acceptable to the Secretary, in an amount which the Secretary determines to be sufficient to pay any expenses incurred for the conduct of the referendum, and shall immediately recover such amount if a referendum fails to result in the establishment of a council.

(B) As used in this paragraph, the term ''expenses incurred for the conduct of the referendum'' does not include salaries of Government employees or other administrative overhead, but is limited to those additional direct costs incurred in connection with conduct of the referendum.

(f) Nominations

(1) Within thirty days after a council is established under subsection (e) of this section, the Secretary shall solicit from the sectors represented on the council nominations for members of the council. If the harvesters and receivers represented on the council are engaged in business in two or more regions of the United States, the nominations made under this paragraph, and the appointments to the council made under paragraph (3) of this subsection, must, to the extent practicable, result in equitable representation for the constituent regions.

(2) No person is eligible for nomination or appointment as a member of a council unless such person is knowledgeable and experienced with regard to the activities of, and is or has been actively engaged in the business of, the sector which such person will represent on the council.

(3) The Secretary shall, within sixty days after the end of the thirty-day period referred to in paragraph (1) of this subsection, appoint the members of the council from among the nominees.

(4) A vacancy on a council shall be filled, within sixty days after the vacancy occurs, in the same manner in which the original appointment was made. A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.

(5) The Secretary shall remove any member of a council if the council concerned first recommends, by not less than two-thirds of its members, removal for cause. Such a recommendation of a council must be in writing and accompanied by a statement of the reasons upon which the recommendation is based.

(g) Nature of a council

A council is not an instrumentality of the United States Government.

(Pub. L. 99–659, title II, § 210, Nov. 14, 1986, 100 Stat. 3721.)

§ 4010. Functions and powers of councils

(a) Activities of a council

(1) Each council shall—

(A) Adopt[1] a seal which shall be judicially noticed;

(B) implement all terms of its charter;

(C) prepare and submit to the Secretary, for review and approval under section 4011(a)(1) of this title, a marketing and promotion plan and amendments to such plan which contain descriptions of the projected consumer education, research, and other marketing and promotion activities of the council;

(D) implement and administer an approved marketing and promotion plan and amendments to such plan;

(E) determine the assessments to be made under section 4012 of this title and administer the collection of such assessments to finance council expenses described in paragraph (2) of this subsection;

(F) receive, investigate and report to the Secretary accounts of violations of rules or orders relating to assessments collected under section 4012 of this title, or quality standard requirements established under subsection (c) of this section;

(G) prepare and submit to the Secretary, for review and approval under section 4011(a)(1) of this title, a budget (on a fiscal year basis) of the anticipated expenses and disbursements of the council, including—

(i) all administrative and contractual expenses;

(ii) the probable costs of consumer education, research, and other marketing and promotion plans or projects;

(iii) the costs of the collection of assessments; and

(iv) the expense of repayment of the costs of each referendum conducted in regard to the council;

(H) maintain books and records, prepare and submit to the Secretary such reports from time to time as may be necessary for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it, and cause a complete audit report to be submitted to the Secretary at the end of each fiscal year;

(I) reimburse the Secretary for the expenses incurred for the conduct of the referendum to establish the council or any subsequent referendum to terminate the council that fails; and

(J) prepare and submit to the Secretary from time to time such reports or proposals as the council determines appropriate to further the purposes of this chapter.

(2) Funds collected by a council under section 4012 of this title shall be used by the council for—

(A) research, consumer education, and other marketing and promotion activities regarding the quality and marketing of fish and fish products;

(B) other expenses, as described in subsection (a)(1)(G) of this section;

(C) such other expenses for the administration, maintenance, and functioning of the council as may be authorized by the Secretary;

[1] So in original. Probably should not be capitalized.

(D) any reserve fund established under subsection (b)(5) of this section and any administrative expenses incurred by the Secretary specified as reimbursable under this chapter.

(3) Marketing and promotion plans and amendments to such plans prepared by a council under subsection (a)(1)(C) of this section shall be designed to increase the general demand for fish and fish products described in accordance with section 4009(b)(3) of this title by encouraging, expanding, and improving the marketing, promotion and utilization of such fish and fish products, in domestic or foreign markets, or both, through consumer education, research, and other marketing and promotion activities.

(4) Consumer education and other marketing and promotion activities carried out by a council under a marketing and promotion plan and amendments to such plan may not contain references to any private brand or trade name and shall avoid the use of deceptive acts or practices in promoting fish or fish products or with respect to the quality, value, or use of any competing product or group of products.

(b) Authority of a council

A council may—

(1) sue and be sued;

(2) enter into contracts;

(3) employ and determine the salary of an executive director who may, with the approval of the council, employ and determine the salary of such additional staff as may be necessary;

(4) collaborate with other councils and with the National Council in establishing and implementing a national marketing and promotion plan for one or more species of fish or fish products; and

(5) establish a reserve fund from monies collected and received under section 4012 of this title to permit an effective and sustained program of research, consumer education, and other marketing and promotion activities regarding the quality and marketing of fish and fish products in years when production and assessment income may be reduced, but the total reserve fund may not exceed the amount budgeted for the current fiscal year of operation.

(c) Quality standards

(1) A council may develop and submit to the Secretary for approval, or upon the request of a council the Secretary shall develop, quality standards for a fish or fish product described in accordance with section 4009(b)(3) of this title. Any quality standard developed under this paragraph shall be consistent with the purposes of this chapter.

(2) A quality standard developed under paragraph (1) of this subsection may be adopted by a council by a majority of the members of the council if first approved, in a referendum conducted by the council, by a majority of the sector participants of the sector concerned voting and the majority collectively accounted for, in the twelve-month period immediately preceding the month in which the referendum is held, not less than sixty-six percent of the value of the fish or fish products described in accordance with section 4009(b)(3) of this title that were handled by that sector during such period.

(3) With respect to a quality standard adopted under paragraph (2) of this subsection, the council shall develop and file with the Secretary an official identification in the form of a symbol, stamp, label, or seal that will be used to indicate that a fish or fish product meets the quality standard at the time the official identification is affixed to the fish or fish product, or is affixed to or printed on the packaging material of the fish or fish product.

(4) The Secretary shall establish by regulation procedures for the use of an official identification filed with the Secretary under paragraph (3) of this subsection. Misuse of an official identification established under this section shall constitute a violation of this chapter.

(5) Prior to issuing final regulations under paragraph (4) of this subsection, the Secretary shall—

(A) publish the proposed regulations by such means as will result in wide publicity in affected regions; and

(B) provide for public comment and the opportunity for a public hearing.

(6) A council may receive, investigate and report to the Secretary accounts of violations of regulations issued under paragraph (4) of this subsection.

(7) Any regulation issued under paragraph (4) of this subsection shall be repealed immediately by the Secretary upon the termination under section 4015 of this title of the council that developed the official identification to which the regulations apply.

(8) The procedures applicable to the adoption and the taking effect of a quality standard developed under this subsection also apply to a subsequent amendment or the termination of such standard.

(d) Amendment of a charter

A council may submit to the Secretary amendments to the text of the council's charter. Any proposed amendments to a charter shall be approved or disapproved in the same manner as the original charter was approved under section 4009(d) and (e) of this title, with the exception of section 4009(d)(1)(B) of this title.

(Pub. L. 99–659, title II, §211, Nov. 14, 1986, 100 Stat. 3724.)

§ 4011. Functions and powers of Secretary

(a) Duties of the Secretary

In addition to the duties prescribed under section 4009 of this title, the Secretary shall—

(1) review, for consistency with the provisions of this chapter and other applicable law, and approve or disapprove, marketing and promotion plans and budgets within sixty days after their submission by a council;

(2) immediately notify a council in writing of the disapproval of a marketing and promotion plan or budget, together with reasons for such disapproval;

(3) issue orders and amendments to such orders that are necessary to implement quality standards under section 4010(c) of this title;

(4) promulgate regulations necessary to carry out the purposes of this chapter;

(5) enforce the provisions of this chapter, as provided under section 4016 of this title; and

(6) make all appointments to councils in accordance with section 4009(f) of this title.

(b) Assistance

The Secretary may provide, on a reimbursable or other basis, such administrative or technical assistance as a council may request for purposes of the initial organization and subsequent operation of the council.

(Pub. L. 99–659, title II, § 212, Nov. 14, 1986, 100 Stat. 3726.)

§ 4012. Assessments

(a) Authority

A council shall impose and administer the collection of the assessments that are necessary to pay for all expenses incurred by the council in carrying out its functions under this chapter.

(b) Method of imposition

(1) Assessments shall be imposed on sector participants in the receiving sector or the importing sector, or both, as specified in an approved council charter.

(2) An assessment on sector participants in the receiving sector shall be—

(A) except for an owner of a fish processing vessel, in the form of a percentage of the value of the fish described in accordance with section 4009(b)(3) of this title when purchased by such participants from fish harvesters; and

(B) for an owner of a fish processing vessel, in the form of a percentage of the value of the fish described in accordance with section 4009(b)(3) of this title and harvested by such a vessel that is no less than the value of such fish, if such fish had been purchased by a receiver other than an owner of such a vessel.

(3) An assessment on sector participants in the importing sector shall be in the form of a percentage of the value, as determined for the purposes of the customs laws, of the fish or fish products described in accordance with section 4009(b)(3) of this title when entered, or withdrawn from warehouse for consumption, in the customs territory of the United States by such sector participants.

(c) Prohibition on assessment

A council may not impose an assessment on any person that was not eligible to vote in the referendum establishing the council under section 4009(e) of this title by reason of failure to meet the requirements specified under section 4009(b)(6) of this title, unless such person, after the date on which such referendum is held, meets the requirements of section 4009(b)(6) of this title.

(d) Voluntary payments

Any person may make voluntary payments or in-kind contributions to a council for purposes of assisting the council in carrying out its functions.

(e) Deposit of funds

All funds collected or received by a council under this section shall be deposited by the council in an appropriate account in the name of the council specified in its charter. Funds eligible to be collected or received by a council shall be limited to those authorized under this section.

(f) Information

(1) Sector participants shall make available to the Secretary such information and data as is necessary for the effectuation, administration or enforcement of this chapter or any order or regulation issued pursuant to this chapter. Except as provided in paragraphs (2) and (3) of this subsection, any information obtained in carrying out this subsection shall be kept confidential by all officers and employees of the Department of Commerce, independent accountants and other persons who have access to such information.

(2) If the Secretary or an employee of the United States Government is a party to a suit or administrative action involving an assessment, order, or regulation issued under this chapter, the Secretary may disclose information obtained under paragraph (1) of this subsection to the extent allowed by the judicial or administrative officer presiding over such suit or action.

(3) This subsection shall not prohibit—

(A) the issuance of general or statistical statements based upon reports of a number of persons subject to the provisions of this chapter which do not identify the information furnished by any person; or

(B) the publication by direction of the Secretary of the name of any person violating a requirement relating to an assessment imposed under subsection (a) of this section or to quality standards implemented by the Secretary under section 4010(c) of this title, and a statement of the particular provisions of the requirement violated by such person.

(4) Any individual who is required to keep information confidential under this subsection and who knowingly violates this subsection shall, upon conviction, be—

(A) subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or both; and

(B) removed from office if an officer or employee of a council or the Department of Commerce.

(Pub. L. 99–659, title II, § 213, Nov. 14, 1986, 100 Stat. 3727.)

§ 4013. Petitions

(a) Filing of petition

Any person subject to assessment under section 4012 of this title may file a written petition with the Secretary alleging that—

(1) the assessment,

(2) the plan approved under section 4011(a)(1) of this title on which the assessment is based, or

(3) any obligation imposed under the plan,

is not in accordance with law and requesting the Secretary to modify or take other appropriate action regarding the assessment or plan.

(b) Form of petition

Any such petition shall be in writing and filed within the period prescribed by the Secretary. A

person who files a petition under this section shall be given an opportunity for a hearing regarding the petition in accordance with regulations issued by the Secretary. After such a hearing, or if no hearing is requested, after consideration of all documentation and other evidence, the Secretary shall make a ruling upon such petition.

(Pub. L. 99–659, title II, § 214, Nov. 14, 1986, 100 Stat. 3728.)

§ 4014. Refunds

Notwithstanding any other provision of this chapter, any person who pays an assessment under this chapter may demand and shall promptly receive from the council a refund of such assessment. A demand for refund must be made in accordance with the procedures, and within such time, as shall be prescribed by the council and approved by the Secretary. Procedures to provide such a refund shall be established before any such assessment may be collected. Such procedures shall allow any person to request a refund for not less than ninety days from such collection, and provide that any such refund shall be made within sixty days after demand for such refund is made.

(Pub. L. 99–659, title II, § 215, Nov. 14, 1986, 100 Stat. 3728.)

§ 4015. Termination of a council

(a) Petition for termination

(1) A petition to terminate a council may be filed with the Secretary by no less than three sector participants in any one sector. Any petition filed under this subsection shall be accompanied by a written document explaining the reasons for such petition.

(2) If the Secretary determines that a petition filed under paragraph (1) of this subsection is accompanied by the signatures, or corporate certifications, as the case may be, of no less than three sector participants in a sector referred to in paragraph (1) of this subsection who collectively accounted for, in the twelve-month period immediately preceding the month in which such petition was filed, not less than 20 percent of the value of the fish or fish products described in accordance with section 4009(b)(3) of this title that were handled by that sector during such period, the Secretary, within 90 days after such determination, shall conduct a referendum for termination of the council among all sector participants in that sector.

(3) Not less than 30 days prior to holding a referendum under this subsection, the Secretary shall publish a notice of such referendum, including the document explaining the reasons for the petition filed under paragraph (1) of this subsection and any other relevant information the Secretary considers appropriate.

(4) If the referendum votes which are cast in favor of terminating the council constitute a majority of the sector participants voting and the majority, in the period referred to in paragraph (2) of this subsection, collectively accounted for not less than sixty-six percent of the value of such fish and fish products that were handled during such period by a sector referred to in paragraph (1) of this subsection, the Secretary shall by order terminate the council effective as of a date by which the affairs of the council may be concluded on an orderly basis.

(5) The Secretary initially shall pay all costs of a referendum conducted under this subsection. Prior to conducting such a referendum, the Secretary shall require petitioners to post a bond or other security acceptable to the Secretary in an amount which the Secretary determines to be sufficient to pay any expenses incurred for the conduct of such referendum.

(6)(A) If a referendum conducted under this subsection fails to result in the termination of the council, the Secretary shall immediately recover the amount of the bond posted by petitioners under paragraph (5) of this subsection.

(B) If a referendum conducted under this subsection results in the termination of the council, the Secretary shall recover the expenses incurred for the conduct of the referendum from the account established by the council under section 4012(e) of this title. If the amount remaining in such account is insufficient for the Secretary to recover all expenses incurred for the conduct of the referendum, the Secretary shall recover the balance of such expenses from the petitioners that posted a bond under paragraph (5) of this subsection.

(b) Payment of remaining funds

If a council is terminated under subsection (a) of this section, the Secretary, after recovering all expenses incurred for the conduct of the referendum under subsection (a) of this section, shall take such action as is necessary and practicable to ensure that moneys remaining in the account established by the council under section 4012(e) of this title are paid on a prorated basis to the sector participants from whom those moneys were collected under section 4012 of this title.

(Pub. L. 99–659, title II, § 216, Nov. 14, 1986, 100 Stat. 3728.)

§ 4016. Enforcement

(a) Authority

(1) The district courts of the United States shall have jurisdiction specifically to enforce and to prevent and restrain any person from violating any assessment, order or regulation made or issued under this chapter.

(2)(A) If a council has reason to believe that a person subject to an assessment, order or regulation made or issued under this chapter is violating such assessment, order or regulation, it may refer the matter to the Secretary.

(B) Except as provided in subparagraphs (C) or (D) of this paragraph, any civil action authorized to be brought under this subsection, when referred by a council under subparagraph (A) of this paragraph, shall be referred to the Attorney General for appropriate action.

(C) If the Secretary believes that the administration and enforcement of the provisions of this chapter would be adequately served by taking administrative action under subsection (b) of this section or by providing written notice or warning to any person committing a violation of this chapter, the Secretary is not required to refer such violation to the Attorney General.

(D) Whenever a matter has been referred by a council under subparagraph (A) of this paragraph and the Secretary or the Attorney General fails within 60 days of such referral to take appropriate action, the council may, upon filing notice with the Secretary or Attorney General, as appropriate, and other interested parties, bring an action in its own name.

(b) Recovery of costs

(1)(A) When a council brings an action under subsection (a)(2) of this section, the council may recover costs of litigation and, where the action is brought to collect an unpaid assessment, interest from the date the amount became due and payable.

(B) Any person who violates any provision of an order (including a cease and desist order previously issued under this paragraph) or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment required under this chapter, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense. In addition to, or in lieu of, a civil penalty under this subparagraph, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(C) No penalty shall be assessed, or cease and desist order issued, under this paragraph unless the affected person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(D) Any order of the Secretary under this paragraph assessing a penalty or imposing a cease and desist order shall be final and conclusive, unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(2)(A) Any person against whom a violation is found under paragraph (1) of this subsection may obtain review of such action in the United States court of appeals for the circuit in which such person resides or has his place of business, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days after the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary.

(B) The Secretary shall promptly file in the court a certified copy of the record upon which such violation was found.

(C) The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence or not in accordance with law.

(3)(A) If any person fails to pay a civil penalty under this subsection after it has become final, the Secretary shall refer the matter to the Attorney General.

(B) The Attorney General shall institute appropriate action to recover the amount assessed under this subsection in a district court of the United States.

(C) If, within sixty days after such referral, the Attorney General fails to institute such appropriate action, the council to whose programs the assessment, order or regulation relates may institute an action in its own name.

(Pub. L. 99–659, title II, § 217, Nov. 14, 1986, 100 Stat. 3730.)

§ 4017. Investigations

(a) Authority to make investigations

The Secretary may make such investigations as the Secretary determines necessary to—

(1) carry out the Secretary's responsibilities under this chapter; and

(2) determine whether any person has engaged in any act or practice which constitutes a violation of the provisions of this chapter.

(b) Oaths and affirmations

For the purpose of investigations under subsection (a) of this section, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. The attendance of such witnesses and the production of any such records may be required from any place in the United States.

(c) Court orders

In case of contumacy or refusal to obey a subpoena issued under this section by any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or has his business, to require the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony relating to the matter under investigation.

(Pub. L. 99–659, title II, § 218, Nov. 14, 1986, 100 Stat. 3731.)

CHAPTER 61—INTERJURISDICTIONAL FISHERIES

Sec.
4101. Congressional statement of purposes.
4102. Definitions.
4103. Apportionment.
4104. State projects.
4105. Property.
4106. Reports to Congress.
4107. Authorization of appropriations.

§ 4101. Congressional statement of purposes

The purposes of this chapter are—

(1) to promote and encourage State activities in support of the management of interjurisdictional fishery resources;

(2) to promote and encourage management of interjurisdictional fishery resources throughout their range; and

(3) to promote and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of interjurisdictional fishery resources throughout their range.

(Pub. L. 99–659, title III, § 302, Nov. 14, 1986, 100 Stat. 3732; Pub. L. 107–372, title III, § 302(b), Dec. 19, 2002, 116 Stat. 3095.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title III of Pub. L. 99–659, Nov. 14,

1986, 100 Stat. 3731, which is classified principally to this chapter. For complete classification of title III to the Code, see Short Title note set out below and Tables.

AMENDMENTS

2002—Par. (3). Pub. L. 107–372 added par. (3).

EFFECTIVE DATE

Section 310 of title III of Pub. L. 99–659 provided that: ''This title [enacting this chapter and repealing chapter 10D (§ 779 et seq.) of this title] takes effect October 1, 1987.''

SHORT TITLE

Section 301 of title III of Pub. L. 99–659 provided that: ''This title [enacting this chapter and repealing chapter 10D (§ 779 et seq.) of this title] may be cited as the 'Interjurisdictional Fisheries Act of 1986'.''

§ 4102. Definitions

For the purposes of this chapter:

(1) The term ''Federal fishery management plan'' means a plan developed under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) The term ''fishery resource'' means finfish, mollusks, crustaceans, and any other form of marine animal or plant life, other than marine mammals and birds.

(3) The term ''interjurisdictional fishery resource'' means—

(A) a fishery resource for which a fishery occurs in waters under the jurisdiction of one or more States and the exclusive economic zone established by Proclamation Numbered 5030, dated March 10, 1983;

(B) a fishery resource for which there exists an interstate fishery management plan; or

(C) a fishery resource which migrates between the waters under the jurisdiction of two or more States bordering on the Great Lakes.

For purposes of applying section 4104(a)(3) of this title during fiscal year 1987, a Federal fishery management plan or an interstate fishery management plan for the fishery resource need not be in existence, but a plan of either kind for that resource must be in the development process during that year.

(4) The term ''interstate fishery management plan'' means a plan for managing fisheries developed and adopted by an interstate commission.

(5) The term ''interstate commission'' means a commission or other administrative body established by an interstate compact.

(6) The term ''interstate compact'' means a compact that has been entered into by two or more States, established for the purposes of conserving and managing interjurisdictional fishery resources throughout their range, and consented to and approved by Congress.

(7) The term ''project'' means a program for research in support of the management of an interjurisdictional fishery resource or an interstate cooperative fishery management agreement.

(8) The term ''Secretary'' means the Secretary of Commerce.

(9) The term ''State'' means any of the several States of the United States, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, or the Northern Mariana Islands.

(10) The term ''State agency'' means any department, agency, commission, or official of a State authorized under the laws of the State to regulate commercial fisheries or enforce laws relating to commercial fisheries.

(Pub. L. 99–659, title III, § 303, Nov. 14, 1986, 100 Stat. 3732; Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title III of Pub. L. 99–659, Nov. 14, 1986, 100 Stat. 3731, which is classified principally to this chapter. For complete classification of title III to the Code, see Short Title note set out under section 4101 of this title and Tables.

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in par. (1), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Proclamation Numbered 5030, referred to in par. (3)(A), is set out under section 1453 of this title.

AMENDMENTS

1996—Par. (1). Pub. L. 104–208 substituted ''Magnuson-Stevens Fishery'' for ''Magnuson Fishery''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, § 211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

§ 4103. Apportionment

(a) Time when apportionments made

Funds appropriated under section 4107(a) of this title shall be apportioned by the Secretary among the States on October 1 of each fiscal year, or as soon thereafter as practicable.

(b) Apportionment formula

The amount of funds apportioned to each State shall be determined by the Secretary as the ratio which the equally weighted average of the volume and value of fishery resources harvested by domestic commercial fishermen and received within such State during the 3 most recent calendar years for which data satisfactory to the Secretary are available bears to the total equally weighted average of the volume and value of all fishery resources harvested by domestic commercial fishermen received within all of the States during those calendar years.

(c) Limitations

(1) No State may receive an apportionment under subsection (b) of this section for either fiscal year 1987 or fiscal year 1988 which is less than one-half of one percent of the total amount of funds available for that fiscal year.

(2) For any fiscal year after fiscal year 1988, no State that, under the apportionment formula in subsection (b) of this section, has a ratio of one-third of one percent or higher may receive an apportionment for any fiscal year which is less than one percent of the total amount of funds available for that fiscal year.

(3) For any fiscal year after fiscal year 1988, no State may receive an apportionment under this section for any fiscal year if that State's ratio under the apportionment formula in subsection (b) of this section is less than one-third of one percent, unless the State—

(A) is signatory to an interstate fishery compact;

(B) has entered into an agreement with the Secretary or the Secretary of the Interior under which the personnel, services, and equipment of the State and the Federal agency concerned will be made mutually available for the enforcement of Federal and State laws pertaining to the protection of fishery resources which are managed under an interstate fishery management plan;

(C) borders one or more of the Great Lakes; or

(D) has entered into an interstate cooperative fishery management agreement and has in effect an interstate fisheries management or interstate fisheries research program.

(4) No State that, under the apportionment formula in subsection (b) of this section, has a ratio of less than one-third of one percent and meets any of the requirements set forth in paragraph (1)(A), (B), (C), or (D) may receive an apportionment for any fiscal year which is less than one-half of one percent of the total amount of funds available for apportionment for such fiscal year.

(5) No State may receive an apportionment for any fiscal year under this section which is more than 6 percent of the total amount of funds available for apportionment for such fiscal year.

(d) Unused apportionments

Any part of an apportionment for any fiscal year to any State—

(1) that is not obligated during that year;

(2) with respect to which the State notifies the Secretary that it does not wish to receive that part; or

(3) that is returned to the Secretary by the State,

may not be considered to be apportioned to that State and shall be added to such funds as are appropriated pursuant to section 4107(a) of this title for the next fiscal year (and shall be treated as having been appropriated for such next year) for apportionment under subsection (a) of this section. Any notification or return of funds referred to in paragraph (2) or (3) by a State is irrevocable.

(Pub. L. 99–659, title III, § 304, Nov. 14, 1986, 100 Stat. 3733; Pub. L. 101–627, title V, § 501, Nov. 28, 1990, 104 Stat. 4462.)

AMENDMENTS

1990—Subsec. (c)(3)(B). Pub. L. 101–627 inserted ''which are managed under an interstate fishery management plan'' before semicolon at end.

§ 4104. State projects

(a) In general

(1) Any State may, through its State agency or an interstate commission, submit to the Secretary a proposal for a project which includes full plans, specifications, and cost estimates for such project. The total cost of all items included for engineering, planning, inspection, and unforeseen contingencies in connection with any works to be constructed as part of such a proposed project shall not exceed 10 percent of the total cost of such works, and shall be paid by the State as a part of its contribution to the total cost of the works.

(2) No part of any funds appropriated under any authorization contained in section 4107 of this title may be obligated with respect to any project until the proposal for such project has been submitted under paragraph (1) and approved by the Secretary. The Secretary, before approving any proposal for a project, must evaluate the proposal as to—

(A) the soundness of design;

(B) the possibilities of securing productive results;

(C) the minimization of duplication with other research projects in support of the management of interjurisdictional fishery resources and carried out under this chapter or under any other law or regulation;

(D) the organization and management of the project;

(E) the methods proposed for monitoring and evaluating the success or failure of the project;

(F) the consistency of the project with the purposes of this chapter specified in section 4101 of this title; and

(G) such other criteria as the Secretary may prescribe.

(3) The Federal share of the cost of any project conducted under this chapter shall not exceed 75 percent of the total estimated cost of the project, unless—

(A) the State has adopted an interstate fishery management plan for the resource to which the project applies; or

(B) the State has adopted fishery regulations which the Secretary has determined are consistent with any Federal fishery management plan for the species to which the project applies;

in which case the Federal share shall not exceed 90 percent of the total estimated cost of the project.

(4)(A) If the Secretary approves or disapproves a proposal for a project, the Secretary shall promptly give written notification, including, if disapproved, a detailed explanation of the reasons for the disapproval, to the State agency submitting the proposal or, if the proposal is submitted through an interstate commission, such commission and the State.

(B) For the purposes of this chapter, funds apportioned under this section to any State shall be treated as having been obligated with respect to a project during the fiscal year in which the written notification of approval required under subparagraph (A) for the project proposal is made.

(b) Restriction

The expenditure of funds under this chapter shall be applied only to projects for which a proposal has been approved under subsection (a) of this section, except that up to $25,000 each fiscal

year may be obligated for a State to carry out an agreement with the Secretary or the Secretary of the Interior under which the personnel, services and equipment of the State and the Federal agency concerned will be made mutually available for the enforcement of Federal and State laws pertaining to the protection of fishery resources. If otherwise applied, such funds shall be replaced by the State before the State may receive any additional funds under this chapter.

(c) Payment

When the Secretary determines that a project carried out under a proposal approved by the Secretary has been completed, or where the Secretary otherwise deems it appropriate, the Secretary shall cause to be paid to the proper authority of the State, or to the official or depository designated by the interstate commission if the State agency specifies that payment is to be made to the interstate commission, the Federal share of the project. Any payment made to an interstate commission shall be charged against the apportionment of the State concerned.

(Pub. L. 99–659, title III, §305, Nov. 14, 1986, 100 Stat. 3734.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2)(C), (F), (3), (4)(B) and (b), was in the original ''this title'', meaning title III of Pub. L. 99–659, Nov. 14, 1986, 100 Stat. 3731, which is classified principally to this chapter. For complete classification of title III to the Code, see Short Title note set out under section 4101 of this title and Tables.

§ 4105. Property

(a) Application of Federal and State laws

All work, including the furnishing of labor and materials, needed to complete any project approved by the Secretary shall be performed in accordance with applicable Federal and State laws under the direct supervision of the State agency, and in accordance with regulations as the Secretary may prescribe.

(b) Title

Title to all property, real and personal, acquired for the purposes of completing any project approved by the Secretary vests in the State.

(c) Disposal

If a State disposes of any real or personal property acquired under this chapter, the State shall pay into the Treasury of the United States the amount of any proceeds resulting from the property disposed to the extent of and in the same ratio that funds provided under this chapter were used in the acquisition of the property. In no case shall the amount paid into the Treasury of the United States under this section exceed the amount of funds provided by this chapter for the acquisition of the property involved.

(Pub. L. 99–659, title III, §306, Nov. 14, 1986, 100 Stat. 3735.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original ''this title'', meaning title III of Pub. L. 99–659, Nov. 14, 1986, 100 Stat. 3731, which is classified principally to this chapter. For complete classification of title III to the Code, see Short Title note set out under section 4101 of this title and Tables.

§ 4106. Reports to Congress

After consultation with the States receiving funds under this chapter and with any interstate commission involved in carrying out a project under this chapter, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 90 days after the end of the fiscal year 1988, and each second fiscal year occurring after that fiscal year, a report which contains—

(1) a description of each project and law enforcement effort receiving funds under this chapter during the last 2 fiscal years ending before such report is submitted;

(2) a specification of the total amount of funds from the Federal Government and the total amount of funds from each State spent on each project and a law enforcement effort receiving funds under this chapter during the last 2 fiscal years ending before such report is submitted;

(3) an assessment of each project and law enforcement effort receiving funds under this chapter during the last 2 fiscal years ending before such report is submitted to determine whether such project is furthering the purposes of this chapter; and

(4) a statement specifying all funds which have been apportioned pursuant to section 4104(a) of this title and are available for obligation by a State or the Secretary but which have not been obligated.

(Pub. L. 99–659, title III, §307, Nov. 14, 1986, 100 Stat. 3735.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title III of Pub. L. 99–659, Nov. 14, 1986, 100 Stat. 3731, which is classified principally to this chapter. For complete classification of title III to the Code, see Short Title note set out under section 4101 of this title and Tables.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 4107. Authorization of appropriations

(a) General appropriations

There are authorized to be appropriated to the Secretary of Commerce for apportionment to

carry out the purposes of this chapter $5,000,000 for each of fiscal years 2007 through 2010, and $2,500,000 for each of fiscal years 2011 and 2012.

(b) Additional appropriations

In addition to the amounts authorized in subsection (a) of this section, there are authorized to be appropriated to the Department of Commerce $65,000,000 for each of the fiscal years 1994 and 1995, which shall be available in such amounts as the Secretary may determine appropriate for the purposes of this chapter; except that—

(1) in providing funds to States under this subsection, the Secretary shall give a preference to those States regarding which the Secretary determines there is a commercial fishery failure or serious disruption affecting future production due to a fishery resource disaster arising from natural or undetermined causes, and any sums made available under this subsection may be used either by the States or directly by the Secretary in cooperation with the States for any purpose that the Secretary determines is appropriate to restore the fishery affected by such a failure or to prevent a similar failure in the future;

(2) the funds authorized to be appropriated under this subsection shall not be available to the Secretary for use as grants for chartering fishing vessels; and

(3) the Federal share of the cost of any activity carried out with an amount appropriated under the authority of this subsection shall be 75 percent of the cost of that activity.

Amounts appropriated under this subsection shall remain available until expended.

(c) Development of management plans

In addition to the amounts authorized under subsections (a) and (b) of this section, there are authorized to be appropriated to the Department of Commerce $900,000 for each of fiscal years 2007 through 2012, to support the efforts of the following interstate commissions to develop interstate fishery management plans for interjurisdictional fishery resources:

(1) The commission established by the Atlantic States Marine Fisheries Compact, as consented to and approved by Public Law 77–539 (56 Stat. 267), approved May 4, 1942.

(2) The commission established by the Pacific Marine Fisheries Compact, as consented to and approved by Public Law 80–232 (61 Stat. 419), approved July 24, 1947.

(3) The commission established by the Gulf States Marine Fisheries Compact, as consented to and approved by Public Law 81–66 (63 Stat. 70), approved May 19, 1949.

(d) Assistance to commercial fishermen

(1) In addition to the amounts authorized under subsections (a), (b), and (c) of this section, there are authorized to be appropriated to the Department of Commerce $65,000,000 for fiscal year 1992 to enable the Secretary to help persons engaged in commercial fisheries, either by providing assistance directly to those persons or by providing assistance indirectly through States and local government agencies and nonprofit organizations, for projects or other measures to alleviate harm determined by the Secretary to have been incurred as a direct result of a fishery resource disaster arising from Hurricane Hugo, Hurricane Andrew, Hurricane Iniki, or any other natural disaster. Amounts appropriated under this subsection shall remain available until expended.

(2) The Secretary shall determine the extent, and the beginning and ending dates, of any fishery resource disaster under this subsection.

(3) Eligibility for direct assistance to a person under this subsection shall be limited to any person that has less than $2,000,000 in net revenues annually from commercial fishing, as determined by the Secretary.

(4)(A) Assistance may not be provided under this subsection as part of a fishing capacity reduction program in a fishery unless the Secretary determines that adequate conservation and management measures are in place in that fishery.

(B) As a condition of awarding assistance with respect to a vessel under a fishing capacity reduction program, the Secretary shall—

(i) prohibit the vessel from being used for fishing; and

(ii) require that the vessel be—

(I) scrapped or otherwise disposed of in a manner approved by the Secretary; or

(II) donated to a nonprofit organization and thereafter used only for purposes of research, education, or training; or

(III) used for another non-fishing purpose provided the Secretary determines that adequate measures are in place to ensure that the vessel cannot reenter any fishery.

(C) A vessel that is prohibited from fishing under subparagraph (B) shall not be eligible for a fishery endorsement under section 12113(a) of title 46 and any such endorsement for the vessel shall not be effective.

(5) The Secretary shall establish, after notice and opportunity for public comment, appropriate limitations, terms, and conditions for receiving assistance under this subsection.

(6) As used in this subsection, the term ''person'' means any individual or any corporation, partnership, trust, association, or other nongovernmental entity.

(7) With respect to funds available for the New England region, the Secretary shall submit to the Congress by January 1, 1997, with annual updates thereafter as appropriate, a report on the New England fishing capacity reduction initiative which provides—

(A) the total number of Northeast multispecies permits in each permit category and calculates the maximum potential fishing capacity of vessels holding such permits based on the principal gear, gross registered tonnage, engine horsepower, length, age, and other relevant characteristics;

(B) the total number of days at sea available to the permitted Northeast multispecies fishing fleet and the total days at sea weighted by the maximum potential fishing capacity of the fleet;

(C) an analysis of the extent to which the weighted days at sea are used by the active participants in the fishery and of the reduction in such days as a result of the fishing capacity reduction program; and

(D) an estimate of conservation benefits (such as reduction in fishing mortality) directly attributable to the fishing capacity reduction program.

(Pub. L. 99–659, title III, § 308, Nov. 14, 1986, 100 Stat. 3736; Pub. L. 101–627, title V, §§ 502, 503, Nov. 28, 1990, 104 Stat. 4463; Pub. L. 102–396, title IX, § 9135, Oct. 6, 1992, 106 Stat. 1937; Pub. L. 103–206, title VIII, § 811, Dec. 20, 1993, 107 Stat. 2454; Pub. L. 103–238, § 21, Apr. 30, 1994, 108 Stat. 561; Pub. L. 104–134, title I, § 101[(a)] [title II, § 211], Apr. 26, 1996, 110 Stat. 1321, 1321–31; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104–297, title IV, § 402, Oct. 11, 1996, 110 Stat. 3618; Pub. L. 107–372, title III, § 302(a), Dec. 19, 2002, 116 Stat. 3094; Pub. L. 109–479, title III, § 302(g), Jan. 12, 2007, 120 Stat. 3624; Pub. L. 111–348, title I, § 104, Jan. 4, 2011, 124 Stat. 3671.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original ''this title'', meaning title III of Pub. L. 99–659, Nov. 14, 1986, 100 Stat. 3731, which is classified principally to this chapter. For complete classification of title III to the Code, see Short Title note set out under section 4101 of this title and Tables.

Public Law 77–539, referred to in subsec. (c)(1), is act May 4, 1942, ch. 283, 56 Stat. 267, which is not classified to the Code.

Public Law 80–232, referred to in subsec. (c)(2), is act July 24, 1947, ch. 316, 61 Stat. 419, which is not classified to the Code.

Public Law 81–66, referred to in subsec. (c)(3), is act May 19, 1949, ch. 128, 63 Stat. 70, which is not classified to the Code.

CODIFICATION

In subsec. (d)(4)(C), ''section 12113(a) of title 46'' substituted for ''section 12108(a) of title 46, United States Code,'' on authority of Pub. L. 109–304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 12113 of Title 46, Shipping.

AMENDMENTS

2011—Subsec. (a). Pub. L. 111–348 substituted ''2010, and $2,500,000 for each of fiscal years 2011 and 2012.'' for ''2012.''

2007—Subsec. (a). Pub. L. 109–479, § 302(g)(1), added subsec. (a) and struck out former subsec. (a) which read as follows: ''There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this chapter—

''(1) $5,400,000 for each of fiscal years 2003 and 2004; and

''(2) $5,900,000 for each of fiscal years 2005 and 2006.''

Subsec. (c). Pub. L. 109–479, § 302(g)(2), substituted ''$900,000 for each of fiscal years 2007 through 2012'' for ''$850,000 for each of fiscal years 2003 and 2004, and $900,000 for each of fiscal years 2005 and 2006'' in introductory provisions.

2002—Subsec. (a). Pub. L. 107–372, § 302(a)(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this chapter—

''(1) $3,400,000 for fiscal year 1996;

''(2) $3,900,000 for fiscal year 1997;

''(3) $4,400,000 for each of the fiscal years 1998, 1999, and 2000.''

Subsec. (c). Pub. L. 107–372, § 302(a)(2), substituted ''$850,000 for each of fiscal years 2003 and 2004, and $900,000 for each of fiscal years 2005 and 2006'' for ''$700,000 for fiscal year 1997, and $750,000 for each of the fiscal years 1998, 1999, and 2000'' in introductory provisions.

1996—Subsec. (a). Pub. L. 104–297, § 402(a)(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this chapter $5,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995.''

Subsec. (c). Pub. L. 104–297, § 402(a)(2), substituted ''$700,000 for fiscal year 1997, and $750,000 for each of the fiscal years 1998, 1999, and 2000,'' for ''$350,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993, and $600,000 for each of the fiscal years 1994 and 1995,''.

Subsec. (d). Pub. L. 104–134, § 101[(a)] [title II, § 211(1)], substituted ''Assistance'' for ''Grants'' in heading.

Subsec. (d)(1). Pub. L. 104–134, § 101[(a)] [title II, § 211(2)], substituted ''help persons engaged in commercial fisheries, either by providing assistance directly to those persons or by providing assistance indirectly through States and local government agencies and nonprofit organizations, for projects or other measures to alleviate harm determined by the Secretary to have been incurred'' for ''award grants to persons engaged in commercial fisheries, for uninsured losses determined by the Secretary to have been suffered''.

Subsec. (d)(3). Pub. L. 104–134, § 101[(a)] [title II, § 211(3), (4)], substituted ''direct assistance to a person'' for ''a grant'' and ''net revenues annually from commercial fishing,'' for ''gross revenues annually,''.

Subsec. (d)(4). Pub. L. 104–134, § 101[(a)] [title II, § 211(5)], added par. (4) and struck former par. (4) which read as follows: ''A person may receive a grant under this subsection for up to 75 percent of any uninsured commercial fishery loss resulting from such a fishery resource disaster (to the extent that such losses have not been compensated by other Federal and State programs), but shall receive no more than $100,000 in the aggregate for all such losses suffered as a result of any particular fishery resource disaster.''

Subsec. (d)(5). Pub. L. 104–134, § 101[(a)] [title II, § 211(6)], substituted ''for receiving assistance under this subsection'' for ''for awarding grants under this subsection, including provisions specifying the means by which applicants must demonstrate claimed losses and limiting the aggregate amounts that may be paid to persons that are affiliated with each other or under common ownership.''

Subsec. (d)(7). Pub. L. 104–297, § 402(b), added par. (7).

1994—Subsec. (b). Pub. L. 103–238 substituted ''$65,000,000 for each of the fiscal years 1994 and 1995'' for ''$2,500,000 for each of the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995''.

1993—Subsec. (c). Pub. L. 103–206 inserted '', and $600,000 for each of the fiscal years 1994 and 1995,'' after ''and 1993''.

1992—Subsec. (d). Pub. L. 102–396 added subsec. (d).

1990—Subsec. (a). Pub. L. 101–627, § 503(1), substituted ''the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995'' for ''fiscal years 1987, 1988, and 1989''.

Subsec. (b). Pub. L. 101–627, §§ 502, 503(2), in introductory provisions substituted ''the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995'' for ''fiscal years 1988 and 1989'' and added par. (3).

Subsec. (c). Pub. L. 101–627, § 503(3), substituted ''the fiscal years 1989, 1990, 1991, 1992, and 1993'' for ''fiscal years 1988 and 1989''.

CHAPTER 62—AFRICAN ELEPHANT CONSERVATION

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§ 4201. Statement of purpose

The purpose of this chapter is to perpetuate healthy populations of African elephants.

(Pub. L. 100–478, title II, § 2002, Oct. 7, 1988, 102 Stat. 2315.)

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110–132, § 1, Dec. 6, 2007, 121 Stat. 1360, provided that: ''This Act [amending sections 4211, 4245, 5304, and 5306 of this title] may be cited as the 'Multinational Species Conservation Funds Reauthorization Act of 2007'.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–111, § 1, Jan. 8, 2002, 115 Stat. 2095, provided that: ''This Act [enacting section 4214 of this title, amending sections 4211, 4212, and 4244 to 4246 of this title, and repealing section 4243 of this title] may be cited as the 'African Elephant Conservation Reauthorization Act of 2001'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–217, § 1, Aug. 5, 1998, 112 Stat. 911, provided that: ''This Act [amending section 4245 of this title] may be cited as the 'African Elephant Conservation Reauthorization Act of 1998'.''

SHORT TITLE

Section 2001 of title II of Pub. L. 100–478 provided that: ''This title [enacting this chapter and amending section 1538 of this title] may be cited as the 'African Elephant Conservation Act'.''

§ 4202. Findings

The Congress finds the following:

(1) Elephant populations in Africa have declined at an alarming rate since the mid-1970's.

(2) The large illegal trade in African elephant ivory is the major cause of this decline and threatens the continued existence of the African elephant.

(3) The African elephant is listed as threatened under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and its continued existence will be further jeopardized if this decline is not reversed.

(4) Because African elephant ivory is indistinguishable from Asian elephant ivory, there is a need to ensure that the trade in African elephant ivory does not further endanger the Asian elephant, which is listed as endangered under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) and under Appendix I of CITES.

(5) In response to the significant illegal trade in African elephant ivory, the parties to CITES established the CITES Ivory Control System to curtail the illegal trade and to encourage African countries to manage, conserve, and protect their African elephant populations.

(6) The CITES Ivory Control System entered into force recently and should be allowed to continue in force for a reasonable period of time to assess its effectiveness in curtailing the illegal trade in African elephant ivory.

(7) Although some African countries have effective African elephant conservation programs, many do not have sufficient resources to properly manage, conserve, and protect their elephant populations.

(8) The United States, as a party to CITES and a large market for worked ivory, shares responsibility for supporting and implementing measures to stop the illegal trade in African elephant ivory and to provide for the conservation of the African elephant.

(9) There is no evidence that sport hunting is part of the poaching that contributes to the illegal trade in African elephant ivory, and there is evidence that the proper utilization of well-managed elephant populations provides an important source of funding for African elephant conservation programs.

(Pub. L. 100–478, title II, § 2003, Oct. 7, 1988, 102 Stat. 2315.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in par. (3), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

§ 4203. Statement of policy

It is the policy of the United States—

(1) to assist in the conservation and protection of the African elephant by supporting the conservation programs of African countries and the CITES Secretariat; and

(2) to provide financial resources for those programs.

(Pub. L. 100–478, title II, § 2004, Oct. 7, 1988, 102 Stat. 2316.)

SUBCHAPTER I—AFRICAN ELEPHANT CONSERVATION ASSISTANCE

§ 4211. Provision of assistance

(a) In general

The Secretary may provide financial assistance under this subchapter from the Fund for approved projects for research, conservation, management, or protection of African elephants.

(b) Project proposal

Any African government agency responsible for African elephant conservation and protection, the CITES Secretariat, and any organization or individual with experience in African elephant conservation may submit to the Secretary a project proposal under this section. Each such proposal shall contain—

(1) the name of the person responsible for conducting the project;

(2) a succinct statement of the need for and purposes of the project;

(3) a description of the qualifications of the individuals who will be conducting the project;

(4) an estimate of the funds and time required to complete the project;

(5) evidence of support of the project by governmental entities of countries within which the project will be conducted, if such support may be important for the success of the project; and

(6) any other information the Secretary considers to be necessary or appropriate for evaluating the eligibility of the project for funding under this chapter.

(c) Project review and approval

The Secretary shall review each project proposal to determine if it meets the criteria set forth in subsection (d) of this section and otherwise merits assistance under this chapter. Not later than six months after receiving a project proposal, and subject to the availability of funds, the Secretary shall approve or disapprove the proposal and provide written notification to the person who submitted the proposal.

(d) Criteria for approval

The Secretary may approve a project under this section if the project will enhance programs for African elephant research, conservation, management, or protection by—

(1) developing in a usable form sound scientific information on African elephant habitat condition and carrying capacity, total elephant numbers and population trends, or annual reproduction and mortality; or

(2) assisting efforts—

(A) to ensure that any taking of African elephants in the country is effectively controlled and monitored;

(B) to implement conservation programs to provide for healthy, sustainable African elephant populations; or

(C) to enhance compliance with the CITES Ivory Control System.

(e) Project sustainability

To the maximum extent practical, in determining whether to approve project proposals under this section, the Secretary shall give consideration to projects that will enhance sustainable conservation programs to ensure effective long-term conservation of African elephants.

(f) Project reporting

Each entity that receives assistance under this section shall provide such periodic reports to the Director of the United States Fish and Wildlife Service as the Director considers relevant and appropriate. Each report shall include all information requested by the Director for evaluating the progress and success of the project.

(Pub. L. 100–478, title II, §2101, Oct. 7, 1988, 102 Stat. 2316; Pub. L. 107–111, §§5, 6(a)(1), Jan. 8, 2002, 115 Stat. 2096; Pub. L. 110–132, §2(a), Dec. 6, 2007, 121 Stat. 1360.)

AMENDMENTS

2007—Subsec. (c). Pub. L. 110–132, struck out ''and to each country within which the project is proposed to be conducted'' before period at end in second sentence.

2002—Subsec. (a). Pub. L. 107–111, §6(a)(1), struck out ''African Elephant Conservation'' before ''Fund''.

Subsecs. (e), (f). Pub. L. 107–111, §5, added subsec. (e) and redesignated former subsec. (e) as (f).

§ 4212. Acceptance and use of donations

The Secretary may accept and use donations of funds to provide assistance under this subchapter. Amounts received by the Secretary in the form of such donations shall be transferred by the Secretary to the Secretary of the Treasury for deposit into the Fund.

(Pub. L. 100–478, title II, §2102, Oct. 7, 1988, 102 Stat. 2317; Pub. L. 107–111, §6(a)(2), Jan. 8, 2002, 115 Stat. 2096.)

AMENDMENTS

2002—Pub. L. 107–111 redesignated heading and text of subsec. (d) as entire section and struck out former section catchline and headings and text of subsecs. (a) to (c). Prior to amendment, text of subsecs. (a) to (c) related to establishment in the Treasury of the African Elephant Conservation Fund, consisting of deposits by the Secretary of the Treasury of unused funds from penalties under section 4224 of this title, donations under this section, and appropriations, to be used to provide assistance under this subchapter, with not more than three percent of appropriated funds per fiscal year used to administer the Fund.

§ 4213. Omitted

CODIFICATION

Section, Pub. L. 100–478, title II, §2103, Oct. 7, 1988, 102 Stat. 2317, which required the Secretary of the Interior to submit an annual report to Congress regarding the African Elephant Conservation Fund formerly established by section 4212 of this title and the status of the African elephant, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 107 of House Document No. 103–7.

§ 4214. Advisory group

(a) In general

To assist in carrying out this chapter, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of African elephants.

(b) Public participation

(1) Meetings

The Advisory Group[1] shall—

(A) ensure that each meeting of the advisory group is open to the public; and

(B) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(2) Notice

The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(3) Minutes

Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

[1] So in original. Probably should not be capitalized.

(c) Exemption from Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

(Pub. L. 100–478, title II, § 2104, as added Pub. L. 107–111, § 4, Jan. 8, 2002, 115 Stat. 2095; amended Pub. L. 107–141, § 5(b)(2)(A), Feb. 12, 2002, 116 Stat. 14.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–141 made technical amendment to reference in original act which appears in text as reference to this chapter.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–141, § 5(b)(2), Feb. 12, 2002, 116 Stat. 14, provided that the amendment by section 5(b)(2) of Pub. L. 107–141 is effective on the day after Jan. 8, 2002.

SUBCHAPTER II—MORATORIA AND PROHIBITED ACTS

§ 4221. Review of African elephant conservation programs

(a) In general

Within one month after October 7, 1988, the Secretary shall issue a call for information on the African elephant conservation program of each ivory producing country by—

(1) publishing a notice in the Federal Register requesting submission of such information to the Secretary by all interested parties; and

(2) submitting a written request for such information through the Secretary of State to each ivory producing country.

(b) Review and determination

(1) In general

The Secretary shall review the African elephant conservation program of each ivory producing country and, not later than one year after October 7, 1988, shall issue and publish in the Federal Register a determination of whether or not the country meets the following criteria:

(A) The country is a party to CITES and adheres to the CITES Ivory Control System.

(B) The country's elephant conservation program is based on the best available information, and the country is making expeditious progress in compiling information on the elephant habitat condition and carrying capacity, total population and population trends, and the annual reproduction and mortality of the elephant populations within the country.

(C) The taking of elephants in the country is effectively controlled and monitored.

(D) The country's ivory quota is determined on the basis of information referred to in subparagraph (B) and reflects the amount of ivory which is confiscated or consumed domestically by the country.

(E) The country has not authorized or allowed the export of amounts of raw ivory which exceed its ivory quota under the CITES Ivory Control System.

(2) Delay in issuing determination

If the Secretary finds within one year after October 7, 1988, that there is insufficient information upon which to make the determination under paragraph (1), the Secretary may delay issuing the determination until no later than December 31, 1989. The Secretary shall issue and publish in the Federal Register at the time of the finding a statement explaining the reasons for any such delay.

(Pub. L. 100–478, title II, § 2201, Oct. 7, 1988, 102 Stat. 2318.)

§ 4222. Moratoria

(a) Ivory producing countries

(1) In general

The Secretary shall establish a moratorium on the importation of raw and worked ivory from an ivory producing country immediately upon making a determination that the country does not meet all the criteria set forth in section 4221(b)(1) of this title.

(2) Later establishment

With regard to any ivory producing country for which the Secretary has insufficient information to make a determination pursuant to section 4221(b) of this title, the Secretary shall establish a moratorium on the importation of raw and worked ivory from such country not later than January 1, 1990, unless, based on new information, the Secretary concludes before that date that the country meets all of the criteria set forth in section 4221(b)(1) of this title.

(b) Intermediary countries

The Secretary shall establish a moratorium on the importation of raw and worked ivory from an intermediary country immediately upon making a determination that the country—

(1) is not a party to CITES;

(2) does not adhere to the CITES Ivory Control System;

(3) imports raw ivory from a country that is not an ivory producing country;

(4) imports raw or worked ivory from a country that is not a party to CITES;

(5) imports raw or worked ivory that originates in an ivory producing country in violation of the laws of that ivory producing country;

(6) substantially increases its imports of raw or worked ivory from a country that is subject to a moratorium under this chapter during the first three months of that moratorium; or

(7) imports raw or worked ivory from a country that is subject to a moratorium under this chapter after the first three months of that moratorium, unless the ivory is imported by vessel during the first six months of that moratorium and is accompanied by shipping documents which show that it was exported before the establishment of the moratorium.

(c) Suspension of moratorium

The Secretary shall suspend a moratorium established under this section if, after notice and

public comment, the Secretary determines that the reasons for establishing the moratorium no longer exist.

(d) Petition

(1) In general

Any person may at any time submit a petition in writing requesting that the Secretary establish or suspend a moratorium under this section. Such a petition shall include such substantial information as may be necessary to demonstrate the need for the action requested by the petition.

(2) Consideration and ruling

The Secretary shall publish a notice of receipt of a petition under this subsection in the Federal Register and shall provide an opportunity for the public to comment on the petition. The Secretary shall rule on such petition not later than 90 days after the close of the public comment period.

(e) Sport-hunted trophies

Individuals may import sport-hunted elephant trophies that they have legally taken in an ivory producing country that has submitted an ivory quota. The Secretary shall not establish any moratorium under this section, pursuant to a petition or otherwise, which prohibits the importation into the United States of sport-hunted trophies from elephants that are legally taken by the importer or the importer's principal in an ivory producing country that has submitted an ivory quota.

(f) Confiscated ivory

Trade in raw or worked ivory that is confiscated by an ivory producing country or an intermediary country and is disposed of pursuant to the CITES Ivory Control System shall not be the sole cause for the establishment of a moratorium under this subchapter if all proceeds from the disposal of the confiscated ivory are used solely to enhance wildlife conservation programs or conservation purposes of CITES. With respect to any country that was not a party to CITES at the time of such confiscation, this subsection shall not apply until such country develops appropriate measures to assure that persons with a history of illegal dealings in ivory shall not benefit from the disposal of confiscated ivory.

(Pub. L. 100–478, title II, § 2202, Oct. 7, 1988, 102 Stat. 2318.)

§ 4223. Prohibited acts

Except as provided in section 4222(e) of this title, it is unlawful for any person—

(1) to import raw ivory from any country other than an ivory producing country;

(2) to export raw ivory from the United States;

(3) to import raw or worked ivory that was exported from an ivory producing country in violation of that country's laws or of the CITES Ivory Control System;

(4) to import worked ivory, other than personal effects, from any country unless that country has certified that such ivory was derived from legal sources; or

(5) to import raw or worked ivory from a country for which a moratorium is in effect under section 4222 of this title.

(Pub. L. 100–478, title II, § 2203, Oct. 7, 1988, 102 Stat. 2320.)

§ 4224. Penalties and enforcement

(a) Criminal violations

Whoever knowingly violates section 4223 of this title shall, upon conviction, be fined under title 18 or imprisoned for not more than one year, or both.

(b) Civil violations

Whoever violates section 4223 of this title may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation.

(c) Procedures for assessment of civil penalty

Proceedings for the assessment of a civil penalty under this section shall be conducted in accordance with the procedures provided for in section 1540(a) of this title.

(d) Use of penalties

Subject to appropriations, penalties collected under this section may be used by the Secretary of the Treasury to pay rewards under section 4225 of this title and, to the extent not used to pay such rewards, shall be deposited by the Secretary of the Treasury into the Fund.

(e) Enforcement

The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this subchapter in the same manner such Secretaries carry out enforcement activities under section 1540(e) of this title. Section 1540(c) of this title shall apply to actions arising under this subchapter.

(Pub. L. 100–478, title II, § 2204, Oct. 7, 1988, 102 Stat. 2320.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 4225. Rewards

(a) In general

Upon the recommendation of the Secretary, the Secretary of the Treasury may pay a reward to any person who furnishes information which leads to a civil penalty or a criminal conviction under this chapter.

(b) Amount

The amount of a reward under this section shall be equal to not more than one-half of any criminal or civil penalty or fine with respect to which the reward is paid, or $25,000, whichever is less.

(c) Limitation on eligibility

An officer or employee of the United States or of any State or local government who furnishes

information or renders service in the performance of his or her official duties shall not be eligible for a reward under this section.

(Pub. L. 100–478, title II, § 2205, Oct. 7, 1988, 102 Stat. 2320.)

SUBCHAPTER III—MISCELLANEOUS

§ 4241. Relationship to Endangered Species Act of 1973

The authority of the Secretary under this chapter is in addition to and shall not affect the authority of the Secretary under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or diminish the Secretary's authority under the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

(Pub. L. 100–478, title II, § 2302, Oct. 7, 1988, 102 Stat. 2321.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in text, is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Lacey Act Amendments of 1981, referred to in text, is Pub. L. 97–79, Nov. 16, 1981, 95 Stat. 1073, which is classified principally to chapter 53 (§ 3371 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3371 of this title and Tables.

§ 4242. Certification under Pelly amendment

If the Secretary finds in administering this chapter that a country does not adhere to the CITES Ivory Control System, that country is deemed, for purposes of section 1978(a)(2) of title 22, to be diminishing the effectiveness of an international program for endangered or threatened species.

(Pub. L. 100–478, title II, § 2303, Oct. 7, 1988, 102 Stat. 2322.)

§ 4243. Repealed. Pub. L. 107–111, § 6(a)(3), Jan. 8, 2002, 115 Stat. 2096

Section, Pub. L. 100–478, title II, § 2304, Oct. 7, 1988, 102 Stat. 2322, directed Secretary to determine within 3 months after the 8th Conference of the Parties to CITES whether the importation of illegally harvested ivory into the United States had been substantially stopped, and upon a determination that it had not been substantially stopped, to recommend to Congress necessary legislation or other actions to achieve the purposes of this chapter.

§ 4244. Definitions

In this chapter—

(1) the term ''African elephant'' means any animal of the species loxodonta africana;

(2) the term ''CITES'' means the Convention on the International Trade in Endangered Species of Wild Fauna and Flora;

(3) the term ''CITES Ivory Control System'' means the ivory quota and marking system established by CITES to curtail illegal trade in African elephant ivory;

(4) the term ''Fund'' means the account established by division A, section 101(e), title I of Public Law 105–277 under the heading ''MULTINATIONAL SPECIES CONSERVATION FUND'' [16 U.S.C. 4246];

(5) the terms ''import'' and ''importation'' have the meanings such terms have in the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(6) the term ''intermediary country'' means a country that exports raw or worked ivory that does not originate in that country;

(7) the term ''ivory producing country'' means any African country within which is located any part of the range of a population of African elephants;

(8) the term ''ivory quota'' means a quota submitted by an ivory producing country to the CITES Secretariat in accordance with the CITES Ivory Control System;

(9) the term ''personal effects'' means articles which are not intended for sale and are part of a shipment of the household effects of a person who is moving his or her residence to or from the United States, or are included in personal accompanying baggage;

(10) the term ''raw ivory'' means any African elephant tusk, and any piece thereof, the surface of which, polished or unpolished, is unaltered or minimally carved;

(11) the term ''Secretary'' means the Secretary of the Interior;

(12) the term ''United States'' means the fifty States, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the territories and possessions of the United States; and

(13) the term ''worked ivory'' means any African elephant tusk, and any piece thereof, which is not raw ivory.

(Pub. L. 100–478, title II, § 2305, Oct. 7, 1988, 102 Stat. 2322; Pub. L. 107–111, § 6(a)(4), Jan. 8, 2002, 115 Stat. 2096.)

REFERENCES IN TEXT

Division A, section 101(e), title I of Public Law 105–277, referred to in par. (4), is Pub. L. 105–277, div. A, § 101(e) [title I], Oct. 21, 1998, 112 Stat. 2681–231, 2681–232. Provisions under the heading ''MULTINATIONAL SPECIES CONSERVATION FUND'' in Pub. L. 105–277, § 101(e) [title I] appear at 112 Stat. 2681–237, and are classified in part to section 4246 of this title.

The Endangered Species Act of 1973, referred to in par. (5), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

AMENDMENTS

2002—Par. (4). Pub. L. 107–111 substituted ''the account established by division A, section 101(e), title I of Public Law 105–277 under the heading 'MULTINATIONAL SPECIES CONSERVATION FUND''' for ''the African Elephant Conservation Fund established by section 4212 of this title''.

§ 4245. Authorization of appropriations

(a) In general

There is authorized to be appropriated to the Fund and to the Secretary a total of not to exceed $5,000,000 for each of fiscal years 2007 through 2012 to carry out this chapter, to remain available until expended.

(b) Administrative expenses

Of amounts available each fiscal year to carry out this chapter, the Secretary may expend not more than 3 percent or $100,000, whichever is greater, to pay the administrative expenses necessary to carry out this chapter.

(Pub. L. 100–478, title II, § 2306, Oct. 7, 1988, 102 Stat. 2323; Pub. L. 102–440, title III, § 302, Oct. 23, 1992, 106 Stat. 2234; Pub. L. 105–217, § 2, Aug. 5, 1998, 112 Stat. 911; Pub. L. 107–111, §§ 2, 3, Jan. 8, 2002, 115 Stat. 2095; Pub. L. 107–141, § 5(b)(2)(B), Feb. 12, 2002, 116 Stat. 14; Pub. L. 110–132, § 2(b), (c), Dec. 6, 2007, 121 Stat. 1360.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 110–132, § 2(c), substituted ''2007 through 2012'' for ''2001, 2002, 2003, 2004, 2005, 2006, and 2007''.

Subsec. (b). Pub. L. 110–132, § 2(b), substituted ''$100,000'' for ''$80,000''.

2002—Subsec. (b). Pub. L. 107–141 made technical amendment to reference in original act which appears in two places in text as reference to this chapter.

Pub. L. 107–111 designated existing provisions as subsec. (a), inserted heading, substituted ''is authorized'' for ''are authorized'' and ''2001, 2002, 2003, 2004, 2005, 2006, and 2007'' for ''1997, 1998, 1999, 2000, 2001, and 2002'', and added subsec. (b).

1998—Pub. L. 105–217 substituted ''fiscal years 1997, 1998, 1999, 2000, 2001, and 2002'' for ''fiscal years 1992, 1993, 1994, 1995, 1996, 1997, and 1998''.

1992—Pub. L. 102–440 substituted ''fiscal years 1992, 1993, 1994, 1995, 1996, 1997, and 1998'' for ''fiscal years 1989, 1990, 1991, 1992, and 1993''.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–141, § 5(b)(2), Feb. 12, 2002, 116 Stat. 14, provided that the amendment by section 5(b)(2) of Pub. L. 107–141 is effective on the day after Jan. 8, 2002.

§ 4246. Multinational Species Conservation Fund

In fiscal year 1999 and thereafter, donations to provide assistance under section 5304 of this title, part I of the African Elephant Conservation Act (16 U.S.C. 4211 et seq.), and section 4264 of this title shall be deposited to this Fund and shall be available without further appropriation: *Provided further*, That in fiscal year 1999 and thereafter, all penalties received by the United States under section 2204 of the African Elephant Conservation Act (16 U.S.C. 4224) which are not used to pay rewards under section 2205 of the African Elephant Conservation Act (16 U.S.C. 4225) shall be deposited to this Fund to provide assistance under section 2101 of the African Elephant Conservation Act (16 U.S.C. 4211) and shall be available without further appropriation: *Provided further*, That in fiscal year 1999 and thereafter, not more than three percent of amounts appropriated to this Fund may be used by the Secretary of the Interior to administer the Fund.

(Pub. L. 105–277, div. A, § 101(e) [title I], Oct. 21, 1998, 112 Stat. 2681–231, 2681–237; Pub. L. 107–111, § 6(b), Jan. 8, 2002, 115 Stat. 2096; Pub. L. 107–112, § 6(b), Jan. 8, 2002, 115 Stat. 2098; Pub. L. 107–141, § 5(b)(1), Feb. 12, 2002, 116 Stat. 14.)

REFERENCES IN TEXT

The African Elephant Conservation Act, referred to in text, is title II of Pub. L. 100–478, Oct. 7, 1988, 102 Stat. 2315, as amended. Part I of the Act is classified generally to subchapter I (§ 4211 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1999, and also as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, and not as part of the African Elephant Conservation Act which comprises this chapter.

AMENDMENTS

2002—Pub. L. 107–141 substituted ''section 5304 of this title, part I of the African Elephant Conservation Act (16 U.S.C. 4211 et seq.), and section 4264 of this title'' for ''section 5304 of the Rhinoceros and Tiger Conservation Act of 1994, part I of the African Elephant Conservation Act, and section 4265 of this title'', ''section 2204 of the African Elephant Conservation Act (16 U.S.C. 4224)'' for ''16 U.S.C. 4224'', ''section 2205 of the African Elephant Conservation Act (16 U.S.C. 4225)'' for ''16 U.S.C. 4225'', and ''section 2101 of the African Elephant Conservation Act (16 U.S.C. 4211)'' for ''16 U.S.C. 4211''.

Pub. L. 107–111 and Pub. L. 107–112 amended section identically, substituting ''Rhinoceros and Tiger Conservation Act of 1994, part I'' for ''Rhinoceros and Tiger Conservation Act, subchapter I''.

CHAPTER 62A—ASIAN ELEPHANT CONSERVATION

Sec.
4261. Findings.
4262. Purposes.
4263. Definitions.
4264. Asian elephant conservation assistance.
4265. Acceptance and use of donations.
4265a. Advisory group.
4266. Authorization of appropriations.

§ 4261. Findings

The Congress finds the following:

(1) Asian elephant populations in nations within the range of Asian elephants have continued to decline to the point that the long-term survival of the species in the wild is in serious jeopardy.

(2) The Asian elephant is listed as an endangered species under section 1533 of this title and under appendix I of the Convention on International Trade of Endangered Species of Wild Fauna and Flora.

(3) Because the challenges facing the conservation of Asian elephants are so great, resources to date have not been sufficient to cope with the continued loss of habitat and the consequent diminution of Asian elephant populations.

(4) The Asian elephant is a flagship species for the conservation of tropical forest habitats in which it is found and provides the consequent benefit from such conservation to numerous other species of wildlife including many other endangered species.

(5) Among the threats to the Asian elephant in addition to habitat loss are population fragmentation, human-elephant conflict, poaching for ivory, meat, hide, bones and teeth, and capture for domestication.

(6) To reduce, remove, or otherwise effectively address these threats to the long-term viability of populations of Asian elephants in the wild will require the joint commitment

and effort of nations within the range of Asian elephants, the United States and other countries, and the private sector.

(Pub. L. 105–96, § 2, Nov. 19, 1997, 111 Stat. 2150.)

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110–133, § 1, Dec. 6, 2007, 121 Stat. 1362, provided that: ''This Act [amending sections 4264 and 4266 of this title] may be cited as the 'Asian Elephant Conservation Reauthorization Act of 2007'.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–141, § 1, Feb. 12, 2002, 116 Stat. 13, provided that: ''This Act [enacting section 4265a of this title, amending sections 3709, 4214, 4245, 4246, 4263, 4265, and 4266 of this title, and enacting provisions set out as a note under section 4214 of this title] may be cited as the 'Asian Elephant Conservation Reauthorization Act of 2002'.''

SHORT TITLE

Section 1 of Pub. L. 105–96 provided that: ''This Act [enacting this chapter] may be cited as the 'Asian Elephant Conservation Act of 1997'.''

§ 4262. Purposes

The purposes of this chapter are the following:

(1) To perpetuate healthy populations of Asian elephants.

(2) To assist in the conservation and protection of Asian elephants by supporting the conservation programs of Asian elephant range states and the CITES Secretariat.

(3) To provide financial resources for those programs.

(Pub. L. 105–96, § 3, Nov. 19, 1997, 111 Stat. 2150.)

§ 4263. Definitions

In this chapter:

(1) The term ''CITES'' means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973, and its appendices.

(2) The term ''conservation'' means the use of methods and procedures necessary to bring Asian elephants to the point at which there are sufficient populations in the wild to ensure that the species does not become extinct, including all activities associated with scientific resource management, such as conservation, protection, restoration, acquisition, and management of habitat; research and monitoring of known populations; assistance in the development of management plans for managed elephant ranges; CITES enforcement; law enforcement through community participation; translocation of elephants; conflict resolution initiatives; and community outreach and education.

(3) The term ''Fund'' means the account established by division A, section 101(e), title I of Public Law 105–277 under the heading ''multinational species conservation fund'' [16 U.S.C. 4246].

(4) The term ''Secretary'' means the Secretary of the Interior.

(5) The term ''Administrator'' means the Administrator of the Agency for International Development.

(Pub. L. 105–96, § 4, Nov. 19, 1997, 111 Stat. 2151; Pub. L. 107–141, § 5(a)(1), Feb. 12, 2002, 116 Stat. 14.)

REFERENCES IN TEXT

Division A, section 101(e), title I of Public Law 105–277, referred to in par. (3), is Pub. L. 105–277, div. A, § 101(e) [title I], Oct. 21, 1998, 112 Stat. 2681–231, 2681–232. Provisions under the heading ''MULTINATIONAL SPECIES CONSERVATION FUND'' in Pub. L. 105–277, § 101(e) [title I] appear at 112 Stat. 2681–237 and are classified in part to section 4246 of this title.

AMENDMENTS

2002—Par. (3). Pub. L. 107–141 substituted ''the account established by division A, section 101(e), title I of Public Law 105–277 under the heading 'multinational species conservation fund'' for ''the Asian Elephant Conservation Fund established under section 4265(a) of this title''.

§ 4264. Asian elephant conservation assistance

(a) In general

The Secretary, subject to the availability of funds and in consultation with the Administrator, shall use amounts in the Fund to provide financial assistance for projects for the conservation of Asian elephants for which final project proposals are approved by the Secretary in accordance with this section.

(b) Project proposal

Any relevant wildlife management authority of a nation within the range of Asian elephants whose activities directly or indirectly affect Asian elephant populations, the CITES Secretariat, or any person with demonstrated expertise in the conservation of Asian elephants, may submit to the Secretary a project proposal under this section. Each proposal shall include the following:

(1) The name of the individual responsible for conducting the project.

(2) A succinct statement of the purposes of the project.

(3) A description of the qualifications of the individuals who will conduct the project.

(4) An estimate of the funds and time required to complete the project.

(5) Evidence of support of the project by appropriate governmental entities of countries in which the project will be conducted, if the Secretary determines that the support is required for the success of the project.

(6) Information regarding the source and amount of matching funding available to the applicant.

(7) Any other information the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this chapter.

(c) Project review and approval

(1) In general

Within 30 days after receiving a final project proposal, the Secretary shall provide a copy of the proposal to the Administrator. The Secretary shall review each final project proposal to determine if it meets the criteria set forth in subsection (d) of this section.

(2) Consultation; approval or disapproval

Not later than 6 months after receiving a final project proposal, and subject to the availability of funds, the Secretary, after consulting with the Administrator, shall—

(A) request written comments on the proposal from each country within which the project is to be conducted;

(B) after requesting those comments, approve or disapprove the proposal; and

(C) provide written notification of that approval or disapproval to the person who submitted the proposal and the Administrator.

(d) Criteria for approval

The Secretary may approve a final project proposal under this section if the project will enhance programs for conservation of Asian elephants by assisting efforts to—

(1) implement conservation programs;

(2) address the conflicts between humans and elephants that arise from competition for the same habitat;

(3) enhance compliance with provisions of CITES and laws of the United States or a foreign country that prohibit or regulate the taking or trade of Asian elephants or regulate the use and management of Asian elephant habitat;

(4) develop sound scientific information on the condition of Asian elephant habitat, Asian elephant population numbers and trends, or the threats to such habitat, numbers, or trends; or

(5) promote cooperative projects on those topics with other foreign governments, affected local communities, nongovernmental organizations, or others in the private sector.

(e) Project sustainability

To the maximum extent practical, in determining whether to approve project proposals under this section, the Secretary shall give consideration to projects which will enhance sustainable integrated conservation development programs to ensure effective, long-term conservation of Asian elephants.

(f) Project reporting

Each person who receives assistance under this section for a project shall provide periodic reports, as the Secretary considers necessary, to the Secretary and the Administrator. Each report shall include all information required by the Secretary, after consulting with the Administrator, for evaluating the progress and success of the project.

(g) Matching funds

In determining whether to approve project proposals under this section, the Secretary shall give priority to those projects for which there exists some measure of matching funds.

(h) Limitation on use for captive breeding

Amounts provided as a grant under this chapter may not be used for captive breeding of Asian elephants other than for release in the wild.

(Pub. L. 105–96, § 5, Nov. 19, 1997, 111 Stat. 2151; Pub. L. 110–133, § 2(a), Dec. 6, 2007, 121 Stat. 1362.)

AMENDMENTS

2007—Subsec. (c)(2)(C). Pub. L. 110–133 substituted ''and the Administrator'' for '', the Administrator, and each of those countries''.

§ 4265. Acceptance and use of donations

The Secretary may accept and use donations to provide assistance under section 4264 of this title. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Fund.

(Pub. L. 105–96, § 6, Nov. 19, 1997, 111 Stat. 2153; Pub. L. 107–141, § 5(a)(2), Feb. 12, 2002, 116 Stat. 14.)

AMENDMENTS

2002—Pub. L. 107–141 substituted ''Acceptance and use of donations'' for ''Asian Elephant Conservation Fund'' as section catchline, struck out subsecs. (a) to (c), which related to establishment, deposits into, and use of the Asian Elephant Conservation Fund, redesignated subsec. (d) as entire section and struck out subsec. heading.

§ 4265a. Advisory group

(a) In general

To assist in carrying out this chapter, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of Asian elephants.

(b) Public participation

(1) Meetings

The Advisory Group shall—

(A) ensure that each meeting of the advisory group is open to the public; and

(B) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(2) Notice

The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(3) Minutes

Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(c) Exemption from Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

(Pub. L. 105–96, § 7, as added Pub. L. 107–141, § 4, Feb. 12, 2002, 116 Stat. 13.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 7 of Pub. L. 105–96 was renumbered section 8 and is classified to section 4266 of this title.

§ 4266. Authorization of appropriations

(a) In general

There is authorized to be appropriated to the Fund $5,000,000 for each of fiscal years 2007 through 2012 to carry out this chapter, which may remain available until expended.

(b) Administrative expenses

Of amounts available each fiscal year to carry out this chapter, the Secretary may expend not

more than 3 percent or $100,000, whichever is greater, to pay the administrative expenses necessary to carry out this chapter.

(Pub. L. 105–96, § 8, formerly § 7, Nov. 19, 1997, 111 Stat. 2153; renumbered § 8 and amended Pub. L. 107–141, §§ 2–4, Feb. 12, 2002, 116 Stat. 13; Pub. L. 110–133, § 2(b), (c), Dec. 6, 2007, 121 Stat. 1362.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 110–133, § 2(c), substituted ''2007 through 2012'' for ''2001, 2002, 2003, 2004, 2005, 2006, and 2007''.

Subsec. (b). Pub. L. 110–133, § 2(b), substituted ''$100,000'' for ''$80,000''.

2002—Pub. L. 107–141, § 3, designated existing provisions as subsec. (a), inserted heading, substituted ''There is authorized'' for ''There are authorized'', and added subsec. (b).

Pub. L. 107–141, § 2, substituted ''2001, 2002, 2003, 2004, 2005, 2006, and 2007'' for ''1998, 1999, 2000, 2001, and 2002''.

CHAPTER 63—FEDERAL CAVE RESOURCES PROTECTION

Sec.
4301. Findings, purposes, and policy.
4302. Definitions.
4303. Management actions.
4304. Confidentiality of information concerning nature and location of significant caves.
4305. Collection and removal from Federal caves.
4306. Prohibited acts and criminal penalties.
4307. Civil penalties.
4308. Miscellaneous provisions.
4309. Savings provision.
4310. Establishment of Cave Research Program.

§ 4301. Findings, purposes, and policy

(a) Findings

The Congress finds and declares that—

(1) significant caves on Federal lands are an invaluable and irreplaceable part of the Nation's natural heritage; and

(2) in some instances, these significant caves are threatened due to improper use, increased recreational demand, urban spread, and a lack of specific statutory protection.

(b) Purposes

The purposes of this chapter are—

(1) to secure, protect, and preserve significant caves on Federal lands for the perpetual use, enjoyment, and benefit of all people; and

(2) to foster increased cooperation and exchange of information between governmental authorities and those who utilize caves located on Federal lands for scientific, education, or recreational purposes.

(c) Policy

It is the policy of the United States that Federal lands be managed in a manner which protects and maintains, to the extent practical, significant caves.

(Pub. L. 100–691, § 2, Nov. 18, 1988, 102 Stat. 4546.)

SHORT TITLE

Section 1 of Pub. L. 100–691 provided that: ''This Act [enacting this chapter] may be referred to as the 'Federal Cave Resources Protection Act of 1988'.''

LECHUGUILLA CAVE PROTECTION

Pub. L. 103–169, Dec. 2, 1993, 107 Stat. 1983, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Lechuguilla Cave Protection Act of 1993'.

''SEC. 2. FINDING.

''Congress finds that Lechuguilla Cave and adjacent public lands have internationally significant scientific, environmental, and other values, and should be retained in public ownership and protected against adverse effects of mineral exploration and development and other activities presenting threats to the areas.

''SEC. 3. LAND WITHDRAWAL.

''(a) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the boundaries of the cave protection area described in subsection (b) are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and all amendments thereto.

''(b) LAND DESCRIPTION.—The cave protection area referred to in subsection (a) shall consist of approximately 6,280 acres of lands in New Mexico as generally depicted on the map entitled 'Lechuguilla Cave Protection Area' numbered 130/80,055 and dated April 1993.

''(c) PUBLICATION, FILING, CORRECTION, AND INSPECTION.—(1) As soon as practicable after the date of enactment of this Act [Dec. 2, 1993], the Secretary of the Interior (hereinafter referred to as the 'Secretary') shall publish in the Federal Register the legal description of the lands withdrawn under subsection (a) and shall file such legal description and a detailed map with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

''(2) Such map and legal description shall have the same force and effect as if included in this Act except that the Secretary may correct clerical and typographical errors.

''(3) Copies of such map and legal description shall be available for inspection in the appropriate offices of the Bureau of Land Management.

''SEC. 4. MANAGEMENT OF EXISTING LEASES.

''(a) SUSPENSION.—The Secretary shall not permit any new drilling on or involving any Federal mineral or geothermal lease within the cave protection area referred to in section 3(a) until the effective date of the Record of Decision for the Dark Canyon Environmental Impact Statement, or for 12 months after the date of enactment of this Act [Dec. 2, 1993], whichever occurs first.

''(b) AUTHORITY TO CANCEL EXISTING MINERAL OR GEOTHERMAL LEASES.—Upon the effective date of the Record of Decision for the Dark Canyon Environmental Impact Statement and in order to protect Lechuguilla Cave or other cave resources, the Secretary is authorized to—

''(1) cancel any Federal mineral or geothermal lease in the cave protection area referred to in section 3(a); or

''(2) enter into negotiations with the holder of a Federal mineral or geothermal lease in the cave protection area referred to in section 3(a) to determine appropriate compensation, if any, for the complete or partial termination of such lease.

''SEC. 5. ADDITIONAL PROTECTION AND RELATION TO OTHER LAWS.

''(a) IN GENERAL.—In order to protect Lechuguilla Cave or Federal lands within the cave protection area, the Secretary, subject to valid existing rights, may limit or prohibit access to or across lands owned by the United States or prohibit the removal from such lands of any mineral, geological, or cave resources: *Provided*, That existing access to private lands within the cave protection area shall not be affected by this subsection.

''(b) NO EFFECT ON PIPELINES.—Nothing in this title [Act] shall have the effect of terminating any validly

issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing capacity of the existing pipeline; or prohibiting the renewal of such right-of-way within the cave protection area referred to in section 3(a).

''(c) RELATION TO OTHER LAWS.—Nothing in this Act shall be construed as increasing or diminishing the ability of any party to seek compensation pursuant to other applicable law, including but not limited to the Tucker Act (28 U.S.C. 1491), or as precluding any defenses or claims otherwise available to the United States in connection with any action seeking such compensation from the United States.

''SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

''There is hereby authorized to be appropriated such sums as may be necessary to carry out this Act: *Provided*, That no funds shall be made available except to the extent, or in such amounts as are provided in advance in appropriation Acts.''

§ 4302. Definitions

For purposes of this chapter:

(1) Cave

The term ''cave'' means any naturally occurring void, cavity, recess, or system of interconnected passages which occurs beneath the surface of the earth or within a cliff or ledge (including any cave resource therein, but not including any vug, mine, tunnel, aqueduct, or other manmade excavation) and which is large enough to permit an individual to enter, whether or not the entrance is naturally formed or manmade. Such term shall include any natural pit, sinkhole, or other feature which is an extension of the entrance.

(2) Federal lands

The term ''Federal lands'' means lands the fee title to which is owned by the United States and administered by the Secretary of Agriculture or the Secretary of the Interior.

(3) Indian lands

The term ''Indian lands'' means lands of Indian tribes or Indian individuals which are either held in trust by the United States for the benefit of an Indian tribe or subject to a restriction against alienation imposed by the United States.

(4) Indian tribe

The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims settlement[1] Act (43 U.S.C. 1601 et seq.).

(5) Cave resource

The term ''cave resource'' includes any material or substance occurring naturally in caves on Federal lands, such as animal life, plant life, paleontological deposits, sediments, minerals, speleogens, and speleothems.

(6) Secretary

The term ''Secretary'' means the Secretary of Agriculture or the Secretary of the Interior, as appropriate.

(7) Speleothem

The term ''speleothem'' means any natural mineral formation or deposit occurring in a cave or lava tube, including but not limited to any stalactite, stalagmite, helictite, cave flower, flowstone, concretion, drapery, rimstone, or formation of clay or mud.

(8) Speleogen

The term ''speleogen'' means relief features on the walls, ceiling, and floor of any cave or lava tube which are part of the surrounding bedrock, including but not limited to anastomoses, scallops, meander niches, petromorphs and rock pendants in solution caves and similar features unique to volcanic caves.

(Pub. L. 100–691, § 3, Nov. 18, 1988, 102 Stat. 4546.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (4), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

§ 4303. Management actions

(a) Regulations

Not later than nine months after November 18, 1988, the Secretary shall issue such regulations as he deems necessary to achieve the purposes of this chapter. Regulations shall include, but not be limited to, criteria for the identification of significant caves. The Secretaries shall cooperate and consult with one another in preparation of the regulations. To the extent practical, regulations promulgated by the respective Secretaries should be similar.

(b) In general

The Secretary shall take such actions as may be necessary to further the purposes of this chapter. Those actions shall include (but need not be limited to)—

(1) identification of significant caves on Federal lands:

(A) The Secretary shall prepare an initial list of significant caves for lands under his jurisdiction not later than one year after the publication of final regulations using the significance criteria defined in such regulations. Such a list shall be developed after consultation with appropriate private sector interests, including cavers.

(B) The initial list of significant caves shall be updated periodically, after consultation with appropriate private sector interests, including cavers. The Secretary shall prescribe by policy or regulation the requirements and process by which the initial list will be updated, including management measures to assure that caves under consideration for the list are protected during the period of consideration. Each cave recommended to the Secretary by interested groups for possible inclusion on the list of significant caves shall be considered by the Secretary according to the requirements prescribed pursuant to this paragraph, and shall be added to the list if the Secretary determines that the cave meets the criteria for significance as defined by the regulations.

[1] So in original. Probably should be capitalized.

(2) regulation or restriction of use of significant caves, as appropriate;

(3) entering into volunteer management agreements with persons of the scientific and recreational caving community; and

(4) appointment of appropriate advisory committees.

(c) Planning and public participation

The Secretary shall—

(1) ensure that significant caves are considered in the preparation or implementation of any land management plan if the preparation or revision of the plan began after November 18, 1988; and

(2) foster communication, cooperation, and exchange of information between land managers, those who utilize caves, and the public.

(Pub. L. 100–691, § 4, Nov. 18, 1988, 102 Stat. 4547.)

§ 4304. Confidentiality of information concerning nature and location of significant caves

(a) In general

Information concerning the specific location of any significant cave may not be made available to the public under section 552 of title 5 unless the Secretary determines that disclosure of such information would further the purposes of this chapter and would not create a substantial risk of harm, theft, or destruction of such cave.

(b) Exceptions

Notwithstanding subsection (a) of this section, the Secretary may make available information regarding significant caves upon the written request by Federal and State governmental agencies or bona fide educational and research institutions. Any such written request shall, at a minimum—

(1) describe the specific site or area for which information is sought;

(2) explain the purpose for which such information is sought; and

(3) include assurances satisfactory to the Secretary that adequate measures are being taken to protect the confidentiality of such information and to ensure the protection of the significant cave from destruction by vandalism and unauthorized use.

(Pub. L. 100–691, § 5, Nov. 18, 1988, 102 Stat. 4548.)

§ 4305. Collection and removal from Federal caves

(a) Permit

The Secretary is authorized to issue permits for the collection and removal of cave resources under such terms and conditions as the Secretary may impose, including the posting of bonds to insure compliance with the provisions of any permit:

(1) Any permit issued pursuant to this section shall include information concerning the time, scope, location, and specific purpose of the proposed collection, removal or associated activity, and the manner in which such collection, removal, or associated activity is to be performed must be provided.

(2) The Secretary may issue a permit pursuant to this subsection only if he determines that the proposed collection or removal activities are consistent with the purposes of this chapter, and with other applicable provisions of law.

(b) Revocation of permit

Any permit issued under this section shall be revoked by the Secretary upon a determination by the Secretary that the permittee has violated any provision of this chapter, or has failed to comply with any other condition upon which the permit was issued. Any such permit shall be revoked by the Secretary upon assessment of a civil penalty against the permittee pursuant to section 4307 of this title or upon the permittee's conviction under section 4306 of this title. The Secretary may refuse to issue a permit under this section to any person who has violated any provision of this chapter or who has failed to comply with any condition of a prior permit.

(c) Transferability of permits

Permits issued under this chapter are not transferable.

(d) Cave resources located on Indian lands

(1)(A) Upon application by an Indian tribe, the Secretary is authorized to delegate to the tribe all authority of the Secretary under this section with respect to issuing and enforcing permits for the collection or removal of any cave resource, or to carrying out activities associated with such collection or removal, from any cave resource located on the affected Indian lands.

(B) In the case of any permit issued by the Secretary for the collection or removal of any cave resource, or to carry out activities associated with such collection or removal, from any cave resource located on Indian lands (other than permits issued pursuant to subparagraph (A)), the permit may be issued only after obtaining the consent of the Indian or Indian tribe owning or having jurisdiction over such lands. The permit shall include such reasonable terms and conditions as may be requested by such Indian or Indian tribe.

(2) If the Secretary determines that issuance of a permit pursuant to this section may result in harm to, or destruction of, any religious or cultural site, the Secretary, prior to issuing such permit, shall notify any Indian tribe which may consider the site as having significant religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 4304 of this title.

(3) A permit shall not be required under this section for the collection or removal of any cave resource located on Indian lands or activities associated with such collection, by the Indian or Indian tribe owning or having jurisdiction over such lands.

(e) Effect of permit

No action specifically authorized by a permit under this section shall be treated as a violation of section 4306 of this title.

(Pub. L. 100–691, § 6, Nov. 18, 1988, 102 Stat. 4548.)

§ 4306. Prohibited acts and criminal penalties

(a) Prohibited acts

(1) Any person who, without prior authorization from the Secretary knowingly destroys,

disturbs, defaces, mars, alters, removes or harms any significant cave or alters the free movement of any animal or plant life into or out of any significant cave located on Federal lands, or enters a significant cave with the intention of committing any act described in this paragraph shall be punished in accordance with subsection (b) of this section.

(2) Any person who possesses, consumes, sells, barters or exchanges, or offers for sale, barter or exchange, any cave resource from a significant cave with knowledge or reason to know that such resource was removed from a significant cave located on Federal lands shall be punished in accordance with subsection (b) of this section.

(3) Any person who counsels, procures, solicits, or employs any other person to violate any provisions of this subsection shall be punished in accordance with section[1] (b) of this section.

(4) Nothing in this section shall be deemed applicable to any person who was in lawful possession of a cave resource from a significant cave prior to November 18, 1988.

(b) Punishment

The punishment for violating any provision of subsection (a) of this section shall be imprisonment of not more than one year or a fine in accordance with the applicable provisions of title 18, or both. In the case of a second or subsequent violation, the punishment shall be imprisonment of not more than 3 years or a fine in accordance with the applicable provisions of title 18, or both.

(Pub. L. 100–691, §7, Nov. 18, 1988, 102 Stat. 4549.)

§ 4307. Civil penalties

(a) Assessment

(1) The Secretary may issue an order assessing a civil penalty against any person who violates any prohibition contained in this chapter, any regulation promulgated pursuant to this chapter, or any permit issued under this chapter. Before issuing such an order, the Secretary shall provide such person written notice and the opportunity to request a hearing on the record within 30 days. Each violation shall be a separate offense, even if such violations occurred at the same time.

(2) The amount of such civil penalty shall be determined by the Secretary taking into account appropriate factors, including (A) the seriousness of the violation; (B) the economic benefit (if any) resulting from the violation; (C) any history of such violations; and (D) such other matters as the Secretary deems appropriate. The maximum fine permissible under this section is $10,000.

(b) Judicial review

Any person aggrieved by an assessment of a civil penalty under this section may file a petition for judicial review of such assessment with the United States District Court for the District of Columbia or for the district in which the violation occurred. Such a petition shall be filed within the 30-day period beginning on the date the order assessing the civil penalty was issued.

(c) Collection

If any person fails to pay an assessment of a civil penalty—

(1) within 30 days after the order was issued under subsection (a) of this section, or

(2) if the order is appealed within such 30-day period, within 10 days after court has entered a final judgment in favor of the Secretary under subsection (b) of this section,

the Secretary shall notify the Attorney General and the Attorney General shall bring a civil action in an appropriate United States district court to recover the amount of penalty assessed (plus costs, attorney's fees, and interest at currently prevailing rates from the date the order was issued or the date of such final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(d) Subpoenas

The Secretary may issue subpoenas in connection with proceedings under this subsection compelling the attendance and testimony of witnesses and subpoenas duces tecum, and may request the Attorney General to bring an action to enforce any subpoena under this section. The district courts shall have jurisdiction to enforce such subpoenas and impose sanctions.

(Pub. L. 100–691, §8, Nov. 18, 1988, 102 Stat. 4550.)

§ 4308. Miscellaneous provisions

(a) Authorization of appropriations

There are authorized to be appropriated $100,000 to carry out the purposes of this chapter.

(b) Effect on land management plans

Nothing in this chapter shall require the amendment or revision of any land management plan the preparation of which began prior to November 18, 1988.

(c) Fund

Any money collected by the United States as permit fees for collection and removal of cave resources; received by the United States as a result of the forfeiture of a bond or other security by a permittee who does not comply with the requirements of such permit issued under section 4306 of this title; or collected by the United States by way of civil penalties or criminal fines for violations of this chapter shall be placed in a special fund in the Treasury. Such moneys shall be available for obligation or expenditure (to the extent provided for in advance in appropriation Acts) as determined by the Secretary for the improved management, benefit, repair, or restoration of significant caves located on Federal lands.

(d) Existing rights

Nothing in this chapter shall be deemed to affect the full operation of the mining and mineral leasing laws of the United States, or otherwise affect valid existing rights.

(Pub. L. 100–691, §9, Nov. 18, 1988, 102 Stat. 4550.)

REFERENCES IN TEXT

The mining laws and mineral leasing laws of the United States, referred to in subsec. (d), are classified generally to Title 30, Mineral Lands and Mining.

[1] So in original. Probably should be ''subsection''.

§ 4309. Savings provision

(a) Water

Nothing in this chapter shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this chapter—

(1) affect the rights or jurisdiction of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any ground water resource;

(2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States; or

(3) alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.

(b) Fish and wildlife

Nothing in this chapter shall be construed as affecting the jurisdiction or responsibilities of the States with respect to fish and wildlife.

(Pub. L. 100–691, § 10, Nov. 18, 1988, 102 Stat. 4551.)

§ 4310. Establishment of Cave Research Program

(a) Establishment

In order to provide for needed research relating to cave resources on certain lands in the United States, the Secretary of the Interior, acting through the Director of the National Park Service shall establish and administer a Cave Research Program (hereinafter in this section referred to as the ''Program''). The Program shall include the orderly and scholarly collection, analysis, and dissemination of research material related to caves in lands managed by the National Park Service including, but not limited to, Carlsbad Caverns National Park and the Capitan Reef area.

(b) Functions

The Program shall produce educational and interpretive information and materials vital to public understanding of cave geology, assist students and researchers, and provide for a comprehensive evaluation of cave resources and measures needed for their protection.

(c) Emphasis

The program[1] shall be directed primarily toward lands managed by the National Park Service, but the Secretary of the Interior may enter into cooperative agreements with other agencies or entities as may be appropriate to carry out the purposes of this section.

(Pub. L. 101–578, title II, § 202, Nov. 15, 1990, 104 Stat. 2859.)

REFERENCES IN TEXT

This section, referred to in subsecs. (a) and (c), was in the original ''this title'' meaning title II of Pub. L. 101–578, Nov. 15, 1990, 104 Stat. 2859, which enacted this section and provisions set out as notes below. For complete classification of title II to the Code, see Tables.

CODIFICATION

Section was not enacted as part of the Federal Cave Resources Protection Act of 1988 which comprises this chapter.

[1] So in original. Probably should be capitalized.

NATIONAL CAVE AND KARST RESEARCH INSTITUTE

Pub. L. 105–325, Oct. 30, 1998, 112 Stat. 3038, as amended by Pub. L. 111–11, title VII, § 7305, Mar. 30, 2009, 123 Stat. 1219, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'National Cave and Karst Research Institute Act of 1998'.

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to further the science of speleology;

''(2) to centralize and standardize speleological information;

''(3) to foster interdisciplinary cooperation in cave and karst research programs;

''(4) to promote public education;

''(5) to promote national and international cooperation in protecting the environment for the benefit of cave and karst landforms; and

''(6) to promote and develop environmentally sound and sustainable resource management practices.

''SEC. 3. ESTABLISHMENT OF THE INSTITUTE.

''(a) IN GENERAL.—The Secretary of the Interior (referred to in this Act as the 'Secretary'), acting through the Director of the National Park Service, shall establish the National Cave and Karst Research Institute (referred to in this Act as the 'Institute').

''(b) PURPOSES.—The Institute shall, to the extent practicable, further the purposes of this Act.

''(c) LOCATION.—The Institute shall be located in the vicinity of Carlsbad Caverns National Park, in the State of New Mexico. The Institute shall not be located inside the boundaries of Carlsbad Caverns National Park.

''SEC. 4. ADMINISTRATION OF THE INSTITUTE.

''(a) MANAGEMENT.—The Institute shall be jointly administered by the National Park Service and a public or private agency, organization, or institution, as determined by the Secretary.

''(b) GUIDELINES.—The Institute shall be operated and managed in accordance with the study prepared by the National Park Service pursuant to section 203 of the Act entitled 'An Act to conduct certain studies in the State of New Mexico', approved November 15, 1990 (Public Law 101–578; 16 U.S.C. 4310 note).

''(c) CONTRACTS AND COOPERATIVE AGREEMENTS.—The Secretary may enter into a contract or cooperative agreement with a public or private agency, organization, or institution to carry out this Act.

''(d) FACILITY.—

''(1) LEASING OR ACQUIRING A FACILITY.—The Secretary may lease or acquire a facility for the Institute.

''(2) CONSTRUCTION OF A FACILITY.—If the Secretary determines that a suitable facility is not available for a lease or acquisition under paragraph (1), the Secretary may construct a facility for the Institute.

''(e) ACCEPTANCE OF GRANTS AND TRANSFERS.—To carry out this Act, the Secretary may accept—

''(1) a grant or donation from a private person; or

''(2) a transfer of funds from another Federal agency.

''SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this Act.''

CONGRESSIONAL FINDINGS

Section 201 of Pub. L. 101–578 provided that: ''The Congress makes the following findings:

''(1) The World's most exposed fossil reef, Capitan Reef, in southern New Mexico that includes Carlsbad Caverns, contains over 300 caves, including 75 identified caves in Carlsbad Caverns National Park and 22 caves in Guadalupe Mountains National Park.

''(2) Recent explorations of Lechuguilla Cave at Carlsbad Caverns National Park have provided much new information about the wonders of this cave in-

cluding the fact that it is the second deepest cave in the United States and contains outstanding world-class cave features such as gypsum crystal chandeliers and gypsum flowers.

''(3) The Lechuguilla Cave has been described by cave researchers as possibly the finest cave in America.

''(4) The interest and excitement of cave researchers throughout the world have been focused on Carlsbad Caverns National Park.

''(5) Cave researchers could use this research institute as an operational base for study of caves in other regions and as a focal point for storage of data on cave geology and speleology.

''(6) The Congress, with the passage of Public Law 100–691, the Federal Cave Resources Protection Act of 1988 [16 U.S.C. 4301 et seq.], recognized the significance of cave resources on Federal lands and established the policy that Federal lands be managed in a manner which protects and maintains, to the extent practicable, significant cave resources.''

CAVE RESEARCH INSTITUTE STUDY

Section 203 of Pub. L. 101–578 directed Secretary of the Interior, not later than one year after Nov. 15, 1990, to prepare and transmit to Congress a study on the feasibility of establishing a Cave Research Institute.

AUTHORIZATION OF APPROPRIATIONS

Section 204 of title II of Pub. L. 101–578 provided that: ''There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title [enacting this section and provisions set out as notes above].''

CHAPTER 64—NORTH AMERICAN WETLANDS CONSERVATION

Sec.

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§ 4401. Findings and statement of purpose

(a) Findings

The Congress finds and declares that—

(1) the maintenance of healthy populations of migratory birds in North America is dependent on the protection, restoration, and management of wetland ecosystems and associated habitats in Canada, as well as in the United States and Mexico;

(2) wetland ecosystems provide essential and significant habitat for fish, shellfish, and other wildlife of commercial, recreational, scientific, and aesthetic values;

(3) almost 35 per centum of all rare, threatened, and endangered species of animals are dependent on wetland ecosystems;

(4) wetland ecosystems provide substantial flood and storm control values and can obviate the need for expensive manmade control measures;

(5) wetland ecosystems make a significant contribution to water availability and quality, recharging ground water, filtering surface runoff, and providing waste treatment;

(6) wetland ecosystems provide aquatic areas important for recreational and aesthetic purposes;

(7) more than 50 per centum of the original wetlands in the United States alone have been lost;

(8) wetlands destruction, loss of nesting cover, and degradation of migration and wintering habitat have contributed to long-term downward trends in populations of migratory bird species such as pintails, American bitterns, and black ducks;

(9) the migratory bird treaty obligations of the United States with Canada, Mexico, and other countries require protection of wetlands that are used by migratory birds for breeding, wintering, or migration and are needed to achieve and to maintain optimum population levels, distributions, and patterns of migration;

(10) the 1988 amendments to the Fish and Wildlife Conservation Act of 1980 require the Secretary of the Interior to identify conservation measures to assure that nongame migratory bird species do not reach the point at which measures of the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.] are necessary;

(11) protection of migratory birds and their habitats requires long-term planning and the close cooperation and coordination of management activities by Canada, Mexico, and the United States within the framework of the 1916 and 1936 Migratory Bird Conventions and the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere;

(12) the North American Waterfowl Management Plan, signed in 1986 by the Minister of Environment for Canada and the Secretary of the Interior for the United States and in 1994 by the Secretary of Sedesol for Mexico, provides a framework for maintaining and restoring an adequate habitat base to ensure perpetuation of populations of North American waterfowl and other migratory bird species;

(13) a tripartite agreement signed in March 1988, by the Director General for Ecological Conservation of Natural Resources of Mexico, the Director of the Canadian Wildlife Service, and the Director of the United States Fish and Wildlife Service, provides for expanded cooperative efforts in Mexico to conserve wetlands for migratory birds that spend the winter there;

(14) the long-term conservation of migratory birds and habitat for these species will require the coordinated action of governments, private organizations, landowners, and other citizens; and

(15) the treaty obligations of the United States under the Convention on Wetlands of International Importance especially as waterfowl habitat requires promotion of conservation and wise use of wetlands.

(b) Purpose

The purposes of this chapter are to encourage partnership among public agencies and other interests—

(1) to protect, enhance, restore, and manage an appropriate distribution and diversity of wetland ecosystems and habitats associated with wetland ecosystems and other fish and wildlife in North America;

(2) to maintain current or improved distributions of wetland associated migratory bird populations; and

(3) to sustain an abundance of waterfowl and other wetland associated migratory birds consistent with the goals of the North American Waterfowl Management Plan, the United States Shorebird Conservation Plan, the North American Waterbird Conservation Plan, the Partners In Flight Conservation Plans, and the international obligations contained in the migratory bird treaties and conventions and other agreements with Canada, Mexico, and other countries.

(Pub. L. 101–233, § 2, Dec. 13, 1989, 103 Stat. 1968; Pub. L. 107–308, §§ 3, 8(a)(1), (2), Dec. 2, 2002, 116 Stat. 2446, 2447.)

REFERENCES IN TEXT

The Fish and Wildlife Conservation Act of 1980, referred to in subsec. (a)(10), is Pub. L. 96–366, Sept. 29, 1980, 94 Stat. 1322, as amended, which is classified generally to chapter 49 (§ 2901 et seq.) of this title. In 1988, section 2912 of that chapter was enacted and section 2910 of that chapter was amended by Pub. L. 100–653, title VIII, Nov. 14, 1988, 102 Stat. 3833. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of this title and Tables.

The Endangered Species Act of 1973, referred to in subsec. (a)(10), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

This chapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 101–233, Dec. 13, 1989, 103 Stat. 1968, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107–308, § 3(a), substituted ''and associated habitats'' for ''and other habitats''.

Subsec. (a)(10). Pub. L. 107–308, § 8(a)(1), inserted ''of 1973'' after ''Endangered Species Act''.

Subsec. (a)(12). Pub. L. 107–308, § 8(a)(2), inserted ''and in 1994 by the Secretary of Sedesol for Mexico'' after ''United States''.

Subsec. (b)(1). Pub. L. 107–308, § 3(b)(1), substituted ''and habitats associated with wetland ecosystems'' for ''and other habitats for migratory birds''.

Subsec. (b)(2). Pub. L. 107–308, § 3(b)(2), inserted ''wetland associated'' before ''migratory bird''.

Subsec. (b)(3). Pub. L. 107–308, § 3(b)(3), inserted ''wetland associated'' before ''migratory birds'' and '', the United States Shorebird Conservation Plan, the North American Waterbird Conservation Plan, the Partners In Flight Conservation Plans,'' after ''North American Waterfowl Management Plan''.

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–322, § 1, Oct. 11, 2006, 120 Stat. 1756, provided that: ''This Act [amending section 4406 of this title] may be cited as the 'North American Wetlands Conservation Reauthorization Act of 2006'.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–308, § 1, Dec. 2, 2002, 116 Stat. 2446, provided that: ''This Act [amending this section and sections 4402 to 4404, 4406, 4407, 4409, and 4413 of this title, enacting provisions set out as a note under section 4403 of this title, and amending provisions set out as a note under section 461 of this title] may be cited as the 'North American Wetlands Conservation Reauthorization Act'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–312, title III, § 301, Oct. 30, 1998, 112 Stat. 2958, provided that: ''This title [amending sections 3744 and 4406 of this title and enacting provisions set out as a note under section 4403 of this title] may be cited as the 'Wetlands and Wildlife Enhancement Act of 1998'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–375, § 1, Oct. 19, 1994, 108 Stat. 3494, provided that: ''This Act [enacting section 4414 of this title and amending sections 3742 to 3744, 3955, 4406, 4407, 4409, and 4410 of this title] may be cited as the 'North American Wetlands Conservation Act Amendments of 1994'.''

SHORT TITLE

Section 1 of Pub. L. 101–233 provided that: ''This Act [enacting this chapter, amending sections 669b, 669c, 703, 715a, 2912, and 3931 of this title, enacting provisions set out as a note under section 669b of this title, and amending provisions set out as a note under section 668dd of this title] may be cited as the 'North American Wetlands Conservation Act'.''

§ 4402. Definitions

For the purposes of this chapter:

(1) The term ''Agreement'' means the Tripartite Agreement signed in March 1988, by the Director General for Ecological Conservation of Natural Resources of Mexico, the Director of the Canadian Wildlife Service, and the Director of the United States Fish and Wildlife Service.

(2) The term ''appropriate Committees'' means the Committee on Environment and Public Works of the United States Senate and the Committee on Resources of the House of Representatives.

(3) The term ''flyway'' means the four administrative units used by the United States Fish and Wildlife Service and the States in the management of waterfowl populations.

(4) The term ''Migratory Bird Conservation Commission'' means that commission established by section 715a of this title.

(5) The term ''migratory birds'' means all wild birds native to North America that are in an unconfined state and that are protected under the Migratory Bird Treaty Act [16 U.S.C. 703 et seq.], including ducks, geese, and swans of the family Anatidae, species listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and species defined as nongame under the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901–2912).

(6) The term ''Plan'' means the North American Waterfowl Management Plan signed by the Minister of the Environment for Canada and the Secretary of the Interior for the United States in May 1986, and by the Secretary of Sedesol for Mexico in 1994, and subsequent dates.

(7) The term ''Secretary'' means the Secretary of the Interior.

(8) The term ''State'' means the State fish and wildlife agency, which shall be construed to mean any department, or any division of any department of another name, of a State that is empowered under its laws to exercise the functions ordinarily exercised by a State fish and wildlife agency.

(9) The term ''wetlands conservation project'' means—

(A) the obtaining of a real property interest in lands or waters, including water rights, of a wetland ecosystem and associated habitat if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon;

(B) the restoration, management, or enhancement of wetland ecosystems and associated habitat for migratory birds and other fish and wildlife species if such restoration, management, or enhancement is conducted on lands and waters that are administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon; and

(C) in the case of projects undertaken in Mexico, includes technical training and development of infrastructure necessary for the conservation and management of wetlands and studies on the sustainable use of wetland resources.

(Pub. L. 101–233, § 3, Dec. 13, 1989, 103 Stat. 1969; Pub. L. 107–308, §§ 4, 8(a)(3)–(5), Dec. 2, 2002, 116 Stat. 2446, 2447.)

REFERENCES IN TEXT

The Migratory Bird Treaty Act, referred to in par. (5), is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§ 703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

The Endangered Species Act of 1973, referred to in par. (5), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Fish and Wildlife Conservation Act of 1980, referred to in par. (5), is Pub. L. 96–366, Sept. 29, 1980, 94 Stat. 1322, as amended, which is classified generally to chapter 49 (§ 2901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of this title and Tables.

AMENDMENTS

2002—Par. (2). Pub. L. 107–308, § 8(a)(3), substituted ''Committee on Resources of the House of Representatives'' for ''Committee on Merchant Marine and Fisheries of the United States House of Representatives''.

Par. (5). Pub. L. 107–308, § 8(a)(4), inserted ''of 1973'' after ''Endangered Species Act''.

Par. (6). Pub. L. 107–308, § 8(a)(5), inserted '', and by the Secretary of Sedesol for Mexico in 1994, and subsequent dates'' after ''1986''.

Par. (9)(A). Pub. L. 107–308, § 4(1), inserted ''of a wetland ecosystem and associated habitat'' after ''including water rights,''.

Par. (9)(B). Pub. L. 107–308, § 4(2), substituted ''and associated habitat'' for ''and other habitat''.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 4403. Establishment of North American Wetlands Conservation Council

(a) Council membership

(1) There shall be established a North American Wetlands Conservation Council (hereinafter in this chapter referred to as the ''Council'') which shall consist of nine members who may not receive compensation as members of the Council. Of the Council members—

(A) one shall be the Director of the United States Fish and Wildlife Service, who shall be the responsible Federal official for ensuring Council compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) one shall be the Secretary of the Board of the National Fish and Wildlife Foundation appointed pursuant to section 3702(g)(2)(B) of this title;

(C) four shall be individuals who shall be appointed by the Secretary, who shall reside in different flyways and who shall each be a Director of the State fish and wildlife agency; and

(D) three shall be individuals who shall be appointed by the Secretary and who shall each represent a different charitable and nonprofit organization which is actively participating in carrying out wetlands conservation projects under this chapter, the Plan, or the Agreement.

The provisions of Public Law 92–463, as amended, shall not apply to the Council.

(2) The Secretary shall appoint an alternate member of the Council who shall be knowledgeable and experienced in matters relating to fish, wildlife, and wetlands conservation and who shall perform the duties of a Council member appointed under subsection (a)(1)(C) or subsection (a)(1)(D) of this section—

(A) until a vacancy referred to in subsection (b)(4) of this section is filled; or

(B) in the event of the anticipated absence of such a member from any meeting of the Council.

(b) Appointment and terms

(1) Except as provided in paragraphs (2) and (3), the term of office of a member of the Council appointed under subsections (a)(1)(C) and (a)(1)(D) of this section is three years.

(2) Of the Council members first appointed under subsection (a)(1)(C) of this section after December 13, 1989, one shall be appointed for a term of one year, one shall be appointed for a term of two years, and two shall be appointed for a term of three years.

(3) Of the Council members first appointed under subsection (a)(1)(D) of this section after December 13, 1989, one shall be appointed for a term of one year, one shall be appointed for a term of two years, and one shall be appointed for a term of three years.

(4) Whenever a vacancy occurs among members of the Council appointed under subsection

(a)(1)(C) or subsection (a)(1)(D) of this section, the Secretary shall appoint an individual in accordance with either such subsection to fill that vacancy for the remainder of the applicable term.

(c) Ex officio Council members

The Secretary is authorized and encouraged to include as ex officio nonvoting members of the Council representatives of—

(1) the Federal, provincial, territorial, or State government agencies of Canada and Mexico, which are participating actively in carrying out one or more wetlands conservation projects under this chapter, the Plan, or the Agreement;

(2) the Environmental Protection Agency and other appropriate Federal agencies, in addition to the United States Fish and Wildlife Service, which are participating actively in carrying out one or more wetlands conservation projects under this chapter, the Plan, or the Agreement; and

(3) nonprofit charitable organizations and Native American interests, including tribal organizations, which are participating actively in one or more wetlands conservation projects under this chapter, the Plan, or the Agreement.

(d) Chairman

The Chairman shall be elected by the Council from its members for a three-year term, except that the first elected Chairman may serve a term of less than three years.

(e) Quorum

A majority of the current membership of the Council shall constitute a quorum for the transaction of business.

(f) Meetings

The Council shall meet at the call of the Chairman at least once a year. Council meetings shall be open to the public, and the Chairman shall take appropriate steps to provide adequate notice to the public of the time and place of such meetings. If a Council member appointed under subsection (a)(1)(C) or (a)(1)(D) of this section misses three consecutive regularly scheduled meetings, the Secretary may remove that individual in accordance with subsection (b)(4) of this section.

(g) Coordinator

The Director of the United States Fish and Wildlife Service shall appoint an individual who shall serve at the pleasure of the Director and—

(1) who shall be educated and experienced in the principles of fish, wildlife, and wetlands conservation;

(2) who shall be responsible, with assistance from the United States Fish and Wildlife Service, for facilitating consideration of wetlands conservation projects by the Council and otherwise assisting the Council in carrying out its responsibilities under this chapter; and

(3) who shall be compensated with the funds available under section 4407(a)(1) of this title for administering this chapter.

(Pub. L. 101–233, § 4, Dec. 13, 1989, 103 Stat. 1970; Pub. L. 101–593, title I, § 112(1)–(3), Nov. 16, 1990, 104 Stat. 2962; Pub. L. 107–308, § 8(a)(6), (7), (b)(1), Dec. 2, 2002, 116 Stat. 2447, 2448.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a)(1)(A), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

Public Law 92–463, referred to in subsec. (a)(1), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, known as the Federal Advisory Committee Act, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2002—Subsec. (a)(1)(A). Pub. L. 107–308, § 8(b)(1), amended directory language of Pub. L. 101–593, § 112(1). See 1990 Amendment note below.

Subsec. (a)(1)(B). Pub. L. 107–308, § 8(a)(6), substituted ''section 3702(g)(2)(B)'' for ''section 3702(2)(B)''.

Subsec. (c). Pub. L. 107–308, § 8(a)(7), substituted ''Council'' for ''Commission'' in introductory provisions.

1990—Subsec. (a)(1). Pub. L. 101–593, § 112(2), inserted sentence at end relating to Public Law 92–463.

Subsec. (a)(1)(A). Pub. L. 101–593, § 112(1), as amended by Pub. L. 107–308, § 8(b)(1), inserted '', who shall be the responsible Federal official for ensuring Council compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)'' after ''Service''.

Subsec. (f). Pub. L. 101–593, § 112(3), inserted before period at end of first sentence '', and the Chairman shall take appropriate steps to provide adequate notice to the public of the time and place of such meetings''.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–308, § 8(b)(2), Dec. 2, 2002, 116 Stat. 2448, provided that: ''Paragraph (1) of this subsection [amending this section] shall be effective on and after the effective date of section 112(1) of Public Law 101–593 (104 Stat. 2962) [Nov. 16, 1990].''

MEMBERSHIP OF NORTH AMERICAN WETLANDS CONSERVATION COUNCIL

Pub. L. 105–312, title III, § 304, Oct. 30, 1998, 112 Stat. 2958, provided that:

''(a) IN GENERAL.—Notwithstanding section 4(a)(1)(D) of the North American Wetlands Conservation Act (16 U.S.C. 4403(a)(1)(D)), during the period of 1999 through 2002, the membership of the North American Wetlands Conservation Council under section 4(a)(1)(D) of that Act shall consist of—

''(1) 1 individual who shall be the Group Manager for Conservation Programs of Ducks Unlimited, Inc. and who shall serve for 1 term of 3 years beginning in 1999; and

''(2) 2 individuals who shall be appointed by the Secretary of the Interior in accordance with section 4 of that Act and who shall each represent a different organization described in section 4(a)(1)(D) of that Act.

''(b) PUBLICATION OF POLICY.—Not later than June 30, 1999, the Secretary of the Interior shall publish in the Federal Register, after notice and opportunity for public comment, a policy for making appointments under section 4(a)(1)(D) of the North American Wetlands Conservation Act (16 U.S.C. 4403(a)(1)(D)).''

§ 4404. Approval of wetlands conservation projects

(a) Consideration by Council

The Council shall recommend wetlands conservation projects to the Migratory Bird Conservation Commission based on consideration of—

(1) the extent to which the wetlands conservation project fulfills the purposes of this chapter, the Plan, or the Agreement;

(2) the availability of sufficient non-Federal moneys to carry out any wetlands conservation project and to match Federal contributions in accordance with the requirements of section 4407(b) of this title;

(3) the extent to which any wetlands conservation project represents a partnership among public agencies and private entities;

(4) the consistency of any wetlands conservation project in the United States with the National Wetlands Priority Conservation Plan developed under section 3921 of this title;

(5) the extent to which any wetlands conservation project would aid the conservation of migratory nongame birds, other fish and wildlife and species that are listed, or are candidates to be listed, as threatened and endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(6) the substantiality of the character and design of the wetlands conservation project; and

(7) the recommendations of any partnerships among public agencies and private entities in Canada, Mexico, or the United States which are participating actively in carrying out one or more wetlands conservation projects under this chapter, the Plan, or the Agreement.

(b) Recommendations to Migratory Bird Conservation Commission

The Council shall submit to the Migratory Bird Conservation Commission each year a description, including estimated costs, of the wetlands conservation projects which the Council has considered under subsection (a) of this section and which it recommends, in order of priority, that the Migratory Bird Conservation Commission approve for Federal funding under this chapter and section 669b(b) of this title. Solely for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), recommendations by the Council for carrying out wetlands conservation projects under section 4405(a) of this title shall be considered Federal actions requiring the preparation of environmental assessments or, where appropriate, environmental impact statements.

(c) Council procedures

The Council shall establish practices and procedures for the carrying out of its functions under subsections (a) and (b) of this section. The procedures shall include requirements that—

(1) a quorum of the Council must be present before any business may be transacted; and

(2) no recommendations referred to in subsection (b) of this section may be adopted by the Council except by the vote of two-thirds of all members present and voting.

(d) Council representation on Migratory Bird Conservation Commission

The Chairman of the Council shall select 2 Council members of the [1] United States citizenship to serve with the Chairman as ex officio members of the Migratory Bird Conservation Commission for the purposes of considering and voting upon wetlands conservation projects recommended by the Council.

(e) Approval of Council recommendations by Migratory Bird Conservation Commission

The Migratory Bird Conservation Commission, along with the two members of the Council referred to in subsection (d) of this section, shall approve, reject or reorder the priority of any wetlands conservation projects recommended by the Council based on, to the greatest extent practicable, the criteria of subsection (a) of this section. If the Migratory Bird Conservation Commission approves any wetlands conservation project, Federal funding shall be made available under this chapter and section 669b(b) of this title. If the Migratory Bird Conservation Commission rejects or reorders the priority of any wetlands conservation project recommended by the Council, the Migratory Bird Conservation Commission shall provide the Council and the appropriate Committees with a written statement explaining its rationale for the rejection or the priority modification.

(f) Notification of appropriate Committees

The Migratory Bird Conservation Commission shall submit annually to the appropriate Committees a report including a list and description of the wetlands conservation projects approved by the Migratory Bird Conservation Commission for Federal funding under subsection (e) of this section in order of priority; the amounts and sources of Federal and non-Federal funding for such projects; a justification for the approval of such projects and the order of priority for funding such projects; a list and description of the wetlands conservation projects which the Council recommended, in order of priority that the Migratory Bird Conservation Commission approve for Federal funding; and a justification for any rejection or re-ordering of the priority of wetlands conservation projects recommended by the Council that was based on factors other than the criteria of subsection (a) of this section.

(Pub. L. 101–233, §5, Dec. 13, 1989, 103 Stat. 1972; Pub. L. 101–593, title I, §112(4), Nov. 16, 1990, 104 Stat. 2962; Pub. L. 107–308, §8(a)(8)–(11), Dec. 2, 2002, 116 Stat. 2448.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (a)(5), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (b), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2002—Subsec. (a)(5). Pub. L. 107–308, §8(a)(8), inserted ''of 1973'' after ''Endangered Species Act''.

Subsec. (b). Pub. L. 107–308, §8(a)(9), substituted ''each year'' for ''by January 1 of each year,''.

Subsec. (d). Pub. L. 107–308, §8(a)(10), substituted ''2 Council members'' for ''one Council member''.

[1] So in original.

Subsec. (f). Pub. L. 107–308, § 8(a)(11), substituted ''subsection (e)'' for ''subsection (d)''.

1990—Subsec. (b). Pub. L. 101–593 inserted at end ''Solely for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), recommendations by the Council for carrying out wetlands conservation projects under section 4405(a) of this title shall be considered Federal actions requiring the preparation of environmental assessments or, where appropriate, environmental impact statements.''

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the 5th item on page 177 identifies a reporting provision which, as subsequently amended, is contained in subsec. (f) of this section), see section 3003 of Pub. L. 104–66, as amended, and section 1(a)(4) [div. A, § 1402(1)] of Pub. L. 106–554, set out as notes under section 1113 of Title 31, Money and Finance.

§ 4405. Conditions relating to wetlands conservation projects

(a) Projects in United States

(1) Subject to the allocation requirements of section 4407(a)(2) of this title and the limitations on Federal contributions under section 4407(b) of this title, the Secretary shall assist in carrying out wetlands conservation projects in the United States, which have been approved by the Migratory Bird Conservation Commission, with the Federal funds made available under this chapter and section 669b(b) of this title.

(2) Except as provided in paragraph (3), any lands or waters or interests therein acquired in whole or in part by the Secretary with the Federal funds made available under this chapter and section 669b(b) of this title to carry out wetlands conservation projects shall be included in the National Wildlife Refuge System.

(3) In lieu of including in the National Wildlife Refuge System any lands or waters or interests therein acquired under this chapter, the Secretary may, with the concurrence of the Migratory Bird Conservation Commission, grant or otherwise provide the Federal funds made available under this chapter and section 669b(b) of this title or convey any real property interest acquired in whole or in part with such funds without cost to a State or to another public agency or other entity upon a finding by the Secretary that the real property interests should not be included in the National Wildlife Refuge System: *Provided*, That any grant recipient shall have been so identified in the project description accompanying the recommendation from the Council and approved by the Migratory Bird Conservation Commission. The Secretary shall not convey any such interest to a State, another public agency or other entity unless the Secretary determines that such State, agency or other entity is committed to undertake the management of the property being transferred in accordance with the objectives of this chapter, and the deed or other instrument of transfer contains provisions for the reversion of title to the property to the United States if such State, agency or other entity fails to manage the property in accordance with the objectives of this chapter. Any real property interest conveyed pursuant to this paragraph shall be subject to such terms and conditions that will ensure that the interest will be administered for the long-term conservation and management of the wetland ecosystem and the fish and wildlife dependent thereon.

(b) Projects in Canada or Mexico

Subject to the allocation requirements of section 4407(a)(1) of this title and the limitations on Federal contributions under section 4407(b) of this title, the Secretary shall grant or otherwise provide the Federal funds made available under this chapter and section 669b(b) of this title to public agencies and other entities for the purpose of assisting such entities and individuals in carrying out wetlands conservation projects in Canada or Mexico that have been approved by the Migratory Bird Conservation Commission: *Provided*, That the grant recipient shall have been so identified in the project description accompanying the recommendation from the Council and approved by the Migratory Bird Conservation Commission. The Secretary may only grant or otherwise provide Federal funds if the grant is subject to the terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such Federal funds will be administered for the long-term conservation and management of such wetland ecosystem and the fish and wildlife dependent thereon. Real property and interests in real property acquired pursuant to this subsection shall not become part of the National Wildlife Refuge System. Acquisitions of real property and interests in real property carried out pursuant to this subsection shall not be subject to any provision of Federal law governing acquisitions of property for inclusion in the National Wildlife Refuge System.

(Pub. L. 101–233, § 6, Dec. 13, 1989, 103 Stat. 1973.)

§ 4406. Amounts available to carry out this chapter

(a) Omitted

(b) Migratory bird fines, penalties, forfeitures

The sums received under section 707 of this title as penalties or fines, or from forfeitures of property are authorized to be appropriated to the Department of the Interior for purposes of allocation under section 4407 of this title. This subsection shall not be construed to require the sale of instrumentalities.

(c) Authorization of appropriations

In addition to the amounts made available under subsections (a) and (b) of this section, there are authorized to be appropriated to the Department of the Interior for purposes of allocation under section 4407 of this title not to exceed—

(1) $55,000,000 for fiscal year 2003;
(2) $60,000,000 for fiscal year 2004;
(3) $65,000,000 for fiscal year 2005;
(4) $70,000,000 for fiscal year 2006; and
(5) $75,000,000 for each of fiscal years 2008 through 2012.

(d) Availability of funds

Sums made available under this section shall be available until expended.

(Pub. L. 101–233, § 7, Dec. 13, 1989, 103 Stat. 1974; Pub. L. 103–375, § 4, Oct. 19, 1994, 108 Stat. 3495; Pub. L. 105–312, title III, § 302, Oct. 30, 1998, 112 Stat. 2958; Pub. L. 106–553, § 1(a)(2) [title IX, § 902(i)], Dec. 21, 2000, 114 Stat. 2762, 2762A–124; Pub. L. 107–308, § 5, Dec. 2, 2002, 116 Stat. 2447; Pub. L. 109–322, § 2, Oct. 11, 2006, 120 Stat. 1756.)

CODIFICATION

Section is comprised of section 7 of Pub. L. 101–233. Subsec. (a) of section 7 of Pub. L. 101–233 amended sections 669b and 669c of this title and enacted provisions set out as a note under section 669b of this title.

AMENDMENTS

2006—Subsec. (c)(5). Pub. L. 109–322 substituted ''each of fiscal years 2008 through 2012'' for ''fiscal year 2007''.

2002—Subsec. (c). Pub. L. 107–308 substituted ''not to exceed—'' and pars. (1) to (5) for ''not to exceed $50,000,000 for each of fiscal years 1999 through 2003.''

2000—Subsec. (c). Pub. L. 106–553 substituted ''$50,000,000'' for ''$30,000,000''.

1998—Subsec. (c). Pub. L. 105–312 substituted ''not to exceed $30,000,000 for each of fiscal years 1999 through 2003.'' for ''not to exceed $20,000,000 for each of fiscal years 1995 and 1996 and $30,000,000 for each of fiscal years 1997 and 1998.''

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

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

(a) Allocations

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

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

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

(b) Cost sharing

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

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

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

(c) Partial payments

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

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

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

AMENDMENTS

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

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

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

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

1994—Subsec. (b). Pub. L. 103–375 inserted at end ''In the case of a project carried out in Mexico, the non-

Federal share of the United States contribution to the costs of the project may include cash contributions from non-United States sources that are used to pay costs of the project.''

EFFECTIVE DATE OF 2010 AMENDMENT

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

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

The head of each Federal agency responsible for acquiring, managing, or disposing of Federal lands and waters shall, to the extent consistent with the mission of such agency and existing statutory authorities, cooperate with the Director of the United States Fish and Wildlife Service to restore, protect, and enhance the wetland ecosystems and other habitats for migratory birds, fish, and wildlife within the lands and waters of each such agency.

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

§ 4409. Report to Congress

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

(1) a biennial assessment of—

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

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

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

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

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

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

REFERENCES IN TEXT

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

AMENDMENTS

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

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

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

§ 4410. Revisions to Plan

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

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

AMENDMENTS

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

§ 4411. Relationship to other authorities

(a) Acquisition of lands and waters

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

(b) Mitigation

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

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

REFERENCES IN TEXT

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

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

§ 4412. Limitation on assessments against Migratory Bird Conservation Fund

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

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

[1] So in original. Probably should be ''Fund''. See section 718d of this title.

§ 4413. Other agreements

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

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

AMENDMENTS

2002—Pub. L. 107–308 substituted ''Western Hemisphere'' for ''western hemisphere''.

§ 4414. Assessment of progress in wetlands conservation

Not later than January 31, 1996, the Secretary, in cooperation with the Council, to further the purposes of the chapter shall—

(1) develop and implement a strategy to assist in the implementation of this Act in conserving the full complement of North American wetlands systems and species dependent on those systems, that incorporates information existing on the date of the issuance of the strategy in final form on types of wetlands habitats and species dependent on the habitats; and

(2) develop and implement procedures to monitor and evaluate the effectiveness of wetlands conservation projects completed under this chapter.

(Pub. L. 101–233, § 19, as added Pub. L. 103–375, § 3, Oct. 19, 1994, 108 Stat. 3494.)

CHAPTER 65—INTERNATIONAL FORESTRY COOPERATION

Sec.
4501. Forestry and related natural resource assistance.
4502. Tropical deforestation assessment and assistance.
4502a. Tropical forestry research and assistance.
4503. Institute of Tropical Forestry in Puerto Rico.
4503a. Institute of Pacific Islands Forestry.
4503b. Hawaii Experimental Tropical Forest.
4503c. Omitted.
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4505. Authorization of appropriations.

§ 4501. Forestry and related natural resource assistance

(a) Focus of activities

To achieve the maximum impact from activities undertaken under the authority of this chapter, the Secretary shall focus such activities on the key countries which could have a substantial impact on emissions of greenhouse gases related to global warming.

(b) Authority for international forestry activities

In support of forestry and related natural resource activities outside of the United States and its territories and possessions, the Secretary of Agriculture may—

(1) provide assistance that promotes sustainable development and global environmental stability, including assistance for—

(A) conservation and sustainable management of forest land;

(B) forest plantation technology and tree improvement;

(C) rehabilitation of cutover lands, eroded watersheds, and areas damaged by wildfires or other natural disasters;

(D) prevention and control of insects, diseases, and other damaging agents;

(E) preparedness planning, training, and operational assistance to combat natural disasters;

(F) more complete utilization of forest products leading to resource conservation;

(G) range protection and enhancement; and

(H) wildlife and fisheries habitat protection and improvement;

(2) share technical, managerial, extension, and administrative skills related to public and private natural resource administration;

(3) provide education and training opportunities to promote the transfer and utilization of scientific information and technologies;

(4) engage in scientific exchange and cooperative research with foreign governmental, educational, technical and research institutions; and

(5) cooperate with domestic and international organizations that further international programs for the management and protection of forests, rangelands, wildlife and fisheries, and related natural resource activities.

(c) Eligible countries

The Secretary shall undertake the activities described in subsection (b) of this section, in countries that receive assistance from the Agency for International Development only at the request, or with the concurrence, of the Administrator of the Agency for International Development.

(Pub. L. 101–513, title VI, § 602, Nov. 5, 1990, 104 Stat. 2070; Pub. L. 102–574, § 2(b)(1), Oct. 29, 1992, 106 Stat. 4596.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original ''this title'', meaning title VI of Pub. L. 101–513, Nov. 5, 1990, 104 Stat. 2070, which is classified principally to this chapter. For complete classification of title VI to the Code, see Short Title note set out below and Tables.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–574 struck out ''(hereinafter referred to in this chapter as the Secretary)'' after ''Agriculture'' in introductory provisions.

SHORT TITLE OF 1992 AMENDMENT

Section 1 of Pub. L. 102–574 provided that: ''This Act [enacting sections 4502a and 4503a to 4503d of this title, amending this section and section 4503 of this title, and enacting provisions set out as notes under sections 4502a and 4503a of this title] may be cited as the 'Hawaii Tropical Forest Recovery Act'.''

SHORT TITLE

Section 601 of title VI of Pub. L. 101–513 provided that: ''This title [enacting this chapter and amending

sections 1641, 1643, 2101, and 2109 of this title] may be cited as the 'International Forestry Cooperation Act of 1990'.''

§ 4502. Tropical deforestation assessment and assistance

In support of the Tropical Forestry Action Plan and to specifically address tropical deforestation and degradation, the Secretary may—

(1) support and actively participate in global and regional meetings that seek to reform such Plan;

(2) together with the United States Agency for International Development,[1] and other Federal agencies, provide technical assistance to tropical countries for the formulation of national forestry sector development strategies; and

(3) cooperate with tropical countries on research, training, and technical programs aimed at implementing national forestry sector development strategies.

(Pub. L. 101–513, title VI, § 603, Nov. 5, 1990, 104 Stat. 2071.)

§ 4502a. Tropical forestry research and assistance

(a) Assistance

To promote sound management and conservation of tropical forests of the United States and to promote the development and transfer of technical, managerial, educational, and administrative skills to managers of tropical forests within or outside the United States, the Secretary of Agriculture is authorized to provide assistance through the Forest Service to eligible entities in States with tropical forests to—

(1) develop, promote, and demonstrate sustainable harvesting of native woods and other forest products on a sustainable yield basis in balance with natural resource conservation;

(2) promote habitat preservation and species protection or recovery;

(3) protect indigenous plant and animal species and essential watersheds from non-native animals, plants, and pathogens;

(4) establish biological control agents for non-native species that threaten natural ecosystems;

(5) establish a monitoring system in tropical forests to identify baseline conditions and determine detrimental changes or improvements over time;

(6) detect and appraise stresses affecting tropical forests caused by insect infestations, diseases, pollution, fire, and non-native animal and plant species, and by the influence of people;

(7) determine the causes of changes that are detected through experimentation, intensive monitoring, and data collection at affected tropical forest sites; and

(8) engage in research, demonstration, education, training, and outreach that furthers the objectives of this subsection.

(b) Form of assistance

Assistance provided to eligible entities under this section may be in the form of grants, contracts, or cooperative agreements.

(c) Definitions

As used in this section:

(1) Eligible entity

The term ''eligible entity'' means a State forester or equivalent State official, State, political subdivision of a State, Federal agency, private organization, corporation, or other private person.

(2) State

The term ''State'' means each of the 50 States, Guam, American Samoa, the Republic of Palau (until the Compact of Free Association enters into effect), Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 102–574, § 3, Oct. 29, 1992, 106 Stat. 4596.)

REFERENCES IN TEXT

For Oct. 1, 1994, as the date the Compact of Free Association with the Republic of Palau enters into effect, referred to in subsec. (c)(2), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

CODIFICATION

Section was enacted as part of the Hawaii Tropical Forest Recovery Act, and not as part of the International Forestry Cooperation Act of 1990 which comprises this chapter.

AUTHORIZATION OF APPROPRIATIONS

Section 5 of Pub. L. 102–574 provided that: ''There are authorized to be appropriated such sums as are necessary to carry out sections 3 and 4 [enacting this section and provisions set out as a note under 4503a of this title].''

§ 4503. Institute of Tropical Forestry in Puerto Rico

(a) Expansion

The Secretary shall expand the capabilities of and construct additional facilities at the Caribbean National Forest and Institute of Tropical Forestry in Puerto Rico, as the Secretary determines necessary to support the purpose of this chapter, and as funds are appropriated for such expansion and construction.

(b) Tropical forestry plans

Not later than 1 year after November 5, 1990, the Secretary shall prepare and submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and to the Committees on Appropriations of the Senate and House of Representatives, a tropical forestry plan for the expansion and construction of additional facilities under subsection (a) of this section. Such plan shall include provisions for—

(1) the construction or acquisition of a major center for education, interpretation, and appreciation of the benefits and methods of the intelligent management of tropical forests;

(2) the acquisition or construction of facilities for housing and classroom instruction near the Caribbean National Forest/Luguillo Experimental Forest; and

(3) the acquisition or construction of facilities for the study and recovery of endangered tropical wildlife, fish and plant species.

[1] So in original. The comma probably should not appear.

(Pub. L. 101–513, title VI, § 604, Nov. 5, 1990, 104 Stat. 2071; Pub. L. 102–574, § 2(b)(2), Oct. 29, 1992, 106 Stat. 4596.)

AMENDMENTS

1992—Pub. L. 102–574 inserted ''in Puerto Rico'' in section catchline.

CHANGE OF NAME

Ex. Ord. No. 13428, Apr. 2, 2007, 72 F.R. 16693, provided that the Caribbean National Forest in the Commonwealth of Puerto Rico, referred to in subsecs. (a) and (b)(2), is renamed the ''El Yunque National Forest''.

§ 4503a. Institute of Pacific Islands Forestry

(a) Expansion

The Secretary shall expand the capabilities of and construct additional facilities, as funds are appropriated for the expansion and construction, at—

(1) the Institute of Pacific Islands Forestry; and

(2) tropical forests in the State of Hawaii.

(b) Tropical forestry plan

(1) In general

Not later than 1 year after the date of receipt by the Secretary of the action plan required by section 5(b)[1] of the Hawaii Tropical Forest Recovery Act, the Secretary shall prepare and submit to the Committee on Agriculture and the Committee on Natural Resources of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and to the Committees on Appropriations of the House of Representatives and Senate, a tropical forestry plan to expand the capabilities of and construct additional facilities under subsection (a) of this section.

(2) Elements

The plan shall provide for—

(A) the establishment of a model center for research, demonstration, education, training, and outreach activities suitable for transferring scientific, technical, managerial, and administrative assistance to governmental and non-governmental organizations seeking to address problems associated with tropical forests within and outside the United States;

(B) the acquisition or construction of facilities for research, classroom instruction, and housing near an experimental tropical forest in the State of Hawaii;

(C) the acquisition or construction of facilities for the study and recovery of endangered tropical wildlife, fish, and plant species and the restoration of their habitats;

(D) the study of biological control of nonnative species that degrade or destroy native forest ecosystems;

(E) achieving a better understanding of global climate change and the significance of achieving a reduction of greenhouse gases through research associated with the unique atmospheric conditions found in Hawaii and the Pacific Ocean;

(F) a review of the extent to which existing Federal forestry programs can be utilized to achieve the purposes of the plan; and

(G) the establishment of experimental tropical forests in the State of Hawaii as authorized by section 4503b of this title.

(3) Capability

In preparing elements of the plan that address paragraph (2)(F), the Secretary shall identify the capability of the plan—

(A) to promote a greater understanding of tropical forest ecosystem processes, conservation biology, and biodiversity management;

(B) to demonstrate the various benefits of maintaining a tropical forest reserve system;

(C) to promote sound watershed and forest management;

(D) to develop compatible land uses adjacent to protected natural areas; and

(E) to develop new methods of reclaiming and restoring degraded lands.

(Pub. L. 101–513, title VI, § 605, as added Pub. L. 102–574, § 2(a)(2), Oct. 29, 1992, 106 Stat. 4593; amended Pub. L. 103–437, § 6(d)(42), Nov. 2, 1994, 108 Stat. 4585.)

REFERENCES IN TEXT

Section 5(b) of the Hawaii Tropical Forest Recovery Act, referred to in subsec. (b)(1), probably means section 4(b) of that Act, Pub. L. 102–574, which contains provisions regarding an action plan, and which is set out as a note below. Section 5 of that Act, which is set out as a note under section 4502a of this title, does not contain a subsec. (b).

PRIOR PROVISIONS

A prior section 605 of Pub. L. 101–513 was renumbered section 609 and is classified to section 4504 of this title.

AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

HAWAII TROPICAL FOREST RECOVERY TASK FORCE

Pub. L. 102–574, § 4, Oct. 29, 1992, 106 Stat. 4597, provided that:

''(a) ESTABLISHMENT.—There is established the Hawaii Tropical Forest Recovery Task Force (hereafter in this section referred to as the 'Task Force') to advise the Secretary of Agriculture with respect to tropical forests and related ecosystems in the State of Hawaii.

''(b) ACTION PLAN.—Not later than 1 year after the date of the first meeting of the Task Force, the Task Force shall submit to the Committees, Secretaries, and Governor referred to in subsection (k) an action plan that contains findings and recommendations for rejuvenating Hawaii's tropical forests, including findings and recommendations on—

''(1) methods of restoring the health of declining or degraded tropical forest land;

''(2) compatible uses within tropical forests, particularly agroforestry and the cultivation of scarce or valuable hardwoods and other forest products in Hawaii's tropical forests;

''(3) actions to encourage and accelerate the identification and classification of unidentified plant, animal, and microbe species;

''(4) actions to—

''(A) promote public awareness of tropical forest preservation;

''(B) protect threatened and endangered species;

[1] See References in Text note below.

''(C) improve forest management and planning; and

''(D) promote public awareness of the harm caused by introduced species;

''(5) the benefits of fencing or other management activities for the protection of Hawaii's native plants and animals from non-native species, including the identification and priorities for the areas where these activities are appropriate;

''(6) traditional practices, uses, and needs of native Hawaiians in tropical forests;

''(7) means of improving the health of tropical forests and related ecosystems in the State of Hawaii through programs administered by the Secretary of Agriculture and the Secretary of the Interior;

''(8) the capability of existing Federal, State, and private forestry programs for rejuvenating Hawaii's tropical forests; and

''(9) such other issues relating to tropical forests in Hawaii as the Task Force considers appropriate.

''(c) COMPOSITION.—The Task Force shall be composed of 12 members, of whom—

''(1) three members shall be appointed by the Secretary of Agriculture, two of whom shall be representatives of the Forest Service and the Soil Conservation Service, respectively;

''(2) two members shall be appointed by the Secretary of the Interior as representatives of the United States Fish and Wildlife Service and the National Park Service, respectively;

''(3) six members shall be appointed by the Governor of Hawaii, of whom—

''(A) two members shall be private owners of tropical forest lands;

''(B) two members shall be experts in the field of tropical forestry; and

''(C) two members shall be representatives of Hawaii conservation organizations that have demonstrated expertise in the areas of tropical forest management, habitat preservation, and alien species control or have demonstrated effective advocacy in the areas; and

''(4) one member shall be the Administrator of the Department of Land and Natural Resources, State of Hawaii, or the designated representative of the Administrator.

''(d) INITIAL APPOINTMENTS.—Appointments under this section to the Task Force shall be made not later than 90 days after the date of enactment of this Act [Oct. 29, 1992].

''(e) CHAIRPERSON.—The Task Force shall select a Chairperson from among its members.

''(f) VACANCIES.—A vacancy on the Task Force shall not affect its powers and shall be filled in the same manner as the original appointment.

''(g) COMPENSATION.—

''(1) IN GENERAL.—A member of the Task Force shall not receive compensation as a result of the performance of services for the Task Force.

''(2) TRAVEL EXPENSES.—The members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Task Force.

''(h) MEETINGS.—The Task Force shall meet not later than 180 days after the date of enactment of this Act [Oct. 29, 1992] and shall meet at the call of the Chairperson.

''(i) VOTING.—The Task Force shall act and advise by majority vote.

''(j) ASSISTANCE.—The Secretary of Agriculture and the Secretary of the Interior shall provide such assistance and support as are necessary to meet the objectives of the Task Force. The assistance shall include making Federal facilities, equipment, tools, and technical assistance available on such terms and conditions as the appropriate Secretary considers necessary.

''(k) REPORT.—The action plan required under subsection (b) shall be submitted to—

''(1) the Committees on Agriculture and Interior [now Committee on Natural Resources] of the House of Representatives;

''(2) the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate;

''(3) the Secretary of Agriculture;

''(4) the Secretary of the Interior; and

''(5) the Governor of Hawaii.

''(*l*) NONAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.—Sections 7(d), 10(f), and 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2 [sic]) [5 U.S.C. App.] shall not apply to the Task Force.

''(m) TERMINATION.—The Task Force and authority to carry out this section shall terminate 180 days after submitting the report required by subsection (b).''

§ 4503b. Hawaii Experimental Tropical Forest

(a) Definitions

As used in this section:

(1) Forest

The term ''Forest'' means the Hawaii Experimental Tropical Forest.

(2) Governor

The term ''Governor'' means the Governor of Hawaii.

(3) Lands

The term ''lands'' means lands, waters, and interests in lands and waters.

(4) State

The term ''State'' means the State of Hawaii.

(b) Establishment and management

At the request of the Governor, the Secretary shall establish and administer within the State a Hawaii Experimental Tropical Forest. The Forest shall be managed as—

(1) a model of quality tropical forest management where harvesting on a sustainable yield basis can be demonstrated in balance with natural resource conservation;

(2) a site for research on tropical forestry, conservation biology, and natural resource management; and

(3) a center for demonstration, education, training, and outreach on tropical forestry, conservation biology, and natural resources research and management.

(c) Delineation of location of Forest

(1) Identification of lands

The Governor and the Secretary shall identify one or more suitable sites for the Forest in lands within the State. The identification of each site shall be based on scientific, ecological, administrative, and such other factors as the Governor and Secretary consider to be necessary or desirable to achieve the purposes of this section. Each site identified pursuant to the preceding sentence shall be of sufficient size and located so that the site can be effectively managed for Forest purposes.

(2) Exterior boundaries

The exterior boundaries of the Forest, including the boundaries of all sites identified for Forest purposes, shall be delineated on an official map. The map shall be available for public inspection in the office of the Adminis-

trator of the Division of Forestry and Wildlife of the Department of Land and Natural Resources of the State. The Governor and the Secretary may from time to time, by mutual agreement, amend the official map to modify the boundaries of the Forest.

(d) Authorities of Secretary

(1) In general

To carry out the purposes of this section, the Secretary is authorized—

(A) to administer the Forest in cooperation with the Governor and affected State agencies;

(B) to make grants and enter into contracts and cooperative agreements with the Federal Government, the government of the State, local governments, corporations, nonprofit organizations and individuals;

(C) to exercise existing authority with respect to cooperative forestry and research for Forest purposes; and

(D) to issue necessary rules and regulations or apply existing rules and regulations applicable to areas administered by the Forest Service that are necessary or desirable to administer the Forest—

(i) for the purposes described in subsection (b) of this section;

(ii) to protect persons within the Forest; and

(iii) to preserve and protect the resources in the Forest.

(2) Land acquisition

The authority in section 1643 of this title shall be available to the Secretary to carry out this section.

(3) Statutory construction

Nothing in this section is intended to affect the jurisdiction of the State, both civil and criminal, over any person within the Forest by reason of the establishment of the Forest under this section, except in the case of a penalty for an offense against the United States.

(Pub. L. 101–513, title VI, § 606, as added Pub. L. 102–574, § 2(a)(2), Oct. 29, 1992, 106 Stat. 4594.)

PRIOR PROVISIONS

A prior section 606 of Pub. L. 101–513 was renumbered section 610 and is classified to section 4505 of this title.

§ 4503c. Omitted

CODIFICATION

Section, Pub. L. 101–513, title VI, § 607, as added Pub. L. 102–574, § 2(a)(2), Oct. 29, 1992, 106 Stat. 4595, which required the Secretary of Agriculture to make annual reports to Congress, submitting the reports pursuant to section 1606(c) of this title, on the progress, needs, and long-range plans of the Institutes of Tropical Forestry in meeting the requirements of section 6706 of Title 7, Agriculture, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 45 of House Document No. 103–7.

A prior section 607 of Pub. L. 101–513, which amended sections 1641, 1643, 2101, and 2109 of this title, was renumbered section 611.

§ 4503d. Definitions

As used in this chapter (unless the context otherwise requires):

(1) Institutes of Tropical Forestry

The term ''Institutes of Tropical Forestry'' means the Institute of Tropical Forestry in Puerto Rico and the Institute of Pacific Islands Forestry established under section 6706 of title 7.

(2) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(3) State

The term ''State'' means each of the 50 States, Guam, American Samoa, the Republic of Palau (until the Compact of Free Association enters into effect), Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 101–513, title VI, § 608, as added Pub. L. 102–574, § 2(a)(2), Oct. 29, 1992, 106 Stat. 4595.)

REFERENCES IN TEXT

For Oct. 1, 1994, as the date the Compact of Free Association with the Republic of Palau enters into effect, referred to in par. (3), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

§ 4504. Administrative provisions

(a) Coordination of activities

The Secretary shall coordinate all activities outside of the United States under this chapter with other Federal officials, departments, agencies, and international organizations, as the President may require.

(b) Assistance

The Secretary may provide assistance, as determined appropriate by the Secretary to carry out this chapter, including technical and financial assistance, equipment, and facilities without reimbursement.

(Pub. L. 101–513, title VI, § 609, formerly § 605, Nov. 5, 1990, 104 Stat. 2072; renumbered § 609, Pub. L. 102–574, § 2(a)(1), Oct. 29, 1992, 106 Stat. 4593.)

§ 4505. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this chapter.

(Pub. L. 101–513, title VI, § 610, formerly § 606, Nov. 5, 1990, 104 Stat. 2072; renumbered § 610, Pub. L. 102–574, § 2(a)(1), Oct. 29, 1992, 106 Stat. 4593.)

CHAPTER 66—TAKE PRIDE IN AMERICA PROGRAM

Sec.

4601. Establishment of Take Pride in America Program.
4602. Gifts and bequests.
4603. Administrative services.
4604. Volunteers.
4605. Authority to execute contracts.
4606. Distribution of appropriate items.
4607. Slogan and logo.
4608. Authorization of appropriations.

§ 4601. Establishment of Take Pride in America Program

(a) In general

There is hereby established the Take Pride in America Program within the Department of the

Interior (hereinafter referred to as the ''TPIA Program'').

(b) Purposes

The purposes of the TPIA Program shall include the following:

(1) To establish and maintain a public awareness campaign in cooperation with public and private organizations and individuals—

(A) to instill in the public the importance of the appropriate use of, and appreciation for Federal, State, and local lands, facilities, and natural and cultural resources;

(B) to encourage an attitude of stewardship and responsibility toward these lands, facilities, and resources; and

(C) to promote participation by individuals, organizations, and communities of a conservation ethic in caring for these lands, facilities, and resources.

(2) To conduct a national awards program to honor those individuals and entities which, in the opinion of the Secretary of the Interior (hereafter in this chapter referred to as the ''Secretary''), have distinguished themselves in the activities described in paragraph (1) of this subsection.

(Pub. L. 101–628, title XI, § 1102, Nov. 28, 1990, 104 Stat. 4502.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2), was in the original ''this Act'', and was translated as reading ''this title'', meaning title XI of Pub. L. 101–628, Nov. 28, 1990, 104 Stat. 4502, known as the Take Pride in America Act, which is classified generally to this chapter, to reflect the probable intent of Congress.

SHORT TITLE

Section 1101 of title XI of Pub. L. 101–628 provided that: ''This title [enacting this chapter] may be cited as the 'Take Pride in America Act'.''

§ 4602. Gifts and bequests

(a) Authority

The Secretary may solicit, accept, hold, administer, invest in government securities, and use gifts and bequests of money and other personal property to aid or facilitate the purposes of the TPIA Program. Property so donated and accepted shall not be subject to sequestration.

(b) Accounting

The Secretary shall maintain a full accounting of such gifts and bequests.

(c) Treatment of donations, etc.

For purposes of Federal law, property accepted pursuant to this section shall be considered as a gift, bequest, or devise to the United States.

(d) Use of property

Any property and the proceeds thereof shall be used as nearly as practicable in accordance with the terms of the gift or bequest.

(Pub. L. 101–628, title XI, § 1103, Nov. 28, 1990, 104 Stat. 4502.)

§ 4603. Administrative services

The Secretary of the Interior shall provide such facilities, administrative services, personnel, and support to the TPIA Program as the Secretary determines is necessary and appropriate.

(Pub. L. 101–628, title XI, § 1104, Nov. 28, 1990, 104 Stat. 4502.)

§ 4604. Volunteers

(a) Authority to use volunteers

The Secretary is authorized to recruit, train, and accept the services of individuals or entities, without compensation, as volunteers for or in aid of the purposes of the TPIA Program, without regard to the provisions of title 5, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, that relate to classification and General Schedule pay rates.

(b) Incidental expenses

The Secretary is authorized to provide for the incidental expenses of such volunteers, such as transportation, uniforms, lodging, or subsistence.

(c) Volunteers' status as Federal employees

(1) Except as otherwise provided in this subsection, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those provisions relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) For purposes of chapter 171 of title 28 (commonly referred to as the ''Federal Tort Claims Act''), a volunteer under this subsection shall be considered an employee of the government (as defined in section 2671 of such title).

(3) For purposes of subchapter I of chapter 81 of title 5, relating to compensation to Federal employees for work injuries, a volunteer under this subsection shall be considered an employee (as defined in section 8101 of title 5).

(Pub. L. 101–628, title XI, § 1105, Nov. 28, 1990, 104 Stat. 4502.)

§ 4605. Authority to execute contracts

The Secretary is authorized to enter into contracts and cooperative agreements and generally to do any and all lawful acts necessary or appropriate to further the purposes of the TPIA Program.

(Pub. L. 101–628, title XI, § 1106, Nov. 28, 1990, 104 Stat. 4503.)

§ 4606. Distribution of appropriate items

The Secretary is authorized to distribute pamphlets and other such appropriate items in order to promote the purposes of the TPIA Program.

(Pub. L. 101–628, title XI, § 1107, Nov. 28, 1990, 104 Stat. 4503.)

§ 4607. Slogan and logo

The ''Take Pride in America'' slogan and logo, which are registered by the Department of the Interior, and the goodwill associated with such slogan and logo, shall be administered pursuant to the TPIA Program.

(Pub. L. 101–628, title XI, § 1108, Nov. 28, 1990, 104 Stat. 4503.)

§ 4608. Authorization of appropriations

(a) Department of the Interior

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this chapter, not to exceed the amount expended for such purposes for fiscal year 1990.

(b) Other Federal agencies

There are authorized to be appropriated to other Federal departments and agencies such sums as may be necessary to carry out the provisions of any other Take Pride in America programs established by such departments or agencies.

(Pub. L. 101–628, title XI, § 1109, Nov. 28, 1990, 104 Stat. 4503.)

CHAPTER 67—AQUATIC NUISANCE PREVENTION AND CONTROL

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SUBCHAPTER I—GENERAL PROVISIONS

§ 4701. Findings and purposes

(a) Findings

The Congress finds that—

(1) the discharge of untreated water in the ballast tanks of vessels and through other means results in unintentional introductions of nonindigenous species to fresh, brackish, and saltwater environments;

(2) when environmental conditions are favorable, nonindigenous species become established, may compete with or prey upon native species of plants, fish, and wildlife, may carry diseases or parasites that affect native species, and may disrupt the aquatic environment and economy of affected nearshore areas;

(3) the zebra mussel was unintentionally introduced into the Great Lakes and has infested—

(A) waters south of the Great Lakes, into a good portion of the Mississippi River drainage;

(B) waters west of the Great Lakes, into the Arkansas River in Oklahoma; and

(C) waters east of the Great Lakes, into the Hudson River and Lake Champlain;

(4) the potential economic disruption to communities affected by the zebra mussel due to its colonization of water pipes, boat hulls and other hard surfaces has been estimated at $5,000,000,000 by the year 2000, and the potential disruption to the diversity and abundance of native fish and other species by the zebra mussel and ruffe, round goby, and other nonindigenous species could be severe;

(5) the zebra mussel was discovered on Lake Champlain during 1993 and the opportunity exists to act quickly to establish zebra mussel controls before Lake Champlain is further infested and management costs escalate;

(6) in 1992, the zebra mussel was discovered at the northernmost reaches of the Chesapeake Bay watershed;

(7) the zebra mussel poses an imminent risk of invasion in the main waters of the Chesapeake Bay;

(8) since the Chesapeake Bay is the largest recipient of foreign ballast water on the East Coast, there is a risk of further invasions of other nonindigenous species;

(9) the zebra mussel is only one example of thousands of nonindigenous species that have become established in waters of the United States and may be causing economic and ecological degradation with respect to the natural resources of waters of the United States;

(10) since their introduction in the early 1980's in ballast water discharges, ruffe—

(A) have caused severe declines in populations of other species of fish in Duluth Harbor (in Minnesota and Wisconsin);

(B) have spread to Lake Huron; and

(C) are likely to spread quickly to most other waters in North America if action is not taken promptly to control their spread;

(11) examples of nonindigenous species that, as of October 26, 1996, infest coastal waters of the United States and that have the potential for causing adverse economic and ecological effects include—

(A) the mitten crab (Eriocher sinensis) that has become established on the Pacific Coast;

(B) the green crab (Carcinus maenas) that has become established in the coastal waters of the Atlantic Ocean;

(C) the brown mussel (Perna perna) that has become established along the Gulf of Mexico; and

(D) certain shellfish pathogens;

(12) many aquatic nuisance vegetation species, such as Eurasian watermilfoil, hydrilla, water hyacinth, and water chestnut, have been

introduced to waters of the United States from other parts of the world causing or having a potential to cause adverse environmental, ecological, and economic effects;

(13) if preventive management measures are not taken nationwide to prevent and control unintentionally introduced nonindigenous aquatic species in a timely manner, further introductions and infestations of species that are as destructive as, or more destructive than, the zebra mussel or the ruffe infestations may occur;

(14) once introduced into waters of the United States, aquatic nuisance species are unintentionally transported and introduced into inland lakes and rivers by recreational boaters, commercial barge traffic, and a variety of other pathways; and

(15) resolving the problems associated with aquatic nuisance species will require the participation and cooperation of the Federal Government and State governments, and investment in the development of prevention technologies.

(b) Purposes

The purposes of this chapter are—

(1) to prevent unintentional introduction and dispersal of nonindigenous species into waters of the United States through ballast water management and other requirements;

(2) to coordinate federally conducted, funded or authorized research, prevention[1] control, information dissemination and other activities regarding the zebra mussel and other aquatic nuisance species;

(3) to develop and carry out environmentally sound control methods to prevent, monitor and control unintentional introductions of nonindigenous species from pathways other than ballast water exchange;

(4) to understand and minimize economic and ecological impacts of nonindigenous aquatic nuisance species that become established, including the zebra mussel; and

(5) to establish a program of research and technology development and assistance to States in the management and removal of zebra mussels.

(Pub. L. 101–646, title I, § 1002, Nov. 29, 1990, 104 Stat. 4761; Pub. L. 104–182, title III, § 308(a), Aug. 6, 1996, 110 Stat. 1689; Pub. L. 104–332, § 2(a)(1), (h)(1), Oct. 26, 1996, 110 Stat. 4073, 4091.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original ''this Act'', which, to reflect the probable intent of Congress, was translated as reading ''this title'' meaning title I of Pub. L. 101–646, Nov. 29, 1990, 104 Stat. 4761, known as the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out below and Tables.

AMENDMENTS

1996—Pub. L. 104–332, § 2(h)(1), made technical amendment to Pub. L. 101–646, § 1002, which enacted this section.

Subsec. (a)(2), (3). Pub. L. 104–332, § 2(a)(1)(A), added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

''(2) when environmental conditions are favorable, nonindigenous species, such as the zebra mussel (Dreissena polymorpha), become established and may disrupt the aquatic environment and economy of affected coastal areas;

''(3) the zebra mussel was unintentionally introduced into the Great Lakes and, if left uncontrolled, is expected to infest over two-thirds of the continental United States through the unintentional transportation of larvae and adults by vessels operating in inland waters;''.

Subsec. (a)(4). Pub. L. 104–332, § 2(a)(1)(B)(i), inserted ''by the zebra mussel and ruffe, round goby, and other nonindigenous species'' after ''other species''.

Subsec. (a)(5). Pub. L. 104–182 added par. (5).

Subsec. (a)(6) to (15). Pub. L. 104–332, § 2(a)(1)(B)(ii), (C), (D), added pars. (6) to (15).

SHORT TITLE OF 1996 AMENDMENT

Section 1(a) of Pub. L. 104–332 provided that: ''This Act [enacting sections 4713 and 4714 of this title, amending sections 941 to 941g, 4701, 4702, 4711, 4712, 4721 to 4728, 4741 and 4751 of this title, section 42 of Title 18, Crimes and Criminal Procedure, and section 2761 of Title 33, Navigation and Navigable Waters, enacting provisions set out as a note under this section, and amending provisions set out as notes under this section, section 941 of this title, and section 2701 of Title 33] may be cited as the 'National Invasive Species Act of 1996'.''

SHORT TITLE

Section 1001 of title I of Pub. L. 101–646, as amended by Pub. L. 104–332, § 2(h)(1), Oct. 26, 1996, 110 Stat. 4091, provided that: ''This title [enacting this chapter and amending section 42 of Title 18, Crimes and Criminal Procedure] may be cited as the 'Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990'.''

CONSTRUCTION OF 1996 AMENDMENT

Section 3 of Pub. L. 104–332 provided that: ''Nothing in this Act [see Short Title of 1996 Amendment note above] or the amendments made by this Act is intended to affect the authorities and responsibilities of the Great Lakes Fishery Commission established under article II of the Convention on Great Lakes Fisheries between the United States of America and Canada, signed at Washington on September 10, 1954 (hereafter in this section referred to as the 'Convention'), including the authorities and responsibilities of the Great Lakes Fishery Commission—

''(1) for developing and implementing a comprehensive program for eradicating or minimizing populations of sea lamprey in the Great Lakes watershed; and

''(2) carrying out the duties of the Commission specified in the Convention (including any amendment thereto) and the Great Lakes Fishery Act of 1956 (16 U.S.C. 931 et seq.).''

REPORT ON ESTABLISHMENT OF PROGRAM

Pub. L. 102–567, title II, § 203(b), Oct. 29, 1992, 106 Stat. 4281, provided that: ''Not later than one year after the date of the enactment of this Act [Oct. 29, 1992], the Secretary of Commerce shall submit a report to the Congress on progress toward establishing a nonindigenous aquatic nuisance prevention and control program within the National Oceanic and Atmospheric Administration and projected funding for such a program for the following five fiscal years.''

§ 4702. Definitions

As used in this chapter, the term—

(1) ''aquatic nuisance species'' means a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural or recreational activities dependent on such waters;

[1] So in original. Probably should be followed by a comma.

(2) ''Assistant Secretary'' means the Assistant Secretary of the Army (Civil Works);

(3) ''ballast water'' means any water and associated sediments used to manipulate the trim and stability of a vessel;

(4) ''Director'' means the Director of the United States Fish and Wildlife Service;

(5) ''exclusive economic zone'' means the Exclusive Economic Zone of the United States established by Proclamation Number 5030, dated March 10, 1983, and the equivalent zone of Canada;

(6) ''environmentally sound'' methods, efforts, actions or programs means methods, efforts, actions or programs to prevent introductions or control infestations of aquatic nuisance species that minimize adverse impacts to the structure and function of an ecosystem and adverse effects on non-target organisms and ecosystems and emphasize integrated pest management techniques and nonchemical measures;

(7) ''Great Lakes'' means Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canandian[1] Border), and includes all other bodies of water within the drainage basin of such lakes and connecting channels.

(8) ''Great Lakes region'' means the 8 States that border on the Great Lakes;

(9) ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(10) ''interstate organization'' means an entity—

(A) established by—

(i) an interstate compact that is approved by Congress;

(ii) a Federal statute; or

(iii) a treaty or other international agreement with respect to which the United States is a party; and

(B)(i) that represents 2 or more—

(I) States or political subdivisions thereof; or

(II) Indian tribes; or

(ii) that represents—

(I) 1 or more States or political subdivisions thereof; and

(II) 1 or more Indian tribes; or

(iii) that represents the Federal Government and 1 or more foreign governments; and

(C) has jurisdiction over, serves as forum for coordinating, or otherwise has a role or responsibility for the management of, any land or other natural resource;

(11) ''nonindigenous species'' means any species or other viable biological material that enters an ecosystem beyond its historic range, including any such organism transferred from one country into another;

(12) ''Secretary'' means the Secretary of the department in which the Coast Guard is operating;

(13) ''Task Force'' means the Aquatic Nuisance Species Task Force established under section 4721 of this title;

(14) ''territorial sea'' means the belt of the sea measured from the baseline of the United States determined in accordance with international law, as set forth in Presidential Proclamation Number 5928, dated December 27, 1988;

(15) ''Under Secretary'' means the Under Secretary of Commerce for Oceans and Atmosphere;

(16) ''waters of the United States'' means the navigable waters and the territorial sea of the United States; and

(17) ''unintentional introduction'' means an introduction of nonindigenous species that occurs as the result of activities other than the purposeful or intentional introduction of the species involved, such as the transport of nonindigenous species in ballast or in water used to transport fish, mollusks or crustaceans for aquaculture or other purposes.

(Pub. L. 101–646, title I, §1003, Nov. 29, 1990, 104 Stat. 4762; Pub. L. 102–580, title III, §302(b)(2), Oct. 31, 1992, 106 Stat. 4839; Pub. L. 104–332, §2(a)(2), (h)(1), (3), Oct. 26, 1996, 110 Stat. 4074, 4091.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', which, to reflect the probable intent of Congress, was translated as reading ''this title'' meaning title I of Pub. L. 101–646, Nov. 29, 1990, 104 Stat. 4761, known as the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 4701 of this title and Tables.

Proclamation Number 5030, referred to in par. (5), is set out under section 1453 of this title.

The Alaska Native Claims Settlement Act, referred to in par. (9), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

Presidential Proclamation Number 5928, referred to in par. (14), is set out under section 1331 of Title 43.

AMENDMENTS

1996—Pub. L. 104–332, §2(h)(1), (3), made technical amendment to Pub. L. 101–646, §1003, which enacted this section.

Par. (1). Pub. L. 104–332, §2(a)(2)(A), redesignated par. (2) as (1) and struck out former par. (1) which read as follows: '' 'appropriate Committees' means the Committee on Public Works and Transportation and the Committee on Merchant Marine and Fisheries in the House of Representatives and the Committee on Environment and Public Works and Committee on Commerce, Science, and Transportation in the Senate; and''.

Par. (2). Pub. L. 104–332, §2(a)(2)(B), substituted '' 'Assistant Secretary' means'' for '' 'assistant Secretary' means''.

Pub. L. 104–332, §2(a)(2)(A), redesignated par. (3) as (2). Former par. (2) redesignated (1).

Pars. (3) to (7). Pub. L. 104–332, §2(a)(2)(A), redesignated pars. (4) to (8) as (3) to (7), respectively. Former par. (3) redesignated (2).

[1] So in original. Probably should be ''Canadian''.

Par. (8). Pub. L. 104–332, § 2(a)(2)(D), added par. (8).
Pub. L. 104–332, § 2(a)(2)(A), redesignated par. (8) as (7).
Pars. (9), (10). Pub. L. 104–332, § 2(a)(2)(D), added pars. (9) and (10).
Pub. L. 104–332, § 2(a)(2)(C), redesignated pars. (9) and (10) as (11) and (12), respectively.
Pars. (11) to (17). Pub. L. 104–332, § 2(a)(2)(C), redesignated pars. (9) to (15) as (11) to (17), respectively.
1992—Par. (1). Pub. L. 102–580 inserted ''the Committee on Public Works and Transportation and'' after ''means''.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

SUBCHAPTER II—PREVENTION OF UNINTENTIONAL INTRODUCTIONS OF NONINDIGENOUS AQUATIC SPECIES

§ 4711. Aquatic nuisance species in waters of United States

(a) Great Lakes guidelines

(1) In general

Not later than 6 months after November 29, 1990, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the exchange of ballast water of vessels prior to entering those waters.

(2) Content of guidelines

The guidelines issued under this subsection shall—

(A) ensure to the maximum extent practicable that ballast water containing aquatic nuisance species is not discharged into the Great Lakes;

(B) protect the safety of—

(i) each vessel; and

(ii) the crew and passengers of each vessel;

(C) take into consideration different vessel operating conditions; and

(D) be based on the best scientific information available.

(b) Regulations

(1) In general

Not later than 2 years after November 29, 1990, the Secretary, in consultation with the Task Force, shall issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the ballast water of vessels.

(2) Content of regulations

The regulations issued under this subsection shall—

(A) apply to all vessels equipped with ballast water tanks that enter a United States port on the Great Lakes after operating on the waters beyond the exclusive economic zone;

(B) require a vessel to—

(i) carry out exchange of ballast water on the waters beyond the exclusive economic zone prior to entry into any port within the Great Lakes;

(ii) carry out an exchange of ballast water in other waters where the exchange does not pose a threat of infestation or spread of aquatic nuisance species in the Great Lakes and other waters of the United States, as recommended by the Task Force under section 4712(a)(1) of this title; or

(iii) use environmentally sound alternative ballast water management methods if the Secretary determines that such alternative methods are as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species;

(C) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(D) provide for sampling procedures to monitor compliance with the requirements of the regulations;

(E) prohibit the operation of a vessel in the Great Lakes if the master of the vessel has not certified to the Secretary or the Secretary's designee by not later than the departure of that vessel from the first lock in the St. Lawrence Seaway that the vessel has complied with the requirements of the regulations;

(F) protect the safety of—

(i) each vessel; and

(ii) the crew and passengers of each vessel;

(G) take into consideration different operating conditions; and

(H) be based on the best scientific information available.

(3) Additional regulations

In addition to promulgating regulations under paragraph (1), the Secretary, in consultation with the Task Force, shall, not later than November 4, 1994, issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through ballast water carried on vessels that enter a United States port on the Hudson River north of the George Washington Bridge.

(4) Education and technical assistance programs

The Secretary may carry out education and technical assistance programs and other measures to promote compliance with the regulations issued under this subsection.

(c) Voluntary national guidelines

(1) In general

Not later than 1 year after October 26, 1996, and after providing notice and an opportunity for public comment, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of nonindigenous species in waters of the United States by ballast water operations and other operations of vessels equipped with ballast water tanks.

(2) Content of guidelines

The voluntary guidelines issued under this subsection shall—

(A) ensure to the maximum extent practicable that aquatic nuisance species are not discharged into waters of the United States from vessels;

(B) apply to all vessels equipped with ballast water tanks that operate in waters of the United States;

(C) protect the safety of—

(i) each vessel; and

(ii) the crew and passengers of each vessel;

(D) direct a vessel that is carrying ballast water into waters of the United States after operating beyond the exclusive economic zone to—

(i) carry out the exchange of ballast water of the vessel in waters beyond the exclusive economic zone;

(ii) exchange the ballast water of the vessel in other waters where the exchange does not pose a threat of infestation or spread of nonindigenous species in waters of the United States, as recommended by the Task Force under section 4712(a)(1) of this title; or

(iii) use environmentally sound alternative ballast water management methods, including modification of the vessel ballast water tanks and intake systems, if the Secretary determines that such alternative methods are at least as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species;

(E) direct vessels to carry out management practices that the Secretary determines to be necessary to reduce the probability of unintentional nonindigenous species transfer resulting from—

(i) ship operations other than ballast water discharge; and

(ii) ballasting practices of vessels that enter waters of the United States with no ballast water on board;

(F) provide for the keeping of records that shall be submitted to the Secretary, as prescribed by the guidelines, and that shall be maintained on board each vessel and made available for inspection, upon request of the Secretary and in a manner consistent with subsection (i) of this section, in order to enable the Secretary to determine compliance with the guidelines, including—

(i) with respect to each ballast water exchange referred to in clause (ii), reporting on the precise location and thoroughness of the exchange; and

(ii) any other information that the Secretary considers necessary to assess the rate of effective compliance with the guidelines;

(G) provide for sampling procedures to monitor compliance with the guidelines;

(H) take into consideration—

(i) vessel types;

(ii) variations in the characteristics of point of origin and receiving water bodies;

(iii) variations in the ecological conditions of waters and coastal areas of the United States; and

(iv) different operating conditions;

(I) be based on the best scientific information available;

(J) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(K) provide an exemption from ballast water exchange requirements to passenger vessels with operating ballast water systems that are equipped with treatment systems designed to kill aquatic organisms in ballast water, unless the Secretary determines that such treatment systems are less effective than ballast water exchange at reducing the risk of transfers of invasive species in the ballast water of passenger vessels; and

(L) not apply to crude oil tankers engaged in the coastwise trade.

(3) Education and technical assistance programs

Not later than 1 year after October 26, 1996, the Secretary shall carry out education and technical assistance programs and other measures to encourage compliance with the guidelines issued under this subsection.

(d) Report to Congress

Not sooner than 24 months after the date of issuance of guidelines pursuant to subsection (c) of this section and not later than 30 months after such date, and after consultation with interested and affected persons, the Secretary shall prepare and submit to Congress a report containing the information required pursuant to paragraphs (1) and (2) of subsection (e) of this section.

(e) Periodic review and revision

(1) In general

Not later than 3 years after the date of issuance of guidelines pursuant to subsection (c) of this section, and not less frequently than every 3 years thereafter, the Secretary shall, in accordance with criteria developed by the Task Force under paragraph (3)—

(A) assess the compliance by vessels with the voluntary guidelines issued under subsection (c) of this section and the regulations promulgated under this chapter;

(B) establish the rate of compliance that is based on the assessment under subparagraph (A);

(C) assess the effectiveness of the voluntary guidelines and regulations referred to in subparagraph (A) in reducing the introduction and spread of aquatic nuisance species by vessels; and

(D) as necessary, on the basis of the best scientific information available—

(i) revise the guidelines and regulations referred to in subparagraph (A);

(ii) promulgate additional regulations pursuant to subsection (f)(1) of this section; or

(iii) carry out each of clauses (i) and (ii).

(2) Special review and revision

Not later than 90 days after the Task Force makes a request to the Secretary for a special review and revision for coastal and inland waterways designated by the Task Force, the Secretary shall—

(A) conduct a special review of guidelines and regulations applicable to those waterways in accordance with the review procedures under paragraph (1); and

(B) as necessary, in the same manner as provided under paragraph (1)(D)—

(i) revise those guidelines;

(ii) promulgate additional regulations pursuant to subsection (f)(1) of this section; or

(iii) carry out each of clauses (i) and (ii).

(3) Criteria for effectiveness

Not later than 18 months after October 26, 1996, the Task Force shall submit to the Secretary criteria for determining the adequacy and effectiveness of the voluntary guidelines issued under subsection (c) of this section.

(f) Authority of Secretary

(1) General regulations

If, on the basis of a periodic review conducted under subsection (e)(1) of this section or a special review conducted under subsection (e)(2) of this section, the Secretary determines that—

(A) the rate of effective compliance (as determined by the Secretary) with the guidelines issued pursuant to subsection (c) of this section is inadequate; or

(B) the reporting by vessels pursuant to those guidelines is not adequate for the Secretary to assess the compliance with those guidelines and provide a rate of compliance of vessels, including the assessment of the rate of compliance of vessels under subsection (e)(2) of this section,

the Secretary shall promptly promulgate regulations that meet the requirements of paragraph (2).

(2) Requirements for regulations

The regulations promulgated by the Secretary under paragraph (1)—

(A) shall—

(i) not be promulgated sooner than 180 days following the issuance of the report to Congress submitted pursuant to subsection (d) of this section;

(ii) make mandatory the requirements included in the voluntary guidelines issued under subsection (c) of this section; and

(iii) provide for the enforcement of the regulations; and

(B) may be regional in scope.

(3) International regulations

The Secretary shall revise regulations promulgated under this subsection to the extent required to make such regulations consistent with the treatment of a particular matter in any international agreement, agreed to by the United States, governing management of the transfer of nonindigenous aquatic species by vessel.

(g) Sanctions

(1) Civil penalties

Any person who violates a regulation promulgated under subsection (b) or (f) of this section shall be liable for a civil penalty in an amount not to exceed $25,000. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of the regulations is liable in rem for any civil penalty assessed under this subsection for that violation.

(2) Criminal penalties

Any person who knowingly violates the regulations promulgated under subsection (b) or (f) of this section is guilty of a class C felony.

(3) Revocation of clearance

Upon request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance of a vessel required by section 60105 of title 46, if the owner or operator of that vessel is in violation of the regulations issued under subsection (b) or (f) of this section.

(4) Exception to sanctions

This subsection does not apply to a failure to exchange ballast water if—

(A) the master of a vessel, acting in good faith, decides that the exchange of ballast water will threaten the safety or stability of the vessel, its crew, or its passengers; and

(B) the recordkeeping and reporting requirements of this chapter are complied with.

(h) Coordination with other agencies

In carrying out the programs under this section, the Secretary is encouraged to use, to the maximum extent practicable, the expertise, facilities, members, or personnel of established agencies and organizations that have routine contact with vessels, including the Animal and Plant Health Inspection Service of the Department of Agriculture, the National Cargo Bureau, port administrations, and ship pilots' associations.

(i) Consultation with Canada, Mexico, and other foreign governments

In developing the guidelines issued and regulations promulgated under this section, the Secretary is encouraged to consult with the Government of Canada, the Government of Mexico, and any other government of a foreign country that the Secretary, in consultation with the Task Force, determines to be necessary to develop and implement an effective international program for preventing the unintentional introduction and spread of nonindigenous species.

(j) International cooperation

The Secretary, in cooperation with the International Maritime Organization of the United Nations and the Commission on Environmental Cooperation established pursuant to the North American Free Trade Agreement, is encouraged to enter into negotiations with the governments of foreign countries to develop and implement an effective international program for prevent-

ing the unintentional introduction and spread of nonindigenous species.

(k) Safety exemption

(1) Master discretion

The master of a vessel is not required to conduct a ballast water exchange if the master decides that the exchange would threaten the safety or stability of the vessel, its crew, or its passengers because of adverse weather, vessel architectural design, equipment failure, or any other extraordinary conditions.

(2) Other requirements

(A) In general

Except as provided in subparagraph (B), a vessel that does not exchange ballast water on the high seas under paragraph (1) shall not be restricted from discharging ballast water in any harbor.

(B) Great Lakes

Subparagraph (A) shall not apply in a case in which a vessel is subject to the regulations issued by the Secretary under subsection (b) of this section.

(3) Crude oil tanker ballast facility study

(A) Within 60 days of October 26, 1996,[1] the Secretary of the department in which the Coast Guard is operating, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, affected shoreside ballast water facility operators, affected crude oil tanker operators, and interested parties, shall initiate a study of the effectiveness of existing shoreside ballast water facilities used by crude oil tankers in the coastwise trade off Alaska in preventing the introduction of nonindigenous aquatic species into the waters off Alaska, as well as the cost and feasibility of modifying such facilities to improve such effectiveness.

(B) The study required under subparagraph (A) shall be submitted to the Congress by no later than October 1, 1997.

(*l*) Non-discrimination

The Secretary shall ensure that vessels registered outside of the United States do not receive more favorable treatment than vessels registered in the United States when the Secretary performs studies, reviews compliance, determines effectiveness, establishes requirements, or performs any other responsibilities under this chapter.

(Pub. L. 101–646, title I, §1101, Nov. 29, 1990, 104 Stat. 4763; Pub. L. 102–580, title III, §302(b)(1), Oct. 31, 1992, 106 Stat. 4839; Pub. L. 102–587, title IV, §4002, Nov. 4, 1992, 106 Stat. 5068; Pub. L. 104–332, §2(b)(2), Oct. 26, 1996, 110 Stat. 4075.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsecs. (b)(2)(C) and (c)(2)(J), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

[1] See Codification note below.

This chapter, referred to in subsecs. (e)(1)(A), (g)(4)(B), and (*l*), was in the original ''this Act'' or ''the Act'', which, to reflect the probable intent of Congress, was translated as reading ''this title'' meaning title I of Pub. L. 101–646, Nov. 29, 1990, 104 Stat. 4761, known as the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out below and Tables.

CODIFICATION

In subsec. (g)(3), ''section 60105 of title 46'' substituted for ''section 4197 of the Revised Statutes (46 U.S.C. App. 91)'' on authority of Pub. L. 109–304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 60105 of Title 46, Shipping.

October 26, 1996, referred to in subsec. (k)(3), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 104–332, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

1996—Pub. L. 104–332 amended section generally, substituting subsecs. (a) to (*l*) relating to aquatic nuisance species in waters of the United States for former subsecs. (a) to (e) relating to aquatic nuisance species in the Great Lakes.

1992—Subsec. (b)(3). Pub. L. 102–580 and Pub. L. 102–587 made substantively identical amendments, adding par. (3). Par. (3) is based on text of Pub. L. 102–587.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 4712. National ballast water management information

(a) Studies on introduction of aquatic nuisance species by vessels

(1) Ballast exchange study

The Task Force, in cooperation with the Secretary, shall conduct a study—

(A) to assess the environmental effects of ballast water exchange on the diversity and abundance of native species in receiving estuarine, marine, and fresh waters of the United States; and

(B) to identify areas within the waters of the United States and the exclusive economic zone, if any, where the exchange of ballast water does not pose a threat of infestation or spread of aquatic nuisance species in the Great Lakes and other waters of the United States.

(2) Biological study

The Task Force, in cooperation with the Secretary, shall conduct a study to determine whether aquatic nuisance species threaten the ecological characteristics and economic uses of Lake Champlain and other waters of the United States other than the Great Lakes.

(3) Shipping study

The Secretary shall conduct a study to determine the need for controls on vessels entering waters of the United States, other than

the Great Lakes, to minimize the risk of unintentional introduction and dispersal of aquatic nuisance species in those waters. The study shall include an examination of—

(A) the degree to which shipping may be a major pathway of transmission of aquatic nuisance species in those waters;

(B) possible alternatives for controlling introduction of those species through shipping; and

(C) the feasibility of implementing regional versus national control measures.

(b) Ecological and ballast water discharge surveys

(1) Ecological surveys

(A) In general

The Task Force, in cooperation with the Secretary, shall conduct ecological surveys of the Chesapeake Bay, San Francisco Bay, and Honolulu Harbor and, as necessary, of other estuaries of national significance and other waters that the Task Force determines—

(i) to be highly susceptible to invasion by aquatic nuisance species resulting from ballast water operations and other operations of vessels; and

(ii) to require further study.

(B) Requirements for surveys

In conducting the surveys under this paragraph, the Task Force shall, with respect to each such survey—

(i) examine the attributes and patterns of invasions of aquatic nuisance species; and

(ii) provide an estimate of the effectiveness of ballast water management and other vessel management guidelines issued and regulations promulgated under this subchapter in abating invasions of aquatic nuisance species in the waters that are the subject of the survey.

(2) Ballast water discharge surveys

(A) In general

The Secretary, in cooperation with the Task Force, shall conduct surveys of ballast water discharge rates and practices in the waters referred to in paragraph (1)(A) on the basis of the criteria under clauses (i) and (ii) of such paragraph.

(B) Requirements for surveys

In conducting the surveys under this paragraph, the Secretary shall—

(i) examine the rate of, and trends in, ballast water discharge in the waters that are the subject of the survey; and

(ii) assess the effectiveness of voluntary guidelines issued, and regulations promulgated, under this subchapter in altering ballast water discharge practices to reduce the probability of accidental introductions of aquatic nuisance species.

(3) Columbia River

The Secretary, in cooperation with the Task Force and academic institutions in each of the States affected, shall conduct an ecological and ballast water discharge survey of the Columbia River system consistent with the requirements of paragraphs (1) and (2).

(c) Reports

(1) Ballast exchange

Not later than 18 months after November 29, 1990, and prior to the effective date of the regulations issued under section 4711(b) of this title, the Task Force shall submit a report to the Congress that presents the results of the study required under subsection (a)(1) of this section and makes recommendations with respect to such regulations.

(2) Biological and shipping studies

Not later than 18 months after November 29, 1990, the Secretary and the Task Force shall each submit to the Congress a report on the results of their respective studies under paragraphs (2) and (3) of subsection (a) of this section.

(d) Negotiations

The Secretary, working through the International Maritime Organization, is encouraged to enter into negotiations with the governments of foreign countries concerning the planning and implementation of measures aimed at the prevention and control of unintentional introductions of aquatic nuisance species in coastal waters.

(e) Regional research grants

Out of amounts appropriated to carry out this subsection for a fiscal year, the Under Secretary may—

(1) make available not to exceed $750,000 to fund research on aquatic nuisance species prevention and control in the Chesapeake Bay through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

(2) make available not to exceed $500,000 to fund research on aquatic nuisance species prevention and control in the Gulf of Mexico through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

(3) make available not to exceed $500,000 to fund research on aquatic nuisance species prevention and control for the Pacific Coast through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

(4) make available not to exceed $500,000 to fund research on aquatic nuisance species prevention and control for the Atlantic Coast through grants, to be competitively awarded and subject to peer review, to universities and research institutions; and

(5) make available not to exceed $750,000 to fund research on aquatic nuisance species prevention and control in the San Francisco Bay-Delta Estuary through grants, to be competitively awarded and subject to peer review, to universities and research institutions.

(f) National ballast information clearinghouse

(1) In general

The Secretary shall develop and maintain, in consultation and cooperation with the Task Force and the Smithsonian Institution (acting

through the Smithsonian Environmental Research Center), a clearinghouse of national data concerning—

(A) ballasting practices;

(B) compliance with the guidelines issued pursuant to section 4711(c) of this title; and

(C) any other information obtained by the Task Force under subsection (b) of this section.

(2) Report

In consultation and cooperation with the Task Force and the Smithsonian Institution (acting through the Smithsonian Environmental Research Center), the Secretary shall prepare and submit to the Task Force and the Congress, on a biennial basis, a report that synthesizes and analyzes the data referred to in paragraph (1) relating to—

(A) ballast water delivery and management; and

(B) invasions of aquatic nuisance species resulting from ballast water.

(Pub. L. 101–646, title I, §1102, Nov. 29, 1990, 104 Stat. 4764; Pub. L. 104–332, §2(c), (g), (h)(1), Oct. 26, 1996, 110 Stat. 4081, 4091; Pub. L. 105–362, title XV, §1502(d), Nov. 10, 1998, 112 Stat. 3295.)

AMENDMENTS

1998—Subsec. (f)(2). Pub. L. 105–362 substituted ''biennial basis'' for ''biannual basis'' in introductory provisions.

1996—Pub. L. 104–332, §2(h)(1), made technical amendment to Pub. L. 101–646, §1102, which enacted this section.

Pub. L. 104–332, §2(c)(1), substituted ''management information'' for ''control program'' in section catchline.

Subsec. (a)(1). Pub. L. 104–332, §2(c)(2)(A), inserted '', in cooperation with the Secretary,'' before ''shall conduct'' in introductory provisions.

Subsec. (a)(2). Pub. L. 104–332, §2(c)(2), inserted '', in cooperation with the Secretary,'' before ''shall conduct'' and ''Lake Champlain and other'' after ''economic uses of''.

Subsec. (b). Pub. L. 104–332, §2(c)(3), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: ''The Secretary and the Task Force shall cooperate in conducting their respective studies under this section.''

Subsec. (c). Pub. L. 104–332, §2(g), substituted ''Congress'' for ''appropriate Committees'' in pars. (1) and (2).

Subsecs. (e), (f). Pub. L. 104–332, §2(c)(4), added subsecs. (e) and (f).

§ 4713. Armed services ballast water programs

(a) Department of Defense vessels

Subject to operational conditions, the Secretary of Defense, in consultation with the Secretary, the Task Force, and the International Maritime Organization, shall implement a ballast water management program for seagoing vessels of the Department of Defense to minimize the risk of introduction of nonindigenous species from releases of ballast water.

(b) Coast Guard vessels

Subject to operational conditions, the Secretary, in consultation with the Task Force and the International Maritime Organization, shall implement a ballast water management program for seagoing vessels of the Coast Guard to minimize the risk of introduction of nonindigenous species from releases of ballast water.

(Pub. L. 101–646, title I, §1103, as added Pub. L. 104–332, §2(d), Oct. 26, 1996, 110 Stat. 4083.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 4714. Ballast water management demonstration program

(a) "Technologies and practices" defined

For purposes of this section, the term ''technologies and practices'' means those technologies and practices that—

(1) may be retrofitted—

(A) on existing vessels or incorporated in new vessel designs; and

(B) on existing land-based ballast water treatment facilities;

(2) may be designed into new water treatment facilities;

(3) are operationally practical;

(4) are safe for a vessel and crew;

(5) are environmentally sound;

(6) are cost-effective;

(7) a vessel operator is capable of monitoring; and

(8) are effective against a broad range of aquatic nuisance species.

(b) Demonstration program

(1) In general

During the 18-month period beginning on the date that funds are made available by appropriations pursuant to section 4741(e) of this title, the Secretary of the Interior and the Secretary of Commerce, with the concurrence of and in cooperation with the Secretary, shall conduct a ballast water management demonstration program to demonstrate technologies and practices to prevent aquatic nonindigenous species from being introduced into and spread through ballast water in the Great Lakes and other waters of the United States.

(2) Location

The installation and construction of the technologies and practices used in the demonstration program conducted under this subsection shall be performed in the United States.

(3) Vessel selection

In demonstrating technologies and practices on vessels under this subsection, the Secretary of the Interior and the Secretary of Commerce, shall—

(A) use only vessels that—

(i) are approved by the Secretary;

(ii) have ballast water systems conducive to testing aboard-vessel or land-based technologies and practices applicable to a significant number of merchant vessels; and

(iii) are—

(I) publicly or privately owned; and

(II) in active use for trade or other cargo shipment purposes during the demonstration;

(B) select vessels for participation in the program by giving priority consideration—

(i) first, to vessels documented under chapter 121 of title 46;

(ii) second, to vessels that are a majority owned by citizens of the United States, as determined by the Secretary; and

(iii) third, to any other vessels that regularly call on ports in the United States; and

(C) seek to use a variety of vessel types, including vessels that—

(i) call on ports in the United States and on the Great Lakes; and

(ii) are operated along major coasts of the United States and inland waterways, including the San Francisco Bay and Chesapeake Bay.

(4) Selection of technologies and practices

In selecting technologies and practices for demonstration under this subsection, the Secretary of the Interior and the Secretary of Commerce shall give priority consideration to technologies and practices identified as promising by the National Research Council Marine Board of the National Academy of Sciences in its report on ships' ballast water operations issued in July 1996.

(5) Report

Not later than 3 years after October 26, 1996, the Secretary of the Interior and the Secretary of Commerce shall prepare and submit a report to the Congress on the demonstration program conducted pursuant to this section. The report shall include findings and recommendations of the Secretary of the Interior and the Secretary of Commerce concerning technologies and practices.

(c) Authorities; consultation and cooperation with International Maritime Organization and Task Force

(1) Authorities

In conducting the demonstration program under subsection (b) of this section, the Secretary of the Interior may—

(A) enter into cooperative agreements with appropriate officials of other agencies of the Federal Government, agencies of States and political subdivisions thereof, and private entities;

(B) accept funds, facilities, equipment, or personnel from other Federal agencies; and

(C) accept donations of property and services.

(2) Consultation and cooperation

The Secretary of the Interior shall consult and cooperate with the International Maritime Organization and the Task Force in carrying out this section.

(Pub. L. 101–646, title I, § 1104, as added Pub. L. 104–332, § 2(d), Oct. 26, 1996, 110 Stat. 4083.)

SUBCHAPTER III—PREVENTION AND CONTROL OF AQUATIC NUISANCE SPECIES DISPERSAL

§ 4721. Establishment of Task Force

(a) Task Force

There is hereby established an ''Aquatic Nuisance Species Task Force''.

(b) Membership

Membership of the Task Force shall consist of—

(1) the Director;

(2) the Under Secretary;

(3) the Administrator of the Environmental Protection Agency;

(4) the Commandant of the United States Coast Guard;

(5) the Assistant Secretary;

(6) the Secretary of Agriculture; and

(7) the head of any other Federal agency that the chairpersons designated under subsection (d) of this section deem appropriate.

(c) Ex officio members

The chairpersons designated under subsection (d) of this section shall invite representatives of the Great Lakes Commission, the Lake Champlain Basin Program, the Chesapeake Bay Program, the San Francisco Bay-Delta Estuary Program, and State agencies and other governmental entities to participate as ex officio members of the Task Force.

(d) Chairpersons

The Director and the Under Secretary shall serve as co-chairpersons of the Task Force and shall be jointly responsible, and are authorized to undertake such activities as may be necessary, for carrying out this subchapter in consultation and cooperation with the other members of the Task Force.

(e) Memorandum of understanding

Within six months of November 29, 1990, the Director and the Under Secretary shall develop a memorandum of understanding that describes the role of each in jointly carrying out this subchapter.

(f) Coordination

Each Task Force member shall coordinate any action to carry out this subchapter with any such action by other members of the Task Force, and regional, State and local entities.

(Pub. L. 101–646, title I, § 1201, Nov. 29, 1990, 104 Stat. 4765; Pub. L. 104–182, title III, § 308(b), Aug. 6, 1996, 110 Stat. 1689; Pub. L. 104–332, § 2(e)(2), (h)(1), Oct. 26, 1996, 110 Stat. 4085, 4091.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (d) to (f), was in the original ''this subtitle'', meaning subtitle C (§§ 1201–1209) of title I of Pub. L. 101–646, Nov. 29, 1990, 104 Stat. 4765, which enacted this subchapter and amended section 42 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1996—Pub. L. 104–332, § 2(h)(1), made technical amendment to Pub. L. 101–646, § 1201, which enacted this section.

Subsec. (b)(5) to (7). Pub. L. 104–332, § 2(e)(2)(A), struck out ''and'' at end of par. (5), added par. (6), and redesignated former par. (6) as (7).

Subsec. (c). Pub. L. 104–332, §2(e)(2)(B), inserted ''the Chesapeake Bay Program, the San Francisco Bay-Delta Estuary Program,'' before ''and State agencies''.

Pub. L. 104–182 inserted '', the Lake Champlain Basin Program,'' after ''Great Lakes Commission''.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 4722. Aquatic nuisance species program

(a) In general

The Task Force shall develop and implement a program for waters of the United States to prevent introduction and dispersal of aquatic nuisance species; to monitor, control and study such species; and to disseminate related information.

(b) Content

The program developed under subsection (a) of this section shall—

(1) identify the goals, priorities, and approaches for aquatic nuisance species prevention, monitoring, control, education and research to be conducted or funded by the Federal Government;

(2) describe the specific prevention, monitoring, control, education and research activities to be conducted by each Task Force member;

(3) coordinate aquatic nuisance species programs and activities of Task Force members and affected State agencies;

(4) describe the role of each Task Force member in implementing the elements of the program as set forth in this subchapter;

(5) include recommendations for funding to implement elements of the program; and

(6) develop a demonstration program of prevention, monitoring, control, education and research for the zebra mussel, to be implemented in the Great Lakes and any other waters infested, or likely to become infested in the near future, by the zebra mussel.

(c) Prevention

(1) In general

The Task Force shall establish and implement measures, within the program developed under subsection (a) of this section, to minimize the risk of introduction of aquatic nuisance species to waters of the United States, including—

(A) identification of pathways by which aquatic organisms are introduced to waters of the United States;

(B) assessment of the risk that an aquatic organism carried by an identified pathway may become an aquatic nuisance species; and

(C) evaluation of whether measures to prevent introductions of aquatic nuisance species are effective and environmentally sound.

(2) Implementation

Whenever the Task Force determines that there is a substantial risk of unintentional introduction of an aquatic nuisance species by an identified pathway and that the adverse consequences of such an introduction are likely to be substantial, the Task Force shall, acting through the appropriate Federal agency, and after an opportunity for public comment, carry out cooperative, environmentally sound efforts with regional, State and local entities to minimize the risk of such an introduction.

(d) Monitoring

The Task Force shall establish and implement monitoring measures, within the program developed under subsection (a) of this section, to—

(1) detect unintentional introductions of aquatic nuisance species;

(2) determine the dispersal of aquatic nuisance species after introduction; and

(3) provide for the early detection and prevention of infestations of aquatic nuisance species in unaffected drainage basins.

(e) Control

(1) In general

The Task Force may develop cooperative efforts, within the program established under subsection (a) of this section, to control established aquatic nuisance species to minimize the risk of harm to the environment and the public health and welfare. For purposes of this chapter, control efforts include eradication of infestations, reductions of populations, development of means of adapting human activities and public facilities to accommodate infestations, and prevention of the spread of aquatic nuisance species from infested areas. Such control efforts shall be developed in consultation with affected Federal agencies, States, Indian Tribes, local governments, interjurisdictional organizations, and other appropriate entities. Control actions authorized by this section shall be based on the best available scientific information and shall be conducted in an environmentally sound manner.

(2) Decisions

The Task Force or any other affected agency or entity may recommend that the Task Force initiate a control effort. In determining whether a control program is warranted, the Task Force shall evaluate the need for control (including the projected consequences of no control and less than full control); the technical and biological feasibility and cost-effectiveness of alternative control strategies and actions; whether the benefits of control, including costs avoided, exceed the costs of the program; the risk of harm to non-target organisms and ecosystems, public health and welfare; and such other considerations the Task Force determines appropriate. The Task Force shall also determine the nature and extent of control of target aquatic nuisance species that is feasible and desirable.

(3) Programs

If the Task Force determines in accordance with paragraph (2) that control of an aquatic nuisance species is warranted, the Task Force shall develop a proposed control program to achieve the target level of control. A notice summarizing the proposed action and solicit-

ing comments shall be published in the Federal Register, in major newspapers in the region affected, and in principal trade publications of the industries affected. Within 180 days of proposing a control program, and after consultation with affected governmental and other appropriate entities and taking into consideration other comments received, the Task Force shall complete development of the proposed control program.

(f) Research

(1) Priorities

The Task Force shall, within the program developed under subsection (a) of this section, conduct research concerning—

(A) the environmental and economic risks and impacts associated with the introduction of aquatic nuisance species into the waters of the United States;

(B) the principal pathways by which aquatic nuisance species are introduced and dispersed;

(C) possible methods for the prevention, monitoring and control of aquatic nuisance species; and

(D) the assessment of the effectiveness of prevention, monitoring and control methods.

(2) Protocol

Within 90 days of November 29, 1990, the Task Force shall establish and follow a protocol to ensure that research activities carried out under this subchapter do not result in the introduction of aquatic nuisance species to waters of the United States.

(3) Grants for research

The Task Force shall allocate funds authorized under this chapter for competitive research grants to study all aspects of aquatic nuisance species, which shall be administered through the National Sea Grant College Program and the Cooperative Fishery and Wildlife Research Units. Grants shall be conditioned to ensure that any recipient of funds follows the protocol established under paragraph (2) of this subsection.

(g) Technical assistance

The Task Force shall, within the program developed under subsection (a) of this section, provide technical assistance to State and local governments and persons to minimize the environmental, public health, and safety risks associated with aquatic nuisance species, including an early warning system for advance notice of possible infestations and appropriate responses.

(h) Education

The Task Force shall, with the program developed under subsection (a) of this section, establish and implement educational programs through Sea Grant Marine Advisory Services and any other available resources that it determines to be appropriate to inform the general public, State governments, governments of political subdivisions of States, and industrial and recreational users of aquatic resources in connection with matters concerning the identification of aquatic nuisance species, and control methods for such species, including the prevention of the further distribution of such species.

(i) Zebra mussel demonstration program

(1) Zebra mussel

(A) In general

The Task Force shall, within the program developed under subsection (a) of this section, undertake a program of prevention, monitoring, control, education and research for the zebra mussel to be implemented in the Great Lakes and any other waters of the United States infested or likely to become infested by the zebra mussel, including—

(i) research and development concerning the species life history, environmental tolerances and impacts on fisheries and other ecosystem components, and the efficacy of control mechanisms and means of avoiding or minimizing impacts;

(ii) tracking the dispersal of the species and establishment of an early warning system to alert likely areas of future infestations;

(iii) development of control plans in coordination with regional, State and local entities; and

(iv) provision of technical assistance to regional, State and local entities to carry out this section.

(B) Public facility research and development

The Assistant Secretary, in consultation with the Task Force, shall develop a program of research, technology development, and demonstration for the environmentally sound control of zebra mussels in and around public facilities. The Assistant Secretary shall collect and make available, through publications and other appropriate means, information pertaining to such control methods.

(C) Voluntary guidelines

Not later than 1 year after October 26, 1996, the Task Force shall develop and submit to the Secretary voluntary guidelines for controlling the spread of the zebra mussel and, if appropriate, other aquatic nuisance species through recreational activities, including boating and fishing. Not later than 4 months after the date of such submission, and after providing notice and an opportunity for public comment, the Secretary shall issue voluntary guidelines that are based on the guidelines developed by the Task Force under this subparagraph.

(2) Dispersal containment analysis

(A) Research

The Administrator of the Environmental Protection Agency, in cooperation with the National Science Foundation and the Task Force, shall provide research grants on a competitive basis for projects that—

(i) identify environmentally sound methods for controlling the dispersal of aquatic nuisance species, such as the zebra mussel; and

(ii) adhere to research protocols developed pursuant to subsection (f)(2) of this section.

(B) Authorization of appropriations

There are authorized to be appropriated to the Environmental Protection Agency to carry out this paragraph, $500,000.

(3) Dispersal barrier demonstration

(A) In general

The Assistant Secretary, in consultation with the Task Force, shall investigate and identify environmentally sound methods for preventing and reducing the dispersal of aquatic nuisance species between the Great Lakes-Saint Lawrence drainage and the Mississippi River drainage through the Chicago River Ship and Sanitary Canal, including any of those methods that could be incorporated into the operation or construction of the lock system of the Chicago River Ship and Sanitary Canal.

(B) Report

Not later than 18 months after October 26, 1996, the Assistant Secretary shall issue a report to the Congress that includes recommendations concerning—

(i) which of the methods that are identified under the study conducted under this paragraph are most promising with respect to preventing and reducing the dispersal of aquatic nuisance species; and

(ii) ways to incorporate those methods into ongoing operations of the United States Army Corps of Engineers that are conducted at the Chicago River Ship and Sanitary Canal.

(C) Authorization of appropriations

There are authorized to be appropriated to the Department of the Army such sums as are necessary to carry out the dispersal barrier demonstration project directed by this paragraph.

(4) Contributions

To the extent allowable by law, in carrying out the studies under paragraphs (2) and (3), the Administrator of the Environmental Protection Agency and the Secretary of the Army may enter into an agreement with an interested party under which that party provides in kind or monetary contributions for the study.

(5) Technical assistance

The Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration shall provide technical assistance to appropriate entities to assist in the research conducted pursuant to this subsection.

(j) Implementation

(1) Regulations

The Director, the Secretary, and the Under Secretary may issue such rules and regulations as may be necessary to implement this section.

(2) Participation of others

The Task Force shall provide opportunities for affected Federal agencies which are not part of the Task Force, State and local government agencies, and regional and other entities with the necessary expertise to participate in control programs. If these other agencies or entities have sufficient authority or jurisdiction and expertise and where this will be more efficient or effective, responsibility for implementing all or a portion of a control program may be delegated to such agencies or entities.

(k) Reports

(1) Not later than 12 months after November 29, 1990, the Task Force shall submit a report describing the program developed under subsection (a) of this section, including the research protocol required under subsection (f)(2) of this section, to the Congress.

(2) On an annual basis after the submission of the report under paragraph (1), the Task Force shall submit a report to the Congress detailing progress in carrying out this section.

(Pub. L. 101–646, title I, §1202, Nov. 29, 1990, 104 Stat. 4766; Pub. L. 104–332, §2(e)(3), (4), (g), (h)(1), Oct. 26, 1996, 110 Stat. 4085, 4087, 4091; Pub. L. 109–234, title II, §2309, June 15, 2006, 120 Stat. 457.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (e)(1) and (f)(3), was in the original ''this Act'', which, to reflect the probable intent of Congress, was translated as reading ''this title'' meaning title I of Pub. L. 101–646, Nov. 29, 1990, 104 Stat. 4761, known as the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 4701 of this title and Tables.

AMENDMENTS

2006—Subsec. (i)(3)(C). Pub. L. 109–234 substituted ''such sums as are necessary to carry out the dispersal barrier demonstration project directed by this paragraph'' for '', to carry out this paragraph, $750,000''.

1996—Pub. L. 104–332, §2(h)(1), made technical amendment to Pub. L. 101–646, §1202, which enacted this section.

Subsec. (f)(1)(A). Pub. L. 104–332, §2(e)(3)(A), inserted ''and impacts'' after ''economic risks''.

Subsec. (i). Pub. L. 104–332, §2(e)(3)(B), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and former subpars. (A) to (D) of par. (1) as cls. (i) to (iv), respectively, of subpar. (A), inserted new par. (1) heading, substituted ''The Assistant Secretary, in consultation with the Task Force, shall develop a program of research, technology development, and demonstration for the environmentally sound control of zebra mussels in and around public facilities.'' for ''The Assistant Secretary, in consultation with the Task Force, shall develop a program of research and technology development for the environmentally sound control of zebra mussels in and around public facilities.'' in subpar. (B), and added subpar. (C) and pars. (2) to (5).

Subsec. (j)(1). Pub. L. 104–332, §2(e)(4), substituted ''The Director, the Secretary,'' for ''Not later than 18 months after November 29, 1990, the Director''.

Subsec. (k). Pub. L. 104–332, §2(g), substituted ''Congress'' for ''appropriate Committees'' in pars. (1) and (2).

§ 4723. Regional coordination

(a) Great Lakes panel

(1) In general

Not later than 30 days following November 29, 1990, the Task Force shall request that the

Great Lakes Commission (established under Article IV of the Great Lakes Compact to which the Congress granted consent in the Act of July 24, 1968, P.L. 90–419) convene a panel of Great Lakes region representatives from Federal, State and local agencies and from private environmental and commercial interests to—

(A) identify priorities for the Great Lakes region with respect to aquatic nuisance species;

(B) make recommendations to the Task Force regarding programs to carry out section 4722(i) of this title;

(C) assist the Task Force in coordinating Federal aquatic nuisance species program activities in the Great Lakes region;

(D) coordinate, where possible, aquatic nuisance species program activities in the Great Lakes region that are not conducted pursuant to this chapter;

(E) provide advice to public and private individuals and entities concerning methods of controlling aquatic nuisance species; and

(F) submit annually a report to the Task Force describing activities within the Great Lakes region related to aquatic nuisance species prevention, research,[1] control.

(2) Consultation

The Task Force shall request that the Great Lakes Fishery Commission provide information to the panel convened under this subsection on technical and policy matters related to the international fishery resources of the Great Lakes.

(3) Canadian participation

The panel convened under this subsection is encourage[2] to invite representatives from the Federal, provincial or territorial governments of Canada to participate as observers.

(b) Western regional panel

Not later than 30 days after October 26, 1996, the Task Force shall request a Western regional panel, comprised of Western region representatives from Federal, State, and local agencies and from private environmental and commercial interests, to—

(1) identify priorities for the Western region with respect to aquatic nuisance species;

(2) make recommendations to the Task Force regarding an education, monitoring (including inspection), prevention, and control program to prevent the spread of the zebra mussel west of the 100th Meridian pursuant to section 4722(i) of this title;

(3) coordinate, where possible, other aquatic nuisance species program activities in the Western region that are not conducted pursuant to this chapter;

(4) develop an emergency response strategy for Federal, State, and local entities for stemming new invasions of aquatic nuisance species in the region;

(5) provide advice to public and private individuals and entities concerning methods of preventing and controlling aquatic nuisance species infestations; and

(6) submit annually a report to the Task Force describing activities within the Western region related to aquatic nuisance species prevention, research, and control.

(c) Additional regional panels

The Task Force shall—

(1) encourage the development and use of regional panels and other similar entities in regions in addition to the Great Lakes and Western regions (including providing financial assistance for the development and use of such entities) to carry out, with respect to those regions, activities that are similar to the activities described in subsections (a) and (b) of this section; and

(2) cooperate with regional panels and similar entities that carry out the activities described in paragraph (1).

(Pub. L. 101–646, title I, § 1203, Nov. 29, 1990, 104 Stat. 4769; Pub. L. 104–332, § 2(e)(5), (h)(1), Oct. 26, 1996, 110 Stat. 4087, 4091.)

REFERENCES IN TEXT

Act of July 24, 1968, referred to in subsec. (a)(1), is Pub. L. 90–419, July 24, 1968, 82 Stat. 414, which is not classified to the Code.

This chapter, referred to in subsecs. (a)(1)(D) and (b)(3), was in the original ''this Act'', which, to reflect the probable intent of Congress, was translated as reading ''this title'' meaning title I of Pub. L. 101–646, Nov. 29, 1990, 104 Stat. 4761, known as the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 4701 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–332, § 2(h)(1), made technical amendment to Pub. L. 101–646, § 1203, which enacted this section.

Pub. L. 104–332, § 2(e)(5)(A), substituted ''Regional'' for ''Great Lakes regional'' in section catchline.

Pub. L. 104–332, § 2(e)(5)(B)–(F), designated existing provisions as subsec. (a) and inserted subsec. heading, redesignated former subsec. (a) as par. (1), and former pars. (1) to (6) as subpars. (A) to (F), respectively, of par. (1), in par. (1) inserted ''region'' before ''representatives'' in introductory provisions and after ''Great Lakes'' in subpars. (A), (C), (D), and (F), redesignated subsecs. (b) and (c) as pars. (2) and (3), respectively, of subsec. (a), substituted ''this subsection'' for ''this section'' in those pars., and added subsecs. (b) and (c).

§ 4724. State aquatic nuisance species management plans

(a) State or interstate invasive species management plans

(1) In general

After providing notice and opportunity for public comment, the Governor of each State may prepare and submit, or the Governors of the States and the governments of the Indian tribes involved in an interstate organization, may jointly prepare and submit—

(A) a comprehensive management plan to the Task Force for approval which identifies those areas or activities within the State or within the interstate region involved, other than those related to public facilities, for which technical, enforcement, or financial assistance (or any combination thereof) is

[1] So in original. Probably should be followed by ''and''.

[2] So in original. Probably should be ''encouraged''.

needed to eliminate or reduce the environmental, public health, and safety risks associated with aquatic nuisance species, particularly the zebra mussel; and

(B) a public facility management plan to the Assistant Secretary for approval which is limited solely to identifying those public facilities within the State or within the interstate region involved for which technical and financial assistance is needed to reduce infestations of zebra mussels.

(2) Content

Each plan shall, to the extent possible, identify the management practices and measures that will be undertaken to reduce infestations of aquatic nuisance species. Each plan shall—

(A) identify and describe State and local programs for environmentally sound prevention and control of the target aquatic nuisance species;

(B) identify Federal activities that may be needed for environmentally sound prevention and control of aquatic nuisance species and a description of the manner in which those activities should be coordinated with State and local government activities;

(C) identify any authority that the State (or any State or Indian tribe involved in the interstate organization) does not have at the time of the development of the plan that may be necessary for the State (or any State or Indian tribe involved in the interstate organization) to protect public health, property, and the environment from harm by aquatic nuisance species; and

(D) a schedule of implementing the plan, including a schedule of annual objectives, and enabling legislation.

(3) Consultation

(A) In developing and implementing a management plan, the State or interstate organization should, to the maximum extent practicable, involve local governments and regional entities, Indian tribes, and public and private organizations that have expertise in the control of aquatic nuisance species.

(B) Upon the request of a State or the appropriate official of an interstate organization, the Task Force or the Assistant Secretary, as appropriate under paragraph (1), may provide technical assistance in developing and implementing a management plan.

(4) Plan approval

Within 90 days after the submission of a management plan, the Task Force or the Assistant Secretary in consultation with the Task Force, as appropriate under paragraph (1), shall review the proposed plan and approve it if it meets the requirements of this subsection or return the plan to the Governor or the interstate organization with recommended modifications.

(b) Grant program

(1) State grants

The Director may, at the recommendation of the Task Force, make grants to States with management plans approved under subsection (a) of this section for the implementation of those plans.

(2) Application

An application for a grant under this subsection shall include an identification and description of the best management practices and measures which the State proposes to utilize in implementing an approved management plan with any Federal assistance to be provided under the grant.

(3) Federal share

(A) The Federal share of the cost of each comprehensive management plan implemented with Federal assistance under this section in any fiscal year shall not exceed 75 percent of the cost incurred by the State in implementing such management program and the non-Federal share of such costs shall be provided from non-Federal sources.

(B) The Federal share of the cost of each public facility management plan implemented with Federal assistance under this section in any fiscal year shall not exceed 50 percent of the cost incurred by the State in implementing such management program and the non-Federal share of such costs shall be provided from non-Federal sources.

(4) Adminisrative[1] costs

For the purposes of this section, administrative costs for activities and programs carried out with a grant in any fiscal year shall not exceed 5 percent of the amount of the grant in that year.

(5) In-kind contributions

In addition to cash outlays and payments, in-kind contributions of property or personnel services by non-Federal interests for activities under this section may be used for the non-Federal share of the cost of those activities.

(c) Enforcement assistance

Upon request of a State or Indian tribe, the Director or the Under Secretary, to the extent allowable by law and in a manner consistent with section 141 of title 14, may provide assistance to a State or Indian tribe in enforcing an approved State or interstate invasive species management plan.

(Pub. L. 101–646, title I, §1204, Nov. 29, 1990, 104 Stat. 4770; Pub. L. 104–332, §2(e)(6), (h)(1), Oct. 26, 1996, 110 Stat. 4089, 4091.)

AMENDMENTS

1996—Pub. L. 104–332, §2(h)(1), made technical amendment to Pub. L. 101–646, §1204, which enacted this section.

Subsec. (a). Pub. L. 104–332, §2(e)(6)(A)(i), substituted ''State or interstate invasive species management plans'' for ''State plan'' in heading.

Subsec. (a)(1). Pub. L. 104–332, §2(e)(6)(A)(ii)(I), substituted ''After providing notice and opportunity for public comment, the Governor of each State may prepare and submit, or the Governors of the States and the governments of the Indian tribes involved in an interstate organization, may jointly prepare and submit'' for ''The Governor of each State may, after notice and opportunity for public comment, prepare and submit'' in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 104–332, §2(e)(6)(A)(ii)(II), (III), inserted ''or within the interstate region in-

[1] So in original. Probably should be ''Administrative''.

volved'' after ''within the State'' and substituted ''technical, enforcement, or financial assistance (or any combination thereof)'' for ''technical and financial assistance''.

Subsec. (a)(1)(B). Pub. L. 104–332, § 2(e)(6)(A)(ii)(III), inserted ''or within the interstate region involved'' after ''within the State''.

Subsec. (a)(2)(B). Pub. L. 104–332, § 2(e)(6)(A)(iii)(I), struck out ''and'' at end.

Subsec. (a)(2)(C). Pub. L. 104–332, § 2(e)(6)(A)(iii)(III), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (a)(2)(D). Pub. L. 104–332, § 2(e)(6)(A)(iii)(II), (IV), redesignated subpar. (C) as (D) and inserted '', and enabling legislation'' before period.

Subsec. (a)(3)(A). Pub. L. 104–332, § 2(e)(6)(A)(iv)(I), inserted ''or interstate organization'' after ''the State'' and ''Indian tribes,'' after ''local governments and regional entities,''.

Subsec. (a)(3)(B). Pub. L. 104–332, § 2(e)(6)(A)(iv)(II), inserted ''or the appropriate official of an interstate organization'' after ''a State''.

Subsec. (a)(4). Pub. L. 104–332, § 2(e)(6)(A)(v), inserted ''or the interstate organization'' after ''the Governor''.

Subsec. (b)(1). Pub. L. 104–332, § 2(e)(6)(B), struck out ''or the Assistant Secretary, as appropriate under subsection (a) of this section,'' after ''The Director'' and substituted ''management plans approved under subsection (a) of this section'' for ''approved management plans''.

Subsec. (c). Pub. L. 104–332, § 2(e)(6)(C), added subsec. (c).

§ 4725. Relationship to other laws

All actions taken by Federal agencies in implementing the provisions of section 4722 of this title shall be consistent with all applicable Federal, State, and local environmental laws. Nothing in this chapter shall affect the authority of any State or political subdivision thereof to adopt or enforce control measures for aquatic nuisance species, or diminish or affect the jurisdiction of any State over species of fish and wildlife. Compliance with the control and eradication measures of any State or political subdivision thereof regarding aquatic nuisance species shall not relieve any person of the obligation to comply with the provisions of this subchapter.

(Pub. L. 101–646, title I, § 1205, Nov. 29, 1990, 104 Stat. 4771; Pub. L. 104–332, § 2(h)(1), Oct. 26, 1996, 110 Stat. 4091.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title I of Pub. L. 101–646, Nov. 29, 1990, 104 Stat. 4761, known as the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 4701 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–332 made technical amendment to Pub. L. 101–646, § 1205, which enacted this section.

§ 4726. International cooperation

(a) Advice

The Task Force shall provide timely advice to the Secretary of State concerning aquatic nuisance species that infest waters shared with other countries.

(b) Negotiations

The Secretary of State, in consultation with the Task Force, is encouraged to initiate negotiations with the governments of foreign countries concerning the planning and implementation of prevention, monitoring, research, education, and control programs related to aquatic nuisance species infesting shared water resources.

(Pub. L. 101–646, title I, § 1206, Nov. 29, 1990, 104 Stat. 4771; Pub. L. 104–332, § 2(h)(1), Oct. 26, 1996, 110 Stat. 4091.)

AMENDMENTS

1996—Pub. L. 104–332 made technical amendment to Pub. L. 101–646, § 1206, which enacted this section.

§ 4727. Intentional introductions policy review

Within one year of November 29, 1990, the Task Force shall, in consultation with State fish and wildlife agencies, other regional, State and local entities, potentially affected industries and other interested parties, identify and evaluate approaches for reducing the risk of adverse consequences associated with intentional introduction of aquatic organisms and submit a report of their findings, conclusions and recommendations to the Congress.

(Pub. L. 101–646, title I, § 1207, Nov. 29, 1990, 104 Stat. 4771; Pub. L. 104–332, § 2(g), (h)(1), Oct. 26, 1996, 110 Stat. 4091.)

AMENDMENTS

1996—Pub. L. 104–332, § 2(h)(1), made technical amendment to Pub. L. 101–646, § 1207, which enacted this section.

Pub. L. 104–332, § 2(g), substituted ''Congress'' for ''appropriate Committees''.

§ 4728. Brown tree snake control program

The Task Force shall, within the program developed under subsection (a),[1] undertake a comprehensive, environmentally sound program in coordination with regional, territorial, State and local entities to control the brown tree snake (Boiga irregularis) in Guam and other areas where the species is established outside of its historic range.

(Pub. L. 101–646, title I, § 1209, Nov. 29, 1990, 104 Stat. 4772; Pub. L. 104–332, § 2(h)(1), Oct. 26, 1996, 110 Stat. 4091.)

AMENDMENTS

1996—Pub. L. 104–332 made technical amendment to Pub. L. 101–646, § 1209, which enacted this section.

SUBCHAPTER IV—AUTHORIZATION OF APPROPRIATIONS

§ 4741. Authorization of appropriations

(a) Prevention of unintentional introductions

There are authorized to be appropriated to develop and implement the provisions of subchapter II of this chapter—

(1) $500,000 until the end of fiscal year 1992 to the Secretary to carry out sections 4711 and 4712(a)(3) of this title;

(2) $2,000,000 until the end of fiscal year 1992 to the Director and Under Secretary to carry out the studies under sections 4712(a)(1) and 4712(a)(2[1] of this title;

[1] So in original. Probably should be ''subsection (a) of section 4722 of this title,''.

[1] So in original. Probably should be followed by a closing parenthesis.

(3) to the Secretary to carry out section 4711 of this title—

(A) $2,000,000 for each of fiscal years 1997 and 1998; and

(B) $3,000,000 for each of fiscal years 1999 through 2002;

(4) for each of fiscal years 1997 through 2002, to carry out paragraphs (1) and (2) of section 4712(b) of this title—

(A) $1,000,000 to the Department of the Interior, to be used by the Director; and

(B) $1,000,000 to the Secretary; and

(5) for each of fiscal years 1997 through 2002—

(A) $3,000,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to the Under Secretary to carry out section 4712(e) of this title; and

(B) $500,000 to the Secretary to carry out section 4712(f) of this title.

(b) Task Force and aquatic nuisance species program

There are authorized to be appropriated for each of fiscal years 1997 through 2002 to develop and implement the provisions of subchapter III of this chapter—

(1) $6,000,000 to the Department of the Interior, to be used by the Director to carry out sections 4722 and 4728 of this title;

(2) $1,000,000 to the Department of Commerce, to be used by the Under Secretary to carry out section 4722 of this title;

(3) $1,625,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to fund aquatic nuisance species prevention and control research under section 4722(i) of this title at the Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration, of which $500,000 shall be made available for grants, to be competitively awarded and subject to peer review, for research relating to Lake Champlain;

(4) $5,000,000 for competitive grants for university research on aquatic nuisance species under section 4722(f)(3) of this title as follows:

(A) $2,800,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to fund grants under section 1124 of title 33;

(B) $1,200,000 to fund grants to colleges for the benefit of agriculture and the mechanic arts referred to in section 322 of title 7; and

(C) $1,000,000 to fund grants through the Cooperative Fisheries and Wildlife Research Unit Program of the United States Fish and Wildlife Service;

(5) $3,000,000 to the Department of the Army, to be used by the Assistant Secretary to carry out section 4722(i)(1)(B) of this title; and

(6) $300,000 to the Department of the Interior, to be used by the Director to fund regional panels and similar entities under section 4723 of this title, of which $100,000 shall be used to fund activities of the Great Lakes Commission.

(c) Grants for State management programs

There are authorized to be appropriated for each of fiscal years 1997 through 2002 $4,000,000 to the Department of the Interior, to be used by the Director for making grants under section 4724 of this title, of which $1,500,000 shall be used by the Director, in consultation with the Assistant Secretary, for management of aquatic nuisance vegetation species.

(d) Intentional introductions policy review

There are authorized to be appropriated for fiscal year 1991, $500,000 to the Director and the Under Secretary to conduct the intentional introduction policy review under section 4727 of this title.

(e) Ballast water management demonstration program

There are authorized to be appropriated $2,500,000 to carry out section 4714 of this title.

(f) Research

There are authorized to be appropriated to the Director $1,000,000 to carry out research on the prevention, monitoring, and control of aquatic nuisance species in Narragansett Bay, Rhode Island. The funds shall be made available for use by the Department of Environmental Management of the State of Rhode Island.

(Pub. L. 101–646, title I, §1301, Nov. 29, 1990, 104 Stat. 4772; Pub. L. 102–186, §4(b)(2), Dec. 4, 1991, 105 Stat. 1283; Pub. L. 104–332, §2(f), (h)(1), Oct. 26, 1996, 110 Stat. 4090, 4091.)

CODIFICATION

''Section 322 of title 7'' substituted in subsec. (b)(4)(B) for ''the first section of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 322)''. Section 1 of the act of Aug. 30, 1890, is classified to sections 322 and 323 of Title 7, Agriculture, but only section 322 refers to agriculture and the mechanic arts.

AMENDMENTS

1996—Pub. L. 104–332, §2(h)(1), made technical amendment to Pub. L. 101–646, §1301, which enacted this section.

Subsec. (a)(3). Pub. L. 104–332, §2(f)(1)(B), added par. (3) and struck out former par. (3) which read as follows: ''$1,000,000 for each of fiscal years 1993, 1994, and 1995 to the Secretary for implementation and enforcement of the regulations promulgated under section 4711 of this title.''

Subsec. (a)(4), (5). Pub. L. 104–332, §2(f)(1)(A), (C), added pars. (4) and (5).

Subsec. (b). Pub. L. 104–332, §2(f)(2)(A), substituted ''1997 through 2002'' for ''1991, 1992, 1993, 1994, and 1995'' in introductory provisions.

Subsec. (b)(1) to (7). Pub. L. 104–332, §2(f)(2)(B), added pars. (1) to (6) and struck out former pars. (1) to (7) which read as follows:

''(1) $7,000,000 to the Director to carry out sections 4722 and 4728 of this title;

''(2) $5,000,000 to the Under Secretary to carry out section 4722 of this title;

''(3) $1,125,000 to fund aquatic nuisance species prevention and control research under section 4722(i) of this title at the Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration;

''(4) $5,000,000 for competitive grants for university research on aquatic nuisance species under section 4722(f)(3) of this title as follows:

''(A) $3,375,000 to fund grants under the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.), and of this amount, $2,500,000 to fund grants in the Great Lakes region; and

''(B) $1,675,000 to fund grants through the Cooperative Fisheries and Wildlife Research Unit Program of the United States Fish and Wildlife Service;

''(5) $500,000 to fund Sea Grant Marine Advisory Services education and technical assistance related to infestations of zebra mussels under sections 4722(g) and (h) of this title;

''(6) $200,000 to fund aquatic nuisance species prevention and control activities of the Great Lakes Commission; and

''(7) $2,000,000 to the Assistant Secretary to carry out section 4722(i)(2) of this title.''

Subsec. (c). Pub. L. 104–332, §2(f)(3), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: ''There are authorized to be appropriated for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to make grants under section 4724 of this title—

''(1) $2,500,000 to the Director; and

''(2) $5,000,000 to the Assistant Secretary.''

Subsecs. (e), (f). Pub. L. 104–332, §2(f)(4), added subsecs. (e) and (f).

1991—Subsec. (b)(4)(A). Pub. L. 102–186 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''$3,375,000 to fund grants under section 1125 of title 33, and of this amount, $2,500,000 to fund grants in the Great Lakes region; and''.

SUBCHAPTER V—COOPERATIVE ENVIRONMENTAL ANALYSES

§ 4751. Environmental impact analyses

The Secretary of State, in consultation with the Council on Environmental Quality, is encouraged to enter into negotiations with the governments of Canada and Mexico to provide for reciprocal cooperative environmental impact analysis of major Federal actions which have significant transboundary effects on the quality of the human environment in the United States, Canada, and Mexico.

(Pub. L. 101–646, title I, §1401, Nov. 29, 1990, 104 Stat. 4773; Pub. L. 104–332, §2(h)(1), Oct. 26, 1996, 110 Stat. 4091.)

AMENDMENTS

1996—Pub. L. 104–332 made technical amendment to Pub. L. 101–646, §1401, which enacted this section.

CHAPTER 68—PACIFIC YEW CONSERVATION AND MANAGEMENT

§§ 4801 to 4805. Omitted

CODIFICATION

Sections 4801 to 4805 were omitted as expired pursuant to section 4807 of this title.

Section 4801, Pub. L. 102–335, §2, Aug. 7, 1992, 106 Stat. 859, related to findings, purposes, and definitions.

Section 4802, Pub. L. 102–335, §3, Aug. 7, 1992, 106 Stat. 860, related to Pacific yew conservation and management.

Section 4803, Pub. L. 102–335, §4, Aug. 7, 1992, 106 Stat. 861, related to research regarding ecology of Pacific yew, development of alternative methods of procuring taxol, and propagation of species.

Section 4804, Pub. L. 102–335, §5, Aug. 7, 1992, 106 Stat. 861, related to collection and sale of Pacific yew resources.

Section 4805, Pub. L. 102–335, §6, Aug. 7, 1992, 106 Stat. 862, related to construction of chapter with other laws.

SHORT TITLE

Section 1(a) of Pub. L. 102–335 provided that Pub. L. 102–335 (this chapter) could be cited as the ''Pacific Yew Act''.

§ 4806. Repealed. Pub. L. 105–362, title IX, § 901(a)(1), Nov. 10, 1998, 112 Stat. 3289

Section, Pub. L. 102–335, §7, Aug. 7, 1992, 106 Stat. 862; Pub. L. 103–437, §6(d)(43), Nov. 2, 1994, 108 Stat. 4585, related to report to Congress concerning sufficiency of Pacific yew harvests to supply taxol required for medicinal purposes and concerning Pacific yew inventory required by section 4802(d) of this title.

§ 4807. Omitted

CODIFICATION

Section, Pub. L. 102–335, §7, formerly §8, Aug. 7, 1992, 106 Stat. 862; renumbered §7 and amended Pub. L. 105–362, title IX, §901(a)(2), Nov. 10, 1998, 112 Stat. 3289, provided that if the Secretary of Health and Human Services, the Secretary of Agriculture, and the Secretary of the Interior concluded that quantities of taxol sufficient to satisfy medicinal demands were available from sources other than the Pacific yew, they were to jointly notify Congress, at which time the requirements of this chapter would expire. Such a conclusion was transmitted to Congress by the Secretaries in a letter dated Jan. 26, 1998.

A prior section 7 of Pub. L. 102–335 was classified to section 4806 of this title prior to repeal by Pub. L. 105–362.

CHAPTER 69—WILD EXOTIC BIRD CONSERVATION

Sec.

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§ 4901. Findings

The Congress finds the following:

(1) In addition to habitat loss and local use, the international pet trade in wild-caught exotic birds is contributing to the decline of species in the wild, and the mortality associated with the trade remains unacceptably high.

(2) The United States, as the world's largest importer of exotic birds and as a Party to the Convention, should play a substantial role in finding effective solutions to these problems, including assisting countries of origin in implementing programs of wild bird conservation, and ensuring that the market in the United States for exotic birds does not operate to the detriment of the survival of species in the wild.

(3) Sustainable utilization of exotic birds has the potential to create economic value in them and their habitats, which will contribute to their conservation and promote the maintenance of biological diversity generally.

(4) Utilization of exotic birds that is not sustainable should not be allowed.

(5) Broad international attention has focused on the serious conservation and welfare problems which currently exist in the trade in wild-caught animals, including exotic birds.

(6) Many countries have chosen not to export their wild birds for the pet trade. Their deci-

sions should be respected and their efforts should be supported.

(7) Several countries that allow for the export of their wild birds often lack the means to develop or effectively implement scientifically based management plans, and these countries should be assisted in developing and implementing management plans to enable them to ensure that their wild bird trade is conducted humanely and at sustainable levels.

(8) The major exotic bird exporting countries are Parties to the Convention.

(9) The Convention recognizes that trade in species that are threatened with extinction, or that may become so, should be subject to strict regulation.

(10) The necessary population assessments, monitoring programs, and appropriate remedial measures for species listed in Appendix II of the Convention are not always being undertaken in order to maintain species at levels above which they might become eligible for inclusion in Appendix I of the Convention.

(11) Resolutions adopted pursuant to the Convention recommend that the Parties to the Convention take appropriate measures regarding trade in species of exotic birds that have significantly high mortality rates in transport, including suspension of trade for commercial purposes between Parties when appropriate.

(12) Article XIV provides that the Convention in no way affects the right of any Party to the Convention to adopt stricter domestic measures for the regulation of trade in all species, whether or not listed in an Appendix to the Convention.

(13) The United States prohibits the export of all birds native to the United States that are caught in the wild.

(14) This chapter provides a series of nondiscriminatory measures that are necessary for the conservation of exotic birds, and furthers the obligations of the United States under the Convention.

(Pub. L. 102–440, title I, §102, Oct. 23, 1992, 106 Stat. 2224.)

SHORT TITLE

Section 101 of title I of Pub. L. 102–440 provided that: ''This title [enacting this chapter] may be cited as the 'Wild Bird Conservation Act of 1992'.''

§ 4902. Statement of purpose

The purpose of this chapter is to promote the conservation of exotic birds by—

(1) assisting wild bird conservation and management programs in the countries of origin of wild birds;

(2) ensuring that all trade in species of exotic birds involving the United States is biologically sustainable and is not detrimental to the species;

(3) limiting or prohibiting imports of exotic birds when necessary to ensure that—

(A) wild exotic bird populations are not harmed by removal of exotic birds from the wild for the trade; or

(B) exotic birds in trade are not subject to inhumane treatment; and

(4) encouraging and supporting effective implementation of the Convention.

(Pub. L. 102–440, title I, §103, Oct. 23, 1992, 106 Stat. 2225.)

§ 4903. Definitions

In this chapter—

(1) The term ''Convention'' means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, as amended, signed in Washington on March 3, 1973, and the Appendices thereto.

(2) The term ''exotic bird''—

(A) means any live or dead member of the class Aves that is not indigenous to the 50 States or the District of Columbia, including any egg or offspring thereof; and

(B) does not include—

(i) domestic poultry, dead sport-hunted birds, dead museum specimens, dead scientific specimens, or products manufactured from such birds; or

(ii) birds in the following families: Phasianidae, Numididae, Cracidae, Meleagrididae, Megapodiidae, Anatidae, Struthionidae, Rheidae, Dromaiinae, and Gruidae.

(3) Each of the terms ''import'' and ''importation'' means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States.

(4) The term ''person'' means an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government; any State, municipality, or political subdivision of a State; or any other entity subject to the jurisdiction of the United States.

(5) The term ''qualifying facility'' means an exotic bird breeding facility that is included in a list published by the Secretary under section 4906 of this title.

(6) The term ''Secretary'' means the Secretary of the Interior or a designee of the Secretary of the Interior.

(7) The term ''species''—

(A) means any species, any subspecies, or any distinct population segment of a species or subspecies; and

(B) includes hybrids of any species or subspecies.

(8) The term ''United States'' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(Pub. L. 102–440, title I, §104, Oct. 23, 1992, 106 Stat. 2225.)

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 4904. Moratoria on imports of exotic birds covered by Convention

(a) Immediate moratorium

(1) Establishment of moratorium

The importation of any exotic bird of a species identified as a category B species in the report entitled ''Report of the Animals Committee'', adopted by the 8th meeting of the Conference of the Parties to the Convention, is prohibited.

(2) Termination of moratorium

A species of exotic birds shall be subject to the prohibition on importation established by paragraph (1) until the Secretary, after notice and an opportunity for public comment—

(A) determines that appropriate remedial measures have been taken in the countries of origin for that species, so as to eliminate the threat of trade to the conservation of the species; and

(B) makes the findings described in section 4905(c) of this title for the species and includes the species in the list published under section 4905(a) of this title.

(b) Emergency authority to suspend imports of listed species

(1) Authority to suspend imports

The Secretary is authorized to suspend the importation of exotic birds of any species that is listed in any Appendix to the Convention, and if applicable remove the species from the list under section 4905(a) of this title, if the Secretary determines that—

(A)(i) trade in that species is detrimental to the species,

(ii) there is not sufficient information available on which to base a judgment that the species is not detrimentally affected by trade in that species, or

(iii) remedial measures have been recommended by the Standing Committee of the Convention that have not been implemented; and

(B) the suspension might be necessary for the conservation of the species.

(2) Termination of suspension

A species of exotic birds shall be subject to a suspension of importation under paragraph (1) until the Secretary, after notice and an opportunity for public comment, makes the findings described in section 4905(c) of this title and includes the species in the list published under section 4905(a) of this title.

(c) Moratorium after one year for other species listed in appendices

Effective on the date that is one year after October 23, 1992, the importation of any exotic bird of a species that is listed in any Appendix to the Convention is prohibited unless the Secretary makes the findings described in section 4905(c) of this title and includes the species in the list published under section 4905(a) of this title.

(d) Limitation on number imported during first year

Notwithstanding any other provision of this chapter, the Secretary shall prohibit the importation, during the 1-year period beginning on October 23, 1992, of exotic birds of each species that is listed under any Appendix to the Convention in excess of the number of that species that were imported during the most recent year for which the Secretary has complete import data.

(Pub. L. 102–440, title I, § 105, Oct. 23, 1992, 106 Stat. 2226.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original ''this Act'' and was translated as reading ''this title'', meaning title I of Pub. L. 102–440, known as the Wild Bird Conservation Act of 1992, to reflect the probable intent of Congress.

§ 4905. List of approved species

(a) Listing

(1) In general

One year after October 23, 1992, and periodically thereafter, the Secretary shall, after notice and an opportunity for public comment, publish in the Federal Register a list of species of exotic birds that are listed in an Appendix to the Convention and that are not subject to a prohibition or suspension of importation otherwise applicable under section 4904(a), (b), or (c) of this title.

(2) Manner of listing

The Secretary shall list a species under paragraph (1) with respect to—

(A) the countries of origin from which the species may be imported; and

(B) if appropriate, the qualifying facilities in those countries from which the species may be imported.

(3) Bases for determinations

In making a determination required under this subsection, the Secretary shall—

(A) use the best scientific information available; and

(B) consider the adequacy of regulatory and enforcement mechanisms in all countries of origin for the species, including such mechanisms for control of illegal trade.

(b) Captive bred species

The Secretary shall include a species of exotic birds in the list under subsection (a) of this section if the Secretary determines that—

(1) the species is regularly bred in captivity and no wild-caught birds of the species are in trade; or

(2) the species is bred in a qualifying facility.

(c) Non-captive bred species

The Secretary shall include in the list under subsection (a) of this section a species of exotic birds that is listed in an Appendix to the Convention if the Secretary finds the Convention is being effectively implemented with respect to that species because of each of the following:

(1) Each country of origin for which the species is listed is effectively implementing the Convention, particularly with respect to—

(A) the establishment of a scientific authority or other equivalent authority;

(B) the requirements of Article IV of the Convention with respect to that species; and

(C) remedial measures recommended by the Parties to the Convention with respect to that species.

(2) A scientifically-based management plan for the species has been developed which—

(A) provides for the conservation of the species and its habitat and includes incentives for conservation;

(B) ensures that the use of the species is biologically sustainable and maintained throughout the range of the species in the country to which the plan applies at a level that is consistent with the role of the species in the ecosystem and is well above the level at which the species might become threatened with extinction; and

(C) addresses factors relevant to the conservation of the species, including illegal trade, domestic trade, subsistence use, disease, and habitat loss.

(3) The management plan is implemented and enforced.

(4) The methods of capture, transport, and maintenance of the species minimizes the risk of injury or damage to health, including inhumane treatment.

(Pub. L. 102–440, title I, §106, Oct. 23, 1992, 106 Stat. 2227.)

§ 4906. Qualifying facilities

(a) Determination

Upon submission of a petition under section 4909 of this title by any person, the Secretary shall determine whether an exotic bird breeding facility is a qualifying facility. Such determination shall be effective for a period specified by the Secretary, which may not exceed 3 years. The Secretary shall, from time to time, publish a list of qualifying facilities in the Federal Register.

(b) Criteria

The Secretary shall determine under subsection (a) of this section that a facility is a qualifying facility for a species of exotic birds if the Secretary finds each of the following:

(1) The facility has demonstrated the capability of producing captive bred birds of the species in the numbers to be imported into the United States from that facility.

(2) The facility is operated in a manner that is not detrimental to the survival of the species in the wild.

(3) The facility is operated in a humane manner.

(4) The appropriate governmental authority of the country in which the facility is located has certified in writing, and the Secretary is satisfied, that the facility has the capability of breeding the species in captivity.

(5) The country in which the facility is located is a Party to the Convention.

(6) All birds exported from the facility are bred at the facility.

(Pub. L. 102–440, title I, §107, Oct. 23, 1992, 106 Stat. 2228.)

§ 4907. Moratoria for species not covered by Convention

(a) In general

The Secretary shall—

(1) review periodically the trade in species of exotic birds that are not listed in any Appendix to the Convention; and

(2) after notice and an opportunity for public comment, establish a moratorium or quota on—

(A) importation of any species of exotic birds from one or more countries of origin for the species, if the Secretary determines that—

(i) the findings described in section 4905(c)(2), (3), and (4) of this title cannot be made with respect to the species; and

(ii) the moratorium or quota is necessary for the conservation of the species or is otherwise consistent with the purpose of this chapter; or

(B) the importation of all species of exotic birds from a particular country, if—

(i) the country has not developed and implemented a management program for exotic birds in trade generally, that ensures both the conservation and the humane treatment of exotic birds during capture, transport, and maintenance; and

(ii) the Secretary finds that the moratorium or quota is necessary for the conservation of the species or is otherwise consistent with the purpose of this chapter.

(b) Termination of quota or moratorium

The Secretary shall terminate a quota or moratorium established under subsection (a) of this section if the Secretary finds that the reasons for establishing the quota or moratorium no longer exist.

(Pub. L. 102–440, title I, §108, Oct. 23, 1992, 106 Stat. 2229.)

§ 4908. Call for information

Within one month after October 23, 1992, the Secretary shall issue a call for information on the wild bird conservation program of each country that exports exotic birds, by—

(1) publishing a notice in the Federal Register requesting submission of such information to the Secretary by all interested persons; and

(2) submitting a written request for such information through the Secretary of State to each country that exports exotic birds.

(Pub. L. 102–440, title I, §109, Oct. 23, 1992, 106 Stat. 2229.)

§ 4909. Petitions

(a) In general

Any person may at any time submit to the Secretary a petition in writing requesting that the Secretary exercise authority of the Secretary under this chapter to—

(1) establish, modify, or terminate any prohibition, suspension, or quota under this chapter on importation of any species of exotic bird;

(2) add a species of exotic bird to, or remove such a species from, a list under section 4905 of this title; or

(3) determine under section 4906 of this title whether an exotic bird breeding facility is a qualifying facility.

(b) Consideration and ruling

For each petition submitted to the Secretary in accordance with subsection (a) of this section, the Secretary shall—

(1) within 90 days after receiving the petition, issue and publish in the Federal Register a preliminary ruling regarding whether the petition presents sufficient information indicating that the action requested in the petition might be warranted; and

(2) for each petition determined to present such sufficient information—

(A) provide an opportunity for the submission of public comment on the petition; and

(B) issue and publish in the Federal Register a final ruling on the petition, by not later than 90 days after the end of the period for public comment.

(Pub. L. 102–440, title I, § 110, Oct. 23, 1992, 106 Stat. 2229.)

§ 4910. Prohibited acts

(a) Prohibitions

(1) In general

Subject to paragraph (2), it is unlawful for any person to—

(A) import any exotic bird in violation of any prohibition, suspension, or quota on importation under section 4904 or 4907 of this title;

(B) import an exotic bird of a species that pursuant to section 4905(a)(2)(B) of this title is included in a list under section 4905 of this title, if the bird was not captive bred at a qualifying facility; or

(C) violate any regulation promulgated by the Secretary pursuant to authority provided by this chapter.

(2) Limitation

Paragraph (1)(A) and (B) does not apply to importations made incident to the transit of exotic birds through the United States to foreign countries if the applicable requirements of the Convention have been satisfied with respect to the trade in those exotic birds.

(b) Burden of proof for exemptions

Any person claiming the benefit of any exemption or permit under this chapter shall have the burden of proving that the exemption or permit is applicable or has been granted, and was valid and in force at the time of the alleged violation.

(Pub. L. 102–440, title I, § 111, Oct. 23, 1992, 106 Stat. 2230.)

§ 4911. Exemptions

Notwithstanding any prohibition, suspension, or quota under this chapter on the importation of a species of exotic bird, the Secretary may, through the issuance of import permits, authorize the importation of a bird of the species if the Secretary determines that such importation is not detrimental to the survival of the species and the bird is being imported exclusively for any of the following purposes:

(1) Scientific research.

(2) As a personally owned pet of an individual who is returning to the United States after being continuously out of the country for a minimum of one year, except that an individual may not import more than 2 exotic birds under this paragraph in any year.

(3) Zoological breeding or display programs.

(4) Cooperative breeding programs that are—

(A) designed to promote the conservation of the species and maintain the species in the wild by enhancing the propagation and survival of the species; and

(B) developed and administered by, or in conjunction with, an avicultural, conservation, or zoological organization that meets standards developed by the Secretary.

(Pub. L. 102–440, title I, § 112, Oct. 23, 1992, 106 Stat. 2230.)

§ 4912. Penalties and regulations

(a) Penalties

(1) Civil penalties

(A) Any person who knowingly violates, and any person engaged in business as an importer of exotic birds who violates, section 4910(a)(1) or (2)[1] of this title or any permit issued under section 4911 of this title may be assessed a civil penalty by the Secretary of not more than $25,000 for each violation.

(B) Any person who knowingly violates, and any person engaged in business as an importer of exotic birds who violates, section 4910(a)(3)[2] of this title may be assessed a civil penalty by the Secretary of not more than $12,000 for each such violation.

(C) Any person who otherwise violates section 4910(a) of this title or any permit issued under section 4911 of this title may be assessed a civil penalty by the Secretary of not more than $500 for each such violation.

(D) A civil penalty under this section shall be assessed, and may be collected, in the manner in which a civil penalty under the Act of December 28, 1973 (Public Law 93–205) [16 U.S.C. 1531 et seq.], may be assessed and collected under section 111(a)[3] of that Act [16 U.S.C. 1540(a)].

(2) Criminal penalties

(A) Any person who knowingly violates, and any person engaged in business as an importer of exotic birds who violates, section 4910(a)(1) or (2)[1] of this title or any permit issued under section 4911 of this title shall be fined under title 18 or imprisoned for not more than 2 years, or both.

(B) Any person who knowingly violates section 4910(a)(3)[2] of this title shall be fined under title 18, imprisoned not more than 6 months, or both.

(b) District court jurisdiction

The several district courts of the United States, including the courts enumerated in section 460 of title 28, shall have jurisdiction over any action arising under this chapter. For the purposes of this chapter, American Samoa shall be included in the Judicial District of the Dis-

[1] So in original. Probably should be section ''4910(a)(1)(A) or (B)''.

[2] So in original. Probably should be section ''4910(a)(1)(C)''.

[3] So in original. Probably should be section ''11(a)''.

trict Court of the United States for the District of Hawaii, and the Trust Territory of Palau and the Northern Marianas shall be included in the Judicial District of the District Court of the United States for the District of Guam.

(c) Other enforcement

The importation of an exotic bird is deemed to be transportation of wildlife for purposes of section 3(a) of the Lacey Act Amendments of 1981 (16 U.S.C. 3372(a)).

(d) Regulations

The Secretary shall prescribe regulations that are necessary and appropriate to carry out the purposes of this chapter.

(e) Savings provisions

The authority of the Secretary under this chapter is in addition to and shall not affect the authority of the Secretary under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or diminish the authority of the Secretary under the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.). Nothing in this chapter shall be construed as repealing, superseding, or modifying any provision of Federal law.

(Pub. L. 102–440, title I, §113, Oct. 23, 1992, 106 Stat. 2231.)

REFERENCES IN TEXT

Act of December 28, 1973, referred to in subsec. (a)(1)(D), and the Endangered Species Act of 1973, referred to in subsec. (e), are Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Lacey Act Amendments of 1981, referred to in subsec. (e), is Pub. L. 97–79, Nov. 16, 1981, 95 Stat. 1073, which is classified principally to chapter 53 (§3371 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3371 of this title and Tables.

TERMINATION OF TRUST TERRITORY

For termination of Trust Territory of Palau and Northern Marianas, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 4913. Exotic bird conservation assistance

(a) Assistance

The Secretary, subject to the availability of appropriations, shall use amounts in the Exotic Bird Conservation Fund established by subsection (b) of this section to provide financial and technical assistance for projects to conserve exotic birds in their native countries. In selecting projects for assistance, the Secretary shall give particular attention to species that are subject to an import moratorium or quota under this chapter, in order to assist those countries in the development and implementation of conservation management programs, or law enforcement, or both.

(b) Fund

(1) Establishment

There is established in the Treasury a separate account, which shall be known as the ''Exotic Bird Conservation Fund''.

(2) Contents

The Fund shall consist of—

(A) all amounts received by the United States in the form of penalties, fines, or forfeiture of property collected under this chapter in excess of the cost of paying rewards under section 4912(c) of this title;

(B) donations received by the Secretary for exotic bird conservation; and

(C) such amounts as are appropriated to the Secretary for conserving exotic birds.

(c) Review and report on other conservation opportunities

The Secretary, in consultation with appropriate representatives of industry, the conservation community, the Secretariat of the Convention, and other national and international bodies, shall—

(1) review opportunities for a voluntary program of labeling exotic birds, certification of exotic bird breeding facilities and retail outlets, and provision of privately organized or funded technical assistance to other nations; and

(2) report to the Congress the results of this review within 2 years after October 23, 1992.

(Pub. L. 102–440, title I, §114, Oct. 23, 1992, 106 Stat. 2232.)

§ 4914. Marking and recordkeeping

(a) In general

The Secretary is authorized to promulgate regulations to require marking or recordkeeping that the Secretary determines will contribute significantly to the ability of the Secretary to ensure compliance with the prohibitions of section 4910 of this title, for—

(1) any exotic bird that is imported after October 23, 1992; or

(2) any other exotic bird that is—

(A) hatched after October 23, 1992;

(B) offered for sale; and

(C) of a species—

(i) the export of which from any country of origin is prohibited; and

(ii) that is subject to a high level of illegal trade.

(b) Avoiding deterrence of breeding

The Secretary shall seek to ensure that regulations promulgated under this section will not have the effect of deterring captive breeding of exotic birds.

(Pub. L. 102–440, title I, §115, Oct. 23, 1992, 106 Stat. 2232.)

§ 4915. Authorization of appropriations

There are authorized to be appropriated to the Secretary $5,000,000 for each of the fiscal years 1993, 1994, and 1995 to carry out this chapter, to remain available until expended.

(Pub. L. 102–440, title I, §116, Oct. 23, 1992, 106 Stat. 2233.)

§ 4916. Relationship to State law

Nothing in this chapter may be construed as precluding the regulation under State law of the sale, transfer, or possession of exotic birds if such regulation—

(1) does not authorize any sale, transfer, or possession of exotic birds that is prohibited under this chapter; and

(2) is consistent with the international obligations of the United States.

(Pub. L. 102–440, title I, § 117, Oct. 23, 1992, 106 Stat. 2233.)

CHAPTER 70—NORTH PACIFIC ANADROMOUS STOCKS CONVENTION

Sec.
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5007. Cooperation with other agencies.
5008. Enforcement provisions.
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§ 5001. Purpose

It is the purpose of this chapter to implement the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, signed in Moscow, February 11, 1992.

(Pub. L. 102–567, title VIII, § 802, Oct. 29, 1992, 106 Stat. 4309; Pub. L. 102–587, title VIII, § 8002, Nov. 4, 1992, 106 Stat. 5098; Pub. L. 106–562, title III, § 304(a), Dec. 23, 2000, 114 Stat. 2806.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title VIII of Pub. L. 102–567, which is classified generally to this chapter. For complete classification of title VIII to the Code, see Short Title note below and Tables.

CODIFICATION

Title VIII of Pub. L. 102–567 and Pub. L. 102–587 enacted identical sections. Title VIII of Pub. L. 102–587 was repealed by Pub. L. 106–562.

SHORT TITLE

Section 8001 of title VIII of Pub. L. 102–587, which provided that title VIII of Pub. L. 102–587, which enacted this chapter and repealed sections 1021 to 1023, 1025 to 1027, 1029, 1030, and 1032 to 1035 of this title and provisions set out as notes under section 1021 of this title, could be cited as the ''North Pacific Anadromous Stocks Convention Act of 1992'', was repealed by Pub. L. 106–562, title III, § 304(a), Dec. 23, 2000, 114 Stat. 2806.

Section 801 of title VIII of Pub. L. 102–567 provided that: ''This title [enacting this chapter and repealing sections 1021 to 1023, 1025 to 1027, 1029, 1030, and 1032 to 1035 of this title and provisions set out as notes under section 1021 of this title] may be cited as the 'North Pacific Anadromous Stocks Act of 1992'.''

§ 5002. Definitions

As used in this chapter, the term—

(1) ''Anadromous stocks'' means stocks of species listed in the Annex to the Convention that migrate into the Convention area.

(2) ''Anadromous fish'' means fish of the species listed in the Annex to the Convention that migrate into the Convention area.

(3) ''Authorized officer'' means a law enforcement official authorized to enforce this chapter under section 5008(a) of this title.

(4) ''Commission'' means the North Pacific Anadromous Fish Commission provided for by article VIII of the Convention.

(5) ''Convention'' means the Convention for the Conservation of Anadromous Stocks of the North Pacific Ocean, signed in Moscow, February 11, 1992.

(6) ''Convention area'' means the waters of the North Pacific Ocean and its adjacent seas, north of 33 degrees North Latitude,[1] beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

(7) ''Directed fishing'' means fishing targeted at a particular species or stock of fish.

(8) ''Ecologically related species'' means living marine species which are associated with anadromous stocks found in the Convention area, including, but not restricted to, both predators and prey of anadromous fish.

(9) ''Enforcement officer'' means a law enforcement official authorized by any Party to enforce this chapter.

(10) ''Exclusive economic zone'' means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this chapter, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

(11) ''Fish'' means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(12) ''Fishing'' means—

(A) the catching, taking, or harvesting of fish, or any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(B) any operation at sea in preparation for or in direct support of any activity described in subparagraph (A).

(13) ''Fishing vessel'' means—

(A) any vessel engaged in catching fish within the Convention area or in processing or transporting fish loaded in the Convention area;

(B) any vessel outfitted to engage in any activity described in subparagraph (A);

(C) any vessel supporting a vessel described in subparagraph (A) or (B).

(14) ''Incidental taking'' means catching, taking, or harvesting a species or stock of fish while conducting directed fishing for another species or stock of fish.

(15) ''Party'' means Canada, Japan, the Russian Federation, the United States, and any other nation that may accede to the Convention.

(16) ''Secretary'' means the Secretary of State.

(17) ''United States Section'' means the United States Commissioners of the Commission.

(Pub. L. 102–567, title VIII, § 803, Oct. 29, 1992, 106 Stat. 4309; Pub. L. 102–587, title VIII, § 8003, Nov. 4, 1992, 106 Stat. 5098; Pub. L. 104–43, title IV, § 404(b), Nov. 3, 1995, 109 Stat. 391; Pub. L. 106–562, title III, § 304(a), Dec. 23, 2000, 114 Stat. 2806.)

REFERENCES IN TEXT

Proclamation Numbered 5030, dated March 10, 1983, referred to in par. (10), is set out as a note under section 1453 of this title.

[1] So in original. Probably should not be capitalized.

CODIFICATION

Title VIII of Pub. L. 102–567 and Pub. L. 102–587 enacted substantially identical sections. Title VIII of Pub. L. 102–587 was repealed by Pub. L. 106–562.

AMENDMENTS

1995—Par. (13)(C). Pub. L. 104–43 amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''any vessel described in subparagraph (A) or (B).''

§ 5003. United States Commissioners

(a) Commissioners

The United States shall be represented on the Commission by not more than three United States Commissioners to be appointed by and serve at the pleasure of the President. Each United States Commissioner shall be appointed for a term of office not to exceed 4 years, but is eligible for reappointment. Individuals serving as such Commissioners shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28. Of the Commissioners—

(1) one shall be an official of the United States Government;

(2) one shall be a resident of the State of Alaska; and

(3) one shall be a resident of the State of Washington.

An individual is not eligible for appointment under paragraph (2) or (3) as a Commissioner unless the individual is knowledgeable or experienced concerning the anadromous stocks and ecologically related species of the North Pacific Ocean.

(b) Alternate Commissioners

The Secretary, in consultation with the Secretary of Commerce, may designate from time to time Alternate United States Commissioners to the Commission. An Alternate United States Commissioner may exercise all designated powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

(c) United States Section

The United States Section, in consultation with the Advisory Panel established in section 5004 of this title, shall identify and recommend to the Commission research needs and priorities for anadromous stocks and ecologically related species subject to the Convention, and oversee the United States research programs involving such fisheries, stocks, and species.

(d) Compensation

United States Commissioners and Alternate United States Commissioners shall receive no compensation for their services as Commissioners and Alternate Commissioners.

(Pub. L. 102–567, title VIII, § 804, Oct. 29, 1992, 106 Stat. 4310; Pub. L. 102–587, title VIII, § 8004, Nov. 4, 1992, 106 Stat. 5099; Pub. L. 106–562, title III, § 304, Dec. 23, 2000, 114 Stat. 2806.)

CODIFICATION

Title VIII of Pub. L. 102–567 and Pub. L. 102–587 enacted identical sections. Title VIII of Pub. L. 102–587 was repealed by Pub. L. 106–562.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–562, § 304(b), inserted after second sentence ''Individuals serving as such Commissioners shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28.''

§ 5004. Advisory Panel

(a) Establishment of Panel

An Advisory Panel to the United States Section is established. The Advisory Panel shall be composed of the following:

(1) The Commissioner of the Alaska Department of Fish and Game.

(2) The Director of the Washington Department of Fisheries.

(3) One representative of the Pacific States Marine Fisheries Commission, designated by the Executive Director of that commission.

(4) Eleven members (six of whom shall be residents of the State of Alaska and five of whom shall be residents of the State of Washington), appointed by the Secretary, in consultation with the Secretary of Commerce, from among a slate of 12 persons nominated by the Governor of Alaska and a slate of 10 persons nominated by the Governor of Washington.

(b) Qualifications

Persons appointed to the Advisory Panel shall be individuals who are knowledgeable or experienced concerning anadromous stocks and ecologically related species. In submitting a slate of nominees pursuant to subsection (a)(4) of this section, the Governors of Alaska and Washington shall seek to represent the broad range of parties interested in anadromous stocks and ecologically related species, and at a minimum shall include on each slate at least one representative of commercial salmon fishing interests and of environmental interests concerned with protection of living marine resources.

(c) Limitation on service

Any person appointed to the Advisory Panel pursuant to subsection (a)(4) of this section shall serve for a term not to exceed 4 years, and may not serve more than two consecutive terms.

(d) Functions

The Advisory Panel shall be invited to all nonexecutive meetings of the United States Section and at such meetings shall be granted the opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the United States Section.

(e) Compensation and expenses

The members of the Advisory Panel shall receive no compensation or travel expenses for their services as such members.

(Pub. L. 102–567, title VIII, § 805, Oct. 29, 1992, 106 Stat. 4311; Pub. L. 102–587, title VIII, § 8005, Nov.

4, 1992, 106 Stat. 5100; Pub. L. 106–562, title III, § 304(a), Dec. 23, 2000, 114 Stat. 2806.)

CODIFICATION

Title VIII of Pub. L. 102–567 and Pub. L. 102–587 enacted identical sections. Title VIII of Pub. L. 102–587 was repealed by Pub. L. 106–562.

TERMINATION OF ADVISORY PANELS

Advisory panels established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a panel established by Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 5005. Commission recommendations

The Secretary, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article IX of the Convention.

(Pub. L. 102–567, title VIII, § 806, Oct. 29, 1992, 106 Stat. 4311; Pub. L. 102–587, title VIII, § 8006, Nov. 4, 1992, 106 Stat. 5101; Pub. L. 106–562, title III, § 304(a), Dec. 23, 2000, 114 Stat. 2806.)

CODIFICATION

Title VIII of Pub. L. 102–567 and Pub. L. 102–587 enacted identical sections. Title VIII of Pub. L. 102–587 was repealed by Pub. L. 106–562.

§ 5006. Administration and enforcement of Convention

(a) Responsibilities

The Secretary of Commerce shall be responsible for administering provisions of the Convention, this chapter, and regulations issued under this chapter. The Secretary, in consultation with the Secretary of Commerce and the Secretary of Transportation, shall be responsible for coordinating the participation of the United States in the Commission.

(b) Consultation and cooperation

In carrying out such functions, the Secretary of Commerce—

(1) shall, in consultation with the Secretary of Transportation and the United States Section, issue such regulations as may be necessary to carry out the purposes and objectives of the Convention and this chapter; and

(2) may, with the concurrence of the Secretary, cooperate with the authorized officials of the government of any Party.

(Pub. L. 102–567, title VIII, § 807, Oct. 29, 1992, 106 Stat. 4311; Pub. L. 102–587, title VIII, § 8007, Nov. 4, 1992, 106 Stat. 5101; Pub. L. 106–562, title III, § 304(a), Dec. 23, 2000, 114 Stat. 2806.)

CODIFICATION

Title VIII of Pub. L. 102–567 and Pub. L. 102–587 enacted identical sections. Title VIII of Pub. L. 102–587 was repealed by Pub. L. 106–562.

§ 5007. Cooperation with other agencies

(a) In general

Any agency of the Federal Government is authorized, upon request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish, on a reimbursable basis, facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention. Such agency may accept reimbursement from the Commission.

(b) Functions of Secretary of Commerce

In carrying out the provisions of the Convention and this chapter, the Secretary of Commerce may arrange for cooperation with agencies of the United States, the States, private institutions and organizations, and agencies of the government of any Party, to conduct scientific and other programs, and may execute such memoranda as may be necessary to reflect such agreements.

(Pub. L. 102–567, title VIII, § 808, Oct. 29, 1992, 106 Stat. 4312; Pub. L. 102–587, title VIII, § 8008, Nov. 4, 1992, 106 Stat. 5101; Pub. L. 106–562, title III, § 304(a), Dec. 23, 2000, 114 Stat. 2806.)

CODIFICATION

Title VIII of Pub. L. 102–567 and Pub. L. 102–587 enacted identical sections. Title VIII of Pub. L. 102–587 was repealed by Pub. L. 106–562.

§ 5008. Enforcement provisions

(a) Duties of Secretaries of Commerce and Transportation

This chapter shall be enforced by the Secretary of Commerce and the Secretary of Transportation. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under the preceding sentence may (if the agreement so provides), authorize officers to enforce the provisions of the Convention, this chapter, and regulations issued under this chapter. Any such agreement or contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) District court jurisdiction

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this chapter.

(c) Powers of enforcement officers

Authorized officers may, shoreward of the outer boundary of the exclusive economic zone, or during hot pursuit from the zone—

(1) with or without a warrant or other process—

(A) arrest any person, if the officer has reasonable cause to believe that such person has committed an act prohibited by section 5009 of this title;

(B) board, and search or inspect, any fishing vessel subject to the provisions of the Convention and this chapter;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances,

stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of the Convention, this chapter, or regulations issued under this chapter;

(D) seize any fish (wherever found) taken or retained in violation of any provision referred to in subparagraph (C);

(E) seize any other evidence related to any violation of any provision referred to in subparagraph (C);

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(d) Additional powers

(1) An authorized officer may in the Convention area—

(A) board a vessel of any Party that reasonably can be believed to be engaged in directed fishing for, incidental taking of, or processing of anadromous fish, and, without warrant or process, inspect equipment, logs, documents, catch, and other articles, and question persons, on board the vessel, for the purpose of carrying out the provisions of the Convention, this chapter, or any regulation issued under this chapter; and

(B) If[1] any such vessel or person on board is actually engaged in operations in violation of any such provision, or there is reasonable ground to believe any person or vessel was obviously so engaged before the boarding of such vessel by the authorized officer, arrest or seize such person or vessel and further investigate the circumstance if necessary.

If an authorized officer, after boarding and investigation, has reasonable cause to believe that any such fishing vessel or person engaged in operations in violation of any provision referred to in subparagraph (A), the officer shall deliver the vessel or person as promptly as practicable to the enforcement officers of the appropriate Party, in accordance with the provisions of the Convention.

(2) When requested by the appropriate authorities of a Party, an authorized officer may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary, for the prosecution by that Party of any violation of the provisions of the Convention or any law of that Party relating to the enforcement thereof.

(Pub. L. 102–567, title VIII, § 809, Oct. 29, 1992, 106 Stat. 4312; Pub. L. 102–587, title VIII, § 8009, Nov. 4, 1992, 106 Stat. 5101; Pub. L. 106–562, title III, § 304(a), Dec. 23, 2000, 114 Stat. 2806.)

CODIFICATION

Title VIII of Pub. L. 102–567 and Pub. L. 102–587 enacted substantially identical sections. Title VIII of Pub. L. 102–587 was repealed by Pub. L. 106–562.

§ 5009. Unlawful activities

It is unlawful for any person or fishing vessel subject to the jurisdiction of the United States—

(1) to fish for any anadromous fish in the Convention area;

(2) to retain on board any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(3) to fail to return immediately to the sea any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(4) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any anadromous fish taken or retained in violation of the Convention, this chapter, or any regulation issued under this chapter;

(5) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this chapter, or any regulation issued under this chapter;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detection for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section; or

(9) to violate any provision of the Convention, this chapter, or any regulation issued under this chapter.

(Pub. L. 102–567, title VIII, § 810, Oct. 29, 1992, 106 Stat. 4313; Pub. L. 102–587, title VIII, § 8010, Nov. 4, 1992, 106 Stat. 5103; Pub. L. 106–562, title III, § 304(a), Dec. 23, 2000, 114 Stat. 2806.)

CODIFICATION

Title VIII of Pub. L. 102–567 and Pub. L. 102–587 enacted substantially identical sections. Title VIII of Pub. L. 102–587 was repealed by Pub. L. 106–562.

§ 5010. Penalties

(a) Civil penalties

(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with section 554 of title 5, to have committed an act prohibited by section 5009 of this title shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary of Commerce, or the Secretary's designee, by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate court of the United

[1] So in original. Probably should not be capitalized.

States by filing a complaint in such court within 30 days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary of Commerce, the Attorney General, and the appropriate United States Attorney. The Secretary of Commerce shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28. The findings and order of the Secretary of Commerce shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary of Commerce, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) A fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 5009 of this title shall be liable in rem for any civil penalty assessed for such violation under paragraph (1) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(5) The Secretary of Commerce may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(6) For the purposes of conducting any hearing under this section, the Secretary of Commerce may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) Offenses

(1) A person is guilty of an offense if the person commits any act prohibited by section 5009(5), (6), (7), or (8) of this title.

(2) Any offense described in paragraph (1) is a class A misdemeanor punishable by a fine under title 18 or imprisonment for not more than 6 months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any enforcement officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18 or imprisonment for not more than 10 years, or both.

(c) Forfeiture

(1) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish (or a fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 5009 of this title shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(2) Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under paragraph (1) and any action provided for under paragraph (4).

(3) If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this chapter or for which security has not previously been obtained. The provisions of the customs laws relating to—

(A) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(B) the disposition of such property or the proceeds from the sale thereof; and

(C) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, unless such provisions are inconsistent with the purposes, policy, and provisions of this chapter.

(4)(A) Any officer authorized to serve any process in rem that is issued by a court having jurisdiction under section 5008(b) of this title shall—

(i) stay the execution of such process; or

(ii) discharge any fish seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(B) Any fish seized pursuant to this chapter may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(5) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel and which is seized in connection with an act prohibited by section 5009 of this title were taken or retained in violation of the Convention and this chapter.

(Pub. L. 102–567, title VIII, § 811, Oct. 29, 1992, 106 Stat. 4314; Pub. L. 102–587, title VIII, § 8011, Nov. 4, 1992, 106 Stat. 5103; Pub. L. 106–562, title III, § 304(a), Dec. 23, 2000, 114 Stat. 2806.)

CODIFICATION

Title VIII of Pub. L. 102–567 and Pub. L. 102–587 enacted substantially identical sections. Title VIII of Pub. L. 102–587 was repealed by Pub. L. 106–562.

§ 5011. Funding requirements

(a) Authorization

There are authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this chapter, including—

(1) necessary travel expenses of the United States Commissioners or Alternate Commissioners; and

(2) the United States' share of the joint expenses of the Commission.

(b) Research

Such funds as shall be made available to the Secretary of Commerce for research and related activities shall be expended to carry out the program of the Commission in accordance with the recommendations of the United States Section and to carry out other research and observer programs pursuant to the Convention.

(Pub. L. 102–567, title VIII, § 812, Oct. 29, 1992, 106 Stat. 4316; Pub. L. 102–587, title VIII, § 8012, Nov. 4, 1992, 106 Stat. 5105; Pub. L. 106–562, title III, § 304(a), Dec. 23, 2000, 114 Stat. 2806.)

CODIFICATION

Title VIII of Pub. L. 102–567 and Pub. L. 102–587 enacted substantially identical sections. Title VIII of Pub. L. 102–587 was repealed by Pub. L. 106–562.

§ 5012. Disposition of property

The Secretary shall dispose of any United States property held by the International North Pacific Fisheries Commission on the date of its termination in a manner that would further the purposes of this chapter.

(Pub. L. 102–567, title VIII, § 813, Oct. 29, 1992, 106 Stat. 4316; Pub. L. 102–587, title VIII, § 8013, Nov. 4, 1992, 106 Stat. 5106; Pub. L. 106–562, title III, § 304(a), Dec. 23, 2000, 114 Stat. 2806.)

CODIFICATION

Title VIII of Pub. L. 102–567 and Pub. L. 102–587 enacted identical sections. Title VIII of Pub. L. 102–587 was repealed by Pub. L. 106–562.

CHAPTER 71—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

Sec.
5101. Findings and purpose.
5102. Definitions.
5103. State-Federal cooperation in Atlantic coastal fishery management.
5104. State implementation of coastal fishery management plans.
5105. State noncompliance with coastal fishery management plans.
5106. Secretarial action.
5107. Financial assistance.
5107a. State permits valid in certain waters.
5107b. Transition to management of American lobster fishery by Commission.
5108. Authorization of appropriations.

§ 5101. Findings and purpose

(a) Findings

The Congress finds the following:

(1) Coastal fishery resources that migrate, or are widely distributed, across the jurisdictional boundaries of two or more of the Atlantic States and of the Federal Government are of substantial commercial and recreational importance and economic benefit to the Atlantic coastal region and the Nation.

(2) Increased fishing pressure, environmental pollution, and the loss and alteration of habitat have reduced severely certain Atlantic coastal fishery resources.

(3) Because no single governmental entity has exclusive management authority for Atlantic coastal fishery resources, harvesting of such resources is frequently subject to disparate, inconsistent, and intermittent State and Federal regulation that has been detrimental to the conservation and sustainable use of such resources and to the interests of fishermen and the Nation as a whole.

(4) The responsibility for managing Atlantic coastal fisheries rests with the States, which carry out a cooperative program of fishery oversight and management through the Atlantic States Marine Fisheries Commission. It is the responsibility of the Federal Government to support such cooperative interstate management of coastal fishery resources.

(5) The failure by one or more Atlantic States to fully implement a coastal fishery management plan can affect the status of Atlantic coastal fisheries, and can discourage other States from fully implementing coastal fishery management plans.

(6) It is in the national interest to provide for more effective Atlantic State fishery resource conservation and management.

(b) Purpose

The purpose of this chapter is to support and encourage the development, implementation, and enforcement of effective interstate conservation and management of Atlantic coastal fishery resources.

(Pub. L. 103–206, title VIII, § 802, Dec. 20, 1993, 107 Stat. 2447; Pub. L. 106–555, title I, § 122(b)(1)(A), Dec. 21, 2000, 114 Stat. 2766.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original ''this title'', meaning title VIII of Pub. L. 103–206, Dec. 20, 1993, 107 Stat. 2447, which is classified principally to this chapter. For complete classification of title VIII to the Code, see Short Title note below and Tables.

AMENDMENTS

2000—Subsec. (a)(3). Pub. L. 106–555, which directed amendment of par. (3) of this section by substituting

''such resources is'' for ''such resources in'', was executed by making the substitution in par. (3) of subsec. (a), to reflect the probable intent of Congress.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–555, title I, §121, Dec. 21, 2000, 114 Stat. 2766, provided that: ''This subtitle [subtitle B (§§121, 122) of title I of Pub. L. 106–555, amending this section and sections 5102, 5103, 5106, and 5107a to 5108 of this title and enacting provisions set out as a note under section 5107 of this title] may be cited as the 'Atlantic Coastal Fisheries Act of 2000'.''

SHORT TITLE

Section 801 of title VIII of Pub. L. 103–206 provided that: ''This title [enacting this chapter and amending section 4107 of this title and provisions set out as a note under section 1851 of this title] may be cited as the 'Atlantic Coastal Fisheries Cooperative Management Act'.''

§ 5102. Definitions

In this chapter, the following definitions apply:

(1) The term ''coastal fishery management plan'' means a plan for managing a coastal fishery resource, or an amendment to such plan, prepared and adopted by the Commission, that—

(A) contains information regarding the status of the resource and related fisheries; and

(B) specifies conservation and management actions to be taken by the States.

(2) The term ''coastal fishery resource'' means any fishery, any species of fish, or any stock of fish that moves among, or is broadly distributed across, waters under the jurisdiction of two or more States or waters under the jurisdiction of one or more States and the exclusive economic zone.

(3) The term ''Commission'' means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by the Congress in Public Laws 77–539 and 81–721.

(4) The term ''conservation'' means the restoring, rebuilding, and maintaining of any coastal fishery resource and the marine environment, in order to assure the availability of coastal fishery resources on a long-term basis.

(5) The term ''Councils'' means Regional Fishery Management Councils established under section 1852 of this title.

(6) The term ''exclusive economic zone'' means the exclusive economic zone of the United States established by Proclamation Number 5030, dated March 10, 1983. For the purposes of this chapter, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States, and the outer boundary of that zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

(7) The term ''fish'' means finfish, mollusks, crustaceans, and all other forms of marine animal life other than marine mammals and birds.

(8) The term ''fishery'' means—

(A) one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, commercial, recreational, or economic characteristics; or

(B) any fishing for such stocks.

(9) The term ''fishing'' means—

(A) the catching, taking, or harvesting of fish;

(B) the attempted catching, taking, or harvesting of fish;

(C) any other activity that can be reasonably expected to result in the catching, taking, or harvesting of fish; or

(D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

Such term does not include any scientific research activity or the catching, taking, or harvesting of fish in an aquaculture operation.

(10) The term ''implement and enforce'' means to enact and implement laws or regulations as required to conform with the provisions of a coastal fishery management plan and to assure compliance with such laws or regulations by persons participating in a fishery that is subject to such plan.

(11) The term ''person'' means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(12) The term ''Secretary'' means the Secretary of Commerce.

(13) The term ''State'' means Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, the District of Columbia, or the Potomac River Fisheries Commission.

(Pub. L. 103–206, title VIII, §803, Dec. 20, 1993, 107 Stat. 2448; Pub. L. 104–297, title IV, §404(a), Oct. 11, 1996, 110 Stat. 3619; Pub. L. 106–555, title I, §122(b)(3), Dec. 21, 2000, 114 Stat. 2766.)

REFERENCES IN TEXT

Public Law 77–539, referred to in par. (3), is act May 4, 1942, ch. 283, 56 Stat. 267, which is not classified to the Code.

Public Law 81–721, referred to in par. (3), is act Aug. 19, 1950, ch. 763, 64 Stat. 467, which is not classified to the Code.

Proclamation Number 5030, referred to in par. (6), is set out as a note under section 1453 of this title.

AMENDMENTS

2000—Par. (5). Pub. L. 106–555 made technical amendment to reference in original act which appears in text as reference to section 1852 of this title.

1996—Par. (1). Pub. L. 104–297 inserted ''and'' after semicolon in subpar. (A), substituted ''States.'' for ''States; and'' in subpar. (B), and struck out subpar. (C) which read as follows: ''recommends actions to be taken by the Secretary in the exclusive economic zone to conserve and manage the fishery.''

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§ 5103. State-Federal cooperation in Atlantic coastal fishery management

(a) Federal support for State coastal fisheries programs

The Secretary in cooperation with the Secretary of the Interior shall develop and implement a program to support the interstate fishery management efforts of the Commission. The program shall include activities to support and enhance State cooperation in collection, management, and analysis of fishery data; law enforcement; habitat conservation; fishery research, including biological and socioeconomic research; and fishery management planning.

(b) Federal regulation in exclusive economic zone

(1) In the absence of an approved and implemented fishery management plan under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and after consultation with the appropriate Councils, the Secretary may implement regulations to govern fishing in the exclusive economic zone that are—

(A) compatible with the effective implementation of a coastal fishery management plan; and

(B) consistent with the national standards set forth in section 301 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851).

The regulations may include measures recommended by the Commission to the Secretary that are necessary to support the provisions of the coastal fishery management plan. Regulations issued by the Secretary to implement an approved fishery management plan prepared by the appropriate Councils or the Secretary under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) shall supersede any conflicting regulations issued by the Secretary under this subsection.

(2) The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations issued under this subsection as if such regulations were issued under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(Pub. L. 103–206, title VIII, § 804, Dec. 20, 1993, 107 Stat. 2449; Pub. L. 104–297, title IV, § 404(b), Oct. 11, 1996, 110 Stat. 3619; Pub. L. 106–555, title I, § 122(b)(3), Dec. 21, 2000, 114 Stat. 2766.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (b), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–555 substituted ''Magnuson-Stevens Fishery'' for ''Magnuson Fishery'' wherever appearing.

1996—Subsec. (b)(1)(A). Pub. L. 104–297 substituted ''compatible with'' for ''necessary to support''.

§ 5104. State implementation of coastal fishery management plans

(a) Coastal fishery management plans

(1) The Commission shall prepare and adopt coastal fishery management plans to provide for the conservation of coastal fishery resources. In preparing a coastal fishery management plan for a fishery that is located in both State waters and the exclusive economic zone, the Commission shall consult with appropriate Councils to determine areas where such coastal fishery management plan may complement Council fishery management plans. The coastal fishery management plan shall specify the requirements necessary for States to be in compliance with the plan. Upon adoption of a coastal fishery management plan, the Commission shall identify each State that is required to implement and enforce that plan.

(2) Within 1 year after December 20, 1993, the Commission shall establish standards and procedures to govern the preparation of coastal fishery management plans under this chapter, including standards and procedures to ensure that—

(A) such plans promote the conservation of fish stocks throughout their ranges and are based on the best scientific information available; and

(B) the Commission provides adequate opportunity for public participation in the plan preparation process, including at least four public hearings and procedures for the submission of written comments to the Commission.

(b) State implementation and enforcement

(1) Each State identified under subsection (a) of this section with respect to a coastal fishery management plan shall implement and enforce the measures of such plan within the timeframe established in the plan.

(2) Within 90 days after December 20, 1993, the Commission shall establish a schedule of timeframes within which States shall implement and enforce the measures of coastal fishery management plans in existence before December 20, 1993. No such timeframe shall exceed 12 months after the date on which the schedule is adopted.

(c) Commission monitoring of State implementation and enforcement

The Commission shall, at least annually, review each State's implementation and enforcement of coastal fishery management plans for the purpose of determining whether such State is effectively implementing and enforcing each such plan. Upon completion of such reviews, the Commission shall report the results of the reviews to the Secretaries.

(Pub. L. 103–206, title VIII, § 805, Dec. 20, 1993, 107 Stat. 2450.)

§ 5105. State noncompliance with coastal fishery management plans

(a) Noncompliance determination

The Commission shall determine that a State is not in compliance with the provisions of a

coastal fishery management plan if it finds that the State has not implemented and enforced such plan within the timeframes established under the plan or under section 5104 of this title.

(b) Notification

Upon making any determination under subsection (a) of this section, the Commission shall within 10 working days notify the Secretaries of such determination. Such notification shall include the reasons for making the determination and an explicit list of actions that the affected State must take to comply with the coastal fishery management plan. The Commission shall provide a copy of the notification to the affected State.

(c) Withdrawal of noncompliance determination

After making a determination under subsection (a) of this section, the Commission shall continue to monitor State implementation and enforcement. Upon finding that a State has complied with the actions required under subsection (b) of this section, the Commission shall immediately withdraw its determination of noncompliance. The Commission shall promptly notify the Secretaries of such withdrawal.

(Pub. L. 103–206, title VIII, § 806, Dec. 20, 1993, 107 Stat. 2451.)

§ 5106. Secretarial action

(a) Secretarial review of Commission determination of noncompliance

Within 30 days after receiving a notification from the Commission under section 5105(b) of this title and after review of the Commission's determination of noncompliance, the Secretary shall make a finding on—

(1) whether the State in question has failed to carry out its responsibility under section 5104 of this title; and

(2) if so, whether the measures that the State has failed to implement and enforce are necessary for the conservation of the fishery in question.

(b) Consideration of comments

In making a finding under subsection (a) of this section, the Secretary shall—

(A) give careful consideration to the comments of the State that the Commission has determined under section 5105(a) of this title is not in compliance with a coastal fishery management plan, and provide such State, upon request, with the opportunity to meet with and present its comments directly to the Secretary; and

(B) solicit and consider the comments of the Commission and the appropriate Councils.

(c) Moratorium

(1) Upon making a finding under subsection (a) of this section that a State has failed to carry out its responsibility under section 5104 of this title and that the measures it failed to implement and enforce are necessary for conservation, the Secretary shall declare a moratorium on fishing in the fishery in question within the waters of the noncomplying State. The Secretary shall specify the moratorium's effective date, which shall be any date within 6 months after declaration of the moratorium.

(2) If after a moratorium is declared under paragraph (1) the Secretary is notified by the Commission that the Commission is withdrawing under section 5105(c) of this title the determination of noncompliance, the Secretary shall immediately determine whether the State is in compliance with the applicable plan. If so, the moratorium shall be terminated.

(d) Implementing regulations

The Secretary may issue regulations necessary to implement this section. Such regulations—

(1) may provide for the possession and use of fish which have been produced in an aquaculture operation, subject to applicable State regulations; and

(2) shall allow for retention of fish that are subject to a moratorium declared under this section and unavoidably taken as incidental catch in fisheries directed toward menhaden if—

(A) discarding the retained fish is impracticable;

(B) the retained fish do not constitute a significant portion of the catch of the vessel; and

(C) retention of the fish will not, in the judgment of the Secretary, adversely affect the conservation of the species of fish retained.

(e) Prohibited acts during moratorium

During the time in which a moratorium under this section is in effect, it is unlawful for any person to—

(1) violate the terms of the moratorium or of any implementing regulation issued under subsection (d) of this section;

(2) engage in fishing for any species of fish to which the moratorium applies within the waters of the State subject to the moratorium;

(3) land, attempt to land, or possess fish that are caught, taken, or harvested in violation of the moratorium or of any implementing regulation issued under subsection (d) of this section;

(4) fail to return to the water immediately, with a minimum of injury, any fish to which the moratorium applies that are taken incidental to fishing for species other than those to which the moratorium applies, except as provided by regulations issued under subsection (d) of this section;

(5) refuse to permit any officer authorized to enforce the provisions of this chapter to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this chapter;

(6) forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection under this chapter;

(7) resist a lawful arrest for any act prohibited by this section;

(8) ship, transport, offer for sale, sell, purchase, import, or have custody, control, or possession of, any fish taken or retained in violation of this chapter; or

(9) interfere with, delay, or prevent, by any means, the apprehension or arrest of another

person, knowing that such other person has committed any act prohibited by this section.

(f) Civil and criminal penalties

(1) Any person who commits any act that is unlawful under subsection (e) of this section shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858).

(2) Any person who commits an act prohibited by paragraph (5), (6), (7), or (9) of subsection (e) of this section is guilty of an offense punishable as provided by section 309(a)(1) and (b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1859(a)(1) and (b)).

(g) Civil forfeitures

(1) Any vessel (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with, or as the result of, the commission of any act that is unlawful under subsection (e) of this section, shall be subject to forfeiture to the United States as provided in section 310 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1860).

(2) Any fish seized pursuant to this chapter may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed in regulation.

(h) Enforcement

A person authorized by the Secretary or the Secretary of the department in which the Coast Guard is operating may take any action to enforce a moratorium declared under subsection (c) of this section that an officer authorized by the Secretary under section 311(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861(b)) may take to enforce that Act [16 U.S.C. 1801 et seq.]. The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a State in carrying out that enforcement.

(Pub. L. 103–206, title VIII, §807, Dec. 20, 1993, 107 Stat. 2451; Pub. L. 106–555, title I, §122(b)(3), Dec. 21, 2000, 114 Stat. 2766.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (h), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

2000—Subsecs. (f) to (h). Pub. L. 106—555 substituted ''Magnuson-Stevens Fishery'' for ''Magnuson Fishery'' wherever appearing.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 5107. Financial assistance

The Secretary and the Secretary of the Interior may provide financial assistance to the Commission and to the States to carry out their respective responsibilities under this chapter, including—

(1) the preparation, implementation, and enforcement of coastal fishery management plans; and

(2) State activities that are specifically required within such plans.

(Pub. L. 103–206, title VIII, §808, Dec. 20, 1993, 107 Stat. 2453.)

REPORTS

Pub. L. 106–555, title I, §122(c), Dec. 21, 2000, 114 Stat. 2766, provided that:

''(1) ANNUAL REPORT TO THE SECRETARY.—The Secretary shall require, as a condition of providing financial assistance under this subtitle [subtitle B (§§121, 122) of title I of Pub. L. 106–555, amending sections 5101 to 5103, 5106, and 5107a to 5108 of this title and enacting provisions set out as a note under section 5101 of this title], that the Commission and each State receiving such assistance submit to the Secretary an annual report that provides a detailed accounting of the use of the assistance.

''(2) BIENNIAL REPORTS TO THE CONGRESS.—The Secretary shall submit biennial reports to the Committee on Resources [now Committee on Natural Resources] of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the use of Federal assistance provided to the Commission and the States under this subtitle. Each biennial report shall evaluate the success of such assistance in implementing this subtitle.''

§ 5107a. State permits valid in certain waters

(a) Permits

Notwithstanding any provision of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), this chapter, or any requirement of a fishery management plan or coastal fishery management plan to the contrary, a person holding a valid license issued by the State of Maine which lawfully permits that person to engage in commercial fishing for American lobster may, with the approval of the State of Maine, engage in commercial fishing for American lobster in the following areas designated as Federal waters, if such fishing is conducted in such waters in accordance with all other applicable Federal and State regulations:

(1) west of Monhegan Island in the area located north of the line 43° 42′ 08″ N, 69° 34′ 18″ W and 43° 42′ 15″ N, 69° 19′ 18″ W;

(2) east of Monhegan Island in the area located west of the line 43° 44′ 00″ N, 69° 15′ 05″ W and 43° 48′ 10″ N, 69° 08′ 01″ W;

(3) south of Vinalhaven in the area located west of the line 43° 52′ 21″ N, 68° 39′ 54″ W and 43° 48′ 10″ N, 69° 08′ 01″ W; and

(4) south of Bois Bubert Island in the area located north of the line 44° 19′ 15″ N, 67° 49′ 30″ W and 44° 23′ 45″ N, 67° 40′ 33″ W.

(b) Enforcement

The exemption from Federal fishery permitting requirements granted by subsection (a) of

this section may be revoked or suspended by the Secretary in accordance with section 308(g) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858(g)) for violations of such Act or this chapter.

(Pub. L. 103–206, title VIII, § 809, as added Pub. L. 104–297, title IV, § 404(c), Oct. 11, 1996, 110 Stat. 3619; amended Pub. L. 106–555, title I, § 122(b)(3), Dec. 21, 2000, 114 Stat. 2766.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in text, is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

This chapter, referred to in subsec. (b), was in the original ''this Act'', and was translated as reading ''this title'', meaning title VIII of Pub. L. 103–206, Dec. 20, 1993, 107 Stat. 2447, which is classified principally to this chapter. For complete classification of title VIII to the Code, see Short Title note set out under section 5101 of this title and Tables.

PRIOR PROVISIONS

A prior section 809 of Pub. L. 103–206 was renumbered section 811, and is classified to section 5108 of this title.

AMENDMENTS

2000—Subsecs. (a), (b). Pub. L. 106–555 substituted ''Magnuson-Stevens Fishery'' for ''Magnuson Fishery''.

§ 5107b. Transition to management of American lobster fishery by Commission

(a) Temporary limits

Notwithstanding any other provision of this chapter or of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), if no regulations have been issued under section 5103(b) of this title by December 31, 1997, to implement a coastal fishery management plan for American lobster, then the Secretary shall issue interim regulations before March 1, 1998, that will prohibit any vessel that takes lobsters in the exclusive economic zone by a method other than pots or traps from landing lobsters (or any parts thereof) at any location within the United States in excess of—

(1) 100 lobsters (or parts thereof) for each fishing trip of 24 hours or less duration (up to a maximum of 500 lobsters, or parts thereof, during any 5-day period); or

(2) 500 lobsters (or parts thereof) for a fishing trip of 5 days or longer.

(b) Secretary to monitor landings

Before January 1, 1998, the Secretary shall monitor, on a timely basis, landings of American lobster, and, if the Secretary determines that catches from vessels that take lobsters in the exclusive economic zone by a method other than pots or traps have increased significantly, then the Secretary may, consistent with the national standards in section 301 of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1851], and after opportunity for public comment and consultation with the Atlantic States Marine Fisheries Commission, implement regulations under section 5103(b) of this title that are necessary for the conservation of American lobster.

(c) Regulations to remain in effect until plan implemented

Regulations issued under subsection (a) or (b) of this section shall remain in effect until the Secretary implements regulations under section 5103(b) of this title to implement a coastal fishery management plan for American lobster.

(Pub. L. 103–206, title VIII, § 810, as added Pub. L. 104–297, title IV, § 404(c), Oct. 11, 1996, 110 Stat. 3620; amended Pub. L. 106–555, title I, § 122(b)(3), Dec. 21, 2000, 114 Stat. 2766.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', and was translated as reading ''this title'', meaning title VIII of Pub. L. 103–206, Dec. 20, 1993, 107 Stat. 2447, which is classified principally to this chapter. For complete classification of title VIII to the Code, see Short Title note set out under section 5101 of this title and Tables.

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (a), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

PRIOR PROVISIONS

A prior section 810 of Pub. L. 103–206, which repealed section 9 of Pub. L. 98–613 set out in a note under section 1851 of this title, was renumbered section 812 by Pub. L. 104–297.

AMENDMENTS

2000—Subsecs. (a), (b). Pub. L. 106–555 substituted ''Magnuson-Stevens Fishery'' for ''Magnuson Fishery''.

§ 5108. Authorization of appropriations

(a) In general

To carry out this chapter, there are authorized to be appropriated $10,000,000 for each of fiscal years 2001 through 2005.

(b) Cooperative statistics program

Amounts authorized under subsection (a) of this section may be used by the Secretary to support the Commission's cooperative statistics program.

(Pub. L. 103–206, title VIII, § 811, formerly § 809, Dec. 20, 1993, 107 Stat. 2453; renumbered § 811 and amended Pub. L. 104–297, title IV, § 404(c), (d), Oct. 11, 1996, 110 Stat. 3619, 3620; Pub. L. 106–555, title I, § 122(a), Dec. 21, 2000, 114 Stat. 2766.)

PRIOR PROVISIONS

Another section 811 of Pub. L. 103–206 amended section 4107 of this title, prior to repeal by Pub. L. 106–555, title I, § 122(b)(1)(B), Dec. 21, 2000, 114 Stat. 2766.

AMENDMENTS

2000—Pub. L. 106–555 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''To carry out the provisions of this chapter, there are authorized to be appropriated $3,000,000 for fiscal year 1994, $5,000,000 for fiscal year 1995, and $7,000,000 for fiscal year 1996, and $7,000,000 for each of the fiscal years 1997, 1998, 1999, and 2000.''

1996—Pub. L. 104–297, § 404(d), which directed amendment of section 810 of Pub. L. 103–206 by substituting ''1996, and $7,000,000 for each of the fiscal years 1997, 1998, 1999, and 2000'' for ''1996'', was executed to this section to reflect the probable intent of Congress.

CHAPTER 71A—ATLANTIC STRIPED BASS CONSERVATION

Sec.
5151. Findings and purposes.
5152. Definitions.
5153. Monitoring of implementation and enforcement by coastal States.
5154. Moratorium.
5155. Continuing studies of striped bass populations.
5156. Authorization of appropriations; cooperative agreements.
5157. Public participation in preparation of management plans and amendments.
5158. Protection of striped bass in the exclusive economic zone.

CODIFICATION

This chapter is comprised of Pub. L. 98–613, Oct. 31, 1984, 98 Stat. 3187–3190, as amended, which was formerly set out as a note under section 1851 of this title.

§ 5151. Findings and purposes

(a) Findings

The Congress finds and declares the following:

(1) Atlantic striped bass are of historic commercial and recreational importance and economic benefit to the Atlantic coastal States and to the Nation.

(2) No single government entity has full management authority throughout the range of the Atlantic striped bass.

(3) The population of Atlantic striped bass—

(A) has been subject to large fluctuations due to natural causes, fishing pressure, environmental pollution, loss and alteration of habitat, inadequacy of fisheries conservation and management practices, and other causes; and

(B) risks potential depletion in the future without effective monitoring and conservation and management measures.

(4) It is in the national interest to implement effective procedures and measures to provide for effective interjurisdictional conservation and management of this species.

(b) Purpose

It is therefore declared to be the purpose of the Congress in this chapter to support and encourage the development, implementation, and enforcement of effective interstate action regarding the conservation and management of the Atlantic striped bass.

(Pub. L. 98–613, §2, Oct. 31, 1984, 98 Stat. 3187; Pub. L. 105–146, §2, Dec. 16, 1997, 111 Stat. 2672.)

AMENDMENTS

1997—Pub. L. 105–146 amended section catchline and text generally, reenacting subsecs. (a)(1), (4), and (b) without change. Prior to amendment, pars. (2) and (3) of subsec. (a) read as follows:

''(2) As a consequence of increased fishing pressure, environmental pollution, the loss and alteration of habitat, and the inadequacy of fishery conservation and management practices and controls, certain stocks of Atlantic striped bass have been severely reduced in number.

''(3) Because no single government entity has full management authority throughout the range of the Atlantic striped bass, the harvesting and conservation of these fish have been subject to diverse, inconsistent, and intermittent State regulation that has been detrimental to the long-term maintenance of stocks of the species and to the interests of fishermen and the Nation as a whole.''

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–146, §1, Dec. 16, 1997, 111 Stat. 2672, provided that: ''This Act [enacting section 5158 of this title, amending this section and sections 5152 to 5157 of this title, repealing section 757g of this title, amending provisions set out as a note under this section and listed in a table of National Wildlife Conservation Areas set out under section 668dd of this title, and repealing provisions set out as notes under section 1851 of this title] may be cited as the 'Atlantic Striped Bass Conservation Act Amendments of 1997'.''

SHORT TITLE

Pub. L. 98–613, §1, Oct. 31, 1984, 98 Stat. 3187, as amended by Pub. L. 105–146, §2, Dec. 16, 1997, 111 Stat. 2672, provided that: ''This Act [enacting this chapter] may be cited as the 'Atlantic Striped Bass Conservation Act'.''

EX. ORD. NO. 13449. PROTECTION OF STRIPED BASS AND RED DRUM FISH POPULATIONS

Ex. Ord. No. 13449, Oct. 20, 2007, 72 F.R. 60531, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, to assist in ensuring faithful execution of the Magnuson-Stevens Fishery Conservation and Management Act, the Atlantic Coastal Fisheries Cooperative Management Act, and the Atlantic Striped Bass Conservation Act (chapters 38, 71, and 71A of title 16, United States Code), and to conserve striped bass and red drum fish, it is hereby ordered as follows:

SECTION 1. *Policy*. It shall be the policy of the United States to conserve striped bass and red drum for the recreational, economic, and environmental benefit of the present and future generations of Americans, based on sound science and in cooperation with State, territorial, local, and tribal governments, the private sector, and others, as appropriate.

SEC. 2. *Implementation*. (a) To carry out the policy set forth in section 1, the Secretary of Commerce shall:

(i) encourage, as appropriate, management under Federal, State, territorial, tribal, and local laws that supports the policy of conserving striped bass and red drum, including State designation as gamefish where the State determines appropriate under applicable law;

(ii) revise current regulations, as appropriate, to include prohibiting the sale of striped bass and red drum caught within the Exclusive Economic Zone of the United States off the Atlantic Ocean and the Gulf of Mexico;

(iii) periodically review the status of the striped bass and red drum populations within waters subject to the jurisdiction of the United States and:

(A) take such actions within the authority of the Secretary of Commerce as may be appropriate to carry out the policy set forth in section 1 of this order; and

(B) recommend to the President such actions as the Secretary may deem appropriate to advance the policy set forth in section 1 that are not within the authority of the Secretary.

(b) Nothing in this order shall preclude or restrict the production, possession, or sale of striped bass or red drum fish that have been produced by aquaculture.

(c) The Secretary of Commerce shall implement subsections 2(a)(i) and (iii), insofar as they relate to Atlantic striped bass, jointly with the Secretary of the Interior, as appropriate.

SEC. 3. *Definitions*. As used in this order:

(a) ''Exclusive Economic Zone of the United States'' means the marine area of the United States as defined in Presidential Proclamation 5030 of March 10, 1983, with, for purposes of this order, the inner boundary of that zone being a line coterminous with the seaward boundary of each of the coastal States;

(b) ''red drum'' means the species *Sciaenops ocellatus*; and

(c) ''striped bass'' means the species *Morone saxatilis*.

SEC. 4. *General Provisions*. (a) This order shall be implemented in a manner consistent with applicable law (including but not limited to interstate compacts to which the United States has consented by law, treaties and other international agreements to which the United States is a party, treaties to which the United States and an Indian tribe are parties, and laws of the United States conferring rights on Indian tribes) and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, and legislative proposals.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities, entities, officers, employees, or agents, or any other person.

GEORGE W. BUSH.

§ 5152. Definitions

As used in this chapter—

(1) the term ''Magnuson Act'' means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) The term ''Atlantic striped bass'' means members of stocks or populations of the species Morone saxatilis, which ordinarily migrate seaward of the waters described in paragraph (3)(A)(i).

(3) The term ''coastal waters'' means—

(A) for each coastal State referred to in paragraph (4)(A)—

(i) all waters, whether salt or fresh, of the coastal State shoreward of the baseline from which the territorial sea of the United States is measured; and

(ii) the waters of the coastal State seaward from the baseline referred to in clause (i) to the inner boundary of the exclusive economic zone;

(B) for the District of Columbia, those waters within its jurisdiction; and

(C) for the Potomac River Fisheries Commission, those waters of the Potomac River within the boundaries established by the Potomac River Compact of 1958.

(4) The term ''coastal State'' means—

(A) Pennsylvania and each State of the United States bordering on the Atlantic Ocean north of the State of South Carolina;

(B) the District of Columbia; and

(C) the Potomac River Fisheries Commission established by the Potomac River Compact of 1958.

(5) The term ''Commission'' means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by the Congress in Public Laws 77–539 and 81–721.

(6) The term ''exclusive economic zone'' has the meaning given such term in section 3(6)[1] of the Magnuson Act (16 U.S.C. 1802(6)).

(7) The term ''fishing'' means—

(A) the catching, taking, or harvesting of Atlantic striped bass, except when incidental to harvesting that occurs in the course of commercial or recreational fish catching activities directed at a species other than Atlantic striped bass;

(B) the attempted catching, taking, or harvesting of Atlantic striped bass; and

(C) any operation at sea in support of, or in preparation for, any activity described in subparagraph (A) or (B).

The term does not include any scientific research authorized by the Federal Government or by any State government.

(8) The term ''moratorium area'' means the coastal waters with respect to which a declaration under section 5154(a) of this title applies.

(9) The term ''moratorium period'' means the period beginning on the day on which moratorium is declared under section 5154(a) of this title regarding a coastal State and ending on the day on which the Commission notifies the Secretaries that that State has taken appropriate remedial action with respect to those matters that were the case of the moratorium being declared.

(10) The term ''Plan'' means a plan for managing Atlantic striped bass, or an amendment to such plan, that is prepared and adopted by the Commission.

(11) The term ''Secretary'' means the Secretary of Commerce or a designee of the Secretary of Commerce.

(12) The term ''Secretaries'' means the Secretary of Commerce and the Secretary of the Interior or their designees.

(Pub. L. 98–613, § 3, Oct. 31, 1984, 98 Stat. 3187; Pub. L. 99–432, § 1, Oct. 1, 1986, 100 Stat. 989; Pub. L. 100–589, § 6(g)(1), Nov. 3, 1988, 102 Stat. 2987; Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41; Pub. L. 105–146, § 2, Dec. 16, 1997, 111 Stat. 2673.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in par. (1), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Public Law 77–539, referred to in par. (5), is act May 4, 1942, ch. 283, 56 Stat. 267, which is not classified to the Code.

Public Law 81–721, referred to in par. (5), is act Aug. 19, 1950, ch. 763, 64 Stat. 467, which is not classified to the Code.

Section 3(6) of the Magnuson Act, referred to in par. (6), was redesignated section 3(11) of that Act, by Pub. L. 104–297, title I, § 102(1), (3), Oct. 11, 1996, 110 Stat. 3561.

AMENDMENTS

1997—Pub. L. 105–146 amended section catchline and text generally, substituting present provisions for provisions which defined the terms ''Magnuson Act'' in par. (1), ''Atlantic striped bass'' in par. (2), ''coastal waters'' in par. (3), ''coastal State'' in par. (4), ''Commission'' in par. (5), ''fishing'' in par. (6), ''Plan'' in par. (7), ''Secretary'' in par. (8), and ''Secretaries'' in par. (9).

1996—Par. (1). Pub. L. 104–208 substituted ''Magnuson-Stevens Fishery'' for ''Magnuson Fishery''.

1988—Par. (1). Pub. L. 100–589 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The term 'Act of 1976' means the Act entitled 'An Act to

[1] See References in Text note below.

provide for the conservation and management of the fisheries, and for other purposes', approved April 13, 1976 (16 U.S.C. 1801 et seq.).''

1986—Pars. (2) to (4). Pub. L. 99–432 amended pars. (2) to (4) generally. Prior to amendment, pars. (2) to (4) read as follows:

''(2) The term 'Atlantic striped bass' means members of stocks or populations of the species Morone saxatilis, which ordinarily migrate seaward of the waters described in paragraph (3)(A).

''(3) The term 'coastal waters' means—

''(A) all waters, whether salt or fresh, of a coastal State shoreward of the baseline from which the territorial sea of the United States is measured; and

''(B) the waters of a coastal State seaward from the baseline referred to in subparagraph (A) to the inner boundary of the exclusive economic zone.

''(4) The term 'coastal State' means Pennsylvania and each State of the United States bordering on the Atlantic Ocean north of the State of South Carolina.''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, §211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

§ 5153. Monitoring of implementation and enforcement by coastal States

(a) Determination

During December of each fiscal year, and at any other time it deems necessary the Commission shall determine—

(1) whether each coastal State has adopted all regulatory measures necessary to fully implement the Plan in its coastal waters; and

(2) whether the enforcement of the Plan by each coastal State is satisfactory.

(b) Satisfactory State enforcement

For purposes of subsection (a)(2) of this section, enforcement by a coastal State shall not be considered satisfactory by the Commission if, in its view, the enforcement is being carried out in such a manner that the implementation of the Plan within the coastal waters of the State is being, or will likely be, substantially and adversely affected.

(c) Notification of Secretaries

The Commission shall immediately notify the Secretaries of each negative determination made by it under subsection (a) of this section.

(Pub. L. 98–613, §4, Oct. 31, 1984, 98 Stat. 3188; Pub. L. 99–432, §2, Oct. 1, 1986, 100 Stat. 989; Pub. L. 100–589, §4, Nov. 3, 1988, 102 Stat. 2984; Pub. L. 105–146, §2, Dec. 16, 1997, 111 Stat. 2674.)

AMENDMENTS

1997—Pub. L. 105–146 amended section catchline and text generally, substituting provisions relating to monitoring of implementation and enforcement by coastal States for somewhat similar provisions, including Secretarial action upon notification.

1988—Subsec. (a)(1). Pub. L. 100–589 inserted ''and at any other time it deems necessary,'' after ''thereafter,'' in introductory provisions.

1986—Subsec. (a). Pub. L. 99–432, §2(b), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''Commencing on July 1, 1985, the Commission shall monitor on a biannual basis the enforcement of the Plan by each coastal State for purposes of deciding if that enforcement is satisfactory. Enforcement by a coastal State may not be considered satisfactory by the Commission if, in its view, the enforcement is being carried out in such a manner that the implementation of the Plan within its coastal waters is being, or will likely be, substantially and adversely affected.''

Pub. L. 99–432, §2(a), redesignated subsec. (b) as (a) and struck out heading and text of former subsec. (a). Prior to amendment, text read as follows: ''The Commission shall decide during June 1985 whether each coastal state has adopted all regulatory measures necessary to fully implement the Plan in its coastal waters. The Commission shall immediately notify the Secretaries of each negative determination made by it under the preceding sentence.''

Subsec. (b). Pub. L. 99–432, §2(c), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''Immediately upon receiving notice from the Commission—

''(1) under subsection (a) of this section that a coastal State has not taken the actions described in that subsection; or

''(2) under subsection (c) of this section that the enforcement of the Plan by a coastal State is not satisfactory;

the Secretary shall determine, within 30 days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretary shall declare a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State. In making such a determination, the Secretary shall carefully consider and review the comments of the Commission, that coastal State in question, and the Secretary of the Interior.''

Pub. L. 99–432, §2(a), redesignated subsec. (d) as (b). Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 99–432, §2(a), struck out heading and text of subsec. (c). Prior to amendment, text read as follows: ''On December 30, 1985, and on the closing date of each biannual period thereafter, the Commission shall notify the Secretaries of the results of the monitoring under subsection (b) of this section of each coastal State.''

Subsec. (d). Pub. L. 99–432, §2(a), redesignated subsec. (d) as (b).

§ 5154. Moratorium

(a) Secretarial action after notification

Upon receiving notice from the Commission under section 5153(c) of this title of a negative determination regarding a coastal State, the Secretaries shall determine jointly, within 30 days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretaries shall declare jointly a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State. In making such a determination, the Secretaries shall carefully consider and review the comments of the Commission and that coastal State in question.

(b) Prohibited acts during moratorium

During a moratorium period, it is unlawful for any person—

(1) to engage in fishing within the moratorium area;

(2) to land, or attempt to land, Atlantic striped bass that are caught, taken, or harvested in violation of paragraph (1);

(3) to land lawfully harvested Atlantic striped bass within the boundaries of a coastal State when a moratorium declared under subsection (a) of this section applies to that State; or

(4) to fail to return to the water Atlantic striped bass to which the moratorium applies that are caught incidental to harvesting that

occurs in the course of commercial or recreational fish catching activities, regardless of the physical condition of the striped bass when caught.

(c) Civil penalties

(1) Civil penalty

Any person who commits any act that is unlawful under subsection (b) of this section shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson Act (16 U.S.C. 1858).

(2) Civil forfeitures

(A) In general

Any vessel (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with, or as the result of, the commission of any act that is unlawful under subsection (b) of this section shall be subject to forfeiture to the United States as provided in section 310 of the Magnuson Act (16 U.S.C. 1860).

(B) Disposal of fish

Any fish seized pursuant to this chapter may be disposed of pursuant to the order of a court of competent jurisdiction, or, if perishable, in a manner prescribed in regulations.

(d) Enforcement

A person authorized by the Secretaries or the Secretary of the department in which the Coast Guard is operating may take any action to enforce a moratorium declared under subsection (a) of this section that an officer authorized by the Secretary under section 311(b) of the Magnuson Act (16 U.S.C. 1861(b)) may take to enforce that Act (16 U.S.C. 1801 et seq.). The Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a State in carrying out that enforcement.

(e) Regulations

The Secretaries may issue regulations to implement this section.

(Pub. L. 98–613, §5, Oct. 31, 1984, 98 Stat. 3189; Pub. L. 99–432, §3, Oct. 1, 1986, 100 Stat. 990; Pub. L. 100–589, §6(g)(2), Nov. 3, 1988, 102 Stat. 2988; Pub. L. 102–130, §2(a), Oct. 17, 1991, 105 Stat. 626; Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41; Pub. L. 105–146, §2, Dec. 16, 1997, 111 Stat. 2674.)

AMENDMENTS

1997—Pub. L. 105–146 amended section catchline and text generally. Prior to amendment, section defined terms ''moratorium area'' and ''moratorium period'', prohibited acts during moratorium, and provided for penalties, forfeitures, and enforcement.

1996—Subsec. (e)(2). Pub. L. 104–208 substituted ''Magnuson-Stevens Fishery'' for ''Magnuson Fishery''.

1991—Subsec. (e). Pub. L. 102–130 designated existing provisions as par. (1) and added pars. (2) and (3).

1988—Subsecs. (c)(2), (d)(2). Pub. L. 100–589 substituted ''Magnuson Act'' for ''Act of 1976''.

1986—Pub. L. 99–432, §3(b), which directed the substitution of ''Secretaries'' for ''Secretary'', was executed by making the substitution in subsec. (a)(2), in three places in subsec. (c), and in two places in subsec. (e) to reflect the probable intent of Congress.

Pub. L. 99–432, §3(a), which directed the substitution of ''section 5153(b)'' for ''section 5153(d)'', was executed by making the substitution in subsecs. (a)(1), (2), (b)(3), and (e) to reflect the probable intent of Congress.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, §211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 5155. Continuing studies of striped bass populations

(a) In general

For the purposes of carrying out this chapter, the Secretaries shall conduct continuing, comprehensive studies of Atlantic striped bass stocks. These studies shall include, but shall not be limited to, the following:

(1) Annual stock assessments, using fishery-dependent and fishery-independent data, for the purposes of extending the long-term population record generated by the annual striped bass study conducted by the Secretaries before 1994 and understanding the population dynamics of Atlantic striped bass.

(2) Investigations of the causes of fluctuations in Atlantic striped bass populations.

(3) Investigations of the effects of water quality, land use, and other environmental factors on the recruitment, spawning potential, mortality, and abundance of Atlantic striped bass populations, including the Delaware River population.

(4) Investigations of—

(A) the interactions between Atlantic striped bass and other fish, including bluefish, menhaden, mackerel, and other forage fish or possible competitors, stock assessments of these species, to the extent appropriate; and

(B) the effects of interspecies predation and competition on the recruitment, spawning potential mortality, and abundance of Atlantic striped bass.

(b) Socio-economic study

The Secretaries, in consultation with with[1] the Atlantic States Marine Fisheries Commission, shall conduct a study of the socio-economic benefits of the Atlantic striped bass resource. The Secretaries shall issue a report to the Congress concerning the findings of this study no later than September 30, 1998.

(c) Reports

The Secretaries shall make biennial reports to the Congress and to the Commission concerning

[1] So in original.

the progress and findings of studies conducted under subsection (a) of this section and shall make those reports public. Such reports shall, to the extent appropriate, contain recommendations of actions which could be taken to encourage the sustainable management of Atlantic striped bass.

(Pub. L. 98–613, §6, Oct. 31, 1984, 98 Stat. 3190; Pub. L. 105–146, §2, Dec. 16, 1997, 111 Stat. 2675.)

AMENDMENTS

1997—Pub. L. 105–146 amended section catchline and text generally, substituting provisions relating to continuing studies of striped bass populations for provisions relating to comprehensive annual surveys.

§ 5156. Authorization of appropriations; cooperative agreements

(a) Authorization

For each of fiscal years 2007, 2008, 2009, 2010,[1] 2011, there are authorized to be appropriated to carry out this chapter—

(1) $1,000,000 to the Secretary of Commerce; and

(2) $250,000 to the Secretary of the Interior.

(b) Cooperative agreements

The Secretaries may enter into cooperative agreements with the Atlantic States Marine Fisheries Commission or with States, for the purpose of using amounts appropriated pursuant to this section to provide financial assistance for carrying out the purposes of this chapter.

(Pub. L. 98–613, §7, Oct. 31, 1984, 98 Stat. 3190; Pub. L. 99–432, §4, Oct. 1, 1986, 100 Stat. 990; Pub. L. 100–589, §1, Nov. 3, 1988, 102 Stat. 2984; Pub. L. 102–130, §2(b), Oct. 17, 1991, 105 Stat. 626; Pub. L. 105–146, §2, Dec. 16, 1997, 111 Stat. 2676; Pub. L. 106–555, title I, §101, Dec. 21, 2000, 114 Stat. 2765; Pub. L. 109–479, title III, §302(a), Jan. 12, 2007, 120 Stat. 3623.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 109–479 amended subsec. (a) generally, substituting ''For each of fiscal years 2007, 2008, 2009, 2010, 2011,'' for ''For each of fiscal years 2001, 2002, and 2003,'' in introductory provisions.

2000—Subsec. (a). Pub. L. 106–555 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''For each of fiscal years 1998, 1999, and 2000, there are authorized to be appropriated to carry out this chapter—

''(1) $800,000 to the Secretary of Commerce; and

''(2) $250,000 to the Secretary of the Interior.''

1997—Pub. L. 105–146 amended section catchline and text generally. Prior to amendment, section authorized appropriations for fiscal years 1986 through 1994 and authorized the Secretaries to enter into cooperative agreements with the Atlantic States Marine Fisheries Commission.

1991—Pub. L. 102–130, §2(b)(4), in section catchline inserted at end ''; cooperative agreements''.

Pub. L. 102–130, §2(b)(1)–(3), designated existing provisions as subsec. (a), inserted subsec. heading, substituted ''1991, 1992, 1993, and 1994,'' for ''and 1991,'', and added subsec. (b).

1988—Pub. L. 100–589 substituted ''1988, 1989, 1990, and 1991,'' for ''and 1988,''.

1986—Pub. L. 99–432 amended section catchline and text generally. Prior to amendment, text read as follows: ''Funds for activities in fiscal year 1985 under this chapter shall be made available only from funds appropriated for the Department of Commerce and the Department of the Interior for fiscal year 1985. For fiscal year 1986, there are authorized such sums as may be necessary or appropriate to carry out the provisions of this chapter.''

[1] So in original. Probably should be followed by ''and''.

§ 5157. Public participation in preparation of management plans and amendments

(a) Standards and procedures

In order to ensure the opportunity for public participation in the preparation of management plans and amendments to management plans for Atlantic striped bass, the Commission shall prepare such plans and amendments in accordance with the standards and procedures established under section 5104(a)(2) of this title.

(b) Application

Subsection (a) of this section shall apply to management plans and amendments adopted by the Commission after the 6-month period beginning on December 16, 1997.

(Pub. L. 98–613, §8, Oct. 31, 1984, 98 Stat. 3190; Pub. L. 105–146, §2, Dec. 16, 1997, 111 Stat. 2676.)

AMENDMENTS

1997—Pub. L. 105–146 amended section catchline and text generally, substituting provisions relating to public participation in preparation of management plans and amendments for provisions requiring the Secretaries to review the existing Plan and report to the Commission and Committees of Congress on its adequacy.

§ 5158. Protection of striped bass in the exclusive economic zone

(a) Regulation of fishing in exclusive economic zone

The Secretary shall promulgate regulations governing fishing for Atlantic striped bass in the exclusive economic zone that the Secretary determines—

(1) are consistent with the national standards set forth in section 301 of the Magnuson Act (16 U.S.C. 1851);

(2) are compatible with the Plan and each Federal moratorium in effect on fishing for Atlantic striped bass within the coastal waters of a coastal State;

(3) ensure the effectiveness of State regulations on fishing for Atlantic striped bass within the coastal waters of a coastal State; and

(4) are sufficient to assure the long-term conservation of Atlantic striped bass populations.

(b) Consultation; periodic review of regulations

In preparing regulations under subsection (a) of this section, the Secretary shall consult with the Atlantic States Marine Fisheries Commission, the appropriate Regional Fishery Management Councils, and each affected Federal, State, and local government entity. The Secretary shall periodically review regulations promulgated under subsection (a) of this section, and if necessary to ensure their continued consistency with the requirements of subsection (a) of this section, shall amend those regulations.

(c) Applicability of Magnuson Act provisions

The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson Act (16 U.S.C. 1857, 1858,

1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations and any plan issued under subsection (a) of this section as if such regulations or plan were issued under the Magnuson Act.

(Pub. L. 98–613, § 9, as added Pub. L. 105–146, § 2, Dec. 16, 1997, 111 Stat. 2676.)

PRIOR PROVISIONS

A prior section 9 of Pub. L. 98–613, Oct. 31, 1984, 98 Stat. 3190; Pub. L. 99–432, § 5, Oct. 1, 1986, 100 Stat. 990; Pub. L. 100–589, § 2, Nov. 3, 1988, 102 Stat. 2984; Pub. L. 102–130, § 2(c), Oct. 17, 1991, 105 Stat. 626, related to the period of effectiveness of sections 1 to 8 of Pub. L. 98–613, prior to repeal by Pub. L. 103–206, title VIII, § 812, formerly § 810, Dec. 20, 1993, 107 Stat. 2453, renumbered § 812, Pub. L. 104–297, title IV, § 404(c), Oct. 11, 1996, 110 Stat. 3619. Section 812 of Pub. L. 103–206 was itself repealed by Pub. L. 106–555, title I, § 122(b)(1)(B), (2), Dec. 21, 2000, 114 Stat. 2766.

CHAPTER 72—RECREATIONAL HUNTING SAFETY

Sec.
5201. Obstruction of a lawful hunt.
5202. Civil penalties.
5203. Other relief.
5204. Relationship to State and local law and civil actions.
5205. Regulations.
5206. Rule of construction.
5207. Definitions.

§ 5201. Obstruction of a lawful hunt

It is a violation of this section intentionally to engage in any physical conduct that significantly hinders a lawful hunt.

(Pub. L. 103–322, title XXXII, § 320802, Sept. 13, 1994, 108 Stat. 2121.)

SHORT TITLE

Section 320801 of title XXXII of Pub. L. 103–322 provided that: ''This subtitle [subtitle H (§§ 320801–320808) of title XXXII of Pub. L. 103–322, enacting this chapter] may be cited as the 'Recreational Hunting Safety and Preservation Act of 1994'.''

§ 5202. Civil penalties

(a) In general

A person who violates section 5201 of this title shall be assessed a civil penalty in an amount computed under subsection (b) of this section.

(b) Computation of penalty

The penalty shall be—

(1) not more than $10,000, if the violation involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person; and

(2) not more than $5,000 for any other violation.

(c) Relationship to other penalties

The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 5201 of this title.

(d) Procedure

Upon receipt of—

(1) a written complaint from an officer, employee, or agent of the Forest Service, Bureau of Land Management, National Park Service, United States Fish and Wildlife Service, or other Federal agency that a person violated section 5201 of this title; or

(2) a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual allegations to create a reasonable belief that a violation of section 5201 of this title has occurred;

the Secretary may request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty under this section.

(e) Use of penalty money collected

After deduction of costs attributable to collection, money collected from penalties shall be—

(1) deposited into the trust fund established pursuant to the Act entitled ''An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes'', approved September 2, 1937 (16 U.S.C. 669) (commonly known as the ''Pitman-Robertson Wildlife Restoration Act''), to support the activities authorized by such Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) on Federal lands; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives on Federal lands.

(Pub. L. 103–322, title XXXII, § 320803, Sept. 13, 1994, 108 Stat. 2121.)

REFERENCES IN TEXT

The Pitman-Robertson Wildlife Restoration Act, referred to in subsec. (e)(1), is act Sept. 2, 1937, ch. 899, 50 Stat. 917, as amended, also known as the Federal Aid in Wildlife Restoration Act, which is classified generally to chapter 5B (§ 669 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 669 of this title and Tables.

§ 5203. Other relief

Injunctive relief against a violation of section 5201 of this title may be sought by—

(1) the head of a State agency with jurisdiction over fish or wildlife management;

(2) the Attorney General of the United States; or

(3) any person who is or would be adversely affected by the violation.

(Pub. L. 103–322, title XXXII, § 320804, Sept. 13, 1994, 108 Stat. 2122.)

§ 5204. Relationship to State and local law and civil actions

This chapter does not preempt a State law or local ordinance that provides for civil or crimi-

nal penalties for conduct that violates this chapter.

(Pub. L. 103–322, title XXXII, § 320805, Sept. 13, 1994, 108 Stat. 2122.)

§ 5205. Regulations

The Secretary may issue such regulations as are necessary to carry out this chapter.

(Pub. L. 103–322, title XXXII, § 320806, Sept. 13, 1994, 108 Stat. 2122.)

§ 5206. Rule of construction

Nothing in this chapter shall be construed to impair a right guaranteed to a person under the first article of amendment to the Constitution or limit any legal remedy for forceful interference with a person's lawful participation in speech or peaceful assembly.

(Pub. L. 103–322, title XXXII, § 320807, Sept. 13, 1994, 108 Stat. 2122.)

§ 5207. Definitions

As used in this chapter:

(1) Federal lands

The term ''Federal lands'' means—
(A) national forests;
(B) public lands;
(C) national parks; and
(D) wildlife refuges.

(2) Lawful hunt

The term ''lawful hunt'' means the taking or harvesting (or attempted taking or harvesting) of wildlife or fish, on Federal lands, which—
(A) is lawful under the laws applicable in the place it occurs; and
(B) does not infringe upon a right of an owner of private property.

(3) National forest

The term ''national forest'' means lands included in the National Forest System (as defined in section 1609(a) of this title).

(4) National park

The term ''national park'' means lands and waters included in the National Park System (as defined in section 1c(a) of this title).

(5) Public lands

The term ''public lands'' has the same meaning as is provided in section 1702(e) of title 43.

(6) Secretary

The term ''Secretary'' means—
(A) the Secretary of Agriculture with respect to national forests; and
(B) the Secretary of the Interior with respect to—
(i) public lands;
(ii) national parks; and
(iii) wildlife refuges.

(7) Wildlife refuge

The term ''wildlife refuge'' means lands and waters included in the National Wildlife Refuge System (as established by section 668dd of this title).

(8) Conduct

The term ''conduct'' does not include speech protected by the first article of amendment to the Constitution.

(Pub. L. 103–322, title XXXII, § 320808, Sept. 13, 1994, 108 Stat. 2122.)

CHAPTER 73—RHINOCEROS AND TIGER CONSERVATION

Sec.
5301. Findings.
5302. Purposes.
5303. Definitions.
5304. Rhinoceros and tiger conservation assistance.
5305. Acceptance and use of donations.
5305a. Prohibition on sale, importation, or exportation of products labeled or advertised as rhinoceros or tiger products.
5305b. Educational outreach program.
5305c. Advisory group.
5306. Authorization of appropriations.

§ 5301. Findings

The Congress finds the following:

(1) The world's rhinoceros population is declining at an alarming rate, a 90 percent decline since 1970.

(2) All 5 subspecies of tiger are currently threatened with extinction in the wild, with approximately 5,000 to 6,000 tigers remaining worldwide.

(3) All rhinoceros species have been listed on Appendix I of CITES since 1977.

(4) All tiger subspecies have been listed on Appendix I of CITES since 1987.

(5) The tiger and all rhinoceros species, except the southern subspecies of white rhinoceros, are listed as endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(6) In 1987, the parties to CITES adopted a resolution that urged all parties to establish a moratorium on the sale and trade in rhinoceros products (other than legally taken trophies), to destroy government stockpiles of rhinoceros horn, and to exert pressure on countries continuing to allow trade in rhinoceros products.

(7) On September 7, 1993, under section 1978 of title 22 the Secretary certified that the People's Republic of China and Taiwan were engaged in trade of rhinoceros parts and tiger parts that diminished the effectiveness of an international conservation program for that endangered species.

(8) On September 9, 1993, the Standing Committee of CITES, in debating the continuing problem of trade in rhinoceros horn and tiger parts, adopted a resolution urging parties to CITES to implement stricter domestic measures, up to and including an immediate prohibition in trade in wildlife species.

(9) On November 8, 1993, under section 1978 of title 22, the President announced that the United States would impose trade sanctions against China and Taiwan unless substantial progress was made by March 1994 towards ending trade in rhinoceros and tiger products.

(10) On April 11, 1994, under section 1978 of title 22, the President—
(A) directed that imports of wildlife specimens and products from Taiwan be prohibited, in response to Taiwan's failure to undertake sufficient actions to stop illegal rhinoceros and tiger trade; and
(B) indicated that the certification of China would remain in effect and directed

that additional monitoring of China's progress be undertaken.

(Pub. L. 103–391, § 2, Oct. 22, 1994, 108 Stat. 4094.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in par. (5), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–112, § 1, Jan. 8, 2002, 115 Stat. 2097, provided that: ''This Act [enacting section 5305c of this title and amending sections 4246, 5303 to 5305, and 5306 of this title] may be cited as the 'Rhinoceros and Tiger Conservation Reauthorization Act of 2001'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–312, title IV, § 401, Oct. 30, 1998, 112 Stat. 2959, provided that: ''This title [enacting sections 5305a and 5305b of this title, amending sections 5302, 5303, and 5306 of this title, and enacting provisions set out as a note below] may be cited as the 'Rhinoceros and Tiger Conservation Act of 1998'.''

SHORT TITLE

Section 1 of Pub. L. 103–391 provided that: ''This Act [enacting this chapter] may be cited as the 'Rhinoceros and Tiger Conservation Act of 1994'.''

CONGRESSIONAL FINDINGS

Pub. L. 105–312, title IV, § 402, Oct. 30, 1998, 112 Stat. 2959, provided that: ''Congress finds that—

''(1) the populations of all but 1 species of rhinoceros, and the tiger, have significantly declined in recent years and continue to decline;

''(2) these species of rhinoceros and tiger are listed as endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and listed on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973 (27 UST 1087; TIAS 8249) (referred to in this title as 'CITES');

''(3) the Parties to CITES have adopted several resolutions—

''(A) relating to the conservation of tigers (Conf. 9.13 (Rev.)) and rhinoceroses (Conf. 9.14), urging Parties to CITES to implement legislation to reduce illegal trade in parts and products of the species; and

''(B) relating to trade in readily recognizable parts and products of the species (Conf. 9.6), and trade in traditional medicines (Conf. 10.19), recommending that Parties ensure that their legislation controls trade in those parts and derivatives, and in medicines purporting to contain them;

''(4) a primary cause of the decline in the populations of tiger and most rhinoceros species is the poaching of the species for use of their parts and products in traditional medicines;

''(5) there are insufficient legal mechanisms enabling the United States Fish and Wildlife Service to interdict products that are labeled or advertised as containing substances derived from rhinoceros or tiger species and prosecute the merchandisers for sale or display of those products; and

''(6) legislation is required to ensure that—

''(A) products containing, or labeled or advertised as containing, rhinoceros parts or tiger parts are prohibited from importation into, or exportation from, the United States; and

''(B) efforts are made to educate persons regarding alternatives for traditional medicine products, the illegality of products containing, or labeled or advertised as containing, rhinoceros parts and tiger parts, and the need to conserve rhinoceros and tiger species generally.''

§ 5302. Purposes

The purposes of this chapter are the following:

(1) To assist in the conservation of rhinoceros and tigers by supporting the conservation programs of nations whose activities directly or indirectly affect rhinoceros and tiger populations, and the CITES Secretariat.

(2) To provide financial resources for those programs.

(3) To prohibit the sale, importation, and exportation of products intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger.

(Pub. L. 103–391, § 3, Oct. 22, 1994, 108 Stat. 4095; Pub. L. 105–312, title IV, § 403, Oct. 30, 1998, 112 Stat. 2959.)

AMENDMENTS

1998—Par. (3). Pub. L. 105–312 added par. (3).

§ 5303. Definitions

In this chapter—

(1) ''CITES'' means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973, and its appendices;

(2) ''conservation'' means the use of all methods and procedures necessary to bring rhinoceros and tigers to the point at which there are sufficient populations to ensure that those species do not become extinct, including all activities associated with scientific resource management, such as research, census, law enforcement, habitat protection, acquisition, and management, propagation, live trapping, and transportation;

(3) ''Fund'' means the the[1] account established by division A, section 101(e), title I of Public Law 105–277 under the heading ''MULTINATIONAL SPECIES CONSERVATION FUND'' [16 U.S.C. 4246];

(4) ''Secretary'' means the Secretary of the Interior;

(5) ''Administrator'' means the Administrator of the Agency for International Development; and

(6) ''person'' means—

(A) an individual, corporation, partnership, trust, association, or other private entity;

(B) an officer, employee, agent, department, or instrumentality of—

(i) the Federal Government;

(ii) any State, municipality, or political subdivision of a State; or

(iii) any foreign government;

(C) a State, municipality, or political subdivision of a State; or

(D) any other entity subject to the jurisdiction of the United States.

(Pub. L. 103–391, § 4, Oct. 22, 1994, 108 Stat. 4095; Pub. L. 105–312, title IV, § 404, Oct. 30, 1998, 112 Stat. 2960; Pub. L. 107–112, § 6(a)(1), Jan. 8, 2002, 115 Stat. 2098.)

REFERENCES IN TEXT

Division A, section 101(e), title I of Public Law 105–277, referred to in par. (3), is Pub. L. 105–277, div. A,

[1] So in original.

§ 101(e) [title I], Oct. 21, 1998, 112 Stat. 2681–231, 2681–232. Provisions under the heading ''MULTINATIONAL SPECIES CONSERVATION FUND'' in Pub. L. 105–277, § 101(e) [title I] appear at 112 Stat. 2681–237, and are classified in part to section 4246 of this title.

AMENDMENTS

2002—Par. (3). Pub. L. 107–112 substituted ''the account established by division A, section 101(e), title I of Public Law 105–277 under the heading 'MULTINATIONAL SPECIES CONSERVATION FUND''' for ''Rhinoceros and Tiger Conservation Fund established under section 5305(a) of this title''.

1998—Par. (6). Pub. L. 105–312 added par. (6).

§ 5304. Rhinoceros and tiger conservation assistance

(a) In general

The Secretary, subject to the availability of appropriations and in consultation with the Administrator, shall use amounts in the Fund to provide financial assistance for projects for the conservation of rhinoceros and tigers.

(b) Project proposal

A country whose activities directly or indirectly affect rhinoceros or tiger populations, the CITES Secretariat, or any other person may submit to the Secretary a project proposal under this section. Each proposal shall—

(1) name the individual responsible for conducting the project;

(2) state the purposes of the project succinctly;

(3) describe the qualifications of the individuals who will conduct the project;

(4) estimate the funds and time required to complete the project;

(5) provide evidence of support of the project by appropriate governmental entities of countries in which the project will be conducted, if the Secretary determines that the support is required for the success of the project; and

(6) provide any other information the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this chapter.

(c) Project review and approval

Within 30 days of receiving a final project proposal, the Secretary shall provide a copy of the proposal to the Administrator. The Secretary shall review each final project proposal to determine if it meets the criteria set forth in subsection (d) of this section. Not later than 6 months after receiving a final project proposal, and subject to the availability of funds, the Secretary, after consulting with the Administrator, shall approve or disapprove the proposal and provide written notification to the person who submitted the proposal and to the Administrator.

(d) Criteria for approval

The Secretary may approve a project under this section if the project will enhance programs for conservation of rhinoceros or tigers by assisting efforts to—

(1) implement conservation programs;

(2) enhance compliance with provisions of CITES and laws of the United States or a foreign country that prohibit or regulate the taking or trade of rhinoceros or tigers or the use of rhinoceros or tiger habitat; or

(3) develop sound scientific information on that species' habitat condition and carrying capacity, total numbers and population trends, or annual reproduction and mortality.

(e) Project sustainability

To the maximum extent practical, in determining whether to approve project proposals under this section, the Secretary shall give consideration to projects which will enhance sustainable conservation programs to ensure effective long-term conservation of rhinoceros and tigers.

(f) Project reporting

Each person that receives assistance under this section for a project shall provide periodic reports, as the Secretary considers necessary, to the Secretary and the Administrator. Each report shall include all information requested by the Secretary, after consulting with the Administrator, for evaluating the progress and success of the project.

(Pub. L. 103–391, § 5, Oct. 22, 1994, 108 Stat. 4095; Pub. L. 107–112, § 5, Jan. 8, 2002, 115 Stat. 2098; Pub. L. 110–132, § 3(a), Dec. 6, 2007, 121 Stat. 1360.)

AMENDMENTS

2007—Subsec. (c). Pub. L. 110–132 substituted ''and to the Administrator'' for '', to the Administrator, and to each country within which the project is to be conducted'' in third sentence.

2002—Subsec. (e). Pub. L. 107–112 amended heading and text generally. Prior to amendment, text read as follows: ''To the maximum extent practical, the Secretary should give consideration to projects which will enhance sustainable development programs to ensure effective, long-term conservation of rhinoceros and tigers.''

§ 5305. Acceptance and use of donations

The Secretary may accept and use donations to provide assistance under section 5304 of this title. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Fund.

(Pub. L. 103–391, § 6, Oct. 22, 1994, 108 Stat. 4096; Pub. L. 107–112, § 6(a)(2), Jan. 8, 2002, 115 Stat. 2098.)

AMENDMENTS

2002—Pub. L. 107–112 redesignated heading and text of subsec. (d) as entire section and struck out former section catchline and headings and text of subsecs. (a) to (c). Prior to amendment, text of subsecs. (a) to (c) related to establishment in the Treasury of the Rhinoceros and Tiger Conservation Fund, consisting of amounts deposited by the Secretary of the Treasury from donations and appropriated funds, to be used to provide assistance under section 5304 of this title, with not more than three percent of appropriated funds per fiscal year used to administer the Fund.

§ 5305a. Prohibition on sale, importation, or exportation of products labeled or advertised as rhinoceros or tiger products

(a) Prohibition

A person shall not sell, import, or export, or attempt to sell, import, or export, any product, item, or substance intended for human consumption or application containing, or labeled or ad-

vertised as containing, any substance derived from any species of rhinoceros or tiger.

(b) Penalties

(1) Criminal penalty

A person engaged in business as an importer, exporter, or distributor that knowingly violates subsection (a) of this section shall be fined under title 18, imprisoned not more than 6 months, or both.

(2) Civil penalties

(A) In general

A person that knowingly violates subsection (a) of this section, and a person engaged in business as an importer, exporter, or distributor that violates subsection (a) of this section, may be assessed a civil penalty by the Secretary of not more than $12,000 for each violation.

(B) Manner of assessment and collection

A civil penalty under this paragraph shall be assessed, and may be collected, in the manner in which a civil penalty under the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.] may be assessed and collected under section 11(a) of that Act (16 U.S.C. 1540(a)).

(c) Products, items, and substances

Any product, item, or substance sold, imported, or exported, or attempted to be sold, imported, or exported, in violation of this section or any regulation issued under this section shall be subject to seizure and forfeiture to the United States.

(d) Regulations

After consultation with the Secretary of the Treasury, the Secretary of Health and Human Services, and the United States Trade Representative, the Secretary shall issue such regulations as are appropriate to carry out this section.

(e) Enforcement

The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this section in the manner in which the Secretaries carry out enforcement activities under section 11(e) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e)).

(f) Use of penalty amounts

Amounts received as penalties, fines, or forfeiture of property under this section shall be used in accordance with section 3375(d) of this title.

(Pub. L. 103–391, § 7, as added Pub. L. 105–312, title IV, § 405(2), Oct. 30, 1998, 112 Stat. 2960.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (b)(2)(B), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

PRIOR PROVISIONS

A prior section 7 of Pub. L. 103–391 was renumbered section 10 and is classified to section 5306 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 5305b. Educational outreach program

(a) In general

Not later than 180 days after October 30, 1998, the Secretary shall develop and implement an educational outreach program in the United States for the conservation of rhinoceros and tiger species.

(b) Guidelines

The Secretary shall publish in the Federal Register guidelines for the program.

(c) Contents

Under the program, the Secretary shall publish and disseminate information regarding—

(1) laws protecting rhinoceros and tiger species, in particular laws prohibiting trade in products containing, or labeled or advertised as containing, their parts;

(2) use of traditional medicines that contain parts or products of rhinoceros and tiger species, health risks associated with their use, and available alternatives to the medicines; and

(3) the status of rhinoceros and tiger species and the reasons for protecting the species.

(Pub. L. 103–391, § 8, as added Pub. L. 105–312, title IV, § 406, Oct. 30, 1998, 112 Stat. 2961.)

§ 5305c. Advisory group

(a) In general

To assist in carrying out this chapter, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of rhinoceros and tiger species.

(b) Public participation

(1) Meetings

The Advisory Group[1] shall—

(A) ensure that each meeting of the advisory group is open to the public; and

(B) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(2) Notice

The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(3) Minutes

Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(c) Exemption from Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

[1] So in original. Probably should not be capitalized.

(Pub. L. 103–391, § 9, as added Pub. L. 107–112, § 4, Jan. 8, 2002, 115 Stat. 2097.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 9 of Pub. L. 103–391 was renumbered section 10 and is classified to section 5306 of this title.

§ 5306. Authorization of appropriations

(a) In general

There is authorized to be appropriated to the Fund $10,000,000 for each of fiscal years 2007 through 2012 to carry out this chapter, to remain available until expended.

(b) Administrative expenses

Of amounts available each fiscal year to carry out this chapter, the Secretary may expend not more than 3 percent or $100,000, whichever is greater, to pay the administrative expenses necessary to carry out this chapter.

(Pub. L. 103–391, § 10, formerly § 7, Oct. 22, 1994, 108 Stat. 4097; renumbered § 9 and amended Pub. L. 105–312, title IV, §§ 405(1), 407, Oct. 30, 1998, 112 Stat. 2960, 2961; renumbered § 10 and amended Pub. L. 107–112, §§ 2–4, Jan. 8, 2002, 115 Stat. 2097; Pub. L. 110–132, § 3(b), (c), Dec. 6, 2007, 121 Stat. 1360.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 110–132, § 3(c), substituted ''2007 through 2012'' for ''2001, 2002, 2003, 2004, 2005, 2006, and 2007''.

Subsec. (b). Pub. L. 110–132, § 3(b), substituted ''$100,000'' for ''$80,000''.

2002—Pub. L. 107–112, §§ 2, 3, designated existing provisions as subsec. (a), inserted heading, substituted ''is authorized'' for ''are authorized'' and ''2001, 2002, 2003, 2004, 2005, 2006, and 2007'' for ''1996 through 2002'', and added subsec. (b).

1998—Pub. L. 105–312, § 407, substituted ''1996 through 2002'' for ''1996, 1997, 1998, 1999, and 2000''.

CHAPTER 74—NATIONAL MARITIME HERITAGE

Sec.
5401. Findings.
5402. National maritime heritage policy.
5403. National Maritime Heritage Grants Program.
5404. National Maritime Heritage Grants Advisory Committee.
5405. Funding.
5406. Definitions.
5407. Regulations.
5408. Savings provision.
5409. Designation of America's National Maritime Museum.

§ 5401. Findings

The Congress finds and declares the following:

(1) The United States is a nation with a rich maritime history, and it is desirable to foster in the American public a greater awareness and appreciation of the role of maritime endeavors in our Nation's history and culture.

(2) The maritime historical and cultural foundations of the Nation should be preserved as a part of our community life and development.

(3) National, State, and local groups have been working independently to preserve the maritime heritage of the United States.

(4) Historic resources significant to the Nation's maritime heritage are being lost or substantially altered, often inadvertently, with increasing frequency.

(5) The preservation of this irreplaceable maritime heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, and economic benefits will be maintained and enriched for future generations of Americans.

(6) The current governmental and nongovernmental historic preservation programs and activities are inadequate to ensure future generations a genuine opportunity to appreciate and enjoy the rich maritime heritage of our Nation.

(7) A coordinated national program is needed immediately to redress the adverse consequences of a period of indifference during which the maritime heritage of the United States has become endangered and to ensure the future preservation of the Nation's maritime heritage.

(8) A national maritime heritage policy would greatly increase public awareness of, and participation in, the preservation of the Nation's maritime heritage.

(Pub. L. 103–451, § 2, Nov. 2, 1994, 108 Stat. 4769.)

SHORT TITLE

Section 1 of Pub. L. 103–451 provided that: ''This Act [enacting this chapter] may be cited as the 'National Maritime Heritage Act of 1994'.''

§ 5402. National maritime heritage policy

It shall be the policy of the Federal Government, in partnership with the States and local governments and private organizations and individuals, to—

(1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our historic maritime resources can exist in productive harmony;

(2) provide leadership in the preservation of the historic maritime resources of the United States;

(3) contribute to the preservation of historic maritime resources and give maximum encouragement to organizations and individuals undertaking preservation by private means; and

(4) assist State and local governments to expand their maritime historic preservation programs and activities.

(Pub. L. 103–451, § 3, Nov. 2, 1994, 108 Stat. 4770.)

§ 5403. National Maritime Heritage Grants Program

(a) Establishment

There is hereby established within the Department of the Interior the National Maritime Heritage Grants Program, to foster in the American public a greater awareness and appreciation of the role of maritime endeavors in our Nation's history and culture. The Program shall consist of—

(1) annual grants to the National Trust for Historic Preservation for subgrants administered by the National Trust for maritime heritage education projects under subsection (b) of this section;

(2) grants to State Historic Preservation Officers for maritime heritage preservation projects carried out or administered by those Officers under subsection (c) of this section; and

(3) grants for interim projects under subsection (j) of this section.

(b) Grants for maritime heritage education projects

(1) Grants to National Trust for Historic Preservation

The Secretary, subject to paragraphs (2), (3), and (4),[1] and the availability of amounts for that purpose under section 5405(b)(1)(A) of this title, shall make an annual grant to the National Trust for maritime heritage education projects.

(2) Use of grants

Amounts received by the National Trust as an annual grant under this subsection shall be used to make subgrants to State and local governments and private nonprofit organizations to carry out education projects which have been approved by the Secretary under subsection (f) of this section and which consist of—

(A) assistance to any maritime museum or historical society for—

(i) existing and new educational programs, exhibits, educational activities, conservation, and interpretation of artifacts and collections;

(ii) minor improvements to educational and museum facilities; and

(iii) other similar activities;

(B) activities designed to encourage the preservation of traditional maritime skills, including—

(i) building and operation of vessels of all sizes and types for educational purposes;

(ii) special skills such as wood carving, sail making, and rigging;

(iii) traditional maritime art forms; and

(iv) sail training;

(C) other educational activities relating to historic maritime resources, including—

(i) maritime educational waterborne-experience programs in historic vessels or vessel reproductions;

(ii) maritime archaeological field schools; and

(iii) educational programs on other aspects of maritime history;

(D) heritage programs focusing on maritime historic resources, including maritime heritage trails and corridors; or

(E) the construction and use of reproductions of historic maritime resources for educational purposes, if a historic maritime resource no longer exists or would be damaged or consumed through direct use.

[1] So in original. No pars. (3) and (4) have been enacted.

(c) Grants for maritime heritage preservation projects

(1) Grants to State Historic Preservation Officers

The Secretary, acting through the National Maritime Initiative of the National Park Service and subject to paragraphs (2) and (3),[2] and the availability of amounts for that purpose under section 5405(b)(1)(B) of this title, shall make grants to State Historic Preservation Officers for maritime heritage preservation projects.

(2) Use of grants

Amounts received by a State Historic Preservation Officer as a grant under this subsection shall be used by the Officer to carry out[3] or to make subgrants to local governments and private nonprofit organizations to carry out, projects which have been approved by the Secretary under subsection (f) of this section for the preservation of historic maritime resources through—

(A) identification of historic maritime resources, including underwater archaeological sites;

(B) acquisition of historic maritime resources for the purposes of preservation;

(C) repair, restoration, stabilization, maintenance, or other capital improvements to historic maritime resources, in accordance with standards prescribed by the Secretary; and

(D) research, recording (through drawings, photographs, or otherwise), planning (through feasibility studies, architectural and engineering services, or otherwise), and other services carried out as part of a preservation program for historic maritime resources.

(d) Criteria for direct grant and subgrant eligibility

To qualify for a subgrant from the National Trust under subsection (b) of this section, or a direct grant to or a subgrant from a State Historic Preservation Officer under subsection (c) of this section, a person must—

(1) demonstrate that the project for which the direct grant or subgrant will be used has the potential for reaching a broad audience with an effective educational program based on American maritime history, technology, or the role of maritime endeavors in American culture;

(2) match the amount of the direct grant or subgrant, on a 1-to-1 basis, with non-Federal assets from non-Federal sources, which may include cash or donated services fairly valued as determined by the Secretary;

(3) maintain records as may be reasonably necessary to fully disclose—

(A) the amount and the disposition of the proceeds of the direct grant or subgrant;

(B) the total cost of the project for which the direct grant or subgrant is made; and

(C) other records as may be required by the Secretary, including such records as will fa-

[2] So in original. No par. (3) has been enacted.

[3] So in original. Probably should be followed by a comma.

cilitate an effective accounting for project funds;

(4) provide access to the Secretary for the purposes of any required audit and examination of any books, documents, papers, and records of the person; and

(5) be a unit of State or local government, or a private nonprofit organization.

(e) Procedures, terms, and conditions

(1) Application procedures

An application for a subgrant under subsection (b) of this section, or a direct grant or subgrant under subsection (c) of this section, shall be submitted under procedures prescribed by the Secretary.

(2) Terms and conditions

A person may not receive a subgrant under subsection (b) of this section, or a direct grant or subgrant under subsection (c) of this section, unless the person has agreed to assume, after completion of the project for which the direct grant or subgrant is awarded, the total cost of the continued maintenance, repair, and administration of any property for which the subgrant will be used in a manner satisfactory to the Secretary.

(f) Review of proposals

(1) Committee recommendations

The National Maritime Heritage Grants Committee[4] shall review applications for subgrants under subsection (b) of this section, and direct grants or subgrants under subsection (c) of this section, and submit recommendations to the Secretary regarding projects which should receive funding under those direct grants and subgrants.

(2) Allocation of grant funding

To the extent feasible, the Secretary shall ensure that the amount made available under subsection (b) of this section for maritime heritage education projects is equal to the amount made available under subsection (c) of this section for maritime heritage preservation projects.

(3) Limitation

The amount provided by the Secretary in a fiscal year as grants under this section for projects relating to historic maritime resources owned or operated by the Federal Government shall not exceed 40 percent of the total amount available for the fiscal year for grants under this section.

(g) Direct grants and subgrants process

(1) Direct grants and subgrants solicitation

The Secretary shall publish annually in the Federal Register and otherwise as the Secretary considers appropriate—

(A) a solicitation of applications for direct grants and subgrants under this section;

(B) a list of priorities for the making of those direct grants and subgrants;

(C) a single deadline for the submission of applications for those direct grants and subgrants; and

(D) other relevant information.

(2) Receipt and approval or disapproval of direct grant and subgrant applications

Within 60 days after the submission of recommendations by the Committee to the Secretary under subsection (h)(6) of this section, the Secretary shall review and approve or disapprove a direct grant or subgrant for each project recommended by the Committee and provide to the Committee and the applicant the reasons for that approval or disapproval.

(h) Direct grant and subgrant administration

The National Trust shall be responsible for administering subgrants for maritime heritage education projects under subsection (b) of this section, the Secretary shall be responsible for administering direct grants for maritime heritage preservation projects under subsection (c) of this section, and the various State Historic Preservation Officers shall be responsible for administering subgrants for maritime heritage preservation projects under subsection (c) of this section, by—

(1) publicizing the Program to prospective grantees, subgrantees, and to the public at large, in cooperation with the National Park Service, the Maritime Administration, and other appropriate government agencies and private institutions;

(2) answering inquiries from the public, including providing information on the Program as requested;

(3) distributing direct grant and subgrant applications;

(4) receiving direct grant and subgrant applications and ensuring their completeness;

(5) forwarding the applications to the Committee for review and recommendation;

(6) submitting to the Secretary applications that the Committee recommends should be approved by the Secretary;

(7) keeping records of all direct grant and subgrant awards and expenditures of funds;

(8) monitoring progress of projects carried out with direct grants and subgrants; and

(9) providing to the Secretary such progress reports as may be required by the Secretary.

(i) Assistance of maritime preservation organizations

The Secretary, the National Trust, and the State Historic Preservation Officers may, individually or jointly, enter into cooperative agreements with any private nonprofit organization with appropriate expertise in maritime preservation issues, or other qualified maritime preservation organizations, to assist in the administration of the Program.

(j) Grants for interim projects

(1) Grants authority

The Secretary, subject to paragraph (3), may use amounts available under section 5405(b)(2) of this title to make one or more grants described in paragraph (2).

(2) Grants described

The grants referred to in paragraph (1) are the following:

(A) A grant to the National Museum Association (a nonprofit organization located in

[4] So in original. Probably should be ''National Maritime Heritage Grants Advisory Committee''.

San Francisco, California) for payment of expenses directly related to the preservation and restoration of the historic fleet of the San Francisco Maritime National Historical Park, located in San Francisco, California.

(B) A grant to the Virginia V Foundation (a nonprofit organization) for use in restoration and preservation of the historic steamship VIRGINIA V.

(C) A grant to any nonprofit organization which operates and maintains a former hospital ship to be converted to engage in public health activities, for use in refurbishing and maintaining the ship for those activities.

(D) A grant to the Mariners' Museum (a not-for-profit educational institution located in Newport News, Virginia,[5] for use for expenses directly related to the computerization of the library and archives of that museum, including for the purpose of providing to the public enhanced national access to those materials.

(E) A grant for each of fiscal years 1996, 1997, 1998, 1999, and 2000 to the Center for Maritime and Underwater Resource Management at Michigan State University, for a pilot project to plan, design, implement, and evaluate innovative approaches to management and development of maritime and underwater cultural resources at the following sites: Thunder Bay, the Manitou Passage, Isle Royale National Park, Keweenaw Peninsula, Marquette County, Alger County, Whitefish Point, the Straits of Mackinac, the Thumb Area, and Sanilac Shores.

(3) Grant conditions

The Secretary may not make a grant under this subsection unless the grantee complies with the requirements set forth in paragraphs (1) through (5) of subsection (d) of this section.

(k) Report to Congress

The Secretary shall submit to the Congress, after review by the Committee, an annual report on the Program, including—

(1) a description of each project funded under the Program in the period covered by the report;

(2) the results or accomplishments of each such project; and

(3) recommended priorities for achieving the policy set forth in section 5402 of this title.

(Pub. L. 103–451, § 4, Nov. 2, 1994, 108 Stat. 4770.)

§ 5404. National Maritime Heritage Grants Advisory Committee

(a) Establishment

There is hereby established a National Maritime Heritage Grants Advisory Committee.

(b) Membership

(1) In general

The Committee shall consist of 13 members appointed by the Secretary from among individual members of the public who—

(A) are representatives of various sectors of the maritime community who are knowledgeable and experienced in maritime heritage and preservation;

(B) to the extent practicable, are selected in a manner that ensures regional geographic balance;

(C) to the extent practicable, include a representative of each of the fields of—

(i) small craft preservation;

(ii) large vessel preservation;

(iii) sail training;

(iv) preservation architecture;

(v) underwater archaeology;

(vi) lighthouse preservation;

(vii) maritime education;

(viii) military naval history;

(ix) maritime museums or historical societies;

(x) maritime arts and crafts;

(xi) maritime heritage tourism; and

(xii) maritime recreational resources management; and

(D) include a member of the general public.

(2) Ex officio members

In addition to the members appointed under paragraph (1), the President of the National Trust and the President of the National Conference of State Historic Preservation Officers (or their respective designees) shall be ex officio voting members of the Committee.

(3) Term

The term of a member of the Committee appointed under paragraph (1) shall be 3 years, except that of the members first appointed 4 shall be appointed for an initial term of 1 year and 4 shall be appointed for an initial term of 2 years, as specified by the Secretary at the time of appointment.

(4) Completion of appointments

The Secretary shall complete appointment of the members of the Committee under paragraph (1) by not later than 120 days after November 2, 1994.

(5) Vacancies

In the case of a vacancy in the membership of the Committee appointed under paragraph (1), the Secretary shall appoint an individual to serve the remainder of the term that is vacant by not later than 60 days after the vacancy occurs.

(c) Federal Government ex officio members

There shall be ex officio Federal Government members of the Committee as follows:

(1) At least 1 individual designated by each of—

(A) the Director of the National Park Service;

(B) the Administrator of the Maritime Administration;

(C) the Commandant of the Coast Guard;

(D) the Secretary of the Navy;

(E) the Administrator of the National Oceanic and Atmospheric Administration; and

(F) the Advisory Council on Historic Preservation.

(2) Other representatives designated by the heads of such other interested Federal Govern-

[5] So in original. The comma probably should be a closing parenthesis.

ment agencies as the Secretary considers appropriate.

(d) Duties of Committee

The duties of the Committee include—

(1) reviewing direct grant and subgrant proposals and making funding recommendations to the Secretary;

(2) identifying and advising the Secretary regarding priorities for achieving the policy set forth in section 5402 of this title;

(3) reviewing the Secretary's annual report to the Congress under section 5403(k) of this title; and

(4) performing any other duties the Secretary considers appropriate.

(e) Quorum

Nine members of the Committee shall constitute a quorum for making recommendations on subgrant applications.

(f) Appointments process

The Secretary shall—

(1) publicize annually, in the Federal Register and through publications of preservation and maritime organizations, a request for submission of nominations for appointments to the Committee under subsection (b)(1) of this section; and

(2) designate from among the members of the Committee—

(A) a Chairman; and

(B) a Vice Chairman who may act in place of the Chairman during the absence or disability of the Chairman or when the office of Chairman is vacant.

(g) Compensation and travel expenses

An individual shall not receive any pay by reason of membership on the Committee. While away from home or regular place of business in the performance of service for the Committee, a member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as a person employed intermittently in the Government service is allowed expenses under section 5703 of title 5.

(h) Staff of Federal agencies

Upon request of the Committee, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department of the Interior to the Committee to assist it in carrying out its duties under this chapter.

(i) Administrative support services

Upon the request of the Committee, the National Trust shall provide to the Committee the support services necessary for the Committee to carry out its duties under this chapter.

(j) Relationship to other law

The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee, except that meetings of the Committee may be closed to the public by majority vote and section 14(b) of that Act does not apply to the Committee.

(k) Termination

The Committee shall terminate on September 30, 2000.

(Pub. L. 103–451, § 5, Nov. 2, 1994, 108 Stat. 4774.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (j), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 5405. Funding

(a) Availability of funds from sale and scrapping of obsolete vessels

(1) In general

Notwithstanding any other provision of law, the amount of funds credited in a fiscal year to the Vessel Operations Revolving Fund established by section 50301(a) of title 46 that is attributable to the sale of obsolete vessels in the National Defense Reserve Fleet that are scrapped or sold under section 57102, 57103, or 57104 of title 46 shall be available until expended as follows:

(A) 50 percent shall be available to the Administrator of the Maritime Administration for such acquisition, maintenance, repair, reconditioning, or improvement of vessels in the National Defense Reserve Fleet as is authorized under other Federal law.

(B) 25 percent shall be available to the Administrator of the Maritime Administration for the payment or reimbursement of expenses incurred by or on behalf of State maritime academies or the United States Merchant Marine Academy for facility and training ship maintenance, repair, and modernization, and for the purchase of simulators and fuel.

(C) The remainder, whether collected before or after October 28, 2009, shall be available to the Secretary to carry out the Program, as provided in subsection (b) of this section or, if otherwise determined by the Maritime Administrator, for use in the preservation and presentation to the public of maritime heritage property of the Maritime Administration.

(2) Application

Paragraph (1) does not apply to amounts credited to the Vessel Operations Revolving Fund before July 1, 1994.

(b) Use of amounts for Program

(1) In general

Except as provided in paragraph (2), of amounts available each fiscal year for the Program under subsection (a)(1)(C) of this section—

(A) ½ shall be used for grants under section 5403(b) of this title; and

(B) ½ shall be used for grants under section 5403(c) of this title.

(2) Use for interim projects

Amounts available for the Program under subsection (a)(1)(C) of this section that are the

proceeds of any of the first 8 obsolete vessels in the National Defense Reserve Fleet that are sold or scrapped after July 1, 1994, under section 57102, 57103, or 57104 of title 46 are available to the Secretary for grants for interim projects approved under section 5403(j) of this title.

(3) Administrative expenses

(A) In general

Not more than 15 percent or $500,000, whichever is less, of the amount available for the Program under subsection (a)(1)(C) of this section for a fiscal year may be used for expenses of administering the Program.

(B) Allocation

Of the amount available under subparagraph (A) for a fiscal year—

(i) ½ shall be allocated to the National Trust for expenses incurred in administering grants under section 5403(b) of this title; and

(ii) ½ shall be allocated as appropriate by the Secretary to the National Park Service and participating State Historic Preservation Officers.

(c) Disposals of vessels

(1) Requirement

The Secretary of Transportation shall dispose (either by sale or purchase of disposal services) of all vessels described in paragraph (2)—

(A) in accordance with a priority system for disposing of vessels, as determined by the Secretary, which shall include provisions requiring the Maritime Administration to—

(i) dispose of all deteriorated high priority ships that are available for disposal, within 12 months of their designation as such; and

(ii) give priority to the disposition of those vessels that pose the most significant danger to the environment or cost the most to maintain;

(B) in the manner that provides the best value to the Government, except in any case in which obtaining the best value would require towing a vessel and such towing poses a serious threat to the environment; and

(C) in accordance with the plan of the Department of Transportation for disposal of those vessels and requirements under sections 57102 to 57104 of title 46.

(2) Vessels described

The vessels referred to in paragraph (1) are the vessels in the National Defense Reserve Fleet after July 1, 1994, that—

(A) are not assigned to the Ready Reserve Force component of that fleet; and

(B) are not specifically authorized or required by statute to be used for a particular purpose.

(d) Treatment of amounts available

Amounts available under this section shall not be considered in any determination of the amounts available to the Department of the Interior.

(Pub. L. 103–451, §6, Nov. 2, 1994, 108 Stat. 4776; Pub. L. 105–85, div. A, title X, §1026(c), Nov. 18, 1997, 111 Stat. 1878; Pub. L. 106–398, §1 [div. C, title XXXV, §3502(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–490; Pub. L. 110–181, div. C, title XXXV, §3514, Jan. 28, 2008, 122 Stat. 594; Pub. L. 111–84, div. C, title XXXV, §3509, Oct. 28, 2009, 123 Stat. 2721; Pub. L. 111–383, div. A, title X, §1075(n), Jan. 7, 2011, 124 Stat. 4378.)

CODIFICATION

''Section 50301(a) of title 46'' substituted in subsec. (a)(1) for ''Act of June 2, 1951 (46 App. U.S.C. 1241a),'', ''section 57102, 57103, or 57104 of title 46'' substituted in subsec. (a)(1) for ''section 508 or 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 or 1160(i))'' and in subsec. (b)(2) for ''section 508 or 510(i) of the Merchant Marine Act, 1936 (46 U.S.C. 1158 or 1160(i))'', and ''sections 57102 to 57104 of title 46'' substituted in subsec. (c)(1)(C) for ''sections 508 and 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158, 1160(i))'', on authority of Pub. L. 109–304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted sections 50301 and 57102 to 57104 of Title 46, Shipping.

AMENDMENTS

2011—Subsec. (a)(1)(C). Pub. L. 111–383 substituted ''October 28, 2009'' for ''the date of enactment of the Maritime Administration Authorization Act of 2010''.

2009—Subsec. (a)(1)(C). Pub. L. 111–84 added subpar. (C) and struck out former subpar. (C) which read as follows: ''The remainder shall be available to the Secretary to carry out the Program, as provided in subsection (b) of this section.''

2008—Subsec. (c)(1). Pub. L. 110–181, §3514(1), inserted ''(either by sale or purchase of disposal services)'' after ''shall dispose'' in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 110–181, §3514(2), added subpar. (A) and struck out former subpar. (A) which read as follows: ''by September 30, 2006;''.

2000—Subsec. (c)(1)(A). Pub. L. 106–398, §1 [div. C, title XXXV, §3502(a)(1)], substituted ''2006'' for ''2001''.

Subsec. (c)(1)(B). Pub. L. 106–398, §1 [div. C, title XXXV, §3502(a)(2)], added subpar. (B) and struck out former subpar. (B) which read as follows: ''in a manner that maximizes the return on the vessels to the United States; and''.

1997—Subsec. (a)(1). Pub. L. 105–85, §1026(c)(1), inserted ''or 1160(i)'' after ''1158'' in introductory provisions.

Subsec. (b)(2). Pub. L. 105–85, §1026(c)(1), (2), inserted ''or 1160(i)'' after ''1158'' and substituted ''first 8'' for ''first 6''.

Subsec. (c)(1)(A). Pub. L. 105–85, §1026(c)(3), substituted ''2001'' for ''1999''.

PILOT PROGRAM ON EXPORT OF OBSOLETE VESSELS FOR DISMANTLEMENT AND RECYCLING

Pub. L. 107–314, div. C, title XXXV, §3504(c), (d), Dec. 2, 2002, 116 Stat. 2755, 2756, provided that:

''(c) PILOT PROGRAM ON EXPORT OF OBSOLETE VESSELS FOR DISMANTLEMENT AND RECYCLING.—(1)(A) The Secretary of Transportation, Secretary of State, and Administrator of the Environmental Protection Agency shall jointly carry out one or more pilot programs through the Maritime Administration to explore the feasibility and advisability of various alternatives for exporting obsolete vessels in the National Defense Reserve Fleet for purposes of the dismantlement and recycling of such vessels.

''(B) The pilot programs shall be carried out in accordance with applicable provisions of law and regulations.

''(2)(A) The pilot programs under paragraph (1) shall be carried out during fiscal year 2003.

''(B) The pilot programs shall include a total of not more than four vessels.

''(C) The authority provided by this subsection is in addition to any other authority available to Maritime Administration for exporting obsolete vessels in the National Defense Reserve Fleet.

''(3) Activities under the pilot programs under paragraph (1) shall include the following:

''(A) Exploration of the feasibility and advisability of a variety of alternatives (developed for purposes of the pilot programs) for exporting obsolete vessels in the National Defense Reserve Fleet for purposes of the dismantlement and recycling of such vessels.

''(B) Response by the Maritime Administration to proposals from the international ship recycling industry for innovative and cost-effective disposal solutions for obsolete vessels in the National Defense Reserve Fleet, including an evaluation of the feasibility and advisability of such proposals.

''(C) Demonstration of the extent to which the cost-effective dismantlement or recycling of obsolete vessels in the National Defense Reserve Fleet can be accomplished abroad in [a] manner that appropriately addresses concerns regarding worker health and safety and the environment.

''(D) Opportunities to transfer abroad processes, methodologies, and technologies for ship dismantlement and recycling in order to support the pilot programs and to improve international practices and standards for ship dismantlement and recycling.

''(E) Exploration of cooperative efforts with foreign governments (under a global action program on ship recycling or other program) in order to foster economically and environmentally sound ship recycling abroad.

''(4) The Secretary of Transportation shall submit to Congress a report on the pilot programs under paragraph (1) through the existing ship disposal reporting requirements in section 3502 of Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [section 1 [div. C, title XXXV, § 3502] of Pub. L. 106–398, which amended this section and enacted provisions set out below]. The report shall include a description of the activities under the pilot programs, and such recommendations for further legislative or administrative action as the Secretary considers appropriate.

''(d) CONSTRUCTION.—Nothing in this section shall be construed to establish a preference for the reefing or export of obsolete vessels in the National Defense Reserve Fleet over other alternatives available to the Secretary for the scrapping of such vessels under section 3502(d)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.''

SCRAPPING OF NATIONAL DEFENSE RESERVE FLEET VESSELS

Pub. L. 106–398, § 1 [div. C, title XXXV, § 3502(b)–(f)], Oct. 30, 2000, 114 Stat. 1654, 1654A–490 to 1654A–492, as amended by Pub. L. 109–163, div. C, title XXXV, § 3505(a), Jan. 6, 2006, 119 Stat. 3551, provided that:

''(b) SELECTION OF SCRAPPING FACILITIES.—The Secretary of Transportation may scrap obsolete vessels pursuant to section 6(c)(1) of the National Maritime Heritage Act of 1994 (16 U.S.C. 5405(c)(1)) through qualified scrapping facilities, using the most expeditious scrapping methodology and location practicable. Scrapping facilities shall be selected under that section on a best value basis consistent with the Federal Acquisition Regulation, as in effect on the date of the enactment of this Act [Oct. 30, 2000], without any predisposition toward foreign or domestic facilities taking into consideration, among other things, the ability of facilities to scrap vessels—

''(1) at least cost to the Government;

''(2) in a timely manner;

''(3) giving consideration to worker safety and the environment; and

''(4) in a manner that minimizes the geographic distance that a vessel must be towed when towing a vessel poses a serious threat to the environment.

''(c) COMPREHENSIVE MANAGEMENT PLAN.—

''(1) REQUIREMENT TO DEVELOP PLAN.—The Secretary of Transportation shall prepare, publish, and submit to the Congress by not later than 180 days after the date of the enactment of this Act [probably should be ''this subsection'', Jan. 6, 2006] a comprehensive plan for management of the vessel disposal program of the Maritime Administration in accordance with the recommendations made in the Government Accountability Office in report number GAO–05–264, dated March 2005.

''(2) CONTENTS OF PLAN.—The plan shall—

''(A) include a strategy and implementation plan for disposal of obsolete National Defense Reserve Fleet vessels (including vessels added to the fleet after the enactment of this paragraph) in a timely manner, maximizing the use of all available disposal methods, including dismantling, use for artificial reefs, donation, and Navy training exercises;

''(B) identify and describe the funding and other resources necessary to implement the plan, and specific milestones for disposal of vessels under the plan;

''(C) establish performance measures to track progress toward achieving the goals of the program, including the expeditious disposal of ships commencing upon the date of the enactment of this paragraph;

''(D) develop a formal decisionmaking framework for the program; and

''(E) identify external factors that could impede successful implementation of the plan, and describe steps to be taken to mitigate the effects of such factors.

''(d) IMPLEMENTATION OF MANAGEMENT PLAN.—

''(1) REQUIREMENT TO IMPLEMENT.—Subject to the availability of appropriations, the Secretary shall implement the vessel disposal program of the Maritime Administration in accordance with—

''(A) the management plan submitted under subsection (c); and

''(B) the requirements set forth in paragraph (2).

''(2) UTILIZATION OF DOMESTIC SOURCES.—In the procurement of services under the vessel disposal program of the Maritime Administration, the Secretary shall—

''(A) use full and open competition; and

''(B) utilize domestic sources to the maximum extent practicable.

''(e) FAILURE TO SUBMIT PLAN.—

''(1) PRIVATE MANAGEMENT CONTRACT FOR DISPOSAL OF MARITIME ADMINISTRATION VESSELS.—The Secretary of Transportation, subject to the availability of appropriations, shall promptly award a contract using full and open competition to expeditiously implement all aspects of disposal of obsolete National Defense Reserve Fleet vessels.

''(2) APPLICATION.—This subsection shall apply beginning 180 days after the date of the enactment of this subsection [Jan. 6, 2006], unless the Secretary of Transportation has submitted to the Congress the comprehensive plan required under subsection (c).

''(f) REPORT.—No later than 1 year after the date of the enactment of this subsection [Jan. 6, 2006], and every 6 months thereafter, the Secretary of Transportation, in coordination with the Secretary of the Navy, shall report to the Committee on Transportation and Infrastructure, the Committee on Resources [now Committee on Natural Resources], and the Committee on Armed Services of the House of Representatives, and to the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate, on the progress made in implementing the vessel disposal plan developed under subsection (c). In particular, the report shall address the performance measures required to be established under subsection (c)(2)(C).''

§ 5406. Definitions

In this chapter:

(1) Committee

The term ''Committee'' means the Maritime Heritage Grants Advisory Committee established under section 5404 of this title.

(2) National Trust

The term ''National Trust'' means the National Trust for Historic Preservation created by section 468 of this title.

(3) Private nonprofit organization

The term ''private nonprofit organization'' means any person that is exempt from taxation under section 501(a) of title 26 and described in section 501(c)(3) of title 26.

(4) Program

The term ''Program'' means the National Maritime Heritage Grants Program established by section 5403(a) of this title.

(5) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(6) State Historic Preservation Officer

The term ''State Historic Preservation Officer'' means a State Historic Preservation Officer appointed pursuant to paragraph (1)(A) of section 470a(b) of this title by the Governor of a State having a State Historic Preservation Program approved by the Secretary under that section.

(Pub. L. 103–451, § 7, Nov. 2, 1994, 108 Stat. 4777.)

§ 5407. Regulations

The Secretary, after consultation with the National Trust, the National Conference of State Historic Preservation Officers, and appropriate members of the maritime heritage community, shall promulgate appropriate guidelines, procedures, and regulations within 1 year after November 2, 1994, to carry out the chapter, including regulations establishing terms of office for the initial membership of the Committee, direct grant and subgrant priorities, the method of solicitation and review of direct grant and subgrant proposals, criteria for review of direct grant and subgrant proposals, administrative requirements, reporting and recordkeeping requirements, and any other requirements the Secretary considers appropriate.

(Pub. L. 103–451, § 8, Nov. 2, 1994, 108 Stat. 4778.)

§ 5408. Savings provision

The authorities contained in this chapter shall be in addition to, and shall not be construed to supercede or modify those contained in the National Historic Preservation Act (16 U.S.C. 470—470x–6).

(Pub. L. 103–451, § 9, Nov. 2, 1994, 108 Stat. 4778.)

REFERENCES IN TEXT

The National Historic Preservation Act, referred to in text, is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of this title. For complete classification of this Act to the Code, see section 470 of this title and Tables.

§ 5409. Designation of America's National Maritime Museum

(a) In general

America's National Maritime Museum is comprised of those museums designated by law to be museums of America's National Maritime Museum on the basis that they—

(1) house a collection of maritime artifacts clearly representing the Nation's maritime heritage; and

(2) provide outreach programs to educate the public about the Nation's maritime heritage.

(b) Initial designation of museums

The following museums (meeting the criteria specified in subsection (a) of this section) are hereby designated as museums of America's National Maritime Museum:

(1) The Mariners' Museum, located at 100 Museum Drive, Newport News, Virginia.

(2) The South Street Seaport Museum, located at 207 Front Street, New York, New York.

(c) Future designation of other museums not precluded

The designation of the museums referred to in subsection (b) of this section as museums of America's National Maritime Museum does not preclude the designation by law after October 17, 1998, of any other museum that meets the criteria specified in subsection (a) of this section as a museum of America's National Maritime Museum.

(d) Reference to museums

Any reference in any law, map, regulation, document, paper, or other record of the United States to a museum designated by law to be a museum of America's National Maritime Museum shall be deemed to be a reference to that museum as a museum of America's National Maritime Museum.

(Pub. L. 105–261, div. A, title X, § 1068, Oct. 17, 1998, 112 Stat. 2135.)

CODIFICATION

Section enacted as part of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, and not as part of the National Maritime Heritage Act of 1994 which comprises this chapter.

CHAPTER 75—HIGH SEAS FISHING COMPLIANCE

Sec.
5501. Purpose.
5502. Definitions.
5503. Permitting.
5504. Responsibilities of Secretary.
5505. Unlawful activities.
5506. Enforcement provisions.
5507. Civil penalties and permit sanctions.
5508. Criminal offenses.
5509. Forfeitures.

§ 5501. Purpose

It is the purpose of this chapter—

(1) to implement the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993; and

(2) to establish a system of permitting, reporting, and regulation for vessels of the United States fishing on the high seas.

(Pub. L. 104–43, title I, § 102, Nov. 3, 1995, 109 Stat. 367.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', and was translated as reading ''this title'', meaning title I of Pub. L. 104–43, to reflect the probable intent of Congress.

EFFECTIVE DATE

Section 111 of title I of Pub. L. 104–43 provided that: ''This title [enacting this chapter] shall take effect 120 days after the date of enactment of this Act [Nov. 3, 1995].''

SHORT TITLE

Section 1 of Pub. L. 104–43 provided that: ''This Act [enacting this chapter, chapters 76 (§ 5601 et seq.) and 77 (§ 5701 et seq.) of this title, sections 971j, 971k, and 1826d to 1826g of this title, and sections 1980a and 1980b of Title 22, Foreign Relations and Intercourse, amending sections 971, 971b, 971c to 971e, 971h, 971i, 973g, 1383a, and 5002 of this title and section 1977 of Title 22, enacting provisions set out as notes under this section, sections 971, 971c, 1383a, 1801, 1821, 1823, 1826d, 5601, and 5701 of this title, and section 1980a of Title 22, and amending provisions set out as a note under section 1823 of this title] may be cited as the 'Fisheries Act of 1995'.''

Section 101 of title I of Pub. L. 104–43 provided that: ''This title [enacting this chapter] may be cited as the 'High Seas Fishing Compliance Act of 1995'.''

§ 5502. Definitions

As used in this chapter—

(1) The term ''Agreement'' means the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993.

(2) The term ''FAO'' means the Food and Agriculture Organization of the United Nations.

(3) The term ''high seas'' means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

(4) The term ''high seas fishing vessel'' means any vessel of the United States or subject to the jurisdiction of the United States used or intended for use—

(A) on the high seas;

(B) for the purpose of the commercial exploitation of living marine resources; and

(C) as a harvesting vessel, as a mother ship, or as any other support vessel directly engaged in a fishing operation.

(5) The term ''international conservation and management measures'' means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law, as reflected in the 1982 United Nations Convention on the Law of the Sea, and that are recognized by the United States. Such measures may be adopted by global, regional, or sub-regional fisheries organizations, subject to the rights and obligations of their members, or by treaties or other international agreements.

(6) The term ''length'' means—

(A) for any high seas fishing vessel built after July 18, 1982, 96 percent of the total length on a waterline at 85 percent of the least molded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that is greater, except that in ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline; and

(B) for any high seas fishing vessel built before July 18, 1982, registered length as entered on the vessel's documentation.

(7) The term ''person'' means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(8) The term ''Secretary'' means the Secretary of Commerce.

(9) The term ''vessel of the United States'' means—

(A) a vessel documented under chapter 121 of title 46 or numbered in accordance with chapter 123 of title 46;

(B) a vessel owned in whole or part by—

(i) the United States or a territory, commonwealth, or possession of the United States;

(ii) a State or political subdivision thereof;

(iii) a citizen or national of the United States; or

(iv) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States; unless the vessel has been granted the nationality of a foreign nation in accordance with article 92 of the 1982 United Nations Convention on the Law of the Sea and a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States authorized to enforce applicable provisions of the United States law; and

(C) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

(10) The terms ''vessel subject to the jurisdiction of the United States'' and ''vessel without nationality'' have the same meaning as in subsections (c) and (d) of section 70502 of title 46.

(Pub. L. 104–43, title I, § 103, Nov. 3, 1995, 109 Stat. 367; Pub. L. 106–562, title III, § 305, Dec. 23, 2000, 114 Stat. 2807.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', and was translated as reading ''this title'',

meaning title I of Pub. L. 104–43, to reflect the probable intent of Congress.

CODIFICATION

In par. (10), ''subsections (c) and (d) of section 70502 of title 46'' substituted for ''section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. 1903(c))'' on authority of Pub. L. 109–304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 70502 of Title 46, Shipping.

AMENDMENTS

2000—Par. (4). Pub. L. 106–562 inserted ''or subject to the jurisdiction of the United States'' after ''United States'' in introductory provisions.

§ 5503. Permitting

(a) In general

No high seas fishing vessel shall engage in harvesting operations on the high seas unless the vessel has on board a valid permit issued under this section.

(b) Eligibility

(1) Any vessel of the United States is eligible to receive a permit under this section, unless the vessel was previously authorized to be used for fishing on the high seas by a foreign nation, and

(A) the foreign nation suspended such authorization because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or

(B) the foreign nation, within the last three years preceding application for a permit under this section, withdrew such authorization because the vessel undermined the effectiveness of international conservation and management measures.

(2) The restriction in paragraph (1) does not apply if ownership of the vessel has changed since the vessel undermined the effectiveness of international conservation and management measures, and the new owner has provided sufficient evidence to the Secretary demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel.

(3) The restriction in paragraph (1) does not apply if the Secretary makes a determination that issuing a permit would not subvert the purposes of the Agreement.

(4) The Secretary may not issue a permit to a vessel unless the Secretary is satisfied that the United States will be able to exercise effectively its responsibilities under the Agreement with respect to that vessel.

(c) Application

(1) The owner or operator of a high seas fishing vessel may apply for a permit under this section by completing an application form prescribed by the Secretary.

(2) The application form shall contain—

(A) the vessel's name, previous names (if known), official numbers, and port of record;

(B) the vessel's previous flags (if any);

(C) the vessel's International Radio Call Sign (if any);

(D) the names and addresses of the vessel's owners and operators;

(E) where and when the vessel was built;

(F) the type of vessel;

(G) the vessel's length; and

(H) any other information the Secretary requires for the purposes of implementing the Agreement.

(d) Conditions

The Secretary shall establish such conditions and restrictions on each permit issued under this section as are necessary and appropriate to carry out the obligations of the United States under the Agreement, including but not limited to the following:

(1) The vessel shall be marked in accordance with the FAO Standard Specifications for the Marking and Identification of Fishing Vessels, or with regulations issued under section 1855 of this title; and

(2) The permit holder shall report such information as the Secretary by regulation requires, including area of fishing operations and catch statistics. The Secretary shall promulgate regulations concerning conditions under which information submitted under this paragraph may be released.

(e) Fees

(1) The Secretary shall by regulation establish the level of fees to be charged for permits issued under this section. The amount of any fee charged for a permit issued under this section shall not exceed the administrative costs incurred in issuing such permits. The permitting fee may be in addition to any fee required under any regional permitting regime applicable to high seas fishing vessels.

(2) The fees authorized by paragraph (1) shall be collected and credited to the Operations, Research and Facilities account of the National Oceanic and Atmospheric Administration. Fees collected under this subsection shall be available for the necessary expenses of the National Oceanic and Atmospheric Administration in implementing this chapter, and shall remain available until expended.

(f) Duration

A permit issued under this section is valid for 5 years. A permit issued under this section is void in the event the vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.

(Pub. L. 104–43, title I, § 104, Nov. 3, 1995, 109 Stat. 369; Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (e)(2), was in the original ''this Act'', and was translated as reading ''this title'', meaning title I of Pub. L. 104–43, to reflect the probable intent of Congress.

AMENDMENTS

1996—Subsec. (d)(1). Pub. L. 104–208 made technical amendment to reference in original act which appears in text as reference to section 1855 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, § 211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

§ 5504. Responsibilities of Secretary

(a) Record

The Secretary shall maintain an automated file or record of high seas fishing vessels issued permits under section 5503 of this title, including all information submitted under section 5503(c)(2) of this title.

(b) Information to FAO

The Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall—

(1) make available to FAO information contained in the record maintained under subsection (a) of this section;

(2) promptly notify FAO of changes in such information;

(3) promptly notify FAO of additions to or deletions from the record, and the reason for any deletion;

(4) convey to FAO information relating to any permit granted under section 5503(b)(3) of this title, including the vessel's identity, owner or operator, and factors relevant to the Secretary's determination to issue the permit;

(5) report promptly to FAO all relevant information regarding any activities of high seas fishing vessels that undermine the effectiveness of international conservation and management measures, including the identity of the vessels and any sanctions imposed; and

(6) provide the FAO a summary of evidence regarding any activities of foreign vessels that undermine the effectiveness of international conservation and management measures.

(c) Information to flag nations

If the Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, has reasonable grounds to believe that a foreign vessel has engaged in activities undermining the effectiveness of international conservation and management measures, the Secretary shall—

(1) provide to the flag nation information, including appropriate evidentiary material, relating to those activities; and

(2) when such foreign vessel is voluntarily in a United States port, promptly notify the flag nation and, if requested by the flag nation, make arrangements to undertake such lawful investigatory measures as may be considered necessary to establish whether the vessel has been used contrary to the provisions of the Agreement.

(d) Regulations

The Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, may promulgate such regulations, in accordance with section 553 of title 5, as may be necessary to carry out the purposes of the Agreement and this chapter. The Secretary shall coordinate such regulations with any other entities regulating high seas fishing vessels, in order to minimize duplication of permit application and reporting requirements. To the extent practicable, such regulations shall also be consistent with regulations implementing fishery management plans under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(e) Notice of international conservation and management measures

The Secretary, in consultation with the Secretary of State, shall publish in the Federal Register, from time to time, a notice listing international conservation and management measures recognized by the United States.

(Pub. L. 104–43, title I, § 105, Nov. 3, 1995, 109 Stat. 370; Pub. L. 104–208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (d), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–208 substituted ''Magnuson-Stevens Fishery'' for ''Magnuson Fishery''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, § 211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 5505. Unlawful activities

It is unlawful for any person subject to the jurisdiction of the United States—

(1) to use a high seas fishing vessel on the high seas in contravention of international conservation and management measures described in section 5504(e) of this title;

(2) to use a high seas fishing vessel on the high seas, unless the vessel has on board a valid permit issued under section 5503 of this title;

(3) to use a high seas fishing vessel in violation of the conditions or restrictions of a permit issued under section 5503 of this title;

(4) to falsify any information required to be reported, communicated, or recorded pursuant to this chapter or any regulation issued under this chapter, or to fail to submit in a timely fashion any required information, or to fail to report to the Secretary immediately any change in circumstances that has the effect of rendering any such information false, incomplete, or misleading;

(5) to refuse to permit an authorized officer to board a high seas fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this chapter or any regulation issued under this chapter;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with an authorized officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detention for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section;

(9) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any living marine resource taken or retained in violation of this chapter or any regulation or permit issued under this chapter; or

(10) to violate any provision of this chapter or any regulation or permit issued under this chapter.

(Pub. L. 104–43, title I, § 106, Nov. 3, 1995, 109 Stat. 371.)

§ 5506. Enforcement provisions

(a) Duties of Secretaries

This chapter shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, or of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under this section may (if the agreement so provides), authorize officers to enforce the provisions of this chapter or any regulation or permit issued under this chapter.

(b) District court jurisdiction

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this chapter. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii.

(c) Powers of enforcement officers

(1) Any officer who is authorized under subsection (a) of this section to enforce the provisions of this chapter may—

(A) with or without a warrant or other process—

(i) arrest any person, if the officer has reasonable cause to believe that such person has committed an act prohibited by paragraph (6), (7), (8), or (9) of section 5505 of this title;

(ii) board, and search or inspect, any high seas fishing vessel;

(iii) seize any high seas fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this chapter or any regulation or permit issued under this chapter;

(iv) seize any living marine resource (wherever found) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 5505 of this title;

(v) seize any other evidence related to any violation of any provision of this chapter or any regulation or permit issued under this chapter;

(B) execute any warrant or other process issued by any court of competent jurisdiction; and

(C) exercise any other lawful authority.

(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

(d) Issuance of citations

If any authorized officer finds that a high seas fishing vessel is operating or has been operated in violation of any provision of this chapter, such officer may issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (c) of this section. If a permit has been issued pursuant to this chapter for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(e) Liability for costs

Any person assessed a civil penalty for, or convicted of, any violation of this chapter shall be liable for the cost incurred in storage, care, and maintenance of any living marine resource or other property seized in connection with the violation.

(Pub. L. 104–43, title I, § 107, Nov. 3, 1995, 109 Stat. 372.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (e), was in the original ''this Act'', and was translated as reading ''this title'', meaning title I of Pub. L. 104–43, to reflect the probable intent of Congress.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 5507. Civil penalties and permit sanctions

(a) Civil penalties

(1) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, to have committed an act prohibited by section 5505 of this title shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(b) Permit sanctions

(1) In any case in which—

(A) a vessel of the United States has been used in the commission of an act prohibited under section 5505 of this title;

(B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under section 5503 of this title has acted in violation of section 5505 of this title; or

(C) any amount in settlement of a civil forfeiture imposed on a high seas fishing vessel or other property, or any civil penalty or criminal fine imposed on a high seas fishing vessel or on an owner or operator of such a vessel or on any other person who has been issued or has applied for a permit under any fishery resource statute enforced by the Secretary, has not been paid and is overdue, the Secretary may—

(i) revoke any permit issued to or applied for by such vessel or person under this chapter, with or without prejudice to the issuance of subsequent permits;

(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

(iii) deny such permit; or

(iv) impose additional conditions and restrictions on such permit.

(2) In imposing a sanction under this subsection, the Secretary shall take into account—

(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(3) Transfer of ownership of a high seas fishing vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel at the time of the transfer. The Secretary may waive or compromise a sanction in the case of a transfer pursuant to court order.

(4) In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

(5) No sanctions shall be imposed under this subsection unless there has been prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.

(c) Hearing

For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) Judicial review

Any person against whom a civil penalty is assessed under subsection (a) of this section or against whose vessel a permit sanction is imposed under subsection (b) of this section (other than a permit suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such penalty or sanction. The Secretary shall promptly file in such court a certified copy of the record upon which such penalty or sanction was imposed, as provided in section 2112 of title 28. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5.

(e) Collection

(1) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(2) A high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores,

and cargo) used in the commission of an act prohibited by section 5505 of this title shall be liable in rem for any civil penalty assessed for such violation under subsection (a) of this section and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(Pub. L. 104–43, title I, § 108, Nov. 3, 1995, 109 Stat. 373.)

§ 5508. Criminal offenses

(a) Offenses

A person is guilty of an offense if the person commits any act prohibited by paragraph (6), (7), (8), or (9) of section 5505 of this title.

(b) Punishment

Any offense described in subsection (a) of this section is a class A misdemeanor punishable by a fine under title 18, or imprisonment for not more than one year, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any authorized officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, or imprisonment for not more than 10 years, or both.

(Pub. L. 104–43, title I, § 109, Nov. 3, 1995, 109 Stat. 375.)

§ 5509. Forfeitures

(a) In general

Any high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any living marine resources (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 5505 of this title (other than an act for which the issuance of a citation under section 5506 of this title is a sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such living marine resources (or the fair market value thereof) shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) Jurisdiction of district courts

Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) of this section and any action provided for under subsection (d) of this section.

(c) Judgment

If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this chapter or for which security has not previously been obtained. The provisions of the customs laws relating to—

(1) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(2) the disposition of such property or the proceeds from the sale thereof; and

(3) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, unless such provisions are inconsistent with the purposes, policy, and provisions of this chapter.

(d) Procedure

(1) Any officer authorized to serve any process in rem that is issued by a court under section 5506(b) of this title shall—

(A) stay the execution of such process; or

(B) discharge any living marine resources seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any living marine resources seized pursuant to this chapter may be sold, subject to the approval of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) Rebuttable presumption

For purposes of this section, all living marine resources found on board a high seas fishing vessel and which are seized in connection with an act prohibited by section 5505 of this title are presumed to have been taken or retained in violation of this chapter, but the presumption can be rebutted by an appropriate showing of evidence to the contrary.

(Pub. L. 104–43, title I, § 110, Nov. 3, 1995, 109 Stat. 375.)

CHAPTER 76—NORTHWEST ATLANTIC FISHERIES CONVENTION

Sec.
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§ 5601. Representation of United States under Convention

(a) Commissioners

(1) Appointments, generally

The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the General Council and the Fisheries Commission, who shall each—

(A) be known as a ''United States Commissioner to the Northwest Atlantic Fisheries Organization''; and

(B) serve at the pleasure of the Secretary.

(2) Requirements for appointments

(A) The Secretary shall ensure that of the individuals serving as Commissioners—

(i) at least 1 is appointed from among representatives of the commercial fishing industry;

(ii) 1 (but no more than 1) is an official of the Government; and

(iii) 1, other than the individual appointed under clause (ii), is a voting member of the New England Fishery Management Council.

(B) The Secretary may not appoint as a Commissioner an individual unless the individual is knowledgeable and experienced concerning the fishery resources to which the Convention applies.

(3) Terms

(A) The term of an individual appointed as a Commissioner—

(i) shall be specified by the Secretary at the time of appointment; and

(ii) may not exceed 4 years.

(B) An individual who is not a Government official may not serve more than 2 consecutive terms as a Commissioner.

(b) Alternate Commissioners

(1) Appointment

The Secretary may, for any anticipated absence of a duly appointed Commissioner at a meeting of the General Council or the Fisheries Commission, designate an individual to serve as an Alternate Commissioner.

(2) Functions

An Alternate Commissioner may exercise all powers and perform all duties of the Commissioner for whom the Alternate Commissioner is designated, at any meeting of the General Council or the Fisheries Commission for which the Alternate Commissioner is designated.

(c) Representatives

(1) Appointment

The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the Scientific Council, who shall each be known as a ''United States Representative to the Northwest Atlantic Fisheries Organization Scientific Council''.

(2) Eligibility for appointment

(A) The Secretary may not appoint an individual as a Representative unless the individual is knowledgeable and experienced concerning the scientific issues dealt with by the Scientific Council.

(B) The Secretary shall appoint as a Representative at least 1 individual who is an official of the Government.

(3) Term

An individual appointed as a Representative—

(A) shall serve for a term of not to exceed 4 years, as specified by the Secretary at the time of appointment;

(B) may be reappointed; and

(C) shall serve at the pleasure of the Secretary.

(d) Alternate Representatives

(1) Appointment

The Secretary may, for any anticipated absence of a duly appointed Representative at a meeting of the Scientific Council, designate an individual to serve as an Alternate Representative.

(2) Functions

An Alternate Representative may exercise all powers and perform all duties of the Representative for whom the Alternate Representative is designated, at any meeting of the Scientific Council for which the Alternate Representative is designated.

(e) Experts and advisers

The Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives may be accompanied at meetings of the Organization by experts and advisers.

(f) Coordination and consultation

(1) In general

In carrying out their functions under the Convention, Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives shall—

(A) coordinate with the appropriate Regional Fishery Management Councils established by section 1852 of this title; and

(B) consult with the committee established under section 5607 of this title.

(2) Relationship to other law

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to coordination and consultations under this subsection.

(Pub. L. 104–43, title II, § 202, Nov. 3, 1995, 109 Stat. 377.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (f)(2), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

SHORT TITLE

Section 201 of title II of Pub. L. 104–43 provided that: ''This title [enacting this chapter] may be cited as the 'Northwest Atlantic Fisheries Convention Act of 1995'.''

§ 5602. Requests for scientific advice

(a) Restriction

The Representatives may not make a request or specification described in subsection (b)(1) or (2) of this section, respectively, unless the Representatives have first—

(1) consulted with the appropriate Regional Fishery Management Councils; and

(2) received the consent of the Commissioners for that action.

(b) Requests and terms of reference described

The requests and specifications referred to in subsection (a) of this section are, respectively—

(1) any request, under Article VII(1) of the Convention, that the Scientific Council consider and report on a question pertaining to the scientific basis for the management and conservation of fishery resources in waters under the jurisdiction of the United States within the Convention Area; and

(2) any specification, under Article VIII(2) of the Convention, of the terms of reference for the consideration of a question referred to the Scientific Council pursuant to Article VII(1) of the Convention.

(Pub. L. 104–43, title II, § 203, Nov. 3, 1995, 109 Stat. 378.)

§ 5603. Authorities of Secretary of State with respect to Convention

The Secretary of State may, on behalf of the Government of the United States—

(1) receive and transmit reports, requests, recommendations, proposals, and other communications of and to the Organization and its subsidiary organs;

(2) object, or withdraw an objection, to the proposal of the Fisheries Commission;

(3) give or withdraw notice of intent not to be bound by a measure of the Fisheries Commission;

(4) object or withdraw an objection to an amendment to the Convention; and

(5) act upon, or refer to any other appropriate authority, any other communication referred to in paragraph (1).

(Pub. L. 104–43, title II, § 204, Nov. 3, 1995, 109 Stat. 379.)

§ 5604. Interagency cooperation

(a) Authorities of Secretary

In carrying out the provisions of the Convention and this chapter, the Secretary may arrange for cooperation with other agencies of the United States, the States, the New England and the Mid-Atlantic Fishery Management Councils, and private institutions and organizations.

(b) Other agencies

The head of any Federal agency may—

(1) cooperate in the conduct of scientific and other programs, and furnish facilities and personnel, for the purposes of assisting the Organization in carrying out its duties under the Convention; and

(2) accept reimbursement from the Organization for providing such services, facilities, and personnel.

(Pub. L. 104–43, title II, § 205, Nov. 3, 1995, 109 Stat. 379.)

§ 5605. Rulemaking

The Secretary shall promulgate regulations as may be necessary to carry out the purposes and objectives of the Convention and this chapter. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located.

(Pub. L. 104–43, title II, § 206, Nov. 3, 1995, 109 Stat. 379.)

§ 5606. Prohibited acts and penalties

(a) Prohibition

It is unlawful for any person or vessel that is subject to the jurisdiction of the United States—

(1) to violate any regulation issued under this chapter or any measure that is legally binding on the United States under the Convention;

(2) to refuse to permit any authorized enforcement officer to board a fishing vessel that is subject to the person's control for purposes of conducting any search or inspection in connection with the enforcement of this chapter, any regulation issued under this chapter, or any measure that is legally binding on the United States under the Convention;

(3) forcibly to assault, resist, oppose, impede, intimidate, or interfere with any authorized enforcement officer in the conduct of any search or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this section; or

(6) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that the other person has committed an act prohibited by this section.

(b) Civil penalty

Any person who commits any act that is unlawful under subsection (a) of this section shall be liable to the United States for a civil penalty, or may be subject to a permit sanction, under section 1858 of this title.

(c) Criminal penalty

Any person who commits an act that is unlawful under paragraph (2), (3), (4), or (6) of subsection (a) of this section shall be guilty of an offense punishable under section 1859(b) of this title.

(d) Civil forfeitures

(1) In general

Any vessel (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act that is unlawful under subsection (a) of this section, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act that is unlawful under subsection (a) of this section, shall be subject to seizure and forfeiture as provided in section 1860 of this title.

(2) Disposal of fish

Any fish seized pursuant to this chapter may be disposed of pursuant to the order of a court

of competent jurisdiction or, if perishable, in a manner prescribed by regulations issued by the Secretary.

(e) Enforcement

The Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce the provisions of this chapter and shall have the authority specified in section 1861(a), (b)(1), and (c) of this title for that purpose.

(f) Jurisdiction of courts

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this section and may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interests of justice.

(Pub. L. 104–43, title II, § 207, Nov. 3, 1995, 109 Stat. 379; Pub. L. 105–384, title II, § 201(b)(1), Nov. 13, 1998, 112 Stat. 3451.)

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–384 substituted ''section'' for ''sections''.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 5607. Consultative committee

(a) Establishment

The Secretary of State and the Secretary, shall jointly establish a consultative committee to advise the Secretaries on issues related to the Convention.

(b) Membership

(1) The membership of the Committee shall include representatives from the New England and Mid-Atlantic Fishery Management Councils, the States represented on those Councils, the Atlantic States Marine Fisheries Commission, the fishing industry, the seafood processing industry, and others knowledgeable and experienced in the conservation and management of fisheries in the Northwest Atlantic Ocean.

(2) TERMS AND REAPPOINTMENT.—Each member of the consultative committee shall serve for a term of two years and shall be eligible for reappointment.

(c) Duties of committee

Members of the consultative committee may attend—

(1) all public meetings of the General Council or the Fisheries Commission;

(2) any other meetings to which they are invited by the General Council or the Fisheries Commission; and

(3) all nonexecutive meetings of the United States Commissioners.

(d) Relationship to other law

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the consultative committee established under this section.

(Pub. L. 104–43, title II, § 208, Nov. 3, 1995, 109 Stat. 380.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (d), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 5608. Administrative matters

(a) Prohibition on compensation

A person shall not receive any compensation from the Government by reason of any service of the person as—

(1) a Commissioner, Alternate Commissioner, Representative, or Alternative Representative;

(2) an expert or adviser authorized under section 5601(e) of this title; or

(3) a member of the consultative committee established by section 5607 of this title.

(b) Travel and expenses

The Secretary of State shall, subject to the availability of appropriations, pay all necessary travel and other expenses of persons described in subsection (a)(1) of this section and of not more than six experts and advisers authorized under section 5601(e) of this title with respect to their actual performance of their official duties pursuant to this chapter, in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5.

(c) Status as Federal employees

A person shall not be considered to be a Federal employee by reason of any service of the person in a capacity described in subsection (a) of this section, except for purposes of injury compensation and tort claims liability under chapter 81 of title 5 and chapter 171 of title 28, respectively.

(Pub. L. 104–43, title II, § 209, Nov. 3, 1995, 109 Stat. 381; Pub. L. 105–384, title II, § 201(b)(2), Nov. 13, 1998, 112 Stat. 3451.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–384 substituted ''171'' for ''17''.

§ 5609. Definitions

In this chapter the following definitions apply:

(1) Authorized enforcement officer

The term ''authorized enforcement officer'' means a person authorized to enforce this chapter, any regulation issued under this chapter, or any measure that is legally binding on the United States under the Convention.

(2) Commissioner

The term ''Commissioner'' means a United States Commissioner to the Northwest Atlan-

tic Fisheries Organization appointed under section 5601(a) of this title.

(3) Convention

The term ''Convention'' means the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, done at Ottawa on October 24, 1978.

(4) Fisheries Commission

The term ''Fisheries Commission'' means the Fisheries Commission provided for by Articles II, XI, XII, XIII, and XIV of the Convention.

(5) General Council

The term ''General Council'' means the General Council provided for by Article[1] II, III, IV, and V of the Convention.

(6) Magnuson Act

The term ''Magnuson Act'' means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(7) Organization

The term ''Organization'' means the Northwest Atlantic Fisheries Organization provided for by Article II of the Convention.

(8) Person

The term ''person'' means any individual (whether or not a citizen or national of the United States), and any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State).

(9) Representative

The term ''Representative'' means a United States Representative to the Northwest Atlantic Fisheries Scientific Council appointed under section 5601(c) of this title.

(10) Scientific Council

The term ''Scientific Council'' means the Scientific Council provided for by Articles II, VI, VII, VIII, IX, and X of the Convention.

(11) Secretary

The term ''Secretary'' means the Secretary of Commerce.

(Pub. L. 104–43, title II, § 210, Nov. 3, 1995, 109 Stat. 381; Pub. L. 105–384, title II, § 201(b)(3), Nov. 13, 1998, 112 Stat. 3451.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in par. (6), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

1998—Par. (6). Pub. L. 105–384 substituted ''Magnuson-Stevens Fishery'' for ''Magnuson Fishery''.

§ 5610. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter, including use for payment as the United States contribution to the Organization as provided in Article XVI of the Convention, $500,000 for each fiscal year through fiscal year 2012.

(Pub. L. 104–43, title II, § 211, Nov. 3, 1995, 109 Stat. 382; Pub. L. 105–384, title II, § 201(a), Nov. 13, 1998, 112 Stat. 3451; Pub. L. 107–372, title III, § 305, Dec. 19, 2002, 116 Stat. 3096; Pub. L. 109–479, title III, § 302(i), Jan. 12, 2007, 120 Stat. 3625.)

AMENDMENTS

2007—Pub. L. 109–479 substituted ''2012'' for ''2006''.
2002—Pub. L. 107–372 substituted ''2006'' for ''2001''.
1998—Pub. L. 105–384 substituted ''for each fiscal year through fiscal year 2001'' for ''for each of the fiscal years 1995, 1996, 1997, and 1998''.

§ 5611. Annual report

The Secretary shall annually report to the Congress on the activities of the Fisheries Commission, the General Council, the Scientific Council, and the consultative committee established under section 5607 of this title.

(Pub. L. 104–43, title II, § 212, as added Pub. L. 105–384, title II, § 201(c), Nov. 13, 1998, 112 Stat. 3452.)

§ 5612. Quota allocation practice

(a) In general

The Secretary of Commerce, acting through the Secretary of State, shall promptly seek to establish a new practice for allocating quotas under the Convention that—

(1) is predictable and transparent;

(2) provides fishing opportunities for all members of the Organization; and

(3) is consistent with the Straddling Fish Stocks Agreement.

(b) Report

The Secretary of Commerce shall include in annual reports under section 5611 of this title—

(1) a description of the results of negotiations held pursuant to subsection (a) of this section;

(2) an identification of barriers to achieving such a new allocation practice; and

(3) recommendations for any further legislation that is necessary to achieve such a new practice.

(c) "Straddling Fish Stocks Agreement" defined

In this section the term ''Straddling Fish Stocks Agreement'' means the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

(Pub. L. 104–43, title II, § 213, as added Pub. L. 105–384, title II, § 201(d), Nov. 13, 1998, 112 Stat. 3452.)

CHAPTER 77—YUKON RIVER SALMON

SUBCHAPTER I—IMPLEMENTATION OF INTERIM AGREEMENT

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5702. Definitions.
5703. Panel.

[1] So in original. Probably should be ''Articles''.

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5704. Advisory Committee.
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SUBCHAPTER I—IMPLEMENTATION OF INTERIM AGREEMENT

§ 5701. Purposes

It is the purpose of this subchapter—

(1) to implement the interim agreement for the conservation of salmon stocks originating from the Yukon River in Canada agreed to through an exchange of notes between the Government of the United States and the Government of Canada on February 3, 1995;

(2) to provide for representation by the United States on the Yukon River Panel established under such agreement; and

(3) to authorize to be appropriated sums necessary to carry out the responsibilities of the United States under such agreement.

(Pub. L. 104–43, title VII, § 702, Nov. 3, 1995, 109 Stat. 392.)

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–219, title III, § 301, Apr. 13, 2004, 118 Stat. 616, provided that: ''This title [amending section 5727 of this title and section 1977 of Title 22, Foreign Relations and Intercourse] may be cited as the 'International Fisheries Reauthorization Act of 2004'.''

SHORT TITLE

Section 701 of title VII of Pub. L. 104–43 provided that: ''This title [enacting this subchapter] may be cited as the 'Yukon River Salmon Act of 1995'.''

Pub. L. 106–450, title II, § 201, Nov. 7, 2000, 114 Stat. 1941, provided that: ''This title [enacting subchapter II of this chapter] may be cited as the 'Yukon River Salmon Act of 2000'.''

§ 5702. Definitions

As used in this subchapter—

(1) The term ''Agreement'' means the interim agreement for the conservation of salmon stocks originating from the Yukon River in Canada agreed to through an exchange of notes between the Government of the United States and the Government of Canada on February 3, 1995.

(2) The term ''Panel'' means the Yukon River Panel established by the Agreement.

(3) The term ''Yukon River Joint Technical Committee'' means the technical committee established by paragraph C.2 of the Memorandum of Understanding concerning the Pacific Salmon Treaty between the Government of the United States and the Government of Canada recorded January 28, 1985.

(Pub. L. 104–43, title VII, § 703, Nov. 3, 1995, 109 Stat. 393.)

§ 5703. Panel

(a) Representation

The United States shall be represented on the Panel by six individuals, of whom—

(1) one shall be an official of the United States Government with expertise in salmon conservation and management;

(2) one shall be an official of the State of Alaska with expertise in salmon conservation and management; and

(3) four shall be knowledgeable and experienced with regard to the salmon fisheries on the Yukon River.

(b) Appointments

Panel members shall be appointed as follows:

(1) The Panel member described in subsection (a)(1) of this section shall be appointed by the Secretary of State.

(2) The Panel member described in subsection (a)(2) of this section shall be appointed by the Governor of Alaska.

(3) The Panel members described in subsection (a)(3) of this section shall be appointed by the Secretary of State from a list of at least 3 individuals nominated for each position by the Governor of Alaska. The Governor of Alaska may consider suggestions for nominations provided by organizations with expertise in Yukon River salmon fisheries. The Governor of Alaska may make appropriate nominations to allow for, and the Secretary of State shall appoint, at least one member under subsection (a)(3) of this section who is qualified to represent the interests of Lower Yukon River fishing districts, and at least one member who is qualified to represent the interests of Upper Yukon River fishing districts. At least one of the Panel members under subsection (a)(3) of this section shall be an Alaska Native.

(c) Alternates

The Secretary of State may designate an alternate Panel member for each Panel member the Secretary appoints under subsections[1] (b)(1) and (3) of this section, who meets the same qualifications, to serve in the absence of the Panel member. The Governor of the State of Alaska may designate an alternative Panel member for the Panel member appointed under subsection (b)(2) of this section, who meets the same qualifications, to serve in the absence of that Panel member.

(d) Term length

Panel members and alternate Panel members shall serve four-year terms. Any individual appointed to fill a vacancy occurring before the expiration of any term shall be appointed for the remainder of that term.

(e) Reappointment

Panel members and alternate Panel members shall be eligible for reappointment.

(f) Decisions

Decisions by the United States section of the Panel shall be made by the consensus of the Panel members appointed under paragraphs (2) and (3) of subsection (a) of this section.

[1] So in original. Probably should be ''subsection''.

(g) Consultation

In carrying out their functions under the Agreement, Panel members may consult with such other interested parties as they consider appropriate.

(Pub. L. 104–43, title VII, §704, Nov. 3, 1995, 109 Stat. 393.)

§ 5704. Advisory Committee

(a) Appointments

The Governor of Alaska may appoint an Advisory Committee of not less than eight, but not more than twelve, individuals who are knowledgeable and experienced with regard to the salmon fisheries on the Yukon River. At least 2 of the Advisory Committee members shall be Alaska Natives. Members of the Advisory Committee may attend all meetings of the United States section of the Panel, and shall be given the opportunity to examine and be heard on any matter under consideration by the United States section of the Panel.

(b) Compensation

The members of such Advisory Committee shall receive no compensation for their services.

(c) Term length

Advisory Committee members shall serve two-year terms. Any individual appointed to fill a vacancy occurring before the expiration of any term shall be appointed for the remainder of that term.

(d) Reappointment

Advisory Committee members shall be eligible for reappointment.

(Pub. L. 104–43, title VII, §705, Nov. 3, 1995, 109 Stat. 394.)

§ 5705. Exemption

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Panel, the Yukon River Joint Technical Committee, or the Advisory Committee created under section 5704 of this title.

(Pub. L. 104–43, title VII, §706, Nov. 3, 1995, 109 Stat. 394.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in text, is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 5706. Authority and responsibility

(a) Responsible management entity

The State of Alaska Department of Fish and Game shall be the responsible management entity for the United States for the purposes of the Agreement.

(b) Effect of designation

The designation under subsection (a) of this section shall not be considered to expand, diminish, or change the management authority of the State of Alaska or the Federal Government with respect to fishery resources.

(c) Recommendations of Panel

In addition to recommendations made by the Panel to the responsible management entities in accordance with the Agreement, the Panel may make recommendations concerning the conservation and management of salmon originating in the Yukon River to the Department of the Interior, Department of Commerce, Department of State, North Pacific Fishery Management Council, and other Federal or State entities as appropriate. Recommendations by the Panel shall be advisory in nature.

(Pub. L. 104–43, title VII, §707, Nov. 3, 1995, 109 Stat. 394.)

§ 5707. Continuation of Agreement

In the event that the Treaty between Canada and the United States of America concerning Pacific Salmon, signed at Ottawa, January 28, 1985, terminates prior to the termination of the Agreement, and the functions of the Panel are assumed by the ''Yukon River Salmon Commission'' referenced in the Agreement, the provisions of this subchapter which apply to the Panel shall thereafter apply to the Yukon River Salmon Commission, and the other provisions of this subchapter shall remain in effect.

(Pub. L. 104–43, title VII, §708, Nov. 3, 1995, 109 Stat. 394.)

§ 5708. Administrative matters

(a) Compensation of Panel members

Panel members and alternate Panel members who are not State or Federal employees shall receive compensation at the daily rate of GS–15 of the General Schedule when engaged in the actual performance of duties.

(b) Travel and other expenses

Travel and other necessary expenses shall be paid for all Panel members, alternate Panel members, United States members of the Joint Technical Committee, and members of the Advisory Committee when engaged in the actual performance of duties.

(c) Status as Federal employees

Except for officials of the United States Government, individuals described in subsection (b) of this section shall not be considered to be Federal employees while engaged in the actual performance of duties, except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 71[1] of title 28.

(Pub. L. 104–43, title VII, §709, Nov. 3, 1995, 109 Stat. 395.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a), is set out under section 5332 of Title 5, Government Organization and Employees.

§ 5709. Authorization of appropriations

There are authorized to be appropriated $4,000,000 for each fiscal year for carrying out the purposes and provisions of the Agreement and this subchapter including—

(1) necessary travel expenses of Panel members, alternate Panel members, United States

[1] So in original. Probably should be chapter ''171''.

members of the Joint Technical Committee, and members of the Advisory Committee in accordance with Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5;

(2) the United States share of the joint expenses of the Panel and the Joint Technical Committee: *Provided*, That Panel members and alternate Panel members shall not, with respect to commitments concerning the United States share of the joint expenses, be subject to section 262(b)[1] of title 22, insofar as it limits the authority of United States representatives to international organizations with respect to such commitments;

(3) not more than $3,000,000 for each fiscal year to the Department of the Interior and to the Department of Commerce for survey, restoration, and enhancement activities related to Yukon River salmon; and

(4) $400,000 in each of fiscal years 1996, 1997, 1998, and 1999 to be contributed to the Yukon River Restoration and Enhancement Fund and used in accordance with the Agreement.

(Pub. L. 104–43, title VII, §710, Nov. 3, 1995, 109 Stat. 395.)

SUBCHAPTER II—CONSERVATION AND MANAGEMENT

§ 5721. Yukon River Salmon Panel

(a) Establishment

(1) In general

There shall be a Yukon River Salmon Panel (in this subchapter referred to as the ''Panel'').

(2) Functions

The Panel shall—

(A) advise the Secretary of State regarding the negotiation of any international agreement with Canada relating to management of salmon stocks originating from the Yukon River in Canada;

(B) advise the Secretary of the Interior regarding restoration and enhancement of such salmon stocks; and

(C) perform other functions relating to conservation and management of such salmon stocks as authorized by this subchapter or any other title.[1]

(3) Designation as United States representatives on bilateral body

The Secretary of State may designate the members of the Panel to be the United States representatives on any successor to the panel established by the interim agreement for the conservation of salmon stocks originating from the Yukon River in Canada agreed to through an exchange of notes between the Government of the United States and the Government of Canada on February 3, 1995, if authorized by any agreement establishing such successor.

(b) Membership

(1) In general

The Panel shall be comprised of six members, as follows:

(A) One member who is an official of the United States Government with expertise in salmon conservation and management, who shall be appointed by the Secretary of State.

(B) One member who is an official of the State of Alaska with expertise in salmon conservation and management, who shall be appointed by the Governor of Alaska.

(C) Four members who are knowledgeable and experienced with regard to the salmon fisheries on the Yukon River, who shall be appointed by the Secretary of State in accordance with paragraph (2).

(2) Appointees from Alaska

(A) The Secretary of State shall appoint the members under paragraph (1)(C) from a list of at least three individuals nominated for each position by the Governor of Alaska.

(B) In making the nominations, the Governor of Alaska may consider suggestions for nominations provided by organizations with expertise in Yukon River salmon fisheries.

(C) The Governor of Alaska may make appropriate nominations to allow for appointment of, and the Secretary of State shall appoint, under paragraph (1)(C)—

(i) at least one member who is qualified to represent the interests of Lower Yukon River fishing districts; and

(ii) at least one member who is qualified to represent the interests of Upper Yukon River fishing districts.

(D) At least one of the members appointed under paragraph (1)(C) shall be an Alaska Native.

(3) Alternates

(A) The Secretary of State may designate an alternate Panel member for each Panel member the Secretary appoints under paragraphs (1)(A) and (C), who meets the same qualifications, to serve in the absence of the Panel member.

(B) The Governor of the State of Alaska may designate an alternative Panel member for the Panel member appointed under subsection (b)(1)(B) of this section, who meets the same qualifications, to serve in the absence of that Panel member.

(c) Term length

Panel members and alternate Panel members shall serve 4-year terms. Any individual appointed to fill a vacancy occurring before the expiration of any term shall be appointed for the remainder of that term.

(d) Reappointment

Panel members and alternate Panel members shall be eligible for reappointment.

(e) Decisions

Decisions of the Panel shall be made by the consensus of the Panel members appointed under subparagraphs (B) and (C) of subsection (b)(1) of this section.

(f) Consultation

In carrying out their functions, Panel members may consult with such other interested parties as they consider appropriate.

(Pub. L. 106–450, title II, §202, Nov. 7, 2000, 114 Stat. 1941.)

[1] So in original. Probably should be section ''262b''.

[1] See References in Text note below.

REFERENCES IN TEXT

This subchapter or any other title, referred to in subsec. (a)(2)(C), was in the original ''this or any other title''. The reference to ''any other title'' probably was intended to mean a reference to any other act.

SHORT TITLE

For short title of this subchapter as the ''Yukon River Salmon Act of 2000'', see section 201 of Pub. L. 106–450, set out as a note under section 5701 of this title.

§ 5722. Advisory committee

(a) Appointments

The Governor of Alaska may establish and appoint an advisory committee of not less than eight, but not more than 12, individuals who are knowledgeable and experienced with regard to the salmon fisheries on the Yukon River. At least two of the advisory committee members shall be Alaska Natives. Members of the advisory committee may attend all meetings of the Panel, and shall be given the opportunity to examine and be heard on any matter under consideration by the Panel.

(b) Compensation

The members of such advisory committee shall receive no compensation for their services.

(c) Term length

Members of such advisory committee shall serve 2-year terms. Any individual appointed to fill a vacancy occurring before the expiration of any term shall be appointed for the remainder of that term.

(d) Reappointment

Members of such advisory committee shall be eligible for reappointment.

(Pub. L. 106–450, title II, § 203, Nov. 7, 2000, 114 Stat. 1943.)

§ 5723. Exemption

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Panel or to an advisory committee established under section 5722 of this title.

(Pub. L. 106–450, title II, § 204, Nov. 7, 2000, 114 Stat. 1943.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in text, is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 5724. Authority and responsibility

(a) Responsible management entity

The State of Alaska Department of Fish and Game shall be the responsible management entity for the United States for the purposes of any agreement with Canada regarding management of salmon stocks originating from the Yukon River in Canada.

(b) Effect of designation

The designation under subsection (a) of this section shall not be considered to expand, diminish, or otherwise change the management authority of the State of Alaska or the Federal Government with respect to fishery resources.

(c) Recommendations of Panel

In addition to recommendations made by the Panel to the responsible management entities in accordance with any agreement with Canada regarding management of salmon stocks originating from the Yukon River in Canada, the Panel may make recommendations concerning the conservation and management of salmon originating in the Yukon River to the Department of the Interior, the Department of Commerce, the Department of State, the North Pacific Fishery Management Council, and other Federal or State entities as appropriate. Recommendations by the Panel shall be advisory in nature.

(Pub. L. 106–450, title II, § 205, Nov. 7, 2000, 114 Stat. 1943.)

§ 5725. Administrative matters

(a) Compensation

Panel members and alternate Panel members who are not State or Federal employees shall receive compensation at the daily rate of GS–15 of the General Schedule when engaged in the actual performance of duties.

(b) Travel and other necessary expenses

Travel and other necessary expenses shall be paid by the Secretary of the Interior for all Panel members, alternate Panel members, and members of any advisory committee established under section 5722 of this title when engaged in the actual performance of duties.

(c) Treatment as Federal employees

Except for officials of the United States Government, all Panel members, alternate Panel members, and members of any advisory committee established under section 5722 of this title shall not be considered to be Federal employees while engaged in the actual performance of duties, except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 71[1] of title 28.

(Pub. L. 106–450, title II, § 206, Nov. 7, 2000, 114 Stat. 1943.)

REFERENCES IN TEXT

GS–15 of the General Schedule, referred to in subsec. (a), is set out under section 5332 of Title 5, Government Organization and Employees.

§ 5726. Yukon River salmon stock restoration and enhancement projects

(a) In general

The Secretary of the Interior, in consultation with the Secretary of Commerce, may carry out projects to restore or enhance salmon stocks originating from the Yukon River in Canada and the United States.

(b) Cooperation with Canada

If there is in effect an agreement between the Government of the United States and the Government of Canada for the conservation of salmon stocks originating from the Yukon River in Canada that includes provisions governing projects authorized under this section, then—

(1) projects under this section shall be carried out in accordance with that agreement; and

[1] So in original. Probably should be ''171''.

(2) amounts available for projects under this section—

(A) shall be expended in accordance with the agreement; and

(B) may be deposited in any joint account established by the agreement to fund such projects.

(Pub. L. 106–450, title II, § 207, Nov. 7, 2000, 114 Stat. 1944.)

§ 5727. Authorization of appropriations

There are authorized to be appropriated to the Secretary of the Interior to carry out this subchapter $4,000,000 for each of fiscal years 2007 through 2011 of which—

(1) such sums as are necessary shall be available each fiscal year for travel expenses of Panel members, alternate Panel members, United States members of the Joint Technical Committee established by paragraph C.2 of the memorandum of understanding concerning the Pacific Salmon Treaty between the Government of the United States and the Government of Canada (recorded January 28, 1985), and members of an advisory committee established and appointed under section 5722 of this title, in accordance with Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5;

(2) such sums as are necessary shall be available for the United States share of expenses incurred by the Joint Technical Committee and any panel established by any agreement between the Government of the United States and the Government of Canada for restoration and enhancement of salmon originating in Canada;

(3) up to $3,000,000 shall be available each fiscal year for activities by the Department of the Interior and the Department of Commerce for survey, restoration, and enhancement activities related to salmon stocks originating from the Yukon River in Canada, of which up to $1,200,000 shall be available each fiscal year for Yukon River salmon stock restoration and enhancement projects under section 5726(b) of this title; and

(4) $600,000 shall be available each fiscal year for cooperative salmon research and management projects in the portion of the Yukon River drainage located in the United States that are recommended by the Panel.

(Pub. L. 106–450, title II, § 208, Nov. 7, 2000, 114 Stat. 1944; Pub. L. 108–219, title III, § 303, Apr. 13, 2004, 118 Stat. 616; Pub. L. 109–479, title III, § 302(b), Jan. 12, 2007, 120 Stat. 3623.)

AMENDMENTS

2007—Pub. L. 109–479 substituted ''$4,000,000 for each of fiscal years 2007 through 2011'' for ''$4,000,000 for each of fiscal years 2004 through 2008,''.

2004—Pub. L. 108–219 substituted ''2004 through 2008'' for ''2000, 2001, 2002, and 2003'' in introductory provisions.

CHAPTER 78—NATIONAL NATURAL RESOURCES CONSERVATION FOUNDATION

Sec.

5801. Definitions.
5802. National Natural Resources Conservation Foundation.
5803. Composition and operation.
5804. Officers and employees.
5805. Corporate powers and obligations of Foundation.
5806. Administrative services and support.
5807. Audits and petition of Attorney General for equitable relief.
5808. Release from liability.
5809. Authorization of appropriations.

§ 5801. Definitions

In this chapter (unless the context otherwise requires):

(1) Board

The term ''Board'' means the Board of Trustees established under section 5803 of this title.

(2) Department

The term ''Department'' means the Department of Agriculture.

(3) Foundation

The term ''Foundation'' means the National Natural Resources Conservation Foundation established by section 5802(a) of this title.

(4) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(Pub. L. 104–127, title III, § 352, Apr. 4, 1996, 110 Stat. 1010.)

SHORT TITLE

Section 351 of title III of Pub. L. 104–127 provided that: ''This subtitle [subtitle F (§§ 351–360) of title III of Pub. L. 104–127, enacting this chapter and amending section 1101 of [former] Title 36, Patriotic Societies and Observances] may be cited as the 'National Natural Resources Conservation Foundation Act'.''

§ 5802. National Natural Resources Conservation Foundation

(a) Establishment

A National Natural Resources Conservation Foundation is established as a charitable and nonprofit corporation for charitable, scientific, and educational purposes specified in subsection (b) of this section. The Foundation is not an agency or instrumentality of the United States.

(b) Duties

The Foundation shall—

(1) promote innovative solutions to the problems associated with the conservation of natural resources on private lands, particularly with respect to agriculture and soil and water conservation;

(2) promote voluntary partnerships between government and private interests in the conservation of natural resources;

(3) conduct research and undertake educational activities, conduct and support demonstration projects, and make grants to State and local agencies and nonprofit organizations;

(4) provide such other leadership and support as may be necessary to address conservation challenges, such as the prevention of excessive soil erosion, the enhancement of soil and water quality, and the protection of wetlands,

wildlife habitat, and strategically important farmland subject to urban conversion and fragmentation;

(5) encourage, accept, and administer private gifts of money and real and personal property for the benefit of, or in connection with, the conservation and related activities and services of the Department, particularly the Natural Resources Conservation Service;

(6) undertake, conduct, and encourage educational, technical, and other assistance, and other activities, that support the conservation and related programs administered by the Department (other than activities carried out on National Forest System lands), particularly the Natural Resources Conservation Service, except that the Foundation may not enforce or administer a regulation of the Department; and

(7) raise private funds to promote the purposes of the Foundation.

(c) Limitations and conflicts of interest

(1) Political activities

The Foundation shall not participate or intervene in a political campaign on behalf of any candidate for public office.

(2) Conflicts of interest

No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation affecting—

(A) the financial interests of the director, officer, or employee; or

(B) the interests of any corporation, partnership, entity, organization, or other person in which the director, officer, or employee—

(i) is an officer, director, or trustee; or

(ii) has any direct or indirect financial interest.

(3) Legislation or government action or policy

No funds of the Foundation may be used in any manner for the purpose of influencing legislation or government action or policy.

(4) Litigation

No funds of the Foundation may be used to bring or join an action against the United States.

(Pub. L. 104–127, title III, § 353, Apr. 4, 1996, 110 Stat. 1010.)

§ 5803. Composition and operation

(a) Composition

The Foundation shall be administered by a Board of Trustees that shall consist of 9 voting members, each of whom shall be a United States citizen and not a Federal officer. The Board shall be composed of—

(1) individuals with expertise in agricultural conservation policy matters;

(2) a representative of private sector organizations with a demonstrable interest in natural resources conservation;

(3) a representative of statewide conservation organizations;

(4) a representative of soil and water conservation districts;

(5) a representative of organizations outside the Federal Government that are dedicated to natural resources conservation education; and

(6) a farmer or rancher.

(b) Nongovernmental employees

Service as a member of the Board shall not constitute employment by, or the holding of, an office of the United States for the purposes of any Federal law.

(c) Membership

(1) Initial members

The Secretary shall appoint 9 persons who meet the criteria established under subsection (a) of this section as the initial members of the Board and designate 1 of the members as the initial chairperson for a 2-year term.

(2) Terms of office

(A) In general

A member of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) Limitation on terms

No individual may serve more than 2 consecutive 3-year terms as a member of the Board.

(3) Subsequent members

The initial members of the Board shall adopt procedures in the constitution of the Foundation for the nomination and selection of subsequent members of the Board. The procedures shall require that each member, at a minimum, meets the criteria established under subsection (a) of this section and shall provide for the selection of an individual, who is not a Federal officer or a member of the Board.

(d) Chairperson

After the appointment of an initial chairperson under subsection (c)(1) of this section, each succeeding chairperson of the Board shall be elected by the members of the Board for a 2-year term.

(e) Vacancies

A vacancy on the Board shall be filled by the Board not later than 60 days after the occurrence of the vacancy.

(f) Compensation

A member of the Board shall receive no compensation from the Foundation for the service of the member on the Board.

(g) Travel expenses

While away from the home or regular place of business of a member of the Board in the performance of services for the Board, the member shall be allowed travel expenses paid by the Foundation, including per diem in lieu of subsistence, at the same rate as a person employed intermittently in the Government service is allowed under section 5703 of title 5.

(Pub. L. 104–127, title III, § 354, Apr. 4, 1996, 110 Stat. 1011.)

§ 5804. Officers and employees

(a) In general

The Board may—

(1) appoint, hire, and discharge the officers and employees of the Foundation, other than appoint the initial Executive Director of the Foundation;

(2) adopt a constitution and bylaws for the Foundation that are consistent with the purposes of this chapter; and

(3) undertake any other activities that may be necessary to carry out this chapter.

(b) Officers and employees

(1) Appointment and hiring

An officer or employee of the Foundation—

(A) shall not, by virtue of the appointment or employment of the officer or employee, be considered a Federal employee for any purpose, including the provisions of title 5 governing appointments in the competitive service, except that such an individual may participate in the Federal employee retirement system as if the individual were a Federal employee; and

(B) may not be paid by the Foundation a salary in excess of $125,000 per year.

(2) Executive Director

(A) Initial Director

The Secretary shall appoint an individual to serve as the initial Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

(B) Subsequent Directors

The Board shall appoint each subsequent Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

(C) Qualifications

The Executive Director shall be knowledgeable and experienced in matters relating to natural resources conservation.

(Pub. L. 104–127, title III, §355, Apr. 4, 1996, 110 Stat. 1012.)

§5805. Corporate powers and obligations of Foundation

(a) In general

The Foundation—

(1) may conduct business throughout the United States and the territories and possessions of the United States; and

(2) shall at all times maintain a designated agent who is authorized to accept service of process for the Foundation, so that the serving of notice to, or service of process on, the agent, or mailed to the business address of the agent, shall be considered as service on or notice to the Foundation.

(b) Seal

The Foundation shall have an official seal selected by the Board that shall be judicially noticed.

(c) Powers

To carry out the purposes of the Foundation under section 5802(b) of this title, the Foundation shall have, in addition to the powers otherwise provided under this chapter, the usual powers of a corporation, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income from, or other interest in, the gift, devise, or bequest;

(2) to acquire by purchase or exchange any real or personal property or interest in property, except that funds provided under section 5809 of this title may not be used to purchase an interest in real property;

(3) unless otherwise required by instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income from property;

(4) on the written approval of the Secretary, to use, license, or transfer symbols, slogans, and logos of the Foundation (exclusive of any symbol or logo of a governmental entity);

(5) to borrow money from private sources and issue bonds, debentures, or other debt instruments, subject to section 5808 of this title, except that the aggregate amount of the borrowing and debt instruments outstanding at any time may not exceed $1,000,000;

(6) to sue and be sued, and complain and defend itself, in any court of competent jurisdiction, except that a member of the Board shall not be personally liable for an action in the performance of services for the Board, except for gross negligence;

(7) to enter into a contract or other agreement with an agency of State or local government, educational institution, or other private organization or person and to make such payments as may be necessary to carry out the functions of the Foundation; and

(8) to do any and all acts that are necessary to carry out the purposes of the Foundation.

(d) Interests in property

(1) Interests in real property

The Foundation may acquire, hold, and dispose of lands, waters, or other interests in real property by donation, gift, devise, purchase, or exchange. An interest in real property shall be treated, among other things, as including an easement or other right for the preservation, conservation, protection, or enhancement of agricultural, natural, scenic, historic, scientific, educational, inspirational, or recreational resources.

(2) Gifts

A gift, devise, or bequest may be accepted by the Foundation even though the gift, devise, or bequest is encumbered, restricted, or subject to a beneficial interest of a private person if any current or future interest in the gift, devise, or bequest is for the benefit of the Foundation.

(3) Use of symbols, slogans, and logos of the Foundation

(A) In general

The Secretary may authorize the Foundation to use, license, or transfer symbols, slogans, and logos of the Foundation.

(B) Income

(i) In general

All revenue received by the Foundation from the use, licensing, or transfer of sym-

bols, slogans, and logos of the Foundation shall be transferred to the Secretary.

(ii) Conservation operations

The Secretary shall transfer all revenue received under clause (i) to the account within the Natural Resources Conservation Service that is used to carry out conservation operations.

(Pub. L. 104–127, title III, § 356, Apr. 4, 1996, 110 Stat. 1013; Pub. L. 107–171, title II, § 2506, May 13, 2002, 116 Stat. 274.)

AMENDMENTS

2002—Subsec. (c)(4) to (8). Pub. L. 107–171, § 2506(1), which directed amendment of subsection (c) of section 356 of the Federal Agriculture Improvement Act of 1996 by adding par. (4) and redesignating former pars. (4) to (7) as (5) to (8), respectively, was executed to subsec. (c) of this section, which is section 356 of the Federal Agriculture Improvement and Reform Act of 1996, to reflect the probable intent of Congress.

Subsec. (d)(3). Pub. L. 107–171, § 2506(2), which directed amendment of subsection (d) of section 356 of the Federal Agriculture Improvement Act of 1996 by adding par. (3), was executed to subsec. (d) of this section, which is section 356 of the Federal Agriculture Improvement and Reform Act of 1996, to reflect the probable intent of Congress.

§ 5806. Administrative services and support

For each of fiscal years 1996 through 1998, the Secretary may provide, without reimbursement, personnel, facilities, and other administrative services of the Department to the Foundation.

(Pub. L. 104–127, title III, § 357, Apr. 4, 1996, 110 Stat. 1014.)

§ 5807. Audits and petition of Attorney General for equitable relief

(a) Audits

(1) In general

The accounts of the Foundation shall be audited in accordance with section 10101 of title 36, including an audit of lobbying and litigation activities carried out by the Foundation.

(2) Repealed. Pub. L. 105–225, § 6(b), Aug. 12, 1998, 112 Stat. 1499

(b) Relief with respect to certain Foundation acts or failure to act

The Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate, if the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with this chapter; or

(2) refuses, fails, neglects, or threatens to refuse, fail, or neglect, to discharge the obligations of the Foundation under this chapter.

(Pub. L. 104–127, title III, § 358, Apr. 4, 1996, 110 Stat. 1014; Pub. L. 105–225, § 6(b), Aug. 12, 1998, 112 Stat. 1499.)

CODIFICATION

''Section 10101 of title 36'' substituted in subsec. (a)(1) for ''Public Law 88–504 (36 U.S.C. 1101 et seq.)'' on authority of Pub. L. 105–225, § 5(b), Aug. 12, 1998, 112 Stat. 1499, the first section of which enacted Title 36, Patriotic and National Observances, Ceremonies, and Organizations.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–225 repealed par. (2) which amended section 1101(77) of former title 36.

§ 5808. Release from liability

(a) In general

The United States shall not be liable for any debt, default, act, or omission of the Foundation. The full faith and credit of the United States shall not extend to the Foundation.

(b) Statement

An obligation issued by the Foundation, and a document offering an obligation, shall include a prominent statement that the obligation is not directly or indirectly guaranteed, in whole or in part, by the United States (or an agency or instrumentality of the United States).

(Pub. L. 104–127, title III, § 359, Apr. 4, 1996, 110 Stat. 1014.)

§ 5809. Authorization of appropriations

There are authorized to be appropriated to the Department to be made available to the Foundation $1,000,000 for each of fiscal years 1997 through 1999 to initially establish and carry out activities of the Foundation.

(Pub. L. 104–127, title III, § 360, Apr. 4, 1996, 110 Stat. 1014.)

CHAPTER 79—NATIONAL PARK SERVICE MANAGEMENT

Sec.

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§ 5901. "Secretary" defined

As used in this chapter, the term ''Secretary'' means the Secretary of the Interior, except as otherwise specifically provided.

(Pub. L. 105–391, § 2, Nov. 13, 1998, 112 Stat. 3498.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 105–391, Nov. 13, 1998, 112 Stat. 3497, known as the National Parks Omnibus Management Act of 1998. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE

Pub. L. 105–391, § 1(a), Nov. 13, 1998, 112 Stat. 3497, provided that: ''This Act [enacting this chapter and section 19*o* of this title, amending sections 1a–2, 1a–5, 1a–7, and 3 of this title, repealing section 17b–1 and subchapter IV of chapter 1 of this title, and enacting provisions set out as notes under this section and sections 1, 1a–5, 20, 470h–3, and 5951 of this title] may be cited as the 'National Parks Omnibus Management Act of 1998'.''

Pub. L. 105–391, title IV, § 401, Nov. 13, 1998, 112 Stat. 3503, provided that: ''This title [enacting subchapter III of this chapter, amending sections 1a–7 and 3 of this title, repealing section 17b–1 and subchapter IV of chapter 1 of this title, and enacting provisions set out as a note under section 20 of this title] may be cited as the 'National Park Service Concessions Management Improvement Act of 1998'.''

SUBCHAPTER I—NATIONAL PARK SERVICE CAREER DEVELOPMENT, TRAINING, AND MANAGEMENT

§ 5911. Protection, interpretation, and research in National Park System

Recognizing the ever increasing societal pressures being placed upon America's unique natural and cultural resources contained in the National Park System, the Secretary shall continually improve the ability of the National Park Service to provide state-of-the-art management, protection, and interpretation of and research on the resources of the National Park System.

(Pub. L. 105–391, title I, § 101, Nov. 13, 1998, 112 Stat. 3498.)

§ 5912. National Park Service employee training

The Secretary shall develop a comprehensive training program for employees in all professional careers in the work force of the National Park Service for the purpose of assuring that the work force has available the best, up-to-date knowledge, skills and abilities with which to manage, interpret and protect the resources of the National Park System.

(Pub. L. 105–391, title I, § 102, Nov. 13, 1998, 112 Stat. 3498.)

§ 5913. Management development and training

Within 2 years after November 13, 1998, the Secretary shall develop a clear plan for management training and development, whereby career, professional National Park Service employees from any appropriate academic field may obtain sufficient training, experience, and advancement opportunity to enable those qualified to move into park management positions, including explicitly the position of superintendent of a unit of the National Park System.

(Pub. L. 105–391, title I, § 103, Nov. 13, 1998, 112 Stat. 3498.)

§ 5914. Park budgets and accountability

(a) Strategic and performance plans for each unit

Each unit of the National Park System shall prepare and make available to the public a 5-year strategic plan and an annual performance plan. Such plans shall reflect the National Park Service policies, goals, and outcomes represented in the Service-wide Strategic Plan, prepared pursuant to the provisions of the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285).

(b) Annual budget for each unit

As a part of the annual performance plan for a unit of the National Park System prepared pursuant to subsection (a) of this section, following receipt of the appropriation for the unit from the Operations of the National Park System account (but no later than January 1 of each year), the superintendent of the unit shall develop and make available to the public the budget for the current fiscal year for that unit. The budget shall include, at a minimum, funding allocations for resource preservation (including resource management), visitor services (including maintenance, interpretation, law enforcement, and search and rescue) and administration. The budget shall also include allocations into each of the above categories of all funds retained from fees collected for that year, including (but not limited to) special use permits, concession franchise fees, and recreation use and entrance fees.

(Pub. L. 105–391, title I, § 104, Nov. 13, 1998, 112 Stat. 3499.)

REFERENCES IN TEXT

The Government Performance and Results Act of 1993, referred to in subsec. (a), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, section 306 of Title 5, Government Organization and Employees, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

SUBCHAPTER II—NATIONAL PARK SYSTEM RESOURCE INVENTORY AND MANAGEMENT

§ 5931. Purposes

The purposes of this subchapter are—

(1) to more effectively achieve the mission of the National Park Service;

(2) to enhance management and protection of national park resources by providing clear authority and direction for the conduct of scientific study in the National Park System and to use the information gathered for management purposes;

(3) to ensure appropriate documentation of resource conditions in the National Park System;

(4) to encourage others to use the National Park System for study to the benefit of park management as well as broader scientific value, where such study is consistent with sections 1, 2, 3, and 4 of this title; and

(5) to encourage the publication and dissemination of information derived from studies in the National Park System.

(Pub. L. 105–391, title II, § 201, Nov. 13, 1998, 112 Stat. 3499.)

§ 5932. Research mandate

The Secretary is authorized and directed to assure that management of units of the National Park System is enhanced by the availability and utilization of a broad program of the highest quality science and information.

(Pub. L. 105–391, title II, § 202, Nov. 13, 1998, 112 Stat. 3499.)

§ 5933. Cooperative agreements

(a) Cooperative study units

The Secretary is authorized and directed to enter into cooperative agreements with colleges and universities, including but not limited to land grant schools, in partnership with other Federal and State agencies, to establish cooperative study units to conduct multi-disciplinary research and develop integrated information products on the resources of the National Park System, or the larger region of which parks are a part.

(b) Report

Within one year of November 13, 1998, the Secretary shall report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives on progress in the establishment of a comprehensive network of such college and university based cooperative study units as will provide full geographic and topical coverage for research on the resources contained in units of the National Park System and their larger regions.

(Pub. L. 105–391, title II, § 203, Nov. 13, 1998, 112 Stat. 3500.)

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 5934. Inventory and monitoring program

The Secretary shall undertake a program of inventory and monitoring of National Park System resources to establish baseline information and to provide information on the long-term trends in the condition of National Park System resources. The monitoring program shall be developed in cooperation with other Federal monitoring and information collection efforts to ensure a cost-effective approach.

(Pub. L. 105–391, title II, § 204, Nov. 13, 1998, 112 Stat. 3500.)

§ 5935. Availability for scientific study

(a) In general

The Secretary may solicit, receive, and consider requests from Federal or non-Federal public or private agencies, organizations, individuals, or other entities for the use of any unit of the National Park System for purposes of scientific study.

(b) Criteria

A request for use of a unit of the National Park System under subsection (a) of this section may only be approved if the Secretary determines that the proposed study—

(1) is consistent with applicable laws and National Park Service management policies; and

(2) will be conducted in a manner as to pose no threat to park resources or public enjoyment derived from those resources.

(c) Fee waiver

The Secretary may waive any park admission or recreational use fee in order to facilitate the conduct of scientific study under this section.

(d) Negotiations

The Secretary may enter into negotiations with the research community and private industry for equitable, efficient benefits-sharing arrangements.

(Pub. L. 105–391, title II, § 205, Nov. 13, 1998, 112 Stat. 3500.)

§ 5936. Integration of study results into management decisions

The Secretary shall take such measures as are necessary to assure the full and proper utilization of the results of scientific study for park management decisions. In each case in which an action undertaken by the National Park Service may cause a significant adverse effect on a park resource, the administrative record shall reflect the manner in which unit resource studies have been considered. The trend in the condition of resources of the National Park System shall be a significant factor in the annual performance evaluation of each superintendent of a unit of the National Park System.

(Pub. L. 105–391, title II, § 206, Nov. 13, 1998, 112 Stat. 3500.)

§ 5937. Confidentiality of information

Information concerning the nature and specific location of a National Park System resource which is endangered, threatened, rare, or commercially valuable, of mineral or paleon-

tological objects within units of the National Park System, or of objects of cultural patrimony within units of the National Park System, may be withheld from the public in response to a request under section 552 of title 5, unless the Secretary determines that—

(1) disclosure of the information would further the purposes of the unit of the National Park System in which the resource or object is located and would not create an unreasonable risk of harm, theft, or destruction of the resource or object, including individual organic or inorganic specimens; and

(2) disclosure is consistent with other applicable laws protecting the resource or object.

(Pub. L. 105–391, title II, § 207, Nov. 13, 1998, 112 Stat. 3501.)

SUBCHAPTER III—NATIONAL PARK SERVICE CONCESSIONS MANAGEMENT

§ 5951. Congressional findings and statement of policy

(a) Findings

In furtherance of sections 1, 2, 3, and 4 of this title, which directs the Secretary to administer units of the National Park System in accordance with the fundamental purpose of conserving their scenery, wildlife, and natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress hereby finds that the preservation and conservation of park resources and values requires that such public accommodations, facilities, and services as have to be provided within such units should be provided only under carefully controlled safeguards against unregulated and indiscriminate use, so that—

(1) visitation will not unduly impair these resources and values; and

(2) development of public accommodations, facilities, and services within such units can best be limited to locations that are consistent to the highest practicable degree with the preservation and conservation of the resources and values of such units.

(b) Policy

It is the policy of the Congress that the development of public accommodations, facilities, and services in units of the National Park System shall be limited to those accommodations, facilities, and services that—

(1) are necessary and appropriate for public use and enjoyment of the unit of the National Park System in which they are located; and

(2) are consistent to the highest practicable degree with the preservation and conservation of the resources and values of the unit.

(Pub. L. 105–391, title IV, § 402, Nov. 13, 1998, 112 Stat. 3503.)

SHORT TITLE

For short title of this subchapter as the ''National Park Service Concessions Management Improvement Act of 1998'', see section 401 of Pub. L. 105–391, set out as a note under section 5901 of this title.

SAVINGS PROVISION

Pub. L. 105–391, title IV, § 419, Nov. 13, 1998, 112 Stat. 3517, provided that:

''(a) TREATMENT OF GLACIER BAY CONCESSION PERMITS PROSPECTUS.—Nothing contained in this title [see Short Title note set out under section 5901 of this title] shall authorize or require the Secretary to withdraw, revise, amend, modify, or reissue the February 19, 1998, Prospectus Under Which Concession Permits Will be Open for Competition for the Operation of Cruise Ship Services Within Glacier Bay National Park and Preserve (in this section referred to as the '1998 Glacier Bay Prospectus'). The award of concession permits pursuant to the 1998 Glacier Bay Prospectus shall be under provisions of existing law at the time the 1998 Glacier Bay Prospectus was issued.

''(b) PREFERENTIAL RIGHT OF RENEWAL.—Notwithstanding any provision of this title, the Secretary, in awarding future Glacier Bay cruise ship concession permits covering cruise ship entries for which a preferential right of renewal existed prior to the effective date of this title [probably means the date of enactment of title IV of Pub. L. 105–391, which was approved Nov. 13, 1998], shall provide for such cruise ship entries a preferential right of renewal, as described in subparagraphs (C) and (D) of section 403(7) [16 U.S.C. 5952(7)(C), (D)]. Any Glacier Bay concession permit awarded under the authority contained in this subsection shall expire by December 31, 2009.''

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

Pub. L. 105–391, title IV, § 415(c), Nov. 13, 1998, 112 Stat. 3516, provided that: ''Nothing in this title [see Short Title note set out under section 5901 of this title] amends, supersedes, or otherwise affects any provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.) relating to revenue-producing visitor services.''

§ 5952. Award of concessions contracts

In furtherance of the findings and policy stated in section 5951 of this title, and except as provided by this subchapter or otherwise authorized by law, the Secretary shall utilize concessions contracts to authorize a person, corporation, or other entity to provide accommodations, facilities, and services to visitors to units of the National Park System. Such concessions contracts shall be awarded as follows:

(1) Competitive selection process

Except as otherwise provided in this section, all proposed concessions contracts shall be awarded by the Secretary to the person, corporation, or other entity submitting the best proposal, as determined by the Secretary through a competitive selection process. Such competitive process shall include simplified procedures for small, individually-owned, concessions contracts.

(2) Solicitation of proposals

Except as otherwise provided in this section, prior to awarding a new concessions contract (including renewals or extensions of existing concessions contracts) the Secretary shall publicly solicit proposals for the concessions contract and, in connection with such solicitation, the Secretary shall prepare a prospectus and shall publish notice of its availability at least once in local or national newspapers or trade publications, and/or the Commerce Business Daily, as appropriate, and shall make the prospectus available upon request to all interested parties.

(3) Prospectus

The prospectus shall include the following information:

(A) The minimum requirements for such contract as set forth in paragraph (4).

(B) The terms and conditions of any existing concessions contract relating to the services and facilities to be provided, including all fees and other forms of compensation provided to the United States by the concessioner.

(C) Other authorized facilities or services which may be provided in a proposal.

(D) Facilities and services to be provided by the Secretary to the concessioner, if any, including public access, utilities, and buildings.

(E) An estimate of the amount of compensation, if any, due an existing concessioner from a new concessioner under the terms of a prior concessions contract.

(F) A statement as to the weight to be given to each selection factor identified in the prospectus and the relative importance of such factors in the selection process.

(G) Such other information related to the proposed concessions operation as is provided to the Secretary pursuant to a concessions contract or is otherwise available to the Secretary, as the Secretary determines is necessary to allow for the submission of competitive proposals.

(H) Where applicable, a description of a preferential right to the renewal of the proposed concessions contract held by an existing concessioner as set forth in paragraph (7).

(4) Minimum requirements

(A) No proposal shall be considered which fails to meet the minimum requirements as determined by the Secretary. Such minimum requirements shall include the following:

(i) The minimum acceptable franchise fee or other forms of consideration to the Government.

(ii) Any facilities, services, or capital investment required to be provided by the concessioner.

(iii) Measures necessary to ensure the protection, conservation, and preservation of resources of the unit of the National Park System.

(B) The Secretary shall reject any proposal, regardless of the franchise fee offered, if the Secretary determines that the person, corporation, or entity is not qualified, is not likely to provide satisfactory service, or that the proposal is not responsive to the objectives of protecting and preserving resources of the unit of the National Park System and of providing necessary and appropriate facilities and services to the public at reasonable rates.

(C) If all proposals submitted to the Secretary either fail to meet the minimum requirements or are rejected by the Secretary, the Secretary shall establish new minimum contract requirements and re-initiate the competitive selection process pursuant to this section.

(D) The Secretary may not execute a concessions contract which materially amends or does not incorporate the proposed terms and conditions of the concessions contract as set forth in the applicable prospectus. If proposed material amendments or changes are considered appropriate by the Secretary, the Secretary shall resolicit offers for the concessions contract incorporating such material amendments or changes.

(5) Selection of the best proposal

(A) In selecting the best proposal, the Secretary shall consider the following principal factors:

(i) The responsiveness of the proposal to the objectives of protecting, conserving, and preserving resources of the unit of the National Park System and of providing necessary and appropriate facilities and services to the public at reasonable rates.

(ii) The experience and related background of the person, corporation, or entity submitting the proposal, including the past performance and expertise of such person, corporation or entity in providing the same or similar facilities or services.

(iii) The financial capability of the person, corporation, or entity submitting the proposal.

(iv) The proposed franchise fee, except that consideration of revenue to the United States shall be subordinate to the objectives of protecting, conserving, and preserving resources of the unit of the National Park System and of providing necessary and appropriate facilities to the public at reasonable rates.

(B) The Secretary may also consider such secondary factors as the Secretary deems appropriate.

(C) In developing regulations to implement this subchapter, the Secretary shall consider the extent to which plans for employment of Indians (including Native Alaskans) and involvement of businesses owned by Indians, Indian tribes, or Native Alaskans in the operation of a concession, contracts[1] should be identified as a factor in the selection of a best proposal under this section.

(6) Congressional notification

The Secretary shall submit any proposed concessions contract with anticipated annual gross receipts in excess of $5,000,000 or a duration of more than 10 years to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The Secretary shall not award any such proposed contract until at least 60 days subsequent to the notification of both committees.

(7) Preferential right of renewal

(A) Except as provided in subparagraph (B), the Secretary shall not grant a concessioner a preferential right to renew a concessions contract, or any other form of preference to a concessions contract.

(B) The Secretary shall grant a preferential right of renewal to an existing concessioner with respect to proposed renewals of the categories of concessions contracts described by

[1] So in original. Probably should be ''concessions contract''.

paragraph (8), subject to the requirements of that paragraph.

(C) As used in this subchapter, the term ''preferential right of renewal'' means that the Secretary, subject to a determination by the Secretary that the facilities or services authorized by a prior contract continue to be necessary and appropriate within the meaning of section 5951 of this title, shall allow a concessioner qualifying for a preferential right of renewal the opportunity to match the terms and conditions of any competing proposal which the Secretary determines to be the best proposal for a proposed new concessions contract which authorizes the continuation of the facilities and services provided by the concessioner under its prior contract.

(D) A concessioner which successfully exercises a preferential right of renewal in accordance with the requirements of this subchapter shall be entitled to award of the proposed new concessions contract to which such preference applies.

(8) Outfitter and guide services and small contracts

(A) The provisions of paragraph (7) shall apply only to the following:

(i) Subject to subparagraph (B), outfitting and guide concessions contracts.

(ii) Subject to subparagraph (C), concessions contracts with anticipated annual gross receipts under $500,000.

(B) For the purposes of this subchapter, an ''outfitting and guide concessions contract'' means a concessions contract which solely authorizes the provision of specialized backcountry outdoor recreation guide services which require the employment of specially trained and experienced guides to accompany park visitors in the backcountry so as to provide a safe and enjoyable experience for visitors who otherwise may not have the skills and equipment to engage in such activity. Outfitting and guide concessioners, where otherwise qualified, include concessioners which provide guided river running, hunting, fishing, horseback, camping, and mountaineering experiences. An outfitting and guide concessioner is entitled to a preferential right of renewal under this subchapter only if—

(i) the contract with the outfitting and guide concessioner does not grant the concessioner any interest, including any leasehold surrender interest or possessory interest, in capital improvements on lands owned by the United States within a unit of the National Park System, other than a capital improvement constructed by a concessioner pursuant to the terms of a concessions contract prior to November 13, 1998, or constructed or owned by a concessioner or his or her predecessor before the subject land was incorporated into the National Park System;

(ii) the Secretary determines that the concessioner has operated satisfactorily during the term of the contract (including any extension thereof); and

(iii) the concessioner has submitted a responsive proposal for a proposed new contract which satisfies the minimum requirements established by the Secretary pursuant to paragraph (4).

(C) A concessioner that holds a concessions contract that the Secretary estimates will result in gross annual receipts of less than $500,000 if renewed shall be entitled to a preferential right of renewal under this subchapter if—

(i) the Secretary has determined that the concessioner has operated satisfactorily during the term of the contract (including any extension thereof); and

(ii) the concessioner has submitted a responsive proposal for a proposed new concessions contract which satisfies the minimum requirements established by the Secretary pursuant to paragraph (4).

(9) New or additional services

The Secretary shall not grant a preferential right to a concessioner to provide new or additional services in a unit of the National Park System.

(10) Secretarial authority

Nothing in this subchapter shall be construed as limiting the authority of the Secretary to determine whether to issue a concessions contract or to establish its terms and conditions in furtherance of the policies expressed in this subchapter.

(11) Exceptions

Notwithstanding the provisions of this section, the Secretary may award, without public solicitation, the following:

(A) A temporary concessions contract or an extension of an existing concessions contract for a term not to exceed 3 years in order to avoid interruption of services to the public at a unit of the National Park System, except that prior to making such an award, the Secretary shall take all reasonable and appropriate steps to consider alternatives to avoid such interruption.

(B) A concessions contract in extraordinary circumstances where compelling and equitable considerations require the award of a concessions contract to a particular party in the public interest. Such award of a concessions contract shall not be made by the Secretary until at least 30 days after publication in the Federal Register of notice of the Secretary's intention to do so and the reasons for such action, and submission of notice to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(Pub. L. 105–391, title IV, § 403, Nov. 13, 1998, 112 Stat. 3504.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this title'', meaning title IV of Pub. L. 105–391, Nov. 13, 1998, 112 Stat. 3503, which is classified principally to this subchapter. For complete classification of title IV to the Code, see Short Title note set out under section 5901 of this title and Tables.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House

of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 5953. Term of concessions contracts

A concessions contract entered into pursuant to this subchapter shall generally be awarded for a term of 10 years or less. However, the Secretary may award a contract for a term of up to 20 years if the Secretary determines that the contract terms and conditions, including the required construction of capital improvements, warrant a longer term.

(Pub. L. 105–391, title IV, § 404, Nov. 13, 1998, 112 Stat. 3508; Pub. L. 106–176, title III, § 311, Mar. 10, 2000, 114 Stat. 34.)

AMENDMENTS

2000—Pub. L. 106–176, which directed the substitution of ''contract terms and conditions,'' for ''conract terms and conditions,'', could not be executed because the words ''conract terms and conditions,'' did not appear.

§ 5954. Protection of concessioner investment

(a) Leasehold surrender interest under new concessions contracts

On or after November 13, 1998, a concessioner that constructs a capital improvement upon land owned by the United States within a unit of the National Park System pursuant to a concessions contract shall have a leasehold surrender interest in such capital improvement subject to the following terms and conditions:

(1) A concessioner shall have a leasehold surrender interest in each capital improvement constructed by a concessioner under a concessions contract, consisting solely of a right to compensation for the capital improvement to the extent of the value of the concessioner's leasehold surrender interest in the capital improvement.

(2) A leasehold surrender interest—

(A) may be pledged as security for financing of a capital improvement or the acquisition of a concessions contract when approved by the Secretary pursuant to this subchapter;

(B) shall be transferred by the concessioner in connection with any transfer of the concessions contract and may be relinquished or waived by the concessioner; and

(C) shall not be extinguished by the expiration or other termination of a concessions contract and may not be taken for public use except on payment of just compensation.

(3) The value of a leasehold surrender interest in a capital improvement shall be an amount equal to the initial value (construction cost of the capital improvement), increased (or decreased) in the same percentage increase (or decrease) as the percentage increase (or decrease) in the Consumer Price Index, from the date of making the investment in the capital improvement by the concessioner to the date of payment of the value of the leasehold surrender interest, less depreciation of the capital improvement as evidenced by the condition and prospective serviceability in comparison with a new unit of like kind.

(4) Effective 9 years after November 13, 1998, the Secretary may provide, in any particular new concession contract the Secretary estimates will have a leasehold surrender interest of more than $10,000,000, that the value of any leasehold surrender interest in a capital improvement shall be based on either (A) a reduction on an annual basis, in equal portions, over the same number of years as the time period associated with the straight line depreciation of the initial value (construction cost of the capital improvement), as provided by applicable Federal income tax laws and regulations in effect on the day before November 13, 1998, or (B) such alternative formula that is consistent with the objectives of this subchapter. The Secretary may only use such an alternative formula if the Secretary determines, after scrutiny of the financial and other circumstances involved in this particular concession contract (including providing notice in the Federal Register and opportunity for comment), that such alternative formula is, compared to the standard method of determining value provided for in paragraph (3), necessary in order to provide a fair return to the Government and to foster competition for the new contract by providing a reasonable opportunity to make a profit under the new contract. If no responsive offers are received in response to a solicitation that includes such an alternative formula, the concession opportunity shall be resolicited with the leasehold surrender interest value as described in paragraph (3).

(5) Where a concessioner, pursuant to the terms of a concessions contract, makes a capital improvement to an existing capital improvement in which the concessioner has a leasehold surrender interest, the cost of such additional capital improvement shall be added to the then current value of the concessioner's leasehold surrender interest.

(b) Special rule for existing possessory interest

(1) A concessioner which has obtained a possessory interest as defined pursuant to Public Law 89–249 (commonly known as the National Park Service Concessions Policy Act; 16 U.S.C. 20 et seq.), as in effect on the day before November 13, 1998, under the terms of a concessions contract entered into before November 13, 1998, shall, upon the expiration or termination of such contract, be entitled to receive compensation for such possessory interest improvements in the amount and manner as described by such concessions contract. Where such a possessory interest is not described in the existing contract, compensation of possessory interest shall be determined in accordance with the laws in effect on the day before November 13, 1998.

(2) In the event such prior concessioner is awarded a new concessions contract after the effective date of this subchapter replacing an existing concessions contract, the existing concessioner shall, instead of directly receiving such possessory interest compensation, have a leasehold surrender interest in its existing possessory interest improvements under the terms of the new contract and shall carry over as the initial value of such leasehold surrender interest (instead of construction cost) an amount equal to the value of the existing possessory interest as

of the termination date of the previous contract. In the event of a dispute between the concessioner and the Secretary as to the value of such possessory interest, the matter shall be resolved through binding arbitration.

(3) In the event that a new concessioner is awarded a concessions contract and is required to pay a prior concessioner for possessory interest in prior improvements, the new concessioner shall have a leasehold surrender interest in such prior improvements and the initial value in such leasehold surrender interest (instead of construction cost), shall be an amount equal to the value of the existing possessory interest as of the termination date of the previous contract.

(c) Transition to successor concessioner

Upon expiration or termination of a concessions contract entered into after the effective date of this subchapter, a concessioner shall be entitled under the terms of the concessions contract to receive from the United States or a successor concessioner the value of any leasehold surrender interest in a capital improvement as of the date of such expiration or termination. A successor concessioner shall have a leasehold surrender interest in such capital improvement under the terms of a new contract and the initial value of the leasehold surrender interest in such capital improvement (instead of construction cost) shall be the amount of money the new concessioner is required to pay the prior concessioner for its leasehold surrender interest under the terms of the prior concessions contract.

(d) Title to improvements

Title to any capital improvement constructed by a concessioner on lands owned by the United States in a unit of the National Park System shall be vested in the United States.

(e) Definitions

For purposes of this section:

(1) Consumer Price Index

The term ''Consumer Price Index'' means the ''Consumer Price Index—All Urban Consumers'' published by the Bureau of Labor Statistics of the Department of Labor, unless such index is not published, in which case another regularly published cost-of-living index approximating the Consumer Price Index shall be utilized by the Secretary; and

(2) Capital improvement

The term ''capital improvement'' means a structure, fixture, or nonremovable equipment provided by a concessioner pursuant to the terms of a concessions contract and located on lands of the United States within a unit of the National Park System.

(f) Special reporting requirement

Not later than 7 years after November 13, 1998, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives containing a complete analysis of the concession program as well as—

(1) an assessment of competition in the solicitation of prospectuses, fair and/or increased return to the Government, and improvement of concession facilities and infrastructure; and

(2) an assessment of any problems with the management and administration of the concession program that are a direct result of the implementation of the provisions of this subchapter.

(Pub. L. 105–391, title IV, § 405, Nov. 13, 1998, 112 Stat. 3508.)

REFERENCES IN TEXT

The National Park Service Concessions Policy Act, referred to in subsec. (b)(1), is Pub. L. 89–249, Oct. 9, 1965, 79 Stat. 969, which was classified generally to subchapter IV (§ 20 et seq.) of chapter 1 of this title prior to repeal by Pub. L. 105–391, title IV, § 415(a), Nov. 13, 1998, 112 Stat. 3515.

The effective date of this subchapter, referred to in subsecs. (b)(2) and (c), probably means the date of enactment of this subchapter, which was approved Nov. 13, 1998.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

DE NOVO REVIEW OF VALUE DETERMINATION DECISIONS BY UNITED STATES COURT OF FEDERAL CLAIMS

Pub. L. 110–161, div. F, title I, Dec. 26, 2007, 121 Stat. 2107, provided in part that: ''For fiscal year 2008 and hereafter, if the Secretary of the Interior, or either party to a value determination proceeding conducted under a National Park Service concession contract issued prior to November 13, 1998, considers that the value determination decision issued pursuant to the proceeding misinterprets or misapplies relevant contractual requirements or their underlying legal authority, the Secretary or either party may seek, within 180 days of any such decision, the de novo review of the value determination decision by the United States Court of Federal Claims. This court may make an order affirming, vacating, modifying or correcting the determination decision.''

§ 5955. Reasonableness of rates

(a) In general

Each concessions contract shall permit the concessioner to set reasonable and appropriate rates and charges for facilities, goods, and services provided to the public, subject to approval under subsection (b) of this section.

(b) Approval by Secretary required

A concessioner's rates and charges to the public shall be subject to approval by the Secretary. The approval process utilized by the Secretary shall be as prompt and as unburdensome to the concessioner as possible and shall rely on market forces to establish reasonableness of rates and charges to the maximum extent practicable. The Secretary shall approve rates and charges that the Secretary determines to be reasonable and appropriate. Unless otherwise provided in the contract, the reasonableness and appropriateness of rates and charges shall be determined primarily by comparison with those rates and charges for facilities, goods, and services of comparable character under similar conditions, with due consideration to the following factors and other factors deemed relevant by the Secretary: length of season, peakloads, average percentage of occupancy, accessibility, availability and costs of labor and materials, and type of patronage. Such rates and charges may not exceed

the market rates and charges for comparable facilities, goods, and services, after taking into account the factors referred to in the preceding sentence.

(c) Implementation of recommendations

Not later than 6 months after receiving recommendations from the Advisory Board established under section 5958(a) of this title regarding concessioner rates and charges to the public, the Secretary shall implement the recommendations or report to the Congress the reasons for not implementing the recommendations.

(Pub. L. 105–391, title IV, § 406, Nov. 13, 1998, 112 Stat. 3510.)

§ 5956. Franchise fees

(a) In general

A concessions contract shall provide for payment to the government of a franchise fee or such other monetary consideration as determined by the Secretary, upon consideration of the probable value to the concessioner of the privileges granted by the particular contract involved. Such probable value shall be based upon a reasonable opportunity for net profit in relation to capital invested and the obligations of the contract. Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving park areas and of providing necessary and appropriate services for visitors at reasonable rates.

(b) Amount of franchise fee

The amount of the franchise fee or other monetary consideration paid to the United States for the term of the concessions contract shall be specified in the concessions contract and may only be modified to reflect extraordinary unanticipated changes from the conditions anticipated as of the effective date of the contract. The Secretary shall include in concessions contracts with a term of more than 5 years a provision which allows reconsideration of the franchise fee at the request of the Secretary or the concessioner in the event of such extraordinary unanticipated changes. Such provision shall provide for binding arbitration in the event that the Secretary and the concessioner are unable to agree upon an adjustment to the franchise fee in these circumstances.

(c) Special account

All franchise fees (and other monetary consideration) paid to the United States pursuant to concessions contracts shall be deposited into a special account established in the Treasury of the United States. Twenty percent of the funds deposited in the special account shall be available for expenditure by the Secretary, without further appropriation, to support activities throughout the National Park System regardless of the unit of the National Park System in which the funds were collected. The funds deposited into the special account shall remain available until expended.

(d) Subaccount for each unit

There shall be established within the special account required under subsection (c) of this section a subaccount for each unit of the National Park System. Each subaccount shall be credited with 80 percent of the franchise fees (and other monetary consideration) collected at a single unit of the National Park System under concessions contracts. The funds credited to the subaccount for a unit of the National Park System shall be available for expenditure by the Secretary, without further appropriation, for use at the unit for visitor services and for purposes of funding high-priority and urgently necessary resource management programs and operations. The funds credited to a subaccount shall remain available until expended.

(Pub. L. 105–391, title IV, § 407, Nov. 13, 1998, 112 Stat. 3511.)

§ 5957. Transfer of concessions contracts

(a) Approval of Secretary

No concessions contract or leasehold surrender interest may be transferred, assigned, sold, or otherwise conveyed or pledged by a concessioner without prior written notification to, and approval by, the Secretary.

(b) Conditions

The Secretary shall approve a transfer or conveyance described in subsection (a) of this section unless the Secretary finds that—

(1) the individual, corporation or entity seeking to acquire a concessions contract is not qualified or able to satisfy the terms and conditions of the concessions contract;

(2) such transfer or conveyance would have an adverse impact on (A) the protection, conservation, or preservation of the resources of the unit of the National Park System or (B) the provision of necessary and appropriate facilities and services to visitors at reasonable rates and charges; and

(3) the terms of such transfer or conveyance are likely, directly or indirectly, to reduce the concessioner's opportunity for a reasonable profit over the remaining term of the contract, adversely affect the quality of facilities and services provided by the concessioner, or result in a need for increased rates and charges to the public to maintain the quality of such facilities and services.

(c) Transfer terms

The terms and conditions of any contract under this section shall not be subject to modification or open to renegotiation by the Secretary because of a transfer or conveyance described in subsection (a) of this section, unless such transfer or conveyance would have an adverse impact as described in paragraph (2) of subsection (b) of this section.

(Pub. L. 105–391, title IV, § 408, Nov. 13, 1998, 112 Stat. 3512.)

§ 5958. National Park Service Concessions Management Advisory Board

(a) Establishment

There is hereby established a National Park Service Concessions Management Advisory Board (in this subchapter referred to as the ''Advisory Board'') whose purpose shall be to advise the Secretary and National Park Service on

matters relating to management of concessions in the National Park System.

(b) Duties

(1) Advice

The Advisory Board shall advise on each of the following:

(A) Policies and procedures intended to assure that services and facilities provided by concessioners are necessary and appropriate, meet acceptable standards at reasonable rates with a minimum of impact on park resources and values, and provide the concessioners with a reasonable opportunity to make a profit.

(B) Ways to make National Park Service concessions programs and procedures more cost effective, more process efficient, less burdensome, and timelier.

(2) Recommendations

The Advisory Board shall make recommendations to the Secretary regarding each of the following:

(A) National Park Service contracting with the private sector to conduct appropriate elements of concessions management and providing recommendations to make more efficient, less burdensome, and timelier the review or approval of concessioner rates and charges to the public.

(B) The nature and scope of products which qualify as Indian, Alaska Native, and Native Hawaiian handicrafts within this[1] meaning of this subchapter.

(C) The allocation of concession fees.

The initial recommendations under subparagraph (A) relating to rates and charges shall be submitted to the Secretary not later than one year after the first meeting of the Board.

(3) Annual report

The Advisory Board, commencing with the first anniversary of its initial meeting, shall provide an annual report on its activities to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(c) Advisory Board membership

Members of the Advisory Board shall be appointed on a staggered basis by the Secretary for a term not to exceed 4 years and shall serve at the pleasure of the Secretary. The Advisory Board shall be comprised of not more than seven individuals appointed from among citizens of the United States not in the employment of the Federal Government and not in the employment of or having an interest in a National Park Service concession. Of the seven members of the Advisory Board—

(1) one member shall be privately employed in the hospitality industry and have both broad knowledge of hotel or food service management and experience in the parks and recreation concessions business;

(2) one member shall be privately employed in the tourism industry;

(3) one member shall be privately employed in the accounting industry;

(4) one member shall be privately employed in the outfitting and guide industry;

(5) one member shall be a State government employee with expertise in park concession management;

(6) one member shall be active in promotion of traditional arts and crafts; and

(7) one member shall be active in a nonprofit conservation organization involved in parks and recreation programs.

(d) Termination

The Advisory Board shall continue to exist until December 31, 2009. In all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.

(e) Service on Advisory Board

Service of an individual as a member of the Advisory Board shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Advisory Board shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5 or other comparable provisions of Federal law.

(Pub. L. 105–391, title IV, § 409, Nov. 13, 1998, 112 Stat. 3512; Pub. L. 111–11, title VII, § 7403, Mar. 30, 2009, 123 Stat. 1219.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (d), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2009—Subsec. (d). Pub. L. 111–11 substituted ''2009'' for ''2008''.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 5959. Contracting for services

(a) Contracting authorized

(1) To the maximum extent practicable, the Secretary shall contract with private entities to conduct or assist in those elements of the management of the National Park Service concessions program considered by the Secretary to be suitable for non-Federal performance. Such management elements include each of the following:

(A) Health and safety inspections.

(B) Quality control of concessions operations and facilities.

(C) Strategic capital planning for concessions facilities.

(D) Analysis of rates and charges to the public.

[1] So in original. Probably should be ''the''.

(2) The Secretary may also contract with private entities to assist the Secretary with each of the following:

(A) Preparation of the financial aspects of prospectuses for National Park Service concessions contracts.

(B) Development of guidelines for a national park system capital improvement and maintenance program for all concession occupied facilities.

(C) Making recommendations to the Director of the National Park Service regarding the conduct of annual audits of concession fee expenditures.

(b) Other management elements

The Secretary shall also consider, taking into account the recommendations of the Advisory Board, contracting out other elements of the concessions management program, as appropriate.

(c) Condition

Nothing in this section shall diminish the governmental responsibilities and authority of the Secretary to administer concessions contracts and activities pursuant to this subchapter and sections 1, 2, 3, and 4 of this title. The Secretary reserves the right to make the final decision or contract approval on contracting services dealing with the management of the National Park Service concessions program under this section.

(Pub. L. 105–391, title IV, § 410, Nov. 13, 1998, 112 Stat. 3514.)

§ 5960. Multiple contracts within park

If multiple concessions contracts are awarded to authorize concessioners to provide the same or similar outfitting, guiding, river running, or other similar services at the same approximate location or resource within a specific national park, the Secretary shall establish a comparable franchise fee structure for all such same or similar contracts, except that the terms and conditions of any existing concessions contract shall not be subject to modification or open to renegotiation by the Secretary because of an award of a new contract at the same approximate location or resource.

(Pub. L. 105–391, title IV, § 411, Nov. 13, 1998, 112 Stat. 3514.)

§ 5961. Special rule for transportation contracting services

(a) In general

Notwithstanding any other provision of law, a service contract entered into by the Secretary for the provision solely of transportation services in a unit of the National Park System shall be no more than 10 years in length, including a base period of 5 years and annual extensions for an additional 5-year period based on satisfactory performance and approval by the Secretary.

(b) Obligation of funds

Notwithstanding any other provision of law, with respect to a service contract for the provision solely of transportation services at Zion National Park, the Secretary may obligate the expenditure of fees received in fiscal year 2002 under section 5981 of this title before the fees are received.

(Pub. L. 105–391, title IV, § 412, Nov. 13, 1998, 112 Stat. 3515; Pub. L. 106–113, div. B, § 1000(a)(3) [title I, § 143], Nov. 29, 1999, 113 Stat. 1535, 1501A–171; Pub. L. 106–291, title I, § 139, Oct. 11, 2000, 114 Stat. 949; Pub. L. 107–63, title I, § 122, Nov. 5, 2001, 115 Stat. 440.)

AMENDMENTS

2001—Subsec. (b). Pub. L. 107–63 substituted ''2002'' for ''2001''.

2000—Subsec. (b). Pub. L. 106–291 substituted ''2001'' for ''2000''.

1999—Pub. L. 106–113 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

§ 5962. Use of nonmonetary consideration in concessions contracts

Section 1302 of title 40, relating to the leasing of buildings and properties of the United States, shall not apply to contracts awarded by the Secretary pursuant to this subchapter.

(Pub. L. 105–391, title IV, § 413, Nov. 13, 1998, 112 Stat. 3515.)

CODIFICATION

''Section 1302 of title 40'' substituted in text for ''Section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 5963. Recordkeeping requirements

(a) In general

Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concessions contract have been and are being faithfully performed, and the Secretary and any duly authorized representative of the Secretary shall, for the purpose of audit and examination, have access to such records and to other books, documents, and papers of the concessioner pertinent to the contract and all terms and conditions thereof.

(b) Access to records

The Comptroller General or any duly authorized representative of the Comptroller General shall, until the expiration of 5 calendar years after the close of the business year of each concessioner or subconcessioner, have access to and the right to examine any pertinent books, papers, documents and records of the concessioner or subconcessioner related to the contract or contracts involved.

(Pub. L. 105–391, title IV, § 414, Nov. 13, 1998, 112 Stat. 3515.)

§ 5964. Promotion of sale of Indian, Alaska Native, Native Samoan, and Native Hawaiian handicrafts

(a) In general

Promoting the sale of authentic United States Indian, Alaskan Native, Native Samoan, and Native Hawaiian handicrafts relating to the cultural, historical, and geographic characteristics of units of the National Park System is encouraged, and the Secretary shall ensure that there

is a continuing effort to enhance the handicraft trade where it exists and establish the trade in appropriate areas where such trade currently does not exist.

(b) Exemption from franchise fee

In furtherance of these purposes, the revenue derived from the sale of United States Indian, Alaska Native, Native Samoan, and Native Hawaiian handicrafts shall be exempt from any franchise fee payments under this subchapter.

(Pub. L. 105–391, title IV, § 416, Nov. 13, 1998, 112 Stat. 3516.)

§ 5965. Regulations

As soon as practicable after the effective date of this subchapter, the Secretary shall promulgate regulations appropriate for its implementation. Among other matters, such regulations shall include appropriate provisions to ensure that concession services and facilities to be provided in a unit of the National Park System are not segmented or otherwise split into separate concessions contracts for the purposes of seeking to reduce anticipated annual gross receipts of a concessions contract below $500,000. The Secretary shall also promulgate regulations which further define the term ''United States Indian, Alaskan Native, and Native Hawaiian handicrafts'' for the purposes of this subchapter.

(Pub. L. 105–391, title IV, § 417, Nov. 13, 1998, 112 Stat. 3516.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in text, probably means the date of enactment of this subchapter, which was approved Nov. 13, 1998.

§ 5966. Commercial use authorizations

(a) In general

To the extent specified in this section, the Secretary, upon request, may authorize a private person, corporation, or other entity to provide services to visitors to units of the National Park System through a commercial use authorization. Such authorizations shall not be considered as concessions contracts pursuant to this subchapter nor shall other sections of this subchapter be applicable to such authorizations except where expressly so stated.

(b) Criteria for issuance of authorizations

(1) Required determinations

The authority of this section may be used only to authorize provision of services that the Secretary determines will have minimal impact on resources and values of the unit of the National Park System and are consistent with the purpose for which the unit was established and with all applicable management plans and park policies and regulations.

(2) Elements of authorization

The Secretary shall—

(A) require payment of a reasonable fee for issuance of an authorization under this section, such fees to remain available without further appropriation to be used, at a minimum, to recover associated management and administrative costs;

(B) require that the provision of services under such an authorization be accomplished in a manner consistent to the highest practicable degree with the preservation and conservation of park resources and values;

(C) take appropriate steps to limit the liability of the United States arising from the provision of services under such an authorization; and

(D) have no authority under this section to issue more authorizations than are consistent with the preservation and proper management of park resources and values, and shall establish such other conditions for issuance of such an authorization as the Secretary determines appropriate for the protection of visitors, provision of adequate and appropriate visitor services, and protection and proper management of the resources and values of the park.

(c) Limitations

Any authorization issued under this section shall be limited to—

(1) commercial operations with annual gross receipts of not more than $25,000 resulting from services originating and provided solely within a unit of the National Park System pursuant to such authorization;

(2) the incidental use of resources of the unit by commercial operations which provide services originating and terminating outside of the boundaries of the unit; or

(3) such uses by organized children's camps, outdoor clubs and nonprofit institutions (including back country use) and such other uses as the Secretary determines appropriate.

Nonprofit institutions are not required to obtain commercial use authorizations unless taxable income is derived by the institution from the authorized use.

(d) Prohibition on construction

An authorization issued under this section shall not provide for the construction of any structure, fixture, or improvement on federally-owned lands within the boundaries of a unit of the National Park System.

(e) Duration

The term of any authorization issued under this section shall not exceed 2 years. No preferential right of renewal or similar provisions for renewal shall be granted by the Secretary.

(f) Other contracts

A person, corporation, or other entity seeking or obtaining an authorization pursuant to this section shall not be precluded from also submitting proposals for concessions contracts.

(Pub. L. 105–391, title IV, § 418, Nov. 13, 1998, 112 Stat. 3516.)

SUBCHAPTER IV—FEES FOR USE OF NATIONAL PARK SYSTEM

§ 5981. Fees

Notwithstanding any other provision of law, where the National Park Service or an entity under a service contract, cooperative agree-

ment, or other contractual arrangement with the National Park Service provides transportation to all or a portion of any unit of the National Park System, the Secretary may impose a reasonable and appropriate charge to the public for the use of such transportation services in addition to any admission fee required to be paid. Collection of both the transportation and admission fees may occur at the transportation staging area or any other reasonably convenient location determined by the Secretary. The Secretary may enter into agreements with public or private entities, who qualify to the Secretary's satisfaction, to collect the transportation and admission fee. Such transportation fees collected as per this section shall be retained by the unit of the National Park System at which the transportation fee was collected and the amount retained shall be expended only for costs associated with the transportation systems at the unit where the charge was imposed.

(Pub. L. 105–391, title V, § 501, Nov. 13, 1998, 112 Stat. 3518; Pub. L. 109–131, title I, § 102(b), Dec. 20, 2005, 119 Stat. 2568.)

AMENDMENTS

2005—Pub. L. 109–131 substituted ''service contract, cooperative agreement, or other contractual arrangement'' for ''service contract'' in first sentence.

§ 5982. Repealed. Pub. L. 108–447, div. J, title VIII, § 813(d)(1), Dec. 8, 2004, 118 Stat. 3391

Section, Pub. L. 105–391, title V, § 502, Nov. 13, 1998, 112 Stat. 3518, related to agreement by Secretaries of the Interior and Agriculture on apportionment of Golden Eagle Passport sales.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 19, 2006, see section 6812(d) of this title.

SUBCHAPTER V—NATIONAL PARK PASSPORT PROGRAM

§§ 5991 to 5995. Repealed. Pub. L. 108–447, div. J, title VIII, § 813(d)(2), Dec. 8, 2004, 118 Stat. 3391

Section 5991, Pub. L. 105–391, title VI, § 601, Nov. 13, 1998, 112 Stat. 3518, related to purposes of this subchapter.

Section 5992, Pub. L. 105–391, title VI, § 602, Nov. 13, 1998, 112 Stat. 3519, related to establishment of the national park passport program.

Section 5993, Pub. L. 105–391, title VI, § 603, Nov. 13, 1998, 112 Stat. 3519; Pub. L. 106–113, div. B, § 1000(a)(3) [title I, § 145], Nov. 29, 1999, 113 Stat. 1535, 1501A–171; Pub. L. 106–176, title III, § 306, Mar. 10, 2000, 114 Stat. 33, related to administration of the national park passport program.

Section 5994, Pub. L. 105–391, title VI, § 604, Nov. 13, 1998, 112 Stat. 3519, related to foreign sales of Golden Eagle Passports.

Section 5995, Pub. L. 105–391, title VI, § 605, Nov. 13, 1998, 112 Stat. 3520, related to effect of the national park passport on other laws and programs.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 19, 2006, see section 6812(d) of this title.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

§ 6011. United States Park Police

(a) Appointment of task force

Not later than 60 days after November 13, 1998, the Secretary shall appoint a multidisciplinary task force to fully evaluate the shortfalls, needs, and requirements of law enforcement programs in the National Park Service, including a separate analysis for the United States Park Police, which shall include a review of facility repair, rehabilitation, equipment, and communication needs.

(b) Submission of report

Not later than one year after November 13, 1998, the Secretary shall submit to the Committees on Energy and Natural Resources and Appropriations of the United States Senate and the Committees on Resources and Appropriations of the United States House of Representatives a report that includes—

(1) the findings and recommendations of the task force;

(2) complete justifications for any recommendations made; and

(3) a complete description of any adverse impacts that would occur if any need identified in the report is not met.

(Pub. L. 105–391, title VIII, § 801, Nov. 13, 1998, 112 Stat. 3521.)

CHAPTER 80—NEOTROPICAL MIGRATORY BIRD CONSERVATION

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§ 6101. Findings

Congress finds that—

(1) of the nearly 800 bird species known to occur in the United States, approximately 500 migrate among countries, and the large majority of those species, the neotropical migrants, winter in Latin America and the Caribbean but breed in Canada and the United States;

(2) neotropical migratory bird species provide invaluable environmental, economic, recreational, and aesthetic benefits to the United States, as well as to the Western Hemisphere;

(3)(A) many neotropical migratory bird populations, once considered common, are in decline, and some have declined to the point that their long-term survival in the wild is in jeopardy; and

(B) the primary reason for the decline in the populations of those species is habitat loss and degradation (including pollution and contamination) across the species' range; and

(4)(A) because neotropical migratory birds range across numerous international borders each year, their conservation requires the

commitment and effort of all countries along their migration routes; and

(B) although numerous initiatives exist to conserve migratory birds and their habitat, those initiatives can be significantly strengthened and enhanced by increased coordination.

(Pub. L. 106–247, § 2, July 20, 2000, 114 Stat. 593; Pub. L. 109–363, title III, § 302(a), Oct. 17, 2006, 120 Stat. 2075.)

AMENDMENTS

2006—Par. (1). Pub. L. 109–363 inserted ''but breed in Canada and the United States'' after ''the Caribbean''.

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–363, title III, § 301, Oct. 17, 2006, 120 Stat. 2075, provided that: ''This title [amending this section and sections 6102 to 6104 and 6106 to 6109 of this title and enacting provisions set out as notes under sections 6106 and 6108 of this title] may be cited as the 'Neotropical Migratory Bird Conservation Improvement Act of 2006'.''

SHORT TITLE

Pub. L. 106–247, § 1, July 20, 2000, 114 Stat. 593, provided that: ''This Act [enacting this chapter] may be cited as the 'Neotropical Migratory Bird Conservation Act'.''

§ 6102. Purposes

The purposes of this chapter are—

(1) to perpetuate healthy populations of neotropical migratory birds;

(2) to assist in the conservation of neotropical migratory birds by supporting conservation initiatives in the United States, Canada, Latin America, and the Caribbean; and

(3) to provide financial resources and to foster international cooperation for those initiatives.

(Pub. L. 106–247, § 3, July 20, 2000, 114 Stat. 593; Pub. L. 109–363, title III, § 302(b), Oct. 17, 2006, 120 Stat. 2075.)

AMENDMENTS

2006—Par. (2). Pub. L. 109–363 inserted ''Canada,'' after ''United States,''.

§ 6103. Definitions

In this chapter:

(1) Fund

The term ''Fund'' means the Neotropical Migratory Bird Conservation Fund established by section 6108(a) of this title.[1]

(2) Caribbean

The term ''Caribbean'' includes Puerto Rico and the United States Virgin Islands.

(3) Conservation

The term ''conservation'' means the use of methods and procedures necessary to bring a species of neotropical migratory bird to the point at which there are sufficient populations in the wild to ensure the long-term viability of the species, including—

(A) protection and management of neotropical migratory bird populations;

(B) maintenance, management, protection, and restoration of neotropical migratory bird habitat;

(C) research and monitoring;

(D) law enforcement; and

(E) community outreach and education.

(4) Fund

The term ''Fund'' means the Neotropical Migratory Bird Conservation Fund established by section 6108(a) of this title.[1]

(5) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 106–247, § 4, July 20, 2000, 114 Stat. 593; Pub. L. 109–363, title III, § 302(c), (h)(3)(A), Oct. 17, 2006, 120 Stat. 2075, 2076.)

AMENDMENTS

2006—Par. (1). Pub. L. 109–363, § 302(h)(3)(A), added par. (1) and struck out former par. (1). Text read as follows: ''The term 'Account' means the Neotropical Migratory Bird Conservation Account established by section 6108(a) of this title.''

Pars. (2) to (5). Pub. L. 109–363, § 302(c), added pars. (2) and (4) and redesignated former pars. (2) and (3) as (3) and (5), respectively.

§ 6104. Financial assistance

(a) In general

The Secretary shall establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds.

(b) Project applicants

A project proposal may be submitted by—

(1) an individual, corporation, partnership, trust, association, or other private entity;

(2) an officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government;

(3) a State, municipality, or political subdivision of a State;

(4) any other entity subject to the jurisdiction of the United States or of any foreign country; and

(5) an international organization (as defined in section 288 of title 22).

(c) Project proposals

To be considered for financial assistance for a project under this chapter, an applicant shall submit a project proposal that—

(1) includes—

(A) the name of the individual responsible for the project;

(B) a succinct statement of the purposes of the project;

(C) a description of the qualifications of individuals conducting the project; and

(D) an estimate of the funds and time necessary to complete the project, including sources and amounts of matching funds;

(2) demonstrates that the project will enhance the conservation of neotropical migratory bird species in the United States, Canada, Latin America, or the Caribbean;

(3) includes mechanisms to ensure adequate local public participation in project development and implementation;

[1] So in original. Pars. (1) and (4) have identical text.

(4) contains assurances that the project will be implemented in consultation with relevant wildlife management authorities and other appropriate government officials with jurisdiction over the resources addressed by the project;

(5) demonstrates sensitivity to local historic and cultural resources and complies with applicable laws;

(6) describes how the project will promote sustainable, effective, long-term programs to conserve neotropical migratory birds; and

(7) provides any other information that the Secretary considers to be necessary for evaluating the proposal.

(d) Project reporting

Each recipient of assistance for a project under this chapter shall submit to the Secretary such periodic reports as the Secretary considers to be necessary. Each report shall include all information required by the Secretary for evaluating the progress and outcome of the project.

(e) Cost sharing

(1) Federal share

The Federal share of the cost of each project shall be not greater than 25 percent.

(2) Non-Federal share

(A) Source

The non-Federal share required to be paid for a project shall not be derived from any Federal grant program.

(B) Form of payment

(i) Projects in the United States and Canada

The non-Federal share required to be paid for a project carried out in the United States or Canada shall be paid in cash.

(ii) Projects in Latin America and the Caribbean

The non-Federal share required to be paid for a project carried out in Latin America or the Caribbean may be paid in cash or in kind.

(Pub. L. 106–247, § 5, July 20, 2000, 114 Stat. 594; Pub. L. 109–363, title III, § 302(d), (e), Oct. 17, 2006, 120 Stat. 2076.)

AMENDMENTS

2006—Subsec. (c)(2). Pub. L. 109–363, § 302(d), inserted ''Canada,'' after ''United States,''.

Subsec. (e)(2)(B). Pub. L. 109–363, § 302(e), amended subpar. (B) generally. Prior to amendment, text read as follows:

''(i) PROJECTS IN THE UNITED STATES.—The non-Federal share required to be paid for a project carried out in the United States shall be paid in cash.

''(ii) PROJECTS IN FOREIGN COUNTRIES.—The non-Federal share required to be paid for a project carried out in a foreign country may be paid in cash or in kind.''

§ 6105. Duties of the Secretary

In carrying out this chapter, the Secretary shall—

(1) develop guidelines for the solicitation of proposals for projects eligible for financial assistance under section 6104 of this title;

(2) encourage submission of proposals for projects eligible for financial assistance under section 6104 of this title, particularly proposals from relevant wildlife management authorities;

(3) select proposals for financial assistance that satisfy the requirements of section 6104 of this title, giving preference to proposals that address conservation needs not adequately addressed by existing efforts and that are supported by relevant wildlife management authorities; and

(4) generally implement this chapter in accordance with its purposes.

(Pub. L. 106–247, § 6, July 20, 2000, 114 Stat. 595.)

§ 6106. Cooperation

(a) In general

In carrying out this chapter, the Secretary shall—

(1) support and coordinate existing efforts to conserve neotropical migratory bird species, through—

(A) facilitating meetings among persons involved in such efforts;

(B) promoting the exchange of information among such persons;

(C) developing and entering into agreements with other Federal agencies, foreign, State, and local governmental agencies, and nongovernmental organizations; and

(D) conducting such other activities as the Secretary considers to be appropriate; and

(2) coordinate activities and projects under this chapter with existing efforts in order to enhance conservation of neotropical migratory bird species.

(b) Advisory group

(1) In general

To assist in carrying out this chapter, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of neotropical migratory birds. The advisory group as a whole shall have expertise in the methods and procedures set forth in section 6103(2) of this title in each country and region of the Western Hemisphere[1]

(2) Public participation

(A) Meetings

The advisory group shall—

(i) ensure that each meeting of the advisory group is open to the public; and

(ii) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(B) Notice

The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(C) Minutes

Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

[1] So in original. Probably should be followed by a period.

(3) Exemption from Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

(Pub. L. 106–247, § 7, July 20, 2000, 114 Stat. 595; Pub. L. 109–363, title III, § 302(f)(1), Oct. 17, 2006, 120 Stat. 2076.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(3), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2006—Subsec. (b)(1). Pub. L. 109–363 inserted at end ''The advisory group as a whole shall have expertise in the methods and procedures set forth in section 6103(2) of this title in each country and region of the Western Hemisphere''.

ENCOURAGEMENT TO CONVENE

Pub. L. 109–363, title III, § 302(f)(2), Oct. 17, 2006, 120 Stat. 2076, provided that: ''The Secretary of the Interior is encouraged to convene an advisory group under section 7(b)(1) of such Act [Pub. L. 106–247, subsec. (b)(1) of this section] by not later than 6 months after the effective date of this Act [Oct. 17, 2006]. This paragraph shall not be considered to authorize delay of the schedule previously established by the United States Fish and Wildlife Service for the submission, judging, and awarding of grants.''

§ 6107. Report to Congress

Not later than 2 years after October 17, 2006, the Secretary shall submit to Congress a report on the results and effectiveness of the program carried out under this chapter, including recommendations concerning how the chapter might be improved and whether the program should be continued.

(Pub. L. 106–247, § 8, July 20, 2000, 114 Stat. 596; Pub. L. 109–363, title III, § 302(g), Oct. 17, 2006, 120 Stat. 2076.)

AMENDMENTS

2006—Pub. L. 109–363 substituted ''2 years after October 17, 2006,'' for ''October 1, 2002,''.

§ 6108. Neotropical Migratory Bird Conservation Fund

(a) Establishment

There is established in the Treasury a separate account, which shall be known as the ''Neotropical Migratory Bird Conservation Fund''. The Fund shall consist of amounts deposited into the Fund by the Secretary of the Treasury under subsection (b).

(b) Deposits into the Fund

The Secretary of the Treasury shall deposit into the Fund—

(1) all amounts received by the Secretary in the form of donations under subsection (d); and

(2) other amounts appropriated to the Fund.

(c) Use

(1) In general

Subject to paragraph (2), the Secretary may use amounts in the Account,[1] without further Act of appropriation, to carry out this chapter.

(2) Administrative expenses

Of amounts in the Account[1] available for each fiscal year, the Secretary may expend not more than 3 percent or up to $100,000, whichever is greater, to pay the administrative expenses necessary to carry out this chapter.

(d) Acceptance and use of donations

The Secretary may accept and use donations to carry out this chapter. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Fund.

(Pub. L. 106–247, § 9, July 20, 2000, 114 Stat. 596; Pub. L. 109–363, title III, § 302(h)(1), (2), (3)(B), Oct. 17, 2006, 120 Stat. 2076, 2077.)

AMENDMENTS

2006—Pub. L. 109–363, § 302(h)(1), substituted ''Neotropical Migratory Bird Conservation Fund'' for ''Neotropical Migratory Bird Conservation Account'' in section catchline.

Subsecs. (a), (b). Pub. L. 109–363, § 302(h)(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which related to the establishment of and deposits into the Neotropical Migratory Bird Conservation Account.

Subsec. (c)(2). Pub. L. 109–363, § 302(h)(2), substituted ''$100,000'' for ''$80,000''.

Subsec. (d). Pub. L. 109–363, § 302(h)(3)(B), substituted ''Fund'' for ''Account''.

TRANSFER OF FUNDS

Pub. L. 109–363, title III, § 302(h)(4), Oct. 17, 2006, 120 Stat. 2077, provided that: ''The Secretary of the Treasury may transfer to the Neotropical Migratory Bird Conservation Fund amounts that were in the Neotropical Migratory Bird Conservation Account immediately before the enactment of this Act [Oct. 17, 2006].''

§ 6109. Authorization of appropriations

(a) In general

There is authorized to be appropriated to the Account[1] to carry out this chapter for each of fiscal years 2006 through 2010 the amount specified for that fiscal year in subsection (b), to remain available until expended, of which not less than 75 percent of the amounts made available for each fiscal year shall be expended for projects carried out outside the United States.

(b) Authorized amount

The amount referred to in subsection (a) is—

(1) $5,000,000 for each of fiscal years 2006 and 2007;

(2) $5,500,000 for fiscal year 2008;

(3) $6,000,000 for fiscal year 2009; and

(4) $6,500,000 for fiscal year 2010.

(c) Availability

Amounts appropriated under this section may remain available until expended.

(d) Allocation

Of amounts appropriated under this section for each fiscal year, not less than 75 percent shall be expended for projects carried out outside the United States.

[1] So in original. Probably should be ''Fund''.

[1] So in original. Probably should be ''Fund''.

(Pub. L. 106–247, § 10, July 20, 2000, 114 Stat. 597; Pub. L. 109–363, title III, § 302(i), Oct. 17, 2006, 120 Stat. 2077.)

AMENDMENTS

2006—Pub. L. 109–363 designated existing provisions as subsec. (a), inserted heading, substituted ''for each of fiscal years 2006 through 2010 the amount specified for that fiscal year in subsection (b)'' for ''$5,000,000 for each of fiscal years 2001 through 2005'', and added subsecs. (b) to (d).

CHAPTER 81—USER FEES UNDER FOREST SYSTEM RECREATION RESIDENCE PROGRAM

Sec.
6201. Findings.
6202. Purposes.
6203. Definitions.
6204. Administration of recreation residence program.
6205. Appraisals.
6206. Cabin user fees.
6207. Annual adjustment of cabin user fee.
6208. Payment of cabin user fees.
6209. Right of second appraisal.
6210. Right of appeal and judicial review.
6211. Consistency with other law and rights.
6212. Regulations.
6213. Transition provisions.

§ 6201. Findings

Congress finds that—

(1) cabins located on forest land have provided a unique recreation experience to a large number of cabin owners, their families, and guests each year since Congress authorized the recreation residence program in 1915; and

(2) the fact that current appraisal procedures have, in certain circumstances, been inconsistently applied in determining fair market values for residential lots demonstrates that problems exist in accurately reflecting market values.

(Pub. L. 106–291, title VI, § 602, Oct. 11, 2000, 114 Stat. 1014.)

SHORT TITLE

Pub. L. 106–291, title VI, § 601, Oct. 11, 2000, 114 Stat. 1014, provided that: ''This title [enacting this chapter] may be cited as the 'Cabin User Fee Fairness Act of 2000'.''

§ 6202. Purposes

The purposes of this chapter are—

(1) to ensure, to the maximum extent practicable, that the National Forest System recreation residence program is managed to preserve the opportunity for individual and family-oriented recreation; and

(2) to develop and implement a more consistent procedure for determining cabin user fees, taking into consideration the limitations of an authorization and other relevant market factors.

(Pub. L. 106–291, title VI, § 603, Oct. 11, 2000, 114 Stat. 1014.)

§ 6203. Definitions

In this chapter:

(1) Agency

The term ''agency'' means the Forest Service.

(2) Authorization

The term ''authorization'' means a special use permit for the use and occupancy of National Forest System land by a cabin owner under the authority of the program.

(3) Base cabin user fee

The term ''base cabin user fee'' means the fee for an authorization that results from the appraisal of a lot as determined in accordance with sections 6205 and 6206 of this title.

(4) Cabin

The term ''cabin'' means a privately built and owned recreation residence that is authorized for use and occupancy on National Forest System land.

(5) Cabin owner

The term ''cabin owner'' means—

(A) a person authorized by the agency to use and to occupy a cabin on National Forest System land; and

(B) an heir or assign of such a person.

(6) Cabin user fee

The term ''cabin user fee'' means a special use fee paid annually by a cabin owner to the Secretary in accordance with this chapter.

(7) Caretaker cabin

The term ''caretaker cabin'' means a caretaker residence occupied in limited cases in which caretaker services are necessary to maintain the security of a tract.

(8) Current cabin user fee

The term ''current cabin user fee'' means the most recent cabin user fee that results from an annual adjustment to the base cabin user fee in accordance with section 6207 of this title.

(9) Lot

The term ''lot'' means a parcel of land in the National Forest System—

(A) on which a cabin owner is authorized to build, use, occupy, and maintain a cabin and related improvements; and

(B) that is considered to be in its natural, native state at the time at which a use of the lot described in subparagraph (A) is first permitted by the Secretary.

(10) Natural, native state

The term ''natural, native state'' means the condition of a lot or site, free of any improvements, at the time at which the lot or site is first authorized for recreation residence use by the agency.

(11) Program

The term ''program'' means the recreation residence program established under the authority of section 497 of this title.

(12) Secretary

The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(13) Tract

The term ''tract'' means an established location within a National Forest containing 1 or

more cabins authorized in accordance with the program.

(14) Tract association

The term ''tract association'' means a cabin owner association in which all cabin owners within a tract are eligible for membership.

(15) Typical lot

The term ''typical lot'' means a cabin lot, or a group of cabin lots, in a tract that is selected for use in an appraisal as being representative of, and that has similar value characteristics as, other lots or groups of lots within the tract.

(Pub. L. 106–291, title VI, § 604, Oct. 11, 2000, 114 Stat. 1014.)

§ 6204. Administration of recreation residence program

The Secretary shall ensure, to the maximum extent practicable, that the basis and procedure for calculating cabin user fees results in a fee for an authorization that reflects, in accordance with this chapter—

(1) the market value of a lot; and

(2) regional and local economic influences.

(Pub. L. 106–291, title VI, § 605, Oct. 11, 2000, 114 Stat. 1015.)

§ 6205. Appraisals

(a) Requirements for conducting appraisals

In implementing and conducting an appraisal process for determining cabin user fees, the Secretary shall—

(1) complete an inventory of improvements that were paid for by—

(A) the agency;

(B) third parties; or

(C) cabin owners (or predecessors of cabin owners),

during the completion of which the Secretary shall presume that a cabin owner, or a predecessor of the owner, has paid for the capital costs of any utility, access, or facility serving the lot being appraised, unless the Forest Service produces evidence that the agency or a third party has paid for the capital costs;

(2) establish an appraisal process to determine the market value of the fee simple estate of a typical lot or lots considered to be in a natural, native state, subject to subsection (b)(4)(A) of this section;

(3) enter into a contract with an appropriate professional appraisal organization to manage the development of specific appraisal guidelines in accordance with subsection (b) of this section, subject to public comment and congressional review;

(4) require that an appraisal be performed by a State-certified general real estate appraiser, selected by the Secretary and licensed to practice in the State in which the lot is located;

(5) provide the appraiser with appraisal guidelines developed in accordance with this chapter;

(6) notwithstanding any other provision of law, require the appraiser to coordinate the appraisal closely with affected parties by seeking information, cooperation, and advice from cabin owners and tract associations;

(7) require that the appraiser perform the appraisal in compliance with—

(A) the most current edition of the Uniform Standards of Professional Appraisal Practice in effect on the date of the appraisal;

(B) the most current edition of the Uniform Appraisal Standards for Federal Land Acquisitions that is in effect on the date of the appraisal; and

(C) the specific appraisal guidelines developed in accordance with this chapter;

(8) require that the appraisal report—

(A) be a full narrative report, in compliance with the reporting standards of the Uniform Standards of Professional Appraisal Practice; and

(B) comply with the reporting guidelines established by the Uniform Appraisal Standards for Federal Land Acquisitions; and

(9) before accepting any appraisal, conduct a review of the appraisal to ensure that the guidelines made available to the appraiser have been followed and that the appraised values are properly supported.

(b) Specific appraisal guidelines

In the development of specific appraisal guidelines in accordance with subsection (a)(3) of this section, the instructions to an appraiser shall require, at a minimum, the following:

(1) Appraisal of a typical lot

(A) In general

In conducting an appraisal under this section, the appraiser—

(i) shall not appraise each individual lot;

(ii) shall appraise a typical lot or lots, selected by the cabin owners and the agency in a manner consistent with the policy of the program; and

(iii) shall be provided, and give appropriate consideration to, any information contained in the inventory of improvements relating to the lot being appraised.

(B) Estimate of market value of typical lot

(i) In general

The appraiser shall estimate the market value of a typical lot in accordance with this chapter.

(ii) Equivalence to legally subdivided lot

In selecting a comparable sale under this chapter, the appraiser shall recognize that the typical lot will not usually be equivalent to a legally subdivided lot.

(2) Exception for certain sales of land

In conducting an appraisal under this chapter, the appraiser—

(A) shall not select sales of comparable land that are sales of land within developed urban areas; and

(B) should not, in most circumstances, select a sale of comparable land that includes land that is encumbered by a conservation or recreational easement that is held by a government or institution, except land that is limited to use as a site for 1 home.

(3) Adjustments for typical value influences

(A) In general

The appraiser shall consider, and adjust as appropriate, the price of sales of comparable land for all typical value influences described in subparagraph (B).

(B) Value influences

The typical value influences referred to in subparagraph (A) include—

(i) differences in the locations of the parcels;

(ii) accessibility, including limitations on access attributable to—

(I) weather;

(II) the condition of roads or trails;

(III) restrictions imposed by the agency; or

(IV) other factors;

(iii) the presence of marketable timber;

(iv) limitations on, or the absence of, services such as law enforcement, fire control, road maintenance, or snow plowing;

(v) the condition and regulatory compliance of any site improvements; and

(vi) any other typical value influences described in standard appraisal literature.

(4) Adjustments to sales of comparable parcels

(A) Utilities, access, or facilities

(i) Agency

Utilities, access, or facilities serving a lot that are provided by the agency shall be included as features of the lot being appraised.

(ii) Cabin owners

Utilities, access, or facilities serving a lot that are provided by the cabin owner (or a predecessor of the cabin owner) shall not be included as a feature of the lot being appraised.

(iii) Third parties

Utilities, access, or facilities serving a lot that are provided by a third party shall not be included as a feature of the lot being appraised unless, in accordance with subsection (a)(1) of this section, the agency determines that the capital costs have not been or are not being paid by the cabin owner (or a predecessor of the cabin owner).

(iv) Withdrawal of utility or access by agency

If, during the term of an authorization, the agency or an act of God creates a substantial and materially adverse change in—

(I) the provision or maintenance of any utility or access; or

(II) a qualitative feature of the lot or immediate surroundings,

the cabin owner shall have the right to request, and, at the discretion of the Secretary, obtain a new determination of the base cabin user fee at the expense of the agency.

(B) Adjustment for exclusion

In a case in which any comparable sale includes utilities, access, or facilities that are to be excluded in the appraisal of the subject lot, the price of the comparable sale shall be adjusted, as appropriate.

(C) Adjustment process

(i) In general

The appraiser shall consider and adjust, as appropriate, the price of each sale of a comparable parcel for all nonnatural features referred to in subparagraph (A)(ii) that—

(I)(aa) are present at, or add value to, the comparable parcel; but

(bb) are not present at the lot being appraised; or

(II) are not included in the appraisal as described in subparagraph (A).

(ii) Adjustments

(I) In general

In a case in which the price of a parcel sold is to be adjusted in accordance with subparagraph (B), the adjustment may be based on an analysis of market or cost information or both.

(II) Cost information

If cost information is used as the basis of an adjustment under subclause (I), the cost information shall be supported by direct market evidence.

(iii) Analysis of cost information

An analysis of cost information under clause (ii)(I) should include allowances, as appropriate, if the allowances are consistent with—

(I) the Uniform Standards of Professional Appraisal Practice in effect on the date of the analysis; and

(II) the Uniform Appraisal Standards for Federal Land Acquisition.

(D) Reappraisal for and recalculation of base cabin user fee

Periodically, but not less often than once every 10 years, the Secretary shall recalculate the base cabin user fee (including conducting any reappraisal required to recalculate the base cabin user fee).

(Pub. L. 106–291, title VI, § 606, Oct. 11, 2000, 114 Stat. 1015.)

§ 6206. Cabin user fees

(a) In general

The Secretary shall establish the cabin user fee as the amount that is equal to 5 percent of the market value of the lot, as determined in accordance with section 6205 of this title, reflecting an adjustment to the typical market rate of return due to restrictions imposed by the permit, including—

(1) the limited term of the authorization;

(2) the absence of significant property rights normally attached to fee simple ownership; and

(3) the public right of access to, and use of, any open portion of the lot on which the cabin or other enclosed improvements are not located.

(b) Fee for caretaker cabin

The base cabin user fee for a lot on which a caretaker cabin is located shall not be greater

than the base cabin user fee charged for the authorized use of a similar typical lot in the tract.

(c) Annual cabin user fee in the event of determination not to reissue authorization

If the Secretary determines that an authorization should not be reissued at the end of a term, the Secretary shall—

(1) establish as the new base cabin user fee for the remaining term of the authorization the amount charged as the cabin user fee in the year that was 10 years before the year in which the authorization expires; and

(2) calculate the current cabin user fee for each of the remaining 9 years of the term of the authorization by multiplying—

(A) 1/10 of the new base cabin user fee; by

(B) the number of years remaining in the term of the authorization after the year for which the cabin user fee is being calculated.

(d) Annual cabin user fee in event of changed conditions

If a review of a decision to convert a lot to an alternative public use indicates that the continuation of the authorization for use and occupancy of the cabin by the cabin owner is warranted, and the decision is subsequently reversed, the Secretary may require the cabin owner to pay any portion of annual cabin user fees that were forgone as a result of the expectation of termination of use and occupancy of the cabin by the cabin owner.

(e) Termination of fee obligation in loss resulting from acts of God or catastrophic events

On a determination by the agency that, because of an act of God or a catastrophic event, a lot cannot be safely occupied and the authorization for the lot should accordingly be terminated, the fee obligation of the cabin owner shall terminate effective on the date of the occurrence of the act or event.

(Pub. L. 106–291, title VI, § 607, Oct. 11, 2000, 114 Stat. 1018.)

§ 6207. Annual adjustment of cabin user fee

(a) In general

The Secretary shall adjust the cabin user fee annually, using a rolling 5-year average of a published price index in accordance with subsection (b) or (c) of this section that reports changes in rural or similar land values in the State, county, or market area in which the lot is located.

(b) Initial index

(1) In general

For the period of 10 years beginning on October 11, 2000, the Secretary shall use changes in agricultural land prices in the appropriate State or county, as reported in the Index of Agricultural Land Prices published by the Department of Agriculture, to determine the annual adjustment to the cabin user fee in accordance with subsections (a) and (d) of this section.

(2) Statewide changes

In determining the annual adjustment to the cabin user fee for an authorization located in a county in which agricultural land prices are influenced by the criteria described in section 6205(b)(2) of this title, the Secretary shall use average statewide changes in the State in which the lot is located.

(c) New index

(1) In general

Not later than 10 years after October 11, 2000, the Secretary may select and use an index other than the method of adjustment of a cabin user fee described in subsection (b)(2) of this section to adjust a cabin user fee if the Secretary determines that a different index better reflects change in the value of a lot over time.

(2) Selection process

Before selecting a new index, the Secretary shall—

(A) solicit and consider comments from the public; and

(B) not later than 60 days before the date on which the Secretary makes a final index selection, submit any proposed selection of a new index to—

(i) the Committee on Resources of the House of Representatives; and

(ii) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) Limitation

In calculating an annual adjustment to the base cabin user fee as determined by the initial index described in section[1] (b) of this section, the Secretary shall—

(1) limit any annual fee adjustment to an amount that is not more than 5 percent per year when the change in agricultural land values exceeds 5 percent in any 1 year; and

(2) apply the amount of any adjustment that exceeds 5 percent to the annual fee payment for the next year in which the change in the index factor is less than 5 percent.

(Pub. L. 106–291, title VI, § 608, Oct. 11, 2000, 114 Stat. 1019; Pub. L. 108–7, div. F, title III, § 324, Feb. 20, 2003, 117 Stat. 275.)

AMENDMENTS

2003—Subsec. (b)(2). Pub. L. 108–7 substituted ''criteria'' for ''value influences'' and ''section 6205(b)(2)'' for ''section 6205(b)(3)''.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 6208. Payment of cabin user fees

(a) Due date for payment of fees

A cabin user fee shall be prepaid annually by the cabin owner.

(b) Payment of equal or lesser fee

If, in accordance with section 6206 of this title, the Secretary determines that the amount of a new base cabin user fee is equal to or less than the amount of the current base cabin user fee, the Secretary shall require payment of the new

[1] So in original. Probably should be ''subsection''.

base cabin user fee by the cabin owner in accordance with subsection (a) of this section.

(c) Payment of greater fee

If, in accordance with section 6206 of this title, the Secretary determines that the amount of a new base cabin user fee is greater than the amount of the current base cabin user fee, the Secretary shall—

(1) require full payment of the new base cabin user fee in the first year following completion of the fee determination procedure if the increase in the amount of the new base cabin user fee is not more than 100 percent of the current base cabin user fee; or

(2) phase in the increase over the current base cabin user fee in approximately equal increments over 3 years if the increase in the amount of the new base cabin user fee is more than 100 percent of the current base cabin user fee.

(Pub. L. 106–291, title VI, § 609, Oct. 11, 2000, 114 Stat. 1020.)

§ 6209. Right of second appraisal

(a) Right of second appraisal

On receipt of notice from the Secretary of the determination of a new base cabin user fee, the cabin owner—

(1) not later than 60 days after the date on which the notice is received, may notify the Secretary of the intent of the cabin owner to obtain a second appraisal; and

(2) may obtain, within 1 year following the date of receipt of the notice under this subsection, at the expense of the cabin owner, a second appraisal of the typical lot on which the initial appraisal was conducted.

(b) Conduct of second appraisal

In conducting a second appraisal, the appraiser selected by the cabin owner shall—

(1) have qualifications equivalent to the appraiser that conducted the initial appraisal in accordance with section 6205(a)(4) of this title;

(2) use the appraisal guidelines used in the initial appraisal in accordance with section 6205(a)(5) of this title;

(3) consider all relevant factors in accordance with this chapter (including guidelines developed under section 6205(a)(3) of this title); and

(4) notify the Secretary of any material differences of fact or opinion between the initial appraisal conducted by the agency and the second appraisal.

(c) Request for reconsideration of base cabin user fee

A cabin owner shall submit to the Secretary any request for reconsideration of the base cabin user fee, based on the results of the second appraisal, not later than 60 days after the receipt of the report for the second appraisal.

(d) Reconsideration of base cabin user fee

On receipt of a request from the cabin owner under subsection (c) of this section for reconsideration of a base cabin user fee, not later than 60 days after the date of receipt of the request, the Secretary shall—

(1) review the initial appraisal of the agency;

(2) review the results and commentary from the second appraisal;

(3) determine a new base cabin user fee in an amount that is—

(A) equal to the base cabin user fee determined by the initial or the second appraisal; or

(B) within the range of values, if any, between the initial and second appraisals; and

(4) notify the cabin owner of the amount of the new base cabin user fee.

(Pub. L. 106–291, title VI, § 610, Oct. 11, 2000, 114 Stat. 1020.)

§ 6210. Right of appeal and judicial review

(a) Right of appeal

Notwithstanding any action of a cabin owner to exercise rights in accordance with section 6209 of this title, the Secretary shall by regulation grant the cabin owner the right to an administrative appeal of the determination of a new base cabin user fee.

(b) Judicial review

A cabin owner that is adversely affected by a final decision of the Secretary under this chapter may bring a civil action in United States district court.

(Pub. L. 106–291, title VI, § 611, Oct. 11, 2000, 114 Stat. 1021.)

§ 6211. Consistency with other law and rights

(a) Consistency with rights of the United States

Nothing in this chapter limits or restricts any right, title, or interest of the United States in or to any land or resource.

(b) Special rule for Alaska

In determining a cabin user fee in the State of Alaska, the Secretary shall not establish or impose a cabin user fee or a condition affecting a cabin user fee that is inconsistent with section 3193(d) of this title.

(Pub. L. 106–291, title VI, § 612, Oct. 11, 2000, 114 Stat. 1021.)

§ 6212. Regulations

Not later than 2 years after October 11, 2000, the Secretary shall promulgate regulations to carry out this chapter.

(Pub. L. 106–291, title VI, § 613, Oct. 11, 2000, 114 Stat. 1022.)

§ 6213. Transition provisions

(a) Assessment of annual fees

For the period of time determined under subsection (b) of this section, the Secretary shall charge each cabin owner an annual fee as follows:

(1) Lots not appraised since September 30, 1995

For a lot that has not been appraised since September 30, 1995, the annual fee shall be equal to the amount of the annual fee in effect on October 11, 2000, adjusted annually to reflect changes in the Implicit Price Deflator-Gross National Product Index.

(2) Lots appraised on or after September 30, 1995

(A) In general

Except as provided in subparagraph (B), for a lot that has been appraised on or after September 30, 1995, the annual fee shall be equal to the amount of the fee in effect on October 11, 2000, adjusted annually to reflect changes in the Implicit Price Deflator-Gross National Product Index.

(B) Appraisals resulting in base fee increase

(i) In general

Except as provided in clause (ii), for a lot that has been appraised on or after September 30, 1995, for which the appraisal resulted in an increase of the base fee by an amount greater than $3,000, the annual fee shall be equal to the sum of $3,000 plus the amount of the annual fee in effect on October 1, 1996, adjusted annually to reflect the percentage change in the Implicit Price Deflator-Gross National Product Index.

(ii) Fees paid after request of new appraisal or peer review

If—

(I) the cabin owner of a lot described in clause (i) requests a new appraisal or peer review under subsection (c) of this section; and

(II) the base cabin user fee established as a result of the appraisal or peer review is determined to be an amount that is 90 percent or more of the fee in effect for the lot as determined by an appraisal conducted on or after September 30, 1995,

the Secretary shall charge the cabin owner, in addition to the annual fee that would otherwise have been due under section 6208 of this title, the difference between the base cabin user fee determined through the conduct of the new appraisal or peer review and the annual fee that would otherwise have been due under section 6208 of this title, to be assessed retroactively for each year beginning with the year in which the previous appraisal was conducted, and to be paid in 3 equal annual installments.

(b) Term

(1) Lots not appraised since September 30, 1995

For a lot that has not been appraised since September 30, 1995, the Secretary shall charge fees in accordance with subsection (a)(2)(A) of this section until—

(A) a base cabin user fee is determined in accordance with—

(i) this chapter; or

(ii) regulations and policies in effect on October 11, 2000; and

(B) the right of the cabin owner to a second appraisal under section 6209 of this title is exhausted.

(2) Lots appraised on or after September 30, 1995

For a lot that has been appraised on or after September 30, 1995, the Secretary shall charge fees under subsection (a)(2) of this section until—

(A) the cabin owner requests a new appraisal or peer review, and a base cabin user fee is established, under subsection (c) of this section; or

(B) in the absence of a request for a peer review or a new appraisal under subsection (c) of this section, the date that is 2 years after the date on which the Forest Service promulgates regulations and policies and develops appraisal guidelines under this chapter.

(c) Request for new appraisal under new law

(1) In general

Not later than 2 years after the promulgation of final regulations and policies and the development of appraisal guidelines in accordance with section 6205(a)(5) of this title, cabin owners that are subject to appraisals completed after September 30, 1995, but before the date of promulgation of final regulations under section 6212 of this title, may request, in accordance with paragraph (2), that the Secretary—

(A) conduct a new appraisal and determine a new base cabin user fee in accordance with this chapter; or

(B) commission a peer review of the existing appraisals in accordance with paragraph (4).

(2) Appraisal groupings by typical lot

A request for a new appraisal or for a peer review of existing appraisals under paragraph (1) shall be made by a majority of the cabin owners in a group of cabins represented in the appraisal process by a typical lot.

(3) Conduct of new appraisal

On receipt of a request for an appraisal and fee determination in accordance with paragraph (2), the Secretary shall conduct the new appraisal and fee determination in accordance with this chapter.

(4) Peer review of existing appraisals

(A) In general

On receipt of a request for peer review in accordance with paragraph (2), the Secretary shall obtain from an independent professional appraisal organization a review of the appraisal (including any report on the appraisal) that was used to establish the estimated fee simple value of the lots within the subject grouping.

(B) Inconsistency

If peer review described in subparagraph (A) results in a determination that an appraisal or appraisal report includes provisions or procedures that were implemented or conducted in a manner inconsistent with this chapter, the Secretary shall, as appropriate and in accordance with this chapter—

(i) revise an existing base cabin user fee; or

(ii) subject to an agreement with the cabin owners, conduct a new appraisal and fee determination.

(5) Payment of costs

Cabin owners and the Secretary shall share, in equal proportion, the payment of all reasonable costs of any new appraisal or peer review.

(d) Assumption of new base cabin user fee

In the absence of a request under subsection (c) of this section for a new appraisal and fee determination from a cabin owner whose cabin user fee was determined as a result of an appraisal conducted after September 30, 1995, but before the date of promulgation of final regulations under section 6212 of this title, the Secretary may consider the base cabin user fee resulting from the appraisal conducted between September 30, 1995 and the date of promulgation of the final regulations under section 6212 of this title, to be the base cabin user fee that complies with this section.

(Pub. L. 106–291, title VI, § 614, Oct. 11, 2000, 114 Stat. 1022.)

CHAPTER 81A—NATIONAL FOREST ORGANIZATIONAL CAMP FEE IMPROVEMENT

Sec.
6231. Findings, purpose, and definitions.
6232. Fees for occupancy and use of National Forest System lands and facilities by organizational camps.
6233. Implementation.
6234. Relationship to other laws.
6235. Deposit and expenditure of use fees.
6236. Ministerial issuance, or amendment authorization.

§ 6231. Findings, purpose, and definitions

(a) Findings

Congress finds the following:

(1) Organizational camps, such as those administered by the Boy Scouts, Girl Scouts, and faith-based and community-based organizations, provide a valuable service to young people, individuals with a disability, and their families by promoting physical, mental, and spiritual health through activities conducted in a natural environment.

(2) The 192,000,0000[1] acres of national forests and grasslands of the National Forest System managed for multiple uses by the Forest Service provides an ideal setting for such organizational camps.

(3) The Federal Government should charge land use fees for the occupancy and use of National Forest System lands by such organizational camps that, while based on the fair market value of the land in use, also recognize the benefits provided to society by such organizational camps, do not preclude the ability of such organizational camps from utilizing these lands, and permit capital investment in, and maintenance of, camp facilities by such organizational camps or their sponsoring organizations.

(4) Organizational camps should—

(A) ensure that their facilities meet applicable building and safety codes, including fire and health codes;

(B) have annual inspections as required by local law, including at a minimum inspections for fire and food safety; and

(C) have in place safety plans that address fire and medical emergencies and encounters with wildlife.

(b) Purpose

It is the purpose of this chapter to establish a land use fee system that provides for an equitable return to the Federal Government for the occupancy and use of National Forest System lands by organizational camps that serve young people or individuals with a disability.

(c) Definitions

In this chapter:

(1) The term ''organizational camp'' means a public or semipublic camp that—

(A) is developed on National Forest System lands by a nonprofit organization or governmental entity;

(B) provides a valuable service to the public by using such lands as a setting to introduce young people or individuals with a disability to activities that they may not otherwise experience and to educate them on natural resource issues; and

(C) does not have as its primary purpose raising revenue through commercial activities.

(2) The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(3) The term ''individual with a disability'' has the meaning given the term in section 705(20) of title 29.

(4) The term ''children at risk'' means children who are raised in poverty or in single-parent homes or are subject to such circumstances as parental drug abuse, homelessness, or child abuse.

(5) The term ''change in control'' means—

(A) for a corporation, the sale or transfer of a controlling interest in the corporation;

(B) for a partnership or limited liability company, the sale or transfer of a controlling interest in the partnership or limited liability company; and

(C) for an individual, the sale or transfer or an organizational camp subject to this chapter to another party.

(Pub. L. 108–7, div. F, title V, § 502, Feb. 20, 2003, 117 Stat. 294.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), was in the original ''this Act'', which was translated as reading ''this title'', meaning title V of div. F of Pub. L. 108–7, known as the National Forest Organizational Camp Fee Improvement Act of 2003, to reflect the probable intent of Congress.

SHORT TITLE

Pub. L. 108–7, div. F, title V, § 501, Feb. 20, 2003, 117 Stat. 294, provided that: ''This title [enacting this chapter] may be cited as the 'National Forest Organizational Camp Fee Improvement Act of 2003'.''

§ 6232. Fees for occupancy and use of National Forest System lands and facilities by organizational camps

(a) Land use fee

(1) Percentage of land value

The Secretary shall charge an annual land use fee for each organizational camp for its oc-

[1] So in original.

cupancy and use of National Forest System lands equal to 5 percent of the product of the following:

(A) The total number of acres of National Forest System lands authorized for the organizational camp.

(B) The estimated per-acre market value of land and buildings in the county where the camp is located, as reported in the most recent Census of Agriculture conducted by the National Agricultural Statistics Service.

(2) Annual adjustment

The land use fee determined under paragraph (1) for an organizational camp shall be adjusted annually by the annual compounded rate of change between the two most recent Censuses of Agriculture.

(3) Reduction in fees

(A) Type of participants

The Secretary shall reduce the land use fee determined under paragraph (1) proportionate to the number of individuals with a disability and children at risk who annually attend the organizational camp.

(B) Type of programs

After making the reduction required by subparagraph (A), the Secretary shall reduce the remaining land use fee amount by up to 60 percent, proportionate to the number of persons who annually attend the organizational camp who participate in youth programs through organized and supervised social, citizenship, character-building, or faith-based activities oriented to outdoor-recreation experiences.

(C) Relation to minimum fee

The reductions made under this paragraph may not reduce the land use fee for an organizational camp below the minimum land use fee required to be charged under paragraph (4).

(D) Special considerations

For purposes of determining the amount of the land use fee reduction required under subparagraph (A) or (B), the Secretary may not take into consideration the existence of sponsorships or scholarships to assist persons in attending the organizational camp.

(4) Minimum land use fee

The Secretary shall charge a minimum land use fee under paragraph (1) that represents, on average, the Secretary's cost annually to administer an organizational camp special use authorization in the National Forest Region in which the organizational camp is located. Notwithstanding paragraph (3) or subsection (d), the minimum land use fee shall not be subject to a reduction or waiver.

(b) Facility use fee

(1) Percentage of facilities value

If an organizational camp uses a Government-owned facility on National Forest System lands pursuant to section 580d of this title, the Secretary shall charge, in addition to the land use fee imposed under subsection (a), a facility use fee equal to 5 percent of the value of the authorized facilities, as determined by the Secretary.

(2) Reduction in fees prohibited

Notwithstanding subsection (d), the facility use fees determined under paragraph (1) shall not be subject to a reduction or waiver.

(c) Fee related to receipt of other revenues

If an organizational camp derives revenue from the use of National Forest System lands or authorized facilities described in subsection (b) for purposes other than to introduce young people or individuals with a disability to activities that they may not otherwise experience and to educate them on natural resource issues, the Secretary shall charge, in addition to the land use fee imposed under subsection (a) and the facility use fee imposed under subsection (b), an additional fee equal to 5 percent of that revenue.

(d) Work-in-lieu program

Subject to subsections (a)(4) and (b)(2), section 539f of this title shall apply to the use fees imposed under this section.

(Pub. L. 108–7, div. F, title V, § 503, Feb. 20, 2003, 117 Stat. 295.)

§ 6233. Implementation

(a) Prompt implementation

The Secretary shall issue direction regarding implementation of this chapter by interim directive within 180 days after February 20, 2003. The Secretary shall implement this chapter beginning with the first billing cycle for organizational camp special use authorizations occurring more than 180 days after February 20, 2003.

(b) Phase-in of use fee increases

In issuing any direction regarding implementation of this chapter under subsection (a), the Secretary shall consider whether to phase-in any significant increases in annual land or facility use fees for organizational camps.

(Pub. L. 108–7, div. F, title V, § 504, Feb. 20, 2003, 117 Stat. 296.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', which was translated as reading ''this title'', meaning title V of div. F of Pub. L. 108–7, known as the National Forest Organizational Camp Fee Improvement Act of 2003, to reflect the probable intent of Congress.

§ 6234. Relationship to other laws

Except as specifically provided by this chapter, nothing in this chapter supersedes or otherwise affects any provision of law, regulation, or policy regarding the issuance or administration of authorizations for organizational camps regarding the occupancy and use of National Forest System lands.

(Pub. L. 108–7, div. F, title V, § 505, Feb. 20, 2003, 117 Stat. 297.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', which was translated as reading ''this title'', meaning title V of div. F of Pub. L. 108–7, known as the National Forest Organizational Camp Fee Im-

provement Act of 2003, to reflect the probable intent of Congress.

§ 6235. Deposit and expenditure of use fees

(a) Deposit and availability

Unless subject to section 580d of this title, use fees collected by the Secretary under this chapter shall be deposited in a special account in the Treasury and shall remain available to the Secretary for expenditure, without further appropriation until expended, for the purposes described in subsection (c).

(b) Transfer

Upon request of the Secretary, the Secretary of the Treasury shall transfer to the Secretary from the special account such amounts as the Secretary may request. The Secretary shall accept and use such amounts in accordance with subsection (c).

(c) Use

Use fees deposited pursuant to subsection (a) and transferred to the Secretary under subsection (b) shall be expended for monitoring of Forest Service special use authorizations, administration of the Forest Service's special program, interpretive programs, environmental analysis, environmental restoration, and similar purposes.

(Pub. L. 108–7, div. F, title V, § 506, Feb. 20, 2003, 117 Stat. 297.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', which was translated as reading ''this title'', meaning title V of div. F of Pub. L. 108–7, known as the National Forest Organizational Camp Fee Improvement Act of 2003, to reflect the probable intent of Congress.

§ 6236. Ministerial issuance, or amendment authorization

(a) NEPA exception

The ministerial issuance or amendment of an organizational camp special use authorization shall not be subject to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) Rule of construction

For purposes of subsection (a), the ministerial issuance or amendment of an authorization occurs only when the issuance or amendment of the authorization would not change the physical environment or the activities, facilities, or program of the operations governed by the authorization, and at least one of the following apply:

(1) The authorization is issued upon a change in control of the holder of an existing authorization.

(2) The holder, upon expiration of an authorization, is issued a new authorization.

(3) The authorization is amended—

(A) to effectuate administrative changes, such as modification of the land use fee or conversion to a new special use authorization form; or

(B) to include nondiscretionary environmental standards or to conform with current law.

(Pub. L. 108–7, div. F, title V, § 507, Feb. 20, 2003, 117 Stat. 297.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

CHAPTER 82—GREAT APE CONSERVATION

Sec.
6301. Findings and purposes.
6302. Definitions.
6303. Great ape conservation assistance.
6304. Great Ape Conservation Fund.
6305. Authorization of appropriations.

§ 6301. Findings and purposes

(a) Findings

Congress finds that—

(1) great ape populations have declined to the point that the long-term survival of the species in the wild is in serious jeopardy;

(2) the chimpanzee, gorilla, bonobo, orangutan, and gibbon are listed as endangered species under section 1533 of this title and under Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);

(3) because the challenges facing the conservation of great apes are so immense, the resources available to date have not been sufficient to cope with the continued loss of habitat due to human encroachment and logging and the consequent diminution of great ape populations;

(4) because great apes are flagship species for the conservation of the tropical forest habitats in which they are found, conservation of great apes provides benefits to numerous other species of wildlife, including many other endangered species;

(5) among the threats to great apes, in addition to habitat loss, are population fragmentation, hunting for the bushmeat trade, live capture, and exposure to emerging or introduced diseases;

(6) great apes are important components of the ecosystems they inhabit, and studies of their wild populations have provided important biological insights;

(7) although subsistence hunting of tropical forest animals has occurred for hundreds of years at a sustainable level, the tremendous increase in the commercial trade of tropical forest species is detrimental to the future of these species; and

(8) the reduction, removal, or other effective addressing of the threats to the long-term viability of populations of great apes in the wild will require the joint commitment and effort of countries that have within their boundaries any part of the range of great apes, the United States and other countries, and the private sector.

(b) Purposes

The purposes of this chapter are—

(1) to sustain viable populations of great apes in the wild; and

(2) to assist in the conservation and protection of great apes by supporting conservation

programs of countries in which populations of great apes are located and by supporting the CITES Secretariat.

(Pub. L. 106–411, §2, Nov. 1, 2000, 114 Stat. 1789.)

SHORT TITLE

Pub. L. 106–411, §1, Nov. 1, 2000, 114 Stat. 1789, provided that: ''This Act [enacting this chapter] may be cited as the 'Great Ape Conservation Act of 2000'.''

§ 6302. Definitions

In this chapter:

(1) CITES

The term ''CITES'' means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington March 3, 1973 (27 UST 1087; TIAS 8249), including its appendices.

(2) Conservation

The term ''conservation''—

(A) means the use of methods and procedures necessary to prevent the diminution of, and to sustain viable populations of, a species; and

(B) includes all activities associated with wildlife management, such as—

(i) conservation, protection, restoration, acquisition, and management of habitat;

(ii) in-situ research and monitoring of populations and habitats;

(iii) assistance in the development, implementation, and improvement of management plans for managed habitat ranges;

(iv) enforcement and implementation of CITES;

(v) enforcement and implementation of domestic laws relating to resource management;

(vi) development and operation of sanctuaries for members of a species rescued from the illegal trade in live animals;

(vii) training of local law enforcement officials in the interdiction and prevention of the illegal killing of great apes;

(viii) programs for the rehabilitation of members of a species in the wild and release of the members into the wild in ways which do not threaten existing wildlife populations by causing displacement or the introduction of disease;

(ix) conflict resolution initiatives;

(x) community outreach and education; and

(xi) strengthening the capacity of local communities to implement conservation programs.

(3) Fund

The term ''Fund'' means the Great Ape Conservation Fund established by section 6304 of this title.

(4) Great ape

The term ''great ape'' means a chimpanzee, gorilla, bonobo, orangutan, or gibbon.

(5) Multinational Species Conservation Fund

The term ''Multinational Species Conservation Fund'' means such fund as established in title I of the Department of the Interior and Related Agencies Appropriations Act, 1999, under the heading ''MULTINATIONAL SPECIES CONSERVATION FUND'' [16 U.S.C. 4246].

(6) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 106–411, §3, Nov. 1, 2000, 114 Stat. 1790.)

REFERENCES IN TEXT

Title I of the Department of the Interior and Related Agencies Appropriations Act, 1999, referred to in par. (5), is Pub. L. 105–277, div. A, §101(e) [title I], Oct. 21, 1998, 112 Stat. 2681–231, 2681–232. Provisions under the heading ''MULTINATIONAL SPECIES CONSERVATION FUND'' in Pub. L. 105–277, §101(e) [title I] appear at 112 Stat. 2681–237, and are classified in part to section 4246 of this title.

§ 6303. Great ape conservation assistance

(a) In general

Subject to the availability of funds and in consultation with other appropriate Federal officials, the Secretary shall use amounts in the Fund to provide financial assistance for projects for the conservation of great apes for which project proposals are approved by the Secretary in accordance with this section.

(b) Project proposals

(1) Eligible applicants

A proposal for a project for the conservation of great apes may be submitted to the Secretary by—

(A) any wildlife management authority of a country that has within its boundaries any part of the range of a great ape if the activities of the authority directly or indirectly affect a great ape population;

(B) the CITES Secretariat; or

(C) any person or group with the demonstrated expertise required for the conservation of great apes.

(2) Required elements

A project proposal shall include—

(A) a concise statement of the purposes of the project;

(B) the name of the individual responsible for conducting the project;

(C) a description of the qualifications of the individuals who will conduct the project;

(D) a concise description of—

(i) methods for project implementation and outcome assessment;

(ii) staff and community management for the project; and

(iii) the logistics of the project;

(E) an estimate of the funds and time required to complete the project;

(F) evidence of support for the project by appropriate governmental entities of the countries in which the project will be conducted, if the Secretary determines that such support is required for the success of the project;

(G) information regarding the source and amount of matching funding available for the project; and

(H) any other information that the Secretary considers to be necessary for evaluat-

ing the eligibility of the project for funding under this chapter.

(c) Project review and approval

(1) In general

The Secretary shall—

(A) not later than 30 days after receiving a project proposal, provide a copy of the proposal to other appropriate Federal officials; and

(B) review each project proposal in a timely manner to determine if the proposal meets the criteria specified in subsection (d) of this section.

(2) Consultation; approval or disapproval

Not later than 180 days after receiving a project proposal, and subject to the availability of funds, the Secretary, after consulting with other appropriate Federal officials, shall—

(A) consult on the proposal with the government of each country in which the project is to be conducted;

(B) after taking into consideration any comments resulting from the consultation, approve or disapprove the proposal; and

(C) provide written notification of the approval or disapproval to the person who submitted the proposal, other appropriate Federal officials, and each country described in subparagraph (A).

(d) Criteria for approval

The Secretary may approve a project proposal under this section if the project will enhance programs for conservation of great apes by assisting efforts to—

(1) implement conservation programs;

(2) address the conflicts between humans and great apes that arise from competition for the same habitat;

(3) enhance compliance with CITES and other applicable laws that prohibit or regulate the taking or trade of great apes or regulate the use and management of great ape habitat;

(4) develop sound scientific information on, or methods for monitoring—

(A) the condition and health of great ape habitat;

(B) great ape population numbers and trends; or

(C) the current and projected threats to the habitat, current and projected numbers, or current and projected trends;

(5) promote cooperative projects on the issues described in paragraph (4) among government entities, affected local communities, nongovernmental organizations, or other persons in the private sector; or

(6) address root causes of threats to great apes in range states, including illegal bushmeat trade, diseases, lack of regional or local capacity for conservation, and habitat loss due to natural disasters.

(e) Project sustainability

To the maximum extent practicable, in determining whether to approve project proposals under this section, the Secretary shall give preference to conservation projects that are designed to ensure effective, long-term conservation of great apes and their habitats.

(f) Matching funds

In determining whether to approve project proposals under this section, the Secretary shall give preference to projects for which matching funds are available.

(g) Project reporting

(1) In general

Each person that receives assistance under this section for a project shall submit to the Secretary periodic reports (at such intervals as the Secretary considers necessary) that include all information that the Secretary, after consultation with other appropriate government officials, determines is necessary to evaluate the progress and success of the project for the purposes of ensuring positive results, assessing problems, and fostering improvements.

(2) Availability to the public

Reports under paragraph (1), and any other documents relating to projects for which financial assistance is provided under this chapter, shall be made available to the public.

(h) Limitations on use for captive breeding

Amounts provided as a grant under this chapter—

(1) may not be used for captive breeding of great apes other than for captive breeding for release into the wild; and

(2) may be used for captive breeding of a species for release into the wild only if no other conservation method for the species is biologically feasible.

(i) Panel

(1) In general

Every 2 years, the Secretary may convene a panel of experts to identify the greatest needs for the conservation of great apes.

(2) Applicability of FACA

The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to a panel convened under paragraph (1).

(Pub. L. 106–411, § 4, Nov. 1, 2000, 114 Stat. 1791; Pub. L. 109–363, title VII, § 701, Oct. 17, 2006, 120 Stat. 2081.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (i)(2), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2006—Subsec. (d)(6). Pub. L. 109–363, § 701(1), added par. (6).

Subsec. (i). Pub. L. 109–363, § 701(2), designated existing provisions as par. (1), inserted par. heading, substituted ''may convene'' for ''shall convene'', and added par. (2).

§ 6304. Great Ape Conservation Fund

(a) Establishment

There is established in the Multinational Species Conservation Fund a separate account to be known as the ''Great Ape Conservation Fund'', consisting of—

(1) amounts transferred to the Secretary of the Treasury for deposit into the Fund under subsection (e) of this section;

(2) amounts appropriated to the Fund under section 6305 of this title; and

(3) any interest earned on investment of amounts in the Fund under subsection (c) of this section.

(b) Expenditures from Fund

(1) In general

Subject to paragraph (2), upon request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary, without further appropriation, such amounts as the Secretary determines are necessary to provide assistance under section 6303 of this title.

(2) Administrative expenses

Of the amounts in the account available for each fiscal year, the Secretary may expend not more than 3 percent, or up to $100,000, whichever is greater, to pay the administrative expenses necessary to carry out this chapter.

(c) Investment of amounts

(1) In general

The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(2) Acquisition of obligations

For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) Sale of obligations

Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(4) Credits to Fund

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(d) Transfers of amounts

(1) In general

The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) Adjustments

Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(e) Acceptance and use of donations

The Secretary may accept and use donations to provide assistance under section 6303 of this title. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Fund.

(Pub. L. 106–411, §5, Nov. 1, 2000, 114 Stat. 1793; Pub. L. 109–363, title VII, §702, Oct. 17, 2006, 120 Stat. 2082.)

AMENDMENTS

2006—Subsec. (b)(2). Pub. L. 109–363 substituted ''expend'' for ''expand'' and ''$100,000'' for ''$80,000''.

§ 6305. Authorization of appropriations

There are authorized to be appropriated to the Fund $5,000,000 for each of fiscal years 2006 through 2010.

(Pub. L. 106–411, §6, Nov. 1, 2000, 114 Stat. 1794; Pub. L. 109–363, title VII, §703, Oct. 17, 2006, 120 Stat. 2082.)

AMENDMENTS

2006—Pub. L. 109–363 substituted ''fiscal years 2006 through 2010'' for ''fiscal years 2001 through 2005''.

CHAPTER 83—CORAL REEF CONSERVATION

Sec.

6401. Purposes.
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§ 6401. Purposes

The purposes of this chapter are—

(1) to preserve, sustain, and restore the condition of coral reef ecosystems;

(2) to promote the wise management and sustainable use of coral reef ecosystems to benefit local communities and the Nation;

(3) to develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems;

(4) to assist in the preservation of coral reefs by supporting conservation programs, including projects that involve affected local communities and nongovernmental organizations;

(5) to provide financial resources for those programs and projects; and

(6) to establish a formal mechanism for collecting and allocating monetary donations from the private sector to be used for coral reef conservation projects.

(Pub. L. 106–562, title II, §202, Dec. 23, 2000, 114 Stat. 2800.)

SHORT TITLE

Pub. L. 106–562, title II, §201, Dec. 23, 2000, 114 Stat. 2800, provided that: ''This title [enacting this chapter] may be cited as the 'Coral Reef Conservation Act of 2000'.''

NORTHWESTERN HAWAIIAN ISLANDS CORAL REEF RESERVE

Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(f)], Dec. 21, 2000, 114 Stat. 2763, 2763A–249, provided that:

''(1) The President, after consultation with the Governor of the State of Hawaii, may designate any Northwestern Hawaiian Islands coral reef or coral reef ecosystem as a coral reef reserve to be managed by the Secretary of Commerce.

''(2) Upon the designation of a reserve under paragraph (1) by the President, the Secretary shall—

''(A) take action to initiate the designation of the reserve as a National Marine Sanctuary under sections 303 and 304 of the National Marine Sanctuaries Act (16 U.S.C. 1433[, 1434]);

''(B) establish a Northwestern Hawaiian Islands Reserve Advisory Council under section 315 of that Act (16 U.S.C. 1445a), the membership of which shall include at least one representative from Native Hawaiian groups; and

''(C) until the reserve is designated as a National Marine Sanctuary, manage the reserve in a manner consistent with the purposes and policies of that Act [16 U.S.C. 1431 et seq.].

''(3) Notwithstanding any other provision of law, no closure areas around the Northwestern Hawaiian Islands shall become permanent without adequate review and comment.

''(4) The Secretary shall work with other Federal agencies and the Director of the National Science Foundation, to develop a coordinated plan to make vessels and other resources available for conservation or research activities for the reserve.

''(5) If the Secretary has not designated a national marine sanctuary in the Northwestern Hawaiian Islands under sections 303 and 304 of the National Marine Sanctuaries Act (16 U.S.C. 1433, 1434) before October 1, 2005, the Secretary shall conduct a review of the management of the reserve under section 304(e) of that Act (16 U.S.C. 1434(e)).

''(6) No later than 6 months after the date of enactment of this Act [Dec. 21, 2000], the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources [now Committee on Natural Resources], describing actions taken to implement this subsection, including costs of monitoring, enforcing, and addressing marine debris, and the extent to which the fiscal or other resources necessary to carry out this subsection are reflected in the Budget of the United States Government submitted by the President under section 1104 of title 31, United States Code.

''(7) There are authorized to be appropriated to the Secretary of Commerce to carry out the provisions of this subsection such sums, not exceeding $4,000,000 for each of fiscal years 2001, 2002, 2003, 2004, and 2005, as are reported under paragraph (5) [(6)] to be reflected in the Budget of the United States Government.''

Substantially identical provisions were contained in Pub. L. 106–513, § 6(g), Dec. 21, 2000, 114 Stat. 2385.

EX. ORD. NO. 13089. CORAL REEF PROTECTION

Ex. Ord. No. 13089, June 11, 1998, 63 F.R. 32701, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America and in furtherance of the purposes of the Clean Water Act of 1977, as amended (33 U.S.C. 1251, *et seq.*) [see Short title of 1977 Amendment note, set out under section 1451 of this title], Coastal Zone Management Act [of 1972] (16 U.S.C. 1451, *et seq.*), Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801, *et seq.*), National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321, *et seq.*), National Marine Sanctuaries Act, (16 U.S.C. 1431, *et seq.*), National Park Service Organic Act (16 U.S.C. 1, *et seq.*), National Wildlife Refuge System Administration Act (16 U.S.C. 668dd–ee) [16 U.S.C. 668dd–668ee], and other pertinent statutes, to preserve and protect the biodiversity, health, heritage, and social and economic value of U.S. coral reef ecosystems and the marine environment, it is hereby ordered as follows:

SECTION 1. *Definitions.* (a) ''U.S. coral reef ecosystems'' means those species, habitats, and other natural resources associated with coral reefs in all maritime areas and zones subject to the jurisdiction or control of the United States (e.g., Federal, State, territorial, or commonwealth waters), including reef systems in the south Atlantic, Caribbean, Gulf of Mexico, and Pacific Ocean. (b) ''U.S. Coral Reef Initiative'' is an existing partnership between Federal agencies and State, territorial, commonwealth, and local governments, nongovernmental organizations, and commercial interests to design and implement additional management, education, monitoring, research, and restoration efforts to conserve coral reef ecosystems for the use and enjoyment of future generations. The existing U.S. Islands Coral Reef Initiative strategy covers approximately 95 percent of U.S. coral reef ecosystems and is a key element of the overall U.S. Coral Reef Initiative. (c) ''International Coral Reef Initiative'' is an existing partnership, founded by the United States in 1994, of governments, intergovernmental organizations, multilateral development banks, nongovernmental organizations, scientists, and the private sector whose purpose is to mobilize governments and other interested parties whose coordinated, vigorous, and effective actions are required to address the threats to the world's coral reefs.

SEC. 2. *Policy.* (a) All Federal agencies whose actions may affect U.S. coral reef ecosystems shall: (a) identify their actions that may affect U.S. coral reef ecosystems; (b) utilize their programs and authorities to protect and enhance the conditions of such ecosystems; and (c) to the extent permitted by law, ensure that any actions they authorize, fund, or carry out will not degrade the conditions of such ecosystems.

(b) Exceptions to this section may be allowed under terms prescribed by the heads of Federal agencies:

(1) during time of war or national emergency;

(2) when necessary for reasons of national security, as determined by the President;

(3) during emergencies posing an unacceptable threat to human health or safety or to the marine environment and admitting of no other feasible solution; or

(4) in any case that constitutes a danger to human life or a real threat to vessels, aircraft, platforms, or other man-made structures at sea, such as cases of *force majeure* caused by stress of weather or other act of God.

SEC. 3. *Federal Agency Responsibilities.* In furtherance of section 2 of this order, Federal agencies whose actions affect U.S. coral reef ecosystems, shall, subject to the availability of appropriations, provide for implementation of measures needed to research, monitor, manage, and restore affected ecosystems, including, but not limited to, measures reducing impacts from pollution, sedimentation, and fishing. To the extent not inconsistent with statutory responsibilities and procedures, these measures shall be developed in cooperation with the U.S. Coral Reef Task Force and fishery management councils and in consultation with affected States, territorial, commonwealth, tribal, and local government agencies, nongovernmental organizations, the scientific community, and commercial interests.

SEC. 4. *U.S. Coral Reef Task Force.* The Secretary of the Interior and the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, shall co-chair a U.S. Coral Reef Task Force (''Task Force''), whose members shall include, but not be limited to, the Administrator of the Environmental Protection Agency, the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of State, the Secretary of Transportation, the Director of the National Science Foundation, the Administrator of the Agency for International Development, and the Administrator of the National Aeronautics and Space Administration. The Task Force shall oversee implementation of the policy and Federal agency responsibilities set forth in this order, and shall guide and support activities under the U.S. Coral Reef Initiative (''CRI''). All Federal agencies whose actions may affect U.S. coral reef ecosystems shall review their participation in the CRI and the strategies developed under it, including strategies and plans of State, territorial, commonwealth, and local governments, and, to the extent feasible, shall enhance Federal participation and support of such strategies and plans. The Task Force shall work in cooperation with State, territorial, commonwealth, and local gov-

ernment agencies, nongovernmental organizations, the scientific community, and commercial interests.

SEC. 5. *Duties of the U.S. Coral Reef Task Force.* (a) *Coral Reef Mapping and Monitoring.* The Task Force, in cooperation with State, territory, commonwealth, and local government partners, shall coordinate a comprehensive program to map and monitor U.S. coral reefs. Such programs shall include, but not be limited to, territories and commonwealths, special marine protected areas such as National Marine Sanctuaries, National Estuarine Research Reserves, National Parks, National Wildlife Refuges, and other entities having significant coral reef resources. To the extent feasible, remote sensing capabilities shall be developed and applied to this program and local communities should be engaged in the design and conduct of programs.

(b) *Research.* The Task Force shall develop and implement, with the scientific community, research aimed at identifying the major causes and consequences of degradation of coral reef ecosystems. This research shall include fundamental scientific research to provide a sound framework for the restoration and conservation of coral reef ecosystems worldwide. To the extent feasible, existing and planned environmental monitoring and mapping programs should be linked with scientific research activities. This Executive order shall not interfere with the normal conduct of scientific studies on coral reef ecosystems.

(c) *Conservation, Mitigation, and Restoration.* The Task Force, in cooperation with State, territorial, commonwealth, and local government agencies, nongovernmental organizations, the scientific community and commercial interests, shall develop, recommend, and seek or secure implementation of measures necessary to reduce and mitigate coral reef ecosystem degradation and to restore damaged coral reefs. These measures shall include solutions to problems such as land-based sources of water pollution, sedimentation, detrimental alteration of salinity or temperature, overfishing, over-use, collection of coral reef species, and direct destruction caused by activities such as recreational and commercial vessel traffic and treasure salvage. In developing these measures, the Task Force shall review existing legislation to determine whether additional legislation is necessary to complement the policy objectives of this order and shall recommend such legislation if appropriate. The Task Force shall further evaluate existing navigational aids, including charts, maps, day markers, and beacons to determine if the designation of the location of specific coral reefs should be enhanced through the use, revision, or improvement of such aids.

(d) *International Cooperation.* The Secretary of State and the Administrator of the Agency for International Development, in cooperation with other members of the Coral Reef Task Force and drawing upon their expertise, shall assess the U.S. role in international trade and protection of coral reef species and implement appropriate strategies and actions to promote conservation and sustainable use of coral reef resources worldwide. Such actions shall include expanded collaboration with other International Coral Reef Initiative (''ICRI'') partners, especially governments, to implement the ICRI through its Framework for Action and the Global Coral Reef Monitoring Network at regional, national, and local levels.

SEC. 6. This order does not create any right or benefit, substantive or procedural, enforceable in law or equity by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

EX. ORD. NO. 13178. NORTHWESTERN HAWAIIAN ISLANDS CORAL REEF ECOSYSTEM RESERVE

Ex. Ord. No. 13178, Dec. 4, 2000, 65 F.R. 76903, as amended by Ex. Ord. No. 13196, §§3, 4, Jan. 18, 2001, 66 F.R. 7395, 7396, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Marine Sanctuaries Act, (16 U.S.C. 1431 *et seq.*), and the National Marine Sanctuaries Amendments Act of 2000, Public Law 106–513 [see Short Title of 2000 Amendment note set out under section 1431 of this title], and in furtherance of the purposes of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), Marine Protection, Research, and Sanctuaries Act [of 1972] (33 U.S.C. 1401 *et seq.* [16 U.S.C. 1431 et seq., 1447 et seq., 33 U.S.C. 1401 et seq., 2801 et seq.]), Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*), Endangered Species Act [of 1973] (16 U.S.C. 1531 *et seq.*), Marine Mammal Protection Act [of 1972] (16 U.S.C. 1362 [1361] *et seq.*), Clean Water Act (33 U.S.C. 1251 *et seq.*), National Historic Preservation Act (16 U.S.C. 470 *et seq.*), National Wildlife Refuge System Administration Act (16 U.S.C. 668dd–ee), and other pertinent statutes, it is ordered as follows:

SECTION 1. *Preamble.* The world's coral reefs—the rain forests of the sea—are in serious decline. These important and sensitive areas of biodiversity warrant special protection. While United States waters contain approximately 3 percent of the world's coral reefs, approximately 70 percent of U.S. coral reefs are in the Northwestern Hawaiian Islands. The 3.5 million acres of coral reefs around the remote, mostly uninhabited Northwestern Hawaiian Islands are spectacular and almost undisturbed by humans. The approximately 1,200 mile stretch of coral islands, seamounts, banks, and shoals are unquestionably some of the healthiest and most extensive coral reefs in the United States. In their own right, the spectacular coral reefs and lands provide an amazing geological record of volcanic and erosive powers that have shaped this area. This vast area supports a dynamic reef ecosystem that supports more than 7,000 marine species, of which approximately half are unique to the Hawaiian Island chain. This incredibly diverse ecosystem is home to many species of coral, fish, birds, marine mammals, and other flora and fauna including the endangered Hawaiian monk seal, the threatened green sea turtle, and the endangered leatherback and hawksbill sea turtles. In addition, this area has great cultural significance to Native Hawaiians as well as linkages to early Polynesian culture—making it additionally worthy of protection and understanding. This is truly a unique and special place, a coral reef ecosystem like no place on earth, and a source of pride, inspiration, and satisfaction for all Americans, especially the people of Hawaii. It is fully worthy of our best efforts to preserve a legacy of America's natural wonders for future generations. Due to the special significance of this area, I have determined that it is in the best interest of our Nation, and of future generations, to provide strong and lasting protection for the coral reef ecosystem of the Northwestern Hawaiian Islands.

On May 26, 2000, I directed the Secretaries of Commerce and the Interior, working cooperatively with the State of Hawaii and consulting with the Western Pacific Fishery Management Council, to develop recommendations for a new, coordinated management regime to increase protection of the coral reef ecosystem of the Northwestern Hawaiian Islands and provide for sustainable use of the area. Upon consideration of their recommendations and comments received during the public visioning process on this initiative, and based on the statutory authorities set forth above, I am issuing this Executive Order.

SEC. 2. *Purpose.* The purpose of this Executive Order is to ensure the comprehensive, strong, and lasting protection of the coral reef ecosystem and related marine resources and species (resources) of the Northwestern Hawaiian Islands.

SEC. 3. *Establishment of Coral Reef Ecosystem Reserve.* There is hereby established in the Northwestern Hawaiian Islands a coral reef ecosystem reserve to be known as the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve (Reserve). The Reserve shall include submerged lands and waters of the Northwestern Hawaiian Islands, extending approximately 1,200 nautical

miles (nm) long and 100nm wide. The Reserve shall be adjacent to and seaward of the seaward boundaries of the State of Hawaii and the Midway Atoll National Wildlife Refuge, and shall overlay the Hawaiian Islands National Wildlife Refuge to the extent that it extends beyond the seaward boundaries of the State of Hawaii. The boundaries of the Reserve are described in section 6 of this order.

SEC. 4. *Management Principles*. The Secretary of Commerce, or his designee, (hereafter ''Secretary'') shall, subject to section 10(b) of this order, manage the Reserve in accordance with the following principles:

(a) The principal purpose of the Reserve is the long-term conservation and protection of the coral reef ecosystem and related marine resources and species of the Northwestern Hawaiian Islands in their natural character;

(b) The Reserve shall be managed using available science and applying a precautionary approach with resource protection favored when there is a lack of information regarding any given activity, to the extent not contrary to law;

(c) Culturally significant, noncommercial subsistence, cultural, and religious uses by Native Hawaiians should be allowed within the Reserve, consistent with applicable law and the long-term conservation and protection of Reserve resources;

(d) The Reserve shall be managed using, when appropriate, geographical zoning and innovative management techniques to ensure that the Reserve resources are protected from degradation or harm;

(e) To the extent consistent with the primary purpose of the Reserve, the Reserve shall be managed to support, promote, and coordinate appropriate scientific research and assessment, and long-term monitoring of Reserve resources, and the impacts or threats thereto from human and other activities, to help better understand, protect, and conserve these resources and species for future generations;

(f) To the extent consistent with the primary purpose of the Reserve, the Reserve shall be managed to enhance public awareness, understanding, and appreciation of Reserve resources, and the impacts or threats thereto from human and other activities;

(g) The Reserve shall be managed to further restoration and remediation of degraded or injured Reserve resources; and

(h) The Reserve shall be managed to facilitate coordinated management among Federal and State agencies and other entities, as appropriate, to provide comprehensive (looking beyond jurisdictional boundaries) conservation of the coral reef ecosystem and related marine resources and species throughout the Northwestern Hawaiian Islands, consistent with applicable authorities and the Management Principles of this section.

SEC. 5. *Implementation*. (a) *Management of the Reserve*. The Secretary shall manage the Reserve under the National Marine Sanctuaries Act and in accordance with this order.

(b) *Reserve Operations Plan*. The Secretary, in consultation with the Secretary of the Interior and the Governor of Hawaii, shall develop an operations plan to govern the management of the Reserve. In developing the Reserve Operations Plan the Secretary shall consider the advice and recommendations of the Reserve Council established pursuant to paragraph (c) of this section. The Reserve Operations Plan shall be directed at priority issues and actions that, at a minimum, provide for:

(1) Coordinated management among the Reserve, Hawaiian Islands National Wildlife Refuge, Midway Atoll National Wildlife Refuge, and the State of Hawaii, consistent with relevant authorities;

(2) Coordination among Federal agencies and the Director of the National Science Foundation to make vessels and other resources available for conservation and research activities for the Reserve;

(3) The cleanup and prevention of marine debris in the Reserve;

(4) The restoration or remediation of any degraded or injured resources of the Reserve;

(5) Research, monitoring, and assessment of the Reserve;

(6) Education and outreach about the Reserve and its resources and efforts to conserve them;

(7) Enforcement and surveillance for the Reserve, including the use of new technologies and coordination with the United States Coast Guard and other relevant agencies;

(8) Identification and coordination with Native Hawaiian interests, regarding culturally significant, noncommercial subsistence, cultural, and religious uses and locations within the Reserve;

(9) Identification of potential tourism, recreational, and commercial activities within the Reserve and actions necessary to ensure that these activities do not degrade the Reserve's resources or diminish the Reserve's natural character;

(10) Use of vessel monitoring systems for any vessel entering or transiting the Reserve, if warranted. To this end, the Secretary in consultation with the Department of State, United States Coast Guard, and the Department of Defense, shall evaluate the need for the establishment of vessel monitoring systems and, if warranted, shall initiate the steps necessary to have the appropriate domestic agencies, and request that the International Maritime Organization, adopt a vessel monitoring system requirement for the Reserve;

(11) Any regulations, in addition to the conservation measures and Reserve Preservation Areas established under this order, that the Secretary determines are necessary to manage the Reserve in accordance with this order; and

(12) Coordination of all relevant activities with the process to designate the Reserve as a National Marine Sanctuary, as provided under paragraph (f) of this section.

(c) *Conservation Measures*. The Reserve Operations Plan shall also include the conservation measures in section 7 of this order and the Reserve Preservation Areas in section 8 of this order.

(d) *Memorandum of Agreement*. To further paragraph (b)(1) of this section, and subject to section 10(b) of this order, and in particular to promote coordinated management of the entirety of the shallow areas of the coral reef ecosystem throughout the Northwestern Hawaiian Islands, the Secretary shall work with the Secretary of the Interior and Governor of the State of Hawaii to enter into one or more memoranda of agreement for the coordinated conservation and management of the Reserve, Midway Atoll and Hawaiian Islands National Wildlife Refuges, and State of Hawaii submerged lands and waters within the Northwestern Hawaiian Islands.

(e) *National Marine Sanctuary*. The Secretary shall initiate the process to designate the Reserve as a national marine sanctuary pursuant to sections 303 and 304 of the National Marine Sanctuaries Act (16 U.S.C. 1433, 1434). In doing so the Secretary shall supplement or complement the existing Reserve. The Secretary shall, in consultation with the Governor of the State of Hawaii, determine whether State submerged lands and waters should be included as part of the sanctuary. In designating and managing the sanctuary, the Secretary shall consider the advice and recommendations of the Reserve Council established pursuant to paragraph (f) of this section.

(f) *Council*. After considering input from the Secretary of the Interior and Governor of the State of Hawaii, the Secretary shall establish a Coral Reef Ecosystem Reserve Council pursuant to section 315 of the National Marine Sanctuaries Act (16 U.S.C. 1445a) to provide advice and recommendations on the Reserve Operations Plan and designation and management of any sanctuary. The Council shall include:

(1) Three Native Hawaiian representatives, including one Native Hawaiian elder, with experience or knowledge regarding Native Hawaiian subsistence, cultural, religious, or other activities in the Northwestern Hawaiian Islands.

(2) Three representatives from the non-Federal science community with experience specific to the Northwestern Hawaiian Islands and with expertise in at least one of the following areas:

(A) Marine mammal science.

(B) Coral reef ecology.

(C) Native marine flora and fauna of the Hawaiian Islands.

(D) Oceanography.

(E) Any other scientific discipline the Secretary determines to be appropriate.

(3) Three representatives from nongovernmental wildlife/marine life, environmental, and/or conservation organizations.

(4) One representative from the commercial fishing industry that conducts activities in the Northwestern Hawaiian Islands.

(5) One representative from the recreational fishing industry that conducts activities in the Northwestern Hawaiian Islands.

(6) One representative from the ocean-related tourism industry.

(7) One representative from the non-Federal community with experience in education and outreach regarding marine conservation issues.

(8) One citizen-at-large representative.

(9) One representative from the State of Hawaii as appointed by the Governor.

(10) One representative each, as nonvoting, *ex officio* members, from the Department of the Interior, United States Coast Guard, Department of Defense, Department of State, the National Marine Fisheries Service, the Hawaiian Islands Humpback Whale National Marine Sanctuary, National Science Foundation, Marine Mammal Commission, and Western Pacific Regional Fishery Management Council.

(g) *Report*. The Secretary shall provide a progress report on the implementation of this order to the Chair of the Council on Environmental Quality within 1 year from the date of this order.

SEC. 6. *Area of the Reserve*. The Reserve includes the waters and submerged lands of the Northwestern Hawaiian Islands as follows:

(a) The seaward boundary of the Reserve is 50nm from the approximate center geographical positions of Nihoa Island, Necker Island, French Frigate Shoals, Gardner Pinnacles, Maro Reef, Laysan Island, Lisianski Island, Pearl and Hermes Reef, Midway Atoll, and Kure Island. Where the areas are not contiguous, parallel lines drawn tangent to and connecting those semi-circles of the 50nm areas that lie around such areas shall delimit the remainder of the Reserve.

(b) The inland boundary of the Reserve around each of the areas named in subparagraph (a) of this section is the seaward boundary of Hawaii State waters and submerged lands, and the seaward boundary of the Midway Atoll National Wildlife Refuge, as appropriate.

(c) The Reserve boundary is generally depicted on the map attached to this order. The Secretary, after consultation with the Governor of the State of Hawaii, may make technical modifications to the boundary of the Reserve, including providing straight-line boundaries for the Reserve for clarity and ease of identification, as appropriate.

SEC. 7. *Protection and Conservation Measures*. The conservation measures in this section apply throughout the Reserve.

(a)(1) *Commercial Fishing*. All currently existing commercial Federal fishing permits and current levels of fishing effort and take, which also includes the nonpermitted level of trolling for pelagic species by currently permitted bottom fishers, as determined by the Secretary and pursuant to regulations in effect on December 4, 2000, shall be capped as follows:

(A) No commercial fishing may occur in Reserve Preservation Areas pursuant to section 8 of this order;

(B) There shall be no increase in the number of permits of any particular type of fishing (such as for bottomfishing) beyond the number of permits of that type in effect the year preceding the date of this order;

(C) The annual level of aggregate take under all permits of any particular type of fishing may not exceed the aggregate level of take under all permits of that type of fishing as follows:

(1) Bottomfishing—the annual aggregate level for each permitted bottomfisher shall be that permittee's individual average taken over the 5 years preceding December 4, 2000, as determined by the Secretary, provided that the Secretary, in furtherance of the principles of the reserve, may make a one-time reasonable increase to the total aggregate to allow for the use of two Native Hawaiian bottomfishing permits;

(2) All other commercial fishing—the annual aggregate level shall be the permittee's individual take in the year preceding December 4, 2000, as determined by the Secretary.

(D) There shall be no permits issued for any particular type of fishing for which there were no permits issued in the year preceding the date of this order; and

(E) The type of fishing gear used by any permit holder may not be changed except with the permission of the Secretary, as provided under paragraph 3 of this section.

(F) Trolling for pelagic species shall be capped based on reported landings for the year preceding December 4, 2000.

(2) *Recreational Fishing*. All currently existing (preceding the date of this order) levels of recreational fishing effort, as determined by the Secretary and pursuant to regulations in effect on the day of this order, shall be capped (i.e., no increase of take levels or levels of fishing effort, species targeted, or change in gear types) throughout the Reserve. However, fishing is further restricted as provided in section 8 of this order.

(3) The Secretary, after consultation with the Secretary of the Interior and Governor of the State of Hawaii, and after public review and comment and consideration of any advice or recommendations of the Reserve Council and Western Pacific Regional Fishery Management Council, may further restrict the fishing activities under subparagraphs (a)(1) and (a)(2) of this section if necessary to protect Reserve resources, or may authorize or require alternate gear types if such gear would offer equal or greater protection for Reserve resources.

(b) In addition to the conservation measures in paragraph (a) of this section, the following activities are prohibited throughout the Reserve:

(1) Exploring for, developing, or producing oil, gas, or minerals;

(2) Having a vessel anchored on any living or dead coral with an anchor, an anchor chain, or an anchor rope when visibility is such that the seabed can be seen;

(3) Drilling into, dredging, or otherwise altering the seabed; or constructing, placing, or abandoning any structure, material, or other matter on the seabed, except as an incidental result of anchoring vessels;

(4) Discharging or depositing any material or other matter into the Reserve, or discharging or depositing any material or other matter outside the Reserve that subsequently enters the Reserve and injures any resource of the Reserve, except:

(A) fish parts (i.e., chumming materia [sic] or bait) used in and during fishing operations authorized under this order;

(B) biodegradable effluent incident to vessel use and generated by a marine sanitation device in accordance with section 312 of the Federal Water Pollution Control Act, as amended [33 U.S.C. 1322];

(C) water generated by routine vessel operations (e.g., deck wash down and graywater as defined in section 312 of the Federal Water Pollution Control Act), excluding oily wastes from bilge pumping; or

(D) cooling water from vessels or engine exhaust; and

(5) Removal, moving, taking, harvesting, or damaging any living or nonliving Reserve resources, except as provided under paragraph (a) of this section and sections 8(a) and 9 of this order.

(c) The Secretary may conduct, or authorize by permit the activities listed in subparagraphs (b)(3)–(5) of

this section to the extent that they are necessary for research, monitoring, education, or management activities that further the Management Principles of section 4 of this order.

SEC. 8. *Reserve Preservation Areas.*

(a) To further protect Reserve resources, the following areas are hereby established as Reserve Preservation Areas until some or all are made permanent after adequate public review and comment, within which all activities referred to in paragraph (b) of this section are prohibited.

(1) From the seaward boundary of Hawaii State waters and submerged lands to a mean depth of 100 fathoms (fm) around:

(A) Nihoa Island, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, respectively, of this order [sic] shall be allowed to continue seaward of a mean depth of 25 fm, unless and until the Secretary determines otherwise after adequate public review and comment;

(B) Necker Island, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, respectively, of this order [sic] shall be allowed to continue seaward of a mean depth of 25 fm, unless and until the Secretary determines otherwise after adequate public review and comment;

(C) French Frigate Shoals;

(D) Gardner Pinnacles, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, respectively, of this order [sic] shall be allowed to continue seaward of a mean depth of 25 fm, unless and until the Secretary determines otherwise after adequate public review and comment;

(E) Maro Reef, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, respectively, of this order [sic] shall be allowed to continue seaward of a mean depth of 25 fm, unless and until the Secretary determines otherwise after adequate public review and comment;

(F) Laysan Island, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, respectively, of this order [sic] shall be allowed to continue seaward of a mean depth of 50 fm, unless and until the Secretary determines otherwise after adequate public review and comment;

(G) Lisianski Island, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, respectively, of this order [sic] shall be allowed to continue seaward of a mean depth of 25 fm, unless and until the Secretary determines otherwise after adequate public review and comment;

(H) Pearl and Hermes Atoll; and

(I) Kure Atoll.

(2) Twelve nautical miles around the approximate geographical centers of:

(A) The first bank immediately east of French Frigate Shoals;

(B) Southeast Brooks Bank, which is the first bank immediately west of French Frigate Shoals, provided that the closure area shall not be closer than approximately 3nm of the next bank immediately west;

(C) St. Rogatien Bank, provided that the closure area shall not be closer than approximately 3nm of the next bank immediately east, provided further that bottomfishing in accordance with the requirements of section 7(a)(1) of this order shall be allowed to continue, unless and until the Secretary determines otherwise after adequate public review and comment;

(D), (E) [Revoked. Ex. Ord. No. 13196, § 4, Jan. 18, 2001, 66 F.R. 7396]

(F) Pioneer Bank, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, respectively, of this order [sic] shall be allowed to continue, unless and until the Secretary determines otherwise after adequate public review and comment.

(3) Twelve nautical miles around the approximate geographical centers of

(A) The first bank west of St. Rogation Bank, east of Gardner Pinnacles, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, shall be allowed to continue for a period of 5 years from the date of this order; and

(B) Raita Bank, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, shall be allowed to continue for a period of 5 years from the date of this order; and

(C) Provided that both banks described above in (3)(A) and (3)(B) shall only continue to allow commercial bottomfishing and commercial and recreational trolling for pelagic species after the 5-year time period if it is determined that continuation of such activities will have no adverse impact on the resources of these banks.

(b) Activities Prohibited Within Reserve Preservation Areas.

(1) In addition to the conservation measures in section 7 of this order, which are applicable to the entire Reserve, the following activities are prohibited within the Reserve Preservation Areas listed in paragraph (a) of this section, except as expressly otherwise stated in this paragraph and sections (8)(a) and 9 of this order:

(A) Commercial and recreational fishing;

(B) Anchoring in any area that contains available mooring buoys, or anchoring outside an available anchoring area when such area has been designated by the Secretary;

(C) Any type of touching or taking of living or dead coral;

(D) Discharging or depositing any material or other matter except cooling water or engine exhaust; and

(E) Such other activities that the Secretary identifies after adequate public review and comment, and after consideration of any advice and recommendations of the Reserve Council.

(2) Notwithstanding the prohibitions in this paragraph, the Secretary may conduct, or authorize by permit, research, monitoring, education, or management activities within any Reserve Preservation Area that further the Management Principles of section 4 of this order.

(3) The Reserve Preservation Areas in this section are approximated using fathoms. The Secretary will develop straight line boundaries based on longitude and latitude coordinates to encompass each Reserve Preservation Area, to provide for clarity and ease of identification. The Secretary may make technical modifications to any such boundaries.

SEC. 9. *Native Hawaiian Uses.* Native Hawaiian noncommercial subsistence, cultural, or religious uses may continue, to the extent consistent with existing law, within the Reserve and Reserve Preservation Areas identified under section 8 of this order. The Secretary shall work with Native Hawaiian interests to identify those areas where such Native Hawaiian uses of the Reserve's resources may be conducted without injury to the Reserve's coral reef ecosystem and related marine resources and species, and may revise the areas where such activities may occur after public review and comment, and consideration of any advice and recommendations of the Reserve Council.

SEC. 10. *National Wildlife Refuges.*

(a) The Secretary of the Interior, in managing, through the U.S. Fish and Wildlife Service the Hawai-

ian Islands and Midway Atoll National Wildlife Refuges pursuant to the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd–668ee) and other applicable laws, shall follow the Management Principles of section 4 of this order, to the extent consistent with applicable law.

(b) Wherever the Reserve overlaps the Hawaiian Islands National Wildlife Refuge, the Reserve shall be managed to supplement and complement management of the Refuge to ensure coordinated conservation and management of the Reserve and the Refuge, consistent with the purposes and policies of the National Marine Sanctuaries Act, the National Marine Sanctuaries Amendments Act of 2000, and this order, and the authorities of the U.S. Fish and Wildlife Service under the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd-668ee) and other laws with respect to management of the Refuge. Nothing in this order shall enlarge or diminish the jurisdiction or authority of the Secretary or Secretary of the Interior in managing the Reserve or Refuge, respectively.

(c) The Secretary of the Interior, through the U.S. Fish and Wildlife Service, shall coordinate with the Secretary and the Governor of the State of Hawaii, as provided under section 5(b) of this order, to ensure coordinated protection and management among the Reserve, Refuges, and State, consistent with relevant authorities.

SEC. 11. *Administration and Judicial Review*.

(a) *International Law*. Management of the Reserve and any regulations issued pursuant thereto and all other provisions of this order shall be applied consistently with the 1983 Presidential Proclamation on the Exclusive Economic Zone [Proc. No. 5030, 16 U.S.C. 1453 note], the 1988 Presidential Proclamation on the Territorial Sea [Proc. No. 5928, 43 U.S.C. 1331 note], and the 1999 Presidential Proclamation on Contiguous Zone [Proc. No. 7219, 43 U.S.C. 1331 note] and in accordance with generally recognized principles of international law, and with the treaties, conventions, and other agreements to which the United States is a party. The Secretary shall consult with the Department of State in implementing this order.

(b) *Agency Responsibilities*. All Federal agencies whose actions may affect the Reserve and any National Marine Sanctuary established by the Secretary pursuant to this order shall carry out such actions in accordance with applicable laws, regulations and Executive Orders, including Executive Orders 13089 of June 11, 1998 [set out above], and 13158 of May 26, 2000 [16 U.S.C. 1431 note].

(c) *National Security and Emergency Actions*. Consistent with applicable law, nothing in this order is intended to apply to military activities (including those carried out by the United States Coast Guard), including military exercises, conducted within or in the vicinity of the Reserve, consistent with the requirements of Executive Orders 13089 of June 11, 1998, and 13158 of May 26, 2000. Further, nothing in this order is intended to restrict the Department of Defense from conducting activities necessary during time of war or national emergency, or when necessary for reasons of national security as determined by the Secretary of Defense, consistent with applicable law. In addition, consistent with applicable law, nothing in this order shall limit agency actions to respond to emergencies posing an unacceptable threat to human health or safety or to the marine environment and admitting of no other feasible solution.

(d) *United States Coast Guard*. Nothing in this order is intended to limit the authority of the United States Coast Guard to enforce any Federal law, or install or maintain aids to navigation.

(e) *Funding*. This order shall be carried out subject to the availability of appropriated funds and to the extent permitted by law.

(f) *Territorial Waters*. Nothing in this order shall enlarge or diminish the jurisdiction or authority of the State of Hawaii or the United States over submerged or other lands within the territorial waters off the coast of Hawaii.

(g) *Judicial Review*. This order does not create any right or benefit, substantive or procedural, enforceable in law or equity by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

EX. ORD. NO. 13196. FINAL NORTHWESTERN HAWAIIAN ISLANDS CORAL REEF ECOSYSTEM RESERVE

Ex. Ord. No. 13196, Jan. 18, 2001, 66 F.R. 7395, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Marine Sanctuaries Act, (16 U.S.C. 1431 *et seq.*), and the National Marine Sanctuaries Amendments Act of 2000, Public Law 106–513 [see Short Title of 2000 Amendment note set out under section 1431 of this title], and in furtherance of the purposes of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), Marine Protection, Research, and Sanctuaries Act [of 1972] (33 U.S.C. 1401 *et seq.* [16 U.S.C. 1431 *et seq.*, 1447 *et seq.*, 33 U.S.C. 1401 *et seq.*, 2801 *et seq.*]), Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*), Endangered Species Act [of 1973] (16 U.S.C. 1531 *et seq.*), Marine Mammal Protection Act [of 1972] (16 U.S.C. 1362 [1361] *et seq.*), Clean Water Act (33 U.S.C. 1251 *et seq.*), National Historic Preservation Act (16 U.S.C. 470 *et seq.*), National Wildlife Refuge System Administration Act (16 U.S.C. 668dd–e.e. [16 U.S.C. 668dd–668ee]), and other pertinent statutes, it is ordered as follows:

SEC. 1. *Preamble*. On December 4, 2000, I issued Executive Order 13178 [set out above] establishing the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve (Reserve) pursuant to my authority under the National Marine Sanctuaries Act, as amended by the National Marine Sanctuary Amendments Act of 2000 (Act). In establishing the Reserve, I set forth a number of conservation measures and created specific Reserve Preservation Areas to protect the coral reef ecosystem and related marine resources and species (resources) of the Reserve. The Act provides that no closure areas can become permanent without adequate notice and comment. Accordingly, I proposed to make permanent the Reserve Preservation Areas and initiated a 30-day comment period on this proposal. I also sought comment on the conservation measures for the Reserve. On my behalf, the Secretary of Commerce received the public comments and held seven public hearings, including six throughout Hawaii. After considering the comments expressed at the hearings and received in writing, I have determined to make permanent the Reserve Preservation Areas with certain modifications set forth below. Further, I have modified certain conservation measures to address concerns raised, particularly regarding commercial and recreational fishing within the Reserve. With this action, the establishment of the Reserve under the Act, including the conservation measures and permanent Reserve Preservation Areas, is complete. The Secretary of Commerce will manage the Reserve pursuant to Executive Order 13178, as modified by this order, under the Act. The Secretary shall also initiate the process to designate the Reserve as a National Marine Sanctuary, as required by the Act.

SEC. 2. *Purpose*. The purpose of this order is to amend Executive Order 13178 [set out above], and to make permanent Reserve Preservation Areas, as modified below, to ensure the comprehensive, strong, and lasting protection of the resources of the Northwestern Hawaiian Islands.

[SECS. 3, 4. Amended Ex. Ord. No. 13178, set out above.]

SEC. 5. *Reserve Preservation Areas*. The Reserve Preservation Areas, as modified in sections 3 and 4 of this order, are hereby made permanent in accordance with the Act.

SEC. 6. *Judicial Review*. This order does not create any right or benefit, substantive or procedural, enforceable in law or equity by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

§ 6402. National coral reef action strategy

(a) In general

Not later than 180 days after December 23, 2000, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Resources of the House of Representatives and publish in the Federal Register a national coral reef action strategy, consistent with the purposes of this chapter. The Administrator shall periodically review and revise the strategy as necessary. In developing this national strategy, the Secretary may consult with the Coral Reef Task Force established under Executive Order 13089 (June 11, 1998).

(b) Goals and objectives

The action strategy shall include a statement of goals and objectives as well as an implementation plan, including a description of the funds obligated each fiscal year to advance coral reef conservation. The action strategy and implementation plan shall include discussion of—

(1) coastal uses and management;
(2) water and air quality;
(3) mapping and information management;
(4) research, monitoring, and assessment;
(5) international and regional issues;
(6) outreach and education;
(7) local strategies developed by the States or Federal agencies, including regional fishery management councils; and
(8) conservation, including how the use of marine protected areas to serve as replenishment zones will be developed consistent with local practices and traditions.

(Pub. L. 106–562, title II, § 203, Dec. 23, 2000, 114 Stat. 2800.)

REFERENCES IN TEXT

Executive Order 13089, referred to in subsec. (a), is set out as a note under section 6401 of this title.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 6403. Coral reef conservation program

(a) Grants

The Secretary, through the Administrator and subject to the availability of funds, shall provide grants of financial assistance for projects for the conservation of coral reefs (hereafter in this chapter referred to as ''coral conservation projects''), for proposals approved by the Administrator in accordance with this section.

(b) Matching requirements

(1) Fifty percent

Except as provided in paragraph (2), Federal funds for any coral conservation project under this section may not exceed 50 percent of the total cost of such project. For purposes of this paragraph, the non-Federal share of project costs may be provided by in-kind contributions and other noncash support.

(2) Waiver

The Administrator may waive all or part of the matching requirement under paragraph (1) if the Administrator determines that no reasonable means are available through which applicants can meet the matching requirement and the probable benefit of such project outweighs the public interest in such matching requirement.

(c) Eligibility

Any natural resource management authority of a State or other government authority with jurisdiction over coral reefs or whose activities directly or indirectly affect coral reefs, or coral reef ecosystems, or educational or nongovernmental institutions with demonstrated expertise in the conservation of coral reefs, may submit to the Administrator a coral conservation proposal under subsection (e) of this section.

(d) Geographic and biological diversity

The Administrator shall ensure that funding for grants awarded under subsection (b) of this section during a fiscal year are distributed in the following manner:

(1) No less than 40 percent of funds available shall be awarded for coral conservation projects in the Pacific Ocean within the maritime areas and zones subject to the jurisdiction or control of the United States.
(2) No less than 40 percent of the funds available shall be awarded for coral conservation projects in the Atlantic Ocean, the Gulf of Mexico, and the Caribbean Sea within the maritime areas and zones subject to the jurisdiction or control of the United States.
(3) Remaining funds shall be awarded for projects that address emerging priorities or threats, including international priorities or threats, identified by the Administrator. When identifying emerging threats or priorities, the Administrator may consult with the Coral Reef Task Force.

(e) Project proposals

Each proposal for a grant under this section shall include the following:

(1) The name of the individual or entity responsible for conducting the project.
(2) A description of the qualifications of the individuals who will conduct the project.
(3) A succinct statement of the purposes of the project.
(4) An estimate of the funds and time required to complete the project.
(5) Evidence of support for the project by appropriate representatives of States or other government jurisdictions in which the project will be conducted.
(6) Information regarding the source and amount of matching funding available to the applicant.
(7) A description of how the project meets one or more of the criteria in subsection (g) of this section.
(8) Any other information the Administrator considers to be necessary for evaluating the eligibility of the project for funding under this chapter.

(f) Project review and approval

(1) In general

The Administrator shall review each coral conservation project proposal to determine if

it meets the criteria set forth in subsection (g) of this section.

(2) Review; approval or disapproval

Not later than 6 months after receiving a project proposal under this section, the Administrator shall—

(A) request and consider written comments on the proposal from each Federal agency, State government, or other government jurisdiction, including the relevant regional fishery management councils established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), or any National Marine Sanctuary, with jurisdiction or management authority over coral reef ecosystems in the area where the project is to be conducted, including the extent to which the project is consistent with locally-established priorities;

(B) provide for the merit-based peer review of the proposal and require standardized documentation of that peer review;

(C) after considering any written comments and recommendations based on the reviews under subparagraphs (A) and (B), approve or disapprove the proposal; and

(D) provide written notification of that approval or disapproval to the person who submitted the proposal, and each of those States and other government jurisdictions that provided comments under subparagraph (A).

(g) Criteria for approval

The Administrator may not approve a project proposal under this section unless the project is consistent with the coral reef action strategy under section 6402 of this title and will enhance the conservation of coral reefs by—

(1) implementing coral conservation programs which promote sustainable development and ensure effective, long-term conservation of coral reefs;

(2) addressing the conflicts arising from the use of environments near coral reefs or from the use of corals, species associated with coral reefs, and coral products;

(3) enhancing compliance with laws that prohibit or regulate the taking of coral products or species associated with coral reefs or regulate the use and management of coral reef ecosystems;

(4) developing sound scientific information on the condition of coral reef ecosystems or the threats to such ecosystems, including factors that cause coral disease;

(5) promoting and assisting to implement cooperative coral reef conservation projects that involve affected local communities, nongovernmental organizations, or others in the private sector;

(6) increasing public knowledge and awareness of coral reef ecosystems and issues regarding their long term conservation;

(7) mapping the location and distribution of coral reefs;

(8) developing and implementing techniques to monitor and assess the status and condition of coral reefs;

(9) developing and implementing cost-effective methods to restore degraded coral reef ecosystems; or

(10) promoting ecologically sound navigation and anchorages near coral reefs.

(h) Project reporting

Each grantee under this section shall provide periodic reports as required by the Administrator. Each report shall include all information required by the Administrator for evaluating the progress and success of the project.

(i) Coral Reef Task Force

The Administrator may consult with the Coral Reef Task Force to obtain guidance in establishing coral conservation project priorities under this section.

(j) Implementation guidelines

Within 180 days after December 23, 2000, the Administrator shall promulgate necessary guidelines for implementing this section. In developing those guidelines, the Administrator shall consult with State, regional, and local entities involved in setting priorities for conservation of coral reefs and provide for appropriate public notice and opportunity for comment.

(Pub. L. 106–562, title II, §204, Dec. 23, 2000, 114 Stat. 2801.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (f)(2)(A), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

§ 6404. Coral reef conservation Fund

(a) Fund

The Administrator may enter into an agreement with a nonprofit organization that promotes coral reef conservation authorizing such organization to receive, hold, and administer funds received pursuant to this section. The organization shall invest, reinvest, and otherwise administer the funds and maintain such funds and any interest or revenues earned in a separate interest bearing account, hereafter referred to as the Fund, established by such organization solely to support partnerships between the public and private sectors that further the purposes of this chapter and are consistent with the national coral reef action strategy under section 6402 of this title.

(b) Authorization to solicit donations

Pursuant to an agreement entered into under subsection (a) of this section, an organization may accept, receive, solicit, hold, administer, and use any gift to further the purposes of this chapter. Any moneys received as a gift shall be deposited and maintained in the Fund established by the organization under subsection (a) of this section.

(c) Review of performance

The Administrator shall conduct a continuing review of the grant program administered by an organization under this section. Each review shall include a written assessment concerning the extent to which that organization has implemented the goals and requirements of this sec-

tion and the national coral reef action strategy under section 6402 of this title.

(d) Administration

Under an agreement entered into pursuant to subsection (a) of this section, the Administrator may transfer funds appropriated to carry out this chapter to an organization. Amounts received by an organization under this subsection may be used for matching, in whole or in part, contributions (whether in money, services, or property) made to the organization by private persons and State and local government agencies.

(Pub. L. 106–562, title II, § 205, Dec. 23, 2000, 114 Stat. 2803.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'' which was translated as reading ''this title'', meaning title II of Pub. L. 106–562, to reflect the probable intent of Congress.

§ 6405. Emergency assistance

The Administrator may make grants to any State, local, or territorial government agency with jurisdiction over coral reefs for emergencies to address unforeseen or disaster-related circumstance[1] pertaining to coral reefs or coral reef ecosystems.

(Pub. L. 106–562, title II, § 206, Dec. 23, 2000, 114 Stat. 2804.)

§ 6406. National program

(a) In general

Subject to the availability of appropriations, the Secretary may conduct activities to conserve coral reefs and coral reef ecosystems, that are consistent with this chapter, the National Marine Sanctuaries Act [16 U.S.C. 1431 et seq.], the Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.], the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1801 et seq.], the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.], and the Marine Mammal Protection Act of 1972 [16 U.S.C. 1361 et seq.].

(b) Authorized activities

Activities authorized under subsection (a) of this section include—

(1) mapping, monitoring, assessment, restoration, and scientific research that benefit the understanding, sustainable use, and long-term conservation of coral reefs and coral reef ecosystems;

(2) enhancing public awareness, education, understanding, and appreciation of coral reefs and coral reef ecosystems;

(3) providing assistance to States in removing abandoned fishing gear, marine debris, and abandoned vessels from coral reefs to conserve living marine resources; and

(4) cooperative conservation and management of coral reefs and coral reef ecosystems with local, regional, or international programs and partners.

(Pub. L. 106–562, title II, § 207, Dec. 23, 2000, 114 Stat. 2804.)

[1] So in original.

REFERENCES IN TEXT

The National Marine Sanctuaries Act, referred to in subsec. (a), is title III of Pub. L. 92–532, Oct. 23, 1972, 86 Stat. 1061, as amended, which is classified generally to chapter 32 (§ 1431 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1431 of this title and Tables.

The Coastal Zone Management Act of 1972, referred to in subsec. (a), is title III of Pub. L. 89–454, as added by Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to chapter 33 (§ 1451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of this title and Tables.

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (a), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Endangered Species Act of 1973, referred to in subsec. (a), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified principally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Marine Mammal Protection Act of 1972, referred to in subsec. (a), is Pub. L. 92–522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to chapter 31 (§ 1361 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

§ 6407. Effectiveness reports

(a) Grant program

Not later than 3 years after December 23, 2000, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report that documents the effectiveness of the grant program under section 6403 of this title in meeting the purposes of this chapter. The report shall include a State-by-State summary of Federal and non-Federal contributions toward the costs of each project.

(b) National program

Not later than 2 years after the date on which the Administrator publishes the national coral reef strategy under section 6402 of this title and every 2 years thereafter, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing all activities undertaken to implement that strategy, under section 6402 of this title, including a description of the funds obligated each fiscal year to advance coral reef conservation.

(Pub. L. 106–562, title II, § 208, Dec. 23, 2000, 114 Stat. 2804.)

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 6408. Authorization of appropriations

(a) In general

There are authorized to be appropriated to the Secretary to carry out this chapter $16,000,000

for each of fiscal years 2001, 2002, 2003, and 2004, which may remain available until expended.

(b) Administration

Of the amounts appropriated under subsection (a) of this section, not more than the lesser of $1,000,000 or 10 percent of the amounts appropriated, may be used for program administration or for overhead costs incurred by the National Oceanic and Atmospheric Administration or the Department of Commerce and assessed as an administrative charge.

(c) Coral reef conservation program

From the amounts appropriated under subsection (a) of this section, there shall be made available to the Secretary $8,000,000 for each of fiscal years 2001, 2002, 2003, and 2004 for coral reef conservation activities under section 6403 of this title.

(d) National coral reef activities

From the amounts appropriated under subsection (a) of this section, there shall be made available to the Secretary $8,000,000 for each of fiscal years 2001, 2002, 2003, and 2004 for activities under section 6406 of this title.

(Pub. L. 106–562, title II, §209, Dec. 23, 2000, 114 Stat. 2805.)

§ 6409. Definitions

In this chapter:

(1) Administrator

The term ''Administrator'' means the Administrator of the National Oceanic and Atmospheric Administration.

(2) Conservation

The term ''conservation'' means the use of methods and procedures necessary to preserve or sustain corals and associated species as diverse, viable, and self-perpetuating coral reef ecosystems, including all activities associated with resource management, such as assessment, conservation, protection, restoration, sustainable use, and management of habitat; mapping; habitat monitoring; assistance in the development of management strategies for marine protected areas and marine resources consistent with the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); law enforcement; conflict resolution initiatives; community outreach and education; and that promote safe and ecologically sound navigation.

(3) Coral

The term ''coral'' means species of the phylum Cnidaria, including—

(A) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Gorgonacea (horny corals), Stolonifera (organpipe corals and others), Alcyanacea (soft corals), and Coenothecalia (blue coral), of the class Anthozoa; and

(B) all species of the order Hydrocorallina (fire corals and hydrocorals) of the class Hydrozoa.

(4) Coral reef

The term ''coral reef'' means any reefs or shoals composed primarily of corals.

(5) Coral reef ecosystem

The term ''coral reef ecosystem'' means coral and other species of reef organisms (including reef plants) associated with coral reefs, and the nonliving environmental factors that directly affect coral reefs, that together function as an ecological unit in nature.

(6) Coral products

The term ''coral products'' means any living or dead specimens, parts, or derivatives, or any product containing specimens, parts, or derivatives, of any species referred to in paragraph (3).

(7) Secretary

The term ''Secretary'' means the Secretary of Commerce.

(8) State

The term ''State'' means any State of the United States that contains a coral reef ecosystem within its seaward boundaries, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, and any other territory or possession of the United States, or separate sovereign in free association with the United States, that contains a coral reef ecosystem within its seaward boundaries.

(Pub. L. 106–562, title II, §210, Dec. 23, 2000, 114 Stat. 2805.)

REFERENCES IN TEXT

The National Marine Sanctuaries Act, referred to in par. (2), is title III of Pub. L. 92–532, Oct. 23, 1972, 86 Stat. 1061, as amended, which is classified generally to chapter 32 (§1431 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1431 of this title and Tables.

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in par. (2), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

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§ 6501. Purposes

The purposes of this chapter are—

(1) to reduce wildfire risk to communities, municipal water supplies, and other at-risk Federal land through a collaborative process of planning, prioritizing, and implementing hazardous fuel reduction projects;

(2) to authorize grant programs to improve the commercial value of forest biomass (that otherwise contributes to the risk of catastrophic fire or insect or disease infestation) for producing electric energy, useful heat, transportation fuel, and petroleum-based product substitutes, and for other commercial purposes;

(3) to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape;

(4) to promote systematic gathering of information to address the impact of insect and disease infestations and other damaging agents on forest and rangeland health;

(5) to improve the capacity to detect insect and disease infestations at an early stage, particularly with respect to hardwood forests; and

(6) to protect, restore, and enhance forest ecosystem components—

(A) to promote the recovery of threatened and endangered species;

(B) to improve biological diversity; and

(C) to enhance productivity and carbon sequestration.

(Pub. L. 108–148, §2, Dec. 3, 2003, 117 Stat. 1888.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 108–148, Dec. 3, 2003, 117 Stat. 1887, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE

Pub. L. 108–148, §1(a), Dec. 3, 2003, 117 Stat. 1887, provided that: ''This Act [enacting this chapter and section 2103b of this title and amending sections 6601, 8606, and 8609 of Title 7, Agriculture] may be cited as the 'Healthy Forests Restoration Act of 2003'.''

§ 6502. Definitions

In this chapter:

(1) Federal land

The term ''Federal land'' means—

(A) land of the National Forest System (as defined in section 1609(a) of this title) administered by the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(B) public lands (as defined in section 1702 of title 43), the surface of which is administered by the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(2) Indian tribe

The term ''Indian tribe'' has the meaning given the term in section 450b of title 25.

(Pub. L. 108–148, §3, Dec. 3, 2003, 117 Stat. 1888.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 108–148, Dec. 3, 2003, 117 Stat. 1887, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6501 of this title and Tables.

SUBCHAPTER I—HAZARDOUS FUEL REDUCTION ON FEDERAL LAND

§ 6511. Definitions

In this subchapter:

(1) At-risk community

The term ''at-risk community'' means an area—

(A) that is comprised of—

(i) an interface community as defined in the notice entitled ''Wildland Urban Interface Communities Within the Vicinity of Federal Lands That Are at High Risk From Wildfire'' issued by the Secretary of Agriculture and the Secretary of the Interior in accordance with title IV of the Department of the Interior and Related Agencies Appropriations Act, 2001 (114 Stat. 1009) (66 Fed. Reg. 753, January 4, 2001); or

(ii) a group of homes and other structures with basic infrastructure and services (such as utilities and collectively maintained transportation routes) within or adjacent to Federal land;

(B) in which conditions are conducive to a large-scale wildland fire disturbance event; and

(C) for which a significant threat to human life or property exists as a result of a wildland fire disturbance event.

(2) Authorized hazardous fuel reduction project

The term ''authorized hazardous fuel reduction project'' means the measures and methods described in the definition of ''appropriate tools'' contained in the glossary of the Implementation Plan, on Federal land described in section 6512(a) of this title and conducted under sections 6513 and 6514 of this title.

(3) Community wildfire protection plan

The term ''community wildfire protection plan'' means a plan for an at-risk community that—

(A) is developed within the context of the collaborative agreements and the guidance established by the Wildland Fire Leadership Council and agreed to by the applicable local government, local fire department, and State agency responsible for forest management, in consultation with interested parties and the Federal land management agencies managing land in the vicinity of the at-risk community;

(B) identifies and prioritizes areas for hazardous fuel reduction treatments and recommends the types and methods of treatment on Federal and non-Federal land that will protect 1 or more at-risk communities and essential infrastructure; and

(C) recommends measures to reduce structural ignitability throughout the at-risk community.

(4) Condition class 2

The term ''condition class 2'', with respect to an area of Federal land, means the condition class description developed by the Forest Service Rocky Mountain Research Station in the general technical report entitled ''Development of Coarse-Scale Spatial Data for Wildland Fire and Fuel Management'' (RMRS–87), dated April 2000 (including any subsequent revision to the report), under which—

(A) fire regimes on the land have been moderately altered from historical ranges;

(B) there exists a moderate risk of losing key ecosystem components from fire;

(C) fire frequencies have increased or decreased from historical frequencies by 1 or more return intervals, resulting in moderate changes to—

(i) the size, frequency, intensity, or severity of fires; or

(ii) landscape patterns; and

(D) vegetation attributes have been moderately altered from the historical range of the attributes.

(5) Condition class 3

The term ''condition class 3'', with respect to an area of Federal land, means the condition class description developed by the Rocky Mountain Research Station in the general technical report referred to in paragraph (4) (including any subsequent revision to the report), under which—

(A) fire regimes on land have been significantly altered from historical ranges;

(B) there exists a high risk of losing key ecosystem components from fire;

(C) fire frequencies have departed from historical frequencies by multiple return intervals, resulting in dramatic changes to—

(i) the size, frequency, intensity, or severity of fires; or

(ii) landscape patterns; and

(D) vegetation attributes have been significantly altered from the historical range of the attributes.

(6) Day

The term ''day'' means—

(A) a calendar day; or

(B) if a deadline imposed by this subchapter would expire on a nonbusiness day, the end of the next business day.

(7) Decision document

The term ''decision document'' means—

(A) a decision notice (as that term is used in the Forest Service Handbook);

(B) a decision record (as that term is used in the Bureau of Land Management Handbook); and

(C) a record of decision (as that term is used in applicable regulations of the Council on Environmental Quality).

(8) Fire regime I

The term ''fire regime I'' means an area—

(A) in which historically there have been low-severity fires with a frequency of 0 through 35 years; and

(B) that is located primarily in low elevation forests of pine, oak, or pinyon juniper.

(9) Fire regime II

The term ''fire regime II'' means an area—

(A) in which historically there are stand replacement severity fires with a frequency of 0 through 35 years; and

(B) that is located primarily in low- to mid-elevation rangeland, grassland, or shrubland.

(10) Fire regime III

The term ''fire regime III'' means an area—

(A) in which historically there are mixed severity fires with a frequency of 35 through 100 years; and

(B) that is located primarily in forests of mixed conifer, dry Douglas fir, or wet Ponderosa pine.

(11) Implementation Plan

The term ''Implementation Plan'' means the Implementation Plan for the Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, dated May 2002, developed pursuant to the conference report to accompany the Department of the Interior and Related Agencies Appropriations Act, 2001 (House Report No. 106–64) (and subsequent revisions).

(12) Municipal water supply system

The term ''municipal water supply system'' means the reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, and other surface facilities and systems constructed or installed for the collection, impoundment, storage, transportation, or distribution of drinking water.

(13) Resource management plan

The term ''resource management plan'' means—

(A) a land and resource management plan prepared for 1 or more units of land of the National Forest System described in section 6502(1)(A) of this title under section 1604 of this title; or

(B) a land use plan prepared for 1 or more units of the public land described in section 6502(1)(B) of this title under section 1712 of title 43.

(14) Secretary

The term ''Secretary'' means—

(A) the Secretary of Agriculture, with respect to land of the National Forest System described in section 6502(1)(A) of this title; and

(B) the Secretary of the Interior, with respect to public lands described in section 6502(1)(B) of this title.

(15) Threatened and endangered species habitat

The term ''threatened and endangered species habitat'' means Federal land identified in—

(A) a determination that a species is an endangered species or a threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(B) a designation of critical habitat of the species under that Act; or

(C) a recovery plan prepared for the species under that Act.

(16) Wildland-urban interface

The term ''wildland-urban interface'' means—

(A) an area within or adjacent to an at-risk community that is identified in recommendations to the Secretary in a community wildfire protection plan; or

(B) in the case of any area for which a community wildfire protection plan is not in effect—

(i) an area extending ½-mile from the boundary of an at-risk community;

(ii) an area within 1½ miles of the boundary of an at-risk community, including any land that—

(I) has a sustained steep slope that creates the potential for wildfire behavior endangering the at-risk community;

(II) has a geographic feature that aids in creating an effective fire break, such as a road or ridge top; or

(III) is in condition class 3, as documented by the Secretary in the project-specific environmental analysis; and

(iii) an area that is adjacent to an evacuation route for an at-risk community that the Secretary determines, in cooperation with the at-risk community, requires hazardous fuel reduction to provide safer evacuation from the at-risk community.

(Pub. L. 108–148, title I, § 101, Dec. 3, 2003, 117 Stat. 1889.)

REFERENCES IN TEXT

The Department of the Interior and Related Agencies Appropriations Act, 2001, referred to in pars. (1)(A)(i) and (11), is Pub. L. 106–291, Oct. 11, 2000, 114 Stat. 922. Title IV of the act is not classified to the Code. For complete classification of this Act to the Code, see Tables.

The Endangered Species Act of 1973, referred to in par. (15), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified principally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

§ 6512. Authorized hazardous fuel reduction projects

(a) Authorized projects

As soon as practicable after December 3, 2003, the Secretary shall implement authorized hazardous fuel reduction projects, consistent with the Implementation Plan, on—

(1) Federal land in wildland-urban interface areas;

(2) condition class 3 Federal land, in such proximity to a municipal water supply system or a stream feeding such a system within a municipal watershed that a significant risk exists that a fire disturbance event would have adverse effects on the water quality of the municipal water supply or the maintenance of the system, including a risk to water quality posed by erosion following such a fire disturbance event;

(3) condition class 2 Federal land located within fire regime I, fire regime II, or fire regime III, in such proximity to a municipal water supply system or a stream feeding such a system within a municipal watershed that a significant risk exists that a fire disturbance event would have adverse effects on the water quality of the municipal water supply or the maintenance of the system, including a risk to water quality posed by erosion following such a fire disturbance event;

(4) Federal land on which windthrow or blowdown, ice storm damage, the existence of an epidemic of disease or insects, or the presence of such an epidemic on immediately adjacent land and the imminent risk it will spread, poses a significant threat to an ecosystem component, or forest or rangeland resource, on the Federal land or adjacent non-Federal land; and

(5) Federal land not covered by paragraphs (1) through (4) that contains threatened and endangered species habitat, if—

(A) natural fire regimes on that land are identified as being important for, or wildfire is identified as a threat to, an endangered species, a threatened species, or habitat of an endangered species or threatened species in a species recovery plan prepared under section 1533 of this title, or a notice published in the Federal Register determining a species to be an endangered species or a threatened species or designating critical habitat;

(B) the authorized hazardous fuel reduction project will provide enhanced protection from catastrophic wildfire for the endangered species, threatened species, or habitat of the endangered species or threatened species; and

(C) the Secretary complies with any applicable guidelines specified in any management or recovery plan described in subparagraph (A).

(b) Relation to agency plans

An authorized hazardous fuel reduction project shall be conducted consistent with the

resource management plan and other relevant administrative policies or decisions applicable to the Federal land covered by the project.

(c) Acreage limitation

Not more than a total of 20,000,000 acres of Federal land may be treated under authorized hazardous fuel reduction projects.

(d) Exclusion of certain Federal land

The Secretary may not conduct an authorized hazardous fuel reduction project that would occur on—

(1) a component of the National Wilderness Preservation System;

(2) Federal land on which the removal of vegetation is prohibited or restricted by Act of Congress or Presidential proclamation (including the applicable implementation plan); or

(3) a Wilderness Study Area.

(e) Old growth stands

(1) Definitions

In this subsection and subsection (f):

(A) Applicable period

The term ''applicable period'' means—

(i) the 2-year period beginning on December 3, 2003; or

(ii) in the case of a resource management plan that the Secretary is in the process of revising as of December 3, 2003, the 3-year period beginning on December 3, 2003.

(B) Covered project

The term ''covered project'' means an authorized hazardous fuel reduction project carried out on land described in paragraph (1), (2), (3), or (5) of subsection (a).

(C) Management direction

The term ''management direction'' means definitions, designations, standards, guidelines, goals, or objectives established for an old growth stand under a resource management plan developed in accordance with applicable law, including section 1604(g)(3)(B) of this title.

(D) Old growth stand

The term ''old growth stand'' has the meaning given the term under management direction used pursuant to paragraphs (3) and (4), based on the structure and composition characteristic of the forest type, and in accordance with applicable law, including section 1604(g)(3)(B) of this title.

(2) Project requirements

In carrying out a covered project, the Secretary shall fully maintain, or contribute toward the restoration of, the structure and composition of old growth stands according to the pre-fire suppression old growth conditions characteristic of the forest type, taking into account the contribution of the stand to landscape fire adaptation and watershed health, and retaining the large trees contributing to old growth structure.

(3) Newer management direction

(A) In general

If the management direction for an old growth stand was established on or after December 15, 1993, the Secretary shall meet the requirements of paragraph (2) in carrying out a covered project by implementing the management direction.

(B) Amendments or revisions

Any amendment or revision to management direction for which final administrative approval is granted after December 3, 2003, shall be consistent with paragraph (2) for the purpose of carrying out covered projects.

(4) Older management direction

(A) In general

If the management direction for an old growth stand was established before December 15, 1993, the Secretary shall meet the requirements of paragraph (2) in carrying out a covered project during the applicable period by implementing the management direction.

(B) Review required

Subject to subparagraph (C), during the applicable period for management direction referred to in subparagraph (A), the Secretary shall—

(i) review the management direction for affected covered projects, taking into account any relevant scientific information made available since the adoption of the management direction; and

(ii) amend the management direction for affected covered projects to be consistent with paragraph (2), if necessary to reflect relevant scientific information the Secretary did not consider in formulating the management direction.

(C) Review not completed

If the Secretary does not complete the review of the management direction in accordance with subparagraph (B) before the end of the applicable period, the Secretary shall not carry out any portion of affected covered projects in stands that are identified as old growth stands (based on substantial supporting evidence) by any person during scoping, within the period—

(i) beginning at the close of the applicable period for the management direction governing the affected covered projects; and

(ii) ending on the earlier of—

(I) the date the Secretary completes the action required by subparagraph (B) for the management direction applicable to the affected covered projects; or

(II) the date on which the acreage limitation specified in subsection (c) (as that limitation may be adjusted by a subsequent Act of Congress) is reached.

(5) Limitation to covered projects

Nothing in this subsection requires the Secretary to revise or otherwise amend a resource management plan to make the project requirements of paragraph (2) apply to an activity other than a covered project.

(f) Large tree retention

(1) In general

Except in old growth stands where the management direction is consistent with sub-

section (e)(2), the Secretary shall carry out a covered project in a manner that—

(A) focuses largely on small diameter trees, thinning, strategic fuel breaks, and prescribed fire to modify fire behavior, as measured by the projected reduction of uncharacteristically severe wildfire effects for the forest type (such as adverse soil impacts, tree mortality or other impacts); and

(B) maximizes the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resilient stands.

(2) Wildfire risk

Nothing in this subsection prevents achievement of the purposes described in section 6501(1) of this title.

(g) Monitoring and assessing forest and rangeland health

(1) In general

For each Forest Service administrative region and each Bureau of Land Management State Office, the Secretary shall—

(A) monitor the results of a representative sample of the projects authorized under this subchapter for each management unit; and

(B) not later than 5 years after December 3, 2003, and each 5 years thereafter, issue a report that includes—

(i) an evaluation of the progress towards project goals; and

(ii) recommendations for modifications to the projects and management treatments.

(2) Consistency of projects with recommendations

An authorized hazardous fuel reduction project approved following the issuance of a monitoring report shall, to the maximum extent practicable, be consistent with any applicable recommendations in the report.

(3) Similar vegetation types

The results of a monitoring report shall be made available for use (if appropriate) in an authorized hazardous fuels reduction project conducted in a similar vegetation type on land under the jurisdiction of the Secretary.

(4) Monitoring and assessments

Monitoring and assessment shall include a description of the changes in condition class, using the Fire Regime Condition Class Guidebook or successor guidance, specifically comparing end results to—

(A) pretreatment conditions;

(B) historical fire regimes; and

(C) any applicable watershed or landscape goals or objectives in the resource management plan or other relevant direction.

(5) Multiparty monitoring

(A) In general

In an area where significant interest is expressed in multiparty monitoring, the Secretary shall establish a multiparty monitoring, evaluation, and accountability process in order to assess the positive or negative ecological and social effects of authorized hazardous fuel reduction projects and projects conducted pursuant to section 6554 of this title.

(B) Diverse stakeholders

The Secretary shall include diverse stakeholders (including interested citizens and Indian tribes) in the process required under subparagraph (A).

(C) Funding

Funds to carry out this paragraph may be derived from operations funds for projects described in subparagraph (A).

(6) Collection of monitoring data

The Secretary may collect monitoring data by entering into cooperative agreements or contracts with, or providing grants to, small or micro-businesses, cooperatives, nonprofit organizations, Youth Conservation Corps work crews, or related State, local, and other non-Federal conservation corps.

(7) Tracking

For each administrative unit, the Secretary shall track acres burned, by the degree of severity, by large wildfires (as defined by the Secretary).

(8) Monitoring and maintenance of treated areas

The Secretary shall, to the maximum extent practicable, develop a process for monitoring the need for maintenance of treated areas, over time, in order to preserve the forest health benefits achieved.

(Pub. L. 108–148, title I, §102, Dec. 3, 2003, 117 Stat. 1892.)

§ 6513. Prioritization

(a) In general

In accordance with the Implementation Plan, the Secretary shall develop an annual program of work for Federal land that gives priority to authorized hazardous fuel reduction projects that provide for the protection of at-risk communities or watersheds or that implement community wildfire protection plans.

(b) Collaboration

(1) In general

The Secretary shall consider recommendations under subsection (a) that are made by at-risk communities that have developed community wildfire protection plans.

(2) Exemption

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the planning process and recommendations concerning community wildfire protection plans.

(c) Administration

(1) In general

Federal agency involvement in developing a community wildfire protection plan, or a recommendation made in a community wildfire protection plan, shall not be considered a Federal agency action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) Compliance

In implementing authorized hazardous fuel reduction projects on Federal land, the Secretary shall, in accordance with section 6514 of this title, comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) Funding allocation

(1) Federal land

(A) In general

Subject to subparagraph (B), the Secretary shall use not less than 50 percent of the funds allocated for authorized hazardous fuel reduction projects in the wildland-urban interface.

(B) Applicability and allocation

The funding allocation in subparagraph (A) shall apply at the national level. The Secretary may allocate the proportion of funds differently than is required under subparagraph (A) within individual management units as appropriate, in particular to conduct authorized hazardous fuel reduction projects on land described in section 6512(a)(4) of this title.

(C) Wildland-urban interface

In the case of an authorized hazardous fuel reduction project for which a decision notice is issued during the 1-year period beginning on December 3, 2003, the Secretary shall use existing definitions of the term ''wildland-urban interface'' rather than the definition of that term provided under section 6511 of this title.

(2) Non-Federal land

(A) In general

In providing financial assistance under any provision of law for hazardous fuel reduction projects on non-Federal land, the Secretary shall consider recommendations made by at-risk communities that have developed community wildfire protection plans.

(B) Priority

In allocating funding under this paragraph, the Secretary should, to the maximum extent practicable, give priority to communities that have adopted a community wildfire protection plan or have taken proactive measures to encourage willing property owners to reduce fire risk on private property.

(Pub. L. 108–148, title I, §103, Dec. 3, 2003, 117 Stat. 1896.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(2), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The National Environmental Policy Act of 1969, referred to in subsec. (c), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 6514. Environmental analysis

(a) Authorized hazardous fuel reduction projects

Except as otherwise provided in this subchapter, the Secretary shall conduct authorized hazardous fuel reduction projects in accordance with—

(1) the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.]; and

(2) other applicable laws.

(b) Environmental assessment or environmental impact statement

The Secretary shall prepare an environmental assessment or an environmental impact statement pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) for each authorized hazardous fuel reduction project.

(c) Consideration of alternatives

(1) In general

Except as provided in subsection (d), in the environmental assessment or environmental impact statement prepared under subsection (b), the Secretary shall study, develop, and describe—

(A) the proposed agency action;

(B) the alternative of no action; and

(C) an additional action alternative, if the additional alternative—

(i) is proposed during scoping or the collaborative process under subsection (f); and

(ii) meets the purpose and need of the project, in accordance with regulations promulgated by the Council on Environmental Quality.

(2) Multiple additional alternatives

If more than 1 additional alternative is proposed under paragraph (1)(C), the Secretary shall—

(A) select which additional alternative to consider, which is a choice that is in the sole discretion of the Secretary; and

(B) provide a written record describing the reasons for the selection.

(d) Alternative analysis process for projects in wildland-urban interface

(1) Proposed agency action and 1 action alternative

For an authorized hazardous fuel reduction project that is proposed to be conducted in the wildland-urban interface, the Secretary is not required to study, develop, or describe more than the proposed agency action and 1 action alternative in the environmental assessment or environmental impact statement prepared pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

(2) Proposed agency action

Notwithstanding paragraph (1), but subject to paragraph (3), if an authorized hazardous fuel reduction project proposed to be conducted in the wildland-urban interface is located no further than 1½ miles from the boundary of an at-risk community, the Secretary is not required to study, develop, or de-

scribe any alternative to the proposed agency action in the environmental assessment or environmental impact statement prepared pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

(3) Proposed agency action and community wildfire protection plan alternative

In the case of an authorized hazardous fuel reduction project described in paragraph (2), if the at-risk community has adopted a community wildfire protection plan and the proposed agency action does not implement the recommendations in the plan regarding the general location and basic method of treatments, the Secretary shall evaluate the recommendations in the plan as an alternative to the proposed agency action in the environmental assessment or environmental impact statement prepared pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

(e) Public notice and meeting

(1) Public notice

The Secretary shall provide notice of each authorized hazardous fuel reduction project in accordance with applicable regulations and administrative guidelines.

(2) Public meeting

During the preparation stage of each authorized hazardous fuel reduction project, the Secretary shall—

(A) conduct a public meeting at an appropriate location proximate to the administrative unit of the Federal land on which the authorized hazardous fuel reduction project will be conducted; and

(B) provide advance notice of the location, date, and time of the meeting.

(f) Public collaboration

In order to encourage meaningful public participation during preparation of authorized hazardous fuel reduction projects, the Secretary shall facilitate collaboration among State and local governments and Indian tribes, and participation of interested persons, during the preparation of each authorized fuel reduction project in a manner consistent with the Implementation Plan.

(g) Environmental analysis and public comment

In accordance with section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) and the applicable regulations and administrative guidelines, the Secretary shall provide an opportunity for public comment during the preparation of any environmental assessment or environmental impact statement for an authorized hazardous fuel reduction project.

(h) Decision document

The Secretary shall sign a decision document for authorized hazardous fuel reduction projects and provide notice of the final agency actions.

(Pub. L. 108–148, title I, § 104, Dec. 3, 2003, 117 Stat. 1897.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a)(1), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 6515. Special administrative review process

(a) Interim final regulations

(1) In general

Not later than 30 days after December 3, 2003, the Secretary of Agriculture shall promulgate interim final regulations to establish a predecisional administrative review process for the period described in paragraph (2) that will serve as the sole means by which a person can seek administrative review regarding an authorized hazardous fuel reduction project on Forest Service land.

(2) Period

The predecisional administrative review process required under paragraph (1) shall occur during the period—

(A) beginning after the completion of the environmental assessment or environmental impact statement; and

(B) ending not later than the date of the issuance of the final decision approving the project.

(3) Eligibility

To be eligible to participate in the administrative review process for an authorized hazardous fuel reduction project under paragraph (1), a person shall submit to the Secretary, during scoping or the public comment period for the draft environmental analysis for the project, specific written comments that relate to the proposed action.

(4) Effective date

The interim final regulations promulgated under paragraph (1) shall take effect on the date of promulgation of the regulations.

(b) Final regulations

The Secretary shall promulgate final regulations to establish the process described in subsection (a)(1) after the interim final regulations have been published and reasonable time has been provided for public comment.

(c) Administrative review

(1) In general

A person may bring a civil action challenging an authorized hazardous fuel reduction project in a Federal district court only if the person has challenged the authorized hazardous fuel reduction project by exhausting—

(A) the administrative review process established by the Secretary of Agriculture under this section; or

(B) the administrative hearings and appeals procedures established by the Department of the Interior.

(2) Issues

An issue may be considered in the judicial review of an action under section 6516 of this title only if the issue was raised in an administrative review process described in paragraph (1).

(3) Exception

(A) In general

An exception to the requirement of exhausting the administrative review process before seeking judicial review shall be available if a Federal court finds that the futility or inadequacy exception applies to a specific plaintiff or claim.

(B) Information

If an agency fails or is unable to make information timely available during the administrative review process, a court should evaluate whether the administrative review process was inadequate for claims or issues to which the information is material.

(Pub. L. 108–148, title I, §105, Dec. 3, 2003, 117 Stat. 1899.)

§ 6516. Judicial review in United States district courts

(a) Venue

Notwithstanding section 1391 of title 28 or other applicable law, an authorized hazardous fuels reduction project conducted under this subchapter shall be subject to judicial review only in the United States district court for a district in which the Federal land to be treated under the authorized hazardous fuels reduction project is located.

(b) Expeditious completion of judicial review

In the judicial review of an action challenging an authorized hazardous fuel reduction project under subsection (a), Congress encourages a court of competent jurisdiction to expedite, to the maximum extent practicable, the proceedings in the action with the goal of rendering a final determination on jurisdiction, and (if jurisdiction exists) a final determination on the merits, as soon as practicable after the date on which a complaint or appeal is filed to initiate the action.

(c) Injunctions

(1) In general

Subject to paragraph (2), the length of any preliminary injunctive relief and stays pending appeal covering an authorized hazardous fuel reduction project carried out under this subchapter shall not exceed 60 days.

(2) Renewal

(A) In general

A court of competent jurisdiction may issue 1 or more renewals of any preliminary injunction, or stay pending appeal, granted under paragraph (1).

(B) Updates

In each renewal of an injunction in an action, the parties to the action shall present the court with updated information on the status of the authorized hazardous fuel reduction project.

(3) Balancing of short- and long-term effects

As part of its weighing the equities while considering any request for an injunction that applies to an agency action under an authorized hazardous fuel reduction project, the court reviewing the project shall balance the impact to the ecosystem likely affected by the project of—

(A) the short- and long-term effects of undertaking the agency action; against

(B) the short- and long-term effects of not undertaking the agency action.

(Pub. L. 108–148, title I, §106, Dec. 3, 2003, 117 Stat. 1900.)

§ 6517. Effect of subchapter

(a) Other authority

Nothing in this subchapter affects, or otherwise biases, the use by the Secretary of other statutory or administrative authority (including categorical exclusions adopted to implement the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) to conduct a hazardous fuel reduction project on Federal land (including Federal land identified in section 6512(d) of this title) that is not conducted using the process authorized by section 6514 of this title.

(b) National Forest System

For projects and activities of the National Forest System other than authorized hazardous fuel reduction projects, nothing in this subchapter affects, or otherwise biases, the notice, comment, and appeal procedures for projects and activities of the National Forest System contained in part 215 of title 36, Code of Federal Regulations, or the consideration or disposition of any legal action brought with respect to the procedures.

(Pub. L. 108–148, title I, §107, Dec. 3, 2003, 117 Stat. 1900.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 6518. Authorization of appropriations

There is authorized to be appropriated $760,000,000 for each fiscal year to carry out—

(1) activities authorized by this subchapter; and

(2) other hazardous fuel reduction activities of the Secretary, including making grants to States, local governments, Indian tribes, and other eligible recipients for activities authorized by law.

(Pub. L. 108–148, title I, §108, Dec. 3, 2003, 117 Stat. 1901.)

SUBCHAPTER II—BIOMASS

§ 6531. Biomass commercial utilization grant program

(a) In general

In addition to any other authority of the Secretary of Agriculture to make grants to a person that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, transportation fuel, or sub-

stitutes for petroleum-based products, the Secretary may make grants to a person that owns or operates a facility that uses biomass for wood-based products or other commercial purposes to offset the costs incurred to purchase biomass.

(b) Authorization of appropriations

There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2004 through 2008.

(Pub. L. 108–148, title II, § 203, Dec. 3, 2003, 117 Stat. 1902.)

SUBCHAPTER III—WATERSHED FORESTRY ASSISTANCE

§ 6541. Findings and purposes

(a) Findings

Congress finds that—

(1) there has been a dramatic shift in public attitudes and perceptions about forest management, particularly in the understanding and practice of sustainable forest management;

(2) it is commonly recognized that the proper stewardship of forest land is essential to sustaining and restoring the health of watersheds;

(3) forests can provide essential ecological services in filtering pollutants, buffering important rivers and estuaries, and minimizing flooding, which makes forest restoration worthy of special focus; and

(4) strengthened education, technical assistance, and financial assistance for nonindustrial private forest landowners and communities, relating to the protection of watershed health, is needed to realize the expectations of the general public.

(b) Purposes

The purposes of this subchapter are—

(1) to improve landowner and public understanding of the connection between forest management and watershed health;

(2) to encourage landowners to maintain tree cover on property and to use tree plantings and vegetative treatments as creative solutions to watershed problems associated with varying land uses;

(3) to enhance and complement forest management and buffer use for watersheds, with an emphasis on community watersheds;

(4) to establish new partnerships and collaborative watershed approaches to forest management, stewardship, and conservation;

(5) to provide technical and financial assistance to States to deliver a coordinated program that enhances State forestry best-management practices programs, and conserves and improves forested land and potentially forested land, through technical, financial, and educational assistance to qualifying individuals and entities; and

(6) to maximize the proper management and conservation of wetland forests and to assist in the restoration of those forests.

(Pub. L. 108–148, title III, § 301, Dec. 3, 2003, 117 Stat. 1902.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (b), was in the original ''this title'', meaning title III of Pub. L. 108–148, Dec. 3, 2003, 117 Stat. 1902, which enacted this subchapter and section 2103b of this title. For complete classification of title III to the Code, see Tables.

§ 6542. Tribal watershed forestry assistance

(a) In general

The Secretary of Agriculture (referred to in this section as the ''Secretary''), acting through the Chief of the Forest Service, shall provide technical, financial, and related assistance to Indian tribes for the purpose of expanding tribal stewardship capacities and activities through tribal forestry best-management practices and other means at the tribal level to address watershed issues on land under the jurisdiction of or administered by the Indian tribes.

(b) Technical assistance to protect water quality

(1) In general

The Secretary, in cooperation with Indian tribes, shall develop a program to provide technical assistance to protect water quality, as described in paragraph (2).

(2) Purpose of program

The program under this subsection shall be designed—

(A) to build and strengthen watershed partnerships that focus on forested landscapes at the State, regional, tribal, and local levels;

(B) to provide tribal forestry best-management practices and water quality technical assistance directly to Indian tribes;

(C) to provide technical guidance to tribal land managers and policy makers for water quality protection through forest management;

(D) to complement tribal efforts to protect water quality and provide enhanced opportunities for consultation and cooperation among Federal agencies and tribal entities charged with responsibility for water and watershed management; and

(E) to provide enhanced forest resource data and support for improved implementation and monitoring of tribal forestry best-management practices.

(c) Watershed forestry program

(1) In general

The Secretary shall establish a watershed forestry program in cooperation with Indian tribes.

(2) Programs and projects

Funds or other support provided under the program shall be made available for tribal forestry best-management practices programs and watershed forestry projects.

(3) Annual awards

The Secretary shall annually make awards to Indian tribes to carry out this subsection.

(4) Project elements and objectives

A watershed forestry project shall accomplish critical forest stewardship, watershed protection, and restoration needs within land

under the jurisdiction of or administered by an Indian tribe by demonstrating the value of trees and forests to watershed health and condition through—

(A) the use of trees as solutions to water quality problems;

(B) application of and dissemination of monitoring information on forestry best-management practices relating to watershed forestry;

(C) watershed-scale forest management activities and conservation planning;

(D) the restoration of wetland and streamside forests and the establishment of riparian vegetative buffers; and

(E) tribal-based planning, involvement, and action through State, tribal, local, and nonprofit partnerships.

(5) Prioritization

An Indian tribe that participates in the program under this subsection shall prioritize watersheds in land under the jurisdiction of or administered by the Indian tribe to target watershed forestry projects funded under this subsection.

(6) Watershed forester

The Secretary may provide to Indian tribes under this section financial and technical assistance to establish a position of tribal forester to lead tribal programs and coordinate small watershed-level projects.

(d) Distribution

The Secretary shall devote—

(1) at least 75 percent of the funds made available for a fiscal year under subsection (e) to the program under subsection (c); and

(2) the remainder of the funds to deliver technical assistance, education, and planning in the field to Indian tribes.

(e) Authorization of appropriations

There is authorized to be appropriated to carry out this section $2,500,000 for each of fiscal years 2004 through 2008.

(Pub. L. 108–148, title III, §303, Dec. 3, 2003, 117 Stat. 1905.)

SUBCHAPTER IV—INSECT INFESTATIONS AND RELATED DISEASES

§ 6551. Findings and purpose

(a) Findings

Congress finds that—

(1) high levels of tree mortality resulting from insect infestation (including the interaction between insects and diseases) may result in—

(A) increased fire risk;

(B) loss of old trees and old growth;

(C) loss of threatened and endangered species;

(D) loss of species diversity;

(E) degraded watershed conditions;

(F) increased potential for damage from other agents of disturbance, including exotic, invasive species; and

(G) decreased timber values;

(2)(A) forest-damaging insects destroy hundreds of thousands of acres of trees each year;

(B) in the West, more than 21,000,000 acres are at high risk of forest-damaging insect infestation, and in the South, more than 57,000,000 acres are at risk across all land ownerships; and

(C) severe drought conditions in many areas of the South and West will increase the risk of forest-damaging insect infestations;

(3) the hemlock woolly adelgid is—

(A) destroying streamside forests throughout the mid-Atlantic and Appalachian regions;

(B) threatening water quality and sensitive aquatic species; and

(C) posing a potential threat to valuable commercial timber land in northern New England;

(4)(A) the emerald ash borer is a nonnative, invasive pest that has quickly become a major threat to hardwood forests because an emerald ash borer infestation is almost always fatal to affected trees; and

(B) the emerald ash borer pest threatens to destroy more than 692,000,000 ash trees in forests in Michigan and Ohio alone, and between 5 and 10 percent of urban street trees in the Upper Midwest;

(5)(A) epidemic populations of Southern pine beetles are ravaging forests in Alabama, Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia; and

(B) in 2001, Florida and Kentucky experienced 146 percent and 111 percent increases, respectively, in Southern pine beetle populations;

(6) those epidemic outbreaks of Southern pine beetles have forced private landowners to harvest dead and dying trees, in rural areas and increasingly urbanized settings;

(7) according to the Forest Service, recent outbreaks of the red oak borer in Arkansas and Missouri have been unprecedented, with more than 1,000,000 acres infested at population levels never seen before;

(8) much of the damage from the red oak borer has taken place in national forests, and the Federal response has been inadequate to protect forest ecosystems and other ecological and economic resources;

(9)(A) previous silvicultural assessments, while useful and informative, have been limited in scale and scope of application; and

(B) there have not been sufficient resources available to adequately test a full array of individual and combined applied silvicultural assessments;

(10) only through the full funding, development, and assessment of potential applied silvicultural assessments over specific time frames across an array of environmental and climatic conditions can the most innovative and cost effective management applications be determined that will help reduce the susceptibility of forest ecosystems to attack by forest pests;

(11)(A) often, there are significant interactions between insects and diseases;

(B) many diseases (such as white pine blister rust, beech bark disease, and many other diseases) can weaken trees and forest stands and

predispose trees and forest stands to insect attack; and

(C) certain diseases are spread using insects as vectors (including Dutch elm disease and pine pitch canker); and

(12) funding and implementation of an initiative to combat forest pest infestations and associated diseases should not come at the expense of supporting other programs and initiatives of the Secretary.

(b) Purposes

The purposes of this subchapter are—

(1) to require the Secretary to develop an accelerated basic and applied assessment program to combat infestations by forest-damaging insects and associated diseases;

(2) to enlist the assistance of colleges and universities (including forestry schools, land grant colleges and universities, and 1890 Institutions), State agencies, and private landowners to carry out the program; and

(3) to carry out applied silvicultural assessments.

(Pub. L. 108–148, title IV, § 401, Dec. 3, 2003, 117 Stat. 1907.)

§ 6552. Definitions

In this subchapter:

(1) Applied silvicultural assessment

(A) In general

The term ''applied silvicultural assessment'' means any vegetative or other treatment carried out for information gathering and research purposes.

(B) Inclusions

The term ''applied silvicultural assessment'' includes timber harvesting, thinning, prescribed burning, pruning, and any combination of those activities.

(2) 1890 Institution

(A) In general

The term ''1890 Institution'' means a college or university that is eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.).

(B) Inclusion

The term ''1890 Institution'' includes Tuskegee University.

(3) Forest-damaging insect

The term ''forest-damaging insect'' means—

(A) a Southern pine beetle;

(B) a mountain pine beetle;

(C) a spruce bark beetle;

(D) a gypsy moth;

(E) a hemlock woolly adelgid;

(F) an emerald ash borer;

(G) a red oak borer;

(H) a white oak borer; and

(I) such other insects as may be identified by the Secretary.

(4) Secretary

The term ''Secretary'' means—

(A) the Secretary of Agriculture, acting through the Forest Service, with respect to National Forest System land; and

(B) the Secretary of the Interior, acting through appropriate offices of the United States Geological Survey, with respect to federally owned land administered by the Secretary of the Interior.

(Pub. L. 108–148, title IV, § 402, Dec. 3, 2003, 117 Stat. 1908.)

REFERENCES IN TEXT

The Act of August 30, 1890, referred to in par. (2)(A), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 321 of Title 7 and Tables.

§ 6553. Accelerated information gathering regarding forest-damaging insects

(a) Information gathering

The Secretary, acting through the Forest Service and United States Geological Survey, as appropriate, shall establish an accelerated program—

(1) to plan, conduct, and promote comprehensive and systematic information gathering on forest-damaging insects and associated diseases, including an evaluation of—

(A) infestation prevention and suppression methods;

(B) effects of infestations and associated disease interactions on forest ecosystems;

(C) restoration of forest ecosystem efforts;

(D) utilization options regarding infested trees; and

(E) models to predict the occurrence, distribution, and impact of outbreaks of forest-damaging insects and associated diseases;

(2) to assist land managers in the development of treatments and strategies to improve forest health and reduce the susceptibility of forest ecosystems to severe infestations of forest-damaging insects and associated diseases on Federal land and State and private land; and

(3) to disseminate the results of the information gathering, treatments, and strategies.

(b) Cooperation and assistance

The Secretary shall—

(1) establish and carry out the program in cooperation with—

(A) scientists from colleges and universities (including forestry schools, land grant colleges and universities, and 1890 Institutions);

(B) Federal, State, and local agencies; and

(C) private and industrial landowners; and

(2) designate such colleges and universities to assist in carrying out the program.

(Pub. L. 108–148, title IV, § 403, Dec. 3, 2003, 117 Stat. 1909.)

§ 6554. Applied silvicultural assessments

(a) Assessment efforts

For information gathering and research purposes, the Secretary may conduct applied silvicultural assessments on Federal land that the

Secretary determines is at risk of infestation by, or is infested with, forest-damaging insects.

(b) Limitations

(1) Exclusion of certain areas

Subsection (a) does not apply to—

(A) a component of the National Wilderness Preservation System;

(B) any Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited;

(C) a congressionally-designated wilderness study area; or

(D) an area in which activities under subsection (a) would be inconsistent with the applicable land and resource management plan.

(2) Certain treatment prohibited

Nothing in subsection (a) authorizes the application of insecticides in municipal watersheds or associated riparian areas.

(3) Peer review

(A) In general

Before being carried out, each applied silvicultural assessment under this subchapter shall be peer reviewed by scientific experts selected by the Secretary, which shall include non-Federal experts.

(B) Existing peer review processes

The Secretary may use existing peer review processes to the extent the processes comply with subparagraph (A).

(c) Public notice and comment

(1) Public notice

The Secretary shall provide notice of each applied silvicultural assessment proposed to be carried out under this section.

(2) Public comment

The Secretary shall provide an opportunity for public comment before carrying out an applied silviculture assessment under this section.

(d) Categorical exclusion

(1) In general

Applied silvicultural assessment and research treatments carried out under this section on not more than 1,000 acres for an assessment or treatment may be categorically excluded from documentation in an environmental impact statement and environmental assessment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) Administration

Applied silvicultural assessments and research treatments categorically excluded under paragraph (1)—

(A) shall not be carried out in an area that is adjacent to another area that is categorically excluded under paragraph (1) that is being treated with similar methods; and

(B) shall be subject to the extraordinary circumstances procedures established by the Secretary pursuant to section 1508.4 of title 40, Code of Federal Regulations.

(3) Maximum categorical exclusion

The total number of acres categorically excluded under paragraph (1) shall not exceed 250,000 acres.

(4) No additional findings required

In accordance with paragraph (1), the Secretary shall not be required to make any findings as to whether an applied silvicultural assessment project, either individually or cumulatively, has a significant effect on the environment.

(Pub. L. 108–148, title IV, § 404, Dec. 3, 2003, 117 Stat. 1910.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (d)(1), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 6555. Relation to other laws

The authority provided to each Secretary under this subchapter is supplemental to, and not in lieu of, any authority provided to the Secretaries under any other law.

(Pub. L. 108–148, title IV, § 405, Dec. 3, 2003, 117 Stat. 1911.)

§ 6556. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subchapter for each of fiscal years 2004 through 2008.

(Pub. L. 108–148, title IV, § 406, Dec. 3, 2003, 117 Stat. 1911.)

SUBCHAPTER V—HEALTHY FORESTS RESERVE PROGRAM

§ 6571. Establishment of healthy forests reserve program

(a) Establishment

The Secretary of Agriculture shall establish the healthy forests reserve program for the purpose of restoring and enhancing forest ecosystems—

(1) to promote the recovery of threatened and endangered species;

(2) to improve biodiversity; and

(3) to enhance carbon sequestration.

(b) Coordination

The Secretary of Agriculture shall carry out the healthy forests reserve program in coordination with the Secretary of the Interior and the Secretary of Commerce.

(Pub. L. 108–148, title V, § 501, Dec. 3, 2003, 117 Stat. 1911.)

§ 6572. Eligibility and enrollment of lands in program

(a) In general

The Secretary of Agriculture, in coordination with the Secretary of the Interior and the Secretary of Commerce, shall describe and define forest ecosystems that are eligible for enrollment in the healthy forests reserve program.

(b) Eligibility

To be eligible for enrollment in the healthy forests reserve program, land shall be—

(1) private land the enrollment of which will restore, enhance, or otherwise measurably increase the likelihood of recovery of a species listed as endangered or threatened under section 1533 of this title; and

(2) private land the enrollment of which will restore, enhance, or otherwise measurably improve the well-being of species that—

(A) are not listed as endangered or threatened under section 1533 of this title; but

(B) are candidates for such listing, State-listed species, or special concern species.

(c) Other considerations

In enrolling land that satisfies the criteria under subsection (b), the Secretary of Agriculture shall give additional consideration to land the enrollment of which will—

(1) improve biological diversity; and

(2) increase carbon sequestration.

(d) Enrollment by willing owners

The Secretary of Agriculture shall enroll land in the healthy forests reserve program only with the consent of the owner of the land.

(e) Methods of enrollment

(1) Authorized methods

Land may be enrolled in the healthy forests reserve program in accordance with—

(A) a 10-year cost-share agreement;

(B) a 30-year easement; or

(C)(i) a permanent easement; or

(ii) in a State that imposes a maximum duration for easements, an easement for the maximum duration allowed under State law.

(2) Limitation on use of cost-share agreements and easements

(A) In general

Of the total amount of funds expended under the program for a fiscal year to acquire easements and enter into cost-share agreements described in paragraph (1)—

(i) not more than 40 percent shall be used for cost-share agreements described in paragraph (1)(A); and

(ii) not more than 60 percent shall be used for easements described in subparagraphs (B) and (C) of paragraph (1).

(B) Repooling

The Secretary may use any funds allocated under clause (i) or (ii) of subparagraph (A) that are not obligated by April 1 of the fiscal year for which the funds are made available to carry out a different method of enrollment during that fiscal year.

(3) Acreage owned by Indian tribes

In the case of acreage owned by an Indian tribe, the Secretary may enroll acreage into the healthy forests reserve program through the use of—

(A) a 30-year contract (the value of which shall be equivalent to the value of a 30-year easement);

(B) a 10-year cost-share agreement; or

(C) any combination of the options described in subparagraphs (A) and (B).

(f) Enrollment priority

(1) Species

The Secretary of Agriculture shall give priority to the enrollment of land that provides the greatest conservation benefit to—

(A) primarily, species listed as endangered or threatened under section 1533 of this title; and

(B) secondarily, species that—

(i) are not listed as endangered or threatened under section 1533 of this title; but

(ii) are candidates for such listing, State-listed species, or special concern species.

(2) Cost-effectiveness

The Secretary of Agriculture shall also consider the cost-effectiveness of each agreement or easement, and associated restoration plans, so as to maximize the environmental benefits per dollar expended.

(Pub. L. 108–148, title V, § 502, Dec. 3, 2003, 117 Stat. 1911; Pub. L. 110–234, title VIII, § 8205(a), May 22, 2008, 122 Stat. 1294; Pub. L. 110–246, § 4(a), title VIII, § 8205(a), June 18, 2008, 122 Stat. 1664, 2056.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsecs. (e) to (g). Pub. L. 110–246, § 8205(a), added subsec. (e), redesignated subsec. (g) as (f), and struck out former subsecs. (e) and (f) which related to maximum number of enrolled acres and methods of enrollment.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 6573. Restoration plans

(a) In general

Land enrolled in the healthy forests reserve program shall be subject to a restoration plan, to be developed jointly by the landowner and the Secretary of Agriculture, in coordination with the Secretary of [1] Interior.

(b) Practices

The restoration plan shall require such restoration practices as are necessary to restore and enhance habitat for—

(1) species listed as endangered or threatened under section 1533 of this title; and

(2) animal or plant species before the species reach threatened or endangered status, such as candidate, State-listed species, and special concern species.

(Pub. L. 108–148, title V, § 503, Dec. 3, 2003, 117 Stat. 1912.)

[1] So in original. Probably should be ''of the''.

§ 6574. Financial assistance

(a) Permanent easements

In the case of land enrolled in the healthy forests reserve program using a permanent easement (or an easement described in section 6572(f)(1)(C)(ii)[1] of this title), the Secretary of Agriculture shall pay the owner of the land an amount equal to not less than 75 percent, nor more than 100 percent, of (as determined by the Secretary)—

(1) the fair market value of the enrolled land during the period the land is subject to the easement, less the fair market value of the land encumbered by the easement; and

(2) the actual costs of the approved conservation practices or the average cost of approved practices carried out on the land during the period in which the land is subject to the easement.

(b) Thirty-year easement

In the case of land enrolled in the healthy forests reserve program using a 30-year easement, the Secretary of Agriculture shall pay the owner of the land an amount equal to not more than (as determined by the Secretary)—

(1) 75 percent of the fair market value of the land, less the fair market value of the land encumbered by the easement; and

(2) 75 percent of the actual costs of the approved conservation practices or 75 percent of the average cost of approved practices.

(c) Ten-year agreement

In the case of land enrolled in the healthy forests reserve program using a 10-year cost-share agreement, the Secretary of Agriculture shall pay the owner of the land an amount equal to not more than (as determined by the Secretary)—

(1) fifty percent of the actual costs of the approved conservation practices; or

(2) fifty percent of the average cost of approved practices.

(d) Acceptance of contributions

The Secretary of Agriculture may accept and use contributions of non-Federal funds to make payments under this section.

(Pub. L. 108–148, title V, § 504, Dec. 3, 2003, 117 Stat. 1913; Pub. L. 110–234, title VIII, § 8205(b), May 22, 2008, 122 Stat. 1295; Pub. L. 110–246, § 4(a), title VIII, § 8205(b), June 18, 2008, 122 Stat. 1664, 2057.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, § 8205(b), substituted ''Permanent easements'' for ''Easements of not more than 99 years'' in heading and ''a permanent easement (or an easement described in section 6572(f)(1)(C)(ii) of this title)'' for ''an easement of not more than 99 years described in section 6572(f)(1)(C) of this title'' in introductory provisions.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

[1] So in original. Probably should be ''6572(e)(1)(C)(ii)''.

§ 6575. Technical assistance

(a) In general

The Secretary of Agriculture shall provide landowners with technical assistance to assist the owners in complying with the terms of plans (as included in agreements or easements) under the healthy forests reserve program.

(b) Technical service providers

The Secretary of Agriculture may request the services of, and enter into cooperative agreements with, individuals or entities certified as technical service providers under section 3842 of this title, to assist the Secretary in providing technical assistance necessary to develop and implement the healthy forests reserve program.

(Pub. L. 108–148, title V, § 505, Dec. 3, 2003, 117 Stat. 1913.)

§ 6576. Protections and measures

(a) Protections

In the case of a landowner that enrolls land in the program and whose conservation activities result in a net conservation benefit for listed, candidate, or other species, the Secretary of Agriculture shall make available to the landowner safe harbor or similar assurances and protection under—

(1) section 1536(b)(4) of this title; or

(2) section 1539(a)(1) of this title.

(b) Measures

If protection under subsection (a) requires the taking of measures that are in addition to the measures covered by the applicable restoration plan agreed to under section 6573 of this title, the cost of the additional measures, as well as the cost of any permit, shall be considered part of the restoration plan for purposes of financial assistance under section 6574 of this title.

(Pub. L. 108–148, title V, § 506, Dec. 3, 2003, 117 Stat. 1914.)

§ 6577. Involvement by other agencies and organizations

In carrying out this subchapter, the Secretary of Agriculture may consult with—

(1) nonindustrial private forest landowners;

(2) other Federal agencies;

(3) State fish and wildlife agencies;

(4) State forestry agencies;

(5) State environmental quality agencies;

(6) other State conservation agencies; and

(7) nonprofit conservation organizations.

(Pub. L. 108–148, title V, § 507, Dec. 3, 2003, 117 Stat. 1914.)

§ 6578. Funding

(a) In general

Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make available $9,750,000 for each of fiscal years 2009 through 2012 to carry out this subchapter.

(b) Duration of availability

The funds made available under subsection (a) shall remain available until expended.

(Pub. L. 108–148, title V, § 508, Dec. 3, 2003, 117 Stat. 1914; Pub. L. 110–234, title VIII, § 8205(c), May 22, 2008, 122 Stat. 1295; Pub. L. 110–246, § 4(a), title VIII, § 8205(c), June 18, 2008, 122 Stat. 1664, 2057.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, § 8205(c), amended section generally. Prior to amendment, text read as follows: ''There are authorized to be appropriated to carry out this subchapter—

''(1) $25,000,000 for fiscal year 2004; and

''(2) such sums as are necessary for each of fiscal years 2005 through 2008.''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

SUBCHAPTER VI—MISCELLANEOUS

§ 6591. Forest stands inventory and monitoring program to improve detection of and response to environmental threats

(a) In general

The Secretary of Agriculture shall carry out a comprehensive program to inventory, monitor, characterize, assess, and identify forest stands (with emphasis on hardwood forest stands) and potential forest stands—

(1) in units of the National Forest System (other than those units created from the public domain); and

(2) on private forest land, with the consent of the owner of the land.

(b) Issues to be addressed

In carrying out the program, the Secretary shall address issues including—

(1) early detection, identification, and assessment of environmental threats (including insect, disease, invasive species, fire, and weather-related risks and other episodic events);

(2) loss or degradation of forests;

(3) degradation of the quality forest stands caused by inadequate forest regeneration practices;

(4) quantification of carbon uptake rates; and

(5) management practices that focus on preventing further forest degradation.

(c) Early warning system

In carrying out the program, the Secretary shall develop a comprehensive early warning system for potential catastrophic environmental threats to forests to increase the likelihood that forest managers will be able to—

(1) isolate and treat a threat before the threat gets out of control; and

(2) prevent epidemics, such as the American chestnut blight in the first half of the twentieth century, that could be environmentally and economically devastating to forests.

(d) Authorization of appropriations

There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2004 through 2008.

(Pub. L. 108–148, title VI, § 601, Dec. 3, 2003, 117 Stat. 1914.)

CHAPTER 85—MARINE TURTLE CONSERVATION

Sec.
6601. Findings and purposes.
6602. Definitions.
6603. Marine turtle conservation assistance.
6604. Marine Turtle Conservation Fund.
6605. Advisory group.
6606. Authorization of appropriations.
6607. Report to Congress.

§ 6601. Findings and purposes

(a) Findings

The Congress finds that—

(1) marine turtle populations have declined to the point that the long-term survival of the loggerhead, green, hawksbill, Kemp's ridley, olive ridley, and leatherback turtle in the wild is in serious jeopardy;

(2) 6 of the 7 recognized species of marine turtles are listed as threatened or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all 7 species have been included in Appendix I of CITES;

(3) because marine turtles are long-lived, late-maturing, and highly migratory, marine turtles are particularly vulnerable to the impacts of human exploitation and habitat loss;

(4) illegal international trade seriously threatens wild populations of some marine turtle species, particularly the hawksbill turtle;

(5) the challenges facing marine turtles are immense, and the resources available have not been sufficient to cope with the continued loss of nesting habitats caused by human activities and the consequent diminution of marine turtle populations;

(6) because marine turtles are flagship species for the ecosystems in which marine turtles are found, sustaining healthy populations of marine turtles provides benefits to many other species of wildlife, including many other threatened or endangered species;

(7) marine turtles are important components of the ecosystems that they inhabit, and studies of wild populations of marine turtles have provided important biological insights;

(8) changes in marine turtle populations are most reliably indicated by changes in the numbers of nests and nesting females; and

(9) the reduction, removal, or other effective addressing of the threats to the long-term viability of populations of marine turtles will require the joint commitment and effort of—

(A) countries that have within their boundaries marine turtle nesting habitats; and

(B) persons with expertise in the conservation of marine turtles.

(b) Purpose

The purpose of this chapter is to assist in the conservation of marine turtles and the nesting

habitats of marine turtles in foreign countries by supporting and providing financial resources for projects to conserve the nesting habitats, conserve marine turtles in those habitats, and address other threats to the survival of marine turtles.

(Pub. L. 108–266, § 2, July 2, 2004, 118 Stat. 791.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (a)(2), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified principally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

SHORT TITLE

Pub. L. 108–266, § 1, July 2, 2004, 118 Stat. 791, provided that: ''This Act [enacting this chapter] may be cited as the 'Marine Turtle Conservation Act of 2004'.''

§ 6602. Definitions

In this chapter:

(1) CITES

The term ''CITES'' means the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249).

(2) Conservation

The term ''conservation'' means the use of all methods and procedures necessary to protect nesting habitats of marine turtles in foreign countries and of marine turtles in those habitats, including—

(A) protection, restoration, and management of nesting habitats;

(B) onsite research and monitoring of nesting populations, nesting habitats, annual reproduction, and species population trends;

(C) assistance in the development, implementation, and improvement of national and regional management plans for nesting habitat ranges;

(D) enforcement and implementation of CITES and laws of foreign countries to—

(i) protect and manage nesting populations and nesting habitats; and

(ii) prevent illegal trade of marine turtles;

(E) training of local law enforcement officials in the interdiction and prevention of—

(i) the illegal killing of marine turtles on nesting habitat; and

(ii) illegal trade in marine turtles;

(F) initiatives to resolve conflicts between humans and marine turtles over habitat used by marine turtles for nesting;

(G) community outreach and education; and

(H) strengthening of the ability of local communities to implement nesting population and nesting habitat conservation programs.

(3) Fund

The term ''Fund'' means the Marine Turtle Conservation Fund established by section 6604 of this title.

(4) Marine turtle

(A) In general

The term ''marine turtle'' means any member of the family Cheloniidae or Dermochelyidae.

(B) Inclusions

The term ''marine turtle'' includes—

(i) any part, product, egg, or offspring of a turtle described in subparagraph (A); and

(ii) a carcass of such a turtle.

(5) Multinational Species Conservation Fund

The term ''Multinational Species Conservation Fund'' means the fund established under the heading ''multinational species conservation fund'' in title I of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 4246).

(6) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 108–266, § 3, July 2, 2004, 118 Stat. 792.)

REFERENCES IN TEXT

Title I of the Department of the Interior and Related Agencies Appropriations Act, 1999, referred to in par. (5), is Pub. L. 105–277, div. A, § 101(e) [title I], Oct. 21, 1998, 112 Stat. 2681–231, 2681–232. Provisions under the heading ''MULTINATIONAL SPECIES CONSERVATION FUND'' in Pub. L. 105–277, § 101(e) [title I] appear at 112 Stat. 2681–237 and are classified in part to section 4246 of this title.

§ 6603. Marine turtle conservation assistance

(a) In general

Subject to the availability of funds and in consultation with other Federal officials, the Secretary shall use amounts in the Fund to provide financial assistance for projects for the conservation of marine turtles for which project proposals are approved by the Secretary in accordance with this section.

(b) Project proposals

(1) Eligible applicants

A proposal for a project for the conservation of marine turtles may be submitted to the Secretary by—

(A) any wildlife management authority of a foreign country that has within its boundaries marine turtle nesting habitat if the activities of the authority directly or indirectly affect marine turtle conservation; or

(B) any other person or group with the demonstrated expertise required for the conservation of marine turtles.

(2) Required elements

A project proposal shall include—

(A) a statement of the purposes of the project;

(B) the name of the individual with overall responsibility for the project;

(C) a description of the qualifications of the individuals that will conduct the project;

(D) a description of—

(i) methods for project implementation and outcome assessment;

(ii) staff and community management for the project; and

(iii) the logistics of the project;

(E) an estimate of the funds and time required to complete the project;

(F) evidence of support for the project by appropriate governmental entities of the countries in which the project will be conducted, if the Secretary determines that such support is required for the success of the project;

(G) information regarding the source and amount of matching funding available for the project; and

(H) any other information that the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this chapter.

(c) Project review and approval

(1) In general

The Secretary shall—

(A) not later than 30 days after receiving a project proposal, provide a copy of the proposal to other Federal officials, as appropriate; and

(B) review each project proposal in a timely manner to determine whether the proposal meets the criteria specified in subsection (d).

(2) Consultation; approval or disapproval

Not later than 180 days after receiving a project proposal, and subject to the availability of funds, the Secretary, after consulting with other Federal officials, as appropriate, shall—

(A) consult on the proposal with the government of each country in which the project is to be conducted;

(B) after taking into consideration any comments resulting from the consultation, approve or disapprove the project proposal; and

(C) provide written notification of the approval or disapproval to the person that submitted the project proposal, other Federal officials, and each country described in subparagraph (A).

(d) Criteria for approval

The Secretary may approve a project proposal under this section if the project will help recover and sustain viable populations of marine turtles in the wild by assisting efforts in foreign countries to implement marine turtle conservation programs.

(e) Project sustainability

To the maximum extent practicable, in determining whether to approve project proposals under this section, the Secretary shall give preference to conservation projects that are designed to ensure effective, long-term conservation of marine turtles and their nesting habitats.

(f) Matching funds

In determining whether to approve project proposals under this section, the Secretary shall give preference to projects for which matching funds are available.

(g) Project reporting

(1) In general

Each person that receives assistance under this section for a project shall submit to the Secretary periodic reports (at such intervals as the Secretary may require) that include all information that the Secretary, after consultation with other government officials, determines is necessary to evaluate the progress and success of the project for the purposes of ensuring positive results, assessing problems, and fostering improvements.

(2) Availability to the public

Reports under paragraph (1), and any other documents relating to projects for which financial assistance is provided under this chapter, shall be made available to the public.

(Pub. L. 108–266, § 4, July 2, 2004, 118 Stat. 793.)

§ 6604. Marine Turtle Conservation Fund

(a) Establishment

There is established in the Multinational Species Conservation Fund a separate account to be known as the ''Marine Turtle Conservation Fund'', consisting of—

(1) amounts transferred to the Secretary of the Treasury for deposit into the Fund under subsection (e);

(2) amounts appropriated to the Fund under section 6605 of this title; and

(3) any interest earned on investment of amounts in the Fund under subsection (c).

(b) Expenditures from Fund

(1) In general

Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary, without further appropriation, such amounts as the Secretary determines are necessary to carry out section 6603 of this title.

(2) Administrative expenses

Of the amounts in the account available for each fiscal year, the Secretary may expend not more than 3 percent, or up to $80,000, whichever is greater, to pay the administrative expenses necessary to carry out this chapter.

(c) Investment of amounts

(1) In general

The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(2) Acquisition of obligations

For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) Sale of obligations

Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(4) Credits to Fund

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(d) Transfers of amounts

(1) In general

The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) Adjustments

Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(e) Acceptance and use of donations

The Secretary may accept and use donations to provide assistance under section 6603 of this title. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit in the Fund.

(Pub. L. 108–266, § 5, July 2, 2004, 118 Stat. 794.)

§ 6605. Advisory group

(a) In general

To assist in carrying out this chapter, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of marine turtles.

(b) Public participation

(1) Meetings

The Advisory Group shall—

(A) ensure that each meeting of the advisory group is open to the public; and

(B) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(2) Notice

The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(3) Minutes

Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(c) Exemption from Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

(Pub. L. 108–266, § 6, July 2, 2004, 118 Stat. 795.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 6606. Authorization of appropriations

There is authorized to be appropriated to the Fund $5,000,000 for each of fiscal years 2005 through 2009.

(Pub. L. 108–266, § 7, July 2, 2004, 118 Stat. 795.)

§ 6607. Report to Congress

Not later than October 1, 2005, the Secretary shall submit to the Congress a report on the results and effectiveness of the program carried out under this chapter, including recommendations concerning how this chapter might be improved and whether the Fund should be continued in the future.

(Pub. L. 108–266, § 8, July 2, 2004, 118 Stat. 796.)

CHAPTER 86—SOUTHWEST FOREST HEALTH AND WILDFIRE PREVENTION

Sec.
6701. Findings.
6702. Purposes.
6703. Definitions.
6704. Establishment of Institutes.
6705. Cooperation between Institutes and Federal agencies.
6706. Monitoring and evaluation.
6707. Authorization of appropriations.

§ 6701. Findings

Congress finds that—

(1) there is an increasing threat of wildfire to millions of acres of forest land and rangeland throughout the United States;

(2) forest land and rangeland are degraded as a direct consequence of land management practices, including practices to control and prevent wildfires and the failure to harvest subdominant trees from overstocked stands that disrupt the occurrence of frequent low-intensity fires that have periodically removed flammable undergrowth;

(3) at least 39,000,000 acres of land of the National Forest System in the interior West are at high risk of wildfire;

(4) an average of 95 percent of the expenditures by the Forest Service for wildfire suppression during fiscal years 1990 through 1994 were made to suppress wildfires in the interior West;

(5) the number, size, and severity of wildfires in the interior West are increasing;

(6) of the timberland in National Forests in the States of Arizona and New Mexico, 59 percent of such land in Arizona, and 56 percent of such land in New Mexico, has an average diameter of 9 to 12 inches diameter at breast height;

(7) the population of the interior West grew twice as fast as the national average during the 1990s;

(8) catastrophic wildfires—

(A) endanger homes and communities;

(B) damage and destroy watersheds and soils; and

(C) pose a serious threat to the habitat of threatened and endangered species;

(9) a 1994 assessment of forest health in the interior West estimated that only a 15- to 30-year window of opportunity exists for effective management intervention before damage from uncontrollable wildfire becomes widespread, with 8 years having already elapsed since the assessment;

(10) healthy forest and woodland ecosystems—

(A) reduce the risk of wildfire to forests and communities;

(B) improve wildlife habitat and biodiversity;

(C) increase tree, grass, forb, and shrub productivity;

(D) enhance watershed values;

(E) improve the environment; and

(F) provide a basis in some areas for economically and environmentally sustainable uses;

(11) sustaining the long-term ecological and economic health of interior West forests and woodland, and their associated human communities requires preventing severe wildfires before the wildfires occur and permitting natural, low-intensity ground fires;

(12) more natural fire regimes cannot be accomplished without the reduction of excess fuels and thinning of subdominant trees (which fuels and trees may be of commercial value);

(13) ecologically based forest and woodland ecosystem restoration on a landscape scale will—

(A) improve long-term community protection;

(B) minimize the need for wildfire suppression;

(C) improve resource values;

(D) improve the ecological integrity and resilience of these systems;

(E) reduce rehabilitation costs;

(F) reduce loss of critical habitat; and

(G) protect forests for future generations;

(14) although landscape scale restoration is needed to effectively reverse degradation, scientific understanding of landscape scale treatments is limited;

(15) rigorous, objective, understandable, and applied scientific information is needed for—

(A) the design, implementation, monitoring, and adaptation of landscape scale restoration treatments and improvement of wildfire management;

(B) the environmental review process; and

(C) affected entities that collaborate in the development and implementation of wildfire treatment.

(Pub. L. 108–317, § 2, Oct. 5, 2004, 118 Stat. 1204.)

SHORT TITLE

Pub. L. 108–317, § 1, Oct. 5, 2004, 118 Stat. 1204, provided that: ''This Act [enacting this chapter] may be cited as the 'Southwest Forest Health and Wildfire Prevention Act of 2004'.''

§ 6702. Purposes

The purposes of this chapter are—

(1) to enhance the capacity to develop, transfer, apply, monitor, and regularly update practical science-based forest restoration treatments that will reduce the risk of severe wildfires, and improve the health of dry forest and woodland ecosystems in the interior West;

(2) to synthesize and adapt scientific findings from conventional research programs to the implementation of forest and woodland restoration on a landscape scale;

(3) to facilitate the transfer of interdisciplinary knowledge required to understand the socioeconomic and environmental impacts of wildfire on ecosystems and landscapes;

(4) to require the Institutes established under this chapter to collaborate with Federal agencies—

(A) to use ecological restoration treatments to reverse declining forest health and reduce the risk of severe wildfires across the forest landscape; and

(B) to design, implement, monitor, and regularly revise representative wildfire treatments based on the use of adaptive ecosystem management;

(5) to assist land managers in—

(A) treating acres with restoration-based applications; and

(B) using new management technologies (including the transfer of understandable information, assistance with environmental review, and field and classroom training and collaboration) to accomplish the goals identified in—

(i) the National Fire Plan;

(ii) the report entitled ''Protecting People and Sustaining Resources in Fire-Adapted Ecosystems-A Cohesive Strategy'' (65 Fed. Reg. 67480); and

(iii) the report entitled ''10-Year Comprehensive Strategy: A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment'' of the Western Governors' Association;

(6) to provide technical assistance to collaborative efforts by affected entities to develop, implement, and monitor adaptive ecosystem management restoration treatments that are ecologically sound, economically viable, and socially responsible; and

(7) to assist Federal and non-Federal land managers in providing information to the public on the role of fire and fire management in dry forest and woodland ecosystems in the interior West.

(Pub. L. 108–317, § 3, Oct. 5, 2004, 118 Stat. 1205.)

§ 6703. Definitions

In this chapter:

(1) Adaptive ecosystem management

(A) Definition

The term ''adaptive ecosystem management'' means a natural resource management process under which planning, implementation, monitoring, research, evaluation, and incorporation of new knowledge are combined into a management approach that—

(i) is based on scientific findings and the needs of society;

(ii) treats management actions as experiments;

(iii) acknowledges the complexity of these systems and scientific uncertainty; and

(iv) uses the resulting new knowledge to modify future management methods and policy.

(B) Clarification

This paragraph shall not define the term ''adaptive ecosystem management'' for the

purposes of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.).

(2) Affected entities

The term ''affected entities'' includes—

(A) land managers;

(B) stakeholders;

(C) concerned citizens; and

(D) the States of the interior West, including political subdivisions of the States.

(3) Dry forest and woodland ecosystem

The term ''dry forest and woodland ecosystem'' means an ecosystem that is dominated by ponderosa pines and associated dry forest and woodland types.

(4) Institute

The term ''Institute'' means an Institute established under section 6704(a) of this title.

(5) Interior West

The term ''interior West'' means the States of Arizona, Colorado, Idaho, Nevada, New Mexico, and Utah.

(6) Land manager

(A) In general

The term ''land manager'' means a person or entity that practices or guides natural resource management.

(B) Inclusions

The term ''land manager'' includes a Federal, State, local, or tribal land management agency.

(7) Restoration

The term ''restoration'' means a process undertaken to move an ecosystem or habitat toward—

(A) a sustainable structure of the ecosystem or habitat; or

(B) a condition that supports a natural complement of species, natural function, or ecological process (such as a low-intensity fire).

(8) Secretary

The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(9) Secretaries

The term ''Secretaries'' means—

(A) the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(B) the Secretary of the Interior.

(10) Stakeholder

The term ''stakeholder'' means any person interested in or affected by management of forest or woodland ecosystems.

(11) Subdominant trees

Are trees that occur underneath the canopy or extend into the canopy but are smaller and less vigorous than dominant trees.

(12) Overstocked stands

Where the number of trees per acre exceeds the natural carrying capacity of the site.

(13) Resilience

The ability of a system to absorb disturbance without being pushed into a different, possibly less desirable stable state.

(Pub. L. 108–317, § 4, Oct. 5, 2004, 118 Stat. 1206.)

REFERENCES IN TEXT

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in par. (1)(B), is Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§ 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

§ 6704. Establishment of Institutes

(a) In general

The Secretary, in consultation with the Secretary of the Interior, shall—

(1) not later than 180 days after October 5, 2004, establish Institutes to promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of forest and woodland ecosystems, in the interior West; and

(2) provide assistance to the Institutes to promote the use of collaborative processes and adaptive ecosystem management in accordance with paragraph (1).

(b) Location

(1) Existing Institutes

The Secretary may designate an institute in existence on October 5, 2004, to serve as an Institute established under this chapter.

(2) States

Of the Institutes established under this chapter, the Secretary shall establish 1 Institute in each of—

(A) the State of Arizona, to be located at Northern Arizona University;

(B) the State of New Mexico, to be located at New Mexico Highlands University, while engaging the full resources of the consortium of universities represented in the Institute of Natural Resource Analysis and Management (INRAM); and

(C) the State of Colorado.

(c) Duties

Each Institute shall—

(1) develop, conduct research on, transfer, promote, and monitor restoration-based hazardous fuel reduction treatments to reduce the risk of severe wildfires and improve the health of dry forest and woodland ecosystems in the interior West;

(2) synthesize and adapt scientific findings from conventional research to implement restoration-based hazardous fuel reduction treatments on a landscape scale using an adaptive ecosystem management framework;

(3) translate for and transfer to affected entities any scientific and interdisciplinary knowledge about restoration-based hazardous fuel reduction treatments;

(4) assist affected entities with the design of adaptive management approaches (including monitoring) for the implementation of restoration-based hazardous fuel reduction treatments; and

(5) provide peer-reviewed annual reports.

(d) Qualifications

Each Institute shall—

(1) develop and demonstrate capabilities in the natural, physical, social, and policy sciences; and

(2) explicitly integrate those disciplines in the performance of the duties listed in subsection (c).

(e) Cooperation

Each Institute may cooperate with—

(1) researchers and cooperative extension programs at colleges, community colleges, and universities in the States of Arizona, New Mexico, and Colorado that have a demonstrated capability to conduct research described in subsection (c); and

(2) other organizations and entities in the interior West (such as the Western Governors' Association).

(f) Annual work plans

As a condition of the receipt of funds made available under this chapter, for each fiscal year, each Institute shall develop in consultation with the Secretary, for review by the Secretary, in consultation with the Secretary of the Interior, an annual work plan that includes assurances, satisfactory to the Secretaries, that the proposed work of the Institute will serve the informational needs of affected entities.

(g) Establishment of additional Institutes

If after 2 years after October 5, 2004, the Secretary finds that the Institute model established at the locations named in subsection (b)(2) would be constructive for other interior West States, the Secretary may establish 1 institute in each of those States.

(Pub. L. 108–317, § 5, Oct. 5, 2004, 118 Stat. 1207.)

§ 6705. Cooperation between Institutes and Federal agencies

In carrying out this chapter, the Secretary, in consultation with the Secretary of the Interior—

(1) to the extent that funds are appropriated for the purpose, shall provide financial and technical assistance to the Institutes to carry out the duties of the Institutes under section 6704 of this title;

(2) shall encourage Federal agencies to use, on a cooperative basis, information and expertise provided by the Institutes;

(3) shall encourage cooperation and coordination between Federal programs relating to—

(A) ecological restoration;

(B) wildfire risk reduction; and

(C) wildfire management technologies;

(4) notwithstanding chapter 63 of title 31, may—

(A) enter into contracts, cooperative agreements, and interagency personnel agreements to carry out this chapter; and

(B) carry out other transactions under this chapter;

(5) may accept funds from other Federal agencies to supplement or fully fund grants made, and contracts entered into, by the Secretaries;

(6) may support a program of internships for qualified individuals at the undergraduate and graduate levels to carry out the educational and training objectives of this chapter;

(7) shall encourage professional education and public information activities relating to the purposes of this chapter; and

(8) may promulgate such regulations as the Secretaries determine are necessary to carry out this chapter.

(Pub. L. 108–317, § 6, Oct. 5, 2004, 118 Stat. 1208.)

§ 6706. Monitoring and evaluation

(a) In general

Not later than 5 years after October 5, 2004, and every 5 years thereafter, the Secretary, in consultation with the Secretary of the Interior, shall complete and submit to the Committee on Resources and the Committee on Agriculture of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a detailed evaluation of the programs and activities of each Institute—

(1) to ensure, to the maximum extent practicable, that the research, communication tools, and information transfer activities of each Institute are sufficient to achieve the purposes of this chapter, including—

(A) implementing active adaptive ecosystem management practices at the landscape level;

(B) reducing unnecessary planning costs;

(C) avoiding duplicative and conflicting efforts;

(D) increasing public acceptance of active adaptive ecosystem management practices; and

(E) achieving general satisfaction on the part of affected entities;

(2) to determine the extent to which each Institute has implemented its duties under section 6704(c) of this title; and

(3) to determine whether continued provision of Federal assistance to each Institute is warranted.

(b) Termination of assistance

If, as a result of an evaluation under subsection (a), the Secretary, in consultation with the Secretary of the Interior, determines that an Institute does not qualify for further Federal assistance under this chapter, the Institute shall receive no further Federal assistance under this chapter until such time as the qualifications of the Institute are reestablished to the satisfaction of the Secretaries.

(Pub. L. 108–317, § 7, Oct. 5, 2004, 118 Stat. 1209.)

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 6707. Authorization of appropriations

(a) In general

There is authorized to be appropriated to carry out this chapter $15,000,000 for each fiscal year.

(b) Limitation

No funds made available under subsection (a) shall be used to pay the costs of constructing any facilities.

(Pub. L. 108–317, § 8, Oct. 5, 2004, 118 Stat. 1210.)

CHAPTER 87—FEDERAL LANDS RECREATION ENHANCEMENT

Sec.
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§ 6801. Definitions

In this chapter:

(1) Standard amenity recreation fee

The term ''standard amenity recreation fee'' means the recreation fee authorized by section 6802(f) of this title.

(2) Expanded amenity recreation fee

The term ''expanded amenity recreation fee'' means the recreation fee authorized by section 6802(g) of this title.

(3) Entrance fee

The term ''entrance fee'' means the recreation fee authorized to be charged to enter onto lands managed by the National Park Service or the United States Fish and Wildlife Service.

(4) Federal land management agency

The term ''Federal land management agency'' means the National Park Service, the United States Fish and Wildlife Service, the Bureau of Land Management, the Bureau of Reclamation, or the Forest Service.

(5) Federal recreational lands and waters

The term ''Federal recreational lands and waters'' means lands or waters managed by a Federal land management agency.

(6) National Parks and Federal Recreational Lands Pass

The term ''National Parks and Federal Recreational Lands Pass'' means the interagency national pass authorized by section 6804 of this title.

(7) Passholder

The term ''passholder'' means the person who is issued a recreation pass.

(8) Recreation fee

The term ''recreation fee'' means an entrance fee, standard amenity recreation fee, expanded amenity recreation fee, or special recreation permit fee.

(9) Recreation pass

The term ''recreation pass'' means the National Parks and Federal Recreational Lands Pass or one of the other recreation passes available as authorized by section 6804 of this title.

(10) Secretary

The term ''Secretary'' means—

(A) the Secretary of the Interior, with respect to a Federal land management agency (other than the Forest Service); and

(B) the Secretary of Agriculture, with respect to the Forest Service.

(11) Secretaries

The term ''Secretaries'' means the Secretary of the Interior and the Secretary of Agriculture acting jointly.

(12) Special account

The term ''special account'' means the special account established in the Treasury under section 6806 of this title for a Federal land management agency.

(13) Special recreation permit fee

The term ''special recreation permit fee'' means the fee authorized by section 6802(h) of this title.

(Pub. L. 108–447, div. J, title VIII, § 802, Dec. 8, 2004, 118 Stat. 3377.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', and was translated as reading ''this title'', meaning title VIII of div. J of Pub. L. 108–447, Dec. 8, 2004, 118 Stat. 3377, known as the Federal Lands Recreation Enhancement Act, to reflect the probable intent of Congress. For complete classification of title VIII to the Code, see Short Title note set out below and Tables.

Sections 6802, 6804 and 6806 of this title, referred to in text, were in the original references to sections 3, 5 and 7, respectively, and were translated as meaning sections 803, 805 and 807, respectively, of title VIII of div. J of Pub. L. 108–447, to reflect the probable intent of Congress.

SHORT TITLE

Pub. L. 108–447, div. J, title VIII, § 801(a), Dec. 8, 2004, 118 Stat. 3377, provided that: ''This title [enacting this chapter, amending section 460*l*–6a of this title, repealing sections 3911, 5982, and 5991 to 5995 of this title, and repealing provisions set out as a note under 460*l*–6a of this title] may be cited as the 'Federal Lands Recreation Enhancement Act'.''

§ 6802. Recreation fee authority

(a) Authority of Secretary

Beginning in fiscal year 2005 and thereafter, the Secretary may establish, modify, charge, and collect recreation fees at Federal recreational lands and waters as provided for in this section.

(b) Basis for recreation fees

Recreation fees shall be established in a manner consistent with the following criteria:

(1) The amount of the recreation fee shall be commensurate with the benefits and services provided to the visitor.

(2) The Secretary shall consider the aggregate effect of recreation fees on recreation users and recreation service providers.

(3) The Secretary shall consider comparable fees charged elsewhere and by other public agencies and by nearby private sector operators.

(4) The Secretary shall consider the public policy or management objectives served by the recreation fee.

(5) The Secretary shall obtain input from the appropriate Recreation Resource Advisory Committee, as provided in section 6803(d) of this title.

(6) The Secretary shall consider such other factors or criteria as determined appropriate by the Secretary.

(c) Special considerations

The Secretary shall establish the minimum number of recreation fees and shall avoid the collection of multiple or layered recreation fees for similar uses, activities, or programs.

(d) Limitations on recreation fees

(1) Prohibition on fees for certain activities or services

The Secretary shall not charge any standard amenity recreation fee or expanded amenity recreation fee for Federal recreational lands and waters administered by the Bureau of Land Management, the Forest Service, or the Bureau of Reclamation under this chapter for any of the following:

(A) Solely for parking, undesignated parking, or picnicking along roads or trailsides.

(B) For general access unless specifically authorized under this section.

(C) For dispersed areas with low or no investment unless specifically authorized under this section.

(D) For persons who are driving through, walking through, boating through, horseback riding through, or hiking through Federal recreational lands and waters without using the facilities and services.

(E) For camping at undeveloped sites that do not provide a minimum number of facilities and services as described in subsection (g)(2)(A).

(F) For use of overlooks or scenic pullouts.

(G) For travel by private, noncommercial vehicle over any national parkway or any road or highway established as a part of the Federal-aid System, as defined in section 101 of title 23, which is commonly used by the public as a means of travel between two places either or both of which are outside any unit or area at which recreation fees are charged under this chapter.

(H) For travel by private, noncommercial vehicle, boat, or aircraft over any road or highway, waterway, or airway to any land in which such person has any property right if such land is within any unit or area at which recreation fees are charged under this chapter.

(I) For any person who has a right of access for hunting or fishing privileges under a specific provision of law or treaty.

(J) For any person who is engaged in the conduct of official Federal, State, Tribal, or local government business.

(K) For special attention or extra services necessary to meet the needs of the disabled.

(2) Relation to fees for use of highways or roads

An entity that pays a special recreation permit fee or similar permit fee shall not be subject to a road cost-sharing fee or a fee for the use of highways or roads that are open to private, noncommercial use within the boundaries of any Federal recreational lands or waters, as authorized under section 537 of this title.

(3) Prohibition on fees for certain persons or places

The Secretary shall not charge an entrance fee or standard amenity recreation fee for the following:

(A) Any person under 16 years of age.

(B) Outings conducted for noncommercial educational purposes by schools or bona fide academic institutions.

(C) The U.S.S. Arizona Memorial, Independence National Historical Park, any unit of the National Park System within the District of Columbia, or Arlington House-Robert E. Lee National Memorial.

(D) The Flight 93 National Memorial.

(E) Entrance on other routes into the Great Smoky Mountains National Park or any part thereof unless fees are charged for entrance into that park on main highways and thoroughfares.

(F) Entrance on units of the National Park System containing deed restrictions on charging fees.

(G) An area or unit covered under section 203 of the Alaska National Interest Lands Conservation Act (Public Law 96–487; 16 U.S.C. 410hh–2), with the exception of Denali National Park and Preserve.

(H) A unit of the National Wildlife Refuge System created, expanded, or modified by the Alaska National Interest Lands Conservation Act (Public Law 96–487).

(I) Any person who visits a unit or area under the jurisdiction of the United States Fish and Wildlife Service and who has been issued a valid migratory bird hunting and conservation stamp issued under section 718b of this title.

(J) Any person engaged in a nonrecreational activity authorized under a valid permit issued under any other Act, including a valid grazing permit.

(4) No restriction on recreation opportunities

Nothing in this chapter shall limit the use of recreation opportunities only to areas designated for collection of recreation fees.

(e) Entrance fee

(1) Authorized sites for entrance fees

The Secretary of the Interior may charge an entrance fee for a unit of the National Park System, including a national monument administered by the National Park Service, or for a unit of the National Wildlife Refuge System.

(2) Prohibited sites

The Secretary shall not charge an entrance fee for Federal recreational lands and waters managed by the Bureau of Land Management, the Bureau of Reclamation, or the Forest Service.

(f) Standard amenity recreation fee

Except as limited by subsection (d), the Secretary may charge a standard amenity recre-

ation fee for Federal recreational lands and waters under the jurisdiction of the Bureau of Land Management, the Bureau of Reclamation, or the Forest Service, but only at the following:

(1) A National Conservation Area.

(2) A National Volcanic Monument.

(3) A destination visitor or interpretive center that provides a broad range of interpretive services, programs, and media.

(4) An area—

(A) that provides significant opportunities for outdoor recreation;

(B) that has substantial Federal investments;

(C) where fees can be efficiently collected; and

(D) that contains all of the following amenities:

(i) Designated developed parking.

(ii) A permanent toilet facility.

(iii) A permanent trash receptacle.

(iv) Interpretive sign, exhibit, or kiosk.

(v) Picnic tables.

(vi) Security services.

(g) Expanded amenity recreation fee

(1) NPS and USFWS authority

Except as limited by subsection (d), the Secretary of the Interior may charge an expanded amenity recreation fee, either in addition to an entrance fee or by itself, at Federal recreational lands and waters under the jurisdiction of the National Park Service or the United States Fish and Wildlife Service when the Secretary of the Interior determines that the visitor uses a specific or specialized facility, equipment, or service.

(2) Other Federal land management agencies

Except as limited by subsection (d), the Secretary may charge an expanded amenity recreation fee, either in addition to a standard amenity fee or by itself, at Federal recreational lands and waters under the jurisdiction of the Forest Service, the Bureau of Land Management, or the Bureau of Reclamation, but only for the following facilities or services:

(A) Use of developed campgrounds that provide at least a majority of the following:

(i) Tent or trailer spaces.

(ii) Picnic tables.

(iii) Drinking water.

(iv) Access roads.

(v) The collection of the fee by an employee or agent of the Federal land management agency.

(vi) Reasonable visitor protection.

(vii) Refuse containers.

(viii) Toilet facilities.

(ix) Simple devices for containing a campfire.

(B) Use of highly developed boat launches with specialized facilities or services such as mechanical or hydraulic boat lifts or facilities, multi-lane paved ramps, paved parking, restrooms and other improvements such as boarding floats, loading ramps, or fish cleaning stations.

(C) Rental of cabins, boats, stock animals, lookouts, historic structures, group day-use or overnight sites, audio tour devices, portable sanitation devices, binoculars or other equipment.

(D) Use of hookups for electricity, cable, or sewer.

(E) Use of sanitary dump stations.

(F) Participation in an enhanced interpretive program or special tour.

(G) Use of reservation services.

(H) Use of transportation services.

(I) Use of areas where emergency medical or first-aid services are administered from facilities staffed by public employees or employees under a contract or reciprocal agreement with the Federal Government.

(J) Use of developed swimming sites that provide at least a majority of the following:

(i) Bathhouse with showers and flush toilets.

(ii) Refuse containers.

(iii) Picnic areas.

(iv) Paved parking.

(v) Attendants, including lifeguards.

(vi) Floats encompassing the swimming area.

(vii) Swimming deck.

(h) Special recreation permit fee

The Secretary may issue a special recreation permit, and charge a special recreation permit fee in connection with the issuance of the permit, for specialized recreation uses of Federal recreational lands and waters, such as group activities, recreation events, motorized recreational vehicle use.

(Pub. L. 108–447, div. J, title VIII, §803, Dec. 8, 2004, 118 Stat. 3378.)

REFERENCES IN TEXT

Section 6803 of this title, referred to in subsec. (b)(5), was in the original a reference to section 4, and was translated as meaning section 804 of title VIII of div. J of Pub. L. 108–447, to reflect the probable intent of Congress.

This chapter, referred to in subsec. (d)(1), (4), was in the original ''this Act'', and was translated as reading ''this title'', meaning title VIII of div. J of Pub. L. 108–447, Dec. 8, 2004, 118 Stat. 3377, known as the Federal Lands Recreation Enhancement Act, to reflect the probable intent of Congress. For complete classification of title VIII to the Code, see Short Title note set out under section 6801 of this title and Tables.

The Alaska National Interest Lands Conservation Act, referred to in subsec. (d)(3)(H), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 6803. Public participation

(a) In general

As required in this section, the Secretary shall provide the public with opportunities to participate in the development of or changing of a recreation fee established under this chapter.

(b) Advance notice

The Secretary shall publish a notice in the Federal Register of the establishment of a new recreation fee area for each agency 6 months before establishment. The Secretary shall publish notice of a new recreation fee or a change to an existing recreation fee established under this chapter in local newspapers and publications lo-

cated near the site at which the recreation fee would be established or changed.

(c) Public involvement

Before establishing any new recreation fee area, the Secretary shall provide opportunity for public involvement by—

(1) establishing guidelines for public involvement;

(2) establishing guidelines on how agencies will demonstrate on an annual basis how they have provided information to the public on the use of recreation fee revenues; and

(3) publishing the guidelines in paragraphs (1) and (2) in the Federal Register.

(d) Recreation Resource Advisory Committee

(1) Establishment

(A) Authority to establish

Except as provided in subparagraphs (C) and (D), the Secretary or the Secretaries shall establish a Recreation Resource Advisory Committee in each State or region for Federal recreational lands and waters managed by the Forest Service or the Bureau of Land Management to perform the duties described in paragraph (2).

(B) Number of Committees

The Secretary may have as many additional Recreation Resource Advisory Committees in a State or region as the Secretary considers necessary for the effective operation of this chapter.

(C) Exception

The Secretary shall not establish a Recreation Resource Advisory Committee in a State if the Secretary determines, in consultation with the Governor of the State, that sufficient interest does not exist to ensure that participation on the Committee is balanced in terms of the points of view represented and the functions to be performed.

(D) Use of other entities

In lieu of establishing a Recreation Resource Advisory Committee under subparagraph (A), the Secretary may use a Resource Advisory Committee established pursuant to another provision of law and in accordance with that law or a recreation fee advisory board otherwise established by the Secretary to perform the duties specified in paragraph (2).

(2) Duties

In accordance with the procedures required by paragraph (9), a Recreation Resource Advisory Committee may make recommendations to the Secretary regarding a standard amenity recreation fee or an expanded amenity recreation fee, whenever the recommendations relate to public concerns in the State or region covered by the Committee regarding—

(A) the implementation of a standard amenity recreation fee or an expanded amenity recreation fee or the establishment of a specific recreation fee site;

(B) the elimination of a standard amenity recreation fee or an expanded amenity recreation fee; or

(C) the expansion or limitation of the recreation fee program.

(3) Meetings

A Recreation Resource Advisory Committee shall meet at least annually, but may, at the discretion of the Secretary, meet as often as needed to deal with citizen concerns about the recreation fee program in a timely manner.

(4) Notice of rejection

If the Secretary rejects the recommendation of a Recreation Resource Advisory Committee, the Secretary shall issue a notice that identifies the reasons for rejecting the recommendation to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than 30 days before the Secretary implements a decision pertaining to that recommendation.

(5) Composition of the Advisory Committee

(A) Number

A Recreation Resource Advisory Committee shall be comprised of 11 members.

(B) Nominations

The Governor and the designated county official from each county in the relevant State or Region may submit a list of nominations in the categories described under subparagraph (D).

(C) Appointment

The Secretary may appoint members of the Recreation Resource Advisory Committee from the list as provided in subparagraph (B).

(D) Broad and balanced representation

In appointing the members of a Recreation Resource Advisory Committee, the Secretary shall provide for a balanced and broad representation from the recreation community that shall include the following:

(i) Five persons who represent recreation users and that include, as appropriate, persons representing the following:

(I) Winter motorized recreation, such as snowmobiling.

(II) Winter non-motorized recreation, such as snowshoeing, cross country and down hill skiing, and snowboarding.

(III) Summer motorized recreation, such as motorcycles, boaters, and off-highway vehicles.

(IV) Summer nonmotorized recreation, such as backpacking, horseback riding, mountain biking, canoeing, and rafting.

(V) Hunting and fishing.

(ii) Three persons who represent interest groups that include, as appropriate, the following:

(I) Motorized outfitters and guides.

(II) Non-motorized outfitters and guides.

(III) Local environmental groups.

(iii) Three persons, as follows:

(I) State tourism official to represent the State.

(II) A person who represents affected Indian tribes.

(III) A person who represents affected local government interests.

(6) Term

(A) Length of term

The Secretary shall appoint the members of a Recreation Resource Advisory Committee for staggered terms of 2 and 3 years beginning on the date that the members are first appointed. The Secretary may reappoint members to subsequent 2- or 3-year terms.

(B) Effect of vacancy

The Secretary shall make appointments to fill a vacancy on a Recreation Resource Advisory Committee as soon as practicable after the vacancy has occurred.

(C) Effect of unexpected vacancy

Where an unexpected vacancy occurs, the Governor and the designated county officials from each county in the relevant State shall provide the Secretary with a list of nominations in the relevant category, as described under paragraph (5)(D), not later than two months after notification of the vacancy. To the extent possible, a vacancy shall be filled in the same category and term in which the original appointment was made.

(7) Chairperson

The chairperson of a Recreation Resource Advisory Committee shall be selected by the majority vote of the members of the Committee.

(8) Quorum

Eight members shall constitute a quorum. A quorum must be present to constitute an official meeting of a Recreation Resource Advisory Committee.

(9) Approval procedures

A Recreation Resource Advisory Committee shall establish procedures for making recommendations to the Secretary. A recommendation may be submitted to the Secretary only if the recommendation is approved by a majority of the members of the Committee from each of the categories specified in paragraph (5)(D) and general public support for the recommendation is documented.

(10) Compensation

Members of the Recreation Resource Advisory Committee shall not receive any compensation.

(11) Public participation in the Recreation Resource Advisory Committee

(A) Notice of meetings

All meetings of a Recreation Resource Advisory Committee shall be announced at least one week in advance in a local newspaper of record and the Federal Register, and shall be open to the public.

(B) Records

A Recreation Resource Advisory Committee shall maintain records of the meetings of the Recreation Resource Advisory Committee and make the records available for public inspection.

(12) Federal Advisory Committee Act

A Recreation Resource Advisory Committee is subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(e) Miscellaneous administrative provisions regarding recreation fees and recreation passes

(1) Notice of entrance fees, standard amenity recreation fees, and passes

The Secretary shall post clear notice of any entrance fee, standard amenity recreation fee, and available recreation passes at appropriate locations in each unit or area of a Federal land management agency where an entrance fee or a standard amenity recreation fee is charged. The Secretary shall include such notice in publications distributed at the unit or area.

(2) Notice of recreation fee projects

To the extent practicable, the Secretary shall post clear notice of locations where work is performed using recreation fee or recreation pass revenues collected under this chapter.

(Pub. L. 108–447, div. J, title VIII, § 804, Dec. 8, 2004, 118 Stat. 3382.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), (d)(1)(B), and (e)(2), was in the original ''this Act'', and was translated as reading ''this title'', meaning title VIII of div. J of Pub. L. 108–447, Dec. 8, 2004, 118 Stat. 3377, known as the Federal Lands Recreation Enhancement Act, to reflect the probable intent of Congress. For complete classification of title VIII to the Code, see Short Title note set out under section 6801 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (d)(12), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 6804. Recreation passes

(a) America the Beautiful—the National Parks and Federal Recreational Lands Pass

(1) Availability and use

The Secretaries shall establish, and may charge a fee for, an interagency national pass to be known as the ''America the Beautiful—the National Parks and Federal Recreational Lands Pass'', which shall cover the entrance fee and standard amenity recreation fee for all Federal recreational lands and waters for which an entrance fee or a standard amenity recreation fee is charged.

(2) Image competition for recreation pass

The Secretaries shall hold an annual competition to select the image to be used on the National Parks and Federal Recreational Lands Pass for a year. The competition shall be open to the public and used as a means to educate the American people about Federal recreational lands and waters.

(3) Notice of establishment

The Secretaries shall publish a notice in the Federal Register when the National Parks and

Federal Recreational Lands Pass is first established and available for purchase.

(4) Duration

The National Parks and Federal Recreational Lands Pass shall be valid for a period of 12 months from the date of the issuance of the recreation pass to a passholder, except in the case of the age and disability discounted passes issued under subsection (b).

(5) Price

The Secretaries shall establish the price at which the National Parks and Federal Recreational Lands Pass will be sold to the public.

(6) Sales locations and marketing

(A) In general

The Secretary shall sell the National Parks and Federal Recreational Lands Pass at all Federal recreational lands and waters at which an entrance fee or a standard amenity recreation fee is charged and at such other locations as the Secretaries consider appropriate and feasible.

(B) Use of vendors

The Secretary may enter into fee management agreements as provided in section 6805 of this title.

(C) Marketing

The Secretaries shall take such actions as are appropriate to provide for the active marketing of the National Parks and Federal Recreational Lands Pass.

(7) Administrative guidelines

The Secretaries shall issue guidelines on administration of the National Parks and Federal Recreational Lands Pass, which shall include agreement on price, the distribution of revenues between the Federal land management agencies, the sharing of costs, benefits provided, marketing and design, adequate documentation for age and disability discounts under subsection (b), and the issuance of that recreation pass to volunteers. The Secretaries shall take into consideration all relevant visitor and sales data available in establishing the guidelines.

(8) Development and implementation agreements

The Secretaries may enter into cooperative agreements with governmental and nongovernmental entities for the development and implementation of the National Parks and Federal Recreational Lands Pass Program.

(9) Prohibition on other national recreation passes

The Secretary may not establish any national recreation pass, except as provided in this section.

(b) Discounted passes

(1) Age discount

The Secretary shall make the National Parks and Federal Recreational Lands Pass available, at a cost of $10.00, to any United States citizen or person domiciled in the United States who is 62 years of age or older, if the citizen or person provides adequate proof of such age and such citizenship or residency. The National Parks and Federal Recreational Lands Pass made available under this subsection shall be valid for the lifetime of the pass holder.

(2) Disability discount

The Secretary shall make the National Parks and Federal Recreational Lands Pass available, without charge, to any United States citizen or person domiciled in the United States who has been medically determined to be permanently disabled for purposes of section 705(20)(B)(i) of title 29, if the citizen or person provides adequate proof of the disability and such citizenship or residency. The National Parks and Federal Recreational Lands Pass made available under this subsection shall be valid for the lifetime of the passholder.

(c) Site-specific agency passes

The Secretary may establish and charge a fee for a site-specific pass that will cover the entrance fee or standard amenity recreation fee for particular Federal recreational lands and waters for a specified period not to exceed 12 months.

(d) Regional multientity passes

(1) Passes authorized

The Secretary may establish and charge a fee for a regional multientity pass that will be accepted by one or more Federal land management agencies or by one or more governmental or nongovernmental entities for a specified period not to exceed 12 months. To include a Federal land management agency or governmental or nongovernmental entity over which the Secretary does not have jurisdiction, the Secretary shall obtain the consent of the head of such agency or entity.

(2) Regional multientity pass agreement

In order to establish a regional multientity pass under this subsection, the Secretary shall enter into a regional multientity pass agreement with all the participating agencies or entities on price, the distribution of revenues between participating agencies or entities, the sharing of costs, benefits provided, marketing and design, and the issuance of the pass to volunteers. The Secretary shall take into consideration all relevant visitor and sales data available when entering into this agreement.

(e) Discounted or free admission days or use

The Secretary may provide for a discounted or free admission day or use of Federal recreational lands and waters.

(f) Effect on existing passports and permits

(1) Existing passports

A passport issued under section 460*l*–6a of this title or title VI of the National Parks Omnibus Management Act of 1998 (Public Law 105–391; 16 U.S.C. 5991–5995), such as the Golden Eagle Passport, the Golden Age Passport, the Golden Access Passport, and the National Parks Passport, that was valid on the day before the publication of the Federal Register

notice required under subsection (a)(3) shall be valid in accordance with the terms agreed to at the time of issuance of the passport, to the extent practicable, and remain in effect until expired, lost, or stolen.

(2) Permits

A permit issued under section 460*l*–6a of this title that was valid on the day before December 8, 2004, shall be valid and remain in effect until expired, revoked, or suspended.

(Pub. L. 108–447, div. J, title VIII, § 805, Dec. 8, 2004, 118 Stat. 3385.)

REFERENCES IN TEXT

Section 6805 of this title, referred to in subsec. (a)(6)(B), was in the original a reference to section 6, and was translated as meaning section 806 of title VIII of div. J of Pub. L. 108–447, to reflect the probable intent of Congress.

The National Parks Omnibus Management Act of 1998, referred to in subsec. (f)(1), is Pub. L. 105–391, Nov. 13, 1998, 112 Stat. 3497, as amended. Title VI of the Act was classified generally to subchapter V (§ 5991 et seq.) of chapter 79 of this title, prior to repeal by Pub. L. 108–447, div. J, title VIII, § 813(d)(2), Dec. 8, 2004, 118 Stat. 3391. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of this title and Tables.

§ 6805. Cooperative agreements

(a) Fee management agreement

Notwithstanding chapter 63 of title 31, the Secretary may enter into a fee management agreement, including a contract, which may provide for a reasonable commission, reimbursement, or discount, with the following entities for the following purposes:

(1) With any governmental or nongovernmental entity, including those in a gateway community, for the purpose of obtaining fee collection and processing services, including visitor reservation services.

(2) With any governmental or nongovernmental entity, including those in a gateway community, for the purpose of obtaining emergency medical services.

(3) With any governmental entity, including those in a gateway community, to obtain law enforcement services.

(b) Revenue sharing

A State or legal subdivision of a State that enters into an agreement with the Secretary under subsection (a) may share in a percentage of the revenues collected at the site in accordance with that fee management agreement.

(c) County proposals

The Secretary shall consider any proposal submitted by a county to provide services described in subsection (a). If the Secretary decides not to enter into a fee management agreement with the county under subsection (a), the Secretary shall notify the county in writing of the decision, identifying the reasons for the decision. The fee management agreement may include cooperative site planning and management provisions.

(Pub. L. 108–447, div. J, title VIII, § 806, Dec. 8, 2004, 118 Stat. 3387.)

§ 6806. Special account and distribution of fees and revenues

(a) Special account

The Secretary of the Treasury shall establish a special account in the Treasury for each Federal land management agency.

(b) Deposits

Subject to subsections (c), (d), and (e), revenues collected by each Federal land management agency under this chapter shall—

(1) be deposited in its special account; and

(2) remain available for expenditure, without further appropriation, until expended.

(c) Distribution of recreation fees and single-site agency pass revenues

(1) Local distribution of funds

(A) Retention of revenues

Not less than 80 percent of the recreation fees and site-specific agency pass revenues collected at a specific unit or area of a Federal land management agency shall remain available for expenditure, without further appropriation, until expended at that unit or area.

(B) Reduction

The Secretary may reduce the percentage allocation otherwise applicable under subparagraph (A) to a unit or area of a Federal land management agency, but not below 60 percent, for a fiscal year if the Secretary determines that the revenues collected at the unit or area exceed the reasonable needs of the unit or area for which expenditures may be made for that fiscal year.

(2) Agency-wide distribution of funds

The balance of the recreation fees and site-specific agency pass revenues collected at a specific unit or area of a Federal land management and not distributed in accordance with paragraph (1) shall remain available to that Federal land management agency for expenditure on an agency-wide basis, without further appropriation, until expended.

(3) Other amounts

Other amounts collected at other locations, including recreation fees collected by other entities or for a reservation service, shall remain available, without further appropriation, until expended in accordance with guidelines established by the Secretary.

(d) Distribution of National Parks and Federal Recreational Lands Pass revenues

Revenues collected from the sale of the National Parks and Federal Recreational Lands Pass shall be deposited in the special accounts established for the Federal land management agencies in accordance with the guidelines issued under section 6804(a)(7) of this title.

(e) Distribution of regional multientity pass revenues

Revenues collected from the sale of a regional multientity pass authorized under section 6804(d) of this title shall be deposited in each participating Federal land management agency's special account in accordance with the

terms of the region multientity pass agreement for the regional multientity pass.

(Pub. L. 108–447, div. J, title VIII, § 807, Dec. 8, 2004, 118 Stat. 3388.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original ''this Act'', and was translated as reading ''this title'', meaning title VIII of div. J of Pub. L. 108–447, Dec. 8, 2004, 118 Stat. 3377, known as the Federal Lands Recreation Enhancement Act, to reflect the probable intent of Congress. For complete classification of title VIII to the Code, see Short Title note set out under section 6801 of this title and Tables.

Section 6804 of this title, referred to in subsecs. (d) and (e), was in the original a reference to section 5, and was translated as meaning section 805 of title VIII of div. J of Pub. L. 108–447, to reflect the probable intent of Congress.

§ 6807. Expenditures

(a) Use of fees at specific site or area

Amounts available for expenditure at a specific site or area—

(1) shall be accounted for separately from the amounts collected;

(2) may be distributed agency-wide; and

(3) shall be used only for—

(A) repair, maintenance, and facility enhancement related directly to visitor enjoyment, visitor access, and health and safety;

(B) interpretation, visitor information, visitor service, visitor needs assessments, and signs;

(C) habitat restoration directly related to wildlife-dependent recreation that is limited to hunting, fishing, wildlife observation, or photography;

(D) law enforcement related to public use and recreation;

(E) direct operating or capital costs associated with the recreation fee program; and

(F) a fee management agreement established under section 6805(a) of this title or a visitor reservation service.

(b) Limitation on use of fees

The Secretary may not use any recreation fees for biological monitoring on Federal recreational lands and waters under the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.] for listed or candidate species.

(c) Administration, overhead, and indirect costs

The Secretary may use not more than an average of 15 percent of total revenues collected under this chapter for administration, overhead, and indirect costs related to the recreation fee program by that Secretary.

(d) Transitional exception

Notwithstanding any other provision of this chapter, the Secretary may use amounts available in the special account of a Federal land management agency to supplement administration and marketing costs associated with—

(1) the National Parks and Federal Recreational Lands Pass during the 5-year period beginning on the date the joint guidelines are issued under section 6804(a)(7) of this title; and

(2) a regional multientity pass authorized section 6804(d) of this title during the 5-year period beginning on the date the regional multientity pass agreement for that recreation pass takes effect.

(Pub. L. 108–447, div. J, title VIII, § 808, Dec. 8, 2004, 118 Stat. 3388; Pub. L. 111–11, title VII, § 7116(h), Mar. 30, 2009, 123 Stat. 1203.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (b), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified principally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

This chapter, referred to in subsecs. (c) and (d), was in the original ''this Act'', and was translated as reading ''this title'', meaning title VIII of div. J of Pub. L. 108–447, Dec. 8, 2004, 118 Stat. 3377, known as the Federal Lands Recreation Enhancement Act, to reflect the probable intent of Congress. For complete classification of title VIII to the Code, see Short Title note set out under section 6801 of this title and Tables.

Section 6804 of this title, referred to in subsec. (d), was in the original a reference to section 5 and was translated as meaning section 805 of title VIII of div. J of Pub. L. 108–447, to reflect the probable intent of Congress.

AMENDMENTS

2009—Subsec. (a)(3)(F). Pub. L. 111–11, which directed technical amendment in subsec. (a)(1)(F) to reference in original act which appears in text as reference to section 6805(a) of this title, was executed by making technical amendment in par. (3)(F) to reflect the probable intent of Congress.

§ 6808. Reports

Not later than May 1, 2006, and every 3 years thereafter, the Secretary shall submit to Congress a report detailing the status of the recreation fee program conducted for Federal recreational lands and waters, including an evaluation of the recreation fee program, examples of projects that were funded using such fees, and future projects and programs for funding with fees, and containing any recommendations for changes in the overall fee system.

(Pub. L. 108–447, div. J, title VIII, § 809, Dec. 8, 2004, 118 Stat. 3389.)

§ 6809. Sunset provision

The authority of the Secretary to carry out this chapter shall terminate 10 years after December 8, 2004.

(Pub. L. 108–447, div. J, title VIII, § 810, Dec. 8, 2004, 118 Stat. 3389.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', and was translated as reading ''this title'', meaning title VIII of div. J of Pub. L. 108–447, Dec. 8, 2004, 118 Stat. 3377, known as the Federal Lands Recreation Enhancement Act, to reflect the probable intent of Congress. For complete classification of title VIII to the Code, see Short Title note set out under section 6801 of this title and Tables.

§ 6810. Volunteers

(a) Authority to use volunteers

The Secretary may use volunteers, as appropriate, to collect recreation fees and sell recreation passes.

(b) Waiver or discount of fees; site-specific agency pass

In exchange for volunteer services, the Secretary may waive or discount an entrance fee, standard amenity recreation fee, or an expanded amenity recreation fee that would otherwise apply to the volunteer or issue to the volunteer a site-specific agency pass authorized under section 6804(c) of this title.

(c) National Parks and Federal Recreational Lands Pass

In accordance with the guidelines issued under section 6804(a)(7) of this title, the Secretaries may issue a National Parks and Federal Recreational Lands Pass to a volunteer in exchange for significant volunteer services performed by the volunteer.

(d) Regional multientity passes

The Secretary may issue a regional multientity pass authorized under section 6804(d) of this title to a volunteer in exchange for significant volunteer services performed by the volunteer, if the regional multientity pass agreement under which the regional multientity pass was established provides for the issuance of the pass to volunteers.

(Pub. L. 108–447, div. J, title VIII, § 811, Dec. 8, 2004, 118 Stat. 3389.)

REFERENCES IN TEXT

Section 6804 of this title, referred to in subsecs. (b) to (d), was in the original a reference to section 5, and was translated as meaning section 805 of title VIII of div. J of Pub. L. 108–447, to reflect the probable intent of Congress.

§ 6811. Enforcement and protection of receipts

(a) Enforcement authority

The Secretary concerned shall enforce payment of the recreation fees authorized by this chapter.

(b) Evidence of nonpayment

If the display of proof of payment of a recreation fee, or the payment of a recreation fee within a certain time period is required, failure to display such proof as required or to pay the recreation fee within the time period specified shall constitute nonpayment.

(c) Joint liability

The registered owner and any occupant of a vehicle charged with a nonpayment violation involving the vehicle shall be jointly liable for penalties imposed under this section, unless the registered owner can show that the vehicle was used without the registered owner's express or implied permission.

(d) Limitation on penalties

The failure to pay a recreation fee established under this chapter shall be punishable as a Class A or Class B misdemeanor, except that in the case of a first offense of nonpayment, the fine imposed may not exceed $100, notwithstanding section 3571(e) of title 18.

(Pub. L. 108–447, div. J, title VIII, § 812, Dec. 8, 2004, 118 Stat. 3390.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (d), was in the original ''this Act'', and was translated as reading ''this title'', meaning title VIII of div. J of Pub. L. 108–447, Dec. 8, 2004, 118 Stat. 3377, known as the Federal Lands Recreation Enhancement Act, to reflect the probable intent of Congress. For complete classification of title VIII to the Code, see Short Title note set out under section 6801 of this title and Tables.

§ 6812. Repeal of superseded admission and use fee authorities

(a) Land and Water Conservation Fund Act

Subsections (a), (b), (c), (d), (e), (f), (g), and (i) (except for paragraph (1)(C)) of section 460*l*–6a of this title are repealed, except that the Secretary may continue to issue Golden Eagle Passports, Golden Age Passports, and Golden Access Passports under such section until the date the notice required by section 6804(a)(3) of this title is published in the Federal Register regarding the establishment of the National Parks and Federal Recreational Lands Pass.

(b) Recreational fee demonstration program

Section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (as contained in section 101(c) of Public Law 104–134; 16 U.S.C. 460*l*–6a[1]), is repealed.

(c) Admission permits for refuge units

Section 3911 of this title is repealed.

(d) National park passport, Golden Eagle Passport, Golden Age Passport, and Golden Access Passport

Effective on the date the notice required by section 6804(a)(3) of this title is published in the Federal Register, the following provisions of law authorizing the establishment of a national park passport program or the establishment and sale of a national park passport, Golden Eagle Passport, Golden Age Passport, or Golden Access Passport are repealed:

(1) Section 502 of the National Parks Omnibus Management Act of 1998 (Public Law 105–391; 16 U.S.C. 5982).

(2) Title VI of the National Parks Omnibus Management Act of 1998 (Public Law 105–391; 16 U.S.C. 5991–5995).

(e) Treatment of unobligated funds

(1) Land and water conservation fund special accounts

Amounts in the special accounts established under section 460*l*–6a(i)(1) of this title for Federal land management agencies that are unobligated on December 8, 2004, shall be transferred to the appropriate special account established under section 6806 of this title and shall be available to the Secretary in accordance with this chapter. A special account established under section 460*l*–6a(i)(1) of this title for a Federal agency that is not a Federal land management area, and the use of such special account, is not affected by the repeal of section 460*l*–6a of this title by subsection (a) of this section.

(2) National parks passport

Any funds collected under title VI of the National Parks Omnibus Management Act of 1998 (Public Law 105–391; 16 U.S.C. 5991–5995) that

[1] See References in Text note below.

are unobligated on the day before the publication of the Federal Register notice required under section 6804(a)(3) of this title shall be transferred to the special account of the National Park Service for use in accordance with this chapter. The Secretary of the Interior may use amounts available in that special account to pay any outstanding administration, marketing, or close-out costs associated with the national parks passport.

(3) Recreational fee demonstration program

Any funds collected in accordance with section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (as contained in section 101(c) of Public Law 104–134; 16 U.S.C. 460*l*–6a[1]), that are unobligated on the day before December 8, 2004, shall be transferred to the appropriate special account and shall be available to the Secretary in accordance with this chapter.

(4) Admission permits for refuge units

Any funds collected in accordance with section 3911 of this title that are available as provided in subsection (c)(A) of such section and are unobligated on the day before December 8, 2004, shall be transferred to the special account of the United States Fish and Wildlife Service for use in accordance with this chapter.

(f) Effect of regulations

A regulation or policy issued under a provision of law repealed by this section shall remain in effect to the extent such a regulation or policy is consistent with the provisions of this chapter until the Secretary issues a regulation, guideline, or policy under this chapter that supersedes the earlier regulation.

(Pub. L. 108–447, div. J, title VIII, § 813, Dec. 8, 2004, 118 Stat. 3390; Pub. L. 109–54, title I, § 132(a), Aug. 2, 2005, 119 Stat. 526.)

REFERENCES IN TEXT

The date the notice required by section 6804(a)(3) of this title is published in the Federal Register, referred to in subsecs. (a), (d), and (e)(2), is Dec. 19, 2006. See 71 F.R. 75935.

Sections 6804 and 6806 of this title, referred to in subsecs. (a), (d), and (e)(1), (2), were in the original references to sections 5 and 7, respectively, and were translated as meaning section 805 and 807, respectively, of title VIII of div. J of Pub. L. 108–447, to reflect the probable intent of Congress.

Section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996, referred to in subsecs. (b) and (e)(3), is Pub. L. 104–134, title I, § 101(c) [title III, § 315], Apr. 26, 1996, 110 Stat. 1321–156, 1321–200, as amended, which was set out as a note under section 460*l*–6a of this title.

The National Parks Omnibus Management Act of 1998, referred to in subsecs. (d)(2) and (e)(2), is Pub. L. 105–391, Nov. 13, 1998, 112 Stat. 3497, as amended. Title VI of the Act was classified generally to subchapter V (§ 5991 et seq.) of chapter 79 of this title, prior to repeal by subsec. (d)(2) of this section. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of this title and Tables.

This chapter, referred to in subsecs. (e) and (f), was in the original ''this Act'', and was translated as reading ''this title'', meaning title VIII of div. J of Pub. L. 108–447, Dec. 8, 2004, 118 Stat. 3377, known as the Federal Lands Recreation Enhancement Act, to reflect the probable intent of Congress. For complete classification of title VIII to the Code, see Short Title note set out under section 6801 of this title and Tables.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–54 inserted ''(except for paragraph (1)(C))'' after ''and (i)''.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–54 effective Dec. 8, 2004, see section 132(d) of Pub. L. 109–54, set out as a note under section 460*l*–6a of this title.

§ 6813. Relation to other laws and fee collection authorities

(a) Federal and State laws unaffected

Nothing in this chapter shall authorize Federal hunting or fishing licenses or fees or charges for commercial or other activities not related to recreation, affect any rights or authority of the States with respect to fish and wildlife, or repeal or modify any provision of law that permits States or political subdivisions of States to share in the revenues from Federal lands or, except as provided in subsection (b), any provision of law that provides that any fees or charges collected at particular Federal areas be used for or credited to specific purposes or special funds as authorized by that provision of law.

(b) Relation to revenue allocation laws

Amounts collected under this chapter, and the existence of a fee management agreement with a governmental entity under section 6805(a) of this title, may not be taken into account for the purposes of any of the following laws:

(1) The sixth paragraph under the heading ''FOREST SERVICE'' in the Act of May 23, 1908 (16 U.S.C. 500).

(2) Section 13 of the Act of March 1, 1911 (16 U.S.C. 500; commonly known as the Weeks Act).

(3) The fourteenth paragraph under the heading ''FOREST SERVICE'' in the Act of March 4, 1913 (16 U.S.C. 501).

(4) Section 1012 of title 7.

(5) Title II of the Act of August 8, 1937,[1] and the Act of May 24, 1939 (43 U.S.C. 1181f [1181f–1] et seq.).

(6) Section 869–4 of title 43.

(7) Chapter 69 of title 31.

(8) Section 715s of this title.

(9) The Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393; 16 U.S.C. 500 note),[1] except that the exception made for such Act by this subsection is unique and is not intended to be construed as precedent for amounts collected from the use of Federal lands under any other provision of law.

(10) Section 618a of title 43.

(11) The Federal Water Project Recreation Act (16 U.S.C. 460*l*–12 et seq.).

(12) Section 391 of title 43.

(13) The Act of February 25, 1920 (30 U.S.C. 181 et seq.; commonly known as the Mineral Leasing Act).

(14) Section 4(e) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 31 U.S.C. 6901 note)[1].

[1] See References in Text note below.

(15) Section 5(a) of the Lincoln County Land Act of 2000 (Public Law 106–298; 114 Stat. 1047).

(16) Any other provision of law relating to revenue allocation.

(c) Consideration of other funds collected

Amounts collected under any other law may not be disbursed under this chapter.

(d) Sole recreation fee authority

Recreation fees charged under this chapter shall be in lieu of fees charged for the same purposes under any other provision of law.

(e) Fees charged by third parties

Notwithstanding any other provision of this chapter, a third party may charge a fee for providing a good or service to a visitor of a unit or area of the Federal land management agencies in accordance with any other applicable law or regulation.

(f) Migratory Bird Hunting Stamp Act

Revenues from the stamp established under the Act of March 16, 1934 (16 U.S.C. 718 et seq.; commonly known as the Migratory Bird Hunting Stamp Act or Duck Stamp Act), shall not be covered by this chapter.

(Pub. L. 108–447, div. J, title VIII, § 814, Dec. 8, 2004, 118 Stat. 3392.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', and was translated as reading ''this title'', meaning title VIII of div. J of Pub. L. 108–447, Dec. 8, 2004, 118 Stat. 3377, known as the Federal Lands Recreation Enhancement Act, to reflect the probable intent of Congress. For complete classification of title VIII to the Code, see Short Title note set out under section 6801 of this title and Tables.

Section 6805 of this title, referred to in subsec. (b), was in the original a reference to section 6, and was translated as meaning section 806 of title VIII of div. J of Pub. L. 108–447, to reflect the probable intent of Congress.

The Act of August 8, 1937, referred to in subsec. (b)(5), probably means act Aug. 28, 1937, ch. 876, 50 Stat. 874, as amended. Title II of the Act enacted section 1181f of Title 43, Public Lands, and repealed section 1174 of Title 43. For complete classification of this Act to the Code, see Tables.

The Act of May 24, 1939, referred to in subsec. (b)(5), is act May 24, 1939, ch. 144, 53 Stat. 753, which enacted sections 1181f–1 to 1181f–4 of Title 43, Public Lands, and provisions set out as a note under section 1181f–1 of Title 43. For complete classification of this Act to the Code, see Tables.

The Secure Rural Schools and Community Self-Determination Act of 2000, referred to in subsec. (b)(9), is Pub. L. 106–393, Oct. 30, 2000, 114 Stat. 1607. Sections 1 to 3 and titles I to IV of the Act were set out as notes under section 500 of this title prior to the repeal and reenactment of sections 1 to 403 of the Act by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893–3910. The new sections 1 to 403 of the Act are classified generally to chapter 90 (§ 7101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

The Federal Water Project Recreation Act, referred to in subsec. (b)(11), is Pub. L. 89–72, July 9, 1965, 79 Stat. 213, as amended, which is classified principally to part C (§ 460*l*–12 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–12 of this title and Tables.

The Act of February 25, 1920, referred to in subsec. (b)(13), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

Section 4(e) of the Southern Nevada Public Land Management Act of 1998, referred to in subsec. (b)(14), is section 4(e) of Pub. L. 105–263, Oct. 19, 1998, 112 Stat. 2345, which is not classified to the Code.

Section 5(a) of the Lincoln County Land Act of 2000, referred to in subsec. (b)(15), is section 5(a) of Pub. L. 106–298, Oct. 13, 2000, 114 Stat. 1047, which is not classified to the Code.

The Migratory Bird Hunting Stamp Act, referred to in subsec. (f), subsequently renamed the Migratory Bird Hunting and Conservation Stamp Act, is act Mar. 16, 1934, ch. 71, 48 Stat. 451, as amended, which is classified generally to subchapter IV (§ 718 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 718 of this title and Tables.

§ 6814. Limitation on use of fees for employee bonuses

Notwithstanding any other provision of law, fees collected under the authorities of the chapter may not be used for employee bonuses.

(Pub. L. 108–447, div. J, title VIII, § 815, Dec. 8, 2004, 118 Stat. 3393.)

REFERENCES IN TEXT

The chapter, referred to in text, was in the original ''the Act'', and was translated as reading ''this title'', meaning title VIII of div. J of Pub. L. 108–447, Dec. 8, 2004, 118 Stat. 3377, known as the Federal Lands Recreation Enhancement Act, to reflect the probable intent of Congress. For complete classification of title VIII to the Code, see Short Title note set out under section 6801 of this title and Tables.

CHAPTER 88—WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION

Sec.
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§ 6901. Definitions

In this chapter:

(1) 1982 Convention

The term ''1982 Convention'' means the United Nations Convention on the Law of the Sea of 10 December 1982.

(2) Agreement

The term ''Agreement'' means the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

(3) Commission

The term ''Commission'' means the Commission for the Conservation and Management of

Highly Migratory Fish Stocks in the Western and Central Pacific Ocean established in accordance with this Convention.

(4) Convention area

The term ''convention area'' means all waters of the Pacific Ocean bounded to the south and to the east by the following line:
From the south coast of Australia due south along the 141th meridian of east longitude to its intersection with the 55th parallel of south latitude; thence due east along the 55th parallel of south latitude to its intersection with the 150th meridian of east longitude; thence due south along the 150th meridian of east longitude to its intersection with the 60th parallel of south latitude; thence due east along the 60th parallel of south latitude to its intersection with the 130th meridian of west longitude; thence due north along the 130th meridian of west longitude to its intersection with the 4th parallel of south latitude; thence due west along the 4th parallel of south latitude to its intersection with the 150th meridian of west longitude; thence due north along the 150th meridian of west longitude.

(5) Exclusive economic zone

The term ''exclusive economic zone'' means the zone established by Presidential Proclamation Numbered 5030 of March 10, 1983.

(6) Fishing

The term ''fishing'' means—

(A) searching for, catching, taking, or harvesting fish;

(B) attempting to search for, catch, take, or harvest fish;

(C) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish for any purpose;

(D) placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

(E) any operations at sea directly in support of, or in preparation for, any activity described in subparagraphs (A) through (D), including transshipment; and

(F) use of any other vessel, vehicle, aircraft, or hovercraft, for any activity described in subparagraphs (A) through (E) except for emergencies involving the health and safety of the crew or the safety of a vessel.

(7) Fishing vessel

The term ''fishing vessel'' means any vessel used or intended for use for the purpose of fishing, including support ships, carrier vessels, and any other vessel directly involved in such fishing operations.

(8) Highly migratory fish stocks

The term ''highly migratory fish stocks'' means all fish stocks of the species listed in Annex 1 of the 1982 Convention, except sauries, occurring in the Convention Area,[1] and such other species of fish as the Commission may determine.

[1] So in original. Probably should not be capitalized.

(9) Secretary

The term ''Secretary'' means the Secretary of Commerce.

(10) State

The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

(11) Transhipment

The term ''transshipment'' means the unloading of all or any of the fish on board a fishing vessel to another fishing vessel either at sea or in port.

(12) WCPFC Convention; Western and Central Pacific Convention

The terms ''WCPFC Convention'' and ''Western and Central Pacific Convention'' means the Convention on the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, (including any annexes, amendments, or protocols which are in force, or have come into force, for the United States) which was adopted at Honolulu, Hawaii, on September 5, 2000, by the Multilateral High Level Conference on the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

(Pub. L. 109–479, title V, § 502, Jan. 12, 2007, 120 Stat. 3635.)

REFERENCES IN TEXT

Presidential Proclamation Numbered 5030, referred to in par. (5), is Proc. No. 5030, Mar. 10, 1983, 48 F.R. 10605, which is set out as a note under section 1453 of this title.

SHORT TITLE

Pub. L. 109–479, title V, § 501, Jan. 12, 2007, 120 Stat. 3635, provided that: ''This title [enacting this chapter] may be cited as the 'Western and Central Pacific Fisheries Convention Implementation Act'.''

§ 6902. Appointment of United States Commissioners

(a) In general

The United States shall be represented on the Commission by 5 United States Commissioners. The President shall appoint individuals to serve on the Commission at the pleasure of the President. In making the appointments, the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in the Western and Central Pacific Ocean, one of whom shall be an officer or employee of the Department of Commerce, and one of whom shall be the chairman or a member of the Western Pacific Fishery Management Council, and one of whom shall be the chairman or a member of the Pacific Fishery Management Council. The Commissioners shall be entitled to adopt such rules of procedures as they find necessary and to select a chairman from among members who are officers or employees of the United States Government.

(b) Alternate Commissioners

The Secretary of State, in consultation with the Secretary, may designate from time to time

and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise at any meeting of the Commission, Council, any Panel, or the advisory committee established pursuant to subsection (d), all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

(c) Administrative matters

(1) Employment status

Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28.

(2) Compensation

The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such Commissioners or Alternate Commissioners.

(3) Travel expenses

(A) The Secretary of State shall pay the necessary travel expenses of United States Commissioners and Alternate United States Commissioners in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5.

(B) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.

(d) Advisory committees

(1) Establishment of permanent advisory committee

(A) Membership

There is established an advisory committee which shall be composed of—

(i) not less than 15 nor more than 20 individuals appointed by the Secretary of Commerce in consultation with the United States Commissioners, who shall select such individuals from the various groups concerned with the fisheries covered by the WCPFC Convention, providing, to the maximum extent practicable, an equitable balance among such groups;

(ii) the chair of the Western Pacific Fishery Management Council's Advisory Committee or the chair's designee; and

(iii) officials of the fisheries management authorities of American Samoa, Guam, and the Northern Mariana Islands (or their designees).

(B) Terms and privileges

Each member of the advisory committee appointed under subparagraph (A) shall serve for a term of 2 years and shall be eligible for reappointment. The advisory committee shall be invited to attend all non-executive meetings of the United States Commissioners and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission.

(C) Procedures

The advisory committee established by subparagraph (A) shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter,[1] the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the WCPFC Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures. A majority of the members of the advisory committee shall constitute a quorum. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.[2] and the advisory committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(D) Provision of information

The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

(2) Administrative matters

(A) Support services

The Secretary shall provide to advisory committees in a timely manner such administrative and technical support services as are necessary for their effective functioning.

(B) Compensation; status; expenses

Individuals appointed to serve as a member of an advisory committee—

(i) shall serve without pay, but while away from their homes or regular places of business in the performance of services for the advisory committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5; and

(ii) shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28.

(f)[3] Memorandum of understanding

For highly migratory species in the Pacific, the Secretary, in coordination with the Secretary of State, shall develop a memorandum of understanding with the Western Pacific, Pacific, and North Pacific Fishery Management Councils, that clarifies the role of the relevant Council or Councils with respect to—

[1] See References in Text note below.

[2] So in original. The period probably should be a comma.

[3] So in original. No subsec. (e) has been enacted.

(1) participation in United States delegations to international fishery organizations in the Pacific Ocean, including government-to-government consultations;

(2) providing formal recommendations to the Secretary and the Secretary of State regarding necessary measures for both domestic and foreign vessels fishing for these species;

(3) coordinating positions with the United States delegation for presentation to the appropriate international fishery organization; and

(4) recommending those domestic fishing regulations that are consistent with the actions of the international fishery organization, for approval and implementation under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)

(Pub. L. 109–479, title V, § 503, Jan. 12, 2007, 120 Stat. 3636; Pub. L. 111–348, title III, § 301, Jan. 4, 2011, 124 Stat. 3672.)

AMENDMENTS

2011—Subsec. (a). Pub. L. 111–348, § 301(1), substituted ''Management Council, and one of whom shall be the chairman or a member of'' for ''Management Council and''.

Subsec. (c)(1). Pub. L. 111–348, § 301(2), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: ''Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall be considered to be Federal employees while performing such service, only for purposes of—

''(A) injury compensation under chapter 81 of title 5;

''(B) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18; and

''(C) any other criminal or civil statute or regulation governing the conduct of Federal employees.''

Subsec. (d)(2)(B)(ii). Pub. L. 111–348, § 301(3), added cl. (ii) and struck out former cl. (ii) which read as follows: ''shall be considered Federal employees while performing service as members of an advisory committee only for purposes of—

''(I) injury compensation under chapter 81 of title 5;

''(II) requirements concerning ethics, conflicts-of-interest, and corruption, as provided by title 18; and

''(III) any other criminal or civil statute or regulation governing the conduct of Federal employees in their capacity as Federal employees.''

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(1)(C), probably should have been ''this title'' in the original, meaning title V of Pub. L. 109–479 which enacted this chapter.

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsecs. (d)(1)(C) and (f)(4), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (d)(1)(C), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 6903. Authority and responsibility of the Secretary of State

The Secretary of State may—

(1) receive and transmit, on behalf of the United States, reports, requests, recommendations, proposals, decisions, and other communications of and to the Commission;

(2) in consultation with the Secretary approve, disapprove, object to, or withdraw objections to bylaws and rules, or amendments thereof, adopted by the WCPFC Commission, and, with the concurrence of the Secretary to approve or disapprove the general annual program of the WCPFC Commission with respect to conservation and management measures and other measures proposed or adopted in accordance with the WCPFC Convention; and

(3) act upon, or refer to other appropriate authority, any communication referred to in paragraph (1).

(Pub. L. 109–479, title V, § 504, Jan. 12, 2007, 120 Stat. 3639.)

§ 6904. Rulemaking authority of the Secretary of Commerce

(a) Promulgation of regulations

The Secretary, in consultation with the Secretary of State and, with respect to enforcement measures, the Secretary of the Department in which the Coast Guard is operating, is authorized to promulgate such regulations as may be necessary to carry out the United States international obligations under the WCPFC Convention and this chapter, including recommendations and decisions adopted by the Commission. In cases where the Secretary has discretion in the implementation of one or more measures adopted by the Commission that would govern fisheries under the authority of a Regional Fishery Management Council, the Secretary may, to the extent practicable within the implementation schedule of the WCPFC Convention and any recommendations and decisions adopted by the Commission, promulgate such regulations in accordance with the procedures established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(b) Additions to fishery regimes and regulations

The Secretary may promulgate regulations applicable to all vessels and persons subject to the jurisdiction of the United States, including United States flag vessels wherever they may be operating, on such date as the Secretary shall prescribe.

(Pub. L. 109–479, title V, § 505, Jan. 12, 2007, 120 Stat. 3639.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (a), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

§ 6905. Enforcement

(a) In general

The Secretary may—

(1) administer and enforce this chapter and any regulations issued under this chapter, except to the extent otherwise provided for in this Act;

(2) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in—

(A) the administration and enforcement of this chapter; and

(B) the conduct of scientific, research, and other programs under this chapter;

(3) conduct fishing operations and biological experiments for purposes of scientific investigation or other purposes necessary to implement the WCPFC Convention;

(4) collect, utilize, and disclose such information as may be necessary to implement the WCPFC Convention, subject to sections 552 and 552a of title 5 and section 402(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(b));

(5) if recommended by the United States Commissioners or proposed by a Council with authority over the relevant fishery, assess and collect fees, not to exceed three percent of the ex-vessel value of fish harvested by vessels of the United States in fisheries managed pursuant to this chapter, to recover the actual costs to the United States of management and enforcement under this chapter, which shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Secretary under this chapter; and

(6) issue permits to owners and operators of United States vessels to fish in the convention area seaward of the United States Exclusive Economic Zone, under such terms and conditions as the Secretary may prescribe, and shall remain valid for a period to be determined by the Secretary.

(b) Consistency with other laws

The Secretary shall ensure the consistency, to the extent practicable, of fishery management programs administered under this Act, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Tuna Conventions Act (16 U.S.C. 951 et seq.), the South Pacific Tuna Act (16 U.S.C. 973 et seq.), section 401 of Public Law 108–219 (16 U.S.C. 1821 note) (relating to Pacific albacore tuna), and the Atlantic Tunas Convention Act (16 U.S.C. 971 [et seq.]).

(c) Actions by the Secretary

The Secretary shall prevent any person from violating this chapter in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) were incorporated into and made a part of this chapter. Any person that violates any provision of this chapter is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1801 et seq.] in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of that Act were incorporated into and made a part of this chapter.

(d) Confidentiality

(1) In general

Any information submitted to the Secretary in compliance with any requirement under this Act shall be confidential and shall not be disclosed, except—

(A) to Federal employees who are responsible for administering, implementing, and enforcing this Act;

(B) to the Commission, in accordance with requirements in the Convention and decisions of the Commission, and, insofar as possible, in accordance with an agreement with the Commission that prevents public disclosure of the identity or business of any person;

(C) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business or any person;

(D) when required by court order; or

(E) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act.

(2) Use of information

The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form that does not directly or indirectly disclose the identity or business of any person. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary of any information submitted in compliance with any requirement or regulation under this Act.

(Pub. L. 109–479, title V, § 506, Jan. 12, 2007, 120 Stat. 3640.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(1), (b), and (d), is Pub. L. 109–479, Jan. 12, 2007, 120 Stat. 3575, known as the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006. For complete classification of this Act to the Code, see Short Title of 2007 Amendment note set out under section 1801 of this title and Tables.

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsecs. (b) and (c), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Tuna Conventions Act, referred to in subsec. (b), probably means the Tuna Conventions Act of 1950, act Sept. 7, 1950, ch. 907, 64 Stat. 777, which is classified generally to chapter 16 (§ 951 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 951 of this title and Tables.

The South Pacific Tuna Act, referred to in subsec. (b), probably means the South Pacific Tuna Act of 1988, Pub. L. 100–330, June 7, 1988, 102 Stat. 591, which is classified generally to chapter 16C (§ 973 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 973 of this title and Tables.

The Atlantic Tunas Convention Act, referred to in subsec. (b), probably means the Atlantic Tunas Convention Act of 1975, Pub. L. 94–70, Aug. 5, 1975, 89 Stat. 385, which is classified generally to chapter 16A (§ 971 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 971 of this title and Tables.

§ 6906. Prohibited acts

(a) In general

It is unlawful for any person—

(1) to violate any provision of this chapter or any regulation or permit issued pursuant to this chapter;

(2) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, on an applicable permit issued pursuant to this chapter;

(3) to refuse to permit any officer authorized to enforce the provisions of this chapter to board a fishing vessel subject to such person's control for the purposes of conducting any search, investigation, or inspection in connection with the enforcement of this chapter or any regulation, permit, or the Convention;

(4) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigations, or inspection in connection with the enforcement of this chapter or any regulation, permit, or the Convention;

(5) to resist a lawful arrest for any act prohibited by this chapter;

(6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this chapter or any regulation, permit, or agreement referred to in paragraph (1) or (2);

(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any chapter[1] prohibited by this section;

(8) to knowingly and willfully submit to the Secretary false information (including false information regarding the capacity and extent to which a United States fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishery vessels of the United States), regarding any matter that the Secretary is considering in the course of carrying out this chapter;

(9) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this chapter, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this chapter;

(10) to engage in fishing in violation of any regulation adopted pursuant to section 6905(a) of this title;

(11) to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations;

(12) to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this chapter to be made, kept, or furnished;

(13) to fail to stop a vessel upon being hailed and instructed to stop by a duly authorized official of the United States;

(14) to import, in violation of any regulation adopted pursuant to section 6905(a) of this title, any fish in any form of those species subject to regulation pursuant to a recommendation, resolution, or decision of the Commission, or any tuna in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section 6905(a) of this title.

(b) Entry certification

In the case of any fish described in subsection (a) offered for entry into the United States, the Secretary of Commerce shall require proof satisfactory to the Secretary that such fish is not ineligible for such entry under the terms of section 6905(a) of this title.

(Pub. L. 109–479, title V, § 507, Jan. 12, 2007, 120 Stat. 3641.)

§ 6907. Cooperation in carrying out convention

(a) Federal and State agencies; private institutions and organizations

The Secretary may cooperate with agencies of the United States government,[1] any public or private institutions or organizations within the United States or abroad, and, through the Secretary of State, the duly authorized officials of the government of any party to the WCPFC Convention, in carrying out responsibilities under this chapter.

(b) Scientific and other programs; facilities and personnel

All Federal agencies are authorized, upon the request of the Secretary, to cooperate in the conduct of scientific and other programs and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the WCPFC Convention.

(c) Sanctioned fishing operations and biological experiments

Nothing in this chapter, or in the laws or regulations of any State, prevents the Secretary or the Commission from—

(1) conducting or authorizing the conduct of fishing operations and biological experiments at any time for purposes of scientific investigation; or

(2) discharging any other duties prescribed by the WCPFC Convention.

(d) State jurisdiction not affected

Except as provided in subsection (e) of this section, nothing in this chapter shall be construed to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.

(e) Application of regulations

(1) In general

Regulations promulgated under section 6905(a) of this title shall apply within the

[1] So in original.

[1] So in original. Probably should be capitalized.

boundaries of any State bordering on the Convention area if the Secretary has provided notice to such State, the State does not request an agency hearing, and the Secretary determines that the State—

(A) has not, within a reasonable period of time after the promulgation of regulations pursuant to this chapter, enacted laws or promulgated regulations that implement the recommendations of the Commission within the boundaries of such State; or

(B) has enacted laws or promulgated regulations that implement the recommendations of the commission within the boundaries of such State that—

(i) are less restrictive that[2] the regulations promulgated under section 6905(a) of this title; or

(ii) are not effectively enforced.

(2) Determination by Secretary

The regulations promulgated pursuant to section 6905(a) of this title shall apply until the Secretary determines that the State is effectively enforcing within its boundaries measures that are not less restrictive than the regulations promulgated under section 6905(a) of this title.

(3) Hearing

If a State requests a formal agency hearing, the Secretary shall not apply the regulations promulgated pursuant[3] section 6905(a) of this title within that State's boundaries unless the hearing record supports a determination under paragraph (1)(A) or (B).

(f) Review of State laws and regulations

To ensure that the purposes of subsection (e) are carried out, the Secretary shall undertake a continuing review of the laws and regulations of all States to which subsection (e) applies or may apply and the extent to which such laws and regulations are enforced.

(Pub. L. 109–479, title V, § 508, Jan. 12, 2007, 120 Stat. 3642.)

§ 6908. Territorial participation

The Secretary of State shall ensure participation in the Commission and its subsidiary bodies by American Samoa, Guam, and the Northern Mariana Islands to the same extent provided to the territories of other nations.

(Pub. L. 109–479, title V, § 509, Jan. 12, 2007, 120 Stat. 3643.)

§ 6909. Exclusive Economic Zone notification

Masters of commercial fishing vessels of nations fishing for species under the management authority of the Western and Central Pacific Fisheries Convention that do not carry vessel monitoring systems capable of communicating with United States enforcement authorities shall, prior to, or as soon as reasonably possible after, entering and transiting the Exclusive Economic Zone seaward of Hawaii and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area—

(1) notify the United States Coast Guard or the National Marine Fisheries Service Office of Law Enforcement in the appropriate region of the name, flag state, location, route, and destination of the vessel and of the circumstances under which it will enter United States waters;

(2) ensure that all fishing gear on board the vessel is stowed below deck or otherwise removed from the place where it is normally used for fishing and placed where it is not readily available for fishing; and

(3) where requested by an enforcement officer, proceed to a specified location so that a vessel inspection can be conducted.

(Pub. L. 109–479, title V, § 510, Jan. 12, 2007, 120 Stat. 3643.)

§ 6910. Authorization of appropriations

There are authorized to be appropriated to the Secretary of Commerce such sums as may be necessary to carry out this chapter and to pay the United States' contribution to the Commission under section 5 of part III of the WCPFC Convention.

(Pub. L. 109–479, title V, § 511, Jan. 12, 2007, 120 Stat. 3644.)

CHAPTER 89—PACIFIC WHITING

Sec.
7001. Definitions.
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§ 7001. Definitions

In this chapter:

(1) Advisory panel

The term ''advisory panel'' means the Advisory Panel on Pacific Hake/Whiting established by the Agreement.

(2) Agreement

The term ''Agreement'' means the Agreement between the Government of the United States and the Government of Canada on Pacific Hake/Whiting, signed at Seattle, Washington, on November 21, 2003.

(3) Catch

The term ''catch'' means all fishery removals from the offshore whiting resource, including landings, discards, and bycatch in other fisheries.

(4) Joint management committee

The term ''joint management committee'' means the joint management committee established by the Agreement.

(5) Joint technical committee

The term ''joint technical committee'' means the joint technical committee established by the Agreement.

[2] So in original. Probably should be ''than''.

[3] So in original. Probably should be followed by ''to''.

(6) Offshore whiting resource

The term ''offshore whiting resource'' means the transboundary stock of Merluccius productus that is located in the offshore waters of the United States and Canada except in Puget Sound and the Strait of Georgia.

(7) Scientific review group

The term ''scientific review group'' means the scientific review group established by the Agreement.

(8) Secretary

The term ''Secretary'' means the Secretary of Commerce.

(9) United States Section

The term ''United States Section'' means the United States representatives on the joint management committee.

(Pub. L. 109–479, title VI, § 602, Jan. 12, 2007, 120 Stat. 3644.)

SHORT TITLE

Pub. L. 109–479, title VI, § 601, Jan. 12, 2007, 120 Stat. 3644, provided that: ''This title [enacting this chapter] may be cited as the 'Pacific Whiting Act of 2006'.''

§ 7002. United States representation on joint management committee

(a) Representatives

(1) In general

The Secretary, in consultation with the Secretary of State, shall appoint 4 individuals to represent the United States as the United States Section on the joint management committee. In making the appointments, the Secretary shall select representatives from among individuals who are knowledgeable or experienced concerning the offshore whiting resource. Of these—

(A) 1 shall be an official of the National Oceanic and Atmospheric Administration;

(B) 1 shall be a member of the Pacific Fishery Management Council, appointed with consideration given to any recommendation provided by that Council;

(C) 1 shall be appointed from a list submitted by the treaty Indian tribes with treaty fishing rights to the offshore whiting resource; and

(D) 1 shall be appointed from the commercial sector of the whiting fishing industry concerned with the offshore whiting resource.

(2) Term of office

Each representative appointed under paragraph (1) shall be appointed for a term not to exceed 4 years, except that, of the initial appointments, 2 representatives shall be appointed for terms of 2 years. Any individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term. A representative may be appointed for a term of less than 4 years if such term is necessary to ensure that the term of office of not more than 2 representatives will expire in any single year. An individual appointed to serve as a representative is eligible for reappointment.

(3) Chair

Unless otherwise agreed by all of the 4 representatives, the chair shall rotate annually among the 4 members, with the order of rotation determined by lot at the first meeting.

(b) Alternate representatives

The Secretary, in consultation with the Secretary of State, may designate alternate representatives of the United States to serve on the joint management committee. An alternative representative may exercise, at any meeting of the committee, all the powers and duties of a representative in the absence of a duly designated representative for whatever reason.

(Pub. L. 109–479, title VI, § 603, Jan. 12, 2007, 120 Stat. 3645.)

§ 7003. United States representation on the scientific review group

(a) In general

The Secretary, in consultation with the Secretary of State, shall appoint no more than 2 scientific experts to serve on the scientific review group. An individual shall not be eligible to serve on the scientific review group while serving on the joint technical committee.

(b) Term

An individual appointed under subsection (a) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of a term of office of that individual's predecessor shall be appointed to serve for the remainder of that term.

(c) Joint appointments

In addition to individuals appointed under subsection (a), the Secretary, jointly with the Government of Canada, may appoint to the scientific review group, from a list of names provided by the advisory panel—

(1) up to 2 independent members of the scientific review group; and

(2) 2 public advisors.

(Pub. L. 109–479, title VI, § 604, Jan. 12, 2007, 120 Stat. 3645.)

§ 7004. United States representation on joint technical committee

(a) Scientific experts

(1) In general

The Secretary, in consultation with the Secretary of State, shall appoint no more than 2 individuals to serve as scientific experts on the joint technical committee, at least 1 of whom shall be an official of the National Oceanic and Atmospheric Administration.

(2) Term of office

An individual appointed under paragraph (1) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term.

(b) Independent member

In addition to individuals appointed under subsection (a), the Secretary, jointly with the Government of Canada, shall appoint 1 independent member to the joint technical committee selected from a list of names provided by the advisory panel.

(Pub. L. 109–479, title VI, § 605, Jan. 12, 2007, 120 Stat. 3646; Pub. L. 111–348, title III, § 302(a), Jan. 4, 2011, 124 Stat. 3672.)

AMENDMENTS

2011—Subsec. (a)(1). Pub. L. 111–348 substituted ''no more than 2'' for ''at least 6 but not more than 12''.

§ 7005. United States representation on advisory panel

(a) In general

(1) Appointment

The Secretary, in consultation with the Secretary of State, shall appoint at least 6 but not more than 12 individuals to serve as members of the advisory panel, selected from among individuals who are—

(A) knowledgeable or experienced in the harvesting, processing, marketing, management, conservation, or research of the offshore whiting resource; and

(B) not employees of the United States.

(2) Term of office

An individual appointed under paragraph (1) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term.

(Pub. L. 109–479, title VI, § 606, Jan. 12, 2007, 120 Stat. 3646.)

§ 7006. Responsibilities of the Secretary

(a) In general

The Secretary is responsible for carrying out the Agreement and this chapter, including the authority, to be exercised in consultation with the Secretary of State, to accept or reject, on behalf of the United States, recommendations made by the joint management committee.

(b) Regulations; cooperation with Canadian officials

In exercising responsibilities under this chapter, the Secretary—

(1) may promulgate such regulations as may be necessary to carry out the purposes and objectives of the Agreement and this chapter; and

(2) with the concurrence of the Secretary of State, may cooperate with officials of the Canadian Government duly authorized to carry out the Agreement.

(Pub. L. 109–479, title VI, § 607, Jan. 12, 2007, 120 Stat. 3646.)

§ 7007. Rulemaking

(a) Application with Magnuson-Stevens Act

The Secretary shall establish the United States catch level for Pacific whiting according to the standards and procedures of the Agreement and this chapter rather than under the standards and procedures of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), except to the extent necessary to address the rebuilding needs of other species. Except for establishing the catch level, all other aspects of Pacific whiting management shall be—

(1) subject to the Magnuson-Stevens Fishery Conservation and Management Act; and

(2) consistent with this chapter.

(b) Joint management committee recommendations

For any year in which both parties to the Agreement approve recommendations made by the joint management committee with respect to the catch level, the Secretary shall implement the approved recommendations. Any regulation promulgated by the Secretary to implement any such recommendation shall apply, as necessary, to all persons and all vessels subject to the jurisdiction of the United States wherever located.

(c) Years with no approved catch recommendations

If the parties to the Agreement do not approve the joint management committee's recommendation with respect to the catch level for any year, the Secretary shall establish the total allowable catch for Pacific whiting for the United States catch. In establishing the total allowable catch under this subsection, the Secretary shall—

(1) take into account any recommendations from the Pacific Fishery Management Council, the joint management committee, the joint technical committee, the scientific review group, and the advisory panel;

(2) base the total allowable catch on the best scientific information available;

(3) use the default harvest rate set out in paragraph 1 of Article III of the Agreement unless the Secretary determines that the scientific evidence demonstrates that a different rate is necessary to sustain the offshore whiting resource; and

(4) establish the United State's[1] share of the total allowable catch based on paragraph 2 of Article III of the Agreement and make any adjustments necessary under section 5 of Article II of the Agreement.

(Pub. L. 109–479, title VI, § 608, Jan. 12, 2007, 120 Stat. 3647.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (a), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

§ 7008. Administrative matters

(a) Employment status

Individuals appointed under section 7002, 7003, 7004, or 7005 of this title, other than officers or

[1] So in original.

employees of the United States Government, shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28.

(b) Compensation

(1) In general

Except as provided in paragraph (2), an individual appointed under this chapter shall receive no compensation for the individual's service as a representative, alternate representative, scientific expert, or advisory panel member under this chapter.

(2) Scientific review group

Notwithstanding paragraph (1), the Secretary may employ and fix the compensation of an individual appointed under section 7003(a) of this title to serve as a scientific expert on the scientific review group who is not employed by the United States Government, a State government, or an Indian tribal government in accordance with section 3109 of title 5.

(c) Travel expenses

Except as provided in subsection (d), the Secretary shall pay the necessary travel expenses of individuals appointed under this chapter in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5.

(d) Joint appointees

With respect to the 2 independent members of the scientific review group and the 2 public advisors to the scientific review group jointly appointed under section 7003(c) of this title, and the 1 independent member to the joint technical committee jointly appointed under section 7004(b) of this title, the Secretary may pay up to 50 percent of—

(1) any compensation paid to such individuals; and

(2) the necessary travel expenses of such individuals.

(Pub. L. 109–479, title VI, § 609, Jan. 12, 2007, 120 Stat. 3647; Pub. L. 111–348, title III, § 302(b), Jan. 4, 2011, 124 Stat. 3672.)

AMENDMENTS

2011—Subsec. (a). Pub. L. 111–348 amended subsec. (a) generally. Prior to amendment, text read as follows: ''Individuals appointed under section 7002, 7003, 7004, or 7005 of this title who are serving as such Commissioners, other than officers or employees of the United States Government, shall be considered to be Federal employees while performing such service, only for purposes of—

''(1) injury compensation under chapter 81 of title 5;

''(2) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18; and

''(3) any other criminal or civil statute or regulation governing the conduct of Federal employees.''

§ 7009. Enforcement

(a) In general

The Secretary may—

(1) administer and enforce this chapter and any regulations issued under this chapter;

(2) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in the administration and enforcement of this chapter; and

(3) collect, utilize, and disclose such information as may be necessary to implement the Agreement and this chapter, subject to sections 552 and 552a of title 5.

(b) Prohibited acts

It is unlawful for any person to violate any provision of this chapter or the regulations promulgated under this chapter.

(c) Actions by the Secretary

The Secretary shall prevent any person from violating this chapter in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) were incorporated into and made a part of this chapter. Any person that violates any provision of this chapter is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1801 et seq.] in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of that Act were incorporated into and made a part of this chapter.

(d) Penalties

This chapter shall be enforced by the Secretary as if a violation of this chapter or of any regulation promulgated by the Secretary under this chapter were a violation of section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857).

(Pub. L. 109–479, title VI, § 610, Jan. 12, 2007, 120 Stat. 3648.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (c), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

§ 7010. Authorization of appropriations

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the obligations of the United States under the Agreement and this chapter.

(Pub. L. 109–479, title VI, § 611, Jan. 12, 2007, 120 Stat. 3649.)

CHAPTER 90—SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION

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§ 7101. Purposes

The purposes of this chapter are—

(1) to stabilize and transition payments to counties to provide funding for schools and roads that supplements other available funds;

(2) to make additional investments in, and create additional employment opportunities through, projects that—

(A)(i) improve the maintenance of existing infrastructure;

(ii) implement stewardship objectives that enhance forest ecosystems; and

(iii) restore and improve land health and water quality;

(B) enjoy broad-based support; and

(C) have objectives that may include—

(i) road, trail, and infrastructure maintenance or obliteration;

(ii) soil productivity improvement;

(iii) improvements in forest ecosystem health;

(iv) watershed restoration and maintenance;

(v) the restoration, maintenance, and improvement of wildlife and fish habitat;

(vi) the control of noxious and exotic weeds; and

(vii) the reestablishment of native species; and

(3) to improve cooperative relationships among—

(A) the people that use and care for Federal land; and

(B) the agencies that manage the Federal land.

(Pub. L. 106–393, § 2, as added Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 106–393, Oct. 30, 2000, 114 Stat. 1607, known as the Secure Rural Schools and Community Self-Determination Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

PRIOR PROVISIONS

A prior section 2 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893.

SHORT TITLE

Pub. L. 106–393, § 1, as added by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893, provided that: ''This Act [enacting this chapter, amending section 191 of Title 30, Mineral Lands and Mining, and section 6903 of Title 31, Money and Finance, enacting provisions set out as notes under sections 181 and 191 of Title 30, and repealing provisions set out as notes under section 500 of this title and section 1181f of Title 43, Public Lands] may be cited as the 'Secure Rural Schools and Community Self-Determination Act of 2000'.''

§ 7102. Definitions

In this chapter:

(1) Adjusted share

The term ''adjusted share'' means the number equal to the quotient obtained by dividing—

(A) the number equal to the quotient obtained by dividing—

(i) the base share for the eligible county; by

(ii) the income adjustment for the eligible county; by

(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (8)(A) for all eligible counties.

(2) Base share

The term ''base share'' means the number equal to the average of—

(A) the quotient obtained by dividing—

(i) the number of acres of Federal land described in paragraph (7)(A) in each eligible county; by

(ii) the total number acres[1] of Federal land in all eligible counties in all eligible States; and

(B) the quotient obtained by dividing—

(i) the amount equal to the average of the 3 highest 25-percent payments and safety net payments made to each eligible State for each eligible county during the eligibility period; by

(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (9)(B)(i) for all eligible counties in all eligible States during the eligibility period.

(3) County payment

The term ''county payment'' means the payment for an eligible county calculated under section 7111(b) of this title.

(4) Eligible county

The term ''eligible county'' means any county that—

(A) contains Federal land (as defined in paragraph (7)); and

(B) elects to receive a share of the State payment or the county payment under section 7112(b) of this title.

(5) Eligibility period

The term ''eligibility period'' means fiscal year 1986 through fiscal year 1999.

[1] So in original. Probably should be preceded by ''of''.

(6) Eligible State

The term ''eligible State'' means a State or territory of the United States that received a 25-percent payment for 1 or more fiscal years of the eligibility period.

(7) Federal land

The term ''Federal land'' means—

(A) land within the National Forest System, as defined in section 1609(a) of this title exclusive of the National Grasslands and land utilization projects designated as National Grasslands administered pursuant to the Act of July 22, 1937 (7 U.S.C. 1010–1012); and

(B) such portions of the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land as are or may hereafter come under the jurisdiction of the Department of the Interior, which have heretofore or may hereafter be classified as timberlands, and power-site land valuable for timber, that shall be managed, except as provided in the former section 3 of the Act of August 28, 1937 (50 Stat. 875; 43 U.S.C. 1181c), for permanent forest production.

(8) 50-percent adjusted share

The term ''50-percent adjusted share'' means the number equal to the quotient obtained by dividing—

(A) the number equal to the quotient obtained by dividing—

(i) the 50-percent base share for the eligible county; by

(ii) the income adjustment for the eligible county; by

(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (1)(A) for all eligible counties.

(9) 50-percent base share

The term ''50-percent base share'' means the number equal to the average of—

(A) the quotient obtained by dividing—

(i) the number of acres of Federal land described in paragraph (7)(B) in each eligible county; by

(ii) the total number acres[1] of Federal land in all eligible counties in all eligible States; and

(B) the quotient obtained by dividing—

(i) the amount equal to the average of the 3 highest 50-percent payments made to each eligible county during the eligibility period; by

(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (2)(B)(i) for all eligible counties in all eligible States during the eligibility period.

(10) 50-percent payment

The term ''50-percent payment'' means the payment that is the sum of the 50-percent share otherwise paid to a county pursuant to title II of the Act of August 28, 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f), and the payment made to a county pursuant to the Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43 U.S.C. 1181f–1 et seq.).

(11) Full funding amount

The term ''full funding amount'' means—

(A) $500,000,000 for fiscal year 2008; and

(B) for fiscal year 2009 and each fiscal year thereafter, the amount that is equal to 90 percent of the full funding amount for the preceding fiscal year.

(12) Income adjustment

The term ''income adjustment'' means the square of the quotient obtained by dividing—

(A) the per capita personal income for each eligible county; by

(B) the median per capita personal income of all eligible counties.

(13) Per capita personal income

The term ''per capita personal income'' means the most recent per capita personal income data, as determined by the Bureau of Economic Analysis.

(14) Safety net payments

The term ''safety net payments'' means the special payment amounts paid to States and counties required by section 13982 or 13983[2] of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 16 U.S.C. 500 note; 43 U.S.C. 1181f note).

(15) Secretary concerned

The term ''Secretary concerned'' means—

(A) the Secretary of Agriculture or the designee of the Secretary of Agriculture with respect to the Federal land described in paragraph (7)(A); and

(B) the Secretary of the Interior or the designee of the Secretary of the Interior with respect to the Federal land described in paragraph (7)(B).

(16) State payment

The term ''State payment'' means the payment for an eligible State calculated under section 7111(a) of this title.

(17) 25-percent payment

The term ''25-percent payment'' means the payment to States required by the sixth paragraph under the heading of ''FOREST SERVICE'' in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

(Pub. L. 106–393, § 3, as added Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3894.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 106–393, Oct. 30, 2000, 114 Stat. 1607, known as the Secure Rural Schools and Community Self-Determination Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

The Act of July 22, 1937, referred to in par. (7)(A), is act July 22, 1937, ch. 517, 50 Stat. 522, known as the Bankhead-Jones Farm Tenant Act, which is classified generally to chapter 33 (§ 1000 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1000 of Title 7 and Tables.

Act of August 28, 1937, referred to in par. (10), is act Aug. 28, 1937, ch. 876, 50 Stat. 874. Section 3 of the Act

[2] See References in Text note below.

was classified to section 1181c of Title 43, Public Lands, prior to repeal by Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787. Title II of the Act enacted section 1181f of Title 43 and repealed section 1174 of Title 43. For complete classification of this Act to the Code, see Tables.

The Act of May 24, 1939, referred to in par. (10), is act May 24, 1939, ch. 144, 53 Stat. 753, which enacted sections 1181f–1 to 1181f–4 of Title 43, Public Lands, and provisions set out as a note under section 1181f–1 of Title 43. For complete classification of this Act to the Code, see Tables.

Sections 13982 and 13983 of the Omnibus Budget Reconciliation Act of 1993, referred to in par. (14), are sections 13982 and 13983 of Pub. L. 103–66, which were set out as notes under section 500 of this title and section 1181f of Title 43, Public Lands, respectively, prior to repeal by Pub. L. 106–393, title IV, § 404, Oct. 30, 2000, 114 Stat. 1623.

PRIOR PROVISIONS

A prior section 3 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893.

SUBCHAPTER I—SECURE PAYMENTS FOR STATES AND COUNTIES CONTAINING FEDERAL LAND

§ 7111. Secure payments for States containing Federal land

(a) State payment

For each of fiscal years 2008 through 2011, the Secretary of Agriculture shall calculate for each eligible State an amount equal to the sum of the products obtained by multiplying—

(1) the adjusted share for each eligible county within the eligible State; by

(2) the full funding amount for the fiscal year.

(b) County payment

For each of fiscal years 2008 through 2011, the Secretary of the Interior shall calculate for each eligible county that received a 50-percent payment during the eligibility period an amount equal to the product obtained by multiplying—

(1) the 50-percent adjusted share for the eligible county; by

(2) the full funding amount for the fiscal year.

(Pub. L. 106–393, title I, § 101, as added Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3896.)

PRIOR PROVISIONS

A prior section 101 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893.

§ 7112. Payments to States and counties

(a) Payment amounts

Except as provided in section 7113 of this title, the Secretary of the Treasury shall pay to—

(1) a State or territory of the United States an amount equal to the sum of the amounts elected under subsection (b) by each county within the State or territory for—

(A) if the county is eligible for the 25-percent payment, the share of the 25-percent payment; or

(B) the share of the State payment of the eligible county; and

(2) a county an amount equal to the amount elected under subsection (b) by each county for—

(A) if the county is eligible for the 50-percent payment, the 50-percent payment; or

(B) the county payment for the eligible county.

(b) Election to receive payment amount

(1) Election; submission of results

(A) In general

The election to receive a share of the State payment, the county payment, a share of the State payment and the county payment, a share of the 25-percent payment, the 50-percent payment, or a share of the 25-percent payment and the 50-percent payment, as applicable, shall be made at the discretion of each affected county by August 1, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and August 1 of each second fiscal year thereafter, in accordance with paragraph (2), and transmitted to the Secretary concerned by the Governor of each eligible State.

(B) Failure to transmit

If an election for an affected county is not transmitted to the Secretary concerned by the date specified under subparagraph (A), the affected county shall be considered to have elected to receive a share of the State payment, the county payment, or a share of the State payment and the county payment, as applicable.

(2) Duration of election

(A) In general

A county election to receive a share of the 25-percent payment or 50-percent payment, as applicable, shall be effective for 2 fiscal years.

(B) Full funding amount

If a county elects to receive a share of the State payment or the county payment, the election shall be effective for all subsequent fiscal years through fiscal year 2011.

(3) Source of payment amounts

The payment to an eligible State or eligible county under this section for a fiscal year shall be derived from—

(A) any amounts that are appropriated to carry out this chapter;

(B) any revenues, fees, penalties, or miscellaneous receipts, exclusive of deposits to any relevant trust fund, special account, or permanent operating funds, received by the Federal Government from activities by the Bureau of Land Management or the Forest Service on the applicable Federal land; and

(C) to the extent of any shortfall, out of any amounts in the Treasury of the United States not otherwise appropriated.

(c) Distribution and expenditure of payments

(1) Distribution method

A State that receives a payment under subsection (a) for Federal land described in sec-

tion 7102(7)(A) of this title shall distribute the appropriate payment amount among the appropriate counties in the State in accordance with—

(A) the Act of May 23, 1908 (16 U.S.C. 500); and

(B) section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

(2) Expenditure purposes

Subject to subsection (d), payments received by a State under subsection (a) and distributed to counties in accordance with paragraph (1) shall be expended as required by the laws referred to in paragraph (1).

(d) Expenditure rules for eligible counties

(1) Allocations

(A) Use of portion in same manner as 25-percent payment or 50-percent payment, as applicable

Except as provided in paragraph (3)(B), if an eligible county elects to receive its share of the State payment or the county payment, not less than 80 percent, but not more than 85 percent, of the funds shall be expended in the same manner in which the 25-percent payments or 50-percent payment, as applicable, are required to be expended.

(B) Election as to use of balance

Except as provided in subparagraph (C), an eligible county shall elect to do 1 or more of the following with the balance of any funds not expended pursuant to subparagraph (A):

(i) Reserve any portion of the balance for projects in accordance with subchapter II.

(ii) Reserve not more than 7 percent of the total share for the eligible county of the State payment or the county payment for projects in accordance with subchapter III.

(iii) Return the portion of the balance not reserved under clauses (i) and (ii) to the Treasury of the United States.

(C) Counties with modest distributions

In the case of each eligible county to which more than $100,000, but less than $350,000, is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county, with respect to the balance of any funds not expended pursuant to subparagraph (A) for that fiscal year, shall—

(i) reserve any portion of the balance for—

(I) carrying out projects under subchapter II;

(II) carrying out projects under subchapter III; or

(III) a combination of the purposes described in subclauses (I) and (II); or

(ii) return the portion of the balance not reserved under clause (i) to the Treasury of the United States.

(2) Distribution of funds

(A) In general

Funds reserved by an eligible county under subparagraph (B)(i) or (C)(i) of paragraph (1) for carrying out projects under subchapter II shall be deposited in a special account in the Treasury of the United States.

(B) Availability

Amounts deposited under subparagraph (A) shall—

(i) be available for expenditure by the Secretary concerned, without further appropriation; and

(ii) remain available until expended in accordance with subchapter II.

(3) Election

(A) Notification

(i) In general

An eligible county shall notify the Secretary concerned of an election by the eligible county under this subsection not later than September 30, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and each September 30 thereafter for each succeeding fiscal year.

(ii) Failure to elect

Except as provided in subparagraph (B), if the eligible county fails to make an election by the date specified in clause (i), the eligible county shall—

(I) be considered to have elected to expend 85 percent of the funds in accordance with paragraph (1)(A); and

(II) return the balance to the Treasury of the United States.

(B) Counties with minor distributions

In the case of each eligible county to which less than $100,000 is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county may elect to expend all the funds in the same manner in which the 25-percent payments or 50-percent payments, as applicable, are required to be expended.

(e) Time for payment

The payments required under this section for a fiscal year shall be made as soon as practicable after the end of that fiscal year.

(Pub. L. 106–393, title I, § 102, as added Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3896.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(3)(A), was in the original ''this Act'', meaning Pub. L. 106–393, Oct. 30, 2000, 114 Stat. 1607, known as the Secure Rural Schools and Community Self-Determination Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

PRIOR PROVISIONS

A prior section 102 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893.

§ 7113. Transition payments to States

(a) Definitions

In this section:

(1) Adjusted amount

The term ''adjusted amount'' means, with respect to a covered State—

(A) for fiscal year 2008, 90 percent of—

(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2)[1] (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 7112(b) of this title to receive a share of the State payment for fiscal year 2008; and

(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2)[1] (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 7112(b) of this title to receive the county payment for fiscal year 2008;

(B) for fiscal year 2009, 81 percent of—

(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2)[1] (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 7112(b) of this title to receive a share of the State payment for fiscal year 2009; and

(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2)[1] (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 7112(b) of this title to receive the county payment for fiscal year 2009; and

(C) for fiscal year 2010, 73 percent of—

(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2)[1] (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 7112(b) of this title to receive a share of the State payment for fiscal year 2010; and

(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2)[1] (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 7112(b) of this title to receive the county payment for fiscal year 2010.

(2) Covered State

The term ''covered State'' means each of the States of California, Louisiana, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, and Washington.

(b) Transition payments

For each of fiscal years 2008 through 2010, in lieu of the payment amounts that otherwise would have been made under paragraphs (1)(B) and (2)(B) of section 7112(a) of this title, the Secretary of the Treasury shall pay the adjusted amount to each covered State and the eligible counties within the covered State, as applicable.

(c) Distribution of adjusted amount

Except as provided in subsection (d), it is the intent of Congress that the method of distributing the payments under subsection (b) among the counties in the covered States for each of fiscal years 2008 through 2010 be in the same proportion that the payments were distributed to the eligible counties in fiscal year 2006.

(d) Distribution of payments in California

The following payments shall be distributed among the eligible counties in the State of California in the same proportion that payments under section 102(a)(2)[1] (as in effect on September 29, 2006) were distributed to the eligible counties for fiscal year 2006:

(1) Payments to the State of California under subsection (b).

(2) The shares of the eligible counties of the State payment for California under section 7112 of this title for fiscal year 2011.

(e) Treatment of payments

For purposes of this chapter, any payment made under subsection (b) shall be considered to be a payment made under section 7112(a) of this title.

(Pub. L. 106–393, title I, §103, as added Pub. L. 110–343, div. C, title VI, §601(a), Oct. 3, 2008, 122 Stat. 3899.)

REFERENCES IN TEXT

Sections 102(a)(2) and 103(a)(2) (as in effect on September 29, 2006), referred to in subsecs. (a)(1) and (d), mean former sections 102(a)(2) and 103(a)(2), respectively, of Pub. L. 106–393, which were set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, §601(a), Oct. 3, 2008, 122 Stat. 3893. See Prior Provisions notes set out below and under section 7112 of this title.

This chapter, referred to in subsec. (e), was in the original ''this Act'', meaning Pub. L. 106–393, Oct. 30, 2000, 114 Stat. 1607, known as the Secure Rural Schools and Community Self-Determination Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

PRIOR PROVISIONS

A prior section 103 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, §601(a), Oct. 3, 2008, 122 Stat. 3893.

SUBCHAPTER II—SPECIAL PROJECTS ON FEDERAL LAND

§ 7121. Definitions

In this subchapter:

(1) Participating county

The term ''participating county'' means an eligible county that elects under section 7112(d) of this title to expend a portion of the Federal funds received under section 7112 of this title in accordance with this subchapter.

(2) Project funds

The term ''project funds'' means all funds an eligible county elects under section 7112(d) of this title to reserve for expenditure in accordance with this subchapter.

(3) Resource advisory committee

The term ''resource advisory committee'' means—

(A) an advisory committee established by the Secretary concerned under section 7125 of this title; or

[1] See References in Text note below.

(B) an advisory committee determined by the Secretary concerned to meet the requirements of section 7125 of this title.

(4) Resource management plan

The term ''resource management plan'' means—

(A) a land use plan prepared by the Bureau of Land Management for units of the Federal land described in section 7102(7)(B) of this title pursuant to section 1712 of title 43; or

(B) a land and resource management plan prepared by the Forest Service for units of the National Forest System pursuant to section 1604 of this title.

(Pub. L. 106–393, title II, § 201, as added Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3900.)

PRIOR PROVISIONS

A prior section 201 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893.

§ 7122. General limitation on use of project funds

(a) Limitation

Project funds shall be expended solely on projects that meet the requirements of this subchapter.

(b) Authorized uses

Project funds may be used by the Secretary concerned for the purpose of entering into and implementing cooperative agreements with willing Federal agencies, State and local governments, private and nonprofit entities, and landowners for protection, restoration, and enhancement of fish and wildlife habitat, and other resource objectives consistent with the purposes of this chapter on Federal land and on non-Federal land where projects would benefit the resources on Federal land.

(Pub. L. 106–393, title II, § 202, as added Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3901.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 106–393, Oct. 30, 2000, 114 Stat. 1607, known as the Secure Rural Schools and Community Self-Determination Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

PRIOR PROVISIONS

A prior section 202 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893.

§ 7123. Submission of project proposals

(a) Submission of project proposals to Secretary concerned

(1) Projects funded using project funds

Not later than September 30 for fiscal year 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and each September 30 thereafter for each succeeding fiscal year through fiscal year 2011, each resource advisory committee shall submit to the Secretary concerned a description of any projects that the resource advisory committee proposes the Secretary undertake using any project funds reserved by eligible counties in the area in which the resource advisory committee has geographic jurisdiction.

(2) Projects funded using other funds

A resource advisory committee may submit to the Secretary concerned a description of any projects that the committee proposes the Secretary undertake using funds from State or local governments, or from the private sector, other than project funds and funds appropriated and otherwise available to do similar work.

(3) Joint projects

Participating counties or other persons may propose to pool project funds or other funds, described in paragraph (2), and jointly propose a project or group of projects to a resource advisory committee established under section 7125 of this title.

(b) Required description of projects

In submitting proposed projects to the Secretary concerned under subsection (a), a resource advisory committee shall include in the description of each proposed project the following information:

(1) The purpose of the project and a description of how the project will meet the purposes of this subchapter.

(2) The anticipated duration of the project.

(3) The anticipated cost of the project.

(4) The proposed source of funding for the project, whether project funds or other funds.

(5)(A) Expected outcomes, including how the project will meet or exceed desired ecological conditions, maintenance objectives, or stewardship objectives.

(B) An estimate of the amount of any timber, forage, and other commodities and other economic activity, including jobs generated, if any, anticipated as part of the project.

(6) A detailed monitoring plan, including funding needs and sources, that—

(A) tracks and identifies the positive or negative impacts of the project, implementation,[1] and provides for validation monitoring; and

(B) includes an assessment of the following:

(i) Whether or not the project met or exceeded desired ecological conditions; created local employment or training opportunities, including summer youth jobs programs such as the Youth Conservation Corps where appropriate.

(ii) Whether the project improved the use of, or added value to, any products removed from land consistent with the purposes of this subchapter.

(7) An assessment that the project is to be in the public interest.

(c) Authorized projects

Projects proposed under subsection (a) shall be consistent with section 7101 of this title.

[1] So in original.

(Pub. L. 106–393, title II, § 203, as added Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3901.)

PRIOR PROVISIONS

A prior section 203 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893.

§ 7124. Evaluation and approval of projects by Secretary concerned

(a) Conditions for approval of proposed project

The Secretary concerned may make a decision to approve a project submitted by a resource advisory committee under section 7123 of this title only if the proposed project satisfies each of the following conditions:

(1) The project complies with all applicable Federal laws (including regulations).

(2) The project is consistent with the applicable resource management plan and with any watershed or subsequent plan developed pursuant to the resource management plan and approved by the Secretary concerned.

(3) The project has been approved by the resource advisory committee in accordance with section 7125 of this title, including the procedures issued under subsection (e) of that section.

(4) A project description has been submitted by the resource advisory committee to the Secretary concerned in accordance with section 7123 of this title.

(5) The project will improve the maintenance of existing infrastructure, implement stewardship objectives that enhance forest ecosystems, and restore and improve land health and water quality.

(b) Environmental reviews

(1) Request for payment by county

The Secretary concerned may request the resource advisory committee submitting a proposed project to agree to the use of project funds to pay for any environmental review, consultation, or compliance with applicable environmental laws required in connection with the project.

(2) Conduct of environmental review

If a payment is requested under paragraph (1) and the resource advisory committee agrees to the expenditure of funds for this purpose, the Secretary concerned shall conduct environmental review, consultation, or other compliance responsibilities in accordance with Federal laws (including regulations).

(3) Effect of refusal to pay

(A) In general

If a resource advisory committee does not agree to the expenditure of funds under paragraph (1), the project shall be deemed withdrawn from further consideration by the Secretary concerned pursuant to this subchapter.

(B) Effect of withdrawal

A withdrawal under subparagraph (A) shall be deemed to be a rejection of the project for purposes of section 7127(c) of this title.

(c) Decisions of Secretary concerned

(1) Rejection of projects

(A) In general

A decision by the Secretary concerned to reject a proposed project shall be at the sole discretion of the Secretary concerned.

(B) No administrative appeal or judicial review

Notwithstanding any other provision of law, a decision by the Secretary concerned to reject a proposed project shall not be subject to administrative appeal or judicial review.

(C) Notice of rejection

Not later than 30 days after the date on which the Secretary concerned makes the rejection decision, the Secretary concerned shall notify in writing the resource advisory committee that submitted the proposed project of the rejection and the reasons for rejection.

(2) Notice of project approval

The Secretary concerned shall publish in the Federal Register notice of each project approved under subsection (a) if the notice would be required had the project originated with the Secretary.

(d) Source and conduct of project

Once the Secretary concerned accepts a project for review under section 7123 of this title, the acceptance shall be deemed a Federal action for all purposes.

(e) Implementation of approved projects

(1) Cooperation

Notwithstanding chapter 63 of title 31, using project funds the Secretary concerned may enter into contracts, grants, and cooperative agreements with States and local governments, private and nonprofit entities, and landowners and other persons to assist the Secretary in carrying out an approved project.

(2) Best value contracting

(A) In general

For any project involving a contract authorized by paragraph (1) the Secretary concerned may elect a source for performance of the contract on a best value basis.

(B) Factors

The Secretary concerned shall determine best value based on such factors as—

(i) the technical demands and complexity of the work to be done;

(ii)(I) the ecological objectives of the project; and

(II) the sensitivity of the resources being treated;

(iii) the past experience by the contractor with the type of work being done, using the type of equipment proposed for the project, and meeting or exceeding desired ecological conditions; and

(iv) the commitment of the contractor to hiring highly qualified workers and local residents.

(3) Merchantable timber contracting pilot program

(A) Establishment

The Secretary concerned shall establish a pilot program to implement a certain percentage of approved projects involving the sale of merchantable timber using separate contracts for—

(i) the harvesting or collection of merchantable timber; and

(ii) the sale of the timber.

(B) Annual percentages

Under the pilot program, the Secretary concerned shall ensure that, on a nationwide basis, not less than the following percentage of all approved projects involving the sale of merchantable timber are implemented using separate contracts:

(i) For fiscal year 2008, 35 percent.

(ii) For fiscal year 2009, 45 percent.

(iii) For each of fiscal years 2010 and 2011, 50 percent.

(C) Inclusion in pilot program

The decision whether to use separate contracts to implement a project involving the sale of merchantable timber shall be made by the Secretary concerned after the approval of the project under this subchapter.

(D) Assistance

(i) In general

The Secretary concerned may use funds from any appropriated account available to the Secretary for the Federal land to assist in the administration of projects conducted under the pilot program.

(ii) Maximum amount of assistance

The total amount obligated under this subparagraph may not exceed $1,000,000 for any fiscal year during which the pilot program is in effect.

(E) Review and report

(i) Initial report

Not later than September 30, 2010, the Comptroller General shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives a report assessing the pilot program.

(ii) Annual report

The Secretary concerned shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives an annual report describing the results of the pilot program.

(f) Requirements for project funds

The Secretary shall ensure that at least 50 percent of all project funds be used for projects that are primarily dedicated—

(1) to road maintenance, decommissioning, or obliteration; or

(2) to restoration of streams and watersheds.

(Pub. L. 106–393, title II, § 204, as added Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3902.)

PRIOR PROVISIONS

A prior section 204 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893.

§ 7125. Resource advisory committees

(a) Establishment and purpose of resource advisory committees

(1) Establishment

The Secretary concerned shall establish and maintain resource advisory committees to perform the duties in subsection (b), except as provided in paragraph (4).

(2) Purpose

The purpose of a resource advisory committee shall be—

(A) to improve collaborative relationships; and

(B) to provide advice and recommendations to the land management agencies consistent with the purposes of this subchapter.

(3) Access to resource advisory committees

To ensure that each unit of Federal land has access to a resource advisory committee, and that there is sufficient interest in participation on a committee to ensure that membership can be balanced in terms of the points of view represented and the functions to be performed, the Secretary concerned may,[1] establish resource advisory committees for part of, or 1 or more, units of Federal land.

(4) Existing advisory committees

(A) In general

An advisory committee that meets the requirements of this section, a resource advisory committee established before September 29, 2006, or an advisory committee determined by the Secretary concerned before September 29, 2006, to meet the requirements of this section may be deemed by the Secretary concerned to be a resource advisory committee for the purposes of this subchapter.

(B) Charter

A charter for a committee described in subparagraph (A) that was filed on or before September 29, 2006, shall be considered to be filed for purposes of this chapter.

(C) Bureau of land management advisory committees

The Secretary of the Interior may deem a resource advisory committee meeting the requirements of subpart 1784 of part 1780 of title 43, Code of Federal Regulations, as a resource advisory committee for the purposes of this subchapter.

(b) Duties

A resource advisory committee shall—

[1] So in original. The comma probably should not appear.

(1) review projects proposed under this subchapter by participating counties and other persons;

(2) propose projects and funding to the Secretary concerned under section 7123 of this title;

(3) provide early and continuous coordination with appropriate land management agency officials in recommending projects consistent with purposes of this chapter under this subchapter;

(4) provide frequent opportunities for citizens, organizations, tribes, land management agencies, and other interested parties to participate openly and meaningfully, beginning at the early stages of the project development process under this subchapter;

(5)(A) monitor projects that have been approved under section 7124 of this title; and

(B) advise the designated Federal official on the progress of the monitoring efforts under subparagraph (A); and

(6) make recommendations to the Secretary concerned for any appropriate changes or adjustments to the projects being monitored by the resource advisory committee.

(c) Appointment by the Secretary

(1) Appointment and term

(A) In general

The Secretary concerned,[1] shall appoint the members of resource advisory committees for a term of 4 years beginning on the date of appointment.

(B) Reappointment

The Secretary concerned may reappoint members to subsequent 4-year terms.

(2) Basic requirements

The Secretary concerned shall ensure that each resource advisory committee established meets the requirements of subsection (d).

(3) Initial appointment

Not later than 180 days after October 3, 2008, the Secretary concerned shall make initial appointments to the resource advisory committees.

(4) Vacancies

The Secretary concerned shall make appointments to fill vacancies on any resource advisory committee as soon as practicable after the vacancy has occurred.

(5) Compensation

Members of the resource advisory committees shall not receive any compensation.

(d) Composition of advisory committee

(1) Number

Each resource advisory committee shall be comprised of 15 members.

(2) Community interests represented

Committee members shall be representative of the interests of the following 3 categories:

(A) 5 persons that—

(i) represent organized labor or non-timber forest product harvester groups;

(ii) represent developed outdoor recreation, off highway vehicle users, or commercial recreation activities;

(iii) represent—

(I) energy and mineral development interests; or

(II) commercial or recreational fishing interests;

(iv) represent the commercial timber industry; or

(v) hold Federal grazing or other land use permits, or represent nonindustrial private forest land owners, within the area for which the committee is organized.

(B) 5 persons that represent—

(i) nationally recognized environmental organizations;

(ii) regionally or locally recognized environmental organizations;

(iii) dispersed recreational activities;

(iv) archaeological and historical interests; or

(v) nationally or regionally recognized wild horse and burro interest groups, wildlife or hunting organizations, or watershed associations.

(C) 5 persons that—

(i) hold State elected office (or a designee);

(ii) hold county or local elected office;

(iii) represent American Indian tribes within or adjacent to the area for which the committee is organized;

(iv) are school officials or teachers; or

(v) represent the affected public at large.

(3) Balanced representation

In appointing committee members from the 3 categories in paragraph (2), the Secretary concerned shall provide for balanced and broad representation from within each category.

(4) Geographic distribution

The members of a resource advisory committee shall reside within the State in which the committee has jurisdiction and, to extent[2] practicable, the Secretary concerned shall ensure local representation in each category in paragraph (2).

(5) Chairperson

A majority on each resource advisory committee shall select the chairperson of the committee.

(e) Approval procedures

(1) In general

Subject to paragraph (3), each resource advisory committee shall establish procedures for proposing projects to the Secretary concerned under this subchapter.

(2) Quorum

A quorum must be present to constitute an official meeting of the committee.

(3) Approval by majority of members

A project may be proposed by a resource advisory committee to the Secretary concerned under section 7123(a) of this title, if the project has been approved by a majority of members of the committee from each of the 3 categories in subsection (d)(2).

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[2] So in original. Probably should be preceded by ''the''.

(f) Other committee authorities and requirements

(1) Staff assistance

A resource advisory committee may submit to the Secretary concerned a request for periodic staff assistance from Federal employees under the jurisdiction of the Secretary.

(2) Meetings

All meetings of a resource advisory committee shall be announced at least 1 week in advance in a local newspaper of record and shall be open to the public.

(3) Records

A resource advisory committee shall maintain records of the meetings of the committee and make the records available for public inspection.

(Pub. L. 106–393, title II, § 205, as added Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3905.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(4)(B) and (b)(3), was in the original ''this Act'', meaning Pub. L. 106–393, Oct. 30, 2000, 114 Stat. 1607, known as the Secure Rural Schools and Community Self-Determination Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

CODIFICATION

October 3, 2008, referred to in subsec. (c)(3), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 110–343, which enacted this section, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 205 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893.

§ 7126. Use of project funds

(a) Agreement regarding schedule and cost of project

(1) Agreement between parties

The Secretary concerned may carry out a project submitted by a resource advisory committee under section 7123(a) of this title using project funds or other funds described in section 7123(a)(2) of this title, if, as soon as practicable after the issuance of a decision document for the project and the exhaustion of all administrative appeals and judicial review of the project decision, the Secretary concerned and the resource advisory committee enter into an agreement addressing, at a minimum, the following:

(A) The schedule for completing the project.

(B) The total cost of the project, including the level of agency overhead to be assessed against the project.

(C) For a multiyear project, the estimated cost of the project for each of the fiscal years in which it will be carried out.

(D) The remedies for failure of the Secretary concerned to comply with the terms of the agreement consistent with current Federal law.

(2) Limited use of Federal funds

The Secretary concerned may decide, at the sole discretion of the Secretary concerned, to cover the costs of a portion of an approved project using Federal funds appropriated or otherwise available to the Secretary for the same purposes as the project.

(b) Transfer of project funds

(1) Initial transfer required

As soon as practicable after the agreement is reached under subsection (a) with regard to a project to be funded in whole or in part using project funds, or other funds described in section 7123(a)(2) of this title, the Secretary concerned shall transfer to the applicable unit of National Forest System land or Bureau of Land Management District an amount of project funds equal to—

(A) in the case of a project to be completed in a single fiscal year, the total amount specified in the agreement to be paid using project funds, or other funds described in section 7123(a)(2) of this title; or

(B) in the case of a multiyear project, the amount specified in the agreement to be paid using project funds, or other funds described in section 7123(a)(2) of this title for the first fiscal year.

(2) Condition on project commencement

The unit of National Forest System land or Bureau of Land Management District concerned,[1] shall not commence a project until the project funds, or other funds described in section 7123(a)(2) of this title required to be transferred under paragraph (1) for the project, have been made available by the Secretary concerned.

(3) Subsequent transfers for multiyear projects

(A) In general

For the second and subsequent fiscal years of a multiyear project to be funded in whole or in part using project funds, the unit of National Forest System land or Bureau of Land Management District concerned shall use the amount of project funds required to continue the project in that fiscal year according to the agreement entered into under subsection (a).

(B) Suspension of work

The Secretary concerned shall suspend work on the project if the project funds required by the agreement in the second and subsequent fiscal years are not available.

(Pub. L. 106–393, title II, § 206, as added Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3907.)

PRIOR PROVISIONS

A prior section 206 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893.

[1] So in original. The comma probably should not appear.

§ 7127. Availability of project funds

(a) Submission of proposed projects to obligate funds

By September 30, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and each September 30 thereafter for each succeeding fiscal year through fiscal year 2011, a resource advisory committee shall submit to the Secretary concerned pursuant to section 7123(a)(1) of this title a sufficient number of project proposals that, if approved, would result in the obligation of at least the full amount of the project funds reserved by the participating county in the preceding fiscal year.

(b) Use or transfer of unobligated funds

Subject to section 7128 of this title, if a resource advisory committee fails to comply with subsection (a) for a fiscal year, any project funds reserved by the participating county in the preceding fiscal year and remaining unobligated shall be available for use as part of the project submissions in the next fiscal year.

(c) Effect of rejection of projects

Subject to section 7128 of this title, any project funds reserved by a participating county in the preceding fiscal year that are unobligated at the end of a fiscal year because the Secretary concerned has rejected one or more proposed projects shall be available for use as part of the project submissions in the next fiscal year.

(d) Effect of court orders

(1) In general

If an approved project under this chapter is enjoined or prohibited by a Federal court, the Secretary concerned shall return the unobligated project funds related to the project to the participating county or counties that reserved the funds.

(2) Expenditure of funds

The returned funds shall be available for the county to expend in the same manner as the funds reserved by the county under subparagraph (B) or (C)(i) of section 7112(d)(1) of this title.

(Pub. L. 106–393, title II, §207, as added Pub. L. 110–343, div. C, title VI, §601(a), Oct. 3, 2008, 122 Stat. 3908.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(1), was in the original ''this Act'', meaning Pub. L. 106–393, Oct. 30, 2000, 114 Stat. 1607, known as the Secure Rural Schools and Community Self-Determination Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

PRIOR PROVISIONS

A prior section 207 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, §601(a), Oct. 3, 2008, 122 Stat. 3893.

§ 7128. Termination of authority

(a) In general

The authority to initiate projects under this subchapter shall terminate on September 30, 2011.

(b) Deposits in Treasury

Any project funds not obligated by September 30, 2012, shall be deposited in the Treasury of the United States.

(Pub. L. 106–393, title II, §208, as added Pub. L. 110–343, div. C, title VI, §601(a), Oct. 3, 2008, 122 Stat. 3909.)

PRIOR PROVISIONS

A prior section 208 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, §601(a), Oct. 3, 2008, 122 Stat. 3893.

SUBCHAPTER III—COUNTY FUNDS

§ 7141. Definitions

In this subchapter:

(1) County funds

The term ''county funds'' means all funds an eligible county elects under section 7112(d) of this title to reserve for expenditure in accordance with this subchapter.

(2) Participating county

The term ''participating county'' means an eligible county that elects under section 7112(d) of this title to expend a portion of the Federal funds received under section 7112 of this title in accordance with this subchapter.

(Pub. L. 106–393, title III, §301, as added Pub. L. 110–343, div. C, title VI, §601(a), Oct. 3, 2008, 122 Stat. 3909.)

PRIOR PROVISIONS

A prior section 301 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, §601(a), Oct. 3, 2008, 122 Stat. 3893.

§ 7142. Use

(a) Authorized uses

A participating county, including any applicable agencies of the participating county, shall use county funds, in accordance with this subchapter, only—

(1) to carry out activities under the Firewise Communities program to provide to homeowners in fire-sensitive ecosystems education on, and assistance with implementing, techniques in home siting, home construction, and home landscaping that can increase the protection of people and property from wildfires;

(2) to reimburse the participating county for search and rescue and other emergency services, including firefighting, that are—

(A) performed on Federal land after the date on which the use was approved under subsection (b);[1]

(B) paid for by the participating county; and

(3) to develop community wildfire protection plans in coordination with the appropriate Secretary concerned.

(b) Proposals

A participating county shall use county funds for a use described in subsection (a) only after a

[1] So in original. Probably should be followed by ''and''.

45-day public comment period, at the beginning of which the participating county shall—

(1) publish in any publications of local record a proposal that describes the proposed use of the county funds; and

(2) submit the proposal to any resource advisory committee established under section 7125 of this title for the participating county.

(Pub. L. 106–393, title III, § 302, as added Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3909.)

PRIOR PROVISIONS

A prior section 302 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893.

§ 7143. Certification

(a) In general

Not later than February 1 of the year after the year in which any county funds were expended by a participating county, the appropriate official of the participating county shall submit to the Secretary concerned a certification that the county funds expended in the applicable year have been used for the uses authorized under section 7142(a) of this title, including a description of the amounts expended and the uses for which the amounts were expended.

(b) Review

The Secretary concerned shall review the certifications submitted under subsection (a) as the Secretary concerned determines to be appropriate.

(Pub. L. 106–393, title III, § 303, as added Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3910.)

PRIOR PROVISIONS

A prior section 303 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893.

§ 7144. Termination of authority

(a) In general

The authority to initiate projects under this subchapter terminates on September 30, 2011.

(b) Availability

Any county funds not obligated by September 30, 2012, shall be returned to the Treasury of the United States.

(Pub. L. 106–393, title III, § 304, as added Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3910.)

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

§ 7151. Regulations

The Secretary of Agriculture and the Secretary of the Interior shall issue regulations to carry out the purposes of this chapter.

(Pub. L. 106–393, title IV, § 401, as added Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3910.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 106–393, Oct. 30, 2000, 114 Stat. 1607, known as the Secure Rural Schools and Community Self-Determination Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

PRIOR PROVISIONS

A prior section 401 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893.

§ 7152. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this chapter for each of fiscal years 2008 through 2011.

(Pub. L. 106–393, title IV, § 402, as added Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3910.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 106–393, Oct. 30, 2000, 114 Stat. 1607, known as the Secure Rural Schools and Community Self-Determination Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

PRIOR PROVISIONS

A prior section 402 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893.

§ 7153. Treatment of funds and revenues

(a) Relation to other appropriations

Funds made available under section 7152 of this title and funds made available to a Secretary concerned under section 7126 of this title shall be in addition to any other annual appropriations for the Forest Service and the Bureau of Land Management.

(b) Deposit of revenues and other funds

All revenues generated from projects pursuant to subchapter II, including any interest accrued from the revenues, shall be deposited in the Treasury of the United States.

(Pub. L. 106–393, title IV, § 403, as added Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3910.)

PRIOR PROVISIONS

A prior section 403 of Pub. L. 106–393 was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893.

CHAPTER 91—NATIONAL LANDSCAPE CONSERVATION SYSTEM

Sec.
7201. Definitions.
7202. Establishment of the National Landscape Conservation System.
7203. Authorization of appropriations.

§ 7201. Definitions

In this chapter:

(1) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(2) System

The term ''system'' means the National Landscape Conservation System established by section 7202(a) of this title.

(Pub. L. 111–11, title II, § 2001, Mar. 30, 2009, 123 Stat. 1094.)

§ 7202. Establishment of the National Landscape Conservation System

(a) Establishment

In order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations, there is established in the Bureau of Land Management the National Landscape Conservation System.

(b) Components

The system shall include each of the following areas administered by the Bureau of Land Management:

(1) Each area that is designated as—

(A) a national monument;

(B) a national conservation area;

(C) a wilderness study area;

(D) a national scenic trail or national historic trail designated as a component of the National Trails System;

(E) a component of the National Wild and Scenic Rivers System; or

(F) a component of the National Wilderness Preservation System.

(2) Any area designated by Congress to be administered for conservation purposes, including—

(A) the Steens Mountain Cooperative Management and Protection Area;

(B) the Headwaters Forest Reserve;

(C) the Yaquina Head Outstanding Natural Area;

(D) public land within the California Desert Conservation Area administered by the Bureau of Land Management for conservation purposes; and

(E) any additional area designated by Congress for inclusion in the system.

(c) Management

The Secretary shall manage the system—

(1) in accordance with any applicable law (including regulations) relating to any component of the system included under subsection (b); and

(2) in a manner that protects the values for which the components of the system were designated.

(d) Effect

(1) In general

Nothing in this chapter enhances, diminishes, or modifies any law or proclamation (including regulations relating to the law or proclamation) under which the components of the system described in subsection (b) were established or are managed, including—

(A) the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.);

(B) the Wilderness Act (16 U.S.C. 1131 et seq.);

(C) the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.);

(D) the National Trails System Act (16 U.S.C. 1241 et seq.); and

(E) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(2) Fish and wildlife

Nothing in this chapter shall be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations, including the regulation of hunting, fishing, trapping and recreational shooting on public land managed by the Bureau of Land Management. Nothing in this chapter shall be construed as limiting access for hunting, fishing, trapping, or recreational shooting.

(Pub. L. 111–11, title II, § 2002, Mar. 30, 2009, 123 Stat. 1095.)

REFERENCES IN TEXT

The Alaska National Interest Lands Conservation Act, referred to in subsec. (d)(1)(A), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Wilderness Act, referred to in subsec. (d)(1)(B), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The Wild and Scenic Rivers Act, referred to in subsec. (d)(1)(C), is Pub. L. 90–542, Oct. 2, 1968, 82 Stat. 906, which is classified generally to chapter 28 (§ 1271 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1271 of this title and Tables.

The National Trails System Act, referred to in subsec. (d)(1)(D), is Pub. L. 90–543, Oct. 2, 1968, 82 Stat. 919, which is classified generally to chapter 27 (§ 1241 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1241 of this title and Tables.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (d)(1)(E), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

§ 7203. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this chapter.

(Pub. L. 111–11, title II, § 2003, Mar. 30, 2009, 123 Stat. 1096.)

CHAPTER 92—FOREST LANDSCAPE RESTORATION

Sec.
7301. Purpose.
7302. Definitions.
7303. Collaborative Forest Landscape Restoration Program.
7304. Authorization of appropriations.

§ 7301. Purpose

The purpose of this chapter is to encourage the collaborative, science-based ecosystem res-

toration of priority forest landscapes through a process that—

(1) encourages ecological, economic, and social sustainability;

(2) leverages local resources with national and private resources;

(3) facilitates the reduction of wildfire management costs, including through reestablishing natural fire regimes and reducing the risk of uncharacteristic wildfire; and

(4) demonstrates the degree to which—

(A) various ecological restoration techniques—

(i) achieve ecological and watershed health objectives; and

(ii) affect wildfire activity and management costs; and

(B) the use of forest restoration byproducts can offset treatment costs while benefitting local rural economies and improving forest health.

(Pub. L. 111–11, title IV, § 4001, Mar. 30, 2009, 123 Stat. 1141.)

§ 7302. Definitions

In this chapter:

(1) Fund

The term ''Fund'' means the Collaborative Forest Landscape Restoration Fund established by section 7303(f) of this title.

(2) Program

The term ''program'' means the Collaborative Forest Landscape Restoration Program established under section 7303(a) of this title.

(3) Proposal

The term ''proposal'' means a collaborative forest landscape restoration proposal described in section 7303(b) of this title.

(4) Secretary

The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(5) Strategy

The term ''strategy'' means a landscape restoration strategy described in section 7303(b)(1) of this title.

(Pub. L. 111–11, title IV, § 4002, Mar. 30, 2009, 123 Stat. 1141.)

§ 7303. Collaborative Forest Landscape Restoration Program

(a) In general

The Secretary, in consultation with the Secretary of the Interior, shall establish a Collaborative Forest Landscape Restoration Program to select and fund ecological restoration treatments for priority forest landscapes in accordance with—

(1) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(2) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(3) any other applicable law.

(b) Eligibility criteria

To be eligible for nomination under subsection (c), a collaborative forest landscape restoration proposal shall—

(1) be based on a landscape restoration strategy that—

(A) is complete or substantially complete;

(B) identifies and prioritizes ecological restoration treatments for a 10-year period within a landscape that is—

(i) at least 50,000 acres;

(ii) comprised primarily of forested National Forest System land, but may also include land under the jurisdiction of the Bureau of Land Management, land under the jurisdiction of the Bureau of Indian Affairs, or other Federal, State, tribal, or private land;

(iii) in need of active ecosystem restoration; and

(iv) accessible by existing or proposed wood-processing infrastructure at an appropriate scale to use woody biomass and small-diameter wood removed in ecological restoration treatments;

(C) incorporates the best available science and scientific application tools in ecological restoration strategies;

(D) fully maintains, or contributes toward the restoration of, the structure and composition of old growth stands according to the pre-fire suppression old growth conditions characteristic of the forest type, taking into account the contribution of the stand to landscape fire adaptation and watershed health and retaining the large trees contributing to old growth structure;

(E) would carry out any forest restoration treatments that reduce hazardous fuels by—

(i) focusing on small diameter trees, thinning, strategic fuel breaks, and fire use to modify fire behavior, as measured by the projected reduction of uncharacteristically severe wildfire effects for the forest type (such as adverse soil impacts, tree mortality or other impacts); and

(ii) maximizing the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resilient stands; and

(F)(i) does not include the establishment of permanent roads; and

(ii) would commit funding to decommission all temporary roads constructed to carry out the strategy;

(2) be developed and implemented through a collaborative process that—

(A) includes multiple interested persons representing diverse interests; and

(B)(i) is transparent and nonexclusive; or

(ii) meets the requirements for a resource advisory committee under subsections (c) through (f) of section 7125 of this title;[1]

(3) describe plans to—

(A) reduce the risk of uncharacteristic wildfire, including through the use of fire for ecological restoration and maintenance and reestablishing natural fire regimes, where appropriate;

(B) improve fish and wildlife habitat, including for endangered, threatened, and sensitive species;

[1] See References in Text note below.

(C) maintain or improve water quality and watershed function;

(D) prevent, remediate, or control invasions of exotic species;

(E) maintain, decommission, and rehabilitate roads and trails;

(F) use woody biomass and small-diameter trees produced from projects implementing the strategy;

(G) report annually on performance, including through performance measures from the plan entitled the ''10 Year Comprehensive Strategy Implementation Plan'' and dated December 2006; and

(H) take into account any applicable community wildfire protection plan;

(4) analyze any anticipated cost savings, including those resulting from—

(A) reduced wildfire management costs; and

(B) a decrease in the unit costs of implementing ecological restoration treatments over time;

(5) estimate—

(A) the annual Federal funding necessary to implement the proposal; and

(B) the amount of new non-Federal investment for carrying out the proposal that would be leveraged;

(6) describe the collaborative process through which the proposal was developed, including a description of—

(A) participation by or consultation with State, local, and Tribal governments; and

(B) any established record of successful collaborative planning and implementation of ecological restoration projects on National Forest System land and other land included in the proposal by the collaborators; and

(7) benefit local economies by providing local employment or training opportunities through contracts, grants, or agreements for restoration planning, design, implementation, or monitoring with—

(A) local private, nonprofit, or cooperative entities;

(B) Youth Conservation Corps crews or related partnerships, with State, local, and non-profit youth groups;

(C) existing or proposed small or micro-businesses, clusters, or incubators; or

(D) other entities that will hire or train local people to complete such contracts, grants, or agreements; and

(8) be subject to any other requirements that the Secretary, in consultation with the Secretary of the Interior, determines to be necessary for the efficient and effective administration of the program.

(c) Nomination process

(1) Submission

A proposal shall be submitted to—

(A) the appropriate Regional Forester; and

(B) if actions under the jurisdiction of the Secretary of the Interior are proposed, the appropriate—

(i) State Director of the Bureau of Land Management;

(ii) Regional Director of the Bureau of Indian Affairs; or

(iii) other official of the Department of the Interior.

(2) Nomination

(A) In general

A Regional Forester may nominate for selection by the Secretary any proposals that meet the eligibility criteria established by subsection (b).

(B) Concurrence

Any proposal nominated by the Regional Forester that proposes actions under the jurisdiction of the Secretary of the Interior shall include the concurrence of the appropriate—

(i) State Director of the Bureau of Land Management;

(ii) Regional Director of the Bureau of Indian Affairs; or

(iii) other official of the Department of the Interior.

(3) Documentation

With respect to each proposal that is nominated under paragraph (2)—

(A) the appropriate Regional Forester shall—

(i) include a plan to use Federal funds allocated to the region to fund those costs of planning and carrying out ecological restoration treatments on National Forest System land, consistent with the strategy, that would not be covered by amounts transferred to the Secretary from the Fund; and

(ii) provide evidence that amounts proposed to be transferred to the Secretary from the Fund during the first 2 fiscal years following selection would be used to carry out ecological restoration treatments consistent with the strategy during the same fiscal year in which the funds are transferred to the Secretary;

(B) if actions under the jurisdiction of the Secretary of the Interior are proposed, the nomination shall include a plan to fund such actions, consistent with the strategy, by the appropriate—

(i) State Director of the Bureau of Land Management;

(ii) Regional Director of the Bureau of Indian Affairs; or

(iii) other official of the Department of the Interior; and

(C) if actions on land not under the jurisdiction of the Secretary or the Secretary of the Interior are proposed, the appropriate Regional Forester shall provide evidence that the landowner intends to participate in, and provide appropriate funding to carry out, the actions.

(d) Selection process

(1) In general

After consulting with the advisory panel established under subsection (e), the Secretary, in consultation with the Secretary of the Interior, shall, subject to paragraph (2), select the best proposals that—

(A) have been nominated under subsection (c)(2); and

(B) meet the eligibility criteria established by subsection (b).

(2) Criteria

In selecting proposals under paragraph (1), the Secretary shall give special consideration to—

(A) the strength of the proposal and strategy;

(B) the strength of the ecological case of the proposal and the proposed ecological restoration strategies;

(C) the strength of the collaborative process and the likelihood of successful collaboration throughout implementation;

(D) whether the proposal is likely to achieve reductions in long-term wildfire management costs;

(E) whether the proposal would reduce the relative costs of carrying out ecological restoration treatments as a result of the use of woody biomass and small-diameter trees; and

(F) whether an appropriate level of non-Federal investment would be leveraged in carrying out the proposal.

(3) Limitation

The Secretary may select not more than—

(A) 10 proposals to be funded during any fiscal year;

(B) 2 proposals in any 1 region of the National Forest System to be funded during any fiscal year; and

(C) the number of proposals that the Secretary determines are likely to receive adequate funding.

(e) Advisory panel

(1) In general

The Secretary shall establish and maintain an advisory panel comprised of not more than 15 members to evaluate, and provide recommendations on, each proposal that has been nominated under subsection (c)(2).

(2) Representation

The Secretary shall ensure that the membership of the advisory panel is fairly balanced in terms of the points of view represented and the functions to be performed by the advisory panel.

(3) Inclusion

The advisory panel shall include experts in ecological restoration, fire ecology, fire management, rural economic development, strategies for ecological adaptation to climate change, fish and wildlife ecology, and woody biomass and small-diameter tree utilization.

(f) Collaborative Forest Landscape Restoration Fund

(1) Establishment

There is established in the Treasury of the United States a fund, to be known as the ''Collaborative Forest Landscape Restoration Fund'', to be used to pay up to 50 percent of the cost of carrying out and monitoring ecological restoration treatments on National Forest System land for each proposal selected to be carried out under subsection (d).

(2) Inclusion

The cost of carrying out ecological restoration treatments as provided in paragraph (1) may, as the Secretary determines to be appropriate, include cancellation and termination costs required to be obligated for contracts to carry out ecological restoration treatments on National Forest System land for each proposal selected to be carried out under subsection (d).

(3) Contents

The Fund shall consist of such amounts as are appropriated to the Fund under paragraph (6).

(4) Expenditures from Fund

(A) In general

On request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are appropriate, in accordance with paragraph (1).

(B) Limitation

The Secretary shall not expend money from the Fund on any 1 proposal—

(i) during a period of more than 10 fiscal years; or

(ii) in excess of $4,000,000 in any 1 fiscal year.

(5) Accounting and reporting system

The Secretary shall establish an accounting and reporting system for the Fund.

(6) Authorization of appropriations

There is authorized to be appropriated to the Fund $40,000,000 for each of fiscal years 2009 through 2019, to remain available until expended.

(g) Program implementation and monitoring

(1) Work plan

Not later than 180 days after the date on which a proposal is selected to be carried out, the Secretary shall create, in collaboration with the interested persons, an implementation work plan and budget to implement the proposal that includes—

(A) a description of the manner in which the proposal would be implemented to achieve ecological and community economic benefit, including capacity building to accomplish restoration;

(B) a business plan that addresses—

(i) the anticipated unit treatment cost reductions over 10 years;

(ii) the anticipated costs for infrastructure needed for the proposal;

(iii) the projected sustainability of the supply of woody biomass and small-diameter trees removed in ecological restoration treatments; and

(iv) the projected local economic benefits of the proposal;

(C) documentation of the non-Federal investment in the priority landscape, including the sources and uses of the investments; and

(D) a plan to decommission any temporary roads established to carry out the proposal.

(2) Project implementation

Amounts transferred to the Secretary from the Fund shall be used to carry out ecological restoration treatments that are—

(A) consistent with the proposal and strategy; and

(B) identified through the collaborative process described in subsection (b)(2).

(3) Annual report

The Secretary, in collaboration with the Secretary of the Interior and interested persons, shall prepare an annual report on the accomplishments of each selected proposal that includes—

(A) a description of all acres (or other appropriate unit) treated and restored through projects implementing the strategy;

(B) an evaluation of progress, including performance measures and how prior year evaluations have contributed to improved project performance;

(C) a description of community benefits achieved, including any local economic benefits;

(D) the results of the multiparty monitoring, evaluation, and accountability process under paragraph (4); and

(E) a summary of the costs of—

(i) treatments; and

(ii) relevant fire management activities.

(4) Multiparty monitoring

The Secretary shall, in collaboration with the Secretary of the Interior and interested persons, use a multiparty monitoring, evaluation, and accountability process to assess the positive or negative ecological, social, and economic effects of projects implementing a selected proposal for not less than 15 years after project implementation commences.

(h) Report

Not later than 5 years after the first fiscal year in which funding is made available to carry out ecological restoration projects under the program, and every 5 years thereafter, the Secretary, in consultation with the Secretary of the Interior, shall submit a report on the program, including an assessment of whether, and to what extent, the program is fulfilling the purposes of this chapter, to—

(1) the Committee on Energy and Natural Resources of the Senate;

(2) the Committee on Appropriations of the Senate;

(3) the Committee on Natural Resources of the House of Representatives; and

(4) the Committee on Appropriations of the House of Representatives.

(Pub. L. 111–11, title IV, §4003, Mar. 30, 2009, 123 Stat. 1141.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (a)(1), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (a)(2), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

Section 7125 of this title, referred to in subsec. (b)(2)(B)(ii), was in the original ''section 205 of Public Law 106–393 (16 U.S.C. 500 note)'' and was translated as referring to section 205 of Pub. L. 106–393 as added by Pub. L. 110–343, div. C, title VI, §601(a), Oct. 3, 2008, 122 Stat. 3905, which is classified to section 7125 of this title. A prior section 205 of Pub. L. 106–393 containing substantially similar provisions was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, §601(a), Oct. 3, 2008, 122 Stat. 3893.

§ 7304. Authorization of appropriations

There are authorized to be appropriated to the Secretary and the Secretary of the Interior such sums as are necessary to carry out this chapter.

(Pub. L. 111–11, title IV, §4004, Mar. 30, 2009, 123 Stat. 1147.)